

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY****Tu 22d & Tu 22e**

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Staff: ALB-LB *ALB*
Staff Report: April 18, 2002
Hearing Date: May 9-12, 2002
Commission Action:

COMBINED STAFF REPORT: REGULAR CALENDAR

APPLICATION NOS.: 5-01-471 and 5-01-472
APPLICANT: City of Newport Beach Public Works Department
AGENT: Stephen Badum, Public Works Director
PROJECT LOCATION: Balboa Pier and Newport Pier, Newport Beach (Orange County)

PROJECT DESCRIPTION: Request for after-the-fact approval of municipal pier rehabilitation and repair, including replacement of piles, stringers, pile caps, cross bracing, signage, concrete decks and handrails. The project also involves replacement of communication, power, gas, water, and sewer conduits beneath each pier deck; repairs to the roof of the Lifeguard Workshop and rehabilitation of the lifeguard boat accessway beneath the Newport Pier; and replacement of fishing benches and cutting boards on both piers. Construction and post-construction BMPs have been incorporated into the project descriptions.

SUMMARY OF STAFF RECOMMENDATION:

The subject applications are for repair and maintenance of two municipal piers, the Balboa Pier (5-01-471) and the Newport Pier (5-01-472). Were it not for their location within 20 feet of coastal waters and on the sandy beach, the proposed pier work would be exempt as repair and maintenance of existing structures. However, due to the proximity of the piers to sensitive resources, the development involves a risk of substantial adverse environmental impact. The primary issues before the Commission are water quality, marine resources, public access and avoiding adverse impacts to lower cost visitor and recreational facilities.

Staff recommends that the Commission **APPROVE** the proposed projects subject to five (5) special conditions. The special conditions consist of: 1) notification that any future improvements to the piers will require approval by the Commission; 2) identification of construction and debris removal responsibilities; 3) conformance with the Water Quality Management Plan (WQMP) submitted; 4) maintenance of treated wood pilings; and 5) timing of construction outside the peak beach use season.

LOCAL APPROVAL RECEIVED: Approval in Concept from the City of Newport Beach

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan, Coastal Development Permits 5-01-029; 5-99-150, 5-99-382; 5-97-087; 5-97-086; 5-92-470; 5-92-012; 5-92-012A; 5-90-1120-A1, and 5-90-1120.

EXHIBITS:

1. Vicinity and Location Maps
 2. Project Plans for Balboa Pier
 3. Project Plans for Newport Pier
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PROCEDURAL NOTE:

This staff report and recommendation analyzes both coastal development permit applications 5-01-471 and 5-01-472. Although the staff report combines the analysis for the two permits, the Commission must vote separately on each permit. The two necessary motions and staff recommendations are provided below.

A. STAFF RECOMMENDATION FOR CDP 5-01-471 (BALBOA PIER):

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION:

I move that the Commission approve CDP #5-01-471 pursuant to the staff recommendation.

Staff recommends a **YES** vote. This will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

B. STAFF RECOMMENDATION FOR CDP 5-01-472 (NEWPORT PIER):

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION:

I move that the Commission approve CDP #5-01-472 pursuant to the staff recommendation.

Staff recommends a **YES** vote. This will result in approval of the permit as conditioned and 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 approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned, located between the first public road and the sea, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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. Future Improvements

The subject permit is only for the development described in Coastal Development Permit Nos. 5-01-471 and 5-01-472. Any future additions or improvements to the Balboa Pier or Newport Pier shall require an amendment to Permit No. 5-01-471 or Permit No. 5-01-472 from the Commission or shall require an additional coastal development permit from the Commission.

2. Construction Responsibilities and Debris Removal

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 erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be removed from the beach, pier, bulkhead and dock area on a daily basis;
- (c) No machinery shall be allowed at any time on the beach or intertidal zone;
- (d) Disturbance to the harbor bottom and intertidal areas shall be minimized;
- (e) Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
- (f) Staging and storage of construction machinery and storage of debris shall not take place on the beach;
- (g) Any accidental spills of construction equipment fluids shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible;
- (h) Any construction materials, oils or liquid chemicals or other waste shall not be stored where it is subject to wave erosion and dispersion into coastal waters.

3. Conformance with the Water Quality Management Plan

The applicant shall carry out development in conformance with the Water Quality Management Plan (WQMP) submitted on February 15, 2002, which incorporates structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater and nuisance flow leaving the developed sites. These source control measures include, but are not limited to, 1) hand sweeping; 2) power sweeping; 3) power scrubbing; and 4) power washing of each pier. These measures shall be carried out at frequencies sufficient to effectively minimize the accumulation of pollution which could be washed into coastal waters.

4. Piling Maintenance

The applicant shall maintain the polyethylene wrapping around the creosote treated wood pilings installed at the subject site. Maintenance shall be conducted on a regular basis to ensure the following requirements are met at all times:

- a. Measures shall be taken to prevent creosote from dripping over the top of plastic wrapping into State Waters. These measures may include wrapping pilings to the top or installing collars to prevent dripping.
- b. The polyethylene wrapping shall remain sealed at all joints to prevent leakage.
- c. The polyethylene material is expected to maintain its integrity for at least ten years, however, wrappings that develop holes or leaks before that time shall be repaired or replaced in a timely manner.

Any replacements, changes or improvements shall not occur without an amendment to Permit No. 5-01-471 or 5-01-472.

5. Timing of Construction

By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of the Balboa Pier, Newport Pier, surrounding beaches and parking lots resulting from construction activities approved pursuant to Coastal Development Permits 5-01-471 and 5-01-472 as required below:

- No construction shall occur during the "peak use" beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year.
- The Balboa Pier, Newport Pier, surrounding beaches and parking lots shall be open for public use during the peak use beach season.

IV. Findings and Declarations:

The Commission hereby finds and declares as follows:

A. Project Location and Description

The City of Newport Beach Public Works Department is requesting after-the-fact approval for repair and maintenance of two municipal piers. The subject sites are the Balboa Pier located at the terminus of Main Street and the Newport Pier located at the terminus of McFadden Place, City of Newport Beach, Orange County (Exhibit 1). The Balboa Pier is located approximately two miles downcoast of the Newport Pier. According to the applicant, the work will provide an additional service life of at least 25 years to the existing 60-year old piers.

