

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: March 7, 2007
49th Day: April 25, 2007
180th Day: September 3, 2007
Staff: Liliana Roman-LB
Staff Report: May 24, 2007
Hearing Date: June 13-15, 2007
Commission Action:



Th13g

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO: 5-07-081

APPLICANT: Gary Primm c/o Fari International Inc.

AGENT: Shellmaker Inc., Lisa Miller, President

PROJECT LOCATION: 618 Via Lido Nord, City of Newport Beach (County of Orange)

PROJECT DESCRIPTION: Demolition of existing single family residence and demolition and replacement of existing bulkhead/seawall along existing alignment including 411 cubic yards of grading and demolition of existing floating dock and pier system and construction of a new larger floating dock and pier system in a modified configuration.

LOCAL APPROVALS RECEIVED: Approval In Concept (No. 175-618) from the City of Newport Beach Harbor Resources Division dated January 11, 2007; Nationwide Permit Number 3 from Army Corps of Engineers and Clean Water Act Section 401 Water Quality Standards Certification

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing the demolition of a single-family residence, and demolition and construction of a seawall/bulkhead in the same location and new dock/pier system in a modified configuration. The subject site is subject to tidal action, but not to direct wave attack because the site is located within a protected channel of the Newport Harbor. The proposed new bulkhead is necessary to protect existing structures from tidal induced erosion and will have no new impacts upon shoreline sand supply because the device will be located in the same location as the existing. The major issues before the Commission relate to the effect of the proposed development on marine resources and water quality. No eelgrass is located within the project area at this time.

Staff recommends Commission **APPROVAL** of the proposed development subject to four **(5) SPECIAL CONDITIONS**, requiring: 1) compliance with construction related best

management practices regarding the storage of construction materials, mechanized equipment and removal of construction debris; 2) compliance with cement slurry best management practices; 3) compliance with water quality best management practices; 4) eelgrass survey; and 5) Caulerpa survey.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Letter from William Simpson & Associates, Inc. dated February 22, 2007; *Structural Calculations for Seawall with Dywidag Anchors located at 618 Via Lido Nord Newport Beach, CA prepared by William Simpson & Associates, Inc. Job #6210, November 20, 2006; Structural Calculations, Fari International, Newport Beach, CA, 4'x30' Aluminum Gangway, Hallsten Corporation No. 10751, November 20, 2006; Eelgrass Survey Reporting Form, January 11, 2007; and Caulerpa Survey Reporting Form, January 11, 2007.*

LIST OF EXHIBITS

1. Location Map
 2. Assessor's Parcel Map
 3. Bulkhead Plans, Floating Dock and Pier Plans
 4. Topographic Survey of Existing Residence
 5. Demolition and Erosion Control Plans
 6. Site Grading Plan
-

STAFF RECOMMENDATION:

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

MOTION:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. 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 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. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

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

1. 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 the storm drain system and a pre-construction meeting to review procedural and BMP guidelines;

2. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.

2. Cement Slurry Best Management Plan

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a Best Management Plan that effectively assures no cement slurry or other construction byproduct will be allowed onto the sandy beach and/or allowed to enter into coastal waters. During cement slurry application specifically, the Plan shall at a minimum provide for all cement slurry to be contained through the use of tarps or similar barriers that completely enclose the application area and that prevent cement slurry contact with beach sands and/or coastal waters. All cement slurry and other construction byproduct shall be properly collected and disposed of off-site.

3. Water Quality

A. Construction Responsibilities and Debris Removal

- (1) 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.
- (2) Any and all construction material will be removed from the site within 10 days of completion of construction.
- (3) Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone.
- (4) If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity.
- (5) 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.
- (6) Non-buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.

B. Best Management Practices 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.

(1) Boat Cleaning and Maintenance Measures:

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

(2) Solid and Liquid Waste Management Measures:

- a. 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 will be disposed of in a proper manner and will not at any time be disposed of in the water or gutter.

(3) Petroleum Control Management Measures:

- a. Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited.
- b. If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids.
- c. Bilge cleaners containing detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

4. 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.

5. 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), or their successors.
- 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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The proposed project is located on a Newport Bay front lot at 618 Via Lido Nord in the City of Newport Beach, County of Orange (Exhibits #1-2). North of the project site is Lido Channel; to the South are single-family residential structures and to the East and West are existing residential structures on bulkhead/seawall lots. Public access to the bay is

available at the bridge leading into Lido Island approximately a mile west of the project site as well as at various street end parks and beaches around the island. The project site is located in a residential area where the homes fronting Newport Bay are located on bulkhead/seawall lots. Site conditions on the bay ward side of the site include an existing bulkhead, pier and dock. The applicant proposes to remove and replace the existing seawall along the same alignment and remove and replace the floating dock and pier system in a slightly modified configuration. The seawall protects an existing single-family residence, which the applicant also proposes to demolish and eventually rebuild. The applicant proposes to include the demolition of the residence as part of this coastal development permit application to facilitate the seawall and dock system replacement then return to the Commission with a separate coastal development permit application for the construction of the new residence at a later time.

