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 COASTAL DEVELOPMENT PERMIT APPLICATION

Application number2-10-032, Kotula Dock Replacement

Applicant.....Dorothy Kotula

Project locationAt 12788 Sir Francis Drake Boulevard (APN 112-310-11) along Tomales Bay, Inverness, Marin County.

Project descriptionAfter-the-fact approval for the unpermitted replacement of a section of pier (including wood decking, handrails, pilings, galvanized steel mesh, and concrete footings), and the proposed replacement of an existing wooden dock (decking and eight pilings) and one set of existing stairs (five treads, two handrails, two stringers, and galvanized steel mesh) in the same configuration.

Local ApprovalsMarin County Design/Architectural Review (February 16, 2010), Marin County Tidelands Permit (February 16, 2010).

File documents.....Inverness Ridge Communities Plan, Marin County Certified Local Coastal Program (LCP).

Staff Recommendation ..Approval with Conditions

A. Staff Recommendation

1. Summary of Staff Recommendation

This coastal development permit (CDP) application is for an after-the-fact approval for the unpermitted replacement of a section of pier (including wood decking, handrails, pilings, galvanized steel mesh, and concrete footings), and the proposed replacement of an existing wooden dock (decking and eight pilings) and one set of existing stairs (five treads, two handrails, two stringers, and galvanized steel mesh) in the same configuration as the original structure. The project site is located on the Tomales Bay side of a residential parcel currently used as a vacation rental in the unincorporated Inverness area of Marin County. The original pier, dock, and stairs structure was built in 1971 prior to the enactment of the coastal permitting procedures of Proposition 20 (the Coastal Initiative) of 1972 and 1976's Coastal Act.

The subject parcel is located along the western shore of Tomales Bay just north of the town of Inverness



in Marin County at 12788 Sir Francis Drake Boulevard (APN 112-310-11). Although the Bay side of the parcel is mostly marsh/estuary, the parcel is not State Lands because the tidelands in this area were sold in a Tidelands Sale prior to 1909. The State Lands Commission indicates that the parcel is part of Tidelands Survey 219, and thus the area in question between mean high tide and mean low tide is in private ownership in this case. The characteristics of the site have changed over the last 40 years. While previously a significant amount of the pier and dock structure was located over open water and subject to the tides, now only a small portion comes into contact with tidal waters. The shoreline edge has migrated toward the Bay due to sedimentation/accretion processes and, currently, only the last 30 feet or so of the structure (as estimated by the Applicant) is in contact with tidal waters at higher tides, and significantly less at lower tides.

The proposed project does not qualify as “repair and maintenance” because it includes replacement of more than 50 percent of the existing structures (pursuant to California Code of Regulations (CCR) Section 13252(b)). It therefore must be considered a new replacement structure. Because a portion of the project has already been completed (extending to the Bay’s edge), this proposed project includes a request for both after-the-fact (ATF) authorization for the replacement of most of the pier, as well as the prospective replacement of the existing stairs and dock at the bay side of the pier, in the same configuration as the original structure.

The proposed project will provide for recreational boating facilities in an estuary, an allowed use in coastal waters under the Coastal Act. The proposed project will not result in any new fill (in high tidal marsh, intertidal wetlands, and estuary), nor will it cause any expansion in the development footprint, as the replacement will occur in exact conformance with the size and design of the original pre-Proposition 20/Coastal Act existing structure. Provided the replacement structure is used exclusively for boating, and provided materials and construction BMPs are appropriate for the Tomales Bay environment, the proposed project can be found consistent with the Coastal Act on these points. In terms of public access, as indicated, the property is not State Lands, but still includes tideland areas. Public access in the vicinity includes both lateral and vertical public access easements to the shoreline on either side of this property. To the south is a public park and to the north is a bed and breakfast with a dedicated public access easement. Provided access provisions are included to ensure that the replacement dock does not adversely impact existing public access rights laterally along the shoreline, the proposed project can be found consistent with the Coastal Act on these points.

- Thus, Staff recommends that the Commission approve the project with conditions requiring the Applicant to provide final project plans for appropriate materials (wood and concrete), an agreement to protect existing rights of public access, a construction plan with appropriate best management practices (BMPs), an agreement to use the dock only for boating (and not for typical residential purposes), and an assumption of risk.

As proposed and conditioned, the project provides for a boating facility consistent with coastal resource protection, including protecting against construction impacts and preserving existing public lateral access rights. Thus, staff recommends that the Commission approve the CDP for the proposed development. The motion to implement this recommendation is directly below.



2. Staff Recommendation on Coastal Development Permit

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development.

Motion. I move that the Commission approve coastal development permit number 2-10-032 pursuant to the staff recommendation. I recommend a yes vote.

Staff Recommendation of Approval. Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.



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B. Findings and Declarations

The Commission finds and declares as follows:

1. Project Background, Location, and Description

The proposed project is located in the Inverness area of Marin County, on a residential parcel that extends from Sir Francis Drake Boulevard to Tomales Bay. See location map and site photos in Exhibits 1 through 6.

Development History

The pier, stairs, and dock structure was first constructed in 1971, prior to the enactment of the coastal permitting procedures of Proposition 20 (the Coastal Initiative) in 1972 and 1976's Coastal Act (see aerial photos showing the site from 1972 to 2005 in Exhibit 5). As a result, the original structure was not subject to Proposition 20, Coastal Act or LCP requirements. There have been no CDPs for development related to the dock in the time since.

The dock structure allows private boating access to Tomales Bay for a shorefront vacation home constructed in 1941 that is currently being used as a vacation rental. The original dock structure consisted of: (1) a pier with decking and handrails and supporting wood pilings with concrete footings; (2) three sets of stairs with decking, handrails, and supporting pilings; and (3) a dock with wooden decking and support pilings. The types of wood and concrete that were used in the original construction of the pier (including decking and handrails), dock, stairs, and all pilings, are unknown, and undeterminable from historic photos.

The dock remained unchanged from the time it was constructed until recently, when it had become weatherworn and unstable. In 2009, to protect the safety of the vacation home users, the property manager contracted for the dock structure to be replaced. Materials submitted by the Applicant indicate that the property manager acted on his own in contracting the work to be done, without the knowledge or express approval of the owner (the Applicant).

Project Location

The project site is located along the western shore of Tomales Bay just north of the town of Inverness in Marin County at 12788 Sir Francis Drake Boulevard (APN 112-310-11) (see Vicinity Map in Exhibit 1 and Vicinity Parcel Map in Exhibit 2). The site is bound by Sir Francis Drake Boulevard to the west and the tidal waters of Tomales Bay to the east (see Exhibits 2 and 3). The mid-section of the lot is covered by salt marsh intermixed with iceplant and annual grasses (approximately one-third of the area) (see Exhibits 4 and 6). Along the western and southern boundaries of the property, non-native black acacia trees are dominant. The bay shore, where the dock reaches the water, is a coarse grained and cobbled sandy beach (see Exhibits 3 and 4). Throughout the parcel, the vegetative community is typical of subtidal-to-supratidal transition along a sandy/gravel shoreline of Tomales Bay.



Although the entire property is located on either current or historic tidelands, the parcel was sold prior to 1909 and is therefore owned in fee by the Applicant. The property extends from the edge of the road right-of-way to the tidally influenced waters of the bay and specifically to the mean low tide.¹ The location of the Tomales Bay waterline at this site has changed since 1971 (see photos in Site History in Exhibit 5), and therefore the location of the dock as it relates to the water has changed. Where the dock previously extended significantly over open water, currently, the pier traverses high tidal marsh in upland elevations and subtidal habitat to reach the waters of the bay.² Thus, while previously a significant amount of the pier and dock structure was located over open water and subject to the tides, now only a small portion comes into contact with tidal waters. The shoreline edge has migrated toward the Bay due to sedimentation processes and, currently, only the last 30 feet or so of the structure (as estimated by the Applicant) is in contact with tidal waters at higher tides, and significantly less than that at lower tides.

Regardless of this recent change over time in the edge of the waterline, the Coastal Commission retains permitting jurisdiction over both current and historic tidelands, including the property that is the subject of this permit application. As a result, the standard of review for the proposed project is the Coastal Act, although the certified Marin County LCP (including the Inverness Ridge Community Plan) can provide non-binding guidance.

Project Description

The proposed project includes both a request for after-the-fact (ATF) recognition of development already completed, and authorization for additional development not yet completed. The ATF component would authorize a newly constructed 5-foot by 137.2-foot section of pier attached to an existing 48.7-foot landward pier located approximately 2.7 feet from the westerly side property line (see project plans in Exhibit 8). This recently completed construction replaced a section of the original pier. The replacement includes a new section of redwood pier with redwood posts, joists, railing, decking, concrete footings, and a 3-foot tall galvanized steel mesh (with 4-inch maximum openings) which connects the top rail (handrail) of the pier to the deck surface. The Applicant indicates that such construction matches the original structure (see project plans in Exhibit 8). Thirty-six of the original wood pilings encased in concrete that supported this section of the pier were replaced by such construction. The original wood pilings and concrete footings were replaced with untreated redwood pilings encased in concrete footings 16" by 16" by 24" in size, poured with high-early strength, ready-mix concrete.

The additional (non-ATF) component proposes to replace the stairs, dock, and pilings located at the bay end of the pier in the exact same configuration as the original structure. The proposed replacement of the stairs includes five wooden stair treads, two handrails, two stringers and three-foot tall galvanized steel

¹ The project is not located on State Lands because this area was sold in a Tidelands Sale prior to 1909. The State Lands Commission has indicated that the parcel is part of Tidelands Survey 219, and therefore that the area between mean high tide and mean low tide is in private ownership.

² State Lands indicates that the property owner's fee interest has moved as the waterline has moved, and now rests further towards the northwest (i.e., towards the Bay) than it did in 1971.



mesh (with 4-inch maximum openings) that connects the two handrails to the two stringers at the stair tread level. The proposed replacement of the dock includes the replacement of the decking and eight wooden pilings.

The proposed development covers approximately 758 square feet including 685 square feet of ATF pier replacement nearest the house and 73 square feet of pier, dock, and stair replacement nearest the Bay. Information provided by the Applicant indicates that this development footprint is identical to the previous square footage. The improvements are accessory to the primary single-family residential (currently vacation rental) use of the property.

2. Coastal Development Permit Determination

A. CDP Requirement

1. Applicable Policies

Coastal Act Section 30610(d) and CCR Section 13252 identify certain repair and maintenance activities that do not require a CDP. In terms of replacement structures, CCR Section 13252(b) indicates that a CDP is required if 50 percent or more of a structure is to be replaced (unless destroyed by natural disaster).

Section 30610(d) of the Coastal Act states:

Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

CCR Section 13252(b) states:

Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.

2. Analysis

The proposed project, ATF and non-ATF components together, is for replacement in kind that will not result in an addition, enlargement, or expansion of the existing structure. The project is consistent with the structure's original size, design, and location, and generally consistent in terms of using similar materials as the original structure. However, the proposed project does not qualify as "repair and maintenance" because it includes the replacement of over 50 percent of the structure, which is not repair and maintenance under Coastal Act Section 30610(d) and CCR Section 13252, but instead constitutes a replacement structure requiring a CDP. In addition, as per CCR Sections 13252(a)(1) and 13252(a)(3) ,



the project is located within 20 feet of coastal waters and streams, within 50 feet of environmentally sensitive habitat areas (ESHAs), and in a sand area, and it involves the placement and removal of solid materials and the presence of construction materials, all activities that also require a coastal development permit. Thus, the proposed project is therefore considered new development that requires a CDP.

