

CALIFORNIA COASTAL COMMISSION

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Commission Action:

**STAFF REPORT: DE NOVO & REGULAR CALENDAR**

APPLICATION NUMBER: 5-00-351 **APPEAL NUMBER:** A-5-VEN-01-272

APPLICANT: Don Elster

AGENT: David Neish & David Neish, Jr.

PROJECT LOCATION: 3511 Via Dolce, Venice, City of Los Angeles.

PROJECT DESCRIPTION: Construction of a three-level (with a fourth level roof access, washer/drier, and storage room), 40-foot high (above Via Dolce), 4,167 square foot single family home and 499 square foot garage, with a 10-foot canal fronting setback on a vacant 2,908 square foot, canal fronting lot. The first and second floor building façade is setback 14.5' from the canal facing property line and the third floor is setback 12.5' from the canal facing property line. The second and third floors contain an overhanging balcony, setback 10 feet from the canal facing property line.

Lot Area	2,908 square feet
Building Coverage	1,347 square feet
Pavement Coverage/ Landscape Coverage	1,561 square feet
Zoning	RW2-1
Plan Designation	Low-Medium Density Residential
Max Ht.	40' above frontage road (Via Dolce)
Parking Spaces	2 in attached garage

SUMMARY OF STAFF RECOMMENDATION

At a public hearing on October 8, 2001, the Commission determined that a substantial issue exists with respect to the City's approval of the local coastal development permit on the grounds that the approved local coastal development permit raised issues of consistency with Sections 30230, 30231, 30240, 30251 and 30253 of the Coastal Act, which were established to protect marine resources, water quality, sensitive habitat, scenic and visual resources, and special communities. In addition, the Commission determined a substantial issue exists with respect to the City's approval of the local coastal development permit on the grounds that the approved local coastal development permit was inconsistent with the Commission certified Land Use Plan for Venice and would prejudice the ability of the local government to prepare a Local Coastal Program in conformity with the provisions of Chapter 3 of the Coastal Act.

Staff is recommending that the Commission grant a de novo permit (A-5-VEN-01-272) and a coastal development permit (5-00-351) for the proposed development with six (6) special conditions relating to the height and setback of the proposed single family home, provisions for the protection of the water quality of Grand Canal and the Ballona Lagoon seawater system, and the protection of the visual quality and character of the surrounding community. The recommended Special Conditions require the submittal of revised plans showing the maximum height of the proposed structure to be no greater than 30 feet above the fronting right-of-way (Via Dolce) within 60 horizontal feet of the inland side of the Esplanade (City right-of-way) and demonstrating that the project includes a 525 square foot open and permeable front yard (Grand Canal facing) setback. A minimum 10-foot front yard setback, with a required 15-foot setback average, will provide the required permeable front yard area. With such recommended Special Conditions, the revised project would be consistent with the Chapter 3 policies of the Coastal Act as well as with the Commission's certified Land Use Plan for Venice (see Page 5 for the recommended conditions of approval). The applicant objects to lowering the proposed height and increasing the canal-fronting setback. The applicant contends that the Commission approved surrounding developments with greater height limits and smaller canal fronting setbacks compared to the recommended special conditions found on page 5 of this staff report. Before the certification of the Venice Land Use Plan on November 14, 2000, the Commission did allow greater building heights and smaller setbacks along this part of Grand Canal, while requiring larger setbacks along the canals and Ballona Lagoon on other lots. When the Commission certified the Venice Land Use Plan it considered both the City's recommendation for greater setbacks and the individual and cumulative impacts associated with constructing buildings closer to Grand Canal. In certifying the Venice Land Use Plan, the Commission recognized more stringent building standards (e.g. a 15-foot average canal fronting setback – the setback applies to both enclosed structures and open decks - and a 30-foot height limit as measured above the fronting right-of-way). The Commission recognized that the more stringent standards were more protective of the community character and the long term viability of Grand Canal as a sensitive habitat area and public access resource. The Commission also found these more stringent standards consistent with the Chapter 3 policies of the Coastal Act as they relate to the protection of community character, visual resources, public access, and water quality of Grand Canal and Ballona Lagoon.

With the recommended special conditions, to revise the proposed project to conform to the Commission's certified LUP for Venice (consistent with Chapter 3 of the Coastal Act), the applicant could still construct a three-story, 30-foot high single family home with approximately 3,750 square feet of living area (found by subtracting 91 square feet because of the increased canal fronting setback and 320 square feet because of the deleted fourth floor roof access, laundry, and storage room). **See Page Four for motions.**

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles Certified Land Use Plan for Venice, 11/14/01.
2. Coastal Development Permit No. A-5-VEN-01-280 & 5-01-289 (Grand Canal Rehabilitation Project).

3. Coastal Development Permit No. 5-01-377 (Loo)
4. Coastal Development Permit No. 5-01-118 thru 123 (Lee Group).
5. Coastal Development Permit No. A-5-VEN-01-392 & 5-01-349 (King).
6. Coastal Development Permit No. 5-98-220 (Zagross).
7. Coastal Development Permit No. 5-98-193 (Frye).
8. Coastal Development Permit No. 5-95-019-A1 thru A5.
9. Coastal Development Permit No. 5-87-965 (Laughlin) & 5-87-966 (Kirkoff).
10. Coastal Development Permit No. 5-87-967 thru 969 (Strand Associates).
11. Coastal Development Permit No. 5-87-657 thru 659 (Schaffel).
12. Coastal Development Permit No. P-7-23-76-8463 (Lumbléau)
13. Biota of the Ballona Region, Los Angeles County Natural History Museum Foundation, Edited by Ralph W. Schreiber, 1981.

STAFF NOTE:

Section 30601 of the Coastal Act states:

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

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

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

The proposed project is located within 300 feet of the mean high tide line (Exhibit #1). Therefore, it is within the coastal zone area of the City of Los Angeles that has been designated in the City's permit program as the "Dual Permit Jurisdiction" area. Pursuant to Coastal Act section 30601 (Cal. Pub. Res. Code § 30601) and Section 13307 of Title 14 of the California Code of Regulations, any development located in the Dual Permit Jurisdiction that receives a local coastal development permit from the City must also obtain a permit from the Coastal Commission. The City-approved local coastal development

permit for the proposed project was appealed to the Commission on July 16, 2001 (Appeal No. A-5-VEN-01-272⁸¹₆₅). On October 8, 2001, the Commission found that a Substantial Issue exists with the City's approval of the proposed project, thus nullifying the local coastal development permit approval.

The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Los Angeles certified Land Use Plan for Venice is advisory in nature and may provide guidance.

In order to minimize duplication, Commission staff has combined the de novo appeal permit (A-5-VEN-01-272) and coastal development permit application (5-00-351) into one staff report and one Commission hearing. However, the Commission's approval, modification or disapproval of the proposed project will require two separate Commission actions: one action for the de novo appeal permit and one action for the coastal development permit application. Staff is recommending that the Commission grant a de novo permit (A-5-VEN-01-272) and a coastal development permit (5-00-351) for the proposed development with special conditions

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolutions to **APPROVE** Coastal Development Permits 5-00-351 and A-5-VEN-01-272 with special conditions. Staff recommends two **YES** votes which would result in the adoption of the following resolutions and findings. Affirmative votes by a majority of the Commissioners present are needed to pass the motions.

FIRST MOTION:

"I move that the Commission approve with special conditions Coastal Development Permit 5-00-351 pursuant to the staff recommendation as set forth below."

I. Resolution: Approval with Conditions of 5-00-351

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 provisions of Chapter 3 of the California Coastal Act of 1976 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.

SECOND MOTION:

"I move that the Commission approve with special conditions Coastal Development Permit A-5-VEN-01-272 pursuant to the staff recommendation as set forth below."

II. Resolution: Approval with Conditions of A-5-VEN-01-272

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 provisions of Chapter 3 of the California Coastal Act of 1976 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.

