

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Filed: 10/31/2007
49th Day: 12/19/2007
180th Day: N/A
Staff: Charles Posner - LB
Staff Report: 11/20/2007
Hearing Date: December 12, 2007
Commission Action:

**W13a****STAFF REPORT: APPEAL - NO SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Manhattan Beach

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-MNB-07-388

APPLICANT: James R. Obradovich

AGENT: Elizabeth Srour, Srour and Associates, LLC

PROJECT LOCATION: 128 9th Street, City of Manhattan Beach, Los Angeles County.

PROJECT DESCRIPTION: Appeal of City of Manhattan Beach Local Coastal Development Permit No. 07-30 approved for the demolition of a single-family residence and the construction of a three-level, thirty-foot high, 4,075 square foot single-family residence with a four-car garage on a 2,700 square foot lot fronting a walk street.

APPELLANT: William Victor

SUBSTANTIVE FILE DOCUMENTS:

1. City of Manhattan Beach Local Coastal Program (LCP), certified 5/12/1994.
2. Local Coastal Development Permit No. 07-30 (Obradovich) (Exhibit #5).
3. Appeal No. A-5-MNB-98-239 (Wm. Victor appeal of Salim house: 124 5th Street).
4. Appeal No. A-5-MNB-96-078 (Wm. Victor appeal of Laverty house: 700 The Strand).

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that the appeal raises **no substantial issue** with respect to the grounds on which the appeal has been filed for the following reason: The locally approved development (single-family residence) conforms to the City of Manhattan Beach Certified Local Coastal Program (LCP) and the public access policies of the Coastal Act. **The motion to carry out the staff recommendation is on Page Five.**

I. APPELLANT'S CONTENTIONS

On October 11, 2007, after the expiration of the City's fifteen-day public comment period, the City of Manhattan Beach Director of Community Development approved Local Coastal Development Permit No. 07-30 for the demolition of a one-story single-family residence (c.1914), and the construction of a three-level, 4,075 square foot single-family residence on a 2,700 square foot lot (See Exhibits). The public hearing for the permit was waived pursuant to the requirements of Section A.96.260 of the City of Manhattan Beach Local Coastal Program (LCP). Section A.96.260 of the City of Manhattan Beach LCP allows the City, consistent with the provisions of AB 1303, to issue a local coastal development permit without a public hearing if the proposed "minor development" is consistent with the certified LCP, requires no discretionary approvals (other than a coastal development permit), and no one objects to the project or requests a public hearing during a duly-noticed fifteen-day (working days) public comment period.

On October 31, 2007 the Commission's South Coast District office in Long Beach received the appeal (by fax) from William Victor (Exhibit #4). Mr. Victor's appeal asserts that:

- He did not receive notice of the coastal development permit application, even though he owns property within one hundred feet of the project site. He only heard of the proposed project from a neighbor on October 13, 2007. City staff told him the last day to request a public hearing on the matter was October 10, 2007.
- The City-approved development (4,075 square foot single-family residence) does not conform with Section 30251 of the Coastal Act because it is not visually compatible with the character of the surrounding area, especially in regards to scale. He asserts the approved single-family residence is too large for the area, and has been designed without regard to protections of views or visual quality.

II. LOCAL GOVERNMENT ACTION

On July 13, 2007, the City of Manhattan Beach accepted the applicant's application for a local coastal development permit (No. CA 07-30) for the proposed demolition and construction of a single-family residence on a residentially-zoned lot in Manhattan Beach.

The City record contains a copy of the City's Notice of Application (Public Hearing Waiver for Minor Developments), dated September 20, 2007, which constitutes the public notice for the coastal development permit application. The City's notice states that, "The proposed project is a 'minor development' and does not require a public hearing (to be held by the Planning Commission) unless a written request citing reasons for a hearing is received. A written request for hearing must be received by October 10, 2007."

The City received no comments, objections, or requests for public hearing during the public comment period, which expired on October 10, 2007. On October 11, 2007, the Director of Community Development approved Local Coastal Development Permit No. 07-30 for the proposed project. According to the City's Public Notice dated September 20, 2007, the decision of the Director of Community Development could be appealed to the City Planning

Commission within ten working days following the action (with a \$465 appeal fee). The City received no appeals of the decision by the Director of Community Development.

On October 17, 2007 the Commission's South Coast District office in Long Beach received the City's Notice of Final Local Action for Local Coastal Development Permit No. 07-30 (Exhibit #5). The Commission's ten working day appeal period was then established and noticed. On October 31, 2007, the final day of the appeal period, the Commission's South Coast District office received (by fax) the appeal submitted by William Victor (Exhibit #4). No other appeals were received.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCP), 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 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 [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a "major public works project" or a "major energy facility" [Coastal Act Section 30603(a)(5)]. In Manhattan Beach, the inland boundary of the appealable area of the City's coastal zone, located three hundred feet from the inland extent of the beach, has been mapped within the Manhattan Avenue right-of-way (Exhibit #2). The proposed project is located entirely within the mapped geographic appealable area.

The City of Manhattan Beach Local Coastal Program (LCP) was certified on May 12, 1994. Section 30603(a)(1) of the Coastal Act identifies the proposed project site as being in an appealable area by virtue of its location within three hundred feet of the beach.

