

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370

RECORD PACKET COPY



Wed 16e

Filed: 10/5/04
49th Day: 11/23/04
180th Day: 4/3/05
Staff: LRO-SD
Staff Report: 11/15/04
Hearing Date: 12/8-10/04

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-121

Applicant: Larry Benedetto and Dana Schwartz Agent: Mark Mitchell

Description: Demolition of an existing single-family residence and construction of a new three-story, 30-ft. high, 1,575 sq.ft. single family residence on a 1,467 sq.ft. lot.

| | |
|--------------------|--|
| Lot Area | 1,467 sq. ft. |
| Building Coverage | 746 sq. ft. (51%) |
| Pavement Coverage | 488 sq. ft. (33%) |
| Landscape Coverage | 233 sq. ft. (16%) |
| Parking Spaces | 3 |
| Zoning | NC-N |
| Plan Designation | Neighborhood Commercial-North (36 dua) |
| Project Density | 29.6 dua |
| Ht abv fin grade | 30 feet |

Site: 3735 Strandway, Mission Beach, San Diego, San Diego County.
APN 423-591-03

Substantive File Documents: Certified Mission Beach Precise Plan and Planned District Ordinance

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project, subject to a special condition that requires submittal of final plans approved by the City of San Diego. The proposed single family residence, as conditioned, is 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. 6-04-121 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. Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit final plans for the construction of the proposed additions. Said plans shall be in substantial conformance with the plans submitted by Mark Mitchell dated 7/26/04 with this application and shall be subject to the review and written approval of the Executive Director.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit amendment unless the Executive Director determines that no additional amendment is required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The project involves the demolition of an existing single-family residence and the construction of a new, three-story, 1,575 sq.ft. single family residence with attached 2-car garage with deck and roof deck on a 1,467 sq.ft. lot. A total of three on-site parking spaces are proposed.

The project site is located on the east side of Strandway at the northeast corner of Strandway and an un-named alley halfway between Pismo Court to the north and Portsmouth Court to the south in the Mission Beach community of the City of San Diego. The project site is located one block west of 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.

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. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City's LCP used as guidance.

2. 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 a three-story structure in the inland side of Strandway, one block east of the ocean and public boardwalk. The proposed structure will be 30 feet high, consistent with current zoning requirements. However, a letter of opposition dated 10/20/04 with attachments (ref. Exhibit No. 3) has been received regarding the proposed development. In general, the project opponent claims that the proposed project will block view corridors and exceed the 30-foot height limit.

The Coastal Commission has reviewed the concerns raised by the project opponent and has found that they do not raise coastal resource issues. The project meets all height, setback and view corridor provisions of the City's Land Development Code. The proposed project is located in the inland side of Strandway, the first public road. The proposed building also observes all required building setbacks and does not result in any variances or reductions to the proposed side yard setbacks. The designated public view corridors consist of the public rights-of-way of the various courts and places in the

Mission Beach community which are generally east/west running streets. Public views toward the ocean will continue to be available along both Pismo Court and Portsmouth Court to the north and south of the project site, respectively. As such, the proposed structure will not result in any public view blockage to the ocean.

However, the applicant must still obtain a building permit from the City. At plan check, the building plans are thoroughly reviewed for consistency with the Mission Beach Planned District Ordinance in terms of building height, building setbacks, floor area ratio and other property development regulations. Given that the opponent has raised several inconsistencies with local design and zoning requirements, Special Condition No. 1 is required to assure that final plans approved by the City of San Diego have been stamped and approved prior to issuance of the coastal development permit. As conditioned, it can be assured that the proposed development meets all local design requirements and 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.

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 one block from 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 ends of both Pismo and Portsmouth Courts near the project site. In addition, adequate on-site parking will be provided consistent with Section 30252 of the Act. The proposed development does not interfere with public access opportunities and can be found consistent with the public access and recreation policies of the Coastal 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, as conditioned, such a finding can be made.

The subject property is located within the Neighborhood Commercial-North (NC-N) zone of the Mission Beach Planned District. The purpose of the Neighborhood Commercial zone is to provide adequate commercial services for the residents while the Visitor-Commercial zone accommodates tourists, visitors and vacationers. While the NC-N zone allows for both commercial and mixed uses, the primary use is residential with the exception that residential uses shall not be permitted within the first story of any building on any lot abutting Mission Boulevard. In this particular case, the subject site does not abut Mission Boulevard and thus, the proposed residential use is consistent with the certified LCP.

