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STATE OF CALIFORNIA - THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

Filed: 5/30/97
49th Day: 7/18/97
180th Day: 11/26/97
Staff: MV-LB
Staff Report: 6/19/97
Hearing Date: 7/8-11/97
Commission Action:



STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-97-117

APPLICANT: Daniel Donahue AGENT: Lisa Miller, Shellmaker Inc.

PROJECT LOCATION: 932 Via Lido Nord, Newport Beach, Orange County

PROJECT DESCRIPTION:

Replacement of an existing deteriorated bulkhead with a new concrete bulkhead, including six one inch diameter anchor rods tied to a concrete anchor. The proposed bulkhead will be 50 feet in length, the top of the bulkhead will be elevated at +9 feet Mean Low Low Water, and will be located at the bulkhead line. No change is proposed to the existing bulkhead location. Also proposed are 300 cubic yards of cut and 300 cubic yards of fill landward of the bulkhead to achieve placement of the tie rods and anchor.

Lot area:	6,500 square feet
Building coverage:	n/a
Pavement coverage:	n/a
Landscape coverage:	n/a
Parking spaces:	n/a
Zoning:	n/a
Plan designation:	Single Family Detached & Water
Project density:	n/a
Ht abv fin grade:	+9 feet Mean Low Low Water

LOCAL APPROVALS RECEIVED:

Approval in Concept, City of Newport Beach Marine Department; Harbor Permit No. 175-932.

SUBSTANTIVE FILE DOCUMENTS:

Coastal Development Permit 5-91-091 (Donahue); Waiver of Coastal Development Permit 5-90-193 (Donahue); Coastal Development Permit 5-88-747 (Carlton); City of Newport Beach certified Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the project with two special conditions: 1) construction impacts on the shoreline shall be minimized and all construction materials shall be stored landward of the bulkhead and removed at the end of construction; and 2) the location of the debris disposal site shall be identified and subject to the approval of the Executive Director.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, located between the nearest public roadway and the shoreline, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 including the public access and recreation policies of Chapter 3, 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, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. 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.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Construction Materials

Disturbance to sand and intertidal areas shall be minimized. Local sand, cobbles, or shoreline rocks shall not be used for back fill or construction material. All construction materials shall be stored landward of the bulkhead and shall be removed at the conclusion of construction.

2. Location of Debris Disposal Site

Prior to issuance of the coastal development permit, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the debris resulting from removal of the existing bulkhead and any construction spoils. Construction debris shall be disposed of at the approved disposal site.

IV. Findings and Declarations.

A. Project Description

The applicant is proposing the replacement of an existing deteriorated bulkhead with a new concrete bulkhead, including six one inch diameter anchor rods tied to a concrete anchor. The proposed bulkhead will be 50 feet in length, the top of the bulkhead will be +9 feet Mean Low Water, and it will be located on the bulkhead line. The concrete anchor will be 40 feet in length and will be located 30 feet landward of the bulkhead. No change is proposed to the bulkhead location. All development will occur at the bulkhead line and landward. The proposed bulkhead will be flush with the adjacent bulkheads. Also proposed are 300 cubic yards of cut and 300 cubic yards of fill landward of the bulkhead to achieve placement of the tie rods and anchor.

The subject site is located on Lido Isle in Newport Harbor. The site is a harbor fronting lot. The land use designation is Single Family Detached Residential. Seaward of the bulkhead line, the area is land use designated Water. A boat dock and ramp currently exist at the subject site.

B. Protective Structures

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible. (emphasis added)

The City of Newport Beach requires that existing bulkheads be examined for stability for projects on the harbor involving substantial remodelling or demolition and reconstruction. In this instance, the existing bulkhead has been determined to be deteriorated.

The applicant received approval of coastal development permit 5-91-091 which allowed demolition of an existing single family residence and construction of a new single family residence. The demolition has occurred but the new residence has not yet been constructed. In addition, residences exist on either side of the subject site. Failure to replace the deteriorated bulkhead would lead to eventual damage to the existing adjacent structures, as well as the approved future residence at the site. Therefore, the applicant has proposed the bulkhead improvements to assure stability of the subject and adjacent sites.

There are bulkheads adjoining the project site. The proposed bulkhead will be flush with the existing adjacent bulkheads. Because the proposed project consists of placing the new bulkhead in the same location as the existing bulkhead, the proposed project will not result in adverse impacts on shoreline processes or marine vegetation.