B. Fill of Open Coastal Waters, Wetlands, and Estuaries

1. Applicable Policies

Coastal Act Section 30233 allows for fill of open coastal waters and estuaries for expanded boating facilities and for the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. The Coastal Act allows such activities where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. Section 30233(a) states in relevant part:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: ...

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

Although not the standard of review, the Marin County LCP states the following regarding diking, filling, and dredging:

1. *General policy. Diking, filling, and dredging of coastal areas can have significant adverse impacts on water quality, marine habitats and organisms, and scenic features. The County of Marin intends to strictly limit the purposes for which these potentially damaging activities can occur in the coastal zone, in accordance with Section 30233 of the Coastal Act. For the purposes of the LCP, open coastal waters, wetlands, and other water bodies to which these policies apply shall be defined according to the criteria established by the U.S. Fish and Wildlife Service for marine and estuarine systems. "Fill" shall be defined as "...earth or any other substance or material, including pilings placed for the purpose of erecting structures thereon, placed in a submerged area," as given in Section 30108.2 of the Coastal Act.*
2. *Acceptable purposes. The diking, filling, and dredging of open coastal waters, wetlands, and estuaries shall be limited to the following purposes:*
 - a. *New or expanded commercial fishing facilities.*
 - b. *Maintaining existing, or restoring previously dredged, depths in existing navigational*



channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

...

- g. Excluding wetlands, new or expanded boating facilities may be permitted. Only entrance channels or connecting walk-ways for new or expanded boating facilities shall be permitted in wetlands.*

Coastal Act Section 30121 defines wetlands as follows:

...land within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

CCR Section 13577 provides further information on the definition of wetlands as follows:

...land where the water table is at near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentration of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some during each year and their location within, or adjacent to vegetated wetland or deepwater habitats.

Although not the standard of review, on the topic of Commercial Fishing and Recreational Boating the Marin County LCP states:

- 1. General policy. The use of Tomales Bay for commercial fishing and recreational boating shall be supported and protected. Facilities on the shoreline of the Bay which support such uses shall be protected and, where feasible, upgraded.*
- 2. Development standards. Development of new boating facilities on the shoreline shall conform to the following standards:*
 - a. New marinas or boat works shall generally be located within or adjacent to existing facilities and where adequate public services (parking, sewage disposal, etc.) exist. New boating facilities in undeveloped areas shall be limited to small-scale facilities such as launching ramps.*

On the topic of Shoreline Structures the Marin County LCP states:

- i. General policy. The County discourages the proliferation of shoreline structures in the Unit II coastal zone due to their visual impacts, obstruction of public access, interference with natural shoreline processes and water circulation, and effects on marine habitats and water quality. In some cases, however, the County recognizes that the construction of protective*



works or piers may be necessary or desirable. When piers are allowed, multiple public and private, or commercial and recreational uses shall be accommodated, if feasible, to maximize the use of these structures and minimize the need for further construction. Coastal permits for all shoreline structures will be evaluated based on the criteria listed in the policies below....

3. Piers and similar recreational or commercial structures. These structures shall be limited to sites located within existing developed areas or parks. New piers shall be permitted only if each of the following criteria is met:

- a. The structure will be used to serve a coastal-dependent use or will preserve or provide access to related public recreational lands or facilities.*
- b. The structure will not be located in wetlands or other significant resource or habitat area and will not cause significant adverse impacts on fish or wildlife.*
- c. The structure will not interfere with public access, use, and enjoyment of the natural shoreline environment.*
- d. The structure will not restrict navigation, mariculture, or other coastal use and will not create a hazard in the area in which it is built*
- e. There is no pier with public beach access within ½ mile, or use of a nearby pier would not be feasible due to its size, location, or configuration.*

The reconstruction of existing piers shall be permitted provided that the pier is of the same size and in the same location as the original pier. Enlargements or changes in design or location shall be evaluated based on criteria (a) through (e) above.

5. Design standards for all shoreline structures. The design and construction of any shoreline structure shall: ...

- b. Respect natural landforms to the greatest degree possible;*
- c. Include mitigation measures to offset any impacts on fish and wildlife resources caused by the project;*
- d. Minimize the impairment and movement of sand supply and the circulation of coastal waters; and*
- e. Address the geologic hazards presented by construction in or near Alquist-Priolo earthquake hazard zones.*



2. Analysis

Allowable Uses

The first test for a proposed project in marshes, wetlands, estuaries, and open coastal waters is whether it is one of the allowable uses under Section 30233(a). Among the allowable uses, the use which most closely matches the project objectives is enumerated in Section 30233(a)(3) involving dredging, diking, and/or fill for "...new or expanded boating facilities." As stated previously, the entire project is considered new development because the sum of the after-the-fact construction and the proposed construction result in more than 50 percent of the structure being replaced. As regards the replacement of commercial fishing and recreational boating facilities, the Marin County LCP states, "The reconstruction of existing piers shall be permitted provided that the pier is of the same size and in the same location as the original pier."

The original boating facility on the subject parcel is located across high tidal marsh, intertidal wetlands, and open water of Tomales Bay. The USFWS classification system (as referenced by the LCP) and the Commission's definitions of relevant terms, including "wetlands" and "estuaries", are similar. Based on the USFWS classification system, the habitat from the lowest reach of the tides to the highest reach of the tides is considered wetlands. An "estuary" as defined by the California Code of Regulations³ and the USFWS⁴ is generally understood to include both deep water and inter-tidal areas (also known as wetlands).

The Applicant has indicated that the proposed use of the new pier, dock, and stairs is primarily for recreational boating. Such structures can be found consistent with Coastal Act Section 30233(a)(3) if they include parameters to ensure that they are clearly to serve recreational boating uses and not for use as a residential deck area (i.e., with deck chairs, barbeques, etc.). This approval is conditioned to ensure that the pier, dock, and stairs are understood in this way (see deck use in Special Condition 3). Additionally, the proposed replacement of the pier, pilings, dock, and stairs will be limited to the exact footprint of the original structure. The after-the-fact construction involves the removal and replacement of 36 wooden pilings and concrete footings driven into upland marsh and intertidal shoreline on Tomales Bay, comprising no new fill. The proposed removal and replacement of the stairs and the dock at the bay side of the structure will occur within the existing original development footprint, again adding no new fill. This development most closely represents a form of "new or expanded boating facilities." No new fill or physical expansion, such as an increase in square footage of development coverage, would result from the proposed replacement. Therefore, the Commission finds that the development conforms to the allowable uses prescribed by Section 30233(a)(3) of the Coastal Act.

³ CCR Section 13577(2)c defines estuaries: "Estuaries. Measure 300 feet landward from the mean high tide line of the estuary...an estuary shall be defined as a coastal water body, usually semi-enclosed by land, having open, partially obstructed or intermittent exchange with the open ocean, and in which ocean water is at least occasionally diluted by freshwater from the land...The mean high tide line shall be defined as the statistical mean of all the high tides over the cyclical period of 18.6 years..."

⁴ This language is derived from the USFWS document Classification of Wetlands and Deepwater Habitats of the United States by Lewis Cowardin, et. al.



Least Environmentally Damaging Feasible Alternative

The second test of Section 30233(a) is whether there are feasible less environmentally damaging alternatives to the proposed project. One alternative would be the no project alternative. This alternative would leave the structure in its dilapidated condition with no further corrective action being taken. Such non-action might result in violation of local building codes, state harbor, navigation, and boating facilities laws, and related environmental protection regulations. The no project alternative would not address the issue of the unsafe and potentially harmful state of the structure in terms of injuries to persons for future structural failure of these facilities and damage to the marine environment. In addition, this alternative does not appropriately recognize the fact that the structure pre-dates CDP requirements, and that this proposed project is for replacement in-kind of that structure. In a case where there is no such existing original structure, a no project alternative might appropriately be considered, including to avoid new fill, but in this case the impacts (i.e., fill, coverage, etc.) exist already.

Another alternative would be to provide for boating access nearby to avoid extending over the marsh to the Bay. This would likely involve making use of the public access area to the south for this property's boating access. However, again, this does not adequately countenance the existing structure (and its fill and coverage).

Yet another option would provide for such access on-site through a new structure at a different location. The after-the-fact replacement and the proposed replacement activity are located within high tidal marsh and intertidal wetlands of the Tomales Bay. The subject parcel and the surrounding area exhibit similar environmental and habitat characteristics, thus, replacing the pier in an alternative location will not result in lesser environmental impacts. In fact, it would leave the impacts associated with the original structure in place, and result in new impacts in addition to those already associated with the existing structure. Replacing the existing structure on site, in the exact development footprint, with similar materials may allow for the structure to be fully functional as a boating facility (with normal repair and maintenance) for another 30 years and avoid hazards, contamination, and other disturbance in the region caused from the disintegrating structure.

In this case, the Commission has considered project options, and determines that there are no feasible less environmentally damaging alternatives to the project as conditioned.

Finally, on this point LCP guidance reflects an acknowledgement that replacement structures (in same footprint and same size, etc.) are allowed without the same type of evaluation as is required for brand new structures, and further supports the proposed project alternative.

Feasible Mitigation Measures

The third test of Section 30233(a) is whether feasible mitigation measures have been provided to minimize adverse environmental effects. As with other projects in the marine environment, development of this sort has the potential to lead to direct and indirect impacts on coastal resources. Fortunately, though, construction BMPs can readily be applied to minimize and mitigate for such potential impacts. As conditioned (see Special Conditions 2(a) - (h)), the proposed project will minimize environmental effects. Special Condition 2 imposes construction requirements to ensure that environmental effects will



be minimized. Special Conditions 2(a) - (h) include such measures as the limitation of construction areas, the protection of bay waters, the minimization of noise, the utilization of BMPs, and the provision of notice to the public regarding the construction.

3. Conclusion

In sum, the proposed replacement project is an allowable use under Coastal Act Section 30233. The proposed project does not result in the loss of any existing wetlands and tidelands because no new fill or expansion of the existing development is proposed. The proposed project, as conditioned, is the least environmentally damaging alternative and, as conditioned, implements all feasible mitigation measures. Finally, new recreational boating facilities are allowed in estuaries and the estuarine characteristics of the site are likely to remain intact for some time, even considering the potential impacts of sea level rise.⁵ The project is therefore consistent with Section 30233 of the Coastal Act.

