



THE CITY OF SAN DIEGO

# REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** February 21, 2013 **REPORT NO.** PC-13-022

**ATTENTION:** Planning Commission, Agenda of February 28, 2013

**SUBJECT:** 2975 OCEAN FRONT WALK MAP WAIVER. PROCESS 3.

**REFERENCE:** Hearing Officer Report No. HO 12-058.

**OWNER:** David Lessnick

**APPLICANT:** Robert Bateman

## SUMMARY

**Issue(s):** Should the Planning Commission approve or deny an appeal of the Hearing Officer's decision to approve a Map Waiver to convert three residential dwelling units into condominiums at 2975 Ocean Front Walk within the Mission Beach Community Plan?

### Staff Recommendation:

1. **Deny** the appeal and uphold the Hearing Officer decision to **Approve** Map Waiver No. 953238.

**Community Planning Group Recommendation:** On March 20, 2012, the Mission Beach Precise Planning Board voted 8-0-0 to recommend denial of the project.

**Environmental Review:** The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301(k), Existing Facilities. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on March 6, 2012, and the opportunity to appeal that determination ended March 21, 2012.

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

**Code Enforcement Impact:** On July 20, 2012 the Neighborhood Code Compliance Division issued an Administrative Citation for occurring construction without obtaining building permits (See Code Violation section below).

**Housing Impact Statement:** The Mission Beach Community Plan designates the 0.10-acre site as Residential (0-36 du/ac). Based on this land use designation the project will not adversely affect the land use density. There would be a loss of three rental units and a gain of three for-sale units. This condominium conversion project is required to comply with the inclusionary housing requirements and tenant relocation assistance program, which are conditions of the proposed Map Waiver (Attachment 6). The applicant has chosen to pay fees in place of providing affordable units on-site in accordance with the City's Inclusionary Housing Ordinance.

## **BACKGROUND**

This item is an appeal of the Hearing Officer's decision to approve a Map Waiver to convert three existing residential units to condominiums on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan, Coastal Overlay Zone (State jurisdiction).

The site currently contains a triplex constructed in 1986. The site was issued building permit No. A51810 on October 6, 1986. The existing building is operated as a vacation weekly rental and consists of three, three bedroom units with living room, laundry room, dining room, and kitchen. The units feature an attached ground level parking and landscaped areas in the front yard and along the north and west sides of the building. The site is surrounded by multi-unit residential dwellings, to the west the beach and Pacific Ocean.

This Map Waiver project is subject to the condominium conversion regulations effective June 13, 2006, based on the City Council's specific adoption language for the "new" condominium conversion regulations. At the June 13, 2006 hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, on-site inclusionary housing, noticing, and parking. Based on the adopted language and project timing, all of these new regulations apply to this project. Accordingly, this project has been reviewed against the new regulations.

A Map Waiver is required for the conversion of three residential units into condominiums as defined in San Diego Municipal Code section 125.0102.

On July 20, 2012, the Neighborhood Code Compliance Division of the Development Services Department issued an Administrative Citation to the owner for construction without building permits in accordance with SDMC section 129.0202(a). The unpermitted work included the replacement and expansion of a pre-existing deck, new windows, and stucco work. Condition No. 18 of the Map Waiver requires that the owner obtain all applicable building permits prior to the issuance of the Certificate of Compliance (Attachment 1). The owner of the development submitted building plans for review in October of 2012.

The subject site is located within the State of California Coastal Commission jurisdiction which reviews construction permits to determine if a State Coastal Development Permit is required. During the construction permit review required from the Administrative Citation, the State of California determined that a State Coastal Development Permit is required for the subject property due to proposed expansion of an existing deck and to rectify unpermitted improvements requiring a building permit. As a result, a building permit cannot be issued to complete the



unpermitted work until a State Coastal Development Permit is approved. Additionally, the State indicated to the City that a State Coastal Development Permit application will not be reviewed until the appeal process for the Map Waiver to convert the existing units to condominiums is completed. Therefore, this map waiver appeal hearing is the first of three required development review processes that need to be completed in order to complete the unpermitted construction and improvements to the structure.

## DISCUSSION

The Hearing Officer considered the project on July 11, 2012. Public testimony was presented in favor and in opposition to the project. Two individuals spoke in opposition including Mr. Dennis Lynch and Mr. Mike Myers, members of the Mission Beach Precise Planning Group. Issues raised by the opposition focused on non-compliance with the Mission Beach Planned District Ordinance. Opponents contended portions of the existing development encroach into setbacks and the public right-of-way. After deliberation and upon close of public testimony, the Hearing Officer approved the project.

On July 14, 2012, an appeal of the Hearing Officer's decision was submitted by Debbie Watkins, chair of the Mission Beach Precise Planning Board.

Issues identified in the appeal are outlined below. Staff's recommendation of support of the project remains unchanged.

### Appeal:

The project violates San Diego Municipal Code.

*Appellant Issues* - The appellant's application indicates that the project violates San Diego Municipal Code (SDMC) section 125.0440(6) and the Mission Beach Planned District Ordinance.

*Staff Response* - Staff analyzed the project for consistency with all applicable requirements regulating Map Waivers. SDMC section 125.0440 includes Findings for a Tentative Map. The subject project is proposing a Map Waiver in accordance with SDMC section 124.0122 and 125.0123. Staff has determined that all findings applicable to the Map Waiver could be made with this application. Staff reviewed the approved building set from 1986 and has determined that the submitted Map Waiver plans are in substantial conformance with the originally approved plans under building permit No. A51810.

The existing development cannot be "grandfathered" due to the fact that the triplex was developed after the implementation of the Mission Beach Planned District Ordinance (PDO).

*Appellant Issues* - The appellant's application states the project was developed subsequent to the enactment of the PDO. Therefore whatever new development is proposed cannot maintain previously conforming rights. This includes the stairwells which encroach into the setbacks and public right-of-way along Ocean Front Walk.

*Staff Response* – Staff reviewed the approved building set from 1986 and has determined that the plans show the Ocean Front Walk stairway and the Ensenada Court stairway in their current or similar location as originally approved under building permit No. A51810. It appears the original building plans were approved with a stairway encroaching within the front yard setback and a portion of the public right-of-way along Ocean Front Walk. As a result condition no. 17 requires the owner obtain an Encroachment Maintenance Removal Agreement for the private encroachments including the wood post wall and a portion of the stairway in the Ocean Front Walk Right-of-Way, subject to their height complying with applicable Municipal Code provisions.

Project is undergoing significant reconstruction for which a building permit must be obtained.

*Appellant Issues* - The appellant's application states the subject project is significantly being reconstructed including a new deck projecting into the front yard setback. Building permits must be obtained. This is not a typical Map Waiver where there are changes to landscaping and minor upgrades to the structure.

*Staff Response* - During public testimony it was discovered that work was being conducted on the site without benefit of a building permit. As a result, the Hearing Officer acknowledged that a Construction Permit would be required for the improvements and added condition No. 18 which states, "Prior to the issuance of a Certificate of Compliance the Subdivider shall obtain all required Construction Permit(s) for all existing improvements and remodel occurring during and subsequent to the processing of the associated Map Waiver on the premises."

### CONCLUSION:

Staff has determined that the project complies with San Diego Municipal Code requirements regulating Map Waivers. Staff has also determined all required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends denial of the appeal and approval of the project as proposed.

### ALTERNATIVE(S)

1. **Deny** the appeal and **Approve** Map Waiver No. 953238, as approved by the Hearing Officer on July 11, 2012;
2. **Approve** the appeal and **Deny** Map Waiver No. 953238.



Respectfully submitted,



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Mike Westlake  
Assistant Deputy Director  
Development Services Department

MW/WZ



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William Zounes  
Project Manager  
Development Services Department

Attachments:

1. Draft Permit with new Condition 18 added at the 7/11/25 Hearing Officer Hearing
2. Draft Resolution with Findings
3. Project Appeal
4. Hearing Officer Report No. HO-10-061
5. Administrative Citation

**Attachment 1  
Draft Map Waiver Conditions**

HEARING OFFICER  
CONDITIONS FOR MAP WAIVER NO. 953238  
2975 OCEAN FRONT MAP WAIVER - PROJECT NO. 271240  
ADOPTED BY RESOLUTION NO. \_\_\_\_\_ ON FEBRUARY 28, 2013

**GENERAL**

1. This Map Waiver will expire February 28, 2016.
2. Compliance with all of the following conditions shall be completed and/or 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 San Diego County Recorder, prior to the Map Waiver expiration date.
4. Prior to the recordation of the Certificate of Compliance, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
5. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify the Subdivider of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not be required to pay or perform any settlement unless such settlement is approved by the Subdivider.

**CONDOMINIUM CONVERSION**

6. The Subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
  - a. For existing tenants, within 10 days of the project application for the condominium conversion being deemed complete; or



**Attachment 1**  
**Draft Map Waiver Conditions**

- b. For prospective tenants, upon application for the rental of a unit in the proposed condominium conversion.
7. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the Subdivision Map Act.
8. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Subdivision Map Act section 66427.1(a)(2)(E). The provisions of this condition shall neither alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Civil Code sections 1941, 1941.1 and 1941.2.
9. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days after approval of a Certificate of Compliance for the proposed conversion, in conformance with Subdivision Map Act section 66427.1(a)(2)(D).
10. The Subdivider shall give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (San Diego Municipal Code § 125.0431(a)(4)).
11. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Subdivision Map Act section 66427.1(a)(2)(F) and San Diego Municipal Code section 125.0431(a)(5). The right shall commence on the date the subdivision public report is issued, as provided in section 11018.2 of the Business and Professions Code, and shall run for a period of not less than 90 days, unless the tenant gives prior written notice of his or her intention not to exercise the right. (San Diego Municipal Code § 125.0431(a)(5)).
12. The Subdivider shall provide a copy of the Building Conditions Report to a prospective purchaser prior to the opening of an escrow account. (San Diego Municipal Code § 144.0504(c)).
13. Prior to the recordation of the Certificate of Compliance, the Subdivider shall demonstrate conformance with the San Diego Municipal Code provisions for building and landscape improvements (San Diego Municipal Code § 144.0507), to the satisfaction of the City Engineer.

