

CALIFORNIA COASTAL COMMISSION

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Hearing Date: May 14, 1998
Commission Action:



RECORD PACKET COPY

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-98-058

APPLICANT: MDR Properties, Ltd.

AGENT: Sherman L. Stacey

PROJECT LOCATION: 4400 Pacific Avenue (Lot J), Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Excavation of abandoned oil wellhead, testing and clean-up of impacted soil, and reabandonment of well.

Lot Area	5,850 sq. ft.
Building Coverage	0 sq. ft.
Pavement Coverage	0 sq. ft.
Landscape Coverage	0 sq. ft.
Parking Spaces	0
Zoning	RD1.5-1
Plan Designation	Medium Density Residential
Ht abv fin grade	0 feet

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission grant a permit for the proposed development with conditions relating to the protection of marine resources in Ballona Lagoon. The applicant agrees with the staff recommendation.

LOCAL APPROVAL RECEIVED:

1. City of Los Angeles Approval in Concept No. 98-010, 2/18/98.

SUBSTANTIVE FILE DOCUMENTS:

1. Preliminary Environmental Site Assessment (4100-5000 Pacific Avenue, Venice, California), By California Environmental, June 22, 1995.
2. Coastal Development Permit 5-90-030 (MDR Properties).
3. Coastal Development Permits 5-98-056 & 5-98-057 (MDR Properties).

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. Protective Lagoon Buffer

In order to create a protective buffer between the waters of Ballona Lagoon and the work site, the applicant shall erect a six foot high fence along the length of the site prior to any excavation, placement of heavy machinery, removal of vegetation, or any other site preparation. The applicant shall place the fence a minimum of fifteen feet from the lagoon's mean high tide elevation (5.5'). A 24 inch high silt curtain shall be attached along the bottom of the fence. There shall be no foot traffic, stock piling, grading, vegetation removal, trash disposal, equipment storage, placement of fill, or any other development within the protective lagoon buffer area established between the lagoon and the fence. The fence shall be maintained and shall remain in place until the completion of all development approved by this permit.

If the location of the oil well or the size of the heavy equipment require an encroachment within fifteen feet of the lagoon's mean high tide line in order to complete the proposed project, the applicant shall submit a detailed lagoon protection plan, for the review and approval of the Executive Director, prior to any encroachment into the fifteen foot protective lagoon buffer. At a minimum, the lagoon protection plan must provide a protective lagoon buffer and a containment berm between the proposed work and the mean high tide line of the lagoon. The lagoon buffer must be as wide as possible. No encroachment within fifteen feet of the lagoon's mean high tide line (5.5') shall occur without the Executive Director's approval of a detailed lagoon protection plan.

2. Containment Berms

In order to protect the waters of Ballona Lagoon from runoff from the work site, the applicant shall place a three foot high containment berm constructed of sand bags and a 1.5 foot high containment berm constructed of dirt prior to the excavation of the oil wellhead(s). The applicant shall place the berms between the six foot high buffer fence and the site of excavation as shown on the plans submitted with Coastal Development Permit application 5-98-058. The berms shall not be placed within the protective lagoon buffer established by special condition one above. The berms shall be maintained and shall remain in place until the completion of the oil well reabandonment, then they shall be removed.

3. Drainage

All drainage on the site shall be directed away from Ballona Lagoon. No runoff or waste from the site shall be permitted to enter the waters of Ballona Lagoon.

4. Conformance with the Requirements of the Resource Agencies

Prior to issuance of the Coastal Development Permit, the applicant shall submit evidence to the Executive Director, which demonstrates that the California Department of Fish and Game has been notified by certified

mail of the proposed project and its proximity to Ballona Lagoon. The applicant shall, through the acceptance of this permit, agree to comply with all requirements and mitigation measures of the California Department of Fish and Game. The applicant shall also comply with requirements and mitigation measures of the Regional Water Quality Control Board and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the marine environment.

5. Disposal of Excavated Materials

This Coastal Development Permit does not permit the applicant or its agents to dispose or place within the coastal zone any fill or other materials removed from the site. In addition, the applicant shall not discard or dump construction materials, toxics, debris or refuse into any waterway.

6. Site Restoration

After completion of the proposed oil well reabandonment and soil remediation, the site shall be revegetated with plant species listed on the suggested sand dune pilot planting regime for Ballona Lagoon contained in the August 1992 Ballona Lagoon Enhancement Plan (Exhibit #3).

