

**CALIFORNIA COASTAL COMMISSION**

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Filed: 7/17/01  
 49th Day: 9/4/01  
 180th Day: 1/13/02  
 Staff: MV-LB  
 Staff Report: 8/22/01  
 Hearing Date: 9/11-14/01  
 Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-01-219

**APPLICANT:** Robert Voit

**RECORD PACKET COPY**

**AGENT:** Daniel Gomez

**PROJECT LOCATION:** 2140 E. Balboa Blvd., Newport Beach, Orange County

**PROJECT DESCRIPTION:** Addition of 1000 square feet of living area and a 212 square foot balcony to the second story of a 3818 square foot, two story, 22 foot high single family residence with an attached, 642 square foot, 2 car garage. A detached 212 square foot, single car garage also exists at the harbor front site.

Lot Area	9044 square feet
Building Coverage	5698 square feet
Pavement Coverage	452 square feet
Landscape Coverage	2894 square feet
Parking Spaces	3
Zoning	R-1
Ht above final grade	22 feet

**LOCAL APPROVALS RECEIVED:** City of Newport Beach Approval in Concept No. 1030-2001

**SUBSTANTIVE FILE DOCUMENTS:** City of Newport Beach certified Land Use Plan

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed project subject to two special conditions. The special conditions are necessary to assure that the proposed addition not be converted into a second residential unit. Special Condition No. 1 requires that the proposed second stairway which could provide separate entry to the proposed addition, be eliminated. Special condition No. 2 requires recordation of a deed restriction requiring that any future improvements will require approval of an amendment to this permit or a new coastal development permit. These special conditions are necessary to assure that the proposed project is consistent with the public access (including provision of adequate parking) and cumulative impacts sections of the Coastal Act (30210, 30250, and 30252).

**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, 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
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. Revised Plans Eliminating the Proposed Second Stairway**

- A) The second stairway proposed to be located adjacent to the existing two car garage, shown on exhibit L, shall be eliminated from the project.
- B) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, revised plans indicating that the second stairway has been eliminated and that only the existing stairway (located adjacent to the existing kitchen) remains.

The project shall be constructed consistent with the revised plans.

**2. Future Development**

- A. This coastal development permit 5-01-219 approves only the development, as expressly described and conditioned herein, addition to an existing single family residence located at 2140 Balboa Blvd., on the Balboa Peninsula in the City of Newport Beach. Any future development to the single family residence or garages, 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.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. Project Description and Location**

The applicant proposes the addition of 1000 square feet of living area and a 212 square foot balcony to the second story of a 3818 square foot, two story, 22 foot high single family residence with an attached, 642 square foot, two car garage. A detached 212 square foot, single car garage also exists at the site.

The subject site fronts on Newport Harbor near the tip of the Balboa Peninsula (see exhibit A). A small public beach exists immediately to the east of the subject lot. Currently drainage at the site directs runoff from the roofs via gutter to a pvc pipe which in turn drips into existing landscaping on the lot. The proposed project would maintain this drainage pattern.

**B. Future Development**

Section 30250 of the Coastal Act requires, in part, that new residential development be located where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, Section 30252 of the Coastal Act requires, among other things, that the amount and location of new development maintain and enhance public access to the coast by providing adequate parking facilities.

When private development does not provide adequate on-site parking, users of that development may be 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. A proposed development's lack of parking could therefore have an adverse impact on public access. .aa)

The proposed project, an addition to the second story, would add a second kitchen, a second dining room, a second living room, and a second entry. The proposed second story remodel portion of the project would result in a remodeled bedroom and bathroom accessed via the proposed addition. A second stairway is also proposed to be added. The second stairway would be accessible from outside via a doorway that leads through a laundry room; passage through the existing living area would not be necessary to reach the proposed addition. As proposed, all the features necessary for a second residential unit are present. Although the project is proposed to remain a single unit, given the features of the proposed addition, it would be very easy to convert this addition to a second unit.

If the second story addition were to become a separate and distinct dwelling unit from the single family residence, the issue of adequate parking is raised. Although impacts that arise from one dwelling unit might appear to be minimal, Section 30250 requires that the cumulative effects of such impacts be considered. Therefore the Commission must consider whether approval of the proposed addition at the subject site could create adverse impacts on coastal resources, specifically to public access due to lack of parking.

The proposed project is located on the Balboa Peninsula, fronting on Newport Harbor. Immediately to the southeast of the subject site is a small public sandy beach and small public pier. In addition, public access exists approximately three blocks south of the subject site at the wide sandy beach which extends the entire length of the oceanward side of the Balboa Peninsula. Consequently, it is imperative that new development in the vicinity provide adequate parking in order to avoid adverse impacts to public access due to lack of parking.

The Commission has consistently found that two parking spaces are necessary to satisfy the parking demand generated by individual dwelling units. The proposed project will provide three parking spaces. Three spaces are adequate to serve a single family residence but inadequate to support two units.

A second stairway is proposed at the rear of the residence which would provide a separate entry from outside the structure to the proposed second story addition (see exhibit L). A stairway already exists within the residence that allows access to the existing second story. Construction of a new, second stairway would facilitate the potential to convert the proposed addition to a second unit. The resulting structure will also have two kitchens, two dining rooms and two living rooms. The proposed second stairway would be accessible from outside via a doorway that leads through a laundry room; passage through the existing living area would not be necessary. If the proposed stairway were eliminated from the project, access to the addition would have to pass through the existing living area. Limiting access to the proposed addition to the existing stairway would substantially reduce the potential of converting the proposed addition area to a second unit. Special condition No. 1 requires that the second stairway be eliminated from the proposed project. The special condition requires that the applicant submit revised plans indicating that the stairway has been eliminated and that the project be constructed consistent with the revised plans. The Commission finds that only as conditioned is the project consistent with public access, cumulative impacts, and parking policies of the Coastal Act.

Although the likelihood of the proposed addition being used as a second unit is substantially reduced by eliminating the second stairway, the possibility is not entirely eliminated. Future

improvements at the subject site could result in the proposed addition becoming a separate, second unit. The resulting intensification of use could create an increase in parking demand. The proposed project does not provide adequate parking to serve two units. Therefore, use of the proposed addition as a second unit could potentially lead to adverse impacts on public access due to insufficient parking. Further, intensification of use at the site must be reviewed for consistency with all Chapter 3 policies of the Coastal Act. 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 project as proposed. This would allow for the review of future improvements for any potential adverse impacts to public access.

