



**THE CITY OF SAN DIEGO**

**M E M O R A N D U M**

DATE: August 2, 2022

TO: City of San Diego Hearing Officer

FROM: Karen Howard, Development Project Manager, DSD/Project Management Section,

SUBJECT: Hearing Officer Meeting, August 3, 2022, Agenda Item No. 3, Bayside Walk - Project No. 670979

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The attached were revised as described below. These changes are in addition to those addressed in the Hearing Officer memo of July 27, 2022.

1. Revised Hearing Officer report: renumbered list of attachments in support of other changes herein. New Attachment 6 added, previous attachments 6-10 renumbered to 7-11 to match.
2. Revised permit resolution: removed all Tentative Map Waiver-related language, which was not otherwise changed.
3. Revised permit: Revised approval date, utilization date, and signature block.
4. New Tentative Map Waiver resolution (using language removed from permit resolution).
5. Revised map conditions (added Map Waiver expiration date).

Enclosure:

1. Revised HO report
2. Revised Permit Resolution
3. Revised Permit
4. Revised Map Resolution
5. Revised Map conditions

cc: Deputy City Attorney  
Hearing Officer Secretary



THE CITY OF SAN DIEGO

## Report to the Hearing Officer

DATE ISSUED: July 29, 2022 REPORT NO. HO-22-035

HEARING DATE: August 3, 2022

SUBJECT: BAYSIDE WALK - Process Three Decision

PROJECT NUMBER: [670979](#)

OWNER/APPLICANT: 2008 Strand Family Revocable Trust, Subdivider, and Robert J. Bateman, Engineer

### SUMMARY

Issue: Should the Hearing Officer approve the conversion of two existing residential units into two residential condominium units and waive the requirement to underground existing offsite overhead utilities at 3458 and 3460 Bayside Walk within the Mission Beach Community Plan area?

Staff Recommendation: Approve Coastal Development Permit No. 2459718 and Tentative Map Waiver No. 2459717.

Environmental Review: The project was determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15305, Minor Alterations in Land Use Limitations. The environmental exemption determination for this project was made on September 17, 2021, and the opportunity to appeal the determination ended on October 1, 2021. There were no appeals to the environmental determination.

Community Planning Group Recommendation: On October 19, 2021, the Mission Beach Precise Planning (MBPPB) voted 8-0-1 to recommend denial of the proposed project. And commented that the City's landscape recommendations should be followed (Attachment 8).

### BACKGROUND

The 0.06-acre site is located at 3458-60 Bayside Walk within the Mission Beach Planned District Residential-Southern (MBPD-R-S) Zone and the Coastal (Appealable), Coastal Height Limitation, Coastal and Beach Parking Impact, Transit Area Overlay, the First Public Roadway and the Transit Priority Area within the Mission Beach Community Plan area. The site is a level, previously graded and developed with two residential units within a duplex. The immediate area consists of residential developments in a variety of architectural styles and densities.

No new development is proposed with this subdivision. All development was previously approved by construction permits issued via Project No. 371877. On March 11, 2015, Map Waiver No. 1299580 and Coastal Development Permit No. 1315655 was approved to create two residential condominium units and waive the requirement to underground existing overhead utilities. That Map Waiver expired March 21, 2018 before completing the public improvements and filing the Certificate of Compliance.

### DISCUSSION

The project proposes to convert the existing three-story duplex into two residential condominium units. 3458 Bayside Walk is a three story, 1,426 square foot dwelling unit and 3460 Bayside Walk is a three story 1,555 square foot dwelling unit with a deck. Both dwelling units include a two-car tandem garage.

The proposed subdivision is permitted in the MBPD-R-S Zone. The project was also designed to comply with all of the development standards required by the underlying MBPD-R-S Zone, including density, building setbacks, height which is below the 30-foot height limit, and floor area ratio that is below the .70 maximum requirement. No deviations or variances are proposed.

The project site is located less than 1/8 of a mile east of the Pacific Ocean and within the First Public Roadway. There is no public view or coastal access from the project site, as identified in the Community Plan.

