



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: May 11, 2023 REPORT NO. PC-23-012
HEARING DATE: May 18, 2023
SUBJECT: 3757 MISSION BLVD, APPEAL OF PROCESS THREE DECISION
PROJECT NUMBER: [PRJ-1059496](#)
OWNER/APPLICANT: AHR PROPERTIES LLC / DANIEL LINN

SUMMARY

Issue: Should the Planning Commission approve an appeal of the demolition, reconstruction, second-story addition and remodel of an existing commercial retail store at 3757 Mission Boulevard and 810 Queenstown Court within the Mission Beach Community Planning area?

Proposed Actions:

1. Deny the appeal and uphold the Hearing Officer's decision to approve Coastal Development Permit No. 3153358 and Neighborhood Development Permit No. 3169901;
2. Approve the appeal and reverse the Hearing Officer's decision to approve Coastal Development Permit No. 3153358 and Neighborhood Development Permit No. 3169901.

Fiscal Considerations: All costs associated with the processing of the application are recovered through a fee paid for by the applicant.

Code Enforcement Impact: This project has an open code compliance case #0517963. However, the code issue on the site are proposed to be resolved during this permit process.

Community Planning Group Recommendation: On October 18, 2022, the Mission Beach Precise Planning Board voted 7-0-0 to continue the review of the project until the November 15, 2022 meeting. On November 15, 2022, the Mission Beach Precise Planning Board voted 7-0-1 to recommend the denial of the proposed project with recommendations (Attachment 7). On February 20, 2023, the Mission Beach Precise Planning Board appealed the Hearing Officers' approval decision (Attachment 7a and 7b).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA section 15301 (Existing Facilities). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on November 14, 2022, and the opportunity to appeal that determination ended on November 29, 2022 (Attachment 6).

BACKGROUND

The 0.09-acre project site is located at 3757 Mission Boulevard and 810 Queenstown Court, within the Mission Beach Planned District of the Mission Beach Community Planning Area (Attachment 2). The site is designated for mixed-use, high-density residential at a rate of 29 dwelling units per acre.

The project site is in the MBPD-NC-N zone of the Coastal Overlay (Appealable) Zone and Coastal Height Limit and Parking Impact (Beach and Coastal) Zones. The site is designated Neighborhood Commercial and is immediately surrounded by other neighborhood commercial and multi-family dwelling units of varying sizes and architectural styles. The site is located between the Pacific Ocean to the west and Mission Bay to the east (Attachment 1).

There are two lots (P & Q) with existing structures on each. The front structure on lot Q is used as a convenience/liquor store and the rear structure on Lot P is used as storage and restrooms for the convenience store. Previously, the rear structure was a residential unit and a connection was made combining the two structures some time ago.

The owner of the property has demolished most of the rear portion of the existing structure located at 810 Queenstown Court under a building permit (PTS Project No. 692411). Demolition work was halted when it was determined by the City staff that a Coastal Development Permit was required because more than 50% of the structure was demolished. In addition, a Neighborhood Development Permit is required to maintain the existing zero-foot setback per SDMC Section 127.0106(b) Expansion or Enlargement of Previously Conforming Structures: "Proposed expansion or enlargement of a previously conforming structural envelope within a setback....that does not meet the criteria for expansion or enlargement in accordance with Section 127.0106(a), requires a Neighborhood Development Permit decided in accordance with Process Two " which shall only be granted if the proposed expansion or enlargement meets the criteria identified therein.

DISCUSSION

The project proposes the demolition and reconstruction of the rear structure with a new second floor at 810 Queenstown Court. The project also proposes a remodel of the existing front structures at 3757 Mission Boulevard. The rear structure was demolished except for the southern wall along Queenstown Court. The project proposes to retain the wall along Queenstown Court and include that wall as part of the new reconstructed structure. Retention of this wall provides previously conforming premises for the continuation of the existing zero-foot setback. The project proposes to maintain the existing previously conforming side yard setbacks for the first floor of the structures.

The scope of work includes the demolition of the remainder of the rear structure consisting of 979 square-feet. This demolished footprint will be reconstructed, providing an additional 270 square-feet as a second-floor addition. The 1,710-square-foot front structure at 3757 Mission Boulevard will be remodeled. The combined reconstruction, addition and remodel will total 2,959 square-feet and encompass both the 3757 Mission Boulevard structure and the 810 Queenstown Court structure (Attachment 10).

The existing use is a convenience store that has been in operation for decades. The existing structure is over 45 years old and was reviewed by City Staff to determine eligibility for historic designation per SMDC Section 143.0212. Staff determined the site was not eligible.

The Mission Beach Community Precise Plan Local Coastal Program Addendum (Community Plan) designates this site as Neighborhood Commercial (Attachment 2) within the Mission Beach Planned District – Neighborhood Commercial- North (MBPD-NC-N) zone) which is consistent with the existing and proposed retail use.

The project requires a Coastal Development Permit (CDP) in accordance with San Diego Municipal Code (SDMC) Section 126.0702 for the proposed construction on the property with the Coastal Overlay Zone. A Neighborhood Development Permit (NDP) is required per SDMC Section 126.0402 for development on sites with previously conforming structures (Attachment 4 and 5).

COMMUNITY PLANNING GROUP

On November 15, 2022, the Mission Beach Precise Planning Board voted 7-0-1 to recommend the denial of the project based on the following:

1. On 810 Queenstown Court (south end of the rear structure) SDMC Section 127.0102 (a) General Rules for Previously Conforming Premises and Uses should not be considered due to a connecting portion of the structure was never permitted.
2. The existing structure within the zero-foot setback along Queenstown Court will be connected to the Hub Liquor building by exceeding the height of the existing structure within the setback.
3. The project does not meet the findings for an NDP.

The proposed issues were reviewed by City Staff and the Project was determined to be in compliance with the San Diego Municipal Code (SDMC), Mission Beach Planned District Ordinance, and the Community Plan and all the necessary findings can be made.

PROJECT APPEAL DISCUSSION

On February 20, 2023, an appeal (Attachment 7a & 7 b) was filed by Debbie Watkins, representing Mission Beach Precise Planning Board as the Chair. The appeal issues include conflicts with Neighborhood Development Permit findings, Previously Conforming Regulations, Planned District Ordinance set backs, and Noticing. The following are the appeal issues as stated by the appellant (bolded font), followed by the City staff responses. The project has been appealed for the following reasons:

Appeal Issue No. 1:

Chapter 12: Land Development Reviews SDMC Section 127.0102 (a) General Rules for Previously Conforming Premises and Uses would have revealed that previously conforming premises or uses must have been established in accordance with all permit requirements and must have been lawful. That is not the case here and the NDP would have been eliminated for consideration for this project;

"Previously conforming premises or uses must have been established in compliance with all permit requirements and must have been lawful until a change in the applicable zoning regulation made the premises or uses previously conforming."

Staff Response #1:

The project is requesting Previously Conforming Premises and Uses for the zero setback portion of the southern wall on Queenstown Court and not the non-permitted connecting walls. These non-permitted walls will be removed and reconstructed in accordance with the 10-foot set back as stated in the MBPD Ordinance (SDMC Section 1513.0307 and SDMC §127.0106(b) (Expansion or Enlargement of Previously Conforming Structures) regulations of the Land Development Code.

Appeal Issue No. 2:

Proposed development will not adversely affect the applicable land use plan. "Land Use Plan" means the General Plan and adopted community plans, specific Plans, precise plans, and sub-area plans. SDMC §113.0103

What this means is that the project needs to follow the Mission Beach PDO regulations as consistently applied since its inception in 1979, and not wander off into other provisions of the Land Development Code and attempt to override the PDO with a NDP..

Staff Response #2:

The project is in compliance with the PDO and NDP where the Previously Conforming Premises do not apply. The new connecting walls and second floor are complying with the PDO setbacks and height.

Appeal Issue No. 3:

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

Air flow, space, light = PDO objective principals. Large 2-story 30-ft. commercial building being added with windowless façade along residential court. Coastal Commission's View Corridor obstruction caused by 0' setback along Queenstown Court.

Staff Response #3:

The new second floor is intended for storage only and meets the 30-foot height limit and the 10-foot setbacks. The project is not expanding into any view corridors, and no view corridors are on site.

Appeal Issue No. 4:

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

Applicable development must comply with applicable regulations of the Land Development Code – always demolition of over 50% of existing walls of the structure requires new construction building

back to PDO regulations as a new structure. [See: Local Coastal Program requirements for previously conforming structures §127.0106.]

