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File Number: 15224-00002



July 1, 2009

Via Email and Facsimile

California Coastal Commission  
South Coast Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302

Re: 147 Via Marina, Venice/Application No. 5-08-285/Agenda Item TH12a

Honorable Commissioners:

This letter is submitted on behalf of our clients, Larry and Susan Colvin, the owners of the home at 146 Channel Pointe Mall, directly across Via Marina Court from the lot located at 147 Via Marina (the "Applicant's Property") owned by 15 Voyage Street, LLC (the "Applicant"). The Applicant's Property is located in a coastal access and recreational area. Specifically, it is directly north of the Marina Channel and the coastal access, pedestrian and parking areas along the waterway and directly abuts a County park in an area affecting coastal public views. The approximately 6,000 square-foot structure proposed by the Applicant would be the largest on Via Marina and would be constructed on the smallest lot in the neighborhood.

The Staff Report recommends granting a three-foot height increase above the 45-foot maximum height limit applicable to the Applicant's Property under the Venice Land Use Plan (the "LUP"). The Colvins disagree with the staff recommendation and ask that the height increase be rejected for the following reasons:

1. The applicable height limit of 45 feet is the highest allowed under the LUP. The Applicant's Property has the benefit of the tallest height limit allowed in the Venice area under the LUP. The 45-foot limit is allowed in limited areas, including the Silver Strand area ("Silver Strand"). The height limit is intended to establish the maximum allowed height. As a development standard, it is not an entitlement to build to a 45-foot height. In fact, many of the existing Silver Strand residences do not reach the maximum height. As shown on the attached copy of the Applicant's photograph, Exhibit 9 to the Staff Report, homes in the area are of variable heights and some have fewer levels rather than the five levels sought by the Applicant.

2. No other property has been granted a height increase above 45 feet. We are advised by Staff that, until now, no properties within the LUP have been allowed to exceed the 45-foot height limit. If approved, a precedent would be set allowing building heights to exceed the maximum 45-foot height limit. The extent of the additional height that would be granted to the Applicant's Property is shown on the copy of Exhibit 5 to the Staff Report attached hereto. The area exceeding the height limit is cross-hatched in Exhibit 5.

3. If this precedent is set, the four additional undeveloped lots on Via Marina would be eligible for a height increase. Adopting Staff's position will open the door to other applicants seeking similar treatment. Staff's justification for the height increase is the elevation change along Via Marina as it slopes from a higher to a lower elevation from west to east, as shown on Exhibit 8 to the Staff Report, a copy of which is attached. Four other coastal lots along Via Marina are undeveloped and, on that same basis, may be eligible for increases in building height. The domino effect along this coastal street could result in further interruption of protected public views. Moreover, Staff's justification for the height increase in this case may apply to undeveloped lots in other areas, both coastal and inland, covered by the LUP.

4. No discernible baseline for measuring the height limit is provided. The three-foot increase in height is arbitrary and without foundation. Under the LUP, height is measured from the elevation of the fronting right-of-way, in this case Via Marina. Staff proposes raising that fixed measurement point by three feet. However, the basis for a three-foot height increase is entirely unclear. It is stated that there is a "dip," but no measurements or points of reference are provided. The three foot differential is compared to what? An elevation point at the easterly end of the street? The elevation fronting 135 Via Marina, the nearest developed lot, three lots away? Obviously, this becomes a moving target with any number of variables coming into play when applied to future applications. The portion of Via Marina in front of the Applicant's Property has not been shown to be three feet lower than any identified point.

5. Of utmost importance, the height increase will affect views from public areas in contravention of Chapter 3 of the Coastal Act. The Staff Report suggests that the height increase will not affect views from public areas. In fact, the height and bulk of this structure will be visible from public areas, including the coastal pedestrian walkways along Via Marina, the Marina entrance channel to the south, and the County park and parking lot directly abutting the Applicant's Property to the east. As noted by Staff, Via Marina is a major coastal access road. In addition, the courtyards, parking areas and streets of Silver Strand are used for public parking and pedestrian access to the coast. As acknowledged in the Staff Report, the increase above the height limit would allow an additional fifth level to be built. Given the coastal location of the Applicant's Property and the many public access points and recreational resources surrounding the Applicant's Property, this height increase will affect public views in contravention of Chapter 3 of the Coastal Act. Additionally, these impacts may be exacerbated as the other four undeveloped lots along this waterfront street are developed and seek similar height increases.

6. The Applicant's survey shows a slope along Via Marina of approximately two feet over a 40-foot distance. Contrary to the assertion of a three-foot differential, the survey submitted by the Applicant, Exhibit 8 to the Staff Report, shows an elevation change of just 2.15 feet over the entire 400-foot length of Via Marina. (In the attached copy, we have circled the westward slightly higher elevation of 102.96 and the eastward elevation, directly fronting the Applicant's Property, of 100.81). The two-foot differential across the width of the nine lots fronting on Via Marina is nominal. This type of differential is typically provided in order to allow for street drainage flow. The elevation of Via Marina in front of each of the nine lots will

differ to a degree. As the survey shows, only a two-foot difference exists between the most westerly end of Via Marina and the Applicant's Property. No evidence is provided as to whether streets throughout Silver Strand have similar elevation variations.

7. The height limit is already designed to take into account the variation of the elevation by allowing the 45 feet to be measured adjacent to the lot. The LUP establishes the baseline for measuring height utilizing an early ascertainable and consistent standard -- the elevation of the fronting right-of-way. This standard takes into consideration the prevailing conditions at the location of the lot by measuring the height of the building from a fixed point adjacent to the applicable lot.

8. The three-foot height increase may result in the tallest structure on Via Marina. The Staff Report asserts that, in granting the three-foot height increase, the structure on the Applicant's Property would be no taller than the existing structures on Via Marina. No evidence is provided to support this conclusion. The elevation of the centerline of Via Marina in front of the four existing residences is not provided. Neither is the actual height of those structures. Allowing the Applicant's Property to exceed the 45-foot height limit may result in a taller structure than any of the existing buildings, which were each required to adhere to the maximum height of 45 feet, and may not have even been built to that height.

9. If approved, the proposed structure would be the largest in the neighborhood. The Applicant purchased a relatively small lot and is seeking to build at a density that is not in keeping with the character of the neighborhood. The proposed nearly 6,000 square-foot structure would be larger than any of the homes in the adjacent neighborhood, all of which are on larger lots. At a City of Los Angeles hearing earlier this year, it was stated that this would be the largest home in the neighborhood and would be placed on the smallest lot in the neighborhood. The City's decision letter cited testimony at that hearing which reflected an average home size of 5,000 square feet or less on the larger lots on the north side of Via Marina Court, while the four existing homes along Via Marina range from 3,150 feet to 5,000 square feet. The Applicant's photograph, Exhibit 9 to the Staff Report, shows the variations in the sizes and heights of nearby residences, with some consisting of four levels rather than five levels. All are on larger lots than the Applicant's Property.

10. The Applicant's Property enjoys superior attributes and so does not warrant special treatment. Apparently, it is the Applicant's assertion that the Applicant's Property is "substandard" due to its smaller size and deserves special treatment because of it. In fact, the attributes of this property provide advantages that assure its value. Specifically, this is a corner lot with unobstructed views of the water to the south and the County park to the east. Unlike the vast majority of the homes in Silver Strand, this lot is far superior as to location and views. No special treatment is needed to achieve parity with other properties.

11. The City of Los Angeles has found a 6,000 square foot structure to be out of scale with the surrounding neighborhood. Not surprisingly, the Applicant is seeking to construct the greatest amount of square footage possible. Previously, the Applicant sought a reduction in sideyard setbacks to achieve this objective. The City of Los Angeles Zoning Administrator denied that request. The Zoning Administrator found no basis to justify granting such an advantage. Specifically, as to the proposed approximately 6,000 square foot structure, the Zoning Administrator concluded that “the proposed house as designed is too large for the lot.” Additionally, the Zoning Administrator found the proposed structure to be out of scale with the surrounding neighborhood, finding that the Applicant’s proposal “would not result in development compatible and consistent with the surrounding uses.” (Emphasis added.)

12. Staff’s recommendation would defeat the purpose of a maximum height limit. The Staff recommendation takes the position that a lot at a lower elevation can be treated as if it were at the same elevation as a higher elevation along Via Marina. A rule that allows the height of the structure to be increased based on slope deviations means that the maximum height limit may be disregarded as to any lots at a lower elevation. If the maximum height limit can be overridden based on the existence of an elevation difference along the center line of a street, other lots that do not front on the highest elevation point of the street may be entitled to exceed the 45-foot height limit. The rationale utilized by Staff in its recommendation would mean that slight variations in elevation could be utilized to exceed height limits. This approach defeats the very purpose of a maximum height limit and grants a windfall to lots at a lower elevation relative to lots at a higher elevation.

13. The information provided by the Applicant has been consistently erroneous and unreliable. As reflected on Exhibit 5 to the Staff Report, the height of the structure was misrepresented in original submittals and corrected only after Staff identified the improper use of a higher elevation for purposes of measuring the structure’s height and directed the Applicant to revise the submittal. (The 45’ mark at the top right of the page was the Applicant’s original indication of the allowed building height.) Similarly, the photograph attached as Exhibit 9 to the Staff Report shows the Applicant’s attempt to assert that the height of 135 Via Marina is measured from Via Marina Court rather than Via Marina. As Staff notes in the Staff Report, height has been consistently measured from Via Marina for all four previously developed lots. Information provided by the Applicant must be independently verified, given the unreliability of information previously presented.

14. The Applicant is an experienced developer who bought the property with notice of the applicable development standards. This lot was purchased by a spec developer who has built several other homes within Silver Strand and is well aware of the development standards. There is no reason to diverge from those standards and grant special privileges in this case.

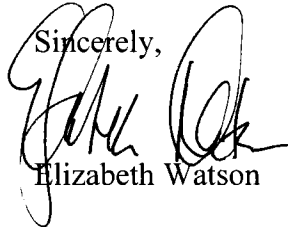
15. The Staff recommendation would grant an advantage to the Applicant. The Colvins and their neighbors along the other side of Via Marina Court and along Via Marina built within the development standards and did not obtain height increases based on variations of street elevations.

