

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

RECORD PACKET COPY**W9c**

Filed: 12/10/2003
49th Day: 1/28/2004
180th Day: 6/7/2004
Staff: CP-LB
Staff Report: 3/24/2004
Hearing Date: April 14, 2004
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-03-320**APPLICANT:** Raymond Boiteux**AGENT:** Peter Swift, Swift Slip Dock & Pier Builders**PROJECT LOCATION:** 5469 Sorrento Drive, Naples Island/Alamitos Bay, City of Long Beach, Los Angeles County.**PROJECT DESCRIPTION:** Remove and replace a private residential boat dock, pier and gangway in same location using the existing piles.**LOCAL APPROVALS:** Long Beach City Planning Dept. Approval in Concept, 8/4/2003.
Long Beach City Marine Bureau Approval in Concept, 7/29/2003.**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Long Beach certified Local Coastal Program (LCP), July 22, 1980.
2. Coastal Development Permit 5-02-048 (Kober - 5615 Sorrento Dr.)
3. Coastal Development Permit 5-03-584 (Diamond - 5635 Sorrento Dr.)
4. U.S. Army Corps of Engineers Permit Application, Project No. 200301401-KW.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission grant a coastal development permit for the proposed development with special conditions to protect marine resources, water quality, and public access along the shoreline trail (City right-of-way) that exists immediately seaward of the applicant's bay-fronting lot. Special Condition One requires that the project plans be revised in order to ensure that the proposed new pier deck will not interfere with public pedestrian access along the shoreline public accessway where it abuts the applicant's seaward property line. The applicant agrees with the recommendation. **See Page Two for the Motion.**

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit 5-03-320 per the staff recommendation as set forth below."*

Staff recommends a **YES** vote which would result in the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

I. Resolution: 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 will be in conformity with the policies of Chapter 3 of the Coastal Act. 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. Revised Project Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised project plans to the Executive Director for review and approval. The revised plans shall conform to, and clearly demonstrate compliance with, the following requirements:

- A. The landside footing of the pier shall be sited and constructed on the applicant's private property, entirely inland of the City right-of-way.
- B. The pier deck shall be designed and constructed with an elevation that minimizes interference with public access along the fifteen-foot wide City right-of-way. This means that the public shall be able to walk across the pier deck on the inland portion of the City right-of-way (where the public accessway abuts the applicant's seaward property line), and that the public shall be able to pass under the pier at low tide (i.e. at least five feet of head clearance shall be provided on the seaward edge of the City right-of-way).
- C. If a gate is installed on top of the pier, such gate shall be located on part of the pier that is entirely seaward of the City right-of-way.
- D. This Commission action does not permit any modifications or improvements to be made to the development that exists seaward of the applicant's property line (e.g. concrete retaining wall and other fill material that currently exists within the City right-of-way) except for removal and replacement of the existing pier, gangway and dock. Any repair or replacement of the retaining wall shall be subject to a new coastal development permit or an amendment to this coastal development permit.

The permittee shall undertake the development in accordance with the final plans approved by the Executive Director pursuant to this condition. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Permit Compliance

The permitted use of the approved dock and pier is for boating related uses only. No boat baths or other type of permanent development is permitted to occupy the boat docking area. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

3. Construction Responsibilities and Debris Removal

- A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- B. Any and all construction material shall be removed from the site within ten days of completion of construction and disposed of at an appropriate location.
- C. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
- D. If turbid conditions are generated during construction, a silt curtain will be utilized to control turbidity.
- E. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
- F. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- G. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into Alamitos Bay and a pre-construction meeting to review procedural and BMP guidelines.
- H. The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

4. Best Management Practices (BMP) Program

By acceptance of this permit, the applicant agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

A. Boat Cleaning and Maintenance Measures:

- 1. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
- 2. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and only minimal amounts shall be used.
- 3. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

B. Solid and Liquid Waste Management Measures: All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or gutter.

C. Petroleum Control Management Measures: Oil absorbent materials should be examined at least once a year and replaced as necessary. The applicant shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. Bilges shall be cleaned and maintained. The use of detergents or soaps that can be discharged by bilge pumps is prohibited.

5. Public Access To and Along the Waterway

Except for the temporary disruptions that will occur during the completion of the permitted development, the applicant shall not interfere with public access along the shoreline area located seaward of the applicant's private property.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project involves the renovation of an existing private boat dock and pier on Naples Island in southeast Long Beach (Exhibit #2). The proposed project is in Alamitos Bay, situated between an existing single-family residence and the City Pierhead Line (Exhibit #4). The proposed dock and pier, to be used only for boating recreation purposes, are associated with the applicant's adjacent single family home.

The applicant proposes to remove and replace the existing wooden pier, gangway and 8'x 25' floating dock in the same location using the five existing piles: three T-piles and two 14" square concrete piles (Exhibit #5). No new piles or other types of new fill are proposed to be placed in the water. The renovated pier would provide the applicant private access to the new gangway and floating dock in the bay in the same manner as it currently does.

