

CALIFORNIA COASTAL COMMISSION

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

W5a

Staff: Liliana Roman – LB
Date: August 22, 2013

ADMINISTRATIVE PERMIT

Application No. **5-13-0546**

Applicant: **Umbral LLC**

Agent: Tri Cities Pool, Attn: Lani Shaw

Project

Description: Construction of an approximately 5' x 29' (145 sq. ft.) concrete deck cantilevered 5' beyond the bulkhead and beyond the private property line over coastal waters and request for after-the-fact approval of demolition of previously existing 5' x 29' cantilevered concrete deck at the site.

Project

Location: 426 Harbor Island Drive, Newport Beach (Orange County)

EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Wednesday, September 11, 2013 8:30 am
Eureka Public Marina
Wharfinger Building
#1 Marina Way
Eureka, CA 95501

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all

conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

CHARLES LESTER
Executive Director

By: Liliana Roman
Title: Coastal Program Analyst

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 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 term or 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.

SPECIAL CONDITIONS: See pages six thru eight.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

A. PROJECT DESCRIPTION

The subject site is a residentially zoned bayfront lot located at 426 Harbor Island Drive, Newport Beach (within Newport Harbor) in Orange County (Exhibit 1). The applicant proposes to build a concrete cantilevered deck beyond the private property line over coastal waters and requests after-the-fact approval for demolition of a cantilevered deck in the same size and configuration as the proposed new structure. Specifically, the proposed concrete deck is 29' long and cantilevered 5' beyond the bulkhead, over coastal waters, with a railing along the perimeter of the cantilevered deck. Project plans are included in Exhibit 2. The proposed deck is associated with the adjacent single family residential use.

The site is currently developed with a single-family residence on a bulkhead lot and a private dock. Most of the water fronting homes along Harbor Island Drive and Harbor Island Road are developed with single family homes, many of which also have decks cantilevered beyond the bulkhead and boat docks built in coastal waters within Newport Harbor. The proposed deck is similar in function to the other cantilevered decks associated with residential development on in this area of Newport Harbor.

The City's municipal code, at Title 17, Section 17.35.020.C, places various limitations on cantilevered decks, including limits on where cantilevered decks are permitted. The City prohibits decks that would be cantilevered over areas described in the City's tidelands trust. As explained further below, the site is not public trust/tidelands, but is owned by the City in fee simple. The City of Newport Beach Community Development Department and Harbor Resources Division both reviewed the proposed plans and issued Approval-in-Concept #1101-2013 dated 6/5/13 and Harbor Permit Number 200-426. To address water quality concerns, the applicant is proposing directing deck drainage and runoff landward of the deck on the subject lot. All work will occur from the landward side of the deck. The proposed construction will not disturb bay waters or bay bottom sediments.

Public Access

The subject site is located on Harbor Island Drive near the intersection with Bayside Drive in the City of Newport Beach. The nearest public access to the beach/harbor in the area is approximately 600 feet south of the site at the public beach located at Harbor Island Road and Beacon Bay. There is also a small public park/plaza 100 feet north of the site along Bayside Drive which provides

views of the harbor, however, public access to the water is not available at this point; most likely due to the high seawall/bulkhead.

The proposed deck would cantilever over the waters of Newport Harbor. In this area of Newport Harbor, the property over which the proposed cantilevered deck is to be built is not subject to the public trust because the mean high tide line (MHTL) was adjudicated in this area in case no. 20436 in Orange County Superior Court in 1926 (Orange County v. The Irvine Company). The court identified the MHTL in this area at about 1,700 feet westward of the subject property. The channel in front of the subject site is navigational and is subject to the navigational easement pursuant to Public Resources Code section 7552.5, which, in general, precludes the owner from interfering with the public's right to navigate the channel. Furthermore, the City obtained fee title to the waterway in conjunction with its approval of Tract No. 3867 that was finalized in June 1972. The waterway was given to the City in fee simple as Lot A, which the tract map states is dedicated "for public water navigation purposes subject, however, to an easement appurtenant to each of the lots within the tract for pier, mooring and maintenance purposes over portion of Lot A lying between the bulkhead line and the pierhead line as shown on the tract map contiguous to each lot". Since the proposed cantilevered deck will be landward of the designated pierhead line in the channel, the proposed cantilevered deck is not expected to interfere with the public's ability to navigate the channel adjacent to Harbor Island Drive because pierhead lines are established to ensure that docks and piers do not interfere with navigation. Therefore, the proposed development will not interfere with the existing navigational easement over the channel. Furthermore, **Special Condition 2** is imposed stating that the approval of a coastal development permit for the project does not waive any public rights or interest that exist or may exist on the property.

