

**CALIFORNIA COASTAL COMMISSION**

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



# W8h

Filed: 1/28/2014  
180th Day: 06/10/2014  
Staff: S. Vaughn-LB  
Staff Report: 2/20/2014  
Hearing Date: 3/12/2014

**STAFF REPORT: CONSENT CALENDAR**

**Application No.:** 5-13-1342

**Applicant:** Lido Group Retail, LLC

**Agent:** CAA Planning, Inc.

**Location:** 3400 Via Oporto, Newport Beach, Orange County (APN: 423-123-05, 423-123-06, 423-123-07, 423-123-08)

**Project Description:** To permanently authorize the construction allowed under emergency permit No. G-5-13-0222, which permitted the placement of 250 cubic yards of sand material to be placed at portions of the base/toe of an existing bulkhead/seawall along an approximately 150 – 200 foot section of a 950 foot long seawall at Lido Village Marina. The repairs required 220 cubic yards of sand material at a 4:1 slope at three different areas of extreme erosion along the seawall.

**Staff Recommendation:** Approval with conditions

## I. MOTION AND RESOLUTION

### 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 of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of 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

This permit is granted subject to the following special conditions:

1. **Permit Compliance.** The permitted use of the approval development is for marina 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. **Resource Agencies.** The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, 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.

B) The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
3. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (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.
4. **Construction Responsibilities and Debris Removal.** The permittee shall comply with the following construction-related requirements: (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave/wind erosion and dispersion; (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction; (c) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and the Pacific Ocean, use of debris fences as appropriate and no stockpiling of materials in the project area; (d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be

discharged to coastal waters; (e) The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

#### **IV. FINDINGS AND DECLARATIONS**

##### **A. PROJECT LOCATION & DESCRIPTION**

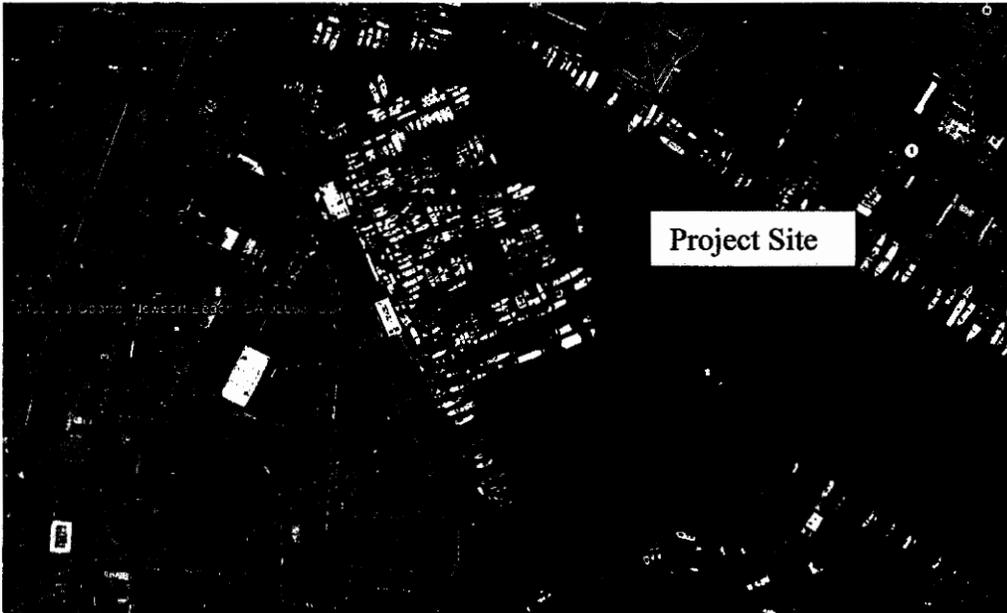
The proposed development is located along the seawall/bulkhead in the marina at Lido Marina Village in the City of Newport Beach, Orange County. The marina is located in the northwest pocket of Newport Bay, about 3 ½ miles from the mouth of the bay. The immediate surrounding area is almost completely developed. The marina offers docking and slips for commercial and private marine vessels. Lido Marina Village has restaurants, shops and other facilities available to the public. The seawall is 950 feet in length and runs along the edge of the marina, protecting the landside of the marina from erosion due to natural coastal processes.

