

CALIFORNIA COASTAL COMMISSION

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

Item W6cPermit Application No. **5-11-293**

Date: December 22, 2011

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**ADMINISTRATIVE PERMIT****APPLICANT:** City of Newport Beach, Harbor Resources Division**PROJECT DESCRIPTION:** Installation of a new 5' x 10' deck platform and steps per City standards composed of pressure treated Douglas fir, composite decking and stainless steel hardware along a public bulkhead for public access to and from the Grand Canal public waterway and Balboa Island and signage indicating public access.**PROJECT LOCATION:** Balboa Blvd. street-end at Grand Canal, Balboa Island, 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, January 11, 2012, 9:00 am
Annenberg Community Beach House
415 Pacific Coast Hwy.
Santa Monica, CA 90402

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:

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 on which 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 4 thru 7.

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 project site is located at the Balboa Blvd. street end at the Grand Canal on Balboa Island in the City of Newport Beach (Exhibits #1-2). The Grand Canal is a public waterway that divides Balboa Island and Little Balboa Island. Single-family residences characterize the subject site and the surrounding area. The proposed project is the installation of a new 5' x 10' deck platform and six steps per City standards composed of pressure treated Douglas fir, composite decking and stainless steel hardware along a public bulkhead for public access to and from the Grand Canal public waterway and Balboa Island (Exhibit #3) and signage indicating public coastal access. The pier platform will be constructed immediately adjacent to the public (City owned) bulkhead wall that

surrounds Balboa Island. The pier platform and steps are similar in design and size as other pier platforms and steps along Grand Canal that serve adjacent single family residential uses for boating purposes. The new pier platform and steps will meet the City of Newport Beach's standards in terms of dimensions and construction materials.

There are piers and docks seaward of most of the waterfront homes on Balboa Island. The City has granted harbor permits to those waterfront homeowners to allow them to construct and maintain those piers/docks. The circumstances present along Grand Canal are slightly different from the remainder of the island in that there are no 'typical' piers and docks (the canal is too narrow to support such structures). The City of Newport Beach Harbor Resources "Harbor Permit Policy" permits moorings of small vessels in the Grand Canal and permits homeowners along the Grand Canal to construct deck platforms and stairs for private use/purposes on public tidelands to access public waters and their vessels. These pier platforms and steps to the bay are unique in Newport Bay to Grand Canal – it is the only such area City Harbor Permit policies (Exhibit #5) allow such structures for boating related purposes. Coastal public access to Newport Bay beaches and tidelands/mudflats is currently available along a public walkway adjacent to the bulkhead surrounding the entire Balboa Island. There are also five public piers throughout the Island. However, there currently is no direct access to and from Balboa Island at the Grand Canal, or to the Grand Canal itself. The proposed project will provide safe public access to the Grand Canal and boating related access to visitors to Balboa Island via kayak, paddleboard, and small boat.

The site was surveyed for eelgrass and *Caulerpa taxifolia* by the City of Newport Beach Harbor Resources Division on November 22, 2011 including the project area and a 30 feet radius. Eelgrass was found within 15 – 30 feet of the project area and no *Caulerpa taxifolia* was discovered within the entire project area (Exhibit #4). As proposed, the project avoids direct and possible indirect eelgrass impacts. 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. If any additional eelgrass or *Caulerpa taxifolia* are found on the project site, Special Conditions No. 2 and No. 3 identify the procedures necessary to be completed prior to beginning any construction.

The proposed project has received an approval in concept from the City of Newport Beach Harbor Resources Division, Harbor Permit Number 801 – Balboa Avenue. The applicant has requested a "General Certification for replacement of Sheet and Dock Piles" determining that the proposed project will not adversely impact water quality if standard construction methods and materials are used from the Regional Water Quality Control Board (RWQCB). The applicant has applied for a permit from the U.S. Army Corps of Engineers (ACOE), ACOE project ID# 2011-01108-SME. Staff expects the U.S. Army Corps of Engineers' Letter of Permission (LOP) deeming the project qualifies for the General Concurrence for impacts to essential fish habitats.

