

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Tue 19b

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 Staff: Laurinda Owens-SD
 Staff Report: 11/15/06
 Hearing Date: 12/12-15, 2006

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-06-67

Applicant: Vincent Duro Agent: Globa Architecture

Description: Remodeling of an existing two-story, 2,183 sq. ft. single-family residence including the demolition of 267 sq.ft. and the addition of 428 sq. ft. resulting in a 22 ft. high, two-story, 2,344 sq.ft. residence on an oceanfront lot.

Lot Area	2,880 sq. ft.
Building Coverage	1,470 sq. ft. (50%)
Pavement Coverage	696 sq. ft. (24%)
Landscape Coverage	714 sq. ft. (26%)
Parking Spaces	2
Zoning	R-N
Plan Designation	Residential North (36 dua)
Ht abv fin grade	21'8'' feet

Site: 3879 Ocean Front Walk, Mission Beach, San Diego, San Diego County.
 APN 423-559-1200

Substantive File Documents: Certified Mission Beach Precise Plan; Certified Mission Beach Planned District Ordinance; CDP No. 6-02-73; Encroachment Maintenance and Removal Agreement No. 02-007(-2); 6-04-38-RF

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project, subject to special conditions. The primary issues raised by the proposed development relates to protection of public views to and along the shoreline. To address protection of views, a special condition requires submittal of revised final landscape plans approved by the City of San Diego that ensures that landscaping does not impede public views to the ocean and submittal of

final plans approved by the City of San Diego. The proposed development will also result in the removal of a non-conforming portion of the structure which encroaches into the public right-of-way. The proposed remodeling of the existing structure, as conditioned, is consistent with all applicable Coastal Act policies.

Standard of Review: Chapter 3 Policies of the Coastal Act

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-06-67 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 Final 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 final landscaping and fence plans approved by the City of San Diego. The plans shall be in

substantial conformance with the landscape plans as submitted by Golba Architecture, dated 10/18/06 and shall include the following:

- a. A view corridor a minimum of 10 ft. wide shall be preserved in the north yard area adjacent to Vanitie Court as well as a 7 ft. wide view corridor in the front yard area adjacent to the Ocean Front Walk public right-of-way. All proposed landscaping in the north and front (west) yard areas shall be maintained at a height of three feet or lower (including raised planters) to preserve views along the public boardwalk toward the ocean. A maximum of two (2) tall trees with thin trunks are permitted, provided they are located close to the building and they do not block views along the shoreline or towards the ocean.
- b. All landscaping shall be drought-tolerant and (1) native or (2) non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- c. Any fencing in the north or west yard setback areas 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 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 closures or use of public parking as staging areas).

3. Final Plans. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit final plans for the remodeled

single-family residence. Said plans shall first be reviewed and approved in writing by the City of San Diego. Said plans shall also be in substantial conformance with the plans submitted by Golba Architecture, dated 10/18/06, 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 legally required.

4. 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 remodeling of an existing two-story, 2,183 sq.ft., single-family residence to include the demolition of 267 sq.ft. and the addition of 428 sq.ft. resulting in a 22 ft. high, two-story, 2,344 sq.ft. single-family residence on a 2,880 sq.ft. oceanfront lot. The proposed remodeling will result in a reduction in size of the first level from 1,333 sq.ft. to 1,066 sq.ft. and an increase in size of the second level from 850 sq.ft. to 1,278 sq.ft. Also proposed is a ground level 295 sq.ft. patio, a 177 sq.ft. second floor deck and a 371 sq.ft. roof deck. In addition, the applicant proposes to remove an existing non-conforming 3 ft. high privacy wall that encroaches into the public right-of-way of Ocean Front Walk (the public boardwalk). As part of the proposed demolition, as described above, a portion of the existing residence will be removed that is presently non-conforming and only observes a 1-ft. setback from the western property line where a 7-ft. setback is required (ref. Exhibit No. 2). After this portion of the structure is demolished the entire western façade of the newly remodeled structure will observe the required 7-ft. setback from the western property line. This portion of the structure was originally proposed to be retained (ref. Exhibit No. 2).

Portions of this part of the structure (removal of exterior walls, replacement of doors, windows, etc.) were proposed for demolition and then to be rebuilt in the same location in order to maintain the non-conformity. Subsequently, the applicant decided to remove this portion of the structure altogether. The subject site is located on Ocean Front Walk, next to the public boardwalk, in the community of Mission Beach in 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. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City's LCP used as guidance.

2. Public Views/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 103.0526.13 of the Mission Beach PDO, which the Commission uses for guidance, 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, which the Commission also uses for guidance states:

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

In addition, Section 132.0403 of the City's certified Land Development Code, which the Commission uses for guidance, 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.