In summary, the facts of this case do not justify increasing the maximum allowable 45-foot height limit. This is particularly important given the waterfront location of the Applicant's Property in the center of a coastal access and recreational area. Any increase in the size and bulk of the structure will affect coastal views and resources, particularly from pedestrian areas within the County park, the waterfront along Via Marina and the publicly accessible areas of Via Marina Court and Silver Strand. Additionally, the standard proposed by Staff would set a precedent to allow increases above the maximum height limit for lower elevation properties relative to higher elevation properties.

It should come as no surprise to the Applicant that a smaller lot results in a smaller building size than would be allowed on a larger lot. Nonetheless, the Applicant is seeking to construct 6,000 square feet, which would make this residence the largest structure in the neighborhood regardless of lot size and place that square footage on the smallest lot. Moreover, this lot is not at all at a disadvantage compared to other lots in the neighborhood. It enjoys the benefit of unobstructed views toward the water to the south and toward the County park to the east. For all these reasons, we believe that the construction of a residence that meets the applicable development standards that have been applied to all of the properties in the surrounding neighborhood is necessary to protect the policies and objectives of the Coastal Act.

We appreciate your consideration of our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth Watson', is written over the printed name.

Elizabeth Watson

EW/sab  
Enclosures

EXIST S.F.R  
@ 119 VIA M.

EXIST S.F.R  
@ 123 VIA M.

VACANT  
@ 127 VIA M.

VACANT  
@ 131 VIA M.

EXIST S.F.R  
@ 135 VIA M.

VACANT  
@ 139 VIA M.

VACANT  
@ 143 VIA M.

PROPOSED S.F.R  
@ 147 VIA MARINA

EXIST S.F.R  
@ 142 CH.P.M.  
ROOF EVEV  
65.0'

EXIST S.F.R  
@ 146 CH.P.M.  
ROOF EVEV  
65.0'

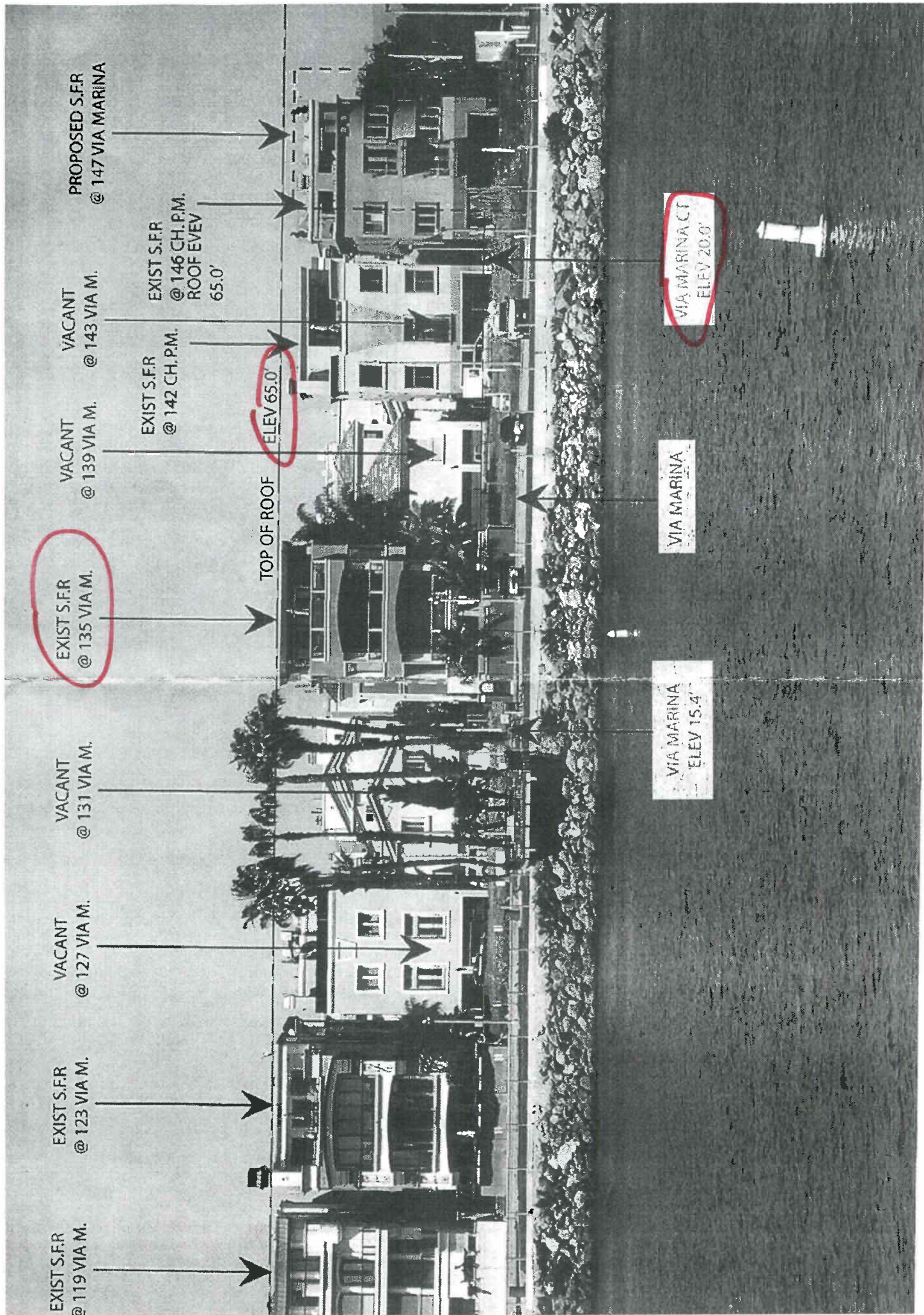
TOP OF ROOF

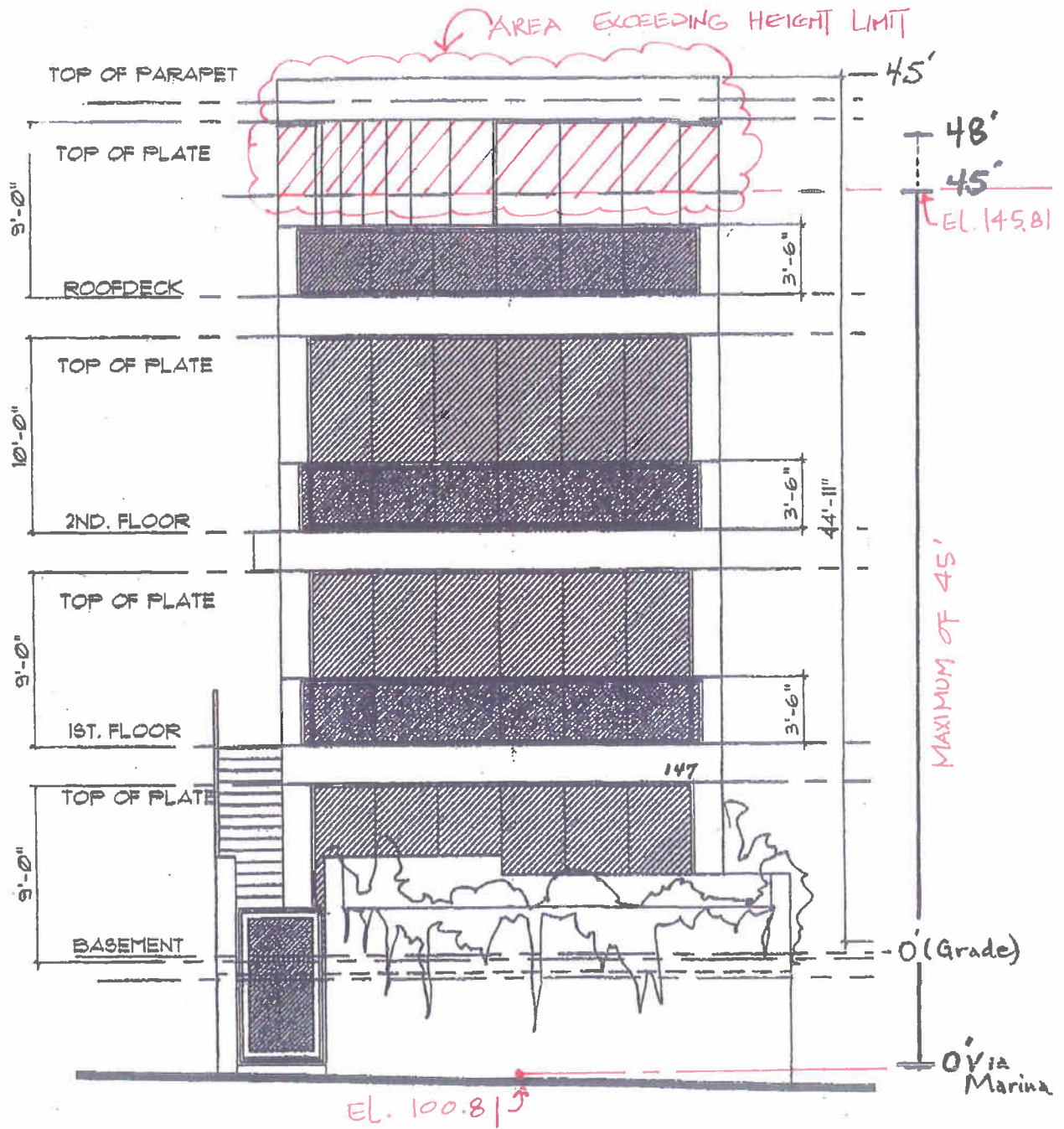
ELEV 65.0'

VIA MARINA  
ELEV 15.4'

VIA MARINA

VIA MARINA CF  
ELEV 20.0'





