

CALIFORNIA COASTAL COMMISSION

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Appeal Filed: 8/25/2005
Applic. Filed: 8/25/2005
180th Day: Waived
270th Day: 5/22/2006
Staff: Charles Posner - LB
Staff Report: 4/20/2006
Hearing Date: May 10, 2006
Commission Action:

**W18b&c****STAFF REPORT: DE NOVO & REGULAR CALENDAR****APPLICATION NUMBER:** 5-05-319**APPEAL NUMBER:** A5-VEN-05-320**APPLICANT:** LNR-Lennar Washington Square, LLC c/o The Lee Group**AGENT:** Clare Bronowski**PROJECT LOCATION:** 300-346 W. Washington Boulevard and 3100-3210 Grand Canal, Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Demolition of five commercial buildings; conversion of an existing nine-story office building into 45 live/work condominium units and one 5,300 square foot ground floor commercial unit; offer of dedication and construction of a public path along the east bank of Grand Canal; and construction of 77 new residential condominium units (12 of which are affordable housing), one 600 square foot commercial unit and a two-level semi-subterranean parking garage.

Lot Area (2 lots)	152,499 square feet (3.5 acres)
Building Coverage	80,703 square feet
Pavement Coverage	39,628 square feet
Landscape Coverage	32,168 square feet
Zoning	C2-1 Commercial
Plan Designation	Community Commercial
Commercial Floor Area	5,900 square feet (on ground floor)
Residential Units	122
Parking Spaces	300
Building Height	30-49 feet (and one existing 132-foot building)

LOCAL APPROVALS: City of Los Angeles Local Coastal Development Permit No. 2004-4821, Specific Plan Exception, Project Permit, Site Plan Review and Mello Act Compliance (6/23/05), and Vesting Tentative Tract No. 61505 (6/9/05).

SUMMARY OF STAFF RECOMMENDATION

The proposed project is located on a 3.5-acre parcel that abuts the east bank of Grand Canal, an environmentally sensitive habitat area (ESHA). Staff is recommending that the Commission **APPROVE** two coastal development permits – one on de novo review of an appeal (A-5-VEN-05-320) and one dual permit application (5-05-319) – for the proposed development with special conditions to enhance public access along Grand Canal and to minimize adverse impacts to sensitive habitat areas. The special conditions would require the permittee to set back the proposed structures at least 30 feet from the Grand Canal property line, dedicate an easement for the proposed public walkway along the east bank of the canal, and to implement specific construction methods and post-construction BMPs to minimize adverse impacts to water quality and sensitive habitat areas. The recommended special conditions begin on Page Four. **See Page Three for the motions to carry out the staff recommendation.** The applicant does not agree with the recommended 30-foot setback, instead proposing a 21-foot setback (within which the dedication of a ten-foot wide easement is being offered).

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles certified Land Use Plan for Venice, 6/14/01.
2. City of Los Angeles Local Coastal Development Permit No. 2004-4821.
3. City of Los Angeles Vesting Tentative Tract No. 61505.
4. City of Los Angeles Mitigated Negative Declaration No. ENV-2004-4822-MND.
5. Coastal Development Permit A5-VEN-01-280/5-01-289 (Grand Canal Rehabilitation).
6. Coastal Development Permit A5-VEN-01-279/5-01-257 (Ballona Lagoon Restoration).
7. Coastal Development Permit 5-82-479 (Goldrich & Kest - 3405 Via Dolce).
8. Biota of the Ballona Region, Los Angeles County Natural History Museum Foundation, Edited by Ralph W. Schreiber, 1981.
9. Avifauna of the Venice Canals by Charles T. Collins, Ph.D., 1986.

STAFF NOTE:

The proposed project is located on the east bank of Grand Canal, within 300 feet of the lagoon's mean high tide line (See Exhibits). 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 Section 30601 of the Coastal Act 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 (by the Executive Director) on August 25, 2005 (Appeal No. A5-VEN-05-320). On November 18, 2005, the Commission determined that a Substantial Issue exists with respect to the City-approved project's conformance with the Chapter 3 policies of the Coastal Act because of the precedential nature of the proposed development in regards to the setback from wetlands (Grand Canal), building height, and the mix of residential and commercial uses on a site that is designated for community commercial land uses by the certified Venice Land Use Plan (LUP).

Subsequent to the Commission finding of substantial issue in 2005, the applicant modified the proposed project in order to increase the amount of commercial units proposed on the site and to provide a ten-foot wide easement (and six-foot wide public walkway) on the project site along the east bank of Grand Canal. The applicant's change to the proposed mix of residential and commercial uses on the site resulted in a reduction of proposed residential units from 123 to 122, reduction in the on-site parking from 302 to 300 stalls, and the addition of one 600 square foot commercial unit at the corner of the project site where Grand Canal intersects with Washington Boulevard.

In order to minimize duplication, Commission staff has combined the de novo appeal permit (A5-VEN-05-320) and dual coastal development permit application (5-05-319) into one staff report and one Commission hearing. Because there are two permits involved, the Commission's approval, modification or disapproval of the proposed project will require two separate Commission actions: one action for the de novo review of the appeal of the City's permit and one action for the dual coastal development permit application. Staff is recommending that the Commission approve both permits with the following identical special conditions and findings. 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 (LUP) for Venice is advisory in nature and may provide guidance.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the coastal development permits with special conditions:

MOTION I: *"I move that the Commission approve with special conditions Coastal Development Permit A5-VEN-05-320 per the staff recommendation."*

MOTION II: *"I move that the Commission approve with special conditions Coastal Development Permit 5-05-319 per the staff recommendation."*

The staff recommends two **YES** votes. Passage of the motions will result in **APPROVAL** of the de novo permit (A5-VEN-05-320) and dual coastal development permit application (5-05-319) with identical special conditions, and adoption of the following resolutions and findings, as set forth in this staff report or as modified by staff prior to the Commission's vote. Each motion passes only by an affirmative vote of a majority of Commissioners present.

I. Resolution: Approval with Conditions of A5-VEN-05-320

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Resolution: Approval with Conditions of 5-05-319

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

III. Standard Conditions of Coastal Development Permits A5-VEN-05-320 & 5-05-319

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 of Coastal Development Permits A5-VEN-05-320 & 5-05-319**1. Permitted Uses**

- A. This coastal development permit authorizes: a) demolition of all existing development on the site except for the nine-story office building; b) conversion of the existing nine-story office building into 45 live/work condominium units, a common recreation room on the ground floor (for the residents), and one 5,300 square foot commercial unit along the Washington Boulevard frontage of the ground floor; c) construction of 77 new residential condominium units (12 of which are affordable housing); d) construction of a ground floor 600 square foot commercial unit at the corner of the project site where Grand Canal intersects with Washington Boulevard; e) construction of a six-foot wide public walkway and 42-inch high fences within the ten-foot wide easement offered by the applicant to be dedicated on the western edge of the project site along the east bank of Grand Canal, f) installation of drainage devices and landscaping on the project site; g) provision of at least 300 parking spaces on the site and within a new two-level semi-subterranean parking garage; and h) Vesting Tentative Tract No. 61505, to the extent that it is consistent with the development described herein.
- B. The ground floor commercial units facing Washington Boulevard, which have a combined total of 5,900 square feet of internal floor area, shall be used for visitor-serving or community-serving commercial uses or services (e.g. retail and food service).
- C. Any proposed change in use, change in commercial floor area, change in number of residential units, change in number of parking stalls, use of the parking to satisfy the

parking requirements of new development or future commercial intensification, or any other deviation from the approved development, shall be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. 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. Public Access and Habitat Easement along Grand Canal

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, and in accordance with the applicant's offer to do so, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to the City of Los Angeles (or other public agency or private association acceptable to the Executive Director) an easement for public access and habitat restoration. The easement shall include a ten-foot (10') wide strip of land over the entire length of the applicant's property as measured eastward from the applicant's western (Grand Canal-side) property line as shown on **Exhibit #7 of the 4/20/2006** staff report. The document shall be recorded free of prior liens and any other encumbrances that may affect said interest. The offer and restriction shall run with the land in favor of the People of the State of California, binding successors and assigns. The offer shall be irrevocable for a period of 21 years commencing upon the date of recording.
- B. Concurrently with the construction of the residential and commercial development permitted on the property pursuant to Coastal Development Permits A-5-VEN-05-320 and 5-05-319, the permittee shall: a) grade, surface and improve a six-foot wide public walkway along the entire length of the easement (using compacted decomposed granite or other material deemed acceptable by the Executive Director); b) delineate the inland side of the easement and the canal-side of the walkway by erecting decorative fences not exceeding 42 inches in height; and c) landscape the remaining width of the easement with native plants pursuant to a landscape plan approved by the Executive Director. The permittee shall complete the initial planting and open the public walkway for unrestricted public pedestrian access prior to the issuance of the first Certificate of Occupancy for any portion of the development on the project site. The permittee shall not interfere with the public's use of the walkway, the fencing along the walkway, the continuance of the native plants, or the restoration of the City's Grand Canal property as a wetland habitat. Prohibited development within the dedicated area includes the installation of permanent irrigation devices and the planting of non-native vegetation.

3. Grand Canal Protective Buffer/Structural Setback

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised project plans for the review and approval of the Executive Director. The revised plans shall comply with the following requirements:

Structural Setback. In order to provide a setback for public access, visual quality, and to protect the biological productivity of the Venice Canals, a minimum setback of thirty feet

(30') shall be provided and maintained between all structures (except 42-inch high fences) and the applicant's western (canal-side) property line. The public access and habitat easement offered by the applicant and required by **Special Condition Two** shall comprise the first ten feet of the required thirty-foot structural setback area. The remaining twenty feet of the required thirty-foot structural setback area (inland of the easement) may be used for private yards consistent with the following terms of this condition, as follows:

- A. **Permeable Yard Area.** The Grand Canal setback area between the easement and the buildings shall be maintained as an uncovered and primarily permeable yard area. Uncovered means that no fill or building extensions (i.e. chimneys, balconies, stairs, trellises) shall be placed in or over the permeable yard area with the exception of fences (not to exceed 42 inches in height). The permeable yard areas may include minimal coverage with impermeable pavers, stones, concrete walkways or other similar ground cover, but in no event shall impermeable materials occupy more than fifteen percent (15%) of the total amount of the required permeable yard area.
- B. **Landscaping.** A landscape plan for the Grand Canal setback area shall be prepared and shall include a plant list and map showing the type, size and location of all plant materials that will be used, the irrigation system, topography of the site, and a schedule for installation of plants. Only plants native to the Ballona Lagoon environment shall be used within the public access and habitat easement offered by the applicant and required by **Special Condition Two**. 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 within 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. All landscaping shall be maintained by the applicant or successor(s)-in-interest in good growing condition through-out the life of the project, and whenever necessary, shall be replaced with new plant materials that conform to the requirements of this condition to ensure continued compliance with the landscape plan. The use of pesticides and herbicides is prohibited in the Grand Canal setback area.
- C. **Lighting.** All lighting within the development and the Grand Canal setback area shall be directed and/or shielded so that no lighting associated with the project shall significantly impact adjacent environmentally sensitive habitat in and along the Grand Canal waterway.
- D. **Drainage.** No drainage or runoff from the project site shall be directed into the Grand Canal setback area, with the exception of roof drains that have filtering devices to remove trash and particulates prior to draining into the setback area.

PRIOR TO ISSUANCE, BY THE EXECUTIVE DIRECTOR, OF THE NOTICE OF INTENT FOR THIS COASTAL DEVELOPMENT PERMIT, and prior to recording of the deed restriction required by **Special Condition Thirteen** below, the applicant shall provide a site plan, subject to the approval of the Executive Director, which complies with all of the above terms of this condition and clearly identifies the exact location,

dimensions and precise boundaries of the required thirty-foot structural setback area, including the exact location, dimensions and precise boundaries of the public access and habitat easement offered by the applicant and required by **Special Condition Two**. Once the Executive Director approves the site plan, that site plan will be included as an exhibit to the Notice of Intent to Issue Permit that the Executive Director issues for these coastal development permits. 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. Public Access Through the Site

In addition to the public access walkway proposed and required pursuant to **Special Condition Two** along the edge of the property that abuts Grand Canal, the applicant shall provide and maintain the three proposed public walkways that connect the sidewalk of Via Dolce to the Grand Canal public walkway, as shown on **Exhibit #7 of the 4/20/2006** staff report. Signs shall be posted and maintained to clearly notify the public of these accessways. The accessways shall not be gated.

5. Building Height Limits

The approved development shall conform with the following maximum height limits. All heights shall be measured from the elevation of the centerline of the fronting right-of-way: Washington Boulevard.

- A. The height (118.6' to the parapet and 132' to the top of the mechanical tower) of the existing nine-story building on the site shall not be increased.
- B. Thirty feet (30') is the maximum height for the new structures approved along the Grand Canal frontage, as follows: within sixty horizontal feet (60') of the Grand Canal-side property line (City right-of-way), no portion of any structure (including roof access structures, penthouse, roof deck railings and architectural features) shall exceed a height of thirty feet (30'), except that chimneys, exhaust ducts, ventilation shafts may exceed the height limit by five feet. *[Note: The inland side of the Grand Canal right-of-way is also the applicant's western (canal-side) property line.]*
- C. Thirty-eight feet (38') is the maximum height for the new structures approved on the portion of the site that is farther than sixty horizontal feet from the Grand Canal-side property line (City right-of-way), except that the approved five-level residential structure (including the two-level parking garage and the twelve units of proposed affordable housing) is permitted to reach 49 feet above the elevation of the centerline of Washington Boulevard (only that portion of the building situated at least 148 feet from the canal-side property line). Chimneys, exhaust ducts, ventilation shafts may exceed the height limit by five feet.

The permittee shall undertake development in accordance with these height limits and 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.

6. On-site Parking Plan

A minimum of 300 parking spaces shall be provided and maintained on the project site. Two on-site parking spaces shall be identified and reserved to serve the occupants of each of the 122 permitted residential units.

7. Homeowners' Association Responsibilities

The Homeowners' Association established for the 122 approved residences shall be responsible for the ongoing maintenance of the public accessways (not including the portion of the site that is dedicated and accepted by a public agency), parking facilities, landscaping and drainage facilities (including the stormwater treatment component) on the project site for the life of the project.

8. Signage

No sign shall exceed the height of the nearest roofline. No sign shall rotate or flash.

9. Protection of Water Quality – During Demolition and Construction

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a Demolition/Construction Best Management Practices Plan for the project site, prepared by a licensed professional, that incorporates erosion, sediment, and chemical control Best Management Practices (BMPs) designed to minimize to the maximum extent practicable the adverse impacts associated with demolition and construction to receiving waters. The plan shall include the following requirements:

- (i) Prior to the commencement of demolition/construction, the applicant shall erect and maintain for the entire period of demolition and construction a temporary six-foot high fence along the inland edge of the Grand Canal property line. The fence shall be of a highly visible material. In addition, the applicant shall place fiber liners and sandbags along the base of the fence to prevent siltation in the canal. No demolition, site preparation, grading or construction shall occur until the fence is erected and the sandbags and liners are placed along the inland edge of the Grand Canal-side property line.
- (ii) No demolition materials, construction materials, debris, or waste shall be placed or stored in a manner where it may be subject to wave, wind, rain, or tidal erosion and dispersion. All trash generated on the project site shall be properly disposed of at the end of each workday.

