

CALIFORNIA COASTAL COMMISSION

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

T6ePermit Application No. **5-06-141**

Date: May 25, 2006

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**ADMINISTRATIVE PERMIT****APPLICANTS:** City of Newport Beach**PROJECT****DESCRIPTION:** Dredging of 4,000 cubic yards of sediment and nourishment of the adjacent public beaches fronting the existing bulkhead using suitable dredged material.**PROJECT****LOCATION:** Public beaches along North, South, and East Bay Front, Balboa Island
Newport Beach (Orange County)**EXECUTIVE DIRECTOR'S DETERMINATION:** The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Tuesday, June 13, 2006
10:00 am
Fountain Grove Inn
101 Fountain Grove Parkway
Santa Rosa, CA 95403
(707) 578-6101

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: Karl Schwing
Title: Supervisor, Regulation & Planning

STANDARD CONDITIONS:

1. UUUUNotice 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 term or 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.

SPECIAL CONDITION: See page four to six.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

A. Project Description

The subject sites are located at the public beaches along North, South, and East Bay Front, Balboa Island, Newport Beach (Exhibits #1-2). A total of approximately 4,000 cubic yards of sandy dredge material would be placed at seven (7) project sites, as follows: Area 1: Abalone Avenue to Grand Canal on S. Bay Front, 300 cubic yards; Area 2: Marine Avenue to Onyx Avenue on S. Bay Front, 280 cubic yards; Areas 3: Approximately from Coral Avenue to Diamond Avenue on S. Bay Front, 890 cubic yards; Area 4: Beach along Park Avenue and E. Bay Front, 520 cubic yards; Area 5: Diamond Avenue to Turquoise Avenue on S. Bay Front, 915 cubic yards; Area 6: Pearl Avenue to Garnet Avenue on S. Bay Front, 225 cubic yards; and Area 7: Collins Avenue to Diamond Avenue on N. Bay Front, 700 cubic yards. Inland of these public beaches is the bulkhead, a paved public walkway that encircles the island and single-family residences. The subject beaches are popular public recreational areas.

The Coastal Development Permit would only be for the deposition of suitable dredged material for beach nourishment. The beach nourishment is a non-exempt form of development given the placement of beach material on a beach and the attendant use of mechanized equipment on a beach for its

placement. The actual dredging activity, which is maintenance dredging of less than 100,000 cubic yards in a one-year period, is exempt from coastal development permit requirements.

As proposed, the dredged material would be pushed from the lower tidal zone to the upper tidal zone, against the bulkhead via a small rubber-tired tractor during super low tide. Where necessary, the sand would be spread mechanically to evenly distribute the sand over the deposition area. The maximum quantity of material that would be placed on the beach under this permit is 4,000 cubic yards.

The sites have been surveyed for eelgrass and dredging and beach nourishment would occur at least 25 feet away from eelgrass beds. The sites have also been surveyed for *Caulerpa taxifolia* and none was found in the project area. These eelgrass and *Caulerpa taxifolia* surveys are valid for a limited period of time (until the next growing season for eelgrass and 90 days for *Caulerpa taxifolia*). If construction does not occur within the respective time periods, a subsequent survey will be required. If any eelgrass or *Caulerpa taxifolia* are found on the project site, Special Conditions No. 2 and No. 3 identify the procedures necessary to be completed prior to beginning any construction.

Coastal public access is available along Balboa Island's public walkway, which encircles the entire island. The proposed project will not interfere with access along the walkway. Furthermore, there will only be a temporary impediment to access along the beaches where the nourishment will be taking place (approximately 2 to 5 days per site) and once work is completed, public access along the beach will be enhanced.

The applicants have provided a baseline evaluation of the suitability of the dredge materials for beach nourishment. This evaluation is contained in a report by MBC Applied Environmental Sciences dated March 2006. This report indicates that dredge materials at the site are suitable for beach nourishment from a grain-size suitability standpoint (i.e. the dredged material has 80% or greater sand content).

The proposed project has received an approval in concept from the City of Newport Beach Harbor Resources Division. The Regional Water Quality Control Board (RWQCB) has determined that the proposed project will not adversely impact water quality if standard construction methods and materials are used. The applicant has applied for a permit from the U.S. Army Corps of Engineers.

B. Marine Resources

The proposed development is the nourishment of a beach, which promotes recreation and boating that are allowable and encouraged marine related uses. The proposed development has been conditioned to minimize any significant adverse effect the project may have on the environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30224, 30230, 30231 and 30233 of the Coastal Act.

C. Water Quality

The proposed work will be occurring on, within, or adjacent to 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. To reduce the potential for post-construction impacts to water quality the Commission requires the continued use and maintenance of post construction BMPs. As conditioned, the Commission finds that the development conforms to Sections 30230 and 30231 of the Coastal Act.

D. Local Coastal Program

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated in October 2005. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

E. California Environmental Quality Act (CEQA)

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that 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.

