

CALIFORNIA COASTAL COMMISSION

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 180th Day: 10/24/99
 Staff: CP-LB
 Staff Report: 5/7/99
 Hearing Date: June 8-11, 1999
 Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-99-153

APPLICANT: Lothar Schmitz & Shelly Berger

AGENT: Michele Saeed

PROJECT LOCATION: 422 Linnie Canal (Lot 33, Block 50, Short Line Beach Tract), Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Construction of a three-level, 30 foot high, 2,337 square foot single family residence with an attached two-car garage on a vacant canal-fronting lot.

Lot Area	2,850 square feet
Building Coverage	1,410 square feet
Pavement Coverage	840 square feet
Landscape Coverage	600 square feet
Parking Spaces	3
Zoning	RW-1
Plan Designation	Single Family - Waterway
Ht above final grade	30 feet

LOCAL APPROVAL: City of Los Angeles Approval in Concept #99-047, 4/27/99.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending that the Commission grant a Coastal Development Permit for the proposed development with special conditions relating to pervious yard areas, water quality, parking, height, and drainage. The applicants agree with the recommendation.

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. Pervious Yard Area

In order to provide a setback for access, visual quality, and to protect the water quality and biological productivity of the canals, an uncovered and pervious yard area totaling no less than 450 square feet shall be maintained in the front yard area between the front of the structure and the front (canal) property line. No fill or building extensions shall be placed in or over the 450 square foot pervious front yard area with the exception of fences or permeable decks at grade. Fences in front yard areas shall not exceed 42 inches in height.

2. Deed Restriction

Prior to issuance of the Coastal Development Permit, the applicants shall submit a deed restriction for recording, subject to the review and approval of the Executive Director, which shall provide for the maintenance of not less than 450 square feet of uncovered and pervious yard area in the front yard adjacent to the canal property line in order to maintain an access corridor, preserve water quality, and protect the biological productivity of the canals. Uncovered means that no fill nor building extensions shall be placed in or over the pervious yard area with the exception of fences or permeable decks at grade. Fences in front yard area shall not exceed 42 inches in height. 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.

3. Parking

A minimum of three parking spaces shall be provided and maintained on the site: two spaces in the garage and one space for guest parking on the driveway apron.

4. Height

The height of the structure shall not exceed thirty feet (30') above the elevation of the centerline of the canal walkway.

5. Drainage

Prior to issuance of the Coastal Development Permit, the applicants shall submit for the review and approval of the Executive Director a plan for a one hundred cubic foot french drain on the project site. The applicants shall construct and maintain the one hundred cubic foot french drain as shown on the final approved plans.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Area History and Project Description

The applicants propose to construct a three-level, 30-foot high, 2,337 square foot single family residence on a vacant canal-fronting lot (See Exhibits). The ground floor of the proposed single family residence contains a two-car garage. The project site is a 2,850 square foot lot on the south bank of Linnie Canal in the Venice Canals residential area (Exhibit #2). The neighborhood is comprised of both old and new one, two and three-story single family residences, and a few non-conforming duplexes.

The Commission has recognized in both prior permit and appeal decisions that the canals area of Venice is a coastal neighborhood of unique character. In 1975, the Commission developed a set of building standards for the Venice Canals area through hearing and voting on various permits. These standards reflect conditions imposed in a series of permits heard prior to that time. Since then, a set of special conditions, which are periodically updated, have been routinely applied to Coastal Development Permits in the Venice Canals area to address the Coastal Act issues of public access, habitat protection, preservation of community character, and scale of development. The conditions imposed on the Coastal Development Permits ensure that the projects are consistent with the Coastal Act. In order to mitigate the identified impacts, the appropriate special conditions have also been applied to this permit.

B. Habitat Protection

The Commission has found that Ballona Lagoon and the Venice Canals are sensitive habitat areas that must be protected from negative impacts associated with development.

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.

The Venice Canals are located up stream from Ballona Lagoon, within the Ballona Wetlands system. 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 system. The Ballona Wetlands system is habitat for many species of marine biota, including the state and federally listed endangered least tern.

