

## CALIFORNIA COASTAL COMMISSION

South Coast Area Office  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4302  
(562) 590-5071

Filed: 6/12/98  
49th Day: 7/31/98  
180th Day: N/A  
Staff: CP-LB  
Staff Report: 6/22/98  
Hearing Date: July 7, 1998  
Commission Action:

STAFF REPORT: APPEALSUBSTANTIAL ISSUE HEARING

LOCAL GOVERNMENT: City of Manhattan Beach  
DECISION: Approval with Conditions  
APPEAL NO.: A-5-MNB-98-239  
APPLICANT: Robert Salim  
PROJECT LOCATION: 124 5th Street, City of Manhattan Beach, Los Angeles Co.  
PROJECT DESCRIPTION: Appeal by William Victor from decision of City of Manhattan Beach granting permit with conditions to Robert Salim to demolish an existing residence and construct a single family residence.  
APPELLANT: William Victor

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed for the following reason: The locally approved development conforms to the City of Manhattan Beach Certified Local Coastal Program and the public access policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Manhattan Beach Certified Local Coastal Program.
2. Local Coastal Development Permit (Resolution) No. PC 98-12.
3. Project Plans with City Stamp of Approval, Dated 4/22/98.

STAFF NOTE: The appeal of City of Manhattan Beach Local Coastal Development Permit No. PC 98-12 was received in the Commission's Long Beach office on June 9, 1998. Pursuant to Section 30620(d) of the Coastal Act, the Executive Director must make a determination whether the appeal is patently frivolous within five working days of receipt of the appeal. The Executive Director was unable to make such a determination without possession and review of the relevant documents (project plans) used by the local government in its consideration of the local permit. Under Section 13320 of the California Code of Regulations, the local government has five working days from the receipt of a notice of appeal from the Commission to deliver to the Executive Director all relevant documents and materials used by the local government in its consideration of the local permit.

The Commission staff received the relevant permit application materials from the local government on June 17, 1998, within the five working days required by Section 13320 of the California Code of Regulations. The five working day period within which the Executive Director must determine whether the appeal is patently frivolous passed on June 16, 1998 prior to receipt of the relevant case documents. Therefore, even though the Executive Director has determined that the appeal is patently frivolous, the determination could not be made within the five working days mandated by Section 30620(d) of the Coastal Act. Staff has no recourse other than to bring the appeal before the Commission with a recommendation to find that no substantial issue exists with respect to the grounds on which this appeal has been filed.

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I. APPELLANT'S CONTENTIONS

The City of Manhattan Beach Planning Commission and City Council approved Local Coastal Development Permit No. PC 98-12 for the demolition of an existing residence and the construction of a new single family residence on a lot located approximately two hundred feet from the beach (Exhibit #2). Subsequently, William Victor submitted an appeal of the City's approval of Local Coastal Development Permit No. PC 98-12 to the Commission (Exhibits #3&4).

In the appeal (see Exhibit #3), the appellant William Victor contends that the floor area, open space and height of the approved residence do not appear to comply with the standards of the certified City of Manhattan Beach Local Coastal Program (LCP).

## II. LOCAL GOVERNMENT ACTION

The applicants submitted an application for a Local Coastal Development Permit to the City of Manhattan Beach Community Development Department on March 6, 1998. No variances were requested. The City classified the proposed single family residence as a "minor development" and sent public notice of a proposed public hearing waiver pursuant to the provisions of AB 1303. On April 3, 1998, the appellant William Victor filed a request for public hearing with the City. The appellant cited concerns about the height and square footage of the proposed project. A public hearing was scheduled before the City Planning Commission for April 22, 1998.

On April 22, 1998, the Planning Commission approved the Local Coastal Development Permit for the proposed single family residence and adopted Resolution No. PC 98-12 (Exhibit #4). [The Local Coastal Development Permit is herein referred to as Local Coastal Development Permit No. PC 98-12]. On May 19, 1998, the Planning Commission's action was transmitted to the City Council on the Consent Calendar where the City Council confirmed the decision of the Planning Commission. No variances from the certified LCP standards were requested or approved.

