

CALIFORNIA COASTAL COMMISSION

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

RECORD PACKET COPY

**TH 4c**

Filed: 8/17/05
49th Day: 10/5/05
180th Day: 2/13/06
Staff: MV-LB
Staff Report: 9/22/05
Hearing Date: 10/12-14/05
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-05-001
APPLICANT: ANTHONY & ROCHELLE ALVES
AGENT: NONE
PROJECT LOCATION: 17012 Baruna Lane
Huntington Beach, Orange County

PROJECT DESCRIPTION: Replace existing wood cantilevered deck with new 37 foot long concrete deck cantilevered 5 feet beyond the bulkhead.

LOCAL APPROVALS RECEIVED: City of Huntington Beach Approval in Concept dated 7/26/05.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending **APPROVAL** of the proposed project with two special conditions which require that proper construction methods be employed during construction of the cantilevered deck and that approval of this permit does not waive any public rights that may exist 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. 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 replace an existing cantilevered deck with a new 38 foot long concrete deck cantilevered 5 feet beyond the bulkhead. Also proposed is a 3 ½ foot high railing surrounding the cantilevered deck. The subject site is located at 17012 Baruna Lane. The subject site fronts on Midway Channel, along Davenport Island, in Huntington Harbour in the City of Huntington Beach. The proposed deck is associated with the adjacent single family residential use. Most of the Huntington Harbour water frontage is developed with single family homes, many of which also have cantilevered decks and boat docks. Virtually all of the water frontage in Huntington Harbour is supported by bulkheads. 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 landward to a trench drain and so will not drain

directly into the harbor. All construction will occur from the land side of the deck. No products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye will be used on the deck, therefore, pollutants from those products will not drain to the harbor during or after construction.

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. A letter from the City was received with the project coastal development permit application (see exhibit D). The City's letter recognizes the proposal and does not object. In addition, on September 14, 2005, a letter was sent to the City advising of the proposed project and inviting the City to join in the application as co-applicant. As of the date of this staff report (9/22/05) no response from the City has been received. 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 located within the City of Huntington Beach, which 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.

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.

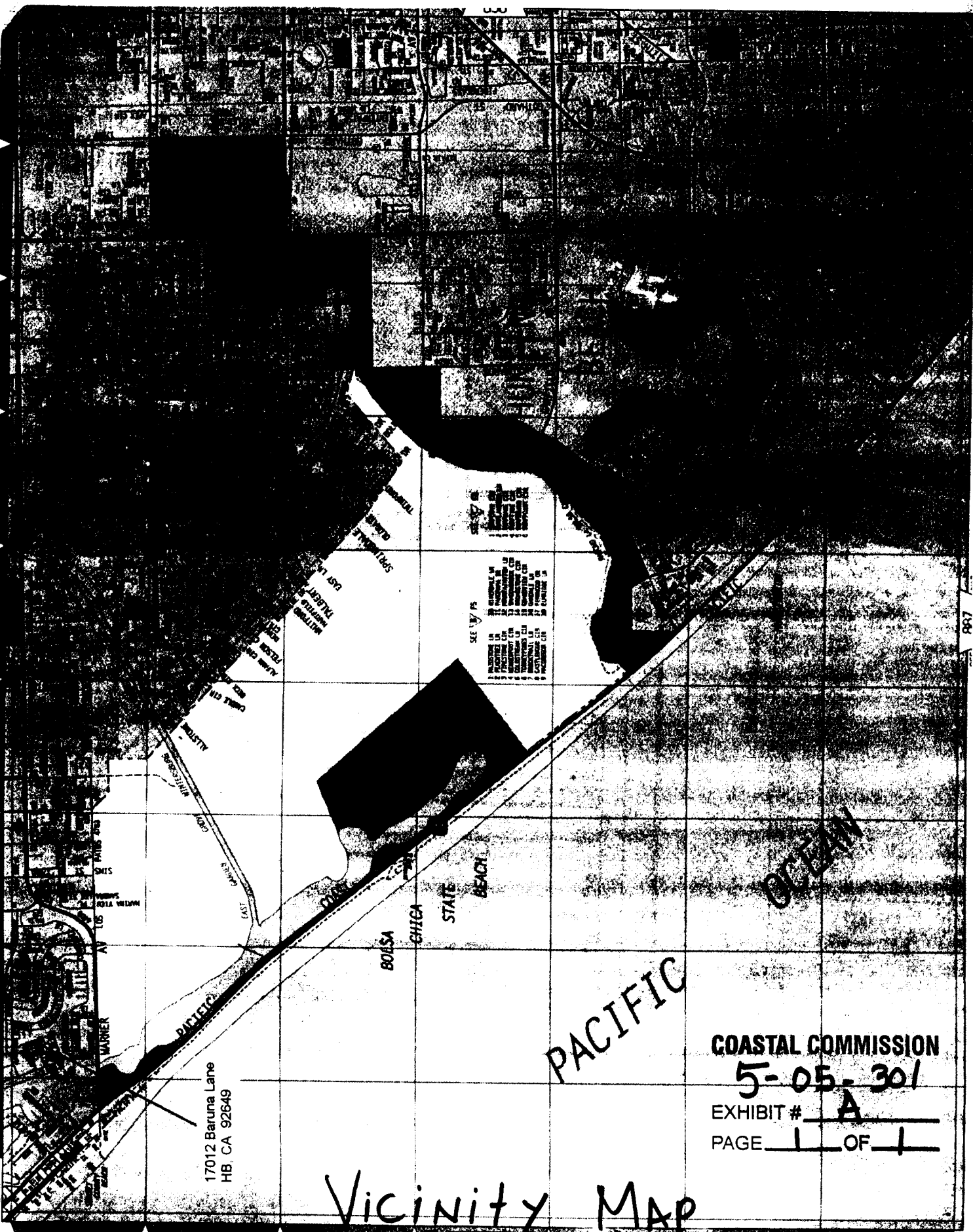
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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.