In order to protect the biological productivity of the Venice Canals and Ballona Lagoon, the Commission has consistently conditioned projects along the waterways to provide and maintain front yard setbacks, pervious yard areas, and drainage devices to absorb and filter rainwater and site drainage before it enters the 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.

The Commission has consistently conditioned projects in the Venice Canals to provide and maintain a large pervious front yard as a setback from the canal to enhance public access, to provide an area for percolation to protect the water quality and biological productivity of the canals, and to protect community character by maintaining a comparable scale between buildings in the area. No fill nor building extensions may be placed in or over the required pervious front yard area with the exception of fences or permeable decks at grade.

The amount of the Commission's required pervious front yard area for the subject site is 450 square feet. The figure of 450 square feet is based on an average setback of fifteen feet across the thirty-foot width of the lot. The Commission's front yard setback requirement is defined in square footage rather than an absolute lineal measurement to allow for changes in plane which can add architectural interest. A minimum ten-foot front yard setback, with a required fifteen-foot setback average, can provide the required 450 square foot pervious front yard area and a front yard setback that is consistent with the other residences in the area.

In this case, the entire proposed residence is set back more than fifteen feet from the canal property line (Exhibit #3). The proposed setback provides more than the required 450 square foot front yard area between the canal property line and the front of the proposed residence consistent with the Commission's front yard setback requirement. No building extensions are proposed in the required 450 square foot pervious front yard area. A large front window, however, is permitted to be temporarily in the open position over the front yard area as shown on the proposed plans (Exhibit #4), provided that the window is in a closed position while it is raining to allow the required permeable front yard area to absorb runoff before it enters Linnie Canal.

The Commission has consistently required that applicants record the pervious yard area requirement on the property deeds to ensure continuous and ongoing protection of coastal resources and compliance with the requirement. Therefore, the Commission finds that prior to issuance of the permit, the applicants shall record a deed restriction which provides for the maintenance of not less than 450 square feet of uncovered and pervious yard area in the front yard area adjacent the canal property line. Uncovered means that no fill nor building extensions shall be placed in or over the pervious yard area with the exception of fences or permeable decks at grade. Fences in front yard area shall not exceed 42 inches in height. 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. The 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.

In order to mitigate the impacts on the habitat caused by surface drainage and drainage from residential areas, the Commission has consistently required the provision of a one hundred cubic foot french drain in order to filter urban runoff before it enters the canals. A condition is routinely placed on permits for development in the canals area which requires that plans be submitted which depict the location and design of the required french drain. In this case, the applicants are required to submit a plan depicting the location and design of a french drain. The Commission finds that, only as conditioned to provide a french drain and 450 square feet of pervious yard area to mitigate impacts on biological productivity caused by surface runoff into the canals, is the proposed project consistent with the Section 30240 of the Coastal Act.

C. Public Access/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....

Many of the older developments in the Venice Canals area do not provide adequate on-site parking. As a result, there is a parking shortage in the area and public access has been negatively impacted. The small amount of parking area that may be available for the general public on the surrounding streets is being used by guests and residents of the area.

To mitigate this problem, the Commission has consistently conditioned new development within the canals to provide a rear setback of at least nine feet for guest parking or to make other provisions for guest parking. The required rear setback for guest parking is in addition to the Commission's other parking standards.

In this case, the proposed project provides a two-car garage and a 15'8" rear setback for guest parking on the driveway apron (Exhibit #3). Therefore, the proposed project conforms to the Commission's parking standards for the Venice Canals area which require two parking spaces per residential unit and provisions for guest parking. The proposed project provides an adequate parking supply for the proposed single family residence. The Commission finds that, only as conditioned to maintain the proposed on-site parking, is the proposed project consistent with the public access policies of the Coastal Act.

