

CALIFORNIA COASTAL COMMISSION

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Staff Report: 4/21/05
Hearing Date: 5/11-13/05

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-024

Applicant: Miyo & Mitchell Reff Agent: Architects Hanna Gabriel Wells

Description: Demolition of two existing residential units and construction of a new, three-story, 4,022 sq.ft. two-unit residential building on a 4,322 sq.ft. oceanfront lot.

Lot Area	4,322 sq. ft.
Building Coverage	2,020 sq. ft. (47%)
Pavement Coverage	1,062 sq. ft. (24%)
Landscape Coverage	1,240 sq. ft. (29%)
Parking Spaces	4
Zoning	R-S
Plan Designation	Residential South (36 dua)
Project Density	20.1 dua
Ht abv fin grade	30 feet

Site: 706 Manhattan Court, Mission Beach, San Diego, San Diego County.
APN 423-618-04

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 special conditions. The applicant is proposing a number of tall, canopy trees, raised planters and fencing in the south side yard setback adjacent to the proposed two-unit residential structure. This setback area is located next to Manhattan Court which is a public view corridor to the ocean. The proposed landscaping/fencing will be installed within the viewshed of this view corridor resulting in an obstruction of views towards the ocean, inconsistent with

Coastal Act policies. Therefore, staff recommends that a special condition be added that requires that the applicant revise their landscape plans to eliminate the raised planters and include only low level vegetation (3 ft. or high) and/or tall palm trees, which will not have an adverse effect on public views toward the ocean. Also, proposed conditions require that any proposed fencing within the south side yard setback be at least 75% open so as not to obstruct views. 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 new two-unit residential structure, 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. 6-05-24 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. Revised Landscape/Yard Area Fence Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, revised landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by MAK Design Landscape Architecture stamp dated 3/16/05, except for the revisions cited below. The plans shall be revised to keep the south yard area (or setback) clear to enhance public views from the street toward the ocean. Specifically, the plans shall be revised to incorporate the following:

- a. A view corridor a minimum of 15 ft. wide shall be preserved in the south yard area adjacent to Manhattan Court as well as in the front yard area adjacent to the public boardwalk. All proposed landscaping in the south yard area shall be maintained at a height of three feet or lower (including raised planters) to preserve views from the street toward the ocean. Specifically, the proposed planting of evergreen accent trees (such as Rhus Lancea, Olive Tree or Bronze Loquat and small textured evergreen tree or shrub (6-8 ft. high) such as New Zealand or Australian Tea trees or Cassia) are not permitted within the south yard setback area and shall be replaced. Tall trees with thin trunks such as palm trees are permitted, provided they do not block public views toward the ocean.
- b. All landscaping shall be (1) drought-tolerant and native or (2) non-invasive plant species.
- c. Any fencing in the south side yard setback area shall permit public views and have at least 75 percent of its surface area open to light.
- d. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

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.

3. Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final plans for the construction of the proposed additions that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted by Architects Hanna Gabriel Wells dated 2/22/05 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 amendment is legally required.

4. No Enclosure of Open Tandem Parking Spaces. No enclosure of the proposed open tandem parking spaces in the south side yard shall be permitted. The south side yard shall be kept free of permanent enclosures for purposes of preserving public views to the ocean and to minimize a "walled-off" effect.

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

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the demolition of two existing residential units in a single structure and a detached garage and the construction of a new, two-unit, three-story, 30-foot high, 4,022 sq.ft. apartment building on a 4,322 sq.ft. oceanfront lot. An attached garage will provide parking for four cars (one set of tandem spaces and two standard parking spaces). In addition, an open parking space will be provided adjacent to the garages at the southeast corner of the property adjacent to the

alley and Manhattan Court. Access to the garage will be from the rear alley (Strand way).

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 at the northeast corner of Manhattan Court and Ocean Front Walk in the Mission Beach community of the City of San Diego.

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. 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,...

In addition, Section 132.0403 of the City's certified Land Development Code states the following:

[...]

- (a) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a land use plan as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a walled off effect from authorized development.

[...]

- (e) *Open fencing* and landscaping may be permitted within the view corridors and visual accessways, provided such improvements do not significantly obstruct public views of the ocean. Landscaping shall be planted and maintained to preserve public views.

In addition, the City's certified implementation plan defines open fencing as "a fence designed to permit public views that has at least 75 percent of its surface area open to light." The proposed development is located between the first coastal road and sea.

