

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: 11/12/97
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Staff: CP-LB
Staff Report: 12/30/97
Hearing Date: Feb. 3-6, 1998
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

APPLICATION NO.: 5-97-363

APPLICANT: Paragon Homes, Inc.

AGENT: A.T. Torres, Architect

PROJECT LOCATION: 5406 Pacific Avenue (Lot 17, Block 4, Del Rey Beach Tract), Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Construction of a three-story, 43 foot high, 4,157 square foot single family residence with an attached three-car garage on a vacant lot adjacent to Ballona Lagoon.

Lot Area	3,507 sq. ft.
Building Coverage	1,617 sq. ft.
Pavement Coverage	715 sq. ft.
Landscape Coverage	1,014 sq. ft.
Parking Spaces	3
Zoning	RW-1
Plan Designation	Single Family Residential-Waterway
Ht abv fin grade	43 feet

LOCAL APPROVAL: City of Los Angeles Approval in Concept #97-089, 11/5/97.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission grant a Coastal Development Permit for the proposed development with special conditions relating to lagoon buffer habitat protection, public access, drainage, building height and parking. As part of the permit application, the applicant has proposed to dedicate a fifteen foot wide easement for habitat protection and public access across his property along the west bank of Ballona Lagoon. The proposed easement is consistent with the past Commission actions on similarly sited lots on the west bank of Ballona Lagoon. The applicant agrees with the recommended conditions of approval.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit A-266-77 (ILA) & amendment.
2. Coastal Development Permit 5-89-593 (MDR Properties).
3. Coastal Development Permit 5-87-500 (Rome).
4. Coastal Development Permit 5-86-819 (Rome).
5. Coastal Development Permit 5-97-015 (Ganezer).
6. Coastal Development Permit 5-97-220 (Paragon).

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be 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. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. 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.

III. Special Conditions

1. Lagoon Buffer Strip

A 25 foot wide lagoon buffer strip, measured from the easterly edge of the Esplanade West (City right-of-way), shall be maintained between the approved development and Ballona Lagoon. Development within the buffer strip is prohibited, with the exception of a Commission approved pervious public walkway and landscaping with native vegetation.

2. Offer to Dedicate Easement for Public Access and Habitat Protection

Prior to issuance of the permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association acceptable to the Executive Director an easement for public access and habitat protection. The easement shall include a fifteen foot wide strip of land over the entire width of the applicant's property as measured from the westerly edge of the Esplanade West (City right-of-way).

No disturbance of vegetation or development shall occur within the dedicated area, with the exception of landscaping with native vegetation compatible with the preservation of the wetland coastal strand environment, and the development of a Commission approved pervious public walkway not exceeding eight feet in width for public access and passive recreation use. Prohibited development within the dedicated area includes installation of permanent irrigation devices and the planting of non-native vegetation. The accepting agency or association shall have the right to access the easement to landscape it with native vegetation compatible with the preservation of the wetland coastal strand environment, and to construct a public walkway no wider than eight feet.

The document shall be recorded free of prior liens and any other encumbrances that may affect said interest. The offer and restriction shall run with the land in favor of the People of the State of California, binding successors and assigns. The offer shall be irrevocable for a period of 21 years commencing upon the date of recording.

3. Setback from Lagoon Buffer Strip

All portions of the dwelling (including stairways, decks, and bay windows), except for an uncovered patio on the ground floor level, shall be set back from the westerly edge of the buffer strip at least ten feet. The uncovered patio on the ground floor level, including any solid fences or walls around the patio, shall not exceed six feet in height above natural grade. No fence, wall or other accessory structure shall encroach into the lagoon buffer strip.

4. Lagoon Buffer Strip Protection

Prior to the commencement of construction, the applicant shall erect and maintain for the period of construction a six-foot high fence between the lagoon buffer strip and the building site. No site preparation or construction shall occur until the fence is constructed. No stock piling, grading, or trash disposal shall occur in the lagoon buffer strip at any time.

5. Drainage

Prior to issuance of the permit, the applicant shall submit drainage plans, subject to the review and approval of the Executive Director, which provide that all drainage on the site is directed away from Ballona Lagoon. The permittee and all successors in interest shall maintain the approved development consistent with the drainage plans approved by the Executive Director.

