

**CALIFORNIA COASTAL COMMISSION**

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**RECORD PACKET COPY**

Filed: 7/7/2000  
 49th Day: 8/25/2000  
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 Staff: AM-LB *AM*  
 Staff Report: 7/13/2000  
 Hearing Date: Aug. 8-11, 2000  
 Commission Action:

**STAFF REPORT: PERMIT AMENDMENT****AMENDMENT****APPLICATION NUMBER:** 5-99-227-A1**APPLICANT:** Alan Kleinman**AGENT:** Philippe Kozely**PROJECT LOCATION:** 458 Carroll Canal, Venice, City and County of Los Angeles**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED (5-99-227):**

Demolition of two one-story single family homes and construction of a three-story, 30-foot high, 3,542 square foot single family home with an attached two-car garage on a canal fronting lot.

**DESCRIPTION OF AMENDMENT (5-99-227-A1):**

Amend Special Condition #1 to allow the applicant to reconfigure the required 450 square foot pervious yard area, amend Special Condition #4 to allow a 10 foot high (13'-11" x 7'-1") roof access structure to exceed the 30 foot height limit, and include minor alterations to roof design and interior layout that increases the living area to 3,591 square feet. The width of the canal facing side of the roof access structure, as proposed, is 7'-1" and uses the least amount of space necessary to house the stairwell and hallway leading to the roof deck.

**SUMMARY OF STAFF RECOMMENDATION:**

The major issue of this staff report is the impact the proposed roof access structure that exceeds the 30-foot height limit has on the community character and visual quality of the Venice Canals area. Staff is recommending approval of the proposed coastal development permit amendment with three special conditions. Special Condition #1 carries forward the previously imposed special conditions. The applicant agrees with the recommendations.

**LOCAL APPROVALS:** City of Los Angeles Director of Planning  
Determination and Findings # 2000-2749 (DD)

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permit # 5-99-227

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**PROCEDURAL NOTE**

A. Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

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**STAFF RECOMMENDATION:**

Staff recommends that the Commission APPROVE the permit amendment with special conditions.

**MOTION**

*I move that the Commission approve the proposed amendment to Coastal Development Permit #5-99-227 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

**I. Approval with Conditions**

The Commission hereby **APPROVES** the amendment to Coastal Development Permit 5-99-227 on the grounds that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

**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. Prior Conditions

Unless specifically altered by this amendment, all Regular and Special Conditions attached to coastal development permit 5-99-227 remain in effect (Exhibit #3).

#### 2. Pervious Yard Area

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

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 reflecting the above restrictions on development on the site. The deed restriction shall include the 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

#### 3. Height

The height of the structure shall not exceed thirty feet above the elevation of the centerline of the canal walkway, except for one 13'-11" x 7'-1" roof access structure not exceeding 40 feet above the elevation of the canal walkway. The width of the roof access structure that faces Carroll Canal shall not exceed 7'-1", as proposed. Roof deck railings and roof equipment housings shall not exceed 42 inches above the 30-foot height limit.

#### IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

##### A Project History and Description

On August 8, 1999, the California Coastal Commission approved Coastal Development Permit 5-99-227 for development at the subject property that included the demolition of two single family homes and the construction of a three-story, 30 foot high, 3,542 square foot single family home with an attached two-car garage, on a canal fronting lot. The permit was issued on May 26, 2000. On June 5, 2000, the South Coast Area office received the signed permit from the applicant. The applicant has not begun construction on Coastal Development Permit 5-99-227.

The development that is proposed by the amendment to Coastal Development Permit 5-99-227 is the addition of a covered roof access structure that replaces the previously approved open spiral staircase. The roof access structure exceeds the 30-foot height limit by 10 feet. The applicant also proposes to reconfigure the 450 square foot, pervious front yard setback area. The proposed front yard setback still contains the required 450 square feet of pervious yard.

The Commission has recognized in both prior permit and appeal decisions that the canals area of Venice is a coastal neighborhood of unique character. Six man made canals create the distinctive make-up of the area (Exhibit #2). The Venice Canals area is designated as The Venice Canals Historic District as shown on the National Register of Historic Locations. On November 14, 1991, the Commission approved Coastal Development Permit #5-91-584 (City of Los Angeles) for the rehabilitation of the Venice Canals. The project involved dredging the canals and construction of new canal banks and new public walkways along the banks. Where possible, the banks were replanted with native wetland habitat. The rehabilitation of the Venice Canals was for the benefit of public recreation and to enhance the unique features of the community.

