

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY**

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 Staff: AJP-LB
 Staff Report: 1/25/00
 Hearing Date: 2/15-18/00

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER:** 5-99-401**APPLICANT:** Check Investments**AGENT:** Michael Kent, Inc.**PROJECT LOCATION:** 1267 Palisades Beach Road, Santa Monica**PROJECT DESCRIPTION:** Addition of two-stories, approximately 2,827 square feet, with a tucked under two-car garage, to an existing one-story 835 square foot duplex.

Lot Area:	2,275 square feet
Building Coverage:	1,243 square feet
Pavement Coverage:	982 square feet
Landscape Coverage:	50 square feet
Parking Spaces:	4
Zoning:	R2B—Low Density Residential
Ht above final grade:	40 feet

LOCAL APPROVALS RECEIVED: Approval in Concept**SUBSTANTIVE FILE DOCUMENTS:** CDPs 5-97-199(Risa, Inc); 5-97-112(Ephraim)**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval with a special condition requiring the recordation of a deed restriction to place applicant and future property owners on notice that the pedestrian overpass is a public access and any future development shall not impede or interfere with the public accessway.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit #5-99-401 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

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 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. 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.
7. 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

a) By acceptance of this permit, the property owner is aware that the pedestrian overpass located in the northwest 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.

b) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development within the applicant's parcel. The deed restriction shall include legal descriptions of the applicant's entire parcel. 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. This 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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes the addition of approximately 2,827 square feet to the first floor and to a new second floor, with a tucked under two-car garage, to an existing one-story duplex on a 2,275 square foot lot. The height of the duplex will be 40 feet from existing grade. The project will include a private doorway connecting to an existing public pedestrian overpass across Palisades Beach Road (Pacific Coast Highway).

The lot is a beach fronting lot located north of the Santa Monica Pier, in the North Beach area of the City of Santa Monica, west (seaward) of Palisades Beach Road in the R2B (Los Density Multiple Family Residential/Parking Overlay) District.

The North Beach area contains the City's northern sandy beach area, beach clubs, the "Gold Coast" single-family residential neighborhood, and multi-family residential development. The subject lot is located within a row of residentially developed lots consisting of a mix of single and multiple family residences. This area of single and multiple-family residences is the first residential row or tract north of the pier. There are approximately 30-40 residences in this tract.

Existing development in the surrounding area consists of two-single family residences and then a beach parking lot to the north of the project site; to the south is a multiple-family residence; to the east is Palisades Beach Road (Pacific Coast Highway) and Palisades Park bluffs; and to the west is the paved 20 foot wide Ocean Front Walk (Promenade) and the beach.

The subject lot and surrounding area is located within the City's Beach Overlay District. The Beach Overlay District includes the area west (seaward) of Ocean Avenue and Neilson Way (excluding the Pier area). The Beach Overlay District was created with the passage of a voter initiative (referred to as Proposition S). The initiative prohibits hotel and motel development, and restaurants over 2,000 square feet, in the Beach Overlay District.

In 1992, Commission denied the LCP for the Beach Overlay District and denied certification because the Commission found that Proposition S discouraged visitor serving uses along the beach resulting in an adverse impact on coastal recreation and access. In an earlier action in 1987, the Commission certified, with suggested modifications, a LUP that included the area presently known as the Beach Overlay District. In its action in 1987, the Commission found that the submitted LUP would also result in adverse impacts on coastal access and recreational opportunities and

denied the LUP as submitted and approved it with suggested modifications to mitigate any adverse impacts. As modified the 1987 LUP allowed limited residential development with a small amount of commercial development in the north beach area. This 1987 LUP certification has lapsed.

B. Access/Recreation--Ocean Front

Section 30221 of the Coastal Act States:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless 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.

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

As stated, the proposed project is located between the first public road and the sea. The Coastal Act requires that public coastal recreational facilities shall have priority over other types of development on any private land suitable for such use. Sections 30221 and 30222 gives priority land use to visitor-serving commercial and public recreational facilities on public and private oceanfront and upland areas where necessary.

In acting on the 1992 LUP submittal, the Commission found that the LUP, which incorporated the provisions of Proposition S, discouraged visitor serving uses along the beach, resulting in an adverse impact on coastal access and recreation, and the LUP did not adequately mitigate these and other adverse impacts. Therefore, the Commission could not find the LUP consistent with Section 30221 and 30222 of the Coastal Act.

