

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
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# Wed 20e

Filed: 7/18/06  
 49th Day: 9/5/06  
 180th Day: 1/14/07  
 Staff: Laurinda Owens-SD  
 Staff Report: 8/21/06  
 Hearing Date: 9/13-15/06

## **STAFF REPORT: CONSENT CALENDAR**

**Application No.:** 6-06-82

**Applicant:** Hans Peter & Melanie Edelstein **Agent:** James H. Durfey, Architect

**Description:** Demolition of an existing 1,189 sq. ft. single-family residence (with detached garage) and construction of a three-story, 2,888 sq.ft. single-family residence on a 2,686 sq.ft. lot.

Lot Area	2,686 sq. ft.
Building Coverage	1,364 sq. ft. (51%)
Pavement Coverage	1,000 sq. ft. (37%)
Landscape Coverage	322 sq. ft. (12%)
Parking Spaces	3
Zoning	R-N
Plan Designation	Residential North (36 dua)
Project Density	32.4 dua
Ht abv fin grade	30 feet

**Site:** 707 Windemere Court, Mission Beach, San Diego, San Diego County.  
 APN 423-551-41

**Substantive File Documents:** Certified Mission Beach Precise Plan; Certified Mission Beach Planned District Ordinance; 6-04-163RF

### **I. STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

**STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

**II. Standard Conditions.**

See attached page.

**III. Special Conditions.**

The permit is subject to the following conditions:

**1. 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, 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 James Durfey Architect, A.I.A, dated 6/20/06 and shall include the following:

- a. A view corridor, an average of 10 ft. wide, shall be preserved in the north yard area adjacent to Windemere Court. All proposed landscaping in the north 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. 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 toward the ocean.
- b. All landscaping shall be (1) drought-tolerant and native or (2) non-invasive plant species (i.e., 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 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 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 construction of the two units. 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 James Durfey Architect A.I.A., dated 6/20/06, 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:

**A. Detailed Project Description/History.** The proposed project involves the demolition of a single-family residence and garage and construction of a three-story, 30 ft. high, residential structure consisting of a 2,888 sq.ft. single-family residence. Also proposed is a two-car garage and a single-car carport for a total of three on-site parking spaces, which is adequate to serve the single-family residence. Overall, the proposed residence will have three bedrooms (one on each level).

The subject site is located on the southeast corner of Windemere Court and Strandway in the Mission Beach community of the City of San Diego. It is one lot inland from the public boardwalk (Ocean Front Walk).

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. Because the project is located between the sea and the first coastal road, 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 side yard setback areas which could impede public views toward the ocean. In this particular case, there is the potential for proposed landscaping in the north yard area to impede views (as seen from the public right-of-way of Windemere Court while looking west) to the ocean (both initially and over time, as plant materials/trees mature). As such, Special Condition #1 requires that the applicant submit landscape plans that require that all proposed landscaping and hardscaping in the north yard area setback consist of only low level materials that do not impede views to the ocean. The condition also allows for a maximum of two (2) tall trees with thick trunks such as Palm trees, provided they are placed close to the building and they do not block public views toward the ocean.

With regard to the proposed building setbacks, the applicant proposes a minimum of an 8 ½ -ft. setback along portions of the north yard where typically a 10 ft. setback would be required. Specifically, the setbacks along the north frontage will range from 8 ½ ft. to 13 ft. The Mission Beach PDO, which the Commission uses for guidance, allows structures to encroach a maximum of 18" into the required building setbacks provided that an equal area of proposed structure is set back 18" further behind the required building setback line pursuant to Section 103.0526 of the City's certified Land Development Code. The Commission has typically required that projects located next to the boardwalk and public street ends not be permitted to intrude into the yard setback areas, regardless whether or not a vertical offset is provided (i.e., an area equivalent to the intrusion that is provided behind the setback area) because of their potential impact on public views. Such projects are reviewed on a case-by-case basis. In this particular case, the subject site is located one lot inland from the public boardwalk and the lot immediately to the west is already

developed with a single-family residence. The applicant is proposing to provide an equal area of proposed structure that is located inside of the building setback to offset those portions which encroach outside of the setback area. As noted earlier, while the setback will be 18" less in some portions of the frontage, it will be greater in other areas (up to 13 ft.). Thus, in this particular case, the proposed 18" encroachments will not result in adverse visual impacts to the view corridor of Windemere Court and can be permitted, consistent with Section 30251 of the Act. 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. In so doing, the City will review and check the proposed development to assure consistency with the Mission Beach PDO.

