

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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W18f

Filed: 5/18/2007
49th Day: 7/6/2007
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Staff: Charles Posner - LB
Staff Report: 7/19/2007
Hearing Date: August 8, 2007
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-07-131**APPLICANT:** Michael Dugan**AGENT:** Peter Swift, Swift Slip Dock & Pier Builders**PROJECT LOCATION:** 5639 Sorrento Drive, Naples Island/Alamitos Bay, City of Long Beach, Los Angeles County.**PROJECT DESCRIPTION:** Remove and replace a private pier and gangway in same location, using two existing concrete piles and one new pile.**LOCAL APPROVAL:** Long Beach City Marine Bureau Approval in Concept, 3/16/2007.**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Long Beach certified Local Coastal Program (LCP), July 22, 1980.
2. Plans & Specifications No. R-4858 (Revised) for the Construction of Waterfront Structures in the Long Beach Marina Area in the City of Long Beach, California, Office of the City Engineer, Long Beach, California, October 1994.
3. Eelgrass Survey Reporting Form for 5639 Sorrento Drive, Long Beach (Dugan Residence), by Coastal Resources Management, Inc., March 12, 2007.
4. Coastal Development Permit 5-02-048 (Kober - 5615 Sorrento Dr.).
5. Coastal Development Permit 5-03-320 (Boiteux - 5469 Sorrento Dr.).
6. Coastal Development Permit 5-03-485 (Diamond - 5635 Sorrento Dr.).
7. Coastal Development Permit 5-04-033 (Jones - 5507 Sorrento Dr.).
8. Coastal Development Permit 5-05-052 (Baker - 5641 Sorrento Dr.).
9. Coastal Development Permit 5-06-411 (Reback - 5649 Sorrento Dr.).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission **APPROVE** a coastal development permit for the proposed development with special conditions. The special conditions require the applicant to redesign the proposed pier to conform with the City's pier platform size limitation (10'x 14' maximum) in order to protect marine resources from adverse impacts that would result from the proposed extra large (10'x 28') pier platform. The special conditions also protect water quality and public access along the Alamitos Bay shoreline trail (City right-of-way) that exists immediately seaward of the applicant's bay-fronting lot. The applicant does not agree with the staff recommendation to limit the size of the new pier platform. **See Page Two for the Motion.**

STAFF RECOMMENDATION:

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

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit 5-07-131 per the staff recommendation."*

The staff recommends a **YES** vote. Passage of the motion will result in **APPROVAL** of the coastal development permit application with special conditions, and adoption of the following resolution and findings, as set forth in this staff report or as modified by staff prior to the Commission's vote. The motion passes only by an affirmative vote of a majority of Commissioners present.

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 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 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 for the review and approval of the Executive Director, revised project plans that conform with the pier platform size limit (14'x 10' maximum) set forth in the City of Long Beach document entitled Plans & Specifications No. R-4858 (Revised) for the Construction of Waterfront Structures in the Long Beach Marina Area in the City of Long Beach, California, Office of the City Engineer, Long Beach, California, October 1994. Only the two existing pier piles shall be used to support the new pier structure - no new piles are permitted. In addition, in order to enhance public access along the shoreline, the pier shall be designed to provide at least seven feet of vertical clearance between the lowest part of the pier approach deck and the beach located immediately seaward of the applicant's private property.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved revised project 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 development 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 (BMPs) 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 replacement of an existing private pier with one nearly twice as large 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 #3). The proposed pier (and existing floating dock) is associated with the applicant's adjacent single family home. The existing 8'x 50' floating dock at the end of the existing pier will remain, but the gangway will be replaced (Exhibit #4).

The applicant proposes to remove the existing thirty-foot long wooden pier and replace it with a larger structure in the same location using one new pile and the two existing concrete piles (Exhibit #4). The existing pier has an 8'x15' platform with a four-foot wide approach, which is generally consistent with the City's specifications for waterfront structures (Exhibit #6). The proposed new pier, however, has a 10'x 28' platform that is not consistent with the City's specifications for waterfront structures. In fact, the proposed pier platform is two times larger than the maximum 10'x 14' dimensions set forth by the City's specifications for waterfront structures (Exhibit #4). The proposed pier also has a four-foot wide approach to the pier platform, extending 16.5 feet from the existing seawall situated on the applicant's property line.

