

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 200 Oceangate, Suite 1000
 Long Beach, CA 90802-4302
 (2) 590-5071

Filed: 7/16/01
 49th Day: 9/3/01
 Open & Cont. 8/6/01
 Staff: AM-LB JM
 Staff Report: 9/19/01
 Hearing Date: October 8, 2001
 Commission Action:

**Mon-7b RECORD PACKET COPY****STAFF REPORT: APPEAL/SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Los Angeles
LOCAL DECISION: Approval with Conditions
APPEAL NUMBER: A-5-VEN-01-272
APPLICANT: Don Elster
AGENT: Guy Bartoli
PROJECT LOCATION: 3511 Via Dolce, Venice, City of Los Angeles.

PROJECT DESCRIPTION: Appeal of City of Los Angeles approval of coastal development permit for construction of a three-level (with a fourth level roof access structure), 38-foot high, 3559 square foot single family home, on a vacant 2,908 square foot, canal fronting lot, with a 14.5' first floor and 12.5 second and third floor canal fronting setback (10 feet including an overhanging balcony).

APPELLANTS: Coastal Commission Executive Director Peter Douglas

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **a substantial issue exists** with respect to the proposed project's conformance with the Chapter 3 policies of the Coastal Act for the following reasons:

The local coastal development permit does not adequately analyze and mitigate the potential impacts that the construction of the proposed project may have on the sensitive habitat areas and water quality in and adjacent to Grand Canal and the community character and visual quality of the surrounding area. The local coastal development permit is inconsistent with the Commission certified Land Use Plan for Venice and would prejudice the implementation of a Local Coastal Program.

The motion to carry out the staff recommendation is at the **top of Page Six**.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles certified Land Use Plan for Venice, 6/12/01.
2. City of Los Angeles Local Coastal Development Permit No. 2000-2608.
3. Los Angeles City Council File No. 01-0648
4. Coastal Development Permit Application 5-00-351 (Elster).
5. Coastal Development Permit No. 5-98-193 (Frye)
6. Biota of the Ballona Region, Los Angeles County, by Ralph W. Schreiber, 1981.

I. APPELLANTS' CONTENTIONS

City of Los Angeles Local Coastal Development Permit No. 2000-2608-SPE CDP PP ZV and City Council File No. 01-0648 (Exhibit #2), approved by the Los Angeles City Council on May 16, 2001, has been appealed by the Executive Director of the Coastal Commission.

The grounds for the appeal by the Executive Director are:

- The local coastal development permit does not adequately analyze and mitigate the potential impacts of the proposed project on the sensitive habitat areas in and adjacent to Grand Canal, the visual quality of the surrounding community, and the water quality and biological productivity of Grand Canal and Ballona Lagoon.
- The approved local coastal development permit is inconsistent with the Commission certified Land Use Plan for Venice and would prejudice the ability of the local government to prepare a Local Coastal Program in conformity with the provisions of Chapter 3 of the Coastal Act.

II. LOCAL GOVERNMENT ACTION

The development approved by the City of Los Angeles Local Coastal Development Permit No. 2000-2608-SPE-CDP-PP-ZV involves the construction of a three-story, 38-foot high, 3,559 square foot single family home, on a vacant 2,908 square foot canal fronting lot (See Exhibits). The single family home would have a 14.5-foot first floor and 12.5-foot second and third floor canal-fronting setback (Exhibit #6 & #8). The setback imposed by the City does not apply to balconies that overhang the canal-fronting yard area. The City approved project has a second and third floor balcony that is located 10 feet from the canal-fronting property line.

The West Los Angeles Area Planning Commission held a public hearing for the proposed project and Local Coastal Development Permit No. 2000-2608 on February 7, 2001. On February 12, 2001, the West Los Angeles Area Planning Commission issued a determination of approval for Local Coastal Development Permit 2000-2608 with special conditions (Exhibit #3). Within the Coastal Development Permit, the applicant requested and the City acted on a Venice Specific Plan Exception, a Specific Plan Project Permit, and a Yard Variance. The Planning Commission approved the Coastal Development Permit with conditions, the Yard

Variance, and the Specific Plan Project Permit. However, the Planning Commission did not approve the Specific Plan Exception that would have allowed the applicant to construct the proposed single-family home with a 12.5 and 14.5-foot canal-fronting setback. The Planning Commission required the applicant to provide a 20-foot canal-fronting setback.

On February 27, 2001, the applicant filed an appeal of the Planning Commission's decision to the Los Angeles City Council. On May 8, 2001, at a scheduled public hearing, the Planning and Land Use Management Committee recommended to the City Council that they reverse the Planning Commission's decision and grant the appeal filed by the applicant to allow a reduced canal fronting setback (Exhibit #4). On May 16, 2001, the City Council unanimously voted to adopt the report and findings within Permit No. 2000-2608-SPE-CDP-PP-ZV and City Council File No. 01-0648 (Exhibit #5).

On June 15, 2001, a valid Notice of Final Local Action for Local Coastal Development Permit No. 2000-2608/City Council File No. 01-0648 was received in the Commission's South Coast District office in Long Beach, and the Commission's required twenty working-day appeal period commenced.

The appeal by the Executive Director was filed on July 16, 2001. No other appeals were received. The Commission's required twenty working-day appeal period closed on July 16, 2001.

The Commission opened and continued the public hearing for the appeal of Local Coastal Development Permit No. 2000-2608/City Council File No. 01-0648 at its August 6, 2001 meeting in Redondo Beach.

Because the proposed project is located in the City and Commission's "Dual Permit Jurisdiction" area (see Section IV on Page Four), the applicant has submitted a separate coastal development permit application to the Commission for the proposed development (Coastal Development Permit Application 5-00-351). Coastal Development Permit Application 5-00-351 was completed on June 15, 2001 when the Commission received a valid Notice of Final Action from the City of Los Angeles.

If possible, the public hearings and actions for both the de novo portion of this appeal (if the Commission finds that a substantial issue exists) and Coastal Development Permit Application 5-00-351 will be combined and scheduled for concurrent action at the same future Commission meeting in Southern California.

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles

developed a permit program in 1978 to exercise its option to issue local coastal development permits. (c)

Sections 13302-13319 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act.

After a final local action on a coastal development permit, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice that contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission (Section 30602).

The appeal and local action are then analyzed to determine if a substantial issue exists as to the conformity of the project to Chapter 3 of the Coastal Act [Section 30625(b)(1)]. If the Commission finds that the appeal raises a substantial issue, the Commission then holds a public hearing in which it reviews the coastal development permit as a de novo matter.

In this case, a valid Notice of Final Local Action was received on June 15, 2001. The appeal by the Executive Director was filed on July 16, 2001. Section 30621 of the Coastal Act states that the appeal hearing must be scheduled within 49 days of the receipt of a valid appeal unless the applicant waives the 49-day requirement. In this case, the Commission opened and continued the public hearing on the appeal on August 6, 2001, at its meeting in Redondo Beach.

At this point, the Commission may decide that the appellants' contentions raise no substantial issue of conformity with the Coastal Act, in which case the action of the local government stands, or the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Section 13114 and 13057-13096.

