

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

Filed: 3/23/2005  
49th Day: 5/11/2005  
180th Day: 9/19/2005  
Staff: CP-LB  
Staff Report: 5/19/2005  
Hearing Date: June 7, 2005  
Commission Action:

**Tu10b****STAFF REPORT: MATERIAL AMENDMENT****APPLICATION NUMBER:** 5-02-133-A1**RECORD PACKET COPY****APPLICANT:** Dan Fitzgerald**AGENT:** N/A**PROJECT LOCATION:** 5102 Pacific Avenue (Lot 16, Block 1, Del Rey Beach Tract), Venice, City of Los Angeles, Los Angeles County.**LOCAL APPROVAL:** City of Los Angeles Project Permit, Case #DIR2002-468.**PROJECT DESCRIPTION:** Temporary erection of construction scaffolding along the inland edge of a protected buffer area on the west bank of Ballona Lagoon, to be removed upon completion of previously approved five-level, 9,000 square foot single-family residence.

Lot Area	5,042 square feet
Building Coverage	2,500 square feet
Pavement Coverage	700 square feet
Landscape Coverage	1,842 square feet
Parking Spaces	Attached 5-car garage
Zoning	RW1-1
Plan Designation	Single-Family Residence - Waterway
Building Height	30-38 feet above average natural grade

**SUMMARY OF STAFF RECOMMENDATION**

The applicant is requesting this permit amendment because the coastal development permit approving the construction of the single-family residence does not allow the placement of scaffolding within the 25-foot wide protective lagoon buffer that exists between Ballona Lagoon and the façade of the lagoon-fronting house. The applicant asserts that the proposed temporary scaffolding is necessary to construct the previously permitted development. Staff is recommending that the Commission **APPROVE** the permit amendment for the proposed temporary development with special conditions. The recommended special conditions require that: 1) a temporary ground level boardwalk shall be placed next to the previously approved house to prevent workers from trampling and compacting the protective lagoon buffer; 2) nets and tarps shall be attached to the proposed scaffolding to prevent debris and building materials from falling into the protective lagoon buffer; 3) the proposed scaffolding shall be removed from the protective lagoon buffer as soon as the previously approved house is completed, or by December 31, 2005, whichever occurs first; and 4) the protective lagoon buffer shall be restored as required by the underlying permit. The applicant agrees with the recommendation. **See Page Two for the motion to carry out the recommendation.**

**SUBSTANTIVE FILE DOCUMENTS:** See Appendix A – Page Ten

**SPECIAL CONDITIONS OF UNDERLYING PERMIT:** See Appendix B – Page Eleven

**PROCEDURAL NOTE:**

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

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

In this case, the Executive Director has determined that the proposed amendment is a material change that affects conditions required for the purpose of protecting a coastal resource. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [Title 14 California Code of Regulations 13166].

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution to **APPROVE** the permit amendment request with special conditions:

**MOTION** *"I move that the Commission approve the proposed amendment to Coastal Development Permit Amendment 5-02-133-A1 pursuant to the staff recommendation."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment and 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 for Approval of Permit Amendment**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and 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. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

## II. Special Conditions of Permit Amendment

**Note:** The Special Conditions of Coastal Development Permit 5-02-133, as approved by the Commission on February 7, 2003, still apply (See Appendix B). With the Commission's approval of this permit amendment, as conditioned below, the Special Conditions of Coastal Development Permit 5-02-133 shall not be interpreted to prohibit the temporary erection of the construction scaffolding being approved by this permit amendment.

### 1. Permitted Development

This coastal development permit amendment authorizes the temporary erection and removal of construction scaffolding (and a boardwalk) on the project site that is necessary for the completion of previously approved five-level, 9,000 square foot single-family residence. The temporary construction scaffolding and boardwalk permitted within the protected lagoon buffer area on the project site shall be limited to the inland area situated within ten feet of the exterior wall of the house that faces Ballona Lagoon. No development or construction activity (e.g. boardwalk, fence, scaffolding) shall occur within fifteen feet (15') of the high water line (elevation +2.65 as shown on **Exhibit #3 of the 5/19/05** staff report). Any use of Lot Q, which abuts the northern side of the site, is prohibited. All temporary development shall be removed from the protective lagoon buffer as soon as the previously approved house is completed, or by December 31, 2005, whichever occurs first.

Any proposed change in plans, or any other deviation from the approved development, shall be submitted for review by the Executive Director to determine whether another amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Executive Director determines that an amendment is necessary, no changes shall be made until a permit amendment is approved by the Commission and issued by the Executive Director.

### 2. Protective Lagoon Buffer Strip Protection

In order to protect the waters of Ballona Lagoon and the lagoon's 25-foot wide protective buffer strip from construction impacts, the permittee shall implement the following mitigation measures:

- A. Prior to the erection of temporary construction scaffolding along the inland edge of the protective lagoon buffer strip, the permittee shall construct a temporary ground level boardwalk (made with planks and blocks set on top of the surface) to prevent workers from trampling and compacting the lagoon buffer area. In addition, a temporary six-foot high fence shall be installed to prevent access into the protective lagoon buffer area situated between the temporary scaffolding and the waters of the lagoon. The temporary fence, boardwalk and scaffolding shall not be located within fifteen feet (15') of the high water line (elevation +2.65 as shown on **Exhibit #3 of the 5/19/05** staff report).
- B. Nets and tarps shall be attached to the scaffolding to prevent debris, paint and building materials from falling onto the ground and into the lagoon and the buffer area.