### Approvals Required:

Coastal Development Permit - Pursuant to San Diego Municipal Code (SDMC) Section 126.0702, a Coastal Development Permit decided in accordance with a Process 3 is required for all coastal development of a premises within the Coastal Overlay Zone. The mapping action is considered development within the Coastal Overlay Zone.

Map Waiver - Pursuant to SDMC Section 125.0430, a map waiver is required to waive the requirements of a tentative map to create two residential condominiums in accordance with a Process Three. The project will utilize the small lot subdivision ordinance to create two lots through a Tentative Map and includes a waiver to underground existing utilities. A small lot subdivision development is permitted in the MBPD-R-S Zone.

The discretionary actions have been consolidated under this application and processed concurrently, pursuant to the Consolidation of Processing regulations contained in SDMC Section 112.0103. Therefore, the decision to approve, conditionally approve, or deny the project will be made by the Hearing Officer and is appealable to the Planning Commission. For decisions involving coastal development within the appealable area, the entire consolidated decision is appealable to the Coastal Commission.

Community Plan Analysis: The Community Plan designates the project site for medium high density (36 dwelling units per acre) residential land uses and results in two dwelling units per lot, which is consistent with the prescribed density. The proposed residences are located within developed portions of the property and will not adversely impact public resources since the existing residential land use will remain.

The project promotes the Community Plan goal of creating home ownership opportunities and a range of housing types in Mission Beach. The project also complies with the Community Plan policy of promoting energy efficient building design/orientation as well as appliances and technology. The project provides a setting and footprint for future passive natural heating and cooling opportunities due to the subdivision configuration of the rectangular parcel. The front of the residences is oriented to have sunlight that will complement the large glass windows and doors for passive heating opportunities. This orientation also provides access to the coastal breezes, and each lot is elevated above the street for solar opportunities. The project has installed Energy Star appliances, natural cooling ventilation with operable windows, water conserving landscaping, and a high efficiency irrigation system.

The project site does not contain any sensitive habitat, is not in a designated floodway, and is not located within or adjacent to the City's Multiple Species Conservation Program/Multiple Habitat Planning Area. There are no impacts to archaeological resources, and drainage for the project complies with the City's drainage regulations and standards.

Conclusion: Staff has reviewed the proposal, including all the issues identified through the review process, and has determined that all project issues have been addressed. The project conforms with the Community Plan, and the adopted City Council policies and regulations of the Land Development Code. Therefore, draft findings and conditions to support project approval are presented to the Hearing Officer for consideration.

#### ALTERNATIVES

1. Approve Coastal Development Permit No. 2459718 and Tentative Map Waiver No. 2459717 with modifications.
2. Deny Coastal Development Permit No. 2459718 and Tentative Map Waiver No. 2459717 if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Karen Howard, Development Project Manager

#### 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. Draft Map Resolution
7. Draft Tentative Map Conditions
8. Environmental Exemption
9. Community Planning Group Recommendation

10. Ownership Disclosure Statement
11. Map Waiver Exhibit

HEARING OFFICER RESOLUTION NO. \_\_\_\_\_  
COASTAL DEVELOPMENT PERMIT NO. 2459718  
**BAYSIDE WALK – PROJECT NO. 670979**

WHEREAS, The 2008 Strand Family Revocable Trust Subdivider and Robert J. Bateman Engineer submitted an application with the City of San Diego for Coastal Development Permit No. 2459718, to waive the requirement for a Tentative Map to create two residential condominiums, and waive the requirement to underground existing offsite overhead utilities. The project site is located at 3458 and 3460 Bayside Walk. The 0.06-acre site is in the Mission Beach Planned District Residential-Southern (MBPD-R-S) Zone and the Coastal (Appealable), Coastal Height Limitation, Beach Parking Impact, Transit Area Overlay, the First Public Roadway and Transit Priority Area zones within the Mission Beach Community Plan area. The property is legally described as Lot "C" in Block 137 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 excepting therefrom that portion, if any, heretofore or now lying below the mean high tide line of Mission Bay, Formerly False Bay; and

WHEREAS, on September 17, 2021, 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 15305, Minor Alterations in Land Use Limitations and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; and