Since the proposed project does not include any new piles, or the removal or relocation of the five existing piles, and no disturbance of the intertidal or subtidal area is proposed, the applicant has not surveyed the project site to determine whether any eelgrass (*Zostera marina*) or noxious algae (*Caulerpa taxifolia*) exists. The applicant asserts that no eelgrass beds would be disturbed, if they do exist, and no noxious algae would be dispersed. The proposed project has received "Approvals in Concept" from the City of Long Beach Planning Department and the City of Long Beach Marine Bureau. The applicant is in the process of receiving a permit from the U.S. Army Corps of Engineers (File No. 200301401-KW).

B. Public Access and Recreation

The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities be provided and that development shall not interfere with such

access. Therefore, the proposed development be designed to avoid any new adverse impacts on public access to the coast or to nearby recreational facilities.

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 30221 of the Coastal Act states:

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.

The proposed pier renovation would span a fifteen-foot wide City right-of-way that the certified City of Long Beach LCP designates as a shoreline public accessway (Exhibit #7). While the proposed project has not been designed to improve the public's ability to use the City right-of-way as a shoreline accessway, the applicant does intend to maintain the status quo in regards to the public's use of the accessway.

The applicant's house and front yard area are situated immediately inland of the fifteen-foot wide City right-of-way that the certified City of Long Beach LCP designates as a shoreline public accessway (Exhibit #3). The landside footing of the existing pier, along with a failing concrete retaining wall and other fill material landward of the wall, currently occupy part of the City right-of-way and partially obstruct public access along the right-of-way¹ (Exhibit #7). Two sets of concrete stairways, one on each side of the existing pier and running parallel to the pier, are also situated within the City right-of-way. The area situated on the seaward side of the failing retaining wall is an intertidal mudflat as the bay waters reach the retaining wall during high tides (Exhibit #5, p.2).

¹ Commission staff has attempted to determine when this development within the City right-of-way occurred, but it has not been successful. The study of air photos has been inconclusive. The applicant theorizes that the concrete retaining wall, stairways and fill may have been placed in the right-of-way in the 1960s. A City of Long Beach pier and dock permit for the applicant's property, dated June 16, 1960, has been provided as part of the coastal development permit application, but it does not authorize any development other than a pier, brow and float. No fill or retaining wall is mentioned in the 1960 City permit. While there is no evidence at this time this development occurred after the effective date of the Coastal Act, there is also not any evidence that it was placed subject to a lease or other approval from local government. Therefore, it must be clear that by this action the Commission is not approving this fill on public property.

Although the applicant is agreeing to build the new landside footing of the pier on its own private property, the applicant is not proposing to remove the failing concrete retaining wall or any of the fill material that currently exists within the right-of-way seaward of the private property (Exhibit #7). The applicant asserts that the two concrete stairways on either side of the pier (and within the City right-of-way) allow a continuation of lateral shoreline public access by providing a convenient stairway access between the mudflats (beach) and the higher part of the bank where the public access exists on the public property along the seaward edge of the yards of the bay-fronting homes. In other words, the public will continue to be able to pass along the shoreline accessway (on the City right-of-way) by using the two existing stairways to traverse the site on top of the fill that exists on the public property and inland of the failing retaining wall (Exhibit #6). At low tides, the applicant asserts that the public will also be able to pass under the pier and walk along the muddy shoreline, as is now possible.

Therefore, the proposed project, as proposed and conditioned, would not create any new adverse impacts on public access to the coast or to nearby recreational facilities. Special Condition One requires the applicant to submit revised plans for the pier to ensure that the pier will not block public access along the fifteen-foot wide City right-of-way. Special Condition One is consistent with the applicant's proposal to maintain the status quo as described in the letter dated December 9, 2003 and attached as Exhibit #6. The proposed replacement of the floating dock and gangway would not have any affect on public access or recreation as they are located offshore and within the City Pierhead line (Exhibit #4). Thus, as conditioned, the proposed development conforms with the public access and recreation policies of the Coastal Act.

C. Recreational Marine Resources

The proposed recreational boat dock development and its associated structures are an allowable and encouraged marine related use.

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30233(a) of the Coastal Act states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects...

The proposed project does not include any new piles, or the removal or relocation of the five existing piles, and no disturbance of the intertidal or subtidal area is proposed. As

conditioned, the project is to be used solely for recreational boating purposes, will not significantly adversely impact eelgrass beds, and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*.

In addition, Special Condition 1.D prevents potential adverse impacts by clearly stating that this Commission action does not permit any modifications or improvements to be made to the development that exists seaward of the applicant's property line (e.g. concrete retaining wall and other fill material that currently exists within the City right-of-way) except for removal and replacement of the existing pier (except for the pilings), gangway and floating dock. Any repair or replacement of the existing retaining wall shall be subject to a new coastal development permit or an amendment to this coastal development permit in order to analyze what effects, if any, such development would cause to marine resources and other coastal resources. Therefore, the proposed project, as conditioned, conforms with Sections 30224 and 30233 of the Coastal Act.

