

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: August 12, 1997
49th Day: September 30, 1997
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Staff: John T. Auyong *John*
Staff Report: August 21, 1997
Hearing Date: September 9-12, 1997
Commission Action:



RECORD PACKET COPY

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-97-237

APPLICANT: Jay and Maxine Jacobs AGENT: South Coast Architects

PROJECT LOCATION: 4111 Seashore Drive, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Remodel an existing two-story duplex with attached two-car garage by expanding the second floor unit, adding a new second floor to the ground floor unit, adding a roof deck above the second floor, and demolishing an existing 61 square foot storage area to create an outdoor parking space. The existing patio encroachments onto the Ocean Front public right-of-way are not proposed to be changed.

Lot area:	2,436 square feet
Building coverage:	1,591 square feet
Pavement coverage:	845 square feet
Parking spaces:	Three
Zoning:	R-2
Land Use Plan designation:	Two Family Residential
Height above grade:	23'10"

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept 1252-97;
City of Newport Beach Modification Permit No. 4577

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

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

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. Future Development. This coastal development permit 5-97-237 approves only additions, as expressly described and conditioned herein, to the existing duplex located at 4111 Seashore Drive in the City of Newport Beach. Any future development, such as; (1) remodel, repair, maintenance, expansion, or removal of the existing encroachments on the Ocean Front public right-of-way, and (2) changes in intensity of use, including a change in the physical number of residential units or a change in the number of parking spaces; shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

IV. Findings and Declarations.

A. Project Description

The applicants are proposing additions to an existing 23'10" high two-story duplex with an attached 365 square foot two car garage. The existing duplex consists of a 1,182 square foot ground floor unit, and a 636 square foot second floor dwelling unit with a 244 square foot deck on the landward half of the structure. An existing patio area encroaches onto the Ocean Front public right-of-way (see Exhibit B). No changes to the existing patio encroachment are proposed.

The proposed additions consist of expanding the existing second floor unit by both enclosing part of the existing second floor deck and adding new enclosed living area. Further, on the seaward side of the existing structure, a new second story is proposed to be added to the existing ground level unit. The entire expanded second floor would be 1,594 square feet. A roof deck above the expanded second floor is also proposed.

An additional 114 square feet of living area is proposed to be added to the first floor of the duplex. In addition, an existing 61 square foot ground level storage area is proposed to be demolished to create room for one on-site compact outdoor parking space. No changes to the existing garage are proposed.

B. Public Access

1. Parking

Section 30252 of the Coastal Act states, in relevant part:

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

The subject site is a beachfront lot. When a development does not provide adequate on-site parking, users of that development who cannot find an on-site parking space are forced to occupy off-site public parking that could be used by visitors to the beach. A lack of public parking discourages visitors from coming to the beach, resulting in adverse public access impacts. Thus, all development must provide adequate on-site parking to minimize adverse impacts on public access.

In past Commission actions, the Commission has routinely used specific parking standards, particularly in the area of the proposed development. The Commission has consistently found that two parking spaces are adequate to satisfy the parking demand generated by individual dwelling units. The existing duplex should thus provide four on-site parking spaces. However, only two parking spaces currently exist on-site, and only one additional parking space is proposed. Thus, the proposed development would only result in three on-site parking spaces. Therefore, the proposed development would be deficient by one parking space.

However, since no additional dwelling units are proposed, the proposed development would not result in an intensification of use of the site. Therefore, parking demand would not increase beyond the existing demand, so no additional spaces are needed at this time. Thus, the parking deficiency does not need to be remedied at this time.

However, future improvements to the existing structure could result in an increase in the number of physical dwelling units beyond the two which currently exist, resulting in an intensification of use. This would result in an increase in parking demand and an increase in the parking deficiency, leading to adverse impacts on public access.

Therefore, the Commission finds that it is necessary to place a condition which puts the applicant and future owners of the subject site on notice that a new coastal development permit, or an amendment to this permit, would be required for any future development to the existing structure which would result in a change in intensity of use. This would allow for the review of future development for any potential adverse impacts to public access resulting from inadequate parking.

