

CALIFORNIA COASTAL COMMISSION

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Hearing Date: January 8, 2002
Commission Action:

**Item Tu9q****STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-01-307

APPLICANT: VDH Development

AGENT: Eric Lieberman, QES, Inc.

PROJECT LOCATION: 5110 Pacific Avenue (Lot 18, Block 1, Del Rey Beach Tract), Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Construction of a five-level, 38-foot high (above average grade), 3,942 square foot single family residence with an attached three-car garage on a vacant lagoon-fronting lot.

LOCAL APPROVAL: City of Los Angeles Specific Plan Project Permit, Case #DIR2001-2786.

RECORD PACKET COPY**SUMMARY OF STAFF RECOMMENDATION**

The issue before the Commission is the application of an adequate lagoon buffer between the western shoreline of Ballona Lagoon and proposed residential development. Ballona Lagoon is identified as a environmentally sensitive habitat area (ESHA). Therefore, all development must be set back from the ESHA in order to protect marine resources that exist in the wetland. In prior Commission approvals on the west bank of Ballona Lagoon, and as called for by the certified Venice LUP, a 25-foot structural setback must be maintained (measured from the property line nearest to the western shoreline). On most other west bank properties, however, the 25-foot setback requirement actually results in an approximate fifty-foot buffer between the water and the building because there exists additional bank area between the lagoon and the private lot (Exhibit #3). Such a wide bank does not exist between this applicant's lot and the shoreline. In this case, the applicant's property line intersects with the high water line (+2.65 MHTL: Exhibit #4).

Because of the lack of additional land between the applicant's lot and the water, the buffer between the development and the lagoon wetland will be less than that provided on other west bank properties. In order to maximize the size of the buffer, staff is recommending that the applicant provide a 29-foot structural setback which would result in all structures, including balconies, being set back 34-feet from the nearest wetland vegetation which is five feet seaward of the property line. The 29-foot setback is consistent with the setback approved on the only other existing residence on this block (Exhibit #4). The applicant's proposed plan would set the building (second floor balcony) back only 25 feet from the nearest wetland vegetation. The applicant objects to the recommended setback requirement, which is ten feet more than proposed. As proposed, the applicant would dedicate a fifteen-foot wide easement across the project site along the western shoreline for habitat protection and public access.

With the proposed easement dedication and the recommended 29-foot structural setback, staff recommends that the Commission grant a permit for the proposed development. The recommended special conditions would mitigate the proposed project's impacts on the wetland and other coastal resources by addressing building setback and height, landscaping, drainage, public access, parking and future improvements. **See Page Three for the motion to approve the coastal development permit.**

ADDITIONAL PROJECT DATA:

Lot Area	3,610 square feet
Building Coverage	1,740 square feet proposed
Pavement Coverage	1,200 square feet proposed
Landscape Coverage	670 square feet proposed
Parking Spaces	3
Zoning	RW1-1
Plan Designation	Single Family Residence - Waterway
Ht above average grade	38 feet

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles certified Land Use Plan for Venice, 6/12/01.
2. Venice Specific Plan, City of Los Angeles Ordinance No. 172,897.
3. Biological Resources Report (5106-5110 Pacific Avenue), by Impact Sciences, 9/17/01.
4. Coastal Development Permit Application 5-01-306 (VDH Development).
5. Coastal Development Permit Applications 5-01-257/A5-VEN-01-279 (City of LA).
6. Coastal Development Permit 5-95-152 & amendments (City of LA/BLMP/Conservancy).
7. Coastal Development Permit A-266-77 (ILA) & amendment.
8. Coastal Development Permit P-78-2737 (Sevilla & Dubin).
9. Coastal Development Permit P-78-3123/A-281-77 (Cashin).
10. Coastal Development Permit 5-85-371 (Wyatt).
11. Coastal Development Permit 5-86-819 (Rome).
12. Coastal Development Permit 5-87-500 (Rome).
13. Coastal Development Permit 5-88-1053 (Rome).
14. Coastal Development Permit 5-89-593 (MDR Properties).
15. Coastal Development Permit 5-97-220 (Paragon).
16. Coastal Development Permit 5-97-363 (Paragon).
17. Coastal Development Permit 5-98-328 (Paragon).
18. Coastal Development Permit 5-97-015 (Ganezer).
19. Coastal Development Permit 5-00-001 (Garcia).
20. Coastal Development Permit 5-00-161 (City of LA).
21. Proposal for The Restoration/Revegetation of the Western Bank of the Ballona Lagoon, by Roderic B. Buck, December 2001.
22. Conceptual Plan for Completion of Phase II Improvements of the Ballona Lagoon Enhancement Plan for the West Bank of Ballona Lagoon, BLMP, March 1999.
23. Ballona Lagoon Enhancement Ten-year Monitoring Plan, July 1996.
24. Ballona Lagoon Enhancement Plan, BLMP & State Coastal Conservancy, August 1992.
25. Biota of the Ballona Region, Los Angeles County Natural History Museum Foundation, Edited by Ralph W. Schreiber, 1981
26. Birds of Ballona, by Dock & Schreiber in Biota of the Ballona Region, 1981.
27. Avifauna of the Venice Canals by Charles T. Collins, Ph.D., 1986.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION

"I move that the Commission approve with special conditions Coastal Development Permit 5-01-307 per the staff recommendation as set forth below."

Staff recommends a **YES** vote which would result in the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned 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 of the Coastal Act. Approval of the permit 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the 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. Lagoon Buffer Strip

A fifteen-foot (15') wide lagoon buffer strip, measured from the easterly property line, shall be maintained between the approved development and Ballona Lagoon. Development or the placement of fill within the buffer strip is prohibited, with the exception of landscaping with plants native to the Ballona Lagoon habitat area and a Commission-approved pervious public walkway. The fifteen-foot (15') wide lagoon buffer strip is situated immediately inland of the ten-foot wide Esplanade West, an inundated City right-of-way. The fifteen-foot (15') wide lagoon buffer strip includes the proposed fifteen-foot (15') wide easement over the entire width of the applicant's property as described in Special Condition Two below.

All existing plants within the fifteen-foot (15') lagoon buffer strip and adjacent city property that are native to the Ballona Lagoon habitat area shall be preserved in place. The applicant shall remove by hand all non-native plants from the fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two below, and shall landscape and maintain the easement area with native plants consistent with the landscape plan approved pursuant to Special Condition Four. No grading, fill or construction shall occur within the buffer strip or within the adjacent City Esplanade or Ballona Lagoon.

2. Offer to Dedicate Easement for Public Access and Habitat Protection

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and in accordance with the applicant's offer to do so, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association acceptable to the Executive Director an easement for public access and habitat protection. The easement shall include a fifteen-foot (15') wide strip of land over the entire width of the applicant's property as measured from the westerly edge of the Esplanade West (City right-of-way) as shown on **Exhibit #4 of the 12/21/01 staff report**.

No disturbance of vegetation or development shall occur within the dedicated area, with the exception of landscaping with native vegetation compatible with the preservation of the wetland coastal strand environment, and the development of a Commission approved pervious public walkway not exceeding eight feet in width for public access and passive recreation use. 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 construct a public walkway no wider than eight feet.

The document shall be recorded free of prior liens and any other encumbrances that may affect said interest. The offer and restriction shall run with the land in favor of the People of the State of California, binding successors and assigns. The offer shall be irrevocable for a period of 21 years commencing upon the date of recording.

3. Building Setback from Lagoon Buffer Strip

All portions of the dwelling (including stairways, balconies, and bay windows), except for an uncovered and permeable deck at ground level (no more than 18" high), shall be set back at least fourteen feet (14') from the westerly edge of the fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two above. Any fences or walls located within this required fourteen-foot setback area shall be limited a maximum height of six feet in height above natural grade. No fence, wall or other accessory structure shall encroach into the lagoon buffer strip described in Special Condition One.

4. Revised Plans

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit revised plans to the Executive Director for review and approval. All plans associated with the project shall be updated to incorporate the following revisions to the project:

- (i) **Building Setback.** All portions of the dwelling (including stairways, balconies, and bay windows), except for an uncovered and permeable deck at ground level (no more than 18" high), shall be set back at least fourteen feet (14') from the westerly edge of the fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two above. Any fences or walls located within this required fourteen-foot setback area shall be limited a maximum height of six feet in height above natural grade. No fence, wall or other accessory structure shall encroach into the lagoon buffer strip described in Special Condition One.
- (ii) **Building Height.** The height of the structure within sixty horizontal feet of the mean high tide line of Ballona Lagoon at the adjacent shoreline, or within sixty horizontal feet of the inland side of the Esplanade (City right-of-way), whichever is furthest from the water, shall not exceed thirty (30') feet above the average natural 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 38 feet above the average grade of the lot. No portion of any structure (including roof access structures, roof deck railings and architectural features) shall exceed the thirty-foot height limit within sixty horizontal feet of the mean high tide line of Ballona Lagoon or the inland side of the Esplanade, whichever is furthest from the water. Chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit by five feet.