On May 26, 1998, the Commission received the Notice of Final Local Action for the Local Coastal Development Permit (Exhibit #4). The Commission's ten working day appeal period was then established and noticed. On June 9, 1998, the last day of the appeal period, the Commission received the appeal from William Victor (Exhibit #3).

## III. APPEAL PROCEDURES

After certification of Local Coastal Programs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on Coastal Development Permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Under Section 30603(a)(1) of the Coastal Act, the proposed project site is located in an appealable area by its location within three hundred feet of the inland extent of the beach (Exhibit #2).

Section 30603(a)(1) of the Coastal Act states:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:

- (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greatest distance.

The grounds for appeal of an approved local Coastal Development Permit in the appealable area are stated in Section 30603(b)(1), which states:

- (b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. The de novo hearing will be scheduled at the same hearing or a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

#### IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that no substantial issue exists with respect to the conformity of the project with the City of Manhattan Beach certified Local Coastal Program and the public access policies of the Coastal Act, pursuant to Public Resources Code Section 30625(b)(2).

MOTION. Staff recommends a YES vote on the following motion:

I move that the Commission determine that Appeal No. A5-MNB-98-239 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

#### V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

##### A. Project Description

The applicant proposes to demolish an existing residence located at 124 5th Street and construct a new single family residence. The proposed single family residence, as depicted in the City-approved plans dated April 22, 1998, is a 30 foot high, three-story structure with a 669 square foot three-car garage on the ground floor, and 4,046 square feet of living area (not including garage) (Exhibit #6). According to the City, the proposed project meets all applicable building standards for the 2,694 square foot RM (Medium Density Residential) zoned lot in Area District III.

##### B. Substantial Issue Analysis

As stated in Section III of this report, the grounds for appeal of a Coastal Development Permit issued by the local government after certification of its Local Coastal Program are specific. In this case, the local Coastal Development Permit may be appealed to the Commission on the grounds that it does not conform to the certified LCP or the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

The appellant contends that the approved plans for the proposed residence do not appear to comply with the floor area, open space and height requirements of the certified City of Manhattan Beach LCP (Exhibit #3). The appellant has not provided any specific evidence of non-compliance to support his contention.

Staff has reviewed the City-approved plans and the standards contained in the certified LCP and has found no evidence of non-compliance. Section A.12.030 (Property Development Regulations: RM and RH Districts) of the certified LCP

contains the height, floor area and open space requirements that apply to single family residences in the RM District (Medium Density Residential). Section A.12.030 of the certified LCP contains the following applicable building standards for the proposed project:

Maximum Height:	30 feet
Maximum Buildable Floor Area:	1.6 times lot area
Minimum Usable Open Space:	350 square feet

