

CALIFORNIA COASTAL COMMISSION

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



W13a

Filed: 4/1/11
49th Day: 5/30/11
Staff: EStevens-SD
Staff Report: 4/18/11
Hearing Date: 5/11-13/11

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

APPEAL NO.: A-6-OCB-11-026

APPLICANT: Alvin Cox

PROJECT DESCRIPTION: Demolition of an existing one-story 1,250 sq. ft. duplex structure and construction of a 1,749 sq. ft. three-story single-family residence with an attached 335 sq. ft. open carport on a 2,500 sq. ft. site.

PROJECT LOCATION: 5164 West Point Loma Blvd., Ocean Beach, San Diego, San Diego County. APN 448-041-13

APPELLANTS: Ocean Beach Planning Board

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. Based on review of the City's file and information provided by the appellant and applicant, staff has concluded that the development, as approved by the City, is consistent with all applicable LCP provisions as it is in character with the overall surrounding community and will not result in any adverse impacts on public views.

SUBSTANTIVE FILE DOCUMENTS: Appeal by the Ocean Beach Planning Board dated 4/1/2011; Certified Ocean Beach Precise Plan (LUP); Certified City of San Diego LCP Implementation Plan; City of San Diego Report to the Planning Commission dated 2/10/2011; Historic Resources Technical Report by Scott Moomjian dated April 2010; CDP# A-6-OCB-08-046.

I. Appellants Contend That: The proposed development is inconsistent with the policies of the certified LCP which pertain to protection of public views to the ocean, protection of public views from open space back towards the community, and preservation of community character. Specifically, the appellants contend that the proposed project of three stories will eliminate ocean views from the adjacent public areas along the San Diego River walkway/bike path looking southwest to the Ocean Beach Pier, will eliminate views from the adjacent public street looking southwest along West Point Loma Boulevard, and will eliminate views from the adjacent park back towards the community. They also contend that the proposed project will add to a collective ‘*canyon-ization*’ of the block, thus creating a less pedestrian friendly environment. Lastly, the appellants contend that the proposed project of three stories is inconsistent with the character of the surrounding block of one-story homes.

II. Local Government Action: The Ocean Beach Planning Board voted 10-1-0 to recommend denial of the project on August 5, 2009. A coastal development permit for the subject development was approved by the Hearing Officer of the City of San Diego on January 19, 2011. That decision was appealed to, and heard by the Planning Commission of the City of San Diego on February 17, 2011. The item was then continued from the February meeting due to a lack of Planning Commissioners present. The project was subsequently heard by the Planning Commission on March 10, 2011, at which time the appeal was denied and written findings were adopted. The conditions of approval address, in part, the following: side yard visual corridors, off-street parking, variance of the deviation to the RM-2-4 zoning regulations, flood-proofing of all structures subject to inundation, and outdoor lighting.

III. Appeal Procedures/Substantial Issue Analysis: After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30604(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. titl. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City does not raise a substantial issue with regard to the appellants' contentions.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-OCB-11-026 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. **6-OCB-11-026** does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

1. Project Description. Proposed is the demolition of an existing one-story, 1,250 sq. ft. residential duplex structure and the construction of a 1,749 sq. ft., three-story single-family residence with an attached 335 sq. ft. open carport on a 2,500 sq. ft. site. The existing duplex structure is approximately 12 ft. high and the proposed residence will be 30 ft. high. The first floor will consist of 2 bedrooms and 1 bathroom, the second floor will consist of the living room and the kitchen, and the third floor will consist of a master suite. The project includes a variance for one design component in accordance with the City of San Diego Land Development Code. The variance request is to reallocate a portion of the gross floor area normally required for parking (enclosed garage) to be used as habitable space.

The subject site is located on West Point Loma Boulevard. The street is slightly at an angle such that it is in more of a southwest/northeast direction (see Exhibit # 1). Nonetheless, the subject site is generally on the north side of West Point Loma Boulevard where there are approximately 14 one-story, “look-alike” duplex structures in a row (including the subject structure) within the same block which are part of a residential development that was constructed in 1955 (a new 3-story structure was recently constructed in place of a 15th duplex directly adjacent to the project site, see Exhibit # 2). The subject site is located in the Ocean Beach community of the City of San Diego. Immediately north of the site is a grassy picnic/park area. The entrance to the public parking lot at Dog Beach is immediately north of the picnic area. Beyond the driveway is the San Diego River Channel. An embankment/levee borders the river channel and a pedestrian/bicycle path is located on the levee. The San Diego River itself is located about 650 feet north of the proposed development. The Pacific Ocean and the public sandy beach (Dog Beach) are located to the north. North Ocean Beach is located to the west. Located further southwest of the site are Ocean Beach Park and the Ocean Beach pier. The subject site is surrounded by a variety of multi-family residential development to the west, south and east and one single-family residential unit directly adjacent to the west (see Exhibit # 3).

In 2008, a very similar design for the neighboring project at 5164 West Point Loma Boulevard was appealed to the Commission, (Ref. *Stebbins Residence* - CDP # A-6-OCB-08-046) and the Commission found no substantial issue in regards to contentions of public view blockage, loss of affordable housing, and inconsistency with the character of the surrounding neighborhood (the proposed development is directly adjacent to the Stebbins Residence). The primary difference between the proposed project and the Stebbins Residence is that the proposed project was able to design the home and associated parking without encroaching into the front yard setback, and the proposed new home will raise the lowest floor 2 feet above the base flood elevation in order to comply with both the San Diego Municipal Code and Federal Emergency Management Agency guidelines for development within the 100 year floodplain, which mandate 2 ft. and 1 ft. base flood elevations, respectively.

The City of San Diego has a certified LCP for the Ocean Beach community, and the subject site is located in an area where the Commission retains appeal jurisdiction because it is located between the first public road and the sea. Therefore, the appeal must allege that the proposed development does not conform to the standards of the certified LCP and/or the public access policies of the Coastal Act.

2. Visual Impacts.

a. Public View Blockage. The appellants contend that: 1) the proposed project of three stories will eliminate ocean views from the adjacent public areas along the San Diego River walkway/bike path looking southwest to the Ocean Beach Pier; 2) the proposed project will eliminate views from the park space immediately adjacent to the proposed project site looking back into the community; and 3) the proposed project will

block public views from West Point Loma Boulevard south of the project site looking north and northeast of the project site looking southwest.

The certified Ocean Beach Precise Plan recommends protecting public views to the ocean. Specifically, one of these policies and plan recommendations includes the following:

That views available from elevated areas and those adjacent to the beaches and ocean be preserved and enhanced wherever possible. [p.83]

In addition, Section 132.0403 (c) of the certified Land Development Code states the following:

(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 first contention of the appellants is that the above cited LCP policy requires that views should be protected from elevated areas and those adjacent to the beaches and ocean. The appellants are specifically referring to the pedestrian/bicycle path that is adjacent to the San Diego River Flood Channel north of the project site. In response to the appellants' allegations, Commission staff visited the subject site and the surrounding neighborhood. With regard to appellants' contention that the proposed development would block ocean views from the river channel, this is not accurate. Walking along the river channel bike path, there are currently no ocean views available across the subject site due mostly to an existing two-story multi-family residential building at the very end of the street and existing vegetation. These existing structures and vegetation block views to the ocean as viewed from the pedestrian path/bicycle path looking southwest. There are views of the ocean and the pier from the path, just not over the subject site. Thus, the proposed project does not impede any ocean views looking west or southwest. This condition may not exist for other lots located further west along this street. Thus, if the other lots at the end of the block were ever to redevelop, the potential for view impacts at those locations would need to be assessed at that time. Again, the subject site does not result in any resource impacts; in particular, blockage of ocean views. The minimal public views that are visible from the pedestrian path/bicycle path on the southern levee of San Diego River channel will continue to remain open and unobstructed.

The Ocean Beach Precise Plan does not presently identify any designated public view corridors to the ocean over the subject site. However, the City has begun to do surveys and evaluate the potential for the identification of public views to the ocean in its upcoming plan to update the Ocean Beach Precise LCP Land Use Plan. The portion of the street on which the project site is located (West Point Loma Boulevard) is not

identified as a “draft” public view corridor, as it provides no direct views to the ocean in the vicinity of the project site. Thus, the proposed residence will not impede public views to the ocean from any existing or identified potential future public view corridors.

The second contention of the appellants is that allowing an additional three-story structure in the subject block would eliminate views from the park space immediately adjacent to the proposed project site back into the community. This area of the Ocean Beach Community is relatively flat, therefore even the existing row of 1-story duplexes blocks views from the grassy beach/park area adjacent to the rear of the subject site. What little view back towards the community that is not blocked by the 1-story duplexes, is blocked by the existing 3-story apartment building directly across the street from the subject site. Thus, the proposed 3-story residence will not wall off any existing views from the adjacent open space back toward the community. Even so, protection of views back towards the community is not specifically addressed in the certified LCP.

The third contention of the appellants is that ocean views will be blocked from West Point Loma Boulevard south of the subject site looking north across the subject site and from West Point Loma Boulevard northeast of the project site looking southwest. Even if the residential duplexes were not there today, there are no views of the ocean visible in the north direction as there is an elevated bicycle path which is also the southern levee of the San Diego River channel. This embankment blocks any views of the river channel or ocean. The proposed development would not block any views looking southwest on West Point Loma Boulevard because the proposed development is actually further from the street/sidewalk than the existing duplex; and parking will also be located further from the street/sidewalk. The view looking southwest on West Point Loma Boulevard will not be affected because the existing 2-story structure at the southwestern end of the block, the Stebbins Residence and the other duplexes will remain in the same locations. In its approval of the project, the City created 3 ft. wide side yard view corridors through a deed restriction, consistent with the certified LCP, which calls for only low level vegetation that does not obstruct views to be planted in the side yards and open fencing. This helps preserve and open up views to the nearby beach park and helps to prevent a walled-off effect, consistent with the certified LCP and other nearshore development in the coastal zone. Additionally, the City permit mandates that all lighting be shaded and adjusted to fall on the same premises; thus, preventing negative impacts to views after dark.

It is possible that other residents in the area (for example, those who may live in a three-story structure on the south side of West Point Loma Boulevard) may have their personal views to the ocean blocked by the proposed 3-story residence. However, the policies of the certified LCP call for the protection of *public* views to the ocean—not *private* views. In this particular case, the proposed development will not result in the blockage of any *public* views to the ocean. As such, the Commission finds that the appeal does not raise a substantial issue regarding conformity of the proposed development with the public view protection policies of the certified LCP.

b. Community Character/Density of Development. The appellants contend that the proposed development will be incompatible with the community character of the surrounding area. Specifically, the appellants cite the following policy of the certified Ocean Beach Precise Plan.

Maintain the existing residential character of Ocean Beach as exemplified by a mixture of small scale residential building types and styles. [p.15]

The subject appeal raised several concerns with the proposed development pertaining to the issues of community character as well as other issues, as noted above. The appellants contend that allowing the variance to the Floor Area Ratio creates a bulkier and larger project that is inconsistent with 90% of the projects of similar type in the community. Another concern of the appellants is that by allowing the new three story development to occur on this site, it would encourage other development in the same block to construct to three-stories which would further result in a change in community character of the area and a less pedestrian friendly environment.

In response to these allegations, Commission staff visited the subject site and the surrounding neighborhood. Based on this visit, it was determined that although the block where the existing duplex is proposed to be demolished consists mostly of one-story duplex structures, there are two- and three-story structures in the surrounding neighborhood. In particular, there is a three-story single-family residence directly adjacent to the subject site, a two-story multi-family structure at the western end of the subject block, a three-story multi-family structure across the street from the subject site and a two-story motel several lots to the east. There are also other two- and three-story structures in the surrounding blocks. As such, the construction of a three-story single-family residence in this location will be consistent with the pattern of redevelopment and overall community character of the area.

The subject project obtained a variance to the Land Development Code to reallocate a portion of the total gross floor area from the parking area to the habitable area of the development. Specifically, the RM-2-4 Zone in Ocean Beach limits the Floor Area Ratio (FAR) to 0.7 of the total lot area and further stipulates that 25% of the gross floor area be used for parking, unless the parking is provided underground. In this particular case, the parking could not be provided underground due to a flooding concern. The project thus proposed an alternative means of providing the required two off-street parking spaces by allowing them to be located in a 335 sq. ft. open carport, which is not located within the front yard setback area. The City allowed the open carport to be exempted from the FAR calculation but to still comply with the minimum parking requirement of two spaces. The alternative parking design allowed for an additional 437 sq. ft. ($0.7 \times 2500 \text{ sq. ft.} = 1,750 \text{ sq. ft.}$; $25\% \times 1,750 \text{ sq. ft.} = 437 \text{ sq. ft.}$) of livable area for the new residence resulting in a FAR of 0.70 without exceeding the 0.70 FAR requirements. In other words, the carport, being open, does not count towards the calculation of either gross floor area or the FAR. The variance allowed the habitable area to include *all* of the gross floor area allowed by the zone with none of the area dedicated to parking. By allowing the open carport and additional living area, the bulk of the structure remained unchanged. In other

words, if the City required the enclosed parking, then the square footage (building envelope) would remain the same with only the “livable” area being smaller. Thus, this did not raise a community character issue.

