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STATE OF CALIFORNIA - THE RESOURCES AGENCY PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION

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Commission Action:	

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-95-019-A5

APPLICANTS: Mr. & Mrs. Philip Nichols

AGENT: Guy A. Bartoli

PROJECT LOCATION: 3608 Grand Canal (Lot No. 5, Block 6, Silver Strand), Venice, City of Los Angeles, Los Angeles County.

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Coastal Development Permit P-7-23-76-8463 (Lumbleau) permitted the construction of five attached three-story single family dwellings, 33 feet above centerline of frontage road.

DESCRIPTION OF AMENDMENT REQUEST: 1) Revise special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) in order to delete special conditions no. 2, 4, 7, 8 and 9 as they pertain to the applicants' lot; 2) within eighteen months of the approval of this amendment remove all fences, fill and vegetation from the City Grand Canal Esplanade located between the applicants' lot and Grand Canal and resurface the City Grand Canal Esplanade with concrete for public access; 3) receive approval of existing accessory improvements in the private front yard area adjacent to the Grand Canal Esplanade; and 4) replace pilasters, ground level porch and open fences on property line adjacent to inland edge of the City Grand Canal Esplanade.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the amendment, as conditioned, is consistent with the requirements of the Coastal Act. As a condition of approval, the applicants are required to restore public access along the Grand Canal Esplanade fronting the applicants' lot by January 15, 1999 unless there is evidence that a City-sponsored improvement district will complete the project by September 1, 2000. The walkway must be rehabilitated and all work must be completed before the special conditions of the underlying permit are revised so that special conditions nos. 2, 4, 7, 8 and 9 are not applicable to Lot No. 5.

It is important to note that a property line fence would be consistent with both the old and the new conditions, as would be a patio at grade on private property. The house in this case is set back ten feet from the canal property

line and would not be impacted by a ten foot setback. A six foot wrought iron fence may be relocated to the property line consistent with the present conditions which are silent on the subject of fence height. Six foot walls and fences are typically permitted at the edge of the Silver Strand buffer to the south. The applicants agree with the staff recommendation.

LOCAL APPROVAL RECEIVED:

1. City of Los Angeles Department of Public Works Letter of Permission, 3/18/97 (Exhibit #5).

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit P-7-23-76-8463 (Lumbleau).
2. Coastal Development Permit Amendments 5-95-019-A1 (Hickok), 5-95-019-A2 (Sevedge) and 5-95-019-A3 (Horowitz).
3. Coastal Development Permits 5-87-657, 5-87-658 & 5-87-659 (Schaffel).
4. Coastal Development Permit 5-87-965 (Laughlin).
5. Coastal Development Permit 5-87-966 (Kirkhoff).
6. Coastal Development Permits 5-87-967, 5-87-968 & 5-87-969 (Strand Associates).
7. Coastal Development Permit 5-91-584 (Venice Canals).
8. Coastal Development Permit 5-93-150 (Nichols).
9. Coastal Development Permit amendment application 5-95-019-A4 (Black).

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

1) The Executive Director determines that the proposed amendment is a material change,

2) Objection is made to the Executive Director's determination of immateriality, or

3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change because it affects the special conditions of the underlying permit. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [14 California Code of Regulations Section 13166].

STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby grants, subject to the conditions below, an amendment to the permit on the grounds that the proposed amendment, as conditioned, is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. SPECIAL CONDITIONS

1. Revision to Special Conditions

The revision to the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) so that special conditions no. 2, 4, 7, 8 and 9 no longer apply to Lot No. 5 shall not be effective until public access has been restored along the Grand Canal Esplanade fronting the applicants' property. Public access along the Grand Canal Esplanade shall be deemed restored when the Executive Director has signed a statement concurring that the following has occurred along the Grand Canal Esplanade situated between the applicants' lot and Grand Canal: 1) all fences, fill, vegetation and other encroachments have been removed from the Grand Canal Esplanade right-of-way, 2) the full width of the Grand Canal Esplanade right-of-way has been resurfaced with concrete consistent with the City of Los Angeles specifications and requirements for permanent right-of-way improvements, and 3) the public is able to access and walk along the improved and unobstructed Grand Canal Esplanade right-of-way.

2. Timing of Completion of Work

Public access along the Grand Canal Esplanade shall be restored, consistent with the terms and conditions of this amendment and to the satisfaction of the Executive Director, by January 15, 1999. This deadline will be automatically extended to September 1, 2000 if all of the following occur by October 15, 1998:

a) The City of Los Angeles adopts an improvement district ordinance that authorizes the assessment of property for purposes of repairing the Grand Canal and the public walkways on the Esplanade adjacent to the applicants' property;

b) The permittee submits a copy of the City resolution adopting the above-described improvement district ordinance to the Executive Director; and,

c) The Executive Director acknowledges in writing that the above-described ordinance has been adopted.

In any case, the applicants must ensure that the encroachments on the Esplanade which obstruct public access are removed from City property, and a public walkway installed so that public access along the Grand Canal Esplanade is restored, consistent with the terms and conditions of this amendment and to the satisfaction of the Executive Director, by January 15, 1999, or by September 1, 2000 if the deadline is extended. The Executive Director may grant additional extensions for good cause.

3. City Esplanade

The applicants acknowledge, through the acceptance of this permit amendment, that the City Grand Canal Esplanade is a public sidewalk and that the applicants shall not encroach onto or over the Grand Canal Esplanade right-of-way or otherwise interfere with the public's use of the Grand Canal Esplanade.

4. Height

The height of structures shall not exceed 36 feet above the centerline of the frontage road, Via Dolce. All future construction shall conform to a 36 feet above the centerline of Via Dolce height limit.

5. Setback from Esplanade

No portion of any residential structure shall encroach within ten feet of the City Grand Canal Esplanade right-of-way.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares:

A. Amendment Description

The applicants have requested an amendment to: 1) Revise special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) in order to delete special conditions no. 2, 4, 7, 8 and 9 as they pertain to the applicants' lot; 2) remove all fences, fill and vegetation from the City Grand Canal Esplanade located between the applicant's lot and Grand Canal; 3) resurface the Grand Canal Esplanade with concrete for public access; 4) receive approval of existing and proposed accessory improvements now located in the private front yard area adjacent to the Grand Canal Esplanade, and 5) relocate an existing fence from City property to their yard, on the property line adjacent to the Grand Canal Esplanade.

Special conditions no. 2, 4, 7, 8 and 9 were imposed by the predecessor Regional California Coastal Zone Conservation Commission in 1976 when it approved Coastal Development Permit P-7-23-76-8463 (Lumbleau) for the development of five attached single family residences across five lots (Lots 4-8) next to Grand Canal in Venice (Exhibits #1&2).

The special conditions were imposed in order to protect the public's ability to walk along Grand Canal and to protect the biological resources in and adjacent to Grand Canal. The permit prohibited fill and other development in the City Grand Canal Esplanade (the historic public walkway is referred to as the "marsh" in the 1976 permit because it is situated below the mean higher high tide elevation of 2.63'), and required the dedication and improvement of a new public sidewalk across the five lots.

The special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) read as follows (see also Exhibit #4, p.3):

1. Submit a resurvey of the lots showing the location of the latest available mean higher high tide line.

2. Stipulate that during construction no fill will be placed in the marsh.

3. Cause to be recorded a public easement dedicated to the City of Los Angeles or the State of California, said easement shall be a strip ten feet wide along the mean higher high tide line extending from Lot 4 to Lot 8.

4. Agree, prior to occupancy of the structure, to construct an improved fenced walkway five feet in width along this easement, the fencing shall be designed to allow viewing of the marsh but to prevent foot traffic and animal intrusion onto the marsh or canal. Provided the sidewalk does not intrude into the canal, it shall be designed according to the specification of the City of Los Angeles. The walkway shall be pervious, and may be fenced provided a method of maintenance has been agreed to by the Bureau of Street Maintenance.

5. Submit revised plans indicating all portions of the structures are set back twenty feet from the mean higher high tide line except open second story decks which may extend to fourteen feet from the mean higher high water.

6. Submit revised plans that include a drainage plan which prevents any runoff into the canal and disposes of all but the heaviest storm flows on-site in a french drain (gravel filled well).

7. Enter a deed restriction preventing all construction, except the walkways, fences or pervious decks, between the line of the twenty foot setback from the mean higher high tide line and the canal.

8. So long as the above conditions are fulfilled, the sidewalk may be straight and not follow minor fluctuations of the water line.

9. No portion of the structure may be higher than 27 feet above the sidewalk, which shall be constructed without unreasonable fill, according to the diagram submitted by the applicant.

STAFF NOTE: The applicants have requested the deletion of special condition no. 3, but Section 30609 of the Coastal Act limits the authority of the Commission or its staff to accept amendments to conditions requiring dedications of land or interests in land for the benefit of the public imposed by the predecessor Coastal Zone Conservation Commission or its Regional Commissions. Section 30609 of the Coastal Act states:

> Where, prior to January 1, 1977, a permit was issued and expressly made subject to recorded terms and conditions that are not dedications of land or interests in land for the benefit of the public or a public agency pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 2700), the owner of real property which is the subject of such permit may apply for modification or elimination of the recordation of such terms and conditions pursuant to the provisions of this division. Such application shall be made in the same manner as a permit application. In no event, however, shall such modification or elimination of recordation result in the imposition of terms or conditions which are more restrictive than those imposed at the time of the initial grant of the permit. Unless modified or deleted pursuant to this section, any condition imposed on a permit issued pursuant to the former California Coastal Zone Conservation Act of 1972 (commencing with Section 2700) shall remain in full force and effect.

The Executive Director has determined that the staff does not have the power to accept an amendment to delete special condition no. 3 of permit P-76-8463 because that condition requires a dedication of land or interest in land for the benefit of the public. This condition was imposed on November 8, 1976 by the predecessor Regional California Coastal Zone Conservation Commission.

This amendment affects only special conditions no. 2, 4, 7, 8 and 9 of Coastal Development Permit P-7-23-76-8463 (Lumbleau). Special conditions no. 1, 3, 5 and 6 are not affected. Further, this amendment is requested only by the owner of Lot No. 5. The owners of Lots No. 7 and 8 received Commission approval of similar permit amendments on May 8, 1996 [see 5-97-019-A1 (Hickok) & 5-97-019-A2 (Sevedge)]. The owner of Lot No. 4 received Commission approval of a similar permit amendment in July 1997 [see 5-97-019-A3 (Horowitz)]. The owners of Lot No. 6 currently have a similar amendment request before the Commission [see 5-97-019-A4 (Black)]. Therefore, this amendment affects special conditions no. 2, 4, 7, 8 and 9 of Coastal Development Permit P-7-23-76-8463 (Lumbleau) only as they apply to Lot No. 5.

The purpose of this amendment request is to: 1) restore public access along Grand Canal on the City Grand Canal Esplanade, and 2) revise the underlying permit requirements, i.e. special conditions, to bring them into conformance with Coastal Development Permit requirements which the Commission has more recently applied to several adjacent lots in permit actions along Grand Canal in 1988.