**AFFORDABLE HOUSING**

14. Prior to recordation of the Certificate of Compliance, the Subdivider shall enter into a written agreement with the San Diego Housing Commission to pay the condominium conversion inclusionary housing fee pursuant to the Inclusionary Affordable Housing Regulations (San Diego Municipal Code § 142.1301 *et seq.*).
15. Prior to the recordation of the Certificate of Compliance, the Subdivider shall demonstrate conformance with the San Diego Municipal Code provisions for Tenant Relocation Benefits (San Diego Municipal Code § 144.0505), to the satisfaction of the Development Services Department and the Housing Commission.

**ENGINEERING**

16. Prior to the issuance of a Certificate of Compliance the Subdivider shall reconstruct the existing curb ramp adjacent to the site on Ensenada Court at the alley entrance, with current City Standard Drawing SDG-137 with truncated domes, to the satisfaction of the City Engineer.
17. Prior to the issuance of a Certificate of Compliance the Subdivider shall obtain an Encroachment Maintenance Removal Agreement for the private encroachments including the existing concrete planter, stairs, and wood post wall in the Ocean Front Walk Right-of-Way, subject to their height complying with applicable Municipal Code provisions, to the satisfaction of the City Engineer.
18. Prior to the issuance of the a Certificate of Compliance the Subdivider shall obtain all required Construction Permit(s) for all existing improvements and remodel occurring during and subsequent to the processing of the associated Map Waiver on the premises.
19. Prior to the issuance of a Certificate of Compliance the Subdivider shall remove the wood post wall from the Ensenada Court Right-of-Way.
20. Prior to the issuance of a Certificate of Compliance the Subdivider shall obtain an Encroachment Maintenance Removal Agreement for the minimum number of bollards required to protect the existing meter in the Ensenada Court Right-of-Way, to the satisfaction of the City Engineer.
21. Prior to the issuance of a Certificate of Compliance 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.



**Attachment 1**  
**Draft Map Waiver Conditions**

22. Prior to the issuance of a Certificate of Compliance the Subdivider, 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.
23. Prior to the issuance of a Certificate of Compliance 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.
24. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
25. The Subdivider shall comply with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980. Only those exceptions to the General Conditions which are shown on the Map Waiver and covered in these special conditions will be authorized. 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. RR-297376.

**LANDSCAPING REQUIREMENTS**

26. Complete landscape and irrigation construction documents consistent with the Land Development Manual: Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.
27. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit 'A' Landscape Development Plan.
28. 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 unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
29. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards. All landscape proposed within Public View Corridors shall be no taller than 36 inches at maturity without pruning. Any trees proposed within view corridors shall be maintained by thinning and pruning of the tree

**Attachment 1**  
**Draft Map Waiver Conditions**

canopy to a height of eight feet or greater and shall not significantly obstruct the view corridor.

30. Prior to Final Inspection, it shall be the responsibility of the Owner/Permittee to install all required landscape. A "No Fee " Street Tree Permit, and/or Encroachment Maintenance Removal Agreement, EMRA, if applicable, shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
31. No fence shall exceed 3 feet in height in that triangular area created by measuring 10 feet along each property line from the point of intersection where any combination of streets and/or alleys intersect.
32. 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 Development Services Department within 30 days of damage or a Final Landscape Inspection.
33. Required shrubs or trees that die 3 years or more after installation shall be replaced with 15-gallon size or 60-inch box size /15 foot BTH material, respectively. Development Services may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15-gallon shrub or 60-inch box.

**MAPPING**

34. Prior to the issuance of a Certificate of Compliance, City staff will perform a field site visit to verify that all property corners, or property corner offsets have been set. If any property corners are missing, they must be set and a Corner Record or Record of Survey (whichever is applicable) shall be filed with the County Recorder pursuant to the Professional Land Surveyors Act. A copy of the Record of Survey or Corner Record shall be provided to the City.
35. Prior to the issuance of a Certificate of Compliance, applicant must provide a recorded tax certificate from the county which states that there are no liens against the property or any part thereof for unpaid state, county, municipal, or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.



**Attachment 1**  
**Draft Map Waiver Conditions**

36. Prior to the issuance of a Certificate of Compliance the applicant must obtain a Coastal Development Permit or exemption from a Coastal Development Permit from the California Coastal Commission.

**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 U.S.C. § 1531 *et seq.*).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), 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 San Diego City Clerk pursuant to Government Code Sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider 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 (San Diego Municipal Code § 142.0607).

Internal Order No. 24002479

RESOLUTION NO. \_\_\_\_\_  
DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE HEARING OFFICER  
ADOPTING THE FINDINGS AND APPROVING MAP  
WAIVER NO. 953238 FOR 2975 OCEAN FRONT MAP  
WAIVER- PROJECT NO. 271240

WHEREAS, DAVID LESSNICK, Subdivider, and ROBERT BATEMAN, Land Surveyor , submitted an application with the City of San Diego for Map Waiver No. 953238, to waive the requirement for a Tentative Map for the conversion of existing residential units into condominium units and waive the requirement to underground existing offsite overhead utilities. The project site is located at 2975 Ocean Front Walk in the R-S Zone of Mission Beach Planned District within the Mission Beach Community Plan. The property is legally described as Lot "D" in Block 61 of Mission Beach, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 1651; and

WHEREAS, the Map proposes the subdivision of a 0.10-acre site into a three unit residential condominium conversion; and

WHEREAS, on March 12, 2012, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 *et. seq.*) under CEQA Guidelines Section 15301(k); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code section 112.0520; and



**Attachment 2**  
**Draft Resolution with Findings**

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to Subdivision Map Act section 66491(a) and San Diego Municipal Code sections 144.0220(a) and 144.0220(b); and

WHEREAS, the request to waive the requirement to underground existing offsite overhead utility facilities qualifies under the guidelines of Council Policy No. 600-25, *Underground Conversion of Utility Lines at Developers Expense* in that: The conversion involves a short span of overhead facility (less than 600 feet in length) and The conversion is within Underground Utility District South Mission Beach Block 2S1 job 1 and is already scheduled for the second quarter of 2013 as a utility company financed project (PUC 8209); and

WHEREAS, on July 11, 2012, the Hearing Officer of the City of San Diego considered Map Waiver No. 953238, including the waiver of the requirement to underground existing offsite overhead utilities, and pursuant to sections 125.0122 (map waiver), 125.0444 (condo conversion), and 144.0240 (underground) of the San Diego Municipal Code and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard 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. 953238:

**Attachment 2  
Draft Resolution with Findings**

**1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code § 125.0440(a) and Subdivision Map Act §§ 66473.5, 66474(a), and 66474(b)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The proposed project is consistent with the land use residential designation of the Mission Beach Community Plan by continuing to maintain a density range of up to 36 dwelling units per acre. The project would meet the goals of the Mission Beach Precise Plan/Local Coastal Program by maintaining residential development and not interfering with public access to the beaches. The proposed condominiums will meet the land use regulations of the certified Implementation Program including compliance to the San Diego Municipal Code development regulations to include but not limited to height, parking, landscape, and floor area ratio. As a condition of the Map Waiver, an Encroachment Maintenance Removal Agreement (EMRA) is required for the private encroachments in the Ocean Front Walk right-of-way. The EMRA will require the fence and all other private encroachments within the Ocean Front Walk public right-of-way be removed to accommodate any Public Improvement Project, including an expansion of the Ocean Front Walk Boardwalk. At this time there are no Improvement Projects from the City of San Diego or other government agency that will require the encroachments be removed from the Ocean Front Walk public right-of-way at 2975 Ocean Front Walk. Therefore, the proposed development is in conformity with the Mission Beach Precise Plan and Local Coastal Program and complies with the regulations of the certified Land Development Code. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code § 125.0440(a) and Subdivision Map Action §§ 66473.5, 66474(a), and 66474(b)).

**2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (San Diego Municipal Code § 125.0440(b)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The residential structure was approved and constructed under Building Permit No. A51810 in 1986. The construction was determined to be consistent with the development regulations of the RS zone of the Mission Beach Planned District which includes height, floor area ratio, landscaping and architectural design at that time. No new development is proposed with this Map Waiver other than landscaping and the existing structure will



**Attachment 2**  
**Draft Resolution with Findings**

maintain its originally approved envelope. A portion of the Ocean Front Walk public right-of-way contains a 3-foot high fence used for the subject condominiums. As a condition of the Map Waiver, an Encroachment Maintenance Removal Agreement (EMRA) is required for the private encroachments in the Ocean Front Walk right-of-way. The EMRA will require the fence and all other private encroachments within the Ocean Front Walk public right-of-way be removed to accommodate any Public Improvement Project, including an expansion of the Ocean Front Walk Boardwalk. At this time there are no Improvement Projects from the City of San Diego or other government agency that will require the encroachments be removed from the Ocean Front Walk public right-of-way at 2975 Ocean Front Walk. Therefore, the proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (San Diego Municipal Code § 125.0440(b)).