- C. The following activities shall not occur in the protective lagoon buffer strip at any time: grading, stock piling, material storage, cement mixing, paint mixing, paintbrush or paint-sprayer cleaning and trash disposal.
- D. All construction equipment and materials shall be stored on the project site, inland of the protective lagoon buffer strip, and managed in a manner to prevent dispersal and to minimize the potential of pollutants to enter the lagoon.
- E. Develop and implement spill prevention and control measures to ensure the proper handling, storage, and application of paint products and other construction materials. These shall include a designated working area with appropriate berms and protection to prevent any spillage of paint or related petroleum products or contact with runoff. The designated working area shall be located as far away from the lagoon buffer as possible

### 3. Restoration of the Protective Lagoon Buffer Strip

The 25-foot protective lagoon buffer on the project site shall be restored consistent with the requirements of the underlying permit. Restoration of the protective lagoon buffer strip, including planting of native vegetation, shall commence immediately following the removal of the temporary scaffolding (when the previously approved house is completed or by December 31, 2005, whichever occurs first). Upon completion of the previously approved house, the 25-foot wide protective lagoon buffer strip shall be maintained as an open space and natural habitat area, and it shall not be used in a manner that would in any way degrade the habitat value of the lagoon buffer.

## III. Findings and Declarations

The Commission hereby finds and declares:

### A. Project Description and Background

On February 7, 2003, the Commission approved Coastal Development Permit 5-02-133 for the construction of a five-level single-family residence on the upland portion of a partially submerged lot situated on the west bank of Ballona Lagoon in Venice (See Exhibits). The Commission approved the permit with conditions that require all development on the lagoon-fronting lot to be set back 25 feet from the wetland (See Appendix B). The wetland includes the western shoreline of Ballona Lagoon where a band of wetland vegetation extends about two meters inland of the mean high tide line (elevation +1.91') and up to the high water elevation of +2.65' (Exhibit #3). Coastal Development Permit 5-02-133 prohibits all development in the area situated between the water and the approved house (i.e., within the 25-foot wide protective lagoon buffer).

The certified Venice Land Use Plan (LUP) refers to the lagoon buffer as the "Habitat Protection Buffer Strip" (Exhibit #2). A minimum 25-foot wide protective lagoon buffer strip is necessary to preserve Environmentally Sensitive Habitat Area (ESHA) that exists in and along

the banks of Ballona Lagoon, protect the ESHA from the impacts of development, and to maximize the airspace for the bird flyway and visual cone over Ballona Lagoon and its banks.

All of the Commission-approved residences along both banks of Ballona Lagoon provide buffers between the waters of the lagoon and the approved development, but the width of the lagoon buffer on the project site is less than the other lagoon-fronting lots. The permittee's lot is different from the other lots because part of the lot is underwater. The City Esplanade right-of-way provides part of a wider lagoon buffer between the water and the west bank homes south of the project site; but the entire right-of-way is submerged in front of the project site, so it provides no additional dry land to form a lagoon buffer wider than 25 feet (Exhibit #4). All of the other lagoon-fronting homes have, in addition to the protective lagoon buffer, a usable setback area situated inland of the protected lagoon buffer where a private yard and/or a deck is permitted. In this case, the permittee opted to build the house right up to the inland extent of the 25-foot deep protective lagoon buffer, leaving no space for a yard or deck on the lagoon-side of the development (Exhibit #3). Coastal Development Permit 5-02-133 approves the location of the permittee's house immediately inland of the protective lagoon buffer.

Coastal Development Permit 5-02-133 was issued on April 1, 2003, and grading for the approved development commenced shortly thereafter with approximately 990 cubic yards of sand being excavated for the basement and foundation. Construction of the approved house has been proceeding slowly because of the structure's need for a deepened, steel-reinforced concrete foundation and the permittee's difficult challenge of building on a constrained project site that has limited room for storage or stockpiling of building materials and equipment. The permit did not authorize the use of Lot Q or Lot 24, which abut the northern side of the project site, for construction staging or for any other use (Exhibit #4). Lot Q is owned by the permittee, but the lot cannot be used or developed because the Coastal Conservancy holds an easement for public access and habitat restoration purposes over the entire 30'x 35' lot. Lot 24 is owned by the City of Los Angeles.

The lower three levels of the approved five-level structure were recently erected (Exhibit #5). According to the permittee, additional temporary construction scaffolding is needed in order to construct the top levels of the approved five-level house. Construction scaffolding has already been installed along three sides of the structure on the project site, where it is not prohibited by the conditions of the underlying permit. Some construction scaffolding that was previously installed in the lagoon buffer and on Lot Q has been removed by the permittee at the request of Commission staff. The installation of the temporary construction scaffolding is the only development being proposed by this permit amendment (Exhibit #4). The permittee has deleted from the amendment application a stairwell that was proposed in the buffer, since it would have permanently reduced the width of the protective lagoon buffer and directly conflicted with the intent of the underlying permit. The permittee has agreed to remove the scaffolding and restore the entire 25-foot wide lagoon buffer on the project site when the house is finished. The permittee says no more than six months is needed (from the issuance of the permit amendment) to finish the house.

## **B. Marine Resources & Environmentally Sensitive Habitat**

Ballona Lagoon is located in the Silver Strand/Marina Peninsula area of Venice in the City of Los Angeles, adjacent to the Marina del Rey entrance channel (Exhibit #2). The lagoon is an artificially confined tidal slough connecting the Venice Canals to the Pacific Ocean via the

Marina del Rey harbor entrance channel. The Commission identified this area as an ESHA (Environmentally Sensitive Habitat Area ESHA) in 1975, and that action is reflected in the certified Venice LUP which designates the 4,000-foot long lagoon as an ESHA. The lagoon is 150-200 feet wide and contains approximately sixteen acres of open water and wetland area. The California Department of Fish and Game has also identified the Ballona Lagoon as critical habitat for the California least tern.

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

Section 30240 of the Coastal Act states:

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

In addition, the wetland protection policies of the Coastal Act require the protection of the biological productivity of wetland areas.

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

This permit amendment proposes only the installation and removal of the temporary construction scaffolding. The proposed temporary construction scaffolding would be erected next to the lagoon-fronting façade of the approved house, along the inland edge of the 25-foot wide protective lagoon buffer on the project site (Exhibit #4). Coastal Development Permit 5-

02-133, the permit that approved the construction of the house, does not allow the placement of scaffolding (or any other fill or building materials) within the 25-foot wide protective lagoon buffer that exists between Ballona Lagoon and the façade of the lagoon-fronting house. The permittee asserts that the proposed temporary scaffolding is necessary to complete the construction of the approved house, and he has agreed to remove the scaffolding and restore the buffer when the house is finished. The development proposed in the lagoon buffer is temporary, and the permittee is not asking for any other change to the underlying coastal development permit.

