

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY**

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 Staff: AM-LB **AM**
 Staff Report: 9/13/00
 Hearing Date: October 10-13, 2000
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-00-317

APPLICANT: Rick Neill

AGENT: Dockmasters/Donald Heidler

PROJECT LOCATION: 5625 Sorrento Drive, City of Long Beach, Los Angeles County

PROJECT DESCRIPTION: Remove existing 4' x 28' pier and 4' x 28' ramp and construct a 4' x 20' 8" pier and 10' x 12' pier platform and a 3' x 24' ramp in Alamitos Bay. The existing dock and piles will remain. The pier platform is proposed to be used as a storage area for boating related equipment and a staging area for donning life jackets.

LOCAL APPROVALS RECEIVED: City of Long Beach Marine Bureau, Approval in Concept, 7/28/00.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed development subject to two special conditions. Special condition No. 1 requires minimization of construction impacts on harbor bottom and intertidal areas, appropriate storage of construction materials, removal of construction debris, and no mechanized equipment seaward of the bulkhead. Special condition No. 2 limits the use of the 10-foot by 12-foot platform solely for boating related uses

STAFF RECOMMENDATION:

The staff recommends that the Commission **APPROVE** the permit with special conditions.

MOTION:

I move that the Commission approve CDP No. 5-00-317 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

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, is located between the nearest public road and the sea and is in conformity with the public access and public recreation policies of the Coastal Act, 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 effects 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. 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

1. STORAGE OF CONSTRUCTION MATERIALS, MECHANIZED EQUIPMENT AND REMOVAL OF CONSTRUCTION DEBRIS

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave/wind erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- (c) No mechanized machinery shall be allowed at any time seaward of the bulkhead;
- (d) Disturbance of the harbor bottom and intertidal areas shall be minimized.

2. USE OF PIER PLATFORM LIMITED TO BOATING RELATED USES

By acceptance of this permit the applicant agrees and acknowledges that the sole use of the 10-foot by 12-foot platform area is limited to boating related uses and shall not be used for any other uses including but not limited to private residential patio amenities.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND LOCATION

The applicant is proposing to remove the existing 4' x 28' pier and 4' x 28' ramp (224 square feet) and construct a 4' x 20' 8" pier, a 10' x 12' pier platform, and a 3' x 24' ramp (274 square feet) in Alamitos Bay (Exhibit #2). The existing dock and piles will remain and there are no proposed changes to the existing bulkhead.

The platform, as proposed, will be used for boating related purposes. These uses include storage of boating equipment such as life preservers, life jackets, boat cushions, boat covers and other miscellaneous boating equipment.

The proposed project has received approval from the City of Long Beach Marine Bureau. The subject site is located at 5625 Sorrento Drive, Alamitos Bay, in the City of Long Beach (Exhibit #1). The applicant has stated that there are similar pier and pier platform configurations in the surrounding area. During a site visit, staff confirmed that the surrounding area contains pier and pier platform configurations that are similar in size as the proposed project. Therefore, the applicant has stated that the proposed project is consistent with the character of surrounding docks and piers. Also, the site visit confirmed that eelgrass exists near the site but is not located under, or adjacent to, the proposed pier platform.

B. MARINE ENVIRONMENT

The proposed project will involve the removal of an existing pier and gangway and placement of a new pier, pier platform, and gangway in open coastal waters (i.e. Alamitos Bay) supported by existing piles (Exhibit #2). This pier/pier platform configuration constitutes fill of open coastal waters. More specifically, the existing piles will support a proposed 274 square feet of new development within coastal waters. Under Section 30233 of the Coastal Act, fill of open coastal waters is only allowed when several criteria are met: (a) the project must fall within one of the use categories specified; (b) the proposed project must be the least environmentally damaging alternative; and (c) feasible mitigation measures to minimize adverse environmental effects must be provided. 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:

(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.

The proposed project meets the first criteria because the proposed development is for recreational boating purposes. Fill of open coastal waters, such as Alamitos Bay, for the construction of a boating facility is an allowable use under Section 30233(a)(4) of the Coastal Act. Nevertheless, the question has arisen of whether or not the proposed 10-foot by 12-foot platform constitutes a bona fide boating use or would, instead, serve as a private residential patio area.

