

**CALIFORNIA COASTAL COMMISSION**

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Staff Report: 12/11/98  
Hearing Date: January 12-15, 1999  
Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

**APPLICATION NUMBER:** 5-95-116-A1

**APPLICANT:** Paul Bailey

**AGENT:** Rana Makarem, C & C Partners,

**PROJECT LOCATION:** 2601 Grand Canal, Venice, City of Los Angeles,  
Los Angeles County.

**DESCRIPTION OF PROJECT ORIGINALLY APPROVED (5-95-116):**

Demolition of a one-story, 595 square foot single family residence, and construction of a 30-foot high, two-story with basement, 2,700 square foot single family residence with an attached two-car garage.

**DESCRIPTION OF AMENDMENT REQUEST (5-95-116-A1):**

Revised project resulting in the construction of a three-story, 30-foot high (with 39-foot high roof access structure), 3,425 square foot single family residence with an attached two-car garage.

**LOCAL APPROVAL:** City of Los Angeles Approval in Concept #98-094, 9/16/98.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed amendment with a revised special condition that limits the height and bulk of the revised project as follows: In order to reduce the visual impact of the 39 foot high roof access structure from the public walkway, the footprint of the roof access structure shall not exceed 115 square feet, and shall be set back a minimum of 50 linear feet from the canal walkway which fronts the site. The applicant agrees with the recommendation.

**PROCEDURAL NOTE:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [14 California Code of Regulations 13166].

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions**

The Commission hereby grants, subject to the conditions below, an amendment to the permit for the proposed development on the grounds that the development and amendment, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

## II. Special Conditions

The five original special conditions of Coastal Development Permit 5-95-116, as approved by the Commission on July 11, 1995, remain unchanged by this amendment except that special condition four relating to building height is revised as follows:

### 4. Height

The height of the roof shall not exceed thirty feet above the elevation of the centerline of the canal walkway. One roof access structure, with a footprint not exceeding 115 square feet in area, may extend up to 39 feet above the elevation of the centerline of the canal walkway as shown in the approved plans (Exhibit #3). In order to reduce the visual impact of the roof access structure from the canal walkway which fronts the site, the roof access structure shall be set back a minimum of 50 linear feet from the canal walkway which fronts the site. Roof deck railings and roof equipment enclosures may not exceed 42 inches above the thirty-foot roof elevation.

## III. Findings and Declarations

The Commission hereby finds and declares:

### A. Area History and Project Description

On July 11, 1995, the Commission approved Coastal Development Permit 5-95-116 for the demolition of a one-story single family residence, and construction of a 30-foot high, three-level, 2,700 square foot single family residence. Coastal Development Permit 5-95-116 was issued on March 28, 1996. In July 1997, the applicant vested Coastal Development Permit 5-95-116 by demolishing the former residence on the canal-fronting lot.

The applicant has requested this amendment in order to construct a single family residence on the site that is different than the previously approved single family residence. The proposed project is currently under construction. The revised project is a three-story, 30-foot high (with 39-foot high roof access structure), 3,425 square foot single family residence with an attached two-car garage (See Exhibits). Although the currently proposed residence is larger than the previously approved structure, it conforms to the Commission's height limit and provides the required three on-site parking spaces and 450 square feet of permeable front yard area.

The project site is a 2,700 square foot lot on the west bank of Grand Canal in the Venice Canals residential area. The neighborhood is comprised of both old and new one, two and three-story single family residences, and a few non-conforming duplexes.

The Commission has recognized in both prior permit and appeal decisions that the canals area of Venice is a coastal neighborhood of unique character. In 1975, the Commission developed a set of building standards for the Venice Canals area through hearing and voting on various permits. These standards reflect conditions imposed in a series of permits heard prior to that time. Since then, a set of special conditions, which are periodically updated, have been routinely applied to Coastal Development Permits in the Venice Canals area to address the Coastal Act issues of public access, habitat protection, preservation of community character, and scale of development. The conditions imposed on the Coastal Development Permits ensure that the projects are consistent with the Coastal Act. In order to mitigate the identified impacts, the appropriate special conditions have also been applied to this permit.