III. 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.

IV. Special Conditions

1. City Esplanade

Through the acceptance of this coastal development permit, the applicant acknowledges and agrees that the City Grand Canal Esplanade, the walkway situated between the site of the proposed development and the waters of Grand Canal, is a public sidewalk. Both during and subsequent to construction of the proposed project, the permittee and all successors in interest to the applicant shall avoid encroaching onto or over the Grand Canal Esplanade right-of-way (as shown on Exhibit #3 of the March 19, 2002 staff report) or otherwise interfering with the public's use of the Grand Canal Esplanade.

2. 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 revised to incorporate the following revisions to the project:

(i) Building Setback/Permeable Yard Area. In order to maintain an open and visible access corridor, enhance visual quality, preserve the water quality, and to protect the biological productivity of Grand Canal, an uncovered and permeable yard area totaling no less than 525 square feet shall be provided and maintained in the front yard area between the structure and the front (canal) property line. The area within the required front yard setback (fifteen-foot average setback with ten-foot minimum setback) shall be maintained as the required permeable yard area. Uncovered means that no fill or building extensions (e.g. balconies, stairs, trellises, etc) shall be placed in or over the 525 square foot permeable yard area with the exception of fences, garden walls or permeable decks. The total combined height of any deck, deck railings, garden walls and/or fences situated within the required permeable front yard area shall not exceed 6 feet above the elevation of the adjacent public walkway.

(ii) Building Height. The height of the structure within sixty horizontal feet of the inland side of the Esplanade (City right-of-way) shall not exceed thirty (30') feet above the centerline of the frontage road (Via Dolce). Beyond 60 horizontal feet, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of 38 feet above the centerline of the frontage road (Via Dolce). 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 inland side of the Esplanade. Chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit by five feet.

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 or a new coastal development permit unless the Executive Director determines that no amendment or new coastal development permit 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 items (i) and (ii) of Special Condition 2.A. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission approved amendment to this coastal development permit.

3. Residential Density

The permitted use of the approved structure 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.

4. Parking

A minimum of two parking spaces shall be provided and maintained on site. Vehicular access to the two on-site parking spaces shall be taken only from Via Dolce.

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 Grand Canal.

b) A one hundred cubic foot French drain shall be installed on the project site to collect and 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 Grand Canal and into the City storm drain system.

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

6. 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 set forth below. 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

The proposed project is the construction of a three-level (with a fourth level containing a roof access structure, a washer/drier room, and storage room), 40-foot high (above Via Dolce), 4,167 square foot single family home and 499 square foot garage, with a 14.5-foot first and second floor and 12.5-foot third floor canal fronting setback (See Exhibits). The project includes a second and third floor balcony that encroaches into the canal-fronting yard 10 feet from the canal-side property line (Exhibit #5). The project site is a 2,908 square foot lot situated on the east bank of Grand Canal in the Ballona Lagoon (Grand Canal) East residential area of Venice (Exhibit #2). The lot is approximately 81 feet long and is approximately 35 feet wide. The neighborhood is comprised of mostly new two and three-story single- and multi-family residences. The subject property is one of the last two privately owned vacant lots in this section of the east bank of Grand Canal. A City of Los Angeles owned, vacant lot borders the north side of the subject property and an existing single family home (Coastal Development Permit No. 5-98-193) is located to the south of the subject property. A City owned right-of-way (Esplanade) is located between the privately owned lots and Grand Canal (Exhibit #3). This Esplanade was first paved in the early 1900's. The Esplanade provides public access along both banks of this section of Grand Canal. The Esplanade fronting the subject property is buried under earth from years of erosion and tidal flooding. While the actual paved sidewalk currently lies under a few feet of loose, deposited material, the City retains ownership and public access remains unimpeded.

B. Grand Canal

The Venice Canals are a unique cultural, historic and scenic resource of Southern California. The canals, which were created as part of the "Venice of America" subdivision

in 1905, provide a sense of character and history for the Venice community. They also provide public access, recreation, and wildlife habitat. The canals, along with adjacent Ballona Lagoon, support some of the last remaining pockets of coastal wetland habitat in Los Angeles County.

The canal system fell into disrepair in the 1920's, and the City filled many of the original canals in 1927. The residents in the area have been attempting to restore the remaining canals since the 1960's. The Venice Canals located north of Washington Boulevard have already been rehabilitated (see Coastal Development Permit 5-91-584 & amendments). On November 13, 2001, the Commission approved the rehabilitation of the Grand Canal banks, public walkways, and waterways between Washington Blvd. and Ballona Lagoon (A-5-VEN-01-280 and 5-01-289).

The Grand Canal neighborhood located south of Washington Boulevard is a residential community consisting of multi-family and single family homes located along the open waterway. The neighborhood is located approximately four blocks from Venice Beach, one of the most popular visitor destinations in Los Angeles (Exhibit #2). Most of the residences front the canals and are accessed from the rear alleys or, in this case, Via Dolce. Public walkways, which are currently severely damaged or completely deteriorated, run along both sides of the canal and separate the private residences from the canal. The Esplanade fronting the subject property is buried under earth material from years of erosion and tidal flooding.

Grand Canal and the rest of the Venice Canals are part of the Ballona Lagoon sea water system. Ballona Lagoon connects to the south end of Grand Canal (Exhibit #1 & #2). The northern Venice Canals are connected to the project site (Grand Canal) by five three-foot diameter pipes, which pass beneath the Washington Boulevard bridge. All five pipes have slide gates on the north side of Washington Boulevard, which are operated by the City of Los Angeles to allow flushing of the Venice Canals. The water in the Venice Canals includes both discharges from stormdrains and urban runoff sources, as well as seawater from the Marina del Rey entrance channel, which must pass through Ballona Lagoon and Grand Canal before it reaches the furthest reaches of the canals system. The water is discharged from the canals through the tide gates during regular tidal intervals. This portion of Grand Canal is located on the site of a historic tidal channel.

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

C. Land Use Plan for Venice

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 it was approved by the Commission on November 14, 2000.

The Commission-certified LUP for Venice contains updated and revised building standards for the various Venice neighborhoods, including the Ballona Lagoon (Grand Canal) East Bank neighborhood where the proposed project is located. The policies and building standards contained in the Venice LUP reflect the Commission's most recent 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 developments are found 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.

D. Prior Commission Actions in this Section of Grand Canal

There are 19 privately owned lots along this stretch of the eastern side of Grand Canal and approximately 19 lots (either owned privately or by the City) along this stretch of the west bank of Grand Canal, between approximately Driftwood Street and Hurricane Street. The certified LUP for Venice designates the eastern section as *Ballona Lagoon (Grand Canal) East Bank* and the western section as *Ballona Lagoon and Grand Canal West Bank Property North of Ironside (Exhibit #2)*. As shown on Exhibit #2 of this staff report, both the east and west sides of Grand Canal between Driftwood Street and Hurricane Street represent the pattern of single family homes in the Grand Canal section of Ballona Lagoon – "Ballona Lagoon (Grand Canal) East and West Banks".

Of the 19 privately owned lots along the eastern section, 17 lots have been developed with residences. The Commission has approved all 17 single family homes (see *Substantive File Documents* above). Of the seventeen (17) approved developments, eleven (11) were conditioned to restrict the height limit to 36 feet, five (5) were proposed at 35 feet and no conditions were required on the permit, and one (1) was proposed at 30 feet and conditioned to allow a maximum of 38 feet for a roof access structure. In addition, six (6) homes were conditioned to provide a 10-foot setback from the City Esplanade, ten (10) were not conditioned to provide canal-facing setbacks, and one (1), most recently, was required to provide a 17.5-foot canal-fronting setback. The ten (10) projects that were not conditioned to provide a setback had proposed a ten-foot canal-fronting setback.