6. Building Height

The height of the structure within sixty horizontal feet of the mean high tide line of Ballona Lagoon at the adjacent shoreline shall not exceed 30 feet above the average grade of the lot. For every two feet further away from the lagoon, the structure may be one foot higher in height to a maximum height of 45 feet above the average grade of the lot.

7. Parking

The applicant shall provide and maintain a minimum of three off-street parking spaces on the project site.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to construct a three-story, 43 foot high, 4,157 square foot single family residence with an attached three-car garage (Exhibits #3-5). The applicant, as part of the permit application, has proposed to

dedicate a fifteen foot wide easement for habitat protection and public access across his portion of the west bank of Ballona Lagoon (Exhibit #6). The proposed easement is consistent with the past Commission actions on similarly sited lots on the west bank of Ballona Lagoon. The proposed project is situated on the west bank of Ballona Lagoon between Westwind and Yawl Streets (Exhibit #2). The proposed three-car garage will be accessed from Pacific Avenue (Exhibit #3).

B. Protective Lagoon Buffer

The proposed project is located on a vacant lot situated on the west bank of Ballona Lagoon (Lot 17, Block 4 of the Del Rey Beach Tract) (Exhibit #2). The Del Rey Beach Tract was subdivided in the early 1900's, but the development of the area did not begin until the late 1970's. Many of the Del Rey Beach Tract lots along the west bank of Ballona Lagoon have already been developed with Commission approved single family residences and a few duplexes.

The Commission approved permits for the existing residential developments along the west bank of the lagoon were modeled after the Commission's first approvals in the area which approved the residential development located on the east bank of Ballona lagoon [See File A-266-77 (ILA)]. The primary Coastal Act issues involved in the development of the lagoon fronting lots are the protection of sensitive habitat areas, marine resources, water quality, public access and recreation.

Environmentally Sensitive Habitat Areas

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Marine Resources

Section 30230 of the Coastal Act states:

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

Water Quality

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Access

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.

Recreation

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 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

In its approval of Coastal Development Permit A-266-77 (ILA), the Commission found that Ballona Lagoon, located adjacent to both the Silver Strand and Del Rey Beach Tracts, was critical habitat area and an important coastal resource. The Commission found that the shores and water area of the lagoon had a history of public use: camping, clamming, fishing, walking, and bird watching. The Commission further found that residential development of the area would have major adverse cumulative impacts on the lagoon and its wildlife and that several measures were necessary to mitigate the adverse impacts of development.

One of the mitigation measures required that each lagoon fronting lot owner on the east bank dedicate an easement across part of their property to form a protective lagoon buffer along the lagoon bank. The dedicated easements form a protective lagoon buffer between the waters of the lagoon and the residential development on the banks. The lagoon buffer is necessary to reduce the negative impacts on the lagoon and its wildlife associated with residential development. It is also necessary for public access along the banks of the lagoon. The protective lagoon buffer easements, recorded for purposes of both habitat protection and public access, were required so that the degraded habitat area on the lagoon banks could be restored by a public agency or private association. The dedicated easements also allowed a public walkway to be built along the east bank of the lagoon for public access.

As was done all along the east bank of Ballona Lagoon, the Commission has also required that a protective lagoon buffer be provided between the lagoon and all development on the west bank of the lagoon. On the west bank of the lagoon, a 25 foot wide protective buffer strip is comprised of the ten foot wide Esplanade West (City right-of-way) and a fifteen foot wide easement dedicated on each lagoon fronting property (Exhibit #3). Lagoon fronting lot owners have been required to dedicate an easement for public access and habitat protection in the buffer across their property as a condition of developing their property.

All of the previous Commission approvals on the west bank of Ballona Lagoon have provided easements for the protective lagoon buffer. Four of the most recent Commission approvals for the development of lagoon fronting lots on the west bank include Coastal Development Permits 5-97-220 (Paragon), 5-97-015 (Ganezer), 5-89-593 (MDR Properties), 5-87-500 (Rome :3 SFD's), and 5-86-819 (Rome:2 SFD's). Each of the seven lagoon-fronting lots developed under the aforementioned permits provide a protective lagoon buffer easement.