## **B. Habitat Protection**

The Commission has found that Ballona Lagoon and the Venice Canals are sensitive habitat areas that must be protected from negative impacts associated with development.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The Venice Canals are located up stream from Ballona Lagoon, within the Ballona Wetlands system. The introduction of urban runoff, including pesticides, garden fertilizers, and runoff from impervious surfaces, can reduce the water quality of the canals which directly impacts the biological productivity of the system. The Ballona Wetlands system is habitat for many species of marine biota, including the state and federally listed endangered least tern.

In order to protect the biological productivity of the Venice Canals and Ballona Lagoon, the Commission has consistently conditioned projects along the waterways to provide and maintain front yard setbacks, pervious yard areas, and drainage devices to absorb and filter rainwater and site drainage before it enters the canals. The Commission's requirements are consistent with the recommendations of the Santa Monica Bay Restoration Project Action Plan to reduce non-point source pollutants.

The Commission has consistently conditioned projects in the Venice Canals to provide and maintain a large pervious front yard as a setback from the canal to enhance public access, to provide an area for percolation to protect the water quality and biological productivity of the

canals, and to protect community character by maintaining a comparable scale between buildings in the area. No fill nor building extensions may be placed in or over the required pervious front yard area with the exception of fences or permeable decks at grade.

The amount of the Commission's required pervious front yard area for the subject site is 450 square feet. The figure of 450 square feet is based on an average setback of fifteen feet across the thirty-foot width of the subject lot. The Commission's front yard setback requirement is defined in square footage rather than an absolute lineal measurement to allow for changes in plane which can add architectural interest. A minimum ten-foot front yard setback, with a required fifteen-foot setback average, can provide the required 450 square foot pervious front yard area and a front yard setback which is consistent with the other residences in the area.

In this case, the proposed structure is set back 17.5 feet from the canal property line. Although a stairway extends partly into the front yard area, the proposed project does provide 450 square feet of uncovered and pervious front yard area (Exhibit #2). The area covered by the proposed stairway is not included in the required 450 square foot yard area. As required, no fill or building extensions are proposed to be placed in or over the required 450 square feet of pervious front yard area.

The Commission has consistently required that applicants record the pervious yard area requirement on the property deeds to ensure continuous and ongoing protection of coastal resources and compliance with the requirement. In compliance with special condition two of the underlying permit, the applicant has record a deed restriction [*Los Angeles County Instrument No. 96-266694, 2/15/96*] which provides for the maintenance of not less than 450 square feet of pervious yard area in the front yard area adjacent the canal property line. Uncovered means that no fill nor building extensions shall be placed in or over the pervious yard area with the exception of fences or permeable decks at grade. Fences in front yard area shall not exceed 42 inches in height.

The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is required.

In order to mitigate the impacts on the habitat caused by surface drainage and drainage from residential areas, the Commission has consistently required the provision of a one hundred cubic foot french drain in order to filter urban runoff before it enters the canals. A condition is routinely placed on permits for development in the canals area which requires that plans be submitted which depict the location and design of the required french drain. In this case, the applicant has submitted a plan depicting the location and design of the required french drain. The applicant is also required to provide the french drain as shown on the final approved plans.

The Commission finds that, only as conditioned to provide a french drain and 450 square feet of pervious yard area to mitigate impacts on biological productivity caused by surface runoff into the canals, is the proposed project consistent with the Section 30240 of the Coastal Act.

### **C. Public Access/Parking**

The Commission has consistently found that a direct relationship exists between residential density, the provision of adequate parking, and the availability of public access to the coast. Section 30252 requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities.

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities....

Many of the older developments in the Venice Canals area do not provide adequate on-site parking. As a result, there is a parking shortage in the area and public access has been negatively impacted. The small amount of parking area that may be available for the general public on the surrounding streets is being used by guests and residents of the area.

To mitigate this problem, the Commission has consistently conditioned new development within the canals to provide a rear setback of at least nine feet for guest parking or to make other provisions for guest parking. The required rear setback for guest parking is in addition to the Commission's other parking standards.

In this case, the proposed project provides an attached two-car garage and an additional space for guest parking in the side yard (Exhibit #2). The proposed conforms to the Commission's parking standards for the Venice Canals area which require two parking spaces per residential unit and provisions for guest parking. The three on-site parking spaces are an adequate parking supply for the single family residence. A condition of the underlying permit requires the applicant to maintain the three on-site parking spaces as proposed. Therefore, the Commission finds that the proposed project is consistent with the public access policies of the Coastal Act.