A hydrographic survey of the seawall at Lido Village Marina, completed in August 2013, identified loss of lateral stability at certain portions of the wall due to erosion caused by boat engine propulsion. This established immediate danger of the seawall “rotating” or collapsing into the bay, which provoked the potential for loss of and danger to life, health, property and essential public services. The applicant proposed to repair/reinforce the existing seawall by placing sand material at the base/toe of the seawall where the erosion had occurred.

In order to prevent and mitigate against damage caused by the erosion, emergency permit No. G-5-13-0222 was issued on October 15, 2013. The emergency permit authorized the placement of 250 cubic yards of sand materials, limited to sand particle diameter not greater than 2 millimeters, at the base/toe of the seawall with a slope of 4:1 or flatter where the erosion had occurred. No gravel or stone materials were authorized for use. Prior to the repair work, eelgrass and *Caulerpa taxifolia* surveys of the area were required to be conducted by the applicant. On October 24, 2013, the surveys were conducted and no eelgrass or *C. taxifolia* were found at the site. The work was to be completed within 30 days of the issuance of the emergency permit.

After the work was completed, a post-hydrographic survey was conducted on December 5, 2013 by B. Carr Surveys, INC. The survey concluded that “the sand placement project was successful and met [the] requirements [conditions of approval] as made part of the Emergency Permit. [They] also understand that the charter vessel operator has instigated new berthing procedures to minimize or eliminate near shore prop energy and erosion of the mud line near the seawall, now and in the future. [They] also understand that DJM [the property management firm of Lido Village Marina] is actively enforcing the use of such procedures and is now monitoring these practices to guard against this type of erosion in the future.”

The applicant is requesting a coastal development permit to permanently authorize the construction allowed under emergency permit No. G-5-13-0222, issued by the Executive Director of the Commission on October 15, 2013, for the placement of up to 250 cubic yards of sand material in the areas of the seawall that are in immediate danger of rotating due to erosion.



Project Site: 3400 Via Oporto, Newport Beach, Orange County (Via Google Earth)

## **B. WATER QUALITY**

The proposed work will be occurring on, within, or adjacent to 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. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

## **C. PUBLIC ACCESS**

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.

finds that the proposed development conforms with Sections 30224, 30230, 30231, and 30233 of the Coastal Act.

## **E. LOCAL COASTAL PROGRAM (LCP)**

Coastal Act Section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified

LUP was updated on October 2009. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

To see all the details that are visible on the screen, use the "Print" link next to the map.

