

CALIFORNIA COASTAL COMMISSION

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



Wed 25c

Filed: 5/31/06
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 Staff: Laurinda Owens-SD
 Staff Report: 8/23/06
 Hearing Date: 9/13-15/06

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-06-63

Applicant: Ross Provenzano Agent: Stella Murphy, Aedifice Architecture

Description: Remodel existing 1,782 sq.ft., two-story, two-unit residential building to include the demolition of approximately 306 sq. ft. and the addition of 1,053 sq. ft. (including new 3rd story) resulting in two-unit, three-story, 28 ft. high, 2,529 sq.ft. residential structure. Also proposed is enlargement of existing garage to accommodate four parking spaces and the retention of non-conforming 3' high privacy wall that encroaches into public right-of-way on 2,400 sq.ft. beachfront lot.

Lot Area	2,400 sq. ft.
Building Coverage	1,479 sq. ft. (62%)
Pavement & Landscape Coverage	921 sq. ft. (38%)
Parking Spaces	4
Zoning	R-S
Plan Designation	Residential South (36 dua)
Ht abv fin grade	28 feet (approx.)

Site: 2638 Ocean Front Walk, Mission Beach, San Diego, San Diego County.
 APN 423-761-06

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 relate to protection of public views along the shoreline and encroachment of a private wall within the public right-of-way. To address protection of views, a special condition is proposed that requires landscape plans to limit any landscaping and hardscaping in the front yard next to Ocean Front Walk to a maximum height of three feet in order to avoid adverse effects on public views toward the ocean. To address the privacy wall, which is not being modified with this application, staff recommends that a special condition be added that advises the

applicant that if the portion of the property containing the privacy wall or patio is ever redeveloped in the future or there is a substantial remodel of the entire structure, that the portions of the concrete masonry wall and private patio improvements that encroach into the public right-of-way and/or violate setback requirements will have to be removed. This is consistent with the requirements of the encroachment removal agreement issued to the applicant by the City of San Diego. The proposed remodeled two-unit residential building, as conditioned, is consistent with all applicable Coastal Act policies.

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

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-06-63 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. 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 Aedifice Ideas Architecture, dated 5/22/06 and shall include the following:

- a. A 10-ft. wide view corridor shall be preserved in the front yard area adjacent to Ocean Front Walk the public boardwalk. All proposed landscaping in the front (west) yard area 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 (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 or south side 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 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 Aedifice Ideas Architecture, dated 5/22/06, 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. Future Removal of Non-Conformities. If the existing two-unit residential structure at 2638 Ocean Front Walk is substantially altered such that 50% or more of the existing structure is modified, demolished, removed or replaced, or the concrete masonry wall or patio is altered in any way, all legal non-conforming encroachments into the public right-of-way shall be removed in their entirety. In addition, any replacement structures shall first be reviewed and approved in writing by the City of San Diego.

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 remodeling of an existing two-story, 1,782 sq.ft., two-unit residential building to include the demolition of approximately 306 sq. ft. and the addition of 1,053 sq. ft. (including new 3rd story) resulting in a two-unit,

three-story, 28 ft. high, 2,529 sq.ft. residential structure on a 2,400 sq. ft. beachfront lot. Through the proposed remodeling, additions totaling 256 sq.ft. to the first floor, 155 sq.ft. to the second floor and a new 642 sq.ft. third story will be made. The first level will contain one dwelling unit and the second and third floors will contain the second dwelling unit. In addition, two existing non-conforming garages will be remodeled and lengthened such that each will provide tandem parking for two vehicles for a total of four on-site parking spaces, consistent with current zoning requirements. In addition, the applicant proposes to retain an existing non-conforming 3 ft. high privacy wall that encroaches into public right-of-way of Ocean Front Walk (the public boardwalk). The subject site is located on Ocean Front Walk, next to the public boardwalk, six lots south of Asbury Court in the community of Mission Beach in the City of San Diego.