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 construction of a new single-family residence. 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 visual resource policies of the Coastal Act. Mitigation measures, include conditions requiring submittal of final plans approved by the City of San Diego. 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.

October 20, 2004

California Coastal Commission
7575 Metropolitan Drive, #103
San Diego, CA 92108

Attn: Lorinda Owens

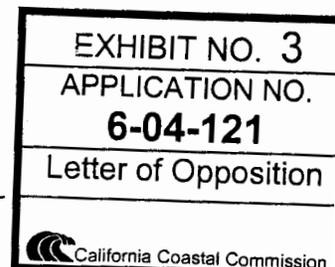
Reference: CDP 6-04-121, 3737 Strandway, San Diego, CA 92109

Dear Ms. Owens,

The current building plans for the above referenced project have errors in them. As an adjacent homeowner, I am opposed to the approval of this Coastal Development Permit. The current plans block view corridors, exceed the 30-foot building height limit, and the building plans have several errors in them.

The following is a list of the errors and code violations on the Building Plan Exhibits:

1. Section A-A
 - a. Elevations
The elevations are missing the dimensions of the thickness of each floor, which added together exceeds 30 feet. The 30-foot height limit from the existing ground on the west and east sides of the building is missing.
 - b. East Side
On the east side of the building, the existing ground is 2.00 feet lower than the west side.
 - c. Roof Decks
The floor thickness is missing, and at 18" to 24" for each floor, the BBQ area and roof patio area are completely over the 30-foot height limit.
 - d. West Side
On the west side (Strandway side), the floor elevations need to be added to the plan. When added, the current dimensions exceed 35.5 feet over Standway.
2. Total Height
The roof deck and BBQ area is a 4th floor, where the top of rail is 35.5 feet above the existing ground, exceeding the height limit by 5.5 feet.
3. Site Plan
 - a. The Site Plan is missing the required setback dimension to the 2nd and 3rd floor, which cantilevers out over the first floor.



California Coastal Commission

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- b. The topography on the Site Plan is in error. The east side is 2 feet lower in elevation than the west side. Please require a stamped Topographic Map from a licensed Land Surveyor to correct this error.

Please contact me in writing to confirm that the California Coastal Commission is **not supporting approval** of a proposed building that block views, light, and air, and exceeds the 30-foot maximum building height limit.