Section 103.0526.13 Mission Beach PDO also contains the following requirement:

“...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 the height of 10 feet above the right-of-way.” (p.10)

The certified Mission Beach Precise Plan and Local Coastal Program Addendum also states:

“Views to and along the shoreline from Public areas shall be protected from blockage by development and or vegetation.” (p.14)

In the Mission Beach community, the public rights-of-way of the various courts and places, which are generally east/west running streets, comprise the community's public view corridors. The project site is located immediately adjacent to the public boardwalk (Ocean Front Walk) and Manhattan Court (to the south). As proposed, there are several landscape elements including trees and shrubs and accessory improvements in the south side yard (15 ft. deep) adjacent to Manhattan Court. These improvements include a 3 ft. high raised planter, concrete patio, fences, fountains, and a guest parking space. The tree elements proposed include evergreen accent trees such as Rhus Lancea, Olive Tree or Bronze Loquat which will reach heights of 10-15 ft. high at maturity and smaller textured evergreen trees or shrubs such as New Zealand or Australian Tea trees or Cassia that will reach heights of 6-8 ft. at maturity. All of the proposed trees have large canopies that at maturity will obstruct the public view of the ocean toward the ocean from Manhattan Court.

As noted above, both the Coastal Act and the certified LCP (which is used for guidance) require that public views to and along the shoreline be protected. As such, it is important, in this particular case, to maintain and enhance views to the ocean from Manhattan Court. The applicant has included several landscape elements and has provided samples of other projects along the boardwalk where there is substantial landscaping in the yard areas. However, several of these examples of other projects either pre-date the Coastal Act or do not appear to be consistent with the certified LCP. The applicant indicated he used the above section of the Mission Beach PDO for guidance. However, the large canopy-type trees proposed do not appear to be consistent with the language of the PDO or certified LCP as they would block public views of the ocean from the public right-of-way of Manhattan Court while looking west.

The Commission has approved numerous projects in Mission Beach through the years and the typical development pattern includes landscaping consisting of low level vegetation with a combination of hardscape elements. It is relatively uncommon to see a substantial amount of landscaping on a site adjacent to the public boardwalk where the intensity of development is rather high and also where development is often designed to maximize views of the ocean for the intended occupants of the proposed residential

structures, as well. However, in this particular project, substantial landscaping is being proposed within the required side yard, adjacent to a designated view corridor which will impede public views toward the ocean. While walking along Manhattan Court in a westerly direction or while driving or walking along Strand way (the first public road), any proposed landscaping in the south side yard next to Manhattan Court would obscure ocean views in this location, inconsistent with the policies of the Coastal Act and the certified LCP (used as guidance).

While the Commission understands that landscaping is an important and essential element in most development proposals, in terms of visually enhancing the area and to avoiding a "sea of concrete", it should be permitted in a manner so as protect, and not to impede public views of the ocean. For the subject development, that is not the case; the proposed landscape elements will result in obstruction of views from Manhattan Court to the ocean. For this reason, the proposed development cannot be found consistent with the visual resource and public view protection policies of the Coastal Act. Special Condition No. 1 requires that the applicant submit revised landscape plans that require all proposed landscaping and improvements (planters, etc) in the south yard area shall be maintained at a height of three feet or lower to preserve views from Manhattan Court toward the ocean. The condition also allows tall trees with thin trunks such as palm trees, provided they do not block public views toward the ocean.

As noted earlier, two garages are proposed with the proposed new development to accommodate a total of four vehicles. In addition, an open parking space is proposed adjacent to the side yard (near Strand way and Manhattan Court). Given that the LCP calls for protection of potential public views, and in particular, that the side yards remain free of obstructions, this raises a concern in that there is the potential that the "open" parking space could be converted to an enclosed parking structure (i.e., garage) in the future which could block views to the ocean. Through, Special Condition No. 1, it can be assured that any improvements proposed in the south side yard will not impede public views toward the ocean. In addition, an advisory condition (Special Condition No. 4) also puts the applicant on notice that no enclosure of the proposed open parking space in the south side yard will be permitted, consistent with Section 30251 of the Coastal Act and the certified LCP. Special Condition #5 requires the permit and findings be recorded to assure future property owners are aware of the permit conditions.

In terms of visual compatibility with the surrounding neighborhood, the existing residential development along the boardwalk varies widely in architectural style and appearance. The proposed project will result in the demolition of two existing residential units and the construction of a new two-unit residential structure, adjacent to the public boardwalk. Section 103.0526.4 of the certified Mission Beach PDO requires that there be a seven foot setback for the first story and that the second story be set back three more feet for 50% of the lot fronting on the walk, and five feet for the remaining 50% to create an offset to the building to break up the bulk and mass. Thus, structures are required to be terraced back at the upper levels to break up the building façade and minimize their seaward encroachment adjacent to a public right-of-way, in this case, the public boardwalk of Ocean Front Walk. In this case, the ground floor of the structure is set back

approximately 7 feet and 12 feet respectively; and the upper floors have been designed to be terraced back further at each level. Specifically, the second floor is proposed to be set back approximately 16 feet from the western property line and the third floor is proposed to be set back approximately six feet further or 24 ft. from the western property line. Thus, the proposed development is consistent with all building setback requirements. In addition, the proposed structure will be 30 feet high in three full stories of living area and will be visually compatible with the character of the surrounding area, consistent with Section 30251 of the Coastal Act.