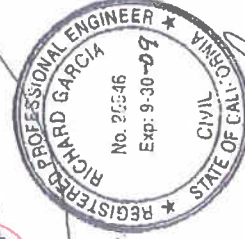
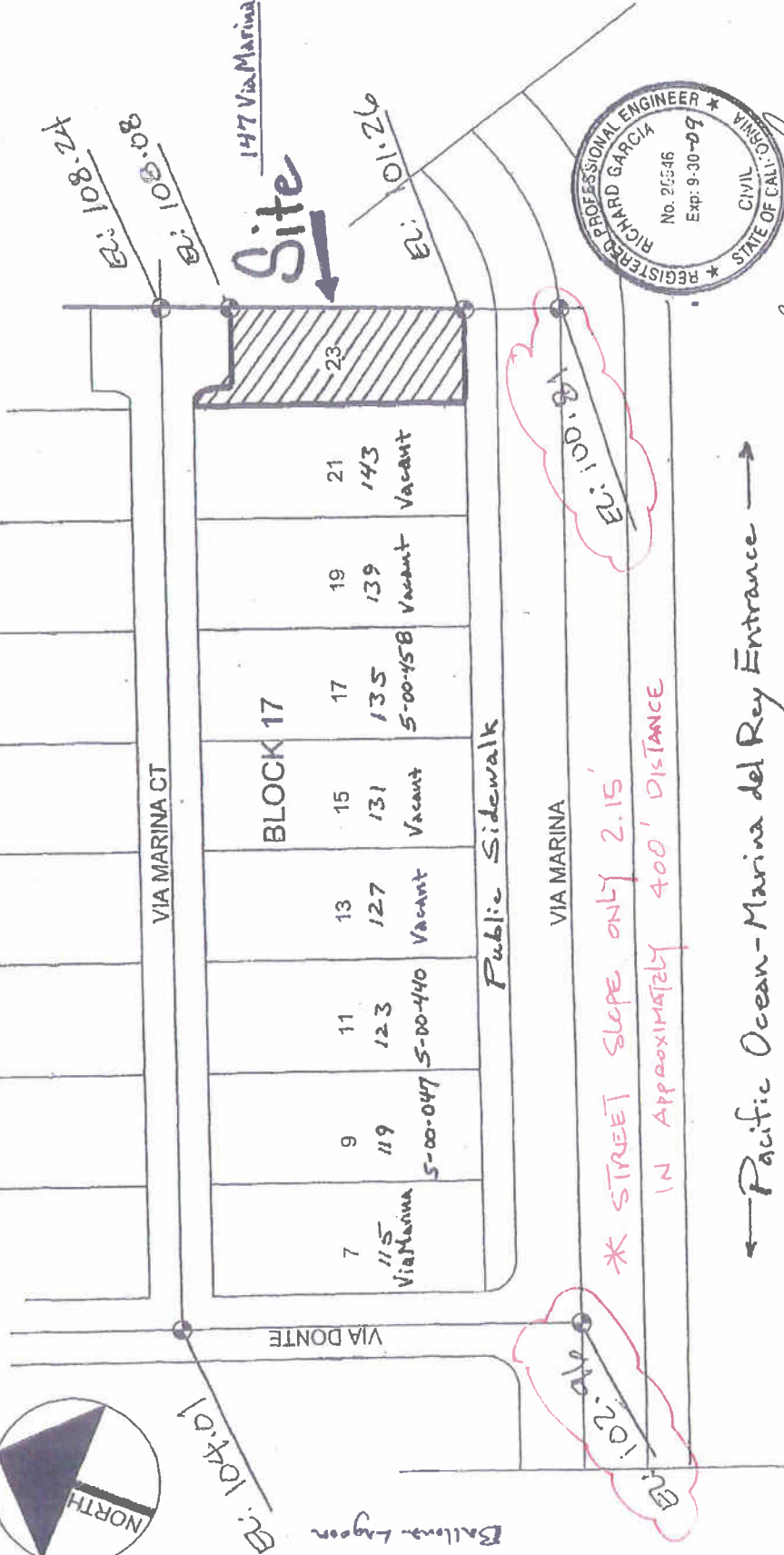
FRONT ELEVATION  
(Via Marina)

COASTAL COMMISSION  
5-08-285

EXHIBIT # 5  
PAGE 1 OF 1

JUN 15 2009

CALIFORNIA  
COASTAL COMMISSION



*Richard Garcia*  
6-12-09

← Pacific Ocean - Marina del Rey Entrance →

COASTAL COMMISSION  
5-08-285

EXHIBIT # 8  
PAGE 1 OF 1

**CALIFORNIA COASTAL COMMISSION**

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

Filed: 2/2/2009  
49th Day: 3/23/2009  
180th Day: 8/1/2009  
Staff: Charles Posner - LB  
Staff Report: 6/18/2009  
Hearing Date: July 9, 2009  
Commission Action:



# Th12a

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-08-285

**APPLICANT:** 15 Voyage Street, LLC (Michael Dobson)

**AGENT:** Vincent Varela

**PROJECT LOCATION:** 147 Via Marina (Lot 23, Block 17, Del Rey Beach Tract), Venice, City of Los Angeles, Los Angeles County.

**PROJECT DESCRIPTION:** Remove a mobile construction office trailer from the 2,280 square foot lot, and construct a 48-foot high, 5,905 square foot (approx.) single-family residence with an attached three-car garage.

Lot Area	2,280 square feet
Building Coverage	1,180 square feet
Pavement Coverage	800 square feet
Landscape Coverage	300 square feet
Parking Spaces	3
Zoning	R1-1
Plan Designation	Single-Family Residential
Ht above final grade	48 feet above Via Marina

**LOCAL APPROVAL:** City of Los Angeles Planning Department Approval, Case No. DIR-2008-4534-SPP-MEL (1/28/2009).

**SUMMARY OF STAFF RECOMMENDATION**

The applicant is requesting Commission approval for a house that is at least 48 feet in height above the elevation of the fronting street (Via Marina), instead of conforming to the 45-foot height limit set forth in the certified Venice Land Use Plan. The justification for the additional height is that the street dips about three feet lower in front of the project site, and the proposed house would not exceed the elevation of the adjacent buildings (Exhibit #9). If the house is limited to 45 feet measured from the dip in the road, it would appear to be a few feet shorter than the other houses on the street (because the street elevation is higher in front of the other eight lots). A 48-foot high house would not exceed the height of the other homes on the block when measured from a horizontal plain, like sea level. Therefore, the height and scale of the proposed house is consistent with community character and will not adversely affect coastal views. Staff is recommending **APPROVAL** of the proposed development with special conditions relating to the maintenance of public areas, compliance with underlying permit requirements, deed restriction, landscaping, parking, water quality, and submittal of revised plans (for compliance with the special revised height limitation). **See Page Two for the motion to carry out the staff recommendation.**

**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Los Angeles certified Venice Land Use Plan, 6/14/2001.
2. Coastal Development Permit A-266-77 (ILA) & amendment.
3. Coastal Development Permit 5-87-112 (Del Rey Assoc.) & amendment.
4. Coastal Development Permit 5-86-641 (Lee).
5. Coastal Development Permit 5-03-497 (B.A.B. Enterprises, 133 Channel Pte Mall).
6. Coastal Development Permit 5-00-458 (Rafla, 135 Via Marina)/
7. Coastal Development Permit 5-00-440 (MFC Properties, 123 Via Marina)
8. Coastal Development Permit 5-00-047 (Wilson, 119 Via Marina).

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

**MOTION:** *"I move that the Commission approve with special conditions Coastal Development Permit 5-08-285 per the staff recommendation."*

The staff recommends a **YES** vote. Passage of the motion will result in **APPROVAL** of the coastal development permit application with special conditions, and adoption of the following resolution and findings, as set forth in this staff report or as modified by staff prior to the Commission's vote. The motion passes only by an affirmative vote of a majority of Commissioners present.

**I. Resolution: Approval with Conditions**

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

**II. Standard Conditions**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a

diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. Special Conditions

#### 1. Maintenance of Public Areas

In order to maintain the public areas designated in the Silver Strand and Del Rey Beach tracts, the applicant and all successors in interest shall participate in the private homeowners association established under amended Coastal Development Permit A-266-77 (ILA) on a fair and equitable basis in the maintenance of all public areas and landscaping (including pedestrian malls, parking nodes, and the lagoon buffer and pathway) installed pursuant to Coastal Development Permits A-266-77 (ILA), 5-86-641 (Lee) and 5-87-112 (Del Rey Assoc.). The public areas are identified on the attached "Public Areas Exhibit – Del Rey/Silver Strand" (**Exhibit #7 of the staff report dated 6/18/09**) and repeated as Exhibit #1 to the Notice of Intent that the Executive Director issues for this coastal development permit.

#### 2. Coastal Development Permit 5-87-112 (Del Rey Assoc.)

Through the acceptance of this coastal development permit, the applicant acknowledges and agrees as follows:

- A) The project site is subject to Coastal Development Permit 5-87-112 (Del Rey Assoc.) and that all development must be consistent with Coastal Development Permit 5-87-112 (Del Rey Assoc.), and;
- B) All public areas provided and improved pursuant to Coastal Development Permit 5-87-112 (Del Rey Assoc.), including Channel Pointe (Yawl) Mall, Westwind Mall, and the public streets and alleys, shall remain open and available for use by the general public on the same basis as similar public areas within the City.

#### 3. Building Height

The roof of the proposed single-family residence shall not exceed a height of 48 feet, measured from the centerline of the Via Marina right-of-way in front of the project site. **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 project plans demonstrate compliance with a roof height limit of 48 feet,

measured from the centerline of the Via Marina right-of-way in front of the project site. Roof deck railings of an open design shall not exceed 36 inches above the 48-foot roof height limit. Chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may extend up to 53 feet in elevation above the Via Marina right-of-way. In addition, the revised plans shall show that the height of the wall proposed between the approved single-family residence and the abutting public sidewalk on Via Marina does not exceed a height of six feet, as measured from the Via Marina public sidewalk. The revised plans must be approved by the City of Los Angeles Department of City Planning. The permittee shall undertake and maintain the development in accordance with the final plans approved by the Executive Director and the City pursuant to this condition. Any proposed change to the approved plans 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 plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Wall Height and Landscaping Adjacent to Public Sidewalk

Through the acceptance of this coastal development permit, the applicant acknowledges and agrees as follows:

- A) The maximum height of the wall proposed between the approved single-family residence and the abutting public sidewalk on Via Marina shall not exceed a height of six feet, as measured from the Via Marina public sidewalk, and;
- B) All landscaping within the planter area of the wall shall be maintained in good growing condition throughout the life of the project. New plant material shall be installed whenever necessary.

5. Permeable Yard Area

In order to reduce the amount of runoff leaving the site and to preserve the water quality and biological productivity of Ballona Lagoon, a permeable yard area shall be maintained in the front yard area between the structure and the front property line. No more than twenty percent (20%) of the front yard setback (permeable front yard area) shall be covered with impervious materials (i.e., walkway, stairways, and garden walls).

