

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
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Filed: 9/19/02  
180th Day: 5/24/03  
Staff: J. Johnson *of*  
Staff Report: 4/23/03  
Hearing Date: 5/9/03  
Commission Action:



## RECORD PACKET COPY

## STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-02-212

**APPLICANT:** City of Port Hueneme

**PROJECT LOCATION:** 550 Surfside Drive, Hueneme Beach Fishing Pier, City of Port Hueneme, (Ventura County).

**PROJECT DESCRIPTION:** Reconstruct mid section of Hueneme Pier with 92 new piles in two phases.

**SUBSTANTIVE FILE DOCUMENTS:** Pier Underwater Inspection Summary Report, dated September 2002, by City of Port Hueneme, Letter dated October 18, 2002 from State Lands Commission, Coastal Permit No. 4-02-033, City of Santa Barbara, Emergency Coastal Permit No. 4-02-212-G, Coastal Permit No. 4-01-198, State Parks and Recreation Department, Coastal Development Permit No. 4-01-134, Santa Barbara County Department of Parks & Recreation.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed project with four (4) special conditions addressing: Best Management Practices, Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris; Disposal of Construction Debris; Required Approvals; and Assumption of Risk, Waiver of Liability, and Indemnity Agreement. The City of Port Hueneme Pier was granted an Emergency Coastal Permit on September 9, 2002 to replace a total of 57 pilings, the first phase of this application. The first phase included the replacement of these 57 missing or deteriorated piles as a result of a tropical storm in the fall of 2002. This coastal application is the follow up application for this Emergency Coastal Permit. In addition, the City requests approval for the replacement of up to 35 additional deteriorated piles as a result of a recent approval of a State Wildlife Conservation Board Grant. This second phase will be constructed in October and November 2003 after the peak summer use period. The purpose of the proposed project is to stabilize the pier and prevent catastrophic failure in the event of a future severe storm. The pier is used by the public for fishing and other recreational purposes.

I. **STAFF RECOMMENDATION**

**MOTION:** I move that the Commission approve Coastal Development Permit No. 4-02-212 pursuant to the staff recommendation.

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permits 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 TO APPROVE THE PERMITS:**

The Commission hereby approves the Coastal Development Permits for the proposed development and adopts the findings set forth below on grounds that the development as conditioned 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 permits 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 permits are not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of these permits and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, these permits will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit(s) must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permits may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permits.

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. **Best Management Practices, Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris**

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a Best Management Practices Plan. The plan shall be subject to the following requirements, and shall at a minimum, include the following components:

- a. Construction debris and sediment shall be properly contained and secured on site with Best Management Practices (BMPs), or removed from construction areas, each day that construction occurs, to prevent the accumulation and/or unintended transport of sediment and other debris by wind, rain or tracking, which may discharge into coastal waters. Debris shall be disposed at an appropriate debris disposal pursuant to Special Condition Two (2).
- b. Best Management Practices (BMPs) designed to prevent spillage and/or run-off of construction related materials, sediment, or contaminants associated with construction activity, shall be implemented prior to the onset of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.
- c. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion.
- d. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction.

#### 2. **Disposal of Construction Debris**

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all debris/excavated material from the site. Should the dumpsite be located in the coastal zone, a coastal development permit shall be required.

**3. Required Approvals**

Prior to commencement of construction, the applicant agrees to obtain, and provide evidence to the Executive Director of, all other necessary State or Federal permits that may be necessary for construction of the proposed development (including the California Department of Fish and Game, California Regional Water Quality Control Board, and the United States Army Corps of Engineers) and/or evidence that notice has been provided to such agencies and no permit is required.

