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CALIFORNIA COASTAL COMMISSION
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Filed:	February 10, 1998
49th Day:	March 31, 1998
180th Day:	August 9, 1998
Staff:	John T. Auyong
Staff Report:	February 19, 1998
Hearing Date:	March 10-13, 1998
Commission Action:	

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-97-425

APPLICANT: Curtis and Nancy Fleming AGENT: Thomas Moore

PROJECT LOCATION: 1824 Galaxy Drive, City of Newport Beach, Orange County

PROJECT DESCRIPTION: Addition of 158 square feet of enclosed living area on the bluffward side of a one-story, single-family residence with attached 3-car garage. The resultant structure would remain 1-story and would be 15'6" high.

Lot area:	8,800 square feet
Building coverage:	4,037 square feet
Pavement coverage:	3,673 square feet
Landscape coverage:	1,090 square feet
Parking spaces:	Three
Zoning:	R-1-B
Plan designation:	Single Family Detached Residential

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept 2299-97

SUBSTANTIVE FILE DOCUMENTS: Coastal development permits 5-93-308 (Pope Trust) and 5-93-367 (Randle); De Minimis Waiver 5-98-065 (Fleming); Exemption 5-98-012-X (Fleming); Response to California Coastal Commission letter dated 1.27.98 prepared by Petra Geotechnical for Mr. and Mrs. Curt Fleming dated February 9, 1998, Job No. 143-98; City of Newport Beach Certified Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed project as submitted with no special conditions.

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. None

IV. Findings and Declarations.

A. Project Description and Location.

The applicant is proposing to add 158 square feet (22'6"x7') of enclosed living area on the bluffward side of a one-story, 2,717 square foot single-family residence with an attached 638 square foot two-car garage. (see Exhibit B) The subject site is a blufftop lot overlooking Upper Newport Bay

off Galaxy Drive. The proposed addition would result in an approximately five foot encroachment of the existing structure towards the bluff edge. The resultant structure would remain one-story and be 15'6" high. No changes to landscaping, drainage, or the backyard pool area are proposed. The proposed development would be setback approximately 32 feet from the bluff edge. Because the proposed addition would encroach within fifty (50) feet of a bluff edge, it is, pursuant to Section 13250(b)(1) of Title 14 of the California Code of Regulations, not exempt from obtaining a coastal development permit.

B. Chapter 3 Policy Issues

1. Geologic 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 on the top of a bluff overlooking the Upper Newport Bay Ecological Reserve, a wetland area managed by the California Department of Fish and Game. The toe of the bluff is not currently subject to erosion from the waters of the Reserve. However, the bluffs in the area have had some history of upper bluff failure in the recent past. The adjacent site to the south at 1818 Galaxy Drive suffered minor surficial bluff failure. The Commission approved coastal development permit 5-93-308 (Pope Trust) to repair the bluff failure. The Commission also approved coastal development permit 5-93-367 (Randle) for bluff repair at 2000 Galaxy Drive to the north.

A 158 square foot (about 22'6" long by 7' deep) area of enclosed living space is proposed to be added to the rear side of the home which faces the bluff. An evaluation of the proposed project and site was prepared by Petra Geotechnical (Job No. 143-98 dated February 9, 1998). The evaluation states that the site and bluff are considered to be grossly stable due to the favorable dipping of the underlying bedrock into or parallel to the bluff face and the historical performance of the bluff with respect to gross stability. Further, in the early 1960's, several buttress fills were constructed to repair bluff failure and minimize future bluff failure.

The evaluation also indicated that the proposed addition would not have adverse effects on the geologic stability of the site because; 1) the addition is relatively small, 2) the addition does not involve changes in yard drainage patterns, 3) the addition would not increase runoff beyond the ability of the existing drainage to accommodate it, and 4) the closest point of the proposed residence to the bluff edge is set back 32 feet from the bluff edge. Except

for the area between the bluff top and the swimming pool at the far rear of the property, all back yard and side yard drainage is directed to the street. In addition, the subject site is not located in an area required to have a geotechnical investigation per the requirements of the Seismic Hazards Mapping Act. Therefore, the Commission finds that the proposed project would be consistent with Section 30253 of the Coastal Act.

