

CALIFORNIA COASTAL COMMISSION

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Staff Report: 10/17/07
Hearing Date: 11/14-16/07
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER:** 5-07-210**APPLICANT:** County of Los Angeles, Department of Public Works**PROJECT LOCATION:** Via Marina & Grand Canal, City of Los Angeles, Los Angeles County**PROJECT DESCRIPTION:** Rehabilitate and convert existing manually operated tide gate to an automated and electronically controlled system, and install trash rack.

SUMMARY OF STAFF RECOMMENDATION:

The major issues of this staff report relate to construction and operation. With conditions, the project will have no significant adverse impacts on water quality or marine habitat. In addition, due to the absence of eelgrass in the project area, there will be no adverse impacts upon sensitive marine habitats. Staff recommends APPROVAL of the proposed development with special conditions which require: 1) conformance with specific construction responsibilities to avoid impacts upon water quality and marine resources; 2) preparation of a survey to confirm the absence of *Caulerpa taxifolia* in the project area prior to construction; 3) preparation of a pre-construction eelgrass survey to confirm the absence of eelgrass; 4) timing of project; and 5) assumption of risk. As conditioned, the proposed development conforms with all applicable policies of the Coastal Act.

STAFF NOTE:

The proposed development is located within an area of the City of Los Angeles that is not subject to a certified Local Coastal Program (LCP). Therefore, the Commission's permitting authority has not been delegated to the local government pursuant to a certified LCP. The City of Los Angeles has, however, been authorized by the Commission to issue local coastal development permits (prior to LCP certification)

pursuant to Section 30600(b)(1) of the Coastal Act. Because the proposed development is located within 300 feet of the shoreline, it is within the coastal zone area of the City of Los Angeles which 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 the California Code of Regulations, any development located in the Dual Permit Jurisdiction must obtain a coastal development permit from the Coastal Commission, in addition to any local coastal development permit. In this case, however, the City does not have permit jurisdiction because the applicant is the County of Los Angeles. Pursuant to Section 30600(b)(2) of the Coastal Act, the County is not required to obtain a permit from the City; and the County is not subject to the City's local regulatory authority. Therefore, the coastal development permit that is required for the proposed development must be obtained from the Commission. 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.

I. STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-07-210 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

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

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and

conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL

The permittee shall comply with the following construction-related requirements:

A. Materials and Discharges and Debris

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to inundation or dispersion in the waters of the harbor;
- (b) All debris and trash will be disposed in suitable trash containers on land at the end of each construction day;
- (c) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
- (d) No machinery or construction materials not essential for project improvements shall be allowed at any time in the waters of Marina del Rey;
- (e) If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity;
- (f) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day;
- (g) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss;
- (h) Discharge of any hazardous materials into the adjacent waters is prohibited;
- (i) Reasonable and prudent measures shall be taken to prevent all discharge of fuel or oily waste from heavy machinery, pile drivers or construction equipment or power tools into the adjacent waters. The applicant and the applicant's contractors shall have adequate equipment available to contain any such spill immediately.

2. CAULERPA TAXIFOLIA PRE-CONSTRUCTION SURVEY

- A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
 - 1. for the review and approval of the Executive Director; and
 - 2. to the Surveillance Subcommittee to the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).
- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. PRE-CONSTRUCTION EELGRASS SURVEY

- A. Pre Construction Eelgrass Survey. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development.

If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

- B. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within one month after the conclusion of construction, the applicants shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicants shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicants shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

4. TIMING OF PROJECT

In order to reduce impacts on the California least tern during nesting and foraging season, no construction activity which may generate noise or turbidity in the water column shall occur during the period commencing March 1 and ending September 15 of any year.

5. ASSUMPTION-OF-RISK, WAIVER OF LIABILITY, AND INDEMNITY DEED RESTRICTION.

A. By acceptance of this permit, the applicant Los Angeles County Department Public Works acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the above terms.

B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the landowner shall execute and record against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this 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 or parcels governed by this 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 permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the landowner shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant is proposing to rehabilitate and convert existing manually operated tide gate facility to an automated and electronically controlled system to enhance the reliability and functionality of the current tide gate. The project will also include inserting a liner pipe within the existing pipes and repairs to existing concrete walls and equipment deck, and installation of trash racks on the main channel side and lagoon side to improve water quality installing a weir at the end of one of the lagoon side pipes to allow for over-flow to prevent flooding. All construction work will be conducted within the existing facility and will not encroach into soft bottom or wetland habitat.