Section 30603 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 greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

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. Sections 30621 and 30625(b)(2) of the Coastal Act require a *de novo* hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of no substantial issue. If the Commission decides that the appellant's contentions raise no substantial issue as to conformity with the certified Local Coastal Program or the public access policies of the Coastal Act, the action of the local government stands. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act, the local coastal development permit is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a *de novo* matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that *de novo* actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

If there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will schedule the *de novo* portion of the public hearing on the merits of the application at a subsequent Commission hearing. A *de novo* public hearing on the merits of the application 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 an approved application is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 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 Commission will then vote on the substantial issue matter.

It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue. The Commission's finding of substantial issue voids the entire local coastal development permit action that is the subject of the appeal.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds for the appeal regarding 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).

Staff recommends a **YES** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-MNB-07-388 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.

Resolution to Find No Substantial Issue for Appeal A-5-MNB-07-388

The Commission hereby finds that Appeal No. A-5-MNB-07-388 raises no substantial issue regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The proposed project is the demolition of a one-story single-family residence (c.1914), and the construction of a three-level, thirty-foot high, 4,075 square foot single-family residence with a four-car garage on a 2,700 square foot lot fronting a walk street (See Exhibits). A portion of the 9th Street public right-of-way (in front of the proposed house) will be improved and landscaped, consistent with the LCP walk street standards, as part of the proposed project. Public pedestrian access on the right-of-way will not be adversely affected. The proposed single-family residence has three levels (two-stories above a basement) and measures thirty feet in height (Exhibit #9). Vehicular access to the on-site parking (875 square foot four-car garage) is provided by the rear alley (8th Place).

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 (LCP) 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.

In this case, the appellant's dual contentions are: the lack of public notice denied him the right to a public hearing on the matter, and the proposed house is too large (Exhibit #4).

The appellant, William Victor, owns property within one hundred feet of the project site. His name and mailing address appear on the notice list in the local coastal development permit application file. He therefore should have received notice of the pending application for the proposed project, as required by Section A.96.100 of the City of Manhattan Beach LCP. Mr. Victor asserts that he did not receive notice of the coastal development permit application. The Commission's South Coast District office in Long Beach also did not receive notice of the coastal development permit application.

Typically, only an "aggrieved person" can file an appeal of a local coastal development permit with the Commission. An aggrieved person is one who participated at the local hearing(s) for the coastal development permit application and has exhausted the local appeal process. Section 13573(a) of the Coastal Commission regulations, however, creates exceptions for the exhaustion of local appeals where an appellant shall be deemed an aggrieved person. One exception is if an appellant was denied the right of local appeal because the local notice and hearing procedures for the development did not comply with the public notice requirements. Another exception is if the local government charges a fee for the filing of an appeal, as is the case in the City of Manhattan Beach. Therefore, the Commission will allow the appellant to file his appeal in this case, even though he did not request a public hearing or object to the proposed project during the City's fifteen-day public comment period, because he did not receive notice of the application as required by Section A.96.100 of the City of Manhattan Beach LCP and the City imposes a \$465 appeal fee for an appeal to the City Planning Commission.

Appellant's Objection

The appellant objects to the proposed project (a 4,075 square foot single-family residence) because it is too large for the area, and has been designed without regard to protections of views or visual quality as required by Section 30251 of the Coastal Act. The appeal asserts that the project "is not visually compatible with the character of the surrounding area, especially in regards to scale" (Exhibit #4, p.3). The appellant has not provided any specific evidence in support his contention.

As previously stated, the substantial issue determination is limited solely to the issue of whether the local approval conforms with the LCP and the public access policies of the Coastal Act. Coastal Act Section 30251, the development policy referenced in the appeal, is not part of the City of Manhattan Beach certified LCP. The appeal does not assert that the proposed project conflicts with any provision of the certified LCP, and the appeal does not raise any issue with regard to the public access policies of the Coastal Act. Therefore, the appeal raises no substantial issue regarding the proposed project's conformity with the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act.

Even though the appeal does not contend that the proposed project does not comply with the certified City of Manhattan Beach LCP, the appeal raises issues with regard to building scale, community character and visual resources. The certified LCP does contain specific policies to protect community character and visual resources in the City's residential neighborhoods, consistent with the provisions of Section 30251 of the Coastal Act. The City's zoning

ordinance, which is part of the certified LCP, includes building height limit and floor area limits that address the scale of new development in the coastal zone. All development approved within the City's coastal zone, including the proposed project, must comply with the policies and implementing ordinances set forth in the certified Manhattan Beach LCP.

The following policies contained in the certified Manhattan Beach LCP are relevant to the proposed project:

Residential Development

- POLICY II.B.1:** Maintain building scale in coastal zone residential neighborhoods consistent with Chapter 2 of the Implementation Plan.
- POLICY II.B.2:** Maintain residential building bulk control established by development standards in Chapter 2 of the Implementation Plan.
- POLICY II.B.3:** Maintain coastal zone residential height limit not to exceed 30' as required by Sections A.04.030 and A.60.050 of Chapter 2 of the Implementation Plan.