2. Adjacency to Environmentally Sensitive Habitat Area

Section 30240 of the Coastal Act states, in relevant part:

> (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The subject site is located adjacent to the Upper Newport Bay Ecological Reserve ("UNBER") owned and administered by the California Department of Fish and Game ("CDFG"). It is one of the 19 sensitive wetlands referenced in Section 30233(c) of the Coastal Act. Thus, the UNBER is an environmentally sensitive habitat area ("ESHA"). The UNBER also provides recreational amenities in the form of a bike trail and interpretive facilities on its east bank. The subject site is on a bluff above the west side of the UNBER. CDFG's ownership in this area includes the bluff face and goes up over the bluff edge to include part of the blufftop. The CDFG ownership of the bluff top consists of an approximately five foot wide strip of land inland from the bluff edge.

The proposed project consists of 158 square feet (22'6" long, 7' depth) of enclosed living area on the rear side of the home facing the bluff. While the proposed addition would result in the home encroaching five feet closer to the bluff edge, the proposed addition would be setback 27 feet from the rear property line between private property and CDFG owned land. Further, the proposed addition would be setback 32 feet from the bluff edge. The proposed development is adequately setback from the UNBER so as not to result in impacts which would significantly degrade the ESHA areas. Thus, the proposed development would be compatible with the continuance of the UNBER's habitat and recreation areas. Further, the proposed development would not contribute to bluff instability which would require bluff stabilization measures which would adversely impact the UNBER. Therefore, the Commission finds that the proposed development would be consistent with Section 30240 of the Coastal Act.

3. Public 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 on a blufftop between the nearest public roadway and the shoreline of Upper Newport Bay. The proposed development would not result in an intensification of use of the site. The proposed development would provide 3 parking spaces, consistent with the Commission's regularly used standard of 2 spaces per dwelling unit. The proposed development would not result in direct adverse impacts, neither individually nor cumulatively, on physical vertical or lateral public access. The adjacent Upper Newport Bay Ecological Reserve provides public access and public recreation opportunities. Therefore, the Commission finds that no public 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.

4. Visual Quality

Section 30251 of the Coastal Act states, in relevant part:

> 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 of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The subject site is a blufftop lot overlooking Upper Newport Bay. The proposed development would not block public views to or along the bay. The proposed development would be set back 27 feet from the rear (bluff side) property line and conforms to the City's 20 foot rear setback. In addition, the proposed development would be set back 32 feet fromt the bluff edge. Further, the proposed development would be consistent with the visual characteristics of the surrounding pattern of development. Therefore, the Commission finds that the proposed project would be consistent with Section 30251 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 proposed development is consistent with the geologic hazards, ESHA, public access, and visual quality policies of Chapter Three of the Coastal Act. Therefore, the Commission finds that approval of the proposed development 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)(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.

