

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



Filed: 2/6/2013
180th Day: 8/5/2013
Staff: Charles Posner - LB
Staff Report: 3/21/2013
Hearing Date: April 12, 2013
Commission Action:

F8a

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-12-239

Applicants: Richard & Keanna Briles

Agent: Pete Swift, Swift Slip

Location: 11 Sea Isle Drive (Treasure Island - Alamitos Bay), City of Long Beach, Los Angeles County

Project Description: Installation of a private boat dock consisting of a U-shaped float (60' x 28') secured by three new 16-inch diameter concrete piles (connected to land by a 45' x 3' gangway).

Local Approvals: City of Long Beach, Department of Development Services, Approval in Concept (2/1/2013), & City of Long Beach Marine Bureau, Approval in Concept (1/24/2013).

Staff Recommendation: Denial.

SUMMARY OF STAFF RECOMMENDATION:

The proposed project is the installation of a second private boat dock for a single-family residence on Treasure Island in Alamitos Bay, Long Beach. A coastal development permit is required from the Commission because the proposed project is located on submerged lands within the Commission's area of original jurisdiction.

Staff is recommending that the Commission **deny** the permit application for the proposed development because: 1) the development of this open water area would adversely impact recreational use by reducing the water area available for water-oriented recreational activities in Alamitos Bay, 2) the proposed second dock would create a potential safety liability by reducing the area where swimmers and boarders are able to seek refuge in order to avoid being hit by larger vessels passing through the narrow channel, and 3) the proposed project's impacts on a mapped eelgrass meadow are significant and the extent of those impacts are unknown because of conflicting eelgrass maps.

See Page Two for the Motion to deny the permit application.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....2

II. FINDINGS AND DECLARATIONS.....3

 A. PROJECT DESCRIPTION3

 B. PUBLIC ACCESS AND RECREATIONAL BOATING.....4

 C. MARINE RESOURCES.....6

 D. LOCAL COASTAL PROGRAM.....12

 E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....12

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS.....13

EXHIBITS

- Exhibit 1 – Long Beach, CA Map
- Exhibit 2 – Project Location (Treasure Island, Alamitos Bay) Map
- Exhibit 3 – Applicants’ Letter (dated July 26, 2012)
- Exhibit 4 – Proposed Dock Plan

I. MOTION AND RESOLUTION

Motion: *"I move that the Commission approve Coastal Development Permit 5-12-239 for the development proposed by the applicants."*

Staff recommends that the Commission **DENY** the Coastal Development Permit application by voting **NO** on the following motion and adopting the following resolution.

Resolution: *The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.*

II. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project is the installation of a private residential boat dock at Treasure Island (next to Naples Island) in southeast Long Beach. The proposed dock is associated with the adjacent single-family residence which comprises the southwestern corner of the island (See Exhibits). It would consist of a 60' x 28' U-shaped float secured by three new 16-inch diameter concrete piles. A 45' x 3' aluminum gangway would connect the dock to the land owned by the applicants. No dredging is proposed.



Project Site: 11 Sea Isle Drive, Treasure Island (Alamitos Bay), Long Beach.

The proposed project is in Alamitos Bay, situated between the applicants' vertical seawall and the City Pierhead Line (Exhibit #4). The proposed dock would be the second dock at the applicants' address which has Alamitos Bay frontage on both the southern and western sides of the project site. The second dock is proposed to be installed on the western frontage of the project site; in the bay at a distance of about forty-to-ninety feet from the applicants' concrete seawall. There is not currently a dock on the applicants' western frontage. The applicants' 71' x 11' rectangular dock that exists on the southern frontage of the project site would not be affected by the proposed project. No public access exists along the shoreline between the applicants' house and the water.

B. PUBLIC ACCESS AND RECREATIONAL BOATING

The public access and recreation policies of the Coastal Act require that recreational opportunities and maximum access shall be provided for all the people, and that development shall not interfere with such access. Coastal areas suited for water-oriented recreational activities areas shall be protected. Therefore, development must be designed and sited to protect public access and recreational opportunities.