In regards to the lot subject to this permit application, the Commission finds that the impacts of the proposed development on public access and habitat require the dedication of an easement consistent with the previously approved dedications and developments. The applicant has proposed the dedication of an easement on his lot for the protective lagoon buffer as part of the currently proposed development (Exhibit #6). The proposed easement will provide a buffer for habitat protection between the proposed development and Ballona Lagoon, and will also preserve an area along the west bank for a future public access trail. The proposed easement is consistent with the past Commission actions and will add to the strip of protected habitat which is provided by the previously recorded easements which comprise the buffer on the west bank of Ballona Lagoon.

In order to receive the Commission's approval, the proposed project must be found consistent with the Chapter 3 policies of the Coastal Act. The previous Commission actions in the area were found to be consistent with the Chapter 3 policies of the Coastal Act as conditioned to mitigate the adverse impacts that development of the lagoon fronting lots would have on public access and sensitive habitat areas. In approving Coastal Development Permit A-266-77 (ILA) and other permits for development of lagoon fronting lots, the Commission adopted a set of conditions which protect and preserve Ballona Lagoon, its protective lagoon buffer, and the public access and recreation opportunities that are found near the lagoon. This set of special conditions is being applied to the currently proposed project. Only as conditioned is the proposed project consistent with the habitat, access, and recreation policies of the Coastal Act, and with the Commission's prior actions.

The special conditions require the recording of the dedicated easement as proposed by the applicant. The conditions also prohibit development in the 25 foot wide lagoon buffer strip between the proposed development and the lagoon (except for a Commission approved public walkway no more than eight feet in width, and landscaping with native coastal strand vegetation). The lagoon buffer strip is comprised of the ten foot wide Esplanade West (City right-of-way) and the fifteen foot wide recorded easement which covers that portion of the applicant's lot which occupies the buffer strip area (Exhibit #3). Prohibited development includes planting of non-native vegetation and installation of permanent irrigation devices. The applicant shall allow an eight foot wide public access trail across the easement if approved by the Commission in the future and restoration of the lagoon buffer as strand habitat.

In addition, all portions of the dwelling (including stairways, decks, and bay windows), except for an uncovered patio on the ground floor level, shall be set back from the westerly edge of the buffer strip at least ten feet. The uncovered patio on the ground floor level, including any solid fences or walls around the patio, shall not exceed six feet in height above natural grade. No fence, wall or other accessory structure shall encroach into the lagoon buffer strip. All drainage must be directed away from Ballona Lagoon.

Finally, in order to protect the buffer area and the lagoon from impacts caused by the construction of the proposed project, the applicant shall erect a six foot high fence, for the period of construction, between the buffer area and the building site. No site preparation or construction shall occur until the fence is constructed, and no stock piling, grading, or trash disposal shall occur in the buffer area at any time. As conditioned, the proposed project is consistent with the habitat, access, and recreation policies of the Coastal Act.

C. Building Height

A height limit for structures adjacent to Ballona Lagoon has been established in previous Commission actions to protect against a "canyon effect" which could negatively impact bird flight patterns. Ballona Lagoon is utilized by many bird species, including the federally and state listed endangered California least tern.

In order to regulate the height of structures adjacent to Ballona Lagoon so as to limit the impacts on birds, the following special condition is applied to new development on lots adjacent to Ballona Lagoon:

The height of the structure within sixty horizontal feet of the mean high tide line of Ballona Lagoon at the adjacent shoreline shall not exceed 30 feet above the average grade of the lot. For every two feet further away from the lagoon, the structure may be one foot higher in height to a maximum height of 45 feet above the average grade of the lot.

The above-stated height limit has been applied to this permit. The height of the proposed structure within sixty horizontal feet of the mean high tide line of Ballona Lagoon as indicated on the submitted elevations for the proposed project is under 30 feet (Exhibit #4). The height of the proposed structure conforms to the Commission's height limit. Only as conditioned to limit the height of the structure is the proposed project is consistent with the habitat protection policies of the Coastal Act and the Commission's prior actions.

D. Parking

In order to protect coastal access, all new development on lots adjacent to Ballona Lagoon in the Silver Strand and Del Rey Beach Tract areas are required to provide adequate on-site parking. In previous actions, the Commission has determined that three on-site parking spaces are adequate to serve single family residences in the area. The proposed project provides the required three on-site parking spaces in the ground floor garage (Exhibit #3).

Only as conditioned to provide three on-site parking spaces is the proposed project is consistent with the coastal access policies of the Coastal Act and the Commission's prior actions.

E. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit 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:

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 Venice area of the City of Los Angeles does not have a certified Local Coastal Program. The proposed project, as conditioned, is consistent with the habitat, coastal access, and recreation policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, 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).

F. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 Commission's conditions of approval adequately address and mitigate any potential adverse impacts to the environment caused by the proposed project. All adverse impacts have been minimized and there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the requirements of the Coastal Act to conform to CEQA.



Site

COASTAL COMMISSION

5-97-363

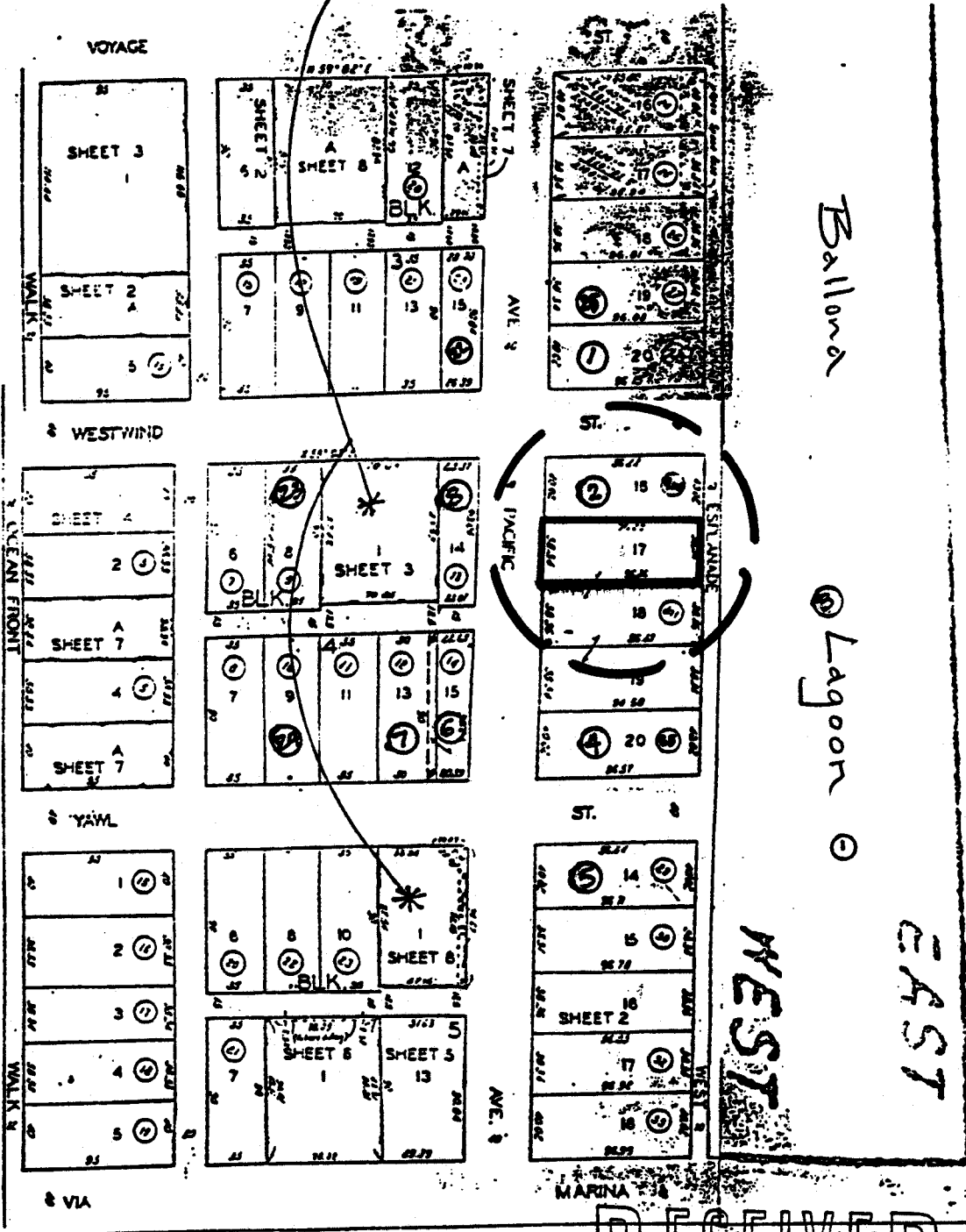
EXHIBIT # 1

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RADIUS MAP + LISTS
FOR 5406 PACIFIC AVE.
MDR

