

CALIFORNIA COASTAL COMMISSION

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W20a

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Staff: A.Llerandi-SD
Staff Report: 7/23/14
Hearing Date: 8/12-15/14

STAFF REPORT AND RECOMMENDATION ON APPEAL SUBSTANTIAL ISSUE DETERMINATION

Local Government: City of San Diego

Decision: Approved with Conditions

Appeal Number: A-6-MBE-14-0040

Applicant: Garbaczewski Family Trust

Location: 3826 Bayside Walk, Mission Beach, San Diego, San Diego County (APN No. 423-576-26)

Project Description: Demolition of an existing one-story single family residence and construction of a new, two-story, 26' 9" tall, 1,437 square foot single family residence with attached one-car garage on a 1,620 square foot bayfront lot, with a variance for a zero-foot rear yard setback.

Appellants: Commission Chair Steve Kinsey and Commissioner Mary Shallenberger

Staff Recommendation: Substantial Issue

PROCEDURAL NOTE

The Commission will not take public testimony during this phase of the appeal hearing unless at least three Commissioners request it. 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. If the Commission finds that the appeal raises a substantial issue, it will proceed directly to the de novo portion of the hearing during which it will take public testimony and any person may testify. Written comments may be submitted to the Commission during either phase of the hearing.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

The project consists of the demolition of an existing one-story single family residence and construction of a new two-story, 26’ 9” tall, 1,437 square foot single family residence with attached one-car garage on a 1,620 square foot bayfront lot, with a variance for a zero-foot rear yard setback. The subject property is a previously developed residential lot at the end of an alley with an existing one-story single family residence overlooking Mission Bay in the Mission Beach community of San Diego.

The primary issues raised by the subject development are the project’s inconsistency with the certified Local Coastal Program (LCP) regarding protection of public views and the adverse precedential effect on visual protection measures for similarly situated properties when they come forward for redevelopment in the future.

The yards and setbacks required of all types of development within Mission Beach are the primary tool of creating, protecting, and enhancing the public’s visual access to the ocean and the bay in this area of the city. The east-west courts, places, and alleys provide flat, continuous view corridors, such that the public can simultaneously view both the ocean and bay on either end from anywhere along the corridors, as well as from Mission Boulevard, the major coastal access route through Mission Beach. The existing residence on the site is a non-conforming structure that was constructed prior to the Coastal Act, and includes a one-car garage that runs all the way to the southern rear property line. This encroachment into the adjacent alley blocks public views towards Mission Bay that would otherwise be available down this corridor from Mission Boulevard.

The certified LCP requires that a new residence in this location provide at least a three-foot wide setback from the southern property line. Combined with the existing setback for the residence south of the subject property, redevelopment of this lot should result in the opening of a view corridor down the alley of at least six-feet in width. However, the applicant applied for, and the City granted, a variance for a zero-foot rear yard setback instead. Thus, the proposed structure will continue to block public views of the shoreline from the public alley and Mission Boulevard. In addition, because the proposed residence includes a second story, the bulk and scale of the

encroachment into the potential view corridor would be even greater than the existing one-story structure.

A new residence, including a garage or carport, could be constructed on the site consistent with the LCP setback requirements. The LCP allows for a reduced off-street parking requirement for such lots, and a carport or garage could be accommodated on the subject property with a redesign of the structure or by reorienting the opening of the garage so that it angles northeast into the property, as opposed to running directly eastward.

There are at least twenty lots in Mission Beach that are located on alley ends that have a configuration similar to the subject property and were constructed prior to the Coastal Act. Typically, when a previously conforming structure is redeveloped - such as with the subject property - all aspects of the site must be brought up to current code. Otherwise, the non-conforming aspects of the project, and any associated impacts to public resources, will be perpetuated indefinitely. If the City were to grant exceptions to the setback requirement for these lots as they redevelop, it would not only prevent the creation of new public views, but could allow for the blocking of existing public views on lots that currently do incorporate setbacks.

Standard of Review: Certified City of San Diego Local Coastal Program and the public access and recreation policies of the Coastal Act.

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EXHIBITS

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Exhibit 2 – Aerial Photo

Exhibit 3 – Bayside View of Subject Property

Exhibit 4 – Alley View of Subject Property

Exhibit 5 – Site Plan

Exhibit 6 – Elevation 1

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Exhibit 8 – FLAN

Exhibit 9 – Report to Hearing Officer

Exhibit 10 – Local Coastal Development Permit

Exhibit 11 – Appeals

I. APPELLANTS CONTEND

The project as approved by the City does not conform to the City of San Diego's certified Local Coastal Program (LCP), including the Mission Beach Precise Plan (MBPP), the Land Development Code (LDC), and the Mission Beach Planned District Ordinance (PDO) due to the granting of a variance for a zero-foot rear yard setback where the certified LCP requires at least a three-foot setback, thus preventing the creation of public views of the bay and setting a precedent for the elimination of setbacks at other locations that could result in the elimination of existing public views when residences are redeveloped.

II. LOCAL GOVERNMENT ACTION

The project was approved with conditions by the Hearing Officer on June 11, 2014.

III. APPEAL PROCEDURES

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

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

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

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

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, those allowed to testify at the hearing 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 standard of review 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 on appeal.

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

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question 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 a petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

IV. MOTION AND RESOLUTION

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. 6-MBE-14-0040 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION: *The Commission hereby finds that Appeal No. A-6-MBE-14-0040 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

V. FINDINGS AND DECLARATION

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION

The project as approved and conditioned by the City of San Diego consists of the demolition of an existing one-story single family residence and construction of a new two-story, 26' 9" tall, 1,437 square foot single family residence with attached one-car garage on a 1,620 square foot bayfront lot, with a variance for a zero-foot rear yard (southern side) setback in the Mission Beach community of San Diego.

The street system of Mission Beach consists of the north-south Mission Boulevard serving as the main public access street through the length of the peninsula, paralleled by Strand Way on the western ocean side and Bayside Lane on the eastern Mission Bay side. East-west running Courts and Places provide pedestrian access to the properties while east-west alleys, in conjunction with Strand Way and Bayside Lane, provide vehicular access. The existing residence is located on the south side of the eastern terminus of Seagirt Court, where it intersects with the bayside boardwalk, Bayside Walk. The existing residence was constructed with a zero-foot rear yard setback on the southern side of the lot.

The subject property is designated for residential use, and is neighbored to the west, north, and south by other developed residential lots. To the east, the site is immediately adjacent to the Mission Bay Boardwalk and Mission Bay.

B. PROTECTION OF VISUAL RESOURCES

The appellants contend that the design of the proposed two-story residence will block public views of Mission Bay.

The City's certified LCP contains the Mission Beach Precise Plan (MBPP), which serves as the community's Land Use Plan and governs the subject site. Specifically, on page 18, the MBPP states, in relevant part:

Rear yards and street side yards abut alleys in almost all cases. Because these alleys are strictly utilitarian, no setback is necessary above the first story. A setback should be necessary only to ensure maneuverability of automobiles in and out of parking stalls. Most alleys are only 16 feet wide, whereas the minimum turning radius necessary for an automobile is as great as 21 feet.

Interior side yards present a dilemma because of the narrow lots. Subtracting anything from either side of a 25- or 30- foot lot leaves very little buildable area. One solution is common wall construction with a zero side-yard setback. This can only be implemented, however, when two or more lots are developing simultaneously. Otherwise, a minimum of a three-foot side yard plus an additional two feet for each additional story over two is necessary to insure even minimum light and air. This is less than would be required on a

large lot but the most that can be reasonably required for very small lots. On consolidated lots, larger side yards are in order because larger lots allow for more flexibility in site design. Where possible, minimum side yards should be four feet with an increase of three feet for each story over two. [emphasis added]

The certified LDC contains provisions for identifying the front and rear property lines for corner lots, like the subject property. Specifically, Section 113.0246 of the Land Development Code states, in relevant part:

- (a) Front Property Line. The front property line separates a lot from the public right-of-way or private street. On corner lots, the front property line lies along the narrowest street frontage, as shown in Diagram 113-02Z*

Section 132.0403 of the LDC states the view protection policies of the certified LCP within the City of San Diego's Coastal Overlay Zone. The section states:

Supplemental Regulations of the Coastal Overlay Zone

- (a) If there is an existing or potential public view and the site is designated in the applicable land use plan as a public view to be protected,*
- 1) The applicant shall design and site the coastal development permit in such a manner as to preserve, enhance, or restore the designated public view, and*
 - 2) The decision maker shall condition the project to ensure that critical public views to the ocean and shoreline are maintained or enhanced.*
- (b) A visual corridor of not less than the side yard setbacks or more than 10 feet in width, and running the full depth of the premises, shall be preserved as a deed restriction as a condition of Coastal Development Permit approval whenever the following conditions exist:*
- 1) The proposed development is located on premises that lies between the shoreline and the first public roadway, as designated on Map Drawing No. C-731; and*
 - 2) The requirement for a visual corridor is feasible and will serve to preserve, enhance, or restore public views of the ocean or shoreline identified in the applicable land use plan.*
- (c) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a land use plan as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced, or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a walled effect from authorized development.*

- (d) Where remodeling is proposed and existing legally established development is to be retained that precludes establishment of the desired visual access as delineated above, preservation of any existing public view on the site will be accepted, provided that the existing public view is not reduced through the proposed remodeling.*
- (e) Open fencing and landscaping may be permitted within the view corridors and visual accessways, provided such improvements do not significantly obstruct public views of the ocean. Landscaping shall be planted and maintained to preserve public views.*

Section 1513.0304 of the certified PDO regulates the parameters for required yards in the Mission Beach community and states in relevant part:

(c) Yards

3) Minimum Interior Yards

A. Five foot standard setback

B. Exceptions:

- i. A three-foot setback may be applied to a structure that is 20 feet or less above existing or proposed grade, whichever is lower, provided that any portion of the structure's façade that exceeds 20 feet in height above existing or proposed grade, whichever is lower, shall observe an additional setback for the remainder of the structure height by sloping away from the vertical plane of the façade at an angle not to exceed 45 degrees.*

[...]

- iii. In the R-N Subdistrict development of any lot or combination of lots 45 feet or greater in width shall have a minimum interior yard setback of 6 feet or 10 percent of the lot width, whichever is greater.*

4) Minimum Yards of Street and Alleys

Yards abutting Strandway and Bayside Lane and alleys shall not be required

[...]

6) Minimum Yards of Street and Alleys

No rear yard is required except where the rear yard abuts an interior or rear yard of an adjacent lot; then, the regulations in Section 1513.0304(c)(3) shall apply.

Section 1513.0403 of the PDO addresses residential parking requirements, and states in relevant part:

(b) Residential Subdistricts

1) Every premises used for one or more of those uses permitted in Section 1513.0303 shall be provided with a minimum of permanently maintained off-street parking spaces located on the premises as follows:

A. Two spaces per dwelling unit; except for the following:

[...]

(ii) In the R-N Subdistrict the requirement shall be one space per dwelling unit for lots abutting Ocean Front Walk or Bayside Walk with less than 10 feet of vehicular access on a street or alley.

Section 126.0805 of the LDC lists the legally required findings necessary to support the granting of a variance from the requirements of the LCP. The section states:

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

- (a) There are special circumstances or conditions applying to the land or premises for which the variance is sought that are peculiar to the land or premises and do not apply generally to the land or premises in the neighborhood, and these conditions have not resulted from any act of the applicant after the adoption of the applicable zone regulations;*
- (b) 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;*
- (c) 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; and*
- (d) The granting of the variance will not adversely affect the applicable land use plan. If the variance is being sought in conjunction with any proposed coastal development, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan.*

The subject property is a 1,620 square foot rectangular lot located at the southwest corner of Seagirt Court and Bayside Walk. The site is currently developed with a one-story single family residence with an attached one-car garage situated in the rear yard setback area. The existing non-conforming structure was constructed prior to the Coastal Act, and thus the one-car garage run all the way to the southern rear property line. Thus, there are currently no view of Mission

Bay over the subject property from the alley, though the adjacent property to the south does have a rear yard setback.

According to Section 113.0246 of the LDC, the property line along Seagirt Court is classified as the front yard setback, Bayside Walk is classified as the street side setback, and the southern property line is classified as the rear setback. LDC Section 1513.0304(c)(6) requires that a property with a rear yard property line that abuts another property's side or rear yard, such as the subject property, to provide a setback in conformance with Section 1513.0304(c)(3), which is a standard five-foot setback, with an exception allowing for a three-foot setback provided that a 45-degree setback is implemented for any part of the structure greater than twenty feet in height. Thus, because the proposed new residence incorporates a 45-degree setback for the portions of the structure above twenty feet in height, the LCP requires that a new residence in this location provide at least a three-foot wide setback from the southern property line. Combined with the existing setback for the residence south of the subject site, the proposed redevelopment could result in the opening of a view corridor down the alley of at least six-feet in width.

However, the applicant applied for, and the City granted, a variance for a zero-foot rear yard setback instead. Thus, the proposed residence would continue to block public views of the shoreline from the public alley and Mission Boulevard. In addition, because the proposed residence includes a second story, the bulk and scale of the encroachment into the potential view corridor would be even greater than the existing one-story structure.

The appellants assert that the project as approved by the City does not conform to the City of San Diego's certified LCP, including the MBPP and the PDO. Specifically, the City's approval does not conform to the public view protection policies of the certified LCP due to the granting of a variance for a zero-foot rear yard setback where the certified LCP requires at least a three-foot setback, thus preventing the creation of public views of the bay that would be present. As the subject property is between the first public road and the sea, adjacent to the popular Mission Bay Park in the popular beach community of Mission Beach, the surrounding area is frequented by the public, either driving, biking, or walking. Thus, the protection of public views in this area is paramount.

In response to the appellants' contentions, Commission staff visited the subject property and the adjacent roadways, as well as other similarly situated parcels. The nearby two-story residences are of a size and scale similar to the two-story residence being proposed by the applicant, notwithstanding the issue of the setbacks. This alley, like the vast majority of Mission Beach, is a fairly flat grade, meaning the bay views over the subject property are potentially available from the entire length of the alley, including from Mission Boulevard.

Both in its findings and through its use of a variance, the City acknowledges that the certified LCP, as applied, requires a standard five-foot setback, or an exception allowing a three-foot rear yard setback for homes that slope away at 45 degrees above 20 feet in height, be incorporated into any new residence constructed on the subject property. However, in order to grant the variance, the City has to make four legally required findings in support: Unique property character not arising from actions of the applicant; unreasonable deprivation due to strict application of the LDC; carrying out the intent of the land use plan without adversely affecting

public safety; and no adverse effect on the land use plan. Upon analysis of the subject property and the proposed development, those required findings are not present.

Unique Property Character

The first finding that the certified LCP requires for granting a variance is that the subject property, through no action on the applicant's part, experiences special circumstances that are peculiar to the property and do not apply generally to the premises in the neighborhood. The subject property and others like it are parcels located at the end of alleys, adjacent to the ocean and bay boardwalks. These parcels tend to have only eight feet of alley frontage in which to grant vehicular access onto the property. As such, these parcels are generally referred to as "virtually landlocked parcels" (VLP), and arose due to the original mapping of Mission Beach that occurred back in 1809. Over the years, many of these VLPs were combined with the adjacent inland parcels to create larger parcels with additional alley or street frontage in which to provide vehicular access. Nevertheless, there are still at least twenty VLPs in the Mission Beach community, including the subject property.

While it is true that the majority of the parcels in Mission Beach do not have the configuration of the subject property, the subject property is not unique, and similar parcels exist elsewhere in Mission Beach. As stated above, there are at least twenty of these VLPs within Mission Beach. In approving the subject development, no evidence was provided by the applicant or the City of past actions where the Commission or City has reviewed and approved a variance for a zero-foot setback for these VLPs. Thus, the subject project has high precedential value, as a variance for a zero-foot setback here could later be requested for at least a score of other parcels located throughout Mission Beach right on the ocean and bay boardwalks.