Google

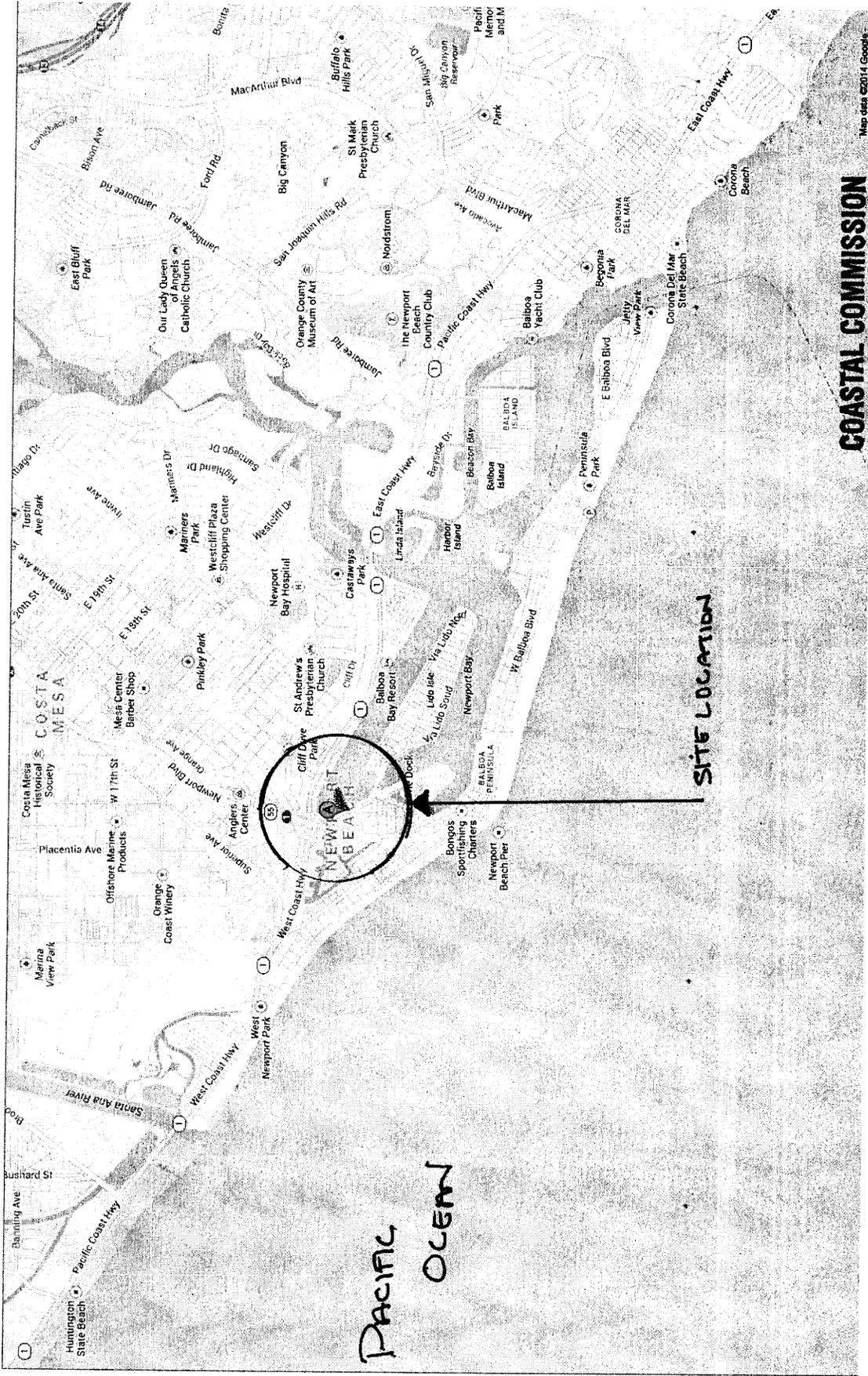