Therefore, in summary, as proposed, the subject development, specifically the proposed landscape features, will result in public view blockage from adjacent view corridors. As conditioned to reduce landscape features to no more than three feet in height (or very tall trees with thin trunks such as some palm trees), the proposed development will not have an adverse impact on views to and along the shoreline. Furthermore, the Commission finds the proposed development, as conditioned, consistent with the visual resource protection policies of the Coastal Act.

3. Public Access/Recreation. 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 Manhattan Court adjacent to the project site to the south. Thus, adequate access exists very nearby, for purposes of Coastal Act Section 30212.

In addition, four on-site parking spaces are proposed to serve the new development. The existing structure is located at the northeast corner of Manhattan Court 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.

The project site is located in an area where the public boardwalk has already been widened. The proposed development meets all required building setbacks and no encroachments into the public right-of-way are proposed. However, 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. 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 construction of a new two-unit residential structure, consistent with the permitted density for this community. 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.

5. 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 and public access policies of the Coastal Act. Mitigation measures, include conditions addressing revised landscape plans such that only low-level planting and other vegetation that does not impede public views to the ocean is planted in the south side yard adjacent to Manhattan Court 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.

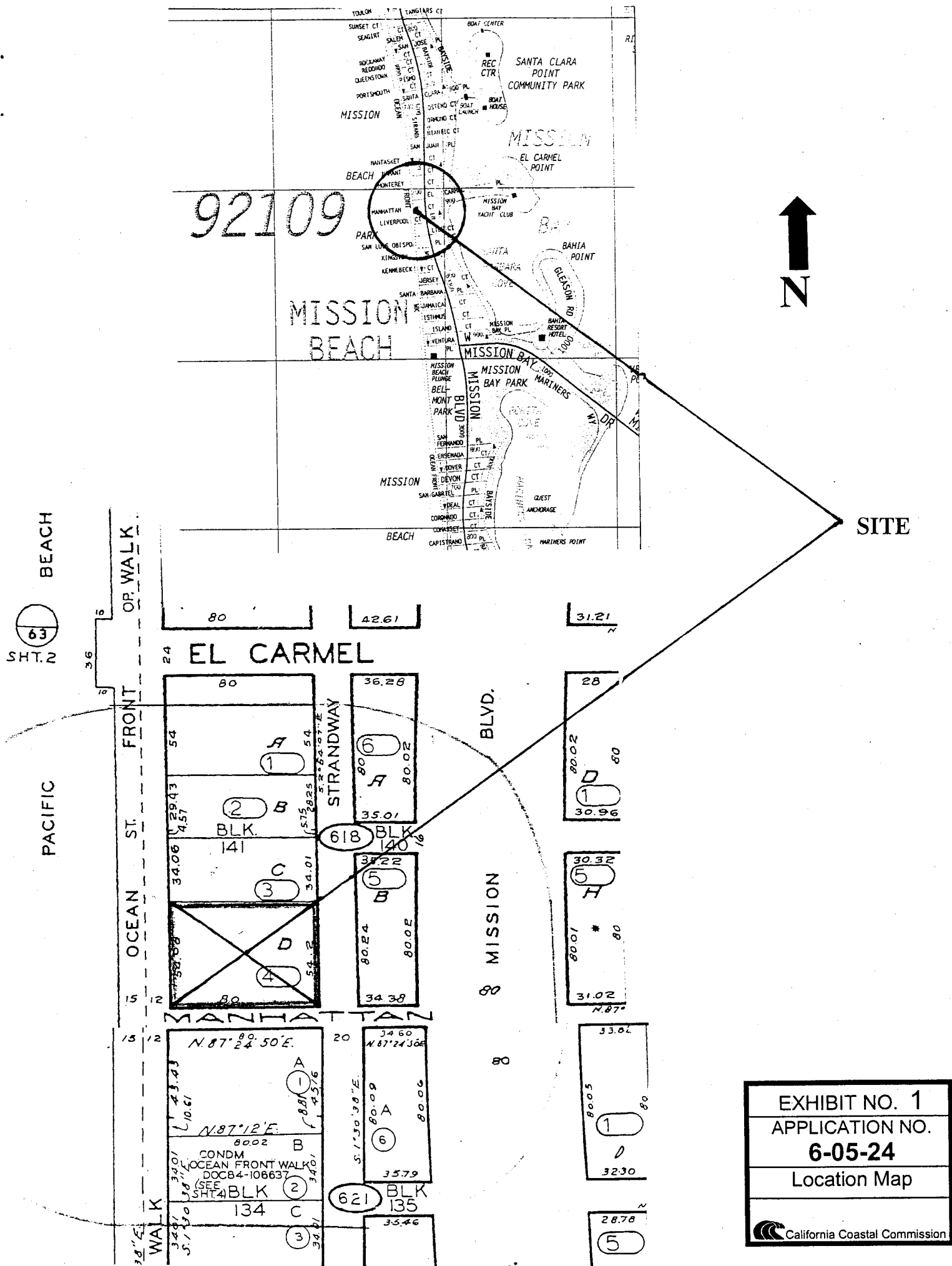
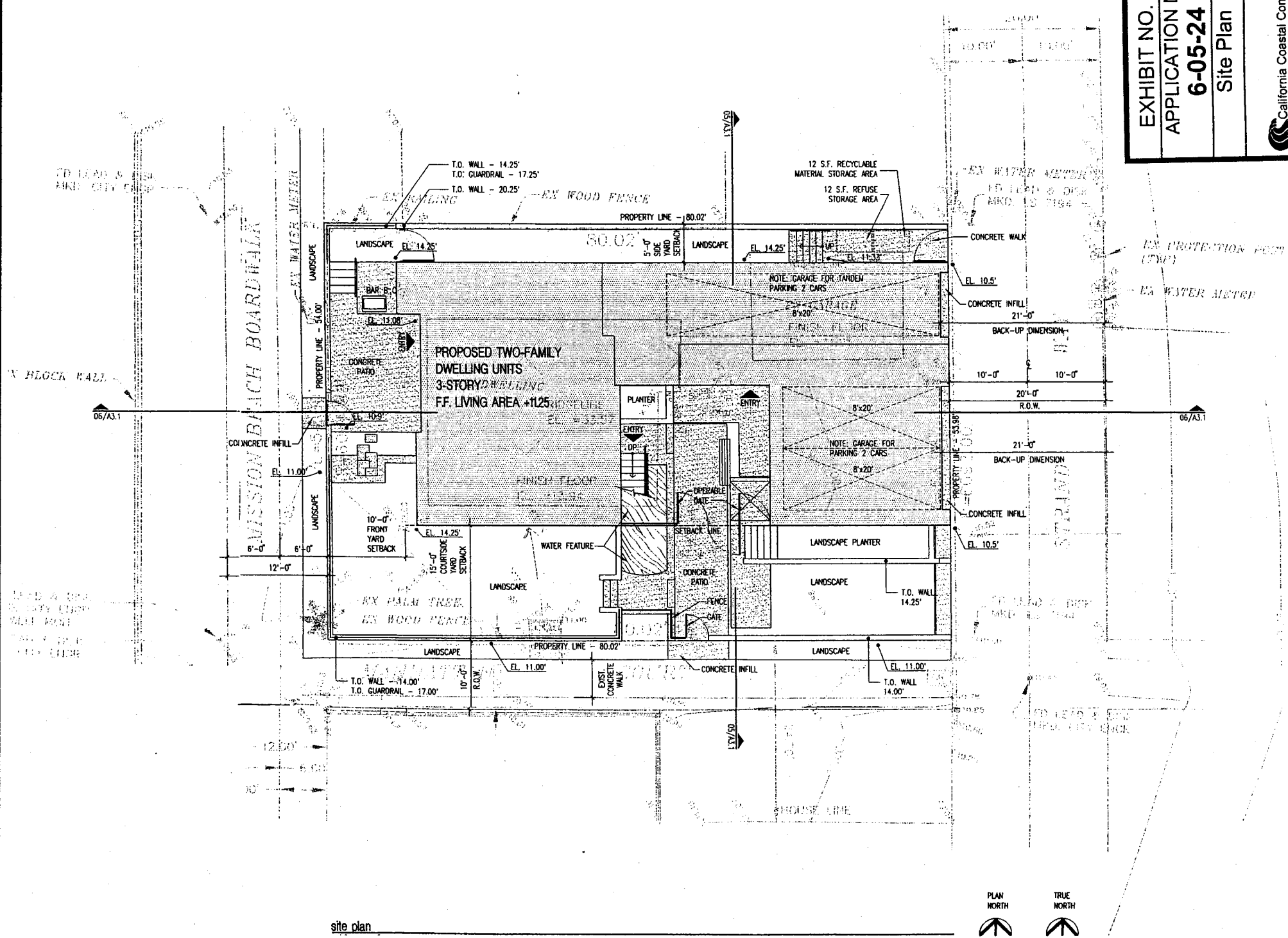


EXHIBIT NO. 2
APPLICATION NO.
6-05-24
Site Plan
California Coastal Commission



site plan

EXHIBIT NO. 3
APPLICATION NO.
6-05-24
Proposed landscaping in south and front yards
California Coastal Commission

