

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Th24c

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Staff: Laurinda Owens-SD
Staff Report: 12/20/07
Hearing Date: 1/9-11/08

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-117

Applicant: John Greenhalgh

Description: After-the-fact approval of demolition of a one-story, 865 sq.ft. single-family residence and 339 sq.ft. detached garage and re-construction of a three-story, 30-ft. high, 1,978 sq.ft. single-family residence with attached 339 sq.ft. garage on a 2,300 sq.ft. lot.

Lot Area	2,300 sq. ft.
Building Coverage	1,263 sq. ft. (55%)
Pavement Coverage	667 sq. ft. (29%)
Landscape Coverage	370 sq. ft. (16%)
Parking Spaces	2
Zoning	R-N
Plan Designation	Residential North (36 dua)
Ht abv fin grade	30 feet

Site: 724 Zanzibar Court, Mission Beach, San Diego, San Diego County.
APN 423-311-05

Substantive File Documents: CDP Permit Application/Waiver # 6-05-38-W.

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. As part of the proposed development, a detached garage that was demolished is proposed to be reconstructed (after-the-fact) to maintain its previous non-conforming setback from the adjacent alley. However, this encroachment beyond the typically required setback near the northern property line adjacent to the alley will not result in any adverse impacts to coastal views or parking and/or traffic. The City has approved a

variance to allow the reduced setback for the garage. The proposed residence, as conditioned, is consistent with all applicable Coastal Act policies.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-117 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. Condition Compliance. **WITHIN 60 DAYS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT APPLICATION**, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

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 have 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**, the applicant shall submit final plans for the residential development. 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 Affordable Design and Drawing/Bob Belanger, dated 12/10/07, 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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. Proposed is an after-the-fact request to demolish a one-story, 1,204 sq.ft. single-family residence with attached two-car garage and reconstruct the first floor resulting in a 924 sq.ft. first floor. Also proposed is a new 934 sq.ft. second and 120 sq.ft. third floor addition resulting in an approximately 1,978 sq.ft., three-story, 30-ft. high single family residence with an attached 339 sq. ft two-car garage on a 2,300 sq.ft. lot.

The applicant received a coastal development permit waiver (6-05-038-W) on 5/27/05 to remodel an existing one-story, 1,204 sq.ft. single-family residence (inclusive of garage) including minor demolition of exterior walls (less than 50%) and a slight reduction in living area of the first floor and construction of new second and third floors totaling 1,054 sq.ft., resulting in a three-story, 30-ft. high, 1,978 sq.ft. single-family residence. Also included were exterior decks totaling 273 sq.ft. In September, 2007 construction began on the project. However, nearly all of the existing structure, including the garage, was demolished, inconsistent with the approved waiver. Thus, the applicant was asked to cease work by both the City of San Diego and the Coastal Commission Enforcement staff and obtain necessary authorizations for the revised project.

The proposed project is, thus, for the after-the-fact approval of the demolition work that has already occurred and for the construction of a three-story single-family residence. The proposed square footages remains the same for each of the three levels. The main proposed change from the development subject to the permit waiver is to the garage. The existing garage (prior to demolition) was a non-conforming detached structure in that it

did not observe the required setback from the adjacent alley to the north. A 2 ½ ft.-3 ½ ft. setback existed previously where a 10'0" setback is required. The applicant is proposing to maintain this same non-conforming setback. Due to the angle of the property line adjacent to the alley, the setback ranges between 2 ½ to 3 ½ ft. In order to permit the garage to be constructed at the same non-conforming setback, a variance from the City is required; otherwise, the new garage would have to observe the current building setback of 10 feet from the alley. In addition, the previous garage structure was 10'4" high. Through the subject proposal, the garage is proposed to be lowered in height to 9'2". The garage will also be attached to the residence; whereas, the previous garage was detached.

