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MARIANNE F. MINGUET
E-Mail: mminguet@hsrgb.com

October 5, 2007

Via Electronic Mail and Messenger

California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, California 92108

RECEIVED

OCT 05 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Pacific Tides (Application No. 6-OCN-07-196)
Thursday, October 11, 2007

Dear Chairman Kruer and Members of the Coastal Commission:

This firm represents 20 Morgan, LLC in connection with the above-referenced project ("Project"). The purpose of this letter is to address each of the grounds cited by your staff in the Staff Report and Recommendation on Appeal dated September 26, 2007 ("Staff Report") for its recommendation that the Commission find substantial issue with the Project. As indicated in the Staff Report, the primary reason for staff's recommendation is based on the vacation of a portion of Witherby Street. Staff asserts that the vacation raises substantial issue with (1) public parking, (2) public views, and (3) compatibility with surrounding development. This letter explains why no such substantial issue exists.

1. **Public Parking.** The parking plan for the Project clearly complies with the City's LCP Policy that efforts shall be made to provide additional public beach parking facilities to serve anticipated future demand. In addition to the eleven (11) on-site parking spaces provided by the Project and the bicycle racks that have been proposed to be installed as part of the Project, the Project applicant will be putting in four (4) additional public parking spaces that otherwise would not exist near the Project site. The City of Oceanside ("City") has already indicated that it did not have funds for or plans to put such public parking spaces in the area of the Project. Staff, however, insists that the maximum number of parking spaces should be and can be obtained through back-to-back diagonal parking, *i.e.*, diagonal parking on the south and north sides of Witherby Street.

Staff's position is flawed for two (2) reasons. The first reason is the above-described LCP Policy is not a mandate, but a statement of policy recognizing that limitations on providing additional public parking may exist. The policy states "efforts shall be made to provide additional public beach parking facilities" not "additional public beach parking facilities shall be provided". No such mandatory language is found in that policy. Practical limitations, therefore, should be taken into consideration when determining how much additional public beach parking can be and should be provided by a project.

Those limitations lead us to the second reason staff's position is flawed. A requirement that the Project maximize the number of public parking spaces completely ignores the fact that back-to-back diagonal parking on Witherby Street creates an unsafe condition and poses an unacceptable hazard to public safety. The existence of the public safety issue makes immaterial that the City did not expressly cite that issue when it voted to issue the Coastal Development Permit for the Project. What is material is that *both* the Project applicant's engineer *and* the City concluded that the back-to-back diagonal design for public parking on Witherby Street is unsafe and subsequently provided written statements to that effect to your staff. Those statements were included in the Staff Report [*Letter from Ronald L. Holloway, BHA, Inc. dated September 21, 2006*]; [*Letter from Jerry Hittleman, City Planner, City of Oceanside Community Development Department/Planning Division dated September 25, 2007*]. For your convenience, we have included them again with this letter as Exhibit 1 attached hereto.

In short, the fact that the City did not initially address the public safety issue does not negate that a public safety issue will be created on Witherby Street if back-to-back diagonal parking is implemented. Increasing public access to the beach should not be at the expense of public safety. The policies articulated in the California Coastal Act clearly could not have intended this result.

The Project provides four (4) additional public parking spaces and conforms to the City's LCP Land Use Policy that efforts be made to provide additional public beach parking facilities to serve anticipated future demand.

2. **Public Views.** The City found that the Project will not substantially alter or impact existing public views of the coastal zone. The Staff Report nonetheless states that the vacated right-of-way may result in impacts to both public view opportunities from Tait Street and Witherby Street as well as from the entire portion of the vacated right-of-way. Attached as Exhibit 2 are a series of pictures that show the viewing opportunities from Tait Street through Witherby Street. The last picture best reflects what impact the Project may have on public views to the coastal zone. As described in the Staff Report, the vacation of a portion of Witherby Street permitted a larger building envelope for the Project. The increased building envelope reduces the view line from Tait Street through Witherby Street by approximately four (4) feet only.

Based on such *de minimus* reduction, a finding that the Project has no substantial impact on public views of the coastal zone is proper.

3. **Compatibility with Surrounding Development.** The City found the Project compatible with existing and potential development of surrounding area, including the 1300 block of S. Pacific Street. Your staff, however, concluded that the building "may be out of scale with the immediately surrounding community" and that a comparative analysis must be completed. Below is a table that provides (i) the total building square footages, (ii) lot sizes and (iii) floor area ratios of the Project and three (3) other properties located within the 1300 block of S. Pacific Street. The data was compiled based on property profiles produced by Chicago Title Company and the San Diego County Assessor's parcel maps.

<u>Street Address</u>	<u>Total Square Footage</u>	<u>Lot Size</u>	<u>Floor Area Ratio</u>
Our Project	8,385	7,405	1.13
1313 S. Pacific Street	3,462	4,872	0.71
1314 S. Pacific Street	7,430	7,495	0.99
1324 S. Pacific Street	7,590	7,497	1.01

The comparative analysis above illustrates that the Project is compatible in scale with the surrounding community and conforms to the City's LCP Land Use Policy that all new development is compatible with the surrounding community.

Also, at staff's prior request, we have included the "green building" information for the Project as Exhibit 3 attached hereto.

Please contact me with any questions regarding the foregoing.

Very truly yours,



Marianne F. Minguet
HECHT SOLBERG ROBINSON GOLDBERG & BAGLEY LLP

335537_1

cc: Mr. Michael Chegini
Mr. Brian Knochenhauer

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EXHIBIT 1

Letters Regarding Public Parking

[Attached]

bha, Inc.
land planning, civil engineering, surveying

ROD BRADLEY, *Urban Planner*
RONALD L. HOLLOWAY, *Civil Engineer*

September 21, 2006
W.O. 790-1064-400

Mr. Mike Chegini
20 Morgan Investments, LLC
20 Morgan
Irvine, CA 92618

RE: Witherby Street Vacation

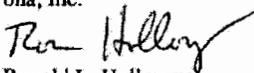
Dear Mr. Chegini:

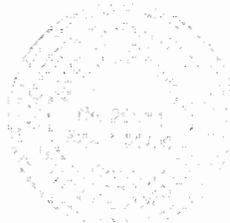
Pursuant to our meeting on Monday with the California Coastal Commission, we have reviewed our prior correspondence with the City of Oceanside regarding the street vacation of Witherby Street. In our May 31st, 2006 letter to Maryam Wagner, we stated in our professional opinion we did not consider diagonal parking a safe condition for a residential street. The City however asked us to provide additional parking on the south side of Witherby Street by using diagonal parking, and parallel parking on the north side of the street. The project was approved by the City of Oceanside with this configuration.

In our professional opinion use of diagonal parking on both sides of Witherby is an unsafe condition due to the limited site distance for both the driver backing out of the parking space on the north side of the street and the driver turning the corner from Tait Street. In the American Association of State Highway and Transportation Officials publication "A Policy on Geometric Design of Highways and Streets 1990", it states "on-street diagonal parking decreases through capacity, impedes traffic flow and increases accident potential." It also states "The principal problem of diagonal or angle parking when compared to parallel parking is the lack of adequate visibility for the driver during the back-out maneuver." For these reasons, we believe the current design is a good compromise between parking needs and safe engineering design.

Please contact our office if you have any questions or comments.

Sincerely,
bha, Inc.


Ronald L. Holloway
Principal Engineer



CC: Ken Chriss

street vacation-ccc.ltr

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CITY OF OCEANSIDE

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION

September 25, 2007

Mr. Lee McEachem
California Coastal Commission
7575 Metropolitan Drive
Suite 103
San Diego, California 92108-4402

RE: Pacific Tides Project

Dear Lee:

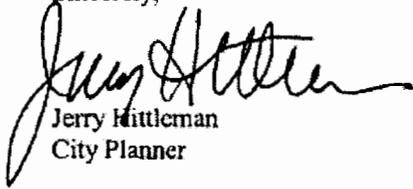
We understand that the on-street parking layout for the Pacific Tides project is currently being analyzed by the Coastal Commission. City staff recommended approval of the current layout – diagonal parking on the south side of Tait Street and parallel parking on the north side – and the City's Planning Commission approved the project for the following reasons:

- The use of diagonal parking on both sides of Witherby is an unsafe condition due to the limited site distance for both the driver backing out of the parking space on the north side of the street and the driver turning the corner from Tait Street. In the American Association of State Highway and Transportation Officials publication "A Policy on Geometric Design of Highways and Streets 1990," it states "on-street diagonal parking decreases through capacity, impedes traffic flow and increases accident potential." It also states "The principal problem of diagonal or angle parking when compared to parallel parking is the lack of adequate visibility for the driver during the back-out maneuver." For these reasons, the City of Oceanside believes that the current design is a safe engineering design.
- Diagonal parking on both sides of the street would create a parking lot in front of residential homes. This does not match the existing character of on-street parking in this neighborhood. While the parking demand is present in this area, increased on-street parking through more diagonal parking stalls would present a noise and enforcement problem for the residents. Additionally, the proposed project will result in a net gain of 4 parking spaces on this portion of Tait Street.
- Diagonal parking proposed on the south side of Witherby would be installed by the applicant in lieu of 14' of street vacation on the north side (with parallel parking). If the City did not allow the street vacation to occur, then the applicant could only be required to install diagonal parking along their project frontage and not on both sides of the street.

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Please contact me at 760-435-3535 or our Traffic Planner, John Amberson at 760-435-5091, if you have any questions.

Sincerely,



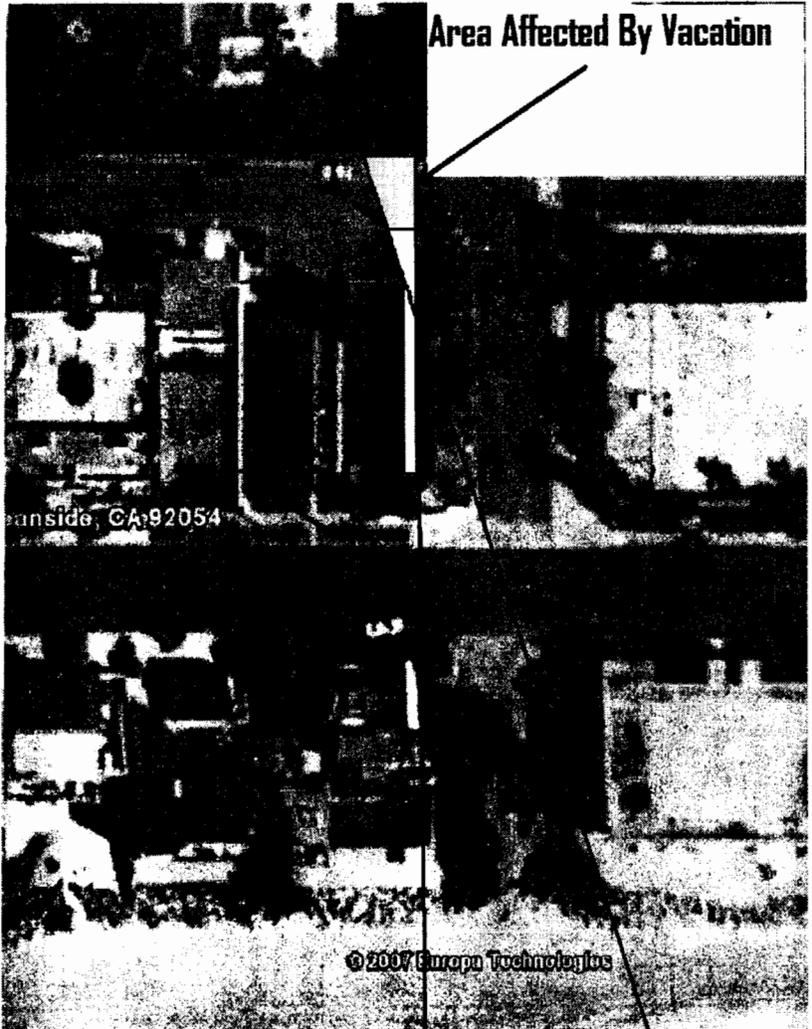
Jerry Hittleman
City Planner

Cc: John Amberson, Traffic Division
Leslie Gallagher, City Attorney's Office
Juliana von Hacht, Project Manager

