

CALIFORNIA COASTAL COMMISSION

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**RECORD: PACKET COPY**

49th Day: 4/12/99
180th Day: 8/21/99
Staff: CP-LB
Staff Report: 3/1/99
Hearing Date: April 13-16, 1999
Commission Action:

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STAFF REPORT: CONSENT CALENDAR**APPLICATION NUMBER:** 5-99-078**APPLICANT:** The Lee Group, Inc.**AGENT:** Jeffrey Lee**PROJECT LOCATION:** 143 Channel Pointe Mall (Lot 21, Block 16, Del Rey Beach Tract), Venice, City of Los Angeles, Los Angeles County.**PROJECT DESCRIPTION:** Construction of a three-level, 39 foot high, 3,491 square foot single family residence with an attached three-car garage on a vacant lot.

Lot Area	2,888 square feet
Building Coverage	1,252 square feet
Pavement Coverage	1,055 square feet
Landscape Coverage	581 square feet
Parking Spaces	3
Zoning	R1-1
Plan Designation	Single Family Residence
Ht above final grade	39 feet

LOCAL APPROVAL: City of Los Angeles Approval in Concept #99-026, 2/22/99.**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending that the Commission grant a Coastal Development Permit for the proposed development with special conditions relating to the maintenance of public areas, compliance with underlying permit requirements, and the provision of adequate parking. The applicant agrees with the recommendation.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit A-266-77 (ILA) & amendment.
2. Coastal Development Permit 5-87-112 (Del Rey Assoc.) & amendment.
3. Coastal Development Permit 5-86-641 (Lee) & amendments.
4. Coastal Development Permits 5-98-275, 276 & 277 (MDR Properties, Inc.).
5. Coastal Development Permit Applications 5-99-075, 076, 077, 079 & 080 (Lee).

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, 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. Maintenance of Public Areas

Prior to authorization of permit, the applicant shall record free of prior liens and encumbrances except for tax liens, a deed restriction in a form and content approved by the Executive Director, binding the applicant and his successors in interest to participate in the private homeowners association established under Permit A-266-77 on a fair and equitable basis in the maintenance of all public areas and landscaping (including malls, parking nodes, buffer and pathway) installed pursuant to Coastal Development Permits A-266-77, 5-86-641 (Lee) and 5-87-112 (Del Rey Assoc.). The public areas shall be identified in the deed restriction.

The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is required.

2. Coastal Development Permit 5-87-112 (Del Rey Assoc.)

Through the acceptance of this Coastal Development Permit, the applicant acknowledges that the subject site is subject to Coastal Development Permit 5-87-112 (Del Rey Assoc.) and that all development on the site and within the affected portions of the Del Rey Beach Tract must be consistent with Coastal Development Permit 5-87-112 (Del Rey Assoc.). All public areas provided and improved pursuant to Coastal Development Permit 5-87-112 (Del Rey Assoc.), including Channel Pointe (Yawl) Mall and the public streets and alleys, shall remain open and available for use by the general

public on the same basis as similar public areas within the City. Public parking areas shall not be used for preferential parking.

3. On-site Parking

Prior to authorization of permit, the applicant shall record free of prior liens and encumbrances except for tax liens, a deed restriction in a form and content approved by the Executive Director, assuring the provision of three off-street parking spaces on the project site. These parking spaces shall take access from the alleys (also called courts). The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to construct a three-level, 39 foot high, 3,491 square foot single family residence on a vacant lot in the interior of the Del Rey Beach Tract in Venice (Exhibit #2). The proposed residence provides three on-site parking spaces within a three-car garage accessed from the rear alley.

The site is situated between the rights-of-way of Channel Pointe Mall and Yawl Court (Exhibit #2). Channel Pointe Mall, which fronts the site, is a landscaped public pedestrian mall which has been improved under the terms of Coastal Development Permit 5-87-112 (Del Rey Assoc.). Channel Pointe Mall is also known as Yawl Mall.

The site and Channel Pointe Mall are located in the Del Rey Beach Tract (Exhibit #2). The Silver Strand subdivision is located three blocks north of the site. Ballona Lagoon is located about three hundred feet west of the subject site. The entire area is referred to as the "Silver Strand area".

