

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863



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Substantial Issue:	06/16/00
Staff:	SG
Staff Report:	06/20/00
Hearing Date:	07/13/00

**STAFF REPORT: APPEAL
DE NOVO**

LOCAL GOVERNMENT: San Luis Obispo County

LOCAL DECISION: Approved with conditions, 7/22/99

APPEAL NUMBER: A-3-SLO-99-068

APPLICANTS: BONITA HOMES

APPELLANTS: Commissioner Sara Wan, Commissioner Christine Desser

PROJECT LOCATION: 444 Pier Street, Oceano (San Luis Obispo County) APN 013-061-031 and 003.

PROJECT DESCRIPTION: Modification of coastal permit conditions to increase the maximum number of days per year that owners may occupy condominium hotel rooms from 84 to 127 and removal of two week limit on owner occupancy between Memorial Day and Labor Day.

FILE DOCUMENTS: Coastal Development Permit D940151; San Luis Obispo County certified Local Coastal Program.

STAFF RECOMMENDATION

The Commission found that substantial issue exists with this project at the June, 2000 meeting. Staff now recommends that the Commission **deny** the County approval of the proposal because it is inconsistent with LCP requirements limiting owner occupancy of visitor-serving uses such as the project at issue here. The condominium hotel project is partly in the Commission's jurisdiction and



California Coastal Commission
July 13, 2000 Meeting in San Rafael

Staff: S. Guiney, Approved by: C.T.E. 6/22/00

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partly in the County's. Therefore coastal development permits for the original project were required from and issued by both the Commission and the County. Both permits set limits on the yearly total and summer season total number of days an owner of one of the condominium units would be allowed to stay in the units. Specifically, both permits set an 84-day yearly total and a 14-day total between Memorial Day and Labor Day. This is consistent with the certified LCP and Commission policy in similar cases. According to the applicant, after construction of a portion of the development, marketing the units became very difficult because potential buyers were concerned with the limits on the yearly and seasonal maximum number of days owners would be allowed to stay in the units. Prior to requesting the County to modify its permit, the applicant and Commission staff had discussed this issue and the kind of information that would be necessary to support any proposed change to the permits regarding the owner stay limit. Commission staff pointed out that the certified LCP was unambiguous on the limits. The applicant has supplied staff with additional information that staff has analyzed. Finally, depending on the outcome of this appeal, the applicant might propose an amendment on the Commission's original permit for this project as well.

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1. Final Local Action Notice
2. Maps
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I. STAFF RECOMMENDATION ON COASTAL DEVELOPMENT PERMIT AMENDMENT

MOTION: *I move that the Commission approve proposed amendment to Coastal Development Permit No. A-3-SLO-99-068 for the development as proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT AMENDMENT:

The Commission hereby denies the proposed amendment to the coastal development permit on the grounds that the development as amended will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the amendment would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the amended development on the environment.

II. RECOMMENDED FINDINGS

A. Project Location and Description

The site of the proposed project is a 1.9-acre triangular parcel located at the intersection of Pier Avenue and Air Park Drive in the unincorporated community of Oceano in southern San Luis Obispo County. The site is bordered on the east by the Oceano Lagoon and Oceano County Park and is situated across Pier Avenue from the Oceano Campground of Pismo State Beach. The westerly one-third of the site is in the County's permit jurisdiction; the easterly two-thirds of the site remain in the Commission's permit jurisdiction (see Exhibit 2).

In 1995 the County and the Coastal Commission approved permits for the development of a 56-unit condominium hotel. The LCP contains language limiting condominium hotels in the coastal zone in unincorporated San Luis Obispo County to the Oceano urban area. Both the County and the Commission approvals contained conditions limiting the length of time condominium owners could



stay in the rooms to 84 days per year and 14 days between Memorial Day and Labor Day, consistent with the certified LCP.

Now the County has approved an amendment to its coastal development permit that would increase the length of time condominium owners could stay in the rooms to 127 days per year, with no limit between Memorial Day and Labor Day (please see Exhibit 1).

B. De Novo Findings

1. Owner Occupancy Limits

As described, the applicant proposes to amend the owner occupancy limits previously required for this project. The LCP has specific requirements for owner occupancy of hotel or motel visitor-serving development:

Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.264g(2).

No owner or owners holding separate interest in a hotel or motel unit shall occupy that unit more than a total of 84 days per year, including not more than a total of 14 days during the period from Memorial Day to Labor Day.

CZLUO Section 23.08.064g(2) was added to the LCP through LCP amendment 2-92. That LCP amendment was initiated because of Commission denial of the subdivision portion of a previous condominium hotel proposal on this site (A-4-SLO-91-36), before the LCP had standards addressing condominium hotels. The rationale for this ordinance derives from the Commission's longstanding policy to preserve and maximize visitor-serving uses for the general public in the coastal zone. This LCP policy was applied by the County when the original Pacific Plaza Resort was approved in 1995. Likewise, the Commission conditioned the portion of the project in its original permit jurisdiction to limit owner occupancy in similar fashion. The Commission found that "[t]his proposal would result in the creation of 56 hotel rooms available to the general public approximately 77 percent of the year." The 77 percent figure was based on the limitations on length of owner-occupancy as stated in CZLUO Section 23.08.264g(2).

Despite this specific requirement, the applicant nonetheless proposes increasing the number of total days for owner occupancy to 127, and proposes to completely eliminate any summertime restriction on owner occupancy. This proposal is clearly inconsistent with CZLUO 23.08.264(g)(2). In addition, while the CZLUO does allow the modification or waiver of certain CZLUO requirements if specific findings can be made, it specifically does not allow the modification or waiver of standards concerning "limitations on use" such as is proposed here:



Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.012b.

The standards of this chapter may be waived or modified through Development Plan approval, except where otherwise provided by this chapter and except for standards relating to residential density or limitations on the duration of a use (unless specific provisions of this chapter allow their modification). Waiver or modification of standards shall be granted through Development Plan approval (Section 23.02.034) only where the Planning Commission first makes findings that:

- (1) Set forth the necessity for modification or waiver of standards by identifying the specific conditions of the site and/or vicinity which make standard (sic) unnecessary or ineffective.*
- (2) Identify the specific standards of this chapter being waived or modified.*
- (3) The project, including the proposed modifications to the standards of this chapter, will satisfy all mandatory findings required for Development Plan approval by Section 23.02.034c(4) of this title.*

In no case, however, shall any standard of this chapter be reduced beyond the minimum standards of the other chapters of this title, except through Variance (Section 23.01.045) [emphasis added].

In conclusion, barring a Commission-approved amendment to the LCP to either allow waiver of the owner occupancy requirements, or to modify the owner occupancy requirement itself, the proposed amendment is per se inconsistent with the LCP, and must be denied.

2. Factual Basis for Weakening Owner Occupancy Limits

It seems clear that the LCP currently does not allow the modification of the owner occupancy limitations of CZLUO 23.08.264(g)(2). Nonetheless, the applicant has presented information to the Commission in support of the proposed change. The County of San Luis Obispo also approved the modification in response to the applicant's concerns. If the modification of the owner occupancy limit were allowed, it would require a finding, pursuant to the requirement for Development Plan reviews, that overnight accommodations for the general public would not be reduced by the proposed modification. This is because one required finding for modifying a standard is that all findings required for Development Plans are made (see above). One of these required findings concerns preservation of general overnight accommodations:

Coastal Zone Land Use Ordinance (CZLUO) Section 23.08.264d.

Required Finding: A Development Plan may be approved only if the Planning Commission first finds that the proposal will not reduce the availability of accommodations for overnight



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or transient occupancy by the general public, tourists and visitors compared to a conventional hotel or motel.¹

The findings made by the Planning Commission are attached as Exhibit 1. As discussed, the County approval increases the maximum yearly stay allowed for owners from 84 days to 127 days and eliminates any restriction on the maximum seasonal stay between Memorial Day and Labor Day (See Exhibit 1). However, there is no finding addressing section 23.08.264d.

Almost by definition the proposed amendment would "reduce the availability of accommodations for overnight or transient occupancy by the general public, tourists and visitors compared to a conventional hotel or motel." The total day restriction would be increased from 84 to 127 days (a loss of 43 general visitor days); and the summer restriction of 14 days would be completely eliminated. In short, even if owner occupancy limitation could be modified, the modification is inconsistent with the required finding that visitor-serving accommodations not be reduced.

The applicant has offered information in support of an argument that in fact making the change will not reduce general visitor-serving accommodations (see Exhibit 4), essentially arguing that slow sales of the units is due to the restriction, and that the economic viability of the project is therefore threatened overall:

[T]he first 16 units of the project were completed in November of 1998 and we currently have 10 of the 16 sold, hardly a stellar sales performance. To make the percentages worse, 2 of the 10 sold units were purchased by my wife and me.

According to the applicant the lackluster sales performance is due largely to potential owners not wanting to have to abide by the originally approved owner stay restrictions. The applicant states that after

the project had been on the market for approximately five months. . . we had only been able to sell one condominium unit. . . As we questioned potential buyers who had visited the project as to their reasons for not buying, the overwhelming response was what the potential buyers referred to as overly restrictive and unreasonable constraints on occupancy of the units by the owners.

Let me say at the outset that we sincerely respect and share the Commission's obligations that are set forth in the Coastal Act's visitor-serving sections that allow condominium ownership of visitor-serving units. Very few, if any, of the prospective buyers at Pacific

¹ Although the County's action was to amend or modify existing Development Plan D940151D, and not approve an original Development Plan, the same finding is required. If it weren't, then the protection afforded visitor-serving development could be easily circumvented by first obtaining a Development Plan approval and then amending the Development Plan to weaken the protection for visitor-serving transient occupancy opportunities.



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Plaza Resort are from the area, which means that not only will renters of the condo-hotel units be "visitors" but so will the buyers.

The theory advanced by the applicant is that unless the units are sold, the project will not be financially successful, which will result in only part of the project being built or even failure of the entire project, which will result in a reduction in or elimination of the availability of accommodations for overnight or transient occupancy by the general public, tourists and visitors.

The applicant feels that the 84 days per year restriction on owner occupancy is not logical or justified. Instead, he proposes to base the total annual owner occupancy limit on "area wide hotel/motel vacancy/occupancy rates" as determined by the UCSB Economic Forecast. The applicant's information states that "[a]ccording to the UCSB Economic Forecast, the hotel/motel occupancy rate in the 1998 calendar year was 65%." As applied by the applicant to the Pacific Plaza Resort, the units would be occupied by non-owners 237 days per year ($365 \times 0.65 = 237$). According to the applicant, "if we can reasonably assume that the Pacific Plaza Resort occupancy rate will also be 65%, it should be available for use by the owners 35% of the time or 127 days per year."

Without more specific and systematic economic data, it is difficult to assess the argument that the current owner occupancy restriction is responsible for slow sales. The Commission is also not in a position to evaluate the overall financial viability of the project without more comprehensive information from the applicant. Moreover, even if the Commission were able to evaluate the applicant's argument, it would not be appropriate to base a weakening of the restriction, particularly during the peak summer season, on annual occupancy rates. Thus, it is unlikely that the occupancy rate during the summer is 65%.

Indeed, regarding limits on owner-occupancy between Memorial Day and Labor Day, when transient occupancy demand from the general public and tourists is greatest, the County's action completely removed any restriction on owner-occupancy. No alternative was or has been discussed or proposed by either the County or the applicant. According to the applicant,

Frankly I don't have an alternative to the present 14-day use restriction by owners between Memorial Day and Labor Day other than no restriction at all. I sincerely believe that very few owners will use their units more than 14 days [between Memorial Day and Labor Day], but those who think they will, end up as non-buyers. . . . our potential buyers resist being told that they can't use something that they own, even though it is generating income while they are not personally using it.

While this argument may have merit, the County's action removing any restriction during the summer period would reduce the availability of the units for transient occupancy use by the general public and tourists during the time of the year when that demand is greatest. Thus, even if the LCP



allowed the modification of the owner occupancy restriction, the County's general elimination of the summer use restriction raises serious doubts about the consistency of the proposed amendment with CZLUO 23.08.264d.

3. Conclusion

As discussed, the County approval of the applicant's proposed weakening of owner occupancy limits is inconsistent on its face with the LCP. The LCP has a specific standard on owner occupancy. In addition, the LCP does not allow the modification of this particular type of standard. Finally, even if the standard could be modified, insufficient economic evidence has been provided to support the argument that the general visitor overnight accommodations would not be reduced by the proposed weakening of the owner occupancy restrictions. **Therefore, the project should be denied.**



RECEIVED

SEP 03 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

FINAL LOCAL
ACTION NOTICE

REFERENCE # 3-SLO-99-131
APPEAL PERIOD 07 Sept. - 20 Sept. 1999

July 28, 1999

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: July 22, 1999

SUBJECT: Development Plan/Coastal Development Permit D940151D

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced applications were approved on the above-referenced date by the following hearing body:

x San Luis Obispo County Planning Commission

A copy of the findings and conditions are being sent to you, along with the Resolution of approval.

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non coastal issues there is a fee of \$474. This action may also be appealable to the California Coastal Commission pursuant to Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county is required prior to appealing the matter to the California Coastal Commission. The appeal to the Board of Supervisors must be made to the Planning Commission Secretary, Department of Planning and Building, and the appeal to the California Coastal Commission must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (408) 427-4863 for further information on appeal procedures. If you have questions regarding your project, please contact your planner at (805) 781-5600.

Sincerely,

DIANE R. TINGLE, SECRETARY
COUNTY PLANNING COMMISSION

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(Planning Department Use only)

Date NOFA original to applicant:

July 29, 1999

Mailed

Hand-delivered

Date NOFA copy mailed to Coastal Commission:

Aug 6, 1999

Enclosed:

✓

Staff Report

✓

Resolution

✓

Findings and Conditions

Ex 1

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PLANNING COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, July 22, 1999

PRESENT: Commissioners Wayne Cooper, Diane Hull, Doreen Liberto-Blanck, Cliff Smith,
Chairman Pat Veasart

ABSENT: None

RESOLUTION NO. 99-59
RESOLUTION RELATIVE TO THE GRANTING OF A DEVELOPMENT PLAN TO
MODIFY CONDITIONS OF APPROVED DEVELOPMENT PLAN

WHEREAS, The County Planning Commission of the County of San Luis Obispo, State of California, did, on the 22nd day of July, 1999, grant a Development Plan to modify conditions of approved development plan to BONITA HOMES to allow construction and operation of a 6 building, 56 unit condominium hotel; 2) extended phasing schedule to allow additional time to complete the final 4 buildings; and 3) modify the length of stay restrictions to allow unit owners to stay in the units for no more than 127 days per year through a modification of special use standards, in the Commercial Retail Land Use Category. The property is located in the county on 444 Pier Street at the intersection of Pier Avenue and Air Park Drive in the community of Oceano, APN: 013-061-031 and 003, in the San Luis Bay Planning Area. County File Number: D940151D.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this Permit subject to the Findings listed in Exhibit A.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 22nd day of July, 1999, does hereby grant the aforesaid Permit, No. D940151D.

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property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 22.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six months (6) or conditions have not been complied with, such Permit approval shall become void.

On motion of Commissioner Hull, seconded by Commissioner Smith, and on the following roll call vote, to-wit:

AYES: Commissioners Hull, Smith, Cooper, Liberto-Blanck, Chairman Veasart

NOES: None

ABSENT: None

the foregoing resolution is hereby adopted.

/s/ Pat Veasart

Chairman of the Planning Commission

ATTEST:

/s/ Diane Tingle

Secretary, Planning Commission
1450L

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A-3-SLO-99-0

FINDINGS OF APPROVAL
DEVELOPMENT PLAN D940151D (MODIFICATION)

1. The proposed project or use is consistent with the San Luis Obispo County General Plan/ Local Coastal Plan because the use is allowed in the community pursuant to Planning Area Standards.
2. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
3. The establishment and subsequent operation or conduct of the use will not because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.
4. The proposed project or use will be inconsistent with the character of the immediate neighborhood or contrary to its orderly development.
5. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project.

Sensitive Resource Area Findings

6. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.
7. Natural features and topography have been considered in the design and siting of all proposed physical improvements.
8. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.

Modification to Chapter 8 Special Use Standards

9. Set forth the necessity for modification or waiver of standards by identifying the specific conditions of the site and/or vicinity which make the standard unnecessary or ineffective because the modification will lead to the ultimate success of this visitor serving project; there is a lack of such facilities in the community; other similar uses in the state are not restricted to this degree.
10. Identify the specific standard of this chapter being waived or modified. The restriction on owner occupancy to no more than 84 days per year is being modified to 127 days/year and removing the restriction on unit owners staying no more than two weeks from Memorial Day to Labor Day.
11. The project, including the proposed modifications to the standards of this chapter, will satisfy all mandatory findings required for Development Plan approval by Section 23.02.034(c)4 of this Title.

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CONDITIONS OF APPROVAL
DEVELOPMENT PLAN D940151D
(BONITA HOMES, INC.)

Status of Approval

1. The approval of this modification to Development Plan D940151D includes the following elements:
 - a. Approval of a third time extension of the Development Plan to May 26, 2000.
 - b. Approval of an extended phasing schedule that will allow four additional years for the Development Plan. All construction above grade must be commenced on all six phases (buildings) by May 28, 2004 after which time the Development Plan will lapse.
2. The owner occupancy restrictions of CZLUO are modified to allow unit owners to stay in their units for a total of 127 days/year instead of 84 days/year as required by CZLUO section 23.08.264g(2).

The owner occupancy restrictions of the CZLUO are modified to allow unit owners to stay in their units for more than two weeks during the time from Memorial Day to Labor Day as long as all other stay restrictions are in compliance with the original and the modified conditions of approval.
3. All other conditions of approval of the original Development Plan D940151D are still in full force and effect.

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Staff Report

San Luis Obispo County Department of Planning and Building

AGENDA DATE: JULY 22, 1999

TO: PLANNING COMMISSION

FROM: JAMES CARUSO, SENIOR PLANNER

SUBJECT: HEARING TO CONSIDER AN AMENDMENT TO DEVELOPMENT PLAN D940151D (PACIFIC PLAZA RESORT) TO MODIFY CHAPTER 8 SPECIAL USE STANDARDS; CONSIDER A THIRD TIME EXTENSION; AND TO CONSIDER AN EXTENDED PHASING SCHEDULE

ENVIRONMENTAL DETERMINATION: NEGATIVE DECLARATION (Approved by Planning Commission on May 28, 1995)

Attachments

1. Exhibit A (Development Plan Findings)
2. Exhibit B (Development Plan Conditions)

SUMMARY

The applicant has submitted three requests for this project:

1. A third (last) time extension for Coastal Development Permit/Development Plan D94151D to May 28, 2000;
2. An extended phasing schedule to allow additional time to construct all buildings approved as part of the CDP/DP; and
3. Modification of Chapter 8 special use standards to allow condominium hotel unit owners to occupy their units for periods of time greater than allowed by the CZLUO Chapter 8.

RECOMMENDATION

Staff recommends:

1. Approval of the third time extension pursuant to CZLUO section 23.02.050(b);
2. Approval of an extended phasing schedule to allow completion of each of the next four phases over the four years subsequent to the expiration of the third time extension (all construction to be completed by May 26, 2004 or the permit shall lapse); and
3. Approval of a modification to the Chapter 8 special use standards to allow units owners to stay a total of 127 days/yr instead of 84 days/yr.

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DISCUSSION

Background

The subject project was originally approved by the Planning Commission on May 11, 1995. The site is located in an area of Original Permit Jurisdiction of the California Coastal Commission. This permit jurisdiction required the Coastal Commission to consider a Coastal Development Permit application after the County approved the Development Plan. The Coastal Commission approved the Coastal Development Permit on June 15, 1995.

The originally approved project proposed a 98 unit, three story condominium hotel project. This permit application was approved by the County; however, the Coastal Commission denied the tract map that would have created the condominium element of the project and approved the hotel. The Coastal Commission directed the County to process an Local Coastal Plan amendment that would specifically allow condominium ownership of a visitor serving facility. The County and the Coastal Commission subsequently approved an LCP amendment that allows condominium ownership of hotel rooms in the community of Oceano only. The development plan for the 150 unit condotel was modified to a 56 unit project and was approved under the provisions of the new CZLUO condotel ordinance.

The applicant, Bonita Homes, has constructed two of the six approved structures. The five year timeframe of development plan approval will lapse on May 26, 2000. The applicant now requests approval of a third and final one year time extension pursuant to CZLUO section 23.02.050. In addition, the CZLUO allows for approval of an extended phasing schedule that may extend the five year time limit. An extended phasing schedule must be approved as part of the Development Plan; therefore, that applicant has submitted, along with the request for a third time extension, a request to modify the original time frames of approval of the Development Plan.

The third element of the application requests a modification to the special use standards of Chapter 8 of the CZLUO that addresses condominium ownership of hotels. The Chapter 8 special use standards can be modified pursuant to CZLUO section 23.08.012(b0 - Exceptions to Special Use Standards with findings that include: 1) identifying the necessity for the modification by specifying the specific conditions of the site that make the standard unnecessary or ineffective; 2) identifying the specific standard being modified; and 3) the project will still satisfy all mandatory findings required for development plan approval.

Third Time Extension

A third time extension may be approved if the Planning Commission makes three mandatory findings:

1. That substantial site work could not be completed as set forth in Section 23.02.042 because of circumstances beyond the control of the applicant.

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Shortly after initial approval of the Development Plan/CDP, the applicant needed to amend the original permit to allow certain changes to the management structure of the hotel. These changes, that included the drafting, review and approval of CC&R's took almost one year. Since that time, the applicant has completed substantial site work on the first two of the six approved structures.

2. The findings specified in Sections 23.02.050(a)(1), (2) and (3):

- There have been no changes to the provisions of the Land Use Element of Land Use Ordinance applicable to the project since the approval of the land use permit;
- There have been no changes to the character of the site or its surroundings that affect how the standards of the Land Use Element or Land Use Ordinance apply to the project;
- There have been no changes to the capacities of community resources, including but not limited to water supply, sewage treatment or disposal facilities, roads or schools such that there is no longer sufficient remaining capacity to serve the project.

No changes to the provisions of the LUE/LUO have occurred that would affect the project since the original land use permit was approved in 1995. The San Luis Bay Area Plan allows condominium hotels pursuant to the LCP amendment approved by the Coastal Commission in 1994. The CZLUO contains the applicable standards for development and operation of such a use.

3. The findings that were required by section 23.02.034c(4) to enable initial approval of the permit.

See Exhibit A - Findings of Approval.

Extended Phasing Schedule

CZLUO section 23.02.042 provides for approval of a project phasing schedule for a multi-structure project. A phasing schedule may provide for additional time, beyond the usual two years of initial approval and three one-year time extensions. The full five year time limit on the subject Development Plan will lapse on May 26, 2000 (if the Planning Commission approves the third and final time extension). At this time, only two of the approved six structures have been completed.

The California Coastal Commission's Coastal Development Permit (CDP) has already been "vested" with the construction of the first two structures. This means that the Coastal Commission's CDP will not lapse as is the case with the County Development Plan. Based on the status of the CDP, it is reasonable to extend the life of the Development Plan past the usual five year time limit.

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The extended phasing schedule for this multi-building project is proposed to reflect the orderly completion of the next four buildings. The phasing schedule identified in the recommended conditions of approval (Exhibit B) extend the life of the Development Plan one year for each of the uncompleted buildings (phases). Pursuant to the proposed phasing condition, construction must be completed on all buildings by May 26, 2004. This will allow one additional year for each of the four uncompleted phases.

Modification of CZLUO Section 23.08.264(g)

CZLUO section 23.08.264(g)(2) restricts unit owners of a condominium hotel to a maximum stay of 84 days per year. The applicant requests a modification of this standard to increase the length of stay for unit owners to 129 days per year. The reason for the request is to increase the salability of the units by allowing unit owners additional time to stay in the units they purchase. The rest of the time, the special use standards require the project to operate like any other hotel.

The standards of Chapter 8 may be modified by the Planning Commission pursuant to CZLUO section 23.08.012(b) through development Plan approval. The findings required to approve a modification of special use standards are:

- a. Set forth the necessity for modification or waiver of standards by identifying the specific conditions of the site and/or vicinity which make the standard unnecessary or ineffective.
- b. Identify the specific standard of this chapter being waived or modified.
- c. The project, including the proposed modifications to the standards of this chapter, will satisfy all mandatory findings required for Development Plan approval by Section 23.02.034(c)4 of this Title.

The Coastal Commission's approval of the CDP was characterized by the Commission as an experiment in allowing unit owned hotels in the coastal zone. It was determined by both the County and Commission that the community of Oceano in general and this site in particular were well suited for visitor serving overnight accommodations. It was further determined that condominium ownership of a hotel on this site was consistent with the visitor serving policies of the coastal zone. The applicant has stated that marketing of the units has been severely hampered by the 84 day/year restriction on owner occupancy of CZLUO section 23.08.264g(2).

Modification of this specific standard of Chapter 8 will, according to the applicant, result in more saleable units and will lead to the ultimate success of this project.

Staff Report Prepared By: James Caruso, Senior Planner
and Reviewed By: Michael Drazo, Supervising Planner

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FINDINGS OF APPROVAL
DEVELOPMENT PLAN D940151D (MODIFICATION)

1. The proposed project or use is consistent with the San Luis Obispo County General Plan/ Local Coastal Plan because the use is allowed in the community pursuant to Planning Area Standards.
2. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
3. The establishment and subsequent operation or conduct of the use will not because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use.
4. The proposed project or use will be inconsistent with the character of the immediate neighborhood or contrary to its orderly development.
5. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project.

Sensitive Resource Area Findings

6. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.
7. Natural features and topography have been considered in the design and siting of all proposed physical improvements.
8. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.

Modification to Chapter 8 Special Use Standards

9. Set forth the necessity for modification or waiver of standards by identifying the specific conditions of the site and/or vicinity which make the standard unnecessary or ineffective because the modification will lead to the ultimate success of this visitor serving project; there is a lack of such facilities in the community; other similar uses in the state are not restricted to this degree..

Ex 1 H/14
A-3-SLO-99-068

10. Identify the specific standard of this chapter being waived or modified. The restriction on owner occupancy to no more than 84 days per year is being modified to 127 days/year.
11. The project, including the proposed modifications to the standards of this chapter, will satisfy all mandatory findings required for Development Plan approval by Section 23.02.034(c)4 of this Title.

Ex 1 12/14

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6-7

CONDITIONS OF APPROVAL
DEVELOPMENT PLAN D940151D
(BONITA HOMES, INC.)

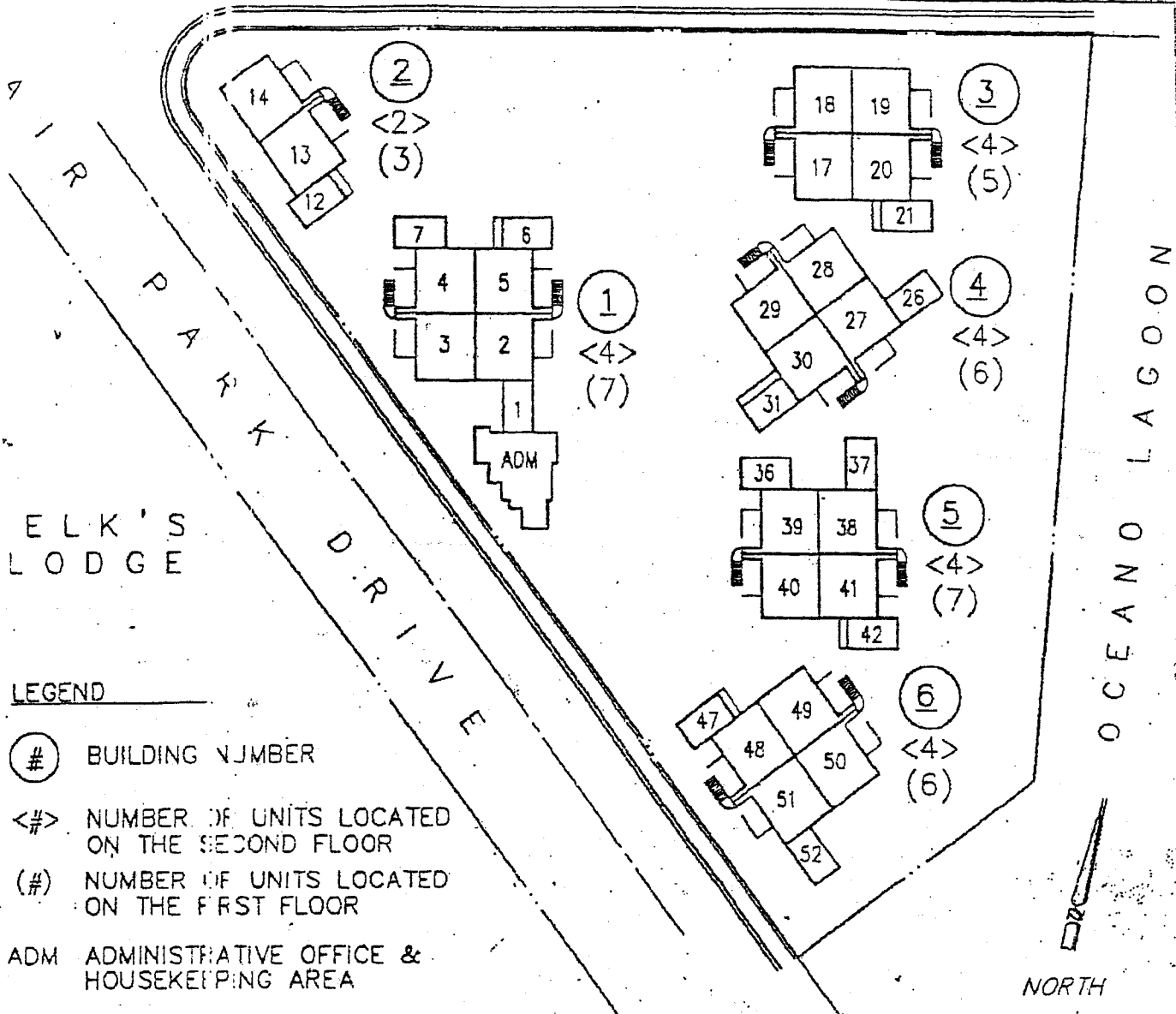
Status of Approval

1. The approval of this modification to Development Plan D940151D includes the following elements:
 - a. Approval of a third time extension of the Development Plan to May 26, 2000.
 - b. Approval of an extended phasing schedule that will allow four additional years for the Development Plan. All construction must be completed on all six phases (buildings) by May 26, 2004 after which time the Development Plan will lapse if all construction is not completed.
2. The owner occupancy restrictions of CZLUO are modified to allow unit owners to stay in their units for a total of 127 days/year instead of 84 days/year as required by CZLUO section 23.08.265g(2).
3. All other conditions of approval of the original Development Plan D940151D are still in full force and effect.

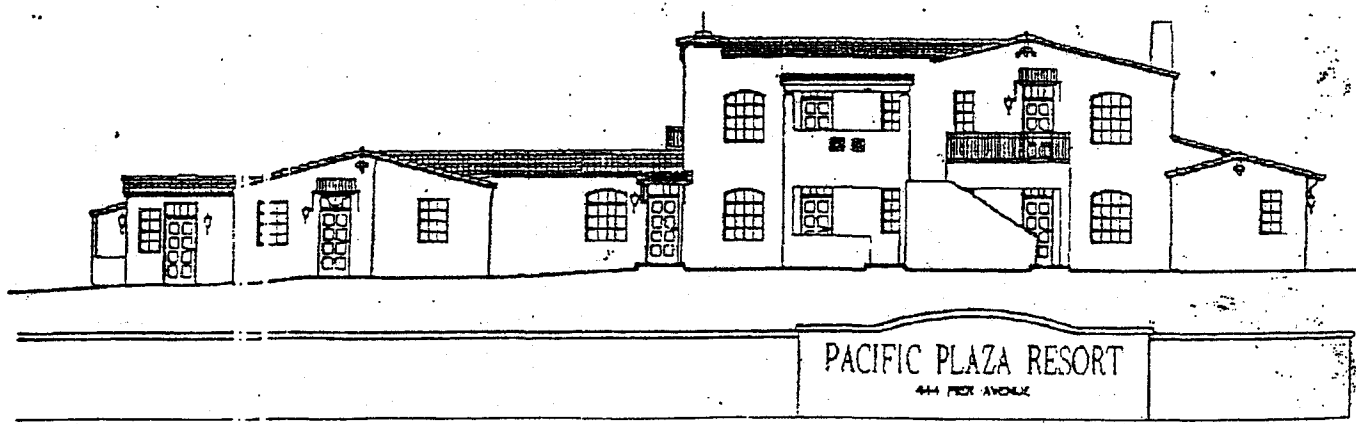
Ex 1 13/14

A-3-SLO-99-068

6-2



SITE PLAN - FIRST FLOOR UNITS



PROJECT

Pacific Plaza Resort
D940151D

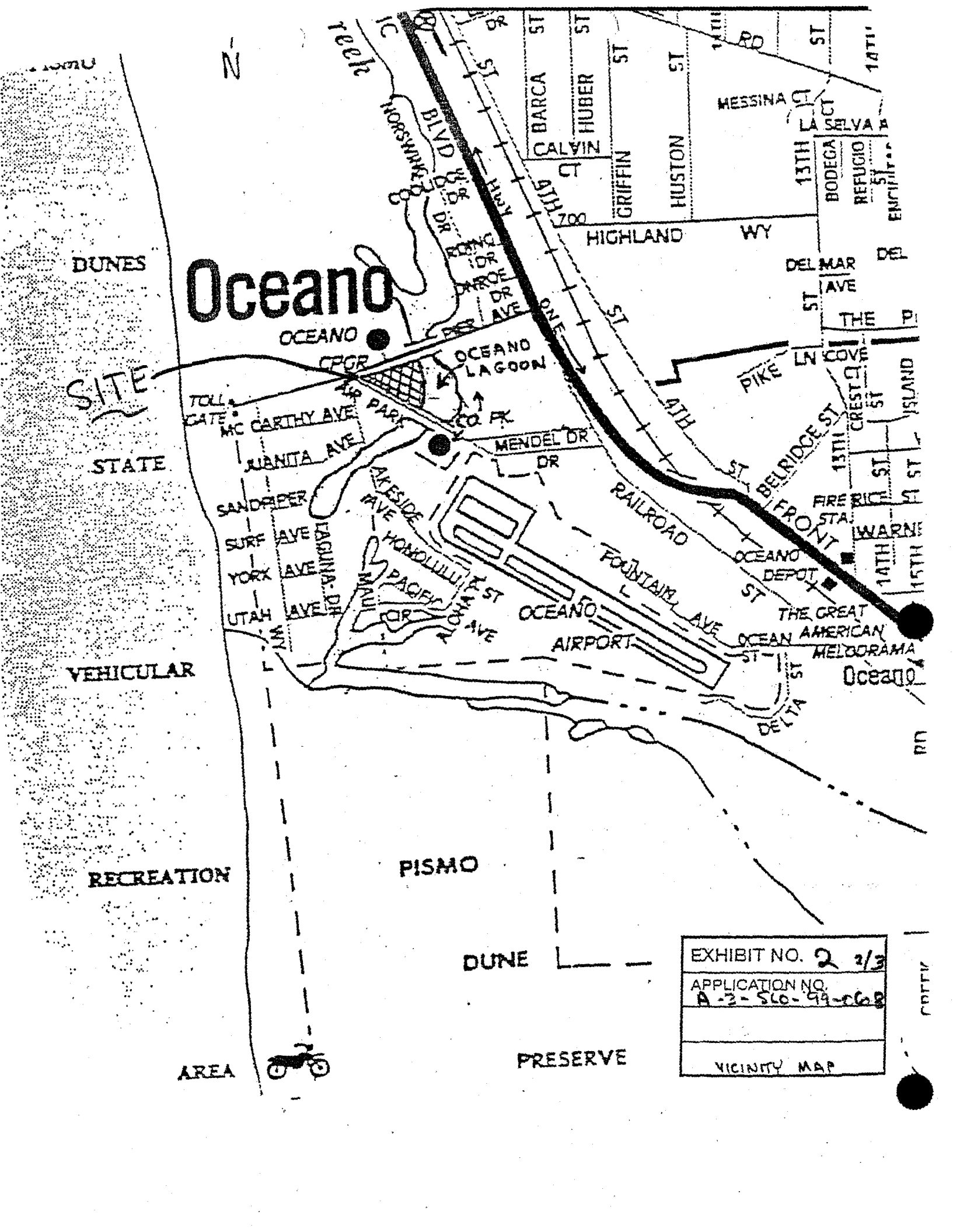


EXHIBIT

PHASING PLAN

Ex 1 14/14

A-3-SLO-99-068



OCEAN

SITE

First Public R

COMMISSION JURISDICTION PERMIT

STATE

Р А Б К

STATE

PARK

EXHIBIT NO. 2 3/3

APPLICATION NO.
A-3-510-94-069

Inset Map: Oceano Area

- (iii) Modifying, superseding or replacing conditions of approval imposed on the subject site or land use by a previous Development Plan, Minor Use Permit or any land use permit issued pursuant to the zoning ordinance (Ordinance No. 603).
 - (iv) Authorizing land uses on the site in addition to those requested in the Development Plan application where such additional uses would normally be required by this title to have Plot Plan or Minor Use Permit approval.
 - (v) Any other conditions judged by the Planning Commission to be necessary to achieve compatibility between the proposed use and its site, its immediate surroundings, and the community.
- (3) **Effect of conditions.** Whenever a Development Plan approval is granted or amended subject to conditions, use or enjoyment of the Development Plan approval in violation, or without observance of any such condition shall constitute a violation of the Coastal Zone Land Use Ordinance. In the event of such a violation, the approval may be revoked or modified as provided in Section 23.10.160 (Permit Revocation). The duration of conditions is established in Section 23.02.052 (Lapse of Land Use Permit).
- (4) **Required findings.** The Review Authority shall not approve or conditionally approve a Development Plan unless it first finds that:
- (i) The proposed project or use is consistent with the Local Coastal Program and the Land Use Element of the general plan; and
 - (ii) The proposed project or use satisfies all applicable provisions of this title; and
 - (iii) The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and
 - (iv) The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development; and

- (v) The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project.
- (vi) The proposed use or land division (if located between the first public road and the sea or the shoreline of any body of water), is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.
- (vii) Any additional findings required by planning area standards (Part II of the Land Use Element), combining designation (Chapter 23.07), or special use (Chapter 23.08).

d. Effective date of land use permit: Except where otherwise provided by Section 23.01.043 for projects that may be appealed to the Coastal Commission, the approval of a Development Plan shall become final and effective for the purposes of construction permit issuance, business license clearance, or establishment of a non-structural use, on the 15th day following the act of Review Authority approval; unless an appeal is filed as set forth in Section 23.01.042 (Appeal). A land use permit for appealable development shall not become effective until the requirements of Section 23.02.039 are met.

[Amended 1992, Ord. 2584; 1995, Ord. 2715]

23.02.035 - Additional Information Required.

For Minor Use Permits, and Development Plans, the following information is required in addition to the other requirements of this title, prior to acceptance of the application as complete. Waiver may be granted to some or all of these requirements by the Director of Planning and Building upon receipt of a written request stating the specific conditions on the site that negate the need for the additional information or a waiver can be granted if the director determines, based on information available in the office of the Planning and Building Department, that the additional information is unnecessary. Where the applicant volunteers to complete an environmental impact report (EIR) pursuant to the requirements of CEQA, the additional information required by this section may be fulfilled as part of the EIR completed for the project.

23.08.010 - Purpose: The purpose of this chapter is to establish special additional standards for certain land uses that may affect adjacent properties, the neighborhood, or the community even if the uniform standards of Chapter 23.04 and all other standards of this title are met. Such uses are defined as "S" and "S-P" uses by Coastal Table O, Chapter 7, Part I of the Land Use Element. It is the intent of this chapter to establish appropriate standards for permit processing, and the location, design, and operation of special uses, to avoid their creating unanticipated problems or hazards, and to assure they will be consistent with the general plan.

[Amended 1989, Ord. 2383; 1992, Ord. 2591]

23.08.012 - Applicability of Standards for Special Uses: Standards in this chapter are related to the special characteristics of the uses discussed and unless otherwise noted, apply to developments in addition to all other applicable standards of this title, and all applicable planning area standards of the Land Use Element. Any land use subject to this chapter shall comply with the provisions of this chapter for the duration of the use.

- a. Conflicts with other provisions.** In cases where the provisions of this chapter conflict with other applicable requirements of this title or the Land Use Element, the following rules apply:
- (i) If the standards of this chapter conflict with the provisions of Chapters 23.02, 23.03, 23.04, 23.05 or 23.06, these standards prevail, except as otherwise provided by Section 23.08.014.
 - (ii) If a use is subject to more than one section of this chapter, the most restrictive standards apply.
 - (iii) Where planning area standards (Part II of the Land Use Element or policies adopted as standards in the LCP Policies Document) conflict with the provisions of this chapter, the planning area standards or LCP Policies (as applicable) shall prevail.
- b. Exceptions to special use standards.** The standards of this chapter may be waived or modified through Development Plan approval, except where otherwise provided by this chapter and except for standards relating to residential density or limitations on the duration of a use (unless specific provisions of this chapter allow their modification). Waiver or modification of standards shall be granted through Development Plan approval (Section 23.02.034) only where the Planning Commission first makes findings that:

23.08.012 - 020

- (1) Set forth the necessity for modification or waiver of standards by identifying the specific conditions of the site and/or vicinity which make standard unnecessary or ineffective.
- (2) Identify the specific standards of this chapter being waived or modified.
- (3) The project, including the proposed modifications to the standards of this chapter, will satisfy all mandatory findings required for Development Plan approval by Section 23.02.034c(4) of this title.

In no case, however, shall any standard of this chapter be reduced beyond the minimum standards of the other chapters of this title, except through Variance (Section 23.01.045).

[Amended 1989, Ord. 2383; 1995, Ord. 2715]

23.08.014 - Permit Requirements For Special Uses: Any use of land identified as a Special ("S" or "S-P") Use by Coastal Table O, Part I of the Land Use Element shall be subject to the land use permit requirements established by this chapter unless specified otherwise in this chapter, or unless other permit requirements are set by applicable planning area (Part II of the Land Use Element), or combining designation standards (Chapter 23.07, Combining Designations).

Where Plot Plan approval is the land use permit required by this chapter and the proposed development is appealable to the Coastal Commission as provided by Section 23.01.043, Minor Use Permit approval (23.02.033) shall instead be required. [Amended 1989, Ord. 2383]

[Amended 1992, Ord. 2591]

23.08.020 - Accessory Uses (S-16): Accessory uses are customarily incidental, related and subordinate to the main use of a lot or building and do not alter or change the character of the main use. The standards in the following sections apply to storage that is accessory to a principal use, and other accessory uses such as Home Occupations. (These uses are identified by Coastal Table O, Part I of the Land Use Element as S-16 uses). The special standards for accessory uses are organized into the following sections:

- | | |
|-----------|-----------------------------------|
| 23.08.022 | Establishment of an Accessory Use |
| 23.08.024 | Accessory Storage |
| 23.08.030 | Home Occupations |
| 23.08.032 | Residential Accessory Uses |

[Amended 1992, Ord. 2591]

- d. **Parking.** Hotels and motels shall provide off-street parking as set forth in Section 23.04.166c(9) (Transient Lodgings). In the event that a hotel or motel includes any facilities in addition to overnight units (e.g., restaurant, bar, meeting rooms, etc.), all additional facilities shall be provided off-street parking as required by Section 23.04.166c of this title, in addition to the parking required for the hotel or motel.

[Amended 1995, Ord. 2715]

23.08.264 - Hotels, Motels - Condominium or Planned Development: The standards of this section apply to hotels, motels which are condominium or planned development projects as defined in Section 1351 of the California Civil Code.

- a. **Location:** Allowed uses shall be located only where specifically authorized by Planning Area Standards for a particular planning area of the Land Use Element and Local Coastal Plan.
- b. **Limitation on Use:** Uses shall be limited as provided in Section 23.08.262.
- c. **Permit Requirement:** Development Plan approval.
- d. **Required Finding:** A Development Plan may be approved only if the Planning Commission first finds that the proposal will not reduce the availability of accommodations for overnight or transient occupancy by the general public, tourists and visitors compared to a conventional hotel or motel.
- e. **Density:** The density of hotel and motel units shall be as provided in Section 23.08.262.
- f. **Design Standards:**
- (1) **Required Hotel, Motel facilities:** Each hotel or motel shall include a lobby area, office space for administrative use, service areas and facilities for employees (such as a lounge, lockers and showers), and laundry facilities for use by the hotel or motel staff. This standard may be waived if the Planning Commission determines that provision of any or all of the required facilities is unnecessary due to the size or particular nature of the hotel or motel.

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- (2) **Other Facilities:** The size of the individual units, the number of kitchens and the amount of personal storage space shall be determined by the Planning Commission through Development Plan approval.
- (3) **Parking:** Parking shall be provided as stated in Section 23.08.262, provided that the required ratio of parking for hotel and motel units (excluding additional facilities) shall not be exceeded. The Planning Commission may approve additional parking spaces for the exclusive parking of recreational vehicles.

g. Occupancy:

- (1) No person or persons shall occupy a hotel or motel unit for more than 29 consecutive days except for employees of the hotel or motel.
- (2) No owner or owners holding separate interest in a hotel or motel unit shall occupy that unit more than a total of 84 days per year, including not more than a total of 14 days during the period from Memorial Day to Labor Day.
- (3) The occupancy standards in subsections g(1) and g(2) of this section shall be included in the declaration of conditions, covenants and restrictions and recorded against all individual property titles.

h. Administration: A management entity shall be formed to manage the operation of the hotel or motel. The management shall have sole responsibility for providing room accommodation services. No owner or owners holding separate interest in a hotel or motel unit shall rent or lease that unit or otherwise offer accommodations to any other person or persons. The provisions of this subsection shall be included in the declaration of conditions, covenants and restrictions and recorded against all individual property titles.

i. Reporting Requirement: A report shall be submitted periodically to the Department of Planning and Building by the hotel or motel management at intervals to be determined by the Planning Commission through Development Plan approval. The report shall state the total number of days that each unit was occupied in the preceding year, including occupancies by guests and the owner(s) of each unit.

Ex 3 6/6

A-3-SLO-99-068



P.O. Box 1540 • 1587 El Camino Real
Arroyo Grande, California 93421-1540

(805) 489-9358 • (805) 481-6201 FAX

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MAY 10 2000

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

May 9, 2000

Mr. Steven Guiney
Coastal Program Analyst
California Coastal Commission
725 Front Street, Ste. 300
Santa Cruz, California 95060

Dear Steve:

Let me start out by apologizing for the delay in getting this letter to you regarding our request to have Coastal Commission Permit 3-95-48 modified to facilitate an increase in the length of stay permitted by owners of the hotel-condominium units at Pacific Plaza Resort in Oceano. To better assist you in evaluating our request, I will attempt to respond to the questions raised in your letter of October 19, 1999 to Michael Hodge.

For your information, the first 16 units of the project were completed in November of 1998 and we currently have 10 of the 16 sold, hardly a stellar sales performance. To make the percentages worse, 2 of the 10 sold units were purchased by my wife and me. The major objection that we have received from the potential buying public has been the 84-day maximum use by owners. Another of the concerns expressed by potential buyers has been their concern that the project will be completed. To mitigate that concern we have started construction on the next 19 units of the project. Without some relief from the Coastal Commission on owner occupancy the starting of this new phase may not have been a prudent decision on our part. Our decision to proceed was based in part by the County of San Luis Obispo's approval of the extended use by owners and our optimism that the Coastal Commission would approve the same modified restrictions.

The occupancy rate for the summer months of 1999 was approximately 50%, with the occupancy dropping to an average of approximately 40% during the winter season of 1999-2000. As I have indicated to you, we are hopeful that we will be able to achieve an annual occupancy of approximately 65% upon completion of the project and seasoning of the rental market. This annualized occupancy rate, which is consistent with the occupancy rates at most other southern San Luis Obispo County lodging facilities is the primary numerical justification for the request for the 127 day owner occupancy use. This is discussed in more detail in my letter of August 26, 1999 to Lee Otter.

The single bedroom units currently sell for \$129,990 and the 2 bedroom units are offered at \$174,990. The only comparable units (hotel-condo) in the area are located northerly along the beach in the City of Pismo

EX4
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Beach. These units are more than 25 years old, have no owner occupancy restrictions, are similar in size, contain fewer amenities than ours and sell for more than \$200,000 in the resale market. In fact I doubt very seriously if one could be purchased for \$200,000 today.

Our marketing efforts have been oriented to persons or families who are not looking for full time occupancy, but do wish to use their units several times a year. We have advertised from northern California (Bay area) to southern California (Los Angeles area) with a heavy concentration in the San Joaquin Valley between Bakersfield and Fresno. Residents of the Valley are frequent visitors to the coastal areas during the summer to get a break from the Valley heat. We have used various media in our marketing efforts including newspaper, radio, real estate magazines E-net, and many chambers of commerce.

Our conversion of potential to actual buyers has been extremely low since the project was initially put on the market in 1998. This rate is less than 3 percent. I have been in the residential development business for nearly 25 years and have never experienced a conversion rate that is this low. Again, our sales representatives tell us that the primary reason for this low sales rate is the owner occupancy restrictions. While potential buyers may not intend to use their units 127 days per year, they don't like to be told that they can't.

Frankly I don't have an alternative to the present 14-day use restriction by owners between Memorial Day and Labor Day other than no restriction at all. I sincerely believe that very few owners will use their units more than the 14 days, but those who think they will, end up as non-buyers. As I have said earlier, our potential buyers resist being told that they can't use something that they own, even though it is generating income while they are not personally using it.

Financing, both construction and permanent, has been extremely difficult, primarily due to the owners' use restrictions. It is interesting to note that, of the first 10 units sold, 2 were to cash buyers, primarily due to our inability to locate permanent financing.

As I indicated in more detail in my letter of August 26, 1999, I don't honestly believe that the modifications being requested will have any measurable affect on the use of the units by the general public. We have not actually asked any of the owners, how long that they might stay in other condominium hotels. I can tell you that the actual use by current owners at Pacific Plaza Resort has ranged from 0 to 7 days at any one time, with those using their units varying during the day(s) of the week depending upon their personal family and work requirements.

In conclusion, I respectfully request that we be given relief on the owner occupancy requirements imposed by the Coastal Commission. The sooner the project is completed and becomes an economically sound project, the sooner it will provide its full economic impact on the community of Oceano, one of the goals of the project from its inception.

Very truly yours,



John H. Ghormley

Ex 4 2/13
A-3-SLO-99-068

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
25 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



April 28, 2000

Michael Hodge
Omni Design Group
669 Pacific Street
San Luis Obispo CA 93401

SUBJECT: Appeal A-3-SLO-99-068, Tract 2130, Pacific Plaza Resort, 444 Pier Avenue, Oceano

Dear Michael:

I am writing to let you know that we have tentatively scheduled this appeal for the Coastal Commission's June meeting in Santa Barbara. I am again requesting the additional information we previously requested so that we can fully analyze this appeal. This appeal was received on September 20, 1999. As you may recall, the Commission opened and continued the public hearing on this appeal on November 3, 1999, as recommended by staff because at the time of writing the open and continue staff report we had not received the County file. We believe that there has been sufficient time for you to gather the information we previously requested from you in our letter of October 19, 1999 (copy attached). Please send me the information as soon as possible. **The deadline for our receipt of information for items on the June agenda is May 11, 2000.**

If we do not receive the requested information by May 11, at the very least we will have to recommend that the Commission find that substantial issue exists and then bring the appeal back to the Commission at a later date for a de novo hearing, after we have received the additional information. It is entirely possible that we may recommend that the Commission find substantial issue and proceed immediately to a de novo hearing with a recommendation to uphold the appeal and deny the County-approved change in owner stay-limits, because there is insufficient information to support such a change. Of course, it is also possible that even with the requested information, our analysis may still lead us to recommend that the Commission uphold the appeal and deny the County approval.

As you know, the site is in both the County's and Commission's permit jurisdiction. Therefore, if the Commission finds that there is no substantial issue raised by the appeal or if the Commission approves the change on appeal, you will need to apply for an amendment to Coastal

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Michael Hodge
Appeal A-3-SLO-99-068, Tract 2130, Pacific Plaza Resort, 444 Pier Avenue, Oceano
April 28, 2000
Page 2

Commission permit 3-95-48 to change the limit on owner-occupancy in that permit. However, I suggest that you not make application for an amendment at this time, but rather wait to see how the Commission acts on the appeal. Obviously, if the Commission upholds the appeal and denies the County-approved change, an application to amend permit 3-95-48 would be futile.

Thank you.

Sincerely,



Steven Guiney
Coastal Program Analyst
Central Coast District Office

Ex 4 4/13
A-3-SLO-99-068

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



19 October 1999

Michael Hodge
Omni Design Group
669 Pacific Street
San Luis Obispo CA 93401

SUBJECT: Tract 2130, Pacific Plaza Resort, 444 Pier Avenue, Oceano

Dear Michael:

As you know, the County approval of modifications to the limits on the number of days that owners may occupy the units has been appealed by two Coastal Commissioners. At the Commission's November meeting, Commission staff will recommend that the Commission open and continue the hearing because we do not yet have all the information we need to be able to adequately analyze the County's action. Related to Commission action on the appeal is Commission action on an amendment to the Commission permit for this project.

As you know, the site is in both the County's and Commission's permit jurisdiction. Therefore, you will also need to apply for an amendment to the Coastal Commission permit to change the limit on owner-occupancy. Enclosed is an amendment application. Please complete it and return it to this office with the required fee and pertinent information.

The information needed for us to analyze an amendment is essentially the same as that which we need to analyze the County's action on appeal, i.e., information that substantiates the need for the change in the owner-occupancy limit. Mr. Ghormley's letter dated August 26, 1999, briefly touches on some of this information, referencing the UCSB Economic Forecast and the hotel/motel occupancy rate. We will need more detailed and specific economic and occupancy rate information to perform a thorough review of a proposed amendment and the appeal. For example, what is the summer hotel/motel occupancy rate? How much do the units cost? How, where, and to what particular market (if any) have the units been advertised? What percentage of inquiries has resulted in purchases, to date? Is this percentage more or less than for other, comparably priced condominium hotel units? What, if any, alternatives to the 14 day restriction between Memorial Day and Labor Day

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A-3-56-99-068

Michael Hodge
Tract 2130, Pacific Plaza Resort
19 October 1999
Page 2

would you propose if your current alternative is not approved? From your discussions with prospective buyers, what would be acceptable to them? How have lenders reacted to the owner-occupancy limits? How would the change in owner-occupancy limits affect the availability of units to the general public? How long do owners typically stay at other condominium hotels? Please include this type of information with your amendment application.

We may ask you for additional information as our analysis progresses. Thank you for your patience and assistance.

Sincerely,



Steven Guiney
Coastal Program Analyst
Central Coast District Office

Ex 4 6/13
A-3-SLO-99-068



P.O. Box 1540 • 1587 El Camino Real
Arroyo Grande, California 93421-1540

(805) 489-9358 • (805) 481-6201 FAX

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AUG 30 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

August 26, 1999

Mr. Lee Otter,
Chief Planner
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, California 95060

Dear Lee:

As you may recall Mike Hodge of Omni Design Group and I met with you and Steve Guiney at our Pacific Plaza Resort facility in Oceano several months ago. It was the primary purpose of the meeting to review the owner use restrictions that had been placed on the project as conditions of the approvals granted by the County of San Luis Obispo and the California Coastal Commission. We also discussed the negative impact that the relatively restrictive use provisions of the conditions of the County and Commission approvals had on our ability to sell the individual units. At the time we met, the project had been on the market for approximately five months and we had only been able to sell one condominium unit and this bleak condition appeared to be destined to continue. As we questioned potential buyers who had visited the project as to their reasons for not buying, the overwhelming response was what these potential buyers referred to as overly restrictive and unreasonable constraints on occupancy of the units by the owners.

Let me say at the outset that we sincerely respect and share the Commission's obligations that are set forth in the Coastal Act's visitor-serving sections that allow condominium ownership of visitor-serving units. Very few, if any, of the prospective buyers at Pacific Plaza Resort are from the area, which means that not only will renters of the condo-hotel units be "visitors" but so will the buyers. At the present time our prospective buyers are either from areas north or east of San Luis Obispo.

In our meeting several months ago with you, Steve and Mike, and our subsequent meetings with the San Luis Obispo County Planning staff, it appeared to me that, although some use restriction(s) were necessary to preserve the visitor-serving concept, eliminating the use restrictions that were finally adopted by the County and the Commission were, for lack of a better description, "drawn from a hat".

I definitely concur that the total elimination of the use restrictions for the project will definitely encourage full time or permanent residence use of the units by persons seeking a small home near the beach. On the other hand, I think that there are use restrictions that

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Mr. Lee Otter
California Coastal Commission
August 26, 1999
Page 2

could be imposed on the project that are more logical and justified than the 84 day per year restriction. As we attempt to market the hotel-condominium units, we find that potential buyers can accept a use restriction due to the visitor-serving characteristic of the project, but they are not at all comfortable with a restriction that has a questionable foundation or basis. It seems that the following are some of the major goals that we should be attempting to accomplish as we analyze the use restriction issue:

1. To provide domicile facilities for the use of visitors who come to the Central Coast beach area.
2. To provide the opportunity of "second" home ownership for those persons desiring to make such an investment for themselves, families and friends, the overwhelming majority of whom are technically "visitors" to the Central Coast.
3. To insure that the hotel-condominium units are occupied as close to 100% of the time by owners and renters. This is especially important when considering items 5 and 6 below.
4. To enhance the property tax base of the property being improved.
5. To provide jobs for locals.
6. To provide "spin-off" revenue for other businesses that will serve Pacific Plaza Resort and its owners and renters.
7. To improve the physical characteristics and conditions of the community of Oceano.

After meeting with you and Steve and Pat Beck and James Caruso at County Planning, we put our heads together to see if we could come up with a usage restriction that is more defensible and logical than pulling a number out of the hat. The logic that we arrived at is as follows: If our objective is to have the condo units occupied as close to 100% of the time as is possible, then it seems very logical that we use area wide hotel/motel vacancy/occupancy rates as a bench mark. According to the UCSB Economic Forecast, the hotel/motel occupancy rate in the 1998 calendar year was 65%. This number has remained relatively constant over the past several years. If we use the 65% occupancy number, then the vacancy factor during this same time is 35%. Further, if we can reasonably assume that the Pacific Plaza Resort occupancy rate will also be 65%, it should be available for use by the owners 35% of the time or 127 days per year.

It is sincerely hoped that the above will provide you with ample justification to modify the Commission's original conditions of approval, relating to use by the owners, to conform with the changes recently made by the County of San Luis Obispo, including the usage restriction in the Summer months. In addition, it is respectfully requested that the Executive Director make a determination that the proposed permit amendment from 84 to 127 days and related refinements made under the recently formulated County guidelines are not a material change to the permit. These refinements represent an optimum balance between the goals of the project with those of the Coastal Act.

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Mr. Lee Otter
California Coastal Commission
August 26, 1999
Page 3

Although I suspect that you have already received a copy of the County approval, I am enclosing a copy of that approval herewith.

Your favorable consideration of this request will be most sincerely appreciated. We are extremely hopeful and confident that the requested refinements will help us turn a project that has been truly floundering into one that fulfills the stated purposes of the Coastal Act and yet still is saleable to the public. In the event you have any questions, please do not hesitate to give me a call.

Very truly yours,



John H. Ghormley,
President

Ex 4 7/13

A-3-SL-99-068

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SAN LUIS OBISPO, CA 95060
(408) 4863
HEARING IMPAIRED: (415) 904-5200

November 05, 1998

Michael Hodge
Omni Design Group, Inc.
669 Pacific Street
San Luis Obispo CA 93401

SUBJECT: Tract 2130, Pacific Plaza Resort, 444 Pier Avenue, Oceano

Dear Michael:

Based on our telephone discussion and your letter of October 28, it is my understanding that the owners of this project wish to allow condominium unit owners to occupy the units for four weeks between Memorial Day and Labor Day, rather than the two weeks allowed by the LCP and the coastal development permit.

As you know, most of the project site is within the Commission's original permit jurisdiction and the rest is in the Commission's appeal area (where San Luis Obispo County has permit issuing authority). A change to the permit conditions such as your letter suggests would require amendments of both the Commission and County permits. The standard of review for amending the Commission permit is the Coastal Act not the LCP, although the Commission may use the LCP policies as guidance.

While the Commission has interpreted the Coastal Act's visitor-serving sections to allow condominium ownership of visitor-serving units, the Commission has limited owner occupancy for a maximum number of days per year and during the peak summer months. The Commission's condition number 2 of the permit for the Pacific Plaza Resort is consistent with this interpretation.

The Commission's regulations, at Section 13166 (copy attached), require the Executive Director to reject an amendment request that

would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.

An amendment request such as your letter suggests would likely be rejected on the basis that it would reduce availability of the hotel units to members of the public who do not have an ownership interest in the units. That would be contrary to the purpose of condition number 2 of the Commission permit, which is to ensure *maximum* availability of the units to those not having an ownership interest.

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A-3-920-99-068

Michael Hodge
Tract 2130, Pacific Plaza Resort
November 05, 1998
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In your letter you state that you discussed this issue with County staff who feel they can "make findings through the exception process to support our proposal for a modification to the conditions of approval." I'm not sure to which procedure the "exception process" refers. The LCP does have a procedure for amending coastal permits found in section 23.02.038 of the CZLUO. Subsection a requires that the requested change be "*in conformity with the standards of this title.*" However, CZLUO Subsection 23.08.264g(2) clearly states that occupancy by unit owners is limited to "not more than a total of 14 days during the period from Memorial Day to Labor Day." Expanding the summertime limit to 28 days is not in conformity with the LCP's stated limit of 14 days. Even if the County did approve the proposed change such an approval would be appealable to the Coastal Commission.

In summary, I do not believe that the Commission would favorably entertain such an amendment to the Commission permit, nor act favorably on an appeal of a County approval expanding the period of summer owner occupancy. If you have further questions do not hesitate to contact me.

Sincerely,



Steve Guiney
Coastal Planner

cc: Pat Beck, Department of Planning and Building
Tim McNulty, Office of County Counsel

Ex 4 11/13
A-3-SLO-99-068



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NOV 02 1998

October 28, 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

California Coastal Commission
Central Coast District Office
725 Front St. Suite 300
Santa Cruz, California 95060

Attention: Steve Guiney
Re: Tract 2130, Pacific Plaza Resort
444 Pier Street, Oceano

Dear Steve:

Pacific Plaza Resort is nearing completion of Phase I construction and has a grand opening scheduled on November 13. It has been a long process between application submittal and the opening of the hotel, but well worth the wait. The development clearly will be an asset to the area.

Last week I met with the project owner, Jack Ghormley, to discuss the hotel unit sales program. Jack informed me of a common concern among the prospective buyers regarding their stay restrictions. As you may remember, the hotel unit owners are limited to using their unit 84 days per year. The overall time limit of itself is not the problem. However, the two week stay limitation between Memorial Day and Labor Day has compromised the total sell out of Phase I.

This additional stay restriction was a requirement of the County Planning Department. Their concern was with the unit owners using all of their 84 days during the summer, thus virtually eliminating public use of the hotel during its highest occupancy time. We believe their concern to be valid and agree with a summertime restriction. But, limiting summer use to only two weeks has proven to be a problem for some of the potential buyers. Jack Ghormley feels four weeks would be more reasonable. This provides the owners with the flexibility to enjoy a two to four week vacation and shouldn't have any affect on room availability since all the owners will not be using all of the four weeks all at the same time. This change can be supported by the fact that both owners and non-owners are transient, regardless of ownership, they both are entitled to and provided with coastal access, and they both are limited to 29 (approx. equivalent to four weeks) consecutive days of hotel use.

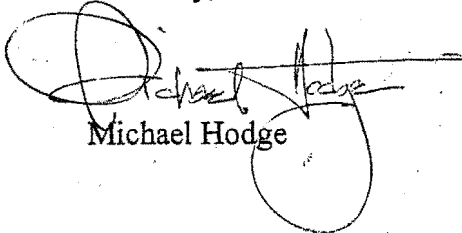
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California Coastal Commission
October 28, 1998
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I have already talked with James Caruso at the County Planning Department regarding this request. James felt he could make findings through the exception process to support our proposal for a modification to the conditions of approval.

Your consideration of our request is appreciated. Please call me if you have any questions. In the meantime, perhaps during your visit to San Luis Obispo on November 6, you can stop by the site and walk through some units. I think you will find Pacific Plaza Resort to be a quality project.

Sincerely,



Michael Hodge

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A-3-SLO-99-068