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CALIFORNIA COASTAL COMMISSION

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



RECORD PACKET COPY

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49th Day: 5/4/99
180th Day: 9/12/99
Staff: MV-LB
Staff Report: 4/21/99
Hearing Date: 5/11-14/99
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-99-104
APPLICANT: Kenneth Lund
AGENT: Mike Swartz, Architect
PROJECT LOCATION: 3310 West Oceanfront, Newport Beach, Orange County

PROJECT DESCRIPTION: Addition of a new third story consisting of 301 square feet of interior space and 198 square foot roof top deck and minor interior modifications to an existing 2,504 square foot, two story duplex with an attached two-car garage. Maximum height of resultant structure will be 29 feet above existing grade at maximum point and 24 feet average height. The proposed project includes 2 parking spaces.

Lot Area: 2,095 square feet
Building Coverage: 1,330 square feet
Pavement Coverage: 765 square feet
Landscape Coverage: 0 square feet
Parking Spaces: 3 spaces
Zoning: R-2
Plan Designation: Two Family Residential
Ht above final grade: 29 feet maximum, 24 feet average

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval in Concept No.1457-98;
City of Newport Beach Modification Permit No. 4795.

SUMMARY OF STAFF RECOMMENDATION:

The proposed project includes additions to an existing duplex which has insufficient parking. The existing duplex provides two parking spaces. No additional parking spaces are proposed. The Commission has consistently found that two parking spaces are adequate to satisfy the parking demand generated by one residential unit. In this case only one parking space per unit will be provided. However, because the proposed addition will not increase the intensity of use at the site, and so will not increase the existing parking demand, staff is recommending approval with one special condition. The special condition requires that any future improvements including a change in the number of units or parking spaces at the site will require an amendment to this permit or a new permit.

SUBSTANTIVE FILE DOCUMENTS: 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), and 5-97-037 (Branson; and coastal development permits 5-95-060 (Rewers), 5-95-067 (Pifer), and 5-97-083 (Strader). 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 will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, is located between the sea and the first public road nearest the sea and is in conformance with the public access and public recreation policies of the Coastal Act and will not have any significant adverse effects 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 Improvement/Parking

This coastal development permit 5-99-104 is only for: addition of a new third story consisting of 301 square feet of interior space and 198 square foot roof top deck and minor interior modifications to an existing 2,504 square foot, two story duplex with an attached two-car garage, located at 3310 West Oceanfront, in the City of Newport Beach (County of Orange) as expressly described and conditioned herein. Any future improvements to the existing structure which would result in a change in the intensity of use, including but not limited to a change in the 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:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to add a new third story consisting of 301 square feet of interior space and 198 square foot roof top deck to an existing 2,504 square foot, two-story duplex with an attached two-car garage. Maximum height of resultant structure will be 29 feet above existing grade at maximum point and 24 feet average height. The proposed project includes 2 parking spaces. Minor interior remodeling, including removal of one interior wall, is also proposed. No demolition of exterior walls is proposed. The City's zoning at the subject site is R-2. Under this zoning only a maximum of two units could be allowed.

The project site, 3310 West Oceanfront in the City of Newport Beach, is located on the beachfront, adjacent to the public boardwalk (see exhibit C).

Because the proposed development is an increase in internal floor area greater than 10% of the existing floor area and an increase in height of more than 10%, and because the subject site is located within 300 feet of a beach, the proposed development requires a coastal development permit.

B. Public Access/Parking

Section 30252 of the Coastal Act states, in 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.

When a private development does not provide adequate on-site parking, users of that development are forced to occupy public parking that would otherwise be available to visitors to the coastal zone. Thus, all private development must provide adequate on-site parking to minimize adverse impacts on public access. This is especially true for development located

between the sea and the first public road paralleling the sea, as is the case with the proposed development. Spaces closest to the beach are in highest demand by beach-going visitors.

The Commission has consistently found that two parking spaces are adequate to satisfy the parking demand generated by a single residential unit. Based on this consistently applied standard, the existing duplex (two residential units) would create a demand for four parking spaces. Only two parking spaces currently exist on site, and no additional spaces are proposed. Therefore, the proposed development would be considered deficient parking by two spaces.