The permittee's survey shows that the portion of the lot located nearest the water is partially submerged by the waters of the lagoon (Exhibit #3). A two-meter band of wetland vegetation (salt scrub vegetation: Jaumea, alkali heath and pickleweed) exists along the water's edge in and above the tidal zone. No scaffolding or other development is proposed to be placed within the band of salt scrub vegetation, as the applicant is not proposing any disturbance or development within fifteen feet of the wetland. The proposed temporary construction scaffolding would only be installed next to the approved house, on the inland portion of the 25-foot wide protective lagoon buffer (Exhibit #4).

Section 30240(b) of the Coastal Act requires that development in areas adjacent to environmentally sensitive habitat areas, like the proposed temporary construction scaffolding, 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 proposed temporary construction scaffolding would not significantly degrade the lagoon buffer and is compatible with the continuance of the habitat area because it is temporary (about six months) and the disturbed area would be fully restored with native coastal dune vegetation pursuant to the conditions of the underlying permit. Therefore, the amendment request and proposed development is consistent with Section 30240(b) of the Coastal Act, as conditioned.

Sections 30230 and 30231 of the Coastal Act require that marine resources and water quality be protected and restored. The special conditions of this permit amendment ensure that the proposed temporary development conforms to the requirements of Sections 30230 and 30231. The special conditions of this permit amendment require that: 1) a temporary ground level boardwalk shall be placed next to the previously approved house to prevent workers from trampling and compacting the protective lagoon buffer; 2) nets and tarps shall be attached to the proposed scaffolding to prevent debris and building materials from falling into the protective lagoon buffer; 3) the proposed scaffolding, boardwalk and fence shall be removed from the protective lagoon buffer as soon as the previously approved house is completed, or by December 31, 2005, whichever occurs first; and 4) the protective lagoon buffer shall be restored as required by the underlying permit.

In addition, the special conditions of the underlying permit still apply (See Appendix B). No stock piling, material storage, grading, runoff, or trash disposal shall occur in the protective lagoon buffer strip at any time. Finally, in order to protect the buffer area and the lagoon from impacts caused by the construction of the proposed project, the permittee shall install a temporary six-foot high fence in the buffer to prevent access into the protective lagoon buffer area situated between the temporary scaffolding and the waters of the lagoon. The temporary fence, boardwalk and scaffolding shall not be located within fifteen feet (15') of the high water line (elevation +2.65). Therefore, as conditioned, the permit amendment and proposed

development is consistent with the ESHA, marine resource and water quality policies of the Coastal Act.

**C. Public Access and Recreation**

The previously approved project includes an improved concrete walkway across the portion of the site immediately adjacent to Pacific Avenue (Exhibit #4). No development is being proposed that would interfere with access along the water's edge. Therefore, as conditioned, the permit amendment and proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the permit amendment and proposed development conform with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

**D. Unpermitted Development**

Prior to Commission action on this permit amendment request, unpermitted development and/or development inconsistent with Coastal Development Permit 5-02-133 occurred on the site (and on Lot Q and Lot 24) without the review or approval of the Commission. The unpermitted development includes the erection of scaffolding within the lagoon buffer on the project site (and on Lot Q), and the placement of fill and storage of construction material on adjacent properties (Lot Q and Lot 24). The permittee has removed the scaffolding from the lagoon buffer and Lot Q, as requested by Commission staff. The fill and construction material has also been removed from the adjacent properties.

Although development has taken place prior to Commission action on this permit amendment, consideration of the application by the Commission is based solely upon Chapter 3 policies of the Coastal Act. Commission action on this permit amendment application does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit or permit amendment.

**E. Local Coastal Program**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program 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 Commission on June 14, 2001 officially certified the Venice LUP. As conditioned, the permit amendment and proposed development conform with the policies of the certified Venice LUP. As conditioned, the permit amendment and proposed development are also consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the permit amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

**F. California Environmental Quality Act (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.

As conditioned, the permit amendment and proposed development are 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 as conditioned can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## **APPENDIX A**

### **SUBSTANTIVE FILE DOCUMENTS:**

1. City of Los Angeles certified Land Use Plan for Venice, 6/14/01.
2. Venice Specific Plan, City of Los Angeles Ordinance No. 172,897.
3. Biological Resources Report (5106-5110 Pacific Avenue), by Impact Sciences, 9/17/01.
4. Coastal Development Permit 5-02-133 (Fitzgerald).
5. Coastal Development Permit 5-01-306 (VDH Development).
6. Coastal Development Permit 5-01-307 (VDH Development).
7. Coastal Development Permit 5-01-257/A5-VEN-01-279 (City of LA).
8. Coastal Development Permit 5-95-152 & amendments (City of LA/BLMP/Conservancy).
9. Coastal Development Permit A-266-77 (ILA) & amendment.
10. Coastal Development Permit P-78-2737 (Sevilla & Dubin).
11. Coastal Development Permit P-78-3123/A-281-77 (Cashin).
12. Coastal Development Permit 5-85-371 (Wyatt).
13. Coastal Development Permit 5-86-174 (Venice Peninsula Properties).
14. Coastal Development Permit 5-86-819 (Rome).
15. Coastal Development Permit 5-87-500 (Rome).
16. Coastal Development Permit 5-88-1053 (Rome).
17. Coastal Development Permit 5-89-593 (MDR Properties).
18. Coastal Development Permit 5-97-220 (Paragon).
19. Coastal Development Permit 5-97-363 (Paragon).
20. Coastal Development Permit 5-98-328 (Paragon).
21. Coastal Development Permit 5-97-015 (Ganezer).
22. Coastal Development Permit 5-00-001 (Garcia).
23. Coastal Development Permit 5-00-161 (City of LA).
24. Proposal for The Restoration/Revegetation of the Western Bank of the Ballona Lagoon, by Roderic B. Buck, December 2001.
25. Conceptual Plan for Completion of Phase II Improvements of the Ballona Lagoon Enhancement Plan for the West Bank of Ballona Lagoon, BLMP, March 1999.
26. Ballona Lagoon Enhancement Ten-year Monitoring Plan, July 1996.
27. Ballona Lagoon Enhancement Plan, BLMP & State Coastal Conservancy, August 1992.
28. Biota of the Ballona Region, Los Angeles County Natural History Museum Foundation, Edited by Ralph W. Schreiber, 1981
29. Birds of Ballona, by Dock & Schreiber in Biota of the Ballona Region, 1981.
30. Avifauna of the Venice Canals by Charles T. Collins, Ph.D., 1986.
31. An Ecological Evaluation of Ballona Lagoon, by Dr. Richard F. Ford & Dr. Gerald Collier, May 7, 1976.