Existing private, residential boating facilities in Alamitos Bay often consist of a pile-supported pier with platform area, a gangway, and a rectangular or "U" shaped

float. Piers are fixed, pile-supported structures which extend from dry land areas to water areas which connect to a gangway that leads to a float. The length of a pier depends on the size of the boat, the amount of draft the boat needs, and the depth of the water.

Piers and gangways in Alamitos Bay are typically 3 to 4 feet wide. The docks or floats vary in size and configuration depending largely upon the type and size of boat to be docked. Many boat docks in this area of Alamitos Bay have pier platforms. Commission staff observed that while some of the existing platforms in Alamitos Bay contained lockers, small boats, kayaks, and boating equipment or were empty, others had tables and chairs or benches, flower pots, etc. Staff also observed that while some of the platforms were supported by piles at each corner, other platforms and piers were supported by a single row of "T" shaped piles.

The applicant has indicated that the platform will be used solely for boating purposes. Specifically, the applicant proposes to use the pier platform as a storage area for boating equipment such as life preservers, life jackets, boat cushions, boat covers and other miscellaneous boating equipment. Based on the uses proposed by the applicant, the Commission finds that the proposed pier platform does constitute a boating facility. As a boating facility, the proposed pier platform is a use specifically allowed under Section 30233(a)(4) of the Coastal Act.

Although the proposed pier platform constitutes a bona fide boating facility, there is the possibility that additional uses may be contemplated in the future. If a future use did not constitute a legitimate boating use, the issue of fill (in the form of piles supporting the pier platform) for a non-allowable use is raised. For example, the pier platform area could be converted to private residential patio use by the placement of chairs or tables. In order to assure that this does not happen, special condition No. 2 is required. Special condition No. 2 limits the use of the pier platform solely for boating related purposes.

In addition to the use-related issue, Section 30233 of the Coastal Act also requires that any project involving fill of open coastal waters be the least environmentally damaging, feasible alternative. One way to reduce environmental damage to open coastal waters is to minimize the quantity of fill. In this case, the proposed project does not require additional piles to support the pier platform. Therefore, since the proposed project minimizes the quantity of fill of coastal waters, the Commission finds that the proposed project is the least environmentally damaging feasible alternative.

Finally, Section 30233 of the Coastal Act requires that feasible mitigation measures to minimize adverse environmental impacts must be provided. The proposed project meets this requirement because the proposed project does not require the placement of any new piles and, will thus, not affect the sea floor.

As mentioned above, eelgrass does exist near the project site. The National Marine Fisheries Service has determined that shading from docks, piers, and pier platforms has a negative effect on the growth of eelgrass. In this case, the applicant proposes to remove a pier and construct a pier with a pier platform (Exhibit #2). Therefore there will be additional shading to the marine environment below of approximately 50 square feet. However, eelgrass was not found in the area of the proposed pier platform. Additionally, the area below the proposed pier platform is dry to a few inches deep at low tide. Such a partially dry and exposed environment is not conducive to the growth of eelgrass because eelgrasses are fully aquatic plants that spend their entire lives submerged in seawater. Therefore, the Commission finds that mitigation measures to restore eelgrass habitat are not necessary or feasible under Section 30233.

The proposed project will result in the fill of open coastal waters for a boating facility, which is an allowable use under Section 30233 of the Coastal Act. In addition, the proposed project is the least environmentally damaging alternative, and does not require feasible mitigation measures. Therefore, the Commission finds the proposed project is consistent with Section 30233 of the Coastal Act.

C. PUBLIC ACCESS

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

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.

Sections 30210, 30211 and 30212 of the Coastal Act require that new development provide maximum public access and recreation, avoid interference 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. The subject site is within Alamitos Bay on Naples Island (Exhibit #1). The homes in this area of Naples are adjacent to the existing bulkhead. A public beach exists adjacent to the bulkhead and below the pier and pier platform. The beach is accessible via public walkways approximately every 200 feet. A public walkway exists 80 feet to the north and south of the project site (Exhibit #3). The public beach is exposed in some areas but covered with water at high tide in other areas. The subject site is an area where high tide covers a majority of the public beach.

The proposed development consists of the construction of a new boat dock within the U.S. Pierhead Line (Exhibit #2). The proposed development will not adversely impact navigation. The development will not create adverse impacts on coastal access and recreation. Therefore, the Commission finds that the proposed development does not pose significant adverse impacts on existing public access and recreation and is consistent with Section 30212 of the Coastal Act.