WHEREAS, on August 3, 2022, the Hearing Officer of the City of San Diego considered Coastal Development Permit 2459718 pursuant to the Land Development Code of the City of

San Diego; NOW THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 2459718:

**A. COASTAL DEVELOPMENT PERMIT [SDMC Section 123.0708]**

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

No new development is proposed with this subdivision. All development was previously approved by construction permits issued pursuant to Project No. 332711. The proposed project is a subdivision of the property to create two condominium ownership interests which comply with the development regulations of the Land Development Code. The project is located between Bayside Walk and Bayside Lane adjacent to Mission Bay and east of Mission Boulevard, two blocks from the Pacific Ocean. The constructed units adhere to the required five-foot side yard setbacks and are built entirely on private property. The project site provides no public access to either Mission Bay or the Pacific Ocean. Mission Bay is accessible to the public via Liverpool Court near the project site and, as the project is not immediately adjacent to Liverpool Court, and proposing no new construction, the project would not hinder this existing public access. As the project adheres to the required five-foot side yard setbacks, and is constructed on private property, the project does not encroach into any public views to Mission Bay or the Pacific Ocean. The Mission Beach Precise Plan/Local Coastal Program states that "Views to, and along the shoreline from public areas shall be protected from blockage by development and or vegetation. This proposal is consistent with the Plan's intent to preserve and improve the physical appearance and character of the Mission Beach Community." As the project would not block existing views to the shoreline from public areas, the proposal is consistent with this goal. As the project would adhere to the required setbacks, is located entirely on private property and would not block existing views to the shoreline, 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.

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

The project is not proposing any new development and is a subdivision for the purpose of condominium creation. The project is located near Mission Bay and would be constructed entirely on private property. All drainage is directed to the City storm drain system and not toward San Diego Bay. Therefore, the project would have no impact on

this sensitive environmental resource. There are no other environmentally sensitive lands near or adjacent to the project. As such, the proposed coastal development will not adversely affect environmentally sensitive lands.

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

The proposed subdivision was determined to be consistent with the development regulations of the MBPD-R-S Zone of the Mission Beach Planned District including height, setbacks, floor area ratio, landscaping, parking and architectural design. The proposed subdivision would be consistent with the land use residential density range of the Mission Beach Precise Plan/Local Coastal Program and compatible with the surrounding area. The immediate area consists of residential developments in a variety of architectural styles and densities. Therefore, the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

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

The project is located within the nearest public roadway and the sea or shoreline of Mission Bay. The roadway is Bayside Lane. However, the project would not block any existing public access to Mission Bay. The nearest public access to the project site is through Liverpool Court. The project is not adjacent to Liverpool Court, would observe all required side yard setbacks, is constructed entirely on private property and would not interfere with any recreation activities along the shoreline at Mission Bay. Therefore, the project is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

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

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit 2459718 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 2459718, a copy of which is attached hereto and made a part



hereof.

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Karen Howard  
Development Project Manager  
Development Services

Adopted on: August 3, 2022

IO#: 24008760

**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: 24008760

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**COASTAL DEVELOPMENT PERMIT NO. 2459718**  
**BAYSIDE WALK PROJECT NO. 670979**  
**HEARING OFFICER**

This Coastal Development Permit No. 2459718 is granted by the Hearing Officer of the City of San Diego to 2008 Strand Family Revocable Trust Subdivider, Owner, and Robert Bateman Engineer, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0707 at 3458 and 3460 Bayside Walk in the Mission Beach Planned District Residential-Southern (MBPD-R-S) Zone, Coastal (Appealable), Coastal Height Limitation, Beach Parking Impact, Transit Area Overlay, the First Public Roadway, and Transit Priority Area zones within the Mission Beach Community Plan area. The property is legally described as Lot "C" in Block 137 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. excepting therefrom that portion, if any, heretofore or now lying below the mean high tide line of Mission Bay, Formerly False Bay.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for a subdivision to create two condominium units for ownership interests described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 3, 2022, on file in the Development Services Department. The project shall include:

- a. An existing three-story duplex building with a roof deck will be converted to condominium ownership per Tentative Map Waiver 2459717;
- b. 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 San Diego Municipal Code (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 August 17, 2025.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required

to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

10. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

**CLIMATE ACTION PLAN REQUIREMENTS:**

11. 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.