**4. Assumption of Risk, Waiver of Liability, and Indemnity Agreement**

Prior to issuance of the coastal development permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, which states that the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, surges, erosion, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

**IV. Findings and Declarations**

The Commission hereby finds and declares as follows:

**A. Project Description and Background**

The applicant is proposing to replace a total of 92 pilings in two phases on the Hueneme Pier located within Hueneme Beach Park (Exhibits 1 and 2). The first phase included the replacement of 57 missing or deteriorated piles as a result of Tropical Storm in the fall of 2002 and approved on an emergency basis (Exhibits 3 and 4). This coastal application is the follow up application for this Emergency Coastal Permit approved by the Executive Director on September 9, 2002. In addition, the City requests approval for the replacement of up to 35 additional deteriorated piles, Phase II, with funding as a result of a recent approval of a State Wildlife Conservation Board Grant. The piles will match the existing timber design, load limit, footprint and elevation of the pier. The purpose of the proposed project is to stabilize the pier and prevent catastrophic failure in the event of a future severe storm. The pier is used by the public for fishing and other recreational purposes.

Phase I of the proposed project was commenced in October 2002 as the emergency work necessary to stabilize the pier. Phase II will be carried out over a period of about two months from October to November, 2003, which is the late fall low use period. The midsection and end of the pier will be closed during this time for the reconstruction. The landward portion of the pier will remain open to the public.

The subject site is a beach front area leased to the City of Port Hueneme by the State Lands Commission for public recreational purposes. The State lease, No. 4661.9 began in 1972 will expire on April 30, 2021.

**B. Public Access**

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.*

Section 30212 of the Coastal Act states (in part):

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...*

Coastal Act Section 30220 provides that:

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water ways shall be protected for such uses.*

Coastal Act Section 30221 provides that:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that*

*could be accommodated on the property is already adequately provided for in the area.*

Coastal Act Sections 30210, 30211, and 30212 provide that maximum access and recreational opportunities shall be provided, consistent with public safety and the protection of coastal resources. Specifically, Sections 30210 and 30212 of the Coastal Act provides that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, and that maximum access shall be provided for all people consistent with public safety needs, the need to protect public rights, the rights of private property owners, and the need to protect natural resource areas from overuse. Sections 30220 and 30221 of the Coastal Act requires coastal areas suited for coastal recreational activities, that cannot be provided at inland water areas, be protected.

The Port Hueneme Pier is part of the Hueneme Beach Park, a popular recreational facility for residents and visitors to the City of Port Hueneme, City of Oxnard, other Ventura County residents and visitors alike.

The replacement of these support piles along the mid section of the pier will require the closure of this mid section and end section of the pier for safety purposes. However, the landward portion of the pier will remain open to the public. It is important to note that Phase II will be carried out over a period of about two months from October to November, 2003, which is the late fall low use period.

The Commission finds that the temporary adverse effects to public access and recreation during the two-month construction/repair phase of the proposed project will be minimized as proposed. Further, upon completion of the repairs, the pier will be reopened for public use and the proposed project will result in continued and safe use benefits for coastal public access and recreation opportunities. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Sections 30210, 30211, 30212, 30220, and 30221 of the Coastal Act.

### **C. Coastal and Marine Resources**

Section 30230 of the Coastal Act states that:

***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.*

Coastal Act Section 30233(a) states in part:

*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.*

Coastal Act Section 30240 states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. In addition, Section 30231 requires that the biological productivity and quality of coastal

waters be maintained. Section 30233 limits development in open coastal waters to boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. Finally, Section 30240 states that only development that is resource dependent may be allowed within environmentally sensitive habitat areas and requires development to be sited and designed to prevent impacts on environmentally sensitive habitat areas, parks, and recreation areas.

The proposed project would involve the replacement of about 92 wood pilings necessary to support the existing public pier, four piles were missing as of September 2002. As all work on the pier will be conducted from the existing decking, the construction activities will not require the displacement of any open space area or permanent or temporary use or occupation of the sandy beach. There will be a small staging area located onshore within about ten parking spaces within the Hueneme Beach Parking Lot A. The demand for public parking during the proposed late fall construction period is far less than the maximum parking demands during peak summer use periods. The Commission notes that the proposed project is intended to support the type of coastal dependent recreation facility that is permitted in open coastal waters.

The proposed project includes the removal of damaged wood pilings and the replacement with new wood pilings. Therefore, the proposed project does constitute "fill" within the meaning of Section 30233 of the Coastal Act. The Commission notes, however, that the proposed fill project (replacement of existing pilings) is specified as an allowable use under Coastal Act Section 30233(a)(4) (i.e., recreational piers providing public access and recreational activities) when adverse effects to the marine environment are minimized.