EXHIBIT 2

Public Views

[Attached]



Area Affected By Vacation

anside, CA 92054

© 2007 Europa Technology

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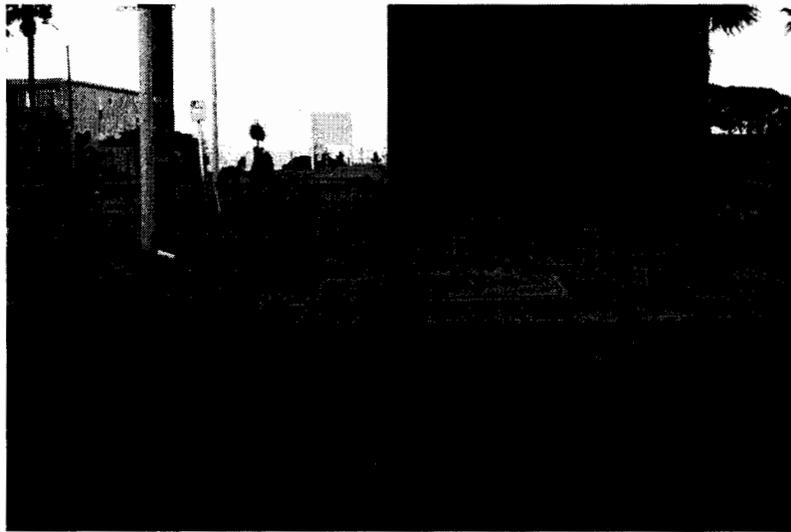


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* In the picture above, the lighter shaded portion reflects the impacted public view area.



				properties and will conform with light mitigation requirements. ie providing pedestrian light without affecting the neighbors	
10	Refrigerant (Ozone)	1	Yes	Will provide Puron System	1
11	Title 24	up to 10	Yes	The project exceeds title 24 by 25% or more per unit. Can reach 30%	4
12	Energy Star Appliances	1	Yes	Project will be provided with Energy Star Appliances	1
13	Light Power Savings	1	Yes	The project is saving an estimated 1911 watts by using flourescent lighting in the closets, kitchens, and bathrooms.	1
14	Recirculating Pump/Water Heater	1	Yes	The pump is provided with a time clock so that it does not operate 24hours/day	1
15	Certified Lumber	1	No	Not pursuing at the time	0
16	Designate 1 stall as carpool	1	No	Up to the city	0
17	Not Disturbing soil more than 40 feet from site	1	Yes	Project limits are within 40 feet	1
18	Heat island	1	Yes	Landscaping provided on 37% of site. LEED requirement is 30%	1
19	Energy Star Roof	1	Yes	Roof will be changed to white reflective energy star roof.	1
20	Green Power Credit	1	No	Need to verify	0

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				whether SDGE provides	
21	Construction Waste Management	1	Yes	Will used certified waste hauler. State mandated	1
22	20% of materials originating within 500 miles	1	Yes	Between concrete, landscaping, reinforcing, masonry, flooring, and cabinets can do this	1
23	50% of materials originating within 500 miles	1	No	Don't know	0
24	Low VOC Adhesive	1	Yes	Mandated by SCAQMD	1
25	Green Seal with Adhesives	1	Yes	Will Pursue	1
26	Carpet with Green Seal	1	Yes	Will Pursue	1
27	Composite wood with no added formaldehyde	1	Yes	Level TJI's do not use formaldehyde	1
28	Humidity Control	1	Yes	Current system qualifies	1
29	Direct line of site to exterior from 90% of building	1	Yes	Current Design works	1
					27

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CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



Th 7c

Filed: August 31, 2007
49th Day: October 19, 2007
Staff: Toni Ross-SD
Staff Report: September 26, 2007
Hearing Date: October 10-12, 2007

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: The City of Oceanside

DECISION: Approved with Conditions

APPEAL NO.: A-6-OCN-07-103

APPLICANT: 20 Morgan LLC.

PROJECT DESCRIPTION: The demolition of 3 residential units totaling 1,430 sq. ft. and the construction of a 2-story over basement, 27 ft. high, 3-unit condominium building totaling 8,385 sq. ft. (Unit A = 2,835 sq. ft.; Unit B = 2,814 sq. ft.; Unit C = 2,736 sq. ft.) on a .17 acre site. Also proposed is the vacation of 1,400 sq. ft. (14 ft. x 100 ft.) of public right-of-way along the north side of Witherby Street.

PROJECT LOCATION: 1334 South Pacific St, Oceanside, San Diego County.
APN 152-143-09, 10.

APPELLANTS: Commissioner Patrick Kruer, Commissioner Ben Hueso

STANDARD OF REVIEW: Certified City of Oceanside Local Coastal Program and the public access policies of the Coastal Act.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS: The City of Oceanside's certified LCP; City's staff report dated April 9, 2007; City Resolution for RC-22-05; Appeal forms; Letter from project engineer Ronald Holloway dated September 21, 2007; Letter from City Planner Juliana von Hacht dated September 18, 2007.

I. Appellants Contend. The project as approved by the City is inconsistent with the policies and provisions of the City's certified Local Coastal Program pertaining to the protection of recreational and visitor serving facilities, public access and protection of public views. Specifically the vacation of the public right-of-way may have impacts on public parking and public views and would allow for a larger and potentially out-of-scale development (ref. Exhibit #5 attached).

II. Local Government Action. The Planning Commission approved the coastal development permit on April 9, 2007. Conditions placed on the project include drainage for the subterranean garage, erosion control, the public street vacation, and improvements to Witherby Street, including the construction of 6 diagonal parking spaces to be located adjacent to the property on the south side on Witherby, to be reserved as public free parking (ref. Exhibit #6 attached).

III. Appeal Procedures. After certification of a municipality's Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit applications, as laid out in the Coastal Act, section 30603. The grounds for such an appeal are limited to the assertion that "development does not conform to the standards set forth in the certified local coastal program or the [Coastal Act] public access policies." Cal. Pub. Res. Code § 30603(b)(1).

After the local government has taken final action on an appealable project, it must send a notice of that final action (NOFA) to the Commission. Cal. Pub. Res. Code § 30603(d); 14 C.C.R. § 13571. Upon proper receipt of a valid NOFA, the Commission establishes an appeal period, which runs for 10 working days. Cal. Pub. Res. Code § 30603(c); 14 C.C.R. § 13110 and 13111(b). If an appeal is filed during the appeal period, the Commission must "notify the local government and the applicant that the effective date of the local government action has been suspended," 14 C.C.R. § 13572, and it must set the appeal for a hearing no later than 49 days after the date on which the appeal was filed. Cal. Pub. Res. Code § 30621(a).

Section 30625(b)(2) of the Coastal Act requires the Commission to hear an appeal of the sort involved here unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project either immediately or at a subsequent meeting. If the Commission conducts a de novo hearing on the permit application, the applicable test for the

Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Coastal Act requires that, for a permit to be granted, a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

The only persons qualified to testify before the Commission at the “substantial issue” stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-OCN-07-103 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-6-OCN-07-103 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

1. Project Description. The proposed project includes the demolition of a single-story, 3-unit residential building and the construction of a two-story over basement, 27 ft. high, 3-unit condominium development in the City of Oceanside. The existing building

to be demolished totals 1,430 sq. ft. and the new building to be constructed will total 8,385 sq. ft. (Unit A = 2,835 sq. ft.; Unit B= 2,814 sq. ft.; Unit C = 2,736 sq. ft.). The .17 acre project site is a corner lot with Pacific Street to the west, Witherby Street to the south and Tait Street to the east. Surrounding uses include multi-family residential development to the north, single- and multi-family residential to the west and the City of Oceanside La Salina Waste Water Treatment Plant to the south and east. There is a public beach accessway located south west of the project site at the Witherby Street-end. The project site is located within 300 ft. of the inland extent of the beach.

The project, as approved by the City also includes a 1,400 sq. ft. (14 ft. x 100 ft.) vacation of the public right-of-way on Witherby Street. As approved, the project will eliminate 3 on-street parking spaces on both the north and south side of Witherby Street (total of 6) and replace them with 7 diagonal on-street spaces on the south side of Witherby Street and 3 parallel on-street spaces on the north side of Witherby Street (total of 10) for a net gain of 4 on-street parking spaces. The zoning designation for the site is Residential Tourist (RT) and the Land Use Category is Urban High Density Residential.

2. Public Access. The appellants contend that the project, as approved by the City, is inconsistent with the certified LCP in that approval of the 1,400 sq. ft. street vacation would eliminate the possibility of this area being improved in the future for additional public beach parking. As approved, the City granted a vacation of this 1,400 sq. ft. area to the applicant, and this area was incorporated into the project design allowing for a larger development envelope. Because this area will now be developed, it cannot be utilized to maximize public beach parking on Witherby Street. The City of Oceanside certified LCP Land Use Plan has provisions relating to beach parking facilities and states, in part:

City of Oceanside LCP Land Use Policies – Beach Parking

[...]

13. Efforts shall be made to provide additional public beach parking facilities to serve anticipated future demand. Priority should be given for new parking facilities to serve the following locations:

[...]

b. The beach area between Wisconsin and Witherby

[...]

17. The City shall require that all new residential development provides adequate on-site parking. In areas where beach parking requirements for new residential development shall be strictly enforced. Curb cuts for new development shall be held to a minimum to preserve existing on-street parking.

As noted above, the project, as approved by the City, includes the vacation of approximately 1,400 sq. ft. of public right-of-way along Witherby Street, to allow for a larger development envelope and larger units. To off-set the vacation of public right-of-way, the applicant proposed the improvement of additional public parking spaces along the southern side of Witherby Street. Current conditions only allow for approximately three parallel parking spaces on both the south- and north-side of Witherby Street. The approved development will result in the removal of three existing parallel public parking spaces on the south side of Witherby Street and cutting into the existing curb to construct seven diagonal parking spaces in their place. On the north side of Witherby Street, three existing parallel parking spaces will be removed and replaced. Thus, as approved by the City, six existing on-street public parking spaces will be removed and replaced with 10 on-street public parking spaces.

