

CALIFORNIA COASTAL COMMISSION

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Filed: 4/2/2013
180th Day: 9/29/2013
Staff: Charles Posner - LB
Staff Report: 4/18/2013
Hearing Date: May 8, 2013
Commission Action:

W6b

STAFF REPORT: CONSENT CALENDAR

Application Number: 5-13-048

Applicant: Kent Browning

Agent: Pete Swift, Swift Slip Dock and Pier Builders, Inc.

Project Location: 5508 The Toledo, Naples Island, City of Long Beach, Los Angeles County.

Project Description: Remove an existing private dock (including 32-foot long pier, float, gangway, and all five existing piles), and install a new 55' x 26' U-shaped dock float secured in place by three new concrete piles. A new 3' x 38' gangway will be installed between the seawall and the new dock float.

Local Approvals: City of Long Beach Department of Development Services, Approval in Concept, 2/1/2013. City of Long Beach Marine Bureau, Approval in Concept, 1/29/2013.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed project is the replacement of a private boat dock on Naples Island in southeast Long Beach. A coastal development permit is required from the Commission because the proposed project is located on submerged lands within the Commission's area of original jurisdiction.

Staff is recommending **APPROVAL** of the coastal development permit with special conditions that require the permittee to: a) avoid impacts to eelgrass, b) implement specific best management practices during construction in order to minimize adverse impacts to marine habitat and water quality, c) implement post-construction best management practices in order to minimize the potential for accidental discharges during fueling and boating activities, and d) comply with the requirements of the resource agencies. The applicant agrees with the recommendation. **See Page Two for the Motion to approve the permit application.**

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EXHIBITS

- Exhibit 1 – Long Beach, CA Map
- Exhibit 2 – Project Location Map
- Exhibit 3 – Existing Site Plan
- Exhibit 4 – Proposed Site Plan

I. MOTION AND 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 recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

Resolution:

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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 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.

II. STANDARD CONDITIONS

This permit is granted subject to the following 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.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

- 1. Permit Compliance.** The permitted use of the approved development is for boating related uses only. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.
- 2. Eelgrass Survey and Mitigation Plan. A. Pre Construction Eelgrass Survey.** Prior to commencement of any disturbance of the intertidal or subtidal areas authorized under this coastal development permit, a valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of dredging and pier construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The permittee shall submit the eelgrass survey for the review and approval of the Executive Director within five (5)

business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any disturbance of the lagoon intertidal or subtidal areas.

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

- 3. Caulerpa Taxifolia (Toxic Algae) Pre-Construction Survey.** The permittee shall undertake a survey of the project area to determine the presence of the invasive alga *Caulerpa taxifolia*, as follows:
- A. Not earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any disturbance of the intertidal or subtidal areas authorized under this coastal development permit, the permittee shall undertake a survey of the project area and a buffer area at least ten meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
 - B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
 - C. Within five business days of completion of the survey, the permittee shall submit the survey for the review and approval of the Executive Director; and to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).
 - D. If *Caulerpa taxifolia* is found within the project or buffer areas, the permittee shall not proceed with the project until 1) the permittee provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the permittee has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission

approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 4. Construction Responsibilities and Debris Removal.** By acceptance of this permit, the permittee agrees to implement the proposed construction best management practices (BMPs) listed below:
- A. Any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), ACA (Ammoniacal Copper Arsenate) or ACZA (Ammoniacal Copper Zinc Arsenate) is prohibited. Treated timber shall be free of chromium and arsenic and completely sealed in epoxy resin. No exposed wood shall be used where it could come into contact with the water.
 - B. No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
 - C. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
 - D. Silt curtains shall be utilized to control turbidity during placement of all piles.
 - E. Eelgrass shall not be disturbed. Anchors shall not be placed in eelgrass areas.
 - F. Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day.
 - G. Divers shall recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
 - H. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the bay and a pre-construction meeting to review procedural and BMP guidelines.
 - I. Any and all construction material and debris shall be removed from the site within ten days of completion of construction and disposed of at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
 - J. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to navigation.

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

A. Boat Cleaning and Maintenance Measures:

1. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
2. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and only minimal amounts shall be used.
3. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

B. Solid and Liquid Waste Management Measures:

All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or gutter.