C. Protection of Coastal Waters, Water Quality, and Marine Resources

1. Applicable Policies

Coastal Act Section 30230 requires that marine resources be maintained, enhanced and restored. New development must not interfere with the biological productivity of coastal waters or the continuance of healthy populations of marine species. Coastal Act Section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act Section 30231 requires that the productivity of coastal waters necessary for the continuance of healthy populations of marine species shall be maintained and restored by minimizing waste water discharges and entrainment and controlling runoff. Coastal Act Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water

⁵ Evaluation of the environmental characteristics of the region indicate that it has been an area in flux over the years due to changing sediment patterns. Sea level rise may lead to changes to the site. For the past 40 years, sediment has accumulated in the project area that was once covered with water and the area is now vegetated. The site is likely to remain in its current, sedimented and vegetated state for some time barring any major storm events that could cause avulsive or erosive action. If the shoreline were to change, the structure will need to be able to withstand the impacts from that change, including sea level rise, increased exposure to storm swells, wave action, wave run-up, tsunamis, and other effects. If the shoreline accretes, any future project concerning the structure will need to be analyzed with respect to the new facts at the time.



flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30233 requires that development in wetlands shall not adversely impact their functional capacity and shall be permitted when there is no feasible less environmentally damaging alternative and feasible mitigation measures have been applied. Coastal Act Section 30233 states, in relevant part:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects...

2. Analysis

The proposed project involves development along the edge of Tomales Bay that has the potential to adversely impact marine and land resources, including wetlands and water quality. The shallow waters and wetlands of Tomales Bay provide habitat and food sources marine flora and fauna, which make use of both the aquatic and terrestrial environments provided in this area of the Bay.

The shoreward part of the pier structure crosses high-elevation tidal marsh dominated by saltgrass with an admixture of iceplant, pickleweed, and non-native annual grasses. An assessment of the site by Avocet Research Associates (November 2009) concluded that the pier and the dock pose no significant adverse impacts to listed species. Marin County accepted these findings in their February 16, 2010 Notice of Administrative Decision for the Kotula Tidelands Permit and Design Review. The Avocet Research Associates report states the following:

Two plant species- Humboldt Bay owl's clover and Marin knotweed- could possibly occur here, although the habitat is marginal, at best. Because it is only possible to detect these plants during their growth seasons, we could not determine their absence with certainty.

Humboldt Bay owl's clover is listed as a California Native Plant Society (CNPS) Rank 1B species.⁶ Marin knotweed is a CNPS List 3 species.⁷ The habitat in the vicinity of this project appears marginal for Humboldt Bay owl's clover and Marin knotweed, and this project does not pose significant adverse impacts to these species. The disturbed substrate and dominance of non-native plants do not make this area an ideal habitat for these native species. The project area does include high tidal marsh and intertidal marine wetlands.

With respect to Coastal Act policy requirements, marine resources must be protected and restored (Section 30230). New development within the marine environment may be approved for limited uses, provided that the proposed development is the least environmentally damaging alternative and all

⁶ CNPS indicates that Rank 1b species "are rare throughout their range with the majority of them endemic to California. Most of the plants that are ranked 1B have declined significantly over the last century."

⁷ CNPS indicates that Rank 3 species "lack the necessary information to assign them to one of the other ranks or to reject them" as rare.



feasible mitigation measures have been applied to minimize adverse impact to the marine environment (Section 30233). New development must also be consistent with all other applicable marine resource protection policies.

As noted above, the proposed project includes authorization for both after-the-fact replacement and proposed replacement of recreational boating facilities. As proposed, the new dock and boat facilities are designed to minimize impacts on the existing marine environment. The proposal includes retaining the existing pier (decking, handrails, pilings), stairs (and handrails), and dock (decking and pilings) in their original configuration. Thus, the proposed design provides protection of marine and land resources, because no new areas will be impacted by the development, no new fill or expansion of the existing development is proposed, and mitigation measures have been put into place to ensure the protection of marine resources (see previous finding).

Coastal Act Section 30230 also requires the maintenance, enhancement, and, where feasible, the restoration of marine resources. In addition, biological productivity and water quality are protected through Coastal Act Section 30231. Section 30233 allows for development that shall not adversely impact the functional capacity of wetlands. Section 30233 also requires that there is no feasible less environmentally damaging alternative and that feasible mitigation measures are applied.

The site is located immediately adjacent to and over the waters of Tomales Bay. The proposed construction activities associated with the development could lead to adverse impacts on wetlands and Tomales Bay resources, including drainage and run off from the project that could potentially result in adverse impacts on Tomales Bay water quality. In particular, those activities include the demolition and replacement of existing structures (dock, stairs, and pilings). The project requires work over and adjacent to intertidal marine wetlands and high tidal marsh, which could lead to potential adverse water quality impacts. These impacts to water quality during construction can readily be minimized through the development and implementation of a construction plan that, at a minimum, includes identification of all construction and staging areas, all construction methods and timing, and all construction BMPs (i.e., silt fences, straw wattles, washing/refueling areas, spill containment measures, site cleanup procedures, waste disposal, etc.), including those designed to prevent release of construction-related materials, liquids, soil, and debris into the Bay. Special Condition 3 requires the Applicant to implement specific mitigation measures regarding material containment, installation procedures, construction staging, and debris disposal during all activities which impact the high tidal marsh and the intertidal zone. These mitigation measures and construction BMPs include at a minimum, the use of non-reactive piling materials (i.e., concrete, steel, untreated wood, plastic-dipped treated wood, reinforced recycled plastic, etc.); all pilings shall be driven into place; a flexible skirt shall be used to contain disturbed sediments during installation; heavy-duty netting shall be installed beneath all work areas to collect construction discards and a containment boom must be placed into the Bay to capture all debris that falls into the water; netting and boom shall be cleaned daily or as often as necessary to prevent accumulation of debris; and all wastes shall be disposed of in the appropriate manner. The BMPs identified above are typical requirements for work over and into the Bay, and are adequate to satisfy the requirements of Coastal Act Section 30231 (see Special Condition 2(c)).



To ensure maximum public notification and good construction relations, the construction plan must also be kept on site and all persons involved in construction briefed on the content and requirements of it, and a construction coordinator must be designated and be available to answer questions and also investigate complaints and take remediation action if necessary 24 hours per day for the duration of the project (see Special Conditions 2(c) – (e)).

3. Conclusion

As conditioned, including as described in the alternatives analysis discussion above, the Commission concludes that there are no feasible less environmentally damaging feasible alternatives to the approved project, and that it appropriately protects coastal waters, water quality, and marine resources as directed by the Coastal Act. Required conditions include all relevant authorizations; final project plans for the pier, dock, stairs, and pilings; pre and post-construction BMPs; and mitigations for potential impacts and disturbance to the marine environment. With the inclusion of mitigation measures designed to prevent adverse impacts from construction activities, and to protect resources of the marine environment, the project conforms to the marine resource protection requirements of Coastal Act Sections 30230, 30231, and 30233.

D. Public Access and Recreation

1. Applicable Policies

Coastal Act Section 30210 requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30210 states:

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

Coastal Act Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30212(a) states:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be



implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. Section 30214 states in part:

- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

Section 30220 of the Coastal Act provides for water-oriented recreational activities. Section 30220 states:

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

Section 30221 of the Coastal Act provides for recreational use and development. Section 30221 states:

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

Section 30223 of the Coastal Act provides for recreational use and development. Section 30223 states:

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

Section 30224 of the Coastal Act provides for recreational boating. Section 30224 states:

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

Although not the standard of review, the Marin County LCP states on the issue of public access and tidelands:

Under a series of statutes adopted after 1850, the Legislature authorized the sale of tidelands by patent. (Sales of submerged lands were not authorized by these statutes.) Valid State patents did not divest the public of its rights in the tidelands, however. The buyer of land received title to the underlying soil of validly patented tidelands but the State retained a public trust easement over the property. For the unpatented tidelands and submerged lands, the State retains complete



ownership (fee title).

The public trust easements on tidelands traditionally have been defined as easements for the purposes of commerce, navigation, and fisheries. They have been held to include the right to fish, hunt, bathe, swim, to use for boating and general recreational purposes the navigable waters of the State, and to use the bottom of the navigable waters for anchoring, standing, or other purposes. The courts have recognized that the public uses suitable for tidelands are sufficiently flexible to encompass changing public needs.

Based on the public trust doctrine, the tidelands and submerged lands of Tomales Bay are subject to the State's public trust easement. Although many of the tidelands in the Bay were surveyed between 1859 and 1872, and title to the soil was sold to private parties, the public trust easement over such parcels still exists. For some of these parcels, the exact location of tidelands boundaries based on the early surveys has not yet been determined by the State Lands Commission.

Furthermore, the Marin County LCP states on the issue of public access and new piers:

4. Public access requirement. Public access to new piers or similar recreational or commercial structures shall be required unless it can be demonstrated that such access would interfere with commercial fishing or similar operations on the pier or be hazardous to public safety.

Furthermore, the Marin County LCP states on the issue of different public access types and signing:

Types of use of an accessway

PASS AND REPASS refers to pedestrian use of the accessway.

PASSIVE RECREATIONAL USES include activities normally associated with beach use such as walking, swimming, fishing, boat landing, etc., but not including organized sports activities, campfires, or vehicular access.

2. Analysis

The proposed project is located on property containing privately owned tidelands located between the first through public road and Tomales Bay. There are a variety of public access opportunities in the area, including vertical and lateral public access on the bayside of the parcel to the south, a publicly accessible trail, and outdoor benches. A public access easement has also been accepted by Marin County but not yet implemented two parcels to the north at the Dancing Coyote Bed and Breakfast. There are ample public access points in the area, and lateral access is available across the tidally influenced portions of the subject parcel connecting to public access easements and, areas, and recreational opportunities available in the vicinity.

The pier, dock, and stairs replacement project has the potential to interfere with existing rights of tideland access nearest the shoreline. This is particularly the case at higher tides, when lateral access along the bay front is impeded by the structure itself (see photos in Exhibits 3 and 4, and Exhibit 5, page



4). Access is still possible, but it requires users to circumvent the dock and generally to stoop to make their way under the pier. Although not ideal, this is the type of public access that has been possible and available across these tideland areas for 40 years, pre- and post-dating the Coastal Act. As long as these existing rights of access are not impinged on and allowed to persist, then the proposed project can be approved as consistent with the Coastal Act's access and recreation policies. Thus, this approval includes Special Conditions 4 and 5. Special Condition 5 explicitly indicates that public rights are not waived by virtue of this CDP, and Special Condition 4 ensures that existing rights of access are maintained.

3. Conclusion

As proposed and conditioned by this permit, existing public recreational access rights are maintained. This area of Tomales Bay provides a unique public access experience along the shoreline, and the site is in the middle of an area that provides a series of complementary access features that only enhance the utility of such access. Vertical and lateral access are provided via the public park to the south and, eventually, to the north at the Dancing Coyote Bed and Breakfast. The existing access across the tidally influenced portions of this site provides important connectivity to these features, and the conditions ensure that such public access is maintained. As such, the project can be found consistent with the Coastal Act policies discussed in this finding.

E. Other

Coastal Act Section 30253 requires the project to assure long-term stability and structural integrity, and to minimize risk to life and property in areas of high geologic, flood, and fire hazard. The Commission recognizes that there is a certain amount of risk involved in development such as this that is located at the shoreline edge and that can be directly subject to erosion, storms, flooding, earthquakes, and other hazards. These risks can be exacerbated by such factors as sea level rise and localized geography that can focus storm energy at particular stretches of coastline. The Commission has sought, through this review, to limit such risks, but they cannot be eliminated entirely, and this fact must be recognized and liabilities assumed by the Applicant accordingly. Specifically, the Commission's experience in evaluating proposed developments in areas subject to hazards has been that development has continued to occur despite periodic episodes of heavy storm damage and other such occurrences. Development in such dynamic environments is susceptible to damage due to such long-term and episodic processes. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden for damages onto the people of the State of California, Applicants are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see Special Condition 6).

