

**CALIFORNIA COASTAL COMMISSION**

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



# T7b

Filed: 6/18/2014  
180th Day: 12/15/2014  
Staff: S. Vaughn-LB  
Staff Report: 7/24/2014  
Hearing Date: 8/12/2014

## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-14-0625

**Applicant:** Jeff Roos

**Agent:** Craig S. Hampton

**Location:** 533 Via Lido Soud, Newport Beach, Orange County (APN 423-216-06)

**Project Description:** Demolition of an approximately 3,010 square foot, two-story single-family residence with attached two-car garage and construction of a 5,142 square foot, two-story single-family residence with a 163 sq. ft. ground level deck, a subterranean basement and an attached 447 square foot, two-car garage. The project proposes to reinforce the existing seawall by lowering the finished grade behind the seawall, installing tie rods to the seawall and anchoring them to the basement wall, increasing the height of the seawall by 14 in. and repairing existing cracks.

**Staff Recommendation:** Approval with conditions

## I. MOTION AND RESOLUTION

### Motion:

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

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

### Resolution:

*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:

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. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (ii) to assume the risks to the applicant 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.
  
2. **No Future Shoreline Protective Device.**
  - A. By acceptance of this permit, the applicant agrees, on behalf of himself or herself 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. 5-14-0625 including, but not limited to, the residence and garage, foundations, and patio, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, flooding, sea level rise or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself or herself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
  
  - B. By acceptance of this permit, the applicant further agrees, on behalf of himself or herself and all successors and assigns, that the landowners shall remove the development authorized by this permit, including the residence and garage, foundations, and patio, if any government agency has ordered that the structures are 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.
  
3. **Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-14-0625. 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. 5-14-0625. Accordingly, any future improvements to the residence and garage, foundations, and patio 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. 5-14-0625 from the Commission or shall require an additional Coastal Development Permit from the Commission or from the applicable certified local government.

**4. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.**

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

- A. No demolition or construction materials, 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. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
  - C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
  - D. 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.
  - E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
  - F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
  - G. 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.
  - H. 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.
  - I. 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.
  - J. The discharge of any hazardous materials into any receiving waters shall be prohibited.
  - K. 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.
  - L. 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.
  - M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- 5. Conformance with Drainage and Run-Off Control Plan.** The applicant shall conform with the drainage and run-off control plan received on June 18, 2014 showing roof drainage and runoff from all impervious areas directed to trench drains and percolation pits. 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.

- 6. Landscaping-Drought Tolerant, Non-Invasive Plants.** Vegetated landscaped areas shall only consist 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>).
- 7. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant 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 proposed project is located on an approximately 3,144 square foot bayfront lot on Newport Bay at 533 Via Lido Soud in the City of Newport Beach, County of Orange (**EXHIBIT #1**). The site is designated as R-1, Single-Unit Residential in the City of Newport Beach Land Use Plan (LUP) and the proposed use conforms to this designation. The project site is located in a residential area where the homes fronting Newport Bay are located on lots with bulkheads. Site conditions on the bayward side of the site include an existing bulkhead, pier and dock. The applicant proposes to demolish an existing 3,010 square foot, two-story, single-family residence with an attached two-car garage and construct a two-story, approximately 5,142 square foot single-family home with a subterranean basement, attached 447 square foot two-car garage and a 163 square foot, ground level deck (**EXHIBIT #2**). The project also proposes to repair, reinforce and increase the height of an existing seawall by 14 inches. No work is proposed for the existing dock or pier.

Presently, there is an approximately 30’ long seawall/bulkhead on the bayfront side of the subject property. The seawall/bulkhead is currently 6’ 6” high (+10.05’ NAVD88, +7.43’ Mean Tide Level) as measured from the dredge line to the top of existing coping, and is 5’ 3” (-2.98’ NADV88, -5.6’

Mean Tide Level) deep embedded below the bay bottom. The existing concrete panels are 8" thick. The existing coping is approximately 16" wide and 21" tall. Although unobservable, based on the type of the existing seawall and his experience, the project engineer has assumed that there are existing tierods affixed to the seawall.