**3. The site is physically suitable for the type and density of development (San Diego Municipal Code § 125.0440(c) and Subdivision Map Act §§ 66474(c) and 66474(d)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The site is flat and has been previously graded. The three residential units currently exist on the site. The site fronts Ocean Front Walk, Ensenada Way, and Strand Way. The RS zone allows one dwelling unit for every 1,210 square feet of site area. The existing site is 4,356 square feet which will accommodate three dwelling units. The Mission Beach Community Plan designates the site as residential allowing up to 36 dwelling units per acre. The conversion of three residential units into condominiums is within the community plan's density range and within the RS zone density range. Therefore, the site is physically suitable for the type and density of the development.

**4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (San Diego Municipal Code § 125.0440(d) and Subdivision Map Act § 66474(e)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The Map Waiver was reviewed by the City of San Diego for conformance to the Land Development Regulations, California Building Code, and Land Use Policies. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (existing facility) of the State CEQA Guidelines. The project is located within an urbanized and built out environment where there are no watercourses



on or adjacent to the site. Therefore, the subdivision or the proposed improvements will not cause substantial environmental damage or substantially 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 (San Diego Municipal Code § 125.0440(e) and Subdivision Map Act § 66474(f)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

Minor land modifications/improvements are proposed with this Map Waiver to include the reconstruction of curb ramps along Ensenada Court, the removal of the wood post wall within the Ensenada Court Right-of-Way, and require the installation of appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site.

The project has been reviewed and determined to be in compliance with the Municipal Code and Subdivision Map Act. The Map Waiver includes conditions and corresponding exhibits of approvals relevant obtaining an Encroachment Maintenance Removal Agreement for the private encroachments including the wood post wall in the Ocean Front Walk Right-of-Way and paying applicable taxes in order to achieve compliance with the regulations of the San Diego Municipal Code. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(k) of the State CEQA Guidelines. Therefore, the design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (San Diego Municipal Code § 125.0440(e) and Subdivision Map Act § 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 (San Diego Municipal Code § 125.0440(f) and Subdivision Map Act § 66474(g)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The proposed subdivision does not contain or propose any new easements for the development. The site has frontage on Ocean Front Walk, Ensenada Court, and Strand Way. The subdivision proposes public improvements to include the reconstruction of curb ramps along Ensenada Court and the removal of the wood post wall within the Ensenada Court Right-of-Way. As a condition of the Map Waiver, an Encroachment



Maintenance Removal Agreement (EMRA) is required for the private encroachments in the Ocean Front Walk right-of-way. The EMRA will require the fence and all other private encroachments within the Ocean Front Walk public right-of-way be removed to accommodate any Public Improvement Project, including an expansion of the Ocean Front Walk Boardwalk. At this time there are no Improvement Projects from the City of San Diego or other government agency that will require the encroachments be removed from the Ocean Front Walk public right-of-way at 2975 Ocean Front Walk. Therefore, the design of the subdivision and proposed improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

**7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (San Diego Municipal Code § 125.0440(g) and Subdivision Map Act § 66473.1).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The potential and opportunity exists to implement sustainable building techniques that utilize photovoltaic systems (solar panels) to generate a certain percentage of the project's energy needs. The three unit complex incorporates tilted roofs which may facilitate for solar panels in the future. Therefore, the design of the proposed subdivision provides, to the extent feasible, for 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 (San Diego Municipal Code § 125.0440(h) and Subdivision Map Act § 66412.3).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The decision maker has reviewed the administrative record including the project plans, environmental documentation and public testimony to determine the effects of the proposed subdivision on the housing needs of the region. The decision maker has determined that the provision of three residential units and the associated increase in the need for public services and the available fiscal and environmental resources are balanced by adequate public transit in the immediate area, the proximity of shopping, and essential services and recreation in the nearby developed urban area. The project is within a half mile from public transit and retail services and sales. In addition, Mission Bay Park is



located within two blocks from the site. Therefore, the housing needs of the region are balanced against the needs for public services and 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 (San Diego Municipal Code § 125.0123 and Subdivision Map Act § 66428(b)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The proposed subdivision would comply with all of the applicable requirements of the Subdivision Map Act and the Land Development Code. The development complies with the requirements that regulate the size and location of the structure including setbacks, coverage, height, and floor area. The proposed subdivision is within a developed urban neighborhood and located on an existing improved and dedicated improved right-of-way with existing water and sewer facilities hooked into the structure. The development would not be subject to floodwater inundation. Drainage would be directed off the site into the City's storm water collection system. The property is within the jurisdiction of the City of San Diego and, therefore, all normal residential waste generated from the subdivision would be collected at curbside and disposed of in the city landfill. Therefore, 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 (San Diego Municipal Code § 125.0122 and Subdivision Map Act § 66428(b)).

**10. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (San Diego Municipal Code § 125.0444(b)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

All costs associated with the processing of this Map Waiver were paid by the applicant. Therefore, the project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing.



**11. For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (San Diego Municipal Code § 125.0444(c)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The Map Waiver was not processed to provide housing for the elderly, disabled or to provide low income housing.

**12. The notices required by San Diego Municipal Code section 125.0431 have been given in the manner required (San Diego Municipal Code § 125.0444(a), and Subdivision Map Act §§ 66452.17 and 66427.1).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

During the processing of this Map Waiver application the existing residential structure was unoccupied due to interior and exterior improvements. However the Map Waiver conditions require all prospective tenants be notified of the condominium conversion. This notice and all other required notices shall be enforced during life of the Map Waiver. Therefore, all applicable notices required by San Diego Municipal Code section 125.0431 have been given in the manner required.

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. 953238 is hereby granted to DAVID LESSNICK subject to the attached conditions which are made a part of this resolution by this reference.

**Attachment 2  
Draft Resolution with Findings**

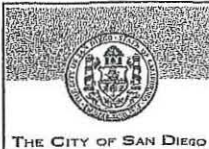
By

\_\_\_\_\_  
William Zounes  
Development Project Manager  
Development Services Department

ATTACHMENT: Map Waiver Conditions  
Internal Order No. 24002479







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

# Development Environmental Determination Appeal Application

**DS-3031**  
MAY 2010

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

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

Name: MISSION BEACH PRECISE PLANNING BOARD		E-mail Address: dkwatks@aol.com	
Address: c/o 713 Isthmus Court	City: San Diego	State: CA	Zip Code: 92109 Telephone: (858) 344-1684

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

Robert Bateman

**4. Project Information**

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
2975 Ocean Front Wlk Map Waiver PTS Project #271240	July 11, 2012	William Zounes

Decision (describe the permit/approval decision):  
Approve project with conditions.

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

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

PLEASE SEE EXHIBIT "A", WHICH IS ATTACHED HERETO AND INCORPORATED HEREWITH.

RECEIVED

JUL 14 2012

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: Debbie Watkins, Chair      Date: July 16, 2012  
Mission Beach Precise Planning Bd.

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



Exhibit "A"

Re: 2975 Ocean Front Walk, Project 271240

The Mission Beach Precise Planning Board ("MBPPB"), the recognized community planning group, is filing this Appeal Application to appeal the Development Services Department Hearing Officer's decision of July 11, 2012, regarding the above-referenced project. Plan Reviewers Dennis Lynch and Mike Meyer attended the hearing on behalf of the MBPPB and filed speaker's slips.

On March 20, 2012, the Mission Beach Precise Planning Board ("MBPPB") voted 8-0-0 to deny the Map Waiver application to waive the requirements of a Tentative Map to convert three (3) existing residential unit to condominiums. On July 11, 2012, the Hearing Officer approved the project with conditions. We contend the City's findings are not wholly supported with regard to this project and the City's decision conflicts with the Municipal Code.

The requested subdivision map waiver should be denied in that it violates Section 125.0440(6) of the Municipal Code. In addition, the proposed subdivision does not comply with the regulations of the Planned District Ordinance of Mission Beach ("PDO") (January 2, 1979) for the reasons listed below.

Note that this project was built in 1986, after our PDO was enacted. Accordingly, the procedure known as "grandfathering" does not apply to this development. This is not a development that took place prior to our PDO for which non-complying PDO construction might be allowed to remain outside the construction envelope set forth by the provisions of our PDO.

Furthermore, in the case of the wood staircase and its underlying wood substructure, which has been totally removed, the portion of which illegally encroached into the required front yard setback about 26 inches can not be replaced. There is no right to rebuild a non-conforming structure that is not protected by "grandfathering," which this is not.

The subject property is being significantly reconstructed, exterior and interior, for which a building permit must be obtained. This is not a typical map waiver request project where there are changes in landscaping and minor upgrading of the structure. [See pictures of the project at Attachment A, which is attached hereto and incorporated herewith.]

The relevant issues discussed at our March 20, 2012 Planning Board Meeting at which we unanimously denied the project are discussed below.