In the most recent actions, the Commission began using the building standards that were certified in the Land Use Plan for Venice. On June 14, 2001, the Commission approved Coastal Development Permit 5-01-118 thru 5-01-123 for six single-family homes on the west bank of Grand Canal, across Grand Canal from the subject property. In each of the six coastal development permits, the Commission conditioned the project to require, among other things, a 15-foot canal-fronting setback with no fill or building extensions in or over the setback area and a maximum height limit of 30 feet above the Grand Canal

Esplanade sidewalk. The conditions required on Coastal Development Permits 5-01-118 thru 5-01-123 are consistent with those certified within the Land Use Plan for Venice.

On January 8, 2002, the Commission denied a request to allow an applicant, Patrick Loo (CDP application 5-01-377) to construct a roof access structure four feet above an existing 30-foot high, two-unit residence. This residence is located across Grand Canal from the subject property. Policy I.A.1.a in the Venice Land Use Plan requires that all roof access structures be set back at least 60 horizontal feet from the mean high tide line of Ballona Lagoon, Venice Canals, Grand Canal, and the inland side of the Esplanade (City right-of-way). The proposed roof access structure was located 20 feet inland from the Esplanade, within the restricted 60 horizontal feet limit. The standard in the Land Use Plan for Venice to set back roof access structures that are proposed above the 30-foot maximum height limit was required in this situation to lessen the visual impacts on the City Esplanade public sidewalk and public recreational areas; and the project was denied.

While the Commission, prior to the certification of the Venice LUP, has allowed higher building heights and smaller building setbacks, the Commission's most recent action, in its certification of the Venice Land Use Plan, recognizes more stringent building standards as consistent with the Chapter 3 policies of the Coastal Act as it relates to the protection of community character, visual resources, public access, and water quality of Grand Canal and Ballona Lagoon.

E. Coastal Access

One of the fundamental goals established in the Coastal Act is the maximization of public access and recreation along the coast. The proposed project is conditioned to conform to the following Coastal Act policies that protect and encourage public access and recreational use of coastal areas.

Section 30210 of the Coastal Act states:

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

Public pedestrian access currently exists along Grand Canal between the subject property and the water (Exhibit #3). As previously mentioned, this public access way is the Grand Canal Esplanade (City owned right-of-way). The Esplanade exists along the entire length of Grand Canal and Ballona Lagoon. The access way was built in the early 1900's and, in some areas, is damaged and in need of repair. The Esplanade fronting the applicant's property is buried beneath a layer of earth due to erosion and possible flooding from storm events. However, the earth over the Esplanade is not permanently submerged (during high tide events portions of the Esplanade are inundated with water), and public access is unimpeded and still exists in front of the subject property.

The dilapidated sidewalk discussed above is located adjacent to the subject property. Sometime in the late 1970's or 1980's unpermitted fill and landscaping was placed across the Esplanade in front of a row of five home (two lots south of the subject property), which blocked public access across the City owned right-of-way. The Commission's South Coast district staff discovered the unpermitted development in 1993 and required the submittal of coastal development permit amendments for the five properties (5-95-019- A1 thru A5). The amended permits required, among other things, that the applicants remove all fences, fill, and vegetation from the City Grand Canal Esplanade located between the applicants' lot and the Grand Canal. The applicants are still in the process of removing the unpermitted development but have restored access along Grand Canal by paving a portion of their property, which connects the two sides of the City Grand Canal Esplanade.

In order to protect the continued use of the public access way on the Grand Canal Esplanade right-of-way and ensure that development does not encroach onto the City Grand Canal Esplanade, Special Condition #1 is required. This condition requires the applicant to acknowledge and agree that the City Grand Canal Esplanade, the walkway situated between the site of the proposed development and the waters of Grand Canal, is a public sidewalk. Neither the permittee nor any successor in interest to the applicant shall encroach onto or over the Grand Canal Esplanade right-of-way (as shown on Exhibit #3 of the February 14, 2002 staff report) or otherwise interfere with the public's use of the Grand Canal Esplanade. This restriction applies equally during and subsequent to construction of the proposed project.

Therefore, the Commission finds that, only as conditioned to protect public access along the Grand Canal Esplanade, is the proposed project consistent with the access policy of the Coastal Act.

F. Community Character / Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas....

Section 30253 of the Coastal Act states:

New development shall:

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

In order to protect the existing scale and character of the Venice Canals neighborhood, and to protect the visual corridor along the Grand Canal public walkway, the Commission, in past permit decisions has conditioned projects to limit residential density and structural height, and to require the provision of yard areas and structural setbacks from the canal. On November 14, 2000, the Commission approved the following policies as part of the Venice LUP in order to regulate residential development in the Grand Canal neighborhood.

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

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

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

Use: Two units per lot including duplexes

Density: One unit per 1,500 square feet of lot area

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

Yards: Minimum side yard of 3½ feet. An open, permeable yard of at least 450 square feet for a 30-foot wide lot, and at least 600 square feet for a 40-foot wide lot, shall be maintained between the canal property line and the front of any structure. A minimum 10-foot front yard setback, with a required 15-foot setback average, shall provide the required permeable front yard area. No building extensions, including stairs and balconies, shall be placed in or over the required permeable front yard area with the exception of permeable decks. The total combined height

of any deck, deck railings, garden walls, and/or fences situated within the required permeable front yard area shall not exceed 6 feet above the elevation of the adjacent public sidewalk.

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

Fill: No fill shall be permitted in Grand Canal

Policy I.A.1.a. Roof Access Structures:

Building heights and bulks shall be controlled to preserve the nature and character of existing residential neighborhoods. Residential structures may have an enclosed stairway (roof access structure) to provide access to a roof provided that:

- i. The roof access structure shall not exceed the specified flat roof height limit by more than 10 feet;*
- ii. The roof access structure shall be designed and oriented so as to reduce its visibility from adjacent public walkways and recreation areas;*
- iii. The area within the outside walls of the roof access structure shall be minimized and shall not exceed 100 square feet in area as measured from the outside walls; and,*
- iv. All roof access structures shall be set back at least 60 horizontal feet from the mean high tide line of Ballona Lagoon, Venice Canals, Grand Canal and the inland side of the Esplanade (City right-of-way).*

Residential Density

In order to protect public access to the shoreline and to preserve the character of the Grand Canal East neighborhood south of Washington Blvd., the Commission, in past permit actions, has conditioned projects to limit residential density to one unit per 1,500 square feet of lot area. The Venice LUP also limits residential density in the project area to one unit per 1,500 square feet of lot area. The applicant has proposed a single-family home on the subject 2,908 square foot lot. The proposed project 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 and 30253 of the Coastal Act. To ensure the continued consistency with the Coastal Act, as well as the Certified LUP for Venice,

the Commission requires, in Special Condition #3, that 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. Therefore, only as conditioned is the proposed project consistent with Sections 30251 and 30253 of the Coastal Act and 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).

Building Height

Building height and bulk can also affect the scenic and visual qualities of coastal areas. In this area the City Grand Canal Esplanade, located on either side of Grand Canal, connects the Venice canals area to the Ballona Lagoon west and east banks. The public sidewalks and trails along the canals and Ballona Lagoon are used by a variety of both residents and visitors to walk, jog, bird watch and sight see. By allowing increased building heights along these narrow canals creates a canyon-like effect that detracts from the visual quality and character of the community, and would reduce the public enjoyment of this unique neighborhood. In prior actions, the Commission has limited the height of structures and required adequate building setbacks from Grand Canal in order to preserve the character of the Venice area (see CDP Nos. 5-98-193 (Frye), 5-01-118 thru 5-01-123 (Lee Group), and 5-01-377 (Loo)).