The applicant is proposing to use wooden pilings which have been wrapped or treated with a preservative approved by the California Department of Fish and Game. The California Department of Fish and Game has reviewed the applicant's proposal to use creosote treated and wrapped pilings and has indicated that the City's proposal is consistent with the California Department of Fish and Game's position on the use of creosote treated wood pilings for the repair of existing structures in marine waters. The creosote treated pilings will be wrapped with polyethylene or Kevlar matting impregnated with brown colored epoxy resin to prevent creosote leakage into the aquatic environment. Therefore, the applicant has designed the project to reduce this potential adverse impact to the marine environment, as required under Sections 30230, 30231, 30233, and 30240 of the Coastal Act. The proposed project has been designed in a manner to minimize adverse effects to the sensitive beach, slough, and marine resources on and adjacent to the subject site. However, the proposed project may result in potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment, materials, and/or debris.

Construction activities associated with the proposed project could result in the generation of debris and/or presence of equipment, materials and hazardous substances that could be subject run-off and wind dispersion into the marine environment. The presence of construction equipment, building materials, and debris on the subject site could pose hazards to sensitive marine organisms if construction site materials were discharged into the marine environment or left inappropriately on the project site. In addition, such potential discharges and disturbances to the marine environment could result in adverse effects to offshore habitat from increased turbidity and pollutants of coastal waters.

To protect marine resources and coastal water quality and to ensure that construction related adverse effects to the marine environment are minimized **Special Condition One (1)** of the subject permit requires the applicant to implement Best Management Practices (BMPs) throughout the duration of the proposed development. **Special Condition One (1)** requires the applicant to implement BMPs designed to prevent spillage and/or run-off of construction related materials, sediment, or contaminants associated with the construction activities and to prevent the accumulation and/or unintended transport of such pollutants and debris by wind, rain, or tracking that may result in discharge into the marine environment. The applicant shall be required to implement appropriate BMPs for the proposed project prior to the onset of the proposed construction activities and maintain the BMPs in a functional condition throughout the duration of the project. **Special Condition One (1)** also requires the applicant to ensure that no construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion and requires any and all debris resulting from construction activities to be removed from the project site within 24 hours of completion of construction. To further minimize the potential for unintended transport of debris or hazardous substances into coastal waters, **Special Condition Two (2)** of the subject permit requires that all construction debris be disposed of at an appropriate debris disposal site, and requires the applicant to provide evidence to the Executive Director of the disposal site prior to issuance of the CDP. The proposed development, as designed and conditioned, will serve to minimize potential adverse impacts on marine resources and coastal waters.

In addition, the proposed development may require approval from the United States Army Corps of Engineers, the California State Lands Commission, the California Department of Fish and Game, and/or the Regional Water Quality Control Board. The applicant has already submitted evidence to Commission staff confirming that the California State Lands Commission has approved this project in a letter dated October 18, 2002. The applicant has also submitted information regarding recommendations from the California Department of Fish and Game for the project. Therefore, **Special Condition Three (3)** requires the applicant to agree to obtain all necessary approvals from these agencies for the proposed project prior to commencement of construction, or evidence that notice has been provided to such agencies and no permit is required.

Further, as indicated above, the proposed stabilization and restoration project will involve the replacement of existing deteriorated and damaged wood components (pilings, caps, hardware, stringers, and decking as needed) with the same materials and design. The California Department of Fish and Game (DFG) has indicated in their letter dated September 10, 1998, provided in Coastal Permit No. 4-01-134, (Santa Barbara County Department of Parks & Recreation) that creosote-treated wood products (such as that used for piers) result in the release of polynuclear aromatic hydrocarbons (PAHs) into the marine environment. The letter from the DFG further indicates that the DFG recognizes that the use of alternative building materials such as concrete, metal, and plastics are not feasible for projects that involve the repair or stabilization of existing wooden structures, such as the City of Port Hueneme Pier. In cases where an existing wooden structure already exists, the DFG accepts the use of creosote-treated wood pilings. The creosote treated pilings wrapped with polyethylene or Kevlar matting impregnated with brown colored epoxy resin to prevent creosote leakage into the aquatic environment. In the case of the proposed stabilization project, the applicant is proposing that all wood pilings will be creosote-pressure treated and wrapped with polyethylene or kevlar matting impregnated with brown colored epoxy resin. The wrapping will serve to contain wood preservatives while also prolonging piling life expectancy and enhancing structural strength. Thus, the Commission notes that the proposed project is consistent with all recommendations of the California Department of Fish and Game and will serve to minimize adverse effects to the biological resources within the marine environment.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, 30233, and 30240 of the Coastal Act.