B. Recreational Marine Resources

The applicant is requesting approval of a pier platform that would be two times larger than the maximum 10'x 14' dimensions set forth by the City's specifications for waterfront structures (Exhibit #6). The proposed project plans have a City of Long Beach Marine Bureau stamp of "Approval in Concept" dated 3/16/07. The City of Long Beach Marine Bureau, when asked about the stamp of approval, stated that it did not check the size of the proposed pier since it knew that the Coastal Commission would be reviewing the proposal through the coastal development permit application process, but that all projects should adhere to the size limitations set forth in the City of Long Beach document entitled Plans & Specifications No. R-4858 (Revised) for the Construction of Waterfront Structures in the Long Beach Marina Area in the City of Long Beach, California, Office of the City Engineer, Long Beach, California, October 1994. The City has agreed to check the size of such structures more carefully in the future in order to ensure consistency and fairness in the permitting process, and to prevent new piers from crowding the limited amount of shoreline area that exists along the bay.

The Commission limits the size of shoreline structures for the same reasons as the City, but also to protect marine resources from other adverse impacts of development in the intertidal and subtidal areas of Alamitos Bay. The Coastal Act requires that a coastal development

permit be issued for a shoreline project only if it is found to be the least environmentally damaging alternative. Larger piers are more damaging to marine resources than smaller piers because larger piers require more piles (additional fill) for support and block more of the sunlight that marine resources (such as eelgrass) need to thrive. Therefore, pier structures must be limited in size to preserve open water area in the bay and to minimize shading and adverse impacts to eelgrass and other marine organisms that depend on sunlight.

The Commission routinely approves pier structures for legitimate recreational boating activities in Alamitos Bay, but only if such developments are found to be consistent with the Chapter 3 policies of the Coastal Act. The following is a list of the Commission-approved shoreline projects in the immediate vicinity of the currently proposed project:

<u>Dock Address</u>	<u>Permit No. (Applicant)</u>	<u>Pier Platform Dimensions</u>
5649 Sorrento Dr.	5-06-411 (Reback)	14'x 14'
5641 Sorrento Dr.	5-05-052 (Baker)	10'x 15' (with irregular approach)
5639 Sorrento Dr.	5-07-131 (Dugan)*	8'x 15'/10'x 28' (existing/proposed)
5635 Sorrento Dr.	5-03-485 (Diamond)	8'x 16'
5625 Sorrento Dr.	5-00-317 (Neill)	10'x 12'
5615 Sorrento Dr.	5-02-048 (Kober)	10'x 14'
5529 Sorrento Dr.	5-01-369 (Ball)	4' wide pier – No platform
5507 Sorrento Dr.	5-04-033 (Jones)	12'x 16'
5469 Sorrento Dr.	5-03-320 (Boiteux)	4' wide pier – No platform

* Currently proposed project.

The Commission requires that approved docks and piers be used only for boating recreation purposes, as opposed to more general residential uses such as the enlargement of a resident's outdoor living area. The City's dock standards state that platforms, piers and gangways shall be used only for pedestrian access to floating structures. The applicant asserts that, in this case, the extra large pier platform is needed for storage lockers, the loading and unloading of equipment and provisions for boating related purposes, the storage of kayaks and other small vessels such as sabots, and for a staging area for sails. The applicant's existing pier platform, however, is currently occupied by items unrelated to boating, including a table, several chairs, a wooden bench, and two large planters with shrubbery. The applicant's backyard deck (inland of the seawall) and the existing 8'x 50' floating dock will continue to provide a large area for storage of equipment and the other activities listed by the applicant (in addition to a new pier platform that conforms with the City's limitations).

