

RESOLUTION NUMBER R-299577

ADOPTED ON AUGUST 10, 2004

WHEREAS, Marla Schmitter, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit to demolish two existing one-story single-family homes, and to construct a new three-story, 3-unit condominium project known as the Schmitter Condominium Project [Project], located at 3902 Bayside Walk, and legally described as Block 226 in Lot D, E, & F, Mission Beach, County of San Diego, State of California according to Map thereof No. 1809, filed in the Office of the County Recorder of San Diego County, in the Mission Beach Community Plan area, in the R-N zone of the Mission Beach Planned District; and

WHEREAS, on July 22, 2004, the Planning Commission of the City of San Diego considered CDP Permit No. 47233, and pursuant to Resolution No. 3545-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on August 10, 2004, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to CDP Permit No. 47233:

A. COASTAL DEVELOPMENT PERMIT

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public access way 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 subject property is located immediately adjacent to Bayside Walk on the Mission Bay side of the Mission Beach Peninsula. The proposed three-story, 30-foot high structure observes all development regulations and requirements of the following regulatory documents, all of which seek to protect public access ways and public views within the Coastal Zone: Mission Beach Community Plan; Mission Beach Planned District; Coastal Overlay Zone; Coastal Height Limit Overlay Zone; Parking Impact Overlay Zone. As designed, the proposed project will not encroach upon an-existing physical access way, or negatively impact views to and along the ocean or other scenic coastal areas.

The project site is located on the northwest corner of San Rafael Place and Bayside Walk. Shoreline access to both the beach and the bay are readily available in Mission Beach, at the ends of several Courts and Places. Both San Rafael Place and Bayside Walk are the nearest existing physical public access ways, and provide physical access to Mission Bay, the Pacific Ocean, and all of Mission Beach and Pacific Beach. The proposed new construction will occur entirely upon private property and will not encroach upon this access.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The project area is currently a completely developed urban in-fill site with two existing single-family homes, and does not contain any environmentally sensitive lands; therefore the proposed triplex condominium project will not adversely affect these resources. Mission Bay is listed on the State Regional Water Quality Control Board impaired water body list; however adequate Best Management Practice requirements for stormwater runoff would be fulfilled by the proposed project. Therefore the proposed project has been exempted from environmental review in accordance with State CEQA guidelines.

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 proposed triplex condominium project conforms with the certified Mission Beach Precise Plan and Local Coastal Program Land Use Plan Addendum and is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the R-N zone regulations of the Mission Beach Planned District, and the City of San Diego Progress Guide and General Plan.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project site is located immediately west of and adjacent to Bayside Walk on the Mission Bay side of the Mission Beach Peninsula. Both Bayside Walk and San Rafael Place currently provide public access to all recreational coastal resources in the area. The project is located within Mission Bay Park, which provides a wide variety of public recreational opportunities; therefore this project conforms to the public access and recreation policies of the California Coastal Act as required by this finding.

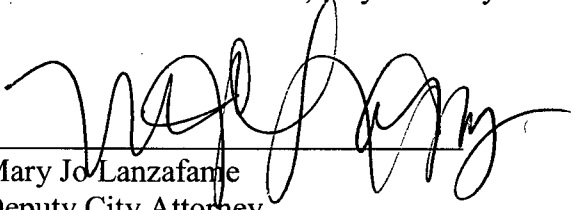
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The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Coastal Development Permit No. 47233 is granted to Marla Schmitter, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:cfq
08/13/04
Or.Dept:DSD
R-2005-190

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 47233
SCHMITTER CONDOMINIUM PROJECT
CITY COUNCIL

This Coastal Development Permit [CDP] No. 47233 is granted by the City Council of the City of San Diego to Marla Schmitter, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0708. The 4,648 square-foot site is located at 3902 Bayside Walk in the R-N zone of the Mission Beach Community Planning area. The project site is legally described as Block 226 in Lots D, E, and F, Mission Beach, County of San Diego, State of California according to Map thereof No. 1809, filed in the Office of the County Recorder of San Diego County.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish two existing 1-story single-family homes, and to construct a new three story, 3-unit condominium project, described and identified by size, dimension, quantity, type, and location on the approved Exhibit "A," dated August 10, 2004, on file in the Development Services Department.

The project or facility shall include:

- a. The demolition of 2 existing one-story single-family homes, and the construction of a new three-story, 30-foot high, 3-unit residential condominium project;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the

intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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

10. Prior to issuance of any grading permits for this project, a final subdivision map shall be recorded on the subject property.

11. This Permit shall become effective with recordation of the corresponding final subdivision map for and approval of the project site.

12. 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 following all appeals.

AFFORDABLE HOUSING REQUIREMENTS:

13. Prior to the issuance of any building permits, the developer shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any building permits, the applicant shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying that the pad elevation based on USGS datum is consistent with Exhibit "A," satisfactory to the City Engineer.

15. The drainage system proposed for this development, as shown on the site plan, is subject to approval by the City Engineer.

16. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

17. Prior to the issuance of any construction permit, the Subdivider 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.