The proposed development is necessary to protect existing structures as well as the approved future residence. The proposed bulkhead will not have any adverse impacts on shoreline processes or marine vegetation. The proposed development consists of bulkhead replacement in the same location which is designed to protect future and existing structures from ongoing erosion and damage. Therefore, the Commission finds that the proposed development conforms with Section 30235 of the Coastal Act.

C. Coastal Access and Recreation

Section 30212(a)(2) of the Coastal Act states:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
(2) adequate access exists nearby, ...

Public access (both lateral and vertical) to the bayfront is not available on the subject site nor on the adjacent residential lots. Section 30212(a)(2) of the Coastal Act allows for new development without the provision of public access if the proposed project does not create an adverse impact on existing access and when adequate access exists nearby. Public access to the bayfront has not historically been available on the subject site nor on the adjacent bayfront residential lots. Public access in the subject area is available along the waterfront walkway along the north side of Lido Island. In addition, public access exists across the Via Lido bridge. A small public park exists at the west end of the Via Lido bridge. The certified Land Use Plan cites 36 street end access points to lower Newport Bay on the Balboa Peninsula. Public access to the ocean side of the Balboa Peninsula extends for the length of the peninsula.

Section 30604(c) of the Coastal Act requires that the findings for projects between the nearest public road and the shoreline of any body of water within the coastal zone shall include a public access and recreation finding. Public access and recreation opportunities exist nearby. Additionally, the proposed project does not adversely impact existing public access. Therefore, the Commission finds that the proposed development is consistent with Section 30212 of the Coastal Act as the proposed development would not create adverse impacts on public access and public access exists nearby.

D. Water Quality

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.

The proposed development involves construction adjacent to the marine environment. In order to protect the marine environment from degradation, all construction materials and machinery shall be stored away from the water. In addition, no construction materials not essential for the project improvements shall be placed in the bay. Local sand, cobbles, or shoreline rocks shall not be used for backfill or construction material as per special condition 1. Only as conditioned does the Commission find that the proposed development conforms with the resource protection policies of Section 30231 of the Coastal Act.

E. Land Use Plan

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was certified on May 19, 1982. The proposed development consisting of replacement of an existing bulkhead is consistent with the policies contained in the certified Land Use Plan. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program [Implementation Plan] for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

