

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
 3111 CAMINO DEL RIO NORTH, SUITE 200  
 SAN DIEGO, CA 92108-1725  
 (619) 521-8036

## RECORD PACKET COPY



# Tue 23b

Filed: 11/12/99  
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 Staff: LRO-SD  
 Staff Report: 1/21/00  
 Hearing Date: 2/15-18/00

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-99-146

Applicant: Jimmer Pinjuv

Agent: Du Charme Architecture

Description: Demolition of four existing dwelling units including a concrete patio area seaward of the existing development and a fence along the north property line and construction of a three-story, 4,842 sq.ft. 30 ft. high, three-unit condominium building and new walls and concrete patio area, on a 4,320 sq.ft. oceanfront lot.

Lot Area	4,320 sq. ft.
Building Coverage	2,417 sq. ft. (59%)
Pavement Coverage	1,016 sq. ft. (22%)
Landscape Coverage	887-sq. ft. (19%)
Parking Spaces	6
Zoning	R-S
Plan Designation	Residential (36 dua)
Project Density	30 dua
Ht abv fin grade	30 feet

Site: 2945 Ocean Front Walk, Mission Beach, San Diego, San Diego County.  
 APN 423-696-01

Substantive File Documents: Certified Mission Beach Precise Plan and Planned District Ordinances; Certified City of San Diego LCP Implementing Ordinances; CDP #6-99-90

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project subject to two special conditions. The project raises concerns over the proposed siting of development, and walls within the public rights-of-way of the public boardwalk (Ocean Front Walk) to the west and Dover

Court to the north. City of San Diego Parks and Recreation staff have indicated that it is likely that in the future, the City will widen the boardwalk at this location in a similar manner to that which is proposed to the north (North Mission Beach). Given the City's intent to widen the boardwalk in this location in the future to facilitate public access, Special Condition No. 1 requires the applicant to submit a copy of the encroachment removal agreement prior to issuance of the coastal development permit. Special Condition No. 2 requires that only accessory improvements and landscaping that can easily be removed in the future shall be permitted within the public right-of-way on the site. Special Condition No. 3 addresses timing of construction, construction access and staging areas.

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- I. **MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-99-146 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 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.**

See attached page.

III. **Special Conditions.**

The permit is subject to the following conditions:

1. Encroachment Removal Agreement. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, copy of the approved encroachment removal agreement from the City of San Diego for installation of private accessory improvements within the public rights-of-way located seaward and to the north of the site.

2. Accessory Improvements in Public Rights-of-Way. Only accessory improvements and landscaping that can easily be removed in the future shall be permitted within the public rights-of-way on the site.

3. Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, which shall be incorporated into construction bid documents. The schedule and construction documents shall specify that no construction will take place between Memorial Day weekend and Labor Day of any year. Notes on the schedule and documents shall state that 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 closures or use of public parking as staging areas).

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the demolition of four existing dwelling units, three garages, landscaping and hardscape areas and construction of a three-story, 4,842 sq.ft., 30 ft. high, three-unit condominium building on a 4,320 sq.ft. oceanfront lot. Accessory improvements consisting of a concrete patio seaward of the existing residential units on the site and a fence along the north property line will also be removed from the site. An existing 30-inch tall concrete masonry "privacy wall" situated on the inland side of the existing boardwalk seaward of the site is proposed to remain. The existing units to be demolished are located in two detached structures on the subject site that consist of a one-unit, one-story structure at the west side of the lot, and a three-unit, two-story structure at the east side of the lot that abuts the adjacent rear alley (Strandway). The new building will consist of three, three-bedroom condominium units. A total of six new parking spaces are proposed in three, tandem-set garages at the ground level of the structure. Access to the parking will be from the rear alley to the east (Strandway).

The subject site is located at the southeast corner of Ocean Front Walk (the public boardwalk) and Dover Court in south Mission Beach within the City of San Diego. The site also abuts Strandway to the east (reference Exhibit No. 1). Mission Boulevard, a major coastal access route in the area, is located one block to the east.