### **D. Scale of Development**

The Commission has also consistently conditioned projects in the Venice Canals area to protect the community character. The area is comprised of both old and new one, two and three-story single family residences and a few remaining duplexes. The majority of the structures in the area do not exceed thirty feet in height. In order to protect the existing

scale and character of the neighborhood, and in order to protect the visual corridor along the canal's public walkways, the Commission has consistently limited new development in the canal area to a height of thirty feet, which is consistent with the general height of the area. The thirty-foot height limit reduces the canyon effect of massive structures which line the canals by ensuring that the mass of the structures is proportionate to the fifty-foot wide canals.

The Commission has, however, allowed portions of some structures to exceed the thirty-foot height limit by up to ten feet if the scenic and visual qualities of the area are not negatively impacted. The portions of structures that have previously been allowed to exceed the height limit include parapet walls and railings around roof decks, small roof access structures and elevator housings, chimneys, air conditioning equipment and skylights. No living area or storage space is permitted above the thirty-foot height limit. One of the methods used to reduce the visual impact of roof access structures is to require that such structures be set back away from canal walkway which fronts the site. If roof structures are set back towards the rear of the structure, they are less visible from the canal walkways which front the lots (Exhibit #4).

In this case, the proposed project has a roof height of thirty feet measured from the elevation of the centerline of the canal walkway (Exhibit #4). A roof deck is proposed on top of the thirty-foot high structure (measured from the canal walkway). A 115 square foot roof access structure exceeds the thirty-foot roof elevation by nine feet (Exhibit # 3). The proposed roof access structure is set back 50 linear feet from the canal walkway which fronts the site.

As proposed, the design of the proposed residence does not adversely effect the visual resources of the Venice Canals. The proposed project complies with the visual resource policies of the Coastal Act by minimizing the bulk of the proposed 39 foot high roof access structure housing and locating it near the rear of the structure away from the canal walkway (Exhibit #2). No living area or storage space is proposed above the thirty-foot height limit. Therefore, the Commission finds that the proposed project will not negatively impact the visual resources of the area, and that the proposed project conforms to the Commission's height requirements and previous approvals.

In order to ensure that the proposed project is constructed as approved, the approval is conditioned to limit the height of the roof to thirty feet above the elevation of the centerline of the canal walkway. One roof access structure, with a footprint not exceeding 115 square feet in area, may extend up to 39 feet above the elevation of the centerline of the canal walkway as shown in the approved plans (Exhibit #3). In order to reduce the visual impact of the roof access structure from the canal walkway which fronts the site, the roof access structure shall be set back a minimum of 50 linear feet from the canal walkway which fronts the site. Roof deck railings and roof equipment enclosures may not exceed 42 inches above the thirty-foot roof elevation. Only as conditioned is the proposed project consistent with the Coastal Act's visual resource policies.

In order to protect the visual corridor along the canal's public walkways, the Commission has also limited building extensions within the front yard setback area, except for ground level permeable decks. No building extensions, other than a permeable wood deck, may encroach into the required 450 square feet of uncovered pervious area in the front yard (Exhibit #2).

**E. Local Coastal Program**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal 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 Venice area of the City of Los Angeles does not have a certified Local Coastal Program. The proposed project, only as conditioned, is consistent with the habitat, coastal access, and recreation policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

**F. California Environmental Quality Act**

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.



