

CALIFORNIA COASTAL COMMISSION

South Central Coast Area Office
89 South California St., Suite 200
Ventura CA 93001
(805) 585-1800

Permit Application No. **4-09-063**180th Day: 3/30/2010

Staff Report: January 20, 2010



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ADMINISTRATIVE PERMIT

APPLICANT: City of Santa Barbara Waterfront Department

PROJECT DESCRIPTION: Replace and expand Marina 3B Endtie from 252 sq. ft. to 504 sq. ft. in order to improve ADA accessibility. No new piles will be installed.

LOCATION: Santa Barbara Harbor, 309 Shoreline Drive, City of Santa Barbara

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:

Wednesday, February 11, 2010, 9:00 a.m.
Oceanside City Council Chambers
300 North Coast Highway
Oceanside, CA 92054

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: James Johnson
Title: Coastal Program Analyst

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 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 CONDITIONS: See Page 13

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 proposed project involves the replacement and expansion of a public boat dock/entire within the Santa Barbara Harbor (Exhibits #1-5). The existing dock was built in the early 1980's constructed of a wood frame on high density polyethylene floats. The existing rectangular dock 4' wide by 63' long totals 252 sq. ft. in size. The proposed replacement dock will be 8' wide by 63' long totaling 504 sq. ft. in size. The proposed enlargement is necessary to provide for improved access for the physically challenged using a wheel chair to access a

boat. A transfer device capable of transferring a person in a wheelchair to and from a boat to the dock will be installed at the endtie. Existing electrical and water service will be replaced. No new piles are proposed (Exhibit #4).

Once the existing dock is removed, the new dock will be transported to the harbor from an off-site fabrication location and installed. The wooden decking system will be assembled at the Harbor launch ramp or City Pier and floated into place at the dock/endtie. The existing guide piles at each end of the dock are in good condition and will remain in place. The reconstruction materials will be the same as the existing materials which includes the use of lumber treated with ammoniacal copper zinc arsenate (ACZA) for the construction of non-submerged docks. The Commission has previously found that ACZA treatment of exposed timber is appropriate for use in the construction of non-submerged docks, such as the proposed project. In addition, the US Department of Interior, Fish and Wildlife Service reviewed the proposed use of ACZA treated wood in a letter dated November 30, 2009 by Chris Dellith, Senior Biologist. This letter concludes that the Service does not endorse or object to the use of a particular treated wood product in marine or freshwater applications by stating as follows:

“Lumber treated with ACZA contains copper, zinc, and arsenic that protect against decay caused by fungi, insects, and many marine borers, and is used for the treatment of poles, pilings and other timber products (Lebow and Tippie 2001).

...

The city of Santa Barbara's Waterfront Department (Department) proposes to utilize several best management practices (BMPs) to reduce the ecological risk associated with ACZA treated wood. These BMPs include:

- Storing treated material at the job site above the ground and covered from precipitation;
- Conducting fabrication (e.g., drilling, cutting, etc.) away from the aquatic environment whenever possible;
- Collecting fabrication debris such as sawdust and shavings at the construction site and disposing of them properly;
- Utilizing construction booms and tarps to catch materials;
- Utilizing nets to retrieve any material that may fall into the water;
- Constructing the docks offsite (on land) and floating them into place when completed; and
- Utilizing ACZA treated wood in non-submerged applications that are not subject to wave activity.

The Service does not endorse or object to the use of any particular treated wood product in marine or freshwater applications. Studies focusing on AZCA treated wood have indicated that this product will leach copper, zinc, and arsenic into the surrounding environment, but in concentrations that have not been shown to cause ecological damage. Because the Department proposes to use the AZCA treated wood in a non-submerged application and has proposed several BMPs to reduce unnecessary risk to sensitive species and habitats, the likelihood that the use of this product in the construction of docks in the Santa Barbara Harbor will cause adverse impacts to federally listed species is low.”

During construction, Marina 3B Endtie will be closed to all boaters who will be directed to open visitor slips. The proposed project will not interfere with the boating public accessing the harbor and is anticipated to be completed within 2-3 days. A containment boom will be placed in the water, around the project site, during construction. The proposed project has been found categorically exempt from CEQA as the project is considered a minor expansion to an existing facility (Section 15301 of the CEQA Guidelines). The project requires no permit approvals from the City of Santa Barbara as the project is entirely located in the retained permit jurisdiction of the Coastal Commission. The applicant is in the process of obtaining a permit from the U.S. Army Corps of Engineers.

The Santa Barbara Harbor is an important small boat harbor serving the south coast of Santa Barbara County, as well as areas further south. The Harbor is the only sheltered harbor along a 127 mile stretch of coast between Port San Luis to the north and the Ventura Marina to the south. The harbor and waterfront is the home base of the local commercial fishing fleet and the U.S. Coast Guard and provides a variety of commercial and coastal recreational resources. Common recreational uses of the project area include fishing, boating, jet skiing, bike riding, walking, sunbathing, kayaking, swimming, surfing, photography, and bird watching. The harbor includes more than 1,133 slips and associated facilities, including seven pump out facilities and recycling and hazardous waste facilities.