The applicant has proposed a 40-foot high (as measured above the frontage road, Via Dolce) single family home (Exhibit #4 & #5). This height is inconsistent with the Commission's most recent actions limiting development in this area at 30 feet within 60 horizontal feet of the inland side of the Esplanade (City right-of-way) [See CDP Nos. 5-01-118, 5-01-119, 5-01-120, 5-01-121, 5-01-122, 5-01-123, 5-01-377, and the policies within the Venice LUP]. The applicant has stated that constructing a project consistent with the Commission's requirements would create a box-like structure, lacking architectural character and a roof access, washer/drier, and storage room. Commission staff analyzed the applicant's request to construct a roof access, washer/drier, and storage room and sloped roofline above 30 feet within 60 horizontal feet of the inland side of the Esplanade. It was found that the applicant can construct a reasonably sized home in compliance with the provisions found in the Land Use Plan for Venice consistent with the Chapter Three policies of the Coastal Act. The proposed fourth level, containing the roof access, laundry, and storage room, is approximately 320.5 square feet. Subtracting the fourth level from the proposed home still allows for an approximately 3,846.5 square foot home. As discussed below, increasing the canal fronting setback (consistent with the Venice LUP) would reduce the size of the home by an additional approximately 91 square feet. Therefore, the total reduction of the single family home would be approximately 411.5 square feet, allowing a 3,755.5 square foot single family home on a 2,908 square foot lot. Allowing structures above the height limit required in past Commission action and in the policies of the Land Use Plan for Venice would impact the scenic and visual quality of the Grand Canal (East) Neighborhood in a manner inconsistent with Section 30251.

Therefore, in order to protect the scale and character of the Venice Canals community, to protect the visual corridor along the canal's public walkway, and to provide more air space

for bird flyways the Commission requires the applicant, prior to issuance of the permit, to submit revised plans reducing the height of the proposed project. Special Condition #2 states that the height of the structure within sixty horizontal feet of the inland side of the Esplanade (City right-of-way) shall not exceed thirty (30') feet above the centerline of the frontage road (Via Dolce). Beyond 60 horizontal feet, one foot in additional height is permitted to a maximum height of 38 feet above the centerline of the frontage road (Via Dolce). 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 inland side of the Esplanade. Chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit by five feet.

To further ensure the continued compliance of this condition and give notice to future owners of the subject property, the Commission requires the applicant to execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating the terms of this Special Condition. The deed restriction runs with the land, binding all successors and assigns.

Building Setback

As previously mentioned, the small lot sizes as well as the small scale of the canals contributes to the unique character of the Venice Canals community. Allowing structures in close proximity to the canal facing property lines could create a canyon-like effect, a massing of structures on opposite sides of a small-scale canal. To alleviate such impacts to the scale and character of the community the Commission finds that projects along the canals should provide a setback from waterways in order to enhance visual quality and public recreation. The front yard setback will also protect marine resources and provide an area on the site for water percolation as discussed further in section H. below. 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. In addition, as discussed in Section G. below, building setbacks reduce the massing of development that creates a canyon-like effect, that impacts bird flight and habitat patterns.

The applicant has proposed a single family home with a 14.5-foot first and second floor setback and a 12.5-foot third floor setback from the canal property line (Exhibit #3 & #5). The applicant has also proposed second and third floor, overhanging balconies that are located within 10 feet of the canal property line.

The canal fronting lots and the canals themselves are small in scale. By allowing the development to reduce its front yard setback would decrease the area between Grand Canal and Grand Canal Esplanade and the building facades, increasing the massing of buildings and creating a canyon-like effect along the public walkways and canals, therefore impacting the visual quality and character of the surrounding community. Allowing a reduced canal fronting setback would also reduce the availability of permeable surfaces that slow the rush of storm water across the property and into the canal, increasing the impacts to water quality (as further discussed in Section H. below).

Commission-approved development adjacent to the Venice Canals has been required to provide an open and permeable yard (at least 450 square feet for a 30-foot wide lot, and at least 600 square feet for a 40-foot wide lot) between the lagoon/canal property line and the front of any structure. A minimum 10-foot front yard setback, with a required 15-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 development proposed along Grand Canal and the other Venice Canals. The Commission has required such building setbacks in past Commission action as well as approving the use of a general standard, in the certified LUP for Venice.

The proposed single-family residence provides only a ten-foot front yard setback (Exhibit #3 & #5). Therefore, Special Condition #2 requires the applicant to provide revised plans demonstrating the provision of a 525 square foot, permeable front yard consistent with prior Commission approvals and the requirements of the Venice LUP. In order to maintain an open and visible access corridor, enhance visual quality, preserve the water quality, and to protect the biological productivity of Grand Canal, an uncovered and permeable yard area totaling no less than 525 square feet shall be provided and maintained in the front yard area between the structure and the front (canal) property line. The area within the required front yard setback (fifteen-foot average setback with ten-foot minimum setback) shall be maintained as the required permeable yard area. Uncovered means that no fill or building extensions (e.g. balconies, stairs, trellises, etc) shall be placed in or over the 525 square foot permeable yard area with the exception of fences, garden walls or permeable decks. The total combined height of any deck, deck railings, garden walls and/or fences situated within the required permeable front yard area shall not exceed 6 feet above the elevation of the adjacent public walkway.

The proposed project does provide the minimum ten-foot setback from the canal property line but does not provide the required 15-foot setback average, giving a 525 square foot permeable yard area. In order to ensure the continuous and ongoing protection of coastal resources and compliance with the requirement, Special Condition #2 also requires the applicant to record the permeable yard area requirement on their property deeds. Prior to issuance of the permit, the applicant shall record a deed restriction for the lot which provides for the maintenance of an uncovered and permeable yard area in the front yard setback area. The area within the setback shall be maintained as an uncovered and permeable yard area. No fill or building extensions (i.e. balconies, stairs, trellises, etc) shall be placed in or over the setback area with the exception of fences, garden walls or permeable decks.

Therefore, the Commission finds that the proposed project, as conditioned, conforms to the Commission's certified Venice LUP and Sections 30251 and 30253 of the Coastal Act. The scenic and visual qualities of the area will not be negatively impacted by the proposed project, as conditioned.

G. Habitat

As discussed below in Section H. of this staff report, Grand Canal and the Ballona Lagoon wetlands system are environmentally sensitive habitat areas that must be protected from the negative impacts associated with development. Grand Canal and Ballona Lagoon are habitat areas for many species of marine biota, including the state and federally listed endangered least tern.

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

In a survey and study conducted by Charles F. Dock and Ralph W. Schreiber (1981) of the birds of the Ballona wetlands area, analysis was done to observe bird nesting, flight, and habitat patterns¹. The study states:

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

In response to the research and analysis done by Dock and Schreiber, the Commission found that both the height and setback distance of new development would affect bird

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

flight and habitat patterns². Not only does the Commission require height setback limits to protect the visual quality of the surrounding area, but also to lessen the impact that massing of development would ultimately have on the abundant bird populations of Ballona Lagoon and the Venice Canals system. Although the proposed project itself may not have a large-scale impact on bird flyways, the Commission must consider the cumulative adverse impacts of all proposed structures that collectively have significant adverse impacts. Therefore, Special Condition #2 is placed on the permit to require the applicant to submit revised plans demonstrating that the proposed single family home is restricted to 30 feet (as measured above the fronting right-of-way, Via dolce) within 60 horizontal feet from the Esplanade. Beyond 60 horizontal feet, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of 38 feet above the centerline of the frontage road (Via Dolce). 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 inland side of the Esplanade. Chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit by five feet.

The revised plans shall also demonstrate that an uncovered and permeable yard area totaling no less than 525 square feet is provided and maintained in the front yard area between the structure and the front (canal) property line. The area within the required front yard setback (fifteen-foot average setback with ten-foot minimum setback) shall be maintained as the required permeable yard area. Uncovered means that no fill or building extensions (e.g. balconies, stairs, trellises, etc) shall be placed in or over the 525 square foot permeable yard area with the exception of fences, garden walls or permeable decks. The total combined height of any deck, deck railings, garden walls and/or fences situated within the required permeable front yard area shall not exceed 6 feet above the elevation of the adjacent public walkway.

