

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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Filed: July 24, 2002  
 49th Day: September 11, 2002  
 180th Day: January 20, 2003  
 Staff: FSY-LB FSY  
 Staff Report: October 17, 2002  
 Hearing Date: November 5-8, 2002  
 Commission Action:

**TU 5b****STAFF REPORT: CONSENT CALENDAR**

RECORD PACKET COPY

APPLICATION NUMBER: 5-02-177

APPLICANT: Mr. &amp; Mrs. Steve Thorne

AGENT: Bickel Underwood; Attn: James Bickel, Jr.

PROJECT LOCATION: 1724 East Oceanfront, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Addition of a 3<sup>rd</sup> floor and additions to the existing 1<sup>st</sup> and 2<sup>nd</sup> floors on the alley side (landward side) of the residence and remodel of an existing two story single family residence

LOCAL APPROVALS RECEIVED: City of Newport Beach approval-in-concept (No. 0640-2002) dated May 21, 2002.

**SUMMARY OF STAFF RECOMMENDATION:**

The applicants are proposing landward side additions and remodel of an existing two story single family residence on a beach front lot in Newport Beach. No seaward encroachments are proposed. The major issue of this staff report concerns beachfront development that could be affected by flooding during strong storm events.

Staff is recommending **APPROVAL** of the proposed project with six (6) special conditions regarding: 1) development scope; 2) assumption of risk; 3) no future shoreline protective device; 4) future development; 5) submittal of a Drainage and Run-Off Control Plan; and 6) a deed restriction against the property, referencing all of the Standard and Special Conditions contained in this staff report.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permits: 5-02-145 (Collins); 5-02-144 (Collins); 5-01-401 (Collins); 5-01-400 (Collins); 5-01-396 (Collins & Fluter); 5-01-304 (Caesar); 5-01-298 (Ryan); 5-01-197 (Jacobs & Dolansky); 5-01-186 (Doukoullos); 5-01-084 (Muench); 5-00-492 (Palm); 5-00-420 (Collins); 5-00-285 (Collins); 5-00-262 (Puntoriero); 5-00-261 (Pearson); 5-00-192 (Blumenthal); 5-00-114 (Heuer); 5-00-086 (Wells); 5-00-059 (Danner); 5-99-477 (Watson); 5-97-380 (Hasket); 5-87-813 (Corona); 5-86-676 (Jonbey); City of Newport Beach certified Land Use Plan, letter from staff to Bickel Underwood dated July 1, 2002; *Wave Hazard Analysis for Remodel* for 1724 East Oceanfront, Newport Beach, CA prepared by Skelly Engineering dated July 5, 2002; and *Water Quality Issues for Remodel, 1724 East Oceanfront, Newport Beach* prepared by Pardue, Cornwell, & Associates Inc. dated July 25, 2002.

## **LIST OF EXHIBITS**

1. Location Map
  2. Assessor's Parcel Map
  3. Existing Site Plan
  4. Proposed Site Plan
  5. Floor Plans
  6. Roof Plan
  7. Elevations
  8. Sections
- 

## **STAFF RECOMMENDATION:**

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

### **MOTION:**

*I move that the Commission approve CDP No. 5-02-177 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

## **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 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 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. 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. Development Scope

- A. This Coastal Development Permit No. 5-02-177 for the property located at 1724 East Oceanfront is only for the development located within the subject site property lines. Coastal Development Permit No. 5-02-177 does not authorize any development outside of the property.
- B. The permittees shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

#### 2. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

#### 3. No Future Shoreline Protective Device

- A(1). By acceptance of this Permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development

Permit No. 5-02-177 including, but not limited to, the residence, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

- A(2). By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the house, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