Through the proposed remodeling of the existing two-story, 1,782 sq.ft., two-unit residential structure, portions of the building will be demolished. However, no more than 50% of the exterior walls are proposed to be removed through the proposed remodeling of the existing structure. The applicant has submitted demolition plans which indicate that 44% of the exterior walls are proposed to be demolished.

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, five lots south of Asbury 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 side yard setback areas which could impede public views toward the ocean. In this particular case, the proposed development is not situated adjacent to a court or place/streetend. However, there still remains the potential for proposed landscaping in the front yard area to impede views to the ocean and along the shoreline (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 consist of only low level material that does not impede views to the ocean. The permitted landscape elements include plant materials that do not impede views (limited to a height of about 3 ft.) and a tree with a thin trunk (such as a Palm tree). As conditioned, it can be assured that any landscape improvements proposed in the front yard will not impede public views toward the ocean. Special

Condition #5 requires the permit and findings be recorded to assure future property owners are aware of the permit conditions.

With regard to community character, the existing residences along the boardwalk vary widely in architectural style and appearance. The proposed project will result in a three-story structure next to Ocean Front Walk, the public boardwalk. The proposed structure will be 28 feet high, 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 end of Asbury Court six lots north of the project site. Thus, adequate access exists very nearby, for purposes of Coastal Act Section 30212. In addition, adequate on-site parking will be provided consistent with Section 30252 of the Act.

The project site is located in south Mission Beach near the area where the public boardwalk (Ocean Front Walk) begins to curve in a southeasterly direction away from the public beach. The public boardwalk has been widened in north Mission Beach (between Ventura Place north to Santa Rita Place). However, next to the subject site, the public boardwalk (south of San Fernando Place) has not yet been widened by the City. As such, there are several properties that have existing private accessory improvements located in the public right-of-way adjacent to the public boardwalk that consist of concrete/brick patios, walls, landscaping, etc. that are located west of the western property lines of the subject sites. For the subject site, a 3-ft. high concrete wall (and patio) extend 12 feet beyond the western property line into the public right-of-way. The City has for many years contemplated expansion of the boardwalk in the south as well and thus, has required property owners adjacent to the boardwalk to obtain encroachment removal agreements for existing and proposed accessory improvements within the boardwalk right-of-way which states that the property owner must remove or relocate the encroachments within 30 days of notice by the City.

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

In the case of the proposed development, because the City does not have immediate plans for expansion of the public boardwalk in this location, the City authorized the applicant to maintain the encroachments in the public right-of-way through an Encroachment Removal Agreement (ref. Exhibit #3). The applicant is proposing to be retain these private encroachments with this application. However, it can reasonably be expected that the City's overall goal over time is to remove all of the private encroachments that extend into the public right-of-way along the boardwalk in Mission Beach and complete expansion of the entire boardwalk.

In numerous past Commission actions on development along the boardwalk, the Commission required that the applicants obtain encroachment removal agreements for any development in the right-of-way. Inasmuch as the City has indicated that there are no immediate plans for widening the boardwalk in this location, the Commission can allow private accessory improvements to remain within the public rights-of-way of the site subject to an encroachment removal agreement from the City of San Diego.

Eventually, the City will widen the public boardwalk in the South Mission Beach area, as well. Because the wall is an impediment to public access along the boardwalk, and it interferes with the City's plans to widen the boardwalk in the future, Special Condition #4 advises the applicant that if the existing multi-family residential structure is altered such that 50% or more of the existing structure is modified, demolished, removed or replaced, or the concrete masonry wall or patio are altered in any way, all legal non-conforming encroachments into the public right-of-way shall be removed in their entirety. Also, any replacement structures shall be required to meet current City of San Diego Code requirements.

In addition, as noted in the project description, currently there are only two on-site parking spaces provided in two non-conforming parking garages. Through the proposed development, the applicant proposes to remodel the garages such that they will provide adequate on-site parking consisting of a total of four parking spaces (two tandem sets of spaces). This is consistent with the City's current parking requirements.