In its findings for approval of the variance the City found that the variance was reasonable based on the substandard lot size (2,500 sq. ft.) combined with the limitations of the RM-2-4 Zone that apply only in the Ocean Beach and Peninsula communities, and are not applied City-wide. Those limitations restrict the allowable FAR to 0.7 and require 25% of Gross Floor Area be dedicated to parking. The City found that the variance provided a reasonable development on the property that is zoned for multi-family development and that the project only proposed a single unit and resulted in an improved design. In addition, it was also noted that parking for all of the existing duplexes is located within the street yard setbacks which is considered normal for the beach community. Given that no impacts to resources resulted from the variance, the Commission agrees with the City’s assessment for permitting the variance.

The subject property at 5164 West Point Loma Boulevard has an almost identical design to the adjacent Stebbins Residence and was designed by the same architect. However, the design for the subject property was improved in that the construction of the carport within the 20 ft. front setback area is not proposed (the Stebbins Residence carport was permitted to encroach into the front setback). Additionally, the subject property proposes to raise the lowest floor 2 ft. above the base flood elevation in order to comply with both the San Diego Municipal Code and Federal Emergency Management Agency guidelines for development within the 100 year floodplain (the Stebbins Residence was only raised 1 ft., thus not in compliance with the San Diego Municipal Code).

The structure approved by the City will consist of a three-story, 1,749 sq. ft., 30-ft. high single-family residence, which is only approximately 500 sq. ft. more in size than the existing duplex structure proposed to be demolished. The approximately 630 sq. ft. first level will contain 2 bedrooms and a bathroom, the approximately 670 sq. ft. second level will contain the living room and the kitchen and the approximately 450 sq. ft. third level will contain a master suite. As such, the second and third levels consist of partial stories and the residence has been designed such that the second and third levels are terraced away from the street level which reduces the structure’s bulk. In addition, the roof slopes down in front to break up the scale of the structure (see Exhibit #'s 4-8).

The appellants also contend that by allowing the proposed development, coupled with the adjacent previously approved three-story single family residence, it will “push development towards the street and reduce the pedestrian orientation by furthering the *canyon-ization* of the block... and the pedestrian is left with either cars parked in the open or gated carports...” However, this is not an accurate statement because the proposed project moves the footprint of the home away from the street and removes the parking area from the front yard setback. At the current time, all of the allocated parking for the existing duplexes is directly adjacent to the sidewalk in the respective front yard setback areas. Therefore, by allowing the subject project, it would actually create a larger area for pedestrian travel.

In addition, although not an explicit concern raised by the appellants, but relevant to preservation of community character, it should be noted that the structure proposed for demolition is over 45 years old (constructed in 1955) and thus, pursuant the certified LCP, must be evaluated for historical significance. An extensive historical review found that the existing structure was "...not historically or architecturally significant..." Therefore, the structure's removal would not result in adverse impacts to a community resource and its removal would not seriously diminish the community character of the nearshore area. The City determined that the structure was not potentially historic under any Historical Resources Board Criteria.

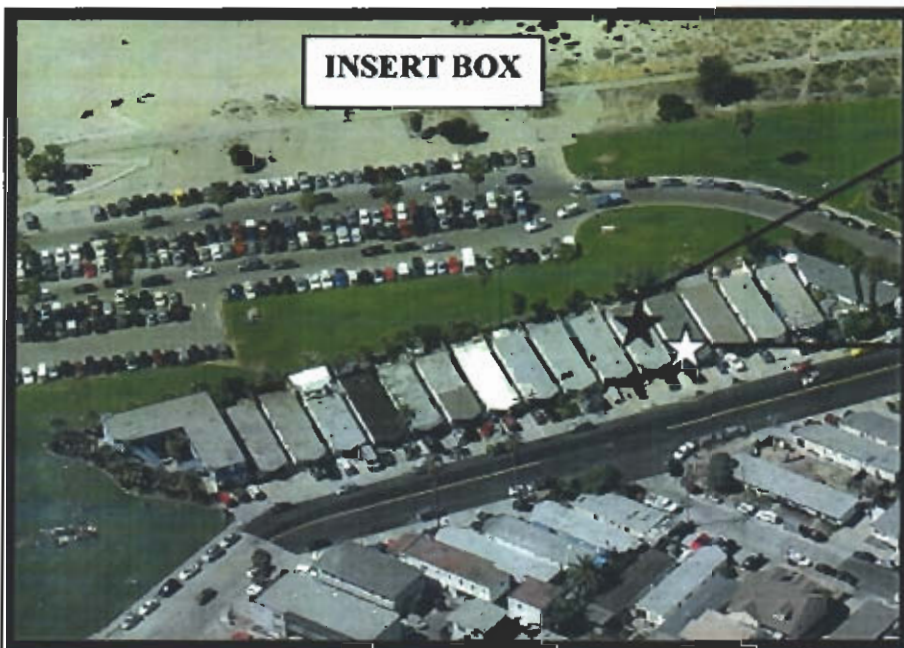
Another issue which was not specifically raised by the appellants, but relevant to the preservation of community character is affordable housing. The subject proposal does not result in the requirement to replace affordable housing within the community because it does not meet the Coastal Overlay Zone Affordable Housing Replacement Regulations requiring, "Demolition of a residential structure with three or more dwelling units or demolition of at least eleven units when two or more structures are involved." The proposed residence is consistent with the density limitations of the certified LUP which is 15-25 dwelling units per acre for this RM-2-4 zone. The proposed residence is consistent with the zone and density regulations for this area and is consistent with the goals of the community plan.

In summary, based upon a review of all of the information, the Commission finds that the proposed new residence is compatible in design and scale with the overall character of the surrounding neighborhood. While the structure will obviously appear taller and larger than some of the residences in the same block, it nevertheless meets all of the height, setback, floor area ratio and density requirements of the certified LCP. The proposed development is constrained by the small lot size and has been sensitively designed without any adverse impacts to coastal resources. In addition, this particular project does not result in the blockage of any ocean views. Given that no resource impacts are expected to be caused by this project, the subject development is found to be consistent with the certified LCP. However, this may not be true for other residential lots that may be proposed for redevelopment in the future in this same block, as potential impacts to views may occur at other nearby locations. In those cases, proposed development should be reviewed independently. Therefore, the Commission finds that the appeal does not raise a substantial issue regarding the proposed development's conformity with the visual resource and preservation of community character policies of the certified LCP.

3. Conclusion. In summary, the development as approved by the City, is consistent with all applicable LCP land use policies and provisions/development standards of the certified LCP Implementation Plan. The project, as approved by the City, is in character with the surrounding community and will not result in any adverse impacts on public views. Therefore, the Commission finds that the appeal does not raise a substantial issue with regard to the project's consistency with the certified LCP.

4. Substantial Issue Factors. As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of no substantial issue. The proposed project is for construction of a single-family residence that is consistent in size and scale of other projects in the vicinity. The project will not create an adverse precedent for interpretation of the City's LCP, and it does not affect significant coastal resources. Finally, the objections to the project suggested by the appellants do not raise any substantial issues of regional or statewide significance.

Project Location



Existing 3-story Structure
Stebbins Residence
5166 West Point Loma Blvd.

Subject Site
Cox Residence
5164 West Point Loma Blvd.



EXHIBIT NO. 1
APPLICATION NO.
A-6-OCB-11-026
Project Location
California Coastal Commission

EXHIBIT NO. 2
APPLICATION NO.
A-6-OCB-11-026
Current Photo

California Coastal Commission

Adjacent Property
Stebbins Residence
5164 West Point
Loma Blvd.

PROJECT
Subject Site
Cox Residence
5166 West Point Loma
Blvd.

Current Site Photo

Landmarks



Subject Site

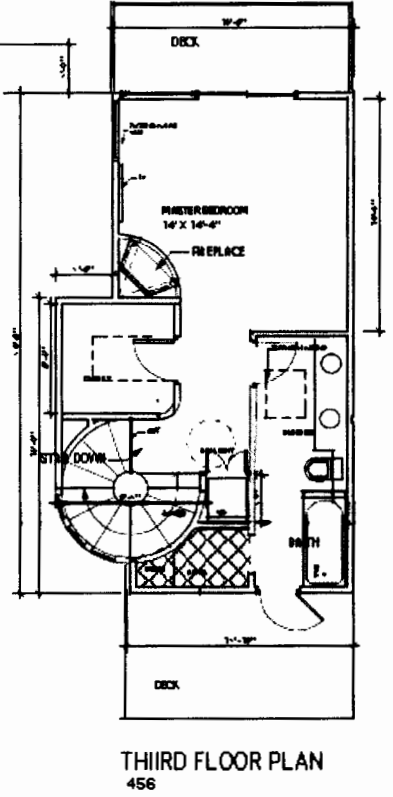
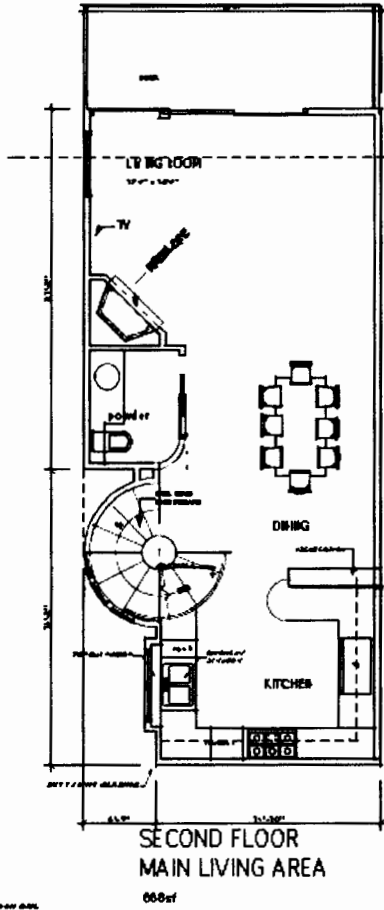
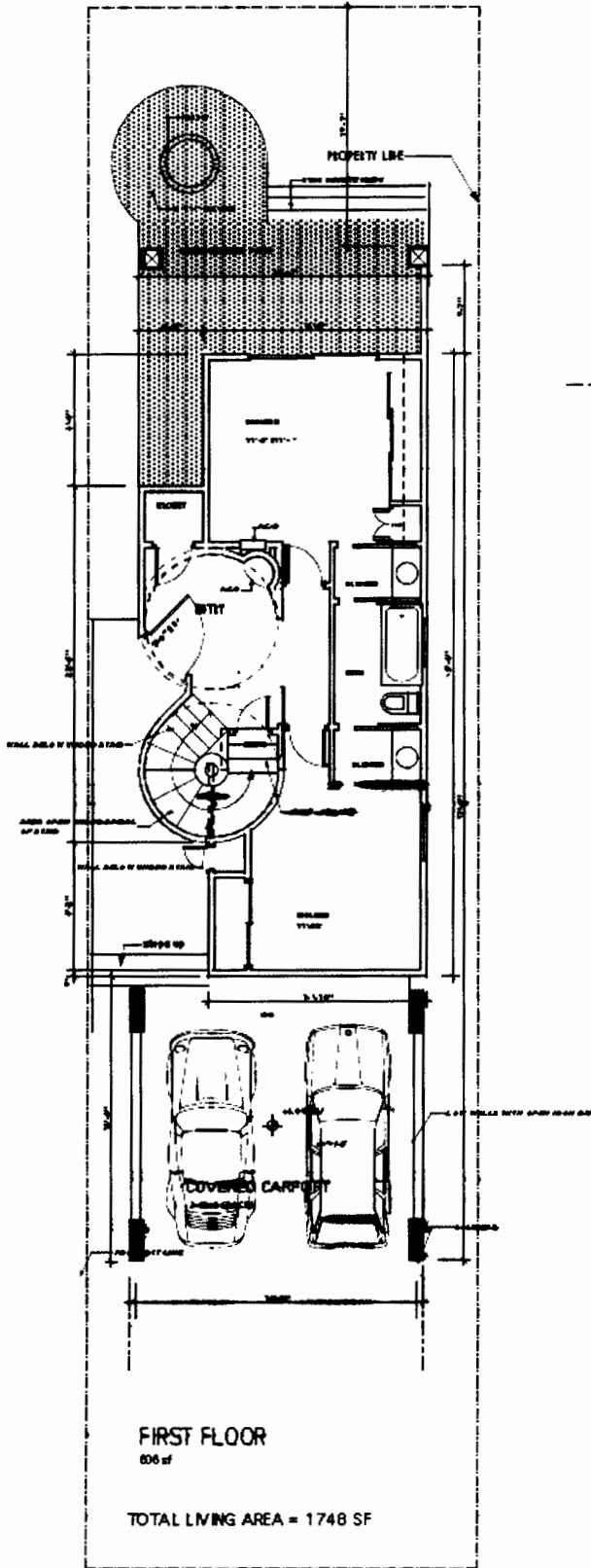
1. Grassy Picnic/Park Area
2. Dog Beach Parking Lot Entrance
3. Ocean Beach Pedestrian/Bicycle Path
4. San Diego River
5. Dog Beach
6. North Ocean Beach
7. Ocean Beach Park
8. Ocean Beach Pier



EXHIBIT NO. 3
APPLICATION NO.
A-6-OCB-11-026
Landmarks
California Coastal Commission