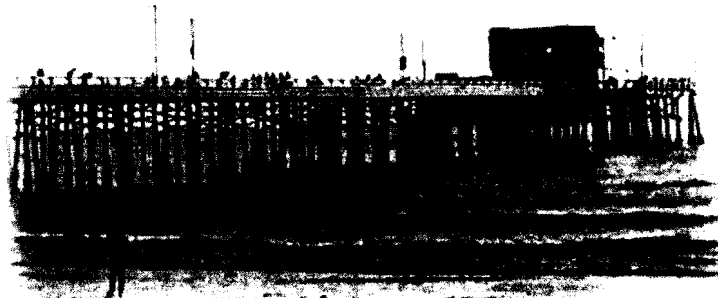
The Balboa Pier is approximately 920 feet in length and houses a small restaurant (Ruby's Diner) at the pier end. As shown in Exhibit 2, work proposed at the Balboa Pier includes:

- Removal and replacement of gates and signs;
- Replacement of 3 defective piles (of the existing 237 piles), various stringers, pile caps, hair pins, bolts, and cross bracing;
- Replacement of communication, power, gas, water, and sewer conduits under the deck or within "pipe chases" in the deck to facilitate future access for maintenance;
- Installation of a 4-inch fire main to meet current fire safety codes;
- Replacement of the concrete deck surface to improve the pedestrian walking surface;
- Replacement of the existing pipe handrail with a wooden handrail meeting current codes;
- Replacement of fishing benches and cutting boards;
- Installation of signs prohibiting vehicles weighing more than 3 tons from using the pier;
- Installation of a grease interceptor at the base of the pier.



Balboa Pier

The Newport Pier is approximately 1030 feet in length. At the base of the pier are the Lifeguard Headquarters and the landmark Dory Fishing Fleet. The Newport Pier Seafood Restaurant is located at the end of the pier.



Newport Pier

As shown in Exhibit 3, work proposed at the Newport Pier includes:

- Removal and replacement of pier gates and signs;
- Replacement of 7 defective piles (of the existing 293 piles), various stringers, pile caps, hair pins, bolts, and cross bracing;
- Replacement of communication, power, gas, water, and sewer conduits under the deck or within the "pipe chases" in the deck to facilitate future access for maintenance;
- Repair of the Lifeguard Workshop (under the pier);
- Rehabilitation of the lifeguard boat access way (under the pier);
- Replacement of the existing concrete deck to improve the pedestrian walking surface;
- Replacement of fishing benches and cutting boards;
- Installation of signs prohibiting vehicles weighing more than 3 tons from using the piers;
- Installation of a grease interceptor at the base of the pier.

Construction Methods and Staging

Staging and storage areas are designated within City parking lots at the base of each pier. The applicant states that no mechanized equipment will be stored on the beaches or within 100 feet of coastal waters. Mechanized equipment will be used to expedite the removal of deck material from the piers. The contractor is responsible for sweeping and collecting debris (sawdust, miscellaneous timber and concrete, nails, and fasteners) from demolition as the deck surfaces are dismantled. Trucks are backed onto the piers, where concrete, timber and other debris is lifted and loaded onto the trucks. Debris is then disposed of at landfills outside the coastal zone. According to the applicant, "*appropriate measures and removal techniques are employed to prevent debris from reaching ocean waters.*" In the event that debris or dropped tools reach ocean waters, they are immediately removed by skiff and scuba diver. In addition, the contractor is required to submit a written plan to the City for the containment and collection of construction debris. The contract allows the City to ask for additional measures as needed and City staff will monitor the site daily.

Timing of Construction

Repair and maintenance of the Balboa and Newport Piers will be undertaken during the late winter/early spring months of 2002, prior to the peak beach use season.¹ During the early phase of construction, a portion of the piers will remain open to public use. To ensure public safety, the piers will be closed during the concrete deck and railing replacement. The closure of each pier, including the restaurants, will be limited to a two-month period. However, the pier closures will be staggered by four weeks to minimize the length of time that at least one ocean pier is not available for public use. When work must be performed over the beach, the contractor will post signs on the beach as a safety precaution, prohibiting public use of the beach within 20 feet of the pier. Work at the Balboa Pier will be performed concurrent with Phase 1 of the Balboa Village construction, approved by the Commission by CDP 5-01-029. The City anticipates that both piers will be re-opened to full public use prior to the peak tourism season.

¹ At the time of this staff report, the applicant estimates the repair and maintenance activities at the Balboa and Newport Piers to be approximately 99% complete.

B. Development Adjacent to Coastal Waters

Section 30106 of the Coastal Act defines development which is subject to coastal development permit requirements. The proposed work involves the alteration of the existing piers through the placement of piles into coastal waters and will affect public access to, and use of, the Newport and Balboa Piers. The relevant portions of Section 30106 are cited below.

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

The Commission acknowledges that the City considers the proposed development to be a repair and maintenance activity. Nevertheless, although Section 30610(d) of the Coastal Act renders certain repair and maintenance activities exempt from permit requirements, other repair and maintenance activities are not exempt since they may have an adverse effect on the environment. Section 30610(d) is implemented by Section 13252 of Title 14 of the California Code of Regulations. Section 13252 specifies the repair and maintenance activities that require a coastal development permit pursuant to Section 30610(d) before work can commence. Section 13252 states, in relevant part:

- a. *For purposes of Public Resources Code Section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:*
 3. *Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:*
 - A. *The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach material or any other forms of solid materials;*
 - B. *The presence, whether temporary or permanent, of mechanized equipment or construction materials.*

5-01-471 and 5-01-472 (City of Newport Beach)
Balboa Pier and Newport Pier Repairs

Based on the work proposed by the City and the criteria of Section 13252, the pier repairs require a coastal development permit due to 1) their proximity to coastal waters and the sandy beach, 2) the placement of pilings (other forms of solid materials) into coastal waters, and 3) the use of mechanized equipment. Although the pier repairs are considered a repair and replacement activity by the City, the Commission must have the opportunity to review such activities for consistency with the Coastal Act. As such, the Commission imposes Special Condition 1, which informs the applicant that future development or additions to either the Balboa or Newport Pier must be approved by the Commission.

C. Water Quality and Marine Resources

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30233(a) of the Coastal Act addresses fill of open coastal waters as follows:

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.*

Construction BMPs

The proposed project involves structural repairs and improvements to the Balboa and Newport Piers. The proposed project is located over coastal waters and adjacent to the beach; therefore, there is the possibility that material from demolition or construction may enter coastal waters. The City has incorporated construction-related Best Management Practices (BMPs) into the project through the "Site Maintenance, Cleanup and Dust Control Plan" included in the Water Quality Management Plan (WQMP) received February 15, 2002. In order to ensure implementation of the proposed construction-related BMPs and to prevent adverse impacts to water quality and marine waters from construction and demolition activities, the Commission is imposing Special Condition 2. This condition provides for the safe storage of construction materials and the disposal of demolition end-products.

