

CALIFORNIA COASTAL COMMISSION

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Hearing Date: Feb. 2-5, 1999
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-98-229

APPLICANT: David Close

AGENT: Swift Slip

PROJECT LOCATION: 1106 E. Balboa Blvd., Newport Beach, Orange County

PROJECT DESCRIPTION: Improvements to an existing pier, gangway, dock, bulkhead and rear yard deck. The existing dock will be lengthened by 18 feet to a six foot wide by 42 foot long configuration with two new 14 inch square concrete guidepiles. The existing 19 foot long gangway will be replaced. The existing 10 foot wide and 14 foot long pier will be rebuilt. The existing 17 foot deep by 30 foot wide deck will be rebuilt and cantilevered an additional nine feet seaward of the existing bulkhead. The applicant is also proposing to place plastic strips on the seaward surface of the existing bulkhead.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission approve the proposed development with special conditions regarding provision of Regional Water Quality Control Board approval, removal of construction debris, location of disposal site for construction debris, and a prohibition on future shoreline protective structures to protect the deck.

ISSUES OF CONTROVERSY:

Staff is recommending approval of the proposed development. The Executive Director normally processes improvements to existing private boat facilities which comply with the U.S. Pierhead Line and City of Newport Beach guidelines as de minimis waivers. In this instance, the applicant is proposing improvements to

existing private boat facilities but is also proposing to construct a nine foot cantilevered extension of the rear yard wooden deck. In addition, plastic strips will be placed directly against the existing wooden bulkhead. Staff has scheduled this application on the Regular Calendar because of the special condition requiring a deed restriction to prohibit future shoreline protective measures to protect the nine foot seaward deck extension and 10 x 14 pier. In addition, the 270th day for this application is March 1, 1999.

LOCAL APPROVALS RECEIVED: Approval in concept from the City of Newport Beach fire and Marine Department.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan, City of Newport Beach Harbor Permit Policies, Coastal Development Permits 5-98-265-W (Close), 5-98-032 (Close), 5-95-161 (Woods, 1108 E. Balboa Blvd.), 5-98-030 and 5-98-030A (Woods, 1108 E. Balboa Blvd.), 5-95-161 (Finley, 1108 E. Balboa Blvd.), 5-88-114 (Lull, 1108 E. Balboa Blvd.)

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 will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, is located between the sea and the first public road nearest the shoreline and in conformance with the public access and public recreation policies 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. Future Coastal Protective Structure

Prior to the issuance of the coastal development permit, the applicant shall record a deed restriction in a form and content acceptable to the Executive Director, which shall provide that no shoreline protection devices shall be permitted to protect the rebuilt 10 foot wide by 14 foot long pier which extends to the U.S. Bulkhead Line or the extension of the existing wooden deck which is cantilevered a maximum of 9 feet seaward of the seaward extent of the existing bulkhead. In the event that the deck extension or pier become damaged, the applicant may submit an application amendment to repair and maintain the existing structures but may not place fill, caissons or any shoreline protective structures seaward of the existing bulkhead to protect the cantilevered deck extension or rebuilt pier.

The document shall run with the land binding all successors and assigns, and shall be recorded free and clear of prior liens and encumbrances which the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

Disturbance to the harbor bottom and intertidal areas shall be minimized. The applicant agrees not to store any construction materials, oils or liquid chemicals or other waste where it is subject to wave erosion and dispersion into the harbor waters. The applicant shall remove from the beach, bulkhead and dock area any and all debris resulting from the removal of the existing dock and the construction of the new dock. No mechanized equipment, with the exception of a barge or land-mounted crane, is allowed seaward of the bulkhead at any time.

3. **Location of Debris Disposal Site**

Prior to the issuance of a coastal development permit, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the proposed disposal site of the demolition and construction debris resulting from the proposed project. Disposal shall occur at the approved disposal site. 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.

4. **Regional Water Quality Control Board Approval**

Prior to the issuance of the coastal development permit the applicant shall submit for the review and approval of the Executive Director, written evidence from the Regional Water Quality Control Board demonstrating that the Regional Water Quality Control Board has approved the proposed project. If the Regional Water Quality Control Board requires any substantial changes to the project, as approved by the Commission, the changes shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any changes that require an amendment shall not occur without an amendment to this permit.

IV. **Findings and Declarations**

The Commission hereby finds and declares:

A. **Project Description and History**

1. **Project Description**

The proposed development consists of improvements to an existing pier, gangway, dock, rear yard deck and bulkhead. The existing dock will be lengthened by 18 feet

to a six foot wide by 42 foot long configuration with two new 14 inch square concrete guidepiles. The existing 19 foot long gangway will be replaced. The existing 10 foot wide and 14 foot long pier will be rebuilt. The existing 17 foot deep by 30 foot wide deck will be rebuilt and cantilevered nine feet seaward of the existing bulkhead. The applicant is also proposing to place plastic strips on the seaward surface of the existing bulkhead.