(iii) Landscaping. A landscape plan for the entire lot shall be prepared and submitted to the Executive Director for review and approval. All landscaping for the entire development shall be of southern California native plants appropriate to the natural habitat type, and shall be consistent with all of the following requirements:

- a) No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be utilized on the property. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- b) Within the fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two, the applicant shall preserve all existing plants that are native to the Ballona Lagoon habitat area, and shall remove all non-native plants by hand. The fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two shall be landscaped only with plants native to the Ballona Lagoon habitat area.
- c) All landscaping shall be maintained by the applicant or successor(s)-in-interest. All required plantings shall be maintained in good growing condition through-out the life of the project, and whenever necessary, shall be replaced with new plant materials which conform to the requirements of this condition to ensure continued compliance with the landscape plan.
- d) The landscape plan shall include a map showing the type, size and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and a schedule for installation of plants. The landscape plan to be submitted to the Executive Director shall be accompanied by an analysis prepared by a licensed Landscape Architect or a qualified Resource Specialist that documents that the landscape plan includes the appropriate size and types of plants for the Ballona Lagoon habitat area.
- e) Landscaping for the fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two shall be installed immediately following completion of grading for the development and prior to or concurrent with commencement of construction of the dwelling authorized under this permit. No grading or presence of heavy machinery shall occur within the fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two. The plantings established shall provide 70% cover in 90 days.
- f) Monitoring. Five years from the date of the completion of the installation of landscaping as required in item (e.) above, the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring

report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The applicant or successor in interest shall implement the supplemental landscaping plan approved by the Executive Director and/or seek an amendment to this permit if required by the Executive Director.

(iv) Lighting. No lighting associated with the project shall significantly impact adjacent environmentally sensitive habitat including adjacent wetlands. All lighting within the development shall be directed and shielded so that light is directed away from Ballona Lagoon. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the lighting plan prepared by a qualified biologist which documents that the lighting is designed to avoid impacts upon adjacent environmentally sensitive habitat including wetlands.

(v) Drainage. All drainage on the site (excluding the lagoon buffer strip described in Special Condition One) shall be directed away from Ballona Lagoon and into the City stormwater system (Pacific Avenue). During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into the lagoon.

B. The permittee shall undertake development in accordance with the final plans approved by the Executive Director. 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.

C. **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. The deed restriction shall not be removed or changed without a Commission approved amendment to this coastal development permit.

5. Lagoon Buffer Strip Protection

Prior to the commencement of construction, the applicant shall erect and maintain for the period of construction a six-foot high fence and place sandbags between the lagoon buffer strip described in Special Condition One and the building site. No site preparation, grading or construction shall occur until the fence is constructed and the sandbags are placed inland of the lagoon buffer strip. No stock piling, storage, grading, construction, runoff, or trash disposal shall occur in the lagoon buffer strip at any time.

6. Pacific Avenue Sidewalk

In accordance with the applicant's offer to do so, the applicant shall provide an improved concrete walkway across the site along the eastern curb of Pacific Avenue as shown on **Exhibit #4 of the 12/21/01 staff report.**

7. On-site Parking Supply

In accordance with the applicant's offer to do so, the applicant shall provide and maintain a minimum of three off-street parking spaces on the project site as shown on **Exhibit #4 of the 12/21/01 staff report.**

8. Future Improvements

A. This permit is only for the development described in Coastal Development Permit **5-01-307**. Pursuant to Title 14 California Code of Regulations §13250 (b)(6) and §13253 (b)(6), the exemptions otherwise provided in Public Resources Code §30610 (a) and (b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change in intensity of use to the permitted structures approved under Coastal Development Permit **5-01-307**, shall require an amendment to Coastal Development Permit **5-01-307** obtained from the Commission or shall require a new coastal development permit from the Commission.

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 legal descriptions 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 three-story, 38-foot high, 3,942 square foot single family residence with an attached three-car garage on a vacant lagoon-fronting lot in Venice (Exhibit #9). The proposed project is situated on the west bank of Ballona Lagoon between Topsail and Union Jack Streets (Exhibit #2). The proposed three-car garage will be accessed from Pacific Avenue (Exhibit #4). As proposed, a second story deck extends within **twenty feet** of the eastern property line. The eastern property line is five feet inland of the inland extent of the lagoon's wetland vegetation. The front wall of the building is located twenty-five feet from the eastern property line. The roof of the proposed structure is limited to thirty feet above average grade within sixty horizontal feet of the mean high tide line of Ballona Lagoon (Exhibit #5).

A City of Los Angeles survey shows that no portion of the lot located nearest the water is submerged when the waters of the lagoon reach their highest level (Exhibit #3, p.1). No fill is proposed to be placed within the lagoon as the applicant is not proposing any development within fifteen feet of the eastern (lagoon-side) property line (Exhibit #4). The applicant, as part of the permit application, is proposing to dedicate a fifteen-foot wide "lagoon buffer strip" easement for habitat protection and public access across the portion of the site that abuts Ballona Lagoon (Exhibit #4). The applicant's proposed easement dedication is consistent with the "lagoon buffer strip" easements that have been included in each Commission-approved permit for development on similarly sited lots along the west bank of Ballona Lagoon (Exhibit #3). In this case, however, the actual distance between the water and the proposed dwelling would be much less than each of the previously approved residences on the west bank of the lagoon. This is because, unlike the other lots to the south, no land area exists between the lot and the water (Exhibit #3).

B. Ballona Lagoon

Ballona Lagoon is located in the Silver Strand/Marina Peninsula area of Venice in the City of Los Angeles, adjacent to the Marina del Rey entrance channel (Exhibit #2). The lagoon is an artificially confined tidal slough connecting the Venice Canals to the Pacific Ocean via the Marina del Rey harbor entrance channel. The certified Venice LUP designates the 4,000-foot long lagoon as an Environmentally Sensitive Habitat Area (ESHA). The lagoon is 150-200 feet wide and contains approximately sixteen acres of open water and wetland area. The California Department of Fish and Game has also identified the Ballona Lagoon as critical habitat for the Least Tern.

The Commission's responsibility to protect Ballona Lagoon is established by the habitat protection policies of the Coastal Act. These policies are also incorporated into the certified Venice LUP.

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.

In addition, the wetland protection policies of the Coastal Act require the protection of the biological productivity of wetland 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 certified Venice LUP also identifies Ballona Lagoon as an ESHA. However, the LUP's area specific policies establish general setback requirements without reference to individual lots. A few of the west bank lots, such as the subject property, do not have additional land area on the lagoon bank between the lot and the water (which would allow for a larger buffer than can be provided on the lot). Most of the lots along the west bank, many of which have already been developed, benefit from a twenty or thirty-foot deep area of dry land on the lagoon bank between the lot and the water (Exhibit #3). This additional bank area is comprised of the City Esplanade West (and unimproved City right-of-way) and Lot C, a mostly submerged lot that comprises the southern portion of Ballona Lagoon.

The Coastal Act policies of the certified LUP require that the development maintain healthy populations of marine organisms or that development shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the

continuance of such habitat areas. The certified LUP also has the following policies that require the protection of marine resources.

Policy IV.B.1.b of the certified Venice LUP states:

IV.B.1.b Ballona Lagoon – Permitted Uses

Only uses compatible with preservation of this habitat shall be permitted in and adjacent to the lagoon. Uses permitted in or adjacent to the lagoon shall be carried out in a manner to protect the biological productivity of marine resources and maintain healthy populations of marine organisms. Such uses as open space, habitat management, controlled nature study and interpretation, and passive public recreation such as bird watching, photography, and strolling shall be encouraged and promoted. No fill shall occur in Ballona Lagoon unless it is consistent with Coastal Act Section 30233 and is the least environmentally damaging alternative. No untreated runoff shall be directed into the lagoon.

Policy IV.B.2.b of the certified Venice LUP states:

IV.B.2.b Ballona Lagoon Buffer Strip – West Bank

The City shall implement methods of permanent protection of the lagoon, including acceptance of all outstanding and future offers to dedicate open space and public access buffer strips along the east and west banks.

b. West Bank. *A habitat protection buffer strip shall be provided and maintained between the lagoon and all development permitted on the properties situated on the west bank of Ballona Lagoon. Because of the steep embankment and the need to provide some buffering from the automobile traffic on Pacific Avenue, the strategy along the western shore is to limit physical access. Most of the lots located on the west side of the lagoon, particularly between Ironsides and Topsail Streets, are quite narrow. Given the location and size of these parcels, first priority for use of these parcels is permanent open space. However, in case of any development, all structures located south of Ironsides Street to Via Marina shall be set back at least twenty-five feet from the property line nearest the lagoon. North of Ironsides Street, an average setback of 15 feet, but not less than 10 feet, shall be maintained. (See LUP Policies I.A.4.c, I.A.4.d and I.A.7.b for specific lagoon buffer and setback requirements).*

Policy IV.B.2.d of the certified Venice LUP states:

Permitted uses within the buffer strip shall be limited to open space, habitat management, nature study and interpretation for educational purposes and pedestrian walkways for passive recreation such as bird-watching, photography and strolling. Landscaping in the buffer strip shall consist of native plants and

shrubs. Non-native species shall be phased out and the area restored as feasible. (For more detailed, refer to the Ballona Lagoon Enhancement Plan.)

Policy IV.B.3 of the certified Venice LUP states:

IV.B.3 Ballona Lagoon Development Standards

The setbacks and height of buildings adjacent to the lagoon shall continue to be limited as provided in Policies I.A.4b, c, and d so that development is compatible with the continuance of the environmentally sensitive habitat area and avoids adverse impacts on avian flight patterns.

Implementation strategies:

... The Department of Fish and Game has consistently required a 30-40 foot wide minimum buffer along both sides of Ballona Lagoon to protect its habitat value. The development of these lots is difficult because of the buffer requirement, the narrowness of the lots and the steepness of the slope.

