

**CITY OF NEWPORT BEACH  
MODIFICATIONS STAFF ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Planning Department  
Javier Garcia, Zoning Administrator  
[jgarcia@city.newport-beach.ca.us](mailto:jgarcia@city.newport-beach.ca.us)

SUBJECT: Report of the actions taken for the Modifications Hearing on Monday, June 9, 2008

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Item 1: Lot Line Adjustment No. LA2008-004 (PA2008-069)  
461 Newport Center Drive

Request to adjust the lot line between two adjacent parcels, taking land from one parcel and giving it to the other. The number of parcels will remain the same.

This item was continued to the 06/23/08 Modifications Council District 5 Hearing.

Item 2: Modification No. MD2008-025 (PA2008-065)  
2136 East Balboa Boulevard

Request to exceed the 3-foot height limit for walls and similar encroachments within the required 30-foot front yard setback. The proposed wall is to provide pool protection required by the Building Code. The proposed deck will cantilever 3 feet, 6 inches beyond the face of the bulkhead. The proposed glass wall will be 3 feet above the deck level, but 13 feet, 5 inches in height as measured from the grade directly below (sandy beach that is subject to tidal ebb and flow).

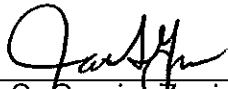
This item was approved. Council District 1

Item 3: Modification No. MD2008-026 (PA2008-070)  
1026 Sea Lane

Request to exceed the 3 foot height limit (measured from natural grade) allowed for fences and walls within the required 20-foot front yard setback with the following elements: a proposed wall (maximum 38 inches high) located to within 6 feet of and parallel to the front property line and an existing retaining wall and along the southerly property line; two 42-inch tall pilasters; a wall and gate ranging from 38 to 46 inches high; and three 50-inch high, pilasters.

This item was approved as conditioned. Council District 6

Prepared and submitted by:



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Javier S. Garcia, Zoning Administrator

APPEAL: The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

- c: David Lepo, Planning Director (*e-mail*)
- Sharon Wood, Assistant City Manager (*e-mail*)
- David Keely, Public Works Senior Civil Engineer (*e-mail*)
- Kay Sims, Assistant Planner (*e-mail*)
- Sgt. Ron Vallercamp, Vice/Narcotics (*e-mail*)
- Code Enforcement Division(*e-mail*)
- Erin Steffen, Office Assistant (*e-mail*)



- The proposed glass wall is consistent with several other properties along Newport Bay containing guard rails along the water to protect the yard area.
  - The deck on the adjacent property to the east is cantilevered beyond the face of the bulkhead by 3 feet and the applicant's request is similar. Several properties to the north of the subject property have bulkheads built at the bulkhead line, which are located 30 feet farther out into the bay than the bulkhead on the subject property. Therefore, the proposed encroachment of 3 feet, 6 inches is compatible with existing developments along Newport Bay.
3. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
- The proposed glass wall will be transparent and 3 feet in height above the finished grade of the rear yard patio, which is at approximately the same elevation of the abutting neighbors' lots, thus the design of the structure will minimize any view impacts from or to the bay.
  - The proposed glass wall will provide pool protection for a proposed pool to be located in the yard adjacent to the existing bulkhead on Newport Bay.
  - No dedicated public access presently exists along the intertidal area bayward of the bulkhead; therefore no impact to public access will occur.

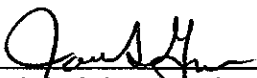
### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. The wall shall not exceed 3 feet above deck level, and must be made of transparent glass.
3. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
4. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
5. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required
6. A building permit shall be obtained prior to commencement of the construction.
7. The proposed construction shall comply with the California Building Code and all adopted local amendments.

