

**CALIFORNIA COASTAL COMMISSION**

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Filed: 8/20/04  
49th Day: 10/8/04  
180th Day: 2/16/05  
Staff: MV-LB  
Staff Report: 10/28/04  
Hearing Date: 11/17-19/04  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-04-344  
**APPLICANT:** BOLERO LANE LLC  
**AGENT:** NABIL MAKARI  
**PROJECT LOCATION:** 16971 Bolero Lane  
Huntington Beach, Orange County

**PROJECT DESCRIPTION:** Construction of a new 45 foot long concrete deck cantilevered 5 feet beyond the bulkhead.

**LOCAL APPROVALS RECEIVED:** City of Huntington Beach Approval in Concept dated 7/26/04.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **APPROVAL** of the proposed project with four special conditions which require that proper construction methods be employed during construction of the cantilevered deck; submittal of evidence that the applicant has obtained all permits, leases or other authorizations necessary from the California State Lands Commission; and that approval of this permit does not waive any public rights that may exist on the at the site.

**SUBSTANTIVE FILE DOCUMENTS:** City of Huntington Beach certified Local Coastal Program (used as guidance in this area of original permit jurisdiction).

**I. STAFF RECOMMENDATION:**

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

**MOTION:** I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION:**

**APPROVAL WITH CONDITIONS**

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**

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 this permit is reported to the Commission. 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

#### 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. California State Lands Commission Approval

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, applicant shall provide to the Executive Director a copy of a permit issued by California State Lands Commission, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the California State Lands Commission. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

#### 3. Legal Interest

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, written documentation demonstrating that it has the legal ability to carry out the proposed project and all conditions of approval of this permit.

#### 4. 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.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. PROJECT LOCATION AND DESCRIPTION**

The applicant proposes to construct a new 45 foot long concrete deck cantilevered 5 feet beyond the bulkhead. The subject site is located at 16971 Bolero Lane, on Harbour Channel in Huntington Harbor in the City of Huntington Beach. The nearest public access in the area is at Sunset County Beach, located approximately one quarter mile west of the subject site.

Drainage from the deck will be directed to one of two 12" by 12" catch basins, each with a fossil filter, and then, once filtered, will drain to the harbor. All construction will occur from the land side of the deck. Also, only environmentally friendly cleaning materials are proposed to be used (if required), as described in the Water Quality Management Plan prepared in conjunction with the proposed project by Hoss/William and Associates (received in Commission office on 8/20/04).

The proposed deck would cantilever over the waters of Huntington Harbor. In this area of Huntington Harbor, the water area is owned by the State of California, administered by the California State Lands Commission (CSLC). On October 12, 2004, a letter was sent to the State Lands Commission advising of the proposed project and inviting the CSLC to join in the application as co-applicant. The State Lands Commission in response to inquiries regarding a similar project near the subject site located at 3512 Venture Drive (5-03-290), in a letter dated July 15, 2004 (see exhibit C), states: "However, the CSLC reserves the right to make a final determination as to its interest relative to this project. We would ask that the CCC [California Coastal Commission] require the CSLC jurisdictional determination and, if applicable a lease, as a condition of any Coastal Development Permit that is proposed for this project." Thus special conditions are imposed which require the applicant to obtain all necessary permits and legal interest (lease) that the State Lands Commission may require before issuance of this coastal development permit. If CSLC ultimately determines that no additional permits or lease is necessary, the Executive Director could accept a letter from CSLC stating this conclusion. Furthermore, a special condition 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 subject site is in an area of the Commission's original permit jurisdiction. However, the City's certified Local Coastal Program may be used as guidance. The proposed development is consistent with the City's certified LCP Implementation Plan, specifically Chapter 210, which provides standards for cantilevered decks in Huntington Harbor.

Most of the existing residences that front along the waters of Huntington Harbor have cantilevered decks. 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. Thus the proposed deck will have no adverse impact on coastal access or resources in the project vicinity,

and is consistent with the Chapter 3 policies of the Coastal Act.

