



THE CITY OF SAN DIEGO

# REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** February 12, 2009 **REPORT NO. PC-09-012**

**ATTENTION:** Planning Commission, Agenda of February 19, 2009

**SUBJECT:** APPEAL OF THE 4135 MISSION BOULEVARD MAP WAIVER-PROJECT NO. 163493, PROCESS THREE

**REFERENCE:** Report to the Hearing Officer No. HO-08-188 (Attachment 16).  
Project approved by the Hearing Officer on December 17, 2008.

**OWNER/  
APPLICANT:** Mission and PB Drive, LLC, a California Limited Liability Company/  
Michael E. Turk, Trustee

## SUMMARY

**Issue:** Should the Planning Commission approve or deny the appeal of the Hearing Officer's decision to approve a request for the creation of seven commercial and eighteen residential condominium ownership interests that are currently under construction located at 4135 and 4105 Mission Boulevard within the Pacific Beach Community Plan Area?

### Staff Recommendation:

1. **DENY** the appeal;
2. **APPROVE** Coastal Development Permit No. 585249;
3. **APPROVE** Map Waiver No. 585053; and
4. **APPROVE** the waiver to the requirement to underground existing overhead utilities.

**Community Planning Group Recommendation:** On October 22, 2008, the Pacific Beach Community Planning Committee voted 11-2-0 to recommend denial of the proposed project based on the parking (Attachment 7).

**Environmental Review:** This project is exempt from environmental review pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA). The environmental exemption determination for this project was made on September 5, 2008, and the opportunity to appeal that determination ended September 19, 2008. This project is not pending an appeal of the environmental determination.

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

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** The project proposes to create seven commercial and eighteen residential condominium ownerships from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction. The Pacific Beach Community Plan designates the project site as Commercial-Visitor and allows a residential density of up to 43 dwelling units per acre for projects designed as a transit oriented development. The site, occupying 0.503-acres, could accommodate 15 dwelling units based on the underlying CV-1-2 Zone and 22 dwelling units based on the density bonus provided by the community plan. The project utilized the density provision in the community plan, which allowed for the three additional units above the density of the underlying zone.

A condition of Coastal Development Permit No. 116352 (Condition No. 13) required the applicant to comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). An In-Lieu Fee of \$35,294.04 was paid at the time of the issuance of the building permit (Invoice No. 257383); therefore, the project is in compliance with the regulations and no additional Inclusionary Housing Fees are required. The project is currently under construction and would not be subject to the tenant relocation assistance regulations.

## **BACKGROUND**

The project site is located at 4135 and 4105 Mission Boulevard (Attachment 1), at the northeast corner of Mission Boulevard and Pacific Beach Drive (Attachment 2). The site is located in the CV-1-2 Zone, a Commercial-Visitor Zone (Attachment 3), within the Pacific Beach Community Plan (Attachment 4), Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Beach Impact Area of the Parking Impact Overlay Zone, and Transit Area Overlay Zone. The zoning designation provides for commercial-visitor oriented mixed-use development and allows for one-unit per 1,500 square feet of lot area. The Pacific Beach Community Plan (PBCP) identifies Mission Boulevard as a transit corridor and allows a density of up to 43 dwelling units/per acre (du/ac) for mixed-use projects in transit corridors when designed as a Transit-Oriented Development. The proposed project site, occupying 0.503-acres, could accommodate 15 dwelling units based on the underlying zone and 22 dwelling units based on the density bonus provided by the community plan.



On June 22, 2006, the Planning Commission approved Coastal Development Permit (CDP) No. 116352 and Planned Development Permit (PDP) No. 116353; however, the Planning Commission's decision was appealed to City Council by Richard S. Pearson and the Pacific Beach Community Planning Committee. On August 7, 2006, the City Council denied the appeal, and approved the CDP and PDP with modifications. The City Council made the following modifications to the project: 1) no left hand turns from the project site along Pacific Beach Drive; 2) revise the units to contain three bedrooms and one home office; 3) no alley access from the project site; and 4) the project shall maintain a minimum 48 on-site parking spaces. This condition invalidated the original proposed shared parking provision.

The building permit for the mixed-use development was permitted on June 26, 2008, Building Permit No. 525007, and is currently under construction. The building plans were found to be in substantial conformance with the approved exhibit and City Council's modifications. The approved exhibit showed proposed columns encroaching within 13 parking spaces; however, the final construction plans required additional columns to support the upper levels and these columns encroached within a total of 29 parking spaces. The construction columns are 12-inches wide by 16-inches long, six-inches of which encroach within portions of the parking spaces. Prior to the issuance of the building permit and in accordance with Section 129.0104(b)(5) of the Land Development Code, the City Engineer found, in this case, that there are practical difficulties involved in carrying out the applicable provisions of the San Diego Municipal Code (SDMC) regarding the parking space clearance and the City Council's modifications. The City Engineer determined that the modification to allow the six-inch encroachment into the parking space would still maintain the required clearance for the remaining 92-percent of the length of the parking space; and would not lessen any fire protection requirements or any degree of public safety. Therefore, the modification was approved by the City Engineer and an amendment of the PDP was not required. The mixed-use development has not yet received a Certificate of Occupancy (COO).

## **DISCUSSION**

### **Project Description:**

The project proposes a Map Waiver (MW) to waive the requirements for a Tentative Map (TM) for the subdivision of a 0.503-acre site to create seven commercial and eighteen residential condominium ownerships from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction (Attachment 6). This subdivision also requires a CDP since the project is located in the Coastal Overlay Zone. Therefore, an amendment to the previously approved CDP No. 116352 is required. The proposed development will self-generate at least 50 percent of its electrical energy needs through photovoltaic technology (solar panels). Because the project utilizes renewable technologies and qualifies as a Sustainable Building under Council Policies 900-14 and 600-27, the land use approvals have been processed through the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

Section 125.0410 of the SDMC requires that a TM be processed for the subdivision of land; however, a subdivider may request a waiver of TM requirements pursuant to SDMC Section



125.0120. The SDMC Section 125.0120(b) defines condominium projects as the construction of a condominium project on a single parcel that was previously mapped and monumented in a manner satisfactory to the City Engineer. On August 7, 2008, Parcel Map No. 20548 was recorded to consolidate the existing two lots into one.

Staff has determined the proposed waiver conforms to the applicable requirements of the State's Subdivision Map Act Section 66428 and the SDMC. This process allows this MW for the construction of condominiums as long as the newly constructed units have not yet received a COO. If a COO were issued, then the project would be subject to the condominium conversion regulations. Therefore, since a COO has not been issued, the requirements for a TM may be waived for this project.

### **Hearing Officer Decision:**

On December 10, 2008, the project was scheduled to be heard by the Hearing Officer. At this hearing, Richard S. Pearson submitted a speaker slip in opposition as well as a letter with attachments (Attachment 8). Prior to this hearing, Mr. Pearson filed a lawsuit against the applicant (Mission and PB Drive, LLC.); however, on November 7, 2008 a cross-complaint included the City of San Diego within this lawsuit. As such, the City Attorney's Office requested a continuance of the December 10, 2008 hearing for one week to allow for review of the documents submitted by Mr. Pearson to verify that there is nothing within those documents that would impact the current litigation and/or would preclude the Hearing Officer from taking future action on the project.

At the public hearing on December 17, 2008, the City Attorney's Office acknowledged to the Hearing Officer that there was nothing within the documents that would preclude the Hearing Officer from hearing and/or taking action on the project. The Hearing Officer heard the project and approved the staff's recommendation to approve the CDP, MW, and the waiver to the requirement to underground existing overhead utilities.

### **Appeal Issues:**

On December 24, 2008, Richard S. Pearson submitted an appeal application (Attachment 9) as an "Interested Person" pursuant to SDMC Section 113.0103 (the appeal application was marked as the applicant and not as the interested person). The grounds for the appeal were listed as 'Factual Error, Conflict with the matters, Findings Not Supported, and New Information.' The letter attached to the appeal application lists 19 opposition issues, which is the same letter that was submitted to the Hearing Officer on December 10, 2008.

The following is a generalized list of the issues from Mr. Pearson's letter with staff's response:

1. Agreement and Lawsuit (Issues No. 1 and 11)
  - a. 1998 "Final Settlement Agreement and Release of all Claims"
  - b. Superior Court Case No. 37-2008-00084738-CU-OR-CTL



Staff's Response- The 1998 "Final Settlement Agreement and Release of all Claims" is included in Attachment 8. This agreement between Mr. Pearson and the City of San Diego outlines the settlement, release of claims, and assumption of risk.

As stated above in the Hearing Officer Decision section, Mr. Pearson filed a lawsuit against the applicant (Mission and PB Drive, LLC.) and on November 7, 2008 a cross-complaint included the City of San Diego within this lawsuit. This lawsuit is pending and the City Attorney's Office has determined that there is nothing within Mr. Pearson's submitted documents that would preclude the Planning Commission from hearing and/or taking action on the project.

2. Design (Issues No. 1, 2, 4, 6, 7, 8, 9, 10, 12, 13, 14, 17, 18, and 19)
  - a. Flooding
  - b. Parking and Parking Modification
  - c. Bulk and Scale
  - d. Height
  - e. Floor Area Ratio
  - f. Community Plan and General Plan
  - g. Finished Floor Elevation
  - h. Drainage
  - i. Council Policy 900-14 (Sustainable Building Policy)
  - j. Other Reasons (Issue No. 19)

Staff's Response- The issues, as outlined by Mr. Pearson, were fully discussed during the Planning Commission hearing on June 22, 2006 and during Mr. Pearson's appeal to the City Council on August 7, 2006. The City Council denied Mr. Pearson's appeal, and approved the CDP and PDP with modifications for the development that is currently under construction. As discussed above in the Background Section, the parking modification was approved by the City Engineer during the building permit process.

3. Access (Issues No. 3 and 11)
  - a. Trespassing
  - b. Soil and Retaining Wall

Staff's Response- The issues, as outlined by Mr. Pearson, are a private dispute between the two property owners and would not preclude the Planning Commission from hearing and/or taking action on the project.

4. Construction Hours (Issue No. 5)

Staff's Response- It is the responsibility of the contractor and/or owner to comply with the SDMC Section 59.5.0404 regarding construction hours and construction noise. Construction hours are from 7:00 AM to 7:00 PM, Monday through Saturday excluding holidays. The Neighborhood Code Compliance Department (NCCD) has not received a noise complaint for the development that is currently under construction.

5. Drainage Pipe Replacement (Issues No. 14, 15, and 16)
  - a. Pipe Replacement Necessity
  - b. Easement

Staff's Response- There is an existing 18-inch concrete storm drainage pipe down the center of an existing storm drain easement along the eastern property line of the subject property (3-foot easement on each side of the property line for a total of 6-feet). The 60 year old pipe was installed on November 3, 1948, and has a life expectancy of 80 years. The applicant has agreed to replace the drainage pipe for the full length of the project property (251-feet) with a new 18-inch reinforced concrete pipe (RCP) and dedicate an additional storm drain easement to comply with current easement width standards (minimum 5-foot easement on the subject property) as part of the ministerial Public Improvement Permit that is currently being processed (Project No. 151093).

### **Conclusion:**

The issues outlined in Mr. Pearson's appeal application and attached letter have no merit and/or impacts to the project before the Planning Commission. The project proposes to create seven commercial and eighteen residential condominium ownerships from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction, and to waive the requirement to underground existing overhead utilities. The Hearing Officer had determined that the development complies with the development regulations for Map Waivers, Council Policy 600-25 regulating undergrounding of existing overhead utilities, the CV-1-2 Zone, the Pacific Beach Community Plan, the Local Coastal Program Land Use Plan, the General Plan, Council Policy 900-14 (Sustainable Building Policy), and the Inclusionary Housing Ordinance. The Hearing Officer was able to make the required findings to approve the proposed subdivision. Therefore, staff recommends that the Planning Commission deny the appeal, and approve Coastal Development Permit No. 585249, Map Waiver No. 585053, and the waiver to the requirement for the undergrounding of the existing overhead utilities.

### **ALTERNATIVE**

1. **DENY** the Appeal, and **APPROVE** Coastal Development Permit No. 585249, Map Waiver No. 585053, and the waiver to the requirement for the undergrounding of the existing overhead utilities, **with modifications**.
2. **APPROVE** the Appeal, and **DENY** Coastal Development Permit No. 585249, Map Waiver No. 585053, and the waiver to the requirement for the undergrounding of the existing overhead utilities, **if the findings required to approve the project cannot be affirmed**.



Respectfully submitted,



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Mike Westlake  
Program Manager  
Development Services Department



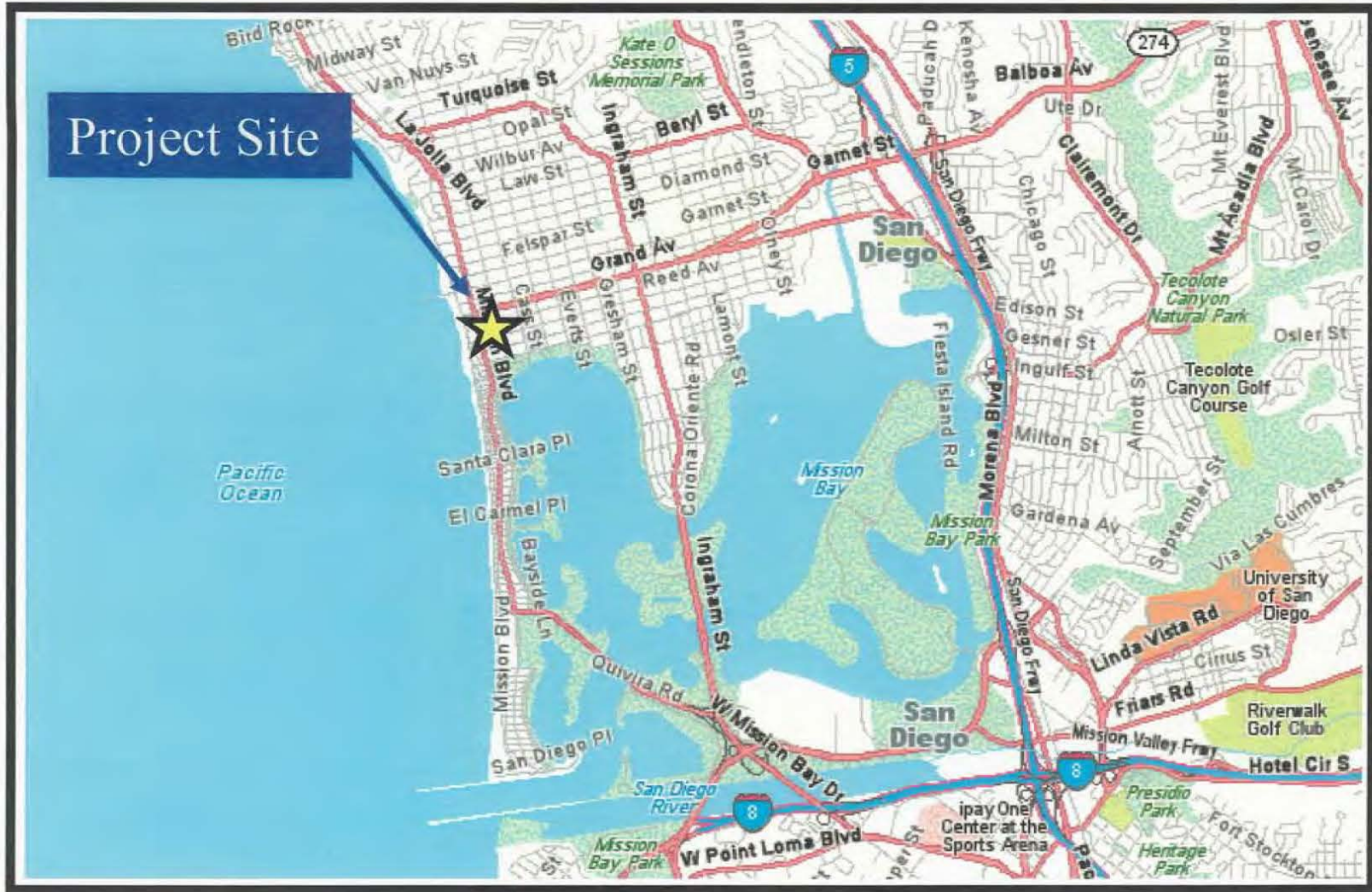
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Jeffrey A. Peterson  
Project Manager  
Development Services Department

WESTLAKE/JAP

Attachments:

1. Project Location Map
2. Aerial Photograph
3. Zoning Map
4. Community Plan Land Use Map
5. Project Data Sheet
6. Project Plans (Reduced)
7. Community Planning Group Recommendation
8. Richard S. Pearson Letter dated December 10, 2008 with Attachments
9. Copy of the Richard S. Pearson Appeal Application with Attachments
10. Draft Map Waiver Resolution with Conditions
11. Draft Coastal Development Permit Resolution with Findings
12. Draft Coastal Development Permit with Conditions
13. Coastal Development Permit No. 116352
14. Ownership Disclosure Statement
15. Environmental Document
16. Report to the Hearing Officer No. HO-08-188



## Location Map

**4135 Mission Boulevard Map Waiver - Project No. 163493**  
**4135 and 4105 Mission Boulevard**







## Aerial Photograph (Bird's Eye View-Ex Bldg & Lots)

4135 Mission Boulevard Map Waiver - Project No. 163493

4135 and 4105 Mission Boulevard

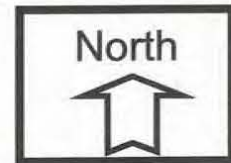




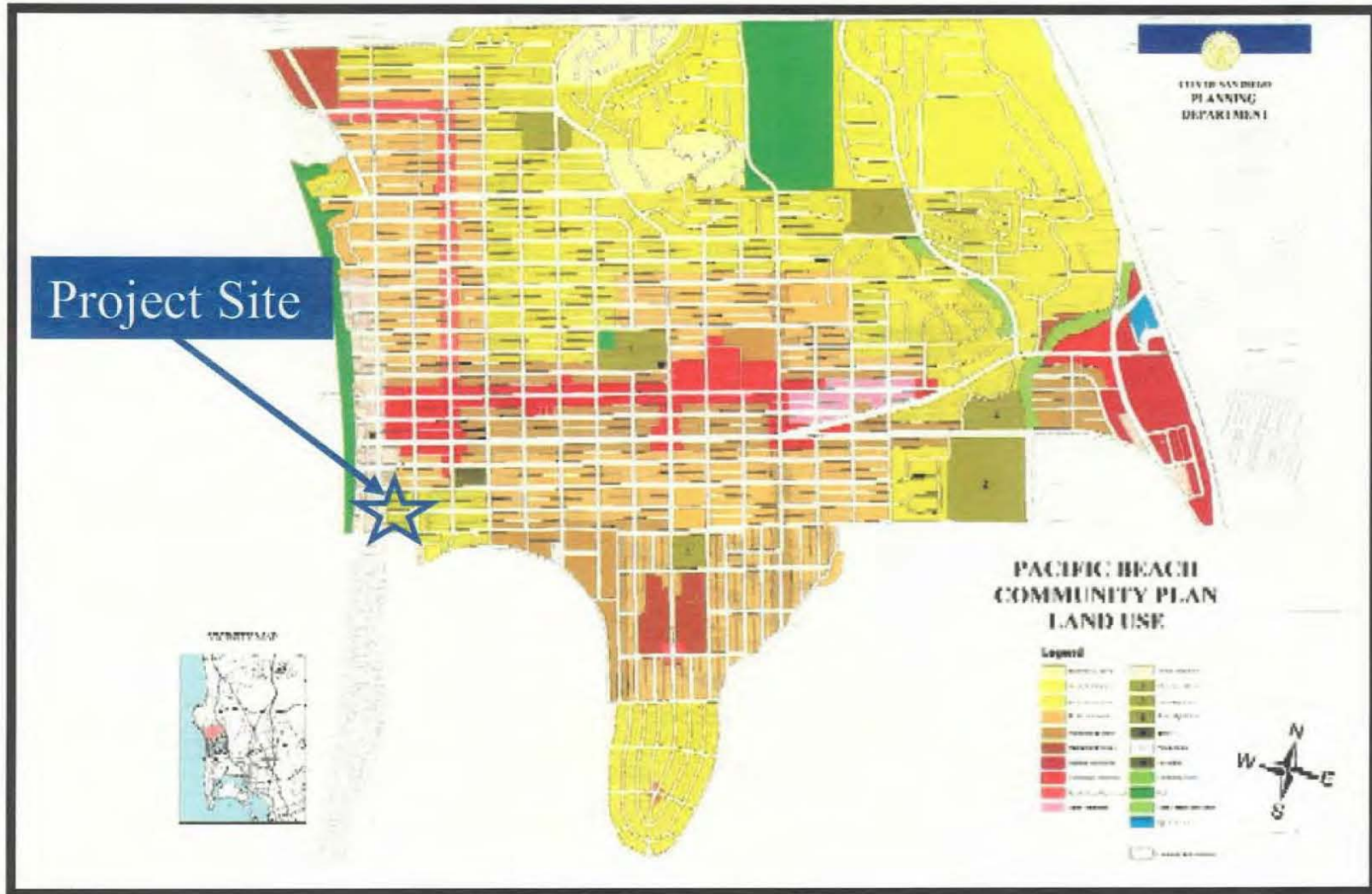


## Zoning Map

**4135 Mission Boulevard Map Waiver - Project No. 163493**  
**4135 and 4105 Mission Boulevard**



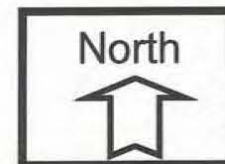




# Community Land Use Map

**4135 Mission Boulevard Map Waiver - Project No. 163493**

**4135 and 4105 Mission Boulevard**



<b>PROJECT DATA SHEET FOR CONDOMINIUM CONVERSIONS</b>		
<b>PROJECT NAME:</b>	4135 Mission Boulevard Map Waiver- Project No. 163493	
<b>PROJECT DESCRIPTION:</b>	Coastal Development Permit to amend Coastal Development Permit No. 116352, a Map Waiver to waive the requirements for a Tentative Map to create seven commercial and eighteen residential condominium ownerships from a mixed-use development that is currently under construction, and to waive the requirement to underground existing overhead utilities.	
<b>COMMUNITY PLAN AREA:</b>	Pacific Beach	
<b>DISCRETIONARY ACTIONS:</b>	Coastal Development Permit and Map Waiver	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	Residential (up to 43 dwelling units per acre)	
	<b>CURRENT ZONING INFORMATION:</b>	<b>CONSTRUCTED:</b>
<b>Zone:</b>	CV-1-2	CV-1-2
<b>Density:</b>	One unit per 1,500 sq.ft. of lot area.	One unit per 1,500 sq.ft. of lot area
<b>Height Limit:</b>	30-feet max.	30-feet
<b>Lot Size:</b>	Min. 5,000 square feet	21,922 square feet
<b>Floor Area Ratio:</b>	2 max.	2
<b>Front Setback:</b>	0-feet	0-feet
<b>Side Setback:</b>	NA	NA
<b>Streetside Setback:</b>	0-feet	0-feet
<b>Rear Setback:</b>	0-feet (SDMC 131.0543(b))	0-feet (SDMC 131.0543(b))
<b>Parking:</b>	48 spaces required	48 spaces
<b>ADJACENT PROPERTIES:</b>	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	Commercial-Visitor; CV-1-2	Hotel
<b>SOUTH:</b>	Commercial-Visitor; VC-N(MBPD)	Hotel
<b>EAST:</b>	Single- Family Residential; RS-1-7	Single- Family Residential
<b>WEST:</b>	Commercial-Visitor; CV-1-2	Commercial
<b>DEVIATIONS OR VARIANCES REQUESTED:</b>	None	
<b>COMMUNITY PLANNING GROUP RECOMMENDATION:</b>	On October 22, 2008, the Pacific Beach Community Planning Committee voted 11-2-0 to recommend denial of the proposed project based on the parking.	