## **APPENDIX B**

### **Special Conditions of Coastal Development Permit 5-02-133 (Approved February 7, 2003)**

1. Protective Lagoon Buffer Strip - Development Setback from High Water Line

A 25-foot wide protective lagoon buffer strip (lagoon buffer), measured from the high water line (elevation +2.65 as shown on **Exhibit #4 of the 1/16/03** staff report), shall be maintained between the approved development and Ballona Lagoon. No construction, grading, placement of fill, or other development as defined by Section 30106 of the Coastal Act shall occur within the 25-foot wide lagoon buffer, with the exception of landscaping with plants native to the Ballona Lagoon habitat area. Prohibited development within the dedicated area includes installation of permanent irrigation devices and the planting of non-native vegetation. The 25-foot wide protective lagoon buffer strip shall be maintained as an open space and natural habitat area, and it shall not be used in a manner that would in any way degrade the habitat value of the lagoon buffer.

All existing plants within the 25-foot wide protective lagoon buffer that are native to the Ballona Lagoon habitat area shall be preserved in place. The applicant shall remove by hand all non-native plants from the applicant's property situated within the 25-foot wide protective lagoon buffer, and shall landscape and maintain the protective lagoon buffer with native plants consistent with the landscape plan approved pursuant to Special Condition Three below. The native plants shall be installed immediately following completion of grading for the development and prior to or concurrent with commencement of construction of the dwelling authorized under this permit.

2. Building Stringline – Structural Setback from Property Line

All portions of the dwelling (including stairways, balconies, and bay windows) shall be set back at least 29 feet from the eastern (lagoon-side) property line. Any area situated west of the 25-foot wide protective lagoon buffer strip described in Special Condition One and east of the 29-foot structural setback may be used only for native landscaping or for an uncovered and permeable deck at ground level (no more than 18" high) and fences and walls not exceeding six feet in height above natural grade. No deck, fence, wall or other accessory structure shall encroach into the protective lagoon buffer strip described in Special Condition One.

3. 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.** All portions of the dwelling (including stairways, balconies, and bay windows) shall be set back at least 29 feet from the eastern (lagoon-

side) property line. Any area situated west of the 25-foot wide protective lagoon buffer strip described in Special Condition One and east of the 29-foot structural setback may be used only for native landscaping or for an uncovered and permeable deck at ground level (no more than 18" high) and fences and walls not exceeding six feet in height above natural grade. No deck, fence, wall or other accessory structure shall encroach into the protective lagoon buffer strip described in Special Condition One.

- (ii) Building Height. The building height shall be measured from the average natural grade of the lot, which is elevation +8.75' pursuant to the site survey submitted with the coastal development permit application on April 30, 2002, and labeled "Building Height Restriction Exhibit." The height of the structure within sixty horizontal feet of the inland side of the Esplanade (City right-of-way) shall not exceed thirty feet (30') above the average natural grade of the lot. For every two feet further away from the Esplanade, the structure may be one foot higher in height to a maximum height of 38 feet above the average grade of the lot. [Note: *The inland side of the Esplanade, which is also the applicant's eastern (lagoon-side) property line, generally corresponds with the mean high tide line of Ballona Lagoon.*] 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, except that chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit by five feet.
- (iii) Landscaping. A landscape plan for the entire lot shall be prepared and submitted to the Executive Director for review and approval. All landscaping for the entire development shall be of southern California native plants appropriate to the natural habitat type (coastal sand dune), and shall be consistent with all of the following requirements:
- a) No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be utilized on the property. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
  - b) The use of chemical pesticides, fertilizers, and herbicides is prohibited within the 25-foot wide protective lagoon buffer strip described in Special Condition One.
  - c) Within the 25-foot wide protective lagoon buffer strip described in Special Condition One, the applicant shall preserve all existing plants that are native to the Ballona Lagoon habitat area, and shall remove all non-native plants by hand. The protective lagoon buffer strip described in Special Condition One shall be landscaped only with plants native to the Ballona Lagoon habitat area.

- d) All landscaping shall be maintained by the applicant or successor(s)-in-interest. All required plantings shall be maintained in good growing condition through-out the life of the project, and whenever necessary, shall be replaced with new plant materials which conform to the requirements of this condition to ensure continued compliance with the landscape plan.
  - e) The landscape plan shall include a map showing the type, size and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and a schedule for installation of plants. The landscape plan to be submitted to the Executive Director shall be accompanied by an analysis prepared by a licensed Landscape Architect or a qualified Resource Specialist that documents that the landscape plan includes the appropriate size and types of plants for the Ballona Lagoon habitat area.
  - f) Landscaping for the 25-foot wide protective lagoon buffer strip described in Special Condition One shall be installed immediately following completion of grading for the development and prior to or concurrent with commencement of construction of the dwelling authorized under this permit. No grading or presence of heavy machinery shall occur within the protective lagoon buffer strip described in Special Condition One. The plantings shall provide 70% cover within ninety days, unless the Executive Director grants additional time for good cause.
  - g) Monitoring. Five years from the date of the completion of the installation of landscaping as required in item (e) above, the applicant (or successors in interest) shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant (or successors in interest) shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The applicant (or successor in interest) shall implement the supplemental landscaping plan approved by the Executive Director and/or seek an amendment to this permit if required by the Executive Director.
- (iv) Lighting. No lighting associated with the project shall significantly impact adjacent environmentally sensitive habitat including adjacent wetlands and the protective lagoon buffer strip described in Special Condition One. All lighting within the

development shall be directed and shielded so that light is directed away from Ballona Lagoon. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the lighting plan prepared by a qualified biologist which documents that the lighting is designed to avoid impacts upon adjacent environmentally sensitive habitat including wetlands.

