



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: July 5, 2013 **REPORT NO. PC-13-085**

ATTENTION: Planning Commission, Agenda of July 11, 2013

SUBJECT: ACTIVCARE AT MISSION BAY - PROJECT NO. 278939.
PROCESS FOUR.

OWNER: MISSION BAY DEVELOPMENT, LLC

APPLICANT: Mark Linman

SUMMARY

Should the Planning Commission approve the construction of a 60-bed residential care facility for the elderly located at 2440 Grand Avenue within the Pacific Beach Community Planning Area?

Staff Recommendation(s):

1. **CERTIFY** Mitigated Negative Declaration No. 278939 and **ADOPT** the Mitigation, Monitoring and Reporting Program.
2. **APPROVE** Coastal Development Permit No. 979972 and Conditional Use Permit No. 979973.

Community Planning Group Recommendation: The Pacific Beach Community Planning Group voted on November 28, 2012 to recommend approval of the project by a vote of 13-0-0 with no conditions (Attachment 7).

Environmental Review: Mitigated Negative Declaration No. 278939 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce to below a level of significance, any potential impacts identified within the environmental review process.

Code Enforcement Impact: None with this action.



Housing Impact Statement: The Pacific Beach Community Plan designates the parcel as Elementary School. The 1.22 acre site is zoned RS-1-7 zoning (1 dwelling unit per 5000 square feet) which if developed by right would allow 11 dwelling units. The proposal is for a residential care facility and there are no existing residential units on site.

BACKGROUND/DISCUSSION

The project proposes the construction of a 60-bed residential care facility for the elderly within a proposed one story building, located at 2440 Grand Avenue at the northwest intersection of Grand Avenue and Culver Street. The 1.22-acre site is zoned RS-1-7 and designated as Schools-Elementary within the Pacific Beach Community Plan. The property is currently developed with a commercial building, accessory structures, and a large asphalt parking lot. The property was previously owned by the County of San Diego and occupied as a health services facility prior to being sold to a private developer in 2010. The project requires a Conditional Use Permit (Process 4) for the residential care facility and a Coastal Development Permit (Process 2) for new development within the Coastal Overlay Zone.

Surrounding developments are the Bayview Terrance Elementary School to the north and east, Mission Bay High School across Grand Avenue and residential developments across Culver Street.

Project Description:

The project proposes to demolish the existing buildings and construct the one story, 24,850-square-foot building with 23 surface parking spaces at the rear of the building. The front façade would be oriented along Grand Avenue and parking accessed from a new curb cut along Culver Street. Two existing driveways on Culver Street would be closed. The facility includes indoor common living areas, cooking facilities and sleeping areas for the residents, as well as outdoor garden areas.

Community Plan Analysis:

The property is designated as Schools-Elementary and is not proposed for future school use by the City of San Diego or the San Diego Unified School District. The site is under private ownership. The project would implement several goals and recommendation in the General Plan and the Pacific Beach Community Plan. The Overall Goals section of the community plan states that the community character should be enhanced through improved developments.

Developments should promote a variety of housing types and styles to provide greater opportunity that is both affordable and accessible by everyone. Design standards should be implemented that ensure that properties reflect the scale and character of the established neighborhood. Increased street landscaping should be provided along major streets, including Grand Avenue. The Housing Element of the General Plan encourages residential use for publicly-owned sites not needed for public use.

The project would be designed as a one story structure with a surface parking lot at the rear. A total of 17 street trees are proposed along both street frontages. Surface treatments include light tan, stucco materials and Mission terra cotta roof tiles. The proposed new development would visually enhance the site and be in keeping with the scale and character of the residential developments to the west. The proposed facility will serve as the residence of a senior population that requires 24 hour nursing care providing increased housing opportunities. As the proposed development implements several goals and recommendations contained with the applicable land use plans, the project would not adversely affect the land use plan.

Environmental Analysis:

The project required the preparation of a Mitigated Negative Declaration for potential impacts to Historic (Archaeology) Resources. A Phase One Cultural Resource Study for the project was conducted in 2012 during which no cultural resources were identified during the site survey. However, existing improvements limited the investigation, therefore, to ensure there will be no impacts to potential historic resources, archaeological monitoring of all grading and excavation activities is required.