The project site is located on the Balboa Peninsula in Newport Harbor east of the Balboa Pier (see Exhibit 1). The site includes rear yard frontage on Newport Harbor which is not subject to open ocean waves. There is no public access to the beach across the site however, there is public access at a streetend located three lots to the west. There are no public amenities seaward of the street and the beach is occupied by private recreational boating facilities, which restrict lateral access.

The proposed deck extension does not extend seaward of the bulkhead line. The proposed dock improvements do not extend seaward of the U.S. Pierhead Line. The project does not require any dredging or filling and no eelgrass is impacted by the proposed development.

2. Prior Commission Actions

There have been a number of permits issued by the Commission and the Executive Director in the immediate area. Waiver of coastal development permit 5-98-265-W was issued by the Executive Director in August 1998 for the demolition and construction of a new single-family residence at 1106 E. Balboa Blvd. Coastal development permit 5-98-032 was a de minimis waiver for the demolition of a single-family residence and construction of a new single-family residence.

1108 E. Balboa Blvd. -- Coastal development permit 5-95-161 was a de minimis waiver issued by the Executive Director for a residential dock and gangway at 1108 E. Balboa Boulevard. Coastal development permit 5-88-114 (Lull, 1108 Balboa Blvd.) was an after-the-fact permit approved by the Commission with special conditions. The permit was approved by the Commission and subsequently expired after the property was sold. This permit was for the demolition of an 8 foot by 38 foot and 12 foot by 23 foot 'L' shaped wooded deck and construction of a 50 foot by 23 foot concrete patio with a 50 foot long seawall and 23 foot long return walls. The Commission approved this development with a special condition requiring that revised plans be submitted showing that the proposed deck and bulkhead be located no further seaward than the existing deck at 1106 E. Balboa Blvd.

Coastal development permit 5-89-030 and its amendment 5-89-030-A (Woods, 1108 E. Balboa Blvd.) was approved by the Commission to permit the bulkhead and other improvements which were not permitted under the previous ownership of Mr. Lull (5-88-114). Coastal development permit 5-89-030 was approved with a special

condition requiring mitigation at a ratio of 4:1 for the loss of intertidal habitat. The amendment (5-89-030-A) was approved by the Commission and allowed the applicant to mitigate for the loss of 1,150 square feet of intertidal habitat by dredging 1,150 square feet of area in Upper Newport Bay adjoining Shellmaker Island, a 1-to-1 mitigation ratio. The Commission deferred to the California Department of Fish and Games' recommendation of a mitigation ratio of 1:1.

B. Shoreline Protection Structures

1. Coastal Act Policies

Section 30235 of the Coastal Act provides guidelines for the construction of structures which alter shoreline processes. It 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.

2. City of Newport Beach Policies

The certified LUP did not adopt the Commission's stringline policy for harbor-fronting lots. The seaward extent of development on waterfront lots in Newport Beach is determined by city-imposed setbacks. Historically, the Commission and the Executive Director have not imposed the Commission's stringline guidelines on development in Newport Harbor but have used the City's setbacks for guidance. There are generally three setbacks which the City imposes, a setback for enclosed residential development from the bulkhead, the Bulkhead Line and the U.S. Pierhead Line.

Along this stretch of E. Balboa Blvd., the City does not require rear yard setbacks and allows the applicants to build out to the property line. Exhibits 2 and 3 show the assessors' parcel map and the site plan approved by the City. The assessors' parcel map shows that the seaward and landward portions of the lots on E. Balboa Blvd. are separated by an abandoned street right-of-way. Enclosed residential development along E. Balboa Blvd. does not extend seaward of the lot segment landward of the abandoned street right-of-way.

The State Legislature granted the City of Newport Beach and the County of Orange jurisdiction over the waters of Newport Harbor. Therefore, State Lands Commission approval is not required.

The U.S. Bulkhead line is situated at the most seaward portion of the lot seaward of the abandoned street right-of-way (see Exhibits 2 and 3). The City policies governing bulkheads and development between the bulkhead line and the pierhead line are contained in the document entitled the City of Newport Beach Harbor Permit Policies. This document was adopted by the City in 1964 and amended in 1998. The Harbor Permit Policies also include guidelines for development in specific areas of the harbor and includes some exceptions for cantilevered decks and other types of decks, as well as a list of definitions. The exceptions for allowing decks beyond the bulkhead apply only in areas where the waters are private waterways, such as Linda Isle and Harbor Island.

There are several definitions of note in these guidelines:

PIER: The term "Pier" shall mean any fixed or floating structure for securing vessels, loading or unloading persons or property, or providing access to the water, and includes wharfs, docks, floats or other landing facilities, and dry docks.

BULKHEAD LINES: The "Harbor Lines," as established, shall define the limit of solid filling or solid structures.

PIERHEAD LINE: The "Pierhead Lines," as established, shall define the limit for pier and float-type structures.

The general harbor regulations contains the following policy pertaining to seaward encroachment:

Only piers, floats, certain patio decks and their appurtenances shall be permitted between the bulkhead and pierhead lines.

