

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: 11/7/2008
49th Day: 12/26/2008
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Staff: Charles Posner - LB
Staff Report: 1/15/2009
Hearing Date: February 4, 2009
Commission Action:

**W24a****STAFF REPORT: MATERIAL AMENDMENT**

APPLICATION NUMBER: 5-07-131-A1

APPLICANT: Michael Dugan

AGENT: Peter Swift, Swift Slip Dock & Pier Builders

PROJECT LOCATION: 5639 Sorrento Drive, Naples Island/Alamitos Bay, City of Long Beach, Los Angeles County.

ORIGINAL PROJECT DESCRIPTION, APPROVED OCTOBER 10, 2007:

Remove and replace a private pier and gangway in the same location.

DESCRIPTION OF PERMIT AMENDMENT:

Revise the plans to remove and replace a private residential pier and gangway. The revised project, which includes reconfiguration and enlargement of the floating boat dock, increases the total number of piles from four to five.

LOCAL APPROVAL: City of Long Beach Marine Bureau Approval in Concept, 3/16/2007.

SUMMARY OF STAFF RECOMMENDATION

Special Condition One of the underlying coastal development permit requires the applicant to design the approved pier in conformance with the Alamitos Bay pier platform size limitation (10'x 14' maximum). The revised pier plans submitted with this permit amendment request comply with Special Condition One and the platform size limit, but the currently proposed project also includes the reconfiguration and enlargement of the floating boat dock, which was not approved previously. The currently proposed pier would use the same two T-piles as the existing pier, but one pile would be relocated further seaward as the new pier is about thirteen feet longer than the existing pier. The proposed new U-shaped floating dock requires three piles, which is one more pile than the two that secure the existing rectangular dock float.

Staff is recommending **APPROVAL** of the permit amendment with a revised set of special conditions. The special conditions, which begin on Page Three, require a pre-project toxic algae (caulerpa) survey and a new eelgrass survey in order to ensure that the project will not adversely affect eelgrass beds (the 2007 eelgrass survey found no eelgrass at the site). The conditions also protect water quality and public access along the Alamitos Bay shoreline trail (City right-of-way) that exists immediately seaward of the applicant's bay-fronting lot. The applicant agrees with the staff recommendation. **The motion to accomplish the staff recommendation is on the bottom of Page Two.**

SUBSTANTIVE FILE DOCUMENTS:

1. City of Long Beach certified Local Coastal Program (LCP), July 22, 1980.
2. Plans & Specifications No. R-4858 (Revised) for the Construction of Waterfront Structures in the Long Beach Marina Area in the City of Long Beach, California, Office of the City Engineer, Long Beach, California, October 1994.
3. Eelgrass Survey Reporting Form for 5639 Sorrento Drive, Long Beach (Dugan Residence), by Coastal Resources Management, Inc., March 12, 2007.
4. Coastal Development Permit 5-02-048 (Kober - 5615 Sorrento Dr.).
5. Coastal Development Permit 5-03-320 (Boiteux - 5469 Sorrento Dr.).
6. Coastal Development Permit 5-03-485 (Diamond - 5635 Sorrento Dr.).
7. Coastal Development Permit 5-04-033 (Jones – 5507 Sorrento Dr.).
8. Coastal Development Permit 5-05-052 (Baker – 5641 Sorrento Dr.).
9. Coastal Development Permit 5-06-411 (Reback – 5649 Sorrento Dr.).
10. Coastal Development Permit 5-07-301 (Cullen – 5645 Sorrento Dr.).
11. Coastal Development Permit 5-08-102 (Speroni – 5557 Sorrento Dr.).
12. Coastal Development Permit 5-08-243 (Ball – 5529 Sorrento Dr.).

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change that affects the conditions required for the purpose of protecting a coastal resource. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [Title 14 California Code of Regulations 13166].

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the permit amendment request with special conditions:

MOTION: *"I move that the Commission approve the proposed amendment to Coastal Development Permit 5-07-131-A1 pursuant to the staff recommendation."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment and adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

I. Resolution: Approval with Conditions

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Eelgrass Survey
 - A. Pre Construction Eelgrass Survey. Prior to commencement of any development authorized under this coastal development permit, a valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The

applicants shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require another amendment to this permit from the Coastal Commission or a new coastal development permit.