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. Marine Resources

The proposed recreational pier platform/boat dock development is an allowable and encouraged marine related use. The project design includes the minimum sized pilings and the minimum number of pilings necessary for structural stability. There are no feasible less environmentally damaging alternatives available. As conditioned, the project will not significantly adversely impact

eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. Further, as proposed and conditioned, the project, which is to be used for recreational boating purposes and public access, conforms to Sections 30224 and 30233 of the Coastal Act.

C. 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.

D. Local Coastal Program

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was comprehensively updated on October 13, 2005. 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.

E. 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:

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
- (16) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

2. **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.

3. 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.

4. Public Coastal Access Signage

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit proposed public coastal access signage to the Executive Director for review and approval, as the applicant agrees to maintain adequate signage indicating the proposed platform is intended for public coastal access. Signage shall convey the message that public pedestrian and recreational use is permitted and invited and be consistent with the following:

- (a) Signs shall be a minimum size of 12" x 12" and shall be constructed of heavy-duty lightweight aluminum or any other rust resistant and weather durable material;
- (b) Signs shall be attached to the platform railing visible and legible to pedestrians along the adjacent Balboa Island public walkway and visible to boaters along the Grand Canal
- (c) Signs shall remain posted and maintained for the life of the structure.
- (d) One sign shall consist of the standard "Coastal Access" signs;
- (e) Signage regulating operating hours is not authorized by this coastal development permit.

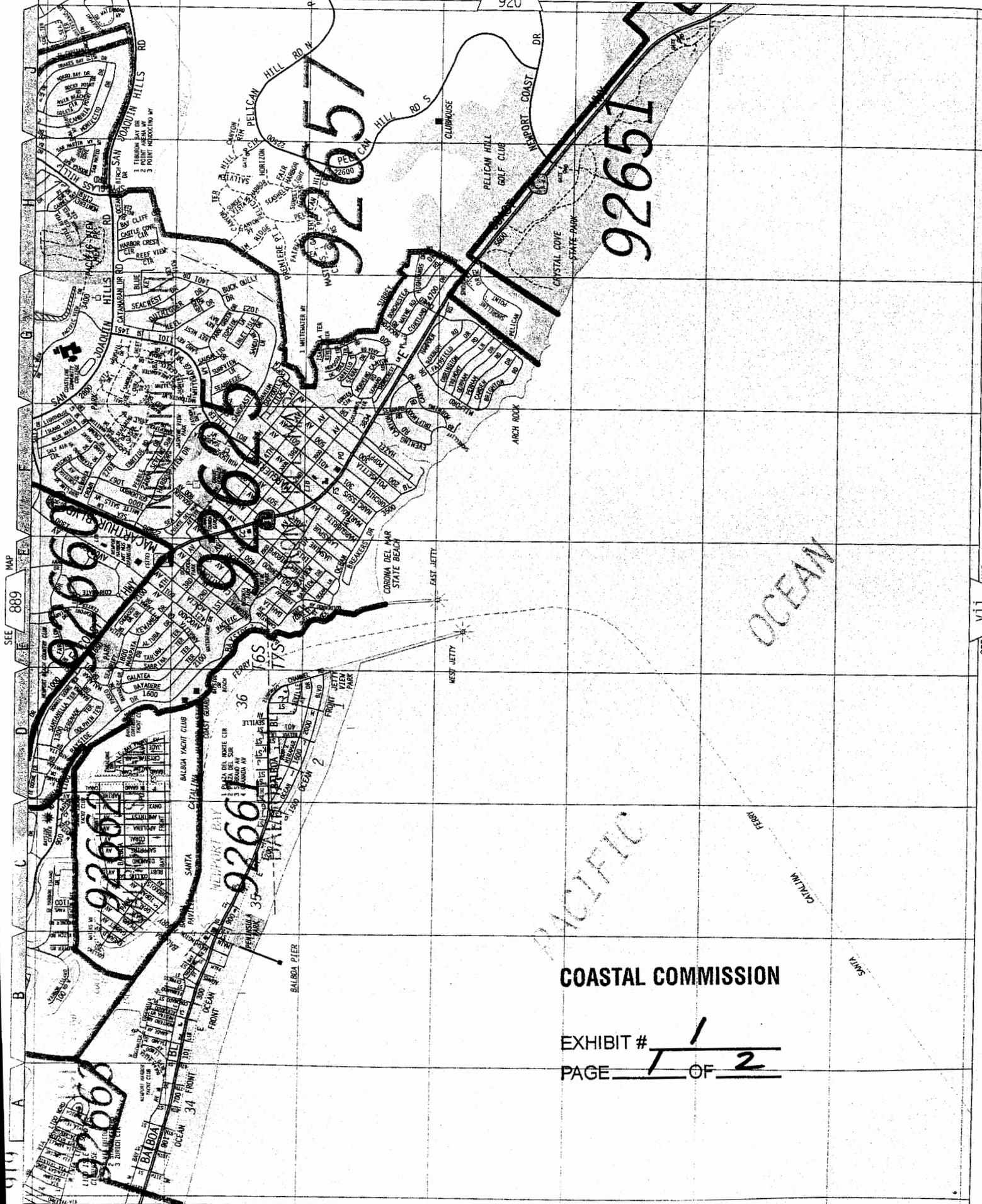
The permittee shall undertake development in accordance with the approved final public coastal access signage. Signs and displays not explicitly permitted in this document shall require an amendment to this permit unless the Executive Director determines that no amendment is legally required.

