

CALIFORNIA COASTAL COMMISSION

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Th9b

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180th Day: 12/21/2014
Staff: A. Dobson - LB
Staff Report: 8/20/2014
Hearing Date: 9/11/2014

STAFF REPORT: CONSENT CALENDAR

Application Number: 5-13-1370

Applicant: Elaine Landis

Project Location: 6505-6507 Ocean Front Walk, Playa Del Rey, City of Los Angeles, Los Angeles County

Project Description: Improvements to an existing beachfront duplex to include: 1. Construction of a 672 square foot 2-story seaward addition to the existing duplex; 2. Removal of the existing unpermitted deck on the beach in the public right-of-way; 3. Construction of a section of the Ocean Front Walk pathway in the public right-of-way immediately in front of the property line, according to City specifications.

Staff Recommendation: Approval with conditions

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Development.** This permit is only for the development described in coastal development permit No. 5-13-1370. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to the development governed by the coastal development permit No. 5-13-1370. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to changes in additions, use or height of the structure, and repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 5-13-1370 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
2. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.
3. **Construction Responsibilities and Debris Removal.**
By acceptance of this permit, the applicant agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:
 - a) No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wind or rain erosion and dispersion.
 - b) No construction materials, equipment, debris, or waste will be placed or stored on the beach or boardwalk areas seaward of the applicant's private property.

- c) All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.
- d) Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters or onto the beach, and more than fifty feet away from a storm drain, open ditch or surface waters.
- e) Any and all demolition/construction material shall be removed from the site (via the alley only) within ten days of completion of demolition/construction and disposed of at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- f) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the sea.
- g) Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.

4. **No Shoreline Protective Device.**

A. By acceptance of this permit, the applicant agrees, on behalf of themselves and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit 5-13-1370 including, but not limited to, the residence, garage, foundations, patio fences/walls, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, sea level rise, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this coastal development permit, including the residence, garage, and foundations, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

5. **Assumption of Risk.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, flooding, sea level rise, etc.; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and

employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

6. **Removal of Unpermitted Development.** The permittee shall remove the existing unpermitted deck located on the project site within 90 days of issuance of this permit. Within 30 days of removal of said deck, the permittee shall provide evidence (before and after photographs of the site of the deck) of the deck's removal to the Executive Director. The Executive Director may grant additional time for compliance with this condition for good cause. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

7. **Bird Strike Prevention.**

A. Ocean front deck windows and doors subject to this permit shall use materials designed to minimize bird-strikes. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any appliqués used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one appliqué for every 3 foot by 3 foot area) and the recommendations of the Executive Director. Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas and appliqués. All materials and appliqués shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications and as recommended by the Executive Director.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit final revised plans showing the location, design, height and materials of the beach-front sliding glass doors for the review and approval of the Executive Director. Said plans shall reflect the requirements of this special condition.

B. The permittee shall undertake development in accordance with the approval final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The applicant proposes to construct a 2 story, 672 square foot addition to an existing duplex on a beachfront lot in Playa del Rey, in the City of Los Angeles (**Exhibit 1**). The existing duplex is 21 feet 6 inches high and conforms to the height limit for structures in this area. The seaward addition would also be 21 feet 6 inches high. The duplex is divided into 2 separate floors; the first floor is one unit and the second floor is another unit. The 2 story 672 square foot addition will be an addition to both units, adding approximately 336 square feet to the seaward side of each unit. The proposed addition to the duplex has been reviewed and approved by the City of Los Angeles Planning Department (Case No. ZA

2013-4056 AIC), and is consistent with the R-3 Medium Residential zoning designation and the surrounding land uses of the Westchester/Playa Del Rey Community.

A 180 square foot synthetic wood deck encroaching 6 feet into the public right-of-way was permitted by the City of Los Angeles in April 2013, however the homeowner did not apply for a coastal development permit for the structure. Commission staff became aware of the unpermitted deck upon a site visit, after the application submittal for the construction of the addition to the duplex. The applicant has proposed to remove this deck as a part of this project.

The project site is situated on the inland side of Ocean Front Walk (the boardwalk), a 12-foot wide public right-of-way for a pedestrian walkway abutting the rear (seaward side) property lines on all properties along the beach in this location. The walkway is not constructed across all lots and is intermittent in its construction along this stretch of beach (**Exhibit 2**). Ocean Front Walk (OFW) boardwalk is not contiguous in this block, but is in the two blocks North of the site.

