

CALIFORNIA COASTAL COMMISSION

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

W16a

September 6, 2013

**ADDENDUM**

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: SOUTH COAST DISTRICT STAFF

SUBJECT: ADDENDUM TO ITEM W16a, COASTAL COMMISSION PERMIT APPLICATION #5-12-292 FOR THE COMMISSION MEETING OF SEPTEMBER 11, 2013

Additional Correspondence

The applicant submitted 97 pages of additional correspondence, which is attached.

Ex-parte Communications

One notification of ex-parte communications has been received, which is attached.

Recommended Additions to Staff Report Findings

Add the following to the end of the first full paragraph on page 12 of the staff report:
(New language is in underlined text)

... and 4) the proposed residences' finished floor elevation of 9 feet will ensure protection against the most aggressive sea level rise estimate until 2063. The Geosoils report concludes that a bulkhead is necessary on the site. However, the report does not conclude that such protection could only be provided by a bulkhead in the existing location.

Add the following to the Bulkhead Alignment subsection of Section C, Shoreline Protection/Hazards, as the first full paragraph of page 13 of the Staff Report: (New language is in underlined text)

The applicant references four cases in stating that the Commission has approved development that has been constructed without permits or has been placed in a seaward location.

Of the cited cases, three of them are located in a different area than the project, between 0.5 and 0.6 miles away. Coastal Development Permit 5-06-210 was issued for demolition of a residence, construction of a residence, and after-the-fact approval of a bulkhead, at 1711 E Bay Ave. The subject site, 928 E Balboa Blvd, is at B Street, and 1711 E Bay Ave is located near J street (more than 7 blocks southeast of the site). The Commission's action in 5-06-210 does not represent a similar situation to the proposed project at 928 E Balboa Blvd. CDP 5-06-210 authorized a bulkhead located: 1) consistent with a previously approved permit that was not issued, 2) at a landward location; consistent with the locations of adjacent bulkheads; and 3) where it would not result in additional fill of coastal waters.

CDP 5-09-079 was approved for in-kind replacement of an existing bulkhead to protect an existing single family residence, at 1711 E. Bay Ave. The project was not proposing the redevelopment of the site, and instead was proposing an in-kind replacement in the same alignment as the existing to protect existing development.

CDP 5-02-302, at 1813 E Bay Ave, and near K street (more than 8 blocks southeast of the site), proposed the demolition of the existing residence and construction of a new residence, pool and block wall. However, the project did not result in the construction of a bulkhead on the site. The permit record shows that the applicant, the Commission's staff engineer, and the Commission all found that the block wall and pool would not serve as a bulkhead. Further, the Commission's permit included special conditions requiring that no shoreline protective device will be constructed in the future to protect the development at the site.

CDP 5-89-030 is located nearer to the subject site, at 1108 E. Balboa Blvd. In this case, the applicant constructed a bulkhead without a permit. The permit included a requirement for mitigation for fill of intertidal areas on a 4:1 basis for the fill of 11,509 sq. ft. There has been no information presented on any currently available program which would result in the like for like restoration of intertidal areas. In contrast, staff's communication with past applicants in Newport Bay has indicated that there is a lack of available sites (and any ongoing programs) for mitigation for impacts to marine habitat. Since the approval of this permit, the LUP has been modified to include additional policies regarding placement of bulkheads in landward locations. This has occurred, in part, to address the encroachment of residential development towards the bay which had occurred.

Modify Subsection 2, Construction impacts to Water Quality, in Section D. Marine Resources/Cumulative Impacts, on page 16 of the staff report, as follows.

... Special Conditions 2 and 3 require the applicant to comply with the submitted plans... As conditioned, there will remain some level of temporary disturbance to bay waters from construction. However, as conditioned, the project will minimize the effects of the proposed development on water quality and the bay habitat.

Furthermore, such disturbance would still result in a net improvement to water quality and the biological productivity of bay waters. As explained further above, as conditioned to place a bulkhead on the site in a landward location, the project would ensure that the effects associated with shoreline protective devices are minimized, and would open up the intertidal area for usage as habitat.

FORM FOR DISCLOSUREFORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION

Date and time of communication: September 4, 2013

Location of communication: Ventura, conference call

Person(s) initiating communication: David Neish

Person(s) receiving communication: Brian Brennan

Name or description of project: 928 Balboa, Newport Beach, CA Item: W16a

Detailed substantive description of content of communication:

The applicants are in agreement with the CCC Staff's recommendation of approval and all of the Special Conditions with the exception of Special Cond. #1. We reviewed the executive summary and the applicants represented that CCC Staff was recommending that the existing bulkhead be removed and relocated approximately 30 feet landward. This request would require the removal of the existing bulkhead, swimming pool, deck and spa and the creation of a new bulkhead that has been existence since 1987. We discussed both the geological and engineering ramifications that would occur if the existing bulkhead were to be removed. The final conclusion was that the environmental consequences could be greater by relocating the existing bulkhead rather than leaving it at the current location.

9/4/13



Date

Signature of Commissioner

Project Background Executive Summary: 928 E. Balboa Boulevard
CDP Application No. 5-12-292

1. History of Bulkhead at 928 E. Balboa Blvd.

- CDP No. 5-87-822 was issued by the Executive Director on December 9, 1987 to the *former* owner of 928 E. Balboa Boulevard. It authorized the construction of a bulkhead to be located along the bayward edge of vacated Bay Avenue. The applicants purchased the property in 2012 understanding that the bulkhead was built in that location.
- A survey conducted following the sale of the property to the applicants indicated that the bulkhead was actually constructed between 6.24' and 6.52' bayward of the alignment approved in CDP No. 5-87-822.



2. Pending CDP Application No. 5-12-292

- CDP 5-12-292 requests the demolition of the existing residence at 928 E. Balboa Boulevard, the construction of two new houses, and an after-the-fact authorization for the pool, spa and bulkhead. The applicants propose no changes to the existing swimming pool or bulkhead.

3. Coastal Commission Staff Feedback

- Although the Project's staff report has not yet been released, the applicants understand that the likely recommendation will include a condition requiring the relocation of the existing bulkhead approximately 30' landward. According to Commission staff, such an alignment is desired because it would put the bulkhead approximately in line with the existing abutting

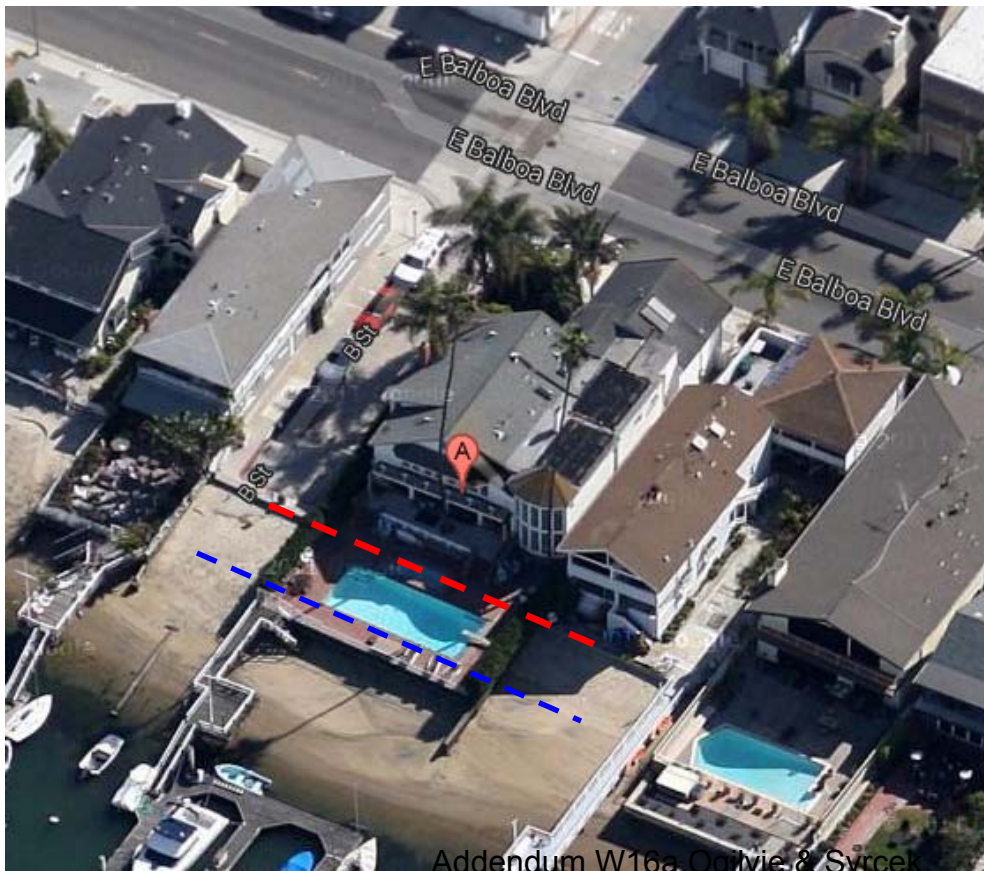
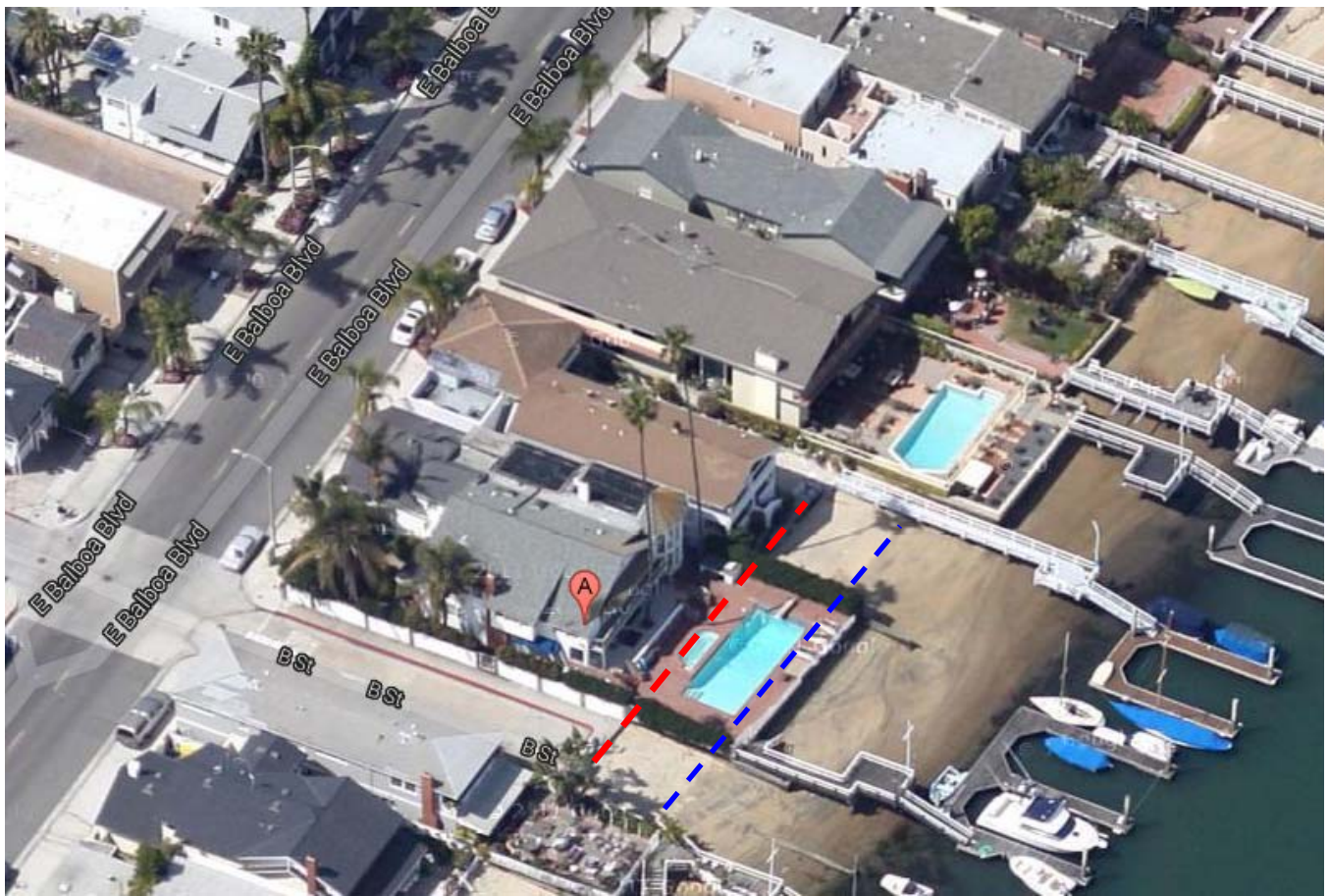
bulkhead on the property to north and the street to the south. Such an alignment would be approximately 24' landward of the alignment approved in CDP No. 5-87-822.

4. **Need for the Bulkhead:** According to GeoSoils' *Coastal Hazard Study for New Residential Development at 928 East Balboa Blvd. Newport Beach, Orange County*, the bulkhead is needed in its existing location for the following reasons:

- The bulkhead prevents flooding of East Balboa Boulevard through the property.
- The bulkhead protects vital infrastructure from flooding.
- The bulkhead prevents erosion/flooding of the adjacent property to the west, which is a slab on grade foundation that would be subject to undermining from bay waters if the bulkhead were removed.
- The bulkhead, in conjunction with all of the other sea walls and bulkheads around the bay, collectively function to help maintain the bay's navigation channels.
- The bulkhead protects the existing deck and pool, which are not proposed to be altered by the project.

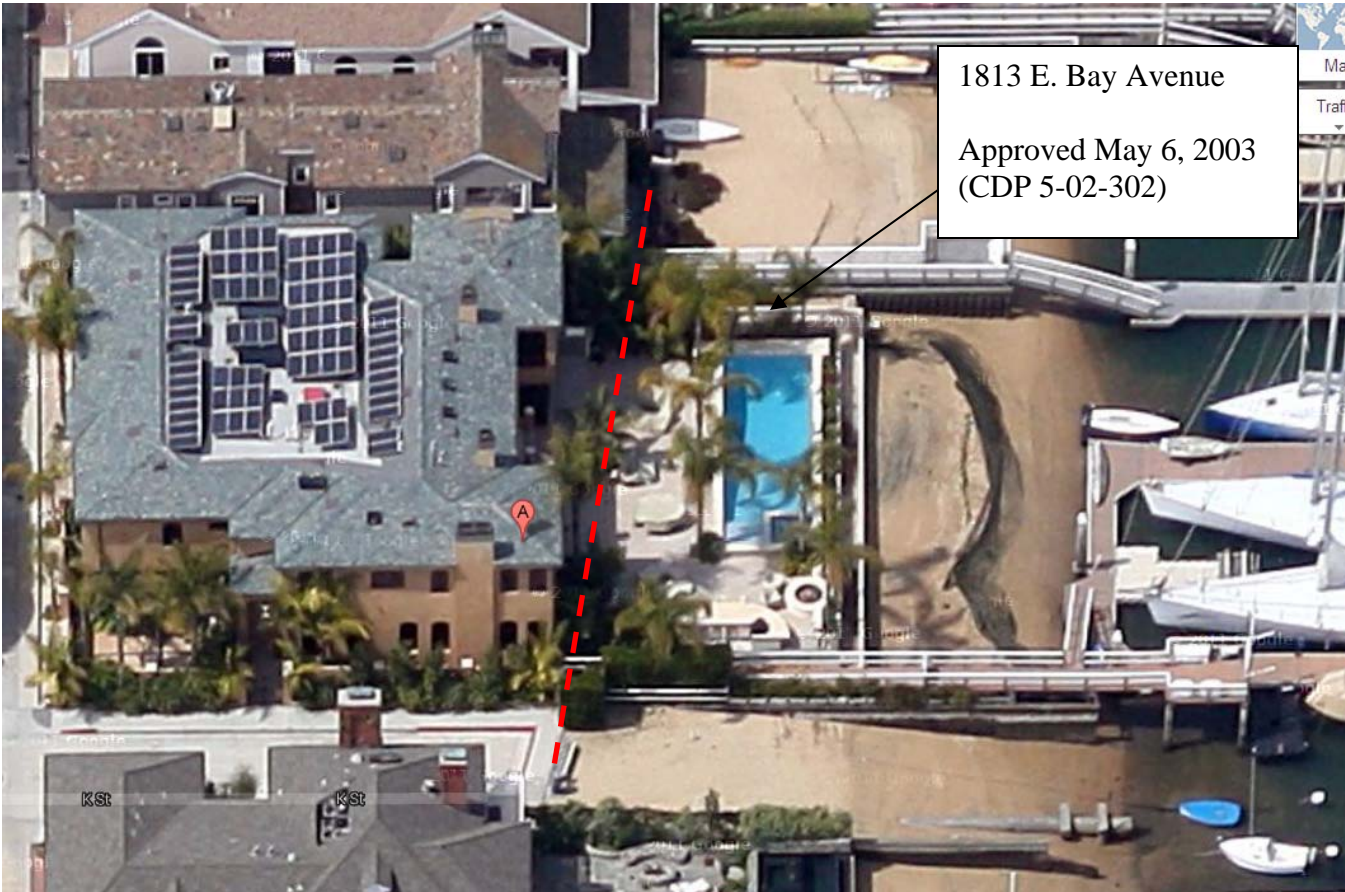
5. **Review of Previously Permitted Bulkheads:** The applicants undertook a comprehensive review of two dozen approved bulkhead projects in the vicinity of the Property, including bulkheads located one block north of the Property (i.e., extending north to the Balboa Fun Zone) and two blocks south of the Property, as well as other comparable properties in the immediate vicinity of the Property. The key findings from this research effort are as follows:

- **No Landward Relocation Required:** None of the reviewed files included a requirement by the Commission to relocate an existing bulkhead landward. This was the case even though: (1) the bulkheads associated with 1108 E. Balboa Avenue (CDP No. 5-89-030) and 1711 E. Bay Avenue (CDP No. 5-06-210) were originally built without the Coastal Commission's authorization; and (2) the bulkheads associated with 1701 E. Bay Avenue (CDP No. 5-09-079) and 1813 East Bay Avenue (CDP No. 5-02-302) extend further bayward than neighboring properties and adjacent seawall at end of I street.
- **No Reconstruction of Functional Bulkheads Required:** None of the reviewed files included a requirement by the Commission to reconstruct a bulkhead that remained functionally useful. Note that, according to William Simpson & Associates structural engineers, the existing bulkhead should last for the economic life of the two proposed single family homes at 928 E. Balboa Blvd.
- **No Relocation Required for Bulkheads Built Without a CDP:** The reviewed files contain two examples where the Commission approved an after-the-fact permit for a bulkhead that was initially constructed without a CDP.





1701 E. Bay Avenue
Approved August 14,
2009 (CDP 5-09-079)



1813 E. Bay Avenue
Approved May 6, 2003
(CDP 5-02-302)

Project Background: 928 E. Balboa Boulevard
CDP Application No. 5-12-292

1. **History of Bulkhead at 928 E. Balboa Blvd.:** On December 9, 1987, the Executive Director of the California Coastal Commission issued Administrative Coastal Development Permit (“CDP”) No. 5-87-822 (Exhibit A) to Robert Ruper, the *former* owner of 928 E. Balboa Boulevard (“Property”). At that time, the Property had a wooden bulkhead that was located on the U.S. Bulkhead line. CDP No. 5-87-822 allowed for the removal of that bulkhead and the construction of a new bulkhead approximately 20 feet landward of the U.S. Bulkhead line. The specific alignment of the bulkhead approved in CDP No. 5-87-822 was along the bayward edge of vacated Bay Avenue, an abandoned right-of-way located adjacent to Newport Bay and within the Property. The contractor’s stamped and approved plans by the City of Newport Beach (Exhibit B) indicated that the bulkhead would be built along the bayward edge of vacated Bay Avenue, and the current Property owners purchased the Property in 2012 understanding that the bulkhead was in fact built in that location. However, a survey conducted following the sale of the Property to the current owners (Exhibit C) indicated that the bulkhead was actually constructed between 6.24’ and 6.52’ bayward of the alignment approved in CDP No. 5-87-822. The reason for this deviation is not known, but it is possible that a surveying error is to blame. Of particular note in this regard is the fact that the bulkhead associated with 1000 E. Balboa Blvd. (across B Street from the Property) was *also* approved along the bayward edge of vacated Bay Avenue (Exhibit D) and was *also* built bayward of that line by the *same contractors* who worked on the Property’s bulkhead. Although we can only speculate, it is possible that these contractors lacked the requisite skill and/or equipment to accurately locate these bulkheads in their approved location at the bayward edge of vacated Bay Avenue.

2. **Pending CDP Application No. 5-12-292:** In 2012, Bruce Ogilvie and Rudy Svrcek (“Applicants”) purchased the house at 928 E. Balboa Boulevard from Ruper. The 928 E. Balboa property is a double lot and Applicants submitted a CDP application (CDP 5-12-292) to the Coastal Commission to demolish the existing residence and construct two new houses (the “Project”). Applicants proposed no changes to the existing swimming pool or bulkhead.

During the review of the application, Commission staff brought to Applicants attention that the bulkhead was not located where permitted, and that no CDP could be found for the swimming pool. Applicants requested that the application include an after-the-fact authorization for the pool, spa and bulkhead. The Project proposes no changes to, or work on, these existing structures. According to William Simpson & Associates structural engineers (Exhibit E), this bulkhead should last for the economic life of the Project’s two single family homes.

3. **Coastal Commission Staff Feedback:** Although the Project's staff report has not yet been finalized, Commission staff [Teresa Henry (District Manager), John Del Arroz (Coastal Program Analyst), and Karl Schwing (Area Supervisor)] indicated in a meeting with Applicants that the likely recommendation will include a condition requiring the relocation of the existing bulkhead approximately 30' landward. According to Commission staff, such an alignment is desired because it would put the bulkhead approximately in line with the existing abutting bulkhead on the property to north and the street to the south of the Project site. Such an alignment would be approximately 24' landward of the alignment approved in 1987 in CDP No. 5-87-822.

4. **GeoSoils Report:** GeoSoils' *Coastal Hazard Study for New Residential Development at 928 East Balboa Blvd. Newport Beach, Orange County* (Exhibit E) included a detailed hazards analysis for the Project. Its key conclusions follow:
 - a. **Erosion:** The shoreline fronting the Property is stabilized and not subject to measurable long term slow erosion. Analysis of aerial photographs shows no change in the position of the shoreline over the last several decades. Because the shoreline is stabilized, the future shoreline changes over the next 75 years can be assumed to be the same as in the previous few decades. It is unlikely that there will be any significant change in Newport Bay with regards to the dredging program, the vessel traffic, local wind waves, or any of the other factors that contribute to beach erosion in the next 75 to 100 years. Shoreline erosion will therefore not significantly impact the proposed Project.

 - b. **Waves and Wave Runup:** Because the ocean shoreline is over 750 feet away and separated from the Property by streets and other residences, wave runup cannot reach the Property. The bay-generated waves that arrive at the Property are very small (a few inches) wind waves and boat wakes. Both of these types of waves are dampened by the moored vessels, dock systems, and existing permitted bulkhead that are located in front of the Property. These very small waves have very little energy or runup potential. Tsunami-type waves that approach from the ocean shoreline will likely not reach the Property for several reasons. There is NO significant near field source of a tsunami like the geologic conditions off the coast of Japan which triggered the recent tsunami. A far field tsunami reaching the ocean shoreline will likely not reach the Property because of the distance and development (structures) between the shoreline and the Property. A near or far field tsunami propagating into Newport Bay proper would likely cause a seiche or standing wave on the order of 1 foot traveling within the bay. As discussed in the seal level rise section below, a 1 foot wave would not result in overtopping of the site bulkhead under current tidal conditions. In as much as a tsunami is a very infrequent occurrence (500-year recurrence interval), it would not be considered a significant impact over the life of the proposed Project.

- c. **Sea Level Rise:** The primary hazard due to flooding from ocean/bay waters would be due to a long term sea level rise, not current water levels (tides) within in the bay. There have been a number of recent studies that provide some predictions as to the amount of future sea level rise in Newport Bay. The City of Newport Beach contracted Everest International Consultants, Inc. (EICI) to produce an assessment report on the Balboa Island seawall(s) (EICI, 2011). This report provides a comprehensive discussion of future sea level rise and the potential for flooding of Balboa Island, and is applicable to the Property. In addition, the U.S. Army Corps of Engineers has provided a guideline for incorporating sea level change in civil works projects (U.S. Army Corps of Engineers, 2009). The 2009 guideline provides a high, an intermediate, and a low sea level rise estimate. EICI's April 2011 report provides a comparison of the sea level rise projections of the Corps of Engineers, the California Ocean Protection Council (COPC), and the California Coastal Conservancy.

Under all sea level rise predictions, the Project is safe from flooding until about the year 2063 under the highest COPC sea level rise rate. According to the mean of all the estimates, including the COPC High estimate, the Project would be safe from flooding until 2075. Using the COPC low projection, the Project is safe until the year 2075. Finally, under some sea level rise predictions, the Project will be safe until at least 2100.

- d. **Need for the Bulkhead:** GeoSoils' report identified the following reasons to retain the existing bulkhead on the Property:
- i. **The Existing Bulkhead Prevents Flooding of the Street Through the Property:** The main arterial street along this portion of the peninsula is East Balboa Boulevard. The elevation of the East Balboa Boulevard flow line is ~+6.5 feet NAVD88 and in some nearby sections even lower, while the maximum still high water in the bay (without super elevation due to wind waves and wakes) is about +7 feet NAVD88. The street is therefore below the maximum high water and would be subject to flooding if not for the system of bulkheads and sea walls that prevents the bay waters from flooding the street through the properties. The existing bulkhead is in line with properties in the immediate vicinity. The existing bulkhead wall is needed to prevent the flooding and closure of this main arterial street. Such flooding would be a concern even if the groins on either side of the bulkhead remained, but the bulkhead itself were removed.

- ii. **The Bulkhead Protects Vital Infrastructure from Flooding:** Much of the peninsula infrastructure is at or below street level. This includes telephone hardware, some electrical transmission lines, sewer transmission piping and manholes, and storm water. Power and telephone outages as a result of flooding are problematic. However, a power outage to the sewer transmission system or even flood water overwhelming the sewer lines and storm drain system can result in significant environmental damage to the Newport Bay ecosystem.
 - iii. **The Bulkhead Prevents Erosion/Flooding of the Adjacent Property to the West:** The residence and improvements to the west of the Property are protected by the existing bulkhead. The foundation of this residence was designed based upon the existence of the bulkhead and the protection that it affords. The residence is a slab on grade foundation which would be subject to undermining from bay waters if the wall were removed. Removal of the wall would contribute significantly to the erosion and geologic instability of this adjacent site.
 - iv. **The bulkhead is part of the bay system:** The bulkhead in conjunction with all of the other sea walls and bulkheads around the bay collectively function to help maintain the bay's navigation channels. The tidal flows are constrained to flow along the designed channels by the walls and bulkheads. The constriction of the flows creates a channel a velocity sufficient to help prevent sediment build up within the navigation channels.
 - v. **The bulkhead protects the existing deck and pool:** The bulkhead protects the existing deck and pool which are not proposed to be altered by the Project. If the bulkhead were removed it would result in flooding of adjacent and nearby improvements including residential properties and public streets. It could also undermine the lateral support for the pool and deck area, potentially causing subsidence of that area into the bay.
5. **Review of Previously Permitted Bulkheads:** The Applicants undertook a comprehensive review of dozens of approved bulkhead projects in the vicinity of the Property, including: 900, 910, 912, 914, 916, 918, 920, 1000, 1022, 1024, 1100, 1106, 1108, 1112, 1114, 1120, 1124, 1126, and 1208 East Balboa Boulevard, as well as 1617, 1701, 1711 and 1913 East Bay Avenue. Like the Property, each of these properties abuts Lower Newport Bay and is located south/southeast of the Balboa Fun Zone. The key findings from this research effort are as follows:

- a. **No Landward Relocation Required:** None of the reviewed files included a requirement by the Commission to relocate an existing bulkhead landward. This was the case even though: (1) the bulkhead at issue in CDP Nos. 5-89-030 (Exhibit G) and 5-06-134 (Exhibit H) were originally built without the Coastal Commission's authorization; and (2) the bulkheads at issue in CDP Nos. 5-09-079 (Exhibit I) and 5-02-302 (Exhibit J) extend further bayward than neighboring properties and adjacent seawall at end of I street.
- b. **No Reconstruction of Functional Bulkheads Required:** None of the reviewed files included a requirement by the Commission to reconstruct a bulkhead that remained functionally useful. Note that, according to William Simpson & Associates structural engineers, the existing Bulkhead should last for the economic life of the Project's two single family homes.
- c. **No Relocation Required for Bulkheads Built Without a CDP:** The reviewed files contain two examples where the Commission approved an after-the-fact permit for a bulkhead that was initially constructed without a CDP.
- i. **CDP No. 5-89-030:** The first after-the-fact permit (Exhibit G), associated with 1108 E. Balboa Avenue, related to a bulkhead and residential patio that were constructed in 1988 seaward of the existing residence without a CDP or building permit. The total fill associated with that construction amounted to approximately 1,150 square feet. Nevertheless, an after the fact CDP was issued in connection with this activity on October 10, 1989 (CDP No. 5-89-030) and an amendment to that CDP was approved on June 8, 1990. The amendment included dredging for habitat restoration on a 1,150 sf area as mitigation for habitat loss.
- ii. **CPD No. 5-06-210:** The second after-the-fact permit (Exhibit H), associated with 1711 E. Bay Avenue, is much like the Project as it related primarily to the construction of a new single family residence and the after-the-fact approval of an existing bulkhead. The issued CDP allowed for the replacement of the bulkhead cap and the after-the-fact approval of the bulkhead itself. Notably, the Staff Report associated with CPD No. 5-06-210 stated that "[t]he proposed bulkhead is necessary to protect existing structures from tidal induced erosion and will have no new impacts upon shoreline sand supply because the device is located in the same location as the existing." The applicant agreed to a monitoring plan to ensure that the bulkhead was kept in good condition throughout the life of the development. The monitoring plan included regular inspections by a licensed engineer.

d. **Recently Approved Bulkhead Allowed to Extend beyond Neighbors:**

- i. **CDP 5-09-079:** On August 14, 2009, the Coastal Commission granted CDP 5-09-079 (**Exhibit I**) to allow for the demolition of an existing bulkhead and the reconstruction of a new 61' concrete bulkhead in the same location at 1701 E. Bay Avenue. The approved bulkhead extends bayward of the existing bulkheads that flank it to the west (end of I Street) and east (1705 E. Bay Avenue).
- ii. **CDP 5-02-302:** Similarly, on May 6, 2003 the Coastal Commission granted CDP 5-02-302 (**Exhibit J**) to allow for, among other things, a "pool safety wall and walkway" at 1806 East Balboa Blvd. and 1813 East Bay Avenue. Although these structures were not intended to perform as a bulkhead/seawall, they have the same general appearance as a bulkhead/seawall and their affect on coastal access and marine resources is the same as if they were a bulkhead or seawall. Nevertheless, the Coastal Commission approved the encroachment of pool safety wall and walkway into Newport Bay because such a location was deemed to be consistent with the overall pattern of development in the area.