The applicant proposes to lower the existing grade behind the seawall by 2' 6" by removing 20 cubic feet of sand, which will be transported outside of the coastal zone. The void behind the seawall will remain in order to release some of the pressure exerted on the panels by the sand. Additional seawall/bulkhead proposals include: affixing three tierods to the seawall/bulkhead and fastening them to the basement wall; a new reinforced concrete cap and deck to be installed on top of the concrete coping of the seawall/bulkhead, finished surface on top of seawall/bulkhead shall be approximately +11.38 NAVD88; and to fix all cracks and seal all unsealed panel joints in the existing seawall/bulkhead. This work would result in a height increase of the seawall/bulkhead from 6' 6" to 7' 9" high as measured from the dredge line (**EXHIBIT #3**). The top of the proposed seawall/bulkhead will increase the existing elevation of +9.87' above Mean Low Lower water (+7.46' Mean Sea Level) to +11.2' above Mean Low Lower Water (+8.79' above Mean Sea Level) to mitigate against the possible effects of future sea level rise. The increase in height of the seawall/bulkhead is consistent with the heights of seawalls/bulkheads on adjacent lots. The City of Newport Beach Harbor Resources has reviewed and approved the applicant's seawall/bulkhead plans (**EXHIBIT #4**). No seaward encroachment of the seawall/bulkhead will occur as a result of these proposed developments.

Public access to the bay is available approximately 160' east of the project site at the Via Orvieto street end and approximately 500' west of the project site at the Via Koron street end to the sandy public beach along Lido Island. There is possible lateral access to the seaward side of the bulkhead during low tide, however, this project is not proposing any work to the existing dock and will not have any adverse impacts to public access.

The applicant is proposing water quality improvements as part of the proposed project, including the direction of roof and surface runoff to bottomless catch basins and landscaped areas on the property. All plants used in landscaping will be non-invasive and drought tolerant. The placement of vegetation that is considered to be invasive which could supplant native vegetation is not permitted. 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.caleppc.org/>) and the California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications. Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>

## **B. 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.

### **C. 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

### **D. LAND/HABITAT**

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

### **E. DEVELOPMENT**

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

### **F. 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. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Coastal 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.

