

CALIFORNIA COASTAL COMMISSION

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Staff: AM-LB **AM**
Staff Report: 10/24/00
Hearing Date: Nov. 14-17, 2000
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-00-168

APPLICANT: Meir Toren

PROJECT LOCATION: 4507 Roma Court (Lot 2, Block 12, Silver Strand Tract), Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Construction of a four level, 42½-foot high, 5,020 square foot single family home, with an attached 644 square foot three-car garage, on a vacant lagoon fronting lot.

Lot Area	4,050 square feet
Building Coverage	1,649 square feet
Pavement Coverage	855 square feet
Landscape Coverage	1,555 square feet
Parking Spaces	3
Zoning	[Q]RD1.5-1
Plan Designation	Low Density Residential
Ht above final grade	42½ feet

LOCAL APPROVAL: Venice Coastal Zone Specific Plan Director of Planning Determination and Findings, 9/11/00

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 5-86-641 (Lee) and 5-87-112 (Del Rey Assoc.)
3. Coastal Development Permit 5-99-172 (Dobson)
4. Coastal Development Permit 5-95-152 (Ballona Lagoon Enhancement Plan) & amendments
5. An Ecological Evaluation of Ballona Lagoon, by Dr. Richard Ford and Dr. Gerald Collier, May 7, 1976
6. Fantasy by the Sea, by Tom Moran and Tom Sewell

STAFF RECOMMENDATION OF APPROVAL:

Motion:

I move that the Commission approve CDP No. 5-00-168 pursuant to the staff recommendation.

Staff Recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. Approval with Conditions

The Commission hereby approves a permit, subject to the conditions below, 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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

A) In order to maintain the public areas designated in the Silver Strand Tract, the applicant shall (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 and (2) allow the State Coastal Conservancy, and its successors in lagoon buffer maintenance, the right to enter, restore and maintain the lagoon buffer. The applicant shall also (3) maintain all yard areas, setbacks and height limits within sixty feet of the lagoon bank as specified in the special conditions within this permit, 5-00-168. The public areas shall be identified in the deed restriction (see Exhibit #2 of this report).

B) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restriction on development. The deed restriction shall include a legal description of the applicant's entire parcel. 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 Commission amendment to this coastal development permit.

2. Easement for Public Access and Habitat Protection

A) No development, as defined in section 30106 of the Coastal Act shall occur in the 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 #3 of this report]. 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.

B) 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 open space and conservation easement for the purpose of 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 #3 of this report]. The recorded document shall include the legal descriptions of both the applicant's entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition

C) The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer and restriction shall run with the land in favor of the People of the State of California, binding all successors and assignees. The offer shall be irrevocable for a period of 21 years commencing upon the date of recording.

3. Setback from Lagoon Buffer

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 11 feet, 4 inches (as shown on Exhibit #3 of this report). 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

A) 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.

B) The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. Parking

A) The applicant shall provide 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 courts and street ends of the tract are designated for public parking and shall not be used for parking for the residence approved in this permit. This condition shall serve as notification that the underlying permit No. A-266-77 (ILA) for street improvements was conditioned to restrict preferential parking on the courts and street ends in the Silver Strand and reserve these streets for the public. It also serves notice that the streets and street ends adjacent to the home shall not be reserved to this homeowner.

B) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. 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 Commission amendment to this coastal development permit.

8. Oil Well

A) No portion of the proposed single family home or any other hardscape material shall be built on or extend over the existing abandoned oil well head as shown on the site map, Exhibit #4. The oil well head shall remain accessible to the Department of Conservation, Division of Oils, Gas, and Geothermal for possible future re-abandonment of the well.

B) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel including the location of the existing well head (see exhibit #6). 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 Commission amendment to this coastal development permit.

9. Assumption of Risk, Waiver of Liability and Indemnity Agreement

A) By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from the abandoned oil well including, but not limited to, gas and/or oil leakage into the air and ground and subsidence of the well and surrounding earth into the ground; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. 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 Commission amendment to this coastal development permit.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to construct a four level, 42½-foot high, 5,020 square foot single family home, with an attached 644 square foot three-car garage, on a vacant 4,050 square foot, lagoon fronting lot (See Exhibits). The site is part of the Silver Strand Subdivision (Lot 2, Block 12) (Exhibit #2). 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). The applicant's site plans show an abandoned oil well between the rear yard and the lagoon buffer area (Exhibit #4). The well was abandoned in 1933 and was leak tested by the Department of Conservation, Division of Oil, Gas, and Geothermal Resources, on February 10, 2000 (Exhibit #6). There were no leaks detected during the inspection and the well was found to be in acceptable condition. The applicant does not propose to build on or over the well head.

