

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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**RECORD PACKET COPY**

Filed: February 28, 2001  
49th Day: April 18, 2001  
180th Day: August 27, 2001  
Staff: ALK-LB *ALK*  
Staff Report: March 22, 2001  
Hearing Date: April 10-13, 2001  
Commission Action:

**Item Tu 4c****STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NO.:** 5-01-065

**APPLICANTS:** Brian and John Spencer

**AGENT:** None

**PROJECT LOCATION:** 109 34<sup>th</sup> Street, Newport Beach (Orange County)

**PROJECT DESCRIPTION:** Remodel and addition to existing two-story duplex, including the construction of an approximately 380 square foot third floor attic area, new roof deck, new second floor balcony and stairwell, hardscape and landscape improvements. The project also involves the creation of a new off-street parking space. Resultant structure will be a three-story, 29-foot high, 3021 square foot duplex with three (3) off-street parking spaces. No grading is proposed.

**LOCAL APPROVALS RECEIVED:** Approval in Concept 0428-2001 from the City of Newport Beach.

**SUBSTANTIVE FILE DOCUMENTS:** City of Newport Beach Certified Land Use Plan, Coastal Development Permits 5-98-027; 5-97-237, 5-97-037; 5-97-095 and 5-96-122.

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**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed project with one (1) special condition requiring a coastal development permit or amendment when future development occurs on the site. The applicants are in agreement with the special condition.

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**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions.**

The Commission hereby **approves** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned, located between the first public road and the sea, will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. Standard Conditions.**

1. Notice of Receipt and Acknowledgment. The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
4. 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.
5. 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 (5-01-065) approves only the development, as expressly described and conditioned herein, to the existing duplex located at 109 34<sup>th</sup> Street in the City of Newport Beach. Any future development, such as a change in the 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.

The Commission hereby finds and declares as follows:

#### A. Project Description and Location

The project site is located at 109 34<sup>th</sup> Street on the Balboa Peninsula in the City of Newport Beach, Orange County (Exhibits 1 and 2). The project site contains pre-Coastal Act, non-conforming development consisting of a two-story duplex with an attached two-car garage. The proposed project would result in the addition of a 380 square foot third floor attic area, a new roof deck, a new second floor balcony and stairwell, and hardscape and landscape improvements (Exhibit 3). The project also involves remodeling of the existing garage space to create a one-car garage, a one-car carport and the addition of a new off-street parking space adjacent to the carport. The resultant structure will be a three-story, 29-foot high, 3021 square foot duplex with three (3) off-street parking spaces. No grading is proposed.

The project requires Commission approval because the proposed development is an improvement to an existing residential structure that involves an increase in internal floor area over 10%, an increase in height over 10%, and is located within 300 feet of the inland extent of a beach.

#### B. Public Access

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,*

When private development does not provide adequate on-site parking, users of that development are forced to occupy public parking that could be used by visitors to the coast. A lack of public parking discourages visitors from coming to the beach and other visitor serving activities in the coastal zone. The lack of parking would therefore have an adverse impact on public access. In this case, the project site is located on the Balboa Peninsula and is on the inland side of the first public road. The street-ends provide the public with vertical access to the beach. Public coastal access exists in the project vicinity at the street end of 34<sup>th</sup> Street, approximately 200 feet southwest of the subject site. All private development must, as a consequence, 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 project site contains a duplex. Under the Commission's standard of two parking spaces per dwelling unit, the project site should therefore provide four on-site parking spaces. However, only two spaces exist on-site and only one additional parking space is proposed. Therefore, the proposed development is 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. Consequently, 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.

Nevertheless, future improvements to the structures at the project site could result in an increase in the number of dwelling units beyond the two units 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. Likewise, future development could propose a reduction in the number of parking spaces, which would also lead to adverse impacts on public access. Therefore, the Commission finds that it is necessary to place a condition on the permit informing the permittee 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 the 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 and the Executive Director for similar residential projects which did not result in and intensification of use but did have inadequate parking based on the Commission's regularly used standard. Thus, as conditioned, the Commission finds that the proposed development is consistent with Section 30252 of the Coastal Act.