This type of special condition has been previously imposed by the Commission and the Executive Director for similar residential projects which did not result in an intensification of use but which did have inadequate parking based on the Commission's regularly used standards. These include administrative permits 5-93-211 (Coleman), 5-93-258 (Keys), 5-94-145 (Olsen), 5-94-209 (Noyes), 5-94-229 (Batniji), 5-96-122 (Saracino), 5-97-037 (Branson), and 5-97-095 (Hughes); and coastal development permits 5-95-060 (Rewers) and 5-95-067 (Pifer). Thus, as conditioned, the Executive Director determines that the proposed development would be consistent with Section 30252 of the Coastal Act.

2. Seaward Encroachments

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

A public right-of-way (Ocean Front), as shown in Exhibit B, is located adjacent to the seaward property line of the subject site. The public right-of-way is currently unimproved and consists of sandy beach area. An existing patio area currently encroaches onto the public right-of-way. Private encroachments onto the public right-of-way take away sandy beach area which could be used for public recreation and public access. If not properly mitigated, these private encroachments would incrementally contribute to a cumulative adverse impact on beach use and access by the public.

The City's Certified Land Use Plan ("LUP") allows private encroachment onto the public right-of-way, consistent with the standards in the LUP encroachment policies. The LUP policies also contain a plan to mitigate these encroachments by charging an encroachment fee based on the extent of the depth of the encroachments onto the public right-of-way. The fees are used to pay for street-end improvements, such as parking spaces and access ramps to the beach, in West Newport to enhance public access in the area. The City of Newport Beach has thus far improved 19 out of the 33 street-ends in West Newport, pursuant to coastal development permits 5-93-114, 5-94-091, 5-95-010, and 5-96-106.

The applicant is currently paying the annual Ocean Front encroachment permit fee for the existing patio encroachments (see Exhibit B). However, the applicant or a future owner may want to expand the existing patio encroachments out to the ten foot limit allowed by the LUP in this section of West Newport. These additional private encroachments onto the public right-of-way would add to the cumulative adverse impact on public access and public recreation.

Therefore, the Commission finds that it is necessary to place a condition putting the applicant and future owners of the subject site on notice that a coastal development permit, or an amendment to this permit, would be required for any improvements including future encroachments onto the public right-of-way adjacent to the subject site. This would allow the Commission to review the future encroachments for impacts to public beach access. As conditioned, the Commission finds that the proposed development is consistent with Section 30210 of the Coastal Act.

3. Provision of Access

Section 30212 of the Coastal Act states, in relevant part:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
 - (2) adequate access exists nearby

The subject site is located between the nearest public roadway and the shoreline. The proposed development would not result in an intensification of use of the site. The proposed development would not result in direct adverse impacts, neither individually nor cumulatively, on lateral or vertical public access. Vertical access is provided by the adjacent 42nd Street street-end. Lateral access and public recreation opportunities are available at the adjacent beach. Therefore, the Commission finds that no access is necessary with the proposed development. Thus, the Commission finds that the proposed development would be consistent with Section 30212 of the Coastal Act.

C. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a local coastal program ("LCP") which conforms with the Chapter Three policies of the Coastal Act.

The City of Newport Beach Land Use Plan (LUP) was originally certified on May 19, 1982. The permit is being conditioned to put the applicant on notice that future development which would result in either a change in intensity of use or encroachments onto the public right-of-way requires an amendment to this permit or a new coastal development permit. This would allow the Commission to review the future development for consistency with the public access and recreation policies of the Coastal Act and, in the specific case of encroachments, with the LUP encroachment policies.

As conditioned, the proposed development is consistent with the public access and recreation policies of Chapter Three of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, would not prejudice the City's ability to prepare a local coastal program consistent with the Chapter Three policies of the Coastal Act.