Project Issue:

Reasonable Accommodations:

The project includes reduced setbacks as allowed through the Reasonable Accommodations regulations (Process 1) as follows: To construct the building observing a 10-foot front yard setback on Grand Avenue where 15 is required; a 10-foot street side yard setback on Culver Street where 18 feet is required and a 10-foot interior side yard setback where 15 feet is required. The project includes one 100-square foot, 5-foot high ground sign within the front setback on Grand Avenue where one 1-square-foot nameplate is permitted in a single-family zone.

The Federal Fair Housing Act (FHAA) and the California Fair Employment and Housing Act (CFEHA) require that jurisdictions make reasonable accommodations to afford disabled persons the equal opportunity to use and enjoy a place of residence. In consideration of the special need and the potential benefit that can be accomplished with a requested modification, waivers to the development regulations and to processing requirements necessary to provide housing for protected classes may be approved administratively through the Request for Reasonable Accommodation in accordance with SDMC section 131.0466. The proposed facility will serve as the residence of a senior population that requires 24 hour nursing care. The proposed residents have limited physical abilities and would be deemed as a protected class under the Fair Housing Amendments Act (FHAA).

City Staff has determined the facility will serve persons with a disability and that the request for Reasonable Accommodation to allow the reduced setbacks and increased signage for the facility is consistent with the criteria for administrative approval (Attachment 9).

Conclusion:

Staff has reviewed the proposed project and all issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. Staff has provided draft findings to support approval of the proposed development and draft conditions of approval. Staff recommends that the Planning Commission approve the project as proposed.

ALTERNATIVES:

1. Approve Coastal Development Permit No. 979972 and Conditional Use Permit No. 979973, with modifications.
2. Deny Coastal Development Permit No. 979972 and Conditional Use Permit No. 979973, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake
Assistant Deputy Director
Development Services Department