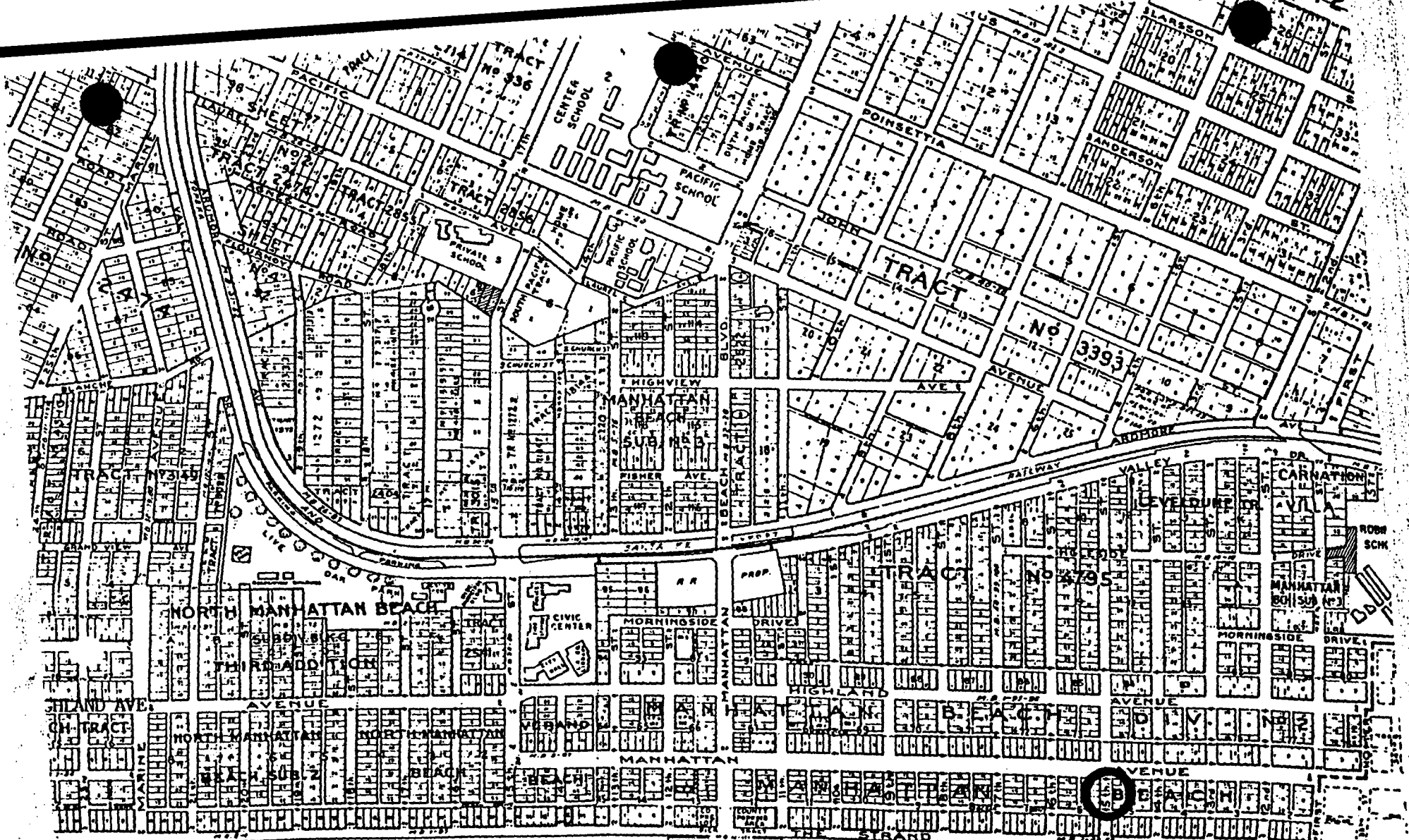
The City of Manhattan Beach has provided Commission staff with a copy of the stamped and approved project plans (Exhibit #6). The figures used below come from the City-approved plans and City-approved survey (Exhibit #5&6).

Building height is measured under the system prescribed by Section A.60.50 of the certified LCP which mandates that building height be measured from a horizontal plane established by determining the average elevation of existing grade at all four corners of the lot. The City reviewed and approved a survey for the hillside site that establishes the elevation of existing grade at all four corners of the lot (Exhibit #5). The average elevation of the sloping lot was approved by the City as 101.96 (Exhibit #6, p.1). The maximum height of the approved residence is less than 30 feet above the 101.96 elevation (Exhibit #6, p.2). Therefore, the proposed single family residence conforms to the 30 foot height limit contained in the certified LCP.

The lot is 2,694 square feet in size. The maximum amount of buildable floor area allowed by the certified LCP is 1.6 times the lot area ( $1.6 \times 2,694 = 4,310$  square feet). The proposed structure was approved by the City with 4,046 square feet of buildable floor area as defined by Section A.04.030 (Definitions) of the certified LCP. Therefore, the proposed single family residence conforms to the floor area limit of the certified LCP.