The subject site is located within an area of the Commission's original jurisdiction. As such, the Chapter 3 policies of the Coastal Act are the standard of review.

2. Public Access/Recreation. Section 30210 of the Coastal Act states:

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 of the Act states, in part,

(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,
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway....

Section 30221 states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222 states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The existing Ocean Front Walk boardwalk is a recreational facility heavily used by pedestrians, bicyclists, skaters, skateboarders, runners, and persons in wheelchairs. The walkway is accessible from the east/west streets off of Mission Boulevard, and provides access to the sandy beach at stairways located at various points along the seawall. The City has for many years contemplated expansion of the boardwalk, and thus, has required property owners adjacent to the boardwalk to obtain encroachment removal agreements for existing and proposed accessory improvements within the boardwalk right-of-way which states that the property owner must remove or relocate the encroachments within 30 days of notice by the City.

In reviewing new development adjacent to the boardwalk, the Commission has been similarly concerned with the potential for the elimination of right-of-way area available for any future expansion of the boardwalk. Therefore, the Commission has approved numerous permits for new development along Ocean Front Walk in the past only with the finding that the development would not impact public access because either: 1) no improvements in the easement were proposed, or 2) an encroachment removal agreement was obtained from the City (#6-98-26; #6-97-76; #6-94-138; #6-94-115; #6-91-214; #6-91-89; #6-89-343, #6-99-90).

The City recently obtained approval for commencing with the removal of encroachments in a portion of the public right-of-way (Ocean Front Walk) for the North Mission Beach area under CDP #6-99-90 which was approved in August 1999. That project affected five blocks north of Ventura Place in the vicinity of Belmont Park, which generally separates North Mission Beach from South Mission Beach. The subject project is located in South Mission Beach. Presently, there are private accessory uses within the public right-of-way adjacent to the boardwalk which consist of a concrete/brick patio that extends in a westerly direction from the existing residential units on the site to an existing concrete "privacy wall" that runs parallel to the inland extent of the boardwalk. There is a similar wall on all of the properties fronting on the boardwalk that function as a privacy wall between the inland extent of the improved boardwalk and the private accessory improvements in the public right-of-way seaward of the residences.

The proposed development involves the demolition and removal of all residential structures from the site including a concrete patio seaward of the structures and a fence along the north property line. An existing privacy wall adjacent to the boardwalk will remain. Through the redevelopment of the site, private accessory improvements are proposed in the public right-of-way between the new structure and the boardwalk consisting of brick/concrete patio pavers, garden walls and landscaping. In addition, a new concrete masonry wall to match the existing privacy wall adjacent to the boardwalk is proposed to extend to the north into the public right-of-way of Dover Court. The newly proposed structure will be set back ten feet from the western property line. A private pedestrian opening to the boardwalk from the subject site is also proposed in the concrete privacy wall adjacent to the boardwalk. The certified Planned District Ordinance (PDO) for Mission Beach requires that development or redevelopment of any lot abutting the Ocean Front Walk public right-of-way obtain an encroachment permit for any existing or proposed encroachments into the public right-of-way. As proposed, the subject development would remove the existing private improvements in the right-of-way as authorized by the encroachment permits required by the certified PDO but would replace them with new private improvements (i.e., patio and wall) in approximately the same location.

According to the applicant, an encroachment removal agreement will be required for any structures located within the public right-of-way when the building permit is obtained. Commission staff contacted the City to find out their plans for the potential widening of the boardwalk in South Mission Beach. The City Department of Parks and Recreation

indicated that the City Council adopted a project that extends from San Fernando Place to the north (referenced above) which technically does not include the subject project area. However, the scope of the project included a recommendation for the completion of a post-construction study intended to address the effectiveness of the lane widths of the boardwalk, whether or not the painted median separating wheels (i.e., bicyclists, skaters and skate-boarders) and pedestrians is working, and whether or not widening is needed south of San Fernando Place. For this reason, the EIR that addressed the widening of the boardwalk included all of South Mission Beach as well as North Mission Beach, which was the subject of the City's project. Therefore, it can reasonably be expected that the City's overall goal over time is to remove all of the private encroachments that extend into the public right-of-way along the boardwalk in Mission Beach.