The harbor provides habitat for several sensitive species including western snowy plover, the California brown pelican, the California least tern, the California sea lion, and harbor seal. The project area, Marina 3B, is located in the center of the harbor directly adjacent to the federal channel and approximately 200 ft. from the rock breakwater that extends southward from West Beach as shown in Exhibit 1. The small sandy beach adjacent to the breakwater has been used in the past by foraging terns, plovers, and pelicans; however, the City has indicated that there are no sensitive bird species currently nesting in this location. Snowy plovers, however, have in recent years (2005) established nests on the sandspit approximately 900-1,000 feet south of the project site. Construction is proposed outside the time periods when California least terns could be present and when western snowy plover breeds. Based on surveys conducted by applicant's biological consultant, the applicant has confirmed that there are no Eelgrass beds in this location. In addition, there will be no disturbance of the harbor bottom proposed. The project area is outside the high and moderate sensitivity zones for archaeological resources mapped by the City.

B. Public Access and Recreation

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not

limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states (in part):

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

Section 30213 of the Coastal Act states (in part):

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30214 of the Coastal Act states (in part):

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including but not limited to, the following:

(1) Topographic and geologic characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30224 of the Coastal Act states (in part):

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, ...

Coastal Act Sections 30210, 30211, 30212, 30213, and 30214 mandate that maximum access and recreational opportunities shall be provided, consistent with public safety and the protection of coastal resources. Specifically, Sections 30210 and 30212 of the Coastal Act provides that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, and that maximum access shall be provided for all people consistent with public safety needs, the need to protect public

rights, the rights of private property owners, and the need to protect natural resource areas from overuse. Sections 30220, 30221, and 30224 of the Coastal Act requires that coastal areas suited for coastal recreational activities, that cannot be provided at inland water areas, be protected and that increased recreational boating use of coastal waters be encouraged by providing additional berthing space in existing harbors.

The proposed recreational boat dock/entire development is a replacement of the existing dock with additional deck space which is necessary to provide access for physically challenged boaters. Specifically, the new improvements will include installation of a transfer device capable of lifting a person in a wheelchair from a boat up to the marina deck level. This entire/dock located at the end of Marina 3B is available for transient boaters, thereby, providing increased public recreational access for boaters. However, public access to the entire/dock by recreational boaters will be closed during the 2-3 construction days estimated as necessary to complete the project. During construction, adequate alternative boat berthing will be available at other existing visitor boating slips. 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 Executive Director determines that the proposed development, which is to be used solely for recreational boating purposes, conforms with Sections 30210, 30211, 30212, 30213, 30214, 30220, 30221, and 30224 of the Coastal Act.

C. Marine Resources/Environmentally Sensitive Habitat

Section 30230 of the Coastal Act states:

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 of the Coastal Act states that:

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, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup

facilities and procedures shall be provided for accidental spills that do occur.

Section 30233 of the Coastal Act states:

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

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

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(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.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

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 those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Policy MAR-1 and subsequent proposed actions of the City of Santa Barbara certified Harbor Master Plan also state in part:

Policy MAR-1 Marine resources shall be maintained, enhanced, and, where feasible, restored.

Action MAR-1.1 Continue to monitor water quality and enforce water quality protection rules and regulations.

Action MAR-1.2 Encourage the study and maintenance of biological diversity and health of the harbor.

Sections 30230 and 30231 of the Coastal Act mandate that marine resources and coastal water quality shall be maintained and where feasible restored. Section 30232 of the Coastal Act requires that protection against spillage of hazardous substances into the marine environment relating to any new development be provided. Section 30233 limits development in open coastal waters to boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. Finally, Section 30240 states that only development that is resource dependent may be allowed within environmentally sensitive habitat areas and requires development to be sited and designed to prevent impacts on environmentally sensitive habitat areas, parks, and recreation areas. The approved City of Santa Barbara Harbor Master Plan also includes several measures to protect water quality and biological resources, including proper disposal of hazardous materials and trash, water quality monitoring, and adequate sewage disposal systems.

The City of Santa Barbara proposes to replace and expand Marina 3B endtie to accommodate physically challenged transient boaters who need a hoist to be lifted in a wheelchair to and from a boat to the endtie/dock. The project would involve removal of the existing 252 sq. ft. dock and replacing it with an enlarged dock of 504 sq. ft. in size. The project area is located in the center of the harbor adjacent to the federal channel and approximately 1,000 ft. from the sand spit that extends eastward from the rock breakwater as shown in Exhibit 2.

According to biological studies conducted in 1997 by SAIC, the harbor contains soft bottom, hard substrate, and water column habitats. The frequent dredging in the harbor and shading of large areas by vessels and docks has limited the abundance and types of species present. Mats of red algae are present on the bottom in parts of the harbor. Hard

substrates present include pilings, floating docks, and concrete and rock structures. A variety of invertebrate and algal species colonize these structures. A variety of fish, birds, and marine mammals use the marine environment in the project area, including the California sea lion and harbor seals. Additionally California least tern, western snowy plover, and California brown pelican are known to use portions of the harbor for foraging and nesting.

The proposed project will require the removal and replacement/enlargement of an existing dock in approximately the same location above the sea floor in coastal waters. As described above, Section 30233 of the Coastal Act provides that diking, filling, and dredging of coastal waters may be permitted only when specific criteria are met, including (a) the project must fall within one of the use categories specified; (b) the proposed project must be the least environmentally damaging feasible alternative; and (c) feasible mitigation measures to minimize adverse effects must be provided. In this case, the project does not include the installation of any new piles and will not result in any diking, filling, or dredging of coastal waters. The proposed project would provide boating facilities for recreational opportunities, an allowable use for fill of coastal waters under Section 30233(a)(4) of the Coastal Act. Given that the project area is currently occupied by a boat dock/endtie and is adjacent to the heavily dredged Federal Channel, there are no alternative locations available for the newly reconfigured berthing area that would be less environmentally damaging and still meet the purpose and need of the City of Santa Barbara for a reconfigured end tie area that would provide at least one new slip. The following discusses potential impacts of the proposed project on biological and water quality resources and mitigation measures that would adequately mitigate these potential impacts.