D. Water Quality

The proposed project will be occurring within coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

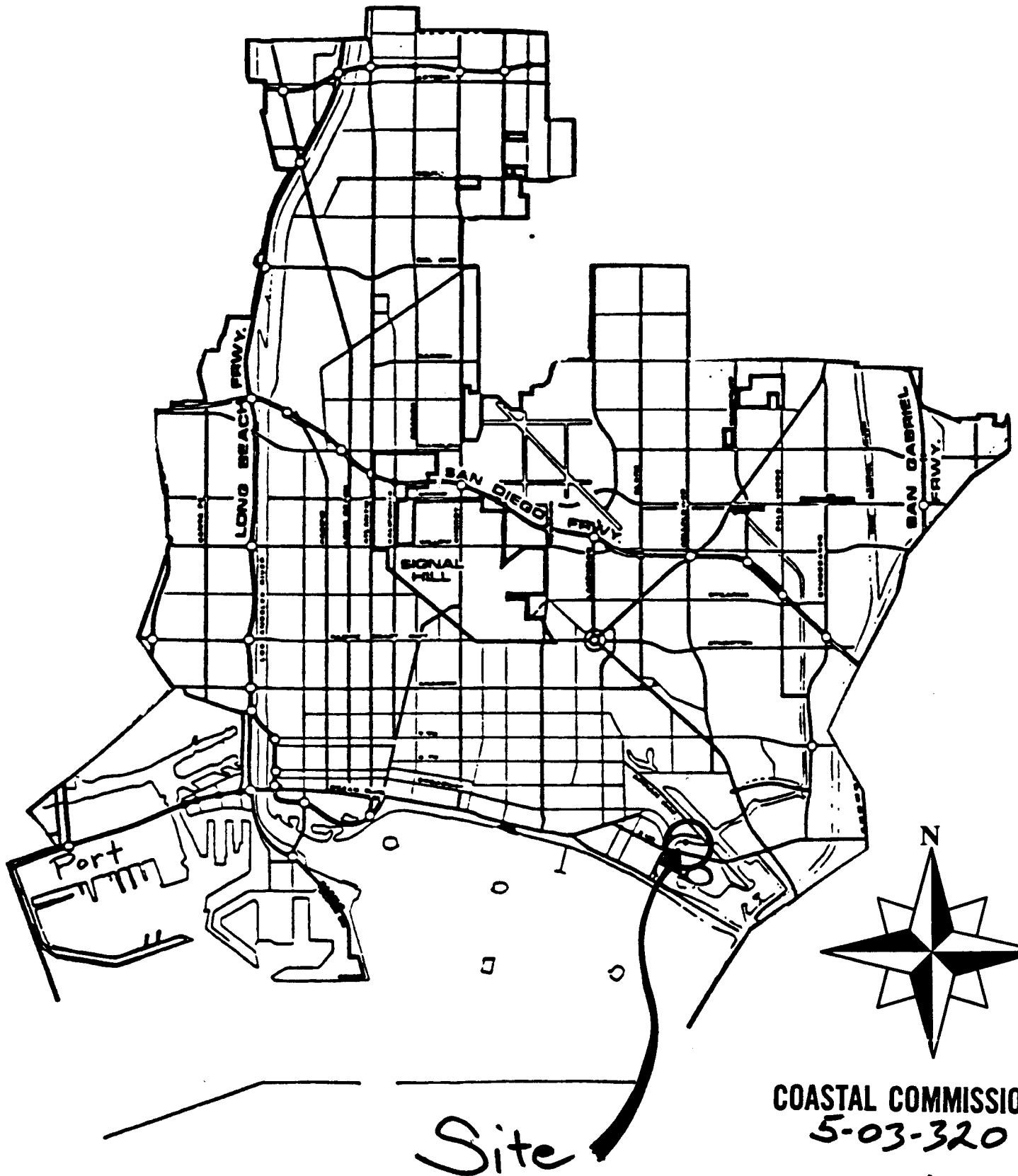
E. Local Coastal Program

A coastal development permit is required from the Commission for the proposed development because it is located on tidelands within the Commission's area of original jurisdiction pursuant to Section 30519 of the Coastal Act. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Long Beach certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Long Beach LCP on July 22, 1980. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and does not conflict with the certified LCP for the area.

