

## CALIFORNIA COASTAL COMMISSION

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



# Th 10b

## Addendum

January 6, 2011

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

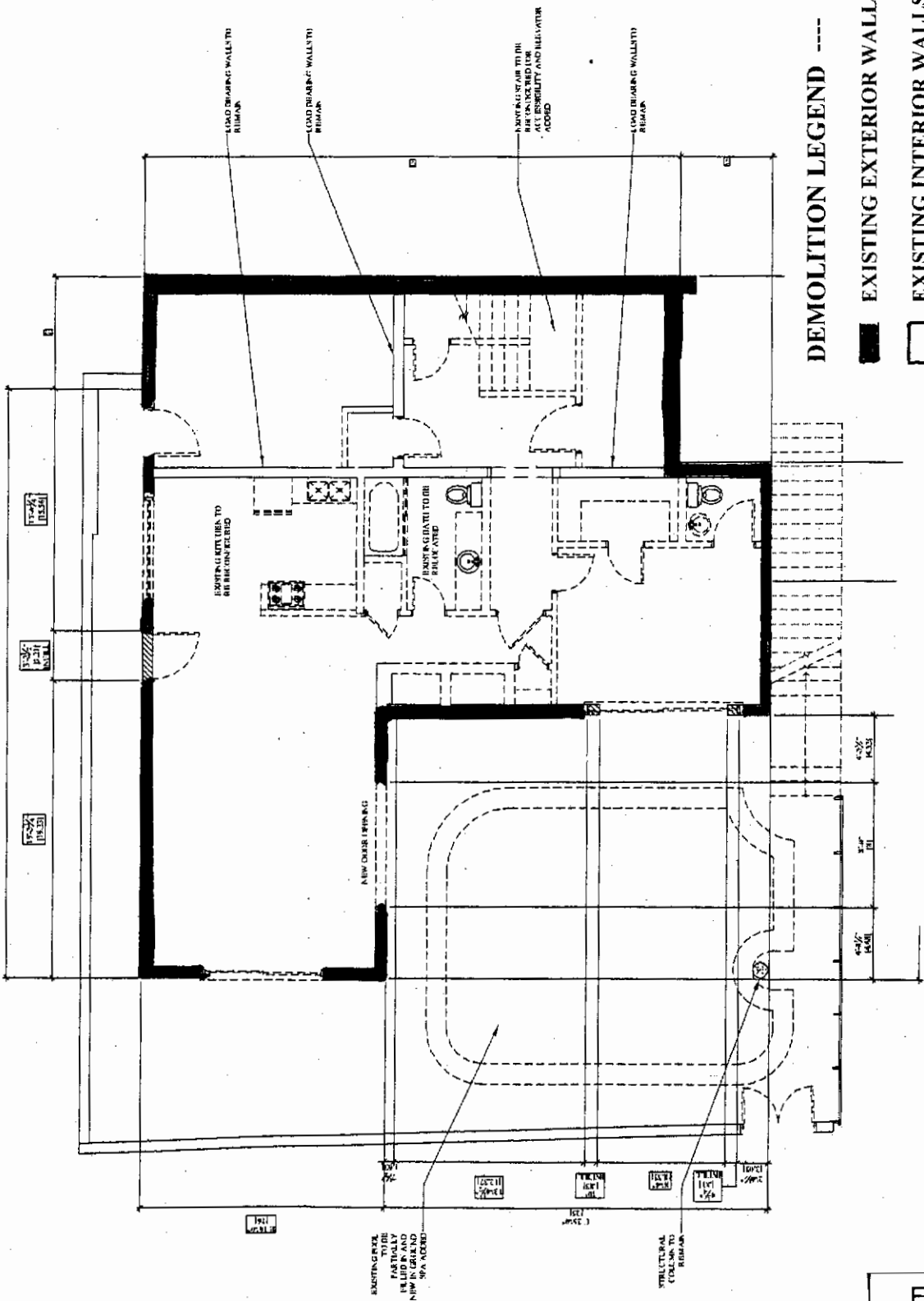
Subject: Addendum to **Item Th10b**, Coastal Commission Permit Application  
**#6-10-64 (Riviera Pacific)**, for the Commission Meeting of January 13,  
2011.

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

1. On Page 6 of the staff report, Special Condition #5 shall be revised as follows:
  5. **Timing of Construction.** No project construction shall take place on weekends and holidays between Memorial Day weekend and Labor Day of any year.
2. On Page 13 of the staff report, the third complete paragraph shall be revised as follows:

However, as the subject site lies adjacent to Riviera Drive, which functions as a major coastal access route, and also fronts a popular public beach area, there is the potential that construction activities associated with the proposed project could impede traffic on Riviera Drive and obstruct public access to beach areas. Consistent with past Coastal Development Permits issued for projects involving construction work near the public beach in this areas, ~~the~~ Commission has attached Special Condition #5 requiring that no work shall take place on weekends or holidays between Labor Day and Memorial Day of any year, the time when beach use is at its highest and the greatest potential for conflicts.
3. The attached exhibits shall be added as Exhibit #3 to the staff report.



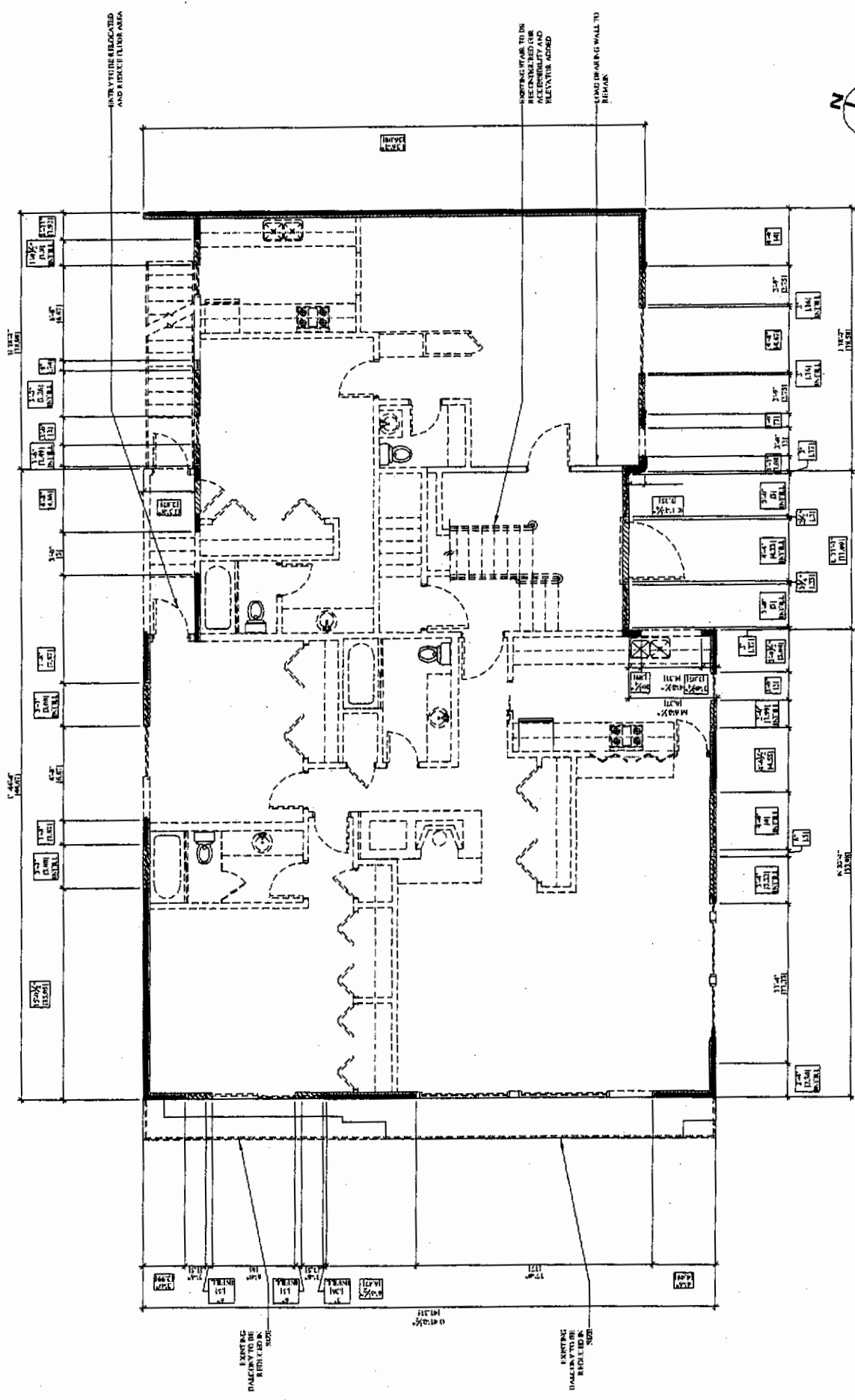
**DEMOLITION LEGEND ----**

- EXISTING EXTERIOR WALLS TO REMAIN
- EXISTING INTERIOR WALLS TO REMAIN
- EXISTING WALLS TO BE REMOVED
- EXISTING WALL TO REMAIN, OPENING TO BE INSTALLED