C. Petroleum Control Management Measures:

Oil absorbent materials should be examined at least once a year and replaced as necessary. The applicant shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters are also encouraged to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. Bilges shall be cleaned and maintained. The use of detergents or soaps that can be discharged by bilge pumps is prohibited.

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

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project is the replacement of a private residential boat dock on Naples Island in southeast Long Beach (See Exhibits). The existing 32-foot long pier and 38' x 26' U-shaped dock float will be removed, along with the gangway and all five existing piles (Exhibit #3). The proposed new dock is comprised of a 55' x 26' U-shaped dock float secured in place by three new sixteen-inch square concrete piles, with a new 38' x 3' gangway installed between the seawall and the new dock float (Exhibit #4). The proposed project does not include a new pier.



Project Site: 5508 The Toledo, Alamitos Bay, City of Long Beach.

The proposed project is in Alamitos Bay, situated between the applicant's vertical seawall and the City Pierhead Line. The proposed dock is associated with the adjacent single-family residence and is for boating recreation purposes. The proposed project will not interfere with public access. No public access exists immediately inland of the seawall in this location. The proposed project avoids impacts to the eelgrass beds mapped in an October 31, 2012 survey (Preliminary Eelgrass Survey Report, 5508 The Toledo, Long Beach, by Dive Works, October 31, 2012). No dredging is proposed. The proposed project has received an "Approval in Concept" stamp from the City of Long Beach Department of Development Services and the City of Long Beach Marine Bureau.

B. RECREATIONAL BOATING AND MARINE RESOURCES

The proposed project is located in coastal waters. The Coastal Act sets forth policies that encourage recreational boating while also requiring that marine resources and water quality be protected from adverse environmental effects.

Section 30224 of the Coastal Act states:

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

Section 30230 of the Coastal Act 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.

Section 30231 of the Coastal Act 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 flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233(a) of the Coastal Act states, in part:

(a) 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...(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.

The marine resource policies of the Coastal Act require that the proposed project, which is located in Alamitos Bay, shall be carried out in a manner that will sustain the biological productivity of coastal waters. The intertidal and subtidal areas of Alamitos Bay contain habitat areas which shall be protected

from the adverse impacts of shoreline development. The permit is conditioned to protect these marine resources.

The applicant has provided a 2012 eelgrass survey which indicates that eelgrass beds exist on both sides of the proposed gangway, which is in the same location as the existing gangway (Preliminary Eelgrass Survey Report, 5508 The Toledo, Long Beach, by Dive Works, October 31, 2012). The proposed project has been designed and sited to avoid the mapped patches of eelgrass beds by eliminating the existing 32-foot long pier and placing the new dock float 34 feet seaward of the seawall in the area where no eelgrass was mapped by the 2012 survey. A *Caulerpa taxifolia* survey was also conducted and the toxic algae were not found in the project area.

There is a possibility, however, that the eelgrass patches could expand at the project site before the commencement of development, given that the 2013 growing season commenced in March and the proposed development will not start until May 2013 at the soonest. Therefore, Special Condition Two requires that a new pre-construction eelgrass survey shall be completed during the period of active growth of eelgrass (March through October). Special Condition Three requires a new survey prior to commencement of construction to determine if the invasive alga *Caulerpa taxifolia* is present in the area. Special Condition Four prohibits the disturbance of eelgrass and requires the implementation of specific best management practices (BMPs) during construction. As conditioned, the proposed project will not adversely impact eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae.

Sections 30230 and 30231 of the Coastal Act protect water quality and biological of coastal waters. To reduce the potential for construction related impacts on water quality, the Commission imposes Special Conditions four and Five requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices (BMPs) following construction. As conditioned, the proposed project conforms with Sections 30230 and 30231 of the Coastal Act.