The above cited LCP provisions require that efforts shall be made to provide additional public beach parking facilities to serve anticipated future demand at this project location. The project site is located just ½ block inland of the beach on a street that terminates at the beach and provides direct beach access. Other than on-street parking, there are no public beach parking lots in the surrounding community. Thus, while the net increase of four public parking spaces will be an improvement, without the vacation of the public right of way, this area could be improved in the future to provide even more public parking spaces. As proposed, an increase in four parking spaces does not adequately provide for future parking demands at this near beach location when seven or more additional public parking spaces could be provided were it not for the City vacating the 1,400 sq. ft. of public right-of-way. While the applicant's engineer indicates that providing diagonal parking on both sides of Witherby Street would create an unsafe condition due to the limited site distance (ref. Exhibit #8 attached), the City did not specifically address this issue in its review. In addition, in a letter received from City Planning Staff on September 26, 2007, a similar argument is made (ref. Exhibit #7 attached). Both letters quote from a 1990 publication which states that on-street diagonal parking impedes traffic flow and increases the potential for accidents. However, the publication does not indicate that on-street diagonal parking should not be used and in fact, the City did approve diagonal parking on the south side of Witherby street. In any case, this issue was not specifically addressed by the City in its review. Therefore, the Commission finds that the project, as approved by the City, raises a substantial issue with regards to the grounds on which the appeal was filed relative to protection and future construction of public beach parking.

3. Public Views/Scale of Development. The appellants contend that the project, as approved by the City, is inconsistent with the certified LCP with regards to protection of public views and scale of development. Specifically, the appellants contend that the approved development will result in impacts to public views as the vacation of the 1,400 sq. ft. of public right-of-way will allow for development to occur within the Witherby Street public view corridor. Further, the development approved by the City will replace an existing 1,430 sq. ft. one-story building with a 2-story over basement, 8,385 sq. ft. building. This increase in square footage and height could result in a development that is

out of scale with the surrounding community. The City of Oceanside certified LCP has provisions for protection of public views and scale of development and states:

City of Oceanside LCP Land Use Policies for Visual Resources

Findings.

[...]

2. The City's grid street pattern allows public views of these water bodies from several vantage points. Most east-west streets in the Coastal Zone offer views of the ocean...

Policies.

[...]

4. The city shall maintain existing view corridors through public rights-of-way.

[...]

8. The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

City of Oceanside LCP – Design Standards for Preserving and Creating Views

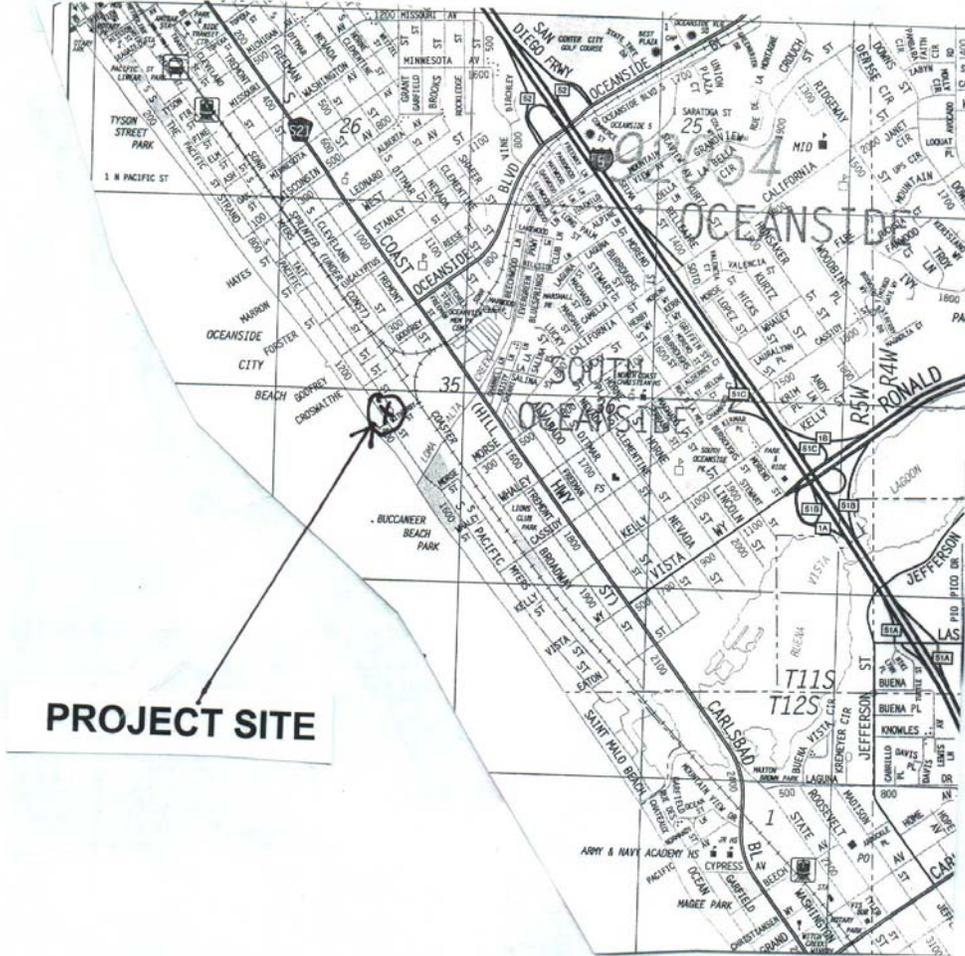
The visual orientation to the Pacific Ocean is a major identity factor for the City of Oceanside. Traditional view corridors should be preserved and reinforced in the placement of buildings and landscaping. Additionally, some views not presently recognized deserve consideration in the design and location of further coastal improvements.

As stated above, the City of Oceanside's LCP states that most of the east to west facing streets provide views of the ocean. The LCP further requires that the City maintain existing view corridors through public rights-of-way. The project site is located on the north side of Witherby Street, an east to west facing street. Currently, views of the ocean are available looking west along Witherby Street and west from Tait street across the public-right-of-way area approved to be vacated. With the approved project, 14 ft. of right-of-way along Witherby Street will be vacated to the applicant in order to allow for a larger development. With the required setback of 10 ft. along Witherby Street, the project will extend approximately 4 ft. into the vacated right-of-way. Without the street vacation, this area would be open, allowing for unobstructed views of the ocean from both Witherby Street and Tait Street, east of the project site. Thus, the approved project in essence includes development within the public right-of-way, which in its location is protected by the certified LCP as a view corridor. While the City staff report included a statement that the project would not obstruct any view corridors, no information is

included to support that statement. In as much as the proposed residential structure will be sited approximately 14 ft. further south, and extend approximately 4 ft. into the existing right-of-way of Witherby Street, it appears the development approved by the City will result in public view impacts within a protected view corridor. However, given that public view impacts are innately subjective, it is unclear at this time how significant these public view impacts would be. Therefore, the Commission finds that the project, as approved by the City, raises a substantial issue with regards to the grounds on which the appeal was filed relative to protection of public views.

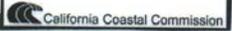
The appellants also contend that the development approved by the City is out of scale with development in the surrounding community. As stated above, the existing building on the property is a single story, 1,430 sq. ft. building. The proposed development is a two-story over basement, 8,385 sq. ft. building. The City, in its review, did look at surrounding development, and in the staff reports indicates that several other multi unit apartment/condominium developments occur with the nearby community. However, the City only compared the number of units and failed to compare scale and size based on measurements such as height, lot size, total square footage, etc. For example, the existing 3-unit residential building is one story and 1,430 sq. ft., whereas the approved development is 3-units, but 2 stories over basement and 8,385 sq. ft. If only comparing the number of units, these two structures would be comparable. However, they are clearly not similar in size and scale. Thus, the approved building may in fact be out of scale with the immediately surrounding community, but this is not known as the City failed to include this analysis. Therefore, the Commission finds that the project, as approved by the City, raises a substantial issue with regards to the grounds on which the appeal was filed relative to compatible scale of development.

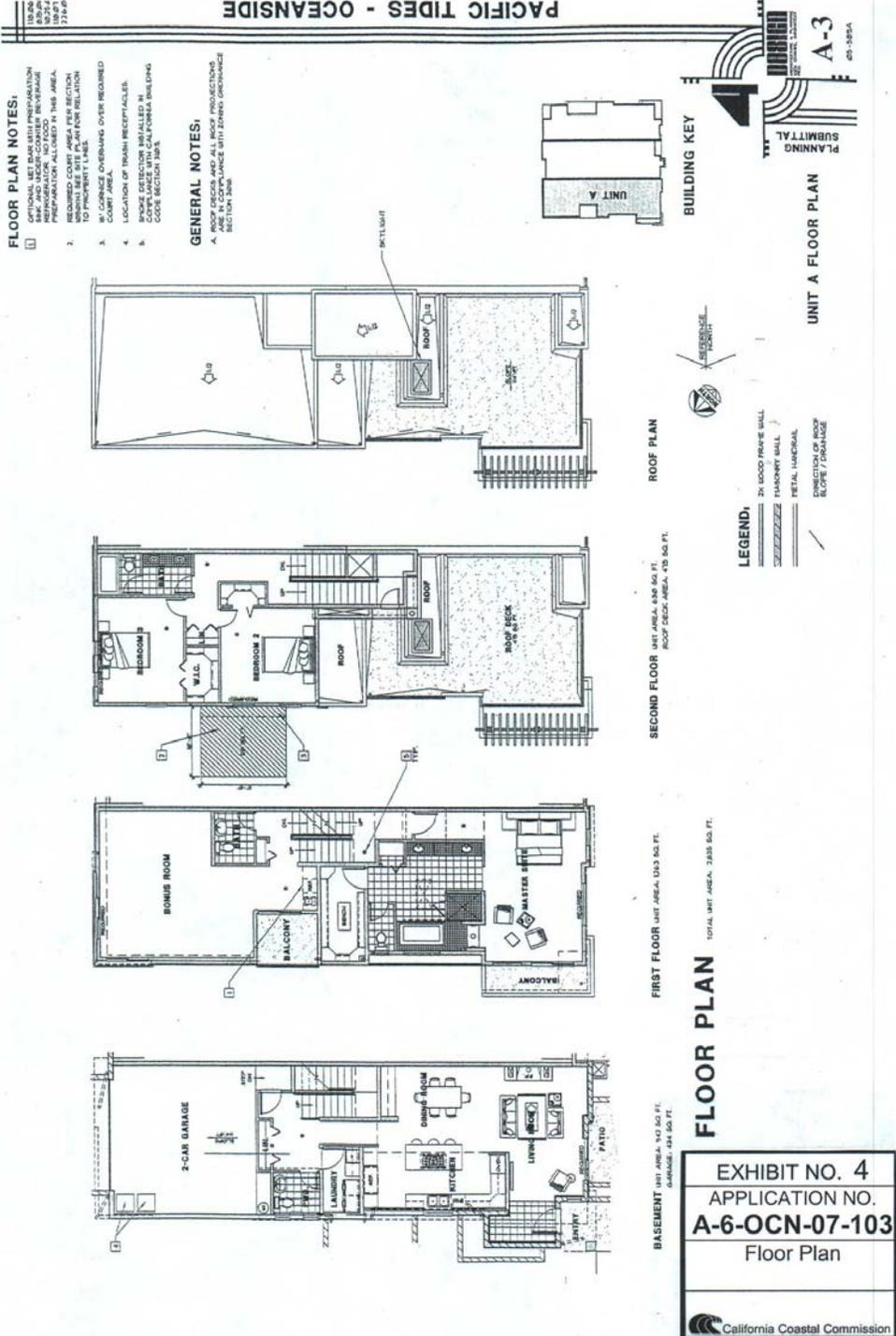
In conclusion, the project as approved by the City, allows for a significant vacation of public right-of-way in a location where this right-of-way may be better utilized in the future to provide additional public beach parking and to maintain public views from Witherby and Tait Streets to the ocean. In addition, approval of the right-of-way vacation allows for construction of a larger structure and bigger footprint than otherwise could be constructed on the subject site. Further, by vacating this right-of-way, public parking improvements will no longer be an option in an area specifically identified in the LCP as a location where increased public parking is necessary. The project, therefore, raises a substantial issue regarding public beach parking, impacts to public views, and consistency with the scale of the surrounding community.



