

CALIFORNIA COASTAL COMMISSION

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Item T9y

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49th Day: 12/13/2001
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Staff: CP-LB
Staff Report: 12/20/2001
Hearing Date: January 8, 2002
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-01-418

RECORD PACKET COPY

APPLICANTS: Robert Jaye

PROJECT LOCATION: 241 Sherman Canal, Venice, City of Los Angeles.

PROJECT DESCRIPTION: Major remodel of existing one-story, 481 square foot single family residence and detached garage resulting in a two-story, 30-foot high, 1,304 square foot single family residence with a detached two-story garage on a canal-fronting lot.

Lot Area	1,900 square feet
Building Coverage	878 square feet
Pavement Coverage	268 square feet
Landscape Coverage	754 square feet
Parking Spaces	2
Zoning	RW-1-1
Plan Designation	Single Family - Waterway
Ht above final grade	30 feet

LOCAL APPROVAL: City of Los Angeles Planning Department Approval, Case No. DIR2001-9987 (ZAA/SPP), 9/13/2001.

SUMMARY OF STAFF RECOMMENDATION

The proposed project involves a remodel and enlargement of a 481 square foot residential structure situated on a very small canal-fronting lot (1,900 square feet). Instead of demolishing the existing residence and building a completely new residence with the required ten-foot minimum setback front yard setback (from the Sherman Canal property line), the applicant proposes to preserve the existing residence on the property along with its non-conforming eight-foot front yard setback (Exhibit #3). Because of the small size of the lot, the proposed addition is set back only 11.5 feet from the canal property line, instead of fifteen feet. The proposed project includes the provision of a 450 square foot permeable front yard area adjacent to the canal, which is a standard requirement for canal-fronting lots (most of which are 2,700 square feet in area).

Staff is recommending that the Commission approve a coastal development permit for the proposed project including the preservation of the existing building and its non-conforming front yard setback. The recommended special conditions would prohibit new building encroachments within 11.5 feet of the front property line and require the applicant to maintain the proposed 450 square feet of permeable front yard area. Special conditions also address density, parking, height, non-conforming rights, extent of demolition, and the protection of water quality. The applicant agrees with the recommendation. **See Page Two for motion.**

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles certified Land Use Plan for Venice, 6/12/01.
2. Coastal Development Permit 5-99-317 (Parkos).
3. Coastal Development Permit 5-99-085 (Menas).
4. Coastal Development Permit 5-93-291 (Wiener).
5. Coastal Development Permit 5-01-327 (Storey).

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 5-01-418 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. Permeable Yard Area

A) In order to maintain an open and visible access corridor, to enhance visual quality, and to preserve the water quality and biological productivity of the canals, an uncovered and permeable yard area totaling no less than 450 square feet shall be maintained in the front yard area between the structure and the front (Sherman Canal) property line (as shown on **Exhibit #3 of 12/20/01** staff report). Uncovered means that no fill or building extensions (i.e. chimneys, balconies, stairs, trellises) shall be placed in or over the 450 square foot permeable yard area with the exception of fences (not to exceed 42 inches in height except along Dell Avenue) and permeable decks at grade (not to exceed 18 inches in height). The existing structure may be maintained in its current footprint, along with its non-conforming eight-foot setback from the front (Sherman Canal) property line, but in no case shall the proposed building addition encroach within 11.5 feet of the front (Sherman Canal) property line.

B) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the

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

2. Residential Density

The permitted use of the property is a single family residence. Any proposed change in the number of units or change in use shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

3. Parking

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

4. Building Height

No new development is authorized within 11.5 feet of the fronting canal property line (Sherman Canal) and within or above the required 450 square foot permeable front yard area, except as described in Special Condition One above. At a point ten feet landward of the fronting canal property line the maximum height of any structure shall not exceed 22 feet above the centerline of the rear alley feet except for a chimney. Beyond ten horizontal feet from the fronting canal property line, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of thirty (30') feet except for chimneys, ducts, and ventilation shafts which are limited to 35 feet. Roof deck railings and roof equipment housings shall not exceed 42 inches above the thirty-foot height limit. This permit does not authorize any roof access structure above the thirty-foot height limit.

5. Drainage – Water Quality

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, drainage plans which provide for the following:

- a) During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any canal.
- b) A one hundred cubic foot french drain shall be installed on the project site to reduce the amount of runoff that leaves the site.
- c) A drainage plan for the proposed single family residence which directs all runoff leaving the site away from the canals and into the City storm drain system.

The permittees and all successors in interest shall construct and maintain the development consistent with the drainage plans approved by the Executive Director.

6. Non-conforming Rights - Demolition

This coastal development permit does not permit the demolition of the existing structure on the site. The submitted plans show that more than fifty percent (50%) of the exterior walls of the existing structure will remain in place. If, for any reason, more than fifty percent (50%) of the exterior walls of the existing structure are removed, the applicant shall stop work and submit an application to amend this coastal development permit.

After demolition has been completed, and the framing of the walls to remain is exposed pursuant to the demolition plan approved in this permit, but **prior to any new construction**, the applicant shall submit to Executive Director, via bonded messenger from the City of Los Angeles Building Department, for the review and approval of the Executive Director, a certified copy of the City building inspector's report which indicates whether any demolition beyond the amount shown on the demolition plan approved by this permit has occurred or would be necessary in order to meet building and safety codes. If the building inspector's report, accepted by the Executive Director, indicates additional demolition has already occurred or must occur due to the deteriorated state of the walls which were proposed by the applicant to remain, the applicant shall submit a complete amendment request application or a complete application for a new coastal development permit. The application shall address the issue of revisions to the project due to the need for additional demolition. Whether an amendment or a new application is submitted shall be determined by the Executive Director.

No further development may occur until either:

- a) The Executive Director determines, pursuant to the City building inspector's report, that all walls identified as walls to remain are intact and structurally sound; or
- b) the applicant submits an amendment request application if so directed by the Executive Director and the amendment request is subsequently approved by the Coastal Commission and issued by the Executive Director; or
- c) the applicant submits a new coastal development permit application if so directed by the Executive Director and the coastal development permit is approved by the Coastal Commission and issued by the Executive Director.

