

CALIFORNIA COASTAL COMMISSION

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Hearing Date: July 13-16, 1999
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-99-172

APPLICANT: Michael Dobson

AGENT: Robert MacKenzie, Alegre MacKenzie Partners

PROJECT LOCATION: 4303 Roma Court (Lot 1, Block 10, Silver Strand Tract),
Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Construction of a four-level, 44 foot high, 5,450 square foot single family residence with an attached three-car garage on a vacant lagoon-fronting lot.

Lot Area	4,400 square feet
Building Coverage	2,108 square feet
Pavement Coverage	712 square feet
Landscape Coverage	1,580 square feet
Parking Spaces	3
Zoning	[Q]RD1.5-1
Plan Designation	Single Family Residence
Ht above final grade	44 feet

LOCAL APPROVAL: City of Los Angeles Approval in Concept #99-049, 5/5/99.

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, dedication of an easement for habitat and public access, lagoon buffer protection, drainage, building height, and parking. The applicant agrees with the recommendation.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit A-266-77 (ILA) & amendment.
2. Coastal Development Permit 5-97-178 (Smith).
3. Coastal Development Permit 5-98-498 (Gullo).

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. Maintenance of Public Areas

Prior to issuance of the coastal development permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, binding the applicant and all successors in interest to: (1) participate with the other lot owners subject to Coastal Development Permits A-266-77, 5-86-641 and 5-87-112 on a fair and equitable basis in the responsibility for the maintenance of the public areas, lagoon buffers, and drainage devices prescribed by Coastal Development Permits A-266-77, 5-86-641 and 5-87-112; (2) allow the State Coastal Conservancy, and its successors in lagoon buffer maintenance, the right to enter, restore and maintain the lagoon buffer; and (3) maintain all yard areas, setbacks and height limits within sixty feet of the lagoon bank as specified in the special conditions this permit, 5-99-172. The public areas shall be identified in the deed restriction.

This 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. Easement for Public Access and Habitat Protection

Prior to issuance of the coastal development 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 cover that portion of the applicant's lot which occupies the buffer area approved pursuant to Coastal Development Permit A-266-77: thirty feet measured from the easterly edge of the Esplanade (City right-of-way) [See Exhibit #2 of this report]. Such easement shall prohibit development and shall allow public access along

the walkway installed pursuant to Coastal Development Permit A-266-77 (ILA). 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 maintain the public walkway and such fencing that is necessary to preserve the habitat. The applicant shall not disturb the fencing and native vegetation in the lagoon buffer area, and shall not interfere with public use of the walkway.

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

Prior to issuance of the coastal development permit, the applicant shall submit revised building plans, subject to the review and approval of the Executive Director, which demonstrate that all portions of the dwelling (including balconies, stairways, decks, and bay windows), except for ground level decks, shall be set back from the easterly edge of the buffer strip at least ten feet, or fifteen percent of the buildable area of the lot, whichever is greater. In this instance, the required setback is 12 feet. Fences to protect ground level decks shall not exceed six feet in height above natural grade. No fence, wall or other accessory structure shall encroach into the buffer area. The applicant and all successors in interest shall maintain the approved development consistent with the plans approved by the Executive Director.

4. Lagoon Buffer 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 area 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 buffer area at any time.

5. Drainage

Prior to issuance of the coastal development 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 applicant and all successors in interest shall maintain the approved development consistent with the drainage plans approved by the Executive Director.

6. Building Height

Prior to issuance of the coastal development permit, the applicant shall submit revised building plans, subject to the review and approval of the Executive Director, which demonstrate that the height of the proposed structure shall not exceed 30 feet above the average grade of the lot in the area located within sixty horizontal feet of the mean high tide line of Ballona Lagoon at the adjacent shoreline. 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 applicant and all successors in interest shall maintain the approved development consistent with the plans approved by the Executive Director.

7. Parking

Prior to issuance of the coastal development permit, the applicant shall record a deed restriction, in a form and content approved by the Executive Director, assuring the provision of at least three off-street parking spaces on the project site. These parking spaces shall take access from Roma Court, not from the paved street ends designated for public parking. The deed restriction shall also note that the courts and street ends of the tract are designated for public parking and shall not be used for preferential parking. This 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 four-level, 44 foot high, 5,450 square foot single family residence with an attached three-car garage (Exhibits #3&4). The proposed project is located on a vacant 4,400 square foot lot situated on the east bank of Ballona Lagoon (Exhibit #2). The site is part of the Silver Strand Subdivision (Lot 1, Block 10). As part of the proposed project, the applicant proposes to dedicate a 30-foot easement for public access and habitat protection on the portion of the lot located adjacent to Ballona Lagoon (Exhibit #3).