- (iii) Any and all debris and excess soil or sand resulting from demolition, excavation or construction activities shall be removed from the project site within 72 hours of completion of demolition, excavation or construction. Demolition, excavation and construction debris and sediment shall be removed or contained and secured from work areas each day that excavation and construction occurs to prevent the accumulation of sediment and other debris that could be discharged into coastal waters. All demolition, excavation and construction debris and other waste materials removed from the project site shall be disposed of or recycled in compliance with all local, state and federal regulations. No debris shall be placed in coastal waters. If a disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- (iv) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction and demolition activities. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system, the canals and the Pacific Ocean.
- (v) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and kept as far away from storm drain inlets and receiving waters as possible.
- (vi) During demolition, excavation and construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any street or drain that discharges into the canal, beach or ocean, unless such discharge specifically authorized by the California Regional Water Quality Control Board.
- (vii) In the event that lead-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

B. The required Construction Best Management Practices Plan for the project site shall also include the following BMPs designed to prevent spillage and/or runoff of construction and demolition-related materials, sediment, or contaminants associated with construction activity. The applicant shall:

- (i) Develop and implement spill prevention and control measures and shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible.
- (ii) Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into the sanitary sewer, storm drains, streets, canals or the ground.

- (iii) Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters, and more than fifty feet away from a storm drain, open ditch or surface waters (e.g., canal).
- (iv) Provide and maintain adequate disposal facilities for solid waste, including excess concrete, produced during demolition and construction.
- (v) Provide and maintain temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, wind barriers such as solid board fence, snow fences, or hay bales and silt fencing.
- (vi) Stabilize any stockpiled fill with geofabric covers or other appropriate cover, and close and stabilize open trenches as soon as possible.
- (vii) Implement the approved Construction Best Management Practices Plan on the project sites prior to and concurrent with the demolition, excavation and construction operations. The BMPs shall be maintained throughout the development process.

C. The Construction Best Management Practices Plan approved by the Executive Director pursuant to this condition shall be attached to all final construction plans. The permittee shall undertake the approved development in accordance with the approved Construction Best Management Practices Plan. Any proposed changes to the approved Construction Best Management Practices Plan shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

10. Affordable Housing Units

The twelve affordable housing units proposed by the applicant as part of the approved development (and thereby required to be constructed on the property) shall be reserved and maintained as affordable housing units for the life of the project. **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 recorded a covenant and agreement with the City of Los Angeles Housing Department, or with a non-profit housing organization approved by the Executive Director, assuring on-going compliance with this condition.

11. Local Government Approval

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act, including the conditions of the City of Los Angeles Vesting Tentative Tract No. 61505, and Venice Specific Plan Project Permit Case No. 2004-4821. In the event of a conflict between any of the terms and conditions imposed

by the local government and those of these coastal development permits, the terms and conditions of Coastal Development Permits A5-VEN-05-320 and 5-05-319 shall prevail.

12. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions imposed herein. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

13. 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.

V. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project involves the redevelopment of a 3.5-acre commercial property (two lots) that abuts the east bank of Grand Canal in Venice (Exhibit #6). The project site, situated three blocks inland of Venice Pier and the beach, is on the south side of Washington Boulevard, a major coastal access route (Exhibit #2). The existing buildings on the site, which are now vacant, were formerly used as a supermarket, restaurants, offices, an adult day care center and parking. The surrounding area is developed with a variety of residential uses and visitor-serving commercial uses that cater to local residents and the thousands of coastal visitors who are attracted to Venice Beach.

The proposed development includes a total of 122 residential units, two commercial units, a public walkway along Grand Canal, and 300 on-site parking spaces. An existing nine-story, 132-foot tall, 93,710 square foot office building is the only structure on the site that would

remain, and it is proposed to be converted into 45 live/work condominium units and one ground floor commercial unit (5,300 square feet). The ground floor of the existing nine-story, office building would be remodeled to provide, in addition to 5,300 square feet of commercial uses, a 1,300 square foot fitness center (and an outdoor spa and swimming pool) for use by all of the project's residents. The five other buildings now occupying the site, including a small concrete equipment bunker abutting the canal-side property line, would be demolished (total of 82,711 square feet). About thirty mature trees would be removed from the project site.

Seventy-seven (77) new residential condominium units are proposed to be constructed as follows: a row of 22 new thirty-foot tall townhouse units along the east bank of Grand Canal, one new 49-foot high podium structure with 27 condominium units (twelve of which will be affordable) above a two-level parking garage, and 28 townhouse units within four new 33-foot tall buildings along Via Dolce (Exhibit #7). Each of the fifty proposed townhouse units would have a private two-car garage. One of the two proposed commercial units, a 600 square foot ground floor unit, is proposed at the corner of the project site where Grand Canal intersects with Washington Boulevard (Exhibit #7).¹

On March 27, 2006, the applicant revised the proposed development plan in order to increase (from 14.5 feet to 21 feet) the structural setback between the Grand Canal-side property line and the façade of the 22 new residential units proposed along the canal (Exhibit #9). The revised project description also includes the applicant's offer to dedicate a ten-foot wide easement along the entire western edge of the project site where it abuts the Grand Canal right-of-way (for a distance of 545 feet), and the proposed construction of a new six-foot wide public walkway within the proposed easement. The proposed walkway would replace an existing dirt and concrete trail on City property that is part of the Grand Canal/Ballona Lagoon public trail system described in the certified Venice Land Use Plan (LUP Exhibit #19b).

The proposed project includes a total of 300 parking spaces: 182 stalls in a two-level semi-subterranean parking garage, 100 spaces in the 50 private townhouse garages, and eighteen surface spaces. Four driveways are proposed in order to provide vehicular access to the site: one at Washington Boulevard and four along Via Dolce. Three proposed public walkways are proposed through the project site in order to connect the public sidewalk of Via Dolce to the proposed Grand Canal walkway (Exhibit #7).

The City-approved Vesting Tentative Tract Map for the project (Map No. 61505) approves a two-lot subdivision and further subdivision of each of those two lots for condominium purposes. Lot One contains one 6,000 square foot commercial/office unit and 72 dwelling units (45 live/work units in the existing nine-story office building and 27 residential units in the proposed 49-foot high podium structure). Lot Two contains 51 proposed three-story townhouse units. Since the applicant, subsequent to the City's June 9, 2005 approval of the Tract Map, has modified the proposal in order to alter the mix of residential and commercial uses (i.e., changed one residential unit to a commercial unit), the applicant will need to obtain an approval from the City to amend the Tract Map in order to bring it into consistency with the Commission's action on the coastal development permits.

¹ The applicant revised the proposed development plan on January 26, 2006 in order to provide the additional ground floor commercial unit (at the corner of the project site where Grand Canal intersects with Washington Boulevard) in lieu of one of the previously proposed residential units and its two-car garage.

B. Project Background

Venice Beach is one of the most visited recreation areas on the coast of California, drawing crowds in excess of seven million visitors each year.² The project site is situated along a major coastal access route (Washington Boulevard) three blocks inland of Venice Pier and the beach (Exhibit #2).

The Commission has recognized in both prior permit and appeal decisions that the Venice Beach area, where the proposed project is located, is a unique tourist destination and coastal community. In 1980, the Commission adopted the Regional Interpretive Guidelines for Los Angeles County, which included specific building standards for the various Venice neighborhoods, including the Venice neighborhood where the project is proposed: Grand Canal East. These building standards, which apply primarily to density, building height and parking, reflect conditions imposed in a series of permits heard prior to 1980. The Commission has applied these density, height and parking standards to development in the Venice coastal zone, on a case-by-case basis, in order to protect public access to the beach and to preserve community character.

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. As part of that effort, the City also adopted the Venice Specific Plan in 1999. On November 14, 2000, the Commission approved the City's proposed LUP for Venice with suggested modifications. On March 28, 2001, the Los Angeles City Council accepted the Commission's suggested modifications and adopted the Venice LUP as the Commission on November 14, 2000 approved it. The Commission officially certified the Venice LUP on June 14, 2001. The Venice Specific Plan has not been certified.

The policies and building standards contained in the certified Venice LUP reflect the Commission's prior actions in the area, the Commission's 1980 Interpretive Guidelines, and the existing unique character of each Venice neighborhood. The certified Venice LUP, however, also contains some updated and revised building standards for the various Venice neighborhoods, including the Grand Canal/Ballona Lagoon area where the proposed project is located.

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. A coastal development permit is approved only if the proposed development is found to be consistent with the Coastal Act.

C. Land Use

One of the project's primary issues is the mix of residential versus commercial uses on the project site. Section 30222 of the Coastal Act requires that visitor serving commercial uses be given priority over residential and other non-priority land uses such as residences.

Section 30222 of the Coastal Act states:

² Los Angeles County Dept. of Beaches & Harbors, 1993.

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

In addition, Coastal Act Section 30252(2) states that new development should provide commercial facilities within or adjoining residential development as a way to reduce vehicular traffic. Coastal Act Section 30252(2) states:

The location and amount of new development should maintain and enhance public access to the coast by (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads.

The project site, which is currently occupied by vacant commercial structures, is designated as "Community Commercial" by the certified City of Los Angeles Land Use Plan (LUP) for Venice. The Community Commercial land use designation calls for a mix of residential dwelling units and visitor-serving commercial uses and services, with the commercial uses on the ground floor and the residential uses above.

Policy I.B.6 of the certified Venice LUP states:

- **Policy I. B. 6. Community Commercial Land Use.** *The areas designated as Community Commercial on the Land Use Policy Map (Exhibits 9 through 12) will accommodate the development of community-serving commercial uses and services, with a mix of residential dwelling units and visitor-serving uses. The Community Commercial designation is intended to provide focal points for local shopping, civic and social activities and for visitor-serving commercial uses. They differ from Neighborhood Commercial areas in their size and intensity of business and social activities. The existing community centers in Venice are most consistent with, and should be developed as, mixed-use centers that encourage the development of housing in concert with multi-use commercial uses. The integration and mixing of uses will increase opportunities for employees to live near jobs and residents to live near shopping. Overnight visitor-serving uses, such as hotels and youth hostels, are preferred uses in the Community Commercial land use category.*

Uses/Density: *Community commercial uses shall accommodate neighborhood and visitor-serving commercial and personal service uses, emphasizing retail and restaurants; and mixed residential/commercial use with retail on the ground floor and personal services and residential uses on upper floors. Drive-thru facilities and billboards shall be prohibited in the Community Commercial land use category. On a commercial lot, residential uses shall not exceed one unit per 800-1200 square feet of lot area.*

Community Commercial Areas of Special Interest

- c. ***Marina Peninsula [Washington Blvd.]*** *The commercial frontage on Washington Boulevard from Ocean Front Walk to Via Dolce is a mix of retail, restaurants, and small offices with an eight-story (sic) office structure. Office uses*

shall be discouraged in this popular coastal recreation area in favor of visitor-serving commercial uses.

The project site, on Washington Boulevard, is three blocks inland of Venice Pier and the beach, a very popular visitor destination that draws large numbers of visitors to the coast. Several restaurants operate near the pier and the properties along Washington Boulevard are developed primarily with visitor-serving commercial uses. The project site's proximity to this heavily visited beach and pier area is one reason that the certified Venice LUP designates the project site with a Community Commercial land use designation.

The adjacent property, also on the east bank of Grand Canal and designated as "Community Commercial" by the certified Venice LUP, is developed with a 71-foot high, 183-unit low income senior citizen housing project approved by the Commission in 1982 pursuant to Coastal Development Permit 5-82-479 (3405 Via Dolce: Stern, Goldrich & Kest).

The applicant has provided an analysis for the former commercial uses on the site that explains the reasons why commercial uses on the site have not been successful in the past, and why the use of the site in the future as retail would not succeed (Exhibit #15).

The proposed project includes a total of 122 residential units and two commercial units. One of the two proposed commercial units is a 5,300 square foot ground floor unit that would occupy the portion of the existing nine-story office building that faces Washington Boulevard. The other proposed commercial unit is a 600 square foot ground floor unit proposed at the corner of the project site where Grand Canal intersects with Washington Boulevard (Exhibit #7). The proposed 122 residential units on the 152,499 square foot site equals one unit per 1,250 square feet, and falls below the residential density limit (*one unit per 800-1200 sq.ft.*) set forth by the above-stated LUP policy (122 units/152,499 sq.ft.= one unit per 1,250 sq.ft.). The only office uses being proposed within the development are the 45 live/work condominium units proposed in the existing nine-story office building, where office uses would be permitted as an accessory use to the 45 proposed live/work residential units.

A residential-only project would not conform to the land use designation for the site, which calls for community and visitor-serving commercial uses on the ground floor (e.g., retail and food service). The proposed project, however, includes two units (5,900 sq.ft.) of community and visitor-serving commercial uses on the ground floor facing Washington Boulevard, a major commercial highway. Community and visitor-serving commercial uses that enhance public opportunities for coastal recreation and are given priority over other land uses by Section 30222 of the Coastal Act. Without the proposed commercial uses along Washington Boulevard, the project would be a residential-only project and would not conform with Section 30222 of the Coastal Act or the land use designation for the site.

The proposed project is consistent with Sections 30222 and 30252(2) of the Coastal Act because it would provide community and visitor-serving commercial uses on the site. The proposed project is also consistent with the land use designation for the site set forth by the certified Venice LUP as residential uses are allowed on the upper floors while commercial uses are required on the ground floor. The proposed residential density is also consistent with the LUP limit of one unit per 800-1200 square feet of lot area.

In order to ensure that the project provides the proposed mix of retail commercial, residential and parking uses that the certified LUP requires, **Special Condition One** specifically lists the uses that are being permitted by this action. Any proposed change in use, change in commercial floor area, change in number of residential units, change in number of parking stalls, use of the parking to satisfy the parking requirements of new development or future commercial intensification, or any other deviation from the approved development, shall be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. Only as conditioned does the Commission find that the proposed project conforms with Section 30222 of the Coastal Act and the land use designation set forth by the certified Venice LUP.

D. Protective Buffer – Structural Setback from Grand Canal (ESHA)

Another one of the project's primary issues is, regardless of the permitted land use, the appropriate width of the buffer between Grand Canal and the proposed development. The two thousand-foot long section of Grand Canal south of Washington Boulevard, where the project is located, is a remnant of an original tidal lagoon (Ballona Lagoon). The project site abuts a 545-foot long segment of the east bank of Grand Canal, about 1,500 feet northwest of where the canal connects to the deeper and wider Ballona Lagoon (Exhibit #4). The canal's bottom and banks, for the most part, are comprised of soft sand and mud. Native wetland vegetation competes along the banks with introduced weeds and escaped cultivars. The certified Venice Land Use Plan (LUP) designates both Ballona Lagoon and Grand Canal as Environmentally Sensitive Habitat Areas (ESHAs - Exhibit #4).

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

Section 30240 of the Coastal Act states:

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

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

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will

maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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

The certified Venice LUP identifies Grand Canal and Ballona Lagoon as ESHAs, and requires that all development shall be compatible with the continuance of the ESHAs. The Coastal Act policies of the certified LUP require that the development maintain healthy populations of marine organisms or that development shall be sited and designed to prevent impacts that would significantly degrade such areas, and that development shall be compatible with the continuance of such habitat areas.

The certified Venice LUP also sets forth the following policies that require the protection of the marine resources in the Venice Canals.

- **Policy IV. A. 2. Permitted Uses.** *Uses permitted in or adjacent to the canals shall be implemented in a manner to protect the biological productivity of marine resources and maintain healthy populations of marine organisms. Such uses as open space, habitat management, controlled nature study and interpretation, and passive public recreation use of walkways for birdwatching, photography, and strolling shall be encouraged and promoted.*

Grand Canal and the rest of the Venice Canals are part of the Ballona Lagoon seawater system. Ballona Lagoon is connected to the southern end of Grand Canal (Exhibit #2). The northern Venice Canals are connected to Grand Canal (the segment south of Washington Boulevard) by five three-foot diameter pipes that pass beneath the Washington Boulevard Bridge. The pipes have slide gates on the north side of Washington Boulevard, which are operated by the City of Los Angeles to allow flushing of the Venice Canals. All of the water in the Venice Canals, except for discharges from stormdrains and other sources, originates in the Marina del Rey entrance channel and must pass through Ballona Lagoon and Grand Canal before it reaches the furthest northern reaches of the canals system. The water from the canals is also discharged through the same tide gates during outgoing tides.