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 is consistent with the geologic hazards, ESHA, public access, and visual quality policies of Chapter Three of the Coastal Act. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect 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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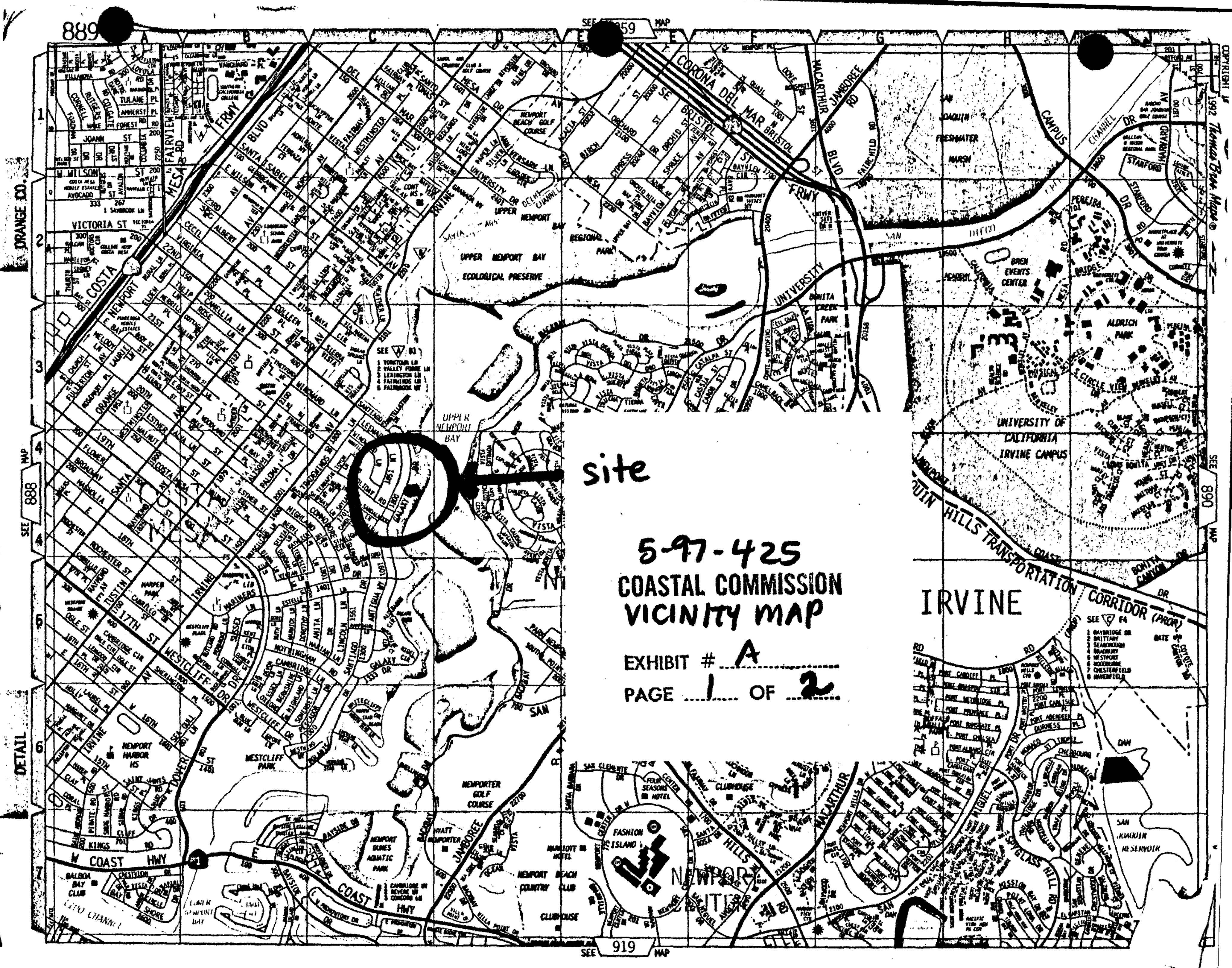
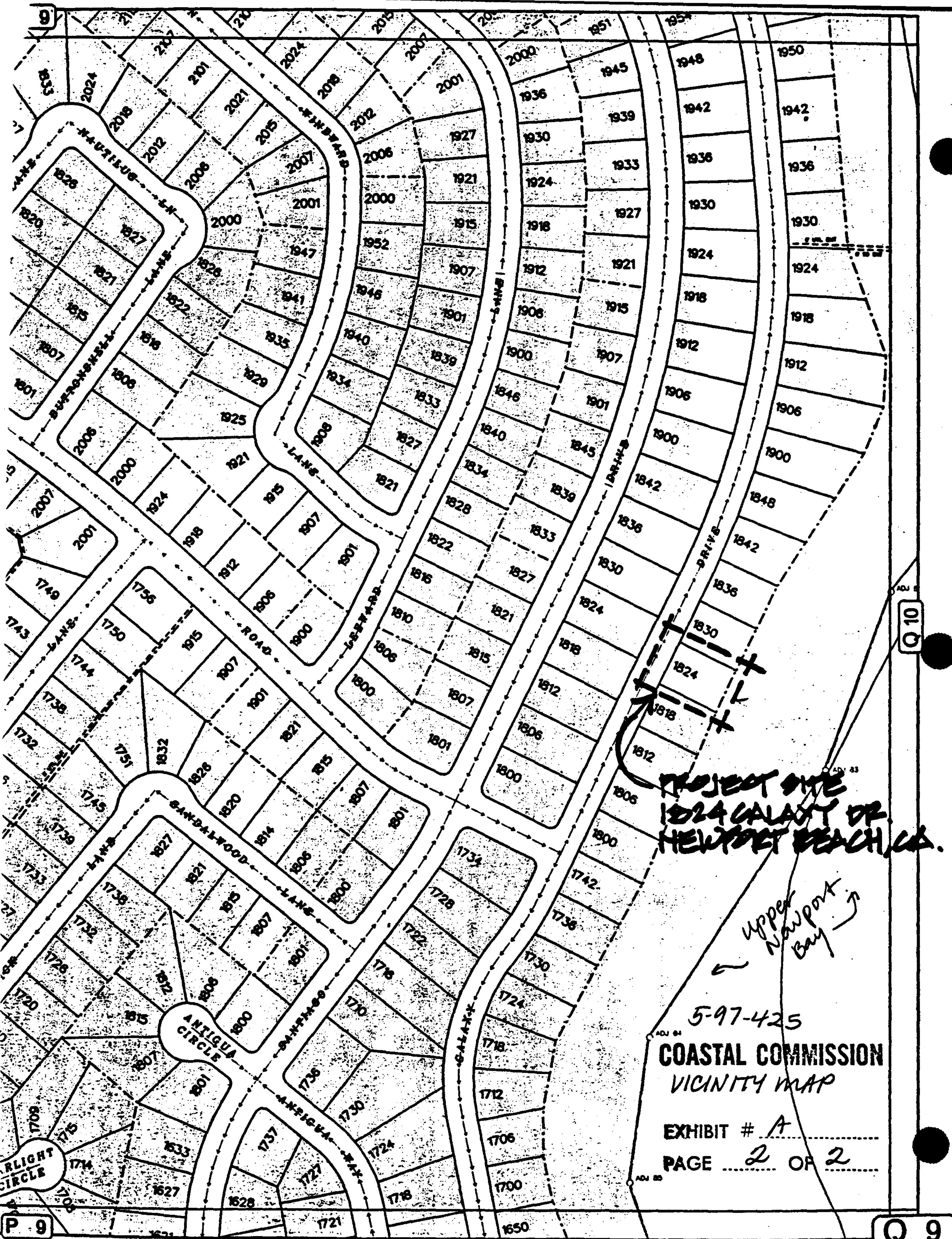