**B. 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, the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

**C. WATER QUALITY**

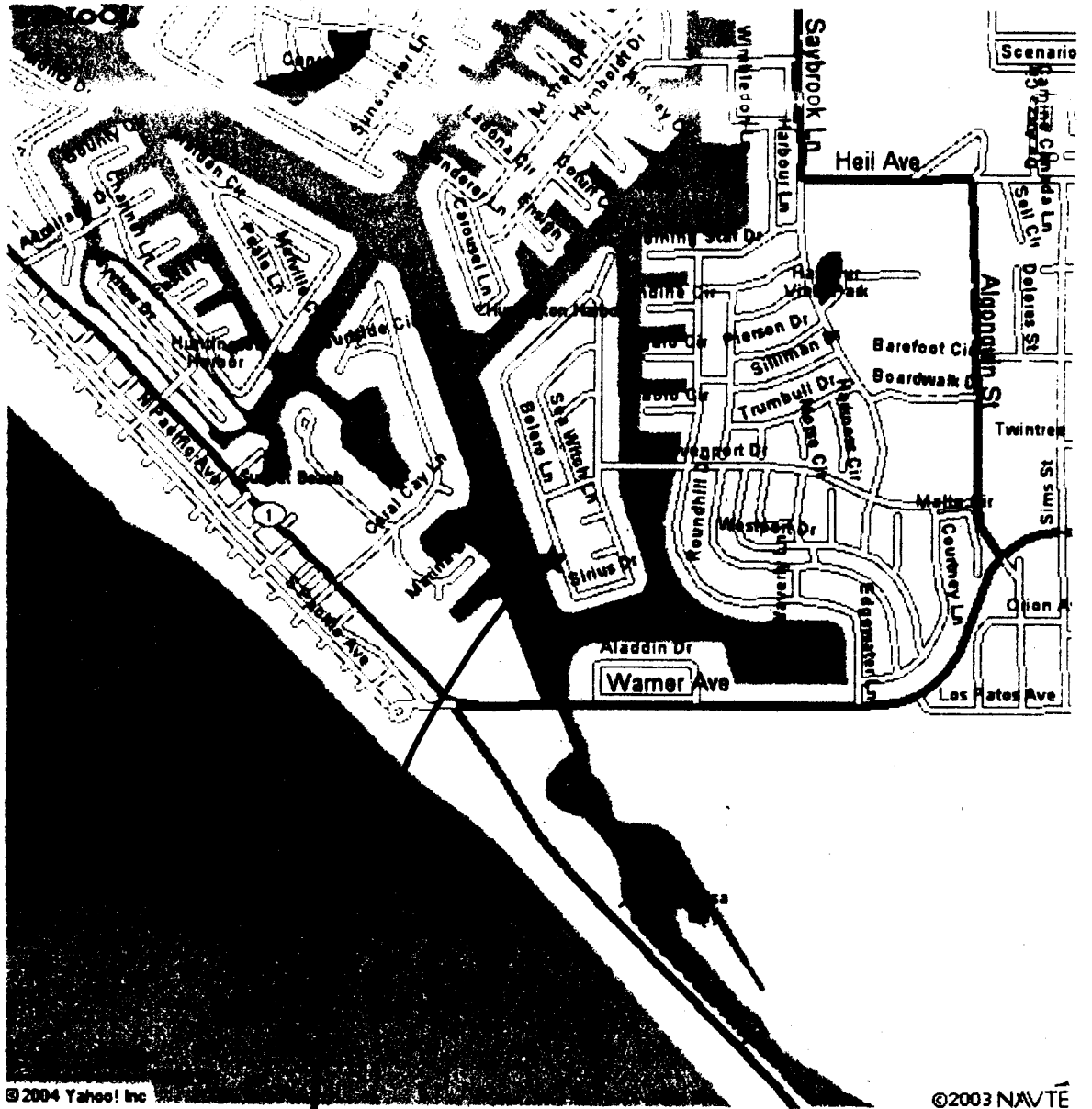
The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive, drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

**D. LOCAL COASTAL PROGRAM**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. An LCP for the City of Huntington Beach was effectively certified in March 1985. However, the proposed development is occurring within an area of the Commission's original permit jurisdiction, due to the project location seaward of the mean high tide line. Consequently, the standard of review is 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.

**E. CALIFORNIA ENVIRONMENTAL QUALITY 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 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.