# MISSION BOULEVARD

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### ZONING INFORMATION

EXISTING AND PROPOSED ZONE: CV-1-2  
 COMMUNITY PLAN NAME: PACIFIC BEACH  
 OVERLAY ZONES: COASTAL (CITY), COASTAL HEIGHT LIMIT  
 PARKING IMPACT, TRASIT AREA  
 RESIDENTIAL TANDEM PARKING

### CITY OF SAN DIEGO

### DEVELOPMENT SUMMARY

- SUMMARY OF REQUEST:  
 CREATE 18 RESIDENTIAL DWELLING UNITS & 7 COMMERCIAL UNITS.  
 FILE CERTIFICATE OF COMPLIANCE
- STREET ADDRESS: 4135 MISSION BLVD.  
 N  S  E  W SIDE  
 BETWEEN PACIFIC BEACH DRIVE AND GRAND AVENUE
- SITE AREA:  
 TOTAL SITE AREA: (21,922.61 SF) (0.503 AC.)
- DENSITY: (RESIDENTIAL)  
 MAXIMUM NO. DWELLING UNITS ALLOWED PER ZONE:  
 NUMBER OF EXISTING UNITS TO REMAIN ON SITE:  
 NUMBER OF PROPOSED DWELLING UNITS ON SITE:  
 TOTAL NUMBER OF UNITS PROVIDED ON THE SITE:
 

18
0
18
18
- YARD/SETBACK  
 STREET YARD: 0'  
 STREET SIDE YARD: 0'  
 INTERIOR YARD(S): 0'  
 REAR YARD: 10%/10'
- PARKING:  
 PARKING CRITERIA:  
 RESIDENTIAL  COMMERCIAL  INDUSTRIAL  
 MIXED USE  OTHER

TYPE OF UNIT	NUMBER OF TYPE	PARKING REQUIRED PER UNIT	TOTAL PER TYPE
3 BR UNIT	18	2.25	40.5
3,500 SF		2.1/1000	7.0
COMMERCIAL SPACE			
TOTAL REQUIRED BY ZONE			48
TOTAL PROVIDED ON-SITE			48

### UNIT AREAS

TYPE OF UNIT	NUMBER OF TYPE	SQUARE FOOTAGE PER UNIT	TOTAL PER TYPE
3 BR UNIT	3	1,546	4,638
3 BR UNIT	4	1,502	6,008
3 BR UNIT	1	1,659	1,659
3 BR UNIT	8	1,512	12,096
3 BR UNIT	1	1,791	1,791
3 BR UNIT	1	2,121	2,121

### MONUMENTATION & MAPPING

ALL MONUMENTS HAVE BEEN SET. ANY MONUMENTS DESTROYED DURING CONSTRUCTION WILL BE RESET AND A CORNER RECORD FILED.

### EXISTING IMPROVEMENTS

SEWER DRAWING NO. 14586-2-D, 14586-6-D  
 WATER DRAWING NO. 14061-4-D

### EXISTING & PROPOSED EASEMENTS:

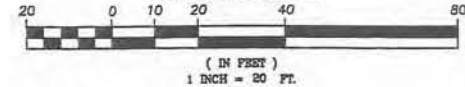
- AN EXISTING EASEMENT GRANTED TO THE CITY OF SAN DIEGO FOR THE PURPOSE OF STORM DRAIN OR DRAINS AND APPURTENANCES, RECORDED NOVEMBER 15, 1948 IN BOOK 3017, PAGE 146 AS FILE No. 113139 OF OFFICIAL RECORDS.
- A PROPOSED ADDITIONAL 4' WIDE STORM DRAIN EASEMENT ADJACENT TO THE EXISTING EASEMENT RECORDED NOVEMBER 15, 1948 IN BOOK 3017, PAGE 146 OF OFFICIAL RECORDS.

### DEVELOPMENT NOTES:

- THIS IS A MAP OF A CONDOMINIUM PROJECT AS DEFINED IN SECTION 1350 ET. SEQ. OF THE CIVIL CODE



### GRAPHIC SCALE



### LEGEND:

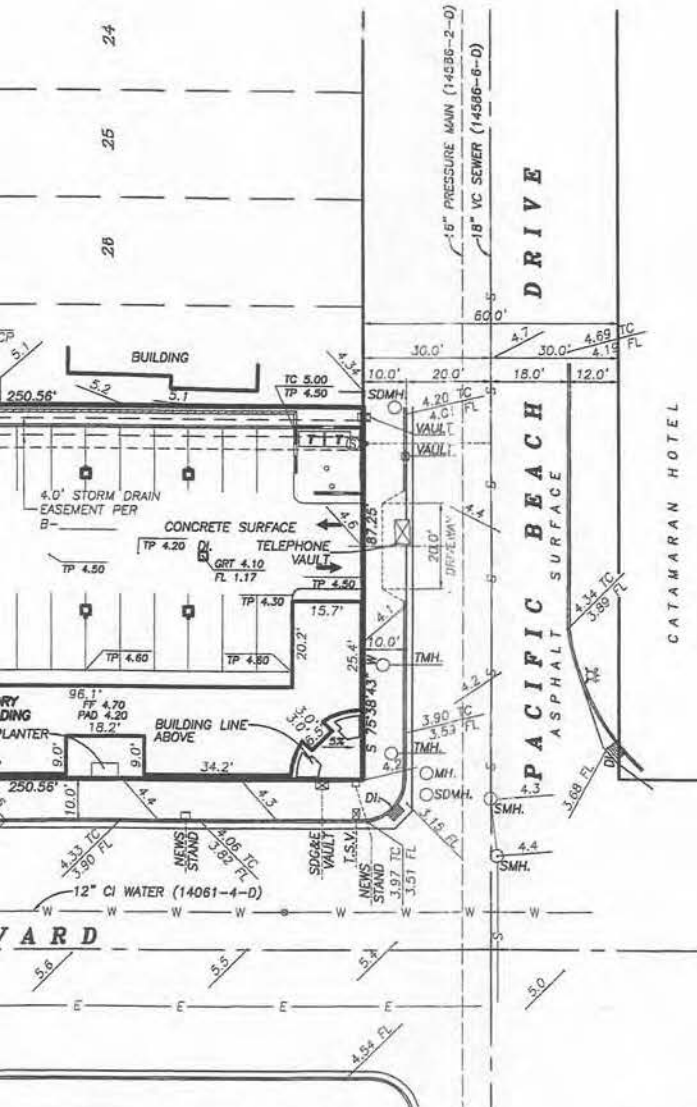
- PROPERTY LINE
- DRIVEWAY
- EXISTING BLOCK WALL
- WOOD FENCE
- WROUGHT IRON FENCE
- GATE
- CHAIN LINK FENCE
- OVERHEAD WIRE
- DIRECTION OF DRAINAGE
- WATER METER
- POWER POLE
- POWER POLE ANCHOR
- PARKING SPACE
- TOP OF CURB
- FLOW LINE
- SEWER CLEAN OUT
- FINISH FLOOR
- INDICATES FRENCH DRAIN
- INDICATES ASPHALT CONCRETE
- INDICATES POLY-VINYL CHLORIDE
- INDICATES VITRIFIED CLAY
- EXISTING SEWER LATERAL
- EXISTING WATER SERVICE

### PROFESSIONAL LAND SURVEYOR:

SAN DIEGO LAND SURVEYING & ENGINEERING, INC.  
 9665 CHESAPEAKE DRIVE, SUITE 445  
 SAN DIEGO, CALIFORNIA 92123 (858) 565-8362  
 PROJECT NO. MissionBlvd(4135)TM.dwg

10-10-08 DATE

ROBERT J. BATEMAN, P.L.S. 7046  
 REGISTRATION EXPIRES DECEMBER 31, 2008



### Prepared By:

SAN DIEGO LAND SURVEYING AND ENGINEERING, INC.  
 9665 CHESAPEAKE DRIVE, SUITE 446  
 SAN DIEGO, CA 92123-1354  
 PHONE: 858-565-8362  
 FAX: 858-565-4354 EMAIL: rbateman@sdlee.com

### Consultants:

### Benchmark:

SOUTHEAST BRASS PLUG  
 MISSION BLVD. AND PACIFIC BEACH DR.  
 ELEVATION = 4.063 M.S.L.

### Project Legal Description:

PARCEL 1 OF PARCEL MAP NO. 20548, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA



### VICINITY MAP

Project Soil Condition: Existing developed soils.

Source of Topography:  
 Field survey by San Diego Land Surveying on 3-23-2004

Project Permits Required:

DRAFT MINUTES OF MEETING FOR PACIFIC BEACH PLANNING GROUP  
OCTOBER 22, 2008  
EARL AND BIRDIE LIBRARY

6:30p Call to Order, Quorum established. Attendees: Robert Citrano, Gary Foster, Scott Chipman, Marcie Beckett, Barry Schneider, Chris Olson, Paul Thackrey, John Shannon, Jim Krokee, Patrick O'Neill, Dean Eades, Jeton Prince, Jim Morrison and Barbara Williams

Scott Chipman made a motion to accept the agenda with changes in order of presentations for residential projects. Barry Schneider seconded the motion. Motion carried 13-0-0

Marcie Beckett made a motion to approve the minutes for the September 24, 2008 meeting with corrections. Chris Olson seconded the motion. Motion carried 11-0-2 Robert Citrano and Dean Eades were absent from the meeting and abstained.

**Chair's Report:** John Shannon reported that there seemed to be an even support for Proposition D.

**Non-Agenda Public Comment –**

Don Gross reported on an update with the PB Drive Sidewalk and bicycle path around Mission Bay. He said he will work with Thyme to get a person to our next meeting to give us information. John Shannon will call the City Engineer to our meeting.

**Government Office Reports:** None

**Action Items:** None

**Subcommittee Reports:**

Residential/Mixed Use/Commercial Subcommittee (Chris Olson)

The subcommittee met on October 10, 2008 and reviewed all the projects on the agenda. There were six PBPG members and one person from the local community in attendance. The next subcommittee will be November 14, 2008 at the PB Library community room.

**Projects::**

#131201 – Information only. 1142 Garnet Avenue. This is an existing 25' wide lot with commercial on the front, apartment on the second floor and parking behind. The applicant came before the PBPG in February 2008 with a proposal for a mixed use project with expansion of the residential component. It was deemed not feasible due to parking requirements and the constraints of a 25' wide lot. The applicant has presented a proposal to maintain the existing commercial space, change the living unit to personal storage and construct a 2 story personal storage structure in the back with 2 parking spaces. The subcommittee gave mixed reviews of the idea for personal storage and it is apparently feasible to meet zoning requirements. One suggestion was to apply for an exception of the parking requirement if they provide affordable housing. The primary recommendation from the subcommittee was to improve the façade on Garnet Avenue in accordance with the community plan. A proposal will be submitted to the City and then come back to the PBPG. No vote at this time.

#163493 – 4135 Mission Boulevard. Applicant Paul Ross was present. Respond to public request for review of building per City approved plans/ City Code for a) parking, b) landscaping and c) residential use in front 30 feet. Chris Olson provided a short historical perspective on the project. This project has been one of the more controversial and time consuming projects for the PBPG over the last decade. It has been very divisive to put the PBPG and the developer as opponents rather than groups working together to improve the community. The developer has completed many projects in Pacific Beach and he is a leader for sustainable building in the San Diego Community. The PBPG voted unanimously to deny the project on July 26, 2004. There were 7 issues with the parking, landscaping, traffic circulation, flooding and density bonus of primary concern. Revised plans were presented and again unanimously denied on November 22, 2004. There were 12 issues in the motion. Subsequently City staff recommended approval and it was approved by the planning commission of June 22, 2006. The conditions of approval required elimination alley access, increased number of parking spaces and solar panels comply with the height limit. The project was appealed and City Council approved the project on August 7, 2006. Conditions for approval included reducing 4 bedroom units to 3 bedroom units, changes in traffic circulation and parking spaces must be properly dimensioned per City Code. The project is now under construction and applying for Map Waiver to convert to residential and commercial condos. On September 24, 2008, at the PBPG meeting there was a public presentation protesting the construction of a project that does not meet Land Development Code. This was discussed at the Subcommittee on October 10, 2008 with Paul Ross who represents the developer. At the meeting Olson explained that the



Draft of meeting 10/22/08 Page 1 of 4

City Project Manager, Jeff Peterson, has met with persons in the community and recommended if they need to take action it should be in the form of a letter addressed to Afsaneh Ahmandi of Development Services. The subcommittee decided to draft a letter from the PBPG to the Director of Development Services and other city persons. The subcommittee decided to draft a letter from the PBPG to the Director of Development Services and other city persons. Mr. Ross gave a presentation at the subcommittee and at the general meeting October 22, 2008. Paul Ross presented several points as follows: The project is being built per plans approved by the City and Coastal Commission. There were special circumstances for the landscaping on the eastern property line due to a storm drain and requirements of a commercial space and the residential stairwell is required in the front 30 ft for egress of the residential units above. The parking code for parking space dimensions requires interpretation and the columns between the spaces in this project will not cause a problem for opening front doors of vehicles. The developer has taken a vacant and contaminated lot and a large liquor store and is converting it into a mixed use development to benefit the community. There have been many constraints to overcome for making this a viable project. Mac Larsen, a member of the community, spoke up to emphasize that aside from the written code the reality is that people will have a hard time parking cars in the lot. SUVs will not fit and they will not be able to open back doors. As a result, people will park on the neighboring streets. Marcie Beckett stated that the Code is clear, spaces are between 7'6" and 8'6" so why did the City approve plans when parking does not meet code?

**Motion:** Chris Olson made a motion to send the letter and 3 attachments to the persons named on the letter as recipients. Jim Krokee seconded the motion. Motion carried 13-0-0

#163493 – 4135 Mission Boulevard. Map Waiver to subdivide 18 under construction for rent dwelling units to condominium units and commercial space into 7 commercial condominium units. The property is zoned CV-1-2 and currently under construction. Applicant Paul Ross was present. The subcommittee reviewed the issues and there was no clear agreement on how to proceed. One suggestion was that we denied it in the past and there are still outstanding issues so we should deny it for those reasons. Another proposal was to deny because the parking does not meet Land Development Code. Olson stated that the City Project Manager recommended that the PBPG vote should be focused on the tentative map and not on issues such as parking that has already been approved. Olson said that the PBPG has raised issues such as parking, landscaping and trash bins for Map Waiver projects in the past and we have been able to get changes. Paul Ross stated that our review should focus on the tentative map in front of us and the city staff will only consider that.

**Motion:** Marcie Beckett a motion to deny the project due to finding that this project's City approved construction documents do not meet Land Development Code in that 29 spaces that abut columns have less than 9 foot width required by code (LDC Table 142-05J). Motion carried 11-2-0. the votes against were due to the issue that the decision should be based solely on the tentative map.

#144059 701 Wrelton Drive. CDP and tentative map to demolish existing residences and construct 4 residential condominiums on a 0.17 acre site in the RM 1-1 zone. Also requires mitigated negative declaration due to excavation at greater than 10 feet below grade for underground parking and noise mitigation from La Jolla Boulevard. Olson further summarized that this is a 10,007 square foot site with street frontage on Wrelton Street and Sapphire Street. They are building 4 residential condos with underground parking, 2 levels of enclosed living above the garage and a roof deck above as well as private patios areas for each unit on the ground floor. This is a sustainable energy project. No outstanding issues with the City. Michael Cather represented developer and was present at the meeting. The committee reviewed the project and had no issues. The subcommittee felt this is a good example of the kind of projects they would like to see in the future. Renderings were presented by the applicant Frederico Escobedo.

**Motion:** Chris Olson made a motion to approve the project and stated this is the kind of project the PBPG would like to see in the future. Jeton Prince seconded the motion. Motion carried 13-0-0.

#147970 4235 Cass Street. Demolish existing SFR and construct a new 2 story SFR over basement level garage in the RS 1-7 zone. The project has a landmark from the entrance to the original Braemar development and this will be preserved. The project will have 3208 sq ft of enclosed living space on two levels, 1570 sq ft of basement garage and 331 sq ft of a roof top deck. The building is oriented to front on Cass Street with Reed Avenue driveway access to the underground garage. The alley access will not be utilized for parking access and this was the primary concern of the subcommittee. Applicant Brian Longmore was present. The subcommittee also had concerns about the large blank wall façade on the front of the building. Renderings were not available to give a clearer understanding of the architectural approach. The City staff initially denied the new curb cut on Reed Avenue and later during a conflict resolution with senior staff, Don Weston, he supported the new curb cut. SDMC 142.0560 (8) (B) allows a curb cut if the property has at least 150 feet of street frontage and this property has 150 feet if you include Reed and Cass frontage. SDMC 142.0560 (J) (7) states that in the Beach Impact Area where any redevelopment will increase the GFA by 50% and there is an abutting alley, the required off street parking spaces shall be accessible from the alley. City staff says that since SDMC does not stipulate the (J) (7) does not supersede (8) (B) then they will support a new curb cut. Marcie Beckett noted that an appendix in the Community Plan supports a curb cut. Scott Chipman noted that the statement in the appendix of the Community Plan infers that the curb cut is only allowed if the street frontage is 150 feet on one street and not two streets combined. The Community Plan should be clarified. City Engineer Jack



Draft of meeting 10/22/08 page 2 of 4

Canning presented the rationale for the City support of the curb cut. It involved safety issues for cars entering the alley and not seen by cars exiting the residence onto the alley. The applicant Brian Longmore presented the constraints of this corner lot and how the curb cut will allow for private outdoor space between the house and the alley.

**Motion:** Chris Olson made a motion to deny the project based upon SDMC 142.0560 (J) (7) and the PBPG has already set a precedent to not allow parking access through curb cuts for new residential developments with available alley access. It is also recommended to enhance the west facing façade to reduce the "blank wall effect." Barry Schneider seconded the motion. Motion did not pass 6-7-0.

**Motion:** Marcie Beckett made a motion to approve the project with the condition that changes are made to enhance the west facing façade to reduce the "blank wall effect." Jim Morrison seconded the motion. Motion passed 8-5-0. Rationale for opposition all related to the curb cut on Reed Street. (e.g. the impact to parking on Reed Street, cars in front yard and the change in precedent it makes for the PBPG to not allow parking access through curb cuts for new residential developments with available alley access.

Bob Citrano left meeting at 8:30p

#151727 – 702 Loring Street. Construct a 1,632 sq ft addition to an existing SFR on a 6,931 SF site in the RS 1-7 zone. Remove and replace a 1 car garage with a 2 car garage (623 sf). Expand a 1 story residence on first floor and add master bed/bath to 2<sup>nd</sup> story. Total livable square feet is 2400. Greg Knight, applicant was present. The subcommittee reviewed the plans and had no issues and the City has no significant issues to resolve.

**Motion:** Chris Olson made a motion to approve plans as submitted. Marcie Beckett seconded the motion. Motion carried 12-0-0.

Scott Chipman left the meeting at 8:40p

#163041 – 4535 Mission Bay Drive. CDP to construct a 48,735 sq ft private vehicle storage facility on a 3.24 acres site in the CC 4-2 zone. A sustainable project. Paul Golba represented the applicant and was present. This is a raised and vacant lot that is behind a motel on Mission Bay Drive with a 25 foot wide alley type access and behind the San Diego Science Center (formerly Mission Bay Hospital) on Bunker Hill with a shared parking agreement for the large parking lot next to the Hwy. 5 freeway. Historically, the lot has been used for overflow vehicle parking from car dealers along Mission Bay drive. The proposal is for a private parking garage. A large area will keep cars parked by valets and not accessible to the public. Two other areas will be for showcasing vehicles to members and their guests.

City review issues of note were there is a need for parking for visitors, access for large vehicle transport carriers. Also, landscaping is needed at the project entrance at Mission Bay Drive. The subcommittee had recommendations for enhancement of the entrance and requested something to present at meeting. Also there was concern about vehicle transport carrier access.

Mr. Golba presented the project on behalf of the owner and gave a detailed explanation of the planned use for collector cars that are used infrequently such as once a month for a Sunday drive. It will have a club type atmosphere with architecture that draws upon a 50's theme. Renderings were presented. Mr. Golba responded to the visitor parking issue with a revised plan for visitor parking. He presented a revised a circulation plan to accommodate transport vehicle staging. He explained the constraints to enhance the entrance and he will continue to work for improvements within those constraints such as changing the road surface.

**Motion:** Chris Olson made a motion to approve with the revised plan for visitor parking and transport vehicle staging. Jim Morrison seconded the motion.. Motion carried 11-0-0

#### **Subcommittee Reports:**

Election Committee and Vacancy Report (Jeton Prince) – Jeton reported that there are 5 vacancies, 77.0, 79.03, 79.04, 83.01, and one commercial vacancy. Applications are at the PB Library. Michael Campbell who is interested in the PBPG attended the meeting.

Traffic and Parking, PB Parking District (Jim Morrison) - Jim has no email access at present. He wants to report after the election. Gary Foster reported that a walking flashing beacons crosswalk was approved at the Van Nuys St. and La Jolla Mesa Drive location.

ByLaws Committee – No report

Community Plan Amendments and Design Guidelines (Marcie Beckett) Marcie, my notes are sketchy here. Will you let me know what you want reported?

Mission Bay Parks Committee (Jeton Prince)



Draft of meeting 10/22/08 Page 3 of 4

Neighborhood Code Compliance (Scott Chipman) Scott was not present. It was suggested that we hear from him earlier in the meeting.

Jim Krokee reported that the City has done nothing in regard to the granny flats. Barbara Williams also noted we have not had a report about the oversized vehicle ordinance.

Special Events (Barbara Williams) There was a post event review of the Brazilian Fest.

Airport Issues/San Diego Regional Airport Authority (Jim Krokee) No report at this time.

Draft of meeting 10/22/08 page 4 of 4

Send corrections to me and I will fix what is not correct. Barbara

Dear Hearing Officer,

My name is Richard Pearson and I live at 817 Oliver Ave. in Pacific Beach and oppose granting the permit.

I would like for my statements be put into the record for:

Project number: 163493

Project name: 4135 Mission Blvd. map waiver -- process 3

**RECEIVED**

DEC 10 2008

PROJECT MANAGEMENT

I am objecting to project the following reasons:

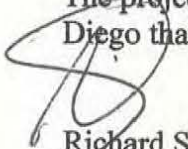
1. I have an agreement with the city of San Diego which states in part, that the city of San Diego will do nothing that will make my flooding worse. This Agreement has been completely ignored by the City and the approval of this Project will constitute a breach of contract with the city of San Diego. The city of San Diego has not met the standard of practice and is allowing a developer to develop an area which is notorious about the flooding (I believe that the site has flooded more than 12 times in the last 15 years). The developer should be required to build this project properly above the flood zone and to an elevation that will not inevitably lead to serious flooding to the tenants of this structure which will cause further unnecessary expenditures of City funds as well as cause me further injury.
2. The city of San Diego will be responsible for the damages in the event of a flood, and ultimately the taxpayers, including myself, will have to pay the damages. Allowing the development of the site at the elevation as shown will surely provide liability to the taxpayers. There is no justification for allowing the developer to essentially expose the City and myself, as well as my neighbors to long term problems in order for the Developer's short term profits.
3. To date the City has condoned the developers continuously trespassing on my property in order for the construction of the project and will probably trespass in the future. The project as design also is requiring entry into my property as well as destruction of the improvements that I have previously made to deal with the flooding issues in this area.
4. The parking layout, as I believe has proposed, does not meet code requirements that most other developer has to meet.
5. The city of San Diego has failed to force the developer to conform to the allowable working hours. No project should be approved unless there is a commitment that the work will be done in accordance with proper working hours.
6. The project is completely incompatible with the neighborhood and is out of scale of the neighborhood.
7. The structure will exceed 30 feet in height, and does not come requirements of the city Council when the project was approved. The City should be aware that it is highly improper to award exceptions for height limitations to individual developers. Combined with the Developers assurances to the City Council that the floor level would be high enough to avoid flooding issues in this area, as



- currently designed and as currently being built the project will ultimately violate both floor level standards as well as height limitations.
8. The project will exceed the allowed floor area ratio. These should be recalculated and specifically approved.
  9. The project does not conform to the requirements for the community plan and the general plan.
  10. The finished floor is being elevated one foot higher than the existing finished floor, as required by the city Council when it was approved the project.
  11. As designed, the city of San Diego has not force the developer to support my soil after they removed the retaining wall, making me unable to have in my own camping trailer. Additionally, the City has ignored the pendency of a Superior Court action which will establish my prescriptive easement as to the Developer's portion of the easement.
  12. The overall design is allowing the developer to divert waters toward my property.
  13. In the process of reviewing MPB's proposed improvement, I and other residents of this neighborhood also raised concerns that the MPB project was not only altering the drainage patterns in this area -- diverting water flow from the west and north to the south and east -- but would also apparently under-provide adequate parking in a neighborhood already plagued by lack of parking. In addition, concerns were voiced that the improvement, as designed, would, in fact, result in a finished floor elevation two feet below the "base flood elevation," thus creating a real possibility that the purchasers or occupants of the MPB Improvement would suffer substantial problems with flooding in the future. Concerns were also voiced that this would affect not only me, but other adjacent properties. Further concerns were raised that the ultimate height of the finished improvement would be beyond that properly allowed by code. Additionally, safety concerns were raised concerning the creation of a public nuisance by virtue of the design of a walkway along the northern border of the MPB, providing access to my neighborhood and Mission Blvd. Despite these various problems, the City approved the MPB Improvement and in 2007 MPB began to move forward with construction.
  14. Also, as the construction activity began, it has become increasingly clear that even under MPB's plans, adequate parking cannot be provided for the number of units planned and MPB has begun a concerted effort to demand replacement of the entire drainage pipe that runs along the Pearson property when such replacement is not necessary. MPB claims that a portion of that pipe is damaged and thus requires complete removal. Further, MPB claims, without any apparent evidence, that somehow Mr. Pearson is responsible for that damage.
  15. I believe MPB is feigning the need to replace this pipe in order to place a redesigned drainage system that will result in a redesign of the boundary area that will increase the available space for parking and provide more assurances that redesign of the project will not be needed. This design, however, will substantially alter my Flooding Improvement by lowering the grade of my property, eliminating the previous retaining barrier that was in place, and causing the effective use of a significant portion of my property.

