

Stan Wisniewski
Director

Kerry Gottlieb
Chief Deputy

AGENDA

MARINA DEL REY DESIGN CONTROL BOARD

Thursday, October 26, 2006, 6:30 p.m.

**Burton W. Chace Park Community Building
13650 Mindanao Way ~ Marina del Rey, CA 90292**

Design Control Board Members

Susan Cloke – Chair	- First District
Katherine Spitz, ASLA – Vice Chair	- Third District
David Abelar – Member	- Second District
Peter Phinney, AIA – Member	- Fourth District
Tony Wong, P.E. – Member	- Fifth District

1. Call to Order, Action on Absences, Pledge of Allegiance and Order of Agenda

2. Approval of Minutes

- August 30, 2006
- August 31, 2006
- September 21, 2006

3. Design Control Board Reviews

- A. Parcels 111/112 – Marina Harbor – DCB #06-010-C
Approval of the record of the DCB's August 30, 2006 action for conditional approval of further renovations
- B. Parcel 64 – Villa Venetia – DCB #06-018
Approval of the record of the DCB's September 21, 2006 action for conditional approval of facility repainting
- C. Parcel 50 – Bank of America – DCB #06-020
Approval of the record of the DCB's September 21, 2006 action for approval of renovations

4. Old Business

- A. Parcel 64 – Villa Venetia – DCB #06-015
Further consideration of redevelopment project

5. New Business

NONE

6. Staff Reports

- A. Temporary Permits Issued by Department

- B. Ongoing Activities Report
 - Board Actions on Items Relating to Marina del Rey
 - Marina del Rey Urban Design Guidelines Update
 - Redevelopment Project Status Report
 - Marina del Rey and Beach Special Events
- C. Special Meetings Status

7. Comments From The Public

Public comment within the purview of this Board (three minute time limit per speaker)

8. Adjournment

ADA ACCOMMODATIONS: If you require reasonable accommodations or auxiliary aids and services such as material in alternate format or a sign language interpreter, please contact the ADA (Americans with Disability Act) Coordinator at (310) 827-0816 (Voice) or (310) 821-1737 (TDD), with at least three business days' notice.

Project Materials: All materials provided to the Design Control Board Members are available (beginning the Saturday prior to the meeting) for public review at the following Marina del Rey locations: Marina del Rey Library, 4533 Admiralty Way, 310-821-3415; Department of Beaches and Harbors Administration Building, 13837 Fiji Way, 310-305-9503; MdR Visitors & Information Center, 4701 Admiralty Way, 310-305-9546; and Burton Chace Park Community Room, 13650 Mindanao Way, 310-305-9595.

Please Note: The Los Angeles County Board of Supervisors adopted Chapter 2.160 of the Los Angeles County Code (Ord. 93-0031 §2(part), 1993) relating to lobbyists. Any person who seeks support or endorsement from the Design Control Board on any official action must certify that they are familiar with the requirements of this ordinance. A copy of this ordinance can be provided prior to the meeting and certification is to be made before or at the meeting.

Departmental Information: <http://beaches.co.la.ca.us> or <http://labeaches.info>



"To enrich lives through effective and caring service"



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

October 19, 2006

TO: Design Control Board

FROM: Stan Wisniewski, Director *SWisniewski*

SUBJECT: **AGENDA ITEM 3 – DESIGN CONTROL BOARD REVIEWS: DCB REVIEWS
#06-010-C, #06-018 and #06-020**

The Design Control Board's actions from August 30, 2006 and September 21, 2006 are attached:

- A. Parcels 111/112 – Marina Harbor – DCB #06-010-C
- B. Parcel 64 – Villa Venetia – DCB #06-018
- C. Parcel 50 – Bank of America – DCB #06-020

SW:MF:CS
Attachments (3)

DRAFT

Design Control Board Review DCB #06-010-C

PARCEL NAME: Marina Harbor

PARCEL NUMBER: 111 & 112

REQUEST: Further consideration of renovations.

ACTION: Approved, per the submitted plans on file with the Department.

CONDITIONS: 1) Applicant shall install three address signs per Exhibit I along Via Marina; two of which are to be sign #8 as submitted, and one of which is to be sign #16. All three are to be lit with a 50-Watt up-light on either side, as proposed in the submittal, for a period of 30 days.

2) Applicant shall revise the proposal to renovate the existing monument sign to bring it more into conformance with the proposed signage package with respect to material, configuration and lighting.

3) The applicant shall obtain further signage approval from the Department of Regional Planning.

MEETING DATE: August 30, 2006 (Special Meeting)

DRAFT

Design Control Board Review DCB #06-018

PARCEL NAME: Villa Venetia

PARCEL NUMBER: 64

REQUEST: Consideration of facility repainting.

ACTION: Approved, per the submitted plans on file with the Department.

CONDITIONS: The heronry to be protected during all painting activities. This includes, but is not limited to, all applicable rules and regulations.

MEETING DATE: September 21, 2006

DRAFT

Design Control Board Review DCB #06-020

PARCEL NAME: Waterside Marina

PARCEL NUMBER: 50

REQUEST: Consideration of renovations for Bank of America.

ACTION: Approved, per the submitted plans on file with the Department.

CONDITIONS: The applicant shall obtain further approval from the Department of Regional Planning.

MEETING DATE: September 21, 2006



"To enrich lives through effective and caring service"



October 19, 2006

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

TO: Design Control Board
FROM: *Kerry Silverstrom for*
Stan Wisniewski, Director

SUBJECT: AGENDA ITEM 4A – PARCEL 64 – LYON VILLA VENETIA APARTMENTS & CONDOS – DCB #06-015

Item 4A is a returning submittal by Lyon Capital Ventures, LLC (Applicant) for further consideration of conceptual approval for the redevelopment of Parcel 64, Villa Venetia Apartments & Condos. While the main submittal package has not changed, the Applicant has added a nine-page addendum that addresses the questions and concerns posed by your Design Control Board (DCB) at its August 31, 2006 meeting. The addendum and accompanying cover letter further explain the Applicant's design intent by addressing in more detail the issues of public space, fire access, building massing, architecture softening and parking. For additional clarification, the Applicant will provide at the meeting a scale model that will provide eye-level renderings from off-site points. Also now included with this Staff Report (as Appendix E) is a rebuttal by Dr. Jeffrey B. Froke, addressing the issues raised by public comment at the August 31, 2006 DCB meeting.

Following DCB review, the Applicant will proceed with land use entitlements from the Department of Regional Planning and California Coastal Commission and will return to your Board for further review and approval of final design plans, including landscaping, lighting, signage, fencing, exterior treatments, colors/materials, and hardscape elements.

Brief Description of the Proposed Project

Applicant proposes to demolish all existing landside improvements on the 6.39-acre Parcel 64 (224 dwelling units and appurtenant parking and landscaping) and to construct a new residential complex within the existing parcel boundaries. The architectural program consists of three distinct buildings (appearing as four) rising from a raised podium and plaza level over an expansive covered parking garage/service area. Buildings of varying heights will consist of the following program elements:

- Three buildings containing 479 new dwelling units (263 apartments and 216 condominium units; net increase of 255 units);
- An expansive central landscaped plaza;
- Two levels of appurtenant covered parking (1,047 spaces);
- Recreational facilities, including a pool and health club/gym;
- Visitor and resident-serving waterfront retail and appurtenances (~3,000 sq. ft.); and
- New boat anchorage (21 to 34 slips) and accessible boating-related facilities.

Development Rights and Regulations

The Marina del Rey Local Coastal Program ("LCP") contains provisions for prospective redevelopment of Parcel 64 within land and water use allocations for Development Zone (DZ) 11,

the Harbor Gateway Development Zone. The subject DZ 11 currently has an available development allocation of 255 additional dwelling units and 34 boat slips.

As noted, Applicant proposes a total of 479 dwelling units on the site, which represents a net increase of 255 dwelling units over the existing development. Applicant's project is, therefore, consistent with the DZ allocation in terms of the number of additional dwelling units being proposed; as such, an LCP amendment will not be required to achieve the proposed development program. Parcel 64 is zoned "Residential V" in the LCP, which is the highest-density land use classification, affording up to 75 dwelling units per acre. The proposed project is consistent with the maximum density allowed for the 6.39-acre parcel (i.e., 6.39 acres x 75 units per acre = 479 units).

Applicant's proposal to construct a new marina containing between 21 and 34 new boat slips is consistent with the LCP use allocation.

The subject parcel also carries the *Waterfront Overlay Zone* (WOZ) designation, which is an overlay land use category intended to encourage coastal-related, coastal-dependent and visitor-serving land uses while increasing development flexibility. Applicant has proposed to use the WOZ designation to add 3,000 square feet of commercial space to support visitors to the promenade and plaza, South Bay Bicycle Trail users, and visitors to the docks, as well as on-site residents.

STAFF REVIEW

Land Use Context

Parcel 64 is located at the south end of Fiji Way and, combined with the adjacent Parcel 65, serves as the southernmost development parcel in Marina del Rey. From the water, the parcel is significant because it frames the starboard (right) approach to the interior of the Marina and is the most prominent waterfront feature for arriving mariners. To the north, the U.S. Coast Guard Station-Marina del Rey, home to USCGC Halibut, and Fiji Way border Parcel 64. To the east and south, the property is bounded by undeveloped State property, comprised of the Ballona Wetlands Ecological Reserve and Ballona Creek, and the popular South Bay Bicycle Trail follows the perimeter of the property. To the west, the UCLA rowing facilities and Ballona Creek define the boundary of Marina del Rey.

Environmental Review Process

Applicant has not yet filed an application with the Department of Regional Planning (DRP) to initiate the environmental review process under the California Environmental Quality Act (CEQA) for the proposed project scope. Following your Board's action with respect to this application, Applicant will file the project at DRP, where a full project review, including an environmental analysis under CEQA, will be completed prior to consideration by the Regional Planning Commission. Significant issues will be fully addressed in the environmental impact report (EIR) to be prepared as a part of its application. As part of that process, the EIR will be circulated to all relevant agencies, and interested parties will be invited to consider public comment. Issues to be considered in further analysis to be undertaken will include, but not be limited to, the following:

- Shade/Shadow Effects
- Wind Effects
- Biology/Wildlife
- Traffic and Circulation
- Light and Glare
- Public Access
- Viewshed
- Water Quality
- Navigation
- Landscaping

Special Issues

- Heronry Relocation

Development of the Villa Venetia site will involve the removal of nine mature Monterey cypress and one Monterey Pine trees, several of which have been used by Great Blue Herons for nesting. These colonial nesters are found throughout the Marina and are accustomed to large trees. The herons also nest in trees around the adjacent U.S. Coast Guard station and the Department of Beaches and Harbors headquarters. Throughout the balance of the Marina, considerable nesting activity is found in and around the Oxford Basin. Attached, as Appendix A, is a report by Dr. Jeffrey B. Froke documenting the heron nesting activities in the Marina as they occurred last year.

As the biologist notes (Appendix A, pg. 12.3), guano deposition is taking its toll on two Villa Venetia trees. Significant portions of the trees are dying, and as the trees' canopies die, the trees will be less useful to the herons. In addition, the biologist notes that while these herons are relatively tolerant of humans, a better location away from human interactions would benefit the birds. The redevelopment of this site provides the opportunity to fashion a mitigation program that either relocates the trees, or creates a new heronry, all at lessee expense.

No Environmentally Sensitive Habitat Areas (ESHA) are designated in the LCP. In fact, the Coastal Commission removed all ESHA policies from the LCP in 1996 when the Ballona wetlands were also removed from the LCP. Although those who have commented have asserted ESHA in the area of Parcel 64, there is no legal way of imposing this designation at this point. Additionally, the Coastal Commission has found similar areas in other harbors not to be ESHA (e.g., Boating Instruction and Safety Center in Channel Islands Harbor).