The applicant has received approval of a variance from the City to maintain the non-conforming setback for the garage. The City approved the variance for a number of reasons that include, in part: 1) The vast majority of properties in the surrounding area have no rear setback when on an alley. This lot is unique in that it has a front yard on Zanzibar Court as well as a front yard on Santa Rita Place; thus there is no alley as is the case for most of the other areas of Mission Beach; 2) Both residences on the adjacent properties have existing garages which are set back about 3' to 4' from the property line at Santa Rita Place; 3) All of the developments to the west of this property have setbacks from Santa Rita Place that range between 8-inches and 4'. In addition, the proposed project results in encroachment of the first floor garage only, while the majority of developments on Santa Rita Place encroach on upper levels, as well.

2. Unpermitted Development. Unpermitted development has been carried out on the subject site without the required coastal development permit. The applicant is requesting after-the-fact approval for demolition of an existing single-family residence and detached garage. To ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition #1** requires that the applicant satisfy all conditions of this permit, which are prerequisite to the issuance of this permit, within 60 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Although the demolition of the existing residence has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

3. 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 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.

With regard to potential impacts to public views, 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 (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.

In this particular case, the most pertinent aspect of the proposed development that could potentially affect public views is the reconstruction of the garage which is proposed to be situated in its former location with a 2 ½ ft. to 3 ½ ft. setback from the adjacent street (Santa Rita Place). However, while walking or driving along Santa Rita Place looking west toward the ocean, there are features of the area that make public ocean views from the project site non-existent. These are that there is a rise in elevation of the street such that when one is standing directly behind the house on Santa Rita Place, ocean horizon views are not visible. These views do not become visible until one walks about one more lot to the west. The same conditions exist for the front yard, as well, while walking along Zanzibar Court. As such, the proposed development will not result in any adverse impacts to public views.

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. Generally, 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). As such, the Commission typically permits only low-level vegetation (not to exceed 3 ft. in height at maturity) and the planting of two tall trees with thin trunks provided that they are placed close to the structure (i.e., 3-5 ft.) and outside of the view corridor, so as not to obstruct views to and along the shoreline. In this particular case, however, the project site is located six lots inland from the Ocean Front Walk public right-of-way and there are no ocean horizon views visible from either the Zanzibar Court or Santa Rita Place frontages. In addition, there are several other structures between the boardwalk and the subject site that encroach into the required setback area adjacent to Santa Rita Place, which also impede public views to the ocean looking west. Thus, the proposed development will not have any adverse impact on public views to the ocean. As such, there is no need to restrict the proposed landscaping.

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.

With regard to community character, the existing residences along the boardwalk vary widely in architectural style and appearance. The proposed development will result in a three-story, 1,978 sq. ft. home just six lots inland from Ocean Front Walk, the public boardwalk. The proposed new 30 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.

4. 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, [...]

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 six lots inland from 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 Santa Rita Place which is directly adjacent to the subject site. Thus, adequate access exists very nearby, for purposes of Coastal Act Section 30212(a). None of the proposed improvements, including a garage that extends into the required setback, will have any impacts on public access. In addition, adequate on-site parking will be provided consistent with Section 30252 of the Act.

In addition, to address potential concerns with regard to construction activities on public access on this oceanfront property, the project has been conditioned (#2) 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 and is consistent with the public access policies of the Coastal Act.

5. 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 reconstruction of an existing single family residence and construction of a second and third level addition resulting in a larger residence as well as the reconstruction of a garage. The City has approved a variance for the proposed garage to permit a reduced building setback from the rear of the property adjacent to Santa Rita Place. The granting of the reduced setback will not impact any coastal resources and 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.

6. 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 timing of construction 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.

