

CALIFORNIA COASTAL COMMISSION

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Filed: March 19, 2007
49th Day: Waived
Staff: Toni Ross-SD
Staff Report: April 19, 2007
Hearing Date: May 9-11, 2007

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Oceanside

DECISION: Approved with Conditions

APPEAL NO.: A-6-OCN-07-31

APPLICANT: Oceanside III

PROJECT DESCRIPTION: The construction of an 82-room hotel (70 units to be condo-hotel units), 4,180 sq. ft. full service restaurant and four residential condominium units on a lagoon-fronting 3.8 acre undeveloped site.

PROJECT LOCATION: West side of South Coast Highway, between Eaton Street and Buena Vista Lagoon

APPELLANTS: Preserve Calavera, Friends of Buena Vista Lagoon, Ellen Newton, Karen L. Dugan, Boyce Lundstrom, Douglas Freed, Daniel & Cathy Di Mento, Jacques Domercq, Commissioners Patrick Kruer & Sara Wan

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: City of Oceanside certified Local Coastal Plan, City Staff Report and Resolution for CDP RC-8-02 dated February 14, 2007 approved by City Counsel, Appeal forms, City of Oceanside Resolution #2006-P56, the Planning Commission Denial for project, Final EIR dated August 18, 2007, draft EIR appendices dated June 9, 2005.

I. Appellants Contend That: the project as approved by the City is inconsistent with the policies of the City's certified Local Coastal Plan. The City found that the subject condominium/condo-hotel/restaurant development is consistent with the numerous LCP provisions pertaining to this development. However, the development as approved by the City raises several LCP consistency issues with regard to the protection of wetlands, public views, scale of development, public access, brush management, buffer size, flooding/geologic hazards, low-cost visitor serving uses, recreational uses and policies specific to the Buena Vista Lagoon Management Plan. The most prominent of these contentions relate to the size of the structures, given their close proximity to sensitive habitat and Buena Vista Lagoon, and the inadequate process used by the City to establish an appropriately sized buffer between the project and the lagoon. Other contentions are the high percentage of rooms approved as condo hotel units, making these units quasi-residential, in a coastal region where low cost visitor serving amenities are preferred. The appellants contend that the City failed to properly review the wetlands delineation and the subsequent buffer between the lagoon and the proposed development. Finally, the appellants contend that the City did not properly address the scale of the development given its high scenic value and close proximity to open space.

II. Local Government Action: The City of Oceanside Planning Commission certified the final EIR document and denied the project on October 9th 2006. The applicant appealed this decision to Oceanside's City Council. The City Council approved the project with conditions on February 14, 2007. Conditions placed on the project include widening the public access trail to accommodate bicyclists, brush management for fire safety, including modifications within the proposed buffer, installation of a traffic signal on Pacific Coast Highway, and conditions specific for the regulation of the Condominium Hotel units.

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. One example is that the approval of projects within cities and counties are located between the first public road and the sea. Pub. Res. Code § 30603(a)(1). 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,

unless this time limit is waived by the applicant. Cal. Pub. Res. Code §§ 30621(a), 30625(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 a de novo 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 the de novo portion of the public hearing 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 portion of the 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-07-31 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-07-31* 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 construction of a 3-story 82 room hotel, 4,180 sq. ft. restaurant and four 2-story, 3,475 sq. ft. detached residential condominiums on an undeveloped lot. As approved by the City, 70 of the hotel units will be developed as condo-hotels units, with length-of-time use restrictions. The 12 remaining hotel units will be exclusively for transient overnight use. The project site is a 3.8 acre vacant lot located adjacent to and directly north of the Buena Vista Lagoon and directly west of Pacific Coast Highway in the City of Oceanside. The North County Transit District right-of-way and main north/south railroad tracks are located directly to the west of the site. The property includes three legal parcels and has two General Plan and Zoning designations. The eastern lots located along Pacific Coast Highway, where the hotel and restaurant are located, are zoned Visitor Commercial uses (CV) and designated Special Commercial (SC) and the western portion of the lot, where the condominiums are located, is zoned Residential Tourist (RT) and designated Urban High Density (UHD). A 100' biological buffer will be observed and revegetated with native plants, and a public access easement will be located between the lagoon and the proposed development and outside the 100' buffer. A total of 139 parking spaces will be provided for the combined hotel and restaurant uses. A pool and deck will be provided for hotel guest use.

2. Scale of Development. The appellants content that the project as proposed is too large, given the scale and character of the surrounding community and its close proximity to Buena Vista Lagoon and its associated wetlands. The City of Oceanside's LCP has Land Use Plan (LUP) provisions that address the appropriate scale of development. These provisions state:

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

Building forms can be designed to respect and improve the integrity of open space and other public spaces adjacent to open space

In areas of significant natural aesthetic value, new development shall be subordinate to the natural environment

While the project as approved by the City meets all zoning ordinance provisions and no variances were requested or approved, the height of the hotel will be substantially higher than other structures in the surrounding community. The development is located within an area of primarily one-story residences to the west and north, and two-story residential and commercial buildings to the east. The height of the hotel as approved is 3-stories and 36' high, with an observation tower that extends up to 46' high. The City, in its review, acknowledged that the hotel will be higher than the residences and other surrounding structures, but it found this difference to be insignificant. Aside from the observation deck, the hotel will be 10-15' higher than the other structures in the surrounding community. Given the low scale of surrounding development, a height difference of 10-15' could be considered to be incompatible with the surrounding community and therefore inconsistent with the City's certified LCP policies pertaining to scale of development.

The project is located immediately adjacent to Buena Vista Lagoon, an ecological reserve and open space area managed by the California Department of Fish and Game (DFG). Other developments immediately surrounding to the lagoon include a small nature center to the east and a single family residence to the south. While currently the lagoon is identified by the EPA as an impaired water body, restoration of the lagoon is currently in the CEQA documentation phase. The proposed development includes a three-story hotel, a large restaurant and four two-story condominiums on a site directly adjacent to the lagoon and open space, where no other such large structures exist. As such, it appears the development as approved by the City will significantly "stand-out" and is not subordinate to the surrounding natural environment, as required by the LCP. Therefore, the appellants have raised substantial issue regarding the conformity of the development with the policies of the certified LCP.

3. Public Views. The appellants contend that the project is inconsistent with LCP policies for protection of public views. Specifically the appellants contend that the City did not adequately address public view impacts resulting from the project from Pacific Coast Highway or from the end of Broadway. The appellants also contend that the City's vacation of a portion of the Broadway Right-of-Way (ROW) in 1981 to the applicant, should not now allow the applicant to build within the existing view corridor for the remaining portion of Broadway. The City has LUP provisions for protection of public views that state:

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

The city's grid system pattern allows public views of these water bodies from several vantage points. Most east-west streets in the coastal zone offer views from the ocean. In addition, Buena Vista Lagoon, the San Luis Rey River and the ocean are visible from portions of Interstate-5.

There are no developed vista points in Oceanside, although several locations seem to meet this purpose. These include the fishing area at Buena Vista Lagoon, the frontage road adjacent to the inner lagoon, and the Oceanside Pier.

The city shall encourage development of viewing areas at the Pacific Street Linear Park, the Buena Vista Lagoon fishing area (provided by Eaton Hill Developers)...

All new development shall be designed in a manner which minimizes disruption of natural land forms and significant vegetation

Both the EIR and City staff report indicate substantial public view impacts. The development, as approved, will completely obstruct lagoon views from Pacific Coast Highway while driving south toward the lagoon. The site is currently undeveloped, therefore any development will cause some view impacts. In 1981 the City vacated the southern end of the Broadway right-of-way to the applicant. While not an east-west facing street (identified as protected in the LCP), the end of Broadway abuts Buena Vista Lagoon and currently allows for uninterrupted views of the lagoon looking south and east. Broadway is a public road and local residents and those who work in Oceanside park their vehicles at the end of Broadway to utilize these public views. The project as approved includes the construction of four condominium units, one of which is sited directly between the end of Broadway and the Buena Vista Lagoon, resulting in significant impacts to public views from Broadway.

Pacific Coast Highway (PCH) is a heavily traveled coastal road, and a main artery of Oceanside's roadways. The views while traveling southbound on PCH of the lagoon (both open water and associated vegetation) are currently expansive. The development as approved will significantly and potentially completely obstruct these public views. Not until the traveler has passed the development and is directly over the lagoon will these views be regained. A view analysis with a mock-up of the building as viewed from PCH was completed; however, the vantage point was traveling northbound where impacts would not be as great. Views impacts could be lessened by relocating Condo "A" out of the view corridor at the end of Broadway, and designing the hotel to step down in height towards PCH, allowing more of the views to be maintained. However, neither of these options was addressed by the city.

Further, the "fishing area," which is specifically defined by Oceanside's public view policies as a potential vista point, is located in the project's exact location, and the views from both Broadway and PCH to the "fishing area" will be greatly impacted by this development. The project is therefore inconsistent with policies designed specifically for protection of public views.

4. Lagoon Buffer. The appellants contend that the approved 100' buffer is not adequate for protection of lagoon resources. Further, as approved, the project would include active brush management within this buffer, an activity expressly not permitted by the DFG. The City's LUP has a provision for establishing adequate buffers to protect areas surrounding sensitive habitat and states:

A buffer zone shall be established around all sensitive habitats. The buffer zone shall be generally 100' for small projects on existing lots. If the project requires substantial improvements or increased human impacts, a much wider buffer area shall be required. Likewise, a reduced buffer area will be considered if, in consultation with the State Department of Fish and Game it can be demonstrated that 100' is unnecessary to protect the resources of the habitat areas.

DFG was consulted on this project and concluded that a 100' buffer would be adequate for protecting Buena Vista Lagoon's sensitive habitat from the proposed development. Per DFG, as a component of the development, this buffer was to be revegetated with native vegetation because the 100' buffer is currently comprised primarily of disturbed vegetation and non-native grasses. It is unclear what method the applicant used to delineate the wetland vegetation, from which the approved 100 ft. buffer would be measured. Further, this delineation was conducted in May of 2001 and may no longer be accurate. The City failed to require an updated wetlands delineation. Without knowing the upland extent of the lagoon wetlands, it is not clear if the approved 100 ft. buffer is adequate.

The plans to restore the Buena Vista Lagoon are currently undergoing review as part of the CEQA process. One of the alternatives, and the community favorite, is a tidally influenced lagoon. Currently the lagoon is maintained as fresh water by a weir. If the restoration alternative of a tidally influence lagoon is accepted, the weir will be removed and the entire function of the lagoon will be altered. The water/sea water level could increase or could greatly vary during storm events, thus expanding the area covered by water and riparian vegetation. Given the unknown ramifications of the lagoon restoration, sea level rise, and other factors, the permitted 100' buffer may not be adequate. The City failed to address this issue in its review of the project.

While DFG required that the buffer be revegetated with native plants, the City's approval includes conditions pertaining to fire hazards that require that this buffer also be used for brush management. As conditioned by the City, the buffer would no longer be revegetated as proposed, and in fact, it explicitly prohibited the planting of native vegetation within the outer 40' of the buffer. Instead, the project as approved is required to plant succulents in this area. DFG signed off on the size of the buffer (100') with conditions pertaining to allowed uses within the buffer. These conditions restricted any brush management within the buffer region. Buffers provide several important resource benefits, such as restoring and maintaining the chemical, physical and biological integrity of the water resources, removing pollutants and reducing erosion. The changes made to the project adversely impact the function and value of the buffer to the extent that it may not be able to adequately protect the habitat it is buffering. In addition, DFG has not reviewed this revised project, inconsistent with above cited LCP provisions, which require DFG concurrence on wetland buffers.

The project is therefore inconsistent with policies designed specifically for protection of sensitive habitat through adequate buffering.

5. Hazards. The appellants contend that the City did not adequately address the geological stability or flood safety of the approved development. The appellants contend that given the location of the project, adjacent to a water body in an area known for potentially liquefiable soils and historic flooding, further protection measures should have been addressed to better assess any possible geological or flooding hazards. The City has two objectives pertaining to the regulation of geological stability and flood control in their LUP and these state, in part:

The city shall seek to minimize risks to life and property in areas of high geologic and flood hazards

Protect the slopes and flood prone areas on the north shore of the middle section of Buena Vista Lagoon from development

Relative to geologic stability, the City did address this issue. A geotechnical report was completed for the project that included recommendations to address issues related to the existing alluvial soils on the site. Specifically, the geotechnical report includes a number of design parameters for development of the project and requires that the surface soils be removed and recompacted and that the restaurant and portion of the hotel incorporate a caisson foundation. With these measures, which were approved by the City, geologic safety will be assured, consistent with the above-cited LCP provisions.

The project site is directly adjacent to Buena Vista Lagoon and in fact, a portion of the site is located in the identified 100-year floodplain. However, all buildings are located upland of the identified 100-year floodplain, and the proposed wetlands buffer comprises the majority of land located within the floodplain. According to the appellants, historically this area has flooded a number of times. The appellants further assert that the culvert under Pacific Coast Highway (PCH) that connects the lagoon's middle and eastern basins is not sized appropriately and as such, during significant storm events, water overtops PCH. The proposed development is directly adjacent to and west of PCH in a low lying area. According to the appellants, when stormwater is forced to overtop PCH, storm water also floods onto the project site. Other than assuring the proposed buildings were located outside of the 100-year floodplain, the City did not address flooding and it imposed no mitigation measures to address flooding. In addition, the elevation of water in Buena Vista Lagoon is maintained by a weir. This weir was replaced in 2002, and it is unclear if the updated weir had any affect on the floodplain elevation for the lagoon. Again, these issues were not addressed by the City and therefore a substantial issue has been raised relative to design safety pertaining to flooding.

6. Marine Resources/Water Quality. The appellants contend that the development as approved will result in impacts to lagoon water quality and marine resources. Specifically the appellants contend that eight pairs of Clapper rails are found within Buena Vista Lagoon and measures for protecting these birds have not been adequately addressed, nor have regulations been incorporated in the approved project for water

quality maintenance. Both of these deficiencies may result in impacts to marine resources and/or water quality. The City's LCP Land Use Plan (LUP) has policies for the protection of marine resources and water quality that state in part:

As a part of the review process the city shall establish measures on a project-by-project basis to minimize the introduction of dissolved grease, oil, paints, pesticides, construction, waste, and other pollutants into the urban run-off.

The city shall require all developments which drain into the lagoon to include measures to prevent erosion, sedimentation, and other water quality impacts, such as:

- a. During construction, retaining all runoff on-site in percolation settling ponds and staking down bales of straw in the drainage ways to filter remaining sediments.
- b. Prohibiting grading or clearing from November through March. Any soils left exposed during this period should be re-seeded or temporarily stabilized using plastic or other material as needed
- c. Minimizing the alteration to land forms
- d. Maximizing penetrable surfaces for percolation, and providing permanent settling basins. Grease traps and/or energy dissipaters

Prior to approving any developments on dry lands adjacent to Buena Vista Lagoon, the City shall consult the State Department of Fish and Game to ensure that adequate measures are provided to protect and enhance the lagoon's sensitive resources. Such measures shall include, where appropriate

- a. Provision for adequate buffers between development and the lagoon
- b. Erection of barriers – such as fences – to prohibit access to sensitive portions of the lagoon
- c. Incorporation of native riparian plant species into project design to enhance habitat value
- d. Construction of informational signs/kiosks educating the public on the value of the lagoon, and listing the regulations for public use.

The city shall continue to cooperate with other agencies including the State Department of Fish and Game, the Cities of Carlsbad and Vista through the Joint Powers Committee, US Fish and Wildlife Service, San Diego Association of Governments, and the Regional Water Quality Control Board in seeking ways to lessen the current impacts on the lagoon. Siltation and water pollution are two such impacts which are particularly critical.

No direct or indirect impacts are expected to occur to the habitat associated with the lagoon. No native habitat will be impacted on the property itself and existing exotic vegetation on the property site will be removed. Further, stormwater runoff will be directed into a cobblestone filter ditch and will then flow to a grass filter bio-swale. From there, water will pass through a filter/hydrodynamic separator with an oil absorbent filter before discharging onto the buffer area. The project, as approved, includes 20 specific erosion control conditions as well as numerous conditions for the development of an Operations and Maintenance Plan (OMP). This OMP is based on the approved Storm Water Mitigation Plan (within the certified EIR). This OMP will detail responsible parties, employee training, operating schedules, maintenance frequency, routine service schedules and cost estimates for OMP, among others. Thus, water quality has been adequately addressed by the City, and the appellants' contentions regarding this issue do not raise a substantial issue.

The certified LCP includes findings for the sensitivity of Buena Vista Lagoon and state that the "lagoon supports two endangered bird species, (Belding's savannah sparrow, California least tern). The California clapper rail is believed to live and breed in the lagoon environs, but no sightings have been confirmed." A recent study has been issued by the Fish and Wildlife Service (FWS) indicating that eight pairs of Clapper rails inhabit Buena Vista Lagoon. Further, the EIR for the project indicates that a pair of clapper rails has been previously observed nesting underneath the railroad bridge. The project site is north and east of the above stated railroad bridge. Mitigation for the presence of a federally- and state-listed endangered species was limited to "[i]f possible, project construction should avoid the avian breeding season. If feasible, measures should be taken to avoid disturbing avian breeding season from indirect effects." Given the sensitivity of the surrounding area, further precautions should have been adopted by the City to protect the lagoon's wildlife. The approved project does not minimize impacts to sensitive species found within the lagoon, and therefore, a substantial issue is raised.

7. Public Access. The appellants contend that development on this property will decrease public access because there are inadequate regulations related to the approved public access trail and the construction of a wall limiting the access to the "fishing area" located directly between the development site and the lagoon waters. The applicant is proposing a gated public accessway through the property, and the approved project does not include restrictions for the operation of the gate. Without restrictions related to operation of the gate, it is possible the gate would remain closed, further impairing public access. In addition, the appellants contend that the traffic study for the development was done in the off-season and is therefore inaccurate and that the city did not address line-of-sight issues existing on this section of Pacific Coast Highway. Both the City of Oceanside and the Coastal Act have applicable policies pertaining to public access that state:

Coastal Act Policies:

30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

City Certified LUP Policies:

Adequate access to and along the coast shall be provided and maintained

Existing and new public accessways shall not be closed or converted to other uses without approval from the California Coastal Commission

There is a 3.1 acre privately owned vacant lot [subject site] just west of Hill Street on the north shore of the lagoon. The lot is flat and is vegetated with grass and weed species. The lagoon frontage has been extensively used by the public in this location, indicating possible prescriptive rights.....

Currently on the existing vacant lot, there is evidence of public use in that a well worn trail exists. The trail begins at the end of Broadway and passes through the subject lot out to Pacific Coast Highway. The project, as approved by the City, includes an 8' public access easement. However, the City failed to address the timing for improvement of the access or to include provisions for maintenance. Further, the plans for the public accessway include a gate at the entrance from Broadway. While a time-operated gate could be consistent with the public access policies of both the City of Oceanside and the Coastal Act, the details of how this gate would operate, such as its hours of operation, have not been included within the resolution and conditions approved by the City. In the absence of regulations related to the operation of the gate within the public accessway,

the schedule for improvement and opening of the access, and a plan for maintenance, the development is not consistent with the public access policies stated above.

As stated previously, an area designated as the “fishing area” within the preliminary Buena Vista Lagoon Management Plan (a component of the certified LCP), is located within the project site buffer. The development as approved includes construction of a wall separating the development from the approved buffer. As such, access to the fishing area would be walled off. The City failed to address this in its review and approval.

The appellants contend that the development is inconsistent with the certified LCP in that the City did not adequately address traffic issues raised by the development. According to the appellants, exiting from Eaton to Pacific Coast Highway is difficult given the limited line-of-sight. While the project as approved includes the installation of a new signal at this location, this does not adequately address the limited line-of-sight and could result in increased accidents thus increasing traffic on Pacific Coast Highway. However, as approved, the City required that the project conform to criteria provided by California Department of Transportation for sight distance requirements at all driveway and street intersections, thus, the line-of-sight issue, has been properly addressed by the City. The appellants also contend that the traffic study was conducted primarily in September, and therefore did not include the issues associated with summer traffic. It is unclear when exactly the traffic surveys were conducted, and no mention of summer traffic is included within the EIR or the city’s findings. The location of this project would be subject to substantial variation in traffic levels between summer and all other seasons. Any traffic surveys for a development such as this should specifically address traffic issues associated with the high useage and traffic rates of summer. The appellants have therefore raised a substantial issue with respect to the consistency of the project with the public access policies of both the City’s certified LCP and the Chapter 3 policies of the Coastal Act.