The proposed project provides 354 square feet of usable open space area as defined by Section A.04.030 (Definitions) of the certified LCP. The certified LCP requires at least 350 square feet of usable open space area. Therefore, the proposed single family residence conforms to the open space requirement of the certified LCP.

The proposed project complies with the 30 foot height limit, the minimum open space requirement, and the floor area limit of the certified LCP. The appeal is not supported by any evidence to the contrary. The appeal appears to be frivolous. Therefore, staff has recommended that the Commission find that no substantial issue exists because the locally approved project conforms to the certified LCP.



LIFE GUARD STATION

STATE BEACH PARK

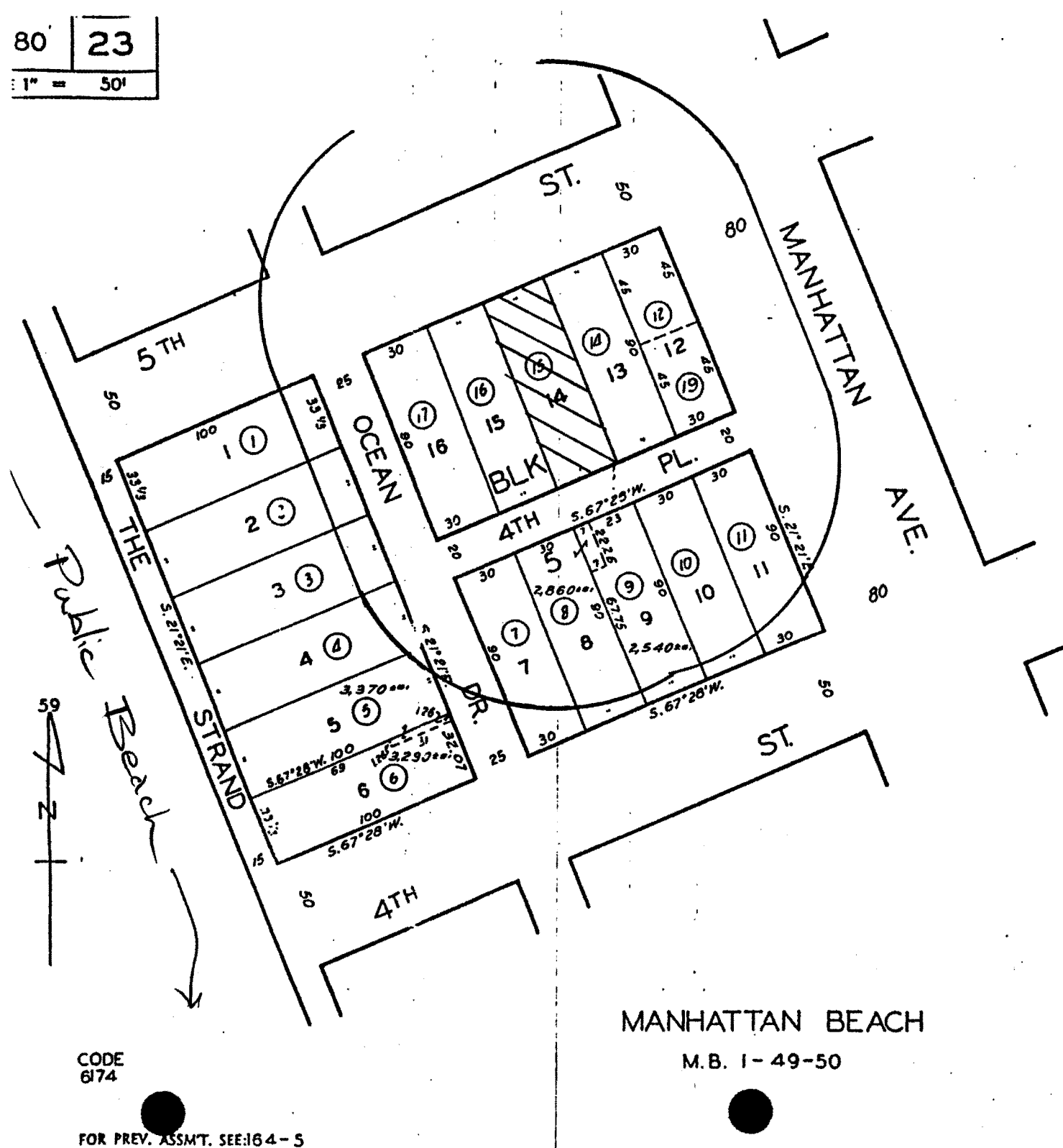
CONVENT STATION

AVIATION BL.  
AVIATION RD.  
ALMA AVE.  
ANDERSON AVE.  
ARTS

Site

COASTAL COMMISSION  
AS-MNB-98-239

EXHIBIT # 1  
PAGE 1 OF 1



MANHATTAN BEACH

M.B. 1-49-50

COASTAL COMMISSION  
AS-MNB-98-239

EXHIBIT # 2

PAGE 1 OF 1

CODE  
6174

FOR PREV. ASSMT. SEE: 164-5



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The plans show square footage (floor area) which appears to be in excess of the floor area ratio permitted. Also the open space requirements and height requirements do not appear to be met. Procedure to measure height also appears to be not in compliance with LCP, LUP and the policies set forth therein.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

William Venter

Signature of Appellant(s) or  
Authorized Agent

Date 6/9/98

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of \_\_\_\_\_

Date \_\_\_\_\_

**COASTAL COMMISSION**  
**AS-MNB-98-239**

EXHIBIT # 3

PAGE 1 OF 1



5-MNB-98054

City Hall

1400 Highland Avenue

Manhattan Beach, CA 90266-4795

Telephone (310) 545-5621

FAX (310) 545-5234

TDD (310) 546-3501

RECEIVED  
MAY 26 1998

May 20, 1998

Ms. Pam Emerson  
California Coastal Commission  
South Coast Area  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, CA 90802-4302