7. Termite Inspection

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a termite inspection report, prepared by a licensed professional, indicating the degree, if any, of termite damage that exists within the existing residential structure that is the subject of the permit. The termite inspection report shall also be submitted to the City of Los Angeles Building Department.

If the termite inspection report indicates that additional demolition will be necessary in order for the structure to meet building and safety standards, the applicant shall submit a complete amendment request application or a complete application for a new coastal development permit. Whether an amendment or permit application is submitted shall be determined by the Executive Director. The application shall address the issue of revisions to the project due to the need for additional demolition. **No development may proceed if an amendment or new coastal development permit application pursuant to the special conditions of this permit is pending.**

8. Dell Avenue Right-of-Way

Except for a sixteen-foot wide driveway access, this coastal development permit does not authorize the use of any portion of the Dell Avenue right-of-way for private parking or other private use.

9. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved plans, no matter how minor, must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Area History

The applicant proposes to construct a two-story addition onto an existing one-story, 481 square foot single family residence situated on the north bank of Sherman Canal in Venice (Exhibits #3&4). The applicant proposes to preserve part of the existing residence and maintain its non-conforming eight-foot setback from the front (Sherman Canal) property line (Exhibit #3). The proposed addition and remodel would result in a two-story, 1,304 square foot single family residence with a roof deck. The proposed roof deck would be 22 feet above the elevation of the rear alley (Exhibit #4). A proposed roof access structure would reach thirty feet above the elevation of the rear alley (Exhibit #4). A six-foot high fence is proposed along the Dell Avenue property line.

The proposed project also includes the construction of a detached two-story garage with a 184 square foot recreation room on the second floor. The proposed one-car garage would be built on the footprint of the existing one-car garage that is proposed to be demolished (Exhibits #3&4). The applicant proposes to maintain a second on-site parking space on the garage driveway apron (Exhibit #3). The on-site parking supply is accessed from Dell Avenue, the site's only vehicular access (Exhibit #2). The proposed project includes the provision of 450 square feet of permeable yard area in the front yard next to Sherman Canal (Exhibit #3).

The project site is a 1,900 square foot lot situated in the Venice Canals residential area (Exhibit #2). The neighborhood is comprised of both old and new one, two and three-story single family residences, and a few non-conforming duplexes. Most of the canal-fronting lots in the area are 2,700 square feet (30'x 90') or larger in size. Public sidewalks currently provide public access along all banks of the canals. The abutting property to the west is developed with a thirty-foot high (with 38-foot high roof access structure) single family residence. The abutting 1,900 square foot lot to the north is developed with a one-story single family home.

The Commission has recognized in both prior permit and appeal decisions that the Venice Canals are a unique coastal resource [e.g. Coastal Development Permit 5-91-884 (City of Los Angeles)]. In 1980, the Commission adopted the Regional Interpretive Guidelines for Los Angeles County which included specific building standards for the various Venice neighborhoods, including the Venice Canals neighborhood situated north of Washington Boulevard where the proposed project is located. These building standards, which apply primarily to density, building height, parking, and protection of water quality, reflect conditions imposed in a series of permits heard prior to 1980. The Commission has consistently applied these density, height and parking standards to development in the Venice coastal zone in order to protect public access to the beach and to preserve the special character of the neighborhoods.

On October 29, 1999, the Los Angeles City Council adopted a proposed Land Use Plan (LUP) for Venice and submitted it for Commission certification as part of the City's effort to develop a certified Local Coastal Program (LCP) for Venice. On November 14, 2000, the Commission approved the City's proposed 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 the Commission on November 14, 2000 approved it. The Commission on June 12, 2001 officially certified the Venice LUP.

The Commission-certified LUP for Venice contains updated and revised building standards for the various Venice neighborhoods, including the Venice Canals neighborhood where the proposed project is situated. The policies and building standards contained in the Venice LUP reflect the Commission's prior actions in the area, the Commission's 1980 Interpretive Guidelines, and the existing unique character of the area.

Although the standard of review for the proposed development is the Chapter 3 policies of the Coastal Act, the Commission-certified LUP for Venice now provides specific guidance for the Commission's interpretation of the relevant Chapter 3 policies. Special conditions are imposed on coastal development permits to ensure that proposed development is approved only if found to be consistent with the Coastal Act. In order to mitigate the identified impacts, the appropriate special conditions have also been applied to this coastal development permit.

B. Demolition vs Remodel

The issue of whether a project constitutes demolition and new construction rather than a remodel of an existing structure becomes significant when an existing non-conformity is

proposed to be retained. In the case of the proposed project, the existing residence extends two feet beyond the front yard setback the Commission would normally impose. In the Venice Canals neighborhood, the Commission routinely imposes a front yard setback of fifteen feet, or ten feet with a fifteen-foot average setback from the canal property line.

The applicant has submitted detailed information about the amount of demolition that would occur with the proposed project. Typically, the Commission has quantified demolition by tabulating the extent of exterior linear walls to be removed compared to the total overall amount of exterior linear walls existing prior to the proposed development. The walls proposed to remain must retain their structural components such as studs. Cosmetic portions of the wall, such as exterior stucco and interior drywall, may be removed.

In the case of the proposed project, the total existing linear footage of exterior walls is 106 linear feet. Of that amount, 57 linear feet are proposed to remain, while 49 feet would be removed. Staff has verified these figures using the plans submitted by the applicant. The applicant, then, is proposing to demolish 46% of the exterior, linear footage of the existing walls ($49/106 = .462 \times 100 = 46\%$). The Commission has generally found that if less than 50% of the linear feet of the existing exterior walls are removed, the project can be reviewed as a remodel rather than new construction. The significance of this distinction is that existing non-conformities, such as existing development within the setback area, may remain if no work is proposed to occur on them.