16. Additionally, in furtherance of this feigned need to replace the drainage line, the City and the Developer have apparently entered into some arrangement by which an additional easement is being provided to the City and thus exposing the City to additional liabilities for damages and injuries that would result from the approval and final construction of this development. The City should not be accepting easements which will increase the scope of the City's responsibilities in the future as well as conflict with the duties owed me as a result of my agreement with the City.
17. The City is also allowing and participating in the creation of a public and private nuisance by allowing the construction of the MPB Improvement in the fashion describe above. The MPB improvement appears to be substantially altering the drainage and flood control system in this vicinity even without consideration of the patent alteration of my Flood Improvement.
18. I spent most of my professional life designing projects in the city of San Diego and other agencies. The city of San Diego has required me and most other professionals, to conform to certain standards that are not being required by this developer. Based on my experience and expertise, I do not believe that the project will not conform to the city's policy 900 – 14.
19. As well as other reasons, that was specifically noted in my presentation and documentation to the city Council, and the record.

I strongly recommend that you do not approve this project for the above reasons. The project it is not good for the public and it certainly is not good for me and my neighbors. The project violates almost all common sense and most requirements of the city of San Diego that most people have to conform to when they want to develop their property.



Richard S. Pearson  
817 Oliver Ave.  
San Diego, California, 92109

[Rich@ped.bz](mailto:Rich@ped.bz)

Attachments:

1. Notice of Public Hearing
2. Agreement with the City of San Diego, dated 9/29/1999





THE CITY OF SAN DIEGO

DATE OF NOTICE: November 24, 2008

# NOTICE OF PUBLIC HEARING

## HEARING OFFICER

### DEVELOPMENT SERVICES DEPARTMENT

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<b>DATE OF HEARING:</b>	<b>December 10, 2008</b>
<b>TIME OF HEARING:</b>	<b>8:30 A.M.</b>
<b>LOCATION OF HEARING:</b>	<b>Council Chambers, 12th Floor, City Administration Building, 202 C Street, San Diego, California 92101</b>
<b>PROJECT TYPE:</b>	<b>Coastal Development Permit and Map Waiver-Process 3</b>
<b>PROJECT NO:</b>	<b><u>163493</u></b>
<b>PROJECT NAME:</b>	<b><u>4135 MISSION BOULEVARD MAP WAIVER</u></b>
<b>APPLICANT:</b>	<b>Mission and PB Drive, LLC, a California Limited Liability Company/ Michael E. Turk, Trustee</b>
<b>COMMUNITY PLAN AREA:</b>	<b>Pacific Beach</b>
<b>COUNCIL DISTRICT:</b>	<b>District 2</b>
<b>CITY PROJECT MANAGER:</b>	<b>Jeffrey A. Peterson, Development Project Manager</b>
<b>PHONE NUMBER:</b>	<b>(619) 446-5237</b>

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As a property owner, tenant, or person who has requested notice, please be advised that the Hearing Officer will hold a public hearing to approve, conditionally approve, or deny an application for Coastal Development Permit to amend Coastal Development Permit No. 116352 and Map Waiver application to waive the requirements of a Tentative Map, and waiver of the undergrounding of overhead utilities to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development that is currently under construction on a 0.503-acre site. The proposed project will conform to the Council Policy 900-14 criteria by generating more than 50% of the projected total energy consumption on site through renewable energy resources (i.e. photovoltaics). The property is located at 4135 and 4105 Mission Boulevard, the northeast corner of Mission Boulevard and Pacific Beach Drive, in the CV-1-2 Zone within the Pacific Beach Community Plan, Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Beach Impact Area of the Parking Impact Overlay Zone, Transit Area Overlay Zone, and Council District 2.

The decision of the Hearing Officer is final unless appealed to the Planning Commission. In order to appeal the decision you must be present at the public hearing and file a speaker slip concerning the application or have expressed interest by writing to the Hearing Officer before the close of the public hearing. The appeal must be made within 10 working days of the Hearing Officer's decision. See Information Bulletin 505 "Appeal Procedure", available at [www.sandiego.gov/development-services](http://www.sandiego.gov/development-services) or in person at the Development Services Department, located at 1222 First Avenue, 3rd Floor, San Diego, CA 92101

**Indexing Instruction  
Index as Agreement Affecting  
Real Property**

**RECORDING REQUESTED BY:**

CASEY GWINN, City Attorney  
ANITA M. NOONE, Assistant City Attorney  
JIM CHAPIN, Deputy

**AND WHEN RECORDED MAIL TO:**

Casey Gwinn, City Attorney  
Anita M. Noone, Assistant City Attorney  
Jim Chapin, Deputy  
City of San Diego  
1200 Third Avenue, Suite 1200  
San Diego, -CA 92101-4184

**SPACE ABOVE THIS LINE FOR  
RECORDER'S USE**

This document exempt from fees  
per Govt. Code § 6103. To the  
benefit of the City of San Diego.

This Agreement applies to and affects the following real property:

- 1) That real property commonly known as 817 Oliver Street, more particularly

described as follows:

**Lots 1, 2, and 3, Block 6 of First Addition to Braemar, in the City of San Diego, County of San Diego, according to map thereof No. 1699, filed in the Office of the County Recorder of San Diego County, November 22, 1917.**



**FINAL SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS**

This Final Settlement Agreement and Release of All Claims ("Agreement") is made by and between THE CITY OF SAN DIEGO, a municipal corporation ("City") and RICHARD PEARSON ("Pearson"), who agree as follows:

**RECITALS**

A. On or about February 3, 1998, Pearson's real and personal property located at 817 Oliver Street, San Diego, California, 92109 ("Pearson's property") was damaged by flooding. On or about February 18, 1998, Pearson filed a claim with the City, alleging certain acts and omissions by the City caused the flooding damage.

B. On or about July 20, 1998, Pearson's real and personal property located at 817 Oliver Street, San Diego, California, 92109 was damaged by flooding. On or about September 22, 1998, Pearson filed a claim with the City, alleging certain acts and omissions by the City caused the flooding damage. On or about April 1, 1999, Pearson filed two more claims alleging, among other things, flooding on December 5, 1998, and improper handling of his claims over a period of time.

C. Pearson's real property located at 817 Oliver Street, San Diego, California, 92109, has a propensity to flood, and has historically flooded.

D. Pearson, through his claims described in paragraphs A and B, seeks compensatory damages, including cost of repair and diminution in value of his real property located at 817 Oliver Street, San Diego, California, from City, based on flooding at or near 817 Oliver Street on or about July 20, 1998 and on or about February 3, 1998. Pearson's damages are also based on the prospect of future flooding at 817 Oliver Street.

E. Pearson and City now wish to settle and dismiss all disputes and claims between them which were raised in the pending claims referred to in Paragraphs A and B, with prejudice, and to sever, release, discharge, and terminate any and all claims, demands, controversies, causes of action, damages, rights, liabilities and obligations between them, arising out of these past floods allegedly caused in whole or in part by City owned or maintained public improvements and flood control devices. The undersigned understand, acknowledge, and agree that the execution of this Agreement is not to be construed as an admission of liability on the part of any party to this Agreement.

F. Pearson desires to implement improvements and preventive measures to his property to minimize future flooding and damage to Pearson's real and personal property ("Improvements").

G. The City desires to facilitate Pearson's Improvements by expediting the processing of all permits necessary for such work, to the extent legally permissible.

H. The City will allow Pearson and his family members to park, maintain, inhabit, and use a motorhome and/or a camping trailer on Pearson's Property until the grading and building is

completed.

I. The City will allow Pearson to fence, for a period of no longer than 90 days, for storage and staging during the grading, demolition, and foundation phases of the construction, on the west 75' end of Oliver Avenue.

J. The City intends to maintain and operate its existing drainage and flood control systems, which affect Pearson's property, at their current condition and capacity or better and the City will not do any thing that will make the flooding problem worse. The City will maintain and operate the drainage and other systems at least at the capacity as operated during the twelve months prior to the date of this agreement.

### DEFINITIONS

As used in this Agreement, the following words and phrases have the meanings stated:

Associated Entities and Persons. "Associated Entities and Persons" includes, but is not limited to, spouses, heirs, executors, administrators, beneficiaries, representatives, successors-in-interest, assigns, subrogees, agents, employees, attorneys, former employees, or similarly related entities or persons.

City. "City" shall include the City of San Diego, its departments, agencies, contractors, employees, and agents.

Claims. "Claims" shall include all claims, rights, liens, demands, liabilities, indebtedness, agreements, promises, and causes of action (asserted, unasserted, known, unknown, or contingent) which arise out of the allegations set forth in the claims described in paragraphs A and B, above, and which have accrued as of the date of signing this Agreement.

Costs. "Costs" shall include all costs, losses, liabilities, damages, judgments, expenses, fees, attorneys' fees, and obligations related to the subject of the claims referenced herein.

Pearson. "Pearson" shall include Richard S. Pearson, the Richard S. Pearson Trust or successors-in-interest, assigns, subrogees, future owners, or similarly related entities or persons.

### RELEASE

NOW, THEREFORE, Pearson and City agree as follows:

1. SETTLEMENT:

1.1 Payments by City. City promises and agrees to pay to Pearson the sum of THREE HUNDRED – FIFTY THOUSAND DOLLARS (\$350,000); the City's payment shall be made payable and delivered to RICHARD PEARSON, within 7 days after the agreement is fully executed.



**1.2 Waiver of Right to Sue.** Pearson agrees to waive any and all rights to sue City on the claims Pearson filed with the City, as described in paragraphs A and B, and further agrees to waive any rights to file further claims against the City for any damage resulting from any storm water flooding that has occurred or may occur, as long as the City maintains and operates its existing drainage and flood control systems, which affect Pearson's property, at their existing condition and capacity or better and the City will not do any thing that will make the flooding problem worse. The City will maintain and operate the drainage and other systems at least at the capacity as operated during the twelve months prior to the date of this agreement. Pearson agrees that if any lawsuit has been filed with any of the claims described in paragraphs A and B, Pearson shall dismiss the lawsuit(s) with prejudice, upon receipt of payment described in paragraph 1.1 above.

**1.3 Attorneys' Fees and Costs Incurred.** Each party shall bear his or its own respective attorneys' fees, expert fees, and costs arising from or related to the claims released therein.

**1.4 Improvement of Property.** Pearson desires to implement improvements and preventive measures to his property to minimize future flooding and damage to Pearson's real and personal property ("Improvements"). The monies paid as part of the Agreement shall be used by Pearson, in part, to make such Improvements to his real property.

**1.5 City Has No Responsibility For Payment To Those Performing Improvement Work.** It is expressly agreed and understood that the payment of monies for the improvement work is a matter and concern existing solely between Pearson and those performing the improvement work; that by signing this Agreement Pearson is releasing the City from any obligation to pay those performing the improvement work.

**1.6 Maintenance Of The Drainage System.** This Agreement will not reduce any existing or future City responsibility for the maintenance and operation of the City owned and/or maintained drainage and flood control improvements which affect Pearson's property. The City will maintain and operate the drainage and other systems at least at the capacity as operated during the twelve months prior to the date of this agreement and the City will not do anything that will make the flooding problem worse.

**1.7 Permit Processing.** The City will facilitate Pearson's Improvements by expediting the processing of all permits necessary for such work, to the extent legally permissible.

**1.8 Temporary Housing.** The City will allow Pearson and his family members to park, maintain, inhabit, and use a motorhome and/or a camping trailer on Pearson's Property until the grading and building is completed.

**1.9 Temporary Storage.** The City will allow Pearson to fence, for a period of no longer than 90 days, for storage and staging during the grading, demolition, and foundation phases of the construction, on the west 75' end of Oliver Avenue.



**RELEASE OF CLAIMS. AND ASSUMPTION OF RISK.**

**2.1 Release.** For and in consideration of the payments set forth in paragraph 1.1, Pearson, for himself and on behalf of his Associated Entities and Persons, does hereby release, acquit, and forever discharge City from any and all claims, actions, causes of action, demands, rights debts, agreements, promises, liabilities, losses, damages, costs and expenses, either known or unknown of any nature or amount whatsoever, without limitation or exception, whether based on tort, violation of statute, negligence, trespass, nuisance, inverse condemnation, dangerous condition, or any other theory of liability or declaration or rights whatsoever, which may now have accrued or which may accrue in the future, arising directly from any cause, event, transaction, act, omission, occurrence, condition or matter, of any nature whatsoever, which is described in or covered by or relating to the claims referred to in Paragraphs A and B, including any and all damage to persons or property, real or personal, caused by surface waters, storm waters, or any damage of whatsoever kind caused by City owned and/or maintained drainage and/or public flood control improvements.

Additionally, for and in consideration of the payments set forth in paragraph 1.1, Pearson, for himself and on behalf of his Associated Entities and Persons, does hereby release, acquit, and forever discharge City from any and all future claims, actions, causes of action, demands, rights debts, agreements, promises, liabilities, losses, damages, costs and expenses, either known or unknown of any nature or amount whatsoever, without limitation or exception, whether based on tort, violation of statute, negligence, trespass, nuisance, inverse condemnation, dangerous condition, or any other theory of liability or declaration or rights whatsoever, which may hereafter accrue arising from any other surface storm flooding events or from the failure of Pearson's Improvement to his real property. The City shall not be held liable for any damages caused by the Improvement Pearson performs to his real property.

It is understood by Pearson and City that through this Agreement, Pearson waives any and all rights Pearson and future interest holders of 817 Oliver Street may have against City with respect to the claims referred in paragraphs A & B and future claims for injury or damages caused by surface storm flood water due to public improvements owned or maintained by City. Future claims are released as long as the City maintains and operates its existing drainage and flood control systems, which affect Pearson's property, at their condition and capacity or better and the City does not do any thing that will make the flooding problem worse. The City will maintain and operate the drainage and other systems at least at the capacity as operated during the twelve months prior to the date of this agreement.

Any payments that may have been made to Pearson by an insurance company or other insurer for damages sustained as a result of the subject claims are matters between Pearson and his insurers. Pearson hereby agrees to indemnify and defend City and its agents, officers and employees from any and all liability or claims or loss of damage arising from or connected with any such insurance claims.

**2.2 Waiver of Civil Code section 1542.** The releases given in this Agreement include



claims and costs that are unknown and/or not suspected to exist. Each of the parties to this Agreement waives all rights which may exist under Section 1542 of the Civil Code of the State of California with respect to the claims described in paragraph A & B, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

It is understood and agreed that the release provision of subsection 2.1. is a full and final release of all liability, claims, demands, actions, causes of action, and rights of every nature and kind and that it extinguishes claims that are known, unknown, foreseen, or unforeseen. The parties understand and acknowledge the significance and consequence of this specific waiver of Section 1542 and assume full responsibility for any injuries, damages, losses, or liability that each of them may incur.

**2.3 Assumption Of Risk.** Pearson acknowledges that he has been informed that his property has a propensity to be inundated by surface storm floodwaters, which may constitute a hazard to his property. Pearson accepts the risk of these conditions. Pearson and his Associated Entities and Persons agree to assume all risks relating the flooding from surface storm flood waters , associated with ownership, residency, use, development, and/or maintenance of his property, including those related to any improvements or attempts to improvement or prevent flooding damage as long as the City does not do any thing that will make the flooding problem worse. The City will maintain and operate the drainage and other systems at least at the capacity as operated during the twelve months prior to the date of this agreement.

**2.4 City Not Responsible For Flood Improvement Failure.** Pearson is undertaking an improvement of his real property to minimize invasion of surface storm flood waters onto his real property. The City has not and does not make any express or implied warranties regarding the effectiveness or adequacy of the flood improvements considered and/or undertaken by Pearson. Issuance of permits for the improvements will not be construed to the contrary.

The City shall not be held responsible to Pearson for any claims, assertions or damages that may accrue or which arise from the failure of his improvement or his attempts to improve or prevent future flooding. Pearson agrees not to assert claims or pursue legal action against the City for any damages associated with his failure of the flood improvement . Pearson agrees City shall not be held responsible and/or liable to him for any future damage caused by surface flood waters.

### **MISCELLANEOUS**

**3.1 Covenant not to sue.** Each party releasing claims under this Agreement agrees that such party shall not make, assert or maintain any action, demand or lawsuit against any other party, or the other party's Associated Entities and Persons, for claims released pursuant to this Agreement.

**3.2 Further Assurance.** Each party shall execute all documents and do all acts



reasonably necessary to carry out the intent of this Agreement.

**3.3 Successors.** The provisions of this Agreement shall be deemed to obligate, extend to, and inure to the benefit of, the successors, assignees, transferees, grantees, and indemnities of each of the parties to this Agreement.

**3.4 Representations Regarding Authority.** The parties represent and warrant that they are legally authorized and competent to execute this Agreement, which is intended to be a legally binding contract dealing with the release and/or conveyance of certain valuable, important rights. Each party represents and warrants that it has not assigned, transferred, or purported to assign or transfer to any person or entity any claim released and each party agrees to defend, indemnify, and hold harmless the other party from any claims that arise as a result of anyone asserting such a claim.

**3.5 Independent Counsel.** Each of the parties to this Agreement acknowledges and represents that it has been represented by independent counsel of its own choice for negotiations relating to the terms and execution of this Agreement, and that it is freely and voluntarily executed with the consent, and upon the advice, of independent counsel. Each of the parties to this Agreement further acknowledges that they have read this Agreement and have had its terms and consequences explained by independent counsel.

**3.6 California Law.** This Agreement is made and entered into in the State of California and shall, in all respects, be interpreted, enforced, and governed by and under the laws of the State of California.

**3.7 Attorneys' Fees.** If any dispute arises pertaining to this Agreement, the prevailing party or parties shall be entitled, among other things, to recover any reasonable attorneys' fees, experts fees and costs incurred in connection with such dispute, whether or not such dispute proceeds to judgment, unless the parties to such a dispute specifically agree to settle the dispute with each party to bear its own costs and fees.

**3.8 Interpretation.** Wherever the context so requires, the singular number shall include the plural; the plural shall include the singular; and the masculine gender shall include the feminine and neuter genders. No provision of this Agreement shall be interpreted against a party to this Agreement because that party or his or its legal representative drafted that provision.

**3.9 Captions.** The captions by which the sections and subsections of this Agreement are identified are for convenience only and shall have no effect upon its interpretation.

**3.10 Integration.** This Agreement (after full execution) memorializes and constitutes the entire agreement and understanding between the parties, and supersedes and replaces all prior negotiations, proposed agreements, and agreements, whether written or unwritten. Each of the parties to this Agreement acknowledges that no other party, nor any agent, or attorney of any other party, has made any promise, representation, inducement, or warranty whatsoever, express or implied, which is not expressly contained in this Agreement; and each party further acknowledges



that he has not executed this Agreement in reliance upon any collateral promise, representation, inducement, or warranty, or in reliance upon any belief as to any fact not expressly set forth by this Agreement. This Agreement may be amended or modified only by a writing signed by all parties to this Agreement which specifically states it is an amendment to this Agreement. If such a written amendment is entered into, such written amendment shall modify only the provisions of this Agreement specifically modified, and shall be deemed incorporated by reference, unchanged, all remaining provisions of this Agreement. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continued waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

**3.11 Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

**3.12 Recordation.** This Agreement shall be executed in recordable form by each of the parties before a Notary Public. After this document has been fully executed by all of the parties it may be recorded by the City as an agreement affecting real property, in the Office of the Recorder of the County of San Diego, State of California.

**3.13 Release Not Admission Of Liability.** It is expressly acknowledged and agreed that no party admits, expressly or impliedly, any fact or liability of any type or nature with respect to any matter, or the sufficiency of any claims, allegations, assertions, or positions of any party; no party has made any such admissions; and this Agreement is entered into solely by way of compromise and settlement only.

**3.14 Forum Selection.** If any action is brought by any party arising out of or in any way related to any of the terms, covenants and conditions of this Agreement, each party agrees that the forum for such action or actions shall be a court of competent jurisdiction within the County of San Diego, State of California.

**3.15 Assignments.** The parties hereby represent that they have not previously assigned, transferred, or purported to have assigned or transferred in any manner, the claim held by it, him or her against the other party. Each party agrees to indemnify and hold harmless the other and pay the other's attorneys' fees in the event that any individual or entity asserts a purported written assignment of a claim from the party to that individual or entity.

**3.16 Severability.** If any term, covenant, condition or provision of this Agreement is held to be invalid, void or unenforceable, the remaining provisions shall remain in full force and effect.

**3.17 Agreement as Defense.** This Agreement may be pleaded by any party hereto as a full and complete defense to and may be used as the basis for an injunction against any action, suit, claim or other proceeding of any type which may be prosecuted, initiated, or attempted in violation of the terms thereof.

IN WITNESS HEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT AS OF THE DATE AND YEAR SET FORTH BELOW.

Dated: 9/29/99

THE CITY OF SAN DIEGO, a Municipal corporation

By: [Signature]  
Michael Uberuaga, City Manager

Dated: 9/29/99

[Signature]  
RICHARD PEARSON, individually and as trustee of the Richard S. Pearson trust.

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) §.

On this 29<sup>th</sup> day of September in the year 1999, before me ,

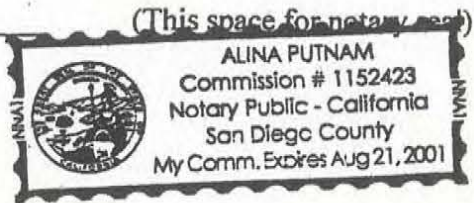
Alina Putnam, Notary Public  
(here insert the name and quality of the officer)

personally appeared RICHARD PEARSON, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument as RICHARD PEARSON and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature Alina Putnam

Dated: September 29, 1999





## ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

On September 29, 1999, before me, Lysanda G. Bostic, the undersigned, a Notary Public in and for said State, personally appeared Michael T. Uberuaga, City Manager, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

*Lysanda G. Bostic*  
Signature of Notary Public

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 OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

## DESCRIPTION OF ATTACHED DOCUMENT

**Title or Type of Document:** Final Settlement Agreement and Release of All Claims between The City of San Diego and Richard Pearson – 817 Oliver Street, San Diego, California 92109

**Document Date:** September 29, 1999

**Number of Pages:** Nine

**Signer is Representing:** City of San Diego



City of San Diego  
 Development Services  
 1222 First Ave. 3rd Floor  
 San Diego, CA 92101  
 (619) 446-5210

THE CITY OF SAN DIEGO

## Development Permit/ Environmental Determination Appeal Application

FORM  
 DS-3031  
 MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

### 1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission  
 Process Three Decision - Appeal to Planning Commission  
 Process Four Decision - Appeal to City Council  
 Environmental Determination - Appeal to City Council  
 Appeal of a Hearing Officer Decision to revoke a permit

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

Name  
 Richard Pearson

Address  
 817 Oliver ave  
 City: San Diego State: CA Zip Code: 92109 Telephone: 858-722-7488

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

### 4. Project Information

Permit/Environmental Determination & Permit/Document No.: project no. = 163493 Date of Decision/Determination: City Project Manager:

Decision (describe the permit/approval decision):  
 4135 Mission Boulevard Map waiver

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

- Factual Error (Process Three and Four decisions only)  
 Conflict with other matters (Process Three and Four decisions only)  
 Findings Not Supported (Process Three and Four decisions only)  
 New Information (Process Three and Four decisions only)  
 City-wide Significance (Process Four decisions only)

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


See attached information.

RECEIVED

DEC 24 2008

DEVELOPMENT SERVICES

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

Signature: 

Date: 12/23/08

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

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 Upon request, this information is available in alternative formats for persons with disabilities.

DS-3031 (03-07)



Dear Hearing Officer,

My name is Richard Pearson and I live at 817 Oliver Ave. in Pacific Beach and oppose granting the permit.

I would like for my statements be put into the record for:

Project number: 163493

Project name: 4135 Mission Blvd. map waiver -- process 3

I am objecting to project the following reasons:

1. I have an agreement with the city of San Diego which states in part, that the city of San Diego will do nothing that will make my flooding worse. This Agreement has been completely ignored by the City and the approval of this Project will constitute a breach of contract with the city of San Diego. The city of San Diego has not met the standard of practice and is allowing a developer to develop an area which is notorious about the flooding (I believe that the site has flooded more than 12 times in the last 15 years). The developer should be required to build this project properly above the flood zone and to an elevation that will not inevitably lead to serious flooding to the tenants of this structure which will cause further unnecessary expenditures of City funds as well as cause me further injury.
2. The city of San Diego will be responsible for the damages in the event of a flood, and ultimately the taxpayers, including myself, will have to pay the damages. Allowing the development of the site at the elevation as shown will surely provide liability to the taxpayers. There is no justification for allowing the developer to essentially expose the City and myself, as well as my neighbors to long term problems in order for the Developer's short term profits.
3. To date the City has condoned the developers continuously trespassing on my property in order for the construction of the project and will probably trespass in the future. The project as design also is requiring entry into my property as well as destruction of the improvements that I have previously made to deal with the flooding issues in this area.
4. The parking layout, as I believe has proposed, does not meet code requirements that most other developer has to meet.
5. The city of San Diego has failed to force the developer to conform to the allowable working hours. No project should be approved unless there is a commitment that the work will be done in accordance with proper working hours.
6. The project is completely incompatible with the neighborhood and is out of scale of the neighborhood.
7. The structure will exceed 30 feet in height, and does not come requirements of the city Council when the project was approved. The City should be aware that it is highly improper to award exceptions for height limitations to individual developers. Combined with the Developers assurances to the City Council that the floor level would be high enough to avoid flooding issues in this area, as



- currently designed and as currently being built the project will ultimately violate both floor level standards as well as height limitations.
8. The project will exceed the allowed floor area ratio. These should be recalculated and specifically approved.
  9. The project does not conform to the requirements for the community plan and the general plan.
  10. The finished floor is being elevated one foot higher than the existing finished floor, as required by the city Council when it was approved the project.
  11. As designed, the city of San Diego has not force the developer to support my soil after they removed the retaining wall, making me unable to have in my own camping trailer. Additionally, the City has ignored the pendency of a Superior Court action which will establish my prescriptive easement as to the Developer's portion of the easement.
  12. The overall design is allowing the developer to divert waters toward my property.
  13. In the process of reviewing MPB's proposed improvement, I and other residents of this neighborhood also raised concerns that the MPB project was not only altering the drainage patterns in this area -- diverting water flow from the west and north to the south and east -- but would also apparently under-provide adequate parking in a neighborhood already plagued by lack of parking. In addition, concerns were voiced that the improvement, as designed, would, in fact, result in a finished floor elevation two feet below the "base flood elevation," thus creating a real possibility that the purchasers or occupants of the MPB Improvement would suffer substantial problems with flooding in the future. Concerns were also voiced that this would affect not only me, but other adjacent properties. Further concerns were raised that the ultimate height of the finished improvement would be beyond that properly allowed by code. Additionally, safety concerns were raised concerning the creation of a public nuisance by virtue of the design of a walkway along the northern border of the MPB, providing access to my neighborhood and Mission Blvd. Despite these various problems, the City approved the MPB Improvement and in 2007 MPB began to move forward with construction.
  14. Also, as the construction activity began, it has become increasingly clear that even under MPB's plans, adequate parking cannot be provided for the number of units planned and MPB has begun a concerted effort to demand replacement of the entire drainage pipe that runs along the Pearson property when such replacement is not necessary. MPB claims that a portion of that pipe is damaged and thus requires complete removal. Further, MPB claims, without any apparent evidence, that somehow Mr. Pearson is responsible for that damage.
  15. I believe MPB is feigning the need to replace this pipe in order to place a redesigned drainage system that will result in a redesign of the boundary area that will increase the available space for parking and provide more assurances that redesign of the project will not be needed. This design, however, will substantially alter my Flooding Improvement by lowering the grade of my property, eliminating the previous retaining barrier that was in place, and causing the effective use of a significant portion of my property.



16. Additionally, in furtherance of this feigned need to replace the drainage line, the City and the Developer have apparently entered into some arrangement by which an additional easement is being provided to the City and thus exposing the City to additional liabilities for damages and injuries that would result from the approval and final construction of this development. The City should not be accepting easements which will increase the scope of the City's responsibilities in the future as well as conflict with the duties owed me as a result of my agreement with the City.
17. The City is also allowing and participating in the creation of a public and private nuisance by allowing the construction of the MPB Improvement in the fashion describe above. The MPB improvement appears to be substantially altering the drainage and flood control system in this vicinity even without consideration of the patent alteration of my Flood Improvement.
18. I spent most of my professional life designing projects in the city of San Diego and other agencies. The city of San Diego has required me and most other professionals, to conform to certain standards that are not being required by this developer. Based on my experience and expertise, I do not believe that the project will not conform to the city's policy 900 – 14.
19. As well as other reasons, that was specifically noted in my presentation and documentation to the city Council, and the record.

I strongly recommend that you do not approve this project for the above reasons. The project it is not good for the public and it certainly is not good for me and my neighbors. The project violates almost all common sense and most requirements of the city of San Diego that most people have to conform to when they want to develop their property.

Richard S. Pearson  
817 Oliver Ave.  
San Diego, California, 92109

[Rich@ped.bz](mailto:Rich@ped.bz)

Attachments:

1. Notice of Public Hearing
2. Agreement with the City of San Diego, dated 9/29/1999

PLANNING COMMISSION  
RESOLUTION NO. PC-xxxxx  
MAP WAIVER NO. 585053

**4135 MISSION BOULEVARD MAP WAIVER - PROJECT NO. 163493**  
**DRAFT**

WHEREAS, MISSION AND PB DRIVE, LLC, a California Limited Liability Company, Applicant/Subdivider, and SAN DIEGO LAND SURVEYING & ENGINEERING, INC., Surveyor, submitted an application with the City of San Diego for Map Waiver No. 585053, to waive the requirement for a Tentative Map to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction, and to waive the requirement to underground existing overhead utilities. The project site is located at 4135 and 4105 Mission Boulevard, the northeast corner of Mission Boulevard and Pacific Beach Drive, in the CV-1-2 Zone within the Pacific Beach Community Plan, Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Beach Impact Area of the Parking Impact Overlay Zone, and Transit Area Overlay Zone. The project site is legally described as Parcel 1 of Parcel Map No. 20548, in the City of San Diego, County of San Diego, State of California, according to map thereof filed in the Office of the County Recorder of San Diego County August 7, 2008; and

WHEREAS, the Map proposes the subdivision of a 0.503-acres site into seven commercial and eighteen residential condominium ownerships from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction; and

WHEREAS, the project is exempt from environmental review pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineering pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the project consists of seven commercial and eighteen residential units that are under construction which have not been issued Certificates of Occupancy; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is seven commercial and eighteen residential; and

WHEREAS, on December 17, 2008, the Hearing Officer of the City of San Diego considered Map Waiver No. 585053, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Resolution No. HO-6109 the Hearing Officer granted Map Waiver No. 585053, including the waiver of the requirement to underground existing overhead utilities; and



WHEREAS, on December 24, 2008, Richard S. Pearson appealed the Hearing Officer's decision to the Planning Commission; and

WHEREAS, the matter was set for public hearing on February 19, 2009, testimony having been heard, evidence having been submitted, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Map Waiver No. 585053 and waiver of the requirement to underground existing overhead utilities:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440.a and State Map Act Sections 66473.5, 66474(a), and 66474(b)); and

The proposed project is a subdivision of the property to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development containing seven commercial and eighteen residential units. The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Map Waiver No.585053. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353. The proposed subdivision complies with the policies, goals, and objectives of the applicable land use plan.

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440. (b)); and

The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Map Waiver No.585053. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353. The proposed project is a subdivision of the property to create seven commercial and eighteen residential condominium ownership interests, and complies with the development regulations of the CV-1-2 Zone, the Pacific Beach Community Plan, the Local Coastal Program Land Use Plan, and the General Plan.

3. The site is physically suitable for the type and density of development (Land Development Code Section 125.0440(c) and State Map Act Sections 66474(c) and 66474(d)); and

The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Map Waiver No.585053. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353. The site, occupying 0.503-acres, could accommodate 15 dwelling units based on the underling CV-1-2 Zone and 22 dwelling units based on the density bonus provided by the community plan. The project utilized the density provision in the community plan, which allowed for the three additional units above the density of the underling zone. Therefore, the site is physically suitable for the type and density of development.

4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code Section 125.0440(d) and State Map Act Section 66474(e)); and

The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Map Waiver No.585053. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353. The proposed subdivision is exempt from environmental review pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA). The proposed project is a subdivision of the property to create seven commercial and eighteen residential condominium ownership interests; therefore, would not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat.

5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440(e) and State Map Act Section 66474(f)); and

The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Map Waiver No.585053. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353. The proposed project is a subdivision of the property to create seven commercial and eighteen residential condominium ownership interests, and would not be detrimental to the public health, safety, and welfare.

6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440(f) and State Map Act Section 66474(g)); and



The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Map Waiver No.585053. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353. There is an existing 18-inch concrete storm drainage pipe down the center of an existing storm drain easement along the eastern property line of the subject property (3-foot easement on each side of the property line for a total of 6-feet). The 60 year old pipe was installed on November 3, 1948, and has a life expectancy of 80 years. The subdivider has agreed to replace the drainage pipe for the full length of the project property (251-feet) with a new 18-inch reinforced concrete pipe (RCP) and dedicate an additional storm drain easement to comply with current easement width standards (minimum 5-foot easement on the subject property) as part of the ministerial Public Improvement Permit that is currently being processed (Project No. 151093).

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code Section 125.0440(g) and State Map Act Section 66473.1); and

The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Map Waiver No.585053. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353. The proposed project is a subdivision of the property to create seven commercial and eighteen residential condominium ownership interests, and would not be impact future passive or natural heating and cooling opportunities.

8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3); and

The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Map Waiver No.585053. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353. The proposed project is a subdivision of the property to create seven commercial and eighteen residential condominium ownership interests, and would not impact the housing within the region, public services, or the available fiscal and environmental resources.

9. The proposed subdivision of land complies with requirements of the Subdivision Map Act and the Land Development Code as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of the



Subdivision Map Act or the Land Development Code enacted pursuant thereto (Land Development Code Section 125.0122 and State Map Act Section 66428(b)); and

The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Map Waiver No.585053. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353. The proposed project is a subdivision of the property to create seven commercial and eighteen residential condominium ownership interests, and complies with requirements of the Subdivision Map Act and the Land Development Code.

10. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 *Underground Conversion of Utility Lines at Developers Expense* in that;

The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility. The neighborhood currently contains power poles and overhead utilities lines within the public right-of-way in the alley abutting the property. The City's Undergrounding Master Plan designates the site within Block 2U and a projected allocation date of 2045 has been established with a projected starting date of May 31, 2047. The applicant would be required to underground any existing and/or proposed public utility systems and service facilities within the subdivision.

The above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED that the appeal of Richard S. Pearson is denied; the decision of the Hearing Officer is sustained; and Map Waiver No. 585053, including the waiver of the requirement to underground existing overhead utilities, is hereby GRANTED to MISSION AND PB DRIVE, LLC, a California Limited Liability Company, Applicant/Subdivider, subject to the following conditions:

#### **GENERAL**

1. This Map Waiver will expire February 19, 2012.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Certificate of Compliance, unless otherwise noted.
3. A Certificate of Compliance shall be recorded in the Office of the County Recorder, prior to the Map Waiver expiration date.



4. Prior to the issuance of the Certificate of Compliance, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
5. The Certificate of Compliance shall conform to the provisions of Coastal Development Permit No. 116352 and Planned Development Permit No. 116353, and amended Coastal Development Permit No. 585249.
6. The applicant 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 attorneys fees, against the City or its agents, officers, or employees, including, but not limited to, any 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant shall pay all of the costs related thereto, including without limitation reasonable attorneys fees and costs. In the event of a disagreement between the City and applicant 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 applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

#### **AFFORDABLE HOUSING / SUSTAINABLE BUILDINGS**

7. An Inclusionary Housing In-Lieu Fee of \$35,294.04 was paid at the time of the issuance of the building permit (Invoice No. 257383); therefore, the project is in compliance with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) and no additional Inclusionary Housing Fees are required. The project is currently under construction and would not be subject to the Tenant Relocation Benefits (Chapter 14, Article 4, Division 5 of the Land Development Code).
8. Prior to building occupancy, 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 proposed project's projected energy consumption, as established by Council Policy 900-14.

#### **ENGINEERING**

9. The Subdivider shall underground existing and/or proposed public utility systems and service facilities within the subdivision in accordance with the San Diego Municipal Code.
10. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
11. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the Map Waiver and covered in these special conditions will be authorized.
12. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

#### **MAPPING**

13. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

#### **SEWER AND WATER**

14. Water and Sewer Requirements:
  - a. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
  - b. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

#### **INFORMATION:**

- The approval of this Map Waiver by the Planning Commission of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).



- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Map Waiver will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Map Waiver, may protest the imposition within 90 days of the approval of this Map Waiver by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SAN DIEGO, CALIFORNIA, ON FEBRUARY 19, 2009.

By

\_\_\_\_\_  
Jeffrey A. Peterson  
Development Project Manager  
Development Services Department

Job Order No. 43-1484

PLANNING COMMISSION  
RESOLUTION NO. PC-xxxx  
COASTAL DEVELOPMENT PERMIT NO. 585249  
**4135 MISSION BOULEVARD MAP WAIVER-PROJECT NO. 163493**  
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 116352  
**DRAFT**

WHEREAS, MISSION AND PB DRIVE, LLC, a California Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for a permit to amend Coastal Development Permit No. 116352 to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 585249), on portions of a 0.503-acre site;

WHEREAS, the project site is located at 4135 and 4105 Mission Boulevard, the northeast corner of Mission Boulevard and Pacific Beach Drive, in the CV-1-2 Zone within the Pacific Beach Community Plan, Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Beach Impact Area of the Parking Impact Overlay Zone, and Transit Area Overlay Zone;

WHEREAS, the project site is legally described as Parcel 1 of Parcel Map No. 20548, in the City of San Diego, County of San Diego, State of California, according to map thereof filed in the Office of the County Recorder of San Diego County August 7, 2008;

WHEREAS, on December 17, 2008, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 585249, and pursuant to Resolution No. HO-6109 the Hearing Officer granted Coastal Development Permit No. 585249; and

WHEREAS, on December 24, 2008, Richard S. Pearson appealed the Hearing Officer's decision to the Planning Commission; and

WHEREAS, the matter was set for public hearing on February 19, 2009, testimony having been heard, evidence having been submitted, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

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

That the Planning Commission adopts the following written Findings, dated February 19, 2009.

A. Coastal Development Permit - Section 126.0708

- 1. The proposed coastal development will not encroach upon any existing physical access way 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; and**

The 0.503-acre site is located at 4135 and 4105 Mission Boulevard, the northeast corner of Mission Boulevard and Pacific Beach Drive. The proposed project is a subdivision of the property to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development containing seven commercial and eighteen residential units. The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by this Coastal Development Permit No. 585249. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353.

The subject property is a corner lot, and is located approximately 190 feet from the Pacific Ocean and 250 feet from the shoreline of Mission Bay. The property is not located between the sea and the first public roadway paralleling the sea. Mission Boulevard at this location is not designated as a physical accessway or as a visual access corridor within the adopted Pacific Beach Community Plan and Local Coastal Program Land Use Plan, and the proposed project would not affect these resources. The proposed subdivision would occur on private property.

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

The proposed project is a subdivision of a 0.503-acre property to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development that is currently under construction. No development is proposed with this subdivision and the project site is located within an urbanized area of Pacific Beach community. The subject property is a corner lot, and is located approximately 190 feet from the Pacific Ocean and 250 feet from the shoreline of Mission Bay. The site is not located between the sea and the first public roadway paralleling the sea, and not within or adjacent to the Multiple Species Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA).

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 Guidelines Section 15301, Existing Facilities. Therefore, it has been determined that the subdivision 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 proposed project is a subdivision of a 0.503-acre property to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development that is currently under construction. No development is proposed with this subdivision and



the project site is located within an urbanized area of Pacific Beach community. The site is not located between the sea and the first public roadway paralleling the sea. No public view or public access to the water would be adversely affected by the approval of this subdivision. Therefore, the proposed subdivision conforms to the Pacific Beach Community Plan and the Local Coastal Program Land Use Plan. In addition, the project proposes to utilize renewable technology, self-generating at least 50 percent of its electrical energy needs through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy.

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

The proposed project is a subdivision of a 0.503-acre property to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development that is currently under construction. No development is proposed with this subdivision and the project site is located within an urbanized area of Pacific Beach community. The subject property is a corner lot, and is located approximately 190 feet from the Pacific Ocean and 250 feet from the shoreline of Mission Bay. The site is not located between the sea and the first public roadway paralleling the sea. Mission Boulevard at this location is not designated as a physical accessway or as a visual access corridor within the adopted Pacific Beach Community Plan and Local Coastal Program Land Use Plan. No public view, public access to the water, public recreation facilities, or public parking facilities would be adversely affected by the approval of this subdivision. Therefore, the proposed subdivision has demonstrated conformance with the public access and recreation policies of the California Coastal Act as required by this finding.

BE IT FURTHER RESOLVED, that the appeal of Richard S. Pearson is denied; the decision of the Hearing Officer is sustained; and Coastal Development Permit No. 585249 is hereby GRANTED to MISSION AND PB DRIVE, LLC, Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 585249, a copy of which is attached hereto and made a part hereof.

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Jeffrey A. Peterson  
Development Project Manager  
Development Services

Adopted on: February 19, 2009

Job Order No. 43-1484

cc: Legislative Recorder, Planning Department



**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

JOB ORDER NUMBER: 43-1484

COASTAL DEVELOPMENT PERMIT NO. 585249  
**4135 MISSION BOULEVARD MAP WAIVER-PROJECT NO. 163493**  
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 116352  
PLANNING COMMISSION  
**DRAFT**

This Coastal Development Permit No. 585249, an amendment to Coastal Development Permit No. 116352, is granted by the Planning Commission of the City of San Diego to MISSION AND PB DRIVE, LLC, a California Limited Liability Company, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0702. The 0.503-acre site is located at 4135 and 4105 Mission Boulevard, the northeast corner of Mission Boulevard and Pacific Beach Drive, in the CV-1-2 Zone within the Pacific Beach Community Plan, Coastal Overlay Zone (Non-Appellable Area 2), Coastal Height Limitation Overlay Zone, Beach Impact Area of the Parking Impact Overlay Zone, and Transit Area Overlay Zone. The project site is legally described as Parcel 1 of Parcel Map No. 20548, in the City of San Diego, County of San Diego, State of California, according to map thereof filed in the Office of the County Recorder of San Diego County August 7, 2008.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to amend Coastal Development Permit No. 116352 to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 19, 2009, on file in the Development Services Department.

The project shall include:

- a. A subdivision of a mixed-use development containing seven commercial and eighteen residential units to create seven commercial and eighteen residential condominium ownership interests, as permitted and under construction pursuant to Coastal Development Permit No. 116352;

- b. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14;
- c. No additional development rights are granted as a result of this subdivision of land;

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. 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.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. 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.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.



8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that 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.

10. The applicant 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, including, but not limited to, any 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 applicant 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 applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

**AFFORDABLE HOUSING / SUSTAINABLE BUILDINGS REQUIREMENTS:**

11. A condition of Coastal Development Permit No. 116352 (Condition No. 13) required the applicant to comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). An In-Lieu Fee of \$35,294.04 was paid at the time of the issuance of the building permit (Invoice No. 257383); therefore, the project is in compliance with the regulations and no additional Inclusionary Housing Fees are required. The project is currently under construction and would not be subject to the tenant relocation assistance regulations.



12. Prior to building occupancy, 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 proposed project's projected energy consumption, as established by Council Policy 900-14.

**ENGINEERING REQUIREMENTS:**

13. This Permit shall comply with all Conditions of the Map Waiver No. 585053.

**PLANNING/DESIGN REQUIREMENTS:**

14. The subject property shall comply with all conditions and requirements in Coastal Development Permit No. 116352 and Planned Development Permit No. 116353, and amended Coastal Development Permit No. 585249.

15. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

16. The Owner/Permittee shall post a copy of the approved discretionary permit and Parcel Map in the sales office for consideration by each prospective buyer.

17. 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.

18. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

19. No mechanical equipment (other than photovoltaic systems), tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

**INFORMATION ONLY:**

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development 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 §66020.

APPROVED by the Planning Commission of the City of San Diego on February 19, 2009, pursuant to Resolution No. PC-xxxx.



Permit Type/PTS Approval No.: CDP/585249  
Date of Approval: February 19, 2009

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

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Jeffrey A. Peterson  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1180 et seq.**

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**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.

MISSION AND PB DRIVE, LLC  
Owner/Permittee

By \_\_\_\_\_  
Michael E. Turk  
Trustee

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

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

THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON SEP 20, 2006  
DOCUMENT NUMBER 2006-0668500  
GREGORY J. SMITH, COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME: 11:11 AM

**WHEN RECORDED MAIL TO**  
CITY CLERK  
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-2721

COASTAL DEVELOPMENT PERMIT NO. 116352  
PLANNED DEVELOPMENT PERMIT NO. 116353  
**MISSION @ PB DRIVE – PROJECT NO. 41256**  
CITY COUNCIL

This Coastal Development Permit No. 116352/Planned Development Permit No. 116353 is granted by the City Council of the City of San Diego to Pacific Beach Investment Trust, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0604 and 126.0708. The 0.503-acre site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive in the CV-1-2 zone(s) within the Pacific Beach Community Plan area, Coastal Overlay Zone (Non-appealable Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone, and Transit Area Overlay Zone. The project site is legally described as Parcel 1 and 2 of Parcel Map No. 2124.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish an existing commercial building on site for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 7, 2006, on file in the Development Services Department.

The project or facility shall include:

- a. The project proposes to demolish an existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The proposed first floor (ground level) would consist of seven retail units totaling approximately 3,350 square feet, utility rooms, entry court, landscaping, motorcycle parking, bicycle parking, and on-site parking spaces. Eighteen residential units would be located on the second and third floors consisting of seven floor plan types ranging from approximately 1,506 to 2,015 square feet, with each unit containing a maximum of three bedrooms and one home office. The

**ORIGINAL**



second and third floor levels have an approximate combined total of 28,811 square feet;

- b. The project includes a deviation from the regulations for access from the site to the alley, which is a deviation to SDMC section 142.0560(j)(7).
- c. The project shall maintain a minimum of forty-eight on-site parking spaces. This condition will invalidate the original proposed shared parking provision;
- d. The maximum building height shall be 30-feet, which includes the roof mounted solar panels;
- e. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14;
- f. Landscaping (planting, irrigation and landscape related improvements);
- g. Off-street parking facilities; and
- h. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. 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.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the

**ORIGINAL**

terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.

4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the 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.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that 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.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

10. Mitigation requirements are tied to the environmental document, and conditions are incorporated into the permit by reference or authorization for the project.

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11. As conditions of Coastal Development Permit No. 116352/Planned Development Permit No. 116353, the mitigation measures specified in Mitigated Negative Declaration, LDR No. 41256 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS. The Owner/Permittee shall comply with the mitigation measures as specified in Mitigated Negative Declaration LDR No. 41256 satisfactory to the City Manager and City Engineer.

12. Prior to foundation inspection, the Owner/Permittee shall provide to the Environmental Analysis Section documentation from the County Department of Environmental Health [DEH] indicating they inspected the Liquid Boot vapor barrier and it was properly and satisfactorily installed, and has been approved by DEH.

**AFFORDABLE HOUSING REQUIREMENTS:**

13. Prior to the issuance of any building permits, the Owner/Permittee shall pay an Inclusionary Affordable Housing In-Lieu Fee, pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

14. The Owner/Permittee shall assure by the building permits, the installation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14.

**ENGINEERING REQUIREMENTS:**

15. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

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

17. 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.

18. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.

19. Prior to building occupancy, the Owner/Permittee shall assure by permit and bond the replacement of the curb with City standard curb and gutter, adjacent to the site on Mission Boulevard and Pacific Beach Drive, satisfactory to the City Engineer.

**ORIGINAL**

20. The drainage system proposed for this development is private and subject to approval by the City Engineer.
21. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement, for enhanced sidewalk paving.
22. Prior to foundation inspection, the Owner/Permittee shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying the pad elevation based on USGS datum is in accordance with the approved plans.
23. Prior to building occupancy, the Owner/Permittee shall assure by permit and bond the replacement of sidewalk adjacent to the site, satisfactory to the City Engineer.
24. All driveways and curb openings shall comply with City Standard Drawings G14A, G-16 and SDG-100 as appropriate, satisfactory to the City Engineer.

**LANDSCAPE REQUIREMENTS:**

25. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A."
26. Prior to issuance of any engineer permits for grading, construction documents for temporary erosion control including hydroseeding shall be submitted in accordance with the Landscaping Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A" (including Environmental conditions.
27. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account the area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
28. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee or subsequent owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
29. All required landscape shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

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30. 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, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

**PLANNING/DESIGN REQUIREMENTS:**

31. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

32. The maximum building height shall be 30-feet, which includes the roof mounted solar panels.

33. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

34. 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 Permittee.

35. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

36. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

37. The Owner/Permittee shall post a copy of the approved discretionary permit in the sales office for consideration by each prospective buyer.

38. 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.

39. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

**ORIGINAL**



40. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
41. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
42. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers, and latticework.
43. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A."

#### **TRANSPORTATION REQUIREMENTS:**

44. No fewer than forty-eight off-street parking spaces (of which one space is an accessible parking space), four motorcycle spaces and thirteen bicycle spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with requirements of the Land Development Code with minimum parking stall dimension of 8-foot wide (8-foot 3-inches for retail sales uses and eating and drinking establishments) by 18-foot long, 9-foot wide by 18-foot long for spaces with one side abutting an obstacle and 9-foot 6-inches wide by 18-foot long for spaces with two sides abutting obstacle. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.
45. Prior to the issuance of any building permits, applicant shall assure by permit and bond the construction of a 20-foot wide driveway on Pacific Beach Drive with the associated signage to restrict left turn in and out at that location including on-site "No Left Turn" sign and 36-inch high orange delineators (glued down) along property frontage on Pacific Beach Drive, satisfactory to the City Engineer.
46. The Owner/Permittee shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer.

**ORIGINAL**



This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

**WASTEWATER REQUIREMENTS:**

47. The Owner/Permittee shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
48. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.
49. Prior to the issuance of any engineering or building permits, the Owner/Permittee shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each unit will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer facilities that serve more than one ownership.

**WATER REQUIREMENTS:**

50. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway or drive aisle and the removal of any existing unused water services within all rights-of-way adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
51. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of the appropriate private backflow prevention device(s) on each water service (domestic, fire and irrigation), in a manner satisfactory to the Water Department Director, the City Engineer and the Cross-Connection Supervisor in the Customer Support Division of the Water Department.
52. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.
53. All on-site water facilities shall be private including domestic, fire and irrigation systems.
54. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on the approved plans shall be modified at final engineering to comply with standards..

**ORIGINAL**

**FACILITIES FINANCING REQUIREMENTS:**

55. Prior to building permit issuance, the Owner/Permittee shall be required to pay a Development Impact Fee [DIF]. The Owner/Permittee will be subject to the fees in effect at the time of the building permit issuance.

**INFORMATION ONLY:**

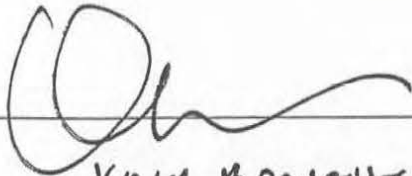
Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on August 7, 2006 by Resolution No. R-301817.

**ORIGINAL**

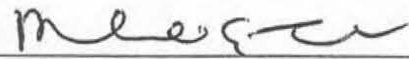


AUTHENTICATED BY THE CITY MANAGER

By   
KELLY BROUGHTON, DEPUTY DIRECTOR

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

PACIFIC BEACH INVESTMENT TRUST  
Owner/Permittee

By   
MICHAEL E. TURK, TRUSTEE  
By \_\_\_\_\_

**NOTE: Notary acknowledgments must be attached per Civil Code section 1180 et seq.**

PERMIT/OTHER - Permit Shell 11-01-04

**ORIGINAL**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

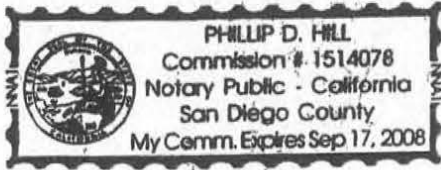
State of California

County of San Diego

On SEPTEMBER 14, 2006 before me, Phillip D. Hill, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared KELLY BROUGHTON  
Name(s) of Signer(s)

- personally known to me
- (or proved to me on the basis of satisfactory evidence)



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Phillip D. Hill  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: CDP 116352; PDP 116353; MISSION @ PB DRIVE

Document Date: \_\_\_\_\_ Number of Pages: 10

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_




**CALIFORNIA ALL-PURPOSE CERTIFICATE**

State of California  
County of San Diego

On September 8, 2006 before me, Barbra Marshall, Notary Public, personally appeared Michael E. Turk, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

  
Barbra Marshall



Notary Seal

RESOLUTION NUMBER R-301817

DATE OF FINAL PASSAGE AUGUST 7, 2006

WHEREAS, Pacific Beach Investment Trust, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit/planned development permit to demolish an existing commercial building on site for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces on portions of a 0.503-acre site known as the Mission at PB Drive project, located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive, and legally described as Parcel 1 and 2 of Parcel Map No. 2124, in the Pacific Beach Community Plan area, in the CV-1-2 zone, Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone and Transit Area Overlay zone; and

WHEREAS, on June 22, 2006, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] Permit No. 116352/Planned Development Permit [PDP] No. 116353, and pursuant to Resolution No. 4074-PC voted to approve the Permit; and

WHEREAS, the Pacific Beach Community Planning Committee and Richard S. Pearson appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the

**ORIGINAL**



decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on August 7, 2006, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 116352/Planned Development Permit No. 116353:

**A. COASTAL DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE  
[SDMC] SECTION 126.0708**

**1. The proposed coastal development will not encroach upon any existing physical access way 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 project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The Pacific Beach Community Plan [PBCP] designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 dwelling units per acre [du/ac] for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underlying CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone. Mission Boulevard and Pacific Beach Drive are not designated as a physical accessway or as a visual corridor to the local beaches within the adopted PBCP and Local Coastal Program Land Use Plan, and the proposed project would not affect these resources. The proposed development would occur on private property.

**2. The proposed coastal development will not adversely affect environmentally sensitive lands.** The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development

**ORIGINAL**



containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The project site is located within an urbanized area of the Pacific Beach community and does not contain environmentally sensitive lands; therefore, the proposed mixed-use development 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.** The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development. The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underlying CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone.

The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development; therefore, the project as proposed would conform to the goals and recommendations of the PBCP. The project is in conformance with the underlying CV-1-2 zone regulations (except for the conditions and/or deviations imposed on the project by the Planning Commission), the Local Coastal Program Land Use Plan, the Progress Guide and General Plan, the Strategic Framework Element, and the Housing Element.

The project proposes to utilize renewable energy technology, self-generating at least 50 percent of the projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy.

**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 project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The project site is not located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone and is not required to demonstrate conformance with the public access and recreation policies of the California Coastal Act as required by this finding.

**B. PLANNED DEVELOPMENT PERMIT SDMC SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The project proposes to demolish the existing single-story commercial retail building and

**ORIGINAL**



the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underling CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone.

The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development; therefore, the project as proposed would conform to the goals and recommendations of the PBCP. The project is in conformance with the underling CV-1-2 zone regulations (except for the conditions and/or deviations imposed on the project by the Planning Commission), the Local Coastal Program Land Use Plan, the Progress Guide and General Plan, the Strategic Framework Element, and the Housing Element.

The project proposes to utilize renewable energy technology, self-generating at least 50 percent of the projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The project required the preparation of an Initial Study to identify the potential for significant environmental impacts which could be associated with the project pursuant to Section 15063 of the State of California Environmental Quality Act [CEQA] Guidelines. Analysis concluded that a Mitigated Negative Declaration would be required with mitigation measures for reducing a potentially adverse impact from Human Health/Public Safety/Hazardous to below a level of significance.

The permits for the project will include various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the Land Development Code [LDC] in effect for this project. Such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The project will comply with the development conditions in effect for the subject property as described in Coastal Development Permit No. 116352 and Planned Development Permit No. 116353, and other regulations and



guidelines pertaining to the subject property per the LDC. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code.** The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underlying CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone. The project complies with the applicable regulations of the underlying CV-1-2 zone regulations; however, the Planning Commission added three conditions and/or deviations as follows: 1. the proposed access from the site to the alley shall be omitted. This is a deviation to SDMC section 142.0560(j)(7) which requires off-street parking spaces for new developments located within a Beach Impact Area of the Parking Impact Overlay Zone shall be accessible from the abutting alley. 2. The proposed project shall maintain a minimum of forty-eight on-site parking spaces. This condition will invalidate the original proposed shared parking provision. 3. The maximum building height shall be 30-feet, which includes the roof mounted solar panels.

On appeal, the City Council upheld the Planning Commission decision for approval with additional conditions that the proposed eighteen units shall each contain a maximum of three-bedrooms and one home office; the parking spaces shall comply with the Land Development Code; and the installation of no left turn signage to be installed on Pacific Beach Drive.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development. The mixed-use proposal would serve the employees and employers of the area through adding housing supply in the immediate area of employment opportunities and expanding the commercial space available for businesses. The mixed-use development would contribute to a reduction in vehicle trips and vehicle emissions through an increase in the area's job/housing balance. The housing is also located in an area of recreational opportunities and would reduce vehicle trips from more distant residential areas to activities in Pacific Beach. The proposed project would also make an in-lieu contribution towards the cost of affordable housing, upgrade improvements in the public right-of-way, as well as pay all applicable public facilities financing and school fees. In addition, the project proposes to utilize renewable energy technology, self-generating at least 50 percent of the

**ORIGINAL**



projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy. Therefore, the proposed mixed-use development, when considered as a whole, would be beneficial to the community.

**5. Any proposed deviations pursuant to SDMC Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development.

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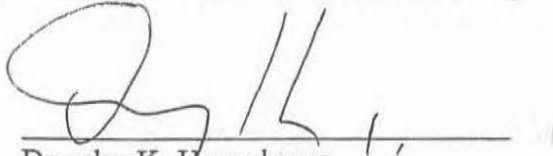
The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that the appeal of the Pacific Beach Community Planning Committee and Richard S. Pearson is denied; the decision of the Planning Commission is sustained; and Coastal Development Permit No. 116352/Planned Development Permit

**ORIGINAL**

No. 116353 is granted to Pacific Beach Investment Trust, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
\_\_\_\_\_  
Douglas K. Humphreys  
Deputy City Attorney

DKH:pev  
08/17/06  
Or.Dept:Clerk  
R-2007-142  
MMS #3604

**ORIGINAL**



Passed by the Council of The City of San Diego on August 07 2006, by the following vote:

YEAS:                   **PETERS, FAULCONER, ATKINS, YOUNG, MAIENSCHIN,  
FRYE, MADAFFER, HUESO.**

NAYS:                   **NONE.**

NOT PRESENT:       **NONE.**

VACANT:               **NONE.**

**AUTHENTICATED BY:**

**JERRY SANDERS**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
RESOLUTION NO. **R-301817**, passed and adopted by the Council of The City of San Diego,  
California on August 07, 2006, and approved by the Mayor on N/A.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy  
Manuel E. Ketcham

**ORIGINAL**

<b>Project Title:</b> 4135 Mission Blvd. Condominium Conversion	<b>Project No. (For City Use Only)</b> 163493
--	--

**Part II - To be completed when property is held by a corporation or partnership**

**Legal Status (please check):**

Corporation (
  Limited Liability -or-
  General) What State? CA Corporate Identification No. \_\_\_\_\_  
 Partnership

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 names, titles 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 corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **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

Corporate/Partnership Name (type or print):  
 Mission and PB Drive, LLC

Owner
  Tenant/Lessee

Street Address:  
 4641 Ingraham Street

City/State/Zip:  
 San Diego, CA 92109

Phone No: 858-274-5995 Fax No: 858-274-0964

Name of Corporate Officer/Partner (type or print):  
 MICHAEL E. TURK

Title (type or print):  
 MEMBER

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):  
 Mission and PB Drive LLC

Owner
  Tenant/Lessee

Street Address:  
 4641 Ingraham St.

City/State/Zip:  
 San Diego CA 92109

Phone No: 858-274-5995 Fax No: 858-274-0964

Name of Corporate Officer/Partner (type or print):  
 KAREN TURK

Title (type or print):  
 MEMBER

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):

Owner
  Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):

Owner
  Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):

Owner
  Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):

Owner
  Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : \_\_\_\_\_ Date: \_\_\_\_\_



DETERMINATION OF  
**ENVIRONMENTAL EXEMPTION**

Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

Agency: CITY OF SAN DIEGO

Project No.: 163493

Date: September 5, 2008

**Action/Permit(s):** Coastal Development Permit and Map Waiver

**Description of Activity:** Coastal Development Permit and Map Waiver to waive the requirements of a Tentative Map and under grounding overhead utilities to create seven (7) commercial and eighteen (18) residential condo on a 0.50 acre site in the CV-1-2 Zone within the Pacific Beach Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, Residential Tandem Parking, and Transit Area Overlay Zones of Council District 2.

**Location of Activity:** 4135 Mission Boulevard, San Diego in the Pacific Beach Community Plan Area**(CHECK BOXES BELOW)**

1.  This activity is EXEMPT FROM CEQA pursuant to:
- Section 15060 (c)(3) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378)
- Section 15061 (b)(3) of the State CEQA Guidelines (General Rule)
2.  This project is EXEMPT FROM CEQA pursuant to State CEQA Guidelines Section checked below:

**ARTICLE 19 of GUIDELINES**  
**CATEGORICAL EXEMPTIONS**  
(Incomplete list)

Section	Short Name
<input checked="" type="checkbox"/> 15301	Existing Facilities
<input type="checkbox"/> 15302	Replacement or Reconstruction
<input type="checkbox"/> 15303	New Construction or Conversion of Small Structures
<input type="checkbox"/> 15304	Minor Alterations to Land
<input type="checkbox"/> 15305	Minor Alteration in Land Use
<input type="checkbox"/> 15306	Information Collection
<input type="checkbox"/> 15311	Accessory Structures
<input type="checkbox"/> 15312	Surplus Government Property Sales
<input type="checkbox"/> 15315	Minor Land Divisions
<input type="checkbox"/> 15317	Open Space Contracts or Easements
<input type="checkbox"/> 15319	Annexation of Existing Facilities and Lots for Exempt Facilities
<input type="checkbox"/> 15325	Transfer of Ownership of Interest in Land to Preserve Open Space
<input type="checkbox"/> Other	_____

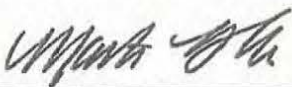
**ARTICLE 18 of GUIDELINES**  
**STATUTORY EXEMPTIONS**  
(Incomplete list)

Section	Short Name
<input type="checkbox"/> 15261	Ongoing Project
<input type="checkbox"/> 15262	Feasibility and Planning Studies
<input type="checkbox"/> 15265	Adoption of Coastal Plans and Programs
<input type="checkbox"/> 15268	Ministerial Projects
<input type="checkbox"/> 15269	Emergency Projects
<input type="checkbox"/> Other	_____

It is hereby certified that the City of San Diego has determined the above activity to be exempt:

Distribution:

Exemption or Project file  
Jeff Peterson, DPM

  
\_\_\_\_\_  
Martha Blake, AICP Senior Planner  
Environmental Analysis Section



THE CITY OF SAN DIEGO

## REPORT TO THE HEARING OFFICER

HEARING DATE: December 10, 2008 REPORT NO. HO-08-188

ATTENTION: Hearing Officer

SUBJECT: 4135 MISSION BOULEVARD MAP WAIVER-PROJECT NO. 163493  
PROCESS THREE

LOCATION: 4135 Mission Boulevard

OWNER/  
APPLICANT: Mission and PB Drive, LLC, a California Limited Liability Company/  
Michael E. Turk, Trustee

### SUMMARY

Requested Action - Should the Hearing Officer approve the creation of seven commercial and eighteen residential condominium ownership interests that are currently under construction located at 4135 and 4105 Mission Boulevard within the Pacific Beach Community Plan Area?

### Staff Recommendation -

1. **APPROVE** Coastal Development Permit No. 585249;
2. **APPROVE** Map Waiver No. 585053; and
3. **APPROVE** the waiver to the requirement to underground existing overhead utilities.

Community Planning Group Recommendation - On October 22, 2008, the Pacific Beach Community Planning Committee voted 11-2-0 to recommend denial of the proposed project based on the parking (Attachment 8).

Environmental Review - This project is exempt from environmental review pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA). The environmental exemption determination for this project was made on September 5, 2008, and the opportunity to appeal that determination ended September 19, 2008. This project is not pending an appeal of the environmental determination.



## BACKGROUND

The project site is located at 4135 and 4105 Mission Boulevard (Attachment 1), at the northeast corner of Mission Boulevard and Pacific Beach Drive (Attachment 2). The site is located in the CV-1-2 Zone, a Commercial-Visitor Zone (Attachment 3), within the Pacific Beach Community Plan (Attachment 4), Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Beach Impact Area of the Parking Impact Overlay Zone, and Transit Area Overlay Zone. The zoning designation provides for commercial-visitor oriented mixed-use development and allows for one-unit per 1,500 square foot of lot area. The Pacific Beach Community Plan (PBCP) identifies Mission Boulevard as a transit corridor and allows a density of up to 43 dwelling units/per acre (du/ac) for mixed-use projects in transit corridors when designed as a Transit-Oriented Development. The proposed project site, occupying 0.503-acres, could accommodate 15 dwelling units based on the underlying zone and 22 dwelling units based on the community plan.

On June 22, 2006, the Planning Commission approved Coastal Development Permit (CDP) No. 116352 and Planned Development Permit (PDP) No. 116353; however, the Planning Commission's decision was appealed to City Council. On August 7, 2006, the City Council denied the appeal, and approved the CDP and PDP with modifications. The City Council made the following modifications to the project: 1) no left hand turns from the project site along Pacific Beach Drive; 2) revise the units to contain three bedrooms and one home office; 3) no alley access from the project site; and 4) the project shall maintain a minimum 48 on-site parking spaces. This condition invalidated the original proposed shared parking provision.

The building permit for the mixed-use development was permitted on June 26, 2008, Building Permit No. 525007, and is currently under construction. The building plans were found to be in substantial conformance with the approved exhibit and City Council's modifications. The approved exhibit showed proposed columns encroaching within the 13 parking spaces; however, the final construction plans required additional columns to support the upper levels and these columns encroached within a total of 29 parking spaces. The construction columns are 12-inches wide by 16-inches long, six-inches of which encroach within portions of the parking spaces. Prior to the issuance of the building permit and in accordance with Section 129.0104(b)(5) of the Land Development, the City Engineer found, in this case, that there are practical difficulties involved in carrying out the applicable provisions of the San Diego Municipal Code (SDMC) regarding the parking space clearance and the City Council's modifications. The City Engineer determined that the modification to allow the encroachment into the parking space by six-inches and still maintain the required clearance for the remaining 92-percent of the length of the parking space would not lessen any fire protection requirements or any degree of public safety. Therefore, the modification was approved by the City Engineer. The mixed-use development has not yet received a Certificate of Occupancy (COO).

## DISCUSSION

### Project Description:

The project proposes a Map Waiver to waive the requirements for a Tentative Map for the subdivision of a 0.503-acre site to create seven commercial and eighteen residential condominium



ownerships from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction (Attachment 7). This subdivision also requires a Coastal Development Permit since the project is located in the Coastal Overlay Zone. Therefore, an amendment to the previously approved Coastal Development Permit No. 116352 is required. The proposed development will self-generate at least 50 percent of its electrical energy needs through photovoltaic technology (solar panels). Because the project utilizes renewable technologies and qualifies as a Sustainable Building under Council Policies 900-14 and 600-27, the land use approvals have been processed through the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

Section 125.0410 of the SDMC requires that a Tentative Map be processed for the subdivision of land; however, a subdivider may request a waiver of Tentative Map requirements pursuant to SDMC Section 125.0120. The SDMC Section 125.0120(b) defines condominium projects as the construction of a condominium project on a single parcel that was previously mapped and monumented in a manner satisfactory to the City Engineer. On August 7, 2008, Parcel Map No. 20548 was recorded to consolidate the existing two lots into one.

Staff has determined the proposed waiver conforms to the applicable requirements of the State's Subdivision Map Act Section 66428 and the SDMC. This process allows this Map Waiver for the construction of condominiums as long as the newly constructed units have not yet received a COO. If a COO were issued, then the project would be subject to the condominium conversion regulations. Therefore, since a COO has not been issued, the requirements for a tentative map may be waived for this project.

#### Undergrounding Waiver Request:

The project site is located, within Council District Two. SDMC Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights-of-way. City staff has determined the undergrounding waiver request qualifies under the guidelines of Council Policy 600-25, *Underground Conversion of Utility Lines at the Developer's Expense*, in that the conversion involves a short span of overhead facility and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area.

The neighborhood currently contains power poles and overhead utilities lines within the public right-of-way in the alley abutting the property (Attachment 9). The proposed subdivision shall be undergrounded and the waiver is being requested for the requirement to underground adjacent utilities serving the surrounding properties within the abutting public rights-of-way.

The City's Undergrounding Master Plan designates the site within Block 2U and a projected allocation date of 2045 has been established with a projected starting date of May 31, 2047 (Attachment 10). The applicant would be required to underground any existing and/or proposed public utility systems and service facilities within the subdivision per Condition No. 9 of the draft Map Waiver resolution (Attachment 11).



Inclusionary Housing:

A condition of Coastal Development Permit No. 116352 (Condition No. 13) required the applicant to comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). An In-Lieu Fee of \$35,294.04 was paid at the time of the issuance of the building permit (Invoice No. 257383); therefore, the project is in compliance with the regulations and no additional Inclusionary Housing Fees are required. The project is currently under construction and would not be subject to the tenant relocation assistance regulations.

Community Planning Group:

On October 22, 2008, the Pacific Beach Community Planning Committee voted to recommend denial of the proposed project due to the finding that this project's City approved construction documents do not meet the Land Development Code in that 29 parking spaces that abut columns have less than nine (9) foot of width required by the Code (LDC Table 142-05J).

Staff's Response: As discussed above under "Background," prior to the issuance of the building permit and in accordance with Section 129.0104(b)(5) of the LDC, the City Engineer determined that the modification to allow the encroachment into the parking space by six-inches and still maintain the required clearance for the remaining 92-percent of the length of the parking space would not lessen any fire protection requirements or any degree of public safety. Therefore, the modification was approved by the City Engineer.

CONCLUSION:

Staff has reviewed the request for a Map Waiver to waive the requirements for a Tentative Map for the subdivision of a 0.503-acre site to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development that is currently under construction, and to waive the requirement to underground existing overhead utilities. Staff has found the project to be in conformance with the applicable sections of the SDMC regulating Tentative Maps, and Council Policy 600-25 regulating undergrounding of existing overhead utilities.

The project proposes to utilize renewable technology, self-generating at least 50 percent of its electrical energy needs through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy. Staff has determined that the development complies with the development regulations of the CV-1-2 Zone, the Pacific Beach Community Plan, the Local Coastal Program Land Use Plan, the General Plan, and the Inclusionary Housing Ordinance, and believes the required findings can be approved. Therefore, staff recommends that the Hearing Officer acknowledge the Environmental Exemption, and approve Coastal Development Permit No. 585249, Map Waiver No. 585053, and the waiver to the requirement for the undergrounding of the existing overhead utilities.