No non-conforming encroachments allowed. PDO trumps any and all exceptions – All setbacks must be adhered to unless a VARIANCE is obtained.

Staff Response #4:

The project must obtain a Coastal Development Permit (CDP) to remove 50% of an existing structure. The Previously Conforming regulations for a premise allows for the retention of walls that are lawful such as the southern walls of the rear portion of the building along Queenstown Court. The new connecting walls and second floor are complying with the PDO setbacks and Height.

Appeal Issue No. 5:

The PDO at SDMC §1513.0307 Property Development Regulations – Commercial Subdistrict dictates the setback requirements for minimum yards and courts and places for this project in North Mission Beach as follows:

“(4) Minimum Yards on Courts and Places in VC-N, VC-S, NC-N and NC-S. The minimum yard requirement shall be those set forth in Section 1513.0304(c)

The R-N Subdistrict requirements shall apply to the VC-N and NC-N and the R-S Subdistrict requirements shall apply to the VC-S and NC-S”

SDMC §1513.0304(c) (2) (A) prescribes as follows:

1513.0304(c) (2) Minimum Yards for Courts and Places (A) R-N Subdistrict – 10 ft standard setback

In addition, the PDO at SDMC §1513.0305 Commercial Subdistricts — Definition and Intent prescribes the development possibilities in both commercial and mixed use areas as follows:

“It is the intent of these regulations to provide development possibilities that will accommodate both commercial and mixed uses as well as compliment existing development and the surrounding residential areas.”

Staff Response #5:

The project is required to obtain a Neighborhood Development Permit (NDP) for the use of the Previously Conforming regulations for a premise which allows for the retention of walls that are lawful such as the southern walls of the rear portion of the building along Queenstown Court. The new connecting walls and second floor are complying with the PDO setbacks and Height.

CONCLUSION:

Staff has reviewed the project plans and documents, and all the necessary findings can be made to deny the appeal and approve the Project as discussed above and demonstrated in the resolution of approval (Attachment 4 and 5). Staff recommends that the Planning Commission deny the appeal and approve Coastal Development Permit No. 3153358 and Neighborhood Development Permit No. 3169901.

ALTERNATIVES

1. Approve Coastal Development Permit No. 3153358 and Neighborhood Development Permit No. 3169901, with modifications.
2. Deny Coastal Development Permit No. 3153358 and Neighborhood Development Permit 3169901, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Renee Mezo
Assistant Deputy Director
Development Services Department



Will Rogers
Development Project Manager
Development Services Department

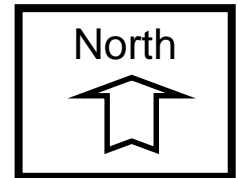
Attachments:

1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Draft Resolution with Findings
5. Draft Permit with Conditions
6. Environmental Exemption
7. Community Planning Group Recommendation
- 7a. Appeal Form 3031
- 7b. Appeal Attachment
8. Ownership Disclosure Statement
9. Deposit Account/Financial Responsibility DS-3242
10. Project Plans

