

**CALIFORNIA COASTAL COMMISSION**

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



[Click here to go to  
original staff report](#)

# F12d

## ADDENDUM

DATE: October 5, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **Addendum to Item F12d:** Coastal Development Permit Application No. 5-15-0075 (Miller), scheduled for the Commission meeting of October 9, 2015

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### I. Applicant's Submittal

On October 1, 2015 the applicant submitted a 15 slide presentation with a revised plans proposal (slide 11), which he characterizes as a compromise between his original proposal and staff's recommended Special Condition 1 requiring revised project plans. The applicant now proposes an increase of 124 square feet of water coverage instead of 324 square feet and an increase of 0.65 feet of fill instead of 1.4 feet.

Staff believes the proposed dock system, even as revised, is larger than necessary for purposes of marine recreational use and that there is a feasible less environmentally damaging alternative. Staff recommends the Commission approve the proposed development subject to the conditions set forth in the staff report, based on the marine resources and public access findings set forth in the staff report.

**5538 The Toledo  
Application # 5-15-0075**

Applicant has met with staff regarding the Proposed Compromise

**Original submittal (Summary Overview):**

- The original submittal increased the float size from 474 to 798 square feet, an increase of approximately 324 square feet.
- Finger one was to be eight feet in width to safely accommodate a gangway and movement adjacent to the gangway.
- Finger two was to be four feet in width.
- The mainwalk was to be six feet in width.
- Two of the four existing 16 inch piles were anticipated to be re-used and two new 16 inch piles would be installed.
- Pile count and diameter to remain unchanged at four and 16 inches respectively.
- An approximate 20 square foot pier is to be removed.

**Staff Recommendations (Summary Overview):**

- Adjust all fingers and the mainwalk to be four feet in width.
- Dispose of all existing piles and install four new 14 inch piles, or
- Use a three pile system utilizing the existing 16 inch piles.

**Applicant Proposed Compromise:**

- Decrease the float size from 798 to 558 square feet, a reduction of approximately 240 square feet from original submittal resulting from width decreases of all fingers and the mainwalk. The resulting size increase from the existing float is approximately 124 square feet (see exhibit 1).

# 5538 The Toledo Application # 5-15-0075

## Agenda Item # 12d

Exhibit 1

Applicant	Address	Permit		Status	Lot width at water (feet)	Pile Count Existing	Pile Count New	Pile Count Change	Float Square Feet		Pier Size	Pier Change	Gangway Size		Float Sq. ft. Change
		Application #	File Date						Existing	New			Existing	New	
Jules M. Perley	5530 The Toledo	5-05-331	11/23/05	A	56	4	4	0	400	858	N/A	N/A	4' x 20'	4' x 20'	458
Joseph Zucchero	5518 The Toledo	5-08-331	01/15/09	A	50	3	4	1	681	864	N/A	N/A	3' x 18'	3' x 25'	183
Kent Browning	5508 The Toledo	5-13-048	04/02/13	A	50	5	3	(2)	572	734	N/A	N/A	5' x 20'	3' x 38'	162
Joseph Cohen	5455 Sorrento Drive	5-08-199	10/02/10	A	66	5	4	(1)	408	560	25' x 4' & 14' x 10'	12' Removed	3' x 22'	3' x 24'	152
Loren Miller & Catherine Steisel	5538 The Toledo	5-15-0075	04/29/15	P	61	4	4	0	434	558	4' x 5'	All 20' Removed	3.5' x 20	3' x 20	124
Timothy & Deborah Richmond	5553 Sorrento Drive	5-08-002	12/01/08	A	40	5	6	1	308	336	23.5' x 4' & 14' x 10'	80' Added	3' x 20'	3' x 21'	28
Bob Montgomery	261 Bay Shore Ave	5-14-1705	01/28/15	P	80	4	4	0	848	848	22' x 4'	No Change	3' x 20'	3' x 20'	-
Marsha J. Naify	245 Bay Shore Ave	5-10-048	05/19/10	A	40	4	4	0	544	544	16' x 4'	No change	3' x 20'	3' x 20'	-
Jamie & Stacie Ashley	5494 The Toledo	5-12-165	07/19/12	A	49	3	3	0	624	624	N/A	N/A	4' x 22'	4' x 22'	-
McBreathy and Ware Trust	5515 Sorrento Drive	5-11-201	09/15/11	A	40	5	5	0	375	375	5' x 37'	No Change	3' x 26'	3' x 26'	-
Jack Thacker	5430 The Toledo	5-12-144	09/06/12	A	124	3	5	2	1,128	1,128	12' x 10'	120' Added	4.5' x 28'	4' x 28'	-
Marsha J. Naify	249 Bay Shore Ave	5-10-050	05/19/10	A	40	3	3	0	200	200	18' x 4'	No change	3' x 20'	3' x 20'	-
Janice K. Gath Trust	255 Bay Shore Ave	5-11-016	02/17/11	A	40	5	5	0	640	640	23' x 4'	No change	3' x 20'	3' x 20'	-
Joseph Zucchero	5609 Sorrento Drive	5-13-045	03/21/13	A	60	8	6	(2)	540	528	14' x 10' & 16' x 4'	4' Removed	3' x 26'	3' x 26'	(12)
Newport Beach:															
Advanced Group 99-D	201-5-7 Carnation	5-12-214	08/10/12	A					490	1,765					1,275
George Twist	209 Via Lido Soud	5-12-227	03/21/13	A					616	654					38
Lido Isle Comm Assoc.	701 Via Soud	5-11-301	08/23/12	A					2,952	3,742					790

Agenda item 12d - Subject property - Proposed after meeting with Staff

5538 The Toledo  
Application # 5-15-0075

Agenda Item # 12d

**Applicant Proposed Compromise:**

- The new proposed float size is less than most floats approved in the area (See exhibit 2).

# 5538 The Toledo Application # 5-15-0075

## Agenda Item # 12d

Exhibit 2

Applicant	Address	Permit		Status	Lot width	Pile	Pile	Pile	Float Square Feet		Pier	Gangway Size		New or Proposed Float sq. ft.	
		Application #	File Date		at water (feet)	Count Existing	Count New	Count Change	Existing	New	Size	Pier Change	Existing		New
Jack Thacker	5430 The Toledo	5-12-144	09/06/12	A	124	3	5	2	1,128	1,128	12' x 10'	120' Added	4.5' x 28'	4' x 28'	1,128
Joseph Zucchero	5518 The Toledo	5-08-331	01/15/09	A	50	3	4	1	681	864	N/A	N/A	3' x 18'	3' x 25'	864
Jules M. Perley	5530 The Toledo	5-05-331	11/23/05	A	56	4	4	0	400	858	N/A	N/A	4' x 20'	4' x 20'	858
Bob Montgomery	261 Bay Shore Ave	5-14-1705	01/28/15	P	80	4	4	0	848	848	22' x 4'	No Change	3' x 20'	3' x 20'	848
Kent Browning	5508 The Toledo	5-13-048	04/02/13	A	50	5	3	(2)	572	734	N/A	N/A	5' x 20'	3' x 38'	734
Janice K. Gath Trust	255 Bay Shore Ave	5-11-016	02/17/11	A	40	5	5	0	640	640	23' x 4'	No change	3' x 20'	3' x 20'	640
Jamie & Stacie Ashley	5494 The Toledo	5-12-165	07/19/12	A	49	3	3	0	624	624	N/A	N/A	4' x 22'	4' x 22'	624
Joseph Cohen	5455 Sorrento Drive	5-08-199	10/02/10	A	66	5	4	(1)	408	560	25' x 4' & 14' x 10'	12' Removed	3' x 22'	3' x 24'	560
Loren Miller & Catherine Steisel	5538 The Toledo	5-15-0075	04/29/15	P	61	4	4	0	434	558	4' x 5'	All 20' Removed	3.5' x 20	3' x 20	558
Marsha J. Naify	245 Bay Shore Ave	5-10-048	05/19/10	A	40	4	4	0	544	544	16' x 4'	No change	3' x 20'	3' x 20'	544
Joseph Zucchero	5609 Sorrento Drive	5-13-045	03/21/13	A	60	8	6	(2)	540	528	14' x 10' & 16' x 4'	4' Removed	3' x 26'	3' x 26'	528
McBreathy and Ware Trust	5515 Sorrento Drive	5-11-201	09/15/11	A	40	5	5	0	375	375	5' x 37'	No Change	3' x 26'	3' x 26'	375
Timothy & Deborah Richmond	5553 Sorrento Drive	5-08-002	12/01/08	A	40	5	6	1	308	336	23.5' x 4' & 14' x 10'	80' Added	3' x 20'	3' x 21'	336
Marsha J. Naify	249 Bay Shore Ave	5-10-050	05/19/10	A	40	3	3	0	200	200	18' x 4'	No change	3' x 20'	3' x 20'	200
Newport Beach:															
Advanced Group 99-D	201-5-7 Carnation	5-12-214	08/10/12	A					490	1,765					
George Twist	209 Via Lido Soud	5-12-227	03/21/13	A					616	654					
Lido Isle Comm Assoc.	701 Via Soud	5-11-301	08/23/12	A					2,952	3,742					