IV. DUAL PERMIT JURISDICTION

Section 30601 of the Coastal Act states:

Prior to certification of the Local Coastal Program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) or (d) of Section 30600, a coastal development permit shall be obtained from the Commission for any of the following:

- (1) *Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
- (2) *Development not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream or within 300 feet of the top of the seaward face of any coastal bluff.*
- (3) *Any development which constitutes a major public works project or a major energy facility.*

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that the development which receives a local coastal development permit also obtain a "dual" coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (*Single Permit Jurisdiction*), the City of Los Angeles' local coastal development permit is the only coastal development permit required.

The proposed development is located on a flat graded lot above the banks of Grand Canal (Exhibit #2). Grand Canal is an extension of the sea, connected to the Pacific Ocean by Ballona Lagoon and the Marina del Rey entrance channel (Exhibit #1). This area that is located above the submerged area of the canal is within the coastal zone area of the City of Los Angeles that has been designated in the City's permit program as the "*Dual Permit Jurisdiction*" area pursuant to Section 13307 of the California Code of Regulations.

The Commission's standard of review for the proposed development in the *Dual Permit Jurisdiction* area is the Chapter 3 policies of the Coastal Act. The certified Venice LUP is advisory in nature and may provide guidance.

In regards to this appeal, if the Commission finds that a substantial issue exists with respect to the City's approval of the Local Coastal Development Permit No. 2000-2608/City Council File No. 01-0648, the subsequent *de novo* action on the local coastal development permit will also be combined with the required "dual" Coastal Commission coastal development permit application (Coastal Development Permit Application 5-00-351). The matter will not be referred back to the local government.

On the other hand, if the Commission finds that no substantial issue exists in regards to the City's approval of the local coastal development permit, then the local coastal development permit approved by the City will be final, and the Commission will act on the required "dual" Coastal Commission coastal development permit as a separate agenda item (Coastal Development Permit Application 5-00-351).

In order to minimize duplication, Commission staff intends to combine the *de novo* permit action for this appeal (if the Commission finds that a substantial issue exists) and Coastal Development Permit Application 5-00-351 into one staff report and one hearing for concurrent Commission action. If the Commission finds that a substantial issue exists, staff will schedule a combined hearing at a future Commission meeting in Southern California.

V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to whether the approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to PRC Section 30625(b)(1).

Staff recommends a **NO** vote on the following motion:

MOTION

*"I move that the Commission determine that Appeal No. A-5-VEN-01-272 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed."*

A majority of the Commissioners present is required to pass the motion.

Resolution to Find Substantial Issue

The Commission hereby finds that Appeal No. **A-5-VEN-01-272** presents a substantial issue with respect to conformity with the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The City approved local coastal development permit is for the construction of a new single family home. The new home consists of a three-level (with a fourth level roof access structure), 38-foot high, 3559 square foot single family home, on a vacant 2,908 square foot, canal fronting lot, with a 14.5' (from the first floor) and 12.5' (from the second and third floor) canal fronting setback (See Exhibits). The project includes a second and third floor balcony that encroaches into the canal fronting yard 10 feet from the canal-side property line. The project site is a 2,908 square foot lot situated on the east bank of Grand Canal in the Ballona Lagoon (Grand Canal) East residential area of Venice (Exhibit #2). The neighborhood is comprised of mostly new two and three-story single-family residences, and a few non-conforming duplexes. The subject property is one of the last two privately owned vacant lots in this section of the east bank of Grand Canal. Bordering the north side of the lot is a City of Los Angeles owned lot and to the south of the subject property is an existing single family home (Coastal Development Permit No. 5-98-193). A City owned right-of-way (Esplanade) is located between the privately owned lots and Grand Canal (Exhibit #1). The Esplanade provides public access, along both banks of this section of Grand Canal. The Esplanade fronting the subject property is buried under earth from years of erosion and tidal flooding. While the actual paved sidewalk currently lies underground, the City retains ownership and public access remains unimpeded.

B. Grand Canal

The Venice Canals are a unique cultural, historic and scenic resource of Southern California. The canals, which were created as part of the "Venice of America" subdivision in 1905, provide a sense of character and history for the Venice community. They also provide public access, recreation, and wildlife habitat. The canals, along with adjacent Ballona Lagoon, support some of the last remaining pockets of coastal wetland habitat in Los Angeles County.

The canals system fell into disrepair in the 1920's, and many of the original canals were filled by the City in 1927. The residents in the area have been attempting to restore the remaining canals since the 1960's. The Venice Canals located north of Washington Boulevard have already been rehabilitated (see Coastal Development Permit 5-91-584 & amendments). The Commission's South Coast District office has received an appeal on the City's action and a coastal development permit application for the rehabilitation of Grand Canal south of Washington Blvd. (A-5-VEN-01-280 and 5-01-289).

The Grand Canal neighborhood located south of Washington Boulevard is a residential community consisting of multi-family and single family homes located along the open waterway. The neighborhood is located about four blocks from Venice Beach, one of the most popular visitor destinations in Los Angeles. Most of the residences front on the canals and are accessed from the rear alleys or, in this case, Via Dolce, which run behind the homes. Public walkways, which are currently severely damaged or completely deteriorated, run along both sides of the canal and separate the private residences from the canal. The Esplanade fronting the subject property is buried under earth material from years of erosion and possible flooding.

Grand Canal and the rest of the Venice Canals are part of the Ballona Lagoon sea water system. Ballona Lagoon connects to the south end of Grand Canal (Exhibit #1). The northern Venice Canals are connected to the project site (Grand Canal) by five three-foot diameter pipes which pass beneath the Washington Boulevard bridge. All five pipes have slide gates on the north side of Washington Boulevard, which are operated by the City of Los Angeles to allow flushing of the Venice Canals. All of the water in the Venice Canals, except for discharges from stormdrains and other sources, originates in the Marina del Rey entrance channel and must pass through Ballona Lagoon and Grand Canal before it reaches the furthest reaches of the canals system. The water is discharged from the canals through the tide gates during outgoing tides at weekly intervals. This portion of Grand Canal is located on the site of a historic tidal channel.

C. Factors to be Considered in Substantial Issue Analysis

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appellant raises no significant questions". In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that a **substantial issue** does exist with respect to whether the approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

D. Substantial Issue Analysis

As stated in Section III of this report, the grounds for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act. Any such local government coastal development permit may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with the Chapter 3 policies of the Coastal Act. In this case, staff has recommended that a substantial issue does exist.

The appellant contends that the local coastal development permit does not adequately analyze and mitigate the potential impacts of the proposed project on the sensitive habitat areas and water quality in and adjacent to Grand Canal and the effects on community character and visual quality of the surrounding area. The local coastal development permit is inconsistent with the Commission certified Land Use Plan for Venice and would prejudice the implementation of a Local Coastal Program. The appellant further contends that the local coastal development permit violates Sections 30230, 30231, 30240, 30251, and 30253 of the Coastal Act.

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.

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 those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

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 surrounding areas....

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 project, as approved by the City of Los Angeles City Council, is for the construction of a three-story (with fourth level roof access structure), 38-foot high, 3,559 square foot single family home, on a vacant 2,907 square foot canal fronting lot, with a 14.5' first floor and 12.5' second and third floor canal fronting setback (10 feet including an overhanging balcony) (See Exhibits).

As mentioned previously, Grand Canal and the Ballona Lagoon wetlands system are considered environmentally sensitive areas that must be protected from the negative impacts associated with development. Grand Canal and Ballona Lagoon are habitat for many species

of marine biota, including the state and federally listed endangered least tern. The subject project is located adjacent to Grand Canal and its development would impact the wetlands system unless mitigated. The introduction of urban runoff, including pesticides, garden fertilizers, and other runoff from impervious surfaces, can reduce the water quality of the canals which directly impacts the biological productivity of the wetlands system.