To guarantee that the future development of the property can be evaluated for consistency with the Coastal Act, the Commission finds it necessary that the applicant, prior to issuance of this permit, record a future improvement deed restriction per Special Condition No. 2. Special Condition 2 includes a deed restriction which is attached to the property upon which the residential structure is being built. Therefore, the current owner and any future owners of the subject property would be notified of the permit requirement via the deed restriction.

Therefore, as conditioned, the Commission finds that the proposed development would not result in significant adverse impacts on public access cumulatively or individually. Thus, the Commission finds that the proposed development, as conditioned, would be consistent with Sections 30250 and 30252 of the Coastal Act.

#### **C. Public Access & Recreation**

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3. The proposed development is located between the sea and the nearest public road

The subject site is located adjacent to a small public beach. The proposed development (addition to an existing single family residence within the existing building footprint), as conditioned, will not have any significant adverse impact on the adjacent public beach. Additional public access exists in the vicinity at the wide sandy ocean beach along the Balboa Peninsula which is located approximately 3 blocks south of the subject site. The proposed development, as conditioned, will not result in any significant adverse impacts to existing public access or recreation in the area. Therefore the Commission finds that the project is consistent with the public access and recreations policies of the Coastal Act.

#### **D. Local Coastal Program**

Section 30604 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 Commission certified the Land Use Plan for the City of Newport Beach on May 19, 1982. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan and with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for

Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

**E. California Environmental Quality Act**

Section 13096 of the Commission's 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 project is located in an urban area. All infrastructures necessary to serve the site exist in the area. As conditioned, the proposed project has been found consistent with the public access policies of Chapter 3 of the Coastal Act. The special conditions also serve to mitigate any significant adverse impacts under CEQA. Mitigation measures requiring the elimination of the proposed second stairway in order to reduce the potential that the proposed addition might become a second unit and recordation of a deed restriction stating that future improvements require approval of a coastal development permit will minimize any significant adverse effects that the activity may have on the environment.