However, it must be noted that the amount of proposed demolition is within four percent (4%) of the amount that would trigger the requirement to remove existing development within the front yard setback area. The four percent figure translates into a mere 4.24 linear feet of existing wall area (4% of 106 is 4.24). The amount of demolition could easily exceed the critical fifty-percent point once demolition is begun, either by accident or for other reasons. For example, an additional five feet of wall could be accidentally knocked down unwittingly by a contractor. Or it may appear prudent to the contractor to remove and rebuild a section of existing wall to facilitate construction. Further, it is not uncommon to discover structural problems such as termites or dry rot within walls that were proposed to remain once they are exposed to the studs. This issue often arises especially in older homes such as the existing structure on-site which is believed to have been constructed sometime before the 1940s. When this happens the wall must be taken down to meet building safety standards. Once a new wall is erected in the same location, it is virtually impossible to determine that the wall replacement has occurred. This leads to the situation where a remodel project really constitutes demolition and new development, and would have been required to meet the appropriate front yard setback. This issue has arisen with previously approved coastal development permits including Coastal Development Permit 5-98-251 (Boehringer) for a project in Laguna Beach.

The Commission finds that application of the fifty-percent demolition threshold provides a consistent and equitable method of dealing with existing non-conformities associated with extensive remodel projects. Therefore, the Commission finds that because the proposed project does not exceed the fifty-percent threshold, it does not constitute demolition and new construction and so the existing non-conforming front yard setback may remain. However, contingencies must be in place once the demolition is under way to assure that the critical

threshold is not exceeded, or if it is exceeded, to establish an avenue which allows the project to be re-assessed based on the revised demolition figure.

As stated above, a frequent reason additional demolition becomes necessary is the discovery of termites and termite damage within the walls proposed to remain. In order to minimize the chances of this issue arising after demolition has begun, a special condition is being imposed which requires the applicant to submit a termite inspection report prior to issuance of the coastal development permit. If the report indicates that the walls proposed to remain are damaged, the applicant is required to submit an amendment application or an application for a new coastal development permit. Whether an amendment or new permit application is appropriate would be determined by the Executive Director. Once a complete application is received, the project would be evaluated based on the newly discovered information.

In addition, another special condition is being imposed which requires that the applicant submit a copy of the City building inspector's report done after the proposed demolition is complete and the framing of the walls to remain is exposed, but before any new construction has commenced. The inspector's report would verify the extent of demolition and the condition of the walls remaining. If the inspector's report indicates that more demolition has occurred than was approved or that the walls originally proposed to remain are not structurally sound, the applicant is required to submit an amendment application or an application for a new coastal development permit. Again, whether an amendment or new permit application is appropriate would be determined by the Executive Director. Once a complete application is received, the project would then be evaluated based on the newly discovered information.

These special conditions are necessary to assure that development is carried out as proposed and that the development is consistent with the Chapter 3 policies of the Coastal Act. The proposed project's consistency with specific Sections of the Coastal Act is discussed below.

C. Community Character

Section 3025I 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....

In order to protect public access, community character and visual quality in the Venice Canals neighborhood where the proposed project is situated, the Commission has consistently limited residential density and structural height, and has required the provision of yard areas and structural setbacks from the canals [e.g. Coastal Development Permit 5-95-043 (Chamorro)]. In order to regulate residential development in the Venice Canals neighborhood, the Commission adopted the following policy as part of the certified Venice LUP.

Venice Land Use Plan Policy I.A.4.a states:

a. Venice Canals

Use: Single-family dwelling / one unit per lot

Density: One unit per 2,300 square feet of lot area. Lots smaller than 5,000 square feet shall not be subdivided. Lots larger than 2,300 square feet shall not be combined.

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

Yards: 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 fill nor building extensions, including stairs and balconies, shall be placed in or over the required permeable front yard area with the exception of 42-inch high fences or permeable decks at grade (no more than 18" high).

Height: Not to exceed 22 feet for any portion within 10 feet from the canal property line. Thereafter, an ascending height equal to one half the horizontal depth from this 10-foot line with a maximum height of 30 feet. Roof access structures shall be set back at least 60 horizontal feet from the mean high tide line of the fronting canal. 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).

As discussed below, the proposed project complies with all the standards contained in the above-stated LUP policy except for the provision of the required front yard setback (*minimum 10-foot front yard setback, with a required 15-foot setback average*). The applicant proposes to preserve the existing residence and maintain its non-conforming eight-foot setback from the front (Sherman Canal) property line (Exhibit #3). Only a fourteen-foot wide portion of the existing structure encroaches within the minimum required ten-foot front yard setback area on the forty-foot wide lot. The proposed new two-story addition does not encroach closer than 11.5 feet of the canal property line. The proposed average front yard setback (front yard area/lot width) is 11.25 feet ($450/40' = 11.25'$) with the western part of the façade set back 11.5 feet from the canal property line and the eastern part of the façade set back 16.75 feet (Exhibit #3).

In numerous prior cases, the Commission has approved remodels and additions to homes in the neighborhood that maintain non-conforming front yard setbacks. These past approvals

have enabled applicants to preserve some of the older structures in the Venice Canals neighborhood [See Coastal Development Permits 5-92-049 (Greenwald), 5-92-292 (Cramer), 5-92-427 (Vessler), 5-92-347 (Leoncavallo), 5-93-224 (Payton), 5-93-291 (Wiener), 5-94-115 (Schacht), 5-94-273 (Contant), 5-95-034 (Groening), 5-95-096 (Pascal), 5-95-273 (Keynan), 5-96-046 (Friedman), 5-99-062 (Balkan), 5-99-085 (Menas), 5-99-317 (Parkos) & 5-01-327 (Storey)].

The applicant has obtained approval of the proposed project from the City pursuant to the Venice Specific Plan (City Case No. DIR2001-9987). During the local project permit process, the adjacent neighbor (to the north) objected to the design of the proposed two-story garage that is located eighteen inches (18") from the shared property line (Exhibit #3). The proposed two-story garage is eighteen feet (18') high and in conformance with the thirty-foot height limit. The building to the west of both properties is thirty feet high with a 38-foot high roof access structure. The issue raised by the objector is a private side yard issue, one that the Commission does not consider to be a Coastal Act issue.

Building Setback from Canal

The applicant can be permitted to preserve the existing building and its non-conforming front yard setback and to construct the proposed two-story addition within fifteen feet of the canal property line because: a) the lot is very small and irregular in relation to surrounding properties, b) the proposed project does not include any increase in the existing building's height or floor area within 11.5 feet of the front (Sherman Canal) property line, and c) 450 square feet of permeable yard area is being provided in the front yard adjacent to the canal. Also, the proposed two-story addition, which is set back 11.5 feet of the canal property line, will not have any negative effect on visual quality or public access.