Strict Application Deprives Reasonable Use

The second finding required by the certified LCP in order to grant a variance is that strict application of the LDC would deprive the applicant of reasonable use of their property, and that the variance being granted is the minimum required to meet avoid the deprivation. On both of these counts the City and applicant fail to meet their burden. The Mission Beach PDO specifically acknowledges the existence of VLPs such as the subject property when, in Section 1513.0403(b)(1)(A)(ii), it reduces the off-street parking requirement from two spaces to one. The section clearly uses the term "space," and does not require the space to be a garage space, just an off-street space. Thus, the application of the LCP's required rear yard setback will not prevent the applicant from meeting his already relaxed off-street parking requirement, as he will still be able to utilize a carport on the subject property or, through a redesign, reorient the opening of the garage so that it angles northeast into the property, as opposed to running directly east.

However, the City, in supporting the granting of the variance, claims that requiring the applicant to forgo a garage and instead utilize a carport would present an unreasonable safety and security risk to the applicant. This claim is made despite the fact that no supporting evidence - such as crime mapping, crime statistics, or police testimony - was submitted by the applicant or City. Many other residences in the Mission Beach community, including the neighboring property to the south, currently park their vehicles either in open-air off-street parking spaces (such as

carports) or on public streets and alleys. If crime in the area is at a level of severity that may justify a revision to the LCP requirements, the City should first investigate alternatives that avoid impacts to coastal resources, and then, if necessary, address the issue more comprehensively through an LCP amendment.

In its approval of the variance, the City also noted that the majority of the other VLPs currently have a garage in the rear yard setback area. However, these other VLPs with zero-foot rear yard setbacks are all pre-coastal or non-conforming structures. Typically, when a previously conforming structure is redeveloped, such as with the subject property, all aspects of the site must be brought up to current code. Otherwise, the non-conforming aspect of the project, and any associated impacts to public resources would be perpetuated indefinitely. The subject property can and should have been brought into conformance with the current LCP standards for setbacks and view protection.

Harmony With Intent of Regulations and Public Safety

The third required finding is that the variance carries out the intent of local ordinances and does not pose a risk to public health and safety. The variance would not risk public health or safety, but as stated above, neither the applicant nor the City has provided any evidence that there is an unreasonable risk of crime on the subject property or in the community of Mission Beach generally. Furthermore, as the intent of the Mission Beach LUP and PDO includes enhancing and protecting public views, the complete removal of the required side yard setback on a bayfront property, especially one adjacent to a neighboring property with a side yard setback of its own, counteracts the visual resource protection intent of the LCP.

No Adverse Effect On the Land Use Plan

Finally, the LCP requires that the variance be found to not adversely affect the applicable LCP and, in conjunction with a CDP, find that the variance still carries out the provisions of the certified LCP. Unlike many of the nearby coastal communities of San Diego, Mission Beach is a uniformly flat land mass with little elevation change. Whereas in nearby Ocean Beach, Pacific Beach, or La Jolla, where members of the public may find numerous public geographical vantage points - be they parks, hillside trails, or the like - in order to look over the surrounding community towards the ocean, those opportunities are absent in Mission Beach, a long, narrow peninsula separating Mission Bay from the Pacific Ocean. While the subject property is a bayfront lot, just 55 feet away from Mission Bay, due to the geography of Mission Beach, the subject property is also just 250 feet from the Pacific Ocean. Thus, from the very beginning of administering the Coastal Act, the yards and setbacks required of all types of development within Mission Beach has been the primary tool of creating, protecting, and enhancing the public's visual access to the ocean and the bay. The east-west courts, places, and alleys provide flat, continuous view corridors, such that the public can simultaneously view both the ocean and bay on either end from anywhere along the corridors, as well as from Mission Boulevard, the major coastal access route through Mission Beach. The variance granted by the City would prevent the creation of a view corridor that is currently blocked by a non-conforming structure, and set a precedent eliminating the setback requirements for other VLPs that in some cases could result in the elimination of existing public views to the bay and ocean.

Thus, as approved by the City of San Diego, the proposed single family residence will have impacts on public views of Mission Bay that raise a substantial issue and are not in conformance with the certified LCP's visual resource protection policies.

C. CONCLUSION

Based on the information cited above, it appears the City's approval of the proposed development is inconsistent with visual resource protection policies of the City's certified LCP with regard to public views. The rear yard setback required by the certified LCP was not incorporated into the development and will adversely affect the potential visual resources of the subject site and the surrounding area inconsistent with the provisions in the Mission Beach Precise Plan. Therefore, the Commission finds that a substantial issue exists with respect to the consistency of the local government action with the City's certified Local Coastal Program on protection of visual resources.

D. SUBSTANTIAL ISSUE FACTORS

As discussed above, there is inadequate 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 substantial issue. The objections to the project suggested by the appellants raise substantial issues of regional or statewide significance and the decision creates a poor precedent with respect to the protection of visual resources. In addition, the coastal resources affected by the decision are significant.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS: Appeal by Commission Chair Steve Kinsey dated 7/15/14; Appeal by Commissioner Mary Shallenberger dated 7/15/14; Certified Mission Beach Precise Plan (LUP); Certified City of San Diego LCP Implementation Plan; City of San Diego Report to the Hearing Officer dated 6/11/14; Coastal Development Permit No. 1235369; Notice of Final Action dated 6/26/14; Coastal Development Permit Appeal No. A-6-MBE-14-0040

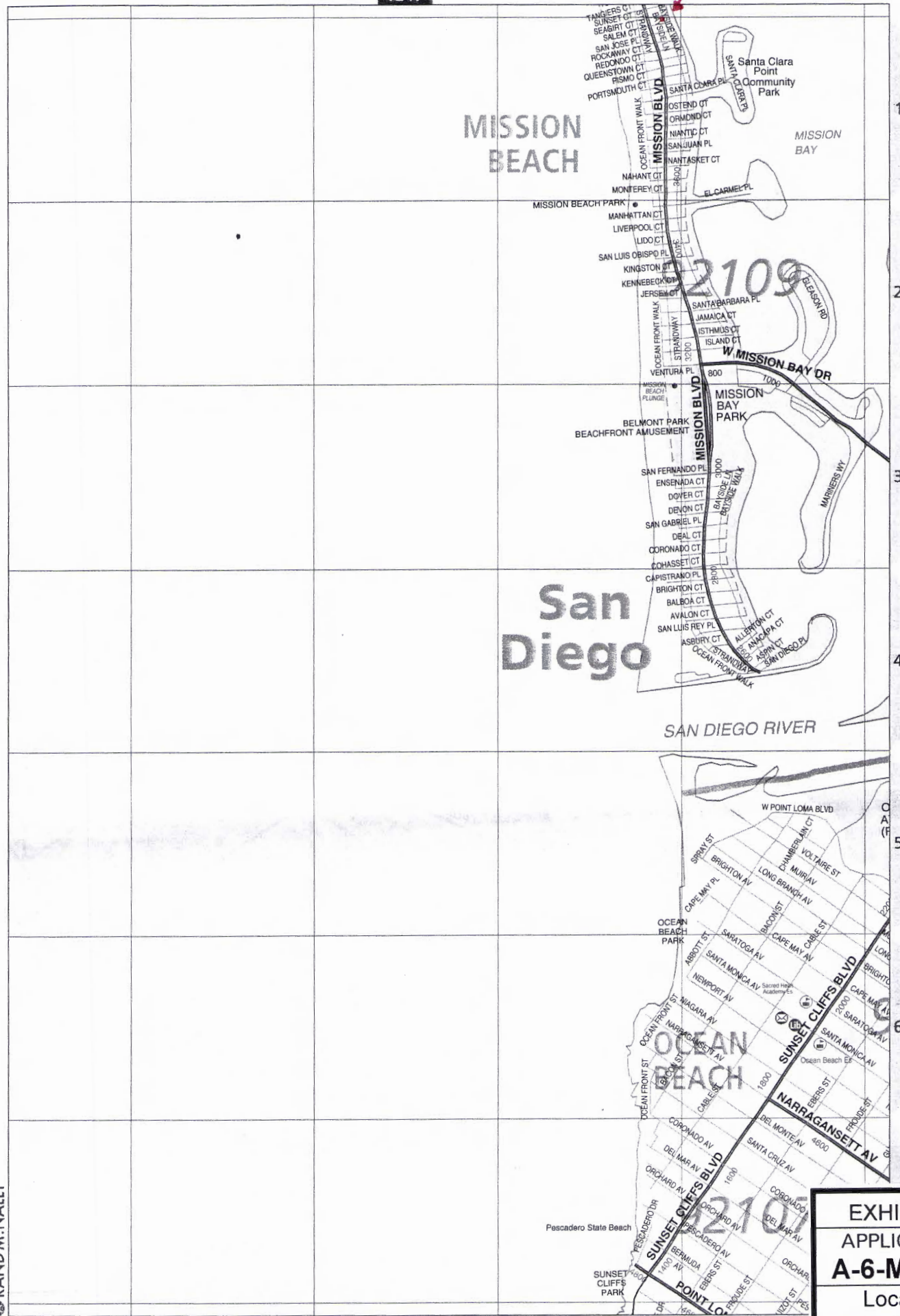
0 0.25 0.5 miles 1:22,800 1 in = 1900 ft.

SEE 1247 MAP

Project Site

MAP 1267

SAN DIEGO CO.



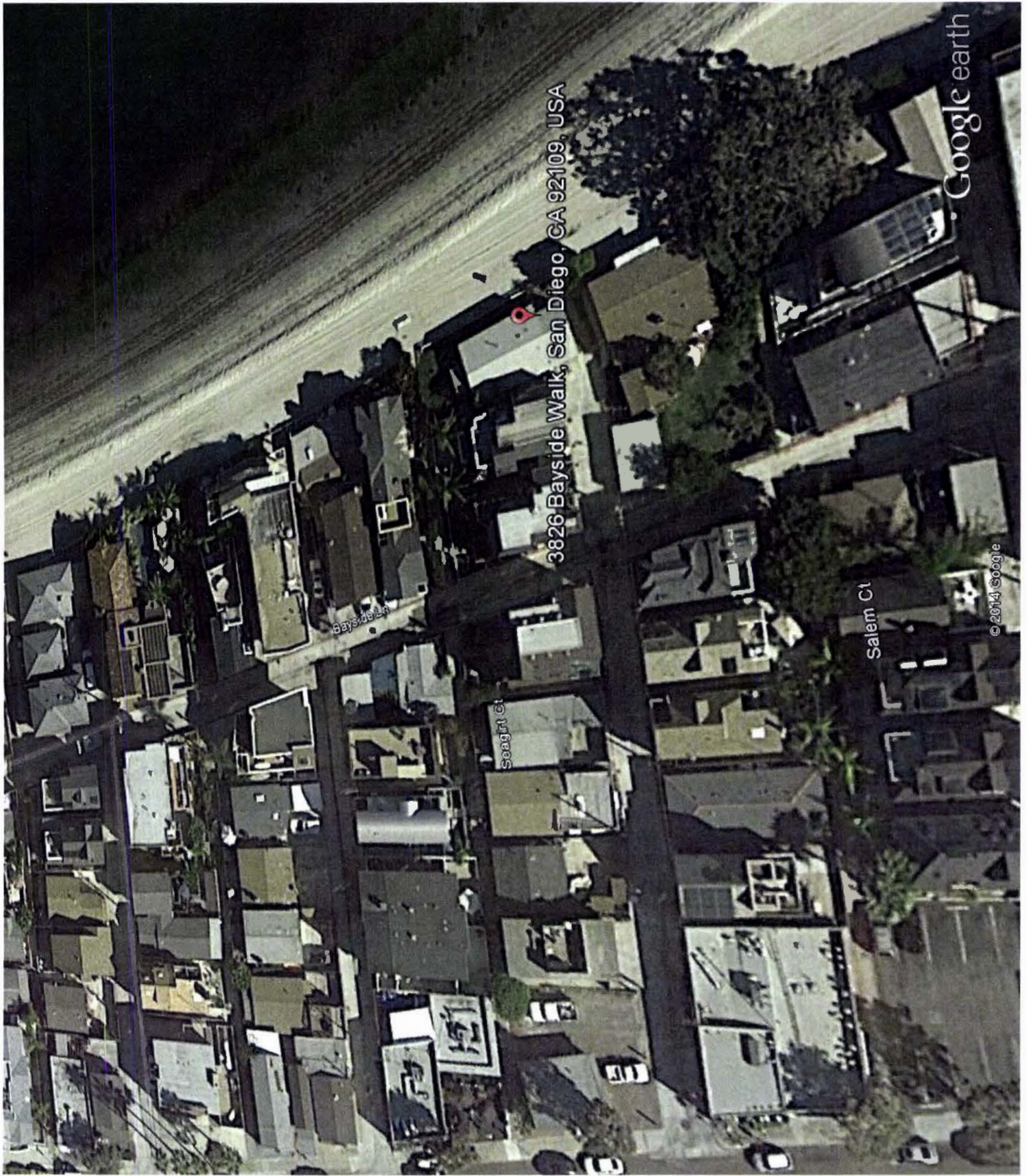
SEE 1268 MAP

RAND McNALLY

SEE 1287 MAP

EXHIBIT NO. 1
APPLICATION NO.
A-6-MBE-14-40
Location Map

California Coastal Commission



feet 200
meters 70



EXHIBIT NO. 2
APPLICATION NO.
A-6-MBE-14-40
Aerial Photo
 California Coastal Commission

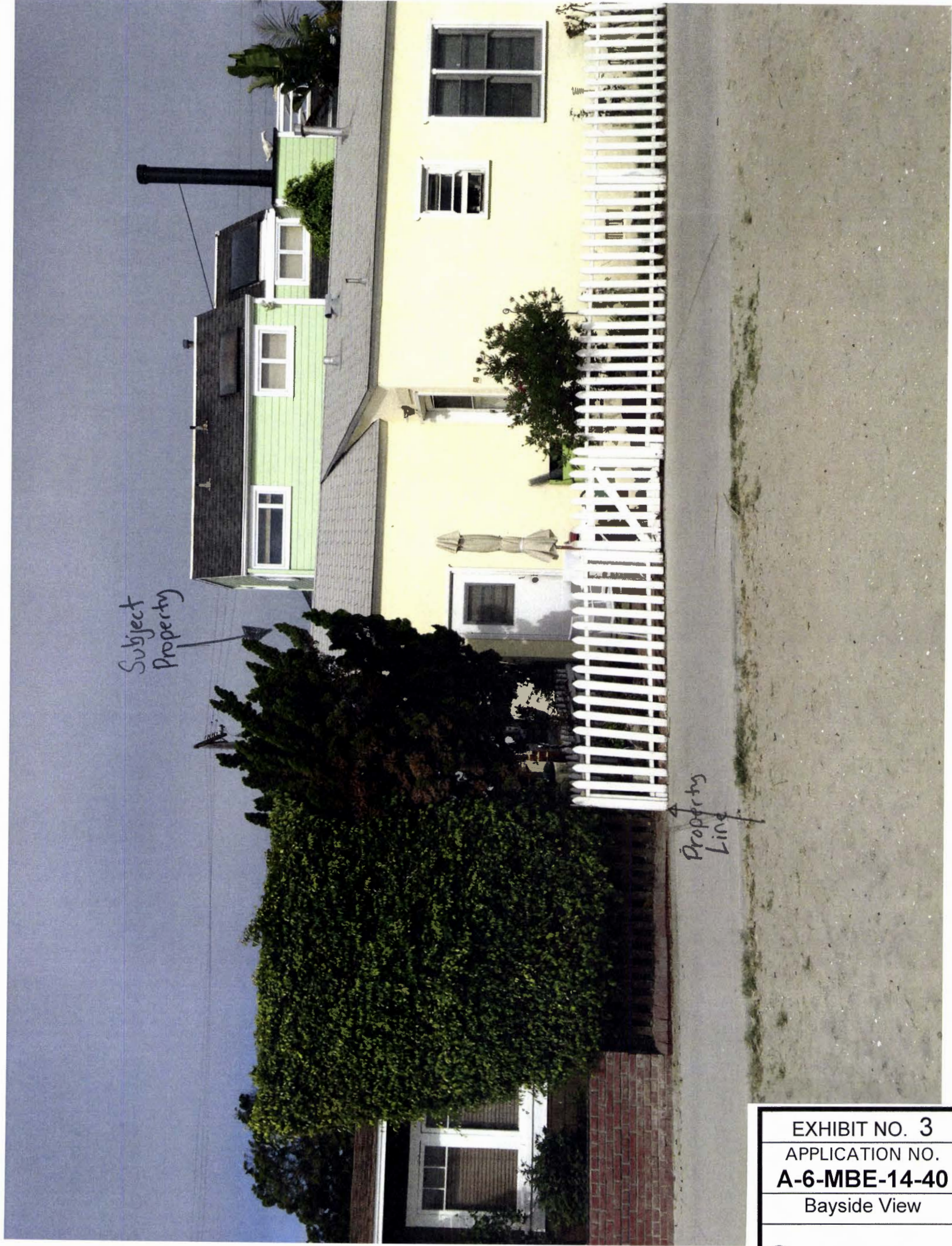


EXHIBIT NO. 3
APPLICATION NO.
A-6-MBE-14-40
Bayside View



EXHIBIT NO. 4

APPLICATION NO.