The proposed extra large pier platform would require the placement of one new 14-inch diameter concrete pile, in addition to the two existing piles that support the existing pier (Exhibits #4&5). The proposed new pile constitutes fill in coastal waters, and is subject to the provisions of Section 30233(a) of the Coastal Act.

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

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where

feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

Section 30233(a) of the Coastal Act limits the fill of open coastal water to specific, enumerated uses and also requires that any project which results in fill of open coastal waters provide adequate mitigation and that the project be the least environmentally damaging alternative.

Allowable Use - Section 30233(a)(4) of the Coastal Act allows fill of open coastal waters for new or expanded boating facilities that provide public access and recreational opportunities. The proposed project, as conditioned, will provide recreational boating opportunities for the applicant, and constitutes an allowable use under Section 30233(a)(4).

Least Environmentally Damaging Alternative – The project as proposed is not the least environmentally damaging alternative because it includes the placement of new fill (one new pile) that is not necessary for providing recreational boating opportunities. Placement of any new piles in conjunction with the proposed project will displace bottom habitat (although a survey of the project site on March 12, 2007 found no eelgrass). A less environmentally damaging alternative than the applicant's proposal is a new pier that conforms with the City's pier platform size limit (14'x 10' maximum) and utilizes only the two existing piles and no new fill. Therefore, only as conditioned to limit the number of piles and the size of the pier platform is the project the least environmentally damaging alternative.

Adequate Mitigation - Section 30233 also requires that any project which results in fill of open coastal waters also provide adequate mitigation. As conditioned, there is no new fill permitted, so there is no mitigation required.

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

Section 30240 of the Coastal Act requires that the proposed project, which is located in Alamitos Bay, shall be sited and designed to prevent impacts which would significantly degrade environmentally sensitive habitat areas. The intertidal and subtidal areas of Alamitos Bay contain environmentally sensitive habitat areas, which shall be protected from the adverse impacts of extra large shoreline structures.

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.

As stated previously, large piers are more damaging to marine resources than smaller piers because they require more piles (additional fill) for support and block more sunlight that marine resources (such as eelgrass) need. Therefore, the proposed pier structure must be limited in size to preserve open water area in the bay and to minimize shading and other adverse impacts to eelgrass and other marine organisms that depend on sunlight. Eelgrass beds will not be disturbed by the proposed project, and as conditioned, no new fill is permitted. Only as conditioned is the proposed project consistent with Section 30240 of the Coastal Act.

C. Water Quality

The proposed project will be occurring on or 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.

D. Public Access

As conditioned, the proposed project will not interfere with the public accessway that exists immediately seaward of the seawall in this location on a City right-of-way situated in the intertidal zone (Exhibit #4). 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 with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

