

CALIFORNIA COASTAL COMMISSION

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Th14b

ADDENDUM

August 6, 2012

To: Commissioners and Interested Persons

Click here to go
to the original staff report.

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th14b**, Coastal Commission Permit Application
#A-6-OCB-12-044 (Burks), for the Commission Meeting of August 9,
2012.

Staff recommends that the following changes be made to the above referenced staff report. Language to be added is shown in underline; language to be deleted is shown in ~~strikeout~~.

1. On Page 3 of the staff report, modify Exhibits as follows:

Exhibit 1 – Project Location

[...]

Exhibit 16 – Appellants' Exhibit

2. On Page 10 of the staff report, the second full paragraph shall be revised as follows:

In response to the appellants' allegation that there is a cumulative effect on the community character by approving multiple projects with variances, the subject development is only *one* case in which variances were approved due to *several* site-specific constraints, as discussed below. ~~Additionally, the appellants did not provide documentation to substantiate their claim that over 500 parcels within the Ocean Beach community would be eligible for the same variances; however, in a conversation with a member of the Ocean Beach Planning Board, he said that a GIS layer from SanGIS (www.sangis.org), a website with data from the City and County of San Diego, was used to determine that there are approximately 259 substandard lots with no alley access and approximately 525 substandard lots with alley access in Ocean Beach's RM-2-4 zone.~~ **Two maps from Giovanni Ingolia, on behalf of the Ocean Beach Planning Board, were submitted to the Commission via e-mail on July 19, 2012 to support the appeal (Exhibit 16). According to Mr. Ingolia, he used industry standard software (ARCGIS 10) and data downloaded between January and May 2012 from SanGIS (www.sangis.org), a website with GIS data from the City and County of San Diego, to create both maps. Staff notes that the submitted maps are not completely accurate, as the subject site is categorized as 2,501-3,000 sq. ft. on**

the floodplain map when it should be categorized as 0-2,500 sq. ft. The appellants claim that these maps illustrate that there is the potential to affect a large portion of the Ocean Beach community, because more than 500 parcels could be eligible for the same variances as the subject development. However, this is not the case. According to the submitted maps, while there are 784 lots within Ocean Beach's RM-2-4 zone that are considered substandard, only 259 of these lots have no alley access. Of these 259 lots, only 95 are also located within the floodplain and then only 20 lots have no alley access, are located within the floodplain, and are 2,500 sq. ft. or less. Thus, only 20 lots within the RM-2-4 zone share the same site-specific constraints as the subject property. The appellants' assumption is that if a parcel meets the same criteria (~~substandard or substandard with no alley access~~) as the subject development, the City would therefore approve the same variances. However, ~~there are a number~~ **the majority** of lots in the Ocean Beach area that are considered substandard ~~and~~ are not within the 100 year floodplain ~~that~~ **and** would be able to accommodate redevelopment similar to the applicant's proposed development without variances. Thus, it is not reasonably foreseeable that the same variances would be applied to all or even a portion of the parcels within the community because they do not share all of the same site-specific constraints. In fact, the appellants' contend that the City has only approved approximately six (6) projects with the FAR variance in this zone, of which four (4) of them share the same site-specific constraints. **In addition, as noted above, there is already a diverse mix of structures (one, two and three stories) and architecture in the community and the potential for the use of variances to set an adverse precedent on bulk and scale is not substantiated.** Therefore, the subject project does not raise a cumulative impact issue.

3. On Page 12 of the staff report, the second full paragraph shall be revised as follows:

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. These factors are listed on pages 5-6 of this staff report. The proposed project is for construction of a single-family residence that is consistent in size and scale of other projects in the vicinity. ~~Additionally, the appellants did not provide documentation to substantiate their claim that there is a cumulative effect of approving projects with variances since over 500 parcels could redevelop with the same variances based on their substandard lot sizes or lack of alley access.~~ In this particular case, given that no impacts to coastal resources will result from these variances, the Commission agrees with the City's assessment for permitting the deviation and variance and thus, 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.

4. Attach two maps, received via e-mail on July 19, 2012 from the appellants, to the staff report as Exhibit 16.



Ocean Beach, San Diego CA RM-2-4 Sub-Standard Lots

Source: SANGIS

Scale: Planning Board
1000' Ocean Beach 02/06/17

EXHIBIT NO. 16
APPLICATION NO.
A-6-OCB-12-044
Appellants' Exhibit



Source: SANGIS

San Francisco Bay Area
1000 Ocean Beach 92167

EXHIBIT NO. 16
APPLICATION NO.
A-6-OCB-12-044
Appellants' Exhibit

Intentionally Blank

Agenda Item 14b
Application #A-6OCB-12-044
Jane Gawronski, Chair, OB Planning Board
Opposed

Point #1: City is not following its own municipal code for variances which requires that **all four** findings must be made. **Municipal Code Section 126.0805**

The decision maker may approve or conditionally approve an application for a variance only if the decision maker makes the following findings:

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 regulations;

In the case of the Burk's residence these are not special circumstances because there are many similar lots in Ocean Beach. (See Exhibit 1: RM-2-4 Sub-Standard Lots and Exhibit 2: Flood Plan Parcels in the RM -2-4 Zone)

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.

In the case of the Burk's residence a strict application simply decreases the size (and thus the bulk and scale) of the home. Other developers have had no problem developing a project that is reasonable. In fact the same night that the board voted against the Burk Residence they voted in favor of a new building located at 2143 Bacon St. This project was to build a 1462 sq foot single family house on 4000 sq feet. It should be noted that if the Burk Residence would build at what is currently allowed they would achieve the same size building. The Board voted 8-1-0 in favor of this project.

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;

In the case of the Burk's residence the granting of the variance is NOT in harmony with the general purpose and intent of the regulations and in fact it is detrimental to the Ocean Beach environment by allowing larger than allowed homes to be built. There are public views from the San Diego River Walk path and also up Muir Avenue as low as the Bacon street intersections that are impacted. The public views from the river walk path have also been recognized immediately adjacent to the Ocean Villa hotel looking south to the pier and coastline. CCC staffs have recognized these in previous staff reports (Stebbins report)

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 the granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan.

*Letter of Opposition
from Appellants*

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SAN DIEGO COAST DISTRICT

The Burk's residence does adversely affect the land use plan since it obstructs views and exceeds the floor area ratios (FAR) that other parcels have and are required in the Ocean Beach Precise Plan. The FAR is actually increased to .70 livable instead of .52 that is currently allowed. This will set precedence within the OB Community thus allowing other properties to increase their bulk and scale. This new land use plan is being created through variances allowing the city to avoid CEQA regulations and proper procedures for a zoning change.

Point #2: The City is violating the approved Local Coastal Program by granting these variances. By approving each of these projects in a singular fashion, the City is avoiding having to hold a Process 5 hearing to change the zone or to implement an appropriate overlay zone. In holding a Process 5 hearing, the City would be required by CEQA to look at the cumulative effects of changing ALL of the parcels with similar conditions. The cumulative effects of such a change would no doubt change the small scale character of the community and specifically this neighborhood. Both the Ocean Beach Precise Plan and the Local Coastal Program reference the desire of the community to keep residential development limited to a very small scale and controlled by the FAR regulations of the zoning. The City should follow the proper public discretionary process to change the base zone and to show that there will be no environmental impacts that are contrary to the Local Coastal Program and Community Plan. CEQA is designed to protect the community against this very subversive approach to changing the development requirements and both our Community Plan and Local Coastal Program should serve as a check and balance to this process. They have not succeeded in keeping the City from pursuing this build-at-all cost agenda of the current administration.

The City has specifically worked to circumvent the Ocean Beach Community Plan and the Local Coastal Program to increase FAR and development maximums for years and even specifically asked the Ocean Beach Planning Board to consider removing the FAR requirements in August of 2010. The OB Planning Board unanimously opposed that change. The Ocean Beach Planning Board has opposed every project that has requested an FAR increase for over 30 years and this position has not changed with the inception of these project-level variances.

By approving the projects by variance, the City will continue to legally circumvent the jurisdiction of the California Coastal Commission and more importantly, the rights of the people to be protected from development interests in the Coastal Zone.

Request:

Please continue this item to October and please direct the City to work with OBPB for a solution.

This will allow the OBPB to work on a solution with the City for this and similar lots rather than perpetuating the current situation where the City is in violation of their own Municipal Code, violation of the Local Coastal Program and subverting the process for zone changes.

CALIFORNIA COASTAL COMMISSION

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Th14b

Filed: 6/26/12
49th Day: 8/14/12
Staff: K. Brown-SD
Staff Report: 7/19/12
Hearing Date: 8/9/12

STAFF REPORT: RECOMMENDATION ON APPEAL

Local Government: City of San Diego

Decision: Approved with Conditions

Appeal Number: A-6-OCB-12-044

Applicant: James and Myrna Burks

Location: 5170 West Point Loma Boulevard, Ocean Beach, San Diego, San Diego County (APN 448-041-11).

Project Description: Demolition of an existing one-story, 1,250 sq. ft. duplex and construction of a three-story, 1,748 sq. ft. single-family residence with an attached open carport on a 2,500 sq. ft. site.

Appellants: Ocean Beach Planning Board

Staff Recommendation: No Substantial Issue.

SUMMARY OF STAFF RECOMMENDATION

The appellants assert that the proposed development does not adequately protect views to the Pacific Ocean as well as views toward Dog Beach and the San Diego River and is not consistent with community character of the Ocean Beach community. 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 applicant, staff has concluded that the development, as approved by the City, is consistent with all applicable Local Coastal Program (LCP) provisions as it will not result in any adverse impacts to public views and is in character with the overall surrounding community.

Commission staff recommends **no substantial issue** of Coastal Development Permit Appeal #A-6-OCB-12-044.

The standard of review is the City of San Diego's certified LCP.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 – Site Photo
- Exhibit 3 – Landmarks
- Exhibit 4 – Site Plan
- Exhibit 5 – Floor Plans
- Exhibit 6 – Elevations
- Exhibit 7 – Cross Section/Grading
- Exhibit 8 – Footprint
- Exhibit 9 – NOFA
- Exhibit 10 – Report to Planning Commission
- Exhibit 11 – Visual Rendering
- Exhibit 12 – Ocean Beach Planning Board
- Exhibit 13 – Coastal Development Permit
- Exhibit 14 – City Resolution
- Exhibit 15 – Appeal

I. MOTION AND RESOLUTION

Motion:

I move that the Commission determine that Appeal No. A-6-OCB-12-044 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

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:

The Commission finds that Appeal No. A-6-OCB-12-044 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.

II. APPELLANT CONTENTS

The 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 and preservation of community character. First, the appellants contend that as a result of the variances approved by the City, the bulk and scale of the three-story residence will block views of the Pacific Ocean, as well as views toward Dog Beach and the San Diego River. Second, the appellants assert that there is a cumulative effect of approving projects with variances over time, because over 500 parcels within the Ocean Beach community could be eligible for the same variances due to the factors considered in this case, including substandard lot size (less than 6,000 sq. ft.) and lack of alley access.

III. LOCAL GOVERNMENT ACTION

The Ocean Beach Planning Board voted 9-0-0 to recommend denial of the project on December 7, 2011. Coastal Development Permit #844764 for the subject development was approved by the Hearing Officer of the City of San Diego on March 14, 2012. That decision was appealed to, and heard by the Planning Commission of the City of San Diego on May 24, 2012, at which time the appeal was denied and the Hearing Officer's decision of approval was upheld. The conditions of approval address, in part, the following: side yard visual corridors, off-street parking, variances of the deviations to the RM-2-4 zoning regulations, and flood-proofing of all structures subject to inundation.