B. Project Background and Area History

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. The proposed project is located on Lot 1, Block 10 of the Silver Strand Subdivision (Exhibit #2). The lot is one of the last undeveloped lots in the subdivision.

Although the two subdivisions (Silver Strand and Del Rey Beach) 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. 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. The currently proposed project is located on a lot (Lot 1, Block 10, Silver Strand Subdivision) which is subject to Coastal Development Permit A-266-77 (ILA) (Exhibit #2).

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, 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's habitat and existing public access opportunities 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 (Exhibit #6). 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.

In approving the amendment to Coastal Development Permit A-266-77 (ILA), the Commission found that individual applicants who apply to develop lagoon fronting lots in the subject area would be required to record an easement for habitat protection and public access on a portion of their property as a condition of approval. Therefore, pursuant to Coastal Development Permit A-266-77 (ILA) as amended, each lagoon fronting lot owner on the east bank, as a condition of developing their property, is required to offer to dedicate a 24 to 30-foot easement as part of the forty foot wide lagoon buffer along the east bank of the lagoon. No private development is permitted within the easement areas. The proposed project includes an offer to dedicate a 30-foot wide easement (Exhibit #3).

The protective lagoon buffer is comprised of the undeveloped City Esplanade (partly submerged), the lagoon fronting lot owners' easements, and the front yard setbacks on all lagoon-fronting lots (Exhibit #3). The protective lagoon buffer on each privately owned lot extends from the inland side of the undeveloped City Esplanade into the front yard structural setback areas of the residences which are used as yard areas. The required front yard setback area is a minimum depth of ten feet or fifteen percent of the buildable depth of the lot, whichever is greater. The Commission has allowed the construction of garden walls between the easement areas and the front yards of the residences. Besides the garden walls, the front yard setback areas may contain ground level decks and landscaping, but no other structures. No development may occur in the easement areas except for the public access path and revegetation with native coastal strand plants.

Since 1980, the approved grading has been completed in the Silver Strand, the public access path along Ballona Lagoon has been improved, and the permittee (ILA) has established itself as the private homeowners association of the Isthmus Landowners Association (ILA) to maintain the lagoon buffer and other public areas. Most of the individual lots have been improved with single family residences.

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. This application is required to meet the special conditions of approval necessary to ensure consistency with the Chapter 3 policies of the Coastal Act and Coastal Development Permit A-266-77 (ILA).

There are also 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). 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). These two permits, companions to Coastal Development Permit A-266-77 (ILA), are Coastal Development Permits 5-86-641 (Lee) and 5-87-112 (Del Rey Assoc.).

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. That Commission approval included provisions for the restoration and maintenance of the lagoon buffer areas adjoining the subject lots. The lagoon buffer adjoining the ten lots subject to Coastal Development Permit 5-86-641 (Lee) was successfully improved with a continuation of the east bank public access path and restored with native coastal strand vegetation.

Coastal Development Permit 5-86-641 (Lee) also required the permittee (Lee) to join with the private homeowners association established under Coastal Development Permit A-266-77 (ILA) to participate in the maintenance responsibilities of the public areas and

landscaping (including malls, parking nodes, lagoon buffer and path) approved and required by the Coastal Development Permit A-266-77 (ILA).

In 1987, the Commission approved Coastal Development Permit 5-87-112 (Del Rey Assoc.) for the development of streets, utilities, and 36 lots with single family residences on a southern portion of the Del Rey Beach Tract located near the lagoon, but not adjoining it. In its approval, the Commission found that residential development of this portion of the Del Rey Beach Tract 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.).

The most recent Commission action affecting the site was the conditional approval of Coastal Development Permit 5-95-152 on January 10, 1996. Coastal Development Permit 5-95-152 and subsequent amendments approved the implementation of the Ballona Lagoon Enhancement Plan. The co-applicants of the permit include the Ballona Lagoon Marine Preserve (BLMP), California State Coastal Conservancy, and the City of Los Angeles. The Ballona Lagoon Enhancement Plan involved restoration work in Ballona Lagoon and the lagoon buffer including: excavation of a deep pool at the south end of the lagoon, improvements in the operation of the automatic tide gates, removal of non-native vegetation from the lagoon's east bank, revegetation of the east bank between the water and path (about half the buffer width) with native vegetation, and various public access improvements. The permitted revegetation of the east bank of Ballona Lagoon has commenced is currently being monitored for success.