**C. Land Use Plan**

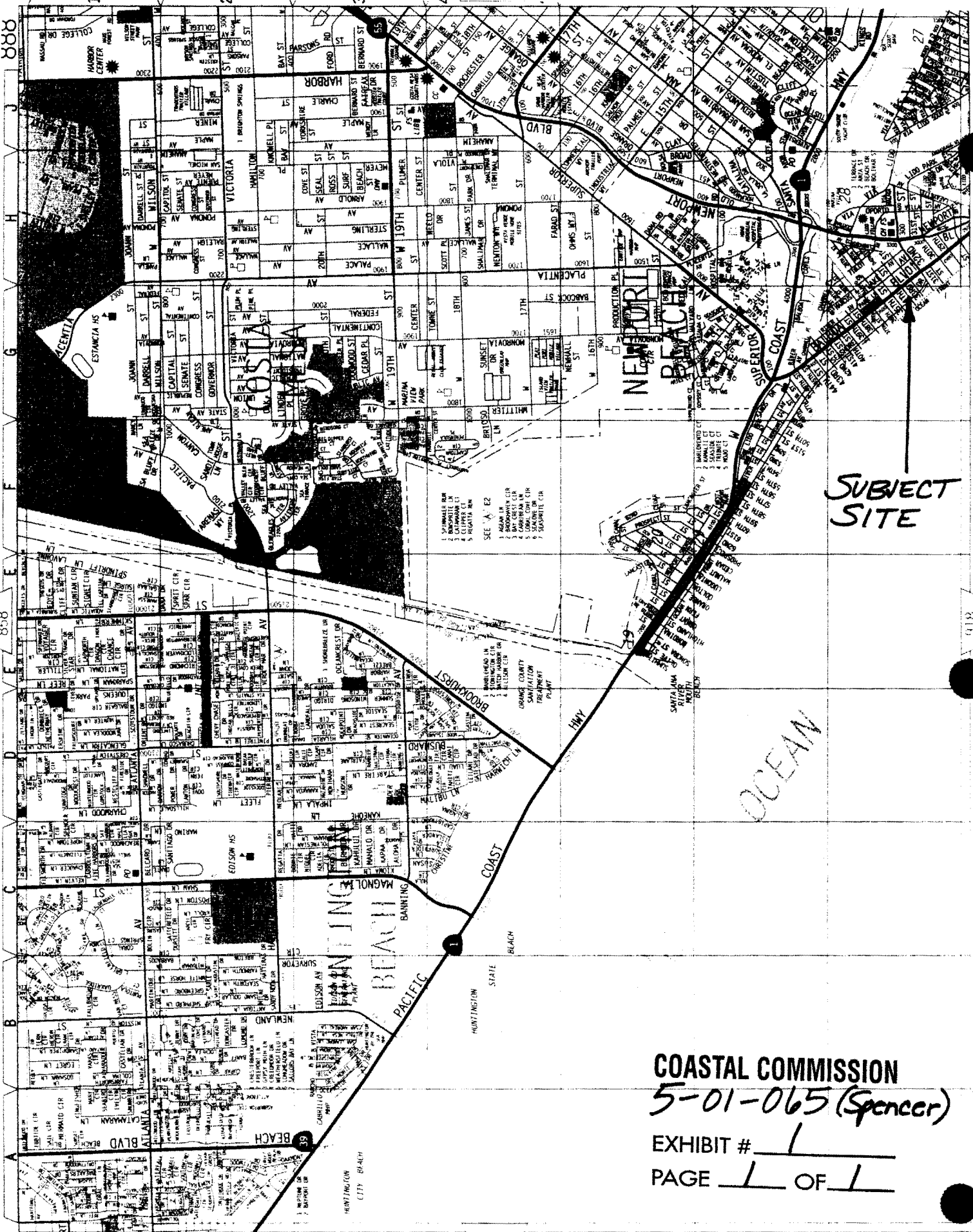
Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a local coastal program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The proposed development is consistent with the policies of the certified Land Use Plan. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program (Implementation Plan) for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

**D. California Environmental Quality Act (CEQA)**

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 project is located within an urbanized area. Development already exists on and around the subject site. In addition, the proposed development has been conditioned to require the applicant come back to the Commission for a coastal development permit or amendment when future development occurs on the site to assure that the proposed project is consistent with policies of the Coastal Act. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA.



