

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: 12/9/2011
49th Day: 1/27/2012
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Staff: Charles Posner-LB
Staff Report: 1/19/2012
Hearing Date: February 8, 2012
Commission Action:

**W21b****STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-11-271

APPLICANTS: Glenn & Jane Hickerson

AGENT: Stephan Arpad Kaali, Windrich Group

PROJECT LOCATION: 10 19th Avenue, Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Permit an eleventh dwelling unit in an existing ten-unit residential building. Seventeen on-site parking spaces will be provided.

LOCAL APPROVAL: City of Los Angeles Local Coastal Dev. Permit APCW-2007-2429.

Lot Area	5,280 square feet
Building Coverage	4,200 square feet (approx.)
On-site Parking	17 spaces
Zoning	R3-1
Building Height	40 feet

SUMMARY OF STAFF RECOMMENDATION

The project site is one block inland of the beach (Exhibit #3). In 1971, the City of Los Angeles Department of Building and Safety permitted the four-story building to be constructed with ten apartment units. In 2007, the City discovered that an additional unit (the eleventh unit) had been created without a building permit in a 570 square foot ground floor storage area (Exhibit #4). The applicants assert that the apartment building contained eleven units when they purchased it in 1990. On December 3, 2008, the West Los Angeles Area Planning Commission approved a local coastal development permit to legalize the eleventh dwelling unit. As a condition of approval, the applicants agreed to provide one additional parking space on the site and to set aside one unit in the building as an affordable unit for a "Very Low Income" household. The local coastal development permit was not appealed to the Coastal Commission. The project needs a coastal development permit from the Commission because the site is in the dual permit jurisdiction.

The size and density within the existing structure are not being changed. Staff is recommending that the Commission **APPROVE** a coastal development permit for the proposed development with special conditions. The recommended special conditions begin on Page Three. **See Page Two for the motion to carry out the staff recommendation.** The applicants agree with the recommendation.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles certified Land Use Plan for Venice, 6/14/2001.
2. City of Los Angeles Local Coastal Development Permit No. APCW-2007-2429-CDP.
3. City of Los Angeles Project Permit Compliance Case No. APCW-2007-2429-SPE-SPP.
4. City of Los Angeles Mitigated Negative Declaration No. ENV-2007-2430-MND.
5. Coastal Development Permit 5-11-155/A-5-VEN-11-149 (Weisenfeld, 14 Jib St.).

STAFF NOTE - DUAL PERMIT JURISDICTION:

Pursuant to Coastal Act Section 30600(b), any development which receives a local coastal development permit from the City must also obtain a second (or "dual") coastal development permit from the Coastal Commission if the development is within the areas specified in Section 30601 (e.g., within three hundred feet of the beach or sea). The areas specified in Section 30601 are known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area. For projects located inland of the areas identified in Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required. The local coastal development permits in both the single and dual jurisdiction areas are appealable to the Commission.

As a result of the project site being located within three hundred feet of the beach, the proposed development is located within the *Dual Permit Jurisdiction*. On November 1, 2011, the applicants submitted the required "dual" Coastal Commission coastal development permit application (Application No. 5-11-271) for Commission review and action. The Commission's standard of review for the proposed development in the *Dual Permit Jurisdiction* area is the Chapter 3 policies of the Coastal Act. The City of Los Angeles certified Land Use Plan (LUP) for Venice is advisory in nature and may provide guidance.

STAFF RECOMMENDATION:

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

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit Application No. 5-11-271 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. 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 on which the Commission voted on the application. 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. Approved Development - Permit Compliance

Coastal Development Permit 5-11-271 permits the use of eleven dwelling units in the existing structure on the site consistent with the following special conditions. All development must occur in strict compliance with the proposal as set forth in the application, subject to the special conditions. Any proposed change or deviation from the approved plans shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. 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 required.

2. Parking

The proposed on-site parking supply (seventeen spaces) shall be provided and maintained on the site for the residents of the building. Vehicular access to the on-site parking shall be taken only from Speedway Alley or the rear alley. Vehicular access is not permitted on the 19th Avenue right-of-way.

3. Affordable Housing Units

As required by City of Los Angeles Project Permit Compliance Case No. APCW-2007-2429-SPE-SPP-CDP-MEL, one dwelling unit in the building shall be maintained by the permittees as an affordable rental unit (affordable to Very Low Income Households). The affordable housing unit shall be reserved and maintained as an affordable housing unit for the life of the building.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall: a) identify to the Executive Director specifically which unit on the project site is being preserved as an affordable rental unit, and b) submit documentation, for the review and approval of the Executive Director, demonstrating that the applicants have recorded a covenant and agreement with the City of Los Angeles Housing Department, or with a non-profit housing organization approved by the Executive Director, assuring on-going compliance with the affordable housing provisions of this permit.