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.

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. In addition, the public boardwalk (Ocean Front Walk), which runs north/south along the beach, serves not only as a highly popular public accessway, but also serves as a view corridor along the shoreline. The project site is located immediately adjacent to the Ocean Front Walk public right-of-way and immediately adjacent to and south of Vanitie Court. Thus, there is the potential for the subject development to impact views to and along the shoreline.

The Commission typically reviews projects to assure that any new proposed development does not encroach into the yard setback areas which could impede public views toward the ocean. In this particular case, the proposed development will observe all required setbacks and public views to the ocean will not be impacted as a result of the proposed structure. However, there is the potential for proposed landscaping in the side and front yard areas to impede views to the ocean and along the shoreline (both initially and over time, as plant materials/trees mature). The preliminary landscape plan submitted shows three tall trees proposed on the project site—two in the north yard area setback and one in the west yard area setback. All three trees are proposed to be located in areas that may block public views to the ocean. The Commission typically permits the planting of two tall trees with thin trunks provided that they are placed close to the structure so as not to obstruct views to and along the shoreline. As such, Special Condition #1 requires that the applicant submit revised final landscape plans that require that all proposed landscaping and hardscaping consist of only low level material that does not impede views to the ocean. The permitted landscape elements include plant materials that do not block views (limited to a height of about 3 ft.) and a maximum of two tall trees with thin trunks provided they are located close to the building and they do not impede views toward the ocean. As conditioned, it can be assured that any landscape improvements proposed in the north side yard and front yard setback areas will not impede public views toward and along the ocean. In addition, Special Condition #3 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. Special Condition #4 requires the permit and findings be recorded to assure future property owners are aware of the permit conditions.

In addition, as noted previously, the proposed project includes the removal of a non-conforming portion of an existing structure which does not observe the required building setbacks from the western property line. The removal of this portion of the residence will result in the siting and design of the residence that will enhance public views to and along the ocean and scenic coastal areas, consistent with Section 30251 of the Coastal Act.

With regard to community character, the existing residences along the boardwalk vary widely in architectural style and appearance. The proposed improvements to an existing single-family residence will result in a two-story structure next to Ocean Front Walk, the public boardwalk. The existing two-story structure is being remodeled such that the first floor will be reduced and the second floor will be enlarged. Altogether, the proposed improvements will result in a two-story, 2,344 sq.ft. single-family residence. The proposed remodeled 22 ft. high residence is consistent with current zoning requirements. In addition, the proposed structure will be visually compatible with the character of the surrounding neighborhood and the pattern of redevelopment in the area. In summary, the proposed development, as conditioned, will not result in any public view blockage and is found visually compatible with the character of the surrounding neighborhood, consistent with Section 30251 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, in part:

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 immediately adjacent to Ocean Front Walk, the public 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 western terminus of Vanitie Court which is directly adjacent to the subject site. Thus, adequate access exists very nearby, for purposes of Coastal Act Section 30212(a). In addition, adequate on-site parking will be provided consistent with Section 30252 of the Act.

Given that the vast majority of the homes along the boardwalk currently meet the building setback, the goal is that, over time, when existing non-conforming structures are redeveloped, the structures will be pulled back to observe the required building setbacks and, thus, will result in the removal of the encroachments in the public right-of-way, such as the subject project. The presence of these encroachments represent an impact to public access in the area both in terms of physical access as well as visual access. The majority of the privacy walls are all in an alignment with one another except for those few zero lot line sites (no building setback) which have a privacy wall that extends out further west than the rest of the privacy walls. This not only poses a physical impediment to mobility along the boardwalk in that one could accidentally ride their bike into such a wall or walk into it, it also poses a visual intrusion into the “public” boardwalk area and creates a sense of “privacy” along the boardwalk, that is intended for public use.

In the subject proposal, there is an existing 3-ft. high “privacy wall” situated west of the existing residence in the City’s public right-of-way. The subject site is one of approximately 26 structures (residences and/or businesses) that are on a zero-lot line or within one foot of the zero lot line. These structures were built at a time when there was no setback requirement. The existing concrete masonry wall situated seaward of the residence encroaches 11 inches into the 3-foot wide landscaped buffer area adjacent to the public boardwalk. In this particular project, the applicant proposes to remove this non-conformity through the subject project such that the entire structure will observe the required building setbacks adjacent to the public boardwalk. Thus, the Commission finds that redevelopment of the site in the manner proposed will enhance public access along the boardwalk consistent with the applicable policies of the Coastal Act and with the certified LCP which is used for guidance.