6. Landscaping

Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. 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. The use of pesticides and herbicides is prohibited in the front yard permeable yard area required by Special Condition Five.

7. Parking

The applicant shall provide at least three off-street parking spaces on the project site as proposed. These parking spaces shall take access from the alleys (also called courts). The courts and street ends shall not be used as parking for the residence approved by this coastal development permit. This condition shall serve as notification that amended Coastal Development Permit A-266-77 (ILA) reserves parking on the street ends in the Silver Strand area for public parking, and that these public parking areas shall not be used for preferential parking. It also serves notice that the street and street ends adjacent to the project site shall not be reserved to any homeowner(s).

8. Drainage – Water Quality

Through the acceptance of this coastal development permit, the applicant acknowledges and agrees as follows: The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction shall not occur where such materials/chemicals could pass into the water or drain. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all stormdrains, open ditches and surface waters. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any waterway or street that drains into a waterway, unless specifically authorized by the California Regional Water Quality Control Board. All floatable debris and trash generated by construction activities within the project area shall be disposed of at the end of each day, or as soon as possible. All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.

9. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. Deed Restriction

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2)

imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel governed by this coastal development permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either this coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **IV. Findings and Declarations**

The Commission hereby finds and declares:

##### **A. Project Description and Background**

The applicant proposes to construct a five-level, 5,905 square foot single-family residence on a 2,280 square foot lot in the Del Rey Beach Tract in Venice (See Exhibits). The project site fronts on Via Marina, a major coastal access road; and faces the entrance channel of Marina del Rey (Exhibit #9). The proposed residence provides three on-site parking spaces within a three-car garage accessed from Via Marina Court, the rear alley (Exhibit #4). A six-foot high wall, topped with a landscaped planter, is proposed on the property line between the proposed development and the abutting public sidewalk on Via Marina (Exhibit #5).

The applicant is requesting Commission approval to construct a house that is at least 48 feet above the elevation of the fronting street (Via Marina) instead of conforming to the 45-foot height limit set forth in the certified Land Use Plan (LUP) for Venice. The additional height would allow the proposed house to have five levels instead of four levels. The justification for the additional height is that the street dips about three feet lower right in front of the project site. If the house is limited to 45 feet measured from the dip in the road, it would appear to be a few feet shorter than the other houses on the street (because the street elevation is higher in front of the other eight lots). A 48-foot high house would not exceed the height of the other homes on the block when measured from a horizontal plain, like sea level (Exhibit #9). The size of the proposed house is already limited by the relatively small size of the lot, which is five feet narrower and five feet shorter than the other lots on the block (Exhibit #8).

The project site is part of the Del Rey Beach Tract (Exhibit #3). The Silver Strand subdivision is located three blocks north of the site. Ballona Lagoon is located about three hundred feet west of the site. The Marina del Rey entrance channel is located about one hundred feet south of the site, on the other side of Via Marina. The entire area is referred to as the "Silver Strand area" (Exhibit #7). The Silver Strand subdivision and the Del Rey Beach tract share a long history before the Coastal Commission. Both subdivisions, referred to together as the Silver Strand area, are located along the east bank of Ballona Lagoon and have only recently been developed with single-family residences. Although the subdivisions were created in the early 1900s, the development of the area did not commence until the late 1970s. Therefore, the Commission has reviewed and permitted the development of the subdivisions with single-family residences.

The first Commission approval in the area occurred in 1977 when the Commission approved the "Silver Strand Permit", A-266-77 (ILA), which was brought before the Commission on an appeal. Prior to the Commission's action on Coastal Development Permit A-266-77 (ILA) in 1977, the Commission and its predecessor denied several applications to improve the streets and supply utilities within portions of the Silver Strand subdivision and the Del Rey Beach Tract to make residential development possible. The previous projects were denied because of adverse impacts on traffic, recreation and wetland habitat.

The projects were proposed by a consortium of most of the owners of the approximately three hundred undeveloped lots situated on Blocks 7 through 18 of the Silver Strand subdivision and Blocks 13 through 15 of the Del Rey Beach Tract (Exhibit #3). The consortium was judged to have the legal ability to apply for a permit to grade the lots, improve the streets, and supply utilities within the Silver Strand area so that individual lot owners would eventually be able to build homes under separate permits.

The Commission's 1977 approval of Coastal Development Permit A-266-77 (ILA) permitted the consortium of applicants, the Isthmus Landowners Association (ILA), to develop the infrastructure necessary for the development of single family homes on approximately three hundred lots located on Blocks 7 through 18 of the Silver Strand subdivision and Blocks 13 through 15 of the Del Rey Beach Tract (Exhibit #3).

The currently proposed project is located on a lot (**Lot 23 of Block 17, Del Rey Beach Tract**) outside of the project area of approved Coastal Development Permit A-266-77 (Exhibit #3). The Commission's approval of Coastal Development Permit A-266-77 (ILA), however, is still relevant as it remains the basis for the development of the Silver Strand area under subsequent approvals [e.g., Coastal Development Permit 5-87-112 (Del Rey Assoc.)].

Coastal Development Permit A-266-77 (ILA) was subject to conditions addressing lagoon protection, maintenance of public areas, public access, and public parking. In its approval of Coastal Development Permit A-266-77 (ILA), the Commission found that Ballona Lagoon, located adjacent to the Silver Strand and Del Rey Beach subdivisions and about three hundred feet west of the subject site, was critical habitat area and an important coastal resource. The Commission further found that residential development of the Silver Strand area would have major adverse cumulative impacts on the lagoon and that several measures were necessary to mitigate the adverse impacts of development.

One of the mitigation measures was a condition of Coastal Development Permit A-266-77 (ILA) that required the owners of the lots subject to Coastal Development Permit A-266-77 (ILA) to establish a private homeowners association sufficient to maintain all public areas and landscaping approved and required by the permit. Because all of the owners of the lots subject to Coastal Development Permit A-266-77 (ILA) would benefit from the permitted tract improvements, the Commission required each lot owner to contribute to the maintenance of the improvements. Coastal Development Permit A-266-77 (ILA) was amended in 1979. Since 1980, the approved grading has been completed, a public access path along Ballona Lagoon has been improved, and the permittee (ILA) established itself as the private homeowners association of the Isthmus Landowners Association (ILA) to maintain the lagoon buffer and other public areas.

The findings and special conditions of approval established through the Commission's approval of Coastal Development Permit A-266-77 (ILA) have become the standard by which subsequent permits in the area are reviewed in order to ensure consistency with the Chapter 3 policies of the Coastal Act, and these conditions provide the basis for the mitigating special conditions that have been routinely applied to all subsequent coastal development permits in the area, including this one. The special conditions ensure that the Chapter 3 policies of the Coastal Act and the underlying permit are carried out as individual lots are developed in the Silver Strand area. Special Condition One, in particular, requires the applicant to participate in the private homeowners association established under amended Coastal Development Permit A-266-77 (ILA) in the maintenance of all public areas and landscaping (including pedestrian malls, parking nodes, and the lagoon buffer and pathway) that have been installed pursuant to Coastal Development Permit A-266-77 (ILA) and the other permits authorizing the development in the Silver Strand area [See Exhibit #3: Coastal Development Permits 5-86-641 (Lee) and 5-87-112 (Del Rey Assoc.)]. The public areas are identified on the attached "Public Areas Exhibit – Del Rey/Silver Strand" (Exhibit #7). As conditioned, the proposed development conforms with the Chapter 3 policies of the Coastal Act and the prior permits.

#### **B. Community Character – Building Height**

The standard of review for the proposed development is the Chapter 3 policies of the Coastal Act, rather than the policies of the certified LUP. The Coastal Act requires that the scenic and visual qualities of coastal areas shall be considered and protected, that development be visually compatible with the character of surrounding areas, and that special neighborhoods be protected.

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.

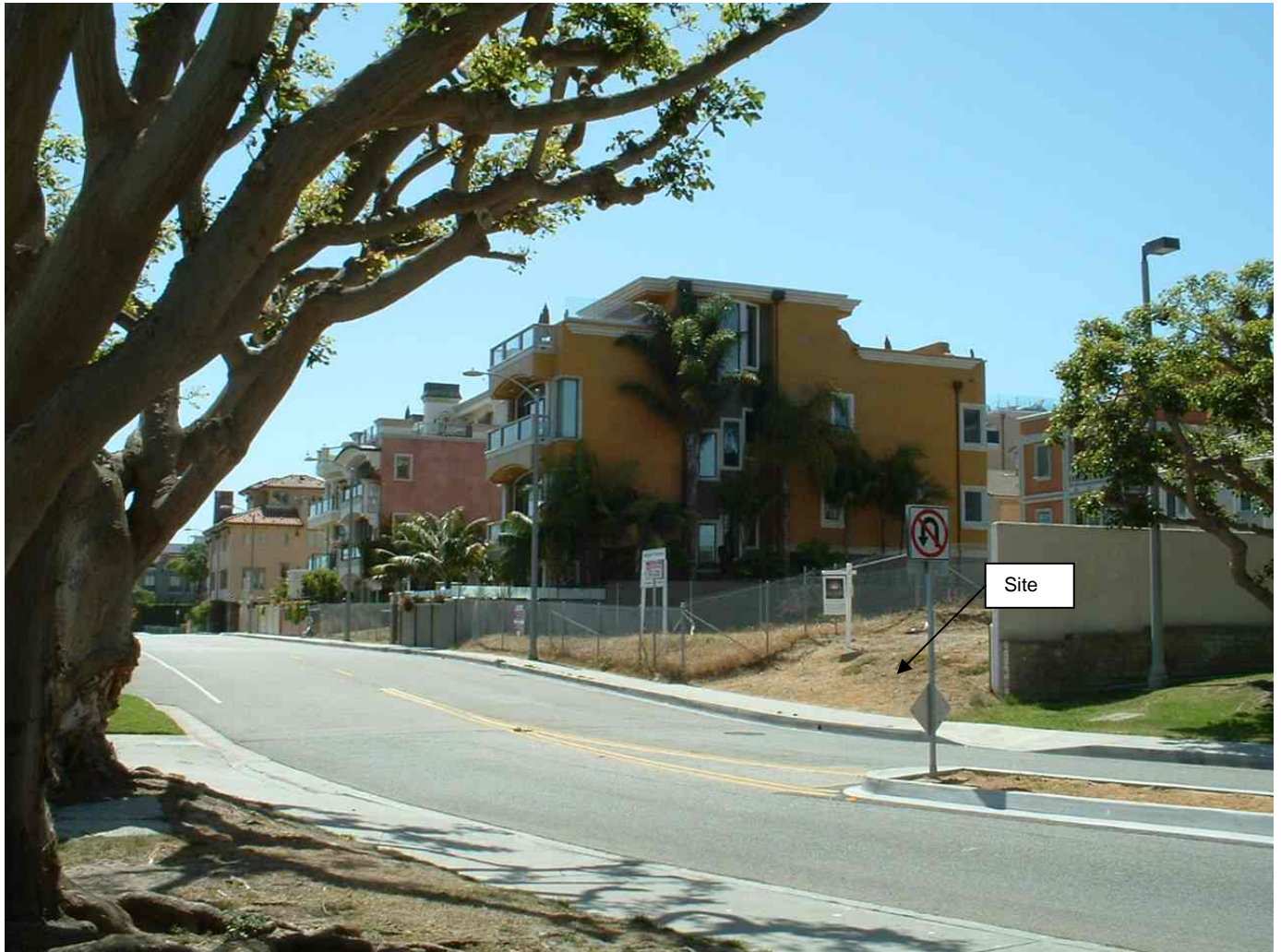
Section 30253(5) of the Coastal Act states, in part:

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.