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 2, Block 12 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 (Ballona Lagoon). In response to the denial, the applicant (ILA) commissioned a report by biologists Dr. Richard Ford and Dr. Gerald Collier. The report recommended a 40-foot buffer setback from Ballona Lagoon. The California Department of Fish and Game recommended a larger lagoon buffer but in the final application the Commission adopted a map (see Exhibit #2) showing a variable lagoon buffer and front yard (lagoon facing) setback.

The projects were proposed by a consortium 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 2, Block 12, 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 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.

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, has been required to offer to dedicate a 24 to 30-foot easement as part of the 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. Within the lot owners' easement is a gravel, lateral access path that was developed in place of the City Esplanade. The access path was constructed inland of the City Esplanade because portions of the Esplanade are occasionally under water. If the City Esplanade were constructed as an access path then extensive fill of the Lagoon would have to occur.

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 as required by Permit No. A-266-77 (ILA). 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.

Special Conditions are applied to Coastal Development Permit 5-00-168 to offset the impact of the new single family home on the lagoon and prevent impediments to coastal access. 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 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 is complete and 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.

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, in permit No. A-266-77 (ILA), 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.

Therefore, special condition #1 requires the applicant 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 of this permit, 5-00-168. The public areas shall be identified in the deed restriction (See Exhibit #2). The deed restriction shall run with the land, binding on all successors and assigns of the applicant. The applicant has agreed to this condition.

The required deed restriction ensures that the applicant and its successors meet 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.).

In addition, in order to protect the buffer area and the lagoon from impacts caused by the construction of the proposed project, special condition #4 requires the applicant to 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 in 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. Permit No. A-266-77 (ILA) required a front yard (lagoon side) setback that is 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 105.65 feet, but 30 feet is proposed for dedication as the lagoon buffer. Therefore, the buildable lot is 75.65 feet long. Fifteen percent of 75.65 feet is 11 feet 4 inches. Therefore, Special Condition #3 requires that the proposed project provide for an 11-foot 4-inch front yard setback (Exhibit #3). No development or construction, except for fences and ground level decks, is permitted within the front yard setback.

The applicant has proposed an 11-foot 4-inch front yard setback (Exhibit #3). 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 consistent with the habitat, access, and recreation policies of the Coastal Act.

E. Oil Well

During the late 1920's, there was a large-scale oil development surrounding Ballona Lagoon. By 1931 there were 163 oil-producing wells in the Lagoon area (Exhibit #8). As the wells dried and became unproductive, they were abandoned and sold off as residential lots. By the late 1960's and early 1970's oil extraction had almost completely ceased and most of the lots were anticipated for development. On July 3, 1974, the last oil well was abandoned.

Though most wells were abandoned between the 1940's and 1970's, current standards require wells to be re-abandoned if the Department of Conservation, Division of Oil, Gas, and Geothermal finds it necessary to do so, prior to any new development. The applicant has provided a site plan that shows an existing well on the property (Exhibit #4). The well was abandoned in 1933. The well was leak tested by Division of Oil Gas on February 10, 2000 and no leakage was discovered (Exhibit #6). The Division of Oil and Gas determined, in a Plan Review letter dated February 28, 2000, that "the subject well was not abandoned to current standards, but no additional well work is required" (Exhibit #5). In a conversation with Mark Gamache, Division of Oil and Gas site engineer for this project, he stated that the reason no additional well work was necessary was because of the location of the well in the front yard/buffer area, where no structures are proposed. He continued by saying that if any future work was necessary to re-abandon the well they could get to the site without having to remove or demolish any significant structures. To ensure the safety and minimize the hazards on the proposed single family home and to allow the Department of Conservation, Division of Oil, Gas, and Geothermal Resources to adequately re-abandon the existing on-site well, Special Condition #8 is imposed to prevent any extensions of the proposed home or other hardscape material from being build on or over the existing well.

To further guarantee that the existing oil well will remain free of any structures the applicant, prior to issuance of the Coastal Development Permit, shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restriction on development. The deed restriction shall include a legal description of the applicant's entire parcel including the area of the existing well head (see exhibit #6). 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 Commission amendment to this coastal development permit.

F. Assumption of Risk Deed Restriction

The Coastal Act recognizes that new development may involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

The applicant may decide that the economic benefits of development outweigh the risk of harm, which may occur from the identified hazards. However, neither the Commission nor any other public agency that permits development should be held liable for the applicants' decision to develop. Therefore, the applicants are required to expressly waive any potential claim of liability against the Commission for any damage or economic harm suffered as a result of the decision to develop. The assumption of risk, when recorded against the property as a deed restriction, will show that the

applicant is aware of and appreciates the nature of the hazards which may exist on the site and which may adversely affect the safety of the proposed development.