The canals located north of Washington Boulevard were created out of marshland as part of the "Venice of America" subdivision in 1905, about the same time that most of the land along Grand Canal (but not the project site) was subdivided into small parcels for beach cottages. Since the early 1900s, sidewalks and paths have provided public access along the banks of all the Venice Canals. The Venice Canals are now a unique cultural, historic and scenic resource of Southern California, and they provide the Venice community with a sense of character and history. These waterways also provide habitat for wildlife and opportunities for public access

and recreation. The Venice Canals and Ballona Lagoon support some of the last remaining pockets of coastal wetland habitat in Los Angeles County.

Unlike the canals located north of Washington Boulevard, which are man-made canals that were dredged out of the Ballona Marsh in the early 1900s, the section of Grand Canal south of Washington Boulevard is a remnant of an original tidal lagoon (Ballona Lagoon). Many years ago, prior to the adoption of the California Coastal Act of 1976, a five-foot diameter sewer pipe was placed beneath the Grand Canal channel at a depth of about ten feet below the bottom. Public accessways and street drains were also constructed along both banks of the canal prior to the adoption of the Coastal Act.

The original "Venice of America" canals system became stagnant and fell into disrepair in the early 1920s. In 1927, the City filled many of the original canals. The residents in the area have been attempting to restore the remaining canals since the 1960s. The Venice Canals located north of Washington Boulevard were rehabilitated in 1993 (see Coastal Development Permit 5-91-584 & amendments). The segment of Grand Canal south of Washington Boulevard is the only segment of the remaining canals that has not yet been rehabilitated, although the Commission in November 2001 approved Coastal Development Permit A5-VEN-01-280/5-01-289 (City of Los Angeles) for a proposed Grand Canal rehabilitation project that was never implemented.

Even so, Grand Canal is a wetland and an Environmentally Sensitive Habitat Area (ESHA) protected by the above-stated Coastal Act policies. Unfortunately, the wetland habitat in Grand Canal (i.e., salt marsh, sidebanks, mudflats, and marine habitat) is negatively affected by the canal's proximity to human activity, urban runoff and the abundance of invasive non-native vegetation. Despite this, Grand Canal provides habitat for a variety of benthic invertebrates, fish and shorebirds [See Grand Canal Wetland Enhancement Assessment, by Michael Josselyn, PhD, February 24, 1998.]

California hornshells are the dominant epifaunal organisms, although it is expected that polychaetes and mulluscs live in the mud bottom of the canal. At least seven species of fish have been documented and are known to inhabit the canals: Topsmelt is the most abundant species, followed by California killifish, bay pipefish, longjaw mudsuckers, halibut, arrow goby, and diamond turbot. Fish eating birds such as brown pelicans, egrets and green and blue 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. Grand Canal is a critical habitat area for the California least tern, Sterna antillarum browni (a Federal and State listed endangered species). Grand Canal is located approximately one mile north of the Venice Beach California least tern colony, one of the state's largest and most productive nesting colonies of California least terns.

The proposed project involves development of a project site that abuts over five hundred feet (545') of the east bank of Grand Canal, immediately south of the Washington Boulevard Bridge (Exhibit #3). The proposed development's adverse impacts to Grand Canal and its habitat include the increase in human activity that will occur on the project site during and subsequent to construction, placement of buildings closer to the canal than currently exist along the southern portion of the site, potential for increased runoff from the proposed building and landscaped yard areas, and impacts from noise and lighting. Each of these impacts has an adverse effect on the biota of the wetland and water areas of the canal. The closer the impact

is to the resource, the more adverse effect the impact will have on the resource. Therefore, the proposed development must be setback from the wetland and water in order to mitigate the adverse impacts.

In order to reduce the negative effects of the proposed project on Grand Canal and its habitat, the proposed project has been designed with the following mitigating components:

- Building Setback. Provision of a 21-foot structural setback between the proposed buildings and the applicant's property line just up from the east bank of Grand Canal.³
- Offer to Dedicate. An offer to dedicate a ten-foot wide easement for public access and habitat restoration along the entire length of the applicant's property where it abuts the east bank of Grand Canal. The applicant proposes to construct a public walkway within the easement and landscape the area with native plants.
- Permeable Yard Areas. Minimizing the use of impermeable ground cover within the proposed structural setback area that exists inland of the proposed ten-foot wide easement for public access and habitat restoration.
- Permeable Vehicle Areas. Maximizing the use of permeable ground paving throughout the project site, including the use of permeable paving for all roads and driveways within the project.
- Poisons. Prohibiting the use of herbicides and pesticides within the proposed structural setback area.
- Drainage. Filtering all drainage before it leaves the site and is discharged into the canals via the public street drain system.
- Building Heights. Limiting building heights to a maximum of thirty feet on the portion of the property situated within sixty feet of the applicant's property line that runs parallel to and just up from the east bank of Grand Canal.

The proposed project does not include the placement of fill in any canal, wetland, subtidal or intertidal area, as the entire project site is situated about 10-to-15 feet inland of the high water line of Grand Canal, and the site is about five feet higher in elevation than high water.

The structural setback is the only part of the applicant's proposal that is different than the staff recommendation. The applicant is proposing a 21-foot structural setback between the proposed buildings and the applicant's property line that runs along the east bank of Grand Canal, and staff is recommending a larger setback (30 feet from the property line) that is more protective of the ESHA in and adjacent to Grand Canal.

The applicant argues that the proposed 21-foot structural setback is sufficient because it is six feet more than the setback required on the residential lots that line most of the Venice Canals. Policy IV.A.4 of the certified Venice LUP states:

³ The applicant's western property line runs parallel to Grand Canal, about 10-to-15 feet inland of the canal's high water line.

- **Policy IV. A. 4. Venice Canals Setback and Yard Area.** *In order to provide a setback for access, to protect visual quality and the biological productivity of the canals, and to limit water runoff, a setback with an average depth of 15 feet (and a minimum depth at any point of 10 feet) shall be provided and maintained in the front yard areas of private residences (adjacent to the canal property line). This setback shall provide a permeable yard with an area at least 15 feet times the width of the lot line at the canal side. (See also Policy I.A.4a for details).*

The project site is very different, however, than the residential lots that line the rest of the Venice Canals. The vast majority of the canal-fronting properties are three-to-four thousand square foot lots developed with single-family residences or duplexes. The typical canal-fronting lot is 30-to-40 feet wide (on the canal-side) and 100-to-120 feet deep. The LUP standards reflect this pattern of subdivision, and protect the ESHA in the canals by limiting building height to thirty feet and setting back structures at least ten feet from the property line.

The project site has over five hundred feet of canal frontage (545'), and the depth of project site varies from 250-to-330 feet (total site area: 152,499 sq.ft.). Because of its large area, there is sufficient area on the project site to provide a deeper and more protective setback, while still allowing the applicant to build the same number of units as currently proposed (122 residential and two commercial units). In fact, there currently exists a thirty-foot setback on more than half of the project site, between the two largest buildings and the canal-side property line (Exhibit #6). The other two smaller buildings near the canal frontage (that will also be demolished) are set back ten feet or less from the canal-side property line. In other areas (usually where no prior subdivisions have made it infeasible), the Commission requires a one hundred foot buffer between new development and wetlands. In this case, the staff biologist has determined that the larger recommended setback would be more protective of the resource than the applicant's proposed setback.

In relative terms, the typical small lot (less than 4,000 sq.ft.) that abuts a Venice Canal is required to preserve 10-to-15 percent of its total area as a buffer (i.e., the structural setback that is required to be maintained between the house and the canal-side property line). The applicant's proposed 21-foot setback would cover less than six percent of the project site, whereas the staff's recommended 30-foot setback would cover about eight percent of the total area of the 152,499 square foot project site.

Along Ballona Lagoon, about 1,500 feet south of the project site, lagoon-fronting homes have been required to use much more of their lot area (30-to-35 percent) as part of the protective lagoon buffer established pursuant to Coastal Development Permit A-266-77 (ILA). Although the Department of Fish and Game originally recommended that the Commission preserve a one hundred foot buffer along the banks of Ballona Lagoon, the protective lagoon buffer established pursuant to Coastal Development Permit A-266-77 requires individual lot owners to provide a 34-to-45-foot structural setback (which includes the dedication of an easement for public access and habitat restoration across each lot) between the house and the lagoon-side property line.⁴

⁴ The coastal development permit that established the Ballona Lagoon west bank buffer, A-266-77, was the result of a legal settlement.

Finally, because the project site is not constrained by the size limitations of the small lots that line the Venice Canals and Ballona Lagoon, the site is unique and is required, pursuant to Section 30240 of the Coastal Act, to provide a more protective lagoon buffer. Also, the proposed development involves a subdivision of the project site. Section 30240 of the Coastal Act protects Environmentally Sensitive Habitat Areas (ESHA) from significant disruption, and allows only uses that are dependant on the ESHA's resources. Moreover, it requires that all development adjacent to ESHAs be compatible with the habitat and shall be designed to prevent impacts that would significantly degrade the ESHA.

Building limitations, like the building setback requirements and building height limits, are necessary to prevent building encroachments from negatively affecting the ESHA and bird flyway over the canals, the lagoon and their banks. The waterway (Grand Canal and Ballona Lagoon) is utilized by many bird species, including the federally and state listed endangered California least tern and Brown pelican. The building limits protect against a "canyon effect" that could negatively impact the visual cone of the ESHA and thus bird flight and foraging patterns. Many species of birds will not forage or roost in an area where their cone of vision is limited or obstructed. Predators can utilize obstacles in the animal's cone of vision, and more cautious species will avoid the area altogether. As stated previously, the Commission has consistently required that buildings be set back from the ESHA to protect the resource, in many cases up to one hundred feet.

In this case, staff recommends that all structures on the site be set back at least thirty feet from the Grand Canal-side property line so that a buffer of at least forty feet (thirty feet on the site, plus ten feet of City Grand Canal land) will be maintained between the waters of the canal and the new buildings. **Special Condition Three** imposes limitations on the use of the setback area so as to minimize adverse impacts to the ESHA. Only as conditioned is the proposed project is consistent with Section 30240 of the Coastal Act.

The proposed project, as conditioned by the permit, is compatible with the habitat and has been designed to prevent impacts that would significantly degrade the ESHA. The disruption of the existing ESHA by the proposed project has been reduced below a level of significance by the proposed construction plans and by the following conditions of the permit.

E. Building Height Limits

Building heights, as stated in the previous section of this report, can adversely affect the habitat of the canals and Ballona Lagoon by encroaching too close to the habitat and bird flyway and creating a canyon effect. In 1981, the Commission engaged the Los Angeles County Museum of Natural History Foundation to prepare a report addressing the biota of the Ballona wetlands (Schreiber, 1981). The report discussed the conflict between tall buildings and the use of the adjacent habitat areas by birds. Tall buildings have been found to be inconsistent with the continued viability of adjacent areas as bird habitat. In response to this study and in order to protect against a "canyon effect" which could negatively impact bird flight and foraging patterns, a height limit has been established for structures adjacent to Ballona Lagoon and the Venice Canals.

In order to protect the ESHA, public access, community character and visual quality in the Grand Canal neighborhood situated south of Washington Boulevard where the proposed

project is located, the Commission has consistently limited the height of structures permitted along the banks of the canal [e.g. Coastal Development Permit 5-05-392 (Wells)].

The certified LUP policies regarding height carry out the requirements of Coastal Act Sections 30251 and 30253 to protect the scenic and visual qualities of the Venice Canals neighborhoods.

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(5) of the Coastal Act states:

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

The certified Venice LUP sets forth a uniform thirty-foot (30') height limit for all development along the banks of the Venice Canals and Ballona Lagoon. In regards to building height, certified LUP Policy I.A.7 states:

Height: Not to exceed 30 feet within 60 horizontal feet of the inland side of the Esplanade (City right-of-way). Beyond 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. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

In order to minimize the proposed project's adverse affects on the bird flyway and to conform with the existing pattern of development along the canals (community character), the applicant has limited the proposed building heights near Grand Canal. The proposed structures do not exceed the LUP height limit of thirty feet on the portion of the property situated within sixty feet of the applicant's property line that runs along the east bank of Grand Canal.

The proposed 49-foot high podium structure, however, does not conform to the 38-foot height limit set forth in the certified Venice LUP for buildings located beyond the sixty-foot canal buffer zone where building heights are limited to thirty feet. Of course, the existing nine-story building on the project site, proposed to be renovated and converted into 45 live/work condominium units, also does not comply with the 38-foot height limit (it is set back more than one hundred feet from the Grand Canal property line). The existing building benefits from the fact that it's height is not being altered, so it is effectively "grandfathered" for the purposes of the Coastal Act and does not need to be lowered in height to comply with the current height limit.

The proposed 49-foot high podium structure, which would contain 27 condominium units (twelve of which will be affordable) above a two-level parking garage, is the only portion of the new development that exceeds the height limit. The podium building is proposed to exceed the height limit by eleven feet, which would allow it to accommodate one additional level of condominium units (twelve units). The 49-foot high portion of the proposed podium structure is set back 148-to-175 feet from the Grand Canal-side property line (Section B-B, Exhibit #10).

The applicant asserts that the proposed level of housing over the 38-foot height limit is what gives the project the ability to maximize its open space area and public accessways, and to be able to provide the proposed affordable housing on the site (instead of off-site). As part of the proposal, the applicant has designed into the project a new public walkway along Grand Canal and three public accessways through the project that would connect the new Grand Canal walkway to the public sidewalk of Via Dolce (Exhibit #7). Two of the three proposed public accessways are aligned along the landscaped front yards of the proposed townhouses; similar in design to the historic Venice walk streets. Open space in the project is also provided along the three vehicular streets that provide access to the private garages of the proposed townhouses. The applicant points out that the proposed project complies with the residential density limit for the site, while also providing more space between each building than what is typically required. Also, the proposed 49-foot tall podium structure abuts the existing nine-story tower, and there are several other taller buildings in the immediate vicinity, so the proposal would not have an adverse effect on the visual qualities of the area or set a precedent for new taller buildings outside of this immediate vicinity.

On the adjacent property, in 1982, the Commission approved a 71-foot tall building as part of a 183-unit low-income senior citizen housing project [See Coastal Development Permit 5-82-479 (3405 Via Dolce: Stern, Goldrich & Kest)]. Therefore, the proposed 49-foot tall structure, which fronts on Via Dolce, will not set a precedent since there exist taller buildings immediately to the north (132' on the site) and to the south (71' at 3405 Via Dolce) of the project, and this 49-foot tall building would only be allowable in the shadows of those buildings. To the east, along the opposite side of Via Dolce, the area is developed with four-level apartment buildings that also exceed 38 feet in height. The Commission also notes that the 49-foot high portion of the proposed podium structure is set back 148-to-175 feet from the Grand Canal property line, and recognizes the value of maximizing open space, providing an adequate setback along Grand canal, and providing the three proposed public accessways through the property.

The Commission can approve development that exceeds the LUP height limit and approve the proposed project only if it finds that it is consistent with the Chapter 3 policies of the Coastal Act. Sections 30240 protects the ESHA from adverse impacts, while Sections 30251 and 30253 of the Coastal Act protect visual resources and community character. In this specific case, the Commission finds that the proposed project (with the 49-foot tall podium structure and the recommended thirty-foot structural setback), as conditioned, would not adversely affect the ESHA, visual resources or community character and is consistent with the Chapter 3 policies of the Coastal Act. The approval of the proposed project in excess of the height limit set forth by the certified Venice LUP will not set a negative precedent because of the unique circumstances evident at this site and on this block, none of which, on its own, would necessarily have sufficed to make the proposed structure approvable.