**AFFORDABLE HOUSING REQUIREMENTS**

12. Prior to the issuance of any building permits, the Owner/Permittee shall comply with the affordable housing requirements of the City's Inclusionary Affordable Housing Regulations (SDMC § 142.1301 et seq.). The applicant proposes converting two existing dwelling units to condominiums. Therefore, the project is subject to the City's Inclusionary Affordable Housing Regulations."

**PLANNING/DESIGN REQUIREMENTS:**

13. 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 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 authorized by the appropriate City decision maker in accordance with the SDMC.

14. 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 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 Hearing Officer of the City of San Diego on August 3, 2022 and [Approved Resolution Number].

**ATTACHMENT 5**

Coastal Development Permit No. 2459718  
Date of Approval: August 3, 2022

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
Karen Howard  
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.

**Geoffrey S. Strand and Cynthia K. Strand,  
or their successors, as Trustees of The 2008  
Strand Family Revocable Trust dated  
December 17, 2008**  
Owner/Permittee

By \_\_\_\_\_  
Geoffrey S. Strand, Trustee

By \_\_\_\_\_  
Cynthia K. Stand, Trustee

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

RESOLUTION NO. \_\_\_\_\_  
DATE OF FINAL PASSAGE AUGUST 3, 2022

A RESOLUTION OF THE HEARING OFFICER ADOPTING THE FINDINGS AND  
APPROVING TENTATIVE MAP WAIVER NO. 2459717 FOR  
BAYSIDE WALK – PROJECT NO. 670979

WHEREAS, the 2008 Strand Family Revocable Trust Subdivider and Robert J. Bateman, Engineer, submitted an application with the City of San Diego for Map Waiver No. 2459717, to waive the requirement for a Tentative Map to create two residential condominiums and to waive the requirement to underground existing offsite overhead utilities; and

WHEREAS, the 0.06-acre project site is located at 3458 and 3460 Bayside Walk and the property is legally described as Lot "C" in Block 137 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 excepting therefrom that portion, if any, heretofore or now lying below the mean high tide line of Mission Bay, Formerly False Bay; and

WHEREAS, the Map proposes the subdivision of a 0.06-acre site into two (2) lots for a two-unit residential condominium conversion; and

WHEREAS, on September 17, 2021, 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 15305, Minor Alterations in Land Use Limitations and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

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

WHEREAS, on August 3, 2022, the Hearing Officer of the City of San Diego considered Tentative Map Waiver No. 2459717 to waive the requirement to underground existing offsite overhead utilities, and pursuant to sections 125.0440 (tentative map), 125.0444 (condo conversion), and 144.0242 (underground) of the San Diego Municipal Code and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the Hearing Officer of the City of San Diego having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Map Waiver No. 2459717:

**A. Findings for a Tentative Map – SDMC Section 125.0440**

**1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan.**

No new development is proposed with this subdivision. All development was previously approved by construction permits issued pursuant to Project No. 371877. The previous approval expired before completing the public improvements and filing the Certificate of Compliance. The project site is located within the First Public Roadway, and there is no public accessway or public views from the project site. The 0.06-acre site is designated in the Mission Beach Community Plan for MBPD-R-S residential uses (36 dwelling units/acre), and the project conforms with the prescribed density. The project promotes the Community Plan goal of creating home ownership opportunities and a range of housing types in Mission Beach. The Community Plan also encourages residential projects to construct energy efficient buildings and products. The previously constructed development compiles with this community goal by incorporating energy efficient appliances and technology in the units. The residential development is consistent with the residential land use designation within the Mission Beach Precise Plan. Therefore, the proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code 125.0440(a) and Subdivision Map Act 66473.5, 66474(a),



and 66474(b)).