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Floor Plan



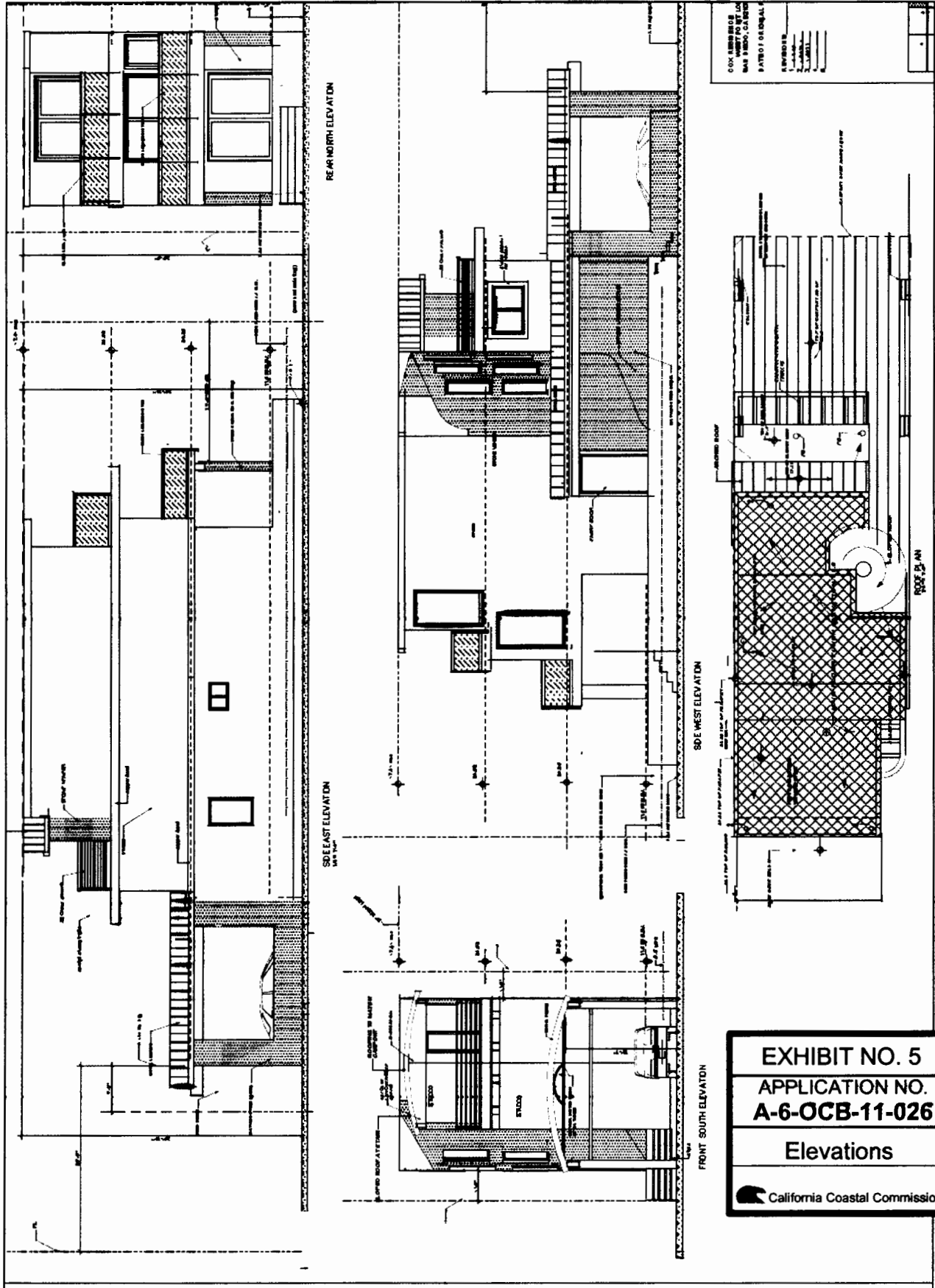
**COX RESIDE
OCEAN BE**

EXHIBIT NO. 4
APPLICATION NO.
A-6-OCB-11-026

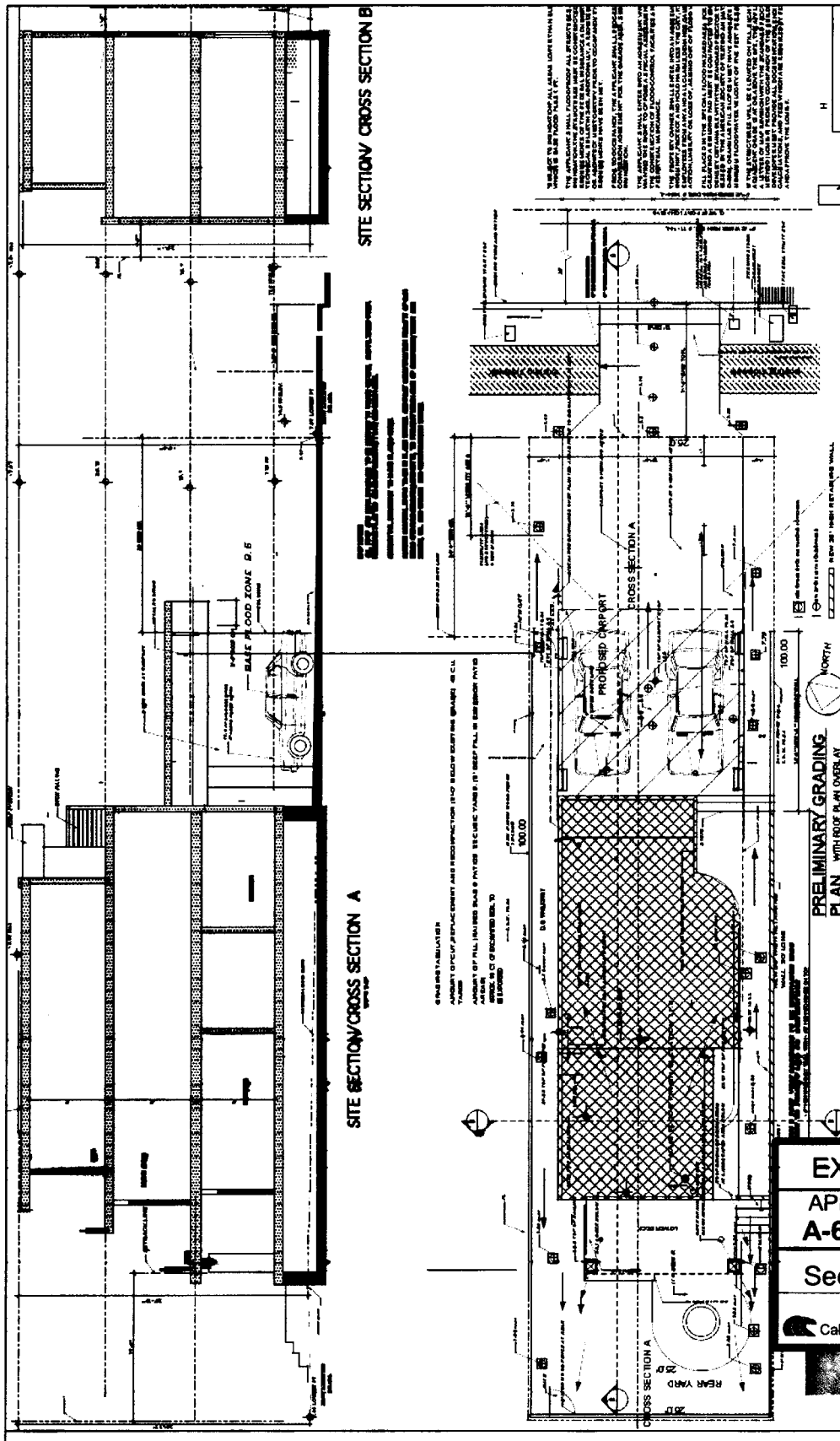
Floor Plan

California Coastal Commission

Elevations



Cross Section/Grading Plan



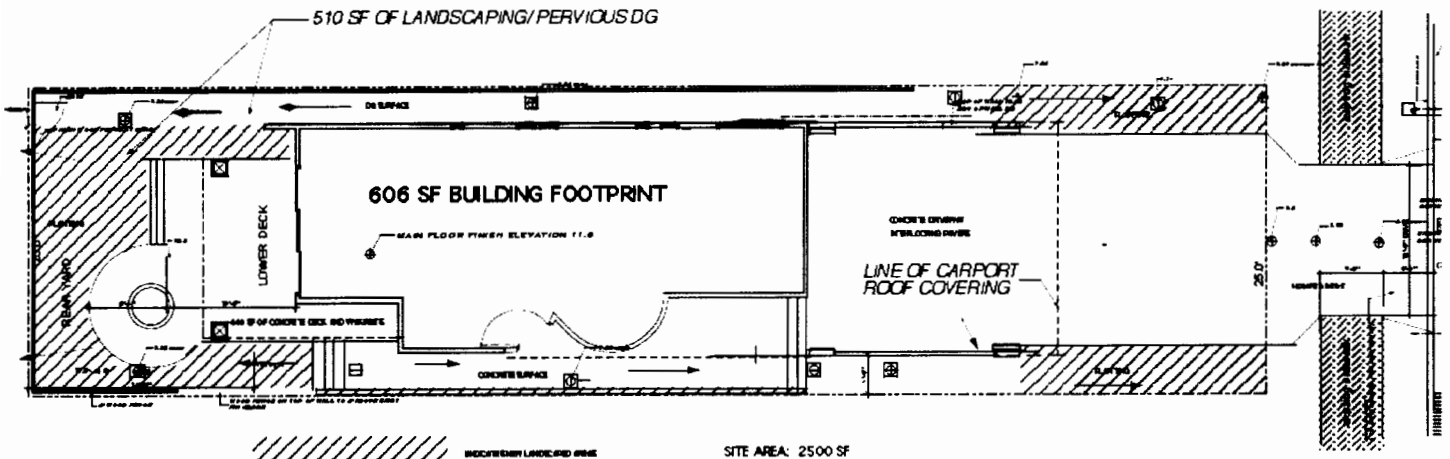
SITE SECTION/CROSS SECTION B

SITE SECTION/CROSS SECTION A

GENERAL NOTES:
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.
 2. FINISH GRADE SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
 3. EXISTING GRADE SHALL BE SHOWN WITH DASHED LINES.
 4. PROPOSED GRADE SHALL BE SHOWN WITH SOLID LINES.
 5. ALL GRADING SHALL BE IN ACCORDANCE WITH THE CALIFORNIA GRADING AND FOUNDATION ACT AND THE CALIFORNIA GRADING AND FOUNDATION REGULATIONS.
 6. ALL GRADING SHALL BE IN ACCORDANCE WITH THE CALIFORNIA GRADING AND FOUNDATION ACT AND THE CALIFORNIA GRADING AND FOUNDATION REGULATIONS.
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EXHIBIT NO. 6
APPLICATION NO.
A-6-OCB-11-026
Section/Grading
 California Coastal Commission

Footprint



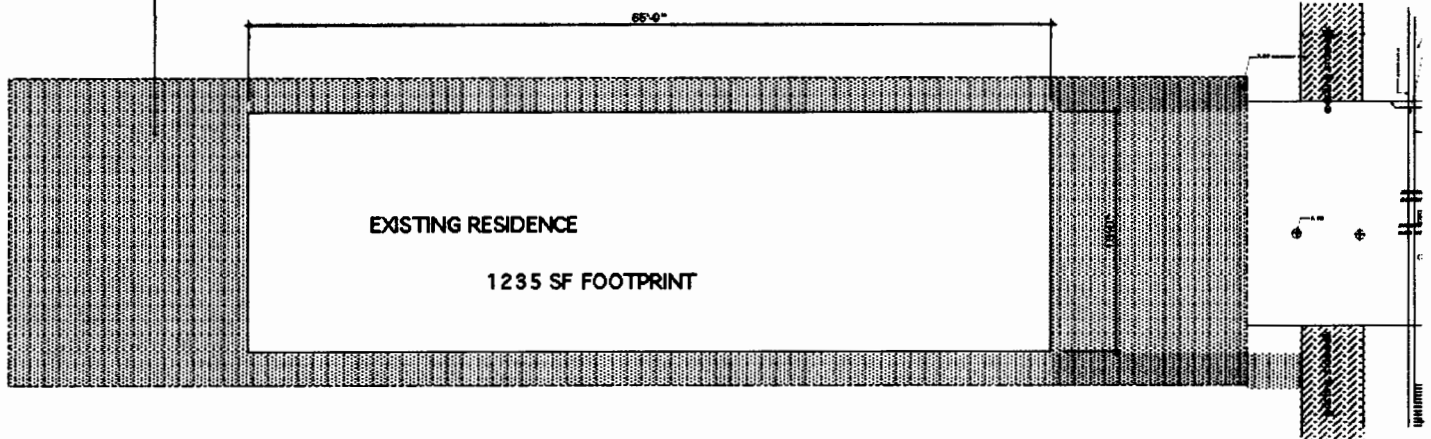
PROPOSED SITE

SITE AREA:	2500 SF
EXISTING IMPERVIOUS AREA:	2500 SF
PROPOSED IMPERVIOUS AREA:	1200 SF
PROPOSED LANDSCAPE AND PERVIOUS DG AREA:	655 SF
PROPOSED PERVIOUS DRIVEWAY AREA:	645 SF