The project consists of: 1) demolition of existing single-family residence 2) demolition and construction of a new seawall in the same alignment and higher elevation (elevation of +12 feet MLLW) 3) removal and replacement of existing pier and dock system.

Demolition of Existing Single-Family Residence

As the applicant plans to rebuild the existing residence; the demolition of the residence will be included as part of this permit to facilitate the seawall and dock work from the landward side of the property. A separate coastal development permit for the new residence will follow. The adjacent lots would be subject to erosion and damage if the seawall were removed along with the existing house but not replaced.

The proposed structure demolition has received an Approval in Concept from the City of Newport Beach Planning Department. The existing residence is not deemed by local or state jurisdiction to be important to the history, architecture or culture of the area, nor is it listed on any register of historic structures. As proposed, the project incorporates water quality best management practices (BMPs) during and after demolition. Debris will be disposed out of the coastal zone.

Seawall/bulkhead Removal and Replacement

The proposed project includes the demolition of an existing seawall/bulkhead and construction of a new seawall in the same alignment, 78' between existing property lines. The existing seawall is actually two walls, which were constructed before the two lots, which they retain, were combined into one larger lot. A part of the existing seawall consists of jetted-in pre-cast concrete panels tied together at the top by a continuous concrete coping, the remaining part is cast in place concrete wall. There is a brick retaining wall on top of the two different parts of the seawall. Due to this site condition, tie-backs and deadman system were not visible and thus their condition could not be observed to determine rusting. From an engineering standpoint, the variety of undeterminable connections between the three different types of construction make the existing seawall as a whole difficult to justify for compliance with the current Code. As the development behind the existing seawall depends on the seawall's strength and stability its

replacement is justifiable. The new proposed seawall will not extend seaward of the original location and will align to the bulkheads of adjacent lots. The replacement of this portion of seawall is critical for continued protection from erosion and wave damage to existing residential structures adjacent to this lot until a new residence is constructed.

The new proposed seawall will consist of pre-cast concrete, tongue and groove panels held together with a concrete coping tied back to a deadman system (Exhibit #3). The bottom of the wall will be held in place by its embedment into the seabed and tiebacks will hold the top of the wall. The panels will be jetted into place, the tongue and the groove joints grouted and sealed to prevent leakage. Formwork and steel reinforcing will be installed on top of the panels with concrete bond beam poured the length of the wall to form an integrated system. The seawall will then be connected to the deadman with the tieback system and tensioned according to the specifications. The design top elevation with the coping will be at +12.18' above Mean Low Lower Water (MLLW) exceeding current City of Newport Beach engineering standards (typically +9.0 feet, MLLW for Newport Harbor).

The topographic map of the existing residence to be demolished (Exhibit #4) shows the finished floor of the existing structure is approximately 12', similar to adjacent residences. The grading plan (Exhibit #6) for the new residence (under separate permit application) indicates the finished floor for the new residence will be approximately 12'. Therefore, the increased height of the proposed seawall will not necessarily result in a higher elevated new residential structure.

Pier and Dock System Removal and Replacement

The applicant also proposed to replace an existing dock system consisting of a 221 square foot pier attached to the bulkhead supported by 4 12"x12" square concrete pilings, a 3'x20' gangway which is attached at the upper end of the pier and rests on the floating dock on the lower end. The pier and gangway are made of pressure treated Douglas Fir; the estimated age of the system is 20 years and is in fair to poor condition. The floating dock is configured with two slips and one side tie.

The applicant proposes a new pre-cast concrete slab pier measuring 12' wide x 14' long to replace the Douglas fir pier. The new gangway measures 4' wide x 30' long and is made of aluminum. The off-shore end of the gangway will be equipped with wheels which allow for movement due to tidal fluctuations. The configuration of the proposed new floating dock is similar to the existing two slip design except the new design does not include a side tie due to the widening of the area of both slips. Also, on the existing dock, the longer slip is on the north side whereas in the new design the longer slip will be on the south side of the dock. The decking is a composite of recycled wood and manmade products. The pontoons supporting the floating docks are closed-cell foam blocks completely encased in polyethylene drums. Seven 12"x14" square pre-cast concrete pilings will be utilized as guide piles for the floating dock. Piling lengths will vary from 27' to 35' depending on bottom elevation and calculated depth of embedment for their particular location. Total area of the proposed new dock system equals 1,364 square feet (Exhibit 4).