Building height and bulk can adversely affect the scenic and visual qualities of the Venice coastal area and the unique character of its neighborhoods. In order to maintain and protect community character, the certified Venice Land Use Plan (LUP) sets forth specific height limits for buildings in the Venice neighborhoods. The height limits in Venice vary between 25 and 45 feet. The Silver Strand area has the highest height limit in Venice, which is 45 feet above the fronting right-of-way. The height limits for Venice are measured from the elevation of the

fronting street in all areas except the Venice Canals, where they are measured from the rear alley (because the fronting streets are the canals). Measuring building heights from the fronting streets works well throughout Venice, because most of the streets are relatively level. Even in the hilly areas, however, the right-of-way baseline maintains a consistency in terms of building heights.

In this case, however, the fronting street (Via Marina) dips about three feet lower than the rest of the street in front of the project site, which is the last lot on the block (See Survey: Exhibit #8). The low spot in the street is a drainage channel that crosses the street and drains into the Marina del Rey entrance channel.



147 Via Marina, May 5, 2009 (CP)

The dip in Via Marina creates an anomaly in the baseline from which building heights are measured on this single block of homes. The three other houses approved by the Commission on Via Marina are each permitted to be 45 feet in height, measured from Via Marina (Coastal Development Permits 5-00-047, 5-00-440 & 5-00-458). The street elevation in front of the other developed lots, however, does not vary more than a few inches.

Because there is a pronounced dip in Via Marina in front of the project site (the last lot on the block), the applicant is requesting Commission approval to construct a house that is at least 48 feet above the elevation of the fronting street (Via Marina) instead of conforming to the 45-foot

height limit set forth in the certified Land Use Plan (LUP) for Venice. A few feet of additional height would allow the proposed house to have five levels instead of four levels. A fifth level is necessary, according to the applicant, because size of the proposed house is already limited by the relatively small size of the lot, which is five feet narrower and five feet shorter than the other lots on the block (Exhibit #8).

The applicant lists several reasons the proposed project should be permitted to exceed the height limit set forth in the certified LUP:

1. The street dips about three feet lower right in front of the project site. It would not be fair to measure one house on the block from this low spot, while the other eight lots on Via Marina are measured from a higher elevation.
2. If the house is limited to a height of 45 feet measured from the dip in the road, it would appear to shorter than the homes on the eight other lots on the street because the street is at a higher elevation in front of the other lots.
3. The size of the proposed house is already limited by the relatively small size of the lot, which is five feet narrower and five feet shorter than the other lots on the block (Exhibit #8). The additional height will allow one more level.
4. The proposed 48-foot high house will not exceed the height of the other homes on the block when measured from a horizontal plain, like sea level (Exhibit #9).
5. Since the proposed house will not exceed the height of the other houses on the block, it will not adversely impact community character or coastal resources.

The applicant had also requested that the building's height be measured from the rear alley (Via Marina Court) instead of the fronting street (Via Marina). The rear alley has an elevation that is about seven feet higher than Via Marina. Commission staff rejected the request to use the alley as the baseline because the previously approved houses on Via Marina are all limited to a maximum of 45 feet above Via Marina. The heights of the other homes, as measured in relation to the rear alley, are not known. Therefore, Via Marina must remain the baseline elevation in order to ensure the consistency in height between all the houses, as the applicant has agreed.

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. In this case, the Commission finds that the proposed project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act because it will not adversely affect the character and scenic and visual qualities of the community, even though the proposed structure exceeds the certified LUP height limit. In fact, the proposed project is consistent with community character because, as conditioned, its roof will not exceed the elevation of the other houses on the block. In addition, the proposed project will not obstruct any public views or block public access. Finally, the approval of the proposed project in excess of the LUP's height limits 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. Among those unique circumstances are the facts that the fronting street

dips in front of the site and the proposed project will not be higher than the other nearby structures. Therefore, the proposed project is approved.

### **C. Public Access and Recreation**

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.

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 Marina Peninsula neighborhood provide excellent pedestrian access to the beach. It is a goal of the Coastal Commission and the City to protect these public resources.

The proposed project will not obstruct any public views or block public access along the walk street. The proposed development also does not interfere with public recreational use of coastal resources. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

### **D. Marine Resources and Water Quality**

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

### **E. Development**

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

**F. Environmentally Sensitive Habitat Areas (ESHA)**

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

**G. 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 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.

**H. Local Coastal Program**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. 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.

**I. California Environmental Quality Act (CEQA)**

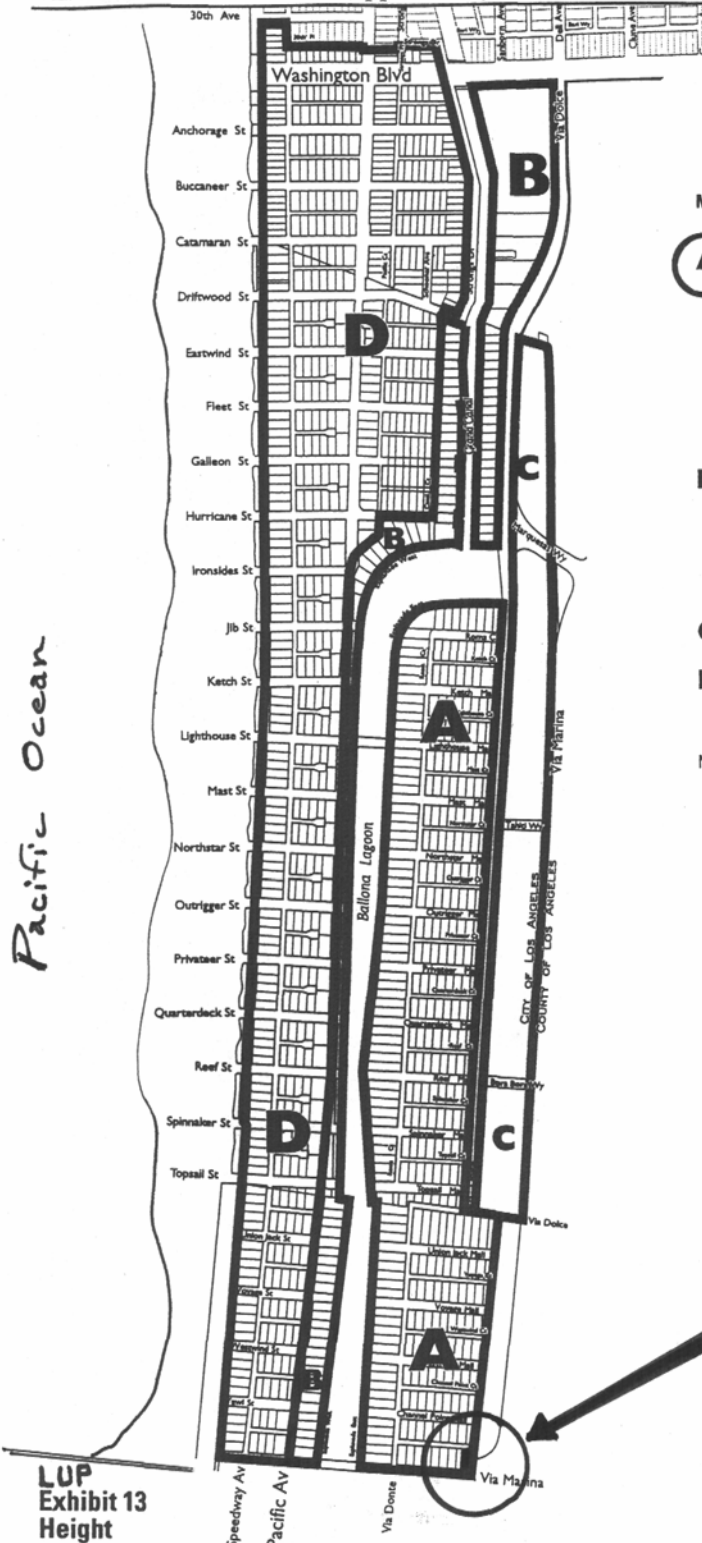
As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

