

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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 Newport Beach, CA 90802-4302
 (562) 590-5071

RECORD PACKET COPY

Filed: January 14, 2000
 49th Day: March 3, 2000
 180th Day: July 12, 2000
 Staff: ALK-LB AK
 Staff Report: February 18, 2000
 Hearing Date: March 14-17, 2000
 Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO: 5-99-375

APPLICANT: Sharon Smith

AGENT: Swift Slip Dock & Pier Builders

PROJECT LOCATION: 755 Via Lido Soud, Newport Beach (County of Orange)

PROJECT DESCRIPTION: Installation of a 10' x 16' float addition to an existing dock

LOCAL APPROVALS RECEIVED: City of Newport Beach Fire and Marine Department Approval-in-Concept, Harbor Permit Number 175-755.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan, City of Newport Beach Harbor Permit Policies, Coastal Development Permits 5-98-523 (Bridges), 5-99-120 (Sutherland), 5-99-121 (Vance) and 5-99-123 (Bradburne).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **APPROVE** the permit. The major issue of this staff report involves the installation of a 160 square foot float addition to an existing boat dock in Newport Harbor. This is an after-the-fact permit, as the float addition was installed without benefit of a coastal development permit.

STAFF RECOMMENDATION

Staff recommends that the Commission **APPROVE** the permit application with no special conditions.

MOTION

I move that the Commission approve CDP #5-99-375 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 between the first public road and the sea and is consistent with the access and 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. **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

None.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Location

The subject site is a bayfront lot located between the first public road and the sea at 755 Via Lido Soud in the City of Newport Beach, Orange County (Exhibit 1 & 2). The site is located on Lido Isle, a residential island within Newport Harbor.

The applicant proposes to install a 10' by 16' float addition to an existing residential boat dock (Exhibit 3). The addition will be located on the landward side of the existing U-shaped dock. No new piles are proposed. The 160 square foot float addition will be utilized for storage of dinghies. The proposed dock is similar in size and function to other residential docks in the immediate vicinity.

B. Recreational Boating

Recreational boating facilities are an encouraged use under the Coastal Act. Both Sections 30233 and 30224 allow this type of development. The proposed development is the installation of a 10' x 16' float addition to an existing residential boat dock. The existing dock is currently used for recreational boating purposes.

Section 30244 promotes increased recreational boating use of coastal waters. The proposed addition will also be used for boating purposes. More specifically, the float addition will be used for storage of dinghies. The expansion of a recreational boating facility is also an allowable use under Section 30233. Though it is an allowable use, this project does not involve the fill of coastal waters, as no pilings are proposed. The proposed float addition will be attached to an existing floating dock with gangway and platform, supported by seven (7) existing pilings.

For the reasons stated above, the Commission finds that the proposed project is consistent with Coastal Act policies that address recreational boating activities.

C. Public Access

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.*

Sections 30210, 302⁰⁹₁₀ 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. The nearest vertical access to the harbor exists at the street end of Via Waziers, approximately 50 feet southeast of the subject site.

The proposed development consists of the expansion of an existing boat dock within the U.S. Pierhead Line. The proposed development will not adversely impact navigation. The development will not create additional adverse impacts on coastal access and recreation. The proposed development does not constitute an intensification of use. Consequently, the Commission finds that the proposed development does not pose significant adverse impacts on existing public access and recreation.

Therefore, the proposed development is consistent with Sections 30210, 30211 and 30212 of the Coastal Act.

D. Marine Resources and 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.

Section 30412(b) of the Coastal Act states:

The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The Commission shall assure that proposed development and local coastal programs shall not frustrate this section. The Commission shall not, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.

The project site is on the water in Newport Harbor. The applicant is proposing to enlarge an existing recreational boating facility. The approval from the City of Newport Beach indicates that no eelgrass is present at the site. Therefore, installation of the proposed float will not adversely affect marine resources. The Commission finds that the proposed development is consistent with Section 30230 of the Coastal Act.

Since the proposed project has the potential to affect water quality, the development requires approval by the Regional Water Quality Control Board (RWQCB). The RWQCB has

determined that the proposed project will not adversely impact water quality if standard construction methods and materials are used.

Therefore, the Commission finds that the proposed development is consistent with Section 30412 of the Coastal Act.