Because of the unique circumstances of the proposed project, it would not negatively affect the ESHA or the character and scenic and visual qualities of the community, even though the proposed podium structure exceeds the certified LUP height limit by eleven feet. The unique circumstances are:

- The proposed 49-foot tall portion of the podium structure is adequately set back (148'+) from Grand Canal so it would not adversely affect the ESHA and bird flyway.
- All development within sixty feet of the Grand Canal property line is compliant with the thirty-foot height limit.
- It will be lower than the tall structures located on either side of it along Via Dolce, which are 132 and 71 feet, so as to not set a precedent and not have any detrimental effect on surrounding properties.
- No public views will be blocked.
- The additional height (eleven feet) enables the proposed project to maximize its open space in order to accommodate an adequate structural setback (30') from the Grand Canal-side property line, provide a new public walkway along Grand Canal, and provide three public accessways through the project that would connect the new Grand Canal walkway to the public sidewalk of Via Dolce.
- The additional height enables the proposed project to maximize its open space in order to improve the visual quality and character of the block with an increased structural setback and landscaped front yard areas.
- The additional height enables the applicant to provide one additional level of condominium units (twelve units), which then enable the provision of the twelve proposed affordable housing units to be provided on the site.

Therefore, the Commission can find that the proposed project, as conditioned, will not have an adverse effect on the ESHA or the scenic and visual qualities of the area, and is consistent with Sections 30240, 30251 and 30253 of the Coastal Act. In order to ensure that the proposed project is constructed consistent with the plan and design that is being presented and approved by the Commission, a special condition is imposed that requires strict compliance with the proposal as set forth in the application and as conditioned. In order to conform to the habitat and visual protection policies of the Coastal Act, and to conform to the Venice LUP height limit, the permit is conditioned to limit the project height to thirty feet within sixty horizontal feet of the inland side of the Grand Canal property line. Only as conditioned to limit the height of the structure is the proposed project is consistent with the habitat protection and visual policies of the Coastal Act and the certified Venice LUP. The approved development shall conform with the following maximum height limits.

- A. The height (118.6' to the parapet and 132' to the top of the mechanical tower) of the existing nine-story building on the site shall not be increased.
- B. Thirty feet (30') is the maximum height for the new structures approved along the Grand Canal frontage, as follows: within sixty horizontal feet (60') of the Grand

Canal-side property line (City right-of-way), no portion of any structure (including roof access structures, penthouse, roof deck railings and architectural features) shall exceed a height of thirty feet (30'), except that chimneys, exhaust ducts, ventilation shafts may exceed the height limit by five feet. [Note: The inland side of the Grand Canal right-of-way is also the applicant's western (canal-side) property line.]

- C. Thirty-eight feet (38') is the maximum height for the new structures approved on the portion of the site that is farther than sixty horizontal feet from the Grand Canal-side property line (City right-of-way), except that the approved five-level residential podium structure (including the two-level parking garage and the twelve units of proposed affordable housing) is permitted to reach 49 feet above the elevation of the centerline of Washington Boulevard (only that portion of the building situated at least 148 feet from the canal-side property line). Chimneys, exhaust ducts, ventilation shafts may exceed the height limit by five feet.

The Commission finds that the proposed project, only as conditioned, is consistent with Sections 30240, 30251 and 30253 of the Coastal Act.

F. Floor Area Ratio (FAR)

The grounds for the appeal of Local Coastal Development Permit No. 2004-4821 included the assertion that the City approved a Floor Area Ratio (FAR) greater than the FAR limit for the site set forth by the certified LUP. On November 18, 2005, the Commission determined that a substantial issue exists in regards to the Floor Area Ratio (FAR) approved by Local Coastal Development Permit No. 2004-4821. The FAR limit controls the maximum amount of floor area in the project, and thus, the size of the approved development. The certified LUP sets an FAR limit of 1.5-to-1 (Floor Area/Site Area) for development in all commercial land use designations in Venice.

The local coastal development permit approved an FAR of 1.59-to-1 (1.59:1). The FAR for the project, including the existing non-conforming nine-story tower, is 1.59 to 1. The applicant states that the FAR for the townhouse portion of the site is about 1.03 to 1, providing generous open space with low density, low-rise development.

As stated above in the height section, building bulk can adversely affect the scenic and visual qualities of the Venice coastal area and the unique character of its established neighborhoods. The FAR limit, along with the height limit, controls the maximum amount of floor area in the project, and thus, the size of the approved development. The number of units within a project (density) can also affect the size of the proposed development.

The project's provision of a thirty-foot structural setback, as recommended, and compliance with the height limits set forth in the special conditions, will sufficiently limit the size and scope of the approved development to the extent that it conforms with the provisions of Chapter 3 of the Coastal Act. Therefore, the fact the development being approved on the site slightly exceeds the FAR limit set forth in the certified LUP does not render the proposed project unapprovable.

It must be noted that Certified LUP Policy I.A.13 allows the City to grant incentives (e.g., reduced parking, additional height or increased density) for mixed-use developments that

provide affordable housing units (and do not conflict with Chapter 3 policies). The twelve proposed affordable housing units represent ten percent of the total 122 proposed residential units. The applicant has affirmed that the twelve proposed low-income affordable housing units would remain affordable units for the life of the project, instead of for thirty years. Therefore, it is not inappropriate for the City to grant developers incentives to build a project that can be found consistent with the Coastal Act. The Commission recognizes that the standard of review is the Chapter 3 policies of the Coastal Act; the LUP only provides guidance and is not the final standard for approval. In this case, the revised project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act.

The Commission finds that, as conditioned, the revised project is consistent with Sections 30251 and 30253 of the Coastal Act because the proposed project would have no adverse effect on public views and is visually compatible with the character of the surrounding neighborhood. Adequate setbacks, height limits, lush landscaping, and an attractive building design make the project (as conditioned) visually compatible with the character of the surrounding area.

G. Marine Resources and Water Quality - Building Setback and Yard Area

As described previously in this report, 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. The Venice Canals are located up stream from Ballona Lagoon, within the Ballona Wetlands system. The introduction of urban runoff, including pesticides, garden fertilizers, and runoff from impervious surfaces, can reduce the water quality of the canals which directly impacts the biological productivity of the system. The Ballona Wetlands system is habitat for many species of marine biota, including the state and federally listed endangered least tern. Section 30240, 30230 and 32031 of the Coastal Act protect sensitive habitat and marine resources from the negative effects of urban runoff.

In order to protect the biological productivity of the Venice Canals and Ballona Lagoon, the Commission has consistently conditioned projects along the waterways to provide building setbacks and maintain large permeable front yard areas as a buffer between the waterways and the buildings. The setbacks and permeable yard areas enhance public access, provide an area for percolation to protect the water quality and biological productivity of the canals, and protect community character by maintaining a comparable scale between buildings in the area. The Commission's requirements are consistent with the recommendations of the Santa Monica Bay Restoration Project Action Plan to reduce non-point source pollutants.

Special Condition Three requires the applicant to provide a thirty-foot structural setback along the project's western (Grand Canal-side) property line. The applicant has offered to dedicate a ten-foot wide easement for habitat restoration and public access within the proposed (21-foot) structural setback area. The recommended thirty-foot structural setback and the dedication of the easement comprise a protective buffer strip along the canal frontage and are mitigation measures required in order to protect marine resources. The protective buffer strip provides the space necessary to separate the proposed residences and streets from the sensitive habitat areas in order to reduce the intensity of human-caused disturbances (cars, noise, lights, etc.) on the canal and its wildlife. The protective lagoon buffer strip also provides an area for habitat restoration and a new public access walkway along the east bank of the canal.

Section 30230 of the Coastal Act states, in part:

Marine resources shall be maintained, enhanced, and where feasible, restored...

Policy IV.B.2.d of the certified Venice LUP states that, "*Non-native species shall be phased out and the area restored as feasible*"

Therefore, in order to mitigate the impacts of the project caused by the development of the upland portion of the site, the applicant is required to restore the dedicated easement with native vegetation (except for that portion of the easement where the public walkway is constructed). Also, the private yard areas proposed in the protective buffer inland of the dedicated easement shall be maintained as follows:

- A. **Permeable Yard Area.** The Grand Canal setback area between the easement and the buildings shall be maintained as an uncovered and primarily permeable yard area. Uncovered means that no fill or building extensions (i.e. chimneys, balconies, stairs, trellises) shall be placed in or over the permeable yard area with the exception of fences (not to exceed 42 inches in height). The permeable yard areas may include minimal coverage with impermeable pavers, stones, concrete walkways or other similar ground cover, but in no event shall impermeable materials occupy more than fifteen percent (15%) of the total amount of the required permeable yard area.
- B. **Landscaping.** A landscape plan for the Grand Canal setback area shall be prepared and shall include a plant list and map showing the type, size and location of all plant materials that will be used, the irrigation system, topography of the site, and a schedule for installation of plants. Only plants native to the Ballona Lagoon environment shall be used within the public access and habitat easement offered by the applicant and required by **Special Condition Two**. 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 within 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. All landscaping shall be maintained by the applicant or successor(s)-in-interest in good growing condition through-out the life of the project, and whenever necessary, shall be replaced with new plant materials that conform to the requirements of this condition to ensure continued compliance with the landscape plan. The use of pesticides and herbicides is prohibited in the Grand Canal setback area.
- C. **Lighting.** All lighting within the development and the Grand Canal setback area shall be directed and/or shielded so that no lighting associated with the project shall significantly impact adjacent environmentally sensitive habitat in and along the Grand Canal waterway.
- D. **Drainage.** No drainage or runoff from the project site shall be directed into the Grand Canal setback area, with the exception of roof drains that have filtering devices to remove trash and particulates prior to draining into the setback area.

Special Conditions 2.B and 3.B require the applicant to submit landscape plans for the protective buffer in order to mitigate the adverse impacts of the proposed project on the wetland habitat of Ballona Lagoon. Only as conditioned, will the proposed project and enhance the resources that exist on the west bank of Ballona Lagoon consistent with Sections 30240, 30230 and 30231 of the Coastal Act. The special conditions also prohibit the installation of permanent irrigation devices and the planting of non-native vegetation in the buffer area.

Finally, in order to protect the buffer area and the lagoon from impacts caused by the construction of the proposed project, the applicant shall erect a six-foot high fence, for the period of demolition and construction, between Grand Canal and the building site. **Special Condition Nine** requires the applicant to adhere to additional BMPs (Best Management Practices) during demolition and construction so that the project does not result in any adverse impacts to water quality or other marine resources. Only as conditioned is the proposed project is consistent with the marine resource and habitat protection policies of the Coastal Act and the certified LUP for Venice.

H. Marine Resources and Water Quality -Site Drainage

The proposed project includes an on-site drainage system that will treat storm waters from the site before releasing the runoff into the existing City storm drain system (Preliminary Hydrology/Hydraulic Report for Tact No. 61505 City of Los Angeles, by Hall & Foreman, Inc. 11/21/2005). The existing City storm drain system discharges into Grand Canal, which is an open natural waterway attached to the Pacific Ocean. The proposed storm water treatment component of the proposed development involves the construction of an underground treatment unit to house the hardware to filter first-flush storm run-off, and also a submersible pump and back flow valves to prevent the system from backing up. The system will be designed in accordance with the Los Angeles County and City of Los Angeles Storm Water Quality management Programs. The proposed project, as conditioned, is consistent with Sections 30240, 30230 and 30231 of the Coastal Act.

I. Public Access and Recreation

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities be provided and that development shall not interfere with public access. The certified Venice LUP protects public access along the banks of all of the Venice Canals. Therefore, the proposed development must be designed to preserve and enhance existing access opportunities along Grand Canal, and through the project site. The proposed project is conditioned to conform with 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.

Section 30211 of the Coastal Act states:

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

Section 30213 of the Coastal Act states, in part:

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

The certified Venice LUP contains the following policies that specifically protect the existing Grand Canal public trail system:

Policy II. C. 2. Grand Canal Pedestrian Access. *The three existing public rights-of-way from the Grand Canal to Strongs Drive and Pacific Avenue shall be improved and appropriately signed. South of Washington Boulevard, the public walkways that provide public pedestrian access along both sides of Grand Canal shall be improved and appropriately signed.*

Policy II. C. 4. Venice Canals. *The Venice Canals Walkways have been fully rehabilitated and shall be maintained for public access. The Department of Transportation shall provide signs on Venice Boulevard which direct the public to the Venice Canals Historic District and the existing Venice Canals Walkways.*

Shoreline recreation resources in the Venice area include: Venice Beach, Ballona Lagoon, the Venice Canals, walk streets, and the Marina del Rey north jetty which lies partly in the jurisdiction of the City of Los Angeles. Venice Beach is a publicly owned sandy beach, which provides direct access to the entire oceanfront shoreline and is readily accessible to pedestrians and bicyclists. The walk streets in the North Venice and Marina Peninsula neighborhoods provide excellent pedestrian access to the beach. It is a goal of the Coastal Commission and the City to protect these public resources.

In regards to the public access resources at the project site, a dirt and concrete path currently exists on the canal bank between the project site and the waters of Grand Canal. The existing path, on City property, is part of the Grand Canal/Ballona Lagoon public trail system described in the certified Venice Land Use Plan (LUP Exhibit #19b). Public access is also currently available through the project site, as the property has been a commercial development that was open for business (formerly used as a supermarket, restaurants, offices, an adult day care center and parking).

The proposed project includes a public access component that carries out the requirements of the Coastal Act. First, as previously described in this report, the applicant proposed to construct a new six-foot wide public walkway and to dedicate a ten-foot wide public easement along the entire western edge (Grand Canal-side) of the project site. In addition three public walkways are proposed through the site that would connect the new Grand Canal walkway with the public sidewalk of Via Dolce (Exhibit #7). The permit is conditioned to require the applicant to dedicate the easement as proposed, and to construct the proposed public walkways as part of the development. As conditioned, the Commission finds that the proposed project would not adversely impact public access and is consistent with the public access and recreation policies of the Coastal Act.

J. Public Access - Parking

The proposed project is located in Venice, three blocks inland of the popular Venice Pier, boardwalk and beach (Exhibit #3). One of the most important coastal planning issues for this part of Venice is the issue of parking and the lack thereof. New developments must provide an adequate parking supply in order to protect the existing public parking facilities that support public access to the many recreational opportunities available at this highly popular coastal area. These public parking facilities are primarily the on-street parking spaces and the public beach parking lots.

At the project site, there is metered public parking available along both sides of Washington Boulevard and Via Dolce where these two streets abut the project site (Exhibit #3). Public parking is also available along Strong's Drive on the west bank of Grand Canal near the project site. The 380-stall Washington Boulevard (formerly Washington Street) public beach parking lot is located seaward of Ocean Front Walk at the terminus of Washington Boulevard, adjacent to Venice Pier (Exhibit #3).

Even with these public parking facilities, the Venice Beach area has a severe parking shortage. The parking shortage exists partly because many of the residences were built several decades ago when there was less demand for parking (there were fewer residents and cars, and the area was served by the Pacific Railway red cars) and there were no requirements to provide adequate on-site parking. Also, the Venice walk streets and alleys provide little or no public parking, and the public beach parking lots are expensive to use on a regular basis, and they are closed at night. The restaurants, cafes and shops that line Washington Boulevard and the boardwalk (Ocean Front Walk) often have little or no on-site parking to serve their employees and customers. Consequently, there is a severe shortage of available parking spaces in the area when the demand for parking peaks. Visitors and users of the various commercial, residential and recreational uses in the area must compete for the limited number of available parking spaces in the area. This situation has negatively impacted the availability of public access to the coast during peak-use periods.

