

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



Th5b

Filed: March 9, 2010
180th Day: September 5, 2010
Staff: TR-SD
Staff Report: April 22, 2010
Hearing Date: May 12-14, 2010

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-09-074

Applicant: Hacienda Cala Home Owners Association

Agent: Ronald Dioron

Description: Removal of an existing 480 square foot dock constructed prior to passage of the Coastal Act, to be replaced, in kind, with a pre-fabricated wood/composite dock to be affixed to the existing pilings.

Site: 4517/4519 Cove Drive, Agua Hedionda, Carlsbad, San Diego County.
APN 207-150-79

I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Invasive Species. **PRIOR TO THE COMMENCEMENT OF CONSTRUCTION**, the applicant shall provide evidence that proposed dock replacement can occur without the risk of spreading the invasive green alga *Caulerpa taxifolia* as follows.

- a. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any construction activities authorized under this coastal development permit, the applicant shall undertake a survey of the project area (includes and any other areas where the bottom could be disturbed by project activities) and a buffer area at least 10 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:
 1. For the review and written approval of the Executive Director; and
 2. 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 (DFG) (858-467-4218) or Robert Hoffman, National Marine Fisheries Service (NMFS) (562-980-4043).
 3. If *Caulerpa* is found, then the NMFS and DFG contacts shall be notified within 24 hours of the discovery.
- d. If *Caulerpa* is found, the applicant shall, prior to the commencement of dredging, provide evidence to the Executive Director for review and written approval either that the *Caulerpa* discovered within the project and/or buffer area has been eradicated or that the dredging project has been revised to avoid any contact with *Caulerpa*. No changes to the dredging project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Project Modifications. Only that work specifically described in this permit is authorized. Any additional work requires separate authorization from the Commission or Executive Director, if appropriate. **If, during construction, site conditions warrant changes to the project, the San Diego District office of the Coastal Commission shall be contacted immediately and before any changes are made to the project in the field.** No changes to the project shall occur without an amendment to this coastal

development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

A. Detailed Project Description/History.

The proposed project includes removing and replacing a 480 square foot dock. The dock was originally constructed prior to passage of the Coastal Act. The applicant has stated that no work was been completed on the dock since the time of original construction. The applicant has indicated that the dock is aged to the point that if the dock is not replaced in a timely matter it will become a liability and a safety hazard for the Hacienda Cala HOA and its residents.

The removal of old and launching of the new dock sections will be done at the private boat ramp with a boom truck. The project does not include any work to the existing pier pilings and the new dock will be affixed to the existing pilings. The new dock is comprised of seven pre-fabricated sections and will be bolted in place, each section approximately 3 feet by 20 feet. Demolition of the old dock is proposed to be completed in one day, and installation of the new dock is proposed to be completed in two days. Containment barriers, industrial vacuums and fine mesh nets will be used to insure no debris is released into the environment.

The project is located in Bristol Cove (ref. Exhibits 1, 2). Bristol Cove is a private cove and marina facility located off the inner basin of Agua Hedionda Lagoon. The cove is owned by Bristol Cove Property Owner's Association, which comprise the residential condominium complexes along the shoreline of the cove channel. The residential development history of the site pre-dates the Coastal Act. Since 1972, over three dozen permits have been issued for the construction of condominium complexes and duplexes along Bristol Cove, ranging in size from 2-unit structures to 100-unit complexes.

Agua Hedionda Lagoon is a "man-made" water body that was originally dredged in 1954 to -11 ft. MSL, out of a historical 230 acre salt marsh slough to provide cooling water for the Encina Power Plant. Two settling basins were included in the design: one in the outer lagoon to trap sands carried in from the ocean, and one at the eastern end to trap incoming sediments from Hedionda Creek.

The City of Carlsbad has a certified LCP; however, development will occur within a deferred certification area, the Agua Hedionda plan area, where the Commission retains permitting authority. Thus, the standard of review is the Chapter 3 policies of the Coastal Act with the certified Agua Hedionda Land Use Plan used as guidance.