Sincerely,



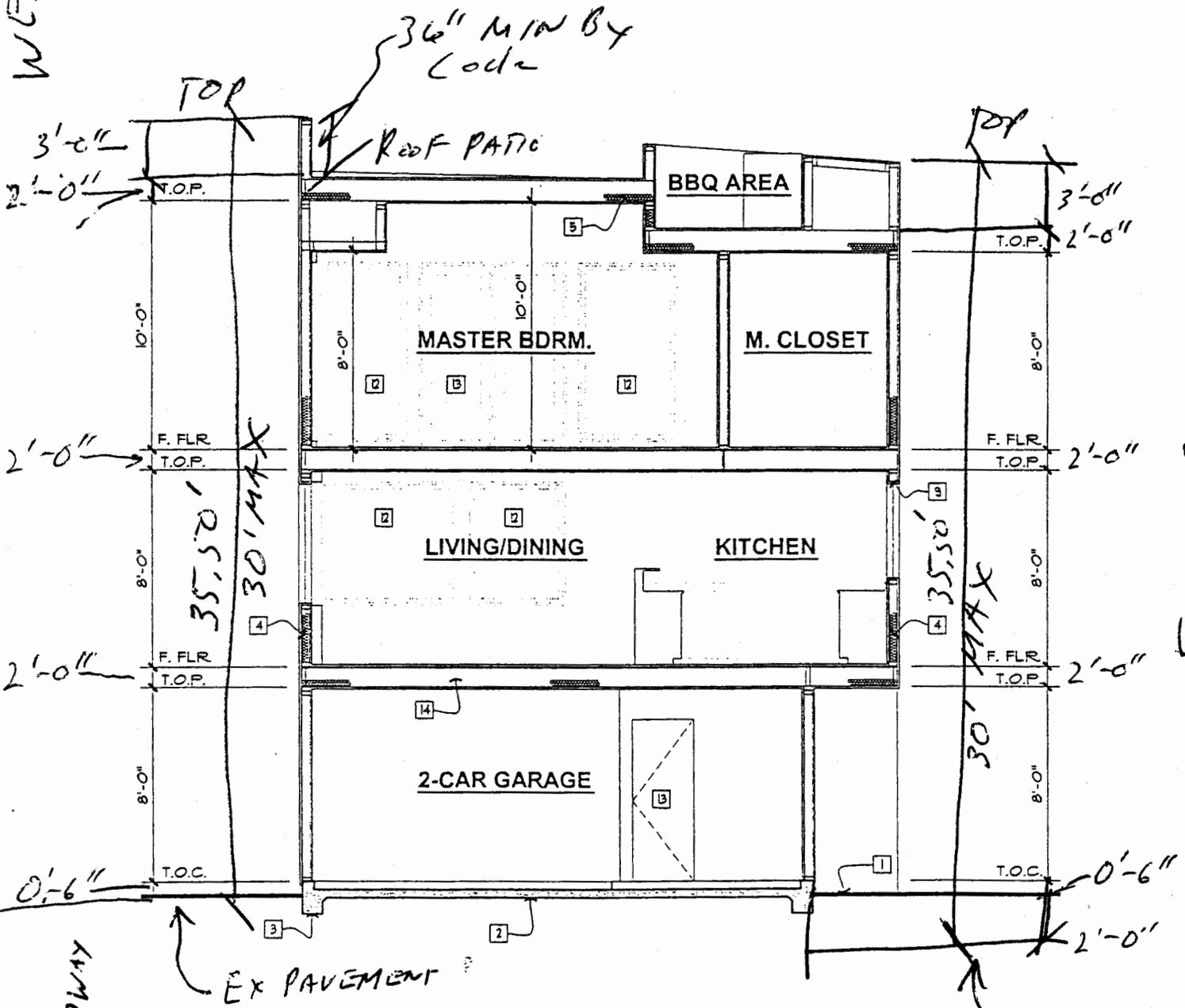
Myles Cooper
(619) 815-3250

Attachments:

- San Diego Municipal Code Sections 103.0526.5, 103.0526.12, 103.0526.11, 103.0528.3, 103.0528.6, 103.0528.10, 113.0228, and 113.0270
- Marked Up Building Plan Exhibits

CDP 6-04-121
 3737 STRANDWAY
 BLDG HEIGHT EXCEEDS
 30 Feet From MUST Be
 Reduced to 30 Feet

WEST



EAST SIDE

SECTION "A"

STRANDWAY

Existing Ground

§103.0526.4 Minimum Yards for Bayside and Ocean Front Walks

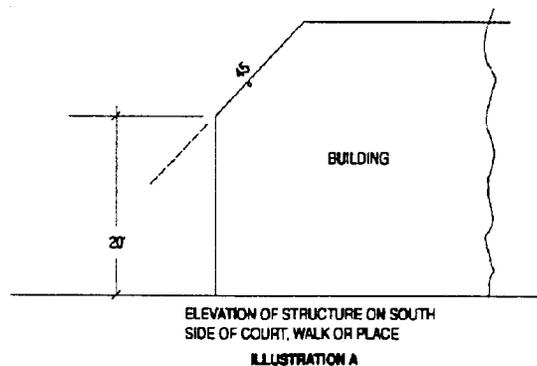
The minimum yards for Bayside and Ocean Front Walks shall be as follows:

- (a) "R-N" Subdistrict, Bayside Walk - five feet.
- (b) "R-N" Subdistrict, Ocean Front Walk - seven feet for the first story and for additional stories above the first story; three feet for 50 percent of the lot fronting on the walk and five feet for the remaining 50 percent. Use of these varying setbacks shall fulfill requirements for vertical offset.
- (c) "R-S" Subdistrict, Bayside and Ocean Front Walks - 10 feet.
- (d) Exception. A yard abutting Bayside Walk shall have an additional setback beginning 20 feet above grade in the "R-S" Subdistrict and 15 feet above grade in the "R-N" Subdistrict sloping back at a 45 degree angle. The angle is measured in a horizontal plane perpendicular to and away from the building wall in either direction. See Illustration A below.

(Amended 4-28-1986 by O-16630 N.S.)