The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. The Commission has consistently required that new development provide adequate parking facilities to meet the demands of the new development. Section 30252 of the Coastal Act requires that new development provide (among other things) adequate parking facilities.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

In order to conform to the requirements of the Coastal Act, the proposed project is required to provide adequate parking facilities. The amount of parking that is “adequate” is determined by calculating the parking demand of a specific project using a parking standard. The parking standard is typically part of a certified local coastal program or zoning ordinance. The Commission, on June 14, 2001 certified the Venice Land Use Plan (LUP), which contains specific policies to carryout the requirements of the Coastal Act. The certified Venice LUP requires that new development, including additions to existing structures, shall provide the necessary additional parking spaces as required by the LUP Parking Requirement Table.

Policy II.A.3 of the certified LUP states:

Policy II. A. 3. Parking Requirements. *The parking requirements outlined in the following table shall apply to all new development, any addition and/or change of use. The public beach parking lots and the Venice Boulevard median parking lots shall not be used to satisfy the parking requirements of this policy. Extensive remodeling of an existing use or change of use which does not conform to the parking requirements listed in the table shall be required to provide missing numbers of parking spaces or provide an in-lieu fee payment into the Venice Coastal Parking Impact Trust Fund for the existing deficiency. The Venice Coastal Parking Impact Trust Fund will be utilized for improvement and development of public parking facilities that improve public access to the Venice Coastal Zone.*

The certified LUP parking table, contained within LUP Policy II.A.3, sets forth the parking requirements for residential and retail uses as follows:⁵

Multiple Dwelling:	2 spaces per unit; plus 1 guest space per four units.
General Retail	1 space for each 225 square feet of floor area.

The proposed project is not located within the Beach Impact Zone (BIZ) of the Venice area as defined in the certified Venice LUP. The BIZ parking requirements apply to new developments in the BIZ area, and are in addition to the standard parking requirements. Using the current parking standards set forth by the certified Venice LUP, the proposed project is required to provide 300 on-site parking spaces, as follows:

⁵ The parking standards set forth in the certified Venice LUP are identical to the parking standard contained in the Commission's Regional Interpretive Guidelines for Los Angeles County, adopted 1980.

122 Residences:	244 spaces
Guest spaces:	30 spaces
<u>Commercial Retail:</u>	<u>26 spaces (5,900/225=26.2)</u>
Total Required	300 spaces

The proposed project includes 300 on-site parking spaces. Most of the proposed on-site parking is provided within a two-level parking garage. One hundred spaces will be in fifty two-car garages (townhouses), and 18 spaces are proposed on the project's surface roads. In regards to traffic impacts, the applicant's traffic study estimates that the proposed project's peak hour traffic would be 73 percent less than the traffic that would be generated by the existing commercial development on the site when fully leased.

The permit is conditioned to require the provision of the required on-site parking. Only as conditioned to provide the required amount of on-site parking is the proposed project consistent with the public access policies of the Coastal Act.

K. Tract Map No. 61505

There is a procedural issue identified in the appeal that involves the City's approval of the Tract Map for the proposed condominium subdivision. The final City approval for the Tract Map occurred separately from the City's approval of the local coastal development. This raises the question of whether the Tract Map has received the necessary City approval pursuant to the requirements of the Coastal Act.

This question, however, is moot as a result of the appeal of the local coastal development permit to the Commission and the Commission's finding of Substantial Issue. The Commission's November 18, 2005 finding of Substantial Issue voided the locally issued coastal development permit. If the Commission approves the de novo coastal development permit application, its action would conditionally approve both the Tract Map and the physical development being proposed by the applicant. The dual coastal development permit application also includes the proposed Tract Map for the proposed condominium subdivision.

The applicant, however, will need to amend to the Tract Map at the City in order to bring it into consistency with the Commission's action on the coastal development permits, since the applicant, subsequent to the City's June 9, 2005 approval of the Tract Map, modified the proposal in order to alter the mix of residential and commercial uses (i.e., changed one residential unit to a commercial unit).

L. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner(s) will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

M. 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 (LCP) that 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.

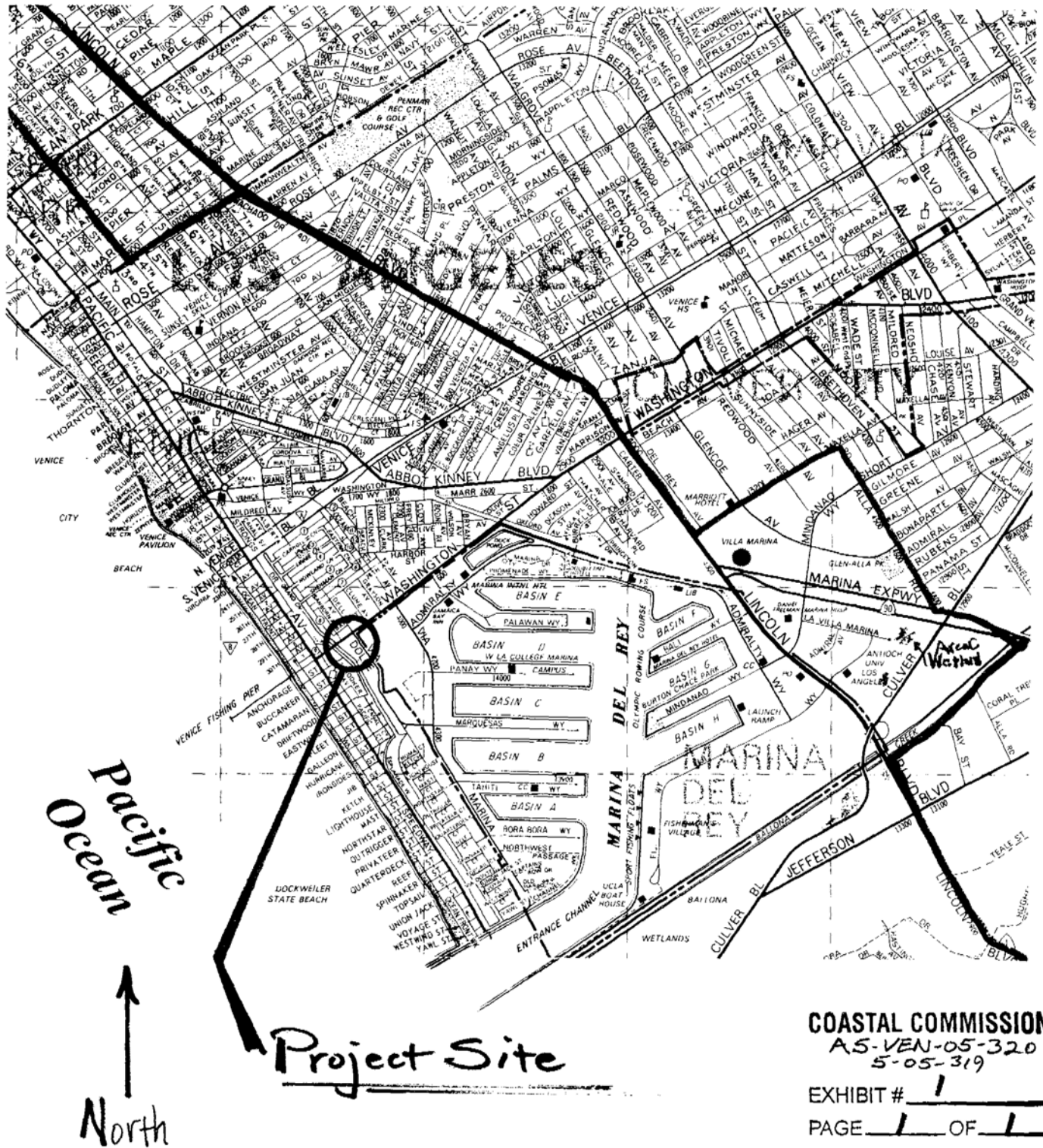
The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. The proposed project does not conform to the 38-foot height limit applicable to part of the site, as required by the certified Venice LUP. Nonetheless, approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act because the exception to the height limit in this case is for a specific and unique circumstance: it will not adversely affect ESHA, public views or community character.

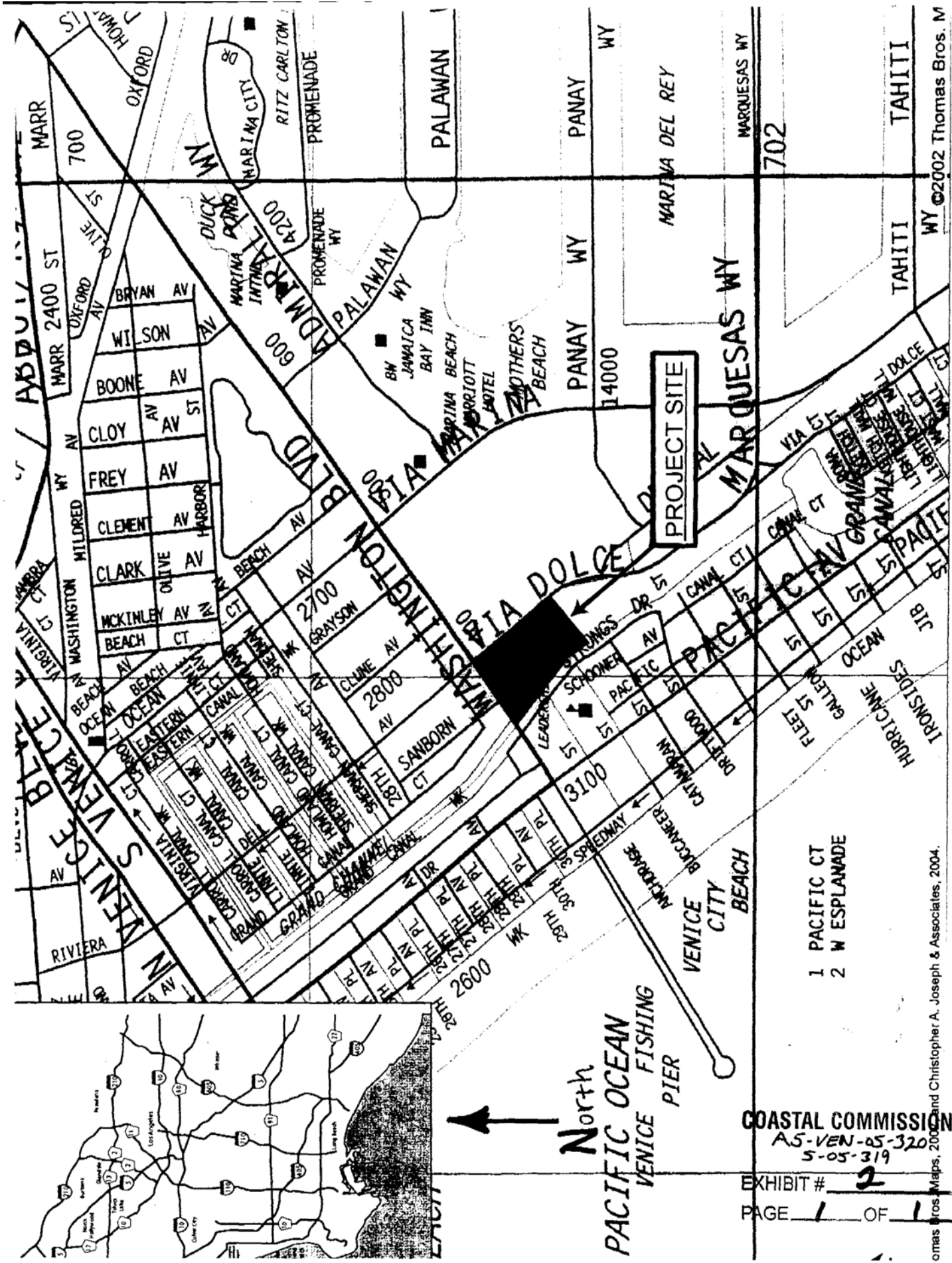
N. California Environmental Quality Act (CEQA)

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.

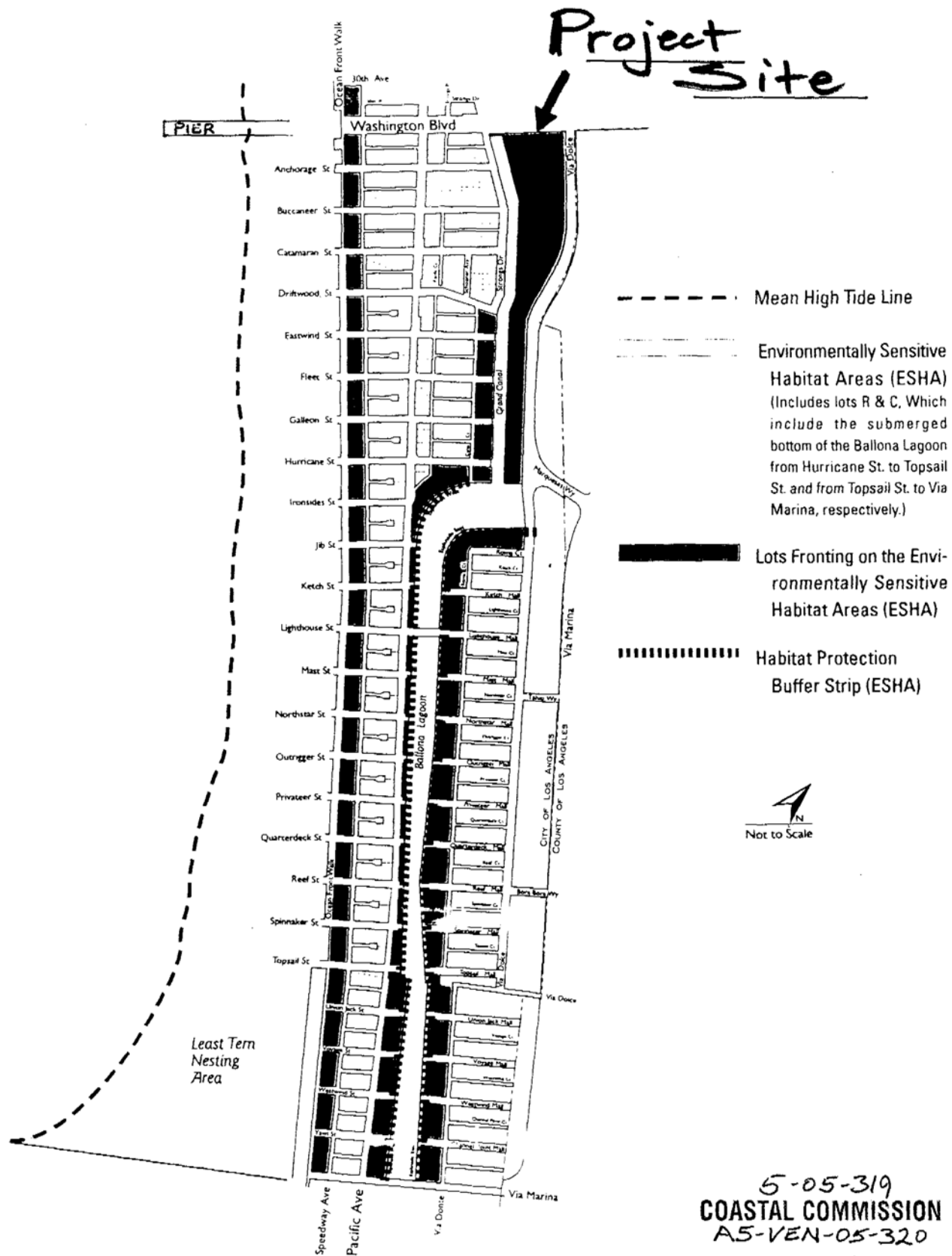
The recommended thirty-foot structural setback (from the Grand Canal-side property line) would substantially lessen any significant adverse effect that the activity would have on the environment. The proposed project, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal 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 that 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.