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 # 1
PAGE 1 OF 2

SEE 889 MAP

SEE V11 MAP

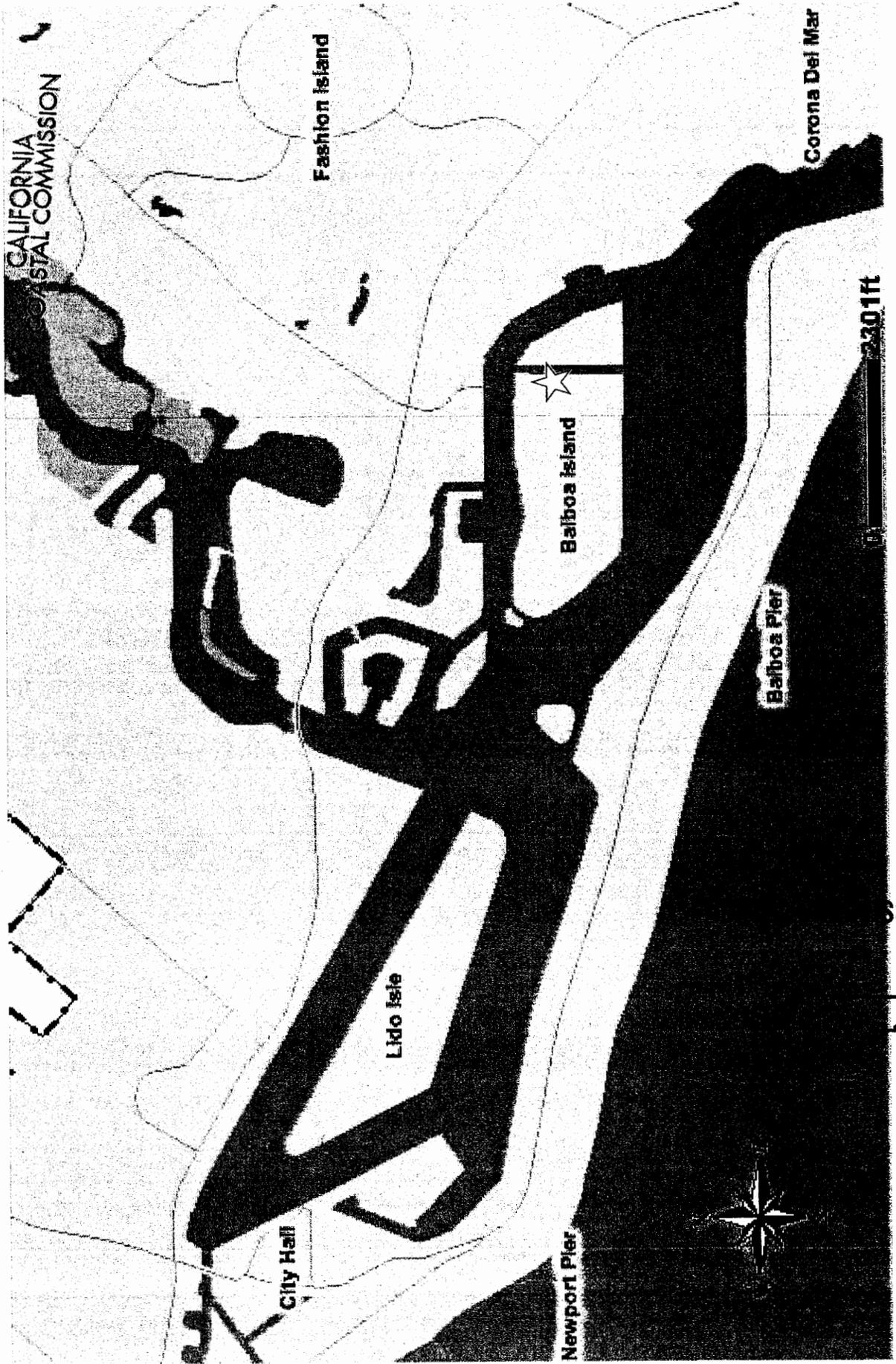