ALTERNATIVES:

1. **APPROVE** Coastal Development Permit No. 585249, Map Waiver No. 585053, and the waiver to the requirement for the undergrounding of the existing overhead utilities, with modifications.
2. **DENY** Coastal Development Permit No. 585249, Map Waiver No. 585053, and the waiver to the requirement for the undergrounding of the existing overhead utilities, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Jeffrey A. Peterson  
Development Project Manager  
Development Services Department

PETERSON:JAP

Attachments:

1. Project Location Map
2. Aerial Photograph
3. Zoning Map
4. Community Plan Land Use Map
5. Coastal Jurisdiction Map
6. Project Data Sheet
7. Project Plans (Reduced)
8. Community Planning Group Recommendation
9. Existing Overhead Utilities
10. City's Undergrounding Master Plan - Block 2U
11. Draft Map Waiver Resolution with Conditions
12. Draft Coastal Development Permit Resolution with Findings
13. Draft Coastal Development Permit with Conditions
14. Coastal Development Permit No. 116352
15. Ownership Disclosure Statement
16. Project Chronology
17. Environmental Document
18. Copy of Public Notice (forwarded to HO)
19. Copy of Project Plans (full size-forwarded to HO)

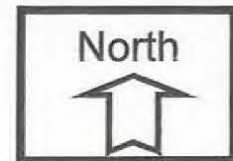
Job Order Number 43-1484





## Location Map

**4135 Mission Boulevard Map Waiver - Project No. 163493**  
**4135 and 4105 Mission Boulevard**



ATTACHMENT 1

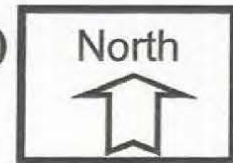




## Aerial Photograph (Bird's Eye View-Ex Bldg & Lots)

4135 Mission Boulevard Map Waiver - Project No. 163493

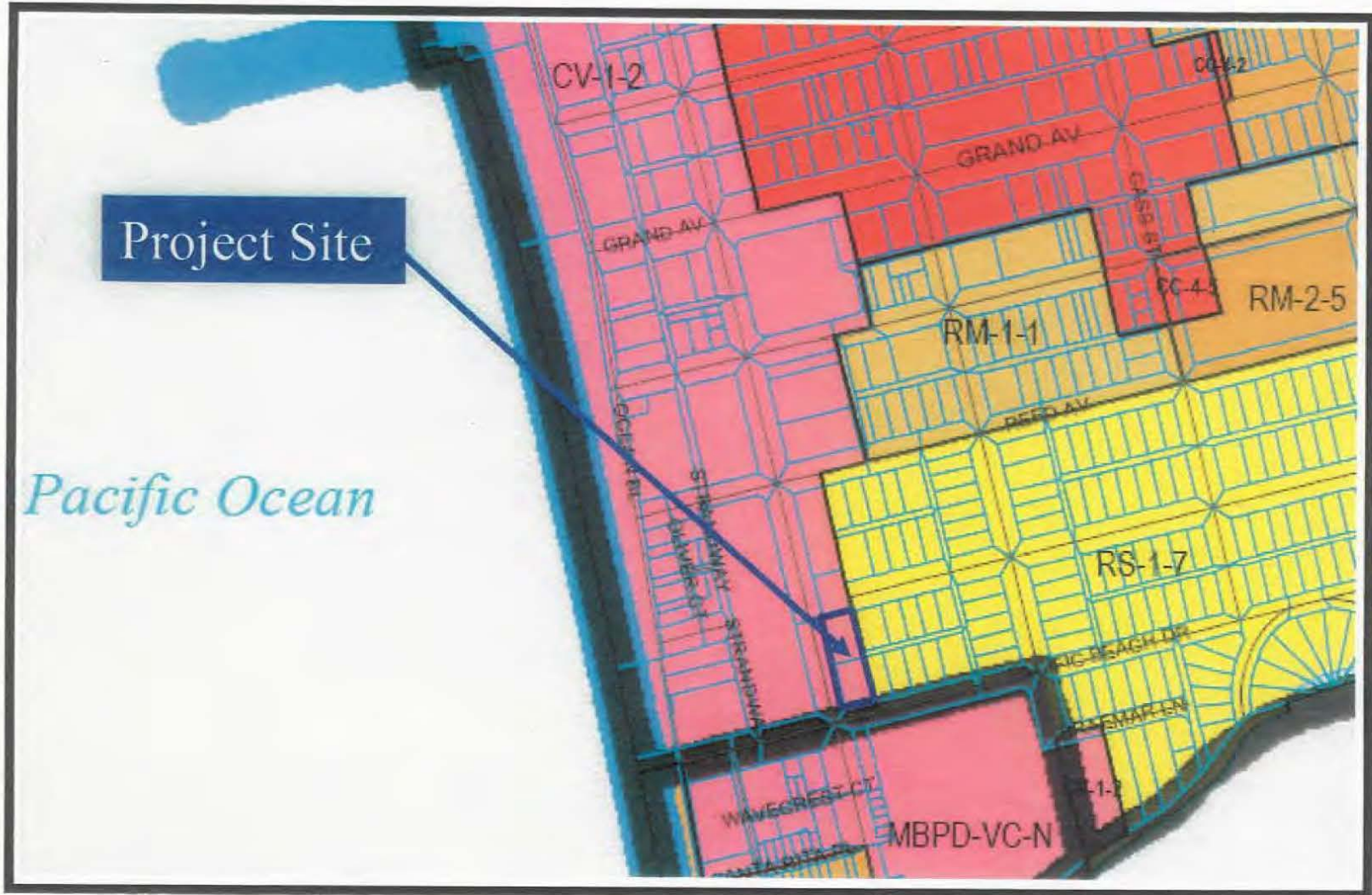
4135 and 4105 Mission Boulevard



ATTACHMENT 2

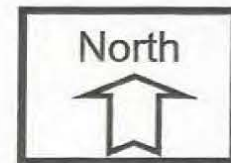
HO REPORT NO. HO-08-188



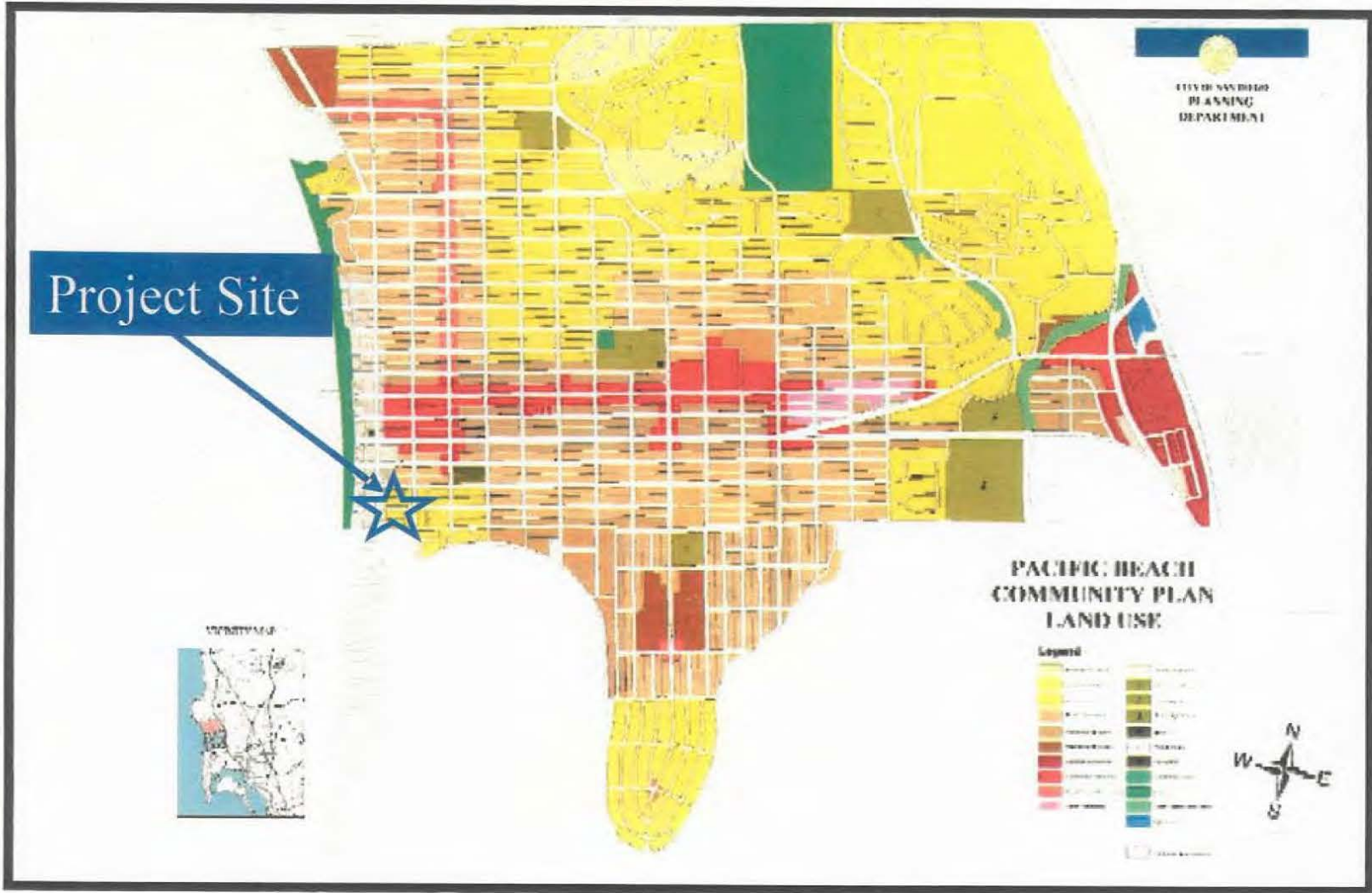


## Zoning Map

4135 Mission Boulevard Map Waiver - Project No. 163493  
 4135 and 4105 Mission Boulevard



ATTACHMENT 3



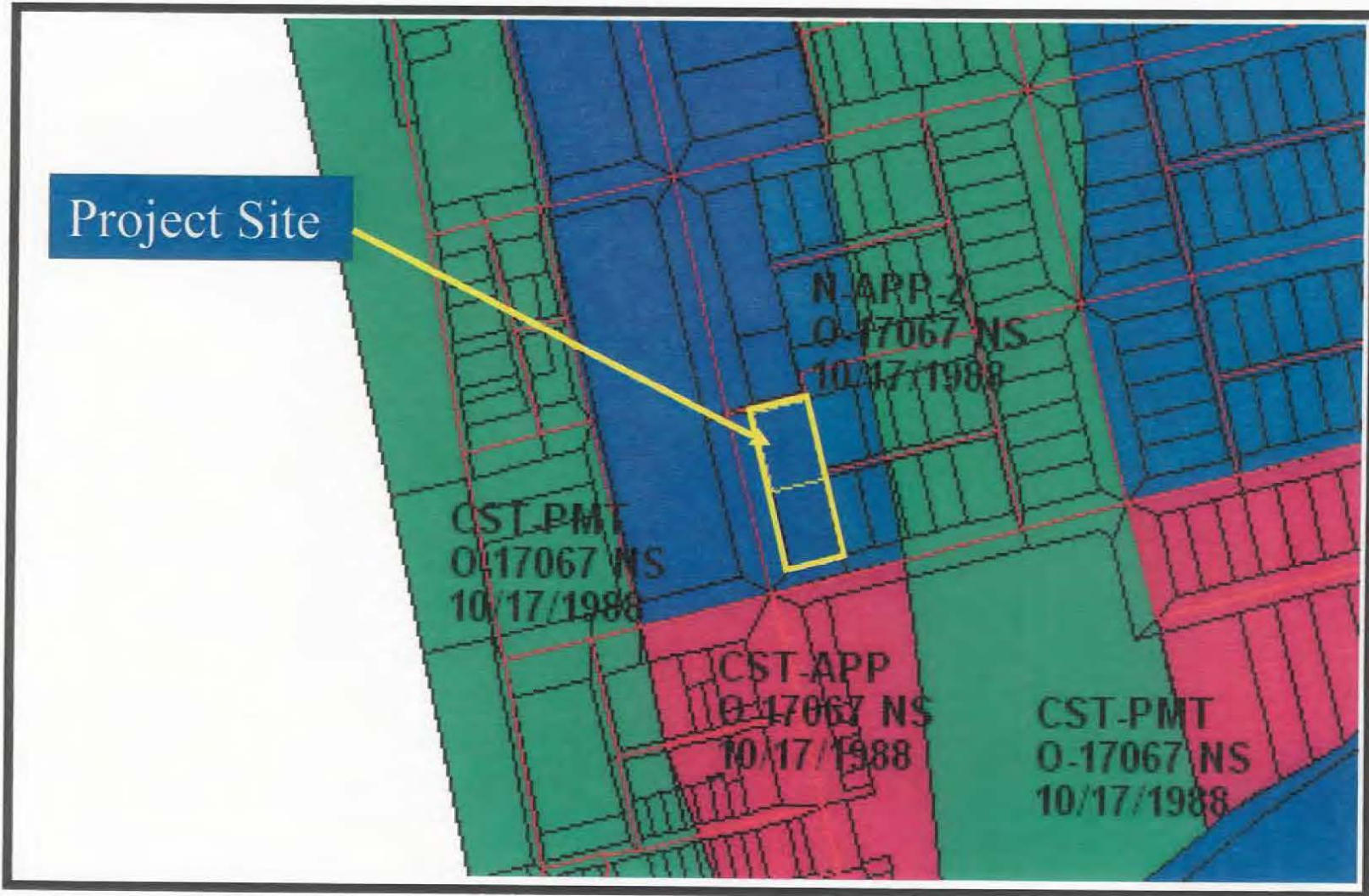
# Community Land Use Map

4135 Mission Boulevard Map Waiver - Project No. 163493  
 4135 and 4105 Mission Boulevard



ATTACHMENT 4





## Coastal Map

4135 Mission Boulevard Map Waiver - Project No. 163493  
 4135 and 4105 Mission Boulevard



ATTACHMENT 5

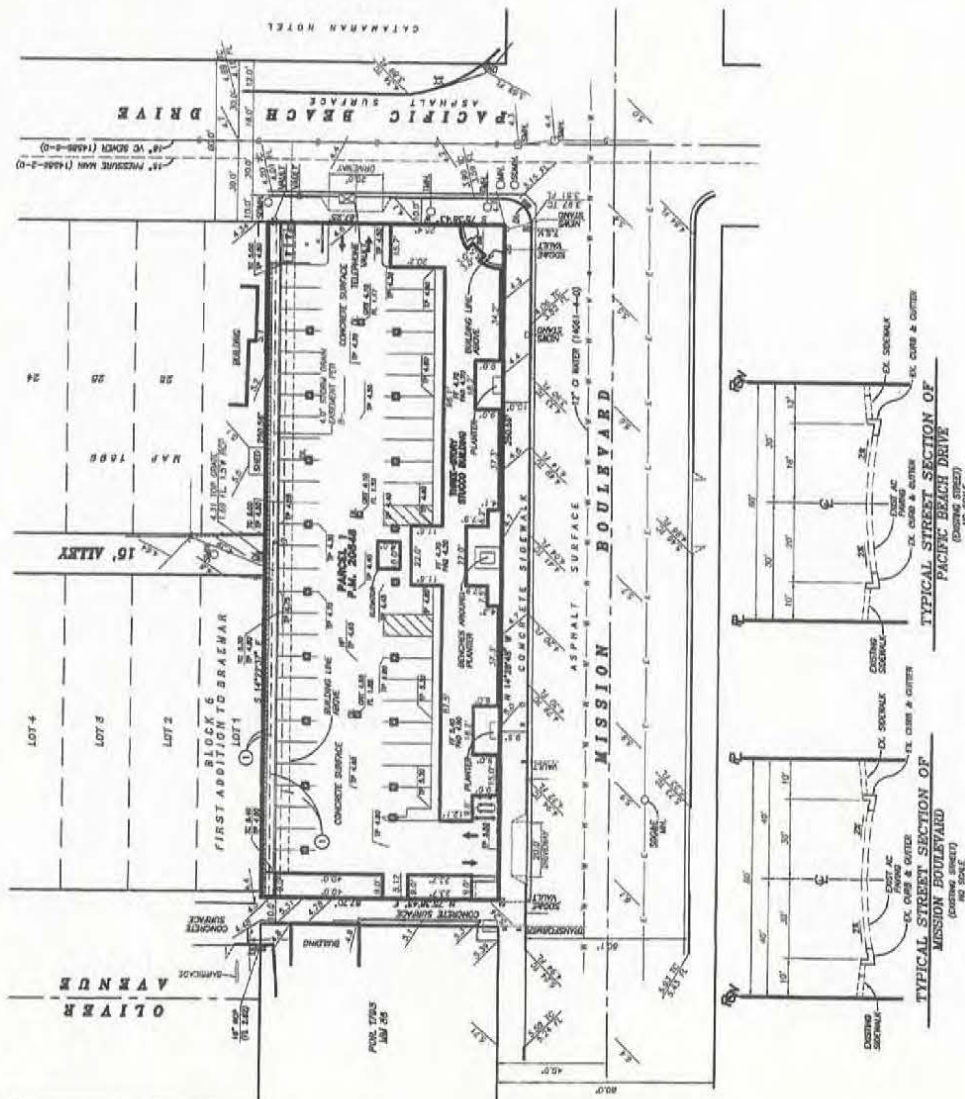
<b>PROJECT DATA SHEET FOR CONDOMINIUM CONVERSIONS</b>		
<b>PROJECT NAME:</b>	4135 Mission Boulevard Map Waiver- Project No. 163493	
<b>PROJECT DESCRIPTION:</b>	Coastal Development Permit to amend Coastal Development Permit No. 116352, a Map Waiver to waive the requirements for a Tentative Map to create seven commercial and eighteen residential condominium ownerships from a mixed-use development that is currently under construction, and to waive the requirement to underground existing overhead utilities	
<b>COMMUNITY PLAN AREA:</b>	Pacific Beach	
<b>DISCRETIONARY ACTIONS:</b>	Coastal Development Permit and Map Waiver	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	Residential (up to 43 dwelling units per acre)	
	<b>CURRENT ZONING INFORMATION:</b>	<b>CONSTRUCTED:</b>
<b>Zone:</b>	CV-1-2	CV-1-2
<b>Density:</b>	One unit per 1,500 sq.ft. of lot area.	One unit per 1,500 sq.ft. of lot area
<b>Height Limit:</b>	30-feet max.	30-feet
<b>Lot Size:</b>	Min. 5,000 square feet	21,922 square feet
<b>Floor Area Ratio:</b>	2 max.	2
<b>Front Setback:</b>	0-feet	0-feet
<b>Side Setback:</b>	NA	NA
<b>Streetside Setback:</b>	0-feet	0-feet
<b>Rear Setback:</b>	0-feet (SDMC 131.0543(b))	0-feet (SDMC 131.0543(b))
<b>Parking:</b>	48 spaces required	48 spaces
<b>ADJACENT PROPERTIES:</b>	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	Commercial-Visitor; CV-1-2	Hotel
<b>SOUTH:</b>	Commercial-Visitor; VC-N(MBPD)	Hotel
<b>EAST:</b>	Single- Family Residential; RS-1-7	Single- Family Residential
<b>WEST:</b>	Commercial-Visitor; CV-1-2	Commercial
<b>DEVIATIONS OR VARIANCES REQUESTED:</b>	None	
<b>COMMUNITY PLANNING GROUP RECOMMENDATION:</b>	On October 22, 2008, the Pacific Beach Community Planning Committee voted 11 2-0 to recommend denial of the proposed project based on the parking.	



# 4135 MISSION BOULEVARD

## MAP WAIVER No. 163493

### Project No. 163493



- ZONING INFORMATION**
- EXISTING AND PROPOSED ZONING: DC-1A-2  
 COMMUNITY PLAY AREA, PARKING, BEACH  
 OVERLAY ZONES: PARKING, TRAIL, TRAVEL  
 RESIDENTIAL, TRAVEL PARKING
- CITY OF SAN DIEGO**
- DEVELOPMENT SUMMARY**
1. PROJECT: 4135 MISSION BLVD, 4.25 ACRES, 200-1000 S.F. OF GROSS FLOOR AREA.
  2. STREET ADDRESS: 4135 MISSION BLVD.
  3. SITE AREA: 0.11222197 (5,033 AC)
  4. EXISTING (RESIDENTIAL) AND PROPOSED (COMMERCIAL) DEVELOPMENT IS ALIGNED WITH THE ZONING MAP AND APPLICABLE ZONING REGULATIONS.
  5. 1,500 S.F. OF EXISTING AND PROPOSED DEVELOPMENT IS ALIGNED WITH THE ZONING MAP AND APPLICABLE ZONING REGULATIONS.
  6. PARKING: 100/100

TYPE	NUMBER OF UNITS	NUMBER OF PARKING SPACES	TOTAL SQUARE FEET PER UNIT	TOTAL SQUARE FEET
3 BR UNIT	12	235	46.3	555.6
COMMERCIAL SPACE	21,710.00	7.7		
TOTAL DEVELOPED BY ZONE	40			555.6
TOTAL UNITS ON-SITE	40			555.6

**MONITORING & INSPECTION**

ALL DEVELOPMENT SHALL BE SUBJECT TO THE CITY OF SAN DIEGO'S MONITORING AND INSPECTION PROGRAM. THE CITY OF SAN DIEGO WILL BE RESPONSIBLE FOR MONITORING AND INSPECTION OF THE DEVELOPMENT. THE DEVELOPER SHALL BE RESPONSIBLE FOR PROVIDING ACCESS TO THE CITY OF SAN DIEGO FOR MONITORING AND INSPECTION. THE DEVELOPER SHALL BE RESPONSIBLE FOR PROVIDING ACCESS TO THE CITY OF SAN DIEGO FOR MONITORING AND INSPECTION. THE DEVELOPER SHALL BE RESPONSIBLE FOR PROVIDING ACCESS TO THE CITY OF SAN DIEGO FOR MONITORING AND INSPECTION.

**EXISTING IMPROVEMENTS**

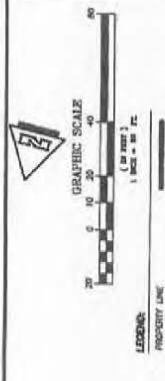
EXISTING IMPROVEMENTS: 1,500 S.F. OF EXISTING AND PROPOSED DEVELOPMENT IS ALIGNED WITH THE ZONING MAP AND APPLICABLE ZONING REGULATIONS.

**EXISTING & PROPOSED EASEMENTS**

EXISTING & PROPOSED EASEMENTS: 1,500 S.F. OF EXISTING AND PROPOSED DEVELOPMENT IS ALIGNED WITH THE ZONING MAP AND APPLICABLE ZONING REGULATIONS.

**DEVELOPMENT NOTES**

1. THIS IS A MAP OF A COMMERCIAL PROJECT AS PERMITTED BY THE CITY OF SAN DIEGO.
2. THE MAP MAKER SHALL CONFIRM TO THE PROPERTY OF RECORD, THE DEVELOPMENT SHALL BE PLANNED TO DEVELOP FOUR (4) UNITS.

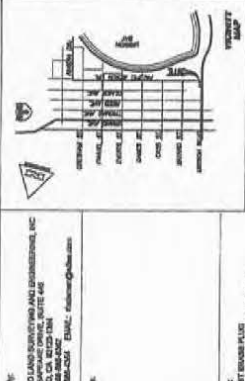


**PROFESSIONAL LAND SURVEYOR**

MARK DOUGLAS SURVEYING AND CONSULTING, INC.  
 5000 CALIFORNIA DRIVE, SUITE 400  
 SAN DIEGO, CALIFORNIA 92131 (619) 445-4321  
 PROJECT NO. 163493 (10/15/14) 10-15-14-SR

**DATE** 10-15-14

**PROFESSIONAL SEAL**



**PROJECT INFORMATION**

Project No. 163493  
 Project Name: 4135 MISSION BLVD  
 Project Address: 4135 MISSION BLVD, SAN DIEGO, CA 92116  
 Project Owner: MARK DOUGLAS SURVEYING AND CONSULTING, INC.  
 Project Date: 10/15/14  
 Project Status: IN PROGRESS

**DRAFT MINUTES OF MEETING FOR PACIFIC BEACH PLANNING GROUP  
OCTOBER 22, 2008  
EARL AND BIRDIE LIBRARY**

6:30p Call to Order, Quorum established. Attendees: Robert Citrano, Gary Foster, Scott Chipman, Marcie Beckett, Barry Schneider, Chris Olson, Paul Thackrey, John Shannon, Jim Krokee, Patrick O'Neill, Dean Eades, Jeton Prince, Jim Morrison and Barbara Williams

Scott Chipman made a motion to accept the agenda with changes in order of presentations for residential projects. Barry Schneider seconded the motion. Motion carried 13-0-0

Marcie Beckett made a motion to approve the minutes for the September 24, 2008 meeting with corrections. Chris Olson seconded the motion. Motion carried 11-0-2 Robert Citrano and Dean Eades were absent from the meeting and abstained.

**Chair's Report:** John Shannon reported that there seemed to be an even support for Proposition D.

**Non-Agenda Public Comment –**

Don Gross reported on an update with the PB Drive Sidewalk and bicycle path around Mission Bay. He said he will work with Thyme to get a person to our next meeting to give us information. John Shannon will call the City Engineer to our meeting.

**Government Office Reports:** None

**Action Items:** None

**Subcommittee Reports:**

Residential/Mixed Use/Commercial Subcommittee (Chris Olson)

The subcommittee met on October 10, 2008 and reviewed all the projects on the agenda. There were six PBPG members and one person from the local community in attendance. The next subcommittee will be November 14, 2008 at the PB Library community room.

**Projects:**

#131201 – Information only. 1142 Garnet Avenue. This is an existing 25' wide lot with commercial on the front, apartment on the second floor and parking behind. The applicant came before the PBPG in February 2008 with a proposal for a mixed use project with expansion of the residential component. It was deemed not feasible due to parking requirements and the constraints of a 25' wide lot. The applicant has presented a proposal to maintain the existing commercial space, change the living unit to personal storage and construct a 2 story personal storage structure in the back with 2 parking spaces. The subcommittee gave mixed reviews of the idea for personal storage and it is apparently feasible to meet zoning requirements. One suggestion was to apply for an exception of the parking requirement if they provide affordable housing. The primary recommendation from the subcommittee was to improve the façade on Garnet Avenue in accordance with the community plan. A proposal will be submitted to the City and then come back to the PBPG. No vote at this time.

#163493 – 4135 Mission Boulevard. Applicant Paul Ross was present. Respond to public request for review of building per City approved plans/ City Code for a) parking, b) landscaping and c) residential use in front 30 feet.