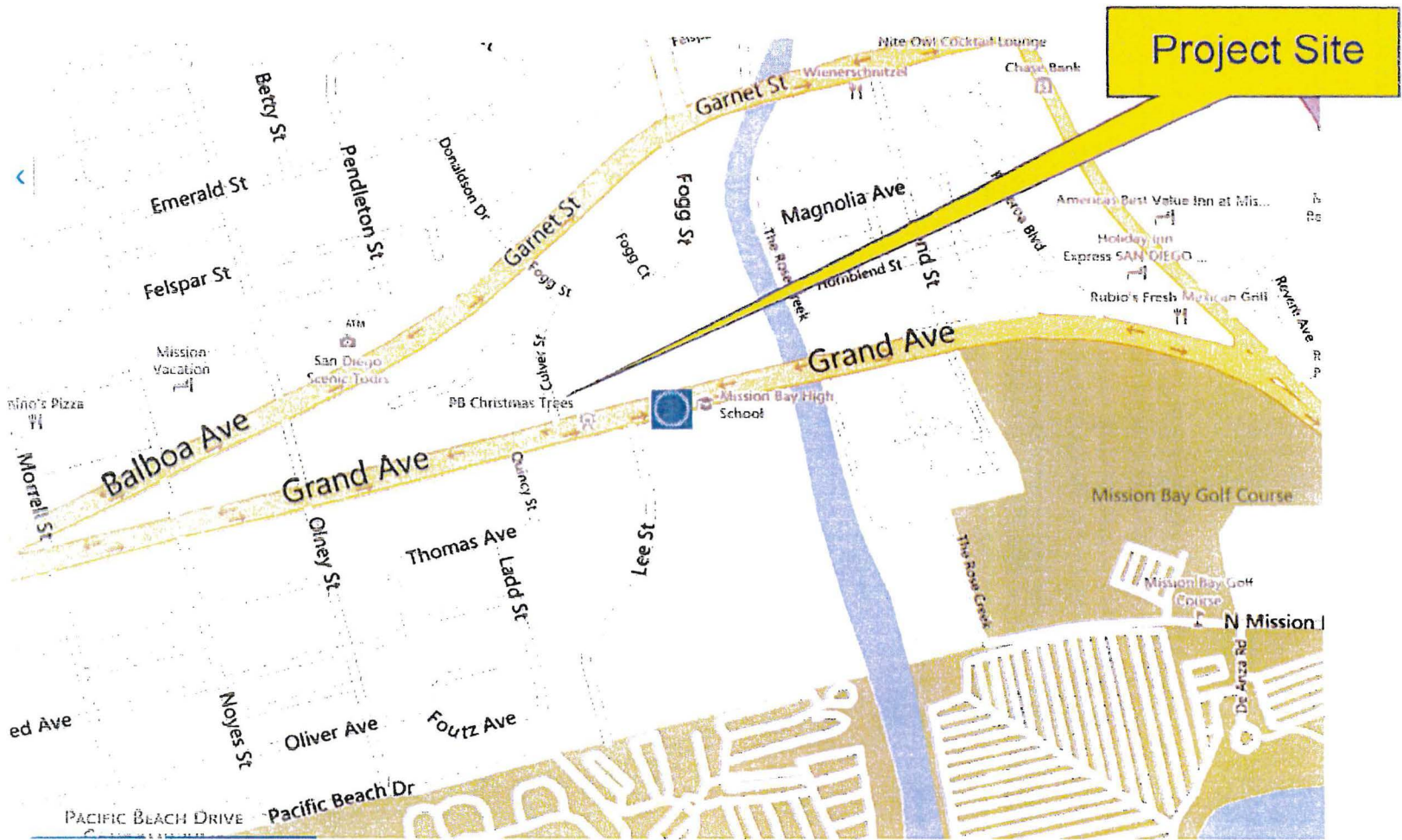


Sandra Teasley, Project Manager
Development Services Department

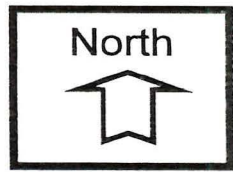
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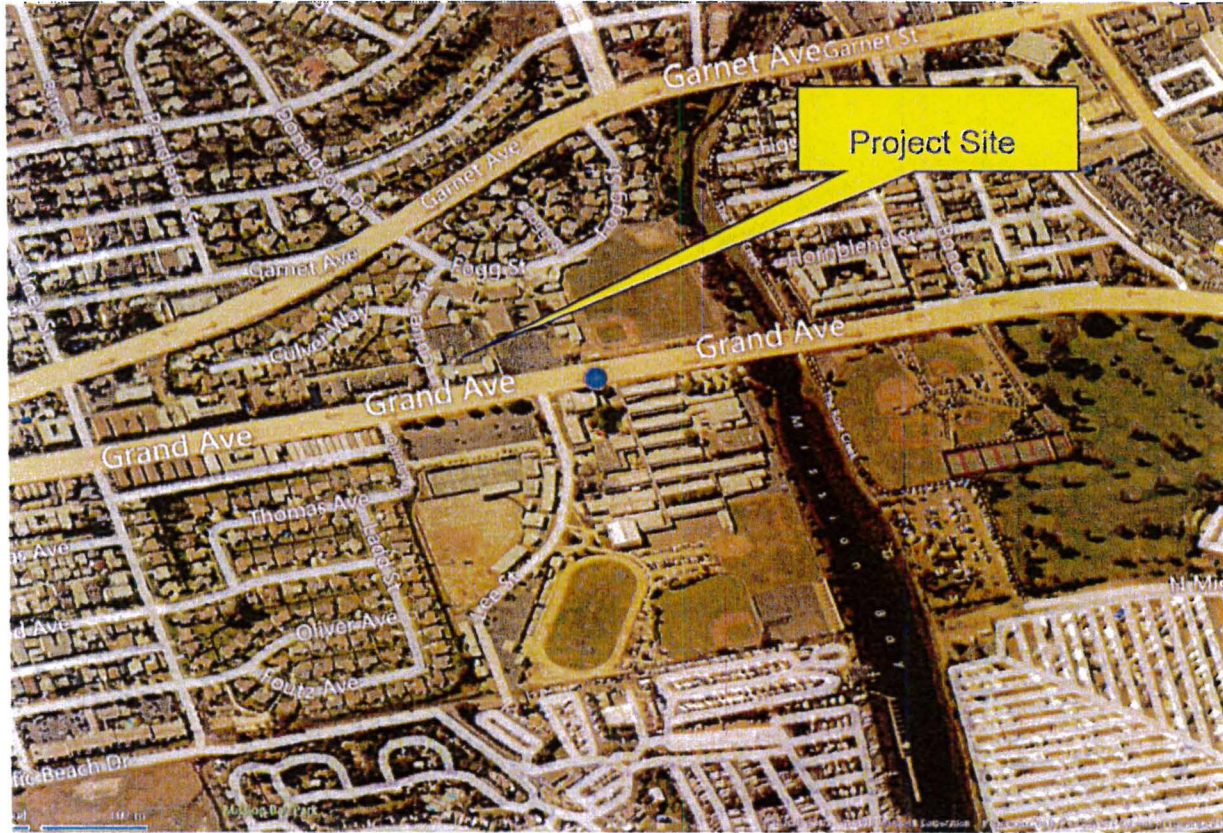
Attachments:

1. Aerial
2. Project Location Map
3. Community Plan Land Use Map
4. Draft Permit Resolution with Findings
5. Draft Permit with Conditions
6. Draft Environmental Resolution with MMRP
7. Community Planning Group Recommendation
8. Ownership Disclosure Statement
9. Reasonable Accommodations Application
10. Project Plans

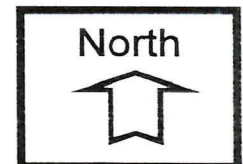


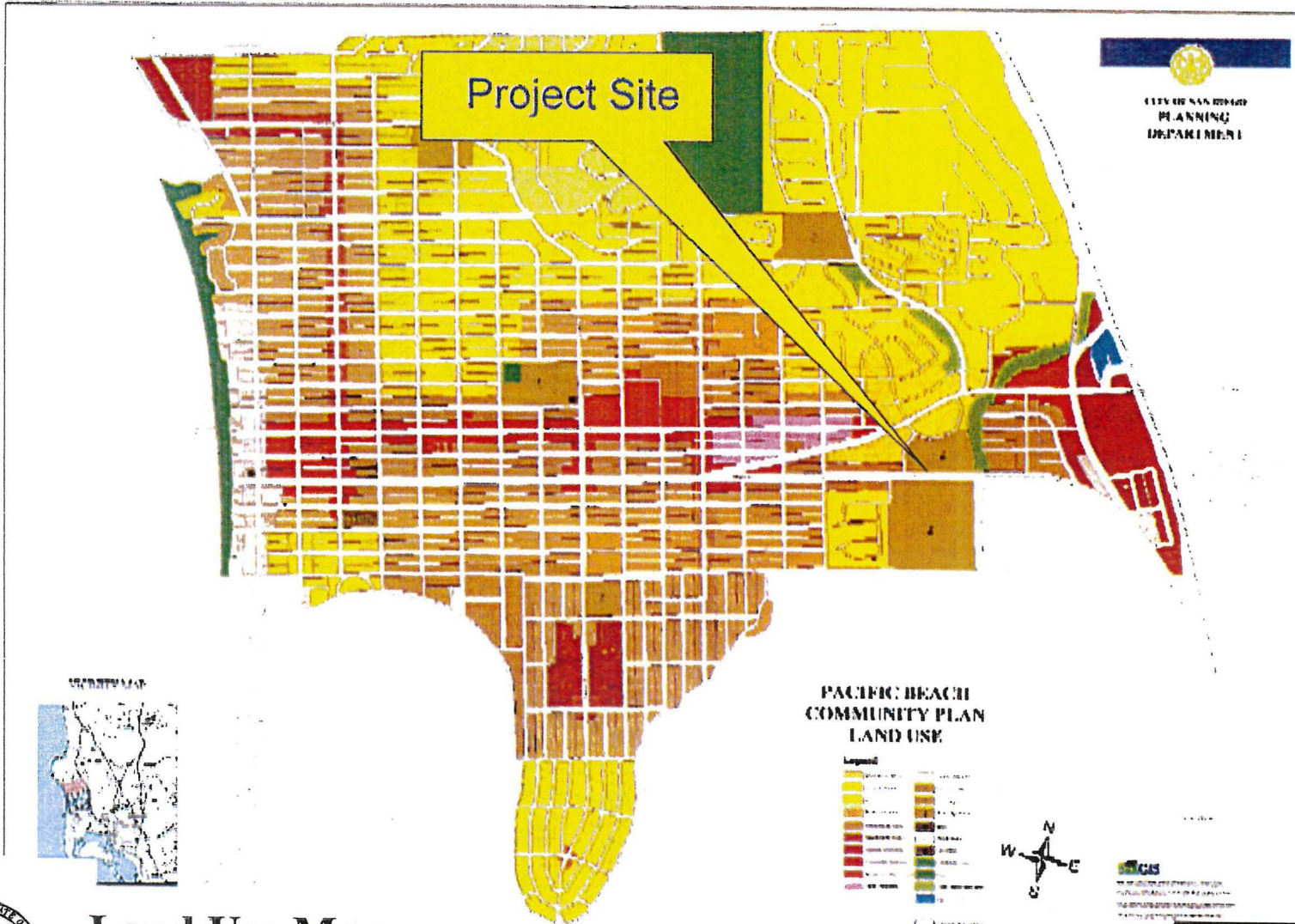
Aerial Photo
ACTIVCARE AT MISSION BAY
PROJECT NO. 278939