The above-stated LCP policies are implemented by the City's zoning ordinance (Chapter 2 of the LCP Implementation Plan), which is part of the certified LCP. 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 (Medium Density Residential) and RH (Residential High Density) Districts. Section A.12.030 of the certified LCP contains the following applicable building standards for the proposed project, which is on an RH-zoned lot:

Maximum Height:	30 feet
Maximum Buildable Floor Area:	1.7 times lot area
Minimum Usable Open Space:	350 square feet

Commission staff has compared the City-approved project plans against the standards contained in the certified LCP, and has found no evidence of non-compliance. The proposed single-family residence conforms to the thirty-foot height limit contained in the certified LCP. The proposed project also conforms to the LCP's buildable floor area limit. The lot is 2,700 square feet in size. The maximum amount of buildable floor area allowed by the certified LCP is 1.7 times the lot area ($1.7 \times 2,700 = 4,590$ square feet). The local coastal development permit approves a 4,950 square foot structure (4,075 square foot house plus 875 square foot garage). However, the buildable floor area of a residential structure in the RH zone (Area III), as defined in Section A.04.030 of the certified LCP, does not include 600 square feet used for vehicle storage (e.g., the garage). Therefore, the proposed project's buildable floor area is 4,350 square feet ($4,950 - 600 = 4,350$) and falls within the LCP's buildable floor area limit for the 2,700 square foot lot.

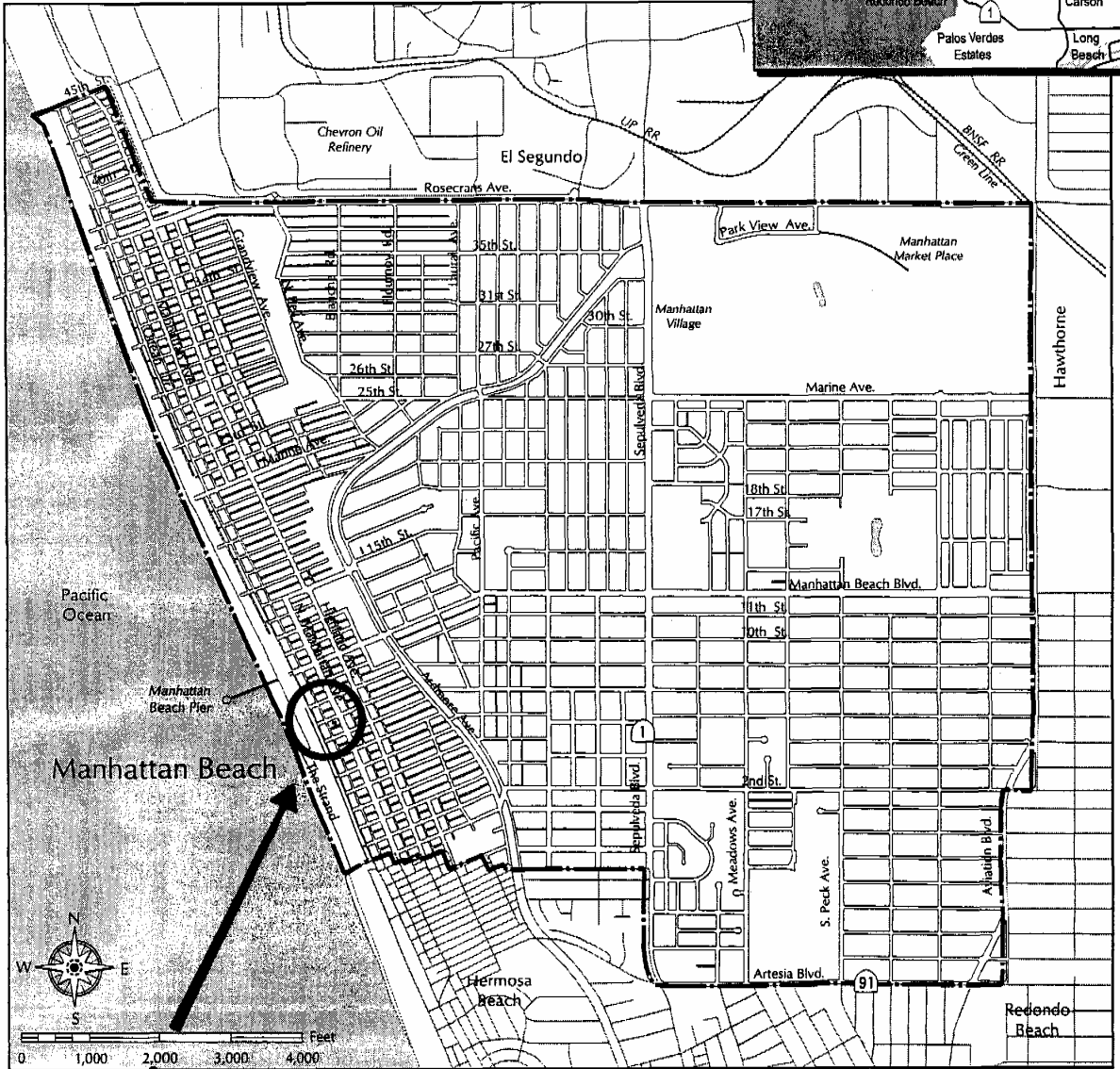
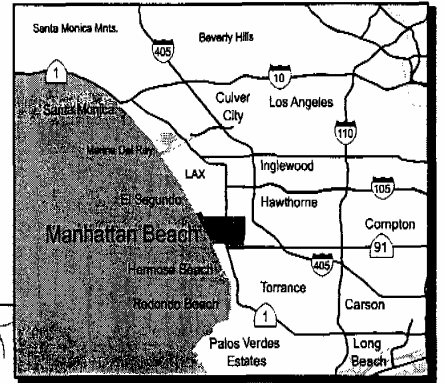
The proposed single-family residence also conforms to the open space requirement of the certified LCP. The proposed project provides 358.5 square feet of usable open space area, which is greater than the 350 square feet required.