There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

STIC

NEWPORT BAY

BALENA

- 1 PLAZA DEL NORTE CIR
- 2 PLAZA DEL SUR
- 3 SERANO AV
- 4 GRADUA AV

Project site

2

1

FRONT JETTY VIEW PARK

36

WEST JETTY

EAST JETTY

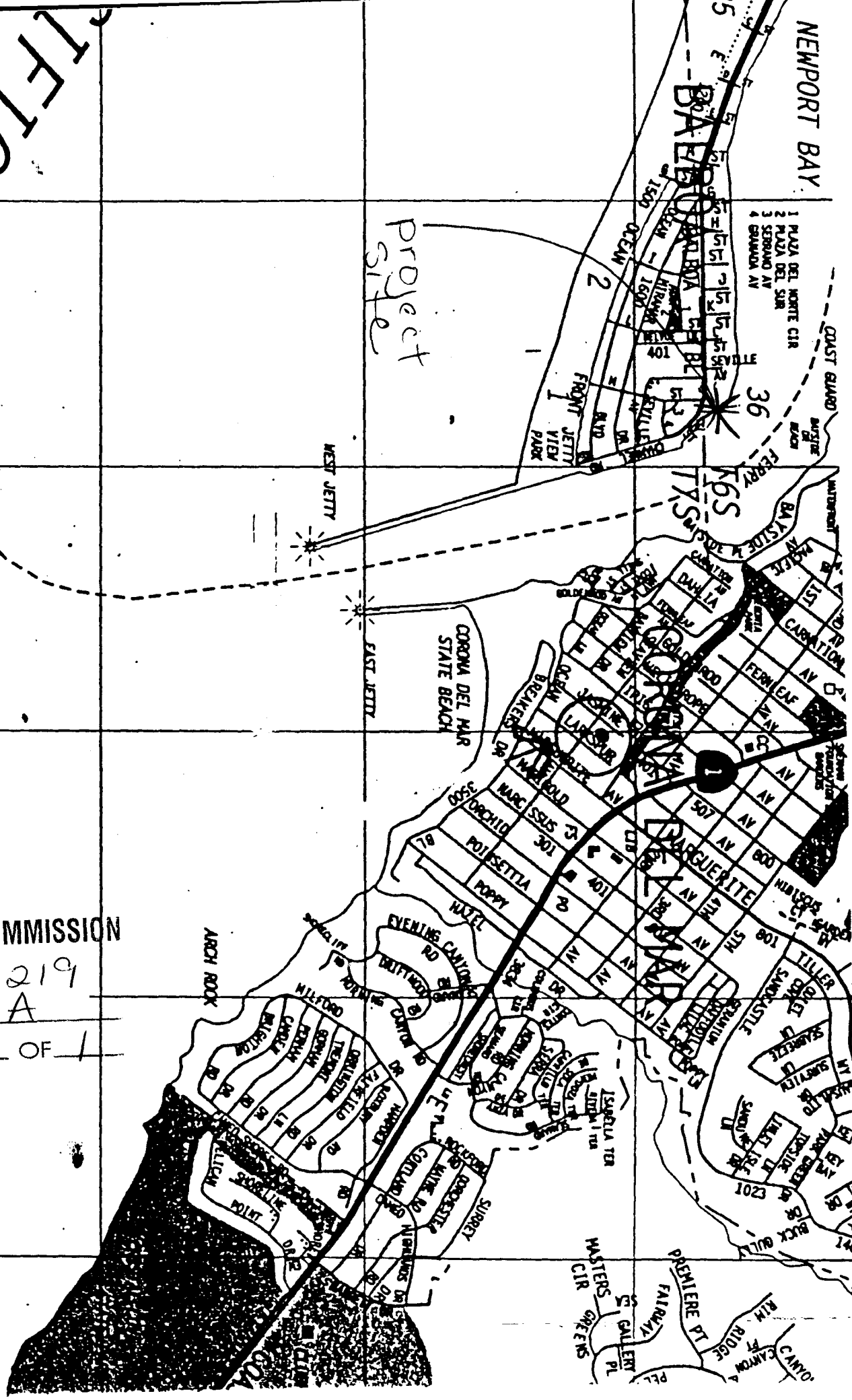
CORONA DEL MAR STATE BEACH

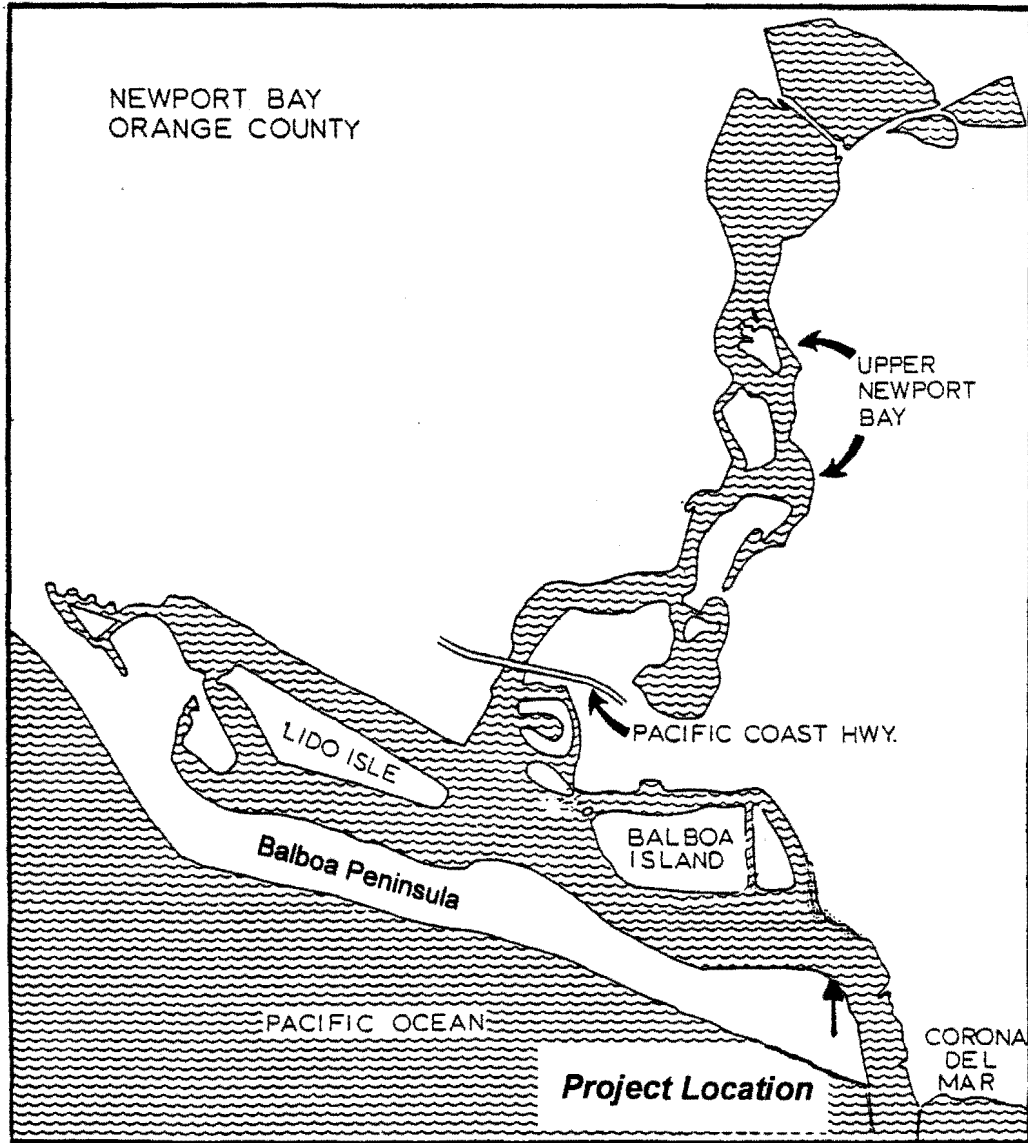
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EXHIBIT # A

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EXHIBIT # B

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Figure 1.  
Regional Location. Newport Bay, California  
Map Source: Reish 1972