6. **City Support Letters:**

- a. **Chris Miller:** City of Newport Beach Harbor Resources Manager Chris Miller has submitted a letter to the Coastal Commission (**Exhibit K**) in support of keeping the Property's bulkhead in the existing location. According to that letter, "the existing bulkhead associated with 928 E. Balboa Boulevard does not present navigational or other concerns to the City of Newport Beach, and [] keeping an existing, functioning bulkhead in place is preferable to requiring demolition and reconstruction."
- b. **Jim Campbell:** City of Newport Beach Principal Planner Jim Campbell has submitted a letter to the Coastal Commission (**Exhibit L**) stating that the City would not support a recommendation by staff to relocate the existing bulkhead approximately 30' landward. The reasons for this position are twofold: (1) the demolition, removal, and reconstruction of an existing, structurally sound bulkhead would be unnecessarily disruptive to the Lower Newport Bay environment; and (2) a 30' landward relocation seems unwarranted.

310471015.3

EXHIBIT A

RECEIVED
DEC-4 1987
 CALIFORNIA
 COASTAL COMMISSION
 SOUTH COAST DISTRICT

CALIFORNIA COASTAL COMMISSION
 SOUTH COAST AREA
 45 WEST BROADWAY, SUITE 1800
 NEWPORT BEACH, CA 90802
 (3) 590-5071

Page 1 of 3
 Permit Application No. 5-87-822
 Date 11/10/87:PG/do



**CALIFORNIA
 COASTAL COMMISSION
 SOUTH COAST DISTRICT ADMINISTRATIVE PERMIT**

APPLICANT: Robert F. Ruper

PROJECT DESCRIPTION: Remove an existing residential bulkhead and construct a new bulkhead approximately 20 feet landward of the U. S. Bulkhead line and the existing bulkhead.

PROJECT LOCATION: 928 East Balboa Blvd., Newport Beach, Orange County.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, are discussed on subsequent pages.

Pursuant to Public Resources Code Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, 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, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, 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: 9:00 A.M. - December 9, 1987. (415) 431-9776.
 State Building, Room 1194, 350 McAllister St., San Francisco.

IMPORTANT - Before you may proceed with development, the following must occur: For this permit to become effective 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 acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development. **BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE PERMIT AUTHORIZATION FROM THIS OFFICE.**

PETER DOUGLAS
 Executive Director

By: *Raman*
 Coastal Program Analyst

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

(See Page 3.)

SPECIAL CONDITIONS:

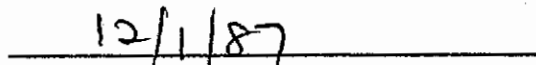
None.

ACKNOWLEDGEMENT 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

Addendum W16a Ogilvie & Svrcek

EXECUTIVE DIRECTOR'S DETERMINATION (Continued).

In this general area, the City does not permit a bulkhead beyond the line of the vacated Bay Avenue Street right-of-way line. Any existing bulkhead beyond this line that needs to be replaced, the City requires that it be placed back to the R/W line. Also requires the old bulkhead to be removed and the sand area be restored. According to the Fish and Game biologist such projects are preferred as they may increase intertidal area depending on the sand elevations. Therefore, by moving the new bulkhead landward by 20 feet there is the potential to regain the intertidal area. The Executive Director further determines that the project is consistent with the Coastal Act.

4235A

CALIFORNIA COASTAL COMMISSION



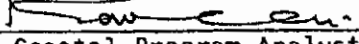
SOUTH COAST AREA

200 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071Date: December 21, 1987:PG/do
Permit No.: 5-87-822PERMIT AUTHORIZATIONDr. Robert F. Ruper
928 E. Balboa Blvd.
Balboa, CA 92661

Dear Dr. Ruper:

Please be advised that you are hereby authorized to proceed with development of your project, Permit Number 5-87-822, which was reported to the Commission on December 9, 1987. Development of your project is subject to compliance with all terms and conditions specified in the Administrative Permit which was sent to you on November 25, 1987.

Should you have any questions, please contact our office.

PETER DOUGLAS
Executive Directorby: 
Coastal Program Analyst

4574A

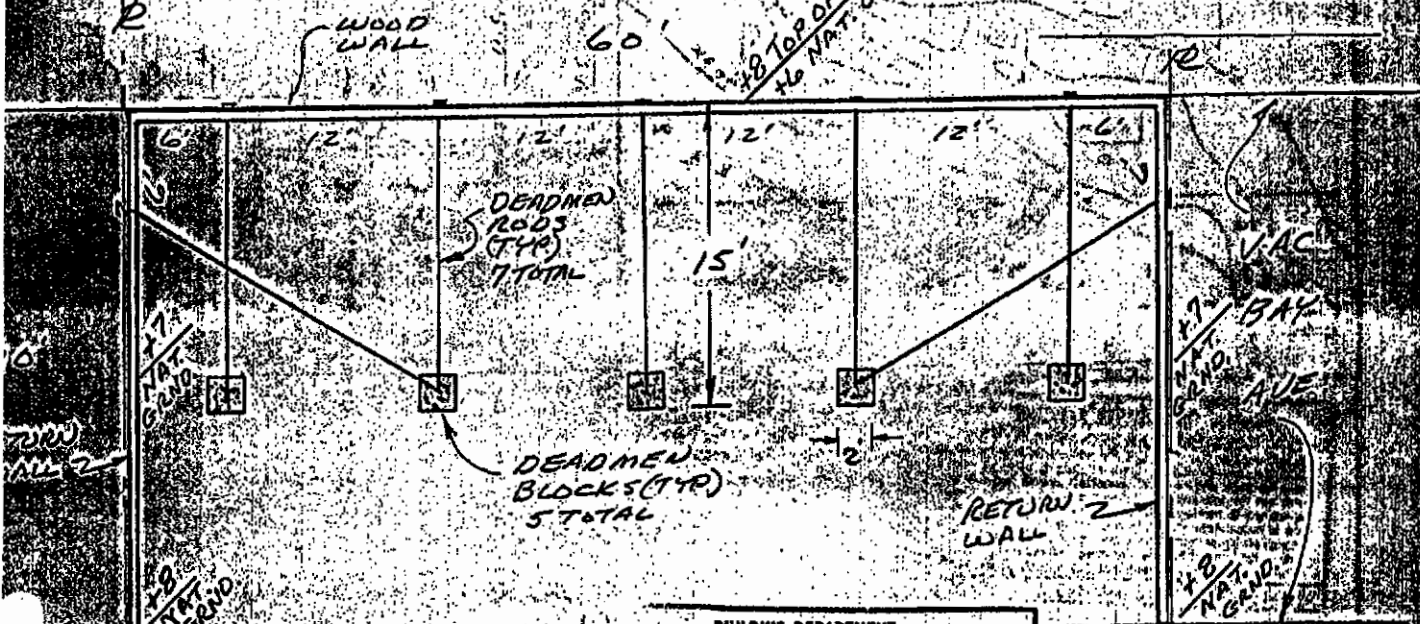
EXHIBIT B

STWEIN BROS.
FRONT CONSTRUCTION
 General Engineering Contractors
 Newport Blvd., Newport Beach, Calif. 92663
 (714) 673-1960

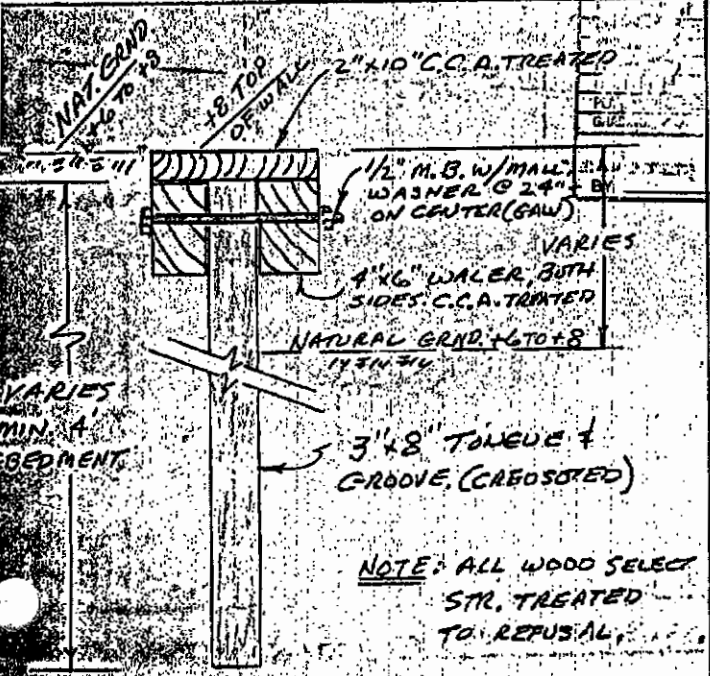
SUBJECT: PROPOSED WOOD WALL REPLACEMENT
@ 928 E. BALBOA BLVD.
 FOR: DR. ROBERT F. RUPER

SHEET No. 1 OF 1
 JOB No. 87213

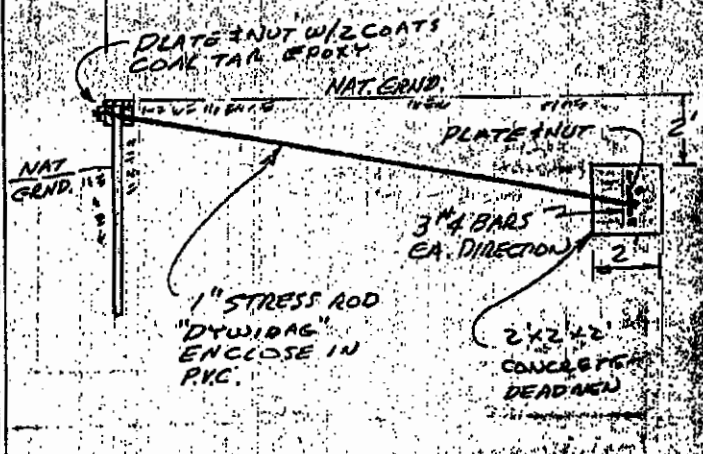
BY: SAK RAHSS DATE: 1/18/88
 CHKD. BY: _____ DATE: _____



BUILDING DEPARTMENT
 CITY OF NEWPORT BEACH, CALIF.
 Plans approved for construction are subject to the requirements of the Building Regulations and Planning and Zoning Ordinance of the City of Newport Beach, California. This approval does not constitute an expressed or implied consent or authorization for the construction of any structure in violation or contravention of any law or ordinance of the City of Newport Beach, nor the construction of any structure which no Building Permit has been issued. Deviations from the approved plans are not permitted without filing supplemental plans approved therefor.



CHECKED BY: _____ DATE: _____
 APPROVED TO ISSUE: _____ DATE: _____



CITY OF NEWPORT BEACH - BUILDING DEPARTMENT
3300 Newport Blvd. - Phone: (714) 644-3255

Permit No.: B6202 P/C No.: - Date: 1/28/88

Job Address: 928 E. Briwa

Owner: Super Builder: Kautman

<u>UNDERGROUND</u>		<u>Signature</u>	<u>Date</u>
G1	Pregrade		
P1	Soil Pipe		
P2	Sewer		
P3	Water Pipe		
P4	Gas Pipe		
M1	Heating		
E2	Under Ground		
E3	Electrical		
B1	Setback & Foundation		
G2	Backfill		
S2	Slab or Deck		
DO NOT COVER OR POUR CONCRETE UNTIL ABOVE SIGNED OFF			
<u>ROUGH</u>			
S3	Roof Frame & Sheathing		
P5	Plumbing (Topout)		
P6	Gas Pipe		
M2	Mechanical (HVAC)		
M3	Range Hood		
S5	Fireplace		
E4	Electrical		
S4	Framing		
S6	Insulation		
COVER NO WORK UNTIL ABOVE SIGNED OFF			
<u>EXTERIOR AND INTERIOR COVERING</u>			
S7	Drywall		
S8	Interior Lath		
S8	Exterior Lath (Stucco)		
S9	Plaster - Scratch		
S10	Plaster - Brown		
<u>MISCELLANEOUS</u>			
B11	Masonry		
S12	Suspended Ceiling (T-Bar)		
E5	Electrical (Ceiling/Wall)		
E6	Electrical (Switchgear)		
<u>FINAL</u>			
P10	Plumbing		
M5	HVAC		
P7	Gas Pressure Test		
E8	Electrical		
F1	Fire Department		
G4	Grading		
S14	Structural		
DO NOT OCCUPY UNTIL FINAL INSPECTIONS SIGNED OFF!!!			

Beach
Beach, CA 92856-8915
Phone: (714) 844-3253

BUILDING PERMIT APPLICATION

B- 6202

PLAN CHECK NO. Attached

BUILDING ADDRESS 928 E. Palmdale Blvd		LOCALITY (GROSS ST.) "B" STREET	
LOT NO 13 #14	BLOCK 13	STAT AREA M.D.	TYPE CONST. VA
LOT SIZE 60' x 100' ±	USE OF STRUCTURE Retain wall	GRADING APPROVAL REQUIRED YES / NO	VACANT SITE YES / NO
OWNER Dr. Robert F. Lopez	TEL NO 673-3960	USE ZONE	PARKING SPACES
ADDRESS 928 E. Palmdale Blvd.	SPEC CONDS max height 31'-0"		
CITY Baldwin	ZIP 92661		
CONTRACTOR Trustwin Bros. Waterfront Const.			
ADDRESS 240 Newport Blvd	TEL NO 675-1960		
CITY Newport Beach	ZIP 92663	YARDS REAR RO	LS
LICENSE CLASS A	STATE LIC NO 451539	ZONING APPROVAL Noted	FAIR SHARE \$
ARCHITECT OR ENGR Sam Kniss	TEL NO 673-1960	FIRE APPROVAL	EXCISE TAX \$
ADDRESS 240 Newport Blvd	ZIP 92663	GRADING APPROVAL	SAN DISTRICT NO. ZONE \$
CITY Newport Beach	LIC NO C 017377	PLAN CHK B	SJNYC \$
DESCRIPTION OF WORK		APPROVAL TO ISSUE	
NEW <input checked="" type="checkbox"/>	ADD <input type="checkbox"/>	ALTER <input type="checkbox"/>	REPAIR <input type="checkbox"/>
		DEMOLISH <input checked="" type="checkbox"/>	
		TOTAL \$	

Remove old wood wall and install a new wood wall, 110' x 4' wall on lot.

SIGNATURE OF APPLICANT *Robert F. Lopez*

LICENSED CONTRACTORS DECLARATION

I HEREBY AFFIRM THAT I AM A LICENSED CONTRACTOR IN FULL FORCE AND EFFECT IN THE STATE OF CALIFORNIA UNDER THE PROVISIONS OF CHAPTER 9 COMMENCING WITH SECTION 26000 OF DIVISION 9 OF THE BUSINESS AND PROFESSIONS CODE AND MY LICENSE IS IN FULL FORCE AND EFFECT.

LICENSE NO. **A** 451539-A

CONTRACTOR **Trustwin Bros.** DATE **1/18/88**

OWNER-BUILDER DECLARATION

I HEREBY AFFIRM THAT I AM EXEMPT FROM THE CONTRACTOR'S LICENSE LAW FOR THE FOLLOWING REASON: I AM THE OWNER OF THE PROPERTY AND I AM THE ONLY PERSON WHO HAS BEEN PERMITTED TO CONSTRUCT OR REPAIR ANY STRUCTURE ON THE PROPERTY AND I AM THE ONLY PERSON WHO HAS BEEN PERMITTED TO CONSTRUCT OR REPAIR ANY STRUCTURE ON THE PROPERTY AND I AM THE ONLY PERSON WHO HAS BEEN PERMITTED TO CONSTRUCT OR REPAIR ANY STRUCTURE ON THE PROPERTY.

AS OWNER OF THE PROPERTY, I AM EMPLOYED WITH WAIVER IN THE STATE OF CALIFORNIA AND I AM NOT EMPLOYED WITH WAIVER IN THE STATE OF CALIFORNIA AND I AM NOT EMPLOYED WITH WAIVER IN THE STATE OF CALIFORNIA.

AS OWNER OF THE PROPERTY, I AM EMPLOYED WITH WAIVER IN THE STATE OF CALIFORNIA AND I AM NOT EMPLOYED WITH WAIVER IN THE STATE OF CALIFORNIA AND I AM NOT EMPLOYED WITH WAIVER IN THE STATE OF CALIFORNIA.

DATE **1/18/88**

WORKERS' COMPENSATION DECLARATION

I HEREBY AFFIRM THAT I HAVE A CERTIFICATE OF CONSENT TO SELF-INSURE, OR A CERTIFICATE OF WORKERS' COMPENSATION INSURANCE, OR A CERTIFIED COPY THEREOF, SEE 8000 LABOR CODE.

DATE **1/18/88**

CERTIFIED COPY IS HEREBY FURNISHED

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

I HEREBY AFFIRM THAT I AM EXEMPT FROM THE WORKERS' COMPENSATION PROVISIONS OF THE LABOR CODE FOR THE WORK FOR WHICH THIS PERMIT IS ISSUED.

DATE **1/18/88**

CONSTRUCTION LENDING AGENCY

I HEREBY AFFIRM THAT THERE IS A CONSTRUCTION LENDING AGENCY FROM THE PERFORMANCE OF THE WORK FOR WHICH THIS PERMIT IS ISSUED.

LENDER'S NAME **Great American**

DATE **1/18/88**

SIGNATURE OF PERMITTEE *Sam Kniss* DATE **1/18/88**

FEES: \$225.00 Other Fees \$ 150.00

AS PER \$ 400.00 Total Fees **\$ 261.53**

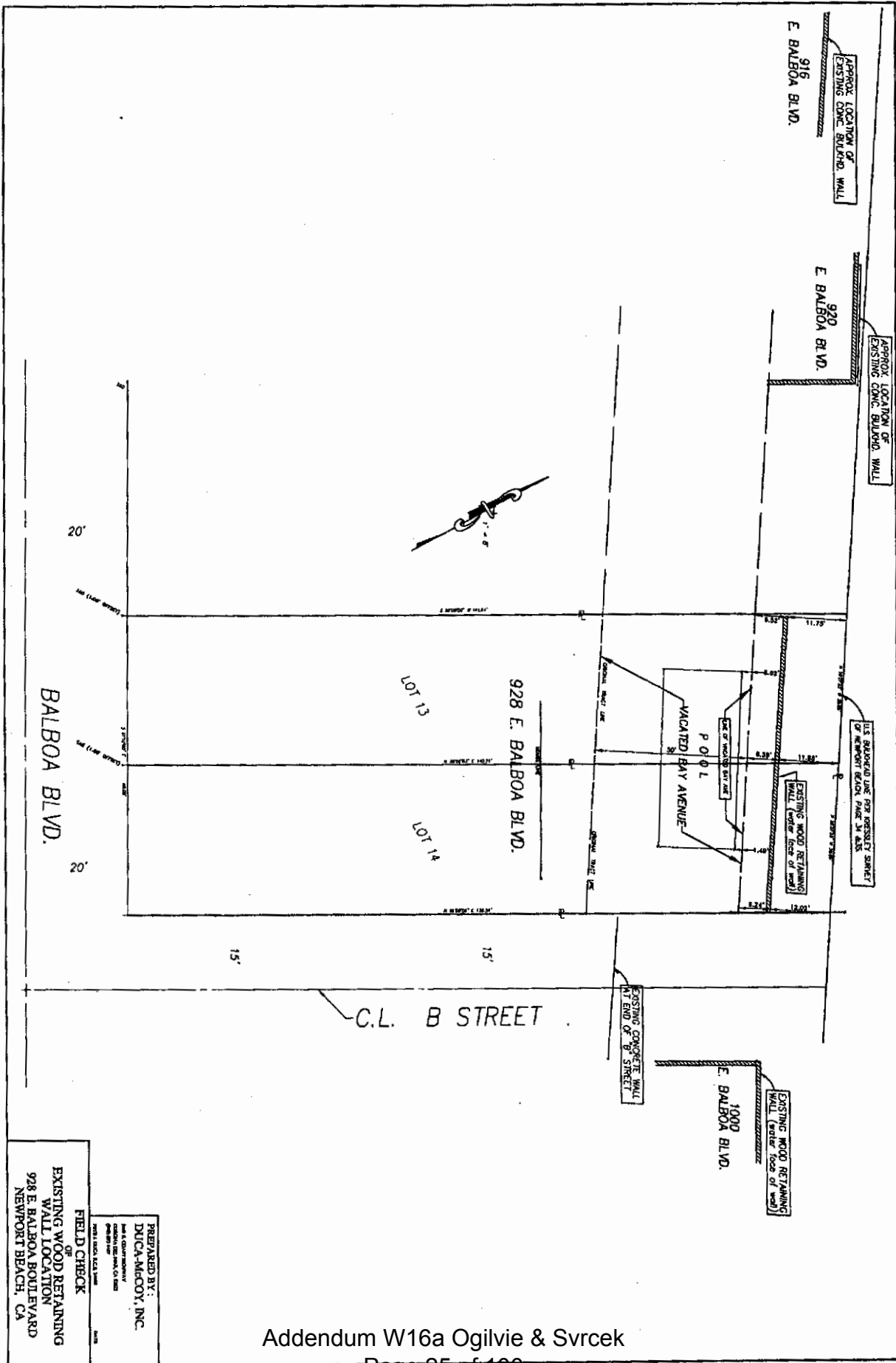
WORK MUST BE STARTED WITHIN A PERIOD OF 180 DAYS FROM THE DATE OF VALIDATION OR THIS PERMIT BECOMES NULL AND VOID

PLAN CHECK VALIDATION PERMIT VALIDATION

4559 0 3 01/28/88 261.53 TOTL

INSPECTOR'S COPY

EXHIBIT C



FIELD CHECK
 OF
 EXISTING WOOD RETAINING
 WALL LOCATION
 928 E BALBOA BOULEVARD
 NEWPORT BEACH, CA

PREPARED BY:
 DUNCA-MCCOY, INC.
 10000 E. BALBOA BLVD.
 NEWPORT BEACH, CA 92658
 949-861-1111
 www.dunca-mccoy.com

EXHIBIT D

CITY OF NEWPORT BEACH
Marine Department

Agenda Item
F-13

September 14, 1987

BY THE CITY COUNCIL
CITY OF NEWPORT BEACH

TO: MAYOR AND CITY COUNCIL
FROM: Marine Department

SEP 14 1987
*To Tideland's Affairs
Cmtc for report back
on 9-28-1987*

SUBJECT: HARBOR PERMIT APPLICATION 111-1000 BY
CAROL SENOUR TO BUILD A BULKHEAD BAYWARD
OF 1000 EAST BALBOA BOULEVARD.

Recommendation:

APPD. @ 30'

If desired deny the application.

*(BAYWARD LINE OF ABAND.
BAY AVE.)*

Discussion:

This application is before the City Council as required by Section 5.B. of the Harbor Permit Policies which states:

5.B. ISSUING OF PERMITS

Prior approval of the City Council will be required before the Marine Department may issue any permit that does not conform to standard drawing and the adopted Harbor Permit Policies.

This particular applicant proposes to build a bulkhead 15 feet beyond the bayward side of vacated East Bay Avenue. The staff is not able to issue a permit for the bulkhead in this location, as outlined in section 16.A. of the Harbor Permit Policies.

16.A. BULKHEADS

The Marine Department may issue permits for bulkheads, between U.S. Bulkhead Station Numbers 112-109 not to exceed the bayward side of the "Vacated East Bay Avenue." Concrete bulkheads and wooden retaining wall structures proposed to be constructed bayward of the bayward most line of vacated East Bay Avenue shall be subject to City Council Approval

APPROVED BY CITY COUNCIL

Addendum W. O. Ogilvie & Svrcek

Page 27 of 100

DATE 9-29-87

*ON THE
BAYWARD LINE
OF ABANDONED
BAY AVE.*

F13

In the past Staff has recommended denial for bulkheads bayward of the bayward side of vacated East Bay Ave for the following reasons; First, a standard location promotes a uniform bulkhead line which has a number of practical benefits as well as esthetic ones and secondly, by holding bulkheads back some sandy sloping beach is preserved bayward of the wall. This has the potential to be a positive influence on water quality and it also provides an intertidal habitat.

Dave Harshbarger
Marine Department


Tony Melum
Tidelands Administrator

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071

Date: December 22, 1989

TO: Trautwein Brothers
2410 Newport Blvd.
Newport Beach, CA 92663

SUBJECT: Waiver of Coastal Development Permit Requirement/De Minimis Developments—Section 30624.7 of the Coastal Act

Based on your project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Administrative Code. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

WAIVER # 5-89-1105 APPLICANT: Bob Senour

LOCATION: 1000 E. Balboa Blvd., NEWPORT BEACH

PROPOSED DEVELOPMENT: Replace residential bulkhead and return walls within U.S. bulkhead line.

RATIONALE: The proposed project will have no adverse impacts on coastal resources, is consistent with the Coastal Act, the City's Land Use Plan and past Commission actions.

This waiver will not become effective until reported to the Commission at their January 9-12, 1990, meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the Administrative Code. The enclosed Notice Card shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Charles Dammm
CHARLES DAMM
South Coast District Director

by: *Gary Jimm*

cc: Commissioners/File
0148V



CITY OF NEWPORT BEACH

CALIFORNIA

7244

MARINE DEPARTMENT
70 Newport Pier

City Hall
8300 Newport Blvd.
(714) 673-2110

APPROVAL IN CONCEPT

APPROVAL IN CONCEPT BY THE CITY OF NEWPORT BEACH as required for permit application to the South Coast Regional Commission pursuant to California Administrative Code, Sections 13210 and 13211.

General Description of Proposed Development: Replace existing
grain walls, add new facing wall

Property Address: 1100 E. Ballou Blvd Newport Beach CA

Legal Description: _____

City Harbor Permit Number: 111-1000

Applicant: Bob Senow

Applicant's Mailing Address: Same as above

Applicant's Telephone Number: (714) 673-1960

I have reviewed the plans for the foregoing development including:

1. The general site plan, including any roads and public access to the shoreline.
2. The grading plan, if any.
3. The general uses and intensity of use proposed for each part of the area covered in the application.

and find

- They comply with the current adopted Newport Beach General Plan, Zoning Ordinance, Subdivision Ordinance, and any applicable specific or precise plans or
- That a variance or exception has been approved and is final.

APPROVAL IN CONCEPT

A copy of any variance, exception, conditional use permit, or other issued permit is attached together with all conditions of approval and all approved plans including approved tentative tract maps. On the basis of this finding, these plans are approved in concept and said approval has been written upon said plans, signed, and dated.

Should Newport Beach adopt an ordinance deleting, amending, or adding to the Zoning Ordinance or other regulations in any manner that would affect the use of the property or the design of a project located thereon, this approval in concept shall become null and void as of the effective date of this said ordinance.

In accordance with the California Environmental Quality Act of 1970, and state and local guidelines adopted thereunder, this development:

- Has been determined to be ministerial or categorically exempt
- Has received a final Exemption Declaration or final Negative Declaration (copy attached).
- Has received a Final Environmental Impact Report (copy attached).

All discretionary approvals legally required of Newport Beach prior to issuance of a building permit have been given and are final. The development is not subject to rejection in principal by Newport Beach unless a substantial change in it is proposed.

This concept approval in no way excuses the applicant from complying with all applicable policies, ordinances, codes, and regulations of Newport Beach.