The proposed dock system conforms to the U.S. Pier head Line. The dock project will be used for boating related purposes to serve a single-family residential development. 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 issued a “General Certification for replacement of Sheet and Dock Piles” determining 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. Staff expects the U.S. Army Corps of Engineers’ Letter of Permission (LOP) deeming the project qualifies for the General Concurrence for impacts to essential fish habitats.

Biological Surveys

A biological survey conducted on January 11, 2007 determined that no eelgrass or *Caulerpa taxifolia* was present in the project area. However, since this eelgrass survey was conducted before the period of active eelgrass growth (typically March through October), the survey is no longer valid and a new eelgrass survey is required prior to commencement of construction to verify there is no eelgrass in the project area that could be impacted. If eelgrass is present in the project area, an amendment or new permit to address eelgrass impacts must be obtained prior to commencement of development. In addition, to confirm that no *Caulerpa* is present at the time of construction, a subsequent survey must be conducted not earlier than 90 days nor later than 30 days prior to commencement of the proposed project.

B. 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.

C. MARINE RESOURCES

The proposed development is the replacement of an existing seawall in the same location of the existing seawall that is necessary to protect an existing structure and therefore will not result in the additional fill of coastal waters. It is infeasible to relocate the new bulkhead further landward. The proposed development has been conditioned to minimize

adverse effects on the marine environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass, and to avoid contributing to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. As conditioned, the project will not significantly adversely impact eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. Further, as proposed and conditioned, the project conforms to Sections 30233 and 30235 of the Coastal Act.

D. PUBLIC ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act

E. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 13, 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 an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

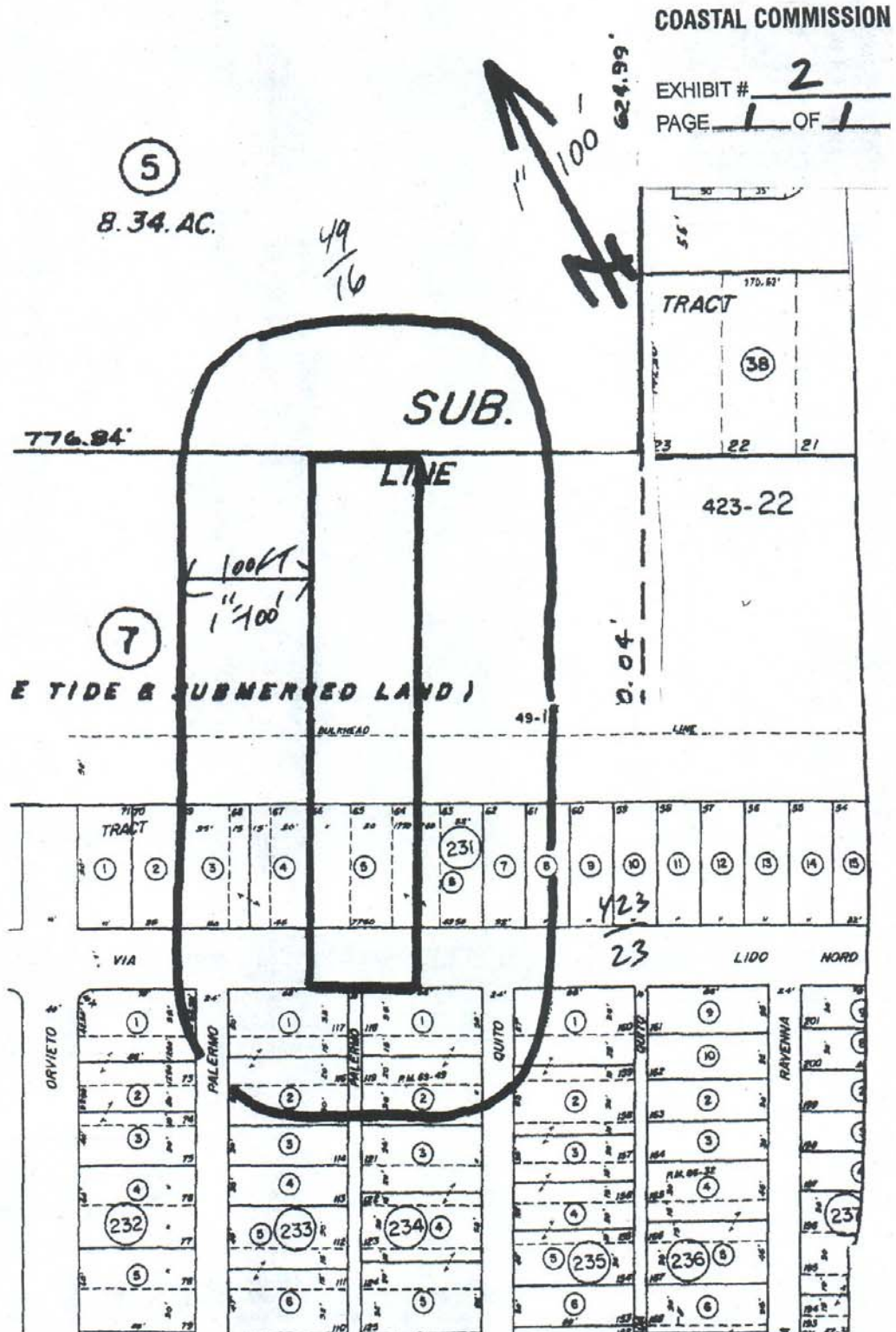
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