11E110 - VICINITY MAP

827

857



COASTAL COMMISSION

5-05-301

EXHIBIT # A

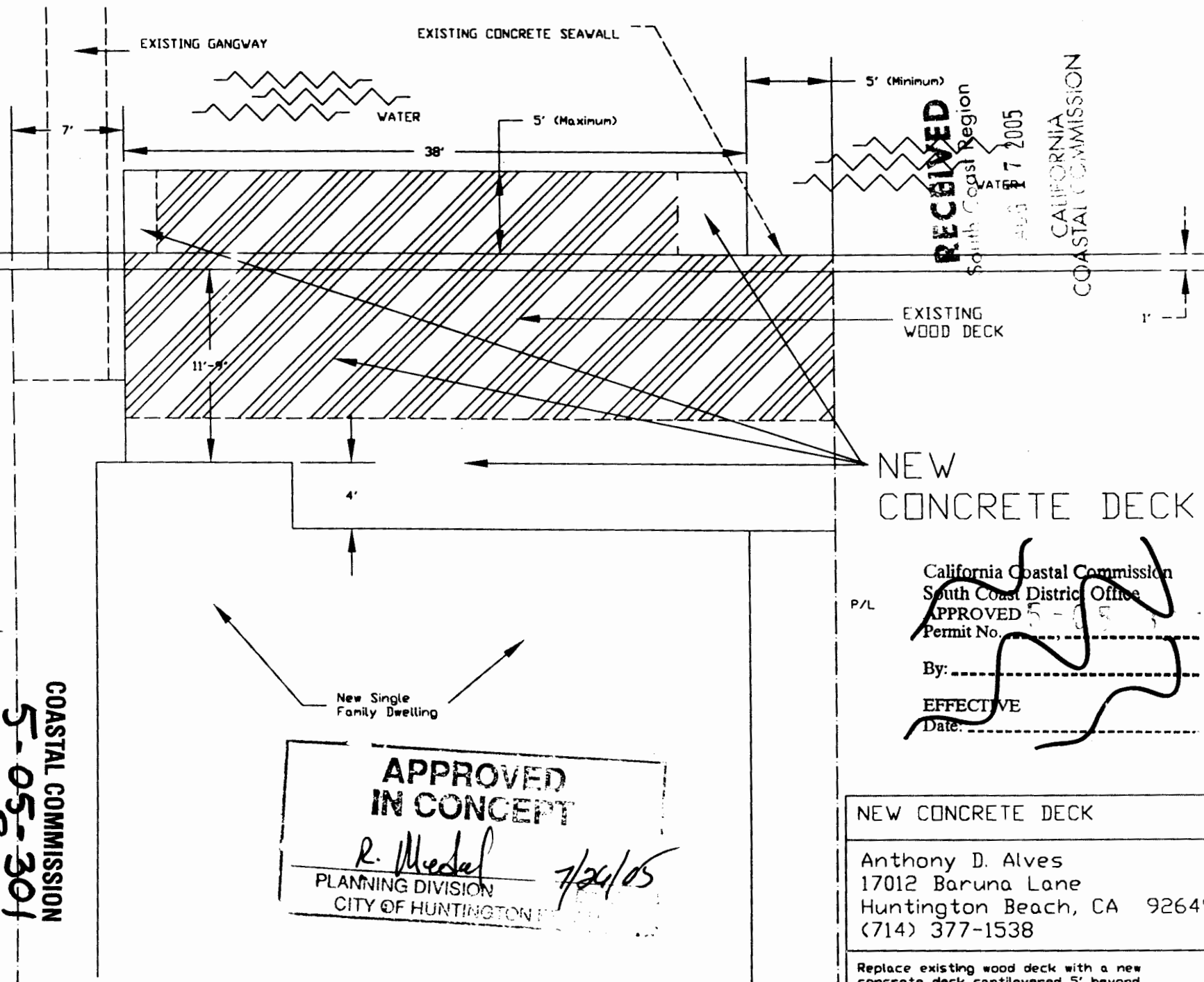
PAGE 1 OF 1

Vicinity Map

Site Plan

P/L

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EXHIBIT # **5-05-301**
PAGE **1** OF **1**



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South Coast Region

