

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 200 Oceangate, Suite 1000
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 (562) 590-5071

**Th5c**

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 original staff report

ADDENDUM

May 6, 2016

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **CDP NO. 5-16-0013 (Lory E. Larson) FOR THE COMMISSION MEETING OF THURSDAY, May 12, 2016.**

CHANGES TO STAFF REPORT

The original reported dimension of the cantilevered deck and the ownership of the water adjacent to the subject site were reported incorrectly. As such, Commission staff recommends modifications to the staff report dated April 21, 2016. The modifications are recommended in order to provide project description clarification. Language to be added to the findings and conditions is shown in **underlined italicized bold text**, and language to be deleted is identified by ~~strike-out~~.

A. Page 1, Project Description of Staff Report, shall be modified as follows:

Removal and replacement of two decks (~~83'53'~~ and 86' long) cantilevered 5' over coastal waters with a 42" high guardrail.

B. Page 3, paragraphs 1 and 2 of the Project Description , shall be modified as follows:

The site is currently developed with a single-family residence on a bulkhead lot with a private dock and gangway. The applicant proposes to replace an ~~83'53'~~ long deck and an 86' long deck. Each deck cantilevers 5' over coastal waters and has a 42" high guard rail that will also be replaced. The site is located on a residentially zoned bay front lot at 3761 Nimble Circle in Huntington Beach, Orange County (**Exhibit 1**). Most of the Huntington Harbor water frontage is developed with single-family homes, many of which have cantilevered decks and boat docks over public waters, including properties adjacent to the project site. Virtually the entire water frontage in Huntington Harbor is supported by bulkheads.

Specifically, the proposed decks total approximately ~~845695~~ ft² and are approximately ~~83'53'~~ and 86' long and 5' wide with a new 42" high guard railing around

the perimeter of the new decks. The proposed decks will replace existing decks of essentially the same dimensions and locations. The decks are separated by an existing gangway that leads to an existing dock seaward of the site. Project plans are included in **Exhibit 2**. The proposed decks with railing are associated with the adjacent single-family residential use. To address water quality concerns, the applicant is proposing to slope the deck landward and direct all runoff to an on-site drainage system, which will direct deck drainage and runoff landward toward a street drain. Additionally, **Special Condition 1** requires the applicant to observe water quality and best management practices (BMP) measures into the project. All work will occur from the landward side of the deck. The proposed construction will not disturb bay waters or bay bottom sediments.

C. Page 4, the last sentence in the first paragraph, shall be modified as follows:

All work will occur from the landward side of the deck. In this area of Huntington Harbor, the water area is owned ~~by the State but~~ ***and*** administered by the City of Huntington Beach.

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Staff: S. Vaughn – LB

Date: April 21, 2016

ADMINISTRATIVE PERMIT

Application No. **5-16-0013**

Applicants: **Lory E. Larson**

Agent: **Frank Mirjahangir**

Project Description: Removal and replacement of two decks (83' and 86' long) cantilevered 5' over coastal waters with a 42" high guardrail.

Project Location: 3761 Nimble Circle, Huntington 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:

Thursday, May12, 2016, 9:00 a.m.
Newport Beach Civic Center, City Council Chambers
100 Civic Center Drive
Newport Beach, CA 92660

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.

JOHN AINSWORTH
Executive Director

By: Shannon Vaughn
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 five through seven.

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 site is currently developed with a single-family residence on a bulkhead lot with a private dock and gangway. The applicant proposes to replace an 83' long deck and an 86' long deck. Each deck cantilevers 5' over coastal waters and has a 42" high guard rail that will also be replaced. The site is located on a residentially zoned bay front lot at 3761 Nimble Circle in Huntington Beach, Orange County (**Exhibit 1**). Most of the Huntington Harbor water frontage is developed with single-family homes, many of which have cantilevered decks and boat docks over public waters, including properties adjacent to the project site. Virtually the entire water frontage in Huntington Harbor is supported by bulkheads.