8. The total area of exterior wall openings is limited to 25 percent of the wall area on each floor for walls farther than 3 feet and closer than five feet to the property lines.
9. A parapet is required on exterior walls when located closer than five feet from the property lines.
10. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
11. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
12. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
13. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

### **APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:   
Zoning Administrator Javier S. Garcia, AICP

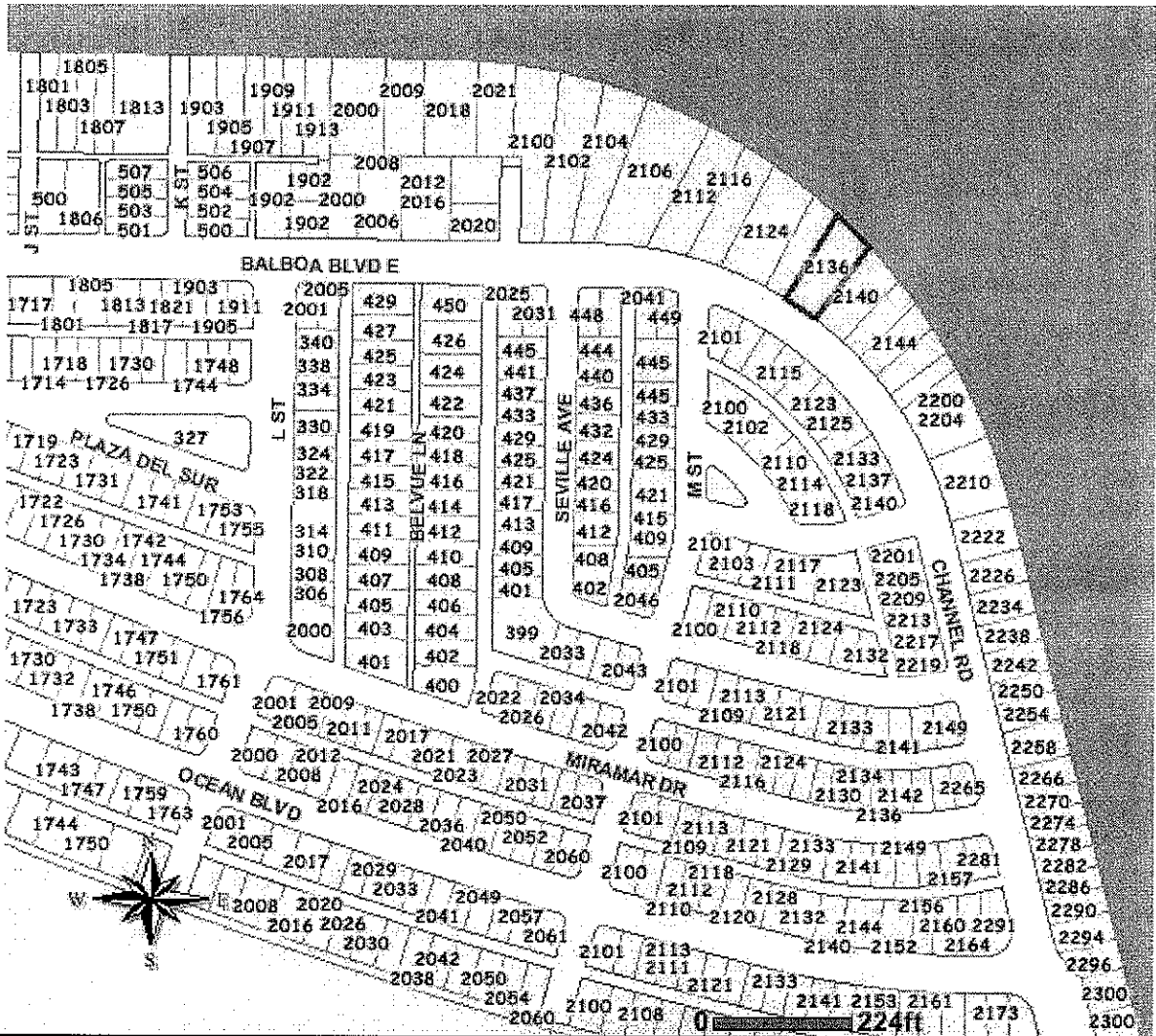
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Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None

# VICINITY MAP



Modification Permit No. MD2008-025  
PA2008-065

**2136 East Balboa Boulevard**



**MODIFICATION PERMIT NO. MD2008-026**

(PA2008-070)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Modification No. MD2008-026 (PA2008-070)</b>
<b>Applicant</b>	<b>Mike and Sally Stoddard</b>
<b>Site Address</b>	<b>1026 Sea Lane</b>
<b>Legal Description</b>	<b>Lot 5, Tract 2202</b>