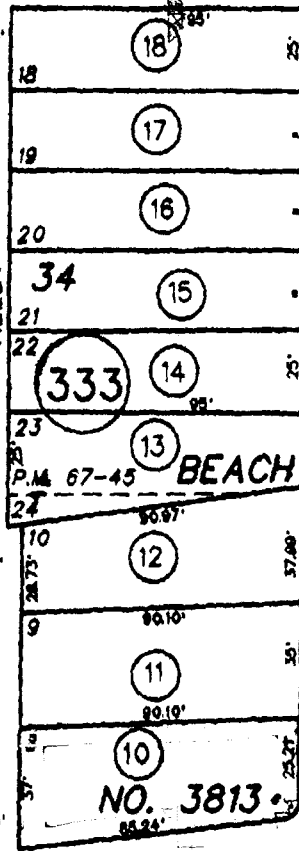
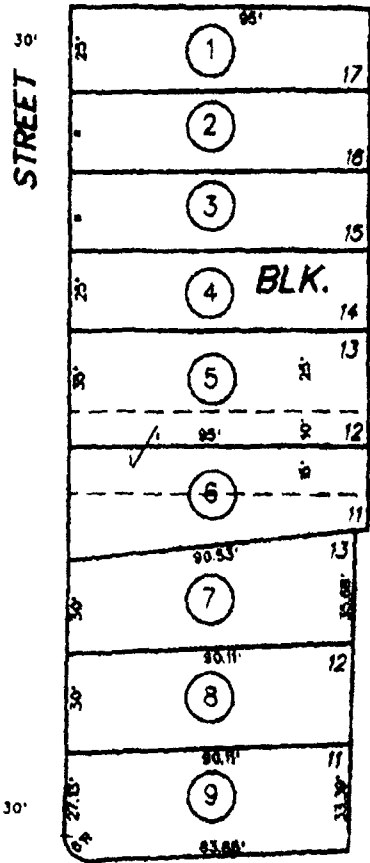
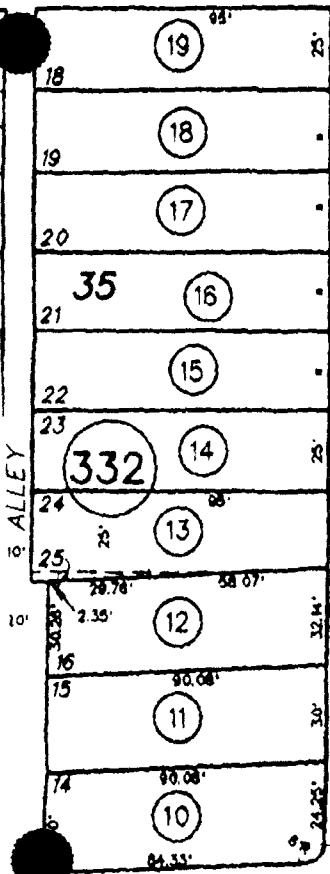
**SUBJECT SITE**

**COASTAL COMMISSION**  
**5-01-065 (Spencer)**  
 EXHIBIT # 1  
 PAGE 1 OF 1

(BAY AVE.)