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 30213 of the Coastal Act states:

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

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 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30224 of the Coastal Act states:

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, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

The proposed project is located on the edge of a large open-water area of Alamitos Bay (Bayshore turning basin) that is very popular for aquatic sports. Water-oriented recreational activities include paddle-boarding, sail-boarding, rowing, kayaking and canoeing, gondola rides, swimming, and of course, sailing and motor-boating. Many of these activities originate at the City-operated Leeway Sailing and Aquatics Center (Leeway Pier), the U.S. Sailing Center, or the beach at Bayshore Aquatic Playground Park; all of which are located on the north shore of Alamitos Peninsula where public parking and access to the shoreline is readily available.



Bayshore Turning Basin, Alamitos Bay, Long Beach.

The U.S. Sailing Center and Alamitos Bay Marina Basin 7 are situated directly across the channel from the project site, within three hundred feet of the proposed dock. The Leeway Sailing and Aquatics Center, located about eight hundred feet west of the project site, teaches beginner sabot-class sailing classes in the turning basin. Aquatics-oriented day camps for children are run by the City at Bayshore Aquatic Playground Park and Leeway Pier. Because of the numerous and often conflicting activities (e.g., yachts versus sabots and paddle boarders) occurring in the turning basin, the area can get quite congested and dangerous at times, especially in the narrow channel between the project site and Basin 7.

The proposed project, because of its location extending from the southwestern corner of Treasure Island, would interfere with existing public access and water-oriented recreational opportunities in the Bayshore turning basin. The proposed dock extends about ninety feet into the open water area from the applicants' western seawall (Exhibit #4). The development of this open water area would reduce the limited water area available for water-oriented recreational activities. It would also create a potential safety liability by

limiting the area where swimmers and boarders are able to seek refuge in order to avoid being hit by larger vessels as they pass through the narrow channel. In addition, the water area between the proposed dock and the applicants' adjacent seawall is shallow enough to provide a safe temporary resting place for youths and others who have made their way across the channel from the public beach.

In fact, the applicants have reported that there have already been collisions between their docked fishing boat (at their existing dock) and vessels attempting to navigate through the narrow channel (Exhibit #3). The construction of the proposed second dock, which would extend about ninety feet from the applicants' western seawall, would make it more difficult and dangerous for boaters to navigate past the southwestern corner of Treasure Island by reducing the amount of open water area.

As stated above, the Coastal Act sets forth policies that encourage recreational boating and protect lower cost visitor and recreational facilities like the beach and water areas that are necessary to support water-oriented recreational activities. Section 30220 of the Coastal Act requires that areas suited for water-oriented recreational activities shall be protected for such uses. The proposed project would extend into a water area that supports public recreation and water-oriented recreational activities, like paddle-boarding, sailing, rowing, kayaking, leisure-cruising in motorboats and other activities. This would reduce public access to and along the sea for recreational opportunities instead of maximizing public access to and along the sea for recreational opportunities as required by the Coastal Act. The proposed development would have significant adverse impacts on public access and existing recreational opportunities. Therefore, the proposed project is denied and the grounds that it is not consistent with the public access and recreation policies of the Coastal Act.

C. MARINE RESOURCES

Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation and marine resources. Section 30233(a) of the Coastal Act limits fill (i.e., piles) in open water, and Section 30240 of the Coastal Act requires the protection of environmentally sensitive habitat areas.

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:

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 30233(a) of the Coastal Act 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...(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

Section 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.

In its "Status of the Fisheries Report 2008," the California Department of Fish and Wildlife (formerly the California Department of Fish and Game) found the following:

Eelgrass beds are important ecological communities of shallow bays and estuaries because of the multiple ecosystem values that they provide. Eelgrass is a major source of primary production in nearshore marine systems, supplying detrital based food chains. In addition, several organisms directly graze upon it, thus contributing to the system at multiple trophic levels. For example, certain waterbirds feed directly on the eelgrass plants, such as brant geese that use eelgrass almost exclusively as a food resource. Eelgrass meadows are also of vital importance as habitat and have an important role in the life cycle of many ecologically and economically important aquatic species by serving as nursery areas. In California bays and estuaries north of Monterey, eelgrass provides spawning habitat for Pacific herring. Eelgrass beds provide habitat for juvenile fish including Pacific salmonids, lingcod, and rockfish, and invertebrate species such as Dungeness crab.