The site coverage of the existing duplex does not allow for additional parking spaces to be accommodated on site (see exhibit D). The existing side yards are each 3 feet wide. The rear yard is approximately 8 feet wide on the alleyway. No vehicular access is possible to the 5 foot wide front yard area. The proposed addition is a new third story which will not expand the existing footprint of the structure. Consequently, the proposed addition will not displace area that could provide additional parking.

However, since no additional dwelling units are proposed, the proposed development would not result in an intensification of use. The proposed development, an addition to an existing duplex, does not create any additional parking demand beyond that which already exists. 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 dwelling units resulting in an intensification of use, or a reduction in on-site parking. An increase in the number of units would result in an increase in parking demand and an increase in the parking deficiency. An increase in the parking deficiency would result in 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 improvements to the existing structure which would result in a change in intensity of use. This would allow for the review of future improvements for any potential adverse impacts to public access resulting from inadequate parking.

This type of special condition has been previously imposed by the Commission or the Executive Director for similar residential projects which did not result in a change in intensity of use but 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), and 5-97-037 (Branson); and coastal development permits 5-95-060 (Rewers) and 5-95-067 (Pifer). Thus, as conditioned, the Commission finds that the proposed development is consistent with Section 30252 of the Coastal Act.

C. Public Access/Beachfront Setback

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.

In order to assure maximum access and recreational opportunities, the Commission typically applies a setback for development proposed along the waterfront. The setbacks are applied as a means of controlling seaward encroachment of residential structures on a beach or on a blufftop. The setbacks are also intended to prevent psychological barriers caused by development directly adjacent to public beaches. As private development is allowed closer to the public/private property border, the public is less likely to use the public area near the private property. This has the effect of diminishing the amount of area effectively available for public use. In some areas of Newport Beach where the public/private boundary is clearly established, this psychological barrier does not exist. An example of such an area is the area adjacent to the public boardwalk. The public will continue to use the boardwalk even with private development immediately adjacent to it. Consequently, where a public boardwalk exists, the Commission has found the City's required setback to be sufficient. In other areas, where development is proposed adjacent to public sandy beach areas where there is no boardwalk, the Commission has found a stringline setback to be most effective and equitable.

The subject site is located adjacent to the public boardwalk. The public boardwalk is located along the inland side of the City of Newport Beach's wide, sandy, ocean front beach on the Balboa Peninsula. Other waterfront areas in Newport Beach include the harbor, and the beach and bluffs south of the harbor. In numerous previous actions, the Commission has found the City's required setback to be sufficient to assure continued public access along the boardwalk and adjoining beach area. The City's required setback in this area is 5 feet from the board walk (second story balconies area allowed to encroach up to two feet into the setback). The existing and proposed development is consistent with this setback. Therefore, the Commission finds the proposed development will not interfere with the public's use of the adjacent public areas including the public boardwalk and is consistent with Section 30210 of the Coastal Act regarding public access.

D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that a coastal development permit shall be issued only if the proposed development would not prejudice the ability of the local government having jurisdiction to prepare a local coastal program (LCP) which conforms with, and is adequate to carry out, the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. The proposed development is consistent with the certified Land Use Plan land use designation for the site. As conditioned, the proposed development is consistent with Section 30252 of Chapter 3 of the Coastal Act regarding the provision of adequate parking. Therefore, the Commission finds that the proposed development, as conditioned, would not prejudice the ability of the City of