Sensitive Species

New construction projects within marine areas have the potential to directly impact sensitive resources, including eelgrass. In addition, in past permit actions, the Commission has found that the new construction in marine areas, including the demolition and driving of piles on the sea floor could disturb and cause the spread of non-native and invasive species, such as *Caulerpa taxifolia* and Japanese kelp (*Undria pinnatifida*). However, in this case, a biological survey required by Coastal Permit 4-06-126 to replace a portion of the nearby Marina 4B, was completed in 2007 which confirmed no presence of either sensitive eelgrass or the non-native, invasive *Caulerpa taxifolia* within the harbor, including the proposed project site. Therefore, the proposed project is not expected to result in any potential disturbance or adverse impacts to any sensitive eelgrass habitat or spread of any invasive marine plant species, such as *Caulerpa taxifolia*.

Additional sensitive species within the vicinity of the project site include the California brown pelican, California least tern, and western snowy plover that are threatened or endangered species known to occur in the harbor and the areas surrounding the harbor. California brown pelicans are a year-round resident of the harbor area. The pelican, however, nests outside of the project area on the Channel Islands. The potential project impacts on brown pelicans are likely to be minimal due to the temporary nature of project disturbance and the species' tolerance of human activities.

The western snowy plover is a small shorebird that occasionally uses the harbor for foraging. The nearest major breeding location is at Devereux Beach, approximately 10 miles north of the project site. Due to the distance of the project site from Devereux

Beach, the proposed project will not result in any adverse impact to any plovers potentially breeding or nesting at Devereux Beach. However, in 2005 a pair of plovers established nests on the sandspit on the southern side of the harbor which is located approximately 900-1,000 feet south of the project area. Plovers are unlikely to be present directly in the project area due to the lack of sandy beach habitat. However, the use of heavy equipment that typically results in loud noise levels does have the potential to negatively affect any snowy plovers attempting to nest on the sandspit or other nearby sandy locations, including West Beach. No plovers have nested on the sandspit or on West Beach since 2005. In order to prevent potential impacts to Western snowy plover and other sensitive birds trying to nest in the vicinity of the proposed project, the Commission requires **Special Condition Five (5)**. Special Condition Five requires the City to conduct surveys for sensitive bird species, including snowy plover, at the harbor sandspit and West Beach should any use of heavy equipment be planned during the nesting period for these species (March 1 to September 31, inclusive). According to **Special Condition Six (6)**, should any nesting sensitive bird species or Western snowy plover be found on the sandspit or West Beach, the City shall be prohibited from conducting activities that cause excessive noise, odors, or vibrations. In addition, if construction is proposed between March 1 and September 31st the City will have a qualified environmental specialist survey sandy habitats at West Beach and the harbor sandspit to determine the presence and behavior of sensitive species, including western snowy plover, California Least Terns or Brown Pelicans. In the event these species are present and or exhibiting nesting behavior the environmental specialist is required to direct the applicant to cease work with resumption allowed only upon written approval by the Executive Director

California least terns, nest along the coast near the mouths of the Santa Maria and Santa Ynez rivers and several location on Vandenberg AFB. They then spend portions of the post-breeding time (July and August) in the harbor and at East and West Beaches. Due to the sensitive nature of these species, the City has proposed to prohibit towing, and the use of heavy equipment during the months of July and August in order to eliminate any potential impacts to these species due to elevations in noise, odors, and vibrations associated with these activities. In order to ensure that this proposed protection measure is adequately implemented, **Special Condition Six (6)**, requires that all construction activities that require towing, or the general use of heavy equipment shall be prohibited from July 1st to August 31st.

As conditioned, the Executive Director determines that the development conforms with Sections 30230, 30231, 30232, 30233, and 30240 of the Coastal Act.

D. Water Quality

Section 30231 of the Coastal Act states that:

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, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation

buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The proposed dock work 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. Construction of any kind adjacent to or in coastal waters also has the potential to impact marine resources and water oriented recreation activities due to the potential generation of debris and/or presence of equipment, materials and hazardous substances that could enter the water. To ensure that construction related adverse effects to the marine environment and water quality are minimized, **Special Conditions Two and Three (2 & 3)**, requires the applicant to implement best management practices including storage of construction materials, staging of equipment, and proper disposal of debris, including dilapidated boats and old mooring and anchoring equipment found in the project area.

The leaching of metals from the treated wood is a short term effect for submerged woods. However, as proposed the treated wood will not be submerged in water as it rests above it on the high density polyethylene floats. The Commission Staff Biologist has reviewed the use of the ACZA treated wood proposed for the wooden dock and determined there will be no significant adverse impact to coastal resources as proposed by the applicant's BMPs and those required in **Special Conditions Two and Three (2 & 3)** and the fact that the treated wood is not submerged in coastal waters. Therefore the Staff Biologist has determined that the ACZA is appropriate for use in this case.