D. Harshbarger
Marine Director

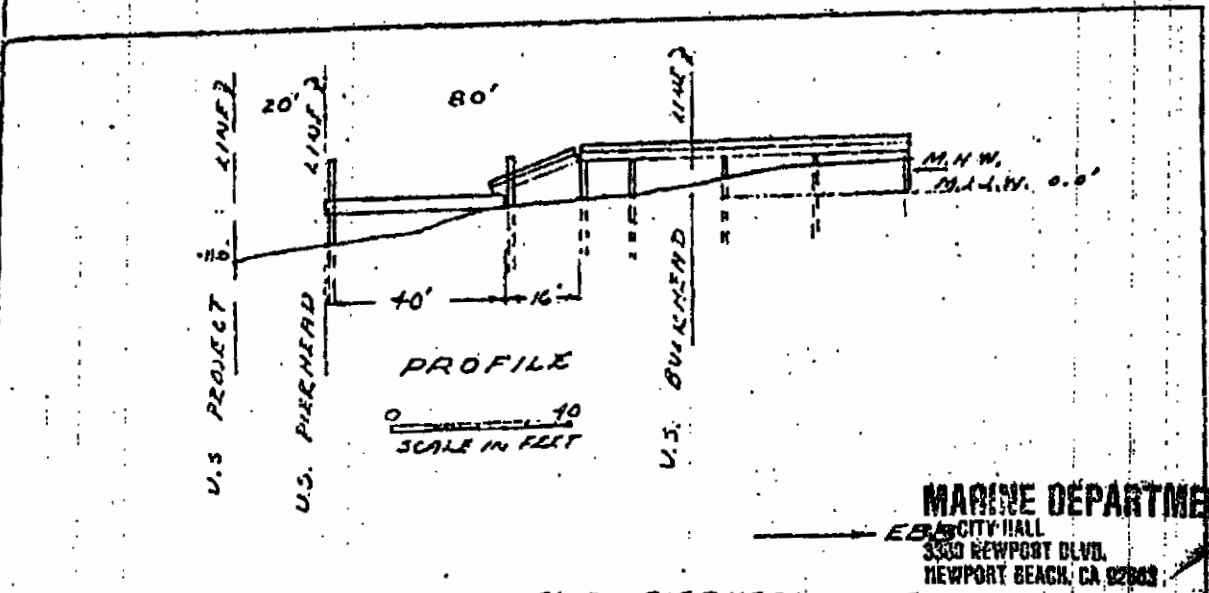
By: Tony Melum
Signature

Tony Melum - Tidelands Adm.
Printed name and title of individual signing

Date: 11/18/88

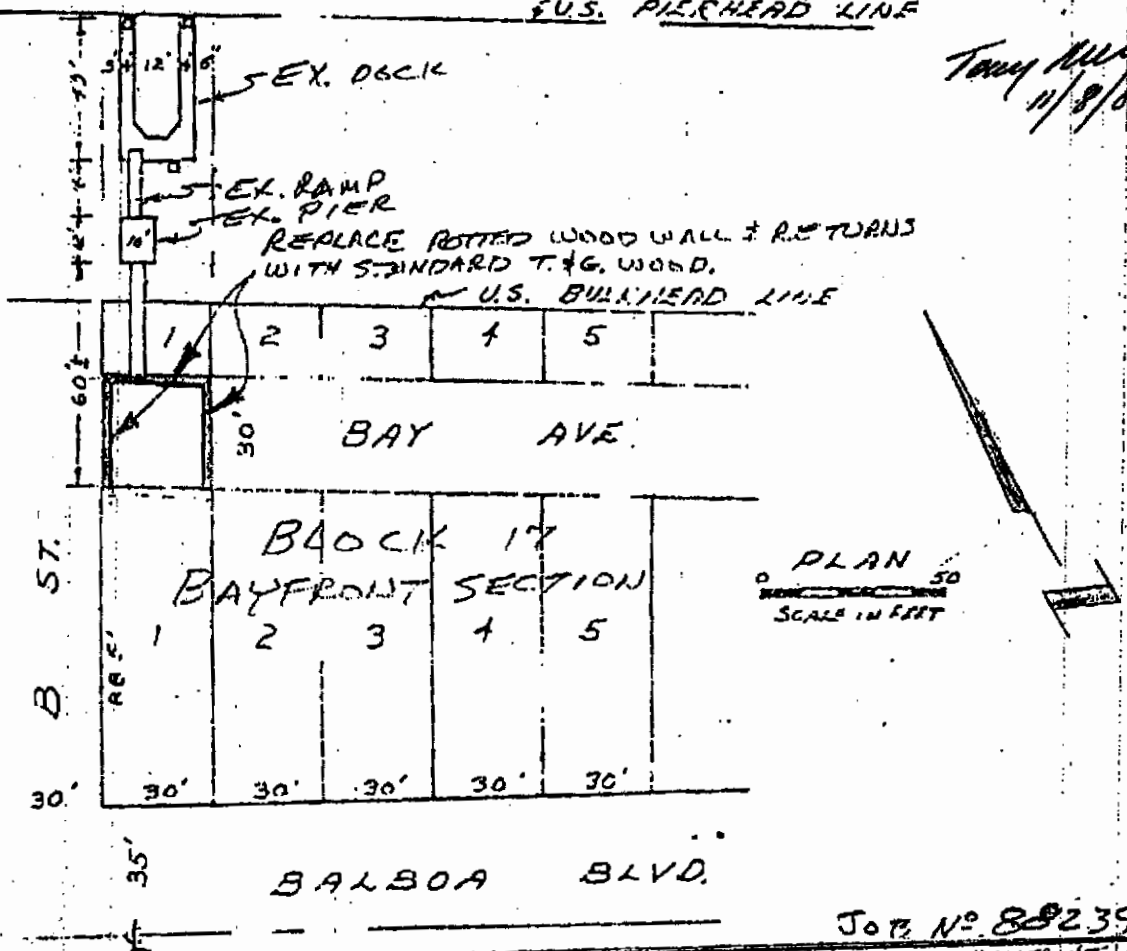
Attachments:

1. *Two stamped drawings*
- 2.
- 3.
- 4.



MARINE DEPARTMENT
 EBB CITY HALL
 3300 NEWPORT BLVD.
 NEWPORT BEACH, CA 92663

Tony Miller
 11/8/88



Job No: 88239

APPLICANTS NAME: <i>Richard Sewell</i>	BLK: 17	BAYFRONT SECT. TRACT
JOB ADDRESS: 1000 E. BALBOA	CONTRACTOR: SA. KAUS	DATE: 9/10/88

**TRAUTWEIN BROS.
WATERFRONT CONSTRUCTION**

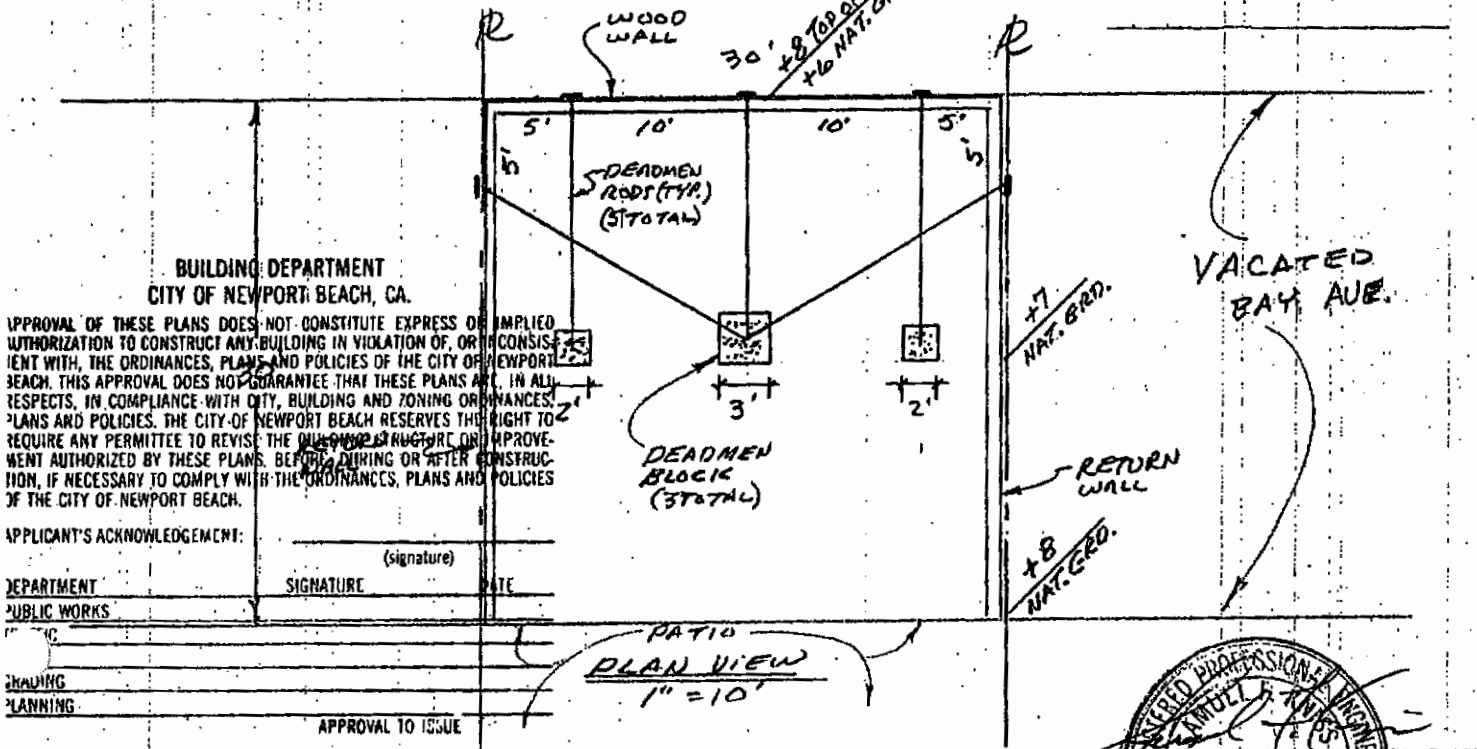
General Engineering Contractors

2410 Newport Blvd. Newport Beach, Calif. 92663
(714) 673-1960

SUBJECT PROPOSED WOOD WALL REPLACEMENT
@1000 E. BALBOA BLVD.
FOR: BOB SENOUR.

SHEET No. 1 OF 1
JOB No. 88239

BY Steve Kniss DATE 4/18/90
CHKD. BY _____ DATE _____

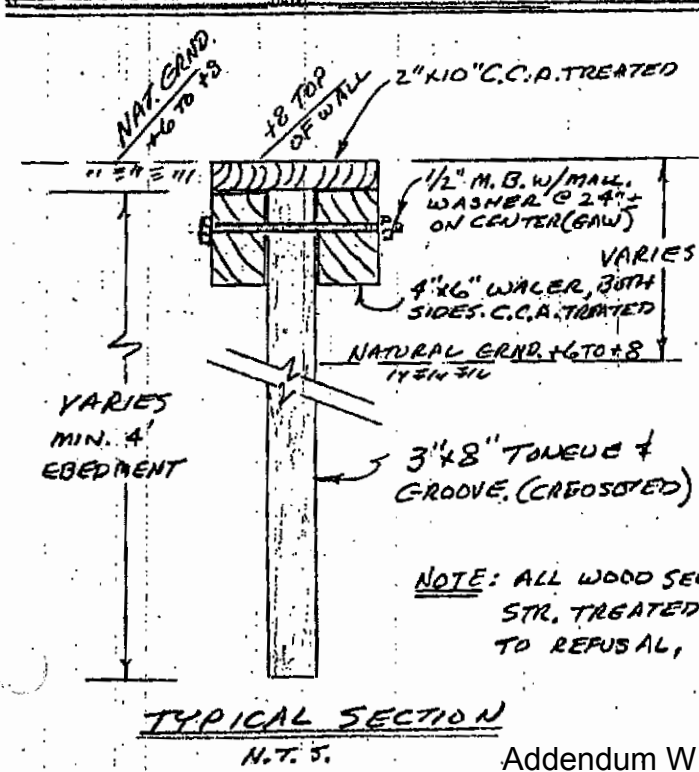


BUILDING DEPARTMENT
CITY OF NEWPORT BEACH, CA.

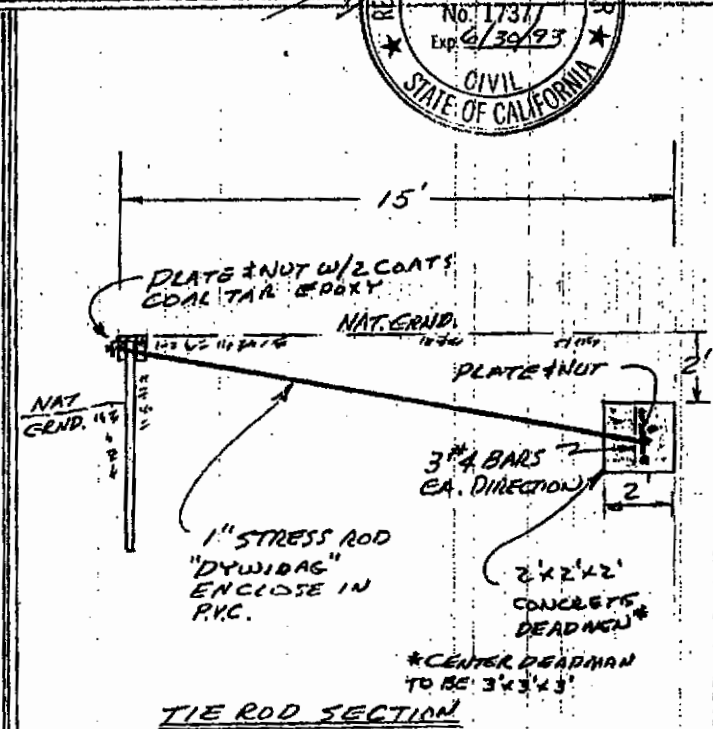
APPROVAL OF THESE PLANS DOES NOT CONSTITUTE EXPRESS OR IMPLIED AUTHORIZATION TO CONSTRUCT ANY BUILDING IN VIOLATION OF, OR INCONSISTENT WITH, THE ORDINANCES, PLANS AND POLICIES OF THE CITY OF NEWPORT BEACH. THIS APPROVAL DOES NOT GUARANTEE THAT THESE PLANS ARE, IN ALL RESPECTS, IN COMPLIANCE WITH CITY, BUILDING AND ZONING ORDINANCES, PLANS AND POLICIES. THE CITY OF NEWPORT BEACH RESERVES THE RIGHT TO REQUIRE ANY PERMITTEE TO REVISE THE DESIGN OR STRUCTURE OR IMPROVEMENT AUTHORIZED BY THESE PLANS, BEFORE, DURING OR AFTER CONSTRUCTION, IF NECESSARY TO COMPLY WITH THE ORDINANCES, PLANS AND POLICIES OF THE CITY OF NEWPORT BEACH.

APPLICANT'S ACKNOWLEDGEMENT: _____ (signature) _____ DATE _____

DEPARTMENT SIGNATURE DATE
PUBLIC WORKS
PLANNING
APPROVAL TO ISSUE



TYPICAL SECTION
N.T.S.



TIE ROD SECTION
N.T.S.

EXHIBIT E

November 16, 2012

Mr. William Guidero
425 30th Street, Suite 23
Newport Beach, CA 92663

RE: NOTICE OF INCOMPLETE APPLICATIONS

Application No. 5-12-292 and 5-12-293

Site Address: 928 E. Balboa Blvd and 930 E. Balboa Blvd, Newport Beach, Orange County

WSA Job #6639

Dear Mr. Guidero,

The following is in response to the questions of the above referenced NOTICE OF INCOMPLETE APPLICATIONS, related to the Seawall/Bulkhead Assessment Study. The response to the questions by California Coastal Commission is based on cursory field observation by representative of our office conducted on 09/04/2012.

FINDINGS:

Based on the aforementioned exploratory work, the existing seawall/bulkhead consists of the following elements:

1. Preservative treated 4x6 vertical wood planks, retaining maximum 4'-6" of soil.
2. Preservative treated 4x6 horizontal wood walers at each face of the top end of the vertical wood planks.
3. Preservative treated 2x12 horizontal wood cap atop the wood walers.
4. Approximately 1" diameter steel rod tie-backs at 12'-0" on center, tied to the walers with 1" thick by 5" square anchor plates and nuts. Such a method of seawall construction usually requires tie-backs connected to deadmen (concrete beams or series of concrete blocks) placed at a significant distance behind the seawall, and buried in the ground. Due to the site conditions, tie-backs and deadmen were not visible and not accessible, thus could not be observed.

According to elevations provided on a NAVD88 datum, the existing seawall/bulkhead cap appears to be at an elevation of +8.63'. Utilizing conversion factor of +0.38' from NAVD88 to MLLW, in accordance to City of Newport Beach STD-599-L, top of seawall cap elevation is +9.01' MLLW, which meets the seawall/bulkhead height requirements of STD-600-L & STD-601-L of City of Newport Beach.

Below are the answers to the questions by California Coastal Commission:

QUESTION: Is there any work proposed on the existing bulkhead?

ANSWER: As of today, there is no work proposed on the existing bulkhead.

QUESTION: Will the bulkhead last for the economic life of the proposed new residential structure?

ANSWER: From structural engineering stand point, the existing bulkhead should last for the economic life of the new residential structure.

QUESTION: Does the existing bulkhead meet current City standards?

ANSWER: The existing bulkhead meets the seawall/bulkhead height requirements of STD-600-L & STD-601- L of City of Newport Beach.

QUESTION: When approximately will the bulkhead need to be repaired or replaced?

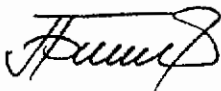
ANSWER: The bulkhead should last for many years; however, if it displays any sign of distress that requires immediate action, it should be repaired or replaced at that time accordingly.

The above answers were prepared based on the existing conditions, and within the inherent limitations of this study, in accordance with generally acceptable engineering principles and practices. We make no further warranty, either expressed or implied.

William Simpson & Associates, Inc. appreciates the opportunity to work with you towards the successful completion of your project.

If we can be in further assistance, please contact us.

Respectfully submitted,



Plamen Petrov, P.E.
Senior Project Manager



Masoud Jafari, S.E.
Principal

EXHIBIT F

GeoSoils Inc.

April 4, 2013

Mr. Bruce Ogilvie
33 Blue Heron
Irvine, CA 92603-0303

SUBJECT: Coastal Hazard Study for New Residential Development at 928 East Balboa Blvd. Newport Beach, Orange County

Dear Mr. Ogilvie:

At your request, GeoSoils, Inc. (GSI) is pleased to provide this report in response to your request for a coastal hazard analysis for the subject development. The proposed project includes removal of an existing older house and construction of two new residential structures located behind a permitted timber bulkhead (CDP 5-87-822) and Newport Bay waters. The purpose of this report is to provide the hazard information for your permit application requested by the California Coastal Commission (CCC) staff, including the potential for wave run-up, flooding, and erosion. Commission staff has also provided comments in an March 14, 2013 email which will be responded to at the conclusion of the hazard analysis. The analysis is based upon site elevations, existing published reports concerning the local coastal processes, our site inspection, and knowledge of local coastal conditions. This report constitutes an investigation of the wave and water level conditions expected at the site in consequence of extreme storm and wave action over the life of the development.

DATA & DATUM

The datum used in this report is North American Vertical Datum 1988 (NAVD88), which is -2.30 feet National Geodetic Vertical Datum (NGVD). The units of measurement in this report are feet (ft), pounds force (lbs), and second (sec). Aerial photographs, taken approximately annually from 1970 through 2010, were reviewed for shoreline changes. Site elevation, relative to NAVD88, were provided by South Coast Surveying. Architectural drawings of the proposed development, including elevations on the property, were also provided. A site reconnaissance was performed on March 22, 2013.

PROJECT BACKGROUND

The proposed project includes the removal of an existing residence built in the 1950s and subsequently remodeled. The site is fronted by a permitted bulkhead. The project removes the existing structure and replaces it with two new residential structures within the footprint allowed by the City of Newport Beach. The project would retain the existing pool

and deck areas located immediately behind the existing bulkhead. The project includes no changes to the bulkhead. Photograph 1, downloaded from Google Earth, shows the site, the adjacent bay, and open ocean shoreline on March 8, 2011.



Photograph 1. Subject property and coastal setting March 8, 2011 (Google Earth).

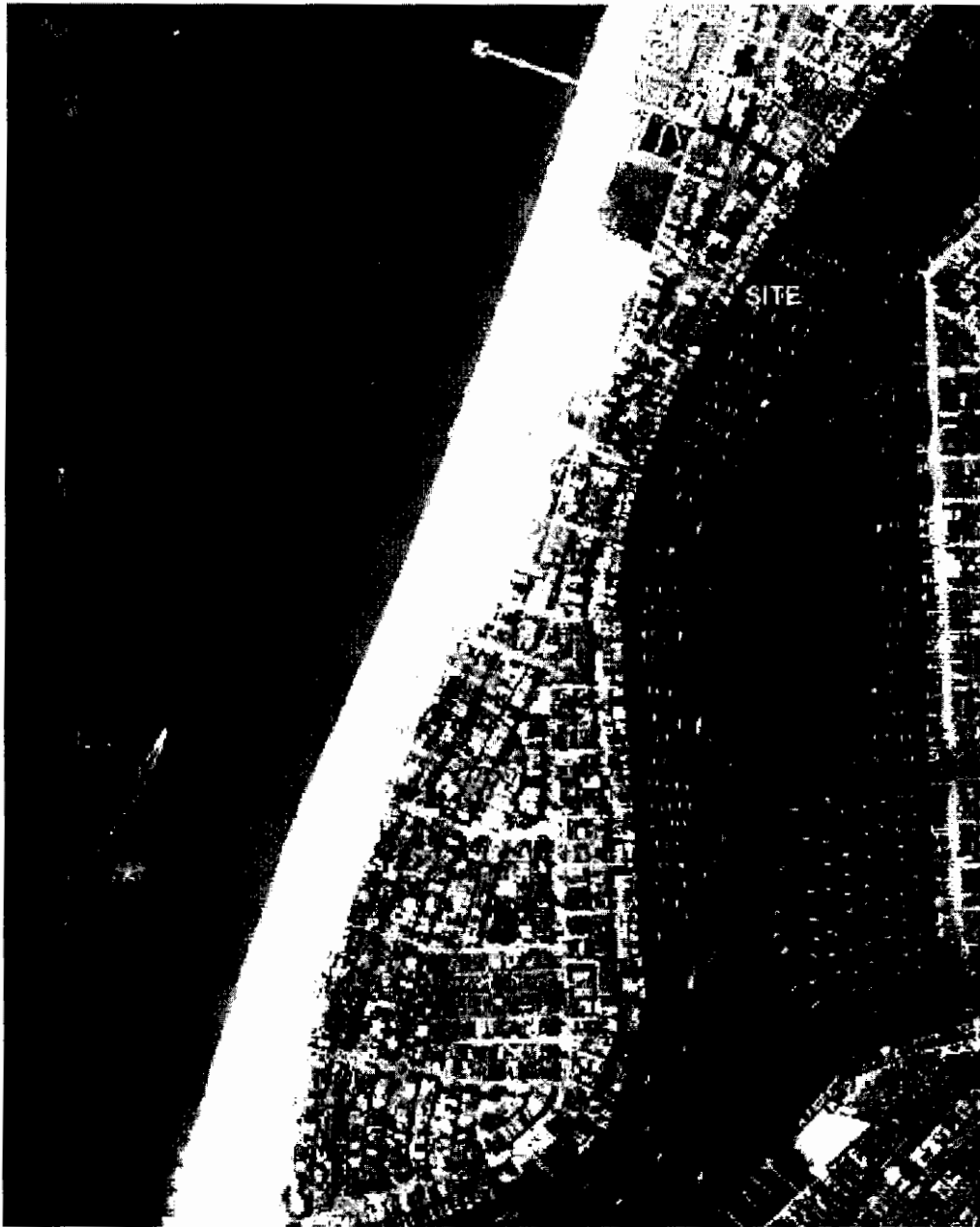
SITE INFORMATION

The shoreline fronting this site is within Newport Bay and is not subject to open ocean waves. The ocean shoreline is over 750 feet from the site. The site is located landward enough to be well outside the influence of typical open ocean waves (wave runup) and any potential ocean shoreline erosion. The sand beach fronting the site was essentially fixed during the development of Newport Bay many decades ago. The bay beaches are subject to very small wind waves and boat wakes, which have not historically resulted in erosion and are not expected to cause erosion of the beach in the future. The shoreline in the area has a series of groins, which compartmentalize the shoreline and prevent the longshore transport of sand.

It is important to point out that the location of the high water line at the site has not significantly moved over time nor is it expected to move significantly in the future. In an effort to determine typical changes in the shoreline position, aerial photographs from the mid 1970s to 2010 were reviewed. The California Coastal Records website oblique aerial photographs taken from the ocean from 1972 to 2010. The Google Earth historical imagery menu has vertical aerials of the site from 1995 to 2011. Due to the naturally narrow beach in the area and the high density of groins, piers and vessels, it is difficult to determine the exact location of the shoreline. However, using roads and other fixed objects, a visual comparison of the photographs shows little if any change in the shoreline position over the last few decades. This is as would be expected due to the shoreline stabilization structures. Photograph 2, taken in 1995, shows the site and adjacent shoreline. Photograph 3, taken in 1980, shows the majority of the Newport Peninsula and the narrow beaches along the bay side of the peninsula and in the project vicinity. Visual comparison of the photos reveals no change in the shoreline in the area of the site.



Photograph 2. Subject site and coastal setting in 1995 (Google Earth).



Photograph 3. Newport Peninsula and subject site in 1980 showing the narrow bay beaches in the site vicinity.

HAZARD ANALYSIS

There are three different potential coastal hazards identified at this site: shoreline erosion, waves and wave runup, and flooding. For ease of review, each of these hazards will be analyzed and discussed separately followed by a summary of the analysis including conclusions and recommendations, as necessary.

Shoreline Erosion Hazard

As discussed in the site information section of this report, the beach fronting the site is stabilized and not subject to measurable long term slow erosion. Analysis of aerial photographs shows no change in the position of the shoreline over the last several decades. Because the shoreline is stabilized, the future shoreline changes over the next 75 years can be assumed to be the same as in the previous few decades. It is unlikely that there will be any significant change in Newport Bay with regards to the dredging program, the vessel traffic, local wind waves, or any of the other factors that contribute to beach erosion in the next 75 to 100 years. Shoreline erosion, over the life of the remodel, will therefore not significantly impact the proposed development.

Waves and Wave Runup

Because the ocean shoreline is over 750 feet away and separated from the proposed development by streets and other residences from typical ocean waves and the associated wave runup cannot reach this site. The bay-generated waves that arrive at this site are very small (a few inches) wind waves and boat wakes. Both of these types of waves are dampened by the moored vessels, dock systems, and existing permitted bulkhead that are located in front of the site. These very small waves have very little energy or runup potential. Tsunami-type waves that approach from the ocean shoreline will likely not reach the site for several reasons. There is NO significant near field source of a tsunami like the geologic conditions off the coast of Japan which triggered the recent tsunami. A far field tsunami reaching the ocean shoreline will likely not reach the site because of the distance and development (structures) between the shoreline and the site. A near or far field tsunami propagating into Newport Bay proper would likely cause a seiche or standing wave on the order of 1 foot traveling within the bay. Depending upon the tide height this may or may not result in overtopping of the site bulkhead or some minor site flooding. In as much as a tsunami is a very infrequent occurrence (500-year recurrence interval), it would not be considered a significant impact over the life of the proposed development.

Flooding Hazard

The site is located adjacent to Newport Bay. The flooding hazard discussed herein is due to water level changes in the bay. Site drainage due to waters other than from the ocean are mitigated through the site drainage plan designed by the project civil engineer. The

adjacent public streets, East Balboa Blvd and B Street, are about 2.75 feet and 3.25 feet lower respectively than the proposed finished first floor of the development and serves as the drainage pathway. The public streets also have "at grade" infrastructure such as electrical service, sewer manholes, and phone facilities. The primary hazard due to flooding from ocean/bay waters would be due to a long term sea level rise. The current water levels (tides) within in the bay are well documented. The National Oceanographic and Atmospheric National Ocean Survey tidal data station closest to the site is located about 1 mile away at the Newport Bay Entrance Station (NOAA, 2011). The current (last tidal epoch) elevations in feet are as follows:

MEAN HIGHER HIGH WATER (MHHW) = 5.25
MEAN HIGH WATER (MHW) = 4.49
MEAN TIDE LEVEL (MTL) = 2.62
MEAN SEA LEVEL (MSL) = 2.59
MEAN LOW WATER (MLW) = 0.74
NORTH AMERICAN VERTICAL DATUM-1988 (NAVD) = 0.0
MEAN LOWER LOW WATER (MLLW) = -0.18

There have been recent studies that provide some predictions as to the amount of future sea level rise. The Pacific Institute (PI) released a California Flood Risk: Sea Level Rise Newport Beach OE S Quadrangle(March 2009). The Newport Beach Peninsula portion of the PI map and the site location is shown herein as Figure 1. The dark blue shaded areas show the areas where a (100 year) sea level rise of 55 inches is added to the existing (FEMA) coastal base flood elevation (shown in light blue). It is clear that the entire Newport Bay area will have flood issues if sea level rises 55 inches in the next 100 years. This is a regional problem and not a problem specific to 928 East Balboa Blvd. Even more interesting is that the PI map has the following disclaimer.

This information is being made available for information purposes only. Users of this information agree by their use to hold blameless the State of California, and its respective officers, employees, agents, contractors, and subcontractors for any liability associated with its use in any form. This work shall not be used to assess actual coastal hazards, insurance requirements, or property values and specifically shall not be used in lieu of Flood Insurance Studies and Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA).



Figure 1. From Pacific Institute flood risk, sea level rise map.