The City's local coastal development permit allowed for a reduced building setback from the Esplanade (from 20 feet to 10 feet) and thus increasing impervious surfaces on the lot and encroachments toward Grand Canal. The City's coastal development permit did not address water quality impacts nor did it condition the project to mitigate for possible impacts to the wetlands system and the environmentally sensitive habitat. The City's permit was not consistent with the water quality and habitat policies of the Coastal Act (Section 30230, 30231, and 30240). Therefore, the Commission finds that a substantial issue exists with the City of Los Angeles approved coastal development permit.

The local coastal development permit allowed for the reduction of the front yard (canal facing) setback from 20 feet (the City's required setback) to 12.5 and 14.5 feet. The City also allowed the second and third floor balconies within 10 feet of the canal fronting property line. There are 19 separate legal lots along this stretch of Grand Canal along Via Dolce. Of these 19 lots there are currently 17 complete single family homes. The subject property and lot 18 are the only vacant lots remaining. The Commission initial required a 15-foot setback on all homes along Grand Canal. This setback was later amended to a 10-foot setback from the canal facing property line. While the Commission required various canal-fronting setbacks along Grand Canal, height limits were always imposed to reduce the impacts on the visual quality of the area and protect open bird flyways (see pg. 10-11 of this staff report).

The City of Los Angeles' Specific Plan for Venice, which became effective December 22, 1999, began requiring a 20-foot setback from the canal property line. In response to water quality issues, sensitive habitat loss, and the visual impacts of maximized building developments, the Land Use Plan for Venice requires a 15-foot average canal fronting setback with a minimum of 10 feet from the canal property line. This setback average took into account the Coastal Act issues as well as the existing pattern of development. While past setback requirements have differed over time, there has been an increased awareness concerning water quality and its effects on environmentally sensitive areas and to the public enjoyment of coastal locales.

There was no condition within the City coastal development permit that addressed issues due to water runoff, construction of impervious surfaces within the setback area, and findings that discussed such effects on the environmentally sensitive habitat (Exhibit #3-5). The permit also inadequately addressed the development's impacts with regard to the visual quality and community character with the Grand Canal/Ballona Lagoon neighborhoods. A canyon-like effect can be created when structures are built in close proximity to the canals. This massing effect can not only have affects on the enjoyment of the visual qualities of the coastal neighborhood but also negatively impact bird flyways¹.

¹ Biota of the Ballona Region, Los Angeles County, by Ralph W. Schreiber, 1981, pg. Bi-27 to 28.

In a survey and study conducted by Charles F. Dock and Ralph W. Schreiber of the birds of the Ballona wetlands area analysis was done to observe bird nesting, flight, and habitat patterns. The study states:

The lagoon... provides useful habitat for a variety of wild bird species. It would be preferable to maintain access to the lagoon for migrant and wintering species. To this end, the mouth of the lagoon should be kept free of obstructions as much as possible, as most birds appear to enter the lagoon from the marina channel.... Tall buildings immediately surrounding the mouth of the lagoon might well discourage entrance to the lagoon, just as large structures around the entrance to the Venice Canal system appear to inhibit its use. The mudflats at either end of the lagoon should be maintained, and tidal flow should be largely unrestricted. This combination would insure the maintenance of foraging and resting grounds for shorebirds and the survival of their invertebrate and vertebrate prey. ... Limiting the height of buildings immediately adjacent to the lagoon would also be preferable. Tall buildings along the banks would create an artificial "canyon effect" and would be likely to discourage bird use, much as it appears to do in the canal system. Multi-story structures in the immediate vicinity are probably an important factor in limiting water and shorebird use of the Los Angeles County Bird Conservation Area.... The buffer zone along the lagoon could be landscaped in such a way to improve its aesthetic appeal and also provide some protection from human disturbances for the birds.

In response to the research and analysis done by Dock and Schreiber, the Commission found that both the height and setback distance of new development would affect bird flight and habitat patterns. Not only does the Commission require established setbacks and height limits to protect the visual quality of the surrounding area, but also to lessen the impact that massing of development would ultimately have on the abundant bird populations of Ballona Lagoon and the Venice Canals system.

The canal fronting lots and the canals themselves are small in scale. By allowing the development to reduce its front yard setback the local coastal development permit has decreased the area between the canals, which impacts the visual quality and character of the surrounding community. The applicant has contended that many homes in this section of Grand Canal were allowed to build with reduced canal fronting setbacks. He also contends that the subject lot is small in comparison to other lots (80' x 35') and the reduced setback would not impact the character of the community. However, the City local coastal development permit did not adequately address the visual quality and community character issues related to the project in its coastal development permit findings. There was no discussion concerning the consistency of Section 30251 and 30253 of the Coastal Act as it relates to a reduced canal-fronting setback. Therefore, the Commission finds a substantial issue exists with the City of Los Angeles local coastal development permit with regards to the visual quality and character of the surrounding Venice community.

In addition, the maximum height of the City approved project is 41 feet, as measured from the finished grade (taken from the canal facing side of the home) (Exhibit #8 & #9). This is the side of the home that those enjoying the public walkways along Grand Canal would see. The home consists of three levels plus a fourth level used for roof access, washer/drier room, and storage room. This fourth level is approximately 19.5 feet wide and 22.5 feet long. The 19.5-foot width is across the 28-foot wide, third level of the single family home (Exhibit #7). Therefore, the roof access structure appears to be a fourth floor from the Grand Canal public

side walks. The height of the home approved under the City local coastal development permit, in addition to the reduced setback, would impact the visual quality and character of the Grand Canal community and the Commission finds such a project inconsistent with Section 30251 and 30253 of the Coastal Act. Therefore, the Commission finds a substantial issue exists with the City of Los Angeles local coastal development permit.

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The Los Angeles City Council adopted a proposed Land Use Plan (LUP) for Venice on October 29, 1999. On November 29, 1999, the City submitted the draft LUP for Commission certification. On November 14, 2000, the Commission approved the City of Los Angeles Land Use Plan for Venice with suggested modifications. On March 28, 2001, the Los Angeles City Council accepted the Commission's suggested modifications and adopted the Venice LUP as it was approved by the Commission on November 14, 2000. As mentioned previously, the City of Los Angeles does not have a complete Local Coastal Program. The Land Use Plan is used as guidance until the City of Los Angeles completes the implementation section of the Local Coastal Program (Local Implementation Plan).

The Commission finds that the City's approval of local coastal development permit No. 2000-2608 and City Council File No. 01-0648 is inconsistent with the Land Use Plan for Venice.