Section 30233(a) of the Coastal Act restricts the placement of piles in open coastal waters, and requires that mitigation measures are provided to minimize adverse environmental effects. The proposed project includes the removal of five concrete piles, with only three piles needed for the proposed replacement dock; so the proposed project would result in a net reduction (two) in the number of piles. The proposed dock float, with its three new support piles, is an allowable and encouraged marine related use. The proposed project (dock float and gangway) is associated with the applicant's adjacent single family home, and is only for recreational boating purposes. The proposed project will provide recreational boating opportunities for the applicant and others. The project design includes the minimum-sized pilings and the minimum number of pilings (three existing sixteen-inch square piles) necessary for structural stability. Disturbance of eelgrass is not permitted, and the permittee is required to implement specific Best Management Practices (BMPs) during pile-driving and construction. There is no feasible alternative or feasible mitigation measure which would substantially lessen the adverse effects of the proposed development. As conditioned, the proposed project is consistent with Section 30233(a) of the Coastal Act.

Special Condition Six requires the permittee to comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Therefore, as conditioned, the project is to be used

solely for recreational boating purposes, will not adversely impact eelgrass beds, and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. Therefore, the proposed project, as conditioned, conforms with Sections 30224, 30230, 30231 and 30233 of the Coastal Act.

C. PUBLIC ACCESS

The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities shall be provided and that development shall not interfere with such access. Therefore, the proposed development must be designed to protect maximum public access along the shoreline and to nearby recreational facilities.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act 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 30221 of the Coastal Act 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.

The proposed project will not interfere with public access. No public access exists immediately inland of the seawall in this location; only private property. There is no beach on the seaward side of the applicant's seawall, even at low tide. The proposed pier will not interfere with kayaking in the bay any more than the existing gangway and dock. Therefore, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with the public access policies of the Coastal Act.

D. LOCAL COASTAL PROGRAM (LCP)

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

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

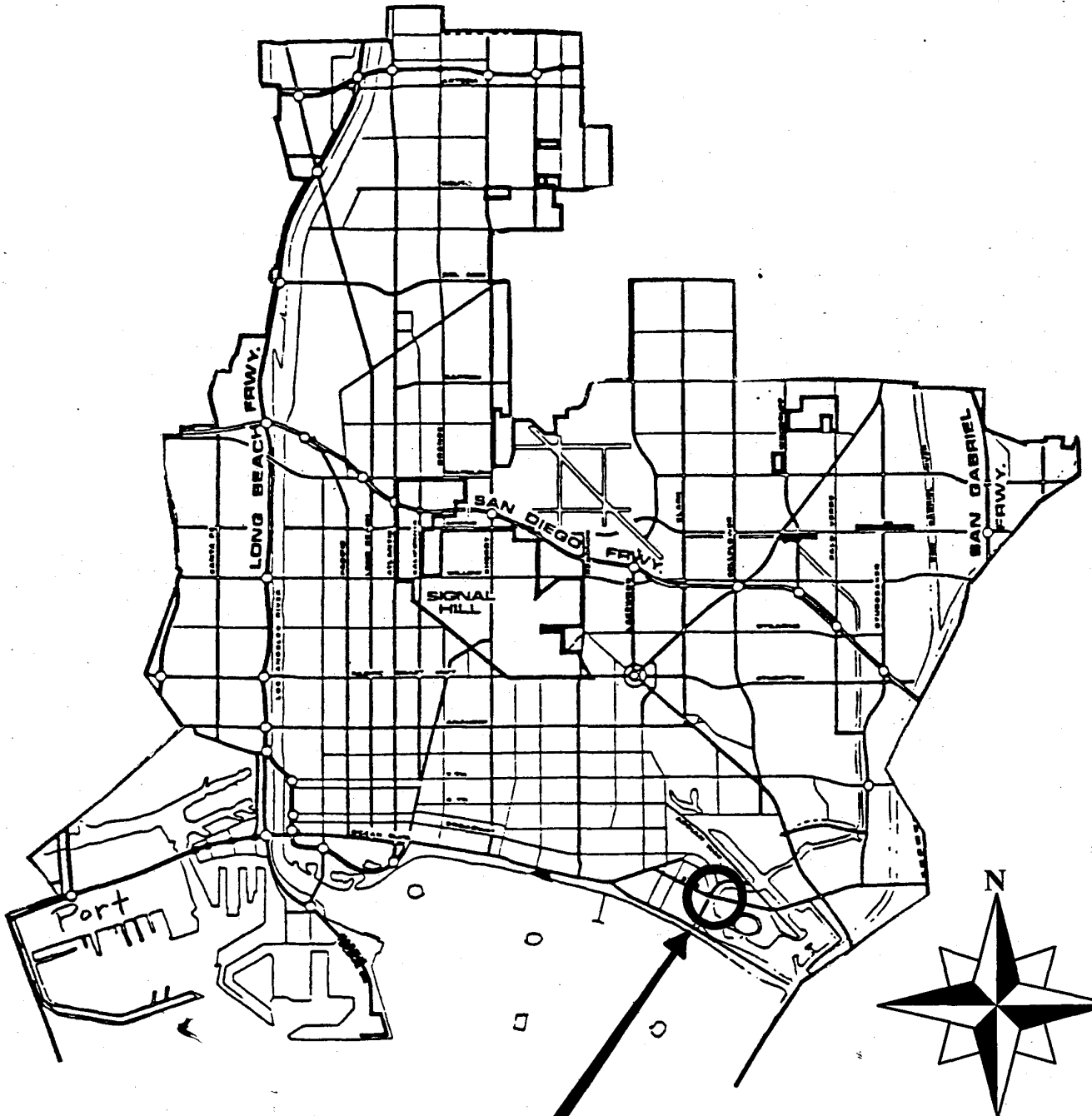
Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (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.

