



*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 Masterworks Construction Company dated 11/6/06 and shall include the following:

- a. A view corridor a minimum of 10 ft. wide shall be preserved in the south yard area adjacent to San Rafael Place. All proposed landscaping in this yard area shall be maintained at a height of three feet or lower (including raised planters) to preserve views from the street toward Mission Bay. 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 bay.
- b. All landscaping shall be (1) drought-tolerant and native or (2) non-invasive plant species. All landscape materials within the identified view corridors shall be species with a growth potential not expected to exceed three feet at maturity, except for authorized trees. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive 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 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.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

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 Masterworks Construction Company dated 11/6/06 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/History.** The proposed project involves the demolition of a two-story, 1,276 sq.ft., single-family residence and three-car garage and construction of an approx. 30 ft. high, two-story (over basement), 1,463 sq.ft., single-family residence with two-car garage and an approx. 30 ft. high, two-story (over basement), 1,375 sq.ft. single family residence with one-car garage and carport on a 2,580 sq.ft. site. Also proposed is a total of approximately 1,402 sq.ft. for exterior decks and roof decks (total for both residences). The subject site consists of two contiguous lots totaling 2,580 sq.ft. The four proposed on-site parking spaces are adequate to serve the proposed development. The subject site is located on the north side of San Rafael Place immediately adjacent to, and west of, Bayside Lane in the community of Mission Beach in the City of San Diego.

The subject is bisected by both the Coastal Commission's permit jurisdiction and the City of San Diego's permit jurisdiction. New legislation went into effect on January 1, 2007. *See* Pub. Resources Code § 30601.3 (effective Jan. 1, 2007) (Cal. Stats. 2006, c. 294 (S.B. 1843), § 8). The legislation provides that in cases where proposed development is bisected by the coastal development permit jurisdiction boundary line, an applicant *may, if all parties are in agreement* (i.e., the City of San Diego, the Coastal Commission, the property owner), apply for a consolidated coastal development permit from the Coastal Commission without needing to obtain a coastal development permit from the local government. The City has submitted a letter to the Coastal Commission stating that they have reviewed the location of the project and determined that it is split jurisdiction and request that the Coastal Commission process the coastal development permit (CDP) application for the entire site. In addition, the applicant has also submitted a letter agreeing to allow the Coastal Commission to process the CDP for the entire site. Thus, the subject permit application is for both portions of the site that are in the City's *and* Coastal Commission's permit jurisdiction. The Chapter Three policies of the Coastal Act are the standard of review, with the City's certified Local Coastal Program used for guidance.

Mission Beach is a small peninsula-shaped sliver of land located on filled tidelands in Mission Bay Park. It is bordered by the Pacific Ocean to the west and Mission Bay Park to the east (ref. Exhibit No. 1). 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 (Bayside Walk, in this particular case), runs in a north/south direction adjacent to the bay in this residential community and serves not only as highly popular public accessway, but also serves as view corridor along the shoreline. Although there is one lot located between the subject site and Mission Bay, when this lot is redeveloped in the future, it will need to observe all of the required building setbacks. As such, this will open up public views looking east adjacent to San Rafael Place, which is located immediately south of the site. Thus, there is the potential for the subject development to impact views to and along the shoreline.

The Commission typically reviews projects in this area to assure that any new proposed development does not encroach into the side yard setback areas which could impede public views toward the ocean or bay. In this particular case, the proposed development will observe all required setbacks for the south side yard and public views to the bay will not be impacted as a result of the proposed structure. However, there is the potential for proposed landscaping in the south side yard adjacent to the street/court to impede public views (as seen from San Rafael Place while looking east) to the bay (both initially and over time, as plant materials/trees mature). As such, Special Condition #1 requires that the applicant submit final landscape plans that require that all proposed landscaping and hardscaping consist of only low level materials that do not impede views to the bay. The condition also allows for a maximum of two (2) tall trees with thin trunks such as palm trees, provided they are placed close to the building and they do not block public views toward the bay. In addition, the condition also specifies that landscape materials in the identified view corridor shall be a species that does not grow above three feet at maturity, with the exception of authorized trees.

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 No. 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.