This amendment also requests approval of existing accessory improvements in the front yard area adjacent to the Grand Canal Esplanade. The existing development in the front yard area consists of landscaping, pilasters, fencing, low brick walls and brick walkways (Exhibit #3). The existing landscaping walkways are consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumbleau). It is unclear, however, whether the existing brick walls in the front yard area located more than ten and less than twenty feet from the Grand Canal Esplanade were constructed in conformance with the requirements of the Coastal Act. Although brick walls are shown on some plans in the permit file, the existing brick walls in the front yard area is not consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumbleau).

This amendment will clarify the matter by finding that the existing accessory improvements in the front yard areas more than ten feet and less than twenty feet inland from the Grand Canal Esplanade do not negatively impact coastal resources and comply with the requirements of the Coastal Act. It is important to note that a property line fence would be consistent with both the old and the new conditions, as would be a patio at grade on private property. The house in this case is set back ten feet from the canal property line and would not be impacted by a ten foot setback. A six foot wrought iron fence may be relocated to the property line consistent with the present conditions which are silent on the subject of fence height. Six foot walls and fences are typically permitted at the edge of the Silver Strand buffer to the south.

The primary Coastal Act issue involved with this amendment request is the ability of the public to access the City-owned Grand Canal Esplanade in order to walk along the banks of Grand Canal. Public access along Grand Canal is currently blocked at the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau).

The applicants for this amendment request are the owners of one of the original five lots which are subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau). The applicants own Lot No. 5 (Exhibit #3). In order to differentiate between the requirements of the original permit and the requirements of this amendment as it applies separately to Lot No. 5, a separate file number has been assigned for each amendment as it applies to each lot:

File No. 5-95-019-A1 (Hickok) applies to Lot No. 8 at 3618 Grand Canal.
File No. 5-95-019-A2 (Sevedge) applies to Lot No. 7 at 3614 Grand Canal.
File No. 5-95-019-A3 (Horowitz) applies to Lot No. 4 at 3602 Grand Canal.
File No. 5-95-019-A4 (Black) applies to Lot No. 6 at 3610 Grand Canal.
File No. 5-95-019-A5 (Nichols) applies to Lot No. 5 at 3608 Grand Canal.

The Commission's action on this amendment request, as conditioned, allows for the revision of the special conditions of the underlying permit as they apply only to Lot No. 5. The alleged violations of the underlying permit, Coastal Development Permit P-7-23-76-8463 (Lumbleau), as it applies to Lots No. 4-8 are being handled under a separate enforcement action.

B. Project Area

The five lots (Lots No. 4-8) subject to the underlying permit, Coastal Development Permit P-7-23-76-8463 (Lumbleau), are located on the east bank of Grand Canal in the Venice Canals community (Exhibits #1&2). 5. The Venice Canals neighborhood is a predominantly residential community consisting primarily of single family homes located along the open waterways. The neighborhood is located about four blocks from Venice Beach, one of the most popular visitor destinations in Los Angeles.

The Venice Canals are part of the Ballona Lagoon sea water system and are connected with the Ballona Lagoon via Grand Canal. Sea water enters and exits the canals system through a set of tidal gates located at the south end of Ballona Lagoon which connect to the marina entrance channel and the Pacific Ocean (Exhibit #1).

The Venice Canals are a popular visitor destination in Southern California. Public access along the canals and Ballona Lagoon is provided throughout the Venice Canals and Silver Strand neighborhoods by a series of improved public sidewalks, public trails, remnants of the original sidewalks built in the early 1900's, and historic use trails (Exhibit #1,p.2). Public sidewalks run along both sides of each canal and separate the private residences from the waters of the canals. The Venice Canals and canal sidewalks are both located within public rights-of-way. A public access trail which runs along the east bank of Ballona Lagoon connects to the Venice Canals sidewalk system. The Grand Canal Esplanade is the public walkway which has historically provided access along Grand Canal adjacent to the applicants' lot (Exhibit #2).

Public Access along the east banks of Grand Canal and Ballona Lagoon is uninterrupted except at the site of the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau). Unpermitted development placed upon the City right-of-way known as the Grand Canal Esplanade and upon these five lots prohibits lateral public access along Grand Canal at this site. It is the only section of interrupted lateral public access along the Venice Canals and Ballona Lagoon shorelines. The unpermitted development consists of unpermitted fill, fences, rocks, trees, and/or plywood. This violation represents an ongoing loss of coastal resources in the form of diminished availability of a public access opportunity.

The applicants propose to reopen the City Grand Canal Esplanade and restore public access on the public right-of-way along the Grand Canal in front of their lot as part of this amendment request. However, the applicants are hopeful that the City will undertake a comprehensive Grand Canal improvement project within the next year so that the City, and not the applicants, will restore public access to the Grand Canal Esplanade.

C. Project History

The Venice Canals are a unique cultural, historic and scenic resource of Southern California. The canals, which were created as part of the "Venice of America" subdivision in 1905, provide a sense of character and history for the Venice community. They also provide public access, recreation, and wildlife habitat. The canals, along with adjacent Ballona Lagoon, support some of the last remaining pockets of coastal wetland habitat in Los Angeles County.

The canals system fell into disrepair in the 1920's, and many of the original canals were filled by the City in 1927. Only the waterways of Linnie, Howland, Sherman, Eastern, Carroll and Grand Canals were not filled. The residents in the area have been attempting to restore the remaining unfilled canals since the 1960's.

In November of 1991, the Commission approved Coastal Development Permit 5-91-584 (Venice Canals) for the rehabilitation of Linnie, Howland, Sherman, Eastern and Carroll Canals (including the northern portion of Grand Canal). The canals were dredged, relined, and the public sidewalks on both sides of the canals were rebuilt. That project, however, was limited to the Venice Canals located north of Washington Street (Exhibit #1). The portion of Grand Canal located south of Washington Street, where the proposed project is located, was not included in that project. The portion of Grand Canal located south of Washington Street has not been rehabilitated and the canal and public sidewalks located on the City Grand Canal Esplanade have fallen into disrepair (Exhibit #1,p.2).

The five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau) have a long history before the Coastal Commission. On November 8, 1976, the predecessor Regional California Coastal Zone Conservation Commission approved Coastal Development Permit P-7-23-76-8463 (Lumbleau) for the development of five attached single family residences on five canal fronting lots (Exhibits #2&4). Special conditions were imposed in order to protect the public's ability to walk along Grand Canal and to protect the biological resources in and adjacent to Grand Canal. That permit was issued on September 30, 1977, and construction commenced shortly thereafter.

The City Grand Canal Esplanade had historically provided public access along Grand Canal since 1905 (Exhibit #2). In 1976, Coastal Development Permit P-7-23-76-8463 (Lumbleau) prohibited development on the City Grand Canal Esplanade (special condition no. 2) because its elevation was below the mean higher high tide elevation of 2.63'. In order to provide continued public access along Grand Canal and above the high water line, the permit required the applicant to construct a new public sidewalk across the five lots. As required, the public sidewalk was constructed five feet inland of the Grand Canal Esplanade and across Lots No. 4-8 (Exhibit #1,p.2).

In 1988, however, the Commission approved eight single family residences on the lots located immediately south of the site and on the same side of Grand Canal between 3622 and 3807 Via Dolce [see Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 & 969] (Exhibit #1,p.2). In those permits the Commission found that the existing City Grand Canal Esplanade does

provide public access along Grand Canal, and therefore did not require the construction of a new public sidewalk across the private properties as was required on the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau) (Exhibit #4).

As a result of the construction of the residences approved in 1988, the public sidewalk built across the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau) now abuts a wall and terminates at the residence built on the south side of Lot No. 8 instead of continuing across the adjacent lots as had been planned for in 1976 (Exhibit #1,p.2). In addition, public access along the Grand Canal Esplanade in front of the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau) has been blocked by the placement of unpermitted fill and fences on and across the Grand Canal Esplanade sidewalk. Lateral access along Grand Canal is no longer available in this area.

In 1993 the applicant (Nichols), one of the lot owners subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau), applied for Coastal Development Permit 5-93-150(Nichols) to amend the underlying permit in order to delete the 27 foot height limit contained in special condition no. 9, and to construct a third floor addition on Lot No. 5. On September 16, 1993, the Commission approved Coastal Development Permit 5-93-150 to amend the underlying permit as it applies to Lot No. 5. The height limit was extended to 36 feet so a third story addition could be built.

When Commission staff visited the site in conjunction with Coastal Development Permit application 5-93-150 (Nichols), they discovered permit non-compliance problems and unpermitted development on the five lots and on the City Grand Canal Esplanade. It was then that the Commission staff first discovered that public access along Grand Canal was blocked by unpermitted fill, fences and other development. Since then, staff has pursued the unpermitted development as an enforcement matter.

D. Coastal Access and Recreation

As previously stated, the primary Coastal Act issue in this amendment request involves the public's ability to walk along the banks of the Venice Canals, specifically Grand Canal.

The Venice Canals are a popular visitor destination in Southern California. Public access along the canals and Ballona Lagoon is provided by a series of improved public sidewalks, public trails, remnants of the original sidewalks built in the early 1900's, and historic use trails. These public trails and sidewalks run along both sides of each canal and separate the private residences from the waters of the canals. The Venice Canals and canal sidewalks, which are both located within public rights-of-way, provide many public recreational opportunities including walking, jogging, rowing, fishing, wildlife viewing, and photography.

However, there is currently one section of the Venice Canals and Ballona Lagoon public access system which is currently inaccessible: at the five lots

subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau) (Exhibit #2). Unpermitted development on portions of these five lots and across Grand Canal Esplanade prohibits lateral public access along Grand Canal at this site.

One of the basic goals stated in the Coastal Act is to maximize public access along the coast and to encourage public recreational opportunities. The restoration of public access along this section of Grand Canal is an integral part of the proposed project.

The Coastal Act has several policies which address the issues of public access and recreation.

Section 30210 of the Coastal Act states:

> 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.

Section 30211 of the Coastal Act states:

> Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213 of the Coastal Act states:

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

Section 30220 of the Coastal Act states:

> Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

> Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The above stated policies of the Coastal Act protect the public's right to access the coast and coastal areas, in this case Grand Canal, in order to enjoy the many lower cost (free) recreational opportunities provided by the Venice Canals.

In fact, when the Commission approved Coastal Development Permit P-7-23-76-8463 (Lumbleau) in 1976 for the development of the five lots with five attached residences, special conditions no. 4 and 8 were imposed by the Commission in order to protect the public's right to walk along the banks of Grand Canal.

Special conditions no. 4 and 8 state:

4. Agree, prior to occupancy of the structure, to construct an improved fenced walkway five feet in width along this easement, the fencing shall be designed to allow viewing of the marsh but to prevent foot traffic and animal intrusion onto the marsh or canal. Provided the sidewalk does not intrude into the canal, it shall be designed according to the specification of the City of Los Angeles. The walkway shall be pervious, and may be fenced provided a method of maintenance has been agreed to by the Bureau of Street Maintenance.

8. So long as the above conditions are fulfilled, the sidewalk may be straight and not follow minor fluctuations of the water line.

Special conditions no. 4 and 8 required the original applicant (Lumbleau) to construct a public sidewalk across the five privately owned lots and adjacent to Grand Canal (Exhibit #1, p.2). The required public sidewalk was supposed to improve public access over that which had been historically provided by the Grand Canal Esplanade because subsidence had lowered the elevation of the Grand Canal Esplanade so much that it was partly submerged during high tide.