B. Project Background

The Silver Strand subdivision and the Del Rey Beach tract share a long history before the Coastal Commission. Both subdivisions, referred to together as the Silver Strand area, are located along the east bank of Ballona Lagoon and have only recently been developed with

single family residences. Although the subdivisions were created in the early 1900's, the development of the area did not occur until the late 1970's. Therefore, the Commission has reviewed and permitted the development of the subdivisions with single family residences.

The first Commission approval in the area occurred in 1977 when the Commission approved the "Silver Strand Permit", A-266-77 (ILA), which was brought before the Commission on an appeal. Prior to the Commission's action on Coastal Development Permit A-266-77 (ILA) in 1977, the Commission and its predecessor denied several applications to improve the streets and supply utilities within portions of the Silver Strand subdivision and the Del Rey Beach Tract to make residential development possible. The previous projects were denied because of adverse impacts on traffic, recreation and wetland habitat.

The projects were proposed by a consortium of comprised of most of the owners of the approximately three hundred undeveloped lots located on Blocks 7 through 18 of the Silver Strand subdivision and Blocks 13 through 15 of the Del Rey Beach Tract (Exhibit #2). Most of the lot owners were represented by the consortium, although the Gas Company which owned several lots and a few other individual lot owners refused to join. The consortium was judged to have the legal ability to apply for a permit to grade the lots, improve the streets, and supply utilities within the Silver Strand area so that individual lot owners would eventually be able to build homes under separate permits.

The Commission's 1977 approval of Coastal Development Permit A-266-77 (ILA) permitted the consortium of applicants, the Isthmus Landowners Association (ILA), to develop the infrastructure necessary for the development of single family homes on approximately three hundred lots located on Blocks 7 through 18 of the Silver Strand subdivision and Blocks 13 through 15 of the Del Rey Beach Tract (Exhibit #2).

The currently proposed project is located on a lot (Lot 21 of Block 16, Del Rey Beach Tract) which is outside of the project area of approved Coastal Development Permit A-266-77 (ILA) (Exhibit #2). The Commission's approval of Coastal Development Permit A-266-77 (ILA), however, is still relevant as it remains the basis for the development of the Silver Strand area under subsequent approvals.

Coastal Development Permit A-266-77 (ILA) was subject to conditions addressing lagoon protection, maintenance of public areas, public access, and public parking. In its approval of Coastal Development Permit A-266-77 (ILA), the Commission found that Ballona Lagoon, located adjacent to the Silver Strand and Del Rey Beach subdivisions and about three hundred feet west of the subject site, was critical habitat area and an important coastal resource. The Commission further found that residential development of the Silver Strand area would have major adverse cumulative impacts on the lagoon and that several measures were necessary to mitigate the adverse impacts of development.

One of the mitigation measures was the requirement for the dedication of an easement for a habitat protection and public access as part of a lagoon buffer to reduce the impacts of the

residential development on the lagoon. The protective lagoon buffer area was to be restored according to the Ballona Lagoon Preserve Plan in order to improve the degraded habitat area.

Another mitigation measure was a condition of Coastal Development Permit A-266-77 (ILA) which required the owners of the lots subject to Coastal Development Permit A-266-77 (ILA) to establish a private homeowners association sufficient to maintain all public areas and landscaping approved and required by the permit. Because all of the owners of the lots subject to Coastal Development Permit A-266-77 (ILA) would benefit from the permitted tract improvements, the Commission required each lot owner to contribute to the maintenance of the improvements.

Coastal Development Permit A-266-77 (ILA) was amended in 1979 in response to litigation. The amended permit still allowed the ILA to develop the infrastructure necessary for the development of approximately three hundred lots with single family homes. As amended, Coastal Development Permit A-266-77 (ILA) required the permittee (ILA) to perform all grading in a single contract, to improve a public access path on the east bank of the lagoon, restore the lagoon buffer, to improve the streets and malls for public access and parking, and to establish a private homeowners association sufficient to maintain all public areas and landscaping including the lagoon buffer. A finding stated that the individual lagoon fronting lot owners would be required to dedicate an easement for a habitat protection and public access as a condition of their individual permits for residences.

Since 1980, the approved grading has been completed, the public access path along Ballona Lagoon has been improved, and the permittee (ILA) established itself as the private homeowners association of the Isthmus Landowners Association (ILA) to maintain the lagoon buffer and other public areas.