In addition to the habitat and resource values that eelgrass provides, it also functions to trap and remove suspended particles, thus improving water clarity, reduces erosion by providing sediment stabilization, adds oxygen to the surrounding water, and cycles nutrients. Extensive eelgrass canopies absorb wave shock, thereby protecting adjacent shorelines.

....

In southern California, coastal wetlands are more heavily impacted by human alteration than those in northern California, thus approximately ninety percent of this habitat has been lost. Recent estimates reveal that forty percent of the world's population lives within sixty miles

(96 kilometers) of the coastline. As coastal use and development continues, it seems unavoidable that coastal habitats will continue to experience adverse stress.

Historical records suggest that eelgrass was a predominant plant species in the state's south coast estuaries. However, the majority of southern California's remaining eelgrass habitat exists primarily due to replanting or recolonization of eelgrass beds in new or historic locations.

Eelgrass bed communities exist in Los Angeles Harbor, Huntington Harbor, Channel Islands and in adjacent coastal areas. Many of these have been established through transplant activities associated with specific development mitigation requirements. Due primarily to suitable light conditions, many of the reestablished areas have met their intended mitigation goals. However, some reestablishment attempts have been unsuccessful.

From the Department of Fish and Wildlife's report, it is clear that eelgrass beds deserve special protection as they are a species of special biological significance as described further above. The intertidal and subtidal areas of Alamitos Bay contain eelgrass beds that should be protected in a manner that will sustain their biological productivity and maintain healthy populations.

The applicants have provided eelgrass surveys which indicate that the western side of the property, where there is a large area of shallow water, has a healthy, productive and extensive eelgrass meadow [Eelgrass Preliminary Survey, by Dive Works, August 5, 2012]. A *Caulerpa taxifolia* survey was also conducted and the toxic algae were not found in the project area. The proposed project has been re-designed two times in an effort to avoid these mapped eelgrass beds. Originally, the applicants proposed to place the second dock closer to the neighbors' existing docks on the northwestern corner of their land, but that would have resulted in significant direct adverse impacts to the eelgrass meadow.

The amount and quality of light entering the water column plays a large part in eelgrass survival and productivity.¹ The currently proposed location of the second dock, with its three proposed piles, would avoid directly impacting eelgrass beds, but the shadow of the proposed gangway will likely adversely impact the biological productivity of the eelgrass beds since the beds will no longer sustain their current productivity because they would no longer receive the maximum sunlight that they currently receive if the proposed dock is built at the subject site. The three proposed piles and the dock float are located outside of the mapped eelgrass meadow. The proposed gangway would span eelgrass beds mapped by the surveys, although the third (revised) eelgrass map submitted by the applicants seems to show no eelgrass under the proposed gangway. The eelgrass reports assert that eelgrass under gangways would continue to grow and not be impacted by the proposed project. The reports point out that eelgrass is growing under the two gangways located north of the project site.

Conflicting eelgrass survey maps (in regards to the area under the proposed gangway) were submitted in reports by the same company (Dive Works). Also, it must be noted that the December 14, 2012 eelgrass survey was conducted outside of the period of active growth of eelgrass (typically March through October). [See the conflicting eelgrass maps on the following pages.]

¹ See, generally, Zimmerman, R. C., J. L. Reguzzoni, and R. S. Alberte. 1995. Eelgrass (*Zostera marina* L.) transplants in San Francisco Bay: role of light availability on metabolism, growth and survival. *Aquatic Botany* **51**: 67-86.