Along the canals are public walkways and bridges that provide recreation to visitors and residents. Walking through this area allows the public to see a variety of homes from one-story cottages to three story dwellings all with unique gardens and lawns. The canals, themselves, are home to several animal species that add to the uniqueness of the region. Residents and visitors alike frequent the Canals to enjoy recreational activities provided by the public walkways, bridges, and the peacefulness of the area.

The canals and the canal facing lots are small in scale. Typical lot widths are 30 feet and the average width of the canals is 50 feet. The Commission finds that the scale of development is related to the quality of the recreational experience. To ensure the continued public enjoyment of this community, the Commission has imposed height limits on homes and imposed front yard setbacks between the canals and the canal fronting homes. Without

the requirements, the massive structures would create a canyon effect along the canals, blocking viewsheds and negatively impacting the unique community character.

The Commission has imposed various building standards in the Venice Canals area to address the Coastal Act issues of public access, habitat protection, water quality, preservation of community character, and scale of development. In order to mitigate the identified impacts, the appropriate special conditions also are applied to this permit.

**B. Habitat Protection**

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

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

The Venice Canals are located up stream from Ballona Lagoon, and are part of the Ballona Wetlands system. The Ballona Wetlands system is habitat for many species of marine biota, including the state and federally listed endangered least tern. The introduction of urban runoff, including pesticides, garden fertilizers, and runoff from impervious surfaces, can reduce the water quality of the canals which directly impacts the biological productivity of the system.

In order to protect the biological productivity of the Venice Canals and Ballona Lagoon, Special Conditions #2 requires the applicant to provide and maintain front yard setbacks and pervious yard areas to absorb and filter rainwater and site drainage before it enters the canals. The Commission's requirements are consistent with the recommendations of the Santa Monica Bay Restoration Project Action Plan (a plan completed in August 1994 by a coalition of government officials, scientists, industries, and environmentalists that targets critical problems associated with water pollution in the Santa Monica Bay) to reduce non-point source pollutants.

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

The proposed project will provide a 450 square foot pervious front yard area by setting back the residence an average of 15 feet across the 30-foot width of the property (Exhibit #4). No fill or building extensions are proposed for placement in or over the pervious front yard area. The pervious front yard area allows rain and irrigation water to seep into the ground, minimizing run-off directly into the canals. An impervious front yard creates a "rush" of water run-off increasing sediments and pollutants draining into the adjacent canals.

Special Condition #2 requires that the applicant record a deed restriction requiring the pervious yard area on the property to ensure continuous and ongoing protection of coastal resources and compliance with the requirement. Therefore, the Commission finds that **prior to issuance of the permit**, the applicant shall record a deed restriction which provides for the maintenance of not less than 450 square feet of uncovered and pervious yard in the front yard area adjacent to the canal property line. Uncovered means that no fill or building extensions shall be placed in or over the pervious yard area with the exception of fences or permeable decks at grade. Fences in the front yard area shall not exceed 42 inches in height. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required. Only as conditioned to provide a 450 square foot pervious front yard setback and record a deed restriction on the property for the maintenance of not less than 450 square feet of

uncovered, pervious front yard does the Commission find the project consistent with Sections 30240, 30230, and 30231 of the Coastal Act.

### **C. Scale of Development**

Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Section 30253 of the Coastal Act states:

*New development shall:*

*(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

The Venice Canals area is comprised of both old and new one, two and three-story single family residences and a few remaining duplexes. The majority of the structures in the area do not exceed 30 feet in height. In order to protect the existing scale and character of the neighborhood, and to protect the visual corridor along the canal's public walkways, Special Condition #3 limits the development at a maximum of 30 feet as measured from the center line of the canal walkway. This height is consistent with the general height of the area. To reduce the canyon effect of massive structures lining the canals, the 30-foot height limit ensures the proportionality between the homes and the 50-foot wide canals.