E. Unpermitted Development

Without benefit of a coastal development permit amendment, the applicant has enlarged an existing residential dock. Specifically, all of the proposed work described in this application has taken place and is described as follows: addition of a 10' x 16' float to landward side of existing U-shaped dock with seven (7) existing piles, gangway and platform. No additional piles have been placed in the harbor and no work to the gangway or platform has occurred. Approval of this coastal development permit will result in approval of after the fact development.

Consideration of this permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act.

Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit. The Commission may take action at a future date with respect to the removal of the unpermitted development and/or restoration of the site.

F. Local Coastal Program

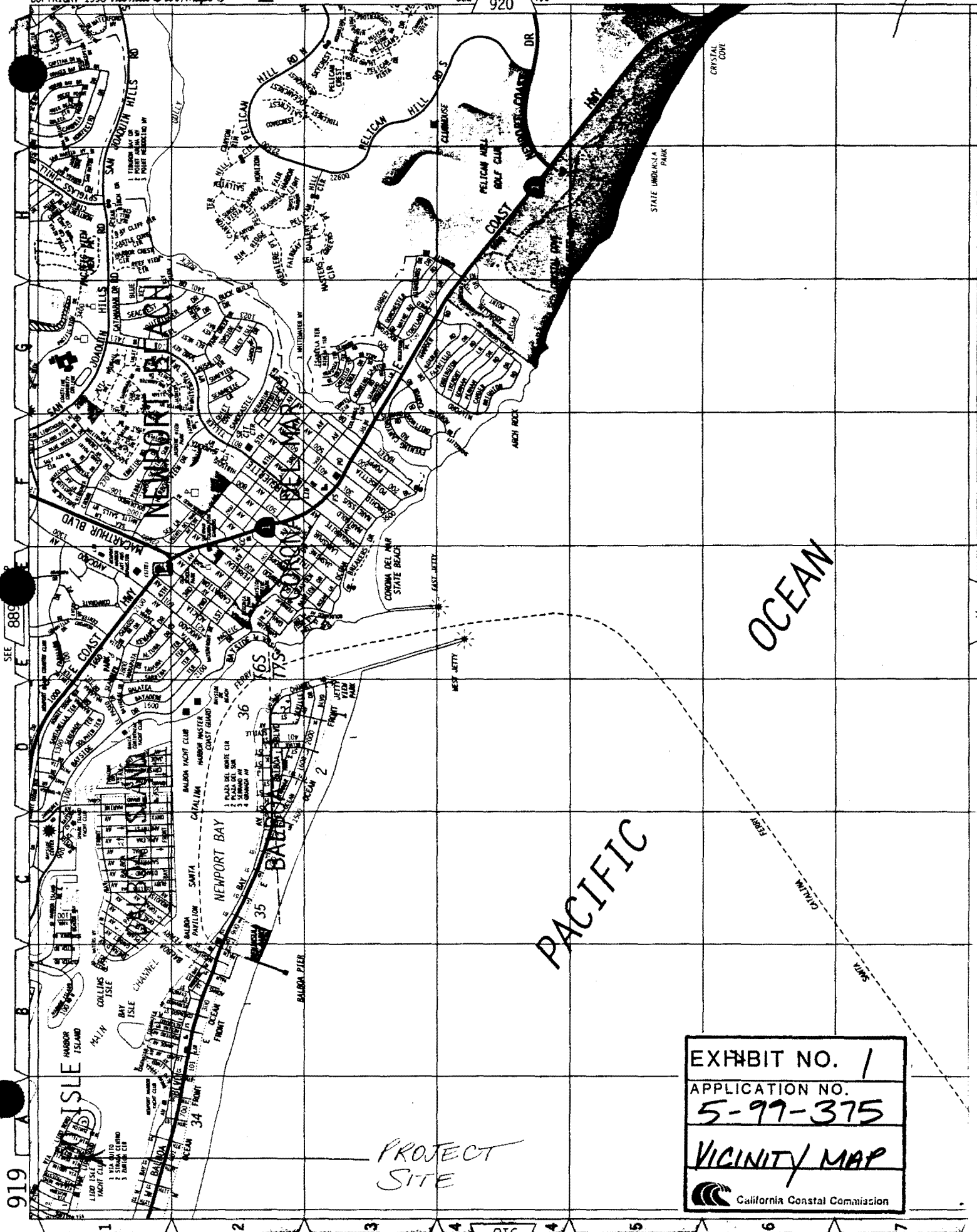
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