The existing tide gate system consists of three seven-foot diameter pipes with the inlet located along the north jetty of the entrance channel of Marina del Rey and the outlet along the southern end of the Grand Canal (Ballona lagoon) at Via Marina, in the City of Los Angeles. Two of the pipes have slide gates and the third is fitted with a flap gate. To maintain the tide gate facility during retrofitting, the construction will be conducted in phases with each phase including temporary coffer wall installation at the inlet and outlet of the discharge pipes followed by dewatering to allow for the execution of the rehabilitation work. At least one discharge pipe will remain in operation during construction.

The tide gate facility is owned by Los Angeles County and operated by the County's Department of Beaches and Harbors. The project will not affect the current opening and closing schedule of the gates. According to the County, once the project has been completed, ownership and operation of the facility will be handed over to the City of Los Angeles.

B. Marine Habitat

Section 30230 of the Coastal Act requires that marine resources shall be maintained, enhanced, and where feasible, restored. 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.

1. Soft Bottom Habitat and Tidal Influence

The proposed development is partially occurring in the waters of Marina del Rey and Ballona Lagoon. The proposed development includes areas that are entirely submerged but does not include any work outside of the existing tide gate facility or within any soft bottom or wetland habitat. At either end of the pipes, where work will be conducted on the tide gates, there is a concrete pad or apron located at the base of the pipes, and extending out approximately 10 feet from the pipes' openings. The proposed repair and new construction will be limited to the existing concrete pad and will not result in the additional coverage of soft bottom habitat.

Furthermore, the rehabilitation of the tide gate facility will not affect the tidal regime of Ballona Lagoon. As stated, the project involves only the automation of the gate and installation of trash racks to improve water quality in and out of the lagoon. According to the County, the tide gate is currently left open to allow for natural flushing of the lagoon and canal areas and is only closed when there is a threat of flooding due to storm events. At this time there is no plan to change the operation schedule.

2. Water Quality and Construction Impacts

The proposed project involves construction in and adjacent to the water. Due to the proposed project's location in the water, the proposed work may have adverse impacts upon water quality and the marine environment.

The potential adverse impacts to water quality include accidental spills, disposing of debris in the water, and increase turbidity. Resuspended sediments will have a potential to reduce water clarity and decrease ambient dissolved oxygen concentrations in the water column during construction if the sediments are anoxic. To minimize turbidity and allow access to the gates, the applicant will use coffer dams to remove water from the area. The use of coffer dams and the existence of the concrete pads at the base of the tide gate facility will reduce the potential for increase turbidity and debris from entering the marine environment during construction.

The improper storage of construction equipment and materials during construction can also contribute to adverse water quality impacts; therefore, the Commission finds it necessary to identify the following construction related restrictions: all construction materials and equipment shall be stored landward of the bulkhead, on impervious surfaces only; all construction materials or waste shall be stored in a manner which prevents their movement via runoff, or any other means, into coastal waters; and that any and all construction equipment, materials and debris are removed from project site and discarded or stored in an appropriate manner at the conclusion of construction. The Commission finds it necessary to identify the permittee's responsibilities regarding construction and the utilization of best management practices and has conditioned the project accordingly. Thus, to assure that adverse impacts to water quality are minimized, the Commission imposes Special Condition No. 1 which requires the applicant to utilize best management practices including those described above. The special condition will help supplement the applicant's water quality program and ensure that the applicant's program is consistent with the Commission's water quality requirements for development in the water.

3. Caulerpa taxifolia

Caulerpa taxifolia (herein *C. taxifolia*) is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. In 1984, this seaweed was introduced into the northern Mediterranean. From an initial infestation of about 1 square yard it grew to cover about 2 acres by 1989, and by 1997, blanketed about 10,000 acres along the coasts of France and Italy. Genetic studies demonstrated that those populations were from the same clone, possibly originating from a single introduction. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. In the Mediterranean, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 ft depth. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation in the Mediterranean has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing.

Because of the grave risk to native habitats, in 1999, *C. taxifolia* was designated a prohibited species in the United States under the Federal Noxious Weed Act. In addition, in September 2001 the Governor signed into law AB 1334 which made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various *Caulerpa* species including *C. taxifolia*.