- B. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in Section A of this condition above, within one month after the conclusion of construction, the applicants shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicants shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

2. Caulerpa (Toxic Algae) Survey

- A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least ten meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C. Within five (5) business days of completion of the survey, the applicant shall submit the survey for the review and approval of the Executive Director; and to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).
- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or

buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Permit Compliance

The permitted use of the approved development is for boating related uses only. No boat baths or other type of permanent development is permitted to occupy the boat docking area. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

4. Construction Responsibilities and Debris Removal

- A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- B. Any and all construction material shall be removed from the site within ten days of completion of construction and disposed of at an appropriate location.
- C. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
- D. If turbid conditions are generated during construction, a silt curtain will be utilized to control turbidity.
- E. Eelgrass shall not be disturbed.
- F. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
- G. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- H. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to navigation.

5. Best Management Practices (BMP) Program

By acceptance of this permit, the applicant agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

A. Boat Cleaning and Maintenance Measures:

- 1. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
- 2. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited. Only detergents and cleaning components that are designated by the manufacturer as

phosphate-free and biodegradable shall be used, and only minimal amounts shall be used.

3. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.
 - B. Solid and Liquid Waste Management Measures. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or gutter.
 - C. Petroleum Control Management Measures. Oil absorbent materials should be examined at least once a year and replaced as necessary. The applicant shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. Bilges shall be cleaned and maintained. The use of detergents or soaps that can be discharged by bilge pumps is prohibited.
6. Public Access To and Along the Waterway

The pier shall provide at least seven feet of vertical clearance between the lowest part of the pier approach deck and the beach located immediately seaward of the applicant's private property. Except for the temporary disruptions that will occur during the completion of the permitted development, the applicant shall not interfere with public access along the shoreline area located seaward of the applicant's private property.

7. Conformance with the Requirements of the Resource Agencies

The permittee shall comply with all permit requirements and mitigation measures of the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project which may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project involves the replacement of an existing private pier on Naples Island in southeast Long Beach (See Exhibits). The proposed pier has a 10'x 14' platform with a 28.5-foot long, four-foot wide approach, which complies with the maximum 10'x 14' dimensions set forth by the City's specifications for waterfront structures and the Commission's prior conditional approval of Coastal Development Permit 5-07-131.¹ The proposed pier will be supported by the existing pier's two T-piles, although one of the T-piles will be relocated further seaward as the new pier is about thirteen feet longer than the existing pier (Exhibits #4&5).

The currently proposed project also includes the reconfiguration and enlargement of the floating boat dock. The Commission's prior approval of Coastal Development Permit 5-07-131 did not authorize any changes to the rectangular floating dock that exists at the site. The proposed change to the dock and its piles triggered this permit amendment. The existing rectangular 8'x50' dock float is proposed to be relocated six feet eastward in order to become a part of the enlarged new U-shaped dock (Exhibit #5). The new U-shaped dock will be secured by three piles: one new 14-inch pile, and the two existing piles, one of which will be relocated. In total, the proposed project will increase the total number of piles from four to five (two for the pier and three for the dock). Finally, the existing gangway that connects the dock to the pier will be removed and replaced with a new 3'x 20' gangway (Exhibit #5).

The proposed dock is in Alamitos Bay, situated between the bay's vertical seawall and the City Pierhead Line (Exhibit #5). The proposed pier and floating dock are associated with the applicant's adjacent single family home, and are for boating recreation purposes. The proposed pier platform complies with the maximum 10'x 14' dimensions set forth by the City's specifications for waterfront structures. The two proposed T-piles that would support the new pier platform are necessary because the City does not allow piers to be supported by the seawall, and the proposed pier platform cannot be adequately supported by one pile. Three piles are the minimum number necessary to secure the proposed U-shaped dock. The applicant has provided a 2007 eelgrass survey which indicates that no eelgrass was found in the project area [Eelgrass Survey Reporting Form for 5639 Sorrento Drive, Long Beach (Dugan Residence), by Coastal Resources Management, Inc., March 12, 2007]. The special conditions require the applicant to provide a new eelgrass survey in order to ensure that the project will not adversely affect eelgrass beds. The disturbance of eelgrass is not permitted. The applicant is also required to conduct a pre-project *Caulerpa taxifolia* (toxic algae) survey, although no *caulerpa* has been previously documented in Alamitos Bay.

