

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



Th30b

Filed: September 21, 2009
49th Day: November 9, 2009
180th Day: March 20, 2010
Staff: D. Lilly-SD
Staff Report: October 20, 2009
Hearing Date: November 4-5, 2009

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-09-38

Applicant: BAE Systems, San Diego Ship Repair Agent: Sandor Halvax

Description: Installation of a new mooring dolphin consisting of installation of 8 hexagonal bearing piles; 16 H-piles; and a 16' x 20' concrete deck; to enhance mooring capacity for larger ships at Pier 3 of the BAE Systems ship repair facility.

Site: 150 feet beyond U.S. Pierhead Line, adjacent to Pier 3, BAE Systems San Diego Ship Repair, 2205 East Belt, foot of Sampson Street, San Diego, San Diego County.

Substantive File Documents: San Diego Unified Port District Certified Port Master Plan; RWQCB 401 Water Quality Certification No. 08C-098 dated 9/21/09; BAE Systems Pier No.3 Mooring Dolphin Construction and Maintenance Project Sensitive Resources Information by Merkel & Associates dated 2/5/08.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed dolphin with special conditions requiring mitigation for potential shading impacts. The proposed dolphin will allow larger ships to moor safely and securely at the existing pier. Water quality will be monitored during construction to ensure impacts are avoided. The project has been approved by the Regional Water Quality Control Board and tentatively approved for a nationwide permit by the Army Corps of Engineers. As conditioned, no impacts to water quality or sensitive biological species are anticipated.

Standard of Review: Chapter 3 policies of the Coastal Act.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-09-38 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

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.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Mitigation Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final mitigation plans for the proposed development. Mitigation shall consist of the removal of a minimum of 320 sq.ft. of existing deck at Pier 5. Said plans shall indicate the demolition shall be completed no later than April 1, 2010.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Other Permits. **PRIOR TO COMMENCE OF CONSTRUCTION**, the permittee shall provide to the Executive Director copies of all other required local, state or federal discretionary permits for the development authorized by CDP #6-09-038. The applicant shall inform the Executive Director of any changes to the project required by

other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. BAE Systems, San Diego Ship Repair, Inc., currently operates a shipyard located on the eastern shoreline of central San Diego Bay, at the foot of Sampson Street in the city of San Diego. The shipyard includes several piers and dry dock areas largely under the jurisdiction of the San Diego Unified Port District. The proposed mooring dolphin, (an in-water structure that extends above the water for the purposes of mooring a ship) would be located approximately 150 feet bayward of Pier 3 and the U.S. Pierhead Line, outside of the Port's permitting jurisdiction, in land administered by the State Lands Commission. The State Lands Commission has approved a lease amendment authorizing the construction, use, and maintenance of the proposed dolphin.

Construction of the dolphin would occur in three primary phases. Phase 1 construction consists of driving eight hexagonal bearing pilings. Phase 2 includes setting of forms, placement of reinforcing steel, and the placement of the pour in place 16' x 20' concrete deck. Phase 3 consists of removal of forms and installation of 16 steel H-Piles, timber whalers, and rubber fender spacer. A single 100 metric ton mooring bit would be installed in this phase. The elevation of the top of the dolphin surface would be +12 MLLW.

The project is intended to allow larger naval and commercial vessels to be moored alongside the existing docks. Pier 3 is the shipyard's principal pier. The applicant has stated that when the pier was originally constructed, it was adequate for berthing ships along both sides without a dolphin. Since then, ships have increased in size, and the larger naval vessels extend bayward of the pier. In addition, during many Naval ship repair projects for which this typical berthing is for, crews of the ships must be housed in close proximity to the ship. The Navy therefore requires and provides a "living barge" for housing the crew. The living barges are usually berthed behind the ship in protected waters in-shore of the ship with a gangway situation between the ship and barge for easy access. When berthing barges are used, the bows of ships on each side of the pier may extend beyond the end of the pier. The applicant has stated that compared to bow mooring lines that lead forward, bow mooring lines that lead towards the rear of the ship (aft) are less effective, more difficult to deal with, and require constant attention in high wind conditions. With the proposed dolphin in place, ships will be able to be moored less expensively and in a safer manner.