Post Construction BMPs

As part of the WQMP submitted February 15, 2002, the City has provided a listing of post-construction Best Management Practices (BMPs) that will ensure that the City's piers do not adversely affect water quality or marine resources. The applicant acknowledges that "residual debris from fishing activities, trash from daily visitors, and our healthy bird population all contribute to the challenges of water quality in this setting." As such, City crews will implement the following post-construction maintenance procedures to clean the pier decks and railings:

1. *Hand Sweeping.* City crews will hand sweep debris-heavy locations (usually around the concessions and the foot of the piers) on the piers 7x/week all year 'round (except during rain storms).
2. *Power Sweeping.* Performed in conjunction with hand sweeping 3x/week in the summer and 1x/week in the winter, City crews will use a Tennant Power Sweeper over the entirety of the piers.
3. *Power Scrubbing.* Immediately following sweeping (but not as frequently as power sweeping—1x/week in the summer and 1x/month in the winter), City crews will use the Tennant Power Scrubber (which applies water, scrubs, and then vacuums up the cleanings) to clean the piers' walking surfaces.
4. *Power Washing.* In conjunction with the power scrubbing—(1x/week in the summer and 1x/month in the winter), City crews will power wash (using 180° water with no soap) the railing, benches, bait cutting stations and walkway cracks to remove any remaining stains. The debris (and water to the extent practicable) will be washed into the path of the Tennant Power Scrubber and then vacuumed up.)

The removal of refuse is also important to maintaining water quality and marine resources. The City will place 25 refuse containers on each pier at 100-foot intervals. These containers will be covered and have "flip-flop" lids to prevent storm water intrusion and bird scavenging. The containers will be emptied seven times a week. The containers are pressure cleaned at the City's Corporation yard twice a year.

The City will direct fish cleaning activities to two designated sinks located along the side of each pier. The applicant explains that because the wastewater line beneath the pier is a force main, the sinks will use potable water and drain into the ocean as they do now. Signs

at each sink will prohibit use of soaps or cleaners. City staff will clean the screening device at the base of the sink each time refuse is collected (seven times a week).

Lastly, the applicant will install grease interceptors at the base of each pier to accommodate grease disposal from the restaurants currently located at the end of each pier. Grease traps and grease interceptors serve to remove cooking grease from sewer pipes. Cooking grease adheres to the inside of sewer pipes, and the continual disposal of grease down sinks or drains may completely block the pipes. Restaurant disposal of cooking grease has been identified as one of the primary causes of sewage line breaks and spills in Southern California, but with proper source control and structural treatment best management practices, grease can be effectively removed from restaurant waste water. Grease interceptors are widely regarded as the most effective device in removing cooking grease from waste water. Given that the restaurants located at the end of the Balboa Pier and Newport Pier will not be reconstructed as part of the current project, but also understanding that grease interceptors are a critical measure for water quality protection, the applicant proposes to place a grease interceptor at the base of each pier. While this will not protect the sewer lines located beneath the deck of each pier from grease build-up, the applicant does not have the ability at this time to require the installation of grease interceptors within the restaurants. Installation of the interceptors at the base of each pier will promote the best level of water quality protection available to address waste water grease as part of the currently proposed project.

Maintenance of Treated Piles

As described previously, the project involves the replacement of three piles at the Balboa Pier and seven piles at the Newport Pier. The number of replacement piles represent approximately one percent of the total number of piles supporting the existing structures. The applicant proposes to use treated wood pilings dual-wrapped with high-density polyethylene to preclude the pile treatment from leaching into the ocean. During Commission staff's review of one of the City of San Clemente's recent pier repair projects (5-99-150 and 5-99-382), staff contacted the California Department of Fish and Game (CDFG) to request information on the requirements for use of these materials in the proposed projects. According to the CDFG, the use of any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous materials or substance is normally prohibited on pier pilings in state waters. Creosote is included in this category. As stated above, the currently proposed project includes the use of creosote for treatment of the pilings. The applicant states the *"replacement piles must have similar structural qualities with respect to flexibility and strength. Dissimilar pile types would cause the pier structure to rapidly deteriorate and become unstable. The city is not aware of any replacement pile types that would be an appropriate substitute for the existing treated wood piles, but will continue to investigate replacement alternatives for future maintenance projects."* As such, in order to address the concerns raised by the use of creosote treated wood pilings for the proposed projects, the Commission imposes Special Condition 4 that requires maintenance of the polyethylene wrapping that encases the treated wood pilings. This condition is similar to a special condition imposed by the Commission through CDPs 5-99-150 and 5-99-382 requiring maintenance of the pile wrappings at the San Clemente Municipal Pier. As conditioned, the Commission finds the new piles to be effectively contained to prevent adverse impacts to marine resources resulting from creosote leakage.

Fill of Coastal Waters

The Coastal Act limits the fill of open coastal water to specific, enumerated uses and also requires that any project which results in fill of open coastal waters provide adequate mitigation and that the project be the least environmentally damaging alternative. The proposed project includes the replacement of three (3) 18" diameter wrapped wooden piles with piles of the same size in the same location at the Balboa Pier and replacement of seven (7) 18" diameter wrapped wooden piles with piles of the same size in the same location at the Newport Pier. The proposed pile replacement constitutes fill of coastal waters.

a. Allowable Use

Section 30233(a)(4) of the Coastal Act allows fill of open coastal waters for the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. The proposed project, repairs to the existing Balboa and Newport Piers, constitutes development that will provide public access and recreational opportunities. Thus, the project is an allowable use under Section 30233(a)(4).

b. Least Environmentally Damaging Alternative

The proposed project will result in the replacement of defective piles at two municipal piers. The proposed 18" diameter piles are the minimum size and amount necessary to withstand the loads created by tides and currents. The proposed project will use the minimum number and size of piles necessary to adequately support and secure the piers. Thus, the amount of fill needed to support the proposed allowable use is minimized. Therefore, the project, as proposed, is the least environmentally damaging alternative.

c. Adequate Mitigation

Section 30233 also requires that any project which results in fill of open coastal waters also provide adequate mitigation. Placement of the proposed piles in conjunction with the proposed project will displace bottom habitat. However, the pilings will provide new vertical habitat for marine organisms such as mussels, barnacles, limpets, littorine snails, red and brown seaweed, surfgrass, anemones, and polychaetes. Thus, adequate mitigation is provided by the proposed project in that the loss of bottom habitat is offset by the fact that the pilings themselves will provide new vertical intertidal habitat for marine organisms.

For the reasons discussed above, the Commission finds that the project, as proposed, is consistent with Section 30233 of the Coastal Act.

Conclusion

Only as conditioned for 1) conformance with the WQMP submitted, 2) appropriate storage of construction materials and equipment, removal of demolition and construction debris and 3) maintenance of treated wood piles, does the Commission find that the proposed project is consistent with Sections 30230, 30231, and 30232 of the Coastal Act.