8. Protection of Low Cost Visitor Serving Uses/Condo Hotel. The appellants contend that the development as approved by the City does not adequately provide for low cost visitor serving uses because 75% (70 units) of the 82 hotel units are proposed as condominium hotel units. Both the City of Oceanside and the Coastal Act have identical provisions protecting low-cost visitor facilities that state:

30213

Lower cost visitor serving facilities shall be protected, encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.

As cited above, the Coastal Act gives greater priority to visitor serving uses, which include hotels and other uses that provide overnight accommodations and gives particular preference to lower cost visitor-serving accommodations. Because condo-hotel units are individually owned and subject to either no or varying length of stay restrictions, they can be considered a quasi-residential land use that only functions part time as an overnight

visitor accommodation. As a quasi-residential land use, condo hotels raise concerns relative to the extent they actually constitute a visitor-serving land use. In addition, condo-hotels generally do not offer accommodations that can be considered “lower-cost,” raising questions about the adequacy of supply of lower-cost visitor-serving accommodations in the coastal zone.

As a component of the City’s permit, a preliminary study of low cost facilities was completed. The findings of this survey indicated that the City has ample low cost visitor serving facilities. This study, however, does not exempt the City from encouraging additional low-cost facilities or maintaining current uses, especially in areas zoned specifically for visitor serving uses. The City in its review did include a number of provisions to address this concern and to better assure the condo-hotel units will function, to the extent feasible, as traditional hotel units. However, the project still raises LCP consistency concerns. For example, the owners of the condo hotels are “limited to a maximum of 29 days during any 30 day period” of occupancy. This would allow 63 (75%) of the 70 condo-hotel units to be occupied by the condo hotel owner 87 of 90 days within the summer season. Allowing this high of a percentage of units to be occupied by individual owners during the summer season is inconsistent with the policy described above and therefore a substantial issue has been raised.

9. Recreational Uses. The appellants contend that the development, as approved, would inhibit current and future recreational uses. The appellants also contend that development of this project will inhibit bird watching, fishing and biking and public education walks; all of which are current low cost visitor serving uses on or adjacent to the site. Specifically construction of a wall separating the development from the buffer, and the innate exclusivity of condominium hotels will result in decreased recreational capacity at this location. Both the City of Oceanside and the Coastal Act have provisions protecting recreational uses in the coastal zone and state:

City Policies:

In granting proposals for new development within the coastal zone, the City shall give priority to visitor serving commercial recreational facilities over private residential, general industrial or general commercial uses.

The City shall protect, enhance, and maximize public enjoyment of Coastal Zone public resources.

There is a 3.1 acre privately owned vacant lot [subject site] just west of Hill Street on the north shore of the lagoon. The lot is flat and is vegetated with grass and weed species. The lagoon frontage has been extensively used by the public in this location, indicating possible prescriptive rights.....

Coastal Act Policies:

30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

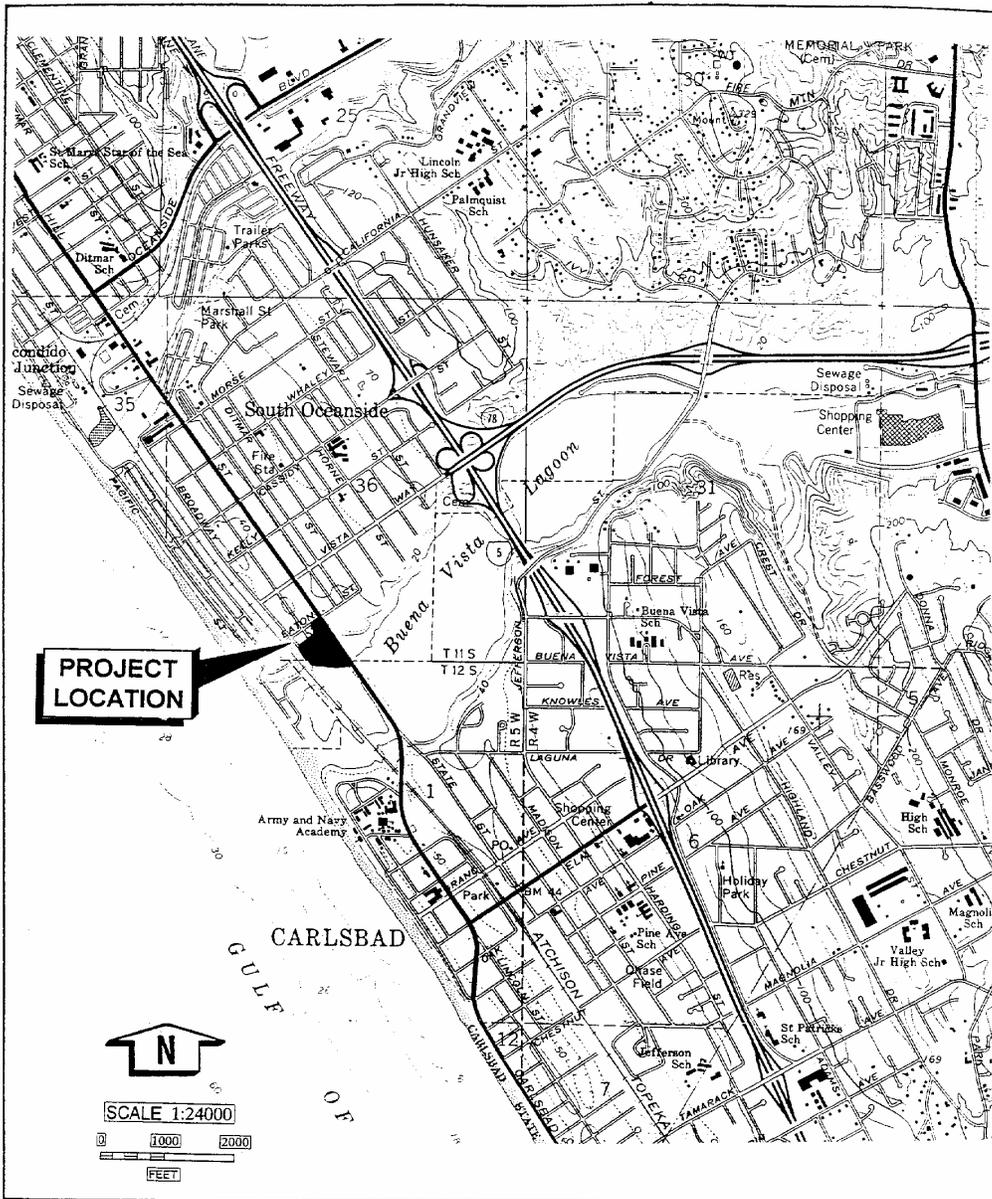
The development is proposed on a large lagoon-fronting vacant lot. According to the appellants, this lot has numerous recreational uses. Oceanside's certified LCP includes a preliminary management plan for Buena Vista Lagoon. This plan contains goals to protect public access, recreational use and educational use. The area of proposed development has historically been used for fishing, bird watching, bicycling and hiking, all of which are considered low-cost. The proposed development will not prohibit these uses, but they will be less accessible. The Buena Vista Audubon Society Nature Center is located directly across Pacific Coast Highway from the project site. Thousands of visitors and school children visit the Nature Center annually, many coming from other states to enjoy the bird watching amenities of this location or from local schools to learn a valuable lesson on the importance of wetlands. A development of this scale will adversely impact both of these uses.

This plan documents the areas of recreational use within the lagoon. Birding, hiking, fishing and biking were all considered. The location of the development is immediately adjacent to the Audubon Society Nature Center, and in an area known for high-use fishing, biking and bird-watching. Although this development will not preclude these recreational uses from continuing, it will not protect these uses either, and it will inhibit access to these sites. Further, given that the development includes private residential, as well as quasi-residential development, the project is not giving priority to recreational facilities and thus is not consistent with above-cited LCP and Coastal Act Policies.

The appellants have also raised an issue of parcel map reconfiguration. The project site consists of three lots, one of which is within the Coastal Commission's original jurisdiction. The City approved an adjustment to the lot lines to eliminate any development within the Coastal Commission jurisdiction, therefore eliminating the need for a Coastal Development Permit. The Tentative Parcel Map was approved by Oceanside's City Counsel at the February 14th hearing. This issue fails to raise a substantial issue, as the applicant has been permitted to adjust lot lines to fit development.

Conclusion

In summary, the City failed to adequately review the project for conformity with the LCP through the coastal development permit process, and has not adequately addressed the development's conformity with LCP standards regarding impacts to public views, adequate buffers, potential hazards, marine resources, public access, preservation of low cost visitor serving uses, and public recreation. Therefore, the Commission finds that a substantial issue exists with respect to the consistency of the local government action with the City's certified Local Coastal Program.



Affinis

Shadow Valley Center
847 Jamacha Road
El Cajon, CA 92019

PROJECT LOCATION ON USGS 7.5' SAN LUIS REY QUADRANGLE

FIG

EXHIBIT NO. 1
APPLICATION NO.
A-6-OCN-7-31
Location Map

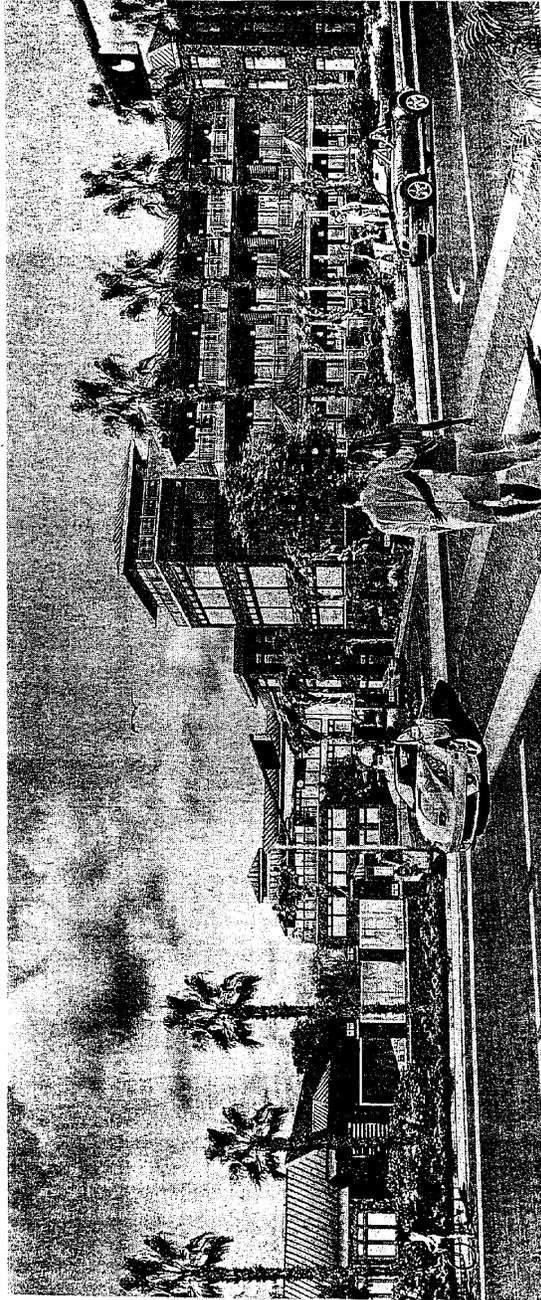


EXHIBIT NO. 3
APPLICATION NO.
A-6-OCN-7-31
Project Design



Mar-22-07 06:17 From:818 767 2384

818 767 2384

T-834 P 002/002 F-120

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWABENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

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



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MAR 22 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

49- DAY WAIVER (APPEAL)

RE: APPEAL A-6-OCN-07-031

I, the applicant or authorized representative, agree pursuant to Section 30625 of the Public Resources Code, to waive the 49-day time limit for hearing on an appeal specified in Public Resources Code Section 30621. If possible, I request that the referenced appeal be set for hearing at the next ~~(Southern)~~ (Northern)* California Coastal Commission meeting. MAY, 2007 at SAN PEDRO
REQUEST THAT DE NOVO HEARING BE SCHEDULED IN MAY 2007 AS WELL.

Romance
Applicant or Authorized Representative

3-22-07
Date

*Please circle applicable choices.

(G:\San Diego\Workgroup Templates\49 Day Waiver for Appeal.doc)

EXHIBIT NO. 4
APPLICATION NO.
A-6-OCN-7-31
49 day Waiver

March 11, 2007

An Appeal to Honorable Members of the Coastal Commission;

Re: Lagoon Hotel Project (Formerly Boardwalk Project). Objection to the Approval and Certification of the Environmental Impact Report and Regular Coastal Permit (RC-8-02):

I request that the Oceanside City Council approval of the EIR and the Project Plan be reversed for failure to adhere to the Local Coastal Plan (LCP) and Coastal Plan. The LCP and Coastal Plan, as originally approved by the Coastal Commission, are very specific in the protection of Coastal access and views. Specifically:

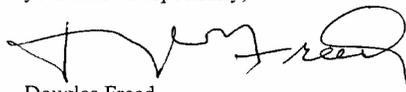
The 15 feet Access corridor and View corridor, on the westerly side of Broadway (along the rail right of way) is to be vacated by the City of Oceanside at the request of the Owner/Developer. This strip is not an easement but is land owned by the City that the applicant wants the City to abandon. This 15 feet corridor is the only access to Buena Vista Lagoon ranging from the surf at St. Malo to the Coast Highway. The loss of this corridor forever precludes routing the Coastal Bike Trail through this area and forces cyclists to use the very dangerous Coast Highway. This is a gross violation of the Local Coastal Plan (LCP) which requires that Public Access and View Corridors be preserved above the interests of private use (Appendix B, Chapter 2). For this reason alone the EIR, in its whole, should be rejected.

2. The 65 feet of Broadway adjacent to Parcel 3, which was vacated by the City in 1982, is a Public View Corridor as defined in the LCP. The Plan calls for the City to abandon this 65 feet corridor so that the developer can construct a large residence in this right of way (Condo A). The LCP requires that View Corridors be preserved above interests of private development (Appendix B, Chapter 2). The EIR is faulty in that it does not address the issue of blocking the view with proposed Condo "A".

3. Currently the public uses a path from Broadway and across parcels 2 and 3 to access the lagoon and connect to the Coast Highway. The continuing use of this path for more than 30 years, without any attempt by the owner to block usage, constitutes an implied dedication under prescriptive rights doctrine. There is precedence for the Coastal Commission to deny the EIR in these cases.

4. The site plan arbitrarily changes zoning borders as defined by the Assessors Parcel Map. It excludes encroachment into Coastal jurisdiction. The owners' site plan is grossly corrupt (see attachments).

In summary, the EIR is seriously flawed. It should be rejected. The Owner/Developer has not seen fit to sit down with local residents, environmentalists, Audubon and others. Rejection of the EIR/Project will force the Owner/Developer to the table so that community concerns can be addressed. The result could be a mutually acceptable Plan that incorporates the view and access concerns of neighbors and environmentalists and could satisfy the financial interests of the Owner/Developer. Thank you for your time. Respectfully,



Douglas Freed
2110 Broadway
Oceanside, CA 92054

Received

MAR 13 2007
A-6-OCN-07-031
California Coastal Commission
San Diego Coast District

| |
|--|
| EXHIBIT NO. 5 |
| APPLICATION NO. A-6-OCN-7-31 |
| Appeals |
| 1 of 56 pgs 10 appellants |
| California Coastal Commission |

Mar 15 07 06:49a

Dan DiMento

(760)231-5049

p. 1

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

~~SOUTH CENTRAL COAST DISTRICT OFFICE~~
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732

San Diego Coast District Office
7575 Metropolitan Dr. Ste. 103
San Diego, CA 92108
FAX: 619-767-2384



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Daniel and Cathy Di Mento

Mailing Address: 2116 Broadway

City: Oceanside

Zip Code: CA

Phone: 760-231-9096

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Oceanside

2. Brief description of development being appealed:

Boardwalk/Coastal Lagoon Hotel project - 82 room condo-tel, 4 condominiums and full-service restaurant along Buena Vista Lagoon.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Buena Vista Lagoon to the South, South Coast Highway to the East, Broadway to the West and Eaton to the North in Oceanside.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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-07-031

DATE FILED: 3/15/07

DISTRICT: San Diego Coast

Mar 15 07 06:49a

Dan DiMento

(760)231-5049

p. 2

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 2/14/2007

7. Local government's file number (if any): Sch. No. 2003071101

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Oceanside Three/Aharon Abada
6121 Ramony Dr
San Diego, CA 92120

b. 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.

(1) Andrew Guatelle
555 Eaton St
Oceanside, CA 92054

(2) Russ Cunningham
405 S Meyers
Oceanside, CA 92054

(3) Wade McGowan
555 Eaton St
Oceanside, CA 92054

(4) Mary Adams-O'Connell
39 St. Malo Beach
Oceanside, CA 92054

Mar 15 07 06:49a

Dan DiMento

(760) 231-5049

p. 3

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE 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.
- 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.)
- This 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.

The reasons for appealing this decision are numerous.

As neighbors ourselves of the lagoon, we see the bicycle, pedestrian and wildlife traffic in this location. We feel that the EIR has drastically underestimated the current use of this site.

1) We feel that the owner of this property has given over rights to parcels 2 and 3 in that this location has been used over 30 years by the public which has used this accessway and he has made no attempt to stop the traffic. The California Supreme court's decision on *Gion vs City of Santa Cruz* (1970), showed that implied dedications are essentially easements over real property that come into being without the owner's explicit consent. We feel that this project would interfere greatly with traffic of surfers, walkers, birders, bikers, and the public in general. The California Constitution clearly favors public access to shoreline areas. The California Coastal Act embodies the goal of retaining access ways where they have existed in Public Resources Code Section 30211, which states: Development shall not interfere with the public's right of access to the sea where acquired through use....

2) The Oceanside LCP states on page 23, V. Environmentally Sensitive Habitat Areas Summary of Major Findings Buena Vista Lagoon paragraph 3: The lagoon supports two endangered bird species, the Belding's Savannah sparrow and the California least tern...In addition, the California clapper rail, another endangered bird, is believed to live and breed in the lagoon environs, but no sightings have been confirmed. A recent study has been put out by the State of California Resources Agency Department of Fish and Game Wildlife Branch, called the Light-footed Clapper Rail Management, Study and Propagation in California, 2006, which clearly shows that there are 8 pairs of this endangered species living along Buena Vista Lagoon. This is clearly an error in the City's LCP, which should force the City to go back and make a correction, and should also encourage your esteemed body to enforce a greater buffer than 100 feet.

3) In a neighborhood in which the local residents take pride in their 1200 square foot beach cottages, we feel that placing condominiums at 3450 directly next to them and a three-story hotel is inappropriate and obtrusive. Section 30251 of the Coastal Act states that: The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. New development in highly scenic areas, shall be subordinate to the character of its setting. The Oceanside LCP as well states that: In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment, and that: The City shall ensure that all new development is compatible in height, scale, color, and form with the surrounding neighborhood.

We appreciate your consideration on this matter and look forward to an amenable resolution for all parties involved.

