

CALIFORNIA COASTAL COMMISSION

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

RECORD PACKET COPY

**Th 4 d**

Filed: 5/7/04
49th Day: 6/25/04
180th Day: 11/3/04
Staff: MV-LB
Staff Report: 5/20/04
Hearing Date: 6/9-11/04
Commission Action:

STAFF REPORT: CONSENT CALENDAR**APPLICATION NUMBER: 5-04-024****APPLICANTS: CHARLES O. AKERS****AGENT: Barry D. Foust****PROJECT LOCATION: 3261 Falkland Circle, Huntington Beach, Orange County****PROJECT DESCRIPTION:** Replace existing wooden deck with a new 32 foot long concrete deck cantilevered 5 feet beyond the existing bulkhead.**LOCAL APPROVALS RECEIVED:** City of Huntington Beach Approval in Concept dated 1/13/04**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **APPROVAL** of the proposed project with one special condition which requires that proper construction methods be employed during construction of the cantilevered deck. Special condition No. 1 describes appropriate construction methods to assure protection of water quality.

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:

I. 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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The applicant proposes to replace an existing wooden deck with a new 32 foot long concrete deck cantilevered 5 feet beyond the bulkhead. Also proposed is a 36 inch high wrought iron fence with 6, two foot square, 42 inch high columns, topped with lights surrounding the deck. The subject site is located at 3261 Falkland Circle, on Shelter Channel in Huntington Harbor in the City of Huntington Beach. The nearest public access in the area is at Sunset County Beach, located approximately 3 blocks south of the subject site.

The proposed deck would cantilever over the waters of Huntington Harbor. In this area of Huntington Harbor, the water area is owned by the City of Huntington Beach. The applicant retains wharfage rights to the water area. Wharfage rights allow boating related uses such as boat docks. However the wharfage rights do not address patio uses within the area. The City of Huntington Beach, as the owner of the area over which the proposed deck will cantilever, was invited to join as a co-applicant in a letter dated May 3, 2004. To date, no response from the City has been received. The California State Lands Commission has indicated to Commission staff that they will only consider reviewing cantilever projects within areas of Huntington Harbor owned by the State (i.e. Main and

Midway Channels). The subject site cantilevers over water owned by the City of Huntington Beach (Shelter Channel), not the State.

An eelgrass survey was conducted at the subject and no eelgrass was found within the project vicinity.

Although drainage from the deck will be directed into the harbor, the applicant has proposed, as part of the project, that "no soaps, paints, detergents or any products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye will be used on the deck in construction and will not be allowed to drain in to the harbor at any time in the future."