In case an unexpected event occurs on the subject property, the Commission attaches Special Condition #9 which requires recordation of a deed restriction whereby the land owner assumes the risk from the existing oil well on the property and excepts sole responsibility for the possible failure of the abandoned well, causing oil leakage into the air and/or ground and the subsidence of the well and earth into the ground. The deed restriction will provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely in the future.

Therefore, prior to issuance of the Coastal Development Permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restriction on development. The deed restriction shall include a legal description of the applicant's entire parcel. 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 Commission amendment to this coastal development permit.

G. Building Height

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)].

To protect against a "canyon effect" which could negatively impact bird flight patterns, special condition #6 is applied to the proposed project. This condition states that:

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 mean high tide line, as indicated by the submitted elevations, is thirty feet. The maximum height of the proposed project is 42 ½ feet (Exhibit #7).

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.

H. 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....

There is a parking shortage in this area of Venice. The courts and street ends are used primarily for public access to the lagoon and Venice Beach. If this parking were used for residential use, public beach and lagoon visitor access would be negatively impacted.

Therefore, the Commission requires 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 (Exhibit #3). In addition, the applicant is required to record a deed restriction stating 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 parking for this residence. The underlying permit No. A-266-77 (ILA), which permitted the street improvements for the Silver Strand, was conditioned to restrict preferential parking. The courts and street ends were reserved for public access to the beach and lagoon area. The deed restriction shall serve as notification to future homeowners that the courts and streets ends are designated for the public and not reserved for use by the homeowners.

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.

I. 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:

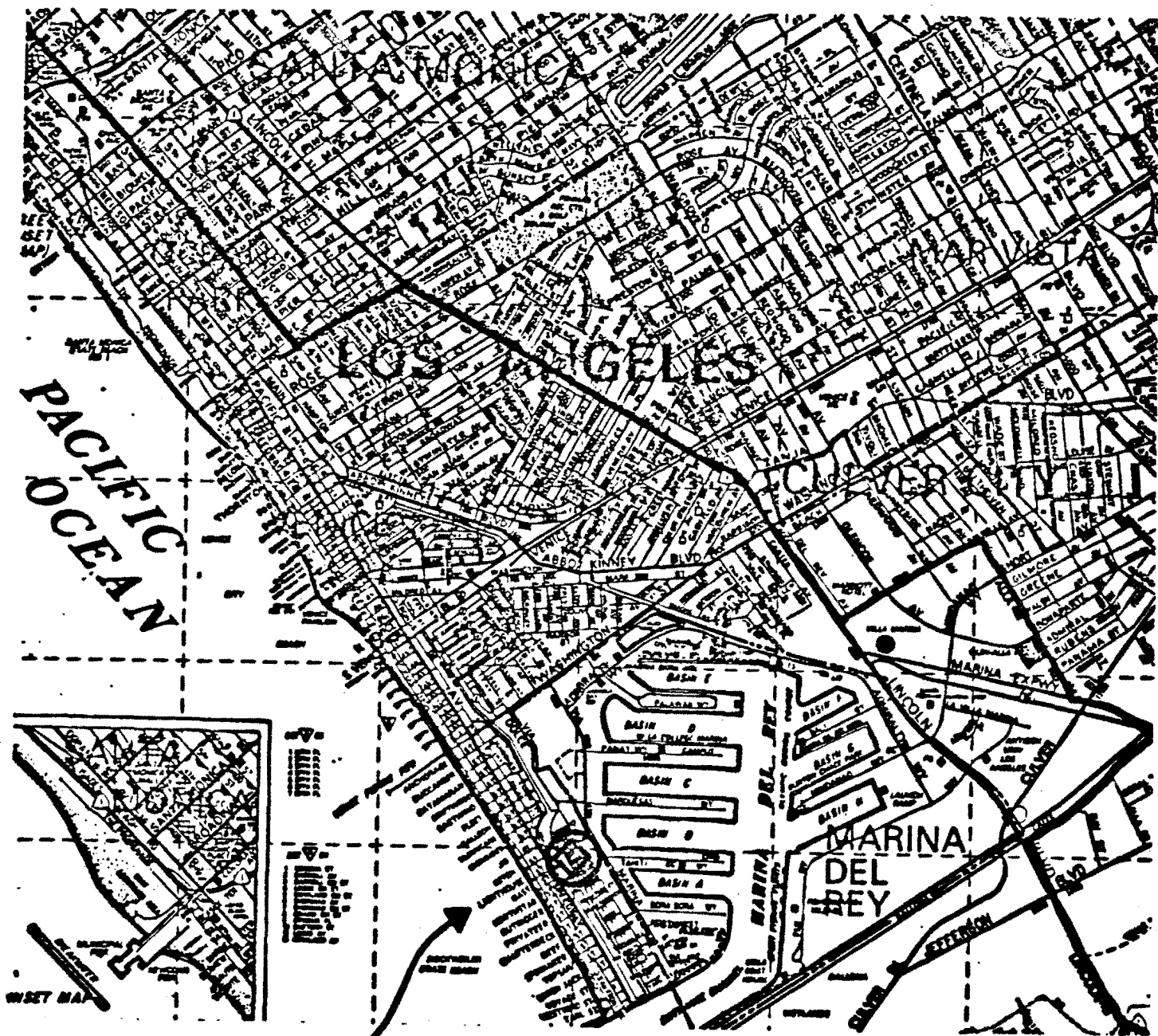
(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the 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 City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The Los Angeles City Council adopted a draft Land Use Plan (LUP) for Venice on October 29, 1999, and has submitted it for Commission certification. The proposed project, as conditioned, conforms to the draft Venice LUP. The proposed project, as conditioned, is also consistent with the Chapter 3 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).