DIVE WORKS (949) 759-0773
429-0 Shoreline Village Drive
Long Beach, CA 90802

11 Sea Isle Dr
Long Beach, CA
August 5, 2012

Eelgrass Preliminary Survey / Preliminary Mitigation and *Caulerpa taxifolia* Survey

Figure 3. Eelgrass in and around proposed dock system



Eelgrass Survey Map #1, 11 Sea Isle Drive, Treasure Island, City of Long Beach, by Dive Works, 8/5/12.

Eelgrass Map #1: Shows two previously proposed dock float orientations, one where the float is situated within the mapped eelgrass meadow, and one where the float is situated in deeper water mostly outside of the mapped eelgrass meadow. The map shows semi-dense eelgrass (40-50 turions/sq. ft.) under the alignment of the proposed gangway. (August 5, 2012 eelgrass Survey by Dive Works).



DIVE WORKS (949) 759-0773
429-0 Shoreline Village Drive
Long Beach, CA 90802

**11 Sea Isle Dr
Long Beach, CA
December 14, 2012**

Preliminary Eelgrass and *Caulerpa taxifolia* Survey

Figure 3. Eelgrass in and around proposed dock system



Eelgrass Survey Map #2, 11 Sea Isle Drive, Treasure Island, City of Long Beach, by Dive Works, 12/14/12.

Eelgrass Map #2: Shows a previously proposed dock float orientation where the float is situated in deeper water mostly outside of the mapped eelgrass meadow. The map shows semi-dense eelgrass (40-50 turions/ sq. ft.) under the alignment of the proposed gangway. (December 14, 2012 eelgrass Survey by Dive Works – the original 15-page version).