IV. 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 30603(a) of the Coastal Act identifies which types of development are appealable. Section 30603(a) states, in part:

- (a) *After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
 - (1) *Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
 - (2) *Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

Section 30603(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, in relevant part, that the Commission shall hear an appeal unless it determines:

- (2) *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 then, or at a later date, reviewing the project de novo in accordance with sections 13057-13096 of the Commission's regulations. 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 (LCP).

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 applicable Chapter 3 policies when reviewing a project at the de novo stage.

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 as to conformity with the certified local coastal program" or, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act (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.

The City of San Diego has a certified Local Coastal Program (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, before the Commission considers the appeal de novo, the appeal must establish that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

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 regarding coastal resources and, therefore, conforms to the standards set forth in the City's certified LCP.

V. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

Proposed is the demolition of an existing one-story, 1,250 sq. ft. duplex and construction of a three-story, 1,748 sq. ft. single-family residence with an attached open carport on a 2,500 sq. ft. site (Exhibit 4). The existing duplex is approximately 12 ft. high and the proposed residence will be 30 ft. high. The 613 sq. ft. first floor will consist of two bedrooms and one bathroom, the 668 sq. ft. second floor will consist of a living room, dining room, and kitchen, and the 467 sq. ft. third floor will consist of a master suite (Exhibit 5). The proposed project includes two variances to allow a portion of the floor area to be used as habitable space rather than designated for parking (enclosed garage) and to allow the construction of the carport to be located in front of the building façade where the regulations require the carport to be set back at least 5 feet from the façade.

The subject site is located at 5170 West Point Loma Boulevard in the Ocean Beach community of the City of San Diego. The street is slightly angled, such that it is oriented to the southwest/northeast (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 within the same block, including the subject structure, which are part of a residential development that was constructed in 1955. However, a new three-story, single-family residence was recently constructed in place of a 15th duplex adjacent to the project site at 5166 West Point Loma Boulevard (Exhibit 2). The Pacific Ocean, a grassy picnic and park area, a public beach (Dog Beach), and public parking lot are located immediately to the north (Exhibit 3). North Ocean Beach is located to the west. Located further southwest of the site are Ocean Beach Park and the Ocean Beach pier. The entrance to the public parking lot at Dog Beach is immediately north of the picnic area. Beyond the public parking lot is the San Diego River channel, approximately 650 feet north of the proposed development. An embankment/levee borders the river channel and a pedestrian/bicycle path is located on the levee. 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 to the east (Exhibit 1).

B. CONSISTENCY WITH PREVIOUS PERMITS

In 2008, a very similar design for a neighboring site at 5166 West Point Loma Boulevard was appealed to the Commission, (Ref. Stebbins Residence – CDP Appeal #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 located 2 units to the west of the Stebbins Residence). The primary difference between the proposed project and the Stebbins Residence is that the proposed residence will raise the lowest floor two feet above the base flood elevation in order to comply

with 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.

In 2011, another similar design for a neighboring site at 5164 West Point Loma Boulevard was appealed to the Commission, (Ref. Cox Residence - CDP Appeal #A-6-OCB-11-026) and the Commission found no substantial issue in regards to contentions of public view blockage, cumulative impact of ‘canyon-ization’ or walled effect of the block, and inconsistency with the character of the surrounding neighborhood (the proposed development is located 3 units to the west of the Cox Residence). The primary difference between the proposed project and the Cox Residence is that the proposed project received a variance to allow the construction of the carport to be located in front of the building façade where the regulations require the carport to be set back at least 5 feet from the façade.

C. VISUAL RESOURCES

The appellants contend that: 1) as a result of the variances approved by the City, the bulk and scale of the three-story residence will block views of the Pacific Ocean, as well as views toward Dog Beach and the San Diego River; and 2) there is a cumulative effect of approving projects with variances over time, because over 500 parcels within the Ocean Beach community could be eligible for the same variances due to the factors considered in this case, including substandard lot size (less than 6,000 sq. ft.) and lack of alley access.

Public View Blockage

The City’s certified LCP contains the Ocean Beach Precise Plan, which governs the subject site, and it recommends protecting public views to the ocean. Specifically, on page 83, 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.

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

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 with construction of the proposed development, ocean views, as well as views to Dog Beach and the San Diego River channel, will be blocked from West Point Loma Boulevard south of the subject site looking north across the subject site. In response to the appellants’ allegations, Commission staff visited the subject site and the surrounding neighborhood. The existing residential duplexes already block any views towards the ocean from public vantage points. Even if the existing residential duplexes were not there

today, there would currently be 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. Additionally, in its approval of the project, the City required 3 ft. wide side yard view corridors through a deed restriction, consistent with the certified LCP, which calls for open fencing and only low level vegetation to be planted in the side yard setbacks that does not obstruct views. This helps preserve and open up potential views to the nearby park and helps to prevent a walled-off effect, consistent with the certified LCP and other near shore development in the coastal zone.

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 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.

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 three-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.

Cumulative Impacts to Community Character

The certified Ocean Beach Precise Plan recommends protecting the residential character on page 15:

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

The appellants contend that the proposed development with variances, along with over 500 other parcels within Ocean Beach that have the potential to be redeveloped with the same variances due to substandard lot size or lack of alley access, will have a cumulative impact and be incompatible with the community character of the surrounding area. The appellants contend that allowing variances to the Floor Area Ratio (FAR) and front yard setback results in a bulkier and larger project that is inconsistent with the community character. 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 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, the existing residential character of Ocean Beach consists of a mixture of small-scale residential building types and styles including two-story and three-story structures in the surrounding neighborhood. In particular, there is a three-story single-family residence adjacent to the subject site (5166 W. Point Loma Blvd), 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-story and three-story structures located in the surrounding blocks. As such, the construction of a three-story single-family residence in this location will be consistent with the existing residential character of the Ocean Beach 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 enclosed parking, unless the parking is provided underground. In this particular case, parking could not be provided underground due to the subject site's location within the 100 year floodplain. The project thus proposed an alternative means of providing the required two off-street parking spaces by allowing them to be located in an attached open carport, located in front of the building façade where the regulations require the carport to be setback at least 5 feet from the façade. 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. This 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 (where the code requires that 25% be set aside for enclosed 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; the bulk and scale of the structure does not change. Thus, these variances did not raise a community character issue because the bulk of the structure, notwithstanding the allowances in the variances, is consistent with the bulk of existing two and three story single-family residences in the surrounding community.

In response to the appellants' allegation that there is a cumulative effect on the community character by approving multiple projects with variances, the subject development is only *one* case in which variances were approved due to *several* site-specific constraints, as discussed below. Additionally, the appellants did not provide documentation to substantiate their claim that over 500 parcels within the Ocean Beach community would be eligible for the same variances; however, in a conversation with a member of the Ocean Beach Planning Board, he said that a GIS layer from SanGIS (www.sangis.org), a website with data from the City and County of San Diego, was used to determine that there are approximately 259 substandard lots with no alley access and approximately 525 substandard lots with alley access in Ocean Beach's RM-2-4 zone. The appellants' assumption is that if a parcel meets the same criteria (substandard or substandard with no alley access) as the subject development, the City would therefore approve the same variances. However, there are a number of lots in the Ocean Beach area that

are considered substandard and are not within the 100 year floodplain that would be able to accommodate redevelopment similar to the applicant's proposed development without variances. Thus, it is not reasonably foreseeable that the same variances would be applied to all of or even a portion of the parcels within the community because they do not share all of the same site-specific constraints. In fact, the appellants' contend that the City has only approved approximately six (6) projects with the FAR variance in this zone, of which four (4) of them including the subject development are on the same block (West Point Loma Boulevard) and share the same sites-specific constraints. Therefore, the subject project does not raise a cumulative impact issue.

In its findings for approval of the variances, the City found that the variances were reasonable based on the special circumstances that apply to this particular property, including its substandard lot size (25 feet of frontage and 1,250 sq. ft. of lot area, where 60 feet of frontage and 6,000 sq. ft. of lot area are required to be considered standard); location entirely within the 100 year floodplain which restricts underground development; abutment against dedicated parkland at the rear; narrowness of the lot; and no alley access. These special circumstances combined with the limitations of the RM-2-4 zone (intended for development of multiple units on larger lots with alley access) that restrict the allowable FAR to 0.7 and require 25% of Gross Floor Area be dedicated to parking guided the City in its approval of the variances in order to provide the applicant reasonable use of the site. The City also found that the variances provided a reasonable development on the property that is zoned for multi-family development and that the project only proposed a single unit rather than two units and resulted in an improved design. Further, staff notes that parking for all of the existing duplexes along West Pt. Loma Blvd surrounding the subject site is located within the front yard setbacks, which is considered normal for this beach community. Given that no impacts to resources resulted from the variances, the Commission concurs with the City's assessment for permitting the variances.

The structure approved by the City will consist of a three-story, 1,748 sq. ft., 30-ft. high single-family residence, which is only approximately 500 sq. ft. greater in size than the existing duplex structure proposed to be demolished. The 613 sq. ft. first floor will consist of two bedrooms and one bathroom, the 668 sq. ft. second floor will consist of a living room, dining room, and kitchen, and the 467 sq. ft. third floor will consist of a master suite. As such, the third level consists of a partial story 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 (Exhibits 4-8). Additionally, even though there are no existing views of the ocean from the subject site even without the existing duplex on the property, in its approval of the project, the City required 3 ft. wide side yard view corridors through a deed restriction, consistent with the certified LCP, which calls for open fencing and only low level vegetation to be planted in the side yard setbacks that would not obstruct any potential future views.

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.

D. CONCLUSION

In summary, based upon a review of all of the information provided to the Commission regarding this project, the Commission finds that the proposed development will not result in impacts to visual resources, is consistent with previously issued coastal development permits for similar redevelopment on the same block, and meets the requirements of the LCP. While the proposed structure will 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. In addition, the proposed project does not result in the blockage of any public 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. 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.

E. 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. These factors are listed on pages 5-6 of this staff report. The proposed project is for construction of a single-family residence that is consistent in size and scale of other projects in the vicinity. Additionally, the appellants did not provide documentation to substantiate their claim that there is a cumulative effect of approving projects with variances since over 500 parcels could redevelop with the same variances based on their substandard lot sizes or lack of alley access. In this particular case, given that no impacts to coastal resources will result from these variances, the Commission agrees with the City's assessment for permitting the deviation and variance and thus, 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 appellant do not raise any substantial issues of regional or statewide significance.