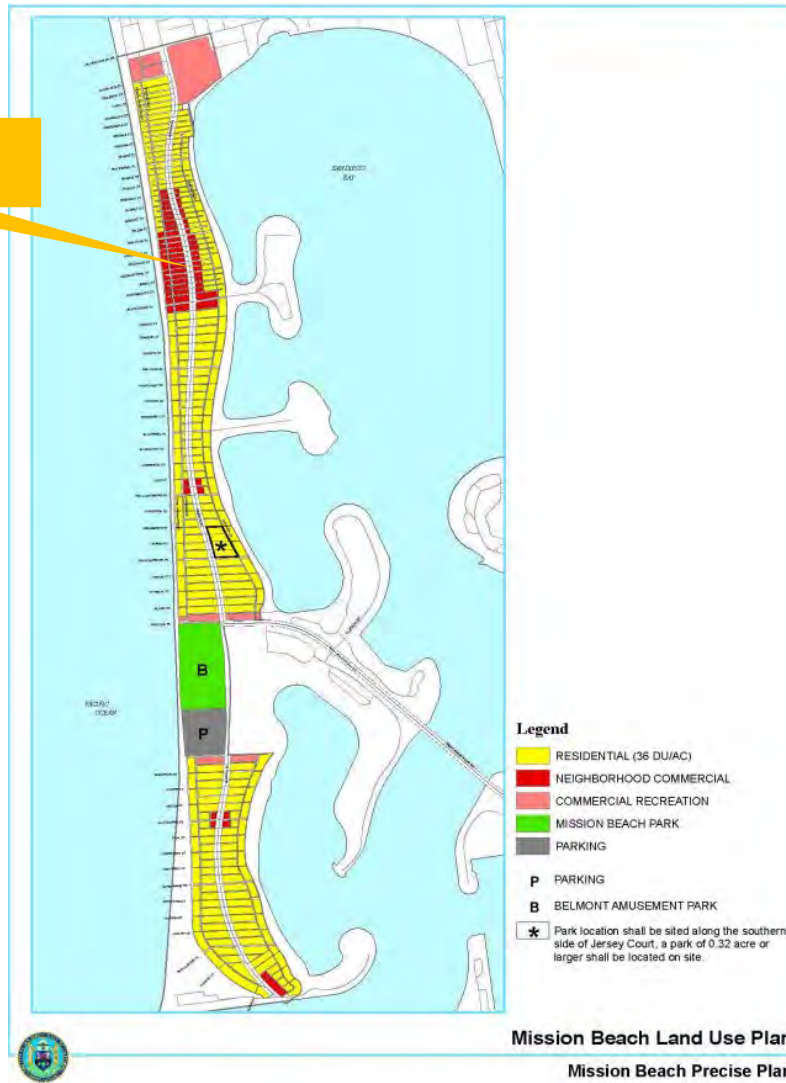


Aerial Photograph

HUB LIQUOR / NDP, CDP
Project No.1059496, 3757 MISSION BLVD

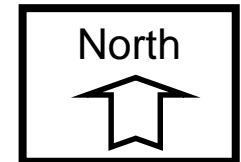


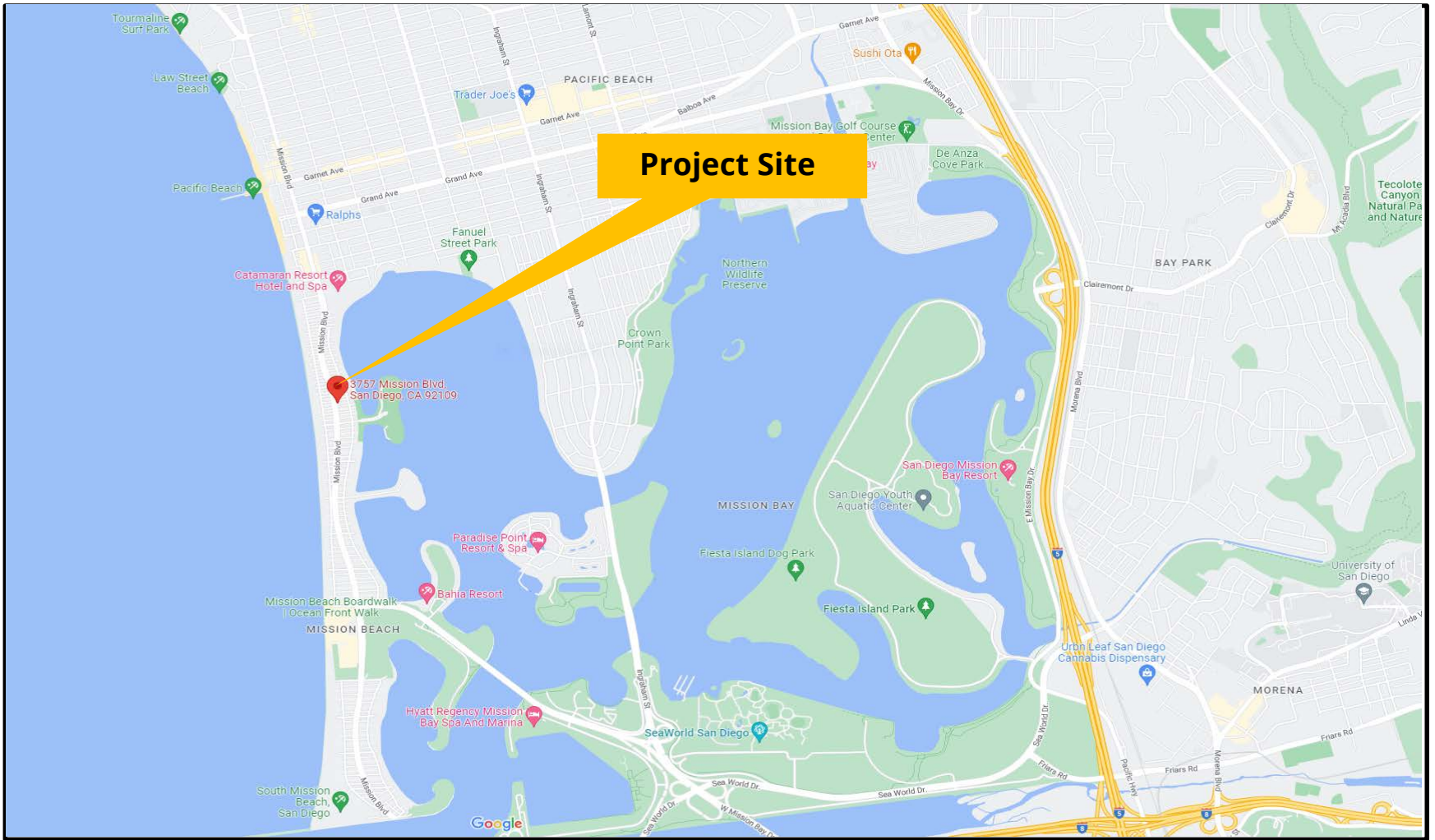
Project Site



Land Use Map

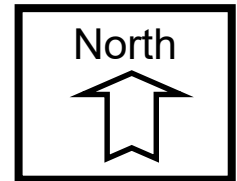
HUB LIQUOR / NDP, CDP
Project No.1059496, 3757 MISSION BLVD





Project Location Map

HUB LIQUOR / NDP, CDP
Project No.1059496, 3757 MISSION BLVD



**PLANNING COMMISSION
RESOLUTION NO. PC-___
COASTAL DEVELOPMENT PERMIT PMT-3153358 AND
NEIGHBORHOOD DEVELOPMENT PERMIT PMT-3169901**

3757 MISSION BOULEVARD - PROJECT NO. PRJ-1059496

WHEREAS, A.H.R. PROPERTIES LLC, a California Limited Liability Company Owner/Permittee, filed an application with the City of San Diego for a permit to partially demolish an existing structure to allow a 1,249-square-foot remodel to the existing adjacent 1,710-square-foot retail building, (as described in and by reference to the approved Exhibit "A" and corresponding conditions of approval for the associated Permit Nos. 3153358 and 3169901), on portions of a 0.09-acre site;

WHEREAS, the project site is located at 3757 Mission Boulevard and 810 Queenstown Court: in the MBPD-NC-N zone of the Mission Beach Community Plan (MBCP) within the Coastal Overlay (Appealable) Zone and Coastal Height Limit and Parking Impact (Beach and Coastal);

WHEREAS, the project site is legally described as PARCEL 1: LOT "Q" AND "R" IN BLOCK 187 OF MISSION BEACH, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1651, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 14, 1914; and PARCEL 2: LOT P IN BLOCK 187 OF MISSION BEACH, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1651, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 14, 1914;

WHEREAS, on November 14, 2022, 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 (Existing Facilities) which allows for additions to existing structures that will not result in the addition of greater than 10,000 square feet;

and where the exceptions listed in Section 15300.2 would not apply; and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

WHEREAS, on February 8, 2023, the Hearing Officer of the City of San Diego approved Coastal Development Permit PMT-3153358 and Neighborhood Development Permit PMT-3169901 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, a project appeal was filed by Debbie Watkins, representing Mission Beach Precise Planning Board as the Chair on February 20, 2023, and

WHEREAS, on May 11, 2023, the Planning Commission of the City of San Diego considered the appeal and Coastal Development Permit PMT-3153358 and Neighborhood Development Permit PMT-3169901 pursuant to the Land Development Code of the City of San Diego, NOW, THEREFORE,

BE IT RESOLVED, by the PLANNING COMMISSION of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. PMT-3153358 and Neighborhood Development Permit No. 3169901:

A. COASTAL DEVELOPMENT PERMIT [SDMC Section 126.0708(a)]

1. Findings for all Coastal Development Permits:

- a. 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 proposed development would not encroach upon any existing or proposed physical accessway as identified in the Mission Beach Planned District (MBPD), Mission Beach Community Precise Plan and Local Coastal Program Addendum (MBCP) (LCP)

The site ranges from approximately 5.58 feet above mean sea level (AMSL) at the highest elevation of the property to 5.42 feet AMSL at the lowest elevation of the

property. The topography of the site is generally flat and drains to the west. The proposed structures and any projections will not exceed the 30-foot maximum height limit allowed by the Coastal Height Limit Overlay Zone (CHLOZ). The project's location relative to coastal resources and the building heights proposed would not obscure public views to and along the ocean, and other scenic coastal areas as specified in the MBPD, MBCP and LCP land use plan.

The project proposes zero-foot setbacks that comply with Previously Conforming premises or use (SDMC §127.0106(b) (Expansion or Enlargement of Previously Conforming Structures). Proposed expansion or enlargement of a *previously* conforming structural envelope within a setback, or of a structure on a premises with previously conforming density that does not meet the criteria for expansion or enlargement in accordance with Section 127.0106(a), requires a Neighborhood Development Permit decided in accordance with Process Two, which shall only be granted if the proposed expansion or enlargement meets certain criteria including "conforms to the setback observed by the existing structure."

Therefore, the proposed development would not encroach upon any existing or proposed physical access ways that are legally used by the public identified by the Mission Beach Planned District, Mission Beach Precise Plan and Local Coastal Program Land Use Plan; and the proposed coastal development will not impact public views to and along the ocean and other scenic coastal areas as specified in the Mission Beach Community Plan and Local Coastal Program Land Use Plan.

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

The proposed development would not adversely affect any environmentally sensitive lands as none are present on the site.

The project is in a mixed-use urbanized area of the Mission Beach Community, with surrounding development consisting of small retail shops, restaurants, and multi-residential housing. While the site is located 365 feet from Mission Bay and 415 feet from the Pacific Ocean, there are no environmentally sensitive lands on or adjacent to the site. The project has been conditioned to comply with Storm Water Regulations that will lessen runoff impacts to Mission Bay and the Pacific Ocean.

In addition, City Staff has determined that the project qualifies as categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities). The project site contains no environmentally sensitive lands and therefore no environmentally sensitive lands would be adversely affected by the proposed project.

c. 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 proposed development is in conformity with the certified Local Coastal Program (LCP) Land use plan and complies with all regulations and goals identified in the Mission Beach Planned District and Mission Beach Community Precise Plan Local Coastal Program Addendum (MBCP). The site is consistent with the Local Coastal Land Use Plan by continuing to supply access to Mission Bay and the Pacific Ocean. The project proposes zero-foot setbacks that comply with Previously Conforming premises or use (SDMC §127.0106(b) (Expansion or Enlargement of Previously Conforming Structures).

The project complies with the Mission Beach Planned District- Neighborhood Commercial – North zone (MBPD-NC-N) and the (MBCP) by providing commercial facilities necessary for the convenience of the residents of the area and tourists attracted to the area (MBCP p. 36). By the continued operation of an existing convenience store in the Santa Clara District of the Mission Beach Planning area, the proposed project is consistent with the commercial Santa Clara District within the MBCP and the LCP.

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

The proposed development is in conformance with the public access and public recreation policies as identified in the MBCP or the Local Coastal Program (LCP) Land Use Plan.

The site is located between the Pacific Ocean to the west and Mission Bay to the east. The proposed project is within the first public roadway between the sea or shoreline of any body of water located in the Coastal Overlay Zone. Public access to the Pacific Ocean is through Queenstown Court walkway and access to Mission Bay is along an alley south of Queenstown Court which also includes access to Santa Clara public recreation facilities. The proposed expansion of the existing commercial use does not impede public access and therefore, the proposed project conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

B. NEIGHBORHOOD DEVELOPMENT PERMIT [SDMC Section 126.0404(a)]

1. Findings for all Neighborhood Development Permits:

- a. The proposed development will not adversely affect the applicable land use plan.**

The proposed project would not adversely affect the Neighborhood Commercial – North zone (MBPD-NC-N) and the Mission Beach Precise Plan.