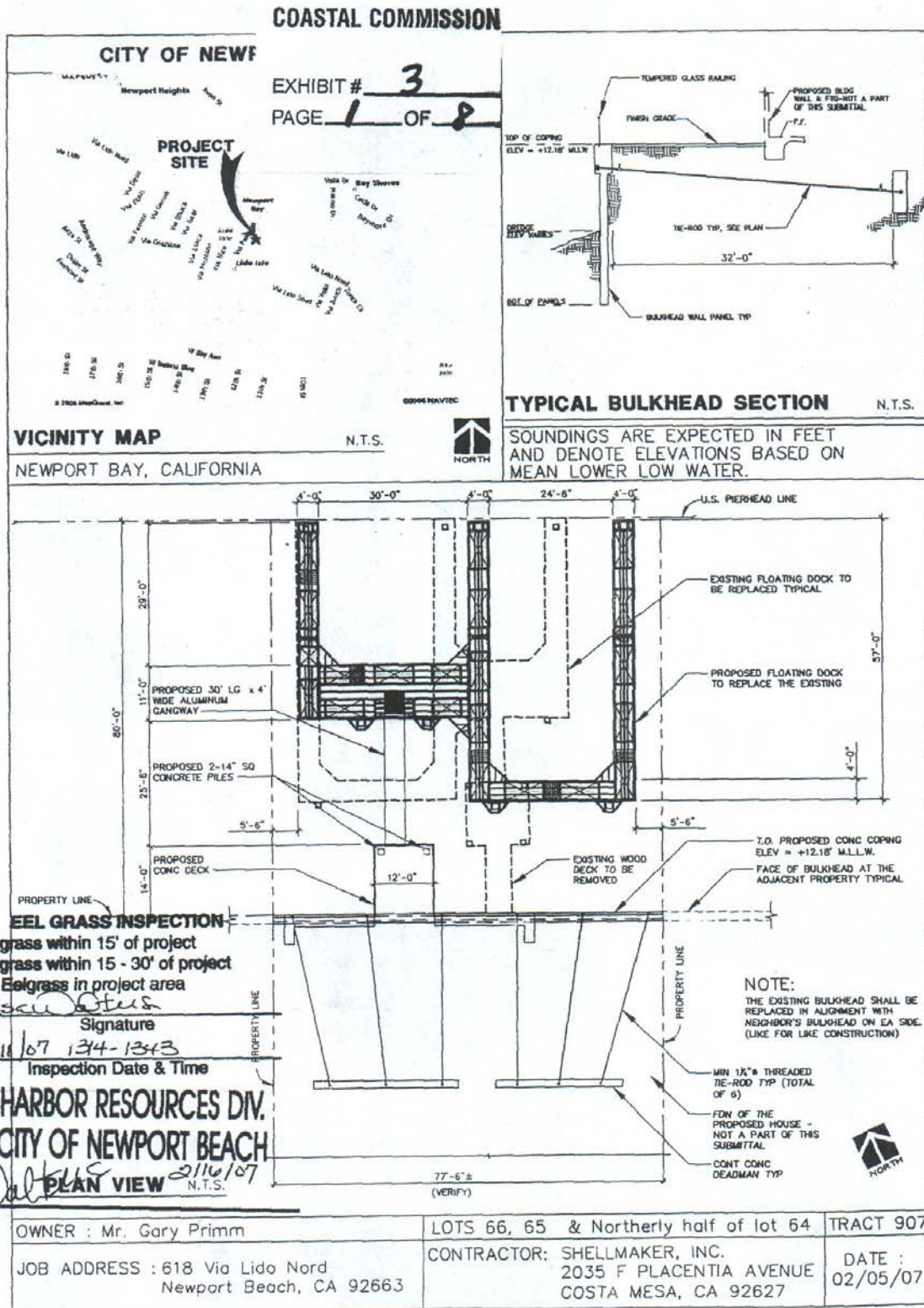
Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 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.

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.