B. Recreational Marine Resources

The proposed recreational boat dock development and its associated structures are an allowable and encouraged marine related use. The project design includes the minimum sized pilings and the minimum number of pilings necessary for structural stability. There are no

¹ Pursuant to Special Condition One of Coastal Development Permit 5-07-131, the applicant was required to submit revised plans that conform with the pier platform size limit (10'x 14' maximum) set forth by the City's specifications for waterfront structures.

feasible less environmentally damaging alternatives available. As conditioned, the project will not significantly adversely impact eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. Further, as proposed and conditioned, the project, which is to be used solely for recreational boating purposes, conforms with Sections 30224 and 30233 of the Coastal Act.

C. Water Quality

The proposed dock work will be occurring on or within coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

D. Public Access

As conditioned, the proposed project will not interfere with public access along the shoreline area located seaward of the applicant's private property. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

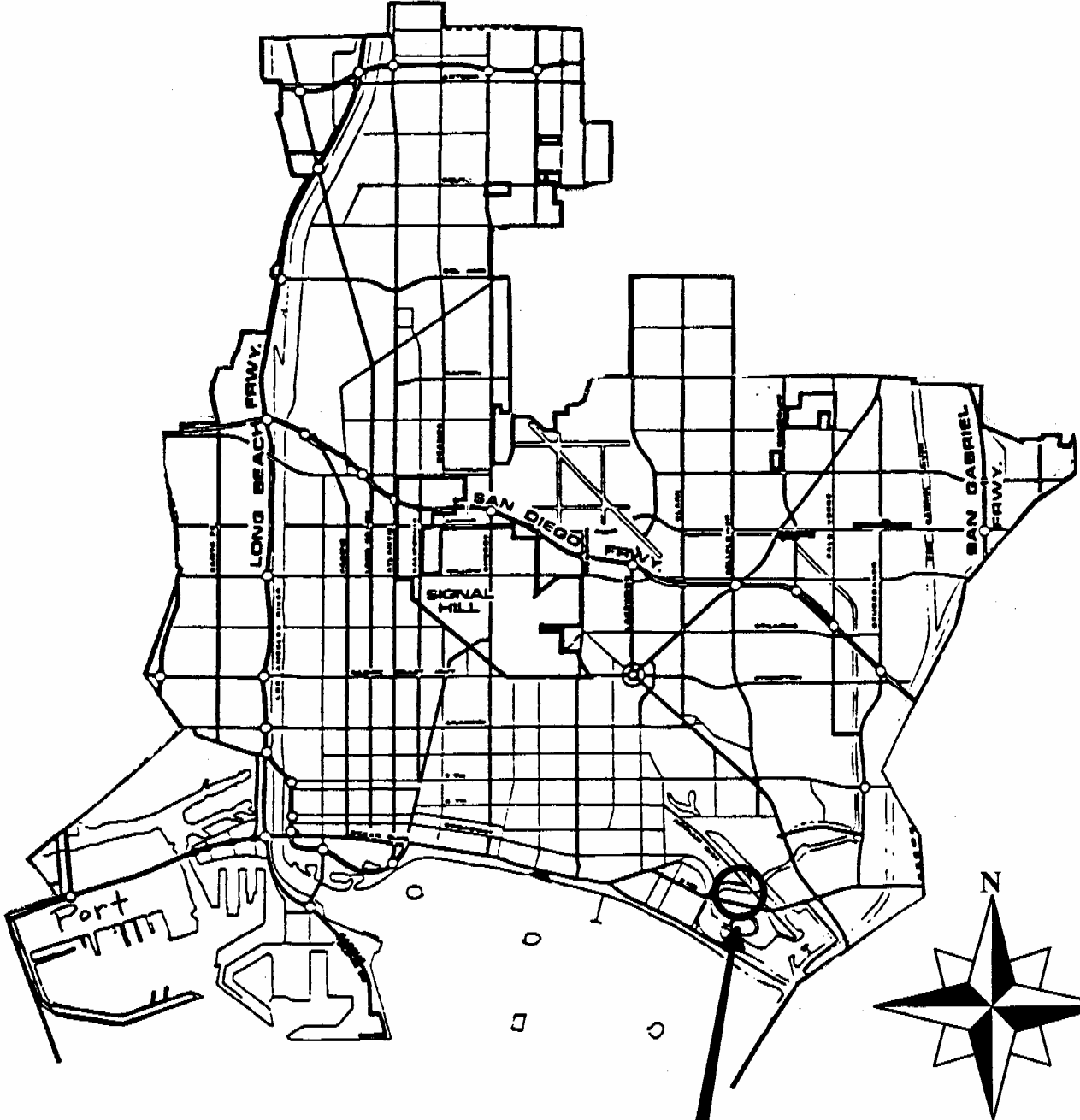
E. Local Coastal Program

A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Long Beach certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Long Beach LCP on July 22, 1980. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