Chris Olson provided a short historical perspective on the project. This project has been one of the more controversial and time consuming projects for the PBPG over the last decade. It has been very divisive to put the PBPG and the developer as opponents rather than groups working together to improve the community. The developer has completed many projects in Pacific Beach and he is a leader for sustainable building in the San Diego Community. The PBPG voted unanimously to deny the project on July 26, 2004. There were 7 issues with the parking, landscaping, traffic circulation, flooding and density bonus of primary concern. Revised plans were presented and again unanimously denied on November 22, 2004. There were 12 issues in the motion. Subsequently City staff recommended approval and it was approved by the planning commission of June 22, 2006. The conditions of approval required elimination alley access, increased number of parking spaces and solar panels comply with the height limit. The project was appealed and City Council approved the project on August 7, 2006. Conditions for approval included reducing 4 bedroom units to 3 bedroom units, changes in traffic circulation and parking spaces must be properly dimensioned per City Code.

The project is now under construction and applying for Map Waiver to convert to residential and commercial condos. On September 24, 2008, at the PBPG meeting there was a public presentation protesting the construction of a project that does not meet Land Development Code. This was discussed at the Subcommittee on October 10, 2008 with Paul Ross who represents the developer. At the meeting Olson explained that the



Draft of meeting 10/22/08 Page 1 of 4

City Project Manager, Jeff Peterson, has met with persons in the community and recommended if they need to take action it should be in the form of a letter addressed to Afsaneh Ahmandi of Development Services. The subcommittee decided to draft a letter from the PBPG to the Director of Development Services and other city persons. The subcommittee decided to draft a letter from the PBPG to the Director of Development Services and other city persons. Mr. Ross gave a presentation at the subcommittee and at the general meeting October 22, 2008. Paul Ross presented several points as follows: The project is being built per plans approved by the City and Coastal Commission. There were special circumstances for the landscaping on the eastern property line due to a storm drain and requirements of a commercial space and the residential stairwell is required in the front 30 ft for egress of the residential units above. The parking code for parking space dimensions requires interpretation and the columns between the spaces in this project will not cause a problem for opening front doors of vehicles. The developer has taken a vacant and contaminated lot and a large liquor store and is converting it into a mixed use development to benefit the community. There have been many constraints to overcome for making this a viable project. Mac Larsen, a member of the community, spoke up to emphasize that aside from the written code the reality is that people will have a hard time parking cars in the lot. SUVs will not fit and they will not be able to open back doors. As a result, people will park on the neighboring streets. Marcie Beckett stated that the Code is clear, spaces are between 7'6" and 8'6" so why did the City approve plans when parking does not meet code?

**Motion:** Chris Olson made a motion to send the letter and 3 attachments to the persons named on the letter as recipients. Jim Krokee seconded the motion. Motion carried 13-0-0

#163493 – 4135 Mission Boulevard. Map Waiver to subdivide 18 under construction for rent dwelling units to condominium units and commercial space into 7 commercial condominium units. The property is zoned CV-1-2 and currently under construction. Applicant Paul Ross was present. The subcommittee reviewed the issues and there was no clear agreement on how to proceed. One suggestion was that we denied it in the past and there are still outstanding issues so we should deny it for those reasons. Another proposal was to deny because the parking does not meet Land Development Code. Olson stated that the City Project Manager recommended that the PBPG vote should be focused on the tentative map and not on issues such as parking that has already been approved. Olson said that the PBPG has raised issues such as parking, landscaping and trash bins for Map Waiver projects in the past and we have been able to get changes. Paul Ross stated that our review should focus on the tentative map in front of us and the city staff will only consider that.

**Motion:** Marcie Beckett a motion to deny the project due to finding that this project's City approved construction documents do not meet Land Development Code in that 29 spaces that abut columns have less than 9 foot width required by code (LDC Table 142-05J). Motion carried 11-2-0. the votes against were due to the issue that the decision should be based solely on the tentative map.

#144059 701 Wrelton Drive. CDP and tentative map to demolish existing residences and construct 4 residential condominiums on a 0.17 acre site in the RM 1-1 zone. Also requires mitigated negative declaration due to excavation at greater than 10 feet below grade for underground parking and noise mitigation from La Jolla Boulevard. Olson further summarized that this is a 10,007 square foot site with street frontage on Wrelton Street and Sapphire Street. They are building 4 residential condos with underground parking, 2 levels of enclosed living above the garage and a roof deck above as well as private patios areas for each unit on the ground floor. This is a sustainable energy project. No outstanding issues with the City. Michael Cather represented developer and was present at the meeting. The committee reviewed the project and had no issues. The subcommittee felt this is a good example of the kind of projects they would like to see in the future. Renderings were presented by the applicant Frederico Escobedo.

**Motion:** Chris Olson made a motion to approve the project and stated this is the kind of project the PBPG would like to see in the future. Jeton Prince seconded the motion. Motion carried 13-0-0.

#147970 4235 Cass Street. Demolish existing SFR and construct a new 2 story SFR over basement level garage in the RS 1-7 zone. The project has a landmark from the entrance to the original Braemar development and this will be preserved. The project will have 3208 sq ft of enclosed living space on two levels, 1570 sq ft of basement garage and 331 sq ft of a roof top deck. The building is oriented to front on Cass Street with Reed Avenue driveway access to the underground garage. The alley access will not be utilized for parking access and this was the primary concern of the subcommittee. Applicant Brian Longmore was present. The subcommittee also had concerns about the large blank wall façade on the front of the building. Renderings were not available to give a clearer understanding of the architectural approach. The City staff initially denied the new curb cut on Reed Avenue and later during a conflict resolution with senior staff, Don Weston, he supported the new curb cut. SDMC 142.0560 (8) (B) allows a curb cut if the property has at least 150 feet of street frontage and this property has 150 feet if you include Reed and Cass frontage. SDMC 142.0560 (J) (7) states that in the Beach Impact Area where any redevelopment will increase the GFA by 50% and there is an abutting alley, the required off street parking spaces shall be accessible from the alley. City staff says that since SDMC does not stipulate the (J) (7) does not supersede (8) (B) then they will support a new curb cut. Marcie Beckett noted that an appendix in the Community Plan supports a curb cut. Scott Chipman noted that the statement in the appendix of the Community Plan infers that the curb cut is only allowed if the street frontage is 150 feet on one street and not two streets combined. The Community Plan should be clarified. City Engineer Jack



Draft of meeting 10/22/08 page 2 of 4

Canning presented the rationale for the City support of the curb cut. It involved safety issues for cars entering the alley and not seen by cars exiting the residence onto the alley. The applicant Brian Longmore presented the constraints of this corner lot and how the curb cut will allow for private outdoor space between the house and the alley.

**Motion:** Chris Olson made a motion to deny the project based upon SDMC 142.0560 (J) (7) and the PBPG has already set a precedent to not allow parking access through curb cuts for new residential developments with available alley access. It is also recommended to enhance the west facing façade to reduce the "blank wall effect." Barry Schneider seconded the motion. Motion did not pass 6-7-0.

**Motion:** Marcie Beckett made a motion to approve the project with the condition that changes are made to enhance the west facing façade to reduce the "blank wall effect." Jim Morrison seconded the motion. Motion passed 8-5-0. Rationale for opposition all related to the curb cut on Reed Street. (e.g. the impact to parking on Reed Street, cars in front yard and the change in precedent it makes for the PBPG to not allow parking access through curb cuts for new residential developments with available alley access.

Bob Citrano left meeting at 8:30p

#151727 – 702 Loring Street. Construct a 1,632 sq ft addition to an existing SFR on a 6,931 SF site in the RS 1-7 zone. Remove and replace a 1 car garage with a 2 car garage (623 sf). Expand a 1 story residence on first floor and add master bed/bath to 2<sup>nd</sup> story. Total livable square feet is 2400. Greg Knight, applicant was present. The subcommittee reviewed the plans and had no issues and the City has no significant issues to resolve.

**Motion:** Chris Olson made a motion to approve plans as submitted. Marcie Beckett seconded the motion. Motion carried 12-0-0.

Scott Chipman left the meeting at 8:40p

#163041 – 4535 Mission Bay Drive. CDP to construct a 48,735 sq ft private vehicle storage facility on a 3.24 acres site in the CC 4-2 zone. A sustainable project. Paul Golba represented the applicant and was present. This is a raised and vacant lot that is behind a motel on Mission Bay Drive with a 25 foot wide alley type access and behind the San Diego Science Center (formerly Mission Bay Hospital) on Bunker Hill with a shared parking agreement for the large parking lot next to the Hwy. 5 freeway. Historically, the lot has been used for overflow vehicle parking from car dealers along Mission Bay drive. The proposal is for a private parking garage. A large area will keep cars parked by valets and not accessible to the public. Two other areas will be for showcasing vehicles to members and their guests.

City review issues of note were there is a need for parking for visitors, access for large vehicle transport carriers. Also, landscaping is needed at the project entrance at Mission Bay Drive. The subcommittee had recommendations for enhancement of the entrance and requested something to present at meeting. Also there was concern about vehicle transport carrier access.

Mr. Golba presented the project on behalf of the owner and gave a detailed explanation of the planned use for collector cars that are used infrequently such as once a month for a Sunday drive. It will have a club type atmosphere with architecture that draws upon a 50's theme. Renderings were presented. Mr. Golba responded to the visitor parking issue with a revised plan for visitor parking. He presented a revised a circulation plan to accommodate transport vehicle staging. He explained the constraints to enhance the entrance and he will continue to work for improvements within those constraints such as changing the road surface.

**Motion:** Chris Olson made a motion to approve with the revised plan for visitor parking and transport vehicle staging. Jim Morrison seconded the motion.. Motion carried 11-0-0

#### Subcommittee Reports:

Election Committee and Vacancy Report (Jeton Prince) – Jeton reported that there are 5 vacancies, 77.0, 79.03, 79.04, 83.01, and one commercial vacancy. Applications are at the PB Library. Michael Campbell who is interested in the PBPG attended the meeting.

Traffic and Parking, PB Parking District (Jim Morrison) - Jim has no email access at present. He wants to report after the election. Gary Foster reported that a walking flashing beacons crosswalk was approved at the Van Nuys St. and La Jolla Mesa Drive location.

ByLaws Committee – No report

Community Plan Amendments and Design Guidelines (Marcie Beckett) **Marcie, my notes are sketchy here. Will you let me know what you want reported?**

Mission Bay Parks Committee (Jeton Prince)



Draft of meeting 10/22/08 Page 3 of 4

Neighborhood Code Compliance (Scott Chipman) Scott was not present. It was suggested that we hear from him earlier in the meeting.

Jim Krokee reported that the City has done nothing in regard to the granny flats. Barbara Williams also noted we have not had a report about the oversized vehicle ordinance.

Special Events (Barbara Williams) There was a post event review of the Brazilian Fest.

Airport Issues/San Diego Regional Airport Authority (Jim Krokee) No report at this time.

Draft of meeting 10/22/08 page 4 of 4

Send corrections to me and I will fix what is not correct. Barbara



### Existing Overhead Utilities (Alley- East of Property)

4135 Mission Boulevard Map Waiver - Project No. 163493

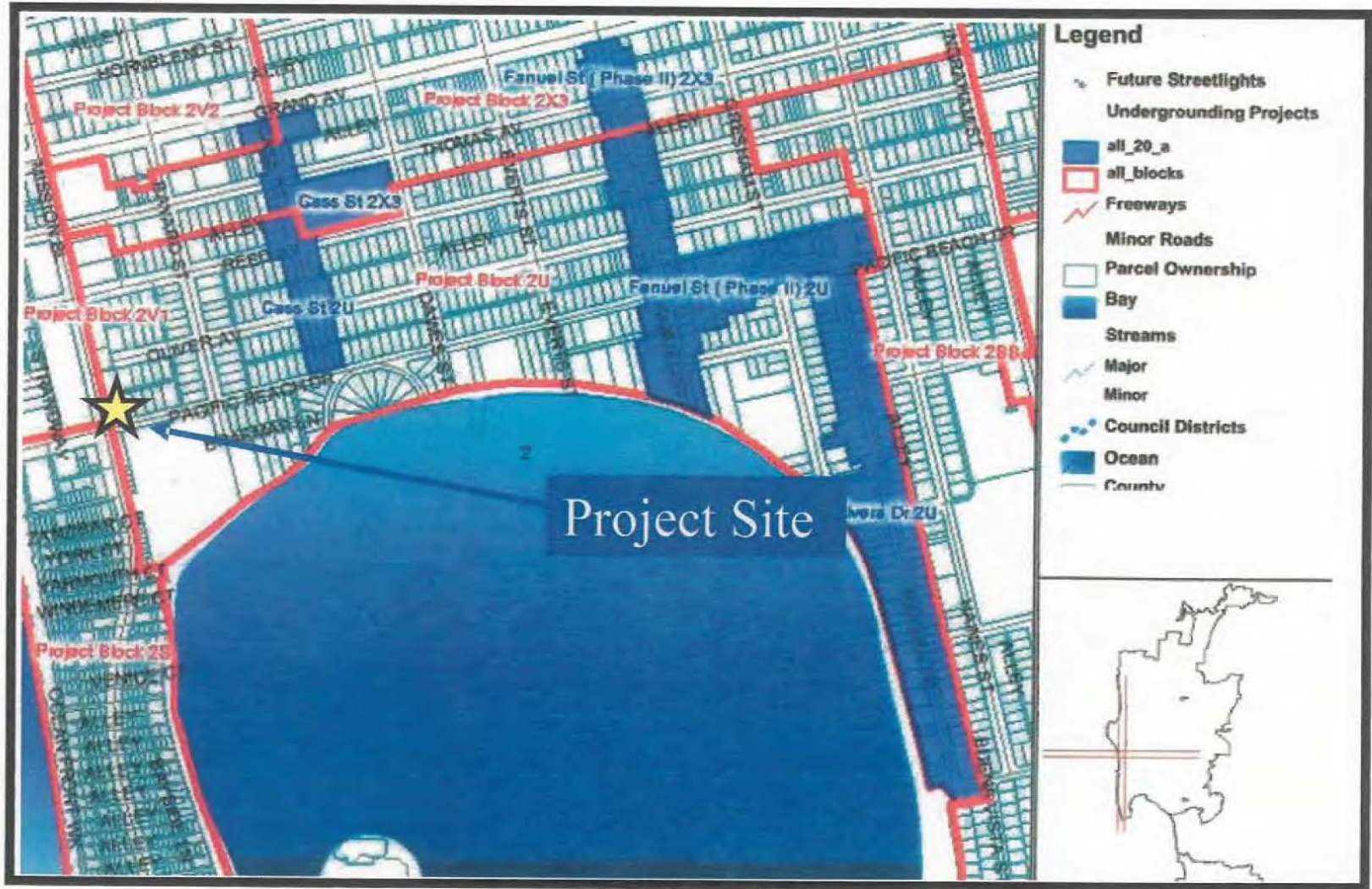
4135 and 4105 Mission Boulevard



ATTACHMENT 9

HO REPORT NO. HO-08-188

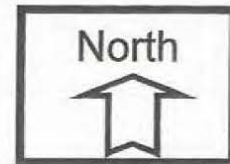




## Block 2U Residential Roads and Alleys

4135 Mission Boulevard Map Waiver - Project No. 163493

4135 and 4105 Mission Boulevard



ATTACHMENT 10

Project Name	Year Allocated	Phase
Project Block 2X2	2040	unallocated
Project Block 2X3	2041	unallocated
Project Block 2L1	2042	unallocated
Project Block 2M1	2043	unallocated
Project Block 2C	2044	unallocated
<b>Project Block 2U</b>	<b>2045</b>	<b>unallocated</b>
Project Block 2BB	2046	unallocated
Project Block 2Q3	2047	unallocated
Project Block 2D2	2048	unallocated
Project Block 2Y1	2049	unallocated
Project Block 2Y	2050	unallocated
Project Block 2Q2	2051	unallocated
Project Block 2D	2052	unallocated
Project Block 2F1	2053	unallocated
Project Block 2U1	2054	unallocated
Project Block 2M3	2055	unallocated
Project Block 2M4	2056	unallocated
Project Block 2G	2057	unallocated

**Project Site**



**Block 2U (Portion of List)**

4135 Mission Boulevard Map Waiver - Project No. 163493  
 4135 and 4105 Mission Boulevard





HEARING OFFICER RESOLUTION NO. HO-xxxx  
MAP WAIVER NO. 585053  
**4135 MISSION BOULEVARD MAP WAIVER - PROJECT NO. 163493**

WHEREAS, MISSION AND PB DRIVE, LLC, a California Limited Liability Company, Applicant/Subdivider, and SAN DIEGO LAND SURVEYING & ENGINEERING, INC., Surveyor, submitted an application with the City of San Diego for Map Waiver No. 585053, to waive the requirement for a Tentative Map to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction, and to waive the requirement to underground existing overhead utilities. The project site is located at 4135 and 4105 Mission Boulevard, the northeast corner of Mission Boulevard and Pacific Beach Drive, in the CV-1-2 Zone within the Pacific Beach Community Plan, Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Beach Impact Area of the Parking Impact Overlay Zone, and Transit Area Overlay Zone. The project site is legally described as Parcel 1 of Parcel Map No. 20548, in the City of San Diego, County of San Diego, State of California, according to map thereof filed in the Office of the County Recorder of San Diego County August 7, 2008; and

WHEREAS, the Map proposes the subdivision of a 0.503-acres site into seven commercial and eighteen residential condominium ownerships from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction; and

WHEREAS, the project is exempt from environmental review pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineering pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the project consists of seven commercial and eighteen residential units that are under construction which have not been issued Certificates of Occupancy; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is seven commercial and eighteen residential; and

WHEREAS, on December 10, 2008, the Hearing Officer of the City of San Diego considered Map Waiver No. 585053, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0122 (map waiver), and 144.0240 (underground) of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and the



Hearing Officer having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Map Waiver No. 585053:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440.a and State Map Act Sections 66473.5, 66474(a), and 66474(b)).
2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440. (b)).
3. The site is physically suitable for the type and density of development (Land Development Code Section 125.0440(c) and State Map Act Sections 66474(c) and 66474(d)).
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code Section 125.0440(d) and State Map Act Section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440(e) and State Map Act Section 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440(f) and State Map Act Section 66474(g)).
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code Section 125.0440(g) and State Map Act Section 66473.1).
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).
9. The proposed subdivision of land complies with requirements of the Subdivision Map Act and the Land Development Code as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water



supply availability, environmental protection, and other requirements of the Subdivision Map Act or the Land Development Code enacted pursuant thereto (Land Development Code Section 125.0122 and State Map Act Section 66428(b)).

10. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 *Underground Conversion of Utility Lines at Developers Expense* in that:

The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.

11. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED; that, based on the Findings hereinbefore adopted by the Hearing Officer, Map Waiver No. 585053, including the waiver of the requirement to underground existing overhead utilities, is hereby granted to MISSION AND PB DRIVE, LLC, a California Limited Liability Company, Applicant/Subdivider, subject to the following conditions:

#### GENERAL

1. This Map Waiver will expire December 10, 2011.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Certificate of Compliance, unless otherwise noted.
3. A Certificate of Compliance shall be recorded in the Office of the County Recorder, prior to the Map Waiver expiration date.
4. Prior to the issuance of the Certificate of Compliance, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
5. The Certificate of Compliance shall conform to the provisions of Coastal Development Permit No. 116352 and Planned Development Permit No. 116353, and amended Coastal Development Permit No. 585249.
6. The applicant 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 attorneys fees, against the City or its agents, officers, or employees, including, but not limited to, any 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant shall pay all of the costs related thereto, including without limitation reasonable attorneys fees and costs. In the event of a disagreement between the City and applicant 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 applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

### **AFFORDABLE HOUSING / SUSTAINABLE BUILDINGS**

7. An Inclusionary Housing In-Lieu Fee of \$35,294.04 was paid at the time of the issuance of the building permit (Invoice No. 257383); therefore, the project is in compliance with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) and no additional Inclusionary Housing Fees are required. The project is currently under construction and would not be subject to the Tenant Relocation Benefits (Chapter 14, Article 4, Division 5 of the Land Development Code).
8. Prior to building occupancy, 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 proposed project's projected energy consumption, as established by Council Policy 900-14.

### **ENGINEERING**

9. The Subdivider shall underground existing and/or proposed public utility systems and service facilities within the subdivision in accordance with the San Diego Municipal Code.
10. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
11. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the Map Waiver and covered in these special conditions will be authorized.



12. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

## MAPPING

13. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

## SEWER AND WATER

14. Water and Sewer Requirements:
  - a. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
  - b. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

## INFORMATION:

- The approval of this Map Waiver by the Hearing Officer of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Map Waiver will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Map Waiver, may protest the imposition within 90 days of the approval of this Map Waiver by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.

- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

PASSED AND ADOPTED BY THE HEARING OFFICER OF THE CITY OF SAN DIEGO, CALIFORNIA, ON DECEMBER 10, 2008.

By

\_\_\_\_\_  
Jeffrey A. Peterson  
Development Project Manager  
Development Services Department

Job Order No. 43-1484



HEARING OFFICER  
 RESOLUTION NO. HO-xxxx  
 COASTAL DEVELOPMENT PERMIT NO. 585249  
**4135 MISSION BOULEVARD MAP WAIVER-PROJECT NO. 163493**  
 AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 116352

WHEREAS, MISSION AND PB DRIVE, LLC, a California Limited Liability Company, Owner/Permittee, filed an application with the City of San Diego for a permit to amend Coastal Development Permit No. 116352 to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 585249), on portions of a 0.503-acre site;

WHEREAS, the project site is located at 4135 and 4105 Mission Boulevard, the northeast corner of Mission Boulevard and Pacific Beach Drive, in the CV-1-2 Zone within the Pacific Beach Community Plan, Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Beach Impact Area of the Parking Impact Overlay Zone, and Transit Area Overlay Zone;

WHEREAS, the project site is legally described as Parcel 1 of Parcel Map No. 20548, in the City of San Diego, County of San Diego, State of California, according to map thereof filed in the Office of the County Recorder of San Diego County August 7, 2008;

WHEREAS, on December 10, 2008, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 585249 pursuant to the Land Development Code of the City of San Diego;  
 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 December 10, 2008.

A. Coastal Development Permit - Section 126.0708

1. **The proposed coastal development will not encroach upon any existing physical access way 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; and**

The 0.503-acre site is located at 4135 and 4105 Mission Boulevard, the northeast corner of Mission Boulevard and Pacific Beach Drive. The proposed project is a subdivision of the property to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development containing seven commercial and eighteen residential units. The mixed-use development is currently under construction and no new development is proposed with this subdivision. No construction or grading is permitted by



this Coastal Development Permit No. 585249. All development was previously approved and permitted pursuant to Coastal Development Permit No. 116352 and Planned Development Permit No. 116353.

The subject property is a corner lot, and is located approximately 190 feet from the Pacific Ocean and 250 feet from the shoreline of Mission Bay. The property is not located between the sea and the first public roadway paralleling the sea. Mission Boulevard at this location is not designated as a physical accessway or as a visual access corridor within the adopted Pacific Beach Community Plan and Local Coastal Program Land Use Plan, and the proposed project would not affect these resources. The proposed subdivision would occur on private property.

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

The proposed project is a subdivision of a 0.503-acre property to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development that is currently under construction. No development is proposed with this subdivision and the project site is located within an urbanized area of Pacific Beach community. The subject property is a corner lot, and is located approximately 190 feet from the Pacific Ocean and 250 feet from the shoreline of Mission Bay. The site is not located between the sea and the first public roadway paralleling the sea, and not within or adjacent to the Multiple Species Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA).

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 Guidelines Section 15301, Existing Facilities. Therefore, it has been determined that the subdivision 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 proposed project is a subdivision of a 0.503-acre property to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development that is currently under construction. No development is proposed with this subdivision and the project site is located within an urbanized area of Pacific Beach community. The site is not located between the sea and the first public roadway paralleling the sea. No public view or public access to the water would be adversely affected by the approval of this subdivision. Therefore, the proposed subdivision conforms to the Pacific Beach Community Plan and the Local Coastal Program Land Use Plan. In addition, the project proposes to utilize renewable technology, self-generating at least 50 percent of its electrical energy needs through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy.



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

The proposed project is a subdivision of a 0.503-acre property to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development that is currently under construction. No development is proposed with this subdivision and the project site is located within an urbanized area of Pacific Beach community. The subject property is a corner lot, and is located approximately 190 feet from the Pacific Ocean and 250 feet from the shoreline of Mission Bay. The site is not located between the sea and the first public roadway paralleling the sea. Mission Boulevard at this location is not designated as a physical accessway or as a visual access corridor within the adopted Pacific Beach Community Plan and Local Coastal Program Land Use Plan. No public view, public access to the water, public recreation facilities, or public parking facilities would be adversely affected by the approval of this subdivision. Therefore, the proposed subdivision has demonstrated conformance with the public access and recreation policies of the California Coastal Act as required by this finding.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer of the City of San Diego, Coastal Development Permit No. 585249 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. 585249, a copy of which is attached hereto and made a part hereof.