B. Biological Resources. Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

The project involves the removal and replacement of a private dock, on an interior inlet of Agua Hedionda Lagoon (ref. Exhibit #2). As such, the proposed development could result in impacts to marine resources and/or water quality. Specifically construction related debris, and disturbance of an invasive green algae previously documented in Agua Hedionda Lagoon could result in impacts to biological resources inconsistent with the Coastal Act.

A current issue around the world and specifically in San Diego waterbodies is the presence of the invasive green alga, *Caulerpa taxifolia* that has been discovered within Agua Hedionda Lagoon in north San Diego County. *Caulerpa* is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species.

Because of the grave risk to native habitats, in 1999 *Caulerpa* was designated a prohibited species in the United States under the Federal Noxious Weed Act. AB 1334, enacted in 2001 and codified at California Fish and Game Code Section 2300, forbids possession of *Caulerpa*. In June 2000, *Caulerpa* was discovered in Agua Hedionda Lagoon, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations are likely. Although a tropical species, *Caulerpa* has been shown to tolerate water temperatures down to at least 50° F. Although warmer southern California habitats are most vulnerable, until better information is available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *Caulerpa* poses to California's marine environment, the Southern California *Caulerpa* Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *Caulerpa* infestations in Southern California. The group consists of representatives from several state, federal, local and private entities. The goal of SCCAT is to completely eradicate all *Caulerpa* infestations.

In order to assure that the proposed project does not cause the dispersal of *Caulerpa*, and adverse impacts to the biological productivity of the Agua Hedionda Lagoon, Special Condition #1 has been attached. Special Condition #1 requires the applicant, prior to commencement of development, to survey the project area and any other areas where the bottom could be disturbed by project activities, for the presence of *Caulerpa*. If *Caulerpa* is found to be present in the project area, then prior to commencement of any construction activities, the applicant must provide evidence that the *Caulerpa* within the project site has been eradicated (the applicant could seek an emergency permit from the Executive Director to authorize the eradication) or that the project has been revised to avoid any disturbance of *Caulerpa*. If revisions to the project are proposed to avoid

contact with *Caulerpa*, then the applicant shall consult with the local Coastal Commission office to determine if an amendment to this permit is required.

An additional concern is potential impacts to water quality associated with the removal and construction of the private dock. However, as proposed the applicant has included a number of BMPs to adequately address these concerns. The BMPs proposed include containment barriers, industrial vacuums, and fine mesh nets. Additionally, all work will be taken place on the existing boat ramp and not directly in the water.

As previously stated, the applicant has proposed the reconstruction of the dock while maintaining the existing pier pilings. This method drastically decreases that amount of ocean water disturbance, and therefore reduces the extent of concerns regarding impacts to biological resources. However, it stands to reason that given the applicant's statement that the existing dock is aged to the point of instability, that construction activities may also compromise the pilings stability, and may result in requiring the old pilings to be removed, relocated, or replaced. Because the potential impacts associated with such project changes have not been approved through this permit, Special Condition #2 requires that any project modifications resulting from changes in the field shall require additional review by the Coastal Commission. Therefore, any project changes, such as removal of pier pilings will be adequately reviewed for consistency with the applicable policies of the Coastal Act at that time.

In conclusion, the proposed development, as conditioned, will not have potential adverse impacts on any sensitive habitat, and, will not result in erosion or adverse impacts to water quality, as adequate construction BMPs will be provided. In addition, the proposed development is replacement of an existing private dock to serve recreational boating, and is permitted under Section 30233. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. Community Character /Visual Quality. The development is located within an existing developed area and, will be compatible with the character and scale of the surrounding area and will not impact public views. Specifically the project will replace an existing dock, maintaining the same footprint as the existing dock, in an area of Agua Hedionda Lagoon that is densely developed with private docks. Therefore, the Commission finds that the development, as proposed, conforms to Section 30251 of the Coastal Act.