F. California Environmental Quality Act (CEQA)

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

City of Long Beach

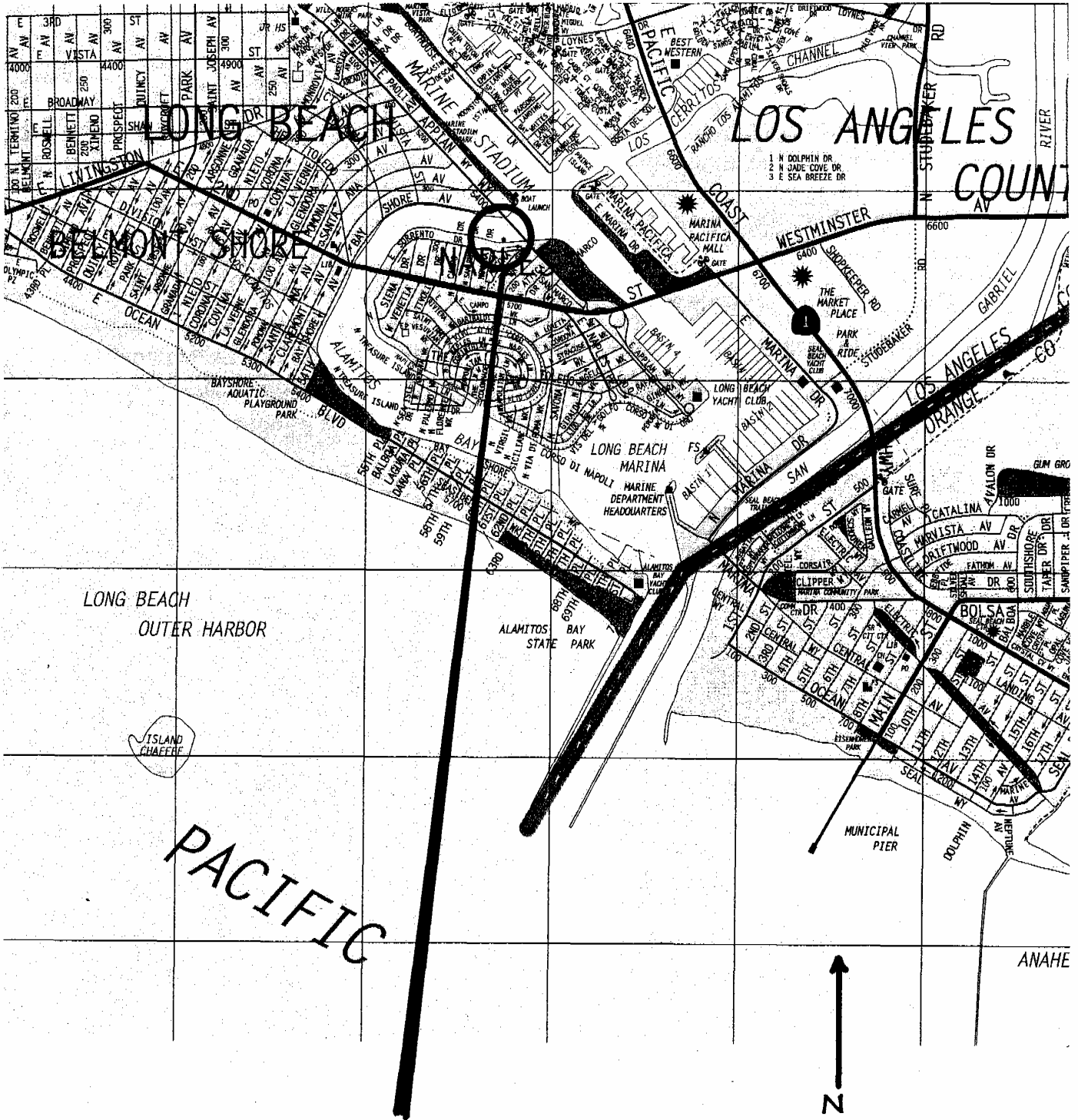


Site: 5639 Sorrento Dr.