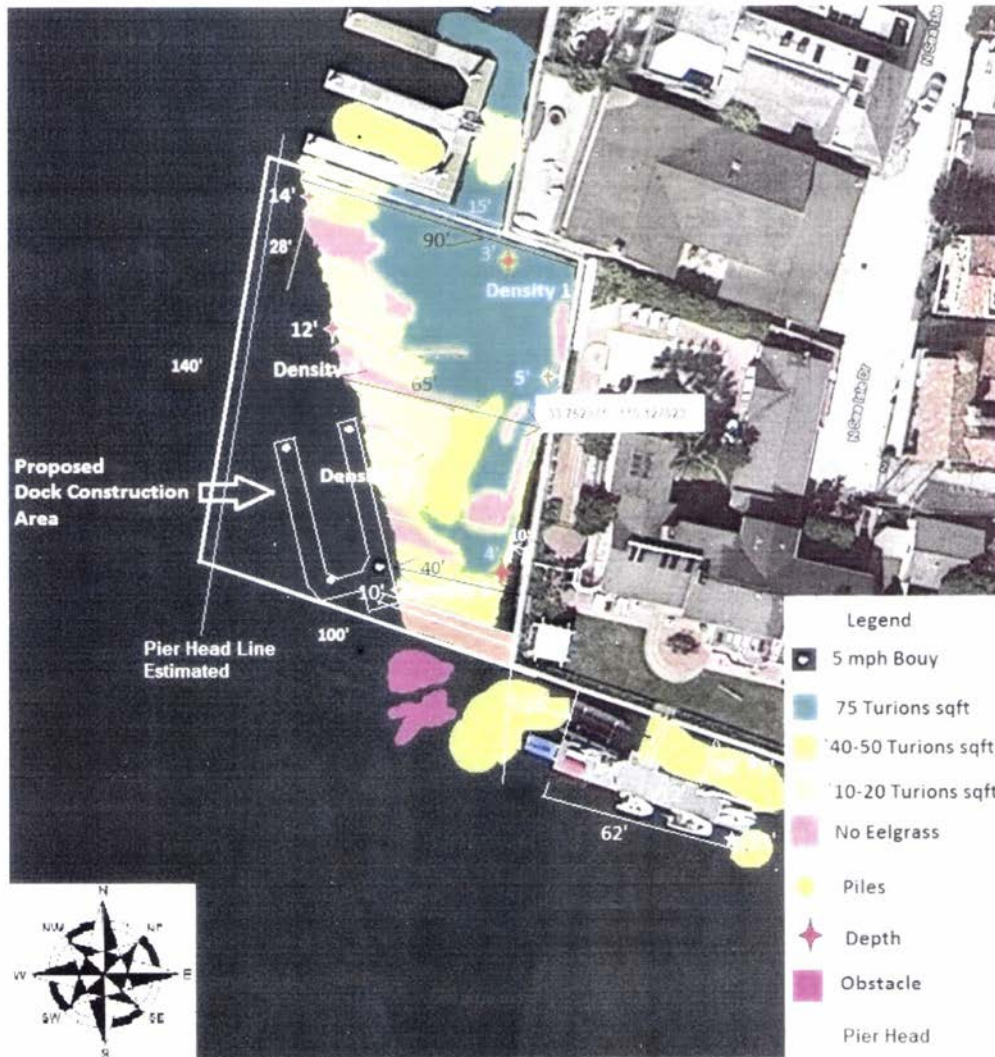


DIVE WORKS (949) 759-0773
429-0 Shoreline Village Drive
Long Beach, CA 90802

**11 Sea Isle Dr
Long Beach, CA
December 14, 2012**

Preliminary Eelgrass and *Caulerpa taxifolia* Survey

Figure 3. Eelgrass in and around proposed dock system



Preliminary Eelgrass and *Caulerpa taxifolia* Survey

Page 9 of 17

Eelgrass Survey Map #3 (revised), 11 Sea Isle Drive, Treasure Island, City of Long Beach, by Dive Works, 12/14/12.

Eelgrass Map #3: Shows proposed dock float situated in deeper water outside of the mapped eelgrass meadow. This revised map shows no eelgrass under the gangway, even though the prior maps and the report state that, "Eelgrass would be directly below gangway" (Page 5 of December 14, 2012 eelgrass Survey by Dive Works – the revised 17-page version).

Due to the project's location over coastal waters, it is necessary to ensure that the proposed development will be carried out in a manner that will not adversely affect recreation, water quality or marine resources. The proposed project, however, would adversely affect recreation, water quality and marine resources. The potential adverse impact to the biological productivity of marine resources involves the likely shading effect of the gangway on nearby eelgrass beds. Eelgrass needs ample sunlight to grow and remain healthy. Since the applicants have submitted conflicting eelgrass survey maps, two of which show eelgrass under the proposed gangway, the proposed project cannot be found to be consistent with the marine resource policies of the Coastal Act.

D. 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 Commission certified the City of Long Beach LCP on July 22, 1980. The City of Long Beach certified LCP is advisory in nature and may provide guidance.

The City of Long Beach certified LCP (Open Space and Recreation Element) sets forth the following relevant policy:

*Policies: Open Space Node – Alamitos Bay & Recreation Park
8.d. Conserve and enhance Alamitos Bay – Recreation Park open space node by preserving the water surfaces of Alamitos Bay from intrusion by man-made facilities, except for those which are clearly for a public purpose or are necessary to protect the public health, safety, or welfare.*

The proposed second dock is inconsistent with the policy to preserve the water surface of Alamitos Bay.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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 Commission has determined that the proposed development would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such continuing the use of the applicants' existing 71'x 11' rectangular dock instead of constructing a second dock. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives, which would lessen significant adverse impacts that the proposed activity would have on the environment. Therefore, the project must be denied.