D. Scale of Development

The Commission has also consistently conditioned projects in the Venice Canals area to protect the community character. The area is comprised of both old and new one, two and three-story single family residences and a few remaining duplexes. The majority of the structures in the area do not exceed thirty feet in height. In order to protect the existing scale and character of the neighborhood, and in order to protect the visual corridor along the canal's public walkways, the Commission has consistently limited new development in the canal area to a height of thirty feet, which is consistent with the general height of the area.

The Commission has, however, allowed portions of some structures to exceed the thirty-foot height limit by up to ten feet if the scenic and visual qualities of the area are not negatively impacted. The portions of structures that have previously been allowed to exceed the height limit include parapet walls and railings around roof decks, small roof access structures and elevator housings, chimneys, air conditioning equipment and skylights. No living area or storage space is permitted above the thirty-foot height limit.

In this case, the proposed project has a maximum height of thirty feet measured from the elevation of the centerline of the canal walkway (Exhibit #4). No portion of the proposed project exceeds the thirty-foot height limit.

As proposed, the design of the proposed residence does not adversely effect the visual resources of the Venice Canals and complies with the visual resource policies of the Coastal Act. No living area or storage space is proposed above the thirty-foot height limit. Therefore, the Commission finds that the proposed project conforms to the Commission's height requirements and previous approvals.

In order to ensure that the proposed project is constructed as approved, the approval is conditioned to limit the height of the structure to thirty feet above the elevation of the centerline of the canal walkway. Only as conditioned is the proposed project consistent with the Coastal Act's visual resource policies.

The Commission has also limited building extensions within the front yard setback area, except for ground level permeable decks. No building extensions, other than a permeable wood deck, may encroach into the required 450 square feet of uncovered pervious area in the front yard (Exhibit #3).

E. 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:

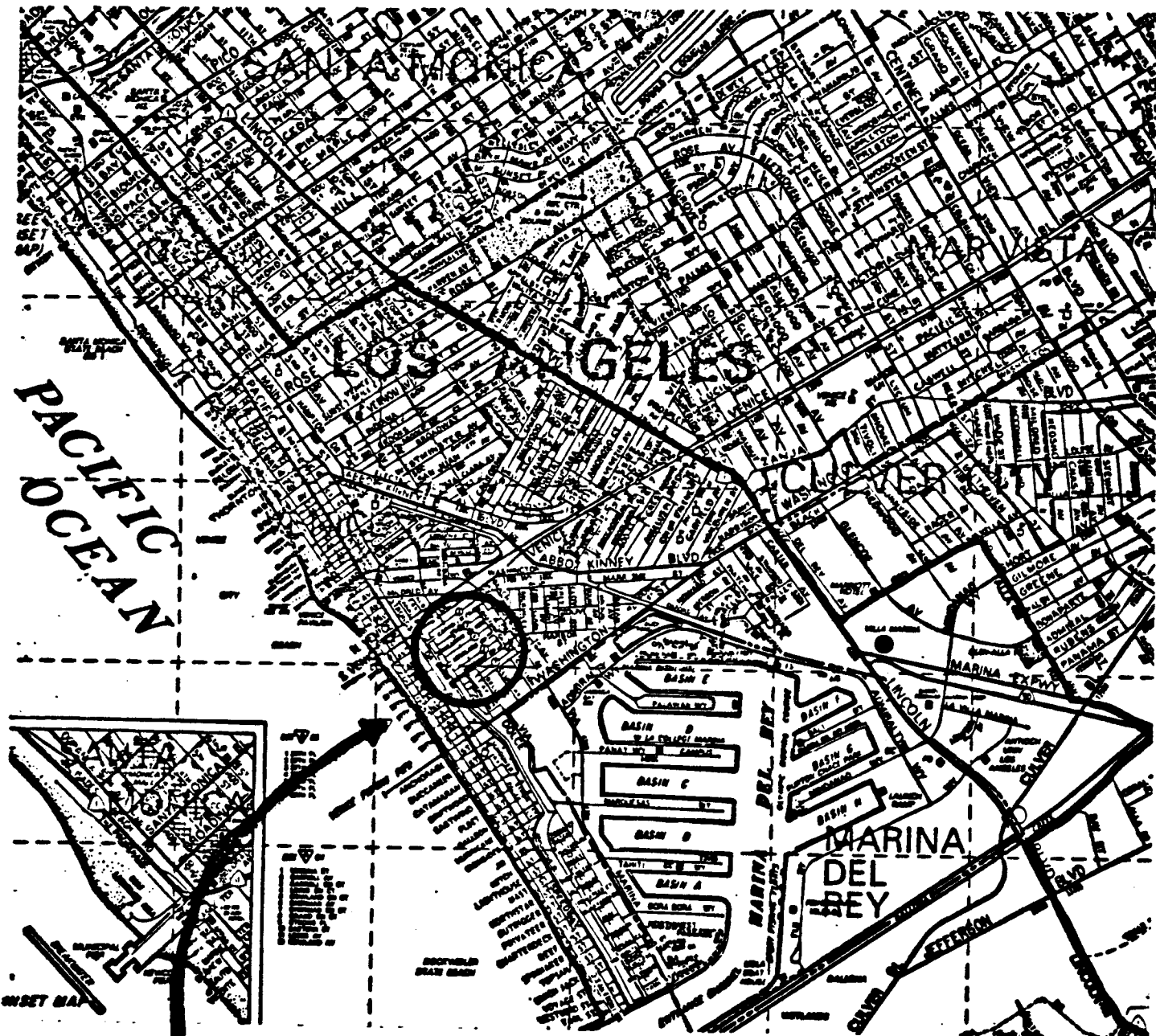
- (a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the 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).

