

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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**Fri 6c**

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Staff: LRO-SD
Staff Report: 1/26/05
Hearing Date: 2/16-18/05

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-126

Applicant: Ocean Pacific Companies

Agent: Marengo Morton Architects

Description: Remodel and renovate existing 6,900 sq.ft., 39 ft. high, 6-unit condominium complex to include a reduction from six units to five units, with retention of six covered parking spaces on a 4,338 sq.ft. oceanfront lot

Lot Area	4,338 sq. ft.
Building Coverage	2,582 sq. ft. (60%)
Pavement Coverage	1,756 sq. ft. (40%)
Parking Spaces	6
Zoning	R-S
Plan Designation	Residential South (36 dua)
Project Density	50.2 dua
Ht abv fin grade	39 feet

Site: 2999 Ocean Front Walk, Mission Beach, San Diego, San Diego County.
APN 423-691-01

Substantive File Documents: Certified Mission Beach Precise Plan and Planned District Ordinance; CDP #s 6-01-29, 6-00-123, 6-00-1, 6-99-90.

STAFF NOTES:**Summary of Staff's Preliminary Recommendation:**

Staff is recommending approval of the proposed project, subject to special conditions. While the existing development is non-conforming relative to height, parking and density, the proposed project will actually decrease the degree of non-conformity by reducing the number of units from six to five. In addition, there is an existing patio/privacy wall that encroaches into the public right-of way. However, no changes are proposed to the patio or wall. Therefore, staff recommends that a special condition be

added that advises the applicant that if the portion of the property containing the patio and wall is ever redeveloped in the future, or there is a substantial remodel of the entire structure, that the portions of the concrete masonry wall and private patio improvements that encroach into the public right-of-way and/or violate setback requirements will have to be removed. In addition, because work during the summer in this location can have significant impacts on public access, a special condition is recommended that addresses timing of construction to avoid impacts to public access during the summer season. The proposed renovations to an existing 6-unit condominium building, as conditioned, are consistent with all applicable Coastal Act policies.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-04-126 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

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. 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.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Future Removal of Non-Conformities. If the existing condominium structure at 2999 Ocean Front Walk is substantially altered such that 50% or more of the existing structure is modified, demolished, removed or replaced, or the concrete masonry wall or patio are altered in any way, all legal non-conforming encroachments into the public right-of-way shall be removed in their entirety. In addition, any replacement structures shall meet current City of San Diego Code requirements.

2. Timing and Staging of Construction. No construction shall take place for the project between Memorial Day weekend and Labor Day of any year. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes. No street (or public boardwalk) closures or use of public parking for the storage or staging of equipment or supplies is permitted.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The subject project involves the remodeling and renovation of an existing 6,900 sq.ft., four-story, 39 ft. high, 6-unit condominium building including a reduction from six units to five units, with retention of six covered parking spaces on a 4,338 sq.ft. oceanfront lot. Through the proposed remodeling of the structure to reduce the number of units, several improvements are proposed which include the following: the relocation of an existing carport from the northwest corner of the site to the southeast corner to allow access from the alley and the enclosure of the former carport area to living area; changes to the building entries; the addition of new balconies on the east façade to break up the building façade; and, the south end balconies on the west façade will be relocated to the north to meet the existing balconies to create one continuous balcony for better safety egress to the new interior exit stairs. In addition, some demolition of interior walls and exterior walls are also proposed. The structure is set back 12 feet from the western property line. However, a concrete masonry wall and patio area extend 12 feet beyond the western property line into the public right-of-way of Ocean Front Walk and forms the western boundary of an improved private concrete patio. No improvements are proposed to the concrete masonry wall and patio.

The project site is located on Ocean Front Walk, the public boardwalk that runs along the western side of Mission Beach from the South Mission Beach Jetty north approximately 2.36 miles to Thomas Avenue in the community of Pacific Beach. The project site is located immediately south of Belmont Park at the corner of Ocean Front Walk and San Fernando Place in the Mission Beach community of the City of San Diego.