In the 1987 certified LUP, the Commission found that maximum public access was not being provided on the beach, especially in the north beach area, and allowing private residential development along the north beach would adversely impact public access and would preclude higher priority recreational uses. Therefore, the Commission required a modification to Policy 59 of the LUP, which, as modified, stated in part:

... High density residential development shall not be allowed on lots which are currently designated for but not built out to the high density level. Development on these lots shall not exceed their existing density and shall be redesignated as such. Residential development shall be allowed only on those parcels which are currently both developed with and zoned for private residential use. . .Residential development of properties currently developed with beach clubs or other recreational uses shall be prohibited. These parcels shall accommodate beach related visitor-serving recreational and commercial uses including but not limited to overnight visitor accommodations and public parking uses. . .

As modified, the 1987 LUP allowed residential use on lots currently developed with residential use, however, the lots were not allowed to exceed their existing densities in order to minimize the impacts to recreational and access opportunities. In this particular case the applicant is constructing a single-family residences on a vacant lot.

The subject property is located within a residential tract, north of the Santa Monica Pier, consisting of mainly older single and multiple family residences with some recycling occurring. This area, because of its proximity to a State beach parking lot and the Pier, would normally be suitable for visitor-serving commercial development. One of the basic Coastal Act goals is to maximize public recreation and access to the beaches. However, this project is a renovation of an existing residential structure, with existing residential development on either side. Because the project is a renovation of an existing residential structure and is located within a residential development, the lot is not suitable for visitor-serving commercial development.

The proposed project's second floor will be setback approximately 5 feet from an existing public pedestrian overpass. The overpass extends from the applicant's property 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 lots. The overpass is owned and maintained by the California Department of Transportation (Caltrans).

The proposed project will include a private connection for the residence from the second story to the pedestrian overpass. The overpass encroaches 15 feet into the northeast corner of the applicant's property. Through a recorded agreement, recorded in 1934 with the property owner at that time and Caltrans, Caltrans was allowed to encroach over the property to construct the first landing of the overpass. The agreement allowed the property owner to:

...connect with and use the stairway approach to the pedestrian overhead, provided that this construction shall not

structurally weaken said bridge abutment and steps nor interfere with the public use thereof.

The project plans have been reviewed and approved by Caltrans. As proposed the private connection to the overpass will not interfere with public access to and from the pedestrian overpass; however, over the years the Commission has seen numerous cases where perceived conflicts arise between private property owners and the public when development is close to public access or recreational areas. Because of the close proximity of the residence to the overpass and the proposed connection to the overpass there may develop a conflict between the private property owner and public use of the overpass. Because the public access has been existing for many years and is an important vertical accessway that provides pedestrian access from the upland areas to the beach area, the applicant and all future property owners should be put on notice that the pedestrian overpass is a public accessway and that any future development shall not impede or interfere with the public's ability to access the overpass.

Although there is an existing recorded deed that requires the applicant not to interfere with public use of the overpass, the Commission may not become aware of any future removal of the restriction since the agreement was with Caltrans and the Commission is not a party to the agreement. Therefore, the recording of a deed restriction is necessary to ensure that all future property owners are put on notice that there is an existing public accessway abutting the property and it shall be protected as a condition of approval of this development to provide maximum access. The Commission, therefore, finds that only as conditioned will the project be consistent with Sections 30221 and 30222 of the Coastal Act.

C. Development

Section 30250 of the Coastal Act states in part that:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30251 of the Coastal Act states in part that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal

areas, to minimize the alteration of natural land forms, to be visually compatible with the character surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed project is located in an area of the north beach subarea that is developed with a mix of single and multiple-family residences. Residential structures range from one to three-stories, with a maximum height of 40 feet.

The proposed project will be four-stories, 40-feet high, as measured from existing grade. In past permit actions for the area the Commission has consistently limited the height of development to 50 feet for all structures in the north beach subarea. The City currently limits development to a maximum height of 40 feet but also requires projects to conform to a view envelope to protect views from the Palisades Park bluffs. The view envelope is measured from a height of 30 feet at the beach set back line to a point 5 feet above the bluff. The proposed project is lower than the Commission's maximum height limit and is consistent with the City's view envelope restriction.