The section on bulkheads contains the following policy:

All bulkheads in residential districts shall be installed on the established bulkhead line or at a location behind the bulkhead line that would preserve the design profile of the harbor. Any retaining or ornamental wall installed landward of the bulkhead line shall be considered a bulkhead if it also serves to contain the waters of the harbor and shall be processed in the same manner as if it were on the bulkhead line.

Along E. Balboa Blvd. the Commission historically has used these harbor policies as guidance in approving development, with the exception of seaward extensions of bulkheads. The City policies allow applicants to construct bulkheads at the bulkhead line and backfill behind them. Neither the California Department of Fish and Game,

the Army Corps or the Coastal Commission allow placement of fill in harbor waters unless mitigation is provided and, for the Coastal Commission, unless it is an allowable use. Since 1982 mitigation funds have been collected for bulkheads projects involving unavoidable fill. The California Department of Fish and Game and the Department of Marine Fisheries indicated that they will not approve any more projects for this mitigation fund until the existing funds are utilized on a wetland creation project.

3. Proposed Project

The proposed development consists of improvements to an existing pier, gangway, dock, and rear yard deck. The existing dock will be lengthened by 18 feet to a six foot wide by 42 foot long configuration with two new 14 inch square concrete guidepiles. The existing 19 foot long gangway will be replaced. The existing 10 foot wide and 14 foot long pier will be rebuilt. The existing 17 foot deep by 30 foot wide deck will be rebuilt and cantilevered nine feet seaward of the existing bulkhead. The applicant is also proposing to place plastic strips on the seaward surface of the existing bulkhead.

The initial project application included a plan to extend the bulkhead seaward to connect with the bulkhead at 1108 E. Balboa Blvd. The applicant then revised the project to keep the bulkhead at the same location but protect the wooden bulkhead exterior with plastic strips and cantilever a wooden deck nine feet seaward of the bulkhead. The proposed deck extension and the rebuilt pier are within the U.S. Bulkhead line. The proposed dock is located within the U.S. Pierhead Line (see Exhibit 3).

4. Project Analysis

The proposed development is located on the harbor side of Balboa Peninsula at 1106 E. Balboa Blvd. The pattern of development consists of single-family residences with private boating facilities and bulkheads. The piers and docks extend out to the U.S. Pierhead Line. Pier and dock improvements are normally processed as de minimis waivers by the Executive Director.

The pattern of bulkheads is not as uniform as the U.S. Pierhead Line. There is an established bulkhead line for lots in Newport Harbor generally and in the project area, specifically (see Exhibit 3). However, unlike some water-fronting or beach-fronting areas, such as Malibu, there is no Commission policy of bulkhead stringlines and the Commission continues to limit the seaward extension of bulkheads through the use of Section 30233. The seaward extent of the existing pattern of bulkheads is also often a reflection of the period of time when residences were constructed. Newport Harbor has residences dating to the early 1900's. Some residences have no bulkheads. Some residences have sunken wooden plank retaining walls which

serve as bulkheads. Some residences have garden walls or brick walls, which can serve to deflect water at high tides. Other residences have traditional concrete bulkheads. Other planned communities (Linda Isle, for example) were constructed with continuous and uniform bulkheads. Bulkheads which differ from the established bulkhead pattern were typically constructed prior to the Coastal Act.

The City of Newport Beach Harbor Permit Policies (policy 16A) require that bulkheads be constructed at or landward of the established bulkhead line. Policy 16B states:

Bulkheads shall be at the existing height established for the area and shall be connected to adjacent bulkheads. In cases where no adjacent bulkhead or bulkheads exist, a wing wall or wing walls shall be constructed from the bulkhead landward adequate to contain the fill behind the bulkhead. No solid or masonry structure shall be constructed on a bulkhead.

The residence at 1106 E. Balboa Blvd. has a wooden deck with a sunken wooden plank bulkhead at the seaward extent of the deck (see Exhibit 5). The bulkhead is a sunken wooden plank retaining wall with one to two feet of clearance above beach grade. The residence at 1104 E. Balboa Blvd. does not have a bulkhead or deck. The residence at 1108 E. Balboa Blvd. has a lawn area and bulkhead seaward of the deck at 1106 E. Balboa Blvd. (see Exhibit 5). The residence at 1110 E. Balboa Blvd. has a bulkhead seaward of the bulkhead at 1108 E. Balboa Blvd. Most, but not all, of the residences have private boating facilities.

On bayfront property in Newport Beach the City allows development of accessory structures and bulkheads up to the U.S. Bulkhead Line. The Department of Fish and Game, the Army Corps and the Commission, on the other hand, do not generally permit the seaward encroachment of bulkheads and the use of backfill. Bulkheads either have to be replaced in the same location or moved landward. In some instances the Commission has approved the seaward extension of bulkheads and backfilling with requirements for mitigation on a 1:1 to 4:1 ratio. As a policy, however, neither the California Department of Fish and Game nor the California Coastal Commission approve filling of open coastal waters for private residential development purposes. The City of Newport Beach does not follow this policy and does forward to Commission staff approval in concept for bulkhead extensions and backfill.