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to reabandon an old oil wellhead on a vacant lot adjacent to Ballona Lagoon in Venice (Exhibit #2). The oil well reabandonment process, which is regulated by the California Department of Conservation (Division of Oil and Gas), involves the excavation of the wellhead and filling the first six hundred vertical feet of the well with cement, thereby plugging the well. The oil wellhead, which is currently buried about six feet under ground and not producing any oil, was previously abandoned some time prior to 1970. However, Division of Oil and Gas records indicate that the previous oil well abandonment does not meet the State's current standards. Therefore, the current landowners (MDR Properties, Ltd.) are proposing to reabandon the oil well to meet State standards.

The applicant also proposes to test the soils on the site, remove and dispose of asphalt deposits and old pipes, and treat contaminated soils on the site. The site will be devegetated and excavated with heavy machinery during the proposed project. A well service rig and a cement mixing operation occupy the site during the oil well reabandonment process. No work is proposed seaward of the mean high tide line of Ballona Lagoon (Exhibit #2).

The applicant proposes to protect the adjacent waters of Ballona Lagoon from negative effects of the proposed project by establishing a protective buffer

between the lagoon and the work site with a six foot high fence placed along the entire length of the site. No work would occur within the protective lagoon buffer area established between the lagoon and the fence. In addition, the applicant proposes to place a three foot high sand bag berm and a 1.5 foot high dirt containment berm around the work area (Exhibit #2). After the well is reabandoned, the applicant proposes to restore the site by revegetating it with native coastal strand plants, if necessary (Exhibit #3).

The proposed protective lagoon buffer and containment berms were required by the Commission as part of a previous Coastal Development Permit that was approved for the same site in 1990. Coastal Development Permit 5-90-030, reported to the Commission as an Administrative Permit on August 8, 1990, approved the excavation and reabandonment of three oil wellheads on three vacant lots adjacent to Ballona Lagoon (Lots G, H & J). The lot subject to this application is one of the three lots subject to Coastal Development Permit 5-90-030. Coastal Development Permit 5-90-030 was never vested, and the permit expired on August 8, 1997 because the applicant did not submit an extension request in 1997. The applicant states that it did not intend for the permit to expire after already applying for and receiving five consecutive one-year extensions. The current application would reinstate the Commission's approval for the proposed project under a new Coastal Development Permit.

Development of the site was approved by another previous Commission approval. Coastal Development Permit 5-86-174 (MDR Properties) permitted the construction of twelve single family homes on ten lagoon fronting lots, including the lot subject to this application. Coastal Development Permit 5-86-174 also expired without being vested.

Commission staff has learned that the applicant has been negotiating with the City of Los Angeles for a land swap that would place the ten lagoon fronting lots under City ownership. There is currently no valid Coastal Development Permit for the development of the ten lots subject to Coastal Development Permit 5-86-174, nor has any development proposal been submitted to the Commission since 1986.

B. Habitat Protection

The Coastal Act contains policies which address development in or near coastal waters. The proposed project is located directly adjacent to the coastal waters of Ballona Lagoon. The Ballona wetlands system, including Ballona Lagoon, is habitat for many species of marine biota including the state and federally listed endangered least tern. The Commission has found that Ballona Lagoon is a sensitive habitat area that must be protected from negative impacts associated with development.

Sections 30230, 30231 and 30240 of the Coastal Act require the protection of biological productivity, public recreation and 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.

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.

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.

Ballona Lagoon is a wetland which is protected under the Coastal Act policies stated above. Ballona Lagoon and the attached Venice Canals system is an Environmentally Sensitive Habitat Area (ESHA) as defined by Section 30107.5 of the Coastal Act. In addition to being important wetlands, the lagoon is a critical habitat area for the California least tern, Sterna antillarum browni. The California least tern is a State and Federally listed endangered species. The lagoon is a critical habitat area because the California least tern feeds on topsmelt and other small fish while nesting at the protected nesting site on Dockweiler Beach located less than two thousand feet west of Ballona Lagoon.