**4. Future Development**

- A. This permit is only for the development described in Coastal Development Permit No. 5-02-177. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development governed by Coastal Development Permit No. 5-02-177. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to, change in use from a permanent residential unit, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-02-177 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**5. Drainage and Run-Off Control Plan**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for review and approval of the Executive Director, a drainage and runoff control plan showing roof drainage and runoff from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants which are non-invasive.
- B. The permittees shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. **Deed Restriction**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the 'Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicants' entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. PROJECT LOCATION AND DESCRIPTION**

The subject site is located at 1724 East Oceanfront within the City of Newport Beach, Orange County (Exhibits #1-2). The site is a beachfront lot located between the first public road and the sea. There is no paved beachfront walkway at the rear of the lot. The project is located within an existing urban residential area, located generally southeast of the Balboa Pier. There is a lawn, sand dunes with vegetation, and a wide sandy beach (approximately 400 feet wide) between the subject property and the mean high tide line. Vertical public access to this beach is available approximately 320 feet to the east from the project site at the "L" Street street end and approximately 250 feet to the west from the project site at the "I" Street street end.

The applicant is proposing an addition of a 3<sup>rd</sup> floor on the alley side of the residence, additions to the existing 1<sup>st</sup> and 2<sup>nd</sup> floors on the alley side (landward side) of the residence and remodel of an existing two story 3,902 square foot two story single family residence with an attached 725 square foot two car garage. More specifically, the project will consist of: 1) adding 370 square feet to the 1<sup>st</sup> floor (2,064 square feet total); 2) adding 283 square feet to the 2<sup>nd</sup> floor (2,491 square feet total); and 3) adding a new 1,042 square foot 3<sup>rd</sup> floor (Exhibits #3-8). The existing structure will be 2 stories on the beach side and 3 stories on the Alley side. No grading is proposed.

**B. HAZARDS**

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future can not be allowed due to the adverse impacts such devices have upon public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property the development has been conditioned to: require an appropriate set-back from the water, for a drainage and runoff control

plan to direct, treat, and minimize the flow of water offsite, prohibit construction of protective devices (such as a seawall) in the future, and to require that the landowner or any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

**C. DEVELOPMENT**

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

**D. PUBLIC ACCESS**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

**E. WATER QUALITY**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, the development, as proposed and as conditioned, incorporates design features to minimize the infiltration of water and the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, the use of non-invasive drought tolerant vegetation, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

**F. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Standard and Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

**G. LOCAL COASTAL PROGRAM**

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on January 9, 1990. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