The Venice LUP contains the following policies:

Policy IV. C. 1. Stormwater Runoff. *All new public and private development, substantial rehabilitation, redevelopment or related activity, which discharges stormwater runoff into the Ocean, Ballona Lagoon, Grand Canal south of Washington Boulevard or the Venice Canals shall be designed and conducted in compliance with the County-wide Municipal National Pollution Discharge Elimination System (NPDES) Stormwater Permit, issued by the California Regional Water Quality Control Board (RWQCB), the RWQCB approved Standard Urban Stormwater Mitigation Plan, and the NPDES General Permit for Stormwater Discharges Associated with Construction Activity, issued by the State Water Resources Control Board (SWRCB), where applicable. Methods to improve water quality, such as the mitigation of the first-flush stormwater runoff entering coastal waterways, shall be imposed as conditions of development by the City of Los Angeles in accordance with SWRCB and RWQCB recommendations and regulations, and the Santa Monica Bay Restoration Project Action Plan in order to protect, restore, and where feasible, enhance the water quality and habitat of these waterways.*

Policy IV. C. 2. Water Quality. *The methods to improve water quality, recommended in California's Plan for the Control of Non-Point Source Pollution (January 2000), such as watershed planning and management programs, and habitat restoration projects, shall be considered and implemented by the City of Los Angeles where feasible opportunities exist. Selected Best Management Practices (BMPs) or suites of BMPs shall be designed to treat, infiltrate or filter the stormwater runoff from each runoff event up to and including the 85th percentile, 24-*

hour runoff event for volume based BMPs and/or the 85th percentile, 1 hour event, with an appropriate safety factor, for flow-based BMPs.

Policy I. E. 2. Scale: New development within the Venice Coastal Zone shall respect the scale and character of community development. Buildings which are of a scale compatible with the community (with respect to bulk, height, buffer, and setback) shall be encouraged. All new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods. Lot consolidation shall be restricted to protect the scale of existing neighborhoods. Roof access structures shall be limited to the minimum size necessary to reduce visual impacts while providing access for fire safety. In visually sensitive areas, roof access structures shall be set back from public recreation areas, public walkways, and all water areas so that the roof access structure does not result in a visible increase in bulk or height of the roof line as seen from a public recreation area, public walkway, or water area. No roof access structure shall exceed the height limit by more than ten (10') feet. Roof deck enclosures (e.g. railings, and parapet walls) shall not exceed the height limit by more than 42 inches and shall be constructed of railings or transparent materials. Notwithstanding other policies of this LUP, chimneys, exhaust ducts, ventilation shafts, and other similar devices essential for building function may exceed the specified height limit in a residential zone by five feet.

Ballona Lagoon (Grand Canal) East Bank (Policy I. A. 7. a.)

Grand Canal Buffer/Setback: In order to provide a setback for public access, visual quality, and to protect the biological productivity of the canals, an average of 15 feet, but not less than 10 feet, shall be maintained in the front yard adjacent to the canal property line.

Yards: Minimum side yard of 3½ feet. An open, permeable yard of at least 450 square feet for a 30-foot wide lot, and at least 600 square feet for a 40-foot wide lot, shall be maintained between the canal property line and the front of any structure. A minimum 10-foot front yard setback, with a required 15-foot setback average, shall provide the required permeable front yard area. No building extensions, including stairs and balconies, shall be placed in or over the required permeable front yard area with the exception of permeable decks. The total combined height of any deck, deck railings, garden walls, and/or fences situated within the required permeable front yard area shall not exceed 6 feet above the elevation of the adjacent public sidewalk.

Height: Not to exceed 30 feet within 60 horizontal feet of the inland side of the Esplanade (City right-of-way). Beyond the 60 horizontal feet, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of 38 feet. No portion of any structure (including roof access structures, roof deck railings, and architectural features) shall exceed the 30-foot height limit within 60 horizontal feet of the inland side of the Esplanade (City right-of-way). Notwithstanding other policies of this LUP, chimneys, exhaust ducts, ventilation

shafts, and other similar devices essential for building function may exceed the specified height limit in a residential zone by five feet.

Fill: No fill shall be permitted in Grand Canal

The local coastal development permit allows a reduced canal facing setback (10 feet) and does not require the applicant to provide a 15-foot average permeable front yard setback from the canal-facing property line. The permit also authorizes the height of the single family home to exceed the 30 to 38-foot height limit as required in the LUP for Venice. This is inconsistent with Policy IV. C. 1. and 2., Policy I. E. 2., and Policy I. A. 7. a. of the Venice Land Use Plan. Therefore, the Commission finds that the City local coastal permit will prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act and also finds that the City's permit raises a substantial issue.

E. Conclusion

Because of the importance of the Coastal Act issues raised by the appellants, the proposed project must be reviewed and considered by the Commission pursuant to the Chapter 3 policies of the Coastal Act. The Commission finds that a substantial issue exists with respect to the proposed project's conformance with the Chapter 3 policies of the Coastal Act and with the City's approval of Local Coastal Development Permit No. 2000-2608/City Council File No. 01-0648 because the local coastal development permit does not adequately analyze and mitigate the potential impacts of the proposed project on the sensitive habitat areas and water quality issues in and adjacent to Grand Canal and the impacts to the visual quality and character of the surrounding community. The Commission has also found that the local coastal development permit would prejudice the City's ability to prepare a Local Coastal Program consistent with the Chapter Three policies of the Coastal Act.

The Commission will have the opportunity to review and act on the proposed project at the subsequent de novo hearing, and after the public hearing for Coastal Development Permit application 5-00-351 which will be scheduled for concurrent hearing and action with the de novo permit. The Commissions' actions on the de novo permit and Coastal Development Permit application 5-00-351 will ensure that the proposed project will protect the ESHA, water quality, marine resources, public access, coastal views, and community character as required by the Coastal Act.