RE  
CALIFORNIA  
COASTAL COMMISSION

Re: Notice of Final Government Action for Project Located within the Coastal Commission  
Appeal Jurisdiction: 124 5th Street (APN: 4180-023-015) CA 98-11

Dear Ms. Emerson:

In compliance with the requirements of Section A.96.100D of the City of Manhattan Beach Local Coastal Program, you are hereby notified of the final local decision regarding a Coastal Development Permit allowing the demolition of an existing residence and construction of a new single family residence located at the subject address.

The City Council, at its regular meeting of May 19, 1998, received and filed (affirmed) the Planning Commission's decision of approval for the above reference project. A copy of the Resolution PC No. 98-12, outlining the findings and conditions of approval, is attached for your reference.

Should you need further clarification, please feel free to contact the undersigned.

Sincerely,

  
Jonathan Lait, Assistant Planner

Applicant Information: Robert Salim  
124 3rd Street  
Manhattan Beach, CA 90266

Attachment: Resolution No. PC 98-12

COASTAL COMMISSION  
AS-MNB-98-239

EXHIBIT # 4  
PAGE 1 OF 4

Fire Department Address: 400 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 545-8925  
Police Department Address: 420 15<sup>th</sup> Street, Manhattan Beach, CA 90266 FAX (310) 545-7707  
Public Works Department Address: 3621 Bell Avenue, Manhattan Beach, CA 90266 FAX (310) 546-1752

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
MANHATTAN BEACH APPROVING A COASTAL DEVELOPMENT  
PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING  
RESIDENTIAL STRUCTURE; AND CONSTRUCTION OF A NEW  
THREE STORY SINGLE FAMILY RESIDENCE LOCATED AT 124 5<sup>TH</sup>  
STREET (Salim)

WHEREAS, the Planning Commission of the City of Manhattan Beach conducted a public hearing pursuant to applicable law to consider an application for a Coastal Development on the property legally described as a Lot 14, Block 5, Manhattan Beach Tract, located at 124 5<sup>th</sup> Street in the City of Manhattan Beach; and,

