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STATE OF CALIFORNIA
COASTAL COMMISSION

CERTIFIED COPY

CITY OF OCEANSIDE)
LOCAL COASTAL PROGRAM)
COUNTY OF SAN DIEGO)

Amendment No. 01-07
(Downtown "D" District)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Wednesday December 12, 2007
Agenda Item No. 19. a.

San Francisco City Hall
Legislative Chamber Rm. 250
One Drive Carlton Goodlett Place
San Francisco, California

EXHIBIT #7
Transcript from December 12,
2007 Hearing
LCPA #1-07 City of Oceanside
Downtown "D" District
California Coastal Commission

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COMMISSIONERS

Patrick Kruer, Chair
Bonnie Neely, Vice Chair
Khatchik Achadjian
Steve Blank
William Burke
Ben Hueso
Steven Kram
Suja Lowenthal, Alternate
Dave Potter
Mike Reilly
Mary Shallenberger
Sara Wan

STAFF

Peter Douglas, Executive Director
Hope Smeltzer, Chief Staff Counsel
Jamee Jordan Patterson, Deputy Attorney General
Sherilyn Sarb, District Director

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1 California Coastal Commission
2 December 12, 2007
3 City of Oceanside LCP Amendment No. 01-07
4 (Downtown "D" District)

5 * * * * *

6 3:15 p.m.

7 **CHAIR KRUER:** Okay, it is time to open up the
8 hearing again, and we will go to 19.a. on the LCPs, City of
9 Oceanside LCP Amendment -10-07.

10 **DISTRICT DIRECTOR SARB:** Thank you.

11 Could I have the Power Point on this item, please.
12 First, I would like to draw the Commission's attention to the
13 green addendum. There are revisions to the staff report, and
14 an additional exhibit, some ex parte communications, the
15 applicant's response to the staff recommendation, and a
16 separate booklet that has been provided by the city showing
17 the hotel-motel inventory. There are a number of letters of
18 comment in the addendum that, generally, support the project
19 without the mitigation fee being recommended by staff.

20 There was also a separate handout today from
21 Citizens for Preservation of Parks and Beaches. We didn't
22 receive this letter, and about 6 other letters that were in
23 support of the mitigation fee and protection of lower and
24 middle cost accommodations until yesterday, and were not able
25 to copy them and distribute them to the Commission, but they

1 have been made part of the record, as well as the office has
2 received some additional letters in support of the city's
3 position.

4 This is a request by the City of Oceanside to
5 amend the Implementation Plan of its certified LCP to allow
6 for both condo hotels and fractional ownership development in
7 Sub-Districts 1 and 12 of the redevelopment area.

8 And, I would like to just use this first Slide 1
9 for an orientation of the location to where these policies
10 and ordinances would apply. The redevelopment area is right
11 at the pier. It is inland of the amphitheater and the beach.
12 It is the prime visitor-serving designation for the City of
13 Oceanside's shoreline.

14 The changes also include a new Article 4.a. titled
15 Redevelopment Project Area use classification, and it applies
16 to the entire downtown district, which is also the redevelo-
17 pment area. And, Article 4.a. revises and defines uses
18 permitted, including visitor-serving uses, and removes some
19 of those uses that are no longer used, and adds some new
20 ones.

21 And, Slide 2 shows the redevelopment area and its
22 orientation to the pier and the shoreline.

23 Article 4.a. includes Section T that is title
24 Visitor Accommodations and Special Requirements associated
25 with visitor accommodations, and includes new definitions for

1 timeshares, fractional ownership hotels, condominium hotels,
2 resort and integrated resort.

3 The special requirements address the relationship
4 between the hotel owner and the operator, that both are
5 jointly responsible for insuring compliance with the LCP.
6 They prohibit conversion of existing hotels to limited use
7 overnight accommodations. They require CC&Rs to reflect the
8 use restrictions, and provide limitations on occupation of
9 the unit by the owner to no more than 90-days per calendar
10 year, with a maximum of 29 days of use during a 60-day
11 period.

12 This Slide 3 shows the shore front property that
13 consists of 2 blocks on the inland side of Pacific Street,
14 and on the bluff top inland of the beach and pier, and
15 specifically, the LCP Amendment is a project-driven LCP that
16 through the permitted uses in the matrix would allow condo-
17 hotels and fractional interest hotels in the Sub-Districts 1
18 and 12. And, Sub-Districts 1 and 12 are the area encompassed
19 in red -- no, I am sorry. This is the Sub-District 12, and
20 then the 2-block area inland of Sub-District 12 is
21 Sub-District 1, and the project that is driving this LCP
22 Amendment would be located in the area shown in green.

23 The staff is recommending denial as submitted, and
24 approval with a number of suggested modifications that add
25 more specificity and detail to the code language that will be

1 the standard for operation and management of the condo-
2 hotels, fractional units, and timeshares in the city's
3 redevelopment area.

4 The measures and controls, including the deed
5 restrictions and the CC&Rs are very similar to those that
6 were applied by the Commission in its review and approval of
7 the City of Huntington Beach's LCP Amendment allowing condo-
8 hotels and fractional units at the Pacific City and
9 Waterfront sites, located inland of the beach in Huntington
10 Beach. They are also very similar to the restrictions
11 applied on several permit actions allowing condo-hotels in
12 Encinitas and Coronado.

13 The staff recommendation would not change the
14 city's definition of integrated resort, we just renamed it to
15 limited use overnight visitor accommodations, which the city
16 accepts. And, that different definition is a resort that
17 includes both traditional hotel lodging, and some combination
18 of timeshares, fractional timeshares, condominium hotel
19 units, up to 25 percent may be timeshares, fractional
20 timeshares, condominium hotels; however, no more than 15
21 percent may be fractional timeshare units.

22 And, again, this proposal would add these kinds of
23 uses as newly permitted uses within the commercial visitor
24 area, and specifically Sub-Districts 1 and 12.

25 In this case, the city has included information

1 regarding the existing hotel inventory and not only are there
2 a large number of hotels and motels in the city, but the
3 range of affordability is very good. There are 12
4 facilities that include 555 rooms in the near shore area,
5 with room rates that are less than \$100.00. There are two RV
6 parks with rates from \$49.00 to \$75.00 and 173 asphalt
7 camping spaces with rates at \$10.00 to \$15.00.

8 So, because of this inventory, staff is recommend-
9 ing approval with support of this component of the proposal
10 that would allow condo-hotels in this area.

11 The concern about condo-hotels and fractional
12 units in areas designated for visitor-serving use, as you are
13 well aware, relate to the limited amount of area that is
14 designated for these types of uses in most communities, and
15 also the fact that Section 30213 of the Coastal Act
16 encourages and protects lower-cost visitor-serving uses as a
17 priority. What the Commission is seeing is only proposals
18 for high-end resort facilities. The economics and construct-
19 ion costs do not support construction of lower, or even
20 mid-range, visitor-serving overnight accommodations.

21 Added to the concern regarding affordability is
22 what we see as a privatisation of these overnight visitor
23 accommodations through the condominium and fractional types
24 of ownership which limits to various extents the availability
25 of the units to the general public.

1 In this particular case, there are several aspects
2 of the city's proposal, and of the Oceanside community, that
3 again allows staff to recommend the Commission support the
4 proposed condo-hotels and fractional ownerships in Districts
5 1 and 12.

6 The project that is driving this LCP Amendment
7 contemplates 336 hotel units and 48 fractional interest units
8 in the shore front property. We feel that, however, the
9 primary ability to support it is due to the range of
10 affordability of existing hotels and motels in the redevelop-
11 ment area, which is the subject of this LCP Amendment.

12 However, if you use this rationale to support the
13 condo-hotels then protection of the existing stock of lower
14 and moderate-costs overnight visitor accommodations, and
15 provision of new lower cost facilities in new development
16 becomes even more important.

17 The city's proposal includes a section in the
18 zoning ordinance which applies to the entire redevelopment
19 area, and it indicates any hotel rooms for which a
20 certification of occupancy has been issued, they shall not be
21 converted to limited use overnight visitor accommodations,
22 and this is a good provision.

23 To further protect the existing stack of hotel-
24 motel units, and their range of affordability, staff is
25 recommending Suggested Modification No. 5, as an additional

1 policy applicable to visitor accommodations in the redevelop-
2 ment area. In addition to the city's proposal to limit
3 conversions, staff recommends modifications that would
4 require any proposed demolition of existing overnight
5 accommodations first be required to demonstrate rehabilita-
6 tion is not feasible.

7 If demolition is authorized an in lieu fee for
8 lower-cost visitor accommodations must be provided as
9 mitigation for at least 50 percent of the new overnight
10 visitor accommodations.

11 And, finally, staff is recommending a new policy
12 language to address new development of overnight visitor
13 accommodations which are not lower cost. The ordinance would
14 require payment of a fee in lieu of providing lower-cost
15 visitor overnight accommodations which are of high priority
16 use under the *Coastal Act*, and specifically in areas
17 designated for visitor-serving uses, such as Districts 1 and
18 12.

19 The fee would be required as a condition of the
20 permit to provide significant funding to establish lower-cost
21 visitor accommodations within the coastal area of north San
22 Diego County, such as new hostel beds, tent camp sites,
23 cabins or campground units. The amount proposed is
24 \$30,000.00 per room for 25 percent of the total number of
25 high cost units. This fee was established from figures

1 provided by Hostel International as an estimate of a cost per
2 bed for a sustainable hostel, not including the cost of the
3 land. This is the same fee recently applied by the
4 Commission to the Surface Point timeshare resort in
5 Encinitas. There is further support in the city's Land Use
6 plan for this suggested revision.

7 There is a policy in the Land Use Plan that
8 protects 275 lower cost hotel and motel units, and 220
9 recreational and visitor camp sites within the coastal zone,
10 and that 20 percent of these shall be maintained at shore
11 front locations, and this policy is shown in Slide 4.

12 There was a previous analysis that showed that
13 there were 118 units in shore front locations, including 52
14 at the Oceanside Marina Inn, 42 at Marina del Mar. and 24 at
15 Robert Kaiser's, and these facilities are still operating,
16 but two of them are no longer offering lower cost rates, and
17 Robert Kaiser's now has minimum week-long stays only.

18 So, staff has concluded that there is no lower-
19 cost accommodations currently existing in the shore front
20 locations, and that is inconsistent with that Land Use Plan
21 policy, so we believe the city could require that lower-cost
22 units actually be provided in this project area located in
23 Sub-Districts 12 and 1. Instead, staff is suggesting that a
24 policy that would allow the higher cost development move
25 forward as planned, but require payment of the previously

1 described fee in lieu of the actual provisions of these
2 units. We believe there is clear support in the Land Use
3 Plan for this requirement.