It is clear that several decades from now, if sea level rise occurs as currently estimated, regional efforts to mitigate the potential flooding hazard will be undertaken. These efforts will include measure to address all properties on the Newport Beach Peninsula and many around Newport Bay.

The City of Newport Beach contracted Everest International Consultants, Inc. (EICI) to produce an assessment report on the Balboa Island seawall(s) (EICI, 2011). This report provides a comprehensive discussion of future sea level rise and the potential for flooding of Balboa Island. The report analysis is applicable to the Newport Peninsula and to 928 East Balboa Blvd. In addition to the EICI report, the U.S. Army Corps of Engineers has provided a guideline for incorporating sea level change in civil works projects (U.S. Army Corps of Engineers, 2009). The Corps of Engineers is a leader in setting the standard for coastal engineering practice. The 2009 guideline provides a high, an intermediate, and a low sea level rise (above current sea level) estimates.

Figure 2, from the Everest International Consultants, Inc., April 2011 report for Balboa Island, provides a comparison of the sea level rise (SLR) projections of the Corps of Engineers, the California Ocean Protection Council (COPC), and the California Coastal Conservancy. It is clear that while there is some agreement over the next 20 years, beyond 20 years from now there is little agreement on SLR projections. As depicted in Figure 2, the California Ocean Protection Council (COPC) has adopted the most aggressive sea level rise prediction to date. The top of the existing bulkhead/deck is +8.6 feet NAVD88. The proposed finished floor of the residences is +9 feet NAVD88. The present (2011) maximum water elevation at the site including El Nino effects is +7 feet NAVD88. Based upon the elevation of the bulkhead, the bay water level will exceed the height of the bulkhead when SLR is 1.6 feet or greater. The bay water elevation will exceed the level of the finished floor when SLR is greater than 2 feet. The 1.5 foot SLR

line has been added to illustrate under what SLR prediction when flooding over the bulkhead may occur at highest tide. Obviously the residences will not flood during El Nino high tides until SLR reaches 2 feet above present levels which, even using the most aggressive estimates, is at least 50 years from now.

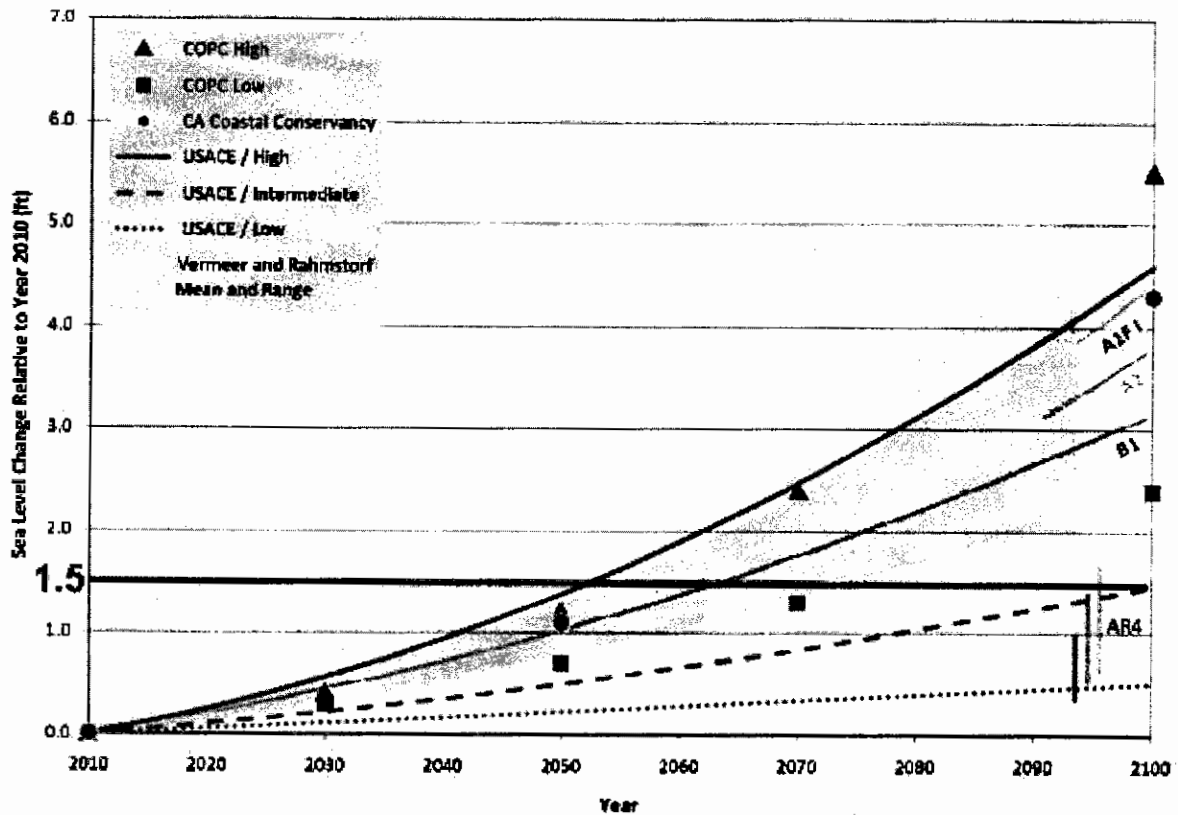


Figure 2. Sea Level Rise range of estimates from Everest International Consultants, Inc.

With this figure CCC staff can see that under all SLR predictions the residences are safe from flooding until about the year 2063 under the highest COPC SLR rate. According to the mean of all the estimates, including the COPC High estimate, the residence would be safe from flooding until 2075. It also shows that under some SLR predictions the residences will be safe until at least 2100. Using the COPC low projection the residences are safe until the year 2075. A similar comparative analysis can be performed for flooding over the bulkhead which is lower than the proposed finished floor. Most importantly it should be noted that the end of B Street is protected by a seawall at the beach end of the street up to elevation 8.45 feet NAVD88. Bay water will flood the adjacent street before it goes over the existing bulkhead. If sea level rise does start to actually reflect these predictions, the entire Newport Peninsula and areas around Newport

Bay will develop some plan of action. The subject site will be part of that plan of action.

The existing bulkhead can be adapted to respond to sea level rise. The height of the wall can be extended vertically. Such an extension would not require additional seaward encroachment. Based upon the highest SLR projection the site will be safe until the year 2063. The existing bulkhead can accommodate an increase in height. Bulkhead cap replacement and or extension is considered a viable means of mitigating bay water overtopping of the Balboa Island bulkheads. An additional 1 to 3 feet of height can be easily added to the existing bulkhead, which would protect against even the COPC's most conservative high flood risk until 2095. Such an adaptation would not result in additional seaward encroachment of the bulkhead since it could be added directly on top of the existing bulkhead.

NEED FOR BULKHEAD

The existing bulkhead is fronted by an intertidal beach and based upon a review of historical photographs shows no evidence of impact on the "natural" development and functioning of the beach and adjacent shoreline. The wall is a component of a continuous wall system that extends around the majority of the bay. There are walls/bulkheads fronting every bay side property in the vicinity. This system of walls also fronts the street ends.

1. The existing bulkhead prevents flooding of the street through the site.

The main arterial street along this portion of the peninsula is East Balboa Boulevard. The elevation of the East Balboa Boulevard flow line is ~+6.5 feet NAVD88 and in some nearby sections even lower, while the maximum still high water in the bay (without super elevation due to wind waves and wakes) is about +7 feet NAVD88. The street is therefore below the maximum high water and would be subject to flooding if not for the system of bulkheads and sea walls that prevents the bay waters from flooding the street through the properties. Photograph 1 shows the existing bulkhead is in line with properties in the immediate vicinity. The existing bulkhead wall is needed to prevent the flooding and closure of this main arterial street. Such flooding would be a concern even if the groins on either side of the bulkhead remained, but the bulkhead itself were removed

2. The bulkhead protects vital infrastructure from flooding.

Much of the peninsula infrastructure is at or below street level. This includes telephone hardware, some electrical transmission lines, sewer transmission piping and manholes, and storm water. Power and telephone outages as a result of flooding are problematic. However, a power outage to the sewer transmission system or even flood water

overwhelming the sewer lines and storm drain system can result in significant environmental damage to the Newport Bay ecosystem.

3. The bulkhead prevents erosion/flooding of the adjacent property to the west.

The residence and improvements to the west of the project site and bulkhead, to the left in the figure above, are protected by the wall. The foundation of this residence was designed based upon the existence of the bulkhead and the protection that it affords. The residence is a slab on grade foundation which would be subject to undermining from bay waters if the wall were removed. Removal of the wall would contribute significantly to the erosion and geologic instability of this adjacent site.

4. The bulkhead is part of the bay system.

The bulkhead in conjunction with all of the other sea walls and bulkheads around the bay collectively function to help maintain the bay's navigation channels. The tidal flows are constrained to flow along the designed channels by the walls and bulkheads. The constriction of the flows creates a channel a velocity sufficient to help prevent sediment build up within the navigation channels.

5. The bulkhead protects the existing deck and pool.

The bulkhead protects the existing deck and pool which are not proposed to be altered as part of the development. If the bulkhead was removed it would result in flooding of adjacent and nearby improvements including residential properties and public streets. It could also undermine the lateral support for the pool and deck area, potentially causing subsidence of that area into the bay.

RESPONSE TO COASTAL INQUIRES

The following responses are to issues raised by Coastal Commission staff analyst John Del Arroz' in his March 14, 2013 e-mail to Bruce Ogilvie.

A. The bulkhead is not necessary in order to assure stability over the economic life of the proposed structure

The bulkhead provides structural stability for the existing pool and deck area. The bulkhead's deadmen connect to pool, creating an interrelationship between the pool and the bulkhead that would be undermined if the bulkhead were removed. Bulkheads will be required along most of Newport Bay's shoreline to protect the majority of development adjacent to bay and, in particular, on the Newport Peninsula.

B. Alternative design options need not be considered given the existence of the bulkhead

If this property did not have an existing bulkhead, there are possible design alternatives that could be examined in order to avoid the need for installing a new bulkhead. However, given that the existing bulkhead is in place and that it will protect both the property and City infrastructure for many years in the future, the applicant proposes to retain the existing bulkhead in place.

In conclusion, the bulkhead is needed. The existing bulkhead is in compliance with City of Newport Beach code/ordinances. An assessment of the bulkhead has been performed by the project structural engineer, William Simpson & Associates, Inc. Consulting, and found to be in excellent condition. As stated above, in its existing configuration, the bulkhead protects the much lower in elevation East Balboa Blvd and B Street from flooding from high tide within Newport Bay. The bulkhead protects the adjacent residence from erosion from high tides and wave/wakes. The bulkhead is a part of the system of bulkheads and walls within Newport Bay that are part of the overall channel stabilization of the Newport Bay system. The tidal flows are restricted by the shoreline bulkheads and walls adjacent to the navigation channels which help to prevent sedimentation within the channels over time. As proposed and including the existing bulkhead the development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area.

CONCLUSIONS AND RECOMMENDATIONS

- The City of Newport Beach has reviewed the project for compliance with all applicable City and FEMA requirements and approved the project in concept.
- A review of aerial photographs over the last four decades shows no overall ocean shoreline retreat, in general, and no loss of beach in front of the bay side property.
- The property has not been subject to flooding, erosion damage, or wave runup attack in the past.
- The existing bulkhead is in excellent condition and has been in place for over two decades. The bulkheads within Newport Bay are part of the overall channel stabilization of the Newport Bay system. The tidal flows are restricted by the bulkheads along the shoreline to the navigation channels which help to prevent sedimentation within the channels over time.

GeoSoils Inc.

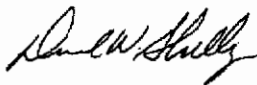
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- Based upon the uncertainty and using reasonable Army Corps sea level rise projections, the proposed development should be safe from flooding over the life of the development.

In conclusion, flooding, erosion, and wave runup will not significantly impact this property over the life of the proposed improvement. The proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area. There are no additional recommendations necessary for erosion, ocean flooding, or wave runup protection.

The opportunity to be of service is appreciated. If you have any questions regarding the this report, please call me at your convenience.

Sincerely,



GeoSoils, Inc.
David W. Skelly
Civil Engineer, RCE #47857

REFERENCES

Everest International Consultants, Inc., 2011, Assessment of seawall structure integrity and potential for seawall over-topping for Balboa Island and Little Balboa Island, main report, No Project No., dated April 21.

NOAA, 2011, Web Site, Maps <http://anchor.ncd.noaa.gov/states/ca.htm> Tidal Datums http://www.opsd.nos.noaa.gov/cgi-bin/websql/ftp/query_new.pl

U.S. Army Corps of Engineers, 2009, Water resources policies and authorities incorporating sea-level change considerations in civil works programs.

EXHIBIT G

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 WEST BROADWAY, SUITE 380

LONG BEACH, CA 90802

Fill

Page 1 of 2

Date: June 8, 1990Permit No. 5-89-030COASTAL DEVELOPMENT PERMITOn October 10, 1989, the California Coastal Commission granted toMike Woods

this permit subject to the attached Standard and Special conditions, for development consisting of:

Construct 4 foot by 50 foot concrete patio and bulkhead 50 feet wide and 22 feet seaward of the residence with return walls.
more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at
1108 East Balboa Blvd, Newport Beach

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By: Vicky KomieTitle: Staff AnalystACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section B18.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date _____

Signature of Permittee _____

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
NEWPORT BEACH, CA 90802
590-5071



AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Date June 8, 1990

Permit Number 5-89-030 issued to Michael Woods

for: Construct bulkhead 50 feet wide and 22 feet seaward of the residence with return walls, fill enclosed area with sand and construct 4 foot by 50 foot concrete patio.

at 1108 East Balboa Blvd., Newport Beach

has been amended to include the following change: Dredging for habitat restoration on area approximately 1,150 square feet as mitigation for habitat loss and condition compliance. Condition 1 changed to allow proposed dredging as mitigation for habitat loss.

This amendment will become effective upon return of a signed copy of this form to the Commission office. Please note that the original permit conditions unaffected by this amendment are still in effect.

PETER M. DOUGLAS
Executive Director

By: Vicki Fornie
Title: Staff Analyst

ACKNOWLEDGMENT

I have read and understand the above amendment and agree to be bound by the conditions as amended of Permit No. 5-89-030.

Date _____ Signature _____

VK:tn
51290

COASTAL DEVELOPMENT PERMIT

Page 2 of 2
Permit No. 5-89-030

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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. 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.
7. 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:

1. Prior to issuance of permit the applicant shall submit to the Executive Director for review and approval, evidence of payment into the Upper Newport Bay Ecological Reserve Mitigation Program administered by the City of Newport Beach and coordinated with the Department of Fish and Game. The fee shall be based on a ratio four (4) times the area to be filled (11509 square feet).
2. Condition Compliance. All requirements specified in the foregoing conditions that the applicant is required to satisfy as prerequisites to the issuance of this permit must be met within 45 days of Commission action on this permit application. Failure to comply with this requirement within the time period specified, or within such additional time as may be granted by the Executive Director for good cause, will result in the nullification of this permit approval.

VK:tn
51280

CALIFORNIA COASTAL COMMISSION

621 HOWARD STREET, 4TH FLOOR

SAN FRANCISCO, CA 94105

(415) 543-8555

Hearing Impaired/TDD (415) 896-1825



October 14, 1988

Removal 11/16

Ms. Lynne Valentine
Lynne Valentine Properties
341 Bayside Drive, Suite 7
Newport Beach, CA, 92660

Coastal Act Violation File No: V-5-NPB-88-007

Violation Address: 1108 East Balboa Blvd, Newport Beach

Subject: Pending sale of the property above

Dear Ms. Valentine:

This letter serves as confirmation of our telephone conversation on September 29, 1988. During this conversation, I informed you that the Enforcement Unit of the Coastal Commission was pursuing a violation of permit conditions at the property located at 1108 East Balboa Blvd. Specifically, the owner (Mr. R.J. Lull) built a deck and bulkhead without a coastal development permit. He was subsequently granted a permit with the following conditions to be met within 90 days:

- Remove*
1. remove the existing deck and submit plans for a smaller deck.
 2. participate in a mitigation plan to be carried out in the Upper Newport Bay Ecological Preserve: for every 1 square foot of intertidal area covered (that is, covered by the bulkhead and deck area), four square feet of wetland restoration shall be provided as mitigation.

Mr. Lull did not meet these two conditions and the permit expired. The violation is still active and any subsequent parties would be responsible for settling the violation if they bought the property. You told me in our conversation that the people interested in buying the house were aware of the violation action and were willing to "accept the house as is." You also indicated that the buyers would be willing to resolve the violation and asked if I could outline what they needed to do and approximately how much it would cost to do so. In order to resolve the violation on the Lull property, your clients have two options:

- (1) remove the unpermitted deck in its entirety, notifying Commission staff when the work is completed so that we may conduct a site inspection, or
- (2) file a coastal development permit application to remove and rebuild a smaller deck.

Since your clients cannot resolve the violation until they own the property, the Commission is willing to lift the cloud on the title in anticipation of your clients good faith efforts to resolve the violation. However, before this would officially be done, the Commission would require written proof from

your clients indicating that they intend to remove the deck entirely or file a coastal development permit to remove and rebuild a smaller deck. The letters of intent or coastal development permit application would have to be submitted and completed within 60 days after closing of escrow on the property. Failure to meet this deadline will result in immediate referral of the case to the Attorney General's office for litigation. You should be aware that violations of the Coastal Act are subject to civil penalties up to \$10,000 pursuant to Section 30820 of the Act. In addition, knowing and intentional violations are subject to civil penalties of up to \$5,000 per day, pursuant to Section 30821.

For your convenience, a coastal development permit application has been included with this letter. Once completed, it should be returned to the Commission's office in Long Beach, attention Praveen Gupta. I am not able to give you an estimate of the cost of removing the existing deck, as it would depend on the contractor chosen. Once the deck is removed, the violation will officially be considered settled and the new owners would be only responsible and accountable for their use of the property, and whatever conditions might be imposed on their coastal development permit application.

The Enforcement staff of the Coastal Commission would like to resolve this situation as soon as possible due to the existing structure's impact on tidal habitat on the property as well as on neighboring properties. You mentioned that escrow is on hold until this matter is cleared. Please share the information in this letter with your clients and contact my office by October 21, 1988, outlining how you intend to pursue the matter.

If you have any questions, please give me a call.

Sincerely,

Caron Jo Parker
Caron Jo Parker
Enforcement Staff

cc: Nancy Cave, Statewide Enforcement Coordinator
Bob Joseph, Chief of Permits
Praveen Gupta, South Coast Office 1213-5905071

Passing permit

Michael Woods
1108 East Balboa Boulevard
Balboa, CA 92661
(714) 675-1530

December 6, 1989

Mr. Fred Worthley
State of California
Department of Fish and Game
330 Golden Shore Suite 50
Long Beach, CA 90802

Re: Case #5-89-030

Dear Mr. Worthley:

We are requesting permission for mitigation in the Upper Newport Bay Ecological Reserve. I have submitted plans to Greg Gerstenberg for the area designated by the Fish and Game Department. The purpose of the mitigation is to satisfy a permit requirement by the Coastal Commission.

Sincerely,

Michael Woods

558-8892 Work

2-2-90

Contacted Mike N. he will leave message for Greg & try to get approval issue resolved

2-2-90 Mike N. called back letter of approval is in F&G system, he will try to get it expedited.



CITY OF NEWPORT BEACH

P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915

April 4, 1988

Praveen Gupta
South Coast District, California Coastal Commission
245 West Broadway, Suite 380
Long Beach, CA 92801-1450

Re: Your File Number BH-5-NPB-88-007
For the property at 1108 East Balboa Blvd., Newport Beach

Dear Mr. Gupta:

In January of 1988 we received a call from property owners in the 1100 block of East Balboa Blvd., regarding construction bayward of the residence at 1108 East Balboa Blvd. The residents noticed the forming for a concrete bulkhead and a patio bayward of 1108 East Balboa Blvd. and were concerned if the property owner had secured the necessary permits from the City of Newport Beach. I checked our files, which indicated that no permit had been issued so I drove to the site to inspect the situation.

When I arrived on the site I found that a cement truck was preparing to pour a patio and concrete bulkhead bayward of the residence. I indicated to a man who identified himself as an employee of the property owner Mr R.J. Lull that he was proceeding without a permit and that the work must stop. He indicated that he would stop and that he would contact the property owner and get back to me.

The following day I was again called by the adjacent property owners who indicated that the contractor had gone ahead and poured a patio deck and concrete bulkhead bayward of the residence.

I spoke again with the property owner and told him that if he was going to proceed he must submit engineering plans and pull a full Building Permit with a Plan Review of the engineering by our Building Department. In late January engineering plans were submitted and a Building Permit was pulled from the Newport Beach Building Department.

Subsequent to that, the Marine Department issued an Approval in Concept for the wall and bulkhead as built, since if Mr. Lull had originally come into our office we could have approved the wall, based on our Harbor Permit Policies, and in the location where it was, in fact, built. I advised Mr. Lull that we

would not issue our final permit until he had proceeded to the Coastal Commission and the Army Corps of Engineers for their permits, after the fact.

It is my understanding that Mr. Lull is now before the Coastal Commission for the necessary permits. I trust the above answers your questions relative to the background of this permit.

If you have further questions, please call me at 714-644-3044.

Sincerely,



Tony Mealum
Tidelands Administrator



United States Department of the Interior

FISH AND WILDLIFE SERVICE

LAGUNA NIGUEL FIELD OFFICE
24000 Avila Road
Laguna Niguel, California 92656

August 28, 1989

Col. Charles Thomas, District Engineer
Corps of Engineers, Los Angeles Dist.
P.O. Box 2711
Los Angeles, California 90053

Dear Colonel Thomas:

The Fish and Wildlife Service (Service) has reviewed public notice SPLCO-89-184-GS, Michael Woods, dated August 11, 1989, for an after-the-fact bulkhead and fill in waters of Newport Harbor, City of Newport Beach. These comments have been prepared under the authority, and in accordance with the provisions, of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and other authorities mandating Department of Interior concern for environmental values.

The applicant seeks permission for an already completed bulkhead and fill of about 1150 square feet of bay waters and or intertidal beach, apparently to expand a residential patio. There is no indication that less damaging alternatives would be infeasible. Also, no habitat compensation is mentioned to offset the loss which resulted from the unauthorized fill.

Despite the highly developed, marina nature of Newport Harbor, the estuarine habitat is considered to be of relatively high value as a nursery and forage area for a variety of marine fishes and a foraging and loafing area for water-associated birds. The Service is concerned about alterations of bay waters resulting from such modifications because of the cumulative net reduction in estuarine habitat value that they represent. The conversion of about 1150 square feet of subtidal and intertidal habitat and loss of tidal prism represents a cumulative loss of habitat value for an activity that would seem to have a less damaging alternative.

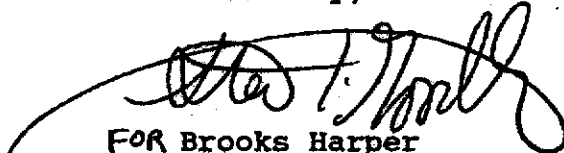
In this case, we are not aware of any effort by the applicant to develop any mitigation plan. In the absence of such an effort, it would appear impossible to conclude that the proposed work complies with the 404(b)(1) guidelines of the Environmental Protection Agency. The Service opposes the permanent loss of marine embayment habitat value that would result should a permit be issued for the already completed work.

Colonel Thomas

2

In summary, the Service recommends a permit not be issued for the work as described in the public notice. It is further recommended that you issue a removal order and seek restoration of the pre-existing beach contours. Please advise us of your intentions. The Service representative remains Mr. Jack Fancher who may be reached at (714) 643-4270.

Sincerely,


FOR Brooks Harper
Acting Field Supervisor

cc: EPA, Reg IX, San Francisco
CDFG, Reg 5, Long Beach
NMFS, Terminal Island

Mike Wood

Off 558-8892

MO 746-5637

Home 675-1530

*5/22/90 Fancher aware of mitigation but feels
Corp should do something different
since cost was origin w/o permit. He
will write CSE*

EXHIBIT H

CALIFORNIA COASTAL COMMISSION

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

Page 1 of 5
Date: October 27, 2006
Permit No: 5-06-210

**COASTAL DEVELOPMENT PERMIT**

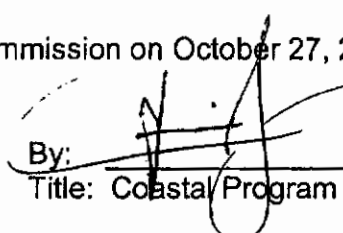
On **October 12, 2006**, the California Coastal Commission granted to **Cross Communities, Attn: Mark Cross** Coastal Development Permit **5-06-210**, subject to the attached Standard and Special Conditions, for development consisting of:

Demolition of an existing single-family residence and construction of a new 3,258 square foot three-story single family residence with an attached 489 square foot two-car garage. Grading will consist of 275 cubic yards for recompaction purposes. In addition, the applicant is requesting after-the-fact construction of the existing bulkhead. Also, work to the bulkhead consisting of a new cap is also proposed. More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at **1711 East Bay Avenue, Newport Beach**.

Issued on behalf of the California Coastal Commission on October 27, 2006.

PETER DOUGLAS
Executive Director

By: 
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

Date

Signature of Permittee

Please sign and return one copy of this form to the Commission office at the above address.

COASTAL DEVELOPMENT PERMIT

No. 5-06-210

Page 2 of 5

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 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:

1. **CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL**
 - A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
 - B. Any and all construction material will be removed from the site within 10 days of completion of construction.
 - C. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone.
 - D. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity.
 - E. 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.

Addendum W16a Ogilvie & Svrcek

Page 63 of 100

COASTAL DEVELOPMENT PERMIT

No. 5-06-210

Page 3 of 5

- F. Non-buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.

2. AS-BUILT BULKHEAD PLANS

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of plans prepared by a licensed surveyor depicting the entire subject property (and as necessary sufficient portions of surrounding properties) and the precise alignment of the existing bulkhead in relation to property lines, existing and proposed development on-site, and adjacent bulkheads, street(s), any piers, gangways, and docks immediately seaward of the project site, and any other landmarks sufficient to verify the bulkhead alignment during a field inspection of the site.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. CITY OF NEWPORT BEACH HARBOR RESOURCES DIVISION

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, applicant shall provide to the Executive Director a copy of a permit issued by City of Newport Beach Harbor Resources Division, or letter of permission, or evidence that no permit or permission is required for the bulkhead cap work on the existing bulkhead. The applicant shall inform the Executive Director of any changes to the project required by the City of Newport Beach Harbor Resources Division. 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.

4. BULKHEAD MAINTENANCE

- A. The permittee shall maintain the bulkhead in good condition throughout the life of the development. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a Monitoring Plan, for the review and approval of the Executive Director. The permittee, and their successors in interest shall be responsible for carrying out all provisions of the approved Monitoring Plan for as long as the bulkhead remains in place. The monitoring plan, at a minimum, shall provide for:

- (1) Regular inspections by a licensed engineer. These inspections shall be performed at least every year.

Addendum W16a Ogilvie & Svrcek

COASTAL DEVELOPMENT PERMIT

No. 5-06-210

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- (2) The inspections shall examine the exposed portions of the bulkhead (to the mud line) for signs of weakness or possible failure, including, but not limited to cracking, bending, splitting, splintering, or flaking. All weak or potential failure areas should be marked on an as-built plan of the bulkhead, and there should be photographs and text to explain the nature and extent of each weakness.
- (3) Inspection reports shall be prepared and conveyed to the Executive Director within 30 days of the inspection work. These reports shall provide information on and photographs from the date of the inspection, the name and qualifications of the person performing the inspection, and an overall assessment of the continued integrity of the bulkhead. If the inspection identifies any areas where the bulkhead reinforcement has been damaged, the report shall identify alternatives to remedy the damage.
 - (a) In the event that any sections of the bulkhead is damaged or flaking, the permittee shall notify the Commission within 10 days; and in such event, within 30 days of such notification, submit to the Commission a complete application for any coastal development permit amendment, or new permit, necessary for the repair or replacement of the bulkhead.

5. ALTERNATIVES TO PLASTIC

By acceptance of this permit, the applicant agrees to submit an application for an amendment to this permit or a new coastal development permit if new information becomes available that indicates that plastic has harmful effects on the marine environment, and that environmentally superior, feasible alternative(s) are available. The amendment or new coastal development shall include measures to eliminate or significantly reduce the adverse impacts of the plastic including, if necessary, the replacement of the bulkhead.

6. DRAINAGE AND RUN-OFF CONTROL PLAN

The applicant shall conform with the drainage and run-off control plan received on July 3, 2006 showing roof drainage and runoff from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of native or non-native, non-invasive plants. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

COASTAL DEVELOPMENT PERMIT

No. 5-06-210

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7. CONDITION COMPLIANCE

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

Document2 Printed on October 27, 2006

Replace Bulkhead

CALIFORNIA COASTAL COMMISSION

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

TH 5c

Filed: August 8, 2006
49th Day: September 26, 2005
180th Day: February 4, 2007
Staff: Fernie Sy-LB
Staff Report: September 21, 2006
Hearing Date: October 11-13, 2006
Commission Action:



STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-06-210
APPLICANT: Cross Communities, Attn: Mark Cross
AGENTS: Ian J.N. Harrison, Architect

PROJECT LOCATION: 1711 East Bay Avenue, City of Newport Beach (County of Orange)

PROJECT DESCRIPTION: Demolition of an existing single-family residence and construction of a new 3,258 square foot three-story single family residence with an attached 489 square foot two-car garage. Grading will consist of 275 cubic yards for recompaction purposes. In addition, the applicant is requesting after-the-fact approval of construction of the existing bulkhead. Also, new work to the bulkhead consisting of a new cap is proposed.