PROJECT SITE

EXHIBIT NO. 1
APPLICATION NO.
A-6-OCN-07-103
Location Map





PACIFIC TIDES - OCEANSIDE



PLANNING SUBMITTAL A-3

05-1994

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Patrick Kruer
Mailing Address: The Monarch Group
7727 Herschel Ave.
La Jolla, Ca 92037

Phone Number: (858) 551-4390

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside
2. Brief description of development being appealed: The demolition of a 1,430 sq. ft. 3-unit residence and the construction of an 8,385 sq. ft. 3-unit condominium complex, including subdivision into three lots (currently two). The development will include a 14-foot (1,400 sq. ft.) street vacation along the northern side of Witherby Street.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 1334 South Pacific Street, Oceanside, San Diego County APN(s) 152-143-09, 152-143-10.
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-OCN-07-103

DATE FILED: August 30, 2007

DISTRICT: San Diego

EXHIBIT NO. 5
APPLICATION NO.
A-6-OCN-07-103
Appeals
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 2

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other

Date of local government's decision: April 9, 2007

Local government's file number (if any): RC-22-05

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

20 Morgan LLC
20 Morgan St.
Irvine, Ca 92618

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

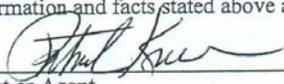
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated August 30, 2007

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: 
Appellant or Agent

Date: 8/30/07

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4402
 (619) 767-2370



Attachment A
 Applicant: 20 Morgan, Llc
 1334 South Pacific Street, Oceanside
 August 30, 2007

The proposed project includes the demolition of a single-story 3-unit residence and the construction of a two-story 3-unit condominium development with a subterranean basement. The project includes a tentative parcel map subdividing the existing two lots into three residential condo lots. The building envelope will increase from a 1,430 sq. ft. building to a combined 8,385 sq. ft. condominium. The project is bordered by Pacific Street to the west, Witherby Street to the south and Tait Street to the east. There is a public beach accessway located directly west of the project. The project site is located within 300 feet of the beach. The applicant has requested a 14 foot (1,400 sq. ft) street vacation of public right-of-way along the north side of Witherby Street. The applicant proposes to eliminate 6 on-street parallel parking spaces on Witherby Street and replace them with a total of 7 diagonal on-street parking spaces on the south side of Witherby Street, adjacent to the La Salina Treatment Facility Plant. The lot size is .17 acres (.2 acres including the street vacation). The zoning designation for the site is Residential Tourist (RT) and the Land Use Category is Urban High Density Residential.

The City found that the proposed 3-unit condominium complex is consistent with the provisions of the certified LCP. However, the development as approved by the City raises several LCP consistency issues with regard to the protection of recreational and visitor serving facilities, public access and protection of public views. Specifically, the vacation of the public right-of-way will have impacts on public parking and public views and would allow for a larger and potentially out-of-scale development.

The City of Oceanside certified LCP Land Use Plan has provisions relating to beach parking facilities and state in part:

City of Oceanside LCP Land Use Policies – Beach Parking

13. Efforts shall be made to provide additional public beach parking facilities to serve anticipated future demand. Priority should be given for new parking facilities to serve the following locations:

b. The beach area between Wisconsin and Witherby

17. The City shall require that all new residential development provides adequate on-site parking. In areas where beach parking demand is critical, requirements for new residential development shall be strictly enforced. Curb cuts for new development shall be held to a minimum to preserve existing on-street parking.

1334 S. Pacific Appeal
August 30, 2007
Page 2

The project as approved would include the vacation of approximately 1,400 sq. ft. of public right-of-way, to allow for a larger development envelope. To off-set this vacation, the applicant has included a plan to improve public parking along the southern side of Witherby. The increase in parking spaces will be accomplished by cutting into the existing curb and creating seven diagonal parking spaces. The current conditions only allow for approximately three parallel parking spaces. However, the proposed development and improvements will result in the removal of six existing public parking spaces; therefore, the applicant will only be increasing the number of parking spaces by one. The above stated provisions require that efforts shall be made to provide additional public beach parking facilities to serve anticipated future demand at this project location. An increase in one parking space does not adequately provide for future parking demands. Furthermore, it stands to reason that if the public right-of-way was not vacated by the city, it could also be improved in the future to provide an additional seven diagonal parking spaces on the north side of Witherby, mirroring the design proposed by the applicant for the south side on Witherby. The protection of future options for additional beach parking was not appropriately addressed at this location and cannot be found consistent with the above stated policies.

The City certified LCP Land Use Plan has provisions for protection of public views and state:

City of Oceanside LCP Land Use Policies for Visual Resources

Findings.

2. The City's grid street pattern allows public views of these water bodies from several vantage points. Most east-west streets in the Coastal Zone offer views of the ocean...

Policies.

4. The city shall maintain existing view corridors through public rights-of-way.

City of Oceanside LCP – Design Standards for Preserving and Creating Views

The visual orientation to the Pacific Ocean is a major identity factor for the City of Oceanside. Traditional view corridors should be preserved and reinforced in the placement of buildings and landscaping. Additionally, some views not presently recognized, deserve consideration in the design and location of further coastal improvements.

The project site is located at the northeast corner of Pacific and Witherby Streets. Witherby Street is an east/west facing street. Currently, ocean views exist along

1334 S. Pacific Appeal
August 30, 2007
Page 3

Witherby (including the proposed vacated region) and from Tait across the property to the ocean. The views from Tait exist due to a significant portion of the subject site being undeveloped (bare ground). As stated above, the City of Oceanside's LCP states that most east to west facing streets provide views of the ocean. The LCP further protects ocean views from public rights-of-way. The vacated right-of-way may result in impacts to both the public view opportunities from Tait and Witherby, but also from the entire portion of vacated right-of-way. The approved project may therefore lead to potential impacts to ocean views and thus cannot be found consistent with the City's certified LCP.

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Policies.

8. The City shall ensure that all new development is compatible in height, scale color and form with the surrounding neighborhood.

As stated above, the existing building on the property is a single story building occupying 1,430 sq. ft. The proposed development is a two-story 8,385 sq. ft. building including a subterranean garage. The City included a listing of similar developments in the surrounding area; 2-unit condominium at 1213 Pacific, 6-unit condominium at 1324 Pacific etc. However, the City failed to compare scale and size based measurements such as floor area ratios, lot size and total square footage. The building may be out of scale with the immediately surrounding community and these comparative analyses need to be completed. Therefore, allowing a development of this size in this community may be inconsistent with the policy described above.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Ben Hueso
Mailing Address: City Administration Building
202 C Street 10-A
San Diego, CA 92101

Phone Number: (619) 236-6688

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside
2. Brief description of development being appealed: The demolition of a 1,430 sq. ft. 3-unit residence and the construction of an 8,385 sq. ft. 3-unit condominium complex, including subdivision into three lots (currently two). The development will include a 14-foot (1,400 sq. ft.) street vacation along the northern side of Witherby Street.
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DATE FILED: August 30, 2007

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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1334 S. Pacific Appeal
August 30, 2007
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1334 S. Pacific Appeal
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PLANNING COMMISSION
RESOLUTION NO. 2007-P17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA APPROVING A TENTATIVE PARCEL MAP, DEVELOPMENT PLAN, REGULAR COASTAL PERMIT AND GRANTING A DEFERRAL TO UNDERGROUND OVERHEAD UTILITIES ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: P-19-05, D-33-05, RC-22-05
APPLICANT: 20 Morgan, LLC
LOCATION: 1334 S. Pacific St

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a Tentative Parcel Map, Conditional Use Permit, and Regular Coastal Permit under the provisions of Articles 10, 30, 31, 41, and 43 of the Zoning Ordinance of the City of Oceanside to permit the following:

the demolition of an existing 3-unit residential structure and the construction of a 3-unit residential condominium with vehicular access from Tait Street and a deferral of the requirement to underground existing overhead utilities;
on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 9th day of April, 2007 conduct a duly advertised public hearing as prescribed by law to consider said application.

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; this project has been found to be categorically exempt per Article 19, Section 15303(b), "New Construction or Conversion of Small Structures" from further environmental review;

EXHIBIT NO. 6
APPLICATION NO.
A-6-OCN-07-103
City Resolution
Page 1 of 24
 California Coastal Commission

1 WHEREAS, there is hereby imposed on the subject development project certain fees,
2 dedications, reservations and other exactions pursuant to state law and city ordinance;

3 WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS HEREBY GIVEN that the
4 project is subject to certain fees, dedications, reservations and other exactions as provided below:

5	<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
6			
7	Parkland Dedication/Fee	Ordinance No. 91-10 Resolution No. 06-R0334-1	\$3,503 per unit
8			
9	Drainage Fee	Ordinance No. 85-23 Resolution No. 06-R0334-1	Depends on area (range is \$2,843-\$15,964 per acre)
10			
11	Public Facility Fee	Ordinance No. 91-09 Resolution No. 06-R0334-1	\$2,072 per unit for residential
12			
13	School Facilities Mitigation Fee	Ordinance No. 91-34	\$2.63 per square foot residential
14			
15	Traffic Signal Fee	Ordinance No. 87-19 Resolution No. 06-R0334-1	\$15.71 per vehicle trip
16			
17	Thoroughfare Fee	Ordinance No. 83-01 Resolution No. 06-R0334-1	\$255 per vehicle trip
18			
19	Water System Buy-in Fees	Oceanside City Code §37.56.1 Resolution No. 87-96 Ordinance No. 05-OR 0611-1	Fee based on water meter size. Residential is typically \$3,746 per unit.
20			
21	Wastewater System Buy-in fees	Oceanside City Code § 29.11.1 Resolution No. 87-97 Ordinance No. 05-OR 0610-1	Based on capacity or water meter size. Residential is typically \$4,587 per unit.
22			
23			
24			
25	San Diego County Water Authority Capacity Fees	SDCWA Ordinance No. 2005-03	Based on meter size. Residential is typically \$4,154 per unit.
26			
27	Inclusionary housing in lieu fees—Residential only.	Chapter 14-C of the City Code.	\$1,000 per development project + \$100 per unit plus \$10,275 per unit.
28			
29			

1 WHEREAS, the current fees referenced above are merely fee amount estimates of the
2 impact fees that would be required if due and payable under currently applicable ordinances and
3 resolutions, presume the accuracy of relevant project information provided by the applicant, and
4 are not necessarily the fee amount that will be owing when such fee becomes due and payable;

5 WHEREAS, unless otherwise provided by this resolution, all impact fees shall be
6 calculated and collected at the time and in the manner provided in Chapter 32B of the Oceanside
7 City Code and the City expressly reserves the right to amend the fees and fee calculations
8 consistent with applicable law;

9 WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee,
10 dedication, reservation or other exaction to the extent permitted and as authorized by law;

11 WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS FURTHER GIVEN that
12 the 90-day period to protest the imposition of any fee, dedication, reservation, or other exaction
13 described in this resolution begins on the effective date of this resolution and any such protest must
14 be in a manner that complies with Section 66020;

15 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
16 effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

17 WHEREAS, studies and investigations made by this Commission and in its behalf reveal
18 the following facts:

19 FINDINGS:

20 For the Tentative Parcel Map and Development Plan:

- 21 1. The proposed subdivision creates parcels that are consistent with the requirements of the
22 RT (Residential Tourist District) Zoning and the UHD-R (Urban High Density
23 Residential) General Plan designations in that the density of the subdivision would result
24 in a density of 17.1 dwelling units per acre.
- 25 2. The three-unit condominium development can be adequately, reasonably and
26 conveniently served by existing and planned public services, utilities, and public
27 facilities.
- 28 3. That the three-unit condominium development is compatible with existing and potential
29 development of the surrounding area, including the 1300 block of South Pacific Street.

1 4. The design of the multi-family structure, the proposed density, and the building height
2 are consistent with the policies contained within Section 1.24 and 1.25 of the Land Use
3 Element of the General Plan.

4 5. In accordance with City Council Policy 300-05, the Tentative Parcel Map is conditioned
5 to expire 24 months after its approval and is eligible to apply for a time extension as set
6 forth by the Subdivision Ordinance.

7 For the Regular Coastal Permit:

8 1. The proposed project is consistent with the policies of the Local Coastal Program as
9 implemented through the City Zoning Ordinance. In addition, the project will not
10 substantially alter or impact existing public views of the coastal zone.

11 2. The proposed project will not obstruct any existing or planned public beach access;
12 therefore, the project is in conformance with the policies of Chapter 3 of the Coastal Act.

13 3. The site plan and physical design of the project is consistent with the Zoning Ordinance,
14 and the underlying RT (Residential Tourist) LCP zoning district.

15 4. The project site can be adequately served by existing public facilities, services and
16 utilities.

17 5. The project, as proposed, is compatible with the existing and potential development on
18 adjoining properties or in the surrounding neighborhood.

18 For the Deferral of the Requirement to Underground Facilities:

19 1. The project qualifies for deferral of the conversion of facilities because there are three
20 residential units proposed. Projects with less than 10 residential units may be approved
21 for a deferral of undergrounding overhead utilities.

22 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
23 approve Tentative Parcel Map (P-19-05), Development Plan (D-55-03), Regular Coastal Permit
24 (RC-22-05) and the deferral of the requirement to underground existing overhead utilities subject
25 to the following conditions:

26 //////////////

27 //////////////

28 //////////////

29 //////////////

1 **Building:**

- 2 1. Applicable Building Codes and Ordinances shall be based on the date of submittal for
3 Community Development Department/Building Division plan check. (Currently the
4 2001 California Code of Regulations, and 2004 California Electrical Code)
- 5 2. The granting of approval under this action shall in no way relieve the applicant/project
6 from compliance with all State and Local building codes.
- 7 3. The building plans for this project are required by State law to be prepared by a licensed
8 architect or engineer and must be in compliance with this requirement prior to submittal
9 for building plan review.
- 10 4. Compliance with the Federal Clean Water Act (BMP's) must be demonstrated on the
11 plans.
- 12 5. The developer shall monitor, supervise and control all building construction and
13 supporting activities so as to prevent these activities from causing a public nuisance,
14 including, but not limited to, strict adherence to the following:
- 15 a) Building construction work hours shall be limited to between 7:00 a.m. and 6:00
16 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00 p.m. for
17 work that is not inherently noise-producing. Examples of work not permitted on
18 Saturday are concrete and grout pours, roof nailing and activities of similar noise-
19 producing nature. No work shall be permitted on Sundays and Federal Holidays
20 (New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and
21 Christmas Day) except as allowed for emergency work under the provisions of the
22 Oceanside City Code Chapter 38 (Noise Ordinance).
- 23 b) The construction site shall be kept reasonably free of construction debris as
24 specified in Section 13.17 of the Oceanside City Code. Storage of debris in
25 approved solid waste containers shall be considered compliance with this
26 requirement. Small amounts of construction debris may be stored on-site in a neat,
27 safe manner for short periods of time pending disposal.
- 28 6. Separate/unique addresses will/may be required to facilitate utility releases. Verification
29 that the addresses have been properly assigned by the City's Planning Division shall
accompany the Building Permit application.

- 1 7. A complete Soils Report, Structural Calculations, & Energy Calculations/documentation
2 will be required at time of plans submittal to the Community Development
3 Department/Building Division for plan check.
- 4 8. A Building (Demo) Permit will be required for the demolition of any existing structures.
5 Plans for the Demolition Permit must clearly show that all utilities (electric, gas, water,
6 & sewer) are properly terminated/capped in accordance with the requirements of the
7 utility service provider. All/any underground septic or water storage tanks must be
8 removed or filled in accordance with the Uniform Plumbing Code and or the City's
9 Grading Ordinance.
- 10 9. A private sewer system design must be submitted to the Building Division and approved
11 prior to the construction of the sewer system. If a gravity flow system is not used, an
12 engineered mechanical system must be submitted and approved by all City of Oceanside
13 Departments.
- 14 10. As part of your plan check submittal for a Building Permit, submit a "plat" drawing
15 showing the first floor elevations for each segment, the locations of the points where the
16 floor level is six feet above grade, and the lowest elevation within five feet from the
17 building for each segment.
- 18 11. Building levels below grade (on all sides) shall be provided with a mechanical drainage
19 system that provides drainage to an approved location/receptor.
- 20 12. Light and ventilation for the new condominiums must meet Building Code requirements:
21 10 percent light and 5 percent ventilation.

21 **Fire Prevention:**

- 22 13. Plans shall be submitted to the Fire Prevention Bureau for plan check review and
23 approval prior to the issuance of building permits.

24 **Engineering:**

- 25 14. The project involves demolition of an existing structure or surface improvements, the
26 grading plans shall be submitted and erosion control plans be approved by the City
27 Engineer prior to the issuance of a demolition permit. No demolition shall be permitted
28 without an approved erosion control plan.
- 29

- 1 15. Vehicular access rights to Pacific Street, Witherby Street and Tait Street shall be
2 relinquished to the City from all abutting lots except for approved driveway locations on
3 Tait Street.
- 4 16. Design and construction of all improvements shall be in accordance with standard plans,
5 specifications of the City of Oceanside and subject to approval by the City Engineer.
- 6 17. Prior to issuance of a building permit all improvement requirements shall be covered by
7 a development agreement and secured with sufficient improvement securities or bonds
8 guaranteeing performance and payment for labor and materials, setting of monuments,
9 and warranty against defective materials and workmanship.
- 10 18. The approval of the Tentative Parcel Map and Development Plan shall not mean that
11 closure, vacation, or abandonment of any public street, right-of-way, easement, or facility
12 is granted or guaranteed to the applicant. The applicant is responsible for applying for all
13 closures, vacations, and abandonments as necessary. The application(s) shall be reviewed
14 and approved or rejected by the City of Oceanside under separate process(es) per codes,
15 ordinances, and policies in effect at the time of the application. The City of Oceanside
16 retains its full legislative discretion to consider any application to vacate a public street or
17 right-of-way.
- 18 19. The approval of this Tentative Parcel Map, Development Plan, and Regular Coastal Permit
19 is expressly contingent on the City's approval of the Street Vacation requested by the
20 developer. Review and approval of the Street Vacation request is subject to approval by
21 the City Council. In case of the City's denial of the Street Vacation request, the developer
22 shall submit plans to the Planning Division for a Substantial Conformity review of any
23 design changes necessitated by denial of the Street Vacation request. Should City staff find
24 that the changes are not in substantial conformance with the approved Tentative Parcel
25 Map or Development Plan, the applicant shall apply for a new hearing with the Planning
26 Commission for the approval of the redesigned project. In case of the City's approval of
27 the Street Vacation request, the Street Vacation shall be recorded at the County Recorder's
28 Office prior to or concurrent with the recordation of the Parcel Map or prior to the approval
29 of the Grading Plans, whichever is requested first.

- 1 20. Prior to approval of the final/parcel map or any increment, all improvement requirements,
2 within such increment or outside of it if required by the City Engineer, shall be covered by
3 a subdivision agreement and secured with sufficient improvement securities or bonds
4 guaranteeing performance and payment for labor and materials, setting of monuments, and
5 warranty against defective materials and workmanship.
- 6 21. Where proposed off-site improvements, including but not limited to slopes, public utility
7 facilities, and drainage facilities, are to be constructed, the applicant shall, at his own
8 expense, obtain all necessary easements or other interests in real property and shall
9 dedicate the same to the City of Oceanside as required. The applicant shall provide
10 documentary proof satisfactory to the City of Oceanside that such easements or other
11 interest in real property have been obtained prior to issuance of any grading, building or
12 improvement permit for the development/project. Additionally, the City of Oceanside,
13 may at its sole discretion, require that the applicant obtain at his sole expense a title policy
14 insuring the necessary title for the easement or other interest in real property to have vested
15 with the City of Oceanside or the applicant, as applicable.
- 16 22. Pursuant to the State Map Act, improvements shall be required at the time of development.
17 A covenant, reviewed and approved by the City Attorney, shall be recorded attesting to
18 these improvement conditions and a certificate setting forth the recordation shall be placed
19 on the map.
- 20 23. Prior to the issuance of a grading permit, the developer shall notify and host a
21 neighborhood meeting with all of the area residents located within 300 feet of the project
22 site, and residents of property along any residential streets to be used as a "haul route", to
23 inform them of the grading and construction schedule, haul routes, and to answer
24 questions.
- 25 24. The developer shall monitor, supervise and control all construction and construction-
26 supportive activities, so as to prevent these activities from causing a public nuisance,
27 including but not limited to, insuring strict adherence to the following:
- 28 a) Dirt, debris and other construction material shall not be deposited on any public
29 street or within the City's storm water conveyance system.

- 1 b) All grading and related site preparation and construction activities shall be
- 2 limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. No
- 3 engineering related construction activities shall be conducted on Saturdays,
- 4 Sundays or legal holidays unless written permission is granted by the City Engineer
- 5 with specific limitations to the working hours and types of permitted operations.
- 6 All on-site construction staging areas shall be as far as possible (minimum 100
- 7 feet) from any existing residential development. Because construction noise may
- 8 still be intrusive in the evening or on holidays, the City of Oceanside Noise
- 9 Ordinance also prohibits "any disturbing excessive or offensive noise which
- 10 causes discomfort or annoyance to reasonable persons of normal sensitivity."
- 11 c) The construction site shall accommodate the parking of all motor vehicles used by
- 12 persons working at or providing deliveries to the site.
- 13 d) A haul route shall be obtained at least 7 days prior the start of hauling operations
- 14 and must be approved by the City Engineer. Hauling operations shall be 8:00 a.m.
- 15 to 3:30 p.m. unless approved otherwise.
- 16 25. A traffic control plan shall be prepared according to the City traffic control guidelines
- 17 and be submitted to and approved by the City Engineer prior to the start of work within
- 18 open City rights-of-way. Traffic control during construction of streets that have been
- 19 opened to public traffic shall be in accordance with construction signing, marking and
- 20 other protection as required by the Caltrans Traffic Manual and City Traffic Control
- 21 Guidelines. Traffic control plans shall be in effect from 8:00 a.m. to 3:30 p.m. unless
- 22 approved otherwise.
- 23 26. Approval of this development project is conditioned upon payment of all applicable impact
- 24 fees and connection fees in the manner provided in chapter 32B of the Oceanside City
- 25 Code. All drainage fees, traffic signal fees and contributions, highway thoroughfare fees,
- 26 park fees, reimbursements, and other applicable charges, fees and deposits shall be paid
- 27 prior to recordation of the map or the issuance of any building permits, in accordance with
- 28 City Ordinances and policies. The developer shall also be required to join into, contribute,
- 29 or participate in any improvement, lighting, or other special district affecting or affected by
- this project. Approval of the Tentative Parcel Map (project) shall constitute the developer's

- 1 approval of such payments, and his agreement to pay for any other similar assessments or
2 charges in effect when any increment is submitted for Parcel Map or building permit
3 approval, and to join, contribute, and or participate in such districts.
- 4 27. Streets along project frontage shall be improved as follows:
- 5 28. Pacific Street; Curb, gutter, sidewalk and reconstruction of half street width plus 12 feet
6 pavement section.
- 7 29. Tait Street: Curb, gutter, sidewalk, and reconstruction of the entire width of the street
8 pavement section along the property's frontage. The proposed 18-inch storm drain shall be
9 improved to and including the point of connection at the existing 18-inch storm drain
10 approximately ninety (90) feet north of the property's northerly boundary.
- 11 30. Witherby Street: curb, gutter, sidewalk on both sides of the street, public parking area on
12 the southerly side of the street, and reconstruction of the entire width of the street pavement
13 section.
- 14 31. Pacific Street and Tait Street shall provide a minimum of 10 feet parkway along the project
15 frontage between the face of curb and the right-of-way line. Witherby Street shall provide
16 a minimum 9-foot parkway along the project frontage between the face of curb and the
17 right-of-way line on both sides of the street. Sidewalk improvements shall comply with
18 ADA requirements.
- 19 32. Sight distance requirements at the project driveway or street shall conform to the corner
20 sight distance criteria as provided by the California Department of Transportation Highway
21 Design Manual.
- 22 33. Streetlights shall be maintained and installed on all public streets per City Standards. The
23 system shall provide uniform lighting, and be secured prior to occupancy. The developer
24 shall pay all applicable fees, energy charges, and or assessments associated with City-
25 owned (LS-2 rate schedule) streetlights and shall also agree to the formulation of, or the
26 annexation to, any appropriate street lighting district.
- 27 34. Pavement sections for all streets, driveways and parking areas shall be based upon
28 approved soil tests and traffic indices. The pavement design is to be prepared by the
29 developer's soil engineer and must be approved by the City Engineer, prior to paving.

- 1 35. Any existing broken pavement, concrete curb, gutter or sidewalk or any damaged during
2 construction of the project, shall be repaired or replaced as directed by the City Engineer.
- 3 36. Undergrounding of all existing overhead utility lines within the development and within
4 full width streets and rights-of-way abutting the new development, and all new extension
5 services for the development of the project, including but not limited to, electrical, cable
6 and telephone, is required per Section 901.G. of the Subdivision Ordinance (R91-166)
7 and as required by the City Engineer and current City policy.
- 8 37. At the developer's request, the Deferral Provisions (Section 901.G.4) of said ordinance
9 shall be applied. Prior to the approval of the final Parcel Map or issuance of a building
10 permit for the construction of new structures (whichever occurs first), the developer shall
11 pay an in-lieu fee, based upon the length of utilities to be placed underground, and at the
12 rate in effect at building permit issuance or as established by the City Engineer per
13 Section 901.G. of the Subdivision Ordinance (R91-166) and as required by the City
14 Engineer and current City policy. For the determination of the dollar amount of the in-
15 lieu fee, the developer shall submit undergrounding plans and quantity takeoff estimates
16 for review and approval by the City Engineer. The plans should be prepared by a
17 qualified professional in full compliance with the design requirements set forth by
18 Section 901.G. Prior to submittal to the City Engineer, the plans and estimates shall be
19 approved by all utility companies whose overhead lines are required to be
20 undergrounded.
- 21 38. The developer shall comply with all the provisions of the City's cable television
22 ordinances including those relating to notification as required by the City Engineer.
- 23 39. Grading and drainage facilities shall be designed and installed to adequately
24 accommodate the local storm water runoff and shall be in accordance with the City's
25 Engineers Manual and as directed by the City Engineer.
- 26 40. The applicant shall obtain any necessary permits and clearances from all public agencies
27 having jurisdiction over the project due to its type, size, or location, including but not
28 limited to the U. S. Army Corps of Engineers, California Department of Fish & Game,
29 U. S. Fish and Wildlife Service and or San Diego Regional Water Quality Control Board

- 1 (including NPDES), San Diego County Health Department, prior to the issuance of
2 grading permits.
- 3 41. Prior to any grading of any part of the tract or project, a comprehensive soils and
4 geologic investigation shall be conducted of the soils, slopes, and formations in the
5 project. All necessary measures shall be taken and implemented to assure slope stability,
6 erosion control, and soil integrity. No grading shall occur until a detailed grading plan,
7 to be prepared in accordance with the Grading Ordinance and Zoning Ordinance, is
8 approved by the City Engineer.
- 9 42. This project shall provide year-round erosion control including measures for the site
10 required for the phasing of grading. Prior to the issuance of grading permit, an erosion
11 control plan, designed for all proposed stages of construction, shall be reviewed, secured
12 by the applicant with cash securities and approved by the City Engineer.
- 13 43. A precise grading and private improvement plan shall be prepared, reviewed, secured
14 and approved prior to the issuance of any building permits. The plan shall reflect all
15 pavement, flatwork, landscaped areas, special surfaces, curbs, gutters, medians, striping,
16 footprints of all structures, walls, drainage devices and utility services. Parking lot
17 striping and any on-site traffic calming devices shall be shown on all Precise Grading
18 and Private Improvement Plans.
- 19 44. Landscaping plans, including plans for the construction of walls, fences or other
20 structures at or near intersections, must conform to intersection sight distance
21 requirements. Landscape and irrigation plans shall be approved by the City Engineer
22 prior to the issuance of occupancy permits, and a pre-construction meeting held, prior to
23 the start of any improvements.
- 24 45. Open-space areas and down-sloped areas visible from a collector-level or above roadway
25 and not readily maintained by the property owner, shall be maintained by a homeowners'
26 association that will insure installation and maintenance of landscaping in perpetuity.
27 These areas shall be indicated on the Parcel Map and reserved for an association.
28 Future buyers shall be made aware of any estimated monthly costs. The disclosure,
29 together with the CC&R's, shall be submitted to the City Engineer for review prior to the
recording of Parcel Map.

- 1 46. The drainage design on the development is conceptual only. The final design shall be
2 based upon a hydrologic/hydraulic study to be approved by the City Engineer during
3 final engineering. All drainage picked up in an underground system shall remain
4 underground until it is discharged into an approved channel, or as otherwise approved by
5 the City Engineer. All public storm drains shall be shown on City standard plan and
6 profile sheets. All storm drain easements shall be dedicated where required. The
7 applicant shall be responsible for obtaining any off-site easements for storm drainage
8 facilities.
- 9 47. Sediment, silt, grease, trash, debris, and or pollutants shall be collected on-site and
10 disposed of in accordance with all state and federal requirements, prior to storm water
11 discharge either off-site or into the City drainage system.
- 12 48. Upon acceptance of any fee waiver or reduction by the developer, the entire project will
13 be subject to prevailing wage requirements as specified by Labor Code section
14 1720(b)(4). The developer shall agree to execute a form acknowledging the prevailing
15 wage requirements prior to the granting of any fee reductions or waivers.
- 16 49. The developer shall prepare and submit an Operations & Maintenance (O&M) Plan to
17 the to the City Engineer with the first submittal of engineering plans. The O&M Plan
18 shall be prepared by the applicant's Civil Engineer. It shall be directly based on the
19 project's Storm Water Mitigation Plan (SWMP) previously approved by the project's
20 approving authority (Planning Commission/City Council). At a minimum the O&M
21 Plan shall include the designated responsible parties to manage the storm water BMP(s),
22 employee's training program and duties, operating schedule, maintenance frequency,
23 routine service schedule, specific maintenance activities, copies of resource agency
24 permits, cost estimate for implementation of the O&M Plan and any other necessary
25 elements.
- 26 50. The developer shall enter into a City-Standard Storm water Facilities Maintenance
27 Agreement with the City obliging the project proponent to maintain, repair and replace
28 the Storm Water Best Management Practices (BMPs) identified in the project's approved
29 Storm Water Mitigation Plan (SWMP), as detailed in the O&M Plan into perpetuity.
The Agreement shall be approved by the City Attorney prior to issuance of any precise

1 grading permit and shall be recorded at the County Recorder's Office prior to issuance of
2 any building permit. Security in the form of cash (or certificate of deposit payable to the
3 City) or an irrevocable, City-Standard Letter of Credit shall be required prior to issuance
4 of a precise grading permit. The amount of the security shall be equal to 10 years of
5 maintenance costs, as identified by the O&M Plan. The applicant's Civil Engineer shall
6 prepare the O&M cost estimate.

7 51. At a minimum, maintenance agreements shall require the staff training, inspection and
8 maintenance of all BMPs on an annual basis. The project proponent shall complete and
9 maintain O&M forms to document all maintenance activities. Parties responsible for the
10 O&M plan shall retain records at the subject property for at least 5 years. These
11 documents shall be made available to the City for inspection upon request at any time.

12 52. The Agreement shall include a copy of executed on-site and off-site access easements
13 necessary for the operation and maintenance of BMPs that shall be binding on the land
14 throughout the life of the project to the benefit of the party responsible for the O&M of
15 BMPs, until such time that the storm water BMP requiring access is replaced,
16 satisfactory to the City Engineer. The agreement shall also include a copy of the O&M
17 Plan approved by the City Engineer.

18 53. The BMPs described in the project's approved Storm Water Mitigation Plan (SWMP)
19 shall not be altered in any way, shape or form without formal approval by either an
20 Administrative Substantial Conformance issued by the Community Development
21 Department/Planning Division or the project's final approving authority (Planning
22 Commission/City Council) at a public hearing. The determination of whatever action is
23 required for changes to a project's approved SWMP shall be made by the Community
24 Development Department/Planning Division.

25 54. Landscape plans, meeting the criteria of the City's Landscape Guidelines and Water
26 Conservation Ordinance No. 91-15, including the maintenance of such landscaping, shall
27 be reviewed and approved by the City Engineer prior to the issuance of building permits.
28 Landscaping shall not be installed until bonds have been posted, fees paid, and plans
29 signed for final approval. The following special landscaping requirements shall be met:

- 1 a) To mitigate the loss of landmark and/or mature existing trees on-site the
2 determination of replacement shall be based on tree number, type, and caliper
3 (caliper measured 2 1/2 feet from the base of the tree at existing grade). The total
4 number of tree caliper lost shall be equal to the total number of caliper replaced.
5 Replacement trees shall be a minimum of 15-gallon container stock. A field survey
6 shall be performed under the supervision of the City Landscaping Section to
7 evaluate the existing tree population and the replacement requirements. The
8 existing trees to remain or proposed for removal shall be identified on the
9 Preliminary Grading Plan, Precise Grading Plan and Landscape Plan. The existing
10 tree type, location, and caliper shall be shown on the above plans. Replacement
11 trees shall be identified and shown on the Landscape Plan and shall be subject to
12 review and approval by the City Engineer.
- 13 b) Prior to the issuance of a grading permit, the developer shall provide landscape
14 plans. All tree locations shall meet the City of Oceanside Engineer's Design and
15 Processing Manual, (3.15 e), unless otherwise approved by the City Engineer. This
16 requirement shall supersede the conceptual landscape plan. Trees in the right of
17 way or on site that are removed shall be relocated along the property frontage or
18 within the right of way.
- 19 c) Trees shall be spot located by a Landscape Architect at a pre-construction meeting
20 the current City of Oceanside requirements.
- 21 d) Right of way trees shall be a minimum of 30'-0" on center, 24" box size and 10'
22 brown trunk height. The brown trunk height of the right of way and on site trees
23 shall be increased to meet the mitigation requirement as deemed necessary by the
24 City Engineer. Turf and automatic irrigation shall be provided for the right of way.
- 25 e) Trees shall not be located in utility easements. Tree grates provided on the south
26 side of Witherby Street shall meet the current San Diego Regional Drawing
27 requirements.
- 28 f) On site trees shall be a minimum of 15 gallon container size. Shrubs shall consist
29 of a minimum 1-gallon and 5-gallon container size. Vines shall be espaliered and
consist of 5 and 15 gallon container size. Ground cover or bark mulch shall be