With the condition required BMPs the proposed project raises no significant water quality impacts. 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 Executive Director determines that the development conforms with Sections 30231 and 30232 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 within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Santa Barbara certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Santa Barbara LCP in 1986. Later, in 1996 the Commission

certified a Harbor Master Plan for the harbor. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

F. California Environmental Quality Act (CEQA)

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application 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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, project alternatives and mitigation measures have been considered and incorporated into the project. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required as part of this coastal development permit include the avoidance of impacts to ESHA through clustering structures. Mitigation measures required to minimize impacts include requiring permit compliance, construction responsibilities and debris removal, best management practices program, public access along the waterway, pre-construction biological surveys, timing of construction, assumption of risk, and other agency permits and approval. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

Special Conditions 1 through 8

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

SPECIAL CONDITIONS:

1. Permit Compliance

The permitted use of the approved development is for boating related uses only. 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.

2. 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) Eelgrass, if found, shall not be disturbed.
- f) 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.
- g) Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- h) At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to navigation.

3. 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.
 - 4. Boat repair and maintenance shall only occur in clearly marked designated work areas designed for that purpose.
 - 5. All boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall also use preventative engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas.
- 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 are encouraged to regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters are also encouraged to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. Clean and maintain bilges. Do not use detergents while cleaning. The use of soaps that can be discharged by bilge pumps is discouraged.

d) Sewage Pumpout System Best Management Practices

Vessels shall dispose of any sewage at designated pumpout facilities provided by the Waterfront Department.

4. **Public Access along the Waterway**

The proposed project shall not interfere with public access and use of the public walkways except for the construction site at Marina 3B and the staging/assembly location for the dock prior to its floating to Marina 3B.

5. **Pre-Construction Biological Surveys**

By acceptance of this permit, the applicant agrees that any use of heavy equipment which can cause excessive noise, odors, and vibrations between March 1 and September 31st, inclusive, the City shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director, to conduct a survey prior to these construction activities. The environmental resource specialist shall conduct a survey of the sandy habitats at West Beach and the harbor sandspit, to determine presence and behavior of sensitive species, including snowy plover, one day prior to commencement of or use of any heavy equipment which can cause excessive noise, odors, and vibrations. In the event that any sensitive wildlife species (including but not limited to California least tern, western snowy plover, or California brown pelican) exhibit reproductive or nesting behavior, the environmental specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director.

The applicant shall submit documentation prepared by the biologist or environmental specialist which indicates the results of each pre-construction survey, including if any

sensitive species were observed and associated behaviors or activities. Location of any nests observed shall be mapped.

6. Timing of Construction

By acceptance of this permit, the applicant agrees that construction activities that require towing, or the general use of heavy equipment, shall be prohibited from July 1st to August 31st inclusive to protect post-breeding California least tern.

Construction activities that require the use of heavy equipment which can cause excessive noise, odors, and vibrations shall be prohibited if any sensitive species, including Western snowy plover, are exhibiting reproductive or nesting behavior at West Beach or the harbor sandspit pursuant to the biological surveys required in Special Condition Five (5) above.

7. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, flooding, and sea level rise; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

8. Other Required Agency Permits and Approval

By acceptance of this permit, the applicant acknowledges and agrees to obtain all final required approvals from Federal and State agencies including: the Army Corps of Engineers (ACOE), California Department of Fish and Game (if required), and U.S. Coast Guard (if required).

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

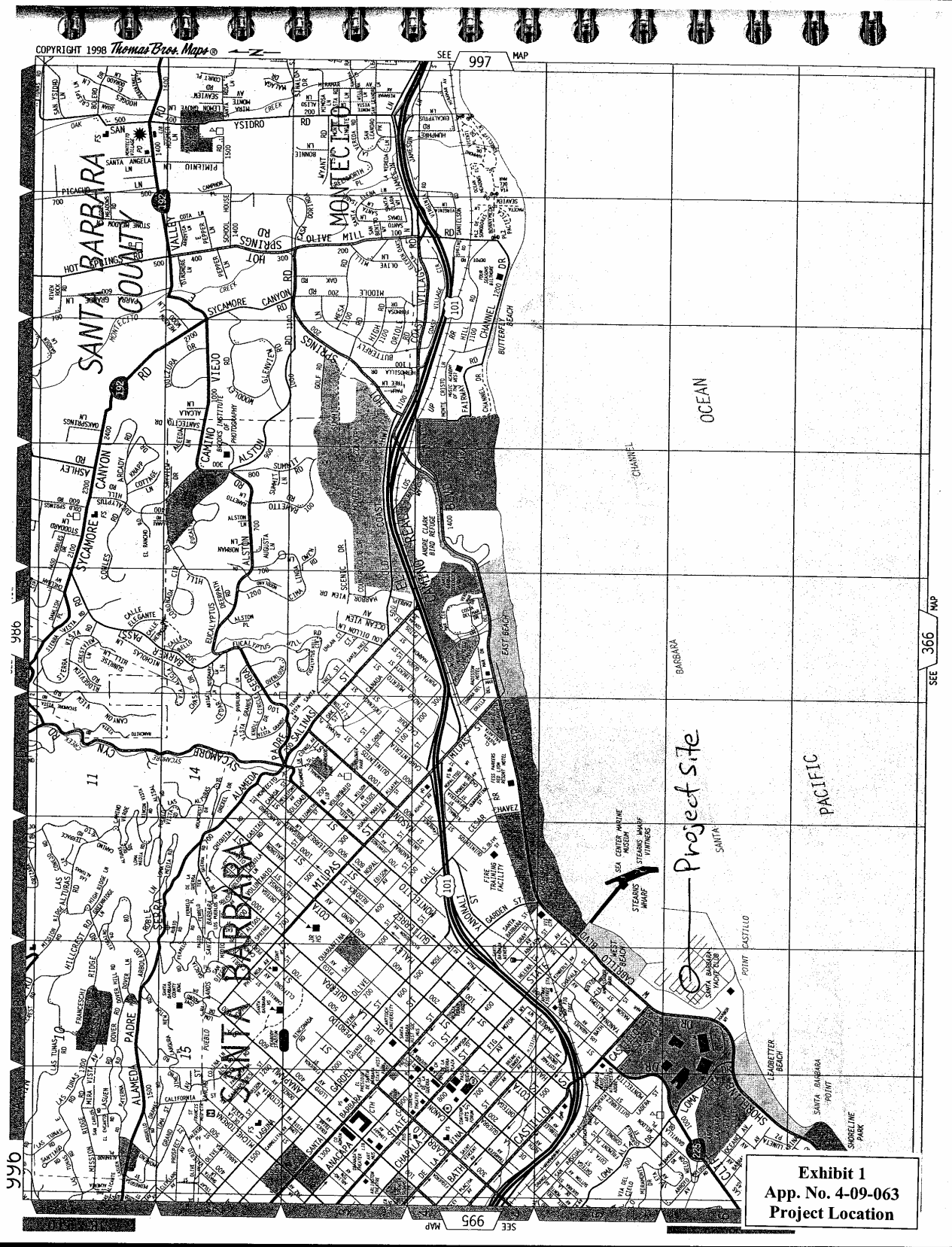
I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