A-6-MBE-14-40

Alley View

[illegible]

1. THRESHOLDS AT DOORWAYS SHALL NOT EXCEED 0.75-INCH IN HEIGHT FOR SLIDING DOORS SERVING DWELLING UNITS OR 3-INCH FOR OTHER DOORS.
2. THE HIGHEST POINT OF THE ROOF, EQUIPMENT, ANY VENT, PIPE, ANTENNA, OR OTHER PROJECTION SHALL NOT EXCEED 30'-0" ABOVE GRADE (SDMA 88C, 110.0444, 112.0208).

Prepared By:

Revision 10:	Revision 10:
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3925 BAYSIDE WALK	
SAN DIEGO, CA 92104	
Project Name:	
BARBACENSKI	
RESIDENCE	

Sheet Title:
BUILDING
ELEVATIONS

EAST ELEVATION (SIDE)

EXHIBIT NO. 6
APPLICATION NO.
A-6-MBE-14-40
Elevation 1



10

[illegible]

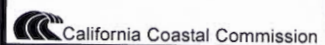
1. THRESHOLDS AT DOORWAYS SHALL NOT EXCEED 0.75-INCH IN HEIGHT FOR SLIDING DOORS SERVING DWELLING UNITS OR 0.3-INCH FOR OTHER DOORS.
2. THE HIGHEST POINT OF THE ROOF, EQUIPMENT, OR ANY VENT, PIPE, ANTENNA, OR OTHER PROJECTION SHALL NOT EXCEED 30'-0" ABOVE GRADE (SDHC SRC. IN 04.04.4.113.2 (2003)).

Prepared By:	Revision 10:	Original Data
Ricardo Torres	Revision 9:	
Solba Architective	Revision 8:	
1140 Arnett Ave., Suite 100	Revision 7:	
San Diego, CA 92104	Revision 6:	
Office: (619) 231-9405	Revision 5:	
Fax: (619) 231-3471	Revision 4:	Revision 1:
Project Address:	Revision 3:	Revision 2:
3526 BAYSIDE WALK	Revision 1:	
SAN DIEGO, CA 92104		
Project Name:		
GABRIELZENEKI		
RESIDENCE		

BUILDING
ELEVATIONS

WEST ELEVATION (SIDE)

EXHIBIT NO. 7
APPLICATION NO.
A-6-MBE-14-40
Elevation 2





AL
Yes

THE CITY OF SAN DIEGO
COASTAL DEVELOPMENT PERMIT RECEIVED
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

JUN 30 2014
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

June 26, 2014

6-MBE-14-0576

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: GARBACZEWSKI RESIDENCE - PROJECT NO. 352168; Environmental Exemption

PROJECT DESCRIPTION: Demolition of an existing single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements.

LOCATION: The site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, in the R-N Zone within the Mission Beach Planned District, Mission Beach Precise Plan and Local Coastal Program Area, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, the First Public Roadway, Parking Impact Overlay Zone (Beach Impact Area), Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone.

APPLICANT'S NAME Garbaczewski Family Trust
ADDRESS & PHONE NO. John and Colleen Garbaczewski
334 Old Stage Coach Run
Alpine, CA 91901
(619) 231-9905

FINAL ACTION: APPROVED WITH CONDITIONS

ACTION BY: Development Services Department

ACTION DATE: June 11, 2014 (Appeal period ended on June 25, 2014)

CONDITIONS OF APPROVAL: See attached Permit.

FINDINGS: See attached Resolution.

EXHIBIT NO. 8
APPLICATION NO.
A-6-MBE-14-40
FLAN

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

CITY CONTACT:

Jeffrey A. Peterson
Development Services Department
1222 First Avenue, MS 501
San Diego, CA 92101-4153
Phone/e-mail: (619) 446-5237 /
JAPeterson@sandiego.gov



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: June 11, 2014

REPORT NO. HO 14-033

ATTENTION: HEARING OFFICER

SUBJECT: GARBACZEWSKI RESIDENCE; PROJECT NO. 352168
PROCESS 3

LOCATION: 3826 Bayside Walk

OWNER/
APPLICANT: John and Colleen Garbaczewski

SUMMARY

Requested Action: Should the Hearing Officer approve the demolition of an existing single-family dwelling unit and construction of a new single-family dwelling unit on a 0.037-acre site located at 3826 Bayside Walk in the Mission Beach Precise Plan and Local Coastal Program Area?

Staff Recommendation: **APPROVE** Coastal Development Permit No. 1235369 and Variance No. 1264938.

Community Planning Group Recommendation: On April 17, 2014, the Mission Beach Precise Planning Board voted 8-0-0 to recommend approval of the project (Attachment 9).

Environmental Review: This project is exempt from environmental review pursuant to Article 19, Section 15302 (Replacement or Reconstruction) and Section 15303 (New Construction), of the California Environmental Quality Act (CEQA). The project proposes the demolition of an existing single-family dwelling unit and subsequent construction of a replacement single-family dwelling unit. The environmental exemption determination for this project was made on April 22, 2014. The Notice of Right to Appeal (NORA) was posted on April 23, 2014 and the opportunity to appeal that determination ended May 7, 2014 (Attachment 10).

BACKGROUND

The project site is located at 3826 Bayside Walk (Attachment 1), on the southwestern Seagirt Court and Bayside Walk, east of Mission Boulevard (Attachment 2). The pro

EXHIBIT NO. 9
APPLICATION NO.
A-6-MBE-14-40
Report to Hearing Officer

the R-N Zone in the Mission Beach Planned District (Attachment 3) within the Mission Beach Precise Plan and Local Coastal Program Area (Attachment 4), Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, the First Public Roadway, Parking Impact Overlay Zone (Beach Impact Area), Residential Triplex Parking Overlay Zone, and the Transit Area Overlay Zone. The zoning designation allows for one residential dwelling unit per 1,200 square feet of lot area and the Mission Beach Precise Plan (MBPP) designates the proposed project site for residential land use at a maximum 36 dwelling units per acre (DU/AC). The project site, occupying 0.037-acres (or 1,620-square feet), could accommodate one dwelling units based on the underlying zone, and one dwelling unit for a density of approximately 27 DU/AC based on the designated use and density in the community plan.

The project site is a rectangular shaped lot with frontage along Bayside Walk with vehicular access from Bayside Lane. On November 9, 1984, Parcel Map No. 13539 was recorded for lot adjustments for the interior property lines for this site and the two western lots. This adjustment was made to correctly reflect the location of the existing structures and to met the minimum required side setbacks. The parcel has been previously graded and developed with a single-family dwelling unit, which was constructed in 1935. A historical assessment was performed and City staff determined that the property and associated structure would not be considered historically or architecturally significant under the State of California Environmental Quality Act (CEQA) in terms of architectural style, appearance, design, or construction associated with important persons or events in history.

DISCUSSION

Project Description:

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The project site is located approximately 238-feet from the Pacific Ocean and 55-feet from the shoreline of Mission Bay. The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay. The project proposes a maximum building height of 26-feet 9-inches; therefore, the building and any projections will not exceed the maximum 30 foot height limit allowed by the Coastal Height Limitation Overlay Zone.

The project site is a rectangular shaped lot that is located on the southwestern corner of Seagirt Court and Bayside Walk. The portion of the property fronting on Seagirt Court is classified as the front setback, Bayside Walk is classified as a street side setback, and the southern property line is classified as the rear setback. Land Development Code (LDC) Section 1513.0304(c)(6) requires a minimum rear yard that abuts an interior of rear yard of an adjacent lot to comply with LDC Section 1513.0304(c)(3), which is a minimum six (6) foot setback within the R-N Zone.

The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor. The property fronts on approximate eight (8) feet of an existing dead-end utility alley, and the access to the garage would be from this alley. This condition,

referred to here-in as “virtual land-locked parcels” (VLP) was a mapping situation that was created 1809 when the original mapping was developed for Mission Beach, specifically in north Mission Beach, where dead-end finger utility alleys were designed to reach the last bay or ocean front lots at the end of these 16-foot wide alleys. The MBPP identifies these alleys as strictly utilitarian (Page 18).

In many cases, lots have been developed utilizing an accumulation of these lots to create larger parcels. However, there are still approximately 20 of these originally mapped parcels in Mission Beach that created this condition of a rear yard that contains a common property line with an adjacent parcel. In addition, the Mission Beach Planned District Ordinance (MBPDO) acknowledges and addresses the complication of these VLP lots being developed independently, such as allowing one parking space per dwelling unit for lots abutting Ocean Front Walk or Bayside Walk with less than 10 feet of vehicular access on a street or alley (LDC Section 1513.0403(b)(A)(ii)). Staff has reviewed the circumstances and conditions of the property and the proposed development, and has determined that the finding in support of the variance request can be made.

Development of the proposed project requires the approval of a Process 3 Coastal Development Permit (CDP) for the demolition of an existing single-family dwelling unit and construction of a single-family dwelling unit within the Coastal Overlay Zone, and a Process 3 Variance for the rear yard setback. As a component of the proposed project, the building will utilize renewable energy technology, self-generating at least 50-percent or more of the projected total energy consumption on site through photovoltaic technology (solar panels). Because the project utilizes renewable technologies and qualifies as a Sustainable Building, the land use approvals have been processed through the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

Community Plan Analysis:

The project site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The Mission Beach Precise Plan (MBPP) designates the proposed project site for residential land use at a maximum 36 DU/AC. The project proposes one dwelling unit on a 1,620 square-foot lot for a density of 27 DU/AC; therefore, the project is consistent with the designated use and density in the community plan. The MBPP contains goals and policies for design and development, including criteria for yards and setbacks, height, floor area ratio (FAR) and density. These design criteria have been incorporated in the MBPDO regulations that govern the site.

The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay. Bayside Walk at this location is not designated as a physical accessway. Although no specific views are identified through the project site in the MBPP, the plan states that views to, and along the shoreline from public areas shall be protected from blockage by development and or vegetation.

Views to Mission Bay looking east along Seagirt Court and through the property are currently obstructed by existing landscape and fences. The project proposes a 3-foot fence and gates along

Seagirt Court and Bayside Walk, and the proposed landscaping in these areas will enhance the views from and along the public right-of-way.

The project meets all applicable regulations and policy documents, and staff finds the project consistent with the recommended land use designation, design guidelines, and development standards in effect for this site. Therefore, the development would not affect any physical accessway and/or public views to the Pacific Ocean and Mission Bay or other scenic coastal areas as specified in the Local Coastal Program.

Conclusion:

With the approval to of the variance request, the project meets all applicable regulations and policy documents, and staff finds the project consistent with the recommended land use, design guidelines, and development standards in effect for this site per the adopted MBPP, Local Coastal Program, LDC, and the General Plan. As a component of the proposed project, the buildings will utilize renewable energy technology, self-generating at least 50 percent of the projected total energy consumption on site through photovoltaic technology (solar panels)

ALTERNATIVES

1. **APPROVE** Coastal Development Permit No. 1235369 and Variance No. 1264938, **with modifications.**
2. **DENY** Coastal Development Permit No. 1235369 and Variance No. 1264938, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Jeffrey A. Peterson
Development Project Manager
Development Services Department

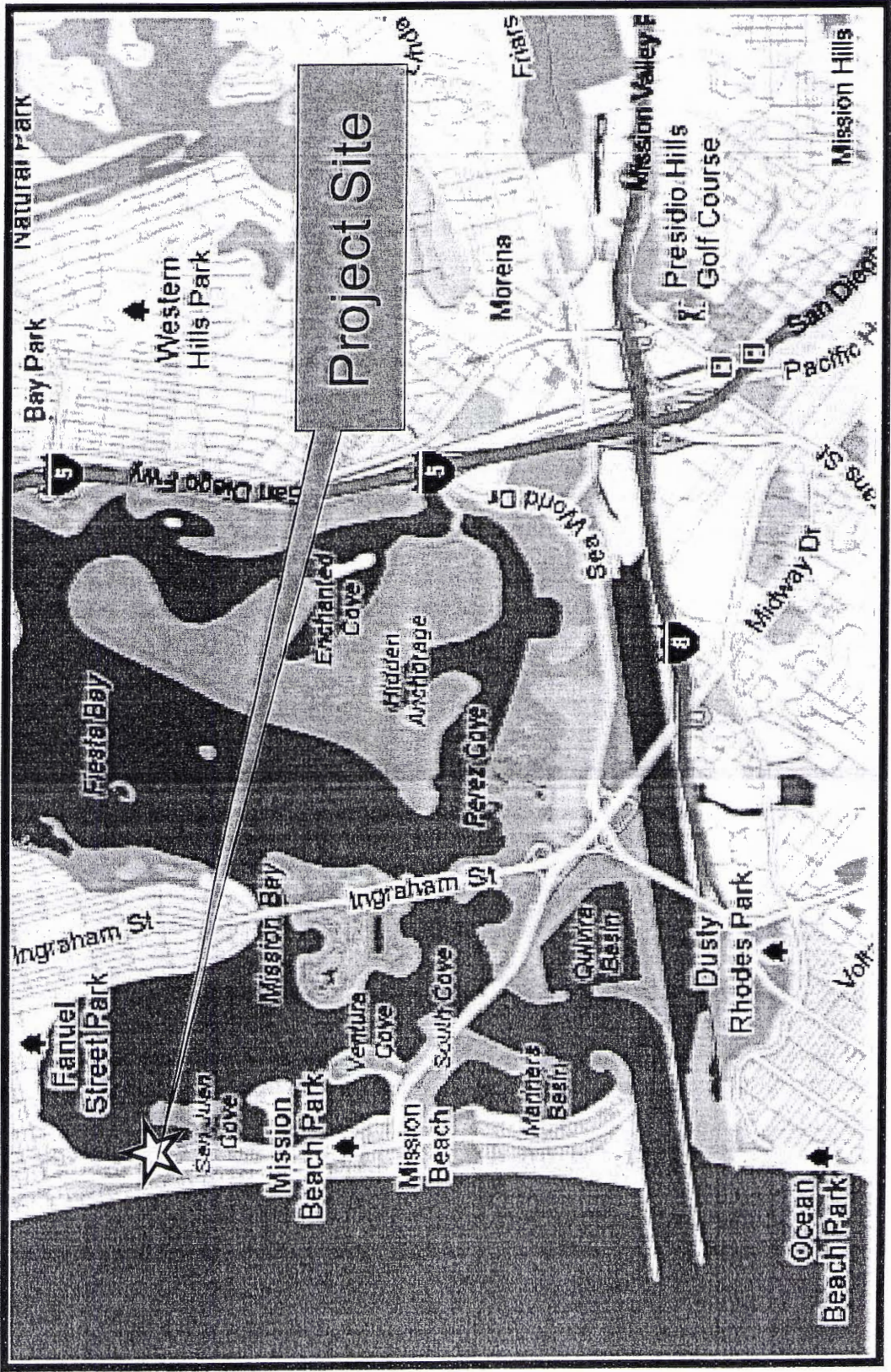
WESTLAKE/JAP

Attachments:

1. Location Map
2. Aerial Photograph
3. Zoning Map
4. Community Plan Land Use Map
5. Project Data Sheet
6. Project Plans
7. Draft Permit with Conditions

8. Draft Resolution with Findings
9. Community Group Recommendation
10. Environmental Exemption
11. Ownership Disclosure Statement
12. Project Chronology
13. Copy of Public Notice (forwarded to HO)
14. Copy of Project Plans (full size-forwarded to HO)

Internal Order No. 24004289



Location Map

Garbaczewski Residence - Project No. 352168
3826 Bayside Walk

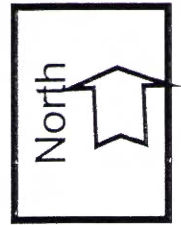
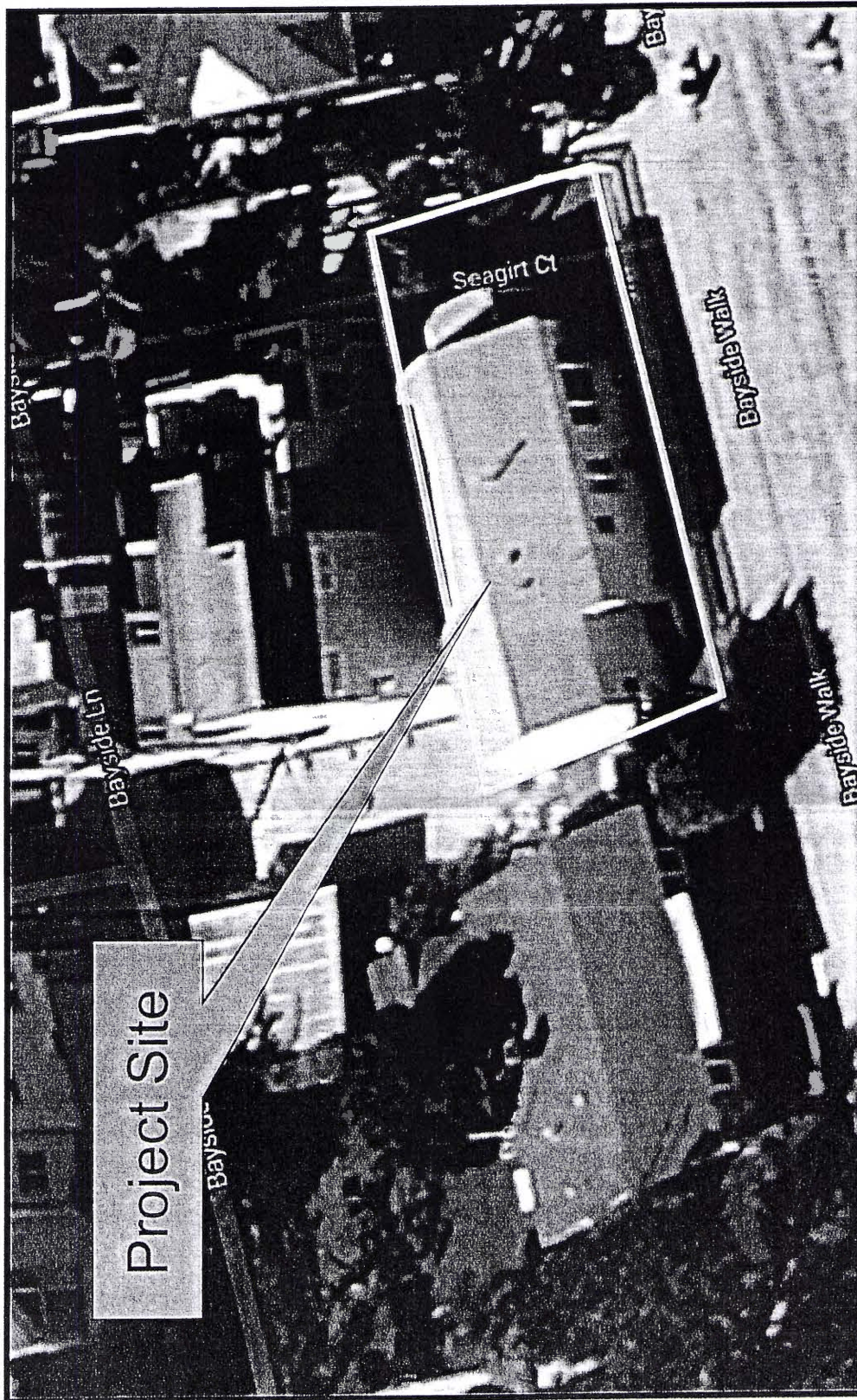




Aerial Photograph

Garbaczewski Residence - Project No. 352168
3826 Bayside Walk

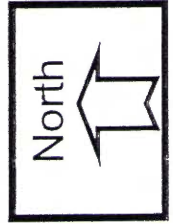
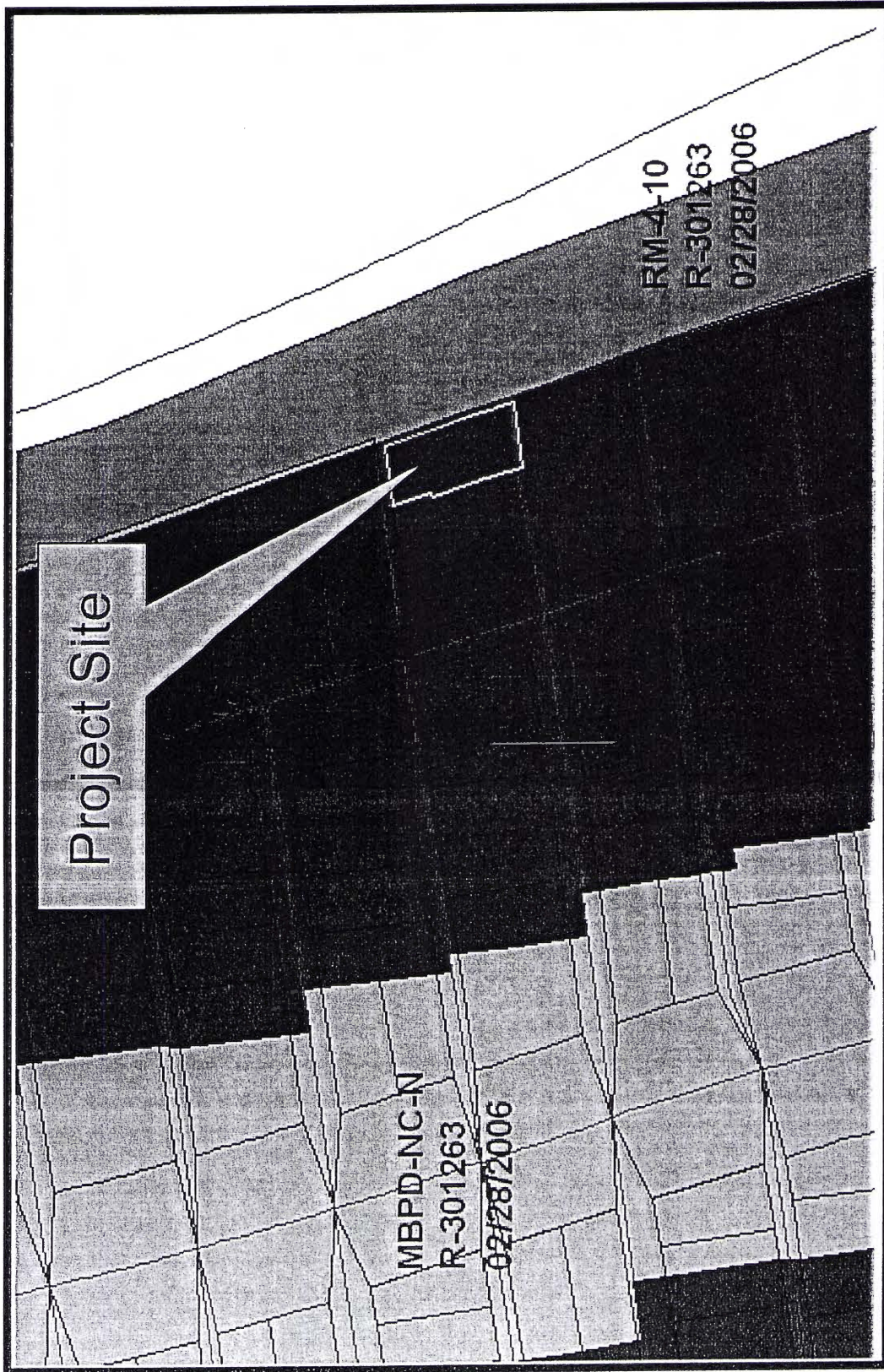




Aerial Photograph

Garbaczewski Residence - Project No. 352168
3826 Bayside Walk

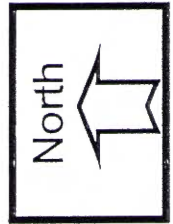
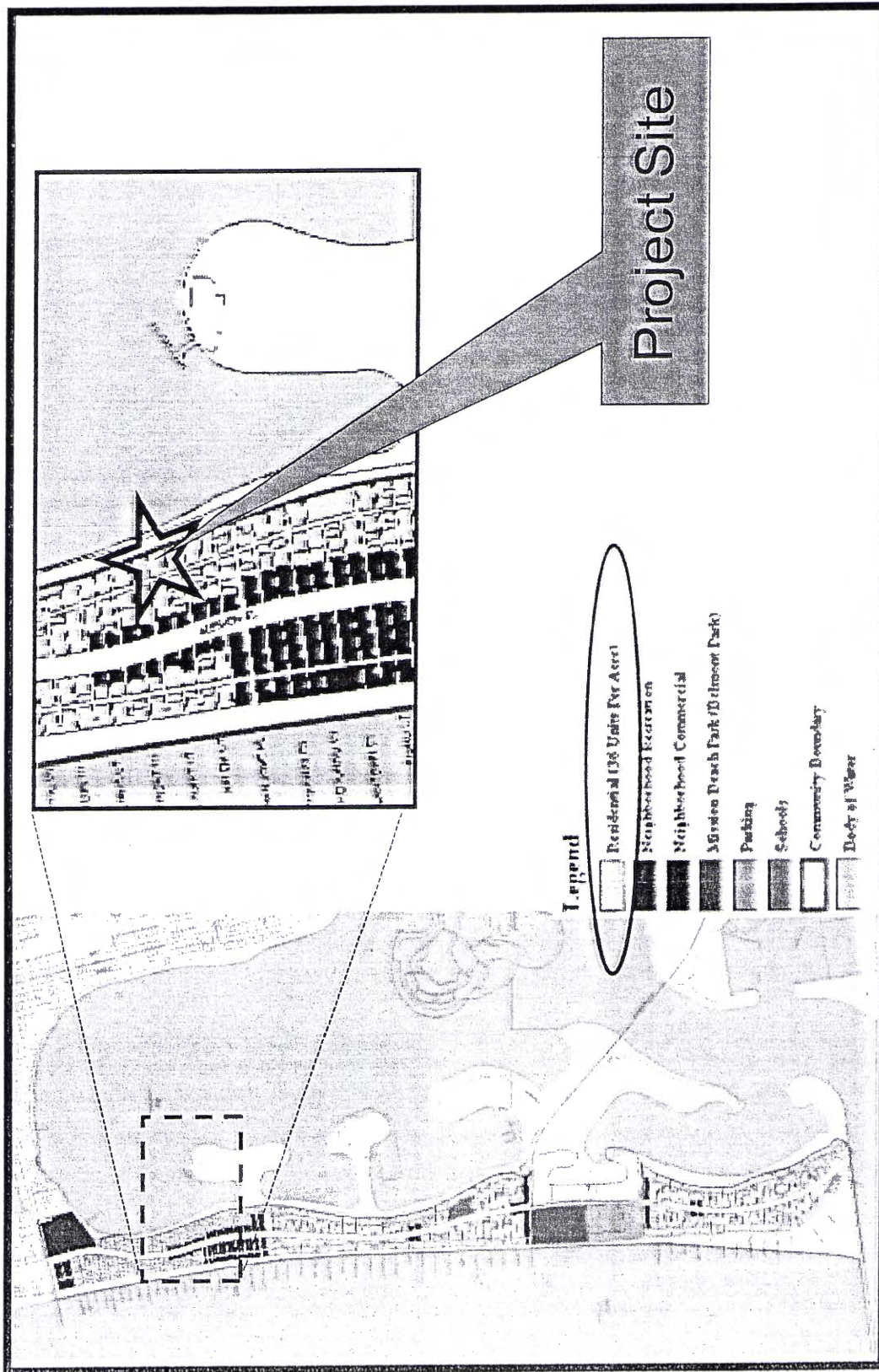




Zoning Map (R-N Zone MBPD)

Garbaczewski Residence - Project No. 352168
3826 Bayside Walk





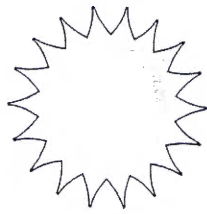
Mission Beach Community Land Use Map

Garbaczewski Residence - Project No. 352168
3826 Bayside Walk



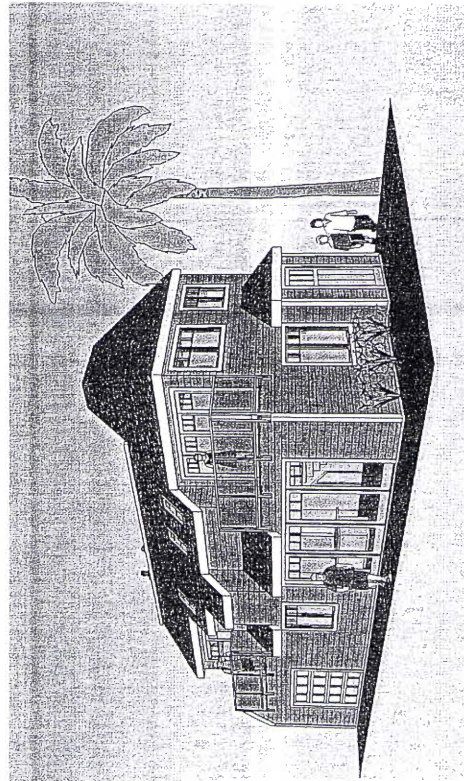
PROJECT DATA SHEET

PROJECT NAME:	Garbaczewski Residence - Project No. 352168	
PROJECT DESCRIPTION:	Demolition of a single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements.	
COMMUNITY PLAN AREA:	Mission Beach	
DISCRETIONARY ACTIONS:	Coastal Development Permit and Variance	
COMMUNITY PLAN LAND USE DESIGNATION:	Residential land use at a maximum 36 dwelling units per acre (DU/AC).	
<u>ZONING INFORMATION:</u> ZONE: R-N HEIGHT LIMIT: 30-foot maximum height limit/Coastal Height Limitation Overlay Zone LOT SIZE: 1,250 square feet FLOOR AREA RATIO: 1.1 LOT COVERAGE: 65 percent FRONT SETBACK: 10-foot SIDE SETBACK: 5-foot (min.) Bayside Walk with a 45° starting at 15' above grade STREETSIDE SETBACK: NA REAR SETBACK: 6-foot min. per LDC Section 1513.0304(c)(6) PARKING: 1 on-site space per LDC Section 1513.0403(b)(A)(ii)		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Residential; R-N	Single-Family Residential
SOUTH:	Residential; R-N	Single-Family Residential
EAST:	Residential; R-N	Single-Family Residential
WEST:	Outside Community Boundary; RM-4-10	Mission Bay Beach area
DEVIATIONS OR VARIANCES REQUESTED:	Variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On April 17, 2014, the Mission Beach Precise Planning Board voted 8-0-0 to recommend approval of the project.	