J. 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, 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.



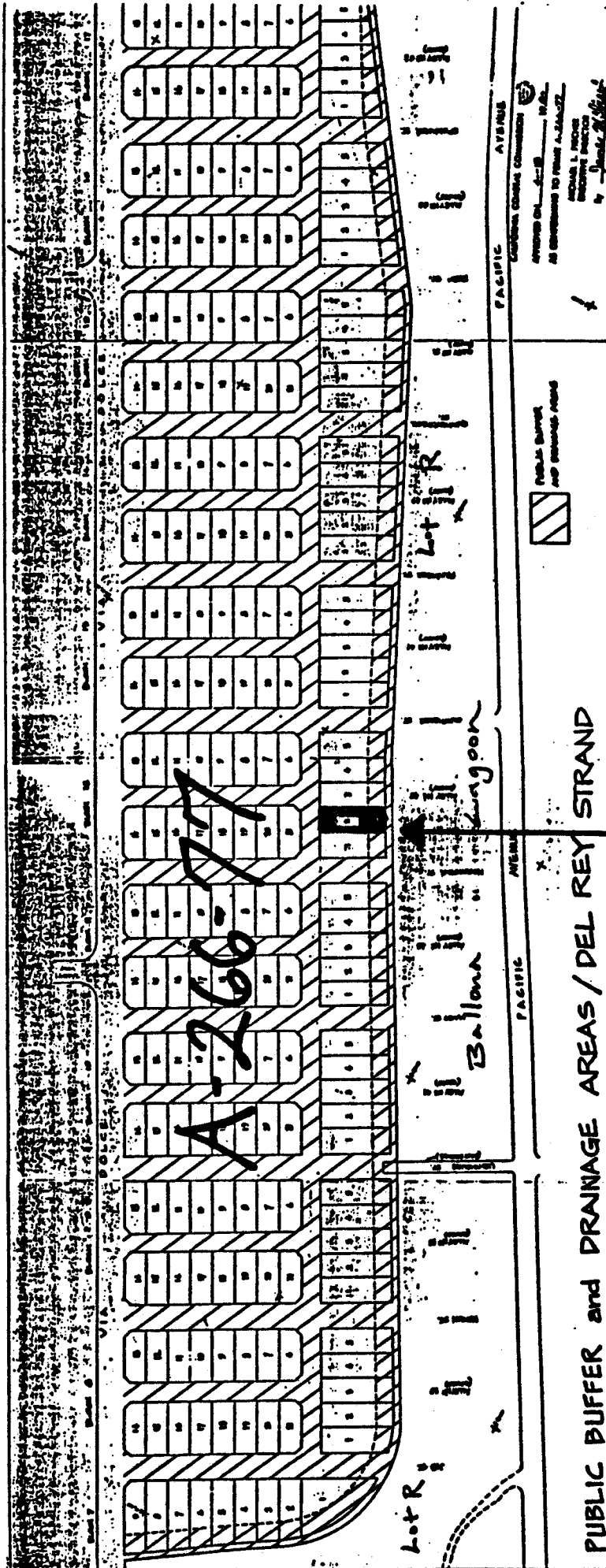
Site

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EXHIBIT # 1

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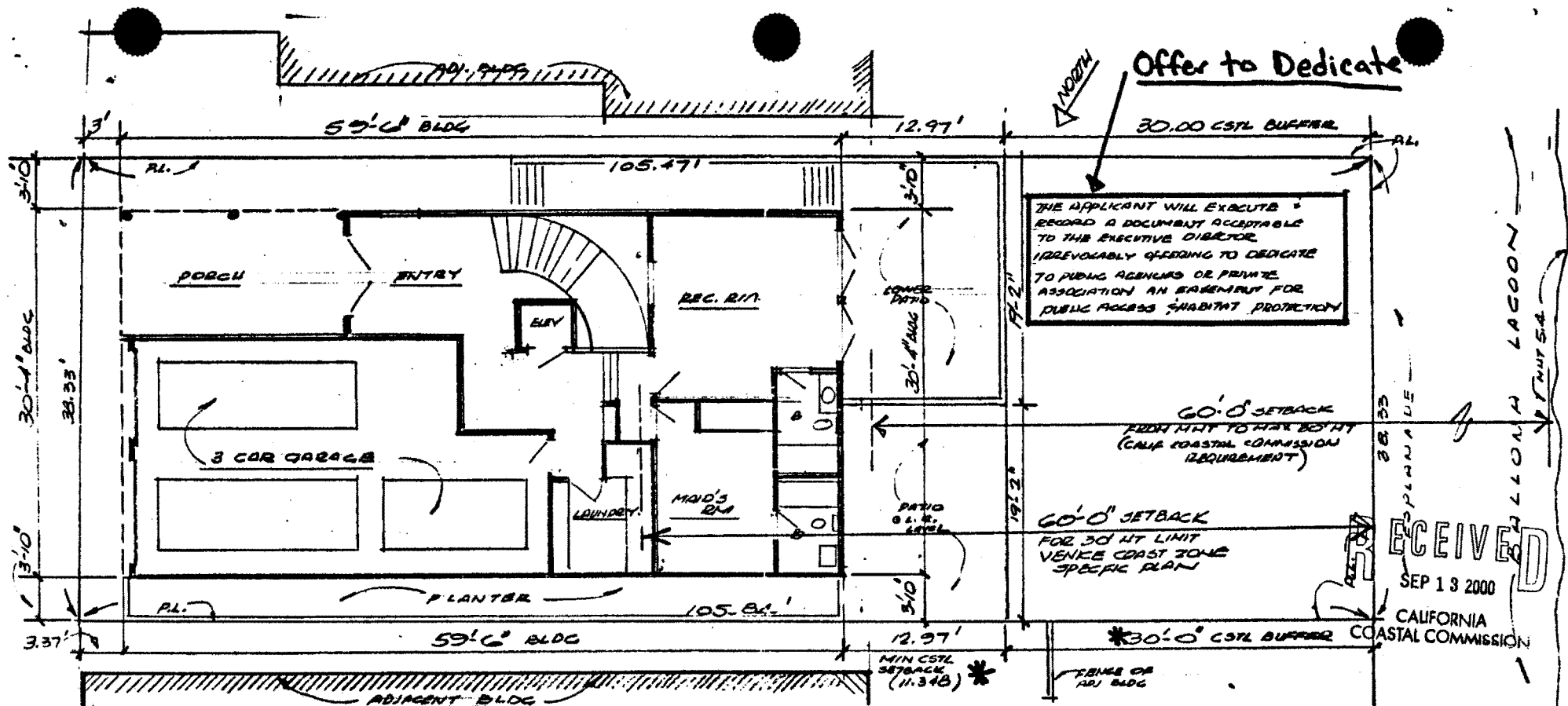
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EXHIBIT # 2

1 of 1

Site

PUBLIC BUFFER and DRAINAGE AREAS / DEL REY STRAND



PLOT PLAN : GROUND FLOOR PLAN 1/8" = 1'-0"

LEGAL DESCRIPTION LOT 2, BLK 12 SILVER STRAND TRACT MDR, CA

PROJECT ADDRESS- 4507 ROHA COURT MDR CA 90292

LOT SIZE $39.33 \times 105.655(4V) = 4040.756 \text{ } \phi$ (BUILDABLE LOT SIZE = 105.655 LESS 30' CSTR BUFFER

$$= 75.655 \times 15\% \text{ REAR YD } (11'-4") = 64.325$$

BLDG 59.5' + 11348 R.Y + 1.5' BALCONY PROJECTION

$306 \text{ TD} \cdot 10 \text{ DOWN} = 38.35 \times 10^{10} = 340$
 $+ 3 \text{ STREET SETBACK} = 15.34 \text{ CK } 7 \text{ 15.34}$