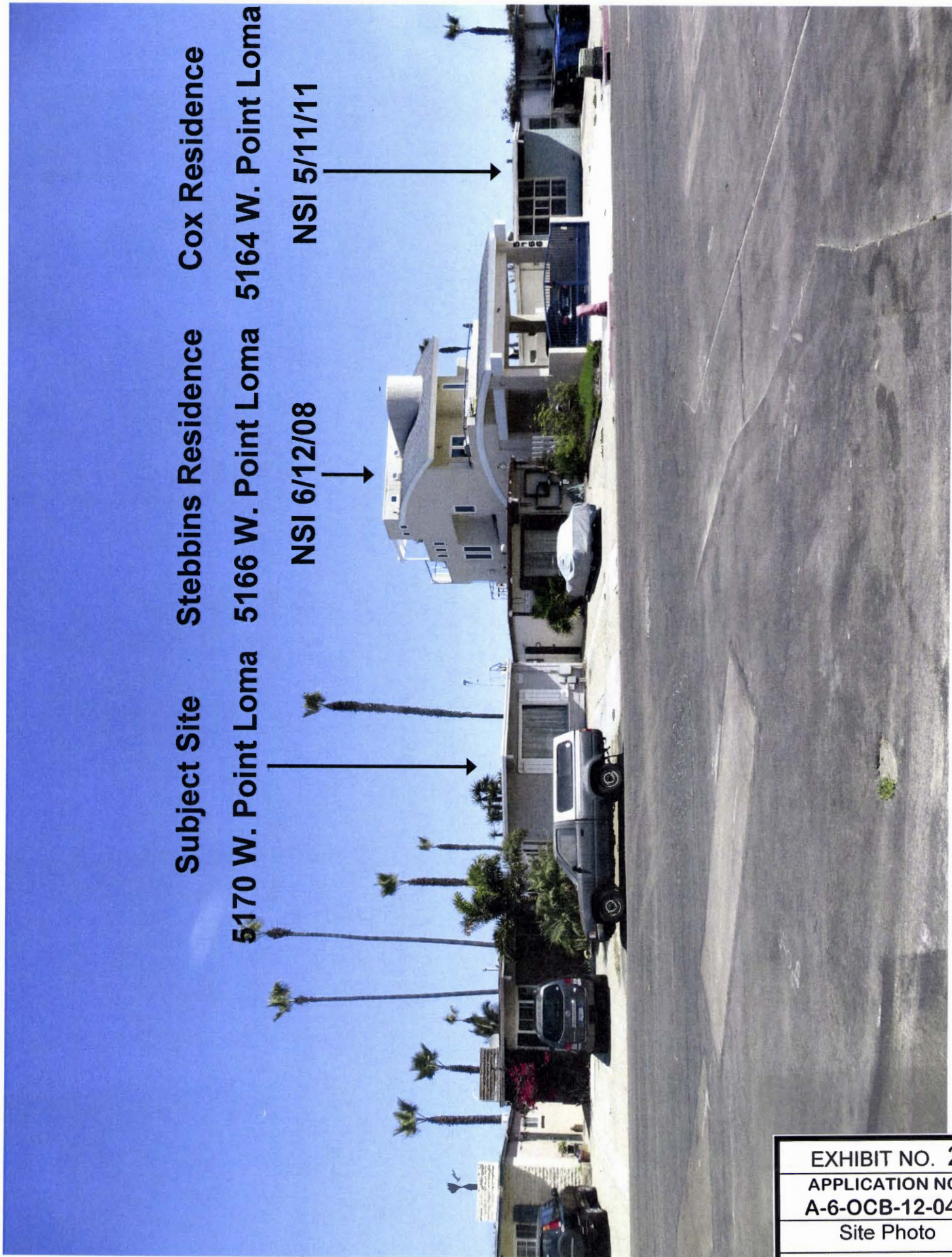
APPENDIX A

SUBSTANTIVE FILE DOCUMENTS: Appeal by the Ocean Beach Planning Board dated 6/26/12; Certified Ocean Beach Precise Plan (LUP); Certified City of San Diego LCP Implementation Plan; City of San Diego Report to the Planning Commission dated 5/24/12; Coastal Development Permit #844764; Notice of Final Action dated 6/7/12; Coastal Development Permit Appeal #A-6-OCB-08-046; Coastal Development Permit Appeal #A-6-OCB-08-046



EXHIBIT NO. 1
APPLICATION NO.
A-6-OCB-12-044
Project Location

Subject Site **Stebbins Residence** **Cox Residence**
5170 W. Point Loma **5166 W. Point Loma** **5164 W. Point Loma**
 NSI 6/12/08 **NSI 5/11/11**



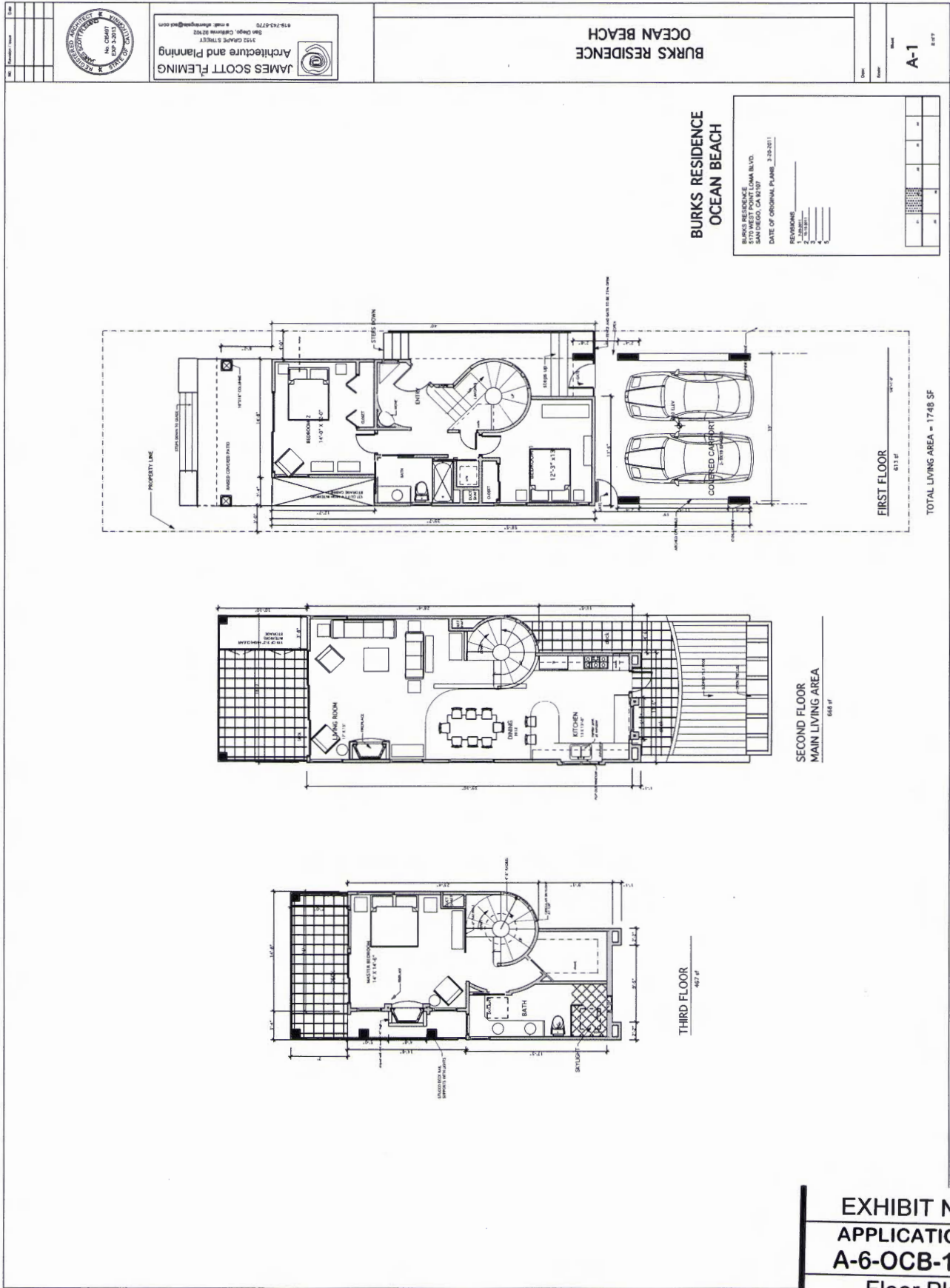
Landmarks



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-12-044
Landmarks



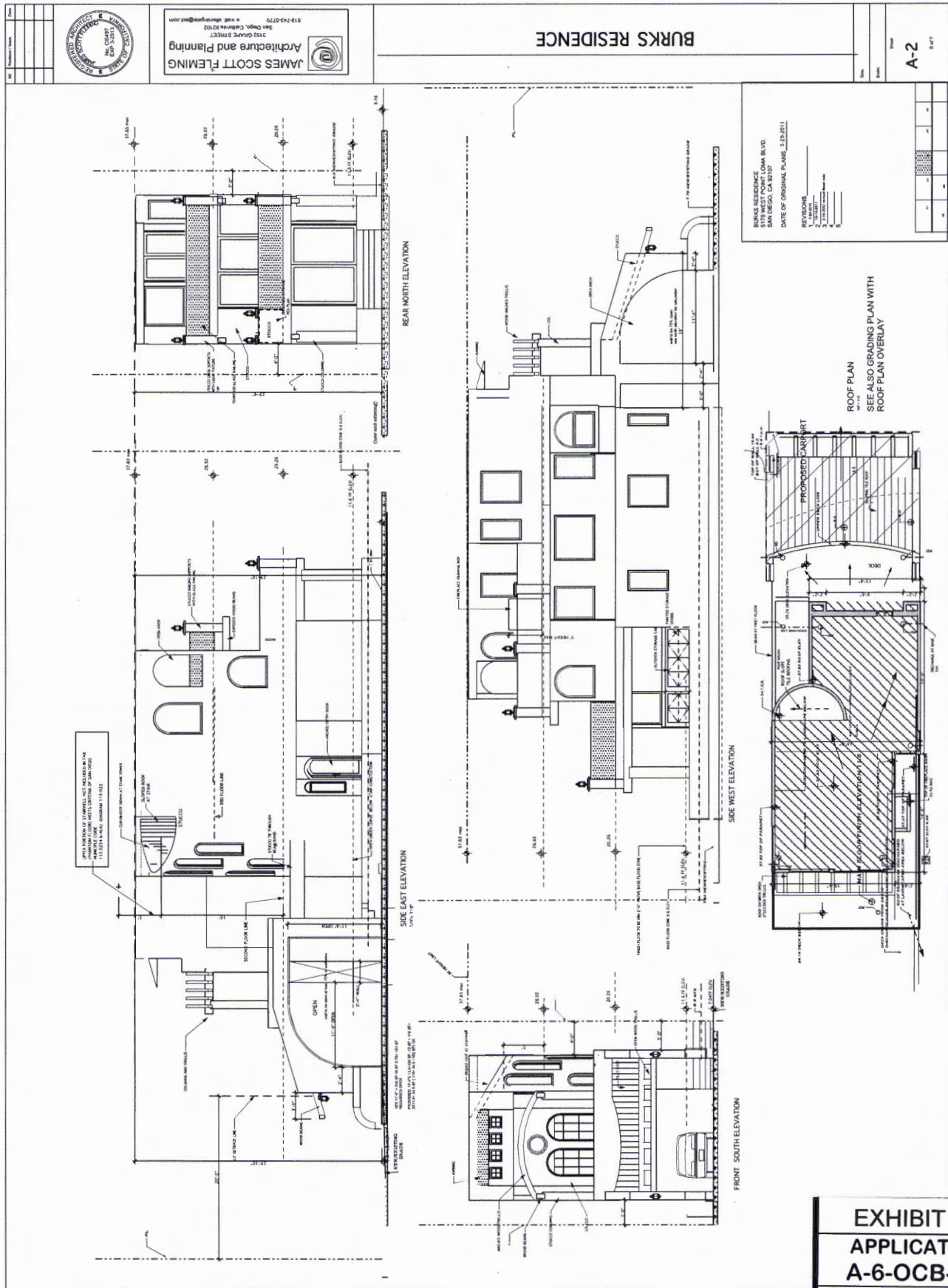



EXHIBIT NO. 6

APPLICATION NO.