**BASEMENT PLAN - DEMOLITION**

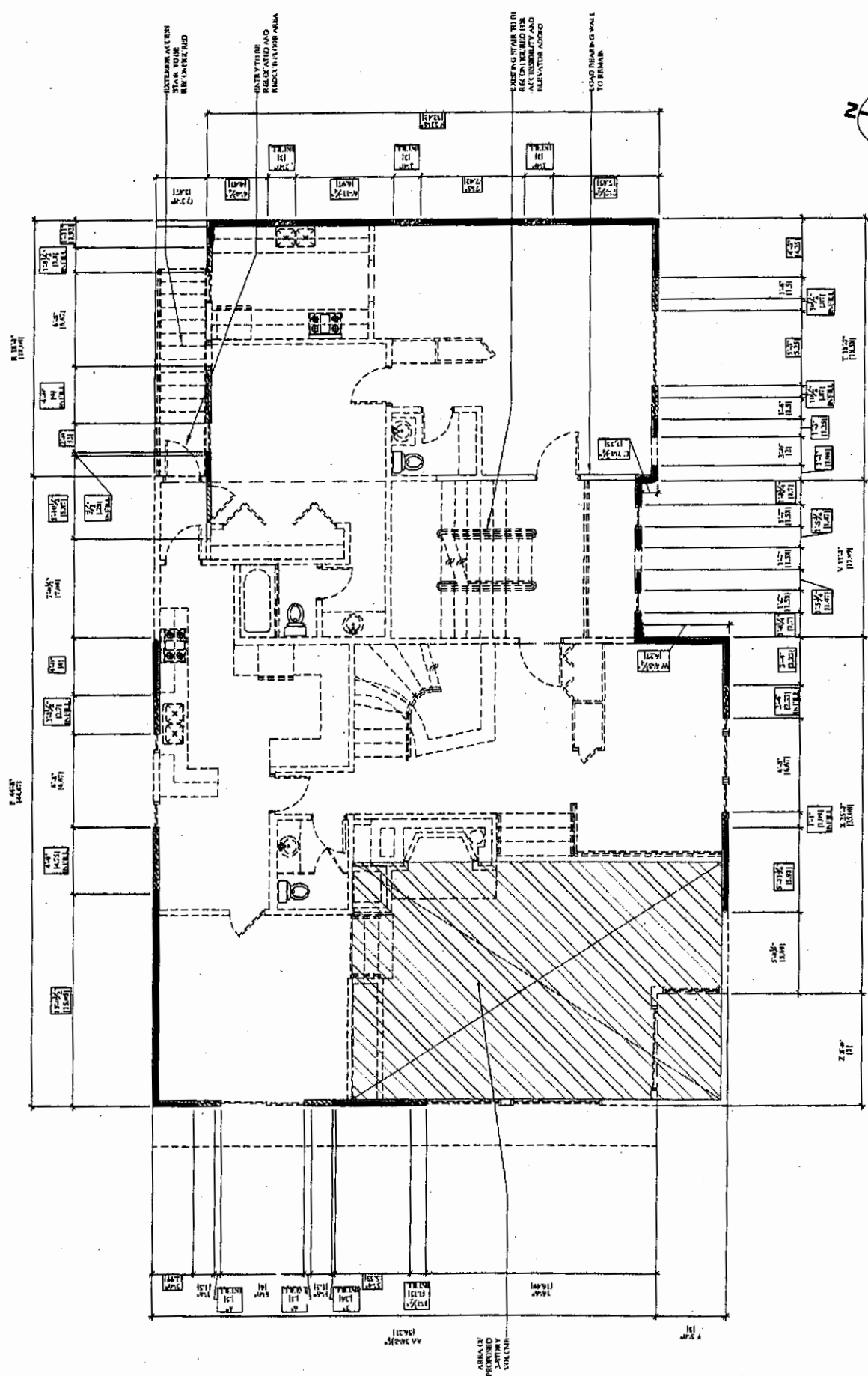
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<b>EXHIBIT NO. 3</b>
<b>APPLICATION NO.</b>
<b>6-10-064</b>
<b>Demolition Plans</b>
1 of 4
California Coastal Commission



1 FIRST FLOOR PLAN - DEMOLITION

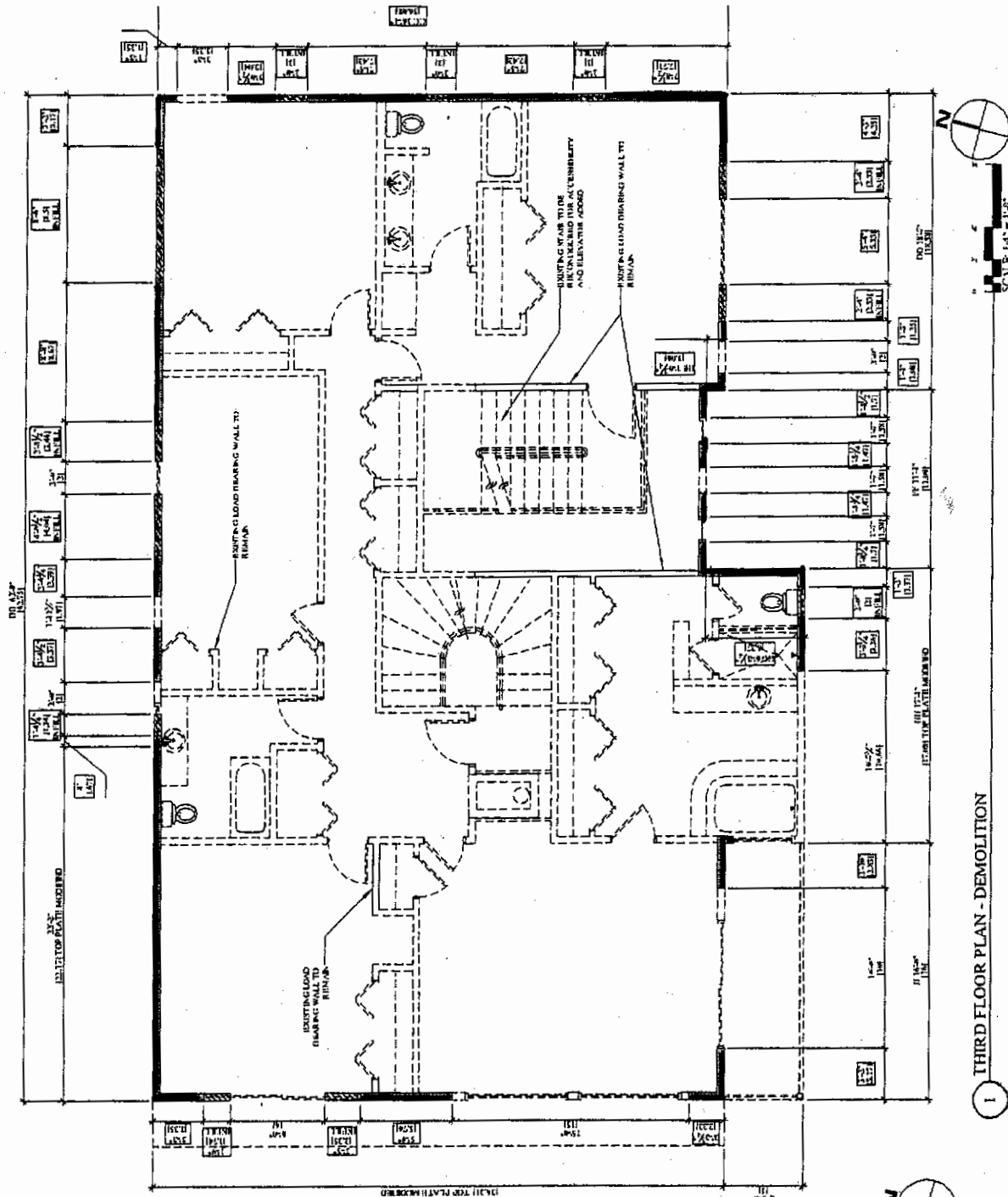
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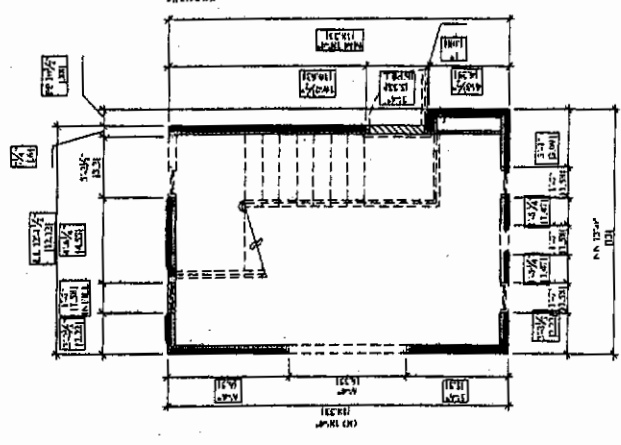
SCALE 1/4" = 1'-0"

1 SECOND FLOOR PLAN - DEMOLITION

6



1 THIRD FLOOR PLAN - DEMOLITION



2 PENTHOUSE PLAN - DEMOLITION

7

## CALIFORNIA COASTAL COMMISSION

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



# Th10b

Filed: 8/25/10  
 49th Day: 10/13/2010  
 180th Day: 2/21/2011  
 Staff: M.Ahrens-SD  
 Staff Report: 12/22/10  
 Hearing Date: 1/12-14/11

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-10-064

Applicant: Riviera LLC

Agent: Claude Anthony Marengo

Description: Demolition of 36% of the exterior walls and substantial interior and exterior renovation of an existing 8,594 sq. ft. 4-unit, three story, apartment building located on a 5,104 sq. ft. bayfront lot including landscaping modifications, partial reconfiguration of existing roof, and reduction in total square footage by 125 sq. ft., resulting in a 8,469 sq. ft., 4-unit residential structure.

