

**CALIFORNIA COASTAL COMMISSION**

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

Filed: May 29, 1997  
49th Day: July 17, 1997  
180th Day: November 25, 1997  
Staff: John T. Auyong *John*  
Staff Report: June 19, 1997  
Hearing Date: July 8-11, 1997  
Commission Action:



STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-97-118

APPLICANT: Mr. & Mrs. Ralph Stern AGENT: Anderson & Associates

PROJECT LOCATION: 5101 Seashore Drive, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Demolition of an existing 1,910 square foot single-family residence. Construction of a new 2,398 square foot, 29 foot high, two-story single-family residence, with 136 square feet of deck area on the first floor, 200 square feet of deck area on the second floor, and a 400 square foot third level roof deck. Also proposed would be 164 cubic yards of grading (cut) for a partially subterranean basement level attached 963 square foot four-car garage. No encroachments onto the Ocean Front public right-of-way on the seaward side of the subject site are proposed.

Lot area:	1,650 square feet
Building coverage:	1,200 square feet
Pavement coverage:	300 square feet
Landscape coverage:	150 square feet
Parking spaces:	Four
Zoning:	R-1
Land Use Plan designation:	Single Family Detached Residential
Height above grade:	29 feet

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept 415-97

SUBSTANTIVE FILE DOCUMENTS: "Preliminary Geotechnical Engineering Report" dated May 23, 1997, prepared for Mr. Ralph Stern by Geotechnical Solutions, Inc. (Project No. G-1303-01); City of Newport Beach Certified Land Use Plan

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed project with two conditions: one for the submission of plans incorporating the recommendations of the preliminary geotechnical engineering report, and one informing the permittee that future encroachments onto the Ocean Front public right-of-way require a coastal development permit.

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. Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, final revised grading and foundation plans. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the "Preliminary Geotechnical Engineering Report" dated May 23, 1997, prepared for Mr. Ralph Stern by Geotechnical Solutions, Inc. (Project No. G-1303-01). The approved development shall be constructed in accordance with the final revised plans as approved by the Executive Director. Any deviations from said plans shall require an amendment to this permit or a new coastal development permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment or new permit is not needed.

#### 2. Future Encroachment

No encroachments onto the Ocean Front public right-of-way located on the seaward side of the subject site are approved by this coastal development permit. Any future encroachments onto the Ocean Front public right-of-way shall require an amendment to this permit or a new coastal development permit.

### IV. Findings and Declarations.

#### A. Project Description

The applicant is proposing to demolish an existing 1,910 square foot single-family residence. The applicant also proposes to construct a new 2,398 square foot, 29 foot high, two-story single-family residence, with 136 square feet of deck area on the first floor, 200 square feet of deck area on the second floor, and a 400 square foot third level roof deck. Also proposed would be 164 cubic yards of grading (cut) for a partially subterranean basement level attached 963 square foot four-car garage (three standard plus one compact space, in tandem). The excavated material will be disposed of at the County of Orange Landfill dump site. No encroachments onto the Ocean Front public right-of-way on the seaward side of the subject site are proposed.

#### B. Geotechnical Hazards

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The subject site is a flat beachfront lot in West Newport and is not a blufftop lot. The proposed development is unusual for the West Newport area in that it involves excavation for a partially subterranean garage. The excavated material will be taken to the Orange County landfill outside the coastal zone. The proposed garage would be at ground level on the street side of the subject site. The garage would slope down underground towards the beach side of the subject site (see Exhibit C). Dewatering of the subject site would not be necessary since the subject site is ten feet above sea level, and the proposed garage would still be four to six feet above sea level.

A geotechnical report entitled "Preliminary Geotechnical Engineering Report" dated May 23, 1997, prepared for Mr. Ralph Stern by Geotechnical Solutions, Inc. (Project No. G-1303-01) was conducted for the proposed development. The report indicates that "... the development of the project is feasible." However, the report further indicates that "... due to the liquefaction potential and relatively shallow groundwater, it will be necessary to provide a compacted soil layer under the building areas and the footing to be semi rigid type." The report recommends that "[c]olumn footings should be inter-connected with grade beams and continuous footings shall be tied-in with slab on-grade in order to be more rigid and minimize possible liquefaction damage."