A SUSTAINABLE EXPEDITE PROJECT GARBACZEWSKI RESIDENCE

3826 BAYSIDE WALK



COASTAL DEVELOPMENT &
VARIANCE REQUEST PERMIT SET

Prepared By:
Ricardo Torres
Architect
1840 Genet Ave., Suite 100
San Diego, CA 92104
Office: (619) 231-8805
Fax: (619) 750-3471

Project Address:
3826 Bayside Walk
San Diego, CA 92104

Project Name:
Garbaczewski
Residence

Sheet Title:
COVER SHEET

Revision 10:
Revision 9:
Revision 8:
Revision 7:
Revision 6:
Revision 5:
Revision 4:
Revision 3:
Revision 2:
Revision 1: 04-09-14
Original Date: 12-16-13
Sheet 1 of 10

GOLBA ARCHITECTURE
Architecture ■ Space Planning ■ Interior Design
1940 Genet Ave., Suite 100 San Diego, California 92109
Phone: (619) 231-9905 Fax: (619) 750-3471

GARBACZEWSKI RES.
3826 BAYSIDE WALK
SAN DIEGO, CA



GOLBA ARCHITECTURE
 Architecture ■ Space Planning ■ Interior Design
 1940 Gornet Ave. #100 San Diego, California 92109
 Phone: (619) 231-9905 Fax: (658) 750-3471

GARBACZEWSKI RES.
 385 BAYSIDE WALK
 SAN DIEGO, CA



PLAN NOTES:

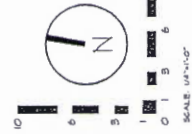
1. EXISTING 3/4" SERVICE WATER METER TO REMAIN
2. NEW CONCRETE DRIVEWAY
3. NEW 8" x 8" SQUARE CONCRETE PAVES
4. EXISTING 3/4" WATER SERVICE 1 METER TO REMAIN
5. EXISTING 4" SERVICE LATERAL TO REMAIN
6. NEW 8" x 8" x 11" WOOD FENCE ALONG SEASIDE COURT, BAYSIDE WALK 1 METER NOTED
7. NEW 6" x 6" x 11" WOOD FENCE

BENCHMARK:

THE BENCHMARK FOR THIS PROJECT IS THE CITY OF SAN DIEGO CENTER POINT MOUNTAIN 21° 34' 55" N 116° 05' 00" W, 4358 U.S.C. 1.65 DATUM OF 1988.

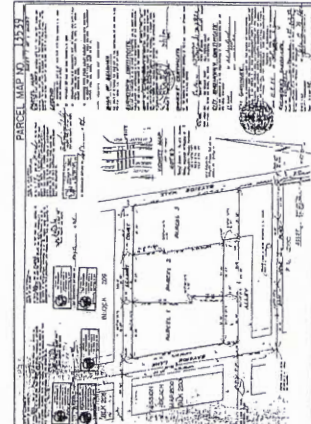
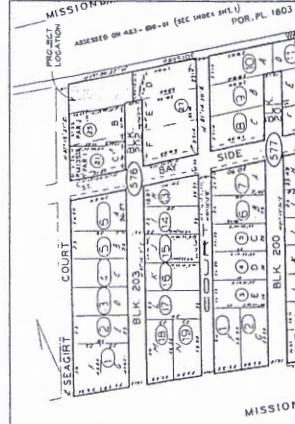
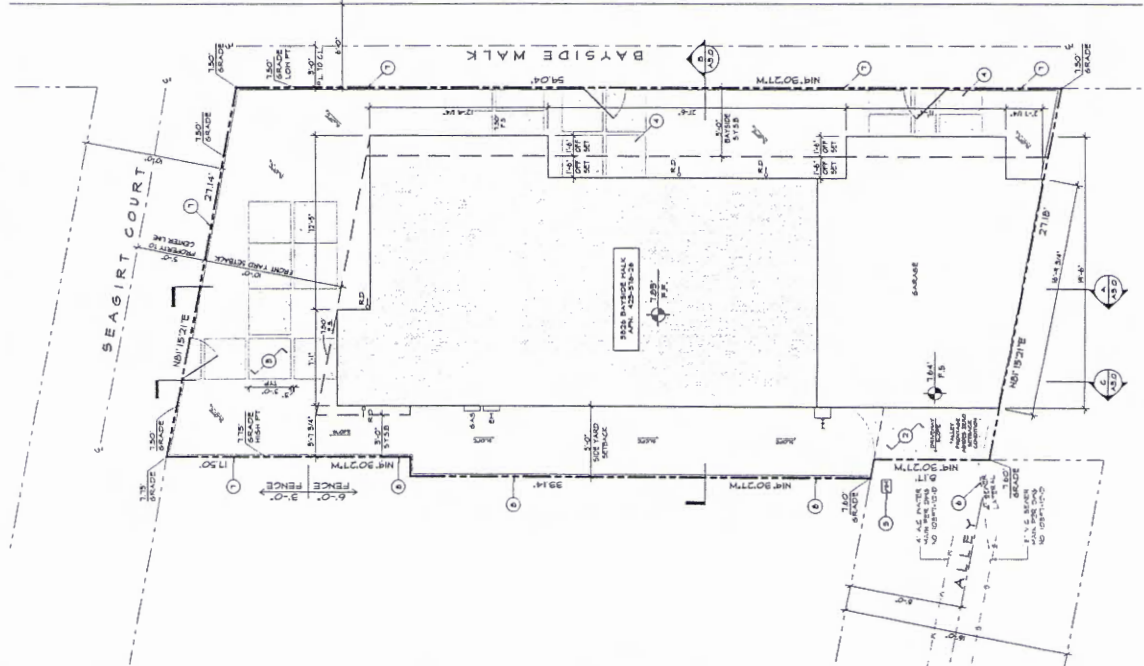
SITE NOTES:

1. THERE ARE NO EXISTING OR PROPOSED EASEMENTS.
2. THERE ARE NO EXISTING OR PROPOSED ROAD TRAMWAYS.
3. PROVIDE BUILDING ADDRESS NUMBERS FOR ALL NEW BUILDINGS.
4. FROM THE INSET OR ROAD FRONTING THE PROPERTY, THE BUILDING SHALL BE 12 FEET FROM THE STREET.
5. THERE IS NO PROPOSED GRADING EXCEPT FOR MOOR SLOPES TO DRAIN.



Prepared By:
 Ricardo Torres
 Golba Architecture
 1940 Gornet Ave. #100
 San Diego, CA 92109
 Office: (619) 231-9905
 Fax: (658) 750-3471
 Project Address:
 385 BAYSIDE WALK
 SAN DIEGO, CA 92109
 Project Name:
 GARBACZEWSKI RESIDENCE
 Original Date: 12-16-13
 Sheet 3 of 10

SITE PLAN



SPECIAL NOTES:

1. THE HIGHEST POINT OF THE ROOF EQUIPMENT OR ANY VENT PIPE, ANTENNA, OR OTHER PROJECTION SHALL NOT EXCEED THE FINISH GRADE (SEE SEC. 10.04.14).
2. THE SCOPE OF WORK DOES NOT INCLUDE ANY REMOVAL OF EXISTING STRUCTURE OR REMOVAL OF ANY PART OF THE EXISTING SETBACK.
3. PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE APPLICANT SHALL INCORPORATE ANY NECESSARY TO COMPLY WITH CHAPTER 14, ARTICLE 2, SPECIFICATIONS, INTO THE CONSTRUCTION PLANS ON SPECIFICATIONS.
4. THE APPLICANT SHALL OBTAIN NECESSARY PERMITS AND SHALL BE RESPONSIBLE FOR THE COSTS OF THE SAME.

GRADING TABLE

AMOUNT OF DISTURBANCE AREA	800 SF
AMOUNT OF IMPROVEMENTS AREA INSTALLED	0 SF
AMOUNT OF CUT	474 CU YDS
AMOUNT OF FILL	148 FOUNDATION FOOTINGS

COURTYARD ENCROACHMENT DATA

PERMITTED PER 30% ENCROACHMENT PLANNED DISTRICT	
PER 30% ENCROACHMENT TOTAL	48-12' 10"
PER 30% ENCROACHMENT TOTAL	24-12' 10"
PER 30% ENCROACHMENT TOTAL	24-12' 10"



75 A 01

STORM WATER QUALITY NOTES
CONSTRUCTION BMP'S

the 1970s, the 1980s, and the 1990s. The 1970s were characterized by a strong emphasis on the environment, the 1980s by a focus on economic growth, and the 1990s by a renewed interest in social issues. The 1970s were also a time of significant social change, with the civil rights movement and the women's movement gaining momentum. The 1980s were a period of economic growth, but also of social conservatism. The 1990s were a time of social change, with the end of the Cold War and the rise of the Internet.

WASTE MANAGEMENT & MATERIALS
POLLUTION CONTROL BMP'S

SC-1	SILT FENCE
SC-2	LOT PERIMETER PROTECTION
TC-1	STABILIZED CONSTRUCTION ENTRANCE/EXIT
PM-1	MATERIAL DELIVERY AND STORAGE
PM-2	SOLID WASTE MANAGEMENT
PM-3	HAZARDOUS WASTE MANAGEMENT
PM-4	CONCRETE PASTE MANAGEMENT
PM-5	SANITARY/SEPTIC WASTE MANAGEMENT

BMP LEGEND

PERMANENT NEWS

SD-12 IMPLEMENTATION OF EFFICIENT IRRIGATION SYSTEMS
TC-31 TREATMENT CONTROL - VEGETATED BUFFER STRIP

LOW IMPACT DEVELOPMENT SERIES

LD 35 L.I.D. DRIVEWAY DESIGN
LD 36 L.I.D. BUILDING DESIGN
LD 37 L.I.D. LANDSCAPING DESIGN

Prepared By: **100**
Galbo Architecture
1440 Garnet Ave., Suite
San Diego, CA 92108
Tel: (619) 584-2205
Fax: (619) 782-8471

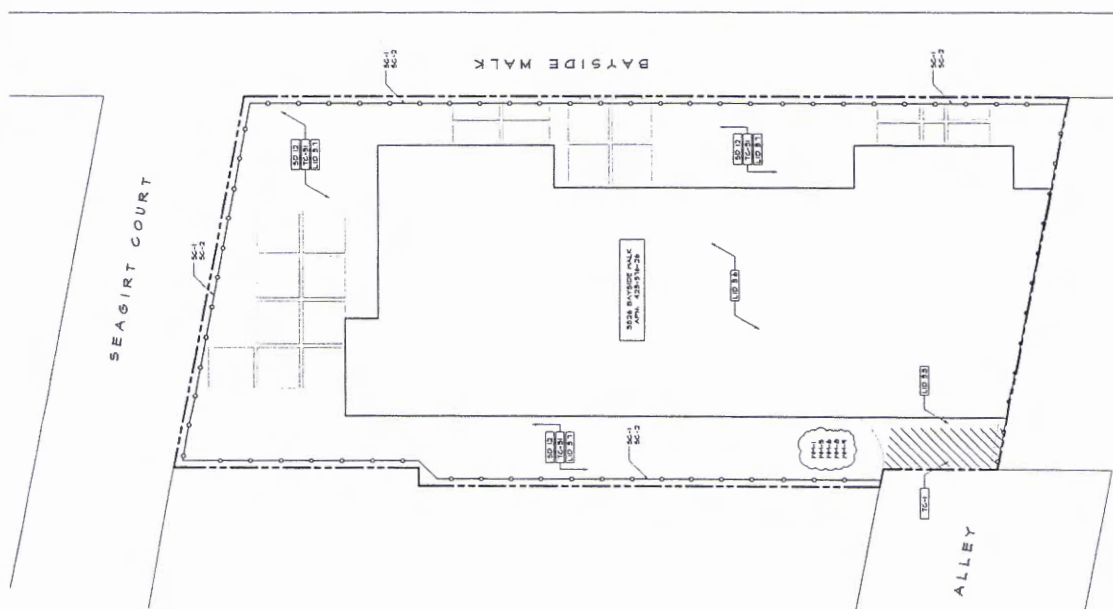
Project Address:
100
San Diego, CA 92109

Revision 10:
Revision 9:
Revision 8:
Revision 7:
Revision 6:
Revision 5:
Revision 4:
Revision 3:
Revision 2:
Revision 1: 09-2-14

Original Date: 12-16-15
Sheet: 4 of 10

Project Name:
RESERVE

WATER POLLUTION CONTROL PLAN

[illegible][illegible]

GOLBA ARCHITECTURE
 Architecture ■ Space Planning ■ Interior Design
 1940 Camel Ave. #100 San Diego California 92109
 Phone: (619) 231-9905 Fax: (668) 750-3471

GARBACZEWSKI RES.
 3828 BAYVIEW WALK
 SAN DIEGO, CA



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A2.0

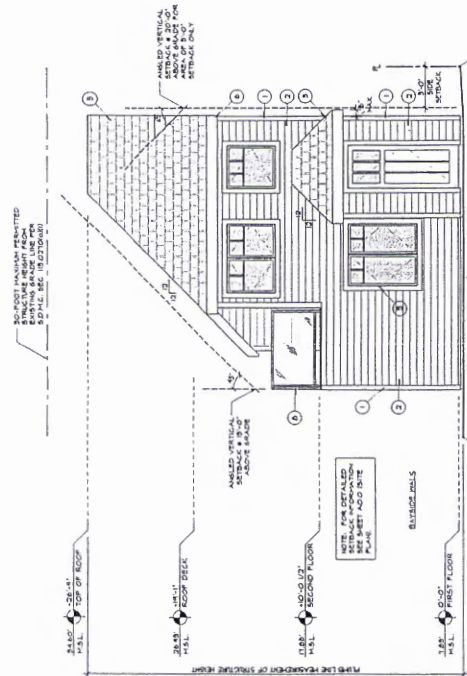
PLAN NOTES:

1. JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, TYPE 8 WOODS, DOORS & SIDES
2. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
3. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
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11. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
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13. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
14. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
15. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
16. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
17. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
18. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
19. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES
20. 1/4" (6" EXPOSED) JAMES HARDY WOODWORK, BUSTIC CEDAR FINISH, BIRD MOUNTAIN, TYPE 8 WOODS, DOORS & SIDES

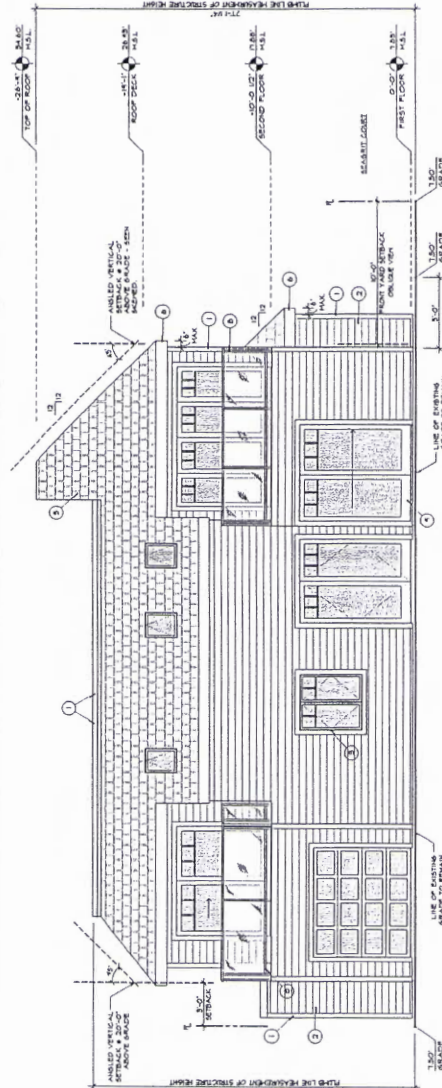
SECTION 1.00 - PLAN NOTES
 1. THRESHOLDS AT DOORWAYS SHALL NOT EXCEED 1/2" MAX. HEIGHT. THRESHOLDS AT WINDOWS SHALL NOT EXCEED 1/2" MAX. HEIGHT. THRESHOLDS AT OTHER DOORS SHALL NOT EXCEED 1/2" MAX. HEIGHT.
 2. THE HIGHEST POINT OF THE ROOF EQUIPMENT OR ANY OTHER PIPE, ANTENNA, OR OTHER EQUIPMENT SHALL NOT EXCEED 10' MAX. HEIGHT. THE HIGHEST POINT OF THE ROOF EQUIPMENT OR ANY OTHER PIPE, ANTENNA, OR OTHER EQUIPMENT SHALL NOT EXCEED 10' MAX. HEIGHT.
 3. THE HIGHEST POINT OF THE ROOF EQUIPMENT OR ANY OTHER PIPE, ANTENNA, OR OTHER EQUIPMENT SHALL NOT EXCEED 10' MAX. HEIGHT. THE HIGHEST POINT OF THE ROOF EQUIPMENT OR ANY OTHER PIPE, ANTENNA, OR OTHER EQUIPMENT SHALL NOT EXCEED 10' MAX. HEIGHT.