SEE 919 MAP

SEE 920 MAP

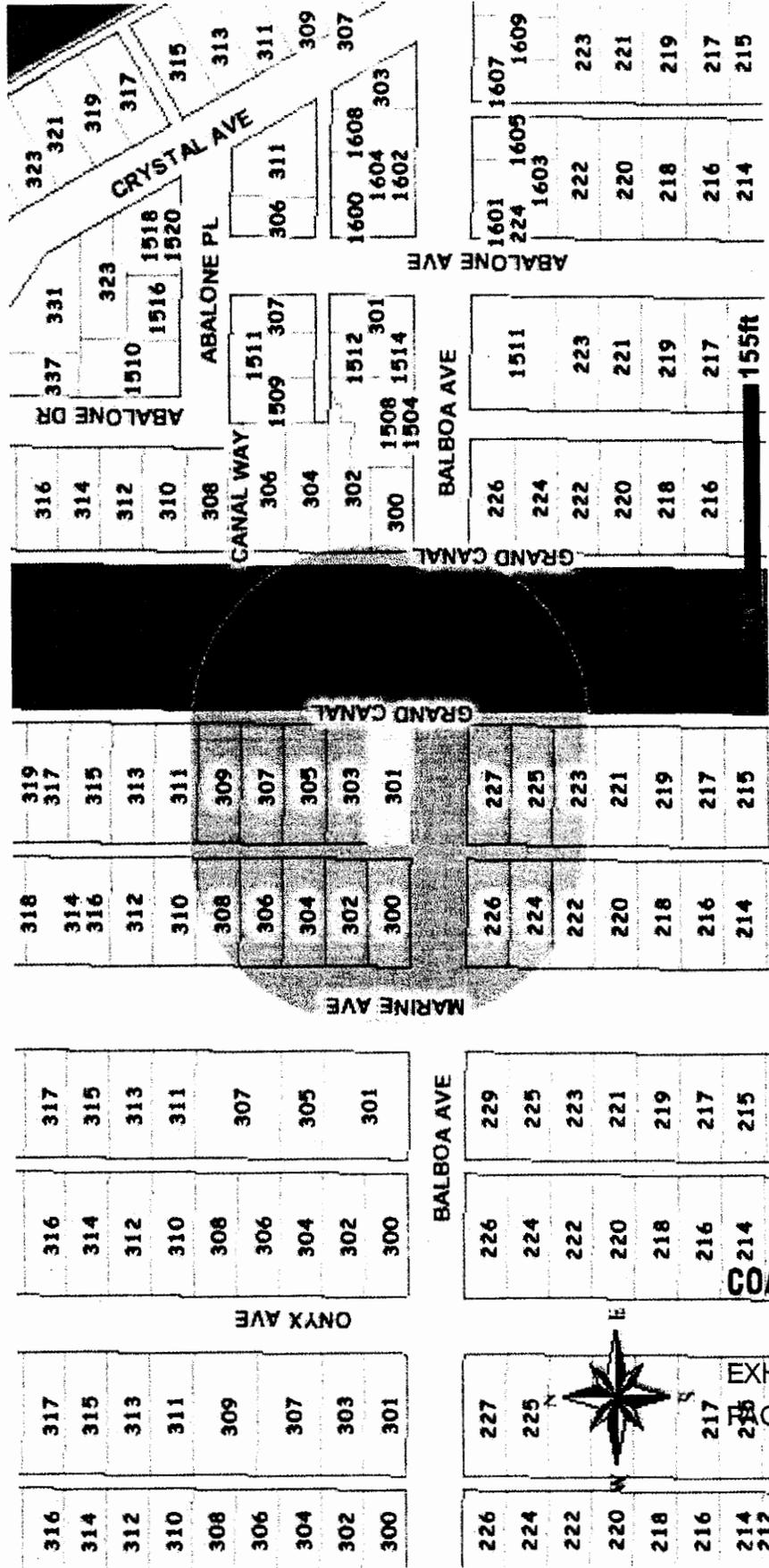
RECEIVED
South Coast Region

NOV 28 2011

Vicinity Map



