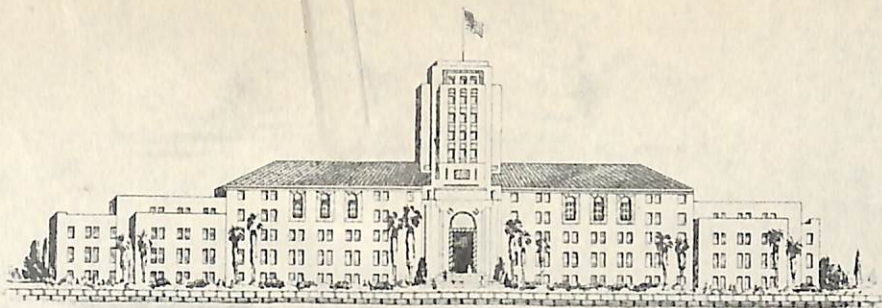


MISSION BAY PIERS

APRIL - 1946



THE CITY OF SAN DIEGO

SAN DIEGO 1, CALIFORNIA

February 7, 1946.

File opinion
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City Attorney
MOREY S. LEVENSON
Asst. City Attorney
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DEPUTIES
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Bertrand L. Comparet
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Thomas J. Fanning
ARTHUR J. O'KEEFE
City Prosecutor
CECIL F. HOLLEY
Asst. City Prosecutor
MYRON KAMINAR
Deputy City Prosecutor

Mr. Glenn Rick,
City Planning Director,
San Diego, California.

Re: Mission Bay Piers

Dear Sir:

You have reported that certain piers have been constructed on the Mission Bay side of Mission Beach many years ago, some of which piers are now so dilapidated as to be dangerous, and you have asked this office to prepare a form of notice by which the City would declare that it is not responsible in case of injury to any person by reason of such dangerous condition of such piers.

Prior to the grant to The City of San Diego, the tidelands in Mission Bay were the property of the State of California. As such owner, the State (or its grantees or lessees) had the exclusive right to build piers or wharves upon such tidelands. A pier or wharf constructed by any private person without a license so to do issued by the State or its agents, constitutes a mere unlawful purpresture upon public lands. As the owner of such lands, the State could either demolish such piers as nuisances, or could seize and use them as fixtures upon the land owned by the State.

26 Cal. Jur. 597, Sec. 10;

Oakland v. E. K. Wood Lumber Co.,

211 Cal. 16, 23;

City of Newport Beach v. Fager, 39 Cal. App. (2d) 23, 28;

City of Oakland v. Hogan, 41 Cal. App. (2d) 333, 350;

Civ. Code, Secs. 528, 531.

The method of licensing such construction of piers was as follows: a franchise, having a life of 20 years, could be granted, authorizing the construction of a pier upon public tidelands and the taking of tolls for the use of such pier; if the tidelands were within the limits of an incorporated city, or had been granted by the State to such city, the franchise

was to be issued by the authorities of such city; otherwise, by the Board of Supervisors of the county within which such tidelands were situated.

Former Pol. Code, Secs. 2906-7, 2920,
now Harbors and Navigation Code, Secs. 4000-01, 4016;
26 Cal. Jur. 591, Sec. 4.

The franchise so granted is to be recorded in the Office of the County Recorder of the county in which the tidelands are situated, and constitutes the franchise for such use.

Former Pol. Code, Sec. 2915, now
Harbors and Navigation Code, Sec. 4011

Such franchise carries no title to the tidelands upon which the pier is built; it is a mere license to use the tidelands for that purpose, and upon the expiration of its term, the pier, as a fixture, reverts to the owner of the tidelands (State or City, as the case may be).

26 Cal. Jur. 594, Sec. 8.

You have informed me that you have found no record of the issuance of such a franchise for these piers by the City. Being within the city limits, such franchise should have been issued, if at all, by the City, rather than by the Board of Supervisors. If built without such a franchise, these piers became the property of the State of California, as part of the tidelands upon which they are built; and upon the recent grant by the State to the City, they are now the property of the City of San Diego. If there was originally a valid franchise issued, but such franchise has expired, the same result would follow. They would undoubtedly be public property of the City. This being so, they would come within the express terms of the Public Liability Act of 1923 (Stats. 1923, p. 675; Deering's General Laws, Act No. 5619, Sec. 2), which provides that -

"* * * municipalities * * * shall be liable for injuries to persons and property resulting from the dangerous or defective condition of public streets, highways, buildings, grounds, works and property * * *"

in all cases where the public officers having authority to remedy such dangerous condition had notice of such dangerous condition and failed to remedy it within a reasonable time thereafter.

In such a case, posting a notice of non-responsibility, whatever its terms, would be completely futile, as the statutory liability cannot be evaded by any disclaimer of respon-

sibility. While the former Political Code Section 2918, now Harbors and Navigation Code Sec. 4014 provides that the owner or keeper of a wharf who takes toll for the use of it is liable for all damages occasioned by his failure to keep it in repair, this--even where it is applicable--does not purport to be exclusive, or to exonerate the City from the statutory liability under the Act of 1923; besides, it is most probable that no tolls have been collected for the use of the piers in question.

I would suggest the following:

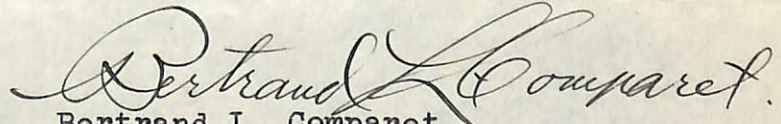
(1) That you make immediate search of the records, to see if there is any existing franchise authorizing the maintenance of any of these piers;

(2) If such a franchise be found, the owner should be notified of the dangerous condition and requested to either repair it or suitably barricade it; however, if he still has a valid franchise and the pier is a private one not devoted to public use, I do not see how we can compel him to make it safe for public use, as he is not required to make his property safe for trespassers; and

(3) If there is no presently effective franchise for any particular pier which is in dangerous condition, then such pier, as public property, should be closed by suitable barricades and posted with conspicuous notices warning all persons to keep off as the pier has been closed to all public use.

Within a reasonable time, the City should adopt and execute some definite policy as to whether such piers shall be repaired or demolished.

Sincerely yours,


Bertrand L. Comparet,
Deputy City Attorney.

APPROVED:


City Attorney

BLC/M

January 28, 1946

Glenn A. Rick, City Planning Director
The Honorable Mayor and City Council
Piers and other obstructions in Mission Bay

Now that the City has taken over Mission Bay, it is apparent from an inspection of the property, that a number of privately owned piers have been built during the past years that are at the present time in a dangerous condition.

To protect the interests of the City, it is suggested that the City Attorney be instructed to prepare a notice to be posted on all such structures advising the public of (a) the City ownership of the Bay, (b) of the City's non-responsibility for accidents, (c) of the fact that the City will grant a permit for all new piers or the rebuilding of old ones, and, (d) that unsafe and dangerous piers must be removed.

Respectfully submitted,

Glenn A. Rick
City Planning Director

R/w

4.2.46.1



LOOKING NORTH

4.2.46.2



2632 BAYSIDE WALK
LOOKING SOUTH
4-2-46



4.2.46.3



~ 2674 BAYSIDE WALK ~
~ LOOKING NORTH ~
~ 4-2-46 ~

4.2.46.4



~ LOOKING SOUTH ~
~ 4-2-46 ~

845
SAN LUIS REY PL.

847 9632
850
ALLERTON CT.
849

2512
WALK
850
ANACAPA CT.
849



4.2.46.5



848 SAN LUIS REY PL.

4 - 2 - 46

4.2.46.6



2766 BAYSIDE WALK

LOOKING NORTH

4 - 2 - 46

BALBOA CT.

AVALON CT.

SAN LUIS REY PL.

N

4.2.46.5

4.2.46.7



2776 BAYSIDE WALK
LOOKING SOUTH
4-2-46

4.2.46.8



2790 BAYSIDE WALK
LOOKING NORTH
4 - 2 - 46

4.2.46.60



LOOKING SOUTH

COHASSET

824

CT.

823



830

CAPISTRANO PL.

831



2730

42.46.8 & 60



42.46.7

Jacobs

BRIGHTON

836

CT.