Development along this portion of Palisades Beach Road is generally required to be setback from the Promenade a minimum of 15 feet, as measured from the centerline of the Promenade. In this case the existing structure is built on the lot line and does not meet the 15-foot setback. However, since the project is a remodel and not a demolition and new construction, the setback does not apply. The applicant, however, has designed the new second and third story with a setback of 15 feet from the centerline of the Promenade.

The Commission has consistently required multi-family residential projects to provide two parking spaces per unit. However, the project is a remodel of an existing duplex, that existed prior to the Coastal Act and the City's current standards. At the time of construction of the existing duplex the City's parking ratio was one space per unit. The Commission, in past permit actions, has allowed existing parking to be grandfathered in as long as the development was not intensifying the existing use. In this particular case, the project is providing a two car garage and an area that will provide an on-site area in front of the garage for at least two additional parking spaces on-site, for a total of four parking spaces or a parking ratio of two spaces per unit.

As conditioned, the project is consistent with past Commission permit action regarding height and parking requirements. The project as proposed is consistent with the character and scale of the surrounding area and with past Commission permit action for the area. The Commission, therefore, finds that the proposed project is consistent with Sections 30250 and 30251 of the Coastal Act.

D. Local Coastal Program

(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.

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District), and the Santa Monica Pier. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications.

The area within the Beach Overlay District was excluded from certification due to Proposition S discouraging visitor serving uses along the beach resulting in an adverse impact on coastal access and recreation. In deferring this area the Commission found that, although Proposition S and its limitations on development were a result of a voters initiative, the policies of the LUP were inadequate to achieve the basic Coastal Act goal of maximizing public access and recreation to the State beach and did not ensure that development would not interfere with the public's right of access to the sea.

The subject site, because of its proximity to the State beach and Santa Monica Pier, is suitable for visitor-serving commercial development. However, because the applicant is replacing an existing single-family residence with a new single-family residence and the project site is located within an area consisting of residential development the Commission finds it can approve the development. As conditioned the project will not adversely impact coastal resources or access. The Executive Director, therefore, determines that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare Land Use Plan policies for the Beach Overlay District (deferred area) and a Local Coastal Program implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications 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.

An alternative to the project is constructing the residential structure with no access connection to the pedestrian overpass. However, as conditioned, public access will not be adversely impacted. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.

