

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800



# Th 8c

**DATE:** February 22, 2007  
**TO:** Commissioners and Interested Persons  
**FROM:** John Ainsworth, Deputy Director, South Central Coast District  
Barbara Carey, Supervisor, Planning and Regulation  
Deanna Christensen, Coastal Program Analyst  
**SUBJECT:** City of Oxnard Local Coastal Program Amendment 1-07 (Breakers Way) for Public Hearing and Commission Action at the March 15, 2007 Commission Meeting in Monterey, Calif.

## **DESCRIPTION OF THE SUBMITTAL**

The City of Oxnard is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to modify the zoning map to rezone a 1.39-acre parcel within the Oxnard Shores neighborhood from the "Resource Protection" (RP) zone to the "Single Family Beach" (R-B-1) zone. The 1.39-acre parcel is located west of Harbor Boulevard, between Reef Way and Breakers Way. The amendment submittal was deemed complete and filed on January 18, 2007. The 60-day time limit for Commission action ends on March 19, 2007.

## **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the proposed amendment. The project site is located in the Oxnard Shores area of the City of Oxnard. The parcel is located in an area able to accommodate residential development, utilities are available, and the proposed density is consistent with the character of surrounding development. The site is zoned "Resource Protection" (RP) by the Coastal Zoning Code, a designation that has the purpose of providing for the protection of ESHA. However, the subject site is designated as "Existing Residential Area" under the Land Use Plan, and not as "Resource Protection" or ESHA. As such, there is a conflict between the land use designation and the zoning applied to the subject site. The City asserts that the RP zone was applied to the subject parcel as an interim measure. A provision contained in the RP zone development standards allow for the application of an interim zoning designation.

The Oxnard Shores area was previously sand dunes that were subdivided and graded prior to 1972. The subject parcel is surrounded by existing development, is highly disturbed, does not maintain viable connections to the beach or other dune communities, and is not inhabited by rare or endangered plant or animal species. Thus, the parcel does not meet the LCP definition of Environmentally Sensitive Habitat Area (ESHA). Therefore, the proposed zoning map amendment from "Resource Protection (RP)" to "Single Family Beach (R-B-1)" on this parcel will not result in impacts to ESHA, and is thus consistent with the ESHA policies of the certified Land Use Plan. Furthermore, the proposed amendment will bring the zoning designation of the property into conformity with the land use designation.

*Continued on next page*

**SUMMARY OF STAFF RECOMMENDATION CONTINUED**

The rezone proposal for the subject parcel had been a part of a previous LCP amendment request by the City of Oxnard (LCPA 1-05 (Oxnard Shores)). LCPA 1-05 proposed to rezone both the subject parcel and the Whitecap Way parcel in the Oxnard Shores neighborhood from "Resource Protection" (RP) to "Single Family Beach" (R-B-1). The amendment was scheduled for public hearing and Commission action at the August 2006 Commission hearing. In its July 27, 2006 staff report, staff recommended approval of LCP Amendment 1-05 with one suggested modification to delete the proposed zoning change of the Whitecap Way parcel and retain it in the "Resource Protection (RP)" zone district, as the site met the Coastal Act definition of Environmentally Sensitive Habitat Area (ESHA). However, prior to the Commission hearing on LCPA 1-05, the City of Oxnard withdrew the amendment request. The City now wishes to amend the LCP to rezone only the Breakers Way parcel, which is the subject of this amendment staff report.

**Substantive File Documents**

City of Oxnard, City Council Ordinance No. 2733, dated December 19, 2006; City of Oxnard, Planning Commission Resolution No. 2005-10, dated January 20, 2005; Mitigated Negative Declaration No. 98-40; "Horned Lizard Survey at the Breakers Way Site", dated November 13, 2006, prepared by Impact Sciences; "Biological Resources Analysis of Tract Number 5063", dated May 13, 2002, prepared by Dudek & Associates.

**Additional Information:** Please contact Deanna Christensen, California Coastal Commission, South Central Coast Area, 89 S. California Street, Suite 200, Ventura, CA (805) 585-1800.

## **A. PROCEDURAL ISSUES**

### **1. STANDARD OF REVIEW**

The Coastal Act provides that:

***The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...***

***The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Public Resources Code Section 30513)***

The standard of review for the proposed amendment to the Implementation Plan (Coastal Zoning Ordinance) of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is that the Commission must approve it unless the proposed amendment is not in conformance with, or is inadequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified City of Oxnard Local Coastal Program.

## 2. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held a series of public hearings (Planning Commission Hearing 1/20/05, City Council Hearings 3/01/05 and 12/19/06) and received verbal and written comments regarding the project from concerned parties and members of the public. The hearings were noticed to the public consistent with Sections 13515 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

## 3. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations, the City may submit a Local Coastal Program Amendment that will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. Oxnard City Council Ordinance No. 2733 approving LCPA 1-07 states that the amendment will take effect automatically upon Commission approval.

### B. STAFF RECOMMENDATION, MOTION, AND RESOLUTION ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)

Following public hearing, staff recommends the Commission adopt the following resolution and findings.

#### 1. CERTIFY AS SUBMITTED

**MOTION:** *I move that the Commission reject Implementation Program/Coastal Zoning Ordinance Amendment OXN-MAJ-1-07 for the City of Oxnard as submitted.*

#### **STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

#### **RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby certifies the Implementation Program/Coastal Zoning Ordinance Amendment for the City of Oxnard as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program Amendment will meet the requirements of 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 Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would

substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

## **C. FINDINGS AND DECLARATIONS FOR APPROVAL OF THE IMPLEMENTATION PROGRAM (IP) AMENDMENT AS SUBMITTED**

The following findings support the Commission's approval of the proposed amendment as submitted. The Commission hereby finds and declares as follows:

### **1. AMENDMENT DESCRIPTION AND BACKGROUND**

The City of Oxnard is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to modify the zoning map to rezone a 1.39-acre parcel, known as the Breakers Way parcel, within the Oxnard Shores neighborhood from the "Resource Protection" (RP) zone to the "Single Family Beach" (R-B-1) zone. The 1.39-acre parcel is located west of Harbor Boulevard, between Reef Way and Breakers Way. The subject parcel is designated "Existing Residential Area" on the certified Land Use Plan Map, so no amendment to the LUP is proposed or needed. The City Council Ordinance is included as Exhibit 1. In conjunction with the subject LCP amendment, the City has considered, but not yet granted a coastal development permit for, a subdivision of the subject 1.39-acre parcel into twelve residential lots. Although the proposed subdivision is not part of the subject LCP amendment request, the proposed tentative tract map is included for illustrative purposes as Exhibit 6.

The rezone proposal for the subject parcel had been a part of a previous LCP amendment by the City of Oxnard (LCPA 1-05 (Oxnard Shores)). LCPA 1-05 proposed to rezone both the subject parcel and the Whitecap Way parcel in the Oxnard Shores neighborhood from "Resource Protection" (RP) to "Single Family Beach" (R-B-1). The amendment was scheduled for public hearing and Commission action at the August 2006 Commission hearing. In its July 27, 2006 staff report, staff recommended approval of LCP Amendment 1-05 with one suggested modification to delete the proposed zoning change of the Whitecap Way parcel and retain it in the "Resource Protection (RP)" zone district, as the site met the LCP definition of Environmentally Sensitive Habitat Area (ESHA). However, prior to the Commission hearing on LCP Amendment 1-05, the City of Oxnard withdrew the amendment request. The City now wishes to proceed with an LCP amendment to rezone only the Breakers Way parcel, which is the subject of this amendment staff report. Correspondence from parties opposed to the Breakers Way parcel rezone that has been received to date, either in regard to the previously withdrawn LCPA 1-05 or the subject LCPA 1-07, are attached as Exhibit 9.

### **2. NEW DEVELOPMENT, COASTAL RESOURCES, AND ESHA**

The City of Oxnard Local Coastal Program requires that new development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it. Additionally, new development must be located where it will not have significant adverse impacts on coastal resources. Public Resources Code (PRC) Section 30250 (incorporated by reference into the certified LUP) states, in relevant part, that:

***New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.***

The Local Coastal Program also requires the protection of environmentally sensitive habitat areas (ESHA) against any significant disruption of habitat values. No development may be permitted within ESHA, except for uses that are dependent on the resource. PRC Section 30240 (incorporated by reference into the certified LUP) of the Coastal Act further requires that development adjacent to ESHA is sited and designed to prevent impacts that would significantly degrade ESHA and to be compatible with the continuance of the habitat areas. PRC Section 30240 states that:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.***
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.***

The City of Oxnard LCP defines ESHA as follows:

***Environmentally sensitive area means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.***

The proposed LCP amendment would rezone the subject parcel from “Coastal Resource Protection (RP)” to “Single Family Beach (R-B-1)”. This amendment would allow for the future approval of residential development on the parcel, consistent with the density and development standards permitted in the R-B-1 zone. The subject site is located within the Oxnard Shores neighborhood, an area between the beach and Harbor Boulevard that was subdivided prior to 1972 and is developed with single and multi-family residential structures. As such, the site is in close proximity to urban public services such as water, sewer, electrical services, and two major public roadways. Therefore, the site is located contiguous with and in close proximity to existing developed areas. The site is therefore able to accommodate the new residential development. Thus, changing the zoning designation to R-B-1, potentially facilitating future residential development on the site, would not conflict with Section 30250 of the Coastal Act as incorporated into the LUP.

The proposed R-B-1 zoning designation for the subject site will be consistent with the existing land use designation that applies. The LUP Map designates the subject site as “Existing Residential Area”. The LUP describes the Existing Residential Area designation in part as follows: “Applied only to existing, partially developed neighborhoods, this designation will allow the full buildout of these areas at existing densities.” The City proposes to modify the Coastal Zoning Map to zone the site “Single Family Beach” (R-B-1). The R-B-1 zone allows the development of single family residences, with a minimum lot area of 4,000 sq. ft., subject to several development standards. The residential development surrounding the subject site is also zoned R-B-1. The City of Oxnard has considered, although not given approval for, the

development of twelve residences on the subject site. That density would be consistent with the density requirements of the R-B-1 zone.

There is a "Resource Protection Area" Land Use Designation under the Oxnard LUP. This land use designation is: "applied only to sensitive habitat areas; this designation will preserve these resources". The land designated "Resource Protection Area" by the LUP generally corresponds to those habitats designated on the "Sensitive Habitat" (ESHA) Map in the LUP.

The subject site is not designated "Resource Protection Area" under the LUP, but as "Existing Residential Area", as discussed above. Nonetheless, the site is zoned "Resource Protection" (RP) by the Coastal Zoning Code, a designation that has the purpose of providing for the protection of ESHA. As such, there is a conflict between the land use designation and the zoning applied to the subject site. The City found that the RP zone was applied to the subject parcel as an interim measure. The Coastal Act Consistency Analysis submitted by the City on June 8, 2005 states that:

***The RP zoning designation of the site is an interim zoning designation. In accordance with Section 37-2.14.3 of the coastal zoning ordinance, "undeveloped parcels of land designated with two or more zone categories shall be totally zoned RP on an interim basis until a specific development plan is approved which is consistent with both the Oxnard Coastal Land Use Plan and all applicable provisions of (the City code)."***

***In the 1980's the subject properties were zoned A-O for agricultural and oil drilling land uses. Since the properties were used neither for agricultural or oil drilling purposes, the RP designation was placed on the properties in the mid-1980's per the coastal zoning ordinance.***

A provision which allows for the application of an interim zoning designation is contained in the "RP" zone development standards. However, there is no discussion of this provision or the specific properties that it had been applied to in the findings for the Commission's certification of the Oxnard Coastal Zoning Ordinance.

The site that is the subject of the proposed amendment is also not identified as ESHA by the LUP. The certified LUP includes the same definition of ESHA as Section 30107.5 of the Coastal Act. The certified LCP also contains policies regarding the protection of ESHA resources, including restriction of uses, the requirement of biologic studies, and development siting and design measures, including buffers. The LUP contains a sensitive habitat map showing the known sensitive habitats (ESHA) within the coastal zone. The ESHAs identified in the LUP include wetlands, dunes, riparian, and marine habitats.

It seems clear that the western area of the City of Oxnard contained extensive dune fields stretching south from the Santa Clara River along the ocean. Most of these dunes have been disturbed, altered, and destroyed for development, as is the case across much of the state. Notwithstanding the destruction of dune habitat within the City, the LUP identifies five dune areas within the coastal zone that meet the definition of ESHA:

1. A 26-acre area at the intersection of Fifth Street and Harbor Boulevard
2. A portion of a 54-acre parcel located between Harbor Boulevard and the Edison Canal, south of Wooley Road.
3. An area at the northerly end of "The Colony" property adjacent to the Oxnard State Beach park site.

4. A chain of dunes paralleling the beach from the Santa Clara River mouth south to Fifth Street.
5. Ormond Beach dunes paralleling the beach.

The subject site is not shown as containing dune ESHA. Staff also reviewed aerial photographs of the project site. A 1972 photo (included in Exhibit 10) shows that the Oxnard Shores area, including the subject site, had been graded, and paved roads and other utilities had been installed prior to the effective date of the California Coastal Zone Conservation Act of 1972 (Proposition 20). The area was sparsely developed with residences at that time. A 1979 photo (Exhibit 10) shows that many more, but not all of the parcels were developed with residences. The subject site remains vacant, flat, and sparsely vegetated in the 1979 photo.

By comparison, the dunes located east of Harbor Boulevard (south of its intersection with Wooley Road), have clearly maintained their dune geomorphology. Past photos of the area do indicate that these dunes were subject to disturbance, but it does not appear that the site was graded. The 1972 and 1979 photos show that some of the vegetation on this site had been disturbed or removed and tracks or trails made by vehicles are visible. Nonetheless, later photos show that this site maintained its dune landforms and that the site was recolonized with vegetation. In recognition of the dune landforms and habitat present, this site east of Harbor Boulevard was designated as ESHA on the LUP Sensitive Habitats Map and the site was zoned Resource Protection.

Although the subject site is not designated ESHA by the LUP, it is critical to evaluate whether the site should nonetheless be considered to contain habitat that is consistent with the definition of ESHA, in order to ensure that the proposed LCP amendment is consistent with the resource protection policies of the Oxnard LUP.

The subject site is a flat, vacant, approximately 1.39-acre parcel located on the eastern edge of the Oxnard Shores neighborhood, just west of Harbor Boulevard. The City has provided a Biological Resources Analysis, dated May 13, 2002, prepared by Dudek & Associates, Inc. that addresses the biological resources on the subject site (Exhibit 7). The report identifies one soil type on the site (sand), and two vegetation types (annual grassland and disturbed habitat). According to the report, the majority of the site (1.2 acres) contains annual grassland, and the remaining 0.19 acres contain disturbed habitat. The report states:

***Annual grassland occupies the majority of the project site. Where native plant communities have been subject to repeated or severe disturbance, the habitat frequently reverts to annual or non-native grassland. These areas usually are dominated by annual grasses, such as bromes (*Bromus* spp.) and wild oats (*Avena* spp.) and other disturbance-tolerant species such as filarees (*Erodium* spp.). Annual grassland onsite is dominated by red-stemmed filaree (*Erodium cicutarium*), pineapple weed (*Camomilla suaveolens*), California burclover (*Medicago polymorpha*), slender oat (*Avena Barbara*), and barley (*Hordeum* sp.).***

***Disturbed habitat occurs in two areas along the northern and southern project boundaries. These areas are nearly entirely lacking in vegetation, apparently due to vehicle use. At the time of the survey a vehicle was parked in the southern patch of disturbed habitat, and tire tracks were present within both the southern and northern disturbed habitat patches.***

The biological report identified no rare, endangered, or special status plant or animal species on the site. In addition, the City has provided Commission staff with a Horned Lizard Survey Report prepared by Impact Sciences, dated November 13, 2006 (Exhibit 8). The report contains the

findings of focused surveys for the Coast Horned Lizard (*Phrynosoma coronatum*) on the site that was conducted during the summer and fall of 2006. Coast Horned Lizards are listed as a Species of Special Concern by the California Department of Game, and as a Federal Special Concern species by the United States Department of Fish and Wildlife. No Coast Horned Lizards were identified during the course of the surveys.

Staff has also visited the site in August 2005 and March 2006. The visits confirmed that while the soils are primarily sand, there are no dune landforms present. The level of disturbance on the site was also very clear (Exhibit 11). It was apparent that vehicles, including heavy equipment, have been driven onto and across the site, and that people and pets have walked across the site. Additionally, construction materials and other debris have been dumped on the site, and a portion of the site has been recently used as a staging area for construction of a residence immediately north of Breakers Way. The eastern and northern portions of the parcel are largely denuded and contain significant amounts of gravel and debris. The western portion of the parcel contains annual grassland. The site abuts existing single family residences on the west, and streets fronted by single family residences to the north and south. To the east, the site abuts a two-lane frontage road. East of the frontage road, there is a block wall and further east there is a four-lane road (Harbor Boulevard). Across Harbor Boulevard to the east, there is a large area of dune habitat.

Given the rarity of dune habitats across the state, the Commission has generally considered dunes, even those that are significantly degraded, to meet the definition of ESHA, if they retain some connection to the beach or other dune areas, or if they are inhabited by plants or animals that are rare, endangered, or have other special status. In this case, based on the available information, the Commission concludes that the subject site does not meet the definition of ESHA. As described above, there has been ongoing disturbance on the subject site since before 1972. The mass grading and development of the suburban-level subdivision that was carried out in the Oxnard Shores area prior to 1972 resulted in the loss of dune topography across this entire area, including the subject site. Most of the parcels created in this area have been developed with residential or commercial structures. The subject site has not been developed. No dune landforms have ever reformed on the site. This is apparently the result of the continuing disturbance of the site, as well as the fact that the site has been physically cut off from the beach and any other source of sand by the surrounding development. The site has been disturbed by vehicles, dumping and storage of construction material and debris, and human intrusion. There is a larger, better developed, dune habitat area to the east, but it is separated from the subject site by two roads and a wall. There is no dune vegetation or dune topography on the site and there are no rare or endangered plants or animals. The Commission's biologist, Dr. John Dixon, has reviewed photos of the site, including aerial photos of the surrounding area, and the biological reports described above. Dr. Dixon also visited the site in August 2005. Based on his review of this information and site visit, Dr. Dixon concluded that the site did not contain habitat that meets the definition of ESHA.

In sum, the site does not contain plant or animal life, or habitat for plant or animal life, that is either rare or especially valuable because of its special nature or role in any ecosystem. Thus, the site does not meet the Coastal Act or LUP definition of Environmentally Sensitive Habitat Area (ESHA), and it does not contain any other coastal resources that the LUP requires be protected, such that the required protection would be incompatible with residential development. Therefore, the proposed zoning map amendment to zone the site from "Resource Protection" to "Single Family Beach" will not result in impacts to ESHA or other protected coastal resources, and the change is consistent with the policies of the certified Land Use Plan.

In summary, the subject parcel located on Breakers Way is surrounded by existing development, is highly disturbed, does not maintain viable connections to the beach or other dune communities, and is not inhabited by rare, endangered, or especially valuable plant or animal species or their habitats. Thus, it does not meet the LUP definition of Environmentally Sensitive Habitat Area (ESHA). Therefore, the Commission finds that the proposed zoning map amendment from “Resource Protection (RP)” to “Single Family Beach (R-B-1)” on this parcel will not result in impacts to ESHA, and it will not result in impacts to any other protected coastal resources. The change is thus consistent with the ESHA policies and other resource protection policies of the certified Land Use Plan. Further, the Commission finds that the proposed LCPA will bring the zoning designation of the property into conformity with the land use designation. As such, the Commission finds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan.

### **3. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Pursuant to Section 21080.9 of the California Public Resources Code, within the California Environmental Quality Act (“CEQA”), local governments are exempt from the requirement to prepare an Environmental Impact Report (“EIR”) in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program (“LCP”). Instead, the CEQA responsibilities are assigned to the Coastal Commission. The Secretary of Resources, in turn, has determined that the Commission’s program of reviewing and certifying LCPs is functionally equivalent to the EIR process. It thus qualifies for certification under Section 21080.5 of CEQA, and it has been so certified, relieving the Commission of the responsibility to prepare an EIR.

However, the Commission does have to satisfy certain CEQA-related requirements in conjunction with its approval of an LCP amendment. Specifically, in addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists and that all feasible mitigation measures have been incorporated. See 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b). These provisions of the Commission’s regulations and Section 21080.5(d)(2)(A) of CEQA require that the Commission not approve or adopt a LCP, “...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.”

The proposed amendment is to the City of Oxnard’s certified Local Coastal Program Implementation Ordinance (Coastal Zoning Ordinance). The Commission originally certified the City of Oxnard’s Local Coastal Program Land Use Plan and Implementation Ordinance in 1982 and 1985, respectively. As discussed above, the proposed LCP amendment is consistent with the policies of the Certified Local Coastal Program. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the LCP amendment is consistent with CEQA and the Land Use Plan.

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 2733

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD  
APPROVING A ZONE CHANGE FOR PROPERTY LOCATED ON THE  
WEST SIDE OF HARBOR BOULEVARD, BETWEEN BREAKERS WAY  
AND REEF WAY.

WHEREAS, in accordance with the California Environmental Quality Act, the Planning and Environmental Services Manager provided public notice of the intent of the City to adopt a mitigated negative declaration for this project, and the City Council considered the proposed mitigated negative declaration, together with any comments received during the public review process, finds on the basis of the whole record before it (including the initial study and any comments received) that with the imposition of mitigation measures as conditions of approval, there is no substantial evidence that the project will have a significant effect on the environment, further finds that the mitigated negative declaration reflects the independent judgment of the City, and adopts the mitigated negative declaration; and

WHEREAS, the documents and other materials that constitute the record of proceedings upon which the decision to adopt the mitigated negative declaration is based is located in the Planning and Environmental Services Division of the City of Oxnard, and the custodian of the record is the Planning and Environmental Services Manager.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Part 1. The zoning governing vacant property consisting of 1.39 gross acres, located on the west side of Harbor Boulevard, between Breakers Way and Reef Way (APN 191-033-15), is hereby changed from RP (Coastal Resource Protection) to R-B-1 (Single Family Beach), as shown on the map attached hereto as Exhibit A and incorporated herein by reference.

Part 2. The City Council of the City of Oxnard certifies that this ordinance is intended to be carried out in a manner fully in conformity with Division 20 of the Public Resources Code (the Coastal Act).

Part 3. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the City. Ordinance No. 2733 was first read on December 12, 2006, and finally adopted on December 19, 2006, to become effective automatically upon approval by the California Coastal Commission.

AYES: Councilmembers Herrera, Holden, Maulhardt, Zaragoza and Flynn.

NOES: None.

ABSENT: None.

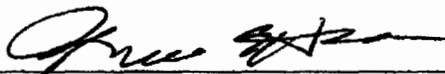
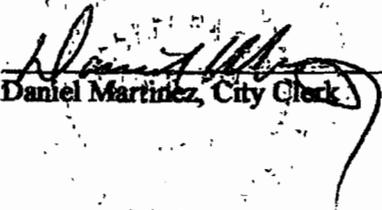
  
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Dr. Thomas E. Holden, Mayor

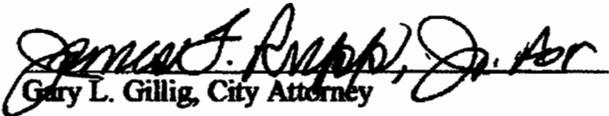
Exhibit 1
LCPA No. OXN-MAJ-1-07
City Council Ordinance 2733

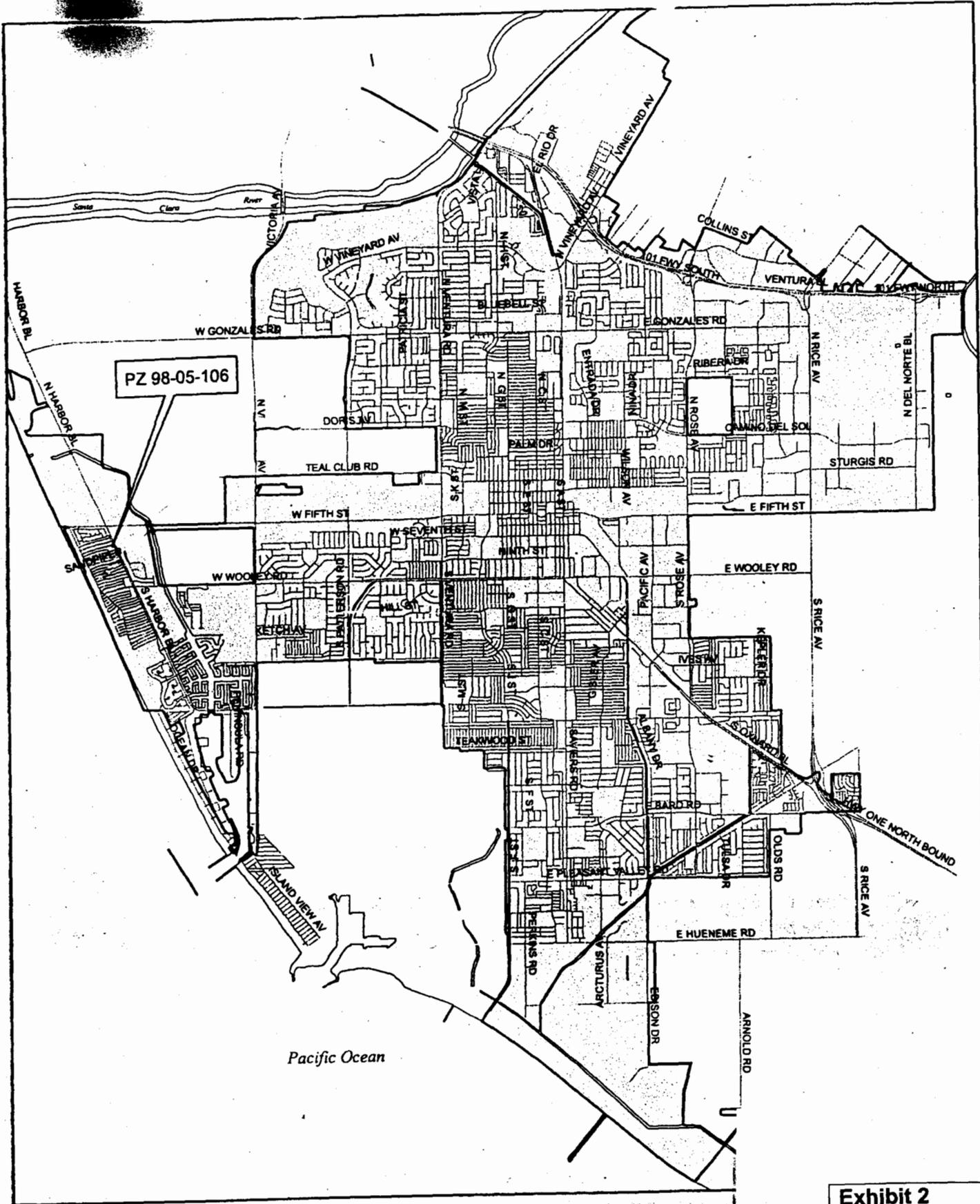
Ordinance No. 2733  
Ordinance LCPA 98-1 (PZ 06-410-003)  
Page 2

ATTEST:

  
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

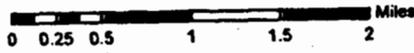
  
Gary L. Gillig, City Attorney



PZ 98-05-106

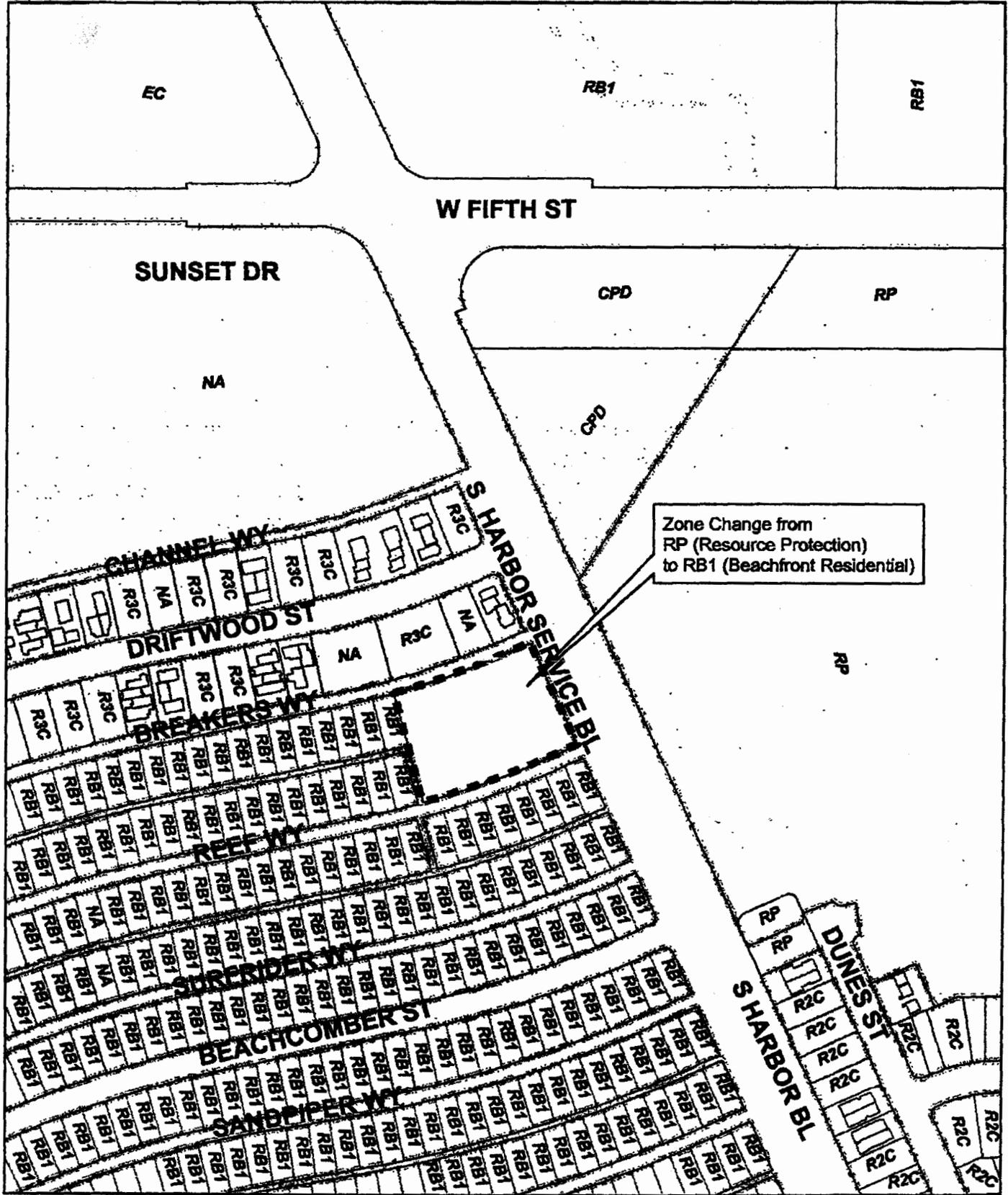
Pacific Ocean

PZ 98-05-106 & PZ 98-05-107



**Exhibit 2**  
**LCPA No.**  
**OXN-MAJ-1-07**  
**Vicinity Map**





Zone Change from  
 RP (Resource Protection)  
 to RB1 (Beachfront Residential)



Oxnard Planning  
 December 5, 2006

**Zone Change**

PZ 06-410-03  
 APN: 191003315



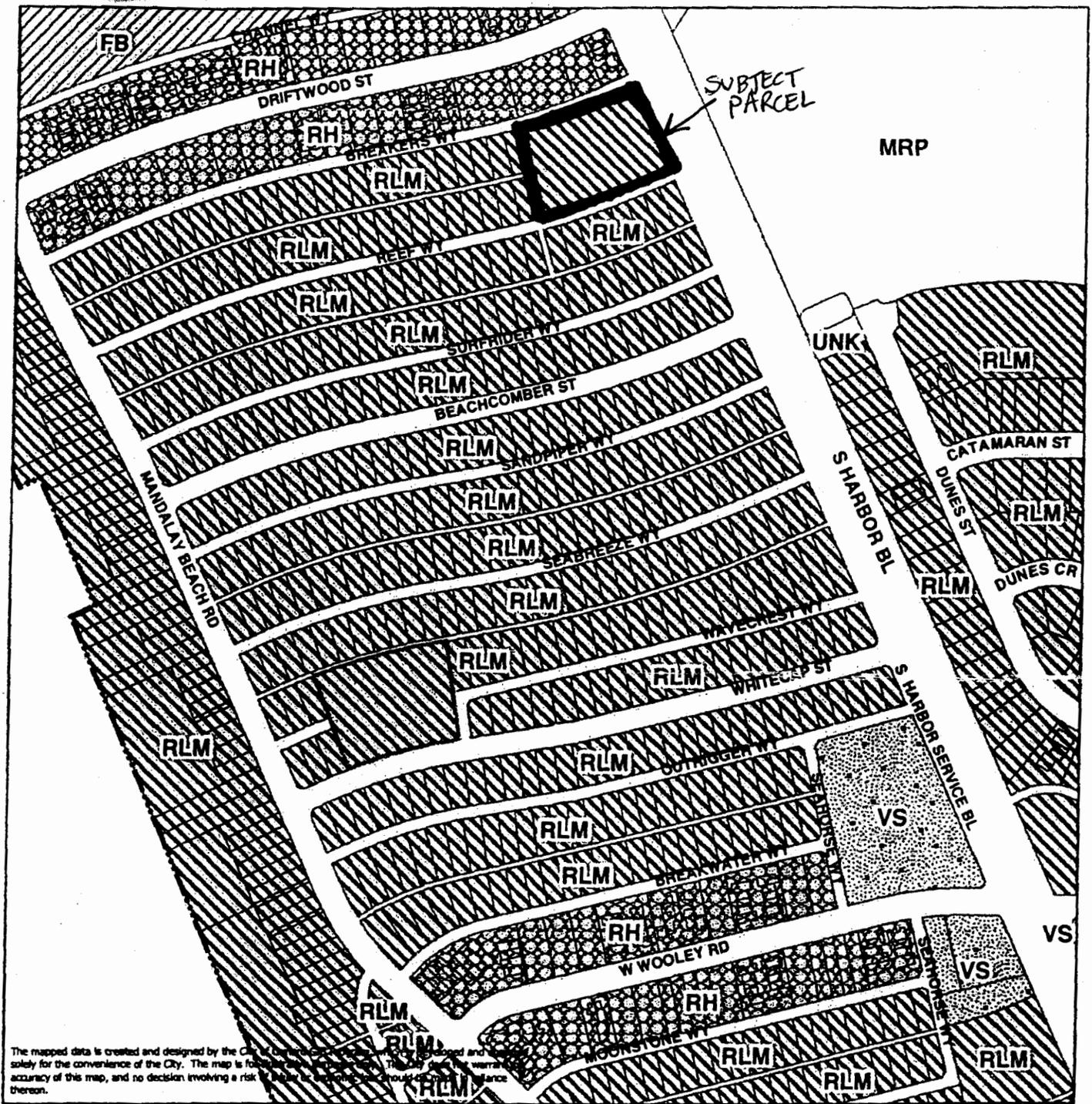
EXHIBIT A



Exhibit 3

LCPA No.  
 OXN-MAJ-1-07

Zone Change  
 Map



The mapped data is created and designed by the City of Oxnard and is provided solely for the convenience of the City. The map is for informational purposes only and does not constitute a warranty of accuracy of this map, and no decision involving a risk of injury or damage should be made on the basis of this map.

PZ 98-05-106  
PZ 98-05-107

General Plan Map

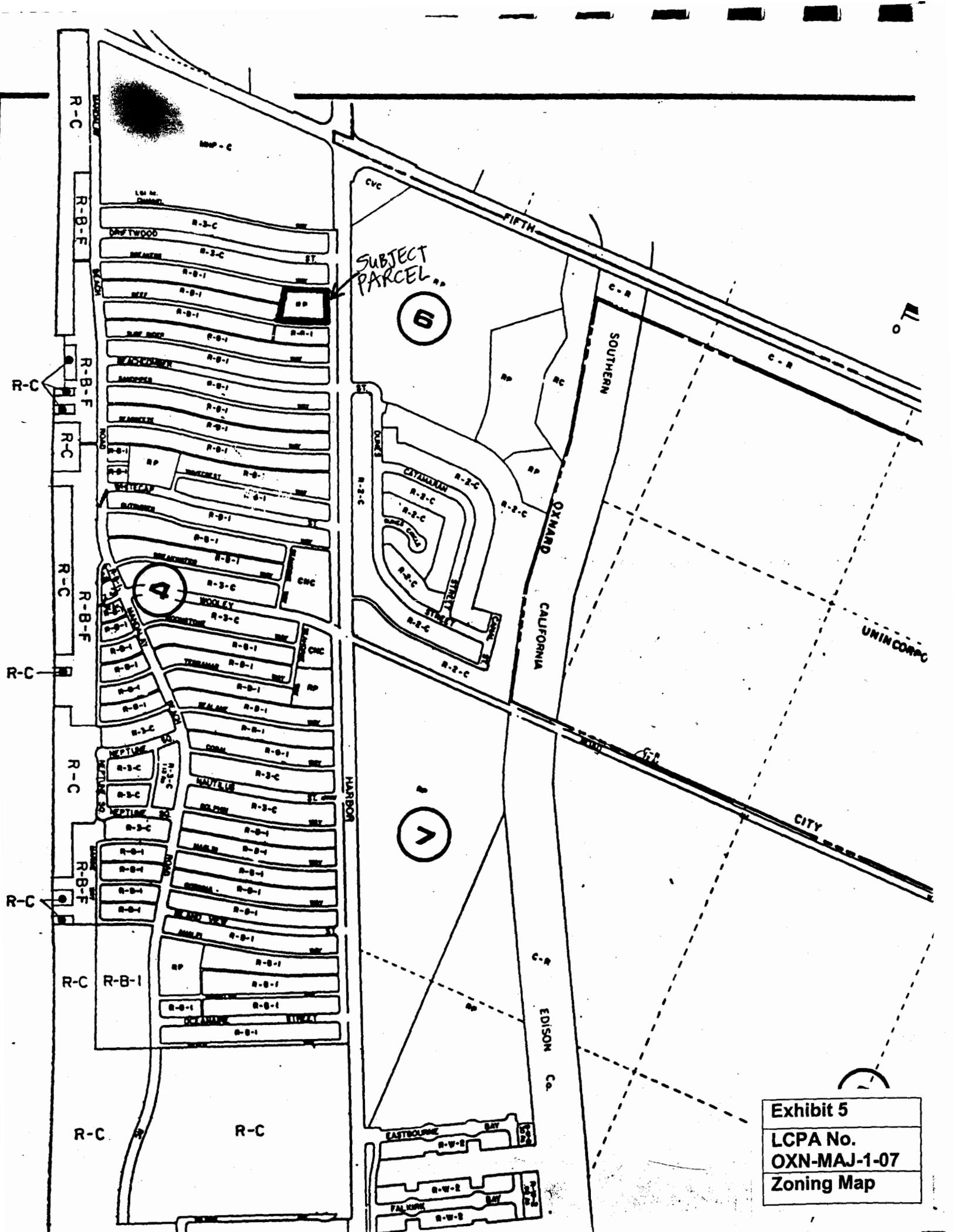
**Legend**

-  MISC MR/PLANNING RESERVE
-  RESIDENTIAL HIGH
-  RESIDENTIAL LOW MEDIUM
-  VISITOR SERVING



Planning & Environmental Services

<b>Exhibit 4</b>
<b>LCPA No.</b> <b>OXN-MAJ-1-07</b>
<b>Land Use Plan</b> <b>Map</b>



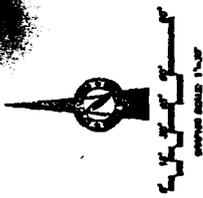
SUBJECT PARCEL

6

4

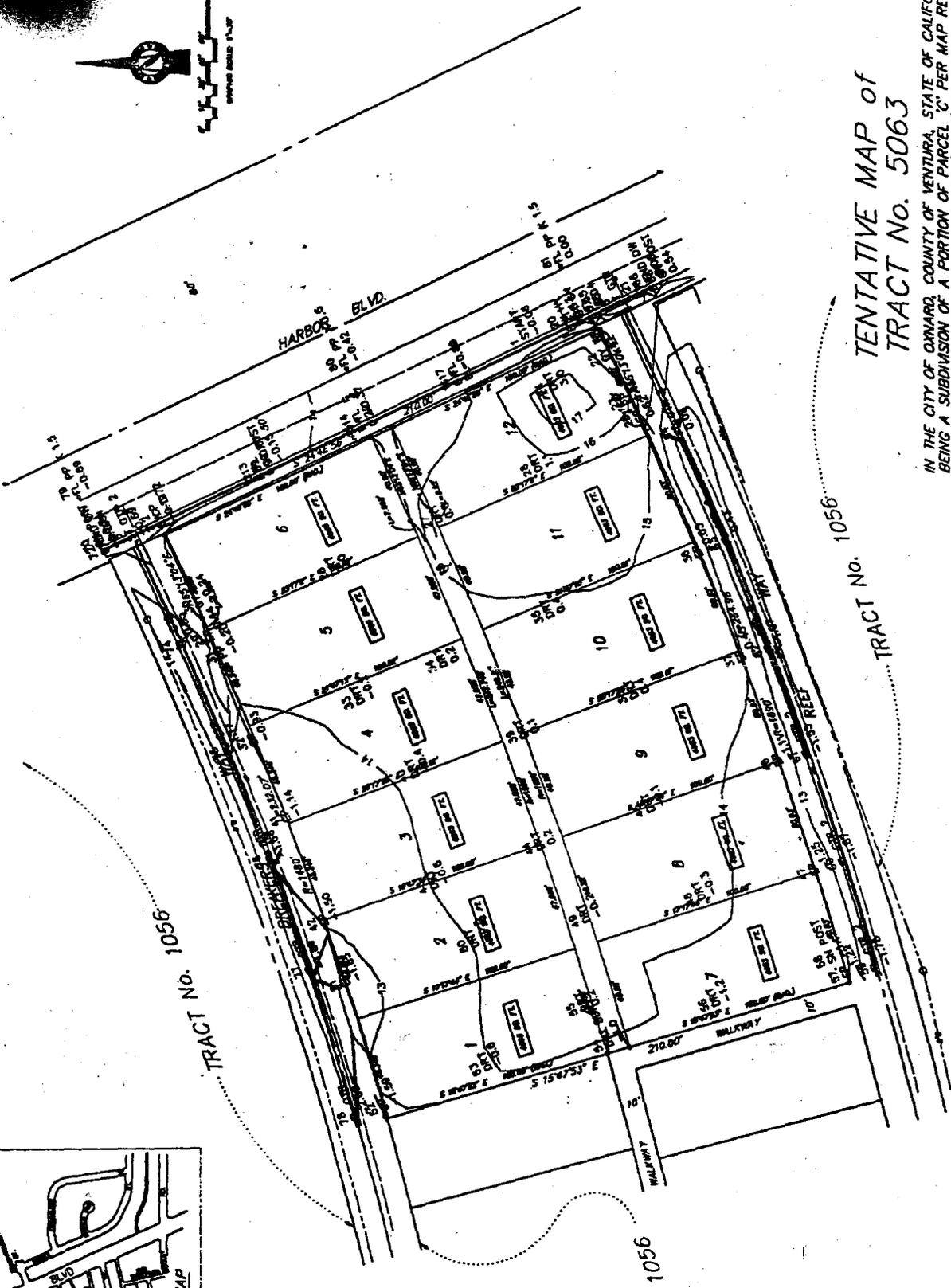
7

Exhibit 5  
 LCPA No.  
 OXN-MAJ-1-07  
 Zoning Map



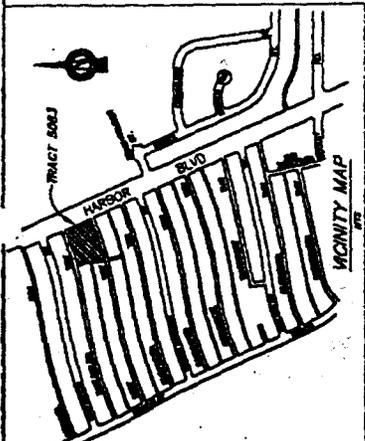
TENTATIVE MAP of  
TRACT No. 5063

IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA  
BEING A SUBDIVISION OF A PORTION OF PARCEL C, PER MAP RECORDED  
IN BOOK 16 OF MISCELLANEOUS RECORDS (MAPS) AT PAGES 46 THROUGH  
49, INCLUSIVE.



TRACT No. 1056

TRACT No. 1056



EDWIN EDISON COMPANY  
CIVIL ENGINEERS

Exhibit 6  
LCPA No.  
OXN-MAJ-1-07  
Tract Map



Engineering, Planning,  
Environmental Sciences and  
Management Services

Corporate Office:  
605 Third Street  
Encinitas, California 92024

760.942.5147  
Fax 760.632.0164

May 13, 2002

3308-01

Mr. Matthew Winegar, AICP  
Development Services Director  
City of Oxnard  
305 West Third Street  
Oxnard, CA 93030

**SUBJECT: BIOLOGICAL RESOURCES ANALYSIS OF TRACT NUMBER 5063  
(NORTH SITE), OXNARD, CALIFORNIA**

Dear Mr. Winegar:

On 13 March 2002 Dudek & Associates, Inc. (DUDEK), biologists Brock A. Ortega and Michelle L. Balk conducted a biological resources survey of the 1.39-acre Tract 5063 project site located in the City of Oxnard, California.

**1.0 PROJECT LOCATION**

The property is located east of Harbor Drive, north of Reef Way, and south of Breakers Way, in the City of Oxnard, California. The property lies within the U.S. Geological Survey 7.5 minute map, Oxnard Quadrangle: Section 1; Township 1 North, Range 25 West (Figures 1 and 2). Surrounding land uses include residential to the north, south, and west, undeveloped land (stabilized sand dune) to the immediate east, and agricultural land to the more distant east. The site is located approximately 0.5 mile from the Pacific Ocean.

**2.0 METHODS AND SURVEY LIMITATIONS**

Data regarding biological resources present on the project site were obtained through a review of pertinent literature and through field reconnaissance; both are described in detail below.

**Literature Review**

Sensitive biological resources present or potentially present onsite were identified through a literature search using the following sources: U.S. Fish and Wildlife Servi

<b>Exhibit 7</b>
<b>LCPA No. OXN-MAJ-1-07</b>
<b>Biological Report</b>

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Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

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1991, 1993), California Department of Fish and Game (1980, 1986, 1987), Impact Sciences Inc. (1998), and California Native Plant Society's Inventory of Rare and Endangered Plants (CNPS 2001). The California Natural Diversity Database (CNDDDB) was also reviewed to identify sensitive species possibly occurring within the project limits. General information regarding wildlife species present in the region was obtained from Unitt (1984), Ehrlich (1988), and Garrett and Dunn (1981) for birds, Bond (1977) for mammals, Stebbins (1985) for reptiles and amphibians, and Emmel and Emmel (1973) for butterflies.

A single soil type is present onsite: Coastal Beaches (CnB) (Edwards *et al.* 1970). Areas mapped as Coastal Beaches are usually sandy beaches with adjacent sand dunes but may also be cobbly beaches.

### Resource Mapping

A biological survey of the property was conducted by DUDEK biologists Brock Ortega and Michelle Balk on 13 March 2002. The survey was conducted from 1100 to 1200. Survey conditions were generally mild, with approximately 10% cloud cover, winds at 5 to 10 miles per hour, and an air temperature of 60° F. The survey was conducted on foot, and the entire property was walked to complete the resource mapping. All plant species encountered were identified and recorded. Those species that could not be identified immediately were brought into the laboratory for further investigation. Onsite vegetation types, using the Holland (1986) nomenclature system, were mapped directly on a 50-scale topographic/aerial photograph base map. Following completion of field work, all vegetation polygons were transferred to a topographic base and digitized into an AutoCAD drawing and, using ArcCAD, a GIS coverage was created. Once in ArcCAD, acreages of each vegetation type were determined.

Wildlife species detected during field surveys by sight, vocalizations, burrows, tracks, scat, or other sign were recorded. Binoculars (8 X 32 power) were used to aid in the identification of observed wildlife. In addition to species actually observed, expected wildlife use of the site was determined by known habitat preferences of local species and knowledge of their relative distributions in the area. Latin and common names of animals follow Stebbins (1985) for reptiles and amphibians, American Ornithologist's Union (1983, 1989) for birds, Jones *et al.* (1997) for mammals, and Emmel and Emmel (1973) for butterflies.

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A list of plant and wildlife species observed on the property is presented in APPENDIX A.

### Survey Limitations

Limitations of the surveys include seasonal constraints, a diurnal bias and the absence of focused trapping for mammals and reptiles. Botanical surveys were conducted when many spring annuals are present, therefore botanical surveys were not compromised. Climatic conditions during the surveys generally were favorable for the identification of wildlife. Surveys were conducted during the daytime to maximize visibility for the detection of plants and most animals. Birds represent the largest component of the vertebrate fauna, and because they are active in the daytime, diurnal surveys maximize the number of observations of this portion of the fauna. In contrast, daytime surveys usually result in few observations of mammals, many of which may only be active at night. In addition, many species of reptiles and amphibians are secretive in their habits and are difficult to observe using standard meandering transects. Pitfall trapping is the most effective technique for detecting many of these species; however, such trapping was beyond the scope of this project.

### 3.0 RESULTS

The CNDDDB indicated that no sensitive plant or animal species are known to occur onsite; however, several sensitive species may have the potential to occur within the project boundary. These sensitive species, their listing statuses, and their likelihood of occurring onsite are provided in *Tables 1* (plants) and *2* (wildlife).

The survey was conducted at the appropriate time of year for the detection of species listed in *Tables 1* and *2*. No sensitive plant or wildlife species were identified onsite.

### Vegetation Types

Based on species composition and general physiognomy, two vegetation types/land covers were identified during the field survey: annual (non-native) grassland and disturbed habitat. These vegetation types or land covers are described below, their acreages are presented in *Table 3*, and their spatial distributions are presented in *Figure 3*. A species list is included as APPENDIX A.

Mr. Matthew Winegar, AICP

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**TABLE 1**  
**SENSITIVE PLANT SPECIES POTENTIALLY OCCURRING ON TRACT 5063**  
**PROJECT SITE BASED ON GEOGRAPHY AND GENERAL HABITATS IN**  
**VICINITY - ACTUAL POTENTIAL FOR OCCURRENCE ANALYSIS**

Scientific Name	Common Name	Status Federal/State/ Other	Prime/Ad- Association/Life Form/Blooming Period	Status/Other Potential to Occur
<i>Arabis hoffmannii</i>	Hoffmann's rock cress	FE/None	Coastal bluff scrub/perennial herb/February-April	Not observed onsite. Extremely low potential to occur; suitable habitat not present. If present onsite, species would have been observed. Species is only known to occur on Santa Cruz Island.
<i>Astragalus brauntonii</i>	Braunton's milk-vetch	FE/None	Closed-cone conifer forest, chaparral, coastal sage scrub, Valley and foothill grassland, recent burns or disturbed areas, limestone soils/perennial herb/March-July	Not observed onsite. Low potential to occur; suitable habitat is not present. If present onsite, species would have been observed.
<i>Astragalus pycnostachyus</i> var. <i>lanosissimus</i>	Ventura marsh milk-vetch	FE/SE	Stabilized dunes, marsh and swamp, salt marsh, wetland/perennial herb/June-October	Not observed onsite. Low potential to occur; suitable habitat is not present. If present onsite, species would have been observed.
<i>Berberis pinnata</i> ssp. <i>insularis</i>	Island barberry	FE/SE	Closed-cone coniferous forest, cismontane woodland, coastal scrub/shrub/March-May	Not observed onsite. Low potential to occur; suitable habitat is not present. If present onsite, species would have been observed.
<i>Chorizanthe parryi</i> var. <i>fernandina</i>	San Fernando Valley spineflower	PFE/SCE	Coastal scrub/perennial herb/February-March	Not observed onsite. Low potential to occur; suitable habitat is not present. If present onsite, species would have been observed.

Mr. Matthew Winegar, AICP

Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

TABLE 1 (Continued)

Scientific Name	Common Name	State Federal/State Other	Primary Associational Life Form/Blooming Period	Status on Site or Potential to Occur
<i>Cordylanthus maritimus</i> ssp. <i>maritimus</i>	Saltmarsh bird's-beak	FE/SE	Coastal dunes, coastal saltwater marshes and swamps/annual herb/May-October	Not observed onsite. Moderate potential to occur onsite. If present onsite, species would have been observed.
<i>Dithyrea maritime</i>	Beach spectaclepod	None/ST	Coastal dunes, coastal scrub/perennial herb/March-May	Not observed onsite. Moderate potential to occur onsite. If present onsite, species would have been observed.
<i>Dudleya cymosa</i> ssp. <i>ovatifolia</i>	Santa Monica Mountains dudleya	FT/None	Chaparral, coastal sage scrub, volcanic substrates/perennial herb/March-June	Not observed onsite. Low potential to occur onsite; suitable habitat is not present. If present onsite, species would have been observed.
<i>Dudleya cymosa</i> ssp. <i>mercescens</i>	Marcascent dudleya	FT/None	Chaparral/rocky outcrops, slopes, talus/perennial herb/May-June	Not observed onsite. Low potential to occur onsite; suitable habitat is not present. If present onsite, species would have been observed.
<i>Dudleya abramsii</i> ssp. <i>parva</i>	Conejo dudleya	FT/None	Coastal scrub, Valley and foothill grassland/perennial herb/April-June	Not observed onsite. Low potential to occur onsite; suitable habitat is not present. If present onsite, species would have been observed.
<i>Dudleya verityi</i>	Verity's dudleya	FT/None	Chaparral, coastal scrub, Valley and foothill grassland/north-facing volcanic outcrops/perennial herb/May-June	Not observed onsite. Low potential to occur onsite; suitable habitat is not present. If present onsite, species would have been observed.

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Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

TABLE 1 (Continued)

Scientific Name	Common Name	Status: Federal/State/Other	Primary Life Form/Blooming Period	Status: Onsite or Potential to Occur
<i>Eriogonum grande</i> var. <i>timorum</i>	San Nicolas Island buckwheat	None/SE	Coastal bluff scrub/dry cliffs/perennial herb/March-December	Not observed onsite. Extremely low potential to occur onsite; suitable habitat is not present. If present onsite, species would have been observed. Species is only known to occur on San Nicholas Island.
<i>Malacothrix squelida</i>	Island malacothrix	FE/None	Chaparral, cismontane woodland, coastal bluff scrub/shallow soils, canyon flats or slopes/annual herb/April-July	Not observed onsite. Low potential to occur onsite; suitable habitat is not present. If present onsite, species would have been observed.
<i>Orcuttia californica</i>	California Orcutt grass	FE/SE	Vernal pools/annual herb/April-June	Not observed onsite. No potential to occur onsite; suitable habitat is not present. If present onsite, species would have been observed.

Legend

- FE: Federally-listed as endangered
- FT: Federally-listed as threatened
- PFE: Proposed for federal listing as endangered
- SCE: State candidate for listing as endangered
- SE: State-listed as endangered

Mr. Matthew Winegar, AICP

Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

**TABLE 2  
SENSITIVE WILDLIFE SPECIES POTENTIALLY OCCURRING ON TRACT 5063  
PROJECT SITE BASED ON GEOGRAPHY AND GENERAL HABITATS IN  
VICINITY - ACTUAL POTENTIAL FOR OCCURRENCE ANALYSIS**

Scientific Name	Common Name	Federal/State	Primary Habitat Associations	Status/Status Potential
<b>AMPHIBIANS</b>				
<i>Scaphiopus hammondi</i>	Western spadefoot toad	None/CSC, P	Most common in grasslands, coastal sage scrub near rain pools or vernal pools; riparian habitats	Very low potential to occur onsite based on isolation of site and apparent lack of suitable breeding sites
<b>REPTILES</b>				
<i>Anniella pulchra pulchra</i>	Silvery legless lizard	FS, CNF/CSC	Loose soils (sand, loam, humus) in coastal dune, coastal sage scrub, woodlands, and riparian habitats	Moderate potential to occur onsite
<i>Arizona elegans occidentalis</i>	Coastal (California) glossy snake	None/None	Grassland, chaparral, coastal sage scrub, woodlands in sandy and rocky substrates	Low potential to occur due to isolation of site
<i>Cnemidophorus tigris multiscutatus</i>	Coastal western whiptail	None/None	Coastal sage scrub, chaparral	Low potential to occur due to isolation of site
<i>Cnemidophorus hyperythrus beldingi</i>	Orange-throated whiptail	None/CSC, P	Coastal sage scrub, chaparral, grassland, juniper and oak woodland	Low potential to occur due to isolation of site
<i>Diadophis punctatus similis</i>	San Diego ringneck snake	FS, CNF/None	Moist habitats; woodland, forest, grassland, chaparral; typically found under debris	Low potential to occur due to isolation of site
<i>Phrynosoma coronatum blainvillei</i>	San Diego horned lizard	FS, CNF/CSC, P	Coastal sage scrub, annual grassland, chaparral, oak and riparian woodland, coniferous forest	Very low potential to occur due to isolation of site
<b>BIRDS</b>				
<i>Ammodramus savannrum</i>	Grasshopper sparrow	PIF, SMC/None	Open grassland and prairie, especially native grassland with a mix of grasses and forbs	Very low potential to occur due to isolation of site

Mr. Matthew Winegar, AICP

Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

TABLE 2 (Continued)

Scientific Name	Common Name	State	Primary Habitat/Associations	Status/Use of Potential Occurrence
<i>Ardea herodias</i>	Great blue heron	None/None	Variety of habitats, but primarily wetlands; lakes, rivers, marshes, mudflats, estuaries, saltmarsh, riparian habitats	Likely forages onsite occasionally but does not breed
<i>Asio flammeus</i>	Short-eared owl	PIF, MNBMC/CSC	Grassland, prairies, dunes, meadows, irrigated lands, saline and freshwater emergent wetlands	Very low potential to occur due to isolation of site
<i>Cathartes aura</i>	Turkey vulture	SBNF/None	Rangeland, agriculture, grassland; uses cliffs and large trees for roosting, nesting and resting	Likely forages onsite occasionally but does not breed onsite
<i>Charadrius alexandrinus nivosus</i>	Western snowy plover	FT, MNBMC/CSC (only coastal nesting population is listed)	Nesting habitat along coast includes sandy or gravelly beaches; inland nesting habitat is barren or sparsely vegetated ground at alkaline or saline lakes, reservoirs, ponds, riverine sand bars, and sewage, salt evaporation and agriculture waste-water ponds	No potential to occur onsite due to lack of appropriate habitat
<i>Circus cyaneus</i>	Northern harrier	PIF/CSC	Open wetlands (nesting), pasture, old fields, dry uplands, grasslands, rangelands, coastal sage scrub	Likely forages onsite occasionally but does not breed onsite
<i>Elanus leucurus</i>	White-tailed kite	PIF, MNBMC, SBNF/R, P	Open grasslands, savanna-like habitats, agriculture, wetlands, oak woodlands, riparian	Likely forages onsite occasionally but does not breed onsite
<i>Eremophila alpestris actia</i>	California horned lark	None/CSC	Open habitats, grassland, rangeland, shortgrass prairie, montane meadows, coastal plains, fallow grain fields	Likely forages onsite occasionally but does not breed onsite

Mr. Matthew Winegar, AICP

Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

TABLE 2 (Continued)

Scientific Name	Common Name	Status Federal/State	Primary Habitat/Associations	Status Onsite or Potential to Occur
<i>Falco columbarius</i>	Merlin	None/CSC	Nests in open country, open coniferous forest, prairie; winters in open woodlands, grasslands, cultivated fields, marshes, estuaries and sea coasts	Likely forages onsite occasionally but does not breed onsite
<i>Falco mexicanus</i>	Prairie falcon	PIF, SBNF/CSC	Grassland, savannas, rangeland, agriculture, desert scrub, alpine meadows; nest on cliffs or bluffs	Likely forages onsite occasionally but does not breed onsite
<i>Lanius ludovicianus</i>	Loggerhead shrike	MNBMC/CSC	Open ground including grassland, coastal sage scrub, broken chaparral, agriculture, riparian, open woodland	Likely forages onsite occasionally but does not breed onsite
<i>Siala mexicana</i>	Western bluebird	None/None	Open forests of deciduous, coniferous or mixed trees, savanna, edges of riparian woodland	Likely forages onsite occasionally but does not breed onsite
<i>Speotyto (Athene) cunicularia</i>	Western burrowing owl	BLM, MNBMC/CSC	Grassland, lowland scrub, agriculture, coastal dunes and other artificial open areas	Not present onsite. Would have observed the species or evidence of occupation if present onsite
<b>MAMMALS</b>				
<i>Lepus californicus bennettii</i>	San Diego black-tailed jackrabbit	None/CSC	Arid habitats with open ground; grasslands, coastal sage scrub, agriculture, disturbed areas, rangelands	Not present onsite. Would have observed the species or evidence of occupation if present onsite
<i>Taxidea taxus</i>	American badger	SBNF/R	Dry, open treeless areas, grasslands, coastal sage scrub	Not present onsite. Would have observed the species or evidence of occupation if present onsite
<b>INVERTEBRATES</b>				
<i>Branchinecta lynchi</i>	Vernal pool fairy shrimp	FT/None	Vernal pools; cool-water pools with low to moderate dissolved solids	Not present onsite due to lack of suitable habitat

The federal and state status of species primarily is based on the Special Animals List (January 2000), California Department of Fish and Game. It has been updated as needed. This version is dated November 17, 2000.

Mr. Matthew Winegar, AICP

Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

**TABLE 2 (Continued)**

**Federal Designations:**

BLM	Bureau of Land Management Sensitive Species
CNF	Cleveland National Forest Sensitive Species
FE	Federally-listed Endangered
FS	Forest Service Region 5 Sensitive Species
FT	Federally-listed as Threatened
MNBMC	Fish and Wildlife Service Migratory Nongame Birds of Management Concern
PFT	Proposed for listing as Federally Threatened
PIF	Partners in Flight Watch List
SBNF	San Bernardino National Forest Sensitive
SMC	Fish and Wildlife Service Region 1 Species of Management Concern

**State Designations:**

CDF	California Department of Forestry and Fire Protection Sensitive Species
CSC	California Special Concern Species
P	California Department of Fish and Game Protected and Fully Protected Species
R	California Rare Species
SE	State-listed as Endangered
ST	State-listed as Threatened

**TABLE 3  
ACREAGES BY HABITAT TYPE**

Vegetation/Land Cover Type	Acreage
Annual (non-native) grassland	1.20
Disturbed Habitat	0.19
<b>TOTAL</b>	<b>1.39</b>

Annual grassland occupies the majority of the project site. Where native plant communities have been subject to repeated or severe disturbance, the habitat frequently reverts to annual or non-native grassland. These areas usually are dominated by annual

Mr. Matthew Winegar, AICP

Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

grasses, such as bromes (*Bromus* spp.) and wild oats (*Avena* spp.), and other disturbance-tolerant species such as filarees (*Erodium* spp.). Annual grassland onsite is dominated by red-stemmed filaree (*Erodium cicutarium*), pineapple weed (*Camomilla suaveolens*), California burclover (*Medicago polymorpha*), slender oat (*Avena barbata*), and barley (*Hordeum* sp.).

**Disturbed habitat** occurs in two areas along the northern and southern project boundaries. These areas are nearly entirely lacking in vegetation, apparently due to vehicle use. At the time of the survey a vehicle was parked in the southern patch of disturbed habitat, and tire tracks were present within both the southern and northern disturbed habitat patches.

#### 4.0 REGIONAL RESOURCE PLANNING CONTEXT

The project site does not lie within an existing or proposed focused planning area. The site does not contribute to regional wildlife movement as it is surrounded on three sides by residential development and on the fourth side by a busy street.

#### 5.0 IMPACTS AND MITIGATION REQUIREMENTS

##### Proposed Project Impacts

The proposed subdivision project would impact the entire project site: 1.20 acres of annual (non-native) grassland and 0.19 acre of disturbed habitat.

##### Mitigation Requirements

Impacts to annual (non-native) grassland and disturbed habitat are not considered significant; no mitigation is recommended.

*Mr. Matthew Winegar, AICP*

*Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California*

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If you have any questions or comments, please do not hesitate to contact me at (760) 942-5147.

Very truly yours,

DUDEK & ASSOCIATES, INC.

---

Michelle Balk  
Biologist

*MB/ems*

*cc: Brock Ortega, DUDEK*

*att: Figures 1 through 3  
Appendix A*

*Mr. Matthew Winegar, AICP*

*Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California*

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## LITERATURE CITED

- Bond, S.I. 1977. Annotated List of the Mammals of San Diego County, California. Trans. San Diego Soc. Nat. Hist. 18:229-248
- California Department of Fish and Game (CDFG). 1980. At the Crossroads: A Report on the Status of California's Endangered and Rare Fish and Wildlife. State of California Resources Agency, Sacramento, California.
- California Department of Fish and Game (CDFG). 1986. Endangered, Rare, and Threatened Animals of California. State of California Resources Agency, Sacramento, California.
- California Department of Fish and Game (CDFG). 1987. Designated Endangered or Rare Plants. Summary list from Section 1904 Fish and Game Code (Native Plant Protection Act). State of California Resources Agency, Sacramento, California.
- California Department of Fish and Game (CDFG). 2000 (January). California Natural Diversity Database, Special Animals. The Resources Agency, Wildlife and Habitat Data Analysis Branch.
- CNPS. 2001. Inventory of Rare and Endangered Plants of California. Special Publication No. 1 (6th Edition), Scientific Advisory Committee, California Native Plant Society, David P. Tibor, Convening Editor, Sacramento, California.
- Edwards, R.D., D.F. Rabey, and R.W. Kover. 1970. Soil Survey of the Ventura Area, California. United States Department of Agriculture, Soil Conservation Service, in Cooperation with the University of California Agricultural Experiment Station.
- Ehrlich, P.R. 1988. The Birder's Handbook: a Field Guide to the Natural History of North American Birds. Simon and Schuster, Fireside, New York, New York.
- Emmel, T.C. and J.F. Emmel. 1973. The Butterflies of Southern California. Natural History Museum of Los Angeles County, Science Series 26:1-148.

*Mr. Matthew Winegar, AICP*

*Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California*

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Garrett, K. and J. Dunn. 1981. Birds of Southern California: Status and Distribution. Los Angeles Audubon Society, Los Angeles, California.

Impact Sciences, Inc. 1998. North Shore at Mandalay Bay Draft EIR.

Stebbins, R.C. 1985. A Field Guide to Western Reptiles and Amphibians. Houghton Mifflin Co., Boston, Mass.

United States Fish and Wildlife Service (USFWS). 1989. Federal Register, Part 4, Endangered and Threatened Wildlife and Plants; Animal Notice of Review. 50 CFR Part 17. Department of the Interior.

United States Fish and Wildlife Service (USFWS). 1990. Federal Register, Part 4, Endangered and Threatened Wildlife and Plants; Review of Plant Taxa for Listing as Endangered or Threatened Species, Notice of Review. 50 CFR Part 17. Department of the Interior.

United States Fish and Wildlife Service (USFWS). 1991. Federal Register, Part 8, Endangered and Threatened Wildlife and Plants; Animal Candidate Review for Listing as Endangered or Threatened Species, Proposed Rule. 50 CFR Part 17. Department of the Interior.

United States Fish and Wildlife Service (USFWS). 1993. Federal Register, Part 8, Endangered and Threatened Wildlife and Plants; Review of Plant Taxa for Listing as Endangered or Threatened Species. 50 CFR Part 17. Vol. 58. No. 188. Department of the Interior.

Unitt, P.A. 1984. Birds of San Diego County. Memoir 13, San Diego Society of Natural History.

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# Appendix A

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## *List of Species Observed Onsite*

Mr. Matthew Winegar, AICP

Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

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## APPENDIX A

### LIST OF SPECIES OBSERVED ONSITE

#### VASCULAR PLANT SPECIES

##### ANGIOSPERMAE (DICOTYLEDONES)

###### AIZOACEAE - CARPET-WEED FAMILY

- \* *Carpobrotus edulis* - hottentot-fig

###### ASTERACEAE - SUNFLOWER FAMILY

- \* *Chamomilla suaveolens* - pineapple weed

###### BRASSICACEAE - MUSTARD FAMILY

- \* *Brassica nigra* - black mustard
- \* *Capsella bursa-pastoris* - shepherd's purse
- Lepidium* sp. - peppergrass

###### FABACEAE - PEA FAMILY

- \* *Medicago polymorpha* - California burclover

###### GERANIACEAE - GERANIUM FAMILY

- \* *Erodium botrys* - broad-lobed filaree
- \* *Erodium cicutarium* - red-stemmed filaree

###### MALVACEAE - MALLOW FAMILY

- \* *Malva parviflora* - cheeseweed

##### ANGIOSPERMAE (MONOCOTYLEDONES)

###### POACEAE - GRASS FAMILY

- \* *Avena barbata* - slender oat

Mr. Matthew Winegar, AICP

Re: Biological Resources Analysis of Tract Number 5063 (North Side), Oxnard, California

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### **APPENDIX A (Continued)**

- \* *Bromus diandrus* - ripgut grass
- \* *Cynodon dactylon* - Bermuda grass
- Hordeum* sp. - barley

### **WILDLIFE SPECIES - VERTEBRATES**

#### **BIRDS**

#### **EMBERIZIDAE - WOOD WARBLERS, TANAGERS, BUNTINGS & BLACKBIRDS**

*Euphagus cyanocephalus* - Brewer's blackbird

#### **FRINGILLIDAE - FINCHES**

*Carpodacus mexicanus* - house finch

#### **STURNIDAE - STARLINGS**

- \* *Sturnus vulgaris* - European starling

#### **MAMMALS**

#### **GEOMYIDAE - POCKET GOPHERS**

*Thomomys bottae* - Botta's pocket gopher

- \* signifies introduced (non-native) species



**IMPACT SCIENCES**

803 Camarillo Springs Road, Suite A  
Camarillo, California 93012  
Telephone (805) 437-1900 FAX (805) 437-1901  
www.impactsciences.com

**RECEIVED**  
JAN 03 2006  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**MEMORANDUM**

**To:** Steve Kaufmann  
**From:** Larry Lodwick  
**Subject:** Horned Lizard survey at the Breakers site, Oxnard, CA  
**Date:** 11/13/06

**Job No. 764-02**

**COMMENTS**

**Introduction**

During the summer and fall of 2006, Impact Sciences visited the 1.5 acre Breakers site on four separate occasions to conduct focused surveys for the San Diego horned lizard (*Phrynosoma coronatum*). Surveys were conducted by four qualified biologists on July 11 and September 7, three biologists conducted surveys on September 29, and two biologists performed the surveys on October 12. The environmental conditions (weather, ambient air temperature, cloud cover, soil temperature, etc) were suitable for conducted reptile surveys and observing reptiles (if present) during each site visit. Surveys were conducted under clear to partly cloudy conditions with ambient air temperatures ranging between 65-70 degrees F, and surface soil temperatures ranging between 75 and 80 degrees F. The surveys occurred between 1:00 and 2:00 PM, 5:00 and 5:30 PM, 4:00 and 5:00 PM, and 4:00 and 5:00 PM, respectively on the dates listed above. No San Diego horned lizards were observed during the surveys, nor were any other reptile species.

**Note:** The conditions for conducting focused surveys for silvery legless lizards (*Anniella pulchra pulchra*) were not suitable during the dates surveyed; therefore, biologists did not focus efforts on this species during the summer and fall 2006 site visits.

**Environmental Setting**

The 1.5 acre site is located near the intersection of Breakers Way and Harbor Boulevard, less than one mile from the Pacific Ocean. The elevation on the site is between 10-20 feet above mean sea level (msl). The general topography of the site can be characterized as flat. Soils on site are composed of compacted dirt, sand and gravel. The site appears to have been graded in the last few years. The vegetation on site consisted primarily of non-native grasses and herbaceous plants characteristic of disturbed si

<b>Exhibit 8</b>
<b>LCPA No. OXN-MAJ-1-07</b>
<b>Lizard Survey Report</b>

species include black mustard (*Brassica nigra*), tocalote (*Centaurea melitensis*), cheeseweed (*Malva parviflora*), salt heliotrope (*Heliotropium curassavicum*), and ice plant (*Carpobrotus edulis*).

#### Methods

Consistent methods were implemented on each of the four surveys. Surveys began by conducting a preliminary visual survey of San Diego horned lizards throughout the site for about 20 minutes. Following the visual surveys, biologists walked line transects across the entire site spaced at 10-15 feet apart to obtain 100% visual coverage of the site. Biologists focused more thoroughly on areas where native plants occur; however, all habitats were surveyed.

#### Results

No San Diego horned lizards were observed during the surveys.

#### Conclusions

Impact Sciences conducted 9 man-hours of surveying the Breakers site and adjacent vacant lands for the presence of coast horned lizards, over various dates and times of day, all under ideal conditions, during the summer and fall of 2006. The entire Breakers site was visually observed by biologists walking transects across the site. During the surveys, no horned lizards were found. Horned lizards are present within 0.25 mile of the site and extremely marginal habitat is present on site (i.e., the sandy conditions). However, there is a lack of native vegetation present. The Breakers site is surrounded by several barriers that inhibit immigration onto the site, such barriers include Harbor Boulevard, several blocks of dense residential development, predators, including dogs, cats, and ravens. Horned lizards have also been collected as pets, and are still picked up by people. In summary, the Breakers site is fragmented from suitable habitat to the east and it would be unlikely to sustain a population of horned lizards over a period of time.

---

**Dee Vitrano  
Aubey Hashman  
5012 Nautilus St.  
Oxnard, CA 93035  
Phone: 805-984-7095**

**RECEIVED**  
JAN 16 2007

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CALIFORNIA COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

January 9, 2007

California Coastal Commission  
89 S. California St., 2nd Floor  
Ventura, CA 93001

Dear Coastal Commission,

We are writing regarding LCP Amendment OXN-MAJ-1-05. We don't want to see the two sites rezoned.

This beach community is crowded and parking is already difficult. The community was designed in 1960 and many homes only have parking of one car. The residents who live on the ways only have a small driveway to park on and the neighborhood was designed with very little curbside parking. Public parking at this beach is limited.

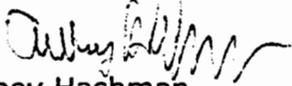
The community would like to see the sites protected and restored to natural sand dune areas. The community can restore the two sites. These sites will become outdoor classrooms for people to learn about native sand dune plants.

Please do not rezone Coastal Resource Protected land. The McGrath family gave these sites to City of Oxnard for Open Purposes Only and they should be kept that way.

Sincerely,



Dee Vitrano



Aubey Hashman

<b>Exhibit 9</b>
<b>LCPA No. OXN-MAJ-1-07</b>
<b>Correspondence</b>

**Marcus A. Horwitz  
Helene L. DesRuisseaux  
1275 Stradella Road  
Los Angeles, CA 90077**

July 29, 2006

California Coastal Commission  
89 So. California Street, 2<sup>nd</sup> Floor  
Ventura, CA 93001

Ladies and Gentlemen:

This letter is to express our opposition to the rezoning of the Reef Way and Whitecap parcels for development.

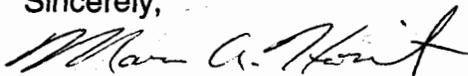
We frequent the Mandalay Shores area almost weekly and enjoy walking in the neighborhood. Over the years, we have seen much of the beauty of the area disappear. Many of the adjacent areas that were farms are now mega-developments. Whereas one use to be able to walk down Harbor Blvd. and see the ocean, now one sees only homes blocking the view. The area at Reef Way and Whitecap is one of the few natural vistas remaining to be seen when walking the neighborhood.

A year or so ago, we voted for a bond fund to increase our taxes so that the state could purchase and thereby preserve natural areas. However, many of these areas are difficult for many of us to reach and enjoy. What we appreciate more is the small natural areas that are in close proximity to where we live or visit. That is why having a small natural area like the one at Reef Way and Whitecap is so important and special.

With the massive development of housing in immediate proximity to Mandalay Shores, do we really need to sacrifice this small oasis on the altar of development? This small area at Reef Way and Whitecap will at most yield a handful of housing units. Given the thousands of housing units being built within a few miles of it, does it make sense to destroy a small area of open space and natural beauty for a few more housing units? To me, this would amount to a net loss for all of us.

Thank you for your consideration.

Sincerely,

  
Marcus A. Horwitz

  
Helene L. DesRuisseaux

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JUL 31 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**FELICITY A. HARPER**

5225 Wavecrest Way  
Oxnard, California 93035-1844  
805-985-4335

April 18, 2006

RECEIVED  
APR 20 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission  
89 S. California Street, 2<sup>nd</sup> Floor  
Ventura, CA 93001

RE: LCP Amendment OXN-MAJ-1-05

Dear Commissioners:

I am writing to protest the development of the parcel of land known as the McGrath site, located between Reef Way and Whitecap Street in the Oxnard Shores area of the City of Oxnard. My home is located on Wavecrest Way approximately 300 feet east from that site.

When I purchased this property in 1976, I was told that the McGrath site had been donated to the city with the caveat that it would not be developed. That was a selling point, since lots on this way are small, and the system of ways and streets in the Oxnard Shores neighborhood greatly reduces the parking available for both residents and guests. Parking is difficult already and will worsen dramatically with the addition of 11 new homes.

This site is the only open area of dunes-type land remaining on the west side of Harbor Boulevard that is suitable for a small park or to leave in its natural state. Our beach-front is gradually filling, and has few coastal access points. This remaining open space is valued for its ability to improve the quality of life in our local area.

Furthermore, the City of Oxnard has not been diligent in keeping the neighborhood informed of the status of this project or the site postings updated. City spokespersons do not have all the facts when they come to open meetings.

Please consider the needs and desires of the current residents when deciding whether to permit development of this site.

Sincerely,



Felicity A. Harper

EXHIBIT NO. 12  
APPLICATION NO.  
OXN-MAJ-1-05

California Coastal Commission  
89 So. California St 2<sup>nd</sup> floor  
Ventura, Ca. 93001  
April 17, 2006

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APR 20 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

To Whom It May Concern,

I moved to a wonderful house on Whitecap St. last year .  
When considering the purchase, I was told by my realtor and  
the local association that the vacant lots down the block  
were to be turned into a small park. What a wonderful  
change from all the building-to enjoy some open space.  
With the plans to develop the area east of Harbor, I would  
hope some area would be preserved as open space. I am  
dreading the traffic and parking problems and pollution  
that comes with an over crowded community.  
Please listen to the residents of Oxnard Shores and do not  
build on Whitecap or Reef Way.

Susan Seaberry  
5153 Whitecap St.  
Oxnard, Ca. 93035

Robert V. McCabe  
5201 Wavecrest Way  
Oxnard Shores, CA 93035  
(805) 985-1011

April 17, 2006

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APR 20 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**TO : California Coastal Commission**  
**RE: OXN-MAJ-1-05**

**I am opposed to the development on Whitecap-Wavecrest Way, and also the further development on Reef Way for the same following reasons.**

**The traffic in the Oxnard Shores area has become horrific. Harbor Blvd, in the morning and evening hours has almost become a parking lot. The majority of the beach lots have been developed to the point of making it difficult to access the beach. The neighborhood is going to be further affected when the several developments on the eastside of Harbor Blvd, are completed.**

**Several months ago I sent an e-mail to the Oxnard City Council expressing my opposition to developing Wavecrest-Whitecap with an additional twelve or thirteen homes. I have been a resident of Wavecrest Way for over thirty years and had heard many times in the past that the parcel was going to be used as a park for the residents as most homes do not have back yards and very small front yards. I did receive a phone call in reply to my e-mail from a member of the city council, I inquired as to the reasoning of developing this parcel of land to single family dwellings I was told that the money generated by the sale of this property would be sufficient to build new facilities for the Oxnard City Council, plus the added money to the tax base. I can not adequately explain how upset I became when hearing from a council member that the reason he voted for the approval was to solely benefit the city council with new meeting and office facilities, without a thought to the residents or the added congestion this project would cause to the neighborhood.**

**I pray that the members of the Coastal Commission will see thru the charade that the Oxnard City Council is trying to place upon the residents of Oxnard Shores and vote not to pass on the development of these properties.**

**Thanking you in advance for your cooperation and understanding.**

**I remain respectfully,**

  
**Robert V. McCabe**

**Gregory C. Fast**  
5303 Surfdrider Way • Oxnard, CA 93035

April 24, 2006

California Coastal Commission  
89 So. California Street, 2d Floor  
Ventura, CA 93001

RECEIVED  
APR 25 2006

Re: OXN-MAJ-1-05

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Dear Coastal Commission:

I write to voice my opposition the development of the property on Wavecrest Way and Whitecap in Oxnard Shores. I would also like to oppose development on Reef Way.

With regard to both proposals, additional housing will bring more vehicles to surface streets that are already fully utilized. There is a proposed major home development project at the northeast corner of Harbor and West Fifth Street and many condominiums and townhomes are currently under construction around the expanded marina (along Wooley and, then, south along Victoria). The cars of the new residents of these houses, townhomes and condominiums will create gridlock on Harbor, West Fifth, Wooley and Victoria.

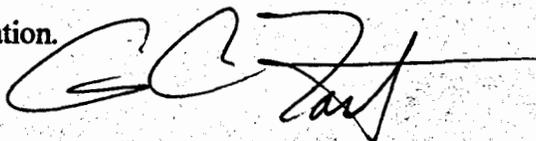
Meanwhile, Oxnard Shores has become virtually fully developed (i.e., there are very few remaining vacant lots) and there are more beachfront homes than were ever contemplated when the subdivision was first created. Thus, the residential surface streets of the Oxnard Shores subdivision are becoming more and more congested. Developing housing on the Wavecrest-Whitecap property and the Reef property will unnecessarily add to this congestion.

More importantly, as a twenty-year resident, I have been told by many people of the several promises that have been made by Oxnard City leaders over the years. Oxnard Shores residents were told specifically that the Wavecrest-Whitecap property would be used for a park. I understand that assurances were made that the Reef Way property would never be developed.

The residents of Oxnard Shores would benefit significantly from two "pocket parks." Our homes are built on small lots and, so, we have small yards. Given the extensive building of three-level mega-homes along beachfront of Mandalay Beach Blvd., few narrow pathways to the beach afforded the "common people" who do not live directly on the beach and the steady erosion of sand, we are increasingly deprived of the beach as a play area.

The current Oxnard City Council appears to not care about promises and representations made by those who came before them. If the Coastal Commission were to disapprove housing development in the two areas mentioned above, the City might become motivated to keep its word and, at the same time, diminish slightly the major street congestion all Oxnard Shores residents will soon have to endure.

Thank you for your consideration.



Net@address<sup>®</sup> by USA\*NET<sup>®</sup>

Folder: Inbox

Message 3 of 217 (NEW)

<	>	Delete	Reply	Reply All	Forward	as Attachment
		Move To:	Trash		Submit as Spam	

**Received:** from cmsmail14.cms.usa.net [127.0.0.1] by cmsmail14.cms.usa.net via mtad (C8.MAIN.3.27X) with ESMTP id 161keiRGv0203M14; Tue, 09 May 2006 17:32:47 GMT

**Return-Path:** <annescott\_@hotmail.com>

**Received:** from hotmail.com [65.54.161.26] by cmsmail14.cms.usa.net via smtd (C8.MAIN.3.27X); Tue, 09 May 2006 17:32:47 GMT

**X-USANET-Source:** 65.54.161.26 IN annescott\_@hotmail.com hotmail.com

**X-USANET-MsgId:** XID713keiRGv3238X14

**Received:** from mail pickup service by hotmail.com with Microsoft SMTPSVC; Tue, 9 May 2006 10:14:42 -0700

**Message-ID:** <BAY106-F166F6A0F03273703B22F6CEBA90@phx.gbl>

**Received:** from 65.54.161.200 by by106fd.bay106.hotmail.msn.com with HTTP; Tue, 09 May 2006 17:14:40 GMT

**X-Originating-IP:** [70.38.84.197]

**X-Originating-Email:** [annescott\_@hotmail.com]

**X-Sender:** annescott\_@hotmail.com

**From:** "anne scott" <annescott\_@hotmail.com>

**To:** mehwood@usa.net

**Bcc:**

**Subject:** coastal commission

**Date:** Tue, 09 May 2006 17:14:40 0000

**Mime-Version:** 1.0

**Content-Type:** text/html; format=flowed

**X-OriginalArrivalTime:** 09 May 2006 17:14:42.0277 (UTC) FILETIME=[0FB4F150:01C6738C]

[Fewer Details](#)      [Print Preview](#)

To the California Coastal Commission,

I am a resident of the Mandalay Shores, I live on Reef Way. It is my understanding the city of Oxnard has 3 options regarding the property at the end of Reef Way.

I do not want more housing, neither do any of my neighbors. Reef Way would not be able to handle the traffic increase.

I would rather you left it as an open space, I do not even agree with a park.

Please don't add any more stress to our easy way of life on Reef Way.

Thank you for your time, Anne Scott

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MAY 05 2006

May 4, 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Dear Coastal Commission,

I am writing in regards to LCP Amendment OXN-MAJ-1-05.

I attended last month's Coastal Commission Meeting in Santa Barbara and thank you for postponing the hearing a month. Postponing the hearing gave me and another resident time to review Oxnard's application located in the Ventura Coastal Commission office on April 14, 2006.

I want to point out six major points to you.

1. The Coastal Commission asked the city of Oxnard for all history related to the sites. Not all the history of the sites was disclosed. There was no mention of Francis McGrath's original deed. It was drafted before he died with the intention that the sites were a gift to the city of Oxnard for open purposes only. McGrath was unable to do anything with the land because it had been rezoned Resource Protected.

Many years ago the real estate agents told perspective buyers that these lots would always remain open so many residents purchased homes and lots near the two sites because it was always mentioned that the lots were Resource Protected with the intent for open purposes. After McGrath's death, the deed was drafted differently. It stated the sites only as a gift to the City of Oxnard. McGrath would have kept them for his own family if he thought he could get them rezoned!!!!

Anyways, the residents had no idea that the city of Oxnard had other plans for the sites. Everyone just kept hope that one day the lots would be turned into parks.

About 12 years ago the city placed the Public Notice in Oxnard's Spanish Newspaper "La Vita" that the sites were now city surplus. It was the city's way of pulling the wool over the residents by placing the Public Notice in a Spanish Newspaper. I myself speak Spanish but have never read the city's Spanish newspaper. So no one knew that the sites were surplus.

A few years ago the residents noticed surveyors on the lots and began to ask what they were doing. That's when we all found out the city was trying to figure out how many lots it could get out of the sites. Again the local real estate agents were the ones who were telling us that now the lots were going to be subdivided and sold for more homes in the area. The city was communicating to the real estate agents for their support. For these agents it only meant more revenue and possible selling commission for them. These real estate agents continue to tell everyone that there is no hope and the lots are already sold to Tri-mark a developer.

In January 2004 the residents did motion to support helping pay the fees to sue the City of Oxnard in a law suite over the sites. The residents voted for the board members to allocate money to support the case that the resident near the sites wanted to pursue. The residents lost the law suit against the city mainly on the basis that we filed the suit after the allowed statute of limitations had exceeded. Was that mentioned in the history of the site disclosed by the city of Oxnard? The City of Oxnard is very sneaky and needs to be monitored.

2. I noticed in the city's application they claimed to be putting money into the area for the residents by purchasing playground equipment in 2004 at the Nautilus Square location. Did the city mention that the community wanted the city to pay for new playground equipment and they said no. We the residents had to pay for the equipment and the city only paid for the labor for putting it in. The residents had to pay for swings and slides that the entire city uses on weekends and summer days. We also purchase needed benches so that any residents of Oxnard and the vacationers from out of the area can sit and enjoy the beach. The City of Oxnard does not have a dog park so we even pay for all the doggie poop bags so that when the residents of Oxnard

who come out to the beach with their dogs are encourage to pick up after their dog. This Oxnard Shores community cares more about the beach than the city. If proposed sites are rezoned and sold all the revenues from the sale should be used to keep the California Coast in Oxnard maintained for public use.

3. Did the city's application mention all the development that has been approved in the area and how it will effect the beach? We should not be rezoning for more homes in the area until we see how the future population effects the beach. Many people use the dunes and nearby ESHA protected land as recreational areas because there isn't enough open space.. With the population increasing this land would be better for playgrounds, walk dogs off their leash, public parking or just left as is. This area needs open space. The community originally had four Resource Protected areas. Half of these lots have all ready been rezoned. Did the community see any of that money?

4. In 1995 the city had biologist study the sites and the report grouped them together in the study. In the 2004 study, the sites are now discussed separately. The city destroyed the Breakers Way/ Reef Way site when the city repaved the streets. The lot was flatten, dirt was poured on to it and all the heavy equipment needed to pave the streets used the site for a parking lot. If the site is rezoned, that too should be used to mitigated for the value before the city ruined it. Is Oxnard's plan to destroy all Resource Protected land so that it can be rezoned?

5. The home owners in the area are not being properly informed. The city is misleading the public by telling the real estate agents and not the residents. The public notice signs on the sites were only changed a week ago. Most residents are only part time residents and are not in town until they have a long weekend or summer vacation. The home owners only get together once a year at the annual meeting. The topic is mentioned under "Drill Sites" in our annual minutes. The residents do support keeping the sites open space of some kind.

6. The land is still of value to the coastal habitat. Many birds including the Long-billed Curlew come to the sites. They must be after the red ants you find there. How nice to see birds foraging on the natural habitat. During the summer residents spot Horny Toad Lizards. The natural coast isn't what is was 50 years ago but nature's creatures still need open space as well.

In a dream world I would like to see one site put to public use for dogs and children. The other site would be left alone and protected by the community so that the natural habitat of the coast would have the needed open save it needs as well.

Please do not rezone Resource Protected land. It was originally zoned this way for a reason and Francis McGrath felt it was never going to be rezoned and that is why he gifted it away.

Sincerely,

*Patricia Hernandez - Einstein*

Patricia Hernandez- Einstein

part time resident at

5439 Reef Way

Oxnard, CA. 93035

Written April 12, 2006

Hello my name is Patricia Einstein and 5439 Reef Way is my address. These are my Top 5 Reasons why the Coastal Commission should keep both sites Resource Protected.

1. The Public Notice on the two sites display in big print "POSTONED". Most people in Oxnard don't know this meeting is taking place. I only found out only a few days ago and was concerned because the city is misleading the public by displaying that the original meeting date of November 2005 is still postponed. The residents do care about the sites. A petition to put a park there is evidence that we do care. Many people just don't know this meeting is taking place. (It is difficult to connect with neighbors without a centralized community school or park and the recent cold and wet weather just makes things more difficult to spread the word that this meeting was taking place today.)

2. The Oxnard Coast is undergoing a major increase in it's development and population. We don't have a long term study of what that will do to the natural habitat along the California Coast here in Oxnard when all the development is completed.

\*\*\*\*\*Oxnard has approved developments such as Northshore, Westport, Seabridge, and the 200 plus homes planned at Beachcomber and Harbor.

\*\*\*\*\*The shores area itself is increasing in population with more and more homes being built on empty lots but it is not yet at 100 percent of the lots built upon. The houses being built on Mandalay Beach Road create a huge 3 story wall that stands 35 feet tall and the homes inland can only be 2 stories and 27 feet tall. These huge homes are now beginning to put up gates between the houses so the only way to get to the beach is through a few public accesses.

What kind of effect will all this development have on the coastal habitation when it is all completed?

3. Oxnard officials don't play fair when it comes to the Oxnard shores residents. All the other neighborhoods in Oxnard have a neighborhood school and park with play equipment for their children. The shores children are victims of reverse discrimination. Our elementary school is miles away and our children are bussed. Our local park is over a mile away from my home. I need to drive my 3 year old with her bike (she is learning to ride and we don't have sidewalks to practice on) so she rides around the park. But anyway, when I get to my local park, I then have to pay for parking. Most people think our children play on the beach but it is far too dangerous to let kids go to beach on their own. Besides, the beach is usually dirty with tar, twigs and sand fleas.

\*\*\*\*\*These sites are natural playgrounds for children and they say they have seen some really strange and unique creatures on them.

\*\*\*\*\*The recommendations of 1:1 mitigation only means that Oxnard will put the money into another area of the city and our children will continue to be neglected.

4. A major reason to keep these sites protected was noted in the summary report , Two Long-billed Curlews (*Numenius americanus*) were observed foraging on one of the sites during the March 2006 visit.

The city of Oxnard had the sites cleared before the Coastal Commission did their study so how do we know for sure that there weren't endangered species or species of concern on them before and if there were they can come back to the open space habitat.

\*\*\*\*The Reef/Breakers Way site habitat consisted of coastal grass and it was destroyed 2 years ago when the streets and ways were repaved. Tons of dirt was placed on the site and all the city vehicles parked there during the six months of road work.

\*\*\*\*The Whitecap lot was cleared about 2 years ago. I walked by the all the time and admired the trees and coastal grass. It was home to many species. For all we know, the Long-billed Curlews (*Numenius americanus*) could have been flourishing on these sites.

I remembered taking a picture of the trees in May of 2001 and although it is from a different angle, you can tell that the site was a thick grouping of trees. I was shocked when the site was all cut back in about spring of 2003. The photos taken a few days ago are evidence that the trees were cut back immensely. Unfortunately, I don't have a picture of the beautiful coastal grass that use to exist on the site.

Give the trees, plants and grass time to grow back naturally, with time more Long-billed Curlews will be found on possibly on both sites.

5. Open space along the coast will be the endangered species in the years to come. There is no urgency to rezone the sites today or in the next 10 years for that matter.

Please keep these lots Resource Protected. Wait for the trees, plants, and grass on the sites to grow back and let the Long-billed Curlews have a chance to breed on these sites.

RECEIVED

APR 26 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission

Please help save our open space. Our normal way of life is being crushed by the City officials of Oxnard. Cronyism with big developers has eaten up our open space and traffic congestion is getting close to big city LA.

We need public beach access, Parks and less development. Please leave us some open space in the Mandalay Beach area.

Thanks for helping,



Tim Brown

3020 Windward Way  
Oxnard, CA. 93035

April 27,2006

Randy Scuria  
5365 Reef Way  
Oxnard

RECEIVED

MAY 02 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Calif. Coastal Commission  
89 So. Calif. St.  
Ventura , Ca

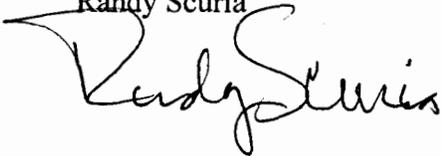
Re. LCP Amendment OXN-MAJ-1-05

I have lived at this address in the "shores" for 18 years and seen its development eat up almost every lot . The 2 empty lots on Reef Way and Wavecrest were supposedly designated as oil drilling easements and if not used for that purpose, were rumored to be left as a park for the community .

The residents of Oxnard shores have no front nor back yards for their kids to occupy their time so having these two unused lots in the neighborhood would offer a perfect site for them to play on .

We are not asking that a park be made here using city or county funding, we would be completely happy with just leaving it as it is now...open .

Thank you for your consideration  
Randy Scuria



Re: LCP Amendment OXN-MAJ-1-05

May 8, 2006

California Coastal Commission  
89 S. California Street, 2<sup>nd</sup> Floor  
Ventura, CA 93001

RECEIVED  
MAY 08 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Dear Commissioners:

We have been an Oxnard Shores homeowners since 1981, living first on Seabreeze Way and now on Reef Way across from the Reef Way lot. We have seen tremendous changes in the neighborhood during these 25 years.

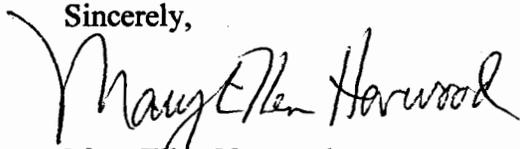
During this time the open spaces and beach accesses have been rapidly disappearing in favor of new construction of high end residential residences. Beachfront now has approximately 5 homes in construction and at least another 2 or 3 in permit stage. The lots which are not beachfront also have seen a huge increase in building not only single family, but also condos and multiple unit housing. This results in more people, more cars, more children, and more pets, all using the same facilities. In the near future we can expect that all currently vacant lots will be built with high end residences.

We believe the best use of the Reef Way lot is to maintain its character as Resource Protection. The lot is a viable location for a small neighborhood park which would be available for children to play, seniors and adults to walk or sit, and for pets to run. It is located at the Harbor Blvd. end of the development, opposite where the beach is located. It is also located at the far end of Oxnard Shores, at the opposite end of where the existing Oxnard State Beach Park is located. This makes an ideal location for a small neighborhood park.

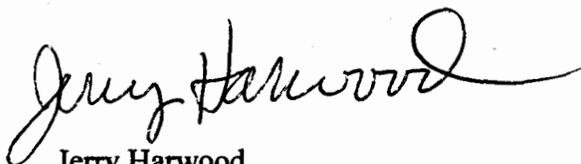
If the zoning is maintained as Resource Protection as its donors intended, the community of Oxnard Shores residents can determine its plan for the future.

Oxnard Shores has been a lovely place to live in a beach community for many many years. We, the residents, would like to keep it accessible with space available for living in harmony with the outdoors which is so beautiful in this Oxnard beach area.

Sincerely,



Mary Ellen Harwood  
805-985-9542



Jerry Harwood  
805-320-4167

# Ric & Mary Hurley

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MAY 08 2006

APRIL 16, 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

CALIFORNIA COASTAL COMMISSION  
89 SO. CALIFORNIA ST.  
VENTURA, CA 93001

SUBJ: LCP AMENDMENT OXN-MAT-1-05

I LIVE HERE ON REEF WAY FOR  
FIFTEEN (15) YEARS. I LIKE THE  
OPEN SPACE.

PLEASE LEAVE THE OPEN SPACE  
FOR A PLAY GROUND.

THANK YOU,

*Ric W. Hurley*

5427 Reef Way, Oxnard, Calif. 93035

Phone: (805) 985-6729

*April 22, 2006*

**Dennis Doherty**  
**5249 Reef Way**  
**Oxnard, Ca 93035**

**RECEIVED**  
MAY 08 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**California Coastal Commission**  
**89 So. California Street 2<sup>nd</sup> floor**  
**Ventura, CA. 93001**

**Regarding LCP Amendment OXN-MAJ-1-05**

***As a homeowner that lives next to this site, I see everything that goes on here. Children playing ball, residents walking their Pets.***

***There are a lot of apartment and condo's on the next street over and children should have a place to go and play after school. It would be nice to have a place for the children to play and a sitting park for older residents. Parents would feel a lot safer If their children were playing in a park then down at the beach where there are no life guards.***

***Oxnard Shores has grown so much in the past five years and every street lot is almost filled with a new homes, and where is The extra parking "there is no parking" when guest come to visit where should they park?***

***We are in need of "PARKING"***

***I deeply feel that we should keep some of the land open for our future.***

**Thank you,**

**Dennis Doherty**



RECEIVED  
MAY 08 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

March 7, 2006

To: California Coastal Commission  
89 So. California St. 2<sup>nd</sup> Floor  
Ventura, CA 93001

Re: LCP Amendment OXN-MAJ-1-05

Dear Sirs:

I am deeply disappointed about the slow disappearance of most of the open land left here at Oxnard Shores. I know for a fact that when it comes to big money and development the residents do not have any say at all.

Why are there plans for the remaining open lots to be rezoned and resold? Can we being longtime residents in the Shores have some vote to this issue?

The reason I moved to this area was because I enjoyed the openness of the neighborhood. Now the area is getting crowded due to monstrous homes being built along Mandalay Road (mind you a large percentage of these are vacant second or third homes).

I think it is about time the Commission does its real job of working for the public and not just for the mighty dollar.

Yours truly,



Mr. & Mrs. Jose David  
5151 Wavecrest Way  
Oxnard, Ca 93035



- Moisture Meters
- Thermo-Hygrometers
- Infrared Thermometers
- Gas Detection
- Electrical Analyzers
- Borescopes
- Inspection Cameras
- Particle Counters
- Thermal Imaging
- Training & Education

May 4, 2006

RE: Rezoning of Whitecap property in Oxnard Shores

To Whom It May Concern:

We wanted to express our disappointment in hearing of your continued persistence in attempting to rezone the land next to our home.

When we purchased our home five years ago, our real estate agent told us the history of the property north of Whitecap and why it would always be left in its natural, unspoiled state. He assured us, and our neighbors later confirmed, that the land was to remain vacant. Since then both our children and neighbors have enjoyed the safety and unspoiled nature of the property. Considering how tight the homes are in the Shores, the Whitecap property has become a sort of community backyard for many of us.

Since we've lived on Seabreeze, we have also been burdened with the constant drone of new home construction. From trash and debris left behind, to the ever growing HIGH speed traffic that travels on Mandalay Beach Road, the Shores is starting to feel more like a fast growing urban development than the small beach community where we planned to raise our family. It's become very discouraging.

I'm not clear as to exactly what the studies and reports provided, but as a full time resident, I can assure you the constant building year after year is ruining the Shores. It needs to stop. The increased traffic creates unhealthy air, parking problems, increased crime and quite frankly, dangerous conditions for our children.

Please reconsider the motive of the proposed zoning change and its long-term impact on the Shores community and residents. Your decisions in the coming weeks will affect not just our family, but also the families of each generation to follow.

Sincerely,

David and Angela Brown Family  
5344 Seabreeze Way  
Oxnard CA 93003

RECEIVED  
MAY 08 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

4848 Colt St. #11  
Ventura, CA 93003  
(800) 895-4916

[www.InspectorTools.com](http://www.InspectorTools.com)

# Oxnard Shores PETITION

I am in favor of Open Space. I am opposed to building on Reef Way and Whitecap Pt 3. Please maintain RP zoning for Resource Protection.

<u>Name</u>	<u>Address</u>	<u>Phone</u>	<u>Email</u>
Barbara Hoyt	5340 Reef Way	805 382 1184	bhoyst-ca@yahoo.com
PATRICIA Hoad	5360 Reef	805 901 1234	
Joe Brocato	5354 Reef Way	805 985-2220	Joebro@netzeru.net
Sandra Velasquez	5306 Reef Way	(805) 512-0863	
Joe Reed	1530 Seaglass Tr W	805-985-9844	
Maryell Harwood	5242 Reef	805-985-2542	meharwood@usa.net
Jay Harwood	5242 Reef Way, A		

**RECEIVED**  
MAY 08 2006  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

## Coastal Law Enforcement Action Network

(CLEAN) enforcing laws protecting the California coast

**Marcia Hanscom**

Managing Director

a bioregional project of IH-Center  
322 Culver Blvd., Suite 317  
Playa del Rey, CA 90293  
telephone: (310) 821-9045  
facsimile: (310) 448-1219  
coastallawenforcement@earthlink.net

May 11, 2006

# Th 16b

The Honorable Meg Caldwell,  
Coastal Commission Chair &  
Honorable Coastal Commissioners  
California Coastal Commission

hand delivered to CCC hearing/May 11, 2006 – Costa Mesa

re: City of Oxnard Local Coastal Program Amendment 1-05 (Oxnard Shores)  
to rezone two parcels from "Resource Protection" to "Single Family Beach"

Dear Commission Chair Caldwell & Commissioners:

We write in strong opposition to the changing of this zoning. If the 1972 citizen ballot initiative that created the California Coastal Act and the California Coastal Commission did nothing more than to continue to protect those resources designated for protection, it would be the minimal that voters who enacted this law expected.

It is beyond understanding how staff can recommend approval of the change of these two parcels from "resource protection" to "single family beach." Only money can be at the heart of this effort, and the money the city expects to make from the sale of these properties to more speculative developers is not sufficient reason to change this zoning.

We have reviewed a document that is a copy of a city council resolution which at one time would have allowed for oil drilling on these sites. In the resolution, it is clearly stated that "subdivision plans designed for the ultimate use of such sites as parks, playgrounds or parking lots on cessation of drilling activity."

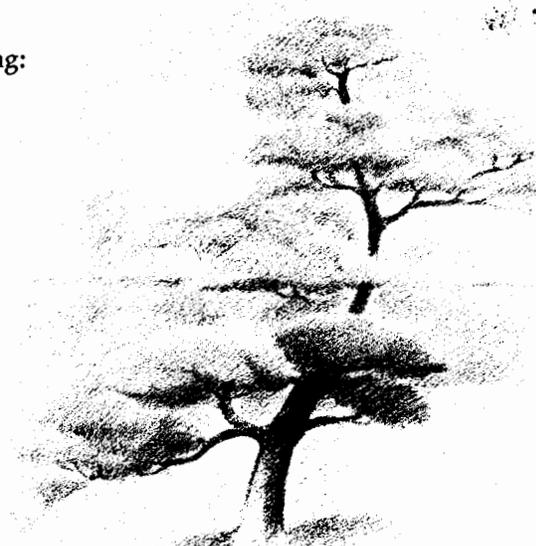
In addition to the clarity of the intention of this document, we understand that the McGrath family donated this land to the City of Oxnard with the intention that these two parcels remain as open space.

We have visited the sites and from that visit have learned the following:

### WHITECAP STREET SITE:

The Whitecap Street site is clearly a functioning southern foredune habitat. The characterization that Dudek & Associates offers that "Disturbed southern foredune occupies the majority of the site" is not an accurate characterization.

While iceplant and some other invasive non-native plants exist



California Coastal Commission

Re: Oxnard LCP amendment--zone change request/"resource protection" to "single family beach"

May 11, 2006

Page 2

on the site, the site is filled with much more luxuriant and healthy native sand dune flora and fauna than the staff report suggests.

Native red ant hills exist, which is probably why neighborhood children report that the rare California Horned Lizard exists on the site. A good portion of the site is currently filled with beautiful yellow Beach Primrose and many other dune plants, including numerous plant species that are not mentioned in the staff report.

Just a few of the plant species not mentioned include Dune Goldenbush, Coyote Bush, Pearly Everlasting, a rare Lotus and Popcorn Flower.

The staff report also quotes Impact Sciences as having said that 15% of the site is unvegetated. There is nothing wrong with bare sand in a sand dune habitat. In fact, a natural sand dune habitat is supposed to include unvegetated, bare sand areas. This denotes a healthy ecosystem, not a site overgrown with invasives, like iceplant, which, while on the site, is not as pervasive as the staff report leads one to believe.

Given the state of the site as we observed it earlier this week, this Whitecap Street site has all of the markings of an ESHA. We would ask that an expert in dune ecology be allowed the opportunity to visit the site to assist in identification of the plants missing from the staff report and from reports prepared by consultants from the city. Also a protocol survey needs to be conducted to verify the presence of the rare California Horned Lizard, reported by residents in the area. And if this species is found to exist, ESHA designation must be forthcoming, as well as protective fencing to keep neighborhood cats from decimating the population.

This sand dune site is not as isolated as the staff report purports, in part because of public beach access paths, small as they might be. Even though the City of Oxnard has done its best to wall off the beach from the public with million dollar houses and little space in between, the streets near this site are covered with sand (even though street sweeping signs exist, suggesting street sweeping does occur.) So sand is still blowing through the few spaces to the beach, and this site, being so very close to the beach really does deserve to remain as a natural sand dune, if for no other reason than to demonstrate to the public and to the community the historical natural character of this area.

The Coastal Act does not allow for alteration of natural coastal forms, so the mitigation suggested by staff is not allowed. Additionally, the mitigation site is not coastal foredune, as the Whitecap Street site is. It is an entirely different dune community, as evidenced by a different plant community. So the mitigation suggested would not replace the values lost from the destruction of the Whitecap Street site.

The proposed mitigation site is valuable for the reasons stated in the staff report, and we would ask the Commission that the City of Oxnard be directed to fence off the site for the sake of the

California Coastal Commission

Re: Oxnard LCP amendment—zone change request/"resource protection" to "single family beach"

May 11, 2006

Page 3

rare Silvery Legless Lizards without regard to any proposed mitigation scheme. It is their responsibility to protect these rare animals without destruction of additional sand dune areas.

**BREAKERS WAY SITE:**

The Breakers Way site may be in need of enforcement action from staff or from a citizen public interest group. This site, according to reports from numerous neighbors in the area, looked much like the Whitecap Street site, until two years ago when the City removed all of the major vegetation and altered the sand dune topography with bulldozers. It would seem that this action ought not to have been completed without the LCP amendment before the Commission today being approved and a coastal development permit being issued to alter the natural landforms and to remove major vegetation.

Our preference would be for enforcement action to be taken and for the site to be restored to its natural sand dune character, much like the Newport Beach residents who destroyed coastal dunes without a permit were required to do recently by this Commission.

The neighborhood would like at the very least for this site to remain as open space and to have some local park space for residents to use, as seemingly contemplated by the original McGrath donation of the property.

Clearly, this site currently is not functioning in an ecological manner, however, it seems that this is by design by the City of Oxnard. If no CDP exists for this habitat destruction and land form alteration, then enforcement action must take precedence of the proposed change in zoning requested today.

The beautiful coastal dunes of Oxnard are slowly being eroded away by actions of the City and the Coastal Commission. The line in the sand must be drawn here if the remnant dune populations of this lovely stretch of coastline are to remain. Please draw the line today and deny this request for zoning change.

With best regards,



Marcia Hanscom

Managing Director

CLEAN ~

Coastal Law Enforcement Action Network

enforcing laws protecting the California coast

RECEIVED

JUN 22 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

3830 San Simeon Ave.  
Oxnard, CA 93033  
June 12, 2006

California Coastal Commission  
89 S. California St., 2<sup>nd</sup> Floor  
Ventura, CA 93001

Members of the Commission:

RE: LCP Amendment OXN-MAJ-1-05

I am writing to ask that you continue to support preserving the Resource Protected lots on Reef Way and Whitecap at Oxnard Shores in Oxnard. These lots are in the Coastal Zone. The City of Oxnard wants to rezone these lots for residential development and sell the property to a developer to build housing.

It would be a mistake to loose these lots which could provide much needed open space/ parkland in this densely developed area. Part of one of the lots could also provide badly needed public parking. Public access to the beach at Oxnard Shores is greatly limited by the lack of public parking for those who want to visit the beach.

I am an Oxnard neighborhood council chairperson, and I also chair a local community group that is working to improve Oxnard. As such, I watch all the Oxnard City Council meetings. I have seen several staff reports presented to the Council regarding the sale of these two lots. The City is not selling the lots because of planning or land use issues. The sole reason for the sale is that the City needs the money from the sale to finance other projects in the City that are not in the coastal zone.

Sincerely,



Shirley Godwin

California Coastal Commission  
89 So. California St. 2nd Floor  
Ventura, California 93001

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APR 26 2006

April 19, 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

RE: LCP AMENDMENT OXN-MAJ-1-05

Sirs:

I believe that turning land that had, to my knowledge, been deemed a 99 year oil lease over to developers to build houses and take away precious open land is absolutely abominable.

There are already several developments on the east side of the Harbor that are in the works and there is no way of knowing how that will impact the Oxnard Shores Area. The Shores area is already crowded and parking difficult. I understand that there is consideration for condos to be built on the north side of Fifth Street, east of Harbor Blvd. This was my reference in the first line of this paragraph. Those sand dunes were used by people to hike, walk dogs, and enjoy. What a terrible shame to have that go. Is this whole area to be turned into a STRIP MALL???? There is a bird sanctuary just across from this area. Will that be up for grabs as well ??? The city of Oxnard is not notifying the neighborhood to what is going on. This is a SHAME.

I am seriously considering moving to Ventura, I built my home here, in the Shores in the late 70's. I never thought I would move away. Before building my home I lived on both Silver Strand and Hollywood Beach and have been a part business owner of an eating establishment. I have always loved this area and it is heart breaking to me to consider this move, but living here is no longer tenable.

Over sprawl - no room to BREATHE. And forget about parking. At least the people of the city of Ventura have the good sense to stop urban sprawl and save their hillsides. The beach area, the shores, the natural beauty of this area has, for years, slowly been taken away. NOW we have one small piece of land that is sorely needed as an open space, left as is, OR if that isn't possible, at least make it into a park area to be enjoyed by many people.

I can remember when there were young families here who used it for Easter egg hunts, teens putting up backdrops for skateboarding, sandlot baseball games dogs, chasing frisbees owners would throw for them.

This area has relatively little crime. In the thirty years I have lived in my home and have left my home unlocked at night, only locking up totally when I have gone away for more than a day. nothing has ever been stolen, What will happen when the area is over developed?

This community NEEDS an open space be it natural or if MANKIND MUST turn it

into something else, the green area would be beautiful and a place to give some semblance of respite and joy from the work a day world. There is NO view of the] ocean save oceanfront. Houses are being built so close together you can reach out and shake hands with your neighbors leaning out from your respective windows. I personally look out one window of my home and see wood, the other window and see stucco. I can't see my neighbors down the street from my driveway, I can't see the sky even from those two windows sitting at my dining room table, No sunsets, NOTHING . EXCEPT that lovely open space behind me and now greedy developers (perhaps politicians, too???) want to destroy that as well for the almighty dollar.

Most residents at the shores and on the beach have NO FRONT OR BACK YARDS. Houses too close together totally destroy "good neighbor feelings".

There are too few public accesses to the beach. Why should it be so hard to enjoy what people came here for - clean air, the wonderful smell of the ocean, the breezes The feeling of well being. Years ago when the teens surfed (and still do) there were signs saying Southies GO HOME I thought that was a rather harsh, rude thing to do and say. Maybe they weren't wrong.

Again, to recap:

PLEASE don't build anything on the land that had been designated as a 99 year oil lease. Residents need a park area and open space. There will soon be NO OPEN SPACE FOR ANYONE to enjoy, visitors will be turned away because of lack of space to enjoy. There is little or no parking, The city decides to let building go on and after THEIR decisions are made and its a "done deal" so to speak, or so it seems, THEN maybe the people who are affected by these decisions MAY or may not be notified in a timely fashion if at all.

PLEASE LEAVE THIS LAND BE. There IS building going on on the other side of the harbor. Let us have this relatively small piece of land to enjoy. Please leave the dunes for people to enjoy as well.

A resident of 30 some years at the Shores, possibly soon to be resident of the City of Ventura.



Alene LaDelle Brown  
5254 Sea Breeze Way  
Oxnard, Calif. 93035

RECEIVED  
JUN 15 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission  
89 South California Street 2nd Floor  
Ventura, CA 93001

In re: LCP Amendment OXN-MAJ-1-05

Dear Commissioners:

I am writing about the proposal to develop 2 lots near the beach in Oxnard. One lot, the Reef Way site, has been severely degraded by gravel dumped by the City of Oxnard when they resurfaced the nearby streets. Heavy equipment was parked on what is zoned a Resource Protected site. We are not aware that any necessary permits were obtained by the City of Oxnard when this degradation and destruction occurred.

Oxnard is severely under parked. We have far too many people and far too little parkland. This is evident every weekend when parks are over crowded. There is an obvious need for more parkland. These two lots will provide not just open space, but they are also areas that can be restored to their natural state and used as educational outdoor classrooms. Before development, this area had natural dunes and provided habitat for many birds, lizards and plants. Most of the beach areas in California have been developed and cannot be restored. These two areas provide a wonderful opportunity to preserve, restore and use a rare resource.

I would like to add my voice to the many asking that these areas be saved from development and used as open space and outdoor classrooms.

Sincerely,



Nancy Pedersen  
514 East Kamala Street  
Oxnard, CA 93033

805-486-9146

June 2, 2006

Dear Sirs:

Regarding the property located between Reef Way and White Cap in Onnard. This land was left to the City of Onnard in Mr. McGrath's Will after the death of his grandson. He stipulated it was to be "FOR PUBLIC USE" only. When did the City break the law ignoring or deleting that "Clause" of his WILL "FOR PUBLIC USE ONLY"??

Our little city is so badly developed we are so crowded in with such small size lots. We need some buffer zones (LIKE APTOS) <sup>BECAUSE OF</sup> ~~between~~ our increasing over developing. Why not keep it the land for "public use"? That small area for a little space for a park for children and people?

In my own "COLEMAN FAMILY" my great grandfather in his "WILL OF 1890" left his

estate to "PROSPECT HILL SCHOOL" now "STONELEIGH  
BURNHAM" GREENFIELD MA, and a fund invested  
for perpetual care of a cemetery of family  
and friends. No one ever dared to not  
carry out that or those stipulations of  
his Will. That would be breaking the  
law!

So no one should be changing  
"McGrath's Will" and sub-dividing  
for more developing. Money Money  
is constantly being taken for Taxes  
and more Taxes!

Respectfully,  
Adele G. Lee

RECEIVED  
JUN 05 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission  
89 So. California St. 2<sup>nd</sup> Floor  
Ventura, Ca 93001

RECEIVED  
JUN 05 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Regarding LCP Amendment OXN-MAJ-1-05. I am an Oxnard Calif. Citizen and a Member of the Oxnard Saviers Road Design Team and would like to add my voice in Protest to the rezoning and sale of Reef Way and Whitecap.

I recommend a traffic study of the area before proceeding any further with this project. The community would like to see sites protected and restored to natural sand dunes areas.

At present existing housing is already blocking view of the beach and if more housing Are built, it will only add to the over crowding in this area.

Respectfully



Edmund D. Ellis  
515 De Anza Way  
Oxnard, CA 93033

RECEIVED

JUN 16 2006

Dear Coastal Commission,

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

June 10, 2006

My name is Connor and I live on Reef Way. I am 9 years old. A couple of years ago, the lot at the end of Reef Way was full of tall grass and animals. One day I came home from school and it was bull-dozed down. I was really sad and angry. Please put it back the way it was and don't build anything there. I want to play there and look for all of the animals again like I used to.

From,

*Connor Carinio*

Connor Carinio

5418 Reef Way

Oxnard, Ca 93035

RECEIVED  
JUN 16 2006

California Coastal Commission,

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT  
June 4, 2006

I am writing this letter to you as a concerned citizen of Oxnard and The Shores community regarding the rezoning and selling of the lots located on both Reef Way and Whitecap. I have been a resident on Reef Way a mere 14 years and love it tremendously. I have also seen many changes. I came home one day and was horrified and shocked to see the Reef Way lot bull-dozed, graded, graveled and full of machinery and equipment in a fenced area. I was stunned to find out the city had done this. Even more so when I found out they had done it illegally.

Living at the beach has it's many benefits, fresh air and walks on the beach. However, there is less and less access to the beach and places to walk. I would like to see the sites mentioned, to be restored to their natural sand dune and wildlife habitat.

Let's save the lots. Let's restore them to their natural state and leave something for us to enjoy here in Oxnard. This site is a Resource Protected area.

Thank you for your attention to this matter.

Kelly Carinio  
5418 Reef Way  
Oxnard, CA 93035

# **S.O.S.-Save Open Space!**

June 4, 2006

Hello, my name is Sarah Carinio. I am 11 years old and I live on Reef Way. I know, you guys are trying to build more and more houses on the lots, which are supposedly not used. I understand money, money, money. Isn't it crowded enough? But, if you guys look back you bulldozed the land off about 1 or 2 years ago leaving us with an empty lot. Now we need to make use of that lot...not building houses though. There used to be dunes so we could take walks in t and hide behind the sand. It was really fun. We still have other things to do since you took that away. Now people play with their dogs there and have a really fun time. But, it's not the only thing we do there. A lot of the times there are kids playing there with baseballs, Frisbees and many other things. That lot is really important to me. There used to be wild life there! But not after you killed everything off. It isn't fair that we don't have say in this. How about we make it a park or a little corner store. It can be very useful. How many houses do we have on our street? Many of them. Not everything has to be a home for people...why can't there be a home for the animals? If you put more homes there not many people will be very happy. A. It's very crowded. B. You won't get much privacy. And C. It isn't worth living at the beach (in which you can't really see). The lot can be used for a better reason. Why waste so much money on building homes if you can use less money for something as great as restoring it back to its natural habitat.. So I hope you really read this letter and found out what this lot could really be. Thank you. Make a good decision for the environment and the people around and in it.

Sincerely,

**Sarah Carinio**  
**Concerned resident**

RECEIVED  
JUN 16 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Re: LCP Amendment OXN-MAJ-1-05

PETITION TO SAVE OPEN SPACE IN THE OXNARD SHORES AND

RECEIVED  
JUN 29 2006

MANDALAY SHORES COMMUNITY

June 10, 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

I am in favor of Open Space in Oxnard Shores. I am opposed to building on the Whitecap and the Breakers Way/Reef Way lots. Please maintain RP zoning for Resource Protection as was intended by the donors of the land.

Name                      Address                      Phone                      Email

MaryEllen Horwood	5242 Reef Way	985-9542	mehwood@vsa.net
Sylvia Agul	4100 Pearson Rd	805 5028	
Miguelina Lopez	715 Pearson Rd	890 4214	
Jamice Sirote	3020 Amalfi	(805) 984 3043	
Paula	845 Dunes	805 215-0000	
Arthur Hayes	107 Fern	654 1245	
WV SPEAR	777 E CI	805-247-0809	
Maria Hernandez	5230 Driftwood	805 815 8771	
Debbie Goodchild	5160 West Woodway Rd	805 815-3254	
Chelene Midwell	3600 S. Harbor Blvd # 144	805-340-6889	
Heidi Zark	3000 S Harbor Blvd	805 758 1731	
Lein Beedbill	5220 BEACHCOMBER ST		
Keona Ceceia Murphy	5006 Marlinway	985-9584	

JAY AND CAROL VAUGHN  
5344 DRIFTWOOD STREET  
OXNARD, CA 93035  
805-985-1406

RECEIVED  
JUL 11 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

July 7, 2006

California Coastal Commission  
89 S. California St 2<sup>nd</sup> Floor  
Ventura, CA 93001

RE: LCP Amendment OXN-MAJ-1-05

WE DO NOT WANT TO SEE THE TWO SITES REZONED!!!!!!!!!!!!!!!!!!!!!!

Dear Commissioners:

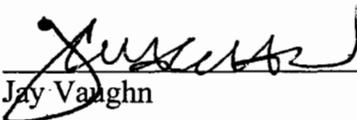
Oxnard Shores is a beach community that has grown and is already scheduled to grow BEYOND ITS CAPACITY in recent years. Here at the north end, there are no parks available to the growing families with young children. The neighborhood is extremely dense and the beach is not visible and is becoming harder to access. The broken glass and driftwood make playing on the beach a danger for the children of our community. What they need is a park or natural dune habitat in these two sites, not more houses.

The McGrath Family gave these sites to the City of Oxnard for Open Purposes only and their request should be honored, not disregarded for purposes of financial gain and greed. Our community would like to see the sites protected and restored to their natural sand dune state, or turned into small green parks.

There are more than 2500 residences under construction in our area and traffic is already an issue which continues to go unaddressed. This beach community is already extremely crowded and parking is difficult. The community was designed in 1960 and many homes only have parking for one car. The residents who live on the ways only have a small driveway and there is almost no curbside parking. Adding more residences will only add to the growing problems of overcrowding facing our residents.

Please do NOT allow these sites to be developed into residences. Please protect our environment and give back to the current homeowners the gift long proposed by the original owners of this land. Give our children a safe place to play.

Sincerely,

  
Jay Vaughn

  
Carol Vaughn

California Coastal Commission  
89 So. California St., 2<sup>nd</sup> Floor  
Ventura, CA 93001

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JUL 11 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Dear Coastal Commission,

**I am writing in Regarding LCP Amendment OXN-MAJ-1-05.**

**I do not want to see the two sites rezoned.**

This beach community is crowded and parking is already difficult. The community was designed in 1960 and many homes only have parking of one car. The residents who live on the ways only have a small drive way to park on and the neighborhood was designed with very little curbside parking. The public who come to this beach have extremely limited parking.

The neighborhood is extremely dense and we no longer can see the beach and there are only a few small public accesses.

The community would like to see the sites protected and restored to natural sand dune areas. The community can restore the two sites. These sites will become outdoor classrooms for people to learn about native sand-dune plants.

Please do not rezone Coastal Resource Protected land. The McGrath family gave these sites to City of Oxnard for Open Purposes Only and they should be kept that way.

Thank you,

*John + Patricia Ochoa*  
*5209 Surf Rider Way*  
*Ox. Ca. 93035*

The following letter was submitted along  
with identical letters from 172 other parties.

California Coastal Commission  
89 So. California St., 2<sup>nd</sup> Floor  
Ventura, CA 93001

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JUL 24 2008

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Dear Coastal Commission,

**I am writing in Regarding LCP Amendment OXN-MAJ-1-05.**

**I am opposed to seeing the two sites rezoned.**

This beach community is crowded and parking is already difficult. The community was designed in 1960 and many homes only have parking of one car. The residents who live on the ways only have a small drive way to park on and the neighborhood was designed with very little curbside parking. The public who come to this beach have extremely limited parking.

The neighborhood is extremely dense and we no longer can see the beach and there are only a few small public accesses.

The community would like to see the sites protected and restored to natural sand dune areas. The community can restore the two sites. These sites will become outdoor classrooms for people to learn about native sand dune plants. We want to protect species of concern.

Please do not rezone Coastal Resource Protected land. The McGrath family gave these sites to City of Oxnard for Open Purposes Only and they should be kept that way.

Thank you,

Diane Wherland  
4501 W. Channel 15 Blvd  
Oxnard Ca, 93035

Law Offices of  
**DEIRDRE FRANK**  
A Professional Corporation

1280 South Victoria Avenue, Suite 200  
Ventura, California 93003  
(805) 650-1200 (805) 988-8833

Deirdre Barkley Frank  
Jill A. Singer

Sandra C. Vigil, Paralegal

May 5, 2006

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CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission  
89. S. California Street 2<sup>nd</sup> Floor  
Ventura, CA 93001

Re: Oxnard Amendment to LCP Thursday Item 16B OXN-MAJ-1-05

Dear Commissioners:

We are not a "handful" of opponents to these amendments. We have been debating and fighting with the city for years over these parcels. A group of us sued the city, spending thousands of dollars and expending a lot of time. We lost the court case but continue to believe that these parcels were intended to remain open, to relieve the congestion that was anticipated when the original annexation was done in 1958-1959.

Enclosed are the historical documents not provided to you by the city.

Were we, the residents who moved, built and live in Oxnard Shores misled? Were we entitled to rely on maps when we purchased our land? Did we detrimentally rely on representations made concerning the past and future use of these drill sites? Yes.

On February 11, 1958 the City of Oxnard passed Resolution 1939 permitting the City to accept and consent to deeds or grants conveying to the City of Oxnard any interest in or easements upon real estate for public purposes.

In July, 1958, in preparation for the Petition for Annexation, Resolution 2162 was passed by the Oxnard City Council. (Exhibit 1) It states ". . .and the size and shape of said drill sites #1 and 2 have BEEN SELECTED AND SUBDIVISION PLANS DESIGNED FOR THE ULTIMATE USE OF SUCH SITES AS PARKS, PLAYGROUNDS OR PARKING LOTS on cessation of drilling activity. . ."

The original December 9, 1958 contract (EXHIBIT 2) which discussed these lots says the City would get title after certain things were done. Attached to the contract was an exemplar deed, Exhibit B to the contract. That exemplar states that title was to be held by Title Insurance and Trust Company, as Trustee for the City of Oxnard, a Municipal Corporation, FOR PUBLIC PLAYGROUND AND RECREATIONAL PURPOSES AND ALL PURPOSES INCIDENTAL THERETO AND PUBLIC PARKING PURPOSES. (EXHIBIT 3).

On February 27, 1959, a Trust Agreement was entered into between the City of Oxnard and the Trustors McGrath. (EXHIBIT 4) That agreement references the December 9, 1958 contract and then states, ". . .the Trustors desire to execute a Grant Deed in favor of the Trustee herein, in and to certain real properties described in said deed, a copy of which is attached hereto and marked Exhibit "B", and by reference thereto made a part hereof as if fully set forth herein". This is the deed to the Title Insurance and Trust Company to hold as trustee for the City. This deed attached to this trust agreement did not follow the exemplar deed attached to the December 9, 1958 contract BUT it DID incorporate the contract itself by indicating drilling rights will cease "at such time as title to the property passes to the City of Oxnard pursuant to contract between the City, the Grantors hereof, and the Oxnard Shores Development Co. with respect to the aforesaid described real property, WHICH CONTRACT IS ON FILE IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OXNARD".

The Trustee transferred title to the City in 1995.

In 1996, the City declared the property surplus. NOTE that there was NO NOTICE of this to anyone in the Shores. The notice was published in LA VIDA, a Spanish newspaper.

In 1998, the City attempted to rezone and approve tentative tract maps in order to sell the sites as a complete package to developers. The residents outcry filled the city council chambers. None of those minutes or written communications have been provided to you by the City so I enclose the January 26, 1999 minutes of the City Council meeting as EXHIBIT 5. Note the reference to Dorothy Maron who was a former member of the City Council and stated that she recalled the Council indicating these sites would be parks during her tenure. Her exact comments were omitted from the minutes.

The matter was tabled.

In February, 2003, a representative group of residents sued the City to reform the deeds and to finally get to the bottom of the legalities involving these sites. The ruling was against us and to be complete, I enclose a copy of the Decision by Judge Hutchings for your review. (Exhibit 6).

This rezoning is not similar to the rezoning of the Seahorse property as City represents. That site was never considered one of the "drill sites" thought to be reserved for park space. Drill sites 1 and 2 were the only sites referenced in any documents referring to park land.

Thank you very much for your consideration of these important issues.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Deirdre Frank". The signature is written in black ink and is positioned above the printed name.

DEIRDRE FRANK

1



RESOLUTION NO. 4112

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD GRANTING A VARIANCE AND A DRILLING PERMIT TO THE STANDARD OIL COMPANY OF CALIFORNIA FOR THE EXPLORATION, DRILLING AND PRODUCTION OF OIL, GAS OR OTHER HYDROCARBON SUBSTANCES ON SITES WEST OF McGRATH ROAD AND SOUTH OF WEST FIFTH STREET, SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, Standard Oil Company of California has requested a Variance and a Drilling Permit for use of drilling sites, located south of West Fifth Street and west of McGrath Road within the City limits of Oxnard, to explore, drill into and produce oil, gas and other hydrocarbon substances from Drilling Districts # 1 and # 2, as established by Ordinance 4112 of the City of Oxnard, and from unincorporated areas adjacent thereto; and

WHEREAS, the lands embraced in the above request, being a part of lands recently annexed to the City of Oxnard, are located westerly of the City of Oxnard as its boundary existed prior to such annexation and are far removed from the area of the City described in Section 8191 of the Oxnard Ordinance Code; and

WHEREAS, the ownership of the mineral estate of all of the lands (except scattered parcels aggregating approximately 1 acre, more or less) included within the said request and all of the lands adjacent thereto (excluding tidelands) and within an excess of 1,000 feet of the exterior boundaries of the subject Districts are the same; and

WHEREAS, the conditions incorporated in the County of Ventura land use permits #472 and #602 for drilling on such adjacent lands are comparable to those hereinafter provided for the subject district, and the shape of the area as annexed is an exceptionally unusual circumstance; and

WHEREAS, no residence exists at present within 2,000 feet of the proposed district (or districts) and the size and shape of said drill sites #1 and 2 have been selected and subdivision plans designed for the ultimate use of such sites as parks, playgrounds or parking lots on cessation of drilling activity; and

WHEREAS, the drill sites which are the subject of said request are necessary to the recovery of oil, gas and other hydrocarbons from beneath the land included within the aforesaid drilling districts and contrary to the situation with other land similarly situated, it appears that oil, gas and other

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SOUTH CENTRAL COAST DISTRICT

hydrocarbons beneath said drilling districts could not be recovered by slant drilling from the eastern or southern areas of the City and that to withhold permission to use said drill sites would result in unnecessarily severe hardship to the owners of minerals within said drilling districts and would be inconsistent with the general purpose of the zoning laws of the City, and it is necessary in order to insure the spirit and purpose of the zoning law will be observed, the public safety and welfare secured and substantial justice done, that the variance and permit requested be granted; and

WHEREAS, it appears possible that portions of the oil, gas and other hydrocarbons underlying said drilling districts might be recovered from wells drilled into said districts from sites outside the City, and that in the event such recovery proved practical, possible future residential use of the land within said districts could best be protected by permitting drilling from outside the City into said districts, and that the location of said districts close to the shoreline of the Pacific Ocean and almost entirely bounded by territory outside the limits of the City of Oxnard are exceptionally unusual circumstances, and it is determined that the public health, comfort, safety, welfare and property values within the City will best be protected by also granting said petition in respect to the subsurface drilling from surface sites outside the City for which permission is requested; and

WHEREAS, the City Council has determined that the granting of this permit and variance will not result in material damage or prejudice to other property in the same zone and vicinity and will not adversely affect the Master Plan of the City; and

WHEREAS, the City Council has carefully studied said application and finds the granting of said Variance and Drilling Permit to be in accordance with the best interests of the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES HEREBY RESOLVE that said Variance and Drilling Permit be granted, subject to the following conditions:

1. All standard conditions for establishment of a drilling district, as set forth under Section 8191.32 of the Oxnard Ordinance Code except as modified by this permit and variance. The controlled drilling sites established hereunder shall be of the size and location designated on the attached map, marked Exhibit "1" and by this reference made a part hereof.

2. Surface drilling and production operations of the wells hereby permitted, including all equipment and other appurtenances accessory thereto, shall be limited to three drilling sites located as described herein:

Drilling Site Number 1: (Herein insert description of site shown on Exhibit C)

*See description of site incorporated in Ordinance 615.*

Drilling Site Number 2: (Herein insert description of site shown on Exhibit C)

*See description of site incorporated in Ordinance 615.*

Drilling Site Number 3: (Herein insert description of site shown on Exhibit C)

*See description of site incorporated in Ordinance 615.*

No surface drilling or production equipment or appurtenances accessory thereto shall be outside of said drilling sites. Upon a particular well being placed on production, the permittee shall file with the City Clerk a town lot map verified by the permittee or a responsible official thereof, showing location of the production interval and route of the well between said interval and the particular controlled drilling site. All wells passing through or bottomed under residential or commercial zones shall be below a depth of 500 feet.

3. All operations within the City shall be conducted in accordance with good and safe town lot oil drilling and production practices and in accordance with applicable governmental regulations.

4. A City building permit shall be secured for any permanent or temporary structure to be used in connection with the production of oil and constructed on the controlled drilling site, which structure shall conform to the City Building Code. A drilling permit shall not be construed to authorize any use requiring a special use permit under the Oxnard Ordinance Code, other than drilling for and production only of oil, gas and other hydrocarbon substances. Refineries, dehydration plants, absorption plants, tank farms and other uses not necessary to the production, cleaning and shipping of oil at the well head shall not be considered authorized by the drilling permit.

5. The entire controlled drilling site shall be adequately landscaped except for those portions occupied by any required structure, appurtenance or driveway, and all such landscaping shall be maintained in good condition at

all times. Plans showing the type and extent of such landscaping shall be first submitted to and approved by the City Council. Except for the derrick and temporary tanks above eight feet all machinery, tools, pipe and other equipment used in connection with any drilling operations shall be screened from view, and all drilling operations shall be conducted or carried on behind an eight foot solid fence, which shall be painted or stained so as to render such fence as unobtrusive as practicable and shall be maintained in good condition at all times. The requirements of conditions five shall not become effective until such time as required by the City Council.

6. No oil, gas or other hydrocarbon substances may be produced from any well hereby permitted unless all equipment necessarily incident to such production is either screened from view or countersunk. A plot plan showing the type and extent of such screening shall be subject to the approval of the City Council. Electrical power only shall be utilized in all pumping and production operations, which power shall not be generated on the controlled drilling site. Production shall be by the gas lift or hydraulic method or other approved methods when the hydraulic method is not practicable, such other methods to be to the reasonable satisfaction of the Director of Public Works.

7. Unless authorized by a special use permit as set forth above, there shall be no tanks or other facilities for the storage of oil erected or maintained on the premises, except closed gauging and shipping tanks. All oil produced shall be transported from the well by means of an underground pipe line without venting products to the atmospheric pressure at the production site, except when venting is necessary in the interest of safety.

8. Sumps for cuttings and drilling mud from wells on the particular drilling site shall be permitted on the drill site provided that (a) such sumps are enclosed within the eight foot fence referred to in paragraph 5 above, (b) no obnoxious odors result therefrom, and (c) such sumps are removed and the soil restored to natural condition and level within sixty days from placing said well on production or abandonment thereof. No other earthen sump shall be used within the District, and all waste water, oil or any other waste products from the drilling operations shall be accumulated in steel tanks. Such steel tanks or sumps shall not be permitted to overflow at any time. Such tanks or the waste material therein shall be hauled away from the drilling site for the disposal at any

approved waste disposal site. If such disposal is done by other than the permittee, the permittee shall inform the hauling or disposal contractor or agent of the requirements of this condition.

9. This permit shall automatically terminate when drilling and production operations have ceased for a consecutive period of six months and the City of Oxnard has acquired title to said Drilling Sites Nos. 1 and 2 pursuant to contract between the City and the Thomas Francis McGrath Trusts A and B, et al., dated December 7, 1955. Upon expiration of the drilling permit or the abandonment of any well or other facility, the premises shall be restored by the applicant to the conditions existing prior to the issuance of said permit, as nearly as practicable so to do.

10. All operations under the permit shall conform in all respects to the regulations and requirements of the California State Regional Water Pollution Control Board No. 4, the State of California, and the Federal Government. The water supply of the City of Oxnard shall not be wasted, polluted or contaminated by any operations of the permittee or his successors in interest. During drilling and production and upon abandonment of each well, effective means shall be used to prevent vertical movement of ground water.

11. All installations of whatever kind or nature and the maintenance thereof shall meet all reasonable requirements of the Chief of the Oxnard Fire Department not inconsistent herewith. Permittee shall at all times use extreme caution to prevent the occurrence of fire, explosion and blow-out of wells. Permittee, shall install and maintain in good condition the most modern and effective equipment in general use in the oil industry for the prevention, control, and extinction of fire, explosion and blow-out of wells.

12. All drilling and production equipment used shall be so constructed and operated that no noise, vibration, dust, odor or other harmful or annoying substances or effect which can be eliminated or diminished by the use of reasonable care shall be permitted to result from drilling or production operations carried on at any drilling site or from anything incident thereto to the injury or annoyance of persons in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in methods of drilling and production shall be adopted as they, from time to time become available if capable of reducing factors of nuisance or annoyance.

13. If at the time of commencement of drilling operations, any occupied residential or commercial structure is at any time located within 500 feet of any well, any derrick used in connection with the drilling of said well, and all machinery or equipment used to operate such derrick, shall be enclosed with fire-resistant and soundproofing material to the extent that the same may be accomplished without unduly interfering with the functioning thereof. Once commenced, drilling operations shall be prosecuted with reasonable diligence to completion or abandonment of the well.

14. Within sixty (60) days after the drilling of each well has been completed, and said well placed on production, the derrick, all boilers and all other drilling equipment shall be entirely removed from the premises unless such derrick and appurtenant equipment is to be used within a reasonable time limit determined by the City Council for the drilling of another well on the premises.

15. At all reasonable times, City officials shall be permitted to review and inspect the controlled drilling site and the methods used in the drilling and production operations and disposal of waste. Records of the permittee relating to operations conducted under this permit shall be open to inspection by the City Assessor.

16. All vehicles of the permittee in excess of three tons shall be restricted to the use of the following public roads, now or hereafter located in the City of Oxnard, in connection with this permit: Highway 101 north of Gonzales Road or south of Pleasant Valley Road, Gonzales Road, Beach Road, Ventura Road, Fifth Street west of Ventura Road, Pleasant Valley Road, Hueneme Road, McGrath Road, and roads abutting the controlled drilling sites. The permittee shall repair all damage to City roads caused by his operations. This permit shall not be construed to restrict applicant in the use of County Roads.

17. Upon issuance of a drilling permit and prior to drilling operations thereunder, the permittee shall provide and file with the City Council a bond issued by a company authorized to do business in the State of California, conditioned upon the faithful performance of each and every condition set forth in the permit. Said bond shall be maintained constantly until released by the City Council or this permit expires. The amount of the bond shall be \$50,000.00 for each controlled drilling site. The surface of the roads to be used are to be examined prior to use in connection with the permit and an additional bond in

the amount of \$25,000 for each controlled drilling site, made payable to the governmental agency having jurisdiction, shall be posted guaranteeing the repair of all damage caused by oil and gas operations. No extension of time that may be granted or any change of specifications or requirements that may be approved or required by any officer or department of this City or any other alterations, modification or waiver affecting any of the obligations of the permittee made by any City authority or by any other power or authority whatsoever shall be deemed to exonerate either the permittee or the surety on any bond posted pursuant to this requirement. The provisions of this paragraph shall not apply to wells existing at time of issuance of this permit, but shall be effective at such time as additional wells are drilled on the particular controlled drill site.

18. Written notice to the City Manager of transfer of interest of the permittee is required within thirty days of such transfer. Prior to commencement of operations by a transferee, the transferee shall post the required bonds and agree in writing to comply with all provisions of this ordinance and the drilling permit issued thereunder. If said notice, agreement and bonds are not filed, the drilling permit shall be automatically suspended until such time as said documents are filed.

19. By signature herebelow, permittee agrees on behalf of himself and his successors and assigns, to comply with all applicable terms and conditions of the Oxnard Ordinance Code as of the date hereof, as modified by this variance and permit, and all conditions prescribed in this drilling permit.

20. The permittee shall hold the City of Oxnard and all officers and employees thereof harmless against any claims of third parties for bodily injury or death and claims for property damage resulting from permittee's operations within the City under this permit.

Any permittee must at all times be insured to the extent of One Hundred Thousand Dollars (\$100,000) against liability in tort arising from drilling or production, or activities or operations incident thereto, conducted or carried on under or by virtue of the conditions prescribed in the drilling permit. The policy of insurance issued pursuant hereto shall be subject to the approval of the City Attorney, and duplicates shall be furnished to him. Each such policy shall be conditioned or endorsed to cover such agents, lessees or representatives of the permittee as may actually conduct drilling, production or incidental

operations permitted by such drilling permit. The provisions of this paragraph of condition 20 shall not apply to wells existing at the time of issuance of this permit, but shall be effective at such time as additional wells are drilled on the particular drill site.

21. This permit is subject to cancellation or suspension as set forth in Section 8191.6 of the Oxnard Ordinance Code.

22. If any occupied residential structure is at any time located within 500 feet of the drilling site, no materials, equipment, tools or pipe used for either drilling or production operations shall be delivered to or removed from the controlled drilling site except between the hours of 6:00 A.M. and 8:00 P.M. on any one day, except in case of emergency incidental to unforeseen drilling or production operations.

23. An internal combustion engine or electrical equipment may be used in the drilling operation of the wells, and if an internal combustion engine is used, mufflers shall be installed on the mud pumps and engine so as to reduce noise to a minimum, all of said installations to be done in a manner satisfactory to the Fire Chief. The requirements of condition 23 shall not become effective until such time as required by the City Council.

24. While this permit is issued to Standard Oil Company of California, in event that Standard surrenders its lease to the mineral owners, said owners or the Lessees of said owners shall be deemed the successor-transferee for the purposes of this permit, providing that said owners or said Lessees of owners comply with the terms of condition 18 above.

AND IT IS FURTHER RESOLVED that a variance to Oxnard Ordinance Code Section 8191.23 is hereby granted to permit drilling into or through and production from Drilling District #7 from drill sites located outside the City, provided operations of permittee in connection with such drill sites comply with all the conditions of this Resolution, except Condition 4 and the first two sentences of Condition 2.

Passed and adopted this 21<sup>st</sup> day of July, 1958, *in and to the effect of such that the Ordinance 685 through 688 and Standard Oil Company of California be amended to read as follows:*

CARL E. WARD, Mayor

ATTEST: ETHEL DALE, City Clerk

2

THIS AGREEMENT, made and entered into as of this 9<sup>TH</sup> day of DECEMBER, 1958, by and between CITY OF OXNARD, a municipal corporation, hereinafter sometimes referred to as "City" and John Francis McGrath and Thomas Francis McGrath, Jr., as Trustees of Trusts "A" and "B", respectively, created under and by virtue of the Last Will of Thomas Francis McGrath deceased, and Oxnard Shores Development Co., a partnership, hereinafter sometimes referred to as "Owners,"

W I T N E S S E T H:

1. That said Owners desire to petition for annexation to the City of Oxnard of the property shown on the attached map, (designated Exhibit "A"), in order that the Subdivision (shown in red on said map) can receive municipal services, providing, however, the Owners can be assured of certain matters pertaining to the use of said property after annexation.

2. That in order to assure themselves that the City will take necessary steps to enable the owners to use the property in the manner desired, as set forth herein, the Owners concurrently deliver herewith to the Title Insurance and Trust Company as Trustee a Grant Deed in the form of Exhibit "B" attached hereto, of the property described in the attached permit as drilling sites Nos. 1 and 2. A trust indenture shall be entered into by and between the Owners herein, as Trustors, and the Title Insurance and Trust Company, as Trustee, authorizing said Trustee to convey to the City of Oxnard the same interest acquired in the aforementioned deed, five (5) years after the happening of all of the following events:

- a. Within the Subdivision, and for a period of not less than five (5) years from the date hereof, the City has permitted the use of septic tanks which are constructed in such a manner as to meet the present requirements of the County of Ventura for septic tanks located in unincorporated subdivisions, providing that in each subdivided lot the septic tank and leach lines are located in that portion of the particular lot which is adjacent to a dedicated public street or alley. For said period of not less than five (5) years, the City has not required the use of sewers within the Subdivision.
- b. In the final subdivision map of the said Subdivision, the City did not require that any R-1 or R-1-B lot within the Subdivision be larger than 4,000 sq. ft.

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

EX 2

EXHIBIT A Page 1 of 20

- c. In the ordinance of annexation, interim zoning within the Sub-division was established as indicated on the attached map, marked Exhibit "C" and by reference made a part hereof. It is understood that Owners or their successors intend to incur expenses and to otherwise rely upon said zoning. The City Council and Planning Commission knew of no reason why said zoning should be changed, except that special beach zones may be established to permit the same types of uses as indicated on the attached map and also providing that within said beach zones no sewers will be required and single family residential lots shall be of a minimum of 4,000 sq. ft. in size.
- d. Standard Oil Company of California has surrendered its lease as now or hereafter amended or extended covering all the land within said Subdivision.
- e. Drilling and/or producing operations upon Drilling Sites Nos. 1 and 2 have ceased for a period of ten (10) consecutive years.
- f. An oil drilling district has been established for property within said Subdivision, within six months from the date of annexation of said Subdivision, in accordance with existing Sections 8190 through 8191.32 (h) of the Oxnard Ordinance Code as follows:

Sec. 8190 - Purpose of Article. The purpose of this Article is to regulate and restrict the location of certain types of uses, the requirements of which cannot be adequately provided for in Article 2 above. These uses, the boundaries of the districts wherein they are permitted, the limitations governing their operations and the procedure for the establishment of new districts, are provided for in this Article. Except for the supplemental uses, exclusively permitted by this Article, all property within the districts hereby established is subject to the provisions of Article 2 above.

Sec. 8191 - "O" Oil Drilling Districts. It is hereby declared to be the object and purpose of this Section to establish reasonable and uniform limitations, safeguards and controls for the future drilling for and production of oil, gas and other hydrocarbon substances within the City. Limitations, safeguards and controls are deemed necessary in the public interest in order to effect practices which will provide a community plan for the orderly development and conservation of such mineral resources so important to the economy, and which will also protect the surface uses of the land, as such uses are indicated by the Master Plan of the City, City zoning regulations, the value and character of improvements in or near districts where oil drilling or production is hereinafter permitted, and the desirability of certain areas for residential, commercial or other uses. It is recognized that many citizens with substantial property investments do not own mineral rights and would not profit directly from oil or gas development. The Council finds that uncontrolled

drilling and production would be detrimental to the general welfare of the residents of the City and to the public health, safety, comfort, convenience and prosperity. It is contemplated that areas within the City may be explored for oil by directional drilling methods, with surface drilling and production operations limited to a minimum of controlled drilling sites in M-2 Zones which now exist or may hereafter be created in the eastern and extreme southerly portions of the City, so located, spaced and regulated that the prevailing westerly winds will not carry oil odors into the residential and commercial areas of the City. In this manner, necessary oil development operations will cause the least possible detriment to the community and to the general welfare.

(It is agreed that the sentence above underlined is not to be interpreted as mandatory, and that it is impractical to drill the area west of Patterson Road from the eastern and extreme southerly portions of the City.)

Sec. 8191.1 - Definitions.

"Applicant" or "Permitter" shall mean said person or persons, his or their successors in interest, and any parent company or subsidiary thereof.

"Controlled Drilling Site" shall mean the location upon which surface operations incident to oil well drilling or deepening and the production of oil or gas or other hydrocarbon substances may be permitted under the terms of Section 8191 et seq. subject to conditions prescribed by the Council.

"Directional Drilling" shall mean whipstocking, or slant drilling from a controlled drilling site.

"Oil" shall be construed to include oil, gas or other hydrocarbon substances.

"Oil Well" shall mean any well or hole already drilled, being drilled or to be drilled into the surface of the earth which is used or intended to be used in connection with coring, or the drilling for, prospecting for, or producing petroleum, natural gas, or other hydrocarbon substances; or is used or intended to be used for the subsurface injection into the earth of oil field waste, gases, water or liquid substances; including any such existing hole, well or casing which has not been abandoned in accordance with the requirements of this Code.

Sec. 8191.2 - Prohibitions. Future drilling for oil, gas or other hydrocarbon substances within the City of Oxnard shall be conducted only in accordance with the provisions of Section 8191 of this Code, and the subsections thereunder, and any future drilling operations not in conformity therewith are determined public nuisances and shall be prohibited.

Sec. 8191.21 - Existing Wells. For wells located in territory annexed to the City after the effective date of this ordinance, the City shall have authority to enforce all of the conditions of any permit granted by the County. Certain provisions of Sec. 8191.4, hereunder, are designed to protect the public safety and to prevent public nuisances, and shall be construed as regulations upon such existing wells and the owners and operators thereof. Failure to comply with said regulations shall be considered a violation of this Code. Said regulatory sections are as follows: Section 8191.4 (c) through (i); (j) -- restoration of premises upon abandonment only; (k) through (p); (q) -- roads to be specified by the City Council; (r) -- if a bond has been posted for the protection of the County, the City shall be substituted for the County under

the same conditions; (t) and (v). Regardless of any County permit, new wells shall not be drilled except in a City Drilling District under a City drilling permit as hereinafter set forth. Prior to granting of a permit for such new well, the applicant shall agree to substitute his permit for any existing wells for a drilling permit as set forth hereunder.

Sec. 8191.22 -- Location of Controlled Drill Sites. It is determined that the location of drill sites on property within the City zoned as residential (R-1, R-2, R-3), commercial (C-1, C-2), light manufacturing (M-1), or agricultural (A-1) would be contrary to the purposes for which said zones were established and would be contrary to the interests of the community and to the public health, safety, comfort and general welfare. On the basis of information received from major oil companies, it is determined that modern drilling techniques make it practicable for oil or gas deposits under such zones to be developed by directional drilling from sites in the M-2 Zones of the City. Drill sites in the residential, commercial, light manufacturing or agricultural zones of the City are therefore prohibited.

Sec. 8191.23 -- Drilling from Outside City Limits. Because oil operations in County areas are not ordinarily as carefully supervised or controlled as is necessary in City areas and as is contemplated by this Code, and because oil operations in such adjacent areas may adversely affect areas of the City, it is determined that the public health, comfort, safety, welfare, and property values within the City of Oxnard can best be protected by this comprehensive plan for orderly drilling operations within the City. Drilling into the City limits from a drill site located outside the City limits is prohibited, except in exceptionally unusual circumstances under which the Council and Planning Commission establish a City Drilling District and grant a subsurface City drilling permit as set forth hereunder, after first determining that residential uses in the City can best be protected by permitting drilling from outside the City. The decision of the Council as to whether such circumstances exist shall be final. In no event will such drilling be permitted where the drilling site outside the City is within 1,000 feet of a residential zone in the City. An applicant for such a permit shall apply for formation of a Drilling District and drilling permit in the manner set forth hereunder, and shall specify in his application the unusual circumstances which require granting of the permit. Increased cost of drilling by whipstocking from a controlled drilling site in the M-2 Zone in the eastern or extreme southerly sections of the City shall not be deemed an unusual circumstance. The application shall be granted or denied in accordance with the procedure and conditions set forth hereunder for drilling within the City Limits, except that City property owners within 2,000 feet of the proposed drilling site shall be notified of the Planning Commission public hearing in the manner hereinafter provided. The applicant shall agree to comply with every condition of the drilling permit, in the same manner as if the surface drilling site of the well were located within the City limits.

(It is agreed that the shape of the area to be annexed pursuant to this agreement is an exceptionally unusual circumstance and that the residential uses in the City can be protected by permitting the drilling into said area from drill sites located outside the City limits.)

Sec. 8191.24 -- Drainage of Oil from Properties Within City. In order to prevent drainage of oil from property within the City, if the producing interval of a well producing oil or gas in paying quantities should be in unincorporated territory within 660 feet of the City limits, and if any holder of a City drilling permit should own an interest in such a well and should also then own an interest in property, as to which such permittee has or shall obtain the right to drill, within the City and within 660 feet of such well, said permittee shall, within one year from the time the well in unincorporated area is placed on production, offset each such well with a well located on said property within the City limits, to at least the same depth as the well to be offset, or to such lesser depth at which oil is obtained in paying quantities. Said offset well shall be located within 330 feet of a projection of a line from the well to be offset through the City limits at the nearest point and located at least as close to the City boundary as the producing interval of the well to be offset, providing permittee has the right to drill in this area. Otherwise the offset well shall be drilled within 660 feet of the well to be offset. The fact that the producing interval of any such well outside the City is within 660 feet of property within the City shall be prima facie evidence that said property within the City is being drained of oil. All wells in the City shall be drilled from an approved controlled drilling site into an approved drilling district. Permittee shall make application therefor in accordance with the procedure set forth in this Article 9 of the Ordinance Code, and Permittee shall not be required to drill said offset well unless a District is established and the permit to drill said offset well is issued by the Council. If an existing well or wells within the City already fulfill this offset requirement, or if the City permittee has already drilled the maximum number of wells required under the lease or leases in connection with which the offset is required, or if another permittee who owns an interest in the well to be offset drills a well to fulfill this offset requirement, then an additional well shall not be required by this section. Permittee shall not be required to drill such offset well if all the property within the City limits and within 660 feet of the producing interval of the well to be offset is included in the same single ownership oil and gas lease, as that under which the well to be offset was drilled. Upon request of said permittee or of owners of mineral rights within said area within the City, the provisions of this subsection may be waived by the City Council, if the Council finds that no drainage of oil from City Districts will result from the well to be offset, or if the Council finds that drilling of the offset well is impracticable or undesirable. The permittee may submit evidence regarding such matters to the Council. The decision of the Council thereon shall be final.

(It is agreed that pursuant to Section 8191.24, Permittee shall not be required to drill such offset well if all the property within the City limits and within 660 feet of the producing interval of the well to be offset is included in the same single ownership oil and gas lease, as that under which the well to be offset was drilled, and that in said circumstance the provisions of Section 8191.24 are waived.)

Sec. 8191.3 -- Establishment of Drilling Districts. Whenever the public necessity, convenience or general welfare justify

such as on, the Council may establish by ordinance an Oil Drilling District.

Sec. 8191.31 — Procedure.

Sec. 8191.311 — Initiation. The proceedings for the establishment of an Oil Drilling District may be initiated by a verified application of one or more of the owners or lessees of property within the boundaries of the proposed district, or by resolution of the Planning Commission or Council. An application for the establishment of a district shall be filed with the Planning Commission upon a form prescribed for that purpose by the Planning Commission and shall be accompanied by a filing fee of \$100 which shall not be refundable. In said application, the applicant shall agree that he shall be bound by the provisions of Section 8191 et seq. of this Code, and all provisions of any Drilling District Ordinance and drilling permit adopted or granted as a result of said application. Each application shall contain a statement that the applicant has the proprietary or contractual authority to drill for and produce oil, gas or other hydrocarbon substances under the surface of at least 51% of the property to be included in said district. Except in the M-2 Zone of the City, the district described in said application shall be more than 70 acres but not more than 100 acres in area, including all streets and alleys within the boundaries thereof. Districts in the M-2 Zone shall be not less than 35 acres or more than 100 acres in area. Districts shall include all property within their boundaries and shall be compact in area. The boundaries thereof shall so far as practicable follow property lines, public streets or alleys and the boundaries of previously created districts, thereby avoiding leaving areas between districts which cannot be later formed into districts of the minimum size. Land under such authority of the applicant and located outside the boundaries of the City and contiguous with the proposed district may be included for the purpose of calculating said minimum areas. Smaller districts may be created in situations where there is not contiguous property within the City which could be included to create a district of minimum size. Each application shall contain a description of the controlled drilling site, located in the M-2 Zone of the City, from which the applicant has or can secure access to the proposed district and which he proposes to use to develop the proposed district. A map and legal description of each proposed district or districts and the controlled drilling site proposed to be used in developing said district or districts shall accompany the application, such map to be in sufficient copies to be mailed to each property owner within the proposed district and within 300 feet of the exterior boundaries thereof, with six additional copies for City files.

Sec. 8191.312 — Public Hearing. A proposal to establish a district shall be set for public hearing before the Planning Commission or its Hearing Officer. Notice of the time, place and purpose of such hearing shall be given by the following methods:

- (a) By at least one publication in a newspaper of general circulation in the City not less

three days prior to the date of the hearing; and

(b) By mailing a postal card or letter notice not less than five days prior to the date of such hearing, to the owners of all property within the proposed district and within 300 feet of the area proposed to be included within the district, using for this purpose the last known name and address of such owners as shown upon the records of the City Assessor as of the first of the month previous to the month in which the public hearing is held.

The affidavit of the Secretary of the Planning Commission affirming that such notice was mailed as prescribed above shall be prima facie evidence of the mailing of the notice. Proof of failure to mail notice to a particular owner shall not invalidate, as to other property owners, any district created hereunder. After the termination of any hearing or continuation thereof conducted by said Hearing Officer, he shall submit his report thereon to the Commission within such period of time as may be fixed by the Commission.

Sec. 8191.111 -- Decision of Planning Commission and Council. The Planning Director shall investigate all proposals to establish districts and shall make a report thereon to the Commission. Upon receipt of the reports of the Planning Director and Hearing Officer, the Planning Commission shall consider the proposal to establish the district, and may approve, conditionally approve or disapprove the same, either in whole or in part. If approved, either in whole or in part, an ordinance to establish the district and controlled drilling site, as approved by the Planning Commission, shall be presented to the Council and on the basis of the general welfare may be adopted or disapproved by a majority vote of the Council. The Planning Commission or the Council may enlarge the proposed boundaries of a District, providing that notice is given to owners within the enlarged areas and a public hearing is held thereon, as set forth in Section 8191.112 above. The Planning Commission shall act on any application for the establishment of a district within 40 days from the date the public hearing is terminated. This time limit may be extended, by mutual consent of the applicant and the Planning Commission, for an additional period. In the event the Planning Commission shall fail to act within the specified time limit, the Planning Commission shall be deemed to have approved the establishment of the district as requested in the application, and the Secretary of the Commission shall advise the Council accordingly. Maps showing boundaries of approved districts shall be on file in the office of the City Clerk. Said maps and the notations, references and other information shown thereon which pertain to the boundaries of these districts are made as much a part of this Code as if fully described herein. Reference is hereby made to such maps, notations, references and other information for full particulars.

Sec. 8191.114 -- Disapproval and Appeal to Council. If a proposed district is disapproved by the Planning Commission, its action thereon shall be final,

except that any applicant, owner or lessee of mineral rights included in such a disapproved proposed district may appeal to the Council. Such appeal shall be filed in duplicate with the City Clerk within 20 days from the date of mailing the notification of disapproval to the applicant, or within 20 days from the action of the Planning Commission disapproving a proposal initiated by the Planning Commission or Council. An appeal shall set forth specifically wherein it is alleged that the Planning Commission's findings and decision were in error. The City Clerk shall transmit one copy of the appeal to the Planning Commission and thereupon the Planning Commission shall transmit the file with a report to the Council disclosing why the proposal to establish the district was disapproved. The Council shall then review the action of the Planning Commission and in its discretion may enact an ordinance establishing the district and designating the controlled drilling site from which the district is to be developed.

Sec. 819L.33 ... Standard Conditions for Establishment of an Oil Drilling District. Establishment of each oil drilling district shall be in accordance with the requirements and procedure set forth above and shall be subject to the following conditions. Reference to "Applicant" in said conditions shall be construed as meaning "Grantee" in these districts which may be established after initiation by the Planning Commission or Council.

(a) Controlled Drilling Site. Not more than one controlled drilling site shall be permitted for each district and such site shall not be larger than two acres when used to develop a district approximately the minimum size; provided, however, that where such site is to be used for the development of larger oil drilling districts or where the Planning Commission and City Council require that more than one oil drilling district be developed from one controlled drilling site, such site may be enlarged, at the discretion of the Council. Said site shall be located only in the M-2 Zone of the City and shall be subject to the approval or reasonable disapproval of the City Council. The site shall be situated not less than 200 feet from any state highway and not less than 200 feet from any residence or commercial establishment located in a residential or commercial zone.

(It is agreed that the controlled drilling sites to be established hereunder shall be of the size and location designated on the attached map, marked Exhibit B and by this reference made a part hereof.)

(b) Number of Wells. Except for wells above required to be drilled to offset wells drilled outside the City limits, the number of oil wells which may be drilled and operated from any controlled drilling site may not exceed one well to each five acres in the district or districts to be explored from said site.

(c) Authority of Applicant. Each applicant, requesting a drilling permit as provided in Section 819L.4 hereunder, must have the proprietary or contractual

authority to drill for oil under the surface of at least 51% of the property in the district to be explored.

(d) Offer to Lease. Each applicant or his successor in interest shall, within ninety days from the date the ordinance establishing the particular district becomes effective, (1) file a declaration of pooling, pooling all property within the district which is then under lease to the applicant and which may be pooled under the terms of the particular lease, said pooling to be in accordance with the terms of the particular lease, and (2) execute an offer in writing giving to each record owner and lessee of mineral rights located in said oil drilling district who has not joined in the lease, or other authorization to drill, the right to join in the lease or authorization and thereafter to share in rental payments, bonus payments and the proceeds of production from wells boreholes in said district. Said share shall be computed upon the same basis, as that of the average of property owners (by surface area) who have by lease or other legal consent, agreed to the drilling for and production of oil, gas or other hydrocarbon substances by the applicant from the subsurface of said district at the time the district was created. The offer shall provide that the lessee shall have no right in the surface of the land, nor in the subsurface thereof except below a depth of 500 feet. The applicant shall file said offer with the City Clerk and cause it to be recorded in the office of the Ventura County Recorder. The offer hereby required must remain open for acceptance for a period of five years after the date the drilling permit is issued. During the period said offer is in effect, said applicant, or his successors in interest, shall impound all proceeds of production to which said owners or any of them may become entitled, in a bank or trust company in the State of California, with proper provisions for payment to the said record owners and lessees of mineral rights in the district who had not signed the lease or other authorization at the time such drilling district was created, but who accept such offer in writing or who are deemed included pursuant to Public Resources Code Section 3608 within the said five-year period. Any such payments remaining in any bank or trust company at the time said offer expires, which are not due or payable as hereinabove provided, and future payments as they would otherwise become due to said owners who have not joined in the lease or other drilling authorization, shall be paid to the City of Oxnard Fund for Acquisition and Operation of Parks and Recreational Facilities in order that those otherwise entitled shall receive through municipal improvements some benefit from the proceeds of such production.

(e) Access to Oil Drilling Districts. In order that wherever possible owners or lessees of oil deposits located in property zoned other than M-2 shall have the opportunity to develop said deposits and reach said deposits from controlled drilling sites located in the M-2 Zone, each applicant shall agree that he and his successors in interest, so far as he or they have any right and may legally do so, and as a condition to the granting of said applicant's request for formation of any drilling district

A

9-20

or issuance of any drilling permit hereunder, shall assign to any other successful applicant for establishment of an oil drilling district hereunder co-equal rights in and to subsurface rights of way or subsurface easements through premises in which said applicant-assignor then has an interest. The assignee shall agree to hold the assignor harmless from any and all liability which may be incurred as a result of the assignee's use of said rights of way or easements.

(f) Operations in Unincorporated Areas. Each applicant shall agree to comply with the provisions of Sec. 819L.23 and Sec. 819L.24 above with respect to drilling into or draining oil from under property within the City limits from drilling operations in unincorporated areas.

(This requirement shall be construed in accordance with the agreements set forth in parenthesis after Sections 819L.23 and 819L.24 above.)

(g) Quitclaim of a Portion of a District. If the Grantee should quitclaim or otherwise release any portion of a District, said quitclaimed or released lands shall continue to share pro-rata in the proceeds of production from any wells bottomed in the District, provided however that this provision shall not be deemed to abrogate or supersede any contractual relationship entered into by the particular owner. A Grantee shall not quitclaim or release lands in any District, except in a compact parcel or parcels of not less than five acres each so shaped that the quitclaimed or released lands could be formed into a separate District or Districts.

(h) Termination of Drilling Districts. At any time after one year from formation of a district, upon request of any owner or lessee of mineral rights within the district, or at any time upon initiation of reviewing action by the Council or Planning Commission, any district may be reviewed and the Council may by ordinance dissolve, reduce the size or partition the district as follows. Prior to the production of oil within a district, the district may be dissolved if it does not appear that drilling operations are being diligently prosecuted or if any person does not hold proprietary or contractual authority to drill for and produce oil under the surface of at least 51% of the property within the district, providing said action is reasonable under the particular circumstances. After the production of oil within a district and subsequent to quitclaiming of portions of a district, the district may be reduced in size by elimination of quitclaimed and non-leased or non-controlled acreage.

All matters hereinbefore set forth in parenthesis shall be construed as a part of this agreement, and matters set forth in this agreement shall be construed as Findings of Fact.

Neither the City Council nor Planning Commission know of any reason why drilling districts and drilling sites should not be established as indicated on the attached map, and oil

production within the subdivision unitized in Drilling

Districts established pursuant to the Oxnard Ordinance Code.

- g. A variance and drilling permit, in the form attached hereto as Exhibit "D", has been issued by the City of Oxnard, within two weeks from the effective date of the ordinance establishing the said Drilling District.

When the events described in paragraphs 2a, 2b, 2c, 2f, and 2g, hereof have occurred and even though the balance of the conditions of paragraph 2 hereof have not at such time occurred, the Trustee shall nevertheless deliver said deed to the City twenty (20) years after the death of all of the now living lawful issue of William H. McGrath; Thomas Francis McGrath, Jr.; George D. McGrath and Charles J. Cooney.

If the events described in paragraphs 2a, 2b, 2c, 2f, and 2g above have not occurred within five (5) years from the date hereof, or if the drilling district or permit or variance should be rescinded or amended by the City, without agreement of the parties hereto, the Trustee shall reconvey drilling sites Nos. 1 and 2 to the owners.

3. That as a further consideration of annexation by the City of Oxnard and performance of the conditions as set forth above, Owners do agree as follows:

- a. Owners will petition for annexation to the City of Oxnard of the territory included within Annexation 58-1, as said annexation was approved by the Ventura County Boundary Commission, and will sign the annexation petition attached hereto marked Exhibit "E". Owners agree not to protest said annexation.
- b. The City is causing a water line to be constructed to the corner of McGrath Road and Fifth Street, of sufficient capacity to deliver sufficient quantities of domestic water to the Subdivision. Prior to water being furnished to the Subdivision, Owners will pay to the City the sum of 10% of the cost of a 16" reinforced concrete steel cylinder pipeline being constructed on West Fifth Street between Ventura Road and McGrath Road, to defray in part the expenses of the said water line. It is understood that said payment

shall not relieve owners or their successors of the obligation to pay to the City the fees as required by the Oxnard Ordinance Code, and future amendments thereto to defray the cost to the City of construction of the distribution system within or immediately adjacent to the Subdivision.

4. This agreement may be executed in any number of counterparts with the same force and effect as if all parties hereto signed the same document.

5. Wherever the word "District" is used in this agreement said word shall be construed to mean "Districts" if more than one oil drilling district is established for property within the said Subdivision.

6. Any notice or other document or writing to be delivered from the City of Oxnard to the other parties to this agreement may be given by sending the same by registered mail, one copy addressed to each of the following persons, at the following addresses, unless the Oxnard City Attorney is otherwise notified in writing.

- a. Oxnard Shores Development Co., a partnership  
8600 La Tijera Boulevard  
Los Angeles, California
- b. John Francis McGrath and Thomas Francis McGrath, Jr.,  
as Trustees of Trusts "A" and "B", respectively, created  
under and by virtue of the Last Will of Thomas Francis  
McGrath Dec'd  
1732 East Gonzales Road  
Oxnard, California

Any notice to be given from any of the other parties to said agreement to the City of Oxnard shall be signed by:

Fred W. Marlow, as partner of Oxnard Shores Development Co.

John Francis McGrath and Thomas Francis McGrath, Jr. as Trustees of Trusts "A" and "B", respectively, created under and by virtue of the Last Will of Thomas Francis McGrath, Dec'd

7. This agreement and permit, a copy of which is attached hereto, shall be irrevocable excepting upon the terms provided therein and shall be binding upon the City and the owners, and their heirs, ex-cutors, administrators, successors and assigns.

WITNESS our hands as of the day and year first above written.

CITY OF OXNARD

By Carl E. Ward, Mayor

ATTEST: Ethel Dale  
ETHEL DALE, City Clerk

OWNERS:

Trustees of Trusts "A" and "B",  
respectively, created under and by  
virtue of the Last Will of Thomas  
Francis McGrath, Dec'd.

John Francis McGrath  
John Francis McGrath, Trustee

3

*file*

PLACE INTERNAL REVENUE STAMPS IN THIS SPACE

# Grant Deed

Affix I. R. S. \$ .....

208 11-33

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
**JOHN FRANCIS McGRATH and THOMAS FRANCIS McGRATH, Jr.**, as Trustees of  
 Trust "A" and as Trustees of Trust "B", Under the Will of Thomas  
 Francis McGrath, Deceased, as Trustee,  
 hereby GRANT(S) to  
 The **TITLE INSURANCE AND TRUST COMPANY**, for the City of Oxnard,  
 a Municipal Corporation, for public playground and recreational  
purposes and all purposes incidental thereto, and public parking purposes  
 the following described real property in the state of California, county of Ventura, and more  
 particularly described as follows:



(Herein set forth the legal descriptions of the two  
 drill sites, Nos. 1 and 2).

**SUBJECT TO:**

Reservations, easements, rights-of-way and restrictions of record, and

Also excepting the substance in, on, or under said land, as reserved by  
 Deed No. 1061 in Book 832 page 351 of said Official Records

ALSO EXCEPTING an undivided 1/8th interest in and to all of the oil,  
 minerals and petroleum substances in, on, or under said land as granted to  
 John Francis McGrath, Helen Aileen Loucks, Marian Elizabeth Graham,  
 Geraldine Ann McGrath and Thomas Francis McGrath Jr. in equal shares by  
 deed recorded January 5, 1951, as Document No. 251 in Book 972, page 484  
 of Official Records

ALSO EXCEPTING the present interest of the grantor herein, in and  
 to the oil, oil rights, minerals, mineral rights, natural gas, natural  
 gas rights, and other hydrocarbons by whatsoever name known that may be  
 within or under the parcel of land hereinabove described together with the  
 perpetual right of drilling, mining, exploring and operating therefor and  
 removing the same from said land or any other land, including the right  
 to whipstock or directionally drill and mine from lands other than those  
 hereinabove described, oil or gas wells, tunnels and shafts into, through  
 or across the subsurface of the land hereinabove described, and to bottom  
 such whipstocked or directionally drilled wells, tunnels and shafts under  
 and beneath or beyond the exterior limits thereof, and to redrill, re-  
 tunnel, equip, maintain, repair, deepen and operate any such wells or mines,  
 without, however, the right to drill, mine, explore and operate upon or  
 through the surface or the upper 100 feet of the subsurface of the land  
 hereinabove described when title passes to the City of Oxnard.

WHEN RECORDED MAIL TO

Title Order No. ....  
 Escrow or Loan No. ....

*EX 3*

**RECEIVED**  
 MAY 08 2006

CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT

*EXHIBIT B*

4

TRUST AGREEMENT

TRUST NO. PR-13637

THIS TRUST INDENTURE entered into this 27<sup>th</sup> day of February 1959, by and between the Trustees of Trusts "A" and "B", respectively, created under and by virtue of the Last Will of Thomas Francis McGrath, Deceased, herein called Trustors; the Title Insurance and Trust Company, a California corporation with its principal place of business at Los Angeles, California, herein called the Trustee, and the City of Oxnard, a municipal corporation, herein called Beneficiary,

W I T N E S S E T H:

That WHEREAS the Trustors have heretofore, to-wit on the 9th day of December 1958, entered into a contract with the City of Oxnard, a municipal corporation, a copy of which is attached hereto, marked Exhibit "A", and by reference thereto made a part hereof as if fully set forth herein, and

WHEREAS in order to execute the terms of said agreement referred to herein as Exhibit "A", the Trustors desire to execute a Grant Deed in favor of the Trustee herein, in and to certain real properties described in said deed, a copy of which is attached hereto marked Exhibit "B", and by reference thereto made a part hereof as if fully set forth herein, and

WHEREAS said Trustee shall hold said deed for the primary benefit of the City of Oxnard, a municipal corporation, the Beneficiary herein, and the Trustors upon the happening of the conditions herein-after set forth.

NOW, THEREFORE, IT IS UNDERSTOOD AND AGREED as follows:

1. That said Trustors have concurrently with the execution of this Trust Indenture delivered to said Trustee a deed purporting to

RECEIVED  
MAY 08 2006

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

1.

Original in Vault

EX4

1 convey to it certain real property described in that certain deed  
2 hereinbefore referred to as Exhibit "B".

3 2. The beneficial interest above as aforesaid under this  
4 trust hereby is vested in the City of Oxnard, a municipal corporation,  
5 organized and existing under and by virtue of the laws of the State  
6 of California herein sometimes referred to as the "Beneficiary".

7 3. That the Trustee holds such title as was thus received by  
8 it in and to the said real property referred to as Exhibit "B" in  
9 trust under the conditions set forth in this instrument and for the  
10 following purposes:

11 SECTION I

12 To convey said real property hereinabove described in Exhibit  
13 "B" to the City of Oxnard, a municipal corporation, when said City of  
14 Oxnard shall have complied with all of the terms, provisions and  
15 conditions to be performed by it of that certain agreement dated  
16 December 9, 1958, and hereinbefore referred to as Exhibit "A".

17 SECTION II

18 That in the event the City of Oxnard, a municipal corporation,  
19 shall fail to perform any and/or all of the provisions of said con-  
20 tract dated December 9, 1958, and hereinabove referred to as  
21 Exhibit "A", said Trustee shall re-convey said real property described  
22 in Exhibit "B" to the Trustors or their successors or the owners of  
23 said real property as of the date of said reconveyance in the event  
24 of the prior termination of that certain trust created under and by  
25 virtue of the Last Will of Thomas Francis McGrath, Deceased.

26 SECTION III

27 That in order to execute the provisions of Section I. and II,  
28 ROBERT BLINN MAXWELL, Lawyer, whose address is 326 South A Street,  
29 Oxnard, California, is hereby appointed as the person who shall de-  
30 termine whether the said real property described in Exhibit "B" shall  
31 be conveyed to the City of Oxnard, a municipal corporation, in accord-  
32



1 ficient in the Trustee's opinion to cover all costs, charges and  
2 liabilities in connection therewith; and to employ such counsel as  
3 the Trustee shall deem advisable; all at the risk of the trust es-  
4 tate.

5 b) To disclose the trust when the Trustors' fiduciary  
6 capacity requires.

7 SECTION VI

8 This trust shall cease and terminate upon the non-compliance  
9 by the City of Oxnard, a municipal corporation, with any and/or all  
10 of the terms of that certain agreement dated December 9, 1958, and  
11 hereinabove referred to as Exhibit "A", and upon said Trustee being  
12 so advised of said non-compliance by ROBERT BLINN MAXWELL or upon  
13 determination of said non-compliance by said Trustee in a manner  
14 provided in Section III hereof.

15 SECTION VII

16 Unless otherwise sooner terminated, this trust shall cease  
17 and terminate upon the full compliance by the City of Oxnard, a  
18 municipal corporation, with that certain agreement dated December 9,  
19 1958 and hereinbefore referred to as Exhibit "A". Thereupon the  
20 property described in Exhibit "B" shall be conveyed, transferred and  
21 delivered (without collection of consideration therefor and subject to  
22 all matters then against the same) to the City of Oxnard, a muni-  
23 cipal corporation.

24 SECTION VIII

25 The fees of the Trustee shall be such as shall be agreed upon  
26 between the Trustors and the Trustee from time to time. All fees,  
27 expenses and advancements with seven percent (7%) interest of the  
28 Trustee are a first lien upon the trust estate.

29 The provisions hereof shall bind the Trustors, Trustee and  
30  
31  
32

1 the Beneficiary, their successors and assigns.

2 Dated: February 27 1959.

3  
4 John Francis McGrath  
5 John Francis McGrath

6 Thomas Francis McGrath, Jr.  
7 Thomas Francis McGrath, Jr.

8 as Trustees of Trusts "A" and "B", res-  
9 pectively, created under and by virtue of  
10 the Last Will of Thomas Francis McGrath,  
11 Deceased.

12 TRUSTORS

13 TITLE INSURANCE AND TRUST COMPANY,

14 By Alan Emmert  
15 Vice President

16 (CORP. SEAL)  
17 JUN 9 - 1959

18 By Harold P. Beach  
19 Assistant Secretary

20 TRUSTEE

21 CITY OF OXNARD, a Municipal Corporation

22 By Carl E. Ward  
23 Carl E. Ward, Mayor

24 ATTEST:

25 By Ethel Dale  
26 Ethel Dale, City Clerk

27 BENEFICIARY

28 Declaration of  
29 Trust No. PR-13637



1 in said Trust Indenture, the name of EDWIN L. CARTY shall be substi-  
2 tuted in place thereof.

3 3. That said Trustors shall pay all taxes and any other  
4 assessments levied upon said real property held by said Trustee  
5 under and by virtue of said Trust Indenture for the duration of said  
6 trust.

7 4. Said Trustors shall pay all Trustee's fees and costs  
8 in connection with the administration of said trust estate for the  
9 duration of said trust.

10 The provisions hereof shall bind the Trustors, Trustee  
11 the Beneficiary, their successors and assigns.

12 Dated: March 3, 1959.

13  
14 John Francis McGrath  
15 John Francis McGrath  
16 Thomas Francis McGrath Jr.  
17 Thomas Francis McGrath Jr.  
18 as Trustees of Trusts "A" and "B",  
19 respectively, created under and by  
20 virtue of the Last Will of Thomas  
21 Francis McGrath, Deceased.

22 TRUSTORS

23 TITLE INSURANCE AND TRUST COMPANY

24 By Chas. Bennett  
25 Vice President

26 By Harold Tracy  
27 Assistant Secretary

28 TRUSTEE

29 CITY OF OXNARD, a Municipal  
30 Corporation

31 By Carl E. Ward  
32 Carl E. Ward, Mayor

33 ATTEST:

34 By Ethel Dale  
35 Ethel Dale, City Clerk

36 BENEFICIARY

37 (CORP. SEAL)  
38 JUN 9 - 1959

39 Amendment to  
40 Trust No. PR-13637

No. 71-109

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**JOHN FRANCIS McGRATH and THOMAS FRANCIS McGRATH Jr., as Trustees of Trusts "A" and "B", respectively, under the Last Will and Testament of Thomas Francis McGrath, Deceased, do hereby grant to THE TITLE INSURANCE AND TRUST COMPANY, a California corporation, the following described real property in the state of California, county of Ventura, and more particularly described as follows:**

Part of Mandalay Unit No. 1, in the county of Ventura, state of California, as per map thereof recorded in Book 13, Page 58 of Maps, in the office of the County Recorder of said county, described as follows:

**PARCEL I: (Drill Site No. 1)**

Commencing at the most Northerly corner of Lot 15, Block 149 of said Mandalay Unit No. 1; thence South 24° 46' 56" East along the Northeasterly line of said lot, 10 feet; thence South 65° 13' 04" West and parallel with the Northwesterly line of said lot, 40 feet to the true point of beginning; thence continuing South 65° 13' 04" West, 40 feet; thence Southwesterly along a tangent curve, concave Northwesterly and having a radius of 1690 feet, an arc distance of 265 feet; thence North 15° 47' 53" West and radial to said curve, 210 feet; thence Northeasterly along a curve having a radius of 1480 feet and being concentric with and distant 210 feet measured radially from the hereinbefore mentioned curve having a radius of 1690 feet, an arc distance of 232.07 feet; thence North 65° 13' 04" East and tangent to said curve, 40 feet; thence South 24° 46' 56" East, 210 feet to the true point of beginning.

**PARCEL II: (Drill Site No. 2)**

Commencing at the most easterly corner of Lot 53, Block 143, of said Mandalay Unit No. 1; thence North 65° 13' 04" East along the northeasterly prolongation of the Southeasterly line of said Lot 53, 100 feet; thence North 24° 46' 56" West and parallel with the Northeasterly line of said Lot 53, 216 feet; thence Northeasterly along a curve, tangent at its point of beginning to a line bearing North 65° 13' 04" East, concave southerly, and having a radius of 1252 feet an arc distance of 80 feet to the true point of beginning; thence continuing Northeasterly along said curve, an arc distance of 257 feet; thence North 9° 21' 36" West and radial to said curve, 226 feet; thence Southwesterly along a curve having a radius of 1478 feet and being concentric with and distant 226 feet measured radially from the hereinbefore mentioned curve having a radius of 1252 feet, an arc distance of 303.39 feet; thence South 21° 07' 16" East and radial to said curve, 226 feet to the true point of beginning.

1 EXCEPTING FROM THE AFORESAID DESCRIBED REAL PROPERTY ALL  
2 OIL, GAS, HYDROCARBON SUBSTANCES AND OTHER MINERALS AND FISSILE  
3 SUBSTANCES LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF  
4 SAID LAND, AND RESERVING UNTO GRANTORS, THEIR SUCCESSORS AND  
5 ASSIGNS, THE RIGHT TO PRODUCE AND TAKE SUBSTANCES FROM THE AFORESAID  
6 DESCRIBED REAL PROPERTY AND OTHER PROPERTY, BY MEANS OF WELLS LO-  
7 CATED ON THE AFORESAID DESCRIBED REAL PROPERTY AND DRILLED INTO THE  
8 AFORESAID DESCRIBED REAL PROPERTY AND/OR OTHER PROPERTY. SAID  
9 RIGHT OF GRANTORS, THEIR SUCCESSORS AND ASSIGNS, TO USE THE AFORE-  
10 SAID DESCRIBED REAL PROPERTY ABOVE A DEPTH OF 500 FEET BELOW THE  
11 SURFACE THEREOF, SHALL TERMINATE AT SUCH TIME AS TITLE TO THE  
12 PROPERTY PASSES TO THE CITY OF OXNARD, PURSUANT TO CONTRACT BETWEEN  
13 THE CITY, THE GRANTORS HEREOF, AND THE OXNARD SHORES DEVELOPMENT CO.  
14 WITH RESPECT TO THE AFORESAID DESCRIBED REAL PROPERTY, WHICH CON-  
15 TRACT IS ON FILE IN THE OFFICE OF THE CITY CLERK OF THE CITY OF  
16 OXNARD.

17 IN WITNESS WHEREOF THIS INSTRUMENT HAS BEEN EXECUTED THIS  
18 24TH DAY OF FEBRUARY 1959.

19 *John Francis McGrath*  
20 John Francis McGrath  
21 *Thomas Francis McGrath Jr.*  
22 Thomas Francis McGrath Jr.  
23 as Trustees of Trusts "A" and "B",  
24 respectively, under the Last Will  
25 and Testament of Thomas Francis  
26 McGrath, Deceased.

27 STATE OF CALIFORNIA }  
28 County of Ventura } ss:

29 On February 24, 1959, before me, the undersigned, a Notary  
30 Public in and for said County and State, personally appeared  
31 JOHN FRANCIS McGRATH and THOMAS FRANCIS McGRATH Jr., known to me to  
32 be the persons whose names are subscribed to the within instrument  
and acknowledged that they executed the same.

WITNESS my hand and official seal.

22659

RECORDED AT REQUEST OF  
TITLE INSURANCE & TRUST CO.  
AT 8:01 A. M.  
OFFICIAL RECORDS VENTURA COUNTY

JUN 11 1959  
BOOK 1744 PAGE 493

*Robert H. Murray* Notary Public

*Edward C. Maffei*  
Notary Public in and for said county  
and state.

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**ACTION:** Mayor Pro Tem Zaragoza moved to adopt **Resolution No. 11,497.**  
Councilmember Maulhardt seconded; and the motion was adopted by the following vote:  
Ayes: Councilmembers Holden, Lopez, Maulhardt, Pinkard and Zaragoza.

- 2. **SUBJECT:** Presentation of the Tezcatlipoca Awards.  
**DISCUSSION:** The Resident Services Coordinator described the program, which works with at risk youth and stated that the awards recognize individuals and community-based organizations for their participation and support of the program.

P. APPOINTMENT ITEMS

- 1. **SUBJECT:** Presentation of The Greater Oxnard Economic Development Corporation Five-Year Plan by Steven L. Kinney.  
**RECOMMENDATION:** Continue to February 2, 1999.  
**ACTION:** Mayor Pro Tem Zaragoza moved approval as recommended. Councilman Pinkard seconded; and the motion was unanimously adopted.

R. STUDY SESSION

Public Safety

- 2. (071) **SUBJECT:** Ordinance Authorizing Imposition of an Administrative Fine for Violations of the Oxnard City Code ("OCC").  
**RECOMMENDATION:** Continue to February 2, 1999.  
**ACTION:** Mayor Pro Tem Zaragoza moved approval as recommended. Councilman Pinkard seconded; and the motion was unanimously adopted.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Mr. Bernard Dunhom spoke about Oxnard's veterans preference in hiring policies and flying of POW/MIA flags.

Speaking against Cornell Corrections being located at 425 "D" Street and the City's issuance of a certificate of occupancy were Mr. Steve Buratti, Alan Wingo, Louise Ann Noeth, Marsha Maulhardt, Barbara Higgins, Tina Hurley, Rebecca Barkley, Peter Erdos, Al Barkley (petition submitted).

K. PUBLIC HEARINGS

Community Development and Conditions

- 1. (039) **SUBJECT:** Vacation of a portion of Wavecrest Way, Zone Change, Tentative Subdivision Maps, and Coastal Development Permits for two lots in the Coastal Zone, Filed by the City of Oxnard.  
**RECOMMENDATION:** (1) Adopt a resolution approving an amendment to the certified Local Coastal Program and direct staff to forward the amendment to the California Coastal Commission for consideration of an amendment to the Coastal Zoning Ordinance by reclassifying specified property on the zone map from R-P (Coastal Resource Protection) to R-B-1 (Single-Family Beach) for two parcels, approximately 1.39 and 1.42 acres each, located on the west side of Harbor Boulevard between

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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EX 9

Breakers and Reef Ways and on the north side of Whitecap Street east of Mandalay Beach Road, respectively; (2) Adopt a resolution approving Tentative Subdivision Map No. 5063, subject to certain findings and conditions; (3) Adopt a resolution approving vacation of a portion of Wavecrest Way and approving Tentative Subdivision Map No. 5064, subject to certain findings and conditions; and (4) Adopt a resolution upholding the Planning Commission's approval of PZ Nos. 98-5-106 and 107, subject to certain findings and conditions.

**ACTION:** Mayor Lopez declared the public hearing open.

**DISCUSSION:** The Assistant City Clerk stated the affidavits of publication are on file and one written communication was received in opposition to the recommendation.

The Public Services Director ("Director") described the proposal and discussed how the properties were received by the City, adding that there is nothing which restricts the property to park purposes, and the properties have never been designated as park properties. He stated 1) the properties have been designated for residential development since 1982 when the City Council adopted the Local Coastal Program and Land Use Plan; 2) the density of the subdivisions is consistent with the balance of the Oxnard Shores neighborhood; 3) tests have confirmed there is no contamination on these lots; 4) all the streets and ways will receive a new slurry coat to restore and upgrade the streets upon completion of the current underground utility project, scheduled in early June. The Director then discussed the storm drain system and proposed improvements to the Harbor Boulevard landscape medians, parkway and wall and stated that improvements would be funded from the potential sales of the lots.

Speaking against City Council's approval of the recommendation were: Ms. Dierdre Frank, Robert Murphy, Bodine Elias, Debra Tyhurst, Sally Orbas, Lee Bartosh, Suzanne Schecter, Robert Chandler, Sal Penza, Mina Carr, Ted Kuepper, Nick Strangio, Guy Yamashige, Brenda Ryan, Donna Biess, Dick Chaiclin, Bob Bartosh, Gary Spritz, Don Abbott, Sam Goe, Clyde Meis, Ken Barrabee, Holly Hoberg, and Ray Anderson. Some speakers requested that if City Council intends to sell the parcels, the funds from the proceeds of the sale be prioritized for use in upgrading the Oxnard Shores neighborhood.

Mr. Joe Ruscio suggested the item be continued and staff be directed to meet with the neighborhood.

**ACTION:** Councilman Pinkard moved to close the public testimony portion of the public hearing. Mayor Pro Tem Zaragoza seconded; and the motion was unanimously adopted.

**DISCUSSION:** The Director stated the sites were never used as oil drilling sites and that any legislative action of the City Council would be subject to consideration by the State Coastal Commission.

Ms. Dorothy Maron commented on her recollection of City Council discussions regarding the sites when she was on the City Council.

**ACTION:** Councilmember Holden made a motion that staff conduct an audit of what is required to address the concerns of the residents: sound wall, streets, drainage and landscaping, provide an estimate of the costs of improvements, versus the revenue that would be generated from the sale of the lots and return to City Council. Mayor Pro Tem Zaragoza seconded; and the motion was adopted by the following vote: Ayes: Councilmembers Lopez, Maulhardt, Pinkard, Zaragoza and Holden.

CX00377

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA**

JUDGE: THOMAS J. HUTCHINS DATE MAY 10, 2004

CLERK: SANDY MCCARTY CASE NO.: CIV 217306

**TITLE OF CASE:**

DEIRDRE FRANK, RANDY HAINES,  
MARGRET HAINES, and MARY SUSAN KYROPOULOS,  
TRUSTEE of the BETTY M. KYROPOULOS TRUST

Plaintiffs,

v.

CITY OF OXNARD, a Municipal Corporation,  
and DOES 1 through 10,

Defendants.

---

**NATURE OF PROCEEDINGS:**      **STATEMENT OF DECISION**  
**RE: COURT TRIAL**  
(Taken under Submission 05/07/04)

This action came on regularly for trial before Superior Court Judge Thomas J. Hutchins on February 13, 2004. Mark T. Barney and Jacquelyn K. Phlegar of Ferguson, Case, Orr, Paterson & Cunningham LLP appeared as attorneys for plaintiffs DEIRDRE FRANK, RANDY HAINES, MARGARET HAINES, and MARY SUSAN KYROPOULOS, TRUSTEE of the BETTY M. KYROPOULOS TRUST, and David K. Hughes of Price, Postel & Parma LLP appeared as attorneys for defendant CITY OF OXNARD (the "City").

The matter was tried to the Court over the course of two days (February 13, 2004 and May 7, 2004) and in less than eight hours. The Court received oral and documentary evidence on February 13<sup>th</sup> and the attorneys appeared for oral argument on May 7<sup>th</sup>, 2004. In the interim, the attorneys filed their closing trial briefs.

On May 7, 2004, at the time set for oral argument, the parties submitted the matter to the Court for its decision. Neither side requested a Statement of Decision (CCP 632); nonetheless, the Court now issues its Statement of Decision setting forth the factual and legal basis for its decision as to each of the principal controverted issues at trial:

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SOUTH CENTRAL COAST DISTRICT

EXC

## TITLE OF CASE:

FRANK, et al. v. CITY OF OXNARD, et al.**Issue No. 1: Do the Plaintiffs Have Standing to Bring this Action for Reformation?**

Citizens and taxpayers have standing to bring an action to enforce a public right or to procure enforcement of a public duty. White v. Davis (1975) 13 Cal.3d 7575, 764; Green v. Obledo (1981) 29 Cal.3d 126, 144. Plaintiffs have brought this action for reformation in order to compel the City to perform an alleged public duty to maintain two properties transferred to the City by John Francis McGrath and Thomas Francis McGrath, trustees of two McGrath family trusts (the "McGraths") pursuant to an agreement entered into by the McGraths, their development company Oxnard Shores Development Co, and the City in December 1958 (Sites Nos. 1 and 2), for public playground, recreational and parking purposes (the "1958 Agreement") (Ex. 2). Code of Civil Procedure § 526a accords standing to a taxpayer to bring "[a]n action...preventing any illegal expenditure of, waste of, injury to, the estate, funds or other property of a ...city and county of the state." Plaintiffs FRANK and KYROPOLOUS testified to having paid taxes to the City within the year prior to the filing of this action, entitling them to bring this action as taxpayers under that statute.

In general, a party has standing to bring an action in which that party has a "*personal stake in the outcome of the controversy.*" Baker v. Carr (1962) 369 U.S. 186, 204. In the instant action, plaintiffs FRANK and KYROPOLOUS testified that the plaintiffs have homes adjacent to or looking out upon Sites Nos. 1 or 2, and that plaintiffs' children and neighborhood children play on the currently vacant lots. This testimony establishes that plaintiffs have a sufficient interest in the City's proper use of the properties for purposes of standing.

This Court notes that the City did not aggressively dispute plaintiffs' standing to bring this action in its trial brief, merely asserting by way of argument and stipulated admitted facts that plaintiffs were not parties to the 1958 Agreement, nor to the agreement dated February 27, 1959 between the McGraths as Trustors, Title Insurance and Trust Company ("TITCO") as trustee, and the City as beneficiary which clarified ambiguities in the 1958 Agreement (the "1959 Agreement") (Ex. 6), and are not successors in interest to the McGraths. (See Statement of Admitted Facts, #1, 2 and 5).

**Issue No. 2: Did Trustors John and Thomas McGrath Dedicate Lots Nos. 1 and 2 to the City for Public Purposes?**

California law is clear that where property has been granted to a municipality for a specified purpose, the property must be used for that purpose. Slavich v. Hamilton (1927) 201 Cal. 299, 302. However, the evidence admitted at trial does not establish that Sites Nos. 1 and 2 were granted to the City by the McGraths for a specified purpose.

Neither the 1958 Agreement nor the 1959 Agreement contain language specifying or limiting the use of Sites Nos. 1 and 2 after transfer to the City. Neither the February 24, 1959 Grant Deed transferring the property to TITCO to hold for the benefit of the City (the "1959 deed")(Ex. 5), nor the 1995 Quitclaim

## TITLE OF CASE:

FRANK, et al. v. CITY OF OXNARD, et al.

Deeds (the "1995 deeds")(Exs. 8 and 9) transferring the property to the City, restrict the use of the property. The 1959 deed merely reserved specified oil and mineral rights to the McGraths, as did the 1995 deeds.

A grant is to be interpreted in the same manner as any other contract, so as to give effect to the intention of the parties. Civil Code §§ 1066 and 1635; Boyer v. Murphy (1927) 202 Cal. 23, 29-30. For purposes of ascertaining that intention "the whole of the contract is to be taken together, so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other." Civil Code § 1641, Id at 30. There is a legal presumption that executed documents, such as the 1959 Agreement and the 1959 deed, correctly express the intention of the parties. The prevailing rule is that a conveyance of land that describes the use to be made of the land, without limiting the conveyance with words such as "only" or similarly restrictive words, or by words of reversion, does not constitute a limitation on the grant or the use of the land. Manhattan Beach v. Superior Court (1996) 13 Cal.4<sup>th</sup> 232, 243-244.

This Court looked to the entire deeds and their underlying agreements to determine if the McGraths had clearly manifested an intent to limit the City's use of Sites Nos. 1 and 2. The only documentary evidence admitted at trial of an alleged intention by the McGraths to limit the use of Sites Nos. 1 and 2 by the City is an incomplete, unexecuted form deed attached as Exhibit B to the 1958 Agreement ("Exhibit B") which contains language stating that the grantors grant the property to the trustee for the City "*for public playground and recreation purposes and all purposes incidental thereto, and public parking purposes.*" However, the 1958 Agreement merely references Exhibit B as a "form" of deed, and it is clear from a review of the form that Exhibit B is neither formal nor finalized. Exhibit B does not contain the property description, but the words, in parenthesis, "(Herein set forth the legal description of the two drill sites, Nos. 1 and 2)." Exhibit B references the retention of rights in fractional interests of oil and minerals rights to non-party predecessors in interest. The incomplete deed at Exhibit B could not have been used by the parties for the formal transfer of the properties to the City in accordance with the 1958 Agreement, and appears to have been no more than an exemplar, without legal effect.

This interpretation finds support in a comparison of the suggested language of Exhibit B and the final language of the 1959 Grant Deed. The language of the deed prepared and executed by the McGraths in 1959 deviated significantly from the form of the deed at Exhibit B, with the use language deleted entirely, the number of reservations reduced from three to one, and the remaining reservation being significantly reworded to limit access to oil, gas and minerals on the properties. The Court finds that the incomplete form of a deed at Exhibit B to the 1958 Agreement, and the multiple and express deviations from that form in the executed 1959 deed, establish that Exhibit B was intended by the McGraths as a non-binding exemplar only.

The 1959 deed incorporates the 1958 Agreement (containing Ex. B) into the section reserving certain rights in the property to the grantors, but the incorporation of an agreement imposing pre-conditions on

## TITLE OF CASE:

FRANK, et al. v. CITY OF OXNARD, et al.

transfer does not raise proposed post-transfer language in an exhibit to the level of a use restriction. Neither the 1958 Agreement, nor the 1959 Agreement, contain powers of termination tied to the City's use of Lots Nos. 1 and 2. The lack of a reversionary interest conditioned upon use of the property suggests that the McGraths did not intend to convey the property subject to a use restriction. See, e.g., Welton v. City of Red Bluff (1991) 2 Cal.App.4<sup>th</sup> 117. The reference to the 1958 Agreement in the reservation clause of the 1959 deed does not evince an intent by the McGraths to restrict the use of Sites Nos. 1 and 2 to the terms in the exemplar attached as Ex. B thereto, and does not create a use restriction thereby.

The Court may look to the facts and circumstances surrounding the transaction involving a deed, to determine if there appears to be an express intention on the part of the grantors to dedicate property for a specific purpose. See Slavich v. Hamilton (1927) 201 Cal. 299, 305. In the instant action, the facts referenced in the agreements entered into by the McGraths reveal an intention on the part of the McGraths to develop a beach front subdivision, while also leasing Sites Nos. 1 and 2 to Standard Oil for drilling purposes. The 1958 Agreement included many express provisions concerning the establishment by City of Oil Drilling Districts within the annexed subdivision. [Ex. 2, par 2(f)]. No transfer of the property to the City was to take place until drilling had been abandoned for a period of ten years. [Ex. 2, par 2(e)]. The focus of the agreement was upon the McGrath's use of the property, not the City's use, and the property transfer to the City was an incentive "to assure [the McGraths] that the City will take necessary steps to enable the owners to use the property in the manner desired...." [Ex. 2, par 2 (emphasis added)]. It does not appear that the McGraths, or their development, would have benefited from a restriction on use of Sites Nos. 1 and 2 upon transfer to the City, as the transfer was conditional and remote in time, and drilling within the development would continue on the properties for the immediate future.

The plaintiffs point to the City Council's Resolution No. 1939, [Ex. 1] dated February 11, 1958, authorizing the City's Mayor to "accept and consent to deeds or grants conveying to the City of Oxnard any interest in or easements upon real estate for public purposes," as evidence of an intent by the City to use Sites Nos. 1 and 2 for public purposes. However, this resolution was passed almost one year prior to the execution of the 1958 Agreement in December 1958, and makes no reference to Sites Nos. 1 or 2, and is not evidence of an express intention on the part of the City or the McGraths to restrict the use of Sites Nos. 1 and 2.

Neither do the resolutions from December 1958, Nos. 2055 [Ex. 3] and 2056 [Ex. 4], contain language restricting the use of Sites Nos. 1 and 2. The parties did not admit into evidence a resolution of the City Council regarding the 1959 Agreement executed by the McGraths and the City clarifying the terms of the 1958 Agreement. This Court finds that there are no facts or circumstances surrounding the deed transferring the property in 1959 demonstrating an express or implied intent by the McGraths or the City to restrict the use of Sites Nos. 1 and 2, let alone to restrict that use to playground, park or parking lot purposes.

## TITLE OF CASE:

FRANK, et al. v. CITY OF OXNARD, et al.

In summary, upon consideration of the documentary evidence, and the facts and circumstances surrounding the 1958 and 1959 agreements and deeds, this court finds that the McGraths did not intend to restrict the City's use of Sites Nos. 1 and 2 as part of their agreement to grant the properties to the City.

**Issue No. 3: Did the City Accept the Property with a Use Restriction?**

It is a general rule that a grant of land for restricted public use must be accepted by the public entity for the use restriction to apply. Baldwin v. City of Los Angeles (1999) 70 Cal.App.4<sup>th</sup> 819, 836. Here, there is no evidence that the City accepted the properties for restricted use.

Five months after the transfer of the property to TITCO on behalf of the City without express use limitations, the City Council made a reference to subdivision plans "designed for the ultimate use of such sites as parks, playgrounds or parking lots on cessation of drilling activity" in the recitals of its passage of a drilling variance to Standard Oil. [Resolution No. 2162]. [Ex. 7] Recitals have no legal force or effect, and can be used to interpret a document only if the operative words are in doubt. CCP 1068. However, the City's reference to use of the properties was made well after the transfer, in the form of a non-binding recital, and evinces no more than a possible future zoning restriction on the properties. Zoning restrictions do not constitute a deeded limitation on the use of property, and can be readily changed by a municipality, as demonstrated by the City's passage of a zoning variance on the application of Standard Oil. This Court finds that the reference to designs by the City for the use of Sites Nos. 1 and 2 as parks, playgrounds or parking lots does not establish an intent by the McGraths or the City to dedicate Sites Nos. 1 and 2 to such exclusive use.

The evidence establishes that the City did not take any action during acceptance of the property amounting to an irrevocable dedication of Sites Nos. 1 and 2 to public use for park, playground or parking lot purposes.

**Issue No. 4: Did the City's Post-Transfer Offers of Sale Create a Dedication of Lots Nos. 1 and 2 to Public Use?**

A municipality may irrevocably dedicate property to a public purpose by their acts, express or implied. Slavich at 306. Plaintiffs assert that the City, by its subsequent attempts to sell Sites Nos. 1 and 2 to public agencies for open-space purposes, expressed an intent to, and did thereby, restrict the use of that property for such purposes. The evidence submitted does not support plaintiffs' position.

The memo [Ex. 10] written by Deanna Walsh, City's Coastal Planner to the City's Mayor after the transfer of the property to the City, and dated October 14, 1996, clearly stated that "The property is no longer necessary for public purposes. Staff is recommending that the subject property be offered for sale which will return the property to the tax rolls. Funds received from the sale of the property will go

## TITLE OF CASE:

FRANK, et al. v. CITY OF OXNARD, et al.

to the City. The sale of the property would be in the best interest of the City and would be sold in conformance with Government Code Section 54220 et seq." [Ex. 10, p.1]. The property was declared surplus by adoption of Resolution No. 11,141 at the publicly-held Oxnard City Council meeting on October 22, 1996. [Ex. 11, p. 8]. Neither of these actions by the City's staff or council members demonstrates an intent to restrict the use of Sites No. 1 and 2. To the contrary, these actions express an intention to sell the properties for purposes of using these parcels to generate and collect taxes.

The day after the adoption of Resolution No. 11,141, the City's Coastal Planner, Deanna Walsh, mailed identical letters to a number of agencies offering to sell Sites No. 1 and 2, explaining that "This real property is hereby offered for sale or lease to your agency for park and recreation purposes or open space purposes pursuant to the mandate of Government Code (Govt C) Sections 54220, et seq., subject to the priorities as set forth thereunder." [Exs. 12-18]. Govt C 54222 requires that any local agency (which includes cities by definition at Govt C 54221(a)) "disposing of surplus land shall, prior to disposing of that property, send a written offer to sell or lease the property as follows:....(b) A written offer to sell or lease for park and recreational purposes or open space purposes...." The City's compliance with Govt C 54222 as a prerequisite to disposing of Sites Nos. 1 and 2 does not evince an intent by the City to restrict the use of those parcels by the City or subsequent purchasers, except as to those purchasers receiving statutory priority pursuant to Govt C 54222(b).

**Issue No. 5: Are the Plaintiffs Barred from Bringing this Action for Reformation by the Statute of Limitations?**

This action was brought beyond the statute of limitations. The statute of limitations imposed on actions for relief from mistake is three years from accrual of the action, i.e., upon discovery by the aggrieved party of the facts constituting the mistake. CCP 338(d). Welsher v. Glickman (1969) 272 CA2d 134, 140. In general, a plaintiff's ignorance of a cause of action does not toll the running of the statute, but the delayed discovery rule is an exception that has been adopted to protect plaintiffs who are ignorant of their right of action through no fault of their own. Naftzger v. American Numismatic Society (1996) 42 Cal.App.4<sup>th</sup> 421, 428.

The recent case of Hogar v. Community Development Comm of the City of Escondido (2003) 110 CA4th 1288, explained the applicability of this rule in situations involving actions by public agencies. Where an individual plaintiff does not assert any individual loss, and a public entity's violation of a statutory duty has been disclosed in public hearings and public records, then the delayed discovery rule is not applicable to protect the plaintiff's substantive rights. In the instant action, the plaintiffs have not asserted any enforceable individual loss, but are seeking enforcement of a public duty for the benefit of their neighborhood community. The evidence submitted indicates that, at least since 1998, the City has disclosed in public hearings and public records that it was approving development of Sites Nos. 1 and 2 for residential housing.

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FRANK, et al. v. CITY OF OXNARD, et al.

In Cumming v. City of San Bernardino Redevelopment Agency (2002) 101 Cal.App.4<sup>th</sup> 1229, the Court of Appeal determined that an agency's notice of sale of ten acres referred to documents "describing the full scope of the project, including the proposed collection of solid waste," which documents were available for review. Cumming at 1235. Although the issue was whether the notice was adequate to trigger the 180 day statute of limitations of the Public Resources Code, section 21167, in dicta the Cumming court noted that delayed discovery only extended a statute of limitations to when the complaining party either knew or reasonably should have known of the facts underlying the legal challenged. The evidence in the instant action establishes that full disclosure of the City's intentions was made, although not until 1998.

The City declared the property surplus on October 22, 1996 by adoption of Resolution 11,141. The property was subject to disposal through the statutorily mandated procedures of Govt C 54220, et seq, and in fact the City offered Sites No. 1 and 2 for sale or lease to other public agencies the very next day, October 1998, "for park and recreation purposes or open-space purposes." There was no evidence presented that the City offered the property for any other purpose, and these City documents would not place the public on notice that the City was planning to take action with regard to these properties for purposes contrary to the alleged use restriction.

However, beginning in 1998, the City's Planning Commission held public hearings and adopted resolutions giving the public clear notice of the City's intent to allow residential development on Sites Nos. 1 and 2. [See Ex. 22, p.5, Minutes regarding attendance at public meeting of the Planning Commission on November 19, 1998]. On November 19, 1998, the Planning Commission adopted Resolution No. 98-68 approving the application of a developer for a coastal development permit, which permit would terminate in twenty-four months "unless the proposed development or use has been diligently pursued." [Ex. 19, p.2]. Also on November 19, 1998, the Planning Commission adopted Resolution 98-69, setting forth development requirements, such as paying fees, submitting construction plans, submitting a grading plan, and installing public improvements. [Ex. 20]. That day it also approved the Tentative Subdivision Map submitted by the developer. [Ex. 21]. Plaintiffs correctly note that the developer is not identified by name in these resolutions, however, these resolutions clearly put the public on notice that a developer had applied for, and been granted, a development permit for residential homes on Sites Nos. 1 and 2. (Plaintiff DIERDRE FRANK attended the November 19, 1998 meeting).

On January 26, 1999, the City Council held a public meeting to consider a resolution to approve an amendment to the Local Coastal Program, to be forwarded to the Coastal Zoning Commission for further review and approval. [Ex. 23]. The partial minutes of that meeting submitted by the parties indicate that plaintiff DIERDRE FRANK and twenty-three neighbors attended the meeting and spoke to the council, with some "request[ing] that if the City Council intends to sell the parcels, the funds from the proceeds of the sale be prioritized for use in upgrading the Oxnard Shores neighborhood." In

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addition, one council member requested an audit that sought an accounting, in part, of "the revenue that would be generated from the sale of the lots." [Ex. 23]. The proposed resolutions and the discussion at that public meeting made it very clear that the City intended to sell the property as well as develop it, and plaintiffs were on notice of the both the planned residential development and intended sale of Sites Nos. 1 and 2 no later than the date of that meeting.

This Court finds one case cited by the City, Utility Cost Mgmt v. Indian Wells Valley Water District (2001) 26 Cal.4th 1185, to be limited to the context of challenges to public utility fees. However, in that matter the California Supreme Court reasoned that when information is made publicly available, "a diligent plaintiff should be able to discover, within the statutory period, whether a cause of action exists," and that reasoning, which is echoed in Hogar, is applicable here. See Utility Cost Management at 1197.

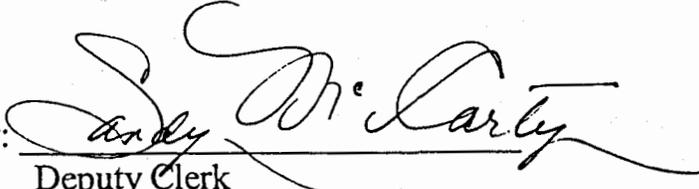
Development of residential homes on Sites Nos. 1 and 2 would not be in compliance with a use restriction limited to playground, recreation and parking purposes, and the court finds that plaintiffs' cause of action for enforcement of such a use restriction through reformation accrued no later than November 19, 1998. This Court finds that the City repeatedly informed the public that it intended residential development and sale of Sites Nos. 1 and 2 from November 19, 1998. The public record gave sufficient notice to start the statute of limitations running.

The Court also finds that plaintiffs, through plaintiff DIERDRE FRANK, had actual notice of the City's intentions to use Sites Nos. 1 and 2 for purposes other than as a playground or recreation no later than November 19, 1998. The delayed discovery rule is intended to protect plaintiffs who are ignorant of their right of action through no fault of their own, and is inapplicable here, where plaintiffs were put on public notice of the City's intentions, and even participated in the discussions with regard to residential development. However, regardless of whether or not the delayed discovery rule is applied here, plaintiffs' complaint filed February 4, 2003 was more than three years after public and actual notice to plaintiffs on November 19, 1998, and beyond the three-year statute of limitations of CCP 338(d). Plaintiffs' action is barred.

Accordingly, the Court finds in favor of the defendant and against the plaintiffs. The Court directs the defendant to prepare, serve, and submit for signature by June 1<sup>st</sup>, 2004, a (Proposed) Judgment consistent with this decision. The defendant is the prevailing party entitled to costs per cost memo.

The clerk is directed to give notice.

**MICHAEL D. PLANET**  
Executive Officer and Clerk

By:   
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA**

**CASE NO. CIV 217306**

**CASE NAME: FRANK, et al. v. CITY OF OXNARD, et al.**

**I am employed in the County of Ventura, State of California. I am over the age of 18 years and not a party to the above-entitled action. My business address is 3855-F Alamo Street, Simi Valley, CA 93063. On May 11, 2004, I served the following document described as:**

**ORDER ON RULING ON SUBMITTED MATTER**

**RE: COURT TRIAL**

**(Taken under submission 05/07/04)**

**By placing a true copy thereof for collection and mailing so as to cause it to be mailed on the above date, following standard court practices, in sealed envelopes addressed as follows:**

**Jacqueline K. Phlegar, Esq.  
Ferguson, Case, Orr, Paterson  
& Cunningham LLP  
1050 South Kimball Road  
Ventura CA 93004**

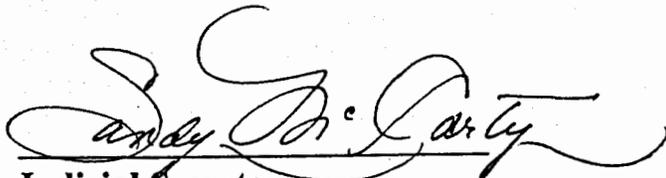
**David K. Hughes, Esq.  
Price, Postel & Parma LLP  
200 East Carrillo Street 4<sup>th</sup> Floor  
Santa Barbara CA 93101**

**I am readily familiar with the County's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service and/or interoffice mail on that same day with postage thereon fully prepaid at Simi Valley, California in the ordinary course of business.**

**I declare under penalty of perjury under the laws of the State of California that the above is true and correct.**

**Dated and executed at Simi Valley, California on May 11, 2004.**

**MICHAEL D. PLANET,  
Executive Officer and Clerk**

By:   
**Judicial Secretary**

**Declaration of Mailing**





**Breaker's Way Site, View is to the west**



**Breaker's Way Site, View is to the east**