835



2766

42.46.6

4.2.46.9

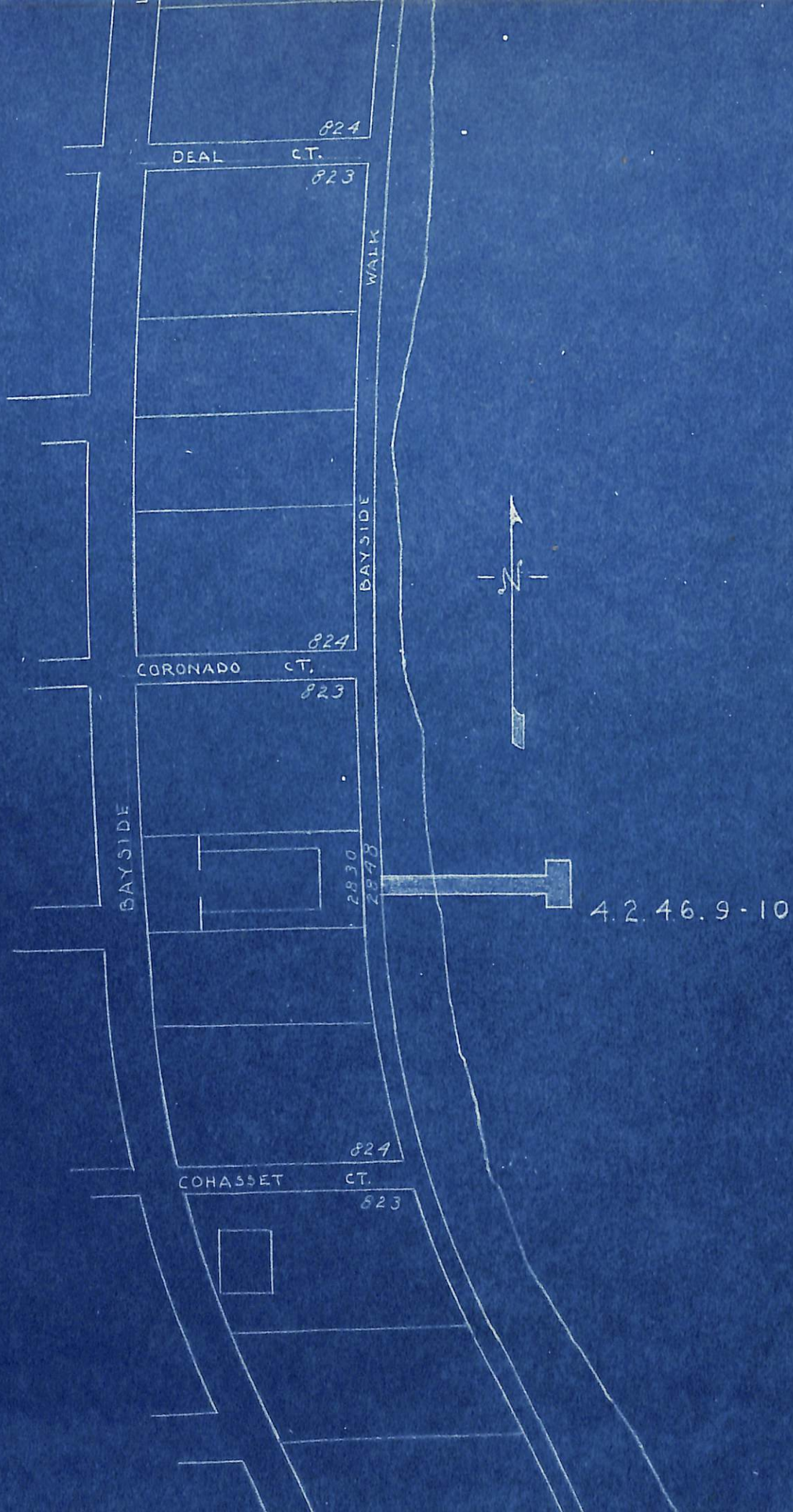


2830 BAYSIDE WALK
LOOKING NORTH
4-2-46

4.2.46.10



LOOKING SOUTH

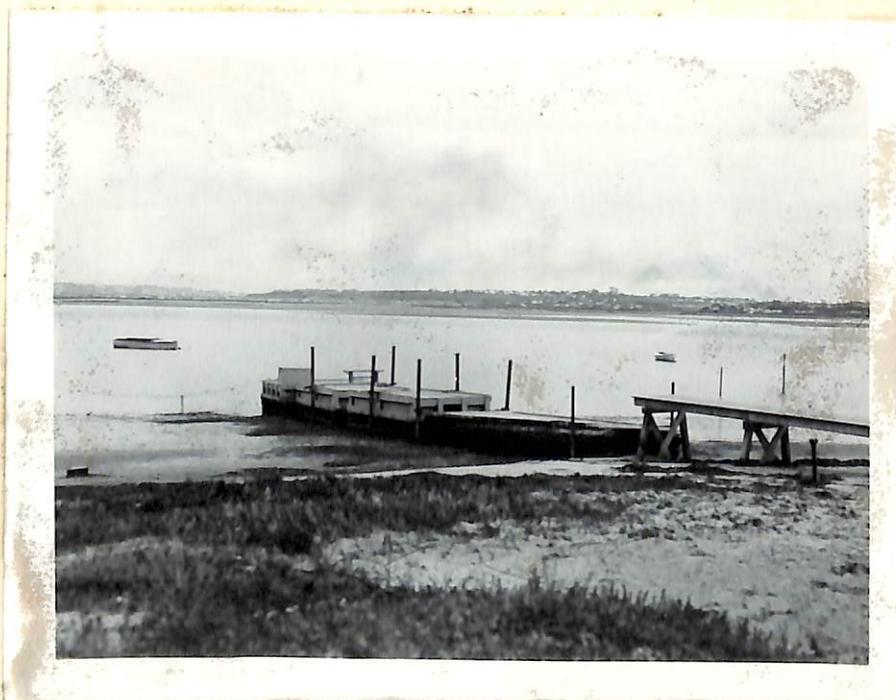






4.2.46.11

2944 BAYSIDE WALK
LOOKING NORTH
4-2-46



4.2.46.12

LOOKING SOUTH

4.2.46.13



2962 BAYSIDE WALK
LOOKING NORTH
4-2-46

4.2.46.14



2962 BAYSIDE WALK
LOOKING SOUTH
4-2-46

4.2.46.15



2962 BAYSIDE WALK
GIRLS SWIMMING CLUB
LOOKING SOUTH

4.2.46.16



OPPOSITE ENSENADA CT.
LOOKING NORTH
4-2-46

SAN FERNANDO PL.

2999

860

859

842

CT.

841

ENSENADA

4.2.46.16

2962

4.2.46.13-14 & 15



838

CT.

837

DOVER

2942

4.2.46.11-12

2940



SAN FERNANDO PL.

