

**CALIFORNIA COASTAL COMMISSION**

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**W. 3c.**

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 49th Day: 12/18/07  
 180th Day: 4/27/08  
 Staff: Al Padilla-LB  
 Staff Report: 12/17/07  
 Hearing Date: 1/9-11/08  
 Commission Action:

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NUMBER:** 5-07-386**APPLICANT:** Dr. Brian Novack**PROJECT LOCATION:** 1267 Palisades Beach Road, Santa Monica (Los Angeles County)**PROJECT DESCRIPTION:** Construction of an approximately 2,403 square foot, 40 foot high, three-story single-family residence, with a four car semi-subterranean garage on a beach front lot.

Lot Area: 2,500 sq. ft.  
 Landscape Coverage: 147 sq. ft.  
 Zoning: R2B—Low Density Residential

**LOCAL APPROVALS RECEIVED:** City of Santa Monica Approval in Concept**SUBSTANTIVE FILE DOCUMENTS:** CDPs 5-99-401(Check Investments); (5-97-199(Risa, Inc); 5-97-112(Ephraim); 5-96-109(Warschaw); 5-03-369(Rosenthal)**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of the proposed development with special conditions regarding: 1) maintaining public access within a pedestrian overpass; 2) assumption of risk, 3) future improvements; 4) compliance with City water quality requirements; and 5) recordation of a deed restriction against the property, referencing all of the Standard and Special Conditions contained in this staff report.

**I. STAFF RECOMMENDATION:**

Staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application:

**MOTION:** *I move that the Commission approve coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all permits included on the consent calendar. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California 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 alternative 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 term or 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. **Pedestrian Overpass**

By acceptance of this permit, the property owner is aware that the pedestrian overpass located in the northeast corner of the property is a public accessway and that any future development shall not impede or interfere with the public's ability to access the overpass.

#### 2. **Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves or flooding; (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; and (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.

#### 3. **Future Improvements Restriction**

This permit is only for the development described in coastal development permit No. **5-07-386**. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an amendment to Permit No. **5-07-386** from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

#### **4. Water Quality Standards**

With the acceptance of this permit the applicant agrees to comply with all applicable City of Santa Monica water quality requirements as required under the City's Municipal Code that are in effect at the time of approval of this permit.

#### **5. Deed Restriction**

**PRIOR TO 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(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.

### **IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

#### **A. Project Description and Location**

The proposed project involves the construction of an approximately 2,403 square foot 40 foot high, three-story single-family residence, with semi-subterranean parking, on a beach fronting 2,500 square foot lot. The project will include a private gate connecting to an existing public pedestrian overpass that crosses over Palisades Beach Road (Pacific Coast Highway).

The proposed project site is located at 1267 Palisades Beach Road (Pacific Coast Highway), north of the Santa Monica Pier, in the North Beach area of the City of Santa Monica. The lot, measuring approximately 25 feet wide by 100 feet deep, is a beach fronting lot and zoned R2B (Low Density Multiple Family Residential/Parking Overlay).

The North Beach area contains the City's northern sandy beach area, beach clubs, single-family and multi-family residential development. The subject lot is located within a row of residentially developed lots and public beach parking lots. An approximately 20-foot wide pedestrian walkway and 16 foot wide bicycle path are located on the sandy beach

immediately adjacent to the property along the western property line. The beach area in front of the property is a broad beach, over 500 feet in width. Due to the width of the beach and the location of the Santa Monica breakwater, properties along the north beach area are generally protected from storm wave impacts and have not required shoreline protective devices.

An existing public pedestrian overpass extends from the applicant's northeast corner of the property, adjacent to Pacific Coast Highway, to the Palisades bluff top park on the eastern side of Pacific Coast Highway. The overpass provides public access from Palisades Park down to Pacific Coast Highway, where the beach can be accessed through the nearby public beach parking lots. The overpass encroaches approximately 15 feet onto the applicant's property. The overpass is owned and maintained by the California Department of Transportation (Caltrans). Through an agreement recorded in 1934 with the property owner at that time and Caltrans, Caltrans was allowed to encroach onto and over the property to construct the first landing of the overpass and allowed the property owner to connect with and use the stairway approach. The proposed project will include a private connection for the residence from the first level to the pedestrian overpass.