In addition, to address potential concerns with regard to construction activities on public access on this oceanfront property, the project has been conditioned (#3) such that no work shall occur between Memorial Day weekend and Labor Day of any year.

Therefore, the proposed development, as conditioned, does not interfere with public access opportunities is found consistent with the public access and recreation policies of the Coastal Act.

4. Local Coastal Planning. The subject site is located in the Residential North (R-N) Zone of the Mission Beach Planned District. While the City of San Diego has a certified LCP that governs the Mission Beach community, 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 single family residence. 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, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Mission Beach community.

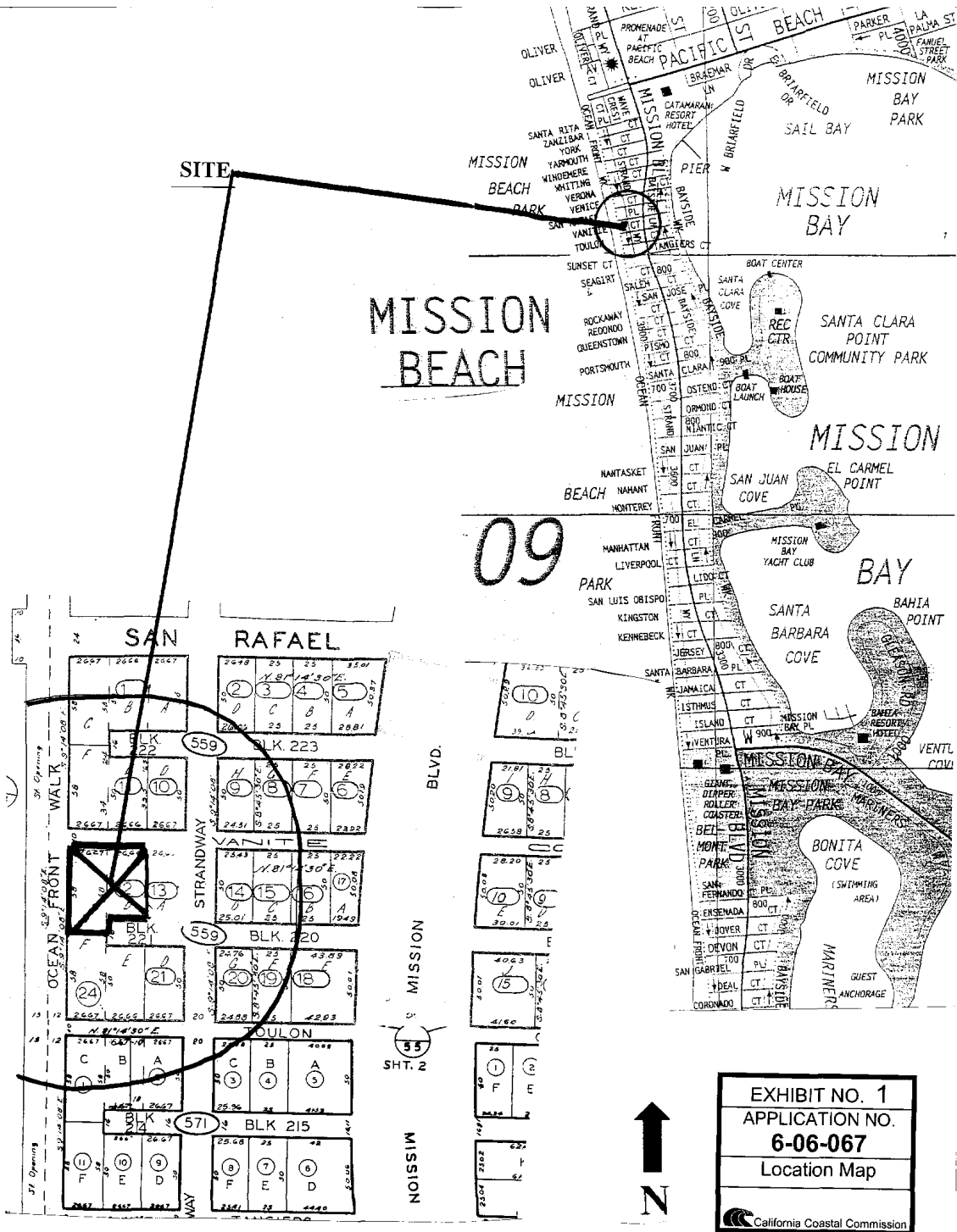
5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of 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.

