THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

DATE ISSUED: August 2, 2006 REPORT NO.: 06-114

ATTENTION: Council President and City Council
Docket of August 7, 2006

SUBJECT: Appeal of the Mission @ PB Drive - Project No. 41256,
Council District 2, Process Four.

REFERENCE: Report to the Planning Commission No. PC-06-163 (Attachment 12),
Project Approved by the Planning Commission on June 22, 2006.

OWNER/
APPLICANT: Pacific Beach Investment Trust (Michael E. Turk)

REQUESTED ACTION: Should the City Council approve or deny the appeals of the Planning Commission's decision to approve a request for the construction of a mixed-use development containing 18 residential units and seven commercial retail spaces on a 0.503-acre site located at 4105 and 4135 Mission Boulevard, on the northeast corner of Mission Boulevard and Pacific Beach Drive, within the Pacific Beach Community Planning Area?

STAFF RECOMMENDATION:

1. **DENY** the appeals;

2. **CERTIFY** Mitigated Negative Declaration No. 41256; and

3. **APPROVE** Coastal Development Permit No. 116352 and Planned Development Permit No. 116353.

SUMMARY

Project Description:

The proposed project site is located at 4105 and 4135 Mission Boulevard on the northeast corner of Mission Boulevard and Pacific Beach Drive (Attachment 2). The site is located within the Pacific Beach Community Plan (Attachment 3), the CV-1-2 Zone (Commercial-Visitor) (Attachment 4) within the Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone, and Transit Area Overlay Zone. The zoning designation provides for commercial-visitor oriented mixed-use development and allows for one-unit per 1,500 square feet of lot area. The Pacific Beach Community Plan (PBCP) identifies Mission Boulevard as a transit corridor and allows a

density of up to 43 dwelling units/per acre (du/ac) for mixed-use projects in transit corridors when designed as a Transit-Oriented Development. The proposed project site, occupying 0.503-acres, could accommodate 15 dwelling units based on the zone and 22 dwelling units based on the PBCP. The applicant has chosen to utilize the density bonus provision in the community plan, which would allow three additional units above the density allowed by the underlying zone.

The project proposes to demolish an existing single-story commercial retail building and the commercial parking lot for the construction of a mixed-use development containing 18 residential units and seven commercial retail spaces. The proposed first floor (ground level) would consist of seven retail units totaling approximately 3,350 square feet, utility rooms, entry court, landscaping, motorcycle parking, bicycle parking, and on-site parking spaces. Eighteen residential units would be located on the second and third floors consisting of seven floor plan types ranging from approximately 1,506 to 2,015 square feet. The second and third floor levels have an approximate combined total of 28,811 square feet.

The project provides for both common areas and individual unit deck areas totaling approximately 2,245 square feet. The project proposes a 1.46 floor area ratio (FAR) or 32,161 square feet, where the zone allows for a 2.0 FAR or 43,845 square feet. The proposed development is estimated to generate 242 average daily trips with 13 AM peak-hour trips and 23 PM peak-hour trips. A trip credit can be applied to the existing use on this site. The existing use on site is generating approximately 259 average daily trips with 8 AM peak-hour trips and 24 PM peak-hour trips. Therefore the proposed project is expected to generate 17 fewer net daily trips than the existing and currently occupied use on site.

The proposed mixed-use development will self-generate at least 50 percent of their electrical energy needs through photovoltaic technology (solar panels). Because the project utilizes renewable technologies and qualifies as a Sustainable Building under Council Policies 900-14 and 600-27, the land use approvals have been processed through the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

Development of the proposed project requires the approval of a Coastal Development Permit (CDP) and a Planned Development Permit (PDP) for density. The applicant has chosen to utilize the density bonus provision identified within the community plan for mixed-use development, which allows for the proposed additional three units above the density allowed by the base zone. The project proposed no deviations and complies with the CV-1-2 zoning regulations.