C. taxifolia has not been found in any area of Marina del Rey. However, in June 2000, *C. taxifolia* was discovered in Agua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbour in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations are likely. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50°F. Although warmer southern California habitats are most vulnerable, until better information is available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California *Caulerpa* Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several state, federal, local and private entities. The goal of SCCAT is to completely eradicate all *C. taxifolia* infestations.

A *C. taxifolia* survey was included and submitted with the application. The survey found that no *C. taxifolia* exists within the project area. However, in order to ensure that *C. taxifolia* has not established within the project area in the interim, Special Condition No. 2 is imposed, which requires a survey be conducted no earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit.

4. Eel Grass

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (CDFG). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

An eelgrass survey was prepared by URS Corporation and submitted with the application. The survey found no eelgrass within the project vicinity. Due to the ephemeral nature of eelgrass, however, an eelgrass certification is only valid until the next period of active growth. Even though the eelgrass inspection indicates that no eelgrass is present, and therefore eelgrass will not be impacted by the proposed project, eelgrass may have established within the project area between the time the survey was conducted and

commencement of construction. If eelgrass is present in the project area, adverse impacts from the proposed project could result. Therefore, measures to avoid or minimize such potential impacts must be in place in order for the project to be found consistent with Section 30230 of the Coastal Act. Therefore, the Commission imposes Special Condition No. 3 which requires that a current pre-construction eelgrass survey be conducted within the boundaries of the proposed project during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The pre-construction survey will identify any eelgrass beds which could be impacted and which must be avoided. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit. An amendment or new permit is required in order to address any eelgrass impacts. In addition, if there are any impacts upon eelgrass, the applicant will be required to prepare appropriate surveys and mitigation plans in consultation with the California Department of Fish & Game and in conformance with the *Southern California Eelgrass Mitigation Policy*.

5. Least tern

The California least tern (*Sterna antillarum brownii*) nests at nearby Venice Beach. Least terns feed on small fish directly under the water surface. They have been observed to use all portions of the Marina del Rey harbor for foraging. Construction activity may cause turbidity in the water column which would affect foraging species ability to see food normally visible in the water. In addition, construction activity using heavy equipment could generate noise in the water column that would disturb fish and other species normally present upon which foraging least terns would normally feed.

The Department of Fish and Game has indicated in past permit projects that construction activity would not have a significant adverse effect on existing marine resources and habitats provided no open water activities that have the potential to create water turbidity or excessive noise and vibration (e.g. pile driving) occur during the tern nesting season, and silt curtains are used during construction. Although the project may include jackhammering and directional drilling for electrical lines along Via Marina, the project will not include pile driving or other activities that would cause excessive noise or increase turbidity. However, to ensure that impacts to the terns are minimized, construction activities that create excessive noise or vibration should be restricted to mid-September through February, consistent with the Department of Fish and Game restrictions. Therefore, as conditioned in Special Condition No. 4, the Commission finds that the project will not have an adverse impact on foraging species in the area.

C. Visual Impacts

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, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 states that 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 proposed project is located along the north jetty of the main marina entrance channel and the southern end of the Ballona lagoon (Grand Cannel), at Via Marina Way, within the City of Los Angeles and County of Los Angeles. The immediate area along Via Marina Way, between Pacific Avenue to the west and Admiralty Avenue to the east, is developed with a landscape strip and walkway, street parking, and fishing/view platforms that extend over the jetty. At the lagoon side and directly above the tide gates and below the street (Via Marina Way) level, there is a public viewing deck. Beyond the deck to the north and along both sides of the lagoon the areas are developed with residential development.

Views offered from the area include the marina to the southeast and main entrance channel to the south, and the lagoon to the north. Views are available along Via Marina Way (street and walkway) and from the viewing platform on the northern side of Via Marina, at the southern end of Ballona lagoon.

The existing tide gate facility consists of tide gates with three inlet and outlet pipes and access ladders below the grade level of Via Marina Way. In addition, at and above the grade level of Via Marina Way there is mechanical equipment located on an approximately 12 foot by 5 foot concrete pad that is cantilevered over the jetty, and a 6 foot high chain link fence that fully encloses the equipment. The equipment and fencing along Via Marina is visible from the street and walkway.