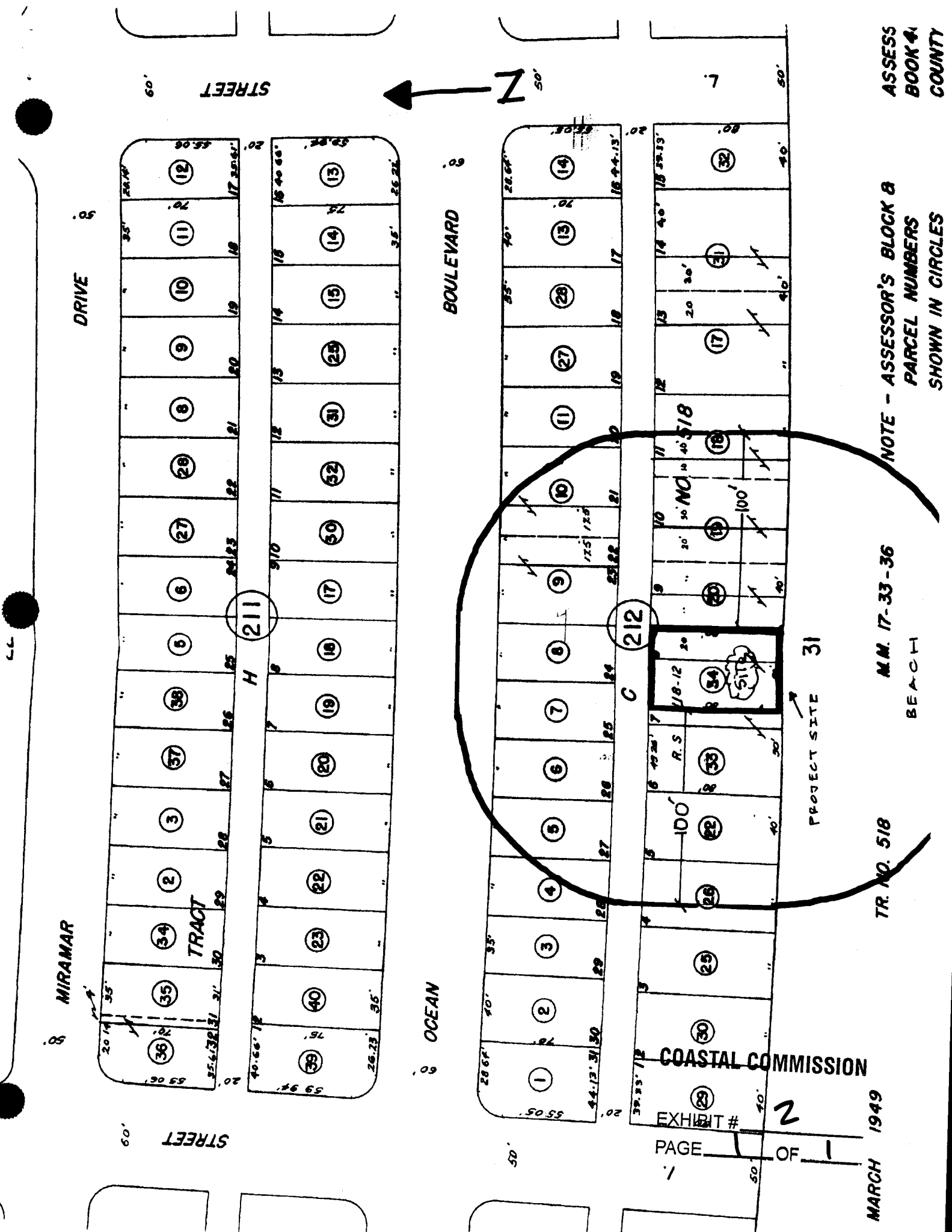
**H. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

As conditioned, 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, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

H:\FSY\Staff Reports\Nov02\5-02-177-[Thorne]CC(NB)