EXHIBIT # 1
PAGE 1 OF 1







WILLIAM SIMPSON & ASSOCIATES, INC.
CONSULTING STRUCTURAL ENGINEERS

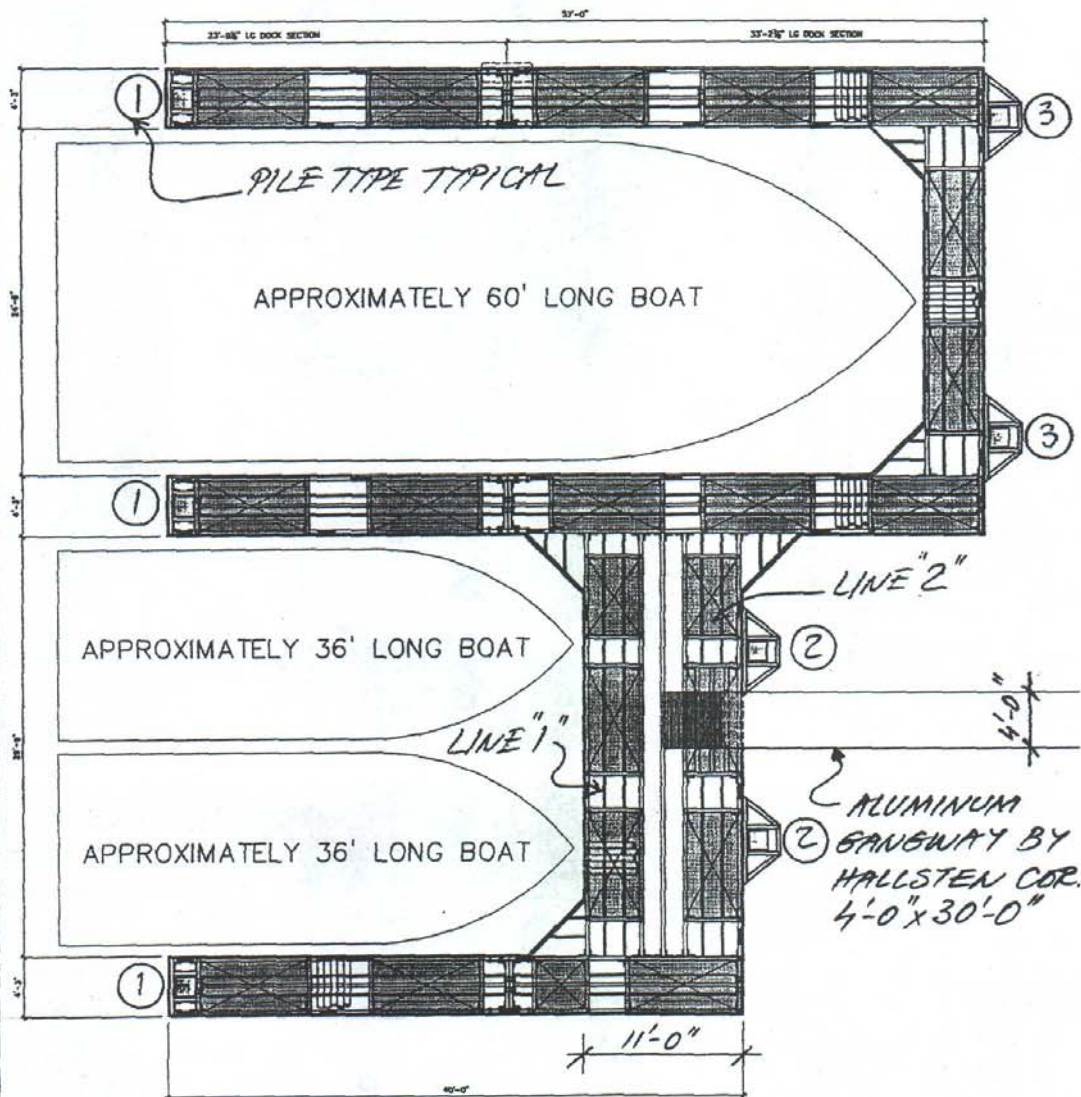
151 KALMUS DRIVE
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PRIMM RESIDENCE
618 VIA LIDO NOR
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COASTAL COMMISSION

