

CALIFORNIA COASTAL COMMISSION

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W8a

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180th Day: 6/14/15
Staff: T. Hoang-SD
Staff Report: 12/17/14
Hearing Date: 1/7-1/9/15

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-14-1798

Applicant: James Kelley

Agent: James Durfey

Location: 710 Windemere Court, Mission Beach, San Diego,
San Diego County (APN No. 423-316-24)

Project Description: Demolition of existing one-story single family residence and accessory building and construction of a 1,659 sq. ft., approximately 30 ft. high, 3-story single family residence with an attached 2-car garage and a carport on a 1,351 sq.ft. lot.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval with conditions. The proposed project is demolition of an existing one-story single family residence and accessory building and construction of a new single family residence in the Mission Beach community of the City of San Diego.

The primary issues raised by this project relate to protection of public views and public access. Visual resources could be impacted by blockage of designated view corridors to

6-14-1798 (Kelley)

or along the ocean by the new home or landscaping. However, as proposed, the home includes only a minor encroachment into the required setbacks, consistent with the provisions of the certified LCP. Thus, no impacts to views are anticipated. Special conditions require the submittal of final plans and landscaping consistent with the proposed plans. In addition, the presence of workers and equipment in such a densely populated, popular beach area could impact public access by occupying public parking spaces for storage or blocking public right-of-ways to and along the beach, especially during the summer months when beach use is at its peak. Therefore, special condition prohibit any development during the peak summer months. The permit conditions are required to be recorded on the property to ensure future property owners are aware of the conditions and requirements.

Commission staff recommends **approval** of coastal development permit application 6-14-1798 as conditioned.

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EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Aerial Photo

Exhibit 3 – Site Plan & Floor Plans

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. The motion passes only by affirmative vote of a majority of the Commissioners present.

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 of 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. **Final Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final project plans. Said plans shall first be stamped approved by the City

of San Diego and be in substantial conformance with the plans submitted by James Durfey on 12/8/2014.

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

2. Final Landscape/Yard Area Plans. PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final landscaping and fencing plans stamped approved by the City of San Diego. The plans shall be in substantial conformance with the landscape plans submitted by James Durfey on 12/8/2014, and shall include the following:

- a. A view corridor, 10 feet wide, shall be preserved in the south yard area adjacent to Windemere Court (except for an 18-inch encroachment as shown in the plans submitted by James Durfey on 12/8/2014). All proposed landscaping in the south yard area shall be maintained at a height of three feet or lower (including raised planters) to preserve the views toward the ocean.
- b. All landscaping shall be drought tolerant, native or non-invasive plant species. All landscape materials within the identified view corridors shall be species with a growth potential not to exceed three feet at maturity. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
- c. Any fencing and walls in the southern yard setback areas along Windemere Court shall permit public views, have at least 75% of its surface area open to light, and not exceed a height of 3 feet above the existing grade or proposed grade, whichever is lower.
- d. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant will submit for the review and written approval of the Executive Director a landscaping monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successor in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

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

3. **Timing of Development.** No development activity may occur between Memorial Day and Labor Day of any year.
4. **Deed Restriction.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property subject to the 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 or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project is demolition of an existing 479 sq. ft. one-story single family residence and 151 sq.ft. accessory building, and construction of a 1,659 sq. ft., approximately 30 ft. high 3-story single family residence with an approximately 460 sq.ft. attached 2-car garage and a carport on the 1,351 sq. ft. lot, at 710 Windermere Court in the Mission Beach community of the City of San Diego.

The project site is located on the north side of Windemere Court, facing south. In the Mission Beach neighborhood, the public right-of-way of the various courts and places, which are generally east-west running streets, comprise the community's public view corridors. Additionally, the public boardwalk – Ocean Front Walk – which runs north-south along the beach, serves not only as a highly popular public access way, but also serves as a public view corridor along the shoreline. Because the project is located between the first public road and the sea, there is the potential for the project to impact views to the shoreline from Mission Boulevard.

The Commission typically reviews projects to ensure that any new development does not encroach into the yard setback areas, which could impede public views to and along the ocean. Such encroachments could include structures and/or landscaping. However, Section 1513.0304 of the certified Mission Beach PDO, which is used for guidance in this area, allows structures to encroach 18" into the required building setback, provided that the encroachment is not more than half of the total building width, and that an insert area equal to the width of the encroachment and at a minimum depth of 18" is undeveloped behind the required setback line. In this case, the required courtyard setback for the southern frontage of the structure is 10 feet from Windemere Court. The proposed structure will have an 18" encroachment into the courtyard setback for less than half of the width of structure and an insert area of at least 19" deep behind the required setback line for the rest of the southern frontage. ([Exhibit No. 3](#)). The purpose of allowing small encroachments into the setback with a corresponding offset is to allow for more architectural variation and interest while maintaining and preserving open space, bulk, and scale. The proposed encroachment is minor in nature and will not significantly impact public views to the ocean along Windemere Court. To ensure that public views are protected, [Special Condition No. 1](#) requires the applicant to construct the home in substantial conformance with the plans submitted to the Commission.