The homeowners with completed portions of the OFW boardwalk are given permission by the city, in the form of a Revocable Permit (R Permit), to temporarily encroach onto the boardwalk (ie. it can be used as a temporary patio space with no permanent or semi-permanent structures) until such a time that the entire length of the boardwalk is complete. The R permits grant conditional encroachment of the public right-of-way by private parties not authorized to occupy the right-of-way. The R Permit review process ensures that encroachments are checked for compliance with the City's specifications for design, use, materials, and inspections. The intent of the City is to complete the boardwalk upon redevelopment of each individual lot. Upon completion, the homeowners will be required by the city to remove their items from the public right-of-way and it will be open for public use. The applicant was not asked to secure an R permit as a condition of this permit, and does not currently have an R permit for the purposes of this project.

However, the applicant has secured a B-permit (LAMC 62.106.b) from the City of Los Angeles to construct the boardwalk to city specifications. A B-permit is issued for public work improvements, frequently issued for projects adjacent to land being developed. Construction plans are required prior to issuance, which must be signed by a California licensed Civil Engineer. The construction of the OFW boardwalk will take place after the removal of the unpermitted deck structure.

In this location, the City of Los Angeles allows development, including habitable structures, up to 1 foot of the rear (seaward side) property line (ORD 127701 BL). Existing structures in the immediate area have similar rear yard setbacks. With the new addition on the seaward side, upon completion of the OFW boardwalk there will be no opportunity to construct a private patio space or balcony in the future. The proposed sliding glass doors of the addition will be 1 foot away from the public boardwalk. The applicant is aware of this and wishes to proceed with the construction plans, as proposed. Development with a 1 foot setback is consistent with the character of this area and has been approved by past Commission permit action. A seaward addition of this size in this area will not negatively impact public coastal views, as the development will stay behind the 1 foot setback line.

The existing garage onsite meets Commission parking requirements. The project incorporates best management practices (BMPs) to improve water quality in the watershed by using downspouts and directing stormwater to infiltration areas. The permit has been conditioned to prohibit construction of protective devices (such as a seawall) in the future.

As conditioned, the proposed project is consistent with community character, and will have no negative effects on visual resources or coastal access. The project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act, and previous Commission approvals, and approval of the project as conditioned would not prejudice the City's ability to prepare a Local Coastal Program (LCP).

B. PUBLIC ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. PUBLIC RECREATION

The proposed development, as conditioned, does not interfere with public recreational use of coastal resources. The proposed development, as conditioned, protects coastal areas suited for recreational activities. Therefore, the Commission finds that the proposed development, as conditioned, is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

D. MARINE RESOURCES AND WATER QUALITY

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

E. DEVELOPMENT

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

F. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to prohibit construction of protective devices (such as a seawall) in the future. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

G. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site that includes the construction of a 180 square foot synthetic wood deck encroaching 6 feet into the public right-of-way. The applicant is proposing to construct an addition to the existing duplex on the subject property and has proposed to remove this deck as a part of this project. To ensure that the unpermitted development component of this application is resolved in a timely manner, Special Condition No. 6 requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action. The Executive Director may grant additional time for good cause.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

H. LOCAL COASTAL PROGRAM

Coastal Act Section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

In this case, the City of Los Angeles is the lead agency and the Commission is the responsible agency for the purposes of CEQA. On December 18, 2013, the City of Los Angeles Planning Department issued CEQA Categorical Exemption No. ENV-2013-4057-CE (Article III, Section 1, Class 3- Category 2) for the proposed addition. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

5-13-1370 (Landis)