Agenda item 12d - Subject property - Proposed after Staff recommendations



**Applicant Proposed Compromise:**

- When pier and float sizes are combined, the proposed project has less square footage than all projects reviewed by applicant except one (See exhibit 3).

# 5538 The Toledo Application # 5-15-0075

## Agenda Item # 12d

Exhibit 3

Applicant	Address	Permit		Status	Lot width at water (feet)	Pile Count Existing	Pile Count New	Pile Count Change	Float Square Feet		Pier Size	Pier Change	Gangway Size		Total Float and Pier Sq. Ft.
		Application #	File Date						Existing	New			Existing	New	
Jack Thacker	5430 The Toledo	5-12-144	09/06/12	A	124	3	5	2	1,128	1,128	12' x 10'	120' Added	4.5' x 28'	4' x 28'	1,248
Bob Montgomery	261 Bay Shore Ave	5-14-1705	01/28/15	P	80	4	4	0	848	848	22' x 4'	No Change	3' x 20'	3' x 20'	936
Joseph Zucchero	5518 The Toledo	5-08-331	01/15/09	A	50	3	4	1	681	864	N/A	N/A	3' x 18'	3' x 25'	864
Jules M. Perley	5530 The Toledo	5-05-331	11/23/05	A	56	4	4	0	400	858	N/A	N/A	4' x 20'	4' x 20'	858
Joseph Cohen	5455 Sorrento Drive	5-08-199	10/02/10	A	66	5	4	(1)	408	560	25' x 4' & 14' x 10'	12' Removed	3' x 22'	3' x 24'	740
Kent Browning	5508 The Toledo	5-13-048	04/02/13	A	50	5	3	(2)	572	734	N/A	N/A	5' x 20'	3' x 38'	734
Janice K. Gath Trust	255 Bay Shore Ave	5-11-016	02/17/11	A	40	5	5	0	640	640	23' x 4'	No change	3' x 20'	3' x 20'	732
Joseph Zucchero	5609 Sorrento Drive	5-13-045	03/21/13	A	60	8	6	(2)	540	528	14' x 10' & 16' x 4'	4' Removed	3' x 26'	3' x 26'	732
Jamie & Stacie Ashley	5494 The Toledo	5-12-165	07/19/12	A	49	3	3	0	624	624	N/A	N/A	4' x 22'	4' x 22'	624
Marsha J. Naify	245 Bay Shore Ave	5-10-048	05/19/10	A	40	4	4	0	544	544	16' x 4'	No change	3' x 20'	3' x 20'	608
Timothy & Deborah Richmond	5553 Sorrento Drive	5-08-002	12/01/08	A	40	5	6	1	308	336	23.5' x 4' & 14' x 10'	80' Added	3' x 20'	3' x 21'	570
McBreathy and Ware Trust	5515 Sorrento Drive	5-11-201	09/15/11	A	40	5	5	0	375	375	5' x 37'	No Change	3' x 26'	3' x 26'	560
Loren Miller & Catherine Steisel	5538 The Toledo	5-15-0075	04/29/15	P	61	4	4	0	434	558	4' x 5'	All 20' Removed	3.5' x 20	3' x 20	558
Marsha J. Naify	249 Bay Shore Ave	5-10-050	05/19/10	A	40	3	3	0	200	200	18' x 4'	No change	3' x 20'	3' x 20'	272
Newport Beach:															
Advanced Group 99-D	201-5-7 Carnation	5-12-214	08/10/12	A					490	1,765					
George Twist	209 Via Lido Soud	5-12-227	03/21/13	A					616	654					
Lido Isle Comm Assoc.	701 Via Soud	5-11-301	08/23/12	A					2,952	3,742					