EXHIBIT # 3
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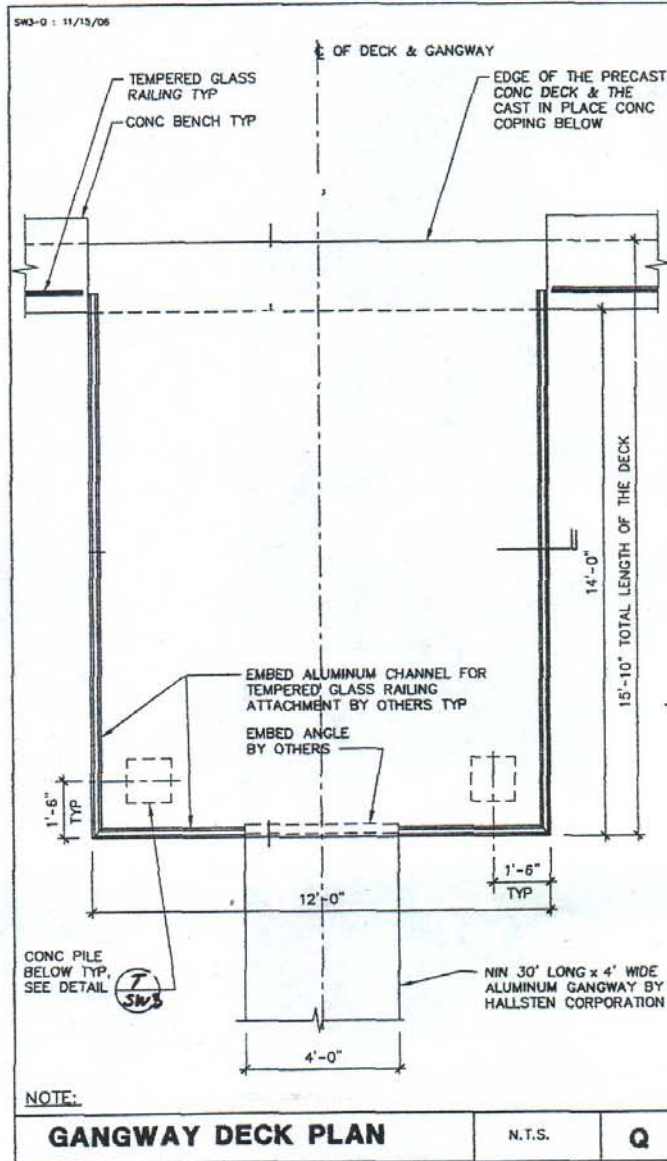
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CONC DECK DESIGN