This project submittal originally included a proposal to construct a new bulkhead and return wall on line with the adjacent bulkhead at 1108 E. Balboa Blvd. The applicants subsequently withdrew the bulkhead proposal and amended the submittal to include the placing of plastic strips on the face of the existing bulkhead and cantilevering the existing wooden deck nine feet seaward of the bulkhead.

However, there is the question of whether allowing this type of structure (deck extension or 10 foot by 14 foot pier) means that a resident might be able to fortify or place shoreline protective structures in front of the decks to protect them in the future, as per Section 30235 of the Coastal Act.

5. Seaward Encroachment of Development

In most cases the Commission does not permit the placement of deck structures seaward of the existing bulkhead. The existing bulkhead acts as the seaward extent of development. No hardened structures would be required to protect the rear yard improvements because of the existing bulkhead.

The City of Newport Beach's harbor development policies are included in subsection 2 of this staff report. Clearly, the City of Newport Beach allows for the installation of rear yard decks up to but usually not beyond the bulkhead line. The exception to this is that in areas where the waterways are privately owned the City does allow concrete platforms (10 feet by 14 feet) and 5 foot cantilevered decks seaward of the bulkhead. This is the case in Linda Isle, for instance. The Commission also allows cantilevered decks five feet seaward of the bulkhead in Huntington Harbor.

In this instance the applicant is applying for boat dock facility improvements, to place plastic stripping directly against the existing bulkhead, and to extend an existing wooden deck cantilevered nine feet seaward of the bulkhead. The proposed deck improvements would not extend beyond the existing bulkhead line (see Exhibit 3).

6. Future Shoreline Protective Structures

As to the question of further shoreline protective measures to protect these decks, the City of Newport Beach Harbor Permit Policies clearly state that the "Bulkhead Line" shall define the limit of solid filling or solid structures. However, the Coastal Act does not provide this distinction. Instead, Section 30235 of the Coastal Act specifies under what conditions shore protection structures are allowed. This section specifies that shoreline protective devices that alter natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures.

Under the Coastal Act if the Commission approves a structure then that structure becomes eligible for protection under Section 30253. However, the Commission has distinguished between protection for accessory development, such as decks, and protection for enclosed living space area. On coastal bluffs the Commission applies this restrictive condition on accessory bluff-top development. For this reason, the Commission finds that the applicant shall comply with a special condition stating that no shoreline protection measures shall be taken to protect decks or piers which extend seaward of an existing bulkhead. If the decks become damaged they can be

repaired or replaced as is, but no shoreline protective structures can be placed seaward of the bulkhead under or seaward of the decks. Only as conditioned does the Commission find the proposed development consistent with Section 30253 of the Coastal Act.

C. Filling of Open Coastal Waters

Section 30233 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, and shall be limited to the following:
 - (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
 - (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
 - (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.
 - (4) 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.
 - (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

Section 30108.2 of the California Code of Regulations provides a definition of "fill":

"Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

The applicant is proposing to extend an existing float with two (2) new 14" concrete pilings, replace an existing 19 foot long gangway and rebuild an existing 10 foot wide and 14 foot long pier. Exhibit 3 shows the existing ramp, the neighboring docks and the proposed deck, ramp and dock.

The Army Corps of Engineers issued a Regulatory Guidance Letter in 1990. Although the letter expired in 1993, it provides guidance on the Army Corp's policy of when a piling is or is not considered to constitute filling of coastal waters. The letter states:

For some years, the Army Corps of Engineers, as a matter of policy, has taken the position that pilings do not ordinarily constitute fill material and that the placement of pilings do not ordinarily constitute a discharge of fill material under the Clean Water Act.

Historically, pilings were generally used for traditional pile-supported structures such as decks and bridges where the effect, purpose, and function of the pilings were not to replace an aquatic area with dry land or to change the bottom elevation of a waterbody.

The letter concludes that in some situations pilings are considered fill. In these instances, the pilings are placed so close together that sedimentation rates are increased and result in the replacement of aquatic area or change in the bottom

elevation. In addition, piling projects are analyzed to determine if the functional use and effect of the pilings constitutes fill.

The Corp's policy is that no mitigation is required for pilings (except for marinas) because although the pilings do displace some harbor bottom and water column, the pilings themselves provide habitat for marine organisms.

The pilings are not closely spaced and do not serve the functional equivalent of fill, according to the Army Corps definition. It is the Commission's policy that placement of pilings constitutes fill. In this instance the applicant's plan show that two pilings are required for the rebuilt float/dock. The ramp and dock are all facilities associated with recreational boating. Additionally, the pilings themselves are self-mitigating in that they provide habitat for marine organisms. Finally, the use of pilings to support a recreational pier, in this instance, is the least damaging alternative. Therefore, the use of fill for pilings for recreational boating use is an allowable use under Section 30233(a)(4) of the Coastal Act.