Ballona Lagoon is an integral part of the larger Venice Canals/Ballona Lagoon wetlands system. Seawater enters the wetlands system through tidal gates which control the flow from the Marina del Rey entrance channel into Ballona Lagoon. Ballona Lagoon is a wetland and an Environmentally Sensitive Habitat Area (ESHA) protected by the above-stated Coastal Act policies. Unfortunately, the wetland and upland habitat in and adjacent to Ballona Lagoon (i.e., salt marsh, sidebanks, mudflats, and marine habitat) is negatively affected by the lagoon's proximity to human activity, urban runoff, and the abundance of invasive non-native vegetation. Despite this, Ballona Lagoon provides habitat for a variety of benthic invertebrates, fish and shorebirds [See Biota of the Ballona Region, Los Angeles County Natural History Museum Foundation, Edited by Ralph W. Schreiber, 1981]

Polychaetes, molluscs and other invertebrates live in the mud bottom of the lagoon. Several species of fish have been documented and are known to inhabit the lagoon and canals, including: Topsmelt, California killifish, bay pipefish, longjaw mudsuckers, halibut, arrow goby, and diamond turbot. Fish eating birds such as egrets and green herons are often seen foraging at the water's edge. Willets, dowitchers and dabbling ducks also forage on the mud banks, while domesticated ducks are attracted by food and water left by nearby human residents. Ballona Lagoon is a critical habitat area for the California least tern, Sterna antillarum browni. Both the least terns and Brown pelicans can be seen foraging in the lagoon. Ballona Lagoon is located about five hundred feet east of the Venice Beach California least tern colony, one of the largest and most productive colonies of California least terns remaining in the state (Exhibit #2).

The banks of the lagoon are remnants of coastal sand dunes. The banks are generally steep, varying from 1:1 to 1:2, and are comprised primarily of sandy silt soils. Because of the steepness and composition of the banks, erosion has been a significant problem, especially where street drains and path drains run into the lagoon. Bank erosion is especially prevalent

on the west bank of the lagoon at Jib Street and Topsail Street, where gullies extend as far inland as Pacific Avenue. The native vegetation on the lagoon banks is comprised of wetland, dune and coastal sage scrub communities.

Ballona Lagoon is surrounded by a highly urbanized area of single and multiple-family residential development. The properties which adjoin the east and west banks of the lagoon are developed with single-family residences and a few duplexes. On the east bank of the lagoon, a public access path and lagoon buffer area, both required by Coastal Development Permit A-266-77 (ILA), separate the residential development from the waters of the lagoon. An undeveloped City right-of-way (Esplanade East) comprises part of the forty-foot wide lagoon buffer on the east bank. The remainder of the forty-foot wide east bank lagoon buffer is comprised of 24 to 30-foot wide portions of the lagoon fronting lots which have been dedicated as open space and public access easements or habitat protection. Coastal Development Permit A-266-77 (ILA) requires, as a condition of each individual permit to develop, that each lagoon fronting lot owner on the east bank offer to dedicate a 24 to 30-foot easement for habitat protection and public access. This easement, along with Esplanade East, makes up as part of the forty-foot wide lagoon buffer. Each lot owner on the east bank is also required to provide a 10-15 foot front yard (structural set back) outside the buffer. These requirements result in a 45-55 foot structural setback from the lagoon, depending on the depth of the individual lots.

A similar but narrower lagoon buffer strip exists on the west bank. The west bank of Ballona Lagoon is comprised of mostly of unimproved City-owned lands: Esplanade West right-of-way and Lots G through P between Jib Street and Topsail Street (Exhibit #2). The City acquired these lots which were too narrow to develop without severe impacts to the lagoon in exchange for other lagoon fronting lots near Grand Canal. The City-owned lots are undeveloped and form a protective buffer between the waters of the lagoon and Pacific Avenue. A dirt path runs parallel to Pacific Avenue from the north end of the lagoon to Topsail Street. As it does on the east bank, the undeveloped City right-of-way (Esplanade West) comprises part of the lagoon buffer on the west bank, except in the eroded areas where it is submerged and is part of the water area of the lagoon.

South of Topsail Street, there are 25 privately owned lots on the west bank. This is where the currently proposed project is located (Exhibit #2). There is no public path south of Topsail Street along the west bank, although there is a City sidewalk on the west side of Pacific Avenue. Nineteen of the 25 privately owned lots on the west bank have already been developed with single family residences and duplexes (Exhibit #3). All but one of the existing residential developments were built after 1972 with Commission-approved coastal development permits. Each of the Commission-approved residential projects has dedicated a fifteen-foot wide portion of the property as an easement for the extension of the protective lagoon buffer strip.

When the Commission approved the coastal development permits for the construction of residences on the west bank of the lagoon, the Commission required the provision of a 25-foot wide lagoon buffer strip between the easterly edge of the Esplanade West and the development in order to ensure that adequate area exists for habitat protection and a potential future west bank public access trail. The 25-foot wide west bank lagoon buffer strip is

comprised of the ten-foot wide Esplanade West right-of-way and the first fifteen feet (dedicated easement) of each developed lot adjacent to the Esplanade West. The houses are set back an additional ten feet from the buffer strip. No development, not even lawns and patios, is permitted within the lagoon buffer strip which is reserved for habitat restoration and public access. The 25-foot wide lagoon buffer, when added to the lagoon bank area that exists seaward of the City Esplanade West, provides a forty to fifty-foot protected area between the shoreline and the development.

On Blocks 2 through 5 (the four blocks on the west bank south of Union Jack Street), the homes are actually set back about forty to fifty feet from the edge of the water because additional dry land (Lot C) extends the west bank easterly of the private west bank lots (Exhibit #3). The lagoon bank area that exists between the water and the City Esplanade (Lot C) is approximately 25 feet wide (it varies with the contours of the shoreline). Therefore, the actual distance between the approved west bank development and the water is about fifty feet (15' easement + 10' Esplanade + 25' dry bank area seaward of the Esplanade). The dwellings are set back an additional ten feet from the lagoon buffer strip. Patios, decks and yards typically occupy the additional ten-foot setback areas.

Six of the privately owned lots on the west bank remain undeveloped, including the site subject to this application: **Lot 18, Block 1** of the Del Rey Beach Tract (Exhibit #3, p.1). Block 1, where the proposed project is located, includes five of the six currently undeveloped privately owned lots on the west bank of Ballona Lagoon. Lot 19 of Block 1 is developed with a duplex (5112-5114 Pacific Avenue) approved by the Commission in 1978 pursuant to Coastal Development Permit P-78-2737 (Sevilla & Dubin). An application is currently pending for the development of **Lot 17 of Block 1** [See Coastal Development Permit Application **5-01-306** (VDH Development)]. The achievement of an adequate lagoon buffer will be difficult on the three undeveloped lots located north of Lot 17 and 18. These vacant lots are progressively shorter (from Pacific Avenue to the shoreline) and are partially submerged (Exhibit #3, p.1). Therefore, achieving an adequate lagoon buffer and any additional setback will become more difficult.

C. Building Setback from the Wetland

In order to conform to the previously stated Coastal Act and certified LUP policies which require that the protection and enhancement of the marine resources and wetlands that exist in and along the western bank of Ballona Lagoon, the proposed development must be set back an adequate distance from the resource. A protective lagoon buffer strip, situated in the bank area between the development and the wetland, must be provided to protect the sensitive marine resources from the impacts of the proposed development. In addition to the protective lagoon buffer strip, a building setback must be provided. The setback area between the building and the protective lagoon buffer strip may be used as a yard or deck. The protective lagoon buffer strip is only to be used for habitat restoration and, potentially, a public access path.

The proposed development's adverse impacts include the increase in human activity that will occur on the project during and subsequent to construction, the shading caused by the proposed 38-foot high building, the increase in runoff from the proposed building and

landscaped yard areas, noise and lighting. Each of these impacts can have an adverse effect on the biota of the wetland and water areas of the lagoon. The closer the impact is to the resource, the more adverse effect the impact will have on the resource. Therefore, the proposed development must be setback from the wetland and water in order to mitigate the adverse impacts.

Building limitations, like the building setback requirement and the building height limit, are necessary to prevent building encroachments from negatively affecting the bird flyway over the lagoon and its banks. The building limits protect against a "canyon effect" that could negatively impact bird flight patterns. Ballona Lagoon is utilized by many bird species, including the federally and state listed endangered California least tern.

The Commission, in past actions, has required the provision of a one hundred-foot buffer between new development and wetlands. In this case, the wetland vegetation grows all the way up to the applicant's property line. The lot is 95 feet long. Therefore, a one hundred-foot buffer would render the property unbuildable. A one hundred-foot buffer would also greatly exceed the setback requirement that the Commission has imposed on the residences that have previously been approved on the west bank, south of the currently proposed project (Exhibit #3). Each of the previously approved buildings is set back about fifty feet from the water's edge, although most of the lagoon buffer area between these buildings and the lagoon is located on the City Esplanade and Lot C, not on the residential lots. The previously approved homes on the west bank provide a 25-foot building setback (15' easement + 10' building setback) on each lot, as called for by the certified Venice LUP.

In regards to the building setback, Policy I.A.4.c of the certified Venice LUP requires a *minimum* building setback distance of 25 feet from the inland edge of Esplanade West. A greater setback may be required if necessary to protect the marine resources of Ballona Lagoon.

Policy I.A.4.c of the certified Venice LUP states:

I.A.4.c. Ballona Lagoon West Bank Properties Between Topsail and Via Marina

*Setback: All portions of a dwelling, except for a ground level deck (no more than 18" high), shall be set back **a minimum of 25 feet** from the inland edge of Esplanade West, or where no Esplanade exists, from the property line which separates the parcel from the west bank of Ballona Lagoon. Ground level permeable decks, landscaping and railing and fences may encroach ten feet into the setback. The remaining 15 feet of the setback area nearest the water (lagoon buffer) shall be protected for public access and habitat restoration.*

In fact, the Commission has required building setbacks on the west bank than 25 feet. One notable development is the duplex located on Lot 19 on Block 1, the same block as the currently proposed development (Exhibit #3, p.1). The duplex on Lot 19 is required to be set back 29 feet from the easterly property (Exhibit #8). Staff is recommending that the proposed project provide a 29-foot setback instead of the less restrictive 25-foot setback. This would create an equal stringline of buildings on Block 1 (Exhibit #4).