However, some new developments have been permitted to construct portions of the dwelling in excess of the 30-foot height limit by up to ten feet if the scenic and visual qualities of the area are not negatively impacted. The portions of structures that have previously been allowed to exceed the height limit include parapet walls and railings around roof decks, small roof access structures and elevator housings, chimneys, air conditioning equipment, and skylights. No living areas, storage spaces, or bathrooms have been permitted above the 30-foot height limit. One of the methods used to reduce the visual impact of roof access structures is to require that such structures be set back away from the canal walkway which fronts the site. If roof structures are set back towards the rear of the home, they are less visible from the canal walkways which front the lots.



In this case, the proposed residence has a roof height of 30 feet measured from the elevation of the centerline of the canal walkway (Exhibit #6 & #7). In addition, a roof deck is proposed on top of the 30-foot high structure (measured from the canal walkway). A proposed 98 square foot roof access structure (13'-11" x 7'-1") exceeds the thirty-foot roof elevation by 10 feet (Exhibit #5-#7). The proposed roof access structure is set back 66 linear feet from the canal walkway that fronts the site (the absolute rear of the proposed residence) (Exhibit #7). The canal facing side of the roof access structure is 7'-1". If the structure were wider, allowing excessive and unnecessary space, the home would appear to have a fourth floor. Reducing the width of the access structure and setting the structure toward the rear (away from the canal walkway) of the home lessens the impact on visual quality and community character of the Canals area.

As proposed, the design of the residence will not adversely effect the visual quality and community character of the Venice Canals area. The roof access structure is set back the furthest distance away from both Carroll Canal and Eastern Canal (the southwest corner of the home) (Exhibit #5). No living area or storage space is proposed above the 30-foot height limit.

In order to ensure that the proposed project complies with Section 30251 and 30253 of the Coastal Act, special condition #3 limits the height of the structure to 30 feet measured above the centerline of the canal walkway, limits the height of all railings and roof equipment housing to 42 inches, and limits the height of the roof access structure to 40 feet above the centerline of the canal walkway and locating the structure toward the southwest portion of the home. Only as conditioned does the Commission find the proposed project consistent with sections 30251 and 30253 of the Coastal Act.

In order to protect the scenic and visual corridor along the canal's public walkways, the development is also conditioned to limit building extensions within the front yard setback area. No building extensions, other than a ground level permeable deck and fences not to exceed 42 inches in height, may encroach into the required 450 square feet of uncovered pervious area in the front yard (Exhibit #4). The conditions insure that the project is consistent with section 30251 and 30253 of the Coastal Act.

#### **E. Local Coastal Program**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) 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