MAX. HEIGHT ALLOWABLE / CORSECT = 30' HIGH ABOVE GRADE WITHIN 60' HORIZONTAL FEET FROM
 1' (1' FROM 5' 1' FROM ONE (1) SIDE TO THE OTHER SIDE IN HEIGHT FOR EACH 1' 2' HORIZ. TO 1' HORIZ. 11'

BE FORTY FIVE (45') FEET (STREET SETBACK = 0' (301-83-201)

OF 10/11/1962 (45) 1-1-1-1 (1/11/1962 - 1/11/1962)

OWNER _____ ARCHITECT _____

MEIR TOREN GUY A. BARTOLI

18534 ST. MORITZ DR 4519 ADRIENLY WAY

TORRANO, CA 91356 MARINA DEL REY, CA 90292

Phone 818-345-3402 to 310 023 4118

THE APPLICANT WILL EXECUTE &
RECORD A DOCUMENT ACCEPTABLE
TO THE EXECUTIVE DIRECTOR
IRREVOCABLY OFFERING TO DONATE
TO PUBLIC AGENCIES OR PRIVATE
ASSOCIATION AN EASEMENT FOR
PUBLIC ACCESS SHADBLIFT PROTECTION

60' 0" SETBACK
FROM HWY TO MAR BO'NT
(CALIF COASTAL COMMISSION
REQUIREMENT)

60'-0" JETBACK
FOR 30' HT LIMIT
VENUE COAST ZONE
SPECIFIC PLAN

*30' 0" CSTL BUFFER

APPROVED

APPROX IN CONCEPT

CASE NO: CPC2000-3166(LPO)

DATE: ~~8/20/00~~ 9/11/00 C.T.

* VENICE COAST ZONE SPECIFIC PLANNERS

REQUIRES 60' SETBACK FROM SIGNATURE: C. TO

CANAL D.L. (EAST INLAND EDGE OF

ESPLANADE) THEN 30 FT FROM

AVERAGE N.G., THEN 2' HORIZ TO 1' VERT

70 MAX HT OF 45'.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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COASTAL COMMISSION

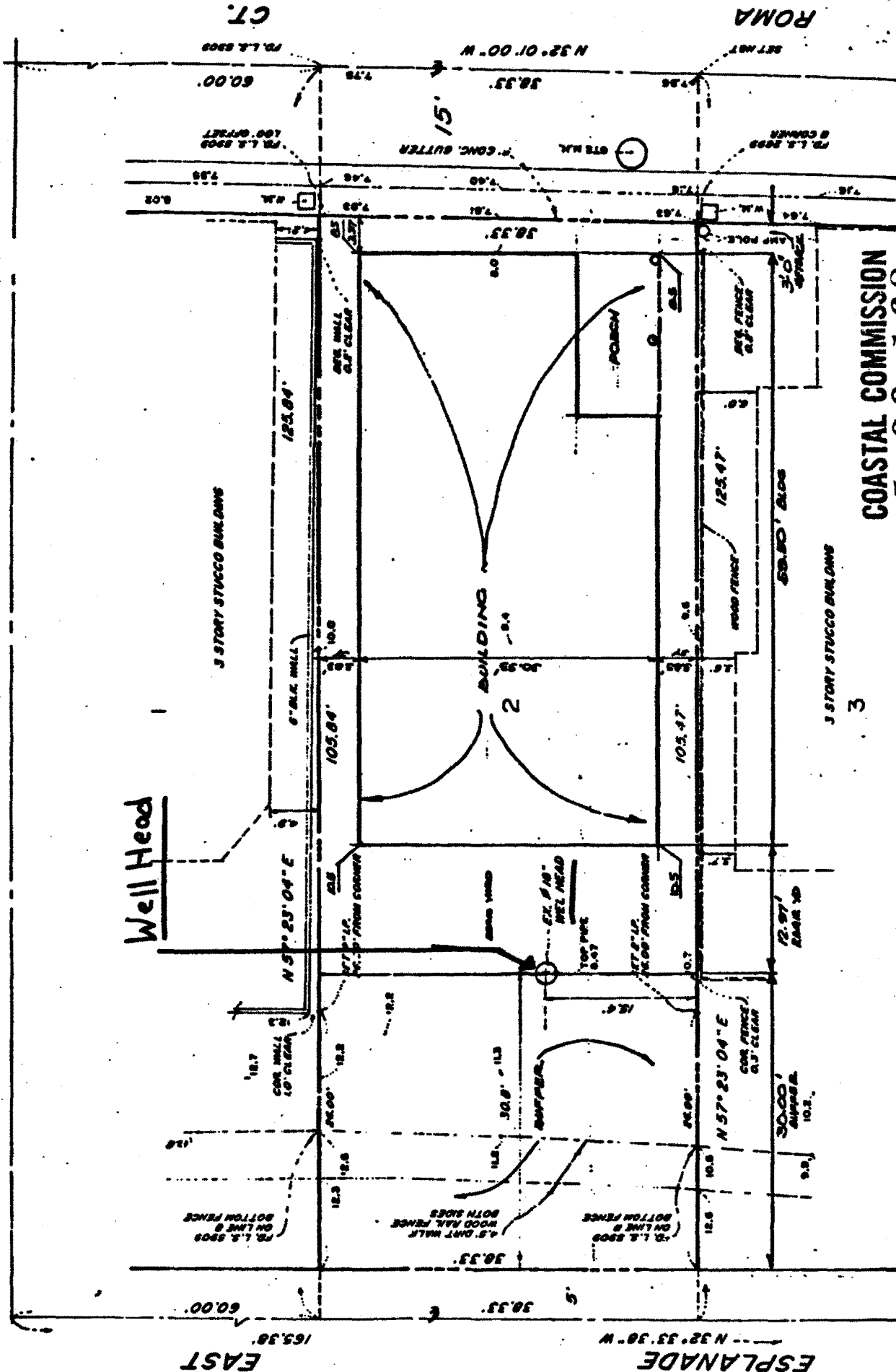
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EXHIBIT # 5