F. 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

Venice Canals, Calif.

COASTAL COMMISSION

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EXHIBIT # 1

PAGE 1 OF 1

5-99-153 RECEIVED

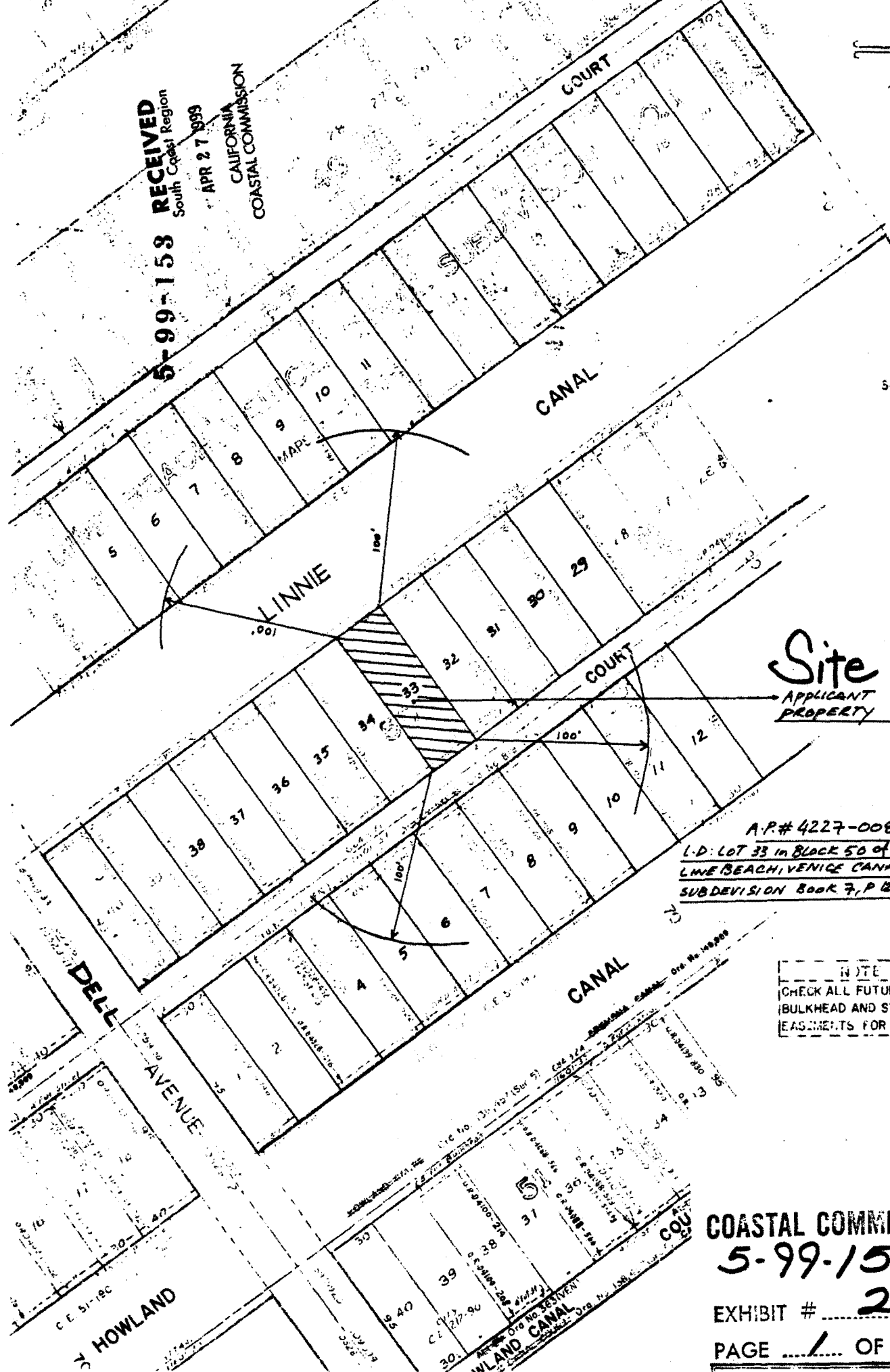
South Coast Region

APR 27 1999

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Scale 1" = 100'