Agenda item 12d - Subject property - Proposed after meeting with Staff

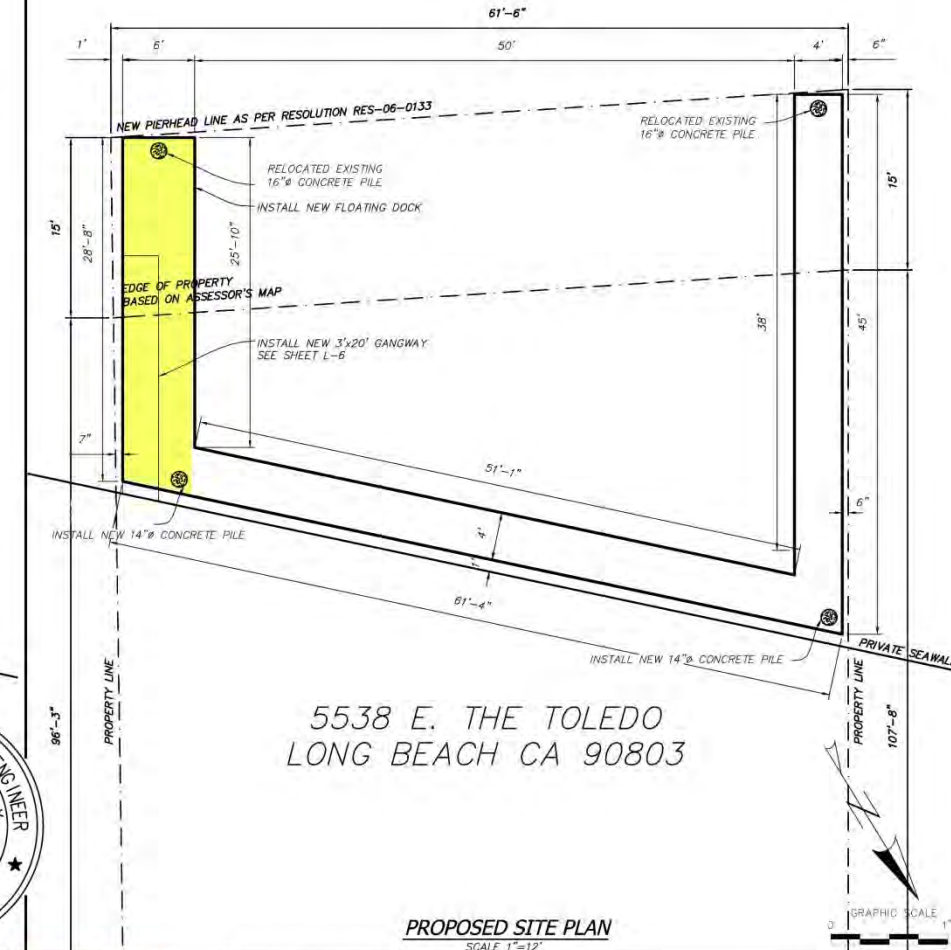
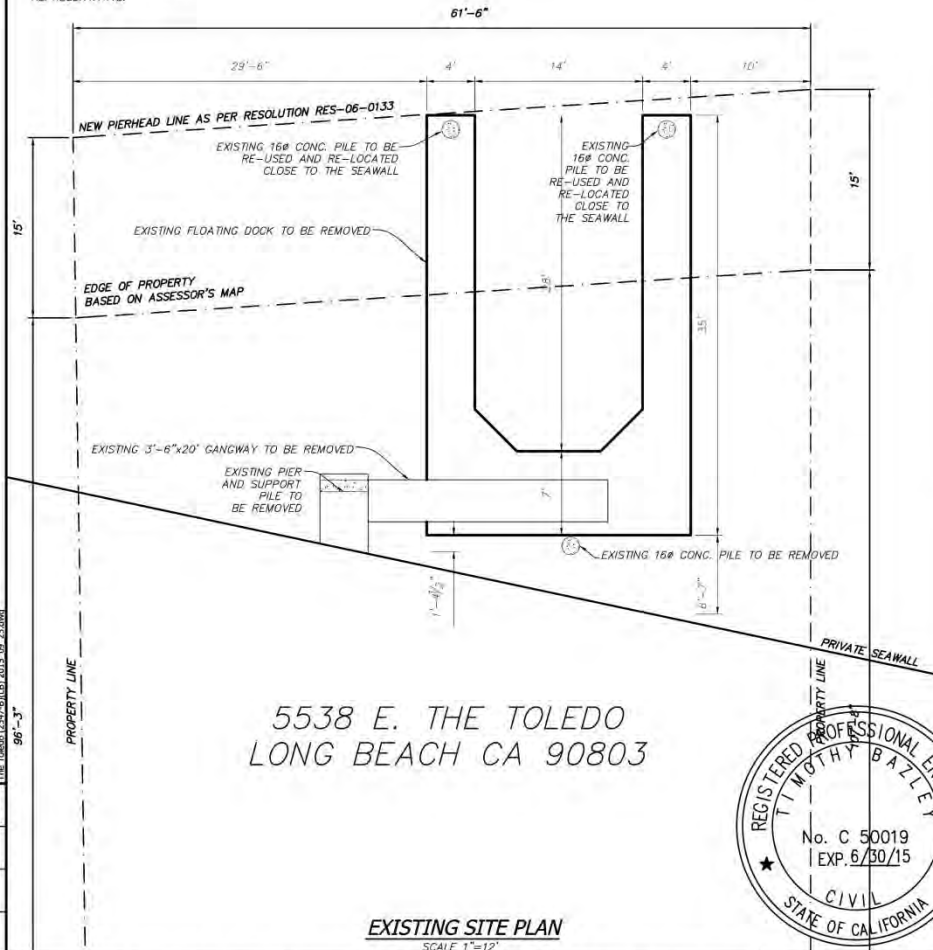
**Summary of Applicant Proposed Compromise:**

- Finger two is to remain at four feet in width per staff recommendations.
- The mainwalk to be decreased to four feet from six feet in width per staff recommendations.
- Finger one to be decreased to six feet from eight feet in width, a departure from Staff recommendation of four feet. This is due to safety concerns.
- Use a four pile system re-using two existing 16 inch and adding two new 14 inch piles, a departure from staff recommendations of a four pile system using four new 14 inch piles.

# Agenda Item # 12d

NOTES:  
1. ALL DIMENSIONS ARE BASED FROM THE CITY OF LONG BEACH ASSESSOR'S MAP AND AERIAL IMAGE, NOT FROM SURVEY.

2. ALL FIELD MEASUREMENTS AND SITE PLAN ARE AS PROVIDED BY THE CONTRACTOR/OWNER/OWNER REPRESENTATIVE.



PROJECT: THE MILLER FAMILY TRUST  
5538 E. THE TOLEDO  
LONG BEACH, CA 90803

CONTRACTOR: BATRES CONSTRUCTION  
2970 FASHION AVE  
LONG BEACH, CA 90810

DESIGNED BY: GH  
DRAWN BY: JH  
CHECKED BY: TB

2500 Via Caballito Marina, Suite 200  
San Pedro, CA 90731  
Tel: 310 548 3132  
Fax: 310 548 1924

Planning and Engineering Services  
For Marinas and Waterfront Resorts

DATE: 09-23-15  
AS NOTED: 2297-N  
SHEET: L-1  
SHEET #: 2 OF 7

**Discussion:**

**Finger One:**

With the gangway approximately three feet in width, a four foot finger does not allow for safe passage. This six foot width is a recommended minimum to enable safe passage adjacent to the gangway as people move to other areas of the dock.

It is preferred to have the finger eight feet wide to allow for the safest movement around the dock, however, in an effort to compromise, the finger can be six feet in width and still maintain acceptable levels of safety.

With the applicant the person ultimately responsible for dock safety, this is an important issue combining safety with the consideration for minimizing marine resource impacts. It would be unfortunate to have someone bump against the gangway and fall into the water between a boat and the dock. If they hit their head on a boat or dock while falling it could have disastrous implications. **We are requesting staff allow this finger be adjusted to six feet from eight feet.**

**Discussion:**

**Pile system:**

Engineers have recommended a four pile system for best stability. Re-use two 16 inch piles and add in two new 14 inch piles as a compromise. This results in a 0.65 square feet, or less than an eight square inch increase of pile penetration into the mud.

None of the other 13 dock projects reviewed by applicant on exhibits 1 through 3 have been requested to reduce the diameter of the piles. **We are requesting staff allow the re-use of two existing 16 inch piles to be paired with two new 14 inch piles.**

**Benefits:**

- Re-use two existing piles, rather than throwing them away. A better environmental solution.
- More lateral stability on the end of each finger with a 16 inch pile, recommended by engineer and dock builder.

## Pile Diameter Analysis

	<u>Sq. Ft.</u>	
Square feet of 14 inch diameter pile	1.0690	
Square feet of 16 inch diameter pile	1.3963	
Staff Recommendation - Four pile system using 14 inch piles: Four piles at 14 Inch diameter	4.2761	
Applicant compromise - Four pile system using two 14 inch and two 16 inch piles:		
Two piles at 16 Inch diameter	2.1380	
Two piles at 14 Inch diameter	<u>2.7925</u>	
	4.9306	
Difference between staff recommendation and applicant	0.6545	Square Feet
Difference between staff recommendation and applicant	<b>7.8540</b>	Square Inches

5538 The Toledo  
Application # 5-15-0075

Agenda Item # 12d

Exhibit 4

Applicant	Address	Permit		Status	Lot width at water (feet)	Pile Count Existing	Pile Count New	Pile Count Change
		Application #	File Date					
Jack Thacker	5430 The Toledo	5-12-144	09/06/12	A	124	3	5	2
Timothy & Deborah Richmond	5553 Sorrento Drive	5-08-002	12/01/08	A	40	5	6	1
Joseph Zuccherro	5518 The Toledo	5-08-331	01/15/09	A	50	3	4	1
Janice K. Gath Trust	255 Bay Shore Ave	5-11-016	02/17/11	A	40	5	5	0
McBreathy and Ware Trust	5515 Sorrento Drive	5-11-201	09/15/11	A	40	5	5	0
Bob Montgomery	261 Bay Shore Ave	5-14-1705	01/28/15	P	80	4	4	0
Jules M. Perley	5530 The Toledo	5-05-331	11/23/05	A	56	4	4	0
Marsha J. Naify	245 Bay Shore Ave	5-10-048	05/19/10	A	40	4	4	0
Loren Miller & Catherine Steisel	5538 The Toledo	5-15-0075	04/29/15	P	61	4	4	0
Jamie & Stacie Ashley	5494 The Toledo	5-12-165	07/19/12	A	49	3	3	0
Marsha J. Naify	249 Bay Shore Ave	5-10-050	05/19/10	A	40	3	3	0
Joseph Cohen	5455 Sorrento Drive	5-08-199	10/02/10	A	66	5	4	(1)
Joseph Zuccherro	5609 Sorrento Drive	5-13-045	03/21/13	A	60	8	6	(2)
Kent Browning	5508 The Toledo	5-13-048	04/02/13	A	50	5	3	(2)