The proposed project will include replacing the tide gates with new gates, liners for the existing piping and trash racks along the lagoon and entrance channel sides. The proposed project will also include replacement equipment including electronic equipment and cabinets to operate the new automated system. The new electronic equipment along the entrance channel side includes a new 57 inch high by 41 inch wide electrical cabinet. The cabinet and replacement equipment will be accommodated by enlarging the existing concrete pad that is cantilevered over the tide gates. The new pad will measure approximately 28 feet by 10 feet, and will not extend beyond the existing concrete apron at the base of the facility or the seaward extend of the jetty. The equipment will be fully enclosed with a new 7 foot high fence to meet current building standards. Although the fence enclosure is higher and covers a larger area than the existing fencing, the fencing is

the minimum height and area to accommodate the equipment and to provide adequate maintenance access to meet building safety standards.

On the lagoon side there will be a single 30 inch high by 25 inch wide electronic equipment cabinet installed on the existing public access/ viewing deck. The cabinet will be located on the back or southern side of the deck and will be below the roadway (Via Marina Way) to minimize the visual impact from the deck and roadway.

As proposed, the project will not have a significant impact on public views. Views will continue to be available from the street and walkway and the viewing platform along the lagoon. The proposed project is designed to occupy the minimum amount of space for the equipment and will minimize the visual impact, while providing a more efficient tide gate facility. The Commission, therefore, finds that the proposed project is consistent with the visual resource protection policies of the Coastal Act.

D. Public Access

Section 30212 of the Coastal Act states in relevant part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby, or,

(b) For purposes of this section, "new development" does not include:

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

Section 30213 of the Coastal Act states:

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

The proposed development involves repair to an existing tide gate facility. The project will result in approximately a 220 square foot expansion of the equipment concrete pad adjacent to a landscaped walkway extending along Via Marina Way. However, the existing pad and proposed expansion is within the existing facility and over the existing jetty. The Jetty does not provide for public access along the slope of the jetty, except for the fishing/view decks that are cantilevered over the jetty on the main channel side of Via Marina.

There is no beach area which provides lateral public access upon which the proposed project would encroach. Lateral public access is provided atop the Jetty via the

landscaped Via Marina walkway. Pedestrian access during construction will be detoured around the construction area and will continue to be provided in the area. Once construction is completed the area will be restored. Therefore, the Commission finds that the proposed project is consistent with section 30212 of the Coastal Act.

There will be no permanent impacts to boating or pedestrian access within the Marina. The repairs to the tide gates will ensure the continued operation of the tide gates and maintain existing public access along Via Marina and the lagoon's view deck. Therefore, the Commission finds that the proposed project is consistent with section 30213 of the Coastal Act.

E. Hazards

Section 30253 of the Coastal Act provides in part:

New Development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazards...

Because of its location, the facility is subject to tidal influences and potentially subject to the effects of tsunamis and seiches. The LCP indicates that Marina del Rey has sustained only minor damage in the past due to tsunami and seiches because of special design standards embodied in the moles, docks and breakwater. However, there remains the potential for damage from wave and tidal action. Therefore, the Commission finds that the applicant must also assume the risk of developing in an area where an extraordinary potential for damage from wave and tidal action exists as an inherent risk to life and property, waiving the Commission's liability for damage that may occur as result of such hazards. This is necessary because the design is a result of a study for which the applicant and its engineer are responsible. Wave hazards cannot be predicted with certainty, so the applicant and future owners must be put on notice that the Coastal Commission is not liable for damages resulting from wave and tidal action.