The project is within a mixed-use urbanized area within Mission Beach Planned District- Neighborhood Commercial – North zone (MBPD-NC-N) and the MBCP. The site is surrounded by development consisting of small retail shops, restaurants, and multi-residential housing.

Additionally, the project site is designated "Neighborhood Commercial" and is within the height limit of 30 feet of the Coastal Height Limit Overlay Zone (CHLOZ) and the proposed zero-foot setbacks comply with Previously Conforming premises or use (SDMC §127.0106(b) (Expansion or Enlargement of Previously Conforming Structures). The walls connecting the two structures will meet the current setbacks in this area as described in the MBPD Ordinance (SDMC Section 1513.0307 (b)(4)). The project is consistent with the underlying MBPD-NC-N zone and the goals of MBCP related to the neighborhood commercial use. Therefore, the project will not adversely affect the land use plan.

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

The project must satisfy conditions of approval to achieve compliance with the regulations of the San Diego Municipal Code. Such conditions have been determined necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. Prior to issuance of any building permit, grading permit, and public improvement permit for the proposed project, the plans shall be reviewed by City Staff to ensure compliance with all building, electrical, mechanical, plumbing and fire code requirements, and the Owner/Permittee shall be required to obtain building, grading and public improvement permits. Compliance with these regulations during and after construction would be enforced through building inspections completed by the City's building inspectors. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

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

The proposed project was reviewed by City Staff and determined to be in compliance with the MBPD Ordinance (SDMC Section 1513.0307 and SDMC §127.0106(b) (Expansion or Enlargement of Previously Conforming Structures) regulations of the Land Development Code and no deviations are proposed.

The project proposes zero-foot setbacks that comply with Previously Conforming premises or use (SDMC §127.0106(b) (Expansion or Enlargement of Previously Conforming Structures). Proposed expansion or enlargement of a *previously* conforming structural envelope within a setback, or of a structure on a premises with previously conforming density that does not meet the criteria for expansion or enlargement in accordance with Section 127.0106(a), requires a Neighborhood Development Permit decided in accordance with Process Two, which shall only be

granted if the proposed expansion or enlargement meets certain criteria including “conforms to the setback observed by the existing structure.” The proposed expansion conforms to the setback observed by the existing structure and the existing zero-foot setback will remain at 810 Queenstown Court. The addition of a second floor will require a 10-foot setback consistent with the current setback regulations. Therefore, the project will comply the applicable regulations of the Land Development.

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 these findings adopted by the Planning Commission, Coastal Development Permit PMT-3153358 And Neighborhood Development Permit PMT-3169901 are hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms, and conditions as set forth in Permit No. PMT-3153358 and PMT-3169901, a copy of which is attached hereto and made a part hereof.

Will Rogers
Development Project Manager
Development Services

Adopted on: May 11, 2023

IO#: 24009228

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

INTERNAL ORDER NUMBER: 24009228

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**COASTAL DEVELOPMENT PERMIT PMT-3153358 AND
NEIGHBORHOOD DEVELOPMENT PERMIT PMT-3169901
3757 MISSION BOULEVARD - PROJECT NO. PRJ-1059496
PLANNING COMMISSION**

This COASTAL DEVELOPMENT PERMIT No. PMT-3153358 and NEIGHBORHOOD DEVELOPMENT PERMIT No. PMT-3169901 is granted by the Planning Commission of the City of San Diego to A.H.R. PROPERTIES LLC, a California Limited Liability Company, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) section 126.0708 and section 126.0205. The 0.09-acre site is located at 3757 Mission Boulevard and 810 Queenstown Court in the MBPD-NC-N zone of the Coastal Overlay (Appealable) Zone and Coastal Height Limit and Parking Impact (Beach and Coastal) Zones within the Mission Beach Community Plan. The project site is legally described as: PARCEL 1: LOT "Q" AND "R" IN BLOCK 187 OF MISSION BEACH, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1651, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 14, 1914; and PARCEL 2: LOT P IN BLOCK 187 OF MISSION BEACH, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1651, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 14, 1914.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee, to demolish an existing structure to allow a 1,249-square-foot remodel expansion of an adjacent 1,710-square-foot retail space as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated April 20, 2023.

The project shall include:

- a. Partial demolition of an existing structure located at 810 Queenstown Court to allow expansion of adjacent retail space while maintaining an existing wall and setbacks;
- b. Reconstruction of 979 square feet of the existing first-floor and construction of a new 270-square-foot, second-floor addition located at 810 Queenstown Court;
- c. Remodel of an existing 1,710-square foot retail building located at 3757 Mission Boulevard. The new combined total of the retail buildings is 2,959 square feet;

- d. Per SDMC Section §127.0106(b) (Expansion or Enlargement of Previously Conforming Structures) to keep a portion of the existing wall located at 810 Queenstown Court to allow for existing setbacks on 810 Queenstown Court;
- e. Off-street parking; four compact spaces and one van-accessible space; and
- f. 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 April 20, 2026.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action or following all appeals.
3. 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.
4. 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.
5. 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.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. 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.).

8. 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.

9. 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.

10. 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.

11. 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 the Owner/Permittee.

CLIMATE ACTION PLAN REQUIREMENTS:

12. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of any building permit the Owner/Permittee shall assure, by permit and bond to reconstruct the existing alley curb ramp with the current City Standard curb ramp adjacent to the site on Mission Boulevard, satisfactory to the City Engineer.

14. Prior to the issuance of any construction permit, the Owner/Permittee shall submit a Water Pollution Control Plan WPCP. The WPCP shall be prepared in accordance with the guidelines in Part 2 of Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

PLANNING/DESIGN REQUIREMENTS:

15. The automobile, motorcycle, and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with the 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 appropriate City decision-maker in accordance with the SDMC.

16. 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 regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

17. All signs associated with this development shall be consistent with sign criteria established by the approved Exhibit "A", Mission Beach Planned District sign regulations, or City-wide sign regulations.

18. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary 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 a 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 April 20, 2023, and Resolution Number PC-_____

DRAFT

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Will Rogers
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.

A.H.R. PROPERTIES LLC

By _____

RANDY IBRAHIM
(MANAGING MEMBER)

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



THE CITY OF SAN DIEGO

Date of Notice: November 14, 2022

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION DEVELOPMENT SERVICES DEPARTMENT

IO: 24009228

PROJECT NAME / NUMBER: 3757 Mission Blvd / PRJ-1059496**COMMUNITY PLAN AREA:** Mission Beach Community Plan**COUNCIL DISTRICT:** 2**LOCATION:** 3757 Mission Blvd, San Diego, CA 92109

PROJECT DESCRIPTION: Coastal Development Permit for the demolition of an existing structure to allow expansion of adjacent retail space. Work to include the addition of 1,219 square feet to existing 1,710 square-foot retail building for total of 2,989-square-feet. The property is located at 3757 Mission Boulevard. The 0.09-acre site is in the MBPD-NC-N and Coastal Overlay (Appealable) Zone and Coastal Height Limitation and Parking Impact (Coastal) Zones within the Mission Beach Community Plan area and Council District 2.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Hearing Officer**ENVIRONMENTAL DETERMINATION:** Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15301, Existing Facilities**ENTITY MAKING ENVIRONMENTAL DETERMINATION:** City of San Diego

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The City of San Diego determined that the project would qualify to be categorically exempt from CEQA pursuant to Section 15301 (Existing Facilities) which allows for additions to existing structures that will not result in addition of greater than 10,000 square feet; and where the exceptions listed in Section 15300.2 would not apply.

DEVELOPMENT PROJECT MANAGER: Will Rogers**MAILING ADDRESS:** 1222 First Avenue, MS 501, San Diego, CA 92101-4153**PHONE NUMBER / EMAIL:** 619-446-5283 / rogersw@sandiego.gov

On November 14, 2022 the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project

Manager listed above.

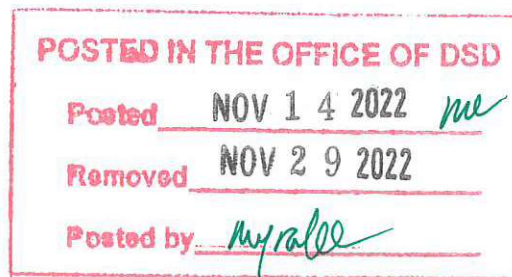
Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 5 business days from the date of the posting of this Notice (November 29, 2022). During the Statewide "Safer-at-Home" directive to reduce the spread of COVID-19, beginning March 19, 2020, appeals to the City Clerk must be filed by email or US Mail as follows:

- 1) Appeals filed via E-mail: The Development Permit/Environmental Determination Appeal Application Form DS-3031 can be obtained at <https://www.sandiego.gov/sites/default/files/legacy/development-services/pdf/industry/forms/ds3031.pdf>.