The proposed development consisting of demolition and replacement of a cantilevered concrete deck on an existing developed residential lot on a bulkhead lot will not have any new adverse impact on public access to the coast or to nearby recreational facilities. There is no sandy beach area in front of the subject site, therefore, in this case, the placement of a concrete deck cantilevered 5' beyond the bulkhead would not create an impediment to public access as there is no opportunity for the public to walk upon the land in front of the bulkhead at this site.

In this case, there is an existing significant pattern of development of 5' wide decks cantilevered over the bulkhead (Exhibit 3). In fact, this site previously had a cantilevered deck which has been demolished (the applicant is requesting after-the-fact authorization for the demolition) and is proposed to be reconstructed in the same size and configuration. Thus, the construction of a cantilevered deck at this site and in this location would not be establishing a new pattern of development (nor create an adverse public access condition, as previously mentioned).

Marine Resources

The site was surveyed for eelgrass and *Caulerpa taxifolia* on June 29, 2013. No eelgrass or *Caulerpa taxifolia* were found within the project area or vicinity. These eelgrass and *Caulerpa taxifolia* surveys are valid for a limited period of time (until the next growing season for eelgrass and 90 days for *Caulerpa taxifolia*). If construction does not occur within the respective time periods, a subsequent survey will be required and if eelgrass or *Caulerpa taxifolia* are found on the

project site in those subsequent surveys, **Special Conditions No. 3 and No. 4** identify the procedures necessary to be completed prior to beginning any construction.

Local Government Approvals

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

B. HABITAT

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

C. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that any future repair and maintenance of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act and the Commission's regulations. Section 13252 of the Commission's regulations provides that certain repair and maintenance activities require a coastal development permit because they involve a risk of substantial adverse impacts to coastal resources. Activities that involve a risk of such impacts include, in part, using mechanized construction equipment or construction materials within 20 feet of coastal waters or streams. Since the proposed concrete deck cantilevers over open coastal waters, future maintenance activities on the concrete deck involve a risk of substantial adverse impacts to coastal waters because such activities may involve the use of mechanized equipment or construction materials over open coastal waters. Therefore, to assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes **Special Condition 5** requiring the applicant to apply for an amendment to this CDP or a new CDP, if applicable, for any future development within the subject site. As conditioned the development conforms to the Chapter 3 policies of the Coastal Act.

D. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed and as conditioned, the project conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. 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. To reduce the potential for post-construction impacts to water quality the Commission 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.

F. LOCAL COASTAL PROGRAM

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 8, 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 a Local Coastal Program that is in conformity with the provisions of Chapter 3.

G. 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.

SPECIAL CONDITIONS:

This permit is granted subject to the following special conditions:

1. **Construction Responsibilities and Debris Removal.**
 - (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
 - (b) Any and all construction material shall be removed from the site within 10 days of completion of construction.
 - (c) Machinery or construction materials not essential for project improvements shall not be allowed at any time in the intertidal zone.
 - (d) If turbid conditions are generated during construction a silt curtain shall be utilized to control turbidity.
 - (e) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day.
 - (f) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss.
2. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.
3. **Eelgrass Survey**

- 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 prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (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 Game. 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 one month after the conclusion of construction, 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 “Southern California Eelgrass Mitigation Policy” Revision 8 (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 Game. 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 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP 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.
4. **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 Game, and the National Marine Fisheries Service.