4. Local Government Approval

The proposed development is subject to the review and approval of the local government (City of Los Angeles). This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act, including the conditions of the City of Los Angeles Department of City Planning Case No. APCW-2007-2429-SPE-SPP (Specific Plan Project Permit). In the event of conflict between the terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of Coastal Development Permit 5-11-271 shall prevail.

5. Deed Restriction

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have 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.

6. Condition Compliance

Within ninety (90) days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that

the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The project site is a 5,280 square foot parcel (two lots) fronting a walk street in North Venice (See Exhibits). The property is developed with a forty-foot high, 7,600 square foot apartment building with a sixteen-stall parking garage (Exhibit #4). The applicants are not proposing to change the size or residential density of the existing structure, which currently contains eleven apartment units: two studios, seven one-bedroom units (two with lofts), and two two-bedroom units. The applicants are requesting a coastal development permit to legalize an existing one-bedroom unit (the eleventh unit: 570 square feet) situated on the ground floor of the building (Exhibit #4). The applicants also propose to provide an additional (seventeenth) parking space in the front yard of the structure.

The project site is one block inland of the beach (Exhibit #3). The four-story apartment building was constructed in 1971 with ten apartment units permitted by the City of Los Angeles Department of Building and Safety. The applicants assert that the building contained eleven units when they purchased it in 1990. The surrounding properties are developed with single-family residences, duplexes, triplexes, and four-unit residential structures. Nearby, a few large multi-unit condominium buildings and commercial buildings front the boardwalk (Ocean Front Walk).

In 2007, the City discovered that an additional unit (the eleventh unit) had been created in a ground floor storage area without a building permit (Exhibit #4). On December 3, 2008, the West Los Angeles Area Planning Commission approved a local coastal development permit to legalize the eleventh dwelling unit. As a condition of approval, the applicants agreed to provide one additional parking space on the site and to set aside one unit in the building as an affordable unit for a "Very Low Income" household.

B. Public Access/Density and Parking

The primary Coastal Act policy raised by this permit application is the project's effect on the public's ability to access the shoreline. The Commission has consistently found that density of development and a project's parking supply can impact public access. The Coastal Act requires that new development shall not interfere with public access to the coast.

The standard of review in this case is the Chapter 3 policies of the Coastal Act. The following public access policies are relevant in this case:

Section 30210 of the Coastal Act states:

In carrying out the requirement of [Section 4 of Article X of the California Constitution](#), maximum access, which shall be conspicuously posted, and recreational opportunities

shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

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

Section 30252 of the Coastal Act states:

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

The North Venice community was established early in the twentieth century and many of the older residences do not have adequate on-site parking. Since many of the buildings do not provide enough off-street parking to meet parking demands, the residents compete with each other and beach goers for the limited amount of on-street parking. The amount of on-street parking is limited because many of the residential streets in the area are walk streets that provide no space for vehicle storage. The competition for the limited amount of on-street parking is intense, especially on busy summer weekends. There is, however, a public parking lot on the beach near the project site (Exhibit #2). The project site is also close to a public bus stop for the bus route that runs along Pacific Avenue.

The proposed project is the legalization of one existing dwelling unit. The land use designation for the project site, as set forth by the certified Venice Land Use Plan (LUP) and the uncertified Venice Specific Plan is Multi-Family Residential – Medium.¹ This is the LUP's and Specific Plan's most dense residential land use designation. The property is zoned R3-1 (Multi-Family Residential). The certified Venice LUP sets forth the following policy for Medium density residential land uses in North Venice, where the project is located:

Policy I. A. 8 Multi-family Residential - Medium Density. Accommodate the development of multi-family dwelling units in the areas designated as "Multiple Family Residential" and "Medium Density" on the Venice Coastal Land Use Plan (Exhibits 9 through 12). Such development shall comply with the density and development standards set forth in this LUP.

¹ The City of Los Angeles Land Use Plan (LUP) for Venice, certified by the Commission on June 14, 2001, provides guidance for interpretation of the Chapter 3 policies of the Coastal Act.

c. North Venice

Use: Two units per lot, duplexes and multi-family structures.

Density: One unit per 1,200 square feet of lot area. Lots smaller than 4,000 square feet are limited to a maximum density of two units per lot.