Ballona Lagoon and its banks are a complex marine environment consisting of several associated but different types of habitats. In 1995, the Commission approved the Ballona Lagoon Enhancement Plan allowing the California Coastal Conservancy, the City of Los Angeles, and the Ballona Lagoon Marine Preserve to undertake a restoration project to improve the habitat and public access opportunities provided by Ballona Lagoon. The following findings were made by the Commission when it approved Coastal Development Permit 5-95-152 for the Ballona Lagoon Enhancement Plan:

The banks of the lagoon above the high water line provide upland coastal dune habitat consisting of upland coastal strand terrestrial vegetation. Many diverse species of flora and fauna utilize the resources provided by the habitats found in and adjacent to Ballona Lagoon. The two native vegetation regimes associated with the lagoon are upland terrestrial

vegetation and intertidal salt marsh vegetation. The intertidal salt marsh exists within a narrow band around the lagoon with upland vegetation occupying the majority of the available surface area on the lagoon banks. The intertidal salt marsh vegetation consists of pickleweed, jaumea, salt grass and alkali heath. Although identified as an historic native coastal strand community, recent surveys show that the terrestrial vegetation is now dominated by exotic plant species, such as ice plant, castor bean, and fennel. Native plants include alkali weed and sand verbena.

The Ballona Lagoon Enhancement Plan also documents several aquatic species and migratory shorebirds which are known to inhabit the valuable habitat provided by Ballona Lagoon. The various bird species utilize the open water, mudflats, and upland habitat areas throughout the lagoon. The habitats used by waterbirds in Ballona Lagoon are mainly the mudflats and open water. The California least tern, a State and Federally endangered species, forages for small fish in the open waters of the lagoon during its spring and summer residency in the area. The mudflats, which are exposed along the margins of the lagoon at low tide, are used extensively by foraging and roosting shorebirds. The most extensive mudflats are found at the extreme north and south ends of the lagoon.

Various surveys conducted by different groups between 1979 and 1989 observed between 35 and 50 different species of birds. The number of birds using the lagoon varies seasonally, with peak number of species and individuals occurring in the winter. The importance of the mudflats was demonstrated by the very low number of birds seen by researchers on days when low tide did not occur during their survey. [Ballona Lagoon Enhancement Plan].

Documented fish species in Ballona Lagoon include sculpin, arrow goby, topsmelt, jacksmelt, California killifish, bay pipefish, longjaw mudsuckers, bat ray, California halibut, and diamond turbot. The plan also documents many marine invertebrates including sea hares, fiddler crabs, California hornshells, and several species of barnacles, mussels, clams, snails, and crabs. [Ballona Lagoon Enhancement Plan].

Sections 30230 and 30231 of the Coastal Act require that marine resources be maintained, enhanced, and restored in a manner that will sustain the biological productivity of all species of marine organisms in coastal waters, and that the biological productivity and water quality of Ballona Lagoon be maintained and restored by controlling runoff and maintaining natural vegetation buffer areas.

Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and development adjacent to environmentally sensitive habitat areas shall be designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The introduction of urban runoff, including pesticides, garden fertilizers, and runoff from impervious surfaces, can reduce the water quality of the canals which directly impacts the biological productivity of the Ballona

wetlands system. In order to protect the biological productivity of the Venice Canals and Ballona Lagoon, the Commission has consistently conditioned projects along the waterways to protect the sensitive habitat areas from negative impacts by requiring vegetated buffers, front yard setbacks, pervious yard areas, and drainage devices to absorb and filter rainwater and site drainage before it enters the lagoon and canals. The Commission's requirements are consistent with the recommendations of the Santa Monica Bay Restoration Project Action Plan to reduce non-point source pollutants.

In this case, the applicant has proposed to reduce any adverse impacts associated with the proposed project by establishing a protective buffer between the lagoon and the work site with a six foot high fence placed along the entire length of the site. No work would occur within the waters of the lagoon or within the protective lagoon buffer area established between the lagoon and the fence. A condition of approval prohibits any runoff from the site from entering Ballona Lagoon.

In addition, the applicant proposes to place a three foot high sand bag berm and a 1.5 foot high dirt containment berm around the work area (Exhibit #2). The proposed lagoon buffer and containment berms would implement the Commission's requirements that were placed on a prior oil well reabandonment project that was approved on the site (Coastal Development Permit 5-90-030). The protective lagoon buffer and the proposed containment berms are necessary for the proposed project to conform with and carry out the requirements of Sections 30230, 30231 and 30240 of the Coastal Act which require the protection of marine resources and environmentally sensitive habitat areas.