100ft Buffer from Project Site



COASTAL COMMISSION

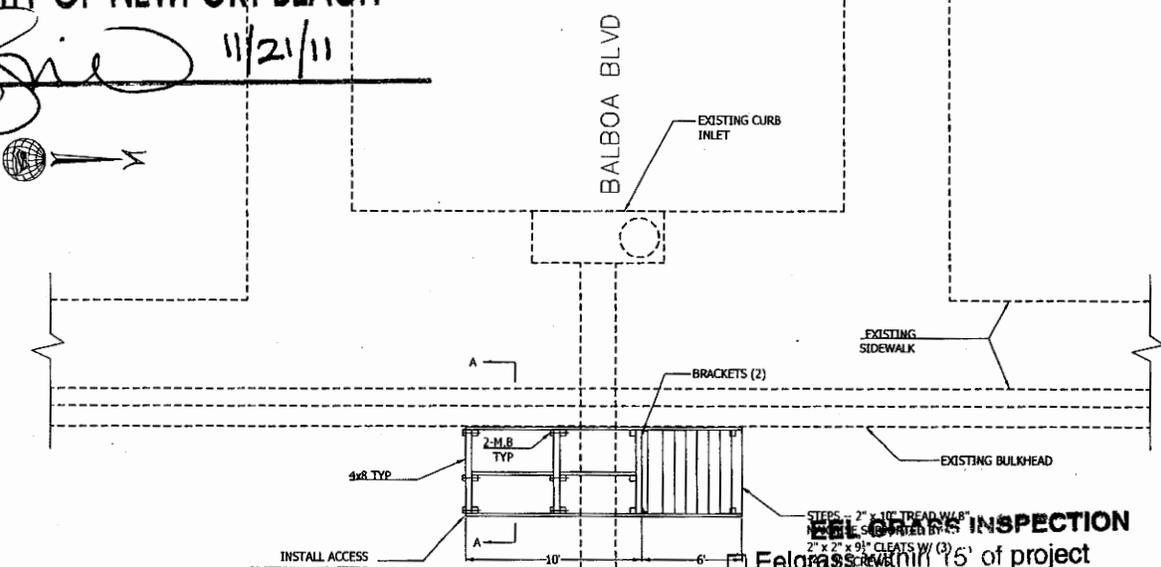


EXHIBIT # 2
PAGE 1 OF 1

HARBOR RESOURCES DIV.