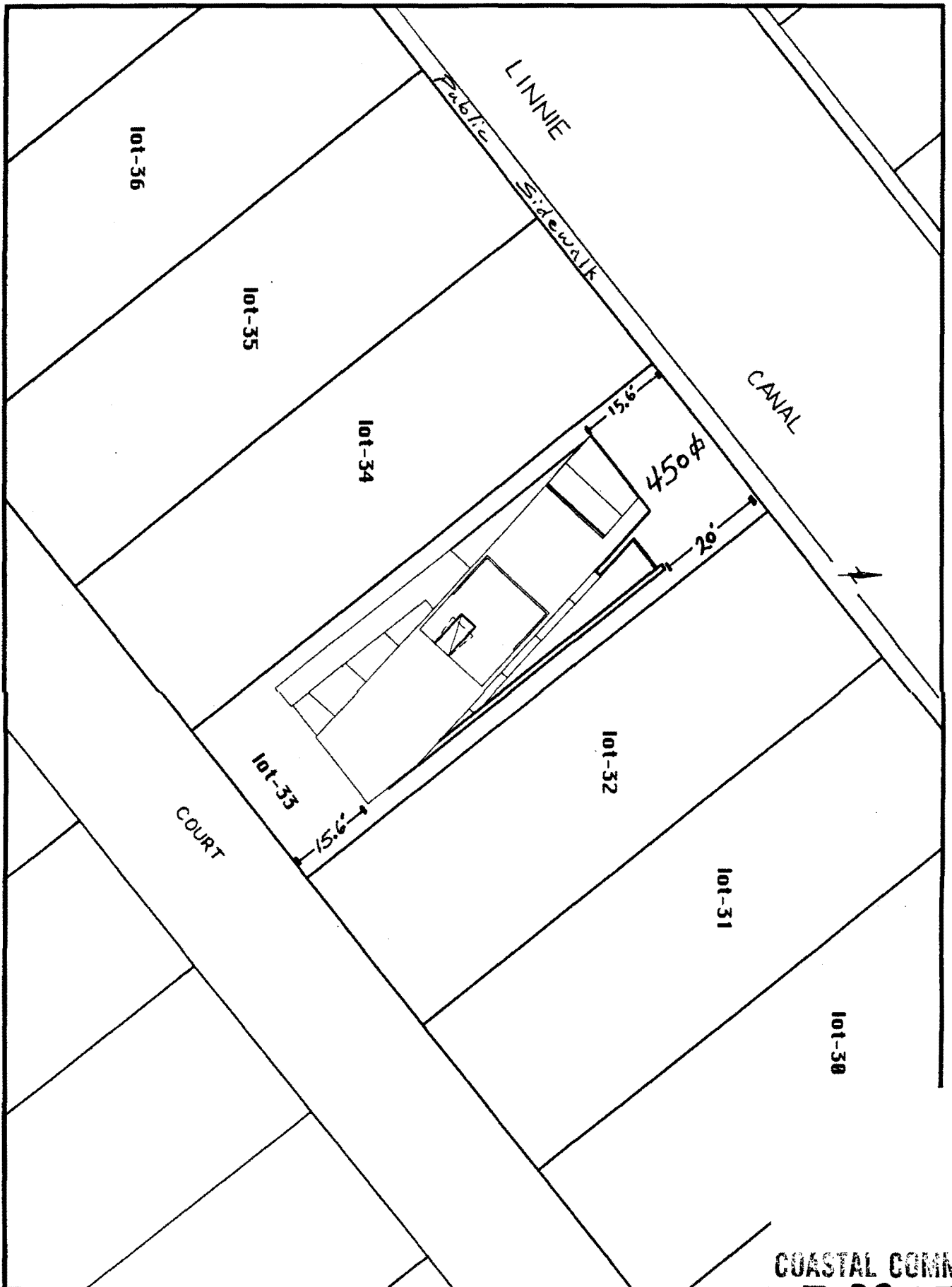


Site
APPLICANT
PROPERTY

A.P.# 4227-008-033
L.D. LOT 33 in BLOCK 50 of SHORT
LINE BEACH VENICE CANAL
SUBDIVISION BOOK 7, P. 26127

NOTE
CHECK ALL FUTURE STREET
BULKHEAD AND ST. LIGHTING