D. Public Access and Recreation

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea includes a specific finding that the development is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. The proposed development is located between the sea and the first public road.

Section 30212 of the Coastal Act states, in relevant part:

- (a) 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.

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.

The proposed development is located at 1106 E. Balboa Blvd. No public access is provided to Newport Harbor across the project site. However, there is public access to the harbor via a streetend which is three lots to the west.

The proposed development consists of improvements to an existing dock, ramp, pier, bulkhead and wooden deck. The renovation of the residence was approved via a previous permit. The proposed development is a normal improvement for single-family residences in this area. The proposed development will not adversely impact existing navigation. The development will have no adverse impacts on coastal access and recreation.

Sections 30210, 30211 and 30212 of the Coastal Act require that new development provide maximum public access and recreation, not interfere with the public's right of acquired access, and provide public access from the nearest public roadway to the shoreline and along the coast except under certain circumstances. Public vertical and lateral access does exist in the immediate project vicinity.

In this case the proposed improvement, is the replacement of a private boating recreational dock with a private boating recreational dock. The proposed development does not constitute an intensification of use. The proposed development will not create additional significant adverse impact to public beach access. Therefore, the Commission finds that the proposed development does not pose significant adverse impacts on public access and recreation and is consistent with Section 30212 of the Coastal Act.

In addition, the proposed improvement is a recreational boating facility. Recreational boating facilities are an encouraged use under Section 30224 of the Coastal Act. Therefore the proposed development, as conditioned, is consistent with Section 30224 of the Coastal Act.

E. Water Quality

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.

The project site is waterfront property in Newport Harbor. The existing development is protected by a bulkhead. The applicant is proposing to make improvements to an existing recreational boat facility, rear yard wooden deck and bulkhead. The approval from the City of Newport Beach indicates that no eelgrass is present at the site. However, the applicant has not provided approval from the Regional Water Quality Control Board. Regional Water Quality Control Board approval is necessary to assure that the project has been reviewed and will not adversely affect water quality in the harbor. Special condition number 4 of this

staff report requires the applicant to submit Regional Water Quality Control Board approval prior to issuance of the coastal development permit.

The development is located on the water and there is always the possibility that materials from demolition or construction may end up in the harbor waters. In order to prevent adverse impacts to marine waters from construction and demolition, special conditions 2 and 3 provide for the safe storage of construction materials and the disposal of demolition end-products. Special condition 3 requires the applicant to notify the Executive Director of the location of the disposal site for demolition and construction by-products.

Only as conditioned for provision of Regional Water Quality Control Board approval, storage of construction materials and equipment, removal of demolition and construction debris and disposal of the aforementioned debris does the Commission find that the proposed development is consistent with Section 30230 of the Coastal Act.

F. Land Use Plan

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal 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 Chapter 3 policies of the Coastal Act.

The Commission certified the Land Use Plan for the City of Newport Beach on May 19, 1982. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan regarding development in coastal waters. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

G. Consistency with the California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the amendment to the coastal development permit, 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.

The proposed project has been conditioned in order to be found consistent with the marine resource protection policies of Section 30230 of the Coastal Act and Section 30235 of the Coastal Act. Mitigation measures; special conditions requiring removal of construction debris, provision of Regional Water Quality Control Board approval, mitigation of

construction impacts and prohibition on future shoreline protective structures will minimize any adverse effects. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, 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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SITE VICINITY MAP