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

D. 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 applicant is proposing to construct a new recreational boating facility on the water in Alamitos Bay (Exhibit #2). Eelgrass was found near the proposed project but not within the area of the pier or pier platform.

Due to the proposed project's location on the water, the proposed work may have adverse impacts upon water quality and the marine environment. Storage or placement of construction materials, debris, or waste in a location subject to wave/wind erosion and dispersion would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft

bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. In order to avoid adverse construction related impacts upon marine resources, and to assure appropriate construction methods and materials are used, special condition 1 outlines construction related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Only as conditioned for appropriate storage of construction materials and equipment does the Commission find that the proposed development is consistent with Section 30230 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

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 City of Long Beach Local Coastal Program (LCP) was certified by the Commission on July 22, 1980. The proposed project complies with the policies of the certified LCP. However, the proposed project is located seaward of the mean high tide line and in the Commission's area of original jurisdiction. Because the proposed project is located in the Commission's area of original jurisdiction, the LCP is advisory in nature and only provides guidance. The standard of review for this project is the Coastal Act. As conditioned, the proposed project is consistent with the policies of Chapter 3 of the Coastal Act.

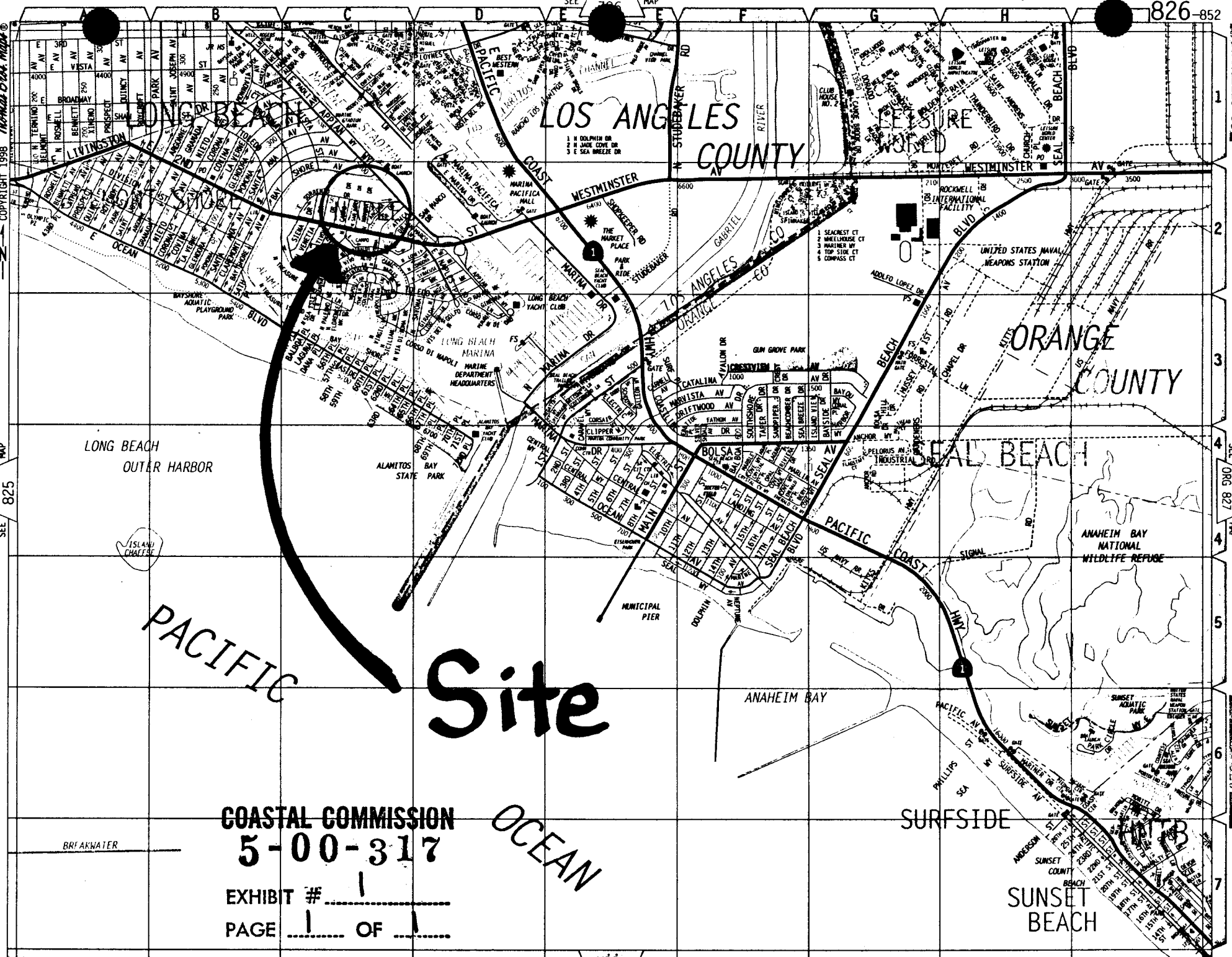
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications 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 that the activity may have on the environment.