Agenda item 12d - Subject property - Proposed after meeting with Staff



**CALIFORNIA COASTAL COMMISSION**

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

**F12d**

Filed:	4/29/15
180th Day:	10/26/15
Staff:	Z. Rehm-LB
Staff Report:	9/17/15
Hearing Date:	10/9/15

**STAFF REPORT: REGULAR CALENDAR**

<b>Application No.</b>	<b>5-15-0075</b>
<b>Applicant:</b>	<b>Loren Miller</b>
<b>Agent:</b>	South Shore Marine
<b>Location:</b>	State tidelands adjacent to 5538 E. The Toledo, Alamitos Bay, City of Long Beach, Los Angeles County (APN 7744-019-022).
<b>Project Description:</b>	Remove and replace a private residential boat dock. The existing 474 sq. ft. U-shaped dock float, 3.5' x 20' gangway, and three 16" concrete piles would be removed and replaced with a 798 sq. ft. U-shaped composite dock float, 3' x 20' gangway, and four 16" concrete piles.
<b>Staff Recommendation:</b>	Approval with Conditions

**SUMMARY OF STAFF RECOMMENDATION**

Loren Miller requests a permit to install a new dock system over State tidelands adjacent to his residence at 5538 E. The Toledo in Long Beach. The existing dock system and the proposed dock system are both located partially on the applicant's property and partially over State tidelands and submerged lands administered by the City of Long Beach. The major issues raised by this proposed development concern consistency with the marine resources, water quality and public access and recreation policies of the Coastal Act. The applicant's proposed dock system is substantially larger than the existing dock system (additional 324 square feet of water coverage) and would have greater impacts on marine resources, public access and recreation than the existing development. The proposed dock has not been designed to minimize water coverage and fill of coastal waters to the minimum size necessary for the proposed private recreational boating use. As a result of a larger dock structure, there would be cumulative impacts to biological productivity of coastal waters resulting from

increased water coverage, increased shading of soft bottom habitat, habitat displacement, and decreases in foraging habitat for sight foraging marine birds.

Commission staff recommends **approval** of the proposed development with a special condition that requires the applicant to submit revised plans, for the review and approval of the Executive Director, which minimize water coverage and fill of coastal waters. Special conditions also require the applicant to comply with best management practices during and after construction, submit pre and post-construction eelgrass surveys to demonstrate that eelgrass has not been impacted, submit a pre-construction invasive algae survey, and participate in a dock and pier lease program should the City of Long Beach implement such a program in Alamitos Bay.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION.....</b>	<b>4</b>
<b>II. STANDARD CONDITIONS .....</b>	<b>4</b>
<b>III. SPECIAL CONDITIONS .....</b>	<b>5</b>
<b>IV. FINDINGS AND DECLARATIONS.....</b>	<b>9</b>
A. PROJECT LOCATION & DESCRIPTION .....	9
B. MARINE RESOURCES AND WATER QUALITY .....	9
<b>Biological Productivity.....</b>	<b>10</b>
<b>Eelgrass .....</b>	<b>12</b>
<b><i>Caulerpa taxifolia</i>.....</b>	<b>13</b>
<b>Construction and Post-Construction Impacts .....</b>	<b>13</b>
<b>Conclusion.....</b>	<b>13</b>
C. PUBLIC ACCESS AND RECREATION.....	14
D. LOCAL COASTAL PROGRAM (LCP) .....	15
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	15

### APPENDICES

[Appendix A](#) - Substantive File Documents

### EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Existing/Proposed Site Plan

Exhibit 3 – Standard Plan No. 802 Sheets 1 from *Plans and Specifications No. R-4858 (Revised) for the Construction of Waterfront Structures in the Long Beach Marina Area*, City of Long Beach Office of the City Engineer, October 1994

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-15-0075 pursuant to the staff recommendation.*

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

### Resolution:

*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 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

This permit is granted subject to the following special conditions:

1. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of revised project plans. The intent behind the required re-design is to minimize water coverage and fill of coastal waters associated with the proposed boat dock system. Therefore,
  - The width of each finger shall be no greater than four feet;
  - The width of the main-walk shall be no greater than four feet; and
  - The existing area of fill of coastal waters shall be maintained or reduced: a maximum of three 16-inch piles or four 14-inch piles shall be permitted.

The revised project plans shall be in substantial conformance with the plans submitted on January 15, 2015. The revised plans submitted to the Executive Director shall bear evidence of Approval-in-Concept of the revised design from the City of Long Beach Marine Bureau.

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

2. **Pre-and Post-Construction Eelgrass Survey(s).**

- A. **Pre-Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre- construction survey shall be completed within 60 days before the start of construction. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy” dated October 2014 (see [http://www.westcoast.fisheries.noaa.gov/habitat/habitat\\_types/seagrass\\_info/california\\_eelgrass.html](http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html)) adopted by the National Marine Fisheries Service (except as modified by this special condition) and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

- B. **Post Construction Eelgrass Survey.** If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within 30 days of completion of construction, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The

survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy” dated October 2014 (see [http://www.westcoast.fisheries.noaa.gov/habitat/habitat\\_types/seagrass\\_info/california\\_eelgrass.html](http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html)) (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.38:1 ratio on-site, or at another location, in accordance with the California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.38:1 (mitigation: impact). Any exceptions to the required 1.38:1 mitigation ratio found within the California Eelgrass Mitigation Policy shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

### 3. Pre-Construction *Caulerpa taxifolia* Survey.

- A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service (see [http://www.westcoast.fisheries.noaa.gov/habitat/habitat\\_types/seagrass\\_info/caulerpa\\_taxifolia.html](http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/caulerpa_taxifolia.html)).
- C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
  - i. for the review and approval of the Executive Director; and
  - ii. to the Surveillance Subcommittee to the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Wildlife (858-467-4218, [William.Paznokas@wildlife.ca.gov](mailto:William.Paznokas@wildlife.ca.gov)) or Bryant Chesney, National Marine Fisheries Service (562-980-4037, [Bryant.Chesney@noaa.gov](mailto:Bryant.Chesney@noaa.gov)), or their successors.
- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **Construction Responsibilities and Debris Removal.** By acceptance of this permit, the permittee agrees that the approved development shall be carried out in compliance with the following BMPs:
- A. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
  - B. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
  - C. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
  - D. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
  - E. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
  - F. Eelgrass shall not be disturbed. Anchors shall not be placed in eelgrass areas.
  - G. 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;
  - H. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
  - I. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
  - J. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
  - K. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
  - L. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
  - M. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
  - N. The discharge of any hazardous materials into any receiving waters shall be prohibited;
  - O. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
  - P. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
  - Q. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

5. **Best Management Practices (BMP) Program.** By acceptance of this permit, the permittee 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:
    - In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
    - 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.
    - The applicants 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:
    - Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited;
    - If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids; and
    - Bilge cleaners which contain detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.
6. **Dock Float and Pier Leases.** By acceptance of Coastal Development Permit 5-15-0075, the permittee agrees, on behalf of itself and all successors and assigns, that should the City of Long Beach implement a dock float and pier lease program for the Alamitos Bay area for the limited-term private use and occupation of State tidelands for development associated with recreational boating activities (i.e., private docks and piers), the development subject to this permit shall be subject to the terms of such dock float and pier lease program.