The appeal also raises concerns about the proposed project's effect on views and the visual quality of the area. Although the proposed three-level single-family residence is much larger than the one-story house it will replace, the visual resources of the community will not be adversely affected. The proposed structure is visually compatible with the scale and character of the surrounding neighborhood, where many other similar-sized houses exist. The certified LCP specifically calls for the subject site (and surrounding lots) to be developed with a single-family residence up to thirty feet in height. The certified LCP does not identify the property for view protection. The public access and public views of the coast provided by the walk street (9th Street) that fronts the project site will not be affected by the project (Exhibit #6). Therefore, the proposed project will not obstruct any protected public views and will not adversely affect the visual quality of the area.

Conclusion

The proposed project complies with the thirty-foot height limit, the minimum open space requirement, and the floor area limit for the lot set forth by the certified LCP. The appeal is not supported by any evidence to the contrary. The proposed project will not obstruct any protected public views, as the certified LCP does not protect any views over the project site. Therefore, the Commission finds that no substantial issue exists with respect to the City's approval of Local Coastal Development Permit No. 07-30 because the locally approved project conforms to the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act.

Regional Map

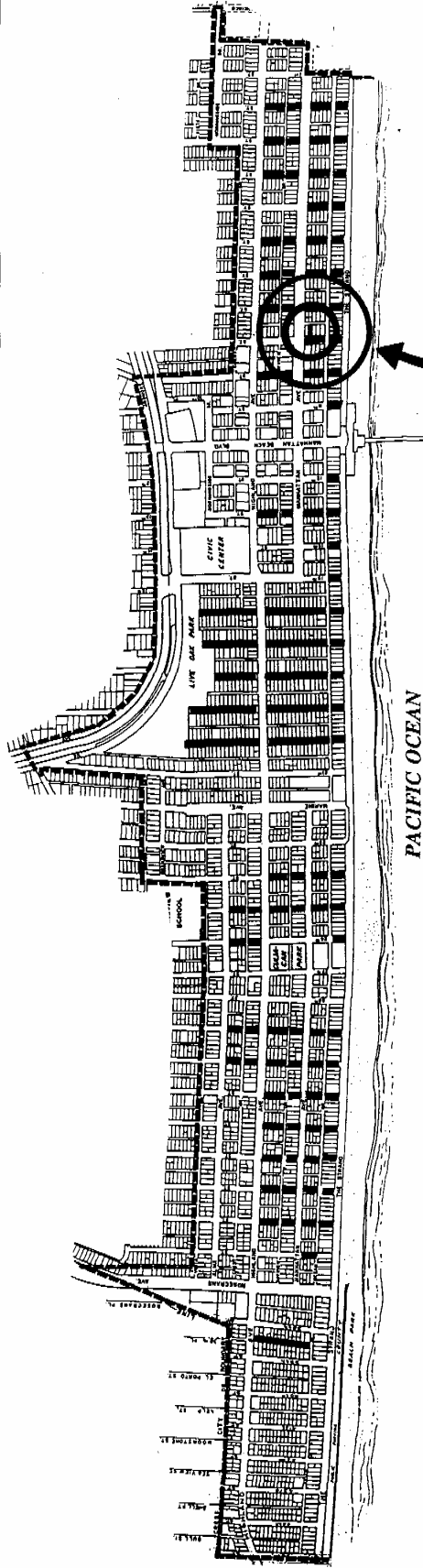


Site: 128 9th Street

COASTAL COMMISSION
AS-MNB-07-388

EXHIBIT # 1

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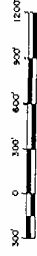
Site: 128 9th St.