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

Appendix A - Substantive File Documents

1. City of Long Beach Certified Local Coastal Program (LCP), 7/22/80.
 2. Coastal Development Permit 5-12-165 (Ashley Dock – 5494 The Toledo).
 3. Coastal Development Permit 5-12-144 (Thacker Dock– 5430 The Toledo).
 4. Coastal Development Permit 5-10-265 (Bratengen Dock – 5436 The Toledo).
 5. Preliminary Eelgrass Survey Report, 5508 The Toledo, Long Beach, by Dive Works, October 31, 2012.
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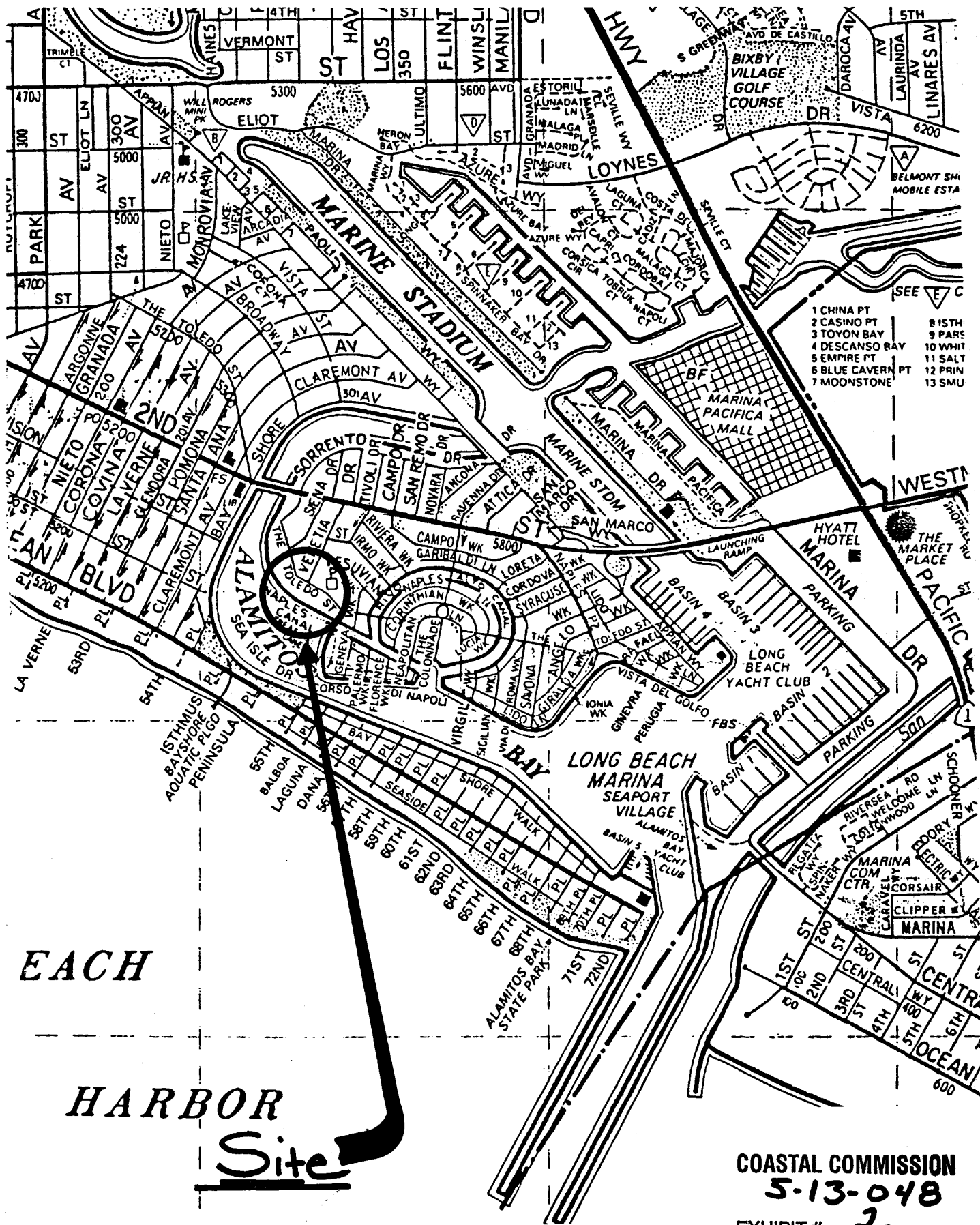
City of Long Beach