In order to address potential concerns with regard to construction activities on public access on this oceanfront property, the project has also been conditioned such that no work shall occur between Memorial Day weekend and Labor Day of any year. In addition, Special Condition #4 requires that the permit and findings be recorded to assure future property owners are aware of the permit conditions.

**B. Community Character /Visual Quality.** The development is located within an existing developed area and will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

**C. Public Access/Parking.** As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

**D. Local Coastal Planning.** The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, 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.

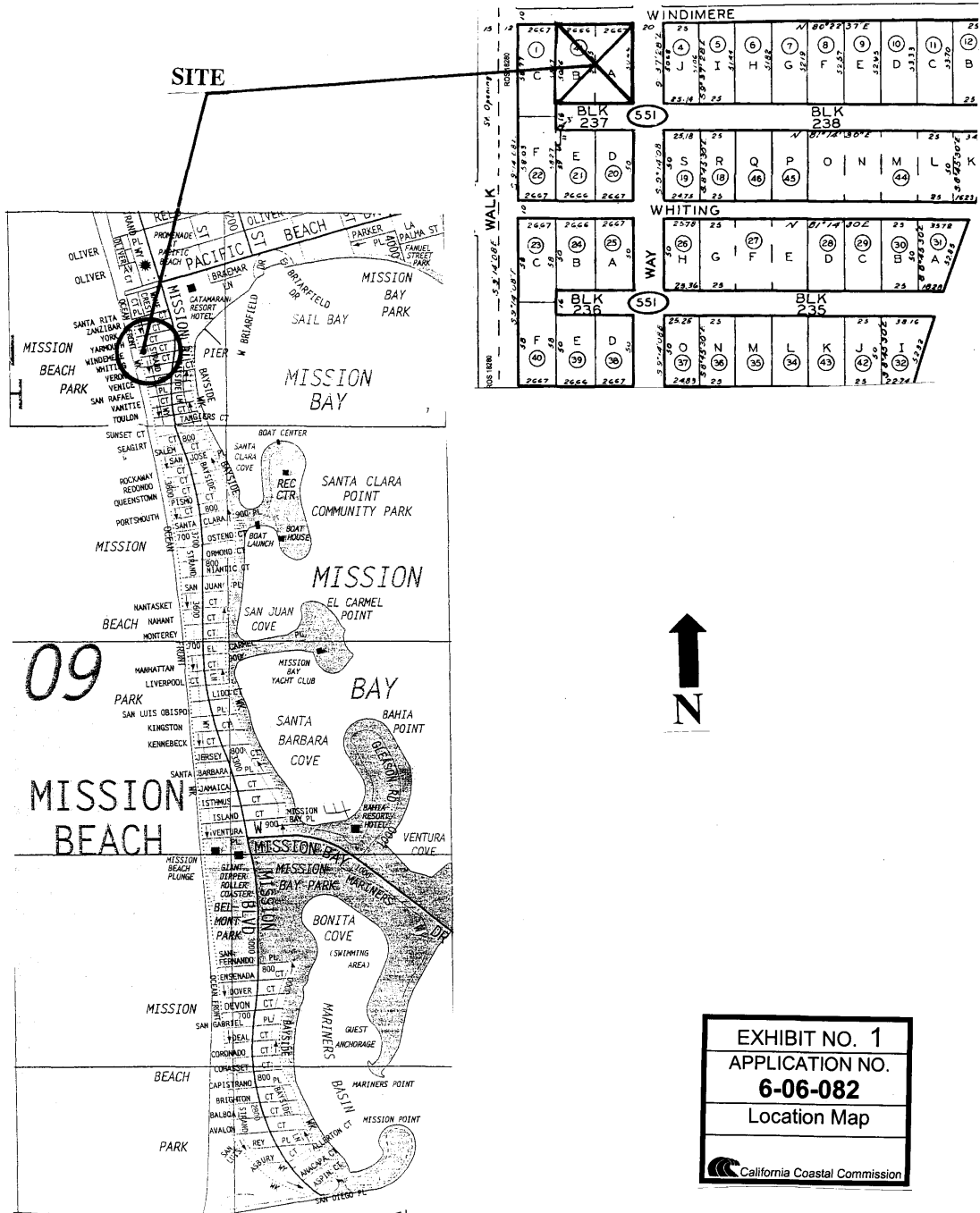
**E. California Environmental Quality Act.** As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, 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.