Replacement Units/Bonus Density: Lots greater than 4,000 square feet can add extra density at the rate of one additional unit for each 1,200 square feet in excess of 4000 square feet of lot area if the unit is a replacement affordable unit reserved for low and very low income persons. (See LUP Policies I.A.9 through I.A.16).

Height: Not to exceed 30 feet for buildings with flat roofs or 35 feet for buildings utilizing stepped back or varied rooflines. The portion of the structure that exceeds 30 feet in height shall be set back one horizontal foot for every foot in height above 30 feet. Structures located along walk streets are limited to a maximum height of 28 feet. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

The current density limit for the 5,280 square foot site, as set forth by the certified Venice Land Use Plan (LUP) is four dwelling units. However, the building was originally permitted in 1971 to contain ten dwelling units which the applicants are permitted to maintain as non-conforming or “grandfathered” units. The Commission does not require the elimination of legal permitted dwelling units because of a subsequent reduction in the density limit. The eleventh dwelling unit does not qualify as a pre-existing legally permitted (but non-conforming) unit.

The proposed project is also non-conforming in regards to its parking supply. The parking standards set forth in the certified Venice LUP require 28 parking spaces for eleven dwelling units (two spaces per unit, plus six guest parking spaces). Policy II.A.3 of the certified Venice LUP provides guidance for determining parking requirements for projects within the Venice coastal zone, as follows:²

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

RESIDENTIAL USES:

Multiple dwelling and duplex on lots of 40 feet or more in width, or 35 feet or more in width if adjacent to an alley.

2 spaces for each dwelling unit; plus a minimum of one guest parking space for each 4 (four) or fewer units.

² The parking standards in the certified Venice LUP are identical to the parking standard contained in the Commission’s Regional Interpretive Guidelines for Los Angeles County, adopted 1980.

The City granted the proposed project two Specific Plan Exceptions: one exception to the density limit (to permit eleven units in the building), and one exception to the parking standards to allow only one additional parking space to be provided for the eleventh unit, instead of two.³

In this case, the applicants assert that the proposed development has been in existence for over twenty years (since before they purchased the building in 1990). With seventeen parking spaces proposed (sixteen plus one additional space in the front yard), there will be at least one on-site parking space provided for each dwelling unit (actually, 1.5 spaces per unit). While this proposed 1.5 parking space per unit differs from the guidance provided by the Venice LUP, the Commission has considered such an off-street parking ratio to be consistent with the Coastal Act's access policies in certain circumstances. For example, the Commission has found that affordable housing units typically generate a lower parking demand than market-rate units because residents in market-rate units are more likely to own multiple vehicles than residents of smaller affordable units. The applicant is agreeing to maintain one of the units as an affordable rental unit (affordable to Very Low Income Households) for at least thirty years, and nine of the eleven existing apartment units are one-bedroom or studio units. In addition, the building is close to public transportation. The parking demand is not anticipated to exceed the on-site parking supply. Therefore, the approval of the development will not result in any adverse effects on the parking supply or public access.

The Coastal Act encourages the protection of affordable housing opportunities in the coastal zone. Section 30604 of the Coastal Act states, in part:

30604(f): The Commission shall encourage housing opportunities for persons of low and moderate income.

30604(g): The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

Section 30607 of the Coastal Act provides that any development or permit approved "shall be subject to reasonable terms and conditions" in order to ensure that such development or permit will be in accordance with the provisions of the Coastal Act. This includes Sections 30604(f) and (g) which provides that the Commission encourage the protection of affordable housing in the coastal zone.

The Commission grants incentives such as density bonuses in order to increase or preserve the stock of affordable housing in Venice and elsewhere in the coastal zone. All eleven units in this case have existed at least since 1990 according to the applicants. Affordable housing units, and small apartments in general, are less likely to generate the same demand for parking (two spaces per unit) as a market rate dwelling unit. Therefore, in consideration of a lower parking demand generated by these small dwelling units, one of which will be dedicated as an affordable unit, the Commission finds that the proposed development, as conditioned, is consistent with the public access policies of the Coastal Act cited above.

The Commission imposes special conditions on this permit, in accordance with its obligation to protect affordable housing, in order to ensure that the affordable housing unit is provided as proposed by the applicants and as required by the City's approval of the Project Permit. In

³ City of Los Angeles Project Permit Compliance Case No. APCW-2007-2429-SPE-SPP, 12/3/2008.

addition, the proposed project must provide and maintain seventeen on-site parking spaces (1.5 per unit) for use by the building's residents. The special conditions also require the applicants to record a deed restriction on the property that includes the conditions of this permit, and to record the required covenant with the City (agreeing to provide the affordable housing unit) before the permit is issued. The deed restriction will ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit. The Commission finds that, only as conditioned, is the proposed development consistent with Sections 30210, 30211, and 30252 of the Coastal Act pertaining to public access to and along the shoreline.