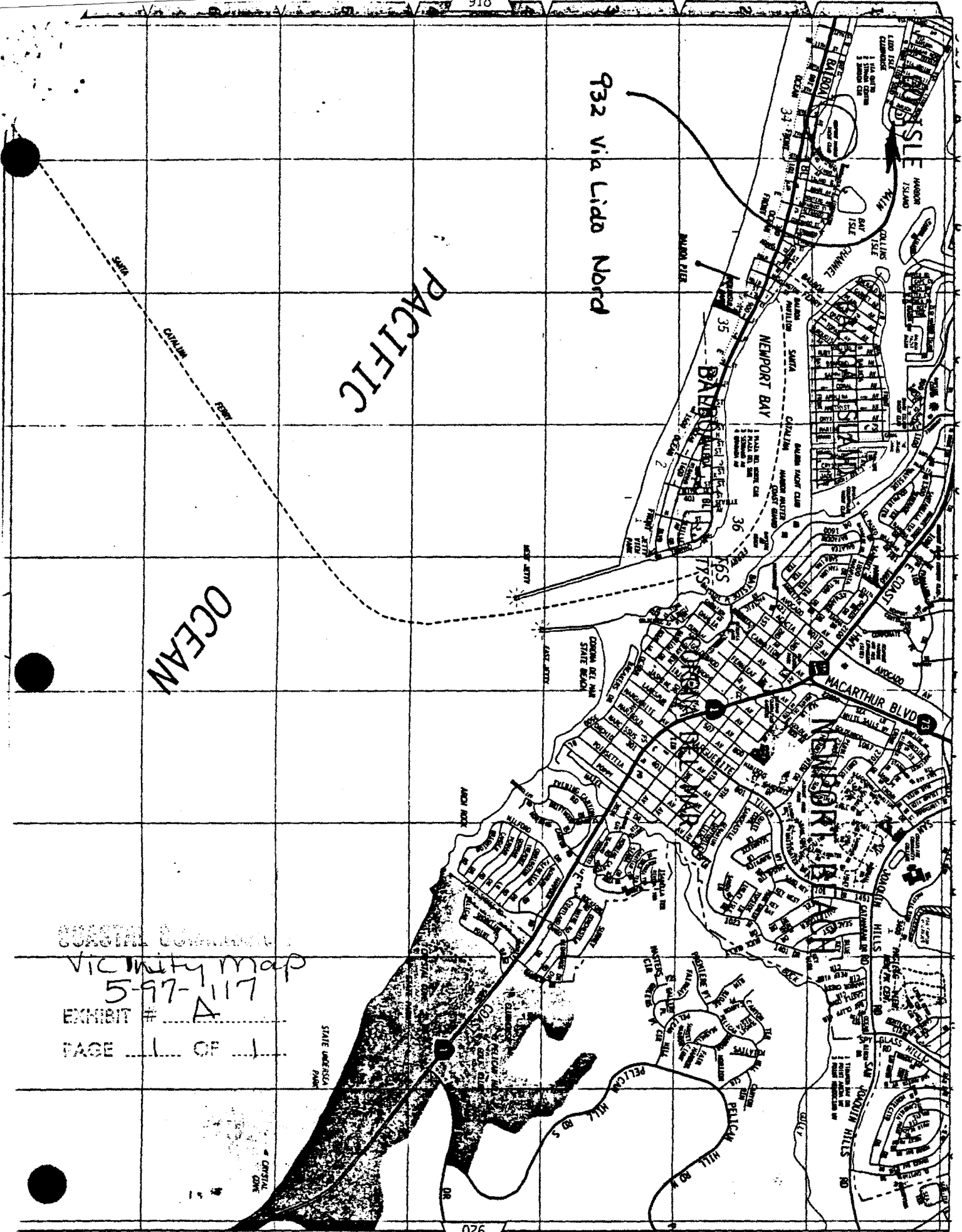
F. California Environmental Quality Act

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)(i) 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 impact which the activity may have on the environment.

The proposed project has been found consistent with the protective structures, marine water quality and coastal access and recreation policies of Chapter 3 of the Coastal Act. There are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the