PROPOSED PERVIOUS/NON PERVIOUS AREA

SHADED AREA REPRESENTS EXISTING CONCRETE IMPERVIOUS AREA

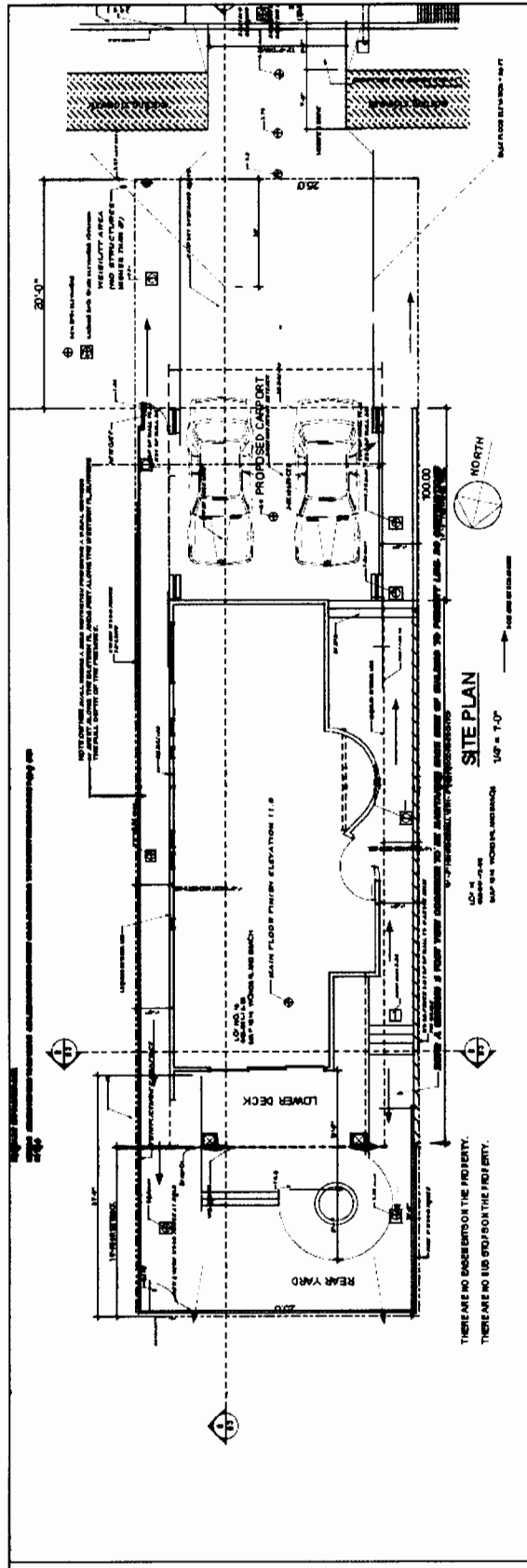
EXISTING ROOF AREA:	1295 SF
PROPOSED ROOF AND UPPER DECK AREAS	1166 SF



EXISTING SITE

EXHIBIT NO. 7
APPLICATION NO.
A-6-OCB-11-026
Footprint
California Coastal Commission

Site Plan



THERE ARE NO ENCUMBRANCES ON THE PROPERTY.
THERE ARE NO EASements ON THE PROPERTY.

EXHIBIT NO. 8
APPLICATION NO. A-6-OCB-11-026
Site Plan
California Coastal Commission



6-OCB-11-035

THE CITY OF SAN DIEGO
COASTAL DEVELOPMENT PERMIT
NOTICE OF FINAL ACTION

California Coastal Commission, San Diego Area Office
7575 Metropolitan Drive, Suite 103, San Diego, CA 92108-4402
Phone (619) 767-2370

DATE: March 24, 2011

The following project is located within the City of San Diego Coastal Zone. A Coastal Permit application for the project has been acted upon as follows:

PROJECT NAME - NUMBER: Cox Residence – Project No. 168660 - Mitigated Negative Declaration

PROJECT DESCRIPTION: Demolition of a 1,250 square-foot duplex and the construction of a 1,749 square-foot single family residence.

LOCATION: 5164 West Point Loma Boulevard

APPLICANT'S NAME Alvin Cox

FINAL ACTION: Approved with Conditions

ACTION BY: Planning Commission

ACTION DATE: March 10, 2011

CONDITIONS OF APPROVAL: See attached Permit.

FINDINGS: See attached Resolution.

RECEIVED
MAR 30 2011
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Not appealable to the Coastal Commission

Appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission only after a decision by the City Council (or Planning Commission for Process 2 and 3 Coastal Development Permits) and within ten (10) working days following Coastal Commission receipt of this Notice, as to the date the Commission's appeal period will conclude.

CITY CONTACT: Patrick Hooper
Development Services Department
1222 First Avenue, MS 501

EXHIBIT NO. 9
APPLICATION NO. A-6-OCB-11-026
NOFA
California Coastal Commission



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: February 10, 2011 **REPORT NO.** PC-11-026

ATTENTION: Planning Commission, Agenda of February 17, 2011

SUBJECT: COX RESIDENCE - PROJECT NO. 168660. PROCESS 3

REFERENCE: Hearing Officer Report No. HO-11-007

**OWNER/
APPLICANT:** Alvin Cox
Scott Fleming, Stonebrook Studio

SUMMARY

Issue(s): Should the Planning Commission approve or deny an appeal of the Hearing Officer decision approving the demolition of an existing duplex and the construction of a new single-family home located at 5164 West Point Loma Avenue in the Ocean Beach community?

Staff Recommendation:

1. **CERTIFY** Mitigated Negative Declaration LDR No. 168660 and **ADOPT** the Mitigation, Monitoring and Reporting Program; and
2. **DENY** the Appeal and **APPROVE** Coastal Development Permit No. 605823, Neighborhood Development Permit No. 605835 and Variance No. 605836

Community Planning Group Recommendation: On August 5, 2009, the Ocean Beach Planning Board voted 10-1-0 to recommend the project be denied (Attachment 10). The recommendation to deny the project was based on the potential historic value of the existing structure and the variance to allow required floor area to not be designated for parking. These issues are discussed further in this report.

Environmental Review: MITIGATED NEGATIVE DECLARATION, LDR No. 168660, has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which

EXHIBIT NO. 10

APPLICATION NO.
A-6-OCB-11-026

Rpt. to Plan. Comm.

 California Coastal Commission

level of insignificance, any potential impacts identified in the environmental review process.

Fiscal Impact Statement: There are no fiscal impacts with this application. All of the costs associated with processing this application are paid for by the property owner.

Code Enforcement Impact: There are no code enforcement impacts associated with this development.

Housing Impact Statement: The 0.057-acre site is presently designated for multi-family residential at 15 to 25 dwelling units per acre in the Ocean Beach Precise Plan which would allow 1 dwelling unit on the project site. The proposal to demolish an existing duplex structure and construct a single dwelling unit structure on the 2,500 square-foot lot is within the density range of 15 to 25 dwelling units per acre identified in the Precise Plan. The proposal would result in a net loss of 1 dwelling unit in the coastal zone. However, this does not trigger any remedial action to replace affordable housing within the community because it does not meet the Coastal Overlay Zone Affordable Housing Replacement Regulations requiring, "Demolition of a residential structure with three or more dwelling units or demolition of at least eleven units when two or more structures are involved."

BACKGROUND

The project is located at 5164 West Point Loma Boulevard (Attachment 1) in the RM 2-4 Zone within the Ocean Beach Precise Plan and Local Coastal Program Land Use Plan (LCP) which designates the property and surrounding neighborhood for multi-family land use at a maximum density of 25 dwelling units per acre (Attachment 2). The property is also subject to the Coastal Overlay Zone (appealable-area), Coastal Height Limit Overlay Zone, Beach Parking Impact Overlay Zone, Airport Approach Overlay Zone, Airport Environs Overlay Zone, and the 100-year Floodplain Overlay Zone. Additionally, the 0.057-acre site is located between the shore and the First Public Roadway.

The existing single-story, 1,250 square-foot duplex was constructed in 1955 along with 14 other identical structures on 25 foot wide parcels. The project site is surrounded by established multi-family residential developments to the west, east, south and the Ocean Beach Dog Park to the northwest. The seaward terminus of the San Diego River is located approximately 650 feet to the north of the proposed development where it flows into the Pacific Ocean to the west (Attachment 3).

DISCUSSION

Project Description:

This application is requesting the demolition of the existing one-story duplex and the construction of a new three-story single family home. The project requires a Coastal

Development Permit, Neighborhood Development Permit and a Variance due to the location, zoning and proposed design (Attachment 6). The proposed development would include a 1,749 square-foot residence on the existing 2,500 square foot lot. The proposed design of the structure would comply with all of the applicable development regulations of the RM-2-4 zone with the exception of a Precise Plan requirement to include 400 square-feet of Gross Floor Area (GFA) as dedicated interior parking. The application is requesting a variance to utilize the total permitted GFA as habitable space.

The style of the proposed structure is modern using a combination of stucco and stone veneer with glass and metal accents. The 1,749 square-foot home would include three bedrooms and two and one-half bathrooms. The floor plans provide for two bedrooms and a full bath on the ground floor, the main living area with the kitchen and living room on the second floor and a 449 square-foot master suite making up the third level. Two parking spaces covered by an attached carport are located in the front of the structure accessed from a driveway at West Point Loma Drive (Attachments 8 & 9).

Coastal Development Permit

A Coastal Development Permit (CDP) in accordance with a decision level process 3 is required for the demolition of the existing one-story, duplex and the construction of the new three-story single family residence because the project site is located within the Coastal Overlay Zone. The project is within the appealable-area therefore the final decision by the City may be appealed to the State Coastal Commission.

Neighborhood Development Permit

A Neighborhood Development Permit in accordance with a decision level process 2 is required to allow for development within the Special Flood Hazard Area, per the City's Environmentally Sensitive Lands Regulations (SDMC Section 143.0110 Table 143-01A). The Land Development Code requires that the project be constructed two feet above the base flood elevation and the design is consistent with this regulation. The project also complies with FEMA regulations for development in the floodplain. The lower decision process (2) is required to be consolidated with the highest decision process for this application.

Variance

A Variance in accordance with a decision level process 3 is required to allow a deviation to the development regulations of the RM-2-4 Zone. The requested variance would allow a reallocation of Gross Floor Area (GFA) from required enclosed parking to habitable area. The reallocation of GFA is predicated on the RM-2-4 zone requirement in Ocean Beach that limits the Floor Area Ratio (FAR) to 0.7 of the total lot area and further stipulates that 25 percent of the GFA be used for parking. In the case of the Cox residence, the proposed carport is an open air design that does not count towards the calculation of either gross floor area or the FAR. Therefore the deviation being requested would allow the habitable area to include all of the gross floor area allowed by the zone with none of the area dedicated to parking.

City staff believes the proposed deviations should be considered reasonable based on the substandard lot size (2,500 square-feet) combined with the limitations of F.A.R. in the RM-2-4 Zone that apply only in the Ocean Beach and Peninsula communities, and are not applied City-wide. As stated these limitations restrict the allowable FAR to 0.7. Similarly zoned RM-2-4 properties outside of these two communities have a minimum lot size of 6,000 square-feet and an allowable maximum FAR of 1.20. Additionally, the RM-2-4 zoning citywide typically includes alley access.

The variance can be considered necessary to provide a reasonable development on the property in that the site is zoned for multi-family development and the project only proposes a single unit. The Variance is reasonable to allow one unit within a zone that encourages higher density development on medium sized lots at nearly twice the floor area and alley access. The variance would provide a superior design than would be rendered with strict compliance of the zone which would likely result in a box-like structure necessary to maximize living area at the expense of articulation, design and aesthetics. It should also be noted that parking for all of the existing duplexes is located within the street yard setbacks which is typical for the beach community, though nonconforming pursuant to the Land Development Code. Additionally, it should be noted that the existing duplex exceeds the RM-2-4 zone density of one unit per 1,750 square feet therefore both the density and the parking currently do not comply with the zoning.

Whereas the new structure may represent a notable change from that of the existing structure, and would be dissimilar to the row of old duplexes, the design of the residence would be consistent with new single-family homes throughout the Ocean Beach community and compatible with adjacent two and three-story structures in the neighborhood including the newly constructed Stebbins Residence adjacent to this property. Likewise, the proposed residential structure would be consistent with the Ocean Beach Precise Plan that envisioned new and revitalized development, and the project would conform to the Land Development Code regulations including the required parking and the prescribed density with the approval of the appropriate development permits.

Community Plan Analysis:

The project site is designated for multi-family residential in the Ocean Beach Precise Plan with a density yield of 25 dwelling units per net residential acre, and is subject to the Proposition D thirty foot (30') height limit. The goal of the residential designation is to maintain the existing residential character of Ocean Beach as exemplified by a mixture of small-scale residential building types and styles. The project proposes to construct a single family residence with a density of 25 dwelling units per acre and will not have a detrimental impact on the community plan designation.

The project includes the demolition of an existing duplex and construction of a 1,749 square-foot, three-level single family dwelling. The project site is located on a block consisting of identical one-story duplexes, many of which are dilapidated and in need of repair/remodeling. Surrounding uses include single and multi-family residential with some structures reaching two

and three-stories in height. The proposed demolition and construction would meet the plan's residential element objective to "renovate substandard and dilapidated property."