**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 both in an area of original jurisdiction, where the Commission retains permanent permit authority and in an area where the City of San Diego has permit authority. The subject coastal development permit application is being processed pursuant to Pub. Resources Code § 30601.3 (effective Jan. 1, 2007) (Cal. Stats. 2006, c. 294 (S.B. 1843), § 8), which provides that in cases where proposed development is bisected by the coastal development permit jurisdiction boundary line, an applicant *may, if all parties are in agreement* (i.e., the City of San Diego, the Coastal Commission, the property owner), apply for a consolidated coastal development permit from the Coastal Commission without needing to obtain a coastal development permit from the local government. As such, the Chapter 3 of the Coastal Act remains the legal standard of review, with the City's certified Local Coastal Program used for guidance. 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.

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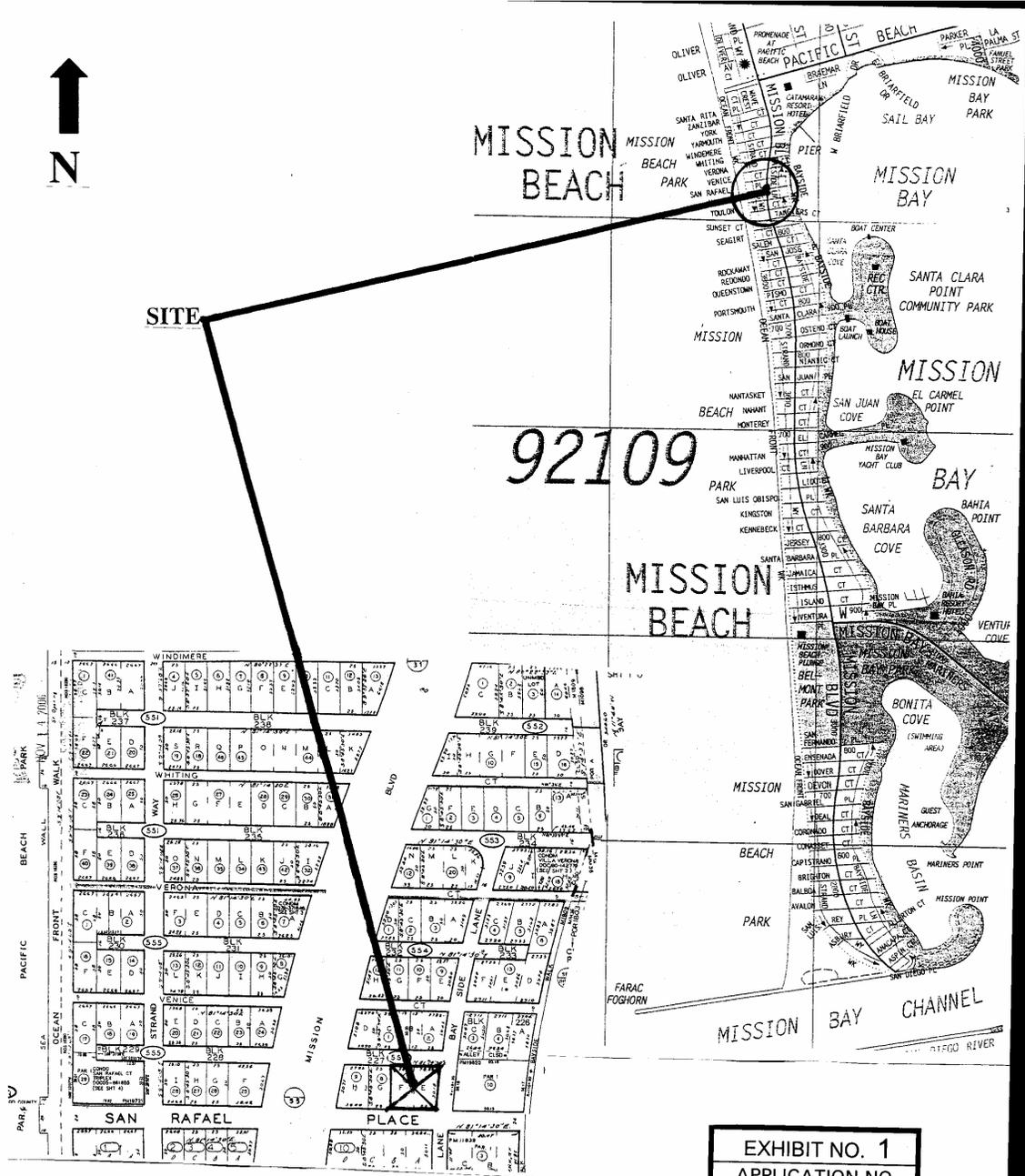


