

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4402
(619) 767-2370



Wed 21a

Addendum

December 7, 2007

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item 21a**, Coastal Commission Permit Application
#A-6-OCN-07-103 (20 Morgan), for the Commission Meeting of
December 12, 2007.

Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 5 of the staff report, revise Special Condition #5 as follows:

5. Future Development. This permit is only for the development described in coastal development permit No. A-6-OCN-07-103. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply. Accordingly, any future improvements to the proposed condominium building, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to permit No. A-6-OCN-07-103 from the California Coastal Commission or shall require an additional coastal development permit ~~from the California Coastal Commission or~~ from the applicable certified local government.

2. On Page 8 of the staff report, the following shall be added after Paragraph 3 (new paragraph) as follows:

The City of Oceanside, in its review of the project, included special conditions directly pertaining to the street vacation. Special Condition Nos. 18 and 19 of the City's permit (ref. Exhibit #9) state that the Coastal Development Permit approved for this development does not include the approval of the street vacation, that such approval will be sought separately and, that approval of the residential development project in no way guarantees approval of the street vacation, which must ultimately be approved by Oceanside's City Council (it should be noted that the City's future review of the street vacation will also require a coastal development permit, which will be appealable to the Coastal Commission). Special Condition #19 of the City's permit also states that should the vacation of the public right-of-way not be approved,

the developer would be required to revise the project plans and submit them to the City to determine if a new hearing was necessary for the redesigned project. Thus, the redesigned project required pursuant to Special Condition #1 of this permit, will need to be submitted to the City for Substantial Conformity review, similar to the process outlined in Special Condition #19 of the City's permit.

3. On Page 11, the following shall be added to Paragraph 2 as follows:

As such Special Condition #1 requires the applicant submit revised final plans removing the area to be vacated by the City from the proposed development envelope. Special Condition #1 also requires that the revised final plans adhere to all standard setbacks for a corner lot (10'). Both of these requirements will result in fewer impacts to the ocean view opportunities from both Tait and Witherby Streets, as development will be sited further away from Witherby Street and the view corridor. Further, to assure that future improvements to the residences do not occur without coastal development permit review Special Condition #5 requires that all future modifications that otherwise may be exempt from the need of a coastal permit must be reviewed and approved by the Commission as an amendment to the subject permit or as a new coastal development permit from the City.

4. The attached City of Oceanside Planning Commission Resolution (City permit) shall be added as new Exhibit #9

W21a

PLANNING COMMISSION RESOLUTION NO. 2007-P17

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

APPLICATION NO: P-19-05, D-33-05, RC-22-05

APPLICANT: 20 Morgan, LLC

LOCATION: 1334 S. Pacific St

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

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

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

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

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



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

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

5 <u>Description</u>	6 <u>Authority for Imposition</u>	7 <u>Current Estimate Fee or Calculation Formula</u>
8 Parkland Dedication/Fee	9 Ordinance No. 91-10 10 Resolution No. 06-R0334-1	11 \$3,503 per unit
12 Drainage Fee	13 Ordinance No. 85-23 14 Resolution No. 06-R0334-1	15 Depends on area (range is 16 \$2,843-\$15,964 per acre)
17 Public Facility Fee	18 Ordinance No. 91-09 19 Resolution No. 06-R0334-1	20 \$2,072 per unit for residential
21 School Facilities Mitigation Fee	22 Ordinance No. 91-34	23 \$2.63 per square foot 24 residential
25 Traffic Signal Fee	26 Ordinance No. 87-19 27 Resolution No. 06-R0334-1	28 \$15.71 per vehicle trip
29 Thoroughfare Fee	30 Ordinance No. 83-01 31 Resolution No. 06-R0334-1	32 \$255 per vehicle trip
33 Water System Buy-in Fees	34 Oceanside City Code 35 §37.56.1 36 Resolution No. 87-96 37 Ordinance No. 05-OR 0611-1	38 Fee based on water meter 39 size. Residential is typically 40 \$3,746 per unit.
41 Wastewater System Buy-in fees	42 Oceanside City Code § 43 29.11.1 44 Resolution No. 87-97 45 Ordinance No. 05-OR 0610-1	46 Based on capacity or water 47 meter size. Residential is 48 typically \$4,587 per unit.
49 San Diego County Water Authority Capacity Fees	50 SDCWA Ordinance No. 51 2005-03	52 Based on meter size. 53 Residential is typically 54 \$4,154 per unit.
55 Inclusionary housing in lieu fees—Residential only.	56 Chapter 14-C of the City 57 Code.	58 \$1,000 per development 59 project + \$100 per unit plus 60 \$10,275 per unit.

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

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

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

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

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

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

19 FINDINGS:

20 For the Tentative Parcel Map and Development Plan:

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

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

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

7 For the Regular Coastal Permit:

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

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

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

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

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

18 For the Deferral of the Requirement to Underground Facilities:

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

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

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

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

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

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

Building:

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

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- 1 7. A complete Soils Report, Structural Calculations, & Energy Calculations/documentation
2 will be required at time of plans submittal to the Community Development
3 Department/Building Division for plan check.
- 4 8. A Building (Demo) Permit will be required for the demolition of any existing structures.
5 Plans for the Demolition Permit must clearly show that all utilities (electric, gas, water,
6 & sewer) are properly terminated/capped in accordance with the requirements of the
7 utility service provider. All/any underground septic or water storage tanks must be
8 removed or filled in accordance with the Uniform Plumbing Code and or the City's
9 Grading Ordinance.
- 10 9. A private sewer system design must be submitted to the Building Division and approved
11 prior to the construction of the sewer system. If a gravity flow system is not used, an
12 engineered mechanical system must be submitted and approved by all City of Oceanside
13 Departments.
- 14 10. As part of your plan check submittal for a Building Permit, submit a "plat" drawing
15 showing the first floor elevations for each segment, the locations of the points where the
16 floor level is six feet above grade, and the lowest elevation within five feet from the
17 building for each segment.
- 18 11. Building levels below grade (on all sides) shall be provided with a mechanical drainage
19 system that provides drainage to an approved location/receptor.
- 20 12. Light and ventilation for the new condominiums must meet Building Code requirements:
21 10 percent light and 5 percent ventilation.
- 22 **Fire Prevention:**
- 23 13. Plans shall be submitted to the Fire Prevention Bureau for plan check review and
24 approval prior to the issuance of building permits.
- 25 **Engineering:**
- 26 14. The project involves demolition of an existing structure or surface improvements, the
27 grading plans shall be submitted and erosion control plans be approved by the City
28 Engineer prior to the issuance of a demolition permit. No demolition shall be permitted
29 without an approved erosion control plan.

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

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

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

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

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

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

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

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

51. At a minimum, maintenance agreements shall require the staff training, inspection and maintenance of all BMPs on an annual basis. The project proponent shall complete and maintain O&M forms to document all maintenance activities. Parties responsible for the O&M plan shall retain records at the subject property for at least 5 years. These documents shall be made available to the City for inspection upon request at any time.
52. The Agreement shall include a copy of executed on-site and off-site access easements necessary for the operation and maintenance of BMPs that shall be binding on the land throughout the life of the project to the benefit of the party responsible for the O&M of BMPs, until such time that the storm water BMP requiring access is replaced, satisfactory to the City Engineer. The agreement shall also include a copy of the O&M Plan approved by the City Engineer.
53. The BMPs described in the project's approved Storm Water Mitigation Plan (SWMP) shall not be altered in any way, shape or form without formal approval by either an Administrative Substantial Conformance issued by the Community Development Department/Planning Division or the project's final approving authority (Planning Commission/City Council) at a public hearing. The determination of whatever action is required for changes to a project's approved SWMP shall be made by the Community Development Department/Planning Division.
54. Landscape plans, meeting the criteria of the City's Landscape Guidelines and Water Conservation Ordinance No. 91-15, including the maintenance of such landscaping, shall be reviewed and approved by the City Engineer prior to the issuance of building permits. Landscaping shall not be installed until bonds have been posted, fees paid, and plans signed for final approval. The following special landscaping requirements shall be met:

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

1 provided in shrub areas. Automatic irrigation shall be provided for all landscaped
2 areas to meet the satisfaction of the City Engineer.

3 g) Planter landscape shall cascade to soften planter walls.

4 h) Trees or shrubs chosen for the site outside of zone 24 shall be meet the satisfaction
5 of the City Engineer and be replaced with an alternate species if deemed necessary
6 at site inspections.

7 i) All landscaping, fences, walls, etc. on the site, in medians in the public right-of-
8 way and in any adjoining public parkways shall be permanently maintained by the
9 owner, his assigns or any successors-in-interest in the property. The maintenance
10 program shall include normal care and irrigation of the landscaping; repair and
11 replacement of plant materials; irrigation systems as necessary; and general cleanup
12 of the landscaped and open areas, parking lots and walkways, walls, fences, etc.
13 Failure to maintain landscaping shall result in the City taking all appropriate
14 enforcement actions by all acceptable means including but not limited to citations
15 and/or actual work with costs charged to or recorded against the owner. This
16 condition shall be recorded with the covenant required by this resolution.

17 **Planning:**

18 55. This Tentative Parcel Map (P-19-05), Development Plan (D-33-05) and Regular Coastal
19 Permit (RC-22-05) shall expire on April 9, 2009, unless the Planning Commission grants a
20 time extension.

21 56. This Tentative Parcel Map (P-19-05), Development Plan (D-33-05) and Regular Coastal
22 Permit (RC-22-05) approves only a 3-unit residential condominium as shown on the plans
23 and exhibits presented to the Planning Commission for review and approval. No deviation
24 from these approved plans and exhibits shall occur without Community Development
25 Department/Planning Division approval. Substantial deviations shall require a revision to
26 the Tentative Parcel Map (P-19-05), Development Plan (D-33-05) and Regular Coastal
27 Permit (RC-22-05) or a new Tentative Parcel Map, Development Plan and Regular Coastal
28 Permit.
29

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

1 each unit requested for occupancy to ensure that the installation of planting and irrigation
2 has occurred in conformance with the approved schematic drawings. The irrigation system
3 will also be tested to ensure adequate operation and coverage.

4 61. The project shall be designed to dispose of or recycle solid waste in a manner provided
5 in City Ordinance 13.3. Trash receptacles shall be provided as required by Chapter 13 of
6 the City Code and shall also include additional space for storage and collection of
7 recyclable materials per City standards. Recycling is required by City Ordinance. The
8 receptacles must be located in a flat, accessible area as determined by the City Engineer.
9 The receptacles shall meet City standards. All driveways and service access areas must be
10 designed to sustain the weight of a 50,000-pound service vehicle. Trash receptacles and
11 driveways and service access areas shall be shown on both the improvement and landscape
12 plans submitted to the City Engineer. The specifications shall be reviewed and approved
13 by the City Engineer. If the City's waste disposal contractor is required to access private
14 property to service the trash receptacles, then a service agreement shall be signed by the
15 property owner and shall remain in effect for the life of the project. All trash receptacles
16 shall be designed to provide user access. This design shall be shown on the landscape plans
17 and shall be approved by the City Planner.

18 62. A letter of clearance from the affected school district in which the property is located
19 shall be provided as required by City policy at the time building permits are issued.

20 63. A covenant or other recordable document approved by the City Attorney shall be prepared
21 by the developer and recorded prior to the approval of the Parcel Map. The covenant shall
22 provide that the property is subject to this resolution, and shall generally list the conditions
23 of approval.

24 64. Prior to the issuance of building permits, compliance with the applicable provisions of the
25 City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed
26 and approved by the Community Development Department/Planning Division. These
27 requirements, including the obligation to remove or cover with matching paint all graffiti
28 within 24 hours, shall be noted on the Landscape Plan and shall be recorded in the form of
29 a covenant affecting the subject property.

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

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

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

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

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

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

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



- 1 Planning Commission. These shall be shown on plans submitted to the Community
- 2 Development Department/Planning Division and Building Division.
- 3 81. This project is subject to the provisions of Chapter 14C of the City Code regarding
- 4 Inclusionary Housing.
- 5 82. This project shall comply with all provisions of the City's Affirmative Fair Housing
- 6 Marketing Agreement Policy as required in the project's Affirmative Fair Housing
- 7 Marketing Agreement. Such agreement shall be submitted to and approved by the
- 8 Housing and Neighborhood Services Director prior to the issuance of a building permit
- 9 for the project.
- 10 83. All windows and doors will have special treatments to reduce high noise levels created
- 11 as a result of the property's close proximity to the railroad tracks.
- 12 **Water Utilities:**
- 13 84. The developer will be responsible for developing all water and sewer utilities necessary
- 14 to develop the property. Any relocation of water and or sewer utilities is the
- 15 responsibility of the developer and shall be done by an approved licensed contractor at
- 16 the developer's expense.
- 17 85. The property owner will maintain private water and wastewater utilities located on
- 18 private property.
- 19 86. Water services and sewer laterals constructed in existing right-of-way locations are to be
- 20 constructed by approved and licensed contractors at developer's expense.
- 21 87. All Water and Wastewater construction shall conform to the most recent edition of the
- 22 Water, Sewer, and Reclaimed Water Design and Construction Manual or as approved by
- 23 the Water Utilities Director.
- 24 88. The following conditions shall be met prior to the approval of engineering design plans.
- 25 All public water and or sewer facilities not located within the public right-of-way shall
- 26 be provided with easements sized according to the Water, Sewer, and Reclaimed Water
- 27 Design and Construction Manual. Easements shall be constructed for all weather access.
- 28 89. The following conditions shall be met prior to the approval of engineering design plans.
- 29 No trees, structures or building overhang shall be located within any water or wastewater
- utility easement.

- 1 90. The following conditions shall be met prior to the approval of engineering design plans.
2 All lots with a finish pad elevation located below the elevation of the next upstream
3 manhole cover of the public sewer shall be protected from backflow of sewage by
4 installing and maintaining an approved type backwater valve, per the Uniform Plumbing
5 Code (UPC).
6 91. The following conditions of approval shall be met prior to issuance of building permits.
7 Water and Wastewater Buy-in fees and the San Diego County Water Authority Fees are
8 to be paid to the City and collected by the Water Utilities Department at the time of
9 Building Permit issuance.
10 92. The following conditions of approval shall be met prior to occupancy. All new
11 development of single-family and multi-family residential units shall include hot water
12 pipe insulation and installation of a hot water recirculation device or design to provide
13 hot water to the tap within 15 seconds in accordance with City of Oceanside Ordinance
14 No. 02-OR126-1.

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1 Solid Waste:

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

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

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

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

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

17 AYES: Martinek, Parker, Horton, Balma, Blom, McLeod and Troisi

18 NAYS: None

19 ABSENT: None

20 ABSTAIN: None

(Signature on File

21 Dennis Martinek, Chairman
22 Oceanside Planning Commission

23 ATTEST: / , ,

24 Signature on File

25 Jerry Hittleman, Secretary

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

28 Dated: April 9, 2007

114

18/

W21a

Permit Number: A-5-OCN-07-103

Applicant: 20 Morgan, LLC

Position: Oppose

November 30, 2007

RECEIVED

DEC 07 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

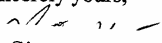
California Coastal Commission
San Diego Coast District
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Commissioners:


We live at 1401 S. Pacific Street caddy corner from the proposed project at 1334 S. Pacific Street.

We strongly support the staff recommendation that the 14-foot right of way not be vacated. We need to preserve as much open land as possible and we need to provide for future parking.

Sincerely yours,


Signature on File

William Biggs


Signature on File

Phoebe Biggs 

LETTER IN SUPPORT OF
STAFF RECOMMENDATION

115

CALIFORNIA COASTAL COMMISSION

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



Dy #ltr

Staff: Toni Ross-SD
Staff Report: November 20, 2007
Hearing Date: December 12-14, 2007

STAFF REPORT AND RECOMMENDATION ON APPEAL

Application No.: A-6-OCN-07-103

Applicant: 20 Morgan LLC.

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

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

STAFF NOTES: At its October 11, 2007 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:

Staff is recommending approval of the de novo permit with several special conditions. The primary concerns raised by the proposed development involve impacts to public access and public views. The project involves the demolition of three smaller sized units and the construction of three much larger condominiums on a corner lot located immediately adjacent to a public beach accessway. The proposed project also includes the vacation of 1,400 sq. ft. of public right-of-way. This area would be used to increase the building envelope for the project, but would eliminate the possibility of any future development of additional public parking, and would allow for a larger and potentially out-of-scale development (ref. Exhibit #2). The square footage of the right-of-way being vacated combined with the square footage of the right-of-way remaining at this site could be used in the future for parking in the form of diagonal parking stalls or a small parking lot. The vacation also results in development encroaching further into a view corridor than if the project was designed without the street vacation.

Special Conditions addressing these potential impacts include the requirement for revised final plans eliminating the vacation of the public right-of-way and strict adherence to all standard setback requirements for a corner lot contained in the City of Oceanside Local Coastal Program. Further Special Conditions are recommended addressing construction

timing and revised landscape plans including requirements for fence opacity, side yard vegetation height, and the requirement for only native and non-invasive vegetation.

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

Substantive File Documents: The City of Oceanside's certified LCP; City's staff report dated April 9, 2007; City Resolution for RC-22-05; Appeal forms; Letter from project engineer Ronald Holloway dated September 21, 2007; Letter from City Planner Juliana von Hacht dated September 18, 2007; Letter from City Planner Jerry Hittleman dated September 25, 2007; Letter from Civil and Traffic Engineer Yunus Rahi as attached by Consultant Roxayne Spruance dated October 10, 2007; Letter from Miriam Minguet project legal representative dated October 5, 2007.

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-OCN-07-103 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of certified local coastal program and the public access policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Revised Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, full-size final plans for the permitted development that are in substantial conformance with the plans for the project by 4 Design Architecture & Planning, as approved by the City of Oceanside Planning Commission, date stamped April 9, 2007. However, the plans shall be first approved by the City of Oceanside and shall be revised as follows:

- a. The 14 foot public right-of-way street vacation shall be deleted and removed from the available building envelope. All development must occur within the property lines of the existing lots.
- b. The building must adhere to all setback requirements for a corner lot, and no substantial development can occur within the southern facing setback, (i.e. raised planters and/or retaining walls).

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. Deed Restriction. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

3. Revised Final Landscape Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director, final landscape plans for the proposed

development that have been approved by the City of Oceanside. Said plans shall be in substantial conformance with the plans for the project by 4 Design Architecture & Planning, as approved by the City of Oceanside Planning Commission, date stamped April 9, 2007, but shall be revised as follows:

- a. A view corridor, the width of the required setbacks, shall be preserved in the south side setback. All proposed landscaping in the south side setback area shall be maintained at a height of three feet or lower to preserve views from the street toward the ocean. All landscape materials within the identified view corridor shall be species with a growth potential not expected to exceed three feet at maturity, except for authorized trees.
- b. All landscaping shall be drought-tolerant native, non-invasive plant species that are obtained from local stock, if available. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- c. Any fencing in the south side-yard setback area shall permit public views and have at least 75 percent of its surface area open to light.
- d. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved

amendment to the permit unless the Executive Director determines that no such amendment is legally required.

4. Other Special Conditions of the RC 22-05 and Resolution No. 2007-P17. Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of Oceanside pursuant to an authority other than the Coastal Act. The conditions contained in this coastal development permit are in addition to the conditions imposed and required by the City of Oceanside. In case of conflict, the conditions contained in the subject coastal development permit shall be controlling.

5. Future Development. This permit is only for the development described in coastal development permit No. A-6-OCN-07-103. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply. Accordingly, any future improvements to the proposed condominium building, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to permit No. A-6-OCN-07-103 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

6. As-Built Plans. Within 60 days following completion of the project, the permittee shall submit as-built plans approved by the City of Oceanside, to be reviewed and approved in writing by the Executive Director, documenting that the residential structure was constructed consistent with the Executive Director approved construction plans.

7. Construction Schedule/Staging Areas/Access Corridors. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, detailed plans identifying the location of access corridors to the construction site and staging areas, and a final construction schedule. Said plans shall include the following criteria specified via written notes on the plan:

- a. Use of sandy beach and public parking areas outside the actual construction site, including on-street parking, for the interim storage of materials, equipment and employee vehicles is prohibited.

The permittee shall undertake development in accordance with the plans and construction schedule. Any proposed changes to the approved plans or construction schedule shall be reported to the Executive Director. No changes to the plans or schedule shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The proposed project includes the demolition of a single-story, 3-unit residential building and the construction of a two-story over basement, 27 ft. high, 3-unit condominium development in the City of Oceanside. The existing building to be demolished totals 1,430 sq. ft. and the new building to be constructed will total 8,385 sq. ft. (Unit A = 2,835 sq. ft.; Unit B= 2,814 sq. ft.; Unit C = 2,736 sq. ft.). The .17 acre project site is a corner lot with Pacific Street to the west, Witherby Street to the south and Tait Street to the east. Surrounding uses include multi-family residential development to the north, single- and multi-family residential to the west and the City of Oceanside La Salina Waste Water Treatment Plant to the south and east. There is a public beach accessway located south west of the project site at the Witherby Street-end. The project site is located within 300 ft. of the inland extent of the beach.

The proposed project also includes a 1,400 sq. ft. (14 ft. x 100 ft.) vacation of the public right-of-way on Witherby Street. As proposed, the project will eliminate 5 on-street parking spaces on both the north and south side of Witherby Street (total of 10) and replace them with 7 diagonal on-street spaces on the south side of Witherby Street and 5 parallel on-street spaces on the north side of Witherby Street (total of 12) for a net gain of 2 on-street parking spaces. The zoning designation for the site is Residential Tourist (RT) and the Land Use Category is Urban High Density Residential.

2. Public Access. The City of Oceanside certified LCP Land Use Plan has provisions relating to beach parking facilities and states, in part:

City of Oceanside LCP Land Use Policies – Beach Parking

[...]

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

[...]

b. The beach area between Wisconsin and Witherby

[...]

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

Coastal Act Policies**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 30212

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

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

As noted above, the proposed project includes the vacation of approximately 1,400 sq. ft. of public right-of-way along Witherby Street, to allow for a larger development envelope and larger units. To off-set the vacation of public right-of-way, the applicant is proposing the improvement of additional public parking spaces along the southern side of Witherby Street. Current conditions allow for up to five parallel parking spaces on both the south- and north-side of Witherby Street (ref. Exhibit #5). It is important to note, however, that the City's findings state only three parking spaces currently exist as parallel parking stalls on either side of Witherby Street. Based on site visits by Commission Staff and review of aerial photographs of the area, it appears that additional parallel parking spots currently exist at this location (ref. Exhibit #5). The approved development will result in the removal of the existing parallel public parking spaces on the south side of Witherby Street and cutting into the existing curb to construct seven

diagonal parking spaces in their place. On the north side of Witherby Street, the existing parallel parking spaces will be removed and replaced. Thus, as approved by the City, ten existing on-street public parking spaces will be removed and replaced with 12 on-street public parking spaces.

The above cited LCP provisions require that efforts shall be made to provide additional public beach parking facilities to serve anticipated future demand at this project location. The project site is located just ½ block inland of the beach on a street that terminates at the beach and provides direct beach access. Other than on-street parking, there are no public beach parking lots in the surrounding community. Thus, while the net increase of one or two public parking spaces would be an improvement, without the vacation of the public right of way, this area could be improved in the future to provide even more public parking spaces. For example, the applicant is proposing using diagonal parking on the south side of Witherby Street, but parallel parking on the north. If diagonal parking were used on both the north and south sides of the street, additional public parking spaces beyond that proposed in this application could be provided. However, both the City and the applicant have stated that a design of this type would not be endorsed due to safety concerns (ref. Exhibit #6, 7, 8), but have not really provided adequate evidence to support such statements. In any case, what is important to consider is that if this street vacation is granted to the applicant, it will eliminate the possibility of any future improvements to public parking being developed at this site, a site directly called out within the City's Certified LCP as a priority for development of additional public parking opportunities. Furthermore, it will be awarding public right-of-way currently serving public interest, to private development.

As proposed, an increase in one or two parking spaces does not adequately provide for future parking demands at this near beach location when additional public parking spaces could be provided were it not for the City vacating the 1,400 sq. ft. of public right-of-way. As such, Special Condition #1 requires the applicant to submit revised final plans that eliminate the street vacation and demonstrate that the building footprint will no longer include the square footage to be vacated by the City of Oceanside. The applicant will be required to limit development to the square footage available within the current lot size. Furthermore, Special Condition #1 also requires the applicant to adhere to all standard setbacks for corner lots within this modified design. Special Condition #6 requires the applicant to submit as-built plans showing that the condominium building has been constructed as required by Special Condition #1. To maximize public access during the construction phase, Special Condition #7 prohibits the use of the above stated public parking spaces for storage of any materials and equipment or utilization by any workers associated with construction of the condominiums.

In conclusion, the project as proposed may result in significant impacts to public access. The site is located immediately adjacent to a public beach access, and as such, public parking demands are high for this region. The proposed vacation of 1,400 sq. ft. of public right-of-way will allow the applicant's project to have larger units and a larger building envelope in general. The granting of this street vacation will eliminate the future potential for improved public parking opportunities such as diagonal parking

and/or a small scale parking lot. While the applicant has included within its proposal improving some of the remaining public right-of-way by funding the construction of diagonal parking at the south side of Witherby, it is unclear how much of an improvement this will actually be (2 spaces at most) and as such public access is not protected. Only as conditioned can this project be found consistent with both the City of Oceanside certified LCP and the public access policies of the Coastal Act.

3. Public Views/Scale of Development. The development approved by the City will replace an existing 1,430 sq. ft. one-story building with a 2-story over basement, 8,385 sq. ft. building. This increase in square footage and height could result in a development that is out of scale with the surrounding community. Further, the proposed street vacation will result in development being sited within a public view corridor. The City of Oceanside's certified LCP has provisions for protection of public views and scale of development and states:

City of Oceanside LCP Land Use Policies for Visual Resources

Findings.

[...]

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

Policies.

[...]

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

[...]

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

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

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

City of Oceanside LCP policy – Visual Resources and Special Communities

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

City of Oceanside Zoning 1050 (R) – Fences and Walls

The maximum height of a fence or wall shall be 6 feet except in required yards front yards abutting a street where the maximum height shall be 3 feet.

City of Oceanside Zoning 3017 – Measurement of Height

Height shall be measured from finished grade at all points on the site.....

City of Oceanside Zoning 1230 (M) – Downtown District

Height shall be measured from existing grade, unless otherwise specified...

A. Public Views.

The project as approved by the City will demolish three smaller single-story bungalow style units totaling 1,430 sq. ft. and construct a 2-story over basement condominium building totaling 8,385 sq. ft. The site is located on a corner lot surrounded by street on three sides. The site is located east of Pacific Street, West of Tait Street and North of Witherby Street. The site is also located directly northeast of a public beach accessway. As stated above, the City of Oceanside's LCP states that most of the east to west facing streets provide views of the ocean. The LCP further requires that the City maintain existing view corridors through public rights-of-way. The project site is located on the north side of Witherby Street, an east to west facing street. Currently, views of the ocean are available looking west along Witherby Street and west from Tait Street across the public-right-of-way area approved to be vacated. Views are more open to the ocean given the lack of development, due to the public beach accessway located at the terminus of Witherby Street.

With the proposed project, 14 ft. (1,400 sq. ft.) of right-of-way along Witherby Street will be vacated to the applicant in order to allow for a larger development. The concern here is that currently, as you travel south on Tait Street (which borders the project site to the east), there are public ocean views available across the subject site, but more importantly across the public right of way that is proposed to be vacated. With the required setback of 10 ft. along Witherby Street, as proposed, the new condominium building will extend approximately 10 ft. into the vacated right-of-way, blocking ocean views that are currently available to the public. Without the street vacation, this area would be open, allowing for unobstructed views of the ocean from both Witherby and Tait Streets. Furthermore, the applicant would still be required to observe to a minimum 10' setback even if not granted the street vacation, in order to comply with the certified LCP. This would result in the development having an additional 10' setback into the existing property line, further opening the public view opportunities.

In addition, other development is proposed within the setback and street vacation areas. Specifically, a number of retaining walls are proposed in the required setback areas to elevate the finished grade and cover up the basement walls (which are considered retaining walls) and will range in height from 4.5' -6.3'. The City's LCP requires that the maximum height of retaining walls in yard setback areas be limited to 3.5' or less. To reduce the visible height of basement walls, the City approved the design with a series of terraced retaining walls (lower walls in front of these taller walls). The outcome of the approved design is that not only will public ocean views be obstructed by the proposed condominium building, but ocean views will be further obstructed by the proposed terraced walls located further into the required setback and view corridor.

As such Special Condition #1 requires the applicant submit revised final plans removing the area to be vacated by the City from the proposed development envelope. Special Condition #1 also requires that the revised final plans adhere to all standard setbacks for a corner lot (10'). Both of these requirements will result in fewer impacts to the ocean view opportunities from both Tait and Witherby Streets, as development will be sited further away from Witherby Street and the view corridor.

In addition, there is the potential for proposed landscaping in the south side yard area to impede views to the ocean (both initially and over time, as plant materials/trees mature). As such, Special Condition #3 requires that the applicant submit a final landscape plan that requires that all proposed landscaping and hardscaping consist of only low level material that does not impede views to the ocean. The permitted landscape elements include plant materials that do not block views (limited to a height of about 3 ft.). The condition also stipulates that all landscape materials within the identified view corridor shall be species with a growth potential not expected to exceed three feet at maturity, except for authorized trees. As conditioned, it can be assured that any landscape improvements proposed in the yard setback area will not impede public views toward the ocean. This special condition will limit the intrusion of fencing and landscaping into the view corridor along Witherby Street as well. Further, Special Condition #2 requires the applicant to record a deed restriction on the property, so that any subsequent owners are also aware of the conditions of development and the public views will be protected in perpetuity. Thus, with the condition modifications, the development is in conformance with the City of Oceanside's public view policies.

In conclusion, the development envelope including the street vacation will result in private development located in a view corridor as protected by the City of Oceanside's certified LCP. Therefore the project as proposed cannot be found consistent, and only with Special Conditions pertaining to removal of the vacation from development and restrictions on retaining walls, fencing and landscaping and public views be appropriately protected.

B. Scale/Community Character.

Again, the development as proposed will consist of a significant increase in square footage to that of the existing development. While the trend in this area is re-developing

the older bungalow style units into larger condominium buildings, the issue of scale and community character is still important.

The development as proposed will be 6,955 sq. ft. larger in size than the development that currently exists on the subject site. However, this area of Oceanside, as well as many others, is currently undergoing a phase of redevelopment. The older small bungalow style units are being replaced by larger condominiums or single family residences throughout the Coastal Zone of Oceanside. Commission staff surveyed the surrounding area, using lot sizes of similar width to access the scale of the neighborhood versus the scale of the proposed development. Lot width was compared to total square footage at ten locations within the surrounding two blocks. Table 1 below shows the various lot width/square footage ratios.

Table 1

Address	APN	Lot Width	Square Footage	Sq.ft/lot width
1205 S. Pacific	152-141-03	37.5	2,695	71.86
1202 S. Pacific	152-146-01	65.0	5,224	80.36
1114 Tait St.	152-073-13	90.1	7,156	79.42
1128 Tait St.	152-073-20	75.01	5,900	78.67
202 Oceanside Blvd.	152-073-09	75	5,612	74.83
1032 Tait St.	152-072-10	75	4,232	56.43
10081-7 Tait St.	152-072-16	75	4,798	63.97
1313 S. Pacific	152-142-06,7	74.96	6,924	92.37
1314 S. Pacific	152-143-13	79.94	7,430	92.94
1324 S. Pacific	152-143-11	74.97	7,590	101.24
Proposed Project	152-143-09,10	75	8,385	111.80

This table indicates that the development as proposed would have more square footage than any other lot of its width within the surrounding neighborhood. As such, while not significant, the project as proposed may be considered out of scale with the surrounding development. In any case, Special Condition #1 requires the applicant submit revised final plans with the removal of approximately 1,400 sq. ft. of vacated public Right-of-Way. This condition will serve to both protect public access as well as bring the development into scale with the surrounding community.

Further, the project as approved by the City allows the applicant to measure the elevation of the pad at finished grade as opposed to existing grade; this will result in an elevation 4' higher than normally permitted and a building 4' higher than surrounding buildings. As shown above, the City has two policies for measurement of height within their Implementation Plan. Policy 3017 states that elevation shall be measured from *finished* grade and Policy 1230 (M) for Downtown District states that elevation shall be measured from *existing* grade. This project is not located within the Downtown District; therefore measuring from finished grade would be permissible, although further increasing the

scale of the project. The City has stated that it is their normal policy to use existing grade for measuring the height of a development, and that finished grade elevation measures are rarely used. While the allowance for measurement from finished grade might result in a development out of scale with the surrounding community, Special Condition #1 will require the applicant to re-design the development without the vacation of the public right-of-way resulting in a smaller development in general. Therefore, the project, as conditioned, will have a reduced building envelope and will be consistent with the City's policies regarding scale and community character. However, the discrepancy between the two policies for measurement of height for development can lead to confusion for determining which policy is most appropriate. This issue should be addressed by the City through a Local Coastal Plan amendment.

In conclusion, the project, as proposed includes a development both larger and higher in elevation than the surrounding community. Only with Special Condition #1 (Revised Final Plans) can the project be found consistent with the City of Oceanside's LCP policies pertaining to scale and surrounding community.

4. Local Coastal Planning. The City of Oceanside has a certified LCP. The project site is designated Urban High Density Residential and zoned RT (Residential Tourist). The proposed project is consistent with these designations. As conditioned, the development is consistent with all applicable provisions of the certified LCP as well as with the public access policies of Chapter 3 of the Coastal Act. The Commission, therefore, finds that approval of the proposed development, as conditioned, will not prejudice the ability of the City of Oceanside to continue to implement its certified Local Coastal Program.

5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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.

The proposed project has been conditioned to be found consistent with the public access and view policies of the Oceanside LCP and the public access policies of the Coastal Act. Mitigation measures 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, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of 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.

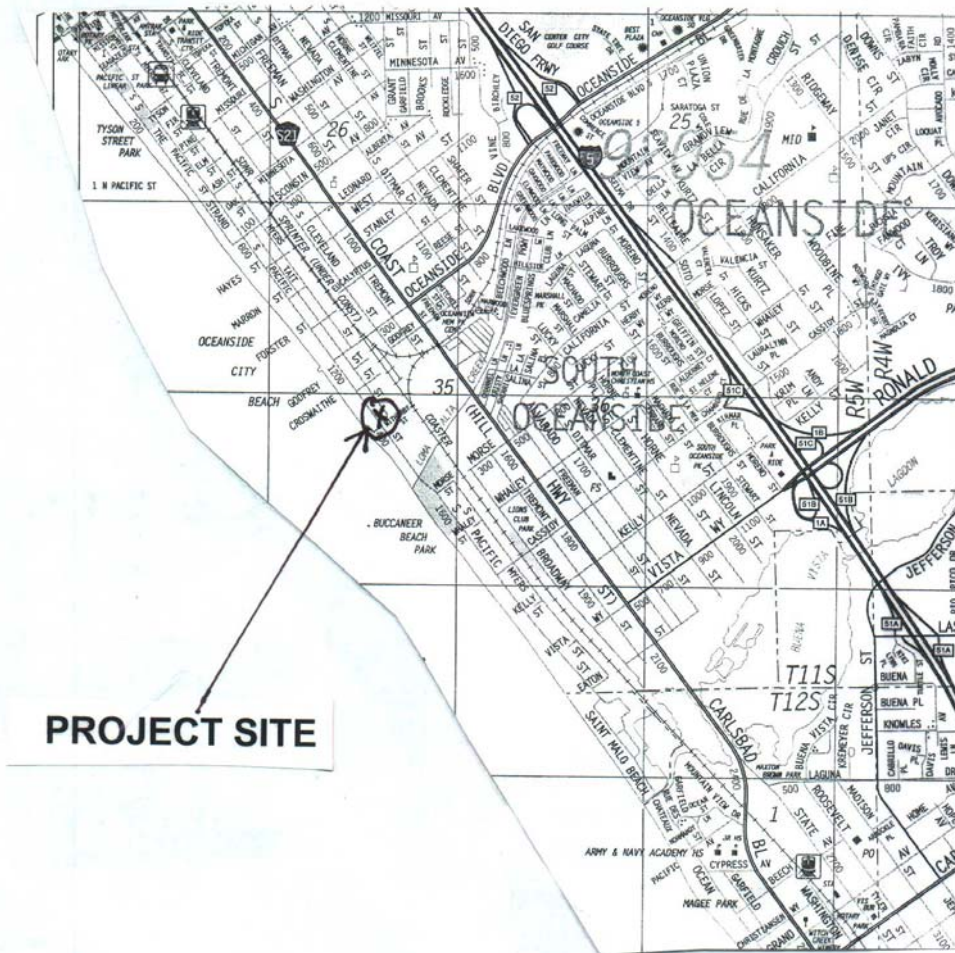
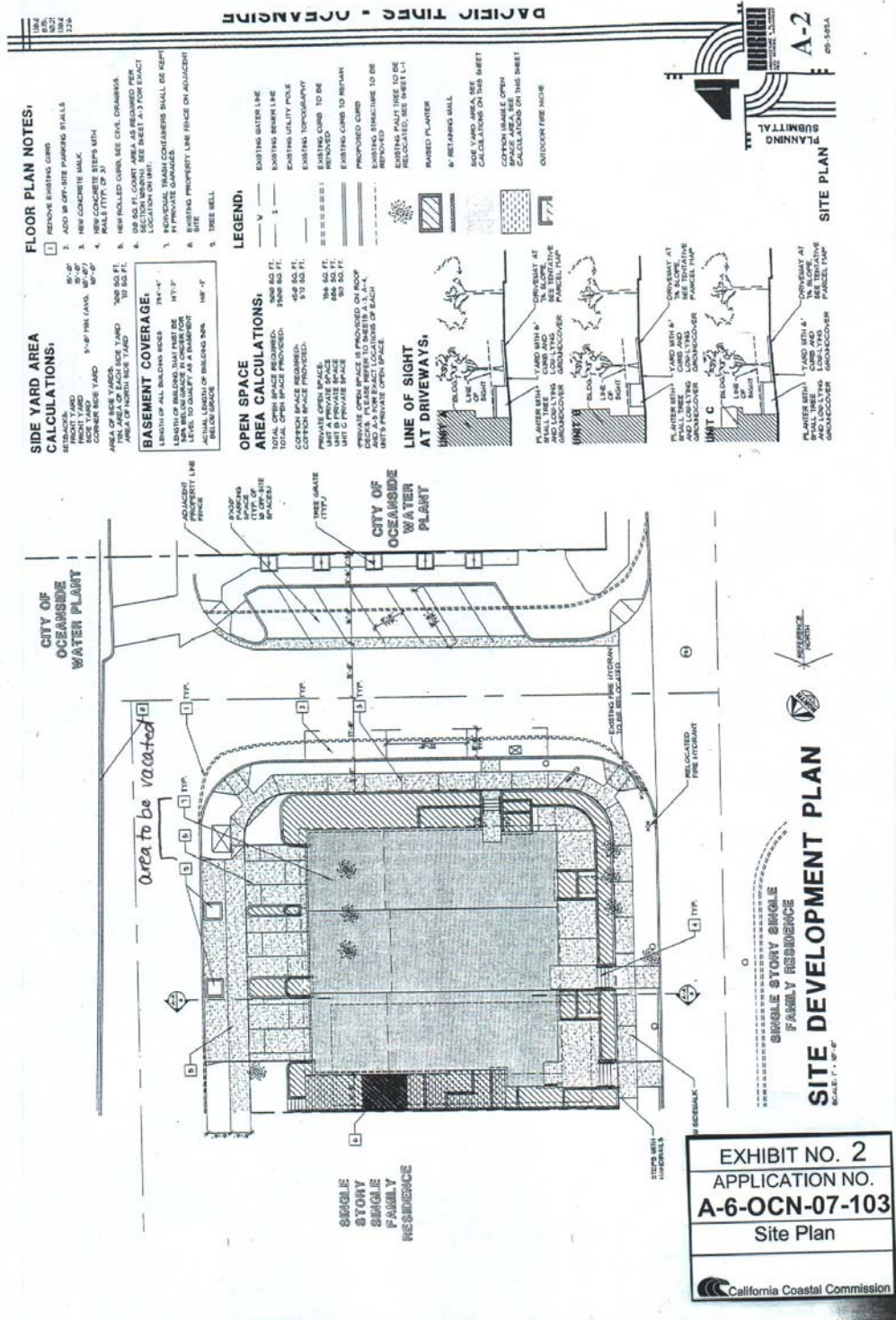
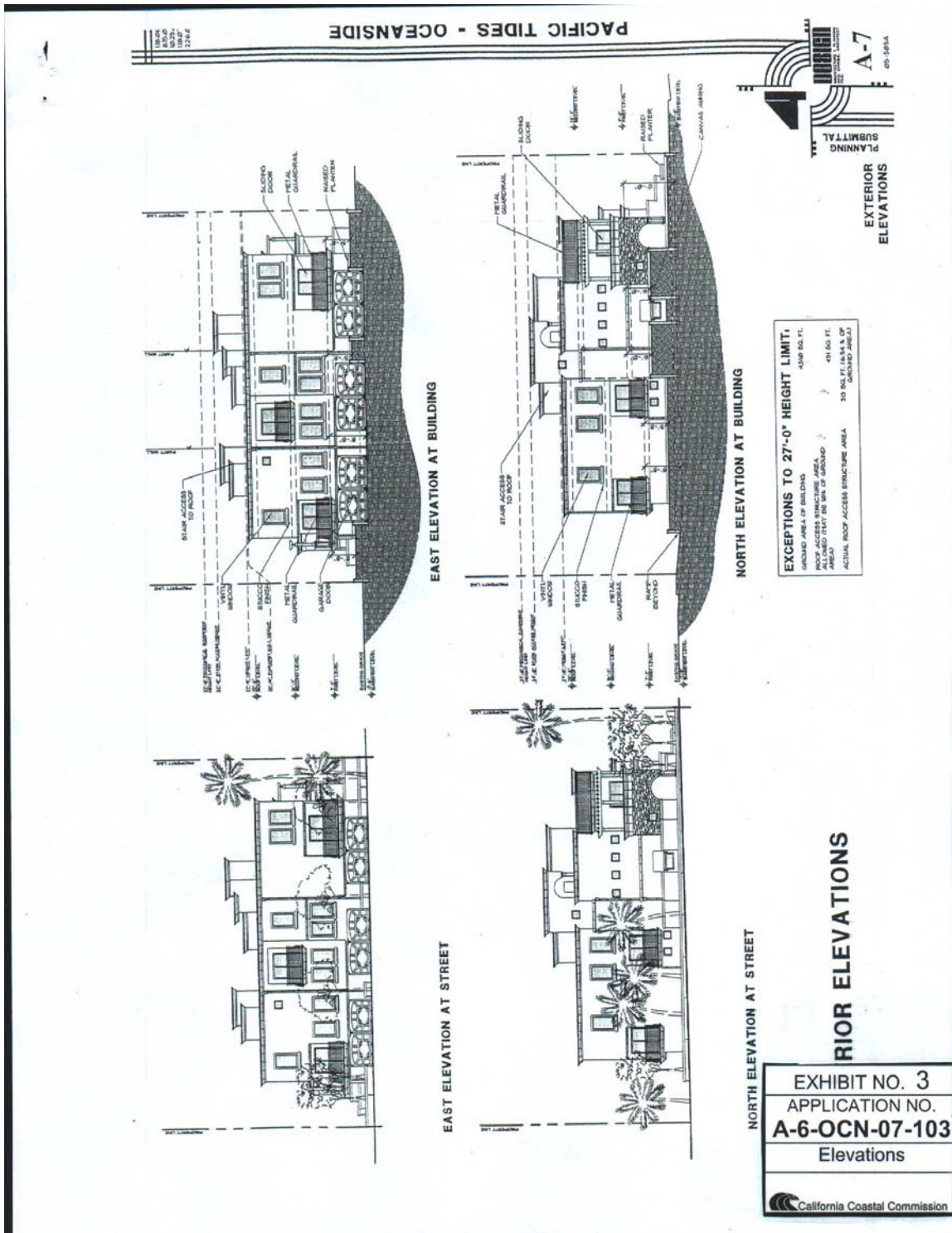
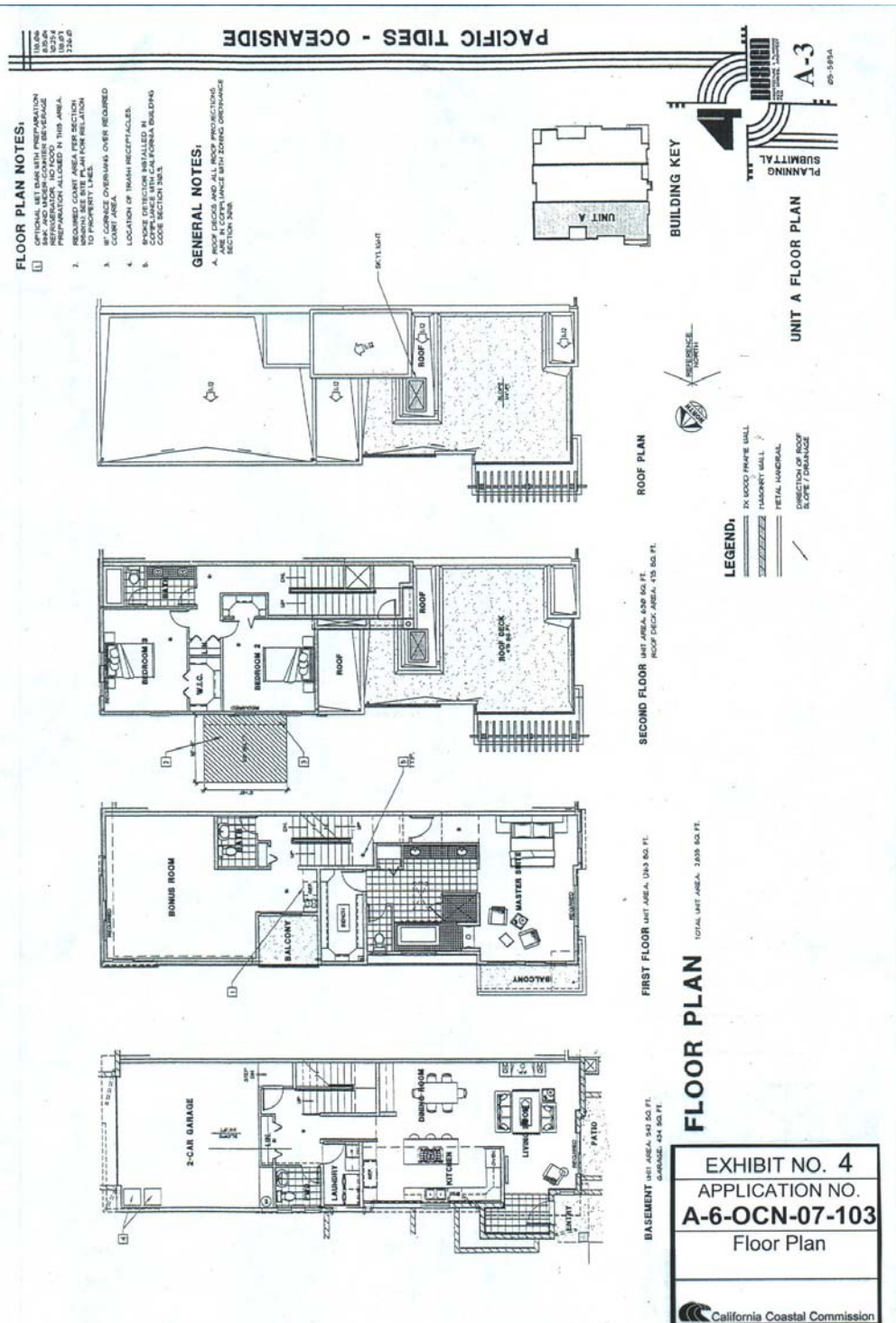


EXHIBIT NO. 1
APPLICATION NO.
A-6-OCN-07-103
Location Map







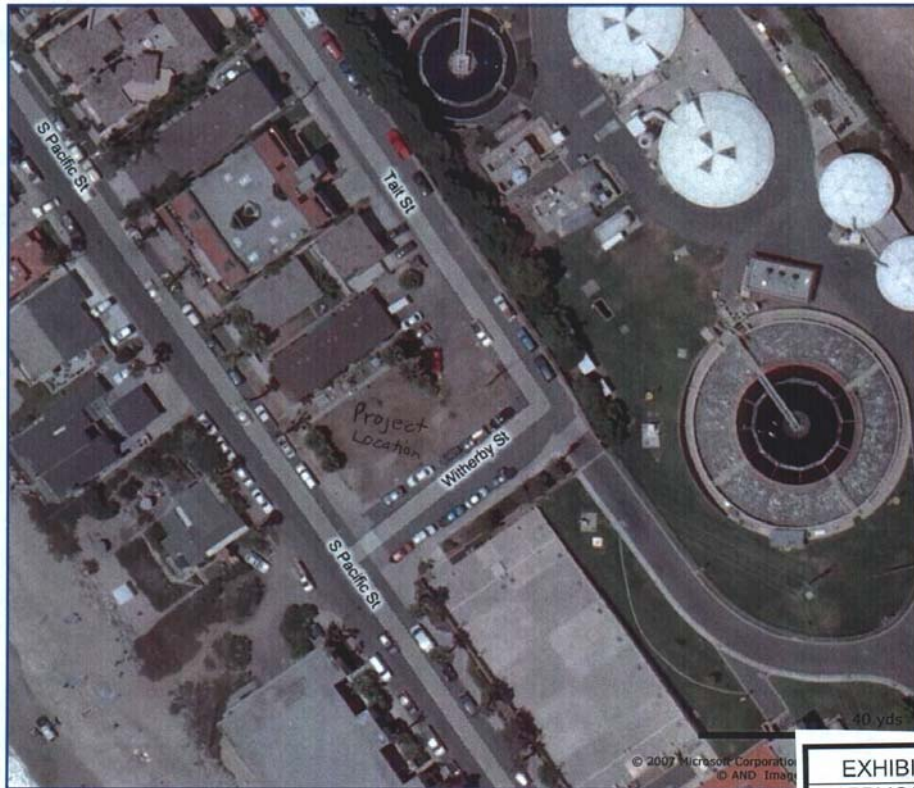


Live Search - Custom Print Options

Page 1 of 1



Live Search



<http://maps.live.com/PrintableMap.aspx?mkt=en-US&a=true>

EXHIBIT NO. 5
APPLICATION NO.
A-6-CII-07-103
Aerial including
existing parking
spaces





CITY OF OCEANSIDE

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION

RECEIVED

SEP 24 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

September 18, 2007

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

AND VIA FACSIMILE 619-767-2384

Dear Ms. Ross,

In regards to: RC-22-05 Pacific Tides


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

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

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

Cordially,

Juliana von Hacht
Associate Planner

EXHIBIT NO. 6
APPLICATION NO.
A-6-CII-07-103
Letters from the City
 California Coastal Commission

**CITY OF OCEANSIDE**

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION

September 25, 2007

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

RE: Pacific Tides Project

Dear Lee:

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

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

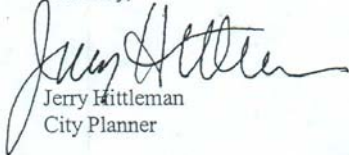
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SEP 26 2007

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

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

Sincerely,



Jerry Hittleman
City Planner

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

**CITY OF OCEANSIDE**

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION

RECEIVED

SEP 21 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

September 18, 2007

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

AND VIA FACSIMILE 619-767-2384

Dear Ms. Ross,

In regards to: RC-22-05 Pacific Tides

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

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

Cordially,

A handwritten signature in cursive script that reads "Juliana von Hacht".

Juliana von Hacht
Associate Planner



land planning, civil engineering, surveying


ROD BRADLEY, *Urban Planner*
RONALD L. HOLLOWAY, *Civil Engineer*September 21, 2006
W.O. 790-1064-400Mr. Mike Chegini
20 Morgan Investments, LLC
20 Morgan
Irvine, CA 92618**RE: Witherby Street Vacation**

Dear Mr. Chegini:

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

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

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

Sincerely,
bha, Inc.
Ronald L. Holloway
Principal Engineer

CC: Ken Chriss

street vacation-ccc.ltr





ENGINEERS ■ PLANNERS ■ MUNICIPAL CONSULTANTS

624 Brea Canyon Road ■ Walnut ■ California 91789 ■ Telephone: (909) 595-8589 ■ Fax: (909) 595-8863

Parking on Witherby Street

TO WHOM IT MAY CONCERN:

This traffic analysis addresses on-street parking feasibility issues on Witherby Street between Tait Street and Pacific Street in the City of Oceanside, California.

Witherby Street at this location is approximately 85 feet long, providing unmarked on-street parallel parking on both sides of the street. The street has a 40 feet right-of-way width on each side from the centerline. However, the available travel width is approximately 52 feet (i.e., 80 feet minus 14 feet shoulder width on each side), allowing two-way travel. With parked cars in existing on-street parking area on both sides, the travel width reduces to only 36 feet, assuming 8 feet width is taken on each side by each parallel-parked cars.

With 45-degree angle parking on west side of the street, each parking stall would take 12 feet* width along the street, therefore a maximum of 5 stalls could be provided in an 85-foot long street segment on the west side of Witherby (as shown in the enclosed drawing).

(*Reference: "The Dimensions of Parking", Fourth Edition, published by Urban Land Institute, 2000. Chapter 8, Page 46, Figure 8-5)

Currently, the 85-foot segment of Witherby Street can accommodate a maximum of 4 cars parallel-parked on the west side based on stalls that are 20 feet in length. With a possible 45-degree angle parking on west side only, a net increase of 1 space would be achieved. However, a gain of just one space would not be justified considering the maneuvering requirements of parked cars in these spaces, sight distance limitations at the corner at Tait Street, and a high potential of rear-end collisions as well as increase in delay of travel and congestions experienced by on-street traffic. It would be recommended to eliminate stall #5 (see attached). The close proximity of stall #5 to Tait Street would create a significant sight distance limitation. While the elimination of this stall does not completely alleviate the inherent sight limitations with diagonal parking it is recommended so that the vehicles turning from Tait Street to Witherby Street minimize the sight distance limitations.

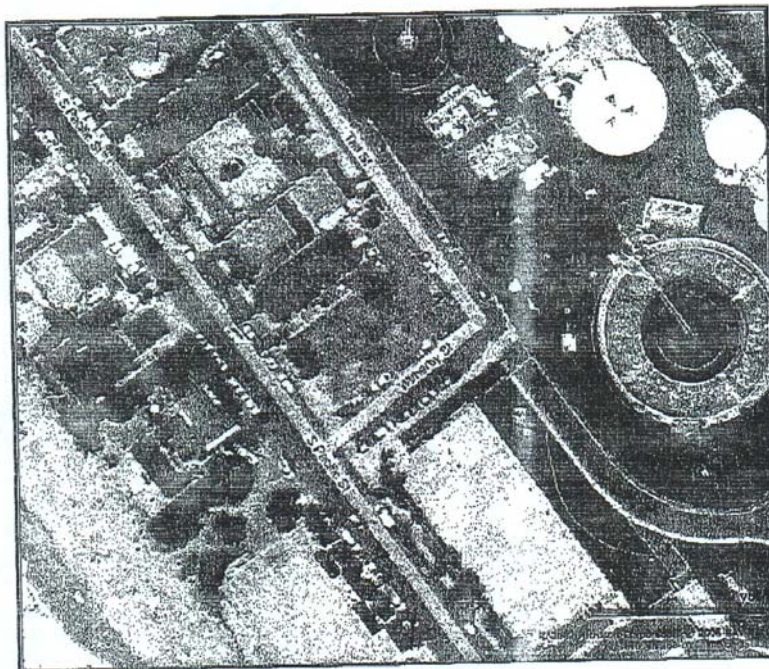
Angle parking is not recommended to accommodate on-street parking demands on this street, specifically because it would turn the street into a narrow, short stretched street, with severe sight distance limitations and high rear-end accident potential. Effectively, there would not be an increase in available parking for the public in the area because of provision of angle parking.

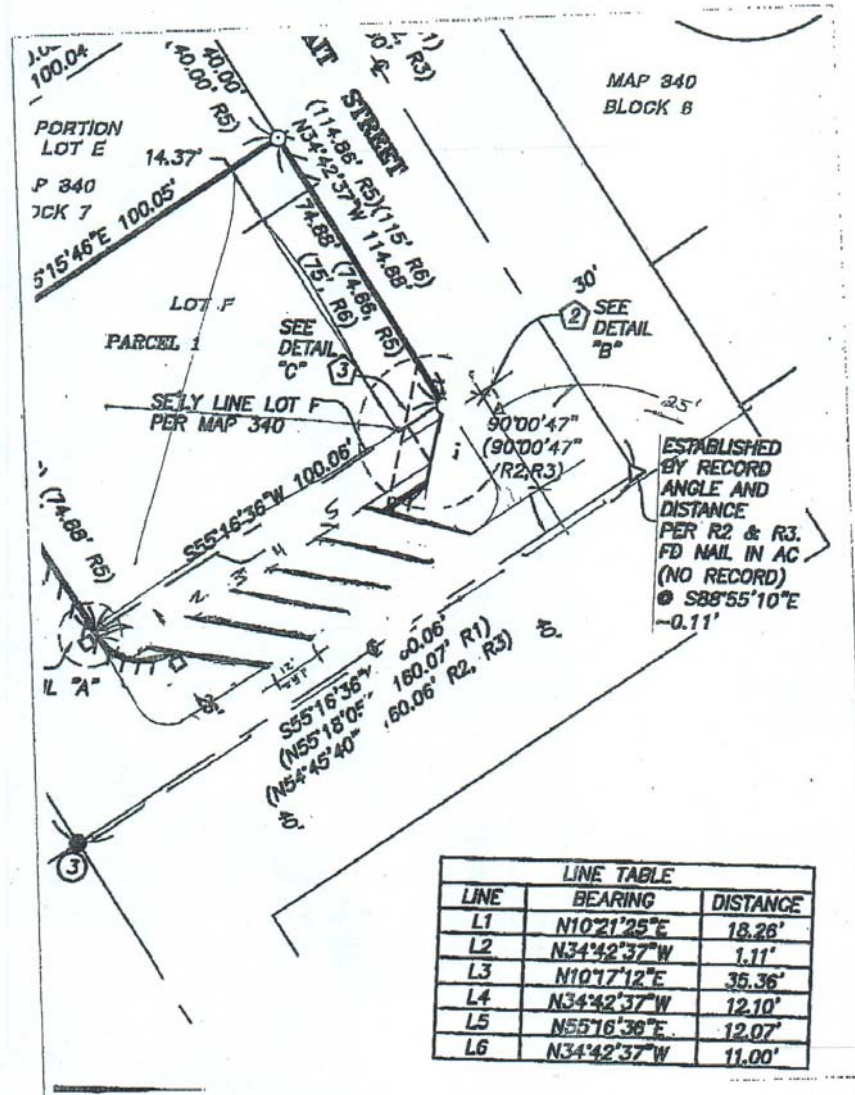
Should you have any questions, please do not hesitate to call me at 909-595-8599 x128.

Sincerely,



M. Yunus Rahi, Ph.D., P.E., T.E
A California-registered Professional Civil and Traffic Engineer
(Licenses: Civil- CA 59183, Traffic - TR 1726)





HECHT
SOLBERG
ROBINSON
GOLDBERG
BAGLEY
LLP

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

October 5, 2007

Via Electronic Mail and Messenger

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



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

Dear Chairman Krueger and Members of the Coastal Commission:

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

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

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

Attorneys at Law 600 West Broadway, Eighth Floor San Diego, California 92101 Telephone: 619. 239.3444 Facsimile:

EXHIBIT NO. 8
APPLICATION NO.
A-6-CII-07-103
Letter from the
Applicant's Agent

California Coastal Commission

October 5, 2007

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

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

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

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

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

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

October 5, 2007

Page 3

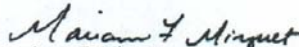
<u>Street Address</u>	<u>Total Square Footage</u>	<u>Lot Size</u>	<u>Floor Area Ratio</u>
Our Project	8,385	7,405	1.13
1313 S. Pacific Street	3,462	4,872	0.71
1314 S. Pacific Street	7,430	7,495	0.99
1324 S. Pacific Street	7,590	7,497	1.01

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

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

Please contact me with any questions regarding the foregoing.

Very truly yours,


Marianne F. Minguet

HECHT SOLBERG ROBINSON GOLDBERG & BAGLEY LLP

335537_1

cc: Mr. Michael Chegini
Mr. Brian Knochenhauer

EXHIBIT 1

Letters Regarding Public Parking

[Attached]



land planning, civil engineering, surveying

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

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

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

RE: Witherby Street Vacation

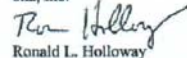
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Please contact our office if you have any questions or comments.

Sincerely,
bha, Inc.


Ronald L. Holloway
Principal Engineer



CC: Ken Chriss

street vacation-ccc.ltr

**CITY OF OCEANSIDE**

COMMUNITY DEVELOPMENT DEPARTMENT / PLANNING DIVISION

September 25, 2007

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

RE: Pacific Tides Project

Dear Lee:

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

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

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

Sincerely,



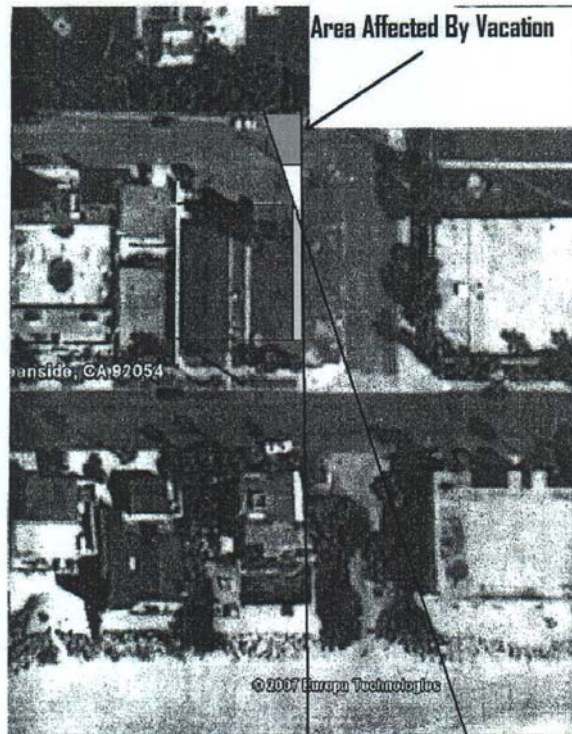
Jerry Littleman
City Planner

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

EXHIBIT 2

Public Views

[Attached]









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

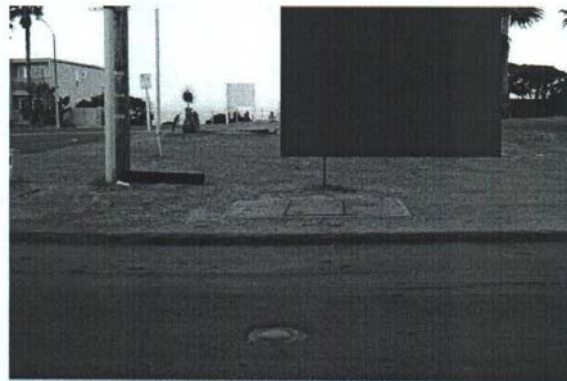


EXHIBIT 3

LEED Certification

	Pacific Tides				
	Leed - Green Building				
	10/5/2007				
	Leed Item	Possible Points	Pursuing	How	Points
1	Purge The Building	1	Yes	Building will be left open for 2 days at completion of project to allow gases to escape.	1
2	On Site Storm Retention	1	Yes	18" SD Line provided for retention. Part of current design. Also providing inline carbon and bacteria scrubbers as part of SWMP	1
3	Water Efficiency	1	Yes	Dual Flush Toilets May be Provided	0
4	Day Light to Interior	1	Yes	Providing skylights and or windows to all rooms. Laundry rooms and restrooms do not count.	1
5	Recycle Materials	1	Yes	The street that will be removed will be ground and used as base.	1
6	Sediment Control	1	Yes	The project will maintain SWPPP and BMPs for sediment control.	1
7	Public Transportation	1	Yes	A bike rack will be added	1
8	Public Transportation	1	Yes	Project is within 1/2 mile of bus stop	1
9	Light Pollution	1	Yes	Streetlights being provided with the project will not shine into neighboring	1

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Page 14

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

October 5, 2007

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