In order to ensure that the proposed project is implemented as proposed, the permit is conditioned to require the applicant to provide the proposed protective buffer between the waters of Ballona Lagoon and the work site. The applicant shall erect a six foot high fence along the length of the site prior to any excavation, placement of heavy machinery, removal of vegetation, or any other site preparation. The fence shall be located at least fifteen feet from the mean high tide elevation of the lagoon (5.5') as shown on the plans submitted with the Coastal Development Permit application (Exhibit #2). A 24 inch high silt curtain shall be attached along the bottom of the fence. There shall be no foot traffic, stock piling, grading, vegetation removal, trash disposal, equipment storage, placement of fill, or any other development within the protective lagoon buffer area established between the lagoon and the fence. The fence shall be maintained and shall remain in place until the completion of all development approved by this permit.

In addition, in order to protect the waters of Ballona Lagoon from runoff from the work site, the permit is conditioned to require the applicant to build the proposed containment berms on the site prior to the excavation of the oil wellhead(s). No runoff or waste from the site shall be permitted to enter the waters of Ballona Lagoon. The berms shall be located between the six foot high buffer fence and the site of excavation as shown on the plans submitted with the Coastal Development Permit application (Exhibit #2). The berms shall not be placed within the protective lagoon buffer established by special condition one. The berms shall be maintained and shall remain in place until the completion of the oil well reabandonment, then they shall be removed. Only as conditioned is the proposed development consistent with the marine resource policies of the Coastal Act.

If the location of the oil well or the size of the heavy equipment require an encroachment within fifteen feet of the lagoon's mean high tide line in order to complete the proposed project, the applicant shall submit a detailed lagoon protection plan, for the review and approval of the Executive Director, prior to any encroachment into the fifteen foot protective lagoon buffer. At a minimum, the lagoon protection plan must provide a protective lagoon buffer and a containment berm between the proposed work and the mean high tide line of the lagoon. The lagoon buffer must be as wide as possible. No encroachment within fifteen feet of the lagoon's mean high tide line (5.5') shall occur without the Executive Director's approval of a detailed lagoon protection plan.

Finally, this Coastal Development Permit does not permit the applicant or its agents to dispose or place within the coastal zone any fill or other materials removed from the site. The applicant shall not discard or dump construction materials, toxics, debris or refuse into any waterway. Upon completion of the well abandonment, the applicant shall restore the site and revegetate it with plant species listed on the suggested sand dune pilot planting regime for Ballona Lagoon contained in the August 1992 Ballona Lagoon Enhancement Plan (Exhibit #3). Only as conditioned is the proposed development consistent with Sections 30230, 30231 and 30240 of the Coastal Act.

Additional approvals may be required from state or federal agencies. In order to improve coordination among the various regulatory agencies, the Commission requires, as a condition of approval, that the City comply with all permit requirements and mitigation measures of the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. These agencies may require environmental mitigation measures to minimize impacts on the marine environment.

Prior to issuance of the Coastal Development Permit, the applicant shall submit evidence to the Executive Director, which demonstrates that the California Department of Fish and Game has been notified by certified mail of the proposed project and its proximity to Ballona Lagoon. Only as conditioned is the proposed project consistent with Sections 30230, 30231 and 30240 of the Coastal Act.