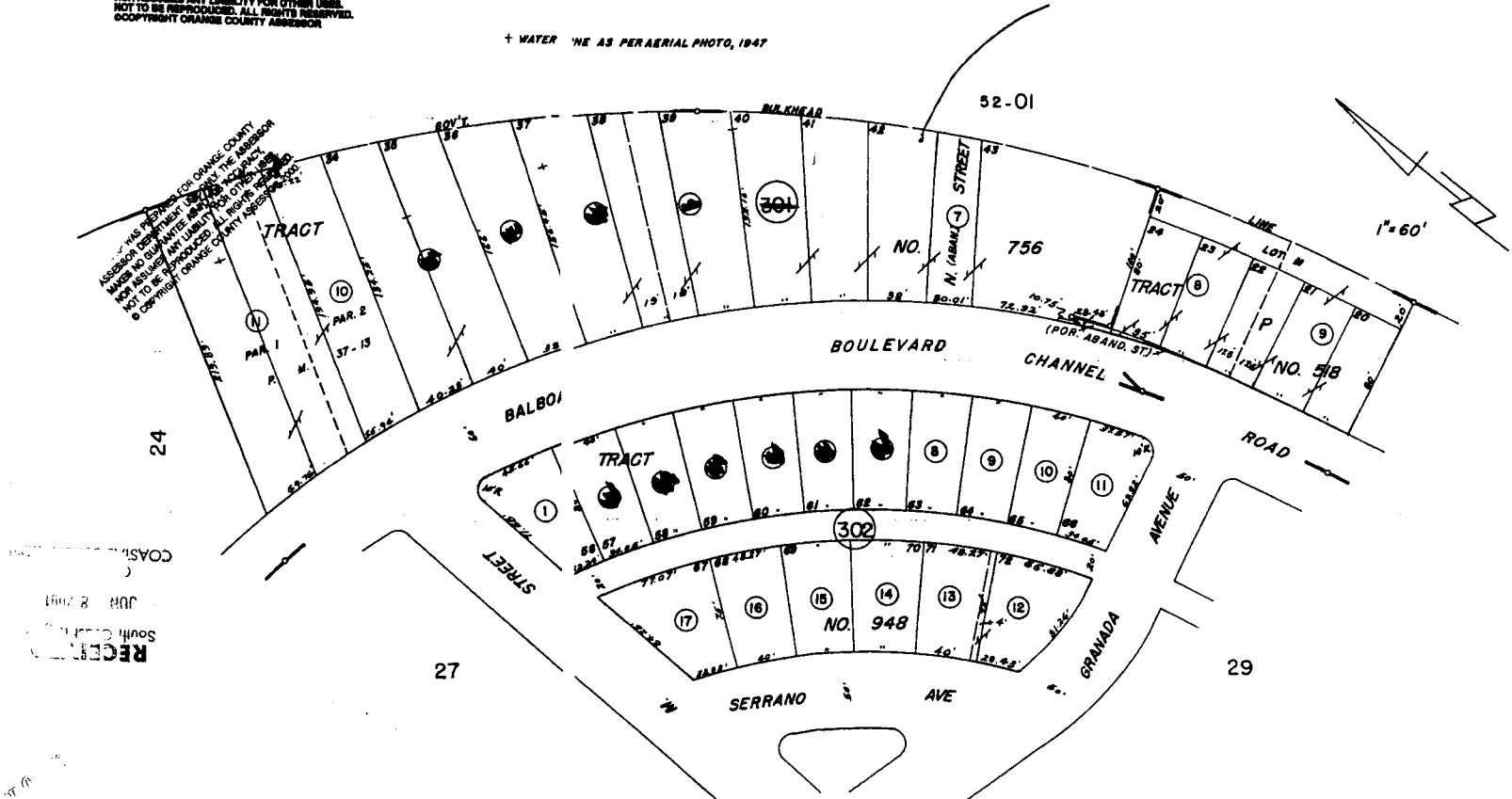


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+ WATER LINE AS PER AERIAL PHOTO, 1947

Subject Site



RECEIVED  
South Coast  
JUN 18 1949

MARCH 1949

P. M. 37 - 13  
TR. NO. 756  
TR. NO. 518  
TR. NO. 948

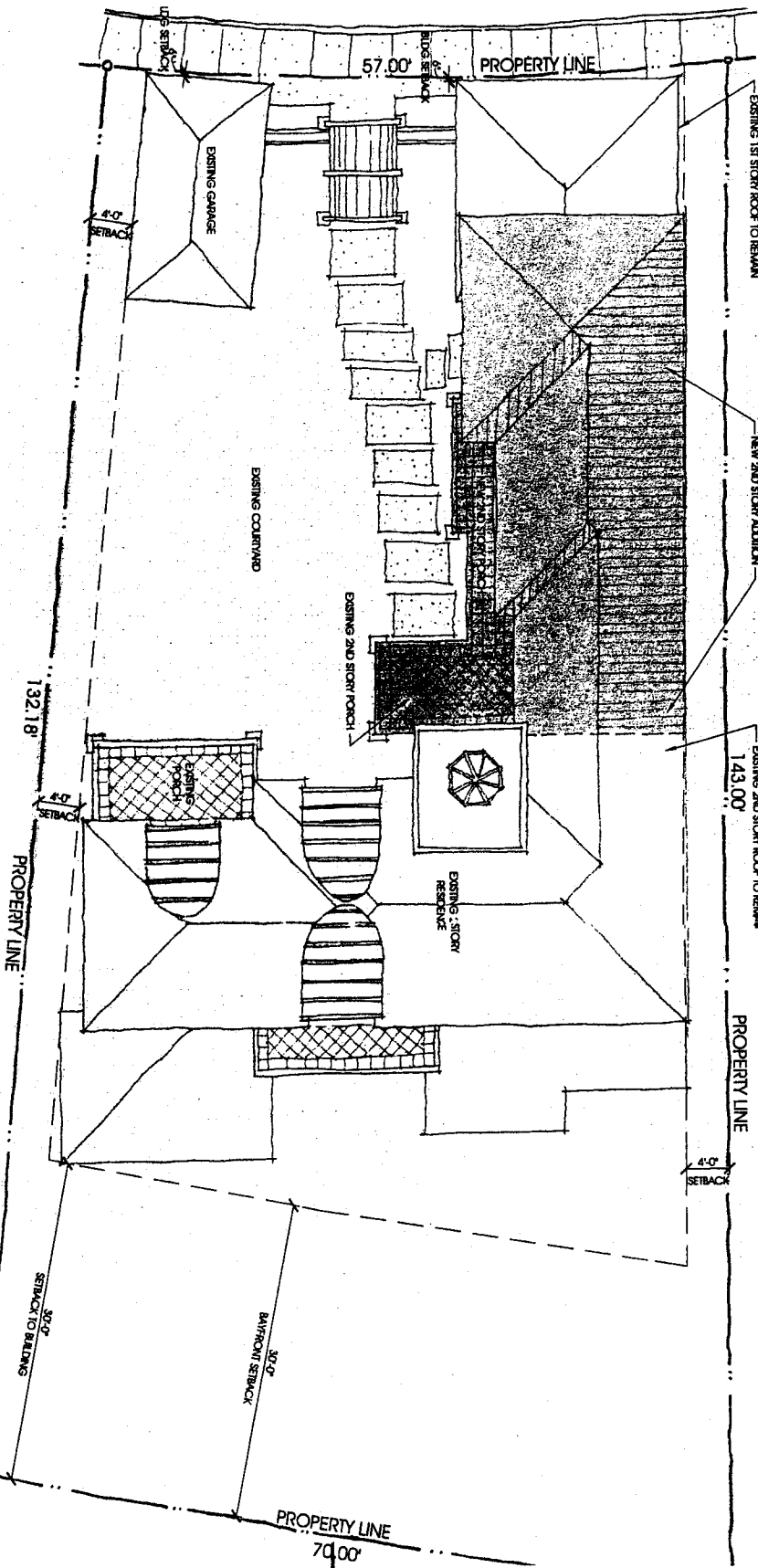
M. M. 23 - 7  
M. M. 17 - 33 - 36  
M. M. 30 - 7