COPYRIGHT 1992 Thomas Bros. Maps
site
5-97-425
COASTAL COMMISSION
VICINITY MAP
EXHIBIT # A
PAGE 1 OF 2
IRVINE
UPPER NEWPORT BAY ECOLOGICAL PRESERVE
UNIVERSITY OF CALIFORNIA IRVINE CAMPUS
SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR (PROP)
SAN JOAQUIN FRESHWATER MARSH
FASHION ISLAND
NEWPORTER GOLF COURSE
NEWPORT BEACH COUNTRY CLUB
W COAST HWY
SEE 888 MAP
SEE 890 MAP
SEE 859 MAP
SEE 919 MAP
ORANGE CO.
DETAIL


NAUTILUS LN
BUTTONSHELL LANE
WINDWARD LANE
LEEWARD LANE
ROAD
GALAXY DRIVE
SANDALWOOD LANE
SANTIAGO
ANTIGUA CIRCLE
ANTIGUA WAY
RLIGHT CIRCLE
PROJECT SITE
1824 GALAXY DR
NEWPORT BEACH, CA.
Upper Newport Bay
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COASTAL COMMISSION
VICINITY MAP
EXHIBIT # A
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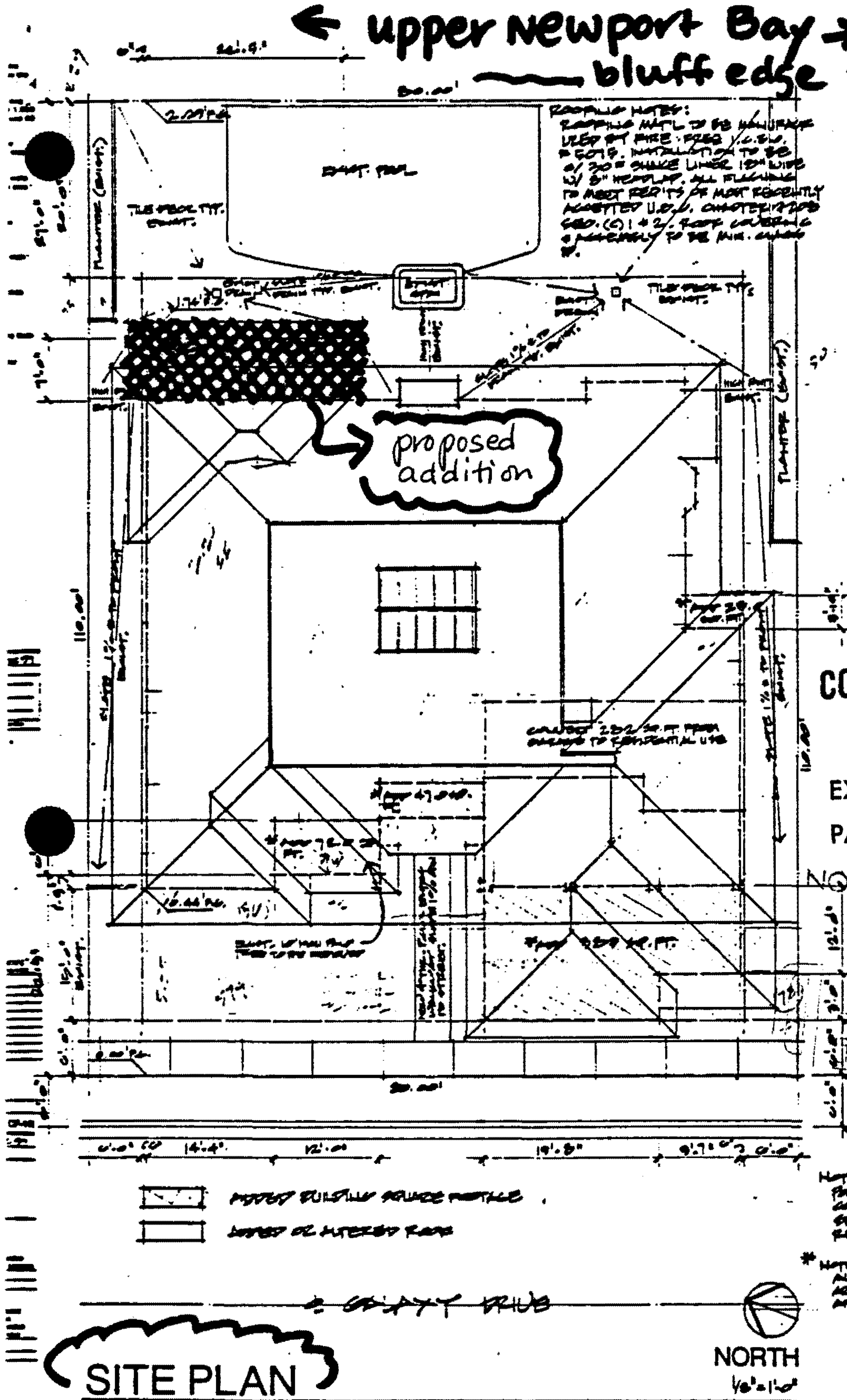
Q 10



TABULATION

OCCUPANCY GROUP	R-3/U-1
CONSTRUCTION TYPE	V-N
LOT SIZE	[illegible]
LOT AREA	[illegible] SQ.FT.
EXIST. RESIDENCE	2717.0 SQ.FT.
EXIST. GARAGE	[illegible] SQ.FT.
TOTAL EXIST.	[illegible] SQ.FT.
PROP. RESIDENTIAL ADD.	[illegible] SQ.FT.
PROP. GARAGE ADD.	[illegible] SQ.FT.
TOTAL PROP. ADD.	[illegible] SQ.FT.
TOTAL PROPOSED RES & GARAGE	4037.0 SQ.FT.
BUILDABLE AREA - 790 SQ.FT.	[illegible] SQ.FT.
MAX. STRUCTURAL AREA	[illegible] SQ.FT.
PROP. STRUCTURAL AREA	4037.0 SQ.FT.

LEGAL DESCRIPTION

LOT 20 OF TRACT 4224 OF DOVER SHORES IN THE CITY OF NEWPORT BEACH, STATE OF CALIFORNIA.

GLASS CALC.