D. Public Access

Sections 30210, 30211, and 30252 of the Coastal Act address public access and recreation.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

There are also policies in the certified LUP concerning public access. Policy 4 of the City's certified LUP Public Access Section states:

Public access in coastal areas shall be maximized consistent with the protection of natural resources, public safety, and private property rights.

The proposed project involves repair and maintenance activities at the Balboa Pier and Newport Pier. The piers are popular attractions to both residents and visitors. There are public parking lots at the base of each pier that provide parking for the beaches, the piers, the restaurants on the piers, and the retail stores and restaurants within the pier areas. The Commission notes that although there are other beaches for beachgoers to use within the City of Newport Beach, the demand for the use of those beaches is growing as Orange County and the neighboring counties rapidly urbanize. The demand for beach use is increasing, but the beaches are limited resources. The Coastal Act requires that development not interfere with the public's right of access to the sea by providing adequate parking to serve that development. The pier repairs will require temporary use of the public parking areas for staging and storage during construction. However, only a portion of each parking lot will be utilized and all public parking will be re-opened prior to the peak use season.

The applicant proposes to perform the proposed work in a manner that will allow the public some access to the piers during the early phase of construction. However, during deck and handrail reconstruction, access to the piers and restaurants will be prohibited for public safety purposes. As described previously, the project will take place primarily during the winter and early spring season when there are fewer visitors to the piers, which will further reduce any adverse impacts to public access. The applicant states that all work will be completed prior to Memorial Day weekend 2002 and public access will be fully restored. In order to ensure access to the beach is not hindered during the peak summer season, the Commission finds that it is necessary to impose Special Condition 5, which prohibits construction to occur during the peak use summer season that would obstruct public access to the piers, adjacent beaches, or public parking lots. Only as conditioned does the

Commission find the proposed development is consistent with Sections 30211 and 30252 of the Coastal Act.

E. Visitor Serving Development

Section 30213 of the Coastal Act states in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

City of Newport Beach LUP, New Development Section, Policy 12 states:

The City of Newport Beach shall protect and encourage the maintenance of lower-cost commercial visitor-serving facilities.

The California Coastal Conservancy publishes a document entitled "California's Public Piers," which provides locations and descriptions of public piers in California. Among the piers listed in this document are the Newport Pier and Balboa Pier. The Coastal Conservancy notes that the services which piers provide include, "views of the off-shore coast and fishing without a license." Public piers tend to become visitor-serving attractions as in the case of the Santa Monica Pier, the Huntington Beach Pier, and the San Clemente Municipal Pier.

There is no admittance fee to piers. People can walk on the piers if they prefer not to walk on sand. People can spend the day sitting on the pier watching people or nature. Piers are also an excellent viewing platform from which to view the beach and coastline.

In short, the subject piers are low-cost, visitor-serving facilities which provide public fishing opportunities, fresh ocean air, an opportunity to walk and look out at the ocean and to get a panoramic view of the coastline. As such, any development on a public pier is subject to scrutiny as to whether the development would affect the public's recreational interest. In this case, the proposed improvements are routine repair and maintenance that do not adversely impact public access or recreation. The repair and maintenance activities help maintain the function of the pier for its intended use as a visitor-serving facility. The pier will remain open and available to visitors during the early phase of construction and will be re-opened prior to the peak beach use season, as discussed in the preceding section. Therefore, the Commission finds that the proposed development is consistent with the provisions of Section 30213 of the Coastal Act.

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 City of Newport Beach Land Use Plan (LUP) component of its LCP was originally certified on May 19, 1982. The City currently has no certified implementation plan.

Therefore, the Commission issues CDPs within the City based on the development's conformance with the Chapter 3 policies of the Coastal Act. The LUP policies may be used for guidance in evaluating a development's consistency with Chapter 3. The City's LUP New Development Section, Policy 12 states that the City shall protect and encourage the maintenance of lower-cost commercial visitor-serving facilities. In addition, Policy 4 of the Public Access Section requires maximization of public access. The proposed project involves repair and maintenance to the existing municipal piers. Once completed, the proposed project will enhance visitor serving commercial use of the area and facilitate public access.

As explained above, the proposed development is consistent with the Chapter 3 policies of the Coastal Act and with the LUP. 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. Unpermitted Development

Development has occurred on site without benefit of the required coastal development permit, including pier rehabilitation and repair at the Balboa Pier and Newport Pier. Specifically, the project consists of the replacement of piles, stringers, pile caps, cross bracing, signage, concrete decks and handrails. The project also involves replacement of communication, power, gas, water, and sewer conduits beneath each pier deck; repairs to the roof of the Lifeguard Workshop and rehabilitation of the lifeguard boat accessway beneath the Newport Pier; and replacement of fishing benches and cutting boards on both piers. While the applicant maintains that the project constitutes routine and maintenance activities, the project is not exempt from permit requirements pursuant to Section 30610(d) of the Coastal Act due to its location within 20 feet of coastal waters. Consequently, the work that was undertaken constitutes development that requires a coastal development permit.

Consideration of the 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. The certified Newport Beach Land Use Plan was used as guidance by the Commission in reaching its decision. 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.

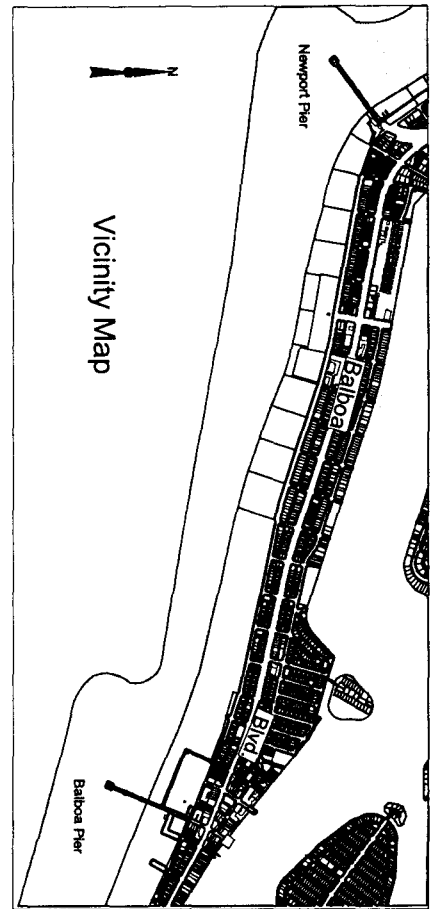
H. Consistency with the California Environmental Quality Act (CEQA)

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 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 that the activity may have on the environment.