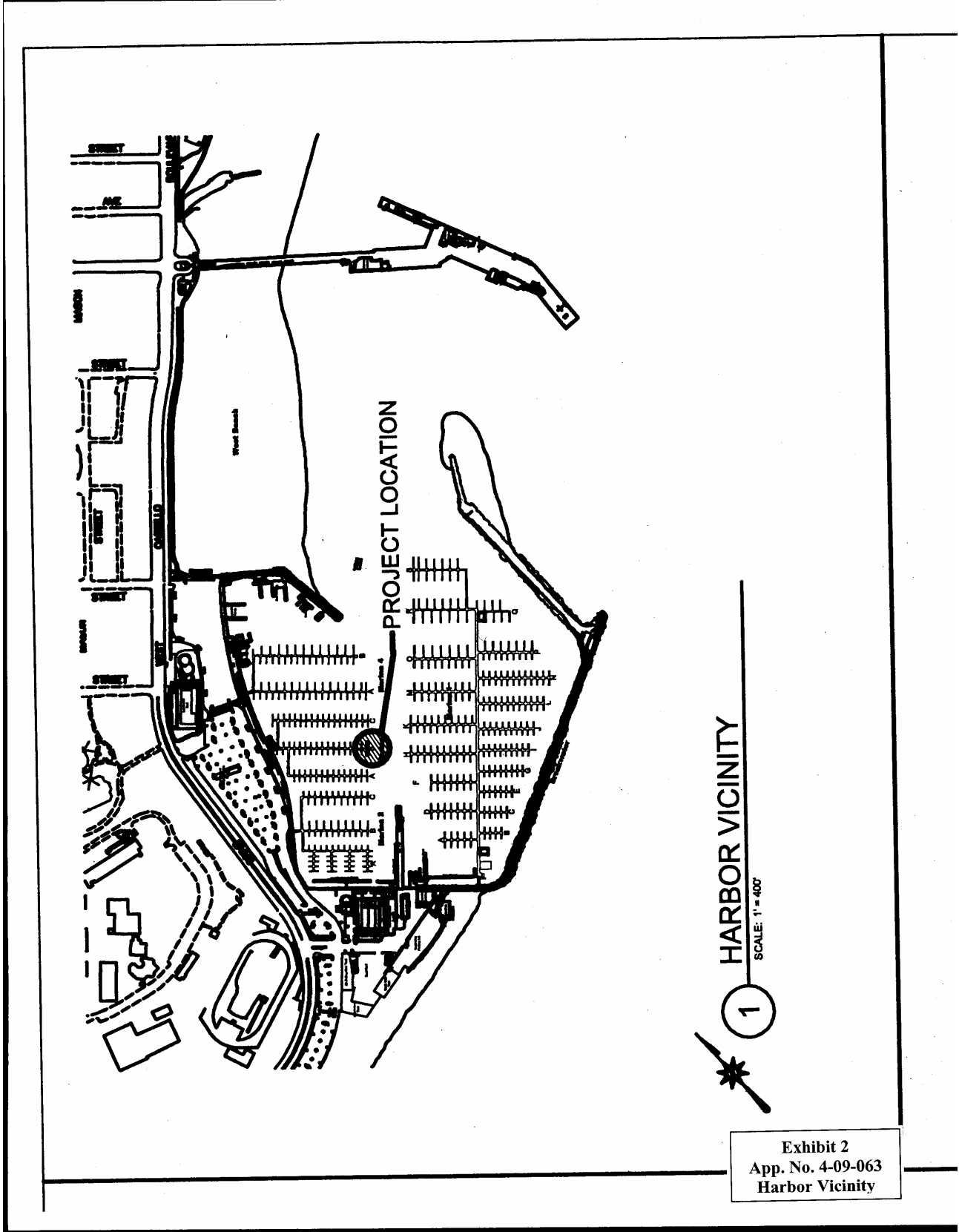
CDP 4-09-063 (City of Santa Barbara)
Page 16 of 21