The public sidewalk was constructed as required, but it was soon fenced-off at the ends at Lots No. 4 and 8 (Exhibit #2). In addition, unpermitted fill and other development has been placed on and across the Grand Canal Esplanade. The Esplanade is City property, and no development on City property was authorized as part of the original permit. As a result, the public can no longer walk along Grand Canal as required by Coastal Development Permit P-7-23-76-8463 (Lumbleau).

The applicants have requested the deletion of special conditions no. 4 and 8 of Coastal Development Permit P-7-23-76-8463 (Lumbleau) as they apply to Lot No. 5. Pursuant to Section 13166 of the California Code of Regulations, special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) can be deleted only if there is new information which could not have, with reasonable diligence, been produced before the permit was granted. In addition, special conditions no. 4 and 8 cannot be deleted unless the amendment will provide alternative public access along Grand Canal pursuant to the access policies of the Coastal Act.

The new information upon which this amendment request is based involves the Commission's 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969 for single family residences on lots located immediately south of the site and on the same side of Grand Canal (Exhibit #1,p.2). In those approvals the Commission found that the existing City Grand Canal Esplanade, although partially submerged during high tide, would continue to provide adequate public access along Grand Canal. Therefore, the

Commission did not require the construction of a new public sidewalk across the private properties as was required on the five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau).

Based on those 1988 actions, the applicants have proposed to remove all fences, fill and vegetation from the City Grand Canal Esplanade fronting their lot and to resurface the City Grand Canal Esplanade with concrete in order to restore public access along this section of the Grand Canal (Exhibit #3). The applicants propose that the actual removal of fences and fill, and the proposed resurfacing and reopening of the Esplanade for public access be delayed until the City of Los Angeles initiates construction of a Grand Canal Improvement Project which some residents in the area are attempting to fund with a proposed assessment district. Should construction for a Grand Canal Improvement Project not commence within eighteen months of the Commission's action on this amendment request, the applicants have agreed to remove all fences, fill and vegetation from the City Grand Canal Esplanade fronting their lot and to resurface the City Grand Canal Esplanade with concrete in order to restore lateral public access along this section of the Grand Canal (Exhibit #3).

Recently, about 80% of the property owners adjoining Grand Canal signed a petition requesting that the City institute a local assessment district to stabilize the banks and to improve the sidewalks (the Esplanade) along both sides of Grand Canal from Washington Street south to Ballona Lagoon. Luis Ganaja, representing the City Department of Public Works, has explained the following process for the ultimate construction of the walk. If constructed the walk would improve the Esplanade adjacent to the property that is the subject of this action:

1) Once at least two-thirds of the property owners sign a petition, the matter is referred to the Department of Public Works. [At least 80% of the property owners have signed the petition and the Department of Public Works has verified the signatures.]

2) The City Councilwoman (Ms. Galanter) must now present a resolution asking for staff time from the Department of Public Works Engineering Bureau to prepare an ordinance. [This is the present stage of the project.]

3) Once time is allocated, it will take about eight months to prepare an ordinance, which will include a design that is detailed enough to make cost estimates, including an estimate of the proposed assessment on each property. During that time there will be at least two hearings. Property owners who have signed the petition can remove themselves from the project during this process.

4) If, after the hearings and the preparation of the ordinance, 2/3 or more of the property owners still agree to participate in the project, the City Council passes the ordinance.

5) The Department of Public Works then does detailed design work, obtains construction permits, and goes out to bid. The design phase takes a year and a half to two years. This means that, if all steps

go smoothly, construction of the project can be reasonably expected to begin in two and a half years from now, or in the spring of the year 2000.

The applicants' proposal to restore public access on the Grand Canal Esplanade, or preferably, to participate with neighboring lot owners to restore the entire sidewalk, is consistent with the Commission's 1988 actions which found that the Grand Canal Esplanade, which is a City right-of-way, is an adequate public accessway along this bank and section of Grand Canal. Even though the Grand Canal Esplanade has fallen into disrepair and is partly submerged during periods of high tide, it is passable and continues to provide public access along Grand Canal as it has since its construction in 1905. The proposed project will provide public access and recreation opportunities through the restoration of the Grand Canal Esplanade in front of the applicants' property. Therefore, the Commission finds that the proposed project carries out the public access and recreation policies of the Coastal Act and is consistent with the prior actions in the area.

The amendment, however, must be conditioned in order to ensure that public access is restored along the Grand Canal Esplanade in front of the applicants' property before the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) are revised as they apply to Lot No. 5.

Therefore, the effectiveness of the Commission's revision to the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) as they apply to Lot No. 5 is contingent upon the restoration of public access along the Grand Canal Esplanade fronting the applicants' property to the satisfaction of the Executive Director.

Public access along the Grand Canal Esplanade shall be deemed restored when the Executive Director has signed a statement concurring that the following has occurred along the Grand Canal Esplanade situated between the applicants' lot and Grand Canal: 1) all fences, fill, vegetation and other encroachments have been removed from the Grand Canal Esplanade right-of-way, 2) the full width of the Grand Canal Esplanade right-of-way has been resurfaced with concrete consistent with the City of Los Angeles specifications and requirements for permanent right-of-way improvements, and 3) the public is able to access and walk along the improved and unobstructed Grand Canal Esplanade right-of-way.

At such time as the the Executive Director determines that public access has been restored along the Grand Canal Esplanade in front of Lot No. 5, consistent with the terms and requirements of this amendment, the applicants will be notified in writing that the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) have been revised so as to delete special conditions no. 2, 4, 7, 8 and 9 as they apply to Lot No. 5.

The timing of work that is required to reopen the Grand Canal Esplanade for public access is very important. In order to ensure that public access is restored in a timely manner, the applicants are required to restore public access along the Grand Canal Esplanade, consistent with the terms and conditions of this amendment and to the satisfaction of the Executive Director, by January 1, 1999. However, this time may be extended for an

additional year and a half if a local assessment district is formed for the purpose of improving public access along the Esplanade both adjacent to the applicants' property and all along the canal from Washington to the conjunction of Ballona Lagoon and Via Dolce.

In its previous actions on the other three houses on this block (Sevedge, Horowitz and Hickok (A-95-019-A1, A2, and A3) the Commission imposed much shorter (90 day) deadlines because this is an important link in the accessway along the canals. There is now a changed circumstance, which is a valid petition asking for an assessment district for the whole area. Therefore, the deadlines have been extended in this case to allow time for the assessment district to form, and then, after its formation to undertake the work. If the assessment district does not form as predicted, then the applicants will have to complete the improvement of the Grand Canal Esplanade for public access where it is currently blocked in front of their property.

The other applicants have been given interim extensions on their portion of the improvements because the two applicants now before the Commission (Black and Nichols) had not completed their amendment applications for Commission action. The conditions on the other amendments allow the Executive Director to extend time limits on those as well, for good cause.

While additional time will have an interim impact on access, as a whole, one properly done project will have a much better result in the long run. Allowing additional time to improve walkways along about a half mile of Grand Canal is justified because a larger overall project, properly designed and constructed, has a much greater chance of staying in place and will provide superior access for the public. The benefit of a publicly improved walkway along the entire canal frontage in this area is greater than having these five lots restore the public walkway on a piecemeal basis. A City improvement project along the entire length of Grand Canal could stabilize the banks better than if it was done on a lot by lot basis. Stabilization of the canal bank is a priority for the applicants who believe that their property is threatened by erosion of the canal bank. A properly constructed walkway would be more likely, then, to remain in place and would in most probability benefit the homeowners by stabilizing not only the walkway but the adjacent yards.

However, in spite of the additional time granted, there is still a requirement that if the City improvement plans fail to come to fruition, that the applicants will be required to improve the walk to the best of their abilities. After the signing of the petition by numerous residents, a City assessment district looks much more likely to happen than in the past.

Therefore, the Commission can grant a realistic period of time for the City to authorize and complete the project. Either the City will commence construction of the project within a reasonable period of time, or the applicants must begin construction so that public access is restored along the Grand Canal Esplanade in front of their property.

The timeline is as follows:

January 12-16, 1998: Commission hearing and action on amendment applications 5-95-019-A4 (Black) & A5 (Nichols).

October 15, 1998: If the City has established an improvement district ordinance to fund a Grand Canal Improvement Project, then a deadline of September 1, 2000 is established for public access to be restored along the Grand Canal Esplanade in front of the applicants' property. If the City has not established an improvement district ordinance to fund a Grand Canal Improvement Project, then the applicants shall restore public access along the Grand Canal Esplanade in front of their property by January 15, 1999.

January 15, 1999: Deadline for the applicants to restore public access along the Grand Canal Esplanade in front of their property unless time extension has been granted by the Executive Director pursuant to progression of a City sponsored Grand Canal Improvement Project.

September 1, 2000: Deadline for the restoration of public access along the Grand Canal Esplanade in front of the applicants' property if the Executive Director does grant an extension of the January 15, 1999 deadline pursuant to progression of a City sponsored Grand Canal Improvement Project. By this date, the City should have completed a Grand Canal Improvement Project and restored public access along the Grand Canal Esplanade. If a City sponsored Grand Canal Improvement Project has not been completed by this date, then the applicants shall restore public access along the Grand Canal Esplanade in front of their property pursuant to the terms and conditions of this amendment.

The above stated timeline, which is enforced by the conditions of approval in this amendment, allows the applicants to temporarily delay the restoration work on the Grand Canal Esplanade while the City attempts to undertake a comprehensive Grand Canal Improvement Project. If the City sponsored project does not progress within a reasonable period of time, then the applicants must undertake the work necessary to restore public access along the Grand Canal Esplanade in front of their property.

In any case, the applicants must ensure that the encroachments on the Esplanade which obstruct public access are removed from City property so that public access along the Grand Canal Esplanade is restored. The applicants are required to install a new the walkway within one year of the Commission's action on this amendment, or within such additional time as may be granted by the Executive Director, in the event there the assessment district is not formed for the Canal Improvement Project by October 15, 1998. A condition of approval states:

2. Timing of Completion of Work

Public access along the Grand Canal Esplanade shall be restored,

consistent with the terms and conditions of this amendment and to the satisfaction of the Executive Director, by January 15, 1999. This deadline will be automatically extended to September 1, 2000 if all of the following occur by October 15, 1998:

a) The City of Los Angeles adopts an improvement district ordinance that authorizes the assessment of property for purposes of repairing the Grand Canal and the public walkways on the Esplanade adjacent to the applicants' property;

b) The permittee submits a copy of the City resolution adopting the above-described improvement district ordinance to the Executive Director; and,

c) The Executive Director acknowledges in writing that the above-described ordinance has been adopted.

In any case, the applicants must ensure that the encroachments on the Esplanade which obstruct public access are removed from City property, and a public walkway installed so that public access along the Grand Canal Esplanade is restored, consistent with the terms and conditions of this amendment and to the satisfaction of the Executive Director, by January 15, 1999, or by September 1, 2000 if the deadline is extended. The Executive Director may grant additional extensions for good cause.