End/am

VENICE, CA

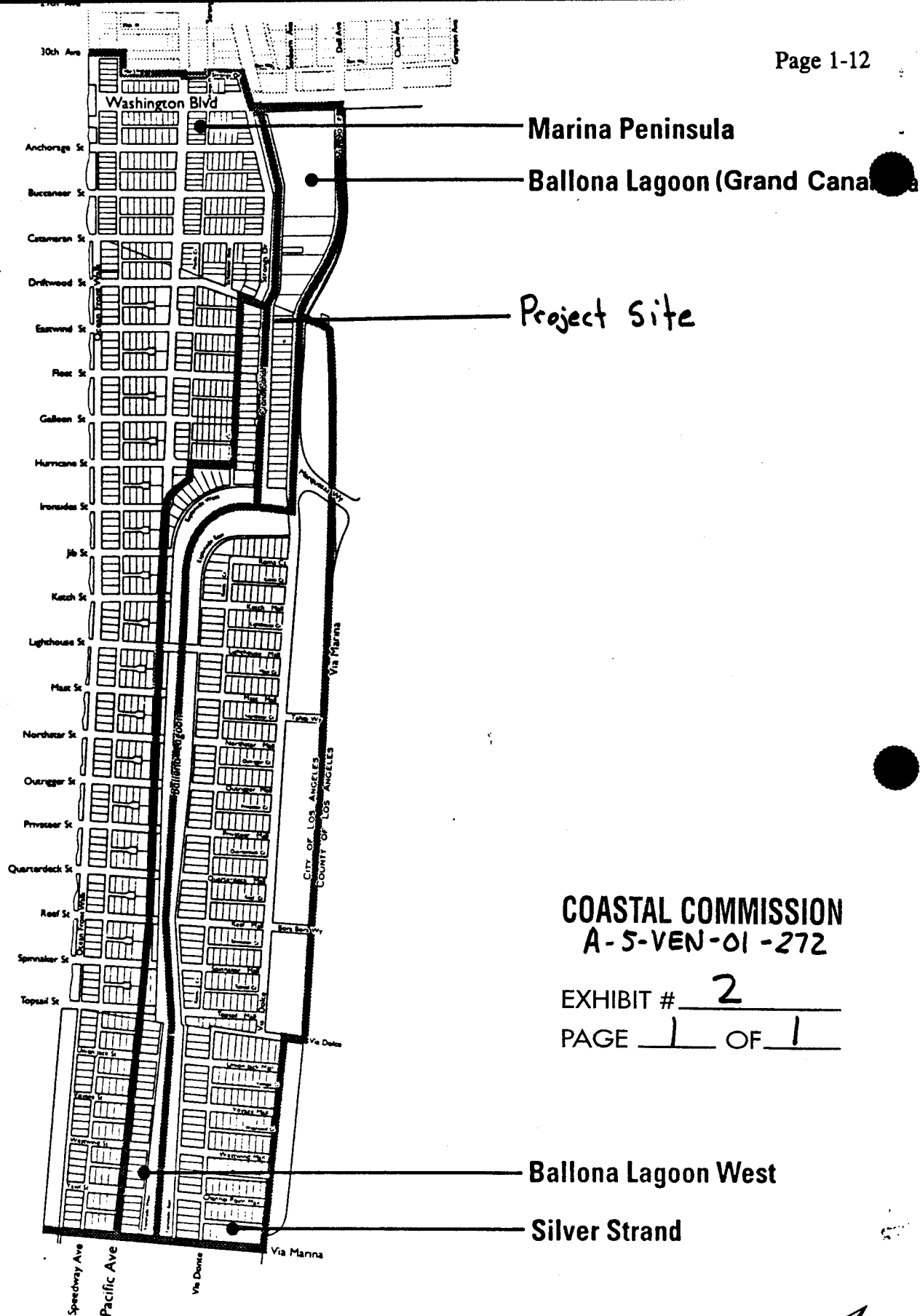


Site Location

COASTAL COMMISSION
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EXHIBIT # 1

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Marina Peninsula

Ballona Lagoon (Grand Canal)

Project Site

COASTAL COMMISSION
A-5-VEN-01-272

EXHIBIT # 2

PAGE 1 OF 1

Ballona Lagoon West

Silver Strand

Exhibit 4

Subarea: Marina Peninsula • Silver Strand •

Ballona Lagoon West • Ballona Lagoon (Grand Canal) East



5. **Coastal Development Permit Findings.** Pursuant to Municipal Code Section 12.20.2.G:

In order for an **Coastal Development Permit** to be granted, all of the findings mandated in Section 12.20.2.G must be made.

- a. *That the development is in conformity with Chapter 3 of the California Coastal Act of 1976 (commencing with Section 30200 of the California Public Resources Code).*

Applicable sections of the Public Resource Code are as follows:

- Public access

The proposed project will not impede public access from Via Dolce to the Grand Canal. Sufficient access is available from the surrounding areas to the canal and access between the site and the canal shall be maintain.

- Environmental impacts

The project shall incorporate mitigation identified in MND 2000-2609 in order to mitigate any potential impact during the construction phase of the project. Impacts could arise from grading and drainage, but these will be mitigated to a level of insignificance through the attached conditions of approval.

- b. *That the permitted development will not prejudice the ability of the City of Los Angeles to prepare a local coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976.*

The City has a proposed Local Coastal Plan (LCP) for Venice, which is pending certification by the Coastal Commission. This project will not change or impede the adoption and certification of the local coastal program.

- c. *That the Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed, and considered in light of the individual project in making its determination.*

Such guidelines are designed to provide direction to decision makers in rendering discretionary determinations on requests for coastal developments permits pending the adoption of an LCP. In this instance, the there are no interpretive guideline standards concerning the area west of the Grand Canal and south of Washington Boulevard.

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EXHIBIT # 3

PAGE 1 OF 2

- d. *That the decision of the permit-granting authority has been guided by any applicable decision of the California Coastal Commission pursuant to Section 30625 (c) of the Public Resources Code.*

This project is in the dual coastal permit jurisdiction. This action will not preclude the Coastal Commission from further condition the project to address any concerns they may have in there review process.

- e. *If the development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.*

The project site will not block or hinder any access to the canal water way and will maintain public access laterally between the site and the canal. The proposed project will not impede public access from Via Dolce to the Grand Canal. Sufficient access is available from the surrounding areas to the canal.

- f. *Any other finding or findings as may be required for the development by the California Environmental Quality Act.*

The City Planning department of the City of Los Angeles has proposed that mitigated negative declaration , MND-2000-2609-CDP(PP)(YV)(SPE) , be adopted for this project because the mitigation measures outlined in the document will reduce any potential significant impact to a level of insignificance

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EXHIBIT # 3
PAGE 2 OF 2

Your **PLANNING AND LAND USE MANAGEMENT** Committee

reports as follows:

Public Comments Yes No
XX —

MITIGATED NEGATIVE DECLARATION and PLANNING AND LAND USE MANAGEMENT COMMITTEE REPORT relative to specific plan exception appeal to reduce the front yard setback for the construction of a 3,559 square-foot family dwelling at 3511 Via Dolce and 3512 Grand Canal Esplanade.

Recommendations for Council action:

1. FIND that this project will not have a significant effect on the environment, pursuant to the City's Environmental Guidelines and in compliance with the California Environmental Quality Act of 1970; that the Mitigated Negative Declaration reflects the independent judgment of the lead agency City of Los Angeles; that the documents constituting the record of proceedings in this matter are located in Council File No. 01-0648 in the custody of the City Clerk and in the files of the Department of City Planning in the custody of the Environmental Review Section; and ADOPT the Mitigated Negative Declaration [MND No. 2000-2609 SPE-CDP-PP-YV].
2. ADOPT the FINDINGS of the Planning and Land Use Management Committee as the findings of Council.
3. RESOLVE TO GRANT APPEAL filed by Don Elster, applicant, from the determination of the West Los Angeles Area Planning Commission (APC), and THEREBY APPROVE Specific Plan Exception to reduce front yard setback from 20 feet to 12.5 to 14.5 feet for the construction of a three-story, approximately 3,559 square-foot family dwelling and two-car garage at 3511 Via Dolce and 3512 Grand Canal Esplanade.

Applicant: Don Elster ZA 2000-2608 SPE CDP PP ZV

Fiscal Impact Statements: None submitted by the Planning Department. Neither the Office of Administrative and Research Services nor the Chief Legislative Analyst has completed a financial analysis of this report.

10 VOTES REQUIRED FOR COUNCIL ACTION **COASTAL COMMISSION**
TIME LIMIT FILE - MAY 29, 2001 A-5-VEN-01-272

(LAST DAY FOR COUNCIL ACTION - MAY 29, 2001) EXHIBIT # 4

Summary:

PAGE 1 OF 2

At its meeting held May 8, 2001, the Planning and Land Use Management Committee conducted a public hearing on an appeal filed

by Don Elster, applicant, from the determination of the West Los Angeles APC in denying the Specific Plan Exception to reduce the front yard setback from 20 feet to 12.5 to 14.5 feet for the construction of a three-story, approximately 3,559 square-foot family dwelling and two-car garage at 3511 Via Dolce and 3512 Grand Canal Esplanade. A representative of the Planning Department presented the case to the Committee. A hardship does exist in that the applicant's property is smaller than other properties located along the canal. While the new Venice Specific Plan stipulates a front yard setback of 20 feet, the average setback for existing homes is only 15 feet. The prevailing setback is 12.3 feet.