WHEREAS, the subject location is within the Coastal Zone and the project is appealable to the California Coastal Commission; and,

WHEREAS, the applicant for said Coastal Development Permit is Robert Salim, owner of the subject property; and,

WHEREAS, said public hearing was advertised pursuant to applicable law, testimony was invited and received on April 22, 1998; and,

WHEREAS, the project is Categorically Exempt (Class 3, Section 15303) from the requirements of the California Environmental Quality Act (CEQA); and,

WHEREAS, the Planning Commission finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code; and,

WHEREAS, this Resolution, upon its effectiveness, constitutes the Coastal Development Permit for the subject project; and,

WHEREAS, the Planning Commission made the following findings with regard to this application:

1. The applicant requests approval of a Coastal Development Permit to construct a new three story single family residence on the property located at 124 5<sup>th</sup> Street.
2. The property is located within Area District III and is zoned RM, "Medium Density Residential". The surrounding private land uses consist of RM "Medium Density Residential".
3. The General Plan designation for the property is Medium Density Residential, and the Local Coastal Program/Land Use Plan designation is Medium Density Residential.
4. The project is consistent with the residential development policies of the Manhattan Beach Local Coastal Program, specifically Policies II. B. 1, 2, & 3, as follows:

II.B.1: The proposed structure is consistent with the building scale in the coastal zone neighborhood and complies with the applicable standards of the Local Coastal Program-Implementation Plan;

II.B.2: The proposed structure is consistent with the residential bulk control as established by the development standards of the Local Coastal Program-Implementation Plan;

II.B.3: The proposed structure is consistent with the 30' Coastal Zone residential height limit as required by the Local Coastal Program-Implementation Plan.

5. The project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976, as follows:

Section 30212 (a) (2): The proposed structure does not impact public access to the shoreline, adequate public access is provided and shall be maintained along adjacent streets.

Section 30221: Present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

**COASTAL COMMISSION**

EXHIBIT # 4

PAGE 2 OF 4

Resolution No. PC 98-12  
(Page 2 of 3)

6. The proposed use is permitted in the RM zone and is in compliance with the City's General Plan designation of Medium Density Residential; the project will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.
7. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code, and the Manhattan Beach Local Coastal Program.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Manhattan Beach hereby APPROVES the Coastal Development Permit for the property located at 124 5<sup>th</sup> Street, subject to the following conditions:

Standard Conditions

1. *Compliance.* All development must occur in strict compliance with the proposal as set forth in the application for said permit, subject to any special conditions set forth below. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission.
2. *Expiration.* The Coastal Development Permit shall be approved for a period of one year after the date of approval, with the option for future extensions, in accordance with the Local Coastal Program (LCP) - Implementation Program Section A.96.170
3. *Interpretation.* Any questions of intent or interpretation of any condition will be resolved by the Planning Commission..
4. *Inspections.* The Community Development Department Staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
5. *Assignment.* The permit may be assigned to any qualified persons subject to submittal of the following information to the Director of Community Development:
  - a. a completed application and application fee as established by the City's Fee Resolution;
  - b. an affidavit executed by the assignee attesting to the assignee's agreement to comply with the terms and conditions of the permit;
  - c. evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
  - d. the original permittee's request to assign all rights to undertake the development to the assignee; and,
  - e. a copy of the original permit showing that it has not expired.
6. *Terms and Conditions are Perpetual.* These terms and conditions shall be perpetual, and it is the intention of the Director of Community Development and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.
7. *Effective Date.* This Resolution shall become effective when all time limits for appeal as set forth in the Local Coastal Program - Implementation Program Section A.96.160 have expired; and, following the subsequent Coastal Commission appeal period which is 10 working days following notification of final local action.