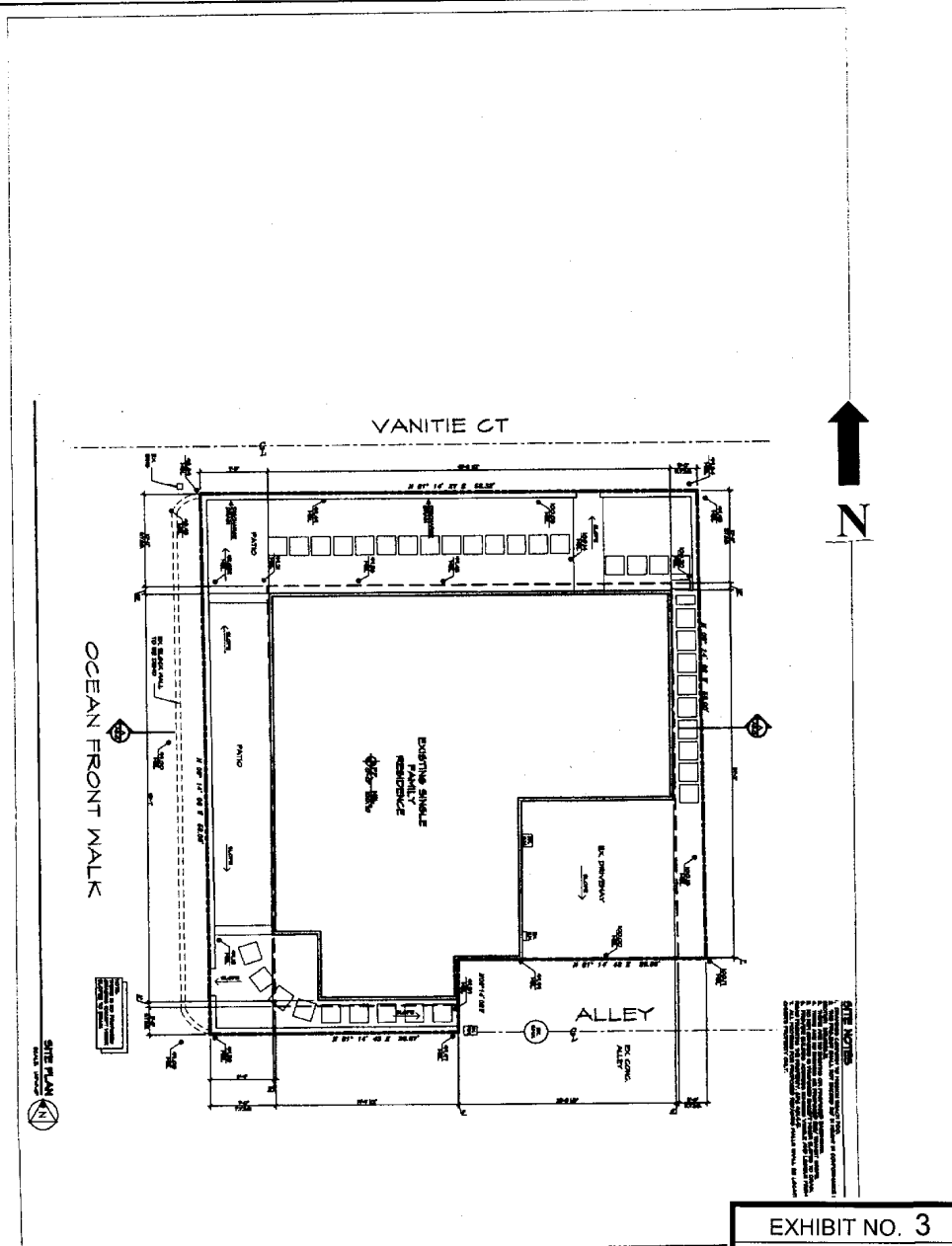
The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing protection of public views to and along the ocean and timing of construction to avoid impacts on public access will minimize all 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 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 PLAN
SCALE 1/4" = 1'-0"

NOTES
1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODE AND ALL APPLICABLE ORDINANCES.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AGENCIES.
3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
4. ALL UTILITIES SHALL BE PROTECTED AND DEEPER THAN THE EXISTING FINISH FLOOR.
5. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES UNLESS OTHERWISE NOTED.
6. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL AGENCIES.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.
8. ALL CONSTRUCTION SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
9. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
10. ALL UTILITIES SHALL BE PROTECTED AND DEEPER THAN THE EXISTING FINISH FLOOR.
11. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES UNLESS OTHERWISE NOTED.
12. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL AGENCIES.
13. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.
14. ALL CONSTRUCTION SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

A00



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Architecture & Space
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EXHIBIT NO. 3
APPLICATION NO.
6-06-067
Proposed Site Plan