On **June 9, 2008**, the Zoning Administrator approved the application request to exceed the 3 foot height limit (measured from natural grade) allowed for fences and walls within the required 20-foot front yard setback with the following elements: a proposed wall (maximum 38 inches high) located to within 6 feet of and parallel to the front property line and an existing retaining wall and along the southerly property line; two 42-inch tall pilasters; a wall and gate ranging from 38 to 46 inches high; and three 50-inch high, pilasters (maintain a minimum setback of 11 feet from the front property line). The property is located in the R-1-B (Residential Combining) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

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**FINDINGS**

1. The Land Use Element of the General Plan designates the site for "Single-Unit Residential Detached" use. The existing residential structure is consistent with this designation and the walls, pilasters, and entry gate are accessory to the primary use.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).
3. The granting of the application is necessary due to practical difficulties associated with the property and the strict application of the Zoning Code would result in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

- The subject lot is rectangular in shape, and is adjacent to Sea Lane which slopes from north to south. An existing retaining wall varies in height from one to 4 feet is located at the back of the public sidewalk, between the existing driveway and the southerly side property line. The sidewalk and street grades are lower than the level of the front yard and residence (building pad). The rear yard of the subject property has a 10 foot grade change sloping from the rear of the residence upward toward the rear property line which limits the useable area of the rear yard. The neighboring properties to the south have building pads that step down approximately 2 feet going from north to south; and the properties to the east are also terraced downward from east to west with grade differentials of approximately 10 feet. Due to the overall topography of the lot and the terracing of the building pads, the front yard is the most logical choice to provide a useable area for the property and the neighboring properties on Sea Lane. The proposed wall and pilasters along the front property line and along the southerly side property line will serve as protective guardrails that will provide protection from persons falling off at the edge of the walls within the front yard area.
- The proposed 46-inch entry gate, and related adjacent walls (38 to 46 inch tall) and 50-inch pilasters will enhance security and privacy of the front yard of the property by limiting the visibility as viewed from the public roadways.
- The use of walls is required for noise abatement in accordance with Goal 4.1 of the Noise Element of the General Plan that states that the City "provide programs that reduce the noise levels in existing noise sensitive areas where the noise environment has already reached unacceptable levels and ensuring that new development in these areas is compatible with surrounding noise levels." Additionally, Related Policy 4.1 states the City "provide for reduction in noise impacts from transportation related noise sources. Implementation options that the City may consider include:" per 4.1.2, "The City shall require the use of walls, berms or other noise mitigation measures in the design of new residential or other new sensitive land uses that are adjacent to major roads. Application of the Noise Standards in Table 2 shall govern this requirement."
- The subject property is located within Noise Referral Zones (60 and 65 dB CNEL) that require abatement. Pursuant to the requirements of the Noise Element, properties within these Zones have noise levels high enough that noise should be a factor in making land use policy decisions affecting existing and proposed noise-sensitive developments. Table 2 of the Noise Element requires that outdoor living areas maintain noise levels below 65 CNEL. This level will allow for control of the interior noise levels to within the specified limit of 45 CNEL. Although there is a bermed open space between Sea Lane and MacArthur Boulevard, the elevation of the subject property provides direct line of sight between the noise source (roadway traffic generated noise) and the sensitive receptor (outdoor living area) and therefore a negative impact. The proposed walls, pilasters, and entry gate in the front yard will enhance noise mitigation/abatement by providing an intervening vertical element that will interrupt the direct line of sight between



the source and the receptor. Although a higher wall would provide more significant noise abatement, the applicant wishes to maintain his ocean views by limiting the height to 38 inches.

- The safety issues related to the grade differential along the southerly and westerly property lines, and the northerly portion of the front yard will be provided by the 38 inch tall wall and 42 inch pilasters that will serve as a protective guardrail required by the Building Code due to the potential drop-off hazard.
4. The requested modification will be compatible with existing development in the neighborhood.
- The proposed walls, entry gate, and pilasters will be compatible with existing development within the neighborhood because these elements are commonly located within single-family residential areas and are similar to elements found within the required front yard areas of other lots along Sea Lane; and the height of the elements will not be abruptly out of scale with the surrounding improvements due to the physical topographic variations in grade and pad elevations created by the terraced lots of the tract.
5. The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood.
- The proposed walls, pilasters, and entry gate are minor architectural features similar in character and height to those found throughout the neighborhood; and those elements will provide and serve to protect the health and safety of persons residing in the neighborhood within the usable front yard area to address the drop-off hazard created by the physical topographic variations of the grades and pad elevations that resulted from the terraced lots of the tract.


### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. The proposed planter wall and related pilasters may encroach a maximum 14 feet into the required 20-foot front yard setback. The proposed planter wall and the proposed wall continuing along the south side property line shall not exceed a maximum height of 38 inches, measured from existing/natural grade. The proposed related pilasters located at either end of the front wall parallel to the front property line, shall not exceed a maximum height of 42 inches, measured from existing/natural grade.

3. The height of the proposed entry gate and related adjacent walls shall not exceed 46 inches measured from existing/natural grade. The height of the two pilasters and caps at the entry gate shall not exceed an overall height of 50 inches measured from existing/natural grade. The pilaster located on the westerly side of the entry gate may encroach a maximum 9 feet into the required 20-foot front yard setback (shall maintain a minimum setback of 11 feet from the front property line).
4. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
5. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
6. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
7. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
8. A building permit shall be obtained prior to commencement of the construction.
9. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
10. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
11. The proposed addition and related work shall comply with the California Building Code and all adopted local amendments.
12. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

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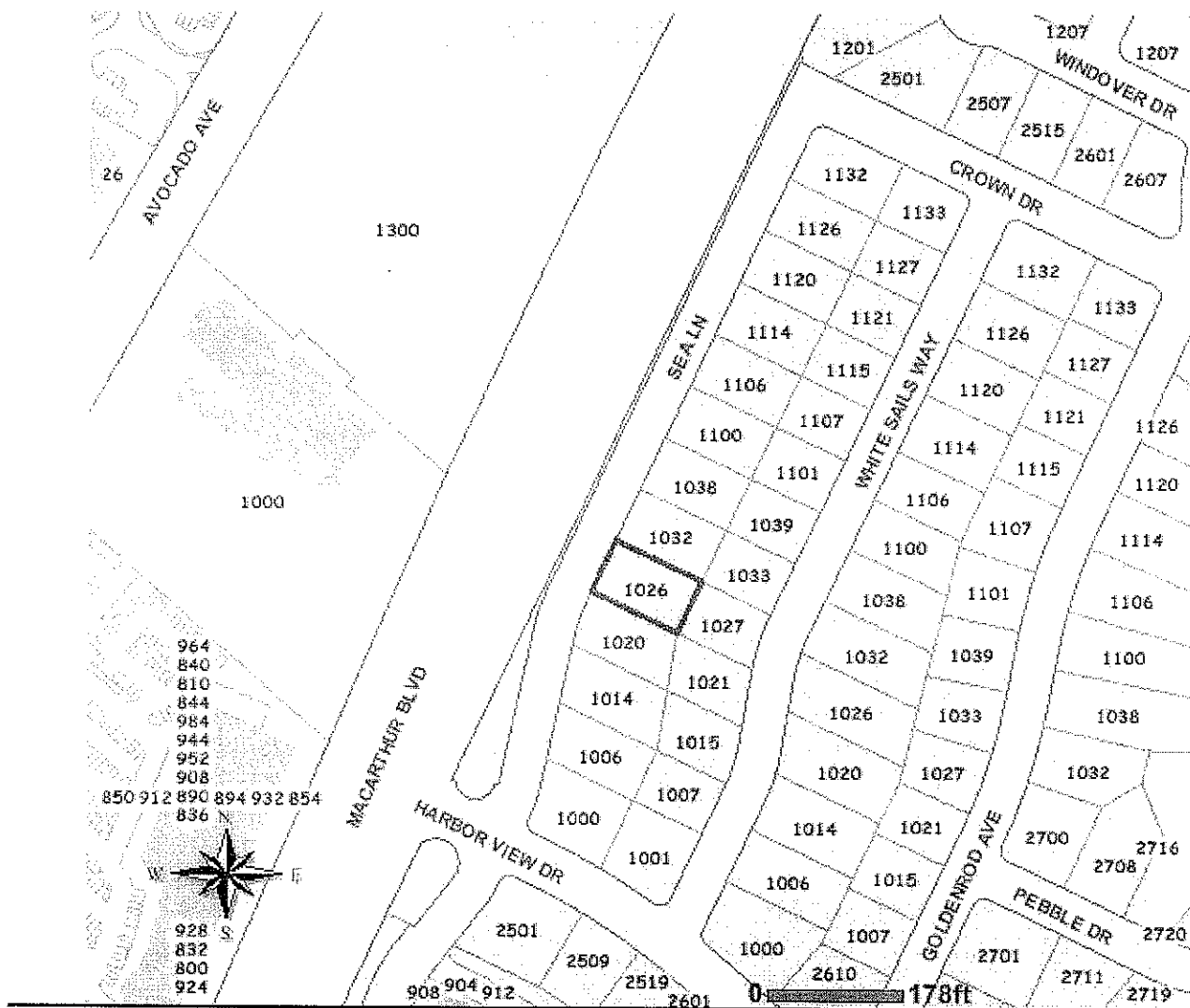
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Attachments: Vicinity Map  
Aerial Map  
Photos