SEE ACCOMPANYING SHEETS

Venice Beach



Lot 17
Block 4

5-97-363

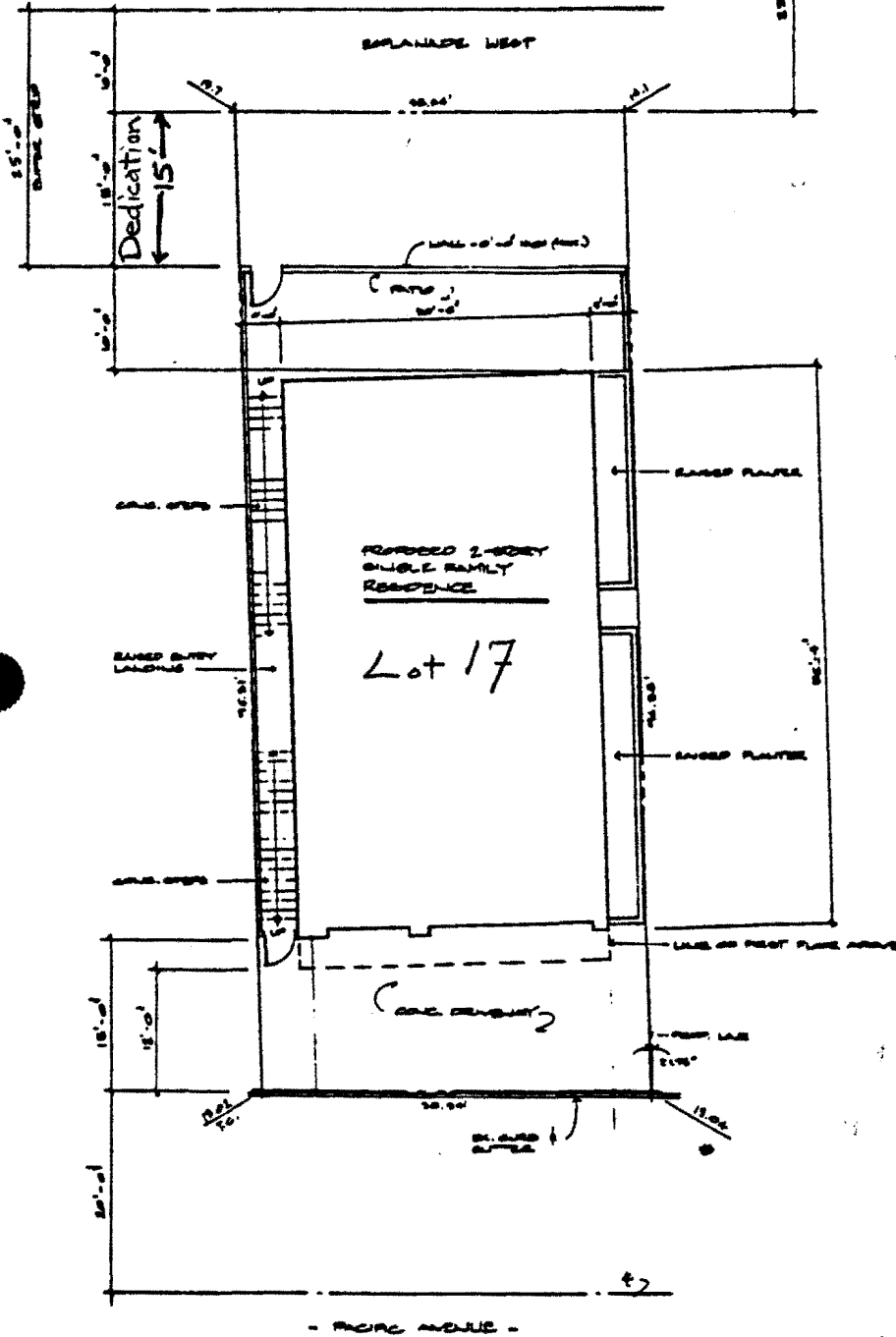
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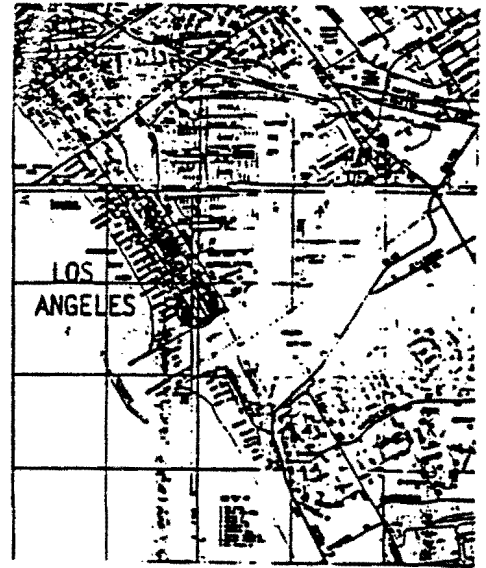
EXHIBIT # 2
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Ballona Lagoon