If the facts of the case necessitate it, the Executive Director can grant the applicants additional time to comply with the requirement to restore public access along Grand Canal by extending the time limits for restoration of the Grand Canal Esplanade. Additional time has already been granted to the owners of Lot Nos. 4, 7 an 8 [see 5-97-019-A1 (Hickok), 5-97-019-A2 (Sevedge) & 5-97-019-A3 (Horowitz)] while Commission staff attempts to work with the owners of Lot Nos. 5 and 6.

Additionally, as a condition of approval, the applicants acknowledge that the City Grand Canal Esplanade is a public sidewalk and the applicants shall not encroach onto or over the Grand Canal Esplanade right-of-way or otherwise interfere with the public's use of the Grand Canal Esplanade. The applicants may only temporarily obstruct access along the Grand Canal Esplanade in order to construct the improvements approved by this amendment.

The Commission finds that only as conditioned is the amendment request consistent with the public access and recreation policies of the Coastal Act.

E. Marsh/Esplanade

The applicants have also requested the deletion of special condition no. 2 of Coastal Development Permit P-7-23-76-8463 (Lumbleau). Special condition no. 2 states:

2. Stipulate that during construction no fill will be placed in the marsh.

Special condition no. 2 of Coastal Development Permit P-7-23-76-8463 (Lumbleau) states that no fill shall be placed in the marsh. The marsh area is the area located between the mean higher high tide line and edge of the Grand Canal right-of-way (Exhibit #2). Most of the marsh in the canal and extends over the existing ten foot wide Grand Canal Esplanade, an improved City right-of-way that is located at elevation 2.3', but below the mean higher high tide line (MHHTL elevation is 2.63'). The Grand Canal Esplanade is the historic public walkway situated between the applicants' property line and the Grand Canal (Exhibit #2). Therefore, this condition effectively prohibited fill and other development in the City Grand Canal Esplanade right-of-way.

The historic public walkway is referred to as the "marsh" in the 1976 permit condition because it is situated below the mean higher high tide elevation of 2.63' (Exhibit #2). Since its construction in 1905, subsidence has lowered the elevation of the Grand Canal Esplanade so much that it is partly submerged during periods of high tide. The unobstructed portion of the Grand Canal Esplanade does, however, sit above the waterline most of the time and is used by the public.

Special condition no. 2 was originally imposed by the Commission in order to protect the Grand Canal Esplanade from development and to protect any marine resources located below the mean higher high tide elevation of 2.63' and to specifically limit development to the privately owned lots. The Grand Canal Esplanade has little or no habitat value. The Department of Fish and Game and the Fish and Wildlife Service have reviewed the proposal to restore public access along the Grand Canal Esplanade and have raised no objections (Exhibits #6&7).

As previously stated, pursuant to Section 13166 of the California Code of Regulations, special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) can be deleted only if there is new information which could not have, with reasonable diligence, been produced before the permit was granted.

The new information upon which this amendment request is based, involves the Commission's 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969 for single family residences on the lots located immediately south of the site and on the same side of the Grand Canal. In the 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969, the Commission found that the existing City Grand Canal Esplanade was not an area which needed protection as a marsh or wetland, but functional as a public sidewalk which would continue to provide public access along Grand Canal as it had since its construction in 1905.

Based on the Commission's 1988 permit actions, the applicants have proposed to remove all fences, fill and vegetation from the City Grand Canal Esplanade located between their lot and Grand Canal, and to resurface the City Grand Canal Esplanade with concrete in order to restore public access along this section of the Grand Canal (Exhibit #3). Special condition no. 2 of Coastal Development Permit P-7-23-76-8463 (Lumbleau) must be deleted in order to allow the applicant to resurface the City Grand Canal Esplanade with a new layer of concrete (Exhibit #3). The fill to be placed on the Grand Canal Esplanade shall be limited to the new concrete that is required to improve the sidewalk for public access.

The applicants' proposed plan, as conditioned, is consistent with the Commission's 1988 actions which found that the Grand Canal Esplanade is an adequate public accessway along this bank and section of Grand Canal. In addition, the proposed project will provide public access and recreation opportunities with the restoration of the public accessway along Grand Canal. Therefore, the Commission finds that the proposed project, as conditioned, carries out the public access and recreation policies of the Coastal Act and is consistent with the prior actions in the area. The amendment is conditioned to limit any fill placed on the Grand Canal Esplanade to only the new materials that are required to improve the sidewalk for public access.

F. Building and Fence Heights

The applicants have requested the deletion of special condition no. 9 of Coastal Development Permit P-7-23-76-8463 (Lumbleau). Special condition no. 9 states:

> 9. No portion of the structure may be higher than 27 feet above the sidewalk, which shall be constructed without unreasonable fill, according to the diagram submitted by the applicant.

Special condition no. 9 was imposed by the Commission in order to protect public views and community character from excessive building heights and bulks that can negatively impact the environment of coastal areas. Section 30251 of the Coastal Act protects public views and community character from excessive building heights and bulks that can negatively impact the environment of coastal areas. The Commission routinely requires building setbacks and limits the heights of structures to ensure that they do not negatively impact the character of existing communities.

Section 30251 of the Coastal Act states in part that:

> 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 along the ocean and scenic coastal areas...be visually compatible with the character of surrounding areas...

As previously stated, pursuant to Section 13166 of the California Code of Regulations, special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) can be deleted only if there is new information which could not have, with reasonable diligence, been produced before the permit was granted. The new information involves the Commission's 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969 for the adjacent lots, and the 1993 approval of Coastal Development Permit 5-93-150 (Nichols). The approval of amendments 5-97-019-A1 (Hickok), 5-97-019-A2 (Sevedge), and 5-97-019-A3 (Horowitz) are also relevant.

In the 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969, the Commission found that a height limit of 36 feet above the centerline of Via Dolce was appropriate for the single family residences on the same side of Grand Canal as the project site.

In fact, in 1993 the Commission approved Coastal Development Permit 5-93-150 (Nichols) as an amendment to the underlying permit, Coastal Development Permit P-7-23-76-8463 (Lumbleau), as it applied to the site (Lot No. 5) in order to delete the 27 foot height limit contained in special condition no. 9 and to construct a third floor addition. Based on the Commission's actions in 1988, the height limit on the site has already been extended to 36 feet above the centerline of Via Dolce. The structure currently reaches an approximate height of 36 feet above the centerline of Via Dolce.

The Commission's 1996-97 approvals of amendments 5-97-019-A1 (Hickok), 5-97-019-A2 (Sevedge), and 5-97-019-A3 (Horowitz) also included a height limit increase to 36 feet for Lot Nos. 4, 7 and 8.

The primary Coastal Act issue involved with the deletion of the height limit contained in special condition no. 9 was the impact on public views and community character. When the Commission approved Coastal Development Permit 5-93-150 (Nichols), it found that the character of the community had changed since the underlying permit [Coastal Development Permit P-7-23-76-8463 (Lumbleau)] was approved in 1976, and an increase in the height limit to 36 feet would not negatively impact public views or community character.

When the existing structure was approved by the Commission in 1976, the Commission determined that the proper height limit for the area was 27 feet above the grade elevation of the site. As previously stated, the Commission used different height limits and setback requirements in 1988 when it allowed the construction of eight single family residences on eight adjacent lots. Then in 1993 the Commission allowed the building on the site (Lot No. 5) to add a 36 foot high addition.

In the Commission's 1988, 1993 and 1996 actions it found that because the sites are located adjacent to Grand Canal, which has public walkways along both banks, there is a public view and community character issue. However, the Commission also found that residential structures built up to a height of 36 feet above Via Dolce would not block any views since a two-story building blocks as much of the view to and from Grand Canal as a three-story building 36 feet high.

In the 1988 and 1996 approvals, the Commission acknowledged that there were higher structures in the vicinity, such as a 71 foot high senior citizen building located north of the subject site near the intersection of Via Dolce and Washington Street, and other high rise buildings in Marina del Rey, but found that the development of single family residences along Grand Canal should be limited to a height of 36 feet above Via Dolce in order to conform to the height of structures closer to the subject area.

Therefore, based on the requirements of Section 30251 of the Coastal Act and prior Commission actions, the Commission finds that the structure subject to this permit amendment will conform to the existing character of the community if it is limited to a height limit of 36 feet above the centerline elevation of Via Dolce.

As previously stated, special condition no. 9 Coastal Development Permit P-7-23-76-8463 (Lumbleau) has already been deleted as it applies to Lot No. 5.

However, a condition of this amendment limits the structure's height to 36 feet above the centerline elevation of Via Dolce. Only as conditioned is the proposed amendment consistent with Section 30251 of the Coastal Act.

It must be noted, however, that this amendment does not itself authorize any building additions. Any proposed additions may require another amendment or a new Coastal Development Permit. The lot owners should contact Commission staff prior to adding any height or floor area to the residence in order to determine what, if any, permits are required.

Fence height is also a scenic and visual issue. In order to establish security and to protect coastal views, the applicants propose to place a six foot high open fence along the lot line adjacent to the Esplanade. This height would be consistent with the heights of the fences permitted by the Commission to the south in Silver Strand area. The applicants propose that the fence at the property line would be on their property and be open to preserve views from the walkway. As proposed, the open wrought iron fence, with solid pilasters, is consistent with the visual quality sections of the Coastal Act and will protect views to and along the coast.

G. Construction Setback

The applicants have also requested the deletion of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumbleau). Special condition no. 7 states:

> 7. Enter a deed restriction preventing all construction, except the walkways, fences or pervious decks, between the line of the twenty foot setback from the mean higher high tide line and the canal.

Special condition no. 7 was imposed by the Commission in order to protect the public sidewalk, public views and community character from structural encroachments that can negatively impact the environment of coastal areas. The mean higher high tide line referred to in special condition no. 7 corresponds to the boundary between the applicants' private property line and the inland extent of the Grand Canal Esplanade. In effect, the condition protected the Grand Canal Esplanade, as well as the public sidewalk built across Lot Nos. 5-8 from being encroached upon by the approved residential structures and future additions.

Section 30251 of the Coastal Act protects public views and community character from excessive building bulks and encroachments that can negatively impact the environment of coastal areas. The Commission routinely requires building setbacks and limits the heights of structures to ensure that they do not negatively impact the character of existing communities.

Section 30251 of the Coastal Act states in part that:

> 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 along the ocean and scenic coastal areas...be visually compatible with the character of surrounding areas...

As previously stated, pursuant to Section 13166 of the California Code of Regulations, special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) can be deleted only if there is new information which could not have, with reasonable diligence, been produced before the permit was granted. Once again, the new information involves the Commission's 1988 approvals of Coastal Development Permits 5-87-657, 658, 659, 965, 966, 967, 968 and 969 for the adjacent lots south of the site. In the 1988 approvals, the Commission approved eight residential structures which were set back only ten feet from the City Grand Canal Esplanade right-of-way instead of twenty feet.

The approval of amendments 5-97-019-A1 (Hickok), 5-97-019-A2 (Sevedge), and 5-97-019-A3 (Horowitz) are also relevant in that special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumbleau) was deleted as it applies to Lot Nos. 4, 7 and 8.