LOCAL APPROVALS RECEIVED: Approval In Concept (No. 0552-2006) from the City of Newport Beach Planning Department dated April 4, 2006.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing the demolition and construction of a single-family residence, replacement of the existing bulkhead cap and after-the-fact approval of construction of the existing bulkhead. The subject site is subject to tidal action, due to its direct way to the ocean. The site is located within a protected area of the Newport Harbor. The proposed bulkhead structure is to protect existing structures from tidal influence. The proposed bulkhead will have a new shoreline and supply because the device is located in the same location as the existing. The major issues before the Commission relate to the effect of the proposed development on marine resources and water quality.

Staff recommends the Commission **APPROVE** the proposed development with **Seven (7) Special Conditions**. **Special Condition No. 1** deals with construction responsibilities and debris removal. **Special Condition No. 2** requires submittal of as-built bulkhead plans. **Special Condition No. 3** requires submittal of City of Newport Beach Harbor Resources Division review for the bulkhead cap work. **Special Condition No. 4** requires preparation of a Bulkhead Maintenance Plan providing for inspection monitoring assessing the continued integrity of the bulkhead reinforcement. **Special Condition No. 5** requires the applicant to consider the use of alternatives to plastic should such alternative become available in the future. **Special Condition No. 6** requires conformance with the submitted Drainage and Run-off Control Plan (including landscape controls). **Special Condition No. 7** deals with condition compliance.

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. 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.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; *Evaluation of the Existing Seawall Located at 1711 East Bay, Newport Beach, CA (WSA Job #6206)* prepared by William Simpson & Associates dated March 30, 2006; Letter to Ian Harrison from Commission staff dated June 26, 2006; April 21, 2005; Letter to Commission staff from Ian Harrison dated July 3, 2006; Letter to Commission staff from Ian Harrison dated July 24, 2006; *Existing Seawall Located at 1711 East Bay, Newport Beach, CA (WSA Job #6206-1)* prepared by William Simpson & Associates dated July 24, 2006; and Letter to Ian Harrison from Commission staff dated July 31, 2006.

LIST OF EXHIBITS

1. Location Maps
 2. Site Plan/Drainage Plan
 3. Elevations
 4. Bulkhead Cap Replacement Plan
-

STAFF RECOMMENDATION:

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

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

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 will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- B. Any and all construction material will be removed from the site within 10 days of completion of construction.
- C. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone.
- D. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity.
- E. 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.
- F. Non-buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.

2. AS-BUILT BULKHEAD PLANS

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of plans prepared by a licensed surveyor depicting the entire subject property (and as necessary sufficient portions of surrounding properties) and the precise alignment of the existing bulkhead in relation to property lines, existing and proposed development on-site, and adjacent bulkheads, street(s), any piers, gangways, and docks immediately seaward of the project site, and any other landmarks sufficient to verify the bulkhead alignment during a field inspection of the site.
- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. CITY OF NEWPORT BEACH HARBOR RESOURCES DIVISION

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, applicant shall provide to the Executive Director a copy of a permit issued by City of Newport Beach Harbor Resources Division, or letter of permission, or evidence that no permit or permission is required for the bulkhead cap work on the existing bulkhead. The applicant shall inform the Executive Director of any changes to the project required by the City of Newport Beach Harbor Resources Division. 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.

4. BULKHEAD MAINTENANCE

- A.** The permittee shall maintain the bulkhead in good condition throughout the life of the development. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a Monitoring Plan, for the review and approval of the Executive Director. The permittee, and their successors in interest shall be responsible for carrying out all provisions of the approved Monitoring Plan for as long as the bulkhead remains in place. The monitoring plan, at a minimum, shall provide for:
- (1) Regular inspections by a licensed engineer. These inspections shall be performed at least every year.
 - (2) The inspections shall examine the exposed portions of the bulkhead (to the mud line) for signs of weakness or possible failure, including, but not limited to cracking, bending, splitting, splintering, or flaking. All weak or potential failure areas should be marked on an as-built plan of the bulkhead, and there should be photographs and text to explain the nature and extent of each weakness.
 - (3) Inspection reports shall be prepared and conveyed to the Executive Director within 30 days of the inspection work. These reports shall provide information on and photographs from the date of the inspection,

the name and qualifications of the person performing the inspection, and an overall assessment of the continued integrity of the bulkhead . If the inspection identifies any areas where the bulkhead reinforcement has been damaged, the report shall identify alternatives to remedy the damage.

- (a) In the event that any sections of the bulkhead is damaged or flaking, the permittee shall notify the Commission within 10 days; and in such event, within 30 days of such notification, submit to the Commission a complete application for any coastal development permit amendment, or new permit, necessary for the repair or replacement of the bulkhead.

5. ALTERNATIVES TO PLASTIC

By acceptance of this permit, the applicant agrees to submit an application for an amendment to this permit or a new coastal development permit if new information becomes available that indicates that plastic has harmful effects on the marine environment, and that environmentally superior, feasible alternative(s) are available. The amendment or new coastal development shall include measures to eliminate or significantly reduce the adverse impacts of the plastic including, if necessary, the replacement of the bulkhead.

6. DRAINAGE AND RUN-OFF CONTROL PLAN

The applicant shall conform with the drainage and run-off control plan received on July 3, 2006 showing roof drainage and runoff from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of native or non-native, non-invasive plants. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. CONDITION COMPLIANCE

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION, DESCRIPTION AND PREVIOUS ACTION AT THE PROJECT SITE

1. Project Location and Description

The proposed project is located on an approximately 3,435 square foot bayfront lot fronting Newport Bay at 1711 East Bay Avenue in the City of Newport Beach, County of Orange (Exhibit #1). The site is designated as Medium Density Residential in the City of Newport Beach Land Use Plan (LUP) and the proposed use conforms to this designation. North of the project site is Newport Bay; South of the project site is West Bay Avenue and to the East and West are existing residential structures on bulkheaded lots. The project site is located in a residential area where the homes fronting Newport Bay are located on bulkheaded lots. Site conditions on the bayward side of the site include an existing bulkhead, pier and dock. The applicant is requesting after-the-fact construction of the existing bulkhead and is also proposing limited bulkhead work consisting of removal and construction of a new cap. No work will be done on the existing dock and pier.

Public access to the bay is located approximately 30-feet east of the project site at the "J" Street, street end.

The project includes demolition of an existing single-family residence and construction of a new 3,258 square foot three-story single-family residence with an attached 489 square foot two-car garage (Exhibits #2-3). The project will also consist of a 278 square foot roof deck and 6-foot high side yard property line walls. Grading will consist of 275 cubic yards for recompaction purposes.

Also, work to the bulkhead is proposed consisting of removal of the existing wooden bulkhead cap located currently at +8.38 MLLW and replace with a new Douglas-Fir Cap at a raised elevation of +9.0 MLLW designed to meet the minimum elevation requirements established by the City of Newport Beach (Exhibits #4). All bulkhead work will take place on the landward side of the existing bulkhead. Work on the existing bulkhead would require approval from the City of Newport Beach Harbor Resources Division; however, no such approval has been obtained. Therefore, the Commission imposes **Special Condition No. 2**, which requires that the applicant provide written evidence review and approval of the bulkhead cap work or evidence that no permit or permission is required from the City of Newport Beach Harbor Resources Division.

To verify the stability of the existing bulkhead, the applicant has submitted an analysis entitled: *Existing Seawall Located at 1711 East Bay, Newport Beach, CA (WSA Job #6206-1)* prepared by William Simpson & Associates dated July 24, 2006. The analysis states that the seawall consists of Trimax Structural Plastic Lumber tongue and groove sheet piles and was constructed approximately 10 years ago and finds that the existing bulkhead is stable and structurally sound. In addition, it finds that the bulkhead should last many years (approximately 50 years based on the materials).

The applicant is also requesting after-the-fact construction of the existing bulkhead. CDP No. 5-84-493 (to be discussed in Section IV. A.2.) was previously approved for construction of the bulkhead, but no permit was ever issued for the development. The existing bulkhead is necessary to protect the existing development including off-site development on adjacent

lots. The existing bulkhead is comprised of plastic material called Trimax Structural Plastic made up of recycled plastic (HDPE) and 30% fiber fill. In order to have accurate plans on file so that any necessary field checking and future confirmation of the alignment can be accomplished, the Commission imposes **Special Condition No. 3**, which requires submittal of as-built bulkhead plans.

The Commission has expressed concern about the use of plastic in the marine environment due to the potential for leaching toxins into the marine environment caused by the possible deterioration of the plastic.

In addition, the Commission's concern with plastics includes the potential to increase plastic debris in the marine environment due to cracking, peeling, and sloughing of plastic used in marine related projects. Since plastic is an inorganic material, it does not biodegrade, but rather continually breaks down into ever-smaller pieces which can adversely effect the marine environment.

The presence of plastics in the coastal and ocean environment is both widespread and harmful to human and marine life. An article, written by Jose G.B. Derraik, entitled "The Pollution of the Marine Environment by Plastic Debris: A Review," reviews much of the literature published on the topic of deleterious effects of plastic debris on the marine environment. The article states:

The literature on marine debris leaves no doubt that plastics make-up most of the marine litter worldwide.¹

In support of this statement, the article includes a table that presents figures on the proportion of plastics among marine debris around the world. In most of the locations listed on the table, plastics represented more than 50 percent of the total marine debris found.² In other studies, the percentage is even higher.

Existing studies clearly demonstrate that plastic debris creates problems for marine life. Plastic marine debris affects at least 267 species worldwide, including 86% of all sea turtle species, 44% of all sea bird species, and 43% of marine mammal species.³ For example, plastics cause significant adverse impacts in seabirds, when birds mistakenly ingest the plastic debris. A study performed in 1988, concluded that seabirds consuming large amounts of plastics reduced their food consumption, which limited their ability to lay down fat deposits and in turn reduced fitness. In addition, ingesting plastics can block gastric enzyme secretion, diminish feeding stimulus, lower steroid hormone levels, delay ovulation, and cause reproductive failures.⁴

Plastic debris that has settled on the seabed floor also harms the biological productivity of coastal waters. In Derraik's article, he states:

¹ Derraik, Jose. "The Pollution of the Marine Environment by Plastic Debris: A Review", Marine Pollution Bulletin, 44: 842-852, 2002.

² Ibid.

³ Laist, D. W. "Impacts of Marine Debris: Entanglement of Marine Life in Marine Debris Including a Comprehensive List of Species with Entanglement and Ingestion Records", Coe, J.M., Rogers, D.B. (Eds.)

⁴ Derraik, Jose. "The Pollution of the Marine Environment by Plastic Debris: A Review", Marine Pollution Bulletin, 44: 842-852, 2002.

The accumulations of such [plastic] debris can inhibit gas exchange between the overlying waters and the pore waters of the sediments, and the resulting hypoxia or anoxia in the benthos can interfere with the normal ecosystem functioning, and alter the make-up of life on the sea floor. Moreover, as for pelagic organisms, benthic biota is likewise subjected to entanglement and ingestion hazards.⁵

Consequently the plastic sheet piles must be monitored to ensure that they are maintained in an environmentally safe operating condition and replaced when damage or degradation has occurred. To minimize the potential of the plastic sheet piles breaking apart and entering the water due to damage or deterioration, **Special Condition No. 4** requires that the project be carefully monitored every year. If monitoring confirms that the use of the plastic sheet piles is damaging marine resources, the applicant is required to submit an application for an amendment to this permit or a new coastal development permit. At that time the proposed repair and/or replacement will be evaluated, including consideration of whether use of such materials should be stopped, and whether more environmentally friendly products have been developed. Further, if new information becomes available indicating that the use of plastic does have harmful effects on the marine environment, and that environmentally superior products are available, consideration must be given to substitution of the environmentally superior alternative to plastic. As a condition of approval, **Special Condition No. 5** requires that the applicant shall agree to submit an application for an amendment to this permit or a new coastal development permit if new information becomes available that indicates that plastic has harmful effects on the marine environment, and that environmentally superior, feasible alternative(s) are available. The amendment or new coastal development shall include measures to eliminate or significantly reduce the adverse impacts of the plastic.

The applicants are proposing water quality improvements as part of the proposed project, including the direction of roof runoff and surface runoff to bottomless catch basins on the project site. The Commission concurs with the submitted, but in order to ensure that the drainage plan is followed, the Commission is imposing **Special Condition No. 6**, which requires the applicant to conform to the submitted Drainage and Run-Off Control Plan received on July 3, 2006. The placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society (www.CNPS.org). No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

2. Previous Action At The Project Site

On May 10, 2006, the Commission approved Administrative Permit Application No. 5-06-134-[Brigandij] to remove and replace an existing boat dock at 1711 East Bay Avenue. The proposed dock consisted of a 6' x 46' float with a 6' x 6' lobe, 3' x 24' gangway, 4' x 26' pier

⁵ibid.

with a 10' x 14' pier platform, two 16" diameter concrete guide piles, and three 14" diameter concrete "T" piles.

On November 14, 1984, the Commission approved Coastal Development Permit Application No. 5-84-493-[Somers, Farnsworth & Vose] for the construction of a wooden retaining wall and dredging at 1709, 1711 and 1713 East Bay Avenue. Two (2) Special Conditions were imposed: 1) submittal of revised plans for the bulkhead replacement, which show no permanent structures bayward of the existing bulkhead alignment and design elevations at a minimum of 8-feet above MLLW; and 2) submit certification by a registered civil engineer that the proposed shoreline protective device is designed to withstand storms comparable to the winter storms of 1982-1983. The Notice of Intent was issued on November 20, 1984; however, the permit was never issued. According to the analysis entitled: *Existing Seawall Located at 1711 East Bay, Newport Beach, CA (WSA Job #6206-1)* prepared by William Simpson & Associates dated July 24, 2006, the existing bulkhead had been rebuilt approximately 10-years ago in the required alignment stated in Special Condition No. 1 of CDP No. 5-84-493 ; however, no permit was ever issued for this construction. In addition, the applicant has submitted documentation showing that Special Condition No.2 has been complied with. With the proposed application, the applicant is requesting after-the-fact approval of the existing bulkhead.

On March 23, 1983, the Commission approved Coastal Development Permit Application No. 5-82-856-[Somers] for the construction of a wood retaining wall and dredging at 1711 East Bay Avenue. One (1) Special Condition was imposed requiring submittal of revised plans for the bulkhead replacement, which show no permanent structures bayward of the existing bulkhead alignment. A Notice of Intent was issued on March 28, 1983; followed by a withdrawal on November 13, 1983. A permit was never issued and the authorization expired.

B. VIOLATION

Development has occurred on the subject site consisting of construction of the existing bulkhead without the required coastal development permit. The applicant is proposing to retain the existing bulkhead and has requested for after-the-fact authorization of the bulkhead with the proposed project.

To ensure that the unpermitted development component of this application is resolved in a timely manner, **Special Condition No. 7** requires that the applicants satisfy all conditions of this permit, which are prerequisite to the issuance of this permit within 90 days of Commission action. Although construction has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

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 with Sections 30230 and 30231 of the Coastal Act.

D. MARINE RESOURCES

The proposed development is the replacement of an existing bulkhead in the same location or landward of the existing bulkhead that is necessary to protect an existing structure. The proposed development will not result in the additional fill of coastal waters as the new bulkhead will be located either in the same location or landward of the existing bulkhead. In the event that the bulkhead is being reconstructed in the same location, it is infeasible to relocate the new bulkhead further landward. The proposed development has been conditioned to minimize adverse effects on the marine environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass, and to avoid contributing to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. 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 conforms with Sections 30233 and 30235 of the Coastal Act.

E. 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

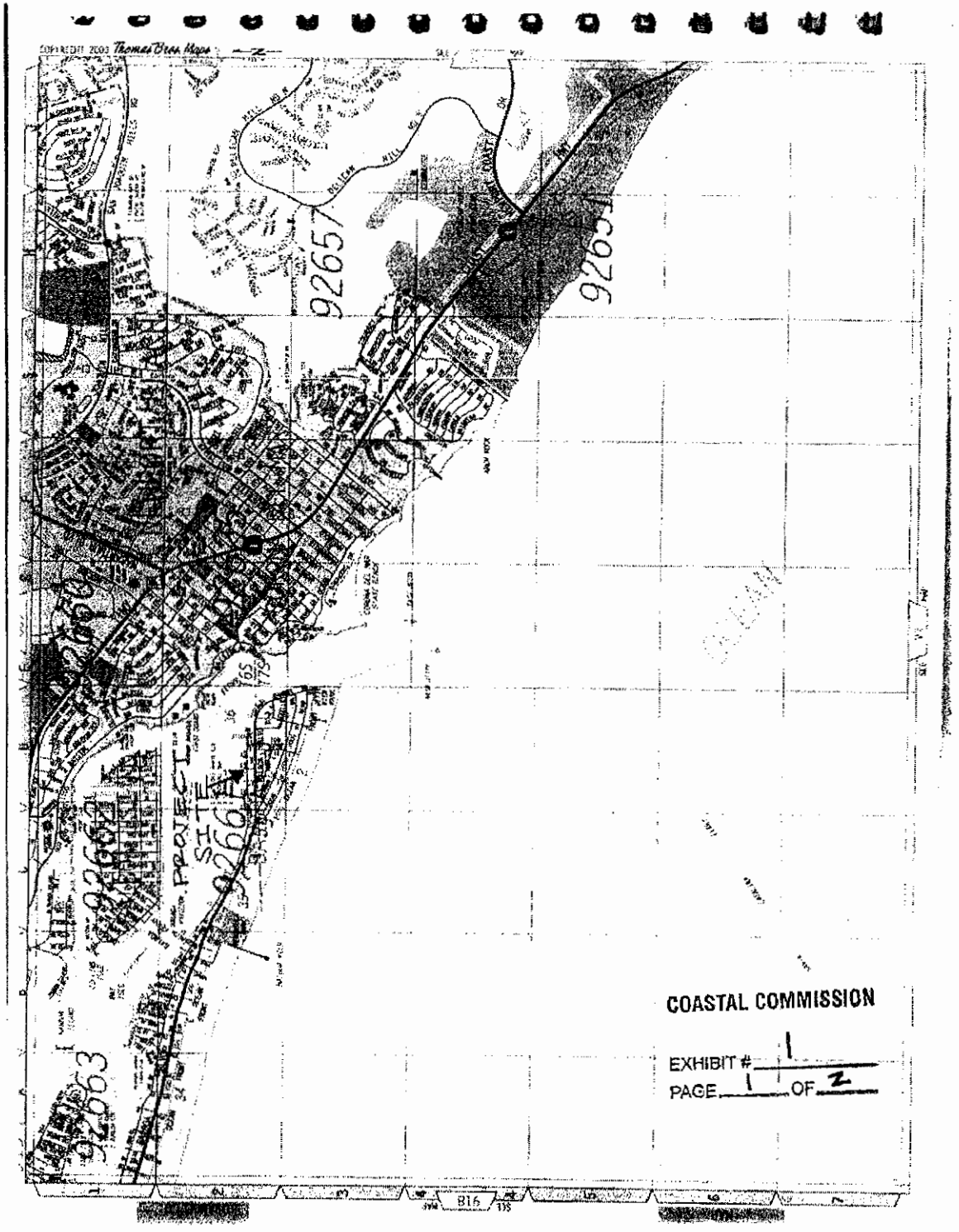
F. LOCAL COASTAL PROGRAM

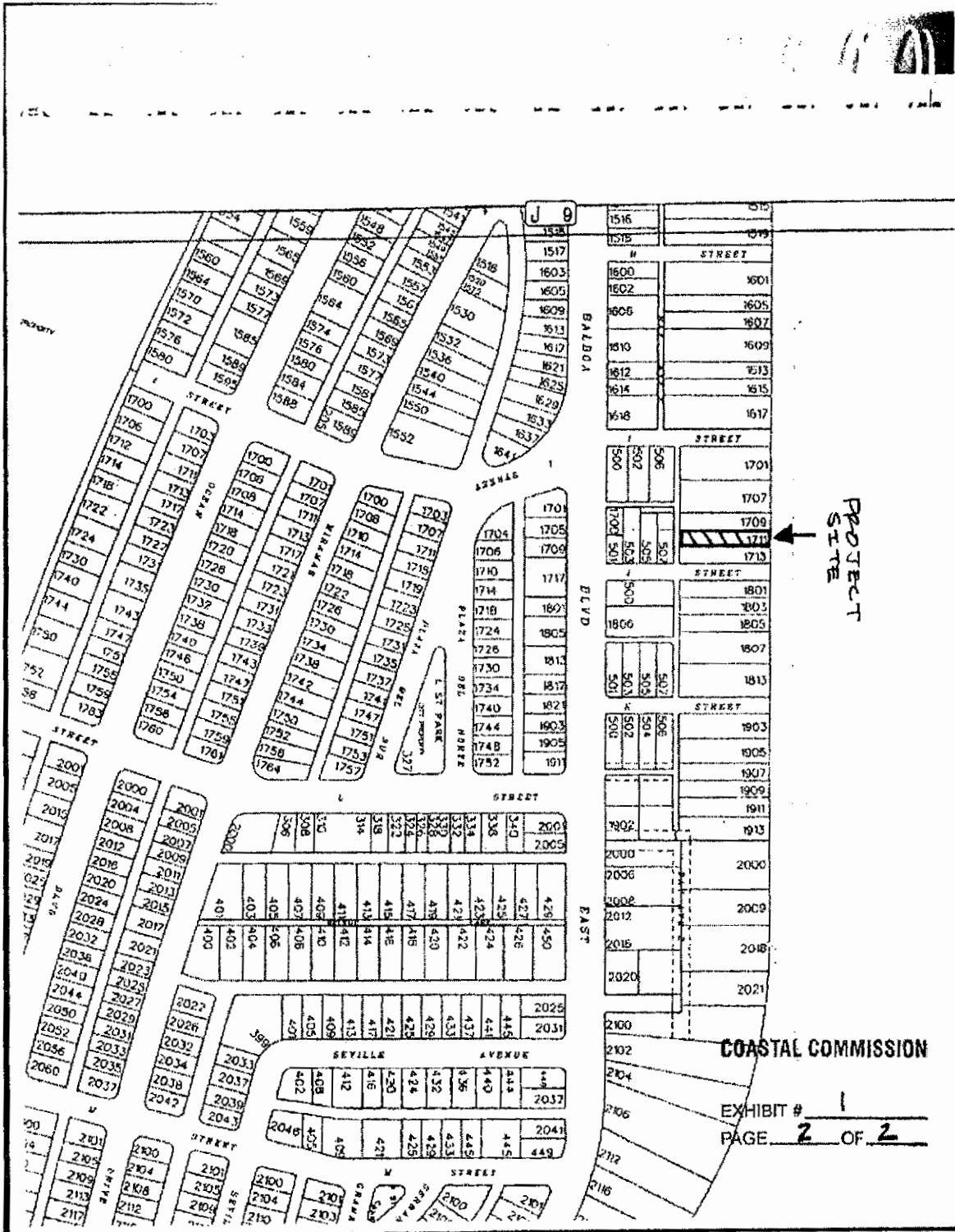
The LUP for the City of Newport Beach was effectively certified on May 19, 1982. At the October 2005 Coastal Commission Hearing, the certified LUP was updated. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval 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.

G. 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.

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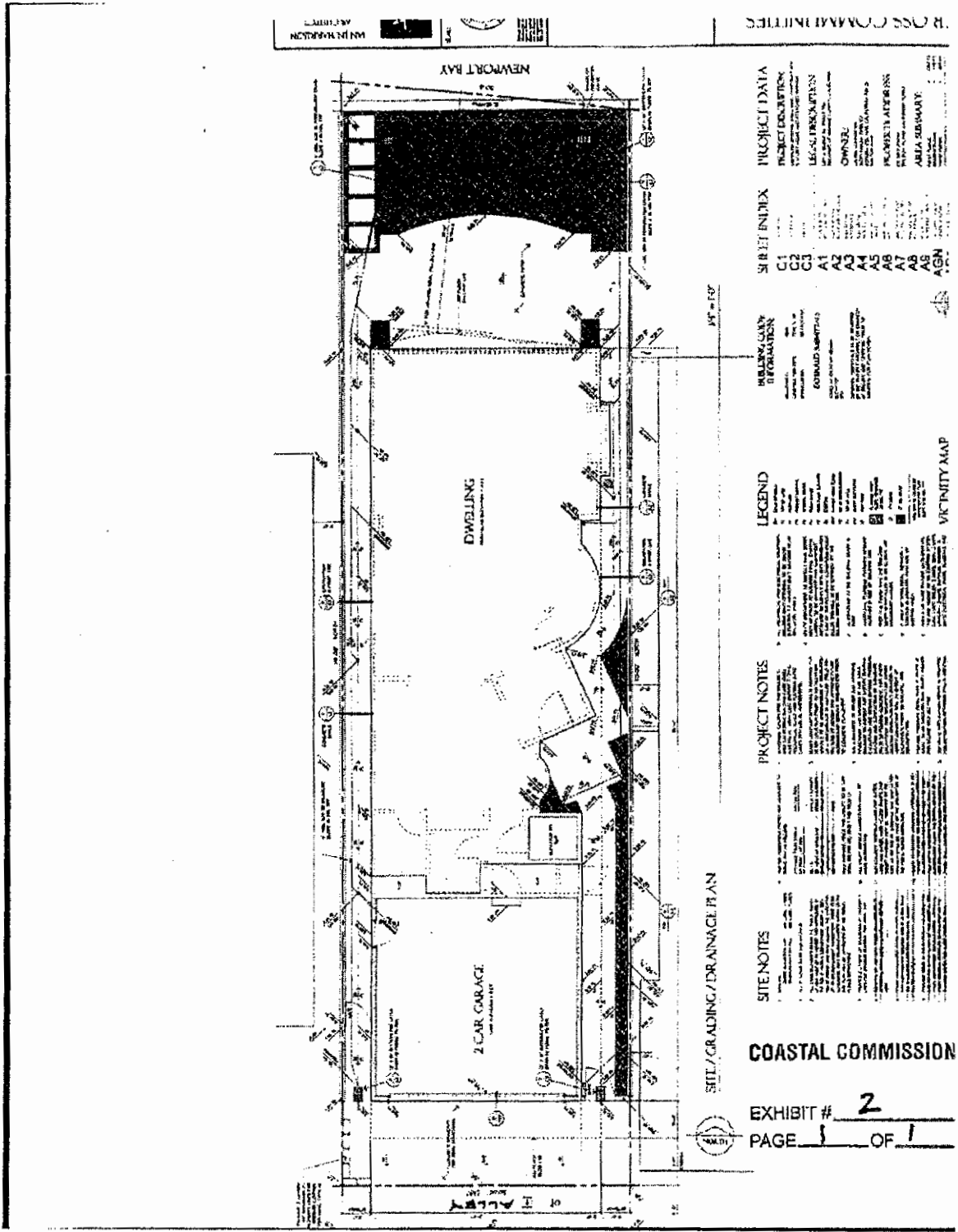




PROJECT SITE

COASTAL COMMISSION

EXHIBIT # 1
 PAGE 2 OF 2



SITE/GRADING/ DRAINAGE PLAN

CROSS COMPARISONS

PROJECT DATA
 PROJECT DESCRIPTION: [illegible]
 LEGAL DESCRIPTION: [illegible]
 OWNER: [illegible]
 PROJECT ADDRESS: [illegible]
 AREA SUBJECT: [illegible]

SHEET INDEX

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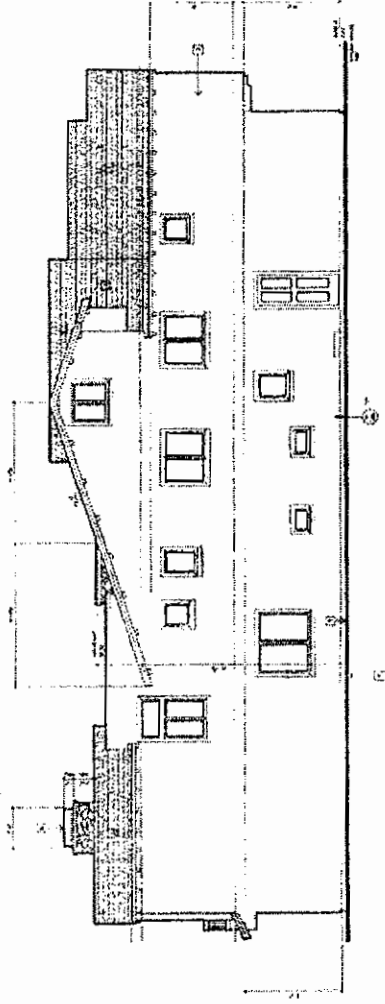
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SITE NOTES
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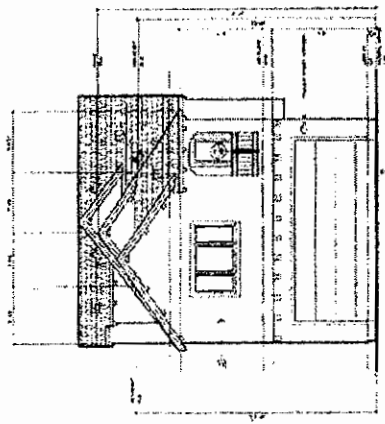
COASTAL COMMISSION
 EXHIBIT # 2
 PAGE 1 OF 1

INVESTIGATIONS ARCHITECT 1000 BAY AVENUE SAN FRANCISCO, CALIFORNIA 94104			EXTERIOR ELEVATIONS SOUTH - WEST	CROSS COMMUNITIES 1000 BAY AVENUE SAN FRANCISCO, CALIFORNIA 94104		DATE: 5/6/10 SCALE: AS SHOWN	A4
				PROJECT NO.: 5-06-210	DATE: 5/6/10		

NOTES:
1. SEE ARCHITECTURAL RECORDS FOR INTERIOR FINISHES AND MATERIALS.
2. SEE ARCHITECTURAL RECORDS FOR MECHANICAL, ELECTRICAL AND PLUMBING DETAILS.
3. SEE ARCHITECTURAL RECORDS FOR STRUCTURAL DETAILS.
4. SEE ARCHITECTURAL RECORDS FOR LANDSCAPE DETAILS.
5. SEE ARCHITECTURAL RECORDS FOR SIGNAGE DETAILS.
6. SEE ARCHITECTURAL RECORDS FOR FURNITURE DETAILS.
7. SEE ARCHITECTURAL RECORDS FOR LIGHTING DETAILS.
8. SEE ARCHITECTURAL RECORDS FOR PAINT DETAILS.
9. SEE ARCHITECTURAL RECORDS FOR TILE DETAILS.
10. SEE ARCHITECTURAL RECORDS FOR CARPET DETAILS.