Special Conditions

1. The subject Coastal Development Permit will be implemented in conformance with all provisions and policies of the Certified Manhattan Beach Local Coastal Program (LCP) and all applicable development regulations of the LCP - Implementation Program.
2. The plans shall be in substantial conformance with the plans submitted to, and approved by the Planning Commission on April 22, 1998.

COASTAL COMMISSION

EXHIBIT # 4

PAGE 3 OF 4

Resolution No. PC 98-12  
(Page 3 of 3)

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of April 22, 1998 and that said Resolution was adopted by the following vote:

AYES: Blanton, Kirkpatrick, Milam,  
Chairperson Kaplan

NOES:

ABSTAIN:

ABSENT: Dougher



RICHARD THOMPSON,  
Secretary to the Planning Commission



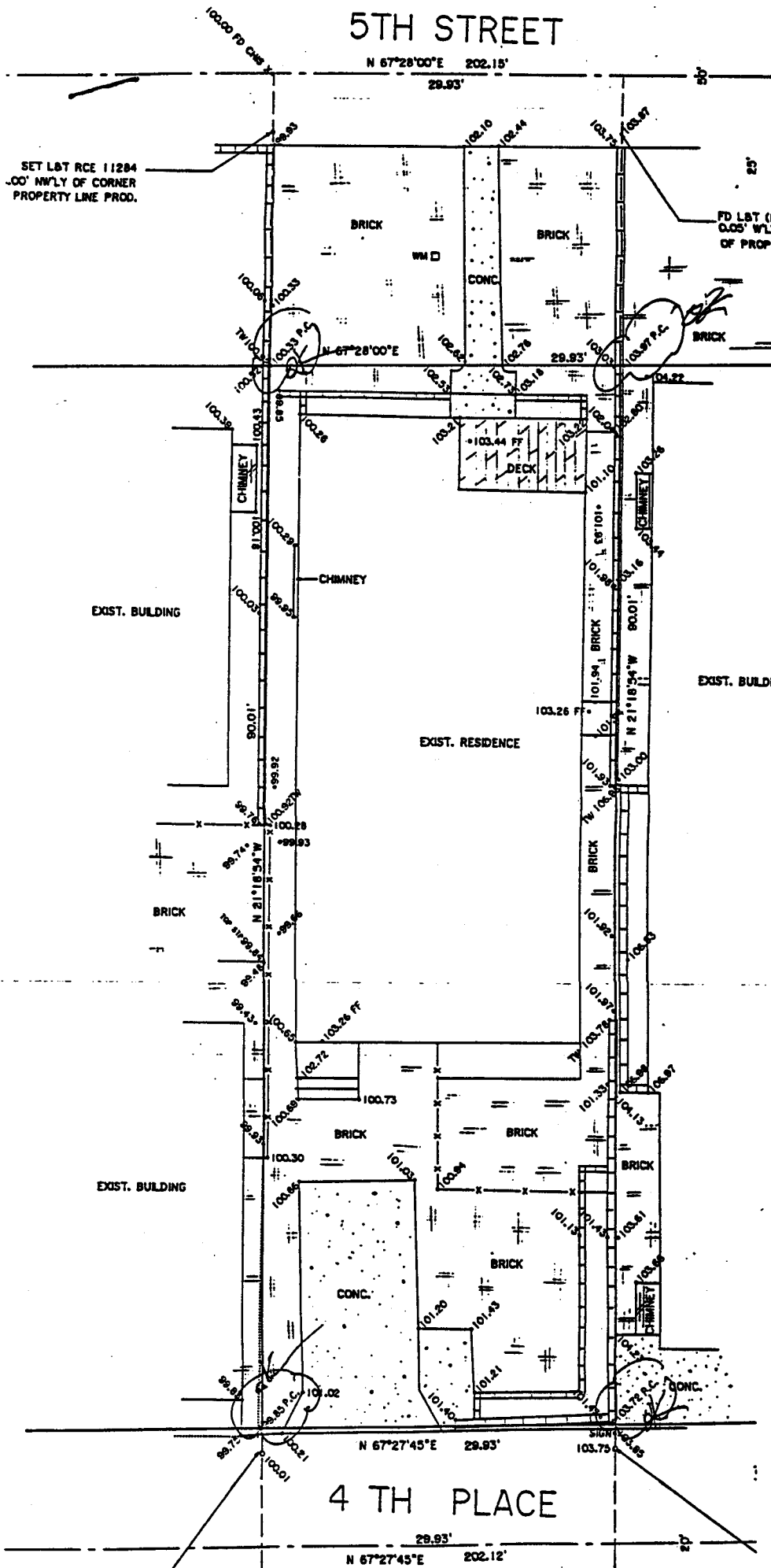
Sarah Boeschen,  
Recording Secretary

COASTAL COMMISSION

EXHIBIT # 4

PAGE 4 OF 4

# 5TH STREET



Site Survey

COASTAL COMMISSION  
Section 6 A5-MNB-98-229

EXHIBIT # 5

PAGE 1 OF 1

OWNER

BOB SALIM  
POB 1477 MANHATTAN BEACH 90266  
310.318.5530

LEGAL DESCRIPTION

124 FIFTH STREET MANHATTAN BEACH  
LOT 14 BLOCK 5 MB TRACT  
APN 4180-023-015

GENERAL PLAN	MDR
COASTAL ZONE LAND USE	RM
AREA DISTRICT	III

HEIGHT CALCULATION

NW 100.33, NE 103.97, SW 99.85, SE 103.92  