During the public comment period, the appellant stated the vacant lot he owns at 3511 Via Dolce and 3512 Grand Canal Esplanade cannot be developed under the terms of the existing Venice Specific Plan. The current front yard setback doubles the setback required by the previous Plan. The applicant's architect built ten other homes located along the canal, each with a front yard setback of only 10 feet. It was stated that the proposed home would be located next to a City-owned filtering system and would not impact the environment or the view of neighbors. A local resident stated that while he supports the construction of a house at this location, he was concerned its reduced setback would increase noise along the canal by creating an echo effect. A representative of the Sixth Council District stated that Councilmember Galanter supports the applicant's appeal inasmuch as it complies with the language of the new Venice Specific Plan soon to be adopted by the City Council.

Acknowledging Council Office support and the project's consistency with the new Venice Specific Plan, the Planning and Land Use Management Committee recommended that Council grant the applicant's appeal, thereby approving the Specif Plan Exception to reduce front yard setback, from 20 feet to 12.5 to 14.5 feet at 3511 Via Dolce and 3512 Grand Canal Esplanade.

Respectfully submitted,

PLANNING AND LAND USE MANAGEMENT COMMITTEE

Del B...
Cindy Muschinski
Mike...

JAW:ys
5/10/01
ZA 2000-2608-SPE-CDP-PP-ZV
Attachment: Conditions of Approval
CD 6

PHC-
MT, NEA DEC,
REPT & FINDINGS
ADOPTED

Note: (Notice has been published not less than 24 days prior to the public hearing date pursuant to Sections 12.24 I3 and 12.24 D2(b) Los Angeles Municipal Code).

MAY 16 2001
LOS ANGELES CITY COUNCIL

COASTAL COMMISSION
A-5-VEN-01-272

EXHIBIT # 4
PAGE 2 OF 2

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705
Fax: (213) 847-0636
Fax: (213) 485-8944

HELEN GINSBURG
Chief, Council and Public Services Division

J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

01-0648

CD 6

May 31, 2001

JUN 05 2001

FILED

CORRECTED LETTER
SEE CORRECTION TO ENTITLEMENT
CONDITION NO. 1

Planning Commission
Honorable Richard Riordan, Mayor
Councilmember Galanter
Director of Planning
Planning Department,
Community Planning Section
cc: GIS Section - Attn: Fae Tsukamoto
221 N. Figueroa St., Room 900
Fire Department

Bureau of Engineering,
Land Development Group
Department of Transportation,
Traffic/Planning Sections
Department of Building & Safety
c/o Zoning Coordinator
Bureau of Street Lighting,
"B" Permit Section

California Coastal Commission
South Coast Area Office
200 Oceangate, 10th Fl., Ste. 1000
Long Beach, CA 90802-4302

Los Angeles County Assessor
500 W. Temple St., Room 320
Hall of Administration
Los Angeles, CA 90012

ADDITIONAL NOTIFICATIONS ON FOLLOWING PAGE

RE: SPECIFIC PLAN EXCEPTION APPEAL TO REDUCE THE FRONT YARD SETBACK FOR THE
CONSTRUCTION OF A 3,559 SQUARE-FOOT FAMILY DWELLING AT 3511 VIA DOLCE
AND 3512 GRAND CANAL ESPLANADE

At the meeting of the Council held May 16, 2001, the following
action was taken:

Attached report adopted	_____X_____
Findings adopted.....	_____X_____
Mitigated Negative Declaration adopted.....	_____X_____
Categorically exempt.....	_____

J. Michael Carey

City Clerk
bs

COASTAL COMMISSION
A-5-VEN-01-272

EXHIBIT # 5
PAGE 1 OF 5

CONDITIONS OF APPROVAL

Entitlement:

1. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application labeled Exhibit E-3, however the yard setback along the canal shall be 14.5 feet for the first and second stories and 12.5 feet for the third story of the dwelling, as measured from the applicant's property line.
2. The height of the project shall not exceed 38-feet as defined by the Department of Building and Safety.
3. The project shall comply with all the provisions of the Venice Specific Plan, Ord. No. 172,898.
4. The project shall be permitted to have 3-foot 6-inch sideyard setbacks.

Administrative:

5. Approval, Verification and Submittals. Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Planning Department for placement in the subject file.
6. Code Compliance. Area, height and use regulations of the RW2-1 zone classification of the subject property shall be complied with, except where herein modified .
7. Covenant. Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns. The agreement must be submitted to the Planning Department for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Planning Department for attachment to the file.
8. Definition. Any agencies, public officials or legislation

referenced in these conditions shall mean those agencies, public officials, legislation or their successors, designees or amendment to any legislation.

9. Enforcement. Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Planning Department and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
10. Building Plans. Page 1 of the grants and all the conditions of approval shall be printed on the building plans submitted to the City Planning Department and the Department of Building and Safety.

Environmental Conditions:

11. All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape plan, including an automatic irrigation plan, prepared by a licensed landscape architect to the satisfaction of the Planning Department.
12. The owners shall maintain the subject property clean and free of debris and rubbish and to promptly remove any graffiti from the walls, pursuant to Municipal Code Sections 91.8101-F, 91.8904-1 and 91.1707-E.
13. Outdoor lighting shall be designed and installed with shielding, so that the light source cannot be seen from adjacent residential properties
14. The design and construction of the project shall conform to the Uniform Building Code seismic standards as approved by the Department of Building and Safety.

Air Quality:

- All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50

w
v

percent.

- The owner or contractor shall keep the construction area sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind.
- All loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
- All materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
- All clearing, grading, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust.
- General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.

16 **Noise:**

- The project shall comply with the City of Los Angeles Noise Ordinance No. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
- Construction shall be restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturday.
- Construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
- The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.
- The project sponsor must comply with the Noise Insulation Standards of Title 24 of the California Code Regulations, which insure an acceptable interior noise environment.

17 **Grading:**

- Excavation and grading activities shall be scheduled during dry weather periods. If grading occurs during the rainy season (October 15 through April 1), construct diversion dikes to channel runoff around the site. Line channels with grass or roughened pavement to reduce runoff velocity.

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- Incorporate appropriate erosion control and drainage devices to the satisfaction of the Building and Safety Department , such as interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code, including planting fast-growing annual and perennial grasses in areas where construction is not immediately planned. These will shield and bind the soil.
- Stockpiles and excavated soil shall be covered with secured tarps or plastic sheeting.

18 **General Construction:**

- All waste shall be disposed of properly. Use appropriately labeled recycling bins to recycle construction materials including: solvents, water-based paints, vehicle fluids, broken asphalt and concrete; wood, and vegetation. Non recyclable materials/wastes must be taken to an appropriate landfill. Toxic wastes must be discarded at a licensed regulated disposal site.
- Clean up leaks, drips and spills immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains.
- Do not hose down pavement at material spills. Use dry cleanup methods whenever possible.
- Cover and maintain dumpsters. Place uncovered dumpsters under a roof or cover with tarps or plastic sheeting.
- Use gravel approaches where truck traffic is frequent to reduce soil compaction and limit the tracking of sediment into streets.
- Conduct all vehicle/equipment maintenance, repair, and washing away from storm drains. All major repairs are to be conducted off-site. Use drip pans or drop clothes to catch drips and spills.

19 **Flooding/Tidal Waves:**

- Compliance with the requirements of the Flood Hazard Management Specific Plan, Ordinance No. 154,405 (This does not apply should a waiver be given under provisions of the Flood Hazard Management Specific Plan.).