CITY OF NEWPORT BEACH

Site 11/21/11



GRAND CANAL

PLAN

ELUGRASS INSPECTION

Eelgrass within 15' of project

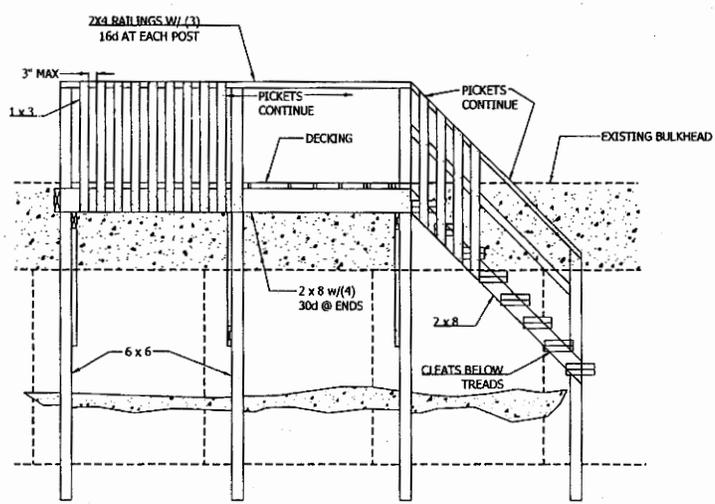
Eelgrass within 15 - 30' of project

No Eelgrass in project area

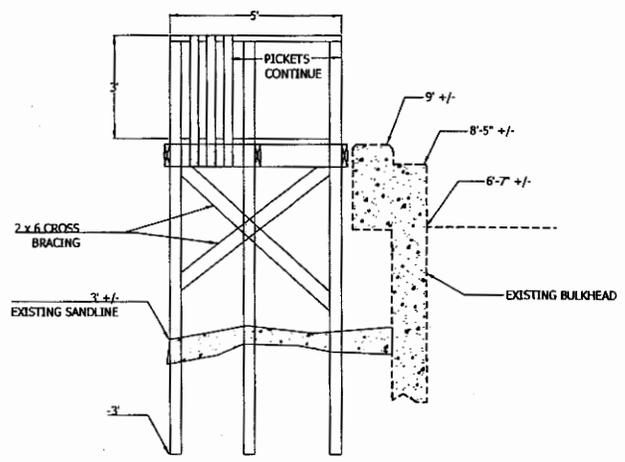
Signature

10/25/11 3:00pm

Inspection Date & Time



ELEVATION



SECTION A-A

COASTAL COMMISSION

EXHIBIT # 3

PAGE 1 OF 1

- NOTES:
1. ALL PLATFORM MEMBERS SHALL BE TREATED APPROPRIATE FOR THE MARINE ENVIRONMENT AND TREATMENT SHALL COMPLY TO ALL APPLICABLE STATE REGULATIONS
 2. ALL METAL CONNECTION PLATES AND FASTENERS SHALL BE GALVANIZED STEEL OR STAINLESS STEEL AND APPROVED BY THE CITY.