TOTAL CONDITIONED FLOOR AREA ADDED	582 SQ.FT.
GLASS ADDED	211 SQ.FT.
GLASS DELETED	184 SQ.FT.
TOTAL ADD	27 SQ.FT.
PERCENT ADD	14%

c. thomas moore residential design

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Plans
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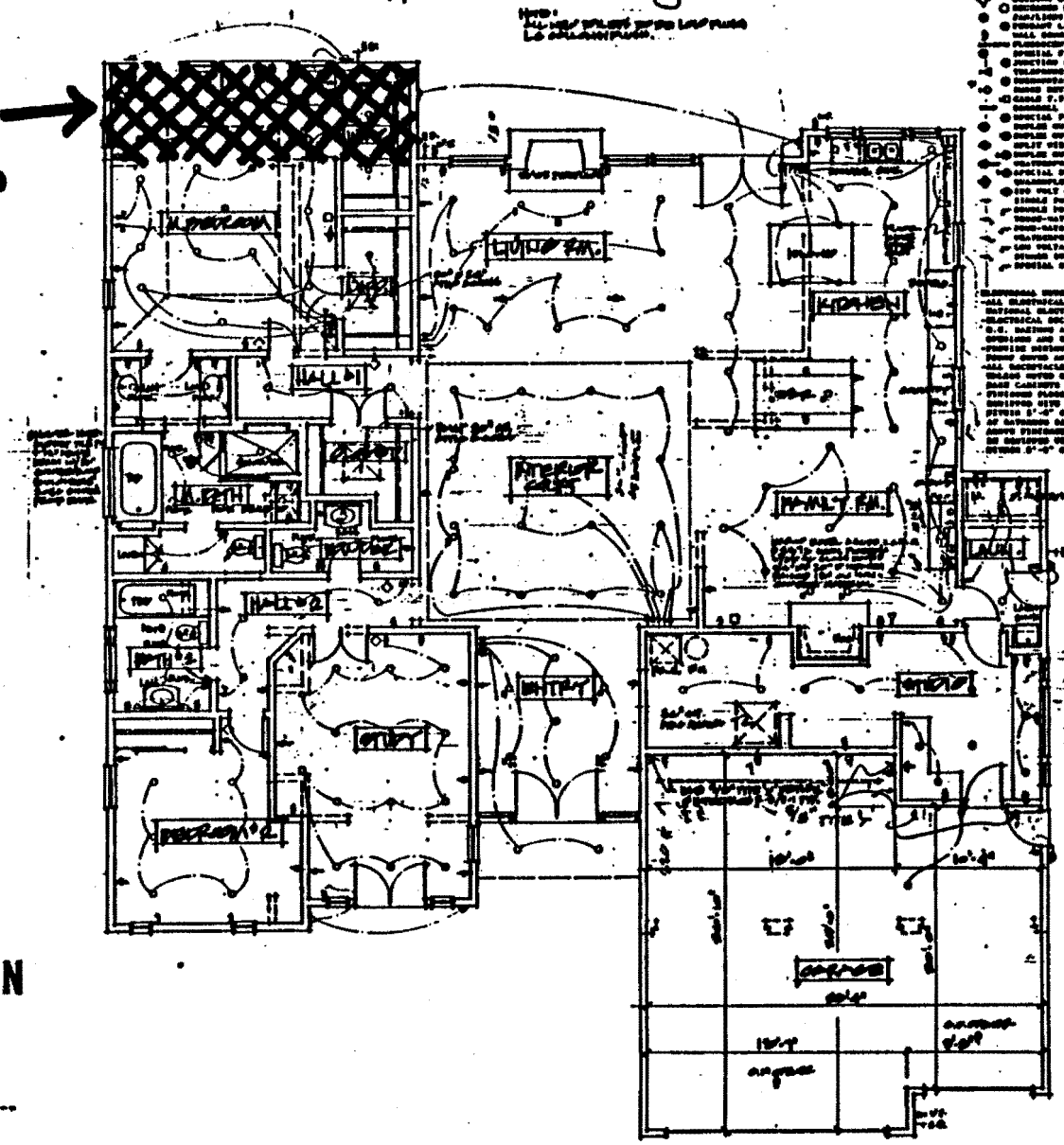
PROPOSED ADDITION/ALTERATIONS TO THE