The proposed project has been conditioned for consistency with the marine resource protection policies of Sections 30230 and 30233 of the Coastal Act. Mitigation measures, in the form of special conditions require 1) removal of construction debris and minimization of construction impacts, and 2) limiting the use of the 10-foot by 12-foot platform solely for boating related purposes, will minimize all adverse effects. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. There are no feasible alternatives or mitigation measures available

that will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

End/am



LOS ANGELES COUNTY

ORANGE COUNTY

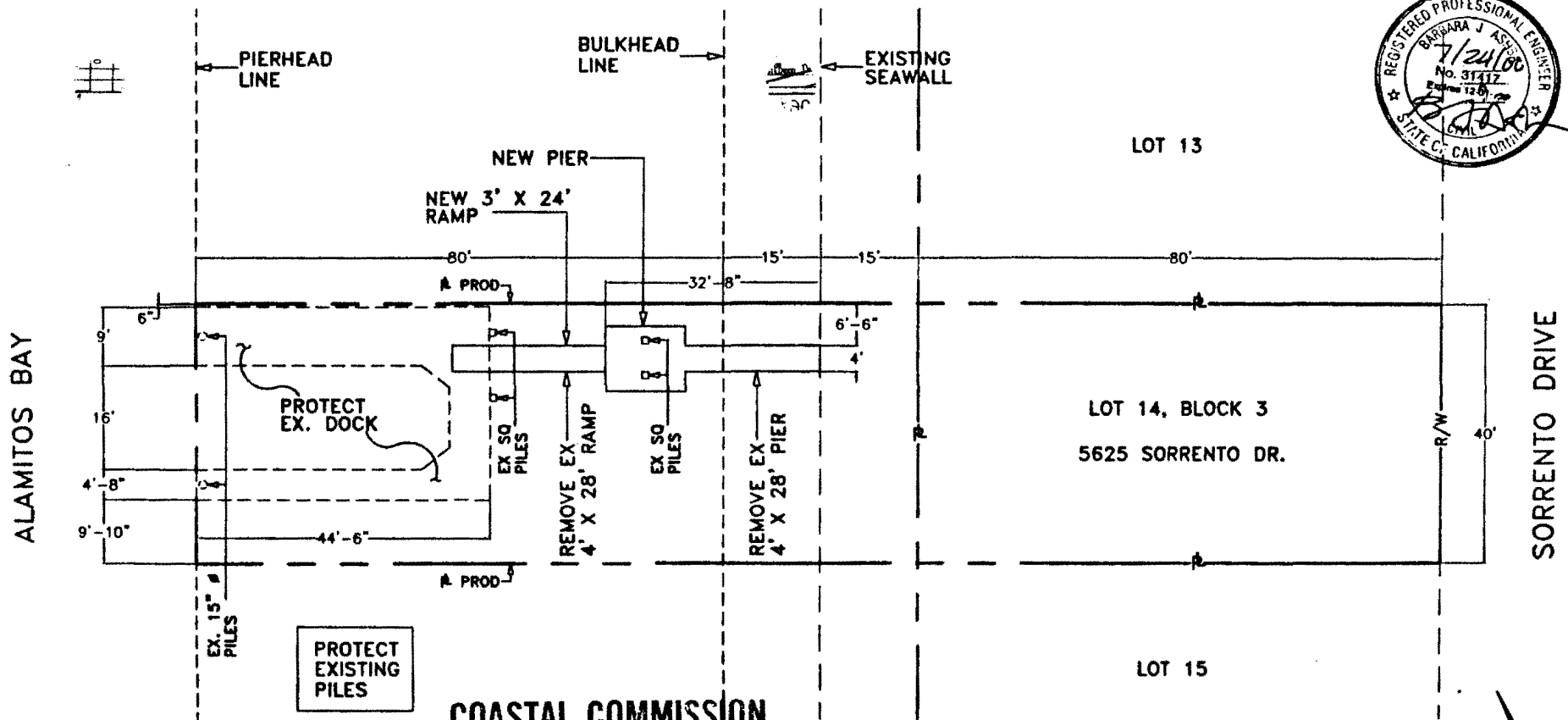
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EXHIBIT # 1
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PROTECT EXISTING PILES