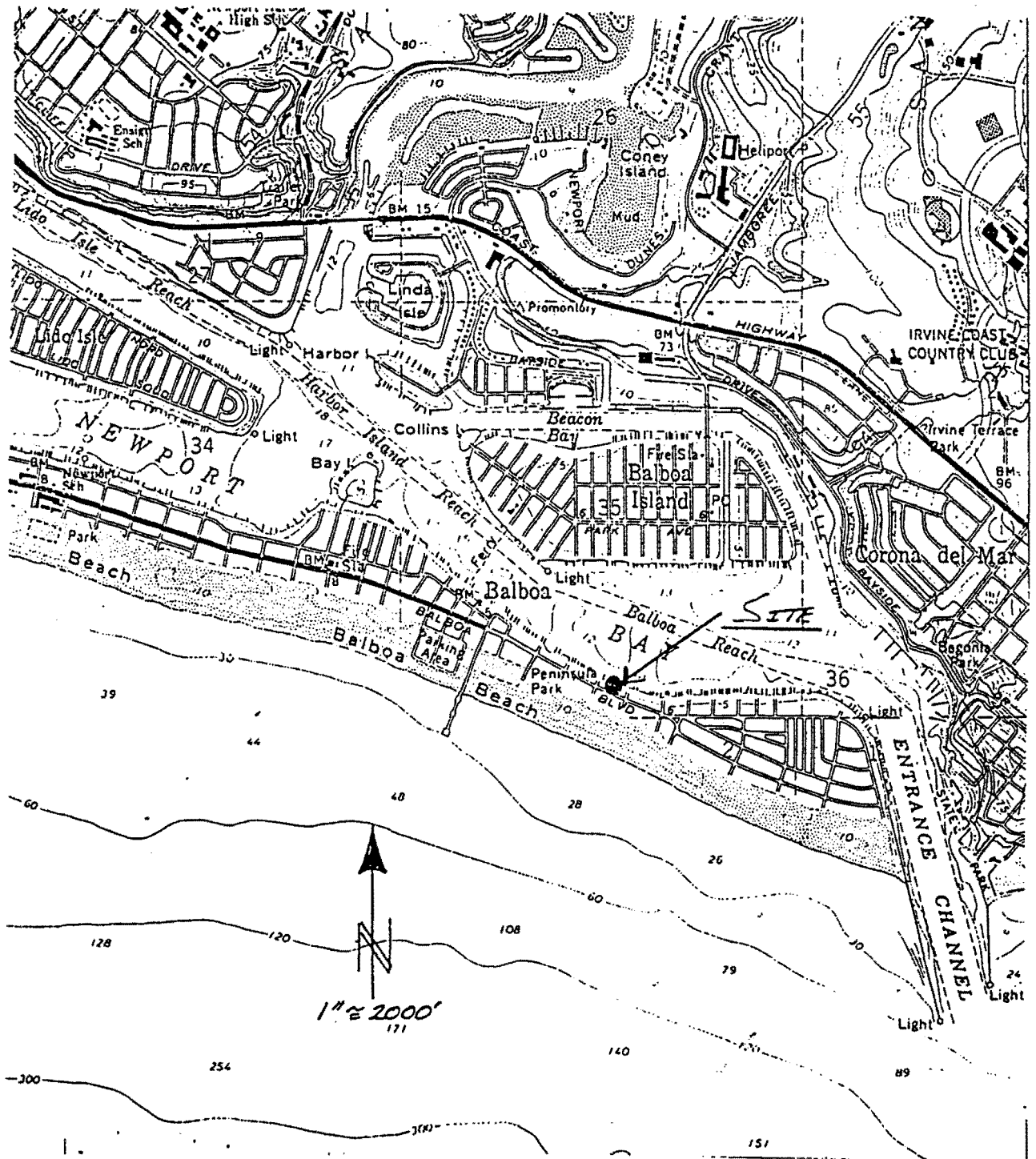


Figure 1

STRATA GEOTECHN	EXHIBIT No. 1
	Application Number: 5-98-229
W.O. 110698	Vicinity Map
California Coastal Commission	