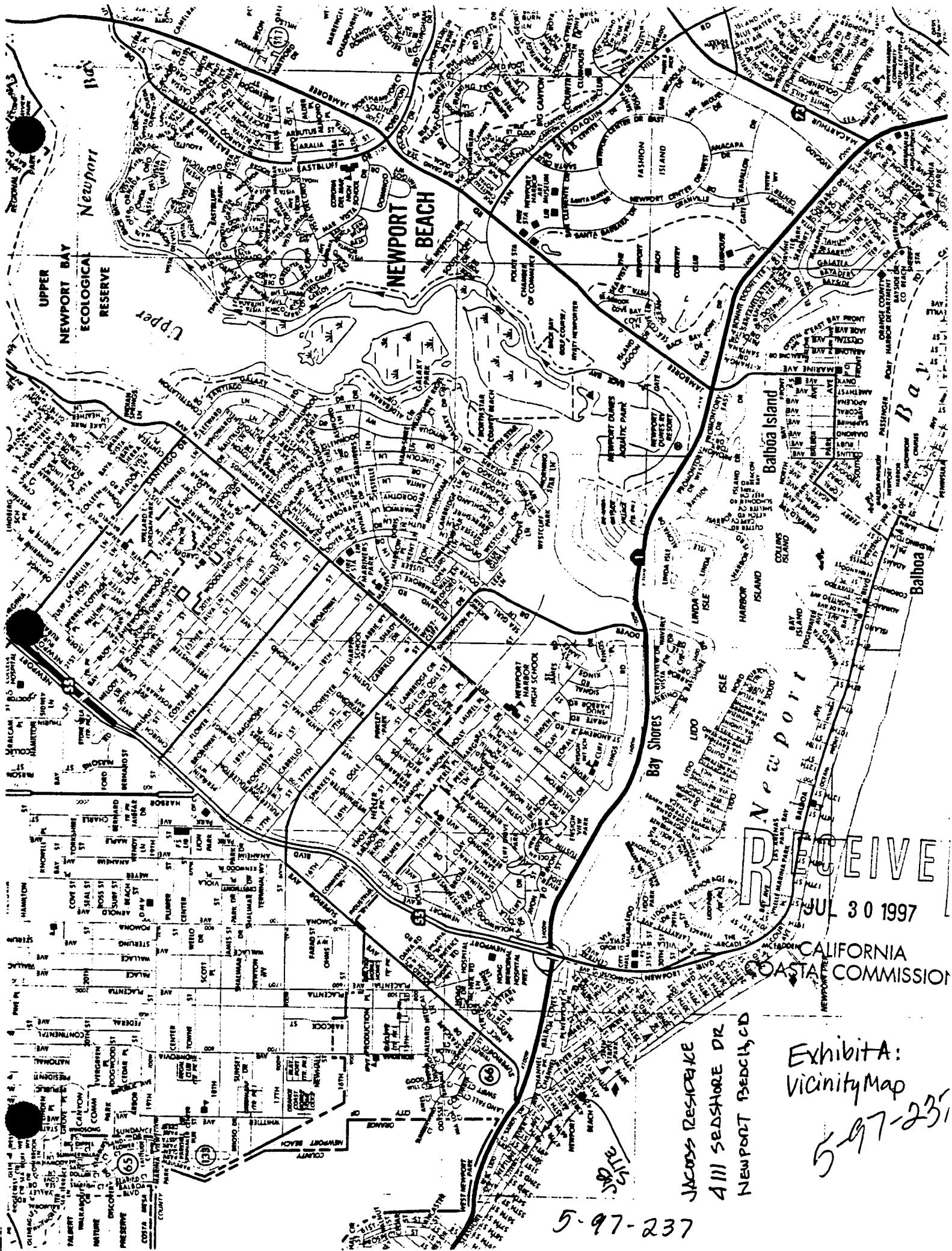
D. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

Although the proposed project does not have an adverse impact on public access, the existing duplex is deficient by one parking space. The applicant is providing an additional parking space to partially remedy the existing parking deficiency. However, because of the narrow width of the lot and the narrow street-side setback, additional parking spaces to fully remedy the existing parking deficiency cannot be accommodated on-site without demolishing enclosed living area.

The proposed development is located in an urban area. Development already exists on the subject site. All infrastructure necessary to serve the site exists in the area. The proposed project has been conditioned in order to be found consistent with the public access and recreation policies of Chapter Three of the Coastal Act. Mitigation measures to put the applicant on notice that any future development requires an amendment to this permit or a new coastal development permit will minimize all significant adverse impacts.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.