The proposed project is located on **Lot 18** of Block 1 (Del Rey Beach Tract), a vacant lot situated on the west bank of Ballona Lagoon (Exhibit #4). A City of Los Angeles survey shows that no portion of the project site located nearest the water is submerged when the waters of the lagoon reach their highest level of approximately 2.65 feet above MSL (Exhibit #3, p.1). The applicant's Biological Resources Report prepared for the site (Impact Sciences, 9/17/01) states that a narrow band of salt scrub vegetation (Jaumea, alkali heath and pickleweed) exists in the tidal zone along the water's edge (Exhibit #6). Commission staff has visited the site and confirmed the existence of wetland vegetation along the tidal zone, which runs along the three-foot contour line very close to the applicant's eastern property line (Exhibit #4). Most of the wetland vegetation is situated on the City Esplanade. South African iceplant and other non-native plants dominate the area located immediately inland of the tidal zone on the lot. No wetland vegetation has been observed on the site above the three-foot contour line or where the any of the proposed development would occur.

The applicant proposes to provide a fifteen-foot wide lagoon buffer strip (between the easterly lot line and the proposed patio) and would build the proposed residence on the upland portion of the property situated above the five-foot contour line (Exhibit #4). The entire 3,610 square foot lot would be developed with the exception of the proposed fifteen-foot wide lagoon buffer strip. The proposed fifteen-foot wide lagoon buffer strip would provide a fifteen-foot buffer between the wetland vegetation and the proposed development (patio area).

The proposed dwelling would be further separated from the water's edge by setting the building back from the fifteen-foot wide lagoon buffer strip. This setback area would be used by the applicant as a patio or yard area. The proposed plans show the second floor balcony set back **twenty feet** from the water's edge, and only five feet from the proposed fifteen-foot wide lagoon buffer strip (Exhibit #4). The proposed project is not consistent with the LUP setback standard of 25-feet, and is also much closer to the lagoon than other structures previously approved by the Commission.

In this case, because of the unique site characteristics, even a minimum ten-foot setback between the required lagoon buffer strip and the front of the proposed residence is too small to adequately protect the bird flyway over the lagoon and the wetland on the bank. As previously stated, the project site differs from the rest of the lots on the west bank because there is significantly less dry land area situated between the lot and the water (Exhibit #3). The west bank lots located south of the project site each have about thirty feet of bank area between the property line and the water's edge. With the lagoon buffer strip and building setback requirements, most of the Commission-approved dwellings are set back about fifty feet from the water's edge. This site has very little area (between the water and the lot line) as the lot line nearly abuts the water's edge (Exhibit #4). Therefore, the proposed building would encroach further into the bird flyway than the previously permitted developments along the west bank of the lagoon.

In order to determine the appropriate setback requirement for this project site, the Commission refers to the only prior Commission action for the block on which the project is proposed: Block 1 of the Del Rey Beach Tract. Only one building has been permitted on Block 1: the duplex that currently exists on Lot 19 of Block 1 (Exhibit #3, p.1). In 1978, the Commission approved Coastal Development Permit P-78-2737 (Sevilla & Dubin) for the construction of a duplex on

Lot 19 of Block 1 (Exhibit #8).¹ The building on Lot 19 has a building setback of 29 feet from the easterly property line, which is fourteen feet from the fifteen-foot wide lagoon buffer strip (Exhibit #8). The dwelling on Lot 19 is set back about 45 feet from the water's edge.

In order to ensure that the proposed development is compatible with the EHSA and avoids adverse impacts on avian flight patterns, the currently proposed building (including stairways, balconies, and bay windows) shall be set back at least fourteen feet from the westerly edge of the fifteen-foot wide habitat/access easement strip for a total 29-foot building setback (29 feet is the distance between the proposed building and the property line where the mean high tide line exists). The Commission requires that the proposed project provide, at a minimum, the same 29-foot building setback that exists on Lot 19 of this block (Exhibit #4). The applicant's proposed fifteen-foot wide lagoon buffer strip (between the easterly lot line and the proposed patio) would provide the easterly fifteen feet of the required 29-foot building setback.

The Commission finds that a fourteen-foot building setback (from the lagoon buffer strip) is: a) more protective of the ESHA than the minimum ten-foot setback; b) the minimum necessary for Block 1 of the Del Rey Beach Tract because of the location of the property lines in relation to the water's edge (i.e. narrow lagoon bank); c) consistent with the prior Commission action and existing development on Block 1; and d) would prevent the proposed dwelling from extending further east than the stringline for the existing adjacent development on Lot 19. Therefore, the Commission requires the applicant to revise the project plans in order to provide a fourteen-foot building setback from the lagoon buffer strip. Only as conditioned to provide the 29-foot building setback is the proposed project consistent with the marine resource and ESHA protections contained in the Coastal Act and the certified Venice LUP.

D. Easement Dedication and the Protective Lagoon Buffer Strip

As previously stated, Ballona Lagoon is an Environmentally Sensitive Habitat Area (ESHA). In its approval of Coastal Development Permit A-266-77 (ILA), the Commission found that Ballona Lagoon, located adjacent to both the Silver Strand and Del Rey Beach Tracts, is a critical habitat area and an important coastal resource. The Commission found that the shores and water area of the lagoon had a history of public use: camping, clamming, fishing, walking, and bird watching. The Commission further found that residential development of the area would have major adverse cumulative impacts on the lagoon and its wildlife and that several measures were necessary to mitigate the adverse impacts of development.

One of the mitigation measures required that each lagoon fronting lot owner on the east bank dedicate a fifteen-foot wide easement across part of their property to form a protective lagoon buffer strip along the lagoon bank (Exhibit #3). The dedicated easements form a contiguous lagoon buffer strip between the waters of the lagoon and the residential development on the bank (as described in Section B of this report). The lagoon buffer strip provides the space necessary to reduce the negative impacts on the lagoon (and its wildlife) caused by the adjacent residential development. The lagoon buffer strip also provides the area necessary

¹ Coastal Development Permit P-78-2737 (Sevilla & Dubin) was amended by Coastal Development Permit 5-82-389 (Stayden) and Coastal Development Permit 5-86-929 (Stayden), although the originally approved site plan and setback requirements have not been changed.

for a public access path along the bank of the lagoon. The protective lagoon buffer strip easements, recorded for purposes of both habitat protection and public access, were required so that the degraded habitat area on the lagoon bank could be restored. The City of Los Angeles, the California Coastal Conservancy, and the Ballona Lagoon Marine Preserve (BLMP) have successfully restored the east bank of the lagoon with native landscaping (See Coastal Development Permit 5-95-152 & amendments). The dedicated easements have also allowed a public walkway to be built along the east bank of the lagoon for public access.

As was required on the east bank of Ballona Lagoon, the Commission has also required that a protective lagoon buffer strip be provided between the lagoon and all development it has approved along the west bank of the lagoon. Each lagoon-fronting lot owner who has received a coastal development permit for development, as a condition of developing their property, has offered to dedicate a fifteen-foot wide easement for public access and habitat protection across their property. Each of the Commission-approved coastal development permits for the development of the west bank properties includes the required easement dedication.² The required protective buffer strip on the west bank is comprised of the ten-foot wide Esplanade West (City right-of-way), a fifteen-foot wide easement dedicated on each lagoon fronting property, and additional dry bank area situated east of the Esplanade (Exhibit #3).

In this case, the applicant has offered to dedicate the fifteen-foot wide easement for public access and habitat as part of the proposed project (Exhibit #4). The proposed fifteen-foot wide easement is immediately inland of the narrow band of wetland vegetation (Jaumea, alkali heath and pickleweed) that exists along the water's edge (Exhibit #6). The proposed fifteen-foot wide easement is covered primarily by South African iceplant and other non-native plants that dominate the portion of the site located inland of the tidal zone. The applicant is not proposing any development or fill within fifteen feet of the eastern property line (Exhibit #4). The applicant's proposed easement dedication is consistent with the "lagoon buffer strip" easements that have been included in each Commission-approved permit for development on similarly sited lots along the west bank of Ballona Lagoon (Exhibit #3).

The proposed easement will provide a buffer for habitat protection between the proposed development and Ballona Lagoon, and will also preserve an area along the west bank for a possible public access trail to be developed at some future time. The proposed easement is consistent with the past Commission actions and will add to the strip of protected habitat which is provided by the previously recorded easements which comprise the buffer on the west bank of Ballona Lagoon. Therefore, the inclusion of the protective lagoon buffer in proposed project is consistent with Section 30240 of the Coastal Act because the development has been sited to protect the sensitive habitat areas on and adjacent to the site.

Special Condition Two requires the recordation of the offer to dedicate the easement for public access and habitat protection consistent with the applicant's offer to do so. No disturbance of vegetation or development shall occur within the dedicated area, with the exception of landscaping with native vegetation compatible with the preservation of the wetland coastal

² [See Coastal Development Permits P-78-2737 (Sevilla & Dubin), P-78-3123/A-281-77 (Cashin), 5-85-371 (Wyatt), 5-86-819 (Rome), 5-87-500 (Rome), 5-88-1053 (Rome), 5-89-593 (MDR Properties), 5-97-015 (Ganezer), 5-97-363 (Paragon), 5-97-220 (Paragon), 5-98-328 (Paragon) & 5-00-001 (Garcia)].

strand environment, and the development of a Commission-approved pervious public walkway not exceeding eight feet in width for public access and passive recreation use. Prohibited development within the dedicated area includes fill, installation of permanent irrigation devices, and the planting of non-native vegetation.