Applicant's Signature

Date of Signing

409063 SB City dock





HARBOR VICINITY

SCALE: 1" = 400'

1

Exhibit 2
App. No. 4-09-063
Harbor Vicinity

MARINA 3B ENDTIE EXPANSION PROJECT

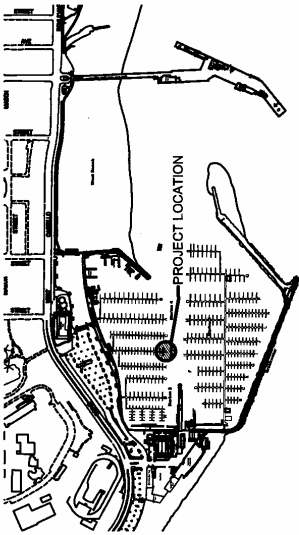


PROJECT DATA
 ZONE: H-CDD-3
 LOCATION: 54° 47' 30" WEST LONGITUDE
 118° 47' 30" WEST LONGITUDE
 OWNER: CITY OF SANTA BARBARA
 CONTACT: JESSIE GONZALES
 11122 MARINA DRIVE, SANTA BARBARA, CA 93109
 (805) 884-3734

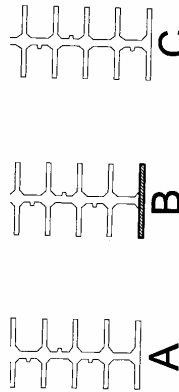
- GENERAL NOTES:**
- ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE CALIFORNIA BUILDING CODE AND ALL APPLICABLE ORDINANCES.
 - REPORT ANY AND ALL DISCREPANCIES, AMBIGUITIES, UNCLARIFIED OR UNRESOLVED CONDITIONS TO THE ARCHITECT IMMEDIATELY UPON DISCOVERY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS BEFORE PROCEEDING WITH WORK.
 - ALL WORK SHALL BE IN ACCORDANCE WITH THE 2001 EDITION OF THE CALIFORNIA BUILDING CODE.
 - VERIFY ALL DIMENSIONS PRIOR TO STARTING WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS BEFORE PROCEEDING WITH WORK.
 - WATERPROOF MAINTENANCE SUPPLEMENTARY TO THE CONSTRUCTION CONTRACT SHALL BE PROVIDED FOR ALL EXPOSED JOINTS AND CONNECTIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS BEFORE PROCEEDING WITH WORK.
 - ANY DIFFERENCE BETWEEN THE EXISTING CONDITIONS AS OBSERVED AND THE CONDITIONS SHOWN ON THE DRAWINGS SHALL BE REPORTED TO THE ARCHITECT IMMEDIATELY UPON DISCOVERY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS BEFORE PROCEEDING WITH WORK.
 - REFER TO THE WATERPROOF MAINTENANCE SUPPLEMENTARY TO THE CONSTRUCTION CONTRACT FOR ALL DETAILS.
 - THE DRAINAGE FOR THIS PROJECT IS MEAN LOW SEASON WATER LEVEL.
 - CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE CALIFORNIA BUILDING CODE AND ALL APPLICABLE ORDINANCES.
 - ATTACHED HERewith FOR INFORMATION.
 - EXISTING UTILITIES ARE TO REMAIN IN PLACE.
 - ALL WORK SHALL CONFORM TO THE CURRENT EDITION OF THE BUILDING SPECIFICATION FOR PUBLIC WORKS CONSTRUCTION AND ORDINANCES OF THE CITY OF SANTA BARBARA.
 - REVISIONS SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE BUILDING SPECIFICATION FOR PUBLIC WORKS CONSTRUCTION AND ORDINANCES OF THE CITY OF SANTA BARBARA.
 - CONTRACTOR SHALL NOTIFY THE PROJECT ENGINEER AT LEAST 48 HOURS PRIOR TO BEGINNING WORK.
 - DAMAGE TO UTILITIES SHALL BE REPAIRED IMMEDIATELY UPON DISCOVERY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS BEFORE PROCEEDING WITH WORK.

SHEET #	DESCRIPTION
1	TYPICAL JOINT PLAN
2	DETAILS
3	

- MATERIAL NOTES:**
- ALL MATERIALS SHALL BE AS FOLLOWS:
 - DRILL HOLES IN WOOD FOR BOLTS 1/4" LARGER THAN THE NOMINAL SIZE OF THE BOLT. Holes NOTED OTHERWISE ON THE DRAWINGS.
 - PROVIDE ALL BOLTS WITH BRASS ANODIZED DIMENSION UNDER HEADS WOODER.
 - ALL TIMBER CONNECTORS ARE TO BE GALVANIZED.
 - ALL METAL FRAMING CONNECTIONS SHOWN ON THE DRAWINGS TO BE GALVANIZED.
 - ALL UNLESS NOTED OTHERWISE ON THE DRAWINGS, ALL CONNECTIONS ARE RECOMMENDED BY THE MANUFACTURER IN THE LATEST CATALOG.
 - ON EQUAL, TREAT FINGER JOINTS TO BE TREATED WITH PENETRANT.