The site of the currently proposed project is affected by the Ballona Lagoon Enhancement Plan, as are all of the lots located on the east bank of Ballona Lagoon, because part of the subject lot comprises the lagoon buffer on the east bank of Ballona Lagoon. Permission was granted by the lot owner for the landscaping and public access improvements undertaken pursuant to Coastal Development Permit 5-95-152 and subsequent amendments. The proposed project includes an offer to dedicate a 30-foot wide portion of the applicant's lot which occupies the lagoon buffer area as an easement for the protection of habitat and public access (Exhibit #3). The proposed project is consistent with, and will not interfere with, the successful implementation of the Ballona Lagoon Enhancement Plan.

C. Lagoon Buffer

As previously stated, the existing building pad on the site was graded under Coastal Development Permit A-266-77 (ILA) as amended. In its approval of Coastal Development

Permit A-266-77 (Lee), the Commission found that the development of the Silver Strand area would have cumulative and individual impacts on the habitat of Ballona Lagoon. The Commission also found that the shores and water area of the lagoon had a history of public use. The lagoon and buffer area had been historically used for camping, clamming, fishing, walking, and bird watching.

The approval Coastal Development Permit A-266-77 (ILA) as amended was found to be consistent with the Chapter 3 policies of the Coastal Act which address Environmentally Sensitive Habitat Areas, coastal access, and recreation. The proposed project must also be found consistent with the following Chapter 3 policies of the Coastal Act, taking into consideration the previous Commission actions in the area [Coastal Development Permits A-266-77 (ILA), 5-86-641 (Lee) & 5-87-112 (Del Rey Assoc.)].

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.

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.

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...

Recreation

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 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states:

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

In approving Coastal Development Permit A-266-77 (ILA), the Commission found that the area could be developed residentially and still provide for protection of habitat and for passive recreational use if a buffer for habitat and a public access trail (path) was dedicated along the east bank of Ballona Lagoon. Appropriate structural setbacks were also required to protect the environmentally sensitive lagoon habitat.

In approving Coastal Development Permit A-266-77 (ILA) the Commission adopted a set of conditions for the site in order to protect and preserve the buffer and lagoon areas. This set of special conditions is also applied to the currently proposed project. The special conditions prohibit development in the proposed easement which covers that portion of the applicants' lot which occupies the buffer area (Exhibit #3). Prohibited development includes planting of non-native vegetation. The applicant shall allow a public access trail across the easement, restoration of the buffer as strand habitat, and such fencing that is necessary to preserve the habitat. The applicant is also prohibited from disturbing the fence and vegetation in the buffer area, and from interfering with public use of the trail. In addition, all drainage must be directed away from Ballona Lagoon.

Long term maintenance of the lagoon buffer, drainage devices, and public access path on the east bank of Ballona Lagoon is, and always has been a concern of the Commission. To address this issue, the Commission has consistently placed the burden of responsibility for the necessary maintenance of public areas which have not been accepted by a public agency on the lot owners in the area who have benefited from the improvement of the

area. The approval of the proposed project requires the applicant to participate in the maintenance of the public areas.

As previously stated, in its approval of Coastal Development Permit A-266-77 (ILA), the Commission found that Ballona Lagoon was a critical habitat area and an important coastal resource and that residential development of the Silver Strand and Del Rey Beach area would cause major adverse cumulative impacts on the lagoon. Several measures were necessary to mitigate the adverse impacts of development. One of the mitigation measures was a condition which required the lot owners who benefited from 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 which have not been accepted by a public agency. The Isthmus Landowners Association (ILA) was established to maintain all public areas and landscaping approved and required by Coastal Development Permit A-266-77 (ILA).

The Commission also required the lot owners benefiting from Coastal Development Permit A-266-77 (ILA) to participate on a fair and equitable basis with the other lot owners in the maintenance of the public areas, public access path, lagoon buffer, and drainage devices in the Silver Strand and Del Rey Beach Tract. The Commission placed similar requirements on the lot owners subject to Coastal Development Permits 5-86-641 (Lee) and 5-87-112 (Del Rey Assoc.). This requirement is based on the concept that all property owners subject to the permit cumulatively created the negative impacts on the lagoon and have benefited most from the improvement of the public areas, and therefore should assume the responsibility to maintain the habitat mitigation and public areas.