The primary Coastal Act issue involved with the proposed deletion of the setback requirement contained in special condition no. 7 is the impact on public access, public views and community character. A reduction in the building setback requirement from twenty feet from the Grand Canal Esplanade to ten feet inland from the Grand Canal Esplanade will not negatively impact public access, public views or community character. A ten foot setback would allow the applicants' residential stringline to align with the stringline of the adjacent residences which are already built on the lots south of the site pursuant to the Commission's 1988 approvals. A ten foot setback is consistent with the setback on the majority of the adjacent lots, and would restrict future encroachments from occupying the ten foot wide front yard area which separates the residential structures from the Grand Canal Esplanade.

Therefore, a ten foot setback conforms to the character of the community and will not allow the interruption of any public views. In addition, there would be no impact on public access along the Grand Canal Esplanade with a ten foot setback requirement. A ten foot setback from the Grand Canal Esplanade would adequately protect the accessway from residential encroachments.

Based on the requirements of Section 30251 of the Coastal Act and prior Commission actions, the Commission finds that the structure subject to this permit amendment will conform to the existing character of the community if it is required to maintain a setback of at least ten feet between the residential structure on Lot No. 5 and the City Grand Canal Esplanade right-of-way.

Therefore, special condition no. 7 Coastal Development Permit P-7-23-76-8463 (Lumbleau) may be deleted as it applies to Lot No. 5, but only if it is replaced with a condition which requires a ten foot setback between the structure and the City Grand Canal Esplanade right-of-way. It must be noted, however, that this amendment does not itself authorize any building additions. Any proposed additions may require another amendment or a new Coastal Development Permit. The lot owners should contact Commission staff prior to adding any height or floor area to the residence in order to determine what, if any, permits are required.

The Commission finds that, as conditioned by the special conditions of this permit amendment, the deed restriction recorded pursuant to special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumbleau) as it applies to

Lot No. 5 may be extinguished by the applicants. Only as conditioned is the proposed amendment consistent with Section 30251 of the Coastal Act.

H. Existing Accessory Improvements

This amendment also requests approval of the existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade. The existing development in the front yard area consists of landscaping, porch, low brick walls and brick walkways (Exhibit #3). Existing improvements located on City property would have to be removed, but as noted above, the wrought iron fence with pilasters could be relocated to the applicants' property line between the Esplanade and the applicants' canal-fronting yard (legally a back yard by City zoning.)

As noted above, the additions to house and the new terrace were approved by Coastal Development Permit 5-93-150 (Nichols), and are located 10 feet or more from the canal property line.

The existing landscaping and walkways are consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumbleau). The existing landscaping and walkways in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade are also consistent with special condition no. 5 of this amendment.

It is unclear, however, whether the existing brick walls in the front yard area located more than ten and less than twenty feet from the Grand Canal Esplanade were constructed in conformance with the requirements of the Coastal Act. Although brick walls are shown on some plans in the permit file, the existing brick walls in the front yard area are not consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumbleau).

The existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade, including the brick walls, do not negatively impact coastal resources. Therefore, the Commission finds that the existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade, including the brick walls, comply with the requirements of the Coastal Act and are in conformance with the requirements of this permit amendment. Once the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) are revised in order to delete special conditions no. 2, 4, 7, 8 and 9 as they pertain to the applicants' lot, the existing accessory improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade, including the brick walls, will be in compliance with the requirements of the Coastal Act.

It must again be noted, however, that this amendment does not itself authorize any new improvements in the front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade. Any future improvements to this area may require another amendment or a new Coastal Development Permit. The lot owners should contact Commission staff prior to undertaking any future improvements in the front yard area in order to determine what, if any, permits are required.

I. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit amendment only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

Section 30604(a) states:

> (a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development 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 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The Local Coastal Plan (LCP) for the Venice Canals/Marina Peninsula area was certified with suggested modifications in June, 1983. The findings adopted by the Commission at that time stressed the importance of improving the Venice Canal public rights-of-way in meeting the access and recreation policies of the Coastal Act. However, the City did not accept the Commission's suggested modifications and certification of the LCP has lapsed. In any case, the proposed amendment is consistent with the modified policies of the LCP.

The proposed amendment, only as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

J. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit amendment to be supported by a finding showing the amendment, 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)(i) 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 impact which the activity may have on the environment.

The proposed amendment, only as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the proposed amendment, 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.

K. Violation

Although some development on the site, including the failure to provide public access along Grand Canal as required by the underlying permit, may have taken place without a valid Coastal Development Permit, consideration of the amendment application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred. The Commission will act on this application without prejudice and will act on it as if none of the existing unpermitted development had previously occurred.

Commission staff has undertaken an investigation of alleged violations on five lots (Lot Nos. 4-8) involving non-compliance with the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) (Exhibit #4). One of the alleged violations involves the status of the existing development in the front yard areas located more than ten and less than twenty feet from the Grand Canal Esplanade.

It is unclear whether the existing brick walls in the front yard areas located more than ten and less than twenty feet from the Grand Canal Esplanade were constructed in conformance with the requirements of the Coastal Act. There are no records which indicate that the existing brick walls were approved by the Commission or its staff. Although brick walls are shown on some unsigned plans in the permit file, the existing brick walls in the front yard areas are not consistent with the limitations of special condition no. 7 of Coastal Development Permit P-7-23-76-8463 (Lumbleau).

In order to remedy the situation, staff contacted the applicants and requested that they seek permission to retain the existing development located in the front yard area located more than ten and less than twenty feet from the Grand Canal Esplanade as part of this amendment request. This amendment will result in the deletion of special condition no. 7 (as it pertains to the subject property), thereby eliminating the restrictions on the development that can occur in the "former" setback area, and will determine such development to be consistent with the Chapter 3 policies of the Coastal Act. Therefore, this action will resolve the issue concerning the status of the existing development located in the front yard area more than ten and less than twenty feet from the Grand Canal Esplanade.

The investigation of the alleged violations on the five lots also involves non-compliance with the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) which require the provision of public access along Grand Canal.

As previously stated, three of the owners of the original five lots subject to Coastal Development Permit P-7-23-76-8463 (Lumbleau) have already received the Commission's approval of a similar amendment. Amendment 5-95-019-A1 (Hickok) applies to Lot No. 8 at 3618 Grand Canal, Amendment 5-95-019-A2 (Sevedge) applies to Lot No. 7 at 3614 Grand Canal and Amendment 5-95-019-A3 (Horowitz) applies to Lot No. 4 at 3602 Grand Canal ((Exhibit #2). The applicant for this amendment is the owner of Lot No. 5. The owners of Lot No. 6 have

submitted a similar amendment request [see 5-95-019-A4 (Black) . Therefore, the Commission's action on this amendment request only applies to Lot No. 6.

The violations of the underlying permit, Coastal Development Permit P-7-23-76-8463 (Lumbleau), are being addressed by Commission staff through enforcement actions.

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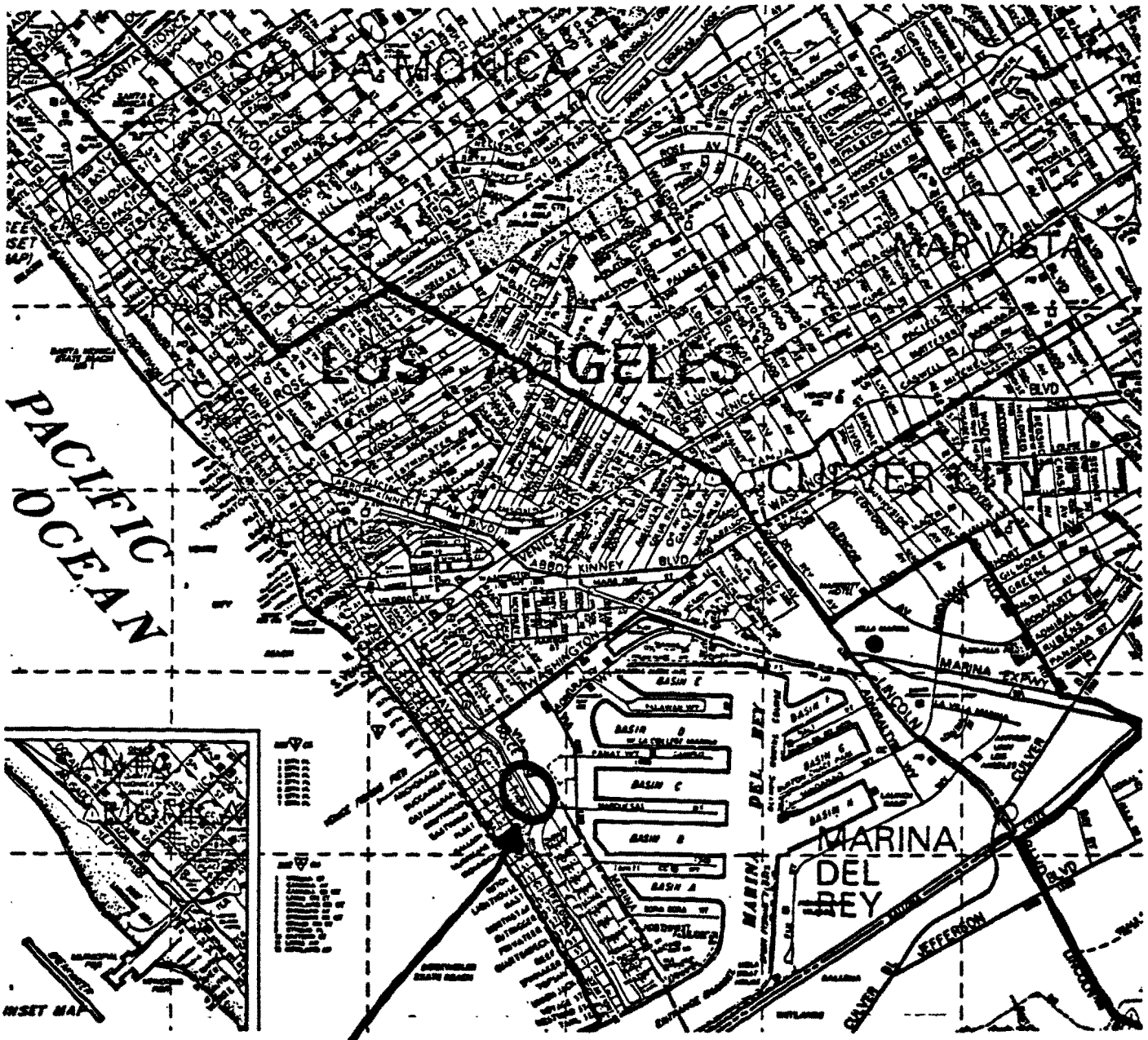
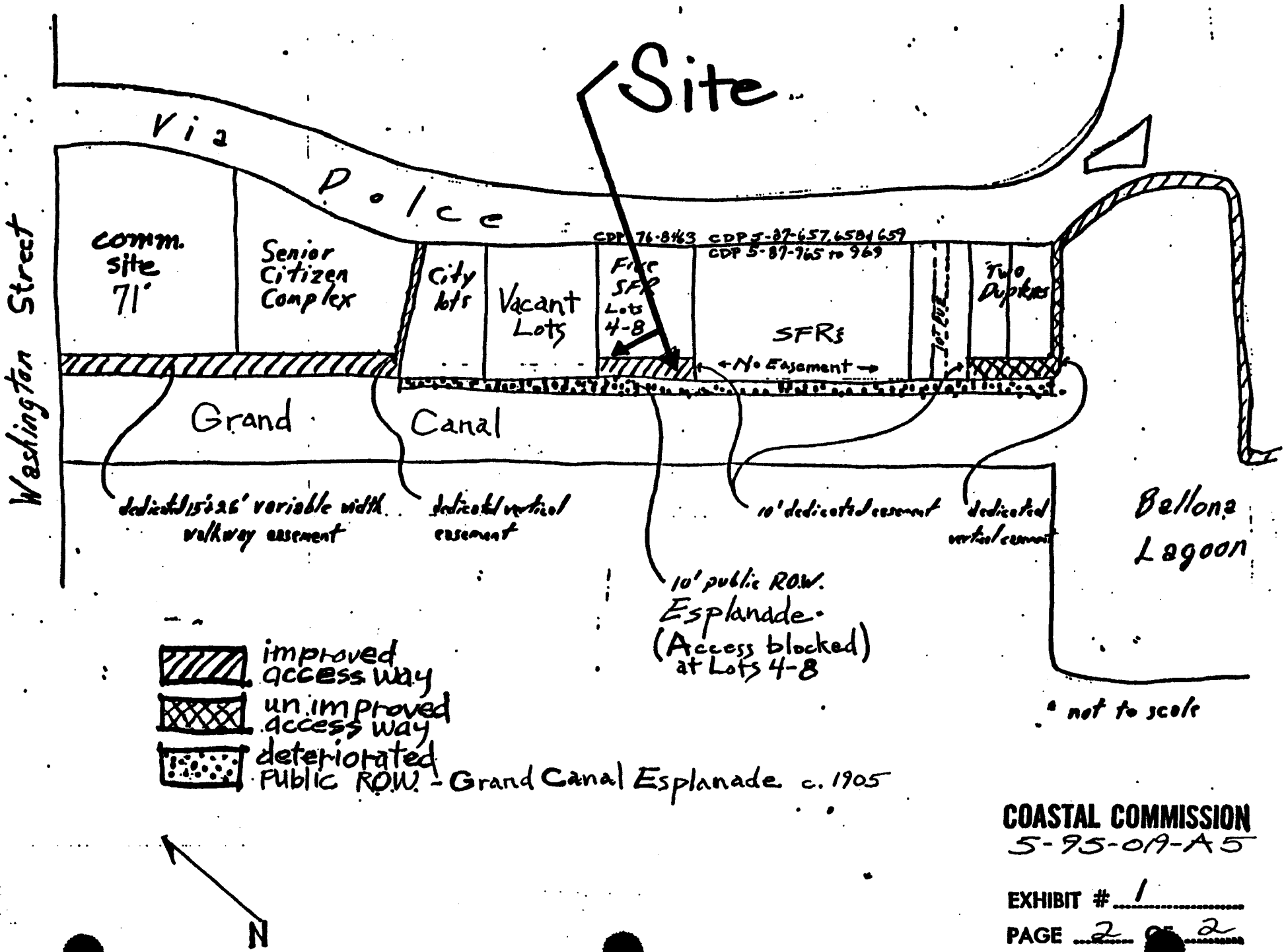