The fact that an area fails to rise to the level of an ESHA hardly signals that it is not important. Quite to the contrary, it simply prevents a finding that the property cannot be developed at all and steers the entitlement effort towards mitigation pursuant to CEQA. A Coastal Development Permit is required for removal of trees wherein birds nest, and the fact that the trees will be removed will be a part of the project description in the Coastal Development Permit application.

The County and its consultants contacted the California Department of Fish and Game (DFG) to determine its level of interest in relocating the trees to the Ballona Ecological Reserve. (The County's letter and the response from DFG are provided in Appendix B.) DFG is at the beginning of its program to restore the Ballona wetlands and, thus, has not yet completed its vision for resource locations. Therefore, it is unable to agree to any particular mitigation at this point, including a financial contribution to a heronry it is not yet sure of developing. However, the Department sees the long-term value of having a rookery in the area – it is simply a question of where.

Removal of the trees on the project site is not anticipated to have an adverse effect on the heronry used between the Villa Venetia site and the County offices, although this determination will ultimately be made in coordination with the EIR. As these birds are colonial nesters and the trees at the Coast Guard and County offices (and elsewhere in the Marina) are not proposed for removal, the herons will continue to have resources.

Early comments on the idea of removing the trees entirely from the Villa Venetia site have focused on why the trees cannot remain while the site is redeveloped. The County does not consider retaining the trees in their present location as feasible or prudent. As earlier stated, portions of the trees are already dying. Secondly, the birds – and their guano – will continue to interfere with the public's use of the site and the proposed new promenade and associated public amenities that will be built by the Applicant. Finally, the continued impacts of construction and human interference strongly suggest that a relocation of the heronry is a suitable alternative.

The County will continue to study this matter with DFG and the Coastal Commission during the entitlement process for this project. Additionally, the scope of Dr. Froke's work calls for an annual, as opposed to monthly, revision to his original report, with the next revision with the latest nesting information being due in November. However, for the purposes of the DCB review, the trees are to be removed from the site.

- Development Review

- Architectural Style – Applicant has selected a prestigious team of architects and designers worthy of the prominence of this site. The project is a collection of residential buildings and high quality land and water amenities and retail uses composed on the site to maximize the marine experience both interior and exterior. Three buildings varying in height from 84 feet to 140 feet surround a central landscaped plaza constructed over two levels of parking. The building elevations are notched and graduated to soften the impact of the project when viewed from a distance and to allow penetration of wind and light.

Drawing inspiration from fine sailing yachts, the design is purposeful and elegant in its simplicity. Although the building exteriors will vary according to location, orientation and interior function, the expression will be minimal without extraneous embellishment. Building materials will derive from the surrounding natural colors of the landscape, water, and stone and will include exposed concrete, limestone, and glass.

- Public Access/Promenade – The project expands pedestrian activities along the waterfront with a promenade that will be accessible to the public. Currently, the existing promenade fronting the Marina's main channel has limited access by the public. Applicant proposes to make strong connections between the public sidewalk on Fiji Way and the South Bay Bicycle Trail (along the middle jetty) to create a continuous trail through and around the subject property. The project's new Waterfront Pedestrian Promenade will be highly developed to encourage everyone to enjoy the waterfront. Handrails, ground materials, lighting, seating, ramps and docks will be of the same high quality as is being proposed on the interior of the site. The existing bike path along the south edge of the property will be improved with enhanced surfaces, site furniture, lighting, and landscaping. Additionally, a series of exercise stations will be located along the

path. Both the Waterfront Pedestrian Promenade and the bike path will be upgraded to fully accessible standards. The Waterfront Pedestrian Promenade opens to broad "Spanish Steps" fronting a public plaza providing views directly over the Marina.

- Traffic and Parking – Vehicles would continue to enter the site from the north via Fiji Way. Residents, visitors and guests will enter the subterranean garage or proceed to an entry pavilion for valet parking. The two-level garage is organized to allow easy navigation and convenient parking for first-time users and guests on the main parking level, and the lower parking level will be utilized by long-term residents. Leasing center parking is located just inside the garage entry. Marina (boater) parking is located close to the promenade and will be clearly indicated within the garage for added convenience. Parking for the project will be provided consistent with County Zoning Code standards. There will be limited valet stacking at the entry pavilion and several short-term parking stalls located in front of the apartment leasing center.

- Viewshed/View Corridors – The subject parcel is not subject to the view corridor requirement, however, Applicant has strived to provide enhanced views of the water through and within the project. For example, Building A, situated directly on the waterfront, is dramatically elevated three stories to fully expose the entry court to the water from the terminus of Fiji Way. The central landscaped plaza is also visible from the entry and approach drive, providing a sense of openness and transparency across the interior of the site.

The entire property frontage along the water will be enhanced for public viewing and enjoyment, and views from the "Spanish Steps" fronting a public plaza will offer views of the Marina. A café and/or small resident and visitor-serving retail shop(s) fronting on the Waterfront Pedestrian Promenade will help to make this a vibrant public gathering space. Boundaries between the public spaces and residential uses will be resolved through careful architectural treatments. A landscaped hedge or change in elevation will define where public access is available and to provide security for the residents.

- Shade/Shadow Impacts – Applicant has provided a shade shadow analysis of the proposed project in winter and summer. The studies demonstrate minor shading effects will occur along the waterfront area during morning hours, between sunrise and approximately 11:00 a.m. in all seasons, with longer shadows occurring during winter months. Afternoon shading from the taller structures will extend over portions of the ecological reserve to the east between noon and sundown, with the primary impacts occurring in the winter months (see Appendix C).

- Navigation – The project will create a new marina containing 21 to 34 new boat slips, each meeting current construction and accessibility guidelines. Because of the more exposed location along the main channel, docks will be constructed to withstand higher wave and wind exposure and will be arranged to facilitate ease of maneuvering in inclement conditions. It is anticipated the new docks will be constructed with current marina industry technology and materials, possibly a proprietary concrete dock system with all new pre-stressed concrete guide piles, and served with a new utility distribution system for power, water, cable and phone connections. The marina will also contain a sewage pump-out station. End ties, launching, kayaking, and instruction facilities are planned as marina components. In addition to new waterside facilities, boaters will have access to boaters' restroom facilities located directly off of the Waterfront Pedestrian Promenade.

- Landscaping – Applicant has provided an illustrative landscape site plan in its submittal packet. The landscape plant palettes will contain many native and/or drought tolerant plants. Non-invasive plant material will be used contiguous with the Ecological Reserve. The landscape will borrow from the forms, colors and textures of the architecture. Oversized active recreation areas, as well as smaller intimate garden courtyards, will loosely reflect the geometry and formality of the buildings. Recessed planters set into the structural deck will provide open vistas while still allowing adequate planting depth for trees and shrubs. Enhanced pedestrian walks and a public plaza will invite social interaction and activity while providing an attractive circulation corridor for residents and guests. Vehicular areas will be lined with large shade trees and palms and will feature enhanced paving and flowering shrubs and vines to provide a welcoming street level experience.

Utilizing drought tolerant material where possible, plant material will be used to accent architectural features while also serving as a means of "softening the edges" as necessary. Large canopy trees, decorative palm trees, colorful and lush shrubs and seasonal flowers will be used to define spaces, screen undesirable views and provide an attractive environment for residents and guests. An automatic irrigation system will be used to maximize water conservation and water the various hydro zones efficiently. Decorative groundcover and mulch will also be used to minimize water evaporation and discourage weed growth. A rainwater collection system will be used to capture first flush run-off prior to discharge to local drains.

- Wind Impacts – Applicant has provided a wind study of the proposed project. The study concludes that there will be localized areas of altered wind direction and wind speeds in the Marina during infrequent easterly winds. There will be no effect on the general air circulation patterns along the main channel resulting from construction of the project. The study did not assess changes in prevailing wind direction and speed related to the project's impact on activities on the Ecological Reserve to the east (see Appendix D).

- Signage and Lighting -- Applicant will return at a later time with details of proposed signage and lighting. However, lighting will be designed to minimize spill and glare on adjoining parcels and the adjacent Ecological Reserve, and lighting design will be complementary to the architectural style. Outdoor maps and wayfinding signage will promote awareness of the marine environment.

Conclusion

The Department believes Applicant has appropriately addressed the project's building height, circulation, massing, visual impact and public access requirements. The proposal is in conformance with the *Marina Specifications and Minimum Standards of Architectural Treatment and Construction*. The project is designed as a landmark property on the waterfront in Marina del Rey and is being developed to provide significant upgrade to this prime waterfront property at the water gateway to the Marina. In addition to meeting quality development objectives for the property, the project provides additional boater facilities and enhanced public access that will create an important missing link in the Marina's waterfront promenade.

The Department believes, therefore, that it would be appropriate for your Board to move the project forward to the Regional Planning Commission, stating any concerns precisely in your report, thereby allowing the regulatory agencies responsible for making the determinations with respect to the environmental aspects of the proposed project the opportunity to perform this function.

The Department recommends APPROVAL of DCB #06-015, as submitted.

SW:ks



"To enrich lives through effective and caring service"



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

October 19, 2006

TO: Design Control Board

FROM: Stan Wisniewski, Director *SWisniewski*

SUBJECT: **AGENDA ITEM 6A - TEMPORARY PERMITS ISSUED BY DEPARTMENT**

Item 6A on your agenda provides us an opportunity to advise your Board of permits issued by the Department for temporary banners, signs and tents. Since our last report, the Department issued the following:

TP #06-012 – Temporary permit for two signs at the public launch ramp for Coastal Cleanup Day. The signs were permitted on September 16, 2006 only.

Additional information is provided in the attachment.

SW:PW:CS
Attachment



To enrich lives through effective and caring service



September 13, 2006

Stan Wisniewski
Director

Kerry Gottlieb
Chief Deputy

Brian Pham
Santa Monica Bay Restoration
320 W. 4th St., Suite 200
Los Angeles, CA 90013

**TEMPORARY SIGNAGE AT PUBLIC LAUNCH RAMP
(TP 06-012)**

Dear Mr. Pham:

By means of this letter and the appropriate concurrence from Lynn Atkinson in our Community & Marketing Services Division, Permits Section, the Santa Monica Bay Restoration Foundation is permitted to place two (2) temporary signs at the Marina del Rey public launch ramp as follows:

1. One 6-foot by 2-foot white paper banner with 500-point black lettering stating "Coastal Cleanup Day" in an asenine font, adjacent to a Santa Monica Bay Restoration Foundation logo; and
2. One 14-inch by 20-inch white cardboard directional sign with 250-point black lettering stating "Coastal Cleanup Day" in an asenine font, with a directional arrow pointing into the launch ramp parking lot.

Sign 1 will be attached to a table in the parking lot with tape; sign 2 will be attached to the lower portion of the launch ramp parking lot entry sign with tape. The signage is permitted on Saturday, September 16, 2006 only, and must be removed by midnight of that day. Failure to remove the signage by this time will result in its removal and storage by the County of Los Angeles at your expense. Should you have any further questions or requests, please contact Chris Sellers, Regional Planning Assistant, at 310-578-6448.