This responsibility for the long-term and ongoing maintenance of the public areas and drainage devices in the Silver Strand and Del Rey Beach Tracts remains with the homeowners pursuant to Coastal Development Permits A-266-77 (ILA), 5-86-641 (Lee), and 5-87-112 (Del Rey Assoc.) until these public areas have been accepted by a public agency.

Therefore, as a condition of approval, the applicant is required to record a deed restriction binding the applicant and all successors in interest to: (1) participate with the other lot owners subject to Coastal Permits A-266-77, 5-86-641 and 5-87-112 on a fair and equitable basis in the responsibility for the maintenance of the public areas, lagoon buffers, and drainage devices prescribed by Coastal Development Permits A-266-77, 5-86-641 and 5-87-112; (2) allow the State Coastal Conservancy, and its successors in lagoon buffer maintenance, the right to enter, restore and maintain the lagoon buffer; and (3) maintain all yard areas, setbacks and height limits within sixty feet of the lagoon bank as specified in the special conditions this permit, 5-99-172. The public areas shall be identified in the deed restriction. The deed restriction shall run with the land, binding on all heirs and assigns of the applicant.

In addition, 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, and with the Commission's prior actions.

D. Front Yard Setback

In order to be consistent with the Chapter 3 policies of the Coastal Act and prior Commission actions the area, the proposed structure is required to be set back from the buffer, the Esplanade, and Ballona Lagoon. The required setback is necessary to protect public access and the resources of the lagoon environment habitat. A special condition of approval requires the front yard (lagoon side) setback to be a minimum of ten feet, or fifteen percent of the buildable portion of the lot, whichever is greater. The required front yard setback is measured from the inland edge of the required 30-foot wide lagoon buffer easement which the applicant has proposed to dedicate as part of the project (Exhibit #3).

In determining the required setback distance, fifteen percent of the length of the lot is calculated from the "net length" of the lot or the length of the "buildable" lot. In this case, the total lot length is 110 feet, but 30 feet is proposed to be dedicated to the lagoon buffer. Therefore, the buildable lot is 80 feet long. Fifteen percent of 80 feet is 12 feet. Therefore, the proposed project must provide a 12-foot front yard setback (Exhibit #3). No development or construction, except for fences and ground levels decks, is permitted within the front yard setback.

The proposed plans show a balcony projection that encroaches into the required setback area (Exhibit #3). Therefore, prior to issuance of the coastal development permit, the applicant is required to submit revised building plans which demonstrate that all portions of the dwelling (including balconies, stairways, decks, and bay windows), except for ground level decks, are set back from the easterly edge of the buffer strip at least 12 feet (fifteen percent of the buildable area of the lot). Fences to protect ground level decks shall not exceed six feet in height above natural grade. No fence, wall or other accessory structure shall encroach into the buffer area. The applicant and all successors in interest shall maintain the approved development consistent with the plans approved by the Executive Director. Only as conditioned to provide the required protection of Ballona Lagoon, and to provide a setback from the lagoon buffer, is the proposed project is consistent with the habitat, access, and recreation policies of the Coastal Act, and with the Commission's prior actions.

E. 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. Coastal Development Permit A-266-77, the California Department of Fish and Game letters, and a biology report by Collins et al have documented the sensitive habitat in Ballona Lagoon and recommend that a bird flight corridor be preserved along the lagoon by establishing building setbacks and height limits [See also Coastal Development Permit 5-86-174 (MDR Properties)].

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 in the Silver Strand area:

The height of the proposed 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 height of the proposed structure within sixty horizontal feet of the City Esplanade, as indicated by the submitted elevations, is thirty feet (Exhibit #4). The maximum height of the proposed project is 44 feet. However, the applicant's plans submitted with the coastal development permit application do not contain an accurate survey of the location of the mean high tide line of Ballona Lagoon at the adjacent shoreline in relation to the roof of the proposed structure. The easterly edge of the City Esplanade may not correspond to the mean high tide line of Ballona Lagoon. Therefore, the applicant has not demonstrated that the proposed project is in compliance with the Commission's height limit for structures located next to Ballona Lagoon.