§103.0526.5 Minimum Yards for Courts and Places

- (a) Ten feet in the "R-N" Subdistrict and 15 feet in the "R-S" Subdistrict except for buildings exceeding 20 feet in height and on the south side of a Court or Place. In this case an additional setback shall be observed beginning 20 feet above grade and sloping back at a 45 degree angle. The angle is measured in a horizontal plane perpendicular to and away from the building wall in either direction. See Illustration A below.



calculations of floor area ratio shall not be considered as part of the 5,280 square feet.

(Amended 1-2-1979 by O-12540 N.S.)

§103.0526.12 Height

The maximum height of a building or structure shall be thirty (30) feet.

If the 30-foot height limitation of Ordinance No. 10960 N.S. is removed from Mission Beach, the building height limit shall be 35 feet.

(Amended 1-6-1992 by O-17726 N.S.)

§103.0526.13 Landscaping

One hundred percent of all required yards except interior yards and rear yards shall be landscaped with a minimum of at least 50 percent and shall be a combination of trees, shrubs and ground cover. The remaining 50 percent may include, but is not restricted to, fountains, reflecting pools, art objects, decorative walkways, screens, walls, fences, benches, and decks not exceeding three feet in height and paved areas.

Landscaping located within the required yards for Courts and Places shall protect pedestrian view corridors by emphasizing tall trees with canopy areas and ground cover. Landscaping materials shall not encroach or overhang into the Courts and Places rights-of-way below a height of eight (8) feet above the finish surface or finish grade, as measured at the trunk. All landscaping and irrigation within the public-right-of-way shall be developed in accordance with the Landscape Guidelines of the Land Development Manual.

(Amended 4-7-1998 by O-18483 N.S.; effective 1-1-2000.)

§103.0526.15 Fences

Fences and walls shall be permitted as follows:

- (a) Fences and walls, including retaining walls, located within required yards except interior yards and rear yards shall not exceed a height of three feet.
- (b) Fences and walls, including retaining walls, located in interior or rear yards or adjacent to alleys or streets except Mission Boulevard shall not exceed a height of six feet.
- (c) No sharp-pointed or electrically charged fence shall be erected or maintained.

- (b) Five feet for structures whose facade abutting the yard exceeds 20 feet in height.

(Amended 5-7-1984 by O-16198 N.S.)

§103.0526.7 Minimum Yards on Streets and Alleys

Yards abutting Strandway and Bayside Lane and alleys shall not be required.

(Amended 5-7-1984 by O-16198 N.S.)

§103.0526.8 Mission Boulevard Yards

Buildings abutting Mission Boulevard shall be set back a minimum of three feet or ten percent of the lot's shortest property line intersecting Mission Boulevard, whichever is the greater. The maximum yard required need not exceed seven feet.

(Amended 1-2-1979 by O-12540 N.S.)

§103.0526.9 Minimum Rear Yards

No rear yard is required except where the rear yard abuts an interior or rear yard of an adjacent lot; then, the regulations under MINIMUM INTERIOR YARDS, Sec. 103.0526.6 shall apply.

(Amended 5-7-1984 by O-16198 N.S.)

§103.0526.10 Maximum Lot Coverage

Sixty-five percent.

(Amended 1-2-1979 by O-12540 N.S.)

§103.0526.11 Floor Area Ratio

- (a) The basic maximum floor area ratio shall be 1.1.
- (b) Portions of the building or structure used exclusively for required off-street parking shall not be included as part of the building area for the purposes of determining floor area ratio. This exemption is restricted to a maximum 200 square feet per required off-street parking space.
- (c) Regardless of lot size, individual buildings, including common wall construction, shall not exceed 5,280 square feet in total gross floor area. However, those areas excluded by Paragraph (b) of this Section from the



- (3) On-premises signs as permitted by Sec. 103.0533. (Commercial Subdistrict On-Premises Sign Regulations).

(Amended 5-7-1984 by O-16198 N.S.)

§103.0528.2 Minimum Lot Standards

TABLE II

| | | NC-N, VC-N | NC-S, VC-S |
|-----|-----------------|-------------------|-------------------|
| (a) | Area | 1,250 Square Feet | 2,400 Square Feet |
| (b) | Street Frontage | 25 Feet | 30 Feet |
| (c) | Width | 25 Feet | 30 Feet |
| (d) | Depth | 50 Feet | 80 Feet |

- (e) Exception. Any lot which qualifies under the definition of a lot as set forth in this Code and which does not comply in all respects with the minimum lot dimensions specified herein may nevertheless be used as permitted and otherwise regulated by the provisions applicable to this zone.