The site is within the Commission's original permit jurisdiction, and Chapter 3 of the Coastal Act is the standard of review.

2. Biological Resources. The following Coastal Act policies are relevant to the proposed project:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff...

Section 30233 states, in part:

(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, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities. [...]

The proposed development is an expansion of a coastal-dependent industrial facility permitted under Section 30233. The site is part of a larger site currently the subject of review and negotiations with the San Diego Regional Water Quality Control Board (RWQCB) to require clean-up of contaminated sediment associated with the region's shipyards. However, the project itself has been approved to proceed by the RWQCB, which found that no significant impacts would occur; thus the project would not prejudice the current negotiations. A water quality monitoring plan has been prepared for the project that requires construction BMPs that include continuous visual monitoring for sediments, turbidity, and impacts to wildlife, and correction of any identified impacts.

The U.S. Army Corps of Engineers (ACOE) is tentatively planning to approve the project under a Nationwide Permit #25. Special Condition #2 requires the applicant to provide copies of all other required permits prior to commencement of construction. A biological study performed for the project notes that the site is deep enough that no eelgrass would be expected to occur at the location, and that the structure itself could serve as a fish

attractant and might result in an increase in forage fish use within the area. The study concludes the area does not support resident sensitive marine species and is likely to only be used by transitory sensitive species, and the project is not expected to have a significant or measurable affect on any sensitive species.

Commission staff has consulted with staff at the ACOE, and determined that potential impacts to foraging birds from shading impacts associated with construction of the 12 x 16 deck (320 sq.ft.) can be mitigated through removal of an equal amount of existing covered water area. The applicant has submitted a preliminary proposal to demolish 320 sq.ft. of unused deck at the nearby Pier 5. Special Condition #1 requires submittal of a final mitigation plan that requires demolition of 320 sq.ft. of Pier 5 no later than April 1, 2010, which is consistent with the ACOE requirements for compensatory mitigation.

As conditioned, the project will not have an adverse impact on any sensitive habitat, and will not result in erosion or adverse impacts to water quality. Thus, the project is consistent with the above-cited resource protection policies of Chapter 3 of the Coastal Act.

3. Public Access and Recreation. Section 30210 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.

The proposed project will be located at an existing shipyard facility. The dolphin will be installed in a water area which is already restricted to public access and not available to recreational boaters; thus no impacts to public access are expected to occur.