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EXHIBIT # 1

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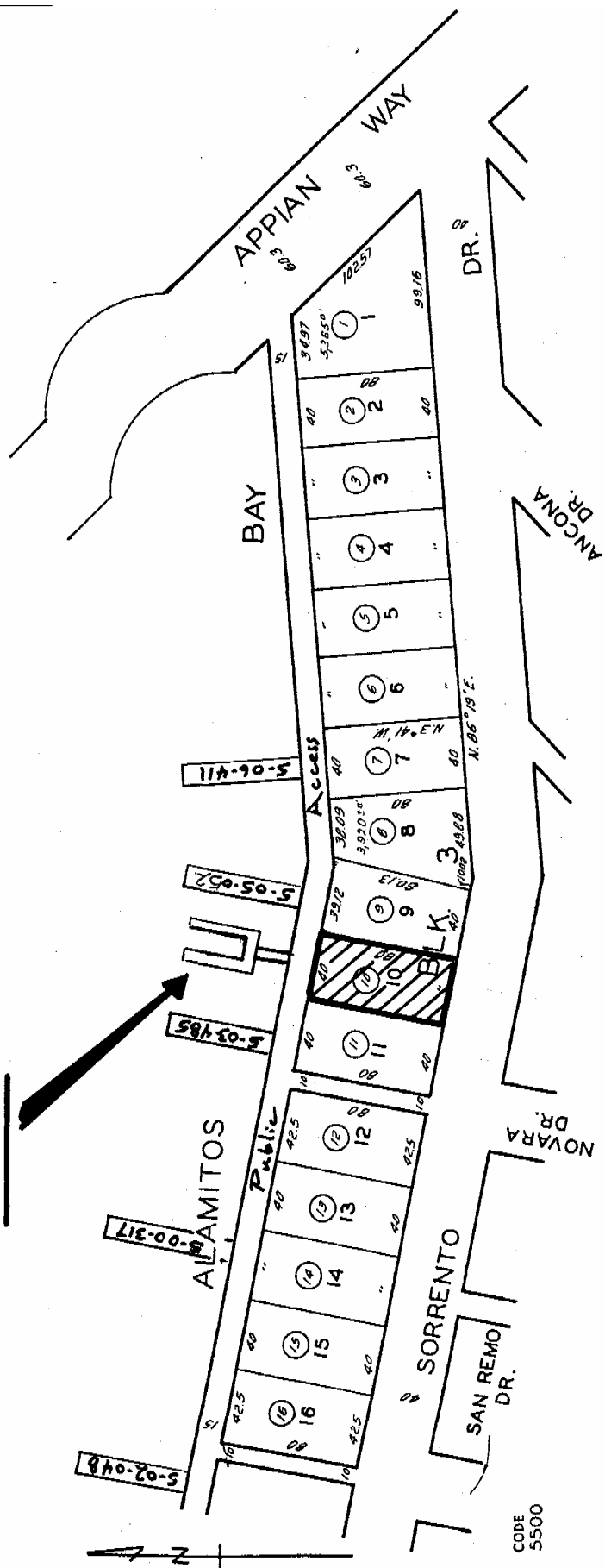


Site: 5639 Sorrento Dr.