JOB 6210
SHT 11
DES PRP
DATE 11/16/06

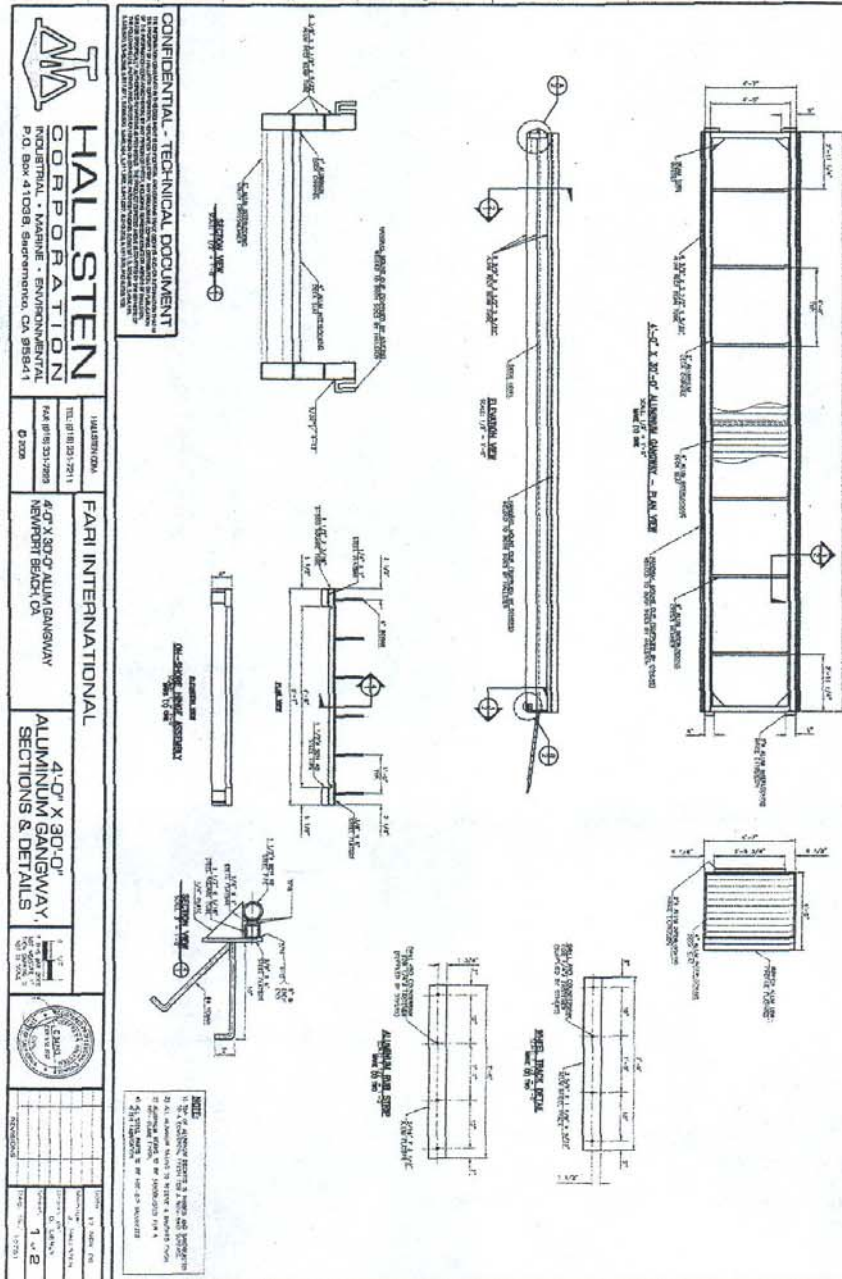


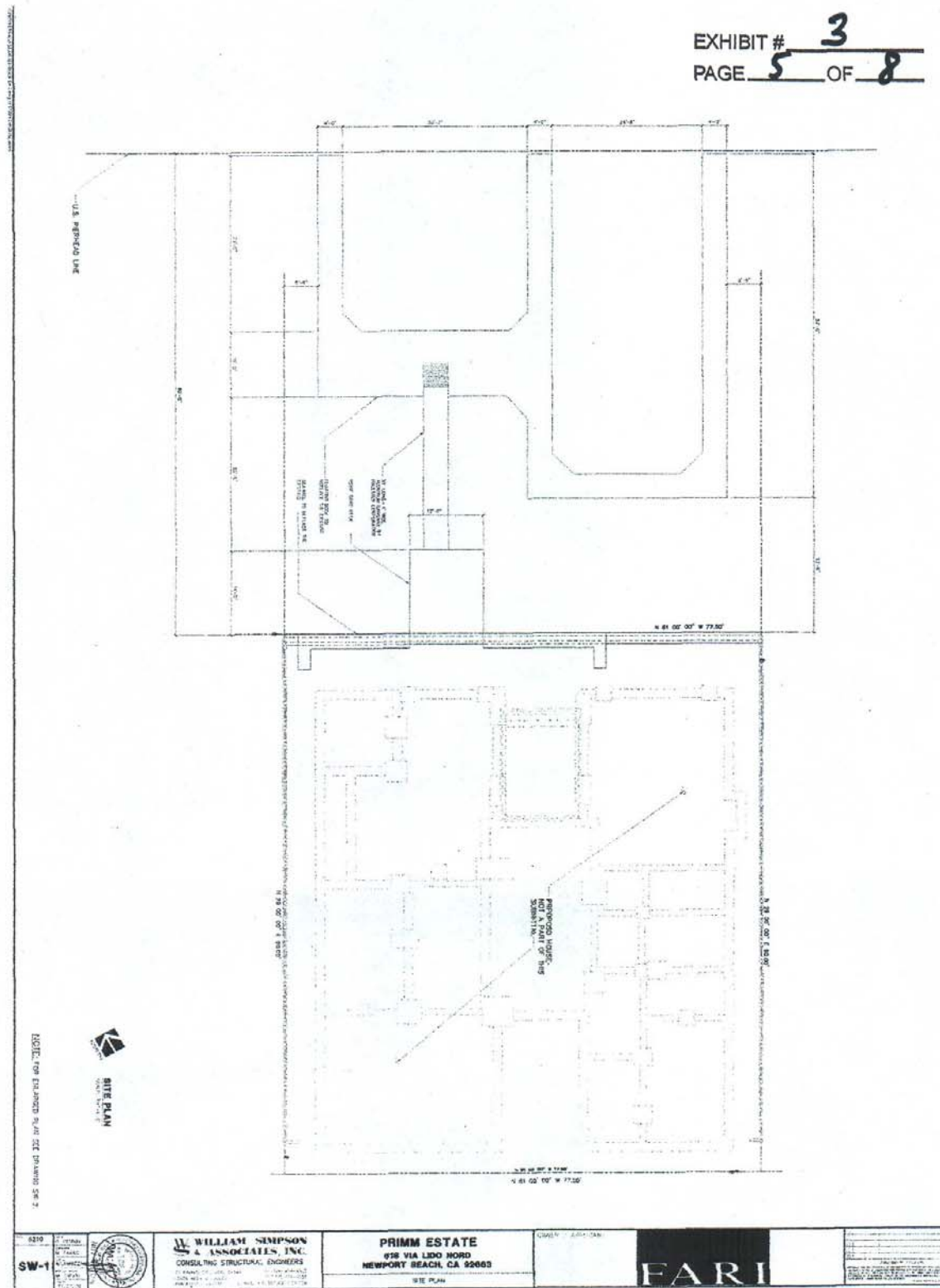
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EXHIBIT # 3
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DEAD LOAD
8" CONC SLAB = 100 PSF
MISC = 10 PSF
FINISH = 20 PSF