Buildings in Venice have been required to be setback from waterways in order to enhance visual quality and public recreation, protect marine resources, and to provide an area on the site for water percolation. For new residential projects in the Venice Canals neighborhood, the certified Venice LUP requires the provision of a ten-foot minimum/fifteen-foot average front yard setback and an open and permeable yard (at least 450 square feet for a thirty-foot wide lot, and at least six hundred square feet for a forty-foot wide lot¹) between the canal property line and the front of any structure. A minimum ten-foot front yard setback, with a required fifteen-foot setback average on any lot provides the required permeable front yard area. No building extensions, including stairs and balconies, are permitted to be placed in or over the required permeable front yard area with the exception of permeable decks. The Venice LUP includes this permeable yard and setback requirement for all new development proposed along the Venice Canals.

The existing single family residence, which the applicant proposes to preserve, provides an eight-foot front yard setback which does not conform to the minimum ten-foot setback that is required for new buildings (Exhibit #3). The applicant proposes to preserve the existing residence and maintain its non-conforming eight-foot front yard setback (from the Sherman

¹ The vast majority of the thirty and forty-foot wide lots in the Venice Canals neighborhood are ninety feet in length. The subject site is irregular in size and shape, measuring 40'x 47.5' (See Exhibit #2).

Canal property line) (Exhibit #5). The proposed two-story addition is set back 11.5 feet from the canal property line. The proposed project includes the provision of 450 square feet of permeable yard area in the front yard (Exhibit #3).

In past actions, the Commission has determined that non-conforming front yard setbacks may be maintained when older structures are remodeled and enlarged [See Coastal Development Permits 5-92-049 (Greenwald), 5-92-292 (Cramer), 5-92-427 (Vessler), 5-92-347 (Leoncavallo), 5-93-224 (Payton), 5-93-291 (Wiener), 5-94-115 (Schacht), 5-94-273 (Contant), 5-95-034 (Groening), 5-95-096 (Pascal), 5-95-273 (Keynan), 5-96-046 (Friedman), 5-99-062 (Balkan), 5-99-085 (Menas), 5-99-317 (Parkos) & 5-01-327 (Storey)].

The ability to maintain non-conforming setbacks during major and minor remodeling projects allows applicants to preserve the older (often original) structures in the neighborhood, thus preserving some of the area's unique historical character. The Commission requires *new structures* in the Venice Canals neighborhood to conform the current setback requirement, which is a fifteen-foot average setback (with a ten-foot minimum) from the front property line. The Commission's allowance for the maintenance of non-conforming front yard setbacks, however, is limited to very specific circumstances.

First, the proposed development must be an improvement to an existing structure. The Commission has not permitted any new structures to be built with a non-conforming front yard setback. The Commission considers a development to be a new structure if more than fifty percent of the exterior walls of an existing structure are removed. In this case, the applicant's plans indicate that less than fifty percent (46%) of the existing exterior walls of the existing single family residence will be removed. If, however, the project results in more than fifty percent of the exterior walls of the existing structure being removed, the applicant shall stop work and submit an application to amend this coastal development permit. Any such demolition and subsequent amendment application may result in the loss of the right to maintain a non-conforming front yard setback.

Secondly, no new development is permitted to encroach within the minimum ten-foot front yard setback area that is required for all new development. The proposed addition is setback more than ten feet (11.5') from the front property line (Exhibit #3). On the usual 30'x 90' and 40'x 90' canal-fronting lots, the Commission does not permit any additional floor area to be added to non-conforming structures within fifteen feet -foot of the front property line. This limitation prevents non-conforming structures from receiving a double advantage in regards to the front yard setback requirements (i.e. relief from both the ten-foot minimum and the fifteen-foot average setback requirements for new homes). For example, the non-conforming structure may be permitted to maintain it's non-conforming front yard setback, but the new addition must be set back a minimum of fifteen feet from the canal property line [See Coastal Development Permit 5-01-327 (Storey)].

In this instance, because the proposed project is on an irregularly shaped lot (40'x 47.5'=1,900 square feet) the applicant has about thirty percent less area to build on than a normal 2,700 square foot canal-fronting lot. Regardless of the small size of the lot, the applicant is proposing to provide relatively large permeable front yard area (450 square feet). The basis for the Commission's front yard setback requirement is to provide a large front yard for

percolation of runoff, and to protect community character and public views along the canals. In this case, the proposed project is providing the required front yard area and a front yard setback of 11.5 feet for the new addition (Exhibit #3). Because the proposed addition is setback more than ten feet (11.5') from the front property line, it will not have any additional impact on public views along the canal than would a new structure that conforms to the Commission ten-foot minimum/fifteen-foot average front yard setback requirement (Exhibits #3&4). No increase in the existing building's height or floor area is proposed within 11.5 feet of the front (Sherman Canal) property line.

Therefore, the proposed project is not required to provide the average fifteen-foot front yard setback area that is required for all new development because it is an addition to an existing structure on a very small and irregular lot. Any deviation from the approved project plans, no matter how minor, must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

Thirdly, the Commission has consistently required that all projects, including both new homes and remodeled homes, provide the required amount of permeable yard area on the site. For all new homes in the Venice Canals neighborhood, the permeable yard area must always be provided in the front yard setback area. The Commission does not count the standard three foot wide side yard areas and areas less than two feet wide as part of the required permeable yard area for new residences. For remodels of structures with non-conforming setbacks, the permeable yard area may be provided in the front yard and/or other parts of the property. In this case, the proposed project provides a total of 450 square feet of permeable yard area, all of it in the front yard consistent with the requirement for new development (Exhibit #3).

Therefore, the proposed project meets the criteria that the Commission has established through a series of prior precedential actions for maintaining existing non-conforming front yard setbacks: more than fifty percent of the exterior walls of the existing structure are proposed to be preserved, no part of the proposed addition would encroach within ten feet of the front (canal) property line, and all 450 square feet of the required permeable yard area is provided within the front yard area. The existing structure may be maintained in its current footprint, along with its non-conforming eight-foot setback from the front (Sherman Canal) property line. In no case, however, shall the proposed addition encroach within 11.5 feet of the front (Sherman Canal) property line.