Lot Area	5,091 sq. ft
Building Coverage	2,318 sq. ft. (46 %)
Pavement Coverage	2,603 sq. ft. (51 %)
Landscape Coverage	170 sq. ft. ( 3 %)
Parking Spaces	5
Zoning	RM-2-5
Plan Designation	Medium density residential
Ht abv fin grade	53.75 Feet

Site: 3762 Riviera Drive, Pacific Beach, San Diego, San Diego County.  
 APN 423-441-11

Substantive File Documents: Certified City of San Diego Local Coastal Program;  
 Marengo Morton Building Plans received 8/25/10 and dated 8/23/10.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed project with special conditions. The proposed project involves improvements and renovations to an existing legally non-conforming, three story, bayfront structure. The main issue raised by the proposed development relates to retention of the legally non-conforming structural elements of the pre-Coastal Act building which include walls encroaching one foot into the side yard setbacks, wall

encroachment of 5 ft. in the rear yard (bayside) setback, and an existing building height 23 ft. above the current 30 ft. height limit. While the proposed renovations are substantial and clearly surpass the limits of normal repair and maintenance, the proposed project will not involve the demolition of over 50% of the exterior walls of the structure. The City of San Diego LCP Land Development Code, used as guidance in this case, clearly terminates any rights to non-conforming elements if greater than 50% of the exterior walls are removed. The Commission has also used the 50% demolition threshold in determining whether the entire proposed development should be reviewed as new development and be subject to current applicable standards; however, depending on the impact associated with retention of existing non-conformities, substantial interior renovations, such as that proposed, which result in replacement of more than 50 % of the entire structure, including interior and exterior elements of the structure, could also trigger the requirement that the entire new structure be brought into conformance with current standards.

In this particular case, the subject structure is removed from the immediate beach area along Mission Bay and is not subject to wave action, flooding etc., so that preservation of all existing structural non-conformities will not increase the risk to the existing structure or necessitate any sort of shoreline protective device. However, in the instance of future proposed remodels or additions to the structure, staff is recommending Special Conditions to ensure that 1) the amount of demolition associated with this development is documented by the City and that it does not exceed that proposed without additional Commission review, and 2) should the subject structure be altered to the degree that, cumulatively, 50% or more of the exterior walls are demolished, that future demolition will be calculated cumulatively upon Commission approval of this proposed project, and the applicant or subsequent property owners are made aware that removal of all existing structural non-conformities would be required to bring the building into compliance with current San Diego Land Development Code regulations.

Additionally, in order to ensure protection and prohibit further obstruction of public ocean view corridors on the subject site, Staff is recommending a special condition that requires landscape plans to limit any landscaping and hardscaping within the side yards on the subject site to a maximum height of three feet. As such, any potential coastal issues associated with the proposed project have been adequately addressed and resolved through the project design and proposed conditions of approval.

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I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-10-064 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.**

**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 submitted by the applicant dated 8/24/10 and shall include the following:

- a. All landscaping shall be drought tolerant and native or non-invasive plant species. All landscape materials within the identified view corridors shall be species with a growth potential not 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 Exotic Pest Plant Council, or 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.
- b. Only open fencing shall be permitted in the side yard setback areas which shall permit public views and have at least 75 percent of its surface area open to light.



- c. A written commitment by the applicants that five years from the date of the issuance of the coastal development permit for the residential structure, the applicants will submit for 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 applicants, or their 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 compliance with the original approved plan.

The permittees 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. Final Plans/ Storage and Staging Areas. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit final site, development and staging and storage plans to the Executive Director for review and written approval. 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 the applicant dated 8/24/10 with this application and shall include written notes stating the following:

- a. Access corridors and staging areas shall be located in a manner that has the least impact on public access via maintenance of existing public parking areas and traffic flow on coastal access routes. The applicant shall not use public parking or sandy beach area for the storage of equipment or materials.

The permittees 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 unless the Executive Director determines that no amendment is legally required.

### **3. Confirmation of the Extent of Demolition.**

After demolition has been completed, and the framing of the walls to remain is exposed pursuant to the demolition plan approved in this permit, but **PRIOR TO ANY NEW CONSTRUCTION**, the applicant shall submit to the Executive Director, via bonded messenger from the City of San Diego Building Department, for the review and approval of the Executive Director, a certified copy of the City building inspector's report which indicates whether any demolition beyond the amount shown on the demolition plan approved by this permit has occurred or would be necessary in order to meet building and safety codes.

If the building inspector's report, as submitted to the Executive Director, indicates additional demolition has already occurred or must occur due to the deteriorated state of the walls which were proposed by the applicant to remain, the applicant shall submit a complete amendment request application or a complete application for a new coastal development permit. The application shall address the issue of revisions to the project due to the need for additional demolition. Depending on the substance of the submittal, pursuant to relevant provisions of the Coastal Act and the Commission's regulations, the Executive Director shall determine whether an application for an amendment to this permit is sufficient or whether the changes require submittal of a new application.

#### **No further development may occur until either:**

- a) The Executive Director determines, pursuant to the City building inspector's report, that all walls identified as walls to remain are intact and structurally sound; or
- b) the applicant submits an amendment request application if so directed by the Executive Director and the amendment request is subsequently approved by the Coastal Commission and issued by the Executive Director; or
- c) the applicant submits a new coastal development permit application if so directed by the Executive Director and the coastal development permit is approved by the Coastal Commission and issued by the Executive Director.

**4. Future Removal of Non Conformities.** If the existing residential structure at 3726 Riviera Drive is substantially altered in the future (additions, renovations, remodels, etc.) in a way that would result, cumulatively, in alteration or reconstruction of 50 percent or more of the exterior walls of the structure as they exist prior to the Commission's approval of this permit, the applicants, or their successors in interest, shall be required to remove all non-conforming encroachments in their entirety. In addition, any replacement structures shall be subject to the requirement of obtaining a new coastal development permit or an amendment to this permit and shall meet the all required building standards (setbacks, height, etc.) required by the City of San Diego and first be reviewed and approved in writing by the City of San Diego.

**5. Timing of Construction.** No project construction shall take place between Memorial Day weekend and Labor Day of any year.

**6. Deed Restriction. PRIOR TO THE 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 (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all the Standard and 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 that 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. The proposed project involves demolition of 36% of the exterior walls and substantial interior and exterior renovations to an existing 8,594 sq. ft., legally non-conforming multi-family structure located on a 5,091 sq. ft. bayfront lot in the community of Pacific Beach. The existing four unit condominium structure consists of a 1,358 sq. ft. basement level, a 2,354 sq. ft. first floor, a 2,314 sq. ft. second floor, a 2,341 sq. ft. third floor, as well as a 226 sq. ft. penthouse area. The proposed project would include the complete demolition and reconstruction of the interior second and third floors and associated vertical interior walls; the partial lowering of the existing roof to allow for construction of a roof deck; demolition and reconstruction of the internal stairways for all floors within the building; removal and replacement of all existing plumbing and electrical systems; addition of architectural projections on the western façade; stylistic renovations to the structure’s exterior fascia; addition of a single story covered entry structure in the rear side yard; construction of a 3 story partially covered stair tower and spiral stair at the northeast corner of the existing structure; addition and relocation of bayfront balcony areas on the second and third floors; construction of a wooden deck area in the bayfront yard involving the fill of existing pool area and installation of a Jacuzzi spa; addition of various landscaping details including installment of trellis structures, planters; and 75% open wrought iron fencing; replacement and reconfiguration of all existing windows and doors; and, replacement of an existing interior elevator.

Overall, the proposed project involves the demolition of approximately 36% of the exterior walls, and approximately 50-60% of the interior walls. Upon completion, the proposed project would reduce the existing square footage by 125 sq. ft., resulting in an 8,469 sq. ft., four unit residential structure.

The subject site is located on the Crown Point peninsula in the community of Pacific Beach. This area of Mission Bay is characterized by wide sandy beaches bounded by relatively calm bay waters. The subject site is bordered by Riviera Drive on the east and by the Sail Bay beach area on the west. An existing improved concrete boardwalk is located 20-30 ft bayward of the subject site's western property line and runs north and south along the bayfront sand beach in this area.

Although the City of San Diego has a certified LCP, the subject project is located within the Commission's area of original jurisdiction.. As such, the standard of review is the Chapter 3 policies of the Coastal Act with the City's Land Development Code and the Pacific Beach LUP used as guidance.

2. Retention of Non-Conforming Structures. When the Commission reviews demolition of a structure to determine the extent of the demolition for purposes of concluding whether or not demolition constitutes new development, the review of the demolition proposal is driven by considerations of Coastal Act policies and whether an existing non-conforming structure is inconsistent with one or more of those policies. For example, Coastal Act policies considered include minimization of risk, protection of public views and assurance of geologic/structural stability which avoids the potential need for shoreline and/or bluff protection devices. While the LCP provides guidance, the standard of review for this project is the Coastal Act.

Coastal Act, section 30253 states in relevant part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 127.0106 of the City's certified Land Development Code, which the Commission uses for guidance, contains the following requirement:

[...]