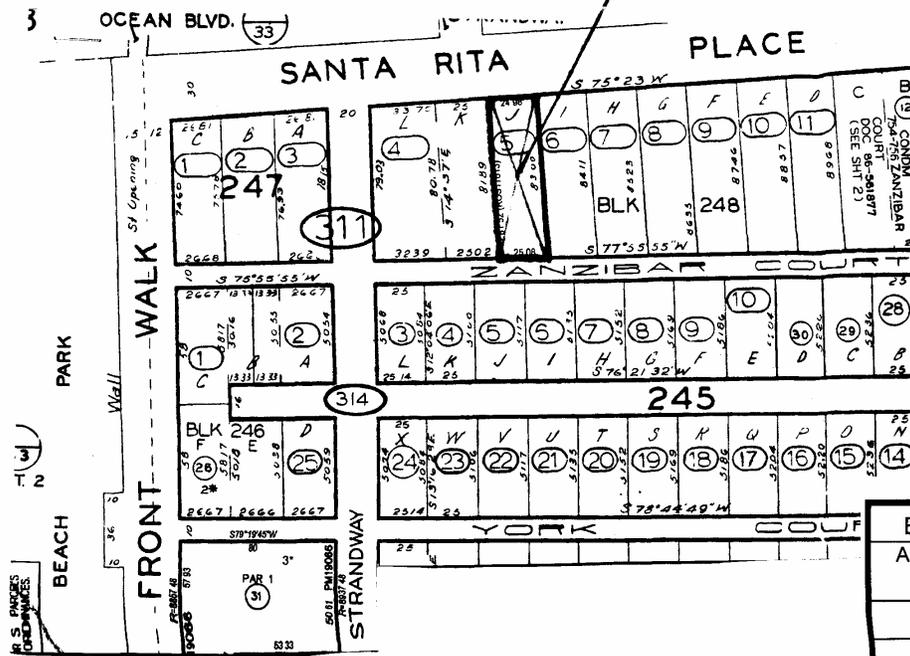
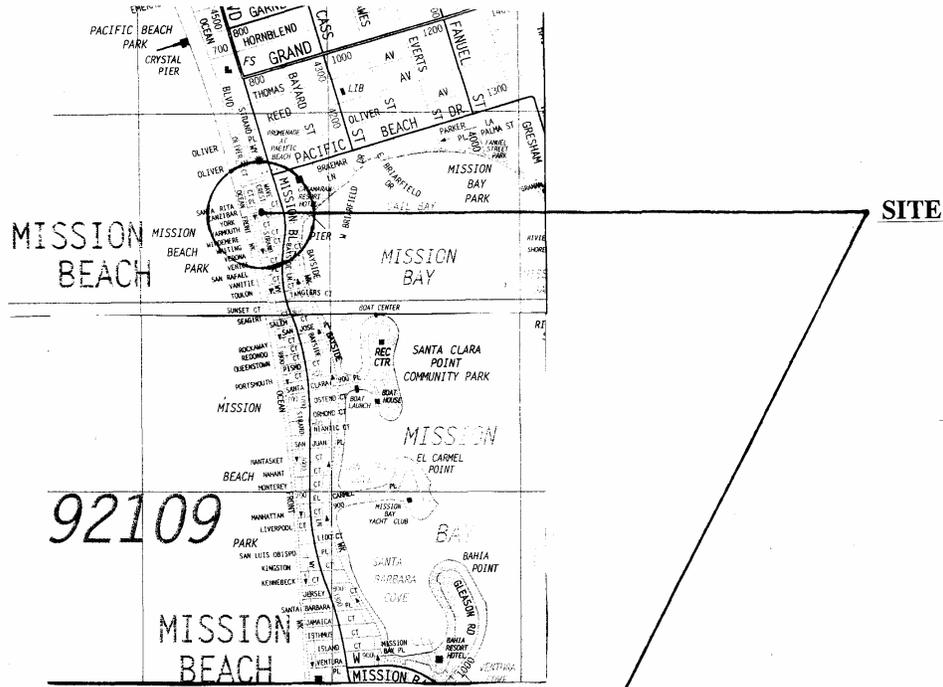


EXHIBIT NO. 1
APPLICATION NO.
6-07-117
Location Map