Send the completed appeal form (including grounds for appeal and supporting documentation in pdf format) by email to Hearings1@sandiego.gov by 5:00pm. on the last day of the appeal period; your email appeal will be acknowledged within 24 business hours. You must separately mail the appeal fee by check payable to the City Treasurer to: City Clerk/Appeal, MS 2A, 202 C Street, San Diego, CA 92101. The appeal filing fee must be United States Postal Service (USPS) postmarked) before or on the final date of the appeal. Please include the project number on the memo line of the check.

- 2) Appeals filed In-Person: The appeal application can be obtained in the Lobby of the City Administration Building located at 202 'C' Street, San Diego, CA 92101. The completed appeal package must be submitted by 5:00pm on the last day of the appeal period and include the required appeal fee in the form of a check payable to the City Treasurer to: City Clerk/Appeal, MS 2A, 202 C Street, San Diego, CA 92101.

This information will be made available in alternative formats upon request.



**MISSION BEACH PRECISE PLANNING BOARD (“MBPPB”)
Tuesday, October 18, 2022 @ 6:30 PM Meeting via Zoom (Video)
AGENDA**

NOTE ON PUBLIC ATTENDANCE: Any member of the public wanting to attend this Zoom conference must email a request to the *Meeting Coordinator* at mbppb.zoom.2022@gmail.com no later than 1 hour prior to the meeting and provide your name and email address to get login information (or, if requested, the telephone dial in number).

***NOTE ON NON-AGENDA PUBLIC COMMENT:** Members of the public who wish to comment on a topic **NOT** on the Agenda within the Board’s purview are asked to contact the Chair at dkwatkns@aol.com prior to the meeting. Comments are subject to time and technological constraints.

OPENING FUNCTIONS

Call to Order, Quorum Count

ADMINISTRATIVE ITEMS

Revisions to October 2022 Agenda
September 20, 2022 Meeting via ZOOM Minutes – Modifications and Approval
Chair’s Report

REPORTS FROM GOVERNMENT OFFICIALS

BUILDING PLAN REVIEW

Action Items:

- **Pan Residence; Project No. 698872; Coastal Development Permit for the demolition of an existing 2-level residence and construction of new 1,469 SF 3-level single family residence with an attached garage located at 3812 Bayside Lane. The 0.03-acre site is located in the MBPD-R-N and the Coastal (appealable) Overlay Zone within the Mission Beach Community Plan and Council District 2. Presentation by Tim Golba, Architect at Golba Architecture, Inc.**
- **3757 Mission Boulevard; PRJ-1059496; (Process 3) Coastal Development Permit for the demolition or removal of 50 percent or more of the exterior walls of the existing structure (810 Queenstown Court) to allow expansion of adjacent retail space. Work to include the addition of 1,219 square feet to existing 1,710 square-foot retail building for total of 1,989 square feet. The property is located at 3757 Mission Boulevard. The 0.09-acre site is in the MBPD-NC-N and Coastal Overlay (Appealable) Zone and Coastal Height Limitation and Parking Impact (Coastal) Zones within the Mission Beach Community Plan area and Council District 2.**

**In addition, consideration at Applicant’s request for a Neighborhood Development Permit (Process 2) to keep previously conforming rights of existing setbacks per SDMC Section 127.0106(b) for the expansion of the structure per SDMC Sections 127.0104(a & b).
Presentation by Daniel Linn Architect**

***NON-AGENDA PUBLIC COMMENT** - One minute per speaker for issues **NOT** on the Agenda and within the purview of the MBPPB. Comments are subject to time and technological constraints. [See: *NOTE above.]

BOARD COMMUNICATIONS

- Liaison Update (ANAC)

ADJOURNMENT

Our next meeting will be held on Tuesday, November 15, 2022 at 6:30 PM via Zoom Conference. Submit Agenda Items 10 days PRIOR to the scheduled Board meeting to dkwatkns@aol.com for consideration.

**MISSION BEACH PRECISE PLANNING BOARD (“MBPPB”)
Tuesday, October 18, 2022, 2022 @ 6:30 PM
Meeting via Zoom (Video) Conference
Minutes of Meeting - EXCERPT**

Board Members Present:

Rebecca Abbott	Rob Brown	Josh Geller	Gloria Henson
Cindi Stratton	Gernot Trolf	Debbie Watkins	Jenine Whittecar

Absent: Michelle Baron; Dennis Lynch; Bob Semenson; Brian McCarthy

OPENING FUNCTIONS

Meeting was called to order by Chair Debbie Watkins at approximately 6:37 PM, and a quorum was confirmed.

Administrative Items

Revisions to Agenda

Copies of the Agenda for the October 18, 2022 Meeting via Zoom Conference were distributed and reviewed. No changes or additions.

BUILDING PLAN REVIEWS

Action Item:

- **3757 Mission Boulevard; PRJ-1059496;** (Process 3) Coastal Development Permit for the demolition or removal of 50 percent or more of the exterior walls of the existing structure (810 Queenstown Court) to allow expansion of adjacent retail space. Work to include the addition of 1,219 square feet to existing 1,710 square-foot retail building for total of 1,989 square feet. The property is located at 3757 Mission Boulevard. The 0.09-acre site is in the MBPD-NC-N and Coastal Overlay (Appealable) Zone and Coastal Height Limitation and Parking Impact (Coastal) Zones within the Mission Beach Community Plan area and Council District 2.

In addition, consideration at Applicant’s request for a Neighborhood Development Permit (Process 2) to keep previously conforming rights of existing setbacks per SDMC Section 127.0106(b) for the expansion of the structure per SDMC Sections 127.0104(a & b). Presentation by Daniel Linn Architect

The property owner was present.

Architect Linn (the Applicant) presented a PowerPoint showing a portion of the architectural drawings combining the Hub Liquor store on Mission Boulevard with a residential property located at 810 Queenstown Court (Lot P). The Queenstown Court property was a single-story beach cottage with a sloped roof that was torn down except the front door entrance wall set along a 0’ front-yard setback. Mr. Linn informed the group that the City initially gave him a permit for a remodel but later came back and required a Coastal Development Permit (Process 3) for the demolition of 50% or more of the exterior walls of the existing structure along Queenstown Court,

First Review: PRJ-1059496
3757 Mission Boulevard (and 810 Queenstown Court)

which would require that any new structure would have to meet the current regulations and setbacks of the PDO. Later, the Applicant asked the City to consider a Neighborhood Development Permit (“NDP”) (Process 2) so the previously conforming 0’ setback can be kept for the new building construction on Queenstown Court.

Mr. Linn provided a colorful rendering of the proposed Hub Liquor store frontage along Mission Boulevard. However, there were no renderings presented of the back of the building along Queenstown Court where the commercial building will extend its footprint into the residential area as a two-story cement building with a windowless façade and flat roof. This is the area where the Applicant is requesting consideration of a NDP to be able to keep the previously conforming structure’s 0’ setback along the southwest side along Queenstown Court. According to the City, the structure that was demolished in the rear would have to maintain at least a 10-ft setback from the wall to the property line along Queenstown Court.

Mr. Linn’s digital plans were difficult to decipher the heights of the new flat roof along this southwest corner and at the second floor. His answers were even more confusing. That is why the Board asked for a rendering of the proposed new structure along Queenstown Court.

The MBPPB’s Project Reviewer showed several pictures related to the 10’ setback required along Queenstown per the Mission Beach PDO requirements and questioned the 0’ setback at the front of the structure along Queenstown Court where the remaining pieces of wood would be connected to the Hub Liquor building and roof line.

The next door neighbor stated that a standing water problem existed between the properties and was concerned the new building would worsen the problem by building a solid cement building with a flat roof that would drain off rain with no place to go. Architect Linn stated a permeable ground cover will be added along the property line. The neighbor also asked what that south side of Hub Liquor would look like as one enters Queenstown Court.

In considering the NDP, Chair pointed out that a NDP cannot subvert or override the Land Development code, which includes our PDO regulations. Chair pointed out the *Findings for a NDP Approval under SDMC Section 126.0404(a) (1), (2) & 3* must be met, which this proposed project fails to meet as follows:

(1) Proposed *development* will not adversely affect the applicable *land use plan*.