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 South (R-S) 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 two-unit residential structure. 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 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.

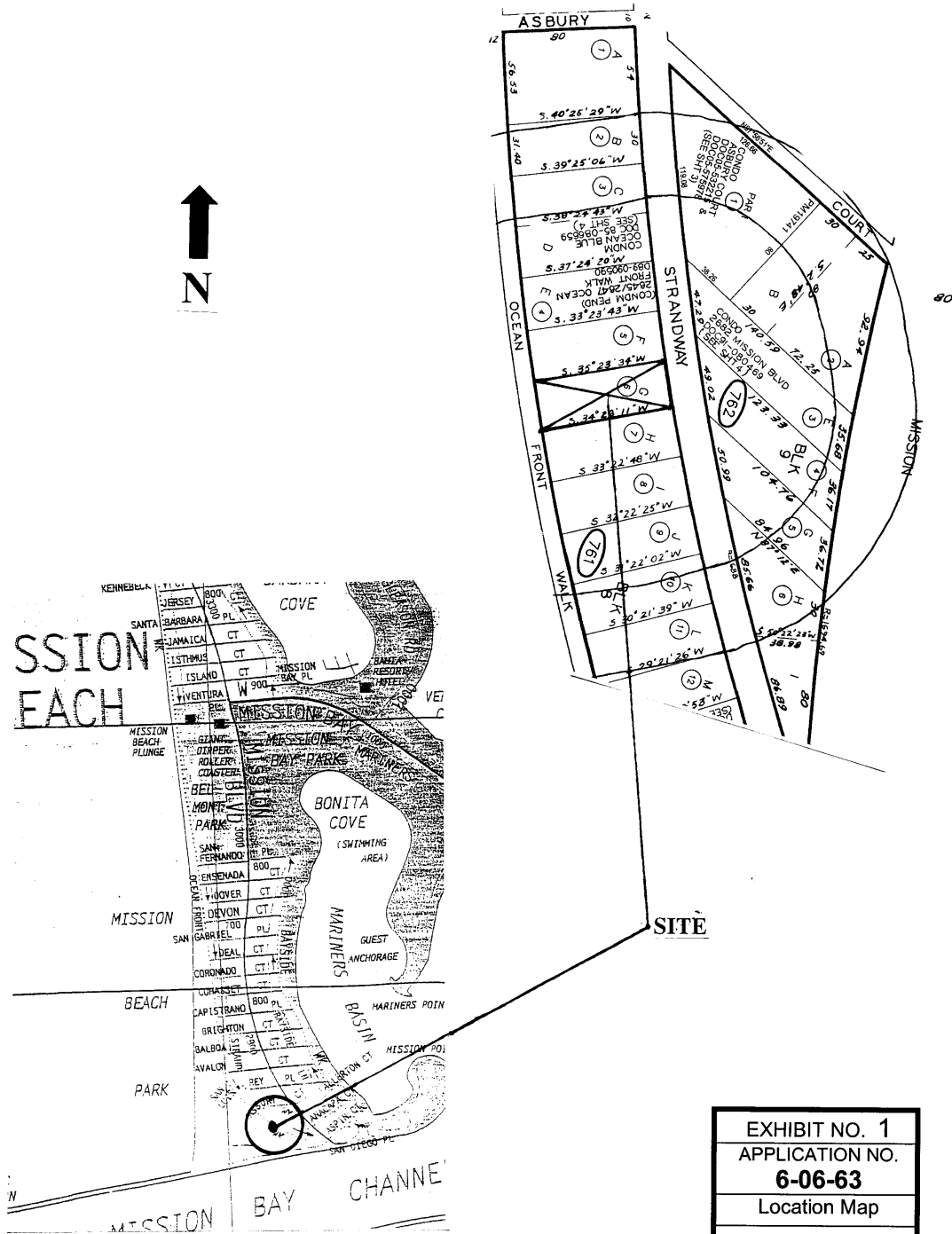


EXHIBIT NO. 1
APPLICATION NO.
6-06-63
Location Map
California Coastal Commission

Aug. 21. 2006 3:22PM Aedifice Architectural

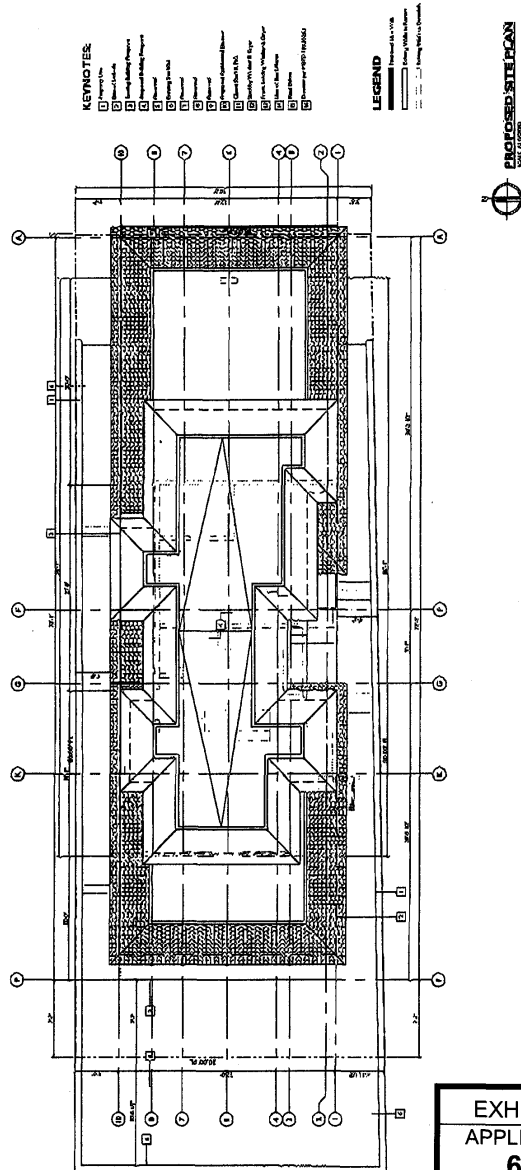
No. 0274 P. 2

MAEDICE
ARCHITECTURAL
1000 S. GATEWAY BLVD.
SUITE 100
SAN ANTONIO, TEXAS 78205
(214) 591-1111



Provenzano Remodel

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AUG 21 2006

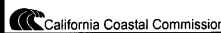
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 2
APPLICATION NO.
6-06-63
Site Plan



 <p>The City of San Diego RECORDING REQUESTED BY THE CITY OF SAN DIEGO AND WHEN RECORDED MAIL TO City of San Diego Development Services Department 1222 First Avenue, M.S. 501 San Diego, CA 92101-4155</p>	 AUG 17, 2006 1:05 PM OFFICIAL RECORDS SAN DIEGO COUNTY RECORDER'S OFFICE GREGORY J. SMITH, COUNTY RECORDER FEES: 25.00 PAGES: 4  (THIS SPACE FOR RECORDER'S USE ONLY)
P.T.S. APPROVAL NUMBER <u>372650</u>	P.T.S. PROJECT NUMBER: <u>111265</u>
<p>In accordance with the provisions of Section 62.0302 of the San Diego Municipal Code, this agreement is made by and between the City of San Diego, a Municipal Corporation [City] and the owner or owner's duly authorized representative of real property [Property Owner], located at <u>2636-38 OCEAN FRONT WALK</u> and more particularly described as <u>lot 6 in block 8 of Mission Beach, San Diego, California according to map No. 1651, filed with County Recorder of San Diego, County, Dec. 14, 1914</u> in the City of San Diego, County of San Diego, State of California [Property].</p> <p>In consideration of the grant of permission by the City of San Diego to encroach into the public right-of-way [ROW] by installing and maintaining private improvements, to wit: <u>black wall - fence</u></p> <p>[Encroachment] over, under, and across the ROW for the use and benefit of the Property, Property Owner covenants and agrees with the City Of San Diego as follows:</p> <ul style="list-style-type: none"> (a) This agreement shall run with the land. (b) The Encroachment shall be installed and maintained in a safe and sanitary condition at the sole cost, risk and responsibility of the Property Owner(s) and the successors in interest. (c) With respect to any liability, including but not limited to claims asserted, demands, causes of action, costs, expenses, losses, attorney fees, damages, expenses or payments that the City may sustain or incur in any manner for damages or injuries, including those to any person (including disability, dismemberment, illness, damages, or death) or property, arising from, related to, or resulting from the construction, maintenance, state of use, repair, or presence of the Encroachment, the Property Owner agrees to defend, indemnify, protect and hold harmless the City, its agents, officers, and employees from and against any and all liability. <p style="text-align: right;">(Continued on Page 2)</p>	