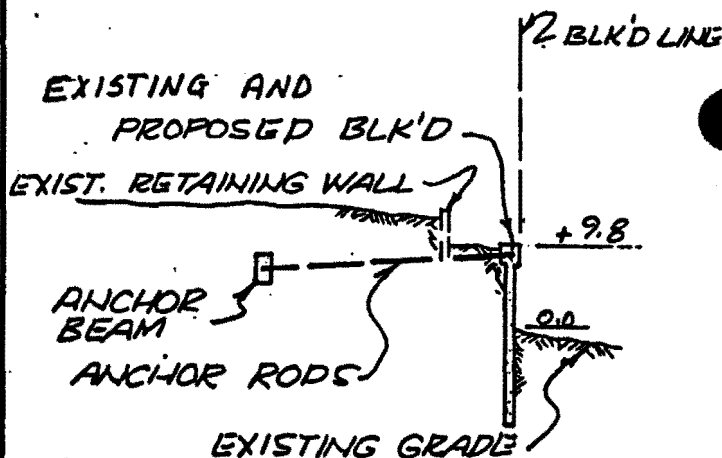
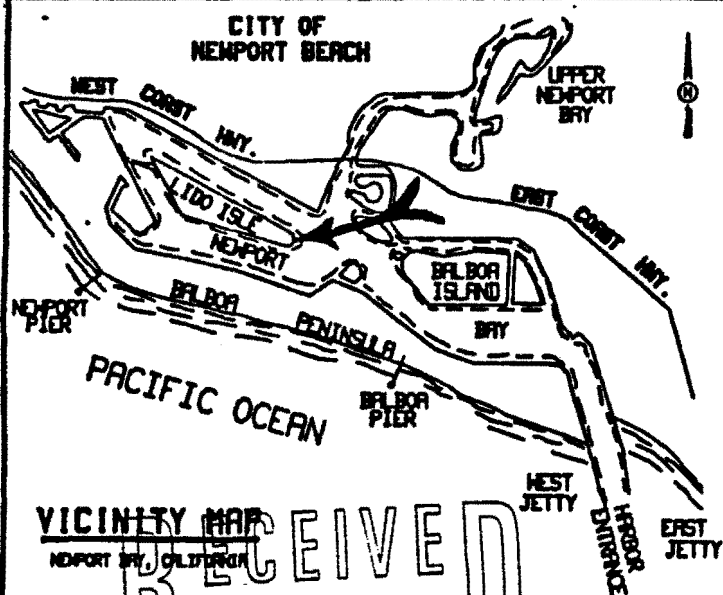
environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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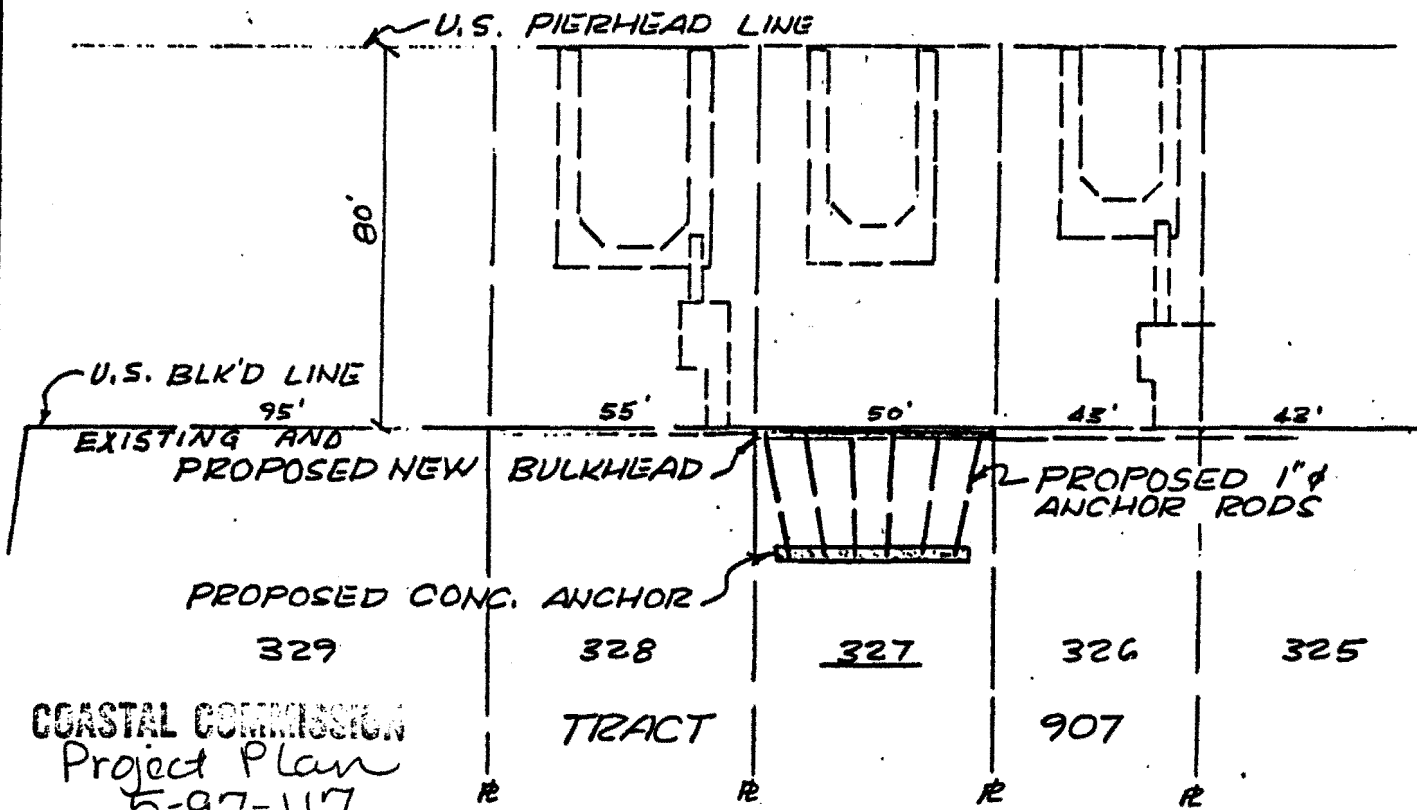


COASTAL COMMUNITY
VICINITY MAP
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CITY OF NEWPORT BEACH



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Project Plan

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EXHIBIT # B

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PLAN VIEW 1" = 40'

APPLICANT'S NAME DANIEL W. DONAHUE

JOB ADDRESS 932 VIA LIDO NORD

DATE 4-22-97