Very truly yours,

STAN WISNIEWSKI, DIRECTOR

Michael Fischer, Chief
Planning Division

SW:MF:CS

cc: Wayne Schumaker
Bob Stassi
Mark Spiro
Lynn Atkinson



"To enrich lives through effective and caring service"



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

October 19, 2006

TO: Design Control Board

FROM: Stan Wisniewski, Director

SUBJECT: **AGENDA ITEM 6B - ONGOING ACTIVITIES REPORT**

BOARD OF SUPERVISORS ACTIONS ON ITEMS RELATING TO MARINA DEL REY

At the closed session portion of its meeting of October 3, 2006, the Board provided instructions to its negotiating team regarding Parcel 47 (Santa Monica Windjammers Yacht Club).

Also at its October 3, 2006 meeting, the Board of Supervisors approved and instructed the Mayor to sign the lease option granting to IWF Beachfront Hotel, L.P., a California limited partnership, upon fulfillment of stated conditions, a 60-year lease for Parcel IR for development of a Marriott Residence Inn. Your Commission previously considered and recommended Board approval of this item.

At its September 26, 2006 meeting, the Board of Supervisors approved a recommendation by Supervisors Yaroslavsky and Knabe, as amended, that:

1. Requests the Regional Planning Commission (RPC) to present recommendations to the Board within 120 days on an amendment to the County's Marina del Rey Local Coastal Program (LCP) and implementing ordinances that would:
 - Eliminate the precondition that the Design Control Board's (DCB) initial conceptual review [of a development/redevelopment project] occur before an application for land use entitlements is filed with the Department of Regional Planning;
 - Permit the DCB to conduct a conceptual review during the land use entitlement process and submit recommendations to the RPC prior to the commencement of the public hearing by the RPC on the land use entitlements in a timely manner;
 - Place primary responsibility for site plan approval and LCP consistency review with the RPC; and
 - Clarify that the DCB's final review of Marina projects, which will occur after the RPC has taken action on the project's land use entitlements, will continue to be focused upon architectural elements, signage, materials, landscaping and colors;

2. Requests the Chief Administrative Office (CAO), in conjunction with the Regional Planning Director and County Counsel and in consultation with the Beaches and Harbors Director, to review the process and procedures currently in use with respect to marina projects, from the initial Request for Proposals (RFP) to final approvals and including the roles and responsibilities of County staff, and determine how the approval process can be made more efficient and effective without compromising public input. The CAO is to report back with recommendations to the Board of Supervisors in 45 days.

LOCAL COASTAL PROGRAM PERIODIC REVIEW – UPDATE

The Executive Director of the California Coastal Commission has determined to postpone the Commission's consideration of the Marina del Rey Local Coastal Program (LCP) revised periodic review staff report until the January 2007 meeting to be held in either Los Angeles or Orange Counties, in order to give his staff time to meet with County staff to discuss continuing areas of disagreement. County staff is working to complete comments on the report's recommendations and findings.

SMALL CRAFT HARBOR COMMISSION MINUTES

The September 13, 2006 minutes are attached.

MARINA DEL REY URBAN DESIGN GUIDELINES UPDATE

We are pursuing a meeting with the Chair, a Design Control Board member, and Keith Gurnee of RRM Design Group within the next week to 10 days to discuss the scope of our proposed effort to update/expand our urban design guidelines for Marina del Rey.

REDEVELOPMENT PROJECT STATUS REPORT

Attached is a copy of the project status report providing details and the current status of projects in the redevelopment process in the Marina, now additionally revised to include, to the extent known, building heights and the number of structures. Copies of this report are also available at the Lloyd Taber-Marina del Rey Public Library and on the Department's web site (marinadelrey.lacounty.gov).

MARINA DEL REY AND BEACH SPECIAL EVENTS

MARINA DEL REY

MARINA DEL REY OUTDOOR ADVENTURES

Sponsored by the Los Angeles County Department of Beaches and Harbors
Burton Chace Park ♦ 13650 Mindanao Way ♦ Marina del Rey ♦ CA ♦ 90292

Harbor Kayaking Program

Saturday, October 21
11:30 am – 1:45 pm

Last chance to come and take a kayaking lesson in Marina del Rey harbor. This two-hour session begins with Los Angeles County Lifeguard instruction and water safety. The group will get the opportunity to enjoy Marina del Rey's basins. This is a great opportunity for families to have a fun and educational day in Marina del Rey.

Program requires pre-registration. Fees are \$25 (youths 10–18) and \$30 (19 or older). Fees must be paid upon registering.

Surf Kayaking Program

Saturday, October 21
8:00 am – 11:00 am

Los Angeles County Department of Beaches and Harbors is offering its last surf kayaking session for this year. Participants will get the opportunity to kayak through Marina del Rey harbor and head out to the North Jetty, where they will surf the waves aboard sit-on-top kayaks. Los Angeles County Ocean Lifeguards will instruct the outing.

Program requires pre-registration. Fees are \$25 (youths 10–18) and \$30 (19 or older). Fees must be paid upon registering.

For all Outdoor Adventures Programs call: Burton Chace Park at (310) 822-8530.

FISHERMAN'S VILLAGE WEEKEND CONCERT SERIES

Sponsored by Pacific Ocean Management, LLC
All concerts from 2:00 pm - 5:00 pm

Saturday, October 21

Xtown Traffic, playing R&B and Funk

Sunday, October 22

Bob Desena, playing Latin Jazz

Saturday, October 28

Mark Harrison Quintet, playing Funk & Jazz Fusion

Sunday, October 29

Susie Hansen, playing Hot Latin Jazz

Saturday, November 4

La Cat, playing Reggae

Sunday, November 5

Upstream, playing Caribbean, Calypso and Soca

Saturday, November 11

Bobby Griffin & Friends, playing R&B and Blues

Sunday, November 12

Son Candela, playing NY style Afro Cuban Salsa

For more information call: Dee Lavell Gilbert at (310) 822-6866.

BEACH EVENTS

5th ANNUAL CARNEVALE VENICE BEACH

Sponsored by the City of Los Angeles Department of Cultural Affairs

Saturday, October 28

Venice Beach at Venice Windward Circle

Noon – 10:00 pm

In the tradition of the famed Carnevale in Venice, the costumed street celebration returns for the fifth year. There will be performances all day, costume contests, arts and crafts vendors, food court, beer and wine garden, Concorso Venezia Car Show, DJ's, Windburn dance area and Burning Man exhibit. Admission is free to the public. For more information: visit www.Carnevale.US

SW:MF:cec
Attachments (2)

**SMALL CRAFT HARBOR COMMISSION
SEPTEMBER 13, 2006
MEETING**

Commissioners Present

Harley Searcy, Chairman
Russ Lesser, Vice-Chairman
Albert Landini, Ed.D

Excused

Christopher Chuang-I Lin, Ph.D

Department of Beaches and Harbors

Stan Wisniewski, Director

Other County Departments

Thomas Faughnan, Principal Deputy County Counsel
Captain Mary Campbell, Marina Sheriff's Department
Lieutenant Greg Nelson, Marina Sheriff's Department
Sergeant Michael Carriles, Marina Sheriff's Department
Deputy John Rochford, Marina Sheriff's Department

Also Present

Beverly Moore, Executive Director, MdR Convention and Visitors Bureau

1. CALL TO ORDER, ACTION ON ABSENCES AND PLEDGE OF ALLEGIANCE

Chairman Searcy called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 9:35 am in the Burton W. Chace Park Community Room, Marina del Rey.

Vice-Chairman Lesser moved and Commissioner Landini seconded a motion to excuse Commissioner Lin from the meeting. The motion passed unanimously.

The Commissioners, staff and members of the public stood and recited the Pledge of Allegiance.

2. APPROVAL OF MINUTES

Vice-Chairman Lesser moved and Commissioner Landini seconded a motion to approve the August 9, 2006 minutes. The motion passed unanimously.

3. REGULAR REPORTS

a. Marina Sheriff

-- Crime Statistics

Lt. Greg Nelson reported that there hasn't been any significant change in crime statistics from last month. There has been a lower than average crime rate for the summer months, which can be attributed to different factors, such as the decrease in crime rates throughout L.A. County, the field deputies' arrests of career criminals and the deployment of the bicycle team this summer.

Lt. Nelson also reported that the Army Corp of Engineers is planning to begin dredging the harbor's north entrance no later than December 15, 2006. The area still remains about 50% closed and will be entirely closed when the dredging begins, which should not take more than 60 days.

-- Enforcement of Seaworthy & Liveaboard Sections of the Harbor Ordinance

Sgt. Michael Carriles introduced Deputy John Rochford, who has taken over the responsibility of preparing the Seaworthiness and Liveaboard Report. He replaced Deputy Paul Carvalho, who returned to patrol duties.

Chairman Searcy welcomed Deputy Rochford and commented that Deputy Carvalho will be missed.

With respect to the Seaworthy & Liveaboard Compliance Report, Sgt. Carriles explained that for a number of years the liveaboard data was kept in a ledger. It is now in a computer database. He said that after reviewing the liveaboard data, the following problems were discovered: 1) There was no separation between new liveaboard applications and renewal applications. Consequently, some of the numbers were thrown off; 2) Percentages of liveaboards were based on the total occupancy in Marina del Rey and included redevelopment projects where slips were vacant. This threw off the percentages; 3) No accounting was in place for liveaboards that would cancel their liveaboard status. Nothing was in place that would eliminate them from the dockmaster report of the number of liveaboards. There were liveaboards who resided in one marina, then transferred to another marina and received a new liveaboard permit. This threw off the data.

Further, Sgt. Carriles explained that the Department is in the process of resolving these problems as follows: 1) The database is now in electronic form, is up to date and shows more than just numbers. Details such as the liveaboard's name, slip location, etc. is now included and compared to the dockmaster's records. If the records don't match, the Sheriff's Department will start the process of issuing renewals or new permits; 2) When a tenant falls out of liveaboard status, such as when his liveaboard permit expires, the Department will contact the dockmaster directly and inform him that this individual or slip location no longer has a valid liveaboard permit. If it is found that the individual is no longer a liveaboard, no further action will

be taken but if the individual is still a liveaboard, the dockmaster will let him know he needs to renew his permit.

Sgt. Carriles said that the Department found that a lot of the Department's old forms were incomplete. Also, several boat owners who had permits or applications basically photocopied them and turned them back in to the Department. The Department has just created a new design pertaining to liveaboard permits and has already started giving them to the dockmasters so that staff can start processing them. Staff expects the total liveaboard count to be completed within the next 60 to 90 days once there is better coordination with the dockmaster.

Chairman Searcy asked Sgt. Carriles did he think that he would have accurate data within approximately 60 to 90 days.

Sgt. Carriles responded that he believed the data would be accurate within that timeframe.

b. Marina del Rey and Beach Special Events

Mr. Stan Wisniewski requested Ms. Dusty Crane, Chief, Community and Marketing Services Division, to provide details about the upcoming "Discover Marina del Rey Day 2006" event.

Ms. Crane informed the Commission that "Discover Marina del Rey Day 2006" is an annual event for families. It will be held on October 8, 2006 at Chace Park from 11am to 4pm and will reflect the County's goal to promote healthy families. There will be healthy food, rides, games, music and every child will receive a pumpkin. The Department of Parks and Recreation will help with the crafts. There is a \$5.00 fee for a wristband, which will be used as admission for the rides and also for the children to receive a pumpkin.

Mr. Wisniewski announced that the remaining special events are in the report and he encouraged the Argonaut to print this information.

c. Marina del Rey Convention and Visitors Bureau

Ms. Beverly Moore informed the Commission that the Marina Convention and Visitors Bureau (CVB) has been working with other CVBs for many years on many different promotional programs. Often the CVBs jointly host travel writers on tours to the area and provide a lot of support for the Los Angeles Convention and Visitors Bureau when it has large travel-related conventions.