In numerous past Commission actions on development along the boardwalk, the Commission required that the applicants obtain encroachment removal agreements for any development in the right-of-way. Inasmuch as the City has indicated that there are no immediate plans for widening the boardwalk in this location, the Commission can allow private accessory improvements to be located within the public rights-of-way of the site subject to an encroachment removal agreement from the City of San Diego. Therefore, Special Condition #1 requires the applicant to submit a copy of the approved encroachment removal agreement from the City of San Diego for installation of private accessory improvements within the public rights-of-way located seaward and to the north of the site prior to issuance of the coastal development permit. In addition, Special Condition #2 advises the applicant that only accessory improvements and landscaping that can easily be removed in the future shall be permitted within the public rights-of-way on the site.

In addition, because the site is used so heavily, particularly in the summer months, construction activity that impedes use of the boardwalk would have a significant adverse impact on public access and recreation. Therefore, the Commission typically restricts work on public recreational areas to outside the summer season, to avoiding impacts to the public during the time of highest demand for recreation and public beach access. Therefore, Special Condition #3 requires notes on the construction bid documents notifying the contractor that no work may occur during the summer peak season between Memorial Weekend and Labor Day. In addition, the condition further requires that access corridors and staging areas shall be located in a manner that has the least impact on public access and public parking spaces (no use of parking parking, no closure of streets). The project is consistent with the numerous past Commission actions on development along the boardwalk that required that the applicant obtain encroachment removal agreements for any development in the right-of-way. As conditioned, no short or long-term impacts to coastal resources are anticipated. In summary, only as conditioned to require proof of an encroachment removal permit for all accessory improvements in the public right-of-way, can the project can be found consistent with the public access and recreation policies of the Coastal Act.

3. Parking. Sections 30210 and 30212 of the Coastal Act require that public access to the shoreline and along the coast be maximized and provided in all new

development located between the inland extent of any coastal waters and the first coastal roadway. In addition, Section 30252 requires, in part, that new development maintain and enhance public access to the coast by providing adequate parking facilities.

The subject site lies west of Strandway, the first coastal roadway in this area and therefore is located between the first public road and the sea. There is adequate public access in the area which includes the existing improved lateral public access along the oceanfront boardwalk and vertical access at the western ends of Dover Court which abuts the site to the north and Devon Court, one block to the south of the subject site. With regard to parking, the site is located within the City's Beach Impact Area (BIA) where more stringent parking requirements exist. The BIA generally includes the 3-4 blocks immediately adjacent to sandy beach or coastal bluffs for most nearshore communities within the City boundaries bordering both Mission Bay and the Pacific Ocean. All of the subject site lies within the BIA. The BIA is most impacted by beach visitor traffic, as public recreational areas or viewpoints would be within reasonable walking distance. Therefore, more stringent parking standards are enforced throughout the BIA Overlay zone. The parking standards for the BIA applicable to the subject site are two parking spaces for residential units with two bedrooms or more.

In coastal communities, and particularly in their nearshore or key visitor destination spots and along major coastal access routes, the Commission is concerned about assuring the adequacy of off-street parking to support proposed development. This concern arises out of the fact that should sufficient off-street parking not be provided, displacement of available public parking or street parking may result which could have adverse impacts on access to the coastline. In Mission Beach, like most other areas of the City of San Diego, there is very little available public parking facilities. Most beach visitors must rely on street parking in the nearshore area for public access.

The project site is located adjacent to the boardwalk and one block west of Mission Boulevard within the LCP identified BIA overlay. However, with the provision of six parking spaces (tandem sets) proposed with this development, adequate parking will be provided consistent with the Coastal Act and the certified LCP.

4. Visual Resources/Community Character. Section 30251 of the Act calls for the protection of the coastal zone's scenic amenities and requires that new development be visually compatible with the character of the surrounding community. The proposed development is located in a well-established residential neighborhood consisting of apartment units, condominiums, single-family residences of varying heights and architecture. The proposed three-story, 30-foot high residential building is consistent with the height limit established in the Planned District Ordinance and will be compatible with the character of the residential development in this community that include three-story structures of similar size and scale. Public views will be preserved along the east-west access corridors, and no view blockages of regional or statewide significance will occur.