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

ASSESSOR'S MAP BOOK 48 PAGE 30 COUNTY OF ORANGE

1-1-00

Balboa Blvd



Site Plan

Site Plan

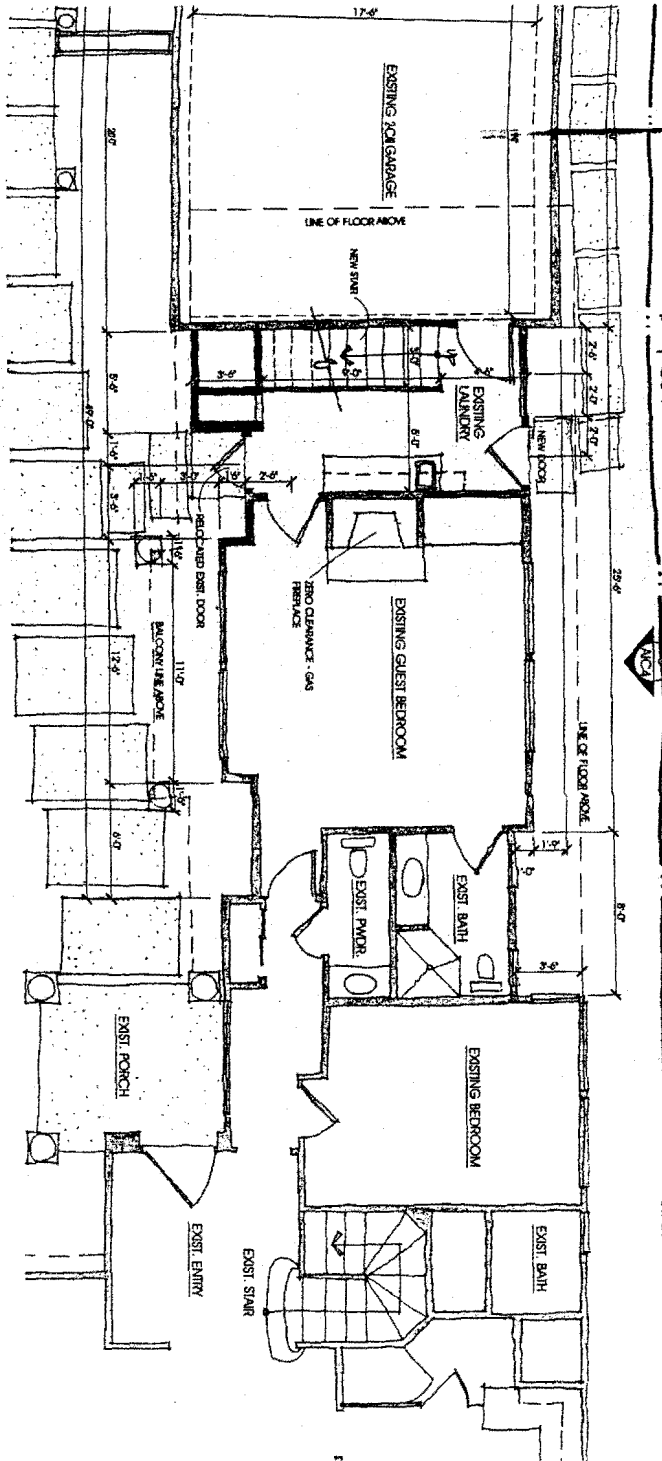
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EXHIBIT # D

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Newport Bay



Area of  
proposed  
1st  
Floor  
Removal

1st Floor Plan  
(partial)

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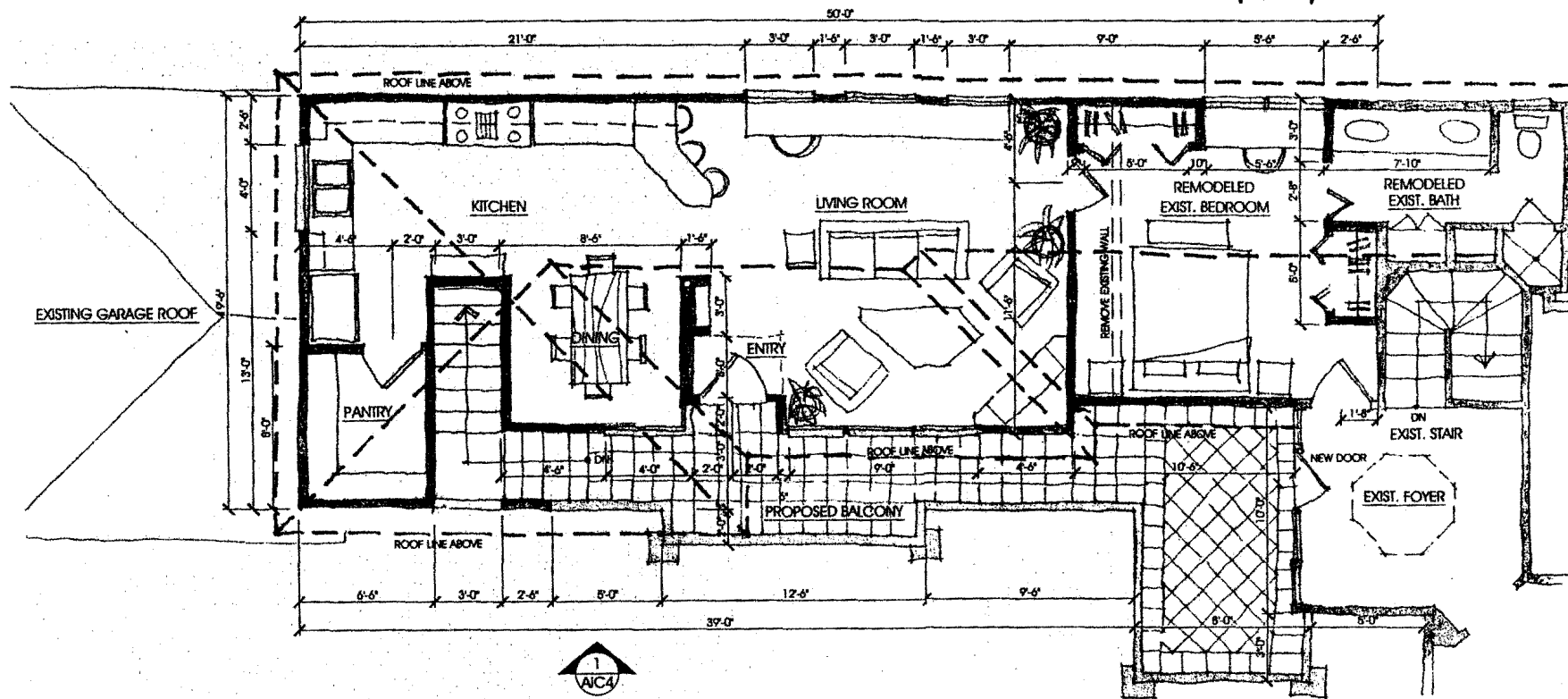
EXHIBIT # E