Mar 15 07 06:49a

Dan DiMento

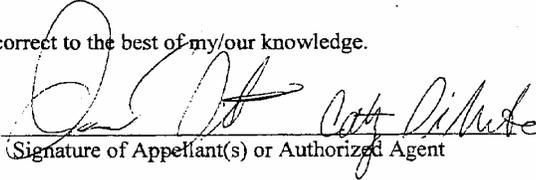
(760)231-5049

p. 4

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 3/14/2007

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

| | | | | | |
|--|--|---|---|-------------------------|--|
| A-6-OCN-07-031 | | Project Name: Boardwalk Development | | Fees Paid: _____ | |
| Applicant(s): Oceanside Three | | 6121 Ramony Drive San Diego, CA 92120 | | | |
| Agent: Abada Aharon | | 6121 Ramony Drive San Diego, CA 92120 | | | |
| Appellant(s) Preserve Calavera, Attn: Diane Nygaard | | 5020 Nighthawk Way Oceanside, CA 92056 | | | |
| IMPORTANT DATES | | | | | |
| Received: 3/12/07 | | | | | |
| Filed: | | | | | |
| 49thDay: | | | | | |
| 90thDay: | | | | | |
| 120thDay: | | | | | |
| 180thDay: | | | | | |
| 270thDay: | | | | | |
| APN(s): | | | | | |
| Project Location: West side of South Coast Highway, between Eaton Street and Buena Vista Lagoon | | | | | |
| Project Description: The construction of an 82-room hotel, a full service restaurant and four condominium units on a 3.8 acre undeveloped lot located on the west side of South Coast Highway, between Eaton Street and Buena Vista Lagoon. The project, as proposed, will include 85% of hotel | | | | | |
| PERMIT CHIEF | | | LCP INFO | | |
| Confirm info above <input type="checkbox"/> | | | Local permit #: RC-8-02 | | |
| Calendar type: Appeal | | | Local action: Approved w/ Conditions | | |
| Analyst assigned: Toni Ross | | | Action Date: 2/14/2007 | | |
| Notes/Comments to Analyst: | | | CLERICAL: <input type="checkbox"/> Please prepare local government Appeal Notification Form | | |
| ANALYST | | | CLERICAL | | |
| This application is: <input type="checkbox"/> Complete <input type="checkbox"/> Incomplete | | | <input type="checkbox"/> Please send Incomplete Notice to applicant because: | | |
| File date: _____ | | | | | |
| Tentative hearing month: _____ | | | | | |
| Is project located between first public road and sea? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Don't know | | | | | |
| Check any of the following: Related permits? | | | BLURB | | |
| <input type="checkbox"/> Prior-To-Issuance conditions recommended for this | | | <input type="checkbox"/> Please use database to create draft blurb for review. | | |
| <input type="checkbox"/> A 49-day waiver was granted by the permit applicant. | | | <input type="checkbox"/> And/Or, use draft blurb language below. | | |
| <input type="checkbox"/> Legal review is recommended. | | | | | |
| <input type="checkbox"/> Deed Restriction required | | | | | |
| Comments to be entered into database: | | | | | |
| CCC ACTIONS | | | FOLLOW-UP | | |
| | | | NOI sent: ___/___/___ | | |
| | | | NOI returned signed: ___/___/___ | | |
| | | | Permit sent: ___/___/___ | | |
| | | | Permit returned signed: ___/___/___ | | |
| | | | Were all Prior-To-Issuance (PTI) conditions met? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| | | | Permit expiration date: ___/___/___ | | |

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

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

Name, mailing address and telephone number of appellant:

Diane Nygaard, Preserve Cabrera
5020 Night Hawk Way, Oceanside, CA 9
92056 (760) 724-3887
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside

2. Brief description of development being appealed: Boardwalk - 82 room Condotel,
4,180 sq foot restaurant and 4 residential units.

3. Development's location (street address, assessor's parcel no., cross street, etc.): West side of S. Coast Highway
between Eaton Street and Buena Vista Lagoon.

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: Regular Coastal Permit CCS-02

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: 07-031

DATE FILED: 3/12/07

DISTRICT: San Diego Coast

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

D/86

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 _____

6. Date of local government's decision: Feb 14, 2007, NOV: Feb 27, 2007

7. Local government's file number (if any): RC-8-02

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:
Oceanside Three - agent Charon Abada
6121 Ramon Dr
San Diego, CA 92120

b. 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.

- (1) Dennis Huckabay, Buena Vista Audubon Society
P.O. Box 487
Oceanside, CA 92049
- (2) Kathy Christy, League of Women Voters
3552 Mira Pacific Dr
Oceanside, CA 92056
- (3) Regg Antle
Buena Vista Lagoon Foundation
- (4) _____

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.)

1. Impact on Buena Vista watershed
2. Inadequate buffer/protection of coastal resources
3. Inadequate public access.

see att letter

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 knowledge.

Signed Diane Nygaard
Appellant or Agent

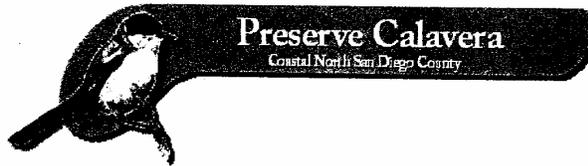
Date March 9, 2007

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

Signed _____
Appellant

Date _____

0016F



March 9, 2007

Lee McEachern
Toni Ross
California Coastal Commission
7575 metropolitan Dr Suite 103
San Diego, CA 92108-4402

Subject: Appeal of Regular Coastal Permit (RC-8-02) :
Boardwalk Project

Dear California Coastal Commission:

Please accept these comments as part of Section IV of the Appeal of Preserve Calavera of the City of Oceanside Boardwalk Project. On February 14, 2007 the City Council of the City of Oceanside approved the Boardwalk project including:

Development Plans D-13-02; CUP C-21-02 and C-22-02
Regular Coastal Permit (RC-8-02); Tentative Map T-8-02
Environmental Impact Report

Preserve Calavera is appealing the City of Oceanside grant of a coastal development permit to build this project - including a condotel, restaurant and four single family residential units.

The following provides further information for Section IV Reasons supporting this Appeal:

1. The project will adversely impact the Buena Vista Watershed

The Buena Vista lagoon is designated an "impaired waterbody". Like all of our Southern California coastal lagoons, it has been a death by a thousand small cuts - each adding to the cumulative impacts on this watershed. We are at a critical point in time where it is clear that the functions of the lagoon cannot be maintained without a massive restoration program. This lagoon restoration has been in the planning stages for years. At the time Oceanside approved their LCP in 1985, there was already

5020 Nighthawk Way - Oceanside, CA 92056
www.preservecalavera.org

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MAR 12 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

some recognition of the severity of the problem. That is why the LCP identified this parcel as one that should be re-zoned as open space. The preliminary analysis of the data from the lagoon restoration effort also supports the importance of adding critical parcels of open space, particularly around the lagoon. Millions of dollars of public funds have been invested toward improving the hydrologic and biological function of this watershed. The pending purchase of the Sherman property upstream, and the lagoon restoration plan are all part of the commitment to improve this watershed. Adding impermeable cover, impacting the lagoon buffer, and reducing areas of potential natural habitat will all effect the long term restoration effort, and the ability to create and sustain a healthy lagoon, and watershed ecosystem.

2. The proposed buffers are insufficient to adequately protect coastal resources.

We recognize that the state and federal wildlife agencies (WLA) signed off on the proposed 100' wide buffer. However this occurred prior to several significant changes that effected the function and value of the buffer. Subsequent to their review of the project, the city of Oceanside Fire Department added several key project conditions. They basically identified the 100' biological buffer for the lagoon as being contiguous with their 100' fire buffer. They further added conditions for a plant palette within the buffer that are not consistent with a plant palette surrounding the lagoon, and prescribed vegetation thinning within the first 40' of the buffer.

In addition to the conditions by the Fire Department, the project applicant added a five-foot multi-use trail on the perimeter of the buffer. The WLA had indicated in their project comments that they were opposed to a trail within the 100'. The project applicant and city assumed that it would be acceptable to put the trail right on the edge of the buffer, with no further conditions added to address the edge effects of a public trail along the buffer. Furthermore, at the project hearing on February 14, 2007 the trail width was increased from 5' to 8'- again with no conditions to address any adverse impacts to the coastal resources.

Buffers provide several important resource benefits- restoring and maintaining the chemical, physical and biological integrity of the water resources, removing pollutants, reducing erosion, providing infiltration of storm water runoff, contributing organic matter to the aquatic ecosystem, providing flood protection and wildlife movement corridors, among others. The changes made to the project adversely impacted the function and value of the buffer to the extent that it cannot adequately protect the coastal resources.

3. The project has not adequately addressed public access.

Public access is one of the fundamental protections of the Coastal Act, and of Oceanside's own LCP. It was reported that a public trail was added to the project in response to discussions with CCC staff that this would be an important project element. (Although it was not included on what was presented to the WLA's as they

had commented they would not accept a trail within the buffer). However, this trail was not shown on any of the project maps or figures, nor was it included as a required project condition. When questioned about this during the public hearing on February 14, 2007, the project architect pointed to a map and said, "this brown line shows where the trail would go." The line he pointed to was actually the perimeter fence. At the public hearing the City Council added a condition to increase the width of the public trail from 5 feet to 8 feet. It was stated that this could be accomplished by moving the perimeter wall to the north- in effect decreasing the development footprint and increasing the size of the area outside the perimeter wall. However, to our knowledge, no detailed project drawings have been provided that show the alignment of this new wider trail, or exactly how this could be accommodated outside the development footprint. Furthermore there has been no analysis as to how this trail would connect to existing public rights-of-way, both at the end of Broadway and along S. Coast Highway. There is also a safety issue along S. Coast Highway that is of concern.

In addition, it appears that this boundary change within the project would result in elements of the project no longer conforming with local ordinance requirements for setbacks for at least two of the proposed residential units. A proper trail needs to be delineated in order for its impacts to be evaluated. The city has failed to adequately provide for public access in their project approvals- public access that is mandated under both the Coastal Act and the LCP.

Conclusion

This project does not comply with key provisions of the Coastal Act and the City of Oceanside Local Coastal Plan. The appeal should be granted and the permit issued by the City of Oceanside should be revoked.

Thank you for your consideration of this appeal.

Sincerely,



**Diane Nygaard, President
On Behalf of Preserve Calavera**

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: *KAREN L. DUGAN*
Mailing Address: *2106 S. TREMONT*
City: *OCEANSIDE* Zip Code: *92057* Phone: *(760) 757-9674*

SECTION II. Decision Being Appealed

- Name of local/port government:
CITY OF OCEANSIDE
- Brief description of development being appealed:
BOARDWALK / COAST LAGOON HOTEL PROJECT
802 Room CONDO-TEL; 4 CONDOMINIUMS; FULL SERVICE RESTAURANT IN SOUTH OCEANSIDE ALONG BUENA VISTA LAGOON
- Development's location (street address, assessor's parcel no., cross street, etc.):
BUENA VISTA LAGOON TO SOUTH COAST HWY. TO EAST EASTON TO NORTH BOARDWALK TO WEST
- Description of decision being appealed (check one.):
 Approval; no special conditions
 Approval with special conditions:
 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-07-031*
DATE FILED: *3/16/07*
DISTRICT: *San Diego Coast*

Received
MAR 16 2007

California Coastal Commission
San Diego Coast District

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: 2/14/07

7. Local government's file number (if any): RC-8-02

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

OCEANSIDE 3
 6121 FARMHILL DRIVE / AHARON ABADIA
 SAN DIEGO, CA.
 92120

b. 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.

(1) DOLG FRIED
 2110 BROADWAY
 OCEANSIDE

(2) DAN & CRYSTAL DIMENTO
 2116 BROADWAY
 OCEANSIDE

(3) LEAGUE OF WOMEN VOTERS - OCEANSIDE/VISTA
 KATHY CRISTIE - 3552 MIRA PACIFIC DR. OCEANSIDE 92026

(4) BUENA VISTA HILDAJON SOCIETY
 2222 S. COAST HWY.
 OCEANSIDE

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

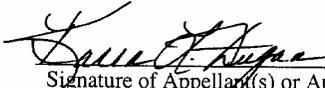
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local 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.)
- This 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.

1. VIOLATES OCEANSIDE LCP
2. FAILS TO MAINTAIN EXISTING VIEW CORRIDORS/ACCESS
3. ENDANGERED SPECIES NESTING IN AREA
4. INCREASED NOISE/POLLUTION/TRAFFIC
5. FLOOD PLAIN
6. DESIGN - MASSIVE FOOTPRINT INCOMPATIBLE WITH NEIGHBORHOOD
7. TWO COUNCIL MEMBERS RECEIVED CAMPAIGN CONTRIBUTIONS FROM OCEANSIDE 3 - CONFLICT.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 3/13/07

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
VOICE (619) 787-2370 FAX (619) 787-2384



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Jacques Domercq

Mailing Address: 1348 Buena St.

City: Oceanside

Zip Code: 92054

Phone: (760) 730-5528

SECTION II. Decision Being Appealed

1. Name of local/port government:

Oceanside

2. Brief description of development being appealed:

82 Room Condo-Hotel, restaurant and four single-family residence "condos" adjacent to Buena Vista Lagoon.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

West side of South Coast Highway between Eaton Street and Buena Vista Lagoon.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

MAR 16 2007
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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: 6-OC7-07-03

DATE FILED: 3/16/07

DISTRICT: San Diego Coast

03/16/2007 10:01 AM 3017001000 PROJECT FILE 0001 TIME 00

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

6. Date of local government's decision: February 14th, 2007

7. Local government's file number (if any): RC - 8 - 02

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Oceanside Three, Aharon Abada
6121 Ramony Dr.
San Diego, CA 92120

b. 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.

(1) Please see service list attached hereto

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE 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.
- 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.)
- This 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.

Upon scrutinization of this project it appears as though the approved plan conflicts with previous provisions to protect wetlands and endangered species. According to the 2006 Light Footed Clapper Rail report (excerpts attached) there are eight nesting pairs of clapper rails living at the Buena Vista Lagoon. One nesting pair has been recorded to be living directly adjacent to the project site. According to testimony from professional biologists studying this species, the bird would certainly be negatively impacted by the proximal construction and operations of such a large project as this. In short, this project and the welfare of the Light Footed Clapper Rails at the Buena Vista Lagoon are mutually exclusive.

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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

James Demery
Signature of Appellant(s) or Authorized Agent

Date: 3/16/07

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: ELLEN NEWTON
Mailing Address: 301 VISTA WAY
City: OCEANSIDE CA Zip Code: 92054 Phone: 760-433-6526

SECTION II. Decision Being Appealed

- Name of local/port government:
CITY of OCEANSIDE
- Brief description of development being appealed:
TIMESHARE/HOTEL, RESTAURANT & CONDOS
- Development's location (street address, assessor's parcel no., cross street, etc.):
OCEANSIDE CA - BUENA VISTA LAGOON on South
PCH on East
Broadway St. on West
- Description of decision being appealed (check one.): EATON ST on North
 - Approval; no special conditions
 - Approval with special conditions:
 - 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-07-031
DATE FILED: 3/15/07 (by FAX)
DISTRICT: San Diego Coast

Received
MAR 16 2007

California Coastal Commission
San Diego Coast District

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision:

2-14-07

7. Local government's file number (if any):

HA. RC-8-02**SECTION III. Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

OCEANSIDE THREE / AHARON AGADA
 5173 WARING RD. STE 123
 SAN DIEGO CA 92120

b. 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.

- (1) KATHY CRISTIE (LEAGUE OF WOMAN'S VOTERS)
 3552 MIRA PACIFIC DR.
 Oceanside CA 92056
- (2) Joyce Page
 6524 Easy St.
 Carlsbad, CA 92008
- (3) WADE McGowan
 555 Eaton St.
 Oceanside CA 92054
- (4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)SECTION IV. Reasons Supporting This Appeal

PLEASE 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.
- 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.)
- This 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.

1. The right of Passage is inconsistent with LCP.
2. The Buena Vista Lagoon and Surrounding Wetlands are on the Pacific Flight Path for Migratory Birds.
3. Public Views will be diminished, including not only local residents and visitors to the lagoon, but also the views for riders of the Amtrak and Coaster Trains.
4. Additional Traffic created by the two new Traffic Signals approximately 1 block apart, and 1 more block from a traffic signal at Vista Way and PCH will create a significant increase in congestion and pollution.
5. At least two of the Voting Council Members received Campaign Contributions from the Owner/Developer.
6. The Coastal Commission requested Coastal Cities Dela "Timeshare/Hotel Projects" Decisions.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 3-14-07

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

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: Commissioner Patrick Kruer
Mailing Address: The Monarch Group
7727 Herschel Avenue
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: Construction of an 82-room hotel (with 70 of the rooms proposed as condo-hotel units), a full service restaurant and four residential condominium units on a vacant 3.8 acre site located on the north shore of Buena Vista Lagoon.
3. Development's location (street address, assessor's parcel no., cross street, etc.): West side of south Coast Highway, between Eaton street and the Buena Vista Lagoon, Oceanside, San Diego County.
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-07-31

DATE FILED: 3/15/07

DISTRICT: San Diego

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MAR 15 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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: 2/14/07

Local government's file number (if any): RC-8-02

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:

Oceanside Three
Attn: Aharon Abada
6121 Ramony Drive
san Diego, CA 92120

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

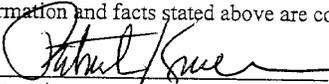
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated 3/15/07

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: 3/15/07

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"

Boardwalk Hotel Appeal- West side of South Coast Highway, between Eaton Street and Buena Vista Lagoon, Oceanside

March 15, 2007

The proposed project includes the construction of an 82 room hotel, 4,180 sq. ft. restaurant and 4 residential condominiums on an undeveloped lot. As approved, 70 of the rooms will be condo-hotel units with length-of-time use restrictions and the 12 remaining hotel units will be exclusively for transient overnight use. The project site is a 3.8 acre vacant site located directly north of the Buena Vista Lagoon and directly west of Pacific Coast Highway in the City of Oceanside. The North County Transit District right-of-way and main north/south railroad tracks are located directly to the west of the site. The property includes three legal parcels and has two General Plan and Zoning designations. The eastern lots located along Pacific Coast Highway, where the hotel and restaurant are located, are designated for Visitor Commercial (CV) and the western portion of the lot, where the residential condominiums are located, is zoned Residential Tourist (RT). A 100' biological buffer from the lagoon will be observed and revegetated with native plants, and a public access easement will be located between the lagoon and the proposed development and outside the 100' buffer. A total of 139 parking spaces will be provided for the combined hotel and restaurant uses. A pool and deck will be provided for hotel guest use.

The City found that the subject condominium/condo-hotel/restaurant development is consistent with the numerous provisions pertaining to this development. However, the development as approved by the City raises several LCP consistency issues with regard to the protection of wetlands, public views, public access, brush management, native habitat and low-cost visitor serving and recreational uses.

1. To address community character and compatibility with the surrounding area, the City of Oceanside's LCP has provisions that address the bulk and scale of new development which state:

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

In addition, to further address scale and character of development, the City's LCP also contains provisions for development adjacent to open space which states:

Building forms can be designed to respect and improve the integrity of open space and other public spaces adjacent to open space

While the proposed project complies with all zoning ordinance development standards and no variances were approved by the City, the height of the approved hotel will be substantially higher than the surrounding community. The development is located within an area of one-story residences to the west and north, and two-story residential and commercial buildings to

Boardwalk Hotel Appeal
March 15, 2007
Page 2

the east. The height of the hotel as approved is 36 ft. The City's staff report states that the hotel will be higher than the residences, but not by a significant amount. As approved, the hotel structure will be 10-15 higher than most of the other structures in the surrounding community. In addition, an "Observation Tower" approved by the city extends above the 36 ft. hotel elevation, reaching a height of approximately 46 ft. The proposed project is located directly along the north shore of Buena Vista Lagoon. The Buena Vista Lagoon is an ecological reserve and open space area. Other existing development immediately adjacent to the lagoon includes a small nature center and a single-family residences. The proposed development includes a three-story hotel, and large restaurant and four two-story condominiums. The development, as approved by the City will be the tallest structure in the surrounding area, extending approximately 10-15 ft. higher than other surrounding structures and thus, appears to be incompatible with the surrounding community and therefore, inconsistent with the City's certified LCP policies pertaining to community character.

2. In addition to the above cited provisions, the City's LCP contains policies that address protection of public views which state:

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

The City shall protect, enhance, and maximize public enjoyment of Coastal Zone public resources.

In areas of significant natural aesthetic value, new development shall be subordinate to the natural environment.

Both the EIR and City's staff report indicate substantial public view impacts resulting from the subject hotel development. The development, as approved by the City, will significantly obstruct existing lagoon views from Pacific Coast Highway while driving south towards the lagoon. Further, the placement of Condominium "A" will significantly impact lagoon views from the terminus of Broadway. Currently Broadway maintains unobstructed views of the lagoon. Broadway is a public street that terminates at the subject site and local residents and those who work in Oceanside, park at the end of Broadway to take advantage of these public views. The project is therefore inconsistent with policies designed specifically for protection of these kinds of view corridors.

3. The City's LCP has provision for establishing adequate buffers to protect areas surrounding sensitive habitat that includes:

A buffer zone shall be established around all sensitive habitats. The buffer zone shall be generally 100' for small projects on existing lots. If the project requires substantial improvements or increased human impacts, a much wider buffer area shall be required. Likewise, a reduced buffer area will be considered if, in consultation with the State Department of Fish and Game it can be demonstrated that 100' is unnecessary to protect the resources of the habitat areas.

CDFG has concluded that a 100 ft. buffer would be adequate for protecting Buena Vista Lagoon's sensitive habitat from the proposed development. As a component of the

Boardwalk Hotel Appeal
March 15, 2007
Page 3

development this buffer was to be revegetated with natural vegetation as currently the 100 ft. buffer is comprised primarily of disturbed vegetation. As conditioned by the City of Oceanside under conditions pertaining to fire hazards, this buffer would also be used for brush management. The buffer would no longer be revegetated as proposed, and in fact, would explicitly **not** allow native vegetation within the outer 40 ft. of the buffer. Instead the project as approved is required to plant succulents in this area. Buffers provide several important resource benefits- restoring and maintaining the chemical, physical and biological integrity of the water resources, removing pollutants, reducing erosion etc. The changes made to the project adversely impact the function and value of the buffer to the extent that may not be able to adequately protect the habitat it is buffering. In addition, it is not clear that the approved 100 ft. buffer is adequate in that it is not clear if the 100 ft. is measured from the upland extent of wetlands on the site or from just the upland extend of visible wetland vegetation.

The Buena Vista Lagoon is currently in the early CEQA stages for restoration. One of the alternatives, and the community favorite, is a tidally influenced lagoon. Currently the lagoon is maintained as fresh water by a weir. If the restoration alternative of a tidally influence lagoon is accepted, the weir will be removed and the entire function of the lagoon will be altered. The water/sea water level could increase thus expanding the water and thus the riparian vegetation higher. Given the unknown ramifications of the restoration, the approved 100 ft. buffer may not be adequate. In addition, CalTrans has identified this site as "on the list of potential properties that can be used to mitigate the [future I-5 widening] project." However, CalTrans has also indicated that it is not their policy to pursue land in which there is not a willing seller. In any case, the site has been identified as a potential mitigation site and development of the approved hotel project will eliminate it as a potential mitigation site.

4. Both the City of Oceanside's LCP and the Coastal Act have applicable policies pertaining to public access and state:

Coastal Act Policies

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Boardwalk Hotel Appeal
March 15, 2007
Page 4

City Certified LCP Policies

Adequate access to and along the coast shall be provided and maintained

Existing and new public Accessways shall not be closed or converted to other uses without approval from the California Coastal Commission

Currently the site contains an unimproved trail. The trail begins at the end of Broadway and follows across the site out to Pacific Coast Highway. While the project has been conditioned to provide an 8' easement to maintain this public accessway, the City's approval failed to include conditions regarding improvement of the public access easement, when the access is to be open and available to the public or who will be responsible for maintenance of the access. Further, the plans for the public accessway include a gate at the entrance from Broadway. While a time-operated gate would not necessarily be inconsistent with the public access policies of LCP or the Coastal Act, in this case, the City failed to address what hours the gate and access will be open and available to the public. In absence of regulations for a gate within the public accessway, schedule for trail opening and a plan for maintenance, the project is inconsistent with the public access policies stated above.

5. Both the City of Oceanside and the Coastal Act have identical provisions protecting low-cost visitor facilities and state:

Lower cost visitor serving facilities shall be protected, encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.

Condo-hotels generally do not offer accommodations that typically can be considered "lower-cost," raising questions about the adequacy of supply of lower-cost visitor-serving accommodations in the coastal zone. In addition, condo hotels units may result in a use on the site that functions, at least to some extent, as a residential use and thus could lessen the overall visitor-serving use. As a component of the City's permit, a preliminary study of low cost facilities was completed. The findings of this survey indicated that the City of Oceanside has ample low cost visitor serving facilities. This however, does not exempt the City from encouraging additional low-cost facilities, especially in areas zoned as visitor serving or requiring that mitigation be provided to address the loss or lessening of lower cost visitor accommodations. The area of proposed development has historically been used for fishing, bird watching, bicycling and hiking, all of which can be considered low-cost. With the development, these uses will not be prohibited, but will be less accessible.

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

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: Commissioner Sara Wan
Mailing Address: 45 Fremont Street
Suite 2000
San Francisco, CA 94105
Phone Number: 415 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside
2. Brief description of development being appealed: Construction of an 82-room hotel (with 70 of the rooms proposed as condo-hotel units), a full service restaurant and four residential condominium units on a vacant 3.8 acre site located on the north shore of Buena Vista Lagoon.
3. Development's location (street address, assessor's parcel no., cross street, etc.): West side of south Coast Highway, between Eaton street and the Buena Vista Lagoon, Oceanside, San Diego County.
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-07-31

DATE FILED: 3/16/07

DISTRICT: San Diego

RECEIVED

MAR 16 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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: 2/14/07

Local government's file number (if any): RC-8-02

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:

Oceanside Three
Attn: Aharon Abada
6121 Ramony Drive
san Diego, CA 92120

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 3/16/07

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: *Sara Miller*
Appellant or Agent

Date: 3/16/07

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"
Boardwalk Hotel Appeal- West side of South Coast Highway, between Eaton Street and
Buena Vista Lagoon, Oceanside
March 16, 2007

The proposed project includes the construction of an 82 room hotel, 4,180 sq. ft. restaurant and 4 residential condominiums on an undeveloped lot. As approved, 70 of the rooms will be condo-hotel units with length-of-time use restrictions and the 12 remaining hotel units will be exclusively for transient overnight use. The project site is a 3.8 acre vacant site located directly north of the Buena Vista Lagoon and directly west of Pacific Coast Highway in the City of Oceanside. The North County Transit District right-of-way and main north/south railroad tracks are located directly to the west of the site. The property includes three legal parcels and has two General Plan and Zoning designations. The eastern lots located along Pacific Coast Highway, where the hotel and restaurant are located, are designated for Visitor Commercial (CV) and the western portion of the lot, where the residential condominiums are located, is zoned Residential Tourist (RT). A 100' biological buffer from the lagoon will be observed and revegetated with native plants, and a public access easement will be located between the lagoon and the proposed development and outside the 100' buffer. A total of 139 parking spaces will be provided for the combined hotel and restaurant uses. A pool and deck will be provided for hotel guest use.

The City found that the subject condominium/condo-hotel/restaurant development is consistent with the numerous provisions pertaining to this development. However, the development as approved by the City raises several LCP consistency issues with regard to the protection of wetlands, public views, public access, brush management, native habitat and low-cost visitor serving and recreational uses.

1. To address community character and compatibility with the surrounding area, the City of Oceanside's LCP has provisions that address the bulk and scale of new development which state:

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

In addition, to further address scale and character of development, the City's LCP also contains provisions for development adjacent to open space which states:

Building forms can be designed to respect and improve the integrity of open space and other public spaces adjacent to open space

While the proposed project complies with all zoning ordinance development standards and no variances were approved by the City, the height of the approved hotel will be substantially higher than the surrounding community. The development is located within an area of one-story residences to the west and north, and two-story residential and commercial buildings to

Boardwalk Hotel Appeal
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Page 2

the east. The height of the hotel as approved is 36 ft. The City's staff report states that the hotel will be higher than the residences, but not by a significant amount. As approved, the hotel structure will be 10-15 higher than most of the other structures in the surrounding community. In addition, an "Observation Tower" approved by the city extends above the 36 ft. hotel elevation, reaching a height of approximately 46 ft. The proposed project is located directly along the north shore of Buena Vista Lagoon. The Buena Vista Lagoon is an ecological reserve and open space area. Other existing development immediately adjacent to the lagoon includes a small nature center and a single-family residences. The proposed development includes a three-story hotel, and large restaurant and four two-story condominiums. The development, as approved by the City will be the tallest structure in the surrounding area, extending approximately 10-15 ft. higher than other surrounding structures and thus, appears to be incompatible with the surrounding community and therefore, inconsistent with the City's certified LCP policies pertaining to community character.

2. In addition to the above cited provisions, the City's LCP contains policies that address protection of public views which state:

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

The City shall protect, enhance, and maximize public enjoyment of Coastal Zone public resources.

In areas of significant natural aesthetic value, new development shall be subordinate to the natural environment.

Both the EIR and City's staff report indicate substantial public view impacts resulting from the subject hotel development. The development, as approved by the City, will significantly obstruct existing lagoon views from Pacific Coast Highway while driving south towards the lagoon. Further, the placement of Condominium "A" will significantly impact lagoon views from the terminus of Broadway. Currently Broadway maintains unobstructed views of the lagoon. Broadway is a public street that terminates at the subject site and local residents and those who work in Oceanside, park at the end of Broadway to take advantage of these public views. The project is therefore inconsistent with policies designed specifically for protection of these kinds of view corridors.

3. The City's LCP has provision for establishing adequate buffers to protect areas surrounding sensitive habitat that includes:

A buffer zone shall be established around all sensitive habitats. The buffer zone shall be generally 100' for small projects on existing lots. If the project requires substantial improvements or increased human impacts, a much wider buffer area shall be required. Likewise, a reduced buffer area will be considered if, in consultation with the State Department of Fish and Game it can be demonstrated that 100' is unnecessary to protect the resources of the habitat areas.

CDFG has concluded that a 100 ft. buffer would be adequate for protecting Buena Vista Lagoon's sensitive habitat from the proposed development. As a component of the

Boardwalk Hotel Appeal
March 16, 2007
Page 3

development this buffer was to be revegetated with natural vegetation as currently the 100 ft. buffer is comprised primarily of disturbed vegetation. As conditioned by the City of Oceanside under conditions pertaining to fire hazards, this buffer would also be used for brush management. The buffer would no longer be revegetated as proposed, and in fact, would explicitly **not** allow native vegetation within the outer 40 ft. of the buffer. Instead the project as approved is required to plant succulents in this area. Buffers provide several important resource benefits- restoring and maintaining the chemical, physical and biological integrity of the water resources, removing pollutants, reducing erosion etc. The changes made to the project adversely impact the function and value of the buffer to the extent that may not be able to adequately protect the habitat it is buffering. In addition, it is not clear that the approved 100 ft. buffer is adequate in that it is not clear if the 100 ft. is measured from the upland extent of wetlands on the site or from just the upland extend of visible wetland vegetation.

The Buena Vista Lagoon is currently in the early CEQA stages for restoration. One of the alternatives, and the community favorite, is a tidally influenced lagoon. Currently the lagoon is maintained as fresh water by a weir. If the restoration alternative of a tidally influence lagoon is accepted, the weir will be removed and the entire function of the lagoon will be altered. The water/sea water level could increase thus expanding the water and thus the riparian vegetation higher. Given the unknown ramifications of the restoration, the approved 100 ft. buffer may not be adequate. In addition, CalTrans has identified this site as "on the list of potential properties that can be used to mitigate the [future I-5 widening] project." However, CalTrans has also indicated that it is not their policy to pursue land in which there is not a willing seller. In any case, the site has been identified as a potential mitigation site and development of the approved hotel project will eliminate it as a potential mitigation site.

4. Both the City of Oceanside's LCP and the Costal Act have applicable policies pertaining to public access and state:

Coastal Act Policies

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Boardwalk Hotel Appeal
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City Certified LCP Policies

Adequate access to and along the coast shall be provided and maintained

Existing and new public Accessways shall not be closed or converted to other uses without approval from the California Coastal Commission

Currently the site contains an unimproved trail. The trail begins at the end of Broadway and follows across the site out to Pacific Coast Highway. While the project has been conditioned to provide an 8' easement to maintain this public accessway, the City's approval failed to include conditions regarding improvement of the public access easement, when the access is to be open and available to the public or who will be responsible for maintenance of the access. Further, the plans for the public accessway include a gate at the entrance from Broadway. While a time-operated gate would not necessarily be inconsistent with the public access policies of LCP or the Coastal Act, in this case, the City failed to address what hours the gate and access will be open and available to the public. In absence of regulations for a gate within the public accessway, schedule for trail opening and a plan for maintenance, the project is inconsistent with the public access policies stated above.

5. Both the City of Oceanside and the Coastal Act have identical provisions protecting low-cost visitor facilities and state:

Lower cost visitor serving facilities shall be protected, encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.

Condo-hotels generally do not offer accommodations that typically can be considered "lower-cost," raising questions about the adequacy of supply of lower-cost visitor-serving accommodations in the coastal zone. In addition, condo hotels units may result in a use on the site that functions, at least to some extent, as a residential use and thus could lessen the overall visitor-serving use. As a component of the City's permit, a preliminary study of low cost facilities was completed. The findings of this survey indicated that the City of Oceanside has ample low cost visitor serving facilities. This however, does not exempt the City from encouraging additional low-cost facilities, especially in areas zoned as visitor serving or requiring that mitigation be provided to address the loss or lessening of lower cost visitor accommodations. The area of proposed development has historically been used for fishing, bird watching, bicycling and hiking, all of which can be considered low-cost. With the development, these uses will not be prohibited, but will be less accessible.

WEST LUN (7004)

A-6-OCN-07-031 Project Name: Boardwalk Development Fees Paid: _____

Applicant(s): Oceanside Three 6121 Ramony Drive San Diego, CA 92120
Agent: Abada Aharon 6121 Ramony Drive San Diego, CA 92120

Appellant(s) Preserve Calavera, Attn: Diane Nygaard; Dan Di Mento, Friends 5020 Nighthawk Way Oceanside, CA 92056

IMPORTANT DATES
Received: 3/12/07
Filed:
49thDay:
90thDay:
120thDay:
180thDay:
270thDay:
APN(s):

Project Location: West side of South Coast Highway, between Eaton Street and Buena Vista Lagoon

Project Description: The construction of an 82-room hotel, a full service restaurant and four condominium units on a 3.8 acre undeveloped lot located on the west side of South Coast Highway, between Eaton Street and Buena Vista Lagoon. The project, as proposed, will include 85% of hotel

PERMIT CHIEF

Confirm info above

Calendar type: Appeal

Analyst assigned: Toni Ross

Notes/Comments to Analyst:

LCP INFO

Local permit #: RC-8-02
Local action: Approved w/ Conditions
Action Date: 2/14/2007

CLERICAL: Please prepare local government Appeal Notification Form

ANALYST

This application is: Complete Incomplete

File date: _____

Tentative hearing month: _____

Is project located between first public road and sea? Yes No Don't know

Check any of the following: Related permits? CCC: 6-OCN-07-038

Prior-To-Issuance conditions recommended for this

A 49-day waiver was granted by the permit applicant.

Legal review is recommended.

Deed Restriction required

Comments to be entered into database:

CLERICAL

Please send Incomplete Notice to applicant because:

BLURB

Please use database to create draft blurb for review.

And/Or, use draft blurb language below.

CCC ACTIONS

FOLLOW-UP

NOI sent: ___/___/___ NOI returned signed: ___/___/___

Permit sent: ___/___/___ Permit returned signed: ___/___/___

Were all Prior-To-Issuance (PTI) conditions met? Yes No

Permit expiration date: ___/___/___

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(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

Name, mailing address and telephone number of appellant:

Coast Law Group LLP, 169 Saxony Road, Ste. 204, Encinitas, CA 92024
on behalf of Dan Di Mento, Friends of Buena Vista Lagoon, and
Buena Vista Lagoon Audubon Society (760) 942-8505
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: OCEANSIDE

2. Brief description of development being
appealed: 82 Room Condo-Hotel, restaurant and four single-family
residence "condo's" adjacent to Buena Vista Lagoon

3. Development's location (street address, assessor's parcel
no., cross street, etc.): West side of South Coast Highway
between Eaton Street and Buena Vista Lagoon

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: X
- 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-07-031

DATE FILED: 3/12/07

DISTRICT: San Diego Coast

Received

MAR 12 2007

California Coastal Commission
San Diego Coast District

D/86

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 _____
6. Date of local government's decision: Feb 14, 2007
7. Local government's file number (if any): RC -8-02

SECTION III. Identification of Other Interested Persons

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

- a. Name and mailing address of permit applicant:
Oceanside Three, Aharon Abada
6121 Ramony Drive
San Diego, CA 92120
- b. 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.
- (1) PLEASE SEE SERVICE LIST ATTACHED HERETO

- (2) _____

- (3) _____

- (4) _____

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.)

PLEASE SEE APPEAL LETTER DATED MARCH 9, 2007

Attached Hereto

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 knowledge.

Signed *John G. Curly*
Appellant or Agent

Date March 9, 2007

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

Signed _____
Appellant

Date _____

0016F



169 Saxony Road
Suite 204
Encinitas, CA 92024

tel 760-942-8505
fax 760-942-8515
www.coastlawgroup.com

Via First Class Mail

March 9, 2007

Lee McEachern
Toni Ross
California Coastal Commission
7575 Metropolitan Drive, Ste 103
San Diego, CA 92108-4402

RE: Appeal of Regular Coastal Permit (RC-8-02): "Boardwalk Project"

Dear California Coastal Commission:

Please accept these comments as part of Section IV of the Appeal on behalf of the Buena Vista Lagoon Audubon Society and Friends of Buena Vista Lagoon.

On February 14, 2007, the City of Oceanside City Council approved

**Development Plans D-13-02 and D-1402; CUP C-21-02 and C-22-02
Regular Coastal Permit (RC-8-02); Tentative Map T-8-02
Environmental Impact Report**

The project consists of a three-story "condo-tel" with 82 rooms, a 4,180 sq. ft. restaurant and four single family residences (which the City is calling "condo's") located just north of the Buena Vista Lagoon. (collectively "Project").

Friends of Buena Vista Lagoon and Buena Vista Lagoon Audubon Society appeal the City of Oceanside grant of a coastal development permit to build the Project.

I. THE PROJECT REQUIRES BOTH A PERMIT UNDER THE LCP AND A PERMIT UNDER THE COASTAL ACT.

First, we disagree with the City's contention that the Project only requires a Regular Coastal Permit pursuant to the Local Coastal Plan (LCP). (DEIR S-2). Public Resources Code section 30106 clearly states "development" includes the splitting of lots. As such, the processing of the tentative subdivision map itself implicates Coastal Commission's original jurisdiction, and the entire process must be reviewed for consistency with the Coastal Act and not just consistency with the certified LCP.

Coastal Commission Appeal (Boardwalk Project RC-8-02)
March 9, 2007
Page 2 of 5

Attempts to simply carve off a portion of the 3.8 acre parcel to avoid original Coastal Act jurisdiction from attaching to the entire Project stands the Coastal Act on its head. The entire Project should be reconsidered in light of the entire Coastal Act. Nevertheless, the Project is inconsistent with Oceanside's LCP.

A. The Boardwalk Project is Inconsistent with the Viewshed Policies Contained in Oceanside's Local Coastal Plan.

Similar to CEQA, the Coastal Act must be construed liberally, "in light of its beneficent purposes." *Bolsa Chica Land Trust v. Superior Court*, 71 Cal. App. 4th 493, 506 (1999). Thus, the resource protective nature of the statute must be strictly enforced.

The LCP states, "In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment." (LCP Ch. 2, VI(C)(1) at p. 28). The Buena Vista Lagoon is an area of "significant natural aesthetic value." Thus, development must be designed to flow with and compliment the lagoon. However, the proposed design of a three story, "French Normandy Style" Hotel is entirely inconsistent with the natural aesthetic value of the lagoon. (LCP Ch 2, VI(C)(14)(c) at p. 30)(requiring "rustic rough sawn wood exteriors" as opposed to "French Provincial Style" at St. Malo.) There is no requirement for the Coastal Commission permit such massive development so close to an area of special biological significance.

Furthermore, the LCP states "The City shall maintain existing view corridors through public rights-of-way." (LCP Ch. 2, VI(C)(4) at p. 28). The FEIR states unequivocally that the Hotel and Restaurant will interfere with existing view corridor from Pacific Coast Highway. (FEIR S-9). Condominium "A" will block a views from Broadway Street as well. Thus, the Project is completely inconsistent with adopted LCP policies. It should be scaled back considerably to maintain the view corridors that currently exist. The LCP requires that the City deny the Project because it diminishes access to the shoreline and degrades coastal aesthetics. (LCP Ch. 2, VII(C)(1) at p. 31).

B. The Size, Scale and Bulk of the Project are Inconsistent with the Neighborhood and Lagoon.

The LCP states, "The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood." (LCP Ch. 2, VI(C)(8) at 28). In this case, the Boardwalk Development is entirely inconsistent with the height

Coastal Commission Appeal (Boardwalk Project RC-8-02)
March 9, 2007
Page 3 of 5

and scale of the surrounding community.

The Hotel will be a monstrous, 46 ft high, three-story hotel with observation decks. The Hotel is a total of 80,838 square feet of interior space, dwarfing all other nearby buildings. In addition, each of the "condominiums" will be two story structures, including roof structures reaching 27 feet tall, and be 3,475 square feet each.¹ The condominiums will be adjacent to primarily smaller single story residences. In addition, the Project will make the public feel unwelcome in an area where it has been enjoying passive recreation since time immemorial, turning the current trail into an exclusive offering of the Project. The Hotel and "condos" will ruin the rustic feeling of the Buena Vista Lagoon.

Furthermore, the Hotel will actually discourage the public from enjoying the significant coastal resources in the area, creating a visual barrier blocking the lagoon. As discussed in the LCP, "in areas where a change to a more intensive use is proposed, adequate buffers or transition zones (such as increased setbacks.....) shall be provided. (LCP Ch. 2, VI(C)(9) at 29). As will be discussed below, the Project encroaches upon the minimum setback allowed by the Coastal Act Regulations. It needs more than 100 foot setback from the lagoon to comply with the LCP.

C. The "Condo - Tel" Does Not Preserve Sufficient Rooms for Transient Overnight Accommodations.

The LCP requires:

Within the "Coastal Dependent, Recreation, and Visitor Serving Commercial" use are, "time share" condominium units shall not be permitted unless a substantial proportion of the units are permanently reserved for transient overnight accommodations during the summer season (June 1 through Labor Day weekend.)

(LCP Ch.2, II (C)(35) at 11).

The condo-tel section of the project is 82 rooms. Only 12 of such rooms will be set aside for the public. Individual owners will be able to stay at the condo-tel for 29 days at a time, for a total of three months per year. Thus, the condo-tel will be 85%

¹ It is unclear from the EIR the actual height of the condominiums. It would appear from the EIR, the lagoon side of the condominiums will be 38 feet tall, which would exceed the maximum height limit permitted by Oceanside. (FEIR S-8 to S-9). The Oceanside municipal code maximum height limit is 36 feet. (Oceanside Zoning Code § 1050). For the South Oceanside Neighborhood Planning Areas, the maximum height is two stories or 27 feet, which ever is less. (Oceanside Zoning Code § 1050(s)).

Coastal Commission Appeal (Boardwalk Project RC-8-02)
March 9, 2007
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residential, and only 15% visitor serving commercial. It is theoretically possible for owners to almost completely capture the prime summer season, by staying at the condo-tel for 29 days, then leaving for a couple of days, then staying for another 29 days. Such practice is not prevented by the conditions on the project, and therefore, the condo-tel violates the LCP.

D. **A Biological Survey is Necessary to Determine the Appropriate Boundary of the Wetlands.**

First, it cannot be discerned from the EIR reference section whether the City relied upon any site specific biological survey to determine the boundary of the wetlands. The LCP unequivocally states that "Development adjacent to such [ESHA] habitats shall be sited and designed to prevent adverse environmental impacts." (LCP Ch. 2, V(A) at 23). The City's failure to properly delineate demonstrates the City lacks substantial evidence that the Project, as sited and designed, prevents adverse impacts to ESHA. Therefore the Project violates the LCP.

The Project must prepare a site specific survey to accurately determine the extent of the wetlands. **The term "wetlands" under the Coastal Act does not solely include submerged lands, but also lands which are periodically submerged.** Pub. Res. Code § 30121. The Coastal Commission interpretive guidelines discuss how to determine the boundary of a wetlands.

Measure 100 feet landward from **the upland limit** of the wetland. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or **to support the growth of hydrophytes**, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

(A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;

(B) the boundary between soil that is predominantly hydric and soil

Coastal Commission Appeal (Boardwalk Project RC-8-02)
March 9, 2007
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that is predominantly nonhydic; or

(C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

14 CCR 13577(b)(1) (emphasis added)

The LCP requires development adjacent to the Buena Vista Lagoon to "provide an adequate buffer between the development and the lagoon. (LCP Ch.2, V (C)(2)(a) at 26). In this case, it appears the Project has a 100 foot buffer from the permanent physical water, not 100 feet from where the hydrophytic plant cover ends. (LCP Ch.2, I (C)(5) at 3; See also, 14 CCR 13577(B).) The Project must actually map the extent of the wetlands and then determine the appropriate buffer. The Project violates the LCP by not providing an adequate buffer between the lagoon and the development.

Furthermore, the weir at the end of Buena Vista Lagoon will be opened soon, which will subject the shoreline to tidal fluctuations. Because the opening of "the gates" is a foreseeable action, the Developer should model the expected high water mark to determine the actual boundary of the wetlands and ensure the Project does not encroach within 100 feet of such boundary. The record simply does not support establishment of the wetland border as proposed.

CONCLUSION

The Coastal Commission should accept this appeal and review the Project de novo. In addition, the Coastal Commission should require the Developer to apply for a Coastal Development Permit under the Coastal Act because the development encroaches upon the original jurisdiction of the Coastal Commission. The City cannot simply subdivide the original jurisdiction out from under the Coastal Commission.

Sincerely,



Todd T. Cardiff, Esq.

COAST LAW GROUP LLP

Attorneys for

Dan Di Mento

Buena Vista Lagoon Audubon Society

Friends of Buena Vista Lagoon

**SERVICE LIST FOR APPEAL TO COASTAL COMMISSION
"BOARDWALK PROJECT" RC-8-02**

APPLICANT

Oceanside Three
Aharon Abada
6121 Ramony Drive
San Diego, CA 92120

Jacques Domercq
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Oceanside, CA 92054

Kathy Christie
League of Women Voters
3552 Mira Pacific
Oceanside, CA 92054

APPELLANT

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Friends of Buena Vista Lagoon
Buena Vista Lagoon Audubon Society
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Oceanside, CA 92054

Carolyn Krammer,
904 Leonard Avenue
Oceanside, CA 92054

Dr. Russ Cunningham
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Oceanside, CA 92054

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Wade McGowan
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Oceanside, CA 92054

Joyce Page
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Carlsbad, CA 92011

RECEIVED

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

MAR 19 2007

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4908
VOICE (805) 585-1800 FAX (805) 541-1732

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Boyce Lundstrom
Mailing Address: 2112 S. TREMONT ST
City: Oceanside Ca. Zip Code: 92054 Phone: 760 439-3158
cell 760 212-5888

SECTION II. Decision Being Appealed

- Name of local/port government: City of Oceanside
- Brief description of development being appealed: Hotel on Buena Vista Lagoon
Condos - 82 room hotel and restaurant
- Development's location (street address, assessor's parcel no., cross street, etc.):
From Boardwalk St. to Hwy 101, to the east
and from Eaton St. to Buena Vista Lagoon
- Description of decision being appealed (check one.):
 Approval; no special conditions
 Approval with special conditions:
 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: _____
DATE FILED: _____
DISTRICT: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision:

2/14/07

7. Local government's file number (if any):

(SCH No. 2003071101)
T-8-02, D-13-02, D-14-02, V-11-02,
RC-8-02)

SECTION III. Identification of Other Interested Persons (inclusive

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

a. Name and mailing address of permit applicant:

Oceanside 3
6121 Remona Drive / Akram Habada
San Diego CA. 92120

b. 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.

(1) Rachel A. Woodfield Senior Biologist
of Merkel & Associates Inc.
5434 Raffin Rd. San Diego CA. 92123
e-mail rwoodfield@merkeline.com

(2) Robert G. Richardson
Karnak Planning & Design
2802 State St. Suite C
Carlsbad CA. 92008
(3) e-mail karnakarch@aol.com

David Zernik P.E.
1220 South Dittmar St.
Oceanside CA. 92054

(4) Andrew T. Guatelli
5741 Palomar Way
Carlsbad, CA. 92010

Please see
addendum by Andrew

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)SECTION IV. Reasons Supporting This Appeal

3A

PLEASE 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.
- 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.)
- This 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.

1. Filter system designed to clean street runoff from Thémont St. (2 blocks) and Eaton St. is not adequate, and there is no authority to see that the filter gets cleaned. One large storm could overwhelm filter system.
2. I question the accuracy of the EIR statements made by relatives and employees of the land owners. Especially civil design work.
3. The weir controlling the Lagoon water level, therefore, controlling the flooding of Hwy 101 as it crosses Buena Vista Lagoon should Federal guidelines, it does not!
4. Statements were made that all city staff approved project by committee or individual this is not true.
5. Living at the end of Thémont St. I have visual access to 101 at all times of year and all times of day.
The two traffic lights proposed, one at Eaton and one at bottom of the hill close to the Lagoon bridge do not consider the vertical curve (line of sight) for either direction of traffic. These would slow the traffic but not solve the accident problem!
See see

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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

Boye Lundstrom
Signature of Appellant(s) or Authorized Agent

Date: 3/14/07

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

October 19, 2006

City of Oceanside Department of the City Clerk
300 North Coast Highway
Oceanside, California 92054

Attention: Ms. Barbara Riegel Wayne, City Clerk

Subject: Review of Environmental Impact Report for the proposed Boardwalk Development Project (T-8-02, D-13-02, D-14-02, V-11-02, RC-8-02), (SCH No. 2003071101), South Coast Highway, Oceanside, California

Dear Ms Riegel,

In accordance with the requirements for the City of Oceanside (City) I am submitting this document to provide comment and appeal the approved Environmental Impact Report (EIR) for the subject project site. I received a copy of this document and have reviewed it prior to submitting this letter.

General

Based on my review, several concerns arise that should be considered prior to full acceptance of this document. (1) I do not believe the City planning commission was given adequate time to review this document (2) the public distribution of this document was not consistent and it appears that some residents were given access while others were unaware of the project. The latter concerns were rebuffed by the project architect during the recent hearing 10 days ago and need to be supported by evidence that a standard effort was made to reach the local residents. (3) I am appealing this document on the grounds that the offsite conditions or environmental factors are not mitigated by the project and that the project may increase the potential for impact to the surrounding area. For example, the client's engineer indicated that the design was in the "preliminary stages" and that seismic concerns would be addressed in the design and / or mitigated by the design. Based on the above referenced document review and the responses / design recommendations presented at the October 9, meeting, I do not believe this to be the case. Seismic design and public safety is not an afterthought and should be considered a design constraint. The earthquakes and secondary seismic hazards do not know that your project is there and given the location in a lagoonal deposit site, near a standing body of water, there is significant impacts that will remain following the implementation of any design. Designs should start with the constraints that cannot change, such as the culvert under Highway 101, shape of the lagoon, flood levels and seismic hazards THEN follow CEQA requirements for impact on the site. This is a flaw in the design approach on such a challenging site and therefore could not be understood easily by the planning commissioner(s) in a relatively short period of time.

RECEIVED
OCT 19 2006
Planning Department
Billy Schuman
RECEIVED
OCT 19 2006
Planning Department

PROPOSED DEVELOPMENT

Based on a review of the site, and discussions on October 9, 2006 as well as review of the subject document, alternative plans and layouts did not adequately address the critical aspects of the offsite constraints such as traffic, wind, sound, seismic, and flooding.

Traffic will be directed primarily onto the 101 near the elevation of the lagoon bridge. This places the primary entrance and exit opposite that of Sanpiper Cove development. Considering the severe seasonal swing in the traffic pattern not just the September (post high season) traffic data should be reviewed. Much of the analysis on traffic was done for the intersection of West Vista Way. Although studies of the signalization on Eaton were raised at the October 9 meeting , no significant data from those past studies were done. The traffic studies consider a 2 dimensional traffic pattern. This is flawed in that we have a local vertical curve (line of sight) problem along highway 101 at Eaton street that cannot and will not be corrected by this development. The effects of topography are not in this case simply incorporated into the data. The history of the traffic accidents at the intersection of Eaton and highway 101 need to be addressed and mitigated by the increased traffic on the local streets. Please note that page S-24 of the EIR indicates that there will be a signal at Eaton and 101 which is contrary to the statements given at the October 9 meeting.

The edge of the lagoon and the 100 year flood (probabilistic analysis level-unknown) are coincident with the edge of the proposed fill. This raises several concerns: (a) the public needs access to the raw data regarding how the edge of the lagoon was determined by an engineer. To simply state that it was certified, this should be considered inadequate supporting data. (b) the constraint of the nearby culvert/crossing along 101 will, according to the city traffic engineer not change, and therefore may continue to flood the area of the main entrance and exit of the project. (c) most communities that deal with lagoonal/ lake and river front developments require that the developer raise the site grades a specific "free board" above the lagoon elevation following 30 to 100 year static settlements of the fill over soft lagoon deposits as well as seismic settlements. That is to say, FEMA now requires that these near water developments be separated with a levee or embankment such that the free board be maintained in the event of wind, seismic/ static settlement, wave action, lateral spreading or seiche, etc. The fact that the designs were preliminary and they indicated that this would be mitigated in the future is therefore an inadequate response even at an EIR level study. Placing the main exit and the entrance in an area prone to flooding and potential seismic hazards is contrary to known industry standards of design. Lateral spreading is likely a significant secondary seismic hazard and was inadequately discussed in the EIR report.

Given the pronounced seismic secondary hazards at the site the elevation of the structures and the setback from the street, should consider the impact if all or part of the structure, appurtenances or the facade were to collapse or be "deposited" into the highway 101 should the design level earthquake impact the area.

The use of a "floating slab" for a foundation of the hotel/condominium main building is not a sufficient mitigation of the soft/loose lagoonal deposit on this site. This is a structural mat-type foundation and therefore is still susceptible to settlement unless the soft deposits are removed and reworked and/or treated prior to placement of this type of foundation. It therefore could become "tilted" and therefore out of the tolerance for operation of a safe structure at some time in the future. Comparing the use of the mat foundation under the Empire State Building, as suggested in the October 9 meeting, is not similar to this project insofar as that structure is built upon dense granitic rock and is not designed upon soft/ loose earth materials. As an alternative to the above ground mitigation, a ground improvement program consisting of grouting or other similar treatments could be employed to reduce the potential for significant settlements or tilt to affect the building. If the structure tilts beyond its tolerable amounts due to static or seismic settlements, the hotel/ condominium will likely need to be restored and could cause it to close for an extended period of time until this corrective action is taken. Therefore, the differential settlement data presented in the subject EIR document is inadequate. Although possibly not the most economic solution, pile supported foundations (drilled or driven) would likely be the most favorable foundation for this site to provide adequate support of the 30 to 45 foot high building(s).

In addition to the above, placement of densified soils over loose ground, IF mitigated within the project, may impact the existing improvements outside of the project by inducing off site long-term settlements. This was not adequately addressed in the subject EIR document. Therefore, an impact of the settlement and potential impact of fill over soft/loose lagoonal earth materials should be re-evaluated.

GRADING and GRADING SEQUENCE

The time of year that the grading will occur must be addressed at the level of the EIR due to the sharp seasonal difference in the traffic, noise, etc, in this area. Given 7,000 cubic yards of grading at the site and 450 cubic yards of import, this is a significant concern. If a 6 to 7 cubic yard dump truck capacity, this would be approximately 70 round trips for import or 140 truck trips without the movement of the onsite soil off site to allow temporary clearance. No trailer dumps should be allowed on this project considering traffic and turning area(s).

During construction, vibration(s) to the nearby structures in Sandpiper cove on soft / loose soils may be significant. There is a potential for damaging these structures due to mud vibrations or "mud waves" within the soft / loose lagoonal deposits during construction. Care should be taken to sequence the remedial grading such that stockpiles are not allowed to impact existing improvements, which was not discussed in the EIR.

Temporary grading below 5 feet onsite will likely require shoring in accordance with Cal-OSHA requirements. There is a potential for temporary excavations to be more than 10 feet

(cited as 10 to 15 feet) onsite and within close proximity to existing improvements. These temporary slopes are proposed at gradients of 63 degrees up from the horizontal without shoring. This should be considered a significant potential impact considering the backcut may be as close as 5 feet from the existing roadway, highway 101.

CLOSURE

Although a project could be adequately designed for this site, the current EIR should be supplemented to address some key issues and carefully reviewed by planning commission prior to full acceptance.

Respectfully submitted,


Andrew T. Guatelli

Distribution: (2) Addressee

Margaret Barboza
P. O. Box 4724
Oceanside, CA 92052-4724

March 30, 2007

RECEIVED

APR 02 2007

CALIFORNIA
COASTAL COMMISSION
RECEIVED
APR 03 2007

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

**Re: Oceanside City Council
Buena Vista Lagoon**

Gentlemen:

I, as well as other Oceanside city residents, have written to you about the ruling of the Oceanside City Council with regards to allowing building on the banks of the Buena Vista Lagoon.

I want to send you the enclosed clipping from the North County Times about local environmental groups appealing the hotel project to your Commission.

We urge you to continue your work on an environmental impact report for restoration of the lagoon to its natural state. This is one of the few natural areas we have left in our area which have not been ruined by endless building. Please do not allow this project, or any similar project, which infringes on our wetlands and endangered species habitat to go forth.

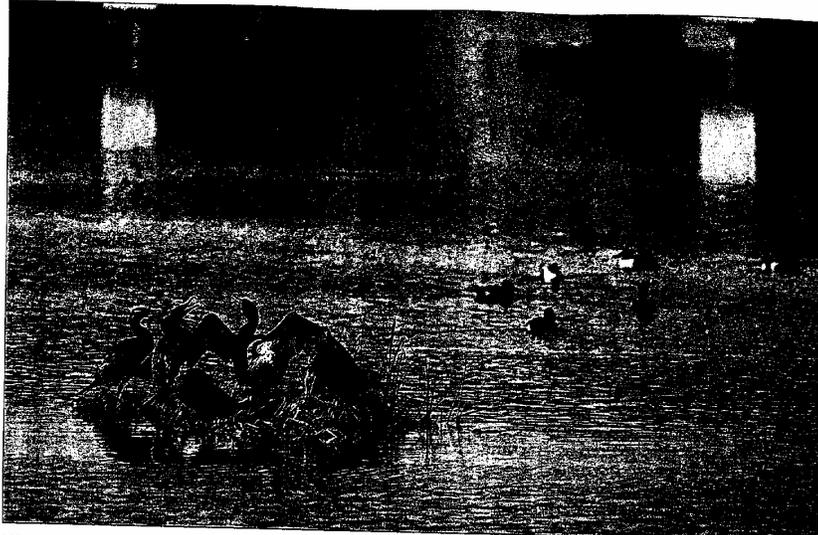
Thanking you, I remain,

Sincerely,

Margaret Barboza

| |
|---|
| EXHIBIT NO. 6 |
| APPLICATION NO. |
| A-6-OCN-7-31 |
| Public Comments |
| 1 of 66 |
|  California Coastal Commission |

PLANS FOR BUENA VISTA LAGOON



Water birds congregate near the train trestle in Buena Vista Lagoon in Oceanside. Several environmental groups have filed an appeal with the state Coastal Commission over the approval of a controversial hotel project planned on the banks of the lagoon. (Photos by HAYNE PALMOUR IV / STAFF PHOTOGRAPHER)

Green groups appeal hotel project at O'side lagoon

PAUL SISSON
STAFF WRITER

OCEANSIDE — Several local environmental groups have appealed a controversial hotel project slated for the banks of Buena Vista Lagoon to the California Coastal Commission.

Encinitas attorney Marco Gonzalez said Tuesday that he filed an appeal with the commission on grounds that the project violates Oceanside's coastal plan — guidelines for developments close to the beach — and that it will block views of, and access to, Buena Vista, the lagoon shared by Carlsbad and Oceanside.

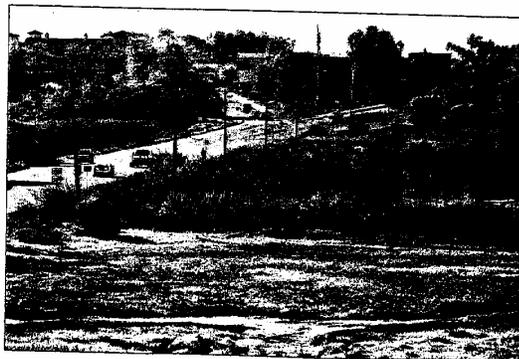
"They are putting a gigantic structure, completely out of character with the neighborhood, right on the edge of the lagoon," Gonzalez said.

Roxayne Spruance, a spokeswoman hired by developer Oceanside Three, said Tuesday that the appeal has her clients concerned.

"We've already met with Coastal Commission staff, and we've met with (the state Department of Fish and Game, and they have told us that what we have proposed is adequate," Spruance said. "In our own minds, we are complying with the resource agencies have asked us

to do at this point."

A well-known coastal activist connected to the Surfrider Foundation, Gonzalez is working for two local organizations: The Buena Vista Audubon Society, which operates a nature center on the shore of the lagoon, and Friends of Buena Vista Lagoon, a coalition of neighbors who live nearby.



The Buena Vista Lagoon and Coast Highway is seen while looking south from Oceanside on Tuesday.

MARCH 9 07

TO CALIFORNIA COASTAL COMMISSION

FROM 90 YEAR OLD US II VETERAN

PLEASE LEAVE THE LAGOON
ALONE

Hotels we have A plenty
ONLY ONE LAGOON.

TO SEPARATE 2 CITIES BY A
LAGOON THAT HAS BEEN THERE
SINCE TIME BEGAN

TO PUT ANOTHER HOTEL THERE
SHOULD NOT BE

Jim Shannon
JULY 2ND 1916

356-09-1404

Received

MAR 13 2007

California Coastal Commission
San Diego Coast District

TR

3/2/07

Coastal Commission -

Airs & Meadows -

Vote against building on the Bureau Vista Lagoon between O'Neil & Carlsbad!

No buildings! A park, perhaps

Vote against building on wet land areas.

Palma Cabiles

Palma Cabiles
3172 Coral Dr
Oceanside CA 92056-3928

RECEIVED

MAR 09 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

TV

June Ginger
4807 San Jacinto Cir. W
Fallbrook CA 92028

RECEIVED

MAR 09 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Coastal Commission,

I am saddened and shocked that Oceanside City Council have voted to have the hotel & condo complex built just across the road from Buena Vista Lagoon and Nature Center.

I have been helping with the monthly lagoon bird census since 1984. The birds in the ^{surrounding} natural vegetation also get counted, and are also important. This decision is a terrible mistake. Those who love & value the lagoon hope very much that the Commission will keep the land as permanent open space.

Sincerely,
June Ginger

*Don't forget
for me*



3-9-07

Dear District Mgr.: Debra Lee,
 I truly hope the Coastal
 Commission can find a way to
 educate the OceanSide City
 Council! The Buena Vista
 Lagoon needs help being
restored — not destroyed!
 They can build a hotel in
 another area that doesn't
 destroy the only fresh water
 lagoon on our coast. — North
 County is counting on the
 Coastal Commission! —
 Please — "Stop The Madness"
 Very sincerely, *Gregory DeYoung*



The Museum of Modern Art 5-20-07
11 West 54 Street, New York, NY 10019

Dear Commissioners: I REG you
to reject, or at least downsize
The oversized 3 story time-
share - hotel - condos etc.
at Buena Vista Lagoon
Reserve. Our wetlands
and their habitare
so very important to us,
our children. Please
defend. DENY.
Maurie Brown

From:
Maurie Brown
1991 Fairlee Dr
Encinitas, CA 92024

NO CRYSTAL BALLS
MAR 21 2007
California Coastal Commission
San Diego Coast District
To: Calif Coastal Comm.
c/o San Diego Coast
District
7575 Metropolitan Dr.
STE # 103
SAN DIEGO - CA
92108-4402



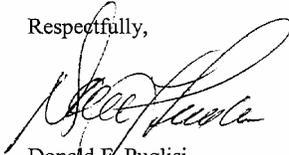
San Diego Coast District Office
7575 Metropolitan Drive #103
San Diego, CA 92108-4402

To Whom It May Concern:

I have lived near the Buena Vista Lagoon for the past 15 years, and I would like to write to express my concern about the proposed development adjacent to the lagoon in Oceanside. They have proposed to build a large hotel/time share complex, which will have many negative effects on the ecology of the lagoon. Specifically, it will encroach on the habitat of a pair of light-footed clapper rails, which are endangered. I hope to see all of our 200 bird species flourish, and to that end, this development must be stopped.

Thank you for taking the time to listen to my voice, as I hope to speak not only myself, but the birds and other animals, who cannot speak for themselves.

Respectfully,



Donald F. Puglisi
2040 Avenue of the Trees
Carlsbad, CA 92008

Received

MAR 21 2007

California Coastal Commission
San Diego Coast District

San Diego Coast District Office
7575 Metropolitan Drive #103
San Diego, CA 92108-4402

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Respectfully,



Dena C. Puglisi
2040 Avenue of the Trees
Carlsbad, CA 92008

Received

MAR 21 2007

California Coastal Commission
San Diego Coast District

San Diego Coast District Office
7575 Metropolitan Drive #103
San Diego, CA 92108-4402

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Thank you for taking the time to listen to my voice, as I hope to speak not only myself, but the birds and other animals, who cannot speak for themselves.

Respectfully,



Christine J. Puglisi
2040 Avenue of the Trees
Carlsbad, CA 92008

Received

MAR 21 2007

California Coastal Commission
San Diego Coast District

San Diego Coast District Office
7575 Metropolitan Drive #103
San Diego, CA 92108-4402

To Whom It May Concern:

I have lived near the Buena Vista Lagoon for the past 6 years, and I would like to write to express my concern about the proposed development adjacent to the lagoon in Oceanside. They have proposed to build a large hotel/time share complex, which will have many negative effects on the ecology of the lagoon. Specifically, it will encroach on the habitat of a pair of light-footed clapper rails, which are endangered. I hope to see all of our 200 bird species flourish, and to that end, this development must be stopped.

Thank you for taking the time to listen to my voice, as I hope to speak not only myself, but the birds and other animals, who cannot speak for themselves.

Respectfully,



Vincent J. LaPorta
2040 Avenue of the Trees
Carlsbad, CA 92008

Received

MAR 21 2007

California Coastal Commission
San Diego Coast District

3-31-07

Calif Coastal Commission

Please consider stopping the proposed development of a 3 story time share - hotel adjacent to our Buena Vista Lagoon on the Southwestern border of Oceanside, Ca. Please leave this as open space for our precious wildlife, as well as our human eyes to enjoy. Oceanside is fastly becoming a "concrete jungle", with monstrous houses + buildings taking over our beautiful coastline and views of the ocean.

Thanks for your consideration,

Betty Stuart

8165 Pacific St. #C

Oceanside, Ca. 92054

Received

APR 03 2007

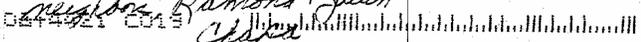
California Coastal Commission
San Diego Coast District

Strathmore Watercolor
140 lb Cold Press
SAN DIEGO CA 921
02 APR 07 PM 7 L



Please no building of
condos or other structures
adjacent to or near the
Buena Vista Lagoon.
Help us retain this
ecologically sensitive
wetland. Please!
Oceanside citizens &
neighbors Ramona + Juan
Chapra

California Coastal Commission
Attn: Toni Ross
7575 Metropolitan Dr. Ste 103
San Diego, CA 92108-4402



Please protect this small, beautiful
piece of the California coast.
Do not allow a hotel to be built
on the shore of the Buena Vista
Lagoon in Oceanside.
It is a natural habitat that is a
joy to the Audubon Society, school
children, visitors and local residents.

 Ms. Rita Francis
2025 Lirida Ln.
Carlsbad, CA 92008-2042

Caia Koopman
2043 S. Nevada St.
Oceanside CA 92054
PH 760-433-6649
e-mail caiak@cox.net
www.caiaesign.com

rec'd 4/3/07

The "Coastal Lagoon Hotel"
project absolutely
horrifies me!

We need wetlands
restoration, we
need open space.

— Caia

California Coastal Commission
45 Fremont St. Suite 2000
San Francisco, CA. 94105

Feb 22, 2007
17264 Sibley Dr.
San Diego, CA
92127

San Diego County has spent millions of dollars researching what would be feasible restoration projects for the Buena Vista Lagoon on the Coastal border between Oceanside and Carlsbad

The restoration efforts will be destroyed if hotels are built on the banks of it.

Keep this sensitive wetlands ecosystem (including endangered species) free from commercial development

We love to go there and see the variety of birds that enjoy this area.

Maintain this Nature spot,
Meriam Skerrard

RECEIVED

MAR 01 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

7

A note from...

Dear Members of the Coastal
 Commission,
 The Buena Vista Lagoon
 in Oceanside, Calif. needs to
 be preserved for our wild
 life. Please do not allow
 the building of another
 resort around this
 sensitive area. Oceanside
 does not need another
 resort, there are two
 in progress right now.
 Please help preserve
 the Buena Vista Lagoon.

Sincerely,
 Charles H. Hefner
 Oceanside, Calif.



Y063827

THIS PROPERTY IS ON EATON ST, IN O'SIDE.

Received

A personal note

APR 05 2007

California Coastal Commission
San Diego Coast District

4/3
TUES

DEAR COMMISSION, I AM WRITING TO STRONGLY VOICE MY OPPOSITION TO BUILDING A HOTEL ON THIS SENSITIVE OPEN SPACE ON THE NORTH SHORE OF BUENA VISTA LAGOON. ONCE IT'S GONE, IT'S GONE FOREVER. B.V. LAGOON IS AND HAS BEEN CONSTANTLY DISRESPECTED AND UNDERAPPRECIATED. THE LATEST SEWER SPILL IN THE EAST END SUNDAY IS JUST THE LATEST EXAMPLE. THIS IS VITAL BUFFER LAND FOR FLORA AND FAUNA. IT MUST AT ALL COSTS BE PRESERVED AND RESTORED TO ITS ORIGINAL CONDITION WITH INDEGINOUS LANDSCAPING (3.8 ACRES!) WE ARE

"Coastal Lagoon Hotel" Update—BVAS and the Friends of Buena Vista Lagoon have filed an appeal with the Coastal Commission of the City of Oceanside's February approval of a controversial hotel/condo/restaurant project. The 3.8-acre parcel of land is located adjacent to the lagoon. The marsh plant community extends onto the property, and wildlife from the reserve regularly forages over the site. Its low elevation, soil type, plant community, and direct connection to the ocean, all make this an ideal candidate for wetlands restoration. This land is needed by the State to provide critical mitigation for much-needed freeway improvements. Scarce wetlands buffer lands like this must remain in open space for the success of the future lagoon restoration effort and the long term health of the lagoon. Tax-deductible donations to help fund this appeal should be made out to "BVAS", (notation: "for legal fees").

4/1/07

March - 21 - 07 **RECEIVED**
 Attn. California Coastal Commission
 Re. Buena Vista ^{CALIFORNIA} ^{COASTAL} ^{SAN DIEGO} DISTRICT
 project -

Please think very careful
 about this project that
 will damage our very
 well-used secret wild-life
 area -

I have visited & walked
 around our Leyton for
 many years - (to) and watch
 it take hard knocks from
 Nature and people -

This one now facing this
 unique nature preserve is
 a 'death-blow' to the
 very essence of this area -
 think of the many building
 projects now on-going in
 the area - a land of cement
 buildings - (a lot empty) and
 just grabbing up any
 look about our area -



Received

APR 05 2007

California Coastal Commission
San Diego Coast District

April 4, 2007

San Diego Coast District Office
7575 Metropolitan Drive, Ste 103
San Diego, California 92108

Re: Development of the Buena Vista Lagoon

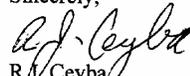
Staff Members:

This brief correspondence is to express my request to have the commission disapprove any development of the aforementioned Oceanside/Carlsbad area.

The continual development of natural environments deters the ecological balance necessary for any community. For the proponents to claim that this construction of a hotel, condo and restaurant would not adversely impact the wildlife and natural beauty essential to our coastal area is an insult to intelligent and responsible citizens.

Thank you in advance for your denial of developing this lagoon area.

Sincerely,


R. J. Ceyba

KEEP THE OPEN
SPACE! NO BUILDING
ON THE BUENA VISTA
LAGOON!

SAM

SAN DIEGO CA 921

Strathmore Watercolor
140 lb Cold Press



California Coastal Commission
Attn: Toni Ross
7575 Metropolitan Dr. Ste. 10
San Diego, CA 92108-4402

THINK OF THE BIRDS!

STOP THE GREED!
NO HOTELS ON THE
BUENA VISTA LAGOON!

SAM

SAN DIEGO CA 921

Strathmore Watercolor
140 lb Cold Press



California Coastal Commission
San Diego Coast District
APR 13 2007
CALIFORNIA COASTAL COMMISSION
ATTN: TONI ROSS
7575 METROPOLITAN DR. STE. 10
SAN DIEGO, CA 92108-4402

05+4421

PLEASE DON'T
BUILD ON THE
BUENA VISTA LAGOON!

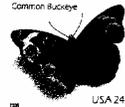
SAN



California Coastal Commission
Attn: Toni Ross
7575 Metropolitan Dr. Ste. 103
San Diego, CA 92108-4402

0214421 5015 -AGE 5

NAME ON BACK
Strathmore Watercolor
140 lb Cold Press



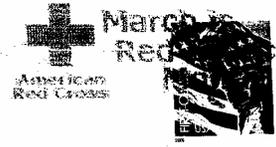
PLEASE REJECT THE
"COASTAL LAGOON HOTEL"
BY DEVELOPER "OCEANSIDE 3"
APPROVED BY OCEANSIDE
COUNCIL ON FEB 14.

THIS HOTEL WOULD BE TOO
CLOSE TO AN ENDANGERED
SENSITIVE LAGOON AND
INCREASE THE THREATS
TO IT FROM HUMANS,
TRAFFIC, POLLUTION,
AND LIGHT ANNOYANCE.

CA Coastal Commission
Attn: Toni Ross
7575 Metropolitan Dr. Ste. 103
San Diego CA 92108

THANK YOU → BACK

Strathmore Watercolor
140 lb Cold Press
SAN DIEGO CA 921
05 APR 2007 PM 1 L



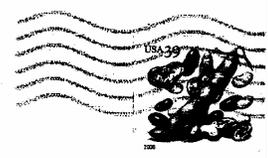
Please do not
~~do~~ build a
large hotel
at the Buena
Vista lagoon.

Mary Meyers
3004 Corte
Balbe
Carlsbad CA
91909

CALIFORNIA COASTAL COMMISSION
ATTN: TONI ROSS
7575 METROPOLITAN DR. STE 103
SAN DIEGO, CA 92108-4402

104+4421 0019

Strathmore Watercolor
140 lb Cold Press
SAN DIEGO CA 921
10 APR 07 PM 4 T



We only have 5%
Left of undeveloped
land near any lagoon.
Please don't develop
the hotel on the
Buena Vista Lagoon.
Please.

Mrs. & Mr. O'Connell
Oceanside, Calif.

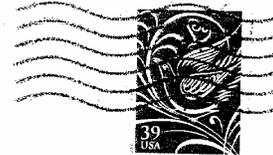
California Coastal Comm.
Attn: Toni Ross
7575 Metropolitan Dr. Ste.
San Diego, CA 92108-4402

104+4421 0019

Strathmore Watercolor
140 lb Cold Press

SAN DIEGO CA 921

05 APR 07PM 7 T



Ms. Robyn Gladish
1836 Hunsaker St.
Oceanside, CA 92054-5630

Received

APR 06 2011

California Coastal Commission
San Diego Coast District

CA Coastal Commission
7575 Metropolitan Dr. Ste. 103
San Diego, CA 92108

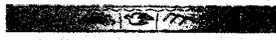
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Strathmore Watercolor
140 lb Cold Press

SAN DIEGO CA 921

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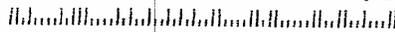


Jack Gladish
1836 Hunsaker St
Oceanside, CA 92054

CALIFORNIA
COASTAL COMMISSION
SANDIEGO COAST DISTRICT

CA Coastal Commission
Attn: Joni Ross
7375 Metropolitan St
San Diego CA 92105

4X5630



NAME ON BACK

Strathmore Watercolor
140 lb Cold Press

BERNARDINO CA 924



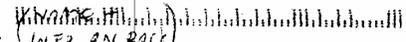
PLEASE REJECT THE "COASTAL
LAGOON HOTEL" RECENTLY
APPROVED BY THE OCEANSIDE
COUNCIL FOR DEVELOPER
"OCEANSIDE THREE."

- THIS HOTEL IS TOO CLOSE TO THE LAGOON
- THIS LAGOON IS SENSITIVE AND ENDANGERED (5 MILLION GALLON SEWAGE SPILL JUST YESTERDAY)
- THE HOTEL WOULD BE A DETRIMENT TO THE AREA

CA Coastal Commission
Attn: Lori Ross
7575 Metropolitan Dr Ste 102
San Diego CA 92108

8102+4421

THANK YOU. (INFO ON BACK)



February 5, 2007

Attn: Toni Ross
Fax: (619) 767-2370

FACTS ABOUT THE BUENA VISTA LAGOON HOTEL PROJECT
(FORMERLY KNOWN AS "THE BOARDWALK PROJECT")

Implied, but not spelled out in the Project Plan or the EIR, is a proposal by the developer for the City of Oceanside to vacate the remaining 15' of Broadway on the westerly side along the rail right of way. This would be in addition to the 65' the city vacated in 1981. This 15' is a View Corridor AND an Access Corridor to the lagoon. This proposed transfer of ownership is currently an obscure item buried in the Project Plan /EIR. Prior to approval/acceptance of the EIR the City Council should take separate action to approve or disapprove the vacation of this right of way. The LCP specifically requires that access and view corridors be preserved. For this reason alone, the EIR is faulty and the approval of the EIR by the Planning Commission should be reversed.

Secondly, the view corridor which formerly was the 65' of Broadway vacated in 1981 was, at that time, visualized as a cul-de-sac. The proposal to build a large residence (Condo "A") in this vacated right of way and move the cul-de-sac northwesterly on Broadway adversely affects property owners situated along Broadway. The project proponents are requesting the City of Oceanside vacate the easement for the cul-de-sac so that they can construct this large residence in the view corridor. The proposed Condo "A" site violates the LCP in that it violates the express condition of the LCP that public view corridors be preserved. The view looking south down Broadway will be lost forever. The City Council should take separate action to approve or disapprove the abandonment of the easement. Approval by the Planning Commission of the EIR should be reversed.

The four residence buildings the developer proposes to build are not "condos", they are large stand alone residences. The proposed "condos" are in fact labeled as "condos" as a way to get around the zoning requirement. Condo "A" is especially offensive due to the blockage of the view corridor.

Unfortunately the proponents of this project are not willing to work with the local community to resolve these issues. Although they put forth certain changes, these are cosmetic and not substantial. We respectfully request a reversal of the Planning Commission approval of the EIR.

Douglas W. Freed
2110 Broadway, Oceanside, CA
(760) 805-9554

RECEIVED
FEB 07 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Margaret Barboza
P. O. Box 4724
Oceanside, CA 92052-4724

February 26, 2007

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

**Re: Oceanside City Council
Buena Vista Lagoon**

Gentlemen:

I have written to you in the past with regard to shady dealings by the Oceanside City Council and rulings they have made that we residents feel are in direct conflict with the findings of the Coastal Commission.

I worked with Council member Shari Macken in the past when you were of help in stopping the Manchester Project (which would have given away public park land and closed off access to the beach to the public), as well as other issues along Pacific Street involving owners closing off beach access.

Please intervene in this decision by the City Council to approve building on the Lagoon. The last thing this city needs is a high-priced hotel and upscale restaurant. We residents absolutely do not want this and do not support it!! The whole city has been paved over and there is no open space left. The Lagoon is a wildlife habitat and I believed it to be a protected waterway in our state.

Please help us stop this project from going forward. It is about time somebody in the State starts demanding answers as to what the City Council in Oceanside is up to. It doesn't matter the year or what Council is in – the results are all the same. Laws do not matter – they do what they want and we all suffer. Please do not let this project go forward!

Sincerely,

Margaret Barboza

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FEB 28 2007

CALIFORNIA
COASTAL COMMISSION

RECEIVED

MAR 01 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Council majority threatens our lagoon

We at Buena Vista Audubon Society were very disappointed that the Oceanside City Council decided by a 3-to-2 vote on Valentine's Day to approve the misbegotten hotel development project across Coast Highway from our nature center. The thousands of schoolchildren who come to us each year for nature education deserve to see red-tailed hawks, ospreys and kingfishers over that land rather than a three-story hotel, which turns its back to the lagoon.

The council missed the opportunity to do the right thing for our beloved lagoon: Deny this poorly sited, poorly designed project and protect the views and irreplaceable open space that shelters 200-plus species of birds.

Our lagoon is in danger of silting up and drying up. Plans for restoring the lagoon are well under way, but council members Chavez, Feller and Kern just made it harder. Bad development decisions like this will only add to the cost of restoring the lagoon, and taxpayers will end up paying the bill.

As Councilman Chavez so incongruously stated after he voted to jeopardize the future of the lagoon to please the developer: "We can always build another hotel somewhere, but we can never build another wetland, another lagoon."

DENNIS HUCKABAY
president, Buena Vista
Audubon Society
Oceanside

WEDNESDAY, FEBRUARY 21, 2007

Lagoon project doesn't make sense

Those of us who are concerned about the few open spaces remaining in North San Diego County know that the state has already spent millions of dollars in research and development of feasible restoration projects for the Buena Vista Lagoon on the coastal border between Oceanside and Carlsbad.

The question I and other community members attending the Feb. 14 Oceanside City Council meeting are wondering is, why are we spending all this taxpayer money to restore the lagoon if our city insists on building hotels on the banks of it?

If you have kept yourself informed, you know there are a multitude of issues regarding development in proximity to such a sensitive wetland ecosystem (including endangered species habitat). Does this make sense? I am afraid not.

Please let the California Coastal Commission hear your voice. Write them a letter at: The California Coastal Commission, 45 Fremont St., Suite 2000, San Francisco, CA 94105-2219, phone (415) 904-5200.

JACQUES DOMERCQ
Oceanside

O'side residents lose, again

Thank you, Mayor Jim Wood and Councilwoman Esther Sanchez, for having the courage to support the Buena Vista Lagoon and reject the timeshare/hotel/restaurant/condos planned on the wetlands. You could have predicted the vote just by watching the council during comments ("Oceanside approves hotel for Buena Vista Lagoon," Feb. 15).

Feller, Kern and Chavez only heard what the owner's lobbyists said. If Chavez did listen to everyone, he would have

heard experts in the fields ... and he wouldn't have sounded so ignorant when he said he heard nothing that suggests there will be a negative effect on the lagoon. The three showed absolutely no concern for the neighborhood property owners (both O'side and Carlsbad), who will lose their quality of life, absolutely no concern about the ecological damage that will result from the construction and pollution generated, and absolutely no concern for the wildlife supported by the lagoon and wetlands.

So now we'll have two more traffic signals ... noise and light pollution, loss of privacy for the adjacent homes and loss of public views. And, because they want to have a gateway into Oceanside, the first structure people will see is a trash enclosure. How appropriate!

ELLEN NEWTON
Oceanside

Oceanside council snubs public

The Oceanside council ignored the realities of the lagoon hotel project ("Oceanside approves hotel for Buena Vista Lagoon," Feb. 15). Failure to preserve public view corridors, density (too big), traffic congestion, parking are but a few items ignored. The EIR was faulty and should not have been certified. Please, everyone, stand up to this travesty.

DOUGLAS FREED
Oceanside

We need to preserve our lagoons

Over the last few months hundreds of residents of North County came together to raise the money to acquire the very special Sherman property in the Buena Vista Creek Valley.

This land is part of the natural floodplain of the creek, allowing it to slow down and drop its pollutants and silt before it reaches Buena Vista Lagoon. Preserving land like this helps the entire watershed — from the creek, to the lagoon, to our beaches.

Unfortunately three members of the Oceanside City Council (Chavez, Feller and Kern) voted to undo much of the good of this land acquisition. They voted to approve a massive development, the boardwalk/coastal lagoon project right along the lagoon. We all need to get serious about protecting our coastal waterways — and this just isn't the way to do it.

DIANE NYGAARD
Preserve Calavera
Oceanside

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT**Downtown's Diegan Will
Have An Air Of Affluence**

*Penthouse suites in the condo hotel will
average \$1.6 million; other units \$550,000*

By Manny Cruz

An Orange County developer is bringing a new concept to Downtown San Diego — a condo hotel. At the Diegan, a 21-story tower to front on Fifth Avenue, 161 condominiums and 24 penthouses will be offered for sale. Buyers will have the option of living in the suites, putting them up for rent and sharing in the rental receipts or using them as getaway destinations during the year.

Developers are marketing condo hotels as a hassle-free way to own real estate, but the concept isn't new. Condo hotels first appeared in the early 1980s in Florida, when 1950s-built hotels were converted into condominium units selling for less than \$100,000 apiece. Joel Greene, president of a Miami company that specializes in the sale of these hotels, says the trend didn't last. A resurgence began about six or seven years ago and condo hotels are now under development throughout southern Florida and in San Francisco, Boston, Washington, D.C., and Las Vegas.

The Diegan, a project of 5th Avenue Partners LLC, is being developed in conjunction with the House of Blues at 1055 Fifth Ave., between Broadway and C Street. The two will share some structural components. House of Blues is being readied for a May 20-21 grand opening. Structural work on the free-standing hotel tower is expected to start within a month. A 2006 fourth quarter opening is expected.

Construction cost for the two buildings is \$110 million. Lee Mullinax, principal of Vertical Properties Inc., which is handling sales and marketing for the hotel, says the sales value of the hotel units is \$135 million. That will include some of his own money; he's going to buy a unit.

Studios in the Diegan will range from 320 square feet to 500 square feet while one-bedroom units will run from 720 square feet to 900 square feet. Penthouses will range from 1,000 square feet to 2,800 square feet. "The average price for a condo will be around \$550,000," says Mullinax. "The average price for a penthouse will be \$1.6 million."

Each of the units will be delivered to buyers fully furnished, including full marble baths and plasma television displays. "Everything down to the linens and flowers in vases," says Mullinax.

Mullinax figures most buyers will use their suites as a second home investment and getaway destination rather than a primary residence. "The owner can reside in it if they choose, or put it in the hotel management program where they will get 60 percent of the revenue generated by their unit," he says. "And they can use it 28 days out of the year in any configuration of time they choose, plus they get a Foundation Room club membership in the House of Blues for the first year, about a \$2,500 item."

Mullinax says the Diegan will be built to five-star standards and will include a health spa, fitness center and pool, two restaurants and Whiskey Bar lounge.

Buyers who put their units into the hotel program don't have to worry about upkeep and maintenance — hotel management takes care of that. And they can reserve the space for themselves anytime they want. "It makes little sense for an investor to own a condo as an investment, but this concept works," says Mullinax. "The owner can have a nice cash flow and get the use out of the unit as well."

The Diegan was designed by Tanner-Hecht Architects, a San Francisco company. Rockwell Group will provide interiors.

Mullinax says several hundred individuals are on an interest list, the majority of them from San Diego. Others are from Los Angeles, Orange County and Arizona. A sales office will open May 27 at 240 Broadway. The phone: (619) 702-6666.



The 21-story Diegan condo hotel will front on Fifth Avenue Downtown. Developer is Orange County-based 5th Avenue Partners LLC. Opening is expected in the fourth quarter of 2006.

March 3, 2007

California Coastal Commission
45 Fremont St. Suite 2000
San Francisco, CA 94105-2219

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MAR 06 2007
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED
MAR 05 2007
CALIFORNIA
COASTAL COMMISSION

To Whom It May Concern:

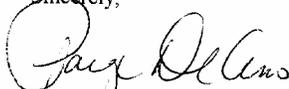
I am writing because of my concern over plans by the city of Oceanside to pursue development along the northwest edge of Buena Vista Lagoon. I am a resident of Carlsbad, a member of the Buena Vista Lagoon Audubon Society and an environmental science teacher.

California has lost well over 90 percent of its coastal wetlands and here in Carlsbad we are fortunate to have three of the remaining lagoons each in varying stages of restoration. It does not make sense for anyone to jeopardize the well being of these wetlands for commercial reasons. By allowing the proposed development we tell the next generation that our natural environment has little value. This wetland serves multiple purposes such as fishing, bird watching, and educational opportunities for humans and as part of the migratory pathway for waterfowl. Wetlands also can help absorb a certain amount of pollutants that flow through them on their path to the ocean. But wetlands are also fragile ecosystems and susceptible to damage by human activities as evidenced by the devastation of Louisiana by Hurricane Katrina partially due to wetland loss.

Does Oceanside really need another hotel, restaurant and condominium development? CalTrans may be able to purchase this land as part of a mitigation agreement and preserve it as open space. What use will benefit the wildlife and people of the area in the long run? Please consider options that help preserve Buena Vista Lagoon not degrade it.

Thank you for your consideration.

Sincerely,



Paige DeCino
4155 Skyline Rd.
Carlsbad, CA 92008

RECEIVED 3/1/07
MAR 05 2007

CALIFORNIA
COASTAL COMMISSION

The California Coastal Commission

*re: Carlsbad and Oceanside's
development plans on
few remaining open spaces
in San Diego County.*

Commissioners:

*I am not in favor of cities
continuing to build on or near
the Buena Vista Lagoon.*

*A sensitive wetland ecosystem must
be preserved.*

Save our open space.

Thank you

Norma J. Wolk

2457 Levante St.

Carlsbad

Ca 92009

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MAR 06 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

**Save Buena Vista Lagoon,
write Coastal Commission**

Those of us who are concerned about the few open spaces remaining in north San Diego County know that the state has already spent millions of dollars in research and development of feasible restoration projects for the Buena Vista Lagoon on the coastal border between Oceanside and Carlsbad.

The question I and other community members attending the Feb. 14 Oceanside City Council meeting are wondering: "Why are we spending all this taxpayer money to restore the lagoon if our city insists on building hotels on the banks of it?"

There are many issues regarding development in proximity to such a sensitive wetland ecosystem and endangered species habitat. Does this make sense? I am afraid not.

Please let the California Coastal Commission hear your voice. Write a letter at: The California Coastal Commission, 45 Fremont St., Suite 2000, San Francisco, CA 94105-2219. Their phone number is (415) 904-5200.

JACQUES DOMERCQ

Trib. 3/1/07 Oceanside

Encinitas

**Save Buena Vista Lagoon,
write Coastal Commission**

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JACQUES DOMERCQ
Oceanside

M M. Martin
4211 Beach Bluff Rd.
Carlsbad, CA 92008

E I V E D

0 5 2007

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MAR 07

CALIFORNIA
COASTAL COMMISSION

MAR 06 2007

Cal. Coastal Commission
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

It does not make sense
to restore the Buena Vista
Lagoon at TAXPAYERS
MONEY - IF the
beneficiaries of all this

are going to be some
developers.

Don't you want to leave
something good to the
future generations??
Instead of destroying
the environment &
filling your pockets -
you are the SCAM OF
SOCIETY - GREED - GREED
GREED - DO something good
for once & PROTECT THE
BUENA VISTA LA GOON

**Save Buena Vista Lagoon,
write Coastal Commission**

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JACQUES DOMERCQ
Oceanside

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MAR 06 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

We agree with this.

Mike + Georgia

Stroud

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MAR 05 2007

CALIFORNIA
COASTAL COMMISSION

3/3/07



Georgia Stroud
10961 Treese Ln
Escondido CA 92026

STATE OF CALIFORNIA—THE RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION

15 FRENCH, SUITE 2000
SAN FRANCISCO, CA 94106-2219
VOICE AND TDD: (415) 904-8200
FAX: (415) 904-8400

GRAY DAVIS, GOVERNOR



August 31, 1999

Mr. Rod Apodaca
Sperry Van Ness
5 Park Plaza, Suite 650
Irvine, CA 92614

SUBJECT: Boundary Determination 33-99
City of Oceanside, Buena Vista Lagoon

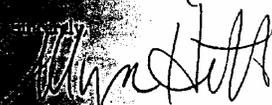
Dear Mr. Apodaca:

This is in response to your permit jurisdiction boundary determination request for San Diego County Assessor Parcel Numbers 155-034-15, 16, and 17. Enclosed is a copy of a portion of the adopted post-LCP certification map for the City of Oceanside with the parcels in question highlighted. Also included is a copy of the assessor parcel map for the area with the Commission's permit and appeal jurisdictions shown thereon.

Based on the available information, APNs 155-034-16 and 17 lie entirely outside the Commission's permit jurisdiction. APN 155-034-15 is bisected by the Commission's permit jurisdiction boundary in the manner shown with approximately 0.5 acre lying within the Commission's permit jurisdiction. Development on the portion of APN 155-034-15 lying within the Commission's permit jurisdiction would require a permit from the Commission. Development on the remainder of APN 155-034-15 and on the entirety of APNs 155-034-16 and 17 would require a Coastal Development Permit from the City of Oceanside, which if approved, could be appealed to the Commission.

In any area where the boundary between the Commission's retained permit and appeal jurisdictions is based on the State Lands Commission staff delineation of potential public trust lands, its exact location may vary depending on what lands are *actually* subject to the public trust. Likewise, where the boundary follows an existing tidelands boundary, State Lands Commission needs to be consulted in order to avoid errors in locating the permit boundary. Questions regarding the exact location and extent of tidelands and/or public trust lands should be referred to the State Lands Commission for determination. Their status determination may or may not result in a different boundary.

Please contact me at (415) 904-5467 if you have any questions regarding this determination.



Alyson C. Hitt
Mapping/GIS Unit

Enclosures

cc: B. Ponder, CCC-SD

12

To the Coastal Commission:

As a resident who has spent almost my entire life in this area, I am dismayed by the possibility of losing yet another open space which should be preserved. I am writing to urge you not to allow the development of a hotel on the land adjacent to the Buena Vista Lagoon in Oceanside. The lagoons and beaches are for all people to enjoy, not just those wealthy enough to purchase the opportunity.

Recently, I donated money to the Preserve Calavera group which worked long and hard raising funds to buy and preserve property containing riparian wetlands upstream of the Buena Vista Lagoon. What a shame for their diligent efforts to protect the water flowing to the lagoon to be countered by the disgrace of shameful and exploitative commerce along the lagoons waterfront.

The citizens of this world must be the stewards of it and work on behalf of its best interest. We are too quickly devouring this world's most precious jewels for our own consumption. Please stop this development.

Sincerely,



Carol Jefferies

P.S. Please see enclosed plea from my 6 year old son. Thank you.

RECEIVED

MAR 09 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

PLEASE DON OT

RECEIVED

MAR 09 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

BUILD A HOTEL
BY THE LAGOON

SINCERELY,

LEWIS W. FERRIE
(

7/6

RECEIVED

MAR 21 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

March 20, 2007

Dear Coastal Commission Member,

Please deny the three-story timeshare complex to be developed adjacent to the highly disturbed Buena Vista Lagoon Ecological Reserve.

It is a assault on the environment. Please protect what remains of California's coastal wetlands.

Sincerely,



Marie Freitas

KARL E. STEINBERG, MD
Stone Mountain Medical Associates, Inc.
3608 Napa Court
Oceanside, CA 92056
(760) 414-7263

FELLOW, AMERICAN ACADEMY OF FAMILY PHYSICIANS

DIPLOMATE, AMERICAN BOARD OF FAMILY MEDICINE

March 26, 2007
VIA US MAIL

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402

Re: **Buena Vista Lagoon Development Project**

Dear Coastal Commission:

I am writing to express my extreme opposition to the proposed development of a timeshare/hotel and associated commercial and condo structures virtually on top of the Buena Vista Lagoon. You are no doubt already well aware of the history of this proposed project and of the developer, so there is no need for me to give you details on them. I think the obvious environmental impact of these structures on the lagoon itself would be enough to give you pause before approving such a project. But there are many other issues that must be taken into account.

First of all, the Oceanside Planning Commission roundly defeated this proposal, calling it (if I am not mistaken) a "monstrosity," by a vote of 6-1. The developer then made an end-run around the Planning Commission, taking it directly to the City Council, where after a very emotional 4-hour session which I attended, they approved the project 3-2. You are no doubt aware of the vagaries of local politics and politicians—in this case, the Mayor voted against the project, and the many interested parties who spoke at the Council meeting were at least 75% opposed to the project for a variety of legal, environmental and social reasons that I assume you have access to and are familiar with. Despite that, and with no real acknowledgement of the problems, three of the councilmembers elected to approve the project in its current state in spite of all the issues.

I have grave concerns about the ethics of this developer. To give a few examples (most of which you probably already know), I will recount a few facts that give me pause for great apprehension, considering the promises and "concessions" he has made about the project:

Received

MAR 27 2007

California Coastal Commission
San Diego Coast District

1. The developer hired paid signature-gatherers to collect his roughly 1000 petition signatures, allegedly supporting the project. In fact, the way these signatures were gathered was by posting signs in front of local supermarkets that proclaimed, "Support higher paying jobs in Oceanside!" This is misrepresentation of the most shameful degree. In fact, several people who had already publicly come out *against* the project, signed the petition without reading the small print. I believe only a tiny minority of these supposedly favorable signers actually did favor the project; they simply signed the petition because it seemed like a good cause.
2. The developer had a paid lobbyist address the Council at the meeting, and she presented numerous "facts" that were completely false. For example, she stated that the City Attorney had "said [the project] was a good thing," to which Mr. Mullen—who was sitting at the same table as the Councilmembers—emphatically shook his head "no," strongly suggesting to me that he had never in fact said that. This lobbyist went on to show on a PowerPoint slide a list of local organizations with whom the developer had allegedly met and who had *given approval* for the project. These organizations included the St. Malo HOA and the Sandpiper HOA, among many others. Later in the meeting, the Presidents of both of these HOAs got up and stated that they and their organizations had *never* met with the developer, and that the extent of their communication had consisted of a mailed prospectus and some kind of letter saying "We hope you can support our project" or something to that effect. Once again, these blatantly dishonest and reprehensible tactics do not paint a favorable picture of this developer and his cronies, and if this is his behavior *before* the project even *starts*, I fear that it bodes very ominously for his *future* integrity and reliability once the project gets underway!
3. The lobbyist and/or architect for the developer stated in the Council meeting that the proposed condominium (I believe it's "Number 8") that would block access to the lagoon from Broadway would be scrapped to leave that area open, yet when the actual project was voted on, this omission of the westernmost condo was not included in the vote. (Please review the transcript or tape of the meeting, and you will see where they indicated their willingness to scrap this; I urge you—if you do consider allowing them to go forward—to insist that this be part of the plan.)
4. There is good evidence that Caltrans and other agencies and charitable organizations have expressed an interest in this property, with a desire to keep it as undeveloped wetlands area. In order to cleverly extricate himself from any possibility of one of these agencies going forward with this (to me clearly superior) plan, the developer has put the property into escrow so that no discussion can even take place. He clearly has only one agenda: to erect this behemoth eyesore within a few feet of the lagoon, just for his own profit.

These multiple examples of dishonesty and misrepresentation paint a clear picture of the kind of shady businessman and unethical human being we are dealing with. I pray that you will exercise extreme caution when even considering any project that he proposes. Clearly, he cannot be trusted. In a highly sensitive wetlands area like the

Karl E. Steinberg MD

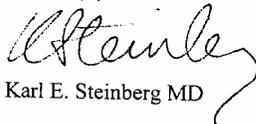
3

Medicolegal Report: Maggie Webb

Buena Vista Lagoon, I know that you are painfully aware that once damage is done, it is very difficult to undo. The bell can't be unring.

I implore you to do everything in your power to consider what is best for our environment and our community, before giving this developer carte blanche to ruin this little corner of paradise. Please carefully consider the legal obstacles the proposed development presents as well. I am well aware and supportive of the rights of property-owners to have a certain degree of freedom to build and develop. But this is not the right project for this space, and it would be a grave miscalculation to allow it to go forward—especially knowing the kind of dubious and profiteering scoundrel this man has already shown himself clearly to be. Give credence to the dissenting votes of Mayor Wood and Esther Sanchez, and particularly Councilmember Sanchez's passionate but carefully considered opposition. Consider the Oceanside Planning Commission's near-unanimous disapproval of this project. I urge you to deliberate carefully and extensively, and keep in mind that the opposition to this project is not just a loosely organized group of tree-huggers, but a widely based and well-organized, passionate group of citizens who are as appalled as I am at this proposal and the developer's shady tactics. Please, I entreat you with every bit of my intellect and my heart, do not reward this callous developer's already extensive dishonest behavior by allowing him to contaminate the beautiful Buena Vista Lagoon with this ill-advised project.