A-6-OCB-12-044

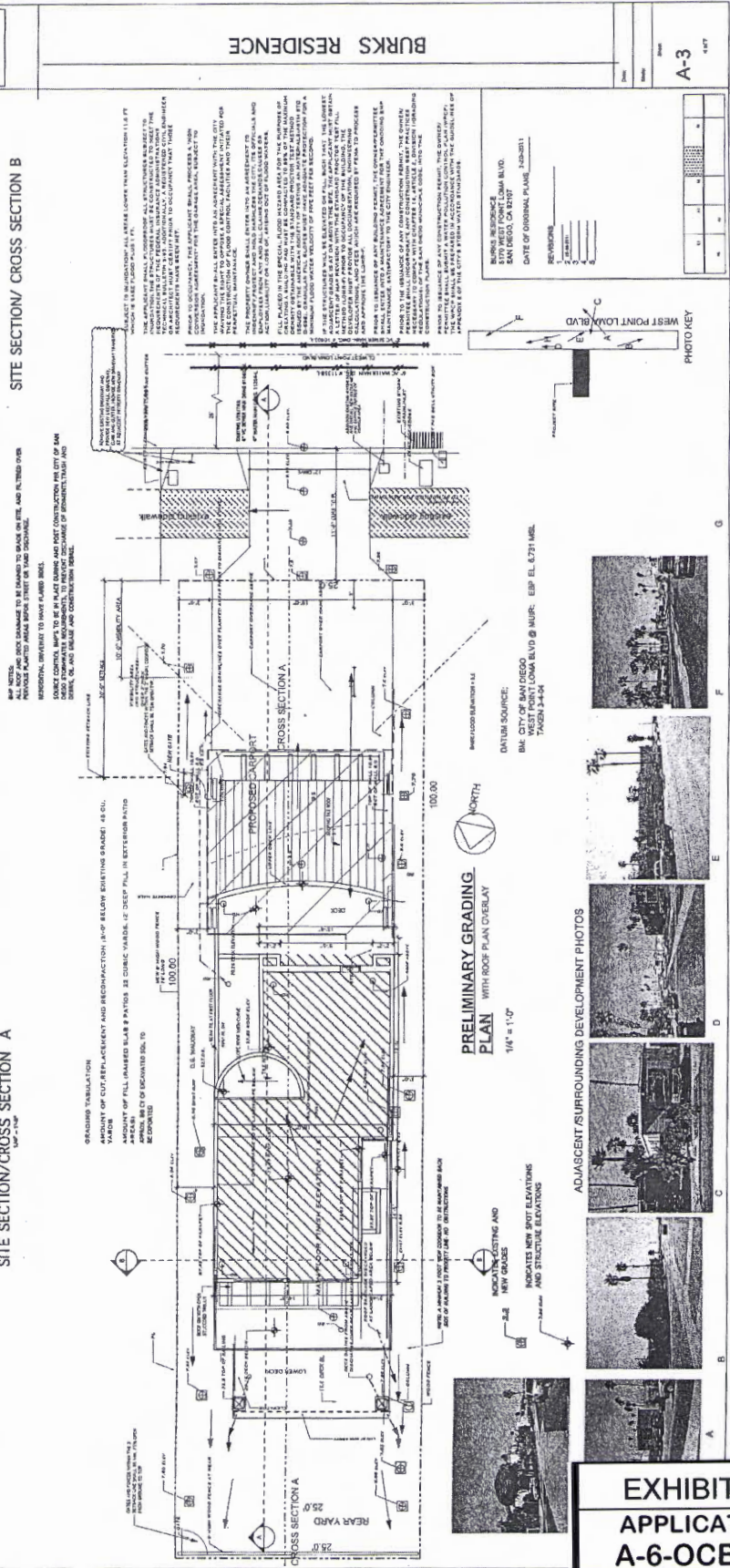
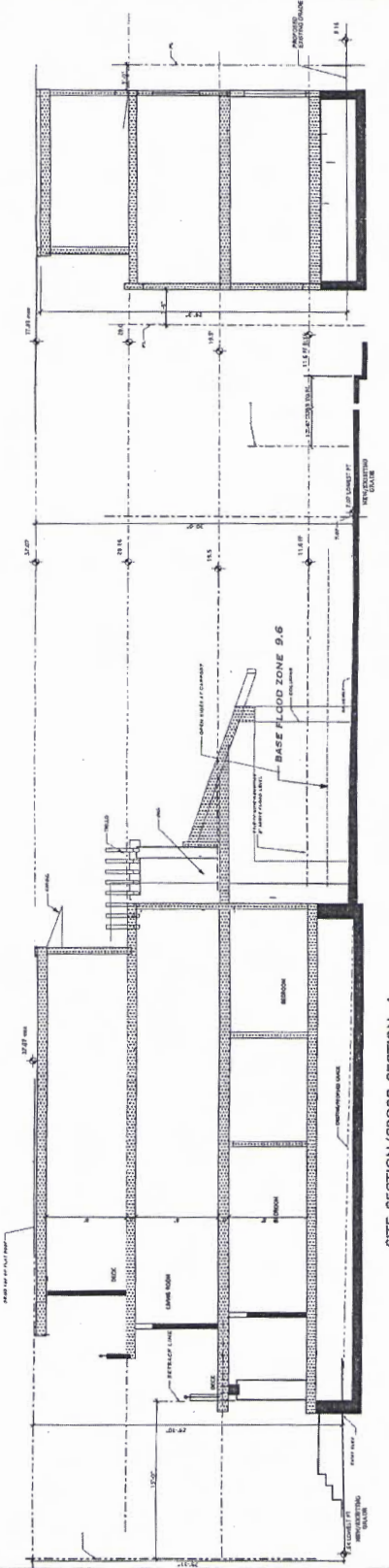
Elevations

California Coastal Commission



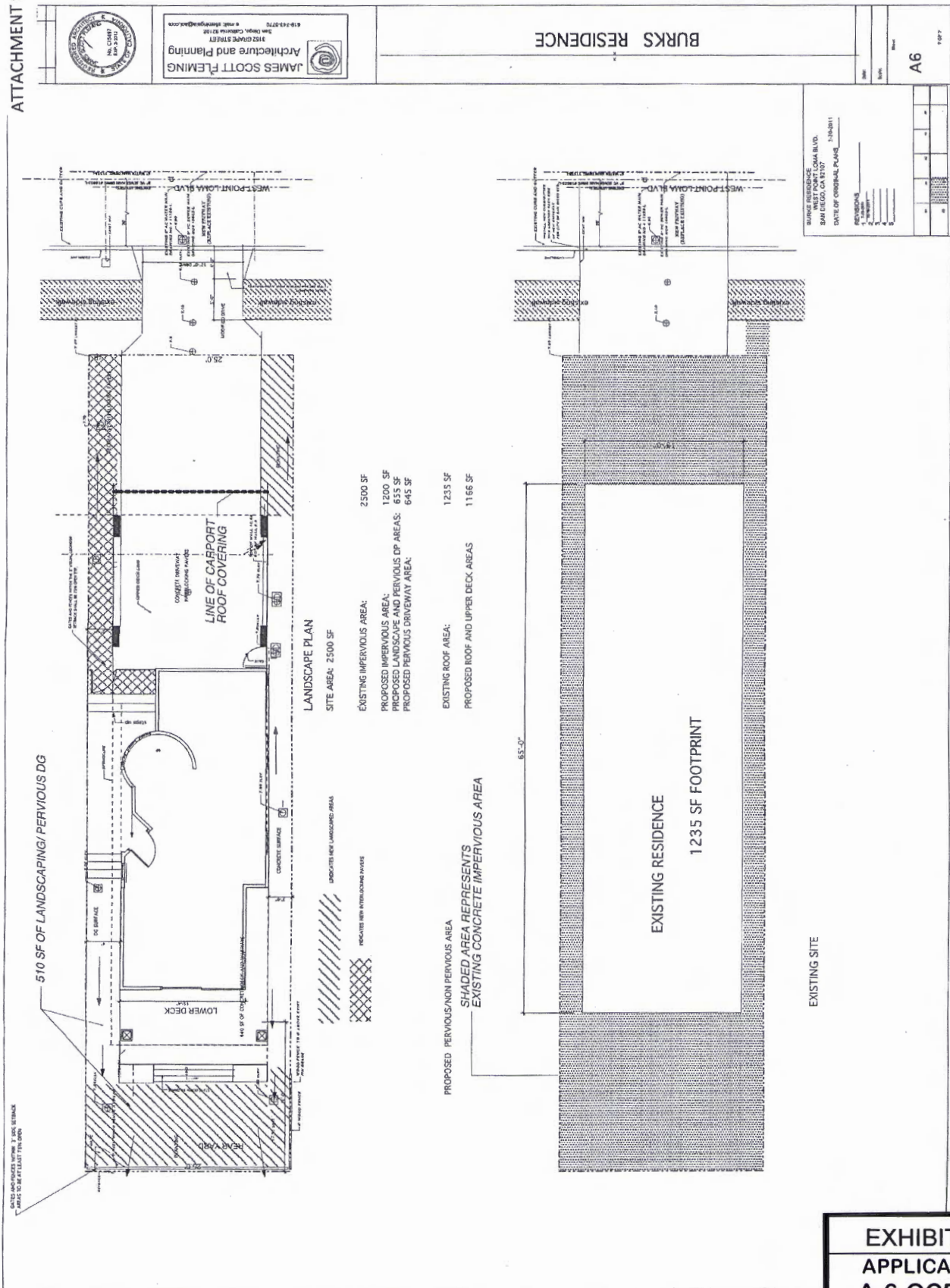
JAMES SCOTT FLEMING
Architect and Planning
3100 CRENSHAW BLVD.
SAN DIEGO, CALIFORNIA 92104
P: 619-423-7279
E: jscott@jamesfleming.com





BURKS RESIDENCE

A-3





6-OCB-12097

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: June 7, 2012

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: BURKS RESIDENCE PROJECT NO. 235485, EXEMPT FROM ENVIRONMENTAL

PROJECT DESCRIPTION: The project is to demolish an existing duplex and construct a 3 story single-family residence with deviations.

LOCATION: 5170 W. Point Loma Boulevard

APPLICANT'S NAME James M. Burks/Owner: (619) 222-1216; 5170 W. Point Loma Blvd. Scott Fleming, Architect: (619) 743- 5770; 3152 Grape Street San Diego, CA 92106

FINAL ACTION: APPROVED WITH CONDITIONS

ACTION BY: Development Services Department

ACTION DATE: May 31, 2012

CONDITIONS OF APPROVAL: See attached Permit.

FINDINGS: See attached Resolution.

☒ Appealable to the Coastal Commission

CITY CONTACT: SANDRA TEASLEY
Development Services Department
1222 First Avenue, MS 501
San Diego, CA 92101-4153
Phone/e-mail: (619) 446-5271; steasley@san

RECEIVED

JUN 13 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APN: 448-041-11

EXHIBIT NO. 9
APPLICATION NO. A-6-OCB-12-044
NOFA
California Coastal Commission



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: May 24, 2012 **REPORT NO.** PC-12-055

ATTENTION: Planning Commission, Agenda of May 31, 2012

SUBJECT: **BURKS RESIDENCE - PROJECT NO. 235485**
PROCESS THREE.

REFERENCE: HEARING OFFICER REPORT NO. HO-12-004
(Attachment 1)

**OWNER/
APPLICANT:** James and Myrna Burks/Scott Fleming

SUMMARY

Issue: Should the Planning Commission uphold the Hearing Officer's decision to approve the Burks Residence project within the Ocean Beach Community Planning Area?

Staff Recommendation: **DENY** the appeal and **APPROVE** Coastal Development Permit No. 844764, Neighborhood Development Permit No. 844768 and Variance No. 844782.

Community Planning Group Recommendation: The Ocean Beach Planning Board voted 9-0-0 to recommend denial of the project at their meeting of December 7, 2011 (Attachment 3).

Environmental Review: This project is exempt from the California Environmental Quality Act pursuant to Section 15301(a) (existing facilities) and Section 15303 (new construction or conversion of small structures). The exemption is dated December 19, 2011 and the opportunity to appeal that determination ended December 29, 2011). This project is not pending an appeal of the environmental determination (Attachment 4).

Fiscal Impact Statement: None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: None with this action.