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FIRST FLOORPLAN  
SCALE: 1/4"=1'-0"

2<sup>ND</sup> Story Addition  
proposed

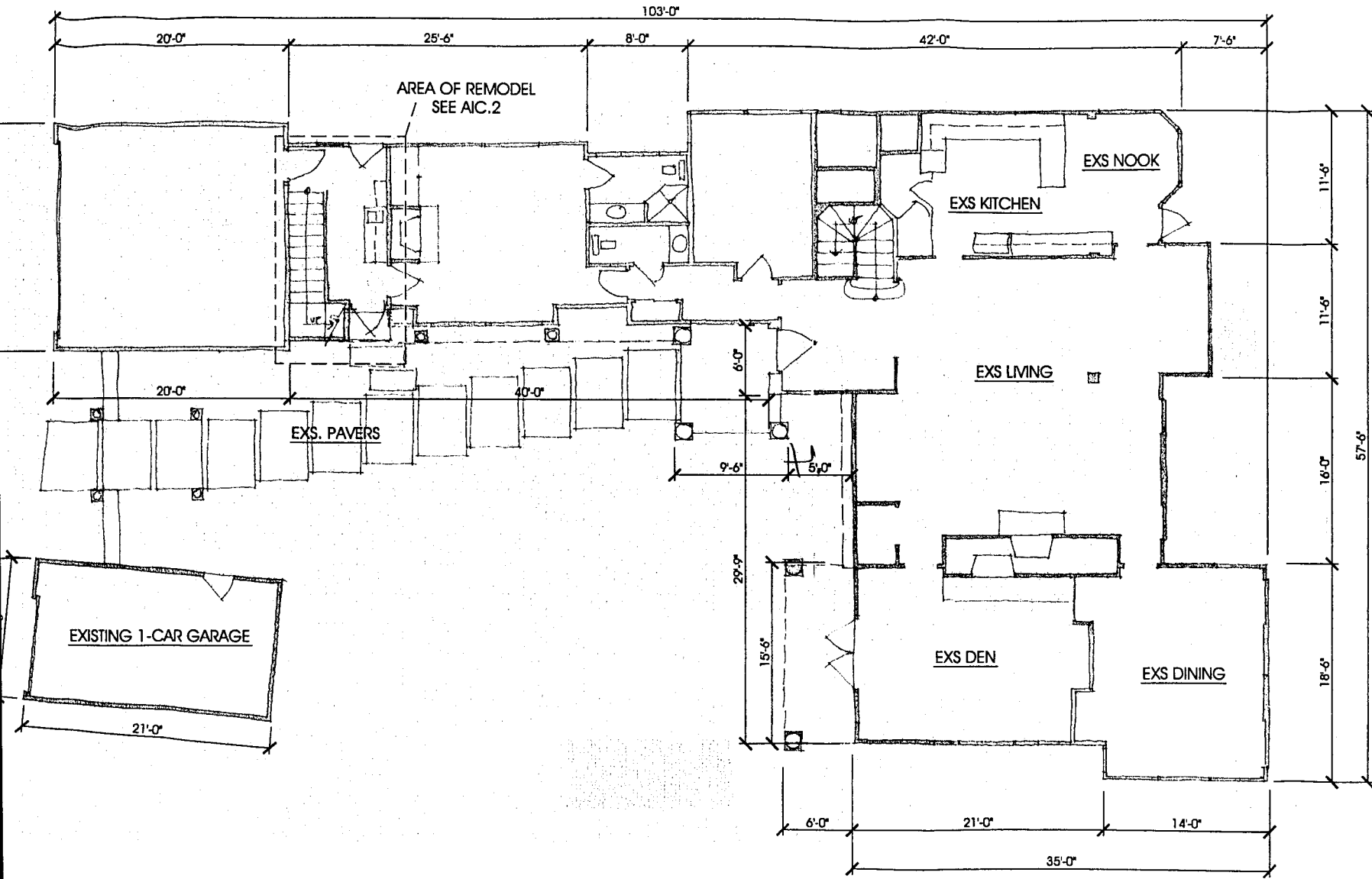
2<sup>ND</sup> Story  
Remodel  
Proposed



SECOND FLOORPLAN

SCALE: 1/4"=1'-0"

2<sup>ND</sup> Floor  
Plan  
(partial)  
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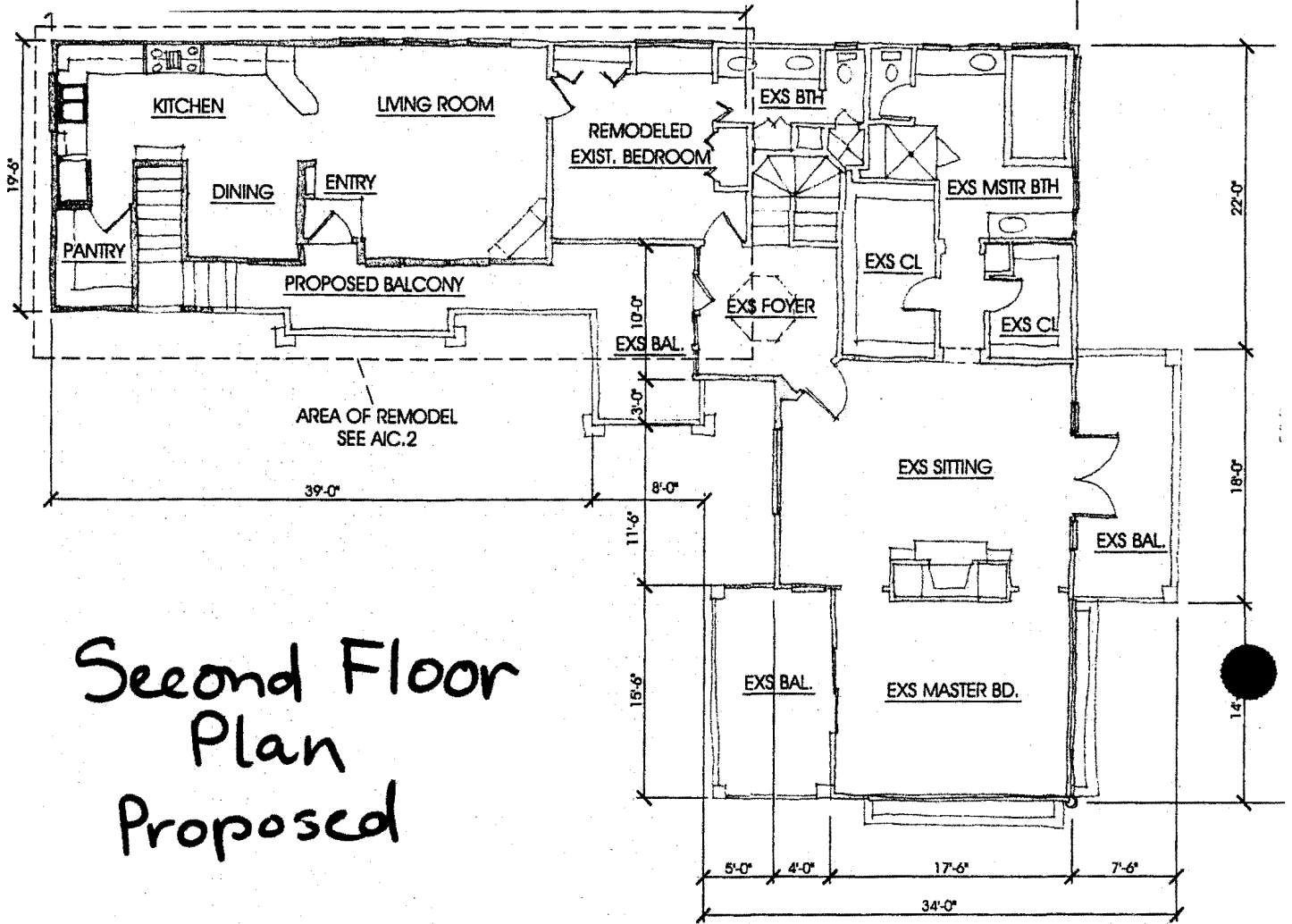