4 And, I would just like to conclude by recognizing
5 that there were some changes made by staff in the addendum.
6 There is an additional Suggested Modification to address
7 development in the flood plain, and buffers from wetland
8 habitat. The city had requested the existing language in the
9 Zoning Ordinance be removed, and because the downtown
10 district and the redevelopment area includes the San Luis Rey
11 River valley, its floodplain and parcels adjacent to this
12 area, we feel it is appropriate for the city's LCP to contain
13 these policies and ordinances that address potential develop-
14 ment, and redevelopment in this area.

15 Staff is recommending the existing language not be
16 deleted, and that is what is included in the addendum, and I
17 believe the city agrees with this change.

18 And, in Suggested Modification No. 4 we have
19 addressed the requirements for -- this addresses the
20 requirements for CC&Rs with the limited use visitor accommod-
21 ations, and the city has requested a couple of changes. We
22 agree with the city on the one point, and have struck
23 reference to the transient overnight accommodations in the
24 summer season, but we have not struck reference to how the
25 required in lieu fees will be managed, as we feel these

1 provisions should be included in the CC&Rs.

2 And, in Special Suggested Modifications Nos. 7 and
3 8 there were a couple of minor changes that we made to
4 provide for the Executive Director to be a part of the review
5 and approval to the CC&Rs and any changes thereto, and this
6 is associated with both condominium hotels and fractional
7 units, and the most substantive change, we have deleted the
8 requirement that an additional transfer fee be applied upon
9 resale of the units.

10 I believe that concludes my comments at this time.

11 **CHAIR KRUER:** Thank you, very much, and with that
12 I will go to ex partes starting on my right.

13 Commissioner Reilly, do you have any?

14 **COMMISSIONER REILLY:** Thank you, Mr. Chair.

15 During the lunch hour I had discussion with Andi
16 Culbertson and Donna Andrews representing the hotel builder
17 in the city on this, and their primary concern was the
18 \$30,000.00 fee, and the nexus for that, and pointed out that
19 the conditions in Oceanside relative to the availability of
20 low-cost accommodations were very different from the
21 situation in Encinitas that we dealt with last month.

22 And, I also had an ex parte from Rob Cousins, from
23 Orca, by email, and he indicated support for the staff's
24 position.

25 **CHAIR KRUER:** Okay.

1 Commissioner Lowenthal.

2 **COMMISSIONER LOWENTHAL:** Thank you, Mr. Chairman,
3 I also attended the luncheon that the Commissioner just
4 mentioned, and it was Donna Andrews as well as Andi
5 Culbertson, and I received the same ex parte communication.

6 I also received an ex parte communication
7 yesterday from Mr. Mark Massara of the Sierra Club, and he
8 indicated his concerns about the fractional use, and gave me
9 a briefing on the \$30,000.00 in lieu fee per unit.

10 And, that is my ex parte, thank you.

11 **CHAIR KRUEER:** Thank you, Commissioner Lowenthal.
12 Commissioner Blank.

13 **COMMISSIONER BLANK:** I had an ex parte from Andi
14 Culbertson, which is on file. I had a call from the San
15 Mateo County Orca group, Tony Roberts, Karen Rosenstein, Mike
16 Carera, on 12-7 at 5:00 p.m. In summary, they supported the
17 staff recommendation. I had a call with Mark Massara last
18 night, 12:11:07 at 4:15 on a variety of issues, including
19 Oceanside. In summary, Mark supported the staff recommend-
20 ations, and had even more suggestions about other things that
21 the Commission and staff should be doing.

22 **CHAIR KRUEER:** Thank you, Commissioner Blank.
23 Commissioner Hueso.

24 **COMMISSIONER HUESO:** Yes, my staff person, Alonzo
25 Gonzalez, spoke with Donna Andrews and she expressed the

1 city's concerns with the staff's modifications, and explained
2 succinctly about -- (AV noise interference). I also met with
3 David Grubb, Gabriel Solmar, Marco Gonzalez, regarding this
4 issue, yesterday, and they expressed their concern that this
5 project would use up summertime hours, and they asked for
6 support in keeping those units available to the general
7 public during the summer.

8 I also had lunch today with the same people
9 mentioned by Suja, and Mike Reilly, and we heard the same
10 issues.

11 **CHAIR KRUER:** Commissioner Wan? no.

12 I had an ex parte on the 7th in La Jolla,
13 California, with Jane McVey, City of Oceanside, Jamie Cohen,
14 hotel developer, and Donna Andrews. The content of that was
15 the City of Oceanside's representative, Ms. McVey, reminded
16 me of the Coastal Commission's directions to the City of
17 Oceanside back in 2002 of what the city needed to do to get a
18 hotel project approved.

19 Ms. McVey shared with me all of the city's
20 actions, which far exceeded the Commission's request. She
21 also further explained to me that the in lieu fees were not
22 necessary because of all of the lower-cost overnight
23 accommodations that the city had currently. She also
24 emphasized that over 90.6 percent of the motel rooms in the
25 coastal zone of Oceanside qualify for low-cost, using the

1 average daily rate of \$100.00 or less. She also noted the
2 LCP, as certified, already dictates what proportion of lower-
3 cost accommodations must remain in the shore front area of
4 Oceanside, and therefore has already determined what the
5 proper level of accommodations are. The city is not
6 proposing to change this.

7 She also made the point that the site of the
8 proposed hotel is one already targeted for timeshares, and
9 therefore there are no new impacts from introducing a partial
10 fractional condo hotel up to 25 percent of the total
11 accommodations.

12 Then, I also had an ex parte on Monday morning in
13 La Jolla with Gabriel Somer, David Grubb, and with that
14 particular communications they were suggesting to support the
15 staff recommendations with conditions, and they were
16 concerned about the same issues as Commissioner Hueso
17 reported.

18 That is the extent of my ex parte.

19 **VICE CHAIR NEELY:** Mr. Chairman, my ex partes are
20 on file.

21 **CHAIR KRUER:** Commissioner Potter.

22 **COMMISSIONER POTTER:** Mr. Chairman, I had a brief
23 phone conversation with Andi Culbertson yesterday on my way
24 up to San Francisco, identical to that described by
25 Commissioner Reilly.

1 **CHAIR KRUER:** Thank you.

2 Commissioner Burke?

3 **COMMISSIONER BURKE:** I had the lunch meeting with
4 Art Flores today, who supported the staff's position, and was
5 particularly supportive of the in lieu fee.

6 **CHAIR KRUER:** Thank you, Commissioner Burke.

7 Commissioner Kram.

8 **COMMISSIONER KRAM:** I had a brief meeting this
9 morning. I am wholly outside with Andi Culbertson and Donna
10 Andrews. We discussed the Coastal Commission's directives to
11 the City of Oceanside back in 2002, of what the city needed
12 to do to get a hotel project approved. We also discussed how
13 the city has taken actions which are far less than what the
14 Commission requested at the time.

15 We talked about the in lieu fees that were not
16 necessary because of all of the low-cost overnight accommod-
17 ations that currently exist, emphasized that about 90 percent
18 of the hotel rooms in the coastal zone qualify as low-cost,
19 with an average daily rate of \$100.00 or less, and they
20 stated that the LCP, as certified, already dictates what
21 proportion of the lower cost accommodations must remain in
22 the shore front area of Oceanside.

23 We discussed the site of the proposed hotel as
24 already one targeted for timeshares, and there are no new
25 impacts from introducing a partially fractional condo-hotel

1 up to 25 percent, and they reminded me that the Coastal
2 Commission has approved projects which have up to 49 percent
3 condo or timeshare components. That is pretty much it.

4 **CHAIR KRUER:** Commissioner Achadjian.

5 **COMMISSIONER ACHADJIAN:** Thank you, Mr. Chair, my
6 ex partes are on file.

7 **CHAIR KRUER:** Thank you, very much.

8 And, with that we will open the public hearing,
9 and first I'll call up from the City of Oceanside Ms. Jane
10 McVey. Ms. McVey, how much time are you requesting for
11 yourself?

12 **MS. MC VEY:** Mr. Chairman, we would request 30
13 minutes, total, 15 minutes for my presentation, and 15
14 minutes for rebuttal, please.

15 **CHAIR KRUER:** Can you do the rebuttal in less than
16 15 minutes?

17 **MS. MC VEY:** We will certainly try.

18 **CHAIR KRUER:** Because you have several speaker
19 slips in here for the city, and you might want to get -- you
20 have several council people in that, and maybe 20 and 10,
21 would that give you enough?

22 **MS. MC VEY:** That would be satisfactory.

23 **CHAIR KRUER:** Is that fine with you?

24 **MS. MC VEY:** Thank you.

25 **CHAIR KRUER:** Okay, thank you, we will do that,

1 then.

2 MS. MC VEY: If I may begin, and if we could pull
3 up the Power Point, please.

4 Good afternoon, Honorable Mayor, members of the
5 Commission. My name is Jane McVey, and I am the Economic
6 Development and Redevelopment Director for the City of
7 Oceanside, and just in case you are not clear about where,
8 exactly, Oceanside is, we are the northern most city in San
9 Diego County, and just next to Camp Pendleton Marine Base.

10 And, with me here today is our Mayor Jim Wood, the
11 entire City Council of Oceanside is here today, as well as
12 the City Manager, and some of the City Council may be
13 speaking during the public comment period after our
14 presentation. We also have Cathy Baker, our Redevelopment
15 Manager, Bruce Balton of BKF Consulting, who can answer any
16 questions on that report, Jake Scotland, one of our hotel
17 consultants, Jeremy Cohen with S.D. Malkin, who is our hotel
18 developer, and we also have Scott Turner of Scott's Castle,
19 who is the developer's counsel, and during Q & A they will be
20 able to answer any questions that you may have in their areas
21 of expertise.

22 Now, LCPA 1-07 was passed unanimously by the City
23 Council on April 18 of this year. Let me summarize the two
24 goals of this LCPA for you. Number 1 is the prenupt of the
25 zoning matrix of our redevelopment area, which is in the core

1 downtown. Additionally, we have definitions and controls on
2 the use of fractional timeshares, and condo-hotels.

3 And, while we go through this presentation, I want
4 you to keep three main points in mind: one is that 90.6
5 percent of all of the coastal accommodations in Oceanside are
6 considered affordable, and that is number 1. Number 2 is
7 that we do meet the 20 percent requirement of the shore front
8 of keeping those rooms affordable. And, Number 3 is that
9 Oceanside does not deserve the imposition of the \$30,000.00
10 door fee.

11 This is a map of the redevelopment area of the
12 downtown. Now, the existing LCP not only allows hotel rooms,
13 it actually requires it. In 1979, the Coastal Commission,
14 you, directed and paid for a study done by Natleson, that
15 evaluated the opportunity to have commercial and hotels, and
16 it was part of moving some of that off of the strand area,
17 and to this 9-block area.