Appendix A - Substantive File Documents

1. Eelgrass Preliminary Survey, 11 Sea Isle Drive, Long Beach, by Dive Works, August 5, 2012.
 2. Eelgrass Survey, 11 Sea Isle Drive, Long Beach, by Dive Works, December 14, 2012 (15-page version).
 3. Eelgrass Survey, 11 Sea Isle Drive, Long Beach, by Dive Works, December 14, 2012 (17-page revised version).
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City of Long Beach



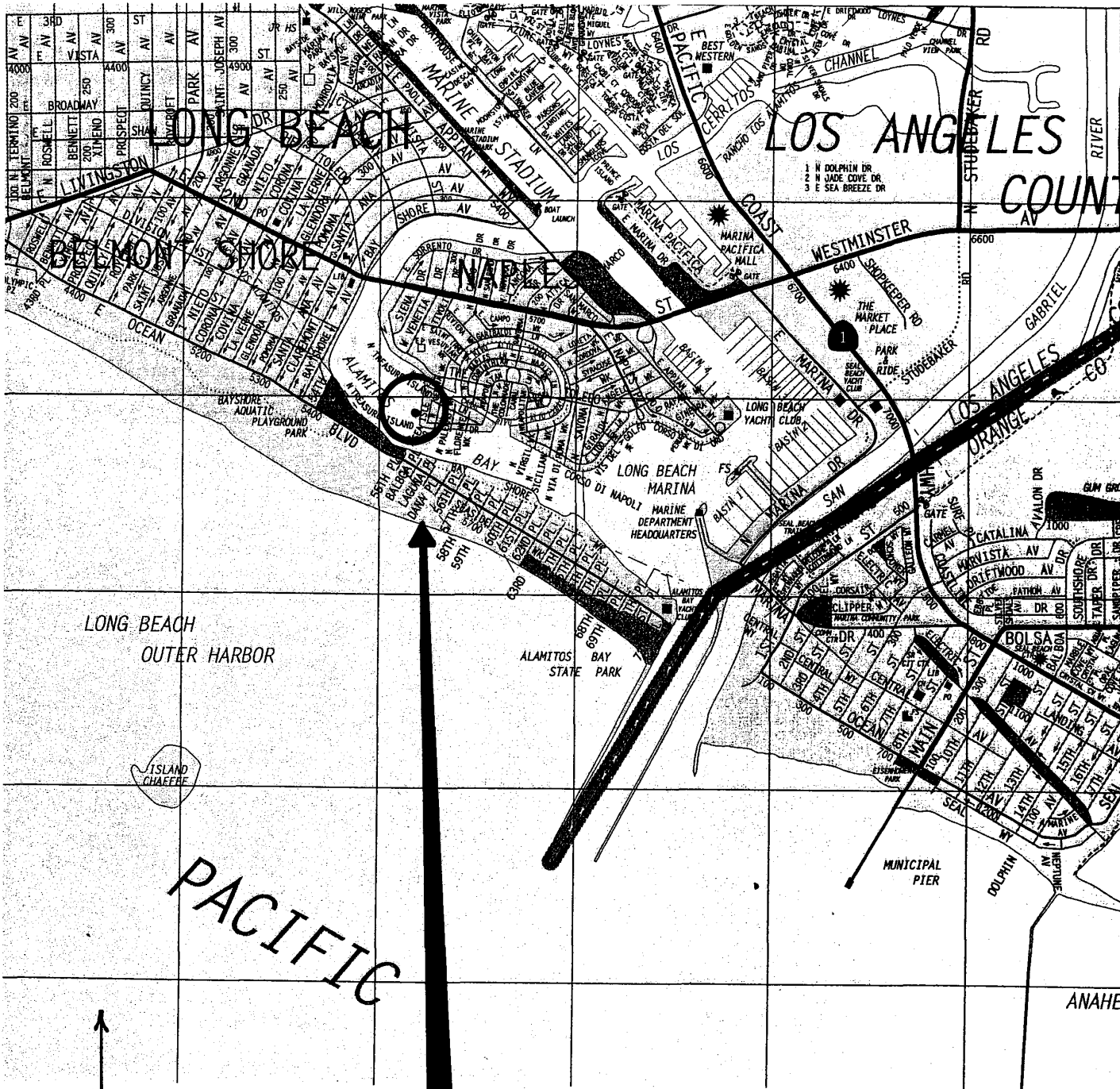
Project Site

COASTAL COMMISSION

5-12-239

EXHIBIT # 1

PAGE 1 OF 1

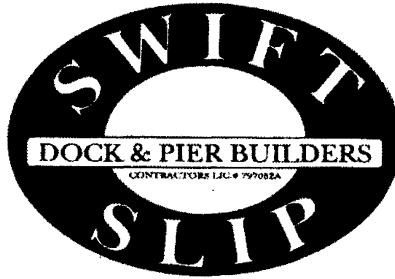


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 5-12-239

EXHIBIT # 2

PAGE 1 OF 1

Site: Treasure Island



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Dock and Pier Builders, Inc.