Aerial Photo
ACTIVCARE AT MISSION BAY
PROJECT NO. 278939






 CITY OF SAN DIEGO
 PLANNING
 DEPARTMENT



**PACIFIC BEACH
 COMMUNITY PLAN
 LAND USE**

Legend

Single-Family Detached	Single-Family Attached	Medium-Density Residential	Commercial	Community Center	Public Use	Open Space
Yellow	Orange	Light Green	Red	Blue	Dark Green	Dark Blue




 GIS
 The City of San Diego Planning Department
 1615 La Jolla Village Drive, Suite 100
 San Diego, CA 92161
 www.sandagov.org/planning



Land Use Map
ACTIVCARE AT MISSION BAY
PROJECT NO. 278939

COASTAL DEVELOPMENT PERMIT NO. 979972
CONDITIONAL USE PERMIT NO. 979973
ACTIVCARE AT MISSION BAY
PROJECT NO. 278939
PLANNING COMMISSION
[MMRP]

WHEREAS, MISSION BAY DEVELOPMENT LLC, Owner/Permittee, filed an application with the City of San Diego for a Coastal Development Permit and Conditional Use Permit to demolish existing commercial structures and to construct a 24,850-square-foot, 60-bed residential care facility for the elderly designed known as the ActivCare at Mission Bay project;

WHEREAS, the project site is located at 2440 Grand Avenue in the RS-1-7 Zone of the Pacific Beach Community Plan;

WHEREAS, the project site is legally described as and legally described as Lots 6 through 8, and Lots 17 through 19 and portions of Lot 5 and 20, Block 3 of Mission Bay Tract Map No. 1120;

WHEREAS, on July 11, 2013, the Planning Commission of the City of San Diego considered Coastal Development Permit (CDP) No. 979972 and Conditional Use Permit (CUP) No. 979973 pursuant to the Land Development Code of the City of San Diego and voted to approve CDP No. 979972 and CUP No. 979973; and NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego adopts the following written Findings with respect to CDP No. 979972 and CUP No. 979973 dated July 11, 2013:

FINDINGS:

A. Conditional Use Permit Findings - Section §126.0305

1. The proposed development will not adversely affect the applicable land use plan.

The project proposes a 24,850-square-foot, 60-bed residential care facility on a 1.22 -acre site located at 2440 Grand Avenue in the RS-1-7 within the Pacific Beach Community Planning area. The property is designated as Schools-Elementary and was previously owned by the County of San Diego and used for a health services building prior to being sold to a private developer in 2010. The site is not proposed for school use. The property is currently developed with a commercial building constructed in 1960, accessory structures, and a large asphalt parking lot. Surrounding developments are residential uses, an elementary school and a high school.