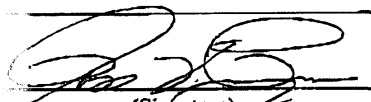
Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.
Upon request, this information is available in alternative formats for persons with disabilities.
DS-3237 (08-08)

EXHIBIT NO. 3 APPLICATION NO. 6-06-63 Encroachment Removal Agreement from City of San Diego 

Also covered by this Section is liability arising from, related to, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees that may be in combination with active or passive negligent acts or omissions of the Property Owner, its employees, agents or officers, or any third party. The Property Owner's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or sole willful misconduct of the City, its agents, officers or employees.

Property Owner further agrees to pay any and all costs the City incurs to enforce the indemnity and defense provision above.

- (d) The Property Owner(s) shall remove, relocate or restore the Encroachment as directed by the City Engineer within thirty (30) calendar days of written notice from the City, or in the case of an emergency, as determined by the City, the City may request that the work be done immediately or within less than thirty (30) calendar days. If the Property Owner(s) fails to remove, relocate or restore or otherwise comply with the direction of the City Engineer regarding the Encroachment, the City may cause the work to be done, and the costs thereof shall be a lien against the property. The City's request to remove, relocate, or restore the encroachment shall not be arbitrary or without reason.
- (e) For structures encroaching over or under a public facility within a right-of-way or easement, the owners agree to provide an alternate right-of-way and to relocate said public facility to a new alignment, all without cost or expense to the City, whenever it is determined by the City that the Facility cannot be economically placed, replaced, or maintained due to the presence of the Encroachment.
- (f) Whatever rights and obligations were acquired by the City with respect to the rights-of-way shall remain and continue in full force and effect and shall in no way be affected by the City's grant of permission to construct and maintain the Encroachment.
- (g) The property Owner shall maintain a policy of liability insurance with the City of San Diego and its respective elected officials, officers, employees, agents, and representatives named an additional insureds, in an amount approved by the city, which will protect the City from any potential claims that may arise from the Encroachment.


(Signature)

See Attached Exhibit(s): A

See Drawing Number(s): A

ROSS V. PROVANZANO
(Print Name & Title)

OWNER
(Company Organization Name)

August 17, 2006
(Date)

APPROVED:

Harold E. Ritchie
City Control Engineer

Date: 8-17-06



NOTE: ALL SIGNATURES MUST INCLUDE NOTARY ACKNOWLEDGMENTS PER CIVIL CODE SEC. 1180 ET SEQ.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

}

On Aug. 17, 2006

Date

before me,

Valerie Goulart, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

Name(s) of Signer(s)

ROSS PROVENZANO☐ personally known to me

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) has subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal Above

Valerie Goulart
 Signature of Notary Public
OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached DocumentTitle or Type of Document: Encroachment Maintenance Removal AgreementDocument Date: Aug. 17, 2006Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: _____