EXTERIOR ELEVATION (SOUTH)

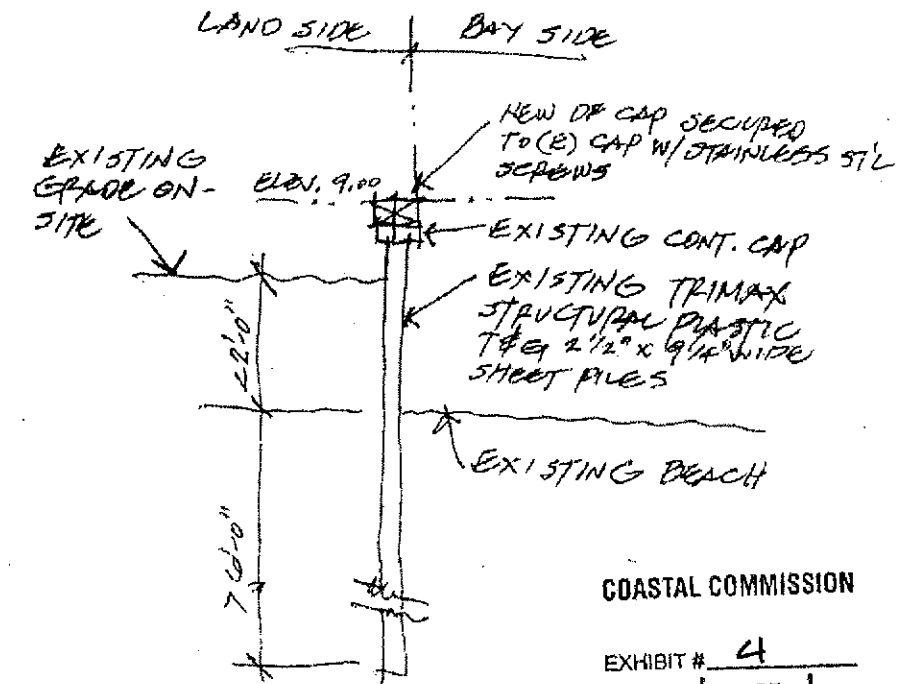


EXTERIOR ELEVATION (WEST)

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

RECEIVED
South Coast Region
JUL 26 2006
CALIFORNIA
COASTAL COMMISSION



COASTAL COMMISSION

EXHIBIT # 4
PAGE 1 OF 1

Step Wall

California Coastal Commission
South Coast District Office
APPROVED 5-06-210
Permit No. 5-06-210
By:
EFFECTIVE
Date:

Google

1701

1711

To see all the details that are visible on the screen, use the "Print" link next to the map.



<http://maps.google.com/maps?hl=en&tab=w1>

3/1/2013

EXHIBIT I

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

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

Page 1 of 4

Date: August 31, 2009

Permit No: 5-09-079



ATTN: Lish

COASTAL DEVELOPMENT PERMIT

On August 14, 2009, the California Coastal Commission granted to 1701 East Bay, LLC Coastal Development Permit 5-09-079, subject to the attached Standard and Special Conditions, for development consisting of:

Demolition of an existing bulkhead and construction of a new concrete bulkhead in the same location consisting of a 61-foot long bulkhead, a 17-foot long return wall at the eastern end, and an 18-foot long return wall on the western end, with top elevation of bulkhead at +9.0 ft. MLLW, to protect an existing single family residence. More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at 1701 East Bay Avenue, City of Newport Beach.

Issued on behalf of the California Coastal Commission on August 31, 2009.

PETER DOUGLAS
Executive Director

By: *[Signature]*
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

9-1-09
Date

Rose E. Kelly, Stewart
Agent Signature of Permittee
President, Shellmaker Inc

Please sign and return one copy of this form to the Commission office at the above address.

COASTAL DEVELOPMENT PERMIT

No. 5-09-079

Page 2 of 4

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 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:

1. **Construction Responsibilities and Debris Removal**
 - A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
 - B. Any and all construction material will be removed from the site within 10 days of completion of construction.
 - C. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone.
 - D. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity.
 - E. 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.
 - F. Non-buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.

Addendum W16a Ogilvie & Svrcek

Page 86 of 100

COASTAL DEVELOPMENT PERMIT

No. 5-09-079

Page 3 of 4

2. Eelgrass Surveys

- 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" (SCEMP) 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" (SCEMP) 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

COASTAL DEVELOPMENT PERMIT**No. 5-09-079**

Page 4 of 4

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 provide 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 have 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.

EXHIBIT J

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA OFFICE
P O BOX 1450
200 OCEANGATE 10TH FLOOR
LONG BEACH, CA 90802-4325
(562) 590-5071

Date: October 20, 2003
Permit Application No.: 5-02-302
Page: 1 of 6



CORRECTED
NOTICE OF INTENT TO ISSUE PERMIT
(Upon satisfaction of special conditions)

THIS IS NOT A COASTAL DEVELOPMENT PERMIT

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On **May 6, 2003**, the California Coastal Commission approved Coastal Development Permit No. **5-02-302**, requested by **Neil & Kerry Barth** subject to the attached conditions, for development consisting of: **Demolish an existing single-family residence, garage & storage structure at 1806 East Balboa Boulevard and adjust lot lines. No further development is proposed at 1806 East Balboa Blvd. Demolish an existing single-family residence, garage and storage structure and construct a 9,488 square foot 2-story single-family home with a basement, attached 921 square foot garage and rear yard pool, with 785 cubic yards of grading & export and adjust lot lines at 1813 East Bay Avenue.** More specifically described in the application file in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone in **1806 East Balboa Boulevard & 1813 East Bay Avenue, Newport Beach (Orange County).**

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: October 20, 2003

Permit Application No.: 5-02-302

Page 2 of 6

If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 5-02-302, please contact the Coastal Program Analyst identified below.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: Fernie J. Sy
Coastal Program Analyst
Date: October 20, 2003

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

Date

Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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 condition will be resolved by the Executive Director or the Commission.

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: October 20, 2003

Permit Application No.: 5-02-302

Page 3 of 6

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:

NOTE: IF THE **SPECIAL CONDITIONS** REQUIRE THAT DOCUMENT(S) BE RECORDED WITH THE COUNTY RECORDER, YOU WILL RECEIVE THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS). IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE DISTRICT OFFICE.

1. **Geotechnical Recommendations**

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the engineering geologic investigations: *Geotechnical Investigation, New Residence, 1813 East Bay Avenue, Newport Beach, CA (Job No. 2066)* prepared by Coleman Geotechnical dated December 28, 2001; and Letter from Coleman Geotechnical (Job No. 2066) dated October 18, 2002.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, all the final design and construction plans and evidence that an appropriately licensed professional has reviewed and approved those final plans and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced geologic investigations approved by the California Coastal Commission for the project site.
- C. The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is required.

2. **Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: October 20, 2003

Permit Application No.: 5-02-302

Page 4 of 6

employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

3. No Future Shoreline Protective Device

A(1). By acceptance of this Permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-02-302, including, but not limited to, the residence and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

A(2). By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowners shall remove the development authorized by this permit, including the house, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowners shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

4. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-02-302. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-02-302. Accordingly, any future improvements to the single-family house and associated structures authorized by this permit, including repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-02-302 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

5. Final Project Plans

The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: October 20, 2003

Permit Application No.: 5-02-302

Page 5 of 6

amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittees shall comply with the following construction-related requirements:

- A. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- B. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- C. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- D. All mechanized machinery shall be removed from the beach at the end of the working day. No storage of mechanized equipment is allowed on the beach;
- E. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent run-off/sediment transport into Lower Newport Bay;
- F. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

7. Drainage and Run-Off Control Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for review and approval of the Executive Director, a final drainage and run-off control plan showing roof drainage and run-off from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of native plants common to coastal Orange County and/or non-native drought tolerant plants, which are non-invasive.
- B. The permittees shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: October 20, 2003

Permit Application No.: 5-02-302

Page 6 of 6

8. Revised Landscaping Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit a revised landscaping plan to the Executive Director for review and approval. The revised landscaping plans shall only consist of native plants common to coastal Orange County and/or non-native drought tolerant plants which are non-invasive.
- B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

9. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

EXHIBIT K



CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT Harbor Resources

April 12, 2013

Mr. John Del Arroz
Coastal Program Analyst
California Coastal Commission
South Coast District Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Re: **928 E. Balboa Boulevard (Application No. 5-12-292)**

Mr. Del Arroz,

I was recently contacted by Bruce Ogilvie, co-owner of 928 E. Balboa Boulevard, regarding his pending Coastal Development Permit application (No. 5-12-292). As I understand it, Bruce and his partner Rudy Svrcek are proposing to demolish an existing residence and to build two homes on the two existing lots.

I am writing today about the existing bulkhead which the application proposes to keep in its current location. Mr. Ogilvie forwarded me the March 14, 2013 e-mail where you note that "the final staff recommendation for the project may include a requirement to move the bulkhead to a more landward location."

The purpose of this letter is to provide the opinion of Harbor Resources that the existing bulkhead associated with 928 E. Balboa Boulevard does not present navigational or other concerns to the City of Newport Beach, and that keeping an existing, functioning bulkhead in place is preferable to requiring demolition and reconstruction. Over its approximately 25 years of existence, we are not aware of any evidence that the bulkhead has had any adverse impacts on adjacent properties or the inter-tidal slope fronting the wall. We also have no evidence that the bulkhead has resulted in, or contributed to, any erosion of the beach fronting the site.

In conclusion, Harbor Resources supports retaining the existing bulkhead in its present location. If you would like to further discuss Harbor Resources' opinion regarding the bulkhead, please do not hesitate to call me at (949) 644-3043.

Sincerely,

Chris Miller
Harbor Resources Manager

EXHIBIT L



CITY OF NEWPORT BEACH

COMMUNITY DEVELOPMENT

May 28, 2013

Mr. John Del Arroz
Coastal Program Analyst
California Coastal Commission
South Coast District Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Re: **928 E. Balboa Boulevard (Application No. 5-12-292)**

Dear John,

I was recently contacted by Bruce Ogilvie, one of the owners of 928 E. Balboa Boulevard, regarding his pending Coastal Development Permit application (No. 5-12-292). As I understand it, Mr. Ogilvie and his partner, Rudy Svrcek, would like to raze the existing single-family home located at 928 E. Balboa Boulevard, which sits on two existing lots, and build two single-family homes in its place.

I am writing today about the existing bulkhead at 928 E. Balboa Boulevard, which the applicants propose to keep in its current location. As you know, bulkheads are used throughout Newport Beach to protect existing development from tidal influences. This bulkhead is no different.

The City understands that the existing bulkhead was built bayward of the location approved by the Coastal Commission in 1987 (Coastal Development Permit 5-87-822). As a result, according to Mr. Ogilvie, Coastal Commission staff's preliminary recommendation is to relocate the existing bulkhead approximately 30' landward such that it would be in line with the adjacent wall at the end of B Street (to the south) and the adjacent bulkhead associated with the home at 926 E. Balboa Boulevard (to the north).

The City of Newport Beach would not support such a staff recommendation for two reasons. First, the demolition, removal, and reconstruction of an existing, structurally sound bulkhead would be unnecessarily disruptive to the Lower Newport Bay environment. Second, the bulkhead location approved in Coastal Development Permit 5-87-822 was approximately 9' landward of the bulkhead's current location, so a 30' landward relocation seems unwarranted.

Please keep these concerns in mind as you prepare the final staff recommendation on this project, and include me on the notice list when the final recommendation becomes available. If you would like to further discuss the concerns addressed above, please do not hesitate to call me at (949) 644-3210.

Sincerely,

A handwritten signature in black ink that reads "JW Campbell". The signature is written in a cursive style with a large, sweeping initial "J" and "W".

James Campbell
Principal Planner

CALIFORNIA COASTAL COMMISSION

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



W16a

Filed:	1/7/2013
180th Day:	waived
270th Day:	10/4/2013
Staff:	JDA-LB
Staff Report:	8/30/2013
Hearing Date:	9/11/2013

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-12-292

Applicant: Bruce Ogilvie and Rudy Svrcek

Agent: Manatt, Phelps, & Phillips, LLP
DBN Planning

Location: 928, 930 E. Balboa Blvd., Newport Beach, Orange County
(APN 048-141-31)

Project Description: Demolition of the existing single family home built on 2 existing bayfront lots on Newport Harbor, and construction of two new homes, including a detached 29 ft.-high 3 story, 3820 sq.ft. single family home on a 4240 sq.ft. lot and a detached 29 ft.-high, 3 story 3,710 sq.ft. single family home on 4189 sq. ft. lot, and request for after-the-fact approval of an existing bulkhead, pool, spa and surrounding hardscape/flatwork.

Staff Recommendation: Denial in part, and
Approval in part, with conditions

SUMMARY OF STAFF RECOMMENDATION:

The proposed project involves redevelopment of two existing lots containing one single family residence with two new residences, one on each existing bayfront lot on Newport Harbor. The existing bulkhead, pool, spa and surrounding flatwork/hardscape located bayward of the lots on the sandy beach intertidal zone are unpermitted. The proposed project includes a request by the applicant to retain the existing unpermitted development. Staff is not recommending after-the-fact approval of the proposed bulkhead, pool, spa, and surrounding flatwork/hardscape because the location is approximately 29 feet further bayward than the predominant line of bulkheads in the area and adjacent on either side of the subject lots. The proposed, more bayward location is only necessary to accommodate accessory improvements including a patio, pool and spa between the

residence and the bulkhead which is not the established pattern of development here or within Newport Harbor where there are a significant number of private residences with existing bulkheads necessary to protect the residential development and streets from flooding. The impact of the proposed fill for the bulkhead and accessory improvements on sandy beach, shoreline access and intertidal habitat is significant. In addition, such a precedent for this kind of development could result in significant cumulative adverse impacts to sensitive resources, beach access and visual quality of the shoreline area if the proposed pattern of encroachment is perpetuated and/or increased on other bayfront lots along Newport Harbor.

The standard of review for the project is the Chapter 3 policies of the Coastal Act, with the City's current, certified Land Use Plan used as guidance. The City of Newport Beach's certified Land Use Plan has undergone updates which have resulted in the adoption of additional policies that specifically address siting of bulkheads and indicate they should be sited: "to minimize impacts to coastal resources", "as far landward as possible", "the minimum required to protect a principle structure", "to protect the character of existing shoreline profiles and avoid encroachment onto public tidelands", and to "limit bulkhead expansion or encroachment into coastal waters to the minimum extent necessary.. and do not allow the backfill to create new usable residential land areas." Therefore, the City's LUP requires bulkheads to be sited in the most landward location to protect the bay and prevent further bayward encroachment. Approval of the bulkhead, pool, spa and surrounding flatwork in the proposed location would prejudice preparation of the Implementation Plan and a certified LCP for the City of Newport Beach.

Staff has considered the existing unpermitted bulkhead, pool and spa as if they do not exist and thus, the proposal is for new development of two homes with one pool and bulkhead in a location that is not consistent with Chapter 3 policies or the certified LCP Land Use Plan. Therefore, staff is recommending approval of the proposed residences and a replacement bulkhead in more landward location, but denial of retention of the existing unpermitted bulkhead, pool and spa. Special Condition 1 requires revised plans indicating the bulkhead is located in alignment with the predominant line of bulkheads existing on either side of the subject lots. This alignment, shown in Exhibit 5, is supported by the general alignment of bulkheads in the vicinity of the project, and by past Commission action in the area.

Therefore, Staff recommends that the Commission adopt a two-part resolution that will result in denial of retention of the existing bulkhead, pool, spa and associated flatwork/hardscape surrounding the pool/spa, and approval of a permit with **nine (9) special conditions**, regarding: 1) revised final plans that include placement of a bulkhead in alignment with the predominant line of the existing adjacent bulkhead/seawalls; 2) conformance with submitted landscape plan; 3) conformance with submitted drainage plan; 4) approvals of other agencies; 5) future development on the site requires a permit; 6) no future seaward extension of protective device; 7) construction responsibilities; 8) assumption of risk for the development; and 9) a deed restriction for the sites.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Site Plan
- Exhibit 3 – CDP 5-87-822
- Exhibit 4 – Bulkheads in Vicinity
- Exhibit 5 – Alternative Bulkhead Alignment
- Exhibit 6 – Aerial Imagery

I. MOTION AND RESOLUTION - DENIAL IN PART AND APPROVAL IN PART:

Motion:

I move that the Commission adopt the staff recommendation to deny in part and approve in part Coastal Development Permit No. 5-12-292, by adopting the two part resolution set forth in the staff report.

Staff recommends that the Commission adopt the following two-part resolution. Passage of this motion will result in denial of retention of the existing bulkhead, pool, spa and associated flatwork/hardscape surrounding the pool/spa, and approval of a permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

Part 1: Denial of Retention of the Existing Unpermitted Bulkhead, Pool, Spa and associated hardscape

*The Commission hereby **DENIES** the portion of the proposed application for coastal development permit for retention of the existing bulkhead, pool, spa and flatwork/hardscape surrounding the pool/spa, and adopts the findings set forth below, on the grounds that the development would not conform with the policies of Chapter 3 of the Coastal Act and would 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 of the Coastal Act. Approval of this portion of the application would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.*

Part 2: Approval with Conditions of a Portion of the Development

*The Commission hereby **APPROVES**, as conditioned, a coastal development permit for the proposed residences and construction of a bulkhead in a more landward alignment, and adopts the findings set forth below on grounds that the development as amended and subject to conditions 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 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.*

II. 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 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 of 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:

This permit is granted subject to the following special conditions:

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit two full size sets of revised final project plans, including demolition, site, elevation, section, grading, structural/foundation, etc., to the Executive Director for review and approval. Prior to submittal of the plans to the Executive Director, the applicant shall obtain, at a minimum, preliminary review and approval of those plans from the City of Newport Beach. The revised final plans shall be in substantial conformance with the plans received by South Coast District staff on 4/18/2013, except they shall be modified as follows:
 - a. The seaward edge of the approved bulkhead shall be located such that it is in alignment with the predominant line of the existing adjacent bulkhead/seawalls as generally depicted on Exhibit 5 of the staff report dated 8/30/2013. The existing bulkhead, pool, spa and surrounding flatwork on the site shall be shaded and clearly marked as unpermitted on each set of the final plans as follows “these elements not permitted by this or any other coastal development permit”.
 - b. The existing 4 ft. wide pier may be extended landward to connect to the landward-realigned bulkhead.
 - c. Final plans shall be reviewed and approved by a qualified professional to ensure that the approved bulkhead is either built to accommodate sea level rise for the economic life of the proposed residence, or that it is consistent with the current City requirements and can be adapted to future sea level rise without further seaward encroachment.

d. Final plans shall demonstrate that railings utilized for decks or bulkhead are composed of materials sufficient to avoid bird strikes, such as wire railings, frosted or etched glass, or other permanent treatments to ensure that the railings are not subject to bird strikes.

The permittee shall undertake development in accordance with the approval final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Landscape Plan.** The applicant shall conform to the landscape plan received on November 19, 2012 showing vegetated landscaped areas consisting of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: [http://www.water.ca.gov/wateruseefficiency/ docs/wucols00.pdf](http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf)). Existing vegetation that does not conform to the above requirements shall be removed.
3. **Drainage Plan.** The applicants shall conform with the Drainage Plan received on November 19, 2012 showing roof drainage and runoff from all impervious areas directed to infiltration pits and permeable landscaping wherever possible. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
4. **Other Agency Approvals.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, applicant shall provide to the Executive Director evidence of approvals from the City of Newport Beach, Army Corps of Engineers, and the Regional Water Quality Control Board, or evidence that no approvals are required. The applicant shall inform the Executive Director of any changes to the project required by these agencies. 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.
5. **Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-12-292. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-12-292. Accordingly, any future improvements to the bulkhead and single family residence, and any other development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-12-292 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. No Future Seaward Extension Of Shoreline Protective Device

A. By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device (seawall/bulkhead) approved pursuant to Coastal Development Permit No. 5-12-292, as described and depicted on an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, shall be undertaken if such activity extends the footprint seaward of the subject shoreline protective device (seawall/bulkhead). By acceptance of this permit, the applicants waive, on behalf of themselves and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.

B. PRIOR TO THE ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicants shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description (metes and bounds) and graphic depiction of the shoreline protective device approved by this permit, as generally described in Special Condition 1 to be approved by the Executive Director pursuant to that Special Condition; and which shall show the footprint of the device and the elevation of the device referenced to NGVD (National Geodetic Vertical Datum).

7. Construction Responsibilities And Debris Removal. The permittee shall comply with the following construction-related requirements:

A. 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.

B. 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.

C. 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.

D. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone.

E. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity.

F. 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.

G. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.

H. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.

I. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.

J. 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.

K. 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.

L. 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.

M. The discharge of any hazardous materials into any receiving waters shall be prohibited.

N. 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.

O. 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.

P. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

8. **Assumption Of Risk, Waiver Of Liability And Indemnify.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from sea level rise, flooding, wave attack, and erosion (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

9. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

A. Project Location & Description

The project site is composed of two bayfront lots located at 928 and 930 East Balboa Boulevard, Newport Beach, approximately 800 feet northeast of the Balboa Pier. Public access to Newport Bay and the beach are available via B Street, a public street located adjacent to the site.

The applicant proposes the demolition of the existing single family residence located over 2 existing lots, and the construction of 2 new single family residences, one on each lot. The single family residence at 928 E Balboa Blvd would be 29' high, and have a gross floor area of 3,820 square feet. The residence at 930 E Balboa Blvd would be 29 feet high, and have a gross floor area of 3,710 square feet. The new residences would be in alignment with the adjacent residences. The proposed residences direct roof and site runoff to perforated trench drains located in the side yards or lawn areas, for on-site infiltration. The proposed single family residences are compatible with the City's certified land use designation of Residential Two Family.

The applicant's original proposal also included the removal of the existing pool, spa and surrounding flatwork, and the installation of a raised lawn and sand area. After Staff notified the applicant that the existing pool, spa, surrounding flatwork and bulkhead appeared to be unpermitted, the applicant modified the project description to request the retention of the existing unpermitted bulkhead, pool, spa and flatwork. The existing bulkhead is located further seaward and is not in alignment with the adjacent bulkheads. Also, with a few exceptions, a pool and spa in the existing/proposed location is unusual for the area. Further information on the unpermitted status of these improvements can be found in Section B., Unpermitted Development, located below.

B. Unpermitted Development

Coastal development permit No 5-87-822 was approved on December 9, 1987 to: "Remove an existing residential bulkhead and construct a new bulkhead approximately 20 feet landward of the U.S. Bulkhead line and the existing bulkhead." The project plans for CDP 5-87-822 depict an existing bulkhead located at the US bulkhead line that was proposed to be removed, and a new proposed bulkhead located 20 feet landward of the US bulkhead line, on the bayward edge of Bay Avenue, a street that was vacated by the City prior to the Coastal Act.

CDP 5-87-822 was granted subject to Seven (7) Standard Conditions. Standard Condition 2 states: "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." Standard Condition 3 requires that development occur "in strict compliance with the proposal.... Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval."

However, the bulkhead that was installed is not consistent with the description of work approved in CDP 5-87-822 or the location of the bulkhead depicted on the set of approved plans. The applicant submitted a survey (Exhibit 2) showing that the existing bulkhead is located approximately 6.5' further seaward than the bayward edge of Bay Avenue, the location permitted by CDP 5-87-822. Therefore, the applicant did not undertake development as it was approved by the City or the Commission, inconsistent with Standard Condition 3. Pursuant to Standard Condition 2, the

development which was authorized by the permit has not been commenced, more than 2 years have passed since the Commission acted on CDP 5-87-822, and the CDP which was issued for the site has expired. Neither Commission staff nor the applicant have found evidence of any additional coastal development permit for the current location of the bulkhead. Therefore, the existing bulkhead on the site should be considered unpermitted development.

This construction of the seawall in non-compliance with CDP 5-87-822 resulted in a significant volume of additional fill of coastal waters and intertidal areas. This fill occurred inconsistent with: 1) the Commission's findings on the project, which state that the intertidal area seaward of the approved location of the bulkhead would be regained, and 2) City policy at that time, as the permit states that bulkheads were not allowed by the City to be constructed bayward of the permitted location.

There is also an existing pool, spa and surrounding flatwork on the site. Aerial imagery from the Coastal Records project shows that a pool or spa and flatwork was constructed between 1986 and 1993, and a pool and spa permit was granted by the City in 1992. Construction of the pool and spa and surrounding flatwork constitute "development" as defined by Coastal Act section 30106. Pursuant to Coastal Act Section 30600, such development requires a coastal development permit. However, there is no evidence that a coastal development permit was issued for the installation of the pool, spa and flatwork. Therefore, the existing pool, spa and flatwork constitute unpermitted development.

The applicant is requesting the authorization of the unpermitted pool, spa, flatwork and bulkhead. To ensure that the Commission protects coastal resources from adverse impacts associated with the proposed development, the Commission reviews the subject application as though the unpermitted development had not occurred. (LT-WR v. CCC (2007) 152 Cal.App.4th 770, 796-797.) Therefore, the Commission reviews the subject application as though the bulkhead, spa, pool and flatwork development had not occurred.

Since the City does not have a certified LCP, Chapter 3 is the standard of review for the proposed development with the relevant provisions of the City's certified Land Use Plan used as guidance.

Development has occurred on the subject property without the required coastal development permit, including construction of a bulkhead, spa, pool and flatwork. The proposed development requests the authorization of this unpermitted development.

Special Condition 1 requires that the project, as conditioned, ensure the proper siting of development on the site. As described further below, the proposed retention of the existing bulkhead, spa, pool and flatwork cannot be found consistent with the Chapter 3 policies of the Coastal Act and must be denied. Therefore, **Special Condition 1** requires that the existing bulkhead, pool, spa and surrounding flatwork on the site shall be shaded and clearly marked as unpermitted on each set of the final plans as follows "these elements not permitted by this or any other coastal development permit". Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

C. Shoreline Protection / Hazards

Coastal Act section 30235 states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Coastal Act section 30253 states, in relevant part:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The City of Newport Beach's certified Land Use Plan states:

2.8.6-6. Design and site protective devices to minimize impacts to coastal resources, minimize alteration of natural shoreline processes, provide for coastal access, minimize visual impacts, and eliminate or mitigate adverse impacts on local shoreline sand supply.

2.8.6-7. Discourage shoreline protective devices on public land to protect private property/development. Site and design any such protective devices as far landward as possible. Such protective devices may be considered only after hazard avoidance, restoration of the sand supply, beach nourishment and planned retreat are exhausted as possible alternatives.

2.8.6-8. Limit the use of protective devices to the minimum required to protect existing development and prohibit their use to enlarge or expand areas for new development or for new development. "Existing development" for purposes of this policy shall consist only of a principle structure, e.g. residential dwelling, required garage, or second residential unit, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping etc.

2.8.6-10. Site and design new structures to avoid the need for shoreline and bluff protective devices during the economic life of the structure (75 years).

3.1.4-7. Design and site bulkheads to protect the character of the existing shoreline profiles and avoid encroachment onto public tidelands.

3.1.4-8. Limit bulkhead expansion or encroachment into coastal waters to the minimum extent necessary to repair, maintain, or replace an existing bulkhead and do not allow the backfill to create new usable residential land areas.

1. Seawall/Bulkhead Required to Protect Existing Development

There is an existing wood bulkhead on the site. According to the Seawall/Bulkhead Assessment Study by William Simpson & Associates which was submitted by the applicant, the existing

bulkhead is consistent with City standards, and would last for the economic life of the new residential structures.

The applicants have submitted a coastal hazard study by Geosoils Inc. which states that the existing bulkhead is necessary to protect the existing deck and pool, and to protect against flooding of adjacent residential properties and the public street. The report states: 1) the existing bulkhead will protect against flooding under the most intense sea level rise estimate until at least 2063, 2) that the bulkhead could be adapted to respond to sea level rise; 3) that such adaptation would not require further seaward expansion of the bulkhead; and 4) the proposed residences' finished floor elevation of 9 feet will ensure protection against the most aggressive sea level rise estimate until 2063.