F. California Environmental Quality Act (CEQA)

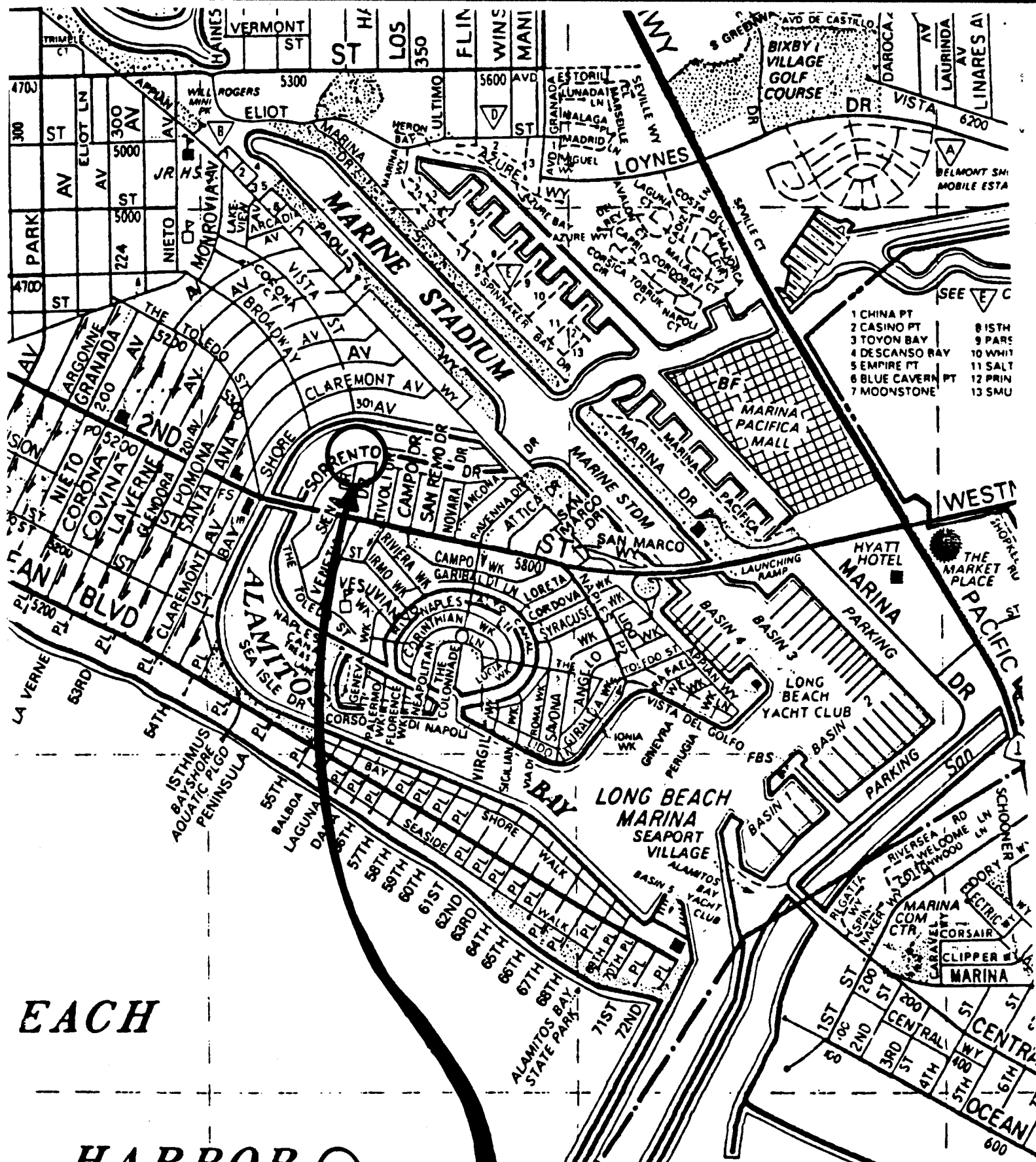
As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified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