PLAN SECTION
 - SEE MAP OF ADJACENT LOTS BY APPLICANT'S LOT (UNIFORM 2-20-47) DATED 8-15-47



SITE PLAN
 1/8" = 1'-0"



VICINITY MAP

PROJECT DESCRIPTION

LEW GIBBLE FAMILY RESIDENCE

LOT SIZE	2,527 S.F.
BUILDING COVER	1,600 S.F.
LANDSCAPE	1,175 S.F.
PATIO, WALK & DRIVEWAY	652 S.F.
HOUSE AREA	
FIRST & SECOND FLOOR	1,075 S.F.
BASEMENT	1,004 S.F.
TOTAL	4,187 S.F.
GARAGE	615 S.F.
TOTAL BUILDING PERIMETER	172'
TOTAL LENGTH OF PLANTERS	
- EXTERIOR STAIRS 6'-0" OR LESS BELOW LEVEL OF FIRST F.L.	66'

LEGAL DESCRIPTION

DEL REY BEACH TRACT
 BLOCK 4 LOT 17

the paragon
 companies

COASTAL COMMISSION

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EXHIBIT # 3

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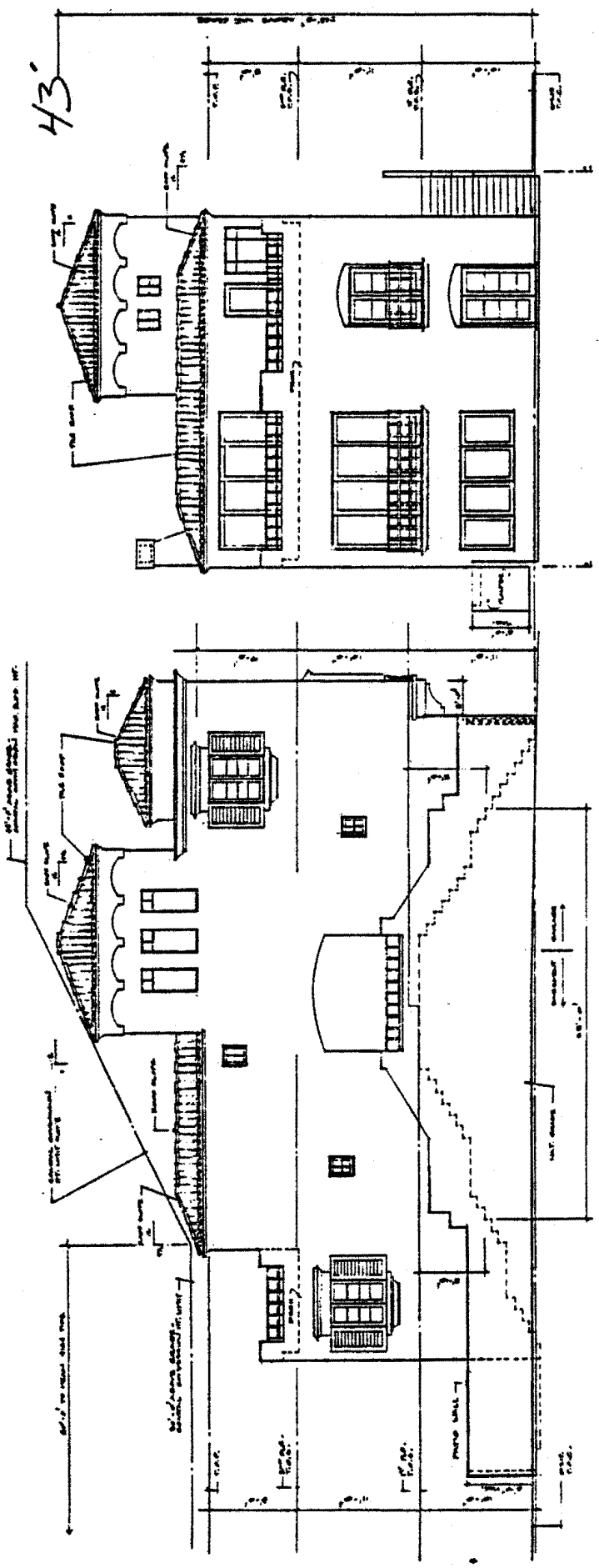