EASEMENTS FOR TIME LINE

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EXHIBIT # 2
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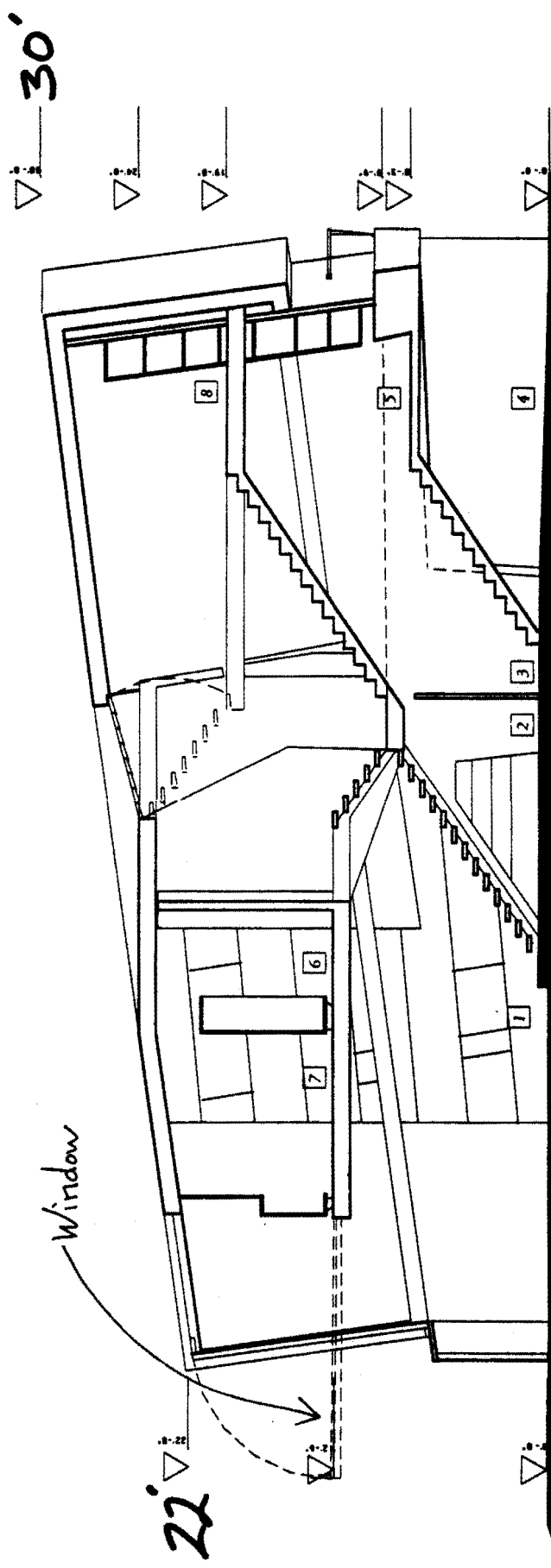
- Berger-Schmitz Residence