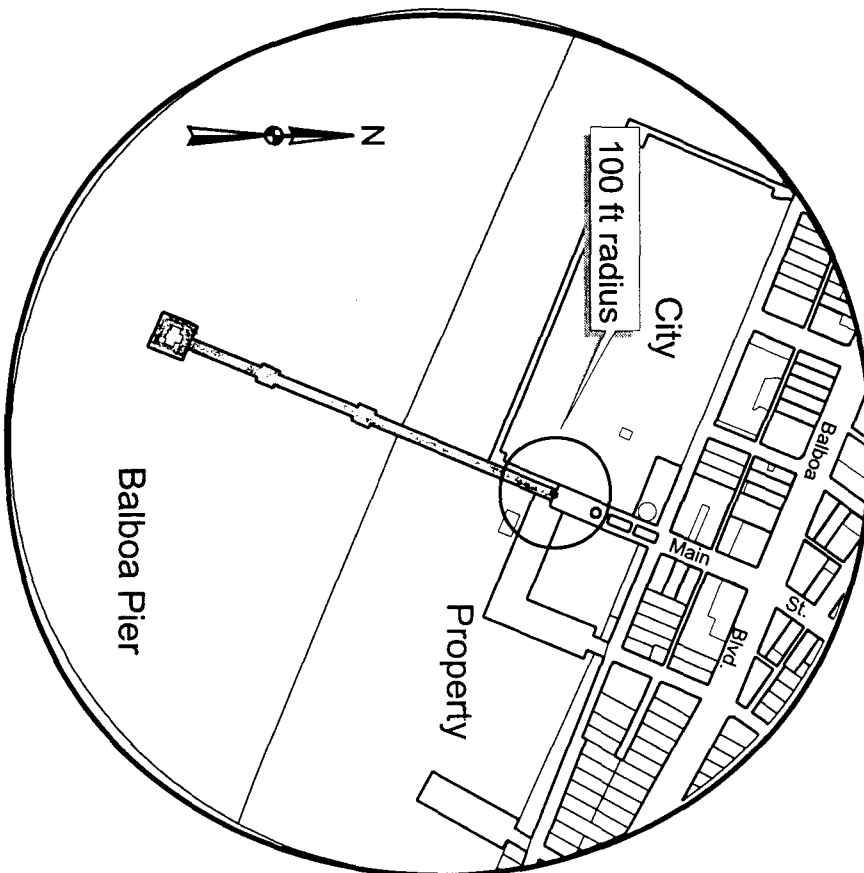
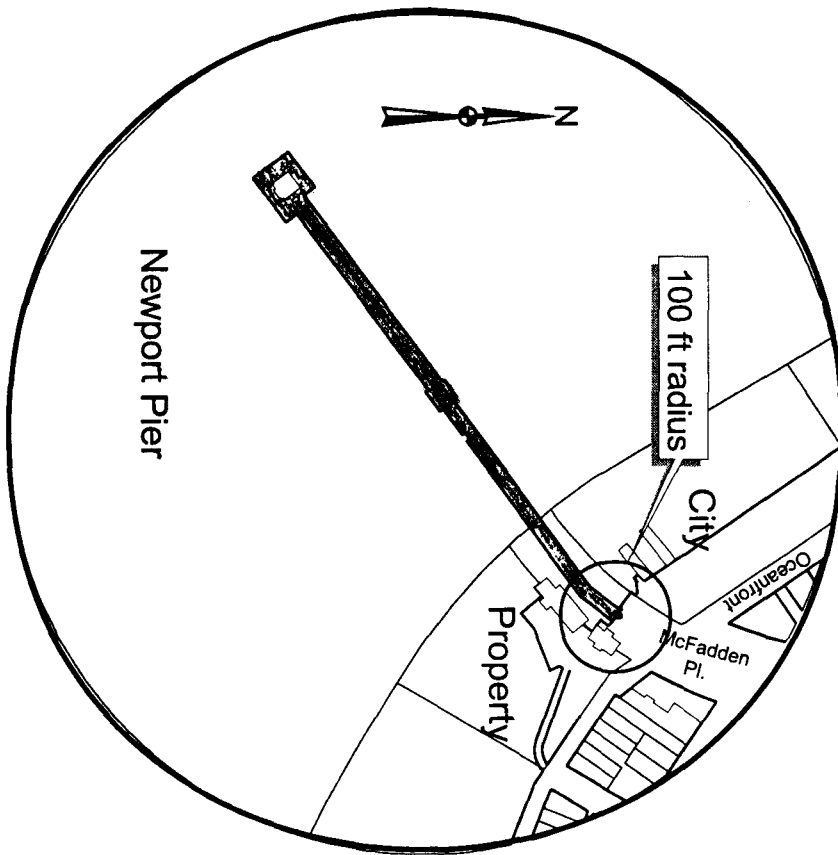
*5-01-471 and 5-01-472 (City of Newport Beach)
Balboa Pier and Newport Pier Repairs*

The proposed project has been conditioned in order to be found consistent with the geologic hazards, water quality and environmentally sensitive habitat policies of the Coastal Act. Mitigation measures, in the form of special conditions, require 1) the requirement that any future improvements to the Balboa or Newport Piers will require a permit from the Commission; 2) conformance with the WQMP submitted; 3) identification of construction and debris removal responsibilities; 4) maintenance of the treated wood piles and 5) timing of construction.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.



Vicinity Map



COASTAL COMMISSION
5-01-471 + 5-01-472

EXHIBIT # 1

PAGE 1 OF 1

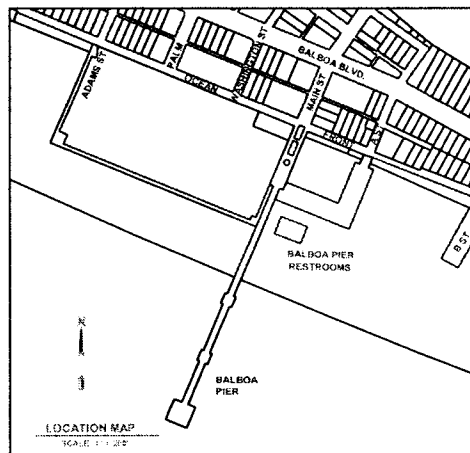
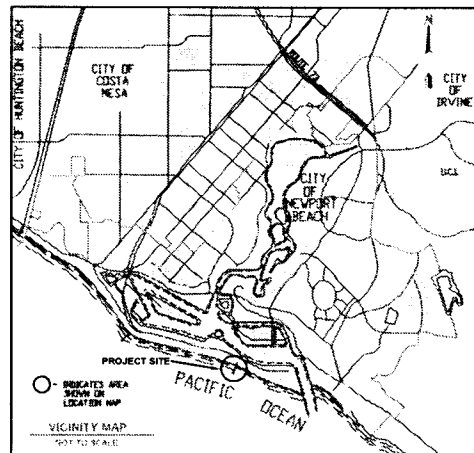