**D. Hazards and Shoreline Processes**

Section 30253 of the Coastal Act states, in part, that new development shall:

***(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***

***(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property. The City of Port Hueneme pier, like all wood piers along the California coast, is subject to a variety of hazardous conditions, including high waves and periodic fires.

The applicant submitted a report entitled, "Pier Underwater Inspection Summary Report prepared by the City of Port Hueneme dated September 2002 and two letters from Noble Consultants dated September 11, 2002 confirming the need to replace the deteriorated piles.

In addition, based on the information submitted by the City, the proposed development is located in an area of the Coastal Zone that has been identified as subject to potential hazards from wave action during the winter storm season. The pier has previously been subject to substantial damage as the result of storm occurrences in 1990 and 1995, in addition to 2002.

Although the proposed project will increase the stability of the developed portions of the subject site in relation to wave caused erosion, there remains some inherent risk to development on such sites. The Coastal Act recognizes that certain types of development, such as the proposed project to protect existing park facilities from storm waves, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. As such, the Commission finds that due to the unforeseen possibility of liquefaction, storm waves, surges, erosion, and flooding, the applicant shall assume these risks as a condition of approval.

Therefore, **Special Condition Four (4)** requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's assumption of risk will demonstrate that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development.

As the project site is located in an area which is periodically subject to waves, as well as fires, which has the potential to cause damage to structures or injury to those frequenting the area, it is necessary to indemnify the Commission or any or its agents or representatives against any claims of liability arising from the permitted development. **Special Condition Four (4)** requires that the applicant submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, and expenses of liability arising out of the acquisition, design, construction operation, maintenance, existence, or failure of the permitted project.

In addition, the proposed project will involve the replacement of piles. Although the applicant has stated that no equipment, debris, or materials will be stored or disposed of on the beach or in the coastal waters, the proposed project has the potential to generate debris and the presence of equipment and materials that

could be subject to tidal action on the beach. The presence of construction equipment, building materials, and debris on the subject site could pose hazards to beachgoers or swimmers if construction site materials were discharged into the marine environment or left inappropriately or unsafely exposed on the project site. Therefore, in order to ensure that potential adverse effects to public access are minimized, **Special Condition One (1)**, requires the applicant to ensure that no stockpiling of debris or construction materials shall occur on the sandy beach or coastal waters and that any and all debris resulting from the construction period shall be immediately removed from the project site and **Special Condition Two (2)** requires the applicant to dispose of all debris at an appropriate location.