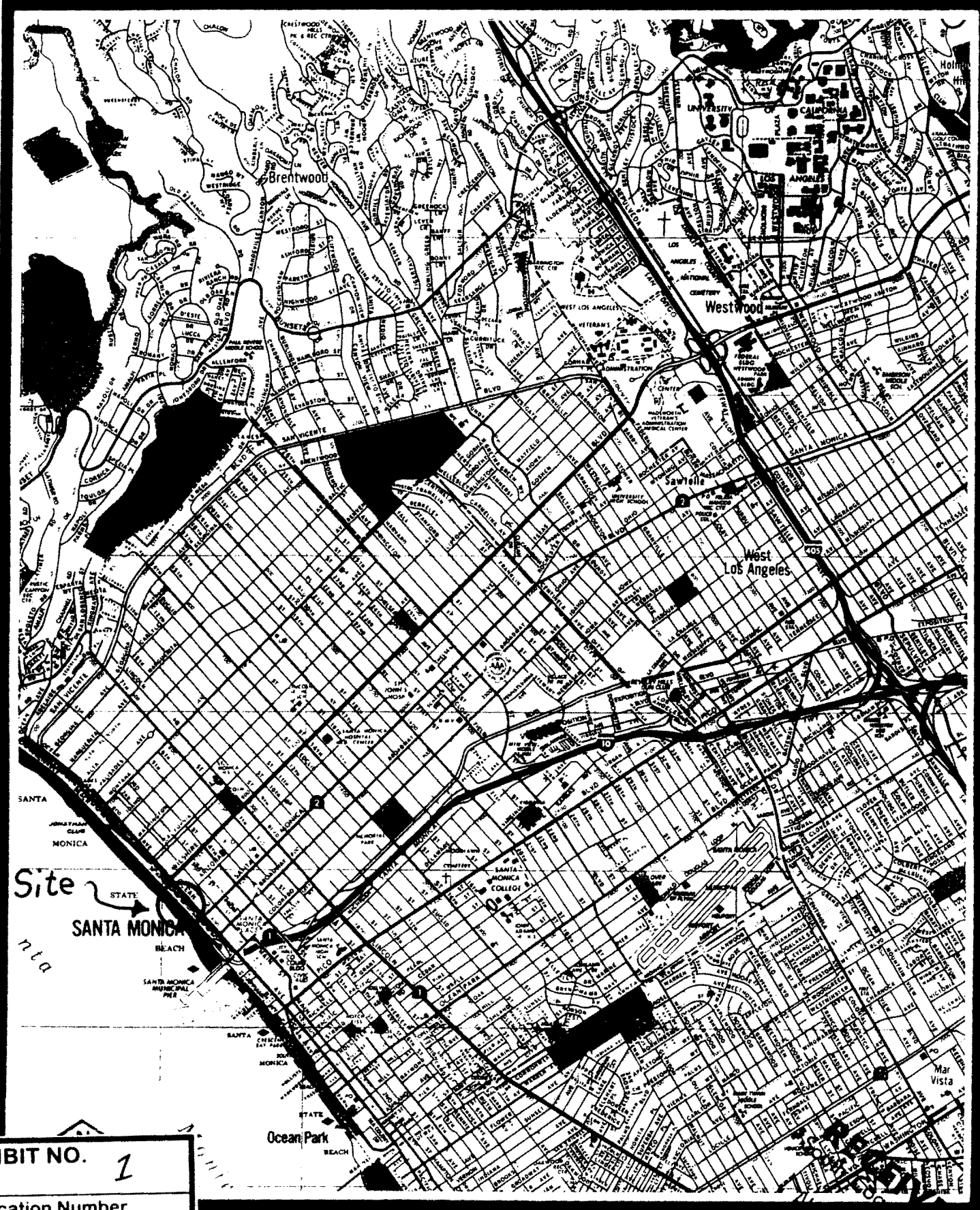
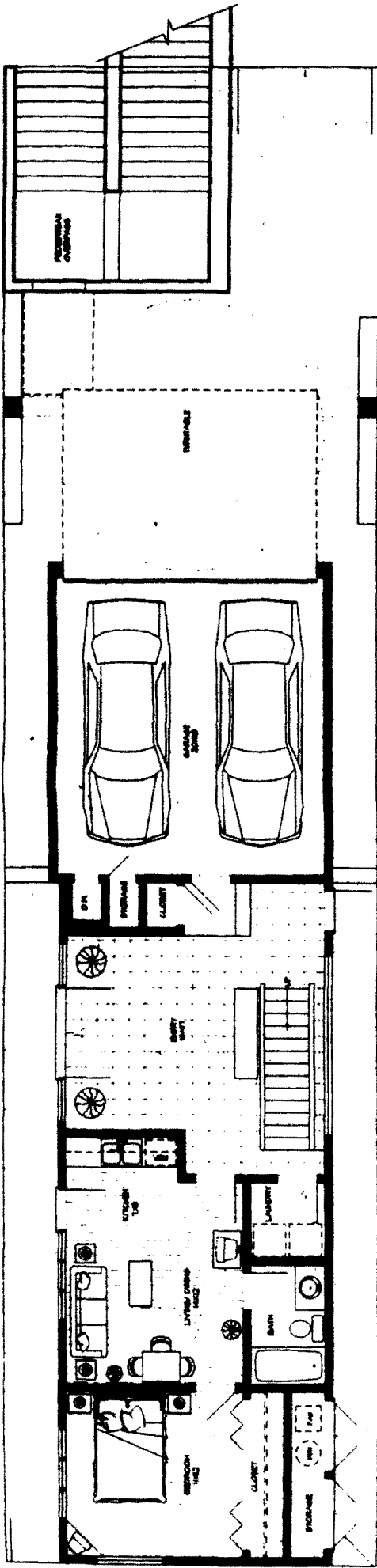


EXHIBIT NO.	1
Application Number	99-401
	Vicinity Map
California Coastal Commission	