6505-6507 Ocean Front Walk, Playa del Rey PROJECT SITE

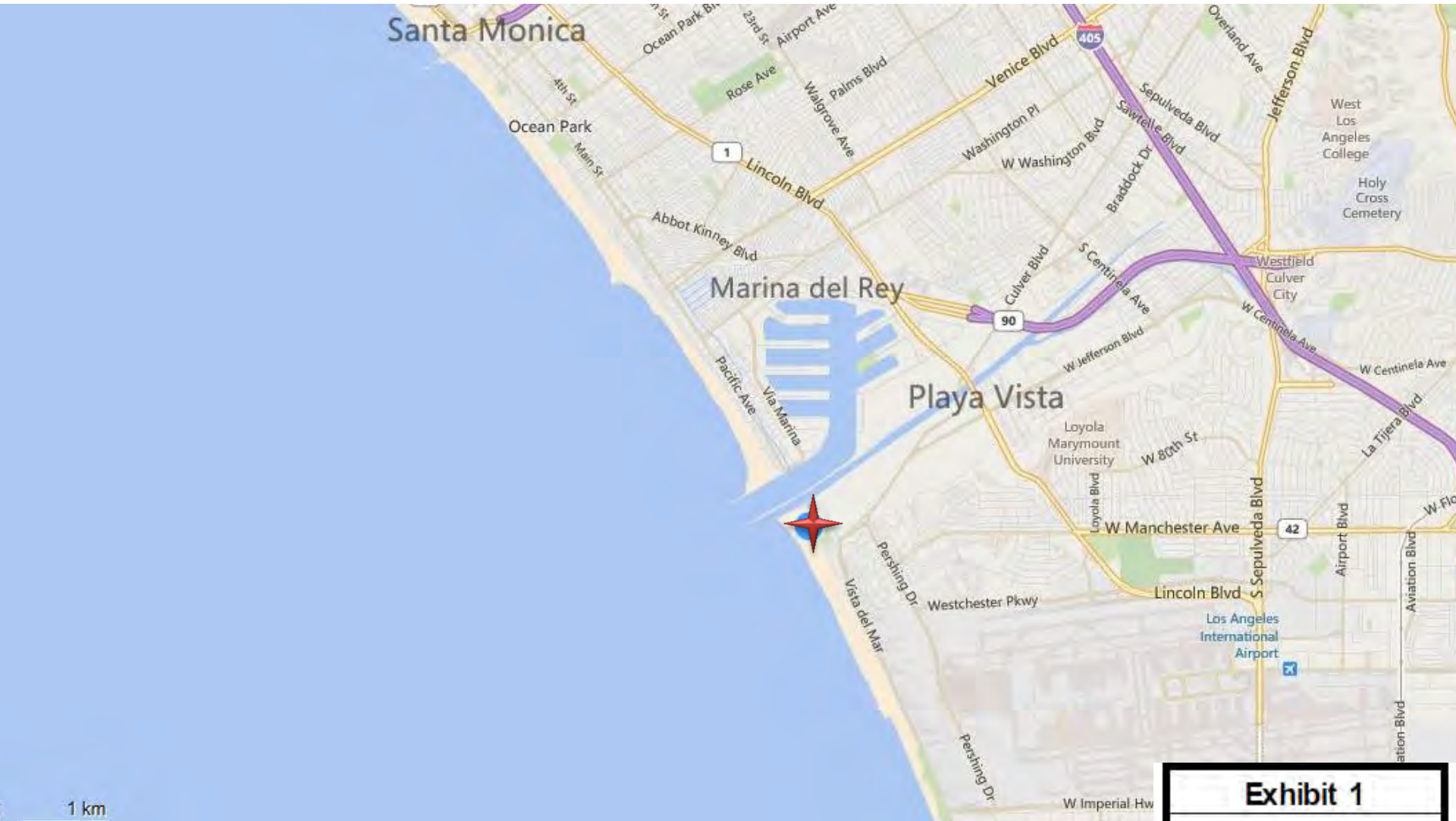


Exhibit 1



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6505-6507 Ocean Front Walk, Playa del Rey
PROJECT SITE