COASTAL COMMISSION
5-95-019-A5

EXHIBIT # 1

PAGE 1 OF 2



COASTAL COMMISSION
5-95-019-A5

EXHIBIT # 1

PAGE 2 OF 2

Property & Topographic Survey
made for

John J. Lumbleau

Note: The elevations shown on this plat are on the Mean Sea Level Datum as maintained by the L.A.C.E. (Los Angeles City Engineer) & The U.S. Geological Survey. Mean Higher High Water line was established as +2.63 above M.L.L.W. datum. The 1976 Tide Tables published by Dept Commerce is the current reference.

Bench Mark Reference
(1960 Precise Adjust.)
Spk. W curb Pacific Ave.
40' S/o Eastward St.
elev. = 12.61 LACE FB
27596 pg 32

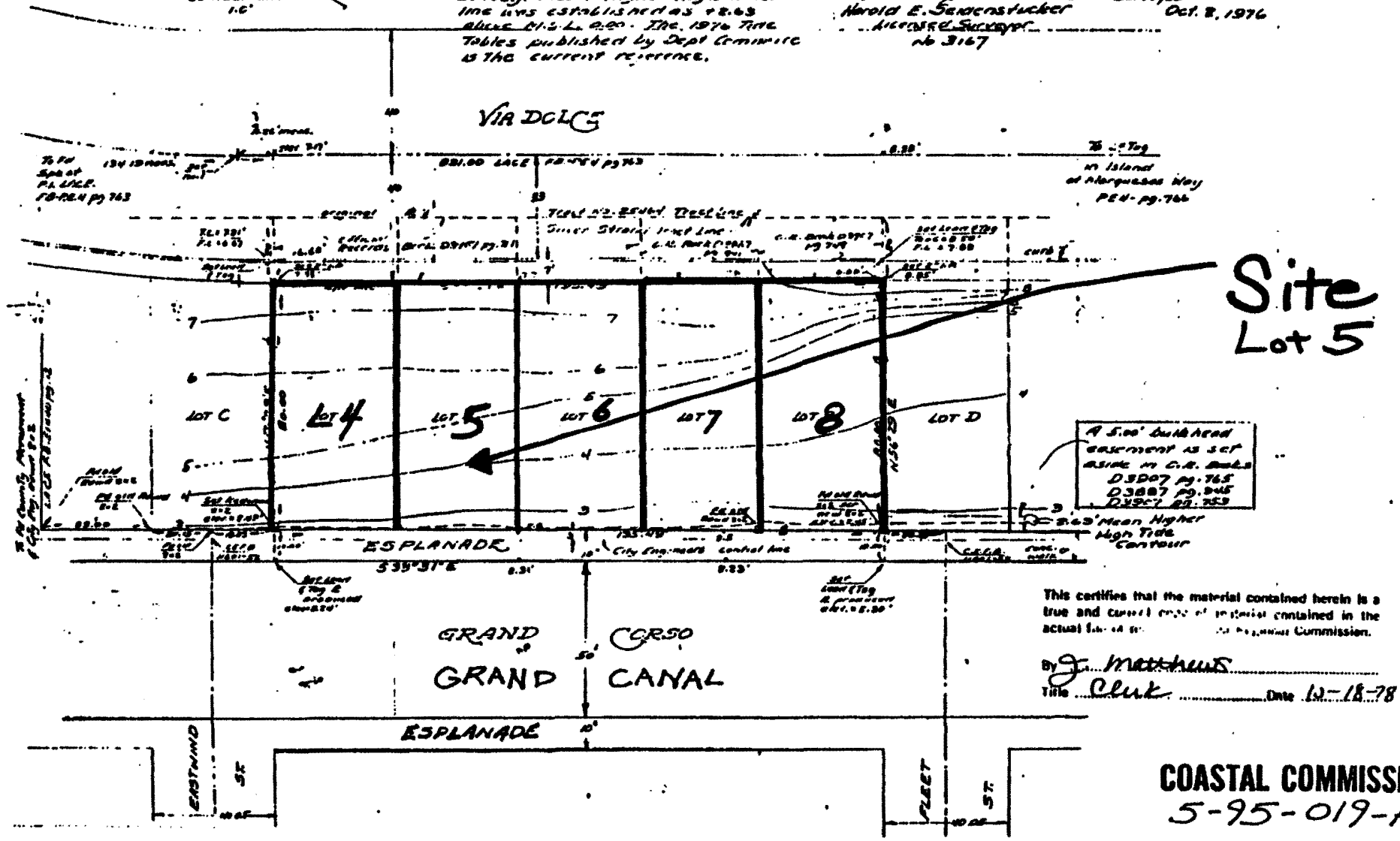
All points set custom Lic.
Surveyor Tag No. 3167

Harold E. Sendenstucker
Licensed Surveyor
No 3167

Property Survey of
Lots N.3, 4, 7, 8, Block
6, Silver Strand Tract
recorded in Map Book 7
pg. 86 Official Records,
County of Los Angeles
California. The exceptions
are noted on the plat
as recorded in official
records Book D3907-761
D3887-941
D3967-743.

Surveyed
Oct. 8, 1976

Scale
1"=20'
Contour Interval
1.0'



This certifies that the material contained herein is a true and current copy of material contained in the actual file of the Coastal Commission.

