

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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49th Day: January 23, 1996
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Staff: John T. Auyong *John*
Staff Report: December 22, 1995
Hearing Date: January 9-12, 1996
Commission Action:

**RECORD PACKET COPY**STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-95-271

APPLICANT: William Ferris AGENT: Rod Jeheber

PROJECT LOCATION: 406 Via Lido Nord, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Addition of 1,556 square feet to an existing 2,435 square foot, 22 foot high two-story duplex. The resultant structure would be 24 feet high. An additional parking space would be added to the existing attached two-car garage, resulting in a 544 square foot three-car garage.

Lot area:	3,600 square feet
Building coverage:	2,186 square feet
Parking spaces:	Three
Land Use Plan designation:	Two Family Residential
Height above grade:	24 feet

LOCAL APPROVALS RECEIVED: Approval-in-Concept No. 1844-95

SUBSTANTIVE FILE DOCUMENTS: Regular Waiver 5-90-606 (Albertini); De Minimis Waivers 5-86-777 and 5-86-778 (922 East Oceanfront Partnership); Administrative Permits 5-93-211 (Coleman), 5-93-258 (Keys), 5-94-145 (Olsen), 5-94-198 (Cassesso), 5-94-209 (Noyes), and 5-94-229 (Batniji), Coastal Development Permits 5-90-905 (Harriman), 5-95-060 (Rewers) and 5-95-067 (Pifer); 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 first public road and the sea, 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.

This coastal development permit 5-95-271 is only for the development as expressly described and conditioned herein. Any future improvements or development as defined in Section 30106 of the Coastal Act, including but not limited to a change in the number of dwelling units on-site or any other change in intensity of use of the property, shall require an amendment to this permit or a new coastal development permit from the Coastal Commission or its successor agency.

IV. Findings and Declarations.

A. Project Description

The applicant is proposing to add 1,556 square feet to an existing 2,435 square foot, 22 foot high two-story duplex. The resultant structure would remain two stories and would be 24 feet high. An additional parking space would be added to the existing attached two-car garage, resulting in a 544 square foot three-car garage.

B. Public Access/Parking

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 . . .

(b) For purposes of this section, "new development" does not include:

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

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 or providing substitute means of serving the development with public transportation, . . .

1. Parking

When a private development does not provide adequate on-site parking, users of that development are forced to occupy public parking used by visitors to the coastal zone. Thus, all private development must provide adequate on-site parking to minimize adverse impacts on public access.

The Commission has consistently found that two parking spaces are necessary 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. Therefore, the proposed development theoretically would be deficient by one parking space.

Because of the narrow width of the lot and the proximity of the existing structure to the street, an additional parking space could not be accommodated on-site, nor is parking available nearby which could be leased by the applicant. Since the development would not result in additional dwelling units nor the attendant increase in parking demand, the Commission finds that the applicant should not be required to provide the deficient parking space at this time. Nevertheless, future development could result in an increase in the number of dwelling units. This would result in an increase in parking demand and adverse impacts on public access.

Therefore, the Commission finds that it is necessary to place a condition informing the current permittee and future owners of the subject site that a new coastal development permit, or an amendment to this permit, would be required for any future development at the subject site, including a change in the intensity of use of the site which may result in increased parking demand. Thus, as conditioned, the Commission finds that the proposed development would be consistent with Section 30212 of the Coastal Act.

2. Lateral/Vertical Access/Recreation

The subject site is a harborfront lot located between the first public road and the sea. Adequate access exists nearby, including a public boardwalk between the subject site and Newport Harbor. This boardwalk provides lateral access and public recreation opportunities. Vertical access to the boardwalk exists via a public park at the Via Genoa street-end two lots to the northwest of the subject site. Therefore, the Commission finds that the proposed development as submitted is consistent with Section 30212 of the Coastal Act.

3. Seaward Encroachment

While the first floor and the seaward line of the building footprint would be unchanged, the proposed additions on the second floor would result in seaward encroachment, including a proposed second floor balcony which would encroach within one foot of the harborside setback.

The proposed development conforms to the City's setback requirement, which is zero feet from the harborside property line/boardwalk in this area. In addition, the proposed seaward encroachment would not affect public access because it would be landward of the boardwalk/public area. Because of the public nature and use of the boardwalk, the sense of "public space" extends right to the boardwalk/private property line. Further, existing homes in this area are set back only one to four feet from the harborside property line/public boardwalk, including homes previously approved by the Commission. Therefore, the Commission finds that the proposed development as submitted is consistent with Section 30212 of the Coastal Act and past Commission actions in the area.

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 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. As conditioned, the proposed development would be consistent with the Chapter Three policies of the Coastal Act regarding public access and recreation. Therefore, 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. Consistency with the California Environmental Quality Act (CEQA).

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.