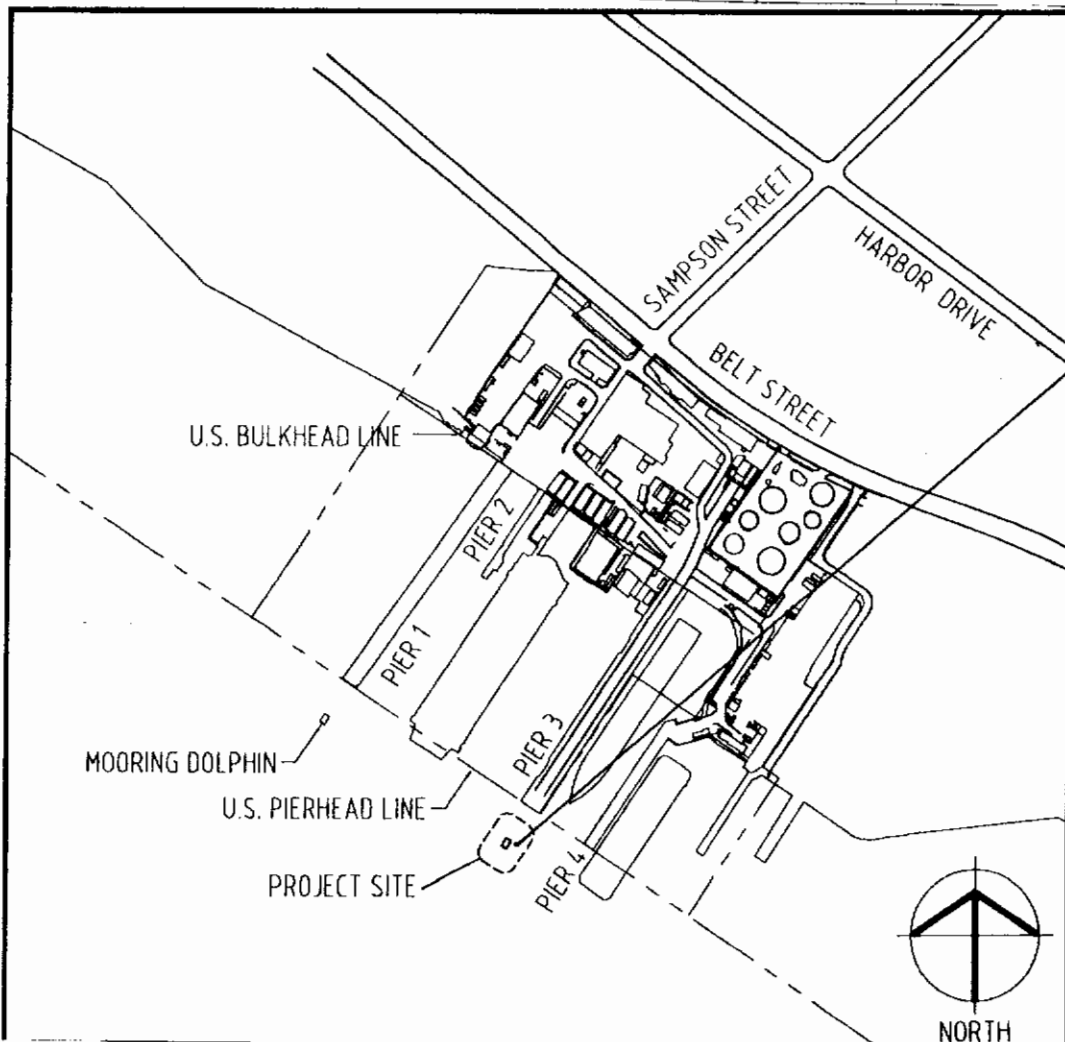
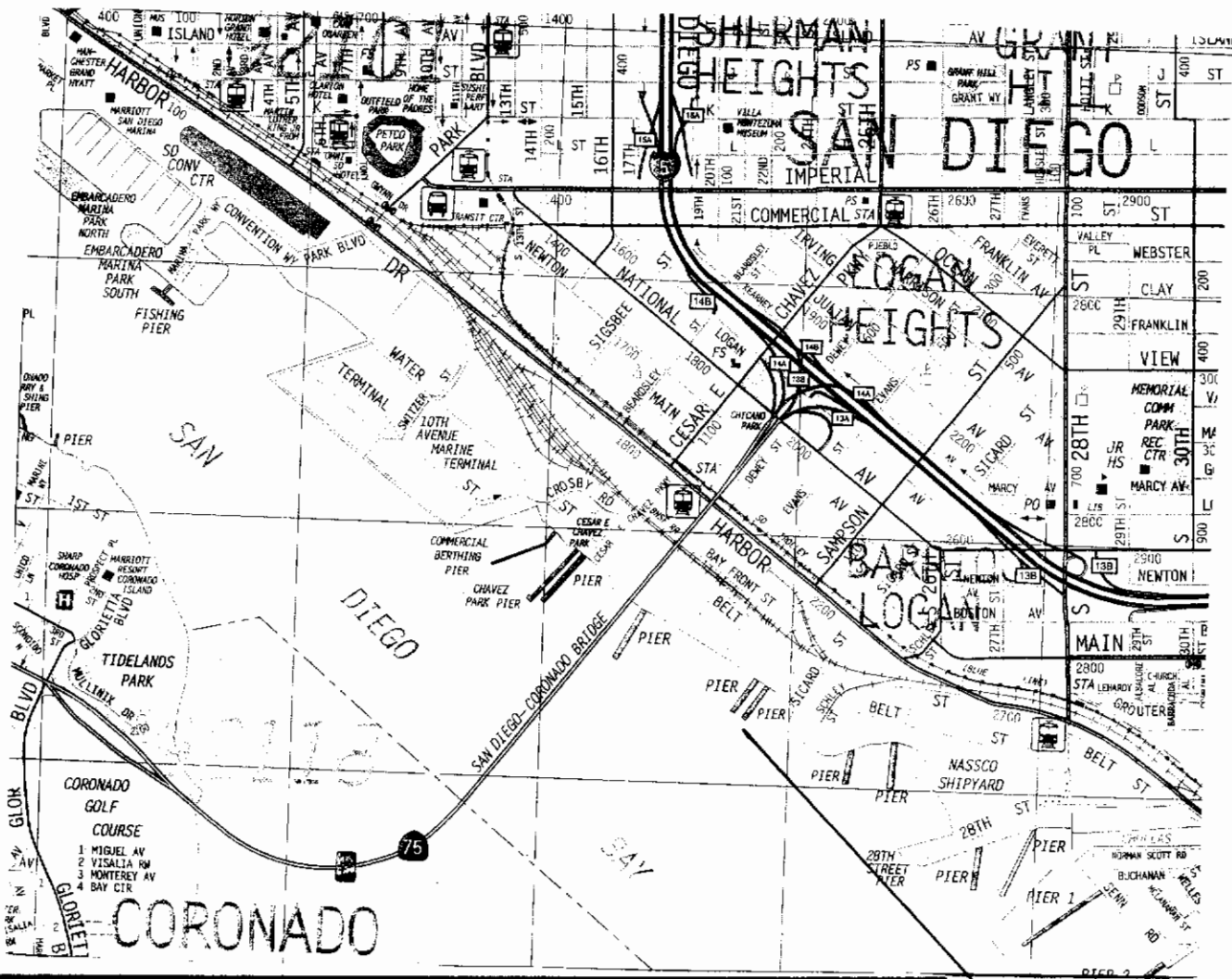
4. Local Coastal Planning. The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the Port of San Diego to continue to implement its certified Port Master Plan.