As proposed, the private connection to the overpass will not interfere with public access to, or from, the pedestrian overpass. The Commission approved a similar project on the site in January 2000 (CDP No. 5-99-401), however, the project was not constructed.

## **B. Access**

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.

## **C. Development**

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to require a future improvements condition and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

**D. Water Quality**

The proposed site was previously developed with a residential structure. The proposed project will not significantly increase site runoff from the previous development and the project will comply with the City of Santa Monica's water quality requirements. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

**E. Deed Restriction**

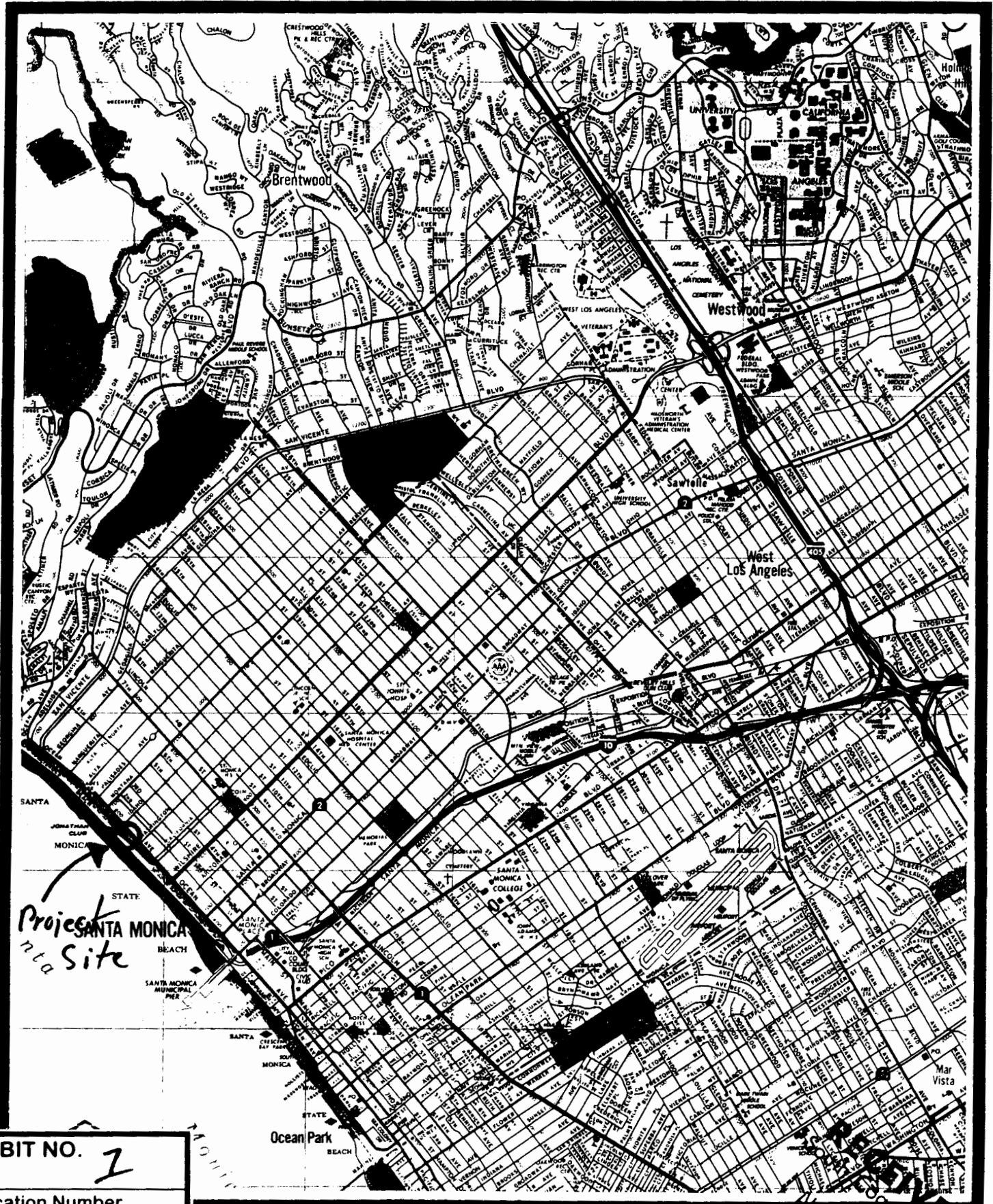
To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions 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, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

**F. 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 Santa Monica has neither a certified LCP nor a certified Land Use Plan for the North Beach area. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, 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 of the Coastal Act.