PUBLIC WORKS DEPARTMENT BALBOA PIER REHABILITATION

CONTRACT NO. 3312

APPROVED: _____ DATE: _____
PUBLIC WORKS DIRECTOR

APPROVED: _____ DATE: _____
CITY ENGINEER



INDEX

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4	EXISTING PIER PLAN: BENT NOS. 17-31
5	EXISTING PIER PLAN: BENT NOS. 32-47
6	EXISTING PIER SECTIONS
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25	MECHANICAL DEMOLITION DETAILS
26	MECHANICAL INSTALLATION
27	MECHANICAL INSTALLATION SECTIONS AND DETAILS
28	MECHANICAL INSTALLATION DETAILS

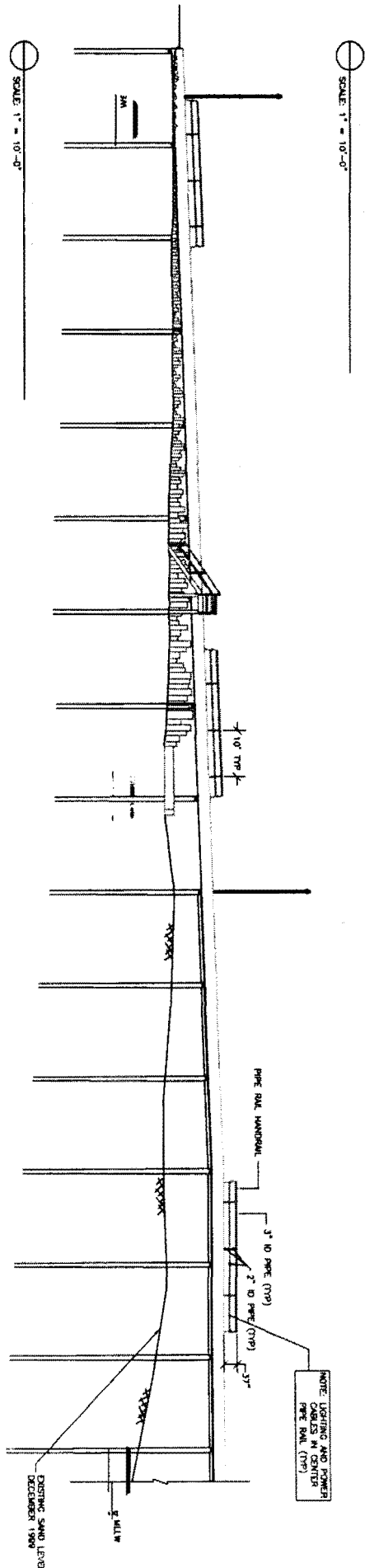
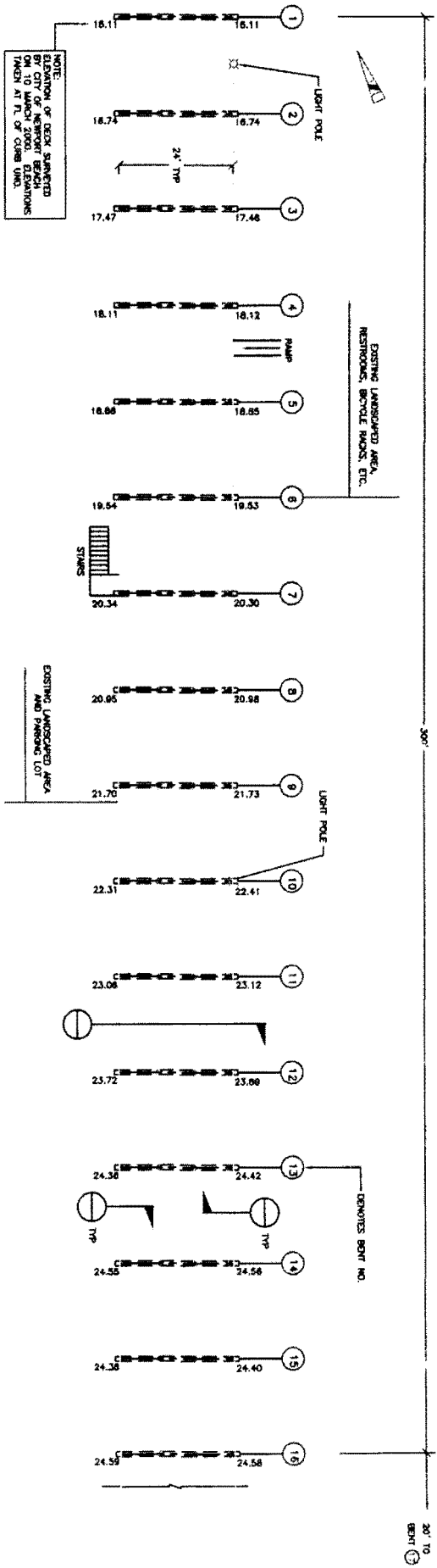
- THE EXISTENCE AND LOCATION OF THE UTILITIES AND FACILITIES WERE OBTAINED FROM THE BEST AVAILABLE RECORDS. THE CONTRACTOR SHALL TAKE THE NECESSARY PRECAUTIONARY MEASURES TO PROTECT THE UNDERGROUND AND UNDER PIER UTILITIES AND FACILITIES DURING CONSTRUCTION.
- ALL WORK SHOWN HEREON SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE "STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION", 1997 EDITION, AND ITS SUPPLEMENTS, AND THE CITY OF NEWPORT BEACH STANDARD SPECIAL PROVISIONS AND STANDARD DRAWINGS FOR PUBLIC WORKS CONSTRUCTION, 1994 EDITION.
- THE PRECEDENCE OF CONTRACT DOCUMENTS SHALL BE AS FOLLOWS FOR THIS CONTRACT:
 - PERMITS FROM OTHER AGENCIES AS MAY BE REQUIRED BY LAW;
 - THESE PLANS (SHEET NOS. 1 THROUGH 28);
 - SECTION 800 THROUGH 1070 OF THE SPECIAL PROVISIONS;
 - SECTION 0-1 THROUGH 799 OF THE SPECIAL PROVISIONS;
 - STANDARD DRAWINGS AND STANDARD SPECIAL PROVISIONS;
 - REFERENCE SPECIFICATIONS.