860
859

2999



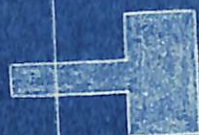
4.2.46.17

OPPOSITE MAIN ENTRANCE TO
AMUSEMENT PARK
LOOKING NORTH
4-2-46



4.2.46.18

LOOKING SOUTH



4.2.46.17-18 & 19

ISLAND

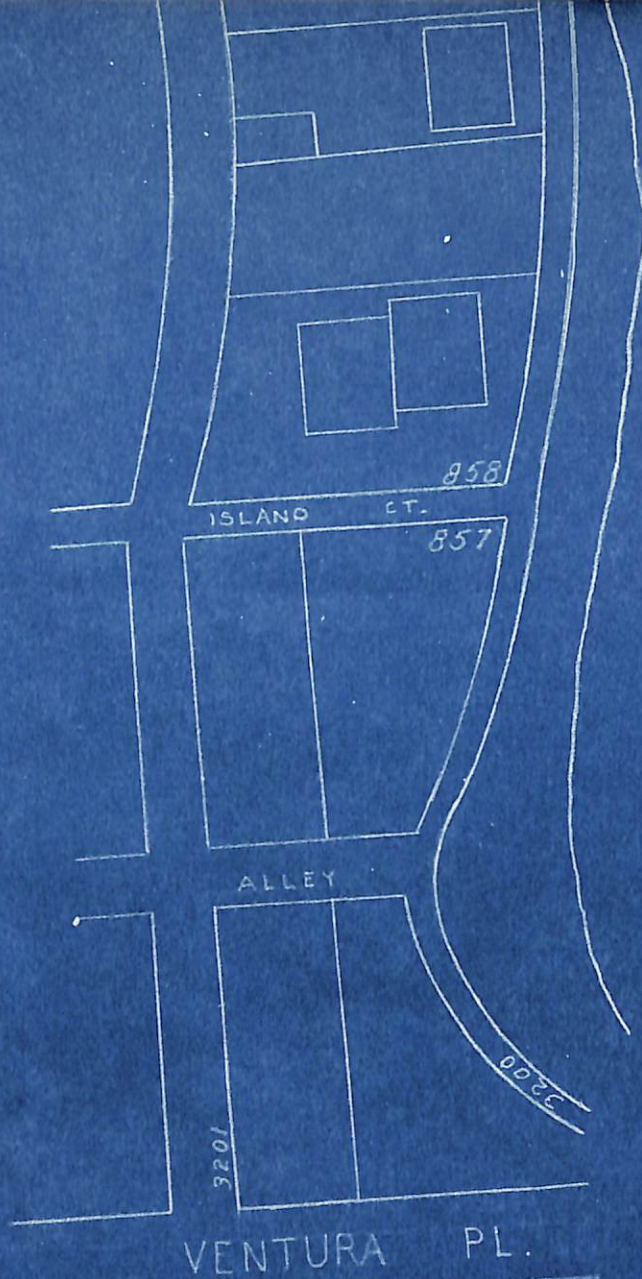


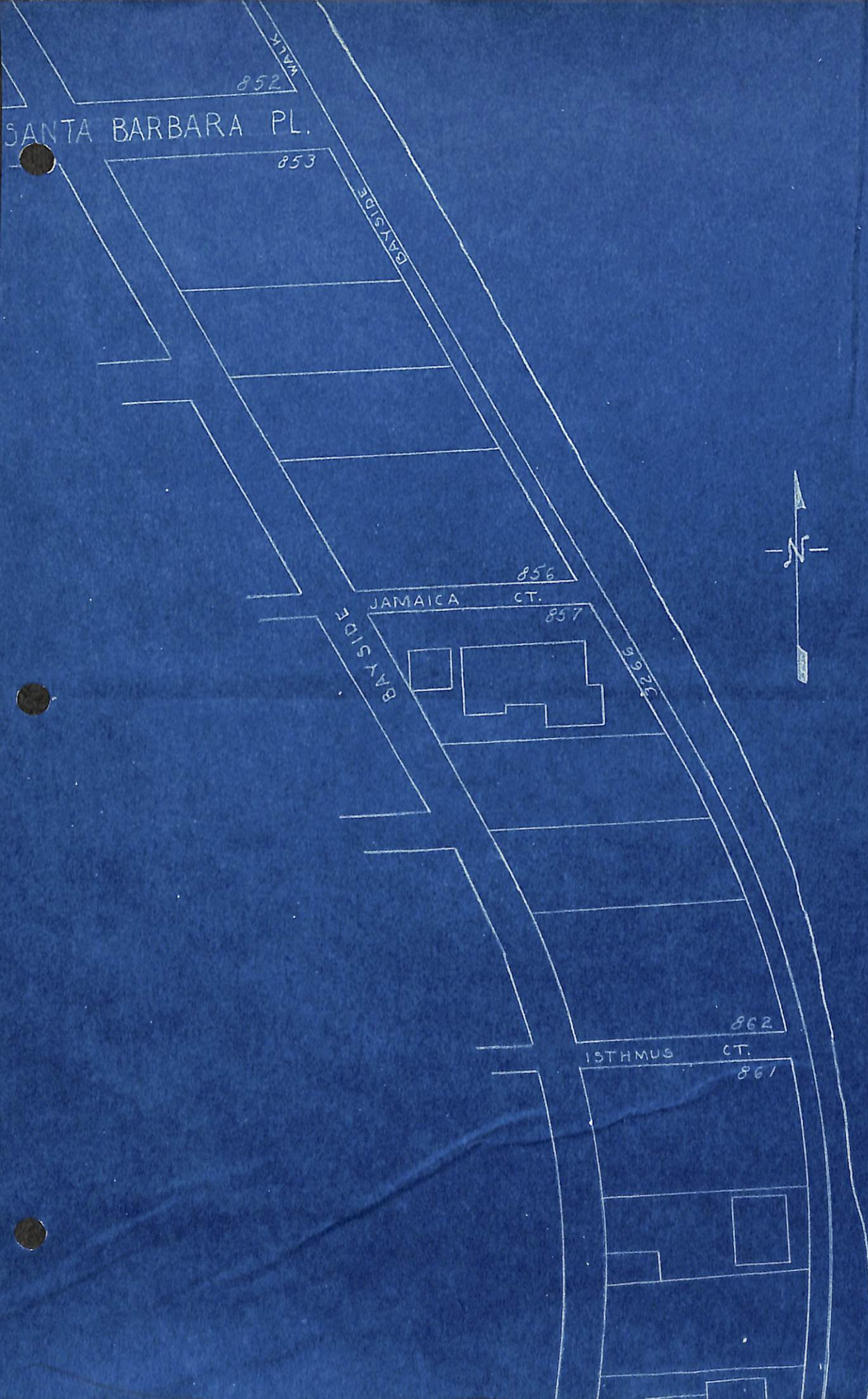
CP-320



S.E. TOWARD BOAT RENTAL CONCESSION
ON N. SHORE - BONITA BAY 9-1-45







SANTA BARBARA PL.

852

853

GAYSIDE

BAYSIDE

JAMAICA

CT.

856

857

ISTHMUS

CT.