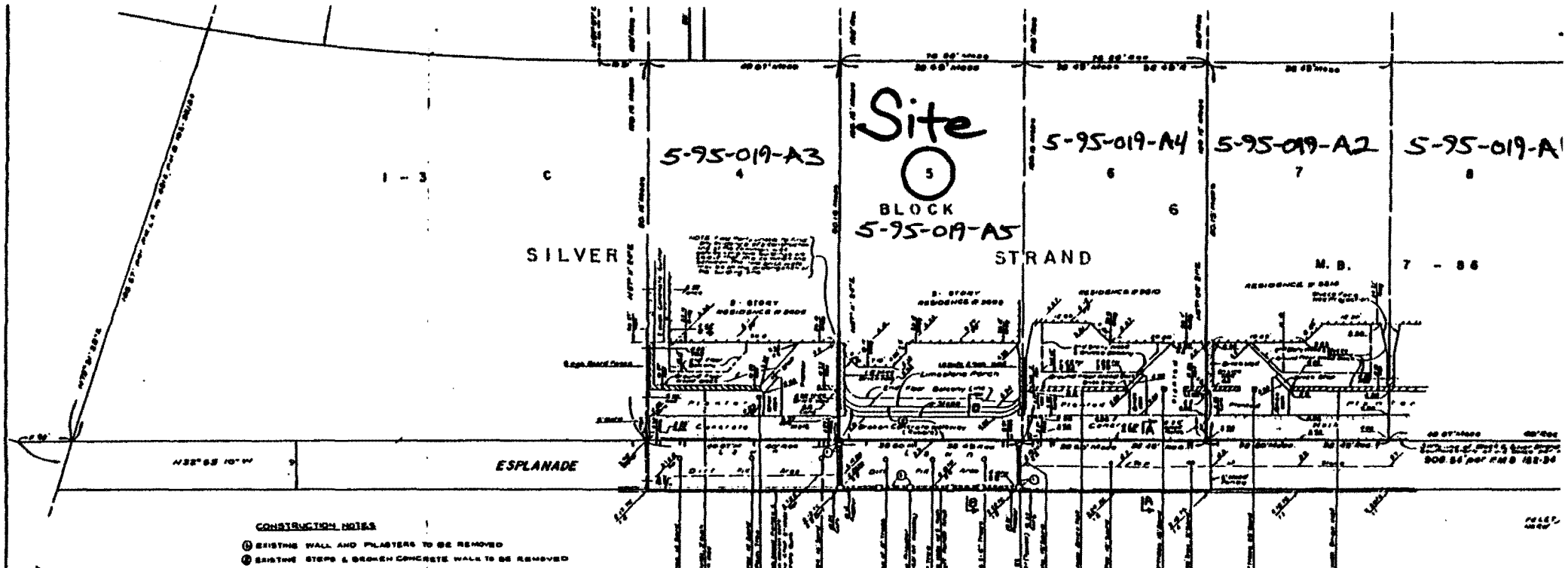
By J. Matthews

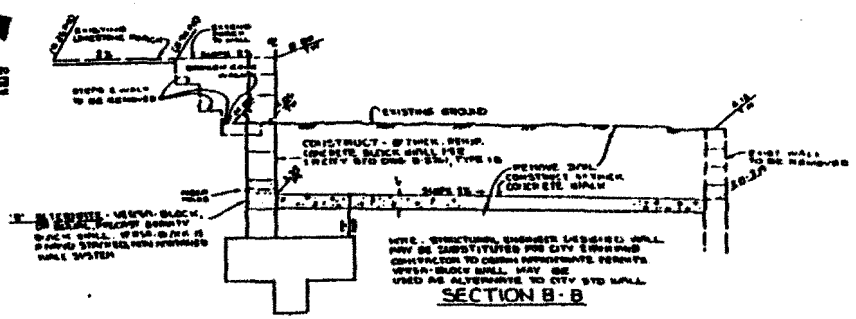
Title Clerk Date 12-18-78

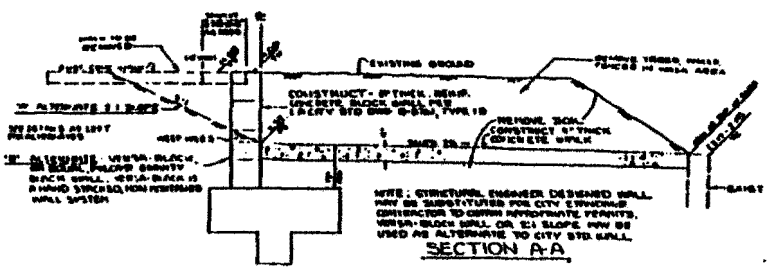
COASTAL COMMISSION
5-95-019-A5

EXHIBIT # 2

PAGE 1 OF 1







NOTE : LOT LINE LOCATIONS IN BLOCK IS BASED ON DATA SHOWN ON PARCEL MAP L.A. NO 4814 RM B 62-33/34

CONSTRUCTION PLANS

MAP OF SURVEY SHOWING
PORTION OF LOTS 5 & 6 BLOCK 6, SILVER STRAND
M. B. 7 - 86
CITY OF LOS ANGELES - COUNTY OF LOS ANGELES STATE OF CALIFORNIA

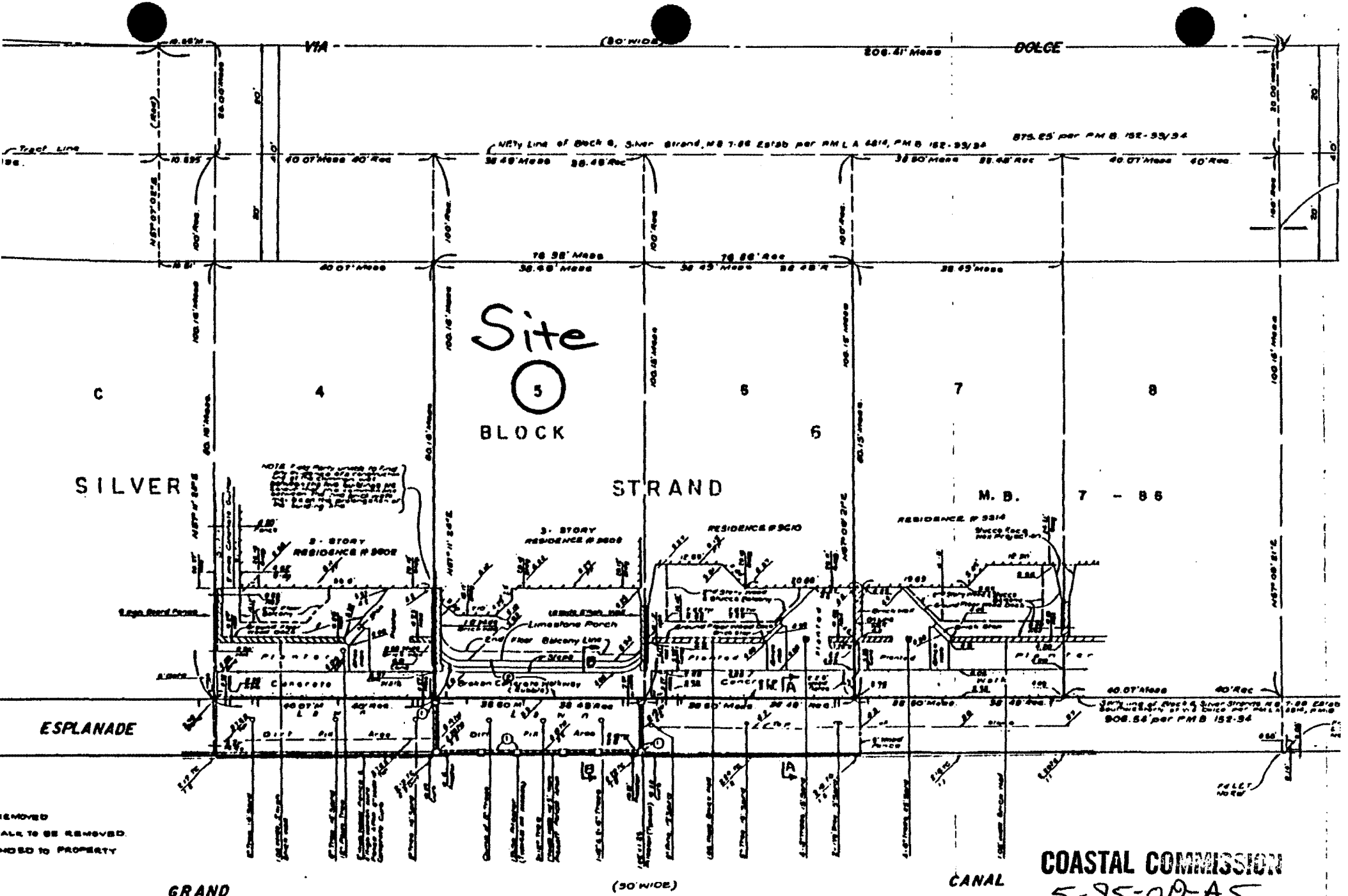
BENCHMARK
BM NO 15-00326 CITY OF LOS ANGELES DATUM
SAME ON WEST CURB PACIFIC AVENUE 30 FEET SOUTH OF CENTERLINE FLEET STREET
ELEVATION = 12.362 FEET (1985 ADJUSTMENT)

Surveyor's or Engineer's Statement

GUY BARTOLI, AIA

5-95-019-A5

EXHIBIT # 3
PAGE 1 OF 2



COASTAL COMMISSION
5-95-09-A5

EXHIBIT # 3

PAGE 2 OF 2

STATE OF CALIFORNIA — EDMUND G. BROWN JR., Governor

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
SOUTH COAST REGIONAL COMMISSION
666 E. OCEAN BOULEVARD, SUITE 3107
P. O. BOX 1450
LONG BEACH, CALIFORNIA 90801
(213) 436-1281 . (714) 846-0648

FILE COPY

590-5071

RESOLUTION OF APPROVAL AND PERMIT

Application Number: P-7-23-76-8463

Name of Applicant: John J. Lumbleau

519 South Western Avenue, Los Angeles, CA 900

Permit Type: [X] Standard

[ ] Emergency

Development Location: Lots 4, 5, 6, 7, and 8, Block 6, Silver Strand Tract on Via Dolce, Venice, CA

Development Description: Construct five, three-story, single-family dwellings, 33 feet above centerline of frontage road, with conditions.

Commission Resolution:

I. The South Coast Conservation Commission finds that the proposed development:

A. Will not have a substantial adverse environmental or ecological effect.

B. Is consistent with the findings and declarations set forth in Public Resources Code Sections 27001 and 27302.

C. Is subject to the following other resultant statutory provisions and policies:

City of Los Angeles ordinances.

D. Is consistent with the aforesaid other statutory provisions and policies in that:

approval in concept has been issued.

E. The following language and/or drawings clarify and/or facilitate carrying out the intent of the South Coast Regional Zone Conservation Commission:

application, site map, plot plan and approval in concept.

COASTAL COMMISSION

5-95-019-A

EXHIBIT # 4

PAGE 1 OF 3

Whereas, at a public hearing held on November 8, 1976 (date) at Torrance (location) by a 8 to 2 vote hereby approves the application for Permit Number P-7-23-76-8463 pursuant to the California Coastal Zone Conservation Act of 1972, subject to the following conditions imposed pursuant to the Public Resources Code Section 27403:

See attached for conditions.

Condition/s Met On 9/29/77 By dp CCC

III. Said terms and conditions shall be perpetual and bind all future owners and possessors of the property or any part thereof unless otherwise specified herein.

IV. The grant of this permit is further made subject to the following:

A. That this permit shall not become effective until the attached verification of permit has been returned to the South Coast Regional Conservation Commission upon which copy all permittees have acknowledged that they have received a copy of the permit and understood its contents. Said acknowledgement should be returned within ten working days following issuance of this permit.

B. Work authorized by this permit must commence within 360 days of the date accompanying the Executive Director's signature on the permit, or within 480 days of the date of the Regional Commission vote approving the project, whichever occurs first. If work authorized by this permit does not commence within said time, this permit will automatically expire. Requests for permit extensions must be submitted 30 days prior to expiration, otherwise, a new application will be required.

V. Therefore, said Permit (Standard, ~~Emergency~~) No. P-7-23-76-8463 is hereby granted for the above described development only, subject to the above conditions and subject to all terms and provisions of the Resolution of Approval by the South Coast Regional Conservation Commission.

VI. Issued at Long Beach, California on behalf of the South Coast Regional Conservation Commission on September 30, 1977.

M. J. Carpenter
Executive Director

dh

7976

COASTAL COMMISSION

5-95-019-A5

EXHIBIT # 4

PAGE 2 OF 3

Conditions for P-8463

Prior to issuance of permit, applicant shall:

1. submit a resurvey of the lots showing the location of the latest available mean higher high tide line;

2. stipulate that during construction no fill will be placed in the marsh;

3. cause to be recorded a public easement dedicated to the City of Los Angeles or the State of California, said easement shall be a strip 10 feet wide along the mean higher high tide line extending from Lot 4 to Lot 8;

4. agree, prior to occupancy of the structure, to construct an improved fenced walkway 5 feet in width along this easement, the fencing shall be designed to allow viewing of the marsh but to prevent foot traffic and animal intrusion onto the marsh or canal. Provided the sidewalk does not intrude into the canal, it shall be designed according to specification of the City of Los Angeles. The walkway shall be pervious, and may be fenced provided a method of maintenance has been agreed to by the Bureau of Street Maintenance.

5. submit revised plans indicating all portions of the structures set back 20 feet from the mean higher high tide line except open second story decks which may extend to 14 feet from the mean higher high water;

6. submit revised plans that include a drainage plan which prevents any runoff into the canal and disposes of all but the heaviest storm flows on site in a French drain (gravel filled well);

7. enter a deed restriction preventing all construction, except the walkways, fences or pervious decks, between the line of 20 foot set back from the mean higher high tide line and the canal;

8. so long as the above conditions are fulfilled, the sidewalk may be straight and not follow minor fluctuations of the water line; and

9. no portion of the structure may be higher than 27 feet above the sidewalk, which shall be constructed without unreasonable fill, according to diagram submitted by the applicant.