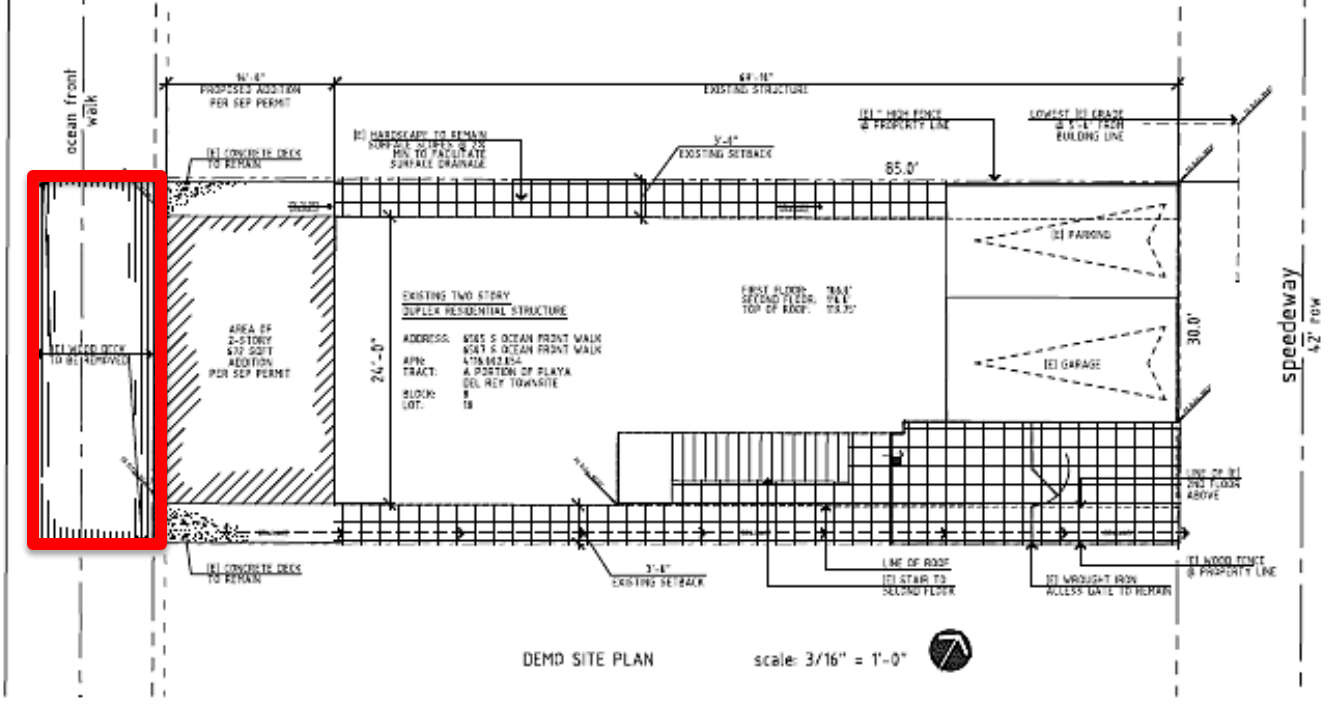


Exhibit 1



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Deck
Removal



Site Plan

OFW
Constructed

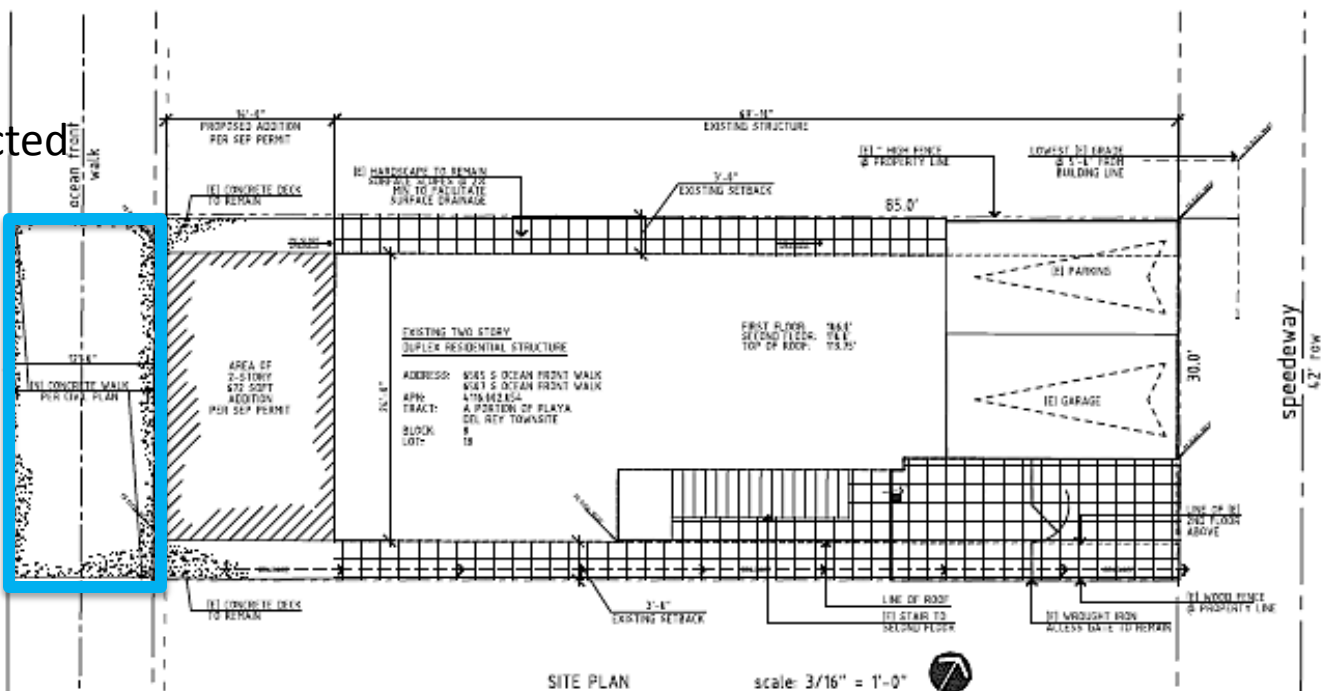
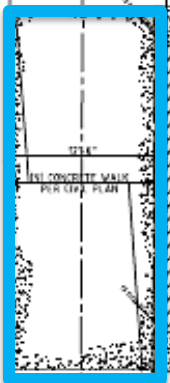


Exhibit 2

California Coastal Commission

Examples of Ocean Front Walk



Improved



Unimproved