The 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 and with the Chapter 3 policies of the Coastal Act. 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. 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 27380.5 (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 will not have a significant adverse impact on coastal resources and has been found consistent with the marine resource protection and public recreation policies of the Coastal Act. No mitigation measures are required, as the project will not adversely affect the environment. 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 Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

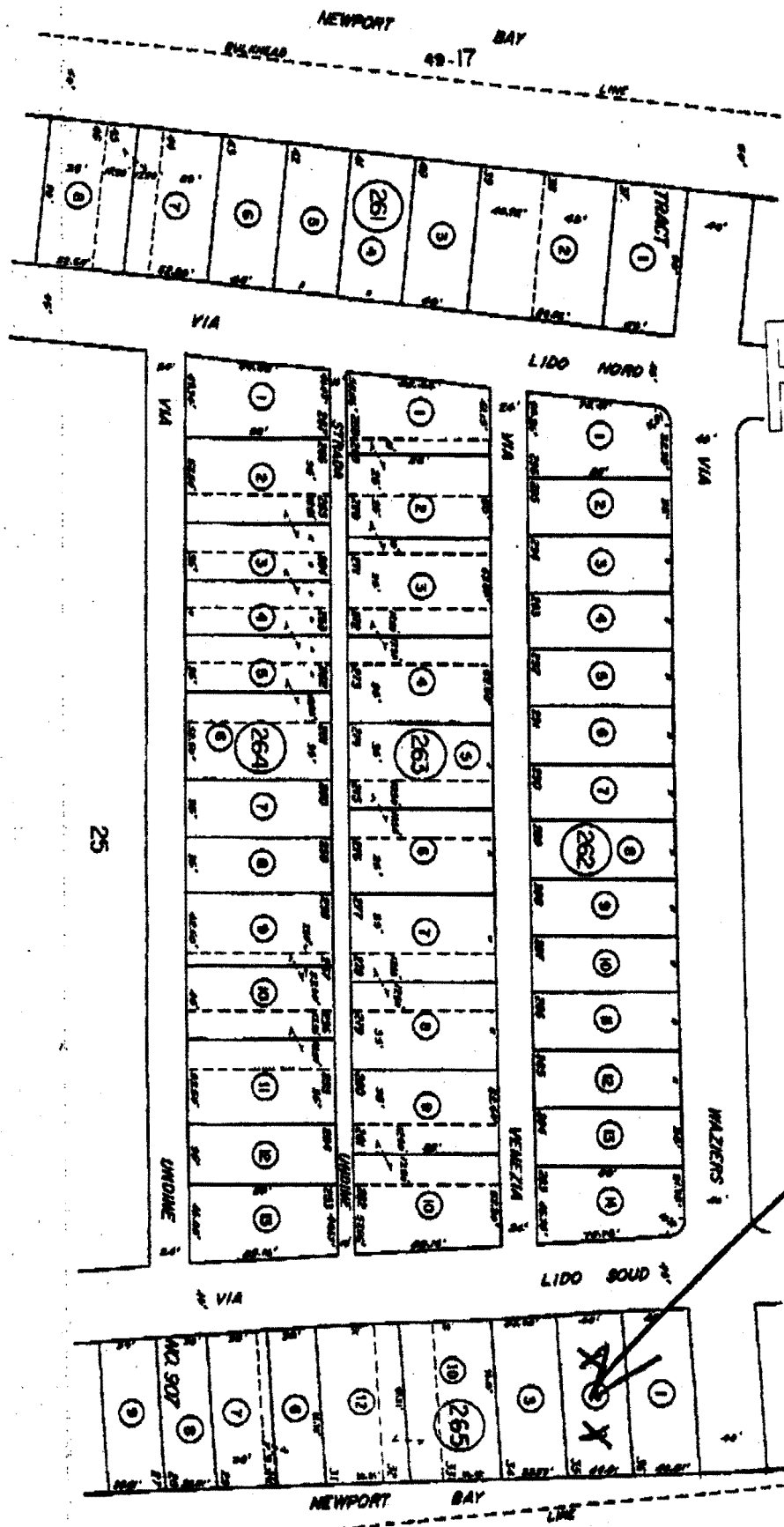


PROJECT SITE

EXHIBIT NO. 1
APPLICATION NO. 5-99-375
VICINITY MAP
 California Coastal Commission

THIS MAP WAS PREPARED FOR ORANGE COUNTY ASSESSOR W.P. FARRINGTON, JR. BY THE ASSESSOR'S MAPS AND COMPANIES, A.P. MAPS, INC. THE ASSESSOR'S MAPS AND COMPANIES, A.P. MAPS, INC. IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS MAP. THE ASSESSOR'S MAPS AND COMPANIES, A.P. MAPS, INC. IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS MAP. THE ASSESSOR'S MAPS AND COMPANIES, A.P. MAPS, INC. IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS MAP.