MIRAMAR DRIVE

OCEAN BOULEVARD

STREET

STREET



TRACT

COASTAL COMMISSION

EXHIBIT # 2  
PAGE OF 1

H 211

C 212

PROJECT SITE 31

ASSESSOR'S BLOCK B  
BOOK 4  
COUNTY

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

TR. NO. 518 M.M. 17-33-36

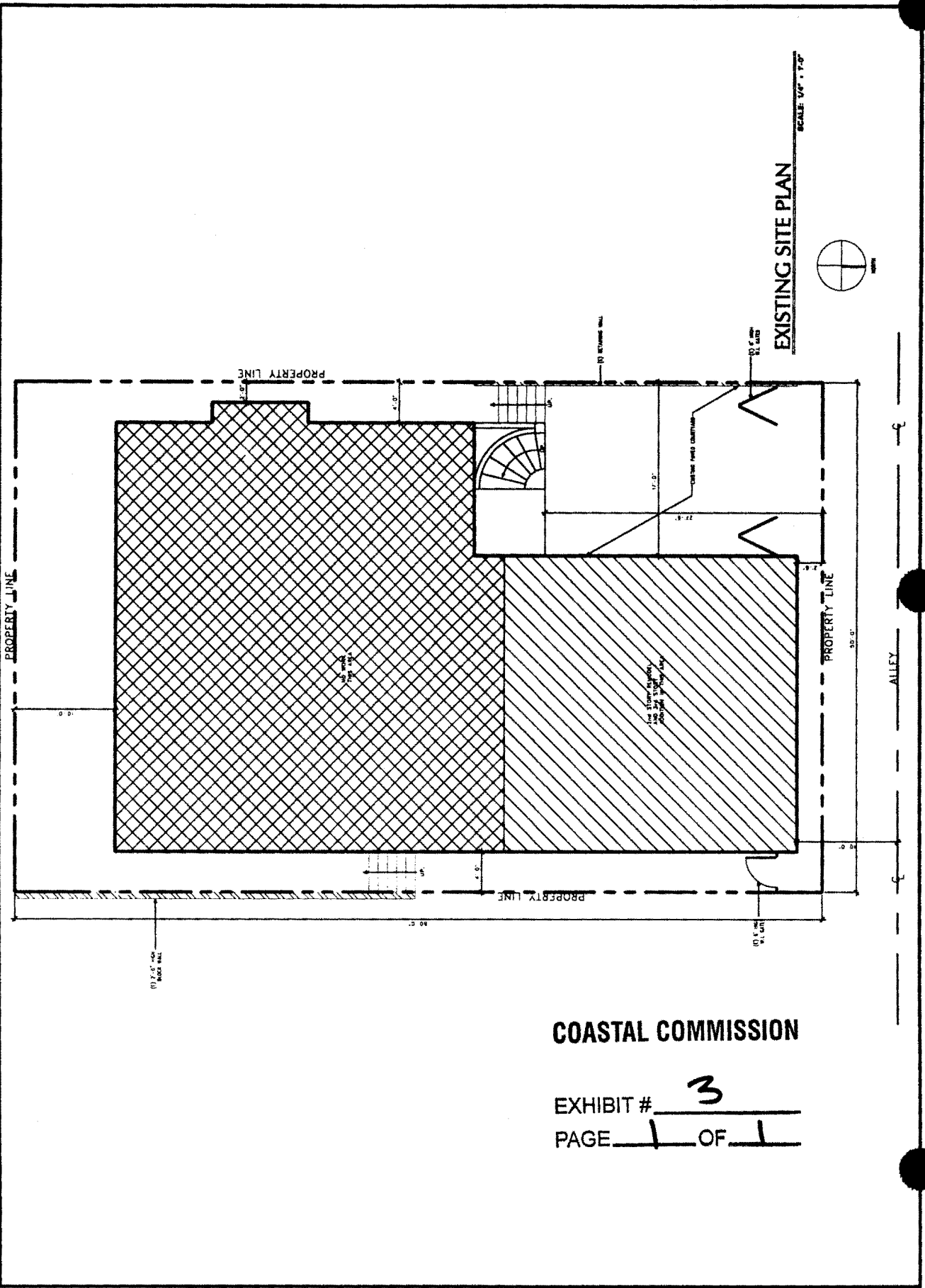
BEACH

MARCH 1949

|             |  |
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| DATE        |  |
| BY          |  |
| CHECKED BY  |  |
| SCALE       |  |
| PROJECT NO. |  |
| OWNER       |  |
| ADDRESS     |  |
| CITY        |  |
| STATE       |  |
| ZIP         |  |
| PHONE       |  |
| FAX         |  |
| E-MAIL      |  |