Map III-2
 Coastal Access
 City of Manhattan Beach Local Coastal Plan

Source: City of Manhattan Beach, 1994

Legend

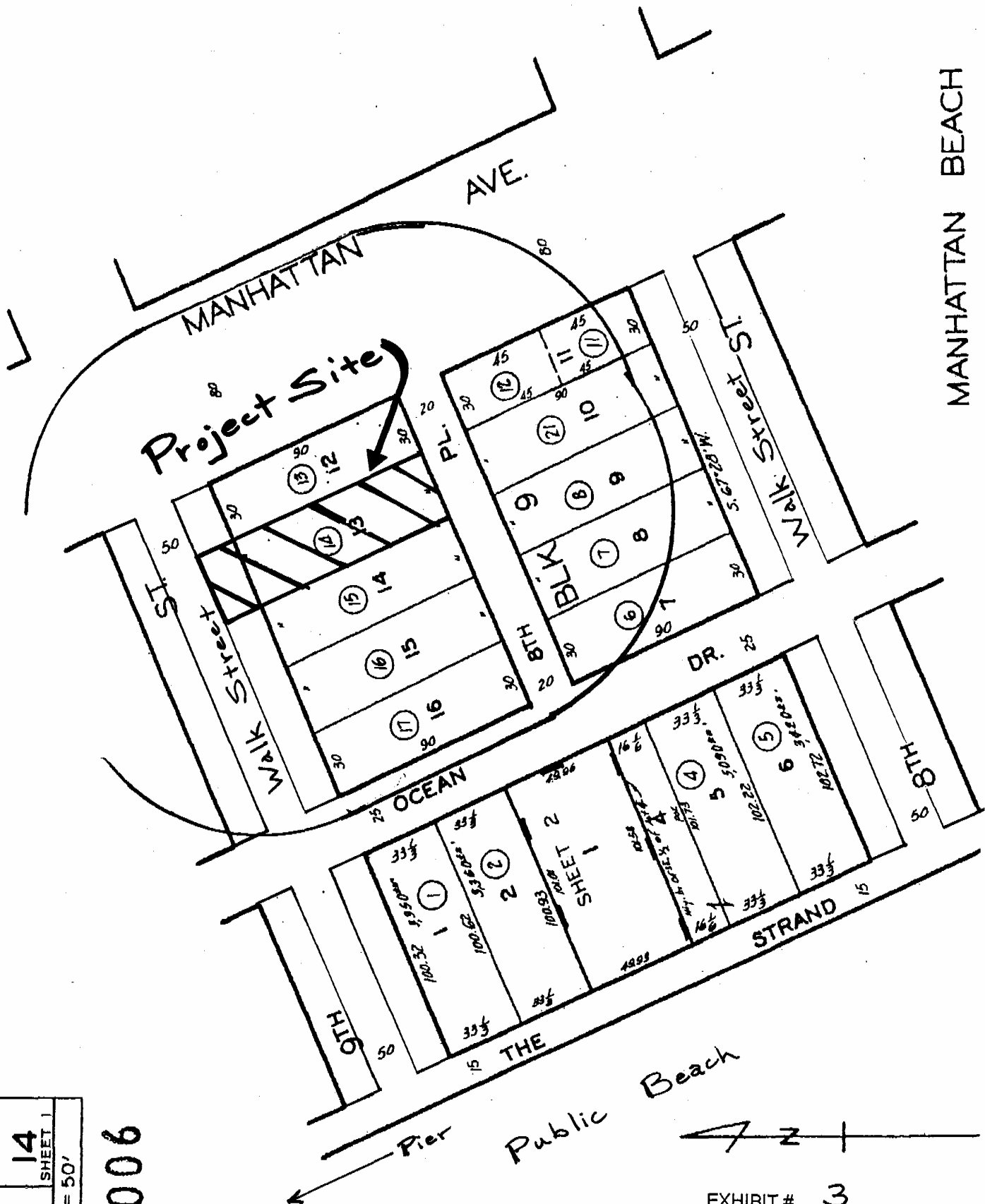
--- Coastal Zone Boundaries
 --- Walk Streets



Scale

4179 | 14
SHEET 1
SCALE 1" = 50'

2006



MANHATTAN BEACH

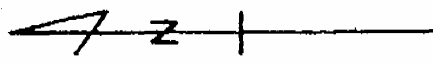


EXHIBIT # 3
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CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 590-5084

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

RECEIVED
South Coast Region

OCT 31 2007

SECTION I. Appellant(s)

Name: WILLIAM VICTOR

Mailing Address: POB 241072

City: LOS ANGELES

Zip Code: 90024

Phone: 516-670-2599

CALIFORNIA
COASTAL COMMISSION
516-670-2599

SECTION II. Decision Being Appealed

1. Name of local/port government:

CITY OF MANHATTAN BEACH

2. Brief description of development being appealed:

DEMOLITION OF EXISTING SINGLE FAMILY RESIDENCE AND REPLACEMENT WITH MANSION
SIZED OUT OF SCALE RESIDENCE

3. Development's location (street address, assessor's parcel no., cross street, etc.):

128 NINTH STREET, MANHATTAN BEACH, CA. 90266

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<u>TO BE COMPLETED BY COMMISSION:</u>		COASTAL COMMISSION
APPEAL NO:	<u>A5-MNB-07-388</u>	EXHIBIT # <u>4</u>
DATE FILED:	<u>10.31.07</u>	PAGE <u>1</u> OF <u>3</u>
DISTRICT:	<u>South Coast/Long Beach</u>	

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: 10/12'07

7. Local government's file number (if any): CA 07-30

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

JAMES R. OBRADOVICH
233 MAIN STREET
EL SEGUNDO, CA 90245

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) APPELLANT ONLY LEARNED ABOUT THE APPLICATION AFTER THE TIME TO OBJECT OR COMMENT HAD EXPIRED.