**2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.**

The proposed subdivision was determined to be consistent with the development regulations of the RS Zone of the Mission Beach Planned District, including height, setbacks, floor area ratio, landscaping, parking and architectural design. The two units will be converted to condominium ownership through a Tentative Map Waiver. The subdivision complies with SDMC Section 125.0440 and a Tentative Map Waiver is authorized for a condominium conversion project that creates four or fewer condominiums units. The project was also designed to comply with all of the development standards required by the underlying zone, including density, building setbacks, and height that is below the 30-foot height limit, and floor area ratio that is below the .70 maximum requirement. No deviations or variances are required. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (San Diego Municipal Code § 125.0440(b)).

**3. The site is physically suitable for the type and density of development.**

The proposed subdivision was determined to be consistent with the development regulations of the RS Zone of the Mission Beach Planned District including height, setbacks, floor area ratio, landscaping, parking and architectural design. The proposed subdivision would be consistent with the land use residential density range of the Mission Beach Precise Plan and compatible with the surrounding area. The project site is served by existing public infrastructure/utilities and does not contain nor is adjacent to any sensitive biological resources, environmentally sensitive lands, and is not located within a coastal bluff, beach, or special flood area. Therefore, the site is physically suitable for the type and density of development. The immediate area consists of residential developments in a variety of architectural styles and densities. Therefore, the site is physically suitable for the type and density of development which comply with the development regulations of the Land Development Code. The 0.06-acre site is designated in the Mission Beach Community Plan for MBPD-R-S residential uses (36 dwelling units/acre), and the project conforms with the prescribed density. Therefore, the proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code § 125.0440(a) and Subdivision Map Act §§ 66473.5, 66474(a), and 66474(b)) development.

**4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

The site is a level, previously graded site developed with two units. Surrounding the property are other residential developments. The proposed development was determined to be exempt from the California Environmental Quality Act pursuant to Section 15305, Minor Alterations. The project is located within an urbanized and built out environment where there are no watercourses on, or adjacent to, the site. Therefore, the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (San Diego Municipal Code § 125.0440(d) and Subdivision Map Act § 66474(e)).

**5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare.**

The Map Waiver includes conditions and corresponding exhibits of approval relevant to undergrounding new utilities, provision for public improvements and paying applicable taxes to achieve compliance with the regulations of the Land Development Code. The subdivision was reviewed and determined to be in compliance with the San Diego Municipal Code (SDMC) and Subdivision Map Act. The project must satisfy conditions of approval of Tentative Map Waiver No. 2459717 and Coastal Development Permit No. 2459718 to achieve compliance with the regulations of the SDMC. The project was determined to not create an environmental impact as evidenced by the issuance of a categorical exemption pursuant to the California Environmental Quality Act Section 15301, Existing Facilities. Therefore, the design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (San Diego Municipal Code § 125.0440(e) and Subdivision Map Act § 66474(f)).

**6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.**

No new easements are proposed within the project boundaries as shown on Map Waiver No. 2459717 and all existing easements for the public right-of-way will remain in the existing condition. As such, the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (San Diego Municipal Code § 125.0440(f) and Subdivision Map Act § 66474(g)).

**7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities.**

All development was previously approved by construction permits issued pursuant to Project No. 322711. The proposed subdivision to create two residential condominium units would not impact future passive or natural heating and cooling opportunities. The project provides a setting and footprint for future passive natural heating and cooling opportunities due to the subdivision configuration of the rectangular parcel. The front of the residences are oriented to have sunlight that will complement the large glass windows and doors for passive heating opportunities. This orientation also provides access to the coastal breezes, and each lot is elevated above the street for solar opportunities. The project has installed energy star appliances, natural cooling ventilation with operable windows, water conserving landscaping, and a high efficiency irrigation system. Therefore, the design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities.

**8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.**

The Tentative Map Waiver will create two for-sale units. The current zoning and land use designation allow up to two units on the site. Currently, there are commercial services, public transportation, and retail sales within the immediate area to service the future residents of the proposed condominium units. The project site is designated for 36 dwelling units per acre (DU/ AC) and the two units located on the 0.06-acre site result in a density of 32 DU/AC. The development complies with land use

requirements, setbacks, height, floor area ratio, off-street parking, and landscape regulations of the underlying zone and current Map Waiver regulations in accordance with San Diego Municipal Code (SDMC) section 144.0501. Therefore, the decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.