NEWPORT BEACH USGS TOPO

SITE

50 - 10

JAN 30 1988
CALIFORNIA
ASTAL COMMISSION

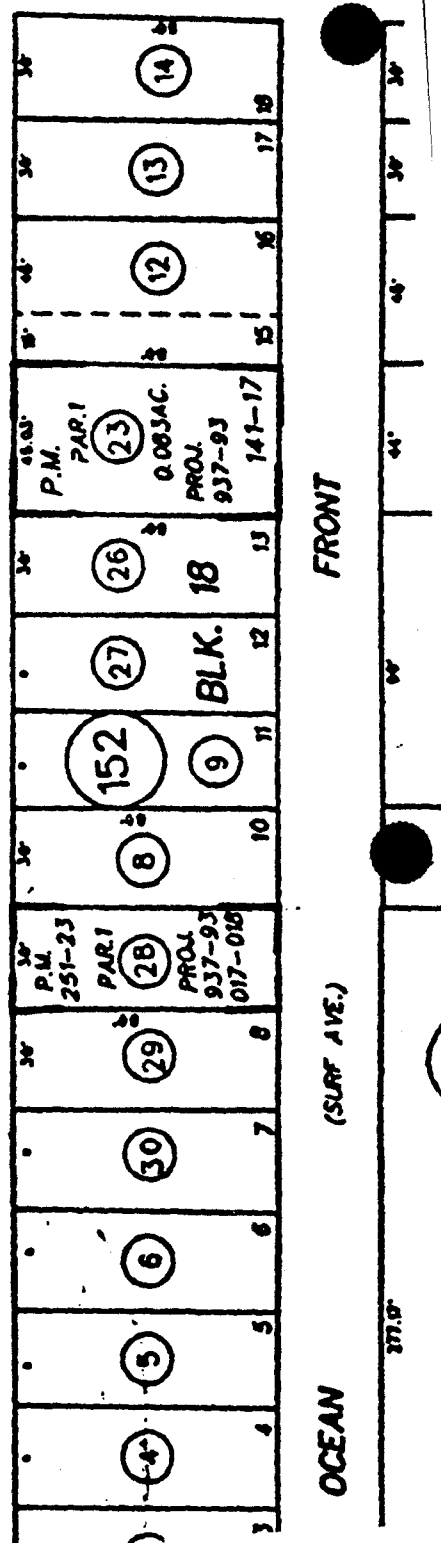
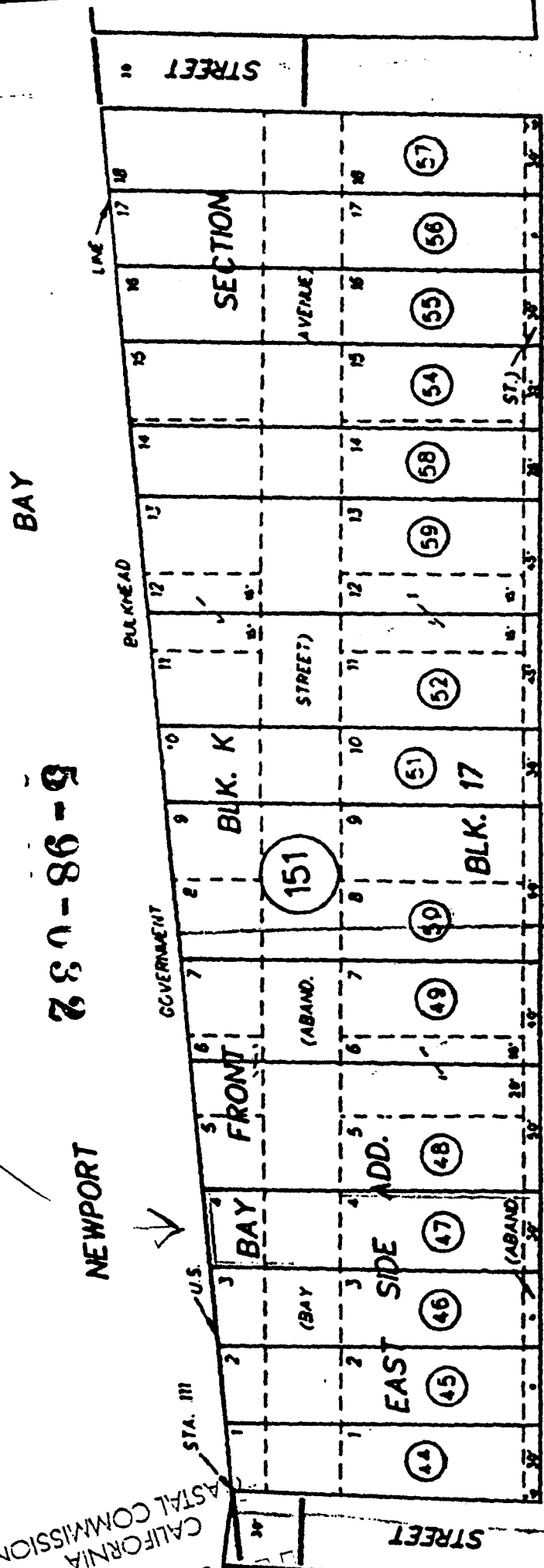
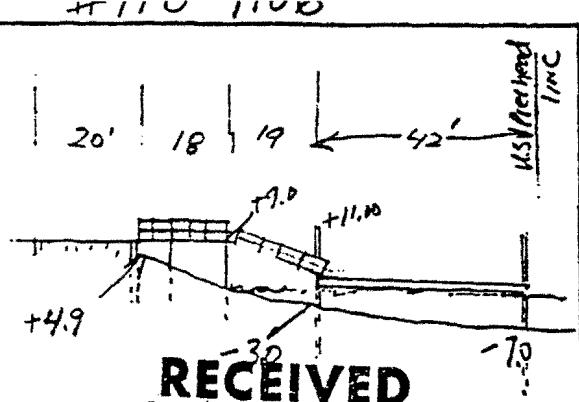
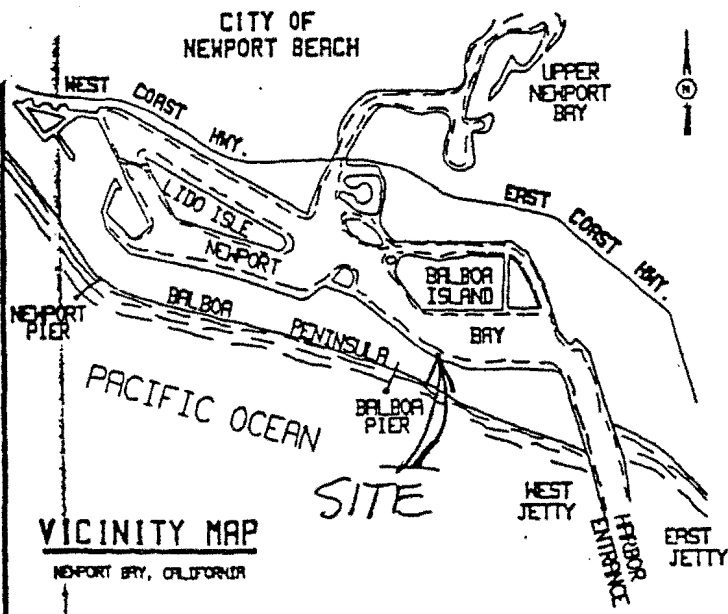


EXHIBIT No. _____
 Application Number: 5-98-22
 Assessor's Map
 California Coastal Commission

OF NEWPORT BEACH



RECEIVED
South Coast Region

DEC 28 1998

CALIFORNIA
COASTAL COMMISSION

PROFILE 1" = 40'

SOUNDINGS ARE EXPRESSED IN FEET AND DENOTE ELEVATIONS BASED ON MEAN LOWER LOW WATER.