F. Local Coastal Program

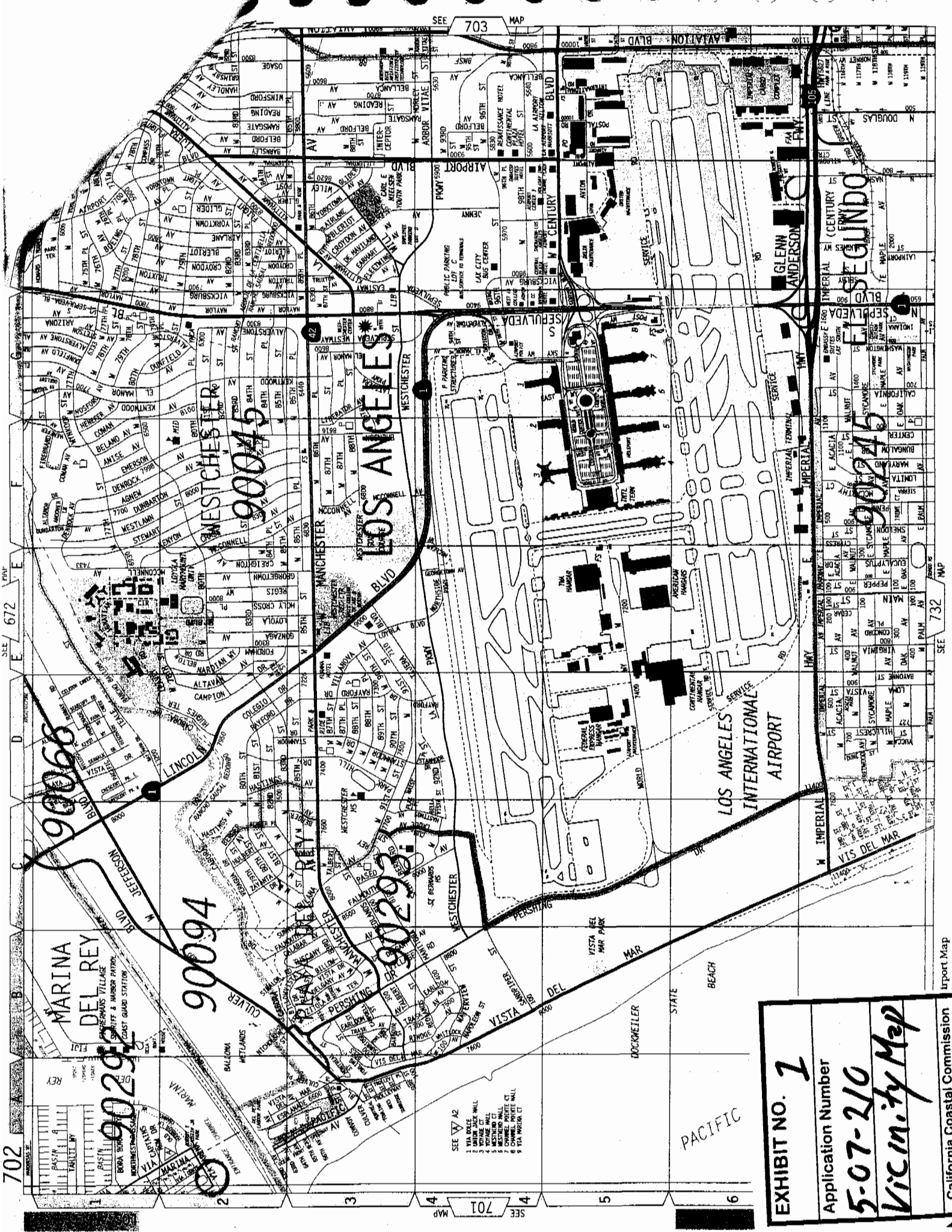
The proposed project is located within the City of Los Angeles. The northern portion of the project is located within the City of Los Angeles' Venice certified LUP area. The southern portion is outside of the Venice LUP area and not covered by a LUP or LCP. Moreover, the proposed development is partially located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's Venice LUP is advisory in nature and may provide guidance for development. As stated in the preceding sections, as conditioned, the project will not adversely impact coastal and marine resources, scenic resources, hazards, or coastal access. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act and

will not prejudice the ability of the local government to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications 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.

Potential impacts are to marine resources, water quality, boater and pedestrian access, scenic resources and hazards. As conditioned, all potential adverse impacts have been adequately mitigated. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.



