

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



Thu 4a

Addendum

January 31, 2008

To: Commissioners and Interested Persons

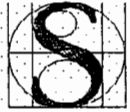
From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th 4a**, Coastal Commission Permit Application
#6-07-9 (Ocean Pacific Companies), for the Commission Meeting of
February 7, 2008

Staff recommends the following minor corrections be made to the above-referenced staff report:

1. On Page 3 of the Staff Report, Special Condition #s 1-3 shall be renumbered to Special Condition #s 2-4.
2. On Page 5 of the Staff Report, the first paragraph shall be revised such that the reference to the approval date for a previous coastal development permit application (6-87-352) should be changed from 8/28/07 to 8/28/87 and the references to the special conditions at the end of the paragraph should be revised such that Special Condition #2 is referred to as Special Condition #3 and Special Condition #3 is referred to as Special Condition #4.

Th 12 6-07-109



Alfred C. Strohle
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California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Via Fax: 619/767-2384

Dear Commissioners & Staff:

January 25, 2008

Permit No.: 6-07-109
Applicant: Seaworld of California

Here we go again. With the regularity of a blooming locoweed, Seaworld is again seeking to expand its already massive footprint onto Mission Bay.

Yes, I'm fully aware that the amusement park is not literally asking for more land (it's already larger than the Vatican!), but "only" seeking a permit for administration, hiring, security and payroll office purposes (all should that be *porpoises?*): all ostensibly benign activities.

But that's only half of it. As it has done a dozen times since it surfaced on Mission Bay in the mid-sixties, Seaworld wants to expand onto its parking lot. Within one or two weeks of accomplishing that goal, the brewery agents will return to lament their *loss* of parking spaces.

Please recall the logic Anheuser used to justify the 16.5-acre expansion to accommodate parking for their watery roller coaster. Which, by the way, is still fallow and an eyesore.

So here's the syllogism:

- The brewer-on-the-bay says: "We need more parking."
- Let's expand onto "our" existing parking lot (with its eternal, non-competitive lease).
- Oops, we've just lost 63 spaces with its concomitant loss of parking revenue.
- The City Council says: "Hey, your revenue stream just declined; we need the money."
- Anheuser says: "Hey, if you give us more land, we'll build more parking spaces."
- The City says: "Hey, that's one of those 'win-win' thingies, isn't it?"

In summary: how has Anheuser survived all these years *without* this 10,000 sq.ft. building?

If the Coastal Commission denies this application, will Anheuser leave San Diego?

PLEASE DENY THE APPLICATION AND SEE WHAT HAPPENS

Sincerely,

Al Strohle

Alfred C. Strohle

cc: Hon. Donna Frye, Sixth District (via fax)
Hon. Kevin Faulconer, Second District (via fax)

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CALIFORNIA COASTAL COMMISSION

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



Th 4a

Filed: 12/20/07
49th Day: 2/7/08
180th Day: 6/17/08
Staff: Laurinda Owens-SD
Staff Report: 1/15/08
Hearing Date: 2/6-8/08

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-07-9

Applicant: Ocean Pacific Companies/Ken Cornell **Agent:** Fernando Gonzalez

Description: Conversion of an existing approx. 20 ft. high, two-story, 2,544 sq.ft. triplex on a 1,546 sq.ft. oceanfront lot to condominium ownership and provision of three parking spaces on an adjacent lot.

Lot Area	1,546 sq. ft.
Building Coverage	1,430 sq. ft. (92%)
Pavement Coverage	116 sq. ft. (8%)
Parking Spaces	3
Zoning	NC-N
Plan Designation	Neighborhood Commercial North (36 dua)
Project Density	84.5 dua
Ht abv fin grade	30 feet

Site: 3785 Ocean Front Walk, Mission Beach, San Diego, San Diego County. APN 423-578-31

Substantive File Documents: Certified Mission Beach Precise Plan; Certified Mission Beach Planned District Ordinance; CCC # 6-06-11, 6-06-11-A1; 6-87-352; CCC Exemption Letter dated 6/21/05

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 Ocean Pacific Design, dated 8/15/07, 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 Rockaway 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 south 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 and towards the ocean. A maximum of two (2) tall trees with thin trunks are permitted, provided they are located close to the building (i.e., within 3-5 ft. of the building) and outside of the 10 ft. wide view corridor and they do not block views along the shoreline or towards the ocean.
- b. All landscaping shall be drought-tolerant, native or 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 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 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.