The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the subject property including, but not necessarily limited to, the tidelands and submerged land beneath the development approved by this Coastal Development Permit. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.



7. **Resource Agencies.** The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, the Regional Water Quality Control Board, the 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.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

The applicant proposes to remove an existing approximately 474 square foot U-shaped dock float and install a new approximately 798 square foot composite (AZEK) dock float over Sate tidelands and submerged lands in Alamitos Bay adjacent to 5538 E. The Toledo on Naples Island in southeast Long Beach (**Exhibit 1**). The dock float is proposed to connect to a new 3' x 20' gangway. Three 16" concrete piles are proposed to be removed and four 16" concrete piles are proposed to be driven into the submerged lands under Alamitos Bay (**Exhibit 2**). The existing dock float would be demolished off-site. No dredging is proposed or permitted.

The proposed dock is associated with the adjacent single-family residence at 5538 E. The Toledo, which features an existing dock system, a small portion of which is within the southwest corner of the applicant's property, but which is principally over State tidelands and submerged lands extending to the Pierhead Line adopted by City of Long Beach resolution RES-06-0133. The proposed dock system extends laterally the entire 61-foot width of the applicant's property; more than double the width of the existing 22-foot wide dock system. The applicant states: "the dock system would be for the purpose of mooring boats within property limits so as not to encroach towards or into neighboring property."

The City of Long Beach Office of the City Engineer has adopted standards for residential dock projects, available in Plans and Specifications No. R-4858 (Revised) for the Construction of Waterfront Structures in the Long Beach Marina Area (**Exhibit 3**). The Plans and Specifications require a minimum two foot width of the main-walk (also known as head-walk, or the head of the dock float which leads from the gangway to the fingers). The Plans and Specifications require a minimum three-foot width of the fingers for dock floats. The applicant proposes a six-foot wide main-walk, one four-foot wide finger, and one eight-foot wide finger. The proposed plans have been approved by the City of Long Beach Marine Bureau (12/16/14) and the Department of Development Services (1/15/15).

### **B. MARINE RESOURCES AND WATER QUALITY**

Coastal Act section 30230 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.*

Coastal Act section 30231 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.*

Coastal Act section 30233 states in relevant part:

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

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

*(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.*

*(6) Restoration purposes.*

Coastal Act section 30250 states in relevant part:

*(a) New residential...development...shall be located...where it will not have significant adverse effects, either individually or cumulatively, on coastal resources....*

Section 30230 of the Coastal Act requires that marine resources be maintained and enhanced and that uses of the marine environment sustain biological productivity of coastal waters. Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters be maintained, and where feasible, restored through measures aimed at reducing water resource impacts from proposed development. Section 30233 of the Coastal Act limits the allowable fill of open coastal waters, wetlands and estuaries to certain uses so long as there is no feasible less environmentally damaging alternatives to a proposed use and feasible mitigation measures have been provided to minimize adverse environmental effects. Section 30250 of the Coastal Act requires new development to not have significant adverse effects, individually or cumulatively, on coastal resources.

### **Biological Productivity**

Increased coverage of coastal waters is a significant concern because it reduces light and decreases the biological productivity of coastal waters and impedes wildlife foraging activities. The existing boat dock system consists of approximately 474 square feet and the proposed boat dock system consists of approximately 798 square feet of water coverage. As proposed, the expanded main-walk and dock

fingers will result in additional water coverage of approximately 324 square feet. However, the City of Long Beach Office of the City Engineer *Plans and Specifications No. R-4858 (Revised) for the Construction of Waterfront Structures in the Long Beach Marina Area* (“Marina Plans and Specifications”) indicates that the minimum width of a main-walk is two feet and the minimum width of dock fingers is three feet. The applicant proposes a six-foot wide main-walk and four-foot and eight-foot wide fingers that would substantially increase water coverage. The dock system could be re-designed to require less water coverage while still providing for enhanced marine recreational use. The existing dock system meets this minimum City standard and could be replaced in-kind without increasing water coverage.

Sections 30230 and 30231 of the Coastal Act require that marine resources, including biological productivity, be protected. The biological productivity of coastal waters is highly dependent on sunlight for photosynthesis by lower order green algae, phytoplankton, and diatoms that form the basis of the marine food chain. Eelgrass is also dependent on sunlight, creating important habitat for other marine organisms. In addition to reduced sunlight and decreases in biological productivity of coastal waters, increased coverage of coastal waters is a significant concern since it also impedes avian foraging activities. Larger dock structures decrease foraging habitat for sight foraging marine birds, such as the State and federally listed California brown pelican found throughout Alamitos Bay. Although the coverage of bay surface area habitat associated with this project may not seem to create significant adverse impacts on coastal resources, however, the cumulative effect of allowing significant increases in water coverage by dock projects will add up over time, especially as docks are considered a boating related use and is an allowable use of fill under Section 30233. It should be noted that there are hundreds of private residential boat docks in Alamitos Bay. If each were permitted to increase the amount of fill and water coverage beyond that which is consistent with Section 30233, the overall effect would be a significant loss of coastal waters and soft bottom habitat.

Coastal Act Section 30233 clearly limits the allowable fill of open coastal waters, wetlands, estuaries to certain uses only including “*new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*” However, fill for boating facilities is only allowable *where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.* The proposed project would result in increased fill of 1.4 square feet of coastal waters, as the applicant proposes one additional 16-inch concrete pile (four piles proposed versus three existing). The proposed project is not the least damaging environmental alternative because it would result in additional water coverage and fill, which would adversely impact the biological productivity of marine resources that depend on light for their existence like the green algae, phytoplankton, and diatoms.

The applicant states that the proposed design is needed in order to accommodate larger boats. The applicant has not provided the Coastal Commission with an analysis of any alternatives which would permit the mooring of larger boats, while minimizing water coverage to the minimum extent required. Other docks in the area have included wider main-walks and fingers wider than the minimum City standards (generally four to six feet wide in the Alamitos Bay area near Naples Canal). The applicant’s existing dock features wider main-walks and fingers are wider than the two and three foot minimum City standards. However, the applicant also proposes to increase the lateral extent of the dock system from 22 feet to 61 feet, fronting the entire property and substantially increasing water coverage over State tidelands and submerged lands. The Coastal Act does not require approval of an expanded boating facility in order to accommodate larger boats.

The existing boat dock system already adheres to the minimum standards of the Marina Plans and Specifications. Compared to the proposed project, replacing the existing dock system in-kind would be a less damaging environmental alternative because it would result in no change in the amount of water coverage or increase in fill and already complies with the City's minimum standards. Alternatively, the applicant may choose to redesign the dock system such that it reduces the width of the main-walk and the fingers, and does not increase fill of coastal waters, while still increasing its lateral extent to enable larger boats to moor in the U-shaped opening over State tidelands and submerged lands. In order to avoid adverse impacts to biological resources and to ensure that there will not be negative cumulative impacts to the Alamitos Bay ecosystem, the Commission imposes **Special Condition 1**, which requires the applicant to submit revised project plans which minimize water coverage and fill of coastal waters. The applicant may revise the plans to meet the requirements of his vessels, but the plans shall indicate that the width of each finger shall be no greater than four feet, the width of the main-walk shall be no greater than four feet, and the existing area of fill of coastal waters shall be maintained or reduced. In order to comply with Special Condition 1, the applicant must submit revised plans showing a dock system with three 16-inch piles or four 14-inch piles; each option would not increase the existing area of fill of coastal waters. In order to reduce the number of piles from four to three or the size of the piles from 16-inches to 14-inches the applicant may modify the layout and the weight of the dock float; which relates to the first portion of the condition requiring a narrower head-walk and narrower fingers.