**G. California Environmental Quality Act.**

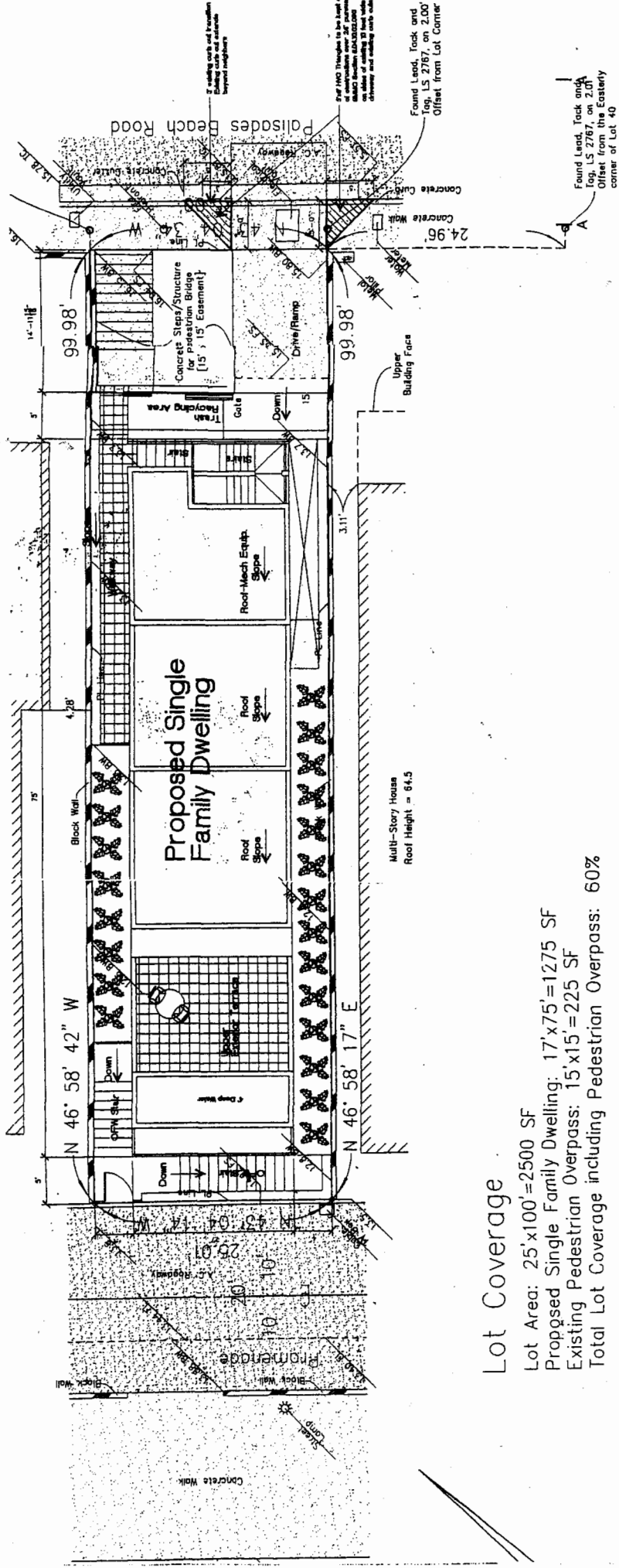
There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging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



Region  
 CALIFORNIA  
 COASTAL COMMISSION

EXHIBIT NO.	<i>1</i>
Application Number	<i>5-07-38C</i>
	<i>Vicinity Map</i>
California Coastal Commission	