BOULEVARD

5-01-065



RECEIVED  
FEB 28 2001

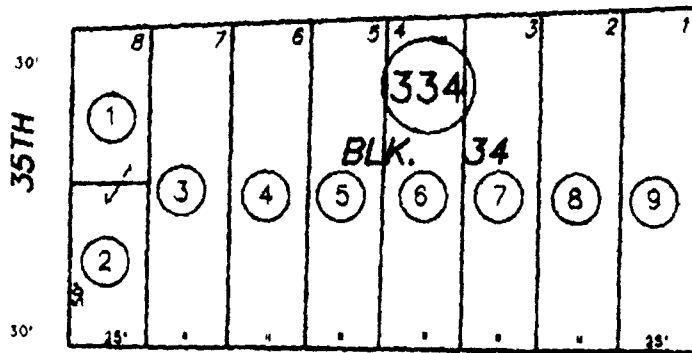
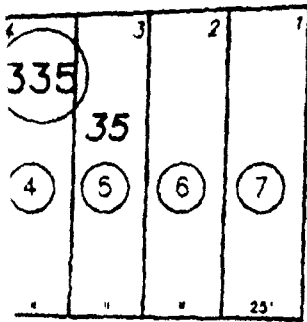
CALIFORNIA  
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109 34TH ST

34

SEASHORE

DRIVE



34TH

FRONT

37  
A-35

BLK. A-34

BEACH

COASTAL COMMISSION  
5-01-065 (Spencer)

EXHIBIT # 2

NOTE - ASSESSORS BLOCK &  
PARCEL NUMBERS  
SHOWN IN CIRCLES

ASSESSORS MAP  
BOOK 423 PAGE 33  
COUNTY OF ORANGE

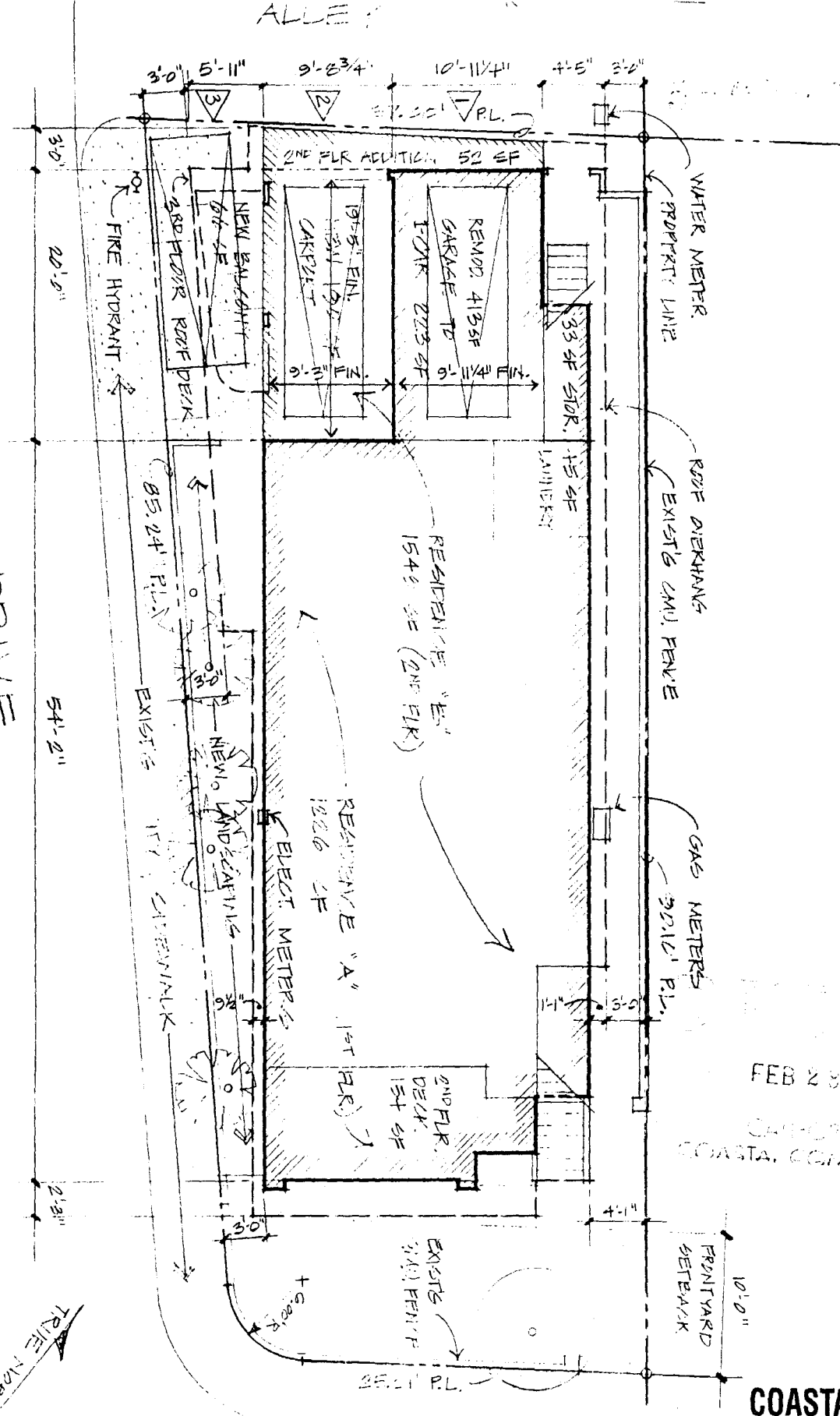
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1-1-00