Project Site

COASTAL COMMISSION
5-13-048

EXHIBIT # 1
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EACH

HARBOR
Site

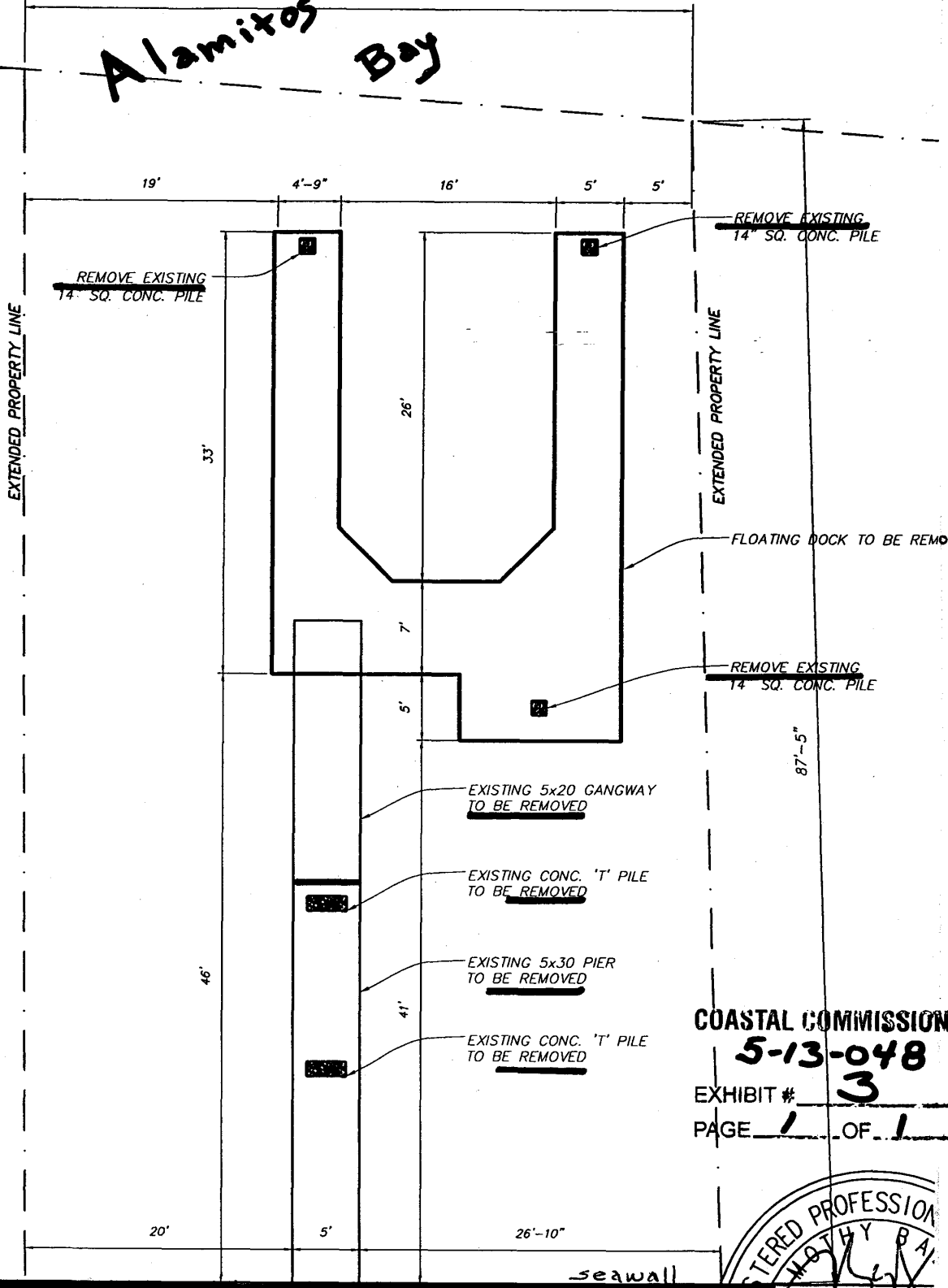
5508 The Toledo

COASTAL COMMISSION
 5-13-048
 EXHIBIT # 2
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LINES PER
S-06-0133
478.57

Alamitos Bay

49'-9"



~~REMOVE EXISTING
14' SQ. CONC. PILE~~

~~REMOVE EXISTING
14' SQ. CONC. PILE~~

EXTENDED PROPERTY LINE

EXTENDED PROPERTY LINE

FLOATING DOCK TO BE REMO

~~REMOVE EXISTING
14' SQ. CONC. PILE~~

~~EXISTING 5x20 GANGWAY
TO BE REMOVED~~

~~EXISTING CONC. 'T' PILE
TO BE REMOVED~~

~~EXISTING 5x30 PIER
TO BE REMOVED~~

~~EXISTING CONC. 'T' PILE
TO BE REMOVED~~

COASTAL COMMISSION

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EXHIBIT # 3

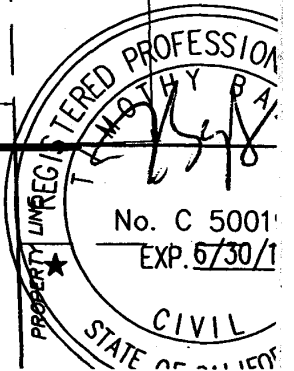