Therefore, only as conditioned to submit revised plans demonstrating a reduced height and increase setback from the canal-facing property line is the proposed project consistent with the Environmentally Sensitive Habitat Area (ESHA) provisions of the Coastal Act (Section 30240 of the Coastal Act).

H. 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 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*

² In an earlier report conducted by Earl M. Lauppe, Associate Wildlife Manager-Biologist, CA Dept. of Fish and Game, January 26, 1978, for a project south of the subject property, a determination was made that a 30 to 40-foot buffer between a proposed single family home and Ballona Lagoon would protect the lagoon and its associated sensitive habitat (Exhibit #7).

economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on 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.*

The Venice LUP contains the following policies:

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

Policy IV. C. 2. Water Quality. *The methods to improve water quality, recommended in California's Plan for the Control of Non-Point Source Pollution (January 2000), such as watershed planning and management programs, and habitat restoration projects, shall be considered and implemented by the City of Los Angeles where feasible opportunities exist. Selected Best Management Practices (BMPs) or suites of BMPs shall be designed to treat, infiltrate or filter the stormwater runoff from each runoff event up to and including the 85th percentile, 24-hour runoff event for volume based BMPs and/or the 85th percentile, 1 hour event, with an appropriate safety factor, for flow-based BMPs.*

The Venice Canals are located up stream from Ballona Lagoon, and are part of the Ballona Wetlands system (Exhibit #2). Seawater enters the wetlands system through tidal gates which control the flow from the Marina del Rey entrance channel into Ballona Lagoon. Grand Canal is located directly north of Ballona Lagoon and separates the lagoon from the Venice Canals north of Washington Blvd. Ballona Lagoon is a wetland and an Environmentally Sensitive Habitat Area (ESHA) protected by the above-stated Coastal Act policies. Grand Canal flows directly into Ballona Lagoon. 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 and urban runoff. 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]

Polycheates, mulluscs 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 and Grand Canal are located approximately ¼ mile 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.

A highly urbanized area of single and multiple-family residential development surrounds the Venice Canals. The introduction of urban runoff, including pesticides, garden fertilizers, and other runoff from impervious surfaces can reduce the water quality of the canals which directly impacts the biological productivity of the system.

In order to protect the biological productivity of the Grand Canal and Ballona Lagoon, Special Conditions #2 and #5 require the applicant to provide and maintain front yard setbacks, pervious yard areas, and drainage devices to absorb and filter rainwater and site drainage before it enters the canals, or to prevent it from entering the canal at all. The Commission's requirements are consistent with the recommendations of the Santa Monica Bay Restoration Project Action Plan (a plan completed in August 1994 by a coalition of

government officials, scientists, industries, and environmentalists that targets critical problems associated with water pollution in the Santa Monica Bay) to reduce non-point source pollutants.

The applicant has proposed a single-family home with a ten-foot setback from the canal facing property line. The Commission has found in past approvals in this area and through the policies certified in the LUP for Venice that a 15-foot setback average provides adequate permeable yard area to filter storm water runoff prior to entering the canals. Therefore, the applicant shall submit revised plans demonstrating that the proposed project provides and maintains an uncovered and permeable yard area totaling no less than 525 square feet in the front yard area between the structure and the front (canal) property line. The area within the required front yard setback (fifteen-foot average setback with ten-foot minimum setback) shall be maintained as the required permeable yard area. Uncovered means that no fill or building extensions (e.g. balconies, stairs, trellises, etc) shall be placed in or over the 525 square foot permeable yard area with the exception of fences, garden walls or permeable decks. The total combined height of any deck, deck railings, garden walls and/or fences situated within the required permeable front yard area shall not exceed 6 feet above the elevation of the adjacent public walkway.

The Commission's front yard setback requirement is defined in square footage rather than an absolute linear measurement to allow for changes in plane, which can add architectural interest. A minimum ten-foot front yard setback, with a required fifteen-foot setback average, can provide the required 525 square foot permeable front yard area and a front yard setback, which is consistent with the most recent actions by the Commission. The permeable front yard area allows rain and irrigation water to seep into the ground, minimizing run-off directly into the canals. An impervious or reduced front yard could facilitate a "rush" of water run-off that would increase the amount of sediments and pollutants that are drained into the adjacent canal.

Special Condition #2 also requires the applicant to record a deed restriction requiring the pervious yard area on the property to ensure continuous and ongoing protection of coastal resources and compliance with the requirement. Therefore, the Commission finds that, prior to issuance of the permit, the applicant shall record a deed restriction which provides for the maintenance of not less than 450 square feet of uncovered and pervious yard in the front yard area between the front of any structure and the canal property line.

In order to further mitigate the impacts on canal habitat caused by surface drainage, drainage from residential areas, and construction related water runoff, the Commission requires the provision of a one hundred cubic foot French drain on canal-fronting lots. The French drain reduces the amount of runoff that leaves the site and filters urban runoff before it enters the canals. The Commission also requires the implementation of a permanent drainage control plan that directs runoff water away from the canals and into the storm drain system. The applicant shall not direct construction runoff or drainage into the canals.

Therefore, in order to protect marine resources and water quality, Special Condition #5 requires the applicant to submit 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 collect and 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 canal and into the City storm drain system.

Although runoff water from the neighborhood where the proposed development is located eventually drains into canals via the City storm drain system, the City plans to install filters in its existing catch basins that lead into the canal.

The Commission finds that, only as conditioned to provide a French drain, a permeable front yard area, and a drainage plan 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.

I. Parking

As described above, the Venice Canals are a public recreational resource. The walkways provide an urban recreational experience popular throughout the Los Angeles area. The Commission has imposed Special Condition #4 to protect the quality of that recreational experience. The Commission has 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 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 or providing substitute means of serving the development with public transportation....

Many of the older developments in the Grand Canal neighborhoods do not provide adequate on-site parking. The project site is located approximately five blocks from the beach and adjacent to public walkways along Grand Canal. Visitors to this recreation area use the surrounding public streets for parking. Residents of the area and their guests are using the small amount of parking that may be available for the general public on the surrounding streets as well.

To mitigate this problem, Special Condition #4 is imposed to provide for a minimum of two onsite parking spaces. The parking policies contained in the certified Venice LUP include this requirement.

In this case, the proposed project provides a two-car garage and a driveway apron that can accommodate two additional spaces (Exhibit #3). Therefore, the proposed project provides an adequate parking supply for the proposed single-family residence. The

proposed project is consistent with prior Commission decisions for the Grand Canal East area that required two parking spaces per residential unit.

Section 30252 of the Coastal Act also requires the provision of substitute means of serving developments with public transportation. Public transportation provides access to the coastline by bringing those who cannot reach the beaches on their own and by lessening the burden on public beach parking facilities and access routes to the beach. The proposed project is the construction of a single-family home on Grand Canal. Public transit currently exists throughout the Venice area. The construction of the proposed project will not jeopardize the existing transit opportunities that serve the Venice coastal area and does not warrant substitute means of public transportation to serve the proposed project. Therefore, the commission finds the proposed project consistent with Section 30252 of the Coastal Act.

In addition, the Commission requires special condition #3. Special Condition #3 states that the permitted use of the approved structure 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. This condition is placed on this project to ensure that an adequate parking supply is provided for. Changing the number of units or changing the use of the permitted single family home would require a change in parking supply consistent with the access policies of the Coastal Act and the policies found in the Land Use Plan for Venice.

The Commission also places Special Condition #6 on the project to ensure compliance with the approved final plans. Special Condition #6 requires that all development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. 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.

These conditions regarding compliance with the proposed project as conditioned and acknowledging that a change in the number of units or a change in use of the permitted structure would require an amendment to this permit are necessary to ensure that a parking deficiency does not occur as a result of creating additional residential units without commensurate parking spaces. A parking deficiency could lead to more residents parking on the public streets, which 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.

J. 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 proposed project, as conditioned, conforms with the Commission-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).