Residential Density

In order to protect public access to the shoreline and to preserve the character of the Venice Canals neighborhood, the Commission has consistently limited residential density to one unit per lot. The Venice LUP limits residential density in the project area to one unit per lot. The applicant proposes to maintain the use of the property as a single family residence. Therefore, the proposed project as conditioned conforms to the Commission's density limit for the site, the density limit of the Venice LUP, and is consistent with the provisions of Section 30251 of the Coastal Act. Any proposed change in the number of units or change in use shall be submitted to the Executive Director to determine whether an amendment to this permit is

necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

Building Height

Building height and bulk can also affect the scenic and visual qualities of coastal areas. In prior actions, the Commission and the City have both consistently limited the height of structures in order to preserve the character of the Venice area. Development immediately adjacent to Ballona Lagoon and the Venice Canals has been limited to a height thirty feet (within sixty feet of the Esplanade) in order to provide more air space for bird flyways and to enhance public recreation by protecting the waterways from a canyon effect created by taller buildings [e.g. Coastal Development Permit 5-00-018 (Orenstein)].

The Commission-certified Venice LUP maintains the historic thirty-foot height limit for all development in the Venice Canals neighborhood, and also includes a 22-foot height limit for non-conforming structures that are permitted to be maintained within ten feet of the canal property line.

The proposed project does not exceed a height of 22 feet within ten feet of the canal property line as required by the certified LUP. Overall, the proposed project does not exceed a height of thirty feet above the centerline of the rear alley, Howland Canal Court (Exhibit #4). The permit is conditioned to limit the height of the single family residence to a maximum of thirty feet above the elevation of the alley. No portion of the structure is permitted to exceed thirty feet in height above the elevation of the alley, except for chimneys, ducts and ventilation shafts which are limited to 35 feet. The applicant has not proposed any increase in the existing building's height or floor area within 11.5 feet of the front (Sherman Canal) property line (Exhibit #5). Any deviation from the approved project plans, no matter how minor, must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

The proposed remodel and addition is consistent with the established character of the Venice Canals community and will not add any building bulk within the minimum building setback area that has been established to protect the air space above and adjacent to the canals. The scenic and visual qualities of the area will not be negatively impacted by the proposed project. Therefore, the Commission finds that the proposed project, as conditioned, conforms to the Commission's height limit, the Venice LUP and Section 30251 of the Coastal Act.

D. Marine Resources and Water Quality

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

Section 30240 of the Coastal Act states:

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

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

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

In order to protect the biological productivity of the Venice Canals and Ballona Lagoon, the Commission has consistently conditioned projects along the waterways to provide and maintain front yard setbacks, permeable yard areas and drainage devices to absorb and filter rainwater and site drainage before it enters the canals [e.g. Coastal Development Permit 5-00-018 (Orenstein)]. The Commission's requirements are consistent with the recommendations of the Santa Monica Bay Restoration Project Action Plan to reduce non-point source pollutants.

The Commission has consistently conditioned projects in the Venice Canals to provide and maintain a large permeable front yard as a setback from the canal to enhance public access, to provide an area for percolation to protect the water quality and biological productivity of the canals, and to protect community character by maintaining a comparable scale between

buildings in the area. No fill nor building extensions may be placed in or over the required permeable front yard area with the exception of fences or permeable decks at grade. The permeable front yard area allows rain and irrigation water to seep into the ground, minimizing run-off directly into the canals. An impervious front yard could facilitate a "rush" of water run-off which would increase the amount of sediments and pollutants that are washed into the adjacent canal.

The amount of the Commission's required permeable front yard area for a 30'x 90' (2,700 square feet) canal-fronting lot is 450 square feet. For a 40'x 90' (3,600 square feet) canal-fronting lot, the required permeable front yard area is 600 square feet. The required amount of permeable yard area is based on an average setback of fifteen feet across a thirty or forty-foot wide canal-fronting lot (ninety feet long), which is the typical lot configuration along the Venice Canals. The Commission's front yard setback requirement is defined in square footage rather than an absolute lineal measurement to allow for changes in plane that can add architectural interest.

The proposed project, however, is on a very small and irregularly shaped lot (40'x 47.5'=1,900 square feet). The applicant's lot is about thirty percent smaller than a normal 2,700 square foot canal-fronting lot. Therefore, no more than the 450 square feet of permeable yard area that is required on a 2,700 square foot lot should be required on a 1,900 square foot lot. Based on the total area of the applicant's lot, the proposed 450 square feet of permeable yard area on the 1,900 square foot project site exceeds the amount of permeable yard area provided in the front yards of other residences in the neighborhood. All 450 square feet of proposed uncovered and permeable yard area is being provided within the front yard setback area as required (between the front of the house and the canal). A permeable wood deck is proposed within the permeable yard area. The applicant's proposed permeable yard area plan is consistent with the intent of the condition (to protect water quality by providing a large contiguous area for percolation) and is consistent with the marine resource policies of the Coastal Act.

The Commission has consistently required that applicants record the permeable yard area requirement on the property deeds to ensure continuous and ongoing protection of coastal resources and compliance with the requirement. Therefore, the Commission finds that prior to issuance of the permit, the applicant shall record a deed restriction which provides for the maintenance of not less than 450 square feet of uncovered and permeable yard area in the front yard area adjacent the canal property line (as shown on Exhibit #3). Uncovered means that no fill or building extensions (i.e. chimneys, balconies, stairs, trellises) shall be placed in or over the 450 square foot permeable yard area with the exception of fences (not to exceed 42 inches in height except along Dell Avenue) and permeable decks at grade (not to exceed 18 inches in height). The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. Only as conditioned to record a deed restriction on the property for the maintenance of not less than 450 square feet of permeable yard area in the front yard does the Commission find the project consistent with the Chapter 3 policies of the Coastal Act.