City of Long Beach



COASTAL COMMISSION
5-03-320

EXHIBIT # 1
PAGE 1 OF 1



EACH

HARBOR Site:
5469 Sorrento Drive

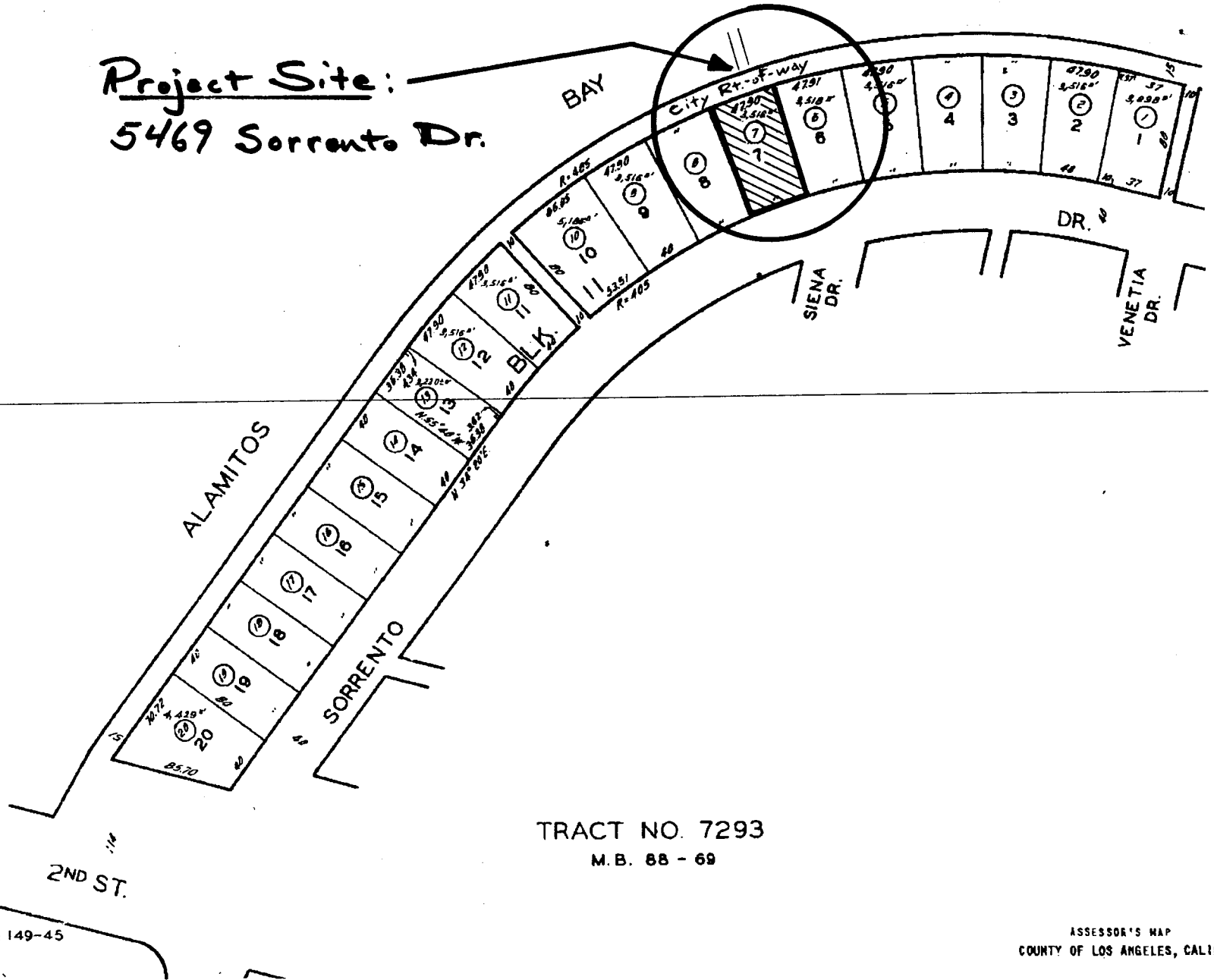
COASTAL COMMISSION
5-03-320
 EXHIBIT # 2
 PAGE 1 OF 1

7244

1

SCALE 1" = 60'

Project Site:
5469 Sorrento Dr.



TRACT NO. 7293
M.B. 88 - 69

CODE
5500

2ND ST.