- C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
 - (1) for the review and approval of the Executive Director; and
 - (2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043), 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 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.
5. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-13-0546. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development governed by the Coastal Development Permit No. 5-13-0546. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-13-0546 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

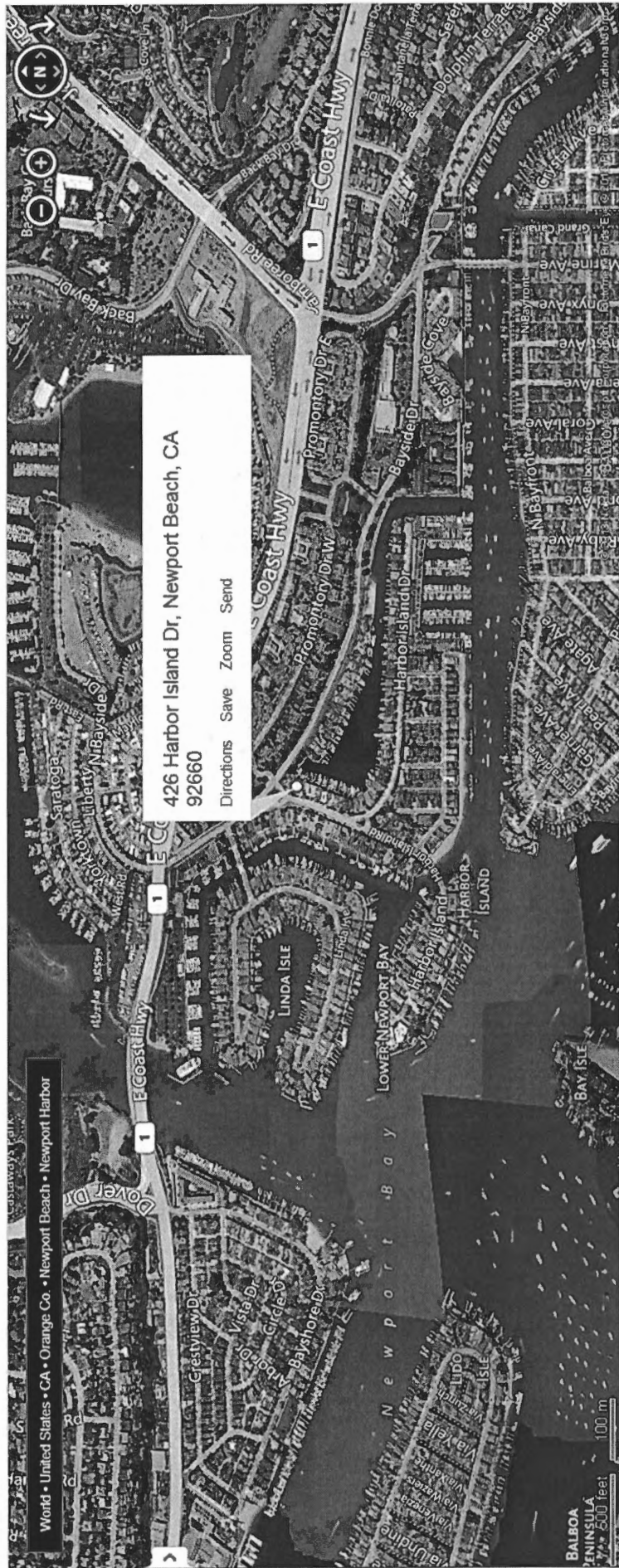
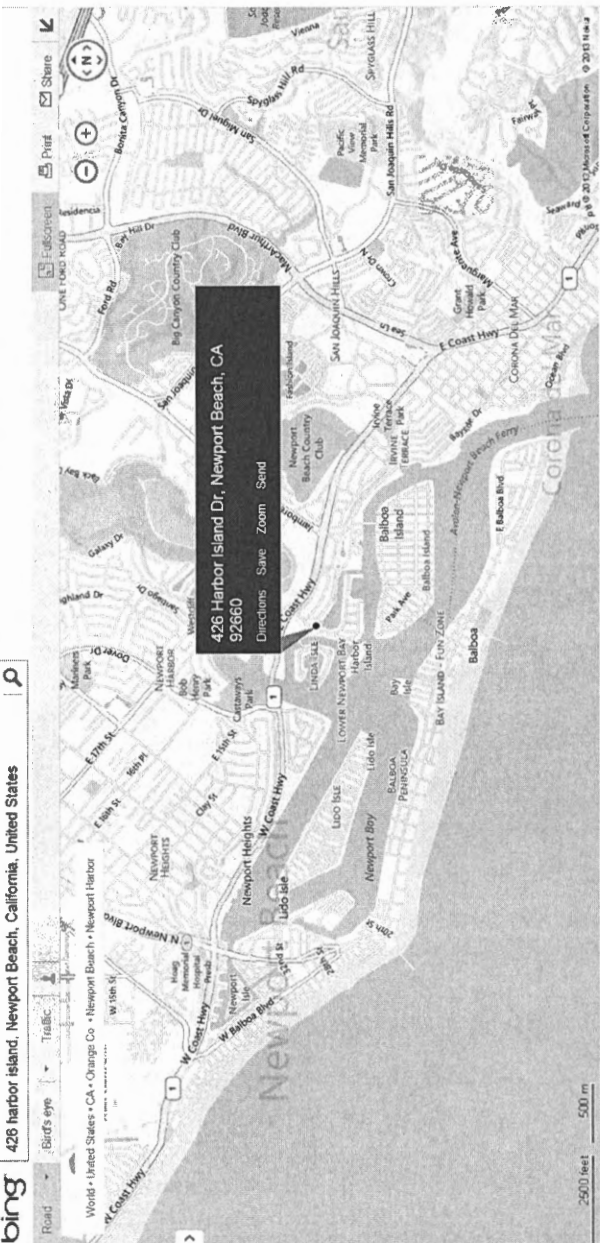
Applicant's Signature