862

861



4.2.46.19



OPPOSITE MAIN ENTRANCE TO
AMUSEMENT PARK
LOOKING NORTHEAST
4-2-46

4.2.46.20



3291 BAYSIDE WALK
LOOKING NORTH
4-2-46

4.4.46.21

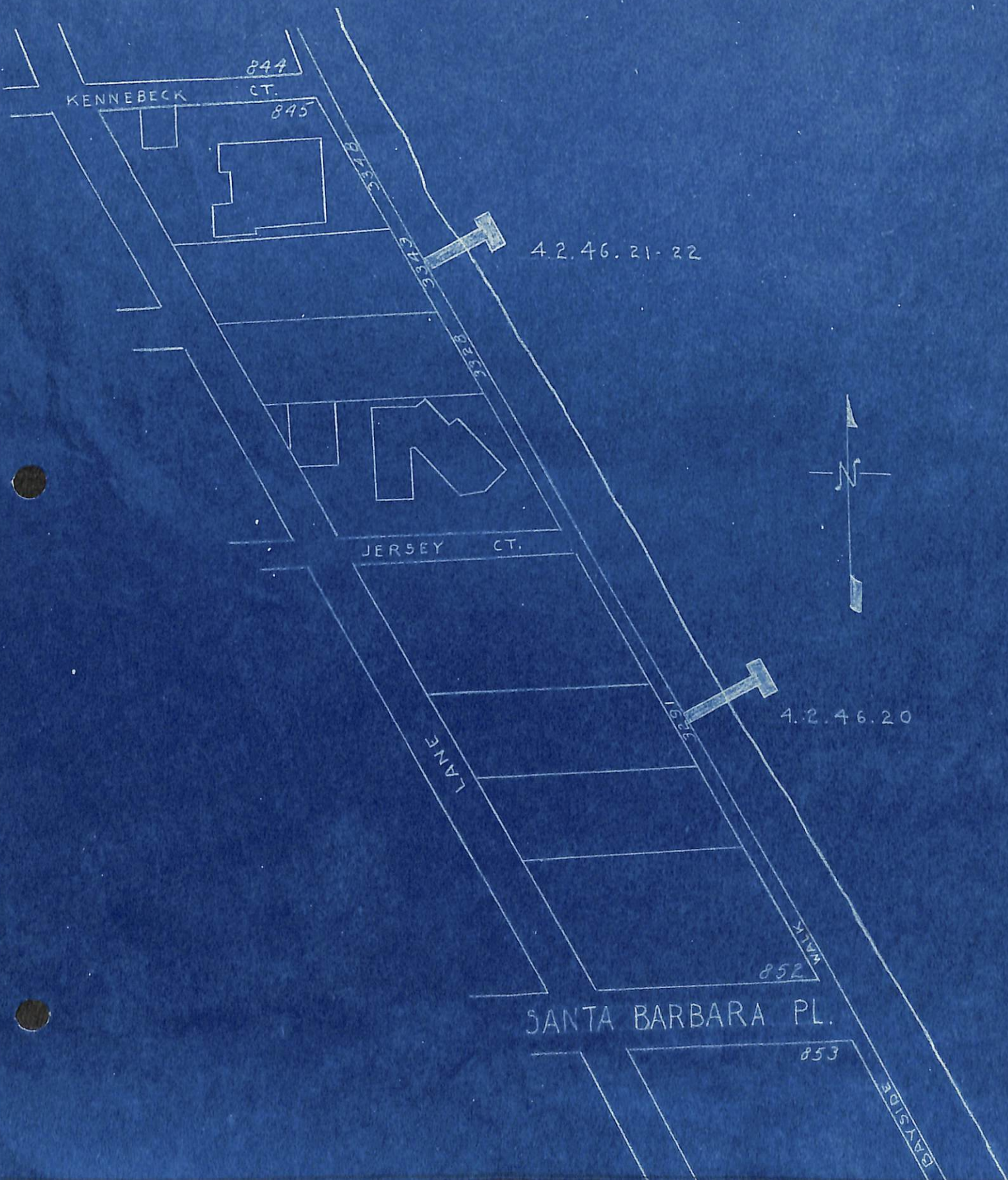


3343 BAYSIDE WALK
LOOKING NORTH
4-4-46

4.4.46.22



LOOKING SOUTHEAST



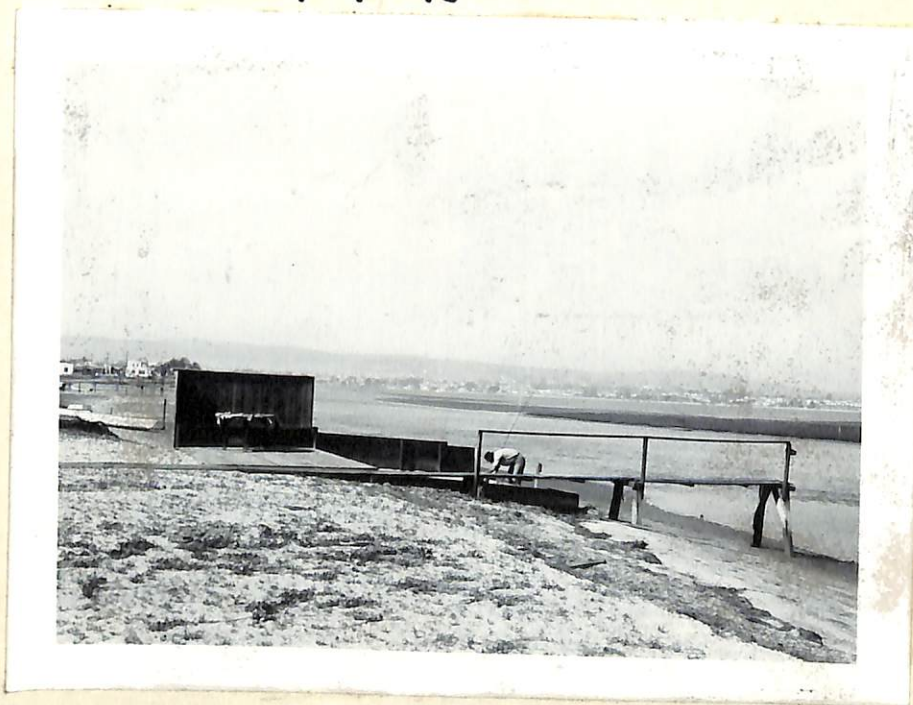
4.4.46.23



3376 BAYSIDE WALK
LANDSCAPING, SPRINKLING SYSTEM & BARBECUE

3380 BAYSIDE WALK
LANDSCAPING, FISH & LILY POND
4-4-46

4.4.46.24



3392 BAYSIDE WALK
LOOKING NORTH
4-4-46

836
SAN LUIS OBISPO PL.

837

4.4.46.24

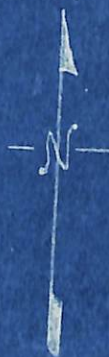
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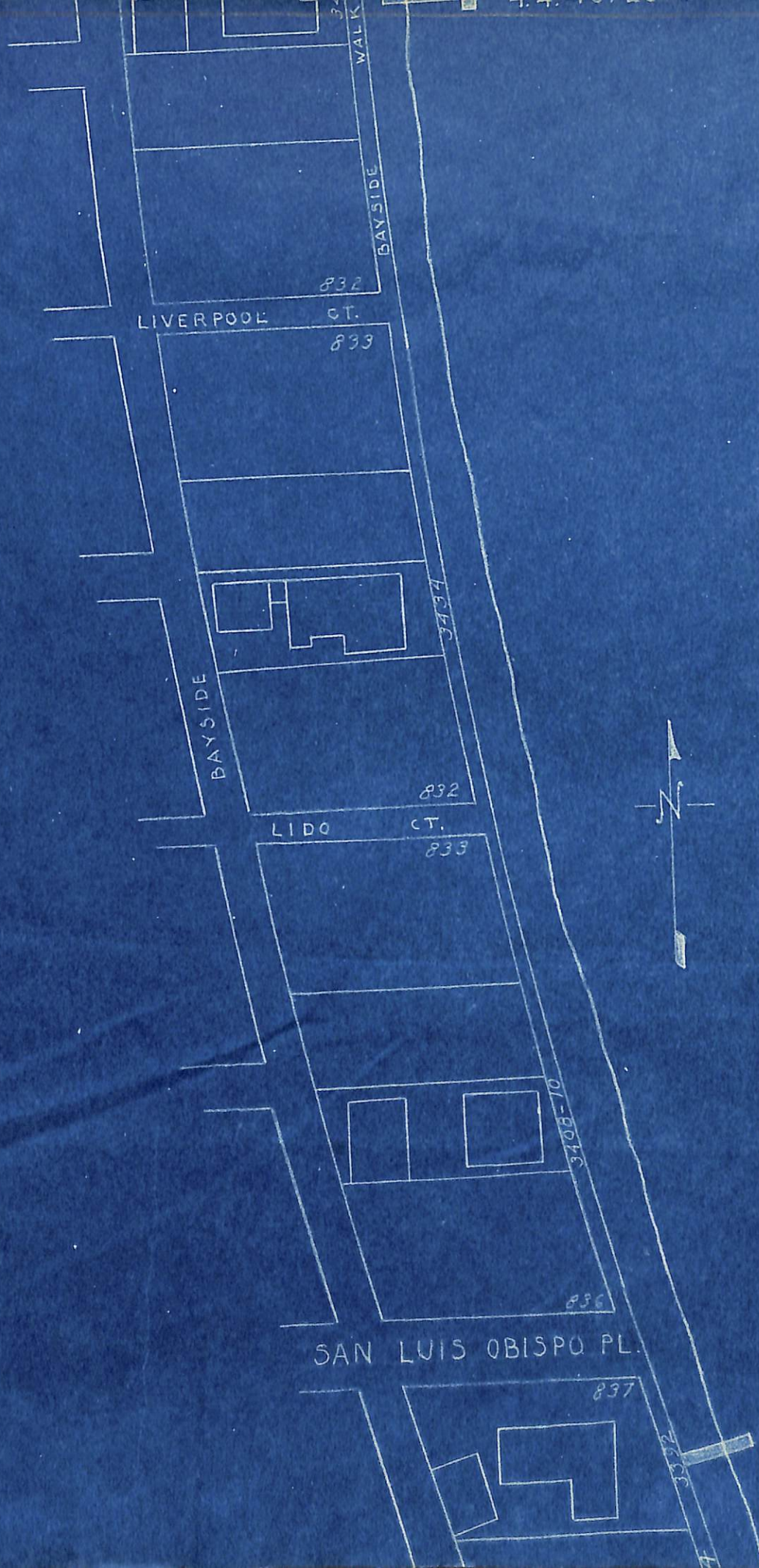
838
KINGSTOWN CT.