SEE 703 MAP

SEE 672 MAP

SEE 732 MAP

702

SEE 701 MAP

EXHIBIT NO. 1

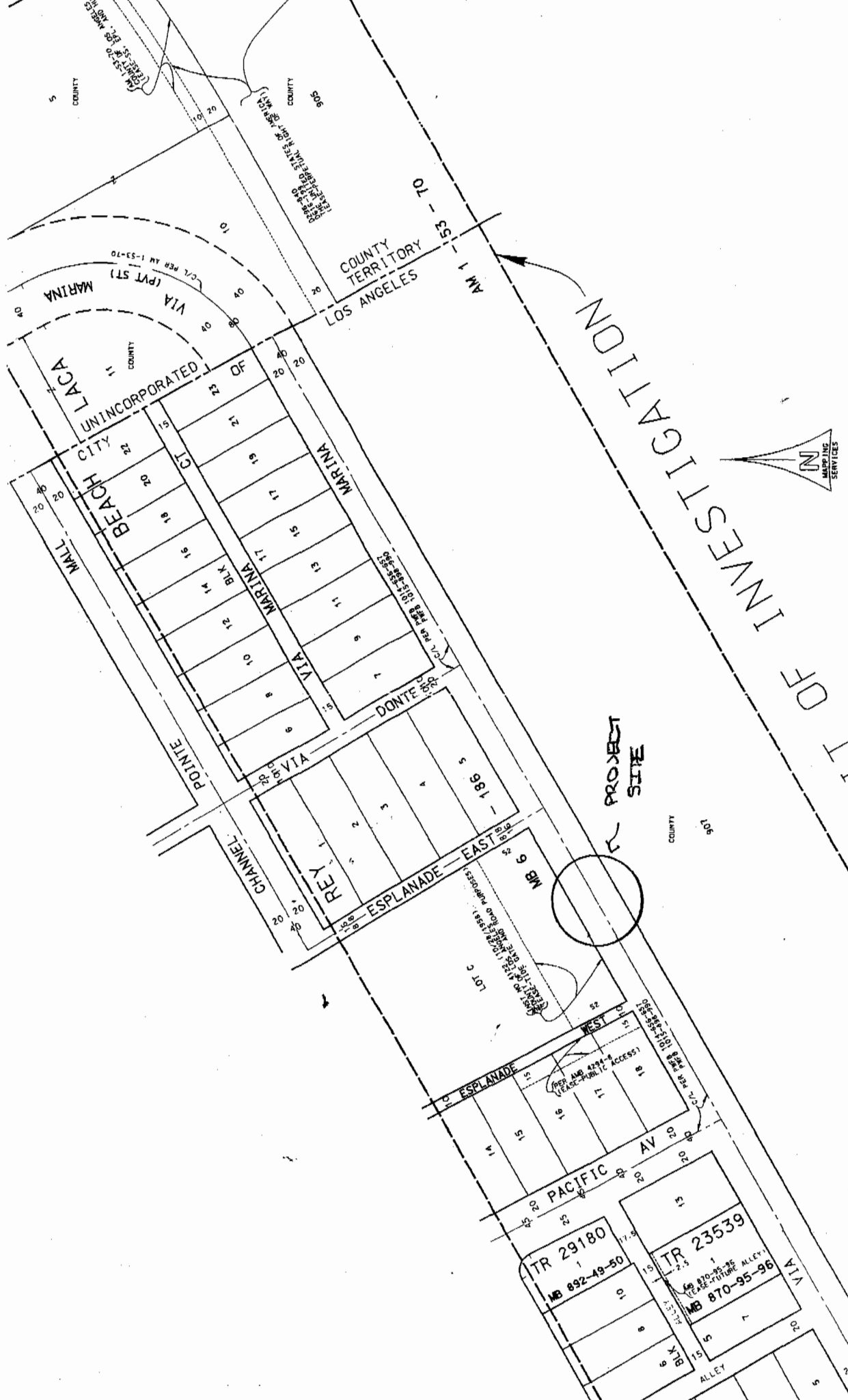
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Vicinity Map

California Coastal Commission

- SEE V A2
- 1 VIA DOLZ
 - 2 UNION JACK HILL
 - 3 YONKERS HILL
 - 4 YONKERS HILL
 - 5 WESTBROOK CT
 - 6 CHANNEL PRIVATE WALL
 - 7 CHANNEL PRIVATE WALL
 - 8 1/4 FRONT CT

airport Map



PRELIMINARY STUDY MAP

THIS MAP IS BASED UPON INFORMATION FROM PUBLIC RECORDS AND FIELD SURVEYS. IT DOES NOT SHOW EXACT BOUNDARY LOCATIONS WHICH MUST BE DETERMINED BY CURRENT FIELD MEASUREMENTS. THE INFORMATION SHOWN THROUGH A CURRENT TITLE REPORT.

THE INFORMATION SHOWN ON THIS MAP HAS BEEN RECORDED DATA MEASUREMENTS.

DATA CONTAINED IN THIS MAP WAS PRODUCED IN WHOLE OR IN PART BY THE LOS ANGELES COUNTY DEPARTMENT OF PUBLIC WORKS DIGITAL DATABASE



LEGEND

RECORD DISTANCES SHOWN IN FEET, UNLESS OTHERWISE INDICATED.