### **Eelgrass**

Eelgrass is a marine flowering plant that grows in soft sediments within coastal bays and estuaries. Eelgrass canopies consist of shoots and leaves approximately 1 to 3 feet long that typically attract marine invertebrates and fish species. Under normal circumstances, a diverse community of benthic organisms (e.g. clams, crabs, and worms) lives within the soft sediments that cover eelgrass root and rhizome mass systems. Eelgrass beds also function as a nursery for many juvenile fish – including species of commercial and/or sporting value such as California halibut and corbina. Eelgrass beds are also important foraging areas for piscivorous seabirds that pursue fish attracted to eelgrass cover. Eelgrass is also an important ecological contributor to the detrital (decaying organic material) food web of bays and estuaries as the decaying plant material is consumed by many benthic invertebrates and converted to primary nutrients by bacteria.

An underwater survey conducted on October 28, 2014 documented the absence of eelgrass at the proposed project site, although eelgrass was observed approximately 10 feet west of the site in a subsequent survey dated March 18, 2015. The proposed project includes bottom disturbance (removal of three 16-inch concrete piles and pile-driving of four 16-inch concrete piles) that could impact eelgrass. In addition, the proposed widening of the dock would occur bayward of the existing dock footprint. The applicant's more recent survey indicates that there will still be a minimum 10-foot buffer from the edge of the proposed dock system to the area where eelgrass was observed over State tidelands bayward of the neighboring property; however, the extent of eelgrass changes annually. Eelgrass surveys completed during the active growth phase of eelgrass (typically March through October) are valid for 60-days with the exception of surveys completed in August-October. A survey completed in August - October is valid until the resumption of active growth (i.e., March 1). The project is agendaized for the October 2015 Coastal Commission Hearing so the existing eelgrass survey is no longer valid (it expired March 1, 2015). Therefore, a subsequent eelgrass survey will be required prior to beginning any construction. The Commission imposes **Special Condition 2**, which requires a new eelgrass survey and identifies the procedures necessary to be completed prior to beginning construction, in case the new survey also expires prior to commencement of construction. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the

proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit. In addition, the special condition identifies post-construction eelgrass procedures. These conditions will ensure that should impacts to eelgrass occur (though none are expected), the impacts will be identified and appropriate mitigation required under strict protocol provided in the “California Eelgrass Mitigation Policy and Implementing Guidelines” dated October 2014 which will ensure full mitigation of any impacts to eelgrass should the post-construction survey show that unforeseen eelgrass impacts occurred during construction. Therefore, as conditioned, the Commission finds that the proposed development will not result in significant impacts to eelgrass.

### ***Caulerpa taxifolia***

*Caulerpa taxifolia* is a type of seaweed which has been identified as a threat to California’s coastal marine environment because it has the ability to displace native aquatic plant species and habitats. Information available from the National Marine Fisheries Service indicates that *Caulerpa taxifolia* can grow in large monotypic stands within which no native aquatic plant species can co-exist. Therefore, native seaweeds, seagrasses, and kelp forests can be displaced by the invasive *Caulerpa taxifolia*. This displacement of native aquatic plant species can adversely impact marine biodiversity with associated impacts upon fishing, recreational diving, and tourism. *Caulerpa taxifolia* is known to grow on rock, sand, or mud substrates in both shallow and deep water areas. Since eelgrass grows within the immediate project vicinity, *Caulerpa taxifolia*, if present, could displace eelgrass in the Bay.

Underwater surveys conducted October 28, 2014 and March 18, 2015 did not encounter *Caulerpa taxifolia*. *Caulerpa taxifolia* surveys are valid for 90 days. The project is agendaized for the October 2015 Coastal Commission Hearing and by this time the *Caulerpa taxifolia* survey is no longer valid since 90-days have passed since the survey was completed. Thus, an up-to-date *Caulerpa taxifolia* survey must be conducted prior to commencement of the project. In order to assure that the proposed project does not cause the dispersal of *Caulerpa taxifolia*, the Commission imposes **Special Condition 3**, which requires the applicant, prior to commencement of development, to survey the project area for the presence of *Caulerpa taxifolia*. If *Caulerpa taxifolia* is present in the project area, no work may commence and the applicant shall seek an amendment or a new permit to address impacts related to the presence of the *Caulerpa taxifolia*, unless the Executive Director determines that no amendment or new permit is legally required.

### **Construction and Post-Construction Impacts**

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 assure that all impacts to water quality are minimized, and to reduce the potential for construction related impacts on water quality, the Commission imposes **Special Condition 4**, which requires, but is not limited to, appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters. To reduce the potential for post-construction impacts to water quality, the Commission imposes **Special Condition 5**, which requires the continued use and maintenance of post construction BMPs. As conditioned, the Commission finds that the development conforms to Sections 30230 and 30231 of the Coastal Act.

### **Conclusion**

Thus, only as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231, 30233, and 30250 of the Coastal Act.

## C. PUBLIC ACCESS AND RECREATION

Coastal Act section 30210 states:

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

Coastal Act section 30211 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.*

Coastal Act section 30212 states, in relevant part:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:  
(2) adequate access exists nearby*

Section 30210 of the Coastal Act requires that maximum public access and recreational opportunities to and along the coast be provided for all the people. Section 30211 of the Coastal Act states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization. Section 30212 of the Coastal Act states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where adequate access exists nearby.

The proposed project will not interfere with public access to the coast. No public access exists immediately inland of the seawall at the site; only private property. There is no beach on the seaward side of the applicant's seawall, even at low tide. The proposed pier will not interfere with kayaking in the bay any more than the existing gangway and dock. Therefore, the proposed development will not have any new adverse impacts on public access to the coast or to nearby recreational facilities.

The proposed dock is located principally over State tidelands and submerged lands, within an area subject to public trust doctrine. The extent of the dock system is proposed to extend over the entire width of the applicant's property, which is sited near the entrance of Naples Canal; however, the development is proposed landward of the Pierhead line, the line of development where the City and the Commission have permitted docks to extend vertically in past actions. The Commission is not authorizing any new development in open coastal waters that would obstruct public use of or access to those waters. Furthermore, the proposed expanded dock does not encroach into the navigation channel and does not create a further impediment to navigation compared to the existing condition.

The City does not currently charge a lease fee for the private use of public tidelands. The City is developing a dock float and pier lease program for the limited-term private use and occupation of State tidelands for development associated with recreational boating activities (i.e., private docks and piers). The program would establish appropriate fees in relation to the lease area and temporal length of each lease and all revenue would be deposited into the City's Tidelands Fund to be utilized for public access

improvements in the City of Long Beach. Because the development associated with this permit is private use of State tidelands and submerged lands which impacts public access through the narrow (approximately 30 foot wide) Naples Canal to the east, **Special Condition 6** requires the applicant to provide mitigation in the form of a lease fee to the City, should the City implement such a lease program for Alamitos Bay.

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, 30211 and 30212 of the Coastal Act.

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

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.

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

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications 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 City of Long Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). The City determined that in accordance with CEQA, the project is Categorical Exempt from Provisions of CEQA for the construction (Class 13501; January 15, 2015).

The proposed project is located in an urban area. Infrastructure necessary to serve the project exists in the area. The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. As conditioned to minimize water coverage and fill of coastal waters to the minimum size necessary for the proposed private recreational boating use, the proposed project has been found consistent with the marine resources, water quality and public access and recreation policies of the Coastal Act. 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, is the least environmentally damaging feasible alternative and consistent with the requirements of the Coastal Act and CEQA.

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#### **SUBSTANTIVE FILE DOCUMENTS**

1. City of Long Beach certified Local Coastal Program, July 22, 1980.
2. Coastal Development Permit 5-13-048 (Browning) 5508 The Toledo, Long Beach.