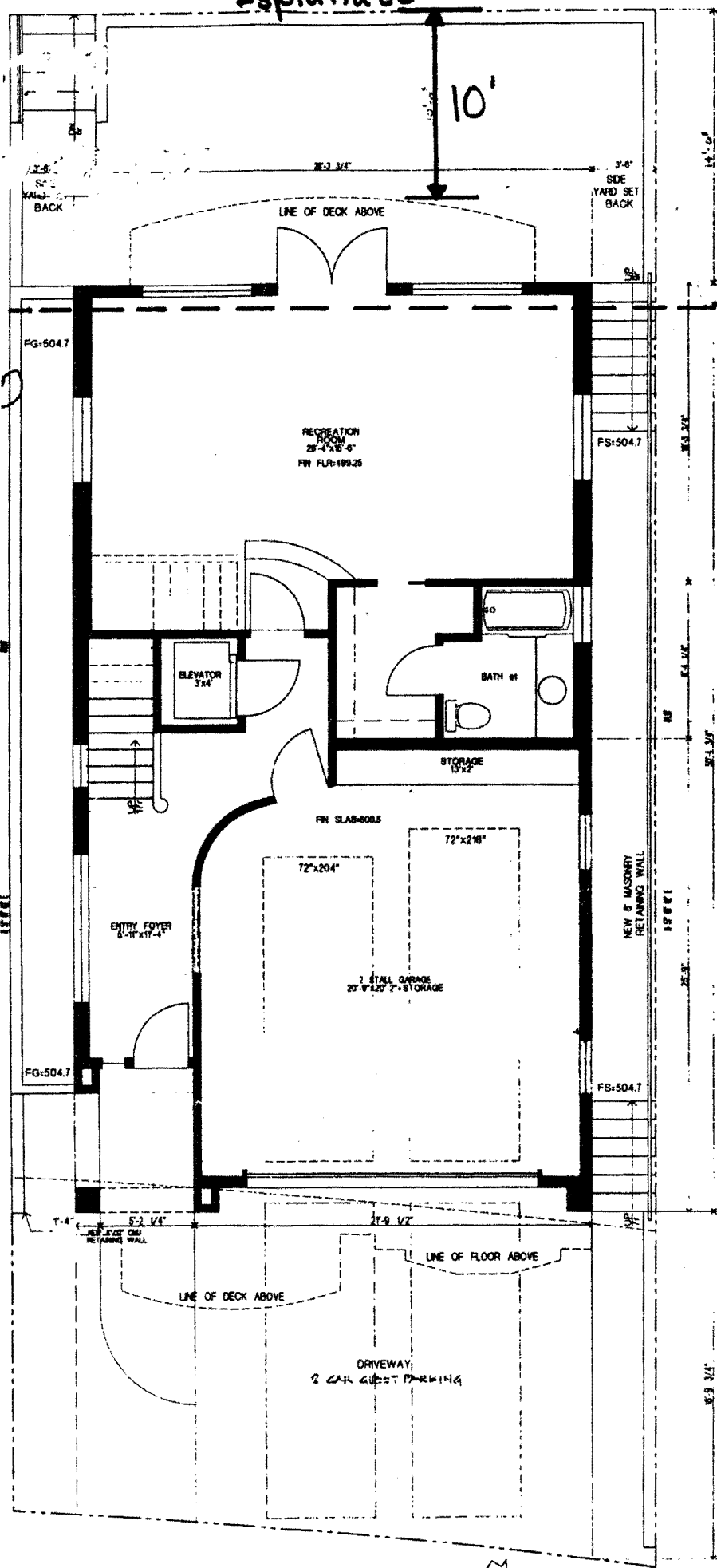
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COASTAL COMMISSION
A-5-VEN-01-272

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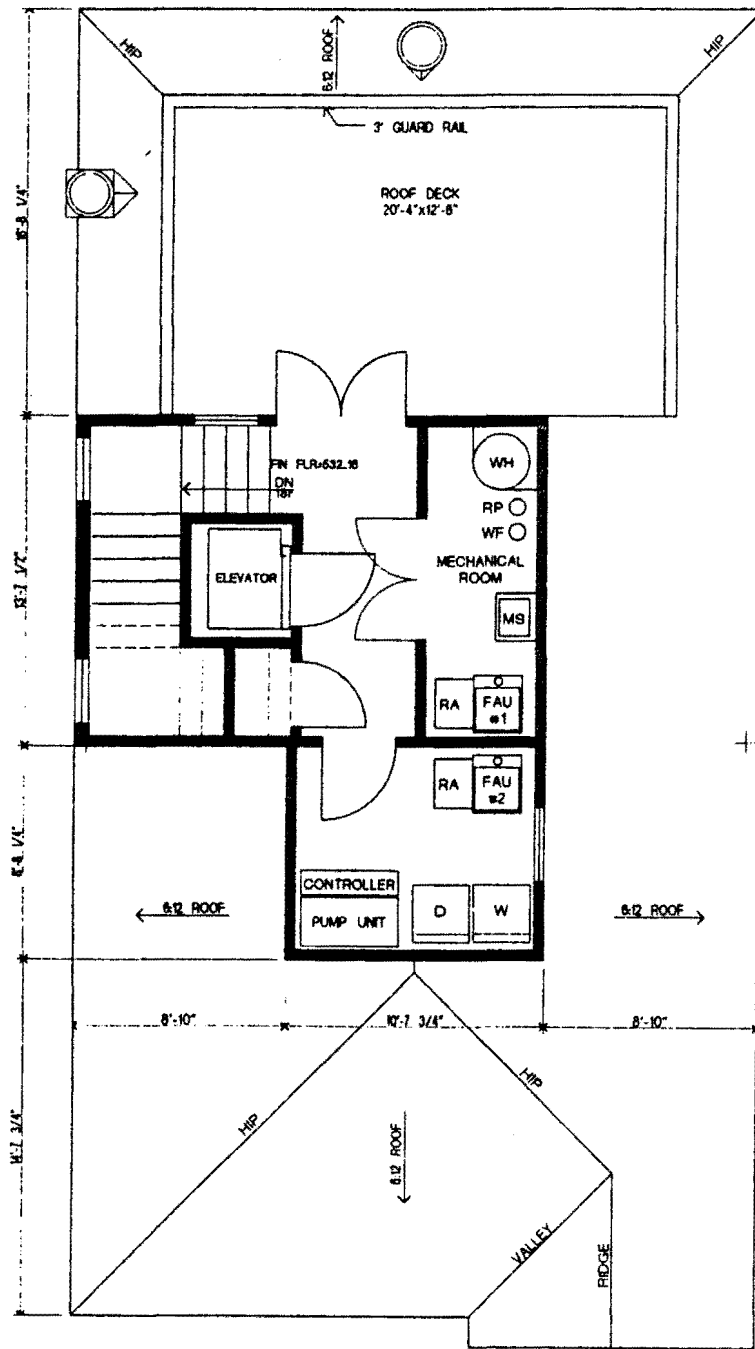
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EXHIBIT # 6
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BASEMENT FLOOR PLAN 