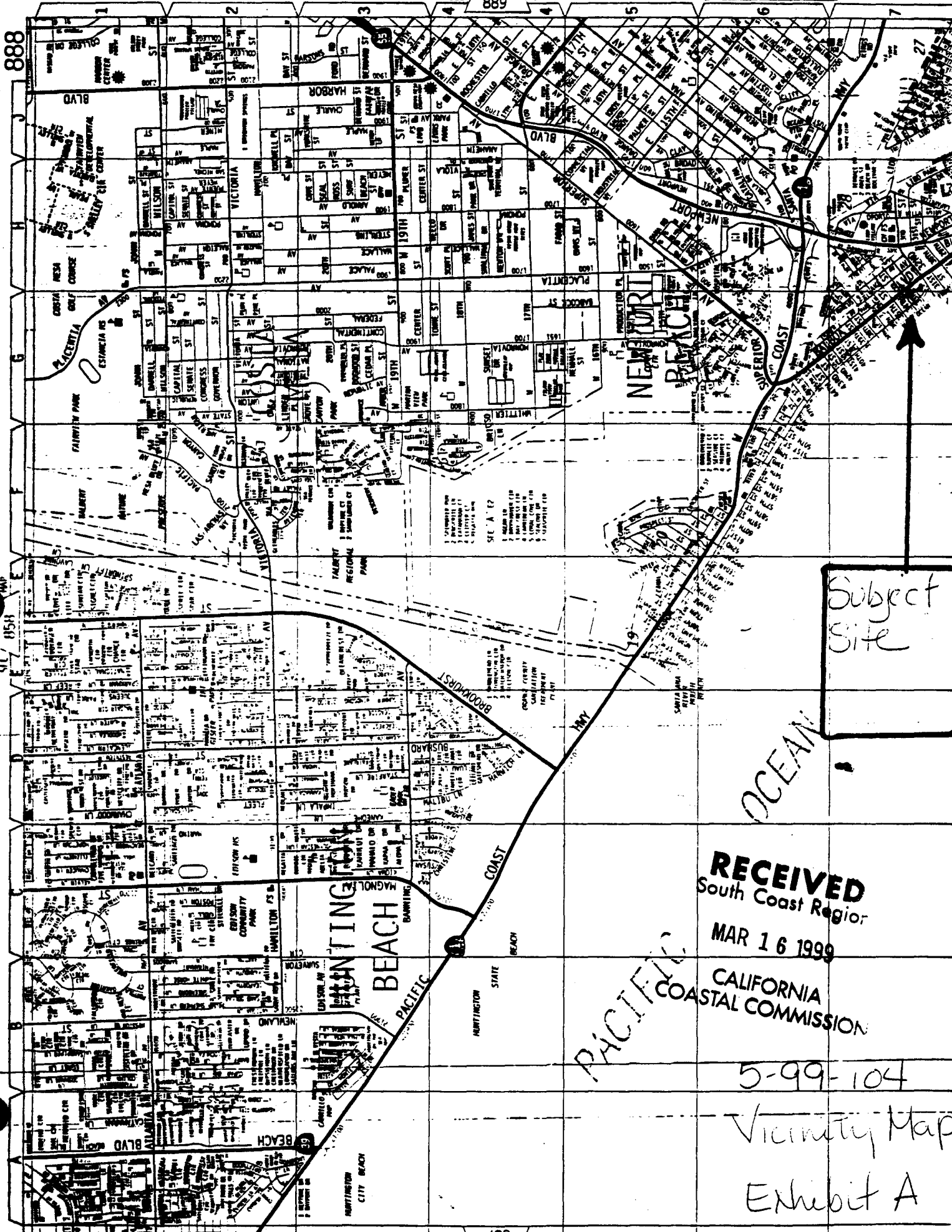
Newport Beach to prepare a local coastal program consistent with the Chapter 3 policies of the Coastal Act.

E. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 exists in the area. The proposed project has been conditioned in order to be found consistent with the public access policies of the Coastal Act. Mitigation measures to inform the permittee that future improvements will require an amendment to this permit or a new coastal development permit, to allow for review of public access impacts, will minimize all significant adverse impacts.

The project as conditioned is the least environmentally damaging alternative. 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 is consistent with CEQA and the policies of the Coastal Act.