The proposed development requires a coastal development permit because it will result in a change in the intensity of use (a reduction in the number of units). Although the City of San Diego has a certified LCP for the Mission Beach community, the subject site is located in an area where the Commission retains permit jurisdiction, pursuant to section

30519(b) of the California Public Resources Code. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City's LCP used as guidance.

2. Retention of Non-conforming Structures. As noted above, the applicant proposes to remodel an existing non-conforming condominium building. Currently, the existing condominium building consists of a four-story, six-unit building with 4,183 sq.ft. of living area. Through the proposed remodel, a reduction in the number of dwelling units from six to five and a reduction of 122 sq.ft. is also proposed. The first three levels are fully developed; however, the fourth level is much smaller and consists of an 88 sq.ft. penthouse. In addition, some of the interior and exterior walls are also proposed to be demolished through the proposed renovation. In its approval of past projects involving partial demolition and reconstruction of an existing non-conforming structure, the Commission has found that if more than 50% of the exterior walls of a structure are being demolished, the proposal constitutes the development of a new structure and therefore, the entire structure must be brought into conformance with the current requirements.

In this particular case, the applicant has provided information which verifies that no more than 50% of the exterior walls are being demolished through the proposed remodel. Specifically, 80% of the exterior walls are proposed to be retained with 20% proposed to be demolished. Therefore, the proposed project is not regarded as a "new structure". The building is a non-conforming structure as it does not meet current height or density requirements contained in the certified Mission Beach Planned District Ordinance. The structure meets all of the required building setbacks. No changes are proposed to the height of the structure or the building setbacks. In addition, as noted above, the number of units are proposed to be reduced from six to five which results in a slight decrease in the degree of non-conformity of the structure relative to density.

In addition, as noted in the project description, the structure is setback 12 feet from the western property line, which is consistent with the Mission Beach PDO. However, a private patio is located within the setback area and extends 12 feet beyond the western property line into the public right-of-way of Ocean Front Walk. A concrete masonry wall is located at the western edge of the patio. No improvements are proposed to these structures, and the wall and patio are proposed to be retained in their non-conforming location. No records were found of any coastal development permits issued for the privacy wall and the applicant has indicated that it was built before the Coastal Act. The applicant has also indicated that an Encroachment Removal Agreement (ERA) from the City of San Diego for the privacy wall and patio within the City's right-of-way has been obtained.

3. Public Access. Coastal Act sections 30210, 30211 and 30212(a) are applicable to the project and state the following:

Section 30210

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.

Section 30212(a)

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or, [...]

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

In addition, Section 30252 of the Act is also applicable to the proposed development and states the following:

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

The project site is located adjacent to the public beach and boardwalk. The boardwalk is a heavily-used recreational facility frequented by pedestrians, bicyclists, skaters, skateboarders, runners, and persons in wheelchairs. The walkway is accessible from the east/west courts and streets off of Mission Boulevard, and provides access to the sandy beach at stairways located at various points along the seawall. Access to the beach can be gained nearest the project site at the end of San Fernando Place adjacent to the project site to the north. Thus, adequate access exists very nearby, for purposes of Coastal Act Section 30212.

In addition, six on-site parking spaces are proposed to be retained. Although the existing structure is presently non-conforming in that it currently does not meet the current on-site parking requirements of two spaces per unit, the proposed development will not result in an increase in the degree of non-conformity. In fact, the proposed structure will actually result in a decrease in the degree of non-conformity through a reduction in the number of units from six to five while retaining a consistent number of parking spaces.

The existing structure is located at the southeast corner of San Fernando Place and Ocean Front Walk (the public boardwalk) in the Mission Beach community of the City of San Diego. The Ocean Front Walk boardwalk was originally constructed in 1928, and runs

along the western side of Mission Beach from the South Mission Beach Jetty north approximately 2.36 miles to Thomas Avenue in the community of Pacific Beach. At that time, the concrete walkway west of the project location was approximately 11 feet wide, with a seawall/bulkhead on the seaward side, and a 12-foot wide right-of-way easement east of the walkway. West of the seawall is sandy beach. Historically, there were a variety of privately maintained fences, walls, decks, landscaping, and patio improvements located within the 12-foot wide public right-of-way seaward of the western property lines of all of the oceanfront lots in this location.