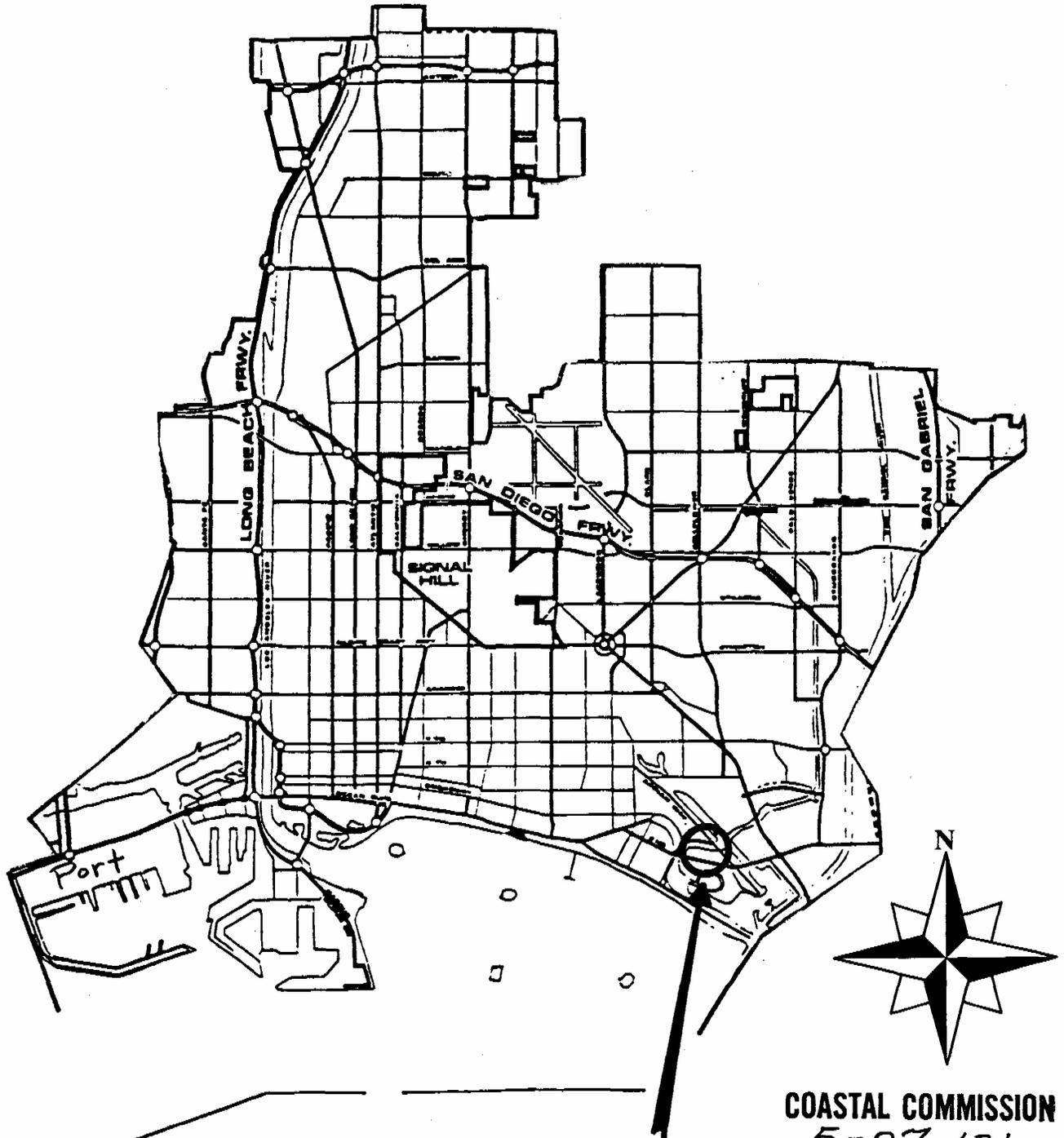
E. Local Coastal Program

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