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

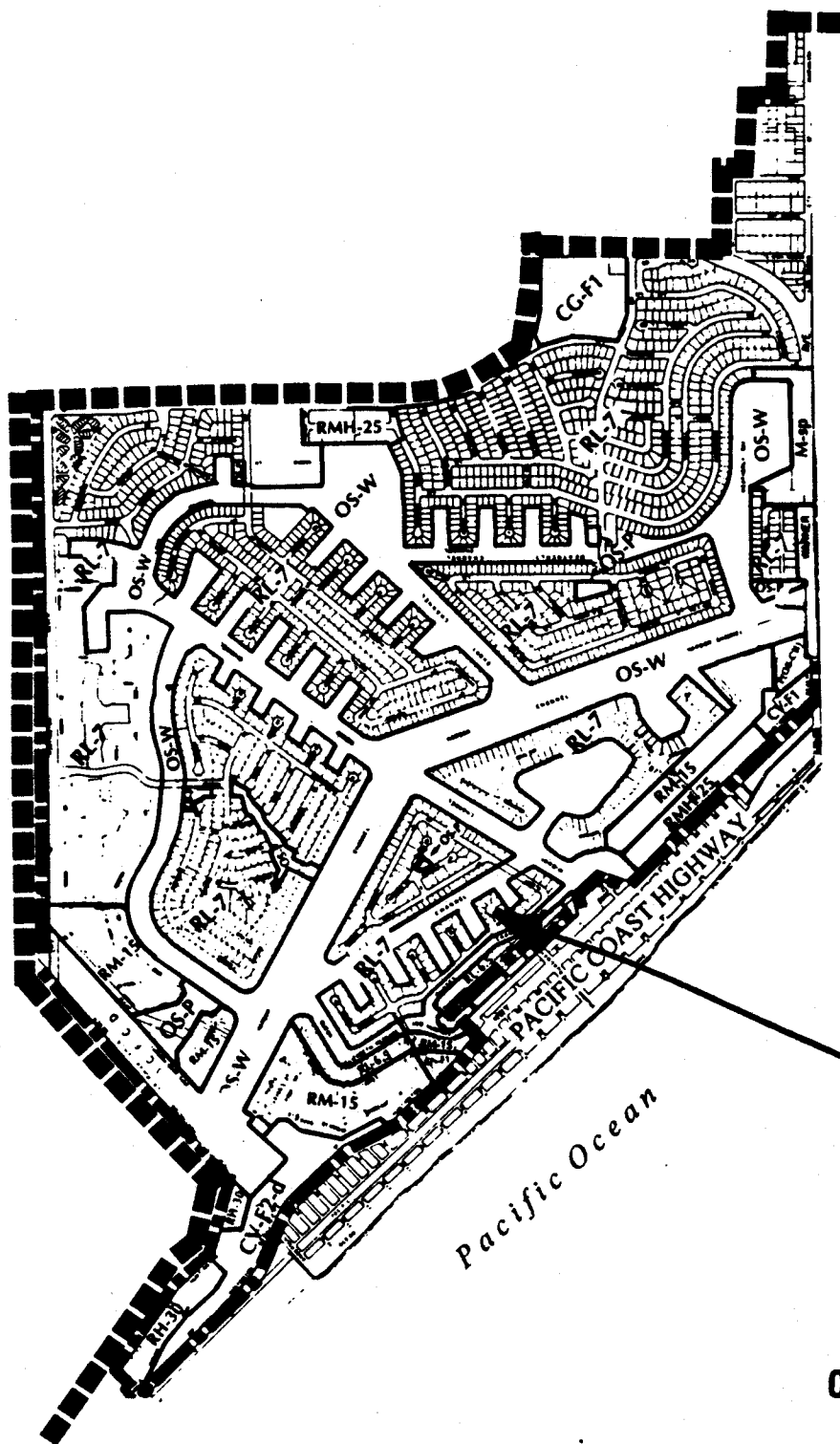
The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These 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