SEASHORE DRIVE

SITE PLAN 3/32

REV. PIPLEX REMODEL 109-34TH ST.



TREES SHOWN ARE PROPOSED. EXISTING SITE HAS NO TREES.

FEB 28 2001

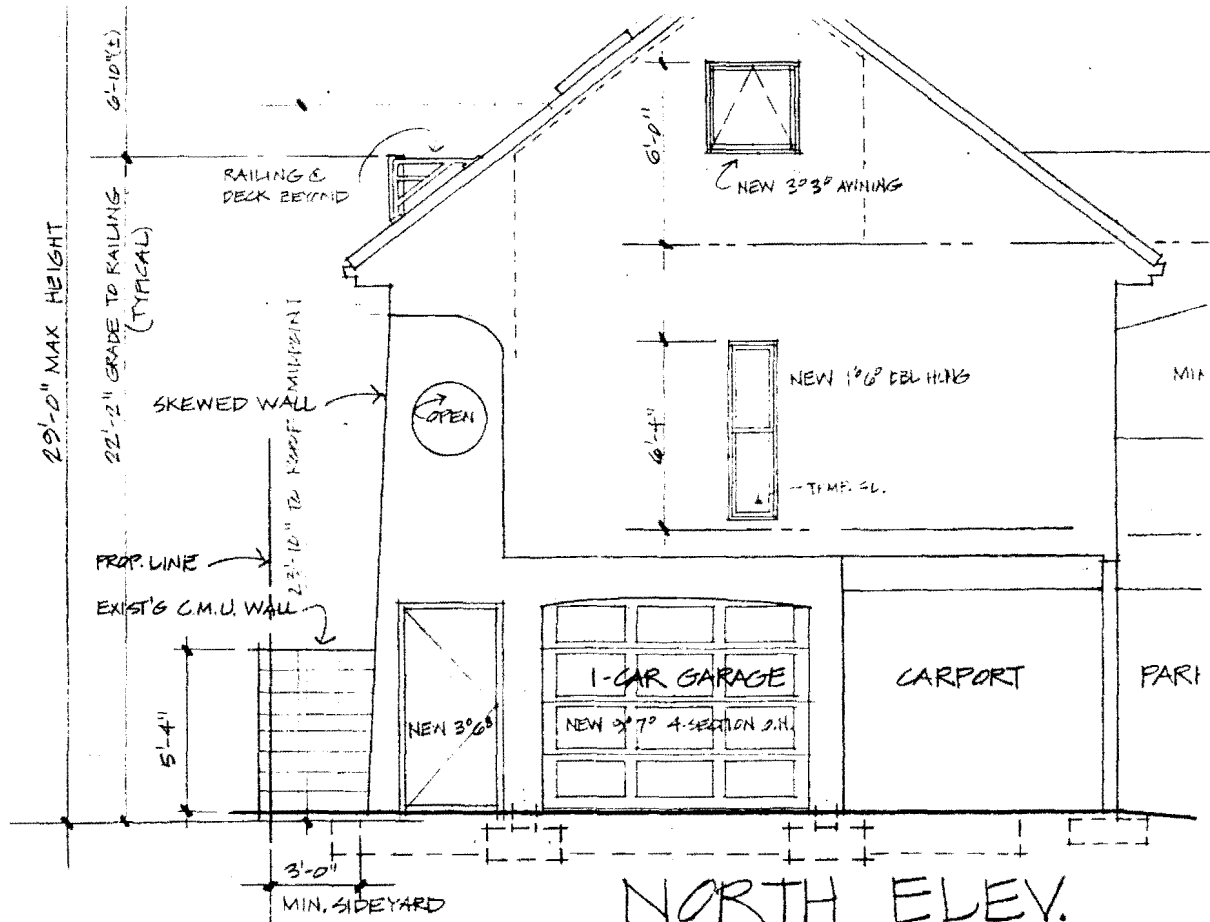
CALIFORNIA COASTAL COMMISSION