(d) Within the coastal overlay zone, if the proposal involves the demolition or removal of 50 percent or more of the exterior walls of an existing structure, the previously conforming rights are not retained for the new structure.

Section 17.72.120 of the City's municipal code defines a nonconforming structure, as a building, structure, or improvement that:

1. Does not conform to the development standards described in this title, together with all building standards including, without limitation, height, setbacks, density, parking, type of building, or coverage of lot by structure; and
2. Did comply with the development standards contained in this title in effect at the time the building, structure or improvement was constrained or structurally altered and was lawfully constructed.

The existing pre-Coastal Act multi-unit structure is non-conforming with regard to the requirements of the City of San Diego's Land Development Code (LDC). While the City's LDC is not the standard of review for this project, it provides direction when analyzing and addressing legally non-conforming structures in the community of Pacific Beach.

The subject structure was developed prior to the passage of the Coastal Act and maintains the non-conformities established with its initial construction. Specifically, the existing structure encroaches one foot into the designated 5 foot side yard and five feet into the designated 15 foot rear yard setbacks and also extends 23 ft above the required 30 ft. coastal height limit, resulting in an approximately 53 ft. tall structure. Additionally, the subject site contains five off street parking spaces, while the City's Land Development Code parking requirements for Zone RM-2-5 stipulate that 7 off street parking spaces be provided. The 5,091 sq. ft. subject lot is situated at the southerly end of a contiguous line of non-conforming pre-Coastal Act Riviera Drive developments, the overall bulk of which effectively blocks public views of the bay along the northern stretch of Riviera Drive.

One way the Commission determines whether substantial redevelopment of a site is occurring is to look at the extent of demolition occurring to the existing structure and the location where such demolition is taking place. Past Commission decisions have determined that if a proposed project involves the demolition of over 50% of the existing exterior walls, that the proposal would constitute "new development" and all existing non-conformities associated with the subject structure would need to be brought into conformance with the current structural and zoning requirements. However, depending on the impacts to coastal resources associated with retention of the existing non-conforming elements, substantial interior renovations, such as that proposed, which result in replacement of more than 50 % of the structure could also

trigger the requirement that the entire new structure be brought into conformance with current standards.

In past Commission actions, the Commission has found that a project proposal consisted of over 50% replacement of a structure after accounting for demolition of its interior and exterior walls, which was driven, in part, because the existing structure was inconsistent with the Coastal Act Chapter 3 policies and the local setback requirement. (See 5-10-031, Paicius—denied at the November 2010 Commission hearing) In Paicius, the Commission opted to calculate the extent of the demolition by taking into account interior and exterior wall demolition because, in part, the proposed project raised issues of geologic instability. In that case, the Commission found that since the existing house was sitting at the edge of a bluff-top, the proposed project did not include a setback from the edge of the bluff and there was a potential need for future shoreline protection to protect the house from erosion, it was inconsistent with Section 30253 of the Coastal Act denied the project and required it to conform with the local setback requirements. Here, on the other hand, while the structure may be inconsistent with the setback requirement of the City's LCP, the Commission may use its discretion, relying on equity and Coastal Act policy considerations, like 30253, when it calculates the extent of a proposed demolition (interior/exterior or just exterior wall calculation).

Typically, the Commission has quantified demolition by tabulating the extent of exterior linear walls to be removed compared to the total overall amount of exterior linear walls existing prior to the proposed development. The walls proposed to remain must retain their structural components such as studs and foundation. Cosmetic portions of the wall, such as exterior stucco and interior drywall, may be removed. The applicant has submitted information regarding the extent of demolition proposed. According to the applicant's demolition information, approximately 36% of the existing exterior linear walls will be demolished with the proposed development. The Commission has generally found that if less than 50% of the linear feet of the existing exterior walls are removed, the project can be reviewed as a remodel rather than substantial re-development, consistent with the above referenced LDC provision. The significance of this distinction is that existing non-conformities, such as existing development within a setback area, can be considered for retention if such retention would not raise significant inconsistencies with Coastal Act requirements. The 50% demolition threshold provides one consistent and equitable method of dealing with existing non-conformities associated with extensive remodel projects. In this case, the proposed demolition does not exceed the 50% exterior wall demolition threshold. Thus, given these site specific factors, in this case the Commission finds the project does not constitute substantial re-development.

Most properties along Riviera Drive are aging pre-Coastal Act developments that have yet to obtain coastal development permits for any type of remodel or complete demolition. However, redevelopment of the two properties directly south of the subject site was addressed in permit number 6-01-099. In 6-01-099, the Commission

approved complete demolition of the two existing non-conforming bayfront residences with subsequent redevelopment of the site. As this project constituted new development pursuant to the definitions and standards set forth in the City's LDC and the relevant provisions of the Coastal Act and Commission regulations, the new residences constructed on site were not allowed to retain the non-conformities of the former pre-Coastal Act residences. While 6-01-099 involved complete demolition of the existing legally non-conforming residences, the applicant's proposed remodel, here, would not involve more than 36% demolition of the exterior walls and would maintain the existing footprint of the subject structure. As such, the proposed non-conforming rights would not be terminated pursuant to the City's LDC which is used for guidance.

In this particular case, the Commission is not requiring the entire structure be brought into conformance with current standards. However, contingencies must be in place once the demolition is under way to assure that the quantity and location of demolition occurs in the manner proposed and if the quantity or location of demolition changes, to establish an avenue which allows the project to be re-assessed based on the revised demolition plan. If the applicant discovers during construction that additional exterior walls must be demolished due to extensive termite damage, wood rot, or any other unforeseen circumstances, the extent of demolition of exterior walls could exceed 50% and would thus require the removal of all existing structural non-conformities. Special Condition Nos. 3 & 4 require the applicants to document the actual extent of demolition that occurs to be certified by the City and to notify the Executive Director prior to commencement of new development. If 50% or more of the exterior walls are demolished, the applicants must apply for an amendment to this permit or for a new Coastal Development Permit with revisions that bring the structure into compliance with all applicable LDC zoning and setback requirements. These special conditions also provide notice to the applicants and their successors-in-interest of the requirement that the non-conforming aspects of the development shall be removed if 50% or more of the exterior walls are demolished cumulatively over time. Special Condition #6 requires the applicants to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

Additionally, allowing for the retention of existing structural non-conformities through approval of the proposed renovation will not result in impacts to coastal resources greater than what currently results from the subject non-conforming structure. Unlike past Commission decisions involving the redevelopment of non-conforming coastal blufftop homes that encroach into the designated blufftop setback, the subject property borders a calm ocean bay and lies removed from the immediate beach area. For legally non-conforming coastal blufftop home development proposals entailing less than 50% demolition of exterior walls, the Commission has expressed concern that retention of blufftop encroachments might necessitate shoreline protective devices resulting in significant impacts to coastal resources. However, due to the location of the subject site and level bayfront topography, retention of the subject structure's existing non-conformities would not

affect the stability of the entire structure or result in the need for shoreline protective devices in the future. As such, the Commission finds the subject development, as conditioned, consistent with section 30253 of the Coastal Act.

3. Visual Resources. Section 30251 of the Coastal Act is applicable to the 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, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The Pacific Beach Land Use Plan contains the following policies.

Improve the community's scenic views and vistas of the beach and bay through a program of undergrounding utilities and maintaining streetscapes that frame, rather than obstruct, views.

In addition, Section 132.0403 of the City's certified Land Development Code, which the commission uses for guidance, also contains the following requirement:

[...]

(c) 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 effect from authorized development.

The subject bayfront property is located on the west side of Riviera Drive bordering Sail Bay, which is a region of the Pacific Beach community that provides a wide variety of scenic public ocean and bay views. However, the majority of available public ocean views along the westward side of Riviera Drive are currently obstructed by multi story pre-Coastal Act developments. These developments tower several stories high and cumulatively create a "walled off" effect along the westward side of Riviera Drive. Despite the effective blockage of public ocean views along Riviera Drive, the certified Pacific Beach Land Use Plan identifies this section of Riviera drive as "roads with public view of water" as designated in the "Coastal Views" map of the LUP. Additionally, the City's LDC includes policies that ensure protection of views through designated side yards regardless of whether the site or streets leading to the site are designated public view corridors. The subject structure encroaches 1 ft. into the north and south side yard setbacks and established vegetation and fencing located in the side yards of the subject site currently blocks the majority of public ocean views available from Riviera Drive when looking westward across the



property. However, the proposed project includes side yard landscaping and hardscaping which would result in expansion of existing public ocean views from Riviera Drive.

In a past Commission decision (ref. CDP #6-01-099) for redevelopment on the property immediately to the south of the subject site, the Commission noted the importance of enhancing and recapturing these obstructed public ocean views when presented with redevelopment projects along this westward portion of Riviera Drive. While the proposed project would maintain the existing encroachments into the designated side yard setbacks areas, the applicant is proposing to remove and reconfigure the side yard landscaping and hardscaping to allow for increased public views of the bay taken from Riviera Drive. To ensure that the maximum amount of public bay views are restored and subsequently preserved with approval of the proposed project, Special Condition #1 restricts vegetation in the designated side yard areas to species which at maturity will not exceed a height of three feet and mandates that any hardscaping or fencing be 75% open consistent with the definition of open fencing in the City's LDC.

4. Public Access. Section 30220, 30221, and 30222 of the Coastal Act are applicable to the project and state:

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.