The amendment of Coastal Development Permit A-266-77 (ILA) also required that the lot owners located in the area subject to the permit to contribute equally for the restoration and maintenance of the lagoon buffer. Because all of the owners of the lots subject to Coastal Development Permit A-266-77 (ILA) would benefit from the permitted tract improvements, including the lagoon buffer restoration, the Commission required each lot owner to contribute to the maintenance of the improvements. The Commission found that the development of the area with homes would have an impact on the lagoon and public access. The improvements would mitigate these impacts. Without the improvements, no lot could be developed. The lagoon buffer was landscaped in an effort to restore the habitat in the mid-1980's, but that effort was not successful.

The conditions of approval for Coastal Development Permit A-266-77 (ILA) provided the basis for the mitigating special conditions which have been routinely applied to all subsequent Coastal Development Permits in the area. This set of special conditions ensure that the Chapter 3 policies of the Coastal Act and the intent of Coastal Development Permit A-266-77 (ILA) is carried out as individual lots are developed.

The findings and special conditions of approval established through the Commission's approval of Coastal Development Permit A-266-77 (ILA) have become the standard by which subsequent permits in the area are reviewed in order to ensure consistency with the Chapter 3 policies of the Coastal Act. Using the standards set by its approval of Coastal Development Permit A-266-77 (ILA), the Commission approved permits for the development of two sets of lots in the southern portion of the Del Rey Beach tract which were not subject to Coastal Development Permit A-266-77 (ILA) (Exhibit #2). The currently proposed project is located in the area that is subject to one of those approvals [Coastal Development Permit 5-87-112 (Del Rey Assoc.)/(Exhibit #2)].

The Commission approved two permits, both modeled by Coastal Development Permit A-266-77 (ILA), for the development of the southern portion of the Del Rey Beach Tract which was not subject to Coastal Development Permit A-266-77 (ILA). Coastal Development Permit 5-86-641 (Lee) allowed the development of ten single family residences on ten lots situated along the east bank of Ballona Lagoon, and Coastal Development Permit 5-87-112 (Del Rey Assoc.) allowed the development of streets, utilities, and 36 lots with single family residences on a southern portion of the Del Rey Beach Tract (Exhibit #2). The currently proposed project is located on one of the 36 lots subject to Coastal Development Permit 5-87-112 (Del Rey Assoc.) (Exhibit #2).

Coastal Development Permit 5-87-112

The currently proposed project is located on one of the 36 lots that are subject to Coastal Development Permit 5-87-112 (Del Rey Assoc.) (Exhibit #2). The applicant's current proposal is similar in size and design to the previously approved single family residences in the area.

The Commission approved Coastal Development Permit 5-87-112 (Del Rey Assoc.) in 1987 for the development of streets, utilities, and single family residences on Blocks 16 and 17 in the southern portion of the Del Rey Beach Tract. The 36 lots subject to Coastal Development Permit 5-87-112 (Del Rey Assoc.) are located near Ballona Lagoon, but not adjoining it (Exhibit #2). In its approval, the Commission found that residential development of this portion of the Del Rey Beach Tract, like the development approved under Coastal Development Permit A-266-77 (ILA), would have cumulative adverse impacts on the lagoon and mitigation measures were necessary to mitigate those cumulative adverse impacts of development.

One of the mitigation measures was a condition which required the permittee (Del Rey Assoc.) and all members of the Del Rey Association to join with the private homeowners association established under Coastal Development Permit A-266-77 (ILA) to participate equally in the maintenance of the public areas and landscaping (including malls, parking nodes, lagoon buffer and path) approved and required by the Coastal Development Permits A-266-77 (ILA), 5-86-641 (Lee), and 5-87-112 (Del Rey Assoc.). That condition is also applied to this permit.

The owners of the ten lots subject to Coastal Development Permit 5-86-641 (Lee) are also required by their permits to join with the private homeowners association established under Coastal Development Permit A-266-77 (ILA) to participate equally in the maintenance of the public areas and landscaping (including malls, parking nodes, lagoon buffer and path) approved and required by the Coastal Development Permits A-266-77 (ILA), 5-86-641 (Lee), and 5-87-112 (Del Rey Assoc.).

C. Maintenance of Public Areas

When the Commission approved Coastal Development Permits A-266-77 (ILA), 5-86-641 (Lee), and 5-87-112 (Del Rey Assoc.), it found that the residential development of the Silver Strand area would have major cumulative impacts on Ballona Lagoon and that several measures were necessary to mitigate the adverse impacts of development. The mitigation measures included a requirement for the ongoing maintenance of the Silver Strand and Del Rey Beach public areas including the protective lagoon buffer, the public pedestrian malls, public parking spaces, the public access path along the lagoon, and the area's drainage devices. The Commission found that the ongoing maintenance of these public areas was necessary to mitigate the cumulative adverse impacts of the development of the Silver Strand area as a residential area.