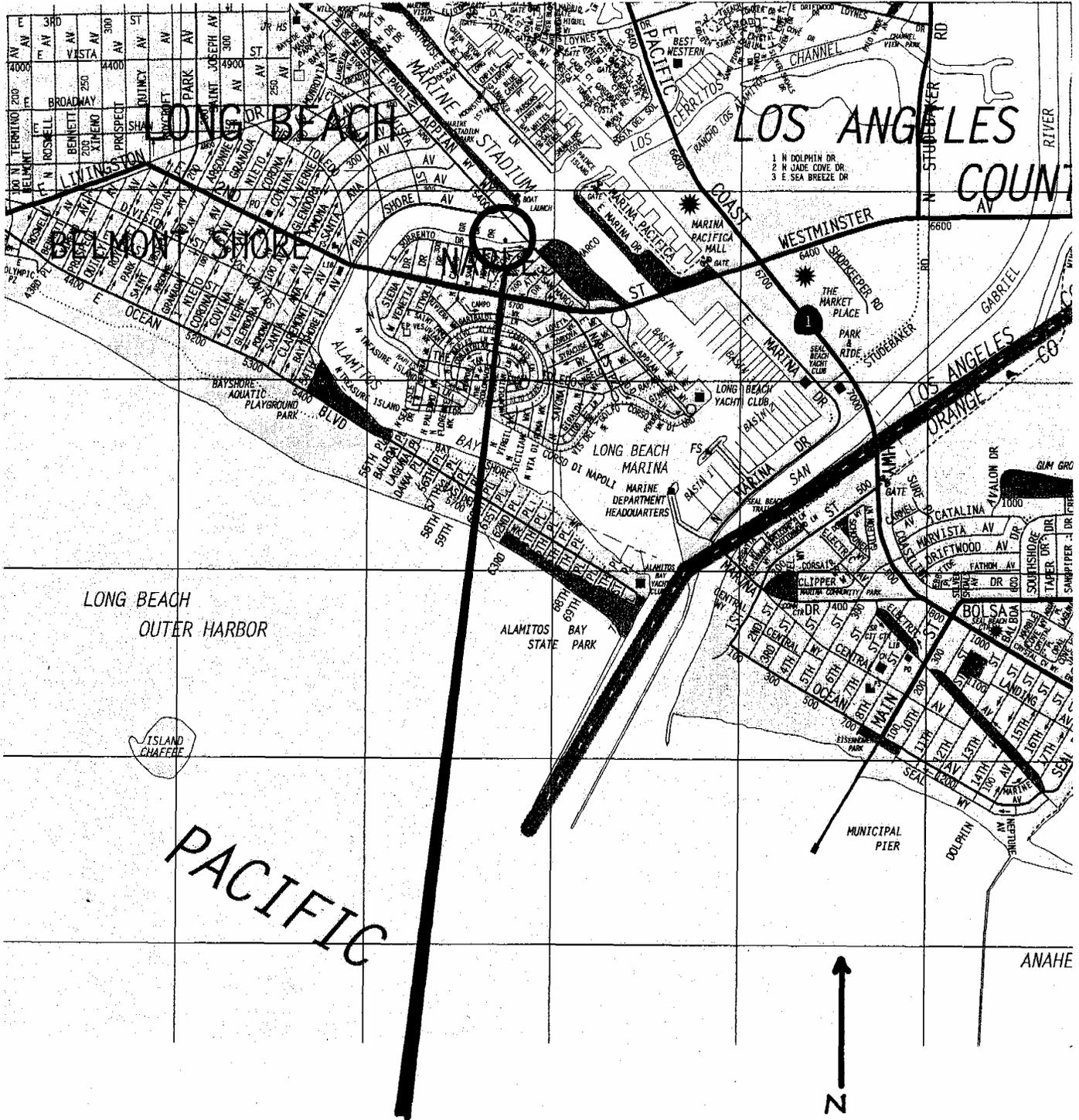


Site: 5639 Sorrento Dr.