Prepared By:
 Ricardo Torres
 1940 Camel Ave. #100
 San Diego, CA 92109
 Office: (619) 231-9905
 Fax: (668) 750-3471
Project Address:
 3828 Bayview Walk
 San Diego, CA 92109
Project Name:
 Garbaczewski Residence
Original Date: 12-16-13
Sheet 6 of 10

BUILDING ELEVATIONS



NORTH ELEVATION (FRONT)



EAST ELEVATION (SIDE)



LANDSCAPE DESIGN STATEMENT:

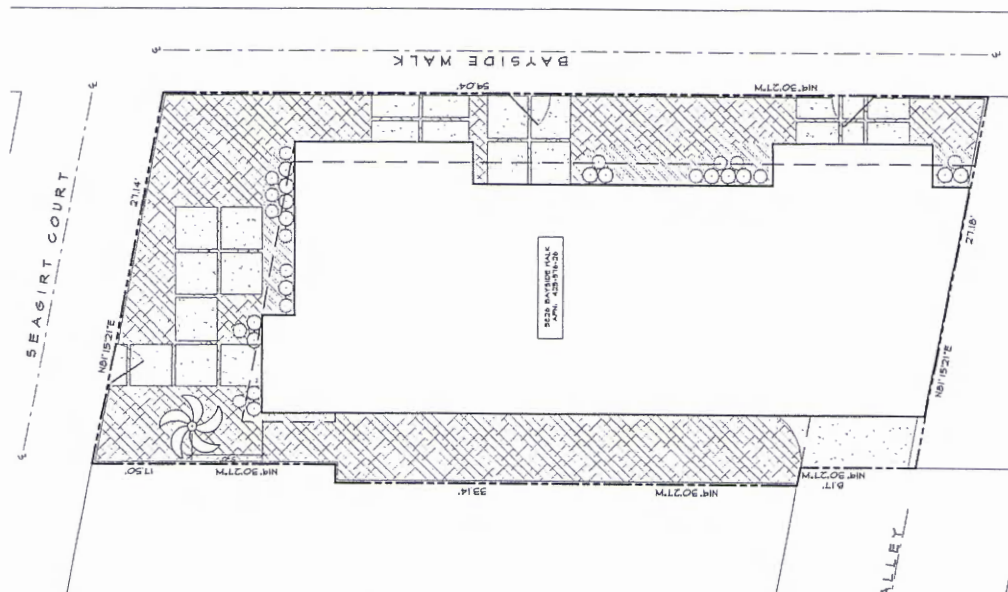
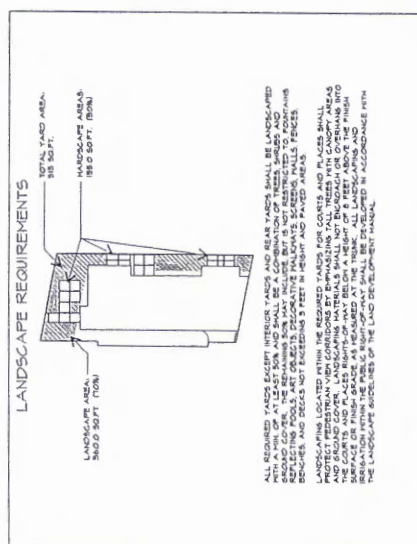
[illegible]

NOTES:

[illegible]

Prepared By: Ricardo Torres
 Gobo Architecture
 1440 Garnet Ave., Suite 100
 San Diego, CA 92104
 Office: (619) 231-1105
 Fax: (656) 750-3471
 Project Address: 3826 BAYSIDE WALK
 SAN DIEGO, CA 92104
 Project Name: GARSZCZENSKI RESIDENCE
 Revision 10: Revision 9: Revision 8: Revision 7: Revision 6: Revision 5: Revision 4: Revision 3: Revision 2: Revision 1: Original Date: 12/10/01
 Sheet 10 of 10

Sheet Title:
LANDSCAPE
DEVELOPMENT
PLAN

[illegible]

LANDSCAPE CALCS:

TOTAL REGD YARD AREA:	315.0 SQ. FT.
TOTAL LANDSCAPED AREA:	500.0 SQ. FT.
TOTAL HARDSCAPE AREA:	185.0 SQ. FT.

SQ. X TOTAL REGD YARD AREA (185.0 SQ. FT.) = 2513.50 SQ. FT.
REGD LANDSCAPED

TOTAL LANDSCAPED AREA (500.0 SQ. FT.) = 2513.50 SQ. FT. REGD

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004289

COASTAL DEVELOPMENT PERMIT NO. 1235369
VARIANCE NO. 1264938
GARBACZEWSKI RESIDENCE - PROJECT NO. 352168
HEARING OFFICER

This Coastal Development Permit No. 1235369 and Variance No. 1264938 are granted by the Hearing Officer of the City of San Diego to the GARBACZEWSKI FAMILY TRUST, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] Sections 126.0708 and 126.0805. The 0.037-acre site located at 3826 Bayside Walk, east of Mission Boulevard and on the southwestern corner of Seagirt Court and Bayside Walk, in the R-N Zone within the Mission Beach Planned District, Mission Beach Precise Plan and Local Coastal Program Area, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, the First Public Roadway, Parking Impact Overlay Zone (Beach Impact Area), Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone. The project site is legally described as: Parcel 3 of Parcel Map No. 13539, in the City of San Diego, County of San Diego, State of California, as per Map filed in the Office of the County Recorder of San Diego County, November 9, 1984.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the demolition of an existing single-family dwelling unit and to construct a new single-family dwelling unit, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 11, 2014, on file in the Development Services Department.

The project shall include:

- a. Demolition of a single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements;

- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Construction of associated site improvements (i.e. hardscape, fences and site walls);
- e. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption; and
- f. Public and private necessary improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

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 _____, 2017.
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 construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices (BMPs) necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

13. 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.

14. 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.

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

16. Prior to the issuance of any building permit, the Owner/Permittee shall remove all existing private improvements from Seagirt Court and Bayside Walk rights-of-way, satisfactory to the City Engineer.

GEOLOGY REQUIREMENTS:

17. 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.

LANDSCAPE REQUIREMENTS:

18. Prior to the issuance of any construction permit, the Owner/Permittee shall submit complete construction documents consistent with the Land Development Manual to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department.

19. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A," Landscape Development Plan.

20. Prior to Final Inspection, the Owner/Permittee shall install all required landscape and obtain all required landscape inspections.

21. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or a Final Landscape Inspection, whichever occurs earlier.

22. The Owner/Permittee shall replace any required planting that dies within 3 years of installation, within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan.

PLANNING/DESIGN REQUIREMENTS:

23. Owner/Permittee shall maintain a minimum of one (1) off-street parking space 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.

24. 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.

25. Prior to the issuance of building permits, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption.

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

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

27. Prior to the issuance of any construction permit the Owner/Permittee shall assure, by permit and bond, the installation of an appropriate above ground private backflow prevention device for each water service (domestic, fire, and irrigation) serving the property.

28. Prior to the issuance of any building permit, the Owner/Permittee shall ensure that the sewer lateral proposed for reuse has been located, internally inspected, and recorded via CCTV by a California (CA) Licensed Plumbing Contractor for the purpose of verifying to the satisfaction of the Director of Public Utilities and the City Engineer that the sewer lateral does not cross any property lines, that it is not being utilized by any other property, and that it is properly connected to the sewer main.

29. All proposed private sewer and water facilities must be designed and installed in accordance with the current California Plumbing Code and will be reviewed as part of the building permit plan check process.

30. No trees or shrubs exceeding three (3) feet in height at maturity shall exist within five (5) feet of any public water facilities, or within ten (10) feet of any public sewer facilities.

INFORMATION ONLY:

- The issuance of this discretionary use permit 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 Hearing Officer of the City of San Diego on June 11, 2014, pursuant to Resolution No. HO-_____.

Permit Type/PTS Approval No.: CDP No. 1235369/VAR No. 1264938
Date of Approval: June 11, 2014

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Jeffrey A. Peterson
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.**

GARBACZEWSKI FAMILY TRUST
Owner/Permittee

By _____
John Garbaczewski, Trustee

GARBACZEWSKI FAMILY TRUST
Owner/Permittee

By _____
Colleen Garbaczewski, Trustee

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

HEARING OFFICER
RESOLUTION NO. HO-_____
COASTAL DEVELOPMENT PERMIT NO. 1235369
VARIANCE NO. 1264938
GARBACZEWSKI RESIDENCE - PROJECT NO. 352168

WHEREAS, GARBACZEWSKI FAMILY TRUST, Owner and Permittee, filed an application with the City of San Diego for a permit for the demolition of a single-family dwelling unit and construction of a two-story single-family dwelling unit, and accessory improvements (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permits No. 1235369 and 1264938), on a 0.037-acre site;

WHEREAS, the project site is located at 3826 Bayside Walk, east of Mission Boulevard and on the southwestern corner of Seagirt Court and Bayside Walk, in the R-N Zone within the Mission Beach Planned District, Mission Beach Precise Plan and Local Coastal Program Area, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, the First Public Roadway, Parking Impact Overlay Zone (Beach Impact Area), Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone;

WHEREAS, the project site is legally described as Parcel 3 of Parcel Map No. 13539, in the City of San Diego, County of San Diego, State of California, as per Map filed in the Office of the County Recorder of San Diego County, November 9, 1984;

WHEREAS, on June 11, 2014, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 1235369 and Variance No. 1264938 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on April 22, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15302 (Replacement or Reconstruction) and Section 15303 (New Construction), and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated June 11, 2014.

FINDINGS:

I. Coastal Development Permit - Section 126.0708(a)

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 0.037-acre site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit. The property is located approximately 238-feet from the Pacific Ocean and 55-feet from the shoreline of Mission Bay. The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay. Bayside Walk at this location is not designated as a physical accessway. Although no specific views are identified through the project site in the Mission Beach Precise Plan (MBPP) and Local Coastal Program (LCP), the plan states that views to, and along the shoreline from public areas shall be protected from blockage by development and or vegetation.

Views to Mission Bay are from Seagirt Court and through the property, which are currently obstructed by existing landscape and fences. The project proposes a 3-foot fence and gates along Seagirt Court and Bayside Walk, and the proposed landscaping will enhance the views from and along the public right-of-way. In addition, the project proposes a maximum building height of 26-feet 9-inches; therefore, the building and any projections will not exceed the maximum 30 foot height limit allowed by the Coastal Height Limitation Overlay Zone (CHLOZ).

The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor. The property fronts on approximate eight (8) feet of an existing dead-end utility alley, and the access to the garage would be from this alley. This condition, referred to here-in as "virtual land-locked parcels" (VLP) was a mapping situation that was created 1809 when the original mapping was developed for Mission Beach, specifically in north Mission Beach, where dead-end finger utility alleys were designed to reach the last bay or ocean front lots at the end of these 16-foot wide alleys. The MBPP identifies these alleys as strictly utilitarian (Page 18).

In many cases, lots have been developed utilizing an accumulations of these lots to create larger parcels. However, there are still approximately 20 of these originally mapped parcels in Mission Beach that created this condition of a rear yard that contains a common property line with an adjacent parcel. In addition, the Mission Beach Planned District Ordinance (MBPDO) acknowledges and addresses the complication of these VLP lots being developed independently, such as allowing one parking space per dwelling unit for lots abutting Ocean Front Walk or Bayside Walk with less than 10 feet of vehicular access on a street or alley (LDC Section 1513.0403(b)(A)(ii)).

Other than the requested variance, the project meets all applicable regulations and policy documents, and is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site. Therefore, the development would not encroach upon any existing or proposed physical accessway, and it will protect and enhance the public views to the Pacific Ocean and Mission Bay or other scenic coastal areas as specified in the Local Coastal Program.

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

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The property is located approximately 238-feet from the Pacific Ocean and 55-feet from the shoreline of Mission Bay. The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay. The site is approximately 7-feet above Mean Sea Level (MSL) and is located above the 100-year floodplain. The site is not within or adjacent to the Multiple Species Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA) and does not contain any other type of Environmental Sensitive Lands (ESL) as defined in LDC 113.0103.

The City of San Diego conducted an environmental review of this site in accordance with State of California Environmental Quality Act (CEQA) guidelines. The project was determined to be categorically exempt from CEQA pursuant to Section 15302 (Replacement or Reconstruction) and Section 15303 (New Construction). Therefore, it has been determined that the development does not contain environmentally sensitive lands and would not adversely affect these resources.

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; and

The 0.037-acre site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The property is located approximately 238-feet from the Pacific Ocean and 55-feet from the shoreline of Mission Bay. The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay. Bayside Walk at this location is not designated as a physical accessway. Although no specific views are identified through the project site in the MBPP and LCP, the plan states that views to, and along the shoreline from public areas shall be protected from blockage by development and or vegetation. The MBPP identifies the alleys as strictly utilitarian (Page 18); therefore, is not considered as an area for views to and along the shoreline.

Views to Mission Bay are from Seagirt Court and through the property, which are currently obstructed by existing landscape and fences. The project proposes a 3-foot fence and gates along Seagirt Court and Bayside Walk, and the proposed landscaping will enhance the views from and along the public right-of-way. In addition, the project proposes a maximum building height of 26-feet 9-inches; therefore, the building and any projections will not exceed the maximum 30 foot height limit allowed by the CHLOZ. Therefore, the development is in conformity with the certified Local Coastal Program land use plan and complies 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 0.037-acre site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The property is located approximately 238-feet from the Pacific Ocean and 55-feet from the shoreline of Mission Bay. The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay and the proposed development would be on private property.

The project meets all applicable regulations and policy documents, and is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site regarding public access to the water, public recreation facilities, or public parking facilities, and would not be adversely affected by the approval of this development. Therefore, the proposed development has demonstrated conformance with the public access and recreation policies of the California Coastal Act as required by this finding.