18 When they did that analysis, and what was created
19 in 1992 was what we called the 9-block master plan, and this
20 is the 9-block master plan area. It was approved in 1992,
21 and this plan specifies that we have to have a minimum 240
22 tourist destiny -- a high quality tourist destination hotel
23 in the beach area with a minimum 240 hotel rooms, and 81,800-
24 square feet of visitor-serving commercial.

25 Now, there is also this policy that you have heard

1 mentioned, that the city protect a minimum 375 lower-cost
2 accommodations, and 20 percent of those, or 75 rooms, must be
3 shore front. Now, the Coastal staff, in their 2002 report,
4 when we were here last, defined near shore areas to be up to
5 Coast Highway. The city actually has 482 affordable rooms in
6 the coastal area that is near shore, which is 407 more than
7 the 75 required; therefore, we believe we are in compliance
8 with the minimum number of units to be protected. We are
9 consistent with the LCP, and we are consistent with the
10 certified LUP.

11 Now, this is one of the major arguments that is
12 presented in the staff report on page 25, and again, we
13 disagree. We believe that we are in complete requirement.

14 We are now working on a new project, the S.D.
15 Malcolm Beach Resort. This project proposes 336 hotel rooms,
16 additional hotel rooms, plus a small modicum of only 48
17 fractional timeshare units for a total 384 units. Given size
18 of this project, one of our principal goals was to assure
19 that for the 25 percent high season requirement that is in
20 the requirements for timeshares, that the hotel units be
21 allowed to suffice, and to be the hotel rooms for that
22 requirement.

23 Now, the LCPA also proposes to limit that use of
24 the fractional timeshares. It is supposed to be only in this
25 9-block area, in our 9-block master plan area. To able to

1 qualify, you have to have, first, a minimum of 200 rooms, and
2 of course, this proposed hotel does. The use is limited to
3 no more than 29 consecutive days in a 60-day period, and no
4 more than 90 days annually.

5 No more than 25 percent of the total units would
6 be in a combination of fractional condos, and no more than 15
7 percent would actually be fractional rooms, so we believe it
8 is a very small and modest amount that we are requesting.

9 In response to Mr. Douglas' request in his letter,
10 we did hire PKF who inventoried all of the rooms. They used
11 an average daily rate, or an ADR, and they used the Coastal
12 Commission's policy of \$100.00 of an index of affordability
13 to measure the affordability in Oceanside.

14 And, while we would argue that \$100.00 in Southern
15 California is artificially low, here are the results from
16 that study. We have 555 rooms inside the coastal zone, of
17 which 503 are affordable, which is 90.6 percent afford-
18 ability. We have 740 outside of the coastal zone that are
19 all affordable. Now, since the time that this study was
20 done, a 125-room Marriott residency has been completed, but
21 of the 1295 rooms citywide, 96 percent of them are afford-
22 able.

23 We have added two new hotels over the last 10
24 years. This is the La Quinta, and it has 38 rooms. This is
25 a Motel 6, and it has 106 rooms. And, we right now have a

1 Holiday Inn Express that is under construction.

2 So, the PKF conclusion was that there is an
3 adequate supply of lower-cost visitor-serving rooms, and
4 there is actually a greater demand for motel and hotel rooms
5 with a higher ADR. The occupancy rate for affordable coastal
6 accommodations in 2006 was 48.5 percent, which indicates a
7 very low demand. The only hotel in the entire city that had
8 an ADR greater than \$100.00 also had the highest occupancy
9 rate.

10 Even though we have 90.6 percent of all of our
11 coastal rooms affordable, the staff recommendation still
12 proposes a \$30,000.00 a door fee, and not just in the 9-block
13 area, not just for this project, but city wide in the
14 redevelopment area.

15 The proposed fee would be on 50 percent of all
16 rooms in the redevelopment area that wanted to redevelop.
17 The fee is also proposed for 25 percent of all new projects,
18 whether or not they contain any fractionals for condos. This
19 is an enormous disincentive for our hotels to reinvest in our
20 area, and is completely contrary to what we are trying to do
21 in our redevelopment area.

22 Now, one of the major findings in the existing LCP
23 states, quote:

24 "While there appears to be an adequate
25 inventory of lower and moderate-cost

1 visitor-serving accommodations on the
2 beach, the city lacks a high quality
3 tourist destination hotel in the beach area."

4 That is a stated, you know, requirement in the LCP. And, I
5 would also point out that the Coastal Commission staff report
6 that you have before you today, on page 23 says that the
7 Coastal Commission wants to insure a range of affordable
8 properties, and 90.6 percent affordable is no range, that is
9 not a range.

10 On page 27 of the staff report, it says you are
11 trying to stem the tide of higher priced properties in
12 California. Well, the City of Oceanside has been waiting for
13 32 years for this tide to raise, and to be able to get a
14 better hotel down there.

15 Now, the city brought forth an LCPA in 2002 for a
16 much different project, and I know some of you were on the
17 Commission at that time, and it was denied, and we are back.
18 We took a very different approach this time.

19 We solicited input from the stakeholders about
20 what they wanted to see in the hotel downtown. We had a lot
21 of public meetings. We even took all of their recommend-
22 ations, and we got them into our request for qualifications.
23 For example, people in the community said there was no place
24 to hold a big party, or a big event, and they wanted a
25 ballroom that could seat 500 people plus a dance floor. We

1 put that in our requirements. When we put out RSQ we said
2 one of the things is you can't do this, and you can't do
3 that, and you have got to have this ballroom. We really
4 learned our lessons from 2002, and this is what we have wound
5 up with.

6 This project is on land acquired by the agency
7 specifically for this project. It does not close Mission
8 Avenue. It does not close Pacific Street. It does not even
9 go as high as the local coastal plan actually allows. It
10 struggled to include this large ballroom and does include two
11 levels of underground parking. And, on top of that, the city
12 is putting \$27 million into this project to make it work.

13 And, here is what the elimination of the
14 opportunity to do fractionals -- and, we believe we actually
15 can do, because we have allowed timeshares in our area, but
16 fractional timeshares will help keep our investment in this
17 hotel as low as we can get it.

18 The Coastal Commission staff's modifications also
19 impose far-reaching operational requirements. One is that
20 the hotel and the timeshare operator have to be one and the
21 same. What we have learned is that not all companies have
22 those product types, and what we are really seeking to do is
23 to have the best operator for both parts of this operation.

24 Another suggested modification limits the ability
25 of the city to sell this property, if it sees fit. Right

1 now, we are working on a DDA that does have a long term lease
2 on it, but why would the Coastal Commission want to dictate
3 to the Redevelopment Agency and the city what is financially
4 and fiscally best for the city to do?

5 We are really asking you just to be fair to the
6 City of Oceanside. We have 3.5 miles of the best beaches in
7 the Southern California. We get millions of people to the
8 beach each year. We have locals, people come from the inland
9 empire, they come from San Diego, they come from all over,
10 but it doesn't mean that they stay in Oceanside. It doesn't
11 mean that they spend any money in Oceanside. The city spends
12 millions of dollars a year. We clean the beach. We life
13 guard the beach. We police the beach. We pick up the trash
14 at the beach and we need money to pay for all of that.

15 A city of this size needs a quality hotel, and the
16 TOT from this hotel is going to give us money to provide the
17 services down at that beach. A quality hotel is really,
18 really, needed.

19 The city has responded to the proposed modifi-
20 cations in a letter to staff, and makes the following
21 recommendations: we agree with numbers 1, 2, and 3, and our
22 number 4 was stated earlier. We would agree with the first
23 clause in Suggested Modification 4, but we strongly disagree
24 with the in lieu fees. We don't believe it is justified in
25 the case of Oceanside.

1 On Modification No. 5, which imposes a \$30,000.00
2 a door in lieu fee for redevelopment of existing properties,
3 the city strongly disagrees with that. We believe that our
4 empirical data supports not having it.

5 Modification No. 6, imposes a \$30,000.00 door in
6 lieu fee for 25 percent of new hotels that are not lower
7 cost. We strongly disagree with that. We have many World
8 War II era functionally obsolete motor courts that would like
9 to improve their properties.

10 Modification No. 7 establishes conditions and
11 restrictions on condominium hotels. The city has proposed
12 some new language to these conditions.

13 On No. 8, it establishes conditions and
14 restrictions on fractional timeshares. Our proposed LCPA
15 already contains significant restrictions. It is only
16 allowed in the 9-block area. A large hotel shall fulfill the
17 25 percent summer requirement. The use is limited to 15
18 percent of total, a very modest amount. The stay is limited,
19 as you heard earlier, and the time limits have to be
20 disclosed to purchasers. We believe that our controls are
21 very good, and that they will work, and we disagree with the
22 modifications as proposed by staff.

23 Modification 9, the city agrees.

24 And, again, the major points that we have are, we
25 have enough affordable rooms. We meet the 20 percent shore

1 front requirements. There are pages and pages in prior
2 years, dating back to 1979, staff reports, and other studies
3 that have been done, that demonstrate that we do have
4 affordable rooms, and we meet our requirements. And, we do
5 believe, strongly, the fee should not be imposed.

6 We have worked extensively with staff over the
7 years to develop policies to implement the redevelopment
8 plan, while maintaining visitor-serving uses, and that is
9 basically what this LCPA before you does.

10 So, we appreciate your consideration, and we would
11 request that you accept our suggested modifications in our
12 letter of December 7.

13 With that, I have a lot of other people here that
14 can answer technical questions, as well as our city council,
15 who will speak in public comment.

16 **CHAIR KRUER:** Okay, thank you, Ms. McVey, again.
17 Mayor Jim Woods.

18 **MR. WOODS:** This for public comment?

19 **CHAIR KRUER:** Yes, 3 minutes, sir.

20 **MR. WOODS:** Thank you, very much, Honorable Chair
21 and Commissioners, I am thrilled to be here. It is the first
22 time I have been to a Coastal Commission meeting. It has
23 been interesting to sit out here and listen and learn. I am
24 Jim Wood. I am the mayor of the City of Oceanside. As our
25 staff member, Jane McVey explained, we are the largest north

1 county city in San Diego County, and we are the third largest
2 city in San Diego region.

3 We are changing, and I think it is important to
4 the City of Oceanside that we address this issue to the point
5 that we brought the entire city council and city manager up
6 here. It is vital to us, and the image that we have in the
7 City of Oceanside. We were considered for years as a
8 military town, which we consider positive. It is wonderful,
9 these are all of the heroes out there protecting the world,
10 and our rights, from the United State Marine Corps at Camp
11 Pendleton. However, we had an image from the 1960s and Viet
12 Nam war, anti-war, and the military that were a lot of
13 draftees. We were considered a town of crime and not very
14 much in the influence of high end.