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5-07-131

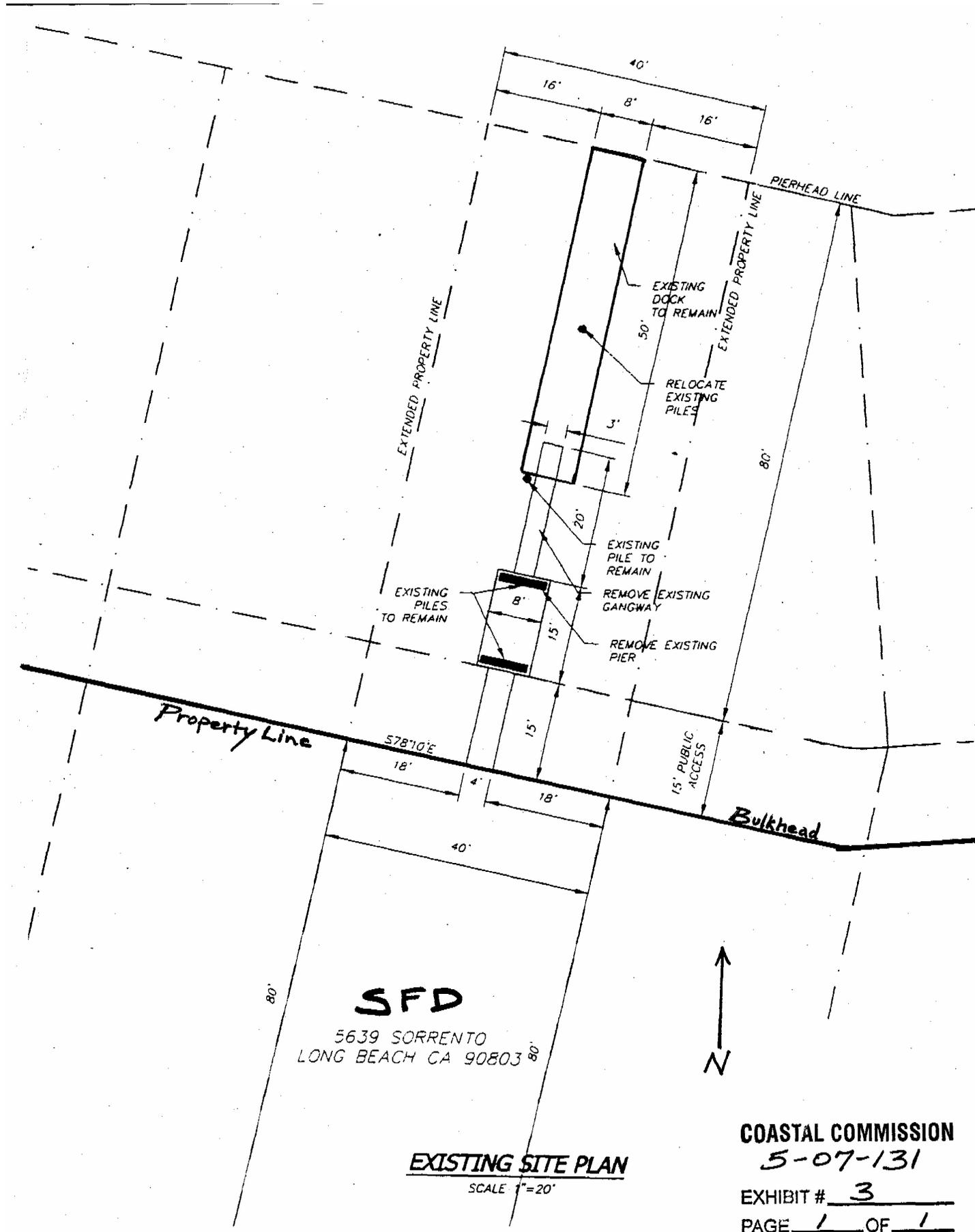
EXHIBIT # 1

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Site: 5639 Sorrento Dr.

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 EXHIBIT # 2
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Property Line