In order to mitigate the impacts on the habitat caused by surface drainage and drainage from residential areas, the Commission has also consistently required the provision of a one hundred cubic foot french drain on canal-fronting lots in order to reduce the amount of runoff that leaves the site and to filter urban runoff before it enters the canals. In this case, the applicant is required to provide plans which depict the location and design of the required french drain. Therefore, to further protect marine resources and water quality, a condition of approval requires the applicant to submit drainage plans which also provide for the following:

- a) During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any canal.
- b) A one hundred cubic foot french drain shall be installed on the project site to reduce the amount of runoff that leaves the site.
- c) A drainage plan for the proposed single family residence which directs runoff leaving the site away from the canal and into the City storm drain system.

Although the neighborhood where the proposed development is located eventually drains into canals via the City storm drain system, the City will soon be installing filters in the catch basins which drain into the canals. The filters will be installed in the storm drain catch basins as part of the Venice Canal Court rehabilitation project, which the Commission approved on July 10, 2001 [See Coastal Development Permit Amendment 5-91-584-A4 (City of Los Angeles)].

The Commission finds that, only as conditioned to provide a french drain and a permeable front yard area to mitigate impacts on biological productivity caused by surface runoff into the canals, is the proposed project consistent with the marine resource and water quality provisions of the Coastal Act.

E. Public Access and Recreation

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The proposed project is conditioned to conform with the following Coastal Act policies which protect and encourage public access and recreational use of coastal areas.

Section 3010 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

A public sidewalk currently exists on the canal bank between the project site and the waters of Sherman Canal (Exhibit #3). The existing sidewalk is part of a continuous City right-of-way system that provides public access and recreational opportunities along all the Venice waterways. The Coastal Act and the policies of the certified Venice LUP protect public access to and along the banks of the Venice Canals. The proposed project will not interfere with the existing public accessway.

In addition, the project site abuts Dell Avenue, a public right-of-way. In order to protect the public's right of access on the right-of-way, Special Condition Seven clearly states that this coastal development permit does not authorize the use of any portion of the Dell Avenue right-of-way for private parking or other private use, except for a sixteen-foot wide driveway access (Exhibit #3). Therefore, as conditioned the Commission finds that the proposed project is consistent with the public access and recreation policies of the Coastal Act.

F. Parking

The Commission has consistently found that a direct relationship exists between residential density, the provision of adequate parking, and the availability of public access to the coast. Section 30252 requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities.

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities....

Some of the older developments in the Venice Canals area do not provide adequate on-site parking. The availability of parking on the public streets is reduced by the fact that the streets in this neighborhood are primarily waterways and narrow alleys. The small amount of public parking on the surrounding streets is being used by guests and residents of the area. As a result, there is a parking shortage in the area and public access has been negatively impacted by the difficulty in finding a parking space.

To mitigate this problem, the Commission has consistently conditioned new single family homes within the canals to provide a rear setback of at least nine feet for guest parking or to make other provisions for guest parking. The required rear setback for guest parking is in

addition to the Commission's other parking standards that require the provision of at least two parking spaces per residence.

The proposed project provides two on-site parking spaces: one in the one-car garage and one on the driveway apron (Exhibit #3). Because the proposed project is on a very small and irregularly shaped lot (40'x 47.5'=1,900 square feet), there is much less room to provide the three on-site parking spaces that are required for new single family residences in the Venice Canals neighborhood. The applicant's lot is about thirty percent smaller than a normal 2,700 square foot canal-fronting lot. In addition, the proposed project is a remodel and addition to an existing single family residence that does not increase the intensity of use of the site. Therefore, the applicant is not required to increase the amount of on-site parking spaces above the two existing spaces.

The permit is conditioned to ensure the continued provision of the two on-site parking spaces and that the permitted use of the property is a single family residence. Any proposed change in the number of units or change in use shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. The condition regarding residential density is necessary to ensure that a parking deficiency does not occur as a result of creating additional residential units. A parking deficiency would reduce the availability of on-street parking for visitors, and as a result, reduce the ability of the public to access the coast.

The Commission finds that, only as conditioned to ensure the continued provision of adequate on-site parking, is the proposed project consistent with the public access policies of the Coastal Act.

G. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

- (a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The 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 the Commission on November 14, 2000 approved it. The Commission on June 12, 2001 officially certified the Venice LUP.

The proposed project, as conditioned, is 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).