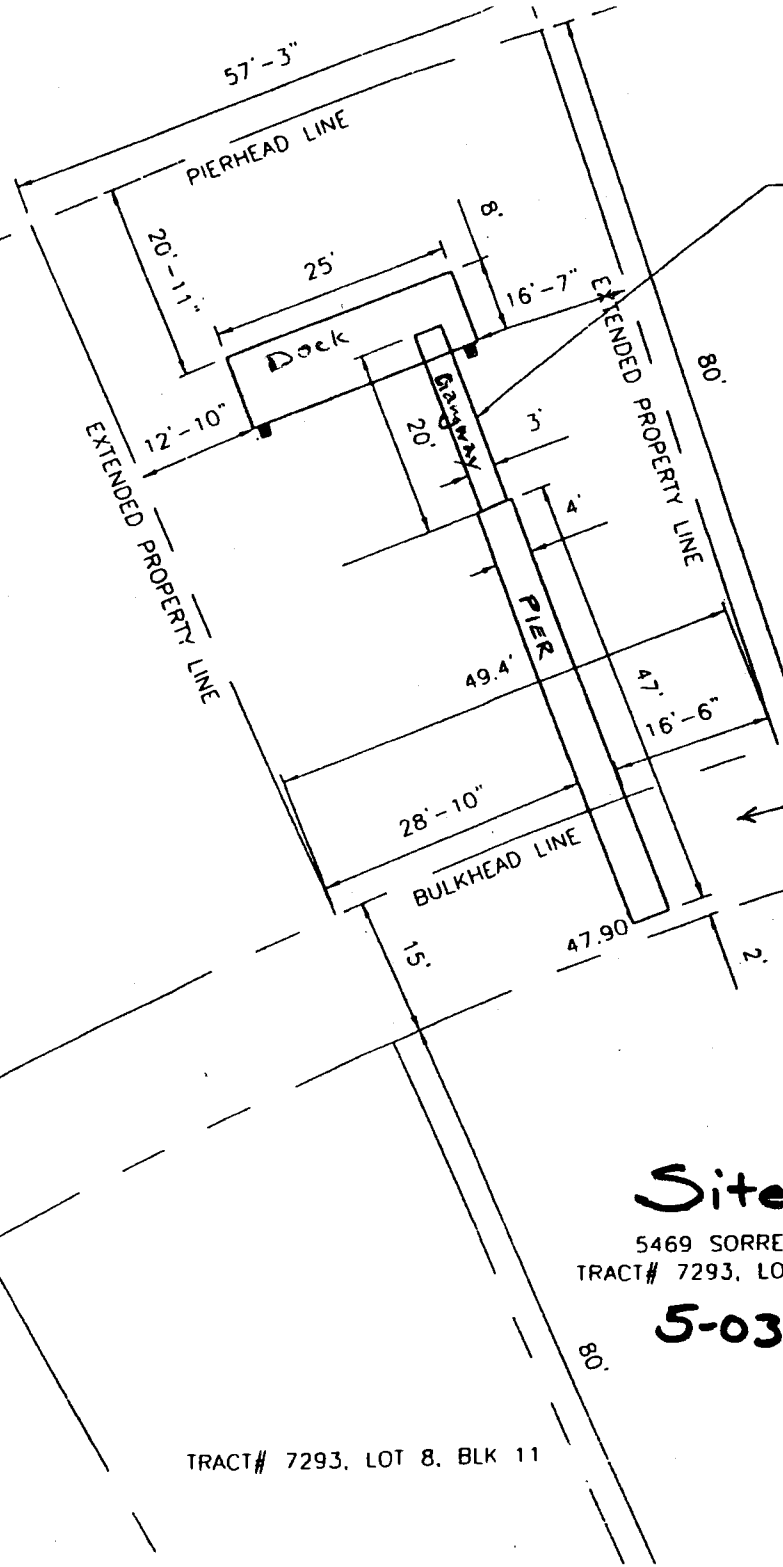
FOR PREV. ASSMT. SEE: 149-45

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF

COASTAL COMMISSION
5-03-320

EXHIBIT # 3
PAGE 1 OF 1

ALAMITOS BAY



REMOVE AN REPLACE 8x25 FLOAT, 3x20 BROW,
 & 4x47 PIER LIKE FOR LIKE W/ NO DIMENSIONAL
 CHANGES. (2)14" SQUARE PILES AND (3)T PILES TO
 REMAIN.