The project design creates the effect of terracing away from the street which reduces the structure's apparent bulk and minimizes structural scale from the pedestrian right-of-way. In addition, the proposed carport incorporates an open/transparent design and pedestrians may look through the structure, further enhancing the pedestrian experience.

The project would implement the Ocean Beach Precise Plan and residential goals to preserve small-scale character. At three stories, the project would appear larger than immediately surrounding development. However, the project would more closely match 2-story and 3-story structures on the block to the immediate north of West Point Loma Boulevard. In addition, the project area is mapped within the 100-year floodplain and the restrictions on development within the floodplain require that the first floor be 2 feet above the base flood elevation, which would effectively render the ground floor uninhabitable for most properties in this area. The project includes a modest increase in square footage from 1,250 to 1,749 and the applicant has submitted a design that is well-articulated with pronounced step backs on both the second and third stories.

The Local Coastal Program element of the Ocean Beach Precise Plan implements California Coastal Act policies for protection, enhancement and expansion of public visual and physical access to the shoreline. Although physical access points were identified in the community plan, no public view corridors were designated for this purpose when the plan was adopted. The plan recommends, "That views available from elevated areas and those adjacent to the beaches and ocean be preserved and enhanced wherever possible." The proposed project would not affect either visual or physical access to the shoreline, whether adjacent to the beach or from elevated areas. There are no physical public access points on the subject property and no designated public view corridors on the subject property. The design observes and protects the required side yard setbacks and deed restrictions will secure visual access through the property. Also, the carport design incorporates open design which allows visual access through the front yard setback.

Environmental Analysis:

The project site is within the 100 year floodplain and is therefore considered environmentally sensitive land. However, the previous site grading and construction of the existing duplex have completely disturbed the site. The property is relatively flat with an elevation of 8 feet above mean sea level and does not include any sensitive topographical or biological resources. The site is neither within nor adjacent to Multi-Habitat Planning Area (MHPA) lands. A Mitigated Negative Declaration dated November 30, 2010, has been prepared for this project in accordance with State CEQA guidelines, and a Mitigation, Monitoring and Reporting Program is required for Archaeological Resources to reduce any potential impacts to below a level of significance.

Community Group Recommendation:

As noted above, the Ocean Beach Planning Board voted 10-1-0 to recommend the project be denied (Attachment 10). The recommendation to deny the project was based on the potential historic value of the existing structure and the variance to allow required floor area to not be designated for parking.

The issue of the structure's potential historic value was resolved subsequent to the August 5, 2009 Planning Board vote when a Historical Resources Technical Report (dated April, 2010) was prepared by Scott Moomjian. The Historic Resources Board planning staff reviewed the document and concluded that the existing structure located at 5164-5164 1/2 West Point Loma Boulevard do not rise to the level of significance necessary to qualify as an individually significant resource under any adopted Historical Resources Board criteria. The issue of the Floor Area Ratio (FAR) is the subject of the appeal and is discussed below

Appeal Issue:

The Ocean Beach Planning Board appealed the Hearing Officer decision to approve the project because they do not agree with the Variance allowing all of the F.A.R. to be habitable area. The Planning Board believes the additional 400 square-feet of floor area is unwarranted and that a 1,349 square-foot home and 400 square-foot garage should suffice (Attachment 11).

As previously stated in the discussion of the Variance, staff believes the variance is reasonable and justified based on several factors affecting this lot. Staff contends that the purpose and intent of the RM-2-4 zone is being met with this development in that it provides adequate off-street parking in the beach area and allows for a modest size single-family dwelling unit. The unit would not exceed the limitation for reduced floor area but would allow the small unit to use all of the floor area as habitable space. Staff believes the RM-2-4 zoning requirements are based on medium-high density multi-family development on larger lots with alley access. The beach community caveat to limit F.A.R. 1.20 to 0.7 was intended to reduce density by minimizing the total build-out of development sites. In the case of the Cox Residence the density is comprised of a small single unit that would be consistent with the community plan and zoning density.

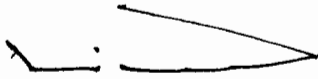
Conclusion:

Staff has reviewed the proposed project and has determined the project is consistent with the purpose and intent of all applicable sections of the San Diego Municipal Code regarding the RM-2-4 Zone, as allowed through the Coastal Development Permit, Neighborhood Development Permit and Variance Process. Staff has concluded that the proposed single-family residence will not adversely affect the General Plan or the Ocean Beach Precise Plan, and the project is appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone (Attachment 5).

ALTERNATIVES:

1. **Deny** the appeal and **Approve** Coastal Development Permit No. 605823, Neighborhood Development Permit No. 605835 and Variance No. 605836, with modifications; or
2. **Approve** the appeal and **Deny** Coastal Development Permit No. 605823, Neighborhood Development Permit No. 605835 and Variance No. 605836, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



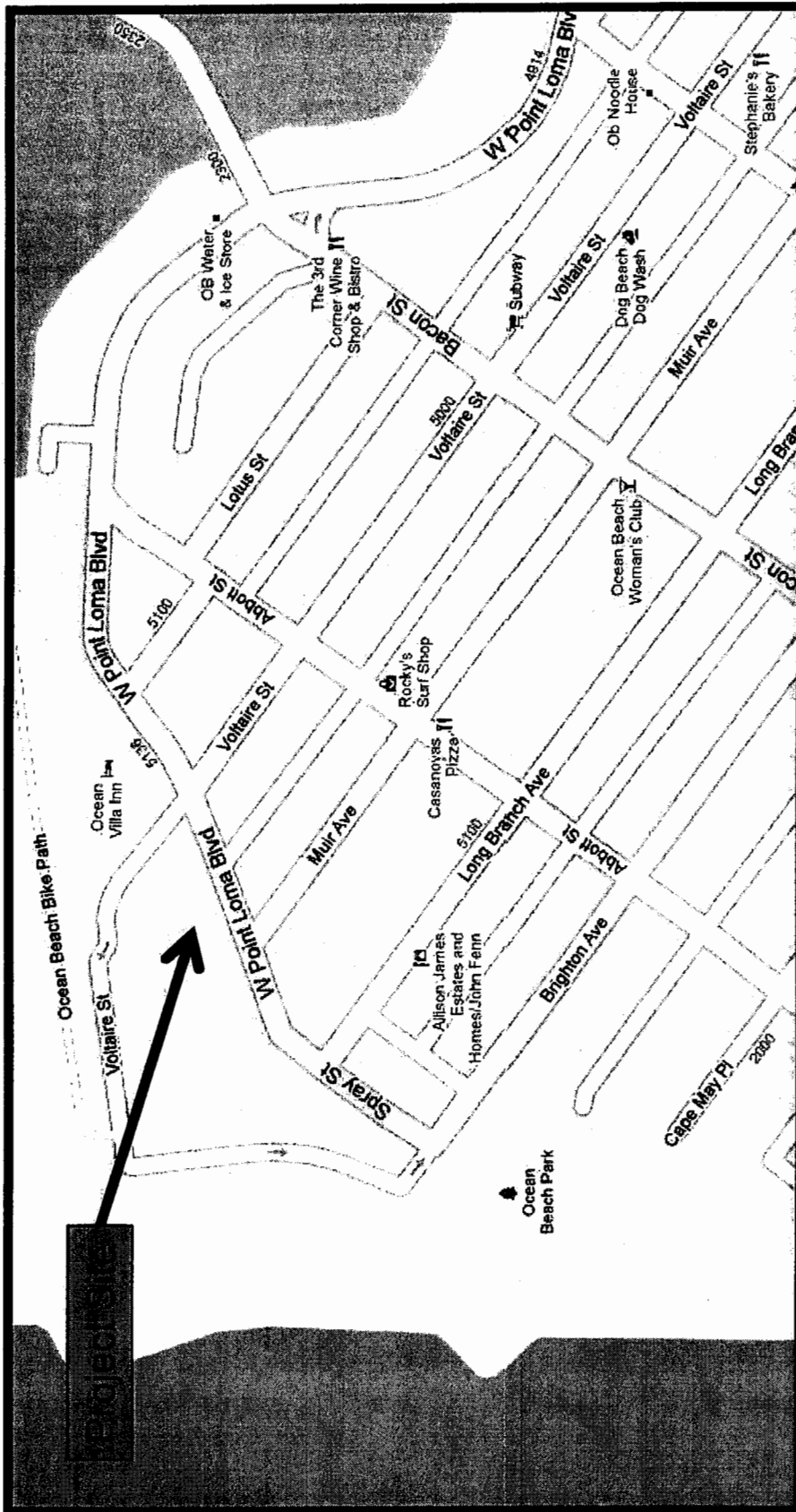
Mike Westlake
Program Manager
Development Services Department



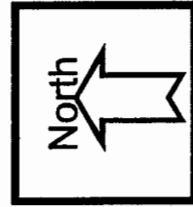
Patrick Hooper
Project Manager
Development Services Department

Attachments:

1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Project Data Sheet
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Draft Environmental Resolution with MMRP
8. Project Site Plan
9. Project Plans
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Appeal Application



ATTACHMENT 1

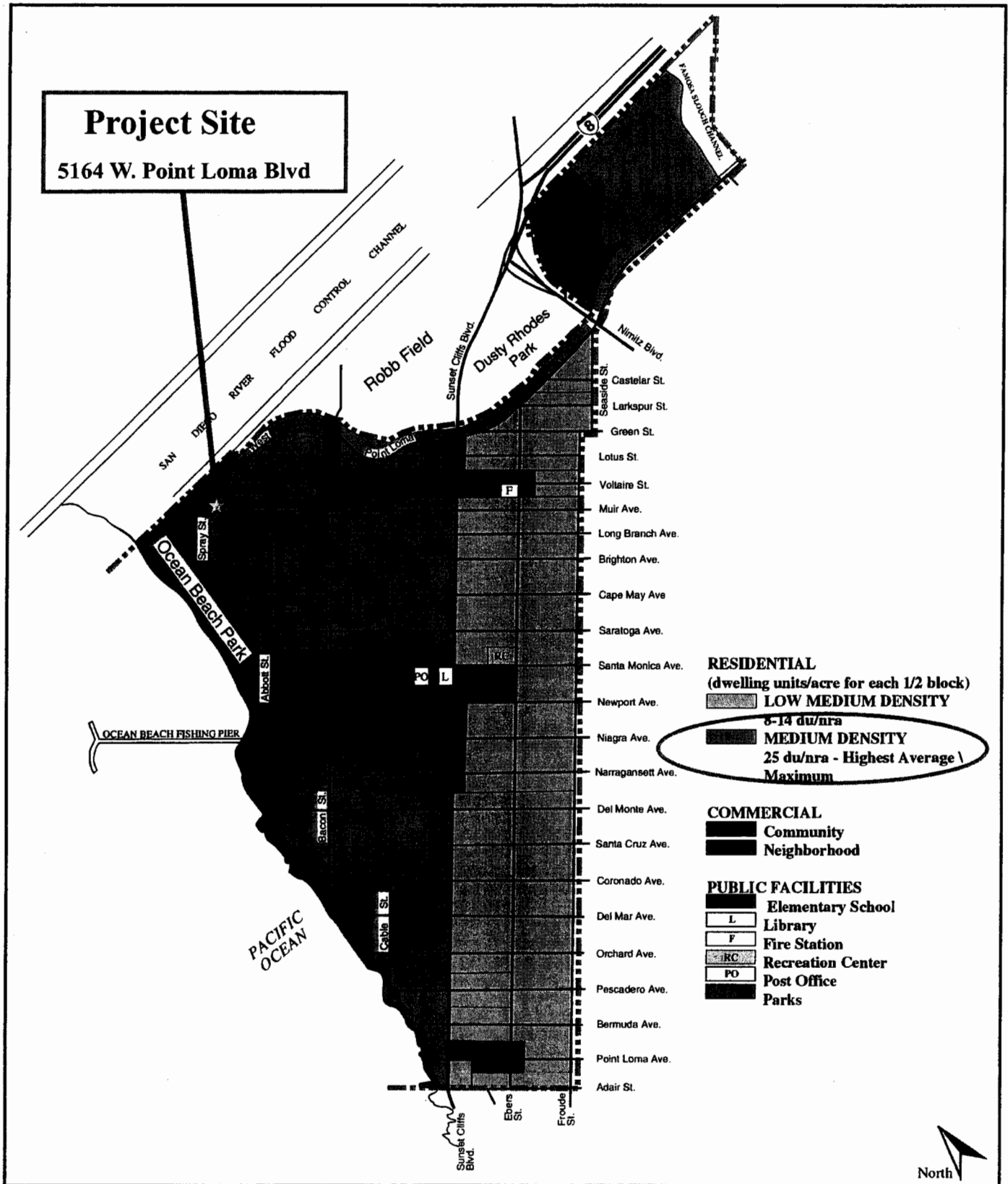


Project Location Map

Cox RESIDENCE - PROJECT NO. 168660

5164 West Point Loma Blvd.





10-15-02 JA.ob1



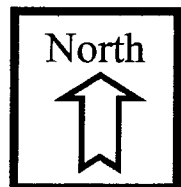
Community Plan Land Use
Ocean Beach Community Plan Area
City of San Diego Planning Department