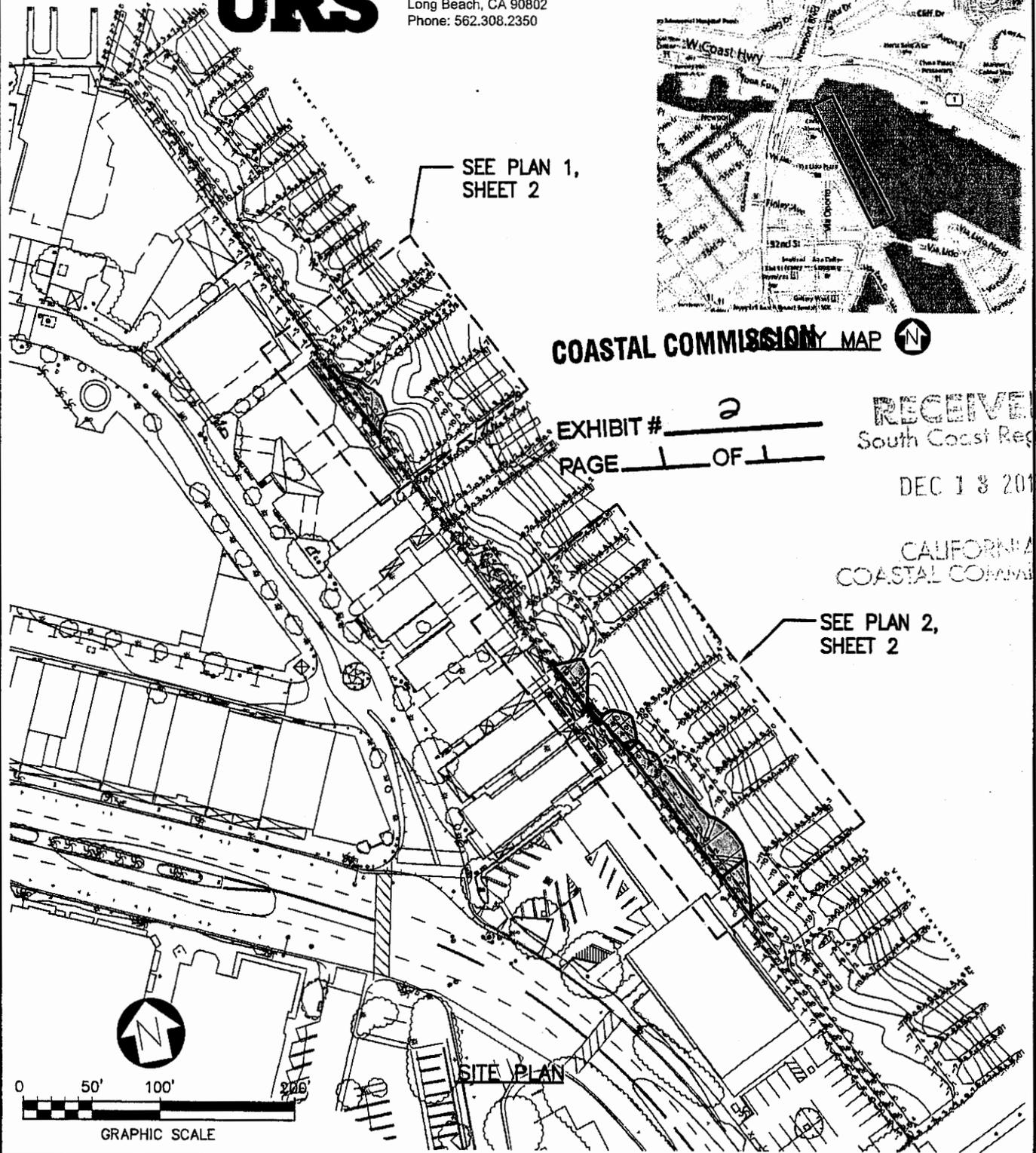
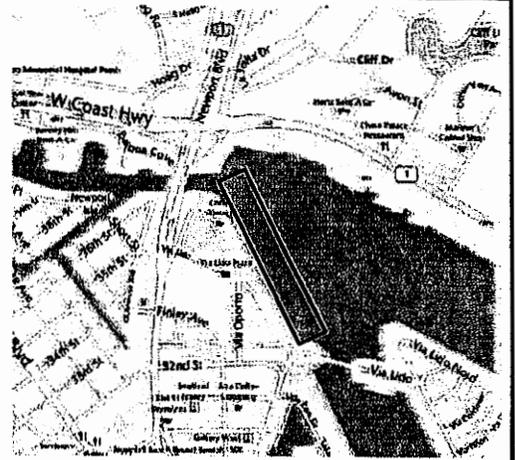