- 1 provided in shrub areas. Automatic irrigation shall be provided for all landscaped
- 2 areas to meet the satisfaction of the City Engineer.
- 3 g) Planter landscape shall cascade to soften planter walls.
- 4 h) Trees or shrubs chosen for the site outside of zone 24 shall be meet the satisfaction
- 5 of the City Engineer and be replaced with an alternate species if deemed necessary
- 6 at site inspections.
- 7 i) All landscaping, fences, walls, etc. on the site, in medians in the public right-of-
- 8 way and in any adjoining public parkways shall be permanently maintained by the
- 9 owner, his assigns or any successors-in-interest in the property. The maintenance
- 10 program shall include normal care and irrigation of the landscaping; repair and
- 11 replacement of plant materials; irrigation systems as necessary; and general cleanup
- 12 of the landscaped and open areas, parking lots and walkways, walls, fences, etc.
- 13 Failure to maintain landscaping shall result in the City taking all appropriate
- 14 enforcement actions by all acceptable means including but not limited to citations
- 15 and/or actual work with costs charged to or recorded against the owner. This
- 16 condition shall be recorded with the covenant required by this resolution.

Planning:

- 17 55. This Tentative Parcel Map (P-19-05), Development Plan (D-33-05) and Regular Coastal
- 18 Permit (RC-22-05) shall expire on April 9, 2009, unless the Planning Commission grants a
- 19 time extension.
- 20 56. This Tentative Parcel Map (P-19-05), Development Plan (D-33-05) and Regular Coastal
- 21 Permit (RC-22-05) approves only a 3-unit residential condominium as shown on the plans
- 22 and exhibits presented to the Planning Commission for review and approval. No deviation
- 23 from these approved plans and exhibits shall occur without Community Development
- 24 Department/Planning Division approval. Substantial deviations shall require a revision to
- 25 the Tentative Parcel Map (P-19-05), Development Plan (D-33-05) and Regular Coastal
- 26 Permit (RC-22-05) or a new Tentative Parcel Map, Development Plan and Regular Coastal
- 27 Permit.

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- 1 57. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold
2 harmless the City of Oceanside, its agents, officers or employees from any claim, action or
3 proceeding against the City, its agents, officers, or employees to attack, set aside, void or
4 annul an approval of the City, concerning Tentative Parcel Map (P-19-05), Development
5 Plan (D-33-05) and Regular Coastal Permit (RC-22-05). The City will promptly notify
6 the applicant of any such claim, action or proceeding against the City and will cooperate
7 fully in the defense. If the City fails to promptly notify the applicant of any such claim
8 action or proceeding or fails to cooperate fully in the defense, the applicant shall not,
9 thereafter, be responsible to defend, indemnify or hold harmless the City.
- 10 58. All mechanical rooftop and ground equipment shall be screened from public view as
11 required by the Zoning Ordinance. That is, on all four sides and top. The roof jacks,
12 mechanical equipment, screen and vents shall be painted with non-reflective paint to match
13 the roof. This information shall be shown on the building plans.
- 14 59. All landscaping, fences, walls, etc. on the site, in any adjoining public parkways and the
15 public parkway on the south side of Witherby Street shall be permanently maintained by
16 the owner, their assigns or any successors-in-interest in the property. The maintenance
17 program shall include normal care and irrigation of the landscaping; repair and replacement
18 of plant materials; irrigation systems as necessary; and general cleanup of the landscaped
19 and open areas, parking lots and walkways, walls, fences, etc. Failure to maintain
20 landscaping shall result in the City taking all appropriate enforcement actions by all
21 acceptable means including but not limited to citations and or actual work with costs
22 charged to or recorded against the owner. This condition shall be recorded with the
23 covenant required by this resolution.
- 24 60. Model Landscape plans and Front Yard Landscape plans, designed in compliance with
25 Water Conservation Ordinance No. 91-15 shall be submitted as schematic drawings and
26 shall be approved and signed by the Engineering Division and the Community
27 Development Department/Planning Division prior to the issuance of occupancy permits.
28 Precise Grading Plans for model homes shall be prepared by a Civil Engineer and shall be
29 approved by the City Engineer prior to the issuance of building permits. Prior to the
issuance of occupancy permits, the City's Landscape Technician/Inspector shall review

- 1 each unit requested for occupancy to ensure that the installation of planting and irrigation
2 has occurred in conformance with the approved schematic drawings. The irrigation system
3 will also be tested to ensure adequate operation and coverage.
- 4 61. The project shall be designed to dispose of or recycle solid waste in a manner provided
5 in City Ordinance 13.3. Trash receptacles shall be provided as required by Chapter 13 of
6 the City Code and shall also include additional space for storage and collection of
7 recyclable materials per City standards. Recycling is required by City Ordinance. The
8 receptacles must be located in a flat, accessible area as determined by the City Engineer.
9 The receptacles shall meet City standards. All driveways and service access areas must be
10 designed to sustain the weight of a 50,000-pound service vehicle. Trash receptacles and
11 driveways and service access areas shall be shown on both the improvement and landscape
12 plans submitted to the City Engineer. The specifications shall be reviewed and approved
13 by the City Engineer. If the City's waste disposal contractor is required to access private
14 property to service the trash receptacles, then a service agreement shall be signed by the
15 property owner and shall remain in effect for the life of the project. All trash receptacles
16 shall be designed to provide user access. This design shall be shown on the landscape plans
17 and shall be approved by the City Planner.
- 18 62. A letter of clearance from the affected school district in which the property is located
19 shall be provided as required by City policy at the time building permits are issued.
- 20 63. A covenant or other recordable document approved by the City Attorney shall be prepared
21 by the developer and recorded prior to the approval of the Parcel Map. The covenant shall
22 provide that the property is subject to this resolution, and shall generally list the conditions
23 of approval.
- 24 64. Prior to the issuance of building permits, compliance with the applicable provisions of the
25 City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed
26 and approved by the Community Development Department/Planning Division. These
27 requirements, including the obligation to remove or cover with matching paint all graffiti
28 within 24 hours, shall be noted on the Landscape Plan and shall be recorded in the form of
29 a covenant affecting the subject property.

- 1 65. Prior to the transfer of ownership and or operation of the site the owner shall provide a
2 written copy of the applications, staff report and resolutions for the project to the new
3 owner and or operator. This notification's provision shall run with the life of the project
4 and shall be recorded as a covenant on the property.
- 5 66. Failure to meet any conditions of approval for this development shall constitute a violation
6 of the Tentative Parcel Map (P-19-05), Development Plan (D-33-05 and Regular Coastal
7 Permit (RC-22-05).
- 8 67. Unless expressly waived, all current zoning standards and City ordinances and policies in
9 effect at the time building permits are issued are required to be met by this project. The
10 approval of this project constitutes the applicant's agreement with all statements in the
11 Description and Justification, and other materials and information submitted with this
12 application, unless specifically waived by an adopted condition of approval.
- 13 68. The developer's construction of all fencing and walls associated with the project shall be in
14 conformance with the approved development plan, grading plan, landscape plan and
15 Zoning Ordinance height limitations. Any substantial change in any aspect of fencing or
16 wall design from the approved development plan, grading plan, and or landscape plan shall
17 require a revision to the development plan or a new development plan.
- 18 69. If any aspect of the project fencing and walls is not covered by an approved development
19 plan, grading plan, and or landscape plan, the construction of fencing and walls shall
20 conform to the development standards of the City Zoning Ordinance. In no case, shall the
21 construction of fences and walls (including combinations thereof) exceed the limitations of
22 the zoning code, unless expressly granted by a variance or other development approval.
- 23 70. The maximum height of a fence or wall, including retaining walls, shall be 6 feet; except in
24 required yards abutting Pacific, Witherby and or Tait Streets where the maximum height
25 shall be 42 inches. The Tentative Parcel Map includes four walls wherein the exposed
26 height of the wall will be less than 42 inches, because their (maximum 67.2-inch) height
27 will be obscured by a lower wall (that is at least 25.2 inches in height and constructed
28 nearer to the street than the taller wall).
- 29 71. The retaining walls shown on the Tentative Parcel Map are proposed as basement walls.
The construction, height, length, and location of these walls shall conform to the UBC

1 definition of a basement. The retaining walls proposed as basement walls shall be included
2 with the approval of Building Permits and Final Occupancy.

3 72. The development shall be limited in height to two stories or 27 feet, whichever is less.

4 73. Rooftop appurtenances exceeding 27 feet shall be limited to 10 percent of the ground area
5 covered by structure and shall be subject to the requirements of Section 3018 of the
6 Oceanside Zoning Ordinance. The maximum height for the proposed rooftop
7 appurtenances is 34 feet – 2 inches measured from grade.

8 74. An association shall be formed and Covenants, Conditions and Restrictions (C.C. & R's)
9 shall provide for the maintenance of all common open space, medians and commonly
10 owned fences and walls and adjacent parkways. The maintenance shall include normal
11 care and irrigation of landscaping, repair and replacement of plant material and irrigation
12 systems as necessary; and general cleanup of the landscaped and open area, parking lots
13 and walkways. The C.C. & R's shall be subject to the review and approval of the City
14 Attorney prior to the approval of the Parcel Map. The C.C. & R's are required to be
15 recorded prior to or concurrently with the Parcel Map. Any amendments to the C.C. & R's
16 in which the association relinquishes responsibility for the maintenance of any common
17 open-space shall not be permitted without the specific approval of the City of Oceanside.
18 Such a clause shall be a part of the C.C. & R's. The C.C. & R's shall also contain
19 provisions for the following:

- 20 a) Prohibition of parking or storage of recreational vehicles, trailers or boats.
- 21 b) Provisions regulating individual patio covers, room additions and other
22 appurtenances.
- 23 c) Maintenance of parkway landscaping (Pacific Street, Tait Street, and Witherby
24 Street parkways) by the Association.
- 25 d) Provisions for the maintenance of all common open-space and open-space
26 easements on private lots, including provisions establishing mechanisms to ensure
27 adequate and continued monetary funding for such maintenance by the
28 homeowners' association.
- 29 e) Provisions that restrict any private use of open space easement areas. Restrictions
shall include, but are not limited to, removing retaining walls, installing structures

- 1 such as trellises, decks, retaining walls and other hardscape and any individual
 2 landscape improvements.
- 3 f) Provisions prohibiting the homeowners association from relinquishing its
 4 obligation to maintain the common open-space and open-space easement areas
 5 without prior consent of the City of Oceanside.
- 6 g) An acknowledgement that the City of Oceanside does not have a view preservation
 7 ordinance and that views may be subject to change with maturing off-site landscape
 8 and the potential for future off-site building.
- 9 75. Project entrances signs are prohibited. Flags are prohibited.
- 10 76. Signs identifying that the project is for sale shall comply with Article 33 of the Oceanside
 11 Zoning Ordinance.
- 12 77. The following unit type and floor plan mix, as approved by the Planning Commission,
 13 shall be indicated on plans submitted to the Community Development
 14 Department/Building Division and Planning Division for building permit:
- | | <u>Sq.Ft.</u> | <u># Bedrms</u> | <u>Baths #whole/#half</u> | <u># Stories</u> |
|-----------|---------------|-----------------|---------------------------|------------------|
| 15 Unit A | 2,835 | 3 | 2/2 | 2 |
| 16 Unit B | 2,814 | 3 | 2/2 | 2 |
| 17 Unit C | 2,736 | 3 | 2/2 | 2 |
- 18 78. The project is not approved to have dwelling units that are accessory to the primary
 19 residences, identified as Units A, B, and C. An application to create accessory dwelling
 20 units is subject to Section 3006 of the Oceanside Zoning Ordinance and the approval of a
 21 revision to the Development Plan.
- 22 79. Side and rear elevations and window treatments shall be trimmed to substantially match
 23 the front elevations (molding, cornices, columns, balustrades, capitals, wooden trellis,
 24 metal, tile, keystones, stone, stucco, et al). A set of building plans shall be reviewed and
 25 approved by the Community Development Department/Planning Division prior to the
 26 issuance of building permits.
- 27 80. Elevations, siding materials (stone, stucco), colors (warm brown tones, cool beach-tones),
 28 roofing materials and floor plans shall be substantially the same as those approved by the
 29

1 Planning Commission. These shall be shown on plans submitted to the Community
2 Development Department/Planning Division and Building Division.

3 81. This project is subject to the provisions of Chapter 14C of the City Code regarding
4 Inclusionary Housing.

5 82. This project shall comply with all provisions of the City's Affirmative Fair Housing
6 Marketing Agreement Policy as required in the project's Affirmative Fair Housing
7 Marketing Agreement. Such agreement shall be submitted to and approved by the
8 Housing and Neighborhood Services Director prior to the issuance of a building permit
9 for the project.

10 83. All windows and doors will have special treatments to reduce high noise levels created
11 as a result of the property's close proximity to the railroad tracks.

12 **Water Utilities:**

13 84. The developer will be responsible for developing all water and sewer utilities necessary
14 to develop the property. Any relocation of water and or sewer utilities is the
15 responsibility of the developer and shall be done by an approved licensed contractor at
16 the developer's expense.

17 85. The property owner will maintain private water and wastewater utilities located on
18 private property.

19 86. Water services and sewer laterals constructed in existing right-of-way locations are to be
20 constructed by approved and licensed contractors at developer's expense.

21 87. All Water and Wastewater construction shall conform to the most recent edition of the
22 Water, Sewer, and Reclaimed Water Design and Construction Manual or as approved by
23 the Water Utilities Director.

24 88. The following conditions shall be met prior to the approval of engineering design plans.
25 All public water and or sewer facilities not located within the public right-of-way shall
26 be provided with easements sized according to the Water, Sewer, and Reclaimed Water
27 Design and Construction Manual. Easements shall be constructed for all weather access.

28 89. The following conditions shall be met prior to the approval of engineering design plans.
29 No trees, structures or building overhang shall be located within any water or wastewater
utility easement.

1 90. The following conditions shall be met prior to the approval of engineering design plans.
2 All lots with a finish pad elevation located below the elevation of the next upstream
3 manhole cover of the public sewer shall be protected from backflow of sewage by
4 installing and maintaining an approved type backwater valve, per the Uniform Plumbing
5 Code (UPC).

6 91. The following conditions of approval shall be met prior to issuance of building permits.
7 Water and Wastewater Buy-in fees and the San Diego County Water Authority Fees are
8 to be paid to the City and collected by the Water Utilities Department at the time of
9 Building Permit issuance.

10 92. The following conditions of approval shall be met prior to occupancy. All new
11 development of single-family and multi-family residential units shall include hot water
12 pipe insulation and installation of a hot water recirculation device or design to provide
13 hot water to the tap within 15 seconds in accordance with City of Oceanside Ordinance
14 No. 02-OR126-1.

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1 Solid Waste:

2 93. All residential projects shall dispose of or recycle solid waste in a manner provided in
3 City Ordinance 13.3. OCC 13.3, the requirement to manage all solid waste and identified
4 recyclable material on private property and to recycle or dispose of all material in
5 compliance with city code.

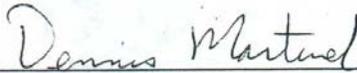
6 a) Space Allocation: OCC 13.39, the requirement to designate adequate space for
7 the storage of solid waste and recycling containers on private property to include
8 appropriate bin enclosures to adequately provide for trash, green waste and other
9 recycling containers.

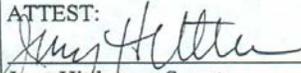
10 b) Recycling Services: OCC 13.16(h), the requirement to separate all recyclable
11 material from solid waste for separate collection.

12 c) Green Waste Services: The separation of all green waste from solid waste using
13 the approved City collection service and the collection of the material in
14 compliance with standards as identified in the city code.

15 PASSED AND ADOPTED Resolution No. 2007-P17 on April 9, 2007 by the following
16 vote, to wit:

- 17 AYES: Martinek, Parker, Horton, Balma, Blom, McLeod and Troisi
- 18 NAYS: None
- 19 ABSENT: None
- 20 ABSTAIN: None

21 
 22 Dennis Martinek, Chairman
 Oceanside Planning Commission

23 ATTEST:
 24 
 25 Jerry Hittleman, Secretary

26 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
27 this is a true and correct copy of Resolution No. 2007-P17.

28
29 Dated: April 9, 2007

LR



CITY OF OCEANSIDE

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION

RECEIVED

SEP 21 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

September 18, 2007

Ms. Toni Ross, Coastal Program Analyst
California Coastal Commission
7575 Metropolitan Dr #103
San Diego, CA 92108

AND VIA FACSIMILE 619-767-2384

Dear Ms. Ross,

In regards to: RC-22-05 Pacific Tides

Thank you for sending me a copy of the August 30, 2007 Commission Notification of Appeal for A-6-OCN-07-103. Attachment "A" refers to on-street parking policies. Please note that the Staff Report dated April 9, 2007 for the City of Oceanside's Planning Commission (previously sent to you) discusses compliance with the Local Coastal Program on pages 8 and 9. It is Staff's understanding that a one-to-one replacement for removed parking shall be provided on properties west of the railroad right-of-way.

Along the south side of Witherby Street, the above referenced project proposed replacing four existing on-street parking spaces with seven on-street parking spaces. Along the north side of Witherby Street, the project side of the street, the on-street parking space count remains unchanged. This block of Witherby Street will be improved with pavement, additional parking, new curbs, sidewalks, trees, and landscaping.

It is Staff's opinion that the project provides several attributes to the area. Three residential units are added to the 1300 block of South Pacific Street. The residential design includes three two-car garages. All of the right-of-way contiguous with the project site will be landscaped in a superior fashion. The south side of Witherby Street will be enhanced by landscaping and a supply of seven angled, on-street parking spaces. (A net increase of three additional on-street parking spaces is provided by this project.) The architecture, trees and other landscape material, and the additional on-street parking will enhance the area adjacent to the La Salina Water Treatment Plant. Please contact me if you have any questions.

Cordially,

Juliana von Hacht
Associate Planner

EXHIBIT NO. 7
APPLICATION NO.
A-6-OCN-07-103
Letters from City



CITY OF OCEANSIDE

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION

September 25, 2007

Mr. Lee McEachern
 California Coastal Commission
 7575 Metropolitan Drive
 Suite 103
 San Diego, California 92108-4402

RE: Pacific Tides Project

Dear Lee:

We understand that the on-street parking layout for the Pacific Tides project is currently being analyzed by the Coastal Commission. City staff recommended approval of the current layout – diagonal parking on the south side of Tait Street and parallel parking on the north side – and the City's Planning Commission approved the project for the following reasons:

- The use of diagonal parking on both sides of Witherby is an unsafe condition due to the limited site distance for both the driver backing out of the parking space on the north side of the street and the driver turning the corner from Tait Street. In the American Association of State Highway and Transportation Officials publication "A Policy on Geometric Design of Highways and Streets 1990," it states "on-street diagonal parking decreases through capacity, impedes traffic flow and increases accident potential." It also states "The principal problem of diagonal or angle parking when compared to parallel parking is the lack of adequate visibility for the driver during the back-out maneuver." For these reasons, the City of Oceanside believes that the current design is a safe engineering design.
- Diagonal parking on both sides of the street would create a parking lot in front of residential homes. This does not match the existing character of on-street parking in this neighborhood. While the parking demand is present in this area, increased on-street parking through more diagonal parking stalls would present a noise and enforcement problem for the residents. Additionally, the proposed project will result in a net gain of 4 parking spaces on this portion of Tait Street.
- Diagonal parking proposed on the south side of Witherby would be installed by the applicant in lieu of 14' of street vacation on the north side (with parallel parking). If the City did not allow the street vacation to occur, then the applicant could only be required to install diagonal parking along their project frontage and not on both sides of the street.

RECEIVED

SEP 26 2007

CALIFORNIA
 COASTAL COMMISSION
 CIVIC CENTER 300 N. COAST HIGHWAY OCEANSIDE, CA 92054 TELEPHONE 760-435-3520 FAX 760-754-2958
 SAN DIEGO COAST DISTRICT

Please contact me at 760-435-3535 or our Traffic Planner, John Amberson at 760-435-5091, if you have any questions.

Sincerely,



Jerry Littleman
City Planner

Cc: John Amberson, Traffic Division
Leslie Gallagher, City Attorney's Office
Juliana von Hacht, Project Manager



land planning, civil engineering, surveying

ROD BRADLEY, *Urban Planner*
RONALD L. HOLLOWAY, *Civil Engineer*

September 21, 2006
W.O. 790-1064-400

Mr. Mike Chegini
20 Morgan Investments, LLC
20 Morgan
Irvine, CA 92618

RE: Witherby Street Vacation

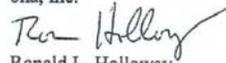
Dear Mr. Chegini:

Pursuant to our meeting on Monday with the California Coastal Commission, we have reviewed our prior correspondence with the City of Oceanside regarding the street vacation of Witherby Street. In our May 31st, 2006 letter to Maryam Wagner, we stated in our professional opinion we did not consider diagonal parking a safe condition for a residential street. The City however asked us to provide additional parking on the south side of Witherby Street by using diagonal parking, and parallel parking on the north side of the street. The project was approved by the City of Oceanside with this configuration.

In our professional opinion use of diagonal parking on both sides of Witherby is an unsafe condition due to the limited site distance for both the driver backing out of the parking space on the north side of the street and the driver turning the corner from Tait Street. In the American Association of State Highway and Transportation Officials publication "A Policy on Geometric Design of Highways and Streets 1990", it states "on-street diagonal parking decreases through capacity, impedes traffic flow and increases accident potential." It also states "The principal problem of diagonal or angle parking when compared to parallel parking is the lack of adequate visibility for the driver during the back-out maneuver." For these reasons, we believe the current design is a good compromise between parking needs and safe engineering design.

Please contact our office if you have any questions or comments.

Sincerely,
bha, Inc.


Ronald L. Holloway
Principal Engineer



CC: Ken Chriss

street vacation-ccc.ltr

EXHIBIT NO. 8
APPLICATION NO.
A-6-OCN-07-103
Letter from
Applicant's Engineer
 California Coastal Commission