Recently, four visitors bureaus located on the Westside have been searching for opportunities to emphasize that the best attractions in the entire Southern California Region are found on the Westside. If they are able to collaborate more, they will be able to gain greater success. The Marina's partners in this venture include West Hollywood, Santa Monica and Beverly Hills. So far, several projects have been worked on and are coming along very well. Currently, they are issuing joint quarterly media updates to the travel media nationally and internationally. In general, the travel media, which is constantly scrambling to get updated information about tourism issues worldwide, has received this project very well. These updates are issued

electronically directly to a mailbox to travel newspapers and publications throughout the country. The CVBs have begun to develop cooperative advertisements in publications in very limited markets. One example is the State of California publishes a series of different travel guides in different markets. The CVBs are looking at the international pieces that the State of California publishes in the countries where there are inquiries about travel to California. By putting the four CVBs together there is a very strong message, and it is extremely affordable. Rather than having to buy an ad separately, the CVBs can share the cost and divide it by four, which will make a much more powerful statement.

In conclusion, Ms. Moore stated that the CVBs are working on a website called WestLA.com, which is in the beginning stages. It ultimately will be a portal to each original destination site and will include comprehensive itineraries of the Westside, interactive maps, along with contact and visitor information, etc.

4. OLD BUSINESS

a. None

5. NEW BUSINESS

a. Report by Commissioner Landini Regarding State Legislative Affecting Liveaboards

Commissioner Landini gave some background pertaining to liveaboards, stating that there are approximately 500 liveaboards within Marina del Rey and the Sheriff's Department indicates that this number is constant with a slight increase over a ten-year period. Approximately 100 of the 500 liveaboards are not registered with the harbormaster. It is speculated that the reason the 100 people are not registered may be because they are not aware of the process, are not aware of what should be done, and are afraid of the increased cost of liveaboard tie ups. It could also be because their boats are not seaworthy and they are afraid of signing up because their boats might not pass the required inspection.

Commissioner Landini explained that the Commission has been confronted with a small number of people who complained of unfair evictions or unfair treatment by the dockmasters. Many docks in the Marina are being rehabilitated and this has caused disruption for some liveaboards who have had to move and could not find a place to tie up. The County had an eviction ordinance, but it was overturned by a court action, as reported by Mr. Thomas Faughnan at a previous meeting. The Small Craft Harbor Commission cannot establish an effective policy to regulate liveaboards, as the Commission is only an advisory panel to the Board of Supervisors. Additionally, the current state law does not apply to Marina del Rey because of the definition of liveaboard marinas.

Commissioner Landini said that the solution seems to lie in two paths: 1) The Commission can recommend that leases include a liveaboard provision prior to their submission to the Board of Supervisors, who may or may not choose to keep it; 2) request new state legislation because the problem with liveaboards, if there is a problem, is statewide and affects marinas up and

down the coast of California. He said that he prepared a transmittal memo for the Commission to send to the Board of Supervisors to alert them about the difficulties the public has brought to the Commission's attention. The memo requests that the Board develop new state legislation. He suggested that the Commission approve his proposed memo and include in the submission to the Board, the bill of rights document from the POWER organization, County Counsel's report, the August Small Craft Harbor Commission minutes and the latest Seaworthy and Liveaboard Compliance Report.

Additionally, Commissioner Landini said that he found a publication called "California Tenants," which is published by the State of California. He offered to give information about this publication to anyone who is interested. The publication notes that the 60-day eviction notice law, which was in place in California, expired on December 31, 2005.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Ms. Carla Andrus thanked the Commissioners for taking the liveaboard rights issue to the Board of Supervisors. She said there would be a continued effort to work for new legislation that will give rights to liveaboards. She stated this still is no way a fix nor is it an excuse for the County to pass the buck. Action is needed now.

Ms. Andrus informed the Commission that Bar Harbor is preparing to close down and is issuing pre-eviction notices even before Deauville is online. She said that hundreds of boaters will again be displaced and there will be another mass exodus. A moratorium on all no cause evictions is needed. Deauville was supposed to open last month and the lessee is unable to tell the public when the project will be completed. The hardship again falls on the boating community. There are consequences for Deauville being behind schedule and the issue needs to be taken up in full immediately. This is a crisis and it is happening right here. The Deauville lease was supposed to revert back to the old lease if the lessee wasn't able to satisfy his permit. The matter should be taken up with the California Coastal Commission. Ms. Andrus stated that in the meantime, there is a clear and sane approach that can be taken for boaters' concerns. The County has an opportunity to act now. An affordable housing policy is going before the Board of Supervisors in less than 60 days. The Commission could ask that liveaboards be included in this housing policy. Ms. Andrus stated that the County of Los Angeles got it wrong the last time and it was out of compliance with state law. There are consequences to the failed policy that need to be addressed and this is an opportunity to do it correctly. The County must consider equal rights for liveaboards and protect affordable housing under the Mello Act. This has been an affordable way of living in the Marina and the public will not be pushed out any further. In conclusion, Ms. Andrus stated that she talked to her dockmaster and was informed that liveaboard permits were not being issued anymore.

Mr. Donald Klein, Coalition to Save the Marina, thanked Commissioner Landini for his work on the liveaboard issue and for preparing the paperwork and seeing this issue through. He commented that another important issue pertains to regular boaters who have been evicted for no apparent reason. Mr. Klein stated that he has a list of people who left and had no place to go.

Mr. Klein stated that state legislation, because of the amount of time it takes to get through the Assembly and the Senate, will take a couple of years. Something must be done now. He believes that an ordinance can be added under County Code Section 19 that requires notification for cause of eviction for non-liveaboards and liveaboards. Public Law 780 requires that the Marina be open to all on an equal basis. This is an important factor and a congressional statutory law. He also clarified that the statement claiming that the Villa del Mar lawsuit involved floating homes is wrong. The lawsuit actually pertained to affordable housing and not for eviction on a general basis.

Vice-Chairman Lesser asked Mr. Faughnan whether Mr. Klein's statement that the County is not in compliance with federal law is accurate.

Mr. Faughnan replied that Mr. Klein's statement regarding Public Law 780 and his general statements about the availability of Marina facilities to the public is correct. Mr. Faughnan disagreed, however, with Mr. Klein equating that law with evictions in the Marina. Mr. Faughnan stated that the Marina is governed by state law and until someone can provide him with information that shows the lessees are not complying with state law with respect to evictions of liveaboards, he has nothing to analyze.

Mr. David Levine, on behalf of the Marina del Rey Lessees Association, stated that the association is opposed to Commissioner Landini's proposal to seek new and unprecedented state legislation regarding liveaboards. For more than two decades the state legislature, as well as the state and federal courts, have all weighed in on precisely this issue. All have determined that liveaboards do not deserve the same rights as apartment residents. County Counsel has carefully provided the Commission with legal precedence on this question.

Mr. Levine quoted from the federal court ruling in the Derfus case, "The right to dock one's boat in a particular berth or marina cannot be equated with the right to decent low cost housing even if one chooses to liveaboard the boat. The nature of the right for which plaintiff seeks protection simply does not rise to the level entitled to constitutional protection, which would override traditional landlord tenant relationships and leases allowing as here for termination on a 30-day written notice by either party." He stated that both state and federal courts have spoken on this issue and there is no statute, no ordinance, no regulation, no case law, and no other authority to the contrary. Mr. Levine said that this is an inescapable conclusion and he is able to cite other legal cases.

Mr. Levine stated that the contract for liveaboards is simply an ordinary commercial lease terminable on the terms specified therein and statutory protections do not create any other kind of situation. The liveaboards claim that lessees harass them. He said that if they are harassed, there are both bureaucratic and legal avenues for individuals to air their grievances and seek just compensation. The Small Craft Harbor Commission is an advisory body to the Board of Supervisors. It is not an arbitration body, nor an ombudsman and this must be made clear. The County of Los Angeles has a direct financial interest in the ground rent generated by the dock slips leased in Marina del Rey. He urged caution about advising the Board of Supervisors that the taxpayers of the County of Los Angeles need to subsidize this small group of liveaboards, as a public subsidy to live on their substandard boats is really what this group wants. He said

that it is ironic and hypocritical for members of the public who attend the meetings on a regular basis to argue that Marina del Rey is a recreational boating facility, yet also claim that a small handful of liveaboards with derelict boats should have permanent resident status. He stated that no court nor any legislative body has agreed with this point of view in decades and the Lessees Association would oppose any legislative effort just as members in the County have joined hands in legal forces to defend the current law in the County's interest in these matters when they have been brought before the courts.

Mr. Levine said the question of rights and how liveaboards have been dealt with in courts and legislative bodies in the past is a separate question from how best to deal with the temporary dislocation of boaters while renovations are going forward. He noted that these two questions are not the same and must be separated. With respect to liveboard rights, the courts have spoken.

Mr. Greg Schem, The Boatyard lessee, stated that he has the highest percentage of liveboard tenants in the Marina. A boat is not a residential apartment unit. Apartment buildings have a lot of required inspections. They have to pass electrical inspections and have proper plumbing, etc. Boats come in all shapes and sizes, some are livable and some are not. Boats should be suitable to liveboard. Substandard plumbing, waste disposal, etc. have to be considered. He would agree with David Levine that there is no right to liveboard, but certainly liveaboards are accommodated because it works and they are a valuable component. Landlords should not have their rights taken away to ensure that boats are adequately maintained and occupied by people who respect regulations. There has to be assurance that these boats are adequately maintained and that they have people who are going to respect the rights and regulations of the marina.

With respect to Mr. Levine's statement about the Derfus court ruling, Ms. Nancy Marino commented that the issue here pertains to evictions without cause. Many people who own boats are afraid of stepping forward to speak against development in Marina del Rey for fear of retribution by dockmasters and putting their slips at risk. She stated that Mr. Levine is correct that the Commission is an advisory body. Ms. Marino said the public is asking the Commission to advise the Board of Supervisors to establish a policy that would be fair and equitable for people who have boats.

Ms. Marino said that before she moved to Marina del Rey, she and her husband rented a place in Marina Harbor. No one asked if they were permanent. She perceives renting a slip as renting the walls around a piece of water rather than a floor and a ceiling. If the lessee charges for utilities, the cost should be factored into the slip use. When she and her husband rented at Marina Harbor, utilities were included as part of the rent and no one told them that because they only used the place every other weekend they would be charged less. Ms. Marino said that if a person is evicted, there should be a cause. The County should be required to tell the dockmaster and lessee that a cause should be given. The liveaboards, apartment tenants and boat owners are being treated as transients, yet many have been here for 20, 30 or 40 years, for as long a period as the Marina has been around. In conclusion, Ms. Marino said she wants everyone to be treated as a community member. The Marina is a diverse community; one of the only diverse communities left that hasn't been split between the very wealthy and very poor.

She would like the County to establish policies that would preserve that.

A former Dolphin Marina tenant [secretary did not have his name] informed the Commission that in 2005 he was given a 30-day eviction notice for no reason. The dockmaster claimed that he paid late 22 times, but he has proof that he did in fact pay rent as well as late fees. He also was denied a grace period to pay the rent. He left the slip without a place to go. He believes he was denied due process. He would like to have his rights restored and the opportunity to move back to his slip.

Vice-Chairman Lesser pointed out that comments are heard on a regular basis about lessees trying to get rid of liveaboards. According to the POWER organization, liveaboards are under-fire and intimidation tactics are used to force them out of the Marina. Vice-Chairman Lesser said that a completed survey concluded there are more liveaboards now than in the history of the Marina. Some members of the public believe that liveaboards are kicked out and evicted for no apparent reason. As a businessman this does not seem logical to him.