**Location Map**



**Lot Coverage**

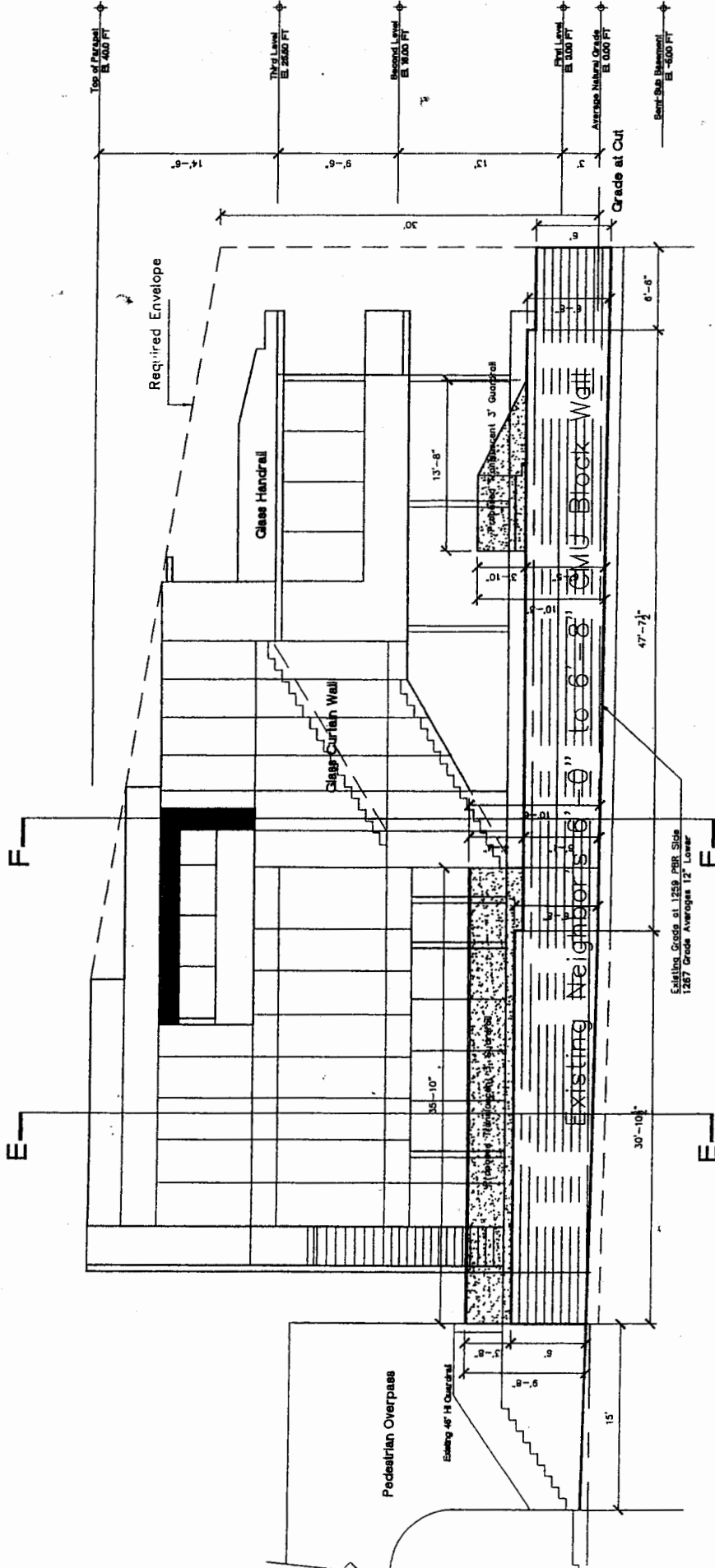
- Lot Area: 25' x 100' = 2500 SF
- Proposed Single Family Dwelling: 17' x 75' = 1275 SF
- Existing Pedestrian Overpass: 15' x 15' = 225 SF
- Total Lot Coverage including Pedestrian Overpass: 60%

<b>EXHIBIT NO. 2</b>
Application Number
5-07-386
Site Plan
California Coastal Commission



# Beach (West) Elevation

1/8" = 1'-0"



# Malibu (North) Elevation

1/8" = 1'-0"

EXHIBIT NO. 3

Application Number

5-07-386

Elevation