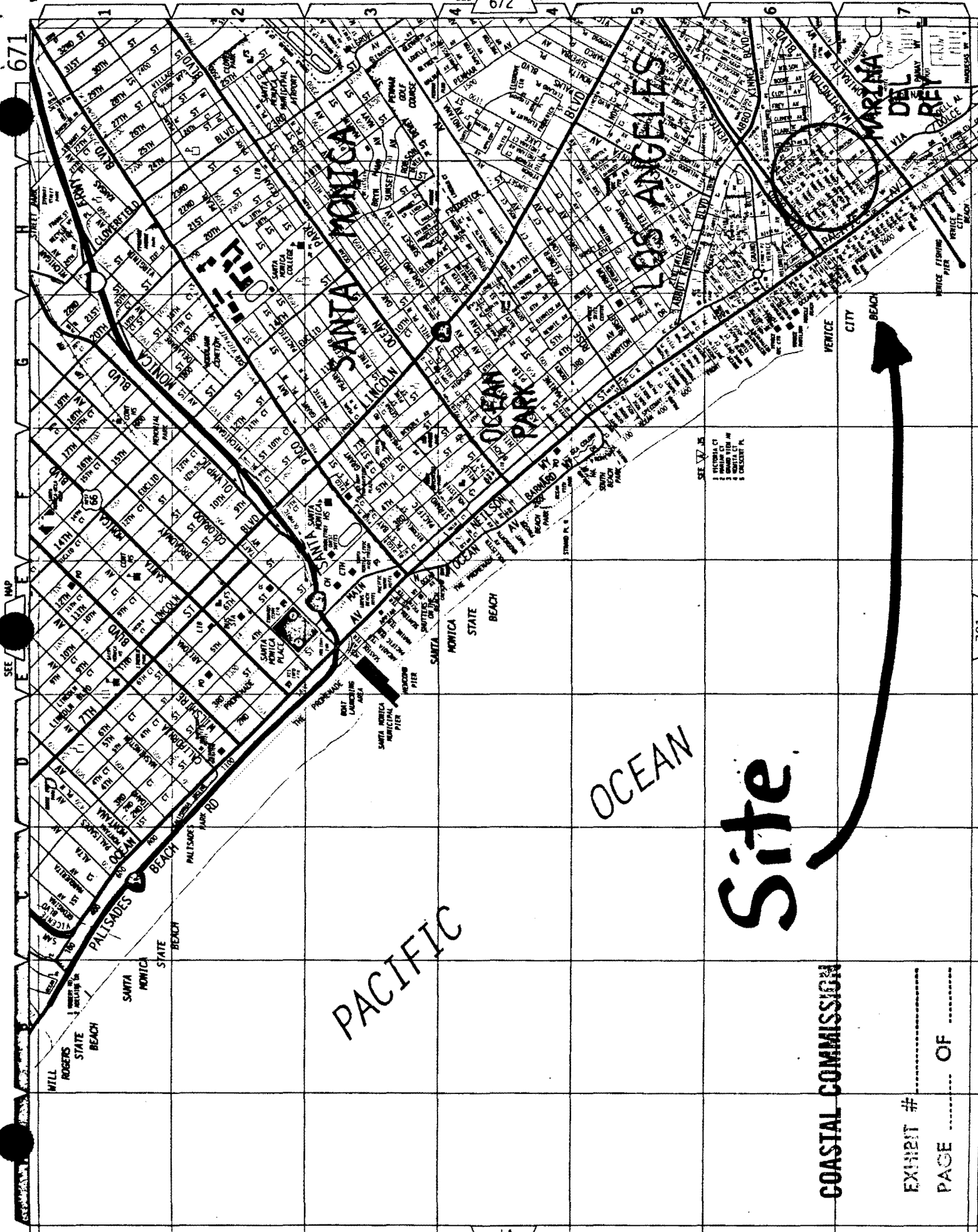
(commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding 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).

**F. California Environmental Quality Act**

Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, as conditioned, has been found consistent with the habitat and coastal access 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 that 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

OCEAN

PACIFIC

COASTAL COMMISSION

EXHIBIT # .....  
 PAGE ..... OF .....

WAY  
34

Ord. No. 59,454  
Y. No. 125,946 Ac. Allot. to Ygnacio Machado

VACATED BY 152,793  
ORD. NO. 138,038  
152,815  
MILDRED  
12' 40" 01"

MPANY'S  
BLVD.

NO. 3533  
11057374

EASTERN

OCEAN

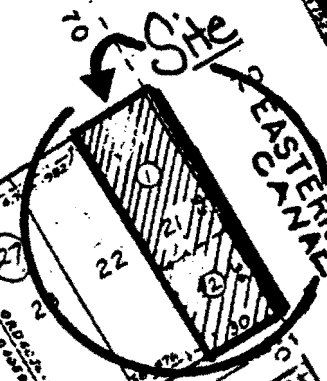
AVE.

CARROLL

5-99-071

CARROLL CANAL

EASTERN CANAL



COURT

SUBDIVISION

VENICE

LINNIE CANAL



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EXHIBIT # 2

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EXHIBIT # 3

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III. Special Conditions

1. Pervious Yard Area

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

2. Deed Restriction

Prior to issuance of the coastal development permit, the applicant shall submit a deed restriction for recording, subject to the review and approval of the Executive Director, which shall provide for the maintenance of not less than 450 square feet of uncovered and pervious yard area in the front yard adjacent to the Carroll Canal property line in order to maintain an access corridor, preserve water quality, and protect the biological productivity of the canals. Uncovered means that no fill nor building extensions shall be placed in or over the pervious yard area with the exception of fences or permeable decks at grade. Fences in front yard area shall not exceed 42 inches in height. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Parking

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

4. Height

The maximum height of the structure shall not exceed thirty feet above the elevation of the centerline of the canal walkway, except for 42-inch high roof deck railings.