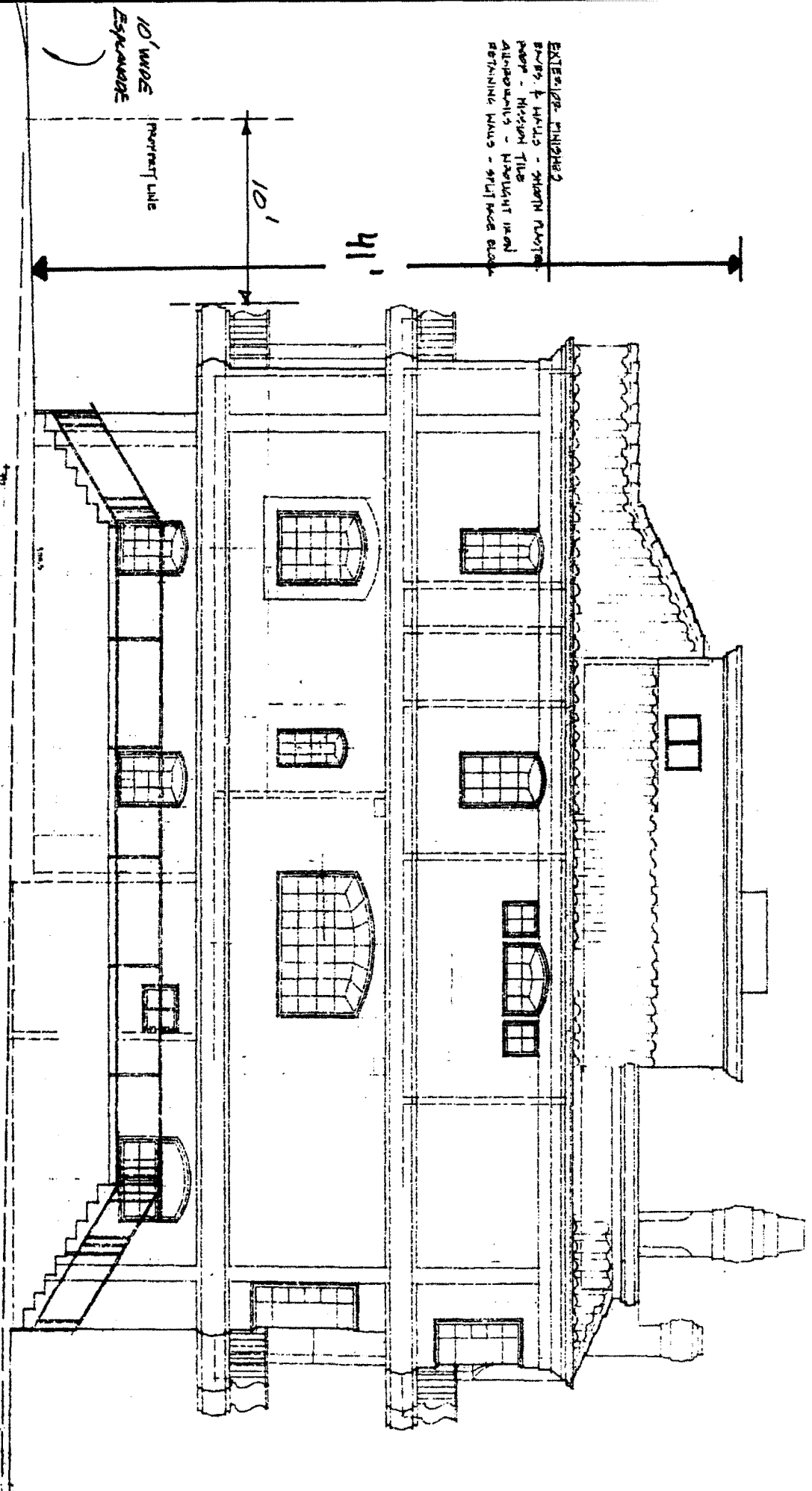
ROOF STRUCTURE PLAN
 SCALE: 1/8" = 1'-0"



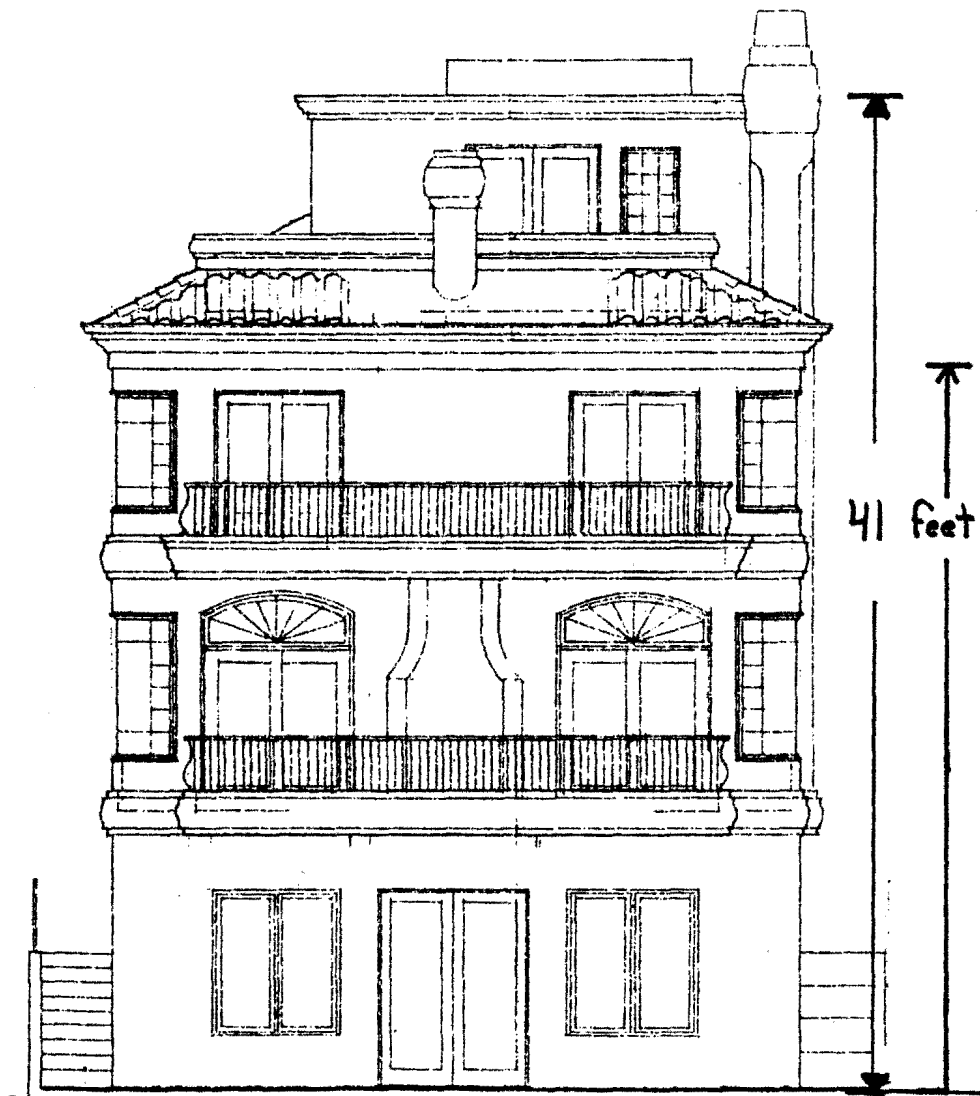
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EXHIBIT # 7
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EXTERIOR FINISHES
BRICK & STUCCO - STORM ROOF
PAPE - MISSION TILE
ALIGNMENTS - HORIZONTAL AND
RETAINING WALLS - 6" HIGH SIDE SLOPE



NORTH ELEVATION



WEST ELEVATION

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EXHIBIT # 9
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