# VENICE, CA



COASTAL COMMISSION  
5-08-285

EXHIBIT # 1  
PAGE 1 OF 1



**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.

Site: 147 Via Marina

**COASTAL COMMISSION**  
**5-08-285**



**LUP**  
**Exhibit 13**  
**Height**

**Subarea: Marina Peninsula • Silver Strand •**  
**Ballona Lagoon West • Ballona Lagoon (Grand Canal) East**

**EXHIBIT #** 2  
**PAGE** 1 **OF** 1

# Site:

147 Via Marina, Lot 23, Block 17

CDP  
A-26-77 ← → 5-87-112

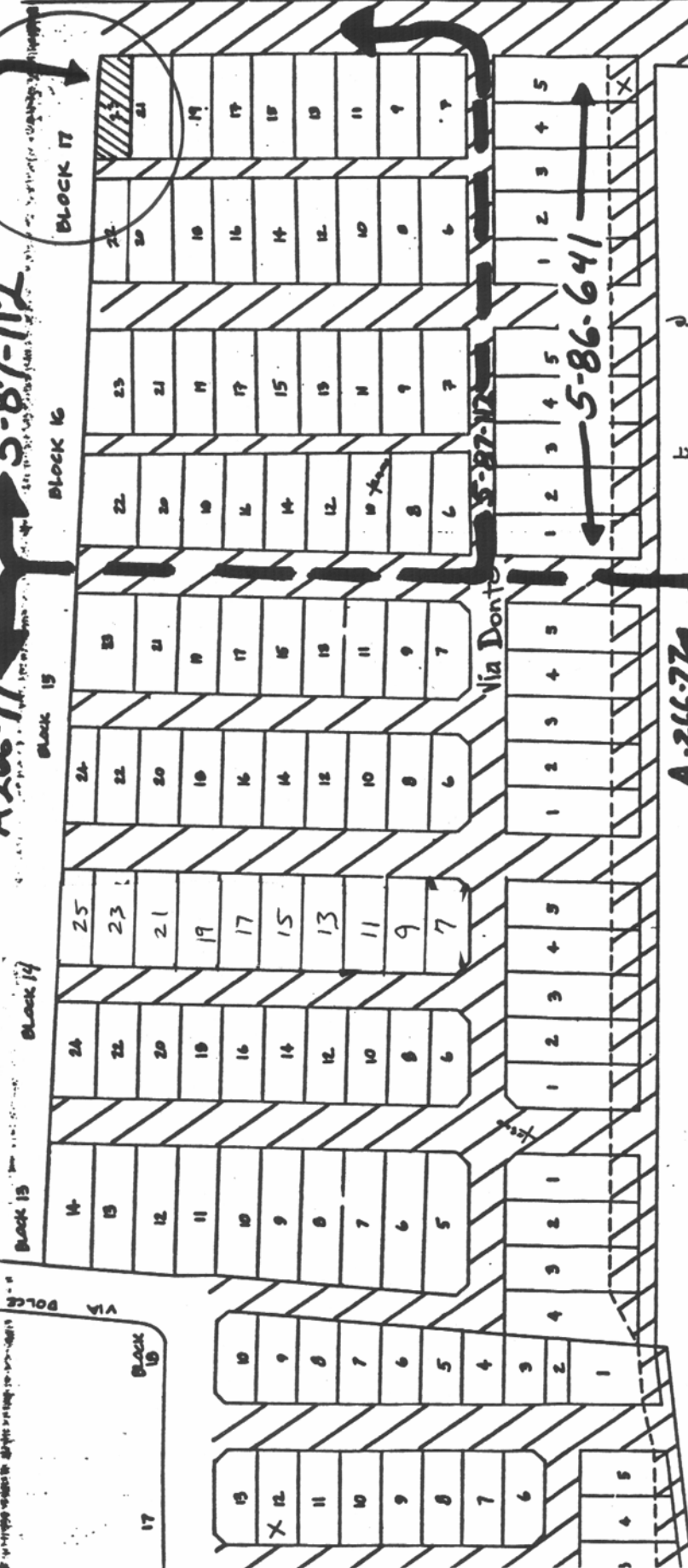


EXHIBIT NO. 3

APPLICATION NO.