(Added 1-2-1979 by O-12540 N.S.)

§103.0528.3 Minimum Interior Yards

- (a) Three feet for structures whose facade is a maximum 20 feet in height abutting the yard. Any portion of the structure's facade height exceeding 20 feet in height shall observe an additional setback for the remainder of the structure by sloping away from the vertical plane of at least 45 degree. Five feet for structures whose facade abutting the yard exceeds 20 feet in height. Dormers shall be permitted to encroach into the 45 degree setback, provided that they shall be setback a minimum of five feet from the property line, shall not exceed a total width of 25 percent of the length of the roof abutting the interior yard, that each dormer shall not exceed a width of eight feet, and that there shall be a minimum of two feet between each dormer. When two lots are developed at the same time with common wall construction (combined total of units shall not exceed four) or when two or more lots are consolidated, each opposite side yard shall be six feet or 10 percent of the total width of the lots whichever is greater.



- (b) A yard shall not be required for lots abutting Mission Boulevard, Ventura Place and West Mission Bay Drive.
- (c) A yard, consistent with paragraph (a) of this section, shall be required along any portion of a lot line which abuts a property in a residential subdistrict.
(Amended 5-7-1984 by O-16198 N.S.)

§103.0528.4 Minimum Yards on Streets and Alleys

Yards abutting Strandway and Bayside Lane and alleys shall not be required.
(Amended 5-7-1984 by O-16198 N.S.)

§103.0528.5 Minimum Yards on Bayside and Ocean Front Walks in "NC-N," "NC-S," "VC-N" and "VC-S"

- (a) The minimum yard for Bayside and Ocean Front Walks shall be as follows:
 - (1) "NC-N" and "VC-N" Subdistricts, Bayside Walk - five feet.
 - (2) "NC-N" and "VC-N" Subdistricts, Ocean Front Walk - seven feet for the first story and for any additional stories above the first story; three feet for 50 percent of the lot fronting on the walk and five feet for the remaining 50 percent.
 - (3) "NC-S" and "VC-S" Subdistricts, Bayside and Ocean Front Walks - 10 feet.
 - (4) Exception: A yard abutting Bayside Walk shall have an additional setback beginning 20 feet above grade in the "NC-S" and "VC-S" Subdistricts and 15 feet above grade in the "NC-N" and "VC-N" Subdistricts sloping back at a 45 degree angle. The angle is measured in a horizontal plane perpendicular to and away from the building wall in either direction.

(Retitled and amended 5-7-1984 by O-16198 N.S.)

§103.0528.6 Minimum Yards on Courts and Places in "VC-N," "VC-S," "NC-N" and "NC-S"

The minimum yard requirement shall be those set forth in Sec. 103.0526.5 (Minimum Yards for Courts and Places)

(Retitled and amended 5-7-1984 by O-16198 N.S.)



(Added 1-2-1979 by O-12540 N.S.)

§103.0528.8 Floor Area Ratio

- (a) For lots developed exclusively for residential use in any Commercial Subdistrict, the floor area ratio provisions of Sec. 103.0526.11 (Residential Subdistricts) shall prevail.
- (b) For lots exclusively developed with nonresidential development the following floor area ratios are applicable:
 - (1) The basic floor area ratio shall be 1.25.
 - (2) The basic floor area ratio may be increased to 1.75 if one off-street parking space is provided for every 800 square feet of gross floor area.
- (c) For lots with mixed development with the first (or ground) story reserved for nonresidential activities (excluding parking and residential storage) and with the upper stories being designed for residential occupancy, the following floor area ratios are applicable:
 - (1) The basic floor area ratio shall be 1.25.
 - (2) The basic floor area ratio may be increased to 1.75 if 2.0 off-street parking spaces are provided for each dwelling unit.
- (d) For NS-N and NC-S Subdistricts, no individual building or structure shall exceed the total amount of gross floor area of 8,750 sq. ft.

(Added 1-2-1979 by O-12540 N.S.)

§103.0528.9 Height

The maximum building height shall be that set forth in Sec. 103.0526.12 (Height).

(Added 1-2-1979 by O-12540 N.S.)