Location Map

CALIFORNIA COASTAL COMMISSION
 Region

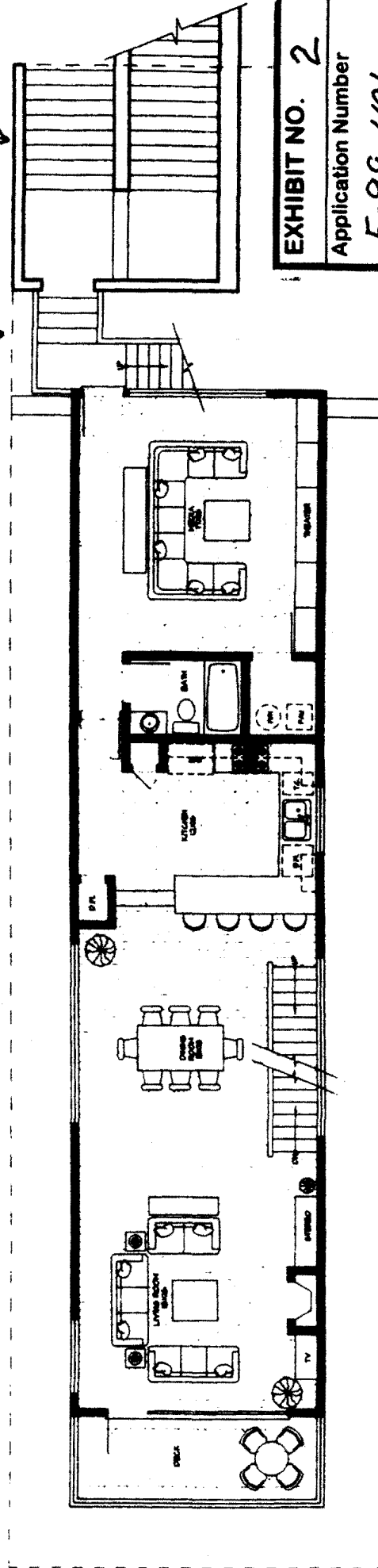


FIRST FLOOR

SCALE 1/4" = 1'-0"

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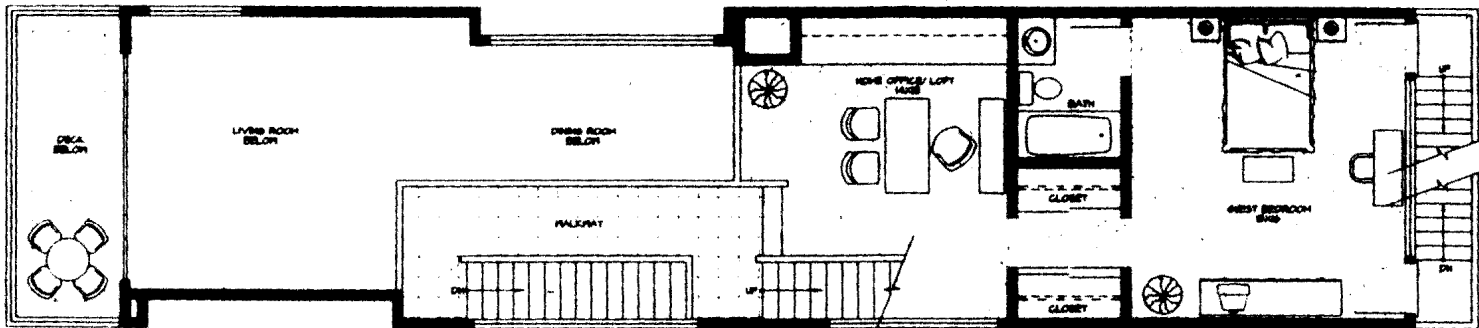
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Private Access
to Overpass



SECOND FLOOR

SCALE 1/4" = 1'-0"

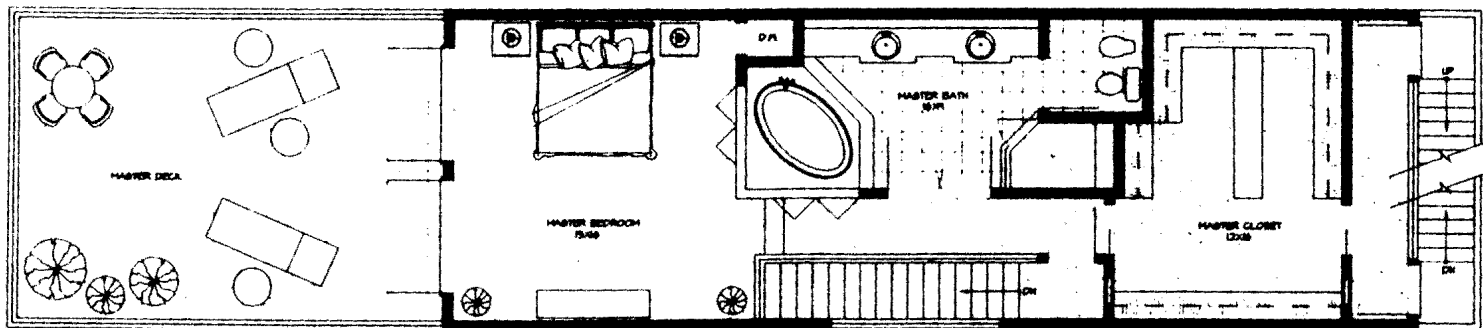
EXHIBIT NO. 2
Application Number 5-99-401
1st & 2nd floor Plan
California Coastal Commission