BACKGROUND

The project site is comprised of one 1,250-square-foot, 25' X 100' lot located at 5170 W. Point Loma Boulevard in the RM-2-4 zone and designated for medium residential development (25 dwelling units per acre) within the Ocean Beach Precise Plan and Local Coastal Program. The site is also located within the Special Flood Hazard Area, Airport Environs Overlay Zone, Airport Approach Overlay Zone, Airport Influence Area, Coastal Height Limit Overlay Zone, Coastal Overlay Zone (Appealable Area) Parking Impact Overlay Zone (Beach Impact Area), and, the Residential Tandem Parking Overlay Zone. The site is not located on or adjacent to a designated public view area.

The Burks Residence project proposes to demolish an existing duplex and construct a 3-story, 3-bedroom, 1,748-square-foot single-family residence with an attached carport. The project includes two deviations to the development regulations of the RM-2-4 zone: 1. To allow 100 percent of the allowable floor area ratio to be utilized for habitable areas where 25 percent must be reserved for required parking and, 2. To construct a carport in front of the building façade where carports must be setback (offset) a minimum of 5 feet from the front façade.

The project requires a Process 3 Coastal Development Permit for new construction in the Coastal Zone, a Neighborhood Development Permit Process 2 for development within the Special Flood Hazard Area (SFHA), and a Variance Process 3 for deviations to the RM-2-4 zone. No deviations are proposed to the SFHA regulations.

Surrounding development includes multi-family residential units to the west, east and south. Abutting the property at the rear is the Ocean Beach Public Park. The Planning Commission approved two similar projects on appeal within this block of W. Point Loma Boulevard: The Stebbins Residence Project No. 51076 (FAR and carport setback deviations), approved in 2008, located at 5164 W. Point Loma Boulevard and the Cox Residence Project No. 168660 (FAR deviation), approved in 2011, located at 5166 W. Point Loma Boulevard. The Stebbins Residence is constructed. Adjacent to the subject property to the west is the Douma Residence Project No. 236671, for the demolition of the existing duplex and construction of a new residence located at 5168 W. Point Loma Boulevard. This item is scheduled for the Planning Commission's June 14, 2012 docket, requiring a Process 4 approval (Attachment 5).

On March 14, 2012, the Hearing Officer approved the Burks Residence project as recommended by staff. Several citizens spoke in favor and in opposition. Two citizens submitted letters in support during public testimony (Attachment 6). On March 26, 2012, the Ocean Beach Planning Board filed an appeal of the Hearing Officer's decision (Attachment 2).

DISCUSSION

Appeal

The Ocean Beach Planning Board's appeal generally states that the four findings required for the Variance have not been found. Staff believes that the four findings for the Variance can be supported. Staff's analysis of the Variance findings is summarized below. Please reference the

Hearing Officer Report No. HO-12-004 Attachment 5 (Resolution) which provides a detailed analysis of the Variance findings.

FAR Parking Variance: San Diego Municipal Code Section (SDMC) 131.0464 (e) (2) (supplemental residential regulations) states that garages, carports, and other parking entries in the building facade shall be set back at least 5 feet from the facade wall enclosing habitable space. The project proposes to construct the carport attached to and in front of the proposed residence.

Carport Setback Variance: SDMC Section 131.0446 (e) states that a minimum of one-fourth of the permitted floor area ratio shall be reserved for required parking. The RM-2-4 zone for the community of Ocean Beach, allows a maximum FAR of 70 percent. The project proposes an FAR of 69 percent. The requested Variance would allow the 25 percent that is required to be reserved for parking (an additional 437 square feet), to be utilized for habitable area.

Variance Findings 1 and 2: Staff believes that there are special circumstances that apply to the property that do not generally apply to the neighborhood and are not of the making of the applicant. These conditions are such that strict application of the FAR and carport/garage setback regulations would deprive the applicant reasonable use.

The property contains unusual circumstances in that it is substandard in both lot dimension and lot area. The site has 25 feet of frontage and 1,250 square feet of lot area where 60 feet of frontage and 6,000 square feet of lot area are required. The lot contains environmentally sensitive lands as it is located entirely within the 100 Year Floodplain (Special Flood Hazard Area) which restricts underground development. The property abuts dedicated parkland at the rear and has no alley access. The RM-2-4 zone standards are intended for development of multiple units on larger lots with alley access. The RM-2-4 zone allows an FAR of 1.2 percent however, the SDMC code states that in the communities of Ocean Beach and Peninsula, the FAR is restricted to 70 percent. These circumstances create site constraints and limit design options.

The project proposes to construct a 1,748 square foot, three bedroom residence with floor to ceiling heights of 8-feet. The residence complies with all of the development regulations of the zone including building height, setbacks, coverage requirements and all other supplemental regulations of the RM-2-4 zone. Adherence to the FAR limitation would reduce the allowable floor area of the residence to 52 percent ($0.70 - 0.18 - 0.52$). No development can occur below the base flood elevation (BFE) within the SFHA as such, constructing below grade to allow for additional floor area is precluded and all new structures must be constructed at 2 feet above mean sea level. The project will be constructed in accordance with this regulation.

The narrowness of the lot and the lack of alley access are additional site constraints that limit design options for construction of on-site parking areas. The development would not exceed the allowable 70 percent FAR and the carport complies with the standard front setback for the zone, being located 20 feet from the front property line. Construction of the residence with the requested deviations would provide the applicant reasonable use of the site consistent with the density range allowed in the zone and in the community plan.

Variance Findings 3 and 4: Staff has determined that the Variance will be in harmony with the purpose and intent of the regulations and will not be detrimental to the public health, safety or

welfare. The Variance will not adversely affect the Ocean Beach Precise Plan, the LCP and other applicable plans.

The purpose and intent of the FAR and setback regulations is in part, to control bulk and scale of developments. The project would not exceed the allowable 70 percent floor area ratio for the zone and would comply with the minimum and standard setbacks. The Variances would facilitate the site's compliance with the parking requirements by providing two on-site parking spaces where currently no parking is provided. The existing duplex was constructed prior to the establishment of the base floor elevation pursuant to the Federal Emergency Management Act (FEMA).

Federal maps have determined that the base flood elevation (BFE) for this area is 9.6 feet above mean sea level. The existing duplex is at 7 feet above the mean sea level. The proposed residence will be constructed at 11.6 feet above BFE in compliance with the City's current requirement that all structures be built 2 feet above the BFE. The development would demolish the older building that is currently in disrepair and improve the previously conforming condition of the site by replacing the faulty structure with a flood-proofed structure. The project was determined to be exempt from environmental review. The project is in harmony with the purpose and intent of the development regulations and will not be detrimental to the public health, safety or welfare.

The Ocean Beach Precise Plan and LCP designate the site for residential development. The development is consistent with this designation. The plan recommends that the existing residential character of Ocean Beach be maintained as exemplified by a mixture of small-scale residential building types and styles. The development is in keeping with this recommendation as the area contains a mixture of newer and older, one, two and three story developments. Scale of developments is regulated in part, by building setback, height and coverage limitations of the zone. The proposed residence complies with all of these regulations. The community plan recommends that substandard and dilapidated properties be renovated. The existing duplex, currently in a state of disrepair, would be demolished and the site renovated with a new development consistent with City standards. The General Plan's Urban Design Element states that new construction should respect the pedestrian orientation of neighborhoods and that taller development is not necessarily inconsistent with older neighborhoods. Features such as porches, stoops, balconies and windows facing the street are encouraged to promote a sense of community. The proposed project incorporates balconies, upper story setbacks and additional fenestration consistent with these General Plan recommendations. The Ocean Beach Precise Plan was amended in 1983 to limit the FAR to 70 percent for sites with a maximum density of 25 dwelling units per acre. The project will conform to the 70 percent FAR as recommended in the plan and specified in the zone.

Conclusion:

Staff has reviewed the proposed project and finds that the project meets all relevant development regulations of the Land Development Code. Additionally, the project meets the purpose and intent of the adopted Ocean Beach Precise Plan, Council Policies, and the General Plan. Staff recommends that the Planning Commission uphold the Hearing Officer's decision and approve the project.

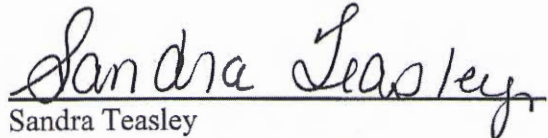
ALTERNATIVE

1. **APPROVE** Coastal Development Permit No. 844764, Neighborhood Development Permit No. 844768 and Variance No. 844782, **with modifications.**
2. **Deny** Coastal Development Permit No. 844764, Neighborhood Development Permit No. 844768 and Variance No. 844782, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Sandra Teasley
Development Project Manger
Development Services Department

WESTLAKE/SMT

Attachments:

1. Hearing Officer Report No. HO-12-004
2. Appeal Application dated 3/26/12
3. Ocean Beach Planning Board Recommendation dated 3/9/12
4. Notice of Exemption
5. Aerial/Street View of Discretionary Sites
6. Citizen Correspondence

Sheet No.	1
Project No.	12-044
Scale	1/8" = 1'-0"
Date	09-20-12
Author	JSC
Checker	JSC
Engineer	JSC



JAMES SCOTT FLEMING
 Architecture and Planning
 3130 OLIVE STREET
 Suite 200, Orange, California 92667
 949.743.8779 • info@jamesfleming.com

BURKS RESIDENCE

RR

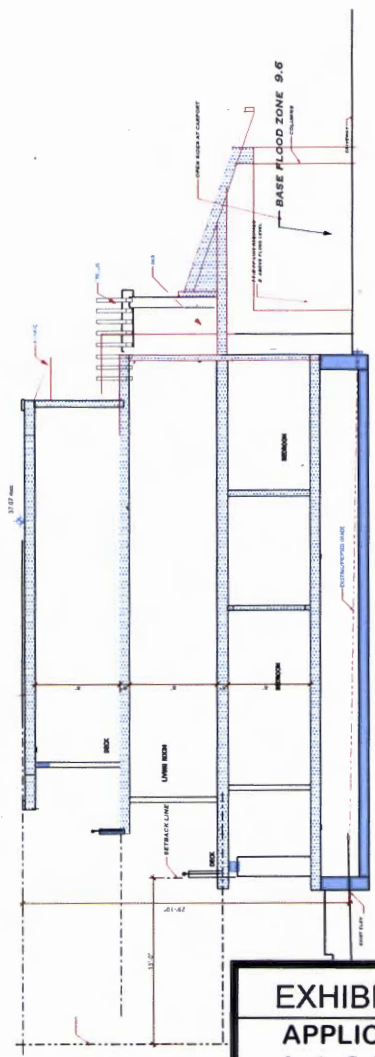


EXHIBIT NO. 11
APPLICATION NO.
A-6-OCB-12-044
Visual Rendering

Minutes of General Meeting of the Ocean Beach Planning Board

December 7, 2011

Call to Order 6:08 PM

Present: Tom Gawronski, Giovanni Ingolliia, Scott Therkalsen Barbara Schmidtknecht, Landry Watson, Nancy Taylor, Jane Gawronski, Bill Bushe, Seth Connelly

Agenda Modifications: Vote to certify nominating papers and appointment of Bill Bushe in District 5. Approved by unanimous vote.

Treasurers Report: Jane Gawronski. The Board currently has a bank balance of \$503.43

Councilmember Faulconer's Report: Report provided by the Councilman's district representative., Michael Patton. The Board was provided updated information re: the and the Brighton Street Comfort Station, Convention Center, Ocean Beach Library renovations, City Attorney's Report re: zoning/variance issues.

No report from Assembly Representative Adkins.

No Non Agenda Public Comment

Action Item #001: Appointment of Bill Bushe in District 5 Motion by Landry Watson, Seconded by Barbara Schmidtknecht, Vote 9-0-1 to Accept Bill Bushe resignation from District 1 and appointment of Bill Bushe in District 5.