Section 30212

(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, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by (4) providing adequate parking facilities [...]

The subject structure is situated on a bayfront lot bordered on the west by a broad sandy beach and on the east by Riviera Drive. The subject beach area fronts the calm waters of Sail Bay is not subject to consistent wave action, like other beaches in San Diego that border the open ocean. As such, this beach area has remained relatively wide and provides the public with a variety of recreational activities. An improved concrete boardwalk runs around the perimeter of the bay along the sandy beach area and lies 20-30ft bayward of the subject site's western property line. This boardwalk is a heavily utilized public amenity frequented by rollerblades, cyclists, and pedestrians. The beach on either side of the boardwalk is available to the public for strolling, sunbathing, and other general beach activities. Also, as the waters of Sail Bay remain relatively calm the bay is a popular area for boaters and provides the public with an opportunity to engage in other active water sports. The subject site's western property line is located 20-30 ft. from the existing improved boardwalk and approximately 100 ft from the bay's shoreline. The actual subject structure observes a 10 ft. setback from the lots western property line. Therefore, the subject site is considered to be removed from the immediate public beach area.

Public vertical beach access in this area of Sail Bay can be gained from the lot directly north of the subject site, where a designated public beach accessway equipped with a pedestrian ramp/driveway leads down to the sandy beach area. Additionally, the site is located approximately .5 miles from the Crown Point Shores beach recreational area, which provides unlimited access to the shoreline. There is no existing public beach access located on the subject site and the proposed redevelopment would not obstruct or alter the existing public beach accessway located one lot north of the subject site. As such, the proposed project would not interfere with existing public beach access or affect the existing public recreational opportunities in the Sail Bay area.

However, as the subject site lies adjacent to Riviera Drive, which functions as a major coastal access route, and also fronts a popular public beach area, there is the potential that construction activities associated with the proposed project could impede traffic on Riviera Drive and obstruct public access to beach areas. Consistent with past Coastal Development Permits issued for projects involving construction work near public beach areas, The Commission has attached Special Condition #5 requiring that no work shall take place between Labor Day and Memorial Day of any year, the time when beach use is at its highest and the greatest potential for conflicts.

In summary, the proposed remodel, as conditioned, will not adversely affect the public's ability to access this area of shoreline and is consistent with all applicable public access and recreation policies of the Coastal Act.

5. Local Coastal Planning. The project site is within the Commission's area of original jurisdiction and subject to all applicable Chapter 3 policies of the Coastal Act. The site is currently developed with a multi-family residential structure and lies adjacent to bayfront structures of similar bulk and design. While the subject structure is a legally non-conforming building, the proposed project will not result in significant adverse impacts to coastal resources and will not increase the degree of existing non-conformity. The proposed project will not have any adverse impacts on existing public access to the bay and will serve to expand existing public ocean views from Riviera Drive through the side yards of the property. In summary, given that the proposed project is consistent with visual resource and public access policies of the Coastal Act, the Commission finds that project approval, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Pacific Beach area.

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.

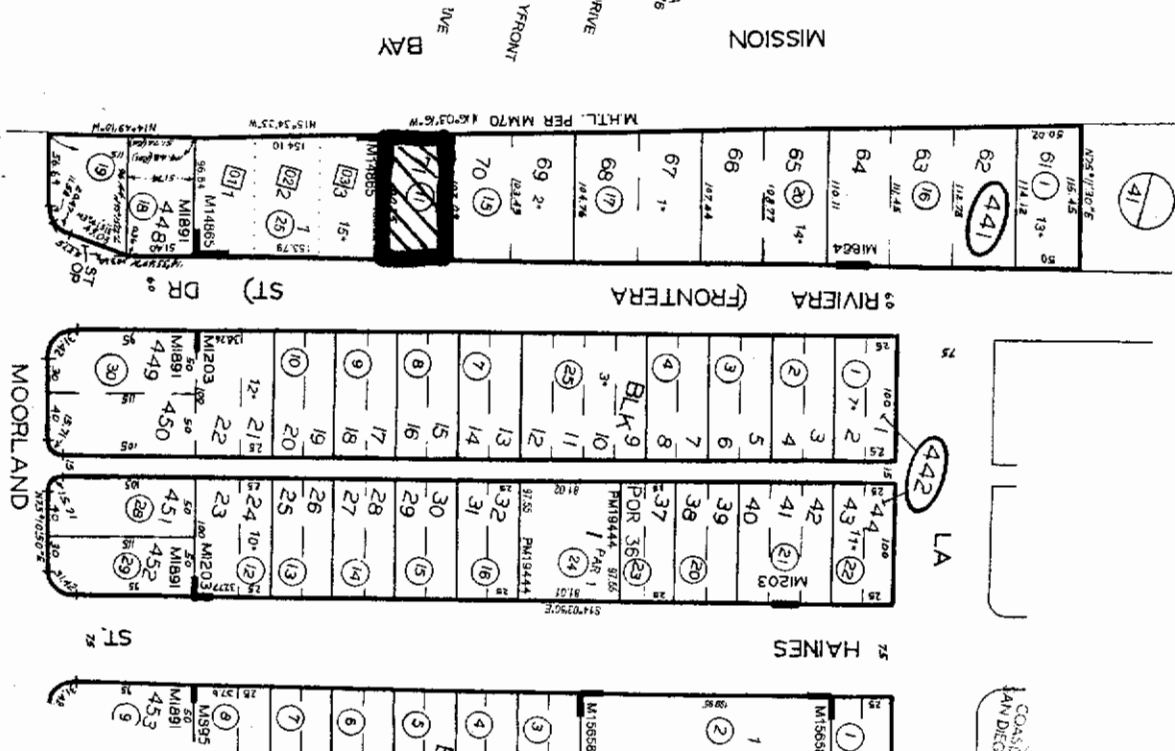
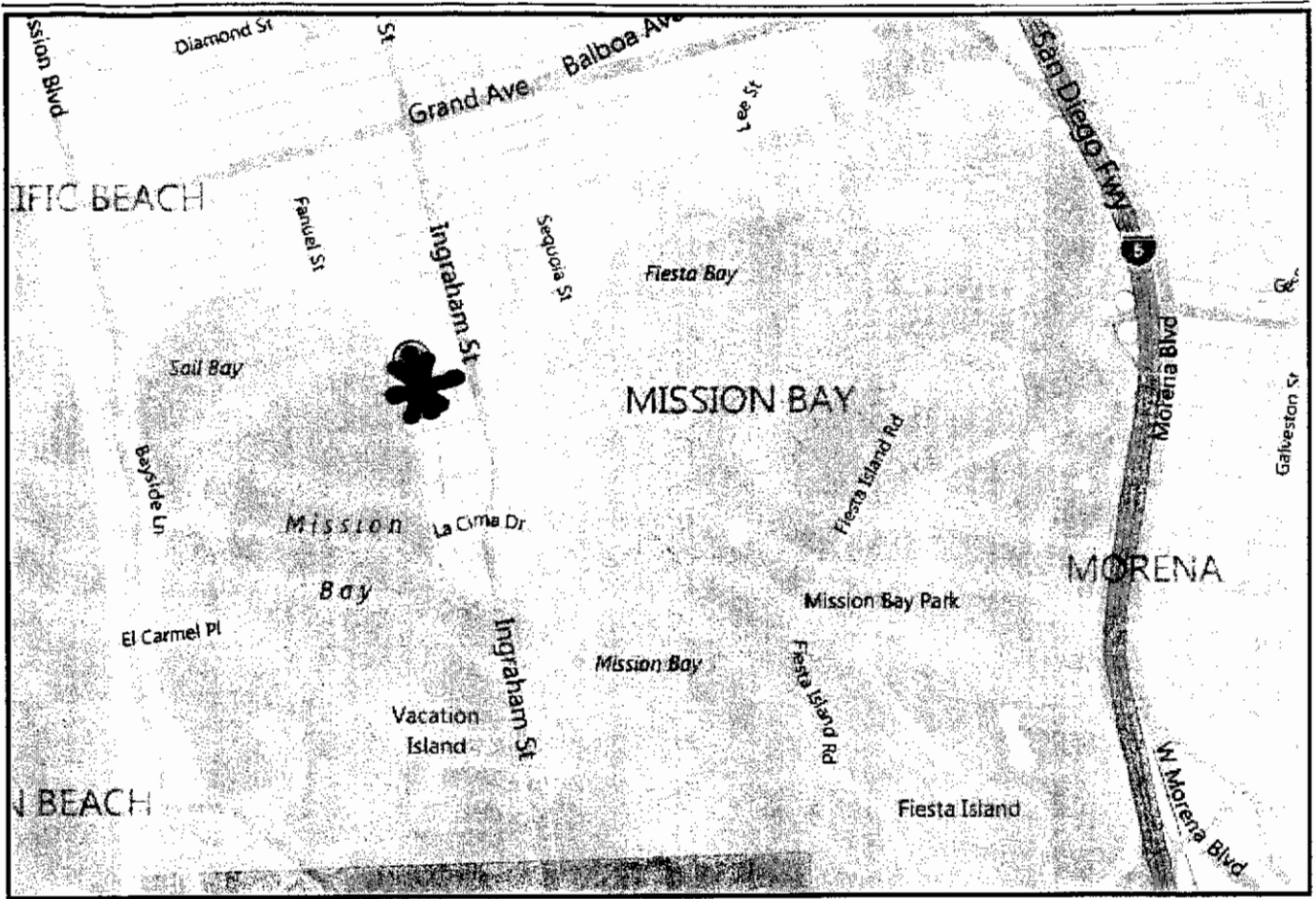
The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing landscaping, staging areas, timing of construction, and future removal of non-conformities will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts 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