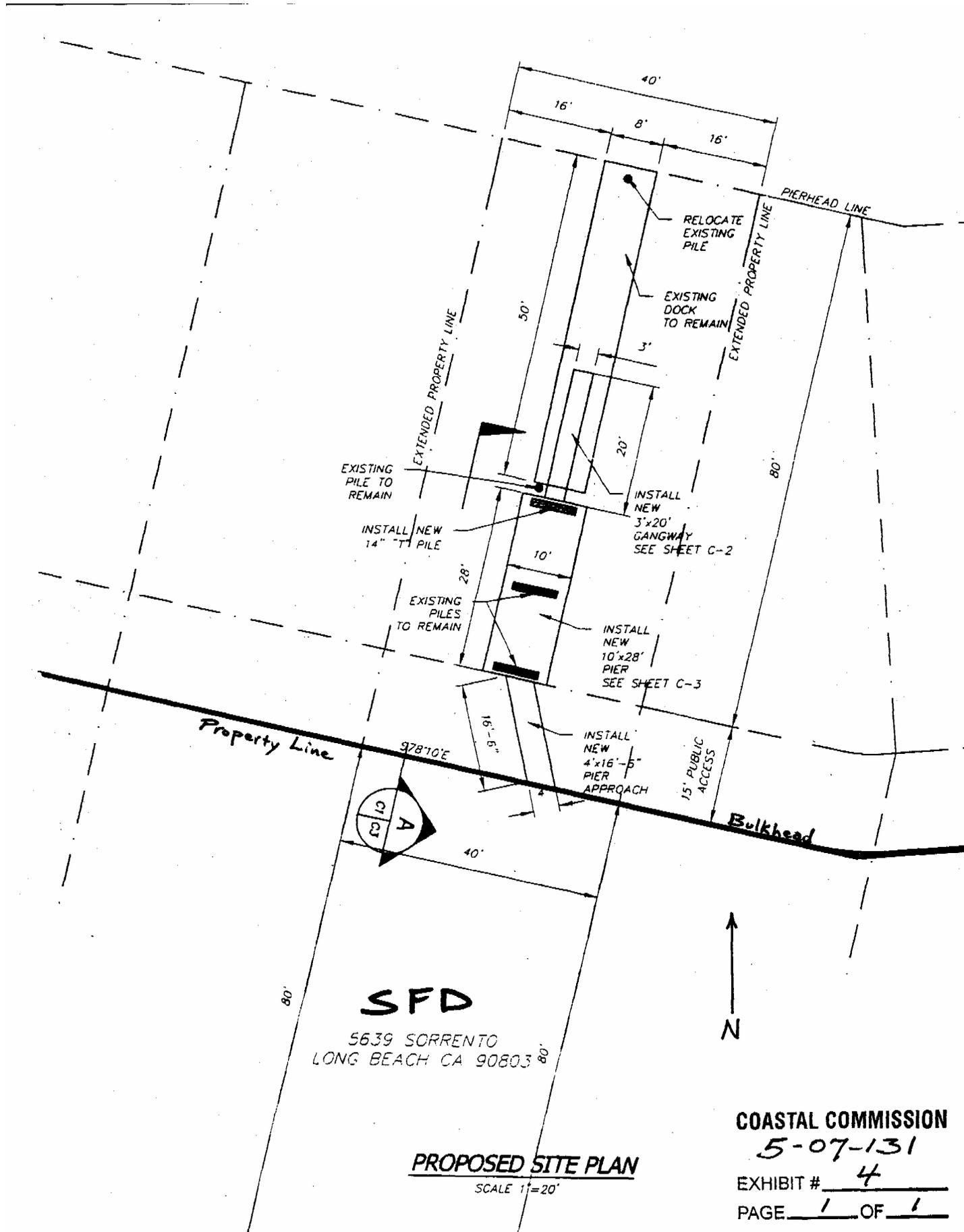
EXTENDED PROPERTY LINE



SFD
 5639 SORRENTO
 LONG BEACH CA 90803

EXISTING SITE PLAN
 SCALE 1"=20'

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 EXHIBIT # 3
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SFD

5639 SORRENTO
LONG BEACH CA 90803

PROPOSED SITE PLAN

SCALE 1" = 20'

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EXHIBIT # 4

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PLANS & SPECIFICATIONS NO. R-4858 (REVISED)
FOR THE CONSTRUCTION OF WATERFRONT STRUCTURES
IN THE LONG BEACH MARINA AREA
IN THE CITY OF LONG BEACH, CALIFORNIA