Vice-Chairman Lesser asked Mr. Schem to comment on the number of liveaboards he has evicted, the reasons for the evictions and whether anyone was evicted due to his or her ethnicity, gender or race.

Mr. Schem replied that he has 115 slips, most ranging from 25-30 feet, up to 85 feet. Although he didn't have statistics on the exact number of evictions, he guessed the number is fewer than five. Mr. Schem believes the evicted people were those who committed gross violations. He recalled one person was evicted after trying to shoot pelicans with his 9mm gun.

Mr. Schem agreed that if a lessee has good tenants, the lessee would want to keep them. The issues that should be considered concern whether a boat is suitable, whether it will detract from the Marina or from other people's rights, does it have enough room to store equipment, etc. Mr. Schem said that there's also a limited number of restrooms and he hopes that liveaboards are using landside restrooms and showers that are properly sanitized for normal use. The Marina has an issue with contaminated water and proper disposal.

Ms. Dorothy Franklin commented that she has been a liveaboard for 25 years and takes offense at Mr. Levine's comment that liveaboards are derelict. She said that some small boats don't have proper facility waste management and electricity; however, boats should be considered on an individual basis. Her boat is 42' and adequate. She has a boat detailing business in the Marina and she works for quite a few people who are liveaboards. Liveaboards are not derelicts, their boats are well maintained. Ms. Franklin said that the liveaboards don't come to the Commission meetings because they don't want to risk losing their slips.

Mr. William Dresser stated he is a twelve-year liveaboard in Marina del Rey by choice. He enjoys sleeping on the water and has seen many changes over the years. He has noticed the marginalization of liveaboards in the official vernacular and policy. It used to be no problem to be a liveaboard, now it is something to achieve. He noted that former Supervisor Burton Chace had a dream. This area was the Ballona Lagoon and was only sand. Supervisor Chace dreamt

of a small harbor for people of modest means and not a cash cow for the County. Doug Ring's dream is prime waterfront real estate and it has become the operating principle today and is being applied at Deauville.

Further, Mr. Dresser said that he is a Bar Harbor tenant and he has already received his pre-sixth month eviction notice. He questioned who profits from the elimination of liveaboards. Liveaboards appear to be a problem to apartment owners, as they enable people to live cheaply on the water. Anywhere up and down the coast a 35-foot boat or better is required. If a person has a small boat in A basin, it is expected to be new or near new condition. Small boaters are being eliminated as well as people of modest means. They are being marginalized and cut out little by little. In conclusion, he asked where is the legal oversight on boating policy in the Marina and where is the Coastal Commission on the development issue.

Vice-Chairman Lesser commented that Mr. Dresser mentioned that liveaboards are becoming ostracized; however, Vice-Chairman Lesser pointed out that statistics contradict this allegation. He said statistics show that the Marina has 20% more liveaboards than ten years ago. Obviously, it is not correct that the County and lessees are opposed to liveaboards; otherwise, the numbers would be dropping rather than increasing. Vice-Chairman Lesser emphasized that he is 100% opposed to evicting people without reason, but he is not going to support asking the Board of Supervisors to change legislation, as it would be a waste of time because the Commission does not have any facts or examples of people being evicted without reason.

Vice-Chairman Lesser expressed that he didn't know what to believe, so he suggested to POWER members that if they are aware of liveaboards who have been wrongfully evicted, they should provide this information to the County and include the boater's name, slip number, lessee's name, dates the slip was occupied, date the liveaboard was given the eviction notice and the reason for eviction. Upon receipt of this information, Beaches and Harbors staff could contact the lessee to find out the reason for the eviction and evaluate the data. Staff could then bring it to the Commission's attention.

Mr. Wisniewski affirmed that if staff were provided information about a wrongful eviction, staff would investigate and report back to the Commission.

Commissioner Landini clarified that his intention was to write a transmittal memo, not an advocacy paper for any establishment of legislation. In the short period of time he has been a Commission member he has heard about the liveaboards' concerns. He commented that if this issue can't be resolved, the Commissioners and public's time is being wasted. The Commissioners are the ears for the Board of Supervisors and have an obligation to alert the Board about the arguments in POWER's bill of rights and the County Counsel's report. If the Board of Supervisors wants more data, the Commission can relay this need back to members of the public.

Vice-Chairman Lesser noted that he has no problem informing the Board; however, he would like to obtain data first. He does not want to send something to the Board without unsubstantiated data. What he has seen in writing indicates that liveaboards are increasing in number and the County's and lessee's goal is to not get rid of them.

Sgt. Michael Carriles agreed with Vice-Chairman Lesser that the liveaboard data should be substantiated. He commented that the liveaboard report that was given to the Commission is inaccurate; the data might possibly be flat and there might not be an actual increase. Sgt. Carrilles recommended that the Commission refrain from sending Commissioner Landini's proposed memo to the Board until he checks the data, which he will try to do within 30-days. Sgt. Carriles clarified that the listed percentage of liveaboards is consistent, but the actual numbers might be different. The last total percentages were based on full occupancy of all the slips in the Marina and some of the slips were missing.

Chairman Searcy commented that his brother has lived on a boat since 1971, so Chairman Searcy understands some of the comments expressed about liveaboards. He said that his business is involved with development and affordable housing. What is occurring is an economic issue. It doesn't just involve people of modest means around the harbor, but also people of modest means in apartment communities and urban areas.

Mr. Faughnan updated the Commission on information provided at the August meeting about AB1169, which was passed by the legislature in August and re-institutes the 60-day notice for residential units that are occupied by tenants for more than one year. Mr. Faughnan said that this law lapsed in 2006 and is now being re-instituted until 2010. He doesn't believe it has been signed into law yet.

Mr. Klein commented that, so far, the statements regarding Marina del Rey haven't included the fact that it is public land. Private enterprises are evicting people for no reason at all and it is accepted; however, the Marina is public land, as determined by Public Law 780, and is open to all on an equal basis. That is where the issue is and the County has not addressed it.

Chairman Searcy reiterated that the issue is economic and the economics are what fund the health, welfare, etc, of L.A. County residents. He agreed that the Marina is on public land, but he noted that it could be used for public purposes, such as generating revenue to provide services for which the County is responsible.

Mr. Faughnan mentioned that Mr. Klein often refers to Public Law 780. Mr. Faughnan explained that the fact of the matter is the Marina is public land and that is one of the reasons the master leases are structured in such a way that there are not any boat slip leases or apartment leases that can be for more than one year. Most of the leases are for less than a year or are on a month-to-month basis. There should be no entitlement to any particular individual to live or have a boat in Marina del Rey.

Chairman Searcy commented that there is a process in place and the County would take action if it received information about a lease being violated or a person being wrongfully evicted. He suggested to members of the public that if they really want to effect change, they should get tenant organizations and/or attorneys to study this issue, draft legislation and propose ideas to solve the problem. When they're ready, they could submit the information to the Commission for review and consideration.

Commissioner Landini reiterated that the Commissioners are the ears for the community and Board and he would like to see his proposed memo forwarded to the Board of Supervisors. Today's discussion merits consideration by the Board and a report by the legislative analyst. The Commission can't request Mr. Wisniewski to conduct the appropriate study, as it is the Board's role to do that. He moved that the Commission support his proposed memo and submit it to the Board of Supervisors. The motion was not seconded and failed.

Chairman Searcy indicated that he wasn't clear on what Commissioner Landini's memo was requesting. Chairman Searcy said it would help if the memo were accompanied by draft legislation. Additionally, he wasn't sure he agreed that the Commission could not request Mr. Wisniewski to conduct a study. He asked Mr. Faughnan for direction.

Mr. Faughnan advised that if there were a proposal for specific legislation and the Commission had findings to support the need for legislation, it would be appropriate for the Commission to make a recommendation for Board consideration.

As for conducting a study, Mr. Faughnan informed the Commission that it could request that the Department provide a report or further data on the status of evictions of liveaboards in the Marina.

Vice-Chairman Lesser reiterated that one way the Commission could obtain data about liveaboards who have been wrongfully evicted is for members of the public to submit specific information to Beaches and Harbors, which would then verify the information and bring it to the attention of the Commission. Vice-Chairman Lesser requested that an eviction report be added to the agenda each month so that it can be addressed if needed. If there aren't any evictions to report, staff could so indicate, and if there are evictions to report, the Commission can discuss them.

In addition to requesting Mr. Wisniewski to provide the liveaboard eviction report, Chairman Searcy requested that staff also research what other harbors are doing relative to liveaboards on a national and international level. He would like the Commission to receive information on laws as well as informal rules.

Mr. Wisniewski said that staff would conduct the eviction study as well as research liveaboards nationally and internationally and report back to the Commission.

6. STAFF REPORT

a. Ongoing Activities Report

- Board Actions on Items Relating to Marina del Rey

Mr. Wisniewski informed the Commission that there were no Board actions relating to Marina del Rey in the last 30 days.

- **Periodic Local Coastal Program Review - Update**

Mr. Wisniewski reported that the periodic review of the Local Coastal Program (LCP) is underway by the Department's staff and consultant. He believes the Coastal Commission plans to schedule the review for consideration at its November meeting in Los Angeles.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Ms. Nancy Marino corrected Mr. Wisniewski's LCP report for the record. She said that it was on Mr. Wisniewski's initiative that the Executive Director of the California Coastal Commission postponed the meeting. The reason that was given was that the County did not have enough time to prepare comments, which she believes to be disingenuous for the County to establish as fact for the record when it is not actually a fact. Ms. Marino said that, perhaps, the County did not specifically ask for the postponement, but the County made it clear that postponement is what it wanted and it is what the Coastal Commission allowed.

Further, Ms. Marino said that the fact that the County did not receive the report in advance of its publication is immaterial. She doesn't see why the County should have received the material in advance when the public didn't receive it in advance of the publication. The County had as much time as the public to prepare. The County has one year from the publication date of the LCP Review to respond to the Coastal Commission's comments. Until that one-year period has elapsed, the Coastal Commission will not entertain any appeals to projects because the LCP is still under consideration and the County still has time to respond. Everything is moving through the approval process until the report is actually published on the assumption that an LCP amendment is needed and the presumption that it will be obtained. The public objects to this. There is a process in place and the County is not honoring the spirit of the process because the County has a full year after the report is published. This is a way the County postpones and delays in order to move other things through the Small Craft Harbor Commission, Design Control Board, Regional Planning and Board of Supervisors. In fact, what is needed is an LCP Review first before any of the development projects go to the Board of Supervisors and the Commissions.

Mr. Wisniewski commented for the record that his LCP update is accurate.

- **Status of Dredging Report**

Mr. Wisniewski reported that the Department is working closely with the Corps of Engineers to ensure that dredging can occur during the current window that is available. The bids closed on 9/13/06. The Corps has 1.4 million in its budget and the Department notified the Board of Supervisors of its intent to work with the Corps and supplement its funding. He will keep the Commission apprised on the matter.

b. **Public Request for Information at August 9, 2006 Meeting**

- **Boater Concerns about Dock Construction at the Parcel 20 Marina**

Mr. Wisniewski reported that at the August 9, 2006 Commission meeting, a concern was expressed regarding the eviction of tenants due to dock replacement work, specifically on dock D-1700 at Panay Way Marina (Parcel 20). Staff researched the matter and found that new docks are being installed at Parcel 20. Docks D-2300, D-2100 and D-1900 have already been completed and reoccupied. D-1700, which was the subject of the person's concern at the August meeting, has been completely vacated and replacement activities are imminent. Notices to vacate have been issued to the slip tenants at Docks D-1500 and D-1300. Staff spoke to the lessee and it appears he is using reasonable efforts to minimize boaters during the work.