EXHIBIT NO. 1  
APPLICATION NO.  
**6-06-141**  
Location Map



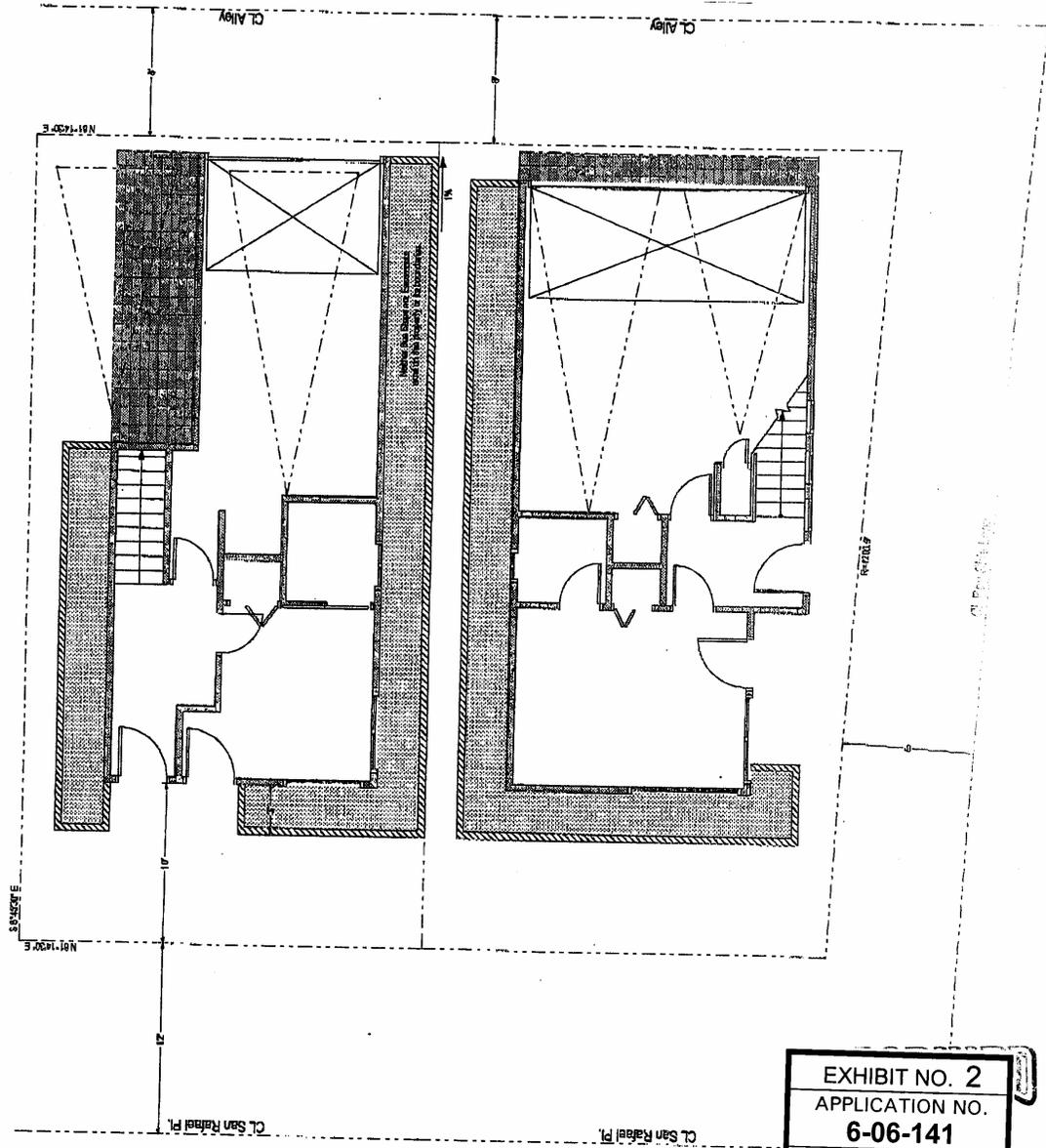


EXHIBIT NO. 2
APPLICATION NO.
<b>6-06-141</b>
Site Plan
California Coastal Commission

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