Site
 5469 SORRENTO DR
 TRACT# 7293, LOT 7, BLK 11
5-03-320

TRACT# 7293, LOT 8, BLK 11

TRACT# 7293, LOT 6, BLK 11

TRACT# 7293, LOT

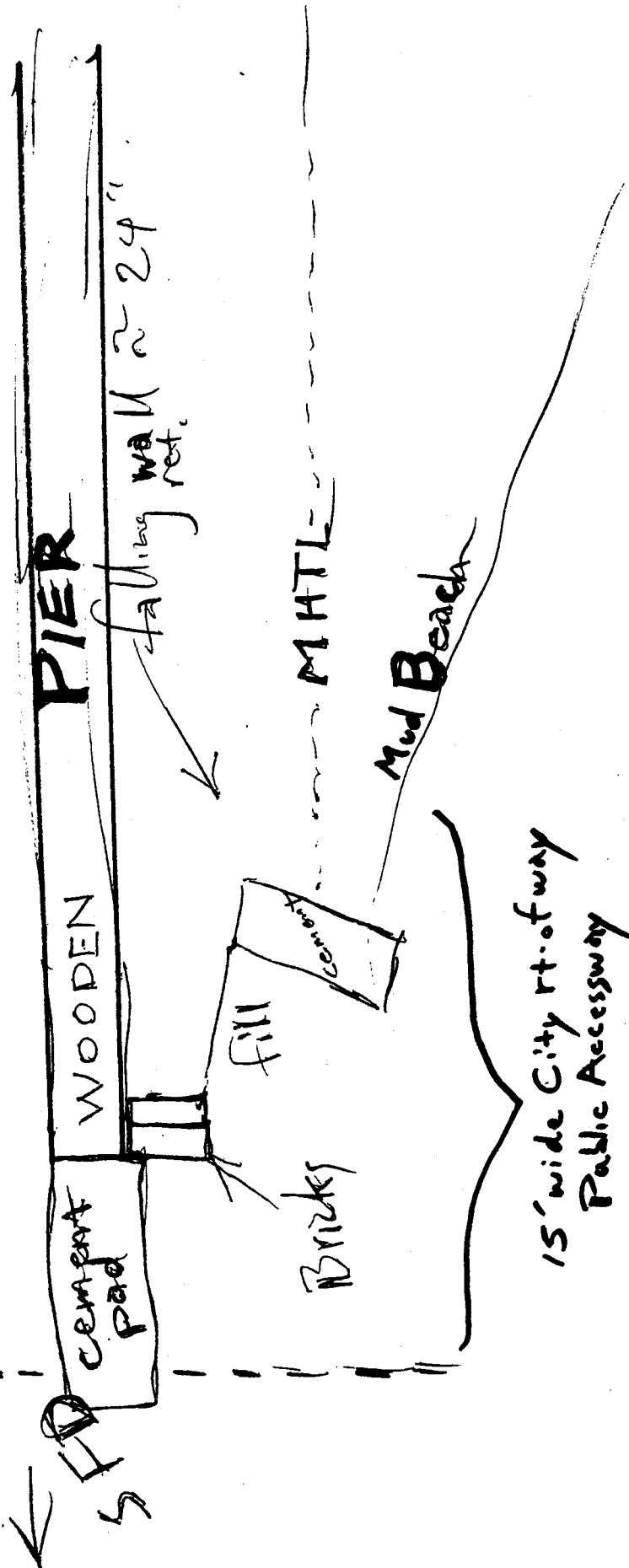


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5-03-320

EXHIBIT # 4
 PAGE 1 OF 1

8-27-2003 CP

Approx.
PL



15' wide City Rt-of-way
Public Accessway

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 2

SWIFT SLIP
Dock and Pier Builders, Inc.
2027 Placentia Avenue
Costa Mesa, CA 92627
(949) 631-3121
Fax (949) 631-3122
email: bhswiftslip@sbcglobal.net
www.swiftslipdock.com

RECEIVED
South Coast Region

DEC 10 2003

CALIFORNIA
COASTAL COMMISSION

December 9, 2003

Charles Posner
CALIFORNIA COASTAL COMMISSION
200 Oceangate, Suite 1000
Long Beach, CA 90802

Via Fax and U.S. Mail (562) 590-5084

RE: Application No. 5-03-320
Boiteux Pier, 5469 Sorrento Drive, Long Beach, CA 90803

Dear Chuck:

Enclosed is a copy of a letter from the City of Long Beach stating the City's position concerning the issue of the 15' right of way on Sorrento Drive in Long Beach. I am told these are the new guidelines.

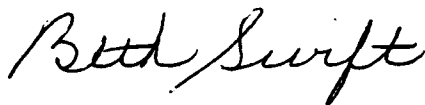
What we are now proposing to do for the Boiteux project is to cut the concrete slab back to the property line. The pier will connect to that. A gate will be constructed and installed on the pier at least 5 feet seaward of the property line. This will allow a 5 foot wide clear path 5 feet seaward of the property line. This path can be accessed by the public using either set of stairs as shown on the attached drawing. We will revise our plans to show the pier connecting to the concrete slab at the property line.

In your October 1, 2003 you requested a survey of the project site and a description of how the pier will be connected. We sent you a response on October 9, 2003.

Please contact us at your earliest convenience if you should have any further questions or require any additional information.

Very truly yours,

SWIFT SLIP DOCK AND PIER BUILDERS



Beth Swift
Permit Division

/brs
Enclosures

COASTAL COMMISSION
5-03-320

EXHIBIT # 6
PAGE 1 OF 2



This department recently reviewed a proposal for the construction of a boat dock and access bridge which would extend into the 15-foot wide pedestrian right-of-way created on Tract Map No. 7293 (copy of tract map attached). This is the first new construction proposal submitted after the City's 2001-2003 enforcement activities carried out for the purpose of removing obstacles to pedestrian use of the right-of-way.

Henceforth, all new boat dock construction plans that extend into the right-of-way must show a 5-foot wide clear path for pedestrians. There are several ways to accomplish this objective:

- Relocate any retaining wall within the right-of-way to the property line, and construct the gate to the dock at least 5 feet seaward of the property line, thereby keeping a 5-foot clear path.
- Maintain an existing retaining wall in the right-of-way, and construct the gate to the dock at least 5 feet away from the retaining wall, providing a 5-foot clear path between the wall and the gate.
- Maintain an existing retaining wall in the right-of-way, and provide the 5-foot wide clear path between the property line and the retaining wall.
- Raise the access bridge to the dock to provide at least 7 feet of overhead clearance between the bridge structure and the natural sand bottom within the 15-foot wide right-of-way.