15 I believe we have changed that. We are a city
16 that people are seeking to come to. We are a tourist
17 community. We have a pier. We have a harbor. We have a
18 mission, one of the original missions in California. We are
19 centrally located, in the sense that we are between Los
20 Angeles and certainly San Diego with the largest military
21 base in California right next to us. That is very important
22 to us. And, with that image change, we want to let you know
23 that we have done an awful lot.

24 This particular project came up in the past to the
25 Coastal Commission, and it was turned down -- what was termed

1 the Manchester project. Not only did it get turned down, but
2 it cost us millions in litigations.

3 With that in mind we have moved forward, and have
4 learned some lessons, and listened to other people regarding
5 how to build something. We changed everything that was
6 denied by the Manchester project in the past. We have got an
7 awful lot of public input, many, many meetings with the
8 public, seeking suggestions and input, making this for
9 tourism.

10 One of the concerns we had -- as Jane McVey
11 mentioned -- was we are a military town, and we have plenty
12 of low-income affordable apartments, condos, or whatever you
13 want in our community. We are just trying to change that to
14 the betterment of the City of Oceanside as we improve. We
15 seek that. We are hoping for your help.

16 One of the other things I want to bring up to you
17 is we kind of look at you as the Commission, not everybody
18 the same, but we were basically promised by the old
19 Commission that if we would come back with another project
20 and look at the differences and concerns, which we did on a
21 daily basis with the public, and we are coming back with that
22 project, and saying, "You promised us something, and I hope
23 you will follow through with it."

24 But, then we get added a lot more of these
25 restrictions and fees, and door costs. I think that is going

1 to be a possible way to cripple our 30-plus years of
2 redevelopment in our downtown Oceanside area. The last thing
3 we want is to go through this 30-year process to find out
4 that we are being blocked, or that we will lose those
5 projects for the City of Oceanside.

6 I think it vitally important to the City of
7 Oceanside for economic development reasons, for tourism
8 reasons, for the military and everything else we have
9 offering in the City of Oceanside, and I truly don't believe
10 that the Commission's intent was to destroy 30 years of
11 progress in the City of Oceanside, who strives very hard in
12 the community, to make us, the City of Oceanside, a better
13 place for everybody.

14 I think I have other council members. Like I say,
15 the entire council thought this was important enough to fly
16 up here today, and stay up here, and some of us are flying
17 right back as we have meetings to go to, but it is very
18 important and vital to us in Oceanside.

19 And, I thank you for your time, and please, all of
20 you enjoy your holiday and be safe, thank you.

21 **CHAIR KRUER:** Thank you, Mayor Wood.

22 Jerome Kern.

23 **MR. KERN:** Thank you, Mr. Chairman. My name is
24 Jerry Kern. I am also a councilmember for the City of
25 Oceanside.

1 You know, I realize that this hotel project is
2 part of this LCPA, but it is linked directly and closely. As
3 a community, we are investing in our downtown, we are
4 investing in our city, and this project in this coastal area,
5 benefits the entire downtown.

6 You know, some of this language in this LCPA
7 allows for just a few fractional timeshares, and the condo
8 units. Well, we already have timeshares in the downtown. We
9 are trying to follow the guidelines that you set out, and it
10 gives us the specific language we are trying to follow now.
11 We need to do this. Like as was said before, 32 years we
12 have been at this, and we need to get this started now.

13 I want to urge you not to impose any fees on this
14 hotel, or within this area, because we need to redevelop
15 these areas. Like the mayor said, some of these things date
16 back to World War II. We have people that want to
17 rehabilitate these projects, and this will kill it. So,
18 basically, what you are going to do is to stifle Oceanside
19 and keep it into the 1950's and 60's, so we need to move
20 forward.

21 The only thing I really want you to do is to urge
22 you to adopt the amendment as presented by the Oceanside city
23 staff, thank you.

24 **CHAIR KRUER:** Thank you, sir, thank you, Mr. Kern.
25 Mr. Feller, Jack Feller.

1 **MR. FELLER:** Good afternoon, Chair and Commission-
2 ers. My name is Jack Feller. I am on the city council for
3 the City of Oceanside. Thank you for the opportunity to
4 address you regarding this very important issue.

5 This community has worked for over 30 years on
6 this project. We have spent several years just on public
7 input. This proposal, and the hotel project, are the result
8 of much, much negotiation and compromise with all of the
9 community -- all of the community.

10 The citizens of Oceanside want and deserve this
11 hotel. It is the citizen's project, and it is good for the
12 entire city. This is our little piece of the economic pie,
13 if you will. Please recognize its value to Oceanside, and
14 accept our LCPA with the city's proposed modifications.

15 Thank you, and as well, I brought in letters that
16 were distributed from Senator Mark Wyland, and Assemblyman
17 Martin Garrick. Thank you, and I would love to have you come
18 and see us in Oceanside, see what we are so excited about,
19 see what we are doing. Maybe in 2010 hold a Coastal
20 Commission hearing in our new hotel.

21 Thank you.

22 **CHAIR KRUER:** Good idea, thank you, Mr. Feller.

23 Ms. Sanchez, Esther Sanchez, and Rocky Chavez.

24 **EXECUTIVE DIRECTOR DOUGLAS:** As long as it is
25 free, it will be okay.

1 **CHAIR KRUER:** Three minutes, Ma'am.

2 **MS. SANCHEZ:** Good afternoon, Mr. Chair,
3 Commissioners, and Coastal staff. I am a strong supporter of
4 the Coastal Act and of this regulatory body. We continue to
5 need protection of coastal public access and public views, as
6 well as protection of our bluffs.

7 I have been on the council since 2000, and I want
8 to let you know that I have consistently supported the S.D.
9 Malcolm Beach Resort project; however, what is before you
10 does not, and will not, just apply to this project. What is
11 before you are policy issues that have city-wide and state-
12 wide ramifications.

13 I support your staff's recommendations for
14 conditions. The only real issue is the proposed in lieu fee
15 for mitigation. I ask you to discuss the amount and method,
16 timing of collection, so that we can continue to build
17 coastal hotels in Oceanside.

18 We do not need more condo projects on the coast,
19 especially in Oceanside. In the 7 years that I have been on
20 the council, it seems that every project coming before us on
21 the coast or beach, on the strand, is a conversion to a
22 higher density condo project.

23 When staff talked about what was happening on the
24 strand, exactly that is what has been happening. When I was
25 a child -- I am part of a 4-generation Oceanside family -- I

1 remember driving on the strand, being able to drive both ways
2 straight through and seeing motel after motel and an RV park.
3 You drive there now, and there are very few motel rooms left,
4 almost everything has been converted to condos, and the RV
5 park has been pushed over to the harbor, and we now have
6 conflicts, in terms of RV uses at the harbor.

7 Again, I am part of a 4-generation Oceanside
8 family, and I have seen the deterioration of RV uses at the
9 beach, as well as the conversion of affordable accommodations
10 to condos, especially on the strand.

11 Now, this project, the S.D. Malcolm project is
12 unique. It is a public-private partnership, wherein the City
13 of Oceanside is providing a subsidy to the tune of \$27
14 million, and that is by way of future TI and TOT; however, I
15 urge you not to base your decision solely on this project.
16 Rather, if you feel that this \$27 million subsidy is a
17 reflection of the developer's ability to pay this, or any
18 sum, then I urge you to craft language establishing a
19 threshold for the application of in lieu fees, such as
20 whether or not it is a joint venture? publicly subsidized
21 project? and to the extent of the public subsidy.

22 On a procedural note, there are probably several
23 hundred people in our city who would feel the same way I do,
24 and perhaps even stronger. Next time there is an Oceanside
25 item of this magnitude, I would ask you to please consider

1 calendaring this item for a Southern California meeting, so
2 that more people can attend.

3 There were a couple of things that were said
4 during the presentation that I want to correct. With respect
5 to this project --

6 **CHAIR KRUER:** Ms. Sanchez.

7 **MS. SANCHEZ:** Yes.

8 **CHAIR KRUER:** Your time is up.

9 **MS. SANCHEZ:** Okay, just want to say --

10 **CHAIR KRUER:** Yes, go ahead, go ahead.

11 **MS. SANCHEZ:** -- okay, this was a 3-block project
12 to be one block timeshare, and the other two hotels. We have
13 a timeshare. It was never to include timeshare. This is
14 something that came up about 18 months ago.

15 Thank you.

16 **CHAIR KRUER:** Thank you, Ms. Sanchez.

17 Rocky Chavez, Deputy Mayor.

18 **MR. CHAVEZ:** Good afternoon, Chairman and
19 Commission.

20 You know, I sit in this building and I look around
21 -- I have got to take you a little bit differently. In my
22 real job I am principal of a high school, and when I think
23 about the public process, and what is going on, and what does
24 a community provide to its citizens, to sit in this building
25 here, with 30-foot ceilings, and look at the ambience, and

1 just feel it, is -- I think I was talking to somebody
2 outside, saying it probably really isn't set up for a
3 democratic process, more of a monarchy, I believe, was his
4 term.

5 I say that because what we are doing right now in
6 Oceanside is a democratic process. I am supportive of the
7 Coastal Commission, like Esther Sanchez, I too was born in a
8 beach community. I have surfed at Redondo and Torrance Beach
9 and Hermosa Beach, and I chose to settle in Oceanside after
10 27 years in the Marine Corps, I chose to stay there, and it
11 is a beautiful beach community. And, I recall of the time
12 that Esther was talking about, the strand, because I too
13 walked down those strands.

14 But, the issue is balance. A letter reflected
15 previously in which Commissioner Steve Blank, with his
16 background in economics and business, talked about how things
17 work. How does business work? When we go ahead and we
18 assign a fee and a tax on structures, sometimes we take it
19 out of reach of others. Sometimes it is not economically
20 feasible.

21 We only need to leave these halls, read the papers
22 to see what is going on in the market today. People are
23 losing houses, and people who are investing in projects, like
24 developers, are losing everything they have. These are
25 challenging times before us.

1 I support what you are doing in keeping the
2 beaches clean. I support what you are doing in keeping
3 public access, but I also believe I support what you were
4 originally designed to do, and that is to keep a balanced
5 community. I believe by making a balance, by making sure we
6 have high end, medium, and more affordable, then everyone can
7 use the beaches.

8 The people who are developing these hotels, we are
9 talking of the changes, are going to be required to put free
10 parking in there, to get more access to north county
11 residents.

12 Please, don't be tempted with the raptures of this
13 facility. Think, what do you mean to the citizens of
14 Oceanside? This is our public process. We would like you to
15 support our democratic process.

16 Thank you.

17 **CHAIR KRUEER:** Thank you, Mr. Chavez, would you,
18 just for the record, state your name for the record? I am
19 sorry I didn't --

20 **MR. CHAVEZ:** My name is Colonel Rocky Chavez. I
21 am the deputy mayor, City of Oceanside.

22 **CHAIR KRUEER:** Thank you, sir, and thank you for
23 your presentation.

24 Jim Abrams.

25 **MR. ABRAMS:** Thank you, Mr. Chairman, my name is

1 Jim Abrams. I am the president of the California Hotel and
2 Lodging Association, and I am here also on behalf of the
3 California Association of Better Breakfast Inns. We are here
4 to support the application.

5 But, more broadly, we rarely come before this
6 Commission with respect to particular projects. The only
7 time we come before you -- and this is one of those times --
8 is when we see things that the Commission is considering that
9 would have a tremendous impact, not only with the project in
10 question, or in this case the application in question, but
11 for the entire lodging industry throughout the State of
12 California, and this is one of those instances.

13 Up until this time, a lot of what is in the
14 modifications being proposed by the staff pertain to
15 timeshares and condominiums, and we know that you, as the
16 Commission, have imposed similar conditions and restrictions
17 in other condominium projects.

18 What the staff is proposing here, however, is to
19 go far beyond condominiums and other common interest
20 developments, and to apply a set of fees and other
21 regulations to hotels everywhere, of any kind, throughout the
22 coastal zone.

23 Moreover, we think that with respect to
24 condominiums, timeshares, fractional ownership interests, and
25 other common interest developments, what is happening is that

1 the staff has, by virtue of the restrictions it has proposed,
2 and some of them which have been accepted in the past,
3 putting in place a de facto regulatory system that covers a
4 lot of things that we -- and I say this with respect -- we
5 believe are beyond the purview of the legislative authority
6 that has been given to the Commission.

7 For example, we note in the proposed modifications
8 a number of things that really get into the operation of a
9 hotel, regulating the types of keys that are going to be
10 used, regulating the rates that can be charged, talking about
11 transient occupancy tax to be paid by timeshares -- and
12 whether this project has timeshares or not, is irrelevant as
13 timeshares are exempt from revenue transient occupancy tax in
14 California -- requiring that management fees be reasonable --
15 and, I will put aside for a moment the fact that there is no
16 definition of what that means -- and things like that.

17 We believe if the Commission is going to implement
18 a regulatory scheme that is going to impact the entire
19 lodging industry throughout the coastal zone, due process,
20 the Constitution, and laws of the State of California
21 require, first of all, some legislative changes, and then
22 also that there be a full regulatory rule-making proceeding,
23 so that everybody who has an interest in this throughout the
24 state can have input.

25 Also, we do believe that the imposition of fees,

1 per se, is an unwise public policy, because this is going to
2 drive up the cost of lodging accommodations throughout the
3 coastal zone, both high and low end.

4 Thank you for your time, sir, and I would be
5 ready, Commissioners, to answer any questions that you have.

6 **CHAIR KRUER:** Thank you, sir, thank you for your
7 testimony.

8 I think it is Pravin Pranav? sorry if I
9 mispronounced it, three minutes, sir.

10 **MR. PRANAV:** Yes, Chairman Krueer, members of the
11 California Coastal Commission, thank you for affording me the
12 opportunity to speak to you.

13 **CHAIR KRUER:** State your name for the record,
14 please.

15 **MR. PRANAV:** My name is Pravin Pranav, and I am a
16 resident of La Palma, California.

17 I am the owner of two lodging properties in
18 Oceanside that fall within the coastal zone. These
19 properties are the Days Inn, located at 1501 Carmilla Drive,
20 and the Guest House Inn and Suites, located at 1103 North
21 Coast Highway. Both properties have 80 affordable rooms each
22 available for overnight accommodations.

23 The lodging industry is a key engine of economic
24 prosperity in California. It is one of the largest employer
25 in the state, and has large contributions to local taxes.

1 The proposed staff recommendation to assess
2 \$30,000.00 development fee per room in the coastal zone is
3 ill conceived and should not be adopted. In staff's view, to
4 levy this fee, and increase it each year, as they are
5 proposing that the fee be tied to the cost-of-living index.
6 I do not see a similar cost-of-living index adjustment to the
7 criteria here to determine affordable accommodations, which
8 has been arbitrarily set at \$100.00 per day.

9 In concluding, I would like to state that the
10 \$30,000.00 fee will cause more harm than good by increasing
11 the costs of overnight lodging in the coastal zone, the exact
12 opposite of making coastal accommodations affordable.

13 For these reasons, I respectfully request the
14 Commission members to reject this section of the staff
15 recommendation, and approve the Western hotel development in
16 Oceanside, thank you.

17 **CHAIR KRUER:** Thank you, sir.

18 Mark Massara, three minutes, sir?

19 **MR. MASSARA:** Yes, thank you.

20 Honorable Chair, Commissioners, we support the
21 city's efforts and the hotel proposed here, and merely wish,
22 once again, to caution that the adverse impacts associated
23 with allowing private residential subdivision ownership on
24 land zoned for visitor-serving accommodations corrodes and
25 dilutes the highest priority land use in coastal recreational

1 area, while promoting the lowest, least desirable use. It
2 artificially inflates real estate values. It eliminates
3 visitor-serving inventory and capacities for expansion of
4 that inventory, and further facilitates the extinction of
5 that illusive rarely sighted accommodation commonly referred
6 to as a lower-cost room.

7 As for the Commission's promise to Oceanside, that
8 was for a hotel, and not for condominium units. Fortunately,
9 in Oceanside, in 1985, with the elimination of the lower-cost
10 Buccaneer Hotel, the city established a future baseline
11 mandate of 375 reasonably priced rooms along the shore, which
12 the city, regrettably, has been unable to achieve.

13 At any rate, and for the lack of a better
14 alternate mitigation that would require the luxury hotel
15 developer to construct lower-cost rooms before the luxury
16 hotel, we support staff's efforts here to establish
17 mitigation for the allowance of 48 condo-hotel units within
18 the project.

19 The mitigation is, if anything, dramatically
20 inadequate and could easily be many times higher. Rather
21 than a deal killer, it represents an infinitesimally small,
22 fraction of the overall project budget.

23 It is truly difficult to listen to applicants
24 seeking to build \$500.00 a night rooms, complaining about
25 having to help establish \$100.00 a night rooms. Nor, is this

1 mitigation unprecedented. You did it with KSL and you have
2 imposed similar types of payment accounts for lower-cost
3 rooms, and loss of those rooms, in many other communities
4 such as Santa Barbara and Monterey and other locales.

5 In conclusion, we urge that you not leave the less
6 fortunate behind as the luxury hotel proceeds.

7 Thank you.

8 **CHAIR KRUER:** David Nydegger, three minutes, sir?

9 **MR. NYDEGGER:** Good afternoon, my name is David
10 Nydegger, and I am president and CEO of the Oceanside Chamber
11 of Commerce, and I am here this afternoon representing
12 several different groups.

13 Shortly after the Manchester project was denied,
14 the city did extensive efforts to come up with a project that
15 was going to work. When the council approved the negotiation
16 agreement with S.D. Malcolm, there was a "cum bi ah" [sic.]
17 moment in the City of Oceanside, and all of those groups that
18 were opposing each other, had all come together and support
19 it.

20 The Chamber of Commerce proposed a coalition of
21 these folks, and have them bring together, and I am also
22 representing them, which includes COAST, a citizens activist
23 group, Main Street Oceanside a 250-member business group,
24 North Beach of Oceanside, Oceanside Coastal Neighborhoods
25 Association, North Town Side, and also Business and Political

1 Action Committee, and of course, the Oceanside Chamber of
2 Commerce with its 950 members.

3 I respectfully request that the California Coastal
4 Commission accept the amendment of the Oceanside Local
5 Coastal Plan as presented by the Oceanside city staff.

6 I have been a resident of the City of Oceanside
7 for my entire life. More than 30 years ago, the city
8 leadership established the downtown redevelopment area. The
9 purpose was to clean up, tear down, the old dilapidated and
10 seedy downtown area, and develop new and better facilities
11 for the Oceanside citizens and visitors, alike.

12 What was torn down? bars, massage parlors, an old
13 fuel storage facility, adult movie houses and adult book
14 stores. What was built were family restaurants, visiting-
15 serving shops, a 16th Street family movie theater, and many,
16 many beautiful family homes. We are currently in the process
17 of bringing on board more visitor-serving businesses.
18 Oceanside is finally emerging as a beautiful city on the
19 move.

20 One of the requirements of the Local Coastal Plan
21 has not been accomplished yet, was to have a quality hotel
22 built in the redevelopment area. The S.D. Malcolm project
23 will accomplish that goal. It will also provide much needed
24 visitor-serving amenities, including conference and meeting
25 spaces, restaurants, retail shops, and many new employment

1 opportunities.

2 The project has addressed any and all concerns
3 regarding public access, parking view restrictions. This
4 project is a model for what good development along the
5 California coast should be. The inclusion of an exorbitant
6 per door fee could prohibit the developer from continuing
7 with this project, and that would be disastrous for our city.
8 Please consider that 90 percent of the hotel-motel rooms in
9 Oceanside are already affordable.

10 There are 90-room beach cottages and 264 RV
11 spaces, just to the north of us on the base of Camp
12 Pendleton, and all of those are affordable, plus the State of
13 California operates camp sites at San Onofre, San Clemente,
14 and Carlsbad, all close to us.

15 The California Coastal Commission has done an
16 admirable job in protecting, conserving, restoring, and
17 enhancing the resources of the California coast. Please
18 continue that effort by regulations, not by prohibition.

19 Thank you.

20 **CHAIR KRUER:** Thank you, sir.

21 And, it is time now for Ms. McVey, your rebuttal
22 time, for your 10 minutes.

23 **MS. MC VEY:** Mr. Chairman, members of the
24 Commission, I just have a few points.

25 No. 1 is that the shore front was defined in the

1 2002 coastal staff report as to be up the Coast Highway. We
2 are required to have 75 rooms, we have 482, we are in
3 compliance.

4 No. 2, timeshares are allowed in the redevelopment
5 area with a conditional use permit, except for the areas that
6 are completely residential.

7 No. 3, it was stated that this project was never
8 going to increase timeshares. What began as a hotel project,
9 because of the cost of construction, and the cost to develop
10 this, some timeshares were added in to keep this subsidy as
11 low as possible, so it was approved some time ago with the
12 addition of this modest amount of timeshares.

13 We have 90.6 percent affordable rooms. We are
14 asking for only 25 percent of our total to be able to be
15 condo-hotel rooms, or timeshare rooms. Our current project
16 is 336 rooms, all we are asking for is to be able to
17 accommodate 48 out of 336, right now that are proposed to be
18 the proposed timeshare rooms.

19 What we are asking you is this: we disagree with
20 the in lieu fee. We disagree with the restrictions and
21 conditions on the fractional timeshares. We believe that our
22 conditions and restrictions are workable. They are allowed
23 only in a 9-block area. It will fulfill the 25 percent
24 requirement. Fractionals would be limited to 15 percent of
25 total. The stay is limited and it is disclosed.

1 We have carefully thought this through. We have
2 been thoughtful, methodical, deliberate, so we respectfully
3 request that you approve our LCPA with the modifications as
4 suggested in the city's December 7th letter.

5 **CHAIR KRUER:** Thank you, very much, Ms. McVey, is
6 there anything else? okay.

7 With that, we will close the public hearing, and
8 go to staff for their response.

9 **DISTRICT DIRECTOR SARB:** Thank you, Chairman
10 Kruer.

11 As is often the case with these project-driven LCP
12 Amendments, it is very easy to focus on the project, itself,
13 and not the fact that this is an LCP Amendment that is
14 designed to include ordinances that apply not only to the
15 project site, but to the entire redevelopment area. We
16 certainly acknowledge that this particular project that is
17 driving this LCP Amendment is a great improvement over what
18 the city had proposed in the past.

19 What we are seeking here is a complete LCP that
20 addresses future build out of the redevelopment area, and has
21 the provisions in the LCP that will address lower-cost
22 accommodations, and protect the existing stock, as well as
23 provide for new lower-cost accommodations.

24 The city is using the existing inventory as a
25 basis for allowing the condominium hotels and the fractional

1 units, in this particular case, and again we support that,
2 but not without the provisions that will protect the existing
3 stock in this area.

4 You have heard that there are existing units being
5 converted to condominiums along the strand all of the time.
6 These sites are prime for redevelopment at this point. If
7 the market allows for the rates to increase, rates will
8 increase on these existing hotels. So, again, we feel that
9 the controls on the existing hotels, and the in-lieu fee
10 associated with new development are very important for
11 providing for, and protecting lower-cost visitor
12 accommodations in the coastal zone.

13 I do disagree that the previous staff report
14 defined the shore front to include up to Coast Highway.
15 There was an acknowledgement that there are others in the
16 city, in near-shore areas, but there was a distinction made
17 in that staff report as to what is shore front, and these
18 particular units, as identified before, were previously
19 identified as lower cost, or at least under \$100.00, but they
20 no longer go for that rate. In terms of the \$100.00 as being
21 a definition of what is lower cost, that has never
22 specifically been endorsed by the Commission. There
23 certainly is a large segment of the population that could not
24 afford \$100.00 hotel room. The truer lower-cost facilities
25 are those that we are targeting with this in-lieu fees, the

1 hostels, the campgrounds, cabins, and things such as that.
2 The \$100.00 is a more of a moderate price for hotel over-
3 night accommodations. It is not, necessarily, a lower-cost
4 visitor-serving facility.

5 In terms of some of the city's changes that they
6 are requesting in their letter, some of these changes staff
7 does not have a problem with, and I could go through those
8 now, or later. There is the need for a clarification of
9 intent on a number of the changes that relate to the
10 relationship between the owner and the operator. It is not
11 clear to us whether or not their intent is to not have these
12 units available to the general public, if the owner is
13 marketing the units and the operator is not a rental agent,
14 and that would not be acceptable to staff, to make those
15 kinds of changes that would not allow these units to be open
16 and available to general public use, in the same way as all
17 of the other hotel units, when it is not occupied by the
18 owner.

19 But, in terms of the change that the city wants to
20 make to Suggested Modification No. 5, that addresses the
21 potential conversion of these existing traditional hotels to
22 limited use overnight accommodations, the city's change is
23 addressing conversion of hotel rooms in a facility that has
24 already been approved as a limited overnight accommodation,
25 and so we could agree with that change, but the conversion

1 would only be allowed up to the 25 percent, and the 15
2 percent maximum established in the LCP.

3 One change, though, to the city's language, is
4 that last sentence, instead of saying "without an approved
5 amendment to the Coastal Development Permit", that should
6 read "with an approved Coastal Development Permit" and staff
7 could incorporate that change into our recommendation for No.
8 5.a.

9 The 5.b. is also acceptable, the city's change to
10 5.b. And, 5.c. is what Ms. McVey referenced about having to
11 own the property. The changes that they suggest there are
12 acceptable to staff, and we could incorporate those changes
13 into our staff recommendation.

14 The other revisions on D. E. F. G. and I, again
15 are problematic and the intent is not clear. The change on
16 K. is acceptable and it relates back to the previous changes
17 on conversions, as well as the change on L. would be accept-
18 able to staff, and we could make those revisions to our
19 recommendation. But, the other changes -- with the exception
20 of the corrections to the typos that they have made to the
21 CC&Rs -- those would be the changes we would make in our
22 recommendations. The other changes the city is suggesting
23 are problematic to staff, and would not be supported.

24 Did you have some comments, Peter?

25 **EXECUTIVE DIRECTOR DOUGLAS:** Mr. Chairman, this

1 is, as Sherilyn indicated, a vast improvement over what we
2 saw before, and we applaud the city's efforts to get to this
3 point, and appreciate their working with our staff over the
4 last several years to get here.

5 What our concern is, and what our fundamental
6 difference is, is how to wrestle with the notion that -- and
7 the dynamics of what is happening to our population. The
8 demographics in California are changing rapidly. Population
9 is continuing to increase. Coastal areas are getting out of
10 reach for the moderate lower-income segment of the
11 population, and what can we do to carry out the mandate in
12 the Coastal Act to protect shore-front areas, not just for
13 the people who can afford it, but for lower-cost accommod-
14 ations, but for those people who can't afford even the
15 \$100.00 a night kind of accommodation. And, when you look at
16 the reference to the availability of what is called "afford-
17 able units" those are changing. And, as we lose these, what
18 is going to be left for the public 10, 15, 20, 30 years down
19 the road? That is the dilemma that we are wrestling with,
20 and this is what our recommendation is aimed at addressing.

21 If you are going to look at this project as
22 unique -- or the hotel, at least, that is driving the LCP
23 Amendment -- is a public-private partnership that is
24 different, but from my perspective, this is such a fundament-
25 al issue we really look to your guidance to tell us how are

1 we going to deal with this long term?

2 This is our suggestion. But, it isn't a magic
3 bullet -- I don't like bullets anyway -- but it isn't the
4 magic answer, so we look to your guidance on this, and are
5 prepared to answer any questions you may have.

6 **DISTRICT DIRECTOR SARB:** Mr. Chairman, I am sorry.

7 Staff counsel pointed out that I misspoke in
8 saying that we would change all of the suggestions that the
9 city was making for Section L. We could accept adding the
10 language without an approved Coastal Development Permit, but
11 we would not agree with striking the Executive Director being
12 a party to review the deed restrictions.

13 That concludes my comments.

14 **CHAIR KRUER:** Thank you, very much, and thank you
15 for your comments.

16 With that, I will go back to the Commission.

17 Commissioner Hueso.

18 **COMMISSIONER HUESO:** Just to clarify, I have some
19 questions of both the City of Oceanside and staff, following
20 that I would like to make a motion, and if that means by
21 asking questions, I am prefacing my motion, then I will be
22 glad to wait for another Commissioner to speak.

23 **CHAIR KRUER:** Well, you could, if you want,
24 Commissioner Hueso, you could ask your questions if you want,
25 and then we could go to another Commissioner, and then come

1 back to you, okay?

2 **COMMISSIONER HUESO:** That will be fine, and if the
3 Regional Development Director Jane McVey could come to the
4 microphone, I have some questions for you, in an issue that
5 wasn't -- just came to my mind, and nobody really touched to
6 it, but I think it is relevant to this project, whether it is
7 housing or a hotel.

8 How large is your redevelopment area? in terms of
9 acreage?

10 **MS. MC VEY:** [REDACTED]

11 **COMMISSIONER HUESO:** And, how much of that is in
12 the coastal zone?

13 **MS. MC VEY:** The coastal zone includes the bulk of
14 it.

15 **COMMISSIONER HUESO:** So, we can say that 375 acres
16 of your redevelopment area are within the coastal zone?

17 **MS. MC VEY:** Most of it is, yes.

18 **COMMISSIONER HUESO:** What is your annual budget,
19 in terms of tax increments and revenues that you derive from
20 the general interest --

21 **MS. MC VEY:** Commissioner Hueso, I am going to do
22 this off of the top of my head, since I have a lot of hotel
23 statistics, and I failed to bring any of the budget
24 statistics. So, off of the top of my head, I am going to say
25 around \$5 million, but I am also going to add that the bulk

1 of that is revenue in, and then we have debt service for
2 projects, revenue out, so most of it is dedicated to debt
3 service.

4 **COMMISSIONER HUESO:** So, you have been preparing a
5 5-year implementation plans every 5 years?

6 **MS. MC VEY:** Commissioner Hueso, yes, we have. As
7 a matter of fact, at our last council meeting, we did our
8 mid-year update, which will be submitted to the state.

9 **COMMISSIONER HUESO:** And, in that, did you speak
10 to how your 20 percent set aside funds are being used for the
11 production of affordable housing?

12 **MR. MC VEY:** Commissioner Hueso, we did. In a
13 redevelopment area, as you may know, 20 percent of all gross
14 revenues that come into the redevelopment area go right
15 straight out to our housing department, who does do
16 affordable housing projects within the city.

17 **COMMISSIONER HUESO:** Are you looking to develop
18 affordable housing projects within your redevelopment area?

19 **MR. MC VEY:** Commissioner Hueso, no we are not,
20 and let me explain why.

21 Because the coastal property is so expensive, we
22 can buy a lot more with that money by moving it outside of
23 the redevelopment area. We have built a -- or the city has
24 built a number of affordable projects, because the money just
25 goes a lot farther if we go a wee-bit inland.

1 **COMMISSIONER HUESO:** Is there any way you can
2 change your policy, in terms of finding a way to spend some
3 of that money in the coastal area. Is that something that --
4 even if it is infeasible, I mean, you can focus and maybe
5 bond. I mean, have you guys contemplated --

6 **MS. MC VEY:** Commissioner Hueso, the implement-
7 ation plan, when it was revised around -- I am going say
8 close to 10 years ago -- did add some language that said that
9 the affordable housing production could be within or without
10 the redevelopment area, for the benefit of the redevelopment
11 area.

12 So, a policy was made at that time that it could
13 be utilized outside of the redevelopment area, and the agency
14 and the city council -- acting as the community development
15 commission -- has not provided direction that they would
16 choose to put the affordable housing in the redevelopment
17 area.

18 If you think back on the slide -- which I could
19 pull up -- of the boundaries of the redevelopment area, they
20 are not square, if you will, and it jigs and jags around
21 several neighborhoods that are immediately adjacent to
22 redevelopment, but not within redevelopment. We have some
23 neighborhoods that are completely encircled by redevelopment,
24 but they are not part of redevelopment, because in 1975 they
25 didn't want to be in redevelopment. So, there is some

1 history there.

2 If I would point you to the white area at the
3 upper left of the screen, that area, for example, is not in
4 redevelopment. There are several areas --

5 **COMMISSIONER HUESO:** Is it in the coastal zone?

6 **MS. MC VEY:** That, I do not believe is in the
7 coastal zone.

8 **COMMISSIONER HUESO:** Okay.

9 **MS. MC VEY:** To the right of it is, but not there.

10 **COMMISSIONER HUESO:** Did you prepare a feasibility
11 analysis with the DDA that you contemplate entering into with
12 the developer?

13 **MS. MC VEY:** Commissioner Hueso, yes we have hired
14 Kaiser Marsten. When we originally did our ENA, our
15 Exclusive Negotiating Agreement, and our subsequent MOU with
16 the developer, we do have extensive analysis that was done by
17 Kaiser Marsten, as to the feasibility of the project and the
18 amount of money that would have to be infused into it to make
19 it happen.

20 **COMMISSIONER HUESO:** And, the suggested a \$27
21 million subsidy.

22 **MS. MC VEY:** Well, they did not suggest it, but
23 that is how the numbers fell out.

24 **COMMISSIONER HUESO:** In other words, the
25 feasibility analysis suggested \$27 million subsidy?

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MS. MC VEY: That is correct.

COMMISSIONER HUESO: Questions to staff, also, along that line of thinking, in terms of was the feasibility analysis reviewed? and your determination in terms of what it --

DISTRICT DIRECTOR SARB: I don't know. I don't think so.

COMMISSIONER HUESO: You didn't look at it at all?

DISTRICT DIRECTOR SARB: I am not sure if it was submitted. I'm sorry.

COMMISSIONER HUESO: Did you review information on the redevelopment area and the possibility of investing tax increment money for the production of affordable housing?

DISTRICT DIRECTOR SARB: No, we did not look at that.

COMMISSIONER HUESO: Do you see that as something of a benefit to Oceanside in the possibility of locating affordable units on the waterfront?

EXECUTIVE DIRECTOR DOUGLAS: The answer is yes, it would be, but it is not our purview under the *Coastal Act* here to be addressing how to provide new affordable housing.

We are focused in other areas on protecting existing affordable housing, and that may be an issue with some of the conversions we heard about today, which we have to look into. But, the answer to your question is just from

1 what I know of the subject area, I think it would be positive
2 to do that, whether or not -- and what we have found is that
3 most local governments don't want to put affordable housing
4 in the coastal zone, or even in immediate proximity to it,
5 because that is the highest cost real estate. And, so we
6 have seen it pushed inland away from the coast.

7 So, the answer is, yes, but we don't have the
8 ability to require that here.

9 **COMMISSIONER HUESO:** Can we require it as part of
10 this amendment, as a modification, to ask them to invest
11 their affordable housing money --

12 **EXECUTIVE DIRECTOR DOUGLAS:** I don't believe so.

13 **COMMISSIONER HUESO:** -- into the coastal area?

14 **EXECUTIVE DIRECTOR DOUGLAS:** I don't believe so.
15 I don't think that is within our jurisdiction.

16 Now, if you asked me about existing affordable
17 housing, that might be different.

18 **CHAIR KRUER:** Commissioner Hueso, let me just
19 weigh in on that a little bit, because I think I can answer
20 some of your questions.

21 I think it is virtually, almost impossible, to
22 create affordable housing with the cost today, of
23 construction costs, et cetera, in the coastal zone for
24 affordable housing. To do it, the subsidy would be so great
25 that if you were a city or a redevelopment agency, you would

1 take away to build -- it could cost you \$300,000 or \$350,000
2 a unit, where you can go and leverage your limited resources,
3 and build a lot more units on the edge of the coastal zone,
4 et cetera.

5 **COMMISSIONER HUESO:** I am familiar with that.

6 **CHAIR KRUER:** But, it is economically, it is like
7 with the height limits, parking issues, site things, and
8 everything else, it is very, very difficult today, because
9 there are not any 9 percent tax credits anymore. They are
10 very hard to get. There are just 4 percent tax credits, and
11 the cost of financing, and the gap, and the spreads have
12 increased greatly, I mean it is just -- we can all kid
13 ourselves and think we are going to force people to build
14 affordable housing in the coastal zone, it is not going to
15 happen.

16 And, if you do, do it, then I would say you are
17 making a bad policy in not spreading the units all around and
18 creating a lot more, really, affordable housing units.

19 So, we can talk about it, but in reality it is
20 very, very difficult to achieve. You have got height limits,
21 you have got public view issue things, you have got setback
22 issues, you have got costs. The cost of just building a
23 straight garden apartment now is over \$200,000 a unit, and on
24 a two-story where you don't have parking problems. In the
25 beach area, you can't assemble enough land to create enough

1 density to make it work in an affordable housing project,
2 because you have to have enough units to drive the affordable
3 units.

4 So, it is a really difficult challenge to do, and
5 I just wanted to weigh in on it a little bit, because I
6 understand the economics of them very well.

7 COMMISSIONER HUESO: I am going to speak to that,
8 please.

9 CHAIR KRUER: Okay, okay?

10 Commissioner Reilly, and then I will go back to
11 Commissioner Hueso.

12 COMMISSIONER REILLY: Thank you, Mr. Chairman, ~~it~~
13 ~~was~~ interesting to hear Peter say that he was looking to us
14 for guidance on this. I had thought, on this condo hotel
15 thing, that through Long Point, and Ole Dell, and Huntington
16 Beach and Encinitas, we might have provided some, but I guess
17 it is up to us to do it again.

18 I had some questions of staff on this. There was
19 a question that was raised during testimony about TOT
20 requirements for time shares, and the fact that state law
21 prohibits charging TOT on time shares. Can staff respond to
22 that?

23 [Pause]

24 I am, by the way, familiar with that law.

25 EXECUTIVE DIRECTOR DOUGLAS: Well, we aren't.

1 DISTRICT DIRECTOR SARB: I am not.

2 COMMISSIONER REILLY: What?

3 EXECUTIVE DIRECTOR DOUGLAS: We aren't.

4 So, it is my understanding, in this case though,
5 that part of the subsidy is to forego the TOT for that
6 portion of the project that can be charged that, but whether
7 or not time shares are charged that, I don't know.

8 I know that for condominium hotel units, we
9 understand that they will continue to pay.

10 COMMISSIONER REILLY: Condo hotels, stays under 30
11 days --

12 EXECUTIVE DIRECTOR DOUGLAS: Right.

13 COMMISSIONER REILLY: -- you can do it.

14 EXECUTIVE DIRECTOR DOUGLAS: Right.

15 COMMISSIONER REILLY: ~~Timeshares~~, there is a
16 provision in state law that says you can't charge TOT on time
17 share units.

18 EXECUTIVE DIRECTOR DOUGLAS: Thank you for
19 answering your question.

20 COMMISSIONER REILLY: So, I don't know what that
21 does to your staff recommendation, that is why I am asking?
22 for the staff discussion.

23 There is also a question that came up, in terms of
24 lease versus sale, in terms of city options on that, and can
25 staff clarify what that issue is? are there restrictions on

1 the city being able to lease, versus selling the property?
2 what is that about?

3 DISTRICT DIRECTOR SARB: With the change that they
4 are suggesting, there would not be restrictions on that.

5 COMMISSIONER REILLY: And, have you accepted that?

6 DISTRICT DIRECTOR SARB: Yes, that --

7 COMMISSIONER REILLY: Is that one of the ones you
8 accepted?

9 DISTRICT DIRECTOR SARB: -- is one of the ones we
10 accepted and have incorporated into our recommendation.

11 COMMISSIONER REILLY: Thanks.

12 And, I am assuming that the restrictions that we
13 have in here on the 15 percent and the 25 percent are site
14 specific? because we have done different percentages on
15 almost every project we've looked at.

16 DISTRICT DIRECTOR SARB: That is actually what is
17 being proposed by the city.

18 COMMISSIONER REILLY: I understand that, but I
19 just wanted to make sure that it is record that those are
20 site specific to this particular LCP Amendment.

21 DISTRICT DIRECTOR SARB: They are specific to this
22 LCP Amendment.

23 COMMISSIONER REILLY: On the affordable, we had
24 the same standard, as I recall, of \$100 back in 2002, and we
25 found that there were a number of shore-front facilities that

1 met that standard, two of them no longer do, and one has gone
2 to weekly rentals, but what do you do with market? I mean,
3 it does go up from time to time, and from year to year, and
4 if we don't, and we are staying with the same definition, I
5 don't know how we justify that, in terms of applying the same
6 criteria over several years without regard to any kind of
7 market changes.

8 EXECUTIVE DIRECTOR DOUGLAS: Well, that is the
9 dilemma, when you look at the mandate in the Coastal Act to
10 provide lower-cost visitor accommodations, what does that
11 mean, in terms of our demographics? and the fact that we have
12 a growing gap between the people that have, and the people
13 that don't, and this Commission is charged, I believe, with
14 the responsibility of trying to provide that lower-cost
15 accommodation, to the extent that it is possible, and that is
16 what we are wrestling with.

17 It is not the affordable housing component, in
18 terms of new affordable housing, it is overnight accommod-
19 ations, and I just don't know how you answer that question in
20 a way that fits a particular formula.

21 When we look at lower cost, one of the criteria
22 that we were talking about here was whatever the state per
23 diem is for hotels, which is about \$84.00 whether or not --

24 COMMISSIONER REILLY: Which we regularly exceed in
25 most areas, wouldn't you say?

1 **EXECUTIVE DIRECTOR DOUGLAS:** Yes, but the base
2 rate is \$84.00. But, whether that is really lower cost --
3 and that is why we are focusing on the kinds of facilities
4 that would be provided, which, by the nature of the facility,
5 are lower cost, whether they are campground, or hostels, or
6 cabin kind of uses, as opposed to hotels.

7 **COMMISSIONER REILLY:** But, here we are focusing on
8 a hotel room, specifically, and I am just suggesting that if
9 you pick a number you can't necessarily sit on that number
10 for 5 or 10 years and hold people's feet to the fire on the
11 same number, because that is just not reality.

12 **EXECUTIVE DIRECTOR DOUGLAS:** Right.

13 **COMMISSIONER REILLY:** We have got to figure out a
14 different way to do it.

15 This case is so different from Encinitas, in my
16 mind, because of the differences in the community, and
17 basically the plethora of relatively affordable accommod-
18 ations, you know, in close proximity to the shore, that I am
19 having a hard time finding a nexus when staff says that the
20 only reason they are supporting this condo hotel is because
21 of the low-cost accommodations in the area.

22 I mean, we have certainly approved condo hotels in
23 areas where there are must less, by way of low-cost
24 accommodations than we have here, and we have a number of
25 cases that we know that is true, so that can't be the only

1 reason why we approve these things.

2 But, the nexus for requiring these fees seems more
3 remote here than almost any other community that I've seen,
4 in terms being able to justify it, because of all of the
5 near-shore and near-beach accommodations that are relatively
6 affordable.

7 So, I am just having a hard time with that one,
8 and I'll be happy to listen to the other Commissioners about
9 it.

10 **CHAIR KRUER:** Okay.

11 Commissioner Hueso.

12 [MOTION]

13 **COMMISSIONER HUESO:** Did you get the letter? the
14 letter?

15 I move that the Commission reject the implement-
16 ation program amendment for the City of Oceanside as
17 submitted, and recommend a "Yes" vote.

18 **CHAIR KRUER:** Is there a "second" to Commissioner
19 Hueso's motion?

20 **COMMISSIONER SHALLENBERGER:** Second.

21 **CHAIR KRUER:** Seconded by Commissioner
22 Shallenberger.

23 Would you like to speak to your motion,
24 Commissioner Hueso?

25 **COMMISSIONER HUESO:** Yes.

1 I think, in terms of coming to an area where we
2 can incorporate some staff recommendations, and listening to
3 the applicant, in terms of some of their issues, at a later
4 motion I think we can come up with a motion that would suit
5 this project, and get it to move forward.

6 So, my interest in making this motion is to get to
7 a motion where we can accept some modifications.

8 CHAIR KRUER: Okay, and what --

9 COMMISSIONER HUESO: I recommend a "Yes" vote.

10 CHAIR KRUER: Okay.

11 COMMISSIONER HUESO: And we will have to vote on
12 that to get to the next motion?

13 COMMISSIONER REILLY: No, actually --

14 CHAIR KRUER: No, you don't.

15 COMMISSIONER REILLY: -- you need to do amendments
16 to your motion now.

17 CHAIR KRUER: First -- you don't want to vote on
18 this.

19 COMMISSIONER HUESO: Okay, then I will withdraw my
20 motion.

21 CHAIR KRUER: No, you don't have to withdraw your
22 motion.

23 COMMISSIONER REILLY: No, I think --

24 EXECUTIVE DIRECTOR DOUGLAS: Mr. Chairman, you
25 need to vote to reject it first, and then you vote to --

1 CHAIR KRUER: And, then, the second motion he can
2 do it --

3 EXECUTIVE DIRECTOR DOUGLAS: -- to approve and
4 accept with modifications.

5 COMMISSIONER HUESO: That is what I am doing.

6 COMMISSIONER SHALLENBERGER: Yes, you are doing it
7 right.

8 COMMISSIONER HUESO: Recommend a "Yes" vote.

9 CHAIR KRUER: Okay, it has been -- the motion has
10 been made and seconded, and they are asking for a "Yes" vote.

11 Any further discussion on your motion,
12 Commissioner Hueso?

13 COMMISSIONER HUESO: No.

14 CHAIR KRUER: Commissioner Shallenberger?

15 COMMISSIONER SHALLENBERGER: No.

16 CHAIR KRUER: Okay.

17 Is there any objection to a unanimous "Yes" roll
18 call vote on this item?

19 [No Response]

20 Hearing none, the Commission hereby denies
21 certification of the Implementation Program Amendment
22 submitted by the City of Oceanside.

23 Your second motion.

24 [MOTION]

25 COMMISSIONER HUESO: The next motion is that I

1 move that the Commission certify the Implementation Program
2 Amendment for the City of Oceanside with the following
3 modifications.

4 **CHAIR KRUER:** No, then you --

5 **COMMISSIONER HUESO:** Okay, then as modified as
6 suggested in the staff report, recommend a "Yes" vote.

7 **CHAIR KRUER:** Okay, is there a "second" to that?

8 **COMMISSIONER REILLY:** Second.

9 **CHAIR KRUER:** Seconded by Commissioner Reilly.

10 Again, the maker and seconder are asking for a
11 "Yes" vote. Passage of this motion will result in the
12 certification of the Implementation Program Amendment with
13 suggested modifications, adoption of the following
14 resolutions and findings.

15 Okay.

16 **COMMISSIONER HUESO:** And, I would like to make an
17 amending motion.

18 **CHAIR KRUER:** That's right, and this is where you
19 do it.

20 [**MOTION**]

21 **COMMISSIONER HUESO:** And, I move that the
22 Commission omit Suggested Modifications Nos. 5, 6, 7, and 8,
23 and also move that the Commission accept the first part of
24 Suggested Modification No. 4, and reject the last sentence
25 which refers to the summer season requirement, and the

1 in-lieu fee.

2 CHAIR KRUER: Okay, is that all in one motion? you
3 are not making those separately?

4 COMMISSIONER REILLY: I just can't --

5 COMMISSIONER HUESO: Somebody mentioned Modifica-
6 tion No. 9, and I haven't seen Suggested Modification No. 9.

7 COMMISSIONER REILLY: That is the flood modifica-
8 tion. I have some comments on that, too.

9 CHAIR KRUER: Okay, Commissioner Reilly.

10 COMMISSIONER REILLY: As the "second" I would
11 just ask that we separate 5 and 6 from 7 and 8, and deal with
12 those as two separate issues.

13 CHAIR KRUER: Okay.

14 COMMISSIONER HUESO: That's okay.

15 CHAIR KRUER: So, 5 and 6 together? is your
16 recommendation as the "second"?

17 COMMISSIONER REILLY: Yes.

18 CHAIR KRUER: Is that acceptable?

19 COMMISSIONER HUESO: That is acceptable.

20 COMMISSIONER REILLY: And, can we be clear about
21 what portion of 4 that covers? it gets rid of in-lieu fees,
22 and what else?

23 COMMISSIONER HUESO: Well, I'll point out the
24 sentence here, if I can just get to it.

25 COMMISSIONER REILLY: I thought the summer stuff

1 was already out.

2 EXECUTIVE DIRECTOR DOUGLAS: As I understand it
3 right now, the amending motion is just to delete Suggested
4 Modification 5 and 6.

5 COMMISSIONER REILLY: I heard portions --

6 CHAIR KRUER: Commissioner Reilly heard, correctly

7 --

8 COMMISSIONER REILLY: -- portions of 4 relating to
9 in-lieu fees?

10 CHAIR KRUER: Yes, it has been changed though.
11 The "seconder" made the suggestion, and the maker of the
12 motion agreed with that, that it is just 5 and 6 at this
13 time.

14 COMMISSIONER REILLY: All right.

15 CHAIR KRUER: Okay.

16 Would you like to speak to that motion?

17 COMMISSIONER HUESO: Yes.

18 CHAIR KRUER: Commissioner Hueso.

19 COMMISSIONER HUESO: I think, in hearing some of
20 the testimony today, I think we are looking at a community
21 here that is very unique in California, and I think our
22 Executive Director is absolutely correct. When we see
23 projects here at the Coastal Commission, most of them are in
24 welfare coastal communities that are building these large
25 homes, these visitor accommodations that are not really

1 accessible to everyone in the community, and this is
2 something that we see every day of all of our hearings.

3 And, in cities like Oceanside and Imperial Beach,
4 we don't have this situation occurring. These are
5 communities that are blighted, that allow for the creation of
6 a redevelopment area because they have a condition of blight.
7 They have conditions that, without government intervention,
8 there is no economic development.

9 And, it is very rare that you can locate a, you
10 know, diverse visitor-serving industry in areas that only
11 accommodate only certain uses, and I think that has been true
12 of Imperial Beach, as well. They have been trying to develop
13 a higher-end hotel in their community, and they have a
14 redevelop area, as well, and it has been very difficult to
15 do.

16 In other areas they don't have a problem bringing
17 in higher-end hotels, because the property values and the
18 lack of blight, and the economic situations allow that, and I
19 am very sympathetic to that, having worked in a community
20 that is a coastal community that faces blighting issues. To
21 create higher-end uses, to create higher-end homes, is very,
22 very hard to do, and I think Oceanside fits in that realm.

23 I think it really isn't our role to look at the
24 financial issues, as the Coastal Commission, but I think we
25 need to look at the conditions that exist, in making a

1 decision, and determination that may effect access issues in
2 these communities.

3 I think about lower-income families that get
4 married, our lower-income couples that get married, and they
5 can't afford honeymoons, they can't afford to go out of
6 state, or leave their city in many occasions, and what they
7 can afford is to go to their local hotel. I mean, that
8 happens in our city. I see that happen a lot, where they
9 have a weekend honeymoon, or maybe a week at kind of a beach
10 front hotel that is higher end, and I think Oceanside should
11 be able to serve that portion of the community that wants to
12 visit a high-end hotel in their own community for the sake of
13 having an opportunity of being in a very, very nice hotel,
14 beach front hotel that wouldn't require expensive
15 transportation arrangements.

16 I think I have more things to say on this issue,
17 but in terms of the project, itself, we are approving a site-
18 specific amendment.

19 And, I just want to thank the City of Oceanside
20 for pursuing this process in the spirit of transparency,
21 because I heard some comments that -- or some thoughts that
22 maybe you didn't need to go through this in building your
23 hotel because it complied with the current LCP. And, I think
24 that that really shows me a lot about your willingness to go
25 through this very difficult process to make sure that your

1 project conforms entirely within the spirit of the LCP.

2 The fact that you have a feasibility analysis,
3 requiring and looking at all of these considerations,
4 financially, and coming up to the conclusion that this
5 project requires a \$27 million subsidy. That is testament to
6 the fact that you are inundated with lower cost accommod-
7 ations, and whenever that situation does exist, it is harder
8 to introduce a different type of use into an area.

9 And, I think that that is not really speaking to
10 the financial aspects of it. It really points out a
11 condition that exists in Oceanside that makes it very
12 difficult to introduce these uses.

13 So, it justifies, you know, having a different
14 kind of visitor accommodation that will really appeal to
15 a different part of the community where I think it will
16 create a health balance for coastal accommodations.

17 **CHAIR KRUER:** As the "second" of the motion,
18 Commissioner Reilly, would you like to add to that.

19 **COMMISSIONER REILLY:** Just briefly, Mr. Chair.

20 I think we need to recognize that one of the
21 things you do in a redevelopment