Date of Signing

COASTAL COMMISSION

EXHIBIT #

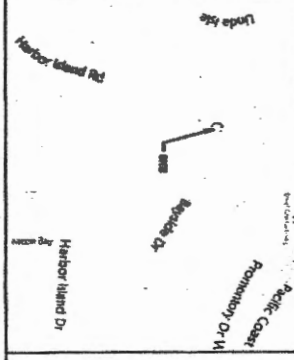
PAGE 1 OF 1



NOTES

- SEE SHEET 2 FOR EELGRASS INSPECTION NOTES.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE COASTAL COMMISSION AND OTHER AGENCIES.
- THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.
- THE CONTRACTOR SHALL MAINTAIN THE EXISTING GRASS AND VEGETATION TO REMAIN.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL EXISTING CURBS AND DRIVEWAYS.
- THE CONTRACTOR SHALL MAINTAIN THE EXISTING DRIVEWAY AND SIDEWALK.
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VICINITY MAP



SHEET INDEX

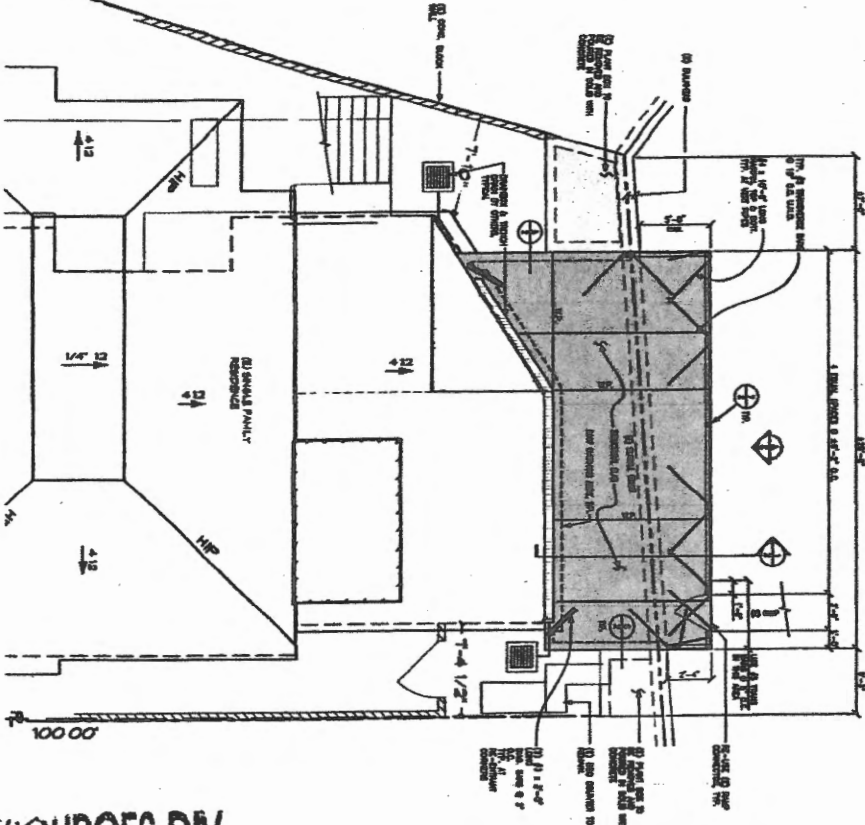