In order to mitigate the impacts of the project caused by the development of the upland portion of the site, the applicant is required to restore the portion of the lagoon buffer strip on the project site with native vegetation. The proposed single family residence will displace approximately 3,000 square feet of disturbed upland habitat on the project site. The removal of non-native vegetation from the proposed lagoon buffer easement and the restoration with native landscaping will adequately mitigate the impacts of the proposed development and enhance marine resources as required by Section 30230 of the Coastal Act.

Special Condition 4.A.(iii) requires the applicant to submit a landscape plan in order to mitigate the adverse impacts of the proposed project on the wetland habitat of Ballona Lagoon. Special Condition 4.A.(iii) states:

- (ii) Landscaping. A landscape plan for the entire lot shall be prepared and submitted to the Executive Director for review and approval. All landscaping for the entire development shall be of southern California native plants appropriate to the natural habitat type, and shall be consistent with all of the following requirements:
 - a) No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be utilized on the property. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
 - b) Within the fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two, the applicant shall preserve all existing plants that are native to the Ballona Lagoon habitat area, and shall remove all non-native plants by hand. The fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two shall be landscaped only with plants native to the Ballona Lagoon habitat area.
 - c) All landscaping shall be maintained by the applicant or successor(s)-in-interest. All required plantings shall be maintained in good growing condition through-out the life of the project, and whenever necessary, shall be replaced with new plant materials which conform to the requirements of this special condition to ensure continued compliance with the landscape plan.
 - d) The landscape plan shall include a map showing the type, size and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and a schedule for installation of plants. The landscape plan to be submitted to the Executive Director shall be

accompanied by an analysis prepared by a licensed Landscape Architect or a qualified Resource Specialist that documents that the landscape plan includes the appropriate size and types of plants for the Ballona Lagoon habitat area.

- e) Landscaping for the fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two shall be installed immediately following completion of grading for the development and prior to or concurrent with commencement of construction of the dwelling authorized under this permit. No grading or presence of heavy machinery shall occur within the fifteen-foot (15') wide habitat/access easement strip described in Special Condition Two. The plantings established shall provide 90% cover in 90 days.
- f) Monitoring. Five years from the date of the completion of the installation of landscaping as required in item (e.) above, the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The applicant or successor in interest shall implement the supplemental landscaping plan approved by the Executive Director and/or seek an amendment to this permit if required by the Executive Director.

As conditioned, the proposed project protects and enhances the marine resources that exist on the west bank of Ballona Lagoon consistent with Sections 30240, 30230 and 30231 of the Coastal Act. The special conditions require the recording of the dedicated easement as proposed by the applicant and also prohibit development in the lagoon buffer strip separating the proposed development and the lagoon (except for a Commission approved public walkway no more than eight feet in width and landscaping with native coastal strand vegetation).

In addition, a lighting plan and a drainage plan shall also be submitted for approval by the Executive Director. The lighting associated with the proposed project shall not significantly impact the adjacent EHSA. Therefore, all lighting within the development shall be directed and shielded so that light is directed away from Ballona Lagoon. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the lighting plan prepared by a qualified biologist which documents that the lighting is designed to avoid impacts upon adjacent environmentally sensitive habitat including wetlands. In addition, all drainage from the site (excluding the lagoon buffer strip) shall be directed away from Ballona Lagoon and into the City stormwater system (Pacific Avenue) to prevent adverse impacts to the ESHA caused

by polluted runoff. Only as conditioned is the proposed project consistent with Sections 30240, 30230 and 30231 of the Coastal Act.

Finally, in order to protect the buffer area and the lagoon from impacts caused by the construction of the proposed project, the applicant shall erect a six-foot high fence, for the period of construction, between the buffer area and the building site. No site preparation or construction shall occur until the fence is constructed, and no stock piling, grading, or trash disposal shall occur in the buffer area at any time. As conditioned, the proposed project is consistent with the ESHA, marine resource and water quality policies of the Coastal Act. Please see the following sections of the staff report for the analysis of other applicable Coastal Act sections including public access and recreation.

E. Building Height

A height limit for structures adjacent to Ballona Lagoon has also been established in previous Commission actions to protect against a "canyon effect" which could negatively impact bird flight patterns. In regards to building heights along the west bank of Ballona Lagoon, Policy I.A.4.c of the certified Venice LUP states:

I.A.4.c. Ballona Lagoon West Bank Properties Between Topsail and Via Marina

Height: Not to exceed 30 feet within 60 horizontal feet of the mean high tide of the lagoon or inland side of the Esplanade (City right-of-way), whichever is furthest from the water. Beyond 60 horizontal feet, one additional foot in 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 mean high tide line of Ballona Lagoon or the inland side of the Esplanade, whichever is furthest from the water. 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. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

The certified LUP height limit is consistent with the prior Commission approvals for development on the west bank of Ballona Lagoon. In order to regulate the height of structures adjacent to Ballona Lagoon so as to limit the impacts on birds, the following special condition is applied to the permit.

Special Condition 4.A(ii) states:

The height of the structure within sixty horizontal feet of the mean high tide line of Ballona Lagoon at the adjacent shoreline, or within sixty horizontal feet of the inland side of the Esplanade (City right-of-way), whichever is furthest from the water, shall not exceed thirty (30') feet above the average natural 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 38 feet above the average grade of the lot. No portion of any

structure (including roof access structures, roof deck railings and architectural features) shall exceed the thirty-foot height limit within sixty horizontal feet of the mean high tide line of Ballona Lagoon or the inland side of the Esplanade, whichever is furthest from the water. Chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit by five feet.

The above-stated height limit has been applied to this permit. Except for the proposed roof deck railings and roof equipment, the height of the proposed structure within sixty horizontal feet of the mean high tide line of Ballona Lagoon as indicated on the submitted elevations for the proposed project is under thirty feet (Exhibit #5). The proposed roof deck railings shall not exceed thirty feet within sixty horizontal feet of the mean high tide line of Ballona Lagoon as indicated on the submitted elevations. Therefore, revised plans must be submitted for approval. The maximum height of the portion of the proposed structure located more than sixty horizontal feet inland of the mean high tide line of Ballona Lagoon is 38 feet. All roof deck railings and architectural features must be lower than thirty feet in elevation if they are located within sixty feet of the water or the eastern property line. Only as conditioned to limit the height of the structure is the proposed project is consistent with the habitat protection policies of the Coastal Act and the Commission's prior actions.

F. Public Access and Recreation

The proposed provision of the lagoon buffer easement on the eastern portion of the site will preserve an area for a public access trail across the easement if such an accessway is approved by the Commission in the future. Additionally, the applicant is proposing to provide an improved concrete walkway across the portion of the site immediately adjacent to Pacific Avenue (Exhibit #4). Therefore, the proposed project will not adversely affect public access or recreation. As conditioned, the proposed project is consistent with the public access and recreation policies of the Coastal Act.

G. Parking

In order to protect coastal access, all new development on lots adjacent to Ballona Lagoon in the Silver Strand and Del Rey Beach Tract areas are required to provide adequate on-site parking. In previous actions, the Commission has determined that three on-site parking spaces are adequate to serve single family residences in the area. The proposed project provides the required three on-site parking spaces in the ground floor garage (Exhibit #4). Only as conditioned to provide three on-site parking spaces is the proposed project is consistent with the public access policies of the Coastal Act and the Commission's prior actions.

H. 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 proposed Land Use Plan (LUP) for Venice on October 29, 1999. On November 29, 1999, the City submitted the draft Venice LUP for Commission certification. On November 14, 2000, the Commission approved the City of Los Angeles Land Use Plan (LUP) 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. The Venice LUP was officially certified by the Commission on June 12, 2001.

The proposed project, as conditioned, conforms with the certified 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).

I. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a 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. The project, if revised consistent with the recommended conditions of approval, is a feasible alternative which would substantially lessen the significant adverse impact which the activity may have on the environment. Therefore, all adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional 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.

VENICE, CA



Project Site:

5106 & 5110 Pacific Ave.
(Lot 18, Blk 1)

COASTAL COMMISSION
5-01-307

EXHIBIT # 1

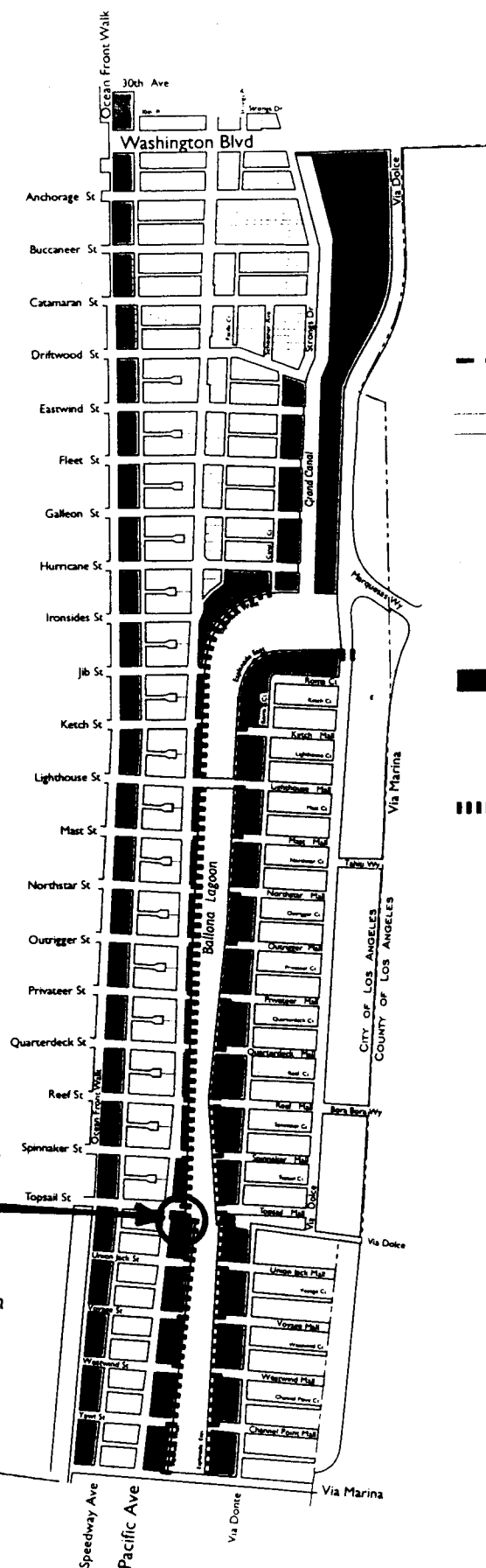
PAGE 1 OF 1

Silver Strand/
Marina
Peninsula
Area

Project Site

Least Tern
Nesting
Area

Marina Entrance



**Environmentally Sensitive
Habitat Areas (ESHA)**
(Includes lots R & C, Which
include the submerged
bottom of the Ballona Lagoon
from Hurricane St. to Topsail
St. and from Topsail St. to Via
Marina, respectively.)