ALTHOUGH APPELLANT OWNS PROPERTY WITHIN 100 FEET OF THE SUBJECT PROJECT, APPELLANT NEVER RECEIVED A NOTICE FROM APPLICANT.

WHEN APPELLANT LEARNED ABOUT THE SUBJECT PROJECT FROM A NEIGHBOR, IT WAS OCTOBER 13, 2007.

APPELLANT WAS ADVISED THEREAFTER BY CITY STAFF THAT THE LAST DAY ON WHICH TO COMMENT OR OBJECT TO THIS PROJECT WAS OCTOBER 10, 2007 AND IT WAS THEN TOO LATE TO NOTE AN OBJECTION OR REQUEST AN OPPORTUNITY TO BE HEARD AT A CITY HEARING ON THE MATTER.

(2)

COASTAL COMMISSION

EXHIBIT # 4
PAGE 2 OF 3

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- 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.)
- This 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 30251 of the California Coastal Act specifically provides that that permitted development in the coastal areas "... shall be site and designed to protect views to and along the ocean and scenic coastal areas... to be visually compatible with the character of surrounding areas.... New development in highly scenic areas such as those designated by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting."

This project proposes a structure with 4,075 square foot of living area plus 875 square feet of garages, or in excess of almost 5,000 square feet of structure replacing a residential property with 788 square feet. It is not visually compatible with the character of the surrounding area especially with regard to scale and is not designed with any regard to protect views or to restore or enhance visual quality in the area which it replaces.

At a scheduled hearing, the applicant would hope to expand on the argument with photographs and the respective sizes of the surrounding properties on the segment of Ninth Street adversely affected by this project and south of it.

COASTAL COMMISSION

EXHIBIT # 4
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City Hall 1400 Highland Avenue Manhattan Beach, CA 90266-4795
Telephone (310) 802-5000 FAX (310) 802-5001 TDD (310) 802-3501

COASTAL DEVELOPMENT PERMIT

Project No: CA 07-30
Page 1 of 4

On October 11, 2007, the Community Development Department of the City of Manhattan Beach granted James R. Obradovich, (property owner) this permit for the development described below, subject to the attached Standard and Special conditions.

Site: 128 9th Street

Description: Demolish Residence and Construct Single Family Residence

Issued by: Eric Haaland, Associate Planner

COMMUNITY DEVELOPMENT DEPARTMENT
Richard Thompson, Director

Acknowledgment:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

Signature of Permittee:  Date: 10-12-07

COASTAL COMMISSION
A5-MNB-07-388

EXHIBIT # 5
PAGE 1 OF 4

Required Findings: (Per Section A.96.150 of the Local Coastal Program)

Written findings are required for all decisions on Coastal Development Permits. Such findings must demonstrate that the project, as described in the application and accompanying material, or as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program.

1. The property is located within Area District III (Beach Area) and is zoned Residential High Density, RH.
2. The General Plan and Local Coastal Program/Land Use Plan designation for the property is High Density Residential.
3. 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.
4. 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 9th Street & 8th Place.

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 # 5
PAGE 2 OF 4

5. The proposed use is permitted in the RH zone and is in compliance with the City's General Plan designation of High 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.

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 Community Development Department.
2. Expiration. The Coastal Development Permit shall expire one-year from the date of approval if the project has not been commenced during that time. The Director of Community Development may grant a reasonable extension of time for due cause. Said time extension shall be requested in writing by the applicant or authorized agent prior to the expiration of the one-year period.
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 Director of Community Development.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Director of Community Development.
5. Inspections. The Community Development Department staff shall be allowed to inspect the site and the development during construction subject to 24-hour advance notice.
6. 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;