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NORTHSTAR

MALL



COASTAL COMMISSION
5-00-168

EXHIBIT # 4
PAGE 1 OF 1

THE RESOURCES AGENCY
DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS, AND GEOTHERMAL RESOURCES
PLAN REVIEW

Applicant: Mr. Meir Toren

Project Name: Single Family Residence

Project Address: 4507 Roma Court, Marina Del Rey, CA 90292

Division Reference Number: LA-00-025

The staff of the Division of Oil, Gas, and Geothermal Resources has reviewed the attached project site plan and determined the following:

- A. The subject well must be abandoned or reabandoned to current standards (or equivalent) of the Division of Oil, Gas, and Geothermal Resources.
- B. The subject well has been abandoned or reabandoned to current standards (or equivalent) of the Division of Oil, Gas, and Geothermal Resources.
- C. The subject well was not abandoned to current standards, but no additional well work is required.
- D. The well is active, therefore, no abandonment is required at this time.
- E. The required well work cannot be performed because the well could not be located.
- F. A well vent system approved by the city or county permitting agency is recommended.
- G. Other.

A	B	C	D	E	F	G	COMPANY/OPERATOR	WELL DESIGNATION/API NO.	FIELD/COUNTY
		X					Smith & Graham	2 / (API 037-13990)	Playa Del Rey/Los Angeles

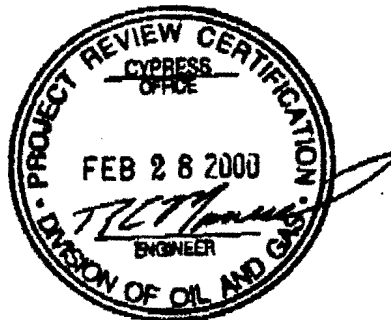
Total number of wells: 1

Date of this letter: February 28, 2000

Name of Engineer: Mark Gamache
Construction Site Engineer


Signature

Note: The approval expires one year
from the date shown on the "Project
Review Certification" stamp.



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COASTAL COMMISSION

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EXHIBIT # 5

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CONSTRUCTION SITE WELL INSPECTION

District Ref. No. _____

Field: PLAYA DEL REY City/County LOS ANGELES Sec. 28 T. 2S R. 15W S.B.B.&M.

Location (major cross streets): _____

Development representative: _____ Phone: _____

Describe the exact location of the excavation or well at the building site (from a reference point on a Division Map):

_____How the location was determined: Measured ☐ Surveyed ☐ Other ☒

Describe: _____

Well designation: WELL #2, API No. 037-13990Operator: SMITH & GRAHAM**SAFETY PRECAUTIONS AND UNSAFE EXCAVATIONS****CAUTION!** Oil and gas wells may produce hydrogen sulfide gas, which is highly poisonous and will accumulate and concentrate in low areas such as excavations. Before entering an excavation area, test to ensure that there is sufficient oxygen and that the flammable/toxic gas readings are within safe limits.