 RIGHT THUMBPRINT
 OF SIGNER
 Top of thumb here

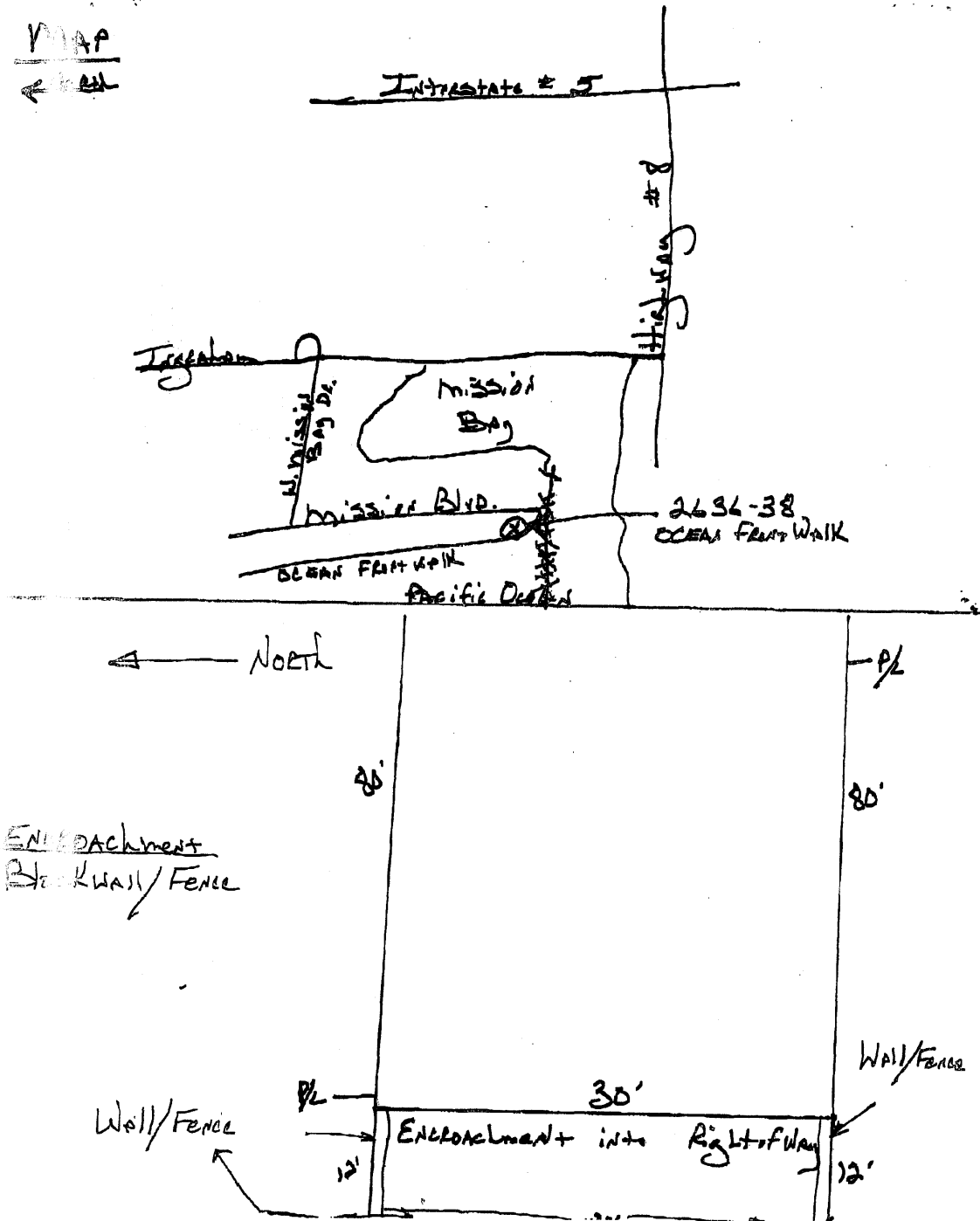
Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: _____

 RIGHT THUMBPRINT
 OF SIGNER
 Top of thumb here

MAP
←



858-488-3490

Aug 17 2006 1:06PM