As a condition of approval, the applicant shall submit revised plans that demonstrate that the height of the proposed structure shall not exceed 30 feet above the average grade of the lot in the area located within sixty horizontal feet of the mean high tide line of Ballona Lagoon at the adjacent shoreline. 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. 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.

F. Parking

In order to protect coastal access, all new development on lots adjacent to Ballona Lagoon in the Silver Strand area is 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 three on-site parking spaces in the ground floor garage (Exhibit #3).

For previous projects in the area, applicants have been required to record a deed restriction which assures the provision of at least three on-site parking spaces. The same requirement applies to the subject permit. The deed restriction requirement for parking includes a statement acknowledging that the courts and street ends in the tract are designated for public parking and shall not be used for preferential parking (i.e., permitted or restricted parking).

Therefore, approval of the permit is conditioned to record the deed restriction for parking currently required by the Commission for projects in the Silver Strand and Del Rey Beach Tracts. The required deed restriction states that at least three on-site parking spaces will be provided, and that they shall take access from Roma Court, not from the paved street ends designated for public parking. The deed restriction shall also note that the courts and street ends of the tract are designated for public parking and shall not be used for preferential parking.

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

G. 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).

H. California Environmental Quality Act (CEQA)

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, 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



Site



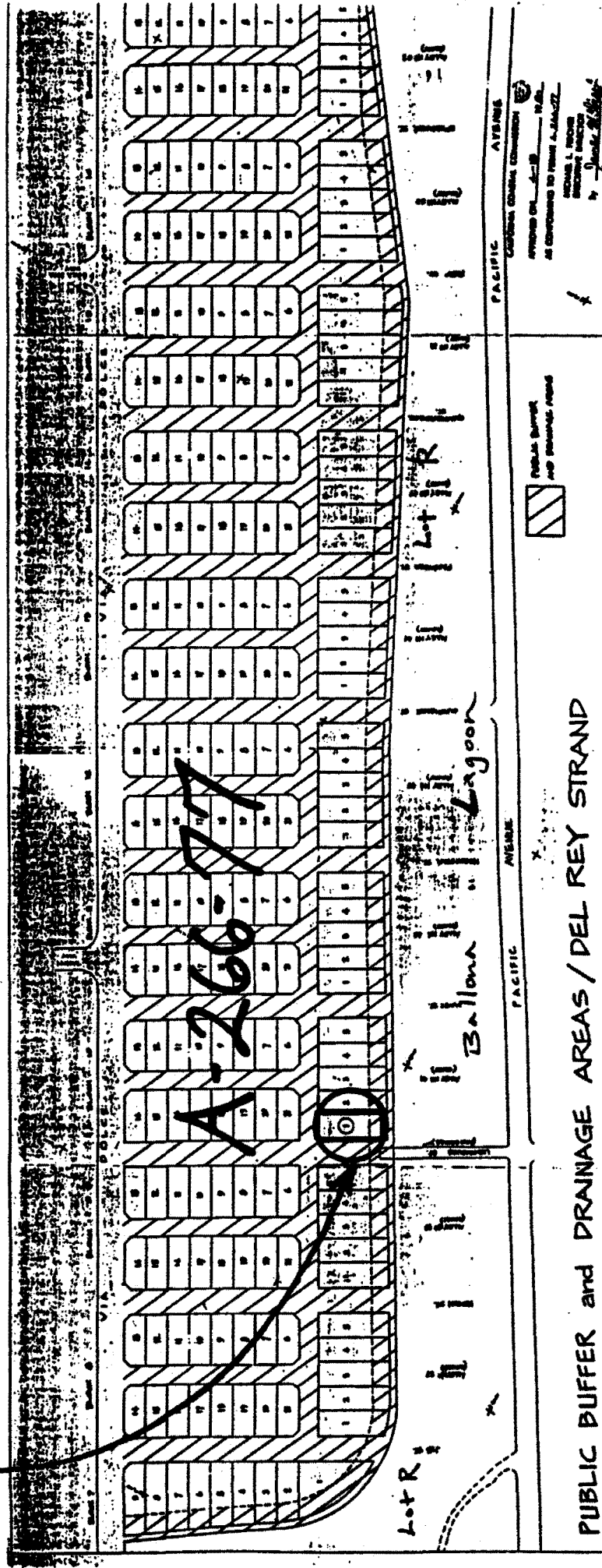
COASTAL COMMISSION

5-99-172

EXHIBIT # 1

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Project Site: Lot 1, Block 10, Silver Strand



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EXHIBIT # 2

P.102

North

KETCH ST.