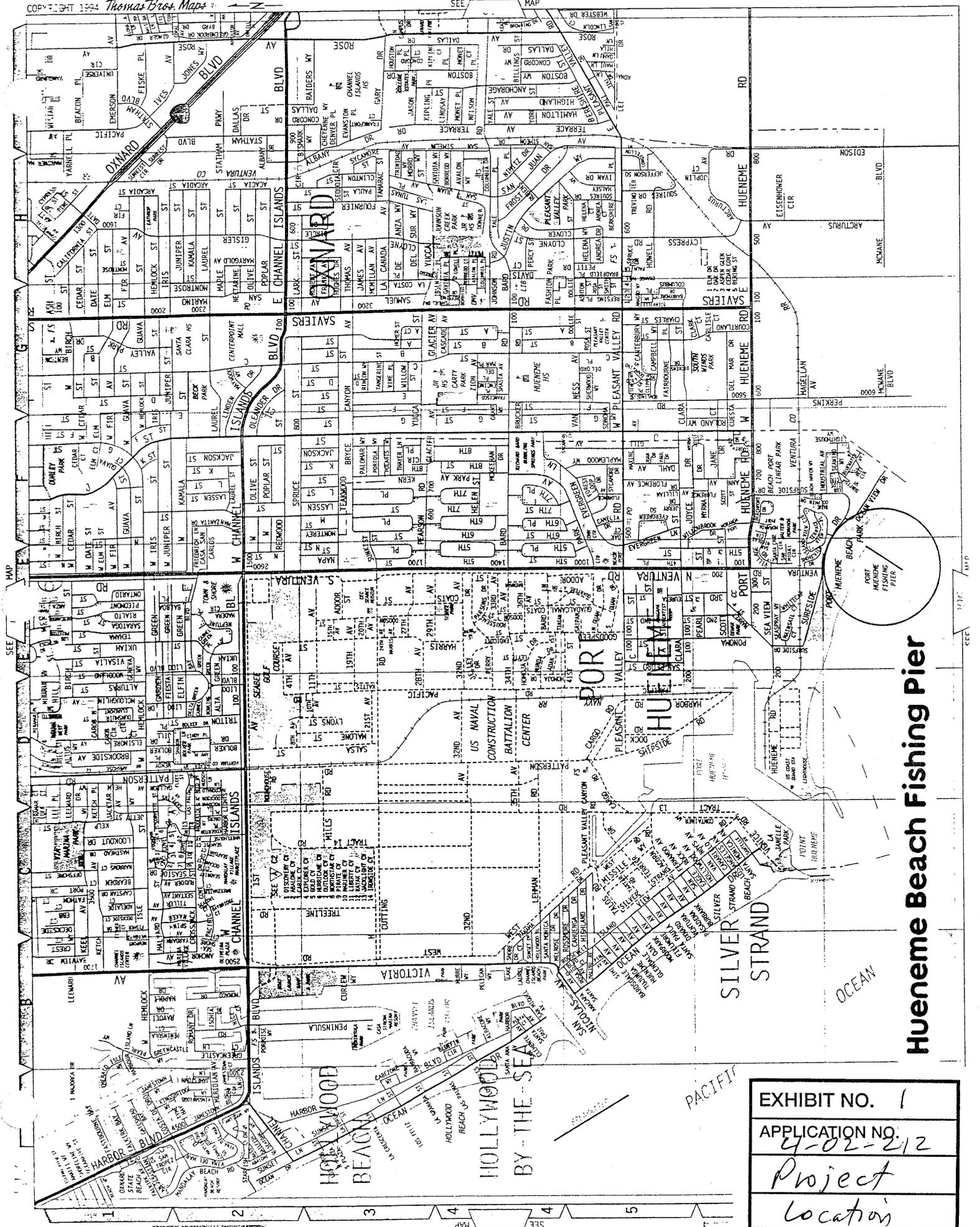
Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