SPECIAL CONDITIONS:

1. CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL

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

- (a) No construction materials, debris, waste, oil or liquid chemicals shall be placed or stored where it may be subject to wave erosion and dispersion, stormwater, or where it may contribute to or come into contact with nuisance flow;
- (b) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
- (c) No machinery or construction materials not essential for project implementation shall be allowed at any time in the intertidal zone or in the harbor;
- (d) Sediment for beach nourishment shall be placed, not dumped, using means to minimize disturbance to bay sediments and to minimize turbidity;
- (e) If turbid conditions are generated during construction a silt curtain shall be utilized to minimize and control turbidity to the maximum extent practicable;
- (f) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- (g) All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day;
- (h) The discharge of any hazardous materials into the harbor or any receiving waters shall be prohibited;
- (i) Prior to commencement of beach nourishment the boundaries of any eelgrass meadow within the general project area shall be marked with buoys so that equipment and vessel operators shall avoid damage to eelgrass meadows;
- (j) Barges and other vessels shall be anchored to avoid encroachment into any eelgrass bed.
- (k) Barges and other vessels shall avoid transit over any eelgrass meadow to the maximum extent practicable. Where transit over eelgrass beds is unavoidable such transit shall only occur during high tides when grounding and potential damage to eelgrass can be avoided.

2. Eelgrass Survey

- A. Pre Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.
- B. Post Construction Eelgrass Survey.** If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within one month after the conclusion of construction, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.
- 3. Pre-construction *Caulerpa Taxifolia* Survey**
- A.** Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B.** The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C.** Within five (5) business days of completion of the survey, the applicant shall submit the survey:
- (1) for the review and approval of the Executive Director; and
 - (2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through

William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).