1 HARBOR VICINITY
SCALE: 1"=40'



Marina 3

2 SITE PLAN
SCALE: 1"=40'

APPROVED FOR CONCEPT
 [Signature]
 9-8-09

NO.	DATE	DESCRIPTION
1		CONCEPT
2		CONCEPT
3		CONCEPT
4		CONCEPT
5		CONCEPT
6		CONCEPT
7		CONCEPT
8		CONCEPT
9		CONCEPT
10		CONCEPT
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29		CONCEPT
30		CONCEPT

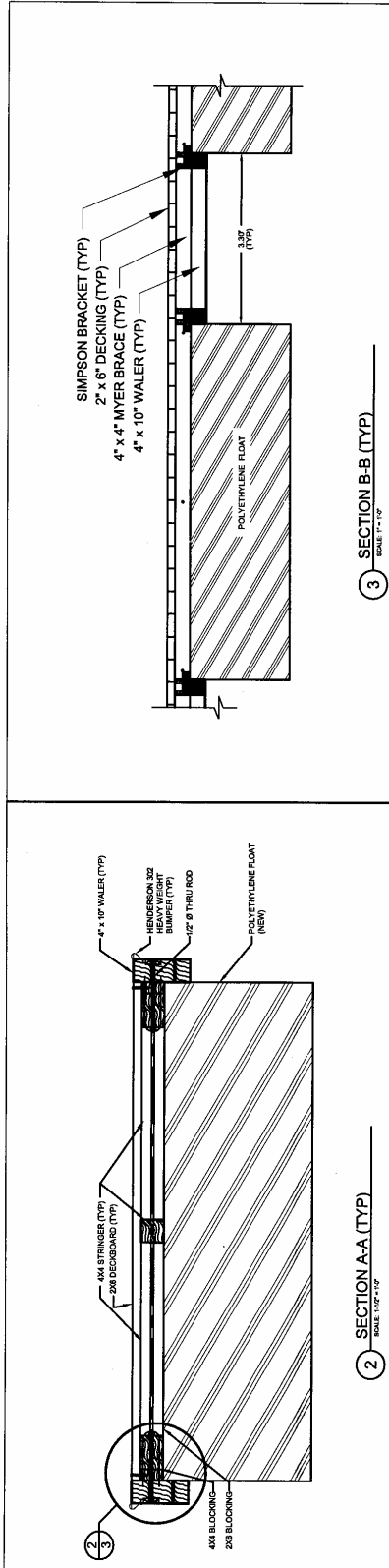
MARINA 3B ENDTIE EXPANSION PROJECT
TITLE SHEET