422-424 LINNIE CANAL

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EXHIBIT # 3
PAGE 1 OF

- 1. Living Room
- 2. Kitchen
- 3. Dining Room
- 4. Staircase
- 5. Bath
- 6. Bedroom
- 7. Terrace
- 8. Porch

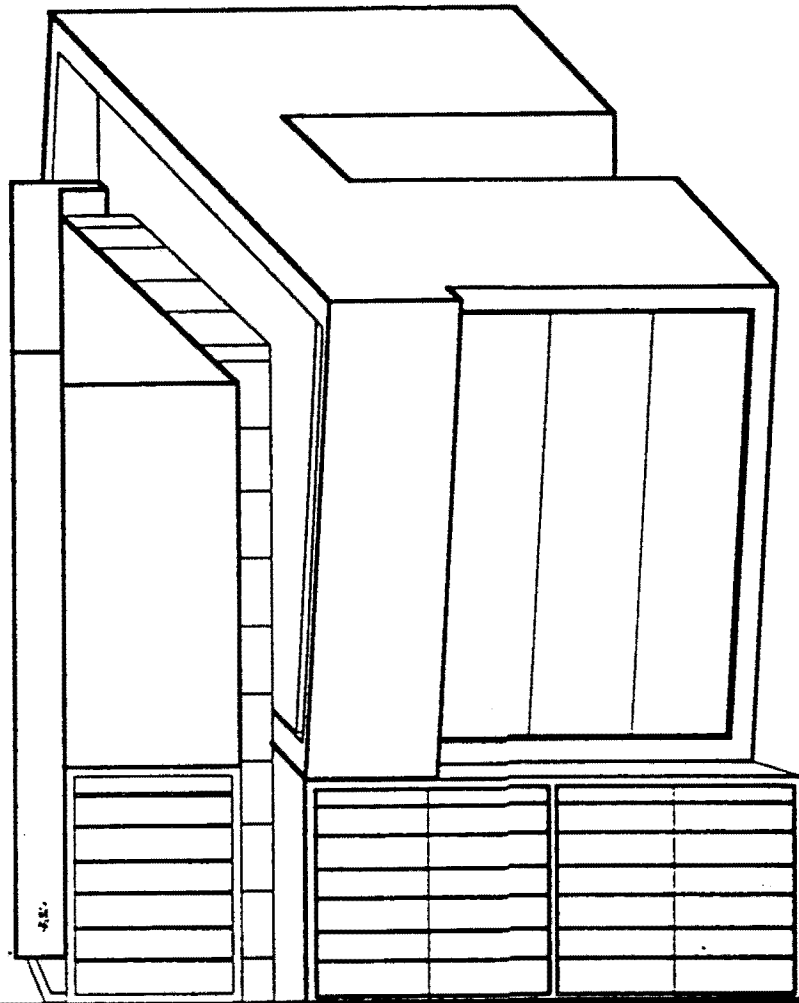



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EXHIBIT # 4

PAGE 1



30' 

22' 

 22'-6"

 8'-0"

Front (Linnie Canal) Elevation

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EXHIBIT # 5

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