F. Violation

Development including, but not limited to, unpermitted replacement of a section of pier (including wood



decking, handrails, pilings, galvanized steel mesh, and concrete footings) has taken place without benefit of a coastal development permit.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the policies of Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of any development undertaken on the subject site without a coastal permit, or that all aspects of the violation have been fully resolved.

3. Conditions of Approval

A. 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.

B. Special Conditions

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two full size sets of Revised Final Plans to the Executive Director for review and approval. The Revised Final Plans shall be in substantial conformance with the plans submitted to the Coastal Commission (dated received in the Commission's North Central Coast District Office September 29, 2010 and titled Pier and Dock Repair for Dorothy Kotula prepared by Fernandez/2 Partnership) except that they shall be revised and supplemented to comply with the following requirements:
 - a. **Wood.** All wood used in the construction shall be untreated redwood, suitable for submersion in



the marine environment.

- b. Concrete.** All concrete used in the construction shall be the least environmentally damaging alternative suitable for submersion in the marine environment

The Permittee shall undertake development in accordance with the approved Revised Final Plans.

- 2. Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:
 - a. Construction Areas.** The Construction Plan shall identify the specific location of all construction areas and all staging areas. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and Tomales Bay resources, including by using inland areas for staging and storing construction equipment and materials as feasible.
 - b. Construction Methods.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from bay and ensure the least amount of impact on public access (including using unobtrusive fencing (or equivalent measures) to delineate construction areas).
 - c. Construction BMPs.** The Construction Plan shall also identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: (a) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to the bay; (b) equipment washing, refueling, and/or servicing shall take place at least 50 feet from the bay. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site; (c) the construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site); and (d) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
 - d. Construction Site Documents.** The Construction Plan shall provide that copies of the signed coastal development permit and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.



- e. Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- f. Construction and Pile Driving Noise Level Restrictions.** Noise generated by any pile driving activities shall be minimized to the maximum extent practicable. Underwater noise shall not exceed an accumulated 190 dB SEL as measured 5 meters from the source. At no time shall peak dB SEL rise above 206 at 10 meters from the source. If construction noise exceeds the above thresholds, then alternative methods of pile driving (including, but not limited to, vibratory pile driving, press-in pile placement, drilling, dewatered isolation casings, etc.) or other sound mitigation measures (including, but not limited to sound shielding and other noise attenuation devices) shall be used as necessary to achieve the required dB threshold levels.
- g. Contractor Briefing and Contracts.** All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment. Construction contracts and/or agreements shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/clean up of foreign materials not properly contained and/or remediation to ensure compliance with this coastal development permit otherwise.
- h. Notification.** The Permittee shall notify planning staff of the Coastal Commission's North Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan.

- 3. Dock use.** The proposed dock shall be used only for boating access, and shall not be used as a residential deck (i.e., with deck chairs, barbeques, etc.). The primary purpose of the dock shall be to provide for boating ingress and egress.
- 4. Public Access Agreement.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that there will be no interference (including no prohibitive signs, no barriers to public access, etc.) with the public's right to laterally access the tidelands along the bay front, including lateral public access under the pier and/or around the dock in times of higher and lower tides, respectively.



- 5. Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.
- 6. Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this permit, the Permittee acknowledges and agrees on behalf of itself and all successors and assigns:
- a. That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, coastal flooding, landslides, bluff and geologic instability, and the interaction of same;
 - b. To assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development;
 - c. To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards;
 - d. To indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and,
 - e. That any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee.

C. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

Marin County served as the lead agency for the project, in its processing of a Notice of Administrative Decision, Kotula Tidelands Permit and Design Review (Application Number TP 10-2 & DR 10-43). The County found the project to be categorically exempt from environmental review pursuant to Section 15301(d) Class 1 of the CEQA Guidelines.

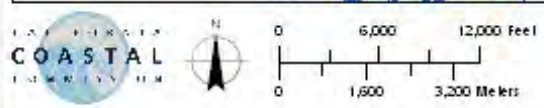
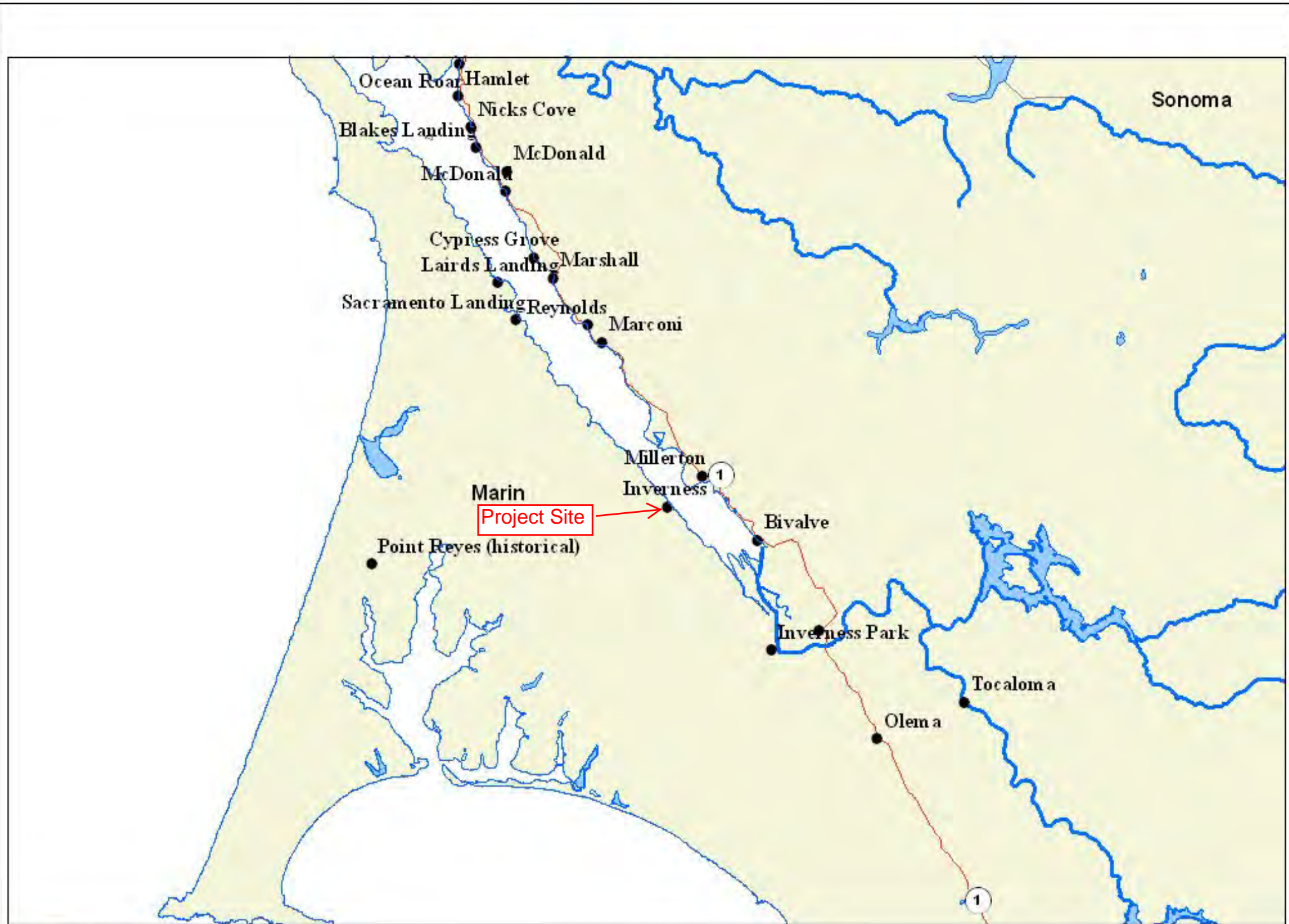
The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues with the proposed project, and has identified



appropriate and necessary modifications to address adverse impacts to such coastal resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. If so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).





Locations approximate.
For illustrative purposes only.

Exhibit No. 1
2-10-032 (Dorothy Kotula)
Vicinity Overview



- Legend**
- Major Road**
 - Highway 101, 580
 - Major Road
 - Road**
 - Highway 101, 580
 - Other Highway
 - Local
 - Fire Road
 - Driveway
 - Footpath
 - Railroad
 - Address**
 - Parcel Point
 - Parcel
 - Building Footprint (2004)
 - 2009 Countywide 100 cm pixel**
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
 - Ocean Bay

Project Site

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY PRECISE.

Exhibit No. 2
 2-10-032 (Dorothy Kotula)
 1:3,241



Source: County of Marin, GIS



02-10-032 Exhibits



Pier footings at bayshore. Note small colony of *Spartina* upper right, unvegetated cobbled substrate, and sparse growth of *Ulva* along shoreline.



The forebeach is mostly unvegetated.



Shorecast eelgrass (lower left) along high tide line.



The high-elevation tidal marsh dominated by saltgrass with an admixture of iceplant (*Drosanthemum floribundum*), pickleweed (*Sarcocornia pacifica*) and non-native annual grasses.