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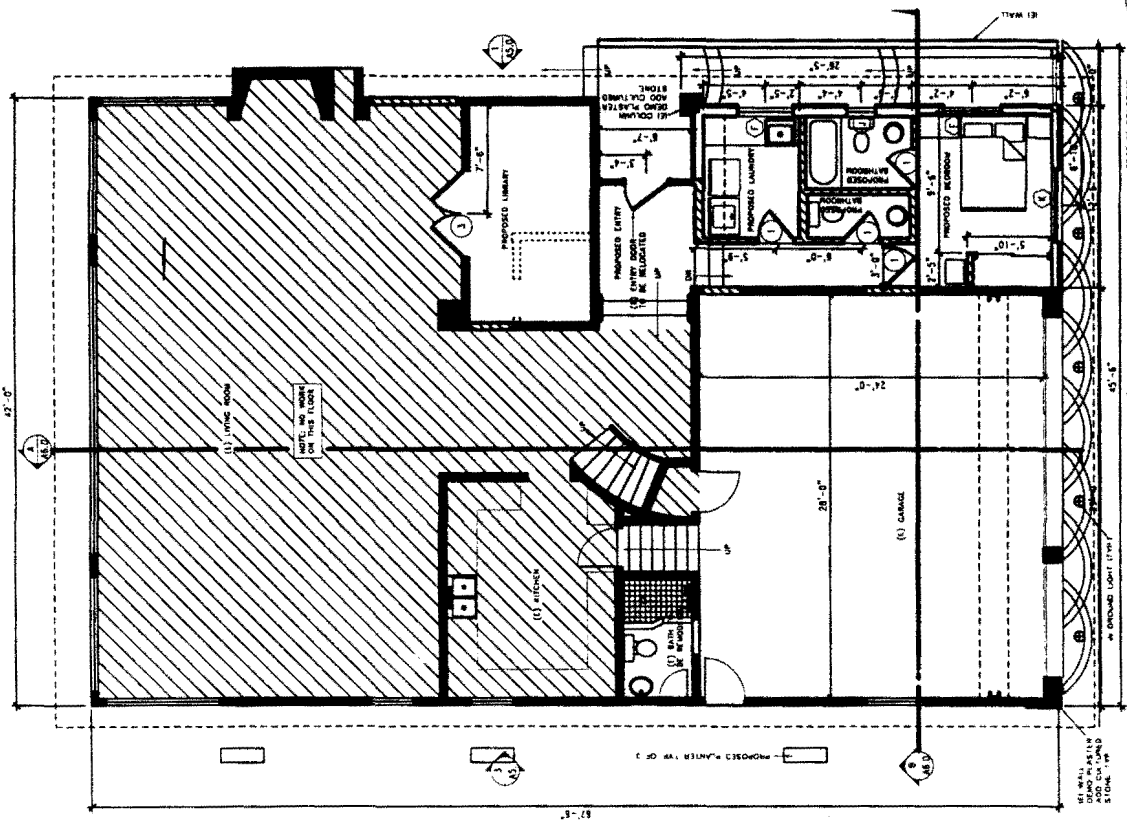
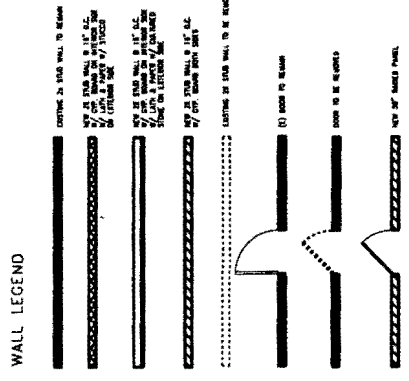
**THORNE RESIDENCE**  
 1724 EAST OCEAN FRONT  
 NEWPORT BEACH, CA