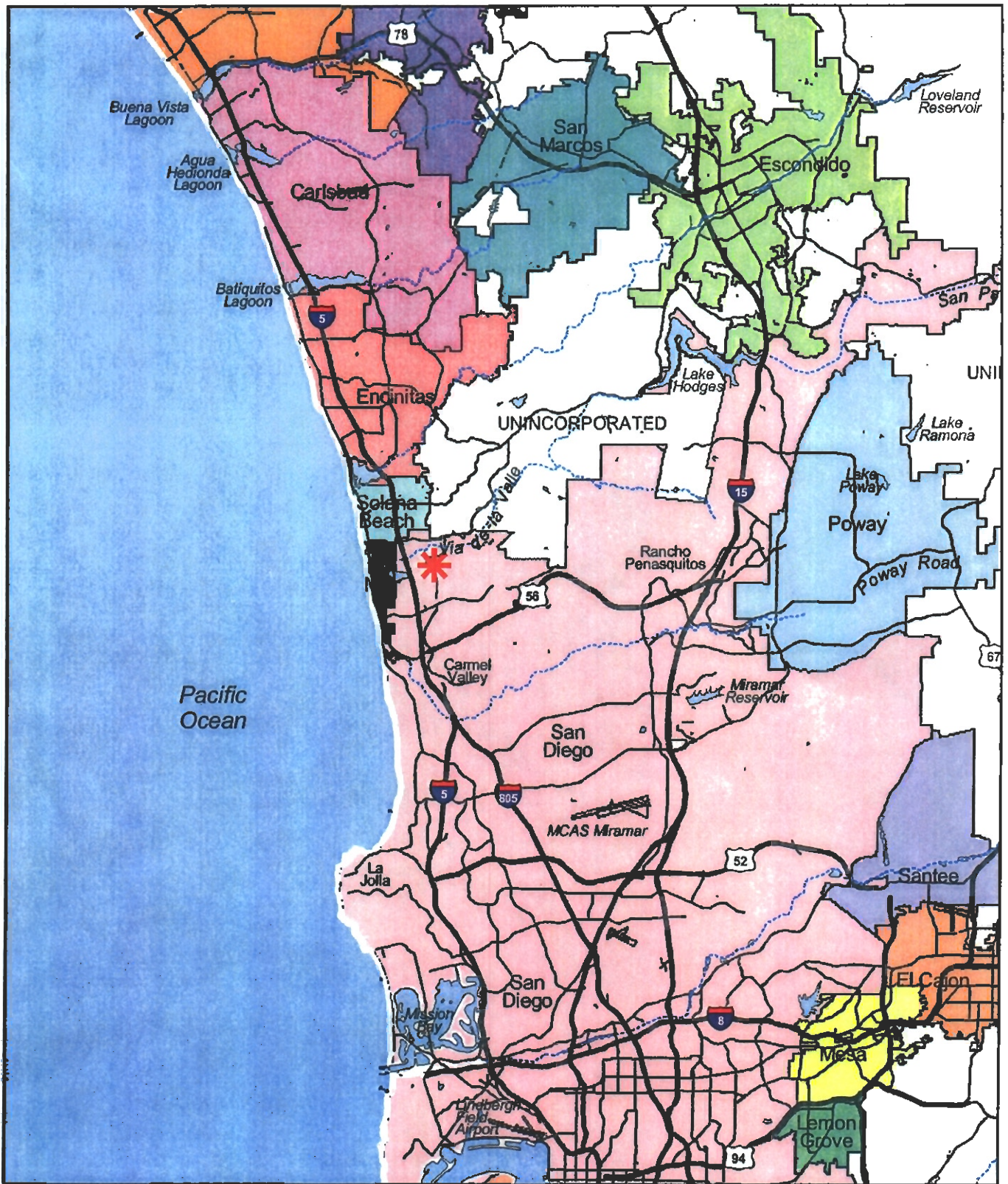
D. Public Access/Parking. The proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. The proposal includes the replacement of an existing private boat dock that was originally constructed prior to the passage of the Coastal Act. There are no opportunities for public access at this location and as such the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

E. Local Coastal Program. The LUP for the City of Carlsbad's Agua Hedionda Lagoon Segment LUP was certified on August 27, 1982, but no implementation plan has been developed as yet, and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the City of Carlsbad to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

F. California Environmental Quality Act. 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, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

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 on which the Commission voted on the application. 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.



 Project location



EXHIBIT NO. 1
APPLICATION NO.
6-09-074
Location Map

RECON

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 California Coastal Commission



Subject Site

250 feet

100 m

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EXHIBIT NO. 2

APPLICATION NO.