5-08-285

Location Map

CALIFORNIA COMMISSIONERS

11/13/00, 11/14/00,

APPROVED ON 3/24/01, 2/19/01

AS CONCERNING TO PERMITS

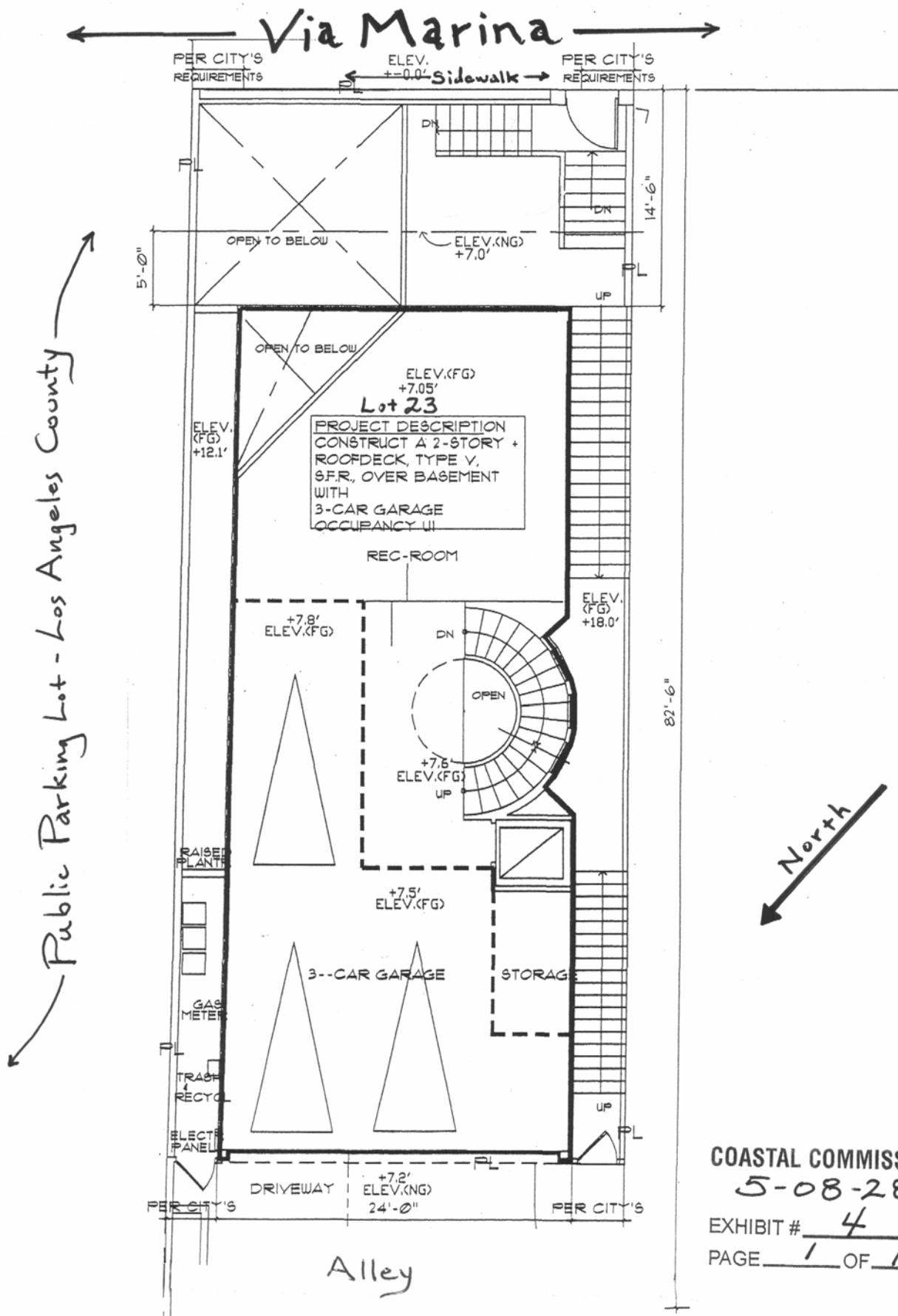
RESPECTIVELY

MICHAEL L. FISCHER

EXECUTIVE DIRECTOR

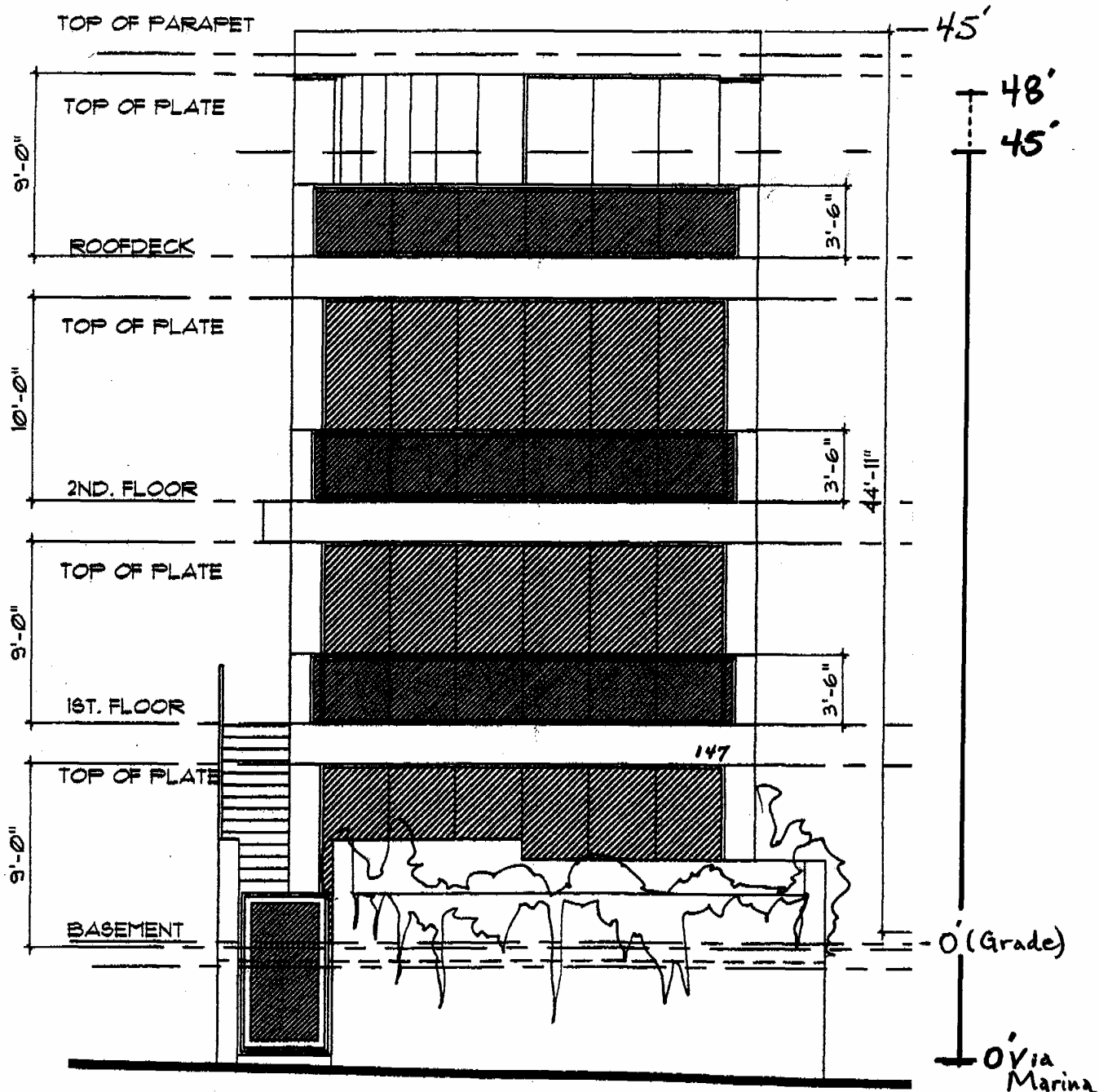
by James M. Smith

Title: Coastal Analyst



COASTAL COMMISSION  
5-08-285

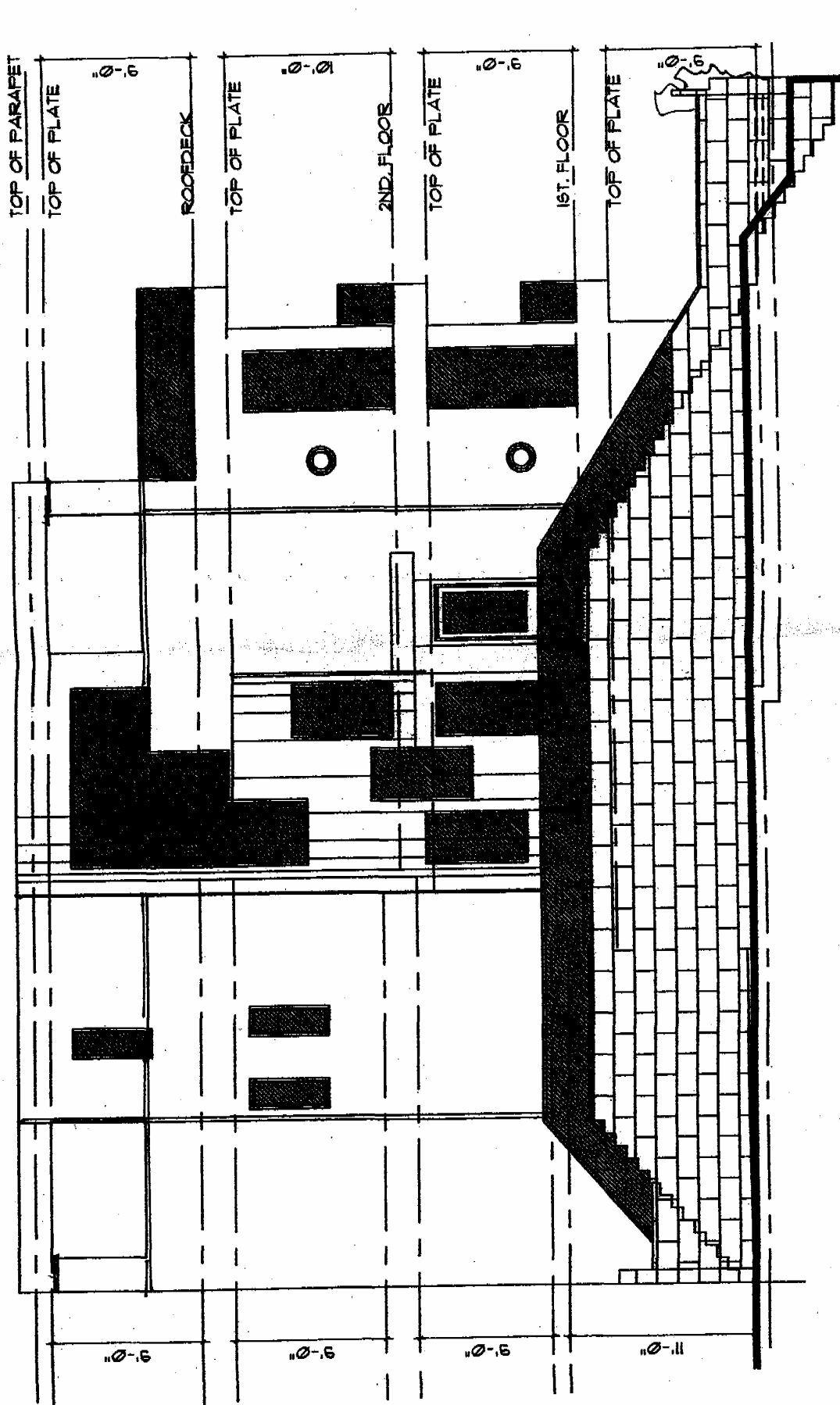
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PAGE 1 OF 1



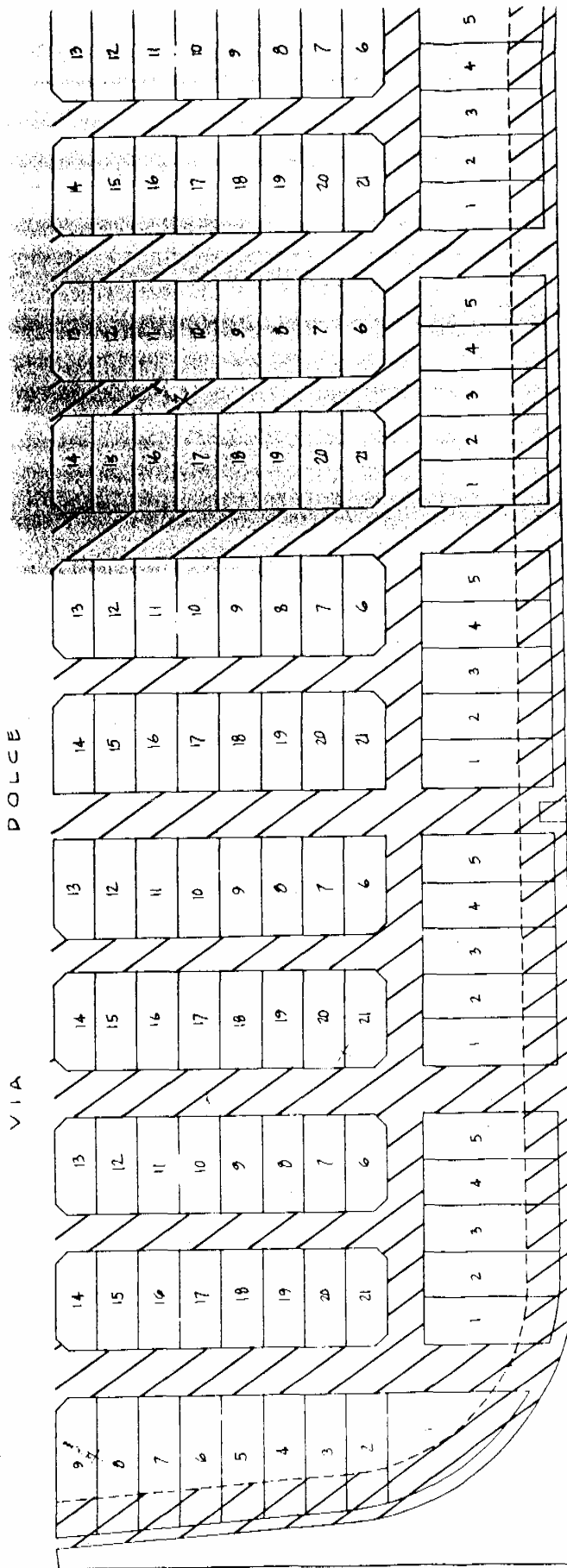
# FRONT ELEVATION (Via Marina)

COASTAL COMMISSION  
5-08-285

EXHIBIT # 5  
PAGE 1 OF 1



# WEST ELEVATION



ALLEY NE 45  
(COURT)

ALLEY NE 43  
(COURT)

ALLEY NE 41  
(COURT)

ALLEY NE 39  
(COURT)

ALLEY NE 37  
(COURT)

JIB ST

KETCH ST.

LIGHTHOUSE ST.

MAST ST.

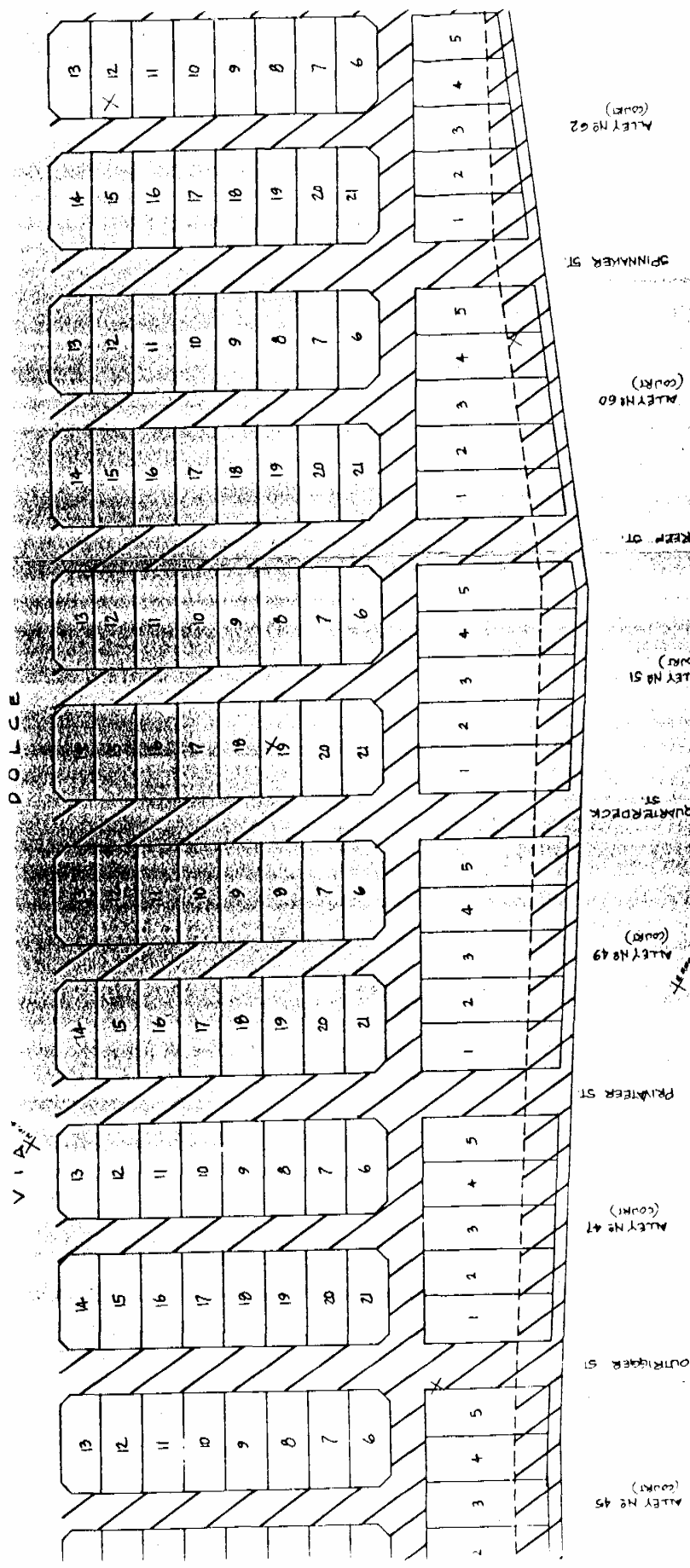
NORTHSTAR ST.