Mr. Wisniewski explained that lessees have chosen to stagger the dock replacement so that they only have one dock out of service at a time. They assemble the docks on land before the old dock is fully vacated. If the lessee plans to invite a slip tenant back after dock replacement, the lessee tries to put the tenant in a temporary slip until the new dock is completed. If a tenant is not invited back, it is because the tenant has either been late in payments, has violated his slip agreement or allowed individuals to liveaboard. These cases have been investigated. For instance, in one case, one gentleman was late with rent eleven times, twice to the extent that lien proceedings were initiated.

Mr. Wisniewski said that the Department welcomes the opportunity to look into these matters. When a tenant believes himself to be unfairly treated, rather he be a liveaboard or a non-liveaboard, staff will investigate. Mr. Wisniewski said that staff found lessees to be acting in good faith when it comes to retaining tenants who they think would abide by lease agreements.

Vice-Chairman Lesser mentioned that the Argonaut reports on the Coalition to Save the Marina's lawsuits against the County. The paper doesn't report on the outcome of these lawsuits. He is aware of five outstanding lawsuits and he asked whether Mr. Faughnan knew the status of them.

Mr. Faughnan responded that there are five lawsuits, four of which involve leases for Parcels 102, 103, 64 and 10. The court has recently sustained the County's and lessees' demurrers the third time around and has sustained the demurrers without leave to amend, which means the trial court is dismissing the actions. The plaintiffs may appeal, but they are going to be dismissed in trial court. The fifth lawsuit relates to the County Seaworthy Ordinance and the disposition of abandoned vessels as well as the eviction of Stuart Hoffman from a marina. This lawsuit is ongoing and still in the pleading stage after two years. The County and lessee defendants have demurrers pending to the plaintiff's most recent complaint. This is the only active lawsuit.

Vice-Chairman Lesser commented that, in the interest of fair journalism, the Argonaut should report that the trial court has dismissed the lawsuits.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Ms. Helga Gendell, reporter for the Argonaut, informed the Commission that the lawsuits were not printed in the paper until they had been filed. The paper doesn't print outcomes until the lawsuits are resolved and the Argonaut receives the official documents. Argonaut staff has

checked with the attorney, Mr. Richard Fein, to make sure the cases are still pending. At this time, the suits have not been officially closed. Once that happens and the information is transmitted, it will be printed.

Mr. Faughnan commented that the defendants were asked to prepare a judgment, which the County is doing. It will be submitted to the courts and once it is signed, the case will be dismissed.

7. COMMUNICATION FROM THE PUBLIC

Ms. Andrus stated that members of the community should have opportunity to collaborate on the Beaches and Harbors study. There is also an issue concerning the affordable housing policy, which is scheduled for Board consideration in less than 60 days. She commented that item #16 of the policy, titled "Ownership Units," omits affordable housing in ownership units. Ownership of units on publicly owned land that is under private control is outrageous. At the same time, the affordable housing policy has failed already. It is out of compliance with the Mello Act and state law. This is the silver bullet. Ms Andrus said that Marina del Rey lies within the state coastal zone and is subject to the affordable housing requirement in the act. The act mandates the creation of affordable housing if feasible whenever either existing affordable housing in the coastal zone is removed or new additional housing is constructed. According to the act, feasible means capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, social and technical factors.

Ms. Andrus asked the Commission to consider the liveaboards as an affordable aspect of living in the Marina. This will help to satisfy the general plan and the need to create general housing. A lot of money will come in for redevelopment, but it can't be taken down to having no affordable housing in the Marina. That is why the Mello Act is here. There is a wonderful opportunity right here and now to protect the boaters under this law.

Ms. Nancy Marino commented on two issues, the first being the Sheriff's statement that the liveaboard rate might be flat once new data is obtained. She said that this would suggest the number of liveaboards has gone down because the number of slips has decreased by nearly 2000. This would show that the liveaboards are down as well. The second issue pertained to a new Long Beach marina. Ms. Marino informed the Commission that a new private marina in the City of Long Beach has slip rates lower than Marina del Rey and a 10% liveaboard policy. She recommended that the County do a survey to determine what the rental rates are.

Chairman Searcy stated that Ms. Marino provided good information and he requested Mr. Wisniewski to conduct the research.

Further, Ms. Marino commented that Marina del Rey is public land and the leases for apartments and slips are a maximum of one year. This is all the renters could get; yet the County wants to sell it to others. She asked how the County could reconcile this with the fact that it has accepted a project proposal for ownership of units in Marina del Rey. The County is allowing eight floors on Parcel 9U on ownership units. Last week, a public hearing introduced a

draft affordable housing policy that made two references to ownership units. This shows how fragmented all of these issues are and how difficult it is for the public to begin addressing some of these things. The public would like a public viewing of Marina del Rey's master plan to resolve the housing issues and LCP. She asked how the public has a chance for appeal before a project is completed. Ms. Marino noted that the only recourse for the public is litigation or a monetary option. It is difficult for the public to begin to state what it considers reasonable redevelopment. She stated that she is not begrudging the County's desire to make a profit, but would like the Commission to recommend to the Board and/or Beaches and Harbors that there be a public review of the Marina del Rey master plan before any of the development projects proceed in the approval process or before any new projects move along.

Mr. Donald Klein requested a current status report on the Marina's development projects.

Chairman Searcy responded that Mr. Klein had a good idea and requested that staff update the Commission on this issue.

Mr. Klein commented that he took exception to Mr. Faughnan's statement about boaters wanting something special that others don't have. Mr. Klein said that the boaters only want the protection of the law.

8. ADJOURNMENT

Chairman Searcy adjourned the meeting at 11:35 a.m.

Respectfully submitted,

Donna Samuels
Commission Secretary

Marina del Rey Redevelopment Projects
Descriptions and Status of Regulatory/Proprietary Approvals
As of October 5, 2006

Map Key	Parcel No. -- Project Name/Lessee	Lessee Name/ Representative	Redevelopment Proposed	Massing and Parking	Status	Regulatory Matters
1	42/43 - Marina del Rey Hotel/ Pacifica Hotels	Dale Marquis/ Mike Barnard	* Complete renovation	No changes	Proprietary -- term sheet under negotiation Regulatory -- to be determined	
2	52/GG -- Boat Central/ Pacific Marina Development	Jeff Pence	* 345-vessel dry stack storage facility * 30-vessel mast up storage space * Sheriff boatwright facility	Massing -- 75' high boat storage building partially over water and parking with view corridor Parking -- all parking required of the project to be located on site, public parking to be replaced on Parcel 56	Proprietary -- term sheet approved by BOS on July 2006; lease documents in process Regulatory -- DCB application in process	LCP amendment to allow proposed use and to transfer Public Facility use to Parcel 19
3	55/56/W -- Fishermans Village/ Gold Coast	Michael Pashaie/ David Taban	* 132-room hotel * 65,700 square foot restaurant/retail space * 30-slip new marina * 28-foot wide waterfront promenade	Massing -- Nine mixed use hotel/visitor-serving commercial/retail structures (eight are 1 or 2-story and one 60' tall hotel over ground floor retail/ restaurant), parking structure with view corridor Parking -- all parking required of the project to be located on site; must include parking for adjacent Parcel 61 lessee (Shanghai Reds) and replacement parking from Parcel 52	Proprietary -- lease documents approved by BOS Dec 2005 Regulatory -- DCB hearing May 2006, item continued; approved in concept July 2006. Regional Planning application in preparation	Shared parking analysis
4	64 - Villa Venetia/ Lyon Capital	Frank Suryan/ Mark Kelly	* 479-unit residential complex (includes 263 apartments and 216 condominium units) * 3,000 square foot accessory retail space * 18-slip marina with water taxi slip * 28-foot wide waterfront promenade and parkette	Massing -- Three buildings, two that are 140' tall, consisting of 11-12 floors of residential and 2 above-ground parking levels, and the third that is 84' tall, consisting of 6 floors over raised podium and plaza level with expansive covered parking Parking -- all parking required of the project to be located on site	Proprietary -- term sheet under negotiation Regulatory -- on DCB's August 2006 agenda, item heard, continued to October 2006	Affordable housing
5	1 -- Marina del Rey Landing/ Harbor Real Estate	Greg Schem	* New fuel dock facility with high-speed pumps and automatic payment * 3,000 square foot dock mart and restrooms * New marina with 10 slips and transient berths * Public promenade and public view decks	Massing -- 1-story structure Parking -- all parking required of the project to be located on site	Proprietary -- lease documents approved by BOS May 2006 Regulatory -- DCB application in preparation	
6	10/FF -- Neptune Marina/ Legacy Partners	Jim Andersen	* 526 apartments * 161-slip marina + 7 end-ties * 28-foot wide waterfront promenade * Replacement of public parking both on and off site	Massing -- Four 55' tall clustered 4-story residential buildings over parking with view corridor Parking -- 103 public parking spaces to be replaced off site	Proprietary -- term sheet approved by BOS Aug 2004; lease documents in process Regulatory -- DCB approval in concept June 2006; Regional Planning application in preparation	LCP amendment to allow apartments on Parcel FF Parking permit to allow some replacement public parking off site Replacement of Parcel FF open space Affordable housing
7	9 -- Woodfin Suite Hotel and Vacation Ownership/ Woodfin Hotels	Mark Rousseau	* 19-story, 288-room hotel (152 hotel rooms and 136 timeshare suites) * 5-story, 332-stall parking structure * New public transient docks * 28-foot wide waterfront promenade * Wetland park	Massing -- 19-story hotel with 5-story parking structure, 225' tall, on northern half of parcel with view corridor and wetland park on southern half Parking -- all parking required of the project to be located on site	Proprietary -- revised term sheet under negotiations Regulatory -- DCB initial hearing May 2006, item continued; approved in concept June 2006	Timeshare component Wetland
8	100/101 - The Shores/ Del Rey Shores	Jerry Epstein/ David Levine	* 544-unit apartment complex * 10 new public parking spaces	Massing -- Twelve 75' tall 5-story residential buildings Parking -- all parking required of the project to be located on site plus 10 public beach parking spaces	Proprietary -- term sheet approved by BOS Dec 2003; lease documents in process Regulatory -- Regional Planning approval June 2006	
9	95/LLS -- Marina West Shopping Center/ Gold Coast	Michael Pashaie/ David Taban	* 72-unit apartment complex * 10,000 square foot restaurant * 22,400 square foot commercial space * Gateway parkette on Parcel LLS	Massing -- One 42' tall retail building, three 60' tall mixed-use residential/retail buildings and parkette Parking -- all parking required of the project to be located on site	Proprietary -- term sheet under negotiation Regulatory -- DCB initial hearing May 2006; item also on June and July agenda, but not heard; on again for September 2006 agenda; continued to November 2006	
10	145 - Marina International Hotel/ Pacifica Hotels	Dale Marquis/ Mike Barnard	* Complete renovation	No changes	Proprietary -- term sheet under negotiation Regulatory -- to be determined	
11	OT -- Admiralty Courts/ Goldrich & Kest Industries	Jona Goldrich/ Sherman Gardner	* 114-unit senior care facility * 3,000 square feet of retail space * Replacement public parking both on and off site * Public accessway from Washington to Admiralty	Massing -- One 5-story residential (senior) building over ground-floor retail and parking, 65' tall Parking -- all parking required of the project to be located on site; 92 public parking spaces to remain on site, 94 public parking spaces to be replaced off site near Marina Beach	Proprietary -- term sheet approved by BOS Aug 2005; lease documents in process Regulatory -- DCB conceptual approval August 2005; Regional Planning application filed May 2006, awaiting hearing date	LCP amendment to allow proposed use Parking permit for senior care facility Parking permit to allow some replacement public parking off site
12	33/NR -- The Waterfront	Ed Czuker	* 292 apartments * 32,400 square foot restaurant/retail space * Rooftop observation deck * Replacement public parking both on and off site	Massing -- Three 5-story mixed use residential/retail buildings (two 44' tall and one 61' tall) with view corridor Parking -- 121 public parking spaces to be replaced on site, 70 public parking spaces to be replaced off site	Proprietary -- lease documents in process and economic terms being negotiated Regulatory -- DCB concept approval August 2004; revised project pending DCB consideration	LCP amendment to allow proposed use Parking permit to allow some replacement public parking off site
13	27 -- Jamaica Bay Inn/ Pacifica Hotels	Dale Marquis/ Mike Barnard	* 69 additional hotel rooms * Renovate balance of property * Marina Beach Promenade	Massing -- 4-story, 45' tall, hotel expansion with view corridor Parking -- all parking required of the project to be located on site	Proprietary -- lease documents approved by BOS May 2006 Regulatory -- DCB conceptual approval obtained October 2005; Regional Planning application in preparation	
14	IR -- Marriott Residence Inn/ Pacifica Hotels	Dale Marquis/ Mike Barnard	* 147-room hotel * Replacement of public parking both on and off site * Marina Beach Promenade	Massing -- Two hotel buildings above parking, 45' tall, with view corridor Parking -- 197 public parking spaces to remain on site, 20 or 89 public parking spaces to be replaced off site depending on intersection project	Proprietary -- lease documents approved by BOS Oct 2006 Regulatory -- DCB approved in concept February 2006; Regional Planning application in preparation	LCP amendment to allow proposed use Parking permit to allow some replacment public parking off site
15	21 -- Holiday Harbor Courts/ Goldrich & Kest Industries	Jona Goldrich/ Sherman Gardner	Phase 1 * 5-story, 29,300 square foot mixed-use building (health club, yacht club, retail, marine office) * 87-slip marina * 28-foot wide waterfront promenade and pedestrian plaza Phase 2 (Parcel C) * Westernmost portion of land to revert to County for public parking	Massing -- One 56' tall commercial building with view corridor Parking -- all parking required of the project to be located on site, including 94 replacement spaces from OT and Parcel 20 boater parking	Phase 1 Proprietary -- lease documents in process Regulatory -- DCB conceptual approval obtained August 2005; Regional Planning application (landside) filed July 2006 Phase 2 (Parcel C) DCB hearing May 2006, item continued	CDP for landside from Regional Planning CDP for waterside from Coastal Commission Parcel 20 CDP amendment from Regional Planning to transfer Parcel 20 Phase 2 (6,025 sf yacht club, 2,300 sf office space, 231 parking spaces) to Parcel 21
16	19 -- Administration Building/ Department of Beaches and Harbors	N/A	* 26,000 square foot County administration building	Massing -- One 56' tall building consisting of 2 floors office space over 3 parking levels Parking -- all parking required of the project to be located on site	Proprietary -- lease documents in process with Parcel 20 lessee for parcel reversion Regulatory -- DCB hearing May 2006, item continued	See Item #2 above