Action Item #002 Burk Residence: 5170 West Point Loma Blvd.

Board Member Landry Watson recuses himself in order to avoid any appearance of impropriety and/or conflict of interest.

Project presented by James Scott Fleming-Architect.

Public Comment Mark Raynes- speaking in favor of the project. Says it will improve Ocean Beach, puts a 21st Century building in a "blighted and decayed" portion of Ocean Beach. He states that the proposed project 'largely complies with the Municipal Code and the zoning'

Frank Gormlie-speaking against the project; The City is involved in the process because the City will have to grant variances, which violate the OB Precise Plan, The net effect will be a 30 foot high wall of three story buildings, the gentrification of OB.

Board Comments and Questions:

Tom Gawronski: 1. Disputes the assertion that area is blighted. Asserts that if the "blighted", that the property owners in the area are responsible, due to their failure

EXHIBIT NO. 12
APPLICATION NO.
A-6-OCB-12-044
OB Planning Board

their properties. States that property owners should not be rewarded for failing to maintain their property. 2. Refers to the proposed project design as an "ugly box". States that there are other alternative designs. 3. Asserts that the project violates the Municipal Code and Precise Plan (F.A.R. and parking requirements) and does not meet the requirements for a variance.

Craig Klein: Points out that the proposed project is on a substandard size lot and provides opinion that the legal requirements for a variance are not met.

Nancy Taylor: Repeats prior concerns re: the substandard size lot, Concurs in the opinion that the legal requirements for a variance are not met.

Seth Connelly; Expresses concerns regarding the requests for the granting of variances. Asserts that the net effect of the repeated granting of F.A.R. variances is to increase the intensity of development. Concurs that the legal requirements of a variance are not met.

Jane Gawronski: Agrees with comments by Seth Connelly

Giovanni Ingolia: Concurs that the legal requirements of a variance are not met.

Motion by Tom Gawronski to recommend denial of the project as presented. Seconded by Barbara Schmidtknecht. Vote held on Motion. Motion passes: 9-0-0 (Landry Watson recused)

Action Item # 003: 2143 Bacon Street Demolition of 915 sq. ft. existing single family structure. Construction of new 1462 sq/ ft. single family house. Lot size 4000 square feet.

Project Review Committee recommended approval of the project by a vote of 5-1-0, based on reduction of the front yard fence to a height of 4 feet.

Jane Gawronski says that the applicants illegally removed the existing structure and she could not vote to approve the project unless the applicant reconstructs the original facade.

Motion by Seth Connelly to approve the project as presented, with the condition that the front yard fence be reduced to a height of 4 feet (in accordance with Code), with clarification that the project is excluded from the covered parking requirements, and the comment that the City should adhere to the proper historical review and variance process for parking in future projects.

Seconded by Barbara Schmidtknecht.

Vote on Motion: Motion passes: 8-1-0

Chair Announcements, comments, correspondence, meetings.

Appeals Committee: Motion (by Tom Gawronski) that the Board authorize a representative to appear at the Planning Commission appeal on the Burke Residence project. Seconded by Seth Connelly. Motion Passed 9-0-0.

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24001653

COASTAL DEVELOPMENT PERMIT NO. 844764
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 844768
VARIANCE NO. 844782
BURKS RESIDENCE PROJECT NO. 235485
HEARING OFFICER

This Coastal Development Permit No. 844764, Neighborhood Development Permit No. 844768 and Variance No. 844782 is granted by the Hearing Officer of the City of San Diego to JIM AND MYRNA BURKS, Owner/Permittee to San Diego Municipal Code [SDMC] SECTIONS 126.0404, 126.0708 AND 126.0805. The 0.05-acre site is located at 5170 W. Point Loma Boulevard in the RM-2-4 zone, the Airport Environs Overlay zone, the Airport Approach Overlay zone, the Airport Influence Area, the FAA Part 77 Notification Area, the Coastal Height Limit Overlay Zone, the Coastal Overlay Zone (Appealable Area), the First Public Roadway, the Parking Impact Overlay Zone (Beach Impact Area), the Residential Tandem Parking Overlay Zone. The site is within the Ocean Beach Community Planning area. The project site is legally described as Lot 12, 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 and Permittee to demolish an existing duplex and construct a new residence with carport described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 31, 2012, on file in the Development Services Department.

The project shall include:

- a. Demolition of a one story 1,250 square-foot duplex;
- b. Construction of a three story, 1,748-square-foot residence with attached carport consisting of the following habitable areas:
 - 1) 613-square-foot first floor



2) 668-square-foot second floor

3) 467-square-foot third floor

c. Variance to the RM-2-4 development regulations as follows:

- i. To allow 100 percent of the allowable gross floor area ratio of 70 percent to be utilized for habitable areas where 25 percent of the gross floor area must be reserved for required parking.
- ii. To allow the construction of the carport to be located in front of the building façade where the regulations require the carport to be set back at least 5 feet from the façade.

d. Landscaping (planting, irrigation and landscape related improvements);

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. This permit must be utilized by March 31, 2015.

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.

ENGINEERING REQUIREMENTS:

12. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the closure of the existing shared driveway and the construction of two separate 12-foot wide City standard construction of City standard curb and gutter, between the proposed two driveways, to serve this project and the adjacent property to the east, per Standard Drawings G-14B, G-16 and SDG-100, satisfactory to the City Engineer.

13. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the construction of City standard curb and gutter, between the proposed two driveways, adjacent to the site on W. Point Loma Boulevard, satisfactory to the City Engineer.

14. 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.

15. 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 City standard Water Service in the location shown on approved Exhibit "A", adjacent to the site on W. Point Loma Boulevard.

16. Prior to the issuance of the grading permit, the Owner/Permittee shall include a note on the grading plans to state: "Subject to Inundation" all areas lower than elevation 11.6 ft which is base flood elevation plus 2 feet.

17. Prior to the issuance of the grading permit, the Owner/Permittee shall include a note on the grading plans to state: The applicant shall flood proof all structures subject to inundation. The flood proofed 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.

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

19. 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.

20. Prior to the issuance of the grading permit, the Owner/Permittee shall enter into an agreement to indemnify, protect and hold harmless the City, its officials and employees from any

and all claims, demands, causes or action, liability or loss because of, or arising out of flood waters.

21. 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.

22. 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.

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

24. 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.

25. 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.

26. The drainage system for this project shall be private and will be subject to approval by the City Engineer.

27. 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 requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

GEOLOGY REQUIREMENTS:

28. 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 prior to issuance of any construction permits.

29. 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:

30. Owner/Permittee shall maintain a minimum of two 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.

31. 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.

32. The carport shall be constructed and maintained with at least two sides that are at least 75 percent completely open. The carport shall be included in the calculation of FAR if less than two sides of the carport are 75 percent completely open. The project may not exceed the allowable FAR of the zone.

33. Prior to issuance of the building permit, the Owner/Permittee shall record a deed restriction preserving a visual corridor of 3 feet along the eastern property line and 3 feet along the western property line, running the full depth of the premises, to the satisfaction of the Development Services Department.

- 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 31, 2012,
Resolution No. 4802-PC.

Permit Type/PTS Approval No.: Coastal Development Permit No. 844764, Neighborhood
Development Permit No. 844768
and Variance No. 844782

Date of Approval: March 31, 2012

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

SANDRA TEASLEY
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.

JAMES AND MYRNA BURKS

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. 4802-PC
COASTAL DEVELOPMENT PERMIT NO. 844764
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 844768
VARIANCE 844782
BURKS RESIDENCE- PROJECT NO. 235485

WHEREAS, JIM AND MYRNA BURKS, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish an existing one-story duplex, and construct a three-story single family residence and attached carport (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permits Nos. 844764, 844768 and 844782), on portions of a 0.057-acre (2,500-square-foot) site;

WHEREAS, the project site is located at 5170 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, Airport Influence Area (SD International Airport, Residential Tandem Parking Overlay Zone, and the 100-year Flood-plain Overlay Zone, within the Ocean Beach Precise Plan and Local Coastal Program Land Use Plan;

WHEREAS, the project site is legally described as Lot 12, Block 90 of Ocean Bay Beach Map No. 1189;

WHEREAS, on March 14, 2012, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 844764, Neighborhood Development Permit No. 844768 and Variance No. 844782, pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on May 31, 2012, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 844764, Neighborhood Development Permit No. 844768 and Variance No. 844782, pursuant to the Land Development Code of the City of San Diego and after hearing public testimony and upon deliberation, upheld the Hearing Officer's decision, and denied the appeal and approved the project; NOW, THEREFORE,

FINDINGS:

Coastal Development Permit Findings:

1. THE PROPOSED COASTAL DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY THAT IS LEGALLY USED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN A LOCAL COASTAL PROGRAM LAND USE PLAN; AND THE PROPOSED COASTAL 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.

The 0.057-acre site is bounded by single and multiple story, multi-family developments to the east, west and across W. Point Loma Boulevard to the south. The site is immediately south of the San Diego River outfall at the Pacific Ocean and the Ocean Beach Public Park ("Dog Beach"). The project proposes the demolition of an existing one-story, duplex and construction of a three-story, 1,748-square-foot residence with attached carport. The subject property is located at 5170 W. Point Loma Boulevard, on an interior, level lot on a property located in the RM-2-4 zone within the Ocean Beach community. The site is not identified in the Ocean Beach Precise Plan and the Local Coastal Program Land Use Plan (LCP) as a proposed access way to be utilized by the general public for providing access to the ocean or other coastal scenic area, and existing coastal access in the area. Existing coastal access in the area will not be affected by the project. All development would occur on private property, and comply with all the relevant development regulations of the zone, (with the exception of the gross floor area regulation relating to parking areas and the requirement to setback the carport an additional five feet from the building facade) including the 30-foot height limit. 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 proposed development is located in an area designated as being between the first public road and the Pacific Ocean, therefore potential views to the ocean must be preserved. The subject property is not located within or near any designated public view corridors however a visual corridor of not less than the side yard setbacks will be preserved to protect potential views. 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.

2. THE PROPOSED COASTAL DEVELOPMENT WILL NOT ADVERSELY AFFECT ENVIRONMENTALLY SENSITIVE LANDS.

The project proposes the demolition of an existing one-story duplex and construction of a three-story, 1,748-square-foot residence with attached carport. The subject property is located within the Ocean Beach community. The project requires a Site Development Permit due to the presence of Environmentally Sensitive Lands (ESL) in the form of the Special Flood Hazard area. The proposed structure will be constructed within a 100 Year Floodplain with a base flood elevation of 10.6 feet above mean sea level. The restrictions on development within the floodplain require that the lowest floor 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). The project has requested a deviation to this regulation to allow an elevation that is 1 foot above BFE where 2 feet is required.

The development was determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(l) (Existing facilities) and Section 15303 (New construction or conversion of small structures). 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 project site is located within an existing urbanized area. 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.

The project proposes the demolition of an existing one-story duplex and construction of a three-story, 1,748-square-foot residence with attached carport. The lot is zoned RM-2-4, which allows a maximum of one dwelling unit per 1,750 square feet of lot area. Therefore, the zone would allow only one dwelling unit on the 2,500-square-foot lot ($2,500/1,750 = 1.43 = 1$ dwelling unit). The Ocean Beach Precise Plan's designation is multi-family residential at a maximum density of 25 du/ac). The resulting density for the project is 17.42 dwelling units per acre ($43,560/2,500 = 17.42$). Although the site is zoned for multi-dwelling unit development, the lot is substandard in terms of lot area and dimensions. An additional dwelling unit on this site would exceed the allowable density of the zone and the community plan. The proposed project is therefore consistent with the land use designation, as it related to the allowable density, and the zoning density regulations.