Aerial Photo

COX RESIDENCE - PROJECT NO. 168660

5164 West Point Loma Blvd. - Ocean Beach



PROJECT DATA SHEET																
PROJECT NAME:	COX RESIDENCE															
PROJECT DESCRIPTION:	Demolition of an existing 1,250 sq.ft. duplex and the construction of a new 1,749 sq.ft. single-family home on a 2,500 sq.ft. lot															
COMMUNITY PLAN AREA:	Peninsula															
DISCRETIONARY ACTIONS:	Coastal Development Permit; Neighborhood Development Permit; Variance.															
COMMUNITY PLAN LAND USE DESIGNATION:	Multi-Family Residential (Allows residential development up to 25 dwelling units per acre).															
<u>ZONING INFORMATION:</u>																
ZONE: RM-2-4: (A multi-unit residential zone that permits 1 dwelling unit for each 1,750 square-feet of lot area) (complies) HEIGHT LIMIT: 30-Foot maximum height limit. (complies) LOT SIZE: 6,000 square-foot minimum lot size. (previously conforming) FLOOR AREA RATIO: 0.70 maximum. (complies –see variance for parking area) FRONT SETBACK: 20 feet standard 15 feet. (complies) SIDE SETBACK: 5 feet standard – minimum 3 feet for lots less than 40 ft wide. (complies) STREETSIDE SETBACK: 10 feet (N/A). REAR SETBACK: 15 feet. (complies) PARKING: 2 parking spaces required. (complies)																
<u>ADJACENT PROPERTIES:</u>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;"></th> <th style="width: 40%;">LAND USE DESIGNATION & ZONE</th> <th style="width: 40%;">EXISTING LAND USE</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">NORTH:</td> <td>Multi-Family Residential; RM-2-4.</td> <td>Multi-Family - Duplexes</td> </tr> <tr> <td style="text-align: center;">SOUTH:</td> <td>Multi-Family Residential; RM-2-4.</td> <td>Multi-Family - Duplexes</td> </tr> <tr> <td style="text-align: center;">EAST:</td> <td>Open Space/Recreational</td> <td>City Parking Lot/Dog Park</td> </tr> <tr> <td style="text-align: center;">WEST:</td> <td>Multi-Family Residential; RM-2-4.</td> <td>Multi-Family - Apartments</td> </tr> </tbody> </table>		LAND USE DESIGNATION & ZONE	EXISTING LAND USE	NORTH:	Multi-Family Residential; RM-2-4.	Multi-Family - Duplexes	SOUTH:	Multi-Family Residential; RM-2-4.	Multi-Family - Duplexes	EAST:	Open Space/Recreational	City Parking Lot/Dog Park	WEST:	Multi-Family Residential; RM-2-4.	Multi-Family - Apartments
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EAST:	Open Space/Recreational	City Parking Lot/Dog Park														
WEST:	Multi-Family Residential; RM-2-4.	Multi-Family - Apartments														
DEVIATIONS OR VARIANCES REQUESTED:	Variance request to waive the requirement to dedicate 25% of Gross Floor Area to Parking and utilize the entire .07 FAR as habitable space.															
PLANNING GROUP RECOMMENDATION:	The Peninsula Planning Board voted 10-1-0 on August 5, 2009 to recommend the project be denied.															

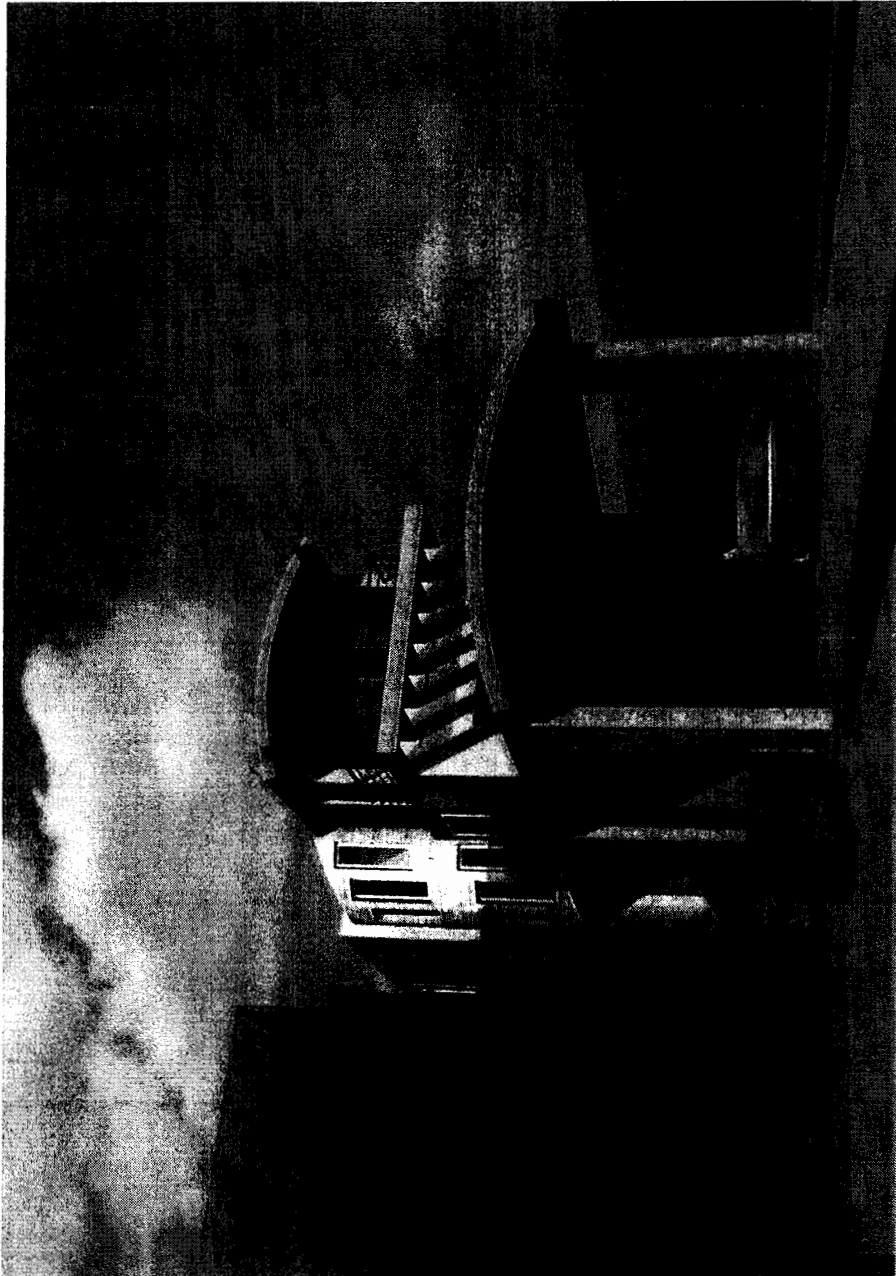


EXHIBIT NO. 11
APPLICATION NO. A-6-OCB-11-026
Photo Simulation
 California Coastal Commission

OCEAN BEACH PLANNING BOARD

GENERAL MEETING MINUTES

Wednesday, August 5th, 2009 - 6:00 p.m.

Ocean Beach Recreation Center - 4726 Santa Monica Ave., Ocean Beach

6:08pm – Meeting called to order by Vice-Chairperson Giovanni Ingolia. Board members Tom Gawronski, Jane Gawronski, Landry Watson, Ronson Shamoun, Seth Connolly, Amanda Lopez and Rob Sullivan are also present.

6:10pm – Motion to approve meeting agenda by Amanda Lopez, seconded by Jane Gawronski. Motion passes 8-0.

Board reviews June 2009 General Meeting minutes. Motion to approve meeting agenda with amended spelling by Amanda Lopez, seconded by Jane Gawronski. Motion passes 8-0.

Board reviews June 2009 Project Review Committee Meeting minutes. Motion to approve meeting agenda with amended spelling by Ronson Shamoun, seconded by Tom Gawronski. Motion passes 8-0.

6:15pm – Chairperson Brittany Taylor, Nancy Taylor and Craig Klein enter.

Board reviews July 2009 General Meeting minutes. Motion to approve meeting agenda by Ronson Shamoun, seconded by Tom Gawronski. Motion passes 11-0.

6:18pm – Non-agenda Public Comments. Joyce Summer from CCDC updates on their activities. Community member Dan Morales provides Board with printed list of questions regarding meeting's action items.

Action Item #001 – Cox Residence

Ocean Beach JO #43-1831 (Process 3) Coastal Development Permit, Neighborhood Development Permit & Variance to demolish existing multi-family residence and construct a 1,749 square foot single family residence on a .05 acre site at 5164 West Point Loma Blvd in the RM 2-4 Zone within the Ocean Beach Community Plan, Coastal Overlay (appealable), Coastal Height Limit, Airport Approach, Airport Influence Area, FAA Part 77, Residential Tandem Parking OZ, First Public Right of Way.

Board member Landry Watson recuses self out of potential conflict of interest.

6:22pm – Mike Taylor enters.

Architect Scott Fleming presents. States that project will exceed setback requirements and cites neighbor's property as precedent for requested variance. Giovanni Ingolia informs that Project Review Committee voted unanimously against project per concerns over FAR variance. Brittany Taylor clarifies square footage calculations of project and past Board votes on neighbor's project.

Public comments include statements by owner and three neighboring owners speaking in favor of project, citing "blight" of area and challenges of meeting FAR limits on substandard lots.

Board comments include several statements opposed to granting FAR variance. Tom Gawronski states that Ocean Beach Historical Society requests clarification on historical significance of project. Craig Klein states that neighbor's project cited as precedent was a variance intended for underground parking, not habitable space. Mike Taylor states that lot size and potential nonconformance were known upon purchase.

Motion to deny project by Giovanni Ingolia, based upon proposed project being 400 square feet in excess of allowable FAR, and potential historical significance of existing structure. Seconded by Tom Gawronski. Motion passes 10-1-0. Giovanni Ingolia, Tom Gawronski, Jane Gawronski, Ronson Shamoun, Seth Connolly, Amanda Lopez, Brittany Taylor, Nancy Taylor, Mike Taylor and Craig Klein all in favor, with Rob Sullivan opposed.

Action Item #002 – Sunset Plaza

Ocean Beach JO# 428929 (Process 2) Coastal Development Permit, to construct a 6,755 square foot 35 acre site at 2204 Sunset Cliffs Boulevard in the CC-4-2 Zone within the Ocean Beach Community Plan (non-appealable), Coastal Height Limit, Airport Approach, Airport Influence Area, FAA Part 77, Tandem Parking.

EXHIBIT NO. 12
APPLICATION NO. A-6-OCB-11-026
OB Planning Board
 California Coastal Commission



City of San Diego
Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101
 (619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other

Project Title

Cox Residence

Project No. For City Use Only

168660

Project Address:

5144 West Point Loma Blvd.

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):

Alvin L. Cox

Owner Tenant/Lessee Redevelopment Agency

Street Address:

4440 MENTONE ST.

City/State/Zip:

SAN DIEGO CA. 92107

Phone No:

619 226 7421

Fax No:

Signature:

[Signature]

Date:

9-8-08

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

Owner Tenant/Lessee Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

 THE CITY OF SAN DIEGO	City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101 (619) 446-5210	<h2 style="margin:0;">Development Permit/ Environmental Determination Appeal Application</h2>	FORM DS-3031 MARCH 2007
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See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

<input type="checkbox"/> Process Two Decision - Appeal to Planning Commission	<input type="checkbox"/> Environmental Determination - Appeal to City Council
<input checked="" type="checkbox"/> Process Three Decision - Appeal to Planning Commission	<input type="checkbox"/> Appeal of a Hearing Officer Decision to revoke a permit
<input type="checkbox"/> Process Four Decision - Appeal to City Council	

2. Appellant Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Giovanni Ingolia Ocean Beach Planning Board

Name *PO Box 7090* *San Diego* *CA* *92167* *619-994-8539*

Address City State Zip Code Telephone

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Alvin Coy

4. Project Information Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
<i>168668</i>	<i>1-19-2011</i>	<i>Patrick Hooper</i>

Decision (describe the permit/approval decision):

Hearing Officer approved Variance for F.A.R. to not allow .25 be dedicated towards parking

5. Grounds for Appeal (Please check all that apply)

<input type="checkbox"/> Factual Error (Process Three and Four decisions only)	<input type="checkbox"/> New Information (Process Three and Four decisions only)
<input checked="" type="checkbox"/> Conflict with other matters (Process Three and Four decisions only)	<input type="checkbox"/> City-wide Significance (Process Four decisions only)
<input type="checkbox"/> Findings Not Supported (Process Three and Four decisions only)	

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

On 8-5-09 Ocean Beach Planning Board voted 10-1-2 to deny Coy Residence located at 5164 W Palms Blvd. This project was denied due to the fact the project would not allow 50% in excess of allowable F.A.R. OB Planning Board was opposed granting the F.A.R. variance under the Land Use Code a habitable structure can be built on the property without the requested variance. This is the reason the O.B. Planning Board is filing the appeal.