- D.** If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicants' Signature

Date of Signing

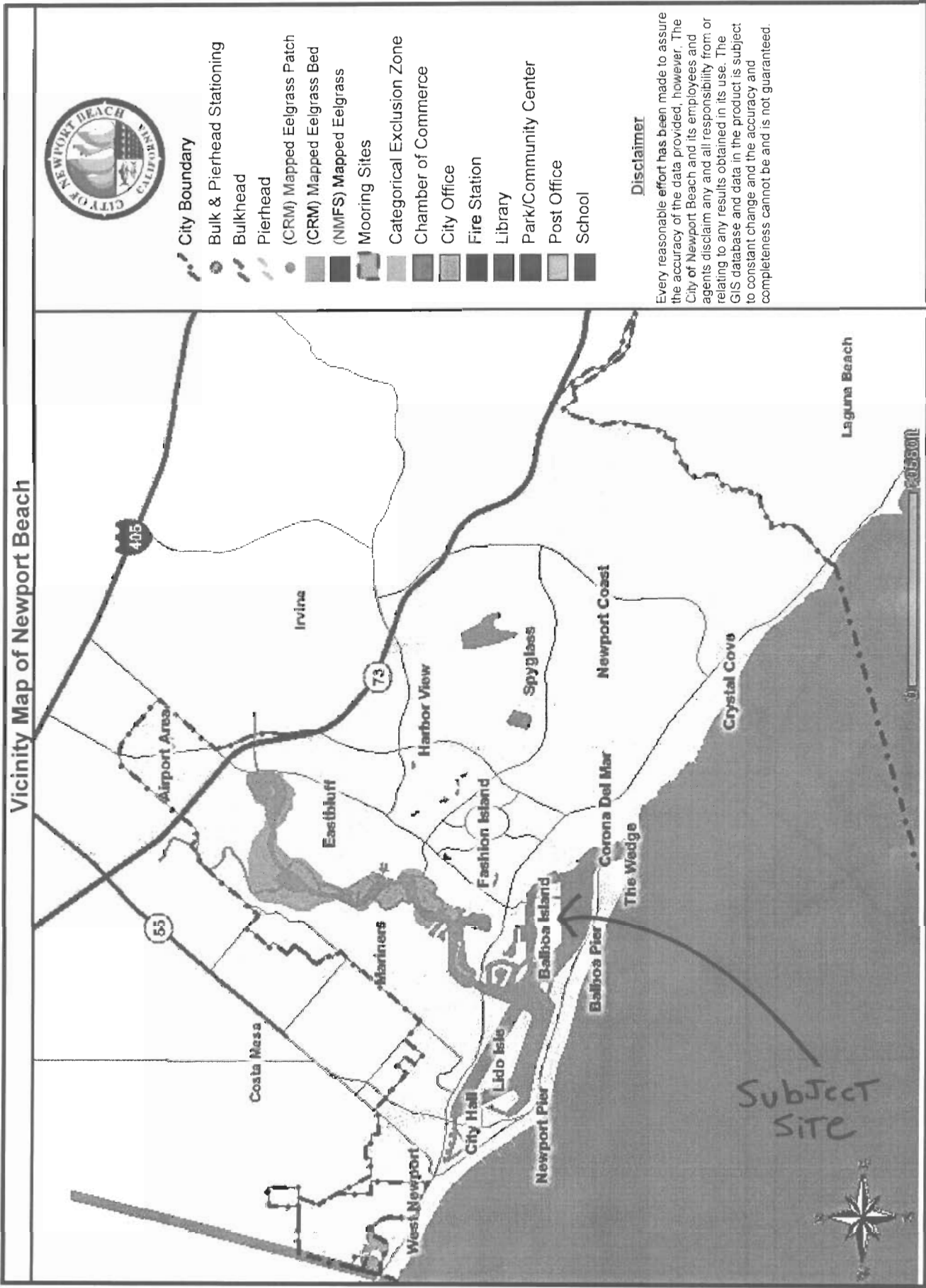
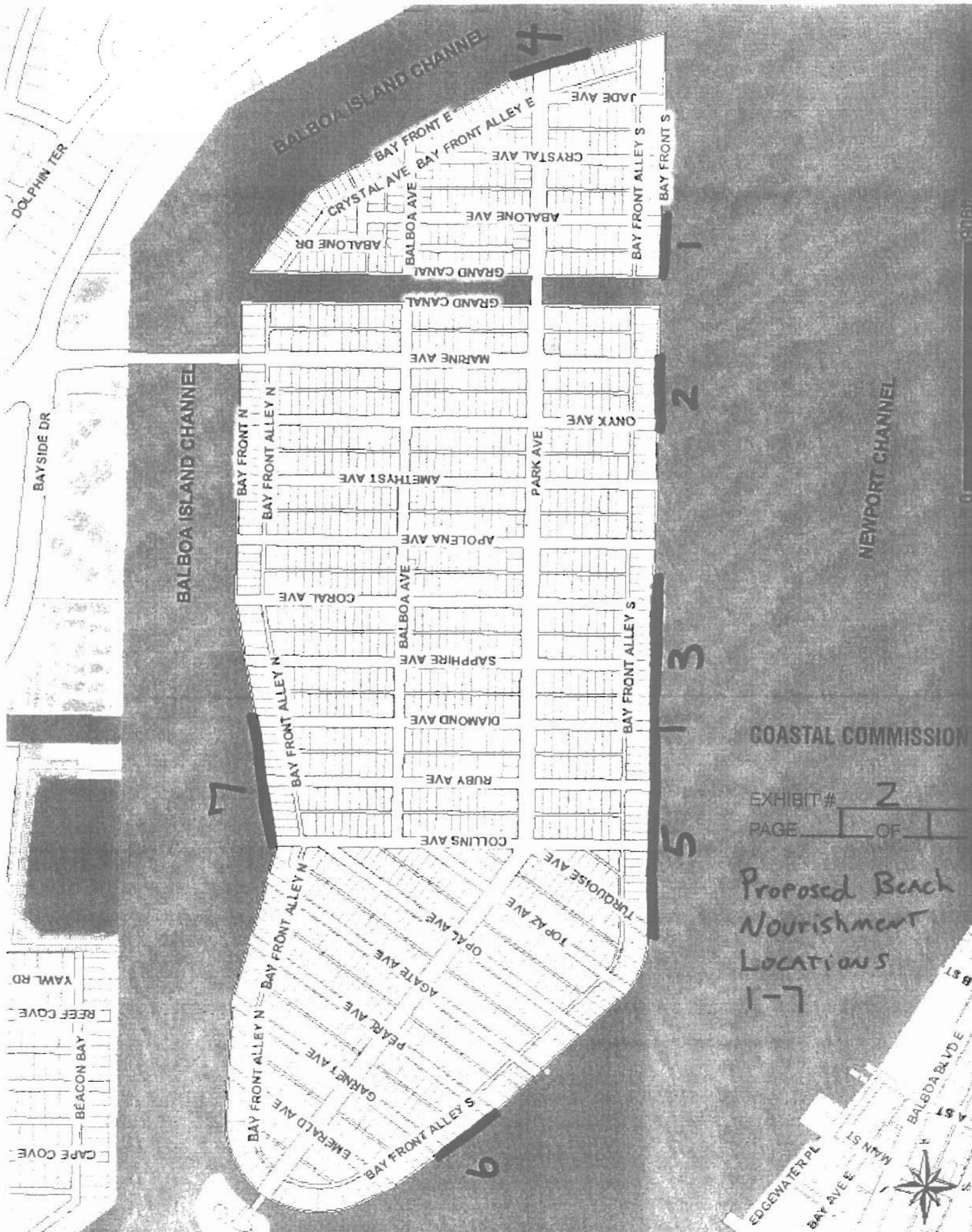


Exhibit 1
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DOLPHIN TER

BAYSIDE DR

CAPE COVE
BEACON BAY
REEF COVE
YAWL RD

BALBOA ISLAND CHANNEL

BALBOA ISLAND CHANNEL

NEWPORT CHANNEL

COASTAL COMMISSION

EXHIBIT # 2
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Proposed Beach Nourishment Locations 1-7