AUG 17 2005

CALIFORNIA
COASTAL COMMISSION

NEW
CONCRETE DECK

P/L

California Coastal Commission
South Coast District Office
APPROVED 5-05-301
Permit No. _____

By: _____

EFFECTIVE
Date: _____

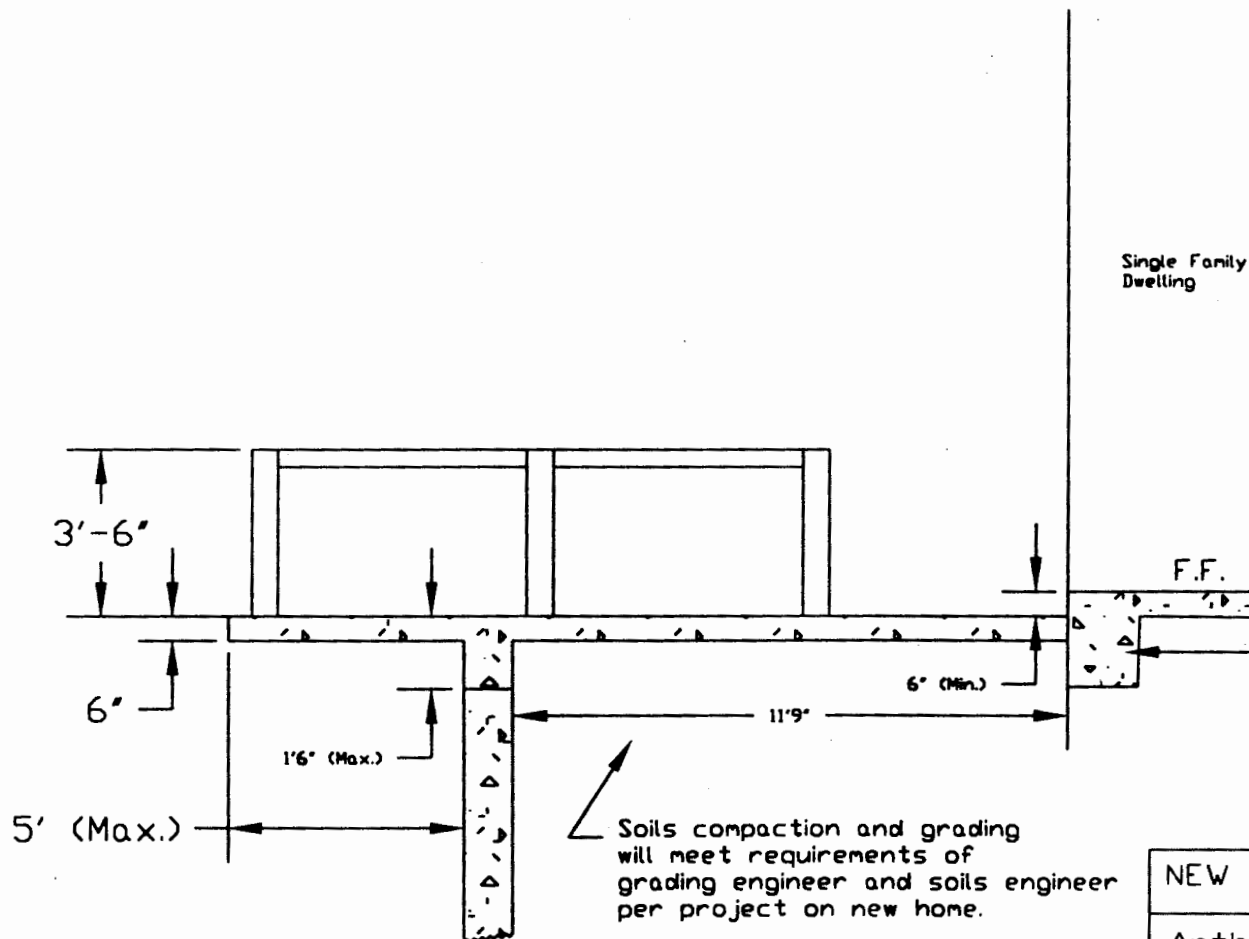
APPROVED
IN CONCEPT
R. Medel
PLANNING DIVISION
CITY OF HUNTINGTON BEACH
7/26/05