Commencing in August 1999, the Commission approved three permits (#s 6-99-90, 6-00-123 and 6-01-29) for the City of San Diego to remove the private encroachments in the right-of-way from Ventura Place to Santa Barbara Place. In January 2000, the Commission approved the companion permit to CDP #6-99-90 et al, for the widening of the boardwalk between Ventura Place north to Santa Barbara Place (subsequently revised to extend north to Santa Rita Place only) (CDP Nos. 6-00-1 and 6-01-29).

All of the private encroachments between Santa Barbara Place north to Santa Rita Place have subsequently been removed. In addition, the boardwalk widening between Ventura Place and Santa Rita Place as well as the installation of a landscape buffer strip has already been completed pursuant to the above-cited permits. Specifically, the previously approximately 11-foot wide boardwalk has been expanded by approximately 9 feet with an additional 3-foot wide landscape buffer area on the inland side of the improved boardwalk. Thus, the overall improved width of the boardwalk is now approximately 20 feet. The expanded boardwalk separates wheeled traffic from pedestrian traffic and consists of an 8-foot wide walking lane on the west side of the boardwalk, a 12-foot 3-inch wide two-way bicycle/skateboard lane east of that, and a 3-foot wide landscape buffer along the inland side of the expanded boardwalk, thus using the remaining portion of the public right-of-way. The purpose of the 3-foot wide landscape strip is to serve as a buffer between the residential properties and businesses and the public boardwalk. The City is responsible for maintenance of the landscape buffer.

However, in this particular case, the project site is located in an area where the City has not yet widened the public boardwalk. The project site is located immediately south of Belmont Park. An existing concrete masonry wall and private patio encroaches into the public right-of-way by approximately 12 ft.. Eventually, the City will widen the public boardwalk in South Mission Beach, as well (intended as Phase II of the City boardwalk widening project). Because the wall is an impediment to public access along the boardwalk, and it interferes with the City's plans to widen the boardwalk in the future, Special Condition #1 advises the applicant that if the existing condominium structure is altered such that 50% or more of the existing structure is modified, demolished, removed or replaced, or the concrete masonry wall or patio are altered in any way, all legal non-conforming encroachments into the public right-of-way shall be removed in their entirety. Also, any replacement structures shall be required to meet current City of San Diego Code requirements. In addition, to address potential concerns with regard to construction activities on public access on this oceanfront property and given its proximity to the public boardwalk, the project is conditioned such that construction work not occur

between Memorial Day weekend and Labor Day. As conditioned, it can be assured that the proposed development does not interfere with public access opportunities and is consistent with the public access and recreation policies of the Coastal Act.

4. Visual Quality. Section 30251 of the Coastal Act is applicable to the subject project and states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas,...

The existing residences along the boardwalk vary widely in architectural style and appearance. The proposed project will result in remodeling of an existing 6-unit condominium building including a reduction in the number of units from six to five, adjacent to the public boardwalk. The proposed structure is 39 feet high, which is presently non-conforming, in that the current height limit is 30 feet. The structure has three full stories of living area plus a small penthouse on top (used as a laundry room) that increases the overall height of the structure. However, none of the proposed improvements will increase the degree of non-conformity of the structure nor will any proposed additions be constructed that would increase the height of the existing building such that public views would be diminished or the visual quality of the area would be incompatible with the surrounding area.

In Mission Beach community, the designated public view corridors consist of the public rights-of-way of the various courts and places which are generally east/west running streets. Public views toward the ocean will continue to be available along San Fernando Place north of the project site. As such, the proposed structure will not result in any public view blockage to the ocean.

The proposed development will not have an adverse impact on the visual quality of the neighborhood. Therefore, the Commission finds the proposed development, as conditioned, consistent with the visual resource protection policies of the Coastal Act.

5. Local Coastal Planning. The subject property is located within the Residential South (R-S) zone of the Mission Beach Planned District. The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority. The subject permit will result in the remodeling of an existing 6-unit condominium structure resulting in a decrease in the number of units from six to five. As conditioned, the project is consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Mission Beach community.

6. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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.

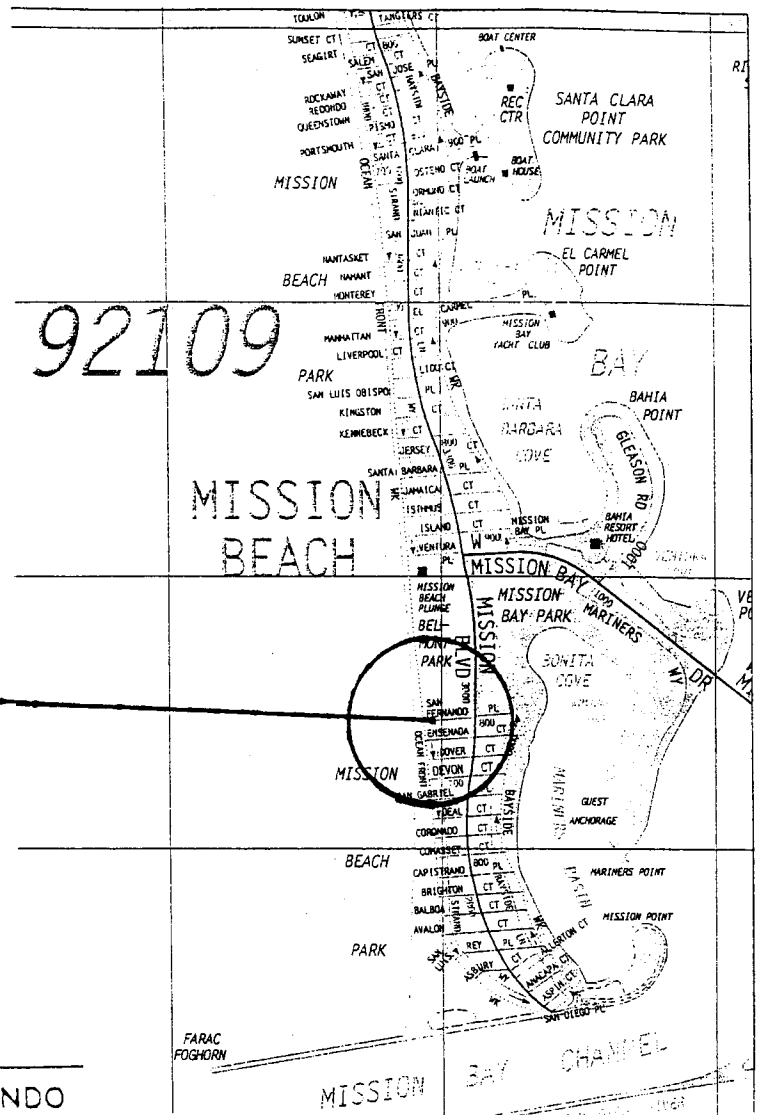
The proposed project has been conditioned in order to be found consistent with the public access policies of the Coastal Act. Mitigation measures, include conditions addressing future removal of the portion of the patio that encroaches into the public right-of-way if the property is ever redeveloped in the future and timing of construction to avoid impacts to public access during the summer months. 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 the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

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 on which the Commission voted on the application. 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.