§103.0528.10 Landscaping

A minimum of ten percent (10%) of the total lot area shall be landscaped adjacent to courts, places, walks, or Mission Boulevard in accordance with the standards set forth in Sec. 103.0526.13 (Landscaping) of this Division.

(Added 1-2-1979 by O-12540 N.S.)

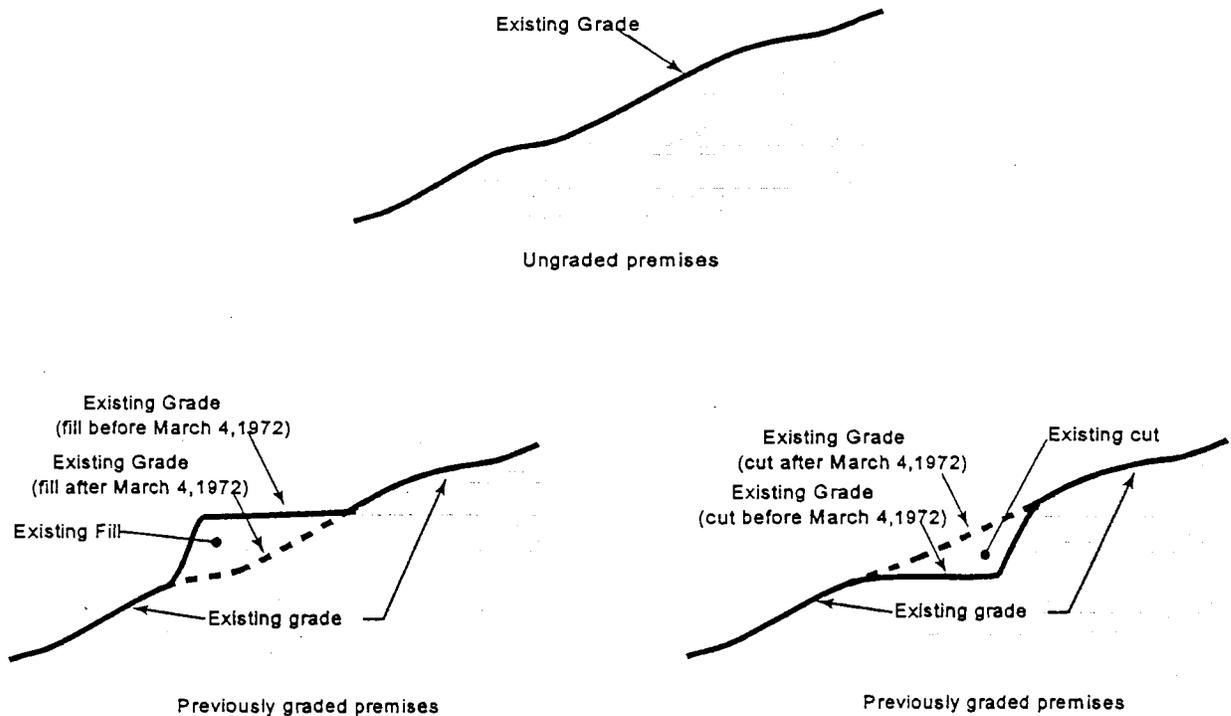


- (c) The distance shall be measured horizontally without regard to topography or structures that would interfere with a straight-line measurement.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§113.0228 Determining Existing Grade

- (a) Existing grade is the ground elevation of the surface of a premises that has never been graded or, for a premises that has been graded, outside the Coastal Overlay Zone, the ground elevation that existed on March 4, 1972. Within the Coastal Overlay Zone, existing grade on premises that has been graded shall be determined pursuant to Section 113.0228 (b) and (c). This is illustrated in Diagram 113-02F.