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

B. The permittee shall undertake development in accordance with the final plans approved by the Executive Director. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Protective Lagoon Buffer Strip Protection – Water Quality

Prior to the commencement of construction, the applicant shall erect and maintain for the entire period of construction a six-foot high fence along the inland edge of the protective lagoon buffer strip described in Special Condition One. The construction fence shall be highly visible material. In addition, the applicant shall place fiber liners and sandbags along the base of the fence to prevent siltation. No site preparation, grading or construction shall occur until the fence is constructed and the sandbags and liners are placed along the inland edge of the protective lagoon buffer strip. No stock piling, storage, grading, construction, runoff, or trash disposal shall occur in the protective lagoon buffer strip at any time. All construction equipment and materials shall be stored and managed in a manner to prevent dispersal and to minimize the potential of pollutants to enter the lagoon.

5. Project Staging and Construction

The use of any property other than the project site (Lot No. 16, Block 1) for project staging, equipment and material storage, or other use, is not permitted by this coastal development permit and shall not occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. Any use of Lot Q, which abuts the northern side of the site, is specifically prohibited.

6. Pacific Avenue Sidewalk

In accordance with the applicant's offer to do so, the applicant shall provide an improved concrete public walkway across the site along the eastern curb of Pacific Avenue, as generally shown on **Exhibit #4 of the 1/16/03 staff report**. The applicant shall not interfere with public access and use of the walkway.

7. On-site Parking Supply

In accordance with the applicant's offer to do so, the applicant shall provide and maintain a minimum of three off-street parking spaces on the project site.

8. Future Improvements

This coastal development permit is only for the development described in Coastal Development Permit 5-02-133. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply. Accordingly, any future development on the site, including landscaping, improvements to the single family residence and other development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14 California Code of Regulations Section 13252(a)-(b), shall require an amendment to Coastal Development Permit 5-02-133 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

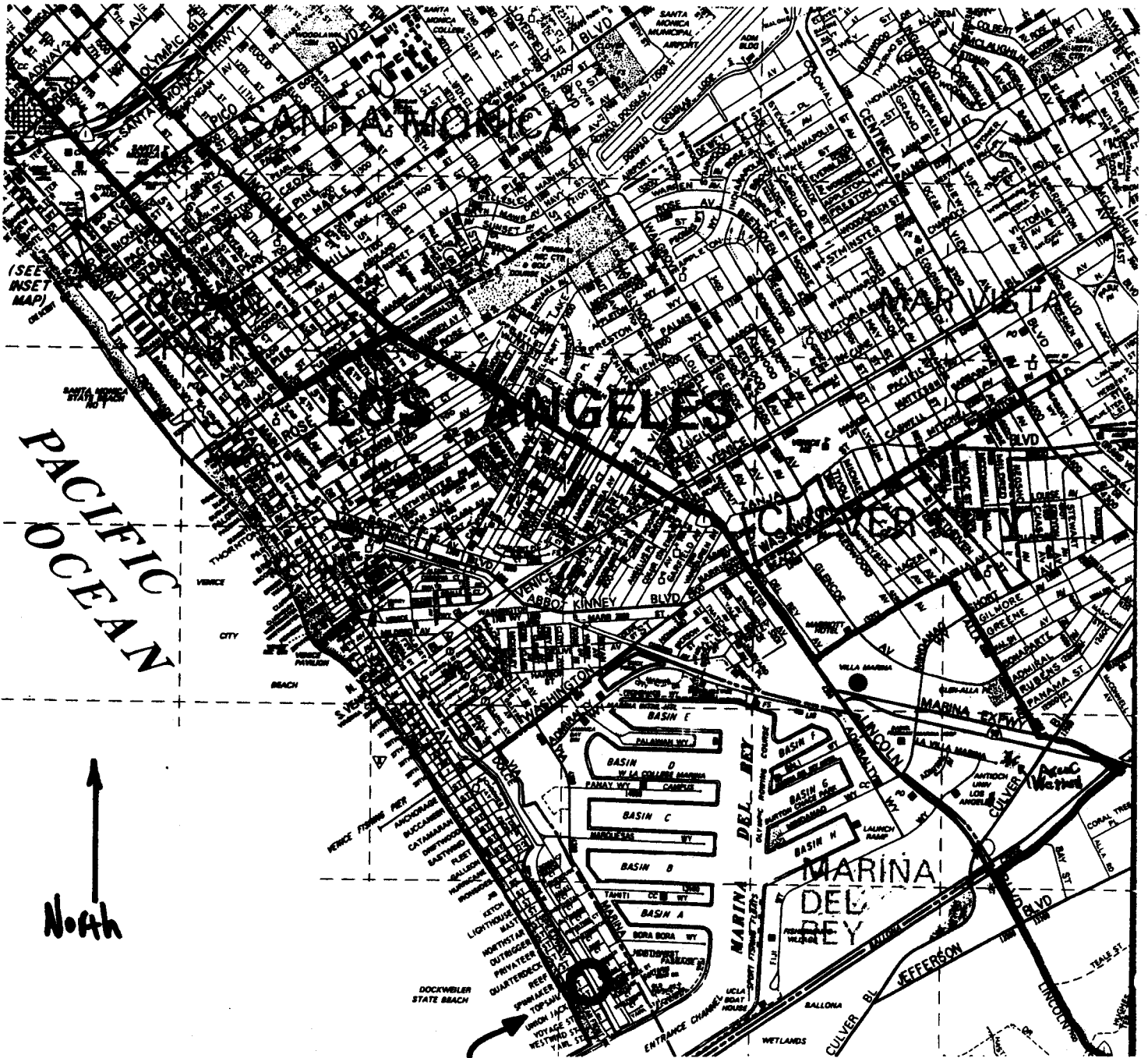
9. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application, 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.