The building would have a height of up to 30'-0", which would comply with the zone regulations and the Coastal Height Limitation Overlay Zone's maximum allowable height of 30 feet. The proposed development project meets all applicable regulations (with the exception of the gross floor area ratio and carport setback regulations) and policy documents, and 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 LCP, and the Progress Guide and General Plan.

The community plan states that visual access from the community to the shoreline shall be preserved and enhanced and that the existing residential scale character of Ocean Beach be maintained as exemplified by a mixture of small scale residential building types and styles. The plan calls for the renovation of substandard and dilapidated properties. The plan further states that floor area ratio plays the most important role in regulating building bulk and consideration should be given to the provision of increases or decreases in floor area ratio as incentives where community plan goals can be implemented.

The proposed coastal development includes variances to allow a portion of the floor area to be used as habitable space rather than designated for parking and to allow the construction of the carport to be located in front of the building façade where the regulations require the carport to be set back at least 5 feet from the façade. If approved, 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 Ocean Beach Park 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. 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 to the certified Local Coastal Program land use plan and, with the approved Variances, 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 single family residence. The subject property is designated as being between the first public road and the Pacific Ocean within the Coastal Overlay Zone.

The site is located adjacent to the Ocean Beach Park which is 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. The proposed coastal development will conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

Neighborhood Development Permit Findings:

1. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.

The project proposes the demolition of an existing one-story duplex and construction of a three-story, 1,748-square-foot residence with attached carport. The site is zoned RM-2-4 zone and designated for multi-family residential development with a density range of 15 to 25 dwelling units per net residential acre in the Ocean Beach Precise Plan. The Site Development Permit is required due to the presence of environmentally sensitive lands as the site is within a Special Flood Hazard Area. The proposal to demolish two units and construct a single-family dwelling is within the density range of the Precise Plan.

The lot is zoned RM-2-4, which allows a maximum of one dwelling unit per 1,750 square feet of lot area. Therefore, the zone would allow only one dwelling unit on the 2,500-square-foot lot ($2,500/1,750 = 1.43 = 1$ dwelling unit). The Ocean Beach Precise Plan's designation is multi-family residential at a maximum density of 25 du/ac). The resulting density for the project is 17.42 dwelling units per acre ($43,560/2,500 = 17.42$). Although the site is zoned for multi-dwelling unit development, the lot is substandard in terms of lot area and dimensions. An additional dwelling unit on this site would exceed the allowable density of the zone and the community plan. The proposed project is therefore consistent with the land use designation, as it related to the allowable density, and the zoning density regulations. Therefore, the proposed development within a Special Flood Hazard Area, 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 is to demolish an existing one-story, duplex and construct a

1,748-square-foot, three-story single-family dwelling unit with a carport on a 2,500 square-foot site. The subject property is located at 5170 West Point Loma Boulevard on an interior, level lot on a property located in the RM-4-2 zone within the Coastal (appealable) and Coastal Height Limit Overlay zones, within the Ocean Beach Community Planning Area.

The project requires a Neighborhood Development Permit due to the presence of Environmentally Sensitive Lands (ESL) in the form of the Special Flood Hazard area. The proposed structure will be constructed within the 100 Year Floodplain (*Special Flood Hazard Area*), and has a Base Flood Elevation of 11.6 feet mean sea level. The restrictions on development within the floodplain require that the lowest floor 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). The project is consistent with these regulations and no deviations to the ESL regulations have been requested.

The development was determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(l) (Existing facilities) and Section 15303 (New construction or conversion of small structures). The applicant has submitted that the existing units to be demolished may contain asbestos and lead-based paint, potentially posing a risk to human health and public safety. All demolition activities must be conducted in accordance with the San Diego County Air Pollution Control District (SDAPCD) and the California Code of Regulations Title 8 and 17 regarding the handling and disposal of asbestos-containing materials and lead-based paints. As conditioned by this permit, a notice is to be provided to the Air Pollution Control District prior to demolition.

The conditions of approval for the project will require compliance with several operational constraints and development controls intended to assure the continued public health, safety, and welfare. Other conditions relate to requirements pertaining to landscape standards, noise, lighting restrictions, public view, public right of way improvements, flood-proofing the structure and raising the habitable space above flood line, which provides evidence that the impact is not significant or is otherwise mitigated to below a level of significance. All proposed improvement plans associated with the project will be reviewed prior to issuance of ministerial permit(s) and inspected during construction to assure the project will meet or exceed all relevant and applicable building, electrical, mechanical, plumbing and fire codes. In conclusion and due to these facts, the proposed development will not be detrimental to the public health, safety, and welfare. Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

3. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REGULATIONS OF THE LAND DEVELOPMENT CODE.

The proposed development is to demolish an existing one-story, duplex and construct a 1,748-square-foot, three-story single-family dwelling unit with a carport on a 2,500 square-foot site. The subject property is located at 5170 W. Point Loma Boulevard, on an interior, level lot on a property located in the RM-2-4 zone within the Coastal (appealable) and Coastal Height Limit Overlay zones, within the Ocean Beach Community Planning Area.

The proposed development complies with all of the regulations of the underlying zone with the exception of the requirement to reserve 25 percent (437 square feet) of the total gross floor area for required parking within enclosed parking areas, and to allow the construction of the carport to be located in front of the building façade where the regulations require the carport to be set back at least 5 feet from the façade. The allowable floor area ratio per the zone and for this community will not be exceeded. The development would demolish an older, dilapidated structure currently in disrepair and with no on-site parking. The Ocean Beach Community Plan's residential element states that substandard and dilapidated properties should be renovated. The Variance would facilitate the construction of a project that incorporates a carport into the front façade providing parking for two vehicles and improving the previously conforming condition of the site by replacing the existing faulty structure with a flood proofed structure. The development incorporates required side yard setbacks and a deed restriction to provide a visual corridor through the site to protect potential views.

The project would provide 100 percent of the allowable gross floor area towards habitable areas and, construct a carport for two parking spaces. The applicant has requested the Variances to request relief from these requirements citing the narrow lot frontage of 25 feet, lack of alley access to the site and the additional design constraint which requires that all structures be constructed two feet above base flood elevations. The resulting Variances would allow an additional 437 square feet of livable area for the new unit without exceeding the gross floor area ratio requirement of the zone. Therefore, the proposed development will comply with the relevant regulations of the code.

Neighborhood Development Permit, Supplemental Findings, Environmentally Sensitive Lands(b):

1. 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 proposes the demolition of an existing one-story duplex and construction of a three-story, 1,748-square-foot residence with attached carport. The subject property is located at 5170 West Point Loma Boulevard, on an interior, level lot on a property located in the RM-2-4 zone within the Coastal (appealable) and Coastal Height Limit Overlay zones, within the Ocean Beach community. The project requires a Neighborhood Development Permit due to the presence of Environmentally Sensitive Lands (ESL) in the form of the Special Flood Hazard area. The proposed structure will be constructed within the 100 Year Floodplain (*Special Flood Hazard Area*), and has a Base Flood Elevation (BFE) of 11.6 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). The project is consistent with these regulations and no deviations to the ESL regulations have been requested.

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. The development was determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(l) (Existing facilities) and Section 15303 (New construction or conversion of small structures). The project site is located within an existing urbanized area. 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.

2. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATION OF LAND FORMS AND WILL NOT RESULT IN UNDUE RISK FROM GEOLOGIC AND EROSIONAL FORCES, FLOOD HAZARDS, OR FIRE HAZARDS.

The proposed project will be sited on a 2,500 square-foot disturbed lot. The majority of the site is relatively flat at 8 feet above mean sea level across an approximately 25 foot x 100 foot lot. The proposed development is surrounded by existing residential development and the Ocean Beach Park and is within a seismically active region of California. As the potential exists for geologic hazards such as earthquakes and ground failure. The project required the preparation of a Water Quality Technical Report to ensure that site drainage issues, grading requirements and the requirements of the Special Flood Hazard Areas would be adequately addressed with project implementation. As conditioned by this permit, structures that are subject to inundation must be flood proofed and all fill placed within the Special Flood Hazard Area must be compacted to 95 percent relative compaction. The project site is located within geologic hazard zones 31 and 52 of the City's Seismic Safety Study Geologic Hazards Maps. Zone 31 is characterized by high potential for liquefaction, shallow groundwater, major drainages, and hydraulic fills. Zone 52 is characterized by other level areas, gently sloping to steep terrain with favorable geologic structure, low risk. A Report of Preliminary Geotechnical Investigation was also required to ensure that the soil and geologic conditions of the site could accommodate the proposed development. Proper engineering design of the new structures would minimize potential for geologic impacts from regional hazards. Therefore, the proposed development will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS ON ANY ADJACENT ENVIRONMENTALLY SENSITIVE LANDS.

The proposed development is to demolish an existing one-story duplex and construct a 1,748-square-foot, three-story single-family dwelling unit with a carport on a 2,500 square-foot site. The subject property is located at 5170 W. Point Loma Boulevard, on an interior, level lot on a property located in the RM-2-4 zone within the Coastal (appealable) and Coastal Height Limit Overlay zones, within the Ocean Beach Community Planning Area. The site is within the 100 year floodplain and is therefore considered environmentally sensitive land. The properties adjacent to the site are also located within the Special Flood Hazard Area. The project as designed will have no impact to the floodway and no adverse impacts to the flood levels of these

adjacent properties. The site is neither within nor adjacent to Multi-Habitat Planning Area (MHPA) lands. Therefore, the development will not impact adjacent environmentally sensitive lands.

4. THE PROPOSED DEVELOPMENT WILL BE CONSISTENT WITH THE CITY OF SAN DIEGO'S MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP) AND SUBAREA PLAN.

The project proposes the demolition of the existing duplex and construction of a three-level single dwelling unit with a 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.

5. THE PROPOSED DEVELOPMENT WILL NOT CONTRIBUTE TO THE EROSION OF PUBLIC BEACHES OR ADVERSELY IMPACT LOCAL SHORELINE SAND SUPPLY.

The subject property is located approximately 450 feet away from the edge of the public beach, and is separated from the shoreline by a city parking lot. All site drainage from the proposed development would be directed away from the adjacent properties into existing public drainage system located on W. Point Loma Boulevard. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

6. THE NATURE AND EXTENT OF MITIGATION REQUIRED AS A CONDITION OF THE PERMIT IS REASONABLY RELATED TO, AND CALCULATED TO ALLEVIATE, NEGATIVE IMPACTS CREATED BY THE PROPOSED DEVELOPMENT.

The development was determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(l) (Existing facilities) and Section 15303 (New construction or conversion of small structures). Therefore, this finding is not applicable to this project.

Supplemental Findings, Environmentally Sensitive Lands(b)

1. 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 a Special Flood Hazard Area. However, 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. The project was determined to be exempt from environmental review pursuant to the State CEQA guidelines. 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.

2. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATION OF LAND FORMS AND WILL NOT RESULT IN UNDUE RISK FROM GEOLOGIC AND EROSIONAL FORCES, FLOOD HAZARDS, OR FIRE HAZARDS.

The proposed project will be sited on a 2,500 square-foot disturbed lot. The majority of the site is relatively flat at 8 feet above mean sea level across an approximately 25 foot x 100 foot lot. The proposed development is surrounded by existing residential development and the Ocean Beach Park and is within a seismically active region of California. As the potential exists for geologic hazards such as earthquakes and ground failure. The project required the preparation of a Water Quality Technical Report to ensure that site drainage issues, grading requirements and the requirements of the Special Flood Hazard Areas would be adequately addressed with project implementation. As conditioned by this permit, structures that are subject to inundation must be flood proofed and all fill placed within the Special Flood Hazard Area must be compacted to 95 percent relative compaction. The project site is located within geologic hazard zones 31 and 52 of the City's Seismic Safety Study Geologic Hazards Maps. Zone 31 is characterized by high potential for liquefaction, shallow groundwater, major drainages, and hydraulic fills. Zone 52 is characterized by other level areas, gently sloping to steep terrain with favorable geologic structure, low risk. A Report of Preliminary Geotechnical Investigation was also required to ensure that the soil and geologic conditions of the site could accommodate the proposed development. Proper engineering design of the new structures would minimize potential for geologic impacts from regional hazards. Therefore, the proposed development will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS ON ANY ADJACENT ENVIRONMENTALLY SENSITIVE LANDS.