VENICE, CA





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 EXHIBIT # **2**
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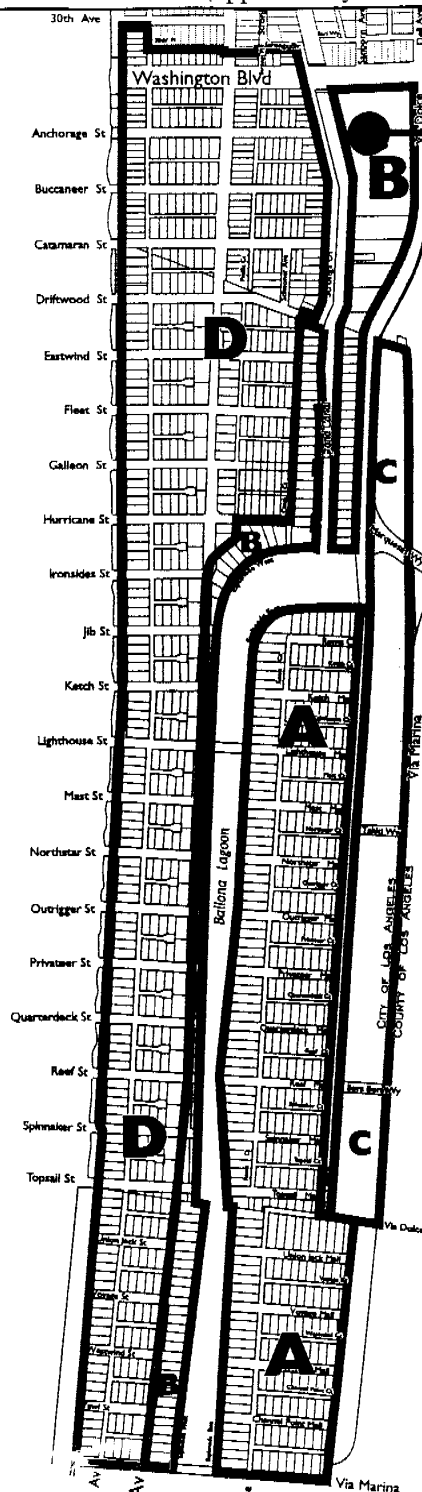


LUP
Exhibit 22c

Environmentally Sensitive Habitat Areas

5-05-319
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A5-VEN-05-320

EXHIBIT # 4
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Project Site

Maximum Building Height

- A** 30' within 60 horizontal feet of the mean high tide line of Ballona Lagoon or inland side of the Esplanade (City right-of-way), whichever is furthest from the water. Beyond 60 horizontal feet, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of 45'. 45-foot limit for structures or portions of structures located further than 60 horizontal feet of the mean high tide line of Ballona Lagoon and the inland side of the Esplanade.
- B** 30' within 60 horizontal feet of the mean high tide line of Ballona Lagoon, Grand Canal or the inland side of the Esplanade (City right-of-way), whichever is furthest from the water. Beyond 60 horizontal feet, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of 38 feet.
- C** 45'
- D** 35', 28' along Walk Streets.

Notes:

*All building heights shall be measured from the elevation of the fronting right-of-way, except on lagoon lots where all building heights shall be measured from the average existing natural grade.

*No portion of any structure (including roof access structures, roof deck railings and architectural features) shall exceed the 30' height limit within 60 horizontal feet of the mean high tide line of Ballona Lagoon, Grand Canal or 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.

*See Policy I.A.1 for policy limiting roof access structures.

*See Policy I.B.7 for commercial and mixed-use development standards.

LUP
Exhibit 13
Height

Subarea: Marina Peninsula • Silver Strand •

Ballona Lagoon West • Ballona Lagoon (Grand Canal) East

Not to Scale

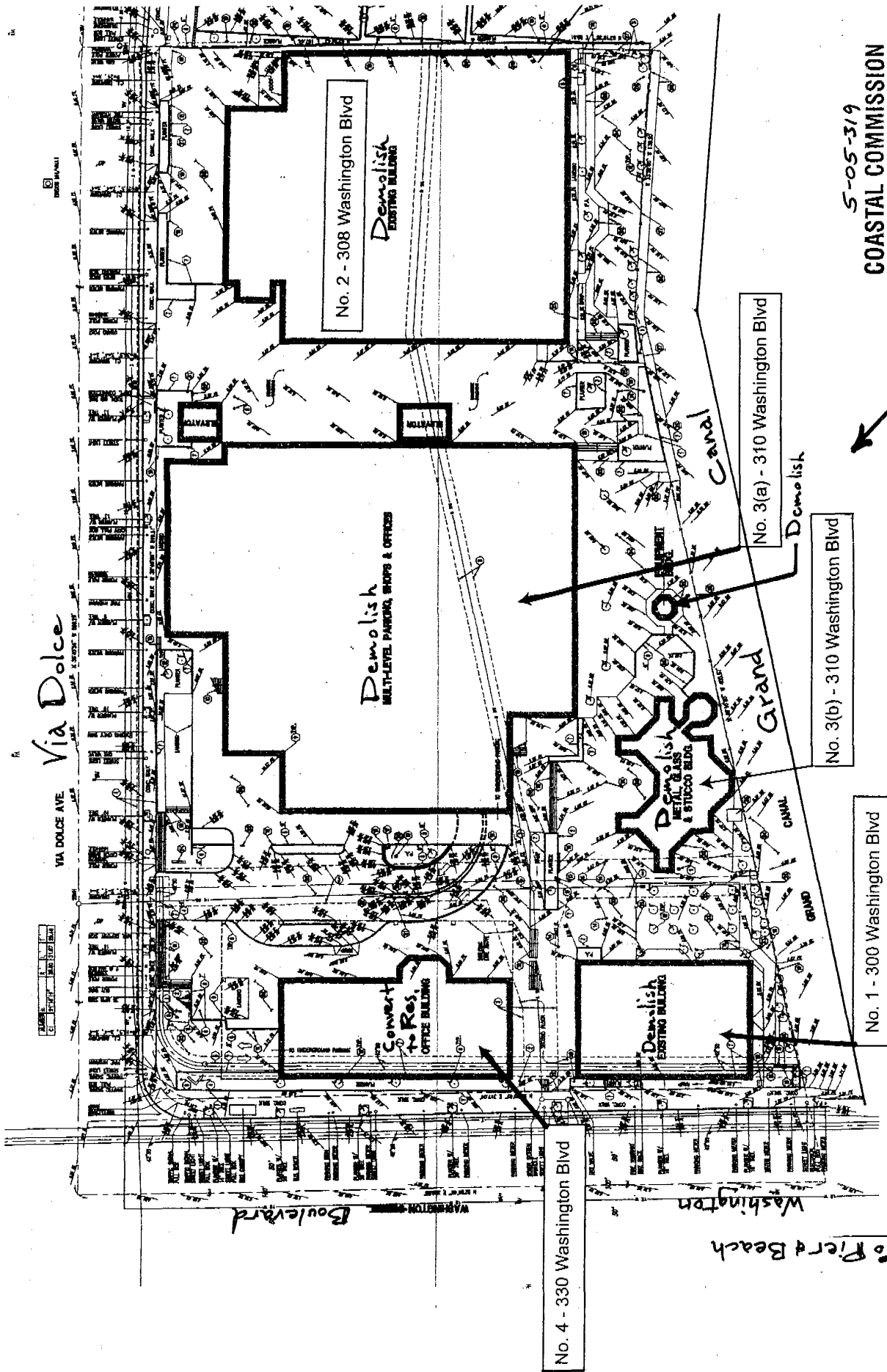
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EXHIBIT # 5

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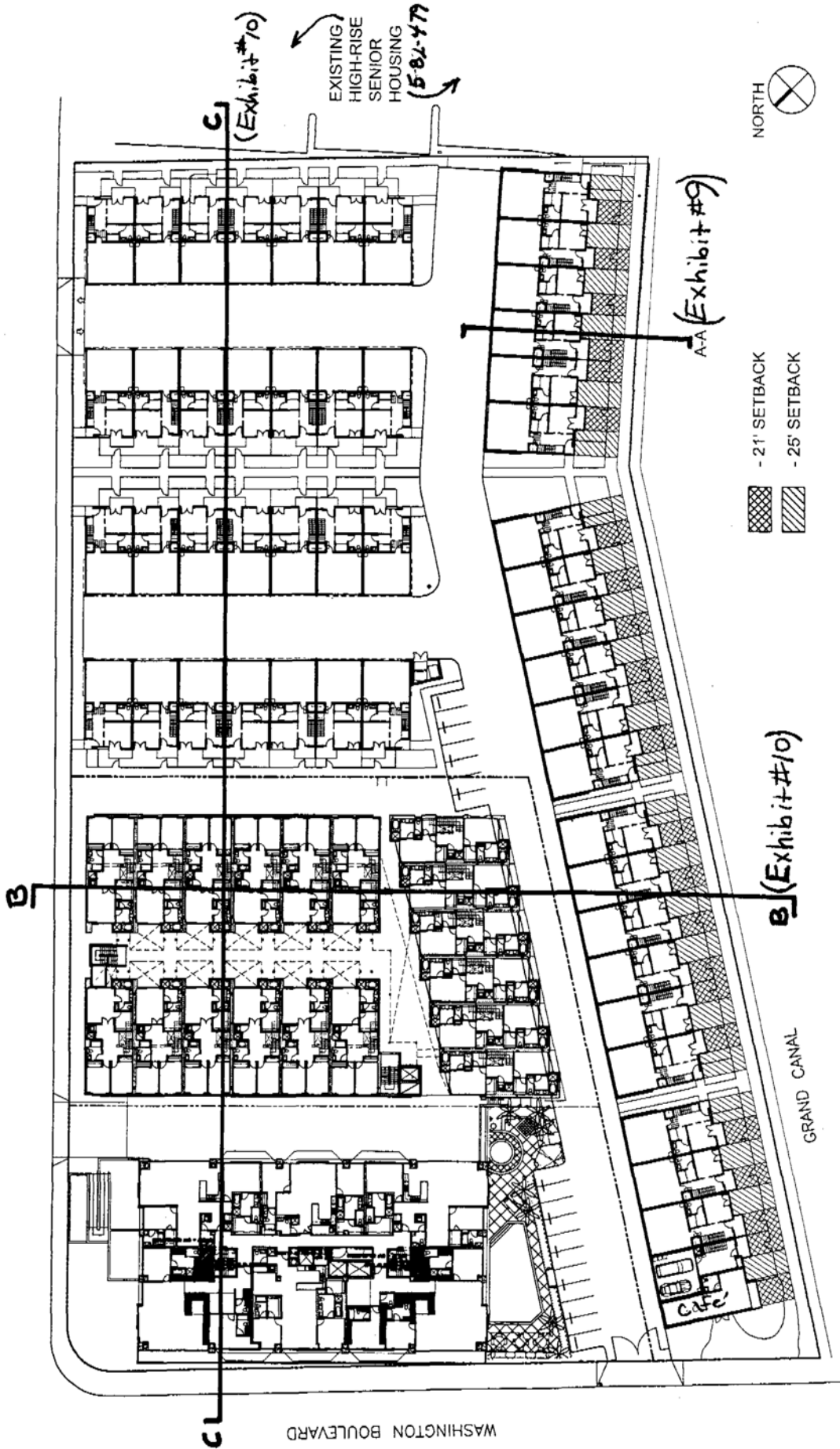
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EXHIBIT # 6
 PAGE 1 OF 1

North

Existing Site

VIA DOLCE



WASHINGTON BOULEVARD



- 21' SETBACK
- 25' SETBACK

B (Exhibit #10)

A-A (Exhibit #9)

C (Exhibit #10)
EXISTING
HIGH-RISE
SENIOR
HOUSING
5-81-477

GRAND CANAL

cafe

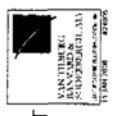
Proposed
GRAND CANAL
SETBACK EXHIBIT

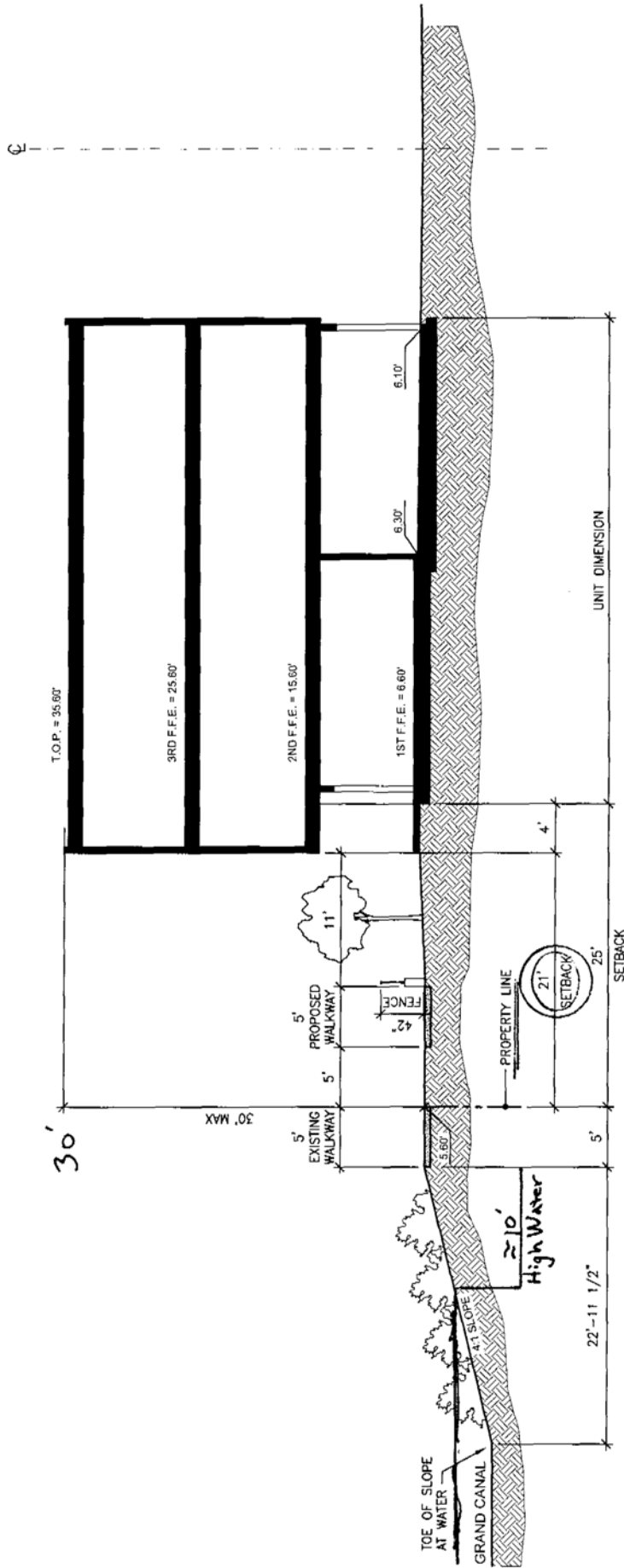
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EXHIBIT # 8