AREAS SHOWN IN SQUARE FEET UNLESS OTHERWISE INDICATED.

OWNERSHIPS AND ACTUAL EXISTENCE OF FOREIGN EASEMENTS ARE NOT CURRENT.

SEWER AND GAS DENOTE SANITARY SEWER, ELECTRICAL POWER LINES AND TRUNK UTILITIES.

EXHIBIT NO. 2

Application Number
5-07-210

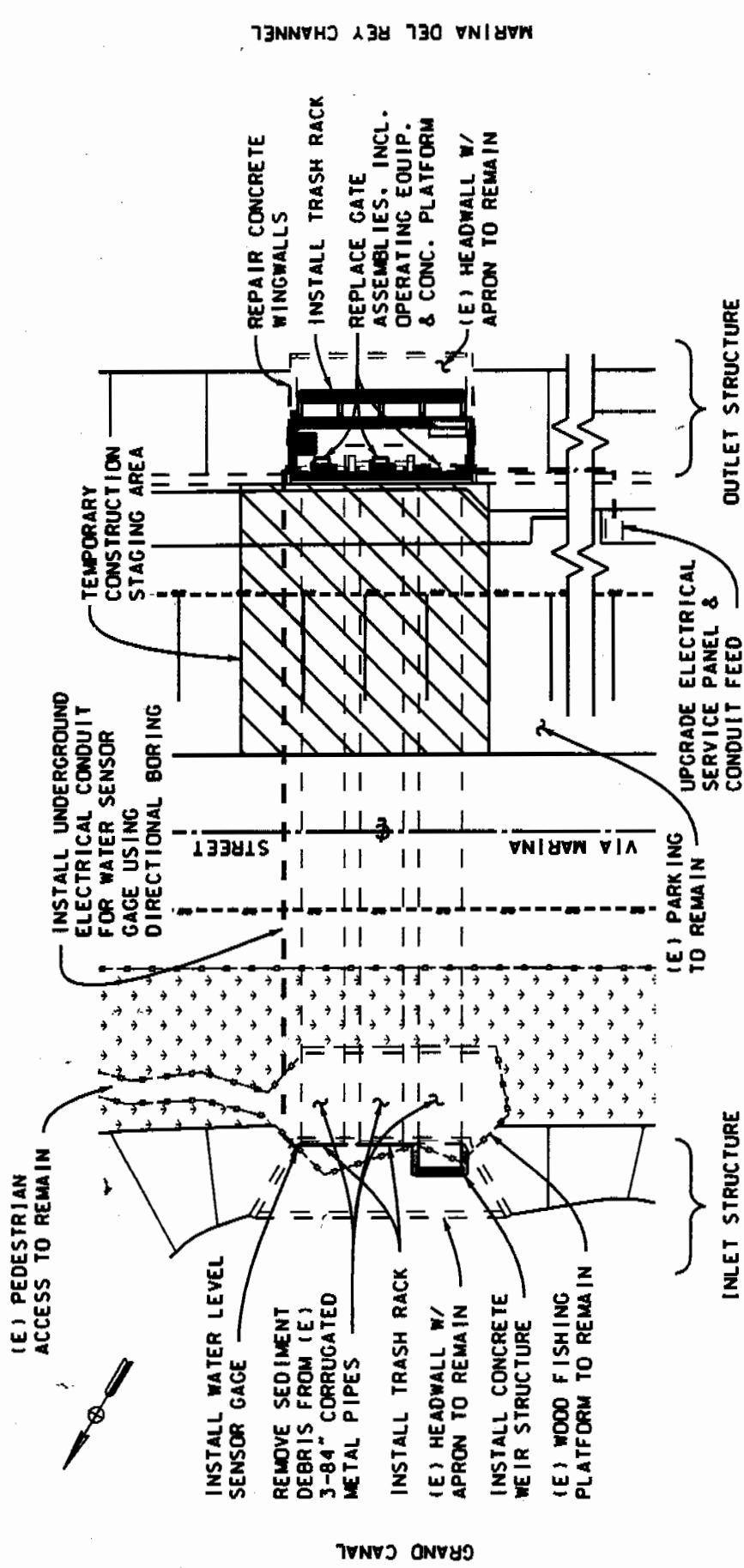
Parcel Map

California Coastal Commission

LOS ANGELES COUNTY DEPARTMENT OF PUBLIC WORKS
 MAPPING AND PROPERTY MANAGEMENT DIVISION

REFERENCES	DATE	REVISED	BY
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MARINA DEL REY TIDE GATE REHABILITATION PROJECT