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.

1. 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).

2. Future Development Restriction

- A. This permit is only for the development described in coastal development permit No. 6-07-9 (the conversion of an existing three-unit apartment building to condominium ownership with a maximum limit of three dwelling units on site). Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an amendment to Permit No. 6-07-9 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

3. 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. Proposed is the conversion of an existing approx. 20 ft. high, two-story, 2,544 sq.ft. triplex on a 1,546 sq.ft. oceanfront lot to condominium ownership. No other development is proposed. The subject structure is an older non-conforming building which does not have any on-site parking. The structure also does not meet the required building setbacks from Ocean Front Walk. A total of three parking spaces are proposed to be provided on an adjacent lot immediately east of the subject site. As such, the proposed development will result in an improvement to on-site parking as the existing structure is currently deficient in parking. The Commission typically does not require the provision of parking for condominium conversion projects since they do not result in an increase in intensity of use of the site. However, if there is any existing parking on-site, the project have been conditioned such that the parking be reserved for exclusive use by the residents/tenants of the subject building. In this particular case, the proposed projects will enhance public access to the coast in this area by providing off-site parking minimizing the need for residents and/or visitors to park on the street which may usurp parking for beach visitors, consistent with Section 30252 of the Coastal Act.

The three parking spaces that are proposed to be located on the adjacent lot are on a site where a previous CDP was approved (CDP #6-06-11). That CDP was for demolition of an existing single-family residence and construction of a three-story, 30-ft. high, two-unit, approximately 2,933 sq.ft. condominium building with a total of 470 sq.ft. of exterior decks and four on-site parkings paces on an approx. 2,670 sq.ft. lot. In conjunction with that development, a total of four spaces were approved for the proposed development. Because the site is so large, there is ample room to provide three additional parking spaces on that site. As such, the applicant has entered into a recorded convenient with the adjacent property owner which will remain as a deed restriction on the subject property such that three parking spaces will be provided on the adjacent lot for the subject condominium conversion project.

The existing structure is also non-conforming in terms of its density. According to zoning and density requirements for this parcel of land, only one dwelling unit is permitted on the subject site. However, there are currently three dwelling units in the existing structure. An exemption was issued on 6/21/05 for the interior and exterior remodel of the existing 3-unit, 2,626 sq.ft. structure to include demolition of approximately 43% of the exterior walls resulting in a 3-unit, 2,544 sq.ft. structure. Conversion of the apartment units to condominiums was not proposed or approved at that time under the exemption. However, upon searching for the permit history of the site, a previous coastal development permit application (6-87-352) was approved on 8/28/07 for the remodel and conversion of a first-story residential unit of a two-story, two-unit, 2,686 sq.ft. structure to a sidewalk café, including kitchen and restrooms. No dining area or seating was proposed. It is not known whether or not this development was ever constructed but it does not appear that it was. In order to find out more information about the number of units permitted on the site the applicant has submitted past building records and permits for the subject site. These records show that over the years the existing structure ranged in size from two units to four units (three on the first floor and one on the second floor), at one time. Therefore, while it appears that the number of units on the site has varied over the years and that some of these conversions may have occurred without a coastal development permit, the City has stated that the three existing units on the site are legal, non-conforming units. Therefore, given that the proposed project to convert the units to condominium ownership will not result in an increase in intensity or density of the site, the proposed conversion is found consistent with the Coastal Act and will not result in any adverse impacts to coastal resources. However, Special Condition #2 is attached advising the applicant and future buyers that the maximum number of units permitted on-site is three units. Special Condition #3 requires the permit and findings be recorded to assure future property owners are aware of the permit conditions. As conditioned, the project is consistent with applicable Chapter 3 policies of the Coastal Act.

The project site fronts on Ocean Front Walk at its northeast corner with Rockaway Court in the community of Mission Beach. This area is characterized by a mixture of residential use and retail/commercial/office/restaurant uses. In particular, the business community is located along Mission Boulevard, two blocks to the east. The purpose of the Neighborhood Commercial zone is to provide adequate commercial services for the residents while the Visitor-Commercial zone accommodates tourists, visits and vacationers. While the NC-N zone allows for both commercial and mixed uses, the primary use is residential with the exception that residential uses shall not be permitted within the first story of any building on any lot abutting Mission Boulevard. In this particular case, the subject site does not abut Mission Boulevard and thus, the proposed residential use is consistent with the certified LCP.

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. The project site fronts Ocean Front Walk, the public boardwalk, as well as the beach in this area. However, the proposed development is only to convert the existing 3 units to condominium ownership and no physical development is proposed.

With regard to community character, the existing residences along the boardwalk vary widely in architectural style and appearance. The existing structure is visually compatible with the character of the surrounding neighborhood and the pattern of redevelopment in the area. In summary, the proposed development 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.

In addition, to address potential concerns with regard to public access and construction activities on public access on this oceanfront property, as noted previously, the applicant has proposed to provide three parking spaces on an adjacent lot immediately east of the subject site. Therefore, the proposed project will enhance public access opportunities in this area as it will provide three parking spaces for some of the owners/tenants of the proposed building whereas presently there is no parking at all on the subject site. This will result in fewer parking spaces being usurped by residents of the building for beachgoers and tourists who visit this nearshore area. In addition, 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 found consistent with the public access and recreation policies of the Coastal Act.

B. Community Character /Visual Quality. The development is located within an existing developed area and, as conditioned, 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.

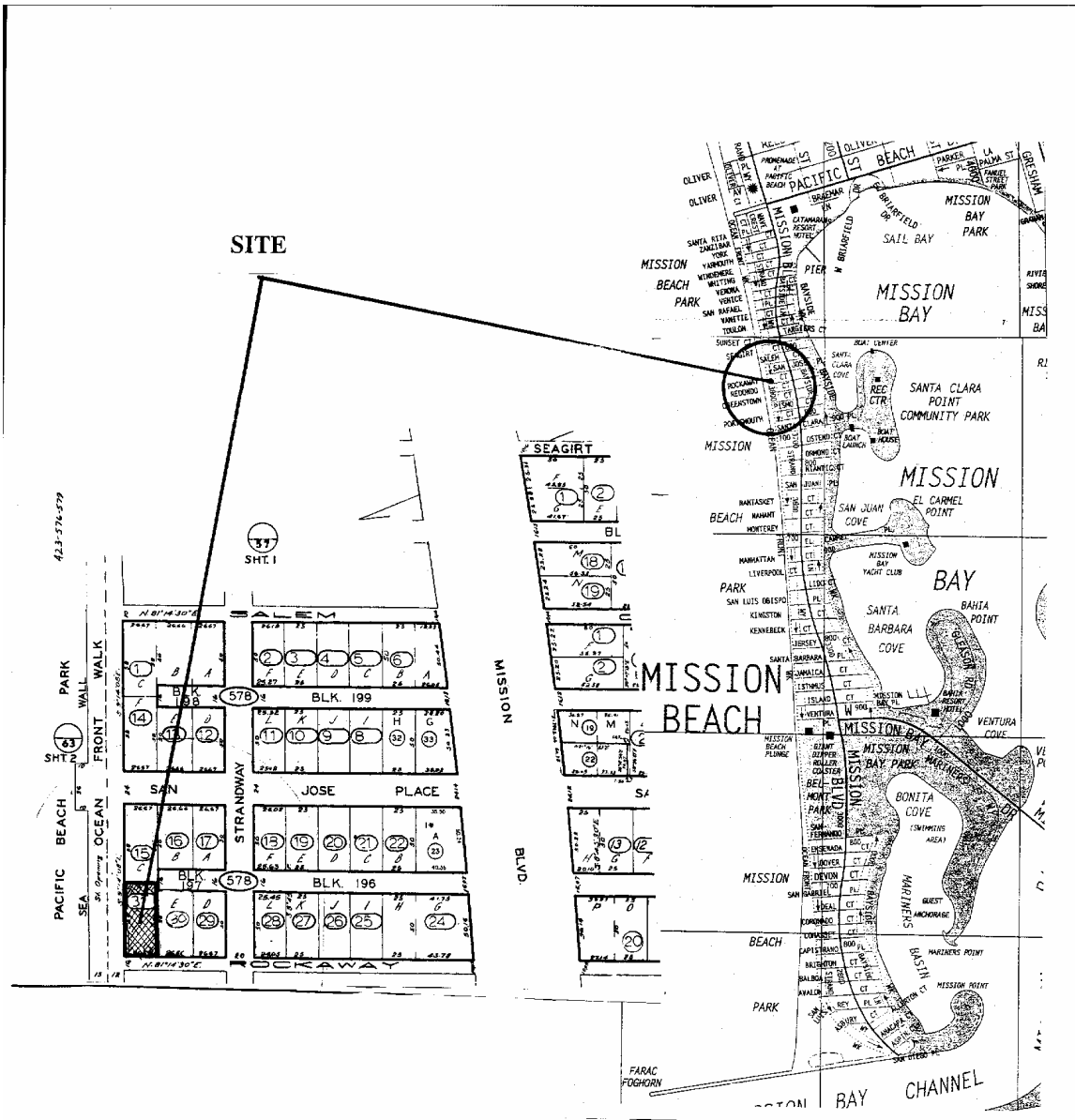


EXHIBIT NO. 1
APPLICATION NO.
6-07-9
Location Map
California Coastal Commission

SITE GENERAL NOTES

1. EXISTING AND PROPOSED CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CALIFORNIA BUILDING CODE AND ALL APPLICABLE ORDINANCES AND REGULATIONS.
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CONSTRUCTION BMP'S


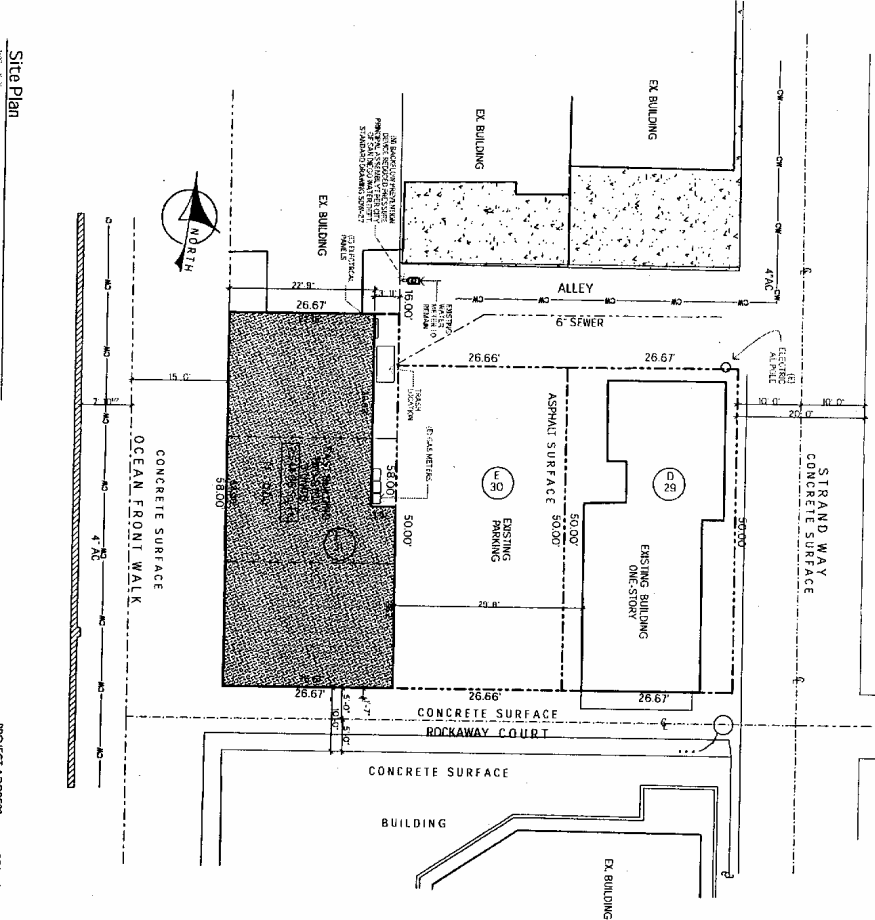
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OWNER'S CERTIFICATE

I, the undersigned, hereby certify that the information furnished herein is true and correct to the best of my knowledge and belief, and that the same has been prepared by me or under my direct supervision and control.

DATE: _____
 NAME: _____
 TITLE: _____

EXHIBIT NO. 2
APPLICATION NO.
6-07-9
Site Plan

REMEDIATION
Rockaway Units
 3785 Ocean Front Walk, San Diego, CA 92109

PROJECT ADDRESS:
 3785 Ocean Front Walk
 San Diego CA 92109
 423-578-31-00

DATE: 6/1/98
SCALE: AS SHOWN
PROJECT NUMBER: A-1