Planning Commission Recommendation:

On June 22, 2006, the Planning Commission heard the proposed project and voted 5-0 to approve staff's recommendation with the addition of three conditions: 1. The proposed access from the site to the alley shall be omitted. This is a deviation to San Diego Municipal Code (SDMC) Section 142.0560(j)(7) which requires off-street parking spaces for new developments located within a Beach Impact Area of the Parking Impact Overlay Zone to be accessible from the abutting alley. 2. The proposed project shall maintain a minimum of 48 on-site parking spaces. This condition will invalidate the original proposed shared parking provision. 3. The

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

The Planning Commissioner's discussion and public testimony centered on the alley access, landscaping, amount of commercial space, traffic impacts, traffic access on/from Pacific Beach Drive and Mission Boulevard, parking requirements, shared parking, setbacks, bulk and scale, flooding, solar panels, and references to the submitted materials from the community.

Appeals:

Two appeal applications were received. The first appeal application (Attachment 6) was received from the Pacific Beach Community Planning Committee (PBCPC) dated June 29, 2006. The reason for the appeal was listed as 'Conflict with other matters.' The application package included a letter dated June 22, 2006, from Mark Mitchell the PBCPC Chairperson.

The second appeal application (Attachment 7) was received from Richard S. Pearson, a resident located to the east (next door) of the project site, and was received by the City Clerk's Office on June 30, 2006. The reason for the appeal was listed as 'Factual Error, Findings Not Supported, and City-wide Significance.' The application package included a 'Summary of Some of Project Problems,' which is a modified version of the issues submitted by the appellant to the Planning Commission and submitted during the Public Review period for the Mitigated Negative Declaration (MND) prepared for the project (MND response no. 97-130).

PBCPC Appeal (Attachment 6):

I. Description of Reasons for Appeal- "The Pacific Beach Community Planning Committee (PBCPC) agrees with the three conditions that the San Diego Planning Commission placed on this project; no alley access; increase parking to 48 spaces; and solar panels not to exceed 30-foot height limit. However, the PBCPC believes this project still has significant conflicts with the Pacific Beach Community Plan and Municipal Code as per attached letters and motions. The PBCPC hopes the applicant will work with them to resolve the remaining issues prior to the appeal hearing. See attached PBCPC letters and motions for specific issues included in the appeal."

II. PBCPC letter to the Planning Commission dated June 22, 2006.
    A. Introduction
    B. Summary of the committee's highest priority concerns:
        1. The commercial use provided in this project is not adequate. Despite staff's technical definition of the "front" of the lot being on Pacific Beach Drive, the Community Plan intent is clear that the "front" 30-feet requirement should be fulfilled ON Mission Boulevard not PB Drive.

           Staff's Response: The orientation of the project does meet the intent of the PBCP, which encourages mixed-use developments along identified transit corridors in the commercial districts of Pacific Beach. The PBCP identifies Mission Boulevard as a transit corridor and outlines a specific proposal to guide development along this street. The PBCP is a policy document and land use recommendations are used in conjunction with all other policies in the plan to

determine if a proposed project meets the overall intent of the Plan. The PBCP does not include a provision/ definition/language that requires Mission Boulevard to be designated as the front yard; therefore, the determination that Pacific Beach Drive is the front yard is pursuant to SDMC Section 113.0276(a)(4).

2. The project employs both bonus density and shared parking. The Community Plan clearly allows one OR the other, not both.

   Staff's Response: While the PBCP identifies these two incentives, shared parking can also be achieved by right pursuant to the LDC. Therefore, the applicant has chosen to utilize the plan incentive of density bonus in addition to the zone provision for shared parking. However, the Planning Commission added a condition that the proposed project shall maintain a minimum of 48 on-site parking spaces. This condition will invalidate the original proposed shared parking provision.

3. Project exit to substandard residential alley is not safe and should not be allowed.

   Staff's Response: The Planning Commission added a condition that the proposed access from the site to the alley shall be omitted. This is a deviation to San Diego Municipal Code (SDMC) Section 142.0560(j)(7) which requires off-street parking spaces for new developments located within a Beach Impact Area of the Parking Impact Overlay Zone shall be accessible from the abutting alley.

4. The parking area (spaces and lanes) exceeds the maximum (50% of lot) allowed. Plans do not show adequate dimensions; but our calculations indicate spaces and lanes do not meet required widths and lengths.

   Staff's Response: SDMC Section 131.0540(c) states "Within the Coastal overlay Zone, required parking cannot occupy more than 50% of the ground floor in the CV-1-1 or CV-1-2 zones." These regulations do not include the lanes as part of the "required parking," nor do the definitions for parking pursuant to SDMC Section113.0103. A typical parking space dimension width and length is provided on the plans. The proposed parking layout and dimensions are in compliance with SDMC Table 142-05J. The plans shall be revised based on the Planning Commission's conditions imposed on the project at the hearing.

C. The letter included other committee concerns but did not provide a detailed question. The additional committee concerns are as follows:
   Landscaping
   Transit-oriented design standards
   Pedestrian pathway on the north side of project
   Need for a mix of sizes; two, three, and four bedroom units
   Flood mitigation

Handicap accessibility
Traffic issues at driveway on PB Drive
PDP maximum coverage (60%)

Staff's Response: The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan by providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing Transit Oriented Development (TOD); therefore, the project as proposed would conform to the goals and recommendations of the PBCP. The proposed project is in conformance with the Local Coastal Program Land Use Plan, the Progress Guide and General Plan, the Strategic Framework Element, and the Housing Element. The project proposed no deviations and complies with the CV-1-2 zoning regulations. However, on June 22, 2006, the Planning Commission heard the proposed project and voted 5-0 to approve staff's recommendation with the addition of three conditions as previously discussed.

D. The letter included the committee's comments on more parking, proposed motions on amending the SDMC, and a summary statement.

III. PBCPC letter dated September 26, 2005.

Staff's Response: This letter and the responses to the issues were provided within the Report to the Planning Commission No. PC-06-163 (Page 7 and 8 of the report).

Richard S. Pearson Appeal (Attachment 7):

I. Description of Reasons for Appeal: "See attached" (Summary of Some of Project Problems).

II. Attachment-Summary of Some of Project Problems printed on June 30, 2006.
   A. Summary of the list of issues and/or concerns.
      1. Inadequate buffer on the east property line.
         a. Five-foot landscape does not have trees on full length.
         b. The tree species specified on the plans are inappropriate.
         c. The proposed fence/wall will be ineffective.
         d. The current architectural plans show a wood fence and the older landscape plans show a six-foot high masonry wall.

Staff's Response: The Planning Commission added a condition that the proposed access from the site to the alley shall be omitted; therefore, this area will be filled in with additional landscaping. The proposed amount and species type of landscaping (including trees) is in compliance with the City's *Land Development Manual – Landscape Standards*. The site currently contains an 18-inch concrete (RCP) storm drain which is centered at the east property line and is located 5-foot 6-inches below finish grade. Therefore, the proposed fence

along the east property line shall be a six-foot high wood sound attenuation wall with a three-foot high lattice on top. The fence design will be a modular fence panels system which are 3-4" thick.

2. Public Safety- north Right-of-Way (ROW)
   a. 0-foot setback and 31-feet high.
   b. Will create a "mugger alley" with the bile alcove.
   c. Will create a "Public nuisance."

   Staff's Response: The setback along the north side of the property is defined as the rear yard setback pursuant to SDMC Section 113.0276(a)(3). The proposed project is using the 0-foot optional rear yard setback pursuant to SDMC Section 131.0543(b) and is in compliance with the regulations. The proposed building height along the rear yard setback is 29-feet 6-inches, were the zone allows for a maximum height of 30-feet. Lighting would be provided along the north elevation of the project, and transparency along the façade is provided by windows, the gated ventilation window at the garage, balconies, and offset second story would provide visibility and opportunities for surveillance along the pathway and street.

3. Flooding
   a. The structure, the tenant improvements and the vehicles will have a recurring flooding event, creating damages that the taxpayers will have to pay.
   b. The site floods regularly, an average of 2-3 times a year.
   c. The alley access will allow flood waters to affect the neighboring properties by increasing flooding.

   Staff's Response: The project site does not lie within a Special Flood Hazard Area as defined in the SDMC Section 113.0103. The existing and proposed conditions for the project consist of a site that is almost totally impervious. In both the existing and proposed conditions, the project site drains to the southwest, discharging into the storm drain system with inlets at the intersection of Mission Boulevard and Pacific Beach Drive. Roof drains on the easterly side of the proposed project connect to an existing 18-inch storm drain, which runs parallel and adjacent to the site. The runoff from the parking area would flow to a biofiltration strip along the eastern property line. This biofiltration strip will be designed to discharge to the local storm drain to the satisfaction of the City Engineer. The Planning Commission added a condition that the proposed access from the site to the alley shall be omitted.

4. Bulk-Scale
   a. Maximum coverage is 60% and the proposed coverage is approximately 84%.
   b. The structure will be more than 30-feet.
   c. Does not conform with the Pacific Beach Community Plan.

Staff's Response: The 60% coverage provision is located within SDMC Section 143.0420- 'Supplemental Planned Development Permit for Residential Development.' However, the proposed mixed-use project is classified as a Commercial Development and pursuant to the SDMC Table 143-04A – 'Supplemental Planned Development Permit Regulations Applicability,' Section 43.0420 would not apply to the proposed project. In addition, the proposed building height is 29-feet 6-inches, were the zone allows for a maximum height of 30-feet.

The PBCP recommends that new projects along transit corridors incorporate TOD standards into the design. These standards include minimizing building setbacks, locating parking to the rear of the lot, articulating building façade, orienting the commercial entrance to the street, providing bus shelters and bike racks, and providing public plazas as space permits.

The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing TOD; therefore, the project would conform to the goals and recommendations of the PBCP.

5. Landscaping
   a. Does not conform with the Pacific Beach Community Plan.
   b. The required landscape (on the private property) on the site will be potted plants not in the ground.
   c. Above-ground irrigation is planned and is inappropriate.

   Staff's Response: The proposed amount, species type (including trees), installation, and irrigation of the landscaping are in compliance with the City's *Land Development Manual – Landscape Standards*. The proposed street trees would include those species listed within the PBCP.

6. Setbacks
   a. The electrical closet, the trash enclosure, and the meter room will encroach within the east setback of 8.7-feet width.
   b. The 2nd and 3rd levels do not have a 3-foot step back as required by the SDMC on the east elevation.
   c. The rear yard setback (north) is 0-feet and 10-feet is needed.

   Staff's Response: The building façade along the east property line is in conformance with the 10-foot setback requirement of the CV-1-2 Zone. Pursuant to SDMC Section 131.0543(c)(3), a three-foot additional setback for the second and third stories does not apply to structures less than 30-feet in height that meets the minimum10-foot setback. The setback along the north side of the property is defined as the rear yard setback pursuant to SDMC Section

113.0276(a)(3). The proposed project is using the 0-foot optional rear yard setback pursuant to SDMC Section 131.0543(b) and is in compliance with the regulations.

7. Beach Access- Oliver Avenue
   a. Will be closed during construction for more than 6 months.

   Staff's Response: Oliver Avenue is not a through street and does not connect to Mission Boulevard. The 10-foot pedestrian pathway does provide access from Oliver Avenue to Mission Boulevard. However, the pedestrian crosswalks/access to the beach is located to the south at the corners of Pacific Beach Drive and to the north at Reed Avenue. The proposed construction will not significantly restrict the public's access to the beach.

8. Parking
   a. Allows 65% of area for parking and the SDMC states 50% max.
   b. Substandard parking space width.
   c. Substandard aisle width.
   d. Inadequate number of parking spaces- 72 bedrooms + commercial.
   e. Number of handicap parking spaces.

   Staff's Response: SDMC Section 131.0540(c) states "Within the Coastal overlay Zone, required parking cannot occupy more than 50% of the ground floor in the CV-1-1 or CV-1-2 zones." These regulations do not include the lanes as part of the "required parking," nor do the definitions for parking pursuant to SDMC Section113.0103. A typical parking space dimension width and length is provided on the plans. The proposed parking layout and dimensions are in compliance with SDMC Table 142-05J. The plans shall be revised based on the Planning Commission's condition that the proposed project shall maintain a minimum of 48 on-site parking spaces. The SDMC requires 40.5 parking spaces for the residential and seven (7) parking spaces for the non-residential use for a total of 48, and only one of the non-residential use spaces is required to be an accessible parking space.

9. Loading- No suitable Loading Area.

   Staff's Response: The proposed mixed-use development is less than 100,000 square feet is size; therefore, pursuant to SDMC Table 142-10B a loading area is not required for the proposed development. In addition, the Planning Commission added a condition that the proposed project shall maintain a minimum of 48 on-site parking spaces. To meet this requirement, the proposed loading area on the plans shall be omitted and replaced with parking spaces.

10. Commercial- Reduce Commercial space.

    Staff's Response: The CV1-2 Zone does not contain a provision for the minimum or maximum commercial area allowed on a development site.

11. Transit Oriented Development Standards- Ignored important TOD requirements.

    Staff's Response: The PBCP recommends that new projects along transit corridors incorporate TOD standards into the design. These standards include minimizing building setbacks, locating parking to the rear of the lot, articulating building façade, orienting the commercial entrance to the street, providing bus shelters and bike racks, and providing public plazas as space permits.

    The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing TOD; therefore, the project would conform to the goals and recommendations of the PBCP.

12. Energy- Reduce or eliminate solar access to adjacent properties.

    Staff's Response: The proposed building height is 29-feet 6-inches, were the zone allows for a maximum height of 30-feet. The project would not substantially shade the surrounding properties, and the SDMC does not provide provisions to protect solar access. The property to the north is a two story hotel and two public right-of-ways front the property to the south and west. The single-family residential area is located to the east of the subject property. The single-family residences next door to the subject property would retain approximately 70-85% solar access.

Conclusion:

The proposed project would implement the Residential and Commercial Element goals and recommendations of the community plan of providing additional housing opportunities, promoting a mixture of commercial uses and services within the community, actively encouraging mixed-use development in conjunction with transit corridors such as Mission Boulevard, and providing TOD; therefore, the project as proposed would conform to the goals and recommendations of the PBCP. The proposed project is in conformance with the Local Coastal Program Land Use Plan, the Progress Guide and General Plan, the Strategic Framework Element, and the Housing Element.

The project proposes to utilize renewable energy technology, self-generating at least 50% of the projected total energy consumption on site through photovoltaic technology (solar panels), thus meeting the requirements of Council Policy 900-14, the City Council's Sustainable Building Policy. Therefore, staff recommends to the City Council to deny both appeals and uphold the Planning Commission's decision to approve the project.

FISCAL CONSIDERATIONS: None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: On July 26, 2004, the Pacific Beach Community Planning Committee (PBCPC) voted 13-0-0 to recommend denial of the project. The project was revised and resubmitted for the group's review, and on November 22, 2004, the PBCPC voted 14-0-0 to recommend denial of the revised project. On September 26, 2005, the PBCPC voted 16-0-0 in favor of sending a letter as a synopsis of the PBCPC actions and recommendations (Attachment 11).

KEY STAKEHOLDERS (& Projected Impacts if applicable):

Pacific Beach Investment Trust (Michael E. Turk)

Gary Halbert
Director
Development Services Department

James T. Waring
Deputy Chief of Land Use and
Economic Development

ATTACHMENTS:

1. Location Map
2. Aerial Photograph
3. Community Plan Land Use Map
4. Zoning Map
5. Project Plans as Presented to the Planning Commission
6. Pacific Beach Community Planning Committee Appeal Application
7. Richard S. Pearson Appeal Application
8. Draft Permit with Conditions
9. Draft Resolution with Findings
10. Draft Environmental Resolution
11. Community Planning Group Recommendation
12. Report to the Planning Commission No. PC-06-163
13. PC-06-163 Attachments 18-20***** **(**Letters in Support, Opposition, and Emails)
14. Memo to the Planning Commission dated June 15, 2006, with attachments***** (additional Letters in Support, Opposition, and Emails)

***Note**: Due to the size of the attachments, the distribution will be limited to the City Council Docket binders. A copy is available for review in the Office of the City Clerk. Attachments 11 – 14 are too large to be uploaded on the web.