1024 GALAXY DRIVE
NEWPORT BEACH CALIFORNIA

5-97-425

← to Upper Newport Bay →

proposed addition →



← street →

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Plans

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FLOOR PLAN

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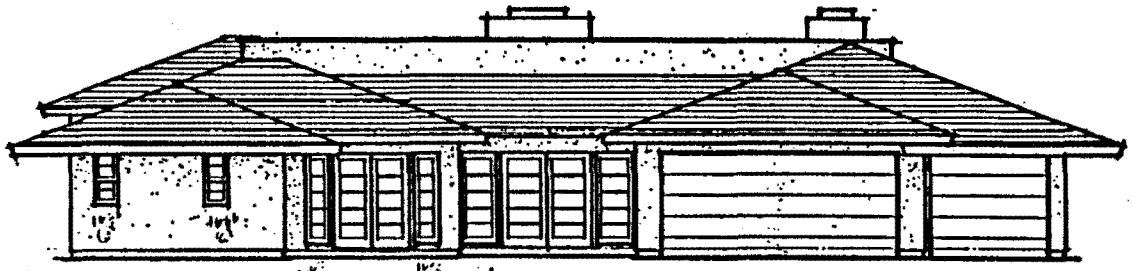
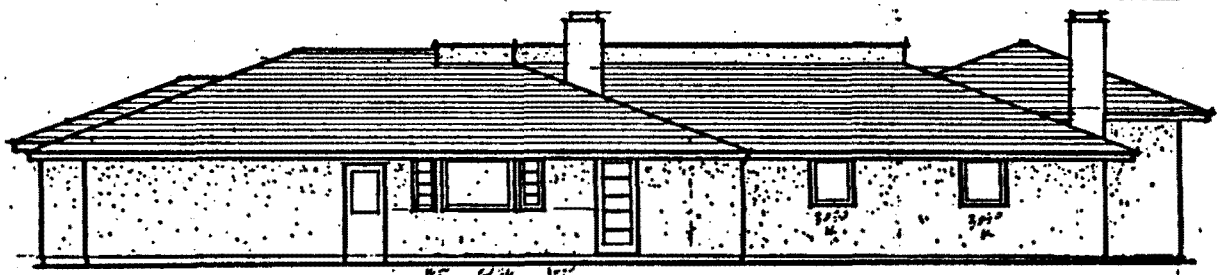


WEST ELEVATION



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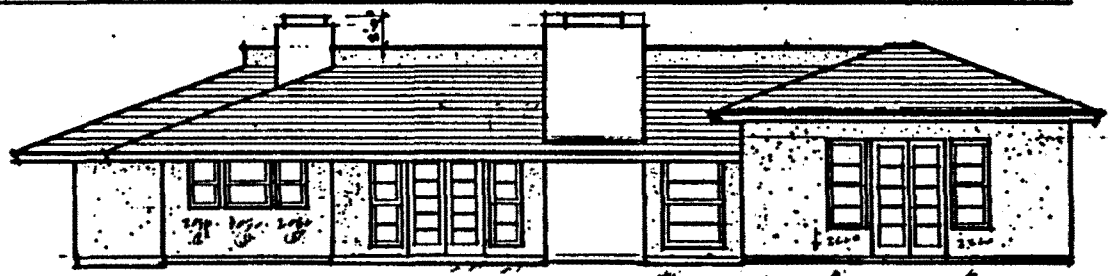
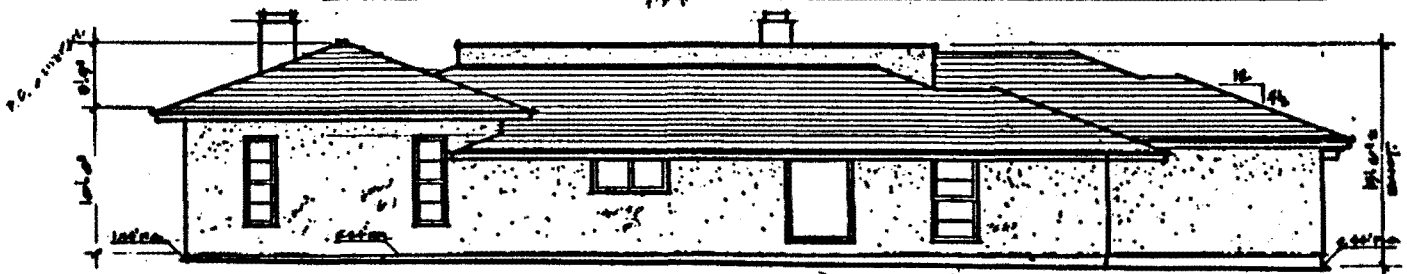


EAST ELEVATION



NORTH ELEVATION

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