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5508 THE TOLEDO
LONG BEACH, CA 90803

4,534 SQ. FT.

EXISTING SITE PLAN

SCALE 1"=12'



PIER HEADLINES PER
RESOLUTION RES-06-0133
S56°25'45.39"E 478.57'

49'-9"

18'-9"

5'

16'

5'

5'

INSTALL NEW 16"
SQ. CONC. PILE

INSTALL NEW 16"
SQ. CONC. PILE

APPROVED AS TO PIER HEAD LOCATION
DATE: 1/29/16 BY: [Signature]

EXTENDED PROPERTY LINE

EXTENDED PROPERTY LINE

55'

48'

INSTALL NEW FLOATING DOCK

90'-11"

87'-5"

INSTALL NEW 16"
SQ. CONC. PILE

34'

INSTALL NEW 3'x38' GANGWAY

20'

3'

28'-10"

SEAWALL
N60°29'42"W 148.43'

5508 THE TOLEDO
LONG BEACH, CA 90803

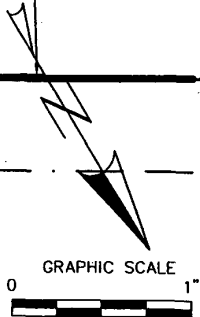
4,534 SQ. FT.

BULKHEAD LINE

PROPERTY LINE

PROPERTY LINE

PROPOSED SITE PLAN
SCALE 1"=12'



5-13-048

EXHIBIT # 4
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