[illegible]

rev 6/29/06



"To enrich lives through effective and caring service"



October 19, 2006

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

To: Design Control Board

From: *Kerry Silverstrom for*
Stan Wisniewski, Director

**Subject: BOARD MEMBERS' REQUESTS FOR INFORMATION AT
AUGUST 31, 2006 MEETING**

At your August 31, 2006 meeting during the discussion regarding the proposed redevelopment at Parcel 64 (Villa Venetia Apartments and Condos), Board Members posed a series of questions, which County staff was requested to answer. These questions and their answers as prepared by Beaches and Harbors (DBH), County Counsel and Regional Planning (DRP) representatives are as follows:

Question 1: Explain how Marina redevelopment projects are processed.

Answer: There are two different tracks Marina redevelopment projects follow, the first being the proprietary track and the second being the regulatory track. On the proprietary track, DBH initially released either Requests for Proposals (RFP) or Invitations to Accept Lease Extension Proposals to solicit redevelopment proposals, which documents were approved in public hearings at both the Small Craft Harbor Commission (SCHC) and the Board of Supervisors (BOS) before they were released. Once redevelopment proposals were submitted in response to the solicitation documents, evaluation committees (including a Chief Administrative Office representative and legal, economic and planning consultants and staffed by DBH) reviewed proposals and made recommendations to the Director of DBH, who, in turn, took those recommendations to both the SCHC and the BOS prior to entering into exclusive negotiations with the recommended proposed lessees or existing lessees (collectively hereinafter "lessees") for either new leases or lease extensions, respectively. During the negotiation process, the economic deal and the redevelopment project itself are negotiated between the County negotiating team (including the Chief Administrative Office, DBH and legal and economic consultants) and the lessee. Instructions are provided to the County negotiating team from the BOS with respect to these deals during BOS executive sessions.

Once a term sheet has been approved by both the lessee and the BOS, the proprietary track continues into development of lease documents, which are ultimately brought to the SCHC and the BOS in the form of an option agreement for recommendation and approval, respectively. Pursuant to the option agreement, the County is not required to

enter into the lease or lease extension unless the lessee fully complies with a number of conditions, including obtaining all necessary entitlements, as discussed below. With the approval of a term sheet, the regulatory track with respect to that redevelopment project may commence.

On the regulatory track, the Design Control Board (DCB) first conceptually considers a project. Once cleared through DCB, a lessee may file an application with DRP for its proposed redevelopment project, which commences the period when an Environmental Impact Report (EIR) may be prepared, discussed more just below. Once an application has been deemed complete, the redevelopment project is presented to the Regional Planning Commission (RPC) for issuance of a coastal development permit (CDP) for landside improvements. Decisions of the RPC may be appealed to the BOS. Original jurisdiction remains with the California Coastal Commission (CCC) for waterside improvements, to which landside CDPs may also be appealed (if there exists a substantial issue). Also, any amendments to the certified Marina del Rey Local Coastal Program (Marina LCP) necessary for a proposed project must first be approved by the RPC and, then, the BOS and the CCC.

Question 2: What is the County's Environmental Impact Report (EIR) process and what is the controlling agency(ies)?

Answer: The County's current EIR process for Marina redevelopment projects does not begin until after the initial conceptual review of the project by the DCB. At present, provisions of the Marina LCP do not allow the filing of an application with DRP – or, therefore, the formal commencement of the California Environmental Quality Act (CEQA) process – until the DCB has completed its initial review. A recent BOS order, however, has requested the RPC to come back in early 2007 with a recommended Marina LCP amendment that would allow filings of project applications with DRP prior to DCB review. No matter when the review occurs, because CEQA primarily applies to discretionary decisions to approve a project and the DCB's review is advisory only and not an "approval" as defined by CEQA, the DCB review is exempt from the application of CEQA.

Once an application for a Marina development project is filed, DRP initiates the CEQA review. An EIR is determined to be necessary if there are one or more significant impacts identified during the County's Initial Study review. In the alternative, an Initial Study may determine that a negative declaration or mitigated negative declaration is appropriate. Once the County determines an EIR is necessary, a Notice of Preparation is sent to responsible and interested parties to publicly indicate that an EIR is necessary for the disclosure of the potential significant impacts resulting from a proposed project. The Draft EIR (DEIR) is provided for public comment 45 days prior to a public hearing on

the DEIR and the project before the RPC. After the close of the public hearing, the County prepares a Final EIR, which includes any revisions to the project and the response to the comment letters received on the DEIR. The Final EIR is sent to all commenting agencies ten days prior to the RPC taking final action on a project. The BOS may also consider and certify the EIR if a decision of the RPC is appealed to the BOS.

Question 3: What happens if a Marina project as negotiated can't be developed due to California Environmental Quality Act (CEQA) constraints? What happens to the term sheet?

Answer: The lessee is responsible for securing the necessary entitlements and assumes all risk with respect thereto. It is anticipated by both the County and lessee that project variations might occur during the regulatory process, and the deals negotiated account for typical project revisions. To the extent a project has been so radically changed that it does not "pencil out" for the lessee, the proprietary phase would recommence to the extent both parties are willing, and a revised term sheet would be negotiated. This most recently happened in connection with a residential redevelopment project that had to include and account for replacement affordable housing units. Even if redevelopment deals are ultimately unable to advance, the negotiated deals require the parties to execute lease amendments to existing leases, i.e., new market rate percentage rents, County participation in sale and refinance, obligation to reimburse County costs for negotiating lease deal, sinking fund for removal of improvements upon lease termination, assignment disclosure provisions, assessments for late payments, increased security deposit, new insurance level and minimum rent adjustment cycles, improved record-keeping standards, liquidated damages for lingering maintenance deficiencies, modernized arbitration provisions.

Question 4: What is within the Design Control Board's purview, and what is legitimately an issue before this body?

Answer: The DCB is composed of five members appointed by the BOS and charged with: (1) reviewing and approving the architectural design and landscaping of improvements in the Marina for compliance with applicable laws, ordinances, contracts, leases and policies; (2) advising the DBH Director concerning the implementation of architectural design regulations and policies and related matters; and (3) performing such other duties as may be requested by the BOS. The ordinances establishing the DCB and its powers are set forth in County Code §§ 2.116.110 - 2.116.140.

The DCB is also discussed in the County's certified Marina LCP. Under "Land Development Entitlement Procedures" in the Marina Del Rey Land Use Plan ("LUP"), it states that the DCB shall review all new development proposals for "consistency with the

Manual for Specifications and Minimum Standards of Architectural Treatment and Construction and the certified LCP, including the identity and accessibility of the Marina as a public boating and recreational facility, and shall recommend such modifications to the design as they deem appropriate.” The DCB's review “shall be completed prior to any application for development being submitted to the Department of Regional Planning for case processing.” (LUP, p. 8-8.) In the "Coastal Visual Resources" section of the LUP, it notes that signing, building design, site planning and façade design in the existing Marina shall continue to be controlled by the DCB and goes on to state that the DCB shall review all new development proposals "for consistency with the policies and objectives of this LCP and shall recommend such modifications to the design as they deem necessary." Once again, it states that the DCB's review shall be completed prior to any application for development being submitted to DRP for case processing. In reviewing signs, the DCB may refer to the Permanent Sign Controls and Regulations and the Specifications and Minimum Standards of Architectural Treatment and Construction. (LUP, p. 9-4.)

The Marina del Rey Specific Plan, Chapter 22.46 of the Los Angeles County Code, is a key component of the Local Implementation Program ("LIP") of the Marina LCP. The Specific Plan is designed to implement the general guidelines, concepts and policies of the LUP. The Specific Plan sets forth the specific responsibilities of the DCB: (A) Signs—the DCB is charged with regulating signs in the Marina through application of the DCB's Revised Permanent Sign Controls and Regulations (County Code § 22.46.1060.D.1); (B) Architectural Treatment—design review is the responsibility of the DCB's Statement of Aims and Policies (County Code § 22.46.1060.E.4); and (C) Site Plan Review—all applications for development in the Marina must 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 the Marina LCP, which must be signed and approved by the DCB (County Code § 22.46.1180.A.12). Section 22.46.1180.A.12.a. goes on to state that:

“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.”

Section 1.F of the "Specifications and Minimum Standards of Architectural Treatment and Construction" (Exhibit C to the LIP) provides in subsection 1 that "[n]o improvements will be made or structures erected upon said premises without the prior approval of the Design Control Board." Subsection 2 of section 1.F further states:

"Before commencing any construction work or improvements upon the premises, the lessee will submit to the Design Control Board a complete set of drawings, plans, and specifications of the proposed improvements, and the Board shall have the right to make and order changes, modifications, or alterations in said drawings, plans and specifications. All such drawings, plans and specifications must be approved by the Board as submitted, or as so changed, and no change shall thereafter be made without the consent of said Board given in writing."