Contractor's License 797052 A

www.swiftslipdocks.com

2027 Placentia Avenue - Costa Mesa, CA 92627

Telephone (949) 631-3121 - Fax (949) 631-3122

26 July 2012

Rick and Keanna Briles
11 North Sea Isle Drive
Long Beach, California 90803

5-12-239

RE: Proposed Dock Addition

The proposed dock project at 11 North Sea Isle Drive is for the addition of an 858 square foot U shaped dock with gangway.

This residence is situated on a corner lot located on Treasure Island. The current 870 square foot dock is located on the channel leading up to the Ocean Avenue/Bayshore turning basin. The proposed dock would be situated on the west side of the property located on the Ocean Avenue/Bayshore turning basin.

The homeowners are both avid sport fisherman and accomplished scullers. Mrs. Briles was an elite sculler who at one time qualified for the Olympics and whom continues competing at the Masters level today.

When approached by Mr. and Mrs. Briles we questioned the need for additional dockage. They provided me many reasons but two of them stand out from the rest.

1) The homeowners new 50' fishing boat, at its current berth, has become a great danger to the public. Within the first few weeks of being berthed at the existing dock 3 different individuals hit and damaged the boat. Although the damages in all 3 situations were great to the homeowner's boat, I understand the damages to the offending boats were much greater.

COASTAL COMMISSION

5-12-239

EXHIBIT # 3

PAGE 1 OF 2

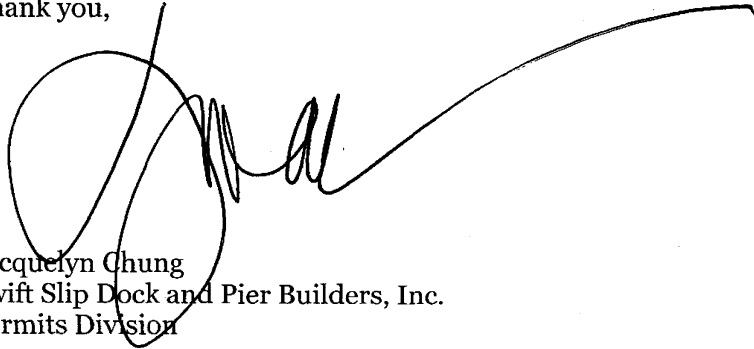
2) The homeowners have utilized the existing dock for their multiple sculling boats. The homeowners provide scholarships to underprivileged children and teach them of the sport of sculling through lectures and hands on, on the water training. Prior to the purchasing of their fishing boat this dock was solely used for this purpose. Sharing of this dock for this short period of time since its purchase has not allowed for these sessions to continue due to lack of space and the possible danger to the children.

The design proposed is not the original but rather a third attempt at minimizing overwater coverage. The initial design presented consisted of multiple berths equaling over 2,500 sq. ft. The second design included a pier at the seawall for a total of 1,955 sq. ft. of water coverage. The proposed design presented equals a total of 1,728 sq. ft. of overwater coverage.

Please contact me directly with any questions or additional information.

I appreciate your consideration and review.

Thank you,

A handwritten signature in black ink, appearing to read 'Jacquelyn Chung', with a long, sweeping horizontal line extending to the right.

Jacquelyn Chung
Swift Slip Dock and Pier Builders, Inc.
Permits Division

COASTAL COMMISSION
5-12-239

EXHIBIT # 3
PAGE 2 OF 2