Office of the City Engineer
Long Beach, California

COASTAL COMMISSION

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EXHIBIT # 6

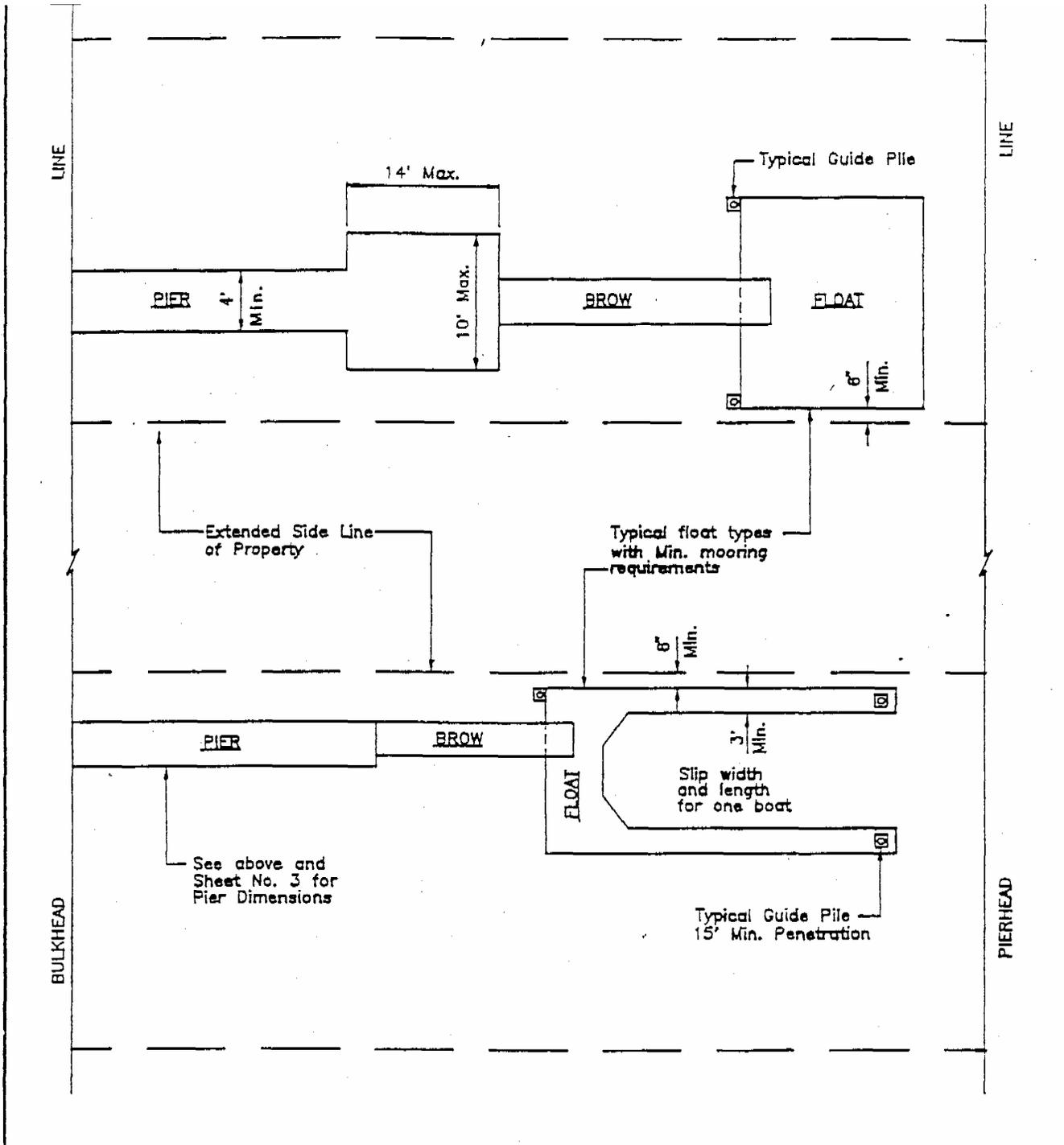
PAGE 1 OF 2

Job No. 530136-95

R-4858 (Revised)

MS-1

10/94



REVISIONS		CITY OF LONG BEACH, CALIFORNIA DEPARTMENT OF PUBLIC WORKS	STANDARD PLAN NO.
NO.	DATE		
1		TYPICAL PIER AND FLOAT INSTALLATION	802
2			
3			
4			
APPROVED BY: <i>Edward J. Peck</i>		DATE: <u>9-25-95</u>	SHEET
CITY ENGINEER R.E. No. <u>24233</u>		EX. DATE: <u>12-31-97</u>	2 OF 9

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EXHIBIT # 6
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