RECEIVED

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CALIFORNIA COASTAL COMMISSION

JACOBS RESIDENCE
 4111 SEDSHORE DR
 NEWPORT BEACH, CA

Exhibit A:
 Vicinity Map
 5-97-231

5-97-237

SITE

DISPLAY BUSINESS RECORDS: DISPLAY EXIT
DISPLAY BUSINESS RECORDS

----- 08/13/97
BUSINESS NUMBER EN1106 TOTAL DUE 0.00
BUSINESS NAME JACOBS, JAY B
SERVICE ADDRESS 4111 SEASHORE DR APT
NEWPORT BEACH, CA ZIP 92663
BILLING ADDRESS
1041 LAS AMIGAS RD
NAPA, CA
94559
CYCLE A TAX Y PENALTY N
PROPERTY ID 423-315-01
UNAPPLIED CREDIT 0.00

SERVICE	TITLE	BILL REF	DATE	BILLED	PAID DATE PAID
ENC-203		1997-05	05/28/97	334.73	334.73 06/19/97
ENC-203		1996-05	05/06/96	329.78	329.78 06/10/96
ENC-203		1995-05	05/17/95	322.37	322.37 06/05/95

PRESS ESCAPE FOR NEXT SCREEN

RE: PERMIT # 5-97-237
COASTAL COMMISSION

EXHIBIT # B
PAGE 3 OF 3

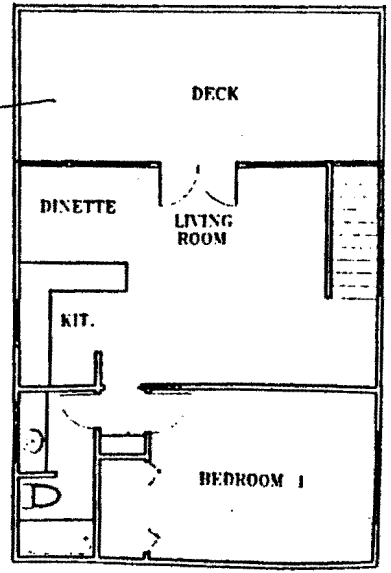
record of applicants' payment of annual Ocean Front Encroachment Permit fees for the existing encroachments

5-97-237
Exhibit C:
Plans
(page 1 of 3)