The project would implement several goals and recommendations in the General Plan and the Pacific Beach Community Plan. The Overall Goals section of the community plan states that the community character should be enhanced through improved developments. Developments should promote a variety of housing types and styles to provide greater opportunity that is both affordable and accessible by everyone. Design standards should be implemented that ensure that properties reflect the scale and character of the established neighborhood. Increased street landscaping should be provided along major streets, including Grand Avenue. The Housing Element of the General Plan encourages residential use for publicly-owned sites not needed for public use. The property was previously owned by the County of San Diego and would be redeveloped for housing.

The project would be designed as a one story structure with a surface parking lot at the rear. A total of 17 street trees are proposed along both street frontages. Surface treatments include light tan, stucco materials and Mission terra cotta roof tiles. The proposed new development would visually enhance the site and be in keeping with the scale and character of the residential developments to the west. The proposed facility will serve as the residence of a senior population that requires 24 hour nursing care providing increased housing opportunities. As the proposed development implements several goals and recommendations contained with the applicable land use plans, the project would not adversely affect the land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The project proposes a 24,850-square-foot, 60-bed residential care facility on a 1.22 -acre site located at 2440 Grand Avenue in the RS-1-7 within the Pacific Beach Community Planning area. The development will provide additional housing in the community for the elderly.

The project required the preparation of a Mitigated Negative Declaration for potential impacts to Historic (Archaeology) Resources. A Phase One Cultural Resource Study for the project was conducted in 2012. No cultural resources were identified during the site survey however, existing improvements limited the investigation. As such, mitigation in the form of archaeological monitoring of all grading and excavation activities is required.

The permit prepared for this project includes various conditions and corresponding exhibits of approvals relevant to achieving compliance with the regulations of the Municipal Code and California Building Codes for minor grading and construction. Conditions required for the project include but are not limited to storm water and general runoff requirements, landscaping, public improvements, private sewer facilities, signage, lighting, and parking. Therefore, the proposed project will not be detrimental to the health, safety and general welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The project proposes to demolish existing commercial buildings and construct a 24,850-square-foot, 60-bed residential care facility on a 1.22 -acre site located at 2440 Grand Avenue in the RS-1-7 within the Pacific Beach Community Planning area. The project includes reduced setbacks as allowed through the Reasonable Accommodations regulations (Process 1) as follows: To construct the building observing a 10-foot front yard setback where 15 is required; a 10-foot street side yard where 18 feet is required and a 10-foot interior side setback where 15 feet is required. The project includes one 100-square foot, 5-foot high ground sign within the front setback on Grand Avenue where one 1- square-foot nameplate is permitted in a single-family zone.

The Federal Fair Housing Act (FHAA) and the California Fair Employment and Housing Act (CFEHA) require that jurisdictions make reasonable accommodations to afford disabled persons the equal opportunity to use and enjoy a dwelling. In consideration of the special need and the potential benefit that can be accomplished with a requested modification, waivers to the development regulations and to processing requirements necessary to provide housing for protected classes may be approved administratively through the Request for Reasonable Accommodation in accordance with SDMC section 131.0466. The proposed facility will serve as the residence of a senior population that requires 24 hour nursing care. The proposed residents have limited physical abilities and would be deemed as a protected class under the Fair Housing Amendments Act (FHAA). City Staff has determined the facility will serve persons with a disability and that the request for Reasonable Accommodation to allow the reduced setbacks and increased signage for the facility is consistent with the criteria for administrative approval.

The site is currently developed with a commercial building constructed in 1960, accessory structures, and a large asphalt parking lot. Issuance of the Conditional Use Permit would bring the site into conformance with the underlying zone by removing the existing commercial buildings and eliminating the previously conforming rights to commercial activities.

The proposed development is subject to the separately regulated use regulations for residential care facilities. These include requirements for storage areas, on-site parking spaces, and that only one facility be allowed per premises. The development is consistent with all of the supplemental regulations for residential care facilities.