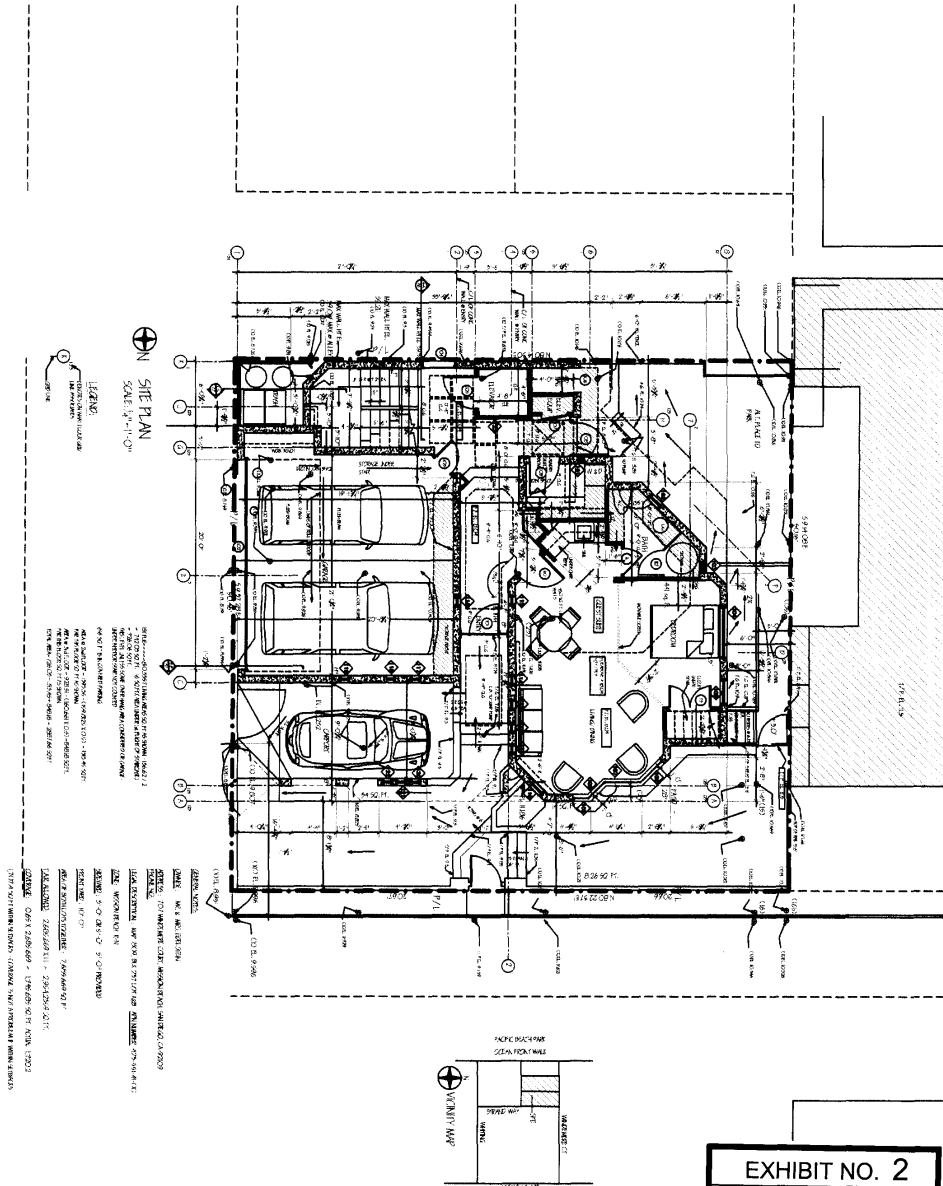


EXHIBIT NO. 2  
APPLICATION NO.  
**6-06-082**  
Site Plan



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6/20/06  
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