The Specifications and Minimum Standards of Architectural Treatment and Construction also set forth specific matters for the DCB to review, including alterations, remodeling and changes; signs; canopies and awnings; landscaping; flagpoles and radio, television and satellite antennas.

The DCB's "Revised Statement of Aims and Policies" (part of Exhibit C to the LIP) sets forth the DCB's aims and policies on topics such as architectural style and theme, operational function and layout, and esthetic considerations. It also describes the organization and procedures of the DCB.

The "Revised Permanent Sign Controls and Regulations" (part of Exhibit C to the LIP) states that all signage, other than small informational-directional signs and certain temporary signs, must be approved by the DCB and sets forth the sign guidelines and procedure for processing and approval.

In conclusion, the role of the DCB may be summarized as follows:

1. The DCB must review new development proposals for conformance with the Marina Del Rey Specific Plan and with the identity and accessibility of the Marina as a public boating and recreational facility. Its analysis must 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 the Marina LCP. The DCB must adopt a written report and/or exhibits describing its analysis and recommendations for the design of the project.
2. The DCB must sign and approve site plans and elevations.

3. The DCB, as a condition of its approval, may require the applicant to return with final plans for approval of signage, landscaping, color and other details.

4. The DCB must review development proposals in accordance with the Specifications and Minimum Standards of Architectural Treatment and Construction, the Revised Statement of Aims and Policies, and the Revised Permanent Sign Controls and Regulations to the extent applicable.

Question 5: How does the County define “affordable housing”?

Answer: What constitutes "affordable housing" is defined by State law. Affordable housing can best be described based upon two components: (1) those persons and families meeting the income eligibility requirements for affordable housing; and (2) the rent to be charged for occupancy of a residential dwelling unit designated as affordable housing. Affordable housing requirements for the coastal zone are governed by the Mello Act (Government Code section 65590, *et seq.*) (see response to Question 6, below). Under the Mello Act, the term "affordable housing" is not used, instead, the Mello Act refers to "residential dwelling [or housing] units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code."

Health and Safety Code section 50093, in turn, defines persons and families of low or moderate income as being those persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the California Department of Housing and Community Development ("CDHCD") in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development ("HUD") pursuant to Section 8 of the U.S. Housing Act of 1937. Under the umbrella of "persons and families of low or moderate income," the State has further defined the following subsets: (1) extremely low income households (gross incomes do not exceed 30 percent of the area median income, adjusted for family size by HUD); (2) very low income households (gross incomes do not exceed 50 percent of the area median income, adjusted for family size by HUD); (3) lower income households (gross incomes do not exceed 80 percent of the area median income, adjusted for family size by HUD); and (4) moderate income households (gross incomes do not exceed 120 percent of the area median income, adjusted for family size by HUD). Each year, the CDHCD sets the income eligibility requirements for each category by county. By way of example, the 2006 State Income Limits for a household of four persons in Los Angeles County is as follows: (a) extremely low income—\$20,800; (b) very low income—\$34,650; (c) lower income—\$55,450; (d) median income—\$56,200; and (e) moderate income—\$67,400.

"Affordable rent" is defined by Health and Safety Code section 50053 as follows: (1) extremely low income—the product of 30 percent times 30 percent of the area median income, adjusted for family size appropriate for the unit; (2) very low income—the product of 30 percent times 50 percent of the area median income, adjusted for family size appropriate for the unit; (3) lower income—the product of 30 percent times 60 percent of the area median income, adjusted for family size appropriate for the unit; and (4) moderate income—the product of 30 percent times 110 percent of the area median income, adjusted for family size appropriate for the unit. Affordable rent also includes a reasonable utility allowance.

"Affordable housing cost" is defined by the Health and Safety Code section 50052.5 as follows: (1) extremely low income—the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit; (2) very low income—the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit; (3) lower income—the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit; (4) moderate income—no less than 28 percent of the gross income of the household, or more than the product of 35 percent of 110 of area median income, adjusted for family size appropriate for the unit.

Lessees that are required to provide affordable housing units in Marina del Rey will be required to charge no more than the rent or housing cost applicable to the income level designated for the unit (i.e., a very low, lower or moderate income unit) and will be required to rent or sell the unit to a person or family who meets the State income eligibility requirements for the income level designated for the unit for so long as the requirement is imposed.

Question 6: What is the affordable housing requirement in Marina del Rey?

Answer: Affordable housing requirements for the coastal zone are governed by the Mello Act (Government Code section 65590, *et seq.*). The basic requirements of the Mello Act are: (1) converted or demolished residential units that are occupied by low or moderate income persons or families must be replaced on-site or within the coastal zone if feasible, if not feasible, then within three miles of the coastal zone ("replacement units"); (2) new residential projects must provide housing units affordable to low or moderate income persons or families where feasible, if not feasible, then elsewhere in the coastal zone or within three miles thereof, where feasible ("inclusionary units"); and (3) demolition or conversion of residential structures for the subsequent development of commercial uses that are not coastal dependent can only be approved upon a finding that residential use is no longer feasible at that location. "Feasible" means capable of being accomplished in a

successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

While the Mello Act does not require local jurisdictions to adopt a policy or ordinances to implement the Act, the County has had an affordable housing policy for Marina del Rey since 2002. The County is currently formulating a revised policy. In the interim, the County is applying the Mello Act on a project-by-project basis, as it had done prior to 2002.

The RPC determines each project's compliance with the Mello Act during the entitlement process. Such determinations are appealable to the BOS.

Question 7: Can the California Coastal Commission now designate an area in Marina del Rey as ESHA (Environmentally Sensitive Habitat Area)? If so, is the Commission on the verge of designating Parcel 64 as an ESHA?

Answer: No. Once an LCP is fully certified and, accordingly, permit authority has been returned to a local jurisdiction, as has occurred with respect to the Marina LCP, the California Coastal Commission (CCC) may not initiate or approve any changes to the regulations of the LCP. The CCC may offer comments, just as any other agency may, on the resources in Marina del Rey at any time, on its own or through the CEQA process as individual development projects are considered. However, the CCC has no jurisdiction to either designate ESHA on its own or to import an ESHA designation through the appeal process of a particular project. Moreover, the appeal of any Marina project to the CCC is limited to the project not conforming either to the standards set forth in the Marina LCP or to the public access policies of the Coastal Act. Therefore, as the Marina LCP does not have an ESHA section, the CCC has no jurisdiction to hear an appeal of a project on the basis of ESHA.

Because of this limit on CCC authority, it has sought legislative changes to the Coastal Act over the years. Specifically, the CCC has asked the Legislature to allow it to force LCP amendments or to authorize it to consider new issues or changed circumstances in project appeals. The Legislature has consistently rejected these proposals.

Accordingly, the assertions regarding the CCC's "imminent designation" of Parcel 64 as ESHA are inaccurate. The CCC cannot legally do this, nor has the CCC ever suggested that it possesses this authority. In fact, as noted by CCC staff in its recent Marina LCP periodic review report, the CCC has actually declined to designate heron nesting trees as ESHA in Channel Islands Harbor. However, CCC staff has also recommended in its periodic review report that the County should study the issue of whether ESHAs exist in Marina del Rey and, if so, the County should include ESHA policies in the Marina LCP

for their special handling. This is a recommendation not yet fully considered by the CCC itself. At the time of this writing, it is expected the periodic review staff report will be considered by the CCC at its January 2007 meeting in either Los Angeles or Orange Counties.

The County does not believe that any of the resources in the Marina constitute ESHA. However, contrary to some assertions at various meetings, merely because potential resources are not ESHA does not mean they are not accorded protection under CEQA. Specifically, the County engages in a thorough CEQA process with each project, and the decision-makers weigh the environmental information at the time of decision. If the decision-makers believe the resources are deserving of protection, preservation or mitigation, the decision-makers have adequate tools within CEQA to accomplish this goal. Nevertheless, ESHA claims remain a popular basis for commenters desiring to encourage decision-makers to preserve, rather than mitigate, a resource.

Question 8: Does DBH take seriously its charge about preserving the environment?

Answer: Yes. Particular to the letter sent by the Director of DBH to the State Department of Fish and Game (DFG) with respect to trees on Parcel 64 that contain Great Blue Heron nests, given the immediate adjacency of several hundred acres of a State-owned ecological reserve, we firmly believe relocation of trees where these birds nest to this neighboring reserve – an area, we note, specifically purchased by the State for resource protection – is not only appropriate, but also sensitively balances the various interests in the Marina (i.e., bikers, walkers, residents, boaters, bird enthusiasts, tourists). Moreover, rather than waiting to see if the trees could be merely removed without mitigation, which is an entirely possible and not unlikely alternative if no significant impact is found under CEQA – or, for that matter, waiting for the trees to die –, both the County and Parcel 64 lessee have been proactively working on what we consider to be a win-win solution for all interested parties. We have done this now – even before the preparation of an EIR – in order to create awareness of the issue at the appropriate regulatory agencies and to generate consideration of the environmental challenges and opportunities at the earliest moment in the development process.

This is not dissimilar to actions taken by DBH with respect to the wetland located on Parcel 9U in fashioning a solution to allow the hotel project to be developed (allowing for an additional visitor-serving facility and, thereby, increased public access in the Marina) and yet to also preserve and, indeed, enhance the wetland. Many months have been spent in working out a solution acceptable to the Coastal Commission biologist with respect to the wetland restoration plan – all of this in advance of the commencement of a project EIR. Similarly here, we have been in discussions not only with DFG, but also with an

interested Coastal Commissioner about how best to protect these and other birds while allowing the Marina's redevelopment to occur.

Recognition of the potential environmental impacts of a development project and outreach to appropriate regulatory agencies at the earliest opportunity to explore options is, we believe, a proactive and responsible manner for dealing with environmental protection in an urban setting – and one with several other “competing” interests as well, i.e., recreational boating, public access, housing needs. Such an approach in no way predisposes the outcome of the environmental process. Indeed, such consultation efforts would be undertaken in any event in the CEQA process. By starting early, however, DBH was able to make the DFG aware of opportunities available to it and also gave both parties the chance to open a dialogue on the broader issues of the restoration of the neighboring reserve, as the response from DFG substantiates.

Question 9: Is Fiji Way a mole road?

Answer: Fiji Way is a dedicated public road maintained by the County's Department of Public Works. It is not a mole road, albeit the Land Use Plan may have created confusion due to inconsistent references to Fiji Way. Whether or not Fiji Way is a mole road, however, has no bearing on the height limit for Parcel 64 (see response to Question 10 below).

Question 10: What is the height designation in the Marina del Rey Local Coastal Program (LCP) for Parcel 64?

Answer: As discussed above, development guidelines for Marina del Rey consist of two components: the Marina del Rey Land Use Plan and the Marina del Rey Specific Plan. According to section 22.46.1020.D. of Part 3 of Chapter 22.46 of the Los Angeles County Code, the Marina del Rey Specific Plan:

“...is the key component of the Local Implementation Program for Marina del Rey. It is designed to implement the Marina del Rey Land Use Plan through the application of site-specific development standards and guidelines. The Specific Plan constitutes the most detailed interpretations of General Plan Policy.”

Parcel 64 is located in the Harbor Gateway Development Zone 11. In the “Special Development Considerations” component of section 22.46.1900 of the Marina del Rey Specific Plan, Parcel 64 is designated: “Height Category 4. Building height not to exceed 140 feet (emphasis added).”