H. 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. 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.

End/cp

VENICE, CA



Site

241 Sherman Canal

COASTAL COMMISSION

5-01-418

EXHIBIT # 1

PAGE 1 OF 1

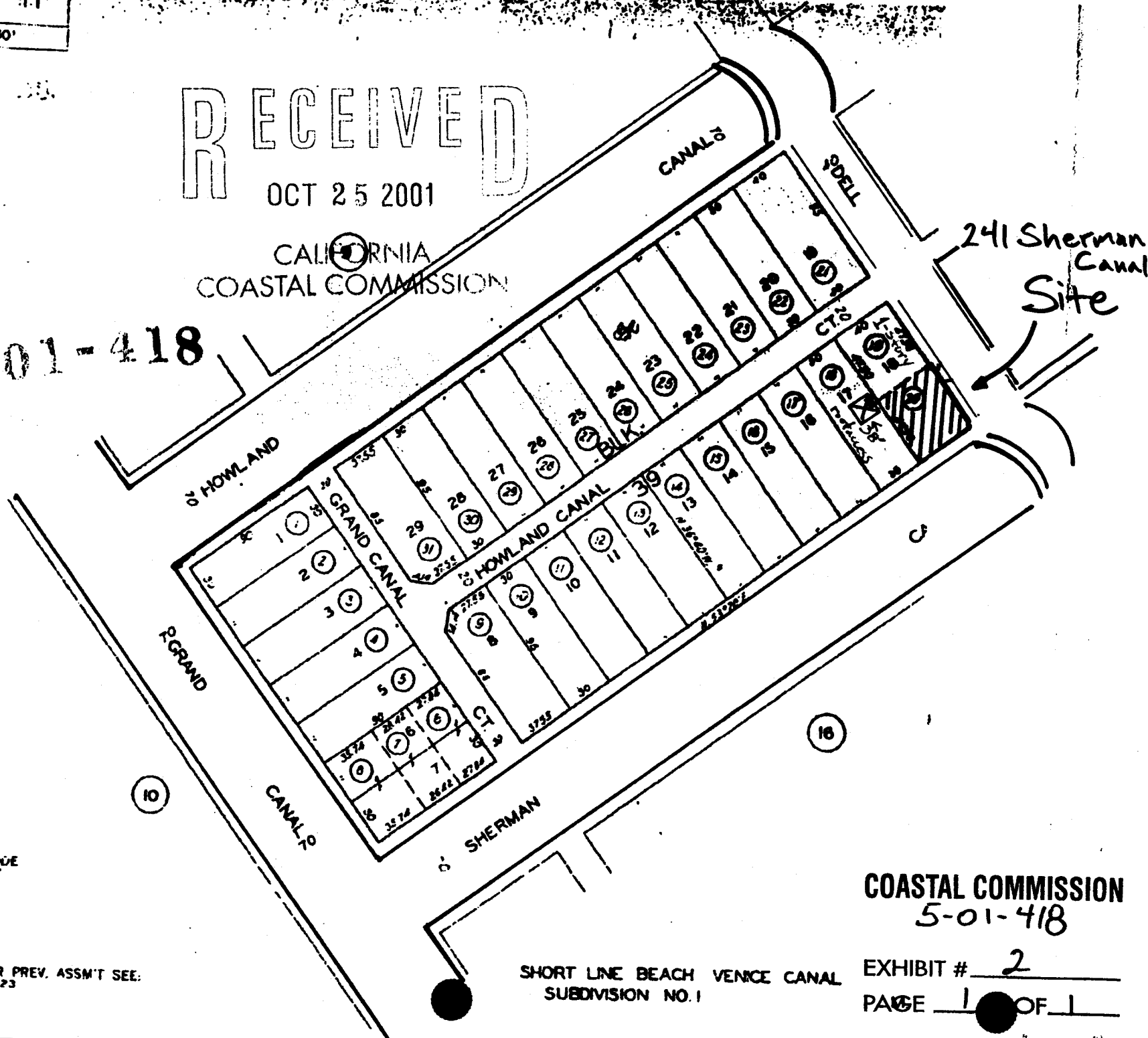
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CALIFORNIA
COASTAL COMMISSION

5-01-418

241 Sherman
Canal
Site



CODE
67

FOR PREV. ASSM'T SEE:
79-23

SHORT LINE BEACH VENICE CANAL
SUBDIVISION NO. 1

COASTAL COMMISSION
5-01-418

EXHIBIT # 2
PAGE 1 OF 1

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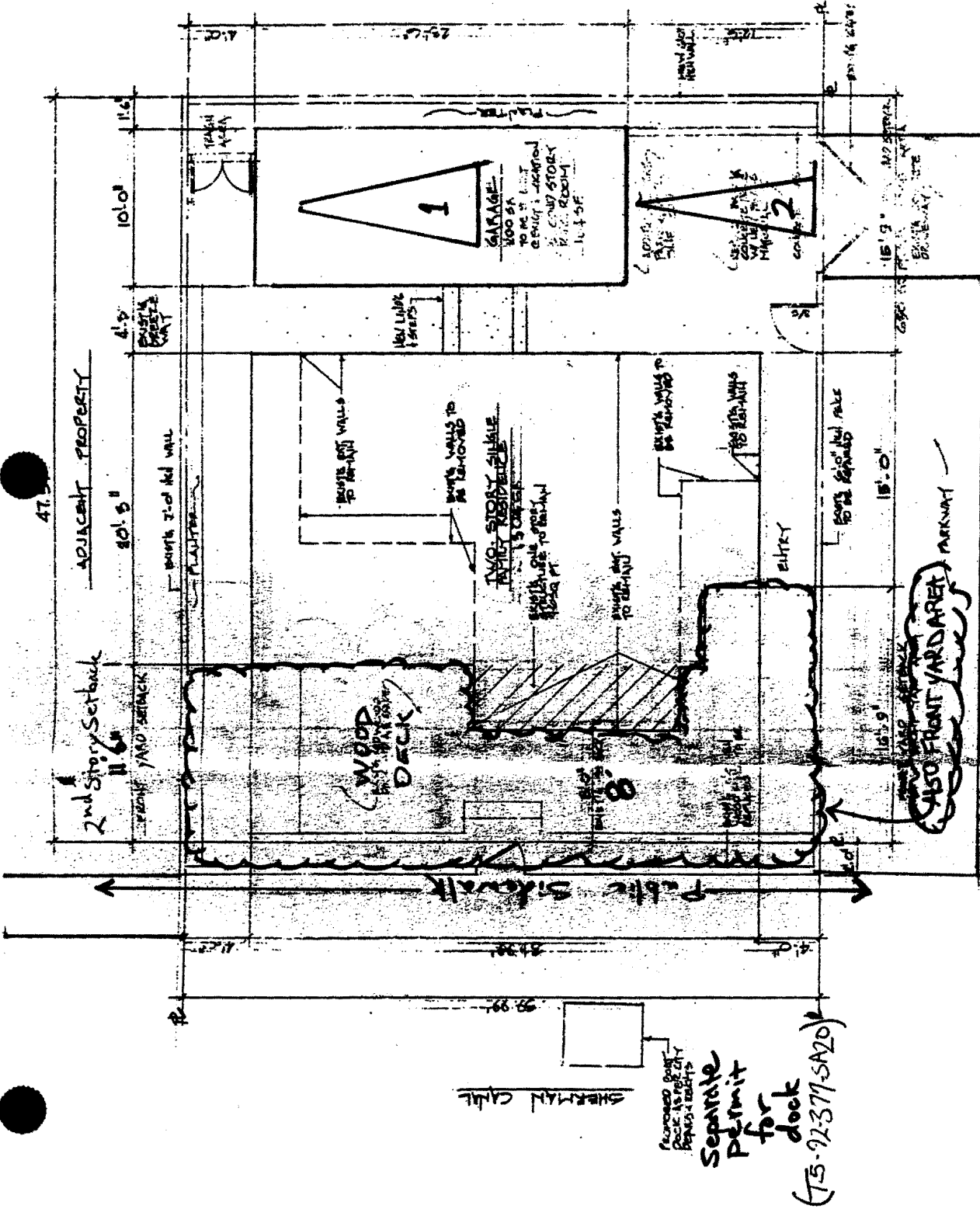
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COASTAL COMMISSION
5-01-418