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WASHINGTON SQUARE
MIXED - USE
FOR
LENNAR & THE LEE GROUP



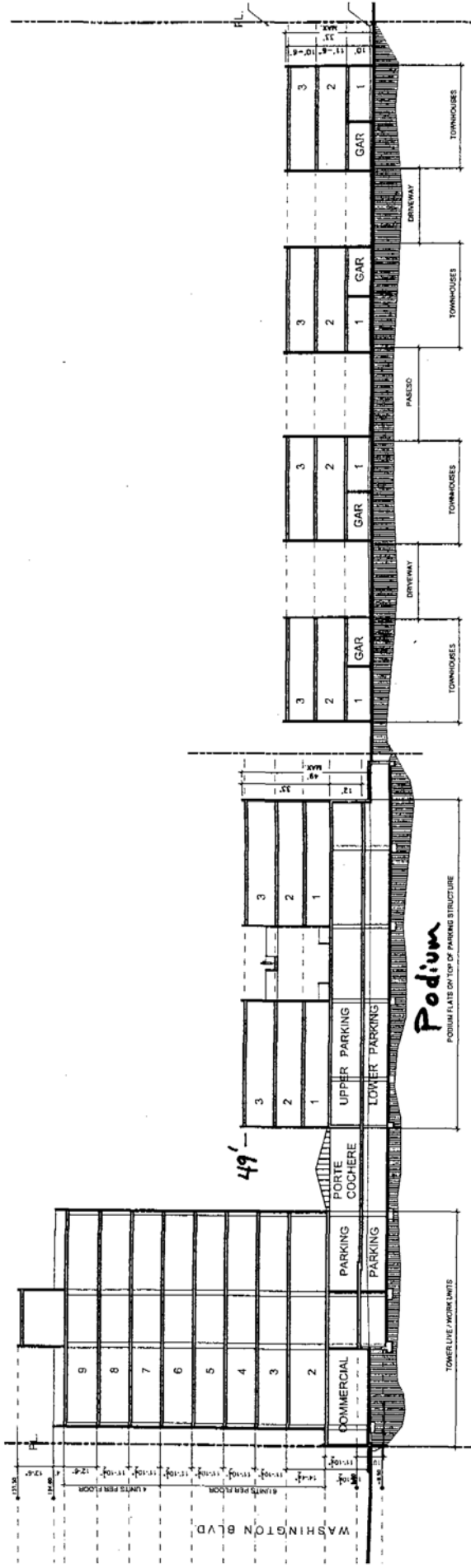


Section A-A (See Exhibit #8)

Proposed Setback from canal

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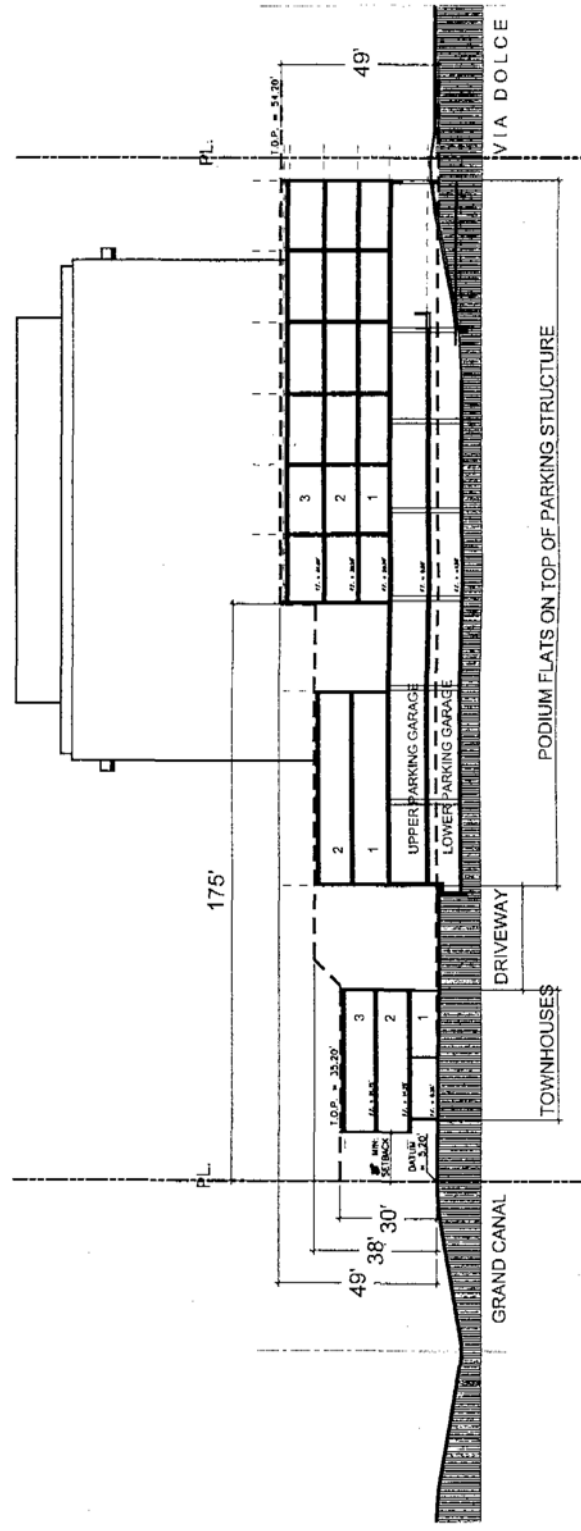
EXHIBIT # 9
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SECTION

CC

(See Exhibit B)



SECTION B-B

(See Exhibit B)

Sections B-B & C-C

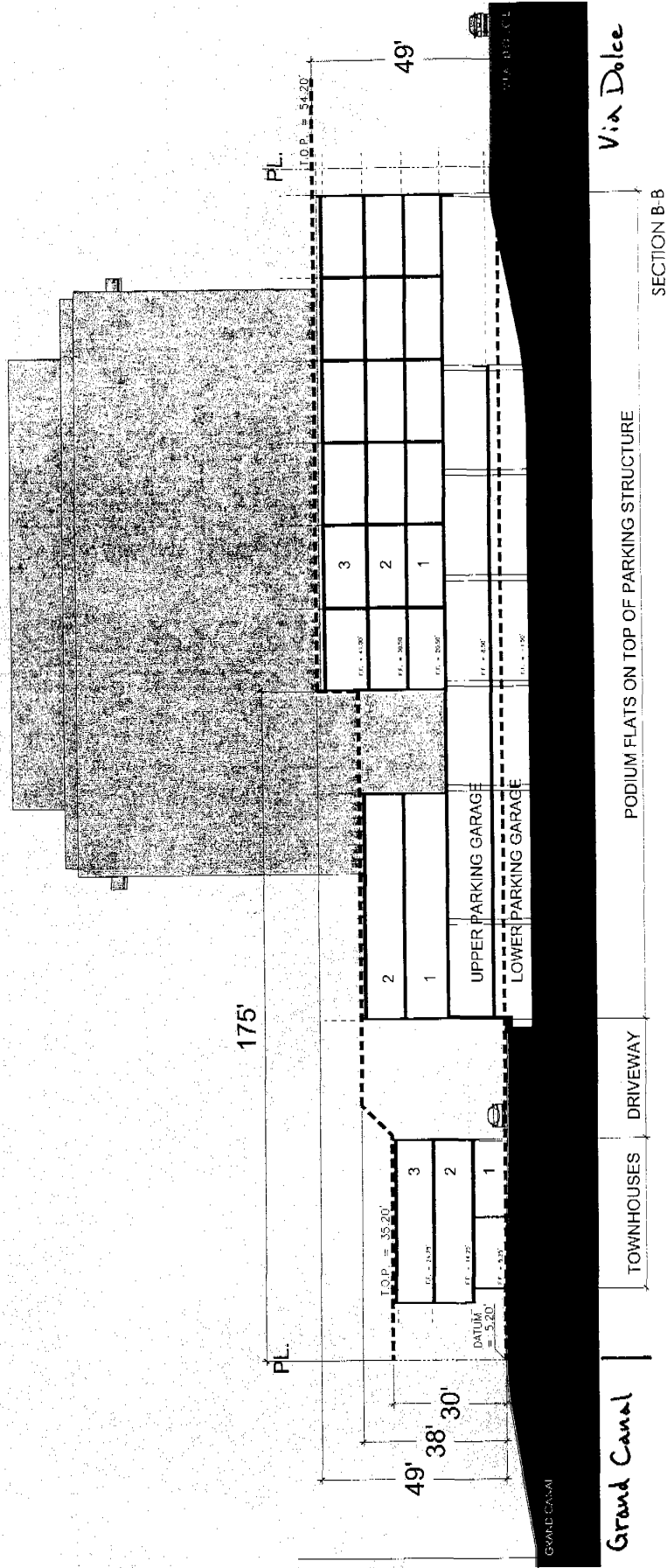
COASTAL COMMISSION

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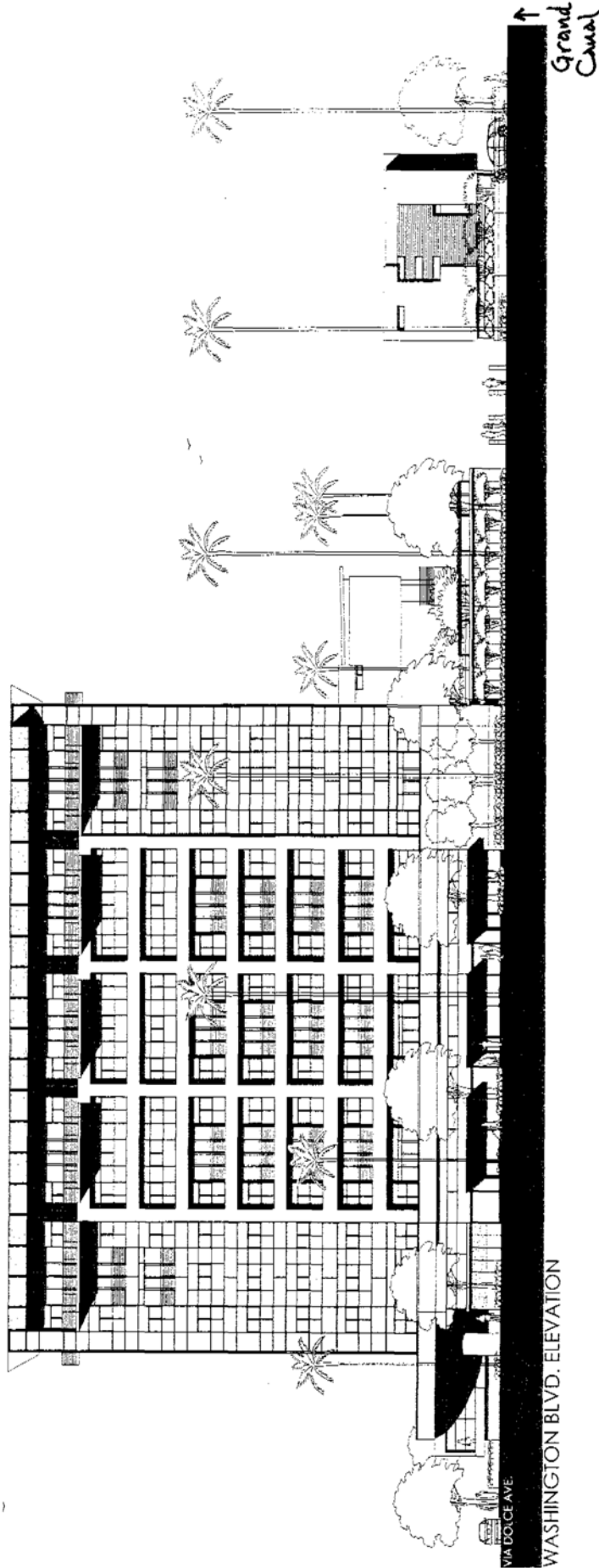
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EXHIBIT # 10

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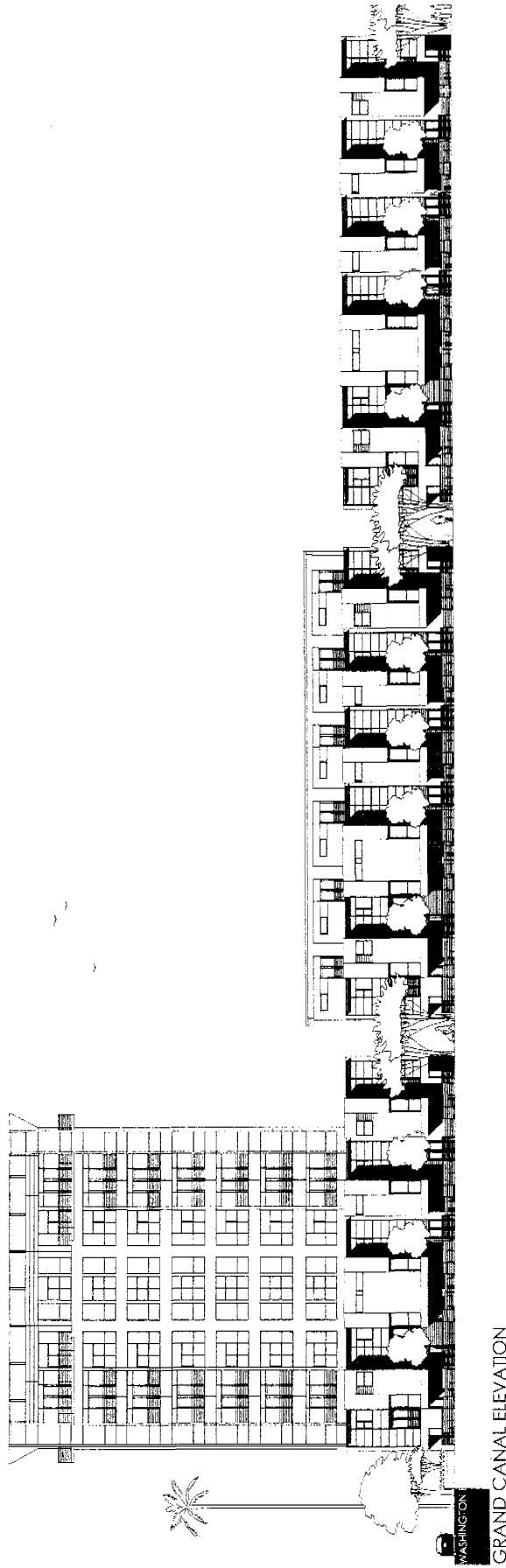
Building Heights



Washington Blvd. Elevation

COASTAL COMMISSION
AS-VEA-05-320
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EXHIBIT # 12
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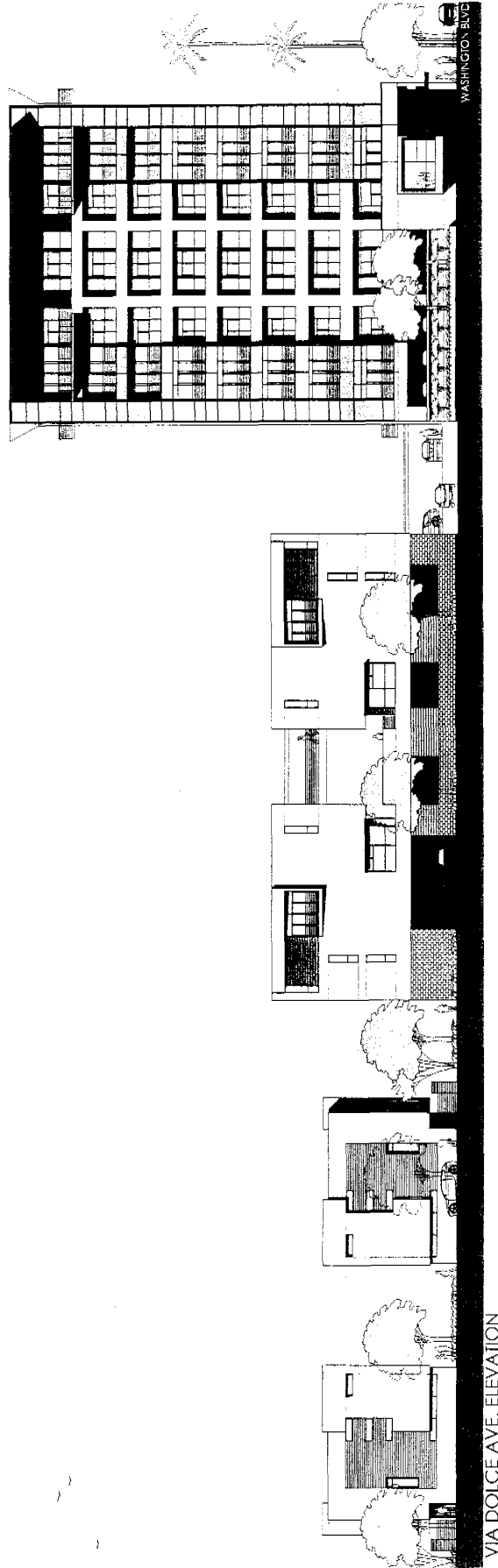


Grand Canal Elevation

COASTAL COMMISSION
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5-05-319

EXHIBIT # 13

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Via Dolce Elevation



ROBERT CHARLES LESSER & CO., LLC
REAL ESTATE ADVISORS

RECEIVED
South Coast Region

JAN 10 2005

CALIFORNIA
COASTAL COMMISSION

Sent via e-mail

December 22, 2005

Mr. Kevin P. Read
Vice President
LNR PROPERTY CORPORATION
21275 Burbank Boulevard
Woodland Hills, California 91367

01-10448.01

SUBJECT: Market Rationale for Neighborhood-Serving Retail Uses at the Proposed Washington Square Mixed Use Development; Marina del Rey, California.