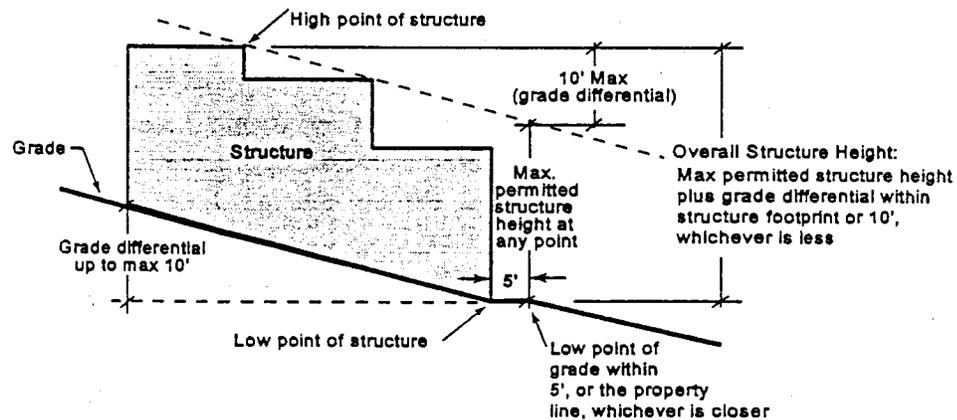
**Diagram 113-02F
Existing Grade**



- (b) If grading was approved and conducted as part of an approved tentative map, existing grade is the ground elevation of the premises following completion of the approved grading operation.

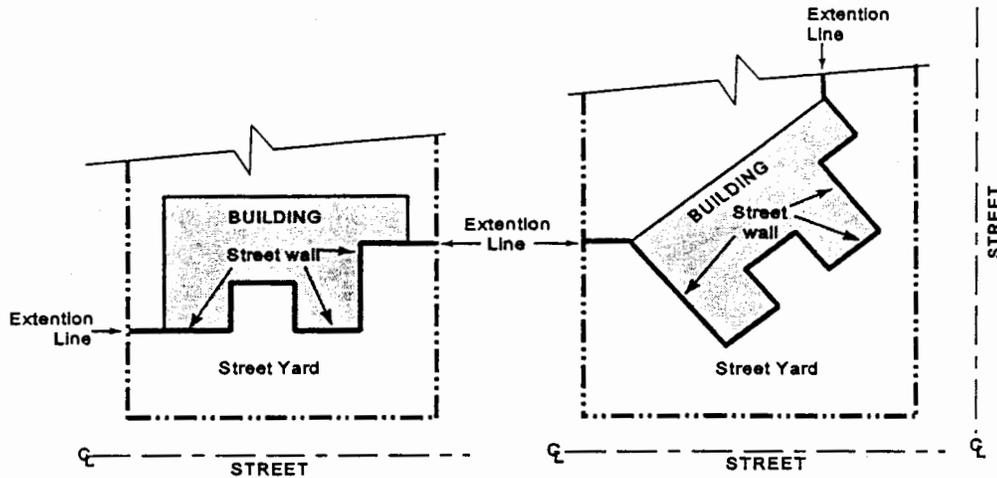
- (5) The overall *structure height* is measured from the lowest point of *existing grade* or *proposed grade* within 5 feet of the structure's perimeter (building wall, balcony, bay window, or similar *architectural projection*) or at the *property line*, whichever is closer, to the highest point of the *structure*, projected horizontally to directly above this lowest point of *grade*, except as specified in Section 113.0270(a)(6). The overall *structure height* shall not exceed the maximum permitted *structure height* of the applicable zone plus an amount equal to either the maximum *grade differential* within the structure's footprint or 10 feet, whichever is less. In no case may the *structure height* exceed the maximum allowed by the applicable zone at any one point measured pursuant to Section 113.0270(a)(3). This is illustrated in Diagram 113-02MM.

Diagram 113-02MM
Overall Structure Height



- (6) For the purpose of measuring overall *structure height* on a *structure* that provides pedestrian access or ventilation to a basement where the vertical distance between the adjacent *grade* and the *finish-floor* elevation above does not exceed 2 feet, 6 inches, the lowest point of *existing grade* or *proposed grade* within 5 feet of the structure's perimeter does not include one pedestrian or ventilation access with dimensions of up to 5 feet by 15 feet which abuts the *structure*, as shown in Diagram 113-02NN.

Diagram 113-02HH
Street Wall Line



(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§113.0270 Measuring Structure Height

Structure height is measured in accordance with the following.

- (a) *Structure Height of Buildings and Structures Other Than Fences, Retaining Walls, or Signs*
 - (1) The maximum permitted *structure height* is specified in the applicable zone and defines the upper limits of the *building envelope* for a *premises*. It is measured vertically from the *existing grade* or *proposed grade*, whichever is lower, to form an imaginary plane that is parallel to *grade*, below which all buildings and *structures* must be located, except as described in 113.0270(a)(3). This is illustrated in Diagram 113-02II.