Subject Site

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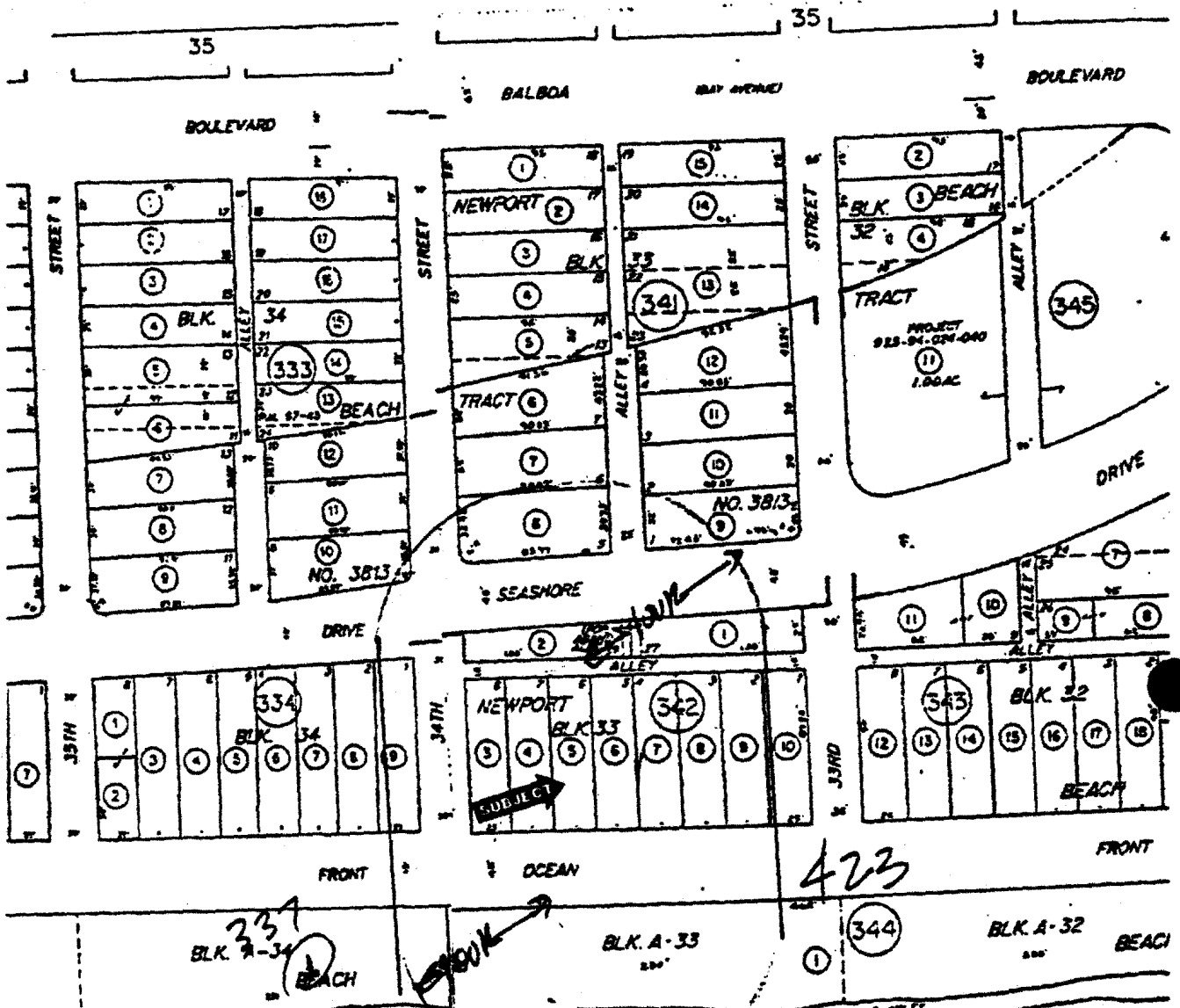
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5-99-104