SITE



BEACH PARK

SHT 2

SOUTH MISSION

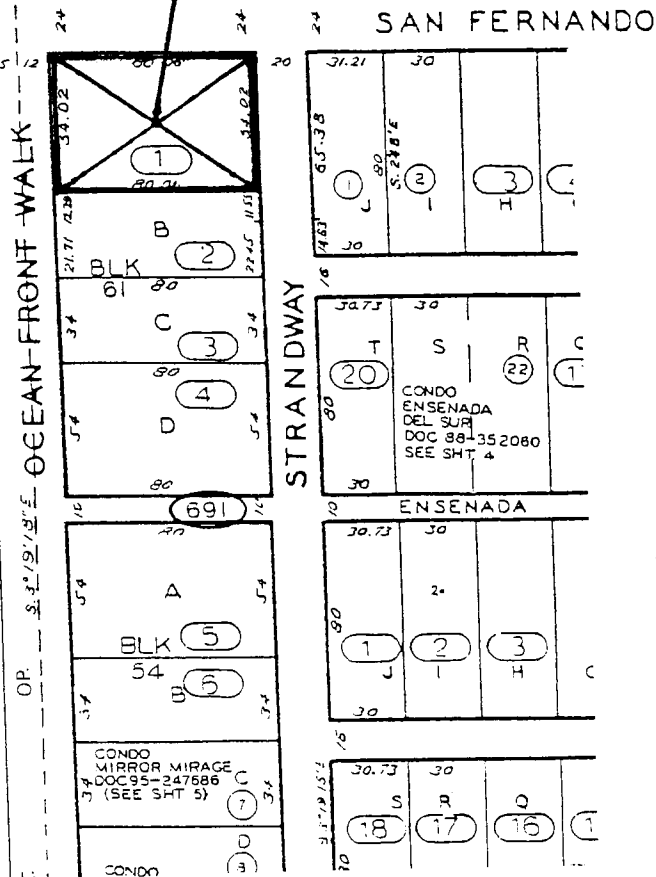



EXHIBIT NO. 1
APPLICATION NO.
6-04-126
Location Map



California Coastal Commission