C. Local Coastal Program

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

- (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

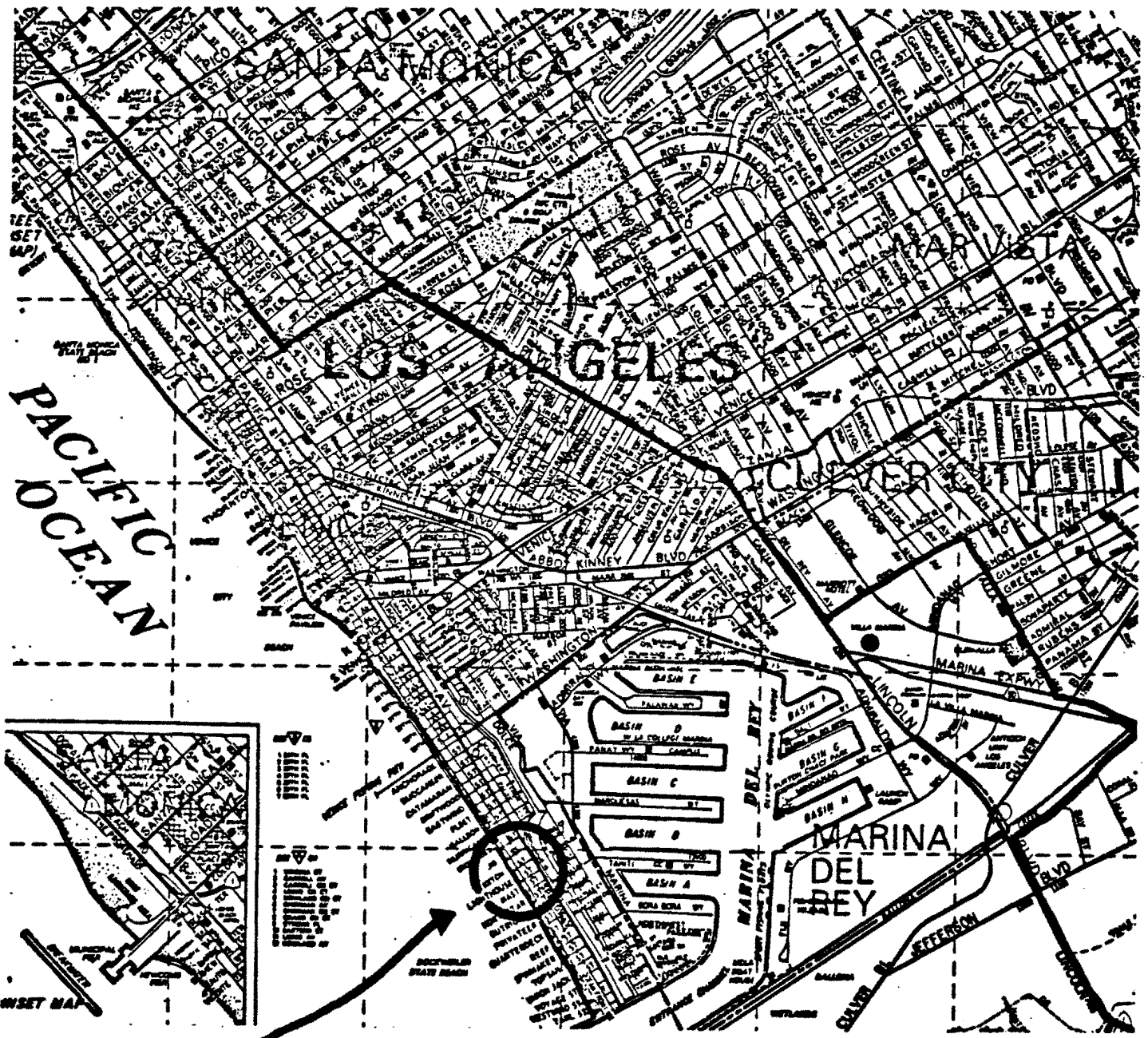
3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The Venice area of the City of Los Angeles does not have a certified Local Coastal Program. The proposed project, only 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).

D. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of 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)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, only as conditioned, is consistent with the habitat and coastal access policies of the Coastal Act. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