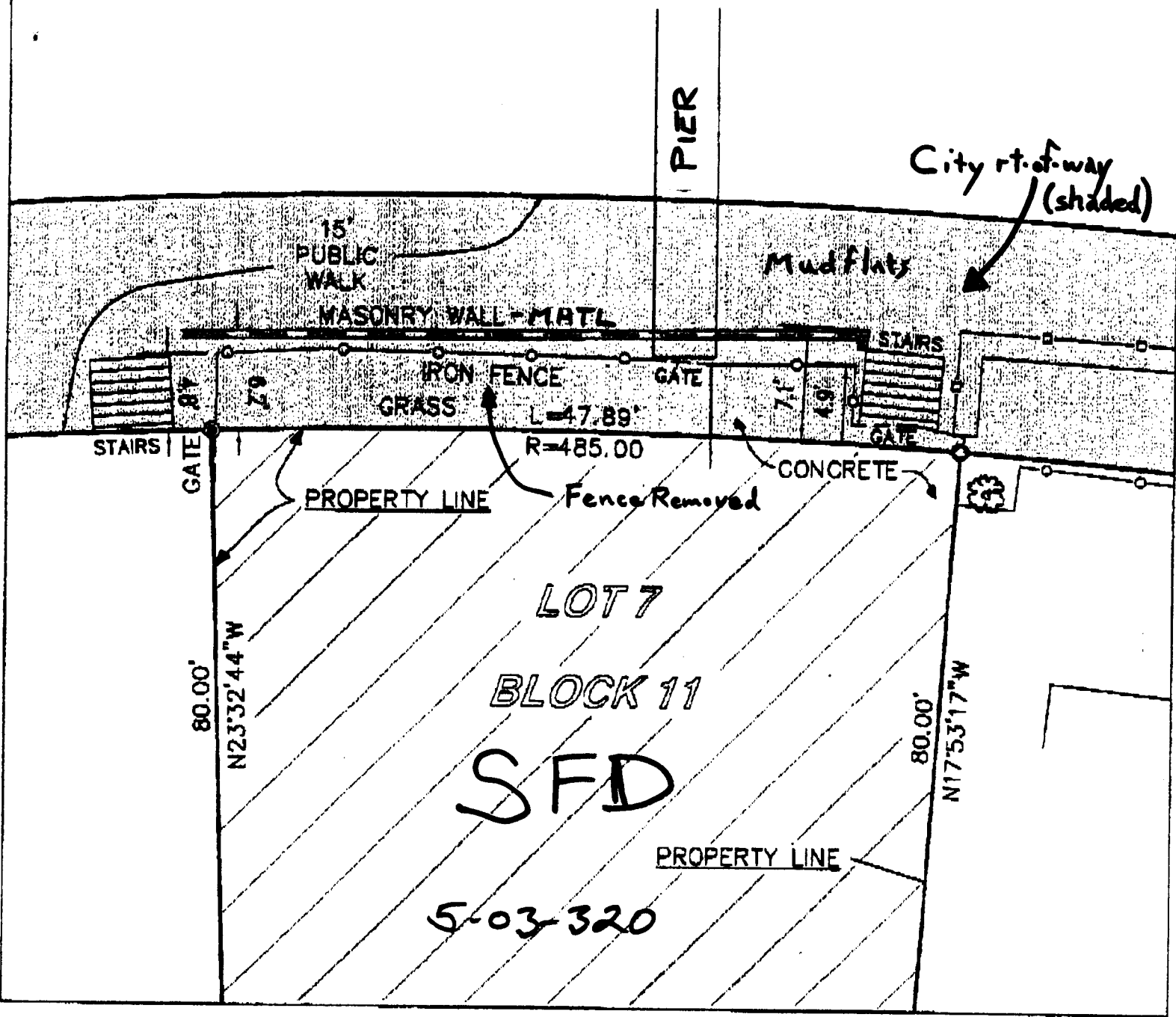
The 5-foot clear path may be natural sand, decomposed granite, boardwalk or hard paving, and must be contiguous with or accessible from the path in front of the adjoining properties. No shrubbery or other obstructions may be placed in the path. An installation and maintenance agreement with the Department of Public Works is required for boardwalk or hard paving. Plans for any construction within the 15-foot wide right-of-way must be reviewed and approved by this Department. If there are any questions regarding this matter, please direct them to Sue Castillo, Right-of-Way Coordinator, at 570-6996.

MC:SC/pi/Eng/CE/Mark/Ltr/Sorrento Bch dock plan standards

cc: Fady Mattar, Acting Director of Planning and Building; Don Grussing, Senior Civil Engineer, Project Development

EXHIBIT # 6
PAGE 2 OF 2

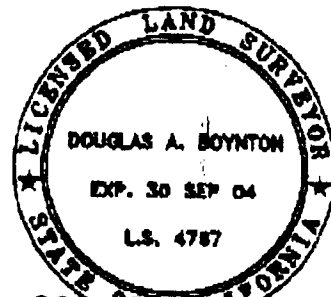
ALAMITOS BAY



5469 SORRENTO DRIVE
LONG BEACH, CALIFORNIA

- ⊙ SET 1" IRON PIPE WITH TAG LS-4787
- ⊙ SET LEAD & TACK & TAG LS-4787

DATE OF SURVEY: JULY, 2001



COASTAL COMMISSION

SORRENTO BEACH SURVEY



SCALE: 1" = 10'

db

DULIN & BOYNTON
LICENSED SURVEYORS

729 E. WILLOW STREET • (562) 426-6464 FAX (562) 426-7707 • SIGNAL HILL, CA. 90806

EXHIBIT # 7
PAGE 1 OF 1