839

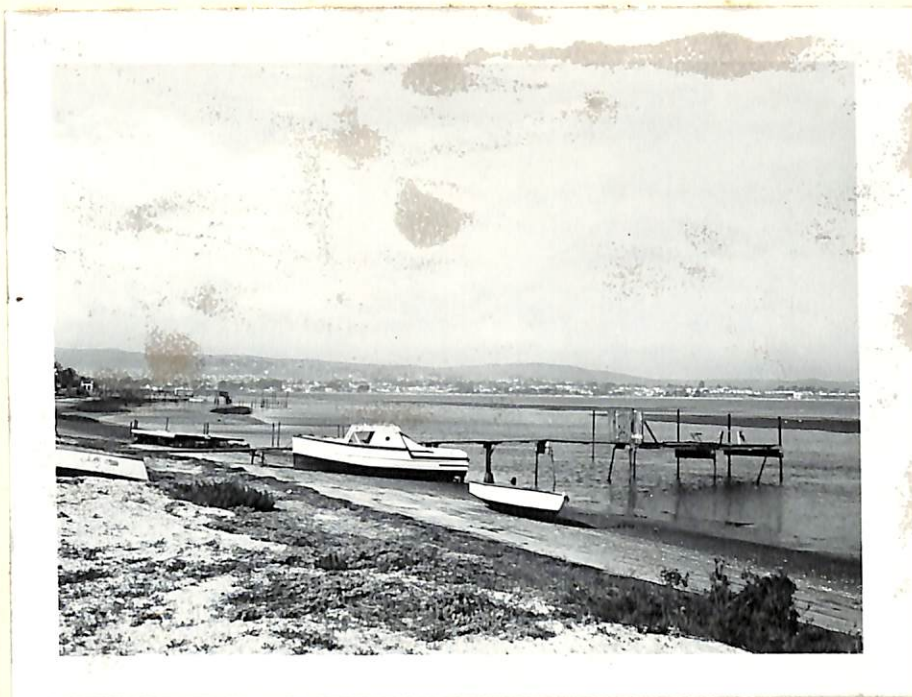
844
KENNEBECK CT.