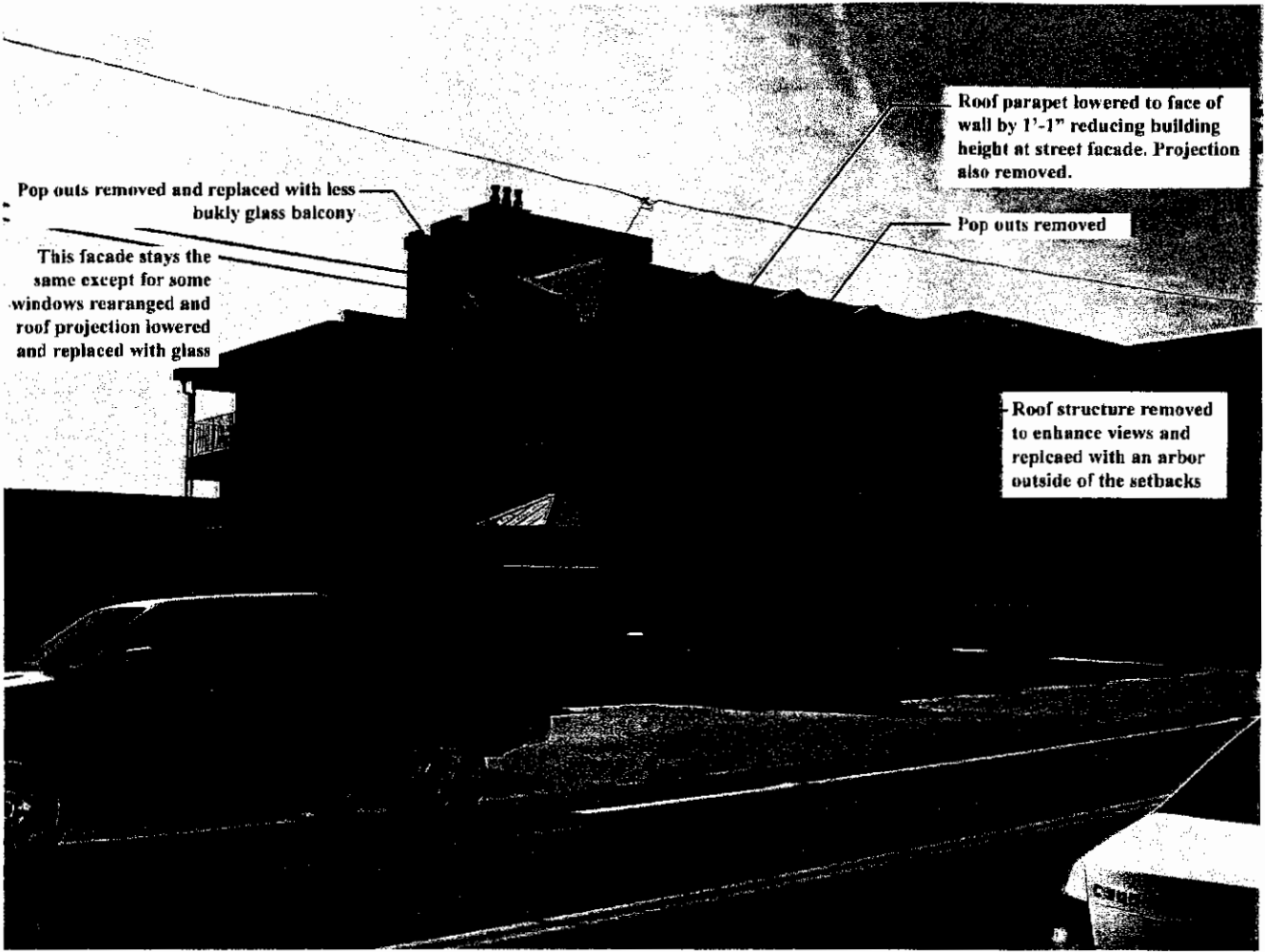
reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

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.**  
**6-10-064**  
**Location Map**

California Coastal Commission



Roof parapet lowered to face of wall by 1'-1" reducing building height at street facade. Projection also removed.

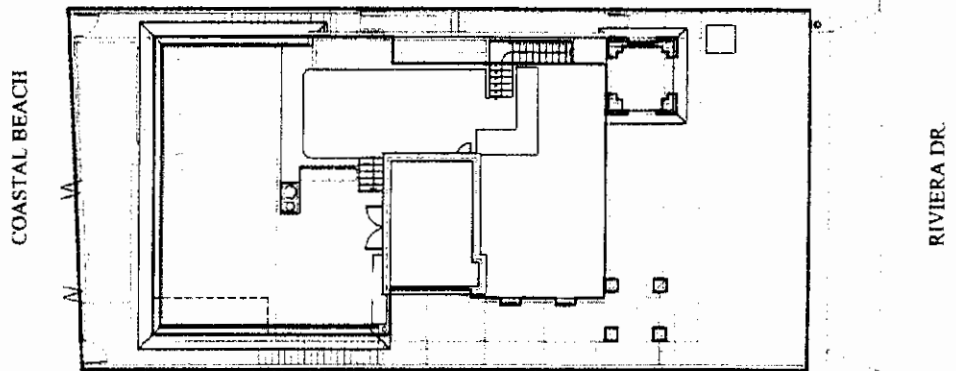
Pop outs removed

Pop outs removed and replaced with less bulky glass balcony

This facade stays the same except for some windows rearranged and roof projection lowered and replaced with glass

Roof structure removed to enhance views and replaced with an arbor outside of the setbacks

**B. FRONT (SOUTHEAST)**



**KEY MAP**

NTS



B



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 camarengo@marengomortonarchitects.com