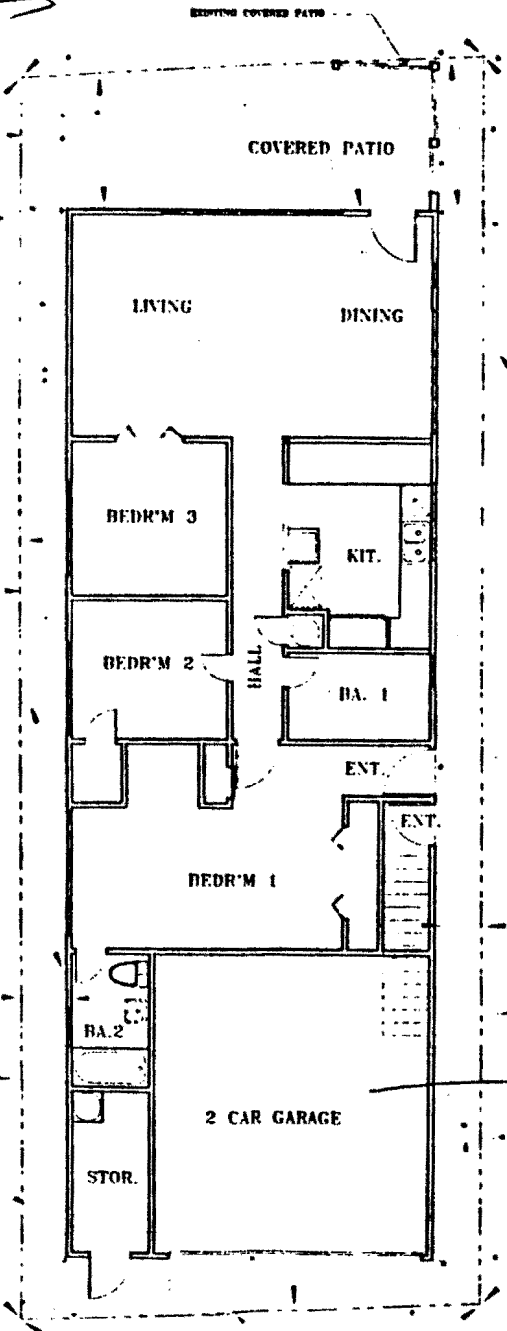
← beach →

STORY ROOF
BELOW

existing
second
floor
dwelling
unit



existing
ground
level
dwelling
unit

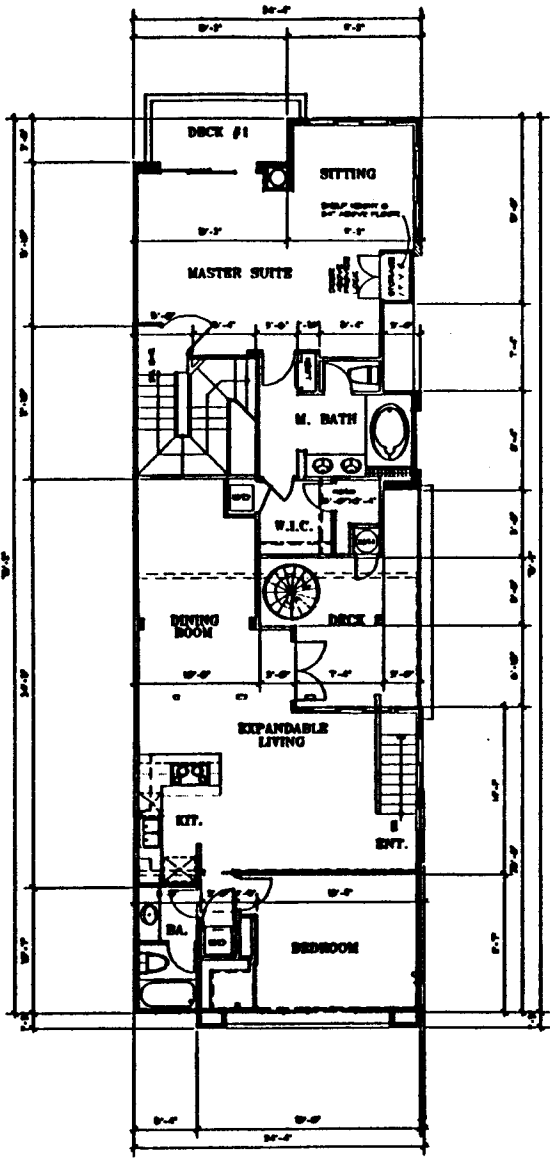


→ existing
first floor

42ND STREET

← seashore Drive →

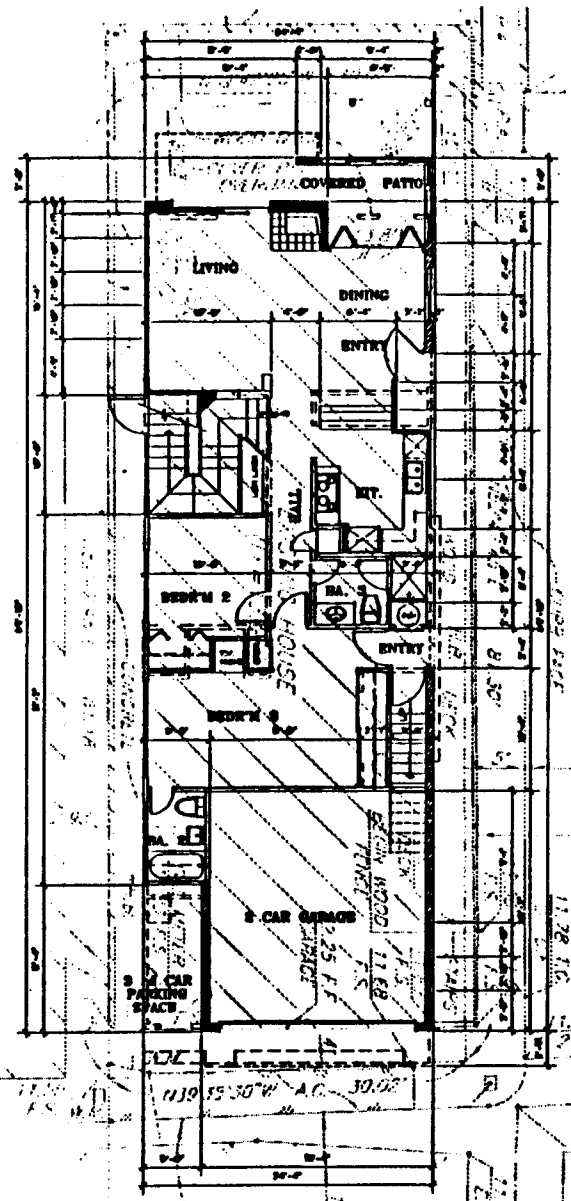
5-97-237
 Exhibit C:
 page 2 of 3



SECOND FLOOR PLAN

▲ JULY 24, 1997
 JUNE 10, 1997
 JUNE 10, 1997
 MAY 29, 1997
 MAY 19, 1997
 MAY 05, 1997
 MAY 07, 1997
 APRIL 02, 1997
 APRIL 07, 1997
 MARCH 14, 1997