- "Land Use Plan" means the **General Plan and adopted community plans, specific plans, precise plans, and sub-area plans** (SDMC Section 113.0103). What this means is that the project needs to follow our PDO regulations as consistently applied since its inception in 1979 and not wander off into other provisions of the Land Development Code and attempt to override our PDO.

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

- Air, space, light = PDO objective principals are lacking. Coastal Commission "View Corridor" further obstruction with 0’ setback.

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

First Review: PRJ-1059496
3757 Mission Boulevard (and 810 Queenstown Court)

- Applicable development must comply with the applicable regulations of the LDC - per our PDO - always demolition of over 50% of existing walls of structure requires new construction building back to the PDO regulations as a new structure. No non-conforming encroachments allowed. Our PDO trumps any and all exceptions -- All setbacks must be adhered to unless a variance is obtained.

Chair thanked all who submitted letters expressing support of the Hub Liquor project and Mr. Ibrahim's generous and kind service to community members. Chair noted that the Board's responsibility is to enforce the Mission Beach PDO regulations so developers and the community can rely on it now and into the future. By subverting the legal requirements of the PDO and Coastal Development Permit process for a NDP that violates required setbacks sets a precedent for other to do the same, which the PDO was established to prevent. Chair expressed hope that the Architect will be amenable to making changes to this project that meets the PDO requirements for the benefit of the community.

At this point, Robin Madaffer the attorney for the owner, and the owner asked to continue the Board's review of this project to the November 15, 2022 meeting so they can answer some of the questions raised at this meeting. Chair agreed to schedule a second review at the Board November 15, 2022 Meeting via Zoom.

ADJOURNMENT

**Motion #2 was made by Gernot Trolf and seconded by Rebecca Abbott
TO ADJOURN the meeting at 8:12 PM.
VOTE: For: 7 Against: 0 Abstain: 0
Motion Passed.**

Prepared by Debbie Watkins, Secretary

**MISSION BEACH PRECISE PLANNING BOARD (“MBPPB”)
Tuesday, November 15, 2022 @ 6:30 PM Meeting via Zoom (Video)
AGENDA**

NOTE ON PUBLIC ATTENDANCE: Any member of the public wanting to attend this Zoom conference must email a request to the *Meeting Coordinator* at mbppb.zoom.2022@gmail.com no later than 1 hour prior to the meeting and provide your name and email address to get login information (or, if requested, the telephone dial in number).

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OPENING FUNCTIONS

Call to Order, Quorum Count

ADMINISTRATIVE ITEMS

Revisions to November 2022 Agenda
October 18, 2022 Meeting via ZOOM Minutes – Modifications and Approval
Chair’s Report

REPORTS FROM GOVERNMENT OFFICIALS

BUILDING PLAN REVIEW

Action Item:

- **Second Review at Applicant’s Request: 3757 Mission Boulevard; PRJ-1059496; (Process 3) Coastal Development Permit for the demolition or removal of 50 percent or more of the exterior walls of the existing structure (810 Queenstown Court) to allow expansion of adjacent retail space. Work to include the addition of 1,219 square feet to existing 1,710 square-foot retail building for total of 2,929 square feet. The property is located at 3757 Mission Boulevard. The 0.09-acre site is in the MBPD-NC-N and Coastal Overlay (Appealable) Zone and Coastal Height Limitation and Parking Impact (Coastal) Zones within the Mission Beach Community Plan area and Council District 2.**

In addition, consideration at Applicant’s request for a Neighborhood Development Permit (Process 2) to keep previously conforming rights of existing setbacks per SDMC Section 127.0106(b) for the expansion of the structure per SDMC Sections 127.0104 (a & b). Presentation by Daniel Linn Architect

***NON-AGENDA PUBLIC COMMENT** - One minute per speaker for issues **NOT** on the Agenda and within the purview of the MBPPB. Comments are subject to time and technological constraints. [See: *NOTE above.]

BOARD COMMUNICATIONS

- Liaison Update (ANAC)

ADJOURNMENT

Our next meeting will be held on Tuesday, January 17, 2023 at 6:30 PM via Zoom Conference. The Board is dark in December. Submit Agenda Items 10 days PRIOR to the scheduled Board meeting to dkwatks@aol.com for consideration.

ATTACHMENT TO COMMUNITY PLANNING COMMITTEE DISTRIBUTION FORM

PROJECT SCOPE:

- **Second Review** at Applicant’s Request: 3757 Mission Boulevard; PRJ-1059496; (Process 3) Coastal Development Permit for the demolition or removal of 50 percent or more of the exterior walls of the existing structure (810 Queenstown Court) to allow expansion of adjacent retail space. Work to include the addition of 1,219 square feet to existing 1,710 square-foot retail building for total of 2,929 square feet. The property is located at 3757 Mission Boulevard. The 0.09-acre site is in the MBPD-NC-N and Coastal Overlay (Appealable) Zone and Coastal Height Limitation and Parking Impact (Coastal) Zones within the Mission Beach Community Plan area and Council District 2.

In addition, consideration at Applicant’s request for a Neighborhood Development Permit (Process 2) to keep previously conforming rights of existing setbacks per SDMC Section 127.0106(b) for the expansion of the structure per SDMC Sections 127.0104 (a & b).

Problems for the MBPPB to consider a Neighborhood Development Permit (“NDP”) (Process) 2 for this project at 810 Queenstown Court:

Chapter 12: Land Development Reviews in the SDMC Section 127.0102 (a) General Rules for Previously Conforming Premises and Uses eliminates this project from NDP consideration as follows:

- (a) “Previously conforming premises or uses must have been established in compliance with all permit requirements and must have been lawful until a change in the applicable zoning regulation made the premises or uses previously conforming.” [Emphasis added.]

According to the City’s Senior Planner on this project, the applicant originally submitted plans for a remodel/small expansion for both of the structures on site at 3757 Mission Boulevard and a single-family residence at 810 Queenstown Court. On their plans, it had appeared that it was one structure, so it was signed off as below 50% exterior wall demolition. Later, it was determined that the space in between the two buildings was **never permitted** and it should have been treated as two separate structures. Since the structure in the rear of the property (810 Queenstown Court) had already been demolished more than 50% of the exterior walls, the Coastal Development Permit (Process 3) was required for that. The applicant wanted to keep the 0’ setback along Queenstown Court so NDP (Process 2) was added to the permit.

Also, according to the same Senior Planner, the project is limited to addition at the first story level that does not exceed the height of the existing structure within the setback.

The existing structure within the 0’ setback along Queenstown Court will be connected to the Hub Liquor building by exceeding the height of the existing structure within the setback. The south elevation shows a new and raised roof area at the southwest corner to make that roof area match the area behind, which is clearly taller. We believe the area used to be a sloped roof and is now proposed to be a new flat roof that matches the existing taller roof section at the Hub Liquor building.

Even if we consider the Findings for NDP Approval SDMC Section 126.0404(a) (1), (2) & 3, we cannot consider granting a NDP because the project does not meet all of the findings.

(1) Proposed *development* will not adversely affect the applicable *land use plan*.

- "Land Use Plan" means the General Plan and adopted community plans, specific plans, precise plans, and sub-area plans. SDMC §113.0103.

What this means is that the project needs to follow the Mission Beach Planned District Ordinance (“PDO”) regulations as consistently applied since its inception in 1979, and not wander off into other provisions of the Land Development Code and attempt to override our PDO.

“Where there is a conflict between the Land Development Code and the Mission Beach Planned District Ordinance, the Planned District Ordinance applies.”
SDMC §1513.0104

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

- Air, space, light = PDO objective principals. Coastal Commission “View Corridor” further obstruction caused by the 0’ setback along Queenstown Court. Large 2-story commercial building being added with windowless façade along residential court.

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

- Applicable development must comply with the applicable regulations of the Land Development Code - per our PDO - always demolition of over 50% of existing walls of structure requires new construction building back to the PDO regulations as a new structure. No non-conforming encroachments allowed. Our PDO trumps any and all exceptions -- All setbacks must be adhered to unless a VARIANCE is obtained. “

Having said this, any vote by our Board to allow a previously conforming structure with a 0’ setback would set a precedent and slippery slope for other previously conforming structures to violate the intent of the PDO regulations, which the PDO was established to prevent, and the Coastal Development Permit that requires new construction building back to the PDO regulations as a new structure when demolition or removal of 50 percent or more of the exterior walls of an existing structure occurs to allow expansion of adjacent retail space, as in this case, or any structures with

non-conforming encroachments. The PDO details building regulations/requirements for both commercial properties and residential property in Mission Beach.