Dear Kevin:

We are pleased to provide this brief report addressing the appropriateness of a small increment (5,000- to 10,000-square foot range) of neighborhood-serving retail activity at Washington Square.

Existing plans for Washington Square envision the creation of ground floor retail along Washington Boulevard and the conversion of the current office tower and other buildings on the property to ownership residential (condominiums and townhomes). We have prepared this market opinion building on our review of local demographics, a windshield survey of the retail character along Washington Boulevard from the fishing pier on the west to Lincoln Boulevard on the east, and our familiarity with the original Washington Square mixed-use office, upscale specialty retail and local-serving retail concept.

Our market assessment suggests a local-serving market orientation for any retail at Washington Square and the limitation of any new retail to a small increment as described above. Our recommendation for local-serving retail uses at the revamped Washington Square reflects the character of retail already along this segment of this street – primarily convenience retail (coffee, juice, bagel, etc.), casual dining restaurants and personal services. Key considerations in this conclusion include: 1) the failure of the original regional-serving Washington Square retailing component, 2) the local-serving character of existing retail along this stretch of Washington Boulevard, and 3) the population level within one mile which is small and not likely to grow significantly in the short term.

➤ **Failure of the Original Washington Square Retail Concept**

1880 CENTURY PARK EAST, SUITE 215, LOS ANGELES, CA 90067 TEL 310 914 1800 FAX 310 914 1810
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AS-LEN-05-320
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Developed in the early 1970s, Washington Square comprised a variety of commercial uses. They included the office tower, dinner restaurants (with one fronting Washington Boulevard with access by stairs), a Safeway grocery store at the southern end of the property, and two stories of specialty retail situated on a raised platform between the grocery store and office tower. From our perspective, this project's failure demonstrates the inherent weakness in considering regional-serving uses at this location.

By the latter half of the 1970s, the retail at Washington Square had failed or in the process of failing. Clearly, the specialty retail concept with most of the retail invisible from the street was a major shortcoming. The introduction of specialty retailing that required regional support in an area historically characterized by neighborhood- and beach-oriented retail was another. The grocery store closed with the obvious explanation stemming from insufficient revenues to make this operation work successfully.

➤ **Limited Population Base**

The local market is actually rather small and has not changed in size in many years, certainly the last 15 years, and on this basis not a primary stimulus to the entry of substantial retailing at Washington Square.

The one-mile radius, an appropriate distance for convenience- and neighborhood-level retail, has not changed from 1990 levels. The one-mile radius population is 27,000 in 2005, virtually unchanged since 1990. Projections call for nominal growth, a 1,000-person increase by 2010.

On the other hand, the three-mile radius, an appropriate radius for community/subregional-serving retailing in mature urban areas, shows a 2005 population of 152,000. This local market has exhibited some growth with no change in population during the 1990s but with a 7,000-person increase over 2000. By 2010, the population is expected to grow by 8,000 to a total of 160,000. Clearly, the introduction of new infill residential development is contributing to population gains.

Interestingly, the population gains are not occurring within one mile of Washington Square, rather entirely between a one- and three-mile radius. Accordingly, new retail serving the Marina del Rey area would be more appropriately located along or near the regional arterials, e.g., Lincoln Boulevard, and thus more proximate to local areas of population growth.

➤ **Local Retail Character**

Retailing along Washington Square within a few blocks east and west is generally local-serving in nature and comprises mostly independent (non-chain) operations, with Coldstones and Starbucks as exceptions. While the pier area with its limited parking, as well as proximity to the Venice Boardwalk, act as regional draws, the



combination has not been adequate through the years to alter the local-serving character of retail near Washington Square. East of Washington Square, a local-serving retail center between Via Marina and Palawan Way is undergoing an upgrade and vacant storefronts are apparent.

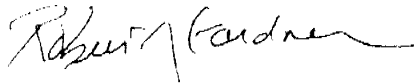
One can only deduce that population and traffic levels, both pedestrian and vehicular, are insufficient to draw national chains. And, given the lack of population growth in a one-mile radius, we see little reason why this primarily local-serving orientation should change. Future residents at Washington Square would add to the local buying power but not at significant levels to alter the local market picture.

* * * * *

The conversion of Washington Square from a commercial to primarily a residential program is consistent with prevailing market directions. We appreciate the opportunity to serve you and provide real estate advisory services. We look forward to learning of your future market success.

Very truly yours,

ROBERT CHARLES LESSER & CO., LLC



Robert J. Gardner
Managing Director



ROBERT CHARLES LESSER & CO., LLC

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December 22, 2005

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MICHAEL HICKOK
Attorney
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(310) 277-5082 FAX (310) 277-5387
E-MAIL mhickok@unidial.com

March 24, 2006

VIA TELECOPY (562) 590-5084

Charles Posner
Coastal Program Analyst
South Coast District Office
California Coastal Commission
Post Office Box 1450
Suite 1000
200 Oceangate
Long Beach, California 90802-4302

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South Coast Region

MAR 24 2006

CALIFORNIA
COASTAL COMMISSION

**RE: APPEAL NUMBER A-5-VEN-05-320; April 11, 2006 PUBLIC HEARING AGENDA
ITEM 8 d.**

Dear Mr. Posner:

I understand that the latest plan submitted by the applicant for the above-referenced matter includes the permanent dedication of property as a public walkway as part of a setback zone between the Grand Canal and the project. My family and I have no objection to the inclusion of such a walkway as a condition to any permit issued by the Commission. However, we are concerned that the language by which such a condition may be stated could potentially cause procedural problems at such time as a Grand Canal restoration project may come before the Commission. While no such restoration plan has to my knowledge be prepared to date, there has been discussion of a restoration scenario in which property immediately adjacent to the Canal, including what remains of the old Esplanade, might be devoted to habitat restoration with other areas being utilized for public access. Our concern is that unnecessarily restrictive language in the permit now under consideration could be inconsistent with an ultimate restoration plan. In order to avoid such a potential future inconsistency problem, we respectfully suggest that the following language be added to the end of any language in any permit for the above-reference project requiring a public access walkway: "provided, however, that such use may be modified as may be directed by the California Coastal Commission in connection with any future approval of a project for restoration of the Grand Canal." Consideration of this, or other comparable language, would seem to avoid procedural complications in the event that the Commission is inclined in the future to approve a Grand Canal restoration project providing for some alternative environmentally beneficial use for the area now contemplated for dedication as a public walkway. Consideration of this suggestion by the Commission in connection with its review of the above referenced project would be much appreciated.

Sincerely,



Michael Hickok

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A-5-VEN-05-320
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MAR 24 2006

CALIFORNIA
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MARINA ADULT DAY HEALTH CARE
300 Washington Boulevard
Marina del Rey, CA 90292
(310) 821-3599

February 14, 2006

Coastal Commission
200 OceanGate, Suite 1000
Long Beach, CA 90802
Attn: Charles Posner

Re: 300 Washington Blvd.
Appeal No. A5-VEN-05-320

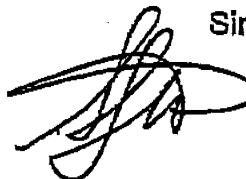
Dear Commissioners:

Marina Adult Day Health Care provides adult day health care services to over 350 participants at its current facility at 300 Washington Boulevard. The proposed Washington Square project requires the relocation of our facility. The developers, Lee Homes and Lennar, have patiently worked with us to accommodate our move to a nearby location.

Marina Adult Day Care has occupied the site at 300 Washington Blvd. for several years. Our clients enjoy the proximity to the Venice Beach and have come to love the area and the Grand Canal. We support the revitalization of the area with the new project and believe it will enhance the area for residents and visitors alike. The plans to add retail along Washington Blvd. and to enhance the walking path along the canal will greatly improve the area.

We fully support the new Washington Square project and look forward to its completion.

Sincerely

 (Svetlana Melchukova)

for Marina Adult Day Health Care, Inc.

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March 14, 2006

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MAR 24 2006

CALIFORNIA
COASTAL COMMISSION

Coastal Commission
South Coast District
200 Oceangate, 10th Floor
Long Beach, CA 90802

Attn: Chuck Posner

Re: 300 Washington Blvd/3100 Grand Canal
Appeal No. A5-VEN-05-320

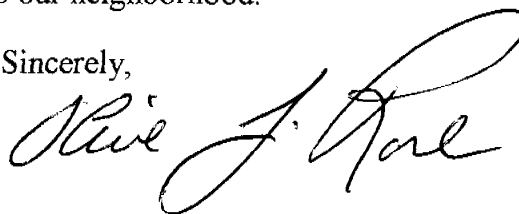
Dear Commissioners:

I live on the Marina Peninsula close to the site of the Washington Square Project. I want to add my name in support of the revitalization of the site and its conversion to retail and housing.

The project will be a great addition to the neighborhood. It will reduce traffic compared to the existing commercial buildings. It will add new access to the canal and give us new stores on Washington Boulevard.

Overall, I think it is a perfect fit to our neighborhood.

Sincerely,



LETTERS OF SUPPORT

Staff received 47
similar letters.

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Spring
March 21, 2006

Coastal Commission
South Coast District
200 Oceangate, 10th Floor
Long Beach, CA 90802

Attn: Chuck Posner

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South Coast Region

MAR 28 2006

CALIFORNIA
COASTAL COMMISSION

Re: 300 Washington Blvd/3100 Grand Canal
Appeal No. A5-VEN-05-320

Dear Commissioners:

As a member of the Venice community and a past board member of the Ballona Lagoon Marine Preserve (BLMP), I want to express my support of this project. BLMP was responsible for the restoration of the lagoon that connects to the Grand Canal where the project is located and although our project did not include restoring this section of Venice Canals, it was always something that we wanted to seen done.

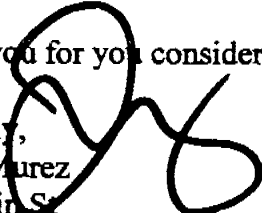
This developer seems to be enhancing public access to the lagoon by providing additional setbacks and a public walkway. This is particular important to the general public since their project is at the mouth of the canal where it connects to Washington Blvd., a highly traveled pedestrian access way to the beach. So by creating this public walkway along the canal, it will give tourists a starting point where they can tour the lagoon.

I also want to mention that I welcome any project that will being life back into this property. For to many years this property has been a dead zone with no visitor serving uses or pedestrian friendly presents. The retail and housing mix being proposed should eliminate this down fall and create a lot of new life within and around the project.

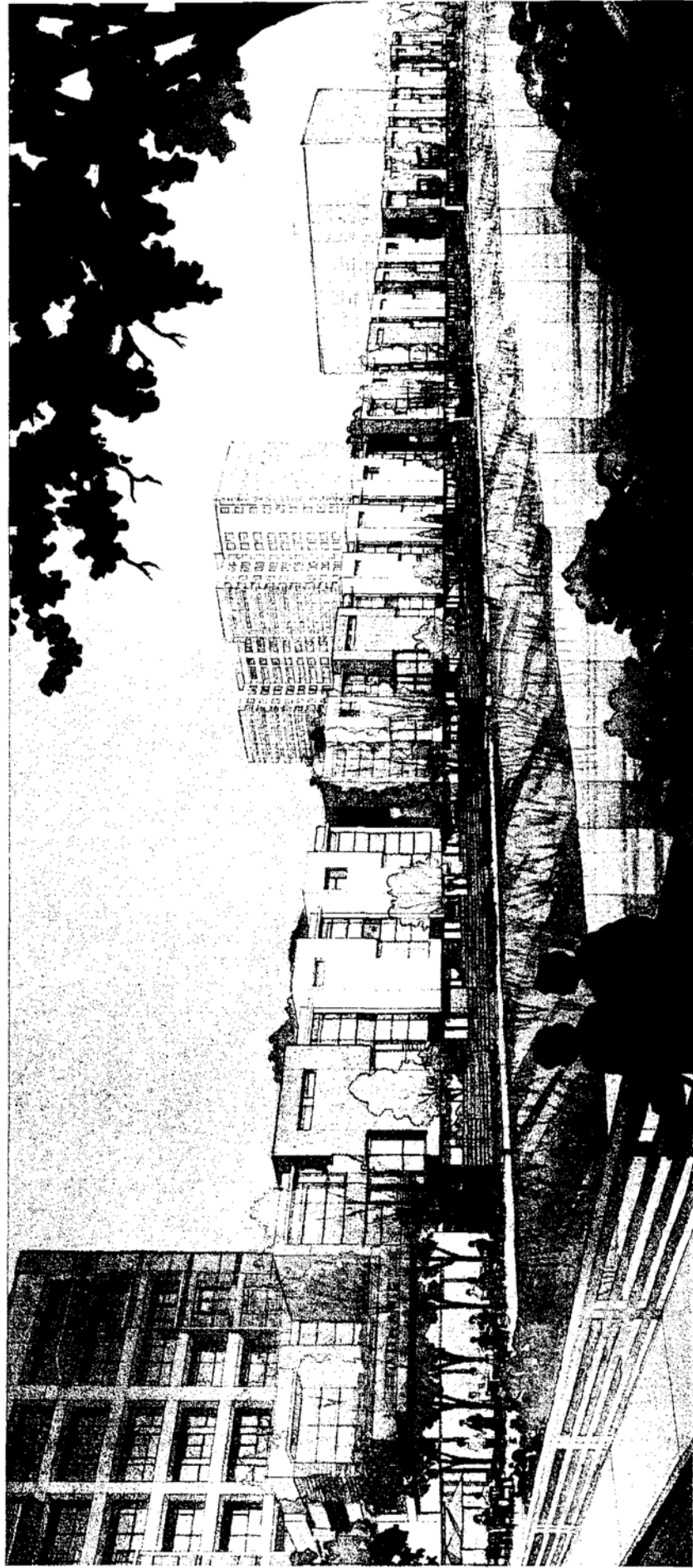
I want to know that I agree that making it a mix use project will lower the traffic and parking impacts in this area of the community. These are good things. And perhaps if they have extra parking up and beyond their needs they will become available to the surrounding community.

Thank you for your considerations.

Sincerely,
James Murez
804 Main St
Venice 90291



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Rendering of Grand Canal at Washington
Blvd. Bridge