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 EXHIBIT # 2
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Site: 5639 Sorrento Drive

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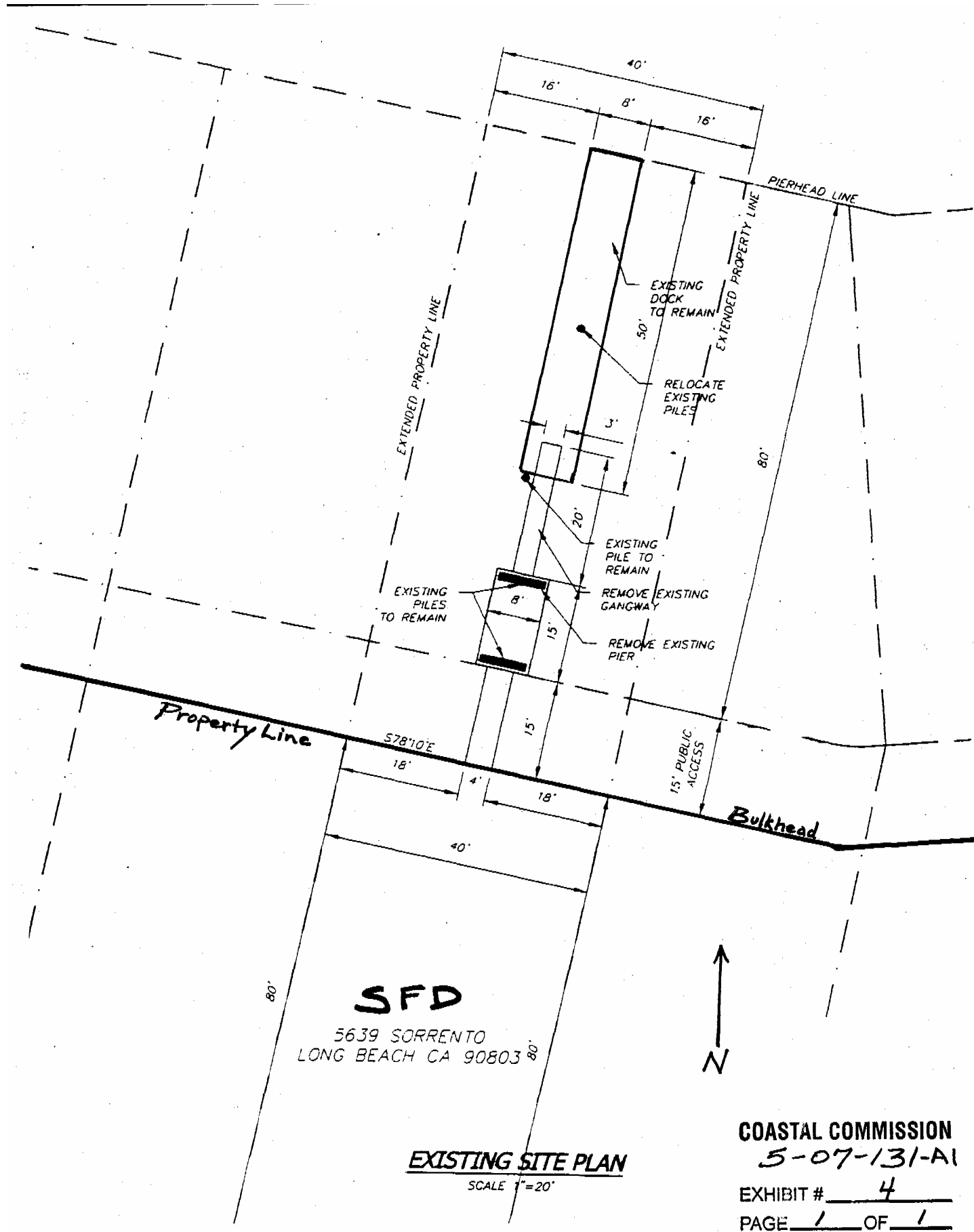
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FOR PREV. ASSMT. SEE: 149-4.2 & 4.4