K. 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/am

VENICE, CA



Site Location

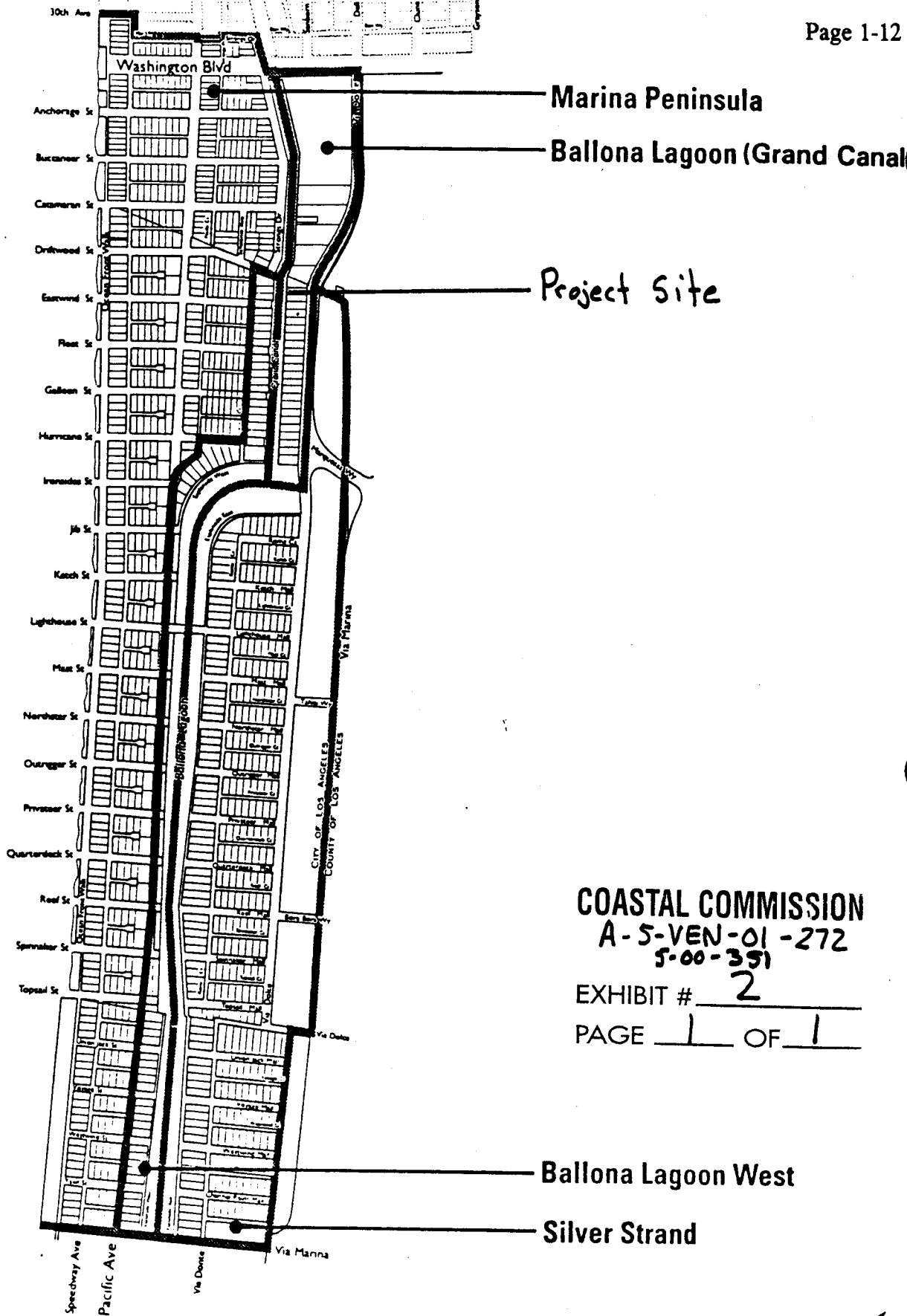
COASTAL COMMISSION

A-5-VEN-01-272

5-00-351

EXHIBIT # 1

PAGE 1 OF 1



Marina Peninsula

Ballona Lagoon (Grand Canal)

Project Site

COASTAL COMMISSION

A-5-VEN-01-272
5-00-391

EXHIBIT # 2

PAGE 1 OF 1

Ballona Lagoon West

Silver Strand

Exhibit 4

Subarea: Marina Peninsula • Silver Strand •

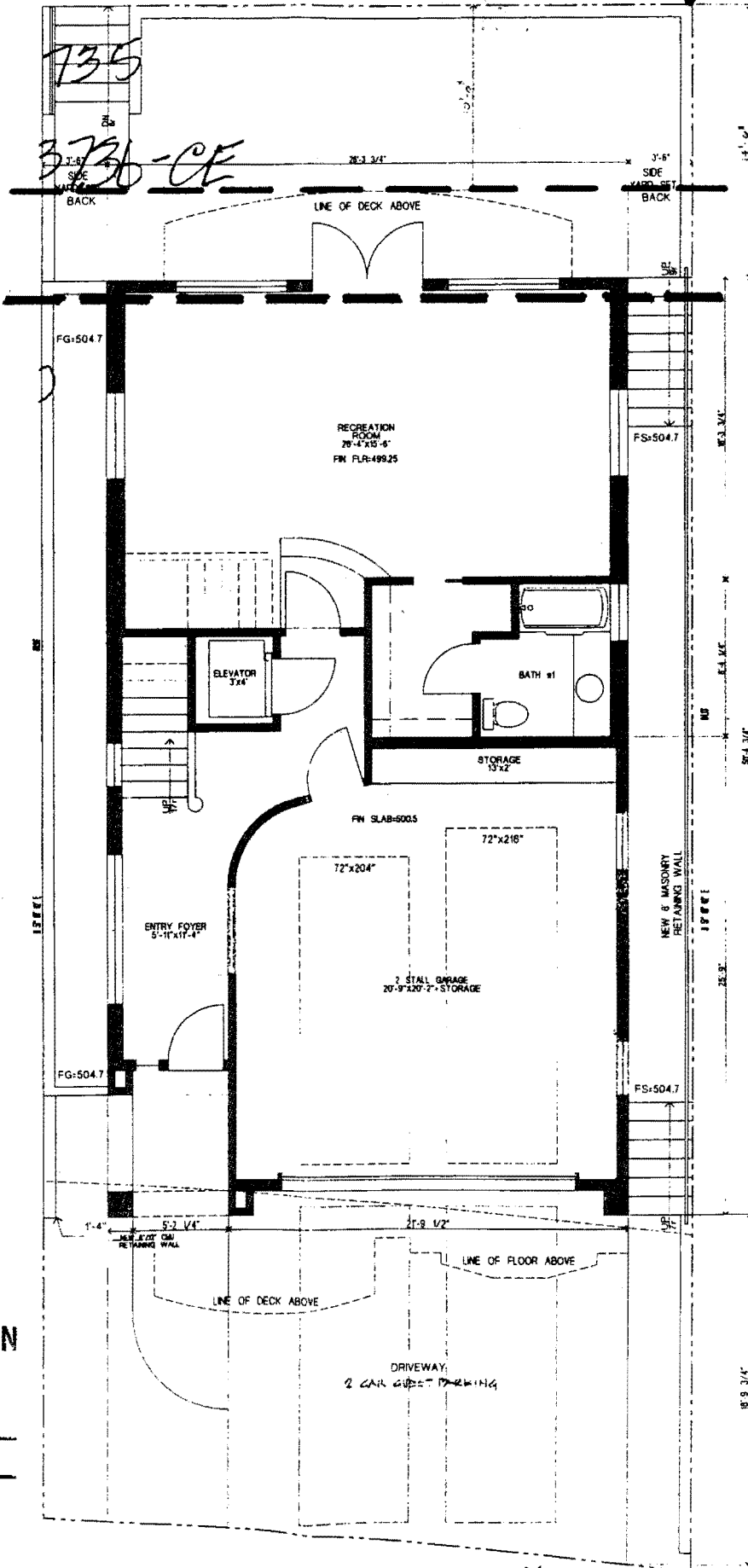
Ballona Lagoon West • Ballona Lagoon (Grand Canal) East