RECEIVED

JAN 27 2011

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: *Alvin Coy* Date: *1-22-11*

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 23431831

SPACE ABOVE THIS LINE FOR RECORDER'S USE

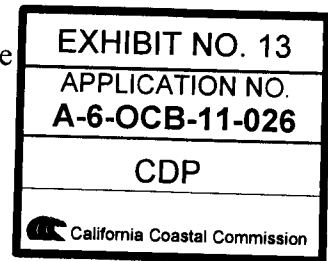
COASTAL DEVELOPMENT PERMIT NO. 605823
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 605835
VARIANCE NO. 605836
COX RESIDENCE [MMRP] - PROJECT NO. 168660
PLANNING COMMISSION

This combination Coastal Development Permit No. 605823; Neighborhood Development Permit No. 605835 and Variance Permit No. 605836 is granted by the Planning Commission of the City of San Diego to ALVIN L. COX, as trustee of the survivors' trust under the Cox Family Trust dated June 24, 2005, as amended, Owner, and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0404, 126.0708 and 126.0805. The 0.057-acre project site is located at 5164 West Point Loma Boulevard in the RM 2-4 Zone, Coastal Overlay Zone (appealable-area), Coastal Height Limit Overlay Zone, First Public Roadway, Beach Parking Impact Overlay Zone, Airport Approach Overlay Zone, Airport Environs Overlay Zone, and the 100-year Flood-plain Overlay Zone, within the Ocean Beach Precise Plan and Local Coastal Program Land Use Plan (LCP). The project site is legally described as Lot 15, Block 90 of Ocean Bay Beach Map No. 1189.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish an existing one-story duplex, and construct a new, three-story single family residence with attached carport, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 17, 2011, on file in the Development Services Department.

The project shall include:

- a. The demolition of an existing one-story 1,250 square-foot duplex;
- b. Construction of a 1,749-square-foot, three-story single family residence with attached carport consisting of:



- 1) 1,749-square-foot of habitable living area.
 - 2) 335-square-foot, carport.
 - 3) 340-square-feet of second and third story decks and 190-square-foot first floor patio.
- b. Landscaping (planting, irrigation and landscape related improvements);
 - c. A Variance to permit the entire 100% of the gross floor area to count as habitable space where normally 25% would be dedicated to enclosed parking.
 - d. Off-street parking; and

Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the

event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] No. 168660 shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

13. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 168660, shall be noted on the construction plans and specifications under the heading: ENVIRONMENTAL MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 168660 to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas:

- Historical (Archeological) Resources

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

16. Prior to demolition of the existing duplex, notice shall be given to the San Diego Air Pollution Control District (SDAPCD) regardless of whether any asbestos is present or not.

ENGINEERING REQUIREMENTS:

17. The project proposes to export 116 cubic yards of material from the project site. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2003 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

18. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.

19. Prior to foundation inspection, the Owner/Permittee shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying that the pad elevation based on USGS datum is consistent with Exhibit 'A', satisfactory to the City Engineer.

20. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the construction of a current City Standard 12 foot wide driveway, adjacent to the site on W. Point Loma Boulevard.

21. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct the curb and gutter on both sides of the proposed driveway, adjacent to the site on W. Point Loma Boulevard.

22. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to kill the water service in the existing driveway and construct a current City Water Service in the location shown on approved Exhibit A, adjacent to the site on W. Point Loma Boulevard.

23. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

24. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

25. Prior to the issuance of the grading permit, the Owner/Permittee shall include a note on the grading plans to state: The applicant shall floodproof all structures subject to inundation. The floodproofed structures must be constructed to meet the requirements of the Federal Insurance Administration's Technical Bulletin 3-93. Additionally, a registered civil engineer or architect must certify prior to occupancy that those requirements have been met.

26. Prior to the issuance of the grading permit, the Owner/Permittee shall process a "Non Conversion Agreement" for the garage area, subject to inundation.

27. Prior to the issuance of the grading permit, the Owner/Permittee shall enter into an agreement with the City waiving the right to oppose a special assessment initiated for the construction of flood control facilities and their perpetual maintenance.

28. Prior to the issuance of the grading permit, the Owner/Permittee shall include a note on the grading plans to state: Fill placed in the Special Flood Hazard Area for the purpose of creating a building pad must be compacted to 95% of the maximum density obtainable with the Standard Proctor Test Fill method issued by the American Society for Testing and Materials (ASTM Standard D-698). Granular fill slopes must have adequate protection for a minimum flood water velocity of five feet per second.

29. Prior to the issuance of the grading permit, the Owner/Permittee shall include a note on the grading plans to state: If the structures will be elevated on fill, such that the lowest adjacent grade is at or above the BFE, the applicant must obtain a Letter of Map Revision based on Fill

(LOMR-F) prior to occupancy of the building. The developer must provide all documentation, engineering calculations, and fees which are required by FEMA to process and approve the LOMR-F

30. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices maintenance, satisfactory to the City Engineer.

31. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

32. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

GEOLOGY REQUIREMENTS:

33. Prior to issuance of any construction permits the Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department.

34. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

PLANNING/DESIGN REQUIREMENTS:

35. Owner/Permittee shall maintain a minimum of two (2) off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

36. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

37. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

38. Prior to the occupancy of the building the owner shall record a deed restriction to establish visual corridors of not less than the side yard setbacks in width running the full depth of the premises

AIRPORT REQUIREMENTS:

39. Prior to the issuance of any building permits, the Owner/Permittee shall grant an avigation easement to the San Diego County Regional Airport Authority as required by the Airport Land Use Compatibility Plan for San Diego International Airport. The Owner/Permittee shall obtain the required avigation easement language from the San Diego County Regional Airport Authority.

40. The residential Structure must be sound attenuated to 45 dB CNEL interior noise level.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on March 10, 2011 pursuant to Planning Commission Resolution No. 4678-PC.

Permit Type/PTS Approval No.:
Date of Approval:

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

NAME
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

PLANNING COMMISSION RESOLUTION NO. 4678-PC
COASTAL DEVELOPMENT PERMIT NO. 605823
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 605835
VARIANCE NO. 605836
COXS RESIDENCE - PROJECT NO. 168660

WHEREAS, ALVIN LLOYD COX, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish an existing single-story duplex and construct a new two-story, 1,748 square-foot single-family home (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No. 605823; Neighborhood Development Permit No.605835 and Variance No. 685036, on portions of a 0.05 acre (2,500 square-feet) site; and

WHEREAS, the project site is located at 5164 West Point Loma Boulevard in the RM-2-4 Zone within the Ocean Beach Precise Plan area; and

WHEREAS, the project site is legally described as Lot 15, Block 90 of Map No. 1189; and

WHEREAS, on January 19, 2011, the Hearing Officer of the City of San Diego, after public testimony approved Coastal Development Permit No. 605823; Neighborhood Development Permit No.605835 and Variance No. 685036 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on January 27, 2011 the Ocean Beach Planning Board filed an appeal of the Hearing Officer decision to approve the proposed project; and

WHEREAS, On February 17, 2011, the Planning Commission of the City of San Diego considered the appeal of Coastal Development Permit No. 605823; Neighborhood Development Permit No.605835 and Variance No. 685036 pursuant to the Land Development Code of the City of San Diego; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated March 10, 2001.

A. Coastal Development Permit - Section 126.0708

1. The proposed coastal development will not encroach upon any physical access way that is legally used by the public or any proposed physical access way identified in a Local Coastal Program land use plan; and the proposed development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan;



All development would occur on private property, and would be within the 30-foot coastal height limit. Additionally, the proposed project will not encroach upon any adjacent existing physical access way used by the public nor will it adversely affect any proposed physical public accessway identified in the Local Coastal Program Land Use Plan. The subject property is not located within or near any designated public view corridors. Accordingly, the proposed project will not impact any public views to or along the ocean or other scenic coastal areas as specified in the

Local Coastal Program land use plan. A Deed Restriction is a condition of approval to preserve a visual corridor of not less than the side yard setbacks, in accordance with the requirements of San Diego Municipal Code Section 132.0403(b).

2. The proposed coastal development will not adversely affect environmentally sensitive lands;

The project proposes the demolition of an existing one-story, duplex and the construction of a new three-story single family residence. The City of San Diego conducted a complete environmental review of this site. A Mitigated Negative Declaration has been prepared for this project in accordance with State of California Environmental Quality Act (CEQA) guidelines, which preclude impact to environmentally sensitive resources. A Mitigation Monitoring and Reporting Program (MMRP) would be implemented to reduce potential historical resources (archaeology) impacts to a level below significance. Mitigation for archaeology was required as the project is located in an area with a high potential for subsurface archaeological resources. The project site is a relatively flat contains an existing structure, which is located approximately 8 feet above mean sea level (AMSL). The project site is not located within or adjacent to the Multi-Habitat Planning Area (MHPA) of the City's Multiple Species Conservation Program. The proposed project is located within a densely populated urbanized environment and was found to not have a significant effect on the surrounding neighborhood. Therefore, the proposed coastal development will not adversely affect environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program;

City staff has reviewed the proposed project for conformity with the Local Coastal Program and has determined it is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the adopted Ocean Beach Precise Plan and Local Coastal Program Land Use Plan which identifies the site for multi-family residential use at 15-25 dwelling units per acre. The project as proposed would be consistent with the density range.

The proposed development is to demolish an existing one-story, duplex and construct a new three-story residence. The new structure will be constructed within the 100 Year Floodplain (*Special Flood Hazard Area*), and has a Base Flood Elevation of 9.6 feet mean sea level. The restrictions on development within the floodplain require that the lowest floor, including basement to be elevated at least 2 feet above the base flood elevation in accordance with San Diego Municipal Code (SDMC) section §143.0146(C)(6), while the Federal Emergency Management Agency (FEMA) requires that the finished floor elevation be at one or more feet above the base flood elevation (BFE). This project has been designed to meet those standards and no deviation is required for the base flood elevation.

The proposed coastal development is requesting a variance to allow a portion of the floor area to habitable space rather than designated for parking. If approved via a process 3 variance process the coastal development would comply with the regulations of the certified Implementation Program.

The proposed development is located in an area designated as being between the first public road and the Pacific Ocean, therefore views to the ocean shall be preserved. A visual corridor of not

less than the side yard setbacks will be preserved to protect views toward Dog Beach and the San Diego River. In addition, this area is not designated as a view corridor or as a scenic resource. Public views to the ocean from this location will be maintained and potential public views from the first public roadway will not be impacted altered by the development. Accordingly, the proposed project will not impact any public views to or along the ocean or other scenic coastal areas. The project meets the intent of the guidelines for the Coastal Overlay and Coastal Height Limitation Overlay zones, and the Ocean Beach Precise Plan and Local Coastal Program Addendum. Therefore, the proposed coastal development would conform with the certified Local Coastal Program land use plan and, with an approved deviation, comply with all regulations of the certified Implementation Program.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The proposed development is to demolish an existing one-story, duplex and construct a new three-story residence. The subject property is designated as being between the first public road and the Pacific Ocean within the Coastal Overlay Zone.

The proposed project site is adjacent to the Ocean Beach Park, designated in the Local Coastal Program as a public park and recreational area. Public access to the park area is available at the end of Voltaire Street and West Point Loma Boulevard. All development would occur on private property; therefore, the proposed project will not encroach upon the existing physical access way used by the public. Adequate off-street parking spaces will be provided on-site, thereby, eliminating any impacts to public parking. The proposed coastal development will conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

B. Neighborhood Development Permit - Section 126.0404

1. The proposed development will not adversely affect the applicable land use plan;

The proposed development is to demolish an existing one-story, duplex and construct a new three-story residence. The project is within the 100-year floodplain, and is therefore within the Environmentally Sensitive Lands, requiring a Neighborhood Development Permit for the Special Flood Hazard Area, per the City's Environmentally Sensitive Lands Regulations (SDMC Section 143.0110 Table 143-01A). The project is located in the appealable Coastal Overlay Zone requiring a Coastal Development Permit. The proposed development is requesting a variance to allow a portion of the floor area to be used as habitable space rather than designated for parking area. The proposed development is located between the shoreline and the first public roadway; therefore views to the ocean shall be preserved. This project is located in the RM-2-4 Zone. The RM-2-4 Zone permits a maximum density of 1 dwelling unit for each 1,750 square feet of lot area. The project is in conformance with the underlying zoning, and conforms to the required floor area ratio, parking and setbacks. The proposed development will adhere to the required yard area setbacks pursuant to the Land Development Code. A Deed Restriction is a condition of approval to preserve a visual corridor of not less than the side yard setbacks, in accordance with the requirements of San Diego Municipal Code Section 132.0403(b). The building will be under the maximum 30-foot Coastal Height Limit allowed by the zone.

The proposed project meets the intent, purpose, and goals of the underlying zone, and the Ocean Beach Precise Plan and Local Coastal Program Addendum. Therefore, the proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The proposed development would demolish an existing duplex and construct a new single-family home. An Environmental Initial Study determined that the proposed project would not have any significant adverse impacts to the environment with the possible exception of historical resources during grading activities. A Mitigation, Monitoring and Reporting Program that requires on site monitoring during grading by a licensed archeologist was prepared for and made condition of the project. The proposed development would be consistent with the residential land use and density range of the Ocean Beach Precise Plan and comply with the applicable regulations of the Land Development Code. The proposed project would replace an aging structure with a new single-family home improving the appearance of and revitalizing the neighborhood. The project would be designed, reviewed and constructed in compliance with the California Building Code ensuring the structure is safe and habitable. Therefore, the proposed project would not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The proposed development would comply with all applicable regulations of the Land Development code including a Variance to reallocate gross floor area from designated enclosed parking to habitable space. If approved, the project would comply with the Land Development Code.