The project site is not located adjacent to environmentally sensitive lands.

4. THE PROPOSED DEVELOPMENT WILL BE CONSISTENT WITH THE CITY OF SAN DIEGO'S MULTIPLE SPECIES CONSERVATION PROGRAM (MSCP) AND SUBAREA PLAN.

The project proposes the demolition of the existing duplex and construction of a three-level single dwelling unit with a subterranean parking garage. 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.

5. THE PROPOSED DEVELOPMENT WILL NOT CONTRIBUTE TO THE EROSION OF PUBLIC BEACHES OR ADVERSELY IMPACT LOCAL SHORELINE SAND SUPPL.

The subject property is located approximately 450 feet away from the edge of the public beach, and is separated from the shoreline by a city parking lot. All site drainage from the proposed development would be directed away from the adjacent properties into existing public drainage system located on West Point Loma Boulevard via a sump pump and sidewalk underdrain. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

6. THE NATURE AND EXTENT OF MITIGATION REQUIRED AS A CONDITION OF THE PERMIT IS REASONABLY RELATED TO, AND CALCULATED TO ALLEVIATE, NEGATIVE IMPACTS CREATED BY THE PROPOSED DEVELOPMENT.

The project proposes the demolition of the existing duplex and construction of a three-level single dwelling unit with an attached carport. The proposed development was determined to be exempt from environmental review pursuant to The development was determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(l) (Existing facilities) and Section 15303 (New construction or conversion of small structures). Therefore, this finding is not applicable to the subject project.

Variance:

1. THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS APPLYING TO THE LAND OR PREMISES FOR WHICH THE VARIANCES 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.

The project proposes the demolition of an existing one-story duplex and construction of a three-story, 1,748-square-foot residence with attached carport. A Variance is required to allow a deviation to the development regulations of the RM-2-4 Zone to allow 100 percent of the allowable floor area ratio (FAR) of 70 percent to be utilized for habitable areas where 25 percent of the floor area ratio must be reserved for required parking. The proposed carport is an open air design that does not count towards the calculation of FAR. The second Variance request is to allow the construction of the carport to be located in front of the building façade where the regulations require the carport to be set back at least 5 feet from the façade.

There are special circumstances associated with the site that are not the result of the actions of the owner. The lot contains environmentally sensitive lands being located within the 100 Year Floodplain (Special Flood Hazard Area). The site is zoned RM-2-4 which is intended to encourage multi-family residential development on lots of larger size. However, within the Ocean Beach Community Planning area, the RM-2-4 zone is restricted to a significantly lower

FAR than other communities. The allowable FAR in most communities is 1.2 percent of the lot size. Additionally, the property does not have alley access. The subject property is a substandard lot totaling 2,500 square feet where the underlying zone requires a minimum lot size of 6,000 square feet. The property contains only 25 feet of lot frontage on a dedicated street, where 50 feet is the minimum. These RM-2-4 zone standards are intended for development of multiple units on larger lots with alley access. These special circumstances and conditions do not generally apply to the land or premises in the neighborhood.

2. THE CIRCUMSTANCES OR CONDITIONS ARE SUCH THAT THE STRICT APPLICATION OF THE REGULATIONS OF THE LAND DEVELOPMENT CODE WOULD DEPRIVE THE APPLIANT OF REASONABLE USE OF THE LAND OR PREMISES AND THE VARIANCE GRANTED BY THE CITY IS THE MINIMUM VARIANCE THAT WILL PERMIT THE APPLICANT REASONABLE USE OF THE LAND OR PREMISES.

The project proposes the demolition of an existing one-story, duplex and construction of a three-story, 1,748-square-foot residence with attached carport on a 2,500-square-foot lot. A Variance is required to allow a deviation to the development regulations of the RM-2-4 Zone to allow 100 percent of the allowable floor area ratio (0.70 percent) to be utilized for habitable areas where 25 percent of the floor area ratio must be reserved for required parking. The second Variance request is to allow the construction of the carport to be located in front of the building façade where the regulations require the carport to be set back at least 5 feet from the façade.

The RM-2-4 zone allows a floor area ratio of 1.2 percent in all other areas of the city with the exception of the Ocean Beach and Peninsula community planning areas. Additionally, 25 percent of the allowable floor area ratio must be reserved for enclosed parking. The code further stipulates that if basement parking is provided, the required 25 percent for parking uses may then be utilized for habitable areas.

The proposed carport is an open air design that does not count towards the calculation of gross floor area. Incorporation of the carport into the front façade and within the additional five foot setback required for carports, creates a terracing away effect thus reducing the apparent bulk and scale as viewed from the public right-of-way. The carport would maintain the minimum 15'-0" and 20'-0" standard front yard setback required for the primary structure. The aforementioned circumstances and conditions restrict development options and deprive the applicant reasonable use of the site. The lack of alley access, substandard lot size and street frontage and restrictive floor area ratio allotment create design constraints. The property has further restrictions in that it is located within a flood plain which further limits design flexibility for below grade structures. The development would not exceed the allowable floor area ratio of the underlying zone. These restrictive zoning regulations limit the habitable area for the subject site to an actual floor area ratio of 0.52 percent ($0.70 - 0.18 = 0.52$). As the applicant proposes to develop a single family residence on a small, multi-family zoned lot, the requested Variances are the minimum necessary to facilitate reasonable use of the site.

3. THE GRANTING OF THE VARINCE 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 project proposes the demolition of an existing one-story, duplex and construction of a three-story, 1,748-square-foot residence with attached carport on a 2,500-square-foot lot. A Variance is required to allow a deviation to the development regulations of the RM-2-4 Zone to allow 100 percent of the allowable floor area ratio (0.70 percent) to be utilized for habitable areas where 25 percent of the floor area ratio must be reserved for required parking. The second Variance request is to allow the construction of the carport to be located in front of the building façade where the regulations require the carport to be set back at least 5 feet from the façade.

The proposed development complies with all other regulations of the underlying zone. The allowable floor area ratio per the zone and for this community will not be exceeded. The development would demolish an older, dilapidated structure currently in disrepair and with no on-site parking. The Ocean Beach Community Plan's residential element states that substandard and dilapidated properties should be renovated. The Variances would facilitate the construction of a project that incorporates a carport into the front façade providing parking for two vehicles and improving the previously conforming condition of the site by replacing the existing faulty structure with a flood proofed structure. The development incorporates required side yard setbacks and a deed restriction to provide a visual corridor through the site to protect potential views. The Planning Commission has approved two similar projects within this block of W. Point Loma Boulevard deviating from the FAR allotment and carport setback requirement: The Stebbins Residence Project No. 51076, approved in 2008, located at 5164 W. Point Loma Boulevard – this project is constructed, and the Cox Residence Project No. 168660, approved in 2011, located at 5166 W. Point Loma Boulevard. Therefore, the granting of the Variances will be in harmony with the general purpose and intent of the gross floor area regulations and will not be detrimental to the public health, safety or welfare.

4. THE GRANTING OF THE VARINCE 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 THE GRANTING OF THE VARIANCE CONFORMS WITH, AND IS ADEQUATE TO CARRY OUT, THE PROVISIONS OF THE CERTIFIED LAND USE PLAN.

The project proposes the demolition of an existing one-story, duplex and construction of a three-story, 1,748-square-foot residence with attached carport on a 2,500-square-foot lot. A Variance is required to allow a deviation to the development regulations of the RM-2-4 Zone to allow 100 percent of the allowable floor area ratio (0.70 percent) to be utilized for habitable areas where 25 percent of the floor area ratio must be reserved for parking. The second Variance request is to allow the construction of the carport to be located in front of the building façade where the regulations require the carport to be set back at least 5 feet from the façade.

The site is designated for multi-family development within the Ocean Beach Precise Plan. One of the goals of the plan is to maintain the existing residential character of Ocean Beach as

exemplified by a mixture of small-scale residential building types and styles. Surrounding uses include single and multi-family residential of varying heights and stories. The project proposes one single family residence in keeping with the density range for the land use designation, maintaining a lower density appropriate for the small lot and in keeping with other two and three story developments north of W. Point Loma Boulevard. The lot is zoned RM-2-4, which allows a maximum of one dwelling unit per 1,750 square feet of lot area. Therefore, the zone would allow only one dwelling unit on the 2,500-square-foot lot ($2,500/1,750 = 1.43 = 1$ dwelling unit). The Ocean Beach Precise Plan's designation is multi-family residential at a maximum density of 25 du/ac). The resulting density for the project is 17.42 dwelling units per acre ($43,560/2,500 = 17.42$). Although the site is zoned for multi-dwelling unit development, the lot is substandard in terms of lot area and dimensions. An additional dwelling unit on this site would exceed the allowable density of the zone and the community plan. The proposed project is therefore consistent with the land use designation, as it related to the allowable density, and the zoning density regulations.

The Local Coastal Program element of the Ocean Beach Precise Plan implements the California Coastal Act policies for protection, enhancement and expansion of public visual and physical access to the shoreline. Approval of the Variances would not impact these policies. There are no physical public access points or designated public view corridors on the site. Therefore, the granting of the Variances will not adversely affect the land use plan and conforms with the certified land use plan.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Coastal Development Permit No. 844764, Neighborhood Development Permit No. 844768 and Variance No. 844782, are hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. Permits Nos. 844764, 844768 and 844782, a copy of which is attached hereto and made a part hereof.

SANDRA TEASLEY
Development Project Manager
Development Services

Adopted on: May 31, 2012

Job Order No. 24001653

cc: Legislative Recorder

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



JUN 26 2012

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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

SECTION I. Appellant(s)

Name: Ocean Beach Planning Board
Mailing Address: P.O. Box 7090
City: San Diego Zip Code: 92167 Phone: 619-224-1280

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego Planning Commission
2. Brief description of development being appealed:
To demolish an existing duplex and construct a 3-story single-family residence with deviations
3. Development's location (street address, assessor's parcel no., cross street, etc.):
5170 West Point Loma Blvd
San Diego 92107
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

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.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-6-OCB-12-044

DATE FILED:

6/26/2012

DISTRICT:

SD COAST

EXHIBIT NO. 15
APPLICATION NO.
A-6-OCB-12-044
Appeal

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:

May 31, 2012

7. Local government's file number (if any):

Project # 235485

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:

James M. Burks
5170 W. Pt. Loma Blvd
San Diego CA 92107

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) Giovanni Ingolia
1818 Bacon Street
San Diego CA 92107

(2) Bill Wilson
5100 Muir Avenue
San Diego CA 92107

(3) Bill Bushe, 4948 Narragansett Ave, San Diego 92107

(4) Craig Klein, 1889 Bacon St. #7, San Diego 92107

Tom Gawninski, 4867 Coronado Ave, San Diego
92107

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.

This house is located in an area designated as being between the first public road and the Pacific Ocean. Due to the variance being approved the bulk and scale of this 3-story house will block the view of the Pacific Ocean as well as the views toward Dog Beach and the San Diego River.

There is a cumulative effect of multiple variances that is a variance applicable to over 500 parcels in the OB community.

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.

James D. Gawronski, Chair-OBPB

Signature of Appellant(s) or Authorized Agent

Date: 6-26-12

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: _____

Gawronski