10. Deed Restriction

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel governed by this coastal development permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either this coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

# VENICE, CA



Project Site:  
5102 Pacific Avenue  
(Lot 16, Blk 1)

COASTAL COMMISSION  
5-02-133-A1  
EXHIBIT # 1  
PAGE 1 OF 1

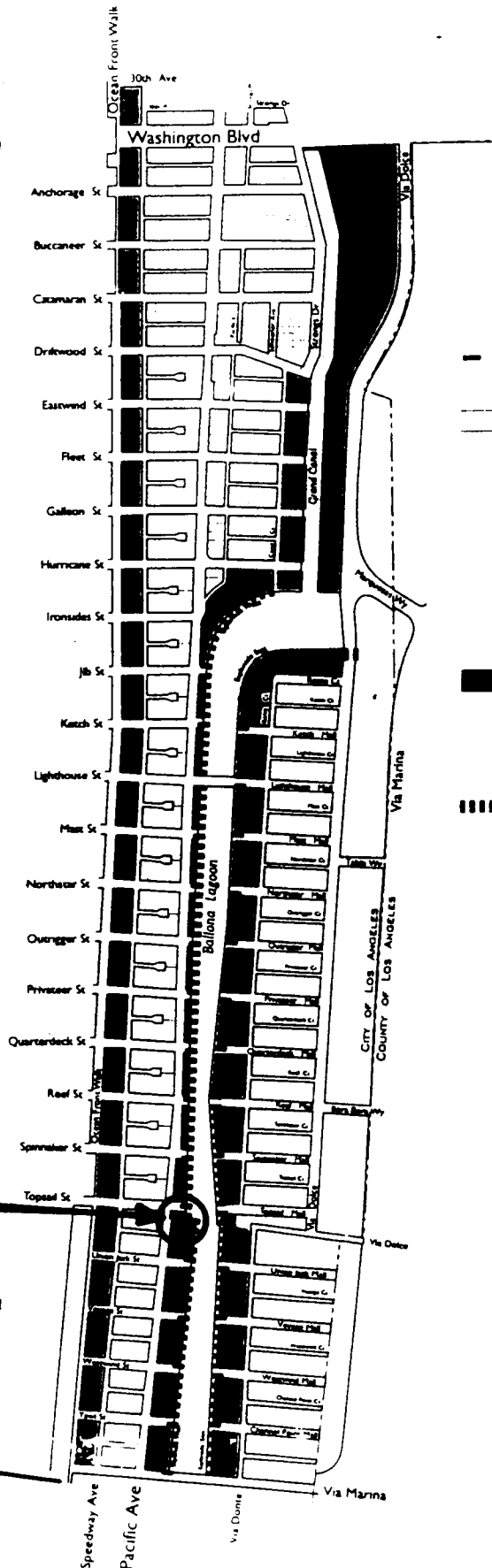


Silver Strand/  
Marina  
Peninsula  
Area

Project  
Site

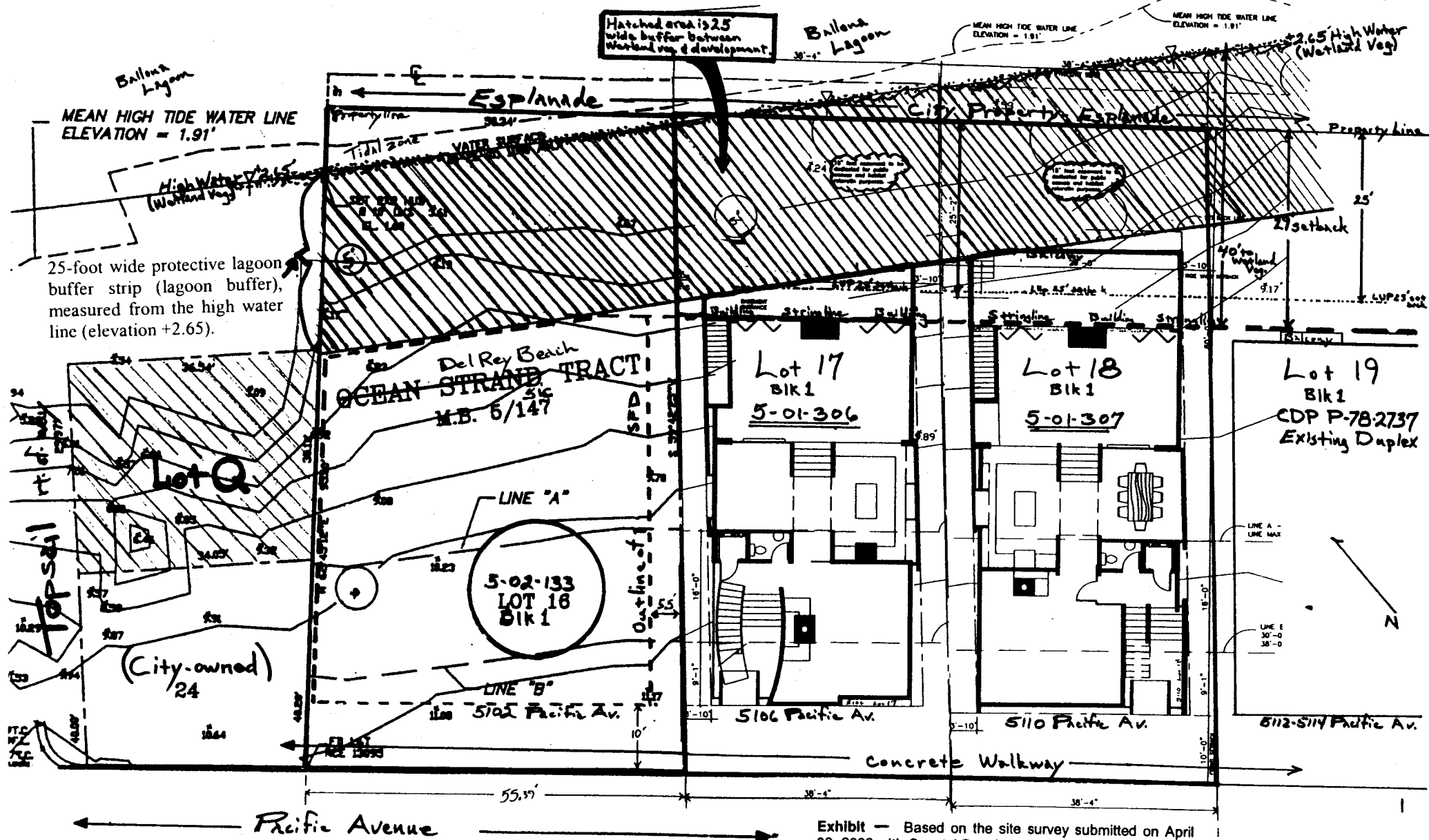
Least Tern  
Nesting  
Area

Marina Entrance



- Mean High Tide Line
- \_\_\_\_\_ Environmentally Sensitive  
Habitat Areas (ESHA)  
(Includes lots R & C, Which  
include the submerged  
bottom of the Ballona Lagoon  
from Hurricane St. to Topsail  
St. and from Topsail St. to Via  
Marina, respectively.)
- █ Lots Fronting on the Envi-  
ronmentally Sensitive  
Habitat Areas (ESHA)
- ..... Habitat Protection  
Buffer Strip (ESHA)