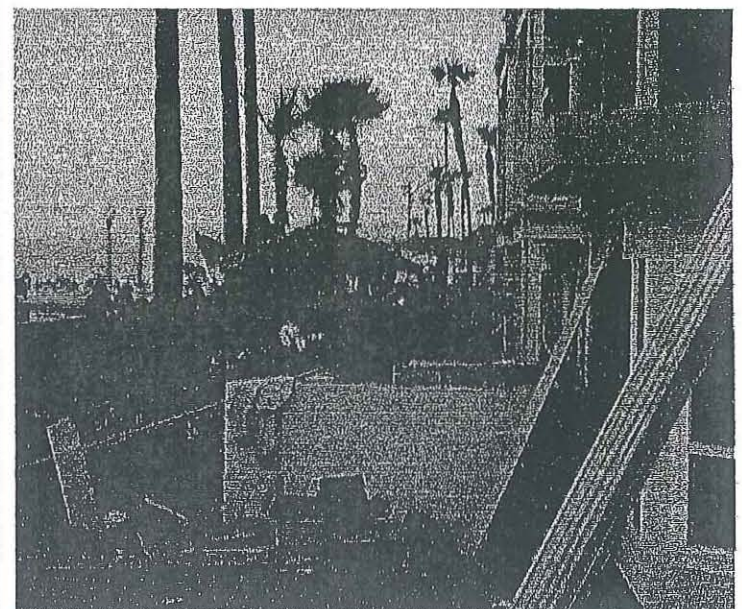
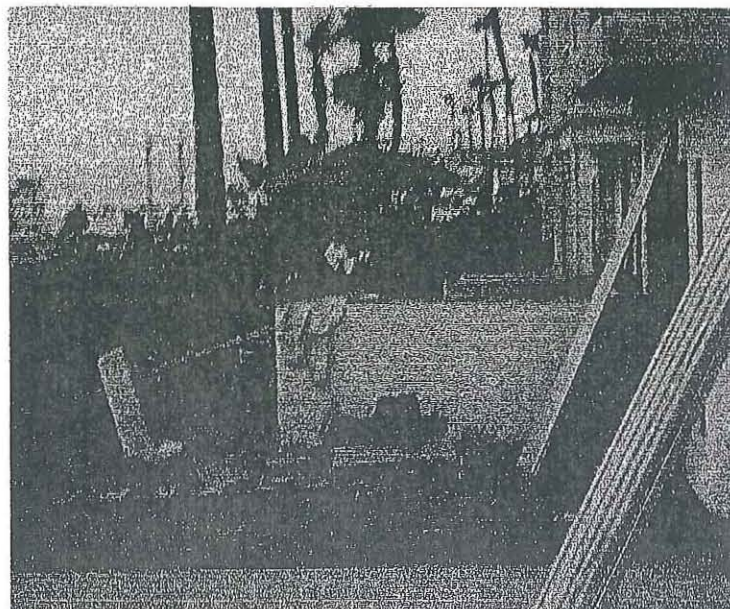
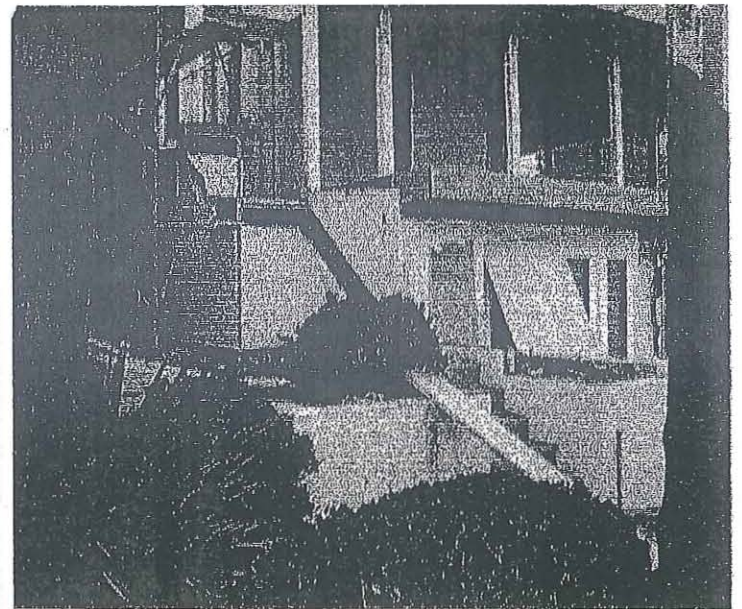
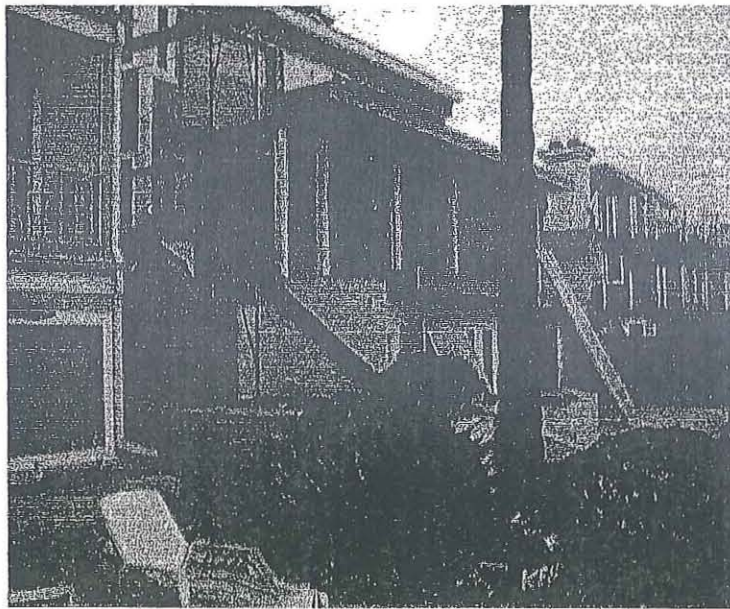
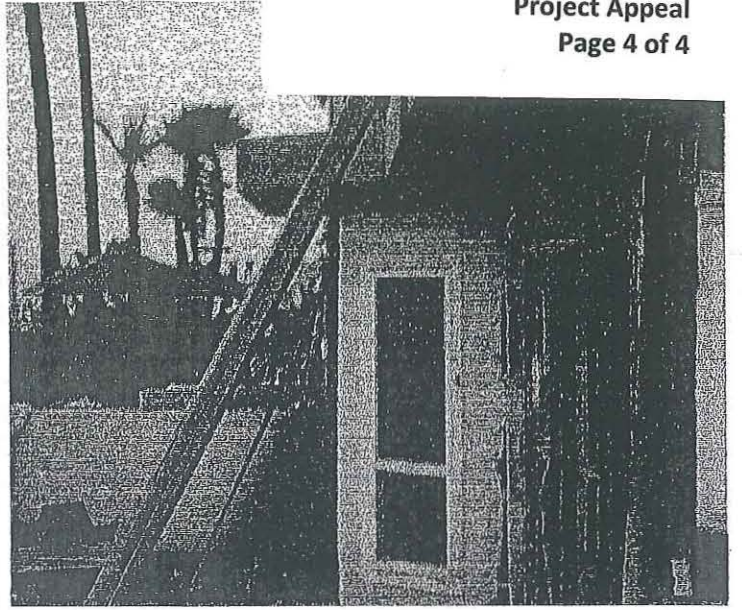
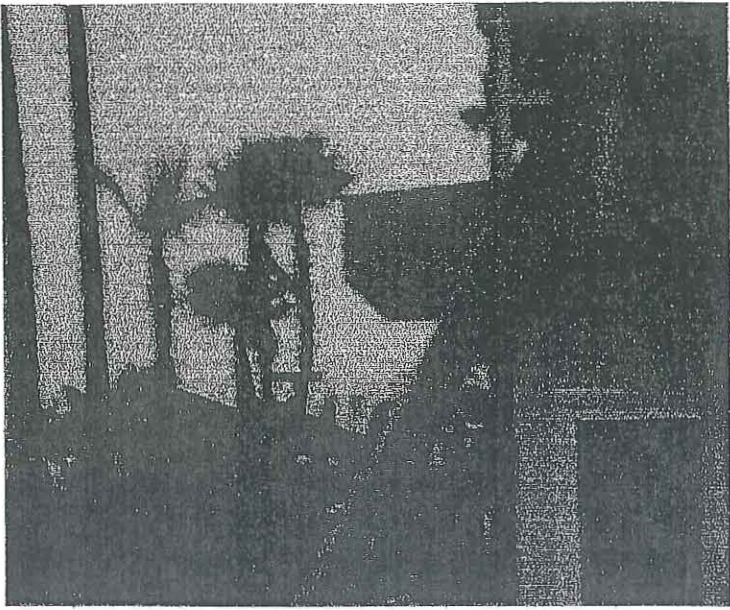
- (1) The stair case and underlying substructure encroaches into the required front yard setback along Ocean Front Walk at a height in excess of 36 inches;
- (2) The concrete planter and concrete entry steps encroach into the required front yard setback along Ocean Front Walk by a height in excess of 36 inches; and
- (3) The concrete entry stairs in the yard along Ensenada Court exceed 36 inches in height.

Exhibit "A" (cont'd)  
2975 Ocean Front Walk, Project 271240

Just prior to the July 11<sup>th</sup> Hearing, Plan Reviewer Dennis Lynch noticed that the second story outdoor deck encroaches into the Ocean Front Walk front yard by approximately two (2) feet. This is an intrusion into the view corridor that has been maintained by every surrounding structure. [See: Attachment A.]

For the reasons discussed above, the MBPPB requests the Planning Commission to recommend the correction of this project's deviations from the Mission Beach PDO, and to not allow any additional construction that is not in accord with our PDO regulations.





*attachment A*





THE CITY OF SAN DIEGO

**REPORT TO THE HEARING OFFICER**

HEARING DATE: July 11, 2012 REPORT NO. HO 12-058  
ATTENTION: Hearing Officer  
SUBJECT: 2975 OCEAN FRONT MAP WAIVER  
PTS PROJECT NUMBER: 271240  
LOCATION: 2975 Ocean Front Walk  
APPLICANT: Robert Bateman

SUMMARY

Requested Action - Should the Hearing Officer approve a Map Waiver to convert three residential dwelling units into condominiums and waive the requirement to underground existing overhead utilities within the Mission Beach Community Plan?

Staff Recommendations - APPROVE Map Waiver No. 953238.

Community Planning Group Recommendation - On March 20, 2012, the Mission Beach Precise Planning Board voted 8-0-0 to recommend denial of the project (See discussion below).

Environmental Review - This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19 Section 15301(k)(Existing Facility). The environmental exemption determination for this project was made on March 12, 2012 and the opportunity to appeal that determination ended March 22, 2012.