* * *

CITY OF LOS ANGELES
CALIFORNIA

DEPARTMENT OF
PUBLIC WORKS

BUREAU OF
ENGINEERING

SAM L. FURUTA
CITY ENGINEER

650 SOUTH SPRING ST., SUITE 200
LOS ANGELES, CA 90014-1911

March 18, 1997

Elliot Horowitz
c/o Law Office of David G. Boss
550 West B Street, suite 340
San Diego, CA 92101

PERMISSION FOR ESPLANADE (SIDEWALK) CONSTRUCTION IN THE VENICE CANALS ADJACENT TO GRAND CANAL SOUTH OF WASHINGTON BOULEVARD (3602 GRAND CANAL)

Dear Mr. Horowitz:

This letter is in response to your request to reconstruct a portion of sidewalk known as the Venice Canals Esplanade adjacent to your home on Grand Canal. In February, 1997, a plan was submitted from Mollenhaur, Higashi and Moore displaying the existing conditions in this area and the proposed improvements. After reviewing those plans, my office is prepared to issue an "A"-Permit for the construction of this improvement.

In order to obtain this over-the-counter permit either you or your contractor will have to come to the West Los Angeles Bureau of Engineering District Office at 1828 Sawtelle Boulevard, Third Floor, Public Counter. The fee for the "A"-Permit will be $106.00, a basic fees, plus 6 hours of inspection time at $57.50/hour and a 9% surcharge for a total of $491.59.

If you have any further questions or comments please contact Medhat Iskarous of my staff at (310) 575-8388.

From File:
5-95-019A3

Sincerely,

Homer M. Morimoto, District Engineer
West Los Angeles District
Bureau of Engineering

MI:vd
A:19BPRM8.WP

California Department of Fish and Game
330 Golden Shore, Suite 50
Long Beach, CA 90802

THE RESOURCES AGENCY

January 31, 1995

Mr. Michael Hickok
3618 Grand Canal Esplanade
Marina del Rey, CA 90292

Dear Mr. Hickok:

This letter is in response to your January 26, 1995 letter regarding Coastal Commission Permit Application No. 5-95-019A. From your description about the canal in front of your property, it appears that it has sea water and is not estuarine or freshwater. Nearby or upstream is probably some kind of a detention basin, which apparently has no direct freshwater inflows into the canal by way of an earthen channel or streambed. (continue of 1)

Based on the information presented, we believe that a 1603 notification may not be necessary. If you have further questions, please either call me at (714) 965-2317, or for impacts to marine waters, contact Mr Richard Nitsos at the above address, or by telephone -(310) 590-5174.

Sincerely,

Krishan B. Lal
Environmental Specialist III

cc: Mr. Curt Taucher, ESS
Mr. Richard Nitsos, MRD

From File No. 5-95-019-A1

COASTAL COMMISSION
5-95-019-A5

EXHIBIT # 6

PAGE 1 OF 1

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Field Office
2730 Loker Avenue West
Carlsbad, California 92008

RECEIVED
MAR 31 1995
CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

March 30, 1995

Mr. Michael Hickok
3618 Grand Canal Esplanade
Marina del Rey, CA 90292

Re: Coastal Commission Permit Application No. 5-95-019A

Dear Mr. Hickok:

The Fish and Wildlife Service (Service) has examined your letter description and plot map of your proposed project adjacent to the Grand Canal in Marina del Rey. The Service discerns no fish and wildlife, wetland, or other sensitive habitat issue in your project description. Consequently, we would have no objection to the further consideration of your application by the Coastal Commission.

Sincerely,

Gail Kobetich
Field Supervisor

cc: CCC, LB

From File No. 5-95-019-A1

COASTAL COMMISSION
5-95-019-A5
EXHIBIT # 7
PAGE 1 OF 1

4Para.C5

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Date 17 May 1996

Permit Number P-7-23-76-8463 for: the construction of five attached three-story single family dwellings, 33 feet above centerline of frontage road.

At: 3614 Grand Canal (Lot No. 7), Venice, City of Los Angeles

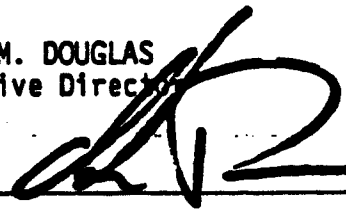
has been amended by Amendment No. 5-95-019-A2 (Annette Sevedge) to include the following changes:

1) Revise special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) in order to delete special conditions no. 2, 4, 7, 8 and 9 as they pertain to Lot No. 7; 2) within ninety days of the granting of the amendment, remove all fences, fill and vegetation from the City Grand Canal Esplanade located between the applicant's lot and the Grand Canal; 3) resurface the City Grand Canal Esplanade with concrete for public access; 4) receive approval of existing accessory improvements in the applicant's front yard area more than ten feet and less than twenty feet inland from the Grand Canal Esplanade; and 5) erect a 2-3 foot high fence between the City Grand Canal Esplanade and the applicant's front yard area.

more specifically described in the application filed in the Commission offices.

Unless changed by the amendment, all conditions attached to the existing permit remain in effect. For your information, all the imposed conditions are attached. 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: 

Title: Coastal Program Analyst

ACKNOWLEDGMENT

I have read and understand the above amendment and agree to be bound by the conditions as amended of Permit No. 5-95-019-A2.

Date_____ Signature_____

COASTAL COMMISSION
5-95-019-A5
EXHIBIT # 8
PAGE 1 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. 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. Revision to 1976 Special Conditions

The revision to the special conditions of Coastal Development Permit P-7-23-76-8463 (Lumbleau) so that special conditions no. 2, 4, 7, 8 and 9 no longer apply to Lot No. 7 (Sevedge) shall not be effective until the applicant has restored public access along the Grand Canal Esplanade fronting her property. Public access along the Grand Canal Esplanade shall be deemed restored when the Executive Director has signed a statement concurring that the following has occurred along the Grand Canal Esplanade situated between the applicant's lot and the Grand Canal: 1) all fences, fill, vegetation and other encroachments have been removed from the Grand Canal Esplanade right-of-way, 2) the full width of the Grand Canal Esplanade right-of-way has been resurfaced with concrete consistent with the City of Los Angeles specifications and requirements for permanent right-of-way improvements, and 3) the public is able to access and walk along the improved and unobstructed Grand Canal Esplanade right-of-way.

2. Timing of Completion of Work

Public access along the Grand Canal Esplanade shall be restored, consistent with the terms and conditions of this amendment and to the satisfaction of the Executive Director, within ninety days of the Commission's action on this amendment, or within such additional time as may be granted by the Executive Director for good cause.

3. City Esplanade

The applicant acknowledges, through the acceptance of this permit amendment, that the City Grand Canal Esplanade is a public sidewalk and that the applicant shall not encroach onto or over the Grand Canal Esplanade right-of-way or otherwise interfere with the public's use of the Grand Canal Esplanade.

4. Height

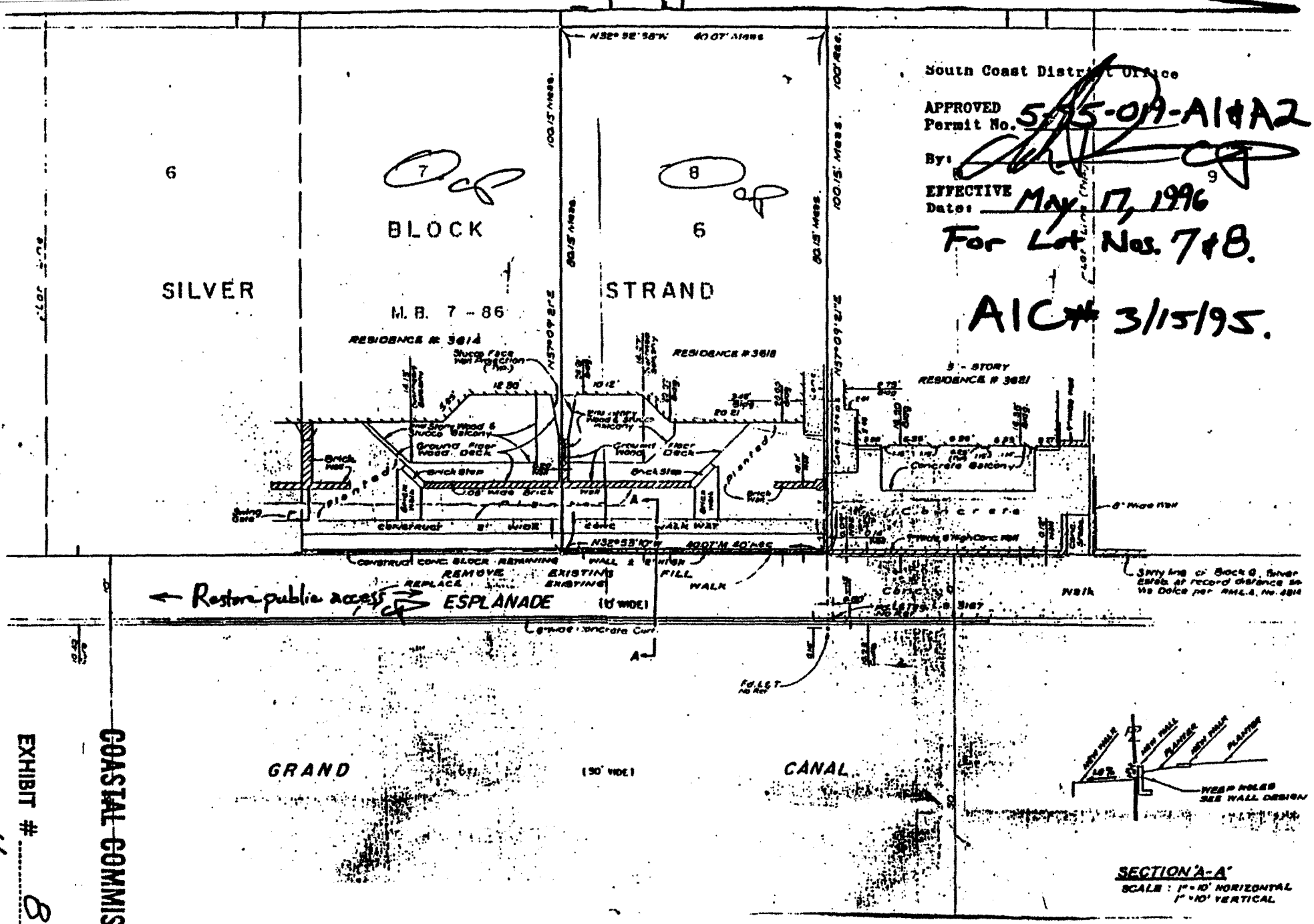
The height of structures on Lot No. 7 shall not exceed 36 feet above the centerline of the frontage road, Via Dolce. All future construction on Lot No. 7 shall conform to a 36 feet above the centerline of Via Dolce height limit.

5. Setback from Esplanade

No portion of any residential structure on Lot No. 7 shall encroach within ten feet of the City Grand Canal Esplanade right-of-way.

:bll

6989F



COASTAL COMMISSION

EXHIBIT # 8

PAGE 4 OF 4