II. Variance - Section 126.0805

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

The 0.037-acre site is a rectangular shaped lot that is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The portion of the property fronting on Seagirt Court is classified as the front setback, Bayside Walk is classified as a street side setback, and the southern property line is classified as the rear setback. LDC Section 1513.0304(c)(6) requires a minimum rear yard that abuts an interior of rear yard of an adjacent lot to comply with LDC Section 1513.0304(c)(3), which is a minimum six (6) foot setback within the R-N Zone.

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor. The property fronts on approximate eight (8) feet of an existing dead-end utility alley, and the access to the garage would be from this alley. This VLP condition was a mapping situation that was created 1809 when the original mapping was developed for Mission Beach, specifically in north Mission Beach, where dead-end finger utility alleys were designed to reach the last bay or ocean front lots at the end of these 16-foot wide alleys. In many cases, lots have been developed utilizing

an accumulations of these lots to create larger parcels. However, there are still approximately 20 of these originally mapped parcels in Mission Beach that created this condition of a rear yard that contains a common property line with an adjacent parcel. In addition, the MBPDO acknowledges and addresses the complication of these VLP lots being developed independently, such as allowing the one parking space per dwelling unit for lots abutting Ocean Front Walk or Bayside Walk with less than 10 feet of vehicular access on a street or alley (LDC Section 1513.0403(b)(A)(ii)). Therefore, this special circumstance and/or condition applying to the land or premise have not resulted from any act of the applicant after the adoption of the applicable zone regulations.

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

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor. The property fronts on approximate eight (8) feet of an existing dead-end utility alley, and the access to the garage would be from this alley. The MBPP identifies these alleys as strictly utilitarian (Page 18).

This VLP condition was a mapping situation that was created 1809 when the original mapping was developed for Mission Beach. The MBPDO acknowledges and addresses the complication of these VLP lots being developed independently. The strict application of the regulations would deprive the applicant the ability to replace the existing garage and would deprive the applicant of reasonable use of the land or premises as allowed by other VLPs within the surrounding community. The variance to allow for a zero (0) foot rear yard setback is the minimum variance that will permit the reasonable use of the land or premises.

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; and

The 0.037-acre site is a rectangular shaped lot that is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The portion of the property fronting on Seagirt Court is classified as the front setback, Bayside Walk is classified as a street side setback, and the southern property line is classified as the rear setback. LDC Section 1513.0304(c)(6) requires a minimum rear yard that abuts an interior of rear yard of an adjacent lot to comply with LDC Section 1513.0304(c)(3), which is a minimum six (6) foot setback within the R-N Zone.

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of

a one-car garage on the ground floor and a portion of the second floor. The property fronts on approximate eight (8) feet of an existing dead-end utility alley, and the access to the garage would be from this alley. This VLP condition was a mapping situation that was created 1809 when the original mapping was developed for Mission Beach, specifically in north Mission Beach, where dead-end utility alleys were designed to provide the last bay or ocean front lots at the end of these 16-foot wide alleys. The MBPP identifies the alleys as strictly utilitarian (Page 18).

The MBPDO acknowledges and addresses the complication of these VLP lots being developed independently, and the general purpose and intent of the six (6) foot setback regulation was not intended for adjacent VLP lots. The VLP lot was designed to have a common wall or zero (0) foot setback with the adjacent VLP lot, which this common wall would be required to comply with the California Building Code. In addition, the City of San Diego conducted an environmental review of this site in accordance with State of California Environmental Quality Act (CEQA) guidelines. The project was determined to be categorically exempt from CEQA pursuant to Section 15302 (Replacement or Reconstruction) and Section 15303 (New Construction). Therefore, 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.

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

The 0.037-acre site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The property is in the R-N Zone in the Mission Beach Planned District (MBPD) within the MBPP and LCP, Coastal Overlay Zone (Appealable Area), CHLOZ, and the First Public Roadway. The zoning designation allows for one residential dwelling unit per 1,200 square feet of lot area and the MBPP designates the proposed project site for residential land use at a maximum 36 dwelling units per acre (DU/AC). The project site, occupying 0.037-acres (or 1,620-square feet), could accommodate one dwelling units based on the underlying zone, and one dwelling unit for a density of approximately 27 DU/AC based on the designated use and density in the community plan.

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor. In addition, the project proposes a maximum building height of 26-feet 9-inches; therefore, the building and any projections will not exceed the maximum 30 foot height limit allowed by the CHLOZ.

With the approval of the variance request in conjunction with the proposed coastal development, the project would met all applicable regulations and policy documents, and is consistent with the recommended land use, design guidelines, and development standards in

effect for this site per the LDC, the provisions of the certified land use plan, and the General Plan.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Development Services Department, Coastal Development Permit No. 1235369 and Variance No. 1264938 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1235369 and No. 1264938 a copy of which is attached hereto and made a part hereof.

Jeffrey A. Peterson
Development Project Manager
Development Services Department

Adopted on: June 11, 2014

Internal Order No. 24004289



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101

Community Planning Committee Distribution Form Part 2

Project Name: Garbaczewski Residence CDP		Project Number: 352168	Distribution Date: 1/17/2014
Project Scope/Location: MISSION BEACH IO#24004289 *SUSTAINABLE BLDG EXPEDITE PROGRAM* Coastal Development Permit (Process 3) to demolish a residence and construct a 1,440 sq ft single family residence located at 3826 Bayside Walk. The 1,620 sq ft site is in the Mission Beach Planned District R-N zone of the Mission Beach Community Plan area and Coastal (appealable area). Council District 2. Notice Cards=1.			
Applicant Name: Ricardo Torres		Applicant Phone Number: (619) 231-9905	
Project Manager: Jeff Peterson	Phone Number: (619) 446-5237	Fax Number: (619) 446-5245	E-mail Address: JAPeterson@sandiego.gov
Committee Recommendations (To be completed for Initial Review):			
<input checked="" type="checkbox"/> Vote to Approve <i>PROJECT VARIANCE</i>	Members Yes 8	Members No 0	Members Abstain 0
<input type="checkbox"/> Vote to Approve With Conditions Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Deny	Members Yes	Members No	Members Abstain
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			<input type="checkbox"/> Continued
CONDITIONS:			
NAME: <i>DENNIS LYNCH</i>		TITLE: <i>PLAN REVIEWER</i>	
SIGNATURE: <i>Dennis Lynch</i>		DATE: <i>APRIL 19, 2014</i>	
Attach Additional Pages If Necessary.		Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101	
Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services . Upon request, this information is available in alternative formats for persons with disabilities.			

NOTICE OF EXEMPTION

(Check one or both)

TO: X RECORDER/COUNTY CLERK
 P.O. Box 1750, MS A-33
 1600 PACIFIC HWY, ROOM 260
 SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO
 DEVELOPMENT SERVICES DEPARTMENT
 1222 FIRST AVENUE, MS 501
 SAN DIEGO, CA 92101

 OFFICE OF PLANNING AND RESEARCH
 1400 TENTH STREET, ROOM 121
 SACRAMENTO, CA 95814

PROJECT TITLE/No.: **Garbaczewski Residence CDP / 352168**

PROJECT LOCATION-SPECIFIC: 3826 Bayside Walk, San Diego, California 92109

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: COASTAL DEVELOPMENT PERMIT to demolish an existing single-story, single-dwelling residence and construct a 1,431-square-foot, two-story, single-dwelling residence and various associated site improvements (e.g. hardscape, landscaping, and decks). A setback deviation is being requested for a zero setback only at the ground floor where the Mission Beach Planned District R-N zone requires a minimum of 6'-0" at the rear and interior yard. The site is located at 3826 Bayside Walk. The land use designation for the project site is Residential per the community plan. Furthermore, the project site is located within the R-N zone, 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 Transit Area Overlay Zone, and the Mission Beach Precise Plan and Local Coastal Program area. (LEGAL DESCRIPTION: Parcel 3 of Parcel Map No. 13539).

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: John & Colleen Garbaczewski, 334 Old Stage Coach Run, Alpine, California 91901, (619) 231-9905

EXEMPT STATUS: (CHECK ONE)

- ☐ MINISTERIAL (SEC. 21080(b)(1); 15268)
- ☐ DECLARED EMERGENCY (SEC. 21080(b)(3); 15269(a))
- ☐ EMERGENCY PROJECT (SEC. 21080(b)(4); 15269 (b)(c))
- ☒ CATEGORICAL EXEMPTION: 15302 (Replacement or Reconstruction) / 15303 (New Construction)
- ☐ STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: The City of San Diego conducted an environmental review that determined that the project would not have the potential for causing a significant effect on the environment in that the project is consistent with the community plan and the applicable zone. The project would not result in any significant environmental impacts. The project meets the criteria set forth in CEQA Sections 15302 and 15303. Section 15302 allows for the replacement or reconstruction of existing structures where the new structure will have substantially the same purpose and capacity as the structure replaced. Section 15303 allows for the construction of one single-family residence in a residential zone. Furthermore, the exceptions listed in 15300.2 would not apply.

LEAD AGENCY CONTACT PERSON: Scott Cooper

TELEPHONE: 619.446.5378

IF FILED BY APPLICANT:

1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.

2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?

() YES () NO

IT IS HEREBY CERTIFIED THAT THE CITY OF SAN DIEGO HAS DETERMINED THE ABOVE ACTIVITY TO BE EXEMPT FROM CEQA.

C. S. [Signature], Sr. Planner
SIGNATURE/TITLE

APRIL 22, 2014

DATE

CHECK ONE:

☒ SIGNED BY LEAD AGENCY

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:

() SIGNED BY APPLICANT



THE CITY OF SAN DIEGO

Date of Notice: April 23, 2014

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24004289

PROJECT NAME/NUMBER: Garbaczewski Residence CDP / 352168

COMMUNITY PLAN AREA: Mission Beach

COUNCIL DISTRICT: 2

LOCATION: 3826 Bayside Walk, San Diego, California 92109

PROJECT DESCRIPTION: COASTAL DEVELOPMENT PERMIT to demolish an existing single-story, single-dwelling residence and construct a 1,431-square-foot, two-story, single-dwelling residence and various associated site improvements (e.g. hardscape, landscaping, and decks). A setback deviation is being requested for a zero setback only at the ground floor where the Mission Beach Planned District R-N zone requires a minimum of 6'-0" at the rear and interior yard. The site is located at 3826 Bayside Walk. The land use designation for the project site is Residential per the community plan. Furthermore, the project site is located within the R-N zone, 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 Transit Area Overlay Zone, and the Mission Beach Precise Plan and Local Coastal Program area. (LEGAL DESCRIPTION: Parcel 3 of Parcel Map No. 13539).

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Hearing Officer

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to CEQA State Guidelines, Sections 15302 (Replacement or Reconstruction) and 15303 (New Construction).

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The City of San Diego conducted an environmental review that determined that the project would not have the potential for causing a significant effect on the environment in that the project is consistent with the community plan and the applicable zone. The project would not result in any significant environmental impacts. The project meets the criteria set forth in CEQA Sections 15302 and 15303. Section 15302 allows for the replacement or reconstruction of existing structures where the new structure will have substantially the same purpose and capacity as the structure replaced. Section 15303 allows for the construction of one single-family residence in a residential zone. Furthermore,

the exceptions listed in 15300.2 would not apply.

DEVELOPMENT PROJECT MANAGER: Jeff Peterson
MAILING ADDRESS: 1222 First Avenue, MS501, San Diego, CA 92101
PHONE NUMBER: 619.446.5237

On April 21, 2014 the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (May 7, 2014). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.



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

THE CITY OF SAN DIEGO

Ownership Disclosure Statement

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

Project Title

Garbaczewski Residence

Project No. For City Use Only

352168

Project Address:

3826 Bayside Walk, San Diego, CA 92109

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

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

Additional pages attached ☐ Yes ☒ No

Name of Individual (type or print):

John Garbaczewski

☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

334 Old Stage Coach Run

City/State/Zip:

Alpine, CA 91901

Phone No:

(619) 231-9905

Fax No:

Signature :

Date:

12/03/2013

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

Colleen Garbaczewski

☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

334 Old Stage Coach Run

City/State/Zip:

Alpine, CA 91901

Phone No:

(619) 231-9905

Fax No:

Signature :

Date:

12/03/2013

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

DEVELOPMENT SERVICES DEPARTMENT
PROJECT CHRONOLOGY
GARBACZEWSKI RESIDENCE - PROJECT NO. 352168

Date	Action	Description	City Review Time (Working Days)	Applicant Response
1/17/2014	First Submittal	Project Deemed Complete	-	-
2/12/2014	First Assessment Letter		17 days	
3/25/2014	Second Submittal			28 days
4/8/2014	Second Assessment Letter		9 days	
4/17/2014	Third Submittal			6 days
4/23/2014	Third Review Completed	All issues resolved.	4 days	
4/23/2014	NORA Posted		-	
5/7/2014	NORA	Appeal period end		10 days
6/11/2014	Public Hearing	First available date.	24 days	
TOTAL STAFF TIME		(Does not include City Holidays or City Furlough)	54 days	
TOTAL APPLICANT TIME		(Does not include City Holidays or City Furlough)		42 days
TOTAL PROJECT RUNNING TIME		From Deemed Complete to Hearing	96 working days (145 calendar days)	

HEARING OFFICER
RESOLUTION NO. HO-6720
COASTAL DEVELOPMENT PERMIT NO. 1235369
VARIANCE NO. 1264938
GARBACZEWSKI RESIDENCE - PROJECT NO. 352168

RECEIVED

JUN 30 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

WHEREAS, GARBACZEWSKI FAMILY TRUST, Owner and Permittee, filed an application with the City of San Diego for a permit for the demolition of a single-family dwelling unit and construction of a two-story single-family dwelling unit, and accessory improvements (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permits No. 1235369 and 1264938), on a 0.037-acre site;

WHEREAS, the project site is located at 3826 Bayside Walk, east of Mission Boulevard and on the southwestern corner of Seagirt Court and Bayside Walk, in the R-N Zone within the Mission Beach Planned District, Mission Beach Precise Plan and Local Coastal Program Area, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, the First Public Roadway, Parking Impact Overlay Zone (Beach Impact Area), Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone;

WHEREAS, the project site is legally described as Parcel 3 of Parcel Map No. 13539, in the City of San Diego, County of San Diego, State of California, as per Map filed in the Office of the County Recorder of San Diego County, November 9, 1984;

WHEREAS, on June 11, 2014, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 1235369 and Variance No. 1264938 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on April 22, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15302 (Replacement or Reconstruction) and Section 15303 (New Construction), and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated June 11, 2014.

FINDINGS:

I. Coastal Development Permit - Section 126.0708(a)

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 scenic coastal areas as specified in the Local Coastal Program land use plan;

EXHIBIT NO. 10
APPLICATION NO.
A-6-MBE-14-40
Local Coastal
Development Perm

The 0.037-acre site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. [The property is located approximately 238-feet from the Pacific Ocean and 55-feet from the shoreline of Mission Bay.] The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay. Bayside Walk at this location is not designated as a physical accessway. Although no specific views are identified through the project site in the Mission Beach Precise Plan (MBPP) and Local Coastal Program (LCP), the plan states that views to, and along the shoreline from public areas shall be protected from blockage by development and or vegetation.

Views to Mission Bay are from Seagirt Court and through the property, which are currently obstructed by existing landscape and fences. The project proposes a 3-foot fence and gates along Seagirt Court and Bayside Walk, and the proposed landscaping will enhance the views from and along the public right-of-way. In addition, the project proposes a maximum building height of 26-feet 9-inches; therefore, the building and any projections will not exceed the maximum 30 foot height limit allowed by the Coastal Height Limitation Overlay Zone (CHLOZ).

The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor. The property fronts on approximate eight (8) feet of an existing dead-end utility alley, and the access to the garage would be from this alley. This condition, referred to here-in as "virtual land-locked parcels" (VLP) was a mapping situation that was created 1809 when the original mapping was developed for Mission Beach, specifically in north Mission Beach, where dead-end finger utility alleys were designed to reach the last bay or ocean front lots at the end of these 16-foot wide alleys. The MBPP identifies these alleys as strictly utilitarian (Page 18).