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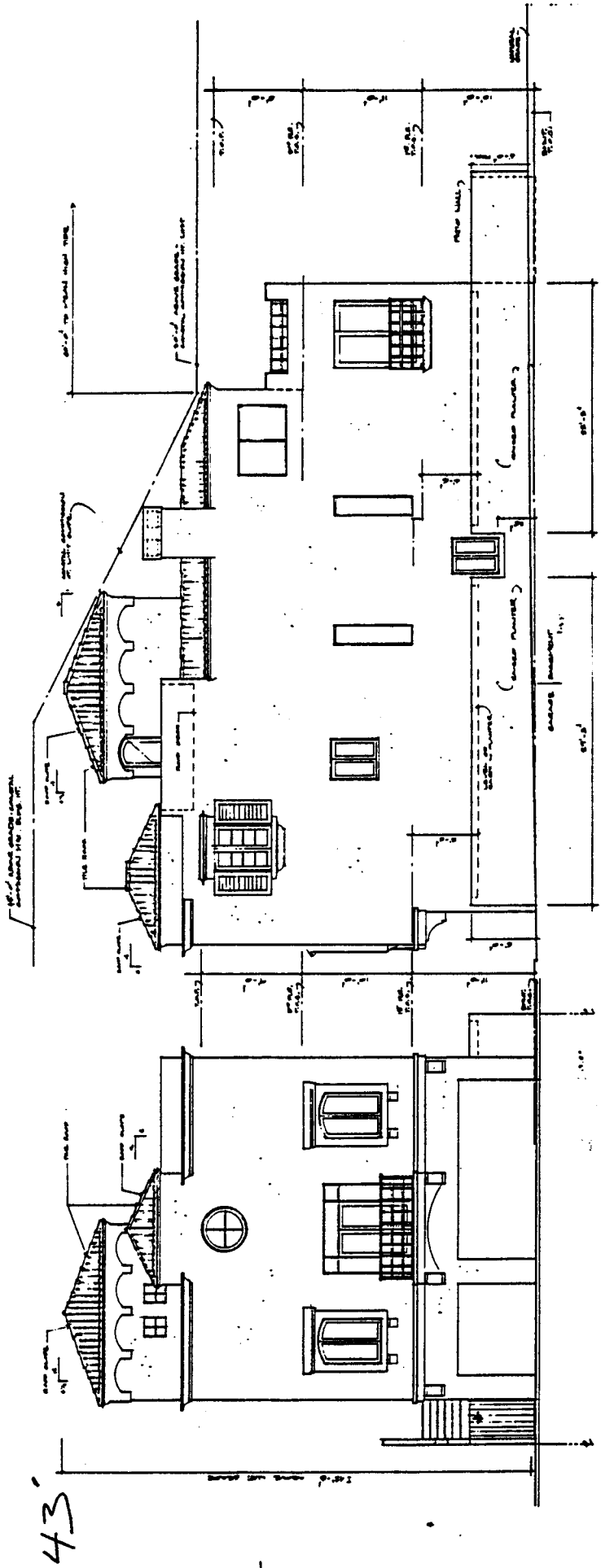
EXHIBIT #

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WEST ELEVATION

EAST ELEVATION



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EAST ELEVATION

SOUTH ELEVATION

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EXHIBIT # 5

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4/15/2007

MEMO

TO: Mr. Chuck Posner

VIA FAX: 562/590-5084

FROM: Jennifer Halliday

DATE: January 7, 1998

SUBJECT: CDP# 5-97-363
5406 Pacific Avenue

We hereby offer to dedicate 15 feet from Esplanade West as an easement for habitat and public access.

PARAGON ENTERPRISES, INC.

By:



Irwin E. Garfield

COASTAL COMMISSION

5-97-363

EXHIBIT # 6

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