5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing shading impacts will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

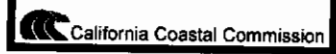
STANDARD CONDITIONS:

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 on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit 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.



PROJECT
SITE

EXHIBIT NO. 1
APPLICATION NO.
6-09-38
Location Map



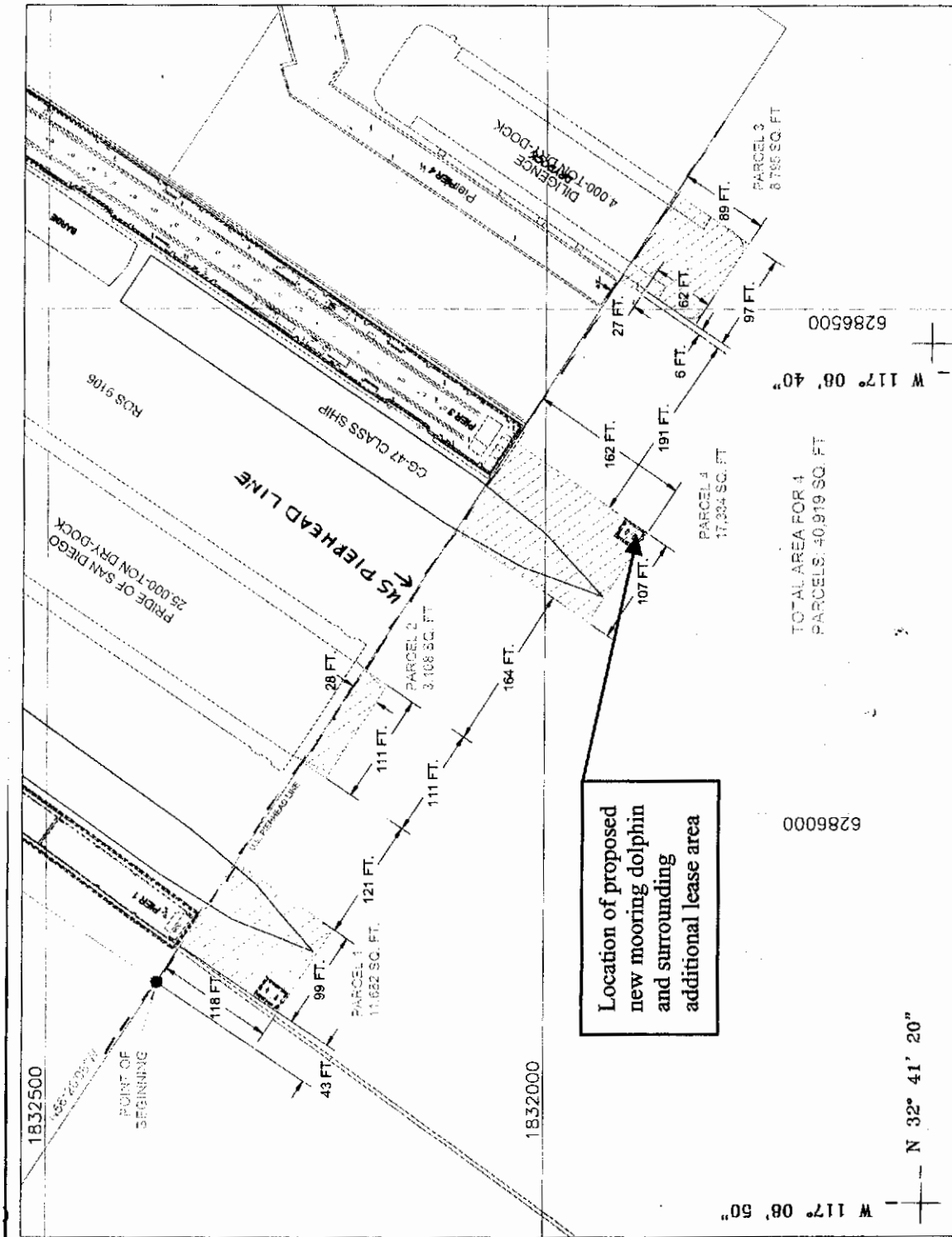


EXHIBIT NO. 2

APPLICATION NO.