The Kotula Dock, 1972



The Kotula Dock, 1979



The Kotula Dock, 2002



The Kotula Dock, 2005



The Kotula Dock, 2005



POR RANCHO PUNTA DE LOS REYES

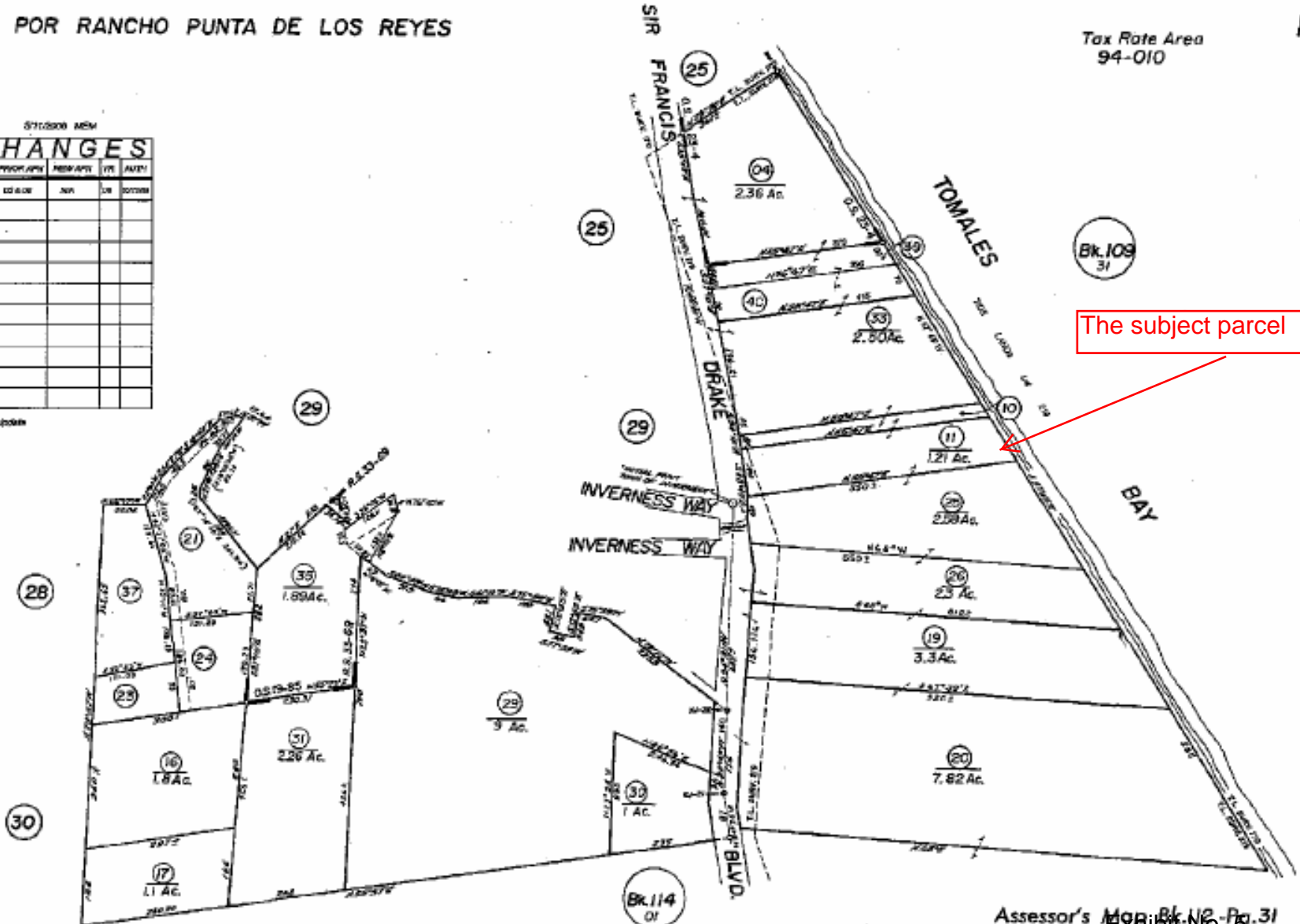
Tax Rate Area
94-010

07112000 MEM

CHANGES

BLK	PROCLAM	RECAP	TR	ACT
250	02/16/06	NA	08	00/0000

Map Update



Tide Land Survey No. 219

NOTE—Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map, Bl. 109, Pg. 31
County of Marin, Calif.

Exhibit No. 9
2-10-032 (Dorothy Kotula)

Historical Aerial Photographs and Parcel map





PIER AND DOCK REPAIR

12788 SIR FRANCIS DRAKE BLVD

INVERNESS , CA 94937

REVISIONS

OWNER

DOROTHY KOTULA
 C/O TOM EVANS
 P.O. BOX 501
 POINT REYES STATION, CA 94956

ARCHITECT:

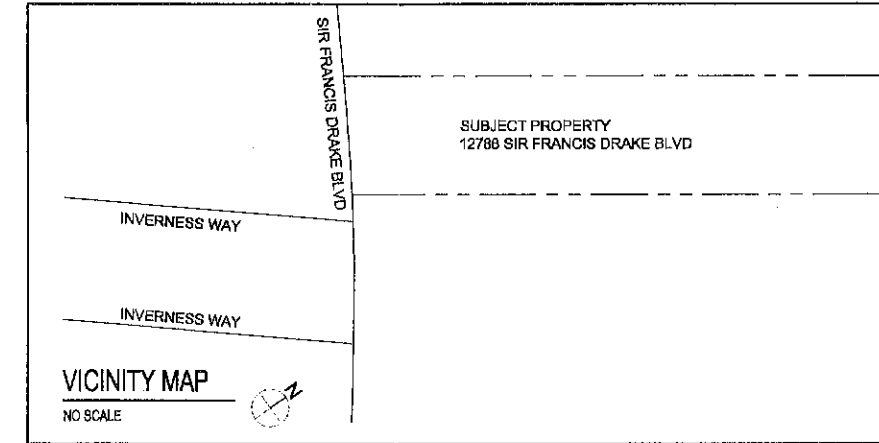
FERNANDEZ/2 PARTNERSHIP
 80 FOURTH STREET - P.O. BOX 640
 SUITE 200
 POINT REYES STATION, CA. 94956
 (415) 663-9516 OFFICE
 (415) 663-9516 FAX

SHEET INDEX

- 0.1 COVER SHEET
- 1 SURVEY
- 1.1 MAP OF TOPOGRAPHY, PRE-EXISTING PIER

ARCHITECTURAL

- 2 SITE PLAN
- 3 PLAN, SECTION AND ELEVATIONS



PROJECT

PROJECT ADDRESS: 12788 SIR FRANCIS DRAKE BLVD
 INVERNESS , CA 94937

APN NUMBER: APN 112-310-11

LEGAL DESCRIPTION: SEE TITLE REPORT AND SITE PLAN

ZONING:

APPLICABLE CODES: 2007 CBC, 2001 CPC (200 UPC), 2001 CMC (200 UMC), 2001 CEC (2000 UEC)

PROJECT DESCRIPTION:
 REPAIR AND RECONSTRUCTION OF EXISTING PIER AND DOCK

TYPE OF CONSTRUCTION:

LOT SIZE: 52,424.5 SQ FT; 1.2 ACRES TOTAL

NOTE:

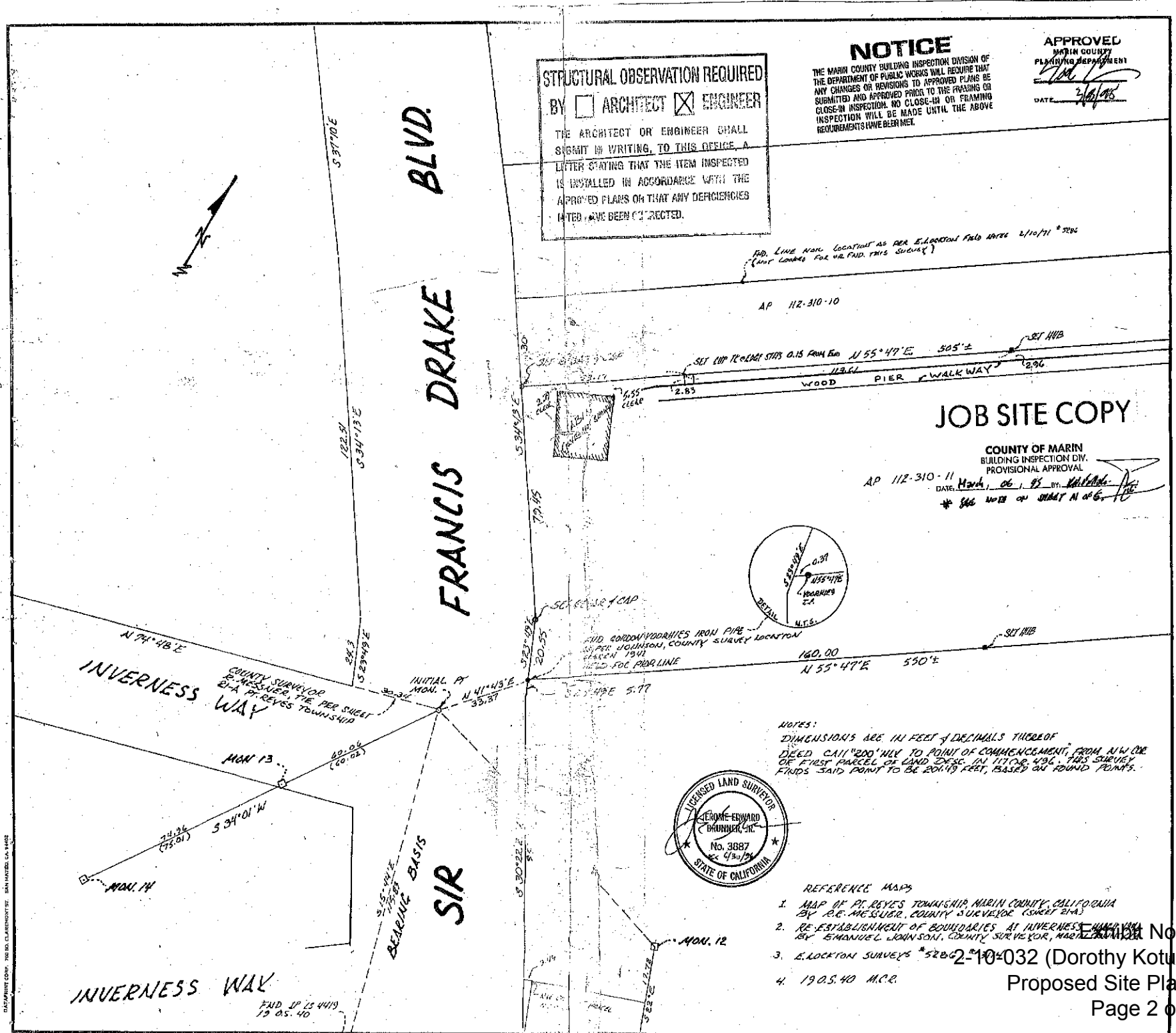
1. SEE SURVEY BY JERRICO ASSOCIATES DATED FEBRUARY 1995 FOR ADDITIONAL INFORMATION AND BASIS FOR THIS DRAWING.
2. SEE MAP OF TOPOGRAPHY BY PAUL TANNER DATED 5/20/1994 FOR ADDITIONAL INFORMATION AND BASIS FOR THIS DRAWING.

REVISION LOG

FERNANDEZ/2 PARTNERSHIP
 80 FOURTH STREET
 SUITE 200
 POINT REYES STATION, CA 94956
 OFFICE (415) 663-9516 FAX (415) 663-9516

PIER AND DOCK REPAIR FOR DOROTHY KOTULA
 12788 SIR FRANCIS DRAKE BLVD
 INVERNESS, CA 94937
 A.P. NO. 112-310-11

DATE 10 - 21 - 2009
 SCALE NONE



STRUCTURAL OBSERVATION REQUIRED
 BY ARCHITECT ENGINEER
 THE ARCHITECT OR ENGINEER SHALL SUBMIT IN WRITING, TO THIS OFFICE, A LETTER STATING THAT THE ITEM INSPECTED IS INSTALLED IN ACCORDANCE WITH THE APPROVED PLANS OR THAT ANY DEFICIENCIES NOTED HAVE BEEN CORRECTED.

NOTICE
 THE MARIN COUNTY BUILDING INSPECTION DIVISION OF THE DEPARTMENT OF PUBLIC WORKS WILL REQUIRE THAT ANY CHANGES OR REVISIONS TO APPROVED PLANS BE SUBMITTED AND APPROVED PRIOR TO THE FRAMING OR CLOSE-IN INSPECTION. NO CLOSE-IN OR FRAMING INSPECTION WILL BE MADE UNTIL THE ABOVE REQUIREMENTS HAVE BEEN MET.