Appeared in Opposition: None

Appeared in Support: None

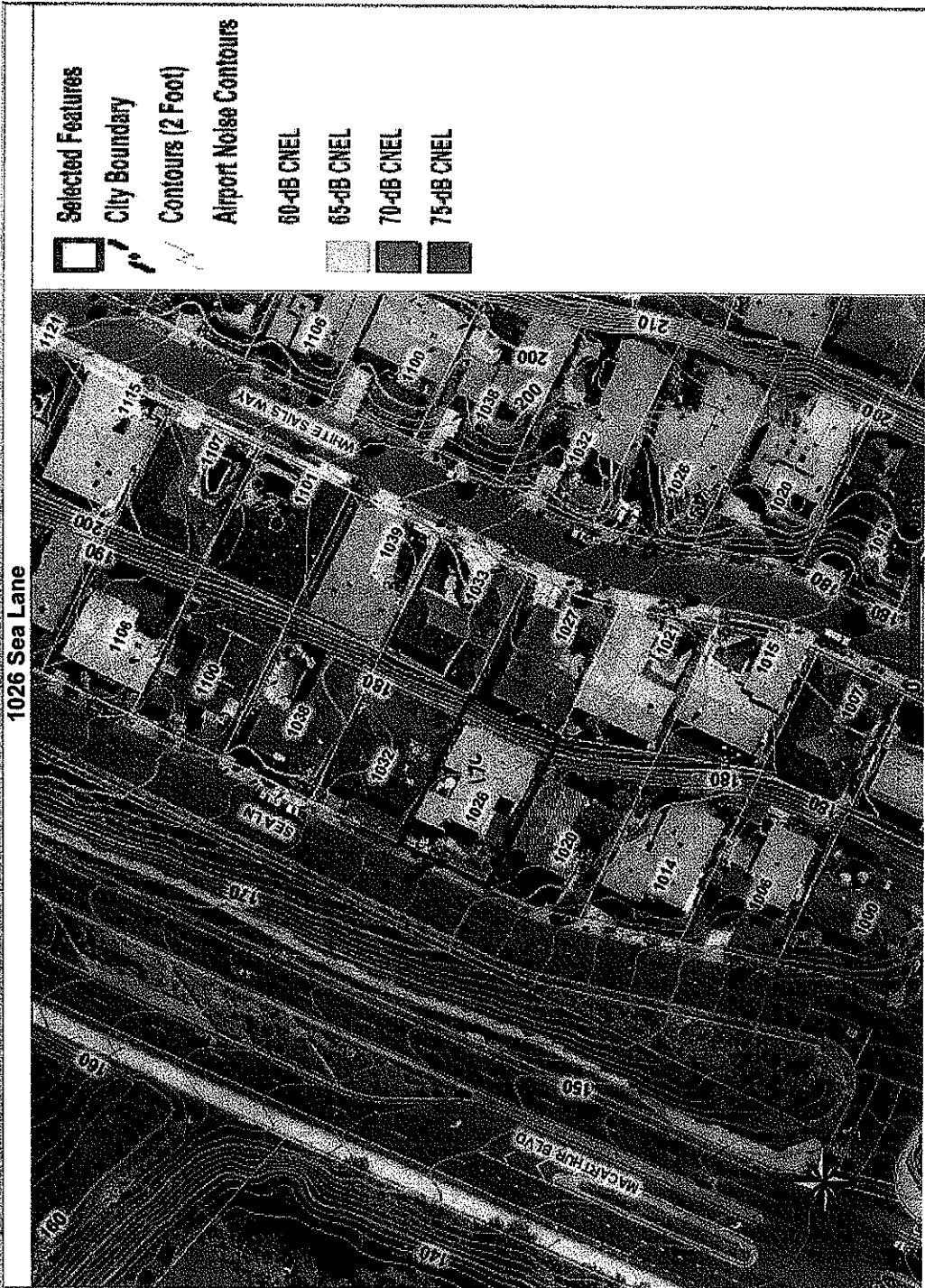
# VICINITY MAP

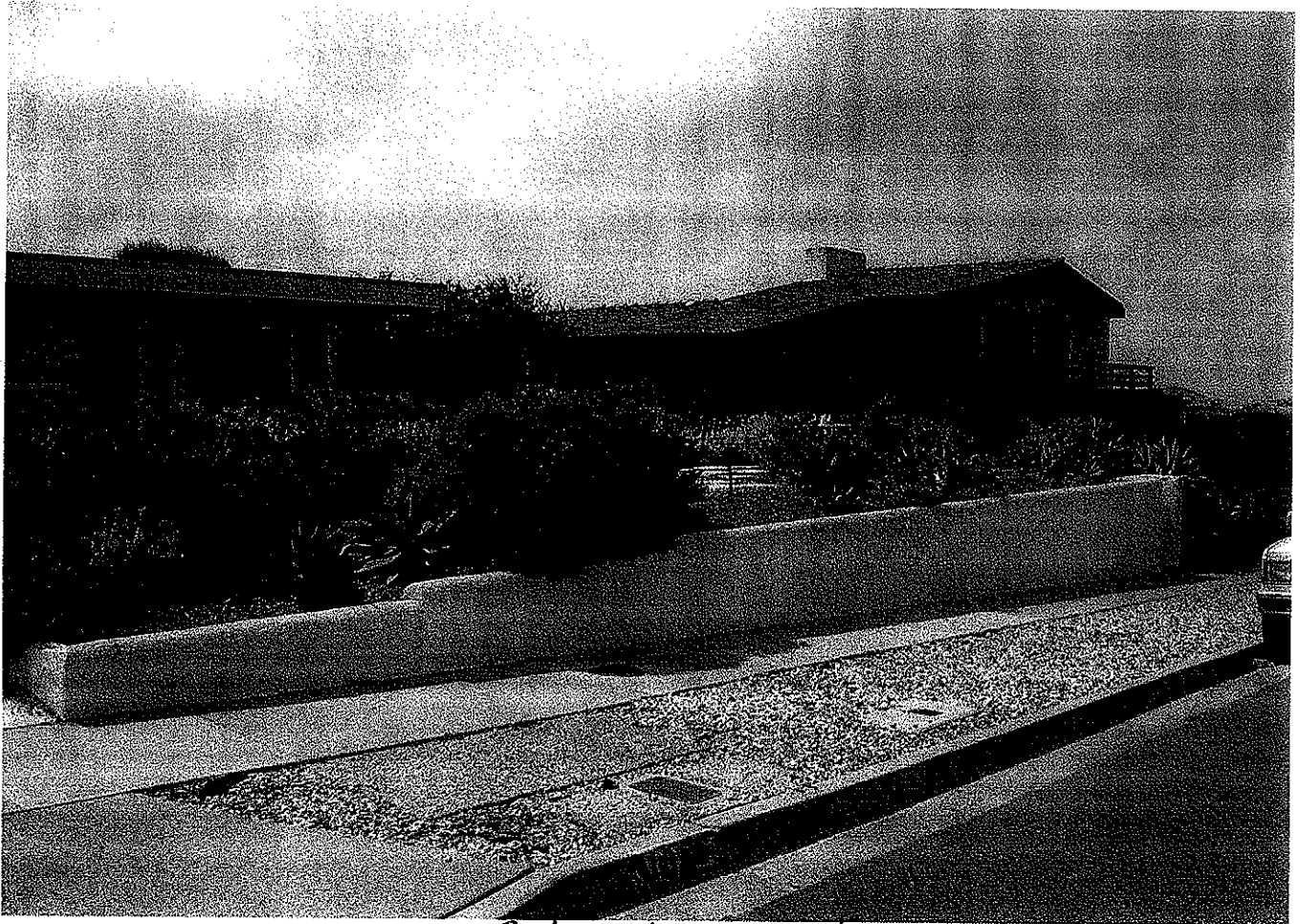


Modification Permit No. MD2008-026  