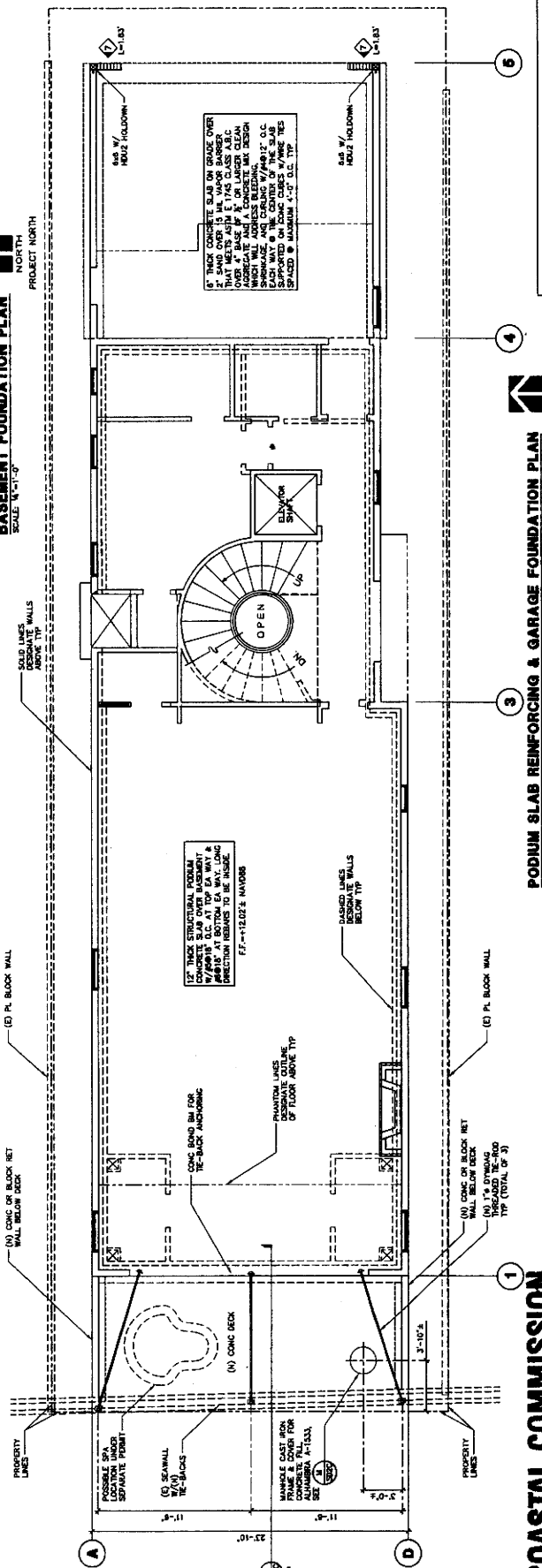
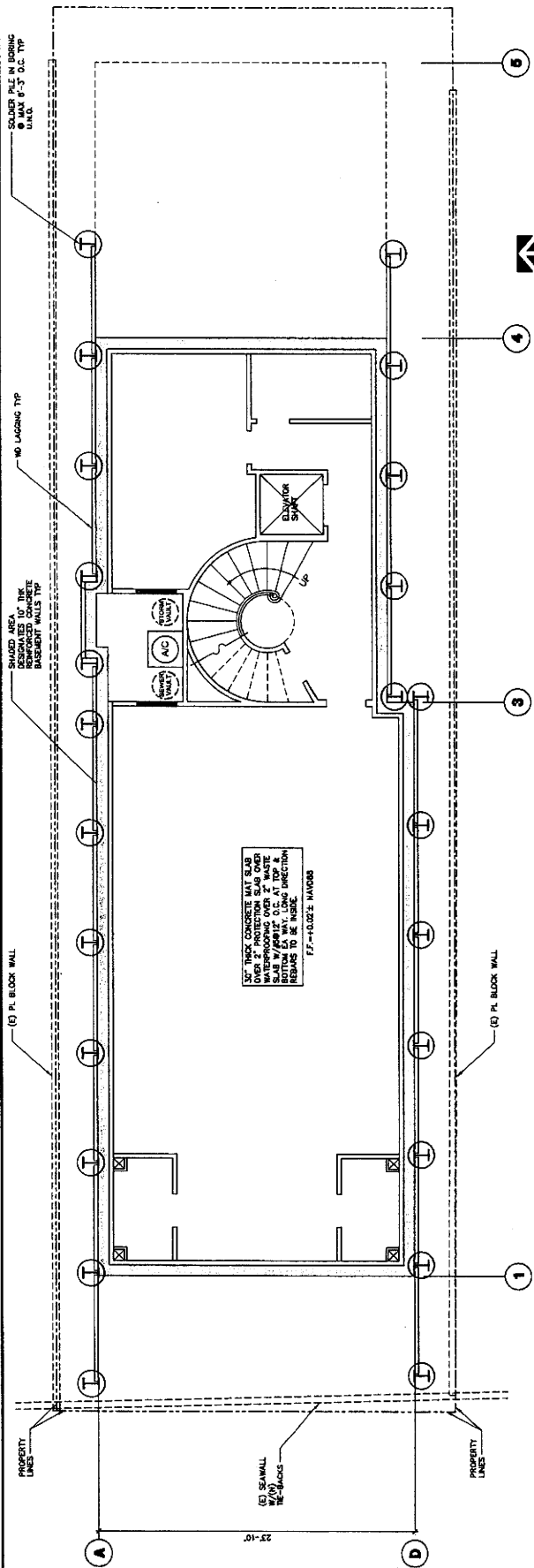


533 Via Lido Soud  
Street View

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Map data ©2014 Google 2000 ft