Motion: Mission Beach Precise Planning Board takes NO ACTION on this NDP application as this board has not been presented with enough data to properly evaluate the NDP in regards to the previously “conforming” construction that is being retained, expanded and enhanced. Given that the NDP is based on prior construction that does not observe the front yard setback we cannot make the findings to allow an expansion and enhancement of a significantly non-conforming structure. And, to avoid setting a precedent to allow this type of retention, expansion and enhancement of non-conforming setbacks, this board takes no action on this NDP application.” **Motion passed. 6-0-2**

Coastal Development Permit (“CDP”) (Process 3)

Motion: The Mission Beach Precise Planning voted TO DENY the CDP because the Applicant has failed to meet the setback requirements. Demolition of over 50% of existing walls requires new construction building back to the PDO regulations as a new structure with no non-conforming encroachments allowed. **Motion passed. 7-0-1**



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101

Community Planning Committee Distribution Form

Project Name: 3757 Mission Boulevard; 810 Queenstown Court Project Number: PRJ-1059496

Community: Mission Beach

For project scope **SEE ATTACHMENT FOR INFORMATION**

- Vote to Approve
 Vote to Approve with Co **SEE ATTACHMENT FOR INFORMATION**
 Vote to Approve with Non-Binding Recommendations Listed Below
 Vote to Deny

Date of Vote:

11/15/22

of Members Yes

of Members No

of Members Abstain

Conditions or Recommendations:

- No Action
 (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)

SEE ATTACHMENT FOR INFORMATION

NAME: Debbie Watkins

TITLE: Chair

DATE: November 17, 2022

Attach additional pages if necessary (maximum 3 attachments).

Visit our web site at www.sandiego.gov/development-services.

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

DS-5620 (08-18) ONLINE FORM

Attachment to Form DS-3031 – Appeal to Planning Commission
 PRJ 1059496 3757 Mission Boulevard (Hub Liquor) & 810 Queenstown Court
 Coastal Development Permit (“CDP”) and Neighborhood Development Permit (“NDP”)

ATTACHMENT TO FORM DS-3031

This proposed project was presented to the Development Services Hearing Officer, Patricia Bautista, Associate Planner, on Wednesday, February 8, 2023.

The Mission Beach Precise Planning Board (“MBPPB”) reviewed this project on October 18, 2022, where no action was taken at the Applicant’s request to present a second review on November 15, 2022. At the November 15th MBPPB Meeting via Zoom, the MBPPB voted 7-0-1 to deny the CDP because the Applicant failed to meet the setback requirements along Queenstown Court since demolition of 50% of existing walls requires new construction building back to the PDO regulations as a new structure with no non-conforming encroachments allowed. In addition, the MBPPB voted 6-0-2 to take no action on the NDP Application because the Board had not been presented with enough data to properly evaluate the NDP in regards to the previously conforming construction that was being retained, expanded and enhanced. Given that the NDP is based on prior construction that did not observe the front yard setback, the MBPPB could not make the findings to allow an expansion and enhancement of a significantly non-conforming structure.

Factual Error and Findings Not Supported: The Hearing Officer ignored the key facts, PDO and LDC requirements regarding this project which lead to findings not supported.

While an initial permit to remodel was issued based on the plans submitted, the city later found out the connection of the back North third of the structure that was recently added was not permitted. No Notice of Application was mailed to property owners or the City’s recognized community planning group for this “remodel” permit.

According to an email dated October 31, 2022 from Kristal Feilen, the Development Services Senior Planner on this project to Debbie Watkins, Chair of the MBPPB, the Applicant originally submitted plans for a remodel/small expansion for both structures on site at 3757 Mission Boulevard and a single-family residence at 810 Queenstown Court. On their plans, it had appeared that it was one structure, so it was signed off as below 50% exterior wall demolition. Later, it was determined that the space in between the two buildings was never permitted and it should have been treated as two separate structures. Since the structure in the rear of the property (810 Queenstown Court) had already been demolished more than 50% of the exterior walls, the Coastal Development Permit (Process 3) was required for this project, which requires new construction be brought into conformance with all current LCP development standards consistent with requirements for previously conforming structures when demolition or removal of 50% or more of the exterior walls of an existing structures. This would mean the Applicant would have to meet the current 10’ft front yard setback requirements along Queenstown Court pursuant to PDO requirements discussed herein. The Notice of Application dated July 1, 2022 was mailed to property owners indicating the *Project Type as Coastal Development Permit, Process Three*. The First Assessment Letter and Cycle Issues Report from the Development Services Department dated July 7, 2022, addressed only the CDP requirement.

On or about September 16, 2022, the Applicant contacted Angela Orias a Development Services Department Planner and expressed his interest in keeping the 0’ setback along Queenstown Court so Ms. Orias added the NDP (Process 2) for this proposed project.

However, a closer review of Chapter 12: Land Development Reviews SDMC Section 127.0102 (a) General Rules for Previously Conforming Premises and Uses would have revealed that previously conforming premises or uses must have been established in accordance with all permit requirements and must have been lawful. That is not the case here and the NDP would have been eliminated for consideration for this project.

- (a) “Previously conforming premises or uses must have been established in compliance with all permit requirements and must have been lawful until a change in the applicable zoning regulation made the premises or uses previously conforming.”

The project does not meeting the *Findings for NDP Approval SDMC §126.0404(a) (1), (2) & (3)*.

(1) Proposed *development* will not adversely affect the applicable *land use plan*.

- “Land Use Plan” means the General Plan and adopted community plans, specific Plans, precise plans, and sub-area plans. SDMC §113.0103

What this means is that the project needs to follow the Mission Beach PDO regulations as consistently applied since its inception in 1979, and not wander off into other provisions of the Land Development Code and attempt to override the PDO with a NDP.

“Where there is a conflict between the Land Development Code and the Mission Beach Planned District Ordinance, the Planned District Ordinance applies.” SDMC §1513.0104

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

- Air flow, space, light = PDO objective principals. Large 2-story 30-ft. commercial building being added with windowless façade along residential court. Coastal Commission’s View Corridor obstruction caused by 0’ setback along Queenstown Court.

(3) The proposed *development* will comply with the applicable regulations of the Land Development Code including allowable deviations pursuant to the Land Development Code.

- Applicable development must comply with applicable regulations of the Land Development Code – always demolition of over 50% of existing walls of structure requires new construction building back to PDO regulations as a new structure. [See: Local Coastal Program requirements for previously conforming structures §127.0106.]
- No non-conforming encroachments allowed. **PDO trumps any and all exceptions – All setbacks must be adhered to unless a VARIANCE is obtained.**

To the best of my knowledge, the use of a NDP for this type of expansion in Mission Beach to avoid complying with required setback requirements has never been used. Allowing a previously conforming structure with a 0’ setback would set a precedent and slippery slope for other previously non-conforming structures in Mission Beach to violate the intent of the PDO regulations, which the PDO was established to prevent and the Development Services planners failed to follow or recognize.

The PDO at SDMC §1513.0307 Property Development Regulations – Commercial Subdistrict dictates the setback requirements for minimum yards and courts and places for this project in North Mission Beach as follows:

“(4) Minimum Yards on Courts and Places in VC-N, VC-S, NC-N and NC-S. The minimum yard requirement shall be those set forth in Section 1513.0304(c) (2). The R-N Subdistrict requirements shall apply to the VC-N and NC-N and the R-S Subdistrict requirements shall apply to the VC-S and NC-S”

SDMC §1513.0304(c) (2) (A) prescribes as follows:

1513.0304(c) (2) Minimum Yards for Courts and Places
(A) R-N Subdistrict – 10 ft standard setback

In addition, the PDO at SDMC §1513.0305 Commercial Subdistricts — Definition and Intent prescribes the development possibilities in both commercial and mixed use areas as follows:

“It is the intent of these regulations to provide development possibilities that will accommodate both commercial and mixed uses as well as compliment existing development and the surrounding residential areas.”