PA2008-070

**1026 Sea Lane**

PA2008-070 for MD2008-026  
1026 SEA LANE  
Mike and Sally Stoddard





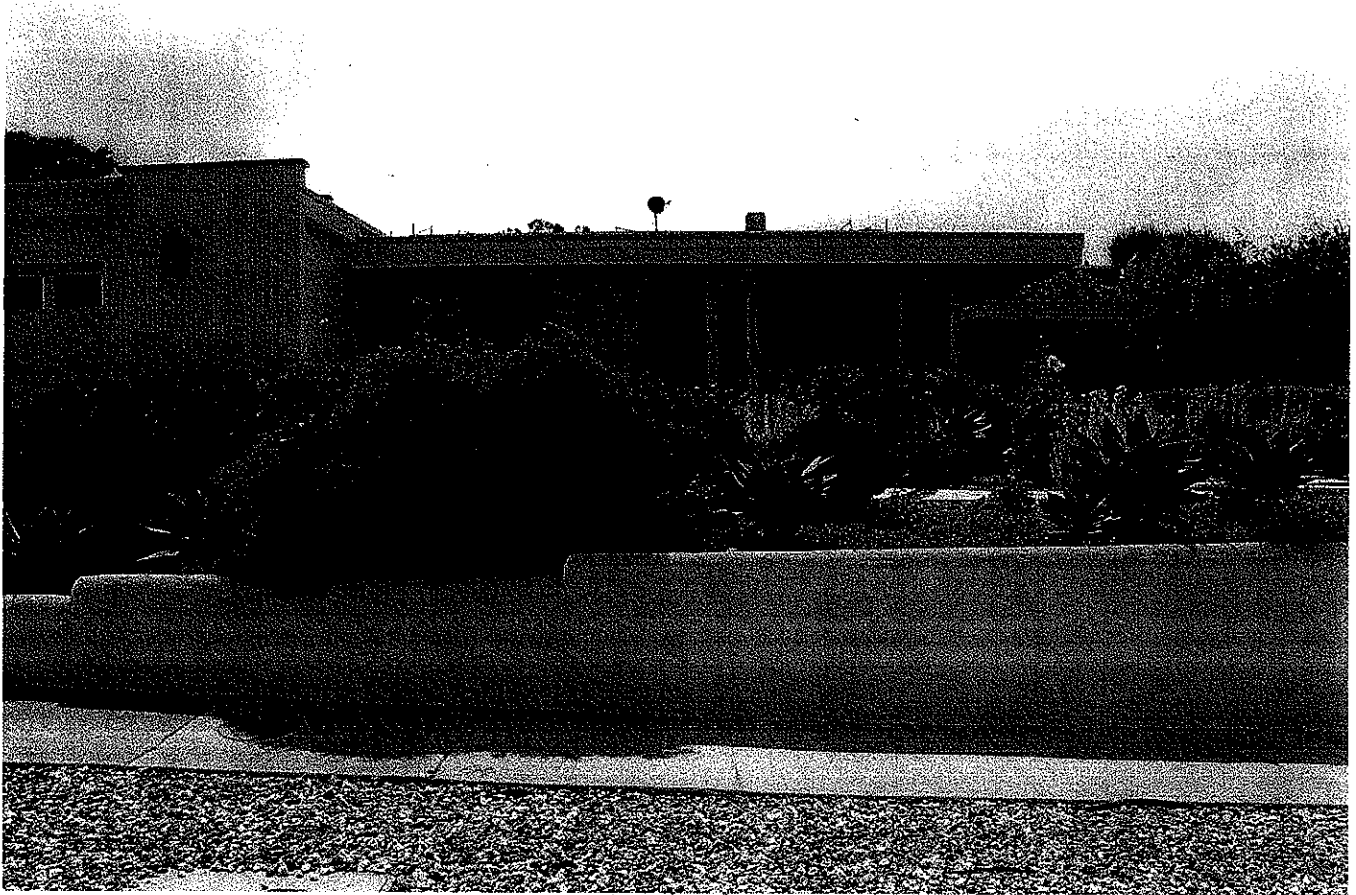
*Subject property*



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PA2008-070 for MD2008-026  
1026 SEA LANE  
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*Subject property*



*Subject property*