EXHIBIT # 3

PAGE 1 OF 1

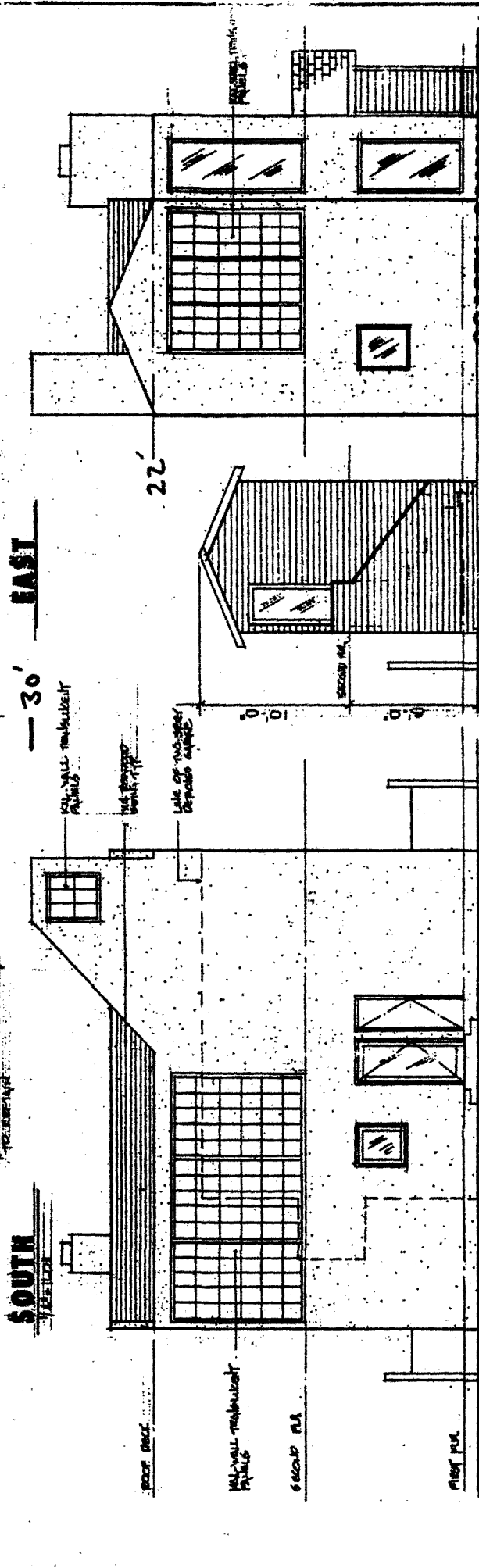
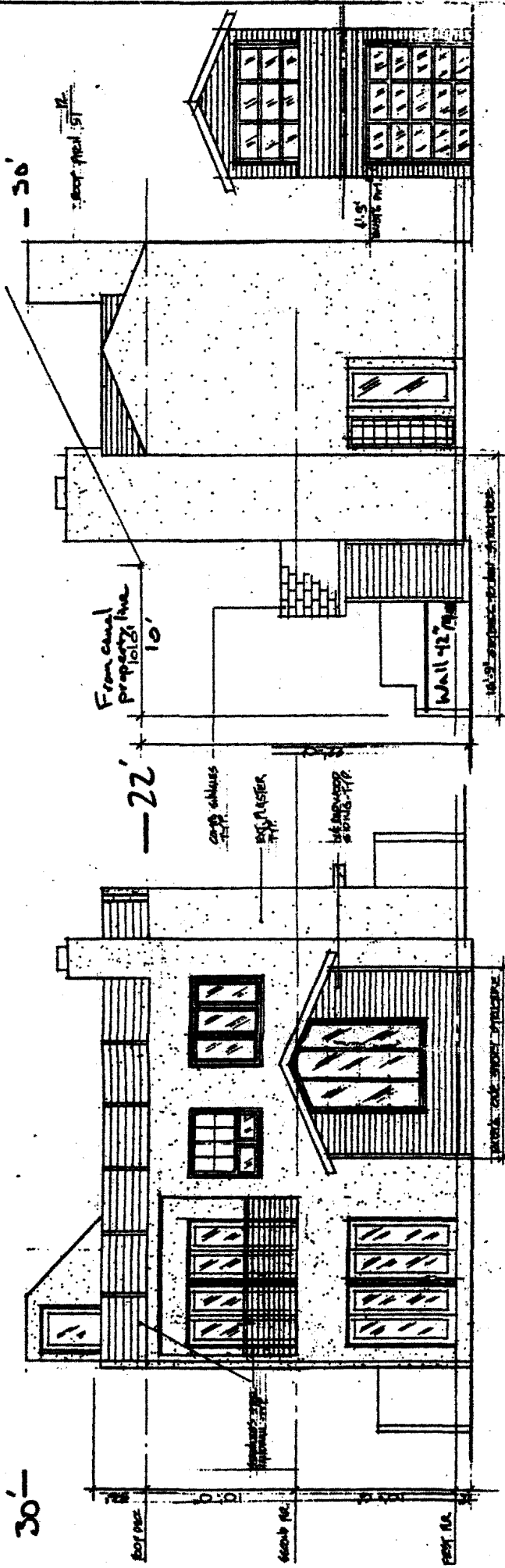


SITE PLAN

PELL AVE

Separate permit for dock
(75-92377-SAZO)

NOTES:
1. THIS PLAN IS FOR THE PROPOSED 2nd STORY RESIDENCE AND GARAGE.
2. THE PROPOSED 2nd STORY RESIDENCE AND GARAGE SHALL BE SET BACK 15'0\" FROM THE PUBLIC SIDEWALK.
3. THE PROPOSED WOOD DECK SHALL BE SET BACK 10'0\" FROM THE PUBLIC SIDEWALK.
4. THE PROPOSED GARAGE SHALL BE SET BACK 10'0\" FROM THE PUBLIC SIDEWALK.



COASTAL COMMISSION

5-01-418

WEST

NORTH

EXHIBIT # 4

PAGE 1 OF 1