To assure geologic stability and structural integrity and minimize risks from geologic hazards, a special condition must be imposed which requires the submission of final grading and foundation plans approved by the geotechnical consultant which incorporate the recommendations of the consultant. The special condition must further require that the development is constructed in accordance with the final grading and foundation plans. Thus, only as conditioned does the Commission find the proposed development to be consistent with Section 30253 of the Coastal Act.

### C. Public Access

#### 1. Future 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, located adjacent to the subject site on the seaward property line is currently unimproved and consists of sandy beach area. Although the proposed development would not encroach onto the public right-of-way, future improvements or new development at the subject site could encroach onto the public right-of-way. The City's Certified Land Use Plan ("LUP") allows encroachment onto the adjacent

right-of-way, consistent with the standards in the LUP encroachment policies. If not properly mitigated, these encroachments would incrementally contribute to a cumulative adverse impact on beach use and 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 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 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.

## 2. 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. A public access dedication can be required pursuant to Section 30212 only if it can be shown that the proposed development, either individually or cumulatively, would result in direct adverse impacts on physical public access (e.g. it would impact historic public use or preclude use of public trust lands).

The proposed development would not result in an intensification of use of the site nor significant adverse impacts to public access or public recreation. The proposed development would not result in direct adverse impacts, neither individually nor cumulatively, on physical public access. Further, vertical access is provided by the adjacent 51st Street street-end on the southeast side of the subject site. The wide public beach provides lateral access and public recreation opportunities. Therefore, the Commission finds that the proposed development would be consistent with Section 30212 of the Coastal Act.

## D. 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. As conditioned, the proposed development is consistent with the geotechnical hazards policies and public access 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.

E. 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.

The proposed development is located in an urban area. Development already exists on the subject site. All infrastructure necessary to serve the site exist in the area. The proposed project has been conditioned in order to be found consistent with the public access and geotechnical hazards policies of Chapter Three of the Coastal Act. Mitigation measures requiring the incorporation of the geotechnical recommendations into the design plans, and informing the permittee that future encroachments onto the Ocean Front public right-of-way require a 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.

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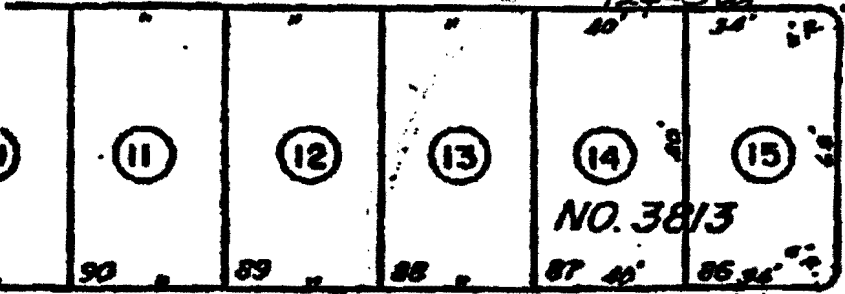