- SEE APPLICABLE PRIOR CONSTRUCTION NOTES.
- DIMENSIONS GIVEN ON THE DRAWINGS MAY VARY FROM ACTUAL EXISTING CONDITIONS. THE CONTRACTOR SHALL PERFORM A CAREFUL FIELD MEASUREMENT AT EACH LOCATION FOR EACH FABRICATED ITEM BEFORE ANY FABRICATION IS BEGUN. IT SHALL BE THE CONTRACTOR'S SOLE RESPONSIBILITY TO VERIFY THAT SHOP FABRICATED ITEMS FIT TO THE TOLERANCES ALLOWED.
- ALL ELEVATIONS ON THESE PLANS REFER TO MEAN LOWER LOW WATER DATUM (MLLW). (0.0' MLLW = -2.73' MSL)

Prepared by: NOBLE ENGINEERS, INC.	DATE: _____ BY: _____ CHECKED: _____ DATE: _____	APPROVED: CITY ENGINEER DATE: _____ BY: _____ CHECKED: _____ DATE: _____	APPROVED: PUBLIC WORKS DIRECTOR DATE: _____ BY: _____ CHECKED: _____ DATE: _____	APPROVED: CITY ENGINEER DATE: _____ BY: _____ CHECKED: _____ DATE: _____	APPROVED: PUBLIC WORKS DIRECTOR DATE: _____ BY: _____ CHECKED: _____ DATE: _____
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COASTAL COMMISSION
5-01-471 + 5-01-472

EXHIBIT # 2
PAGE 1 OF 4



NOBLE

2001 10th Ave, Suite 400
San Francisco, CA 94114
Tel: 415.774.3443

DATE	BY	REVISION	DATE	BY	REVISION

PROJECT: []

DATE: []

BY: []

REVISION: []

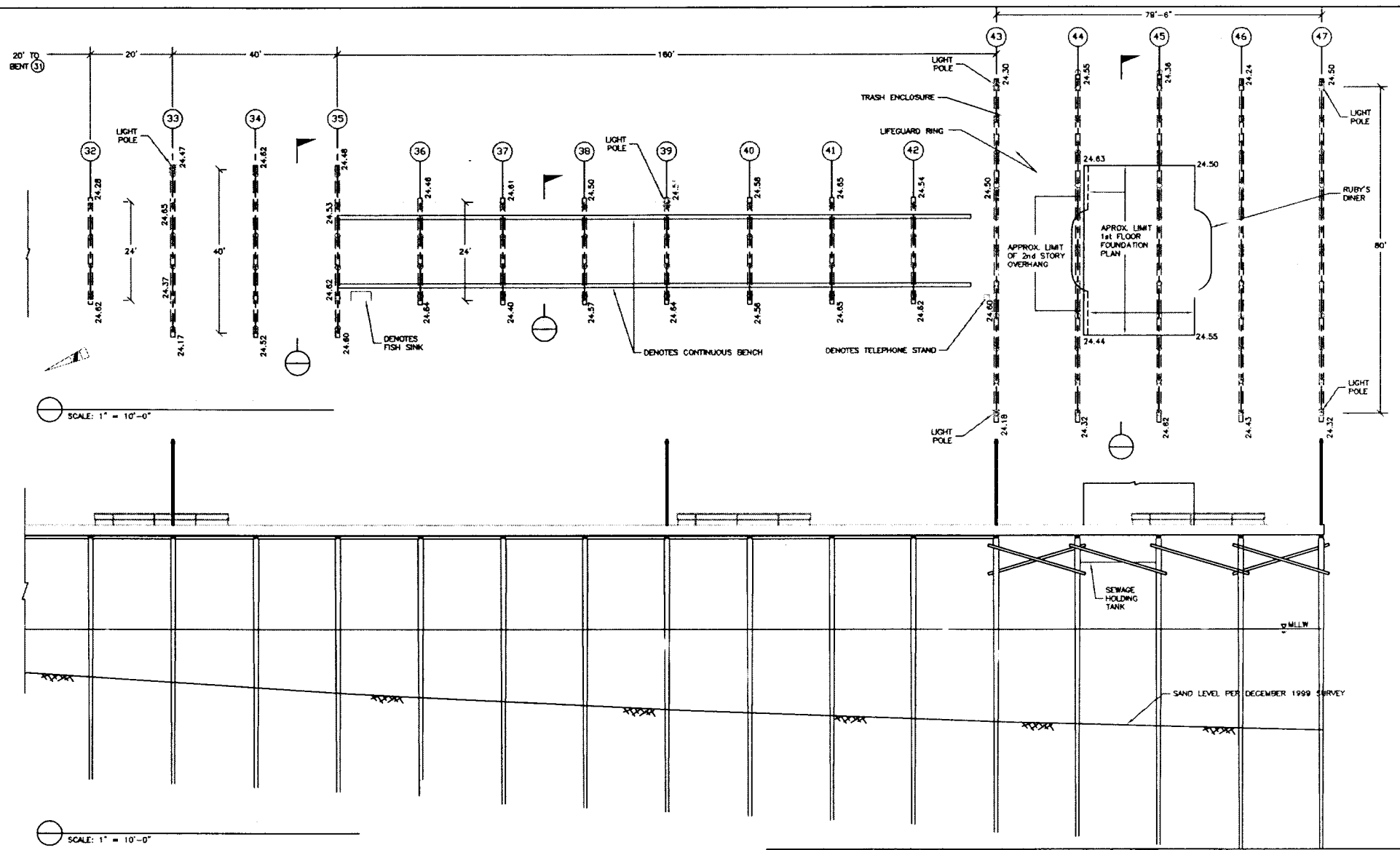
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EX. 2
3/4

EX.2
4/4



NOBLE CONSULTANTS, INC. 2010 DUNN STREET, SUITE 100 BOSTON, MA 02116 617-552-1000 FAX: 617-552-1001		PROJECT NO. 1000 SHEET NO. 1001	
DATE	BY	REVISION	DATE



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PUBLIC WORKS DEPARTMENT NEWPORT PIER REHABILITATION

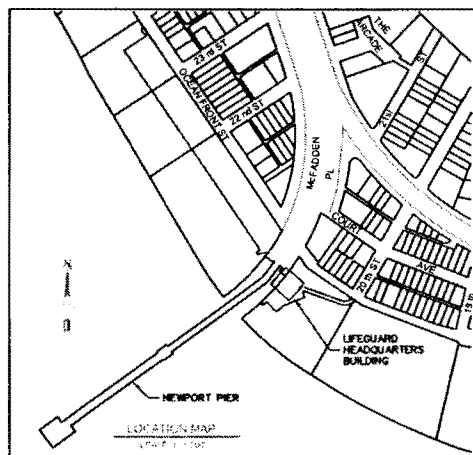
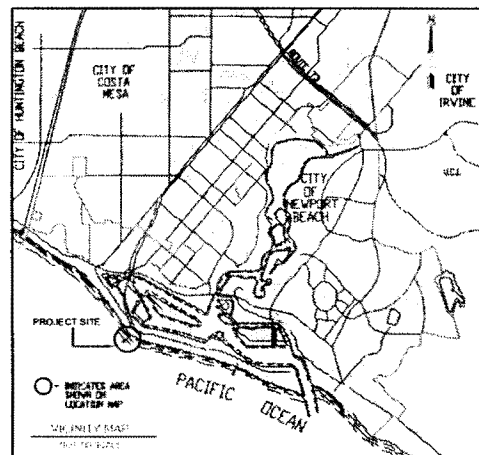
CONTRACT NO. 3312

APPROVED: _____
PUBLIC WORKS DIRECTOR

DATE: _____

APPROVED: _____
CITY ENGINEER

DATE: _____



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 - d. SECTION D-1 THROUGH 799 OF THE SPECIAL PROVISIONS;
 - e. STANDARD DRAWINGS AND STANDARD SPECIAL PROVISIONS;
 - f. REFERENCE SPECIFICATIONS.