Therefore, the proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The project proposes a 24,850-square-foot, 60-bed residential care facility on a 1.22 -acre site located at 2440 Grand Avenue in the RS-1-7 within the Pacific Beach Community

Planning area. The property is designated as Schools-Elementary and was previously owned by the County of San Diego and used for a health services building prior to being sold to a private developer in 2010. The site is not proposed for school use. The property is currently developed with a commercial building constructed in 1960, accessory structures, and a large asphalt parking lot. The previous non-conforming commercial use has been discontinued.

The site is bounded by Grand Avenue to the south, Culver Street to the west and Bayview Terrance Elementary School to the north and east. Across Grand Avenue is Mission Bay High School. Across Culver Street are residential developments. The proposed residential care facility will serve as the home of a senior population that requires 24 hour nursing care and is a compatible use considering the mix of uses within the community. Residential care facilities are an allowable use in the zone with a Conditional Use Permit.

Issuance of the Conditional Use Permit would bring the site into conformance with the underlying zone by removing the existing commercial buildings and eliminating the previously conforming rights to commercial activities.

Therefore, the proposed use is appropriate at the proposed location.

B. Coastal Development Permit Findings - Section §126.0708

1. **The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.**

The project proposes a 24,850-square-foot, 60-bed residential care facility on a 1.22 -acre site located at 2440 Grand Avenue in the RS-1-7 within the Pacific Beach Community Planning area.

All development would occur on private property therefore, the proposed project will not encroach upon the existing physical access way used by the public. As such, the proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan. The site is not designated as a view corridor or a scenic resource.

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

The site does not contain environmentally sensitive lands nor is it adjacent to property containing environmentally sensitive lands. Therefore, the coastal development will not adversely affect environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The project proposes a 24,850-square-foot, 60-bed residential care facility on a 1.22 -acre site located at 2440 Grand Avenue in the RS-1-7 within the Pacific Beach Community Planning area. The project includes encroachments in the front, street side and interior side setbacks, and for increased signage as allowed through the Reasonable Accommodations regulations.

The Certified Implementation Program requires compliance with the underlying zone. The project is consistent with all of the development regulations of the underlying zone with the exception of the above referenced encroachments and proposed signage. The Federal Fair Housing Act (FHAA) and the California Fair Employment and Housing Act (CFEHA) require that jurisdictions make reasonable accommodations to afford disabled persons the equal opportunity to use and enjoy a dwelling. In consideration of the special need and the potential benefit that can be accomplished with a requested modification, waivers to the development regulations and to processing requirements necessary to provide housing for protected classes may be approved administratively through the Request for Reasonable Accommodation in accordance with SDMC section 131.0466. The proposed facility will serve as the residence of a senior population that requires 24 hour nursing care. The proposed residents have limited physical abilities and would be deemed as a protected class under the Fair Housing Amendments Act (FHAA).

All development would occur on private property therefore, the proposed project will not encroach upon the existing physical access way used by the public. As such, the proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan. The site is not designated as a view corridor or a scenic resource.

Therefore, the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

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

The site is approximately 2 miles from the Pacific Ocean and not located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone.

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

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the Planning Commission, that CDP No. 979972 and CUP No. 979973 is granted to MISSION BAY DEVELOPMENT, LLC, Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 979972 and 979973, a copy of which is attached hereto and made a part hereof.

Sandra Teasley
Development Project Manager
Development Services

Adopted on: July 11, 2013

Job Order No. 24001746

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

**WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24001746

**COASTAL DEVELOPMENT PERMIT NO. 979972
CONDITIONAL USE PERMIT NO. 979973
ACTIVCARE AT MISSION BAY
PROJECT NO. 278939
PLANNING COMMISSION
[MMRP]**

This Coastal Development Permit (CDP) No. 979972 and Conditional Use Permit (CUP) No. 979973 is granted by the Planning Commission of the City of San Diego MISSION BAY DEVELOPMENT, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0701 and 126.0301. The 1.22-acre site is located at 2440 Grand Avenue in the RS-1-7 zone of the Pacific Beach Community Plan. The project site is legally described as Lots 6 through 8, and Lots 17 through 19 and portions of Lot 5 and 20, Block 3 of Mission Bay Tract Map No. 1120.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to demolish existing commercial structures and to construct a 24,850-square-foot, 60-bed residential care facility for the elderly with, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated July 11, 2013, on file in the Development Services Department.