Specifically, the proposed decks total approximately 845 ft² and are approximately 83' and 86' long and 5' wide with a new 42" high guard railing around the perimeter of the new decks. The proposed decks will replace existing decks of essentially the same dimensions and locations. The decks are separated by an existing gangway that leads to an existing dock seaward of the site. Project plans are included in **Exhibit 2**. The proposed decks with railing are associated with the adjacent single-family residential use. To address water quality concerns, the applicant is proposing to slope the deck landward and direct all runoff to an on-site drainage system, which will direct deck drainage and runoff landward toward a street drain. Additionally, **Special Condition 1** requires the applicant to observe water quality and best management practices (BMP) measures into the project. All work will occur from the landward side of the deck. The proposed construction will not disturb bay waters or bay bottom sediments.

The proposed deck is similar in function to the other cantilevered decks associated with residential development within Huntington Harbor. The proposed development is consistent with past Commission actions in the area.

Although cantilevered, the proposed deck would preclude the general public from utilizing the public water area underneath the deck for recreation or navigational purposes. However, the proposed deck will not expand further than other existing decks in the area. There is no sandy beach area along the bulkhead, therefore, in this case, the placement of a 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 or immediate area. The nearest public access in the area is the public beach approximately 0.25 miles west of the site at French Park. The proposed development will not have any significant adverse impact on public access to the coast or to nearby recreational facilities.

The City of Huntington Beach has a certified Local Coastal Program. However, due to the project location seaward of the mean high tide line, the project is within an area of the Commission's retained permit jurisdiction. Nonetheless, the City's certified Local Coastal Program may be used as guidance. The land use designation at the site is Open Space – Water (OS – W). The site is zoned Open Space Water Recreation. The proposed development is consistent with the City's certified LCP, specifically with Implementation Plan Chapter 213 Open Space District, which allows private cantilevered decks abutting residential uses, and with Chapter 210, which provides standards for cantilevered decks in Huntington Harbor in the Open Space Water Recreation zone. The City of

Huntington Beach reviewed the proposed plans and issued Approval-in-Concept dated February 24, 2016. All work will occur from the landward side of the deck. In this area of Huntington Harbor, the water area is owned by the State but administered by the City of Huntington Beach.

In this case, there is an existing significant pattern of development of 5' wide decks cantilevered over the bulkhead. 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). The Commission imposes **Special Condition 4** 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 or on adjacent public waters.

B. PUBLIC ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. RECREATION

The proposed development, as conditioned, does not interfere with public recreational use of coastal resources. The proposed development, as conditioned, protects coastal areas suited for recreational activities. Therefore, the Commission finds that the proposed development, as conditioned, is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

D. 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 Best Management Practices. As conditioned, the Commission finds that the development conforms to Sections 30230 and 30231 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

An LCP for the City of Huntington Beach was effectively certified in March 1985. However, the proposed development is occurring within an area that crosses jurisdiction with that of the Commission's original permit jurisdiction.

Section 30601.3 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission when the applicant, the local government and the Commission through its executive director consent to consolidate the permit action, provided that public participation is not substantially impaired by that review consolidation. In this case, the project site crosses jurisdictional boundaries, the applicant is the City, and the City submitted the coastal development

permit application directly to the Commission, requesting a consolidated permit action by the Commission. Consequently, the standard of review is Chapter 3 of the Coastal Act and the City's LCP is used only as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

SPECIAL CONDITIONS:

This permit is granted subject to the following special conditions:

1. Water Quality

A. Construction Responsibilities and Debris Removal

- (1) 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;
- (2) 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;
- (3) 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;
- (4) Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
- (5) If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
- (6) 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;
- (7) Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- (8) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- (9) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- (10) 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;

- (11) 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;
- (12) 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;
- (13) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (14) 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;
- (15) 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
- (16) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. Best Management Practices Program

By acceptance of this permit the applicant 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:

- (1) Boat Cleaning and Maintenance Measures:
 - a. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris;
 - b. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized; and
 - c. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.
- (2) Solid and Liquid Waste Management Measures:
 - a. 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 will be disposed of in a proper manner and will not at any time be disposed of in the water or gutter.
- (3) Petroleum Control Management Measures:

- a. 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;
- b. 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
- c. 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.

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.