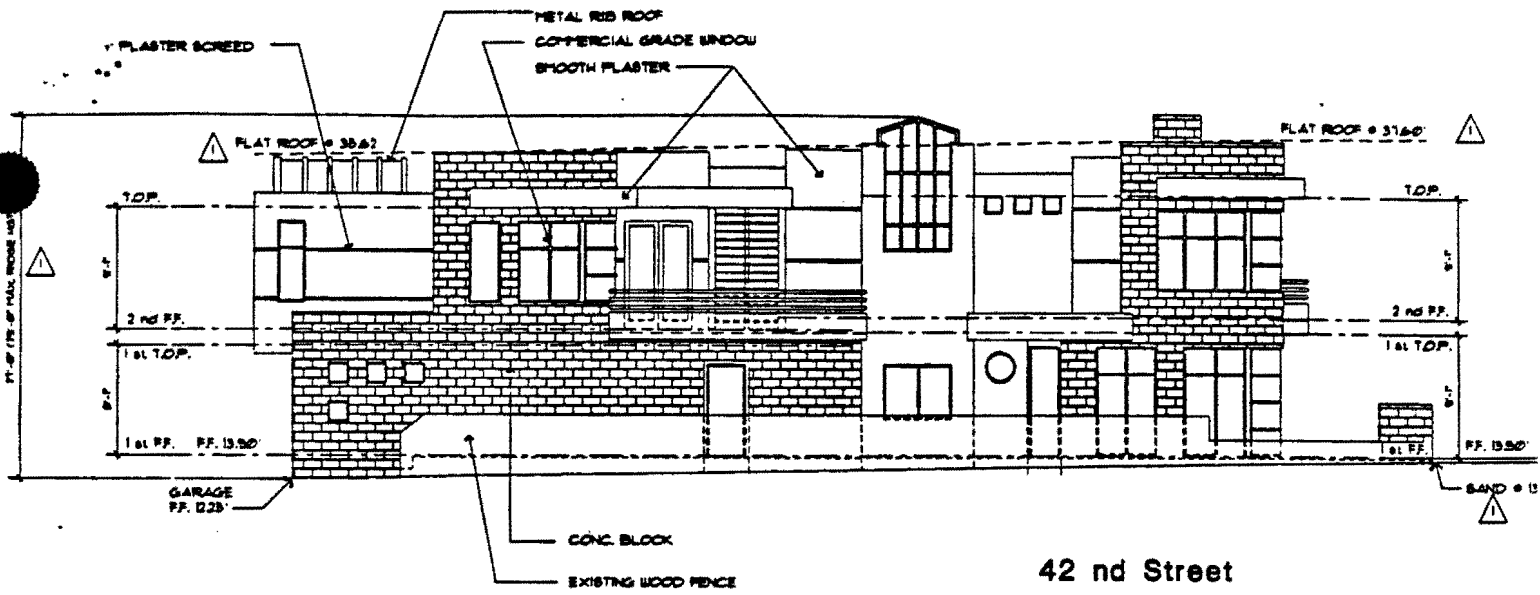
proposed
 floor plans



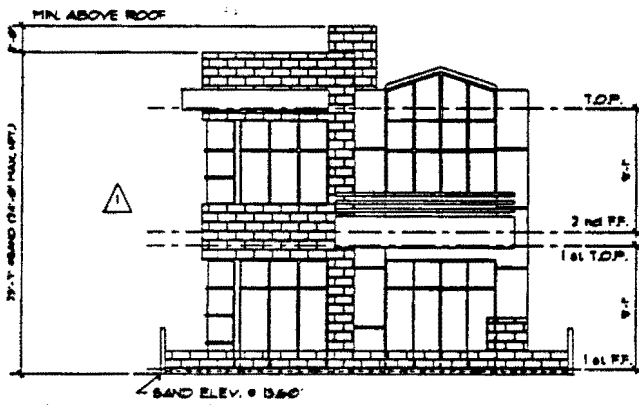
FIRST FLOOR PLAN

SQUARE FOOTAGE	
LOWER FLOOR	1,299 SQ. FT.
UPPER FLOOR	1,944 SQ. FT.
GARAGE	108 SQ. FT.
TOTAL	3,274 SQ. FT.

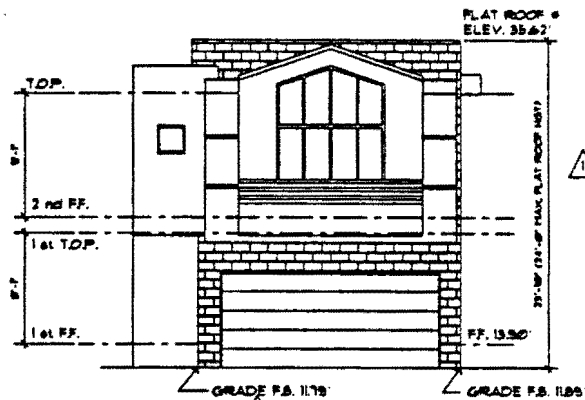
COORS RESIDENCE
 11 SEA SHORE
 PORT BEACH, CA