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EXHIBIT # 5
PAGE 3 OF 4

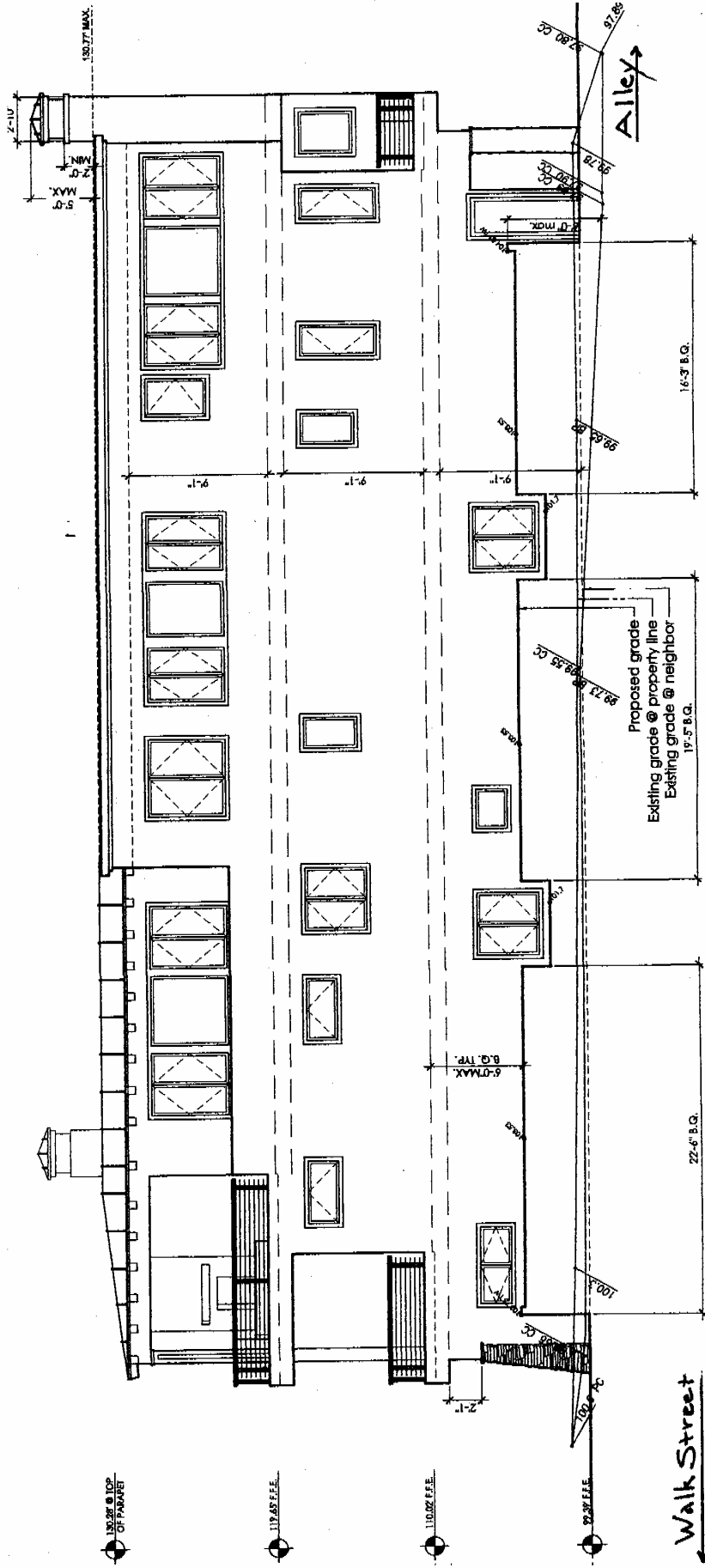
- c. Evidence of the assignee's legal interest in the property involved and legal capacity to undertake the development as approved and to satisfy the conditions required in the permit;
 - d. The original permittee's request to assign all rights to undertake the development to the assignee; and,
 - e. A copy of the original permit showing that it has not expired.
7. 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.

Special Conditions:

1. The project shall be developed in conformance with all applicable development standards of the RH zoning district, and Chapter 2 of the Local Coastal Program - Implementation Program.