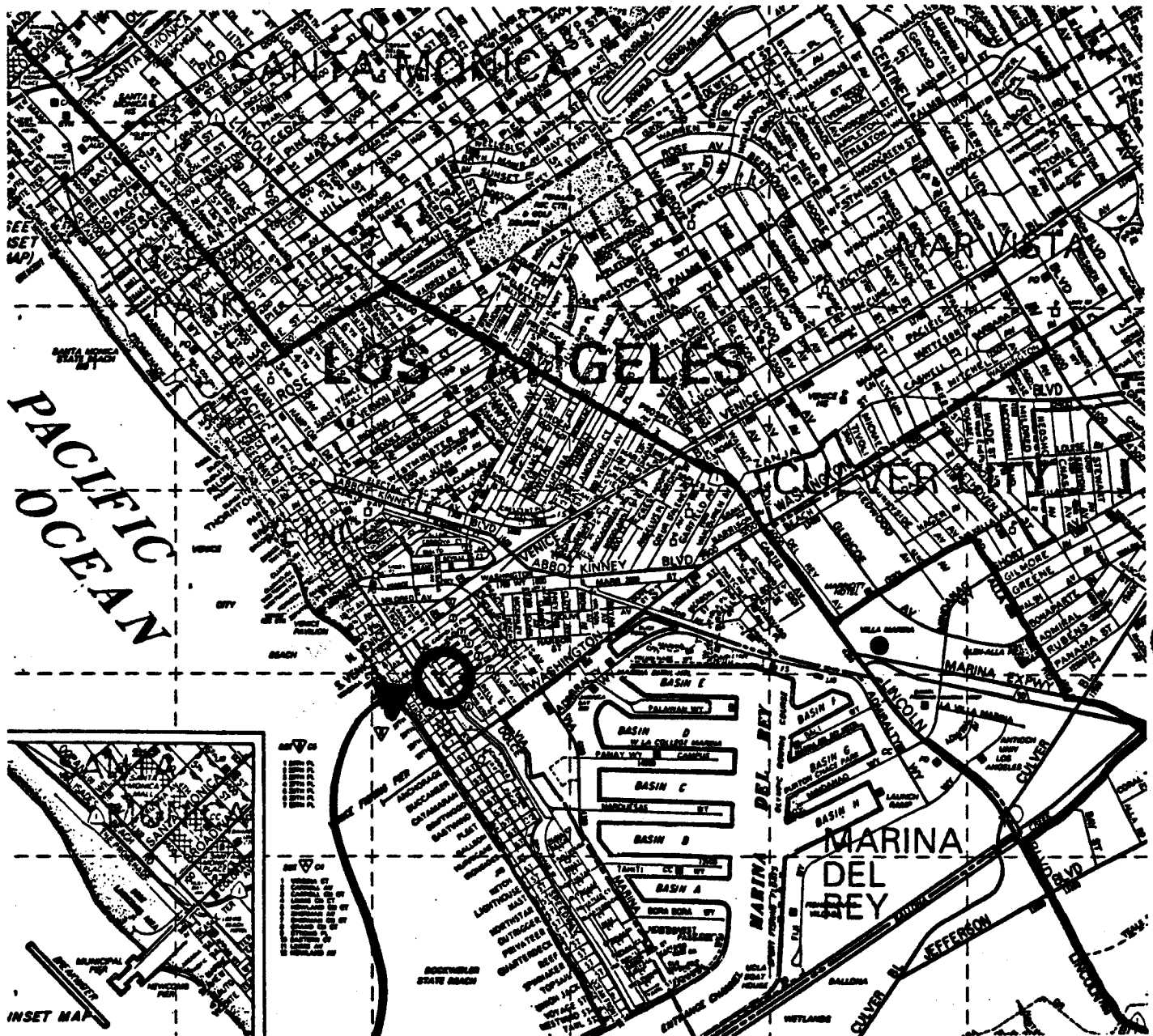
The proposed project, only as conditioned, is consistent with the habitat and coastal access policies of the Coastal Act. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

**G. Violation**

This is an after-the-fact permit amendment request. Consideration of this application has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit amendment does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred. The Commission will act on this application without prejudice.

The development which has already occurred on the subject site does not conform to the plans approved under Coastal Development Permit 5-95-116 (Bailey) because the design of the house currently under construction deviates from the plans approved by the Commission on July 11, 1995. The applicant has submitted this amendment request in order to receive Commission approval for the single family residence which is nearing completion on the site. The current proposal, which reflects the as-built condition of the development, conforms to all Commission building standards for the Venice Canals neighborhood.