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1st Floor Plan  
 Entire

FIRST FLOORPLAN

proposed 2<sup>nd</sup> story addition



# Second Floor Plan Proposed



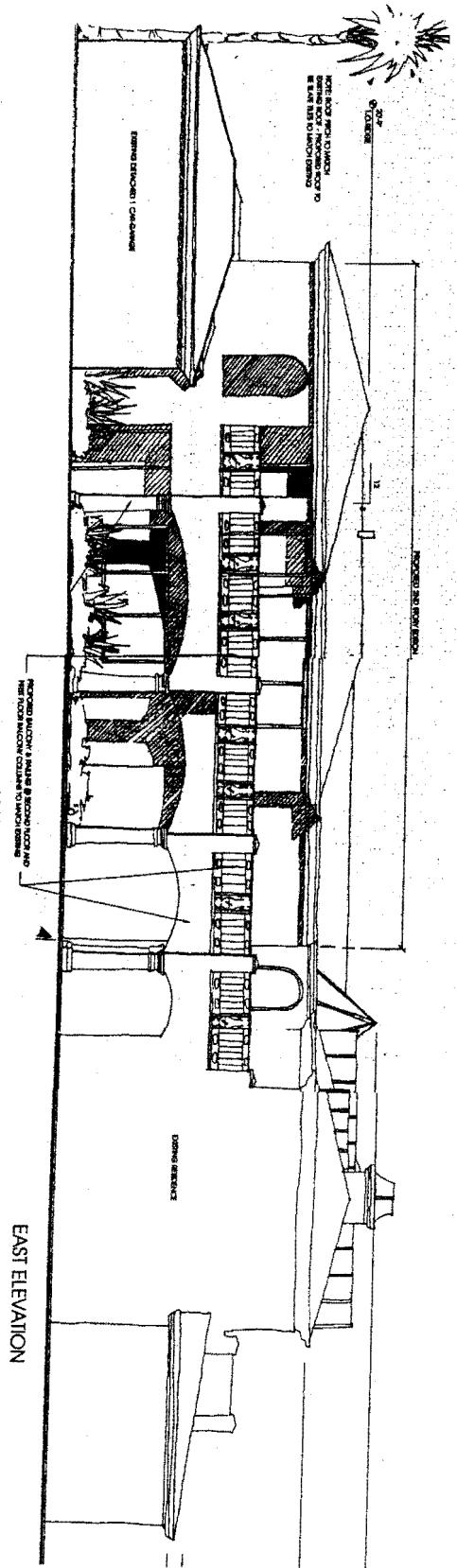
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proposed 2nd story addition



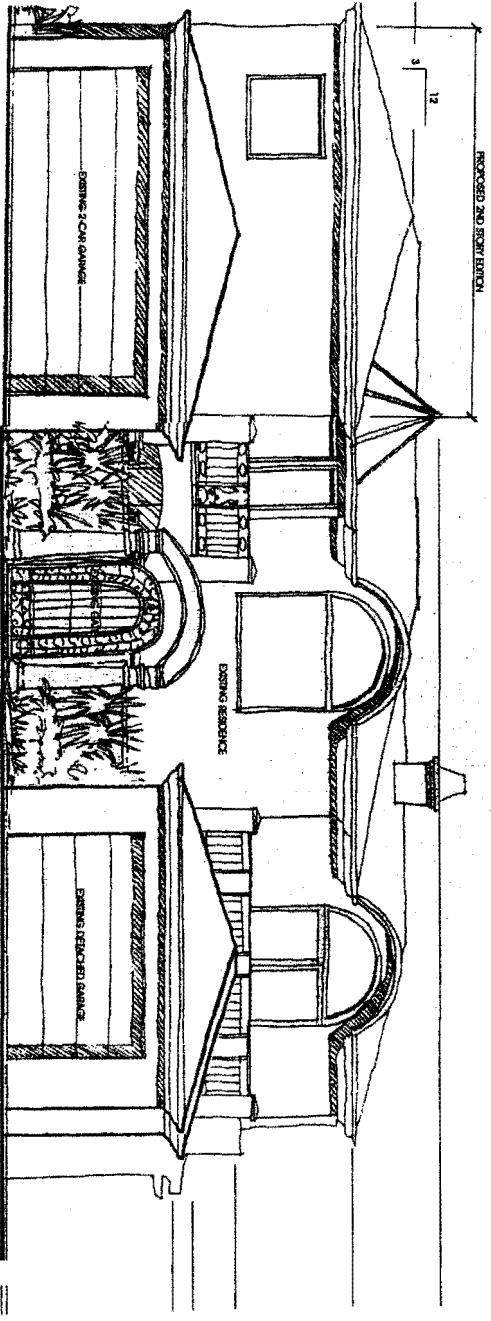
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EXHIBIT # I