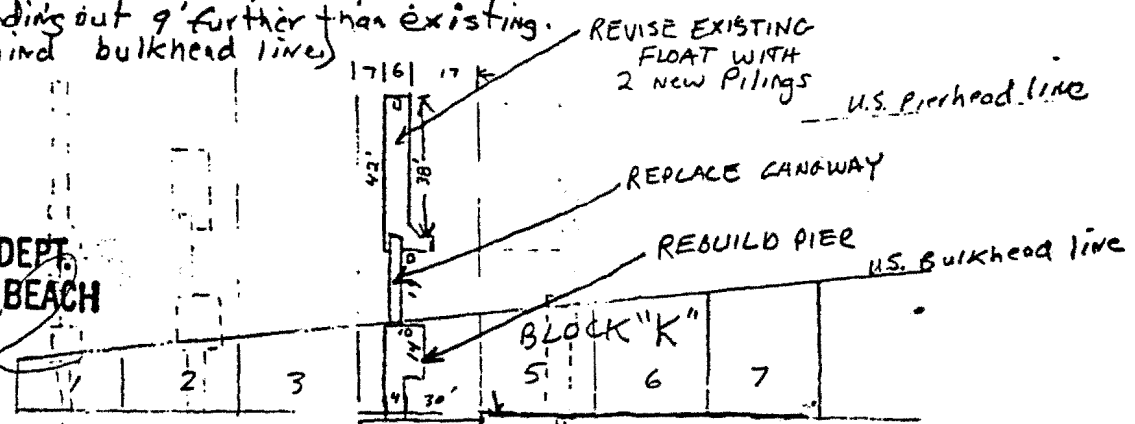
Note:

- 1) Revise dock (lengthen by 18' to 6x42')
- 2) Install 2 new 14" square concrete guidepile
- 3) Rebuild pier with 4 new 12" square concrete anchor pile
- 4) Veneer existing seawall with recycled plastic planks
- 5) Rebuild deck extending out 9' further than existing. (still behind bulkhead line)

Newport Bay

FIRE & MARINE DEPT.
CITY OF NEWPORT BEACH

[Signature]
10-6-98



EEL GRASS INSPECTION

- NO EEL GRASS
- EEL GRASS IN THE
- PROJECT AREA

SIGNATURE <i>[Signature]</i>	2	3	4	5	6	7
	DATE 10-5-98	30'	30'	30'	30'	30'

EAST BALBOA BLVD.

EXHIBIT No. 3

Application Number:
5-98-229

Site Plan

California Coastal Commission

APPLICANT'S NAME **DAVID CLOSE**

JOB ADDRESS **1106 E. Balboa Blvd**

PLA

714 723-5550

RECEIVED

South Coast Region

DEC 28 1998

CALIFORNIA
COASTAL COMMISSION

December 23, 1998

Mr. Robin Maloney-Rames
CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802

RE: Coastal Development Permit 5-98-229
David Close
1106 E. Balboa Blvd.
Newport Beach, CA 92661

Dear Robin,

As per our conversation, attached is the revised original drawings needed to complete this file.

Our proposal for the above address is as follows: Revise dock (lengthen by 18' to 6' x 42'). Install two (2) new 14" square concrete guidepile. Rebuild pier with four (4) new 12" square concrete anchor pile. Veneer existing seawall with recycled plastic planks. Rebuild deck extending out 9' further than existing (still behind bulkhead line).

Robin, since I have the originals to send, it is obvious that you were never informed of this revision. Sorry for the delay, since I am now your contact person for Swift Slip hopefully we will be able to get such information to you in a more timely manor. Thank you for all of your help, and please call if you should need any further information from us to proceed with this permit.

Sincerely,

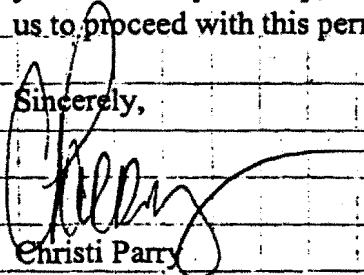


Christi Parry

EXHIBIT No. 4
Application Number: 5-98-229
Submittal Letter
 California Coastal Commission



DOCK AND PIER BUILDERS

SITE PLAN

NEWPORT BAY

DOCK

SAND BEACH

22

GRASS
AREA

WOOD DECK

EXIST.
HOUSE

EXIST.
HOUSE

EXIST.
HOUSE

WOOD DECK

CONCRETE

GARAGE

BRICK

WOOD DECK

B-1

1106

EAST BALBOA BLVD.



STRATA-TI
GEOTECHNICAL

EXHIBIT No. 5

Application Number:
5-98-229

W.O. 110698

Lot Site Plan

California Coastal
Commission