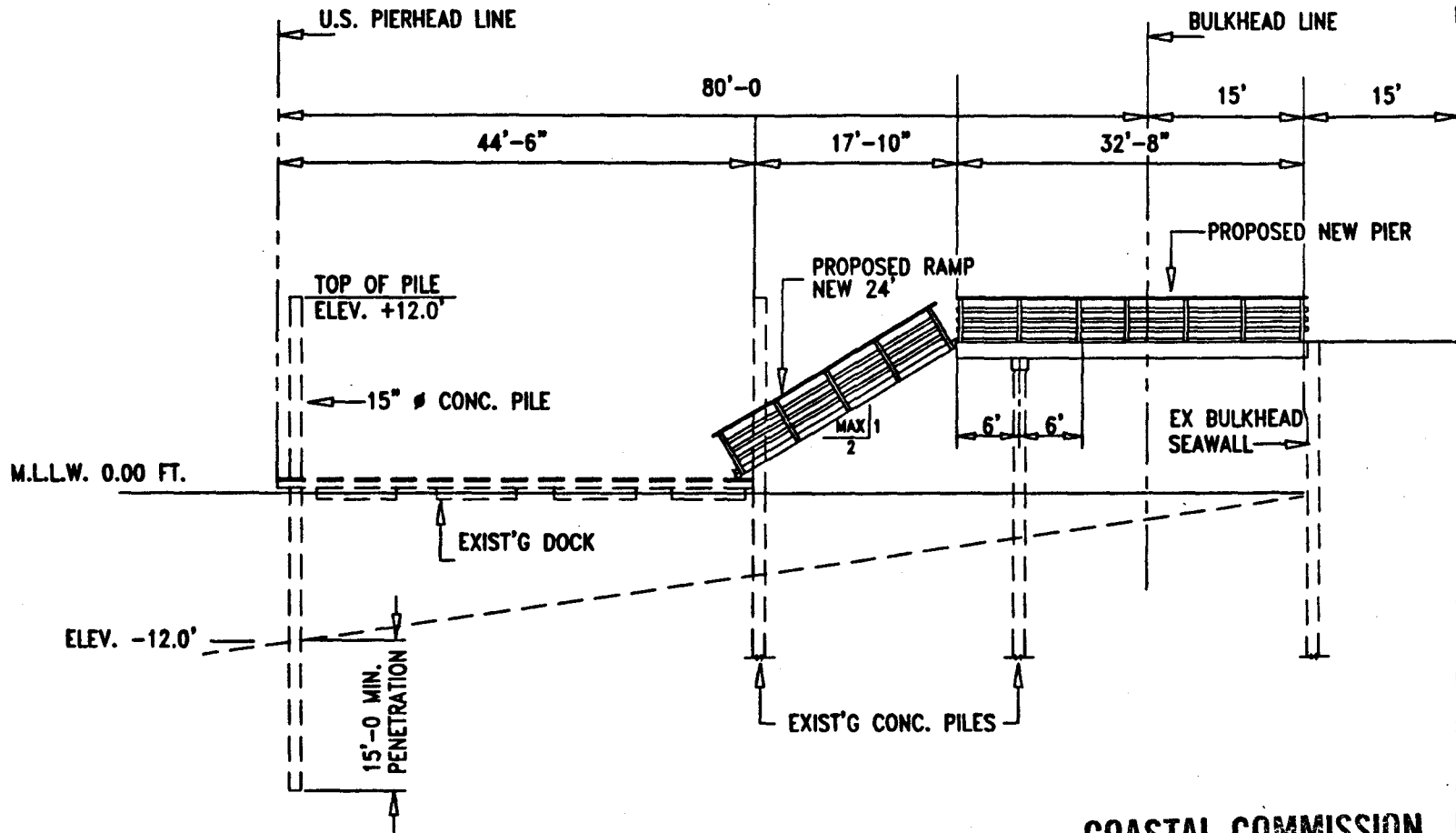
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EXHIBIT # 2