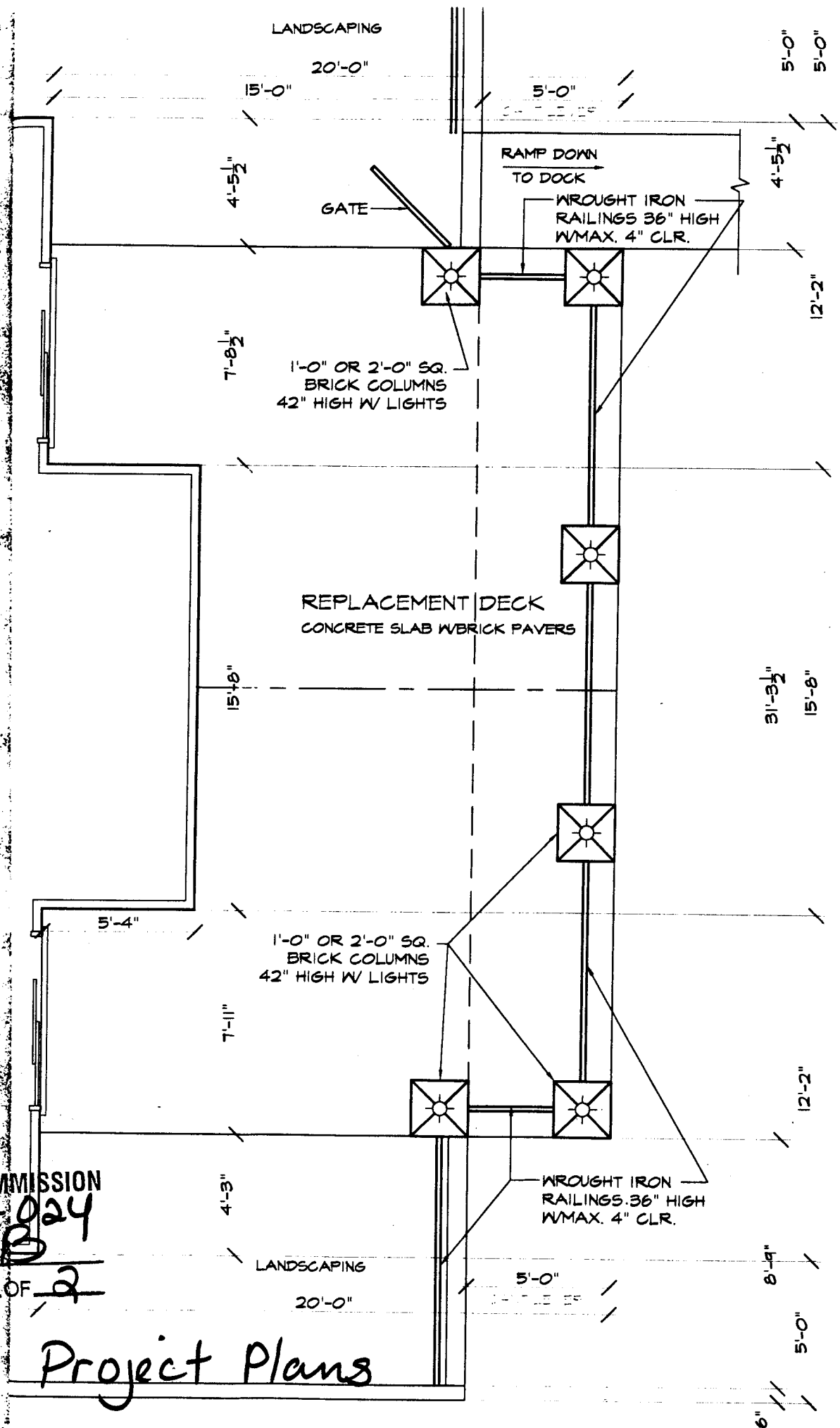
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the 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.