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

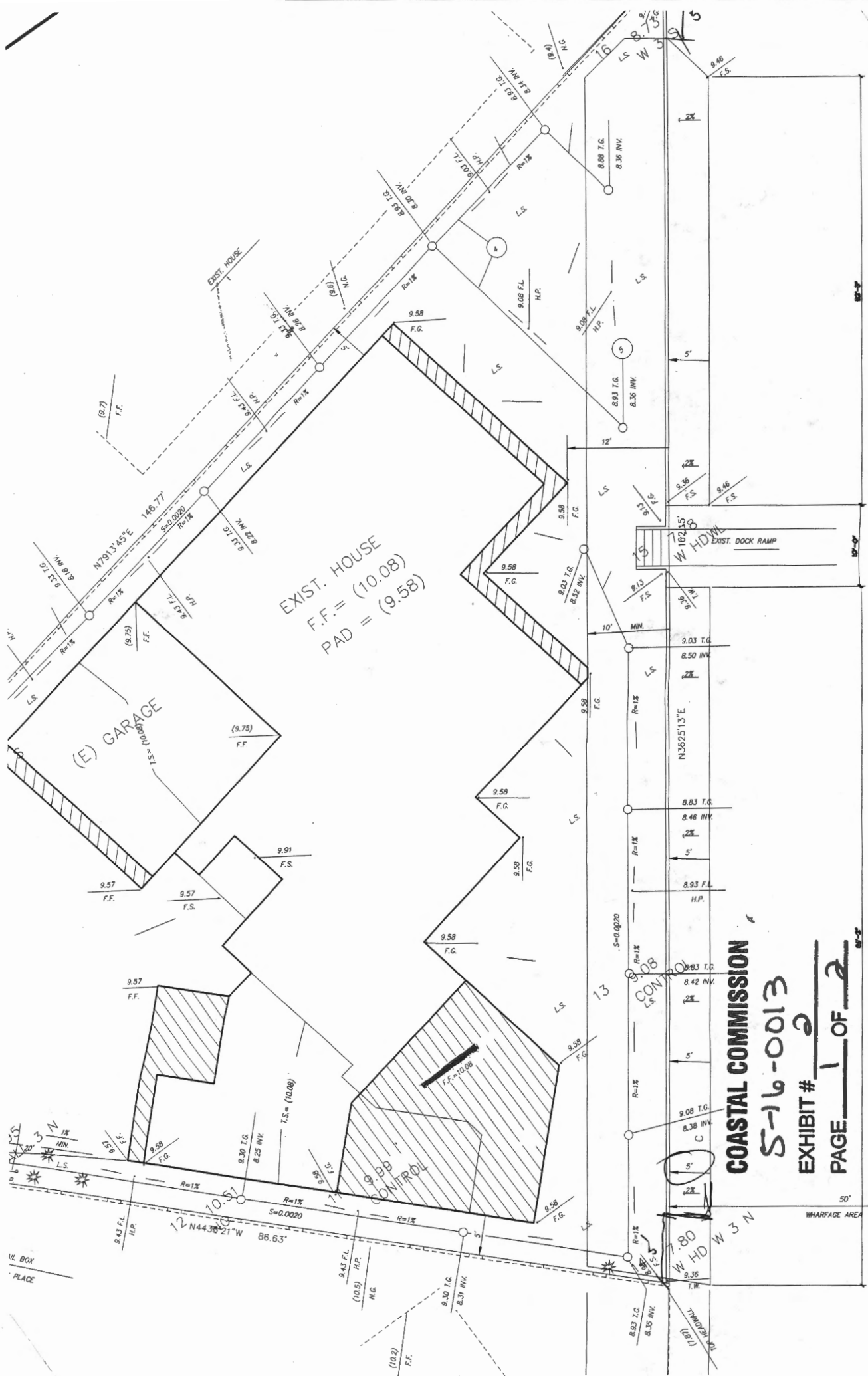
Date of Signing

Google Maps 3761 Nimble Cir



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 EXHIBIT # 1
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EXIST. HOUSE
 F.F. = (10.08)
 PAD = (9.58)

COASTAL COMMISSION
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V.I. BOX
 PLACE

WHARFAGE AREA

HOUSE
BEYOND

W.I. RAILING

10'-0"

EXISTING
BOAT
DOCK

3'-6"

REAR ELEVATION

1/8"=1'-0"

COASTAL COMMISSION

EXHIBIT # 2
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