**E. CEQA**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

402212porthuenemepierreport



# Hueneme Beach Fishing Pier

EXHIBIT NO.	1
APPLICATION NO.	4-02-212
Project	
Location	

SEE MAP

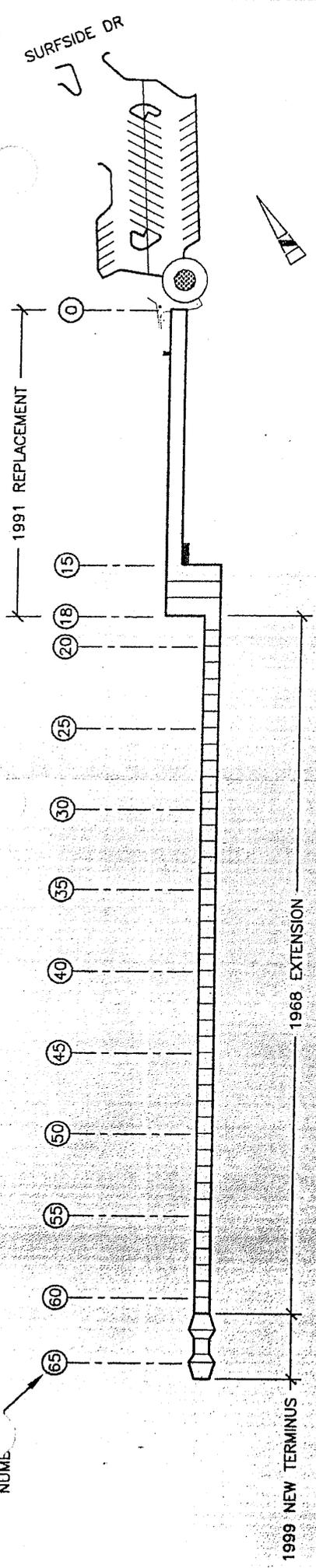
SEE MAP

SEE MAP

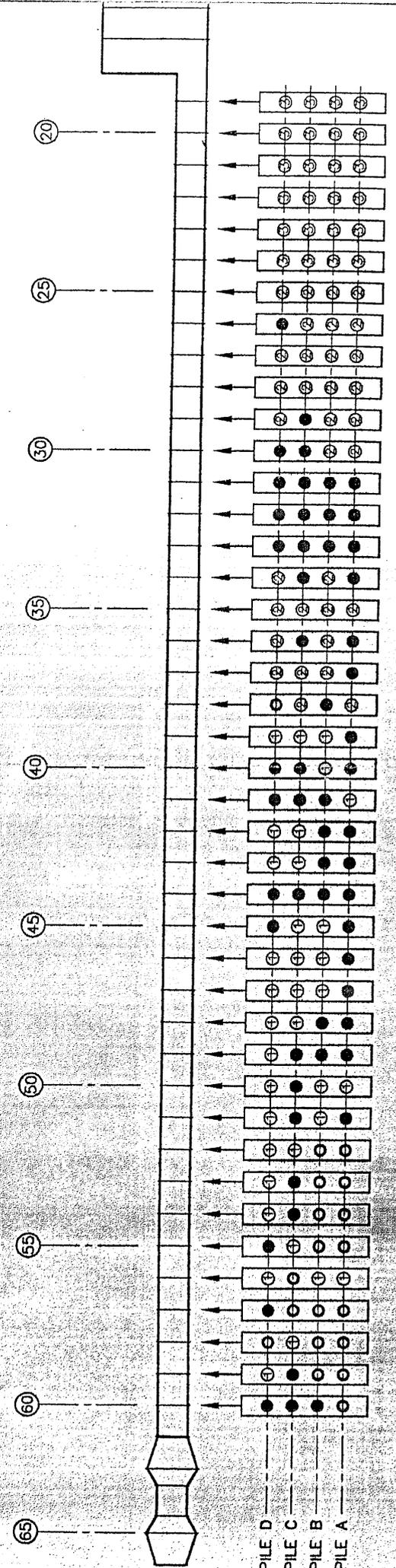
SEE MAP



DENOTES BY  
NUME



1 Port Hueneme Fishing Pier  
SCALE: 1" = 120'



2 Pile Replacement Master Plan  
SCALE: 1" = 50'

PILE REPLACEMENT SCHEDULE	
REPLACED 1995	20 PILES
EMERGENCY REPLACEMENT 2002	57 PILES
NEXT REPLACEMENT SEQUENCE	33 PILES
	24 PILES + 10 PILES BENT 18
	24 PILES BENT 17, 16, 15