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proposed 2nd  
story addition



SOUTH ELEVATION

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

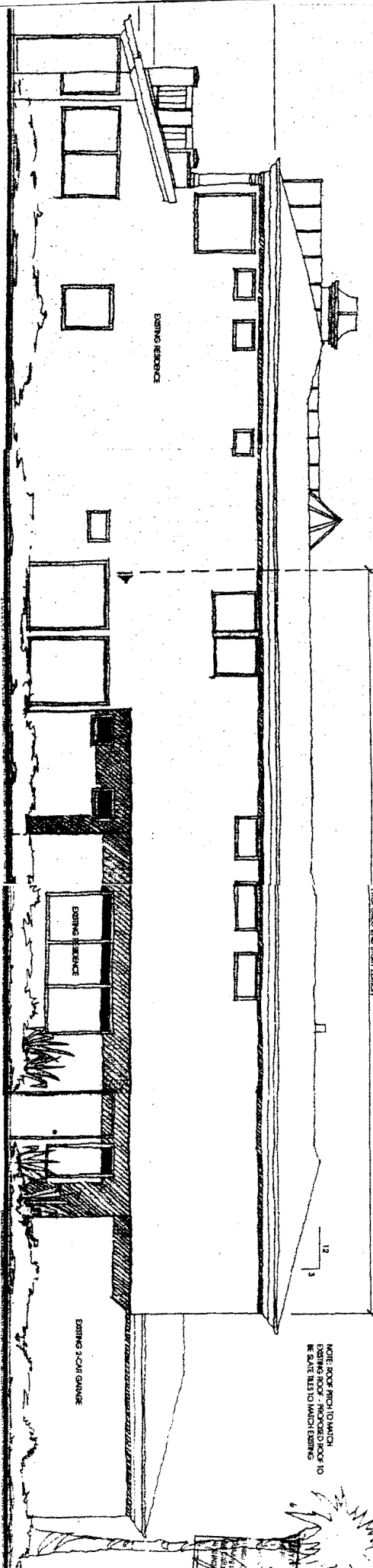
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proposed 2nd story  
Addition

PROPOSED 2ND STORY ADDITION

SCALE: 1/4"=1'-0"

WEST ELEVATION

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

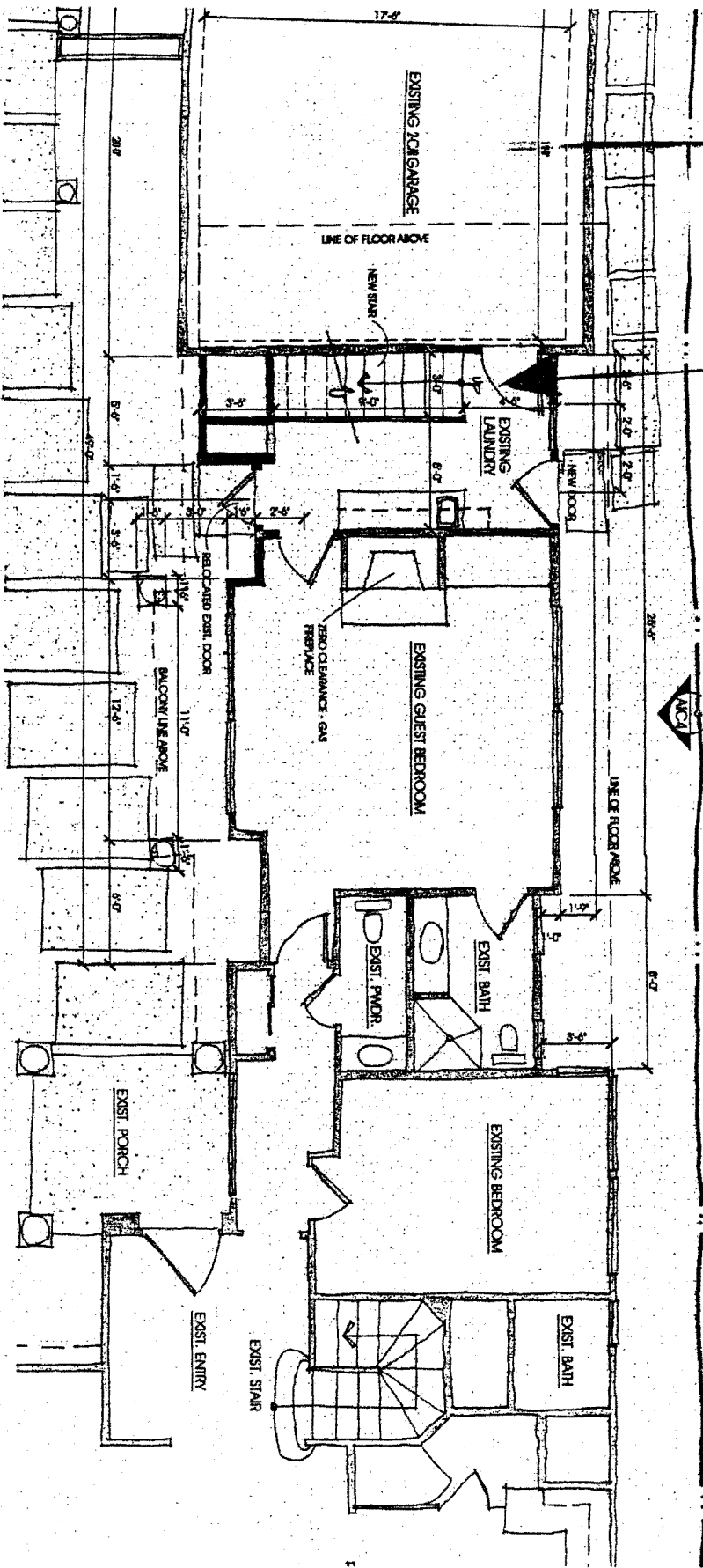
NOTE: ROOF PITCH TO MATCH  
EXISTING ROOF - PROPOSED ROOF TO  
BE SAME PITCH TO MATCH EXISTING

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EXHIBIT # K

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Stairway  
to be  
Removed

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EXHIBIT #     L    

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**FIRST FLOOR PLAN**

SCALE: 1/4"=1'-0"