ADDITION TO RESIDENCE FOR BRIAN & JOHN SPENCER 109 34TH STREET NEWPORT BEACH, CALIFORNIA

34TH ST.

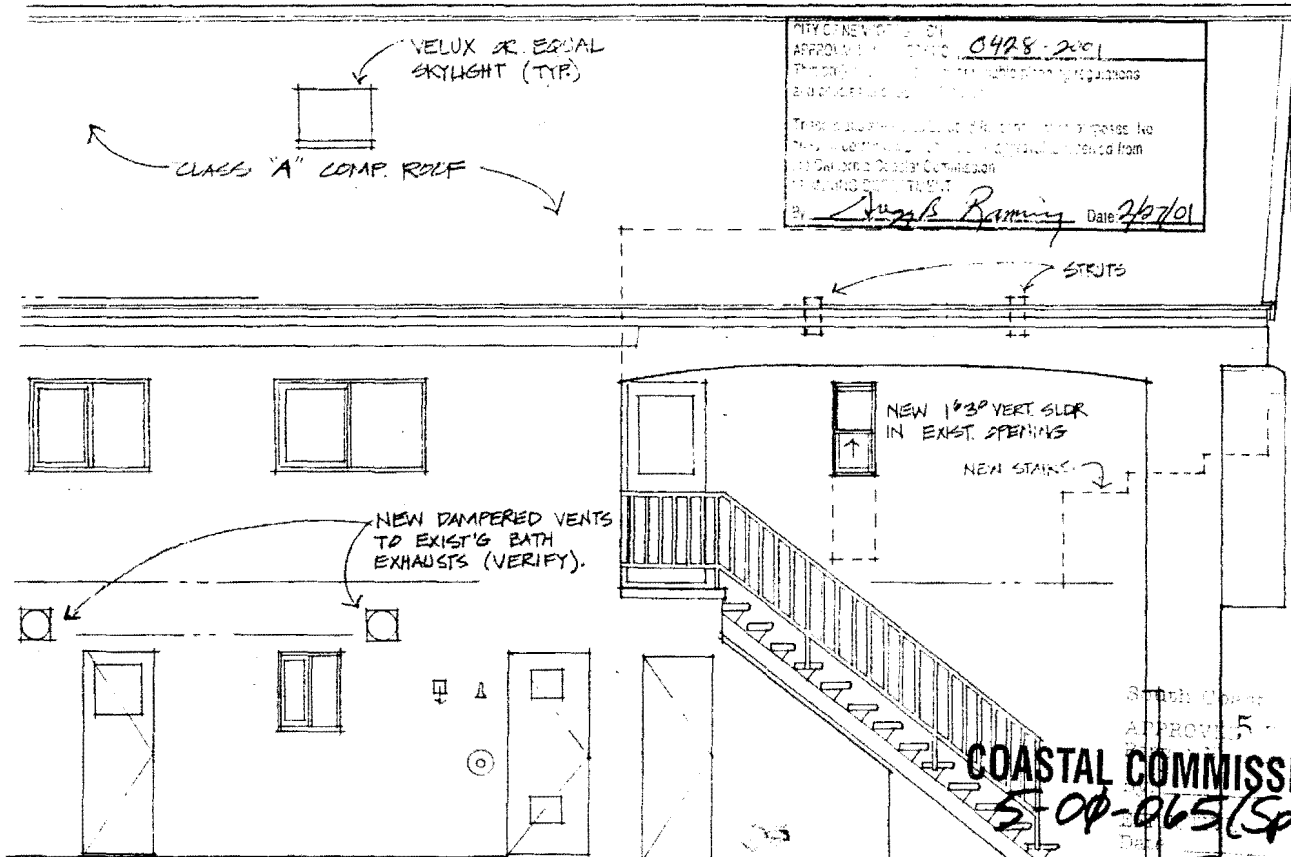
COASTAL COMMISSION 5-01-065 (Spencer) EXHIBIT # 3 PAGE 1 OF 3