Lots Fronting on the Environmentally Sensitive Habitat Areas (ESHA)

**Habitat Protection
Buffer Strip (ESHA)**



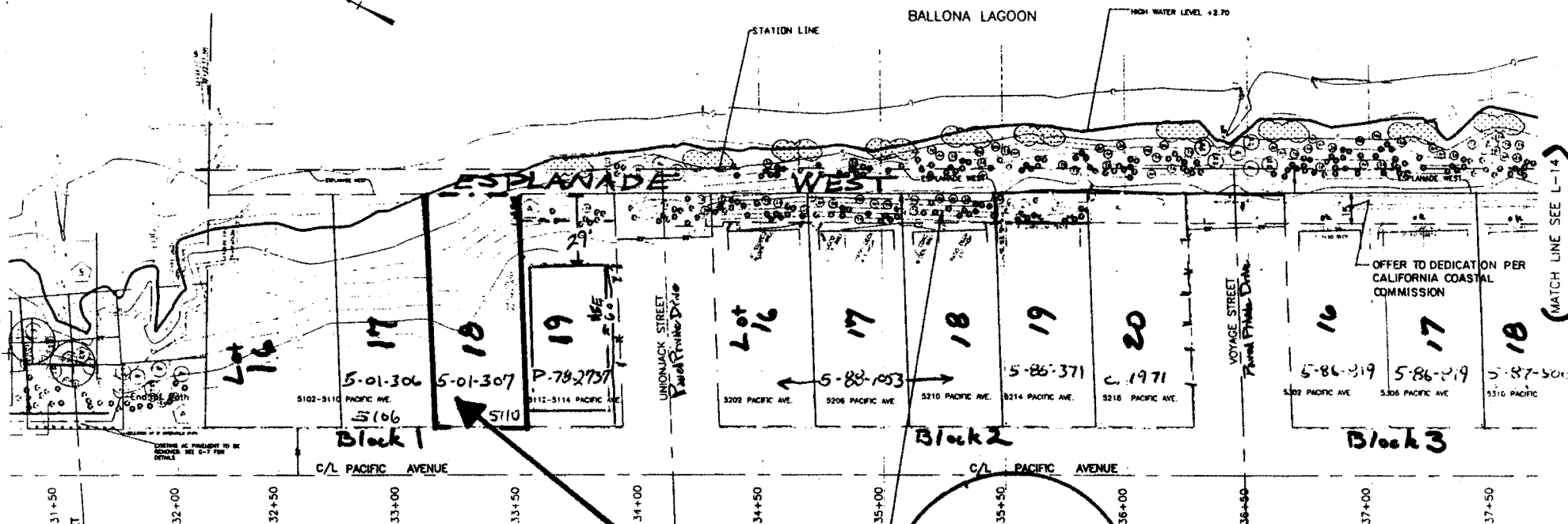
COASTAL COMMISSION

5-01-307

EXHIBIT # 2

PAGE 1 OF 1

MATCH LINE SEE L-12

PLAN VIEW
Scale: 1" = 20'

LEGEND (SHEET L-11 & L-12)

QTY.	SIZE	SYMBOL	BOTANICAL NAME	COMMON NAME
004	24" BOX		POPULUS FREMONTII	FREMONT POPLAR
000	15 GAL		SALIX LASIOLEPIS	ARROYO WILLOW
015	5 GAL		SALIX EXIMA	SAND BAR WILLOW
024	5 GAL		RHUS INTEGRIFOLIA	LEMONADE BERRY
060	1 GAL		ARTEMISIA CALIFORNICA	CALIFORNIA SAGE
000	5 GAL		ATRIPLER CALIFORNICA	SALT BUSH
093	1 GAL		CHOCILIA CALIFORNICA	BUSH SLOWFLOW
490	LINER		ERIDENDUM PARVIFOLIUM	DRY BUCKWHEAT
013	LINER		FRANKLINIA GRANDIFLORA	FRANKLINIA
062	1 GAL		HAPLOPAPPUS EPICIDINES	GOLDEN BUSH
091	1 GAL		ISOMERIS ARBOREA	BLADDERPOD
010	LINER		JUNCUS ACUTUS	SPIKE BUSH
003	LINER		LINDHURSTIA CALIFORNICA	CALIFORNIA STITCH
LINER			SALICORNIA SUBTERMINALIS PICKERNEED	SEE SPECIFICATIONS FOR PLANTING DETAILS

TYPICAL LANDSCAPING/IRRIGATION
DETAILS ON ALL OFFER TO DEDICATION
AREAS (16' WIDE).NOTE:
1. SEE PLAN C-2 TO C-11 FOR DETAILS OF DECOMPOSED
GRANITE PATH, SPLIT RAIL FENCE AND GATE.

Project Site:
5110 Pacific Av.
L+ 18, Blk 1



5-01-257/AS-VEN-01-289
BALLONA LAGOON ENHANCEMENT PLAN PHASE III
W.O. E1903241

COASTAL COMMISSION**5-01-307**EXHIBIT # **3**PAGE **1** OF **2**

LEGEND SHEET L-13 & L-14

QTY.	SIZE	SYMBOL	BOTANICAL NAME	COMMON NAME
002	24" BOX		POPULUS FREMONTII	FREMONT POPLAR
000	15 GAL		SALIX LASIOLEPIS	ARROYO WILLOW
013	5 GAL		SALIX EXIGUA	SAND BAR WILLOW
009	5 GAL		RHUS INTEGRIFOLIA	LEMONADE BERRY
016	1 GAL		ARTEMISIA CALIFORNICA	CALIFORNIA SAGE
000	5 GAL		ATRIPLEX CALIFORNICA	SALT BUSH
008	1 GAL		ENCELIA CALIFORNICA	BUSH SUNFLOWER
008	LINER		ERIOGONUM PARVIFOLIUM	DUNE BUCKWHEAT
000	LINER		FRANKENIA GRANDIFLORA	FRANKENIA
014	1 GAL		HALOPAPPUS ERICOIDES	GE. BEN BUSH
045	1 GAL		ISOMERIS ARBOREA	BLADDERPOD
000	LINER		JUNCUS ACUTUS	SPIKE RUSH
000	LINER		LYNCHIA CALIFORNICA	CALIFORNIA STATICE
LINER			SALICORNIA SUBTERMINALIS PICKELVEED SEE SPECIFICATIONS FOR PLANTING DETAILS	

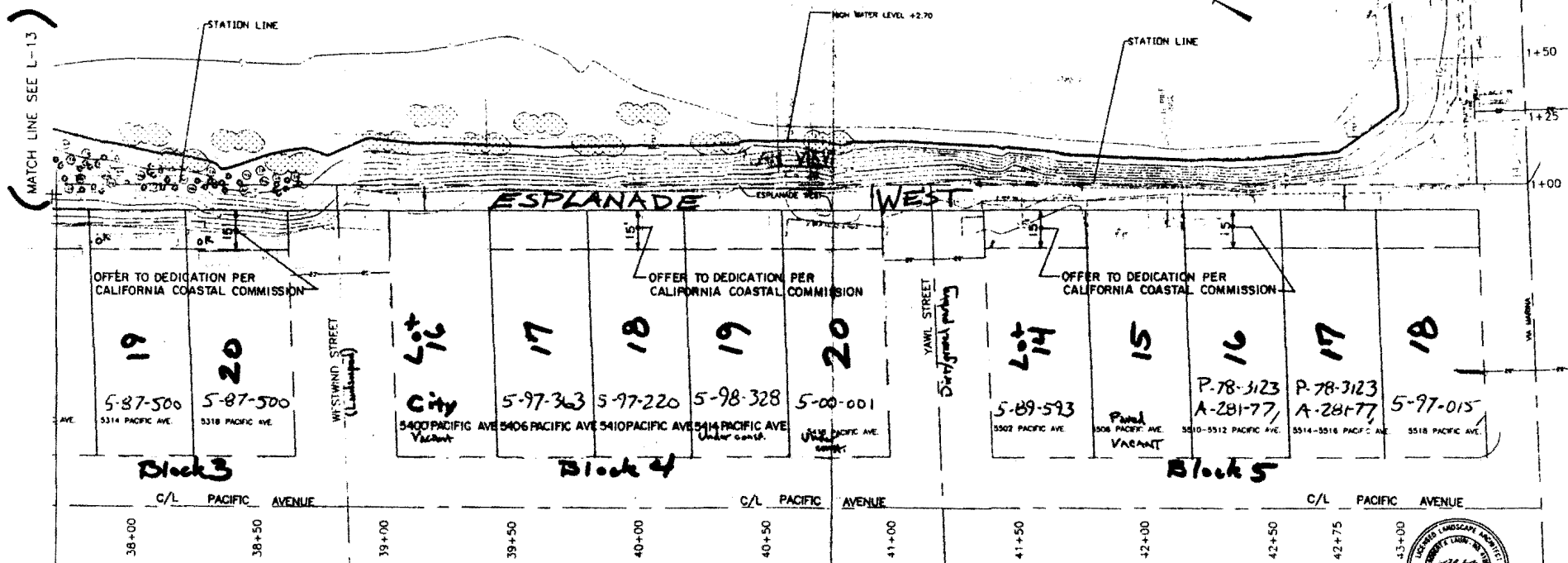
GROUND COVER

- A HAND SEED MIX 'A' SEE SPECIFICATIONS AND DETAILS FOR LIST
- B HAND SEED MIX 'B' SEE SPECIFICATIONS AND DETAILS FOR LIST

NOTE:
SEE PLAN C-8 TO C-11 FOR DETAILS OF DECOMPOSED GRANITE PATH, RAIL FENCE AND GATE.