**Project:** Riviera Pacific LLC  
 Multi-Family Project

**Address:** 3726 Riviera Dr.  
 San Diego, CA 92109  
 APN #: 423-441-11

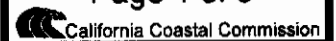
**EXHIBIT NO. 2**

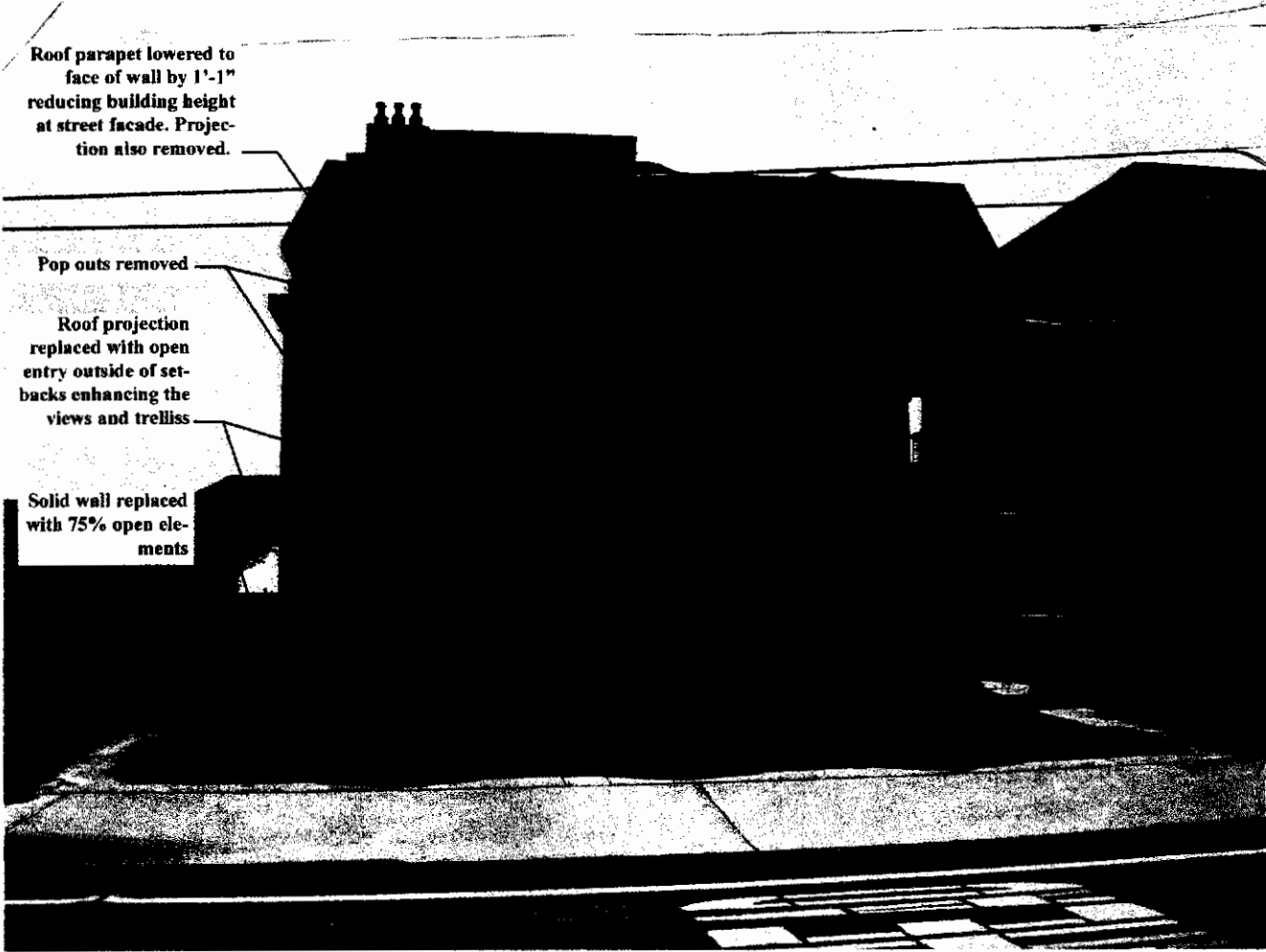
**APPLICATION NO.**

**6-10-064**

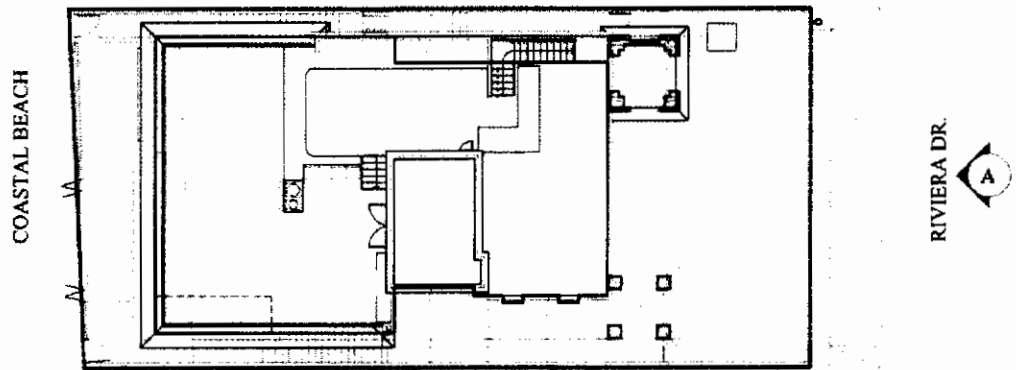
**Site Photographs**

**Page 1 of 5**





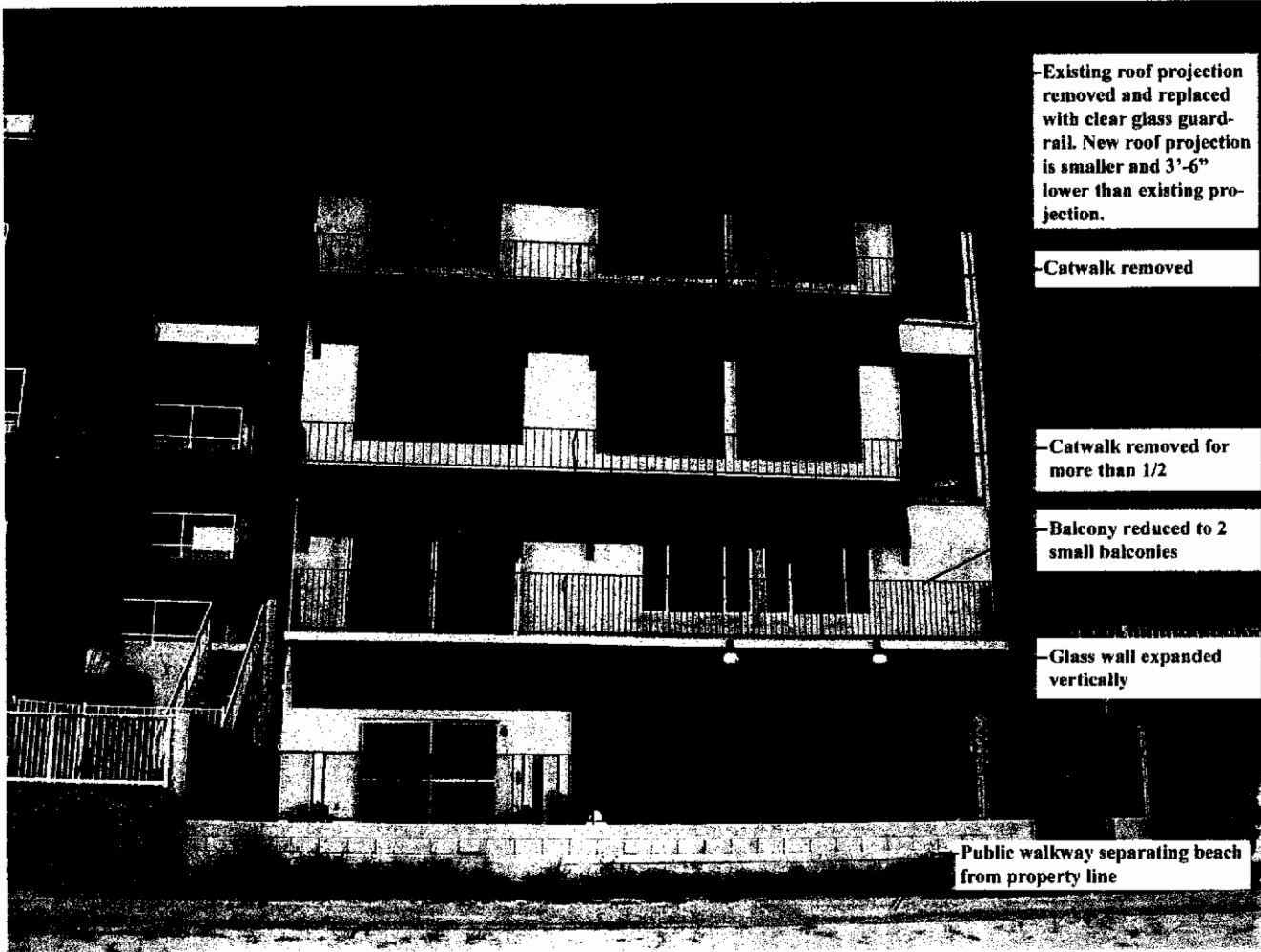
A. FRONT (EAST)



KEY MAP  
NTS



 <p><b>Marengo Morton Architects, Inc.</b> 7724 Girard Avenue, Second Floor La Jolla, California 92037 Tel 858-459-3769 • Fax 858-459-3768 camarengo@marengomortonarchitects.com</p>	<p><b>Project:</b> Riviera Pacific LLC Multi-Family Project</p>	<p><b>PTS #</b></p>
	<p><b>Address:</b> 3726 Riviera Dr. San Diego, CA 92109 APN #: 423-441-11</p>	<p><b>Date:</b> 06-22-2010</p>



-Existing roof projection removed and replaced with clear glass guard-rail. New roof projection is smaller and 3'-6" lower than existing projection.