 $= 407.87 / 4 = 101.96 + 30' = 131.96$  MAX. HEIGHT.  
131.50 PROPOSED

AREA CALCULATIONS

LOT AREA  $29.93 \times 90.01$  2694 SF

LIVING AREA

BASEMENT	729 SF
FIRST	1705 SF
SECOND	1612 SF
TOTAL	

4046 SF

GARAGE AREA

669 SF

OPEN SPACE AREA

GRADE	143 SF
FIRST	72 SF
SECOND	*139 SF
TOTAL	

354 SF

$\frac{1612}{4046} = .398 \text{ or } 39.8\% = 139 \text{ SF MAX}$   
THIRD LEVEL O.S.\*

ALLOWABLE FLR AREA  $= 1.6 \times 2694 = 4310 \text{ SF}$   
ACTUAL FLR AREA = 4046 SF

DAN RICHARDSON DESIGN GROUP  
CUSTOM RESIDENTIAL DESIGN AND PLANNING  
MANHATTAN BEACH CALIFORNIA

TELEPHONE : 310-545-9606

City-Approved  
Plans.

COASTAL COMMISSION  
A5-MNB- 98-239

EXHIBIT # 6

PAGE 1 OF 3

WOOD  
FINISH

ME  
DOORS

188  
IL

131.90  
MAX BLDG HT.

131.50  
ACT BLDG HT.

121.5 FT

111.3 FT

101.5 FT

100.33  
P.C.

# NORTH ELEVATION

1/4" = 1'-0"

COASTAL COMMISSION  
A5-MNB-98-23

EXHIBIT # 6

PAGE 2 OF 3



131.96  
MAX ELOGHT

131.50  
ACT BLOS HT

121.5 FF

111.5 FF

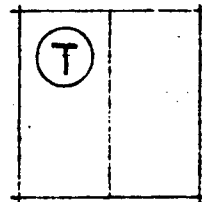
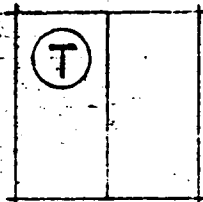
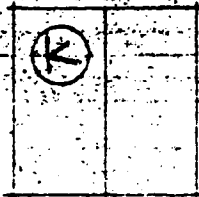
111.3

103.72  
FG.

103.3  
FG

101.5 TS/LIP

8'-0" CLR



# SOUTH ELEVATION

COASTAL COMMISSION

EXHIBIT # 6

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