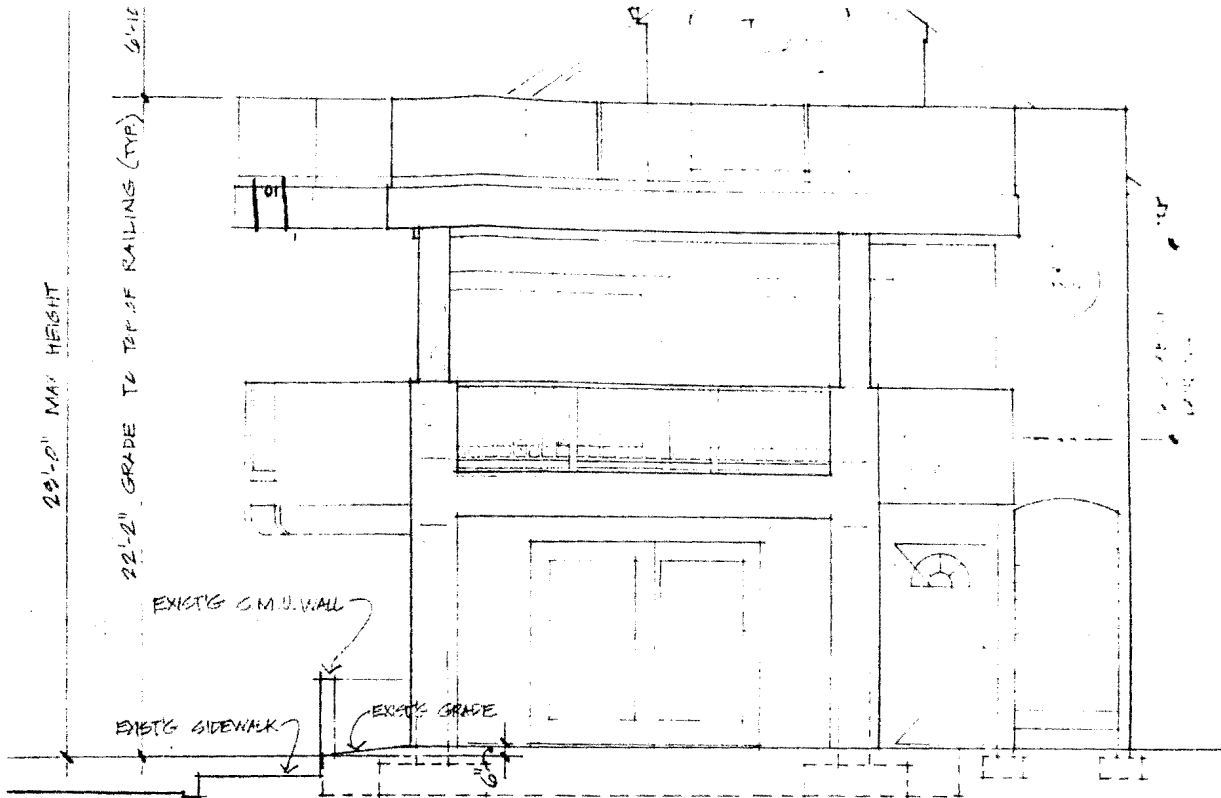
**NORTH ELEV.**

15' ALLEY      14" = 1'-0"