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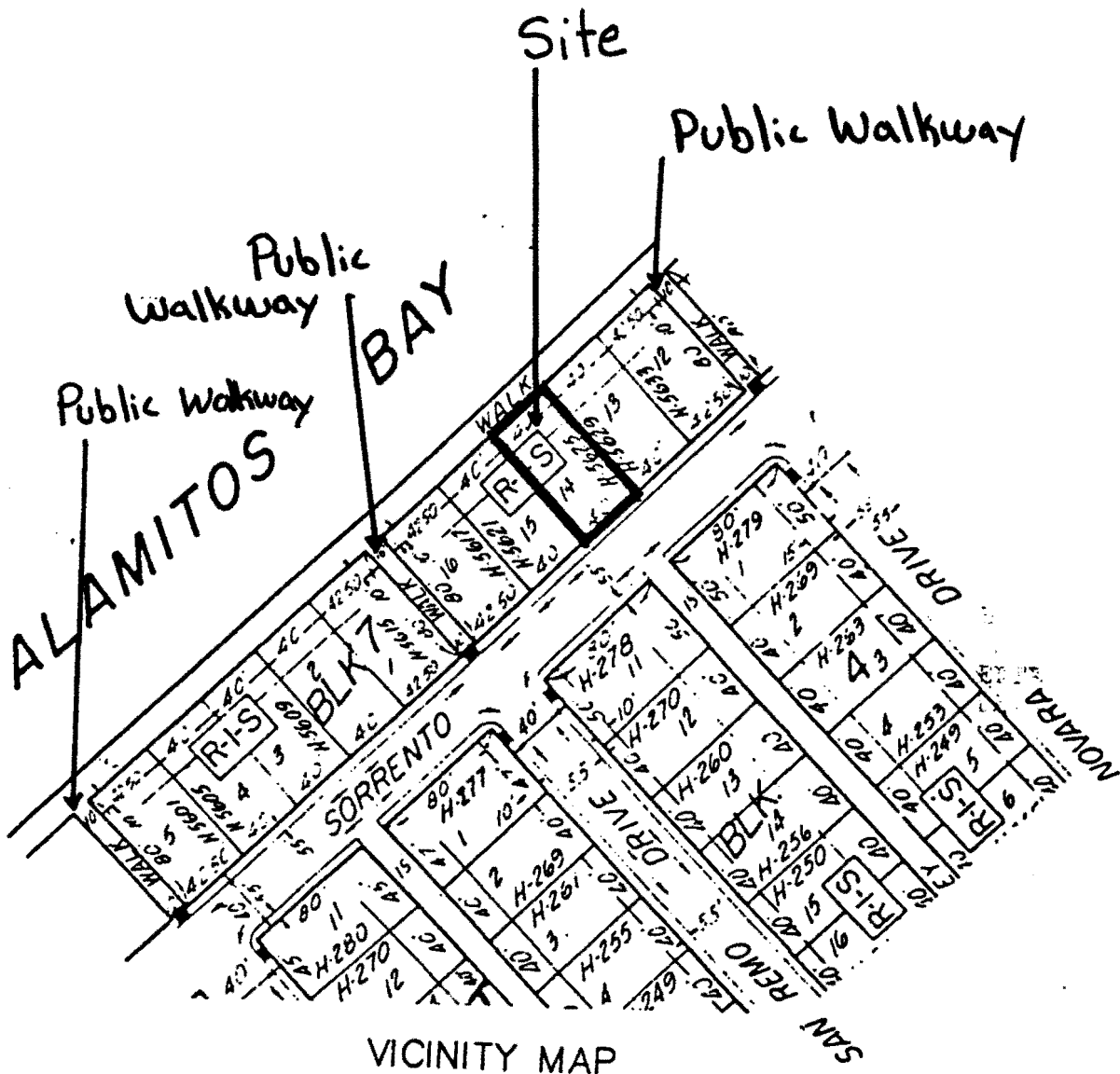
1" = 1/16"



ELEVATION
LOOKING NORTHERLY
NO SCALE

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VICINITY MAP



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