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OCT 09 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

TO WHOM IT MAY CONCERN,
IN REFERENCE TO ATTACHED LETTER
MY WIFE & I WOULD LIKE TO GIVE OUR 100%
SUPPORT OF THE DEMOLITION OF THE PACIFIC VIEW MOTEL
AT 610 EMERALD ST. IN PACIFIC BEACH, CA. 92109,
I'VE LIVED AT 4667 OCEAN BLVD, #112, THE OCEAN POINT
CONDOS, FOR 18 YRS. AND THAT MOTEL ATTRACTS
NOTHING BUT ~~LOUD~~ LOUD, DRUNK AND RUDE TENANTS.
THE RESIDENTS MAKE NOISE ALL NIGHT LONG AND
KEEP US AWAKE AT NIGHTS. THANK YOU FOR
CONSIDERING OUR SUPPORT TO DEMOLISH THIS MOTEL.

SINCERELY,

Signature on File

Signature on File

Letter of Support

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Th 18b

PETERSON & PRICE

A PROFESSIONAL CORPORATION

LAWYERS

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San Diego, CA 92101-8494
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File No.

7408.001

October 10, 2008

Chairman Patrick Kruer and
Members of the California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

OCT 10 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Thursday October 16th, 2008 Agenda Item #18-B
Appeal No. A-6-PCB-08-087 Riva Mixed Use Project

Dear Chairman Patrick Kruer and
Members of the California Coastal Commission:

We represent Winten America Pacific Beach L.P. with regard to the above referenced matter. We have reviewed the two appeals and the staff report and would request that you to find that the appeals raise no substantial issue.

This project was exhaustively reviewed by the City of San Diego. It was recommended for approval by the Pacific Beach Planning Group and it was approved by the City of San Diego Hearing Officer on August 6th, 2008. The project proposes the removal of an existing 24- room hotel and the construction of a mixed use project involving three ground floor Visitor Accommodation units and five residential condominium units on the second and third levels.

The existing non conforming hotel is significantly under parked (short 17 spaces). Available on-street parking has been affected by the lack of off-street parking for many years. The current hotel use and operation encroaches into the public park for the driveway and hotel parking/ registration. The existing southerly fencing encroaches into the street row adjacent to the sidewalk. Although the hotel is somewhat rundown, the nightly room rates are expensive. This hotel does not

Letter from Applicant's Agent

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qualify as a "lower cost" visitor serving accommodation based upon the standards that have been adopted by the California Coastal Commission ("CCC").

With implementation of the mixed use project, the public parks space will be greatly increased and improved. The new project will have all required off-street parking and the encroaching southerly fence will be removed.

Staff indicates that there will be a reduction in visitor accommodations on this particular site from 26 rooms down to 3. Actually, it will be a reduction from 24 high cost hotel rooms down to 3 high cost visitor accommodation units.

This project will not, in any measurable way, impact the large reservoir of visitor accommodations within the surrounding area. Within a three mile radius, there are over 3,700 visitor accommodations. There are also 222 hostels, 668 RV spaces, and 410 tent/camp sites. All in all, there are over 5,000 visitor accommodations within a 3 mile radius of the project. The loss of 21 high cost hotel rooms out of the 3,700 hotel/motel rooms is a reduction of only 5/1000th (less than 1/2 of 1%) of the total visitor accommodation supply within the area.

There is nothing in the certified LCP which would require a property owner to retain, or for that matter, continue operating the existing hotel. In fact, the certified LCP and the underlying zone of CV-1-2 allows "by right" a mixed use project for this site. The CV-1-2 zone only requires that the ground floor be utilized for Visitor Commercial. Visitor Accommodation is listed as a Visitor Commercial use. Both the residential condominiums (which are upstairs) and the Visitor Accommodation units (which are downstairs) are permitted by right within the CV-1-2 zone. This zone and the permitted uses were certified by the California Coastal Commission when it approved the City's Land Development Code Update in January of 2000.

To assure that the ground floor units would be utilized as Visitor Accommodation units, our client voluntarily agreed to include conditions within the City approved Coastal Development Permit restricting the maximum number of days that an owner could occupy the units. This special

condition is the exact same condition that the CCC has imposed on other condo/hotel type projects.

The project has been designed to remove all of the existing driveway and parking encroachments within the public right of way. It will increase the park space, and will increase the width of the existing sidewalk. The project has been stair stepped to open up views to the north from the foot of Emerald Street. The project will also free up valuable on-street parking in this Beach Impacted Area.

There are no variances or deviations which have been requested (or required) for this City approved project. The project is in conformance with the certified LCP. Therefore we would respectfully request that the Coastal Commission find that the appeals raise no substantial issue. Thank you for your courtesy.

Sincerely,

PETERSON & PRICE
A Professional Corporation

Signature on File)

Matthew A. Peterson

cc: Laurinda Owens
Lee McEachern
Winten America Pacific Beach L.P.

CALIFORNIA COASTAL COMMISSION

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



Th 18b

Filed: 9/15/08
49th Day: 11/3/08
Staff Report: 9/24/08
Hearing Date: 10/15-17/08

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

APPEAL NO.: A-6-PCB-08-87

APPLICANT: Winten America Pacific Beach, LP

AGENT: Matt Peterson

PROJECT DESCRIPTION: Demolition of an existing 24-room hotel and construction of five residential condominium units and three visitor-serving condominium units in a three-story, approx. 15,064 sq.ft. building with a 14 space underground parking garage on a 0.18 acre oceanfront site.

PROJECT LOCATION: 610 Emerald Street (at its intersection with Ocean Boulevard), Pacific Beach, San Diego, San Diego County. APN 415-581-08

APPELLANTS: Coastal Commissioners Kruer and Wan

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed. The primary issues raised by the subject development relate to the Coastal Act and LCP requirements to protect oceanfront land suitable for recreational use and to protect public access and lower cost visitor-serving facilities. As proposed, the project would demolish 24 existing, more affordable traditional hotel units, and replace them with 5 residential condominiums and three “vacation units”—units that will be less available to the general public both because each unit will be privately owned and subject to owner occupancy, and because the units will be more expensive.

SUBSTANTIVE FILE DOCUMENTS: Appeal Forms; Certified Pacific Beach Precise Plan; Certified City of San Diego LCP Implementation Plan; City Notice of Final Action/CDP and permit findings; Letter (with attachments) from Applicant’s Representative dated 9/10/08

I. Appellants Contend That: The project, as approved by the City, is inconsistent with the certified LCP with respect to the protection of oceanfront land suitable for recreational use and lower cost visitor-serving facilities. The project is also inconsistent with the public access policies of Chapter 3 of the Coastal Act. Finally, the LCP prohibits residential uses on the ground floor within the CV-1-2 Zone and the proposed “vacation units” are residential units that will be rented out.

II. Local Government Action. The Development Services Staff approved the proposed development on 8/6/08. The conditions of approval address, in part, the following: parking, landscaping, building height, best management practices, drainage and a restriction on the number of days in a 13-month period that the proposed visitor accommodation units on the first level of the project can be occupied by the owner/permittee.

III. Appeal Procedures. After certification of a municipality’s Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit applications. One example is that the approval of projects within cities and counties may be appealed if the projects are located between the first public road and the sea. The grounds for such an appeal are limited to the assertion that “development does not conform to the standards set forth in the certified local coastal program or the [Coastal Act] public access policies.” Cal. Pub. Res. Code § 30603(b)(1).

After the local government has taken final action on an appealable project, it must send a notice of that final action (NOFA) to the Commission. Cal. Pub. Res. Code § 30603(d); 14 C.C.R. § 13571. Upon proper receipt of a valid NOFA, the Commission establishes an appeal period, which runs for 10 working days. Cal. Pub. Res. Code § 30603(c); 14 C.C.R. § 13110 and 13111(b). If an appeal is filed during the appeal period, the Commission must “notify the local government and the applicant that the effective date of the local government action has been suspended,” 14 C.C.R. § 13572, and it must set the appeal for a hearing no later than 49 days after the date on which the appeal was filed. Cal. Pub. Res. Code § 30621(a).

Section 30625(b)(2) of the Coastal Act requires the Commission to hear an appeal of the sort involved here unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends “substantial issue” and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then or at a later date.

If the staff recommends “no substantial issue” or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If

substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project either immediately or at a subsequent meeting. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Coastal Act requires that, for a permit to be granted, a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

The only persons qualified to testify before the Commission at the “substantial issue” stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-PCB-08-87 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Following the staff recommendation will result in failure of the motion and thus a de novo hearing on the application and adoption of the following resolution and findings. If the Commission does not follow the staff recommendation, it will result in passage of the main motion and thus a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. **A-6-PCB-08-87** presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The proposed project would demolish an existing 24-unit hotel and construct a new 3-story, approx. 15,064 sq.ft., condominium building with three visitor-serving condominiums on the ground floor and five private residential condominiums on the second and third floors. Parking will be provided in an underground garage which will incorporate a car stacker to provide parking for 14 vehicles. The number of existing parking spaces is seven, provided on Ocean Boulevard. The subject site is located on an oceanfront lot at the northwest corner of Emerald Avenue and Ocean Boulevard in the community of Pacific Beach in the City of San Diego. The project plans show that some units will have kitchenettes.

The three ground floor “visitor-serving condominium units” will operate similar to condo-hotel units; that is, each unit would be purchased by an individual owner. As conditioned by the City, owners’ stays would be limited to no more than 90 days in any 12-month period, not more than 25 days consecutively, and not more than 25 days in any 50-day period. The three units on the ground floor will be sold as condominium units. During the times that the owners do not occupy the units, they will be made available to the general public through a vacation rental program.

Other aspects of the project include the vacation of a portion of Ocean Boulevard and removal of the private driveway and private parking from Ocean Boulevard (paper street) and restoration of the portion of Ocean Boulevard seaward of the project site to public use which will include installation of grass/turf, etc. for public passive recreational use. Ocean Boulevard is currently used for vehicular access and parking for the existing hotel.

The standard of review is the certified City of Pacific Beach Local Coastal Program and the public access and recreation policies of the Coastal Act. The subject site is located between the first public road (Mission Boulevard) and the Pacific Ocean. Thus, the grounds for appeal are consistency with the certified LCP and the public access and recreation policies of the Coastal Act.

2. Land Use/Consistency with the Certified Land Use Plan. The subject site is zoned C-V-1-2 (Commercial-Visitor) in the certified LCP. According to the certified Pacific Beach Land Use Plan (LUP), the entire site is designated Visitor Commercial.

The certified LUP contains a policy that states:

Specific commercial areas in Pacific Beach shall be designated for office, regional, community, neighborhood and visitor-serving commercial uses (see Figure 11).

Figure 11 shows the entire area west of Mission Boulevard between Pacific Beach Drive and Chalcedony Street as designated for Visitor Commercial use. This area includes the project site.

In addition, the certified Pacific Beach Land Use Plan also contains the following policy:

Designate the Mission Boulevard commercial area for visitor-serving commercial areas. Apply a commercial zone to Mission Boulevard that will meet a variety of needs for existing and future resident and visitor populations. An emphasis shall be placed on meeting the unique needs of destination visitors (tourists) who often initially access the beach area with automobiles. Promote destination parking at hotels, with pedestrian-friendly visitor uses and activities nearby. North of Diamond Street, limit uses to multi-family residential and hotels, some with ancillary on-site commercial uses such as recreational and health facilities, beauty shops, snack bars and dry cleaners. [p. 44]

The certified Land Development Code states the following regarding the C-V-1-2 Zone:

Section 131.0505 - Purpose of the CV (Commercial-Visitor) Zones

- (a) The purpose of the CV zones is to provide area for establishments catering to the lodging, dining, and recreational needs of both tourists and the local population. The CV zones are intended for areas located near employment centers and areas with recreational rezones or other visitor attractions.
- (b) The CV zones are differentiated based on development size and orientation as follows:
 - CV-1-1 allows a mix of large-scale, visitor-serving uses and residential uses
 - CV-1-2 allows a mix of visitor-serving uses and residential uses with a pedestrian orientation

With regard to residential uses in this zone, the LDC contains the following footnote:

² Residential use and residential parking are permitted only as part of a mixed-use (commercial/residential) project. Non-owner occupants must reside on the premises for a minimum of 7 consecutive calendar days. Within the Coastal Overlay Zone, residential uses and instructional studios are not permitted on the ground floor.

As noted above, the purpose of these provisions is to promote commercial uses that cater to visitors to the community, which often include coastal tourists. Given the proximity of the site to the ocean, it is important to retain visitor-commercial uses to accommodate coastal visitors in this nearshore area. As noted above, the proposed project would remove a 24-unit hotel and replace it with 3 condominium “vacation units” and 5 residential condominium units. The certified LUP supports retention of the existing visitor-serving hotel units, consistent with the C-V-1-2 zone. In addition, the C-V-1-2 zone prohibits residential development on the ground floor. Thus, the three residential units which will be rented out for some portion of the year are inconsistent with the underlying zone. Therefore, as approved by the City for the demolition of an existing visitor-serving priority use (hotel) and replacement with essentially an 8-unit residential condominium building (including three ground floor visitor-serving “vacation units”),

the proposed project appears to be inconsistent with the provisions of the certified LUP cited above and therefore raises a substantial issue.

3. Public Access/Lower-Cost Visitor-serving Commercial. The appellants contend that the project, as approved by the City, is inconsistent with the certified LCP in that approval would reduce public access, fail to promote tourist commercial uses, and adversely impact recreational and lower-cost, visitor-serving uses. Thus, appellants also assert that the proposed project is inconsistent with the public access policies of Chapter 3 of the Coastal Act.

Numerous sections of the Coastal Act require that public access and public recreational facilities be provided, promoted, and protected. Section 30210 requires that maximum access and recreational opportunities shall be provided for all the people. Section 30213 requires that lower cost visitor and recreational facilities be protected, encouraged, and provided—preferably public recreational opportunities. Section 30221 requires that oceanfront land suitable for recreational use be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area. Section 30222 prioritizes the use of private lands suitable for visitor-serving commercial recreational facilities that are designed to enhance public opportunities for coastal recreation, over private residential, general industrial, or general commercial development.

The public access and recreation policies of the Coastal Act call for protection of public access and recreational opportunities as well as lower cost visitor and recreational facilities. In reliance on these policies, the certified LUP has a policy that states:

Recreation and Visitor Serving Facilities.

The Commercial element recommends retaining existing commercial areas in proximity to the beach and bay with a commercial and visitor serving focus, while still providing community goods and services. [p. 22]

Pursuant to the public access policies of the Coastal Act, and particularly Section 30213, the Commission has the responsibility to ensure that a range of affordable facilities be provided in new development along the coastline of the state. The expectation of the Commission, based upon several precedents, is that developers of sites suitable for overnight accommodations will provide facilities which serve people with a range of incomes. However, that is not the case with the subject development. The project, as approved by the City, will remove 24 moderate to high cost hotel units and replace them with 3 “quasi-residential” high cost visitor condominiums and 5 residential condominiums.

The applicant has indicated that the current room rates for the existing hotel are not lower cost (\$180 - \$350 per night/peak season and \$119 - \$159 per night/off peak season). The three visitor-serving condominium units proposed on the ground floor will be “high-end” in terms of cost for lodging (estimated to be \$299 - \$499 per night/peak season and \$160 - \$200 per night/off peak season).

The applicant conducted a survey of existing visitor-serving accommodations in the area which indicates that there are a total of 3,711 hotel units within 3 miles of the subject site (although the survey does not include the rates for these units). Absent the information on rates at these facilities, it cannot be determined if there is an existing reservoir of lower cost visitor-serving/overnight accommodations in this nearshore community. However, given that the proposed development results in the removal of a 24-unit hotel in an area specifically designated for commercial-visitor uses, this could impact the supply of existing visitor-serving accommodations in the nearshore area. Hotels represent high-priority tourist facilities. The project therefore does not propose to maintain the existing visitor serving units nor develop new lower cost overnight accommodations. As such, the visitor-serving facilities on this site will be diminished. Further, the demolition of an existing hotel located in close proximity to the ocean is not consistent with the Coastal Act policies which reserve lands for and prioritize visitor-serving, commercial and recreational facilities. In addition, the City failed to require the applicant to address the feasibility of rehabilitating the existing 24-unit hotel such that there would be no loss of visitor-serving units.

In addition, the condominium form of ownership raises concerns regarding the long-term security and viability of visitor amenities on the subject site. Some of the questions raised include the means by which the units will be made available for public rental, the amount of time and time of year during which units will be available to visitors, and responsibility for on-going and long-term maintenance of the units and public areas. However, other than limiting the number of days an owner can stay in his/her unit, the City did not condition the permit to address these other important management issues to assure the units are made available to the visiting public. In addition, due to its prime location adjacent to the beach, public amenities, and accessibility, it may be most appropriate to develop the subject site only with a use that truly and exclusively serves the visiting public by providing year-round overnight accommodations in all rooms.

In summary, the City has not adequately addressed the development's conformity with LCP standards regarding lower-cost visitor-serving accommodations. Therefore, the Commission finds that a substantial issue exists with respect to the consistency of the local government action with the City's certified Local Coastal Program and above cited policies of Chapter 3 of the Coastal Act.

SITE

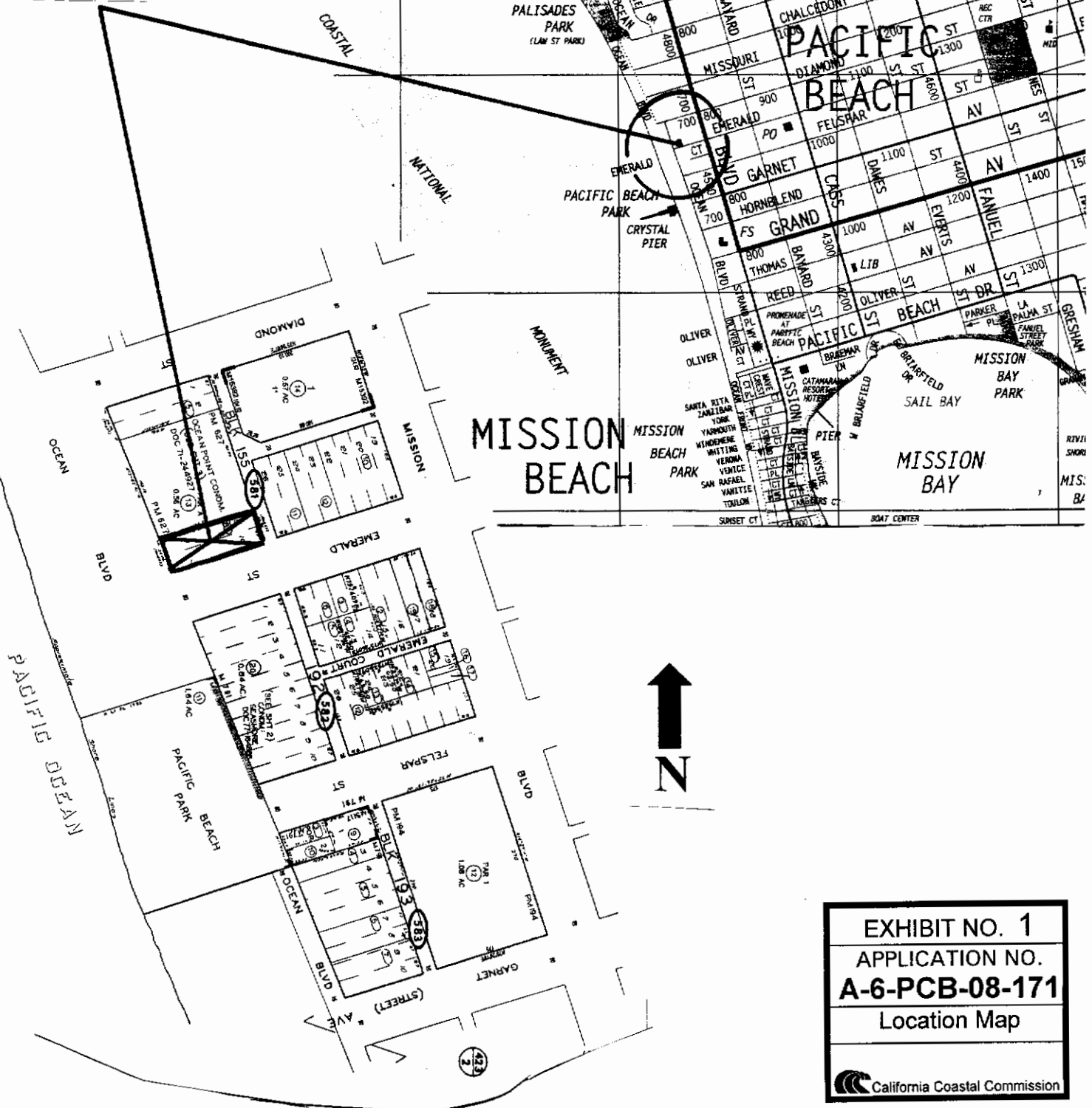
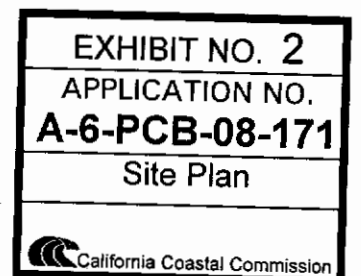


EXHIBIT NO. 1
APPLICATION NO.
A-6-PCB-08-171
Location Map

California Coastal Commission



6-10-08

11/10

COASTAL DEVELOPMENT PERMIT

NOTICE OF FINAL ACTION

California Coastal Commission, San Diego Area Office
7575 Metropolitan Drive, Suite 103, San Diego, CA 92108-4402
Phone (619) 767-2370

DATE: **August 25, 2008**

The following project is located within the City of San Diego Coastal Zone. A Coastal Permit application for the project has been acted upon as follows:

PROJECT NAME - NUMBER: **Riva Mixed Used, PROJECT NO. 138481**

PROJECT DESCRIPTION: A Coastal Development Permit/Map Waiver to demolish an existing 24-room motel and construct 5 residential condominiums and 3 commercial visitor condominiums in a three-story building on a 0.18-acre site in the Pacific Beach Community planning Area.

LOCATION: **610 Emerald Street, San Diego, CA.**

APPLICANT'S NAME **Winten America Pacific Beach LP**

FINAL ACTION: **APPROVED WITH CONDITIONS**

ACTION BY: **Hearing Officer**


ACTION DATE: **August 6, 2008**

CONDITIONS OF APPROVAL: **See attached Permit.**

FINDINGS: **See attached Resolution.**

X Appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission only after a decision by the City Council (or Planning Commission for Process 2 and 3 Coastal Development Permits) and within ten (10) working days following Coastal Commission receipt of this Notice, as to the date the Commission's appeal period will conclude.

CITY CONTACT: **Morris Dye**
Development Services Department
1222 First Avenue, MS 501
San Diego, CA 92101-4153
Phone: (619) 446-5201

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| EXHIBIT NO. 3 |
| APPLICATION NO. |
| A-6-PCB-08-87 |
| City NOFA/CDP Conditions & Findings (without attachments) |
|  California Coastal Commission |

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 428226

HEARING OFFICER
COASTAL DEVELOPMENT PERMIT NO. 482225
RIVA MIXED USE

This Coastal Development Permit is granted by the Planning Commission of the City of San Diego to Winten America Pacific Beach LP, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0702(a). The 0.18-acre, site is located at 610 Emerald Street, in the CV-1-1 Zone of the Pacific Beach Community Plan Area. The project site is legally described as Lots 9 & 10, Block, 155, Pacific Beach, Map No. 854.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish an existing 24-room motel and construct 5 residential condominium units and 3 commercial-visitor condominium units on a 0.18-acre site. The development is described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 6, 2008, on file in the Development Services Department.

The project shall include:

- a. Demolishing an existing 24-room motel;
- b. Constructing 5 residential condominium units and 3 commercial-visitor condominium units, and 14 parking spaces;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s),

conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

PLANNING/DESIGN REQUIREMENTS:

11. No fewer than 14 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

12. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owners/Permittee.

13. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this

Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations.

Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

14. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

15. The height(s) of the buildings(s) or structures shall not exceed the Municipal Code Requirements for maximum height of the structure not to exceed 30 feet (SDMC, Sections 131.0444 and 132.0505). Highest point on roof equipment, pipe, vent, antenna or other projection shall not exceed 30 feet above grade.

16. Prior to issuance building permits, the applicant/permittee must receive approval of the project by the Park & Recreation Department.

17. Prior to issuance of building permits the applicant/permittee must obtain an Encroachment Maintenance and Removal Agreement (ERMA) for the landscaping and turf within Ocean Boulevard. If the EMRA is terminated the permittee, with Park and Recreation Dept approval, is required to connect the turf irrigation system to the existing adjacent City irrigation system.

18. Owner/Permittee may not occupy the three visitor accommodation units on the first level of the project more than 90 days in any 12-month period, not more than 25 days consecutively, and not more than 25 days in any 50 period.

19. Prior to the recordation of the Final Map, the applicant/permittee shall pay an Inclusionary Affordable Housing In-Lieu Fee, pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

20. All balconies shall be a minimum 40 percent open to light.

21. For the five residential units, all non-owner occupants shall be required to stay a minimum of seven consecutive days.

WATER REQUIREMENTS:

22. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the replacement of the existing 8" diameter water main in Diamond Street from the dead end of Diamond Street to the alley east of the project to a 12-inch diameter water main.

23. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the removal of all existing unused services, within the right-of-way adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

24. Prior to the issuance of any building permits, the Owner/Permittee shall grant a minimum 5-foot by 5-foot wide easement for the proposed domestic meter to be located within the proposed property, in a manner satisfactory to the Water Department Director and the City Engineer.

25. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Water Department Director and the City Engineer.

26. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner the Water Department Director and the City Engineer.

27. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, and associated easements, as shown on approved Exhibit "A" shall be modified at final engineering to comply with standards.

WASTEWATER REQUIREMENTS

28. Prior to the issuance of any engineering or building permits, the developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of onsite private sewer mains that serve more than one ownership.

29. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer laterals.

30. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

31. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

TRANSPORTATION REQUIREMENTS

32. A minimum of 14 off-street parking spaces including 2 van accessible spaces shall be provided and maintained on-site at all times.

33. The applicant shall construct a new curb, gutter and sidewalk along the project's frontage on Emerald Street and Ocean Boulevard, satisfactory to the City Engineer.

34. The applicant shall construct two new pedestrian ramps on both sides of the alley at the north side of Emerald Street, satisfactory to the City Engineer.

35. The applicant shall improve the alley along the project's frontage with City standard pavement, satisfactory to the City Engineer

36. The "commercial units" as shown on the Exhibit "A" shall not be converted to residential units at any time.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.
- This development may be subject to impact fees at the time of construction permit issuance

APPROVED by the Hearing Officer of the City of San Diego on August 6, 2008.

HEARING OFFICER
RESOLUTION NO.
COASTAL DEVELOPMENT PERMIT NO. 482225
RIVA MIXED USE

WHEREAS, WINTEN AMERICA, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish existing building and construct five residential condominiums and three commercial condominiums (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No. 482225), on portions of a 0.18-acre site;

WHEREAS, the project site is located at 610 Emerald Street in the CV-1-2 Zone within the Pacific Beach Community Plan Area;

WHEREAS, the project site is legally described as Lots 9 & 10, Block, 155, Pacific Beach, Map No. 854;

WHEREAS, on August 6, 2008, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 482225 pursuant to the Land Development Code of the City of San Diego;
NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated August 6, 2008.

FINDINGS:

COASTAL DEVELOPMENT PERMIT

1. **The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan; and**

The Project would demolish an existing "higher cost" 24 room hotel building and result in the grading and construction of five residential condominiums and three visitor accommodation commercial condominiums and include a Map Waiver to waive the requirements of a Tentative Map on a 0.18 acre site located at 610 Emerald Street. The Project would construct a three story building to a maximum height of 29'11" consistent with the 30-foot Coastal Height Limit. The Project is a mixed use building with at grade 14 space parking garage, visitor accommodation on the ground floor, and 5 residential units on the second and third floors. The site is in the CV-1-2 Zone, Appealable City Coastal Overlay Zone, Coastal Height Limit Overlay, Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone, within the Pacific Beach Community Plan and certified Local Coastal Program Land Use Plan.

The Project area is rectangular in shape and fronts on Emerald Street and Ocean Boulevard west of Mission Boulevard in Pacific Beach. Emerald Street is an 80 foot wide public right-of-way to the south of the Project, and provides public views to the Pacific Ocean. A 20-foot wide alley abuts the easterly side of the property. Ocean Boulevard is located directly west of the subject site and currently a portion of it is used for vehicular access and parking for the 24 room hotel. The rest of Ocean Boulevard (paper street) provides a wide board walk public access and public views to and along the beach and ocean. The property is located approximately 200 feet from the high tide line of the Pacific Ocean. The site is relatively flat at an approximate elevation of 30 feet above the Mean Sea Level (MSL). The site drains towards the south and east.

The existing on-site use is a "higher cost" 24 room commercial hotel that provides only 7 off street parking spaces. The existing hotel is approximately 8,340 square feet and was constructed in 1968. A variety of land uses surround the site including a large 5-story condominium immediately adjacent to the north. There is also a variety of hotels and eating establishments within the immediate area.

The Project is located in the Visitor Commercial designation of the Pacific Beach Community Plan and certified Local Coastal Program Land Use Plan. This designation allows residential and visitor accommodation type uses. The policies of the plan include incorporating pedestrian and transit-oriented features into the design, articulation of the building façade, utilizing alley access, maintaining and enhancing public views of the ocean. The Project incorporates street level visitor accommodation uses fronting on Emerald Street and Ocean Boulevard (paper street) with windows and landscaping in planters, new street trees, and varied setbacks and angles for the three floors fronting on Emerald Street and Ocean Boulevard which maintain public views to the ocean. A 7 ½ - 22 ½-foot setback would be provided between the western property line and Ocean Boulevard. The Project utilizes the alley at the rear of the building to access all required off-street parking provided within the parking garage.

The proposed development would take place entirely within private property and would not encroach onto or impact any existing or proposed physical public access ways through the removal of the non-conforming "higher cost" hotel. The new project will remove the private driveway and private parking from Ocean Boulevard (paper street) and will restore all of Ocean Boulevard back to public use. All access and parking will be from the alley following Project implementation. The proposed structure will not block any identified visual or view corridor(s).

The Project conforms to the required zoning and yard setbacks for access and views, the Coastal Height Limit, and the Pacific Beach Community Plan and certified Local Coastal Program Land Use Plan.

The Local Coastal Program calls for Projects to "Incorporate design features in plans for new development in the Mission Boulevard commercial area between Diamond Street and Grand Avenue that maintains or enhances public views of the ocean." The proposed development would be constructed entirely within the private lot. No portion of the structure would encroach into the public right-of-way. No public views to the ocean are available from the front of the property or from north of the site from the Emerald Street.

This is due to an upward sloping gradient from the Project to the ocean bluff. In an effort to ensure public views to the park-land area, the proposed development would have a stepped design on the western frontage. In addition, the Project would comply with the Proposition D 30-foot Coastal Height Limit. Therefore, the proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public access way identified in the Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic areas as specified in the Local Coastal Program land use plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands; and

The Project would demolish an existing non-conforming (parking) hotel and construct five residential condominiums and three visitor accommodation commercial condominiums and include a Map Waiver to waive the requirements of a Tentative Map. The Project area is surrounded by a fully developed neighborhood. The property is located approximately 100 feet from the bluff edge and 150 – 200 feet from the waters of the Pacific Ocean. The site is relatively flat at 30 feet above Mean Sea Level. The site is not within or adjacent to the Marine Species Conservation Program – Multiple Habitat Planning Area, and is not within or adjacent to any Environmental Sensitive Lands. The Project is not within or adjacent to the City's Multi-Habitat Planning Area. City staff have determined that the project is Exempt under the California Environmental Quality Act (CEQA).

The proposed development is not located within any environmentally sensitive lands. The site is approximately 100 feet from the coastal bluff edge and is not adjacent to any other environmentally sensitive resources. Therefore, the proposed coastal development will not adversely affect environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program; and

The site is located at 610 Emerald Street in the appealable Coastal Overlay Zone, Coastal Height Limit Overlay, First Public Roadway, and within the Pacific Beach Community Plan and certified Local Coastal Program Land Use Plan. The site is in the CV-1-2 Zone, Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone.

The Project is located in the Visitor Commercial designation of the Pacific Beach Community Plan and certified Local Coastal Program Land Use Plan. The policies of the plan include incorporating pedestrian and transit-oriented features into the design, articulation of the building façade, utilizing alley access, maintaining and enhancing public views of the ocean. The Project incorporates street level visitor accommodation commercial uses fronting on Emerald Street and Ocean Boulevard (paper street) with windows and landscaping in planters, new street trees, and varied setbacks and angles for the three floors fronting on Emerald Street and Ocean Boulevard which maintain public views to the ocean. A 7 ½ - 22 ½ foot setback is provided between the western property line

and Ocean Boulevard. The Project utilizes the alley at the rear of the building to access all required off-street parking provided within the parking garage off of the alley.

The character of the existing neighborhood consists of a variety of architectural styles and sizes of commercial and residential development. It is predominately one and two stories, but with some buildings three, four and even 5 stories tall. There is a five-story high density condominium residential building located immediately adjacent to the north of the subject parcel. The proposed height of the new development is less than thirty feet, and the relative bulk and scale is consistent with the neighborhood development, and actually significantly less than 5-story, 54-unit condominium building adjacent to the north. The proposed Project is consistent with the Pacific Beach Community Plan's recommendations for mixed-use development incorporating both residential and visitor accommodations.

The Project would demolish existing non-conforming (parking) "higher cost" hotel and construct five residential condominiums and three visitor accommodation commercial condominiums and include a Map Waiver to waive the requirements of a Tentative Map. The local coastal program requires that new commercial development along the identified transit corridors and in the core commercial area incorporate pedestrian and transit-oriented features into the Project design. The proposed development incorporates mixed-use residential & visitor accommodation uses, pedestrian oriented design elements and landscaping. These uses also comply with the CV 1-2 zoning of the SDMC. The building entrance is located on Emerald Street as opposed to the west frontage or the alley behind the development. This design allows for easier access for pedestrians and a connection to transit lines on Mission boulevard, one block to the east. The Project also proposes the closure of Ocean Boulevard, which currently only serves the private vehicle access parking area in front of the property. This closure would assist the pedestrian experience accessing the beach area by eliminating auto traffic and parking that currently conflicts with pedestrians. Parking would take access from the alley behind the Project, and, therefore reducing auto/pedestrian conflicts on Emerald Street and Ocean Blvd (paper street). In addition, the local coastal program calls for new developments to incorporate landscaping treatments as identified in the streetscape recommendations of this plan. The Project is proposing landscaping elements outlined in the "Street Tree Plan" contained in the Pacific Beach Community Plan.

The Local Coastal Program also calls for Projects to include techniques that will incorporate the use of massing variations, utilize varied front yard setbacks and include articulated building facade requirements. The proposed development incorporates an articulated front façade which incorporates a stepped building form, balconies and recessed elements.

The Commercial Design Standard portion of the Local Coastal Program calls for enhancing pedestrian activity by requiring entryways and windows at the street level, and encouraging first floor retail development with upper floor residential mixed-use Projects through the use of floor area ratio bonuses. The Project proposes the main building entry off Emerald Street with visitor accommodation commercial condominium uses on the ground floor and residential uses on the upper floors. The site is not well suited to retail use as it is removed from the main retail strip by an adjacent residential zone. The site is also bounded by residential properties to the north and the south. In addition, the boardwalk is separated too

far from the property to accommodate direct pedestrian oriented retail uses. Further, the required parking for retail uses cannot be accommodated on the site.

The Local Coastal Program also calls for promoting alley access for vehicles and minimizing the number of curb cuts, particularly on pedestrian-oriented streets such as Mission Boulevard, Garnet Avenue west of Ingraham Street and Cass Street. Vehicular access to the Project is via the rear alley.

The LCP also asks that Projects consider provisions that will limit the impact of new commercial development on adjacent residential development through the use of sound attenuation measures, limitations on certain commercial uses or other forms of buffering where appropriate. The proposed visitor accommodation commercial use is complimentary to the adjacent residential use. Compared to commercial retail at this location, visitor accommodation use is not expected to generate noise or trash, and would not affect the adjacent residential neighborhood as much as several retail businesses.

The LCP calls for providing parking in accordance with Appendix I of this plan, unless developed as a transit-oriented development through a discretionary process. Parking would be provided **in excess** of the minimum standard as required by the San Diego Municipal Code.

The Project would incorporate pedestrian and transit-oriented features into the design, by incorporating uses that are encouraged by the Local Coastal Program. Parking would not conflict with pedestrian access at the front of the Project, and landscaping is proposed that is consistent with the Pacific Beach Community Plan Street Tree Plan. The Project conforms to the development regulations and the land use designations of the certified Local Coastal Plan land use plan. No public view to the water would be adversely affected by approval of this Project. The Project would not interfere with any public access. In addition, the Project meets the intent of the guidelines for the Coastal Overlay and Coastal Height Limitation Overlay Zones, and the certified Local Coastal Plan land use plan. Therefore, the proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

4. **For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The Project would demolish existing building and construct five residential condominiums and three visitor accommodation commercial condominiums and include a Map Waiver to waive the requirements of a Tentative Map.

SECTION 30211 of the Coastal Act (public access) indicates that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. The Project does not impede public access to the sea.

The existing automobile access to the hotel's parking area will be removed and the area will be reestablished for public use and enjoyment.

SECTION 30212 (a) of the Coastal Act states that "Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development Projects except where (2) adequate access exists nearby ". Excellent shoreline access is provided by the terminus of Emerald Street. The cul de sac leads to pedestrian paths that allow beachgoers to access the shoreline at either Felspar Street one block to the south and Diamond Street one block to the north. The Project also includes removing the automobile access to the existing hotel's parking from off a portion of Ocean Boulevard in front of the Project site. The Project would return the portion of Ocean Boulevard accessing this area to open space for the general public. The asphalt drive aisle would be replaced with turf enhancing the current pedestrian experience and access to the coastal bluff, the other shoreline, and beach areas.

SECTION 30212.5 of the Coastal Act states that "Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social or otherwise, of overcrowding or overuse by the public of any single area". The current 24 room hotel structure has only 7 off-street parking spaces where 24 are required. As such, there is a shortfall of 17 spaces, all of which currently park on the street when the hotel is at full capacity. The new Project will meet all current parking studies which will help to alleviate overcrowding or overuse. The Local Coastal Program acknowledges that the private automobile is one of the primary means for the general public to access the beach. Alleviating car parking congestion by providing a conforming development makes the public beach area significantly more accessible to the general public.

SECTION 30213 of the Coastal Act states that "Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred ."

The CCC Staff Report dated March 27, 2008 in respect of the Project 800 Seacoast Drive, Imperial Beach contains a statement of the formula which the Coastal Commission has adopted to define lower-cost, moderate and higher-cost hotels. (see CCC Staff Report for A-6-IMB-07-131 Pacifica at pages 25 – 30)

This Report specifies that for San Diego County for 2008, for July and August: "lower-cost" accommodations can be defined as those charging less than \$108.35 per night, that rates between \$108.35 and \$159.48 would be considered moderately priced, and higher cost accommodations can be defined as those charging higher than \$159.48 per night.

In relation to "higher-cost" visitor serving accommodations, this Staff Report states " an estimate of "higher-cost" can be defined as those hotels with daily room rates 20% (rounding up to be conservative) higher than the statewide average of \$132.90, or \$159.48" (see CCC Staff Report for A-6-IMB-07-131 Pacifica, pages 25 & 26).

The existing 24 room hotel currently charges on average more than \$180 per room per night in July and August 2008. In fact, the rates for July and August range from \$180 per room per night to as high as \$395 per room per night.

Consequently:

1. The existing 24 room hotel with its average room rates (July / August 2008 \$180-\$395/night) does not provide "lower-cost visitor and recreational facilities", and
2. Section 30213 is not applicable since the "higher cost" hotel accommodations are not by policy required to be protected and / or provided.

SECTION 30220 of the Coastal Act indicates that the coastal areas suited for water-oriented recreational and oceanfront land suited for recreational use shall be protected for such use. These activities take place on the shoreline or on the bluff above the shoreline and the Project would not interfere with either location and would enhance the area in between the bluff and the Project by replacing existing asphalt with turf, for public access and enjoyment.

SECTION 30221 of the Coastal Act requires "Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area." Present and foreseeable future demand for commercial recreation activities that could be accommodated on the property are already adequately provided within the immediate vicinity.

The area immediately surrounding the site is extremely well serviced for visitor accommodation. In particular:

- (a) there are a total of **2,083** hotel rooms located within 1 mile of the site,
- (b) there are a total of **2,880** hotel rooms located within 2 miles of the site,
- (c) there are a total of **3,711** hotel rooms located within 3 miles of the site,
- (d) there are a total of **1,034** vacation rentals located within 3 miles of the site,
- (e) there are a total of **222** hostel beds located within 3 miles of the site,
- (f) there are a total of **668** RV sites located within 3 miles of the site, and
- (g) there are a total of **410** tent camping sites within 3 miles of the site.

In summary in relation to hotel rooms:

- A. There are in excess of **3,711** hotel rooms available within a 3 mile radius of the site,
- B. **2,083** of these rooms are within 1 mile, and
- C. **50%** of the hotel rooms located within 1 mile of the site lie within the Commercial Visitor zone.

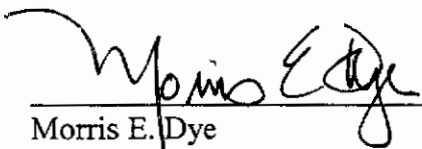
In addition, the site is not suited to recreation use due to the minimum modern hotel standards, parking requirements and the restricted nature of such a small site.

SECTION 30222 of the Coastal Act states that "The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry." The ground floor use of the property has been designed to provide visitor accommodation

consistent with the C.V. zone of the Local Coastal program, and in conformity to the SDMC.

As the Project would not interfere with public access to the sea, open space and pedestrian access would be enhanced, and coastal areas suited for water-oriented recreation would be protected, the coastal development is in conformity with the public access and public access and public recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. 482225 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 482225 a copy of which is attached hereto and made a part hereof.



Morris E. Dye
Development Project Manager
Development Services

Adopted on: August 6, 2008

Job Order No. 428266

cc: Legislative Recorder, Planning Department

HEARING OFFICER RESOLUTION NO.
MAP WAIVER NO. **485835**
RIVA MIXED USE - PROJECT NO. 138481
DRAFT

WHEREAS, **RIVA MIXED USE**, Applicant/Subdivider, and Engineer, submitted an application with the City of San Diego for Map Waiver No. 485835 to waive the requirement for a Tentative Map and a Final Map to construct 5 residential and 3 commercial-visitor condominium units. The project site is located at 610 Emerald Street in the CV-1-2 Zone within the Pacific Beach Community Plan Area, west of Mission Boulevard, just east of Ocean Boulevard and is legally described as Lots 9 & 10, Block, 155, Pacific Beach, Map No. 854; and

WHEREAS, the Map proposes the subdivision of a 0.18-acre site into 5 residential units and 3 commercial-visitor units; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15332 of the California Environmental Quality Act (CEQA) on the basis of the project being In-Fill Development; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 5 residential units and 3 commercial-visitor units; and

WHEREAS, on August 6, 2008, the Hearing Officer of the City of San Diego considered Map Waiver No. 485835, and pursuant to Section 125.0122 of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and the Hearing Officer having fully considered the matter and being fully advised concerning the same; NOW,
THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Map Waiver No. 485835:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440.a and State Map Act Sections 66473.5, 66474(a), and 66474(b)).

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440. (b)).
3. The site is physically suitable for the type and density of development (Land Development Code Section 125.0440.(c) and State Map Act Sections 66474(c) and 66474(d)).
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code Section 125.0440.d and State Map Act Section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440.e and State Map Act Section 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440.f and State Map Act Section 66474(g)).
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code Section 125.0440.g and State Map Act Section 66473.1).
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).
9. The proposed subdivision of land complies with requirements of the Subdivision Map Act and the Land Development Code as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of the Subdivision Map Act or the Land Development Code enacted pursuant thereto (Land Development Code Section 125.0122 and State Map Act Section 66428(b)).
10. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the Hearing Officer , Map Waiver No. 485835, is hereby granted to Winten America Pacific Beach, LC, Applicant/Subdivider, subject to the following conditions:

GENERAL

1. This Map Waiver will expire August 6, 2011.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Certificate of Compliance, unless otherwise noted.
3. A Certificate of Compliance shall be recorded in the Office of the County Recorder, prior to the Map Waiver expiration date.
4. Prior to the recordation of the Certificate of Compliance taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
5. The Certificate of Compliance shall conform to the provisions of Coastal Development Permit No. 482225.
6. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorneys fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorneys fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

ENGINEERING

7. The Coastal Development Permit shall comply with all Conditions of the Final Map for the Tentative Map No.485835.
8. Prior to the issuance of a Certificate of Compliance, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate,

recorded in the office of the County Recorder, must be provided to satisfy this condition.

9. The Subdivider shall ensure that all onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
10. The Subdivider shall reconstruct the damaged alley with a current City Standards Concrete Pavement Full Width Alley, in the alley adjacent to the site.
11. The Subdivider shall reconstruct the alley apron, adjacent to the site at Emerald Street, with current City Standard Drawing G-17.
12. The Subdivider shall reconstruct the existing pedestrian ramps on both sides of the alley entrance at Emerald Street, with current City Standard SDG-136 with truncated domes.
13. The Subdivider shall construct a current City Standard G-13, 10 feet wide mid-block cross gutter. Cross gutter will be constructed across Emerald Street and join the north and south alley apron, to the satisfaction of the City Engineer.
14. The Subdivider shall reconstruct the existing curb, gutter and sidewalk with current City Standard curb, gutter and sidewalk, maintaining the existing sidewalk scoring pattern, and preserving any contractor's stamp, adjacent to the site on Emerald Street.
15. The Subdivider shall close Ocean Boulevard with current City Standard curb, gutter, sidewalk and concrete bollards, adjacent to the site on Emerald Street, to the satisfaction of the City Engineer.
16. The Subdivider shall construct a current City Standard sidewalk along the west property line and join the existing sidewalk north of the project, adjacent to the site on Ocean Boulevard.
17. The Subdivider shall obtain an Encroachment Maintenance Removal Agreement for the sidewalk underdrains in the Emerald Street Right-of-Way.
18. The Subdivider shall construct a current City Standard G-13 mid-block cross gutter.
19. The project proposes to export 700 cubic yards of material from the project site. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction

(the "Green Book"), 2003 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

20. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
21. Prior to foundation inspection, the Subdivider shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying that the pad elevation based on USGS datum is consistent with Exhibit 'A', satisfactory to the City Engineer.
22. Any party, on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within 90 days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code 66020.
23. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
24. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.
25. The subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
26. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
27. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
28. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the Map Waiver and covered in these special conditions will be authorized.
29. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

MAPPING

30. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).
31. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
32. Every Final Map shall:
 - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
 - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.
33. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

WASTEWATER

34. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of onsite private sewer mains that serve more than one ownership.
35. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

WATER

36. The Subdivider shall assure, by permit and bond, the replacement of existing 8" diameter water main in Diamond Street from the dead end of Diamond Street to the alley east of the project to a 12-inch diameter water main.
37. The Subdivider shall grant a minimum 5-foot by 5-foot wide easement for the proposed domestic meter to be located within the proposed property, in a manner satisfactory to the Water Department Director and the City Engineer.
38. The Subdivider shall design and construct new water service(s) outside of any driveway, and the disconnection at the water main of all existing unused services adjacent to the site, in a manner satisfactory to the Water Department Director and the City Engineer.
39. The Subdivider shall provide CC&Rs for the operation and maintenance of any on-site private water facilities that serve or traverse more than a single dwelling unit or common area.
40. The Subdivider agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities, as shown on the approved tentative map, shall be modified at final engineering to comply with standards.

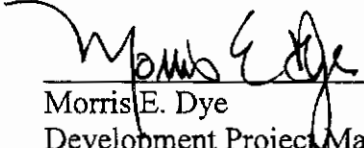
INFORMATION:

- The approval of this Map Waiver by the Hearing Officer of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Map Waiver will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Map Waiver, may protest the imposition within 90 days of the approval of this Map Waiver by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

PASSED AND ADOPTED BY THE HEARING OFFICER OF THE CITY OF SAN DIEGO, CALIFORNIA, ON August 6, 2008.

By



Morris E. Dye
Development Project Manager
Development Services Department

Job Order No. 428266

Rev 04/13/07 rh

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Sara Wan, Coastal Commissioner
Mailing Address: 22350 Carbon Mesa Road
Malibu, CA 90265
Phone Number: 415/904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Demolition of an existing 24-room hotel and construction of five residential condominiums and three commercial visitor condominiums in a three-story building on a 0.18 acre oceanfront site.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 610 Emerald Street (at its intersection with Ocean Boulevard), Pacific Beach, San Diego, San Diego County.
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-6-PCB-08-87DATE FILED: 9/15/08DISTRICT: San Diego

RE
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COAST,
SAN DIEG

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|-------------------------------|
| EXHIBIT NO. 4 |
| APPLICATION NO. |
| A-6-PCB-08-171 |
| Appeals |
| California Coastal Commission |

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 2

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

- a. ☐ Planning Director/Zoning Administrator c. ☐ Planning Commission
b. ☐ City Council/Board of Supervisors d. ☒ Other Hearing Officer

Date of local government's decision: 8/6/08

Local government's file number (if any): CDP No. 482225

SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

Winten America
Attn: Matthew Cumming
5025 N. Central Avenue, Suite 555
Phoenix, AZ 85012

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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

See Attachment "A" dated 9/15/08

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

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

Signed: *[Signature]*
Appellant or Agent

Date: 9/15/08

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

Signed: _____

Date: _____

Attachment "A"
Winten America Appeal
9/15/08

The subject proposal involves the demolition of an existing 24-room hotel and construction of three condominium "vacation units" on the ground floor and five residential condominium units on the second and third floors in an approximately 15,000 sq.ft., three-story structure on a 7,765 sq.ft. oceanfront lot located at the northeast corner of Ocean Boulevard and Emerald Street in the community of Pacific Beach in the City of San Diego. Also proposed is the vacation of Ocean Boulevard seaward of the property. Ocean Boulevard (paper street) is currently used for vehicular access and parking for the existing motel. Ocean Boulevard will be restored for public passive recreational use with installation of landscaping, etc. Parking for the proposed development will be in an underground garage with access taken off the alley east of the site. The number of existing parking spaces is seven and the number of proposed parking spaces will be 14.

The subject site is zoned C-V-1-2 (Commercial-Visitor) in the certified LCP. According to the certified Pacific Beach Land Use Plan, the entire site is designated Visitor Commercial.

The certified LUP contains a policy that states:

Specific commercial areas in Pacific Beach shall be designated for office, regional, community, neighborhood and visitor-serving commercial uses (see Figure 11).

Figure 11 shows the entire area west of Mission Boulevard between Pacific Beach Drive and Chalcedony Street as designated for Visitor Commercial use. This area includes the project site.

In addition, the certified Pacific Beach Land Use Plan also contains the following policy:

Designate the Mission Boulevard commercial area for visitor-serving commercial areas. Apply a commercial zone to Mission Boulevard that will meet a variety of needs for existing and future resident and visitor populations. An emphasis shall be placed on meeting the unique needs of destination visitors (tourists) who often initially access the beach area with automobiles. Promote destination parking at hotels and motels, with pedestrian-friendly visitor uses and activities nearby. North of Diamond Street, limit uses to multi-family residential and hotels and motels, some with ancillary on-site commercial uses such as recreational and health facilities, beauty shops, snack bars and dry cleaners. [p. 44]

The certified Land Development Code states the following regarding the C-V-1-2 Zone:

Section 131.0505 - Purpose of the CV (Commercial-Visitor) Zones

- (a) The purpose of the CV zones is to provide area for establishments catering to the lodging, dining, and recreational needs of both tourists and the local population. The CV zones are intended for areas located near employment centers and areas with recreational rezones or other visitor attractions.
- (b) The CV zones are differentiated based on development size and orientation as follows:
 - CV-1-1 allows a mix of large-scale, visitor-serving uses and residential uses
 - CV-1-2 allows a mix of visitor-serving uses and residential uses with a pedestrian orientation

With regard to residential uses in this zone, the LDC contains the following footnote:

² Residential use and residential parking are permitted only as part of a mixed-use (commercial/residential) project. Non-owner occupants must reside on the premises for a minimum of 7 consecutive calendar days. Within the Coastal Overlay Zone, residential uses and instructional studios are not permitted on the ground floor.

As noted above, the purpose of these provisions is to promote commercial uses that cater to visitors to the community, which often include coastal tourists. Given the proximity of the site to the ocean it is important to retain visitor-commercial uses to accommodate coastal visitors in this nearshore area. As noted above, the proposed project would remove a 24-unit hotel and replace it with 3 condominium "vacation units" and 5 residential condominium units. The certified LUP supports retention of the existing visitor-serving hotel units, consistent with the C-V-1-2 zone.

The subject site is located between the first public road (Mission Boulevard) and the Pacific Ocean. Thus, the grounds for appeal are consistency with the certified LCP and the public access and recreation policies of the Coastal Act. A second way in which these and related policies are relevant to the subject development is with regard to the Coastal Act policies regarding protection of lower cost visitor and recreational facilities. Numerous sections of the Coastal Act require that public access and public recreational facilities be provided, promoted, and protected. Section 30210 requires that maximum access and recreational opportunities shall be provided for all the people. Section 30213 requires that lower cost visitor and recreational facilities be protected, encouraged, and provided—preferably public recreational opportunities. Section 30221 requires that oceanfront land suitable for recreational use be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area. Section 30222 prioritizes the use of private lands suitable for visitor-serving commercial recreational facilities that are designed to enhance public opportunities for coastal recreation, over private residential, general industrial, or general commercial development.

The public access and recreation policies of the Coastal Act call for protection of public access and recreation opportunities as well as lower cost visitor and recreational facilities. In reliance on these policies, the certified LUP has a policy that states:

Recreation and Visitor Serving Facilities.

The Commercial element recommends retaining existing commercial areas in proximity to the beach and bay with a commercial and visitor serving focus, while still providing community good and services. [p. 22]

Pursuant to the public access policies of the Coastal Act, and particularly Section 30213, the Commission has the responsibility to ensure that a range of affordable facilities be provided in new development along the coastline of the state. The expectation of the Commission, based upon several precedents, is that developers of sites suitable for overnight accommodations will provide facilities which serve people with a range of incomes. However, that is not the case with the subject development. The project, as approved by the City, will remove 24 moderate to high cost hotel units and replace them with 3 high cost visitor condominium rentals and 5 residential condominiums.

The applicant has indicated that the current room rates for the existing hotel are not lower cost (\$180 - \$350 per night/peak season and \$119 - \$159 per night/off peak season). The three visitor-serving condominium units proposed on the ground floor will be "high-end" in terms of cost for lodging (estimated to be \$299 - \$499 per night/peak season and \$160 - \$200 per night/off peak season).

The applicant did conduct a survey of existing visitor-serving accommodations which indicates that there are a total of 3711 hotel/motel units within 3 miles of the subject site (although the survey does not include rates of each). However, given that the proposed development results in the removal of a 24-unit hotel in an area specifically designated for commercial-visitor uses, this could impact the supply of existing visitor-serving accommodations in the nearshore area. Hotels and motels represent high-priority tourist facilities. The project therefore does not propose to maintain the existing visitor serving units nor develop new lower cost overnight accommodations. As such, the visitor-serving facilities on this site will be diminished. Further, the demolition of an existing hotel facility located in close proximity to the ocean is not consistent with the Coastal Act policies which reserve lands for and prioritize visitor-serving, commercial and recreational facilities. In addition, the City failed to require the applicant to address the feasibility of rehabilitating the existing 24-unit facility such that there would be no loss of visitor-serving units.

Another issue raised by the proposed development is how the proposed 3 visitor-serving condominium units are going to be managed. Due to its prime location adjacent to the beach, public amenities, and accessibility, it may be most appropriate to develop the

subject site only with a use that truly and exclusively serves the visiting public by providing year-round overnight accommodations in all rooms. As cited above, the LCP only allows residential uses, when appropriate, on the upper floors. In this case, the proposed 3 visitor-serving units on the ground floor will be owned by private individuals. The City approved the proposed development with only one condition addressing the operation and management of these units. Specifically, the condition requires that the 3 visitor-serving condominiums cannot be owner occupied more than 90 days in any 12-month period, not more than 25 days consecutively and, not more than 25 days in any 50 day period. Thus, while there are some limitations, the City failed to address how the units will be managed, who will keep track of owner use, etc. In essence, these 3 units are "residential units" that will be rented out for some portion of the year. Because the LCP prohibits residential development on the ground floor in the C-V-1-2 Zone, the project as approved by the City appears to be inconsistent with the certified LCP.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Patrick Kruer, Coastal Commission Chairman
Mailing Address: The Monarch Group
7727 Herschel Avenue
La Jolla, CA 92037
Phone Number: 858/551-4390

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Demolition of an existing 24-room hotel and construction of five residential condominiums and three commercial visitor condominiums in a three-story building on a 0.18 acre oceanfront site.
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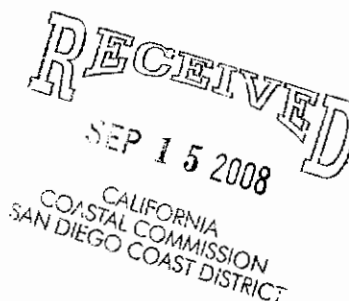
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TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-LCPB-08-87

DATE FILED: 9/15/08

DISTRICT: San Diego



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 2

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

a. ☐ Planning Director/Zoning
Administrator

c. ☐ Planning Commission

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Supervisors

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Date of local government's decision: 8/6/08

Local government's file number (if any): CDP No. 482225

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Attn: Matthew Cumming
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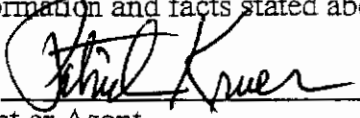
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Appellant or Agent

Date: 9/15/08

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