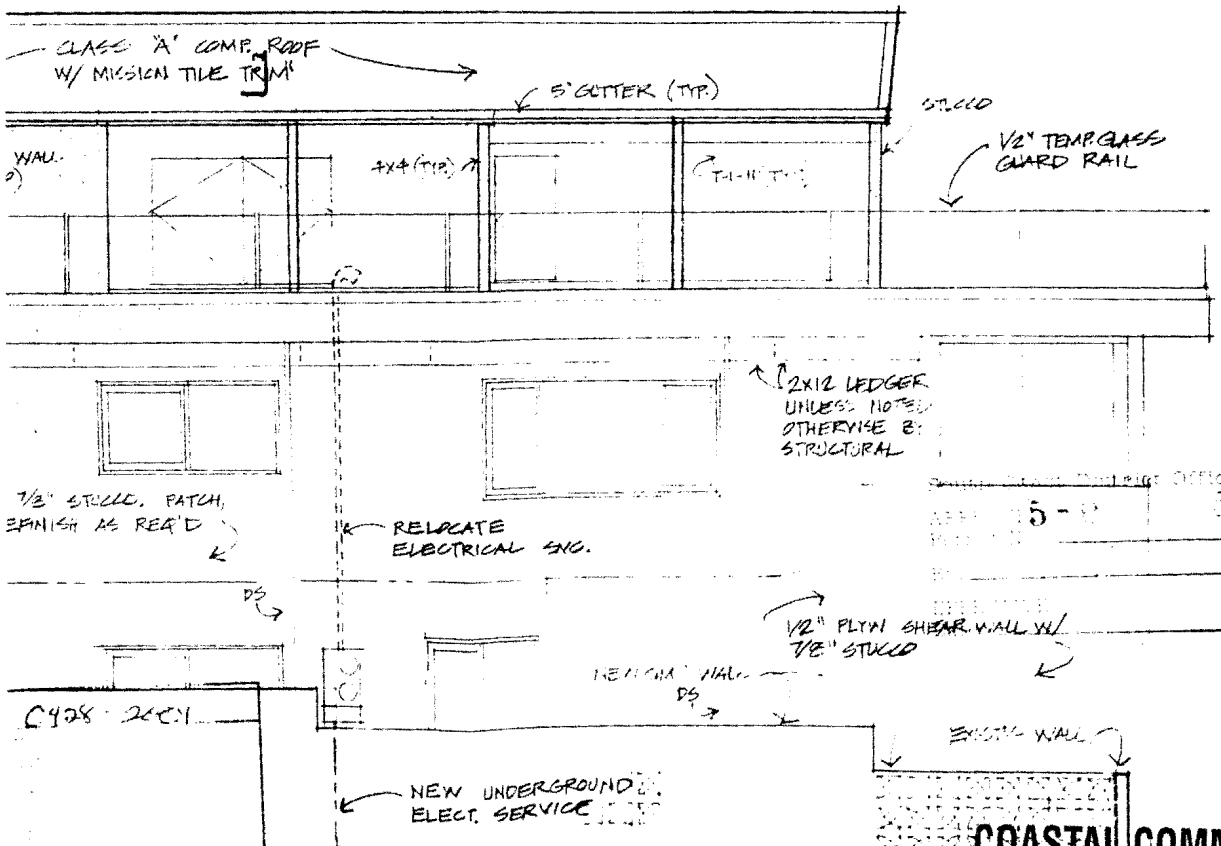


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 5-00-065 (Spencer)

ATION



**SOUTH ELEVATION**  
 1/4" = 1'-0"



**WEST ELEVATION**

BY JOHN SPENCER  
 ADDITION TO RESIDENCE PER  
 REV. 1-16-01

**COASTAL COMMISSION**

5-01-065 (Spencer)

EXHIBIT # 3

PAGE 3 OF 3