End/cp



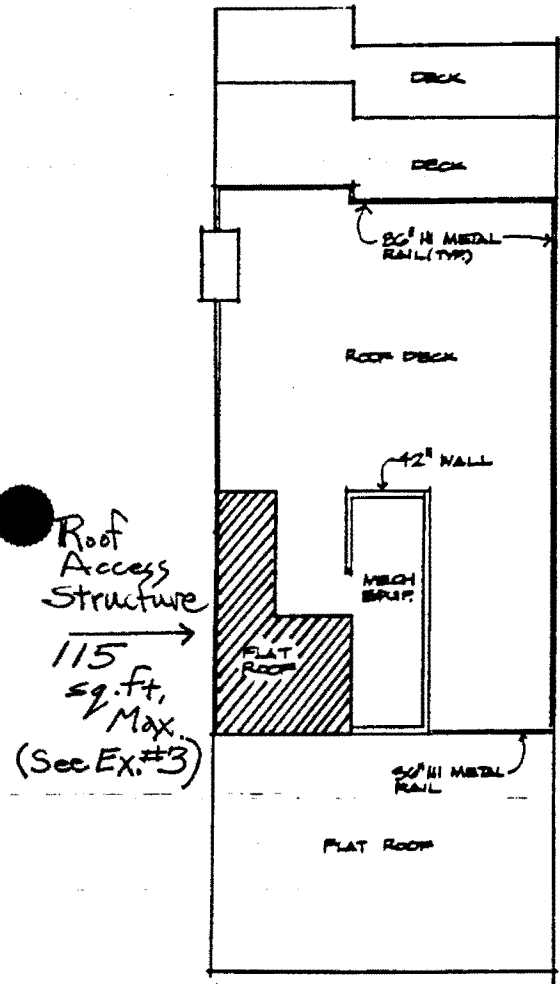
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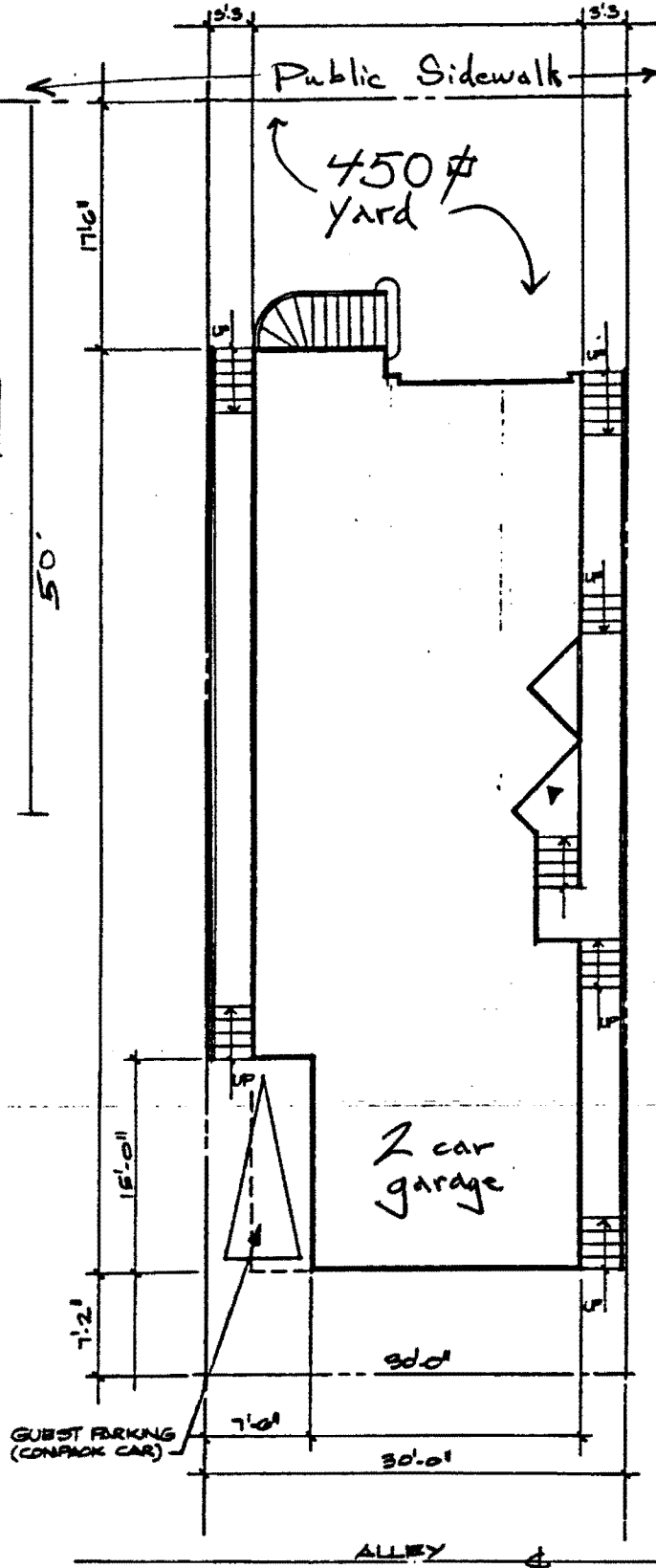
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EXHIBIT # 1