NO.	DESCRIPTION
1	SCOPE OF WORK, PROJECT DATA, SITE PLAN, GENERAL NOTES & STRUCTURAL DETAILS
2	GENERAL NOTES & STRUCTURAL DETAILS

PROJECT DATA

OWNER: SAC, NPB, 2014
ADDRESS: 426 HARBOR ISLAND DR, NEWPORT BEACH, CA 92660
TEL. NO.:
PROJECT NO.: 14-011
DATE: 06/29/13
FLOOR AREA: 1715 S.F.
SECOND FLOOR: 1715 S.F.
TOTAL FLOOR AREA: 3430 S.F.
NO ADDITION TO EXISTING CONSTRUCTION. TYPE: 1A
CONTRACT: 1
OWNER: 2014 DALY/PERMITS/PLANNING/CONSTRUCTION
PROJECT NO.: 14-011
DATE: 06/29/13

SCOPE OF WORK

REPLACE EXISTING CONCRETE CANTILEVERED DECK.



ENLARGED DECK PLAN

SCALE: 1/8" = 1'-0"

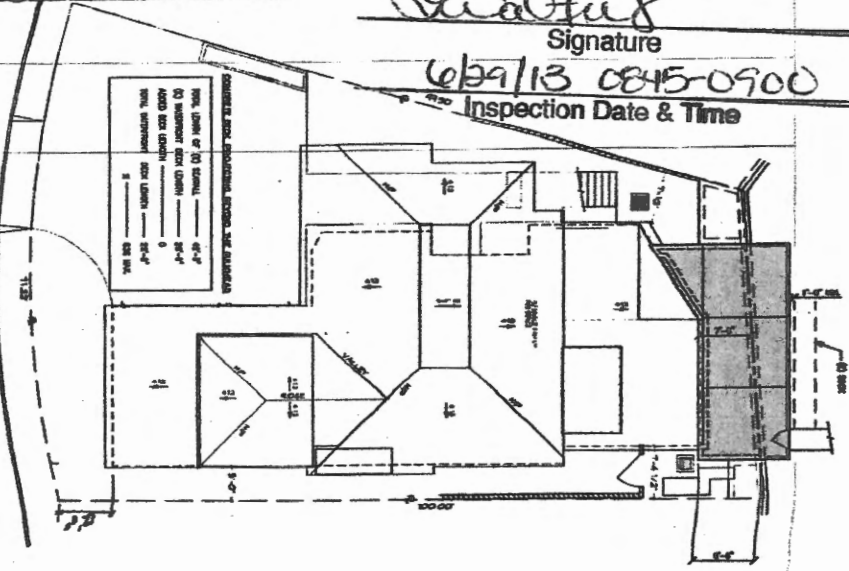
HARBOR RESOURCES DIV.
CITY OF NEWPORT BEACH