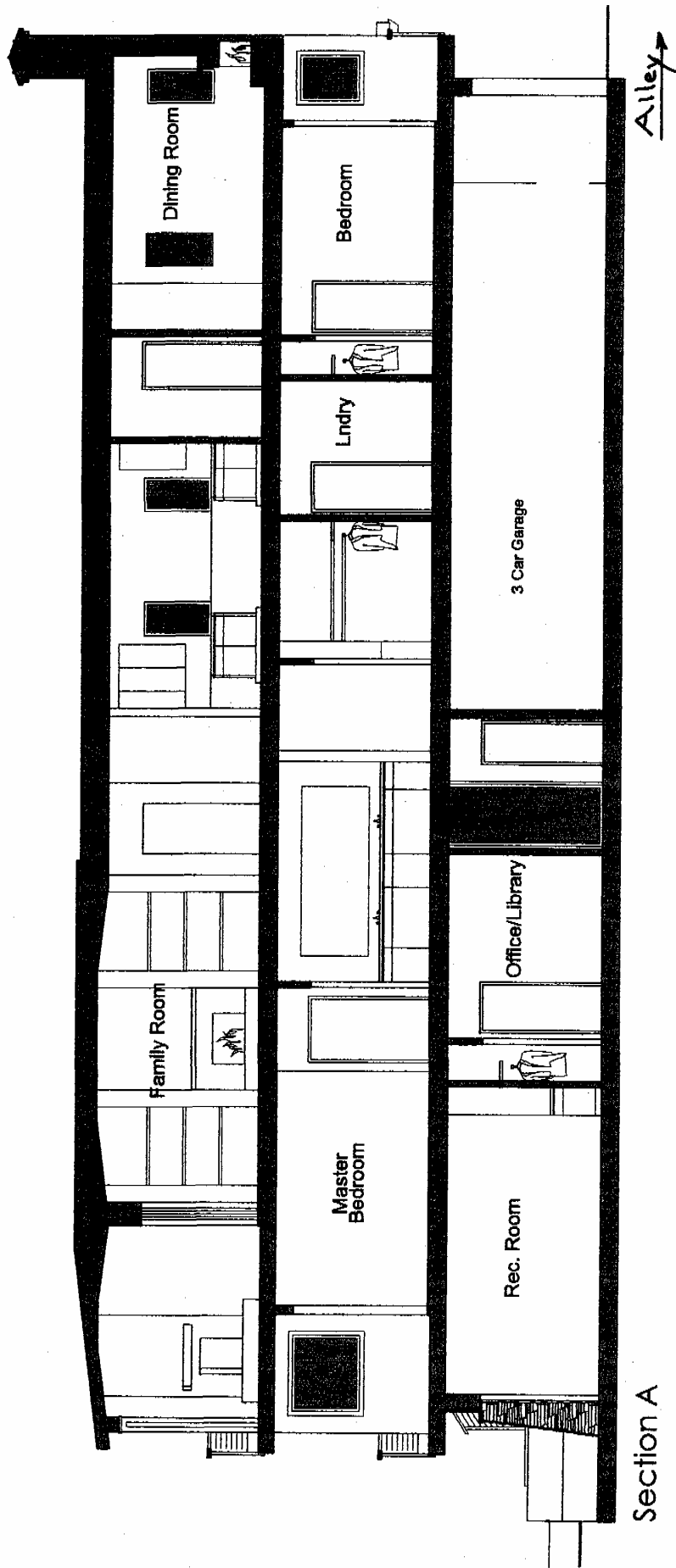
COASTAL COMMISSION

EXHIBIT # 5
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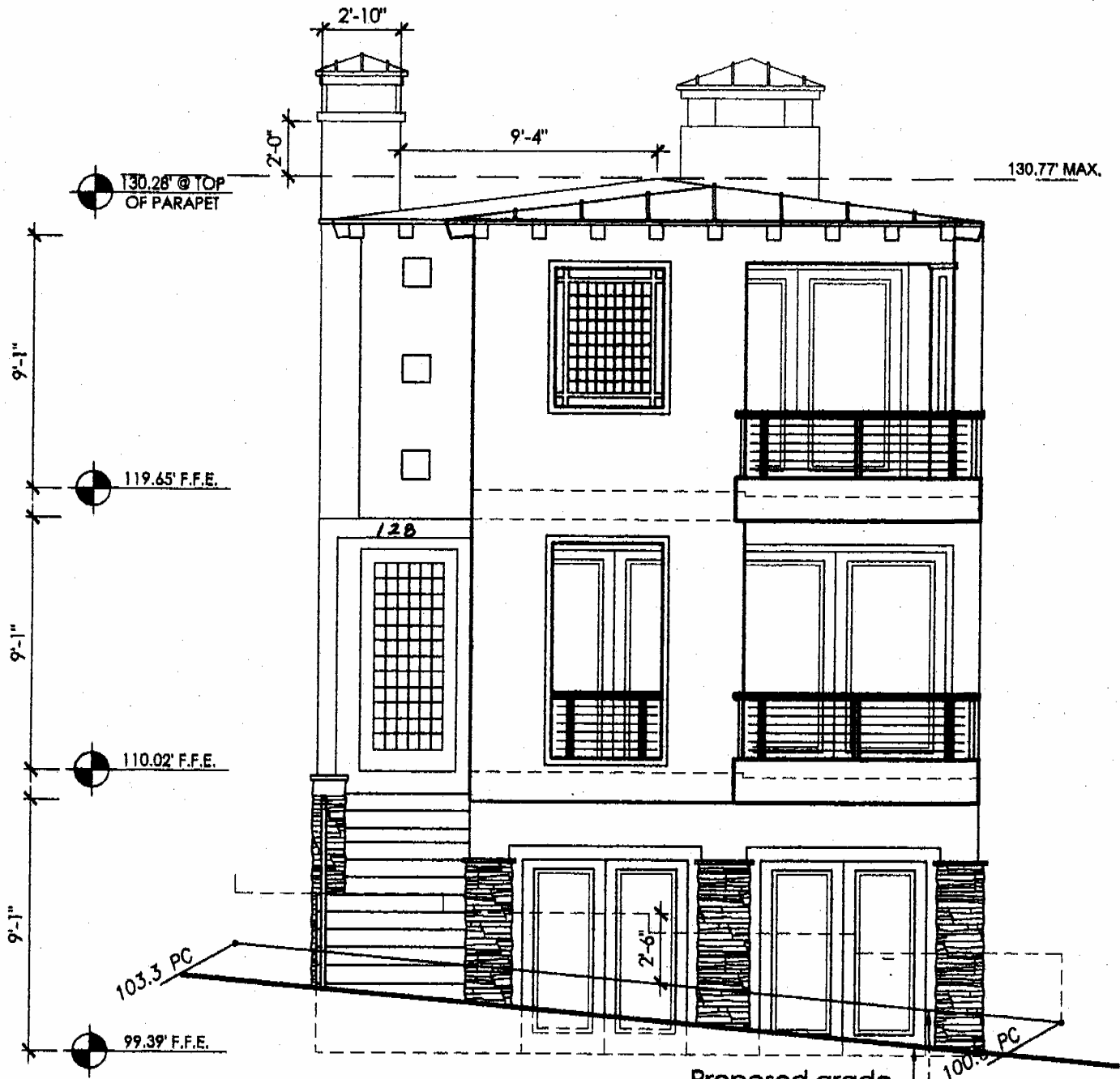
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Proposed grade
Existing grade @ property line

North Elevation - 9th Street

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