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COUNTY OF LOS ANGELES

COASTAL COMMISSION
5-07-131-AI

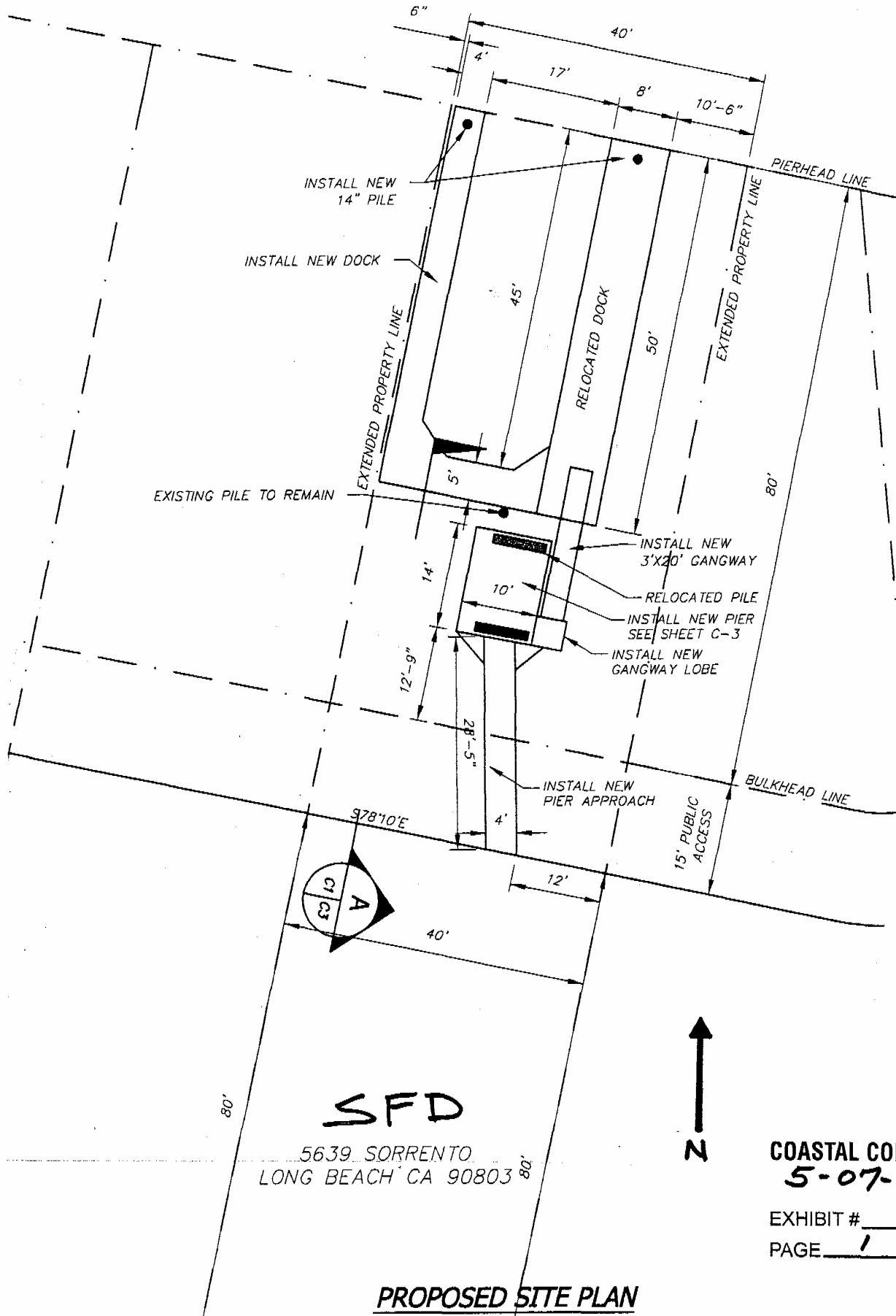
EXHIBIT # 3
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SFD
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EXISTING SITE PLAN
 SCALE 1" = 20'

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EXHIBIT # 5

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PROPOSED SITE PLAN