C. Unpermitted Development

Prior to applying for this coastal development permit, some of the development on the site occurred without the required coastal development permit. The unpermitted development is conversion of a 570 square foot storage area to a dwelling unit. To ensure that the matter of unpermitted development is resolved in a timely manner, a special condition requires that the applicants satisfy all conditions of this permit which are prerequisite to the issuance of this permit within ninety days of Commission action, or within such additional time as the Executive Director may grant for good cause. Although development has taken place prior to Commission action on this permit application, consideration of the application by the Commission is based solely upon Chapter 3 policies of the Coastal Act. Commission action on this permit application does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

D. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this coastal development permit, the Commission imposes one additional condition which requires the property owners to 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.

E. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

- (a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would

prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

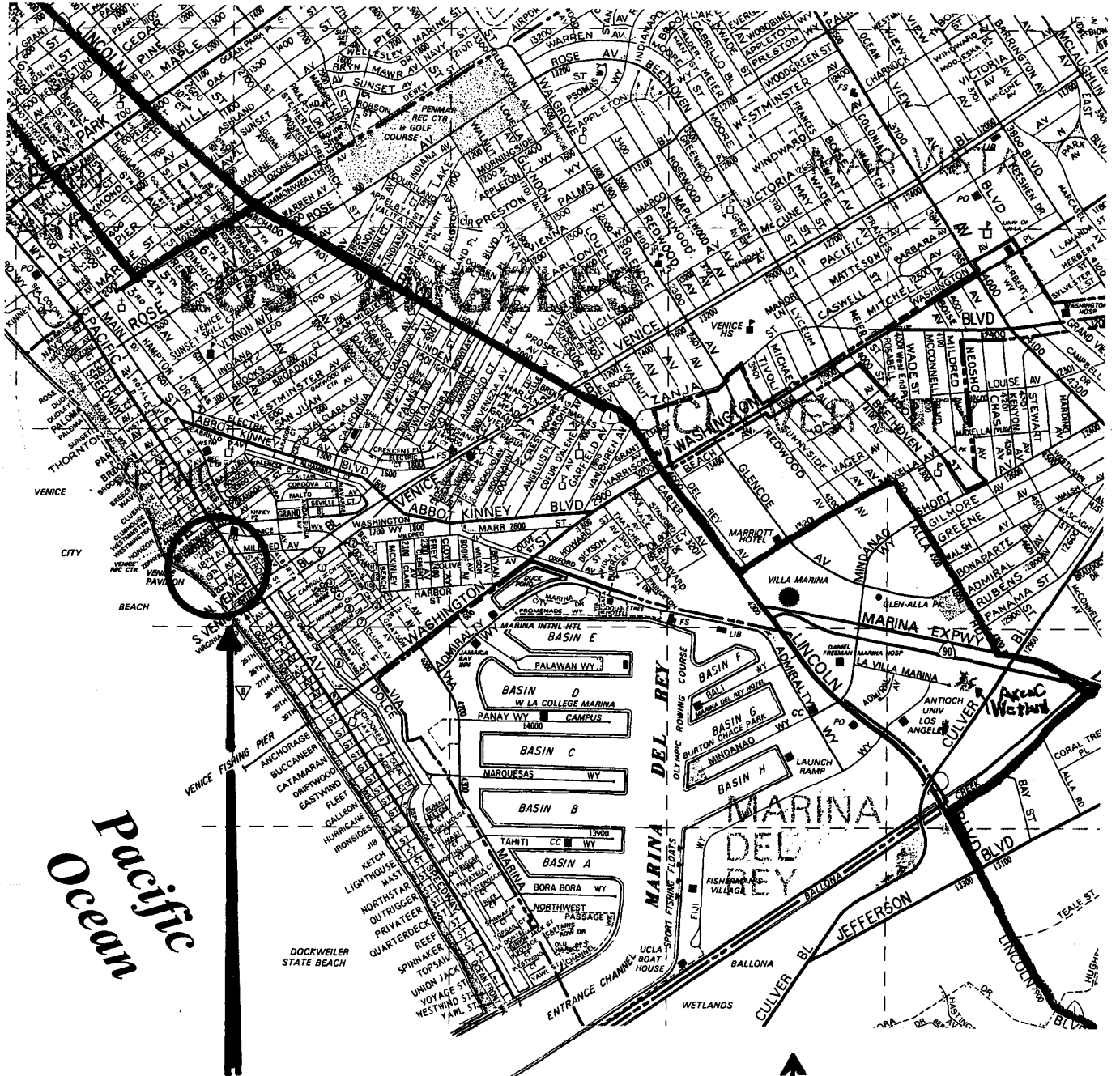
The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified Venice LUP is advisory in nature and may provide guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. As a result of the proposed project's consistency with the Coastal Act, approval of this project will not prejudice the City of Los Angeles' ability to prepare an LCP that is consistent with Chapter 3 of the Coastal Act.

F. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

In this case, the City of Los Angeles is the lead agency and the Commission is the responsible agency for the purposes of CEQA. On December 3, 2008, the City of Los Angeles West Los Angeles Area Planning Commission adopted Mitigated Negative Declaration No. ENV-2007-2430-MND for the project. As conditioned by this permit, 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

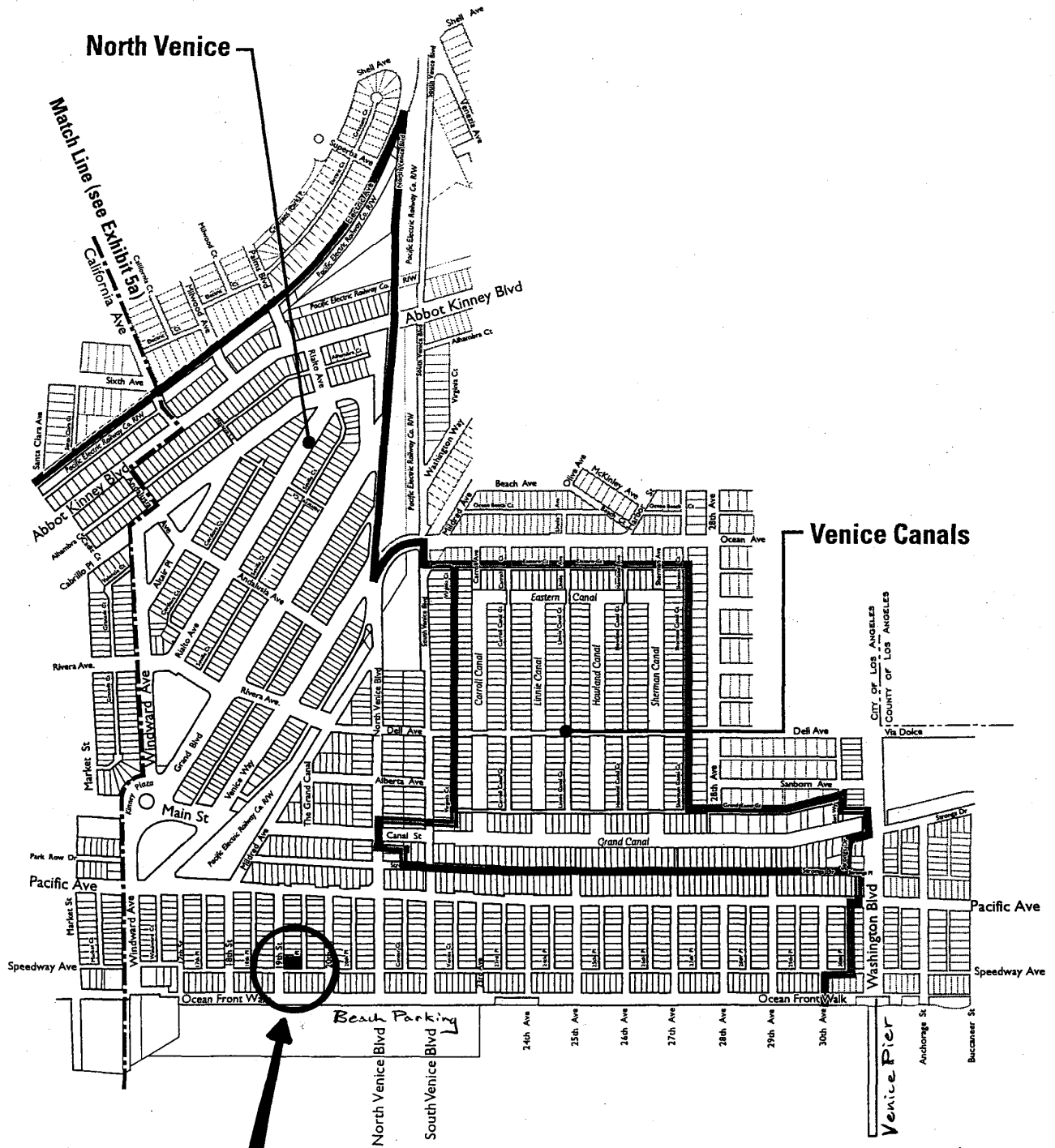


Pacific Ocean

Site: 10 19th Avenue



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Site: 10 19th Avenue

LUP
Exhibit 5b

Subarea: North Venice • Venice Canals



Not to Scale

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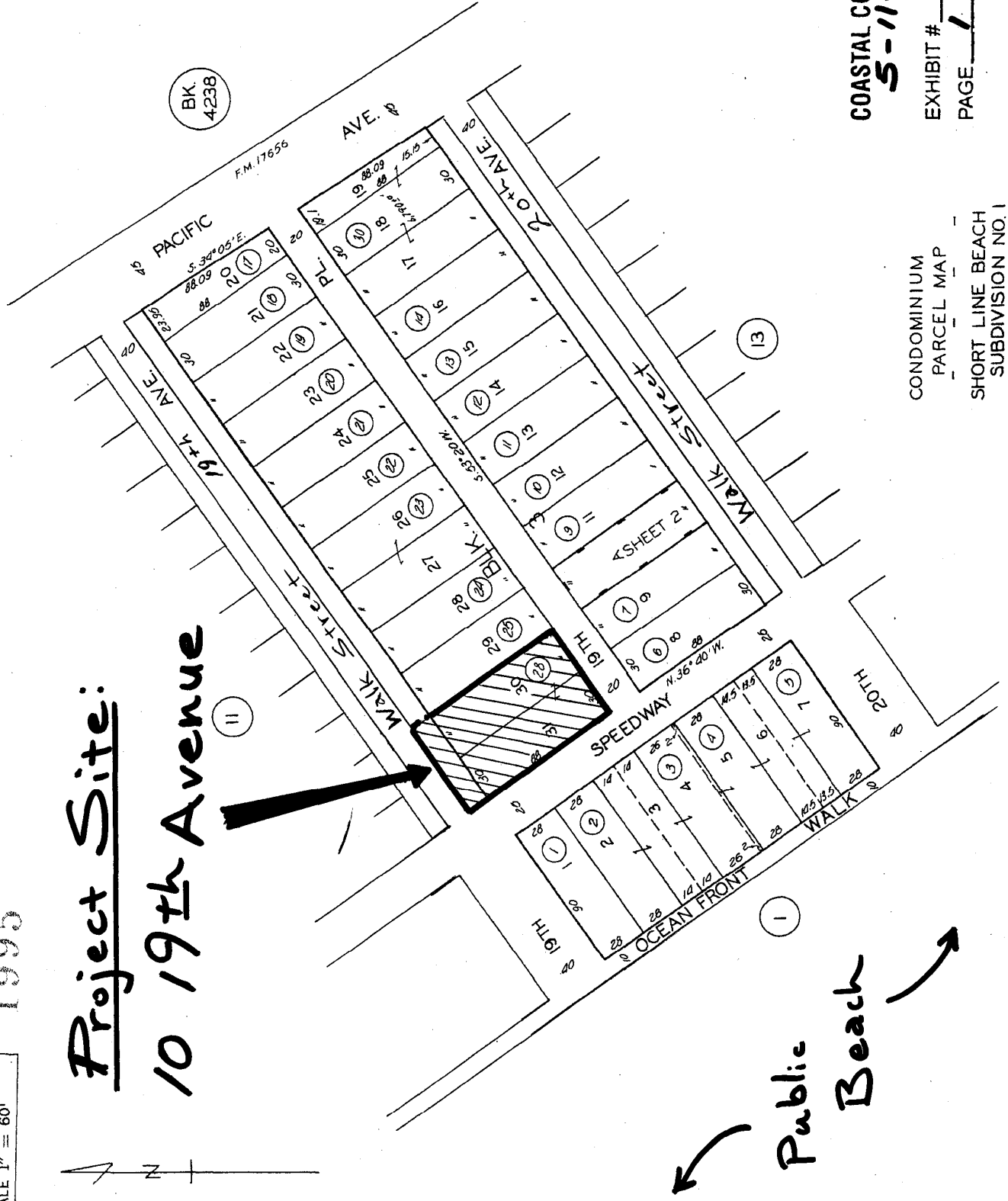
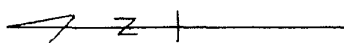
EXHIBIT # 2