EXHIBIT # 1  
PAGE 1 OF 1



310 Golden Shore, Suite 100  
 Long Beach, CA 90802  
 Phone: 562.308.2350



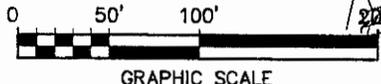
**COASTAL COMMISSION MAP**

EXHIBIT # 2  
 PAGE 1 OF 1

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 South Coast Region  
 DEC 18 2013

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SEE PLAN 2,  
 SHEET 2



**SITE PLAN**

<p><b>PURPOSE:</b> Emergency sand fill to stabilize erosion at bulkhead toe.          Sand Quantity = 250 cy          Datum: MLLW = 0          Adj. Property Owners:          1. DJM</p>	<p><b>VICINITY MAP          SITE PLAN</b></p> <p>Owner: DJM Capital Partners, Inc.          dba Lido Group Retail, LLC          7777 Edinger Avenue, Suite 133          Huntington Beach, CA 92647</p>	<p>Emergency Bulkhead Stabilization          Lido Village Marina          3400 Via Oporto          Newport Beach, CA 92663          IN: Newport Harbor          AT: Newport Beach          County of Orange State: CA          Application By:          Sheet <u>1</u> of 3 Date: <u>10/2013</u></p>
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Exhibit 1

DEC 18 2013



310 Golden Shore, Suite 100  
Long Beach, CA 90802  
Phone: 562.308.2350

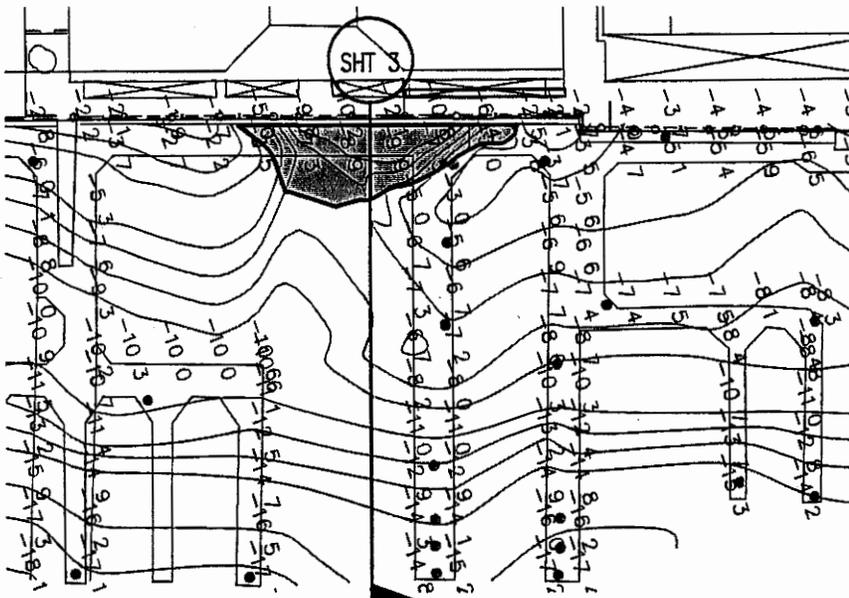
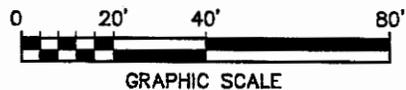
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LEGEND:

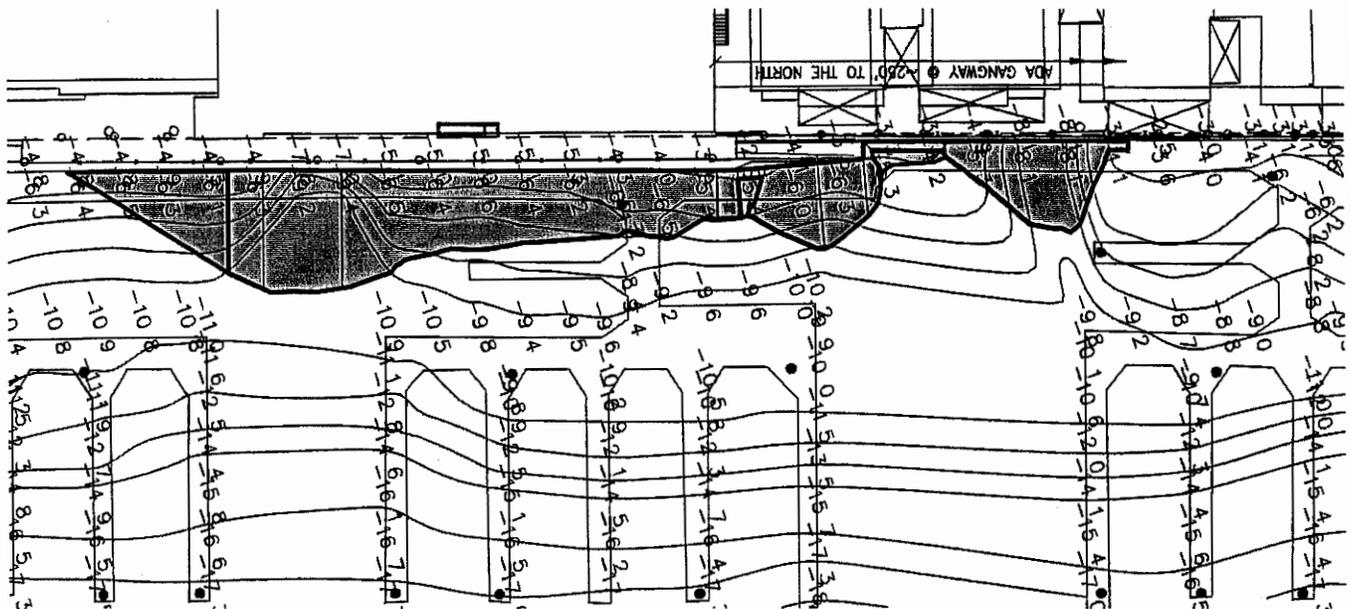
 4:1 FILL SLOPE

COASTAL COMMISSION

EXHIBIT # 3  
PAGE 1 OF 1



ENLARGED PLAN 1



ENLARGED PLAN 2

PURPOSE: Emergency sand fill to stabilize erosion at bulkhead toe.

Sand Quantity = 250 cy

Datum: MLLW = 0

Adj. Property Owners:

- DJM

ENLARGED PLAN

Owner: DJM Capital Partners, Inc.  
dba Lido Group Retail, LLC  
7777 Edinger Avenue, Suite 133  
Huntington Beach, CA 92647

Emergency Bulkhead Stabilization  
Lido Village Marina  
3400 Via Oporto  
Newport Beach, CA 92663  
IN: Newport Harbor  
AT: Newport Beach  
County of Orange State: CA  
Application By:  
Sheet 2 of 3 Date: 10/2013