Therefore, the Commission required the establishment of a homeowners association to maintain the public areas. The Isthmus Landowners Association (ILA) was named as the homeowners association which would maintain the public areas as required. The ILA has the responsibility for the ongoing maintenance of the public areas because it is the property owners comprising the ILA who benefit most from the development of the area as a residential area.

After the Commission's approval of the amendment to Coastal Development Permit A-266-77 (ILA) in 1979, the Commission began conditioning all individual Coastal Development Permits for single family residences in the Silver Strand area to require a deed restriction stating that each applicant is required to participate with the other lot owners in the maintenance of the public areas. The purpose of the condition is to ensure that all lot owners who benefit from development of their property participate in the mitigation of the cumulative impacts of the development of the area.

As required on the previous Commission approvals in the area, the applicant is required to record a deed restriction stating that it will participate with the lot owners of the Silver Strand on a fair and equitable basis in the maintenance of the public areas, buffers and drainage devices prescribed by Coastal Development Permits A-266-77 (ILA), 5-86-641 (Lee), and 5-87-112 (Del Rey Assoc.). The requirement to participate with the other lot owners of the Silver Strand on a fair and equitable basis in the maintenance of the public areas runs with the land as the proposed residences are sold to new owners.

The applicant is also required to acknowledge that the public areas provided and improved pursuant to Coastal Development Permit 5-87-112 shall remain open and available for use by the general public on the same basis as similar public areas within the City.

The required deed restriction ensures that the applicant and its successors meets the obligation to participate in the mitigation of the cumulative impacts which the development of the Silver Strand area, including the subject lots, has had on the coastal resources in the area as identified in Coastal Development Permits A-266-77 (ILA), 5-86-641 (Lee), and 5-87-112 (Del Rey Assoc.). Only as conditioned is the proposed development consistent with the Chapter 3 policies of the Coastal Act.

D. Public Access and Parking

The Commission has consistently found that a direct relationship exists between residential density, the provision of adequate parking, and the availability of public access to the coast. Section 30252 requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities.

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities....

The Commission has consistently required that single family residences in the Silver Strand area provide three on-site parking spaces in order to meet the parking demands of the development and comply with Section 30252 of the Coastal Act.

The proposed project provides the three required on-site parking spaces in an attached three-car garage. In addition, as required on the previous Commission approvals in the area, the applicant is required to record a deed restriction stating that the three required on-site parking spaces will be provided and maintained as proposed. Only as conditioned is the proposed project consistent with the public access policies of the Coastal Act.

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:

- (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, 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).