In addition, there is potential that landscaping in the southern yard area could impede views west towards the ocean. Therefore, [Special Condition No. 2](#) requires the applicant to submit a landscaping plan requiring all landscape and hardscape in the south and west yard areas to consist of low-lying materials not exceeding three feet in height.

Demolition and construction activity could impede public access by occupying public parking spaces or blocking public right-of-ways with materials or debris. Thus, [Special Condition No. 3](#) prohibits any development during the peak summer months when public access could be impacted.

Finally, [Special Condition No. 4](#) requires recordation of the permit conditions against the property to ensure that future owners are aware of the above mentioned conditions and requirements.

The existing structures to be demolished were built in 1924, and therefore subject to the City of San Diego's review for historical significance. Section 143.0212 of the City's Land Development Code provides that the City shall determine the need for a site-specific survey for the the purposes of obtaining a construction permit or development permit for development for any parcel containing a structure that is 45 or more years old.

In this particular case, the structures are approximately 90 years old, but the City's Development Services did not find the structure to be eligible for historical designation.

B. COMMUNITY CHARACTER/VISUAL QUALITY

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

C. PUBLIC ACCESS/PARKING

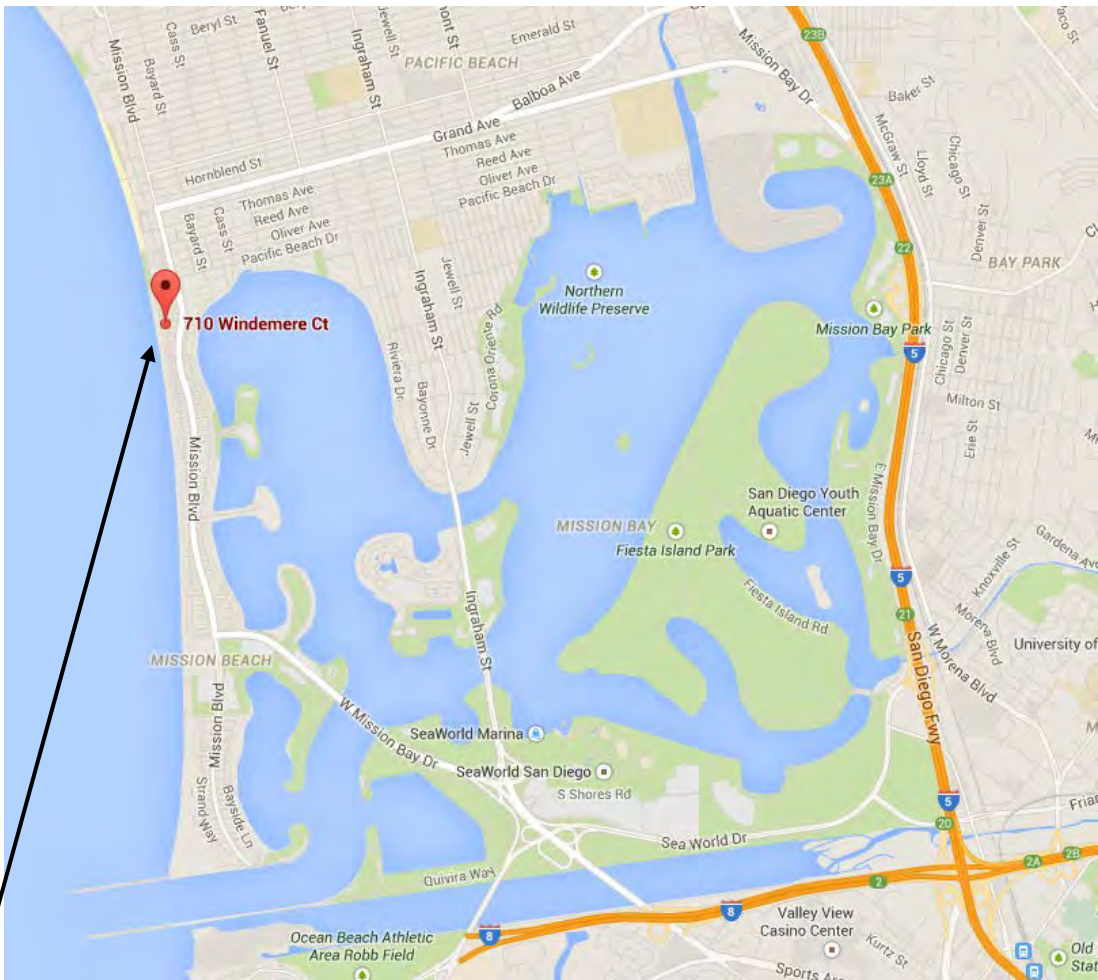
As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

D. LOCAL COASTAL PROGRAM

The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Mission Beach community.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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 is consistent with the requirements of the Coastal Act to conform to CEQA.