# Vicinity Map: 5538 E. The Toledo, Long Beach

## Exhibit 1

Page 1 of 1



California Coastal  
Commission



Photo Credit: Bing Maps



# Exhibit 2

Page 1 of 2

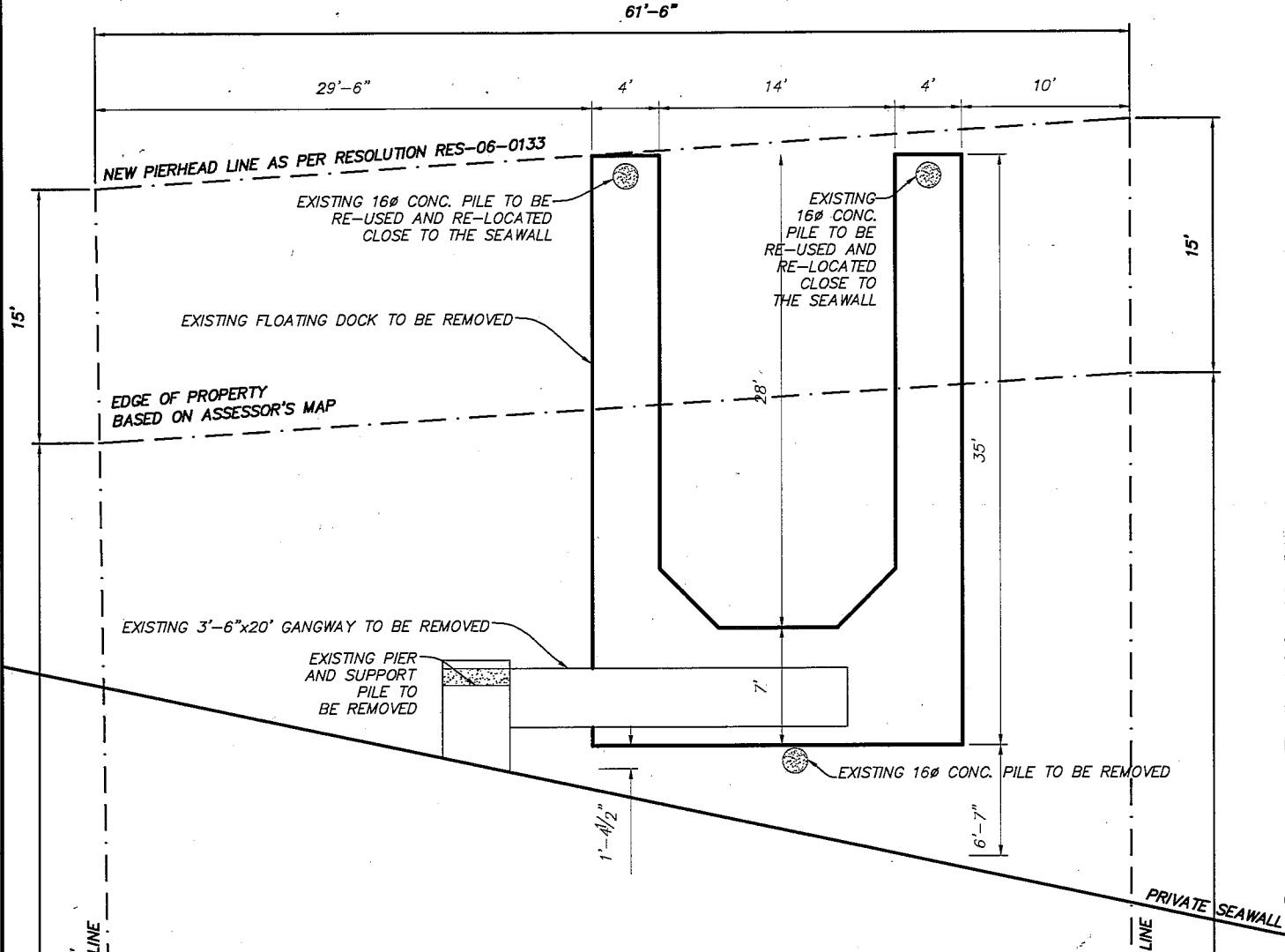


California Coastal Commission

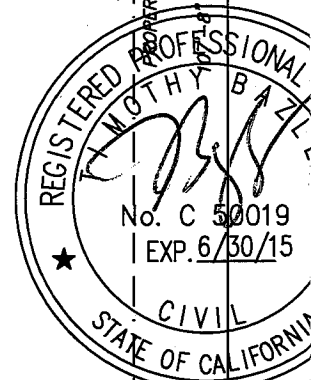
**NOTES:**

1. ALL DIMENSIONS ARE BASED FROM THE CITY OF LONG BEACH ASSESSOR'S MAP AND AERIAL IMAGE, NOT FROM SURVEY.
2. ALL FIELD MEASUREMENTS AND SITE PLAN ARE AS PROVIDED BY THE CONTRACTOR/OWNER/OWNER REPRESENTATIVE.

Printed On: Sep 26, 2014 - 4:35pm



5538 E. THE TOLEDO  
LONG BEACH CA 90803



**EXISTING SITE PLAN**

SCALE 1"=12'