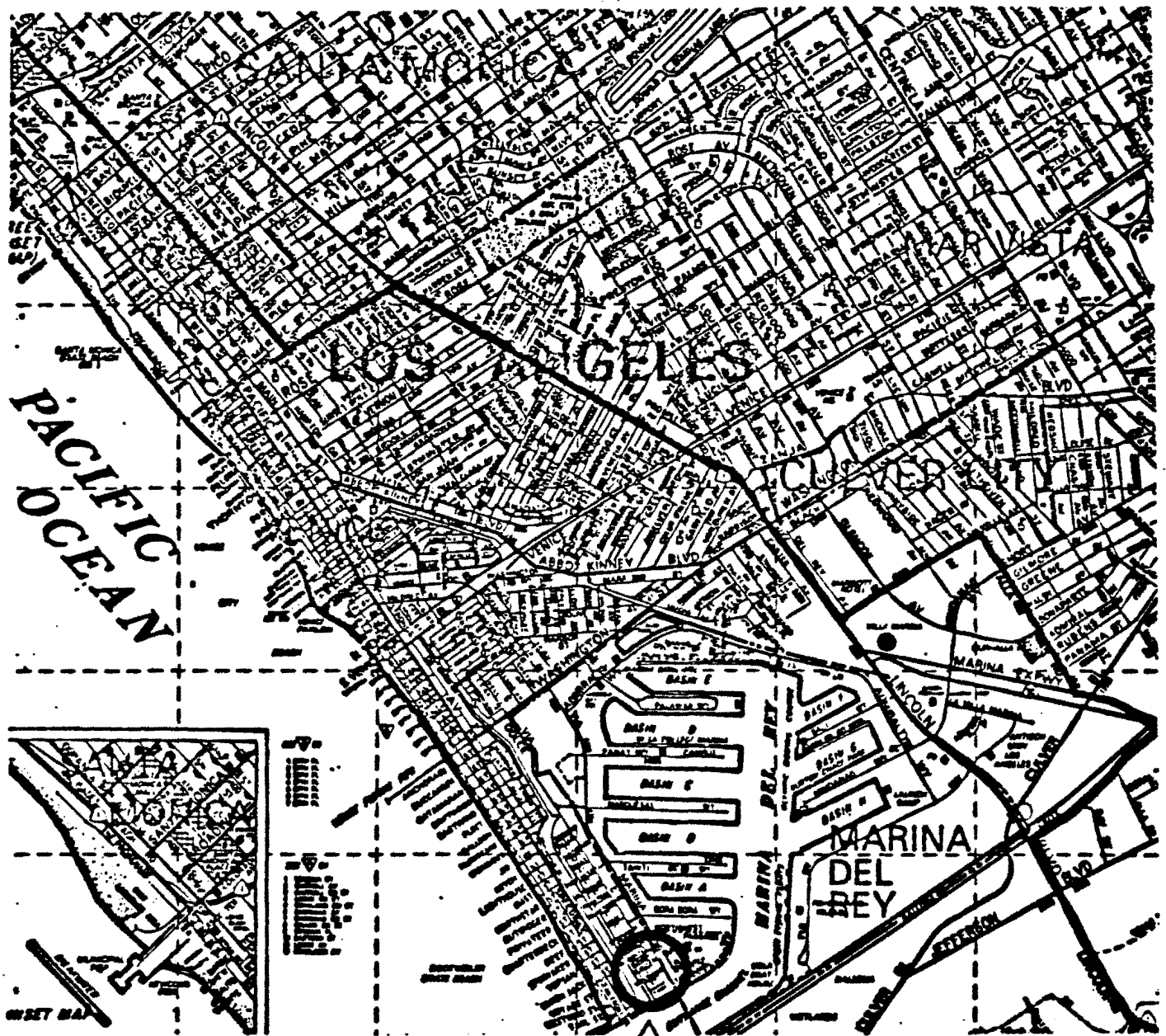
F. California Environmental Quality Act

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)(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, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized and there are no 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