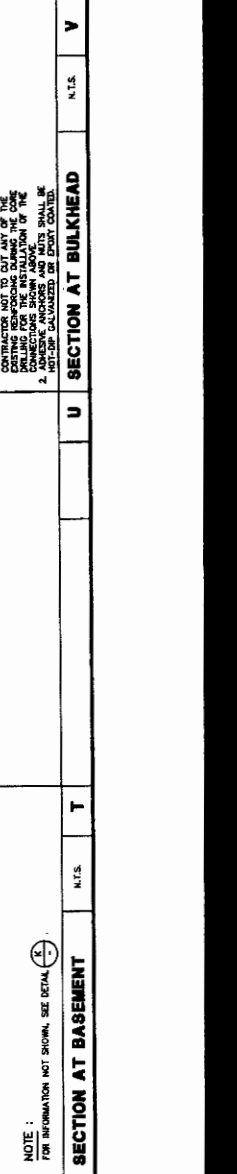
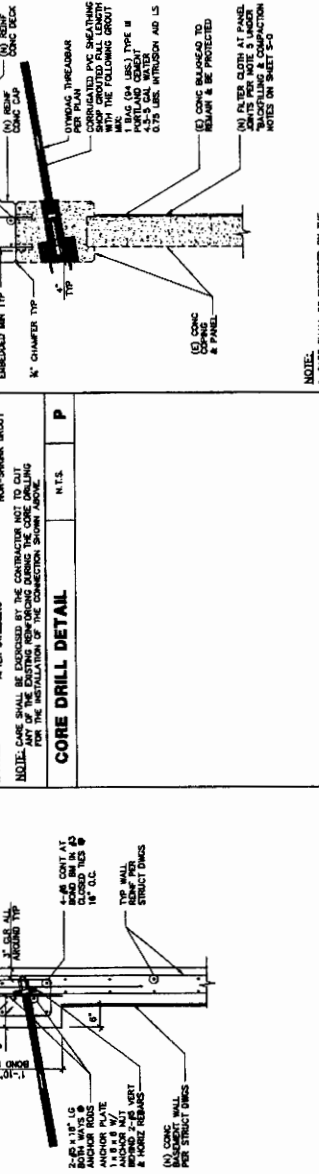
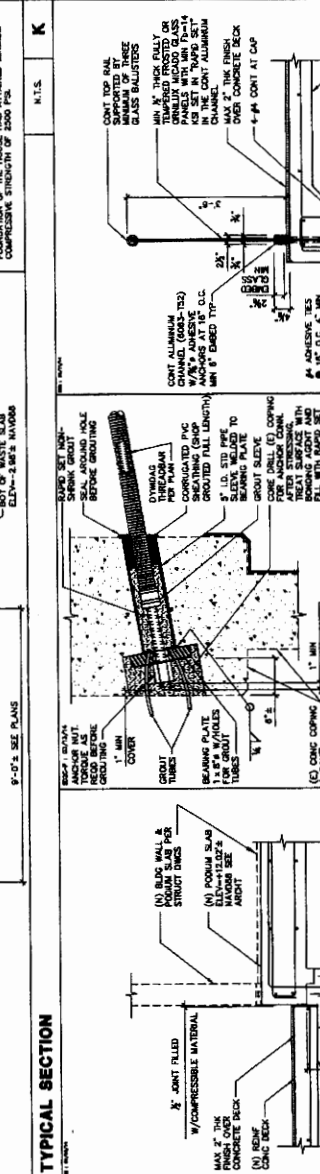
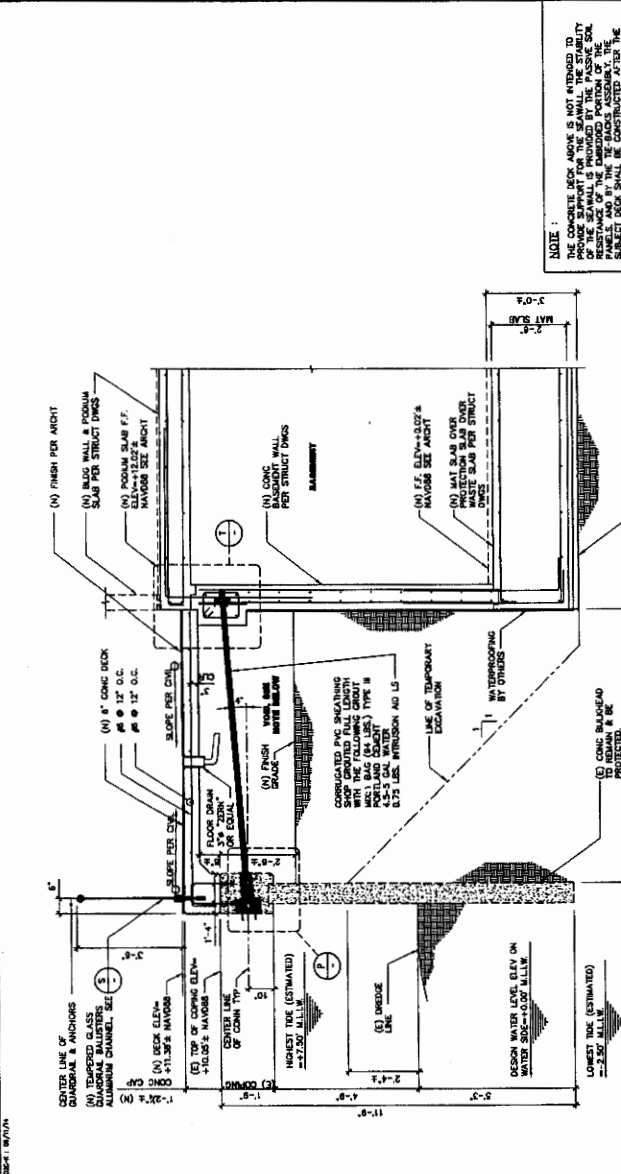
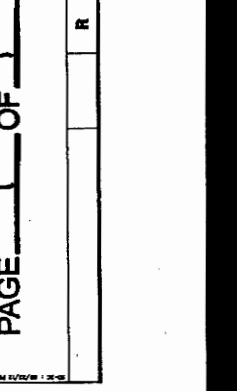
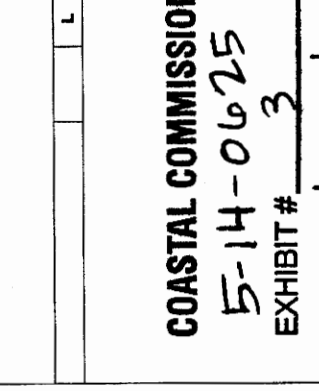
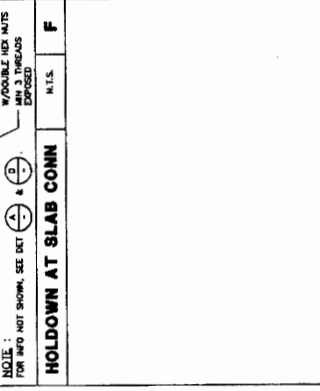