BACKGROUND

The project proposes a Map Waiver to convert three existing residential units to condominiums on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan, Coastal Overlay Zone (state jurisdiction).

The site currently contains a triplex constructed in 1986. The site was issued building permit No. A51810 on October 6, 1986. The existing building is operated as a commercial vacation weekly rental and consists of three, three bedroom units with living room, laundry room, dining room, and kitchen. The units feature an attached ground level parking and landscaped areas in the front yard and along the north and west sides of the building. The site is surrounded by multi-unit residential dwellings and the Pacific Ocean to the west.



This Map Waiver project is subject to the condominium conversion regulations effective June 13, 2006, based on the City Council's specific adoption language for the "new" condominium conversion regulations. At the June 13, 2006 hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, on-site inclusionary housing, noticing, and parking. Based on the adopted language and project timing, all of these new regulations apply to this project. Accordingly, this project has been reviewed against the new regulations.

A Map Waiver is required for the conversion of three residential units into condominiums as defined in San Diego Municipal Code section 125.0102. The site is within the State of Californian coastal jurisdiction and is required as part of the Map Waiver condition to be reviewed by the California Coastal Commission for a state Coastal Development Permit.

## DISCUSSION

The project proposes a Map Waiver to waive the requirements of a Tentative Map to convert three residential dwelling units into condominiums located at 2975 Ocean Front Walk. The existing development will remain in compliance with the RS zone. However, the owner is required to remove the wood post wall from the Ensenada Court Right-of-Way. The landscape plan meets the requirements of the zone and all other requirements regulating condominium conversions as required with San Diego Municipal Code section 144.0501. The Map Waiver application requires the reconstruction of the existing curb ramp adjacent to the site on Ensenada Court at the alley entrance, with current City Standard Drawing SDG-137 with truncated domes, to the satisfaction of the City Engineer.

### Project Related Issues

#### Mission Beach Precise Planning Board Vote

On March 20, 2012, the Mission Beach Precise Planning Board voted to DENY the Tentative Map Waiver by a vote of 8-0-0. The Board agreed with the City's initial recommendation to remove the wood post fence wall encroaching within the Ocean Front Walk Public Right-of-Way to provide for a 3-foot landscape buffer. In addition the group indicated there was an encroachment in the form of a stairway within the Ocean Front Walk right-of-way and another stairway encroachment within the Ensenada Court.

#### Staff Response:

- 1. A condition within the Map Waiver requires the owner to obtain an Encroachment Maintenance Removal Agreement for the private encroachments including the wood post wall and a portion of the stairway in the Ocean Front Walk Right-of-Way, subject to their height complying with applicable Municipal Code provisions.*
- 2. Staff reviewed the approved building set from 1986 and has determined that the plans show the Ocean Front Walk stairway and the Ensenada Court stairway in their current or similar location as originally approved under building permit No. A51810.*

Undergrounding Waiver Request

San Diego Municipal Code 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 (less than a full block in length) 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 alley. The utility lines to these poles extend to other properties located north and south. The waiver is being requested for the requirement to underground adjacent utilities serving the surrounding properties. The City's Undergrounding Master Plan designates the site within Block 2S1, and has been scheduled for undergrounding in the second quarter of 2013 as a utility company financed project (PUC 8209). Therefore, undergrounding existing overhead utilities to the existing development will not be required.

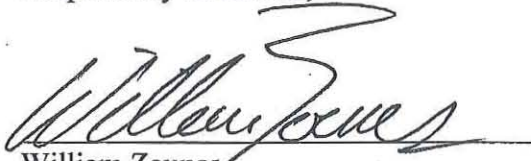
Conclusion

Staff has determined that the project complies with the development regulations of all applicable sections of the Land Development Code. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends approval of the project as proposed.

ALTERNATIVES

1. Approve and Map Waiver No. 953238 with modifications or;
2. Deny Map Waiver No. 953238 if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



William Zounes,  
Development Project Manager

Attachments:

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



8. Community Planning Group Recommendation
9. Ownership Disclosure Statement
10. Project Chronology
11. Utility Undergrounding Schedule
12. Notice of Exemption



**Attachment 1**  
**Aerial Photograph of Site**

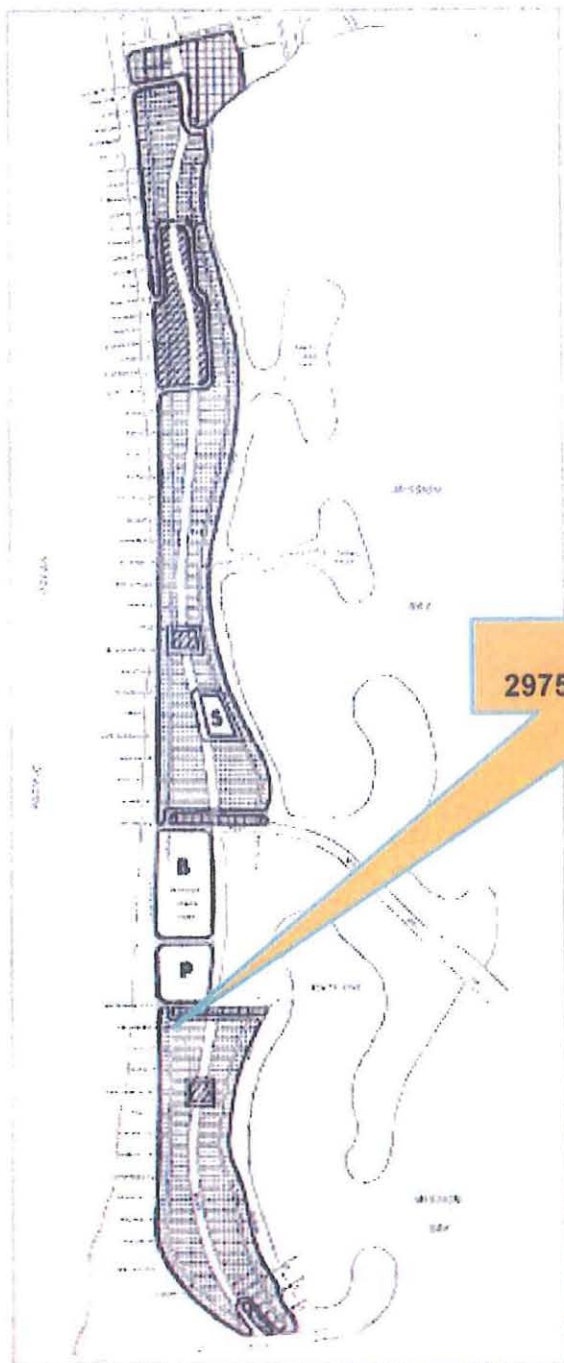


**Aerial Photograph (Birds Eye)**  
**2975 Ocean Front Walk- Project No. 271240**  
**2975 Ocean Front Walk Map Waiver**












# Attachment 2 Mission Beach Land Use Plan



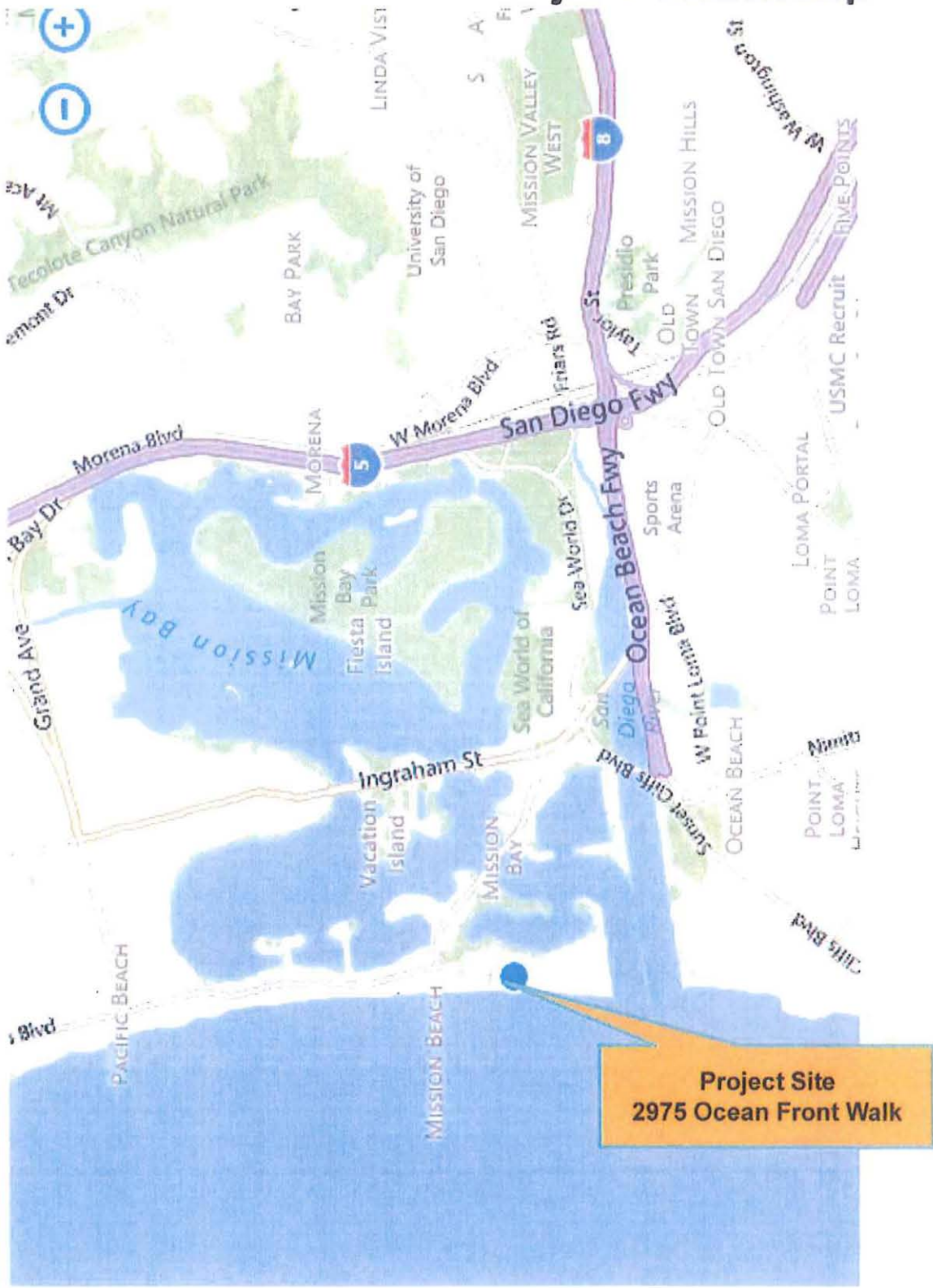
**Project Site  
2975 Ocean Front Walk**