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ROOF PLAN



SITE PLAN

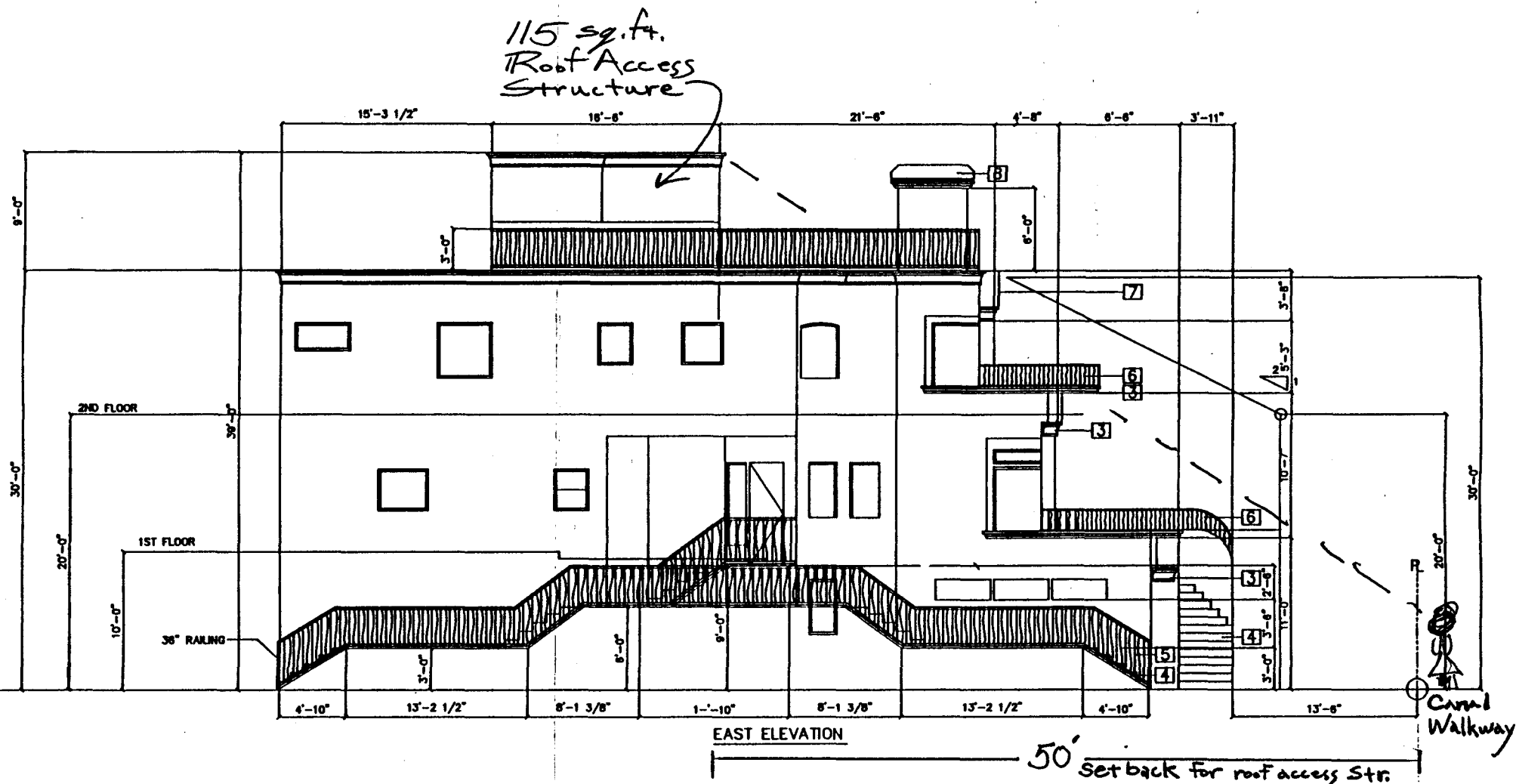
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EXHIBIT # 2

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EXHIBIT # 4

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