NEW CONCRETE DECK

Anthony D. Alves
17012 Baruna Lane
Huntington Beach, CA 92649
(714) 377-1538

Replace existing wood deck with a new
concrete deck cantilevered 5' beyond
existing seawall (bulkhead).

Cross Section



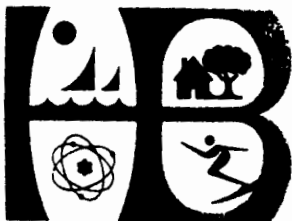
F.F. California Coastal Commission
South Coast District Office
APPROVED 5-05-30
Permit No.

By: _____
EFFECTIVE
Date: _____

NEW DECK CROSS SECTION

Anthony D. Alves
17012 Baruna Lane
Huntington Beach, CA 92649
(714) 377-1538

Replace existing wood deck with a new concrete deck cantilevered 5' beyond existing seawall (bulkhead).



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING

Phone 536-5271
Fax 374-1540
374-1648

August 10, 2005

Theresa Henry, South Coast District Manager
South Coast Area Office
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302

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South Coast Region

AUG 17 2005

CALIFORNIA
COASTAL COMMISSION

5-05-301

SUBJECT: WHARFAGE RIGHTS FOR PROJECTING DECKS

Dear Ms. Henry:


This letter is in response to concerns raised by the California State Lands Commission regarding the ownership of waterway lots within the Huntington Harbour channels. A majority of the waterways within the channels is located on parcels owned by the City of Huntington Beach. A five foot easement over the water is typically granted by the City of Huntington Beach to allow property owners to construct projecting decks the comply with the following criteria:

1. Maximum encroachment is five feet beyond the bulkhead.
2. Compliance with the side setbacks required for the main dwelling.

The applicant is required to obtain an "Approval in Concept" from the Huntington Beach Planning Department prior to obtaining a coastal development permit from the California Coastal Commission. Upon approval of a coastal development permit, the City of Huntington Beach will issue a building permit for the construction of the projecting deck.

If you should have any questions regarding ownership issues, please contact Jason Kelley, Assistant Planner at (714) 374-1553.

Sincerely,


JASON KELLEY
Assistant Planner

Enclosures

xc: Wayne Carvalho, Associate Planner

COASTAL COMMISSION

5-05-301

EXHIBIT # D

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