845





4.4.46.25

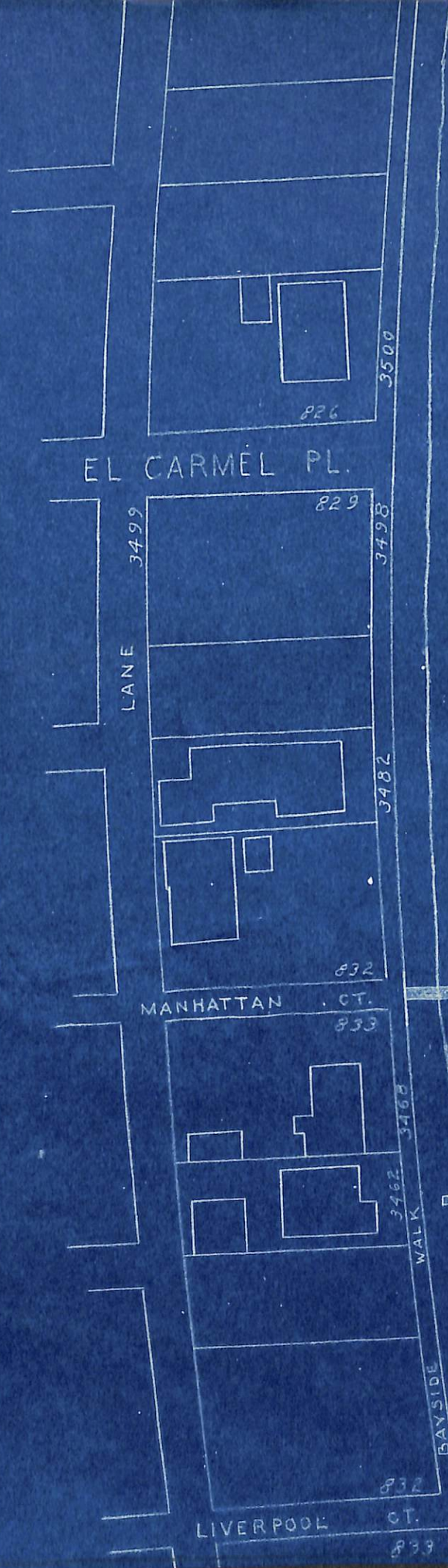


3462 BAYSIDE WALK
LOOKING NORTH
4-4-46

4.4.46.26



LOOKING SOUTHEAST



4.4.46.27

4.4.46.25-26

4.4.46.27

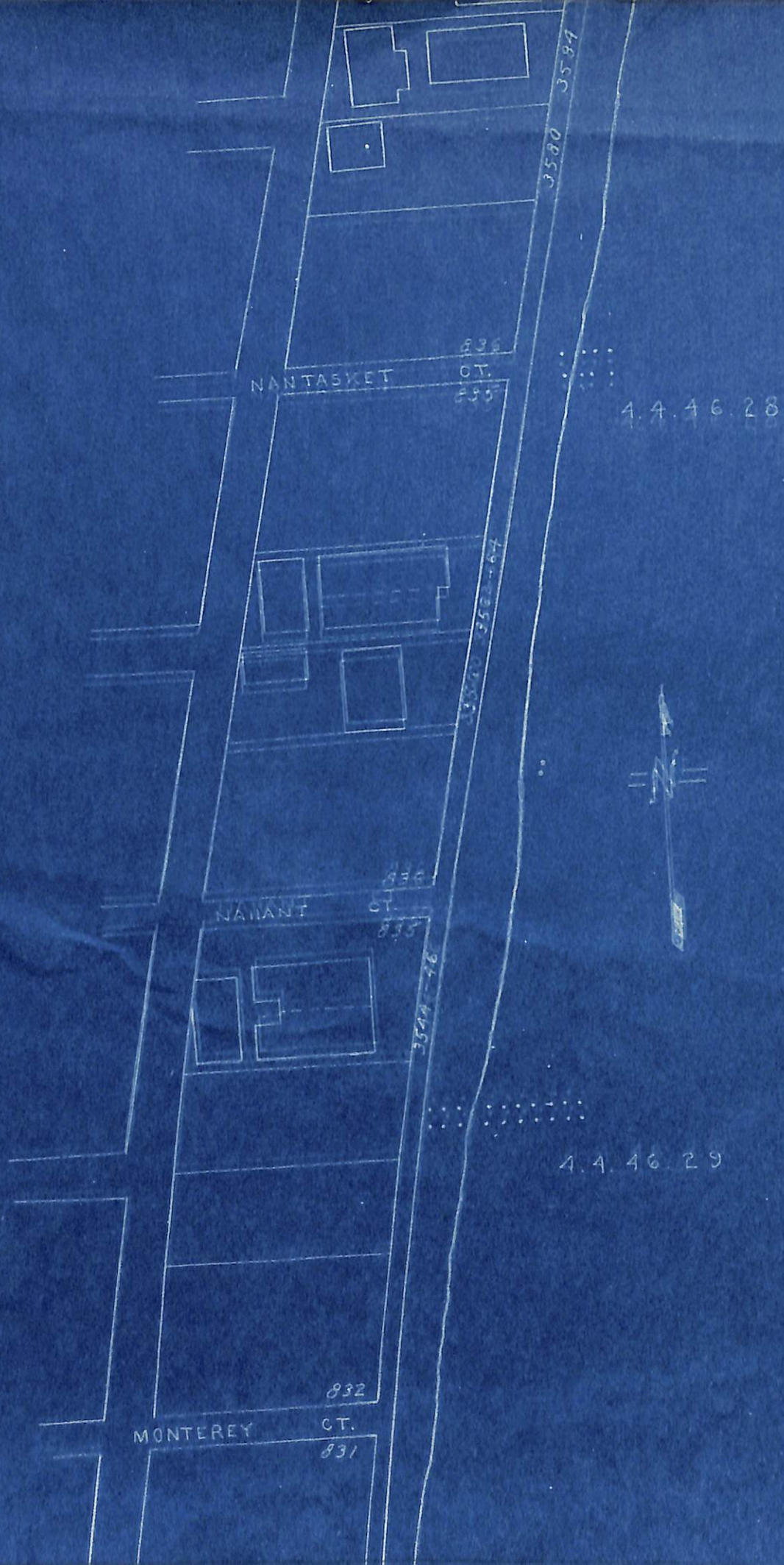


822 MANHATTON CT.
LOOKING EAST
4-4-46

4.4.46.28



836 NANTASKET CT.
LOOKING NORTHEAST
4-4-46



4.4.46.29



1ST LOT SOUTH 3544 BAYSIDE WALK
LOOKING NORTH
4 - 4 - 46



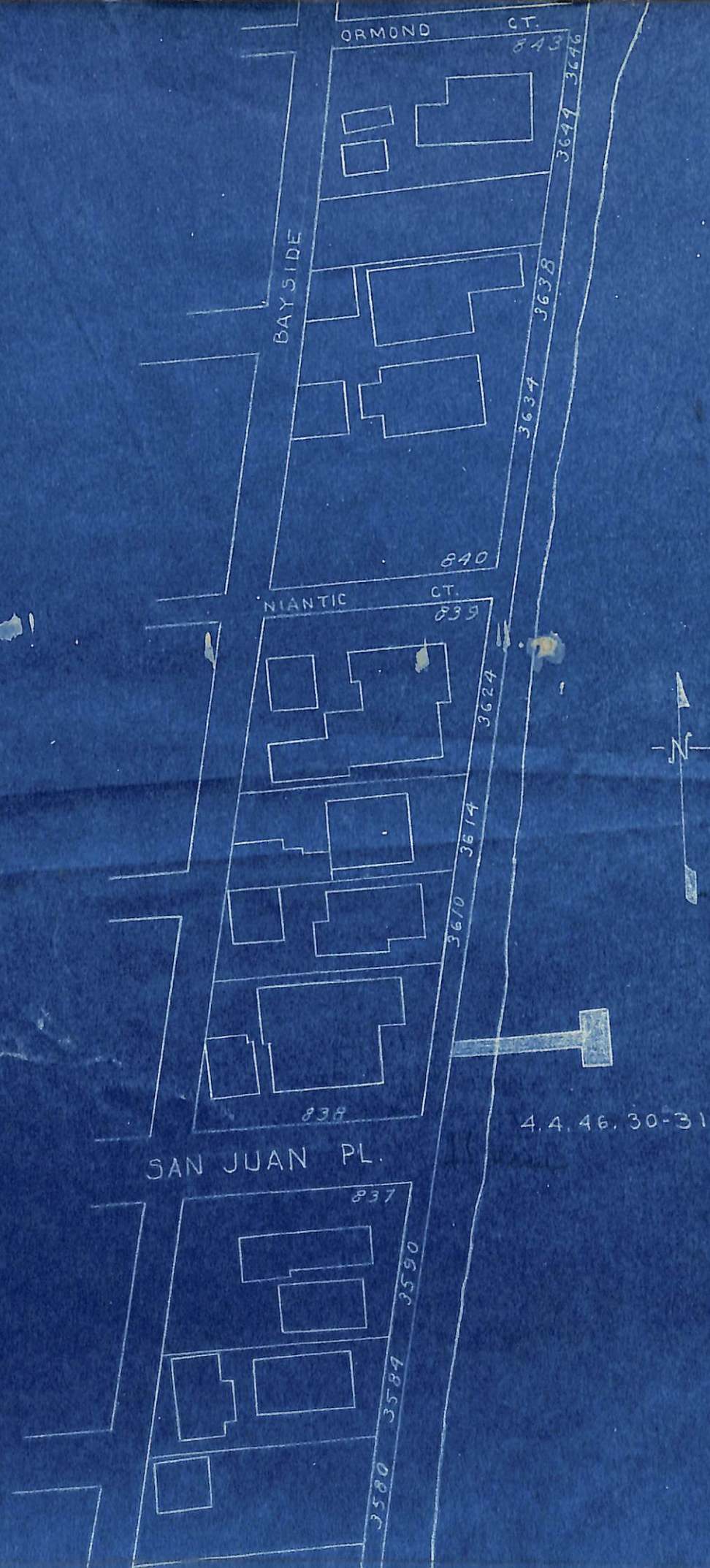
4.4.46.30

838 SAN JUAN
LOOKING NORTH
4-4-46



4.4.46.31

LOOKING SOUTH





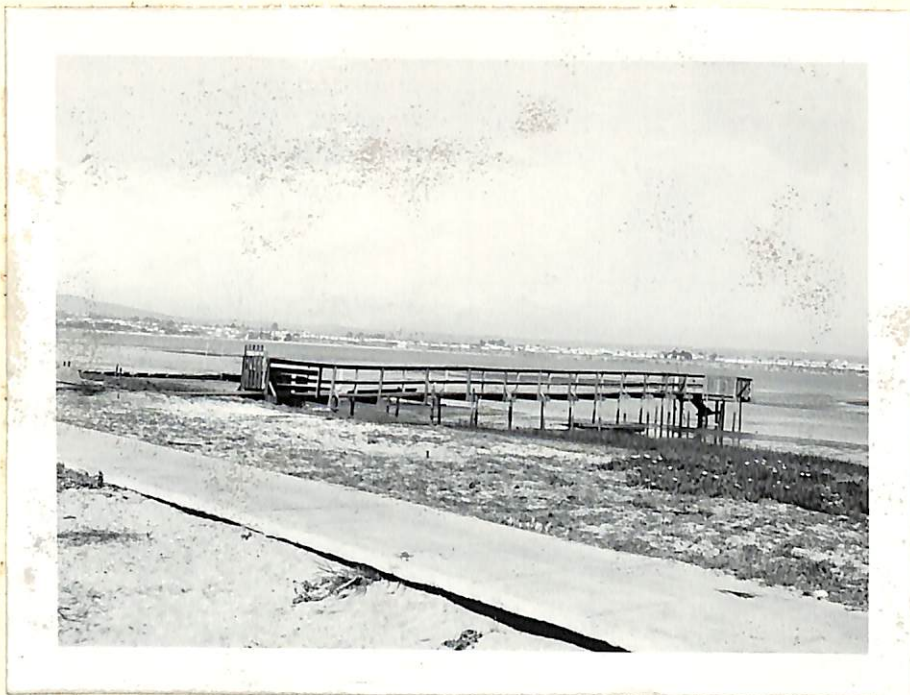
4.4.46.32

3648 BAYSIDE WALK
LOOKING NORTH
4 - 4 - 46



4.4.46.33

LOOKING SOUTH



4.4.46.34

3650 BAYSIDE WALK
LOOKING NORTH
4-4-46



4.4.46.61

LOOKING EAST



4.4.46.35

3666 BAYSIDE WALK

LOOKING NORTH

4-4-46

4.4.46.36



3673 BAYSIDE WALK
LOOKING NORTH
4-4-46

4.4.46.37



LOOKING EAST
4-4-46

SANTA CLARA

845

LANE

3696
3688
3690

3684
3680

846

OSTEND CT.

845

3673

4.4 46.36-37

3666

4.4.46.35

3660

WALK

3656

4.4 46.34 & 61

3698

BAYSIDE

4.4.46.32-33

844

ORMOND CT.

843

3676
3649

BAYSIDE

3638



4.4.46.38



3720 BAYSIDE WALK
LOOKING NORTH
4-4-46

4.4.46.39



LOOKING SOUTHEAST

4.4.46.40



MISSION BAY YACHT CLUB
BETWEEN 3756 & 3764 BAYSIDE WALK
LOOKING NORTH
4-4-46

4.4.46.41



LOOKING SOUTH

REDONDO CT. 847

ALLEY

QUEENSTOWN CT.

PISMO CT.