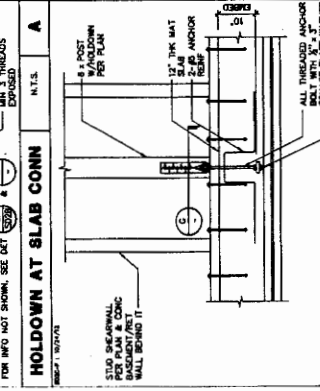
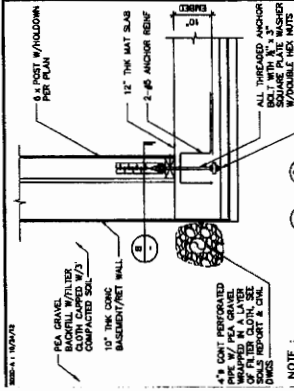
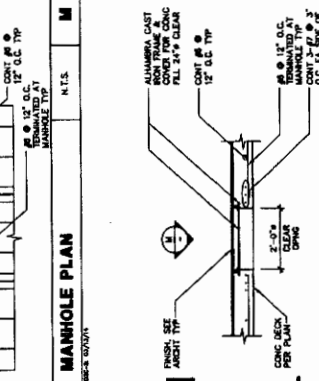
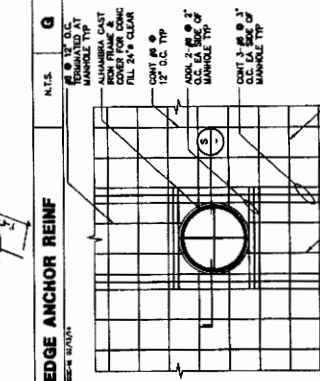
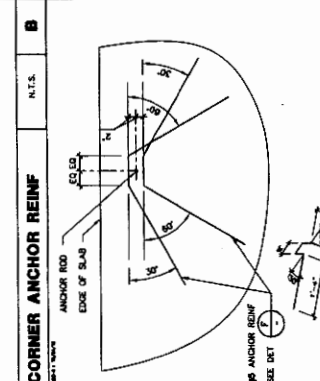
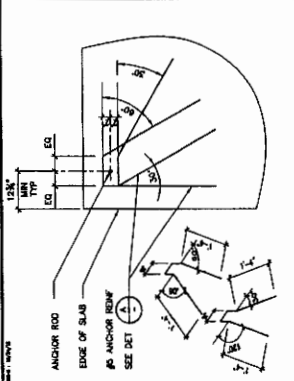