CITY OF SANTA BARBARA
WATERWORKS DEPARTMENT - FACILITIES DIVISION

SCALE: AS SHOWN
 FACTOR: 1
 VELOCITY: 1
 DATE: 10/20/09

NO. 1000-110
 REV. 1000-110
 REV. 1000-110

Exhibit 3
App. No. 4-09-063
Site Plan



APPROVED BY CONCEPT
 [Signature]
 DATE: 9-8-09

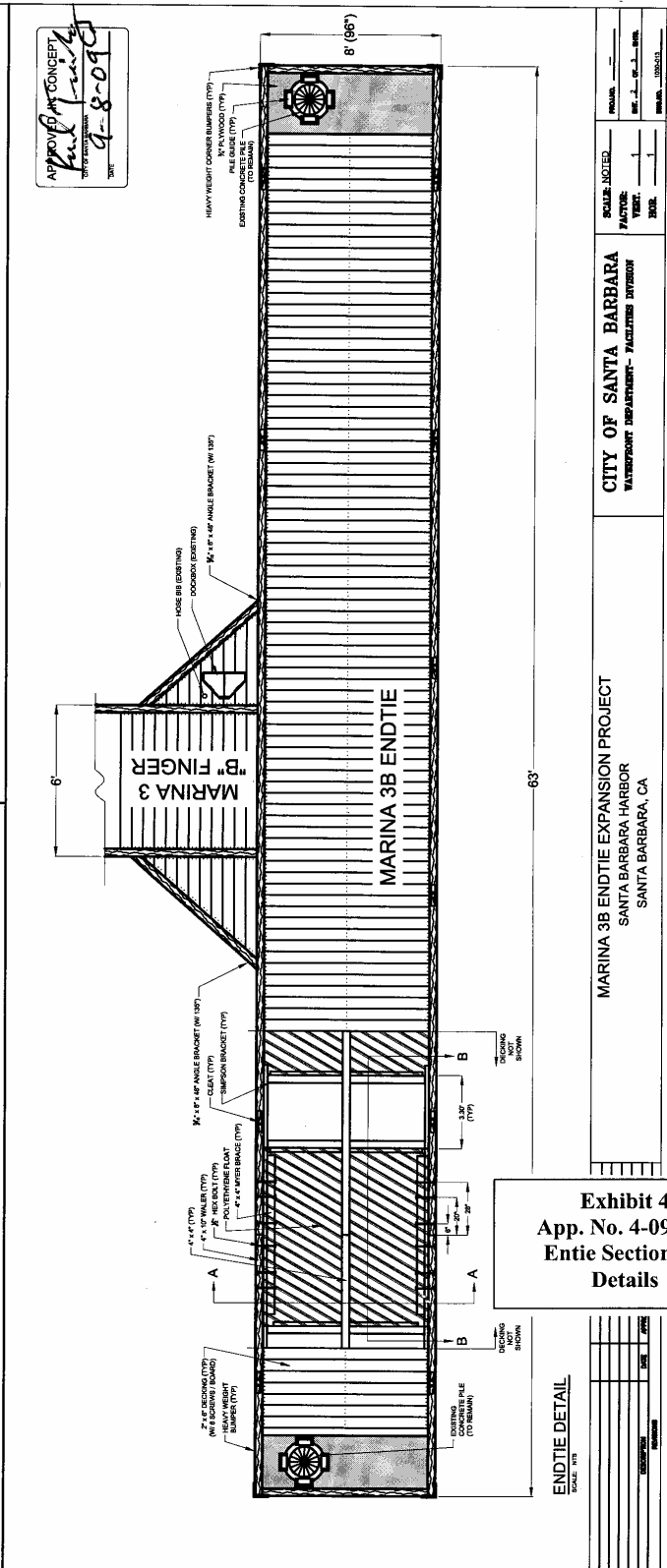


Exhibit 4
 App. No. 4-09-063
 Endtie Sections &
 Details

CITY OF SANTA BARBARA		SCALE: NOTED	NO.:
WATERFRONT DEPARTMENT - FACILITIES DIVISION		PROJECT:	DATE:
MARINA 3B ENDTIE EXPANSION PROJECT		DATE:	DATE:
SANTA BARBARA HARBOR		DATE:	DATE:
SANTA BARBARA, CA		DATE:	DATE:

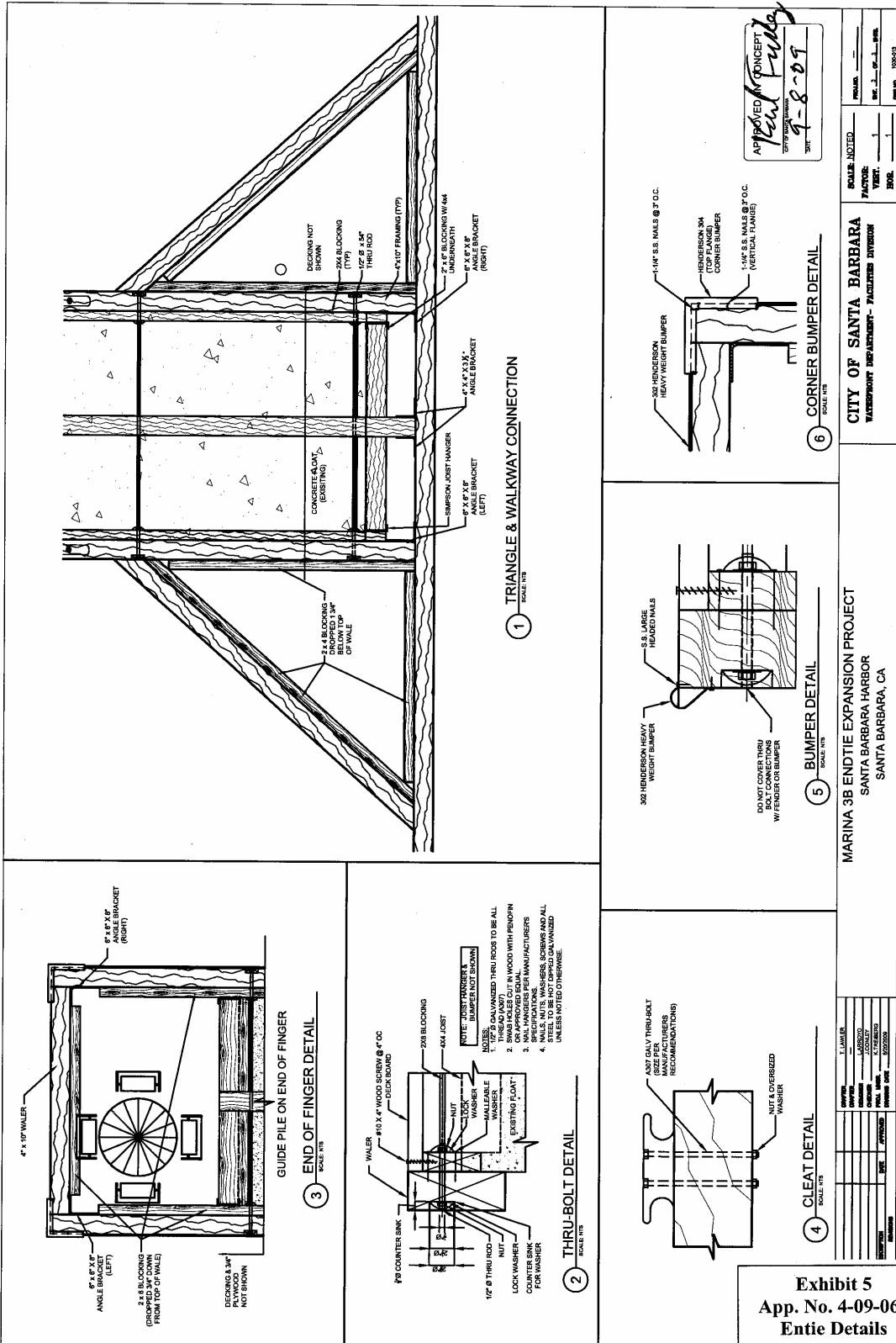


Exhibit 5
App. No. 4-09-063
Entie Details