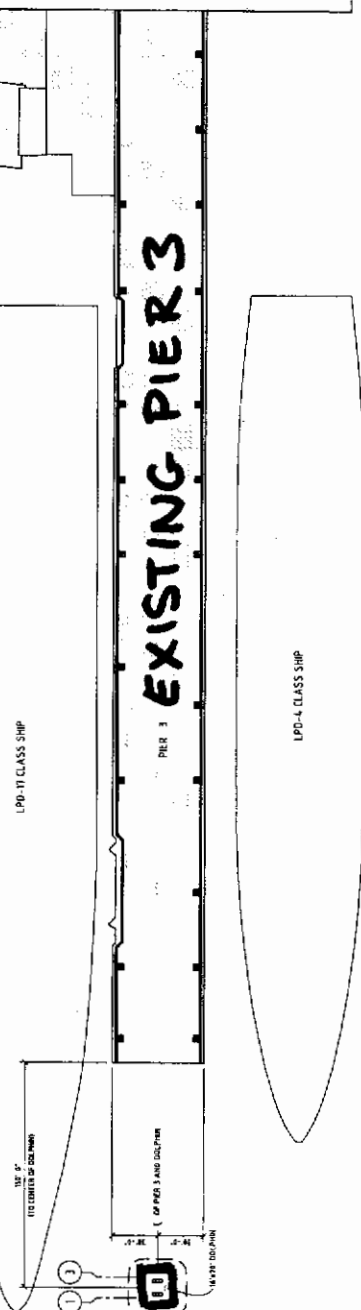
6-09-38

Detail Location Map

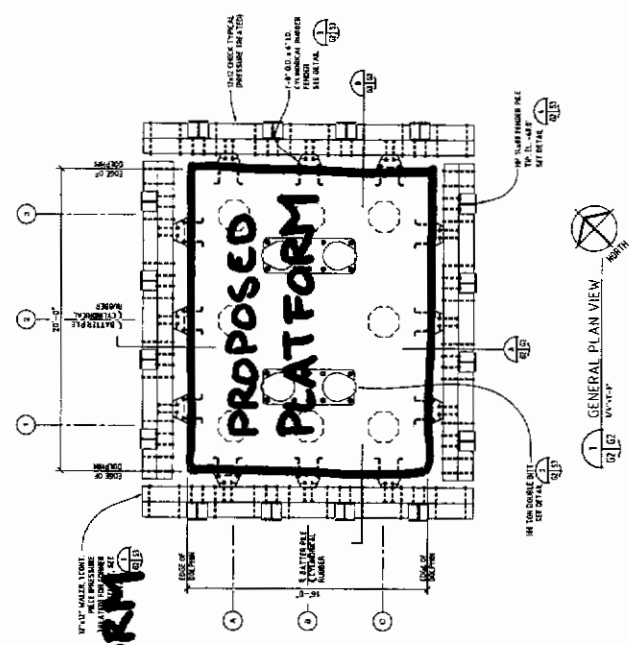


1. PLANS SHOW APPROXIMATE LAYOUTS OF SHIPS RELATIVE TO PIER 3 AND MOORING
 2. SHIP POSITIONS ARE NOT TO BE CONSIDERED AS GUARANTEEING THE PERFORMANCE
 OF ANY DESIGN OR CONSTRUCTION. MOORING SHALL BE THE RESPONSIBILITY
 OF THE USER.

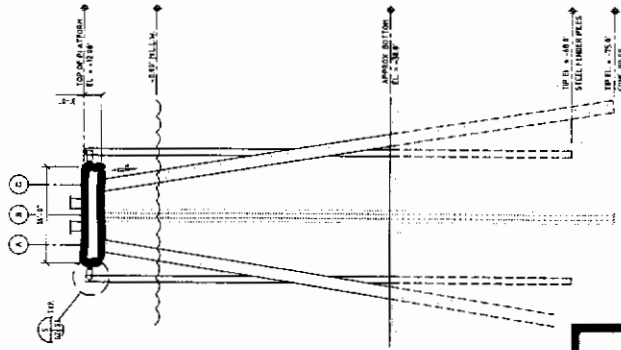
**PROPOSED
DOLPHIN**



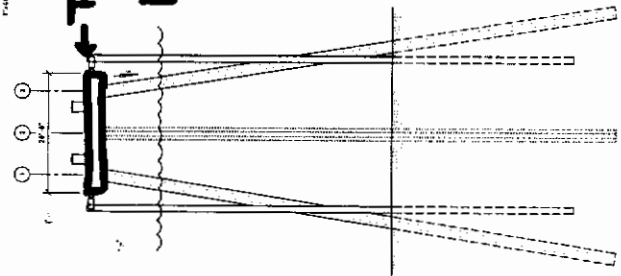
GENERAL SITE PLAN
1/4" = 10' - 0"



GENERAL PLAN VIEW
1/4" = 10' - 0"



CROSS SECTION A-A
1/4" = 10' - 0"



CROSS SECTION B-B
1/4" = 10' - 0"

		BAE SYSTEMS San Diego Ship Repair 2255 Camino del Rio South San Diego, California 92108 APPROVED: S. J. MOORE DATE: 6/9/93		Triton Engineers, Inc. 1015 La Jolla Village Drive San Diego, California 92161 APPROVED: S. J. MOORE DATE: 6/9/93		BAE SYSTEMS MOORE SHEET NO. 1 OF 1	
NO.	DESCRIPTION	BY	DATE	NO.	DESCRIPTION	BY	DATE
1	PROPOSED PLATFORM	SM	6/9/93	1	PROPOSED PLATFORM	SM	6/9/93
2	PROPOSED PLATFORM	SM	6/9/93	2	PROPOSED PLATFORM	SM	6/9/93
3	PROPOSED PLATFORM	SM	6/9/93	3	PROPOSED PLATFORM	SM	6/9/93
4	PROPOSED PLATFORM	SM	6/9/93	4	PROPOSED PLATFORM	SM	6/9/93
5	PROPOSED PLATFORM	SM	6/9/93	5	PROPOSED PLATFORM	SM	6/9/93
6	PROPOSED PLATFORM	SM	6/9/93	6	PROPOSED PLATFORM	SM	6/9/93
7	PROPOSED PLATFORM	SM	6/9/93	7	PROPOSED PLATFORM	SM	6/9/93
8	PROPOSED PLATFORM	SM	6/9/93	8	PROPOSED PLATFORM	SM	6/9/93
9	PROPOSED PLATFORM	SM	6/9/93	9	PROPOSED PLATFORM	SM	6/9/93
10	PROPOSED PLATFORM	SM	6/9/93	10	PROPOSED PLATFORM	SM	6/9/93

EXHIBIT NO. 3

APPLICATION NO.

6-09-38

Site Plan and

Cross-Sections

California Coastal Commission