End/cp

Silver Strand / Del Rey Beach Tracts

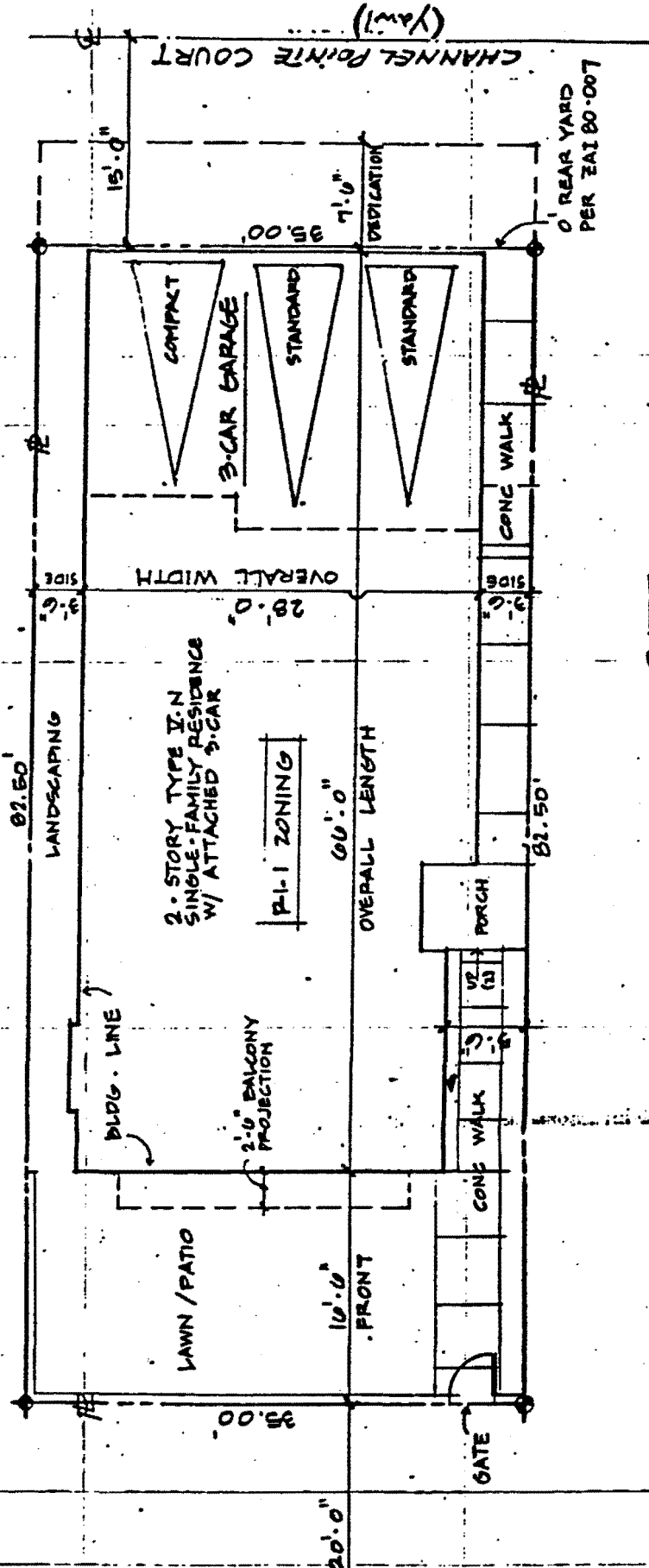


Site

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EXHIBIT # 1
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CHANNEL POINTE MALL



SITE PLAN: Lot 21 BIK 6

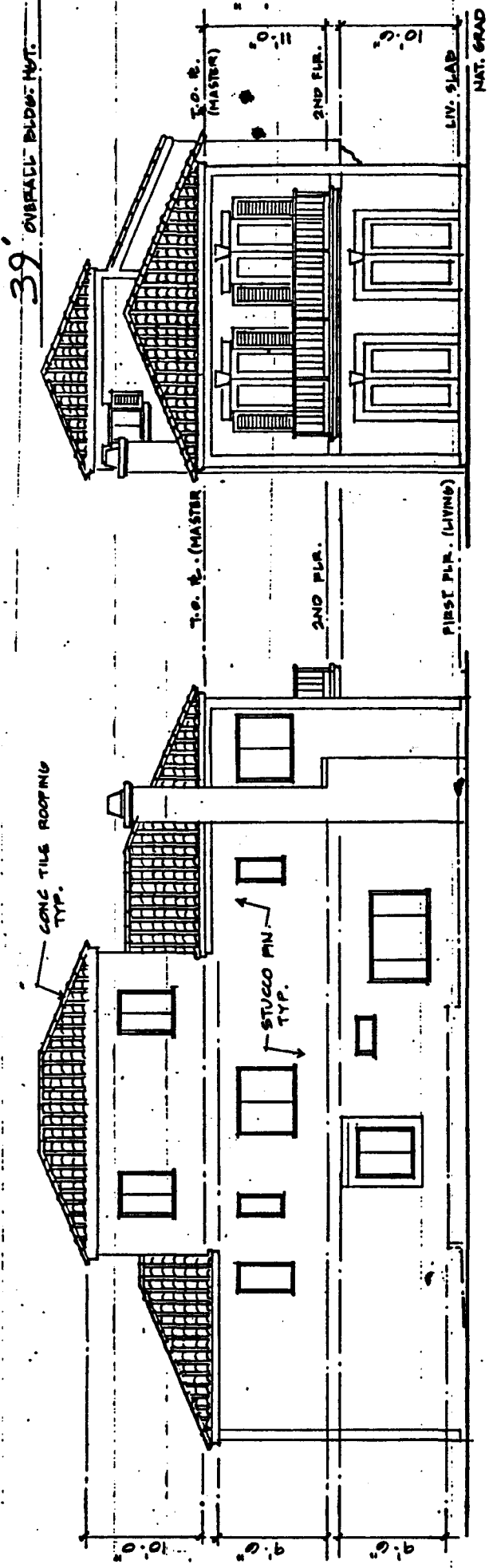


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EXHIBIT # 3

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SIDE ELEVATION

FRONT ELEVATION (MALL)

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EXHIBIT # 4

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