We support and encourage small businesses along Mission Boulevard to improve their facades and expand their footprint in the community. Hub Liquor has been in business for many years. The proposed new storefront façade along Mission Boulevard is attractive. The owner cares about how people along Mission Boulevard see the façade. However, little attention has been given to the design of the 1,219-sq.ft addition to the back of the building along a residential court which is evidenced by the windowless, doorless warehouse-type structure with a 30-foot second story. This design is inconsistent with the residential look of Queenstown Court. It replaces a one-story single family cottage with a 0’ setback along Queenstown Court that was built before the Mission Beach Planned District Ordinance regulations were written into law in 1979.

Also, this proposed project violates the CDP that requires new construction be brought into conformance with all current LCP development standards consistent with LCP requirements for previously conforming structures when demolition or removal of 50 percent or more of the exterior walls of an existing structure occurs to allow expansion of adjacent retail space, as in this case, or any structures with non-conforming encroachments. (§127.0106).

We respectfully request you deny approval of the NDP for the foregoing reasons and require the applicant to meet the requirements of the CDP §127.0106 discussed above. This would mean the Applicant would have to meet the current 10’ft front yard setback requirements along Queenstown Court pursuant to PDO §1513.0304(c) (2) (A). Thank you.

Respectfully submitted,
Debbie Watkins, Chair, MBPPB



FORM
DS-3031
November 2022

Development Permit/ Environmental Determination Appeal Application

In order to ensure your appeal application is successfully accepted and processed, you must read and understand Information Bulletin (IB) 505, "Development Permits/Environmental

Determination Appeal Procedure."

- 1. Type of Appeal: Appeal of the Project
 Appeal of the Environmental Determination
- 2. Appellant: Please check one Applicant Officially recognized Planning Committee
 "Interested Person"
(Per San Diego Municipal Code (SDMC) § 113.0103)

Name: Debbie Watkins, Chair Mission Beach Precise Planning Board E-mail: dkwatkns@aol.com

Address: c/o 713 Isthmus Couer City: San Diego State: CA Zip Code: 92109 Telephone: (858) 344-1684

3. Project Name: PRJ 1059496 3757 Mission Boulevard (Hub Liquor) and 810 Queenstown Court

4. Project Information:
See: Attachment
Permit/Environmental Information Determination and Permit/Document No:

CDP and NDP Date of Decision/Determination: February 8, 2023 City Project Manager: Will Rogers

Hearing Officer's Hearing - Approve Project Decision (Describe the permit/approval decision):

- Approve CDP & NDP
5. Ground for Appeal (Please check all that apply):
- Facture Error
 - Conflict with other Matters
 - Findings Not Supported
 - New Information
 - City-wide Significance (Process four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in the SDMC § 112.0501. Attach additional sheets if necessary.)

SEE: ATTACHMENT TO FORM DS-3-31

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

Signature: Debbie Watkins Date: 2/20/23


Note: Faxed appeals are not accepted.

Reference Table

- [San Diego Municipal Code \(SDMC\)](#)
- [Development Permits/Environmental Determination Appeal Procedure \(IB-505\)](#)

Visit our website: sandiego.gov/DSD.

Upon request, this information is available in alternative formats for persons with disabilities. DS-3031 (11-22)

	City of San Diego Development Services 1222 First Ave., MS 302 San Diego, CA 92101 (619) 446-5000	<h1 style="text-align: center;">Ownership Disclosure Statement</h1>	FORM DS-318
			October 2017

Approval Type: Check appropriate box for type of approval(s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit Variance
 Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment • Other _____

Project Title: HUB LIQUOR **Project No. For City Use Only:** _____

Project Address: 3757 MISSION BLVD SAN DIEGO 92109

Specify Form of Ownership/Legal Status (please check):

Corporation Limited Liability -or- General - What State? CA Corporate Identification No. _____

Partnership Individual

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter 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 owner(s), applicant(s), and other financially interested persons of the above referenced property. A financially interested party includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver or syndicate with a financial interest in the application. If the applicant includes a corporation or partnership, include the names, titles, addresses of all individuals owning more than 10% of the shares. If a publicly-owned corporation, include the names, titles, and addresses of the corporate officers. (A separate page may be attached if necessary.) If any person is a nonprofit organization or a trust, list the names and addresses of **ANY** person serving as an officer or director of the nonprofit organization or as trustee or beneficiary of the nonprofit organization. A signature is required of at least one of the property owners. 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.

Property Owner

Name of Individual: AHR PROPERTIES c/o RANDY IBRAHIM (MANAGING MEMBER) Owner Tenant/Lessee Successor Agency

Street Address: 2022 COLINA GRANDE

City: EL CAJON State: CA Zip: 92019

Phone No.: 6194382781 Fax No.: _____ Email: _____

Signature:  Date: 4/25/22

Additional pages Attached: Yes No

Applicant

Name of Individual: DAN LINN (AGENT) Owner Tenant/Lessee Successor Agency

Street Address: 5732 BELLEVUE AVE

City: LA JOLLA State: CA Zip: 92037

Phone No.: 8584598108 Fax No.: _____ Email: linnarch@gmail.com

Signature: _____ Date: 4/25/22

Additional pages Attached: Yes No

Other Financially Interested Persons

Name of Individual: n/a Owner Tenant/Lessee Successor Agency

Street Address: _____

City: _____ State: _____ Zip: _____

Phone No.: _____ Fax No.: _____ Email: _____

Signature: _____ Date: _____

Additional pages Attached: Yes No

Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.
Upon request, this information is available in alternative formats for persons with disabilities.



City of San Diego
Development Services
Attn: Deposit Accounts
(619) 446-5000

Deposit Account/Financially Responsible Party

FORM
DS-3242
February 2020

Project Address/Location: 3757 MISSI9ON BLVD SAN DEGO 92109
Project No.: *FOR CITY USE ONLY* Internal Order No.: *FOR CITY USE ONLY*

Approval Type: Check appropriate box for type of approval requested:

- Grading
 Public Right-of-Way
 Subdivision
 Neighborhood Use
 Coastal
 Neighborhood Development
 Site Development
 Planned Development
 Conditional Use
 Variance
 Vesting Tentative Map
 Tentative Map
 Map Waiver
 Other: _____

Is the project subject to a Reimbursement Agreement? No Yes

If yes, provide Reimbursement Agreement Application Project Number or Resolution/Ordinance No.: _____

Deposit Trust Fund Account Information: A deposit into a Trust Fund account with an initial deposit to pay for the review, inspection and/or project management services is required. The initial deposit is drawn against to pay for these services. The Financially Responsible Party will receive a monthly statement reflecting the charges made against the account, and an invoice when additional deposits are necessary to maintain a minimum balance. The payment of the invoice will be required in order to continue processing your project. At the end of the project, any remaining funds will be returned to the Financially Responsible Party.

FINANCIALLY RESPONSIBLE PARTY

Name/Firm Name: AHR PROPERTIES, LLC Address: 2022 COLINA GRANDE E-mail: _____

City: EL CAJON State: CA Zip Code: 92019 Telephone: (619) 438-2781 Fax No.: _____

Financially Responsible Party Declaration: I understand that City expenses may exceed the estimated advance deposit and, when requested by the City of San Diego, will provide additional funds to maintain a positive balance. Further, the sale or other disposition of the property does not relieve the individual or Company/Corporation of their obligation to maintain a positive balance in the trust account, unless the City of San Diego approves a Change of Responsible Party and transfer of funds. Should the account go into deficit, all City work may stop until the requested advance deposit is received.

This is a continuation of existing Project No.: _____ Internal Order No.: _____

NOTE: Using an existing opened account may be allowed when:

1. Same location for both projects;
2. Same Financially Responsible Party;
3. Same decision process (Ministerial and discretionary projects may **not** be combined);
4. Same project manager is managing both projects; and
5. Preliminary Review results in a project application.

Please be advised: Billing statements cannot distinguish charges between two different projects.

Please Print Legibly.

Print Name: RANDY IBRAHIM Title: MANAGING MEMBER

Signature*:  Date: 04/25/2022

***The name of the individual and the person who signs this declaration must be the same. If a corporation is listed, a corporate officer must sign the declaration (President, Vice-President, Chairman, Secretary or Treasurer).**

FOR CITY USE ONLY

Project Title: _____ Date Requested: _____ Engineering Inspections (*Public Works*)
 Discretionary Project (*DSD*)
 Other
 Keep existing Project No.: _____ as lead or Use new Project No.: _____ as lead MRB: \$ _____

ACCOUNT CLOSURE AUTHORIZATION

Date Requested: _____ Completed Inactive Withdrawn Collections

Print Name: _____ Signature: _____

Visit our web site at www.sandiego.gov/development-services.

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