AVENUE

# PUBLIC BUFFER and DRAINAGE AREAS / DEL REY STRAN COMMISSION

SOURCE: CCC, Engineering Service Corporation

Public Areas Exhibit  
Del Rey/Silver Strand



CALIFORNIA COASTAL COMMISSION

APPROVED ON 4-18-1980

AS CONFORMING TO PERMIT A. 246-77

MICHAEL L. FISCHER  
EXECUTIVE DIRECTOR

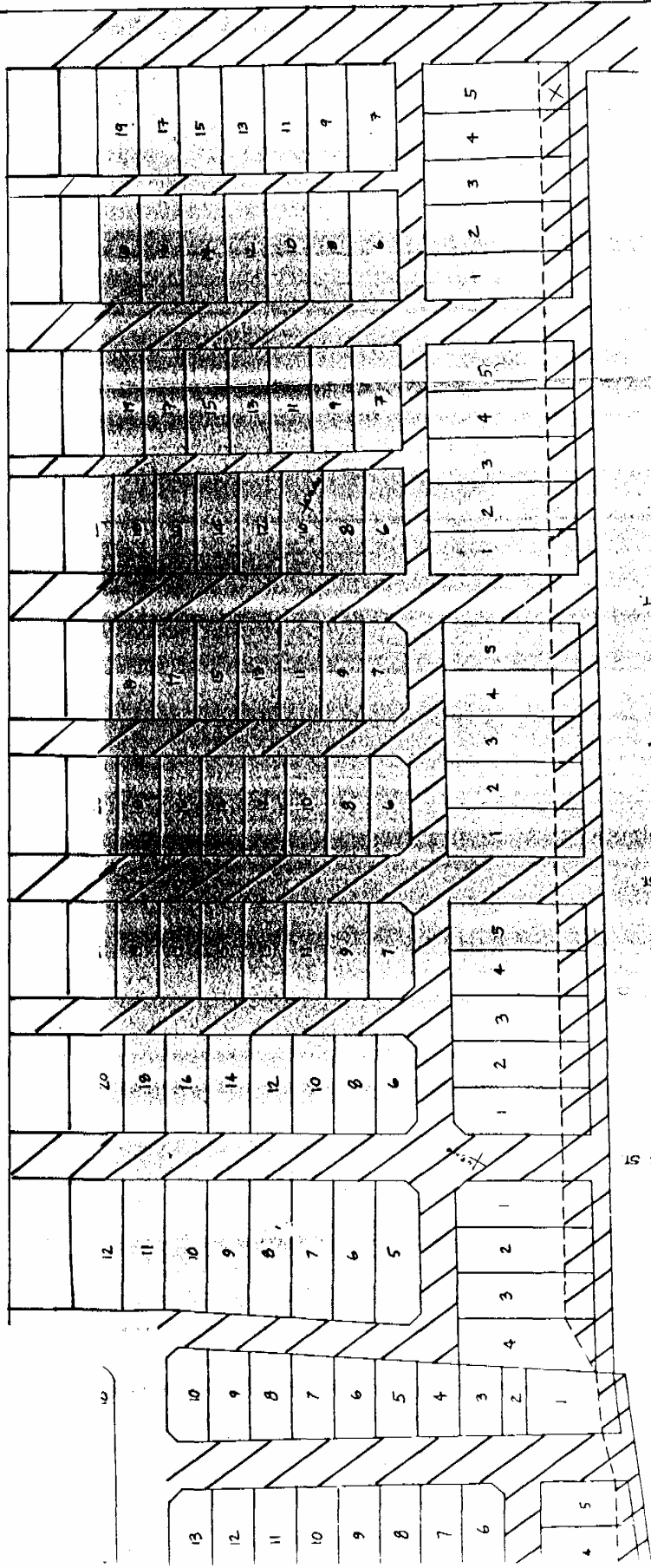
BY *[Signature]*

STRAND

CALIFORNIA COASTAL COMMISSION

Public Areas Exhibit  
Del Rey/Silver Strand

Exhibit 7



VIA MARINA

WEARWIND ST

ALLEY (COURT)

VOYAGE ST

ALLEY (COURT)

UNION JACK ST

COURT

TOPSHIL ST



CALIFORNIA COASTAL COMMISSION

APPROVED ON 11/13/86 BY 11/16/86

AS CONFORMING TO HERMITS BEACH ZONING ORDINANCE, RESPECTIVELY.

MICHAEL L. FISCHT

EXECUTIVE DIRECTOR

By *James M. [Signature]*

Title *Coastal Engineer*

COASTAL COMMISSION

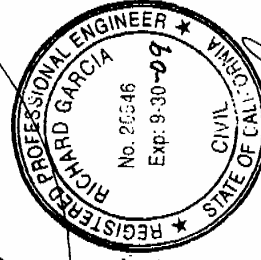
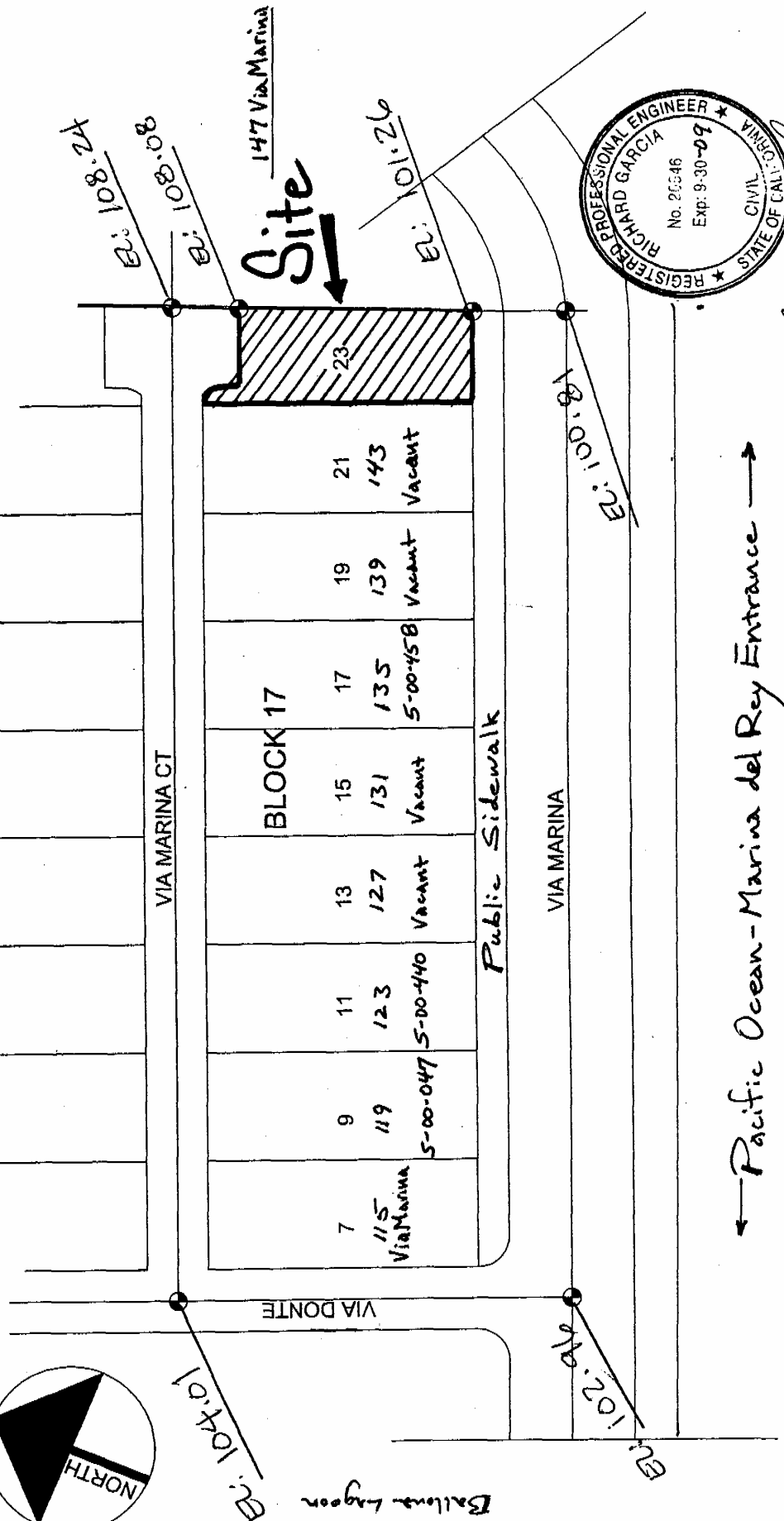
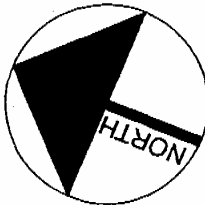
Public Areas Exhibit  
Del Rey/Silver Strand

Exhibit 7

PAGE 3 OF 3

JUN 15 2009

CALIFORNIA  
COASTAL COMMISSION



*Richard Garcia*  
6-12-09

COASTAL COMMISSION  
5-08-285

EXHIBIT # 8

PAGE 1 OF 1