LOT LINE O R 96/228

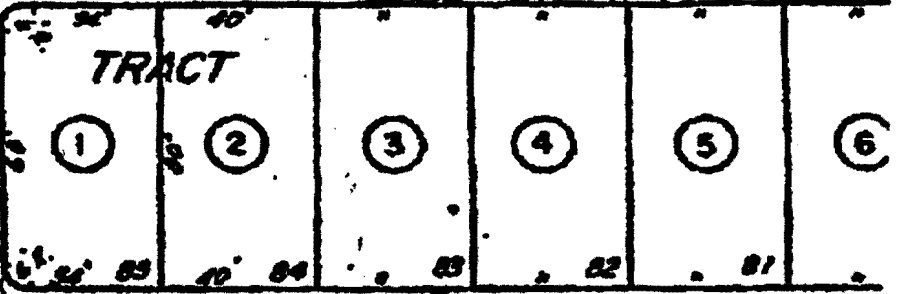
AVENUE

NEPTUNE

Book 424-464

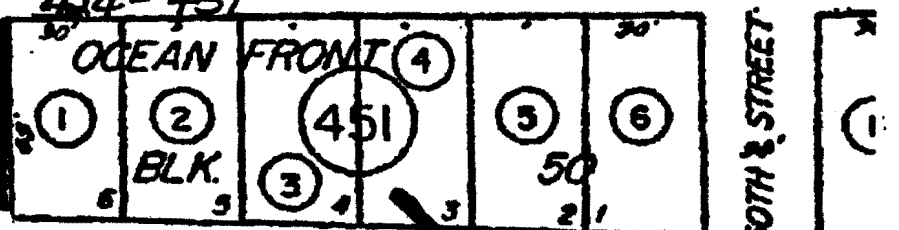
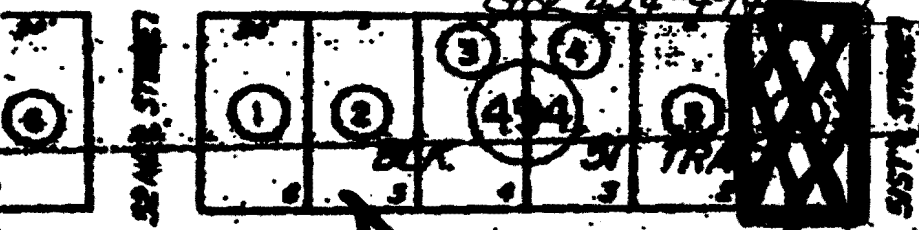


51 ST



DRIVE

SEASHORE



50TH STREET



BLK.

A-51

BLK.

A-50

BLK.

site

Public right-of-way

5-97-118

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RECEIVED

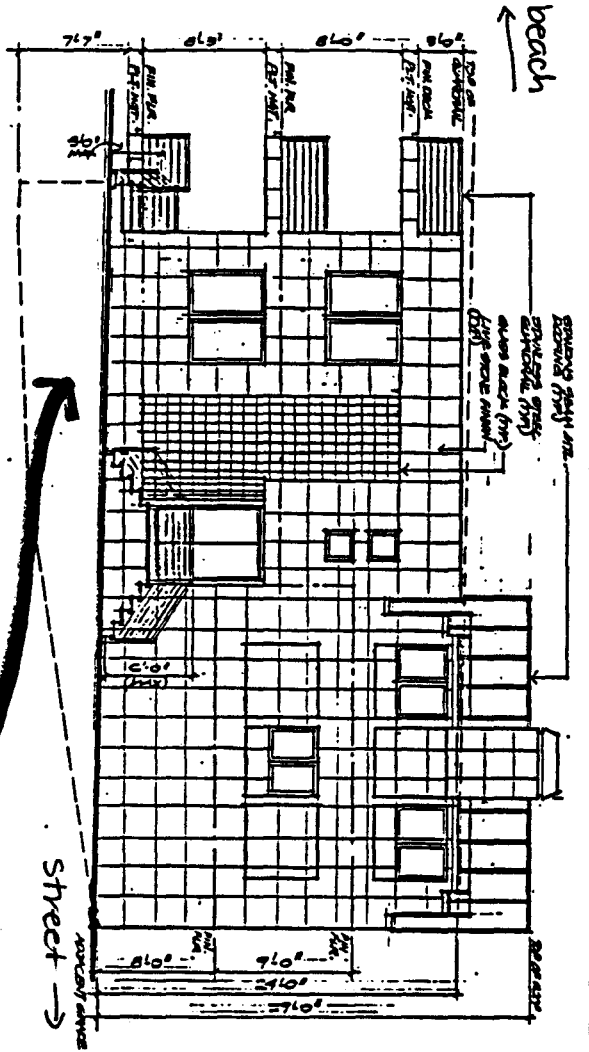
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EXHIBIT # B  
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100' COASTAL