APPROVED
 MARIN COUNTY
 PLANNING DEPARTMENT
 DATE: 2/10/95

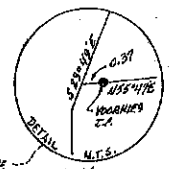
POB LINE MARK LOCATION AS PER E. LOCKTON FIELD SURVEY 2/10/91 * 2006
 (NOT CORRECT FOR MR. FOND THIS SURVEY)

AP 112-310-10

SET UP 12 CORNER STAKES 0.15 FROM EOM N 55° 47' E 505' ±
 WOOD PIER WALKWAY 2.96

JOB SITE COPY

COUNTY OF MARIN
 BUILDING INSPECTION DIV.
 PROVISIONAL APPROVAL
 AP 112-310-11
 DATE: March 1, 06, 95 BY: [Signature]
 * SEE NO. 12 ON SHEET N 006, 10



AND GORDON VIGORAN'S IRON PILE
 PER JOHNSON, COUNTY SURVEY LOCATION
 MARCH 1941
 FIELD FOR PROGLINE 160.00
 N 55° 47' E 550' ±

INVERNESS WAY
 COUNTY SURVEYOR
 E. WESSNER, THE PER SHEET
 21-A PT. REYES TOWNSHIP

INVERNESS WAY
 MON. 13
 60.06 (20.02)
 24.24 (75.01)
 S 34° 01' W
 MON. 14
 FND. IP 25 4419
 19 05. 40

INITIAL BY
 MON.
 N 41° 43' E
 33.37
 BEARING BASIS
 SIR

NOTES:
 DIMENSIONS ARE IN FEET & DECIMALS THEREOF
 DEED CALL "200' WLY TO POINT OF COMMENCEMENT, FROM N.W. COR.
 OF FIRST PARCEL OF LAND IN SEC. 14 T11N R. 23E S. 10E THIS SURVEY
 FINDS SAID POINT TO BE 204.49 FEET, BASED ON ROUND POINTS.



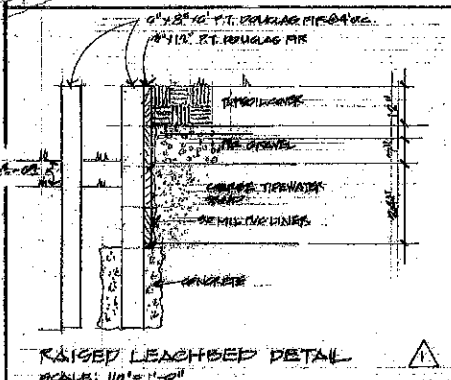
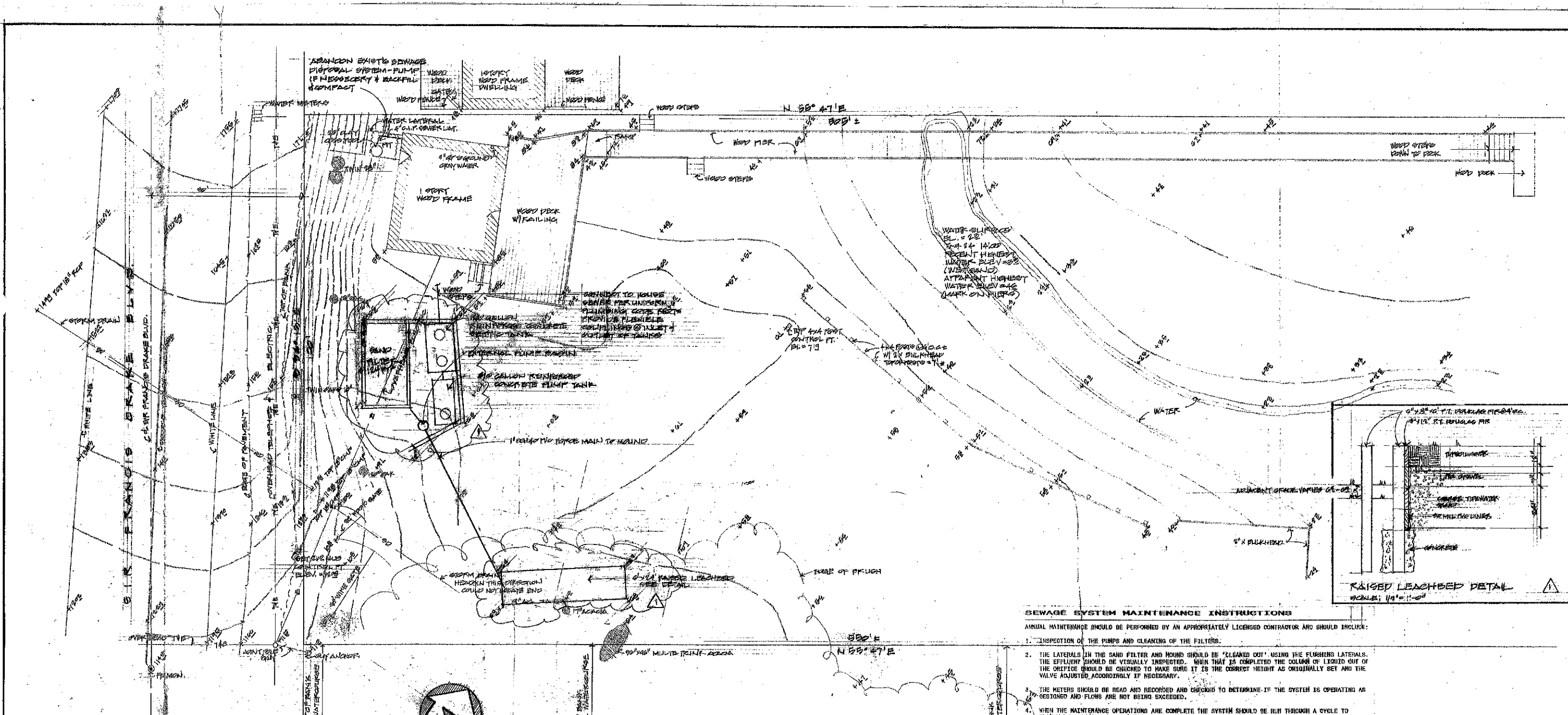
- REFERENCE MAPS
- MAP OF PT. REYES TOWNSHIP MARIN COUNTY, CALIFORNIA BY R.E. WESSNER, COUNTY SURVEYOR (SHEET 21A)
 - RE-ESTABLISHMENT OF BOUNDARIES AT INVERNESS MARIN COUNTY BY EMANUEL JOHNSON, COUNTY SURVEYOR, MARIN COUNTY
 - E. LOCKTON SURVEYS * 5206-10-032 (Dorothy Kotula)
 - 1905.40 M.C.R.

REVISIONS	BY

SURVEY OF AP 112-310-11, MARIN CO., CA.
 FOR: RILEY / ROTULLA
 METRICO ASSOCIATES 77 MARK DRIVE STE. NO. 37 SAN RAFAEL, CA.

DATE: FEB. 1995
 SCALE: 1" = 20'
 SHEET: ONE
 OF 5 SHEETS

Estimated No. 2-10-032 (Dorothy Kotula)
 Proposed Site Plans
 Page 2 of 5



SEWAGE SYSTEM MAINTENANCE INSTRUCTIONS

ANNUAL MAINTENANCE SHOULD BE PERFORMED BY AN APPROPRIATELY LICENSED CONTRACTOR AND SHOULD INCLUDE:

1. INSPECTION OF THE PUMPS AND CLEANING OF THE FILTERS.
2. THE LATERALS IN THE SAND FILTER AND MOUND SHOULD BE 'CLEANED OUT' USING THE FLUSHING LATERALS. THE EFFLUENT SHOULD BE VISUALLY INSPECTED. WHEN THAT IS COMPLETED THE COLUMN OF LIQUID OUT OF THE ORIFICE SHOULD BE CHECKED TO MAKE SURE IT IS THE CORRECT HEIGHT AS ORIGINALLY SET AND THE VALVE ADJUSTED ACCORDINGLY IF NECESSARY.
3. THE METERS SHOULD BE READ AND RECORDED AND CHECKED TO DETERMINE IF THE SYSTEM IS OPERATING AS DESIGNED AND FLOWS ARE NOT BEING EXCEEDED.
4. WHEN THE MAINTENANCE OPERATIONS ARE COMPLETE THE SYSTEM SHOULD BE RUN THROUGH A CYCLE TO DETERMINE THAT IT IS OPERATING AS DESIGNED.

HOMEOWNER MAINTENANCE/MONITORING INSTRUCTIONS

MONTHLY

1. CHECK AND TEST ALARM SYSTEM.
2. CHECK MONITORING WELLS FOR PONDING OF LIQUID. RECORD DEPTH OF LIQUID IF PRESENT (IF NOT PRESENT, SO NOTE).
3. RECORD ELAPSED TIME METER READINGS AND DETERMINE AVERAGE DAILY USAGE. DESIGN ENGINEER WILL PROVIDE INSTRUCTIONS AFTER FINAL INSPECTION.
4. VISUALLY INSPECT DOWNSLOPE AREA FOR GOOBES, MESSPOTS OR BREAKOUTS.

CAUTION:
TURN OFF POWER SUPPLY AT THE CIRCUIT BREAKER AND UNPLUG ALL POWER CORDS BEFORE HANDLING PUMP OR FLOATS. DO NOT ENTER PUMP CHAMBERS. GASES INSIDE PUMP CHAMBERS ARE POISONOUS AND CAN BE EXPLOSIVE. SERVICE OF THE PUMPS AND OTHER ELECTRICAL EQUIPMENT MUST BE DONE BY EXPERIENCED APPROPRIATELY LICENSED PERSONNEL.

SEWAGE DISPOSAL SYSTEM USER INSTRUCTIONS

ONLY BIODEGRADABLE MATERIALS SHOULD BE DISPOSED OF IN THE WASTE LINES.

NO CHEMICALS SHOULD BE ADDED TO THE SYSTEM.

GARBAGE DISPOSALS SHOULD NOT BE USED AS THE PARTICLES DISCHARGED CAN CAUSE PREHATURE FAILURE OF THE SYSTEM.

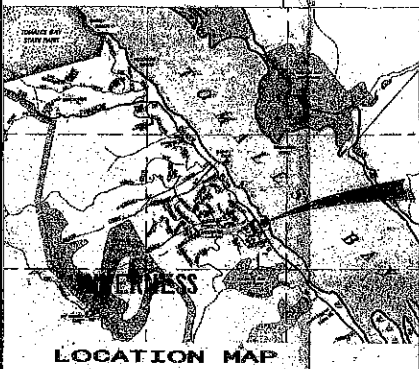
GREASER SHOULD NOT BE DISPOSED OF IN THE WASTE SYSTEM.

WATER CONSUMPTION THAT ENTERS THE WASTE SYSTEM SHOULD BE REDUCED AS MUCH AS POSSIBLE THROUGH THE USE OF LOW FLOW FIXTURES AND TOILETS. THESE FIXTURES AND TOILETS ARE A REQUIREMENT OF THE SEWAGE DISPOSAL SYSTEM PERMIT THAT WILL BE ISSUED.