MARCH 1981



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OCT 6 1999
CALIFORNIA
COASTAL COMMISSION

TRACT NO. 507 M.M. 28-25 TO 36 INC.

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

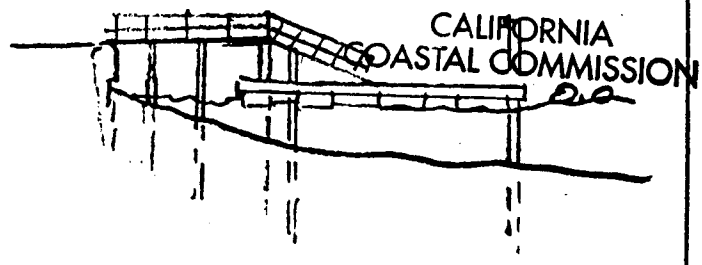
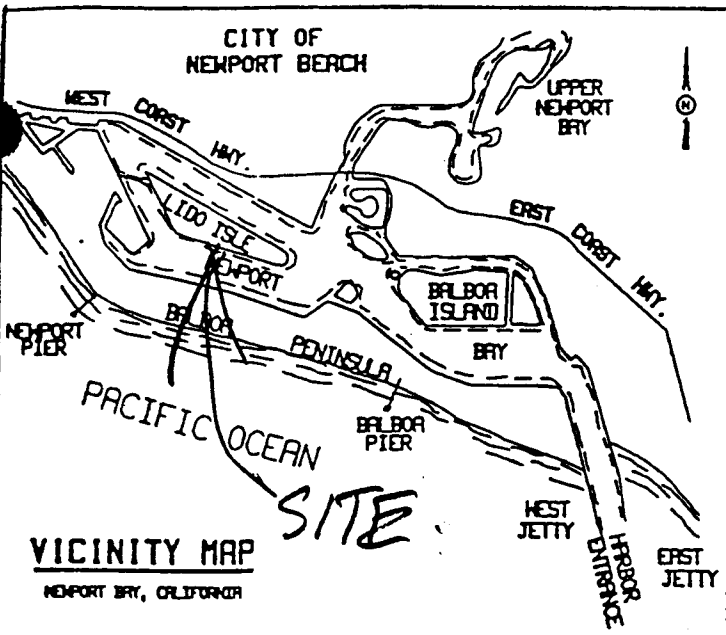
ASSESSOR'S MAP BOOK 423 PAGE 26 COUNTY OF ORANGE

EXHIBIT NO. 2
APPLICATION NO. 5-99-375
A.P. MAP

CITY OF NEWPORT BEACH

#172-755

RECEIVED
OCT 6 1999



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

VIA LIDO SOUND

<input checked="" type="checkbox"/> EEL GRASS INSPECTION <input checked="" type="checkbox"/> NO EEL GRASS <input type="checkbox"/> EEL GRASS IN THE PROJECT AREA SIGNATURE: <i>[Signature]</i> PERMIT # 172-755 DATE 9-28-99	35.52	40	40
	34	35	36

PROPERTY LINE

EXISTING PIER
PROPERTY LINE 907

U.S. BULKHEAD LINE

FIRE & MARINE DEPT.
CITY OF NEWPORT BEACH
9/28/99
FIRE & MARINE DEPT.
CITY OF NEWPORT BEACH

U.S. PIERHEAD LINE

Note: Install 10'x16' Float addition
No new pile

EXISTING FLOATING ROCK

NEWPORT

EXHIBIT NO. 3
APPLICATION NO. 5-99-375
PROJECT PLANS

California Coastal Commission

APPLICANT'S NAME BRENT SMITH

JOB ADDRESS 755 Via Lido

EXHIBIT

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