Commission staff has reviewed the submitted studies, and concurs that a bulkhead on the site is necessary to protect existing development in the vicinity, including other residences and the public street, from flooding. However, although a bulkhead may be necessary to protect existing structures, there are more landward alignments of the bulkhead on the site which would still offer such protection.

2. Bulkhead Alignment

Typically, the Commission's approach has been to require protective devices to be located as far landward as feasible in order to mitigate adverse effects that protective devices typically have (e.g. public access impediment, adverse visual impacts, etc.) This ensures that protective devices will be sited where they pose the least impact to coastal resources, while still allowing for the protection of existing principal structures.

The policies of the City's certified Land Use Plan are used as guidance. The City's certified Land Use Plan's policies include the following on where bulkheads should be sited: "to minimize impacts to coastal resources", "as far landward as possible", "to the minimum required to protect a principle structure", "to protect the character of existing shoreline profiles and avoid encroachment onto public tidelands", and to "limit bulkhead expansion or encroachment into coastal waters to the minimum extent necessary.. and do not allow the backfill to create new usable residential land areas." The City's LUP requires bulkheads to be sited in the most landward location to protect the bay and prevent further bayward encroachment.

In this case, the proposed bulkhead alignment is seaward of the existing patio area and the unpermitted pool and spa. Thus, the proposed bulkhead alignment would protect existing unpermitted accessory development. This is inconsistent with the policies of the City's certified LUP, which requires protective devices to be sited as far landward as possible and where necessary to protect existing principle structures. The existing residence is proposed to be demolished, and therefore the bulkhead should be located at the most landward location where it is sufficient to ensure the protection of the public street and adjacent residences. Siting of the bulkhead in alignment with the bulkheads at the street end and at 926 E Balboa Blvd is the most landward alignment which would allow for the protection of existing development in the vicinity of the project (Exhibit 5)

No evidence has been presented for why the existing bulkhead could not be moved to a further landward location. Rather, the predominant alignment of other bulkheads in this area of the Balboa Peninsula shows that the proposed bulkhead can be constructed further landward. Exhibit 4 shows the location and status of bulkheads in the vicinity of the project through interpretation of aerial

imagery and review of available permit records for development in the area. The exhibit shows which of the bulkheads appear to have been constructed prior to the Coastal Act, which received a coastal development permit, and which bulkheads appear to have been constructed without the required coastal development permit. Although there is variation in the alignment of bulkheads along this stretch of Newport Bay, the alignment in this area supports a landward location. In permit actions in the area, the Commission has generally permitted bulkheads in the most landward location and where they are consistent with the alignment of bulkheads in the area. The alignment of the adjacent bulkheads, and the alignment of the alternative alignment represented in Exhibit 5 are consistent with general alignment of this most landward bulkhead location. Thus, the alignment depicted in Exhibit 5 appears to be a feasible less environmentally damaging alternative.

Therefore, the Commission imposes **Special Condition 1**, which requires the applicant to submit, prior to issuance of the permit, a set of final project plans which depict the construction of a bulkhead on the site approximately 29 feet landward of the position of the existing bulkhead, such that it is in alignment with the predominant line of existing adjacent bulkheads, as depicted on Exhibit 5. As conditioned, the proposed project would not result in new fill of coastal waters or changes to shoreline sand supply/erosion at the site, and will protect lot stability.

3. Wave Uprush and Flooding Hazards

The project site is a bayfront lot adjacent to Newport Bay. Due to its location, the property is subject to wave and flooding hazards, and may be subject to increased flooding and wave attack in the future because of the fluctuating nature of coastal conditions, such as changes to the sand supply and sea level rise.

To analyze the suitability of the site for the proposed development relative to potential shoreline hazards, the applicant has submitted reports from Geosoils Inc. The reports indicate that the proposed residences would be designed and sited to ensure protection against the most aggressive sea level rise estimate until 2063, and under a more moderate sea level rise until 2075. After 2063, additions to the existing bulkhead may be required to address the impact of sea level to protect the existing street which is at a lower elevation than the finished floor elevation of the proposed residences, and the bulkhead on the site could be added to ensure protection of this existing development without future seaward encroachment.

Although the applicant's report indicates that the bulkhead and finished floor elevation would ensure the protection of the site at this time, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes, including sand regimes. The mechanisms of sand replenishment are complex and may change over time, especially as beach process altering structures, such as jetties, are modified, either through damage or deliberate design. The extent of sea level rise in the future also adds some uncertainty. In order to address this situation with respect to Coastal Act policy, three (3) special conditions are necessary.

a. Assumption of Risk

Given that the applicants have chosen to implement the project despite potential risks from sea level rise, wave attack, erosion, or flooding, the applicants must assume the risks. Therefore, the Commission imposes **Special Condition 8** for an assumption-of-risk agreement. In this way, the applicants are notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicants to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, the condition ensures that future owners of the

property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

b. Future Development

As discussed previously, the project site is located on a bayfront lot that may be subject to future flooding and wave attack as coastal conditions change. Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the bay shoreline could adversely affect future shoreline conditions if not properly evaluated. For this reason, the Commission is imposing **Special Condition 5**, which states that any future development or additions on the property, including but not limited to any future improvements to the bulkhead, requires a coastal development permit from the Commission. Section 13250 (b) of Title 14 of the California Code of Regulations specifically authorizes the Commission to require a permit for improvements that could involve a risk of adverse environmental effect. This condition ensures that any future development on this site that may affect shoreline processes receives review by the Commission.

c. No seaward placement of bulkhead/seawall

The applicant has submitted a study which finds that flooding should not occur to the residence until at least 2063. **Special Condition 1** requires that the final plans for the bulkhead on the site be approved by a licensed professional to ensure that the bulkhead is suitable to address sea level rise for at least the first 50 years of the residence, and suitable to be later modified to address any additional sea level rise throughout the economic life of the residence. Further, **Special Condition 6** requires that any future maintenance or modifications to the bulkhead to address changing sea level, increased flooding, or other coastal hazards be undertaken on the inland side of the bulkhead and that there not be any seaward encroachment beyond the identified and recorded line of development.

Only as conditioned does the Commission finds that the proposed project is consistent with Section 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

D. Marine Resources/Cumulative Impacts

Coastal Act section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and

substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act section 30250 states in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

The City of Newport Beach's certified Land Use Plan states:

4.1.2-1. Maintain, enhance, and, where feasible, restore marine resources.

4.1.2-2. Provide special protection to marine resource areas and species of special biological or economic significance.

4.2.1-2. Protect, maintain and, where feasible, restore the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes.

1. Fill of Open Coastal Waters

The Commission's findings for CDP 5-87-822 include that the movement of a bulkhead 20 feet landward from its then-current location at the US bulkhead line would restore the intertidal area. Although the permit record for CDP 5-87-822 indicates that a bulkhead existed at the site in 1987 at the US bulkhead line, the permit record does not include details on when that bulkhead was constructed, or the height of the bulkhead at that time. Other available evidence, such as an exhibit from CDP Applications 5-85-019 and 5-85-020, located upcoast from the site, and an aerial photograph dated 5/13/1986, indicate that the area seaward of the existing residence was subject to tidal action. Therefore, although there may have been a bulkhead at the site at the time of the Commission's action on CDP 5-87-822, the site was still subject to tidal action. The proposed project includes a request to authorize the existing bulkhead, pool, and spa at its current location, an area that appears to have been subject to tidal action. Therefore, the proposed project would result in the fill of coastal waters.

As discussed in Section C, Shoreline Protection/Hazards, the proposed project includes the request for authorization of an existing bulkhead located much further seaward than is necessary to protect existing development. Although requiring that the bulkhead on the site be constructed in a landward alignment would result in some temporary construction-related impacts, a more landward alignment would increase the capability of the beach and intertidal area located seaward of the residence to be used as habitat. As a result, the alignment of the proposed bulkhead does not qualify as the least environmentally damaging alternative, and the proposed project is therefore inconsistent with Coastal Act Section 30231 and 30250.

Coastal Act Section 30250 requires that development be sited "where it will not have significant adverse effects, either individually or cumulatively, on coastal resources." Although the subject CDP application is only for one site, it is important to recognize that there are hundreds of bulkheads located in Newport Bay. Each bulkhead raises the issues typically encountered with shoreline protective devices – habitat displacement, wave reflection, loss of sand, and alterations to shoreline processes. If each site were allowed to site a bulkhead further seaward than is necessary

to protect existing principal structures, the result would be significant adverse impacts to the intertidal areas around Newport Bay. The project also has the potential to result in cumulative impacts associated with the authorization of existing unpermitted development. As Exhibit 4 shows, there are existing bulkheads which appear to be unpermitted in the vicinity of the site, including one a few feet to the south. Authorization of the existing unpermitted bulkhead in its current location may give the impression to applicants that unpermitted development which has occurred may be authorized in the future. Finally, the project raises issues of statewide importance, as the siting of shoreline protective devices affects bluff, ocean, and bay fronting properties across the state.

Therefore, the Commission imposes **Special Condition 1**, requiring revised plans which depict the construction of a bulkhead on the site back approximately 29 feet, to meet the alignment of the adjacent bulkheads. Also, there is concern regarding future response to erosion and sea level rise. If the wall needs to be raised to address erosion and/or sea level rise, the wall should be modified or replaced in the currently approved alignment or further landward in order to avoid fill of coastal waters and wetlands. Therefore **Special Condition 6**, requires no future seaward extension of the bulkhead/seawall into coastal waters to avoid future fill of coastal waters.

In order to ensure that the proposed project does not result in impacts to the marine environment, the Commission imposes **Special Condition 4**, which requires that final plans include evidence of approval, or evidence that approval is not required, from the Army Corps of Engineers, Regional Water Quality Control Board, and the City of Newport Beach.

As conditioned, the project would minimize the environmental impacts resulting from the placement of the bulkhead and ensure that the biological productivity of the bay and beach located seaward of the bulkhead is maintained.

2. Construction Impacts to Water Quality

The proposed development will occur adjacent to a sandy beach and Newport Bay. Construction of any kind adjacent to or in coastal waters has the potential to impact marine resources. The bay provides an opportunity for water oriented recreational activities and also serves as a home for marine habitat. Because of the coastal recreational activities and the sensitivity of the harbor habitat, potential water quality issues must be examined as part of the review of this project. In order to avoid adverse construction-related impacts upon marine resources, **Special Condition 7** outlines construction-related requirements to provide for appropriate construction methods as well as the safe storage of construction materials and the safe disposal of construction debris. The applicant proposes to direct roof and site runoff to infiltration pits and landscaped permeable areas. **Special Conditions 2 and 3** require the applicant to comply with the submitted plans.

3. Bird Strike Hazard

Due to the waterfront location, there is a substantial risk of bird strikes to any glass walls. Glass walls are known to have adverse impacts upon a variety of bird species. Birds are known to strike glass walls causing their death or stunning them which exposes them to predation. Some biologists who study the interaction between development and its effect on bird species report that such birds strikes cause between 100 million to 1 billion bird deaths per year in North America alone. Birds strike the glass because they either don't see the glass, or there is some type of reflection in the glass

which attracts them (such as the reflection of bushes or trees that the bird might use for habitat). Some type of boundary treatment is typically required where the backyards of residences abut coastal bluffs. To provide further protection to coastal avian species, **Special Condition 1** requires the applicant submit final revised plans showing that any deck railings, walls, fences, gates, etc. are composed of bird-safe materials such as frosted or etched glass, or solid materials such as wire railings.

The special conditions of this staff report are designed to protect and enhance the marine environment of Newport Bay. Therefore, as conditioned, the Commission finds that the proposed development is consistent with Section 30230, 30231 and 30250 of the Coastal Act and the policies of the certified LUP.

E. Public Access

Coastal Act section 30210 states, in relevant part:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act section 30213 states, in relevant part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The City of Newport Beach certified Land Use Plan states:

3.1.1-1. Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails.

3.1.1-2. Protect and enhance all existing public street ends providing public access to the shoreline, beaches, coastal parks, and trails.

Section 30604 (c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea includes a specific finding that the development is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. The proposed development is located between the sea and the first public road.

The subject site is adjacent to a public street end, at the end of Avenue B, which provides public access to the bay. The submitted wave uprush report by Geosoils Inc. indicates that the beach at the site is subject to minor waves and boat wakes which are not expected to cause erosion of the beach, and that long shore sand transport is prevented by existing groins. However, beaches are dynamic environments, and future changes in sea level, or alterations to the mechanisms of sand replenishment, such as alterations of structures along the shoreline, could result in negative impacts to the beach seaward of the subject site.

Special Condition 1 would require the final plans to depict the construction of a bulkhead on the site further landward. This will ensure that impacts associated with shoreline protective devices,

such as wave reflection, will not result in impacts to the public street end adjacent to the subject site. Therefore, as conditioned, the bulkhead shown on the revised plans will be aligned landward of the existing unpermitted wall, and will not result in new impacts to the sand supply. The proposed residence would be located within an existing single family residential neighborhood, and would not have impacts on the ability of the public to access the coast. As conditioned, the development will not create adverse impacts on coastal access and recreation. Therefore, as conditioned, the Commission finds that the proposed development would be consistent with Sections 30210 and 30212 of the Coastal Act regarding public access.

F. Visual Resources

Coastal Act section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The City of Newport Beach certified Land Use Plan states:

2.8.6-6. Design and site protective devices to minimize impacts to coastal resources, minimize alteration of natural shoreline processes, provide for coastal access, minimize visual impacts, and eliminate or mitigate adverse impacts on local shoreline sand supply.

4.4.1-1. Protect and, where feasible, enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas.

4.4.1-2. Design and site new development, including landscaping, so as to minimize impacts to public coastal views.

The subject site is visible from the public street end at Avenue B and the public beach area adjacent to the subject property, from several public street ends on Balboa Island and the public bayfront walkway on Balboa Island located approximately 1000 feet to the north across the narrow channel fronting the applicants rear property line, and from the public waterways adjacent to the site. The City's certified Land Use Plan states:

The waters of Newport Bay and of the Pacific Ocean adjacent to Newport Beach are used for a wide variety of recreational activities, including boating, diving, excursions, fishing, kayaking, paddle boarding, parasailing, rowing, sailing, surfing, swimming, and wind surfing. Development in the form of marinas, moorings, piers, and equipment rentals provide recreational opportunities and access to the water.

Lower Newport Bay is surrounded by residential development and nearly every bayfront property lays claim to some form of watercraft, whether it be motorized or non-motorized. Further, there are several public access points to the bay for the general public to launch watercraft. Thus, it is a highly used waterway for watercraft recreation.

As depicted in the aerial image of the subject site and surrounding Lower Newport Bay (Exhibit 1) fronting the subject site, the bay is teeming with watercraft, both on buoys and active watercraft. There are at least 30-50 boats on buoys within view of the subject site and about a 40-foot navigational passage for motorized and non-motorized recreational vessels (kayaks, canoes, stand-up paddleboards, etc.) exists between the pierhead line and the buoyed boats in front of the subject site. Thus, people either enjoying an evening on their buoyed boat or paddling within 40 feet of the subject property can enjoy views to and along the ocean, including those views along the shoreline from a close-to-shore perspective. Even if a watercraft is in the center of the channel fronting the subject site, the channel is so narrow in this area that one would be able to easily view the shoreline from the channel. Therefore, the proposed retention of the existing bulkhead would affect public views to and along the ocean from several public viewpoints, including but not limited to, public views from the street end of Avenue B and the public beach (which are both adjacent to the subject property), public views from several public street ends on Balboa Island and the public walkway on Balboa Island and public views of those aboard recreational watercraft in several places in the narrow channel adjacent to the subject site.

The proposed project would result in the authorization of a bulkhead at an alignment which is seaward of the neighboring bulkheads and most of the other bulkheads in the vicinity of the project (Exhibit 4). As a result, the project would result in the authorization of a bulkhead where it would obstruct views of the intertidal area and the sandy beach, which are both considered to add scenic and visual quality to a coastal recreational experience and, therefore, a resource of public importance.

Many of the residences in Newport Bay are developed with bulkheads. Cumulatively, the siting of bulkheads near the tide line would result in significant adverse impacts to views, as views of sandy beaches are minimized, and more areas of the harbor appear as a manmade, walled channel instead of a natural sloping beach. These view impacts will only increase with future sea level rise, as the area of beach seaward of the bulkhead is reduced or eliminated.

Section 30251 requires that the “visual qualities of coastal areas shall be considered and protected,” that “development shall be sited and designed to protect views to and along the ocean and scenic coastal areas,” and “where feasible, to restore and enhance visual quality in visually degraded areas.” Further, the City’s certified LUP 4.1.1-1 requires that public views “to and along the ocean, bay, and harbor” be protected. As proposed, the project would not ensure the protection of views from public vantage points, and would not restore visual quality in visually degraded areas. Further, as noted above, approval of the proposed bulkhead would potentially lead to reasonably foreseeable cumulative scenic impacts if it is approved at this alignment because it may encourage other property owners to seek approval of a similar bulkhead alignment, which would lead to a walled-off effect of the sandy and intertidal area on the fully-developed Lower Newport Bay shoreline. Therefore, the Commission imposes **Special Condition 1**, requiring the applicant to submit revised plans which place the bulkhead approximately 29 feet landward of the existing unpermitted bulkhead, to meet the alignment of the adjacent bulkheads. As conditioned, the project would ensure that the bulkhead on the site is placed in the most landward location, which will maximize views of the sandy beach.

The proposed residence would be consistent with the height requirements in the City’s certified Land Use Plan. Additionally, the residences are proposed in alignment with the neighboring residences, and consistent with the City’s required setbacks.

Therefore, as conditioned, the Commission finds that the proposed development would be consistent with Sections 30251 of the Coastal Act regarding visual resources.

G. Deed Restriction

To ensure that any prospective future owners of the properties that are the subject of this permit are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 9**, which requires that the property owners record a deed restriction against the properties, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the properties. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

H. Local Coastal Program (LCP)

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 8, 2009. The LUP contains the following policies which relate to the proposed development at the subject site (not a comprehensive list): 2.8.6-6, 2.8.6-7, 2.8.6-8, 3.1.1-1, 3.1.1-2, 3.1.4-7, and 3.1.4-8.

The retention of the existing bulkhead, pool, spa and associated flatwork is inconsistent with the policies in the City's certified LUP. These structures are not constructed as far landward as possible because the location is approximately 29 feet further bayward than the predominant line of bulkheads in the area and adjacent on either side of the subject lots. The proposed, more bayward location is only necessary to accommodate accessory improvements including a patio, pool and spa between the residence and the bulkhead which is not the established pattern of development here or within Newport Harbor. The impact of the proposed fill for the bulkhead and accessory improvements on sandy beach, shoreline access and intertidal habitat is significant. The proposed project uses protective devices to expand dry land areas contrary to LUP policies. In addition, such a precedent for this kind of development could result in significant cumulative adverse impacts to sensitive resources, beach access and visual quality of the shoreline area if the proposed pattern of encroachment is perpetuated and/or increased on other bayfront lots along Newport Harbor.

The proposed retention of the existing bulkhead, pool, spa and associated flatwork is inconsistent with the policies in the City's certified LUP, as well as the policies in Chapter 3 of the Coastal Act, as indicated above, and would therefore prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a). Therefore, the proposed retention of the existing bulkhead, pool, spa and associated flatwork must be denied.

However, as conditioned, including a modified alignment for the bulkhead, the proposed development would be 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.

I. California Environmental Quality Act (CEQA)

The City of Newport Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). The City determined that in accordance with CEQA, the project is Categorically Exempt from Provisions of CEQA for the construction. Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment. As described above, the proposed retention of the existing bulkhead, pool, spa and associated flatwork would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such as a more landward alignment for the bulkhead. Therefore, the proposed retention of the existing bulkhead, pool, spa and associated flatwork is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives, which would lessen significant adverse impacts, which the activity would have on the environment. Therefore, the proposed retention of the existing bulkhead, pool, spa and associated flatwork must be denied.

However, the proposed development could be approved subject to certain conditions. Although the proposed development is categorically exempt from CEQA, the Commission has imposed conditions to ensure conformity with Coastal Act requirements, as follows: 1) revised final plans including a more landward alignment for the bulkhead; 2) conformance with submitted landscape plan; 3) conformance with submitted drainage plan; 4) approvals of other agencies; 5) future development on the site requires a permit; 6) no future seaward extension of protective device; 7) construction responsibilities; 8) assumption of risk for the development; and 9) a deed restriction for the sites.

Therefore, as conditioned, the Commission finds that 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 consistent with the requirements of the Coastal Act and CEQA.

Appendix A - Substantive File Documents

- Seawall/Bulkhead Assessment Study by William Simpson & Associates, dated November 16, 2012.

Coastal Hazard study by Geosoils Inc., dated 4/4/2013

Additional study by Geosoils Inc. dated 8/21/2013

City of Newport Beach Approval in Concept dated 10/19/2012

City of Newport Beach Coastal Land Use Plan

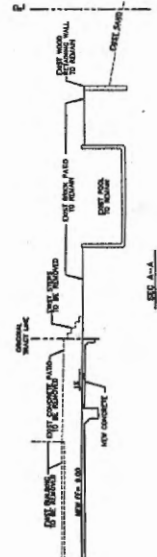
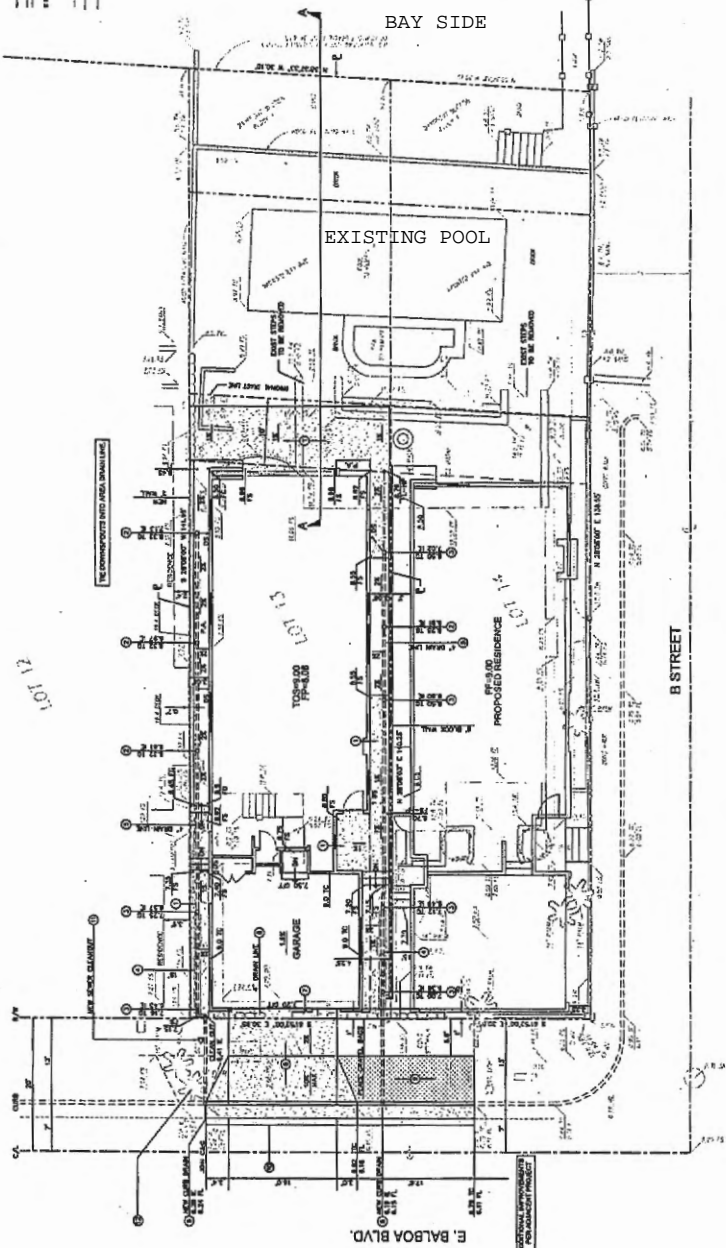


Google earth



COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 4



928 E Balboa Blvd

EAST BALBOA BLVD

Exhibit 2
Page 1 of 2

PREPARED BY: ARCHITECT: GINNEY/DUNN/PERE
 LEGAL ENGINEER/GEODESE: BISHOP/CHAMBERS
 LEGAL INSURANCE:

BAY SIDE

930 BALBOA

EXISTING POOL

PROPOSED RESIDENCE

FF-600

LOT 14

LOT 14

LOT 14

B STREET
CONCRETE STREET

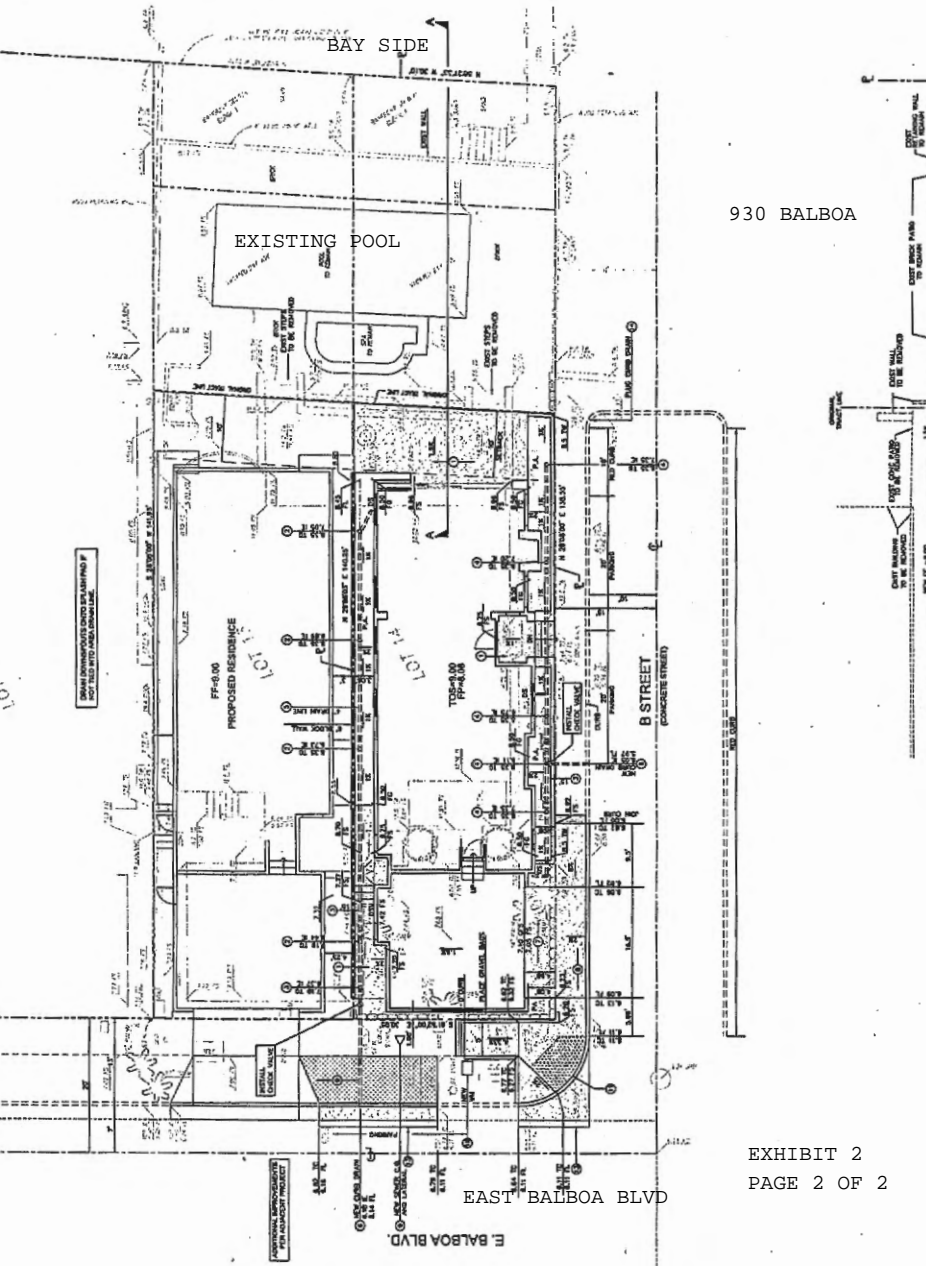
E BALBOA BLVD

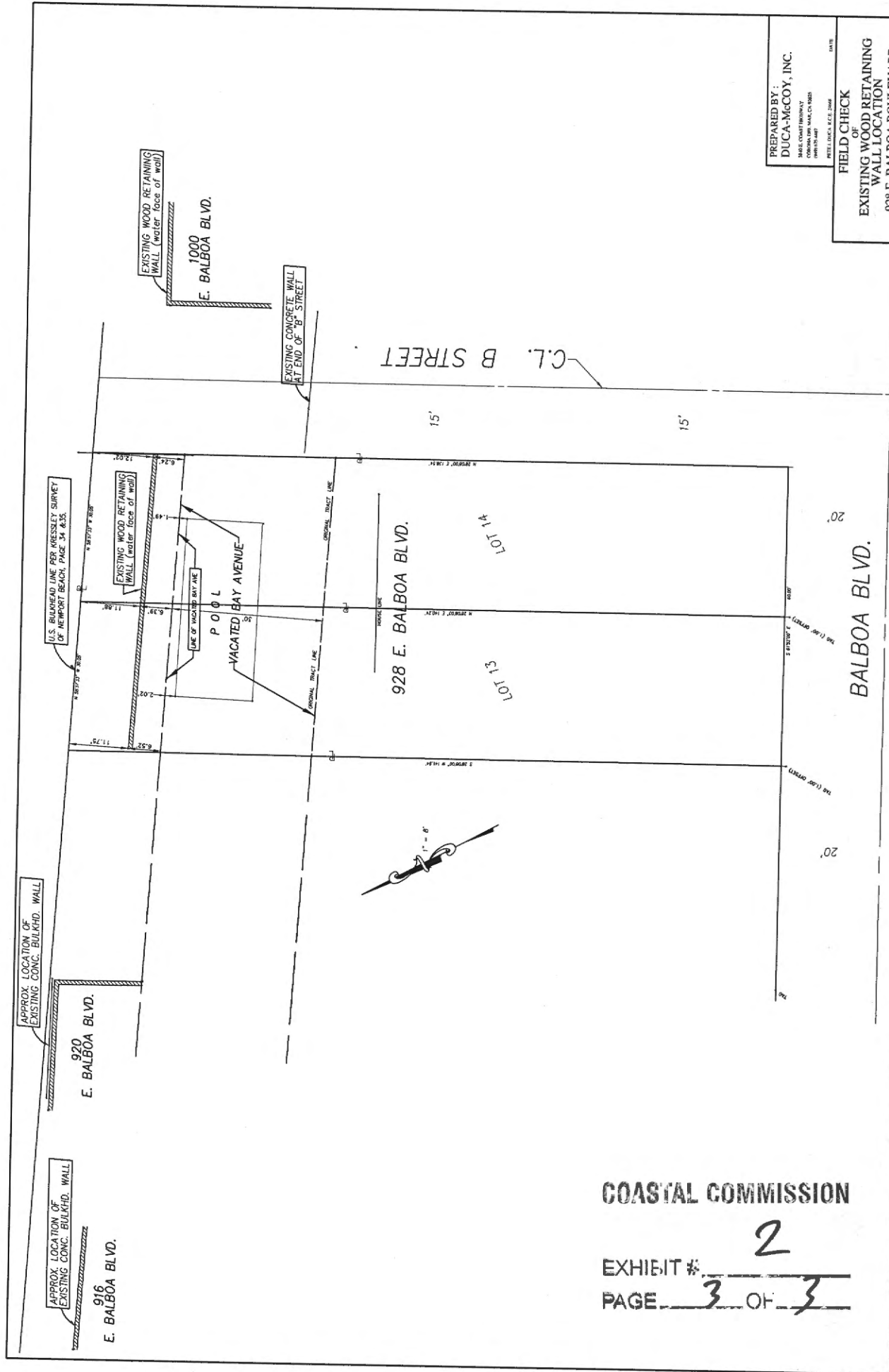
EXHIBIT 2
PAGE 2 OF 2

DRINK DOWNPOUTS SHOULD BE LAIN OUT & NOT TIED INTO MAIN DRAINAGE

PERMANENT MONUMENTARY PERMANENT PROJECT

EXIST WALL TO BE REWORKED
EXIST WALL TO BE REWORKED
EXIST WALL TO BE REWORKED





PREPARED BY:
 DUCA-McCOY, INC.
 5000 COAST HIGHWAY, S.
 COSTA MESA, CALIFORNIA 92626
 (714) 441-1000

DATE: _____

FIELD CHECK OF
 EXISTING WOOD RETAINING
 WALL LOCATION
 928 E. BALBOA BOULEVARD
 NEWPORT BEACH, CA

COASTAL COMMISSION

EXHIBIT #: 2
 PAGE 3 OF 3

CALIFORNIA COASTAL COMMISSION

H COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071



Date: December 21, 1987:PG/do
Permit No.: 5-87-822

PERMIT AUTHORIZATION

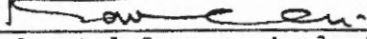
Dr. Robert F. Ruper
928 E. Balboa Blvd.
Balboa, CA 92661

Dear Dr. Ruper:

Please be advised that you are hereby authorized to proceed with development of your project, Permit Number 5-87-822, which was reported to the Commission on December 9, 1987. Development of your project is subject to compliance with all terms and conditions specified in the Administrative Permit which was sent to you on November 25, 1987.