- BUILDING NOTES:**
1. FOR DIMENSIONS NOT SHOWN, SEE ARCHITECTURAL DRAWINGS.
  2. FOR DIMENSIONS & INFORMATION NOT SHOWN ON THIS SHEET, SEE SHEET 5-1A.
  3. FOR GENERAL NOTES, SCHEDULES & LEGENDS SEE 5D-1 & 5D-1A.
  4. FOR SECOND FLOOR FRAMING, SEE SHEET 5-2.
  5. FOR SHEARWALL ANCHOR BOLTS, SEE SCHEDULE B/500.
  6. FOR WOOD STUD WALL ASSEMBLY, SEE WALL ELEVATION C/502A.
  7. FOR WOOD STUD WALL ASSEMBLY, SEE WALL ELEVATION C/502A.
  8. INSTALL STRIPS AT ALL WINDOWS AND DOORS CORNERS AT SHEARWALLS. UNLESS LONGER STRIPS HAVE BEEN SPECIFIED ON PLAN.

- LEGEND:**
- 1. INDICATES TYPE OF WOOD SHEAR WALL WITH 1 OR MORE HOLD-DOWNS AT EACH END RECORDED IN THE RECORD OF SALES WITH THE OFFICE OF THE COUNTY CLERK (C) & EXISTING LENGTH (L) FOR SHEAR WALL WITH OPENING.
  - 2. INDICATES TYPE OF WOOD SHEARWALL WITH 1 OR 2 HOLD-DOWNS AT EACH END & REQUIRED MINIMUM LENGTH (L).

**NOTE:**  
 REFER TO FILE A CORNER RECORD OF SALES WITH THE OFFICE OF THE COUNTY CLERK (C) & EXISTING LENGTH (L) FOR SHEAR WALL WITH OPENING.  
 PRIOR TO FOUNDATION INSPECTION.

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**HARBOR RESOURCES DIVISION**

829 Harbor Island Drive  
Newport Beach, CA 92660  
(949) 644-3044 / Fax (949) 723-0589

**HARBOR PERMIT/APPROVAL IN CONCEPT**

**HARBOR PERMIT/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.

<b>General Description of Proposed Development:</b>
Cap on seawall to increase elevation for landside patio.
Elevation max height 11.38 NAVD88
<b>Address number must be stenciled on at least 1 bayward facing pile.</b>
<b>Pier conditions must be signed by applicant prior to final approval.</b>
<b>Property Address: 533 Via Lido Soud</b>

<b>Legal Description:</b>
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<b>Harbor Permit Number:</b>
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<b>Plan Check Number: 2014-007</b>
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<b>Applicant: Jeff and Valerie Roos</b>
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<b>Applicant's Mailing Address: 520 Via Lido Soud</b>
<b>Phone Number: 949-717-7939 Carol McDermott , Entitlement Advisors</b>

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.

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And find

- They comply with the current adopted Newport Beach General Plan, Municipal Code, Title 17 and any applicable specific or precise plans or,
- That a variance of exception has been approved and final.

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 Municipal Code 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 harbor permit and 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 is proposed.

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



Shannon Levin, Harbor Analyst

July 16, 2014

**Attachments:**

Plans 2014-007

**COASTAL COMMISSION**

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EXHIBIT # 4

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