## legend

-  residential (36 units per acre)
-  neighborhood commercial
-  commercial recreation
-  public facilities
-  parking
-  belmont amusement park
-  school



# Attachment 3 Project Location Map





<b>PROJECT DATA SHEET</b>		
<b>PROJECT NAME:</b>	2975 Ocean Front Walk Map Waiver	
<b>PROJECT DESCRIPTION:</b>	Map Waiver to convert three residential dwelling units into condominiums and waive the requirement to underground existing overhead utilities	
<b>COMMUNITY PLAN AREA:</b>	Mission Beach	
<b>DISCRETIONARY ACTIONS:</b>	Map Waiver	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	Residential	
<b><u>ZONING INFORMATION:</u></b>		
<b>ZONE: RS</b> <b>HEIGHT LIMIT: 30 feet</b> <b>LOT SIZE: 2,400 square-foot minimum lot size.</b> <b>FLOOR AREA RATIO: 1.1 maximum.</b> <b>FRONT SETBACK: 10/15 feet.</b> <b>SIDE SETBACK: 5 feet</b> <b>STREETSIDE SETBACK: 10 feet.</b> <b>REAR SETBACK: N/A</b> <b>PARKING: 6 spaces required</b>		
<b><u>ADJACENT PROPERTIES:</u></b>	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	Residential; RS	Residential dwellings
<b>SOUTH:</b>	Residential; RS	Residential Development
<b>EAST:</b>	Residential; RS	Residential Development
<b>WEST:</b>	Pacific Ocean	Pacific Ocean
<b>DEVIATIONS OR VARIANCES REQUESTED:</b>	None	
<b>COMMUNITY PLANNING GROUP RECOMMENDATION:</b>	On March 20, 2012, the Mission Beach Precise Planning Board voted 8-0-0 to recommend denial of the project.	







RESOLUTION NO. \_\_\_\_\_  
DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE HEARING OFFICER  
ADOPTING THE FINDINGS AND APPROVING MAP  
WAIVER NO. 953238 FOR 2975 OCEAN FRONT MAP  
WAIVER- PROJECT NO. 2712240

WHEREAS, DAVID LESSNICK, Subdivider, and ROBERT BATEMAN, Land Surveyor, submitted an application with the City of San Diego for Map Waiver No. 953238, to waive the requirement for a Tentative map for the conversion of existing residential units into condominium units and waive the requirement to underground existing offsite overhead utilities. The project site is located at 2975 Ocean Front Wk in the R-S Zone of Mission Beach Planned District within the Mission Beach Community Plan. The property is legally described as Lot "D" in Block 61 of Mission Beach, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 1651; and

WHEREAS, the Map proposes the subdivision of a 0.10-acre site into a three unit residential condominium conversion; and

WHEREAS, on March 12, 2012, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 *et. seq.*) under CEQA Guidelines Section 15301(k); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code section 112.0520; and



**Attachment 6  
Draft Map Waiver Resolution**

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to Subdivision Map Act section 66491(a) and San Diego Municipal Code sections 144.0220(a) and 144.0220(b); and

WHEREAS, the request to waive the requirement to underground existing offsite overhead utility facilities qualifies under the guidelines of Council Policy No. 600-25, *Underground Conversion of Utility Lines at Developers Expense* in that: The conversion involves a short span of overhead facility (less than 600 feet in length) and The conversion is within Underground Utility District South Mission Beach Block 2S1 job 1 and is already scheduled for the second quarter of 2013 as a utility company financed project (PUC 8209); and

WHEREAS, on July 11, 2012, the Hearing Officer of the City of San Diego considered Map Waiver No. 953238, including the waiver of the requirement to underground existing offsite overhead utilities, and pursuant to sections 125.0122 (map waiver), 125.0444 (condo conversion), and 144.0240 (underground) of the San Diego Municipal Code and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard 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. 953238:

**Attachment 6  
Draft Map Waiver Resolution**

**1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code § 125.0440(a) and Subdivision Map Act §§ 66473.5, 66474(a), and 66474(b)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The proposed project is consistent with the land use residential designation of the Mission Beach Community Plan by continuing to maintain a density range of up to 36 dwelling units per acre. The project would meet the goals of the Mission Beach Precise Plan/Local Coastal Program by maintaining residential development and not interfering with public access to the beaches. The proposed condominiums will meet the land use regulations of the certified Implementation Program including compliance to the San Diego Municipal Code development regulations to include but not limited to height, parking, landscape, and floor area ratio. Therefore, the proposed development is in conformity with the Mission Beach Precise Plan and Local Coastal Program and complies with the regulations of the certified Land Development Code. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code § 125.0440(a) and Subdivision Map Action §§ 66473.5, 66474(a), and 66474(b)).

**2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (San Diego Municipal Code § 125.0440(b)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The residential structure was approved and constructed under Building Permit No. A51810 in 1986. The construction was determined to be consistent with the development regulations of the RS zone of the Mission Beach Planned District which includes height, floor area ratio, landscaping and architectural design at that time. No new development is proposed with this Map Waiver other than landscaping and the existing structure will maintain its originally approved envelope. Therefore, the proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (San Diego Municipal Code § 125.0440(b)).



**Attachment 6  
Draft Map Waiver Resolution**

**3. The site is physically suitable for the type and density of development (San Diego Municipal Code § 125.0440(c) and Subdivision Map Act §§ 66474(c) and 66474(d)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The site is flat and has been previously graded. The three residential units currently exist on the site. The site fronts Ocean Front Walk, Ensenada Way, and Strand Way. The RS zone allows one dwelling unit for every 1,210 square feet of site area. The existing site is 4,356 square feet which will accommodate three dwelling units. The Mission Beach Community Plan designates the site as residential allowing up to 36 dwelling units per acre. The conversion of three residential units into condominiums is within the community plan's density range and within the RS zone density range. Therefore, the site is physically suitable for the type and density of the development.

**4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (San Diego Municipal Code § 125.0440(d) and Subdivision Map Act § 66474(e)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The Map Waiver was reviewed by the City of San Diego for conformance to the Land Development Regulations, California Building Code, and Land Use Policies. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (existing facility) of the State CEQA Guidelines. The project is located within an urbanized and built out environment where there are no watercourses on or adjacent to the site. Therefore, the subdivision or the proposed improvements will not cause substantial environmental damage or substantially 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 (San Diego Municipal Code § 125.0440(e) and Subdivision Map Act § 66474(f)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.



**Attachment 6  
Draft Map Waiver Resolution**

Minor land modifications/improvements are proposed with this Map Waiver to include the reconstruction of curb ramps along Ensenada Court, the removal of the wood post wall within the Ensenada Court Right-of-Way, and require the installation of appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site.

The project has been reviewed and determined to be in compliance with the Municipal Code and Subdivision Map Act. The Map Waiver includes conditions and corresponding exhibits of approvals relevant obtaining an Encroachment Maintenance Removal Agreement for the private encroachments including the wood post wall in the Ocean Front Walk Right-of-Way and paying applicable taxes in order to achieve compliance with the regulations of the San Diego Municipal Code. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 (infill development project) of the State CEQA Guidelines. Therefore, the design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (San Diego Municipal Code § 125.0440(e) and Subdivision Map Act § 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 (San Diego Municipal Code § 125.0440(f) and Subdivision Map Act § 66474(g)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The proposed subdivision does not contain or propose any new easements for the development. The site has frontage on Ocean Front Walk, Ensenada Court, and Strand Way. The subdivision proposes public improvements to include the reconstruction of curb ramps along Ensenada Court and the removal of the wood post wall within the Ensenada Court Right-of-Way. Therefore, the design of the subdivision and proposed improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

**7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (San Diego Municipal Code § 125.0440(g) and Subdivision Map Act § 66473.1).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.