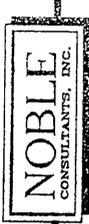
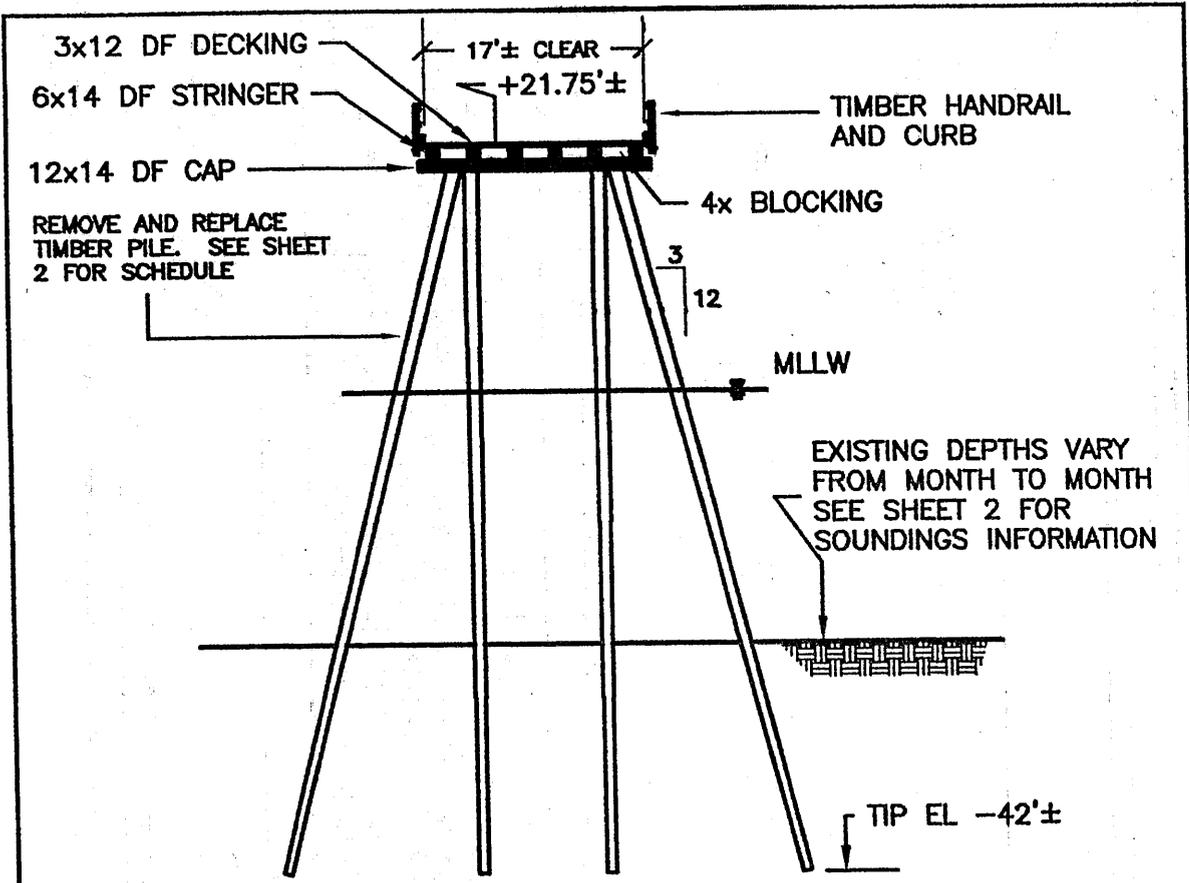
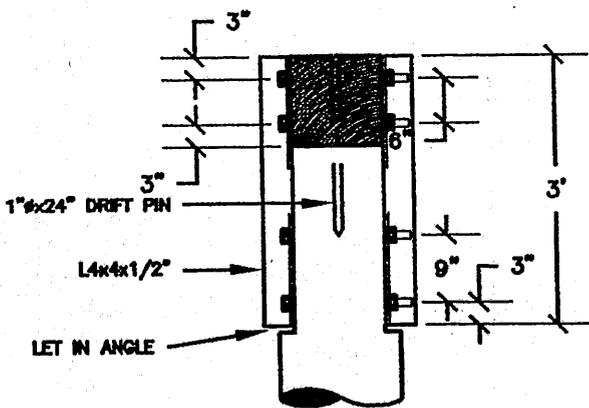


EXHIBIT NO. 3  
APPLICATION NO. 4-DZ-2/2  
Pile Replacement  
Master Plan

Figure 1



**(A) TYPICAL REPAIR SECTION: EXISTING BENT**  
 SCALE: 1" = 20'-0"



**(B) PILE TO CAP CONNECTION DETAIL**  
 SCALE: 1" = 2'-0"

**Repair Detail**

PORT HUENEME FISHING PIER  
 EMERGENCY REPAIRS

IN PACIFIC OCEAN  
 AT PORT HUENEME, CA  
 COUNTY OF VENTURA STATE: CA  
 APPLICATION BY CITY OF PORT HUENEME

SHEET 3 OF 3

EXHIBIT NO.	4
APPLICATION NO.	4-02-2/2
Repair	
Detail	