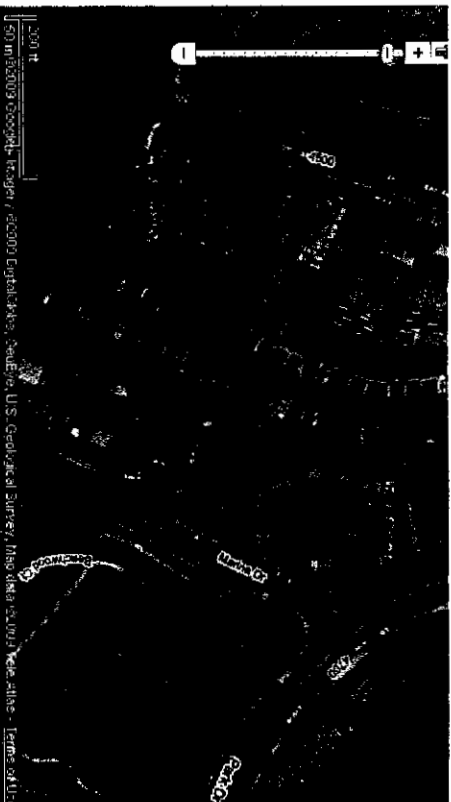
6-09-074

Aerial

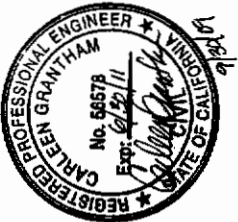
Bristol Cove Dock Replacement

6-09-074

DEC 14 2009



Address: 4517 and 4159 Cove Drive
 Carlsbad, CA 92008



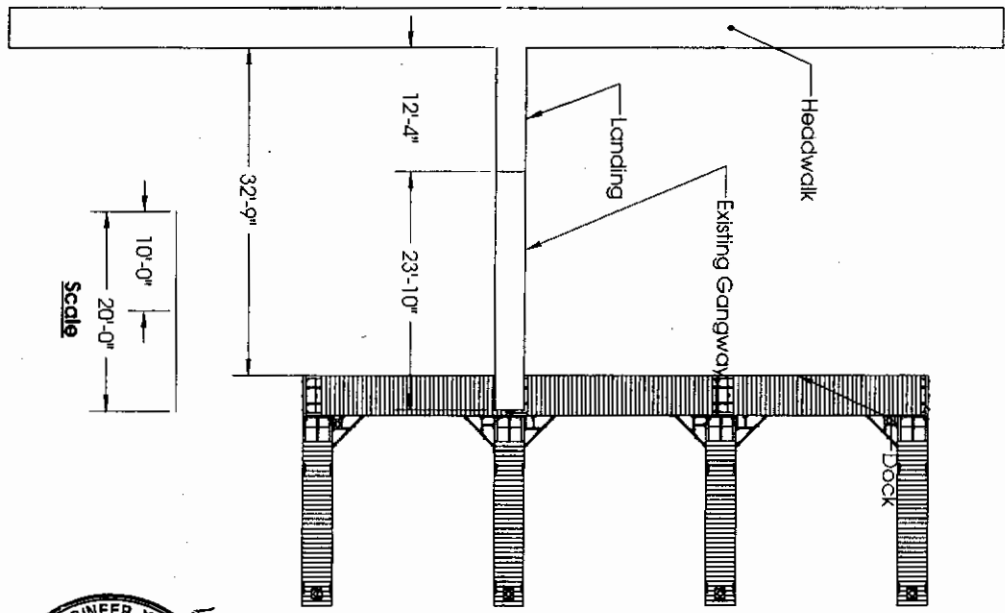
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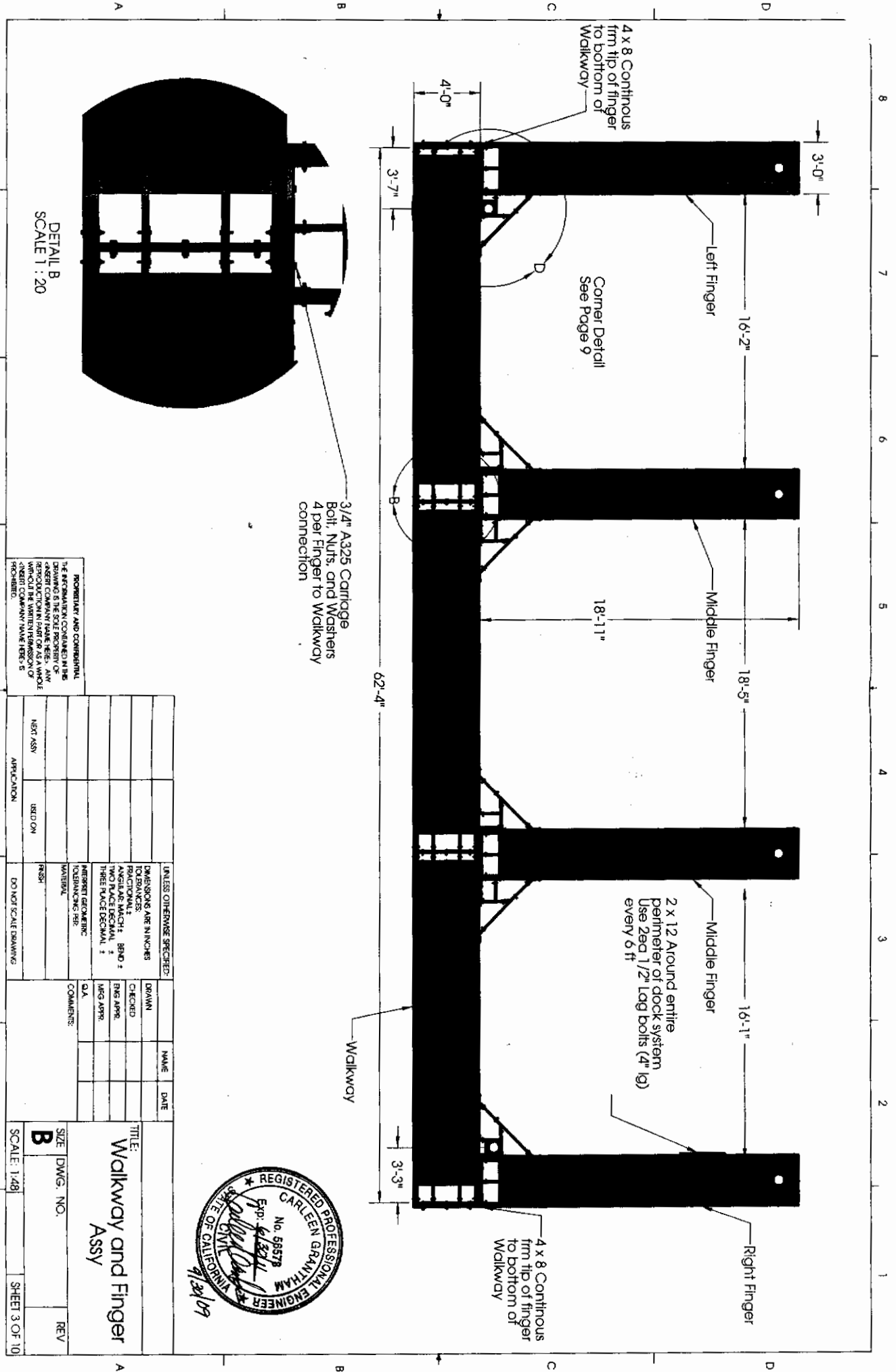
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CARLEED GRANTHAM			
86978			
11/29/09			
12/14/09			

EXHIBIT NO. 3
APPLICATION NO. 6-09-074
 Site Plan
 1 of 2 pgs.
 California Coastal Commission



Scale
 10'-0"
 20'-0"





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APPLICATION							



TITLE: Walkway and Finger Assy

SIZE: B

DWG. NO. 148

SCALE: 1/48

SHEET 3 OF 10

PROPRIETARY AND CONFIDENTIAL

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3/4" A325 Carriage Bolt, Nuts and Washers 4 per Finger to Walkway connection

4 x 8 Continuous from tip of finger to bottom of Walkway

Left Finger

Middle Finger

Right Finger

2 x 12 Around entire perimeter of dock system Use 2ea 1/2" Lag bolts (4" lg) every 6 ft

Corner Detail See Page 9

DETAIL B SCALE 1:20