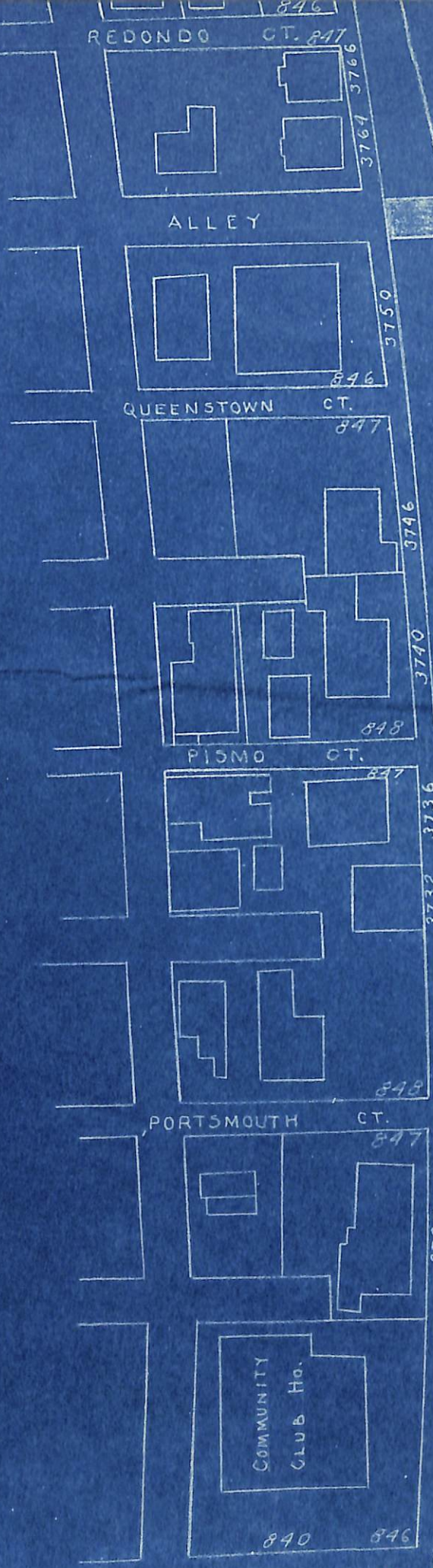
PORTSMOUTH CT.

SANTA CLARA PL.

4.4.46.40-41 & 42

4.4.46.38-39

COMMUNITY
CLUB Ho.





4.4.46.42

MISSION BAY YACHT CLUB
BETWEEN 3756 & 3764 BAYSIDE WALK
LOOKING SOUTHEAST
4-4-46



4.5.46.43

3784 BAYSIDE WALK
LOOKING NORTH
4-5-46

4.5.46.44



3784 BAYSIDE WALK
LOOKING SOUTH
4-5-46



4.5.46.45

842 SAN JOSE PLACE
LOOKING NORTHEAST
4-5-46



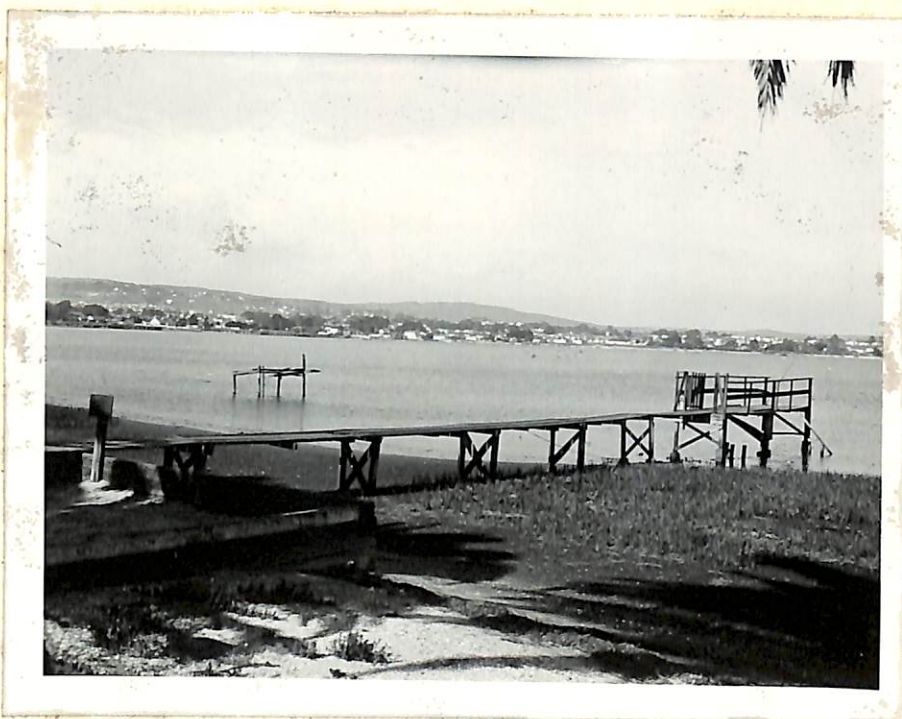
4.5.46.46

LOOKING SOUTHEAST
4-5-46

4.5.46.47



NORTH SHORE YACHT CLUB
3810 BAYSIDE WALK
LOOKING SOUTHEAST
4 - 5 - 46



4.5.46.48

3816 BAYSIDE WALK
LOOKING NORTH
4-5-46



4.5.46.49

LOOKING SOUTH

SEAGIRT

CT.

841

SALEM

CT.

841

SAN JOSE PL.

ROCKAWAY

CT.