18. Prior to the issuance of any construction permit the Subdivider shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

19. Prior to the issuance of any construction permit the applicant 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. Prior to the issuance of any construction permit, the applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer, including responsibility for the long term maintenance of all private drainage facilities.

LANDSCAPE REQUIREMENTS:

21. No change, modification, or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

22. Prior to issuance of any construction permits, complete landscape construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services.

23. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment, and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

24. All required landscape shall be maintained in a disease, weed, and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Owner/Permittee shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Land Development Manual.

25. If any required landscape (including, but not limited to, existing or new plantings, hardscape, landscape features) indicated on the approved plans is damaged or removed during demolition, it shall be repaired or replaced in kind and equivalent size per the approved plans within thirty days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available or an increased number) to the satisfaction of the City Manager.

26. Prior to final inspection or issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections.

27. Landscaping shall be planted and maintained to preserve public views.

PLANNING/DESIGN REQUIREMENTS:

28. No fewer than six off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

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

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

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

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

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

34. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The

outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

35. Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this Permit during the night inspection. Night inspections may be required additional fees as determined by the City Manager.

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

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

38. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

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

40. No merchandise, material, or equipment shall be stored on the roof of any building.

41. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

42. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials [SDMC] to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A."

43. Prior to the issuance of construction permits, the Owner/Permittee shall record a Deed Restriction preserving a visual corridor a minimum 8'-6" wide along the setback on San Rafael Place and a minimum 3'-6" along the setback on Bayside Walk, in accordance with the requirements of San Diego Municipal Code section 132.0403(b).

44. Walls located within the visibility area (Bayside Lane and San Rafael Place) shall not exceed a height of three feet.

45. Prior to the issuance of the certificate of occupancy, the project must show compliance with Council Policy 900-14, Sustainable Building Policy.

FEE REQUIREMENTS:

46. A Development Impact Fee [DIF] of \$1,590.00 is required for this project and must be paid at the time of building permit issuance. This fee is based upon the determination that the project will result in an increase of 1 dwelling unit over what currently exists on the site.

47. Prior to the issuance of the first building permit, Park Fees of \$75.00 per multi-family unit will be required, per San Diego Municipal Code Section 96.0401.

WASTEWATER REQUIREMENTS:

48. Prior to the issuance of any building permit, the developer/permittee shall assure, by permit and bond: a) the abandonment of the existing public sewer main and the existing sewer laterals currently serving properties north of the project and, b) the installation of new sewer laterals to serve those northerly properties, in a manner satisfactory to the Metropolitan Wastewater Department Director and the City Engineer.

49. Prior to occupancy, the developer/permittee shall complete: a) the abandonment of the existing public sewer main and the existing sewer laterals currently serving properties north of the project and, b) the installation of new sewer laterals to serve those northerly properties, in a manner satisfactory to the Metropolitan Wastewater Department Director and the City Engineer.

50. Prior to the issuance of any building permit, the developer/permittee shall assure, by permit and bond, the design and construction of necessary new sewer laterals to serve this development and the abandonment of all existing unused sewer laterals adjacent to the project site, in a manner satisfactory to the Metropolitan Wastewater Department Director and the City Engineer.

51. The developer shall design all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide. Proposed facilities that do not meet the current standards shall be redesigned.



52. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

53. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer mains that serve more than one lot.

WATER REQUIREMENTS:

54. Prior to the issuance of the first building permit (including foundation), the Owner/Permittee shall assure, by permit and bond, the cut, plug (within the Bayside Lane right-of-way) and abandonment of the existing public water facilities within the general utility easement to be vacated, adjacent to the northerly project boundary, and the installation of new water services to replace those still in service on the abandoned main, in a manner satisfactory to the Water Department Director and the City Engineer.

55. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water services, and the disconnection at the mains of all existing unused water services adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

56. Prior to the issuance of the first building permit, the Owner/Permittee shall apply for plumbing permit(s) for the installation of private back flow prevention device(s) on all water services to the development, including all domestic, fire and irrigation services, in a manner satisfactory to the Water Department Director and the City Engineer.

57. Prior to the first final inspection of any building permit for the Schmitter Condominiums project, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Marshal, the Water Department Director and the City Engineer.

58. The Owner/Permittee shall install new water services, one per dwelling unit, and/or provide CC&R's for the operation and maintenance of water service to any common areas, in a manner satisfactory to the Water Department Director and the City Engineer.

59. Prior to the first final inspection of any building permit for the Schmitter Condominiums project, all public water facilities necessary to serve this development shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

60. Prior to the first final inspection of any building permit for the Schmitter Condominiums project, the Owner/Permittee shall grant appropriate water easements, contiguous to public rights-of-way, over all water meter installations located on the project site in a manner satisfactory to the Water Department Director and the City Engineer.

61. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and easements, as shown on approved Exhibit "A," shall be modified at final engineering to comply with standards.

INFORMATION ONLY:

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

APPROVED by the City Council of the City of San Diego on August 10, 2004 by Resolution No. R-299577.

AUTHENTICATED BY THE CITY MANAGER

By _____

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

MARLA SCHMITTER
Owner/Permittee

By _____

By _____

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