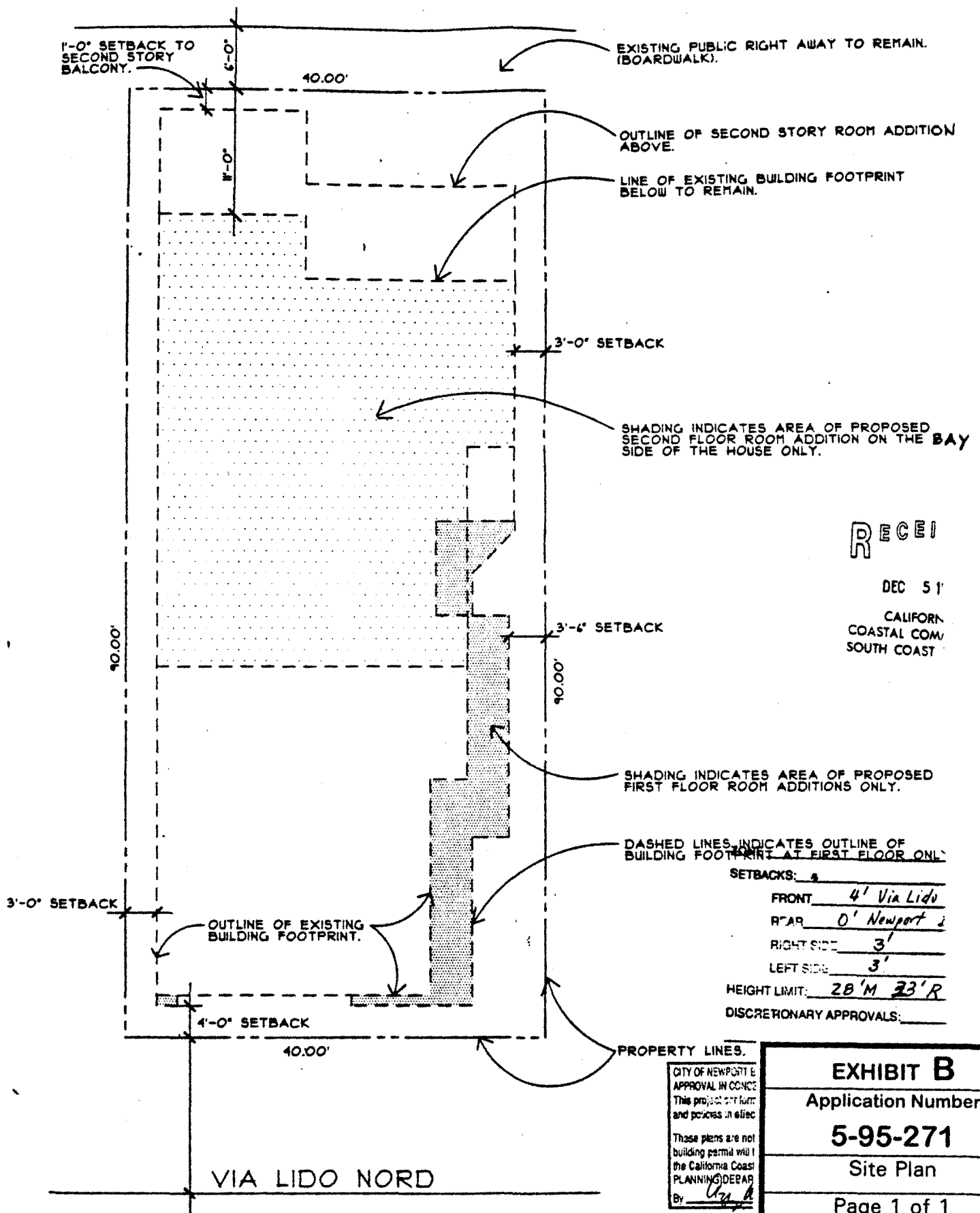
The subject site is in an urban zone. Development already exists on the subject site. Infrastructure necessary to service the subject site exists in the immediate area. The proposed development would not result in an intensification of use.

The proposed project has been conditioned in order to be found consistent with the public access and recreation policies of the Coastal Act. Mitigation measures to inform the current permittee and future owners of the subject site that a new coastal development permit, or an amendment to this permit, would be required for any future development at the subject site, including a change in the intensity of use of the site which may result in increased parking demand, will minimize all 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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← NEWPORT HARBOR →



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DEC 51

CALIFORNIA
COASTAL COM.
SOUTH COAST

SETBACKS: 4'

FRONT 4' Via Lido

REAR 0' Newport

RIGHT SIDE 3'

LEFT SIDE 3'

HEIGHT LIMIT: 28' M 23' R

DISCRETIONARY APPROVALS:

CITY OF NEWPORT
APPROVAL IN CONCEPT
This project conforms
and process in effect

These plans are not
building permit until
the California Coast
PLANNING DEPARTMENT

By: [Signature]

EXHIBIT B

Application Number

5-95-271

Site Plan

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California Coastal Commission