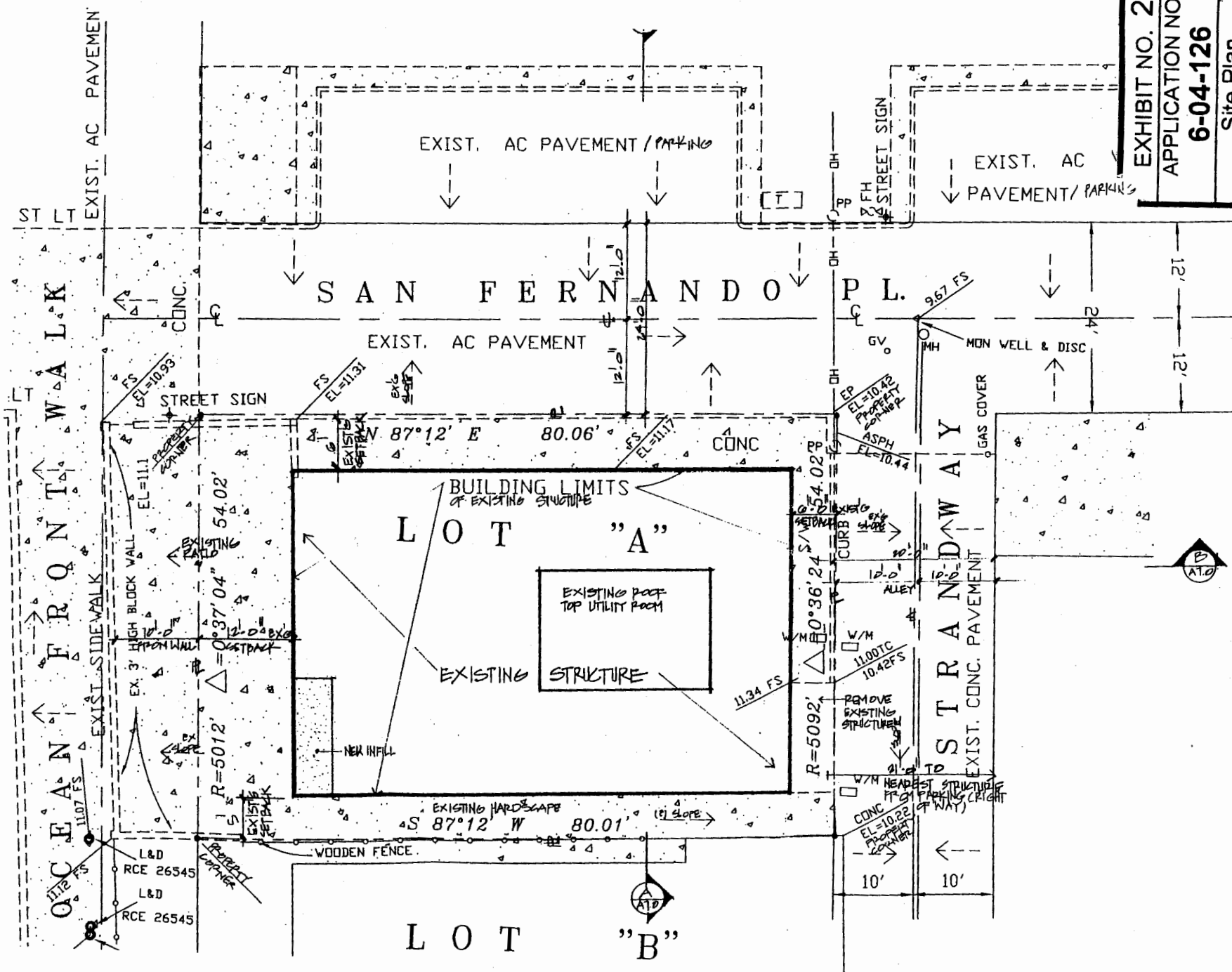
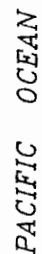
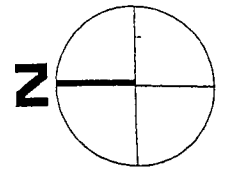
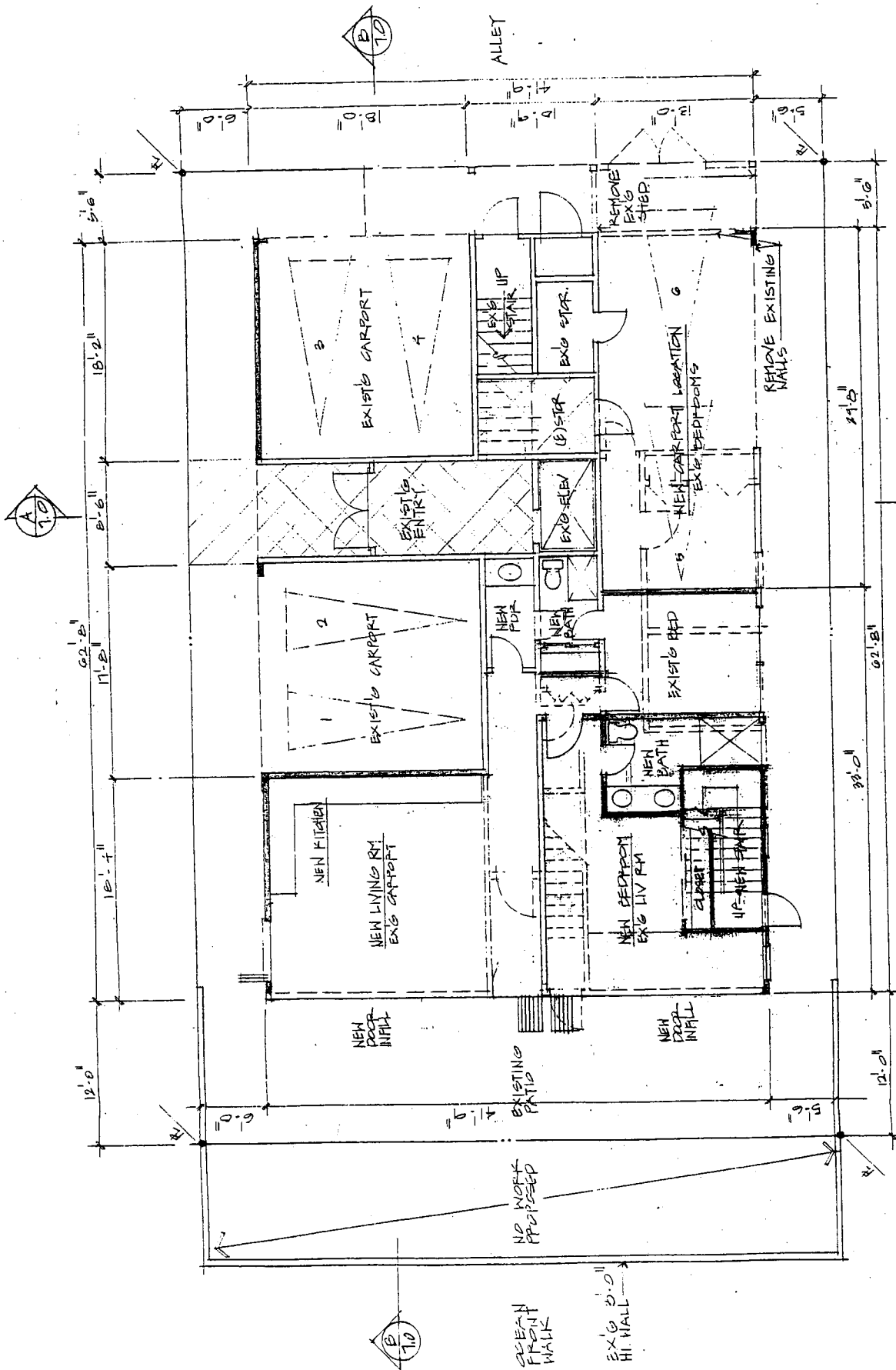