RECEIVED
South Coast Region
NOV 30 2001
CALIFORNIA
COASTAL COMMISSION

BALLONA LAGOON



PLAN VIEW
Scale: 1" = 40'

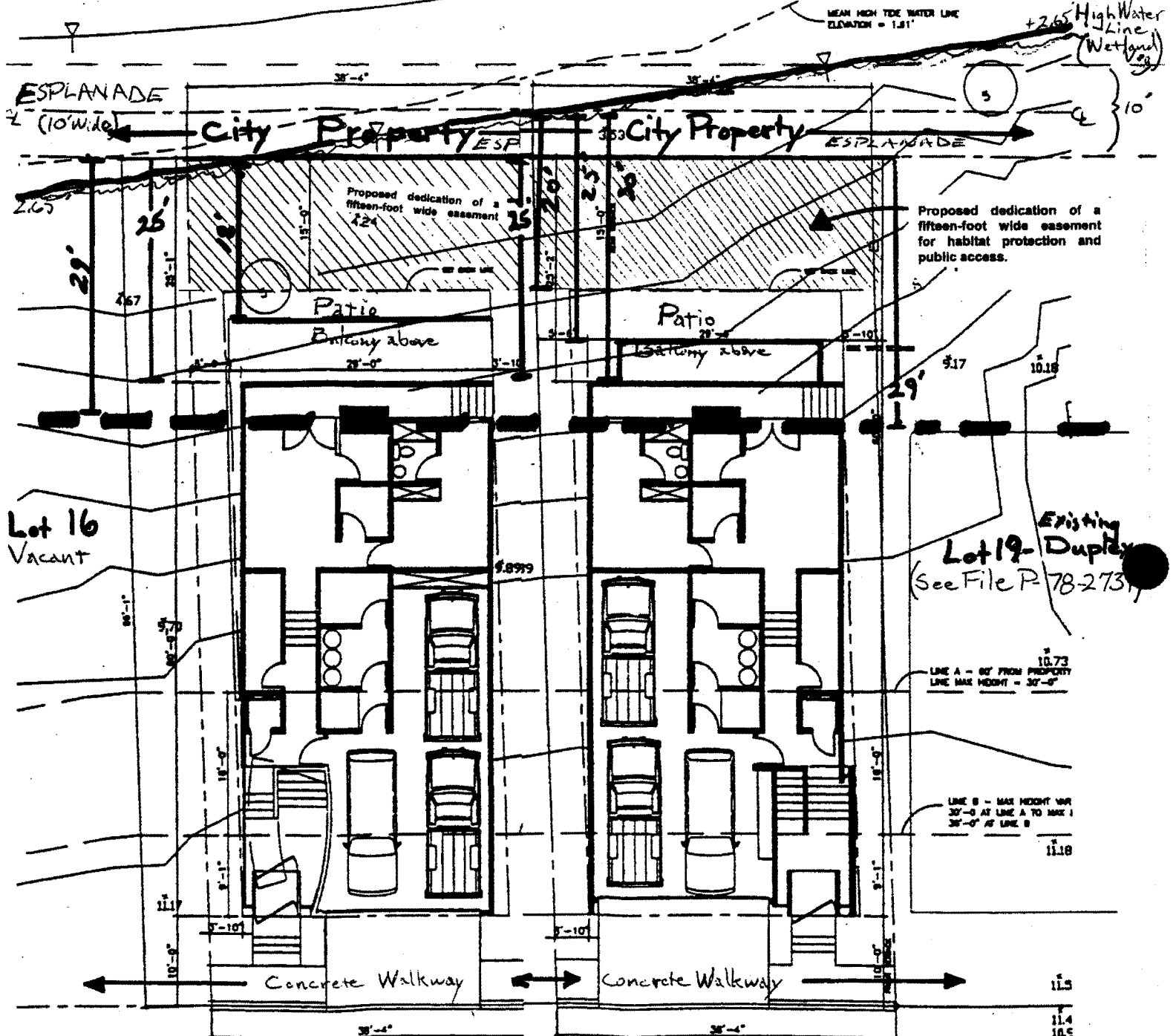


5-01-257/A5-01-2009
BALLONA LAGOON ENHANCEMENT PLAN PHASE III
W.O. E1903241

COASTAL COMMISSION
5-01-307

EXHIBIT # 3
PAGE 2 OF 2

Ballona Lagoon



5106 Pacific Av.
 Lot 17, Blk 1
 5-01-306

5110 Pacific Av.
 Lot 18, Blk 1
 5-01-307

COASTAL COMMISSION
 5-01-307

EXHIBIT # 4
 PAGE 1 OF 1





IMPACT SCIENCES

30343 Canwood Street, Suite 210
Agoura Hills, California 91301
Telephone (818) 879-1100 FAX (818) 879-1440
impact@impactsociences.com

September 17, 2001

Design 21
4240 Via Marina #14
Marina del Rey, California 90292
Attention: Mr. Roger Kurath

RE: **Biological Resources Report**
5110 S. Pacific, Marina del Rey, and 5106 S. Pacific, Marina del Rey
Los Angeles, County, California

Dear Mr. Kurath,

Impact Sciences, Inc. conducted biological surveys on the project sites September 7, 2001. The purpose of these investigations was: (1) to define the biological resources present; (2) to identify any special status resources present on the project sites; and (3) to generally define the limits of wetlands on the project site. At the time of the surveys, no organized vegetation or wildlife habitat was present on either of the two project sites. The majority of the sites were barren with scattered individuals of telegraph weed (*Heterotheca grandiflora*), wand chickory (*Stephanomeria virgata*) and iceplant. In the tidal zone along the bank edge (approximately two meters wide), a narrow band of salt scrub vegetation is present that is typified by species normally associated with saltmarsh that include individuals of Jaumea (*Jaumea carnosa*), alkali heath (*Frankenia salina*) and scattered individuals of pickleweed (*Salicornia virginica*).

Due to the open nature of the vegetation or the limited extent of the more dense vegetation in the tidal zone, no habitat was present that would be significantly utilized by animal species typical of natural undisturbed habitat. Rather, it is expected the site would be typically used by that association of animals normally associated with disturbed or ruderal habitat.

Special-status species include state- and federal-listed threatened and endangered species, federal and California species of concern, federal migratory non-game birds of management concern, state candidate species for listing as threatened or endangered, state protected species, California Native Plant Society listed species, and state special animals for which the Department of Fish and Game monitors the status. Special-status habitats are federal designated critical habitat and those ranked by the California Department of Fish and Game as rare and/or of high priority for inventory. Lists prepared by federal, state and local agencies were reviewed prior to the on-site field investigations to define if special status species or habitats had the potential to occur. Based on our review of these lists and the on-site field investigations, no habitat is present that would support special status plant or animal species. It should be noted that due to the proximity of the Venice Beach California least tern nesting colony, it is expected that these birds would utilize subtidal habitat (the Venice Canal) adjacent to the site for foraging.

VENICE COMMUNITY

5-01-307

EXHIBIT # 6

PAGE 1 OF 2

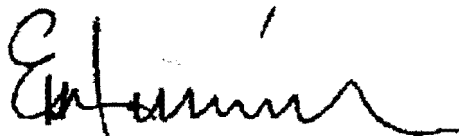
Special status habitat would be limited to the potential presence of saltmarsh. A zone of salt scrub vegetation occurs adjacent to the bank edge of the Venice Canal and the adjacent upland. It is assumed that the salt scrub present at this location occurs as a result of the high salt content present in the soil. This salt content is likely the result of two factors that include periodic inundation at extremely high tides and the constant presence of a salt spray aerosol that occurs above the waterline of the canal. Species composition is dominated by individuals of *Jaumea* (*Jaumea carnosa*), alkali heath (*Frankenia salina*) and scattered individuals of pickleweed (*Salicornia virginica*). Categorizing this area as saltmarsh (a special status plant community) appears to be ambitious. However, this narrow band of vegetation should be afforded some protection.

Due to the elevated nature of the site, a bank is present along the edge of the Venice Canal. Although no formal wetlands delineation was conducted, wetlands present on the project site would be limited to a narrow band that extends no further inland than the upper edge of the mean high tide line.

Recommendations would include measures to protect the narrow band of salt scrub vegetation that occurs inland of the mean high tide line and the adjacent subtidal habitat. In response, it is recommended that no development or landscaping occur 20 feet inland of the mean high tide line.