CITY OF NEWPORT BEACH
PUBLIC WORKS DEPARTMENT

GRAND CANAL PUBLIC
ACCESS PLATFORM

APPROVED:		
TOM SANDEFUR, P.E. R.C.E 64465		DATE
9/27/2011	NO SCALE	SHT 1 OF 1
DRAWN: TS		

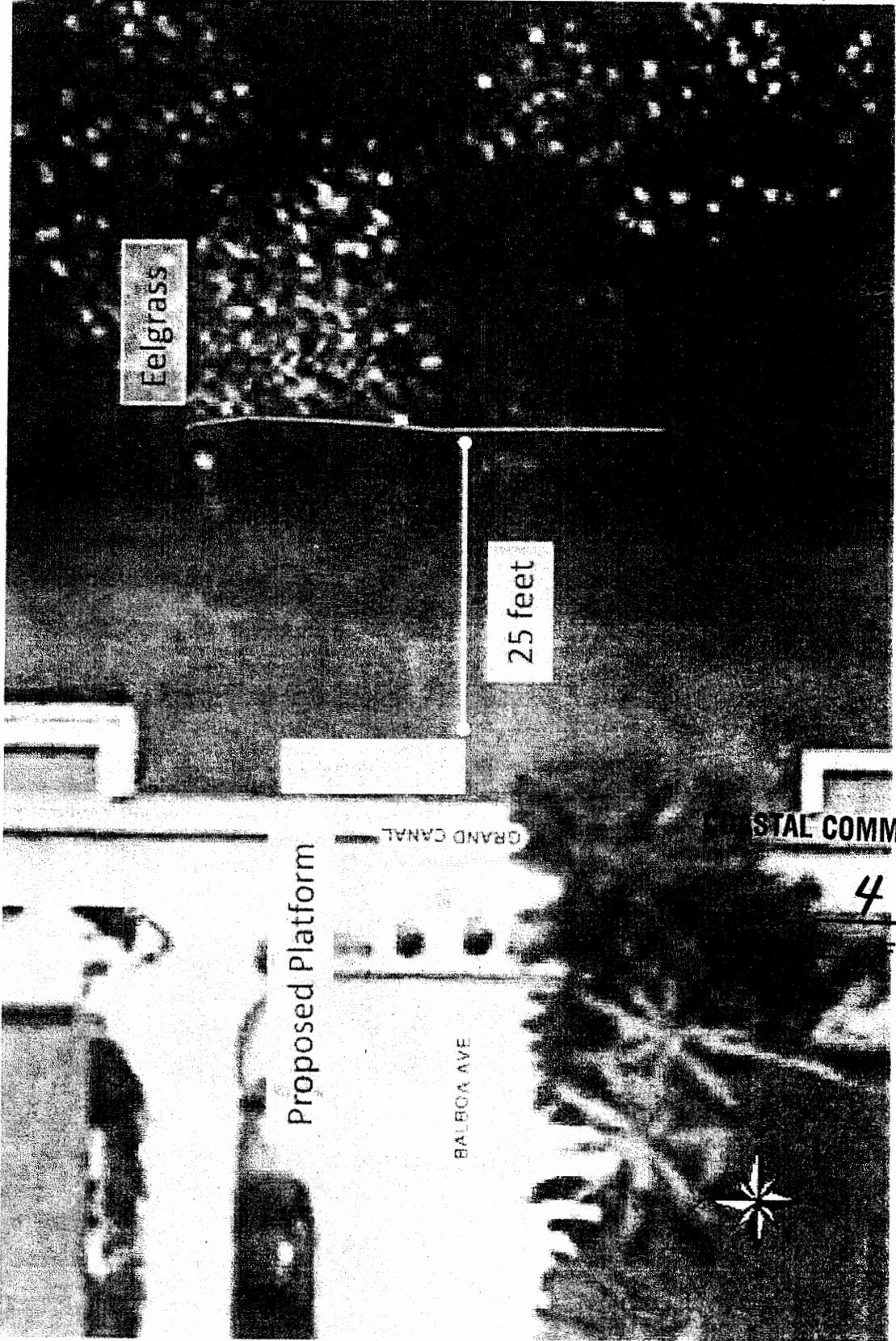
EEL GRASS INSPECTION

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

Grand Canal Eelgrass Survey

Signature

Inspection Date & Time



POSTAL COMMISSION

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