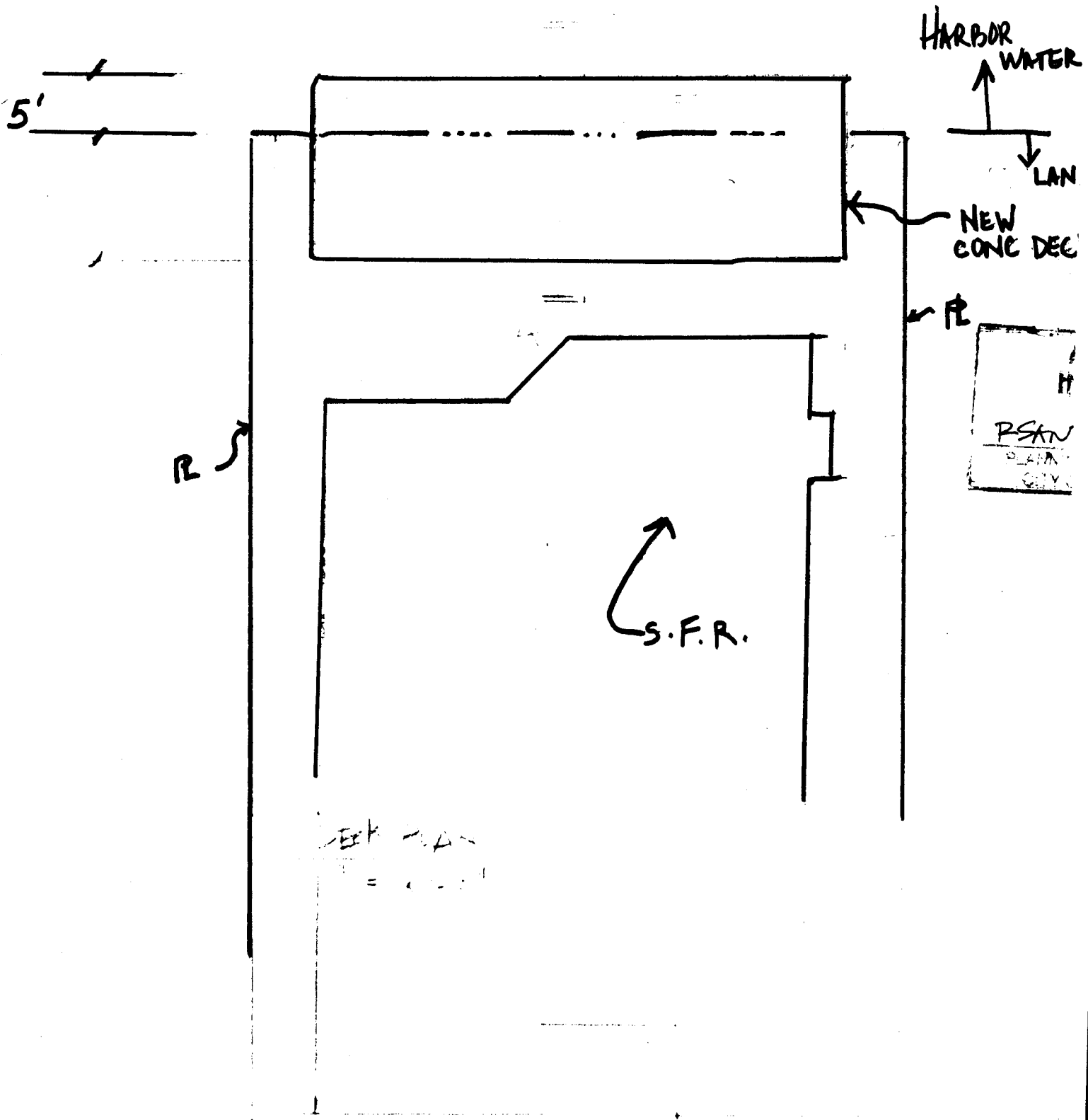


SITE

5-04-344

SITE PLAN

EXHIBIT A



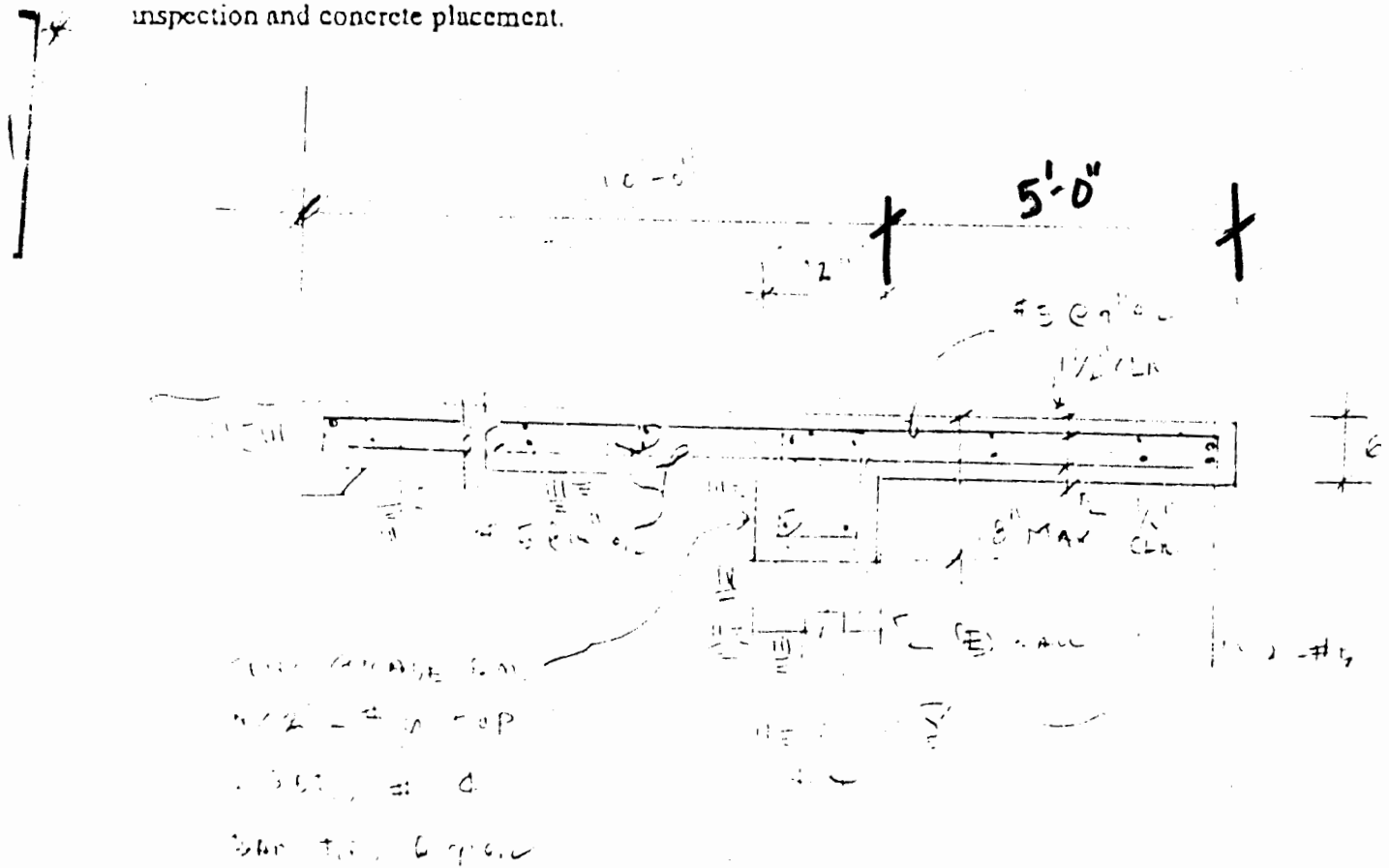
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PLAN  
VIEW

EXHIBIT B

BEYOND THE BULKHEAD

1. Continuous inspection per UBC section 1701, Special Inspection (Deputy Inspectors) shall be required for placement, testing and sampling of all concrete work. see Uniform Building Code Chapter 19 for detailed requirements and UBC Standards for related sampling and testing requirements. Deputy Inspector shall give "Certificate of Compliance" to City Inspector.
2. Minimum concrete tests shall consist of two concrete cylinders and a slump test for each type. Two concrete compression cylinders shall be made by the Deputy Inspector and owner shall protect cylinders from damage 48 hours prior to shipment to testing laboratory.
3. Mechanical vibration shall be used during concrete placement.
4. City Inspector shall verify location of all steel reinforcement, dowels, metal inserts, etc. prior to placement of concrete. All reinforcement dowels and metal inserts secured in place prior to inspection and concrete placement.



ALL REINFORCING  
 #4 - 2" TOP  
 #4 - 2" D  
 BAR TO 6" DIA

ALL NOTES & SPEC PER CITY OF HUNTINGTON BEAR  
 ALL REQUIREMENT.

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CROSS SECTION

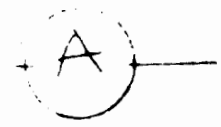


EXHIBIT C