THIRD FLOOR SCALE 1/4"=1'-0"

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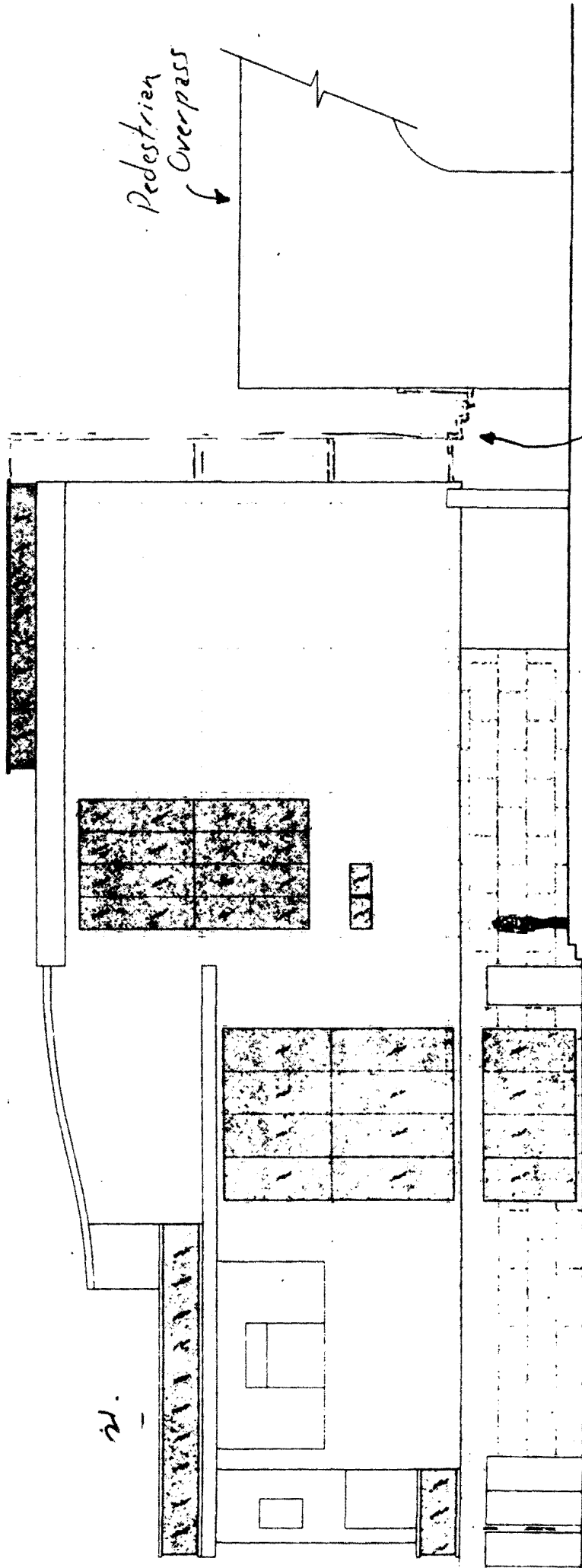
FOURTH FLOOR SCALE 1/4"=1'-0"

EXHIBIT NO. 3

Application Number

5-99-401
3rd & 4th Floor Plan

California Coastal Commission



Private Access to Overpass

Pedestrian Overpass

EXHIBIT NO. 4
Application Number 5-99-401
<i>Elevation</i>
California Coastal Commission

SCALE 1/4" = 1'-0"

SOUTH ELEVATION

24.