Hatched area is 25' wide buffer between Workland veg. & development.

Ballona Lagoon

MEAN HIGH TIDE WATER LINE ELEVATION = 1.91'

MEAN HIGH TIDE WATER LINE ELEVATION = 1.91'

+2.65' High Water (Workland Veg)

MEAN HIGH TIDE WATER LINE ELEVATION = 1.91'

High Water (Workland Veg)

25-foot wide protective lagoon buffer strip (lagoon buffer), measured from the high water line (elevation +2.65).

Del Rey Beach OCEAN STRAND TRACT I M.B. 5/147

Lot 17 Blk 1 5-01-306

Lot 18 Blk 1 5-01-307

Lot 19 Blk 1 CDP P-78-2737 Existing Duplex

5-02-133 LOT 18 Blk 1

5106 Pacific Av.

5110 Pacific Av.

5112-5114 Pacific Av.

Concrete Walkway

Pacific Avenue

Exhibit — Based on the site survey submitted on April 30, 2002 with Coastal Development Permit Application No. 5-02-133, and labeled "Building Height Restriction Exhibit."

Site  
5102 Pacific Avenue

Block 1

COASTAL COMMISSION  
5-02-133-A1

Exhibit #3

PAGE 1 OF 1

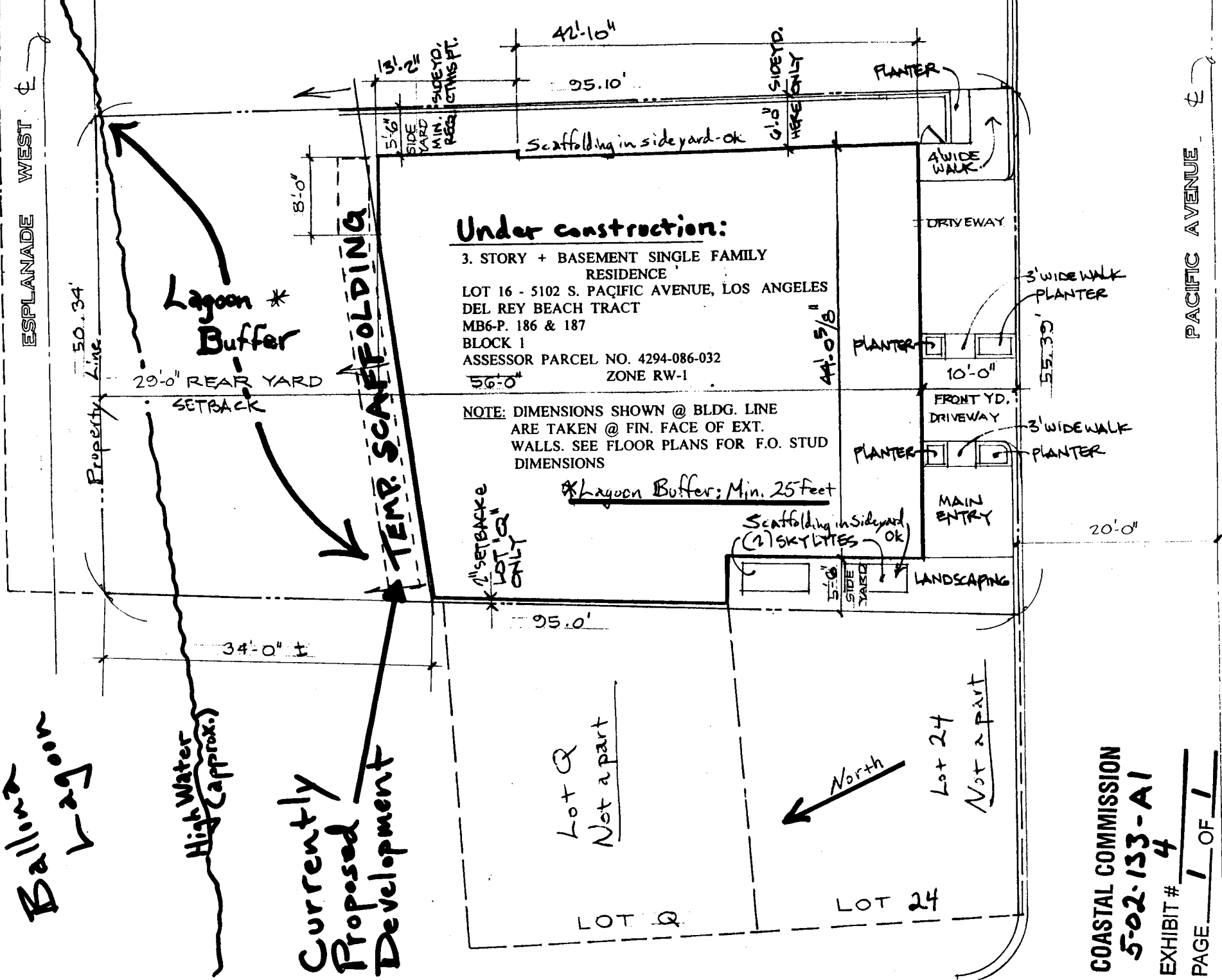
Ballroom  
Lagoon

High Water  
(Approx.)