CONCEPT	100%	FINAL
STATUS	%	X

PROJECT  
**THE MILLER FAMILY TRUST**  
**5538 E. THE TOLEDO**  
**LONG BEACH, CA 90803**

CONTRACTOR  
**SOUTH SHORE MARINE**  
**16835 ALGONQUIN ST.**  
**SUITE 276**  
**HUNTINGTON BEACH, CA 92649**

NO.	REVISION	BY

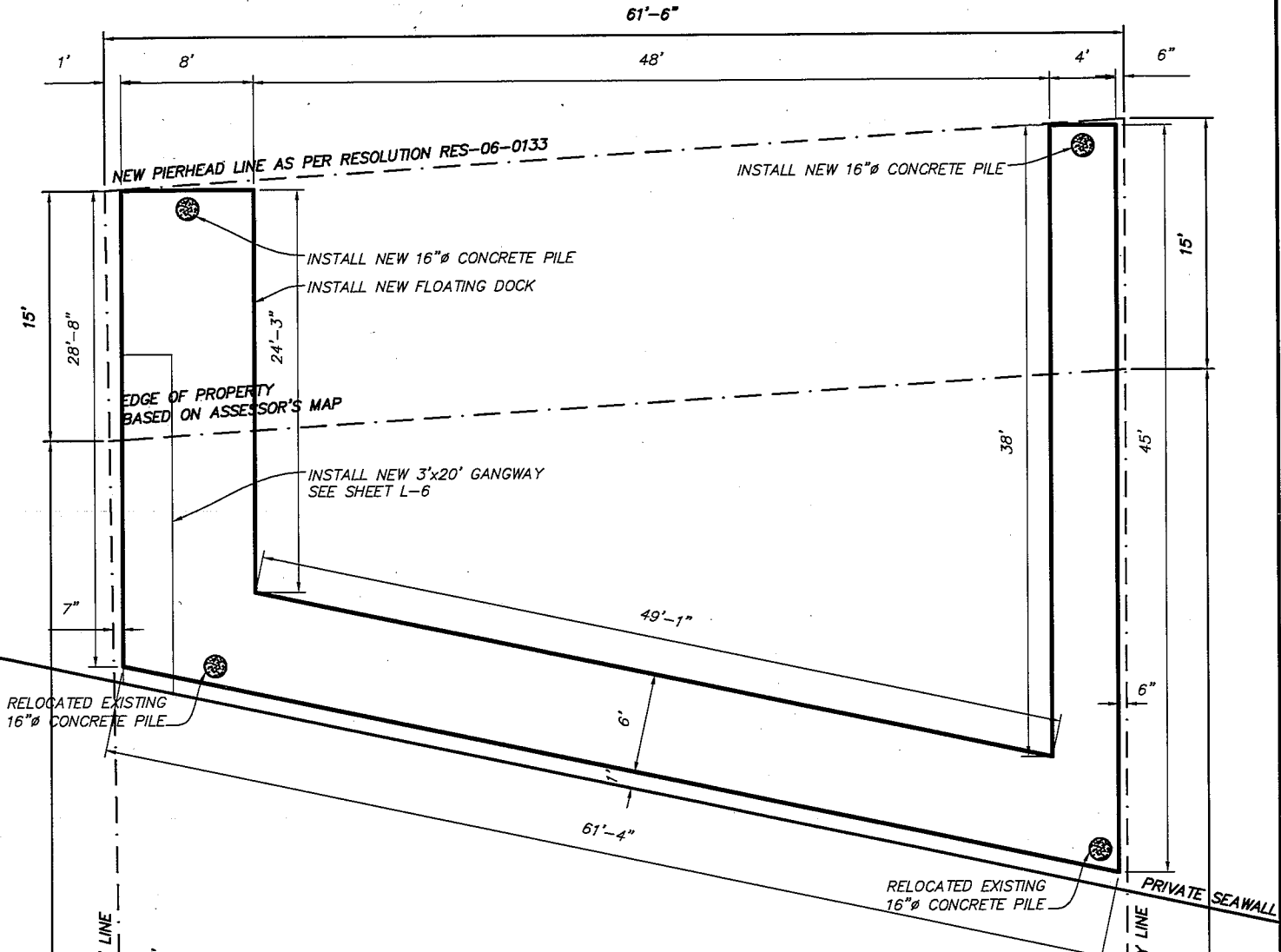
The Toledo (2297-N)(LB) 2014\_09 24.dwg

# Exhibit 2

Page 2 of 2

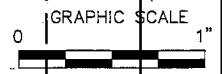


California Coastal Commission



5538 E. THE TOLEDO  
LONG BEACH CA 90803

**PROPOSED SITE PLAN**  
SCALE 1"=12'



SCALE	DATE
AS NOTED	09-25-14
JOB NO.	2297-N
SHEET	L-1
SHEET #	2 OF 7

ENGINEER  
09-29-14



2500 Via Cabrillo Marina, Suite 200  
San Pedro, CA 90731  
Tel: 310 548 3132  
Fax: 310 548 1924

DESIGNED BY GH  
DRAWN BY JH  
CHECKED BY TB

## SITE PLAN

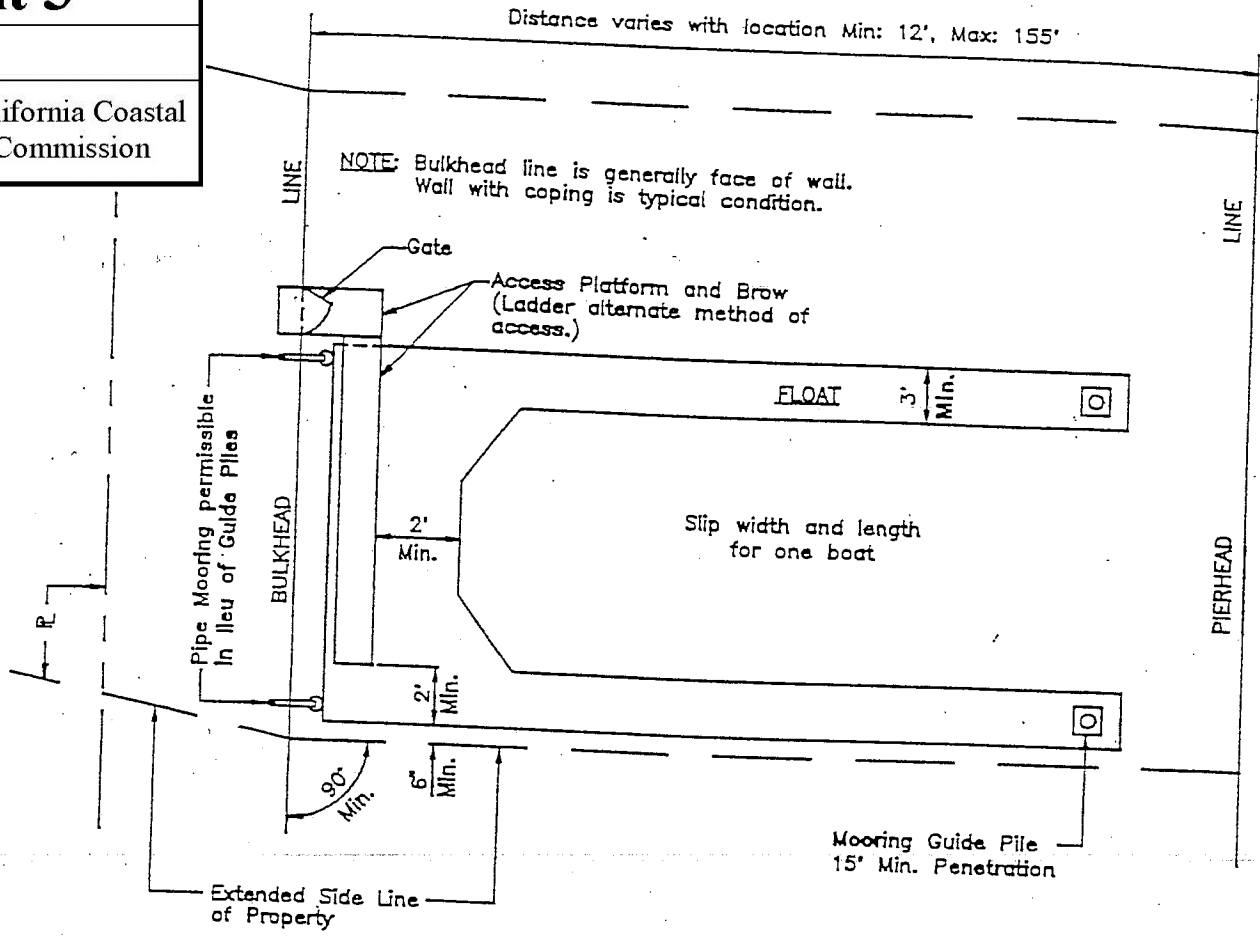
Planning and Engineering Services  
For Marinas and Waterfront Resorts

# Exhibit 3

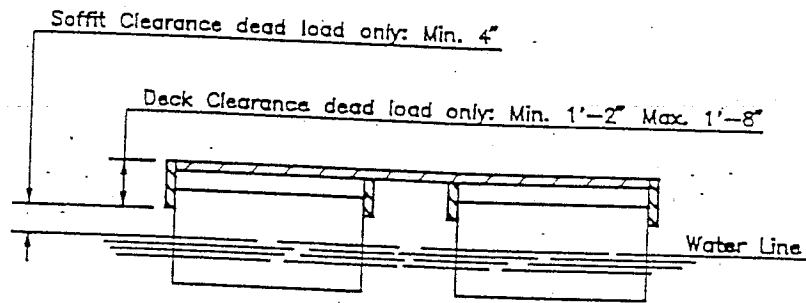
Page 1 of 1



California Coastal Commission



PLAN



SOFFIT AND DECK CLEARANCES FOR ALL FLOATS

REVISIONS		CITY OF LONG BEACH, CALIFORNIA DEPARTMENT OF PUBLIC WORKS	STANDARD PLAN NO.
NO.	DATE		
1		<h2>TYPICAL FLOAT INSTALLATION</h2>	802
2			
3			
4			
APPROVED BY: <i>Edward J. Rust</i>		DATE: <u>9-25-95</u>	SHEET
CITY ENGINEER R.E. NO. <u>26253</u>		EX. DATE: <u>12-31-97</u>	1 OF 9