WDL = 130 PSF
WLL = 60 PSF

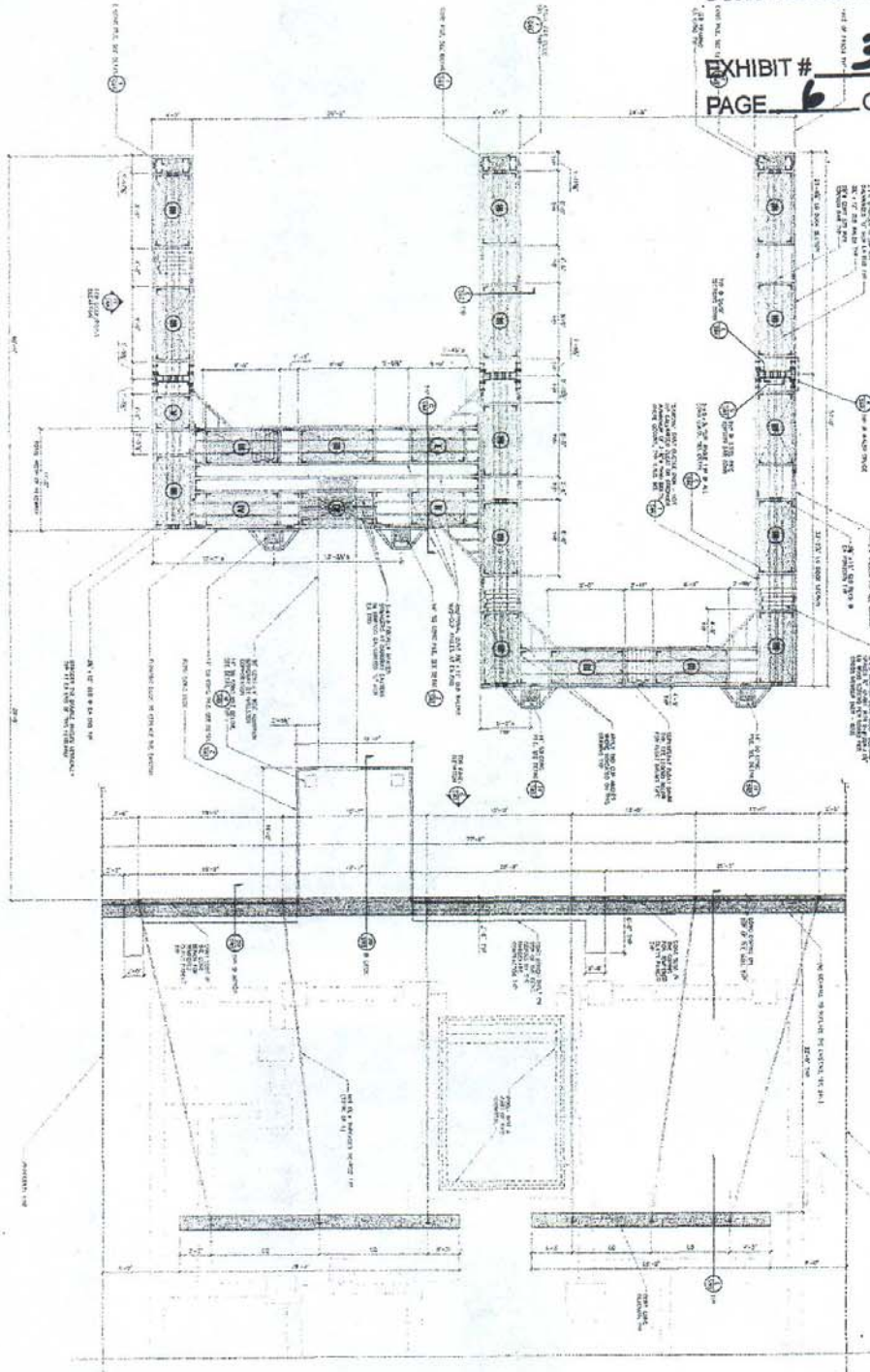




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EXHIBIT # **3**
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ENLARGED DOCK, PILING & SEAWALL PLAN



SW-2



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ENLARGED DOCK/PILING PLAN

DATE: 05/07/08
BY: [Signature]

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EXHIBIT # 3
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