EXHIBIT NO. 2
APPLICATION NO.
6-04-126
Site Plan



4 MAIN LEVEL FLOOR PLAN
1/8" = 1'-0" EXISTING RESIDENCE AND PARKING

EXHIBIT NO. 3
APPLICATION NO.
6-04-126
Main Level Floor Plan

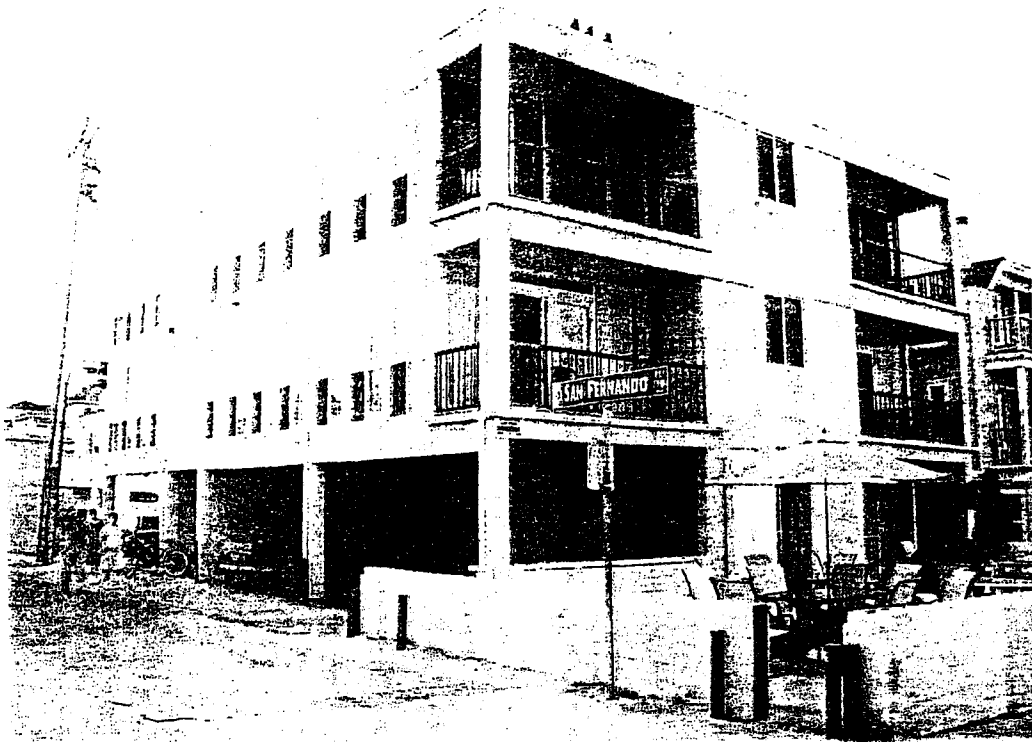


EXHIBIT NO. 4
APPLICATION NO.
6-04-126
Photos of Project Site