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4	EXISTING PIER PLAN: BENT NOS. 15-28
5	EXISTING PIER PLAN: BENT NOS. 29-41
6	EXISTING PIER PLAN: BENT NOS. 42-53
7	EXISTING PIER SECTIONS
8	EXISTING PIER SECTIONS
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10	PILE REPLACEMENT PROFILE
11	PILE REPAIR PLAN
12	PILE REPAIR DETAIL
13	FRAMING REPAIR PLAN
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16	DECK FRAMING PLAN
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36	MECHANICAL INSTALLATION DETAILS
37	MECHANICAL INSTALLATION SECTIONS AND DETAILS

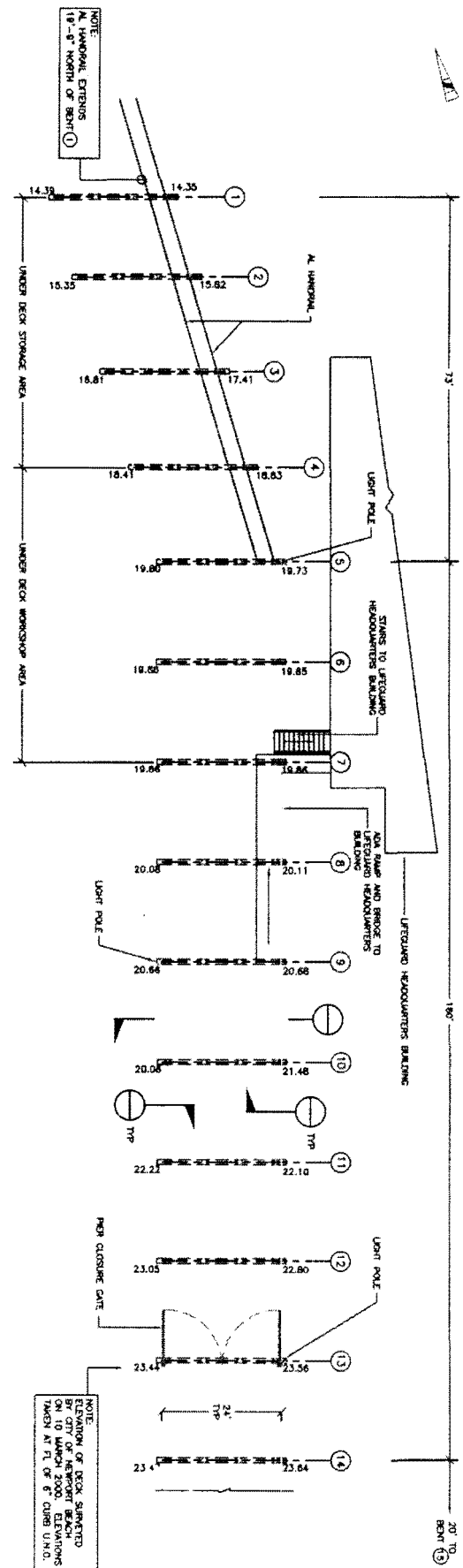
Approved by:	2541 SOUTHWEST BEACH, SUITE 400 NEWPORT BEACH, CA 92660 NEWPORT BEACH, CA 92660 NEWPORT BEACH, CA 92660	APPROVED	APPROVED	APPROVED	APPROVED
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COASTAL COMMISSION

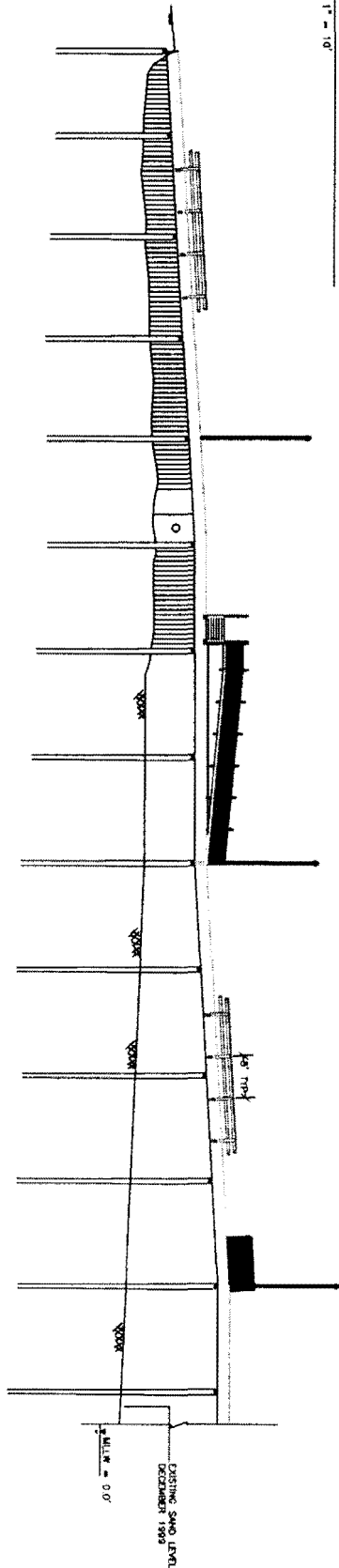
5-01-471 + 5-01-472

EXHIBIT # 3

PAGE 1 OF 3



NOTE:
ELEVATION OF DECK SURFACES
OF LIFTBOAT BEACH
TAKEN AT FL. OF 8' CURB UNO.



SCALE: 1" = 10'

NOBLE 20th Century Building, 1000 Ave. Suite 100, San Francisco, CA 94103 (415) 774-1111 FAX (415) 774-1112		PROJECT NO. 1000 SHEET NO. 1000 DATE 10/10/82 DRAWN BY J. J. J. CHECKED BY J. J. J. APPROVED BY J. J. J.	
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EX. 3
2/3