Vicinity Map

Exhibit A



NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

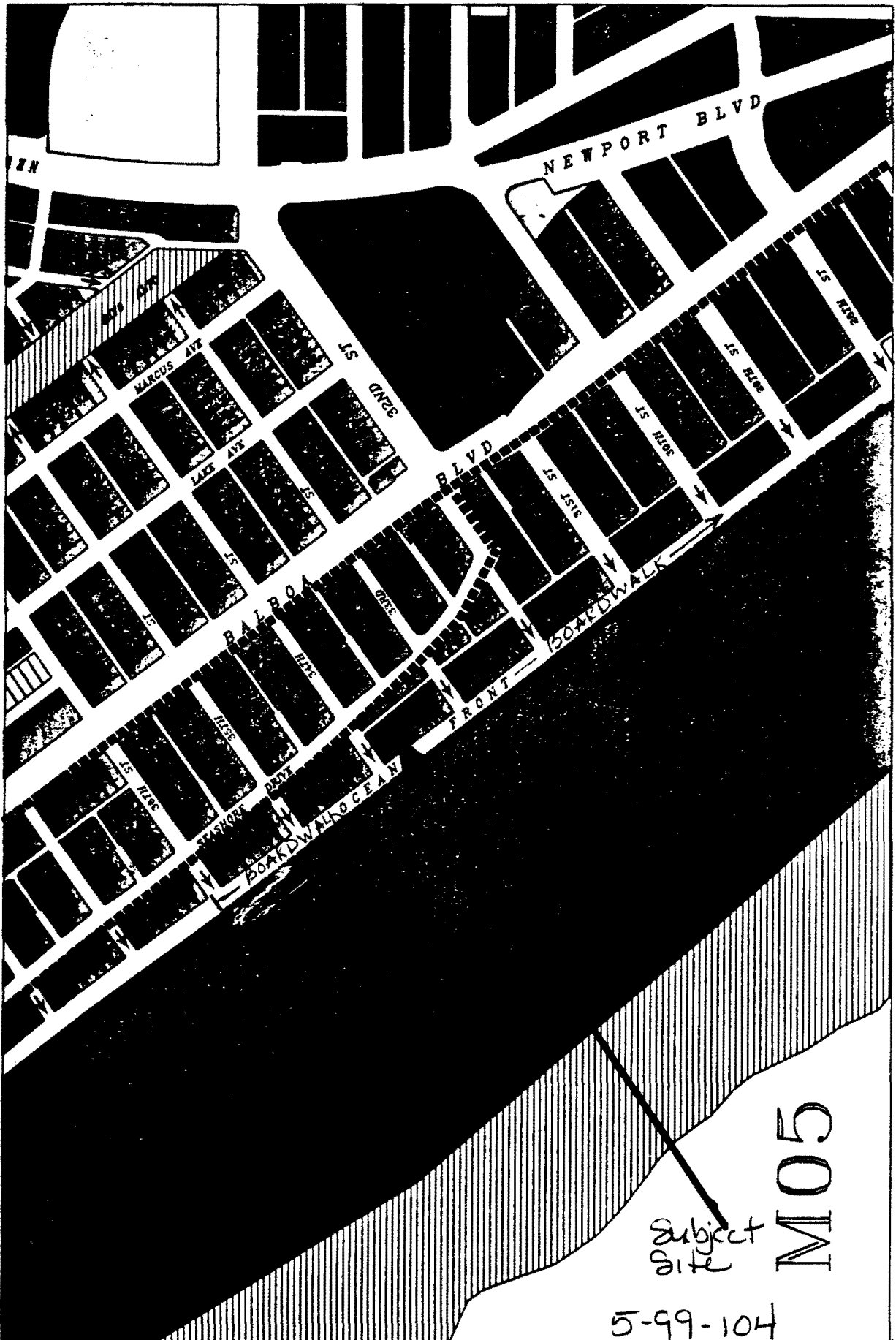
ASSESSOR'S BOOK 423 COUNTY OF MARCH 1984

NEWPORT BEACH TRACT NO. 3813 TRACT NO. 11906

M. M. 3 - 26
M. M. 162 - 11 TO 19 INC.
M. M. 515 - 18, 19

5-99-104
Assessor's Parcel
Map
Exhibit B

Ownership Map



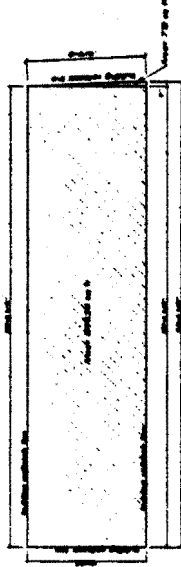
Subject Site

M05

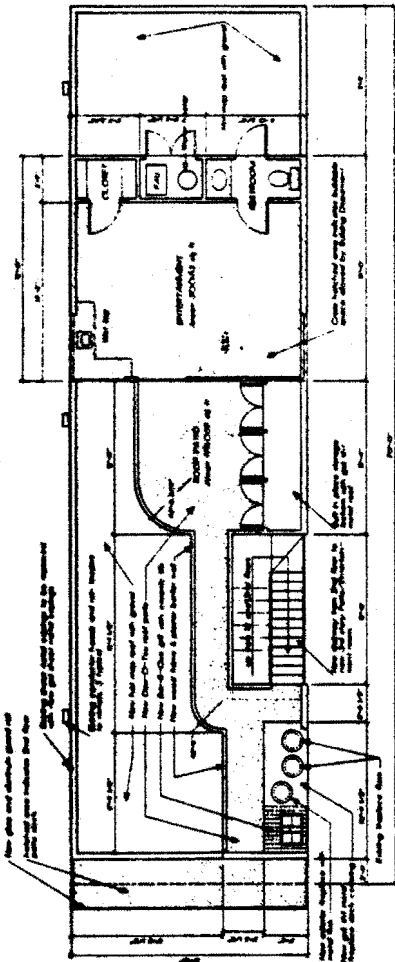
5-99-104
Boardwalk/Subject Site
map
F. J. ...