---

Jeffrey A. Peterson  
Development Project Manager  
Development Services

Adopted on: December 10, 2008

Job Order No. 43-1484

cc: Legislative Recorder, Planning Department

**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

JOB ORDER NUMBER: 43-1484

COASTAL DEVELOPMENT PERMIT NO. 585249  
**4135 MISSION BOULEVARD MAP WAIVER-PROJECT NO. 163493**  
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 116352  
HEARING OFFICER

This Coastal Development Permit No. 585249, an amendment to Coastal Development Permit No. 116352, is granted by the Hearing Officer of the City of San Diego to MISSION AND PB DRIVE, LLC, a California Limited Liability Company, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0702. The 0.503-acre site is located at 4135 and 4105 Mission Boulevard, the northeast corner of Mission Boulevard and Pacific Beach Drive, in the CV-1-2 Zone within the Pacific Beach Community Plan, Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Beach Impact Area of the Parking Impact Overlay Zone, and Transit Area Overlay Zone. The project site is legally described as Parcel 1 of Parcel Map No. 20548, in the City of San Diego, County of San Diego, State of California, according to map thereof filed in the Office of the County Recorder of San Diego County August 7, 2008.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to amend Coastal Development Permit No. 116352 to create seven commercial and eighteen residential condominium ownership interests from a mixed-use development containing seven commercial and eighteen residential units that are currently under construction, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 10, 2008, on file in the Development Services Department.

The project shall include:

- a. A subdivision of a mixed-use development containing seven commercial and eighteen residential units to create seven commercial and eighteen residential condominium ownership interests, as permitted and under construction pursuant to Coastal Development Permit No. 116352;
- b. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14;



- c. No additional development rights are granted as a result of this subdivision of land;

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. 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.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. 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.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.



9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that 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.

10. The applicant 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, including, but not limited to, any 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 applicant 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 applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

#### **AFFORDABLE HOUSING / SUSTAINABLE BUILDINGS REQUIREMENTS:**

11. A condition of Coastal Development Permit No. 116352 (Condition No. 13) required the applicant to comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). An In-Lieu Fee of \$35,294.04 was paid at the time of the issuance of the building permit (Invoice No. 257383); therefore, the project is in compliance with the regulations and no additional Inclusionary Housing Fees are required. The project is currently under construction and would not be subject to the tenant relocation assistance regulations.

12. Prior to building occupancy, 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 proposed project's projected energy consumption, as established by Council Policy 900-14.



**ENGINEERING REQUIREMENTS:**

13. This Permit shall comply with all Conditions of the Map Waiver No. 585053.

**PLANNING/DESIGN REQUIREMENTS:**

14. The subject property shall comply with all conditions and requirements in Coastal Development Permit No. 116352 and Planned Development Permit No. 116353, and amended Coastal Development Permit No. 585249.

15. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

16. The Owner/Permittee shall post a copy of the approved discretionary permit and Parcel Map in the sales office for consideration by each prospective buyer.

17. 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.

18. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

19. No mechanical equipment (other than photovoltaic systems), tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

**INFORMATION ONLY:**

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development 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 §66020.

APPROVED by the Hearing Officer of the City of San Diego on December 10, 2008, pursuant to Resolution No. HO-xxxx.

Permit Type/PTS Approval No.: CDP/585249  
Date of Approval: December 10, 2008

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
Jeffrey A. Peterson  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1180 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.

MISSION AND PB DRIVE, LLC  
Owner/Permittee

By \_\_\_\_\_  
Michael E. Turk  
Trustee

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**



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

THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON SEP 20, 2006  
DOCUMENT NUMBER 2006-0668500  
GREGORY J. SMITH, COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME: 11:11 AM

**WHEN RECORDED MAIL TO**  
CITY CLERK  
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-2721

**COASTAL DEVELOPMENT PERMIT NO. 116352**  
**PLANNED DEVELOPMENT PERMIT NO. 116353**  
**MISSION @ PB DRIVE - PROJECT NO. 41256**  
CITY COUNCIL

This Coastal Development Permit No. 116352/Planned Development Permit No. 116353 is granted by the City Council of the City of San Diego to Pacific Beach Investment Trust, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0604 and 126.0708. The 0.503-acre site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive in the CV-1-2 zone(s) within the Pacific Beach Community Plan area, Coastal Overlay Zone (Non-appealable Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone, and Transit Area Overlay Zone. The project site is legally described as Parcel 1 and 2 of Parcel Map No. 2124.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish an existing commercial building on site for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 7, 2006, on file in the Development Services Department.

The project or facility shall include:

- a. The project proposes to demolish an existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The proposed first floor (ground level) would consist of seven retail units totaling approximately 3,350 square feet, utility rooms, entry court, landscaping, motorcycle parking, bicycle parking, and on-site parking spaces. Eighteen residential units would be located on the second and third floors consisting of seven floor plan types ranging from approximately 1,506 to 2,015 square feet, with each unit containing a maximum of three bedrooms and one home office. The

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second and third floor levels have an approximate combined total of 28,811 square feet;

- b. The project includes a deviation from the regulations for access from the site to the alley, which is a deviation to SDMC section 142.0560(j)(7).
- c. The project shall maintain a minimum of forty-eight on-site parking spaces. This condition will invalidate the original proposed shared parking provision;
- d. The maximum building height shall be 30-feet, which includes the roof mounted solar panels;
- e. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14;
- f. Landscaping (planting, irrigation and landscape related improvements);
- g. Off-street parking facilities; and
- h. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. 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.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the

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terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.

4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the 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.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that 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.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

10. Mitigation requirements are tied to the environmental document, and conditions are incorporated into the permit by reference or authorization for the project.

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11. As conditions of Coastal Development Permit No. 116352/Planned Development Permit No. 116353, the mitigation measures specified in Mitigated Negative Declaration, LDR No. 41256 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS. The Owner/Permittee shall comply with the mitigation measures as specified in Mitigated Negative Declaration LDR No. 41256 satisfactory to the City Manager and City Engineer.

12. Prior to foundation inspection, the Owner/Permittee shall provide to the Environmental Analysis Section documentation from the County Department of Environmental Health [DEH] indicating they inspected the Liquid Boot vapor barrier and it was properly and satisfactorily installed, and has been approved by DEH.

**AFFORDABLE HOUSING REQUIREMENTS:**

13. Prior to the issuance of any building permits, the Owner/Permittee shall pay an Inclusionary Affordable Housing In-Lieu Fee, pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

14. The Owner/Permittee shall assure by the building permits, the installation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14.

**ENGINEERING REQUIREMENTS:**

15. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.

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

17. 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.

18. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.

19. Prior to building occupancy, the Owner/Permittee shall assure by permit and bond the replacement of the curb with City standard curb and gutter, adjacent to the site on Mission Boulevard and Pacific Beach Drive, satisfactory to the City Engineer.

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20. The drainage system proposed for this development is private and subject to approval by the City Engineer.
21. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement, for enhanced sidewalk paving.
22. Prior to foundation inspection, the Owner/Permittee shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying the pad elevation based on USGS datum is in accordance with the approved plans.
23. Prior to building occupancy, the Owner/Permittee shall assure by permit and bond the replacement of sidewalk adjacent to the site, satisfactory to the City Engineer.
24. All driveways and curb openings shall comply with City Standard Drawings G14A, G-16 and SDG-100 as appropriate, satisfactory to the City Engineer.

#### LANDSCAPE REQUIREMENTS:

25. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A."
26. Prior to issuance of any engineer permits for grading, construction documents for temporary erosion control including hydroseeding shall be submitted in accordance with the Landscaping Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance with Exhibit "A" (including Environmental conditions.
27. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account the area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
28. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee or subsequent owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
29. All required landscape shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

**ORIGINAL**

30. 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, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

**PLANNING/DESIGN REQUIREMENTS:**

31. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

32. The maximum building height shall be 30-feet, which includes the roof mounted solar panels.

33. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

34. 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 Permittee.

35. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

36. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

37. The Owner/Permittee shall post a copy of the approved discretionary permit in the sales office for consideration by each prospective buyer.

38. 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.

39. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

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40. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
41. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.
42. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers, and latticework.
43. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A."

#### **TRANSPORTATION REQUIREMENTS:**

44. No fewer than forty-eight off-street parking spaces (of which one space is an accessible parking space), four motorcycle spaces and thirteen bicycle spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with requirements of the Land Development Code with minimum parking stall dimension of 8-foot wide (8-foot 3-inches for retail sales uses and eating and drinking establishments) by 18-foot long, 9-foot wide by 18-foot long for spaces with one side abutting an obstacle and 9-foot 6-inches wide by 18-foot long for spaces with two sides abutting obstacle. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.
45. Prior to the issuance of any building permits, applicant shall assure by permit and bond the construction of a 20-foot wide driveway on Pacific Beach Drive with the associated signage to restrict left turn in and out at that location including on-site "No Left Turn" sign and 36-inch high orange delineators (glued down) along property frontage on Pacific Beach Drive, satisfactory to the City Engineer.
46. The Owner/Permittee shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer.

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This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

**WASTEWATER REQUIREMENTS:**

47. The Owner/Permittee shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
48. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.
49. Prior to the issuance of any engineering or building permits, the Owner/Permittee shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each unit will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer facilities that serve more than one ownership.

**WATER REQUIREMENTS:**

50. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway or drive aisle and the removal of any existing unused water services within all rights-of-way adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
51. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of the appropriate private backflow prevention device(s) on each water service (domestic, fire and irrigation), in a manner satisfactory to the Water Department Director, the City Engineer and the Cross-Connection Supervisor in the Customer Support Division of the Water Department.
52. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.
53. All on-site water facilities shall be private including domestic, fire and irrigation systems.
54. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on the approved plans shall be modified at final engineering to comply with standards..

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**FACILITIES FINANCING REQUIREMENTS:**

55. Prior to building permit issuance, the Owner/Permittee shall be required to pay a Development Impact Fee [DIF]. The Owner/Permittee will be subject to the fees in effect at the time of the building permit issuance.

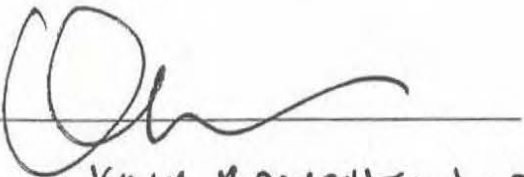
**INFORMATION ONLY:**

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development 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.

APPROVED by the City Council of the City of San Diego on August 7, 2006 by Resolution No. R-301817.

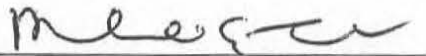
**ORIGINAL**

AUTHENTICATED BY THE CITY MANAGER

By   
KELLY BROUGHTON, DEPUTY DIRECTOR

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

PACIFIC BEACH INVESTMENT TRUST  
Owner/Permittee

By   
MICHAEL E. TURK, TRUSTEE  
By \_\_\_\_\_

**NOTE: Notary acknowledgments must be attached per Civil Code section 1180 et seq.**

PERMIT/OTHER - Permit Shell 11-01-04

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**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

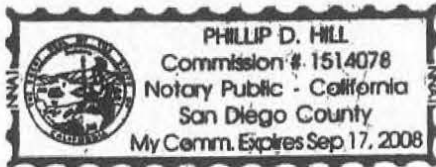
County of San Diego

On SEPTEMBER 14, 2006 before me, Phillip D. Hill, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared KELLY BROUGHTON  
Name(s) of Signer(s)

personally known to me

(or proved to me on the basis of satisfactory evidence)



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Phillip D. Hill  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: CDP 116352; PDP 116353; MISSION @ PB DRIVE

Document Date: \_\_\_\_\_ Number of Pages: 10

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**  
Top of thumb here

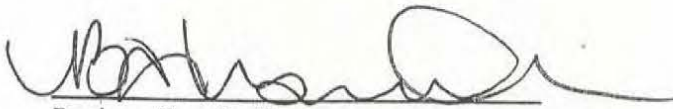
Signer Is Representing: \_\_\_\_\_

# CALIFORNIA ALL-PURPOSE CERTIFICATE

State of California  
County of San Diego

On September 8, 2006 before me, Barbra Marshall, Notary Public, personally appeared **Michael E. Turk**, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

  
Barbra Marshall



Notary Seal



RESOLUTION NUMBER R-301817

DATE OF FINAL PASSAGE AUGUST 7, 2006

WHEREAS, Pacific Beach Investment Trust, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit/planned development permit to demolish an existing commercial building on site for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces on portions of a 0.503-acre site known as the Mission at PB Drive project, located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive, and legally described as Parcel 1 and 2 of Parcel Map No. 2124, in the Pacific Beach Community Plan area, in the CV-1-2 zone, Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone and Transit Area Overlay zone; and

WHEREAS, on June 22, 2006, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] Permit No. 116352/Planned Development Permit [PDP] No. 116353, and pursuant to Resolution No. 4074-PC voted to approve the Permit; and

WHEREAS, the Pacific Beach Community Planning Committee and Richard S. Pearson appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the

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decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on August 7, 2006, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 116352/Planned Development Permit No. 116353:

A. **COASTAL DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE**  
**[SDMC] SECTION 126.0708**

1. **The proposed coastal development will not encroach upon any existing physical access way 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 project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The Pacific Beach Community Plan [PBCP] designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 dwelling units per acre [du/ac] for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underling CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone. Mission Boulevard and Pacific Beach Drive are not designated as a physical accessway or as a visual corridor to the local beaches within the adopted PBCP and Local Coastal Program Land Use Plan, and the proposed project would not affect these resources. The proposed development would occur on private property.

2. **The proposed coastal development will not adversely affect environmentally sensitive lands.** The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development

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containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The project site is located within an urbanized area of the Pacific Beach community and does not contain environmentally sensitive lands; therefore, the proposed mixed-use development 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.** The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development. The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underlying CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone.

The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development; therefore, the project as proposed would conform to the goals and recommendations of the PBCP. The project is in conformance with the underlying CV-1-2 zone regulations (except for the conditions and/or deviations imposed on the project by the Planning Commission), the Local Coastal Program Land Use Plan, the Progress Guide and General Plan, the Strategic Framework Element, and the Housing Element.

The project proposes to utilize renewable energy technology, self-generating at least 50 percent of the projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy.

**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 project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The project site is not located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone and is not required to demonstrate conformance with the public access and recreation policies of the California Coastal Act as required by this finding.

**B. PLANNED DEVELOPMENT PERMIT SDMC SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The project proposes to demolish the existing single-story commercial retail building and

**ORIGINAL**



the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underling CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone.

The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development; therefore, the project as proposed would conform to the goals and recommendations of the PBCP. The project is in conformance with the underling CV-1-2 zone regulations (except for the conditions and/or deviations imposed on the project by the Planning Commission), the Local Coastal Program Land Use Plan, the Progress Guide and General Plan, the Strategic Framework Element, and the Housing Element.

The project proposes to utilize renewable energy technology, self-generating at least 50 percent of the projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The project required the preparation of an Initial Study to identify the potential for significant environmental impacts which could be associated with the project pursuant to Section 15063 of the State of California Environmental Quality Act [CEQA] Guidelines. Analysis concluded that a Mitigated Negative Declaration would be required with mitigation measures for reducing a potentially adverse impact from Human Health/Public Safety/Hazardous to below a level of significance.

The permits for the project will include various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the Land Development Code [LDC] in effect for this project. Such conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The project will comply with the development conditions in effect for the subject property as described in Coastal Development Permit No. 116352 and Planned Development Permit No. 116353, and other regulations and

**ORIGINAL**



guidelines pertaining to the subject property per the LDC. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code.** The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underlying CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone. The project complies with the applicable regulations of the underlying CV-1-2 zone regulations; however, the Planning Commission added three conditions and/or deviations as follows: 1. the proposed access from the site to the alley shall be omitted. This is a deviation to SDMC section 142.0560(j)(7) which requires off-street parking spaces for new developments located within a Beach Impact Area of the Parking Impact Overlay Zone shall be accessible from the abutting alley. 2. The proposed project shall maintain a minimum of forty-eight on-site parking spaces. This condition will invalidate the original proposed shared parking provision. 3. The maximum building height shall be 30-feet, which includes the roof mounted solar panels.

On appeal, the City Council upheld the Planning Commission decision for approval with additional conditions that the proposed eighteen units shall each contain a maximum of three-bedrooms and one home office; the parking spaces shall comply with the Land Development Code; and the installation of no left turn signage to be installed on Pacific Beach Drive.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development. The mixed-use proposal would serve the employees and employers of the area through adding housing supply in the immediate area of employment opportunities and expanding the commercial space available for businesses. The mixed-use development would contribute to a reduction in vehicle trips and vehicle emissions through an increase in the area's job/housing balance. The housing is also located in an area of recreational opportunities and would reduce vehicle trips from more distant residential areas to activities in Pacific Beach. The proposed project would also make an in-lieu contribution towards the cost of affordable housing, upgrade improvements in the public right-of-way, as well as pay all applicable public facilities financing and school fees. In addition, the project proposes to utilize renewable energy technology, self-generating at least 50 percent of the

**ORIGINAL**



projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy. Therefore, the proposed mixed-use development, when considered as a whole, would be beneficial to the community.

**5. Any proposed deviations pursuant to SDMC Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The project proposes to demolish the existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing eighteen residential units and seven commercial retail spaces. The project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive. The PBCP designates the proposed project site as Commercial-Visitor and allows a residential density of up to 43 du/ac for projects designed as a transit oriented development.

The project site, occupying 0.503-acres, could accommodate fifteen dwelling units based on the underling CV-1-2 zone and twenty-two dwelling units based on the density bonus provided by the community plan. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone. The project complies with the applicable regulations of the underling CV-1-2 zone regulations; however, the Planning Commission added three conditions and/or deviations as follows: 1. the proposed access from the site to the alley shall be omitted. This is a deviation to SDMC section 142.0560(j)(7) which requires off-street parking spaces for new developments located within a Beach Impact Area of the Parking Impact Overlay Zone shall be accessible from the abutting alley. 2. The proposed project shall maintain a minimum of forty-eight on-site parking spaces. This condition will invalidate the original proposed shared parking provision. 3. The maximum building height shall be 30-feet, which includes the roof mounted solar panels.

On appeal, the City Council upheld the Planning Commission decision for approval with additional conditions that the proposed eighteen units shall each contain a maximum of three-bedrooms and one home office; the parking spaces shall comply with the Land Development Code; and the installation of no left turn signage to be installed on Pacific Beach Drive.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

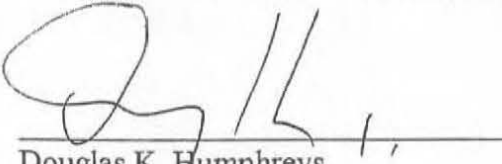
BE IT FURTHER RESOLVED, that the appeal of the Pacific Beach Community Planning Committee and Richard S. Pearson is denied; the decision of the Planning Commission is sustained; and Coastal Development Permit No. 116352/Planned Development Permit

**ORIGINAL**



No. 116353 is granted to Pacific Beach Investment Trust, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Douglas K. Humphreys  
Deputy City Attorney

DKH:pev  
08/17/06  
Or.Dept:Clerk  
R-2007-142  
MMS #3604

**ORIGINAL**

Passed by the Council of The City of San Diego on August 07 2006, by the following vote:

YEAS: PETERS, FAULCONER, ATKINS, YOUNG, MAIENSCHIN,  
FRYE, MADAFFER, HUESO.

NAYS: NONE.

NOT PRESENT: NONE.

VACANT: NONE.

AUTHENTICATED BY:

**JERRY SANDERS**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
RESOLUTION NO. **R-301817**, passed and adopted by the Council of The City of San Diego,  
California on August 07, 2006, and approved by the Mayor on N/A.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy  
Manuel E. Ketcham

**ORIGINAL**



<b>Project Title:</b> 4135 Mission Blvd. Condominium Conversion	<b>Project No. (For City Use Only)</b> 163493
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**Part II - To be completed when property is held by a corporation or partnership**

**Legal Status (please check):**

Corporation (  Limited Liability -or-  General) What State? CA Corporate Identification No. \_\_\_\_\_  
 Partnership

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 names, titles 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 corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **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

Corporate/Partnership Name (type or print):  
 Mission and PB Drive, LLC

Owner  Tenant/Lessee

---

Street Address:  
 4641 Ingraham Street

City/State/Zip:  
 San Diego, CA 92109

Phone No: 858-274-5995 Fax No: 858-274-0964

Name of Corporate Officer/Partner (type or print):  
 MICHAEL E. TURK

Title (type or print):  
 MEMBER

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):  
 Mission and PB Drive LLC

Owner  Tenant/Lessee

---

Street Address:  
 4641 Ingraham St.

City/State/Zip:  
 San Diego CA 92109

Phone No: 858-274-5995 Fax No: 858-274-0964

Name of Corporate Officer/Partner (type or print):  
 KAREN TURK

Title (type or print):  
 MEMBER

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):

Owner  Tenant/Lessee

---

Street Address:

City/State/Zip:

Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):

Owner  Tenant/Lessee

---

Street Address:

City/State/Zip:

Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):

Owner  Tenant/Lessee

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Street Address:

City/State/Zip:

Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

Corporate/Partnership Name (type or print):

Owner  Tenant/Lessee

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Street Address:

City/State/Zip:

Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : \_\_\_\_\_ Date: \_\_\_\_\_

DEVELOPMENT SERVICES DEPARTMENT  
**PROJECT CHRONOLOGY**  
**4135 MISSION BOULEVARD MAP WAIVER-PROJECT NO. 163493**

<b>Date</b>	<b>Action</b>	<b>Description</b>	<b>City Review Time (Working Days)</b>	<b>Applicant Response</b>
8/26/08	First Submittal	Project Deemed Complete	-	-
9/9/08	First Assessment Letter		9 days	
10/14/08	Second Submittal			25 days
10/28/08	Second Review	Review completed	10 days	
10/28/08	Issued Resolved	All review issues resolved	-	-
12/10/08	Public Hearing	<b>First available date</b>	26 days	
<b>TOTAL STAFF TIME</b>		(Does not include City Holidays)	<b>45 days</b>	
<b>TOTAL APPLICANT TIME</b>		(Does not include City Holidays)		<b>25 days</b>
<b>TOTAL PROJECT RUNNING TIME</b>		From Deemed Complete to Hearing	<b>70 working days (106 calendar days)</b>	



## DETERMINATION OF ENVIRONMENTAL EXEMPTION

Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

Agency: CITY OF SAN DIEGO

Project No.: 163493

Date: September 5, 2008

Action/Permit(s): Coastal Development Permit and Map Waiver

**Description of Activity:** Coastal Development Permit and Map Waiver to waive the requirements of a Tentative Map and under grounding overhead utilities to create seven (7) commercial and eighteen (18) residential condo on a 0.50 acre site in the CV-1-2 Zone within the Pacific Beach Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, Residential Tandem Parking, and Transit Area Overlay Zones of Council District 2.

**Location of Activity:** 4135 Mission Boulevard, San Diego in the Pacific Beach Community Plan Area

**(CHECK BOXES BELOW)**

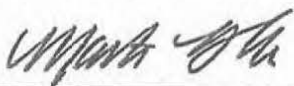
1.  This activity is **EXEMPT FROM CEQA** pursuant to:
  - Section 15060 (c)(3) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378)
  - Section 15061 (b)(3) of the State CEQA Guidelines (General Rule)
  
2.  This project is **EXEMPT FROM CEQA** pursuant to State CEQA Guidelines Section checked below:

ARTICLE 19 of GUIDELINES CATEGORICAL EXEMPTIONS (Incomplete list)		ARTICLE 18 of GUIDELINES STATUTORY EXEMPTIONS (Incomplete list)	
Section	Short Name	Section	Short Name
<input checked="" type="checkbox"/> 15301	Existing Facilities	<input type="checkbox"/> 15261	Ongoing Project
<input type="checkbox"/> 15302	Replacement or Reconstruction	<input type="checkbox"/> 15262	Feasibility and Planning Studies
<input type="checkbox"/> 15303	New Construction or Conversion of Small Structures	<input type="checkbox"/> 15265	Adoption of Coastal Plans and Programs
<input type="checkbox"/> 15304	Minor Alterations to Land	<input type="checkbox"/> 15268	Ministerial Projects
<input type="checkbox"/> 15305	Minor Alteration in Land Use	<input type="checkbox"/> 15269	Emergency Projects
<input type="checkbox"/> 15306	Information Collection	<input type="checkbox"/> Other	_____
<input type="checkbox"/> 15311	Accessory Structures		
<input type="checkbox"/> 15312	Surplus Government Property Sales		
<input type="checkbox"/> 15315	Minor Land Divisions		
<input type="checkbox"/> 15317	Open Space Contracts or Easements		
<input type="checkbox"/> 15319	Annexation of Existing Facilities and Lots for Exempt Facilities		
<input type="checkbox"/> 15325	Transfer of Ownership of Interest in Land to Preserve Open Space		
<input type="checkbox"/> Other	_____		

It is hereby certified that the City of San Diego has determined the above activity to be exempt:

Distribution:

Exemption or Project file  
Jeff Peterson, DPM



Martha Blake, AICP Senior Planner  
Environmental Analysis Section