SITE



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

SAN DIEGO COUNTY
ASSESSOR'S MAP
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EXHIBIT NO. 1
APPLICATION NO. 6-14-1798
Vicinity Map
California Coastal Commission



SITE

EXHIBIT NO. 2

APPLICATION NO.

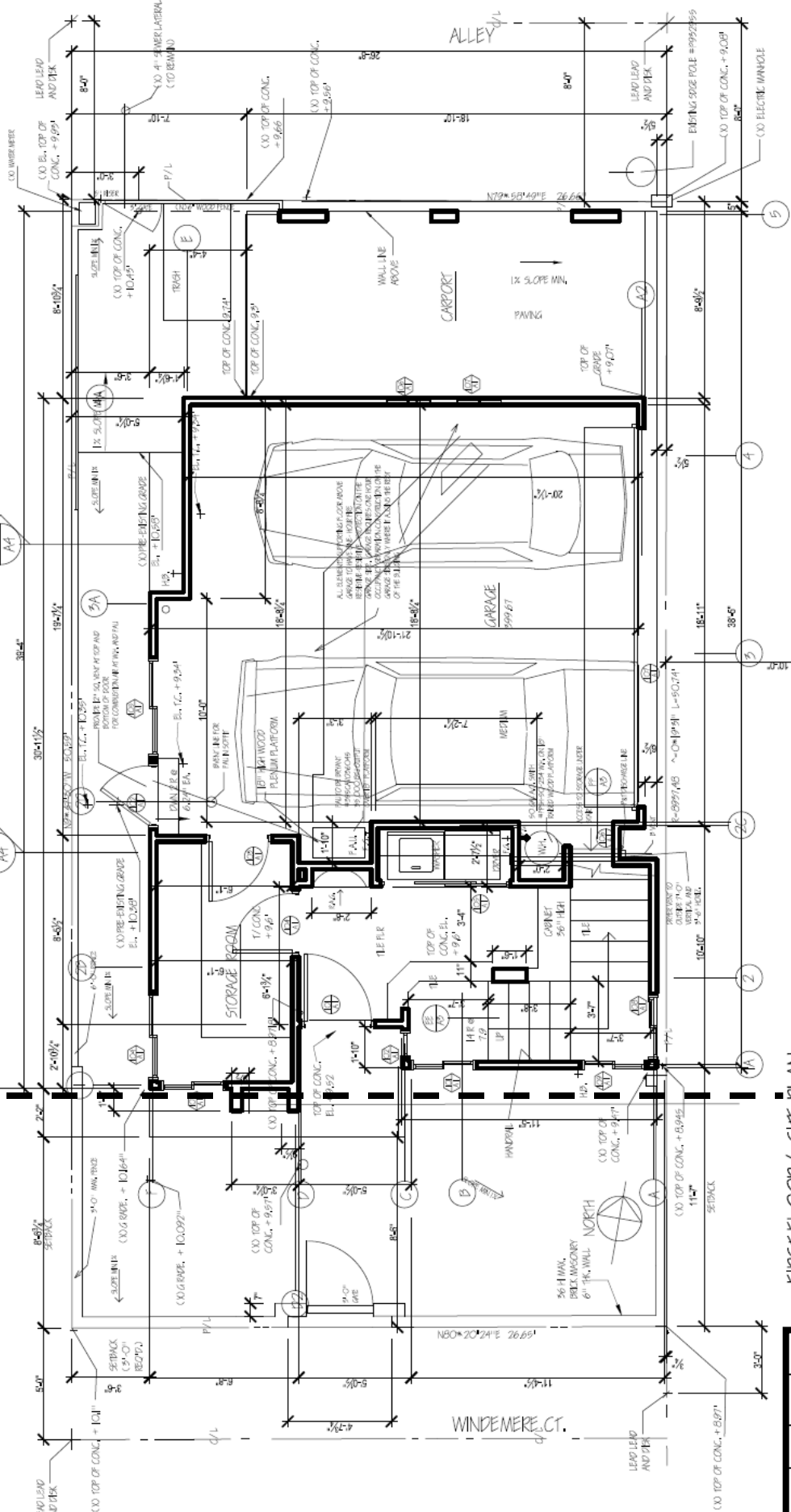
6-14-1798

Aerial Photo



California Coastal Commission

Required 10' courtyard setback