The subject site immediately abuts Ocean Front Walk, the boardwalk adjacent to the beach in this area. As such, the site is highly visible by pedestrians, bicyclists and others that use the boardwalk. However, a detailed landscape plan has been submitted that includes the planting of substantial plant and tree elements throughout the site which will preserve the visual amenities and aesthetic quality of this coastal area. The Commission therefore finds project approval, as conditioned, consistent with Section 30251 of the Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority. The site is zoned and designated for residential development (R-S) at a density of 36 dwelling units per acre, or 1 dwelling unit per 1,200 sq.ft. of lot area. The subject site is a 4,320 sq.ft. lot proposed to be developed at a density of 30 dwelling units per acre, consistent with this designation. The project is consistent with the certified Mission Beach Precise Plan and 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 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, including conditions requiring submittal of an encroachment removal agreement from the City of San Diego prior to issuance of the coastal development permit, siting of accessory improvements in the public right-of-way that are easily removed in the future, and a condition addressing timing of construction will minimize all adverse environmental impacts. 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

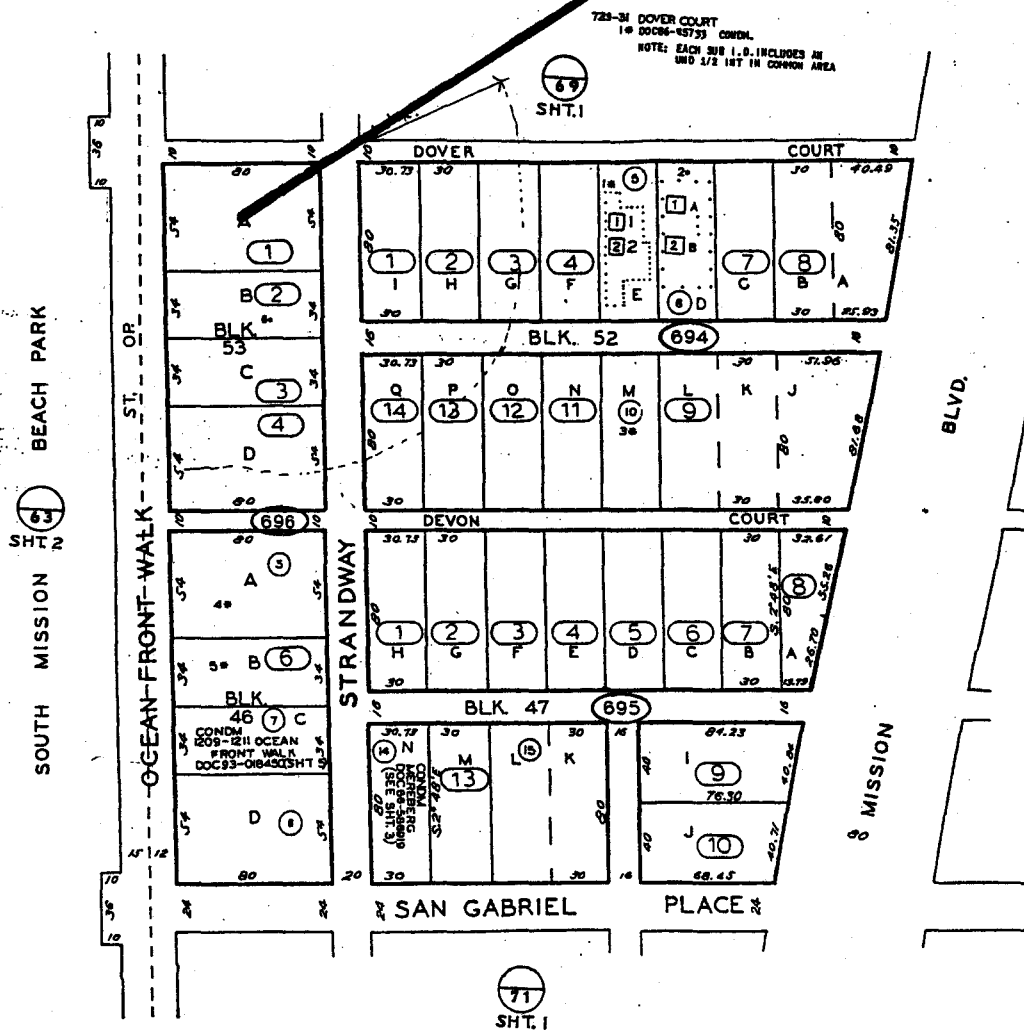
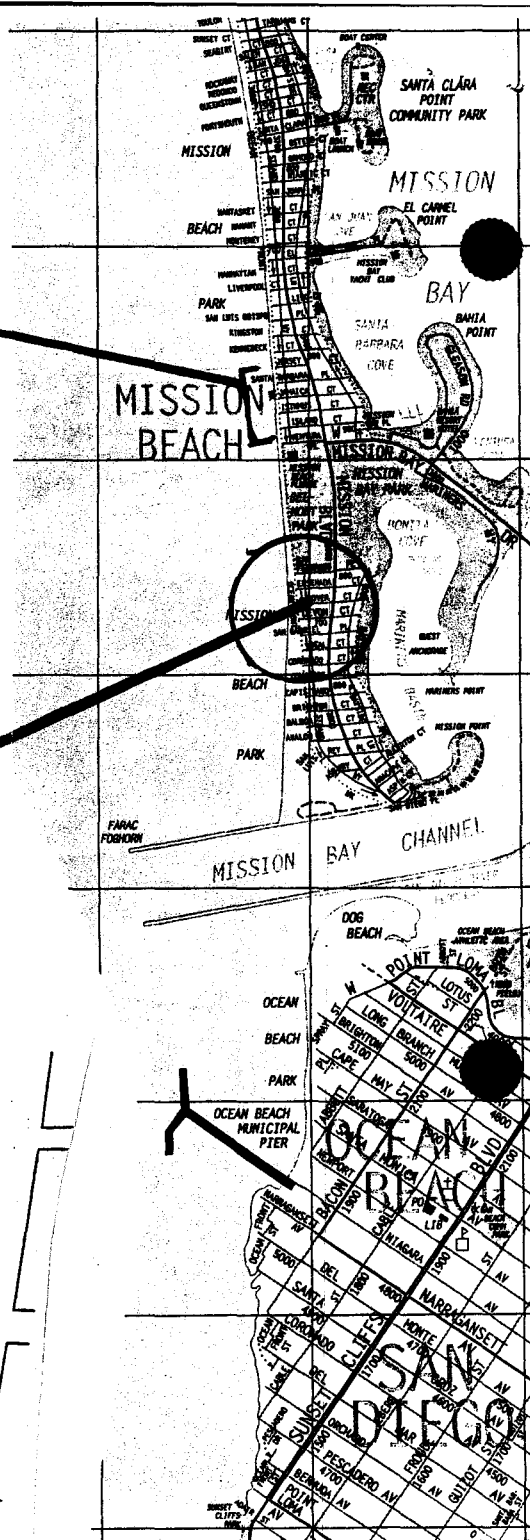
STANDARD CONDITIONS:



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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