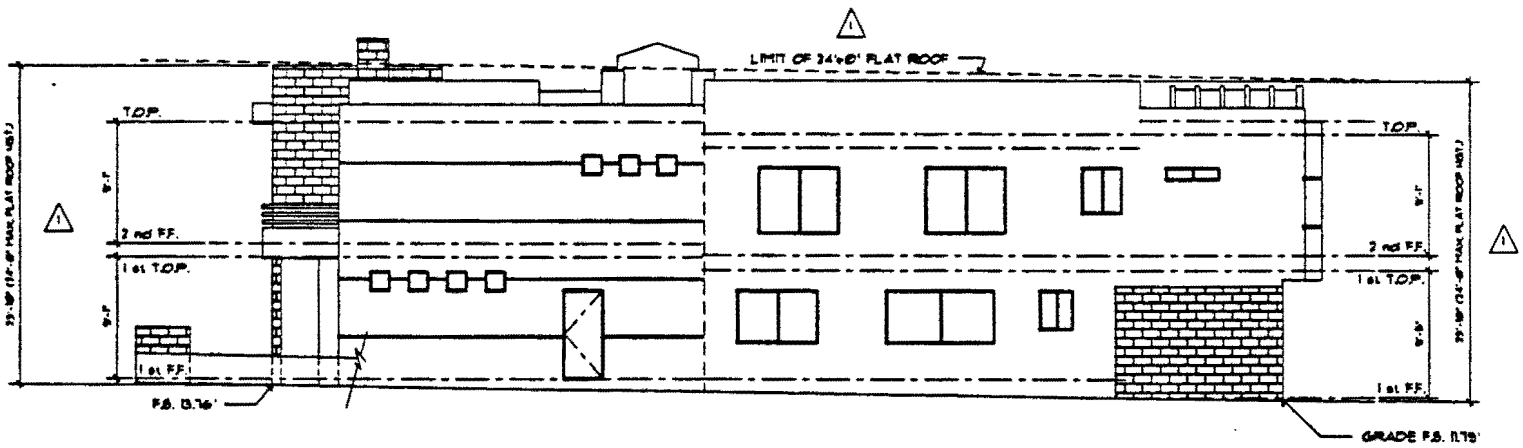
42 nd Street



Beach Front Elevation



Sea Shore



Side Elevation

5-97-237
 Exhibit C
 page 3 of 3
 proposed elevations

JACOBS RESIDENCE

4111 SEA SHORE
 NEWPORT BEACH
 CALIFORNIA

SOUTH COAST ARCHITECTS
 13 CORPORATE PLAZA, SUITE 210
 NEWPORT BEACH, CA 92660
 714 720-7022