In many cases, lots have been developed utilizing an accumulations of these lots to create larger parcels. However, there are still approximately 20 of these originally mapped parcels in Mission Beach that created this condition of a rear yard that contains a common property line with an adjacent parcel. In addition, the Mission Beach Planned District Ordinance (MBPDO) acknowledges and addresses the complication of these VLP lots being developed independently, such as allowing one parking space per dwelling unit for lots abutting Ocean Front Walk or Bayside Walk with less than 10 feet of vehicular access on a street or alley (LDC Section 1513.0403(b)(A)(ii)).

Other than the requested variance, the project meets all applicable regulations and policy documents, and is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site. Therefore, the development would not encroach upon any existing or proposed physical accessway, and it will protect and enhance the public views to the Pacific Ocean and Mission Bay or other scenic coastal areas as specified in the Local Coastal Program.

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

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The property is located approximately 238-feet from the Pacific Ocean and 55-feet from the shoreline of Mission Bay. The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay. The site is approximately 7-feet above Mean Sea Level (MSL) and is located above the 100-year floodplain. The site is not within or adjacent to the Multiple Species Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA) and does not contain any other type of Environmental Sensitive Lands (ESL) as defined in LDC 113.0103.

The City of San Diego conducted an environmental review of this site in accordance with State of California Environmental Quality Act (CEQA) guidelines. The project was determined to be categorically exempt from CEQA pursuant to Section 15302 (Replacement or Reconstruction) and Section 15303 (New Construction). Therefore, it has been determined that the development does not contain environmentally sensitive lands and would not adversely affect these resources.

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; and

The 0.037-acre site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The property is located approximately 238-feet from the Pacific Ocean and 55-feet from the shoreline of Mission Bay. The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay. Bayside Walk at this location is not designated as a physical accessway. Although no specific views are identified through the project site in the MBPP and LCP, the plan states that views to, and along the shoreline from public areas shall be protected from blockage by development and or vegetation. The MBPP identifies the alleys as strictly utilitarian (Page 18); therefore, is not considered as an area for views to and along the shoreline.

Views to Mission Bay are from Seagirt Court and through the property, which are currently obstructed by existing landscape and fences. The project proposes a 3-foot fence and gates along Seagirt Court and Bayside Walk, and the proposed landscaping will enhance the views from and along the public right-of-way. In addition, the project proposes a maximum building height of 26-feet 9-inches; therefore, the building and any projections will not exceed the maximum 30 foot height limit allowed by the CHLOZ. Therefore, the development is in conformity with the certified Local Coastal Program land use plan and complies 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 0.037-acre site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The property is located approximately 238-feet from the Pacific Ocean and 55-feet from the shoreline of Mission Bay. The property is located between the bay and Bayside Lane, which is identified as the first public roadway paralleling the bay and the proposed development would be on private property.

The project meets all applicable regulations and policy documents, and is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site regarding public access to the water, public recreation facilities, or public parking facilities, and would not be adversely affected by the approval of this development. Therefore, the proposed development has demonstrated conformance with the public access and recreation policies of the California Coastal Act as required by this finding.

II. Variance - Section 126.0805

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

The 0.037-acre site is a rectangular shaped lot that is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The portion of the property fronting on Seagirt Court is classified as the front setback, Bayside Walk is classified as a street side setback, and the southern property line is classified as the rear setback. LDC Section 1513.0304(c)(6) requires a minimum rear yard that abuts an interior of rear yard of an adjacent lot to comply with LDC Section 1513.0304(c)(3), which is a minimum six (6) foot setback within the R-N Zone.

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor. The property fronts on approximate eight (8) feet of an existing dead-end utility alley, and the access to the garage would be from this alley. This VLP condition was a mapping situation that was created 1809 when the original mapping was developed for Mission Beach, specifically in north Mission Beach, where dead-end finger utility alleys were designed to reach the last bay or ocean front lots at the end of these 16-foot wide alleys. In many cases, lots have been developed utilizing

an accumulations of these lots to create larger parcels. However, there are still approximately 20 of these originally mapped parcels in Mission Beach that created this condition of a rear yard that contains a common property line with an adjacent parcel. In addition, the MBPDO acknowledges and addresses the complication of these VLP lots being developed independently, such as allowing the one parking space per dwelling unit for lots abutting Ocean Front Walk or Bayside Walk with less than 10 feet of vehicular access on a street or alley (LDC Section 1513.0403(b)(A)(ii)). Therefore, this special circumstance and/or condition applying to the land or premise have not resulted from any act of the applicant after the adoption of the applicable zone regulations.

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

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor. The property fronts on approximate eight (8) feet of an existing dead-end utility alley, and the access to the garage would be from this alley. The MBPP identifies these alleys as strictly utilitarian (Page 18).

This VLP condition was a mapping situation that was created 1809 when the original mapping was developed for Mission Beach. The MBPDO acknowledges and addresses the complication of these VLP lots being developed independently. The strict application of the regulations would deprive the applicant the ability to replace the existing garage and would deprive the applicant of reasonable use of the land or premises as allowed by other VLPs within the surrounding community. The variance to allow for a zero (0) foot rear yard setback is the minimum variance that will permit the reasonable use of the land or premises.

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; and

The 0.037-acre site is a rectangular shaped lot that is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The portion of the property fronting on Seagirt Court is classified as the front setback, Bayside Walk is classified as a street side setback, and the southern property line is classified as the rear setback. LDC Section 1513.0304(c)(6) requires a minimum rear yard that abuts an interior of rear yard of an adjacent lot to comply with LDC Section 1513.0304(c)(3), which is a minimum six (6) foot setback within the R-N Zone.

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of

a one-car garage on the ground floor and a portion of the second floor. The property fronts on approximate eight (8) feet of an existing dead-end utility alley, and the access to the garage would be from this alley. This VLP condition was a mapping situation that was created 1809 when the original mapping was developed for Mission Beach, specifically in north Mission Beach, where dead-end finger utility alleys were designed to reach the last bay or ocean front lots at the end of these 16-foot wide alleys. The MBPP identifies the alleys as strictly utilitarian (Page 18).

The MBPDO acknowledges and addresses the complication of these VLP lots being developed independently, and the general purpose and intent of the six (6) foot setback regulation was not intended for adjacent VLP lots. The VLP lot was designed to have a common wall or zero (0) foot setback with the adjacent VLP lot, which this common wall would be required to comply with the California Building Code. In addition, the City of San Diego conducted an environmental review of this site in accordance with State of California Environmental Quality Act (CEQA) guidelines. The project was determined to be categorically exempt from CEQA pursuant to Section 15302 (Replacement or Reconstruction) and Section 15303 (New Construction). Therefore, 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.

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

The 0.037-acre site is located at 3826 Bayside Walk, on the southwestern corner of Seagirt Court and Bayside Walk, east of Mission Boulevard. The property is in the R-N Zone in the Mission Beach Planned District (MBPD) within the MBPP and LCP, Coastal Overlay Zone (Appealable Area), CHLOZ, and the First Public Roadway. The zoning designation allows for one residential dwelling unit per 1,200 square feet of lot area and the MBPP designates the proposed project site for residential land use at a maximum 36 dwelling units per acre (DU/AC). The project site, occupying 0.037-acres (or 1,620-square feet), could accommodate one dwelling units based on the underlying zone, and one dwelling unit for a density of approximately 27 DU/AC based on the designated use and density in the community plan.

The project proposes the demolition of the single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements. The project includes a variance request to allow for a zero (0) foot rear yard setback where six (6) feet is required by the zone to allow the construction of a one-car garage on the ground floor and a portion of the second floor. In addition, the project proposes a maximum building height of 26-feet 9-inches; therefore, the building and any projections will not exceed the maximum 30 foot height limit allowed by the CHLOZ.

With the approval of the variance request in conjunction with the proposed coastal development, the project would met all applicable regulations and policy documents, and is consistent with the recommended land use, design guidelines, and development standards in

effect for this site per the LDC, the provisions of the certified land use plan, and the General Plan.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Development Services Department, Coastal Development Permit No. 1235369 and Variance No. 1264938 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1235369 and No. 1264938 a copy of which is attached hereto and made a part hereof.

Jeffrey A. Peterson
Development Project Manager
Development Services Department

Adopted on: June 11, 2014

Internal Order No. 24004289

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004289

COASTAL DEVELOPMENT PERMIT NO. 1235369
VARIANCE NO. 1264938
GARBACZEWSKI RESIDENCE - PROJECT NO. 352168
HEARING OFFICER

This Coastal Development Permit No. 1235369 and Variance No. 1264938 are granted by the Hearing Officer of the City of San Diego to the GARBACZEWSKI FAMILY TRUST, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] Sections 126.0708 and 126.0805. The 0.037-acre site located at 3826 Bayside Walk, east of Mission Boulevard and on the southwestern corner of Seagirt Court and Bayside Walk, in the R-N Zone within the Mission Beach Planned District, Mission Beach Precise Plan and Local Coastal Program Area, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, the First Public Roadway, Parking Impact Overlay Zone (Beach Impact Area), Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone. The project site is legally described as: Parcel 3 of Parcel Map No. 13539, in the City of San Diego, County of San Diego, State of California, as per Map filed in the Office of the County Recorder of San Diego County, November 9, 1984.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the demolition of an existing single-family dwelling unit and to construct a new single-family dwelling unit, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 11, 2014, on file in the Development Services Department.

The project shall include:

- a. Demolition of a single-family dwelling unit and construction of a two-story, 1,178-square foot single-family dwelling unit, a 253-square foot garage, a roof deck, and accessory improvements;

- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Construction of associated site improvements (i.e. hardscape, fences and site walls);
- e. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption; and
- f. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

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 _____, 2017.
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 construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices (BMPs) necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

13. 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.

14. 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.

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

16. Prior to the issuance of any building permit, the Owner/Permittee shall remove all existing private improvements from Seagirt Court and Bayside Walk rights-of-way, satisfactory to the City Engineer.

GEOLOGY REQUIREMENTS:

17. 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.

LANDSCAPE REQUIREMENTS:

18. Prior to the issuance of any construction permit, the Owner/Permittee shall submit complete construction documents consistent with the Land Development Manual to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department.

19. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A," Landscape Development Plan.

20. Prior to Final Inspection, the Owner/Permittee shall install all required landscape and obtain all required landscape inspections.

21. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or a Final Landscape Inspection, whichever occurs earlier.

22. The Owner/Permittee shall replace any required planting that dies within 3 years of installation, within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan.

PLANNING/DESIGN REQUIREMENTS:

23. Owner/Permittee shall maintain a minimum of one (1) off-street parking space 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.

24. 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.

25. Prior to the issuance of building permits, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the project's projected energy consumption.

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

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

27. Prior to the issuance of any construction permit the Owner/Permittee shall assure, by permit and bond, the installation of an appropriate above ground private backflow prevention device for each water service (domestic, fire, and irrigation) serving the property.

28. Prior to the issuance of any building permit, the Owner/Permittee shall ensure that the sewer lateral proposed for reuse has been located, internally inspected, and recorded via CCTV by a California (CA) Licensed Plumbing Contractor for the purpose of verifying to the satisfaction of the Director of Public Utilities and the City Engineer that the sewer lateral does not cross any property lines, that it is not being utilized by any other property, and that it is properly connected to the sewer main.

29. All proposed private sewer and water facilities must be designed and installed in accordance with the current California Plumbing Code and will be reviewed as part of the building permit plan check process.

30. No trees or shrubs exceeding three (3) feet in height at maturity shall exist within five (5) feet of any public water facilities, or within ten (10) feet of any public sewer facilities.

INFORMATION ONLY:

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

APPROVED by the Hearing Officer of the City of San Diego on June 11, 2014, pursuant to Resolution No. HO-6720.

Permit Type/PTS Approval No.: CDP No. 1235369/VAR No. 1264938
Date of Approval: June 11, 2014

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Jeffrey A. Peterson
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.

GARBACZEWSKI FAMILY TRUST
Owner/Permittee

By _____
John Garbaczewski, Trustee

GARBACZEWSKI FAMILY TRUST
Owner/Permittee

By _____
Colleen Garbaczewski, Trustee

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

CALIFORNIA COASTAL COMMISSION

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

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

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

SECTION I. Appellant(s)

Name: Commission Chair Steve Kinsey

Mailing Address: 3501 Civic Center Dr, suite 329

City: San Rafael

Zip Code: 94903

Phone: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of San Diego

2. Brief description of development being appealed:

Demolition of an existing one-story single family residence and construction of a new two-story, 26' 9" tall, 1,437 square foot single family residence with attached one-car garage on a 1,620 square foot bayfront lot, with a variance to allow a zero foot rear yard setback where the certified Local Coastal Program requires a 6 foot setback.

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

3826 Bayside Walk
San Diego, CA 92109

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-MBE-14-0040

DATE FILED: 7-15-14

DISTRICT: San Diego

RECEIVED

JUL 15 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 11

APPLICATION NO.

A-6-MBE-14-40

Appeals

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: June 11, 2014

7. Local government's file number (if any): 352168

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:

Garbaczewski Family Trust
John & Colleen Garbaczewski
334 Old Stage Coach Run
Alpine, CA 91901

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)

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

The Mission Beach community is a compact but densely developed residential community on a peninsula that is intensely utilized by the public for beach access and recreational opportunities. Given the high densities and limited land, the certified Mission Beach Precise Plan and Planned District Ordinance both require protection of public view corridors. In the subject case, the City approved a variance to allow a zero (0) foot rear yard setback where six (6) feet would otherwise be required to allow the construction of a garage on the ground floor, along with a partial second-story residence on the proposed development. The decision/variance approval raises the following concerns:

- 1) The otherwise required rearyard setback would provide a public view corridor to the bay or ocean, especially when coupled with the abutting property;
- 2) Adverse precedent that could lead to cumulative loss of public view opportunities given that required yard setbacks serve as the primary tool of the certified LCP to provide public views;
- 3) Redevelopment of these landlocked parcels should resolve the historic encroachments and restore public views;
- 4) The required setbacks also serve to reduce bulk/scale of development, especially along public boardwalks; and
- 5) An open carport or alternative access could still provide reasonable parking accommodations.

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.

See attached exhibit

Signature of Appellant(s) or Authorized Agent

Date: 7-15-14

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: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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.)

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- The otherwise required rearyard setback would provide a public view corridor to the bay or ocean, especially when coupled with the abutting property;
- Adverse precedent that could lead to cumulative loss of public view opportunities given that required yard setbacks serve as the primary tool of the certified LCP to provide public views;
- Redevelopment of these landlocked parcels should resolve the historic encroachments and restore public views;
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SECTION V. Certification

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



Signed: _____
Appellant or Agent

Dated: July 14, 2014

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Dated: _____

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Commissioner Mary Shallenberger

Mailing Address: P.O. Box 354

City: Clements, CA

Zip Code: 95227

Phone: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of San Diego

2. Brief description of development being appealed:

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3826 Bayside Walk
San Diego, CA 92109

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

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

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TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-MBE-14-0040

DATE FILED: 7-15-14

DISTRICT: San Diego

RECEIVED

JUL 15 2014

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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

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

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

6. Date of local government's decision: June 11, 2014

7. Local government's file number (if any): 352168

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:

Garbaczewski Family Trust
John & Colleen Garbaczewski
334 Old Stage Coach Run
Alpine, CA 91901

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.

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

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- 4) The required setbacks also serve to reduce bulk/scale of development, especially along public boardwalks; and
- 5) An open carport or alternative access could still provide reasonable parking accommodations.

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.

See attached exhibit

Signature of Appellant(s) or Authorized Agent

Date: 7-15-14

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: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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.)

Note: The above description 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.

SECTION V. Certification

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

Signed: Mary K. Challenberger
Appellant or Agent

Date: _____

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____