10' Wide
Esplanade


10'

15'



COASTAL COMMISSION
A-5-VEN-01-272
5-00-351

EXHIBIT # 3
PAGE 1 OF 1

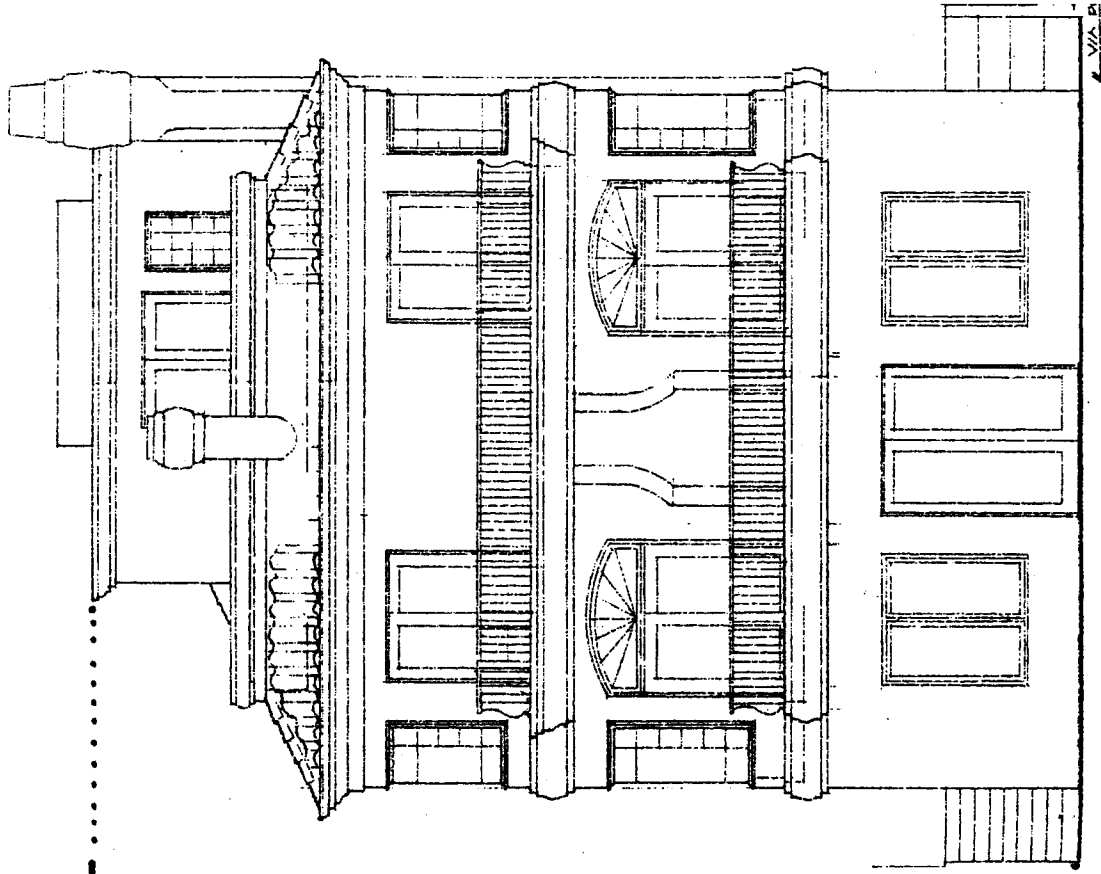
BASEMENT FLOOR PLAN 

COASTAL COMMISSION
A-5-VGN-01-272

S-00-391

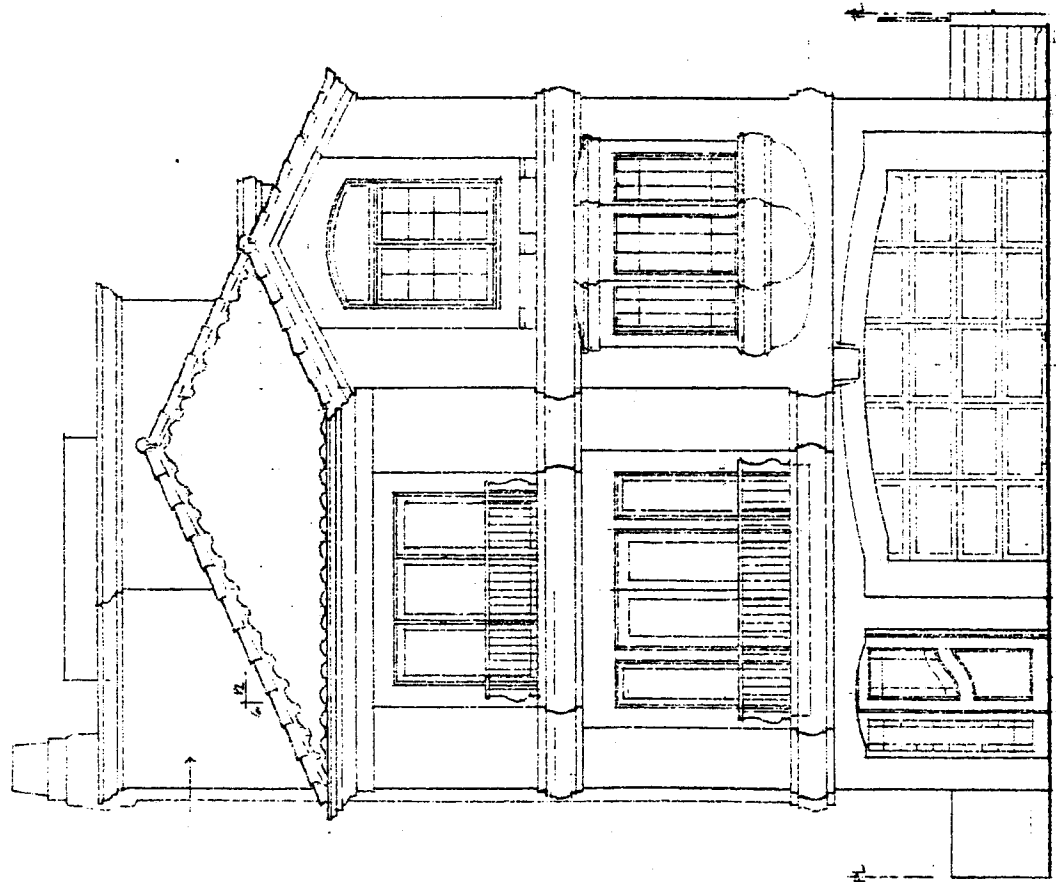
EXHIBIT # 4

PAGE 1 OF 1



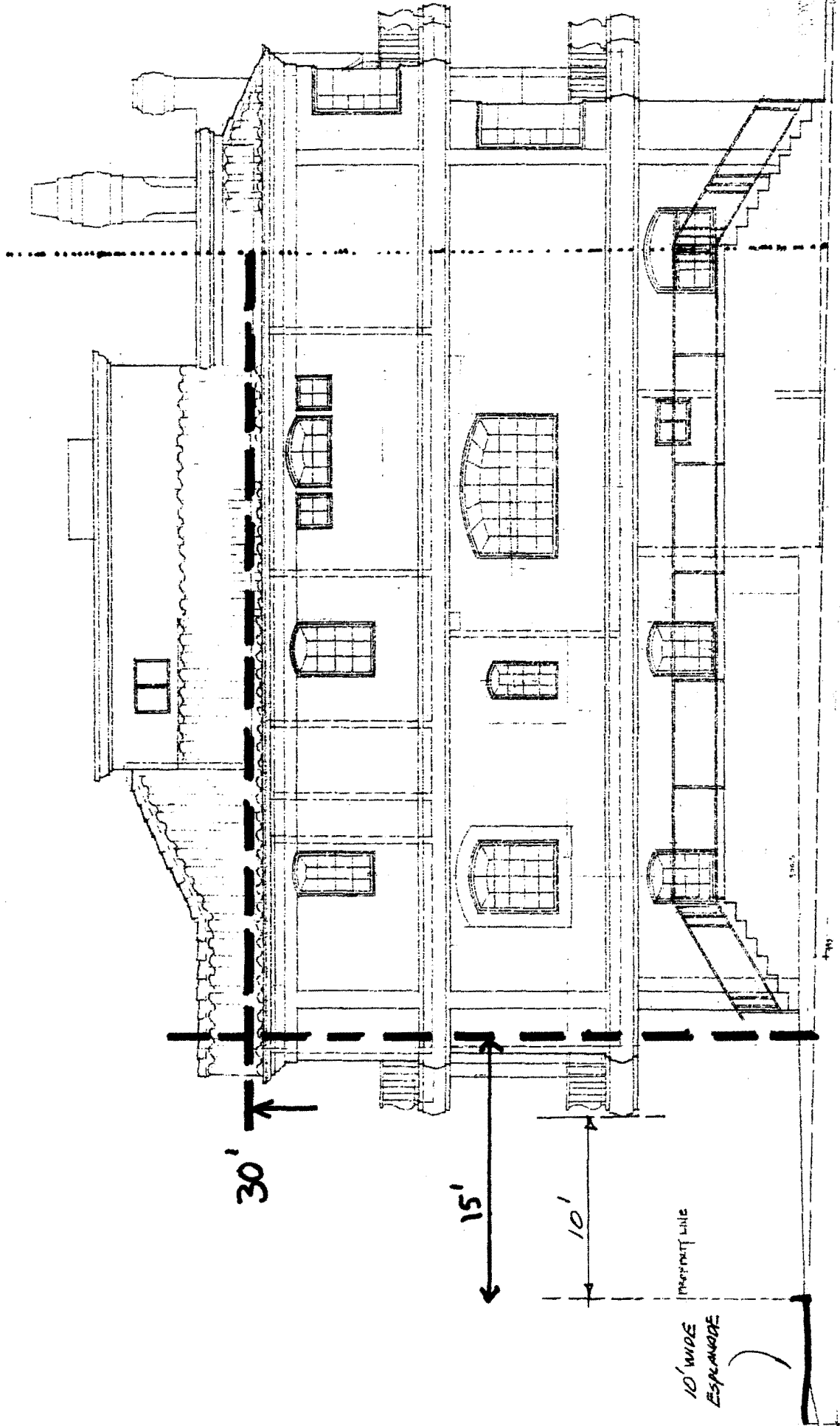
WEST ELEVATION

40' ↑



EAST ELEVATION

VIA DRAIN →



NORTH ELEVATION

60 Horizontal feet from esplanade

10' WIDE ESPRANADE

PROPERTY LINE



200 N. SPRING STREET
 ROOM 475 CITY HALL
 LOS ANGELES, CA 90012
 213-485-3357
 FAX 213-847-0549
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City Council
 of the
City of Los Angeles
 City Hall
 90012

RUTH GALANTER
 COUNCILMEMBER, SIXTH DISTRICT

February 26, 2002

California Coastal Commission
 State of California
 45 Fremont Street, Suite 2000
 San Francisco, CA 91045

Re: 3511 Via Dolce, Marina Del Rey
 Coastal Commission Case No. 5-00-351
 Support for Application

RECEIVED
 MAR 11 2002
 CALIFORNIA COASTAL COMMISSION
RECEIVED
 South Coast Region
 MAR 12 2002
 CALIFORNIA COASTAL COMMISSION

Dear Honorable Commissioners:

I am writing in support of the proposed development of a single family home at 3511 Via Dolce. As you are well aware, my office has worked tirelessly to develop the Venice Coastal Specific Plan, and most recently the Venice Coastal Zone Land Use Plan, which you certified in May of 2001. In developing those plans we worked hard to find an appropriate balance of environmental protection and coastal zone preservation while allowing for appropriate development in certain areas. This subject property was not intended to be encumbered by the new regulations.

The subject property is located in the Silver Strand area of Marina Del Rey and is more appropriately associated with the Marina Del Rey Area than it is with the Venice Beach Area. Via Dolce, the street that the property is located on, is the extreme easterly boundary of Venice. In addition, the area of Venice south of Washington Blvd. has been predominately developed with three-story homes rather than the smaller two-story units which are the predominant size of units in the Venice Canal Area located on the northern side of Washington Blvd.

The applicant applied for a Coastal Development Permit in August of 2000. The application was deemed incomplete by the CCC until the applicant had received all necessary permits from the City of LA. On June 15, 2001 the City Council of Los Angeles voted unanimously to approve the CDP for the development of a single family home on the applicants property. On July 16, 2001 the Executive Director, due to the noncompliance with the new Venice LUP regulations, challenged that ruling. With all due respect, I understand the position of the Executive Director in wanting to maintain the integrity of the new LUP, however, it should be noted that this is a unique case in that the processing began before the LUP was ever approved or certified by the CCC. Unfortunately the Implementation Action Plan that needs to accompany the LUP to form the certified Local Coastal Plan for the area has not been yet finalized. As a result, a case like this has no grounds to claim any sort of exemption or exception that it deserves.