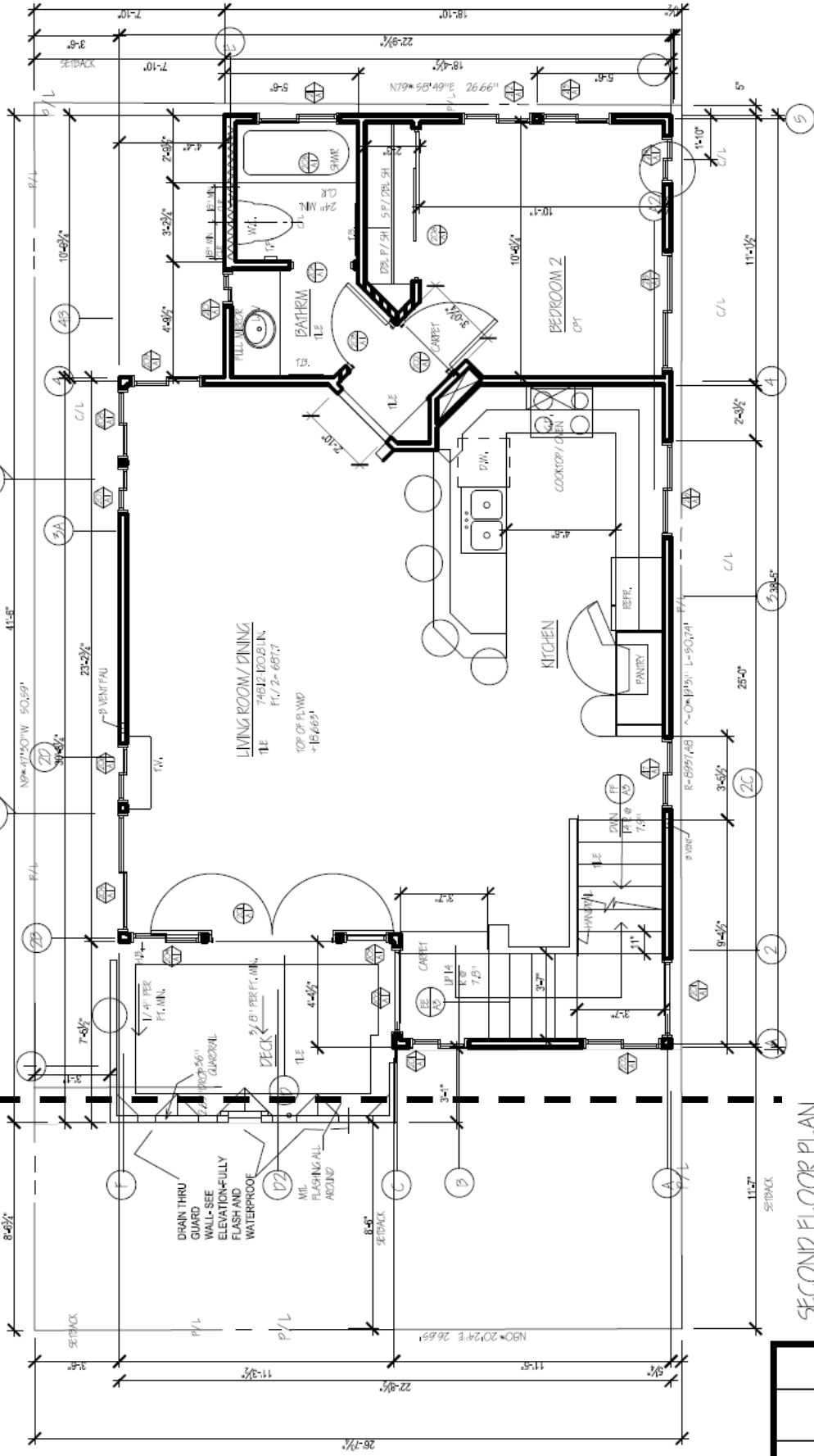
FIRST FLOOR/ SITE PLAN

SCALE: 1/4" = 1'-0" 1/4" = 65'-0" 1/2" = 132'-0" 5/8" = 165'-0"



EXHIBIT NO. 3
APPLICATION NO. 6-14-1798
Site Plan & Floor Plans
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Required 10' courtyard setback



SECOND FLOOR PLAN

SCALE: 1/4" = 1'-0"



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