It was a pleasure preparing this information for your review. Should you have any questions or comments regarding this letter please call.

Very truly yours,
IMPACT SCIENCES, INC.



Eric Sakowicz
Principal

COASTAL COMMISSION

EXHIBIT # C
PAGE 2 OF 2

December 7, 2001

Application Files 5-01-306 & 5-01-307.

I looked over the biological surveys you sent me. The results of those surveys correspond to my recollection of the site from our visit of a couple months ago. There is a narrow strip of saltmarsh vegetation at the water's edge and then a slope covered with iceplant. The lots themselves are mostly bare ground with scattered ruderal vegetation. The highest reach of the tides reaches or nearly reaches the property line of each of the lots. I think any buffer should be measured from the highest reach of the tides or the upper edge of the saltmarsh vegetation, whichever is highest. As for buffer width, the Commission generally requires a minimum of 100 feet around wetlands and I think there is good justification for requiring wider buffers in some important habitats such as coastal lagoons and saltmarsh. However, this area has already been subject to a great deal of development a good deal closer to the lagoon than 100 feet. At this point, the decision becomes as much a planning issue as a biological one. I'd say the wider the better with the caveat that buffers significantly wider than those of adjacent properties won't be proportionally more protective because of the existing disturbances.

John

John D. Dixon, Ph.D.
Ecologist / Wetlands Coordinator
Technical Services Unit
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105
415-904-5250; fax 415-904-5400
jdixon@coastal.ca.gov
<http://www.coastal.ca.gov>

COASTAL COMMISSION

5-01-307

EXHIBIT # 7

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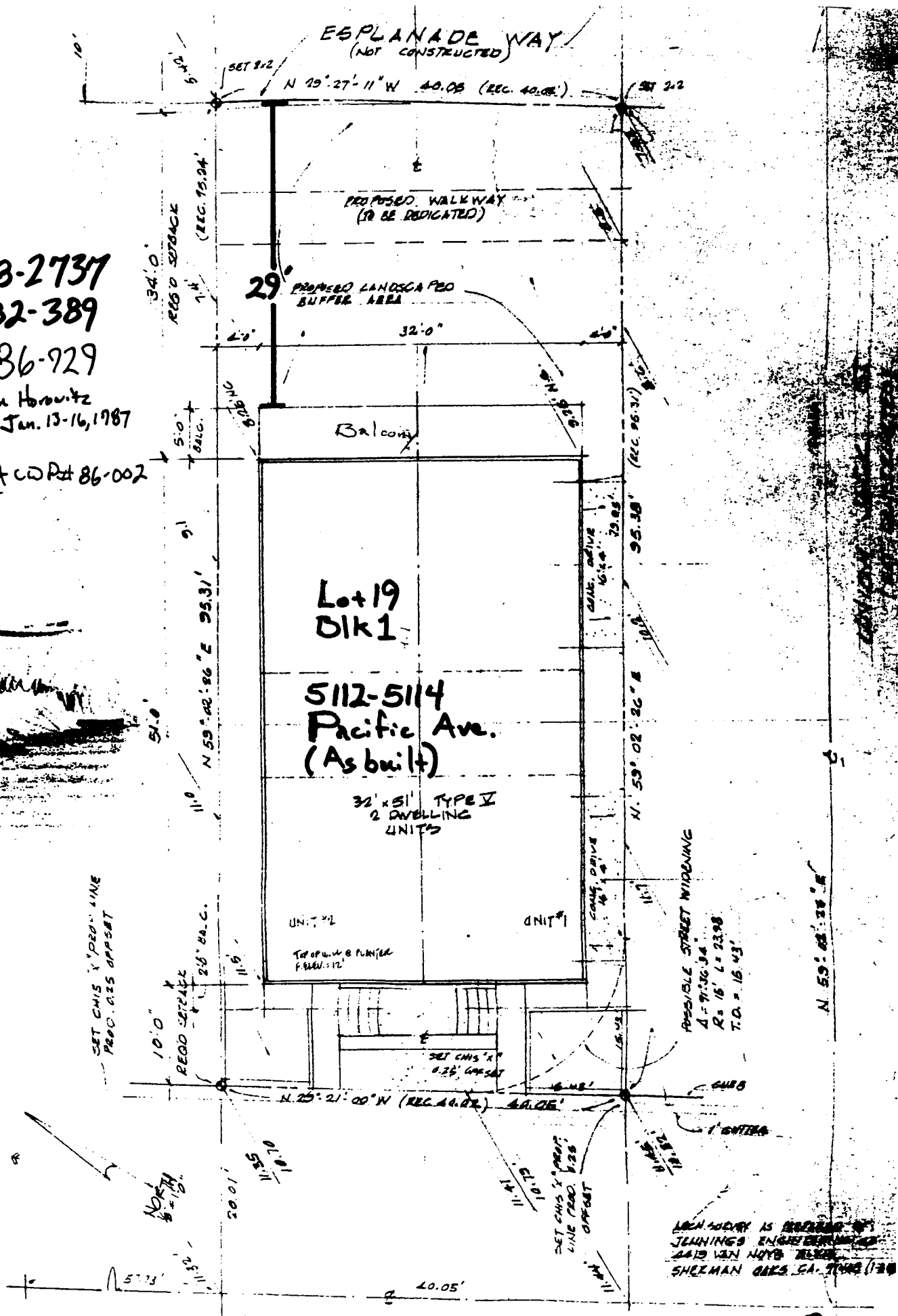
5-82-389

5-86-929

Lisa Horowitz

Jan. 13-16, 1987

LA CDP# 86-002

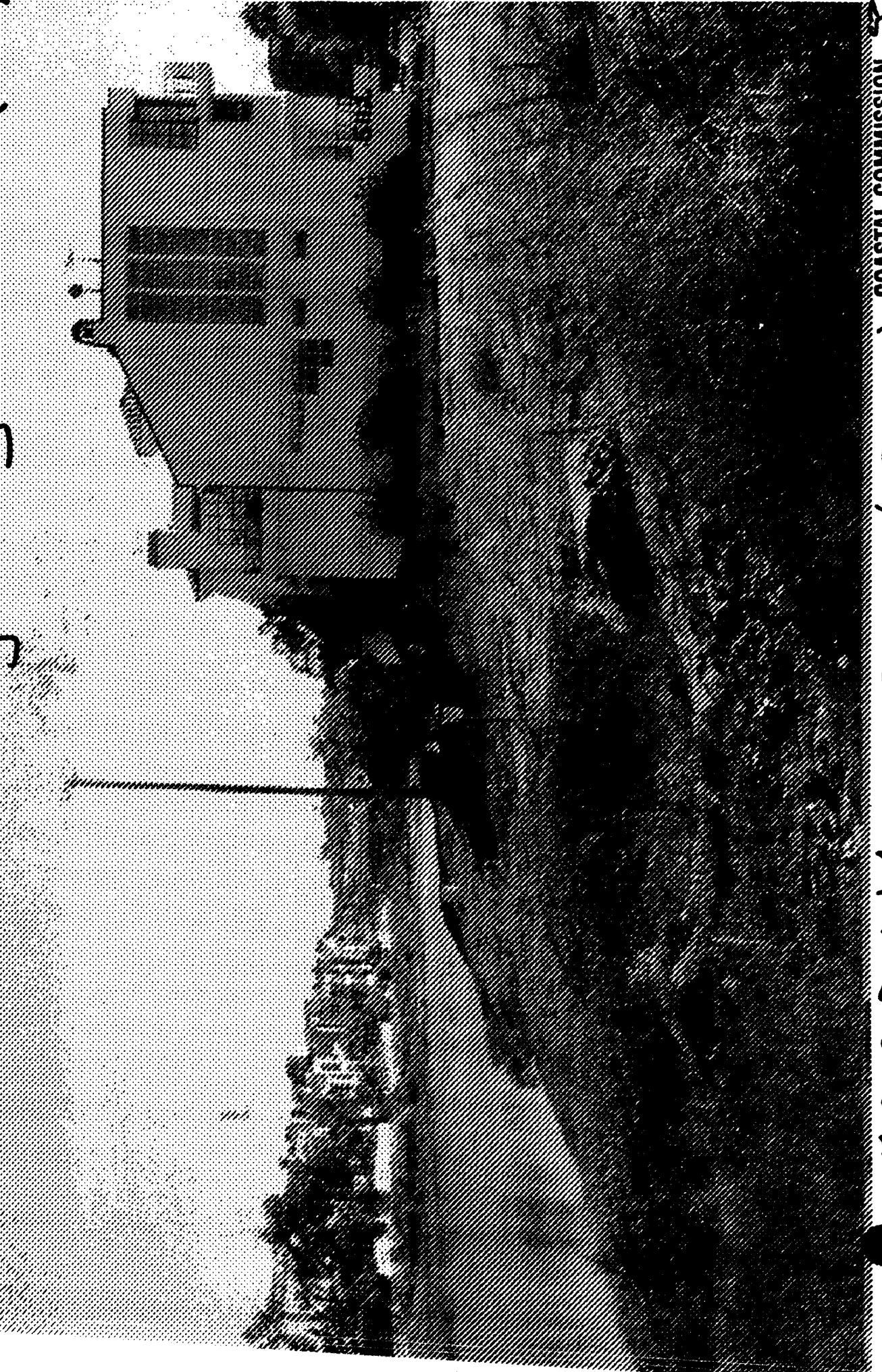


PACIFIC AVENUE

EXHIBIT # 8

PAGE 1 OF 1

WEST BANK of Ballona Lagoon - Looking South (Dec. 61)



Plots 17, 18 & 19 of Block 1, Del Rey Beach Tract (in foreground)
mice)

COASTAL COMMISSION

EXHIBIT #