Because the project was already processed by the City of LA and because it has the broad support of the surrounding property owners, I respectfully ask that you consider this application outside the scope of the newly formed Venice LUP and approve application 5-00-351.

Sincerely,

RUTH GALANTER
 Councilmember, Sixth District

COASTAL COMMISSION
A-5-VEN-01-272
5-00-351
 EXHIBIT # 6
 PAGE 1 OF 1

Memorandum

Date: January 26, 1978

Ms. Stephanie Hoppe, Legal Counsel
California Coastal Commission
1540 Market Street
San Francisco, California 94102

RECEIVED
JAN 30 1978

From : Department of Fish and Game - Wildlife Management - Region 5 CALIFORNIA
COASTAL COMMISSION

Subject: Ballona Lagoon - Appeals No. 281-77 (Cashin) and 373-77 (Graner)

In response to your letter of December 16, 1977 requesting additional review of the above projects on Ballona Lagoon, I met on site with Steve Cashin and Chris Graner Didlake on December 27, 1977.

The Cashin site (Appeal 281-77) is located on the west side of the lagoon at the inlet from the main channel of the marina.

The ground is disturbed and the edge of the shear bank shows some erosion. The top of the bank is approximately 16.0 feet and the mean higher high water tide line is 5.6 feet. At this site, the west bank is much higher than the east bank of the lagoon. Public access to the lagoon's clam beds would occur from the east bank.

A minimal buffer strip 30-40 feet measured from the M.H.H.W. line would protect this area of the lagoon as adequately as the strip required by the Coastal Commission along the east side of the lagoon. The east side requirement met and in-part, exceeded the Department's recommended minimum 30-40 feet measured from the M.H.H.W. line.

Due to the steep vertical separation of the top of the bank in relation to the bottom of the lagoon and M.H.H.W. line, the esplanade path placed at least five feet from the edge of the top of the bank would be acceptable. The exact location could be determined when a landscape design is planned for the whole west side of the lagoon.

The Graner site (Appeal 373-77) presents a different design problem. It is located on a curve and the exact distance from the esplanade path to the M.H.H.W. line is unknown. Ms. Didlake is to provide a topographic survey before I make any recommendations on this site.

Earl M. Lauppe
Earl M. Lauppe
Associate Wildlife Manager-Biologist
Region 5

EML:dh

COASTAL COMMISSION

A-5-VEN-01-272

5-00-3517

EXHIBIT # _____

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cc: Mr. Stephen E. Cashin, Westridge Development Corporation
2665 Thirtieth Street, Suite 210, Santa Monica, California 90405

Ms. Chris Graner Didlake, 2525 Lemon Ave., Long Beach, California 90806

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