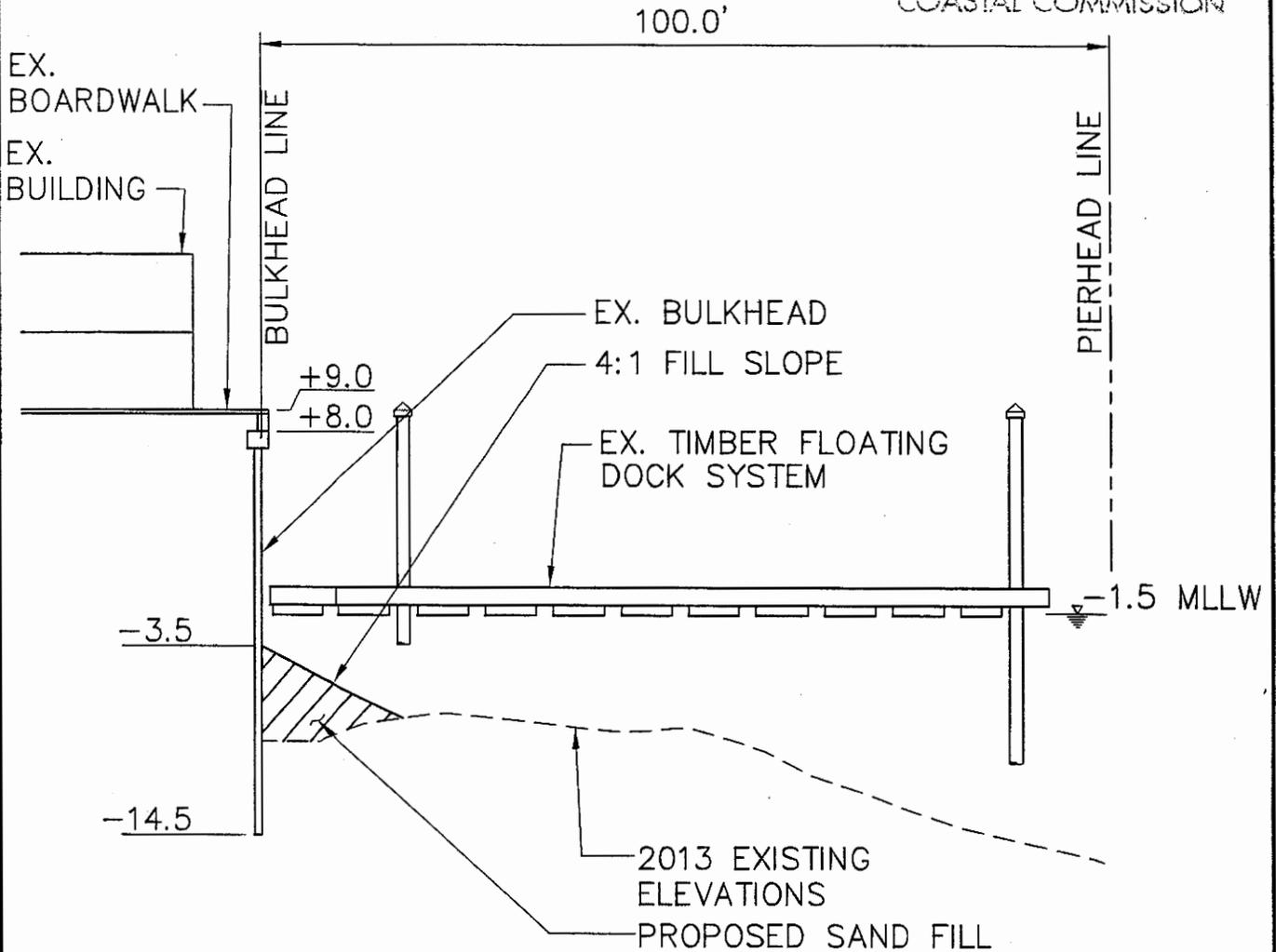


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DEC 13 2013

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TYPICAL SECTION

SCALE: HORIZ 1:2  
 VERT 1:20

EXHIBIT # 4  
 PAGE 1 OF 1

2013/12/13 10:00 AM 10/20/13 10:00 AM

PURPOSE: Emergency sand fill to stabilize erosion at bulkhead toe.  
 Sand Quantity = 250 cy  
 Datum: MLLW = 0  
 Adj. Property Owners:  
 1. DJM

TYPICAL SECTION

Owner: DJM Capital Partners, Inc.  
 dba Lido Group Retail, LLC  
 7777 Edinger Avenue, Suite 133  
 Huntington Beach, CA 92647

Emergency Bulkhead Stabilization  
 Lido Village Marina  
 3400 Via Oporto  
 Newport Beach, CA 92663  
 IN: Newport Harbor  
 AT: Newport Beach  
 County of Orange State: CA  
 Application By:  
 Sheet 3 of 3 Date: 10/2013

Exhibit 3