-Catwalk removed

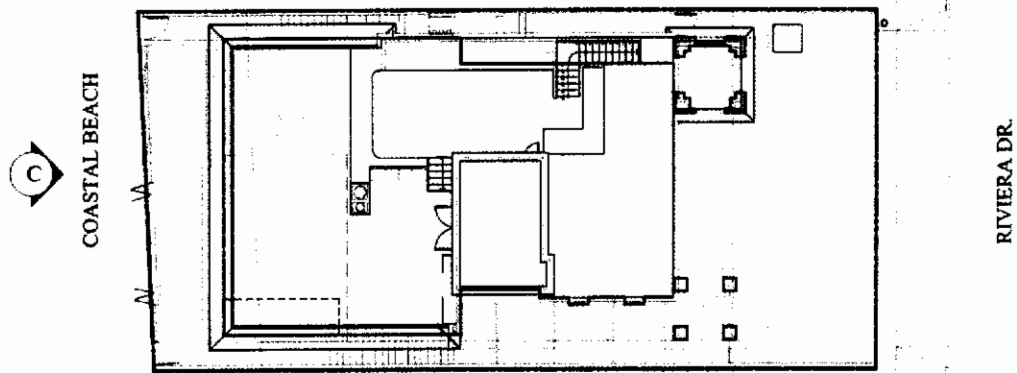
-Catwalk removed for more than 1/2

-Balcony reduced to 2 small balconies

-Glass wall expanded vertically

-Public walkway separating beach from property line

**C. REAR (WEST)**



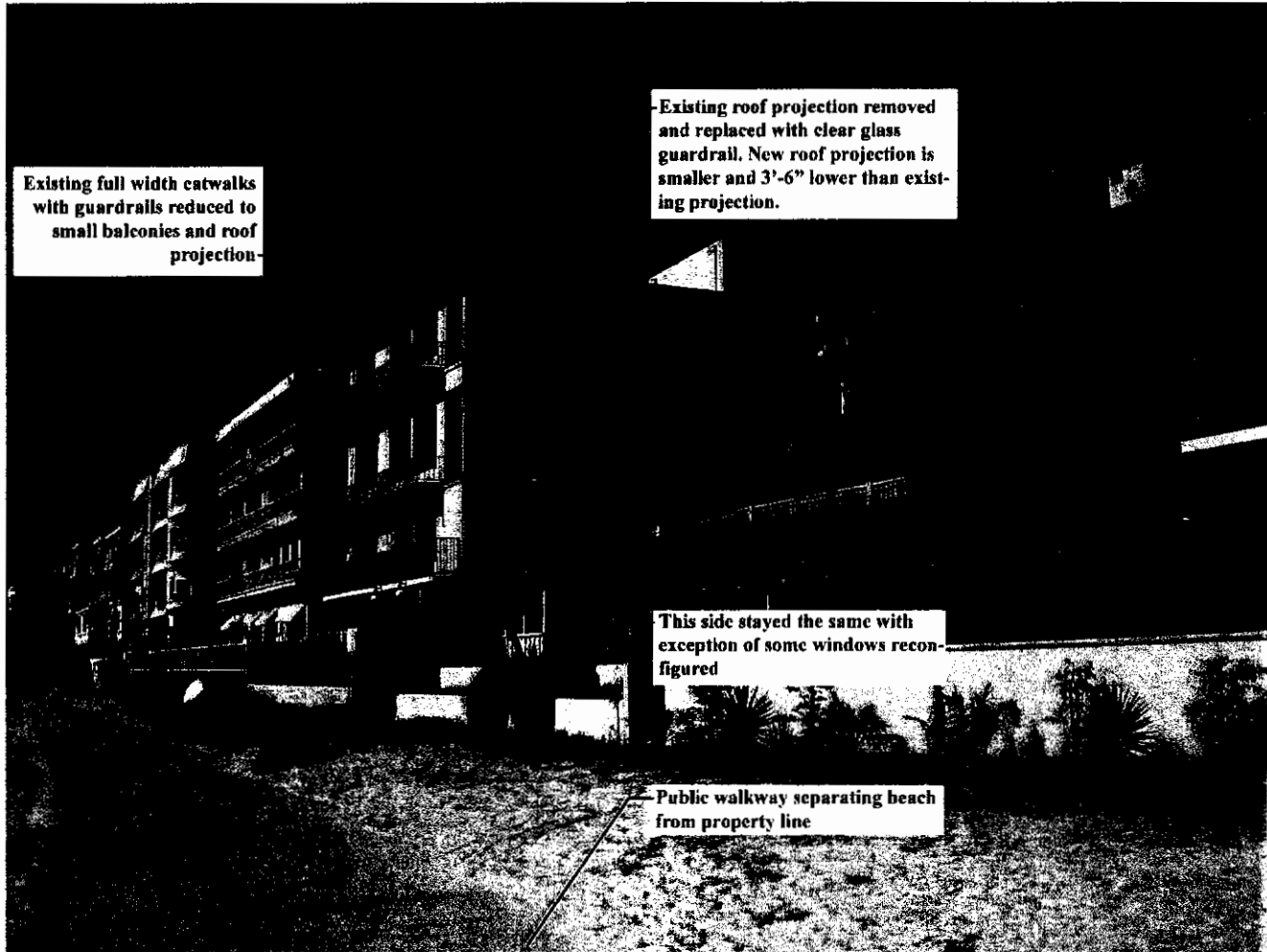
**KEY MAP**

NTS

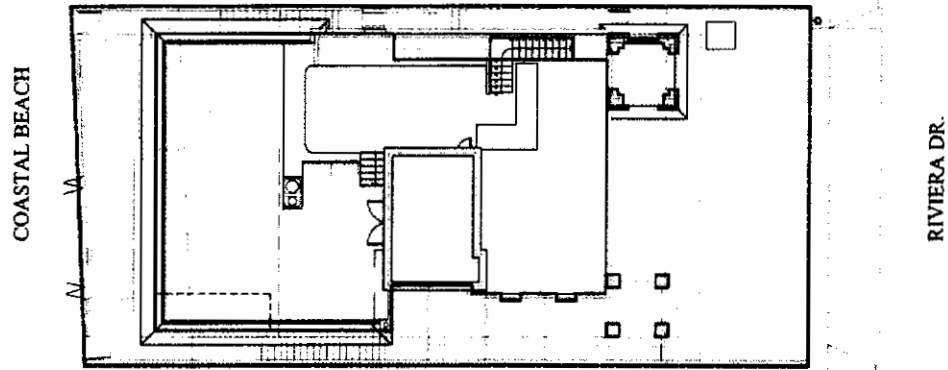


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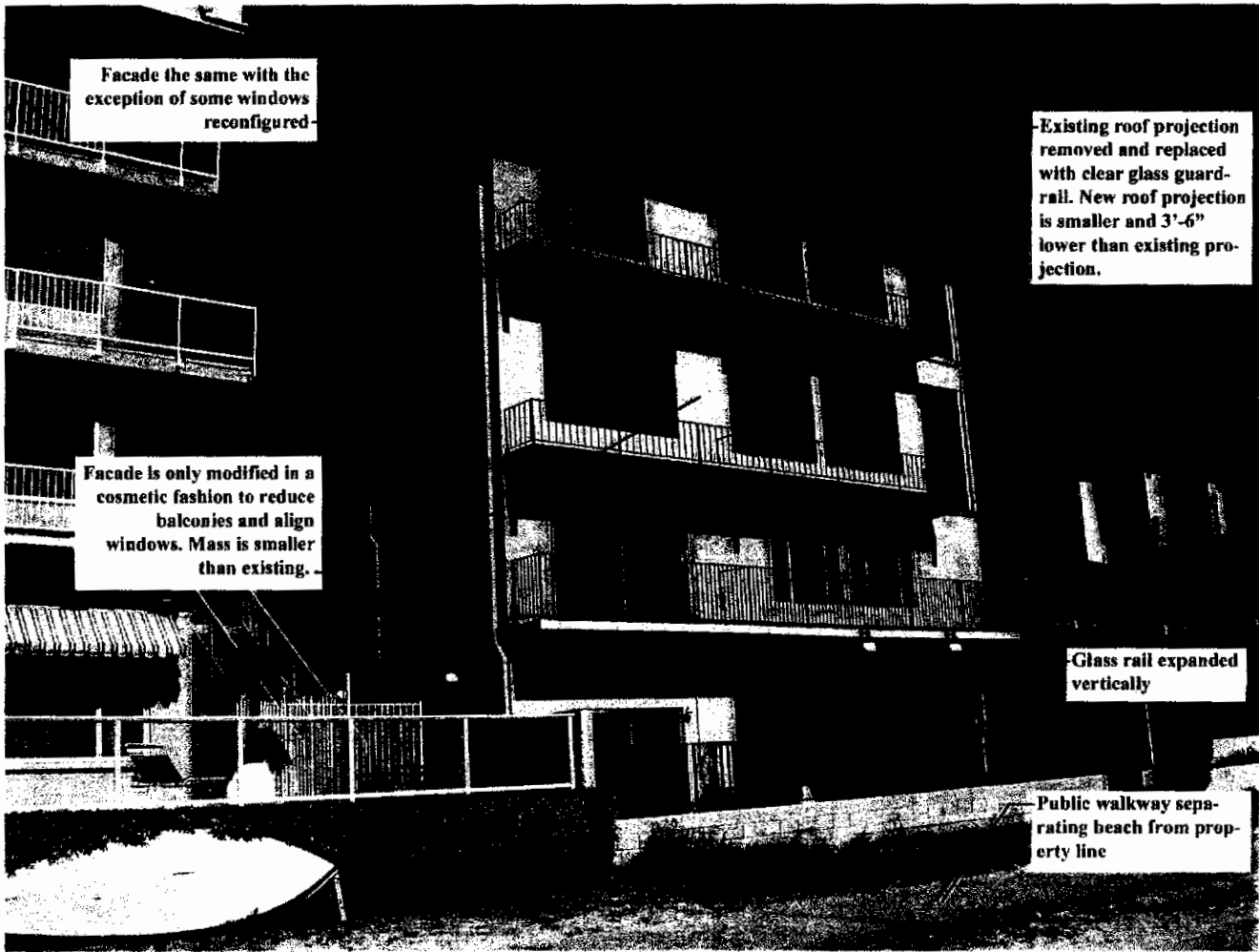
**D. REAR (SOUTHWEST)**



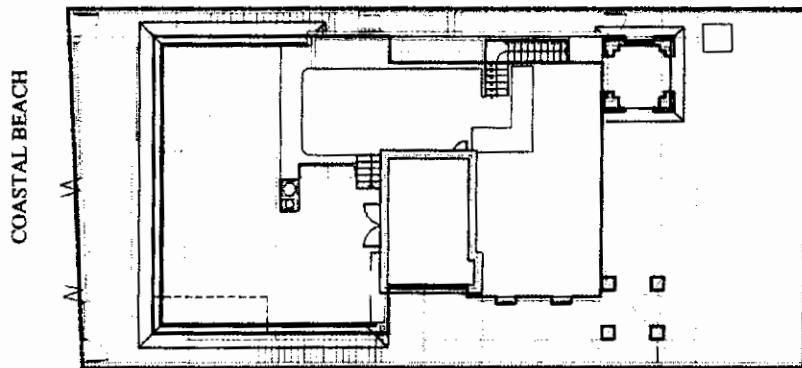
**KEY MAP**  
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	<p><b>Address:</b> 3726 Riviera Dr. San Diego, CA 92109 APN #: 423-441-11</p>	<p><b>Date:</b> 06-22-2010</p>



E. REAR (NORTHWEST)



**KEY MAP**

NTS



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	<p><b>Address:</b> 3726 Riviera Dr.          San Diego, CA 92109          APN #: 423-441-11</p>	<p><b>Date:</b> 06-22-2010</p>