EEL GRASS INSPECTION

- Eelgrass within 15' of project
- Eelgrass within 15 - 30' of project
- No Eelgrass in project area

Signature

06/29/13 0845-0900
Inspection Date & Time



SITE PLAN

SCALE: 1/8" = 1'-0"

CONCRETE CANTILEVERED DECK
TENA RESIDENCE
426 HARBOR ISLAND DR.
NEWPORT BEACH, CA 92660

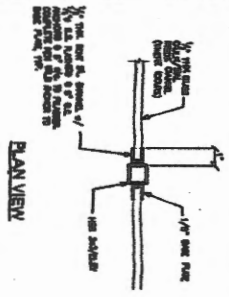
CONCRETE CANTILEVERED DECK
TENA RESIDENCE
426 HARBOR ISLAND DR.
NEWPORT BEACH, CA 92660



DOBELLA
ARCHITECTURAL DESIGN
2010 Harbor Island Drive, Suite 210
Newport Beach, CA 92660
Tel: 714 897-5500
Fax: 714 897-5500
www.dobellaarchitect.com

NO.	REVISION
1	ISSUED

STRUCTURAL DETAILS



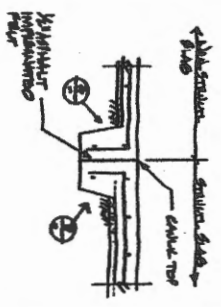
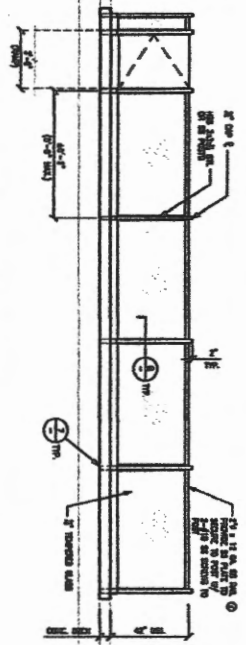
PLAN VIEW

DETAIL

B

DECK ELEVATION

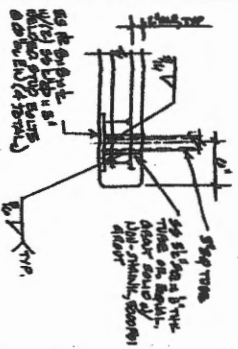
TABLE A



6

TYPICAL SECTION AT DECK SLAB

1

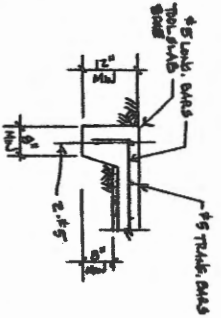
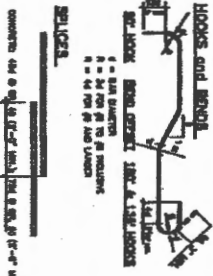
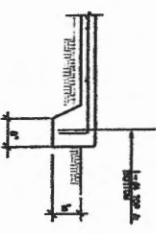


7

TURNDOWN EDGE

TYPICAL REINFORCING BAR DETAIL

2



TYPICAL REINFORCING AT SLAB & FOOTING CORNERS

3

GENERAL NOTES

1. All steel reinforcement and accessories shall conform to the specifications listed herein.
2. All steel reinforcement shall be furnished in accordance with the specifications listed herein.
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ITEM	YES	NO
(Specify Item)	✓	✓
(Specify Item)		

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CONCRETE CANTILEVERED DECK
TENA RESIDENCE
426 HARBOR ISLAND DR.
NEWPORT BEACH, CA 92660

CORREIA
CONSULTING & DESIGN
STRUCTURAL ENGINEERING

5762 Solon Avenue, Suite 215
Newport Beach, CA 92660
TEL: 714-841-1111
FAX: 714-841-1111
EMAIL: correia@correiaandson.com

GENERAL NOTES
DETAILS & DECK
ELEVATION

3

HEI
E



Newport
Beach
GIS



Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2011 photos provided by Eagle Imaging www.eagleaerial.com