Currently  
Proposed  
Development

ESPLANADE WEST

PACIFIC AVENUE



**Under construction:**

3. STORY + BASEMENT SINGLE FAMILY RESIDENCE

LOT 16 - 5102 S. PACIFIC AVENUE, LOS ANGELES  
DEL REY BEACH TRACT  
MB6-P. 186 & 187  
BLOCK 1  
ASSESSOR PARCEL NO. 4294-086-032  
56'-0" ZONE RW-1

NOTE: DIMENSIONS SHOWN @ BLDG. LINE ARE TAKEN @ FIN. FACE OF EXT. WALLS. SEE FLOOR PLANS FOR F.O. STUD DIMENSIONS

\*Lagoon Buffer: Min. 25 feet

\*1" SETBACK LOT 16 ONLY

Lot Q  
Not a part

North

Lot 24  
Not a part

LOT Q

LOT 24

COASTAL COMMISSION

5-02-133-A1

EXHIBIT # 4

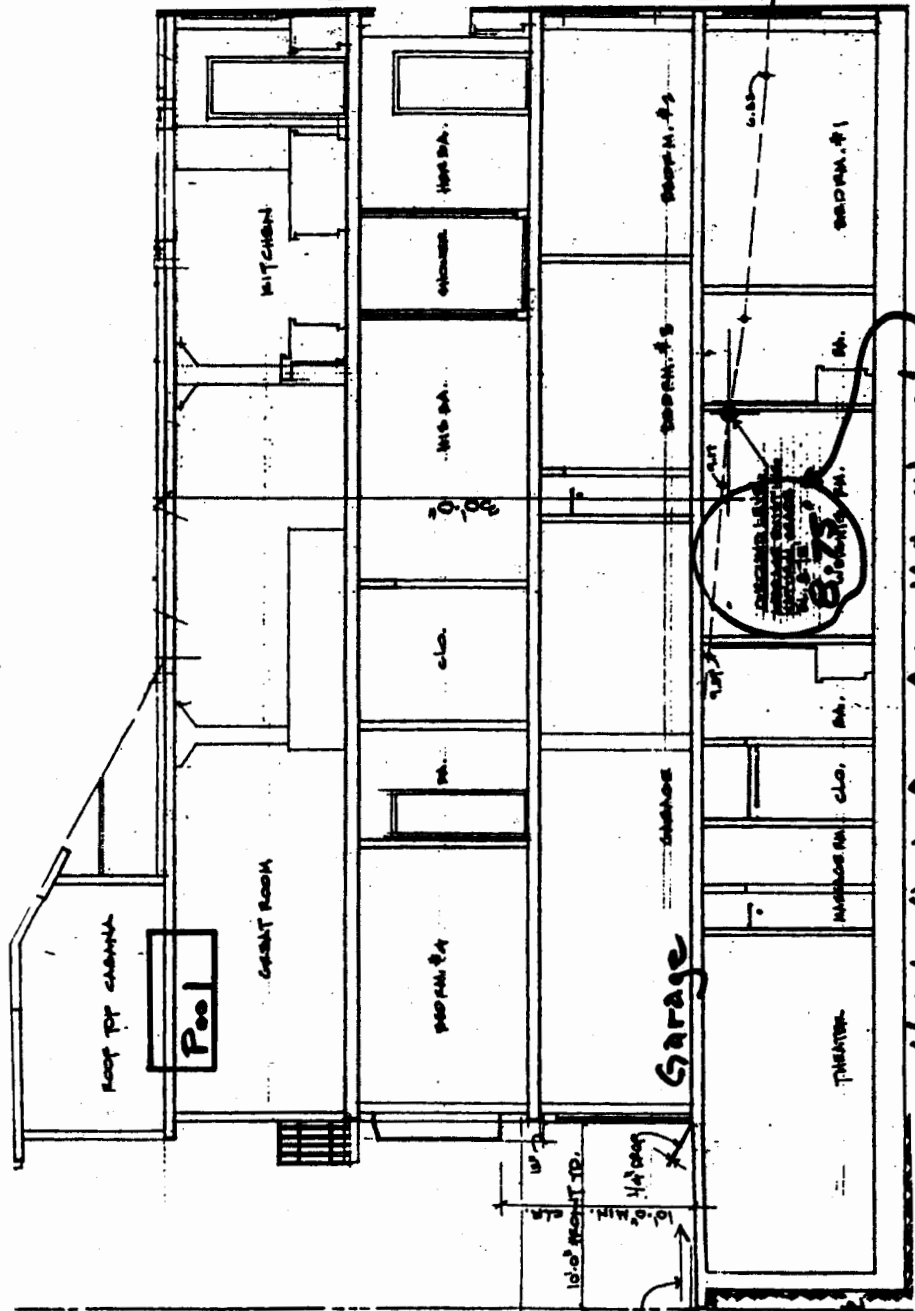
PAGE 1 OF 1

60' to MHTL

38' MAX.

30' MAX

Proposed  
Town Home  
Siting  
in Bin



Lagoon  
25' to Wetland

Height limit from Ave. Natural grade

Approved SFD 5102 Pacific Ave.

COASTAL COMMISSION  
5-02-133-A1

EXHIBIT # 5  
PAGE 1 OF 1

Pacific Ave.