RECEIVED
South Coast Region

MAY 11 1999

CALIFORNIA
COASTAL COMMISSION

ALLEY NE B9
(COURT).

LIGHT.
HOUSE ST.
(FOOT BRIDGE)

**SUBJECT -
PROPERTY**

100
RADIUS

ALLEY NO 41
(COURT)

Ballona
- Lagoon

MAST ST.

ROMA COURT

LIGHTHOUSE MALE

Mast

Mall

COASTAL COMMISSION

5-99-172

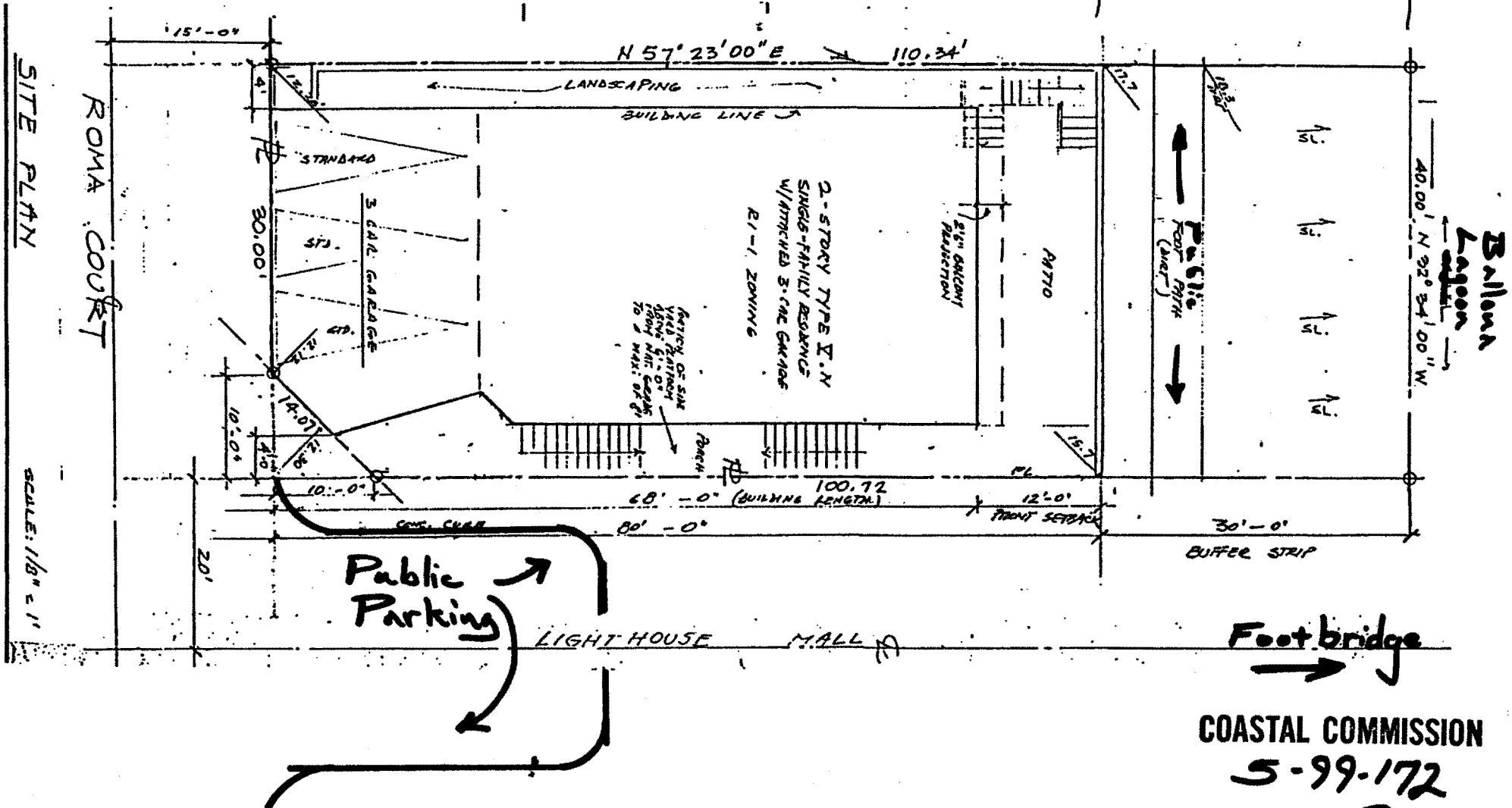
EXHIBIT # 2

PAGE 2 OF 2

As part of the proposed project, the applicant hereby offers to dedicate to a public agency or private association acceptable to the deputy director, an easement for public access and habitat protection. This easement shall include a 30' wide strip of land over applicant's entire width of property as measured from Esplanade East.