COASTAL COMMISSION

EXHIBIT # 3  
 PAGE 1 OF 1



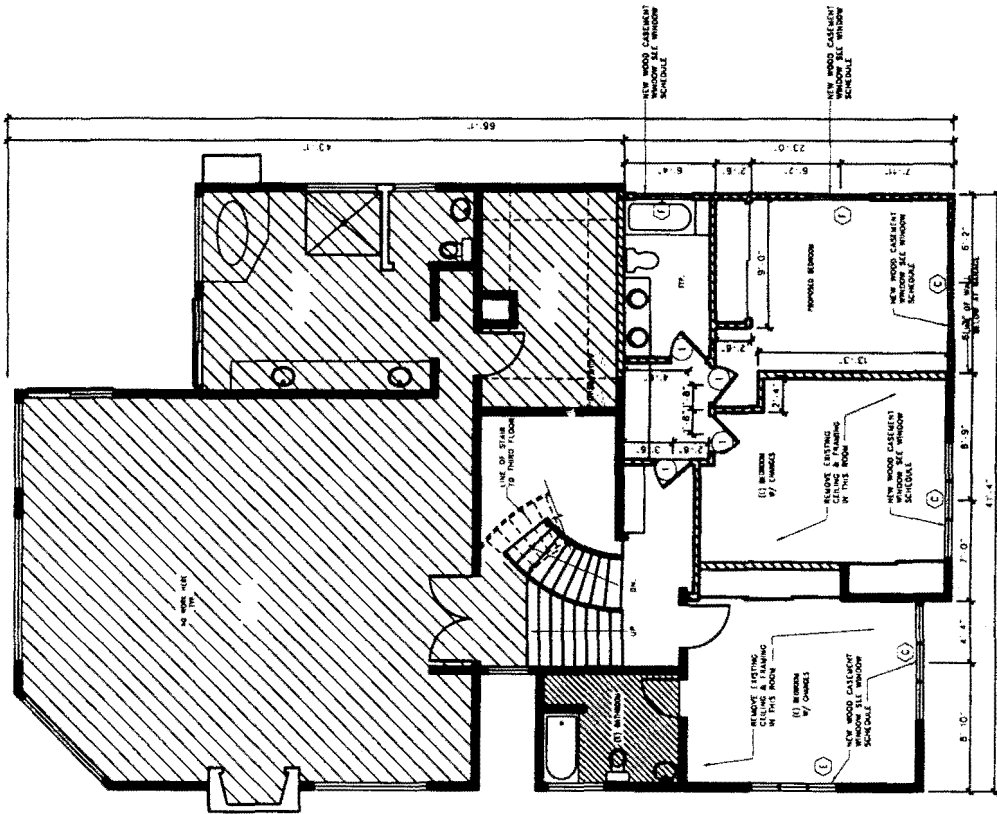
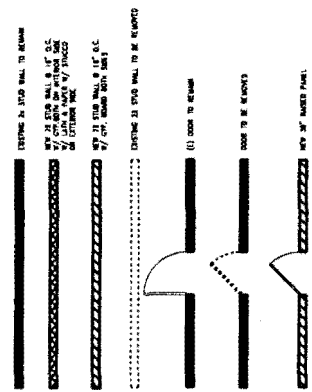