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4226 | 12
SHEET 1
SCALE 1" = 60'

1995

Project Site:
10 19th Avenue



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EXHIBIT # **3**
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CONDOMINIUM
PARCEL MAP
SHORT LINE BEACH
SUBDIVISION NO. 1

Public Beach

Glenn L. Hickerson
 Apartments
 10 19th Ave.
 Venice, CA 90291

Glenn L. Hickerson
 2510 Steiner St.
 San Francisco, CA 94115
 (415) 474-7720

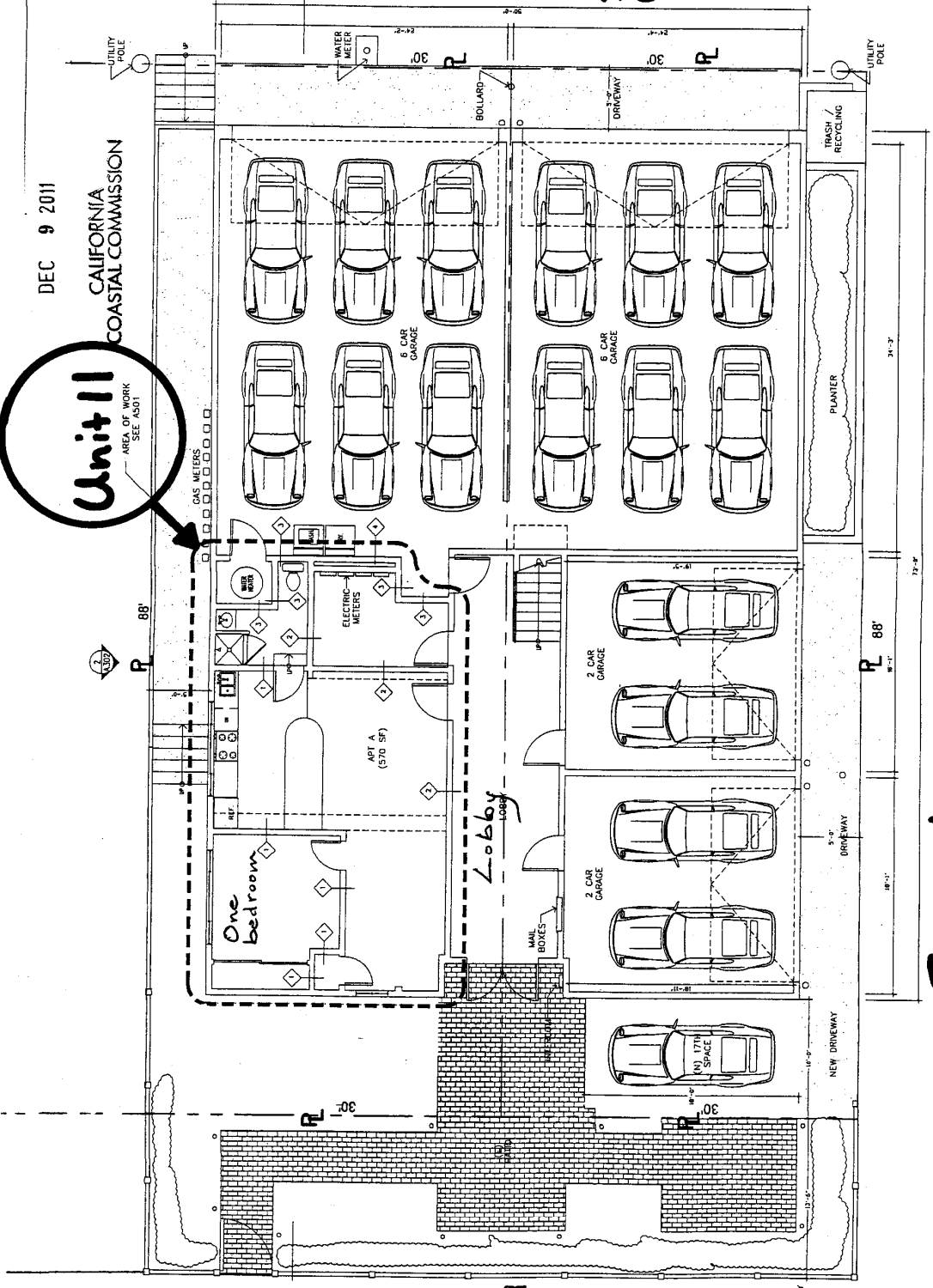
REMODEL EXISTING STORAGE
 TO ONE BEDROOM UNIT