**Attachment 6  
Draft Map Waiver Resolution**

The potential and opportunity exists to implement sustainable building techniques that utilize photovoltaic systems (solar panels) to generate a certain percentage of the project's energy needs. The three unit complex incorporates tilted roofs which may facilitate for solar panels in the future. Therefore, the design of the proposed subdivision provides, to the extent feasible, for 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 (San Diego Municipal Code § 125.0440(h) and Subdivision Map Act § 66412.3).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The decision maker has reviewed the administrative record including the project plans, environmental documentation and public testimony to determine the effects of the proposed subdivision on the housing needs of the region. The decision maker has determined that the provision of three residential units and the associated increase in the need for public services and the available fiscal and environmental resources are balanced by adequate public transit in the immediate area, the proximity of shopping, and essential services and recreation in the nearby developed urban area. The project is within a half mile from public transit and retail services and sales. In addition, Mission Bay Park is located within two blocks from the site. Therefore, the housing needs of the region are balanced against the needs for public services and 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 (San Diego Municipal Code § 125.0123 and Subdivision Map Act § 66428(b)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The proposed subdivision would comply with all of the applicable requirements of the Subdivision Map Act and the Land Development Code. The development complies with the requirements that regulate the size and location of the structure including setbacks,



**Attachment 6  
Draft Map Waiver Resolution**

coverage, height, and floor area. The proposed subdivision is within a developed urban neighborhood and located on an existing improved and dedicated improved right-of-way with existing water and sewer facilities hooked into the structure. The development would not be subject to floodwater inundation. Drainage would be directed off the site into the City's storm water collection system. The property is within the jurisdiction of the City of San Diego and, therefore, all normal residential waste generated from the subdivision would be collected at curbside and disposed of in the city landfill. Therefore, 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 (San Diego Municipal Code § 125.0122 and Subdivision Map Act § 66428(b)).

**10. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (San Diego Municipal Code § 125.0444(b)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

All costs associated with the processing of this Map Waiver were paid by the applicant. Therefore, the project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing.

**11. For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (San Diego Municipal Code § 125.0444(c)).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

The Map Waiver was not processed to provide housing for the elderly, disabled or to provide low income housing.

**12. The notices required by San Diego Municipal Code section 125.0431 have been given in the manner required (San Diego Municipal Code § 125.0444(a), and Subdivision Map Act §§ 66452.17 and 66427.1).**

The project proposes to convert three existing residential units constructed in 1986 into three residential condominiums and waive the requirement to underground offsite



**Attachment 6  
Draft Map Waiver Resolution**

existing overhead utilities on a 0.10 acre site located at 2975 Ocean Front Walk in the RS Zone of Mission Beach Planned District within the Mission Beach Community Plan.

During the processing of this Map Waiver application the existing residential structure was unoccupied due to interior and exterior improvements. However the Map Waiver conditions require all perspective tenants be notified of the condominium conversion. This notice and all other required notices shall be enforced during life of the Map Waiver. Therefore, all applicable notices required by San Diego Municipal Code section 125.0431 have been given in the manner required.

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. 953238 is hereby granted to DAVID LESSNICK subject to the attached conditions which are made a part of this resolution by this reference.

By

William Zounes  
Development Project Manager  
Development Services Department

ATTACHMENT: Map Waiver Conditions  
Internal Order No. 24002479

**Attachment 7**  
**Draft Map Waiver Conditions**

HEARING OFFICER  
CONDITIONS FOR MAP WAIVER NO. 953238  
2975 OCEAN FRONT MAP WAIVER - PROJECT NO. 271240  
ADOPTED BY RESOLUTION NO. \_\_\_\_\_ ON July 11, 2012

**GENERAL**

1. This Map Waiver will expire July 11, 2015.
2. Compliance with all of the following conditions shall be completed and/or 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 San Diego County Recorder, prior to the Map Waiver expiration date.
4. Prior to the recordation of the Certificate of Compliance, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
5. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify the Subdivider of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not be required to pay or perform any settlement unless such settlement is approved by the Subdivider.

**CONDOMINIUM CONVERSION**

6. The Subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
  - a. For existing tenants, within 10 days of the project application for the condominium conversion being deemed complete; or



**Attachment 7**  
**Draft Map Waiver Conditions**

- b. For prospective tenants, upon application for the rental of a unit in the proposed condominium conversion.
7. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the Subdivision Map Act.
8. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Subdivision Map Act section 66427.1(a)(2)(E). The provisions of this condition shall neither alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Civil Code sections 1941, 1941.1 and 1941.2.
- ~~9. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days after approval of a Certificate of Compliance for the proposed conversion, in conformance with Subdivision Map Act section 66427.1(a)(2)(D).~~
10. The Subdivider shall give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (San Diego Municipal Code § 125.0431(a)(4)).
11. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Subdivision Map Act section 66427.1(a)(2)(F) and San Diego Municipal Code section 125.0431(a)(5). The right shall commence on the date the subdivision public report is issued, as provided in section 11018.2 of the Business and Professions Code, and shall run for a period of not less than 90 days, unless the tenant gives prior written notice of his or her intention not to exercise the right. (San Diego Municipal Code § 125.0431(a)(5)).
12. The Subdivider shall provide a copy of the Building Conditions Report to a prospective purchaser prior to the opening of an escrow account. (San Diego Municipal Code § 144.0504(c)).
13. Prior to the recordation of the Certificate of Compliance, the Subdivider shall demonstrate conformance with the San Diego Municipal Code provisions for building and landscape improvements (San Diego Municipal Code § 144.0507), to the satisfaction of the City Engineer.

**AFFORDABLE HOUSING**

14. Prior to recordation of the Certificate of Compliance, the Subdivider shall enter into a written agreement with the San Diego Housing Commission to pay the condominium conversion inclusionary housing fee pursuant to the Inclusionary Affordable Housing Regulations (San Diego Municipal Code § 142.1301 *et seq.*).
15. Prior to the recordation of the Certificate of Compliance, the Subdivider shall demonstrate conformance with the San Diego Municipal Code provisions for Tenant Relocation Benefits (San Diego Municipal Code § 144.0505), to the satisfaction of the Development Services Department and the Housing Commission.

**ENGINEERING**

16. Prior to the issuance of a Certificate of Compliance the Subdivider shall reconstruct the existing curb ramp adjacent to the site on Ensenada Court at the alley entrance, with current City Standard Drawing SDG-137 with truncated domes, to the satisfaction of the City Engineer.
17. Prior to the issuance of a Certificate of Compliance the Subdivider shall obtain an Encroachment Maintenance Removal Agreement for the private encroachments including the existing concrete planter, stairs, and wood post wall in the Ocean Front Walk Right-of-Way, subject to their height complying with applicable Municipal Code provisions, to the satisfaction of the City Engineer.
18. Prior to the issuance of a Certificate of Compliance the Subdivider shall remove the wood post wall from the Ensenada Court Right-of-Way.
19. Prior to the issuance of a Certificate of Compliance the Subdivider shall obtain an Encroachment Maintenance Removal Agreement for the minimum number of bollards required to protect the existing meter in the Ensenada Court Right-of-Way, to the satisfaction of the City Engineer.
20. Prior to the issuance of a Certificate of Compliance 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.
21. Prior to the issuance of a Certificate of Compliance the Subdivider, 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.



**Attachment 7**  
**Draft Map Waiver Conditions**

22. Prior to the issuance of a Certificate of Compliance 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.
23. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
24. The Subdivider shall comply with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980. Only those exceptions to the General Conditions which are shown on the Map Waiver and covered in these special conditions will be authorized. 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. RR-297376.

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**LANDSCAPING REQUIREMENTS**

25. Complete landscape and irrigation construction documents consistent with the Land Development Manual: Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.
26. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit 'A' Landscape Development Plan.
27. 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 unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
28. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards. All landscape proposed within Public View Corridors shall be no taller than 36 inches at maturity without pruning. Any trees proposed within view corridors shall be maintained by thinning and pruning of the tree canopy to a height of eight feet or greater and shall not significantly obstruct the view corridor.
29. Prior to Final Inspection, it shall be the responsibility of the Owner/Permittee to install all required landscape. A "No Fee " Street Tree Permit, and/or Encroachment Maintenance Removal Agreement, EMRA, if applicable, shall be

**Attachment 7**  
**Draft Map Waiver Conditions**

obtained for the installation, establishment, and on-going maintenance of all street trees.

30. No fence shall exceed 3 feet in height in that triangular area created by measuring 10 feet along each property line from the point of intersection where any combination of streets and/or alleys intersect.
31. 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 Development Services Department within 30 days of damage or a Final Landscape Inspection.
32. Required shrubs or trees that die 3 years or more after installation shall be replaced with 15-gallon size or 60-inch box size /15 foot BTH material, respectively. Development Services may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15-gallon shrub or 60-inch box.

**MAPPING**

33. Prior to the issuance of a Certificate of Compliance, City staff will perform a field site visit to verify that all property corners, or property corner offsets have been set. If any property corners are missing, they must be set and a Corner Record or Record of Survey (whichever is applicable) shall be filed with the County Recorder pursuant to the Professional Land Surveyors Act. A copy of the Record of Survey or Corner Record shall be provided to the City.
34. Prior to the issuance of a Certificate of Compliance, applicant must provide a recorded tax certificate from the county which states that there are no liens against the property or any part thereof for unpaid state, county, municipal, or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.
35. Prior to the issuance of a Certificate of Compliance the applicant must obtain a Coastal Development Permit or exemption from a Coastal Development Permit from the California Coastal Commission.

**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,



**Attachment 7**  
**Draft Map Waiver Conditions**

or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 *et seq.*).

- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), 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 San Diego City Clerk pursuant to Government Code Sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider 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 (San Diego Municipal Code § 142.0607).

Internal Order No. 24002479

**Attachment 8**  
**Community Planning Group Recommendation**

2975 Ocean Front Walk, Project Number 271240

On March 20, 2012, the Mission Beach Precise Planning Board voted to DENY the Tentative Map Waiver Map application at 2975 Ocean Front Walk, Project Number 271240 [8-0-0]. The Board agreed with the City's recommendation to remove the wood post fence wall encroaching within the Ocean Front Walk Public Right-of-Way to provide for a 3-foot landscape buffer.