THIS SYSTEM HAS AN ALARM SYSTEM THAT HAS A VISUAL AND AUDIO ALERT THAT WINGS THE LIQUID LEVEL IN EITHER THE PUMP TANK OR EXTERNAL PUMP BASIN HAS A LIQUID LEVEL THAT HAS RAISED TOO HIGH. IF THE ALARM GOES OFF ~~ANYTIME~~ ~~IS~~ ~~ALARM~~ YOU SHOULD IMMEDIATELY STOP USING WATER THAT DISCHARGES INTO THE SEWAGE DISPOSAL SYSTEM AND CONTACT THE DESIGN ENGINEER AND YOUR CONTRACTOR OR ANOTHER APPROPRIATELY LICENSED CONTRACTOR TO DETERMINE THE CAUSE OF THE ALARM, ASCERTAIN THE PROBLEM AND REMEDY THE SITUATION.

SURVEY NOTES

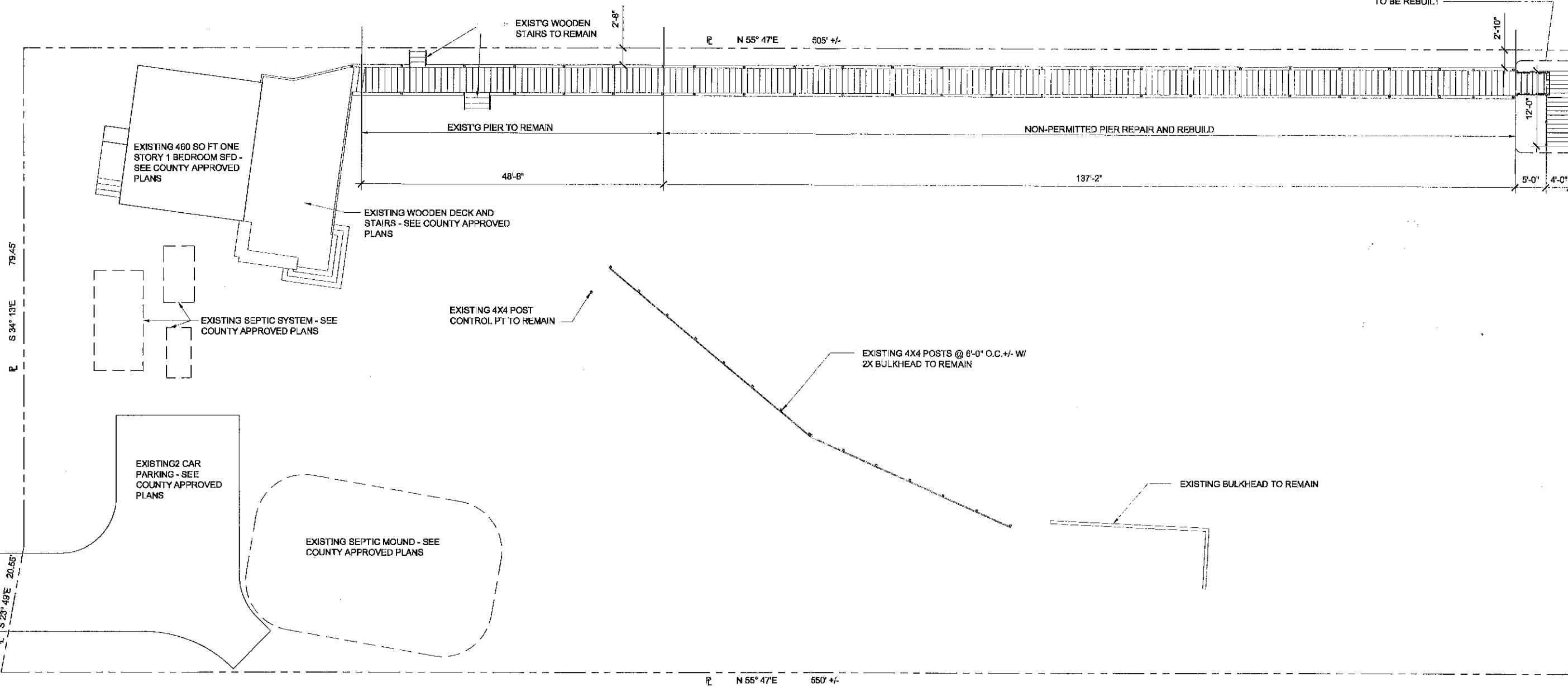
1. THIS IS NOT A BOUNDARY SURVEY. PROPERTY LINES WERE PLOTTED FROM RECORD INFORMATION AND SUPERIMPOSED ON THE TOPOGRAPHY AND ARE APPROXIMATE.
2. DATUM IS NATIONAL VERTICAL GEODETIC VERTICAL DATUM OF 1929.
3. BENCH MARK IS UNITED STATES COAST AND GEODETIC SURVEY BRONZE DISK MARKED "Z 478". PUBLISHED ELEVATION IS 8.917' MGDV.
4. LOT AREA CALCULATED FROM DEED INFORMATION IS 1.15 ACRES ±.



20-95 AS-BUILT INFO ADDED

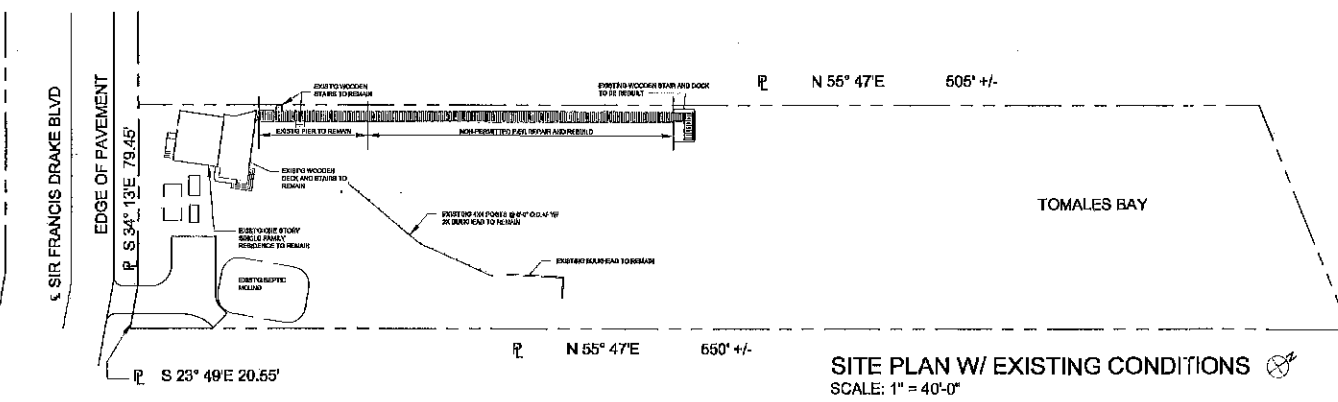
PROPOSED SEWAGE DISPOSAL SYSTEM MODIFICATION
 FOR: DOROTHY KOTULA A.P. NO. 12-416-116
 18780 SAN FRANCISCO DRIVE BLVD., LAWRENCE, CA
 SCALE: 1/8" = 1'-0"

DATE: 12/22/24
 DRAWN BY: PE
 CHECKED BY: PE
 APPROVED BY: PE
PAUL TANNER
 REGISTERED PROFESSIONAL ENGINEER
 STATE OF CALIFORNIA
 NO. 112157



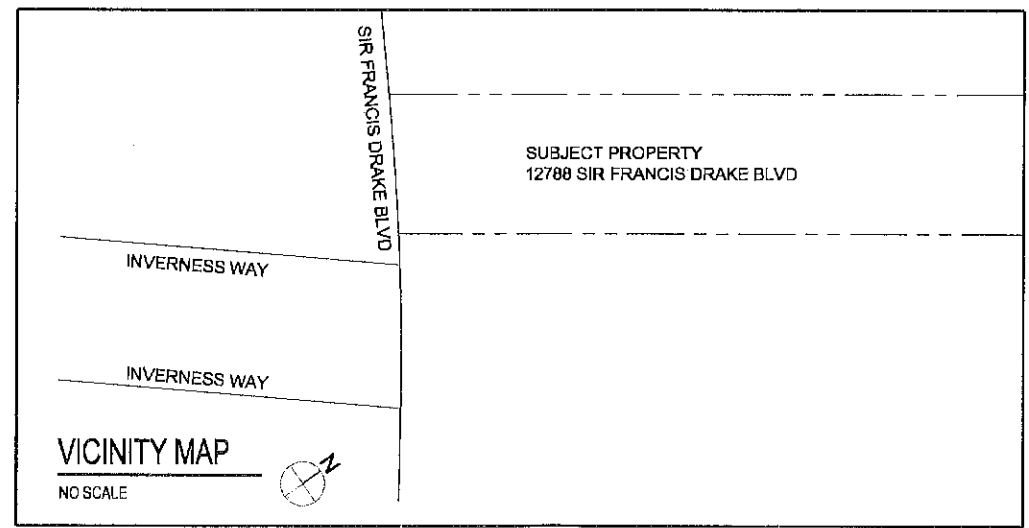
PARTIAL SITE PLAN W/ EXISTING CONDITIONS

SCALE: 1/8" = 1'-0"



SITE PLAN W/ EXISTING CONDITIONS
SCALE: 1" = 40'-0"

- NOTE:**
1. SEE SURVEY BY JERRICO ASSOCIATES DATED FEBRUARY 1995 FOR ADDITIONAL INFORMATION AND BASIS FOR THIS DRAWING.
 2. SEE MAP OF TOPOGRAPHY BY PAUL TANNER DATED 5/20/1994 FOR ADDITIONAL INFORMATION AND BASIS FOR THIS DRAWING.