Subject
Site

Vicinity Map

COASTAL COMMISSION
5-04-024
EXHIBIT # A
PAGE 1 OF 1



COASTAL COMMISSION

5-04-024

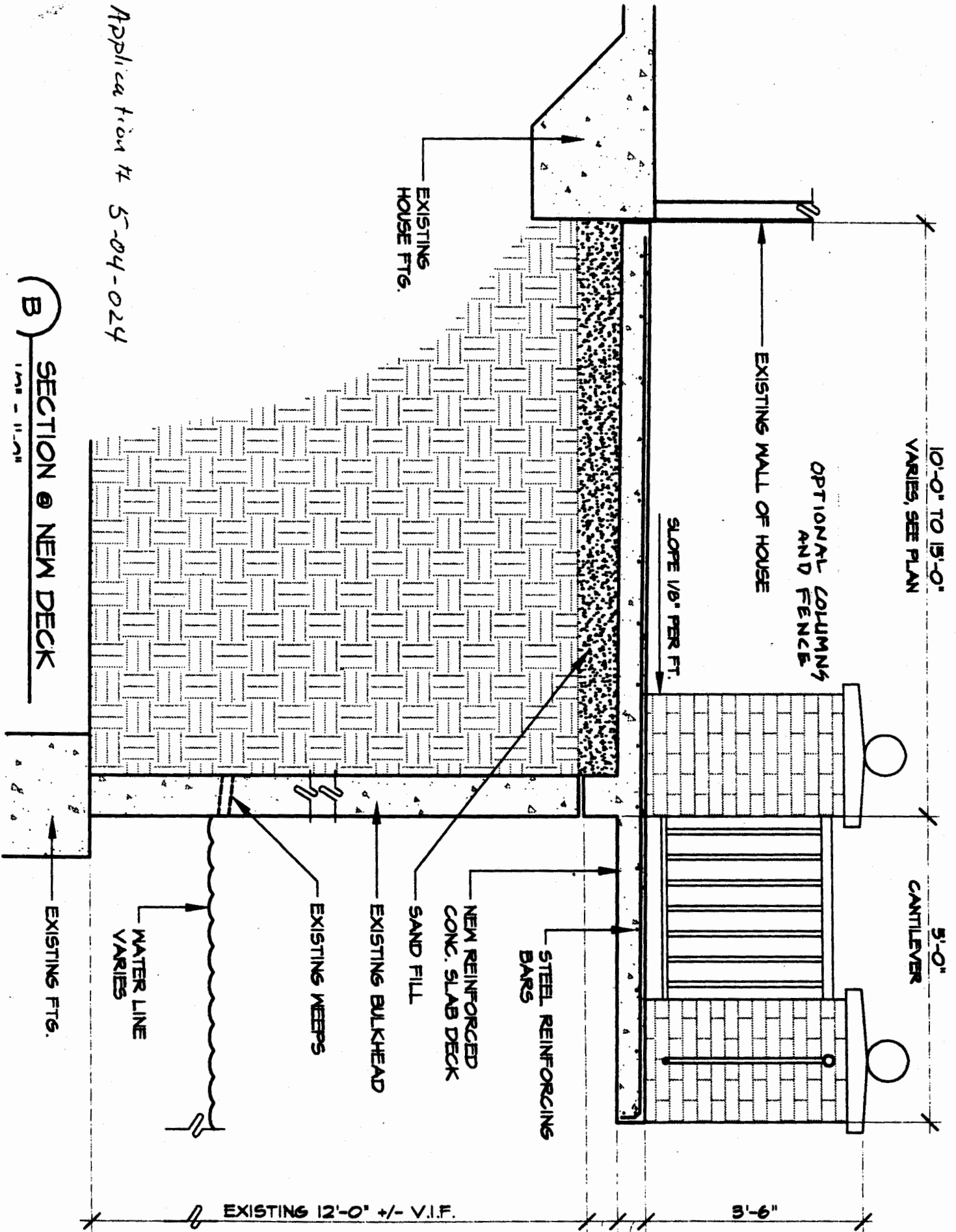
EXHIBIT #

PAGE 1 OF 2

Project Plans

Application # 5-04-024

(B) SECTION @ NEW DECK



5-04-024

B₂

FOUST CONSTRUCTION CO.

GENERAL CONTRACTOR - LICENSE # 911084
12471 BARRETT LANE SANTA ANA CA 92705
714-628-0127 FAX 714-628-0448

May 7, 2004

California Coastal Commission
South Coast Area Office
200 Oceangate suite 1000
Long Beach ca 90802-4302
(562) 590-5071
Re. Application # 5-04-024

Attention Meg Vaughn

Dear Ms. Vaughn

This letter shall become part of the construction documents for the project of the cantilevered deck located at 3261 Falkland Circle Huntington Beach Ca. 92641, application # 5-04-024. Regarding water quality. No soaps, paints, detergents or any products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye will be used on the deck in construction and will not be allowed to drain in to the harbor at any time in the future. The deck will drain away from the house at a slope of 1/8" per foot toward the harbor, no filtration is proposed. Water used during construction for all work will be stored in 55 gallon containers and allowed to evaporate before any remaining solid material is removed and disposed of properly offsite at appropriate land fill or concrete recycling facilities.

Sincerely,



Barry Foust

DRAINAGE

COASTAL COMMISSION

5-04-024

EXHIBIT # 2

PAGE 1 OF 1