North

RM/King



COASTAL COMMISSION

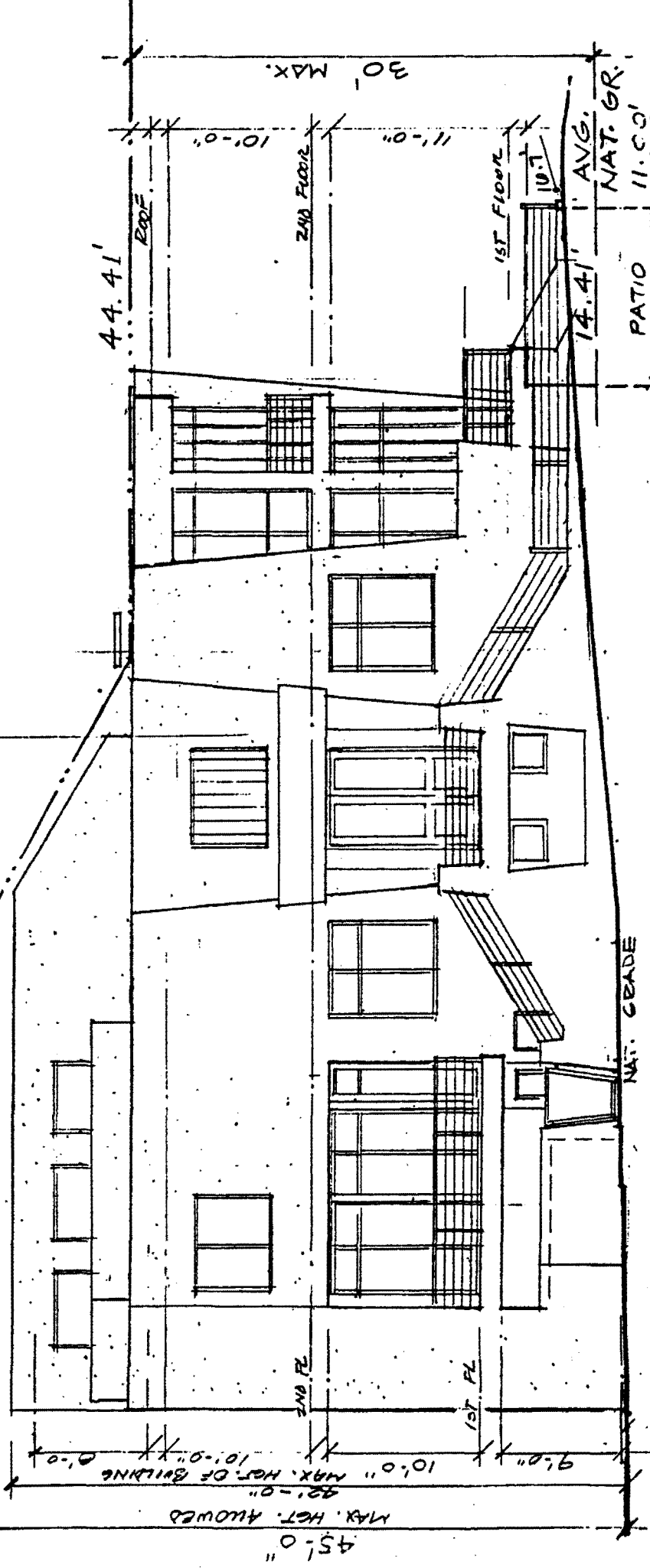
5-99-172

EXHIBIT # 3

PAGE 1 OF 1

MAX. ALLOWABLE HGT.

60'-0" TO EXPLANADE EAST



LEFT SIDE ELEVATION

COASTAL COMMISSION

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EXHIBIT #

4

PAGE

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OF

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