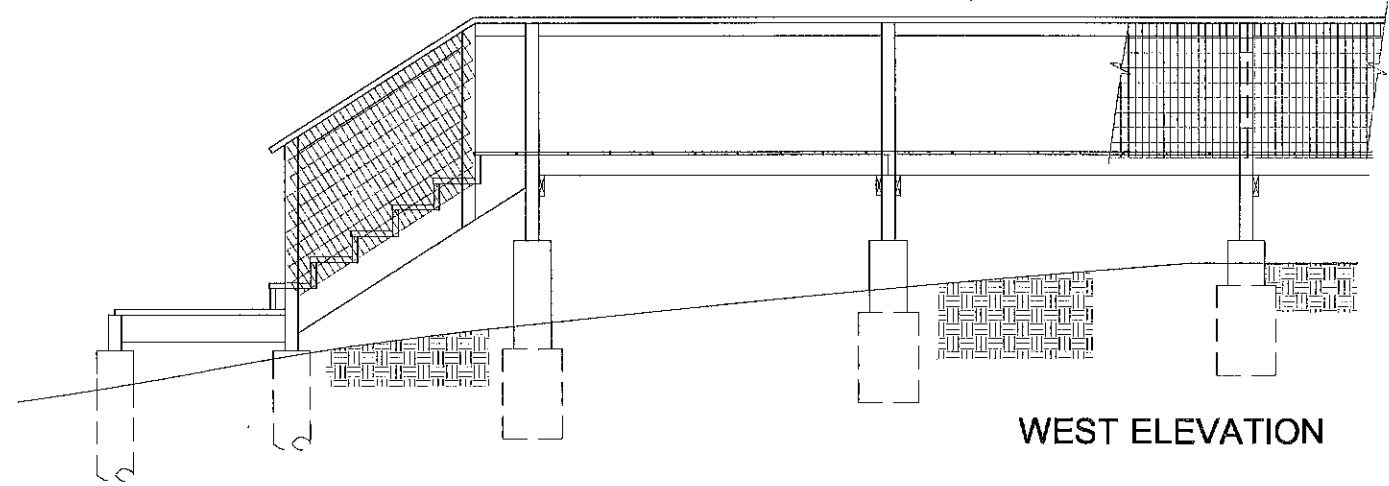
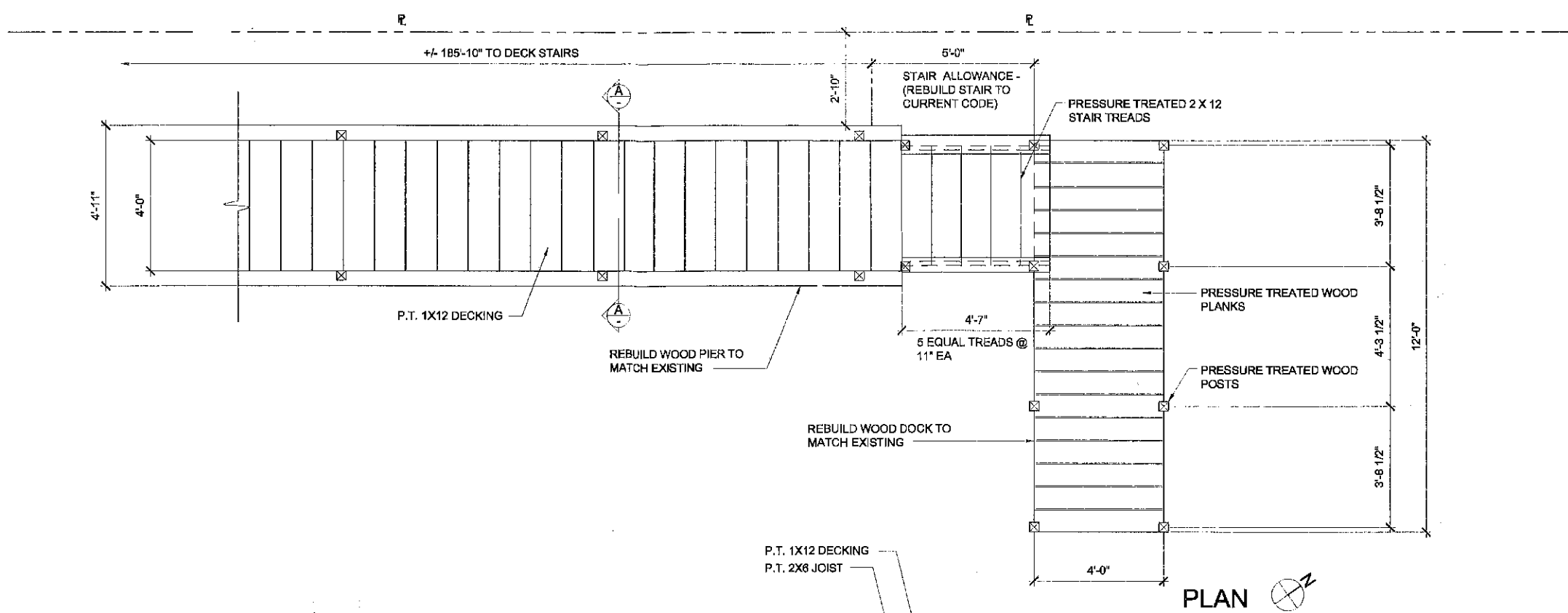
REVISIONS

FERNANDEZ/2 PARTNERSHIP
80 FOURTH STREET
SUITE 200
POINT REYES STATION, CA 94956
OFFICE (415) 663-9516 FAX (415) 663-9516

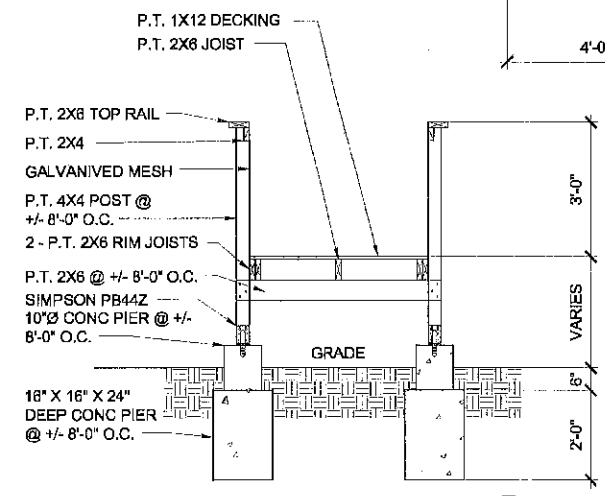
SITE PLAN

PIER AND DOCK REPAIR FOR DOROTHY KOTULA
12788 SIR FRANCIS DRAKE BLVD
INVERNESS, CA 94937
A.P. NO. 112-310-11

DATE 10-21-2009
SCALE AS NOTED

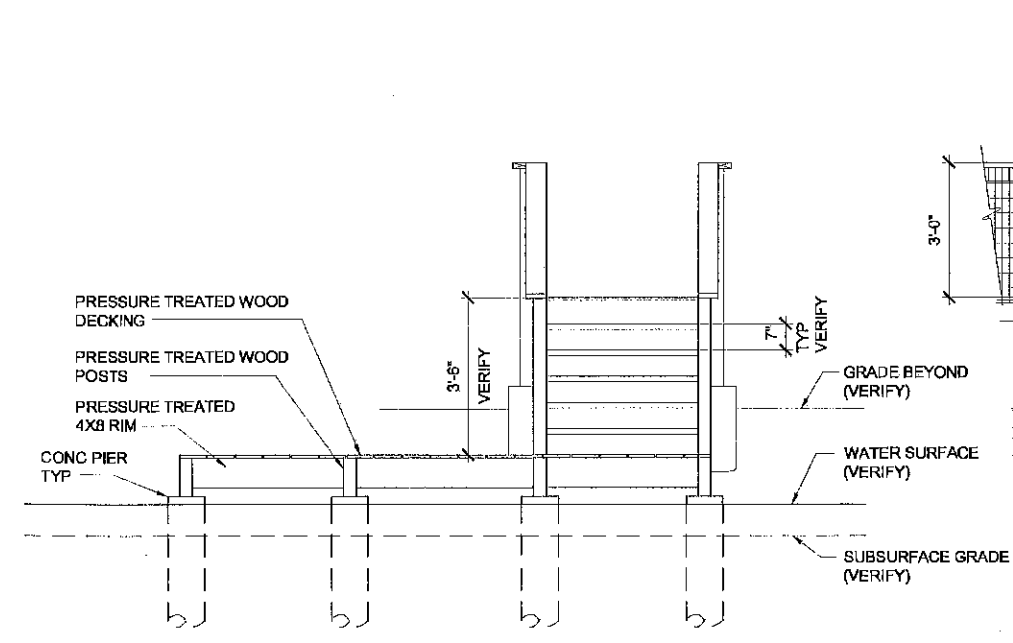


WEST ELEVATION

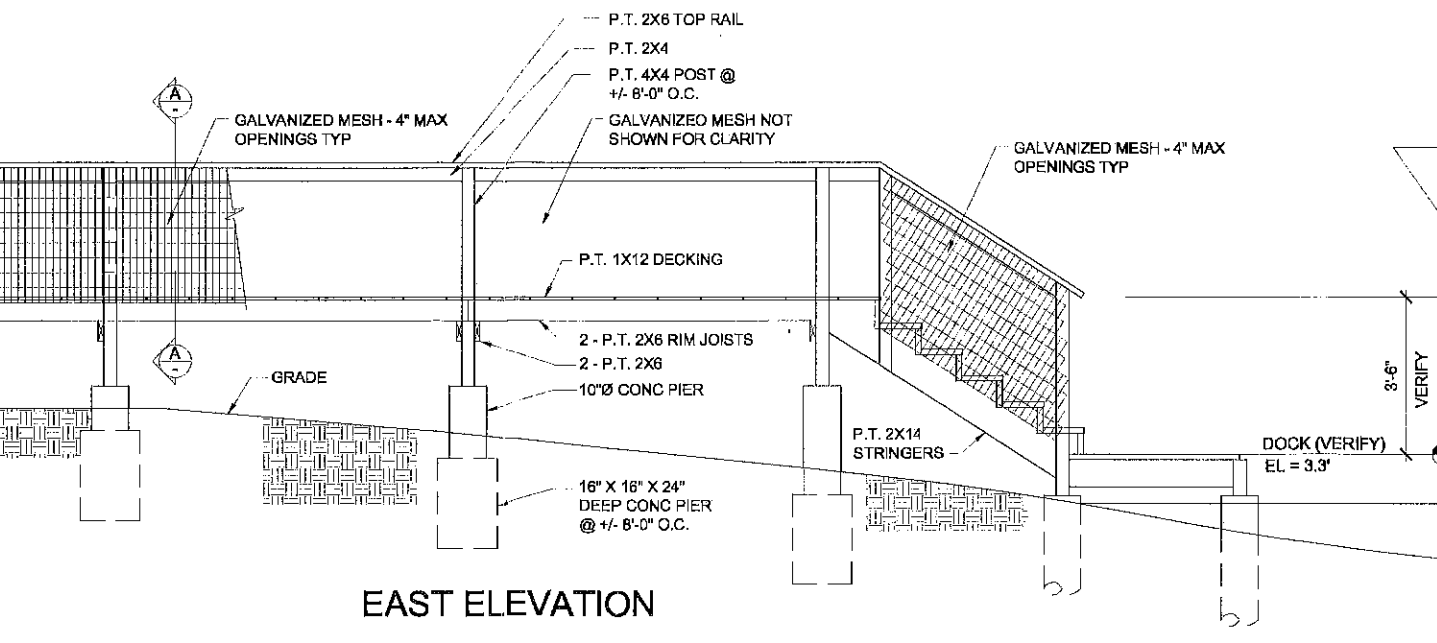


SECTION A

- NOTE: ALL WOOD SHALL BE APPROVED PRESSURE TREATED WOOD FOR SUBMERSIBLE MARINE ENVIRONMENT TYP
- NOTE: ALL FASTENERS SHALL BE APPROVED FOR SUBMERSIBLE MARINE ENVIRONMENT TYP
- NOTE: ALL CONCRETE AND REINFORCING STEEL SHALL BE APPROVED FOR SUBMERSIBLE MARINE ENVIRONMENT TYP



NORTH ELEVATION



EAST ELEVATION

- NOTE: ALL ELEVATIONS PER MAP OF TOPOGRAPHY BY PAUL TANNER ASSOCIATES DATED 5/20/1994

FF PIER - EXIST'G AND NEW	EL = 8.9'
APPARENT HIGHEST WATER ELEV	EL = 4.6'
RECENT HIGHEST WATER EL (WETLAND)	EL = 3.2'
WATER SURFACE 5-9-2004	EL = 2.3'

REVISIONS

PIER AND DOCK REPAIR FOR DOROTHY KOTULA
 12788 SIR FRANCIS DRAKE BLVD
 INVERNESS, CA 94937
 A.P. NO. 112-310-11

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