Site

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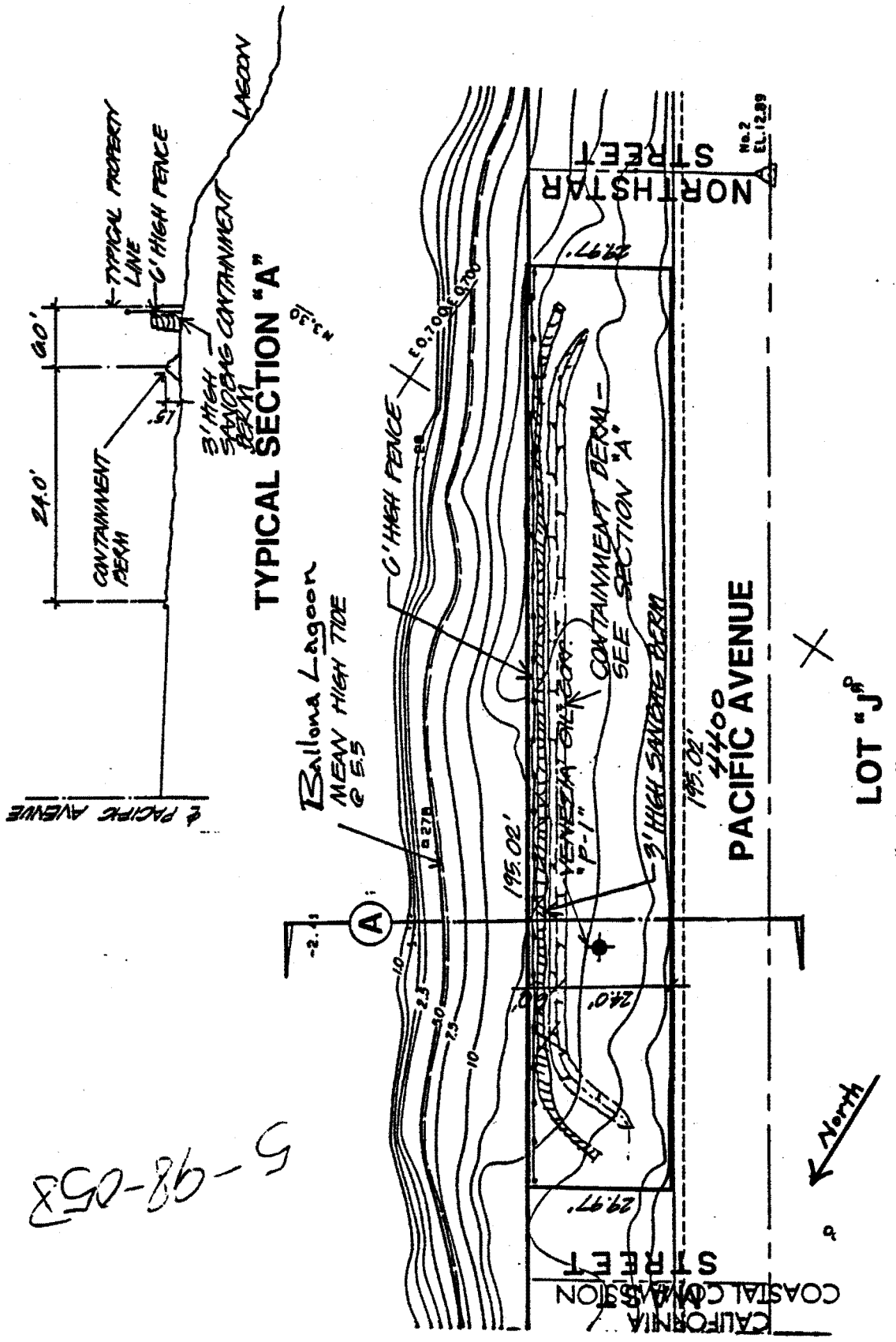
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LOT "J", SILVER STRAND TRCT.
CITY OF LOS ANGELES

MDR PROPERTIES, Ltd.
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Table 4. Suggested sand dune pilot planting regime for Ballona Lagoon

Scientific Name	Common Name	Number	Cost	Information
<i>Abronia Maritima</i>	Sand verbena	10	\$75	Seedlings or direct seeding.
<i>Abronia umbellata</i>	Sand verbena	10	75	Seedlings or direct seeding.
<i>Ambrosia chamissonis</i>		10	75	Seedlings
<i>Atriplex leucophylla</i>		10	75	Seedlings
<i>Camissonia cheiranthifolia</i> <i>ssp. suffruticosa</i>		10	75	Seedlings
<i>Distichlis spicata</i>	Salt grass	10	75	Plugs
<i>Dithyrea maritima</i>	Spectacle pod	10	75	Seedlings
<i>Erysimum suffrutescens</i>	Wallflower	10	75	Seedlings or direct seeding.
<i>Eriogonum parvifolium</i>	Wild Buckwheat	10	75	Seedlings
<i>Haplopappus ericoides</i>	Heather goldenbush	10	75	Seedlings
<i>Isomeris arborea</i> <i>var arborea</i>	Bladderpod	10	75	Seedlings
<i>Lupinus chamissonis</i>	Bush lupine	10	75	Seedlings-scarify seed for improved germination.
<i>Phacelia douglasii</i> <i>var cryptantha</i>		10	75	Seedlings
<i>Phacelia viscida</i>		10	75	Seedlings
<i>Salvia mellifera</i>	Black sage	10	75	Cuttings, seedlings
<i>Rhus integrifolia</i>	Lemonade berry	10	75	Seedlings