Should you have any questions, please contact our office.

PETER DOUGLAS
Executive Director

by: 
Coastal Program Analyst

COASTAL COMMISSION

4574A

EXHIBIT # 3
PAGE 1 OF 5

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

13 WEST BROADWAY, SUITE 380

NEWPORT BEACH, CA 90802

(415) 590-5071

Page 1 of 3

Permit Application No. 5-87-822

Date 11/10/87:PG/do

ADMINISTRATIVE PERMIT

APPLICANT: Robert F. Ruper

PROJECT DESCRIPTION: Remove an existing residential bulkhead and construct a new bulkhead approximately 20 feet landward of the U. S. Bulkhead line and the existing bulkhead.

PROJECT LOCATION: 928 East Balboa Blvd., Newport Beach, Orange County.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, are discussed on subsequent pages.

Pursuant to Public Resources Code Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, 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, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, 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: 9:00 A.M. - December 9, 1987. (415) 431-9776.
State Building, Room 1194, 350 McAllister St., San Francisco.

IMPORTANT - Before you may proceed with development, the following must occur: For this permit to become effective 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 acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development. BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE PERMIT AUTHORIZATION FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: *R. Ruper*
Coastal Program Analyst

COASTAL COMMISSION

EXHIBIT #: 3
PAGE 2 OF 5

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

(See Page 3.)

SPECIAL CONDITIONS:

None.

COASTAL COMMISSION

ACKNOWLEDGEMENT 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.

EXHIBIT # 3

PAGE 3 OF 5

Applicant's Signature

Date of Signing

EXECUTIVE DIRECTOR'S DETERMINATION (Continued).

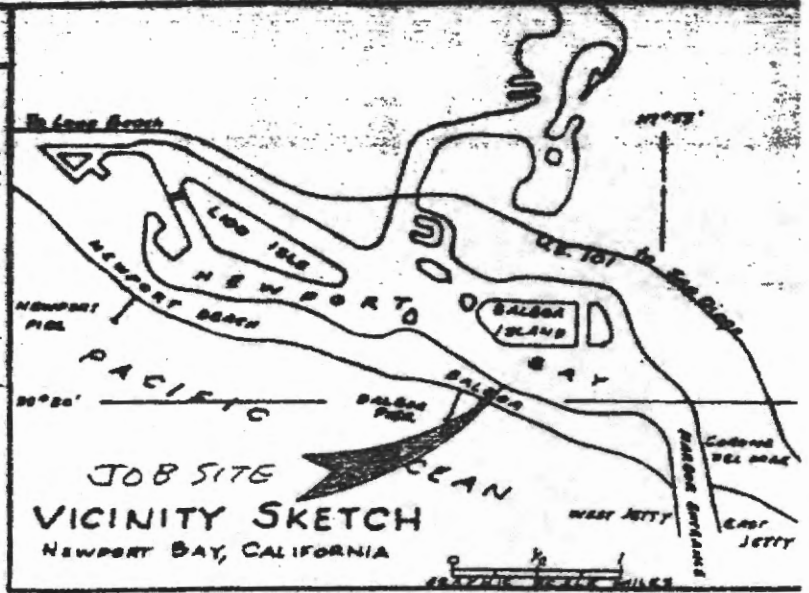
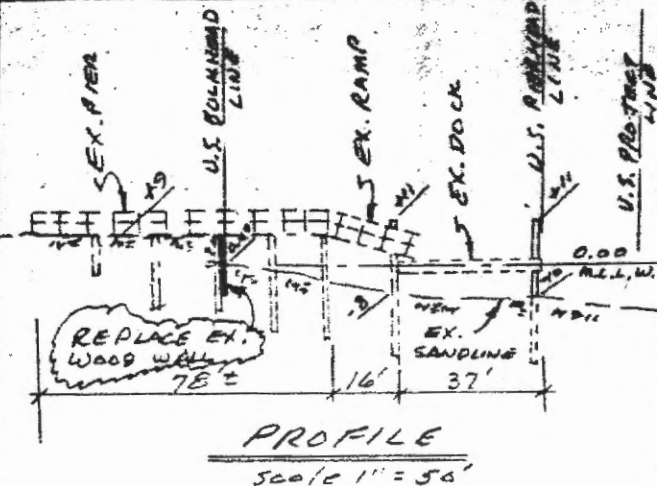
In this general area, the City does not permit a bulkhead beyond the line of the vacated Bay Avenue Street right-of-way line. Any existing bulkhead beyond this line that needs to be replaced, the City requires that it be placed back to the R/W line. Also requires the old bulkhead to be removed and the sand area be restored. According to the Fish and Game biologist such projects are preferred as they may increase intertidal area depending on the sand elevations. Therefore, by moving the new bulkhead landward by 20 feet there is the potential to regain the intertidal area. The Executive Director further determines that the project is consistent with the Coastal Act.

4235A

COASTAL COMMISSION

EXHIBIT # 3
PAGE 4 OF 5

CITY OF NEWPORT BEACH



Soundings are expressed in feet and denote depths below Mean Lower Low Water. Maximum range of tide approximately 10 feet. Harbor lines are established in this section of Newport Bay.

uth Coast District Office

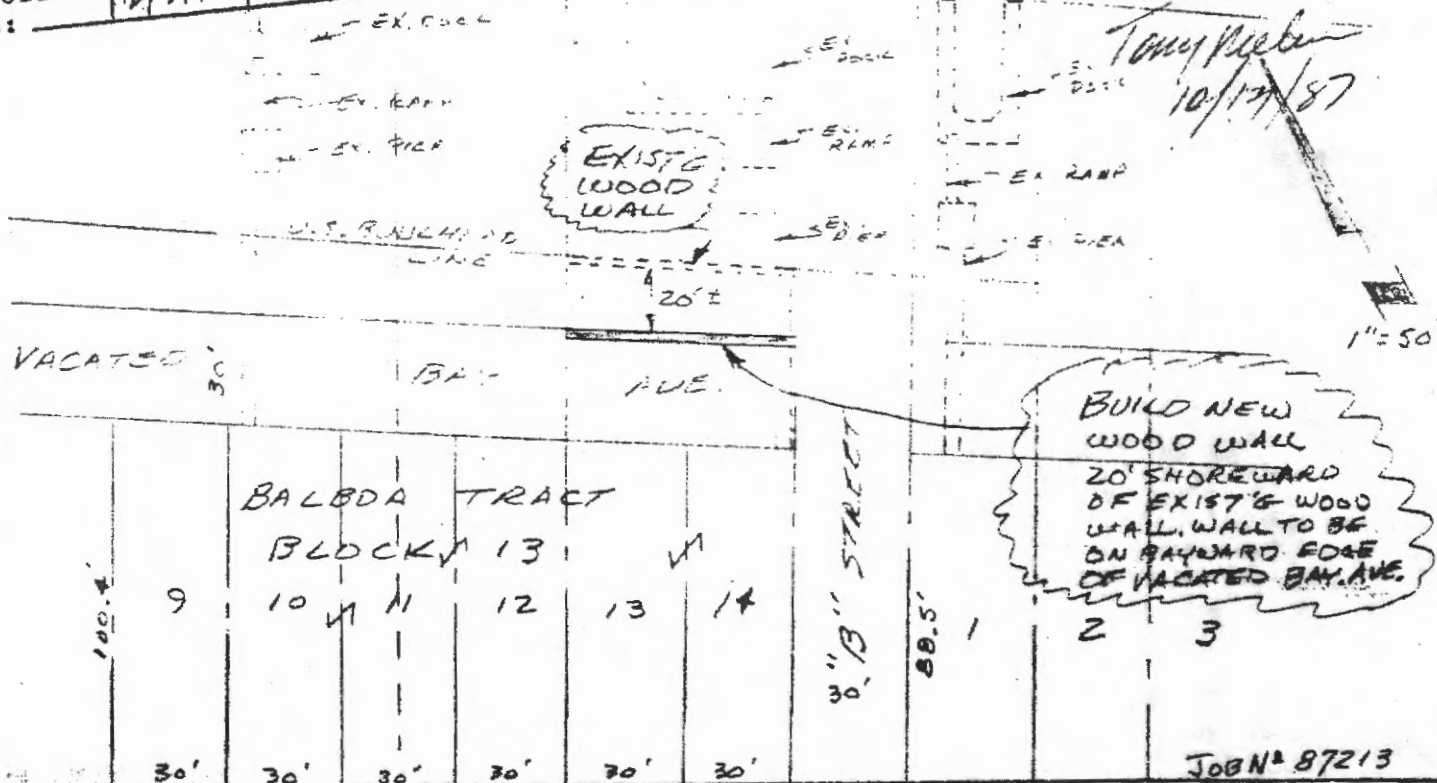
APPROVED PERMIT No. 5-87-822 NEWPORT BAY

U.S. PROJECT LINE
U.S. SHORELINE LINE

EFFECTIVE Date: 12/21/87

MARINE DEPARTMENT
675 CITY HALL
3300 NEWPORT BLVD.
NEWPORT BEACH, CA 92663

Tommy Pickett
10/17/87



APPLICANT'S NAME: DR. ROBERT F. RUPER LOT: 1344 BLK: 13 BALBODA TRACT

ADDRESS: 928 E. BALBODA BLVD. CONTRACTOR: SAN KANG PANG



This Exhibit depicts:

Apparent edge of bulkhead:

Bulkhead constructed without CDP

Bulkhead constructed consistent with CDP

And where the bulkhead may be Pre-Coastal (no marking)

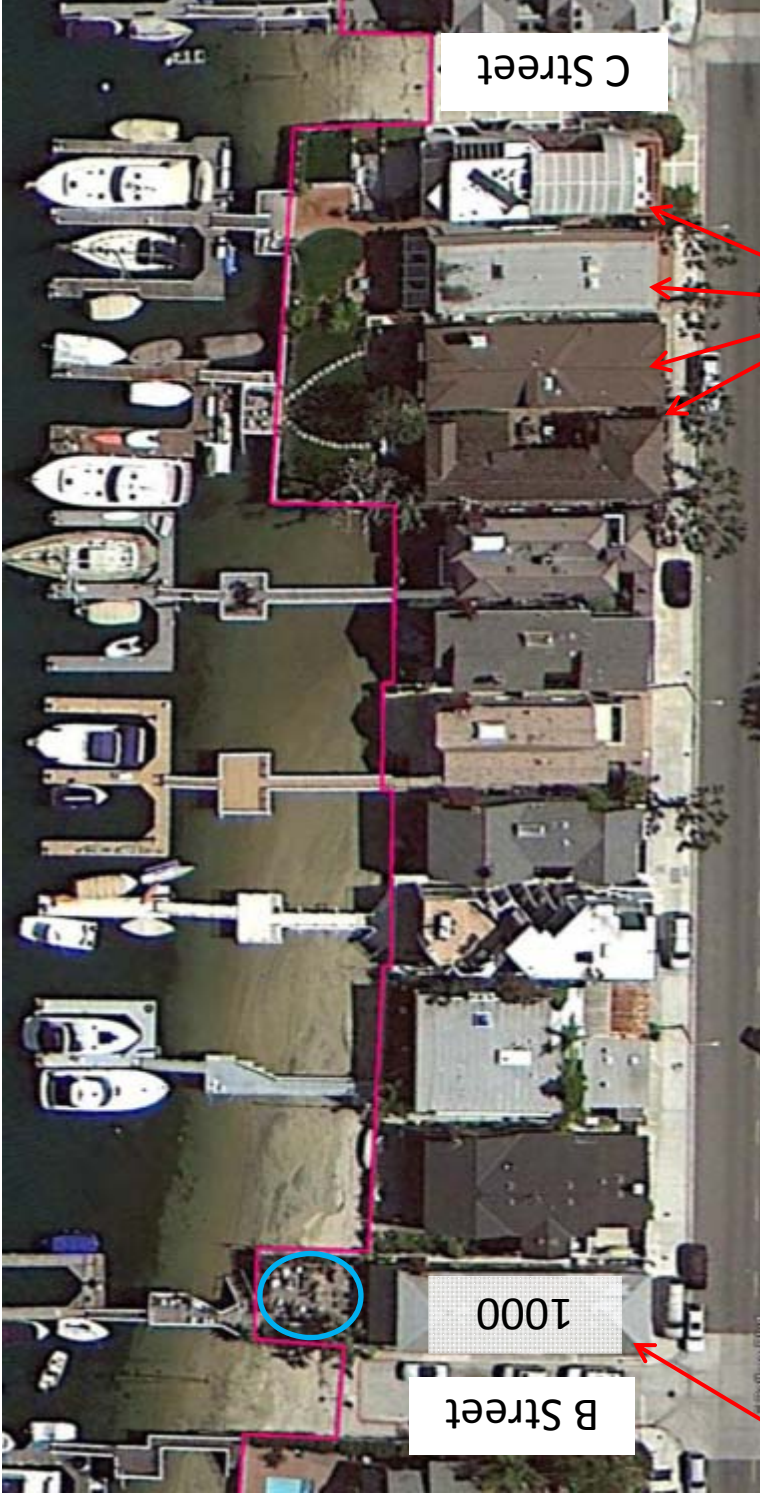
All Depicted Information based on interpretation of aerial imagery, and review of permit files available.

NOTE: THIS EXHIBIT IS BEST VIEWED IN COLOR - IT CAN BE DOWNLOADED ALONG WITH THE ENTIRE STAFF REPORT ON THE COMMISSION'S WEB SITE:
WWW.COASTAL.CA.GOV/MTGCURR.HTML
AT ITEM 16A ON WEDNESDAY

Subject Site

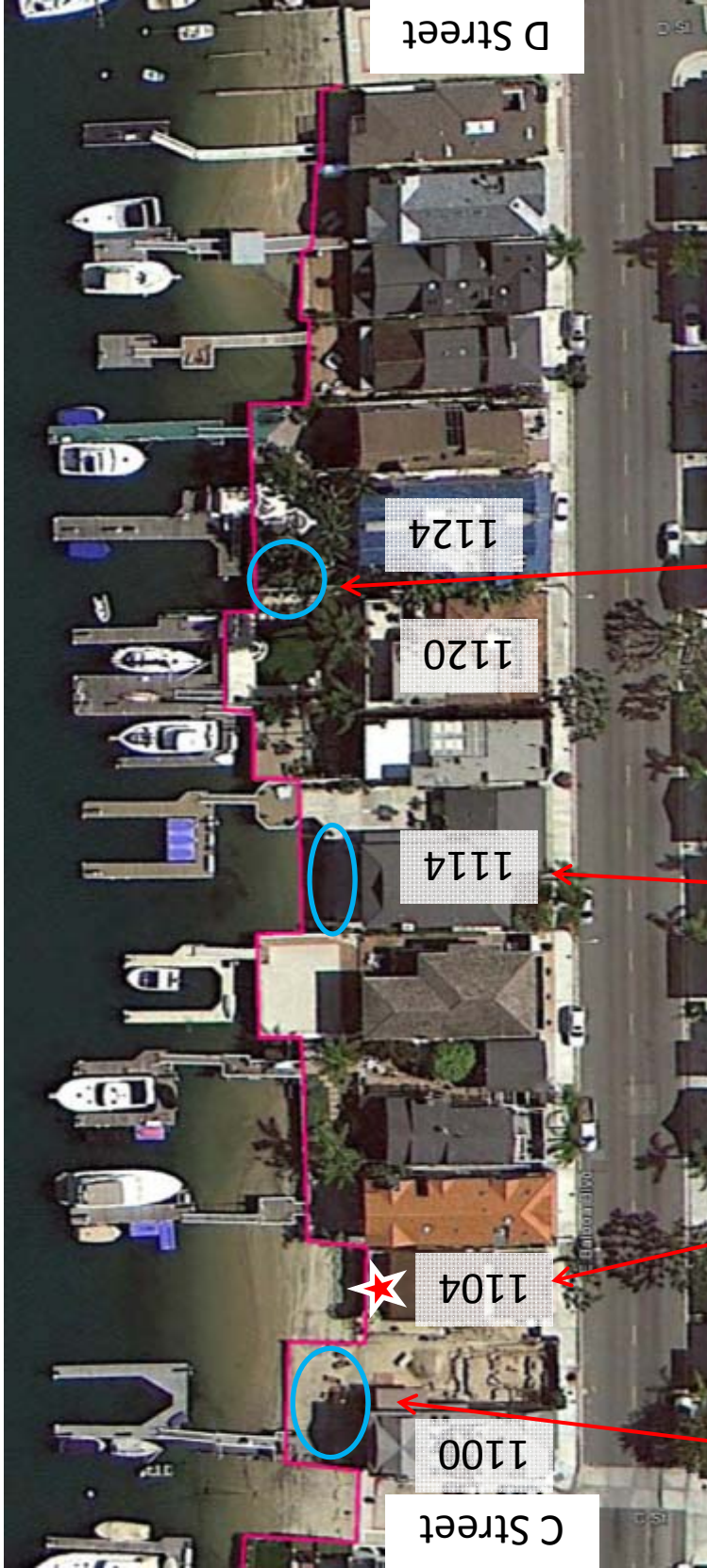


No CDPs on file for bulkhead. Aerial imagery does not show if unpermitted development occurred



No CDPs on file for bulkhead. Aerial imagery does not show if unpermitted development occurred

Bulkhead constructed 8 feet further seaward than authorized in CDP 5-89-1105



Bulkhead appears to have been constructed between 1986-1993

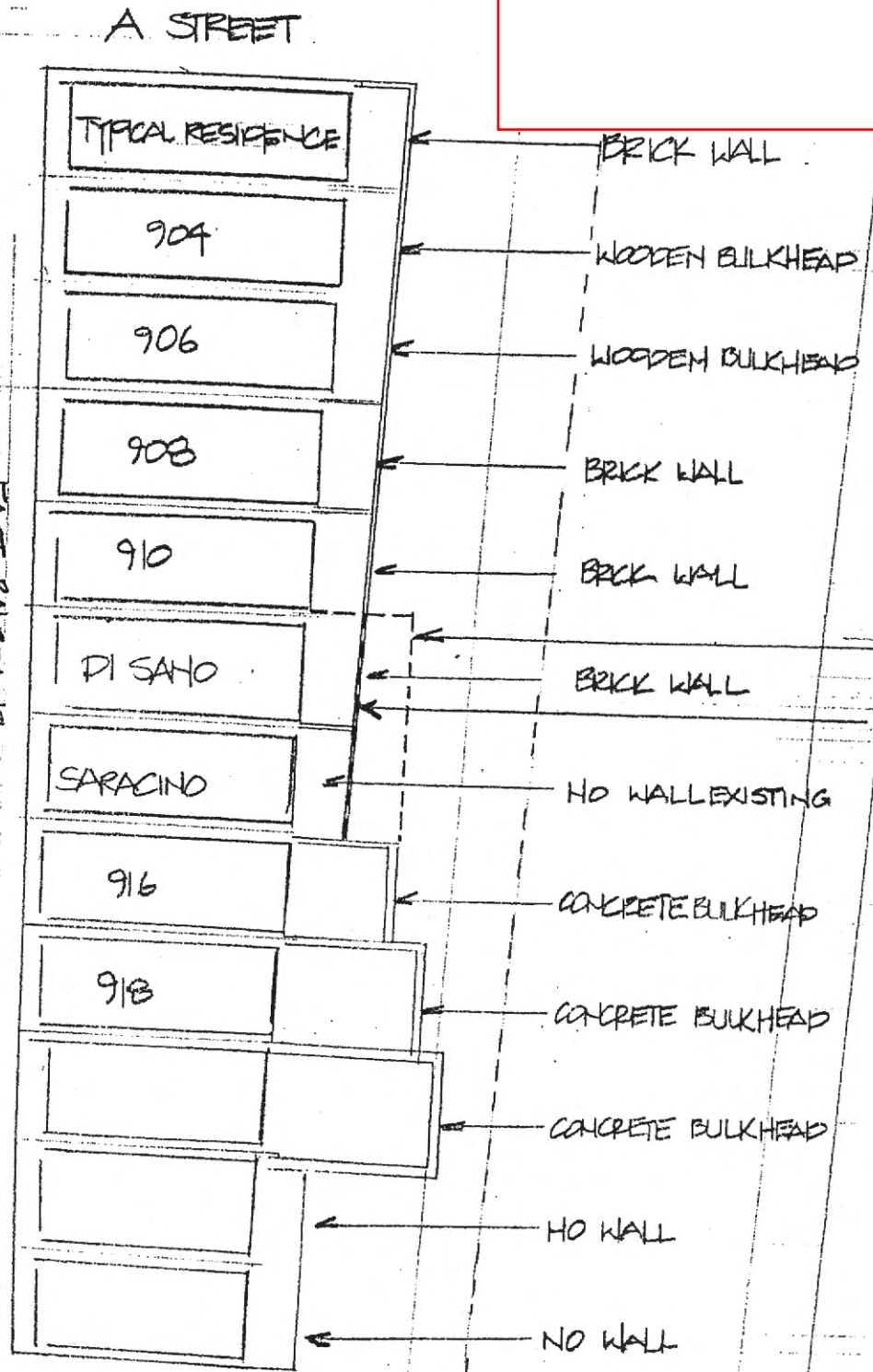
5-11-130 permitted bulkhead in landward location

Concrete Stairs installed near bay between 93 and today

Additional area placed behind bulkhead between 1986-1993

Exhibit from 5-85-019, a site to the north of the subject site.

WEST
WEST
EAST BARBOA BLVD



NEWPORT BAY

NEWPORT BAY

PROPOSED ALIGNMENT

STAFF RECOMMENDED ALIGNMENT

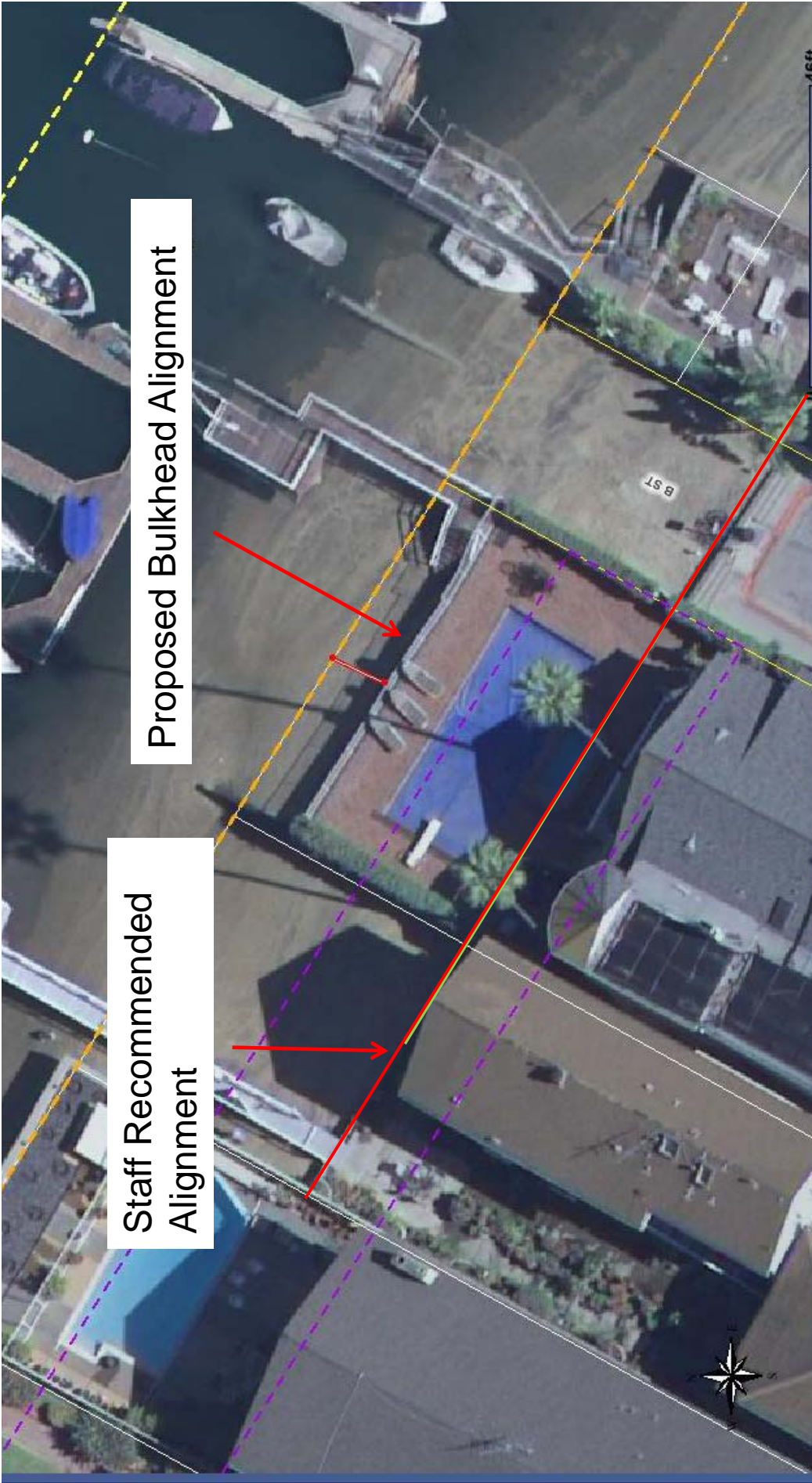
NEWPORT BAY

COASTAL COMMISSION
5-12-292

EXHIBIT # **4**
PAGE 5 OF 5

EXHIBIT NO. 2
APPLICATION NO.
5-85-19420
EXIST. WALLS

California Coastal Commission



Proposed Bulkhead Alignment

Staff Recommended Alignment

Aerial Image From 1986 By California Coastal Records Project



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Aerial Image From 1993 By California Coastal Records Project



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