ALLOWABLE BUILDABLE AREA CALCULATION

Building Footprint: 10,000 sq. ft.
 Building Setback: 10,000 sq. ft.
 Total Building Footprint: 20,000 sq. ft.
 Building Setback: 10,000 sq. ft.
 Total Building Footprint: 20,000 sq. ft.
 Building Setback: 10,000 sq. ft.
 Total Building Footprint: 20,000 sq. ft.
 Building Setback: 10,000 sq. ft.
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 Building Setback: 10,000 sq. ft.
 Total Building Footprint: 20,000 sq. ft.



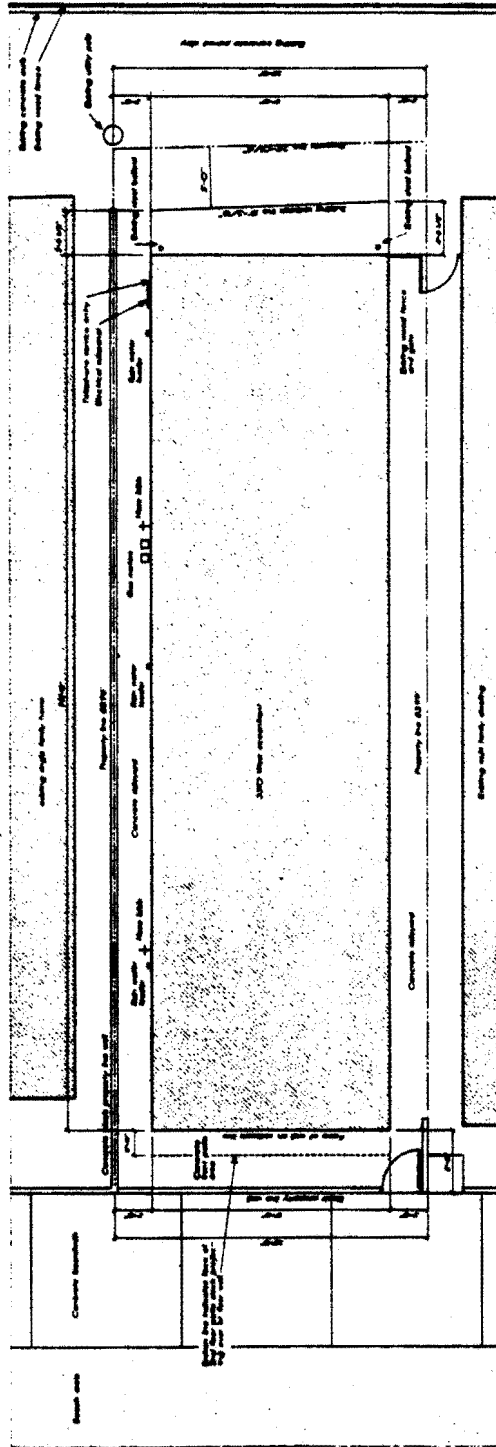
PROPERTY SQUARE FOOTAGE defined by BUILDING SETBACK LINES
10,000



PLAN of NEW 3rd STORY PATIO/ENTERTAINMENT ROOM
1/8" = 1'-0"

LEGAL DESCRIPTION: LOT 14, BLOCK 33 OF SHIPPOY BEACH TRACT

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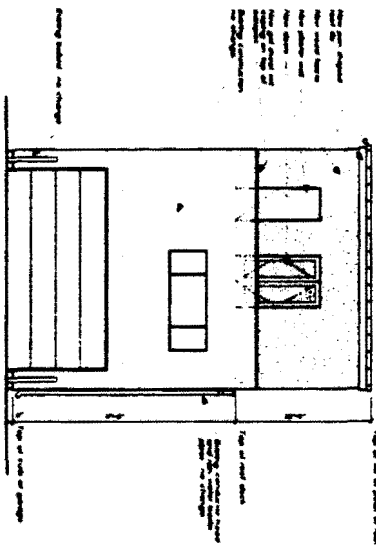
LEGAL DESCRIPTION: LOT 14, BLOCK 33 OF SHIPPOY BEACH TRACT