**(E) GROUND LEVEL & FIRST FLOOR PLAN**  
 SCALE: 1/4" = 1'-0"

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EXHIBIT # 5  
 PAGE 1 OF 3

**WALL LEGEND**



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EXHIBIT # 5  
 PAGE 2 OF 3









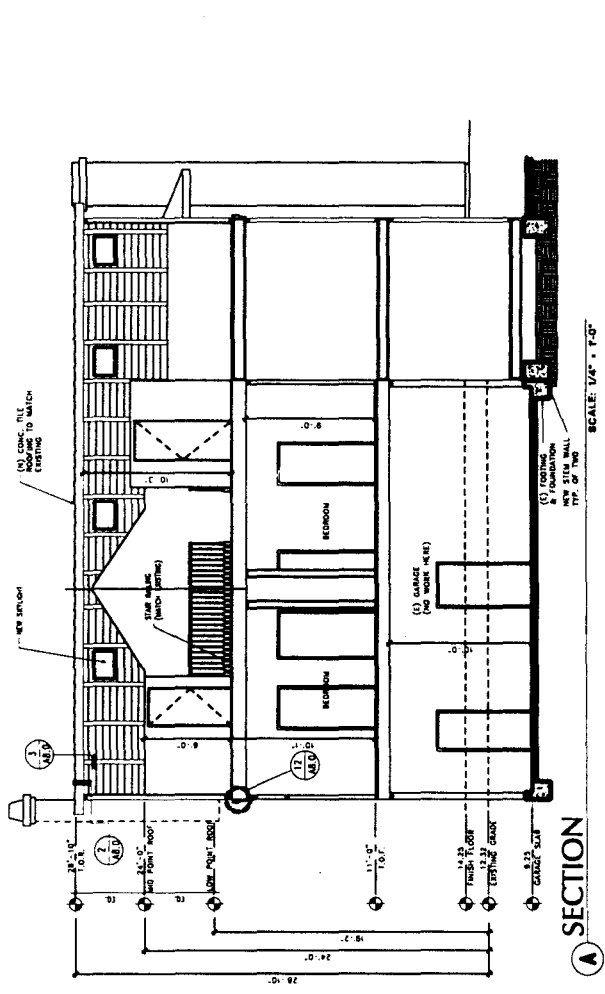


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|---------|------------------|
| DATE    | 01-18-03         |
| BY      | JM               |
| CHECKED | JM               |
| SCALE   | AS SHOWN         |
| PROJECT | THORNE RESIDENCE |
| NO.     | 01/18/03         |
| REV.    |                  |

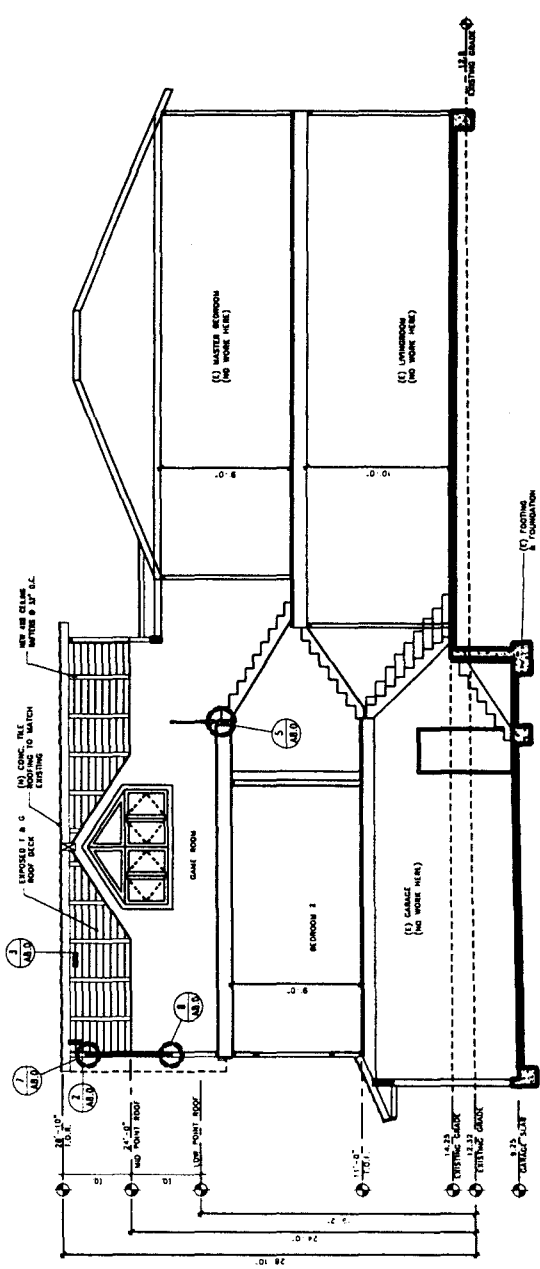
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**THORNE RESIDENCE**  
 1724 EAST OCEAN FRONT  
 NEWPORT BEACH, CA

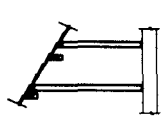
REVISIONS:



**SECTION A**  
 SCALE: 1/4" = 1'-0"



**SECTION B**  
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**SECTION C**  
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**COASTAL COMMISSION**

EXHIBIT # 8  
 PAGE 1 OF 1