REDONDO

CT. 847

4.5.46.48-49

4.5.46.47

4.5.46.45-46

4.5.46.43-44





4.5.46.50

BETWEEN 3836 & 3848 BAYSIDE WALK
 OPPOSITE SUNSET CT.
 LOOKING NORTH
 4-5-46



4.5.46.51

LOOKING SOUTH



4.5.46.52

BETWEEN 3856 & 3862 BAYSIDE WALK
OPPOSITE TANGIERS
LOOKING NORTHEAST
4-5-46



4.5.46.53

LOOKING SOUTH

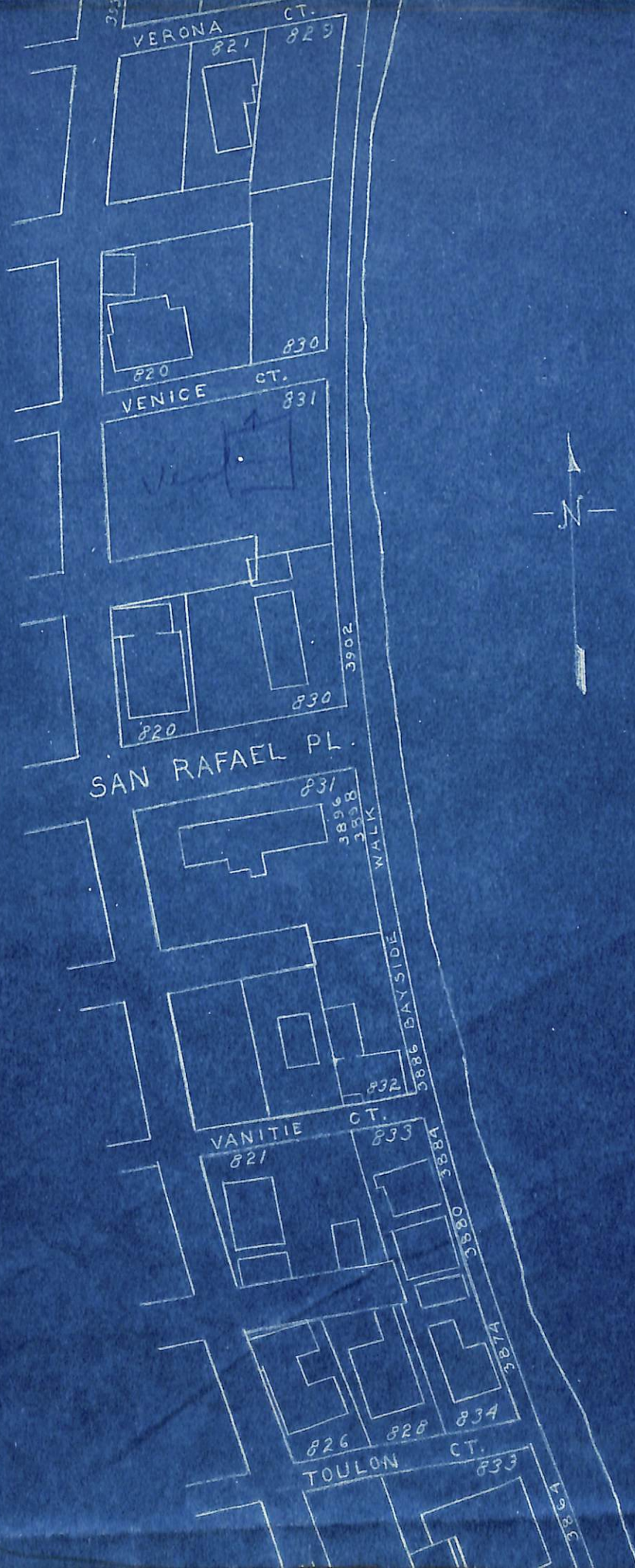


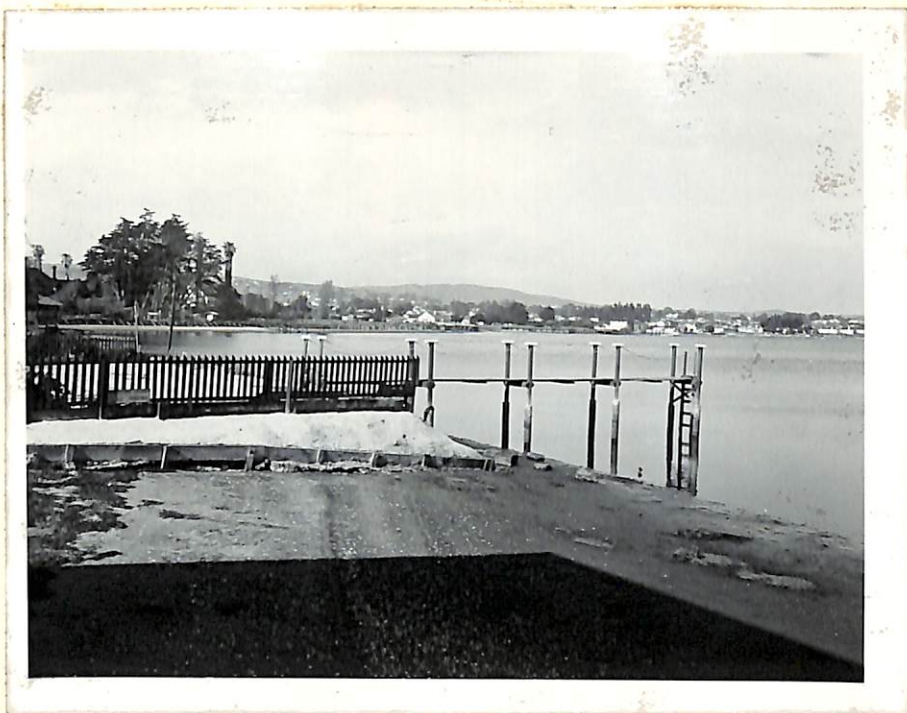
4.5.46.52-53



4.5.46.50-51

4.5.46.48-49





4.5.46.54

3930 BAYSIDE WALK
LOOKING NORTH
4-5-46



4.5.46.55

3994 BAYSIDE WALK
LOOKING NORTH
4-5-46



4.5.46.56

811 YARMOUTH CT.
LOOKING NORTH
4-5-46



4.5.46.57

SCRIPPS
LOOKING NORTH
4-5-46



4.5.46.58

SCRIPPS
LOOKING NORTHEAST
4-5-46



4.5.46.59

1ST PIER NORTH OF SCRIPPS
LOOKING NORTH
4-5-46

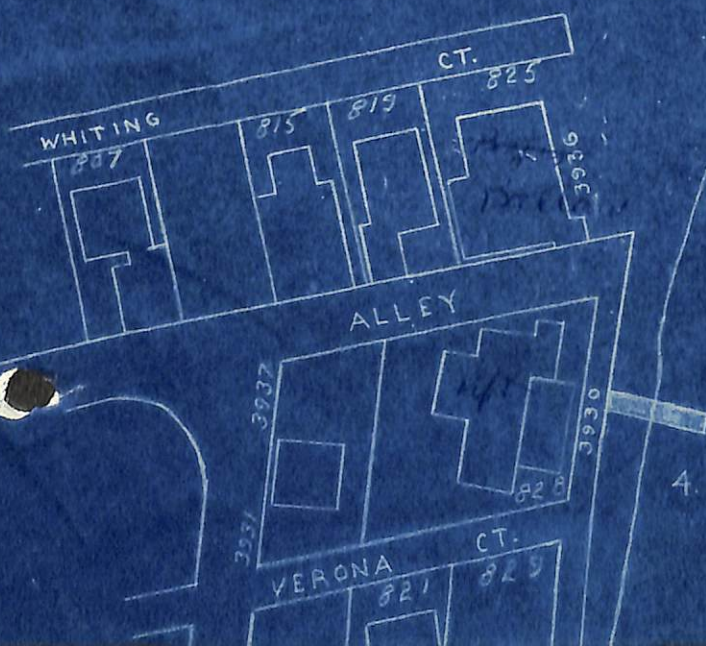
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4.5.46.57-58

4.5.46.56

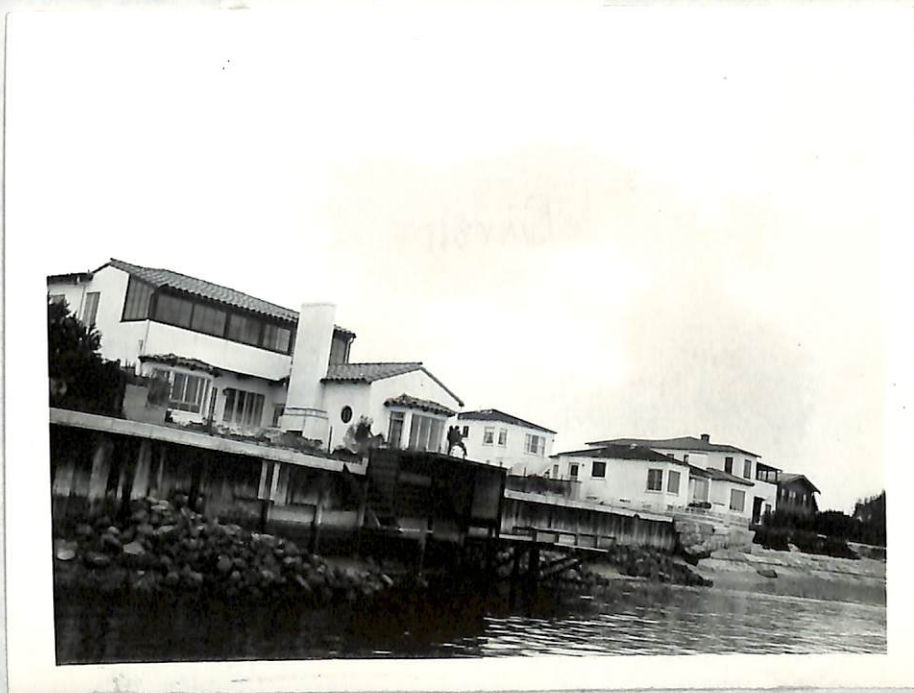
4.5.46.55

4.5.46.54





Bayside Walk, Mission Beach



Wall Failure, Mission Beach

5-11-45
4:00 p.m.
Tide: 1.3



Looking North on Rock Wall, Ocean Beach
3:40 p.m., Tide: 1.3



Bayside Walk, Mission Beach
3:50 p.m., Tide: 1.3



Looking South on Rock Wall



Looking North on Rock Wall

Ocean Beach
5-11-45
3:40 p.m.
Tide: 1.3



Erosion, Bayside Walk
Mission Beach
3-17-45



South End, Mission Beach, 4:15 p.m.
5-11-45



Wall Failure, Bayside Walk, Mission Beach
4:10 p.m., Tide: 1.3



South End, Mission Beach, 4:15 p.m.