SITE PLAN
SCALE: 1/8" = 1'-0"

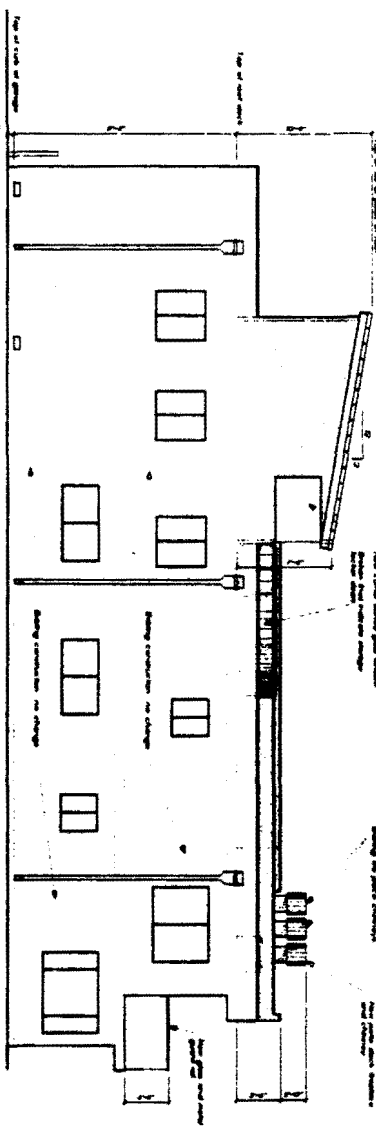
5-99-104

Site Plan
& Addition Plan

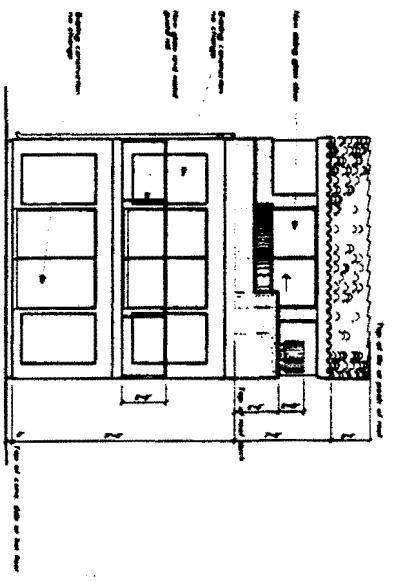
Exhibit D



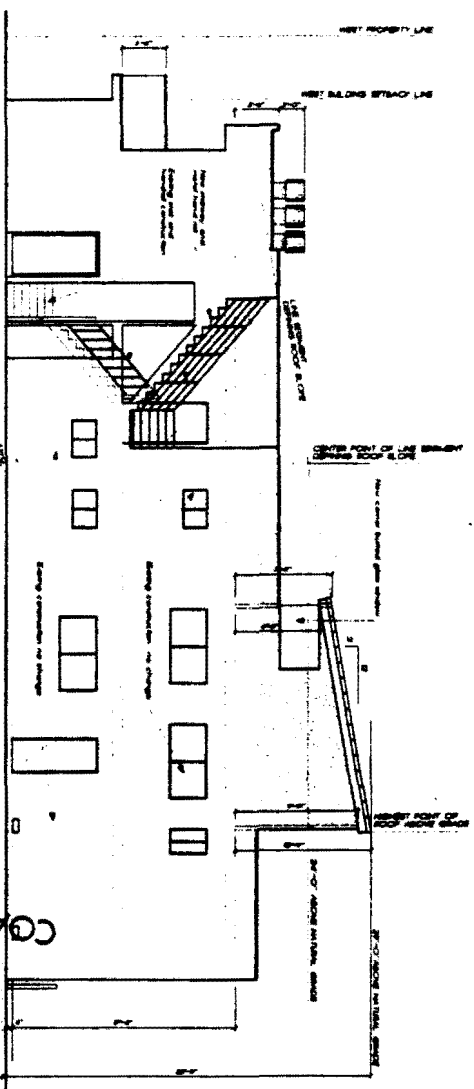
EAST ELEVATION
1/8\"/>



NORTH ELEVATION
1/8\"/>



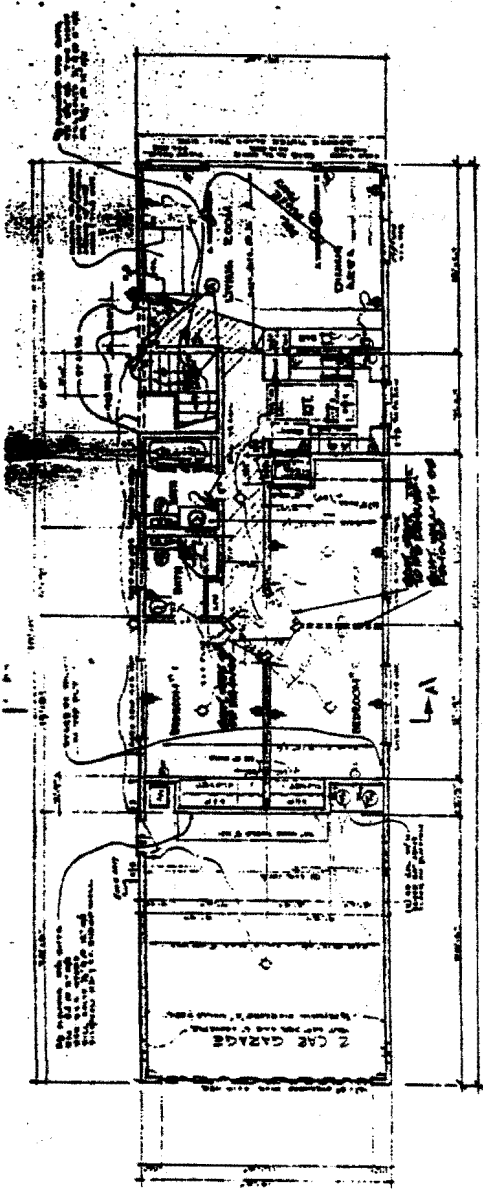
WEST ELEVATION
1/8\"/>



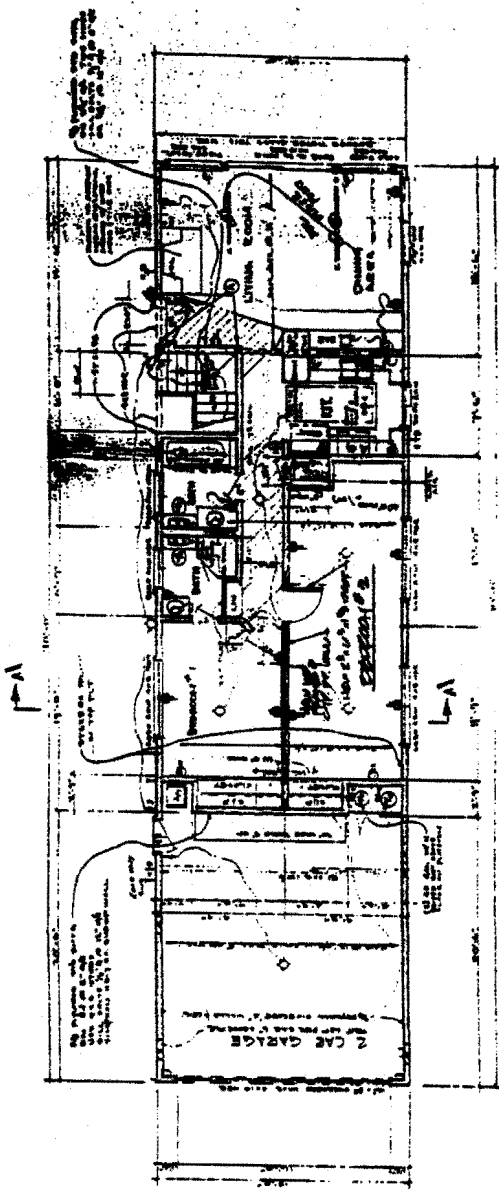
SOUTH ELEVATION
1/8\"/>

5-99-104
Elevations
Exhibit E

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EXISTING FIRST FLOOR PLAN



PROPOSED FIRST FLOOR PLAN

A-3

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Red Line Property
1111-1115 2nd St.
San Francisco, CA
94104
APR 14 1999

5-99-104

First Floor Interior
Modifications

Exhibit F