Supplemental Findings--Environmentally Sensitive Lands

4. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;

The project site is immediately south of the San Diego River mouth outfall at the Pacific Ocean and located within the 100 year floodplain and is therefore considered environmentally sensitive land, requiring a Neighborhood Development Permit for development within the Special Flood Hazard Area. The previous site grading and construction of the existing duplex have completely disturbed the site. The property is relatively flat and does not include any sensitive topographical or biological resources. The site is neither within nor adjacent to Multi-Habitat Planning Area (MHPA) lands. A Mitigated Negative Declaration dated November 30, 2010, has been prepared for this project in accordance with State CEQA guidelines, and a Mitigation, Monitoring and Reporting Program is required for Archaeological Resources to reduce any potential impacts to below a level of significance.

A geotechnical analysis was prepared to address the liquefaction issue. This report concluded that the site is considered suitable for the proposed development provided the conditions in the Geotechnical Investigation Report are implemented. Therefore, the site is physically suitable for

the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

5. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;

The proposed project would be sited on a 2,500 square-foot, developed lot. The majority of the site is relatively flat at 8 feet above Mean sea Level (MSL) across an approximately 25 foot x 100 foot lot. The proposed development is surrounded by existing residential development, within a seismically active region of California, and therefore, the potential exists for geologic hazards, such as earthquakes and ground failure. Proper engineering design of the new structures would minimize potential for geologic impacts from regional hazards. On site grading would be minimal as the project has been designed without subterranean parking.

The subject site is no greater danger from flooding than the adjacent, already developed sites and the proposed design mitigates potential flood related damage to the principal residential structure by raising the required living space floor area above the flood line per FEMA requirements, and flood-proof all structures subject to inundation in accordance with Technical Bulletin 3-93 of the Federal Insurance Administration. Therefore, the proposed development will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

6. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;

The project site is within the 100 year floodplain and is therefore considered environmentally sensitive land. However, the previous site grading and construction of the existing duplex have completely disturbed the site. The property is relatively flat with an elevation of 8 feet above mean sea level and does not include any sensitive topographical or biological resources. The site is neither within nor adjacent to Multi-Habitat Planning Area (MHPA) lands. A Mitigated Negative Declaration dated November 30, 2010, has been prepared for this project in accordance with State CEQA guidelines, and a Mitigation, Monitoring and Reporting Program is required for Archaeological Resources to reduce any potential impacts to below a level of significance. Thus, with the implementation of the conditions in the Geotechnical Investigation the proposed project should not adversely affect environmentally sensitive lands.

7. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

The project proposes the demolition of the existing duplex and construction of a three-level single dwelling unit with attached carport. The project site is south of, but not adjacent to, the Multiple Species Conservation Program (MSCP), Multiple Habitat Planning Area (MHPA) of the San Diego River floodway. Therefore, the project does not need to show consistency with Multiple Species Conservation Program Subarea Plan.

C. Variance - Section 126.0805

1. There are special circumstances or conditions applying to the land or premises for which the variance is sought that are peculiar to the land or premises and do not apply generally to the land or premises in the neighborhood, and these conditions have not resulted from any act of the applicant after the adoption of the applicable zone regulations;

There are special circumstances associate with the project site that are not the result of the actions of the owner. The lot within the 100 Year Floodplain (*Special Flood Hazard Area*) and zoned RM-2-4 which is intended to encourage multi-family residential development. However, within the Ocean Beach community, the RM-2-4 zone is restricted to a significantly lower floor area ratio (FAR) and higher parking requirements than the identical zone designation in other areas of the City. Additionally, the property is only 2,500 square feet and although it constitutes a legal building lot, the site is substandard by the current RM-2-4 standard which requires a minimum lot size of 6,000 square feet. Further, the project site does not include an alley access as is typical with the RM-2-4 zone designation. Therefore, the project site is regulated by a zone designation that is intended for development of multiple units on larger lots with alley access for parking. Whereas, in the case of the subject property, the applicant is seeking to develop a small lot with a single-family home without alley access and without the design flexibility to locate the parking below grade due to the flood plain. These circumstances conspire to eliminate any reasonable redevelopment of the site and should be considered unique to the area.

2. The circumstances or conditions are such that the strict application of the regulations of the Land Development Code would deprive the applicant of reasonable use of the land or premises and the variance granted by the City is the minimum variance that will permit the reasonable use of the land or premises;

The proposed development is to demolish an existing one-story, duplex and construct a new 1,749 square-foot, three-story single-family dwelling unit with an attached two-car carport. The existing conditions of the site including the lack of alley access, a substandard lot size and restrictive zoning requirements have caused difficulty in developing the property and improving the existing non-conforming parking situation. Therefore, the project is requesting a deviation from the underlying RM-2-4 Zone requirement SDMC Section 131.0446(e), which requires that a minimum of one-fourth of the permitted floor area ratio (FAR) be reserved for required parking. Since the applicant is proposing only a single unit in a multi-family zone, strict application of the ordinance would deny the applicant reasonable use of the subject property.

The granting of this variance would allow the owner to make a reasonable use of the land by allowing the construction of a 1,749 square-foot dwelling unit with attached two-car carport. Granting the variance would result in a structure that would be compatible with the existing development pattern which has been established in this community and would allow the owner reasonable use of the property by allowing a home of similar size and character to that found in the surrounding area. Without this deviation, the design alternative at the same density would be a "box-like" form, increasing visual bulk and scale. This form would be out of character with the surrounding neighborhood and may be considered inconsistent with the Ocean Beach Precise Plan. The proposed deviation to the development regulations would be the minimum necessary to develop the site with a small single-family dwelling unit that would be sufficiently parked.

3. The granting of the variance will be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare;

The proposed project includes the demolition of an existing duplex and construction of a 1,749 square-foot, three-level single family dwelling. The project site is located on a block consisting of identical one-story duplexes, many of which are dilapidated and in need of repair/remodeling. Surrounding uses include single and multi-family residential with some structures reaching two and three-stories in height. The proposed demolition and construction would meet the plan's residential element objective to "renovate substandard and dilapidated property."

The proposed design incorporates the carport into the front facade, creating the effect of terracing away from the street thereby reducing the structure's apparent bulk and minimizes structural scale from the pedestrian right-of-way. In addition, the proposed carport incorporates transparency into the open design such that pedestrians are able to look through the structure, further minimizing the bulk of the structure. The design observes and protects the required side yard setbacks and deed restrictions will secure visual access through the property. In addition, the proposed development would improve previously conforming conditions by providing a minimum of two off-street parking spaces and the replacement of a faulty structure with a flood proofed structure which improves public safety. The proposed project would implement the Ocean Beach Precise Plan and residential goals to preserve small-scale character. At three stories, the project would appear larger than immediately adjacent development. However, the project would more closely match 2-story and 3-story structures on the block to the immediate north of West Point Loma Boulevard. Therefore, the proposed development would be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare

4. The granting of the variance will not adversely affect the applicable land use plan. If the variance is being sought in conjunction with any proposed coastal development, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan.

The project site is designated for multi-family residential land use in the Ocean Beach Precise Plan with a density yield of 25 dwelling units per net residential acre, and is subject to the Proposition D thirty foot (30') height limit. The goal of the residential designation is to maintain the existing residential character of Ocean Beach as exemplified by a mixture of small-scale residential building types and styles. The project proposes to construct a single family residence with a density of 25 dwelling units per acre and will not have a detrimental impact on the community plan designation.

The project includes the demolition of an existing duplex and construction of a 1,749 square-foot, three-level single family dwelling. The project site is located on a block consisting of identical one-story duplexes, many of which are dilapidated and in need of repair/remodeling. Surrounding uses include single and multi-family residential with some structures reaching two and three-stories in height. The proposed demolition and construction would meet the plan's residential element objective to "renovate substandard and dilapidated property."

The proposed design which incorporates the carport into the front facade, would be consistent with the goals of the Ocean Beach Precise Plan. The development creates the effect of terracing away from the street which reduces the structure's apparent bulk and minimizes structural scale

from the pedestrian right-of-way. In addition, the proposed carport incorporates transparency into the open design such that pedestrians are able to look through the structure, further minimizing the bulk of the structure. The design observes and protects the required side yard setbacks and deed restrictions will secure visual access through the property. In addition, the proposed development would improve previously conforming conditions by providing a minimum of two off-street parking spaces where no designated parking currently exists. The proposed project would implement the Ocean Beach Precise Plan and residential goals to preserve small-scale character. At three stories, the project would appear larger than immediately adjacent development. However, the project maintains a lower density appropriate for the small lot and would more closely match 2-story and 3-story structures on the block to the immediate north of West Point Loma Boulevard.

The Local Coastal Program element of the Ocean Beach Precise Plan implements California Coastal Act policies for protection, enhancement and expansion of public visual and physical access to the shoreline. The proposed project would not affect either visual or physical access to the shoreline, whether adjacent to the beach or from elevated areas. There are no physical public access points on the subject property and no designated public view corridors on the subject property. The design observes and protects the required side yard setbacks and deed restrictions will secure visual access through the property. Therefore the granting of the variance will not adversely affect the applicable land use plan and the variance being sought in conjunction with the proposed coastal development, conforms with, and is adequate to carry out, the provisions of the certified land use plan.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Coastal Development Permit No. 605823; Neighborhood Development Permit No. 605835 and Variance No. 685036 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. Coastal Development Permit No. 605823; Neighborhood Development Permit No. 605835 and Variance No. 685036, a copy of which is attached hereto and made a part hereof.

Patrick Hooper
Development Project Manager
Development Services

Adopted on: February 17, 2011

Internal Order No. 23431831

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370 FAX (619) 767-2384



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Ocean Beach Planning Board
Mailing Address: Post Office Box 7090
City: San Diego

Zip Code: 92167

Phone: 619-994-8539

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of San Diego, Development Services

2. Brief description of development being appealed:

Demolishing a single story building with two affordable dwelling units built in 1955 and construction of a three-story single family unit with 1,749 square feet on an existing 2,500 square foot lot in an RM2 zone with variances to allow no garage and parking space to be excluded from the floor area ratio.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

5164 West Point Loma Boulevard, San Diego, CA 92107, project site is legally described as Lot 15, Block 90 of Map No. 1189.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

RECEIVED
MAR 28 2011
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 15
APPLICATION NO.
A-6-OCB-11-026
Appeal
California Coastal Commission

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<u>TO BE COMPLETED BY COMMISSION:</u>	
APPEAL NO:	<u>A-6-OCB-11-026</u>
DATE FILED:	_____
DISTRICT:	_____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: March 10, 2011

7. Local government's file number (if any): Project No. 168660

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Alvin Cox
P. O. Box

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Jane Gawronski
4867 Coronado Avenue
San Diego, CA 92107

(2) Giovanni Ingolia
1818 Bacon Street
San Diego, CA 92107
619-494-8539

(3) Bill Wilson
5138 Muir St
San Diego CA 92107

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Findings for variance not warranted

- The RM 2-4 base zone requires that 25% of allowable FAR be reserved for parking. The intent of this rule is to require applicants utilize garage space for parking vehicles and not driveways or streets - which provides for a much more pedestrian oriented community. This project suggests to delete the requirement of the FAR requirement for parking and to add this FAR to the maximum allowable and to STILL park the cars in the front of the project as it is not intended. The code only allows for the combination of the parking FAR back into the maximum allowable FAR if the project provides UNDERGROUND parking only. There is no allowance for carport parking to be allowed to increase the allowable FAR of the project. SDMC Chap13-Art1-Div4-pg52 paragraph (e). The intent of this rule is to insist on garage parking vice carport parking and to also limit the allowable FAR excluding garage space to approx 1312SF per project. There are no findings for allowing this project to exceed the max usable FAR of .7 AND to remove the 25% requirement for parking IF the project will proceed with parking the vehicles in front of the structure anyway. This creates bulkier and larger project that is inconsistent with 90% of the projects of similar type in the community.
- Inconsistent with SD Gen Plan -- Protection of PUBLIC Views from open space - The SD Gen Plan clearly states that PUBLIC views of the coast and ocean shall be protected. This project will clearly eliminate public views from elevated areas along the SD River bike/walk path of the Ocean Beach coast and Pier. Additionally, the SD Gen Plan indicates that development adjacent open space shall also be sensitive as to not wall off views FROM open space back into the community as well. All views from the park space immediately adjacent the project site back into the community will be completely eliminated as well.
- Collective impacts - The collective impacts of this project and the project immediately adjacent cannot be denied. From the street view of West Point Loma, these projects continue to push development towards the street and reduce the pedestrian orientation by furthering the "canyonization" of the block. Street views on West Point Loma from as far north as Spray Street will be further canyonized and the pedestrian is left with either cars parked in the open or GATED carports that offer no invitation of pedestrians to visit or be neighborly.
- The City of San Diego Development code 131.0454 states a storage requirement in all RM zones, each dwelling unit shall have a fully enclosed, personal storage area outside the unit that is at least 240 cubic feet with a minimum 7-foot horizontal dimension along one plane. This proposed development does not.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on file

Signature of Appellant(s) or Authorized Agent

Date: 3-28-11

Giovanni Ingolia

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

_____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____