The project shall include:

- a. Demolition of existing commercial structures;
- b. Construction of a one story, 24,850-square-foot, 60-bed residential care facility for the elderly with 35 employees;

ATTACHMENT 5

- c. Waiver to the development requirements for building encroachments and increased signage as allowed administratively (Process 1) through the Reasonable Accommodations regulations for the following:
 - i. To observe a 10-foot front yard setback on Grand Avenue where 15 feet is required;
 - ii. To observe a 10-foot street side yard setback on Culver Street where 18 feet is required.
 - iii. To observe a 10-foot interior side yard setback where 15 feet is required.
 - iv. To construct a 5-foot high, 100-square-foot, two-faced, ground identification sign within the setback along Grand Avenue where a 1-square-foot nameplate is permitted in a single-family zone;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by July 26, 2016.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.

ATTACHMENT 5

3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the

City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

12. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration, No. 278939, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with Mitigated Negative Declaration NO. 278939, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the Historic Resources (Archaeology).

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the installation of a 24-foot wide City standard driveway, on Culver Street, per Standard Drawing SDG-159, satisfactory to the City Engineer.

15. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the replace of the existing curb ramp with City standard curb ramp with truncated domes, located at the northeast corner of Culver Street and Grand Avenue, per Standard Drawing SDG-132, satisfactory to the City Engineer.

16. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal agreement from the City Engineer for the private storm drain pipe located within Grand Avenue right of way.

17. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

ATTACHMENT 5

18. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
19. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate and show the type and location of all post construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.
20. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009-DWQ and the Municipal Storm Water Permit, Order No. R9-2007-0001 in accordance with Order No. 2009-0009DWQ, a Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities.
21. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.
22. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
23. Prior to the issuance of any building permit, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

GEOLOGY REQUIREMENTS:

24. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of Development Services prior to the issuance of any construction permit.

TRANSPORTATION REQUIREMENTS:

25. A minimum of 20 (23 provided) automobile spaces (including 1 van accessible space), are required by the Land Development Code. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Director.

ATTACHMENT 5

26. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the closure of the existing non-utilized driveway and replace with City standard height curb, gutter and sidewalk, satisfactory to the City Engineer.
27. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of a minimum of 24'-0" wide City standard driveway on Culver Street, satisfactory to the City Engineer.
28. The project shall provide a 25'-0" visibility triangle area along the property line at the northeast corner of Grand Avenue and Culver Street. No obstacles higher than 0'-36" shall be located within this visibility area e.g. landscape, hardscape, walls, monuments etc.
29. The project shall provide 10-foot visibility triangle area along the property line on both sides of the driveway on Culver Street. No obstacles higher than 36" shall be located within this visibility area e.g. landscape, hardscape, walls, monuments.
30. 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.
31. 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.
32. Prior to issuance of construction permits for public right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall take into account a 40-square-foot area around each tree, which is unencumbered by utilities. Driveways, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
33. 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.
34. 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.
35. 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

ATTACHMENT 5

per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or a Final Landscape Inspection.

36. Any required planting that dies within 3 years of installation shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan.

37. 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.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

38. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Director of Public Utilities and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.

39. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public water facilities, including services and meters, in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.

40. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities are to be in accordance with established criteria in the most current City of San Diego sewer design guide.

41. All proposed private water and sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

42. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any water and sewer facilities.

43. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to cap (abandon) at the property line any existing unused sewer lateral and install new sewer lateral(s) which must be located outside of any driveway or vehicular use area.

44. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, to remove (kill) at the main any existing unused water service.

PLANNING/DESIGN REQUIREMENTS:

ATTACHMENT 5

45. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

46. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A".

INFORMATION ONLY:

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

APPROVED by the Planning Commission of the City of San Diego on July 11, 2013 and Approved Resolution Number PC-__.

ATTACHMENT 5

Permit Type/PTS Approval No.: Coastal Development Permit No. 979972 and Conditional Use
Permit No. 979973
Date of Approval: July 11, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Sandra Teasley
Development Project Manager

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

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

MISSION BAY DEVELOPMENT, LLC
Owner/Permittee

By _____
NAME
TITLE

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