INSPECTIONS	1	Initials Date	2	Initials Date	3	Initials Date	4	Initials Date
Excavation size		EPM 2/10/2000						
Picture No.								
Picture direction								
Metal detector (Y/N)								
Visible casing size(s) (or comment)	16"							
Fluid leaks (Y/N)*	N							
Amount (est.)								
Gas leaks (Y/N)*	N							
Amount (est.)								
Gas detector (N/Y)	Y							
Bubble test (Y/N)	Y							

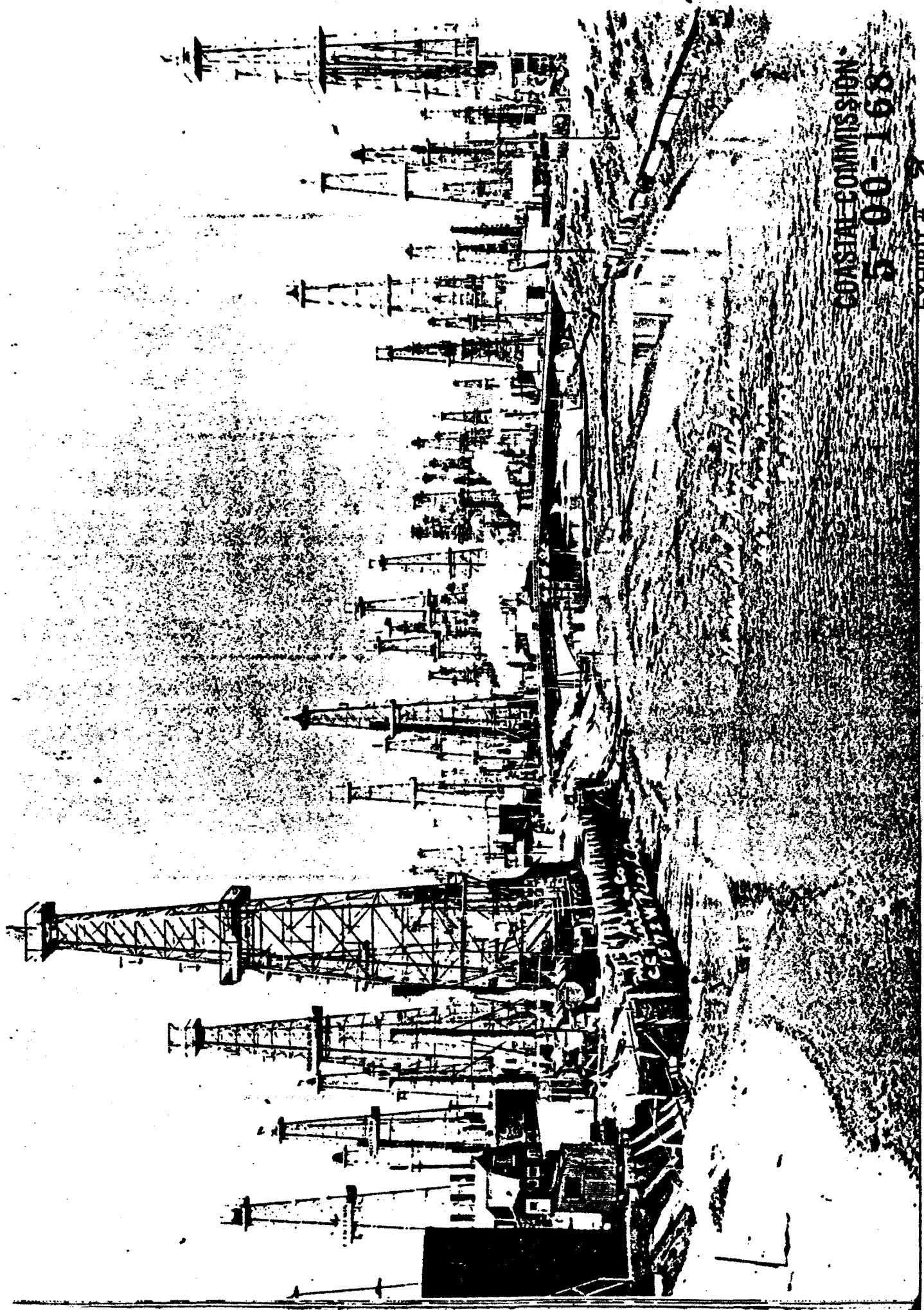
*Leak location(s): _____

Describe hazardous or damaged well condition(s): _____

Report finalized by: ELLEN P. MOSER (DIVISION OF OIL, GAS & GEOTHERMAL) Date: 2/10/2000

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COASTAL COMMISSION
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EXHIBIT # 2

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