Also, there is a huge encroachment over 6 feet high and protruding several feet into the oceanfront front yard setback - this is not only a significant violation of our PDO it is a substantial obstruction of the oceanfront view corridor. Further, there is an encroachment of the entryway stairway into the required front yard setback on Ensenada Court, which is in excess of 36 inches high, that is a violation of our PDO and an obstruction of the Ensenada Court view corridor. Our PDO was in full force at the time this project was built. These items must be corrected whether they were or were not in the original approved plans before a tentative map waiver can be issued.

Thank you.

---

Debbie Watkins, Chair  
Mission Beach Precise Planning Board



Ownership Disclosure statement

Project Title: 2975 Ocean Front Walk Map Waiver

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? 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):

JCREW INC. LLC

Owner Tenant/Lessee

Street Address: 1900 Western Avenue

City/State/Zip: Las Vegas, NV 89102

Phone No: 702-353-0104 Fax No: 702-448-6232

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

David Lessnick

Title (type or print):

Signature: Date: 1.24.12

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:

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:

**ATTACHMENT 10  
Project Chronology**

**Project Chronology  
2975 Ocean Front Walk Map Waiver  
PROJECT NO. 271240**

<b>Date</b>	<b>Action</b>	<b>Description</b>	<b>City Review Time</b>	<b>Applicant Response</b>
2/15/12	First Submittal	Project Deemed Complete and distributed		
3/8/12	First Submittal Assessment Letter out		22 days	
3/22/12	Second submittal In	Normal Submittal		14 days from First Assessment Letter
4/13/12	Second Submittal Assessment Letter out		22 days	
5/17/12	Third submittal In			34 days from Second Assessment Letter
6/1/12	Third Submittal Assessment Letter out		15 days	
7/11/12	Hearing Officer Hearing		40 days	
<b>TOTAL STAFF TIME**</b>			<b>3 month 9 days</b>	
<b>TOTAL APPLICANT TIME**</b>				<b>1 months 18 days</b>
<b>TOTAL PROJECT RUNNING TIME**</b>		From Deemed Complete to HO Hearing	<b>4 months 27 days</b>	

\*\*Based on 30 days equals to one month.





Refresh Map Help

**Identify Results**

**Council Districts**  
Council District: 2  
Member Name: Kevin Faulconer  
Office Phone: (619) 236-6622

**Utilities Undergrounding Projects**  
Project Name: Project Block 2S1  
Year Allocated: 2009  
Project Start: Mar 31, 2013  
Project End: May 31, 2013  
Contact Person: UNDERGROUND UTILI  
Phone #: (619) 533-3841  
Email: [undergrounding@san](mailto:undergrounding@san)  
Website: [www.sandiego.gov/](http://www.sandiego.gov/)  
Council District: 2  
Phase: Design

Project Site  
2975 Ocean Front Walk

NOTICE OF EXEMPTION

Attachment 12  
Notice of Exemption

(Check one or both)

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

FROM: City of San Diego  
DEVELOPMENT SERVICES DEPARTMENT  
1222 FIRST AVENUE, MS 501  
SAN DIEGO, CA 92101

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

PROJECT NO.: 271240

PROJECT TITLE: 2975 Ocean Front Map Waiver

PROJECT LOCATION-SPECIFIC: 2975 Ocean Front Walk, San Diego, CA 92109 (Lot D of Block 61 of Mission Beach Map 1651)

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

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT Map Waiver application to waive the requirements of a Tentative Map to convert 3 existing residential units to condominiums on a 0.09 acre site at 2975 Ocean Front Walk in the R-S Zone of Mission Beach Planned District within the State Coastal, Coastal Height Limit, Airport Influence Area, FAA Part 77, First Public Roadway, Parking Impact, and Residential Tandem Parking zones within the Mission Beach Community Planning Area of the City and County of San Diego.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Robert Bateman  
9665 Chesapeake Drive Suite 445  
San Diego, CA 92123  
858-565-8362

EXEMPT STATUS: (CHECK ONE)

- MINISTERIAL (SEC. 21080(b)(1); 15268);
- DECLARED EMERGENCY (SEC. 21080(b)(3); 15269(a));
- EMERGENCY PROJECT (SEC. 21080(b)(4); 15269 (b)(c))
- CATEGORICAL EXEMPTION: 15301 (k) existing facilities, division of existing multiple dwelling units into common interest ownership.
- STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: The proposed Map Waiver proposes no construction. No construction would occur with this Map Waiver, and therefore, no environmental affects would occur. Therefore the activity meets the criteria set forth in sections 15301 (k) existing facilities division of existing multiple dwelling units into common interest ownership; and the exceptions listed in CEQA section 15300.2 would not apply. In addition, this site is not included on any government code listings of hazardous waste sites.


LEAD AGENCY CONTACT PERSON: Lizzi

TELEPHONE: (619) 619-446-5159

IF FILED BY APPLICANT:

- 1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
- 2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?  
 YES  NO

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

  
SIGNATURE/TITLE

SENIOR PLANNER

3/6/12  
DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
- SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:





City of San Diego  
Neighborhood Code Compliance  
Attn: Administrative Hearing Coordinator  
1222 First Avenue, 5th Floor, M.S. 511  
San Diego, CA 92101 - 4101

MAILED

JUL 23 2012

NEIGHBORHOOD CODE COMPLIANCE

G. L. #: \_\_\_\_\_

B. P. #: \_\_\_\_\_

C. A. #: \_\_\_\_\_

Invoice #: \_\_\_\_\_

# Administrative Citation

Date: July 20, 2012 Time: 15:30 (violation observed)

Warning

Citation \$100    Citation \$250    Citation \$500    Citation \$750    Citation \$1,000

Payment of \$ 1000 is due on July 30, 2012 (see reverse side for payment instructions).

Corrections indicated below are required by SEE # 2 BELOW. If you fail to make the indicated corrections by this date, another citation may be issued. Other enforcement action may result if compliance is not achieved.

PERSON CITED: LAST MIDDLE <u>JCRKW</u>	FIRST <u>LLC</u>	RELATION TO VIOLATION: <u>PROPERTY OWNER</u>
MAILING ADDRESS: CITY, STATE, ZIP CODE <u>1900 WILSON BLVD, LAS VEGAS, NV 89102</u>		BUSINESS NAME (if any) <u>JCRKW LLC</u>
VIOLATION ADDRESS <u>2975 OCEAN FRONT WALK, SAN DIEGO, CA.</u>		PARCEL NUMBER <u>423-691-0400</u>

MUNI. CODE SEC. VIOLATED:	VIOLATION DESCRIPTION:
<u>129.0202 (a)</u>	<u>BUILDING/CONSTRUCTION BEING PERFORMED WITHOUT OBTAINING THE REQUIRED BUILDING PERMITS, INSPECTIONS AND APPROVALS.</u>

#1) ANY NEW ONGOING CONSTRUCTION FROM TODAY, WILL RESULT IN A NEW ADMINISTRATIVE CITATION AND FINES.

#2) WITHIN 45 DAYS, PREPARE AND SUBMIT BUILDING PLANS TO THIS DEPARTMENT FOR REVIEW. ONCE AGAIN BE AWARE OF #1. ABOVE.

Signature of Issuing Officer

Print Name of Issuing Officer: Michael A. Gonzalez  
Telephone No: (619) 236-6586

Issued Date: July 20, 2012

Signature of Person Cited  
LEFT ON SITE

READ REVERSE SIDE FOR IMPORTANT INFORMATION

This information is available in alternative formats upon request.



### Administrative Citations

City of San Diego Municipal Code Section 12.0901 provides for the issuance of administrative citations for Municipal Code Violations. The fines, as indicated on the citation, are \$100, \$250, \$500, \$750, and \$1,000. These fines can be cumulative. A warning, if issued, does not incur a fine and, therefore is not appealable.

### Rights of Appeal

You have the right to appeal this administrative citation when there is a fine indicated within 10 calendar days from the date the citation was issued. If the citation was mailed, the appeal must be made within 10 calendar days from the date the citation was mailed. An appeal must be made in writing to the address on the front of this citation and to the attention of "Administrative Hearing Coordinator." An appeal will result in an administrative hearing. The administrative hearing will follow the procedures set forth in Division 4, Article 2, Chapter 1 of the San Diego Municipal Code. The appeal must include the name, phone number and valid address of the person filing the appeal. **Your are responsible for notifying the department of any change in address.**

Failure of any person to properly file a written appeal within 10 calendar days shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

### Administrative Costs

The Hearing Officer is authorized to assess reasonable administrative costs. Administrative Costs may include but are not limited to staff time to investigate and document violations; laboratory, photographic, and other expenses incurred to document or establish the existence of a violation, scheduling and processing of the administrative hearing and all related actions. Any determination that documented costs are not reasonable must be supported by written findings.

### How to Pay Fine

The amount of the fine is indicated on the front of this administrative citation. Prior to receiving an invoice from the Auditor's Office, you may pay by mail or in person at 1222 First Avenue, 5th Floor, Neighborhood Code Compliance Division. Payment should be made by personal check, cashier's check or money order, payable to the City Treasurer. Please write the citation or account number on your check or money order.

If the citation is not paid or appealed within 10 calendar days, you will receive an invoice from the City Auditor's office. Please follow the instructions on the invoice to ensure proper processing of your payment. If you do not pay the fine by the indicated due date, there is a 10% penalty fee. Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement by the City.

### Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation or on the Auditor's invoice may result in a claim with the Small Claims Court or any legal remedy to collect such money. The City has the authority to collect all costs associated with the filing of such actions.

### Consequences of Failure to Correct Violations

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: civil penalties, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect fines up to \$250,000.00, to demolish structures or make necessary repairs at the owner's expense, and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance.

If you need further clarification about payment of the citation, please call (619) 236-5500

If you need further information about the violations and/or how to comply, please call the inspector/issuing officer designated on the front.