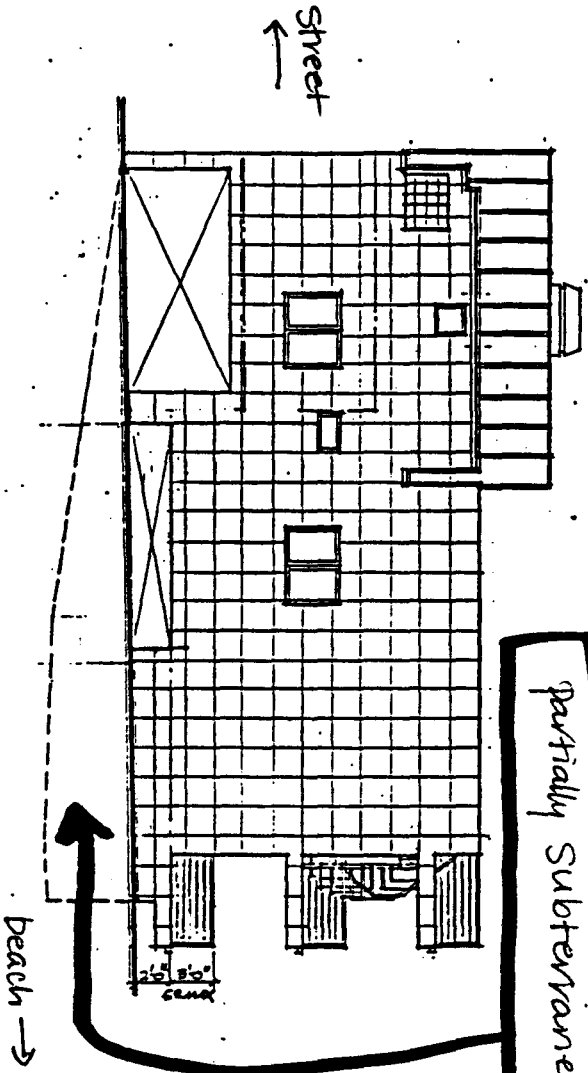


Street →

RIGHT ELEVATION

14'4 1/2" C

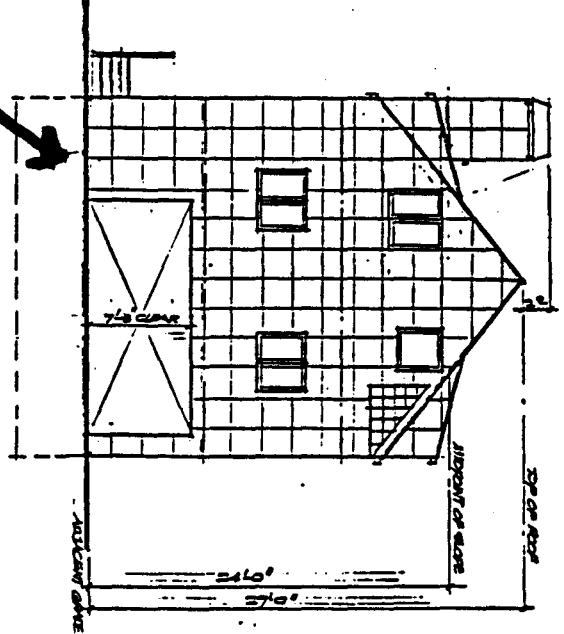
partially Subterranean garage



beach →

LEFT ELEVATION

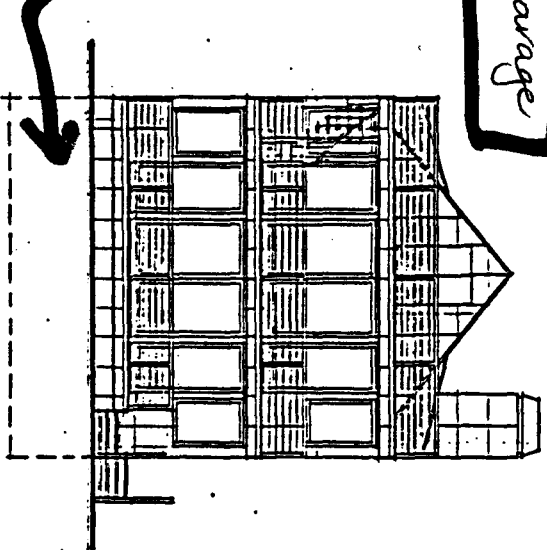
14'4 1/2" D



view from street

REAR ELEVATION

14'4 1/2" B



view from beach

FRONT ELEVATION

14'4 1/2" A

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Anderson & Associates  
ARCHITECTURE  
PLANNING INC.  
121 South Grand Avenue, Orange, California 92668 (714) 971-3777

Stern Residence

A-3

DATE: 11/17/77  
BY: [Signature]  
CHECKED: [Signature]  
SCALE: 1/8" = 1'-0"

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EXHIBIT # *C (Plans)*  
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