Location of widening of  
boardwalk approved  
pursuant to CDP #6-99-90

Project Site

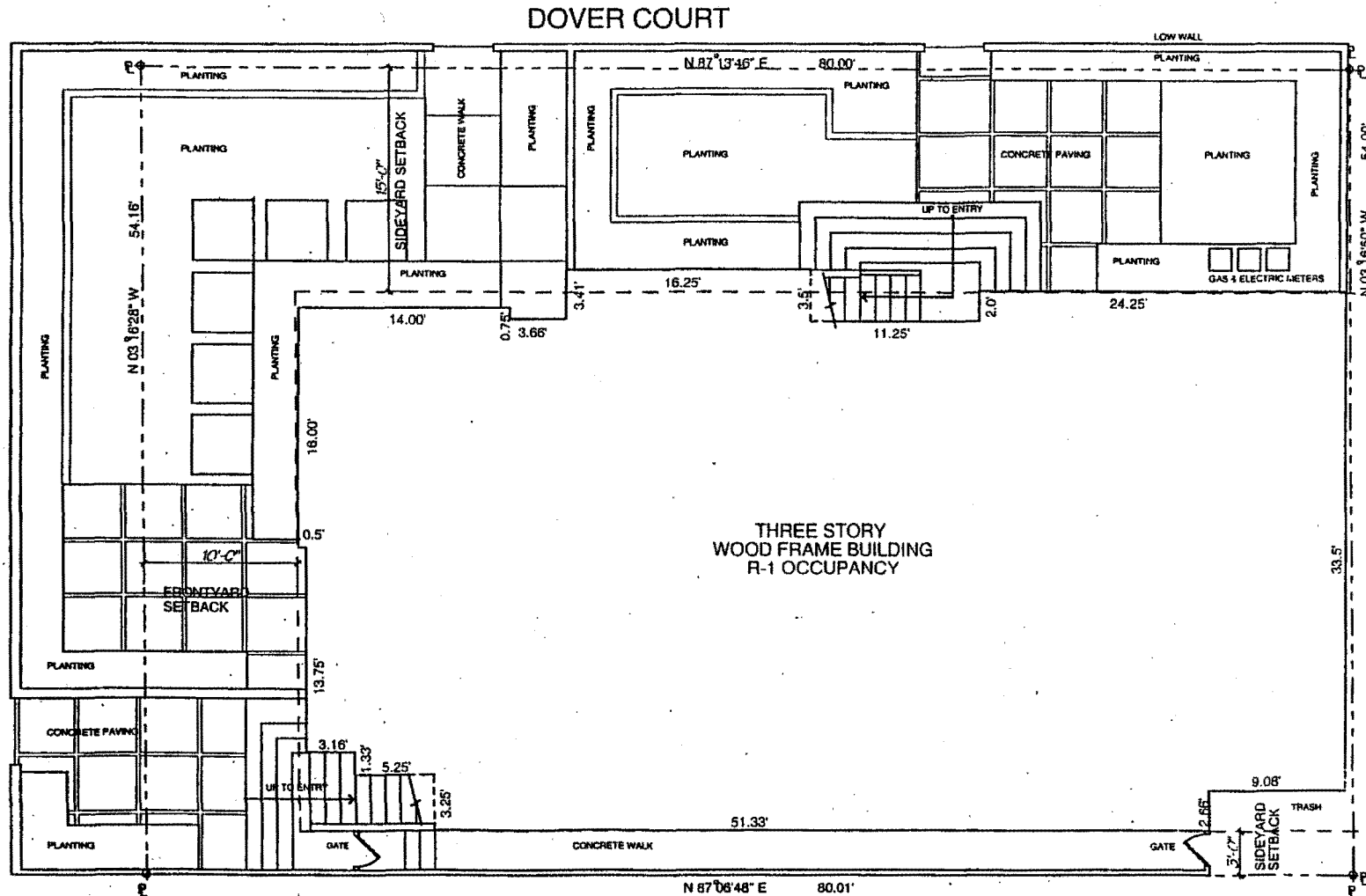


**EXHIBIT NO. 1**  
**APPLICATION NO**  
**699-146**  
**Location Map**

California Coastal Commission



OCEAN FRONT WALK



DOVER COURT

STRANDWAY

EXHIBIT NO. 2
APPLICATION NO. <b>6-99-146</b>
Site Plan
California Coastal Commission

DU CHARME ARCH  
 LAURA DU CHARME CONBOY  
 7745 HERSCHEL AVENUE LA  
 PHONE 656.454.5205 FAX  
 laura@ducharmearchitect

Pinju  
 Develop

2945 Ocean Fr  
 San Diego, Ca

Date: November  
 Revisions:

Cover Sh  
 Site Pl

Scale:

