

CALIFORNIA COASTAL COMMISSION

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



Tue 21a

Staff: D. Lilly-SD
Staff Report: November 21, 2006
Hearing Date: December 12-15, 2006

REVISED CONDITIONS AND FINDINGS

LOCAL GOVERNMENT: City of Coronado

DECISION: Approval with Conditions

APPEAL NO.: A-6-COR-06-46

APPLICANT: HDC North Beach Development, LLP

PROJECT DESCRIPTION: Tentative subdivision map allowing for the conversion of 11 cottages and villa hotel units currently under construction into a maximum of 37 hotel condominium units, a maximum of 2 open space condominium units, and up to 25 non-habitable management condominium units (lobby and maintenance areas) at site of an approximately 775-room hotel complex (Hotel del Coronado).

PROJECT LOCATION: 1500 Orange Avenue, Coronado (San Diego County)
APN 537-630-32

APPELLANTS: Coastal Commissioners Patrick Kruer and Sara Wan

STAFF NOTES:

Staff recommends the Commission adopt the following revised findings in support of the Commission's action on August 10, 2006. In its action, the Commission approved the conversion of 11 cottages and villa hotel units currently under construction into a maximum of 37 hotel condominium units, a maximum of 2 open space condominium units, and up to 25 non-habitable management condominium units (lobby and maintenance areas) to a limited-term occupancy condominium hotel form of ownership.

Date of Commission Action: August 10, 2006

Commissioners on Prevailing Side: Burke, Clark, Kram, Neely, Padilla, Potter, Reilly, Achadjian, Vargas.

~~At its May 10, 2006 hearing, the Commission found Substantial Issue exists with respect to the grounds on which the appeal was filed. This report represents the de novo staff recommendation.~~

~~Summary of Staff's Preliminary Recommendation:~~

~~This amendment request is to allow the applicant to convert 11 cottages and villa hotel units originally approved as an addition to the Hotel del Coronado to 37 condominium hotel units. Staff recommends that the Commission **deny** the applicant's request. The proposed project will occur on the site of the Hotel del Coronado ("Hotel del"). Several years ago, the City of Coronado approved a coastal development permit for major renovations and additions to the existing hotel complex. Relative to this appeal, the project originally approved under the Hotel del Master Plan authorized the construction of conventional hotel units to be sited on a visitor serving commercial site directly adjacent to the beach. The proposed change in ownership will result in a project that functions to some extent as a residential use, and thus would lessen the visitor-serving use of the units, inconsistent with the certified LCP and the public access and recreation policies of the Coastal Act.~~

~~In addition, the proposed project raises concerns regarding the long term security and viability of retaining visitor amenities on the subject site. The individual owners would be responsible for the cost of maintaining the common areas. If owners are not satisfied with the financial return on the properties, the Commission anticipates that there will be considerable pressure to allow longer stays for the condominium owners, defer maintenance costs of public areas, reduce access to public amenities, and/or convert the property to purely residential use and eliminate the public components of the project altogether. The proposed condominium units have been designed and are being built as "casitas," separate and distinct from the rest of the hotel. It would be relatively simple to permanently segregate the proposed condominium units from the rest of the Hotel del Coronado property as private residences.~~

~~With 37 separate owners plus the hotel operator, enforcement of conditions attempting to ensure that the condominiums are truly available and accessible to the general public could be problematical. Were the Commission to authorize the conversion to condominium form of ownership and the 37 units sold, it would be extraordinarily difficult, if not impossible, for the Commission to require the hotel to convert back to a conventional hotel ownership in the event of non-compliance with the permit conditions. Such difficulty in enforcement could lead to the provision of visitor-serving amenities being compromised.~~

~~Due to its prime location adjacent to the beach, public amenities, accessibility and the fact that it is the only beachfront area in the City zoned for Hotel-Motel uses, staff recommends that the subject site be developed only with uses that truly and exclusively serve the visiting public by providing year-round overnight accommodations, such as was originally approved on the site.~~

Standard of Review: Certified City of Coronado LCP and the public access policies of the Coastal Act.

Substantive File Documents: Appeal Applications by Commissioners Kruer and Wan dated 4/24/06; Coronado Resolution #8075; Certified City of Coronado Local Coastal Program (LCP); CDP #6-92-203-A4.

~~I. PRELIMINARY STAFF RECOMMENDATION:~~

~~The staff recommends the Commission adopt the following resolution:~~

~~MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-COR-06-46 for the development proposed by the applicant.*~~

~~STAFF RECOMMENDATION OF DENIAL:~~

~~Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit 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:~~

~~The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development would not be in conformity with the provisions of the certified Local Coastal Program and the public access and recreation policies of the Coastal Act. Approval of the permit 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 development on the environment.~~

~~I. MOTION: *I move that the Commission adopt the revised findings in support of the Commission's action on August 10, 2006 concerning approval of Coastal Development Permit No. A-6-COR-06-46*~~

~~STAFF RECOMMENDATION OF APPROVAL:~~

~~Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The Commissioners eligible to vote are:~~

~~Commissioners Burke, Clark, Kram, Neely, Padilla, Potter, Reilly, Achadjian, Vargas.~~

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for *Coastal Development Permit No. A-6-COR-06-46* on the ground that the findings support the Commission's decision made on August 10, 2006 and accurately reflect the reasons for it.

II. Special Conditions.

The permit is subject to the following conditions:

1. Hotel Restrictions.

- A. The permitted development is authorized to construct no more than 37 hotel units as individually owned condominium hotel units which equate to 78 new individual guestrooms, no more than 25 non-habitable resort operational units and no more than 2 open space units. The following restrictions shall apply:
1. The project shall have an on-site hotel operator to manage reservations of all guestrooms. No fewer than 78 individual guestrooms shall exist at any time (a maximum of 37 condo hotel units consisting of 78 individual guestrooms. Whenever any individually owned hotel unit is not occupied by its owner(s), that unit shall be available for hotel rental by the general public on the same basis as a traditional hotel room, and its availability shall not be conditioned on a renter's willingness to rent any additional unit.
 2. The hotel operator shall market and advertise all 37 condo hotel units/78 guestrooms and the balance of the hotel to the general public. Unit owners may also market and advertise their units but all reservations shall be made by and through the hotel operator.
 3. Unit owners shall not discourage rental of their unit or create disincentives meant to discourage rental of their unit.
 4. All individually owned hotel units shall be rented at the same or comparable rate to that charged by the hotel operator for the traditional hotel rooms of a similar class or amenity level.
 5. The hotel operator shall maintain records of usage by owners and renters and rates charged for all units, and shall be responsible for reporting Transient Occupancy Taxes based on records of use for all units, a service for which the hotel operator may charge the unit owner a reasonable fee.
 6. Each individually owned hotel unit shall be used by its owner(s) (no matter how many owners there are) for no more than 90 days per calendar year with a maximum of 25 days use during any immediately preceding 50-day time period.

7. The use period limitations identified in paragraph 6 above, shall be unaffected by multiple owners or the sale of a unit to a new owner during the calendar year, meaning that all such owners of any given unit shall be collectively subject to the use restriction as if they were a single, continuous owner.
8. No portion of the project may be converted to time-share, full-time occupancy condominium, apartment, or any other type of project that differs from the approved 37 individually owned condominium hotel units (78 guestrooms).

2. CC&R's Modification.

A. PRIOR TO OCCUPANCY OF THE APPROVED UNITS, the applicant shall submit for review and written approval of the Executive Director, the Declaration of Restrictions or CC&R's, which shall include:

1. All the specific restrictions listed in Special Conditions 1, 3, and 4,
2. An acknowledgment that these same restrictions are independently imposed as condition requirements of Coastal Development Permit #A-6-COR-06-86.
3. A statement that provisions of the CC&R's that reflect the requirements of Special Conditions 1, 3, and 4 shall not be changed without a Coastal Commission-approved amendment to this coastal development permit, unless it is determined by the Executive Director that an amendment is not legally required.

B. The CC&R's as approved by the Executive Director must be recorded against all individual property titles.

C. The provisions of the CC&R's that reflect the requirements of Special Condition Numbers 1, 3, and 4 shall not be changed without a Coastal Commission-approved amendment to this coastal development permit, unless it is determined by the Executive Director that an amendment is not legally required.

3. Condition Compliance and Enforcement.

A. The applicant or any successor-in-interest as hotel owner-operator shall maintain the legal ability to ensure compliance with the terms and conditions of the permit at all times in perpetuity and shall be responsible in all respects for ensuring that all parties subject to this permit comply with the terms and conditions of this permit. Each owner of an individual condominium unit is jointly and severally liable with the hotel owner-operator for violations of the terms and conditions of this permit. Violations of this coastal development permit can result in penalties pursuant to Public Resources Code Section 30820.

- B. All documents related to the marketing and sale of the condominium interests, including marketing materials, sales contracts, deeds, CC&R's and similar documents, shall notify potential buyers of the following:
1. The owners of individual hotel units are jointly and severally liable with the hotel owner-operator for any violations of the terms and conditions of this coastal development permit; and
 2. The occupancy and use of the units is restricted pursuant to Special Conditions 1, 3, and 4.
- C. The applicant and any successor-in-interest as hotel owner-operator, and each future unit owner shall obtain, prior to sale of individual units, a written acknowledgement from the buyer that occupancy is limited to 90 days per calendar year with a maximum of 25 days use during any immediately preceding 50-day time period, that the unit must be available for rental by the hotel operator when not occupied by the owner, and that there are further restrictions on use and occupancy in the coastal development permit.
- D. The applicant and all successors-in-interest as hotel owner-operator shall monitor and record hotel occupancy and use by the general public and the owners of individual hotel units throughout each year. The records shall be sufficient to demonstrate compliance with the restrictions set forth in Special Conditions 1, 3, and 4. The hotel owner-operator shall also maintain documentation of rates paid for hotel occupancy and of advertising and marketing efforts. All such records shall be maintained for ten years and shall be made available to the Executive Director upon request and to the auditor required by Paragraph E below. Within 30 days of commencing hotel operations, the hotel owner-operator shall submit notice to the Executive Director of commencement of hotel operations.
- E. On the first anniversary of the opening of hotel operations, and exactly every year thereafter, the hotel owner-operator shall retain an independent auditing company to perform an audit to evaluate compliance with Special Conditions 1, 3, and 4 of this coastal development permit. The audit shall evaluate compliance by the hotel owner, operator and owners of individual hotel units during the prior one-year period. The hotel owner-operator shall obtain the Executive Director's written approval of the independent auditor before the auditor is retained. Such approval shall be sought at least 3 months before the deadline for retaining an auditor (the first anniversary of hotel operations). The hotel owner-operator shall require the auditor to prepare a report identifying the auditor's findings, conclusions and the evidence relied upon, and such report shall be submitted to the Executive Director within 6 months after the conclusion of each one-year period of hotel operations. After five years, the one-year audit period may be extended to two years upon written approval of the Executive Director. The Executive Director may grant such approval if each of the previous audits revealed compliance with the conditions.

- F. Hotel operations management shall submit a quarterly report to the City documenting that the project is in conformance with the City's TOT requirements.
- G. If the hotel owner and hotel operator at any point become separate entities, the hotel owner and the hotel operator shall be jointly and severally liable for violations of the terms and conditions of this permit.
- H. PRIOR TO OCCUPANCY OF THE APPROVED UNITS, the applicant shall submit for review and written approval of the Executive Director, a plan specifying how the applicant will implement the requirements of this condition. The plan must include, at a minimum, the sale contract, grant deed, CC&Rs and the rental program agreement entered into between individual unit owners and the hotel owner-operator that will be used to satisfy the permit conditions. The plan must demonstrate that the applicant has established mechanisms that provide the applicant or any successor-in-interest as hotel owner-operator adequate legal authority to implement the requirements of this condition. Any proposed changes to the approved plan and subsequent documents pertaining to compliance with and enforcement of the terms and conditions of this permit including deeds and CC&R's shall be reported to the Executive Director. No change to any documents noted above pertaining to compliance with and enforcement of the terms and conditions of this permit including deeds and CC&R's shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

4. Room Management and Rental When Hotel Operator is Not Owner's Rental Agent.

- A. The operator of the hotel shall manage the condominiums as part of the hotel inventory, which management will include the booking of reservations through the rental agent, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing the units for use by guests/owners. In addition, if the hotel operator is not the owner's rental agent, or if the owner is acting without a rental agent, then the operator shall have the right, working through the owner or its designated rental agent, to book any unoccupied room to fulfill demand, at a rate similar to comparable accommodations in the hotel. The owner or an owner's rental agent may not withhold units from use. In all circumstances, the operator shall have full access to the condominiums' reservation and booking schedule so that the operator can fulfill its booking and management obligations hereunder. The keys shall be electronic and created upon each new occupancy to control the use of the condominium units.

II. Findings and Declarations.

1. Project Description/History. On August 27, 2002, the Coronado City Council approved issuance of an appealable coastal development permit amendment for the Hotel Del Coronado Master Plan (CP 3-02), authorizing numerous changes and upgrades to the property, including an increase of 205 guestrooms, a 19,700 sq.ft. conference center, relocation of the health spa and tennis courts, improvements to the southern and eastern facades of the main hotel building, exterior improvements to Grande Hall, relocation of the hotel driveway entrances, development of below-grade parking structures, landscape and walkway enhancements, an off-street bus drive and staging area off of R.H. Dana Place, and a total of 1,170 on-site parking spaces. That amended permit was not appealed by members of the Coastal Commission because the City coordinated with Commission staff to address the coastal issues raised by the City's approval of the project.

On June 21, 2005, the Coronado City Council approved a tentative subdivision map (Res. #8075) allowing for the conversion of 11 of the new cottages and villa hotel units into a maximum of 37 condominium units, a maximum of 2 open space condominium units, and up to 25 non-habitable management condominium units (lobby and maintenance areas). The City did not issue a new coastal development permit or amendment to the existing Master Plan coastal development permit, nor it did issue a coastal development permit exemption. Commission staff became aware of the City's action in March 2006, and contacted City staff for background on the City's action, and to inform the City that the action required a coastal development permit or amendment. City staff indicated they believe the action is exempt from coastal development permit requirements in a letter dated April 6, 2006 and received in Coastal Commission offices April 10, 2006. Section 30625 of the Coastal Act allows for Commission appeals of claims of exemption. As such, an appeal was filed by two Commissioners on April 24, 2006. At its May 10, 2006 hearing, the Commission found Substantial Issue exists with respect to the grounds on which the appeal was filed.

The tentative map was approved with a number of special conditions and limitations on use of the condominiums. Occupancy by the same persons is limited to not more than 25 consecutive days, and unit owners are allowed to occupy a unit up to a total of 90 cumulative days per calendar year, not exceeding 25 consecutive days at any one time. Unit owners are further limited to a maximum of 25 days of use within any immediately preceding 50 day time period. In other words, owners can occupy units for up to 90 days in a year, which can be used in blocks up to 25 days at a time, but not more than 25 days of any 50-day period.

In addition, all of the units are to be operated similar to a hotel with a central lobby and front desk check-in, daily linen and cleaning services. All units must be available for renting to the general public when not occupied by a unit owner. Units can only be managed and staffed through the adjoining Hotel del Coronado operations management, and the Hotel del Coronado operations management would have exclusive responsibility to manage all units.

The 2 open space units and 25 maintenance units referenced in the project description refer to the sidewalk, landscaped, pool, closets, and other operational areas aside from the condominium units. These units would be owned by the Hotel del Coronado ~~at least initially. It is unclear whether ownership of these non-residential units could ever be sold or transferred.~~

2. Public Access/Visitor-Serving Commercial Recreation.

The following policies of the certified City of Coronado Local Coastal Program (“LCP”) apply to the proposed project:

Land Use Plan Policies of the Certified LCP:

III. ADOPTED POLICY

It is the policy of the City of Coronado to: [...]

B. RECREATION AND VISITOR SERVING FACILITIES

2. Maintain the quality and number of existing visitor accommodations at or above their present levels, and encourage the provision of new low-cost visitor accommodations and the expansion of existing low-cost visitor accommodations.

In addition, the following Coastal Act policies are applicable to the subject proposal, and state:

Section 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.

Section 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.

Section 30213

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

Section 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.

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The subject site is zoned and designated for Hotel-Motel (H-M) uses. The subject site is the only H-M zoned site located adjacent to the beach and the Hotel del Coronado is the only hotel located immediately adjacent to the beach in the City (the City does have two bayfront hotels).

The City's LUP directs that the quality and number of existing visitor accommodations be maintained and encourages the provision of new low-cost accommodations. The primary concern raised by the proposed conversion to a condominium form of ownership is whether the hotel will operate as a conventional hotel affording the same level of visitor-serving use anticipated by the Commission when it approved the Hotel-Motel land use designation and when it declined to appeal the hotel expansion, or whether it will function more as a private ownership residential use, inconsistent with the certified LCP.

The applicant has indicated that the proposed condominium units would operate almost exactly the same as other hotel units on the property, and that the change in ownership will have no effect on the operation of the hotel. The City has imposed Covenants, Conditions and Restrictions (CC&R's) that apply to each unit, as well as conditions imposed by the tentative parcel map. As described above, hotel unit owners will be restricted to use of their unit for no more than 90 days per year and for no more than 25 days within any preceding 50 day time period. These restrictions have been codified by Special Condition #1. Special Condition #1A (8) specifically prohibits the conversion of any part of the project to time-share, full-time occupancy condominium or apartment.

When the units are not occupied by the owners, they will be made available for use by the general public. All reservation of the units by the public or the owners must go through the hotel's reservation system. Owners of the condominium units will need to check into their rooms the same as hotel guests using the hotel's electronic key system, and the same guest services will be available to condo-hotel unit owners and the general visiting public.

While most of the marketing and advertising of the condo-hotel rooms will likely be performed by the hotel operator, each individual condominium owner would retain the

right to market or advertise their unit on their own. All landscaping, swimming pools, spas, sidewalks, and related structures around the condominium units would be maintained by the Hotel del Coronado, but the condominium owners would pay a fee for their maintenance. The CC&Rs will provide the City a direct right of enforcement against both the individual owners of the parcels and the Hotel del Coronado, should any of the regulations be violated. Special Conditions #2 and #3 details the requirements that must be included in the CC&R's, to ensure that potential and current owners are aware of the restrictions on use of the units.

~~Nevertheless, the proposed change in ownership of the hotel units would remove hotel rooms from the market at least some of the time. As proposed, condominium hotel owners could use their units as vacation homes for up to 90 days per year. Units occupied by owners for weeks at a time are units that are not available for transient occupancy, as was anticipated by the Commission when the site was originally zoned and designated for Hotel Motel use, and when construction of these units was originally permitted. Although each owner would be limited to no more than 25 days within any preceding 50 day time period, there remains the potential for owners to use their unit during the summer when hotel rooms for the general public are in highest demand. For instance, under the applicant's suggested time use restriction, condominium owners could use their units for 25 days in June, wait 25 days and then use the units again in late July or August for an additional 25 days. Thus, up to 1/4 of the hotel units could be unavailable to the visiting public over a 1-year time period.~~

~~In addition, it is not certain that~~ However, the Commission must be assured that even when the units are not owner-occupied, that the rooms will be available for general transient use. There are membership organizations being formed to facilitate the peer-to-peer swapping of condo-hotel vacation units among owners (ref. National Association of Condo Hotel Owners at www.nacho.us). Thus, it appears likely possible that the condominium units would be disproportionately used by people who own similar units elsewhere, and not available to the general public.

To address this concern, special conditions have been added ensuring that the condo-hotel units are just as accessible to the general public as any other unit in the hotel, except when the units are owner-occupied. While owners will have a right to market their own units, reservations must be made by and through the hotel operation, the hotel operator will still market and advertise all 37 condo hotel units to the general public.

Special Condition #1 A (1) requires that whenever any individually owned hotel unit is not occupied by its owner(s), that unit shall be available for hotel rental by the general public on the same basis as a traditional hotel room. Special Condition #4 A also states that "if the hotel operator is not the owner's rental agent, or if the owner is acting without a rental agent, then the operator shall have the right, working through the owner or its designated rental agent, to book any unoccupied room to fulfill demand, at a rate similar to comparable accommodations in the hotel." Thus, regardless of whether the hotel operator is the primary rental agent, if there is a demand on the part of the general public for one of the condo-hotel units, the hotel will be able to book that room.

~~In addition to immediately reducing the number of hotel units potentially available for transient use, the Commission is concerned about the long term feasibility of the condo-hotel units. Like a traditional condominium, the proposed condominium units would have a condo association, property taxes and monthly condominium fees. Revenue from the rental of the units would be split between the hotel operator and the owners. Even when occupancy rates are low, owners would be expected to continue to pay fees to maintain the units, common areas, and amenities such as accessways, pools, and landscaping, as well as their mortgages.~~

~~Since owners are ultimately responsible for these costs, it is expected that they will want a say in how the property is managed and run. The Commission is concerned that during inevitable downtimes in the hotel industry, there will be considerable pressure from the condominium owners to be allowed to stay longer in their units. Although the applicants have indicated that the Hotel del Coronado is responsible for maintenance of the common areas, condominium owners may also be disinclined to continue to pay for the maintenance or continued operation of the publicly accessible areas without the revenue from non-owner occupants. Thus, there is the potential that the property will become less attractive and available to the general public and that existing publicly accessible areas will not be maintained and potentially closed to the public due to lack of maintenance.~~

~~As time goes by, if owners are not satisfied with the financial return on the properties, the Commission anticipates that there will be pressure to convert the property to purely residential use and eliminate the public recreational components of the project altogether. (Although there is no indication that the approved public accessways adjacent to the project to the west and south would be impacted by any changes made within the gated casita area). This may be particularly so in the case of the proposed project, where the condominium units have been designed and are being built as “casitas,” separate and distinct from the rest of the hotel. It would be relatively simple to permanently segregate the proposed condominium units from the rest of the Hotel del Coronado property. Traditional hotels have to cope with fluctuations in revenue, of course. But traditional hotels do not depend on numerous individual owners with a variety of financial capabilities and motivations for upkeep.~~

The Commission has reviewed and approved similar requests in other areas of the state for conversion of previously approved hotels to a condominium form of ownership, including in Rancho Palos Verdes (Ref. A-5-RPV-02-324-A3/Long Point Dev.), Half Moon Bay (Ref. CDP 3-90-46-A1/Marchant Enterprises), and Encinitas (6-92-203-A4). In addition, the Commission approved the construction of a limited term occupancy condominium hotel in Hermosa Beach (Ref. CDP 5-96-282/Seaview Hotel). However, with the exception of the Encinitas project, these hotels were located on general commercial or visitor-serving commercial zoned sites, not zones where hotel/motel use is the primary intended use.

~~In the case of the recently approved Encinitas project, the Commission allowed some hotel-condo units in a not-yet-built hotel project that had languished for years because of~~

~~its inability to attract financing as a traditional hotel. The Commission was satisfied that the only way to achieve any sort of overnight visitor serving accommodations on the site was to authorize a partial condominiumization of the approved hotel. In contrast, the proposed project is located on the site of a long standing, thriving existing hotel. The expansion units were only approved in 2002, with no condominium component. The proposed cottages and villas have been designed as the very highest end, luxury units in the hotel, which should produce a considerable amount of revenue. The serious financing constraints that existed in the Encinitas project do not seem to be present here, at least to the same degree.~~

~~The applicant has suggested that the Commission could regulate the operation of the hotel and its owners through a series of special conditions such as were imposed in the ease of the The Commission has imposed similar conditions on the operation of a condo-hotel and its owners in several other permits, including at Rancho Palos Verdes, Hermosa Beach, Half Moon Bay Hotels, and Encinitas (Ref. A-5-RPV-02-324-A3/Long Point Dev.; CDP 3-90-46-A1/Marchant Enterprises; CDP 5-96-282/Seaview Hotel; CDP 6-92-203-A4/KSL). These conditions involved similar controls on use, rental and marketing of the units and prohibited conversion to timeshare or residential use. While such conditions could be applied, the problem would be enforcement of those conditions. Were the Commission to authorize the conversion to condominium form of ownership and the 37 units are sold, it would be extraordinarily difficult, if not impossible for the Commission to require the hotel to convert back to a conventional hotel ownership if the special conditions were to be ineffective or difficult to enforce. While there may be challenges in enforcement of these conditions given the number of different ownership interests involved, The applicant indicates that if an owner violates the conditions and regulations of the CC&R's, the owner can be subject to legal action. If the if an owner violates the terms of the Special Conditions imposed by the Commission or local government, again the applicant suggests the owner can be subject to legal action. However, enforcing violations of permit conditions can be difficult and time consuming when a single applicant is involved. With 37 owners plus the hotel operator, enforcement could be impractical. Such difficulty in enforcement could ultimately lead to, among other things, the provision of visitor serving amenities being compromised. Because condo hotels are a relatively new venture, there is little track record so far on exactly what and how many problems might occur with this type of financing mechanism. Special Condition #3 requires that the applicant or any successor-in-interest as hotel owner-operator maintain the legal ability to ensure compliance with the terms and conditions of the permit at all times in perpetuity and be responsible in all respects for ensuring that all parties subject to this permit comply with the terms and conditions of this permit. Each owner of an individual condominium unit is jointly and severally liable with the hotel owner-operator for violations of the terms and conditions of this permit, and this condition will be recorded on each individual deed, so that every owner is aware of the responsibility and liability associated with ownership of these units.~~

Special Condition #3 also contains detailed provisions for the monitoring and recording of hotel occupancy and use by the general public and the owners of individual hotel units

throughout each year, to ensure that the restrictions set forth in the special conditions are being complied with.

~~The Commission acknowledges that to the extent the proposed condo hotel units operate as transient accommodations, they would provide some public access and recreational opportunities. It should be noted that But the ability to buy one of the subject units would be well out of range for most people, and the ability for non-owners to stay at one of the units would be limited by the occupancy of the owner. The opportunities for public access and recreation at these condo hotel casitas would be far have the potential to be less than with a traditional hotel property, and certainly less than what was expected and is required for a designated hotel-motel zone and the prime visitor-serving destination in the City. However, to the extent the proposed condo-hotel units operate as transient accommodations, they will provide public access and recreational opportunities. The special conditions on the permit have been designed to ensure the units do in fact operate as close to a traditional hotel as possible. The proposed units, while originally approved by the Commission as hotel units, were never built or operated as hotel units. Therefore, the project will not remove existing hotel rooms from the supply of visitor-serving uses in Coronado. Thus, as conditioned, the Commission finds that the proposed condo-hotel conversion is consistent with the public access and recreation policies of the Coastal Act.~~

~~Had the City reviewed the subject proposal in conjunction with a proposal to expand the H-M zone in other beachfront locations, or required an in-lieu fee towards the construction of new, lower-cost visitor-serving accommodations to mitigate for the proposed loss of hotel units and H-M zoned land, the impacts of the proposed condominium conversion might have been somewhat diminished. However, as proposed, permitting the proposed condominium units in the subject location would effectively rezone the area to a lower-priority, residential-like use, with no benefit to the public. The applicants have suggested that it is the condominium units that allowed for the construction of the new public walkway adjacent to the existing and proposed hotel units. However, these public improvements were required as part of the hotel expansion master plan approval, before the inclusion of any condominium units was approved. There are no public benefits to allowing condominium units on a hotel site, but as described, there are considerable disadvantages and risks.~~

~~Condo-hotel developments have recently become extremely popular around the country, and many more of these types of projects, along with timeshares and other fractional ownership situations, are likely to come before the Commission. There are circumstances where development of a condo-hotel could have a positive impact on public access and recreation. The City of Coronado is a major tourist destination and there is almost no part of the City that would not be an attractive location for visitor-serving, overnight accommodations. Any of the existing residential or commercially zoned properties in the City could be redeveloped with a condominium hotel without reducing the availability of prime visitor-serving land (although the City's LCP would have to be amended to allow condominium hotels in these areas).~~

~~In summary, the applicants have provided a number of conditions and restrictions on use of the proposed condominiums that would lessen the impact on public access and recreation, but the development would still replace visitor serving accommodations with a lower priority use inconsistent with the certified LCP and the public access and recreation policies in Chapter 3. Even if the units initially operate with a substantial amount of non-owner use, the project sets up a scenario under which individual owners, who may have different goals and objectives than serving the recreational needs of the general public, would be responsible for maintaining what was approved as a major visitor serving facility. There are other locations in the City of Coronado that would be appropriate for quasi-residential hotel accommodations, but the subject site is the only beachfront H-M zoned location in the City. As such, it should only be developed with uses that truly and exclusively serve the visiting public by providing year-round overnight accommodations in all rooms.~~

~~Given the current popularity of condo-hotel developments, the Commission must assure that this lower priority use does not reduce the supply of existing high-priority, hotel units, or usurp land which has been set aside for such purposes. In the case of the proposed project, the proposed units have been designed and located to be the most desirable units in the entire hotel complex. The site is a prime location adjacent to the beach and a variety of public amenities. Allowing a quasi-residential use on this site would not maintain the quality and number of existing visitor accommodations at or above their present levels, and could set an adverse precedent regarding the preservation of visitor serving accommodations in the Coastal Zone, inconsistent with the certified LCP and the public access policies of the Coastal Act. Therefore, Commission denies the proposed condominium hotel ownership conversion request.~~

3. Local Coastal Planning. As described above, the proposed project ~~will have an adverse impact~~ has been conditioned to avoid impacts on ~~the~~ visitor-serving requirements of the Coastal Act accommodations and public access, and will be ~~inconsistent~~ with the certified LCP as it relates to the Hotel-Motel Zone. ~~Therefore, the Commission finds that approval of the conversion of the hotel to a condominium hotel will prejudice the ability of the City of Coronado to continue to implement its certified LCP.~~ Therefore, the Commission finds that approval of the conversion of the hotel to a condominium hotel will not prejudice the ability of the City of Coronado to continue to implement its certified LCP.

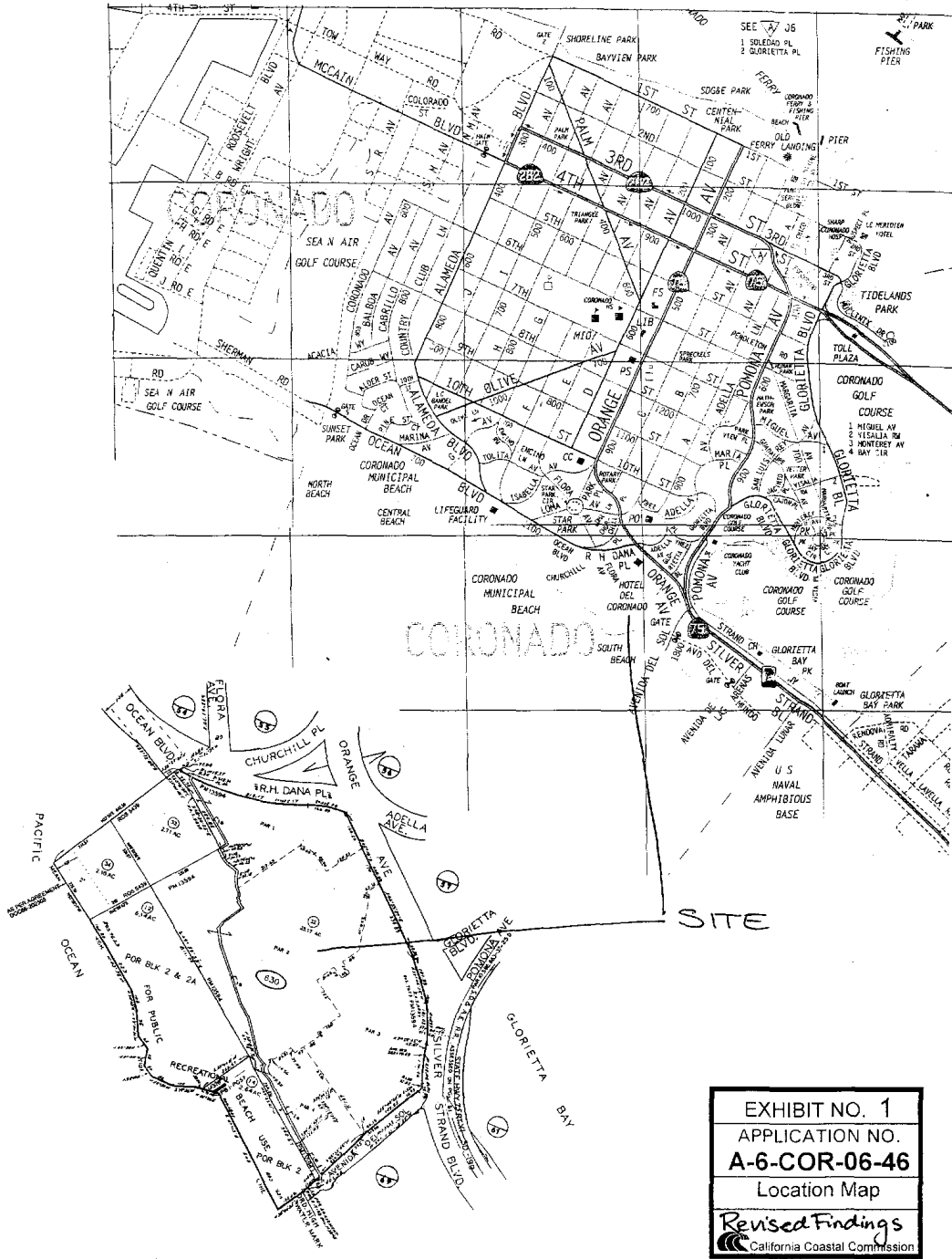
4. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit or amendment to be supported by a finding showing the permit or permit amendment, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

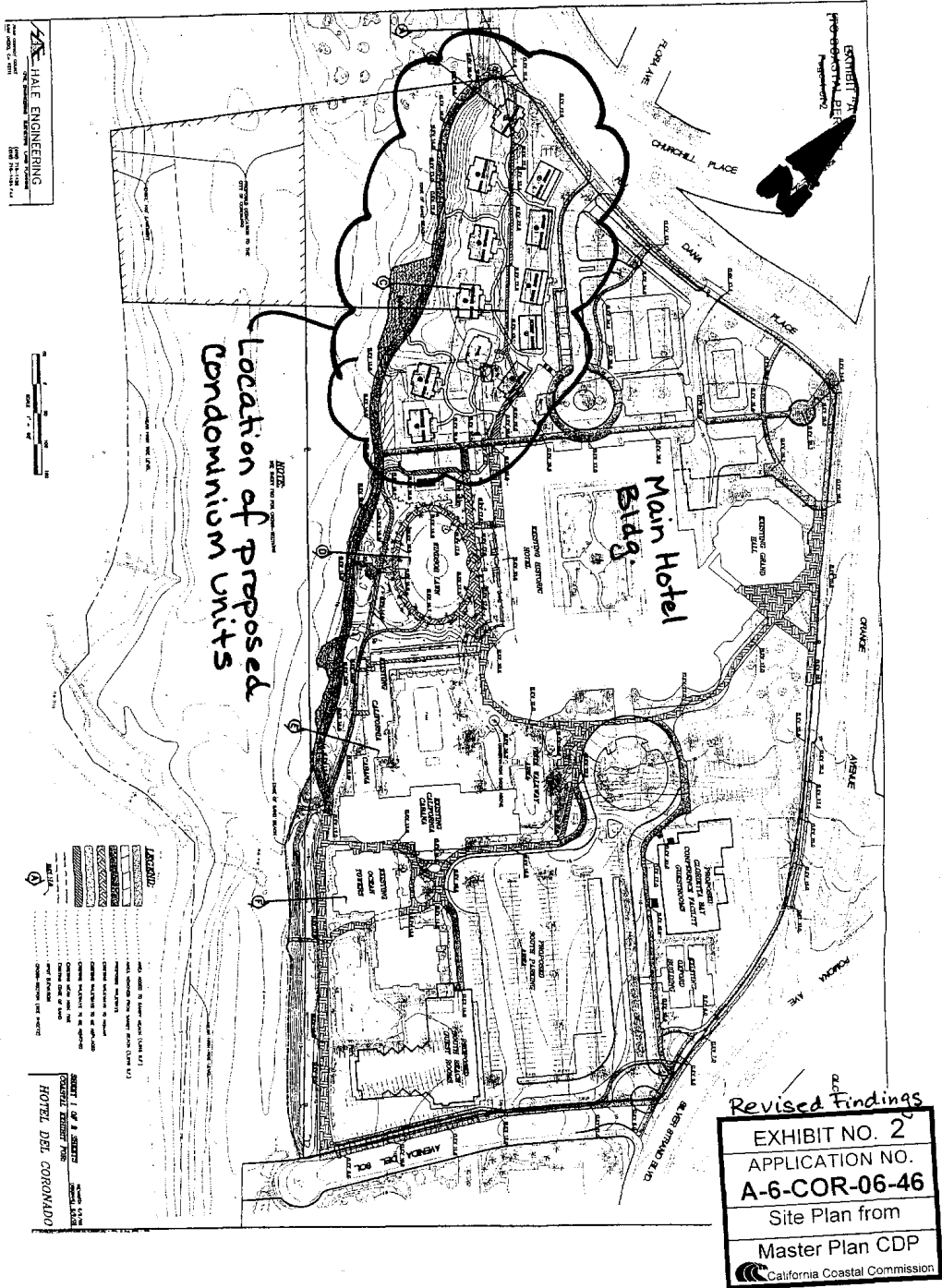
~~As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available such as the no project alternative that would substantially lessen any significant adverse impacts that the activity may have on the environment by ensuring the hotel develops as a conventional hotel. In this case, a no project alternative would result in the construction of new hotel units on the site. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives, which would lessen significant adverse impacts, which the activity would have on the environment. Therefore, the project must be denied.~~

As described above, the proposed project has been conditioned to avoid adverse environmental impacts. Mitigation measures including those ensuring the condo-hotel units will operate like a traditional hotel, and requiring monitoring and reporting of usage patterns, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.





RESOLUTION NO. 8075

MAR 23 2005

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORONADO,
APPROVING A ONE LOT TENTATIVE SUBDIVISION MAP FOR SUBSEQUENT
DEVELOPMENT OF 11 COTTAGE AND VILLA BUILDINGS WITH UP TO 37
"FOR SALE" LIMITED TERM OCCUPANCY CONDOMINIUM UNITS, UP TO 2
OPEN SPACE CONDOMINIUM UNITS AND UP TO 25 RESORT (OR HOTEL)
NON-HABITABLE MANAGEMENT CONDOMINIUM UNITS (e.g. lobby and
maintenance closets), COMMONLY KNOWN AS 1500 ORANGE AVENUE).**

WHEREAS, CNL Hotel Del Partners, LP have, per the California Subdivision Map Act and the City of Coronado Subdivision Ordinance, requested City approval to subdivide a portion of 1500 Orange Avenue for subsequent development of 11 cottage and villa buildings with up to 37 "for sale" limited term occupancy condominium units, up to 2 open space condominium units and up to 25 resort (or hotel) non-habitable management condominium units (e.g. lobby and maintenance closets);

WHEREAS, the Planning Commission of the City of Coronado did, pursuant to Section 66854 of the Government Code, hold two Public Hearings on the Tentative Subdivision Map, on April 26 and May 23, 2005 and subsequently adopted a motion recommending approval with findings and conditions to the City Council;

WHEREAS, the City Council of the City of Coronado did, pursuant to Section 66854 of the Government Code, hold a public hearing on said subdivision request on June 7, 2005 and said public hearing was duly noticed as required by law and all persons desiring to be heard were heard at said hearing;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Coronado that the proposed Tentative Subdivision Map for a portion of 1500 Orange Avenue be approved and that the approval be based upon the following findings:

1. That the proposed map, with conditions, is consistent with the Coronado General Plan and Zoning Ordinance in that the proposed habitable or dwelling units will provide for the needs of tourists, travelers and transient occupants as are permitted under the General Plan and Zoning Ordinance requirements;
2. That the design and improvement of the proposed subdivision are consistent with the Coronado General Plan and Zoning Ordinance in that the design provides sufficient lot area and street access for proper development;
3. That the design and improvement of the proposed subdivision, with conditions, are consistent with the Master Plan and Development Agreement approved by the City Council on June 18, 2002 and July 2, 2002, respectively;
4. That the design of the subdivision and the proposed improvements, with conditions, are not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat in accordance with the California Environmental

Revised
Findings

EXHIBIT NO. 3
APPLICATION NO. A-6-COR-06-46
City Res. of Approval
Tentative Map
 California Coastal Commission

Quality Act (CEQA) and is consistent with the Environmental Impact Report certified by the City Council on September 18, 2001 and the mitigation monitoring and reporting program, CEQA Findings and Statement of Overriding Considerations adopted by the City Council on May 7, 2002;

5. That the design of the subdivision and the type of improvements are not likely to cause serious public health problems;
6. That the design of the subdivision and the type of improvements, with conditions, will not conflict with any easements acquired by the public at large and which are recorded or established by judgment of a court of competent jurisdiction since the existing public access easement through the subject parcel will be relocated to the Paseo del Mar in accordance with the Grant of Easement Agreement accepted by the City Council on January 21, 2003 and recorded as document number 2003-0228353 and will be substantially equivalent to the public easement previously acquired; and
7. That the Tentative Map meets all the requirements of the Subdivision Map Act and the Coronado Subdivision Ordinance and was approved, with conditions, by the Fire, Public Services, and Engineering departments on April 11th, 12th, and 14th, 2005 respectively.

BE IT FURTHER RESOLVED that the approval is subject to the following conditions:

These terms or conditions shall run with the land and be perpetual, and it is the intention of the City of Coronado ("City") and the existing property owner ("Owner") to bind all future owners and possessors of the subject property (including each Unit Owner, as hereinafter defined) to the following terms and conditions:

1. Owner shall insure that all development is consistent with and complies with all conditions of the following previously approved documents or permits, or as amended from time to time:
 - a. Hotel del Coronado Master Plan dated January 2000;
 - b. Supplement to the Hotel del Coronado Master Plan Addenda and Errata dated December, 2000;
 - c. Second Addendum to Hotel del Coronado Master Plan dated April, 2002
 - d. Grant of Easement Agreement dated February 27, 2003 and recorded as document number 2003-0228353;
 - e. Development Agreement dated February 27, 2003 and recorded as document number 2003-0228355;
 - f. Parking Plan approval dated June 18, 2002 as City Council Resolution no. 7854;
 - g. Coastal Permit approval dated August 27, 2002 as Planning Commission Resolution no. 5-02;
 - h. The Final Environmental Impact Report certified by the City Council on September 18, 2001 as City Council Resolution no. 7795; and
 - i. The mitigation monitoring and reporting program, CEQA Findings and Statement of Overriding Considerations adopted by the City Council on May 7,

2002 as City Council Resolution no. 7832 (said documents and permits described in subdivisions (a) – (i), inclusive, the “Project”);

2. Prior to issuance of building permits for each segment of development of the Project, Owner shall submit a parking plan for review to the City. Said review shall be subject to administrative review and approval by the Community Development Director for purposes of confirming that the required on-site parking for the property (including during construction), as modified by such segment of development, will satisfy the requirements of the Zoning Ordinance. Prior to the opening or use of each segment of development of the Project, the Owner shall implement that portion of the parking plan associated with such segment just completed;
3. If a building, structure or improvement requiring parking, which is a part of the Project, is located upon a separately recorded lot from that upon which the required parking is provided, whether in the same or separate ownership, there shall be recorded, in the office of the San Diego County Recorder, a covenant by such owner or owners for the benefit of the City in the form first approved by the City, that such owner or owners will continue to maintain such parking space so long as the building, structure or improvement is maintained within the City. The covenant herein required must stipulate that the title to the right to use the lot or lots upon which the parking facilities are to be provided will be subservient to the title to the premises upon which the building is to be erected, and that the lot or lots are not and will not be made subject to any other covenant or contract for use without prior written consent of City;
4. Owner shall insure that no portion of cottage buildings 1, 3, and 4 extends southwesterly or seaward of the Master Plan Reference Line (“MPR Line”) which is a straight line extending from the center of the proposed Paseo del Mar where it adjoins Ocean Blvd. and R.H. Dana Pl. to the most southwesterly or seaward corner of the existing Hotel del Coronado California Cabana or Ocean Towers buildings (which-ever point of either building is the most seaward), except for open and unenclosed balconies above the first story which may project a maximum of eight feet six inches and roof eaves or horizontal trellis elements which may project a maximum of nine feet six inches all as measured from said cottage’s southwest facades, and ground level patios or decks which may project a maximum of fifteen feet and fire pits which may project a maximum of sixteen feet all as measured from said cottage’s southwest facades. Said balconies, patios or decks may contain guardrails or fences so long as said guardrails or fences are open and transparent and in compliance with California Building Code (“CBC”) requirements;
5. Owner shall insure that no portion of cottage building 2 extends southwesterly or seaward of the MPR Line beyond a maximum of five feet, except for open and unenclosed balconies above the first story which may project a maximum of eight feet six inches and roof eaves or horizontal trellis elements which may project a maximum of nine feet six inches all as measured from said cottage’s southwest facades, and ground level patios or decks which may project a maximum of fifteen feet and fire pits which may project a maximum of sixteen feet all as measured from said cottage’s southwest facades. Said balconies, patios or decks may contain guardrails or fences so long as said guardrails or fences are open and transparent and in compliance with California Building Code (“CBC”) requirements;

6. Owner shall insure that no portion of cottage buildings 5 and 6 extends southwesterly or seaward of the location of the southwesterly or most seaward fence surrounding the existing tennis courts except for roof eaves or horizontal trellis elements which may project a maximum of nine feet six inches all as measured from said cottage's southwest facades, and ground level patios or decks which may project a maximum of fifteen feet and fire pits which may project a maximum of sixteen feet all as measured from said cottage's southwest facades. Said patios or decks may contain guardrails or fences so long as said guardrails or fences are open and transparent and in compliance with California Building Code ("CBC") requirements;
7. Owner shall insure that no portion of cottage building 5 exceeds one story and 21 feet in height or 33 feet above mean sea level, whichever is lower, as measured from the ground to the roof's highest ridge, except for chimneys and vents which shall be limited to the minimum height required by the California Building Code. The roof of cottage building 5 shall slope away from the beach;
8. Two story elements of cottage 6 may project a maximum of 16 feet southwesterly or seaward of the MPR line, shall not exceed two stories and 27 feet in height or 39 feet above mean sea level, whichever is lower, as measured from the ground to the roof's highest ridge, and no portion of cottage 6 which is southwesterly or seaward of said 16 foot projection shall exceed one story and 21 feet in height or 33 feet above mean sea level, whichever is lower, as measured from the ground to the roof's highest ridge, except for chimneys and vents which shall be limited to the minimum height required by the California Building Code. The roof of cottage building 6 shall slope away from the beach;
9. Owner shall insure that no portion of the swimming pools, spas, and adjoining decks proposed between cottage buildings one and two, two and three, three and four, and four and five extends southwesterly or seaward of the MPR Line by more than 30 feet. Said swimming pools, spas, and adjoining decks may be enclosed with guardrails or fences so long as said guardrails or fences are open and transparent and a maximum of five feet in height;
10. Owner shall insure that no structures are constructed, installed, or placed within 5 feet of the northeasterly edge of the proposed Paseo del Mar public access way (excluding fences, boundary walls, or hedges) and that no structures, equipment, or utilities over 3 feet in height are constructed, installed, or placed between 5 feet of the northeasterly edge of the Paseo del Mar and the MPR Line, except as specifically permitted elsewhere in these conditions of approval;
11. Owner shall insure that any common areas and easements (including the adjoining Paseo del Mar public access easement) be identified and described on the Final Map;
12. Owner shall insure that no existing or future utility lines be permitted outside of the lot or private interest spaces (separate interest spaces or units) of which they serve unless located within a common area or an easement area approved by the City of Coronado;
13. Prior to the recordation of the Final Subdivision Map Owner shall submit three copies of the proposed covenants, conditions, and restrictions ("CC&Rs") for the subject condominium units to City for approval. The CC&Rs as approved by City shall be recorded against all such individual condominium unit property titles;
14. Owner shall comply with the following and include in either the CC&Rs or other covenants recorded against the property:

- a) No section of the approved CC&Rs or other covenants related to conditions of the documents referenced under the above condition number 1 or any other conditions of approval of the subject Tentative Subdivision Map, shall be revised or amended without first obtaining approval from City of Coronado's Director of Community Development and the Owner of the adjoining Hotel del Coronado;
- b) No condominium unit, habitable unit, dwelling unit, or hotel unit (collectively referred to as "Unit" or "Units") shall be occupied and used except for short term resort occupancy purposes by the owner of the Units (the "Unit Owners") or other occupants and their social guests, and no trade or business shall be conducted therein other than as consistent with resort occupancy use;
- c) Use and occupancy of Units shall be for short term occupancy, with occupancy by the same person or persons limited to not more than twenty five (25) consecutive days, except that Unit Owners shall be allowed to occupy a Unit up to a total of ninety (90) cumulative days per calendar year, provided the Unit Owner shall not exceed 25 consecutive days of occupancy at any one time. All such Unit Owners are further limited to a maximum 25 day use within any immediately preceding 50 day time period. If a Unit has more than one Unit Owner, the 25 consecutive day, 25 day within a 50 day period, and 90 day occupancy limit shall apply to the Unit, and the 25 consecutive day, 25 day within a 50 day period, and 90 day occupancy limitation shall constitute a limitation on the aggregate use of the Unit by all of such Unit Owners;
- d) No Unit or any portion thereof shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection with any time sharing agreement, plan, program or arrangement, including, without limitation, any so called "vacation license," "travel club," "extended vacation," or other membership or time interval or fractionalized ownership arrangement. The term "time sharing" as used herein shall be deemed to include, but shall not be limited to "time-share project" as that term is defined in California Business and Profession Code, or any agreement plan, program, or arrangement under which the right to use, occupy or possess a Unit, or any portion thereof rotates among various persons, either corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like kind use privileges, according to a fixed or floating interval or period of time, provided, however, the foregoing restrictions shall not prohibit or preclude various persons either individually or through ownership of a legal entity, from acquiring, using, occupying, or possessing a Unit together for their own account and not as part of a business arrangement formed to operate a time-share, travel club, vacation license, extended vacation, or other form of shared use arrangement;
- e) The Project and all of its Units shall be operated similar to a hotel with a central lobby and front desk check-in (which may be separate from the main Hotel del Coronado lobby and front desk), daily linen and cleaning services, and central guest registration with management available on a 24-hour basis;
- f) All Units shall be subject to and available for renting to the general public when not occupied by a Unit Owner. Units shall only be managed and staffed through the adjoining Hotel del Coronado operations management and the Hotel del Coronado

operations management shall have exclusive responsibility to manage all Units. The Hotel del Coronado operations management shall be responsible for performing and coordinating the following services which include but are not limited to: unit reservations, check-in and check out procedures, issuance of room key cards, control of room access (for both Unit Owners and guests), maid service and collection and remittance of transient occupancy tax (TOT). No Unit Owner shall directly or indirectly manage or perform the services described above for any Unit. Only the Hotel del Coronado operations management shall have the right to manage or perform the services as described above for any Unit;

- g) All occupants of Units, whether Unit Owners, renters, or guests, must check in with the front desk operated by the Hotel del Coronado operations management and use a coded card-key entry system, or similar system, operated by the Hotel del Coronado operations management to assure security of the use of the resort operations within the Project and to provide information regarding compliance with transient occupancy requirements of the City. In addition, any persons providing any services to Units for a Unit Owner, renter, or guest shall be required to check in with the front desk;
- h) The subject 2.82 acre lot open space with landscaping and all landscape structures, including swimming pools, spas, sidewalks and related structures shall be maintained by the Hotel del Coronado operations management;
- i) Owner understands and agrees that the City is approving this subdivision with the expectation that the parcel will be developed with limited term resort condominium units, which could be transferred to an entity "affiliated" with the owner of the remaining Hotel del Coronado property. For these purposes the term "Affiliate" means a Person directly or indirectly Controlling or Controlled by or under direct or indirect common Control with, or any general partner or managing member in, the owner of the Hotel del Coronado, and its successors and assigns. The term "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, including the disposition or transfer of assets, whether through ownership of voting securities, by contract or otherwise, and the terms Controlled, Controlling and common Control shall have correlative meanings. The term "Person" means any individual, corporation, partnership, joint venture, limited liability company, estate, trust or unincorporated association.

As a condition to the recordation of the final map, the Owner shall record such covenants, conditions, and restrictions and/or other agreements ("CC&Rs"), consistent with this condition of approval, as the City Attorney and City Manager deem necessary to ensure that the parcel, and the remaining property comprising the Hotel del Coronado, are operated at all times as a unified resort development, notwithstanding that an Affiliate of the owner of the Hotel del Coronado may own the parcel. The CC&Rs shall also be reflected as a specific exception to any grant deed transferring ownership of the parcel to an Affiliate of the owner of the remaining properties comprising Hotel del Coronado. In addition, such CC&Rs

shall contain a provision requiring that the Hotel del Coronado (1) shall make the full range of resort services available to the resort condominium units, (2) that the operator of the Hotel del Coronado shall provide all landscape maintenance, and other services to the portion(s) of the parcel not included within the resort condominium, and (3) that the appropriate access, utility and related easements are mutually dedicated or reserved as between the parcel and the remainder of the Hotel del Coronado property so that the parcel shall functionally operate, at all times, as an integral part of the Hotel del Coronado resort facility. The CC&Rs shall provide the City a direct right of enforcement against both the owner of the parcel and the owner of the remaining Hotel Del property, should the parcel at any time operate independent of the Hotel Del Coronado hotel/resort facility, or be transferred to a non-Affiliated Person. The purpose of these conditions is to ensure that the entire complex (including the resort condominiums) shall operate in accordance with the underlying H-M Hotel Motel Zone (Municipal Code Chapter 86.32).

In implementing this condition, the sale, transfer, or financing of an individual resort condominium unit would be expressly exempted from any deed restriction and CC&R's applicable to the parcel, so as to permit their ownership and use by individual owners of the unit. The CC&R's shall also permit the owner of the parcel to encumber its interest with a mortgage, deed of trust or other security device ("mortgage") that provides development financing for the construction of the resort condominium units and the holder of any such mortgage, shall have the right to foreclose upon closure, trustee sale, deed in lieu of foreclosure or otherwise in connection with or incidental to the exercise of holder's remedies under such mortgage, so long as at all times the parcel operates as an integral part of the Hotel del Coronado resort facility, the CC&R's and these conditions remain superior to the mortgage, and the resort condominiums continue to have access to the full range of resort services;

15. All Units shall be subject to the City Transient Occupancy Tax each day of the year the Unit is occupied regardless if the Unit is being occupied by a Unit Owner, renter, or guest. Said TOT for Units occupied by an Owner shall be based upon and calculated at the average nightly rate for comparable Hotel del Coronado managed room(s) paid by third party guests. Three months after the date on which occupancy of any Unit begins, and continuing on a calendar quarter basis thereafter, the Hotel del Coronado operations management shall submit to City an audit report indicating that the Project is in conformance with the City's transient occupancy tax requirements and the occupant use restrictions detailed above;
16. Owner shall dedicate to City a public easement for road, sidewalk, streetscape and landscaping purposes at the northwest corner of the property, at the intersection of Ocean Blvd. and R.H. Dana Pl., adjoining Line 20 and Curve 8, 9, and 10 as shown on the subject Tentative Subdivision Map. Said easement shall be located to provide a minimum width of 19 feet from street curb to easement line and shall remain open with no fencing or above ground utilities permitted, except for City requested improvements. Said easement shall be set forth and dedicated on the Final Map;

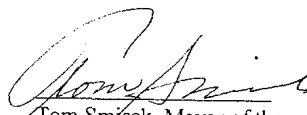
17. Owner shall design and upon City permit approval, install public stairs simultaneous with the construction of the Paseo del Mar public access way at the northwest end of the Paseo del Mar where it intersects Ocean Blvd. The design of said stairs shall be incorporated into the design plans of the Paseo del Mar and approved by City prior to installation;
18. Owner shall design and install a storm drain inlet (connecting it to the adjacent City's storm drain line) simultaneous with the construction of the Paseo del Mar public access way on Ocean Blvd. at the northwest end of the Paseo del Mar. The design of said storm drain inlet shall be approved by City prior to installation;
19. Owner shall design and install angled public parking spaces on Ocean Blvd. in accordance with the Master Plan at the northwest end of the Paseo del Mar subsequent to the completion of the Paseo del Mar and prior to the construction of the cottage or villa buildings. The design of said parking spaces shall be approved by City prior to installation and shall take into account the proposed median barrier for the intersection of Churchill Place, R.H. Dana Place and Ocean Blvd. at Flora Ave. as shown in the Master Plan;
20. Owner shall design and install the extension of the center median including landscaping and irrigation at the intersection of Churchill Place, R.H. Dana Place and Ocean Blvd. at Flora Ave. and provide additional on-street angled public parking on the Churchill Place side as shown in the Master Plan. The design of said median and parking spaces shall be approved by City prior to installation;
21. Owner shall design and install street edge landscape improvements along the southeast edge of R.H. Dana Place from the Paseo del Mar to Orange Avenue and along the southwest edge of Orange Avenue from R.H. Dana Place to Grande Hall, including a minimum 7 ft. wide irrigated landscaped parkway, new sidewalks with a minimum width of 8 ft., and street trees, benches and streets lights consistent with the Downtown Enhancement Plan; and enter into a standard City maintenance agreement providing for maintenance by the Owner of such street edge landscape improvements;
22. Owner shall prepare and City shall approve prior to the issuance of a building permit a 'Stormwater Pollution Prevention Plan' (SWPPP) and a 'Standard Urban Stormwater Management Plan' (SUSMP);
23. Owner shall insure that all existing and future storm drains connect to a City storm drain system and not directly outfall to the beach;
24. Owner shall research and identify the location of all existing utilities on the tentative map site prior to grading or excavating the tentative map site;
25. Owner shall underground all existing and future utilities to this tentative map site including the last pole remaining on R.H. Dana Pl. (Pole Number "P195029") after the City's undergrounding project, adjacent to the intersection of R.H. Dana Pl., Church Pl. and Flora Ave. Individual lots require separate utility service and the reservation of easements may be required;
26. Owner shall install all utilities, which are not possible to underground, such as back flow valves and transformers, on private property and said utilities shall be screened from public view, at the direction of the City of Coronado;
27. Owner shall insure that all development complies with the following California Fire Code (CFC) and Coronado Fire Department conditions or requirements:

- a. Working plans for apparatus access roads, fire hydrant systems, and fire protection equipment shall be submitted to the Fire Department for approval prior to construction;
 - b. Fire Department access shall be in accordance with 2001 CFC Article 9 and Article 87 and Coronado Municipal Code (CMC) Chapter 44 providing access roads prior to structure construction, except for the Paseo del Mar which need not exceed 14 feet in width in accordance with the Development Agreement;
 - c. Water supplies for fire protection shall be in accordance with 2001 CFC Article 9 and provided prior to structure construction;
 - d. Fire-Flow requirements shall be in accordance with 2001 CFC Appendix III-A;
 - e. Fire hydrant locations and distribution shall be in accordance with 2001 CFC Appendix III-B;
 - f. A National Fire Protection Association (NFPA) 13 compliant fire sprinkler system shall be provided in accordance with 2001 CFC Article 10 and CMC Chapter 44. These systems to include hose valves for fire department use locations to be subject to Coronado Fire Department approval;
 - g. An NFPA 72 compliant fire alarm system shall be provided in accordance with 2001 CFC Article 10 and CMC Chapter 44;
 - h. An evaluation and testing of all private fire hydrants located on all of the property bounded by Ocean Blvd., R.H. Dana Pl., Orange Ave., State Route 75, Avenida del Sol, and the beach shall be conducted and fully reported to the Coronado Fire Department. Any and all repairs shall be done to meet fire flow requirements as contained in CFC Appendix III-A. This requirement shall be in accordance with 2001 CFC Article 9;
 - i. Retrofit the ten-inch fire service valve located on the Orange Avenue side of the Hotel property with a ten-inch Reduced Pressure Principle Detector Assembly (RPDA) in place of the existing 10-inch single swing check valve;
 - j. Retrofit the four-inch meter connection supplying the auxiliary water tank on the Hotel grounds to enable this meter to be tested annually.
28. Owner shall have a California licensed land surveyor install survey monuments at all property corners with locations indicated on the final subdivision map and any monuments disturbed during construction shall be replaced by a licensed land surveyor at Owner's expense;
29. In accordance with sections 66495 and 66496 of the State Subdivision Map Act, Owner shall have a California licensed land surveyor install monumentation for a minimum of one exterior boundary line of the subject parcel prior to Final Map recordation. Interior monuments need not be set at the time the map is recorded so long as the engineer or surveyor certifies on the map the monuments will be set on or before a specified later date, and if Owner furnishes to City security guaranteeing the payment cost of setting such monuments;
30. In accordance with section 66490 of the State Subdivision Map Act, Owner shall provide 3 copies of a preliminary soils report to the City. Said report shall recommend where problem soils exist and provide recommendations for corrective action, which is likely to prevent structural damage to any structure proposed to be constructed;
31. Owner shall cap all abandoned sewer laterals prior to demolition;

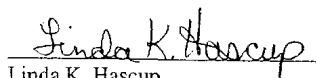
32. Owner shall remove from the City's right of way any existing sewer laterals that are not used for any proposed redevelopment. These laterals shall be capped within 24 inches of the sewer main under permit issued from the Engineering and Project Development Department. Any existing sewer laterals used for new development shall be video taped for its entire length to the sewer main to assess its condition and suitability for continued use. In accordance with the Municipal Code, fees will be charged for new sewer service;
33. Owner shall insure that all work performed outside of the private property lines shall conform to the San Diego Regional Standard Drawings and Coronado Special Construction Provisions and prior to construction a right-of-way permit shall be obtained from the Engineering and Project Development Department;
34. Owner shall comply with the City of Coronado's policy for proposed construction of subterranean garages/cellars adopted on January 10, 1995, as warranted by the improvement plan; and
35. If the above conditions have not been completed and accepted in accordance with standards established by the City prior to approval of the Final Map then the subdivider shall enter into a secured agreement with the City for 150% of the estimated cost of constructing the improvements and performing the conditions before the Final Map is approved. Said agreement shall be prepared and recorded with the County Recorder's Office. If the above conditions are not completed prior to approval of the final map and a secured agreement is approved, all of the above conditions shall be completed to the satisfaction of the City of Coronado prior to any newly constructed building permit being finalized or occupancy permitted.

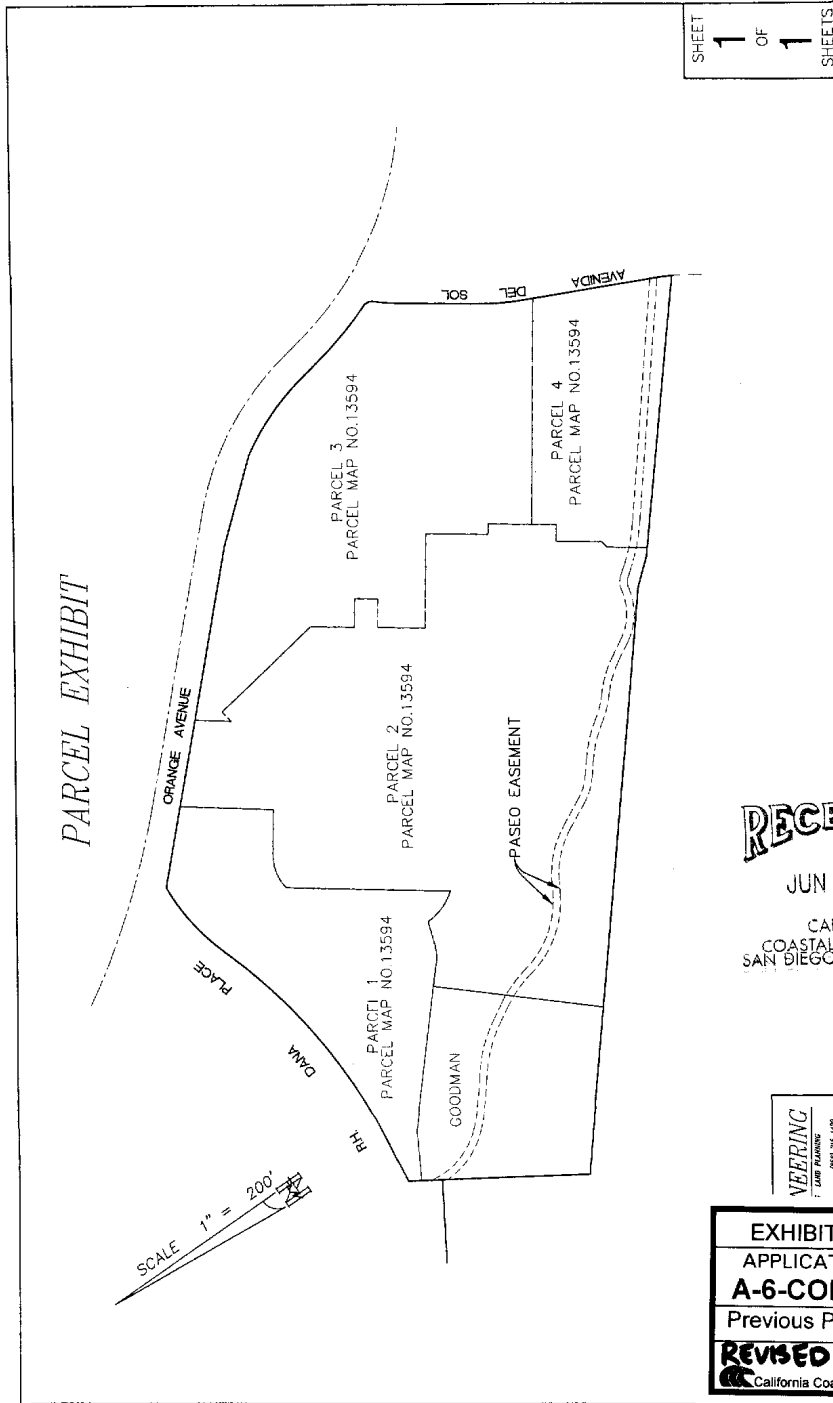
PASSED AND ADOPTED by the Coronado City Council of the City of Coronado, California this 21st day of June 2005 by the following vote, to wit:

AYES: MONROE, TANAKA, TIERNEY, SMISEK
NAYS: NONE
ABSENT: DOWNEY


Tom Smisek, Mayor of the
City of Coronado, California

Attest:


Linda K. Hascup
City Clerk, City of Coronado



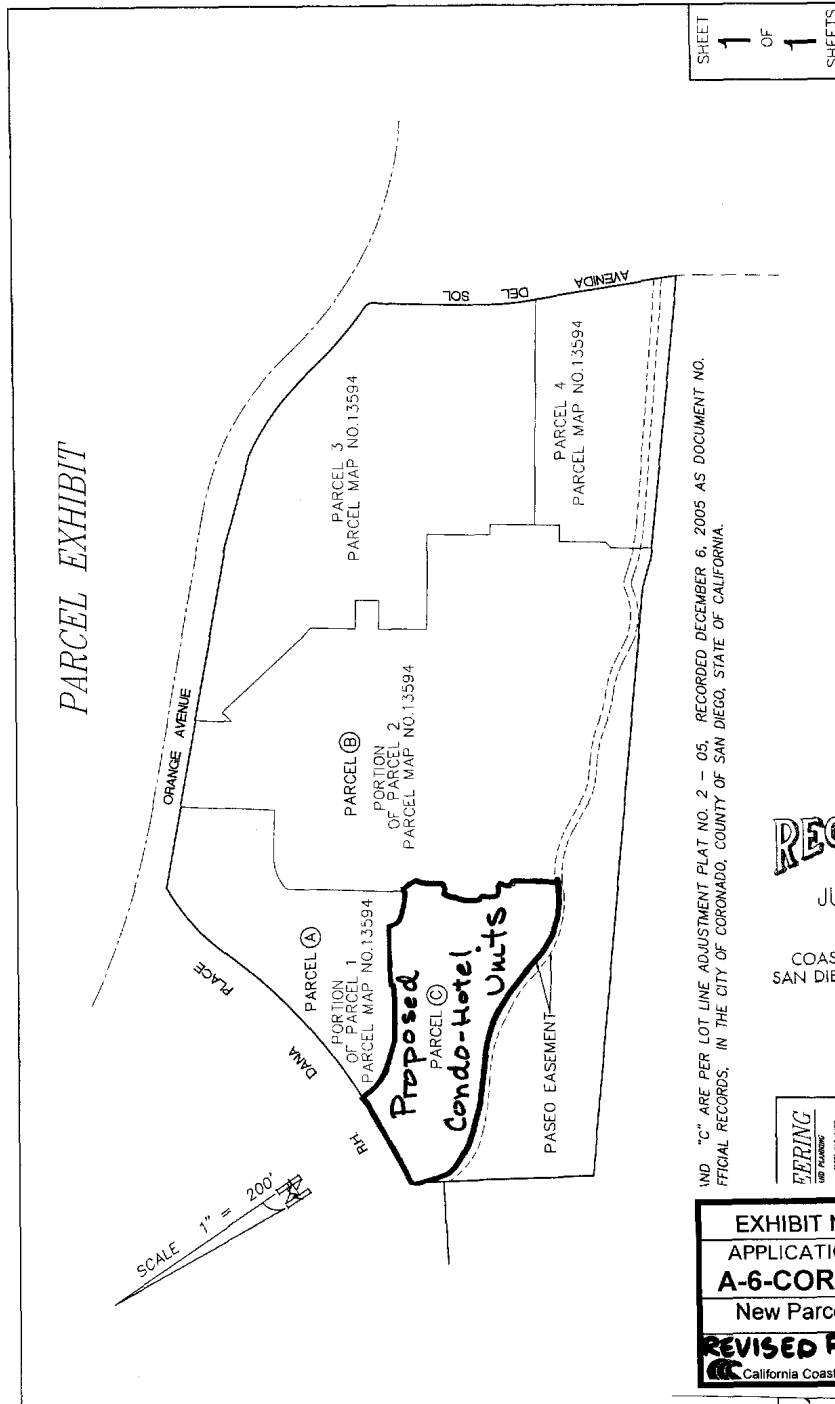
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JUN 09 2006

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

VEERING
LAND PLANNING
(602) 335-1100
(800) 735-1000 FAX

EXHIBIT NO. 4
APPLICATION NO.
A-6-COR-06-46
Previous Parcel Map
REVISED FINDINGS
California Coastal Commission



AND "C" ARE PER LOT LINE ADJUSTMENT PLAT NO. 2 - 05, RECORDED DECEMBER 6, 2005 AS DOCUMENT NO. [REDACTED] OFFICIAL RECORDS, IN THE CITY OF CORONADO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 5
APPLICATION NO.
A-6-COR-06-46
New Parcel Map
REVISED FINDINGS
California Coastal Commission

FEERING
FOR PLANNING
(858) 715-1485
(858) 715-1487 FAX