**B. Findings for a Tentative Map for a Condominium Conversion – SDMC Section 125.0444**

**1. The notices required by San Diego Municipal Code section 125.0431 have been given in the manner required.**

A 60-Day Notice of Intent to Convert to Condominiums and Notice of Tenant Rights have been provided to all project site tenants as required per SDMC section 125.0431. Therefore, all applicable notices required by the San Diego Municipal Code section 125.0431 have been provided in the manner required.

**2. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low-income housing.**

The proposed project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low-income housing. Therefore, this finding does not apply.

**3. For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed.**

The proposed project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low-income housing. Therefore, this finding does not apply.

NOW, THEREFORE, BE IT RESOLVED THAT the above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that based on these Findings adopted by the Hearing Officer, Tentative Map Waiver No. 2459717 is hereby granted to 2008 Strand Family Revocable Trust subject to the attached conditions which are made a part of this resolution by this reference.

By \_\_\_\_\_  
Karen Howard  
Development Project Manager  
Development Services Department

## ATTACHMENT 7

HEARING OFFICER  
CONDITIONS FOR MAP WAIVER NO. 2459717  
**BAYSIDE WALK - PROJECT NO. 670979**  
ADOPTED BY RESOLUTION NO. ON AUGUST 3, 2022

### GENERAL

1. This Map Waiver will expire August 3, 2025.
2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Certificate of Compliance unless otherwise noted.
3. Prior to the Map Waiver expiration date, a Parcel Map to subdivide the 0.063-acre site into two parcels shall be recorded in the Office of the San Diego County Recorder.
4. A Certificate of Compliance shall be recorded in the Office of the San Diego County Recorder, prior to the Map Waiver expiration date.
5. Prior to the recordation of the Parcel Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
6. The Certificate of Compliance shall conform to the provisions of Coastal Development Permit No. 2459718.
7. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify the Subdivider of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not be required to pay or perform any settlement unless such settlement is approved by the Subdivider.

### CONDOMINIUM CONVERSION

8. Prior to the approval of the Condominium Conversion, the applicant shall demonstrate compliance with the provisions of the Condominium Conversion Regulations of Chapter 14, Article 4, Division 5 of the San Diego Municipal Code and the provisions of the Inclusionary Affordable Housing Regulations of San Diego Municipal Code Chapter 14, Article 2, Division 13 and the Inclusionary Housing Procedures Manual. The Owner/Permittee shall either

## ATTACHMENT 7

show evidence that relocation assistance has been paid to eligible tenants or enter into a written Agreement with the San Diego Housing Commission which shall be drafted and approved by the San Diego Housing Commission, executed by the Owner/Permittee, and secured by a deed of trust which incorporates applicable relocation benefit conditions consistent with the San Diego Municipal Code. To demonstrate compliance with the Inclusionary Affordable Housing Regulations, the Owner/Permittee shall pay the applicable Inclusionary Affordable Housing In-Lieu Fee.

9. The Subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
  - a. For existing tenants, within 10 days of the project application for the condominium conversion being deemed complete; or
  - b. For prospective tenants, upon application for the rental of a unit in the proposed condominium conversion.
10. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the Subdivision Map Act.
11. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Subdivision Map Act section 66427.1(a)(2)(E). The provisions of this condition shall neither alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Civil Code sections 1941, 1941.1 and 1941.2.
12. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days after approval of a Certificate of Compliance for the proposed conversion, in conformance with Subdivision Map Act section 66427.1(a)(2)(D).
13. The Subdivider shall give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (San Diego Municipal Code § 125.0431(a)(4)).
14. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Subdivision Map Act section 66427.1(a)(2)(F) and San Diego Municipal Code section 125.0431(a)(5). The right shall commence on the date the subdivision public report is issued, as provided in section 11018.2 of the Business and Professions Code, and shall run for a period of not less than 90 days, unless the tenant gives prior written notice of his or her intention not to exercise the right. (San Diego Municipal Code § 125.0431(a)(5)).

## ATTACHMENT 7

15. The Subdivider shall provide a copy of the Building Conditions Report to a prospective purchaser prior to the opening of an escrow account. (San Diego Municipal Code § 144.0504(c)).
16. Prior to the recordation of the Certificate of Compliance, the Subdivider shall demonstrate conformance with the San Diego Municipal Code provisions for building and landscape improvements (San Diego Municipal Code § 144.0507), to the satisfaction of the City Engineer.

### **AFFORDABLE HOUSING**

17. Prior to the approval of the Condominium Conversion, the applicant shall demonstrate compliance with the provisions of the Condominium Conversion Regulations of Chapter 14, Article 4, Division 5 of the San Diego Municipal Code and the provisions of the Inclusionary Affordable Housing Regulations of San Diego Municipal Code Chapter 14, Article 2, Division 13 and the Inclusionary Housing Procedures Manual.
18. The Owner/Permittee shall either show evidence that relocation assistance has been paid to eligible tenants or enter into a written Agreement with the San Diego Housing Commission which shall be drafted and approved by the San Diego Housing Commission, executed by the Owner/Permittee, and secured by a deed of trust which incorporates applicable relocation benefit conditions consistent with the San Diego Municipal Code. To demonstrate compliance with the Inclusionary Affordable Housing Regulations, the Owner/Permittee shall pay the applicable Inclusionary Affordable Housing In-Lieu Fee.
19. Prior to recordation of the Certificate of Compliance, the Subdivider shall enter into a written agreement with the San Diego Housing Commission to pay the condominium conversion inclusionary housing fee pursuant to the Inclusionary Affordable Housing Regulations (San Diego Municipal Code § 142.1301 *et seq.*).
20. Prior to the recordation of the Certificate of Compliance, the Subdivider shall demonstrate conformance with the San Diego Municipal Code provisions for Coastal Overlay Zone Affordable Housing Replacement Regulations (San Diego Municipal Code § 143.0810 *et seq.*), to the satisfaction of the Development Services Department and the San Diego Housing Commission.
21. Prior to the recordation of the Certificate of Compliance, the Subdivider shall demonstrate conformance with the San Diego Municipal Code provisions for Tenant Relocation Benefits (San Diego Municipal Code § 144.0505), to the satisfaction of the Development Services Department and the Housing Commission.

### **ENGINEERING**

22. The Certificate of Compliance shall comply with the provisions of Coastal Development Permit No. 2459718.
23. The subdivider shall assure by permit and bond the replacement the existing alley with current City standard concrete alley, adjacent to the site, satisfactory to the City Engineer.

## ATTACHMENT 7

24. The Subdivider shall obtain a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.
25. The Subdivider shall prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot

### **MAPPING**

26. A Certificate of Compliance (COC) shall be recorded with the County Recorder prior to the expiration date of the Tentative Map Waiver (TMW).
27. Prior to the recordation of the Certificate of Compliance, all conditions in the Tentative Map Waiver (TMW) Resolution of Approval must be satisfied.
28. Prior to the recordation of the Certificate of Compliance, taxes must be paid or bonded for this property pursuant to section 66492 of the Subdivision Map Act. A current original tax certificate, recorded in the office of the San Diego County Recorder, must be provided to satisfy this condition.
29. If a tax bond is required as indicated in the tax certificate, ensure that it is paid or posted at the County Clerk of the Board of Supervisors Office and supply proof prior to the recordation of the Certificate of Compliance.
30. Prior to the issuance of a Certificate of Compliance, City staff will perform a field monument inspection to verify that all property corners are being marked with survey monuments. If any of the survey monuments are missing, it must be replaced with a new monument, and a Corner Record or Record of Survey (whichever is applicable) shall be filed with the County Recorder pursuant to the Professional Land Surveyors Act. A copy of the filed Corner Record or Record of Survey must be submitted to satisfy this requirement prior to the approval and recordation of the Certificate of Compliance.

### **INFORMATION:**

- The approval of this Map Waiver by the Hearing Officer of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 *et seq.*).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.

## ATTACHMENT 7

- Subsequent applications related to this Map Waiver will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Map Waiver, may protest the imposition within 90 days of the approval of this Map Waiver by filing a written protest with the San Diego City Clerk pursuant to Government Code Sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code Section 142.0607).

Internal Order No. 24008760

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