LEVEL 1
 FLOOR PLAN
 (EXISTING)
 1/4" = 1'-0"

DEC 9 2011

CALIFORNIA
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Unit 11
 AREA OF WORK
 SEE A301



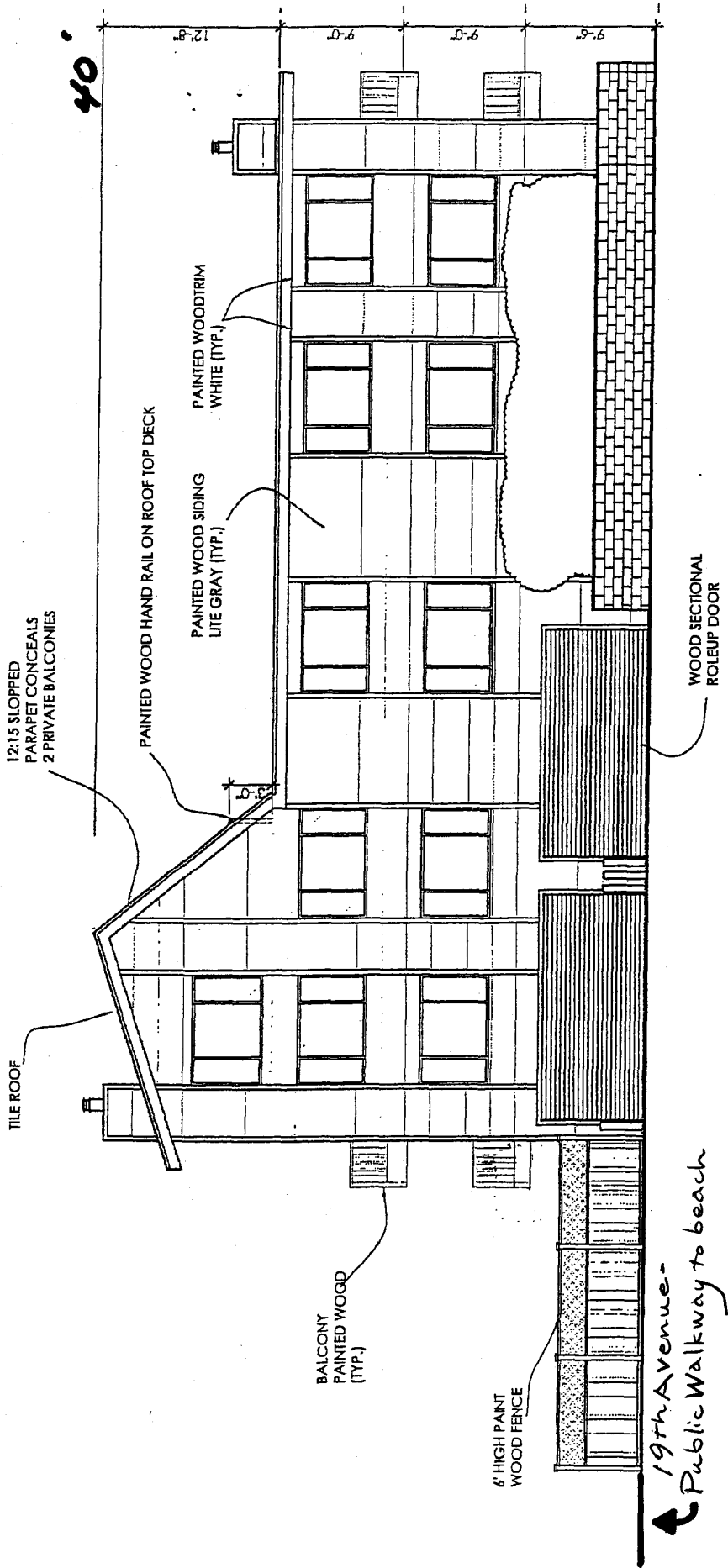
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Speedway
 Site Plan

To beach

Public Walkway - 19th Avenue

19th Place



West Elevation - Speedway

PAINTED WOOD SIDING
LITE GRAY (TYP.)

TILE ROOF

PAINTED WOODTRIM
WHITE (TYP.)

BALCONY
PAINTED WOOD
(TYP.)

Speedway

PROPOSED UNCOVERED
PARKING

6' HIGH PAINT
WOOD FENCE

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Front (19th Avenue) Elevation

40'

10'