Sincerely yours,



Karl E. Steinberg MD

March 27, 2007

To Whom It May Concern:

Please accept these approximately 2700 petition signatures as a sign that this development should not happen at this location. This area is used for a wide variety of reasons and by a large number of people from all over the country.

Please see the number of petition signers grow daily and read their heartfelt comments at:

www.PetitionOnline.com/7369/petition.html

Sincerely,
The Friends of the Buena Vista Lagoon

RECEIVED
MAR 29 2007
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

APR 05 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
45 Fremont St. Suite 2000
San Francisco CA 94105

March 15, 2007

Dear Coastal Commission:

I encourage you to disapprove of the proposed development on the banks of the Buena Vista lagoon in Oceanside. This is the exact type of development that the Coastal Commission was created to stop. This development is too big and threatens a very clean lagoon and sanctuary. There are so many problems with the proposal its hard to understand how it got as far as it did in the approvals. Please put an end to this development.

Sincerely,

JulieAnn Peterson
JulieAnn Peterson
4625 West Talmadge
San Diego CA 92116



February 12, 2007

City of Oceanside City Council
300 North Coast Hwy
Oceanside, CA 92054

RE: Tentative Map (T-8-02), Development Plans (D-13-02, D-14-02), Conditional Use Permits (C-21-02, C-22-02) and Regular Coastal Permit (RC-8-02) - Boardwalk Complex

Dear City Council Members,

This letter is to express the desire of the San Diego County Bicycle Coalition to allow and preserve bicyclist access south of Broadway through the proposed Boardwalk Complex development, and to ensure the development does not impact bicyclist traffic on Coast Highway.

The proposed development is just south of the current Coastal Rail Trail ending in Oceanside, and currently bicyclists use Broadway, Eaton, and Coast Highway to go north and south. Although the current plans for the Coastal Rail Trail do not include constructing the trail south across the lagoon, future developments in the rail corridor might provide an opportunity for such a trail extension, and it is important to preserve and easement and access for bicyclists along the corridor.

Good bicyclist and pedestrian access to and through the site will certainly be a major benefit to the project, and I hope the Council and the developer will work together to provide such access that meets both the statewide design standards and the needs of the bicycling and walking public.

Please also ensure that current bicycle lanes on Coast Highway north of the city limits are not impacted by this development, and any improvements to Coast Highway take bicycle access into account in their design.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Kathy Keehan". The signature is written in a cursive, flowing style.

Kathy Keehan
Executive Director

Received
MAR 16 2007

California Coastal Commission
San Diego Coast District

San Diego County Bicycle Coalition
P.O. Box 34544 San Diego CA 92163
(858) 487-6063
www.sdcbc.org

TR

RECEIVED

MAR 21 2007

19 March 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

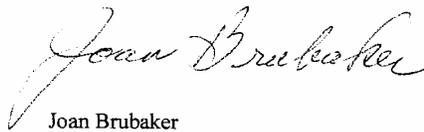
San Diego Coast District Office
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402

To The Members,

Much has been said about encroachments on natural habitat in our coastal areas and the Coastal Commission is the major authority to assist in the preservation of such areas for future generations as well as the ones presently living in those areas.

A hotel and restaurant development in the extreme southern edge of the city of Oceanside is the topic of concern in this correspondence. The project was turned down by the city planning commission only to be pushed through a council session by the development hungry constituency of that body at this time. In addition, it permits ownership lodgings for longer periods than overnight use which possibly would be in conflict with section 30222.3 of AB 1459 when this section is adopted.

Aside from that aspect and equally or possibly more important is environmental issues on this location. Restoration efforts have been exercised in this area and are continuing at Buena Vista Lagoon at the border of Oceanside and Carlsbad cities. With this development at the edge of the lagoon, how can restoration continue and be effective? Dollars already spent will have been somewhat wasted. The folly of this project is a poor reward for the taxpayer dollars used for restoration. Please examine this project.



Joan Brubaker
1606 Hackamore Road
Oceanside, CA 92057
760-941-5378

TR

Received

MAR 15 2007

California Coastal Commission
San Diego Coast District

1606 Hackamore Road
Oceanside, CA 92057
11 March 2007

RECEIVED

MAR 14 2007

CALIFORNIA
COASTAL COMMISSION

The California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

To The Members,

Much has been said about encroachments on natural habitat in our coastal areas and the Coastal Commission is the major authority to assist in the preservation of such areas for future generations as well as the ones presently living in those areas.

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Joan Brubaker
1606 Hackamore Road
Oceanside, CA 92057
760-941-5378

March 9, 2007

Deborah Lee, Coastal Commission District Manager
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

Deborah Lee:

I was outraged and disgusted to hear that Oceanside is planning to build a hotel/resort on the Buena Vista Lagoon. This land should be protected instead of destroyed! As a tax-paying resident of Oceanside, I am very disappointed by this irresponsible decision. I would hope that the Coastal Commission would insist on fighting to stop this.

The Oceanside City Council needs to be better educated and be prevented from making such appalling decisions.

Sincerely,



Amber L. Perkins
Oceanside Resident

Received

MAR 16 2007

California Coastal Commission
San Diego Coast District

| | | | |
|---------|---|---------------------------------|-------|
| TO | Grace/Toni | 3/14 | 12:10 |
| FROM | (Called to voice their objection as 80-year S.D. natives) | | |
| SUBJECT | Betty and Jack Stevenson | Opposed to B.V. Casper | |
| ADDRESS | 165 Rudd Rd | ADD TO INTERESTED | |
| CITY | VISTA, CA 92084 | PARTIES LIST for A-6-OCN-07-038 | |
| STATE | | HP | |
| ZIP | | | |
| PHONE | | | |
| FAX | | | |
| EMAIL | | | |
| WEB | | | |
| OTHER | | | |

Mar 09 07 11:43a

Marc Ordman

/605290022

p.1

RECEIVED

MAR 09 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

3/9/07

Hello,

I'm writing regarding yet another proposed condo/restaurant/hotel development, this time on the Buena Vista Lagoon estuary in Oceanside.

This was just approved by the Oceanside City Council, three for, two against (Councilman Chavez and the Mayor). They voted to overturn their own Planning Commission!

Councilman Chavez, dissenting, said we can always build another hotel, but we can't build another wetland or lagoon. So true.

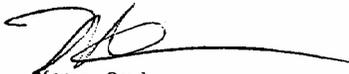
I understand the decision is being appealed to you.

This estuary is beautiful and one of the very few we have left. The only building around it is the Audubon Nature Center. People fish there, walk around, etc. Why? Because it's still natural!

I drive through the estuary often on the PC Highway on my way to Carlsbad from Oceanside where I live. The thought of another development there - more people, cars, pollution, danger to wildlife. When is enough enough?

I'm not entirely sure of your legal charter, but if you can prevent this latest assault on a natural setting, I would strongly encourage you to do so.

I appreciate your attention and I am thankful for organizations like yours.



Marc Ordman
3664 Seaflower Lane
Oceanside, CA 92056
(760) 529-0022

TR

3/28/07

RECEIVED

APR 02 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Kind People,

I am writing to request that you take a second look at the Oceanside, California's City Council decision to allow the construction of a hotel/resort in the middle of critical wetlands. Our local Planning Commission, after extensive study, voted to deny the developer the right to build adjacent to the Buena Vista Lagoon but the Council overruled the Commission and the will of the residents living near the lagoon along with local conservation groups and members.

This area of proposed development is home for many species of rarely seen birds including the endangered Light-footed Clapper Rail. The Department of Fish and Wildlife recently released the results of a survey of the affected land and documented eight pairs of rails. Only 400 pairs of these birds exist in the state. In addition the area is used by many bird species and small mammals as habitat to forage in for food.

Please help us save this irreplaceable treasure for our children and for the water quality of our coastal community. Please oppose the "Coastal Lagoon Hotel" or any future project that would jeopardize our rare coastal natural lands.

Sincerely,



Dr. Noralee Sherwood
1526 Hunsaker St.
Oceanside, CA 92054

Mar 20 07 11:55a

Barbara Havens

760-729-6581

p. 1

Sirs:

When the California Coastal Commission was created, it was assigned the mission of protecting California's coastal and wetlands. There is now a proposal in Southwest Oceanside for a large development next to the outlet of the Buena Vista Lagoon. The development consists of a three story time shares, and 82 room hotel, a large upscale restaurant, and an eight foot boardwalk on 3.8 acres of coastal land.

My wife and I strongly oppose this development. We have lived in Carlsbad near this property for more than 40 years and know that further population density, more automobiles, and habitat disturbance are not in the best interests of coastal and wetland preservation.

We thank you in advance for your thoughtful consideration of this matter.

Sincerely,

Dr. Fred and Barbara Havens

Received

MAR 20 2007

California Coastal Commission
San Diego Coast District

Mar 21 07 07:44a

Norm Keith

760 230 1073

p. 1

San Diego Coast District Office
7575 Metropolitan Drive
San Diego

Dear Members of Coastal Commission,

Please deny the request to build a timeshare next to the Buena Vista Lagoon Ecological Reserve.

Too many projects are being built in areas where wildlife is living. There is never any turning back once the areas are built-up and the beauty is destroyed.

Thank you.

Marla Keith
620 Cole Ranch Road
Encinitas, CA 92024

RECEIVED

MAR 21 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Mar 12 2007 9:57AM

760 722-7604

p. 1

March 11, 2007

An Appeal to Honorable Members of the Coastal Commission;

Re: Lagoon Hotel Project (Formerly Boardwalk Project). Objection to the Approval and Certification of the Environmental Impact Report and Regular Coastal Permit (RC-8-02):

I request that the Oceanside City Council approval of the EIR and the Project Plan be reversed for failure to adhere to the Local Coastal Plan (LCP) and Coastal Plan. The LCP and Coastal Plan, as originally approved by the Coastal Commission, are very specific in the protection of Coastal access and views. Specifically:

The 15 feet Access corridor and View corridor, on the westerly side of Broadway (along the rail right of way) is to be vacated by the City of Oceanside at the request of the Owner/Developer. This strip is not an easement but is land owned by the City that the applicant wants the City to abandon. This 15 feet corridor is the only access to Buena Vista Lagoon ranging from the surf at St. Malo to the Coast Highway. The loss of this corridor forever precludes routing the Coastal Bike Trail through this area and forces cyclists to use the very dangerous Coast Highway. This is a gross violation of the Local Coastal Plan (LCP) which requires that Public Access and View Corridors be preserved above the interests of private use (Appendix B, Chapter 2). For this reason alone the EIR, in its whole, should be rejected.

2. The 65 feet of Broadway adjacent to Parcel 3, which was vacated by the City in 1982, is a Public View Corridor as defined in the LCP. The Plan calls for the City to abandon this 65 feet corridor so that the developer can construct a large residence in this right of way (Condo A). The LCP requires that View Corridors be preserved above interests of private development (Appendix B, Chapter 2). The EIR is faulty in that it does not address the issue of blocking the view with proposed Condo "A".

3. Currently the public uses a path from Broadway and across parcels 2 and 3 to access the lagoon and connect to the Coast Highway. The continuing use of this path for more than 30 years, without any attempt by the owner to block usage, constitutes an implied dedication under prescriptive rights doctrine. There is precedence for the Coastal Commission to deny the EIR in these cases.

4. The site plan arbitrarily changes zoning borders as defined by the Assessors Parcel Map. It excludes encroachment into Coastal jurisdiction. The owners' site plan is grossly corrupt (see attachments).

BY MAIL
In summary, the EIR is seriously flawed. It should be rejected. The Owner/Developer has not seen fit to sit down with local residents, environmentalists, Audubon and others. Rejection of the EIR/Project will force the Owner/Developer to the table so that community concerns can be addressed. The result could be a mutually acceptable Plan that incorporates the view and access concerns of neighbors and environmentalists and could satisfy the financial interests of the Owner/Developer. Thank you for your time. Respectfully,

Douglas Freed
2110 Broadway
Oceanside, CA 92054

Received

MAR 12 2007

California Coastal Commission
San Diego Coast District

12

RECEIVED

MAR 09 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

1014 Laguna Dr. # 5
Carlsbad, CA 92008

March 4, 2007

California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

Dear sirs:

One morning, as I was driving to work along the part of highway 101 that crosses Buena Vista lagoon, I was forced to stop by a gardener's truck that blocked the road. My annoyance turned to delight when I found out the gardeners had stopped to rescue a tortoise that was trying to cross the highway to reach the other side of the lagoon.

On February 14, the city of Oceanside approved the building of a resort hotel on the banks of Buena Vista lagoon, not far from where I had witnessed the tortoise rescue. The hotel site is part of the wetland's flood plain. It is an area that has been flooded in the past. It is also the home of many species, including tortoises, egrets and hawks.

Wetlands are an important part of the environment, acting as a buffer between salt and fresh water and as a place that stores carbon rather than releasing it into the atmosphere.

Building a hotel on this site will do more damage than destroying a view, it will contribute to the destruction of wildlife habitat and the degradation of the environment.

We need to protect and restore lagoons and wetlands, not develop them for the financial benefit of a few people.

I hope that you, in your role as the guardian of the coastal environment, will decide to preserve Buena Vista lagoon from unnecessary development.

Sincerely,



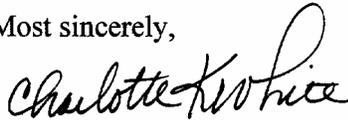
Mary S. Cappadonna

The California Coastal Commission
45 Fremont St. Suite 2000
San Francisco, CA 94105-2219

3/07/2007

My husband and I are very concerned about the Oceanside City Council's recent decision to build a hotel on the banks of the Buena Vista Lagoon, bordering both Oceanside and Carlsbad. We know that the state has already spent millions of dollars in research and development of feasible restoration projects for the lagoon. We are urging you, the Coastal Commission to intervene and put a halt to this project and help preserve the lagoon for future generations.

Most sincerely,



Charlotte White
2060 Basswood Avenue
Carlsbad, CA 92008

RECEIVED

MAR 12 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

MAR 1 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Feb. 25, 2007

California Coastal Commission
45 Fremont St.
Suite 2000
San Francisco, CA 94105-2219

RECEIVED

FEB 28 2007

CALIFORNIA
COASTAL COMMISSION

Re: Buena Vista Lagoon Development, Oceanside, CA.

To members of the California Coastal Commission:

This is a plea to this Commission to intervene to help save the Buena Vista Lagoon located on the coastal border between Oceanside and Carlsbad.

On Feb. 14 the Oceanside City Council approved a hotel development project that will adversely affect this sensitive wetland ecosystem that includes endangered species habitat.

This natural resource should be protected and nurtured not only for the present but for the future.

This environmental matter desperately needs your attention and influence. Please help.

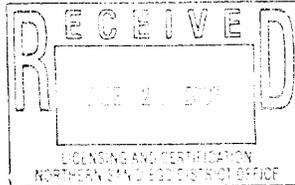
Thank you,
Harriett Bledsoe
Harriett Bledsoe
2166 Grandview St.
Oceanside, CA 92054-5620

ph. 760-757-0133

103

1311 Knoll Drive
Oceanside, California
February 22, 2007

Toni Ross
California Coastal Commission
7575 Metropolitan Drive
San Diego, California



Dear Ms. Ross:

Recently the Oceanside City Council voted to approve, by a three to two margin, a development adjacent to the Buena Vista Lagoon. Two councilmen expressed the opinion that a property owner has the right to develop his property any way he wishes as long as it complies with the existing laws, one councilman agreed to the development as long as a proposed bike and walking trail is eight feet wide and that a proposed telescope not be able to look toward the existing private residences. (The report of the council meeting was published in the North County Times on Thursday February 15th.) The project is composed of a three story 82 room hotel, a restaurant and four condominiums.

Although the meeting was attended by many opposed to the project, including the President of the Audubon Society, who explained clearly the damage the project would cause to the lagoon, the city council ignored the information, in fact the three councilmen seemed to have their mind made up before any public input was heard. The proponents expressed their opinion that a one hundred foot buffer zone was adequate to protect the lagoon and wildlife.

The environment is the most important issue with this proposed development. The expert on this is the President of the Audubon Society, Dennis Huckabay. The 100 foot buffer zone is no protection for the wildlife and they will relocate elsewhere. The light and noise will be continuous to which the lagoon will be exposed. Since light travels at a rate of 186,000 miles per second and sound at 1130 feet per second, what protection is a buffer zone of 100 feet to all the wildlife? For a healthy life we all need the cycle of light and darkness for activity and rest. Imagine what it would be like having your bedroom facing one of the casinos in Las Vegas. That is exactly what the situation will be for the birds and other wildlife at the lagoon. Roxayne Spruance, lobbyist for the applicant, claims that there is no adverse effect on the environment of the lagoon from the project, but what are her qualifications as an environmentalist to make such a judgement? The only person to qualified to make that judgement, I believe, is the President of the Audubon Society who makes environmental issues his profession.

Yours truly,

Victor L. Bothmann
Victor L. Bothmann
(760) 433-7551

FEB 26 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Feb 06 2007 9:45AM

760 722-7604

RECEIVED

FEB 6 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

February 5, 2007

Attn: Toni Ross
Fax: (619) 767-2370

**FACTS ABOUT THE BUENA VISTA LAGOON HOTEL PROJECT
(FORMERLY KNOWN AS "THE BOARDWALK PROJECT")**

Implied, but not spelled out in the Project Plan or the EIR, is a proposal by the developer for the City of Oceanside to vacate the remaining 15' of Broadway on the westerly side along the rail right of way. This would be in addition to the 65' the city vacated in 1981. This 15' is a View Corridor AND an Access Corridor to the lagoon. This proposed transfer of ownership is currently an obscure item buried in the Project Plan /EIR. Prior to approval/acceptance of the EIR the City Council should take separate action to approve or disapprove the vacation of this right of way. The LCP specifically requires that access and view corridors be preserved. For this reason alone, the EIR is faulty and the approval of the EIR by the Planning Commission should be reversed.

Secondly, the view corridor which formerly was the 65' of Broadway vacated in 1981 was, at that time, visualized as a cul-de-sac. The proposal to build a large residence (Condo "A") in this vacated right of way and move the cul-de-sac northwesterly on Broadway adversely affects property owners situated along Broadway. The project proponents are requesting the City of Oceanside vacate the easement for the cul-de-sac so that they can construct this large residence in the view corridor. The proposed Condo "A" site violates the LCP in that it violates the express condition of the LCP that public view corridors be preserved. The view looking south down Broadway will be lost forever. The City Council should take separate action to approve or disapprove the abandonment of the easement. Approval by the Planning Commission of the EIR should be reversed.

The four residence buildings the developer proposes to build are not "condos", they are large stand alone residences. The proposed "condos" are in fact labeled as "condos" as a way to get around the zoning requirement. Condo "A" is especially offensive due to the blockage of the view corridor.

Unfortunately the proponents of this project are not willing to work with the local community to resolve these issues. Although they put forth certain changes, these are cosmetic and not substantial. We respectfully request a reversal of the Planning Commission approval of the EIR.

Douglas W. Freed
2110 Broadway, Oceanside, CA
(760) 805-9554

7/18

February 9, 2007

To: Toni Ross
San Diego Coast District
7575 Metropolitan Drive Suite 103
San Diego, CA 92108

From: David Reyes
278 Puffin Drive
Vista, CA. 92083

Dear Toni Ross

My name is **David Reyes and I am 9 years old**. I am writing you to let you know that I am **against the hotel at the Buena Vista lagoon**. Please don't let this project go forward and save the lagoon and the surrounding areas.

Thank you,

David Reyes

David Reyes

RECEIVED

FEB 13 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

February 10, 2007

To: Toni Ross
California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive Suite 103
San Diego, CA 92108

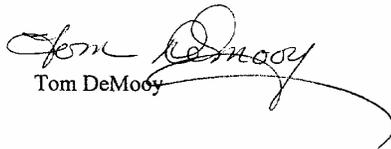
From: Tom DeMooy
3306 Heather Ln.
Oceanside, CA. 92056
760 806-7521

Dear Toni Ross

I am writing you to let you know that I am **against the hotel at the Buena Vista lagoon.**
We need to preserve this area and keep Oceanside a first class city with its beautiful
tourist sites and **the Buena Vista Lagoon and fresh water coastal wetlands.**

Please don't let this project go forward! Save the lagoon and the surrounding areas, keep
Oceanside a first class city! Vote NO.

Thank you,


Tom DeMooy

RECEIVED
FEB 13 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT