

CALIFORNIA COASTAL COMMISSION

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Staff: Charles Posner - LB
Staff Report: 1/20/2010
Hearing Date: February 11, 2010
Commission Action:



STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-09-199

CO-APPLICANTS: City of Long Beach Department of Parks, Recreation and Marine Heritage Yacht Sales, Inc. (Toni Duni)

AGENTS: Mark Sandoval, City of Long Beach Marina Manager
Swift Slip Dock and Pier Builders, Inc. (Peter Swift)

PROJECT LOCATION: 231 Marina Drive, Alamitos Bay, City of Long Beach, Los Angeles County.

PROJECT DESCRIPTION: Remove an existing 118-foot long h-shaped commercial boat dock and seven existing piles, and replace it in the same location with a new multi-slip floating dock and gangway anchored by eleven new concrete piles.

LOCAL APPROVAL: City of Long Beach Department of Development Services, Approval in Concept, 9/25/2009.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending **APPROVAL** of the coastal development permit with special conditions relating to the protection of nesting birds, water quality, public access, and the marine resources of Alamitos Bay. The recommended conditions require the permittees to: a) implement best management practices during demolition and construction in order to minimize adverse impacts to nesting birds and marine habitat, b) implement post-construction best management practices to protect water quality, c) comply with the requirements of the resource agencies, and d) assume the risks of the development. The special conditions begin on Page Three. The applicants agree with the recommendation.

See Page Two for the motion necessary to carry out the staff recommendation.

STAFF NOTE:

Pursuant to Section 30519 of the Coastal Act, development located within the Commission's area of original jurisdiction requires a coastal development permit from the Commission. The Commission's area of original jurisdiction includes tidelands, submerged lands, and public trust lands, whether filled or unfilled. The proposed project is situated on submerged lands within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development in its area of original jurisdiction is the Chapter 3 policies of the Coastal Act. The City of Long Beach certified LCP is advisory in nature and may provide guidance.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Long Beach certified Local Coastal Program (LCP), July 22, 1980.
2. Coastal Development Permit 5-03-025 (City of Long Beach, 231 Marina Drive Dock).
3. Heritage Yacht Sales, Inc. Lease No. 28285, 11/21/2007.
4. U.S. Army Corps of Engineers File No. SPL-2009-00807-PHT.
5. Eelgrass & Caulerpa Surveys for dock at 231 Marina Drive, Long Beach, by Tom Nelson, 10/7/2009.

STAFF RECOMMENDATION:

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

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

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

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. 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. Permit Compliance

The permitted use of the approved development is for boating-related and visitor-serving recreation 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 pursuant to the requirements of the Coastal Act and the California Code of Regulations. No change in use or other changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.

2. Parking Supply

This coastal development permit does not authorize any changes to the existing parking lot management or configuration. No parking spaces shall be reserved for the commercial use.

3. Construction and Pile Driving Noise Level Restrictions

By acceptance of this authorization for development, the applicants agree to retain the services of a qualified independent biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director, to conduct a biological

survey of the trees within 500 feet of project site prior (within seven days) to the commencement of demolition and construction activities, and once a week upon commencement of demolition and construction activities that include use of heavy equipment that can cause excessive noise, odors, or vibrations (e.g., pile driving). The environmental resource specialist shall be directed to conduct the survey in order to determine the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species within 500 feet of project site and immediately report the findings of the survey to the applicants and the Executive Director of the Coastal Commission.

In the event that the environmental specialist reports any black-crowned night herons, great blue herons, snowy egrets, or other sensitive species exhibiting reproductive or nesting behavior within 500 feet of project site, the following restrictions shall apply:

- A. Construction noise reduction measures such as sound shields made from plywood or sound-board or molded sound shields shall be used and measures shall be taken to minimize loud noise generation to the maximum feasible extent during construction. Permanent lighting shall be shielded and directed downward. Bright upward shining lights shall not be used during construction and construction employees shall not bring pets (e.g. dogs and cats) to the construction site.
- B. Noise generated by construction (including, but not limited to, pile driving) shall not exceed **65 dB** at any active nesting site within 500 feet of project site for black-crowned night herons, snowy egrets, great egrets, great blue herons, raptors, or other sensitive species. If construction noise exceeds 65 dB, then alternative methods of pile driving (including, but not limited to, vibratory pile driving, press-in pile placement, drilling, dewatered isolation casings, etc.) or other sound mitigation measures (including, but not limited to, sound shielding and noise attenuation devices) shall be used as necessary to achieve the required dB threshold levels. If these sound mitigation measures do not reduce noise levels, construction within 500 feet of the nesting trees shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

4. Protection of Marine Resources

In order to minimize adverse environmental impacts and the unpermitted deposition, spill or discharge of any liquid or solid into Alamitos Bay, the permittees shall implement the following demolition, staging, and construction best management practices:

- A. Silt curtains will be utilized to control turbidity during removal and placement of piles.
- B. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized.
- C. Prior to demolition, molluscs (clams, snails, etc.), echinoderms (sea stars, urchins, sea cucumbers), arthropods (crabs, etc.) and other native marine animals found

on the piles and docks to be removed from the project site shall be relocated to another part of the bay.

- D. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- E. Netting, sandbags, tarps and/or other forms of barriers shall be installed between the water and work areas and equipment storage areas to prevent any unpermitted material from entering Alamitos Bay.
- F. Floating booms shall be maintained around the project site in order to capture floating debris during all demolition and construction phases.
- G. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
- H. The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction shall not occur where such materials/chemicals could pass into the waters of Alamitos Bay or the sea. Stockpiled fill shall be stabilized with geofabric covers or other appropriate cover. Staging and storage of construction machinery and storage of debris shall not take place on any beach.
- I. Spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible. Disposal within the coastal zone shall require a coastal development permit.
- J. Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction vehicles shall be serviced immediately. Equipment and machinery shall be serviced, maintained and washed only in confined areas specifically designed to control runoff and prevent discharges into Alamitos Bay or the sea. Thinners, oils or solvents shall not be discharged into sanitary or storm sewer systems.
- K. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all storm drains, open ditches and surface waters.
- L. All floatable debris and trash generated by construction activities within the project area shall be disposed of as soon as possible or at the end of each day.
- M. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- N. The permittees shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location in a timely manner. 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.
- O. Any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote,

CCA (Chromated Copper Arsenate), ACA (Ammoniacal Copper Arsenate) or ACZA (Ammoniacal Copper Zinc Arsenate) is prohibited. Treated timber shall be free of chromium and arsenic and completely sealed in epoxy resin. No exposed wood shall be used where it could come into contact with the water.

- P. At the end of the construction period, the permittees 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.

The permittees shall include the requirements of this condition on all plans and contracts issued for the project. The permittees shall implement and carry out the project staging and construction plan during all demolition, staging, and construction activities.

5. Best Management Practices (BMP) Program

By acceptance of this permit, the permittees agree 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 permittees 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.

6. Public Access To and Along the Waterway

The permittees and the development shall not interfere with public access and use of the public walkway situated immediately inland of the approved dock (except for the temporary disruptions that may occur during the completion of the permitted development). The proposed project shall not interfere with public access and use of the public picnic area located immediately east of the approved dock.

7. Resource Agencies

The permittees shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted 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.

8. Assumption of Risk

By acceptance of this permit, the applicants, on behalf of a) themselves; b) their successors and assigns and c) any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; 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; 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; and v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in i through v.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project involves the replacement of an existing commercial boat dock at Alamitos Bay Marina in southeast Long Beach (Exhibit #2). The dock is owned by the City of Long Beach and leased to the co-applicant, Heritage Yacht Sales, Inc. On May, 6, 2003, the Commission approved Coastal Development Permit 5-03-025 (City of Long Beach) to authorize a change in the dock's permitted use from industrial support (oil island maintenance) to commercial use (yacht brokerage). The applicants will continue to use the dock to showcase yachts for sale to the public.

The current proposal is to replace the existing 118-foot long h-shaped floating dock with a new multi-slip dock and gangway in the same location (Exhibits #3&4). All seven existing piles will be removed. The new dock will be secured in place with eleven new concrete piles (Exhibit #4). No dredging or excavation is proposed or permitted. The applicants have included as part of the proposal specific construction methods and best management practices to protect adjacent habitat and the waters of Alamitos Bay from adverse environmental impacts. Silt curtains will be utilized to control turbidity during removal and placement of the piles. Noise generated during pile driving will be minimized by utilizing a gravity hammer instead of a diesel driven hammer, and by placing "shoes" (stacks of plywood) on top of each pile as it is hammered into the bay mud. Additional noise reduction measures will be implemented if bird nesting is occurring within five hundred feet of the project site (see Special Condition Three). The new dock floats will be constructed off-site and then towed to the project site in sections to be bolted together.

The adjacent public parking area (24 parking spaces) provides the parking supply for the dock and the adjacent facilities, which include a fueling dock, pump-out station, and a small public park with picnic tables (Exhibit #3). The applicants are not proposing any changes to the parking lot management or configuration. All of the existing parking supply will remain available for public use. Except for temporary disruptions during demolition and construction, the proposed project will not interfere with public access along the public walkway that exists immediately inland of the seawall.

The shoreline in the project area is comprised of a vertical concrete seawall and imported rocks. On October 7, 2009, Tom Nelson conducted an underwater survey and found no eelgrass (*Zostera marina*) or noxious algae (*Caulerpa taxifolia*) in the vicinity of the proposed project. Therefore, the proposed project will not adversely affect any eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. The proposed project has received the approval of the City of Long Beach Department of Development Services the City of Long Beach Marine Bureau. The applicants have a preliminary approval (pending Coastal Commission approval) from the U.S. Army Corps of Engineers (Corps File No. SPL-2009-00807-PHT). The applicants have agreed to implement the recommended best management practices during demolition and construction in order to avoid any significant adverse effects on marine resources.

B. Recreational Marine Resources

The proposed development is the improvement of a small boat marina which promotes recreational boating and is an encouraged marine related use. The placement of piles for public recreational piers that provide public access and recreational opportunities is an allowed use under Section 30233 of the Coastal Act. The proposed development has been designed to minimize the fill of coastal waters. The proposed development has been conditioned to minimize adverse effects on the marine environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass and to avoid contributing to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. As conditioned, there are no feasible less environmentally damaging alternatives available. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30224, 30230, 30231, and 30233 of the Coastal Act.

C. Marine Habitat

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

D. Water Quality

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. 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 30231 of the Coastal Act.

E. Public Access

The public currently has unrestricted access along the shoreline at the project site. The proposed project will not interfere with public access along the shoreline, except for the temporary disruptions that may occur during the completion of the permitted development. 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.

F. Local Coastal Program

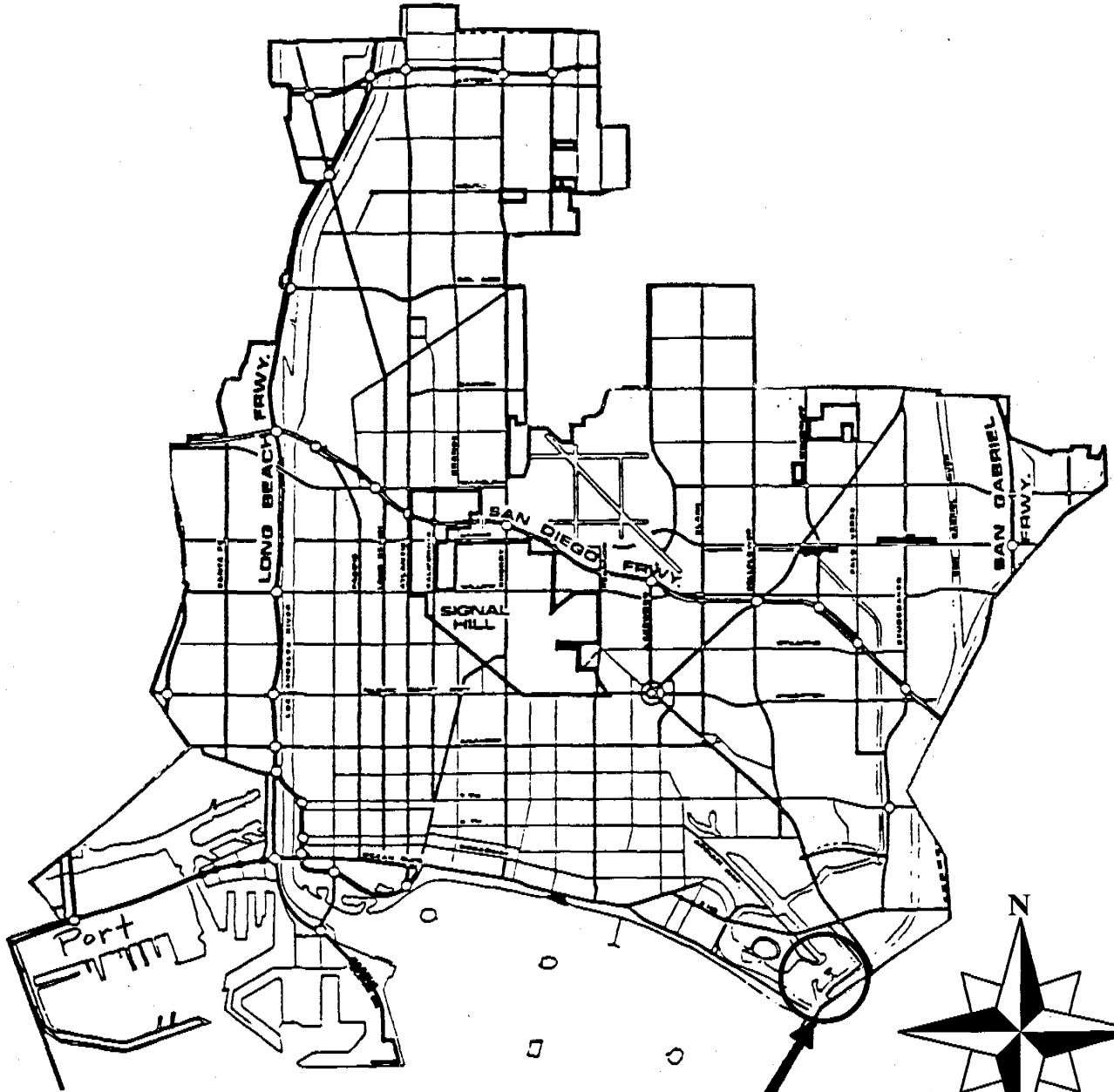
A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Long Beach 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 with the certified LCP for the area.

G. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of 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 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. As conditioned, there are no feasible alternatives or additional 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 complies with the applicable requirements of the Coastal Act to conform to CEQA.

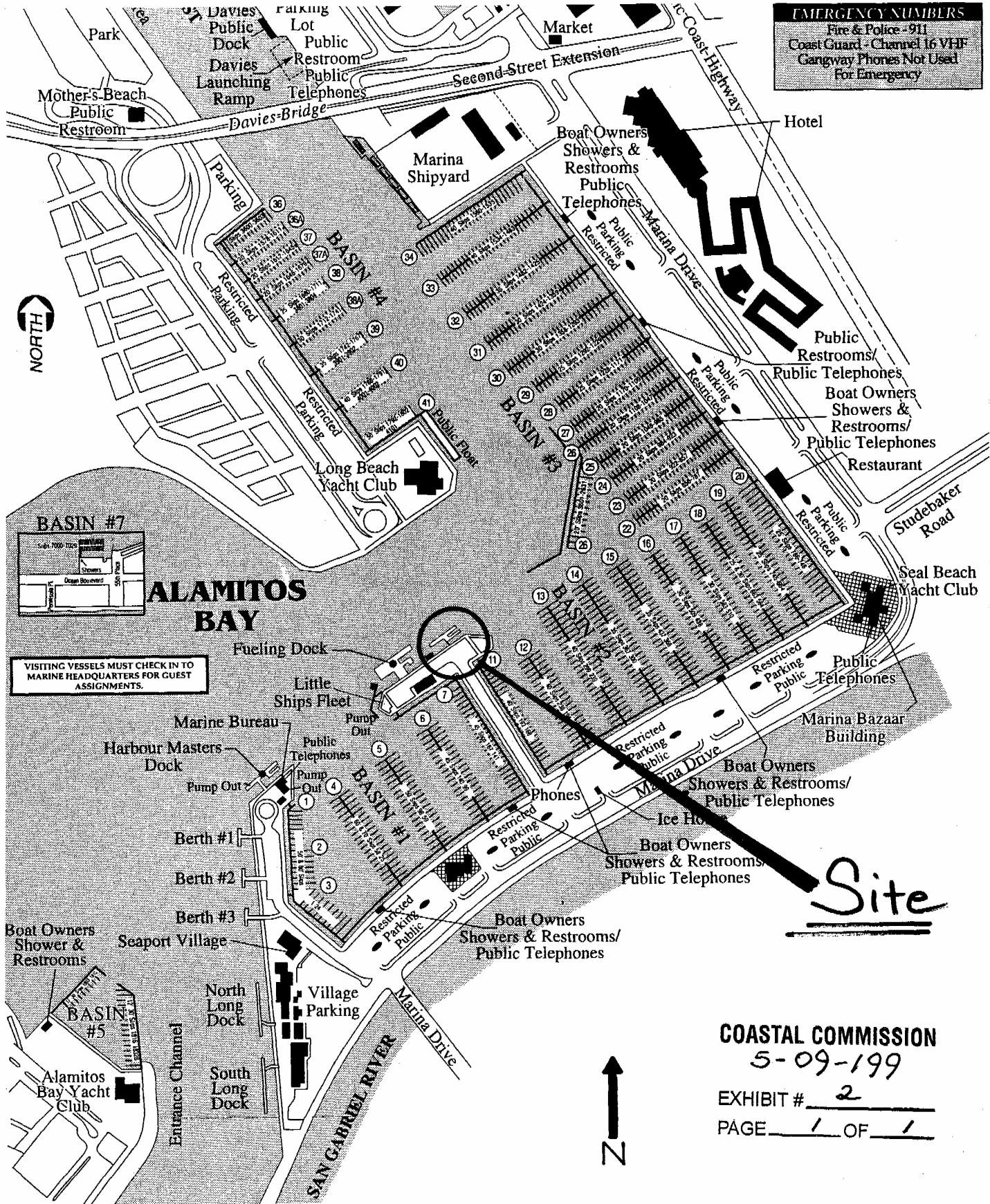
City of Long Beach



Site

COASTAL COMMISSION
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EXHIBIT # 1
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EMERGENCY NUMBERS
 Fire & Police - 911
 Coast Guard - Channel 16 VHF
 Gangway Phones Not Used
 For Emergency



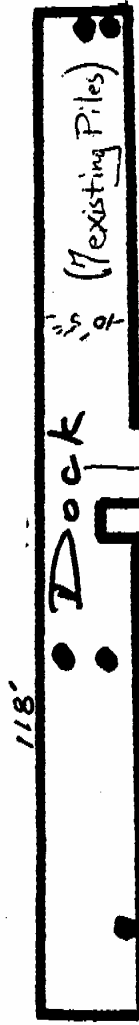
VISITING VESSELS MUST CHECK IN TO MARINE HEADQUARTERS FOR GUEST ASSIGNMENTS.

Site

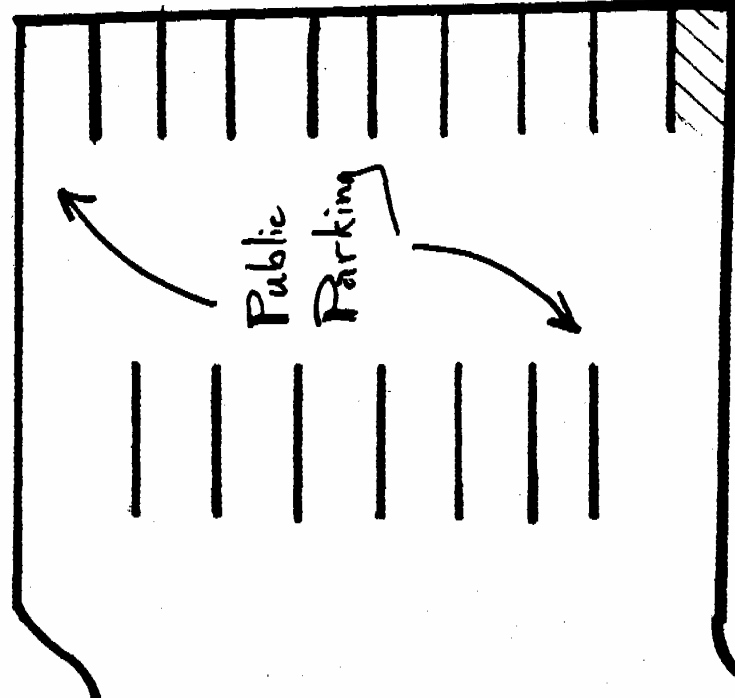
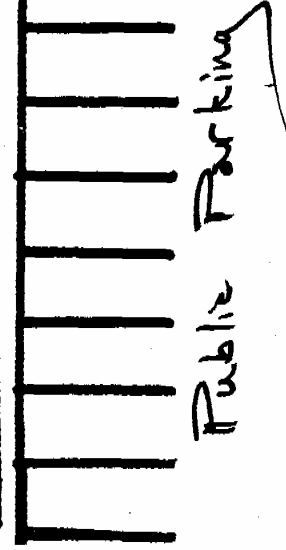


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 EXHIBIT # 2
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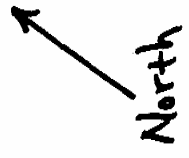
Alamitos Bay



32'4" Office 15' 231 Marina Dr.



Picnic Area



Existing Dock

Alamitos Bay