MARINA DEL REY CHANNEL

GRAND CANAL

EXHIBIT NO. 3

Application Number

5-07-210

Site Plan

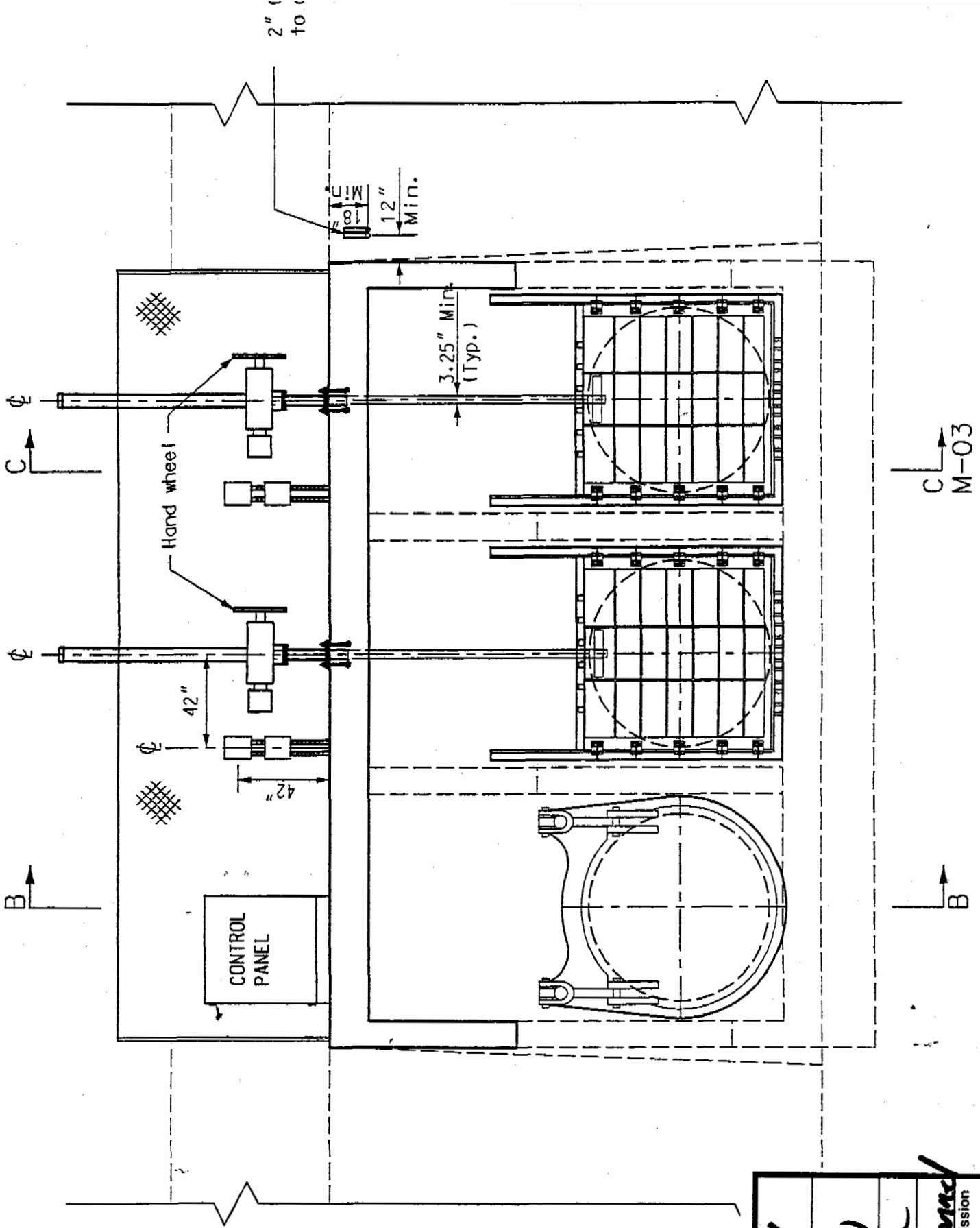


EXHIBIT NO. 4
Application Number 5-07-210
Elevation Entrance Channel
California Coastal Commission