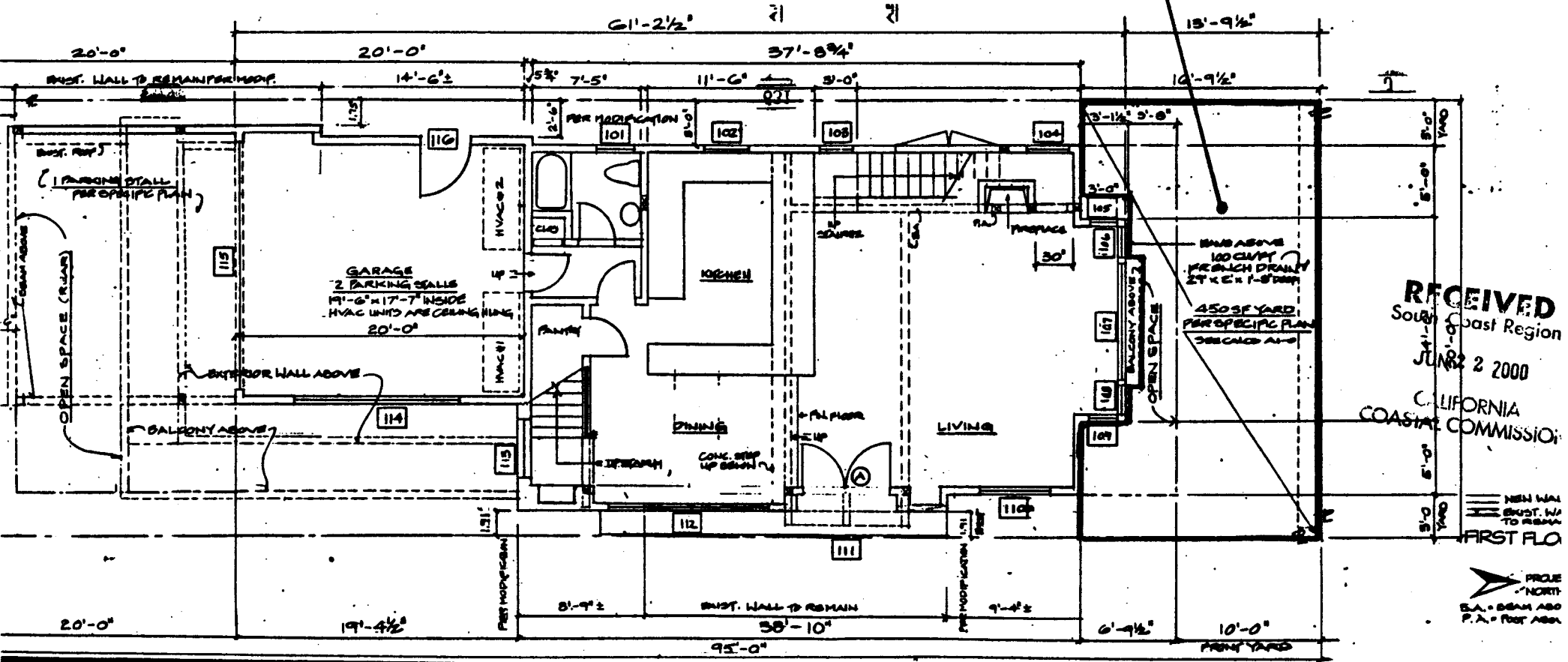
5. Drainage

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

# BUFFER/YARD REQUIRED BY SPECIFIC PLAN

REQUIRED AREA		dec ft	dec ft	450 SF
GROSS AREA PROVIDED	16'-9 1/2" X 30'	16.79	30	503.7
LESS PROJECTION IN FRONT YARD	3'-1 1/2" X 14'-0"	3.125	14	-43.75
LESS BALCONY PROJECTION		1.17	8.5	-9.945
BUFFER YARD PROVIDED (sf)				450.005

450 SF  
Front Yard  
Setback



**RECEIVED**  
South Coast Region  
JUN 22 2000  
CALIFORNIA  
COASTAL COMMISSION

NEW WALL  
EXIST. WALL  
TO REMAIN  
FIRST FLOOR

PROJ. NORTH  
S.A. - SEAM AND  
P.A. - FOOT AREA

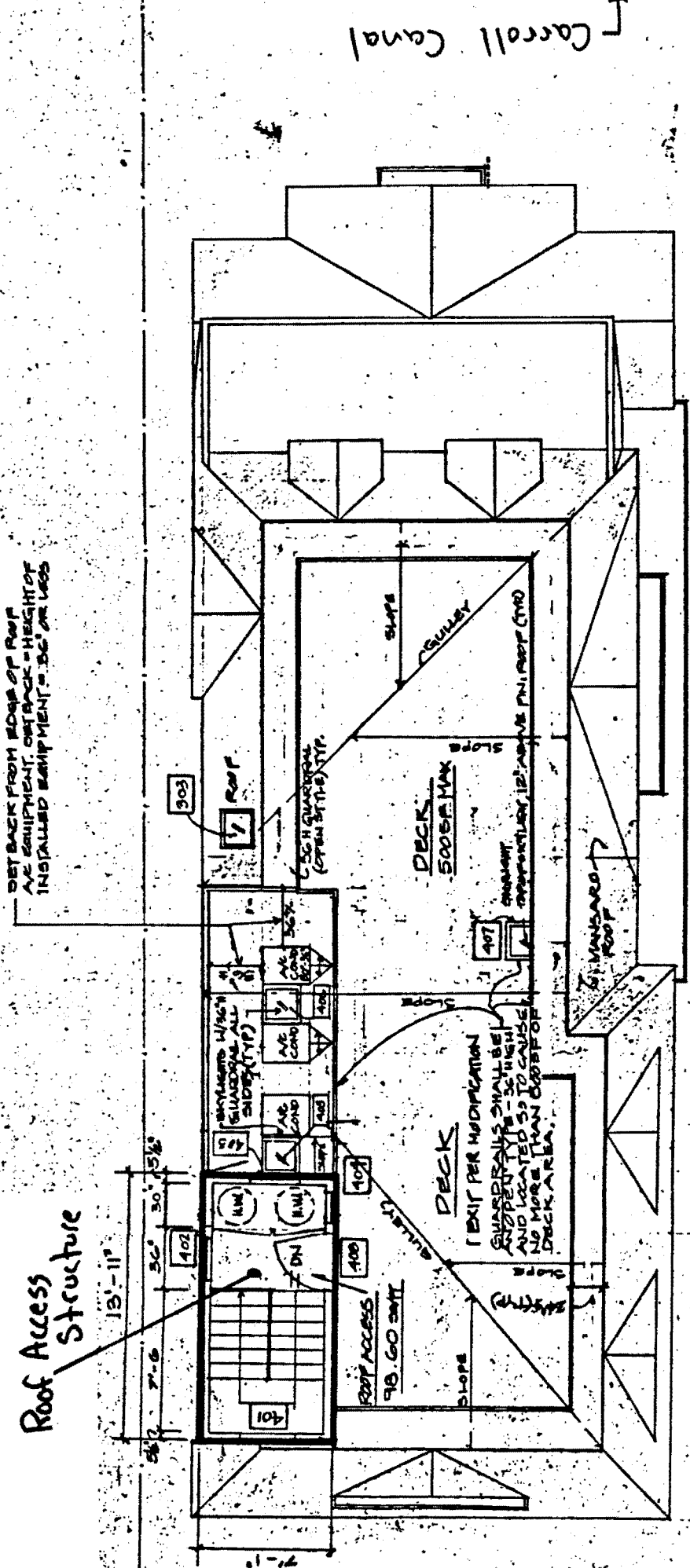
**COASTAL COMMISSION**

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EXHIBIT # 4

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**Roof Access Structure**



DET BACK FROM EDGE OF ROOF  
 AC EQUIPMENT. DET BACK = HEIGHT OF  
 INSTALLED RAMPMENT = 30" OR LESS

303

ROOF

50' H GUARDRAIL  
 (COMP BY THE CITY)

DECK  
 50055 MAX

EXIT PER MODIFICATION  
 GUARDRAILS SHALL BE  
 30 INCH HIGH  
 AND LOCATED SO TO CAUSE  
 NO MORE THAN 12" OF OPEN  
 DECK AREA.

497

MANHOLE

362

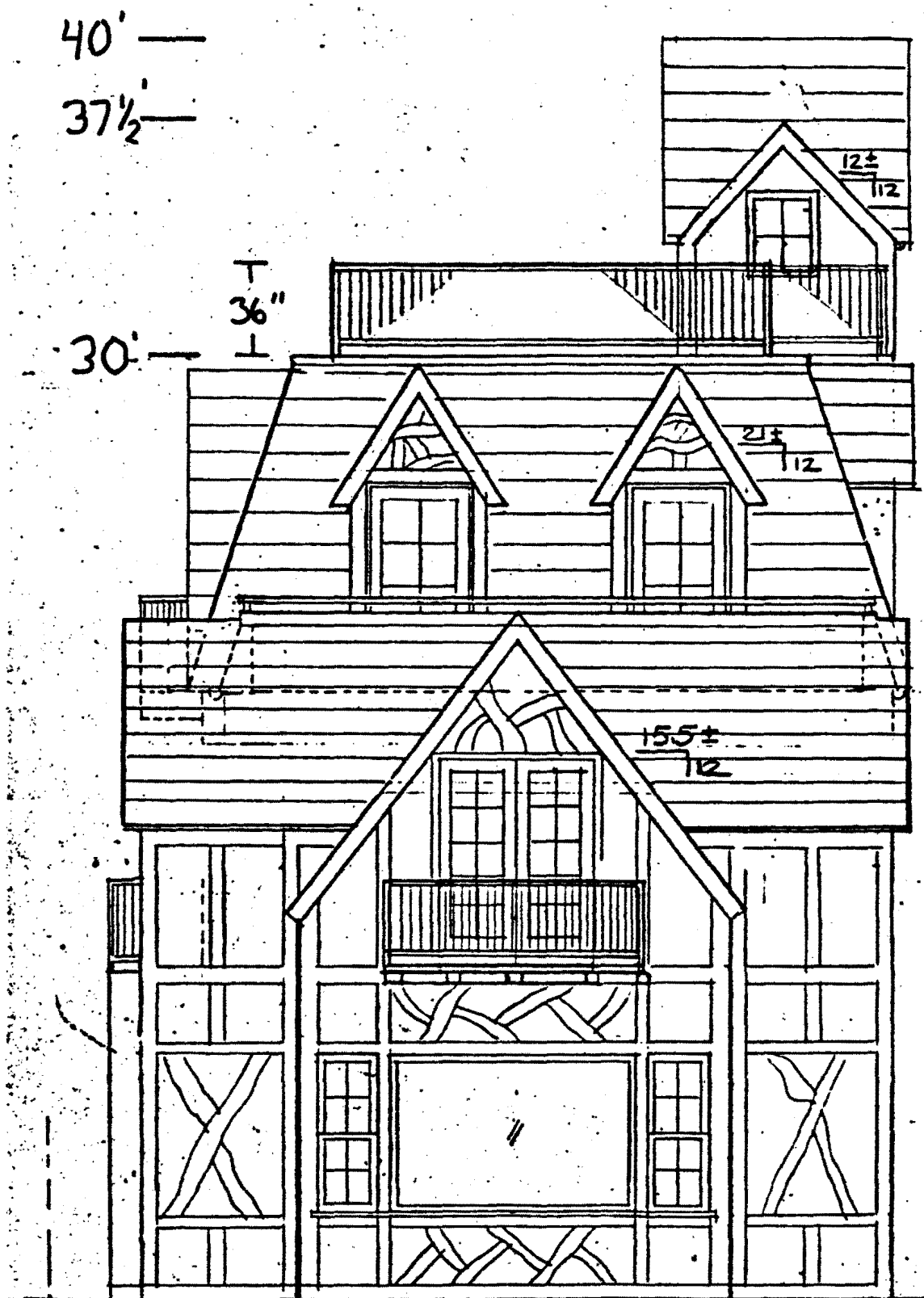
MANHOLE

Carroll Canal

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Eastern Canal

Eastern Canal



NORTH ELEVATION

Carroll Canal

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EXHIBIT # 6

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40' —  
— 37 1/2'

123  
112

MANSARD ROOF (TYP) 35.5 ±  
112

— 30

102  
112

20.05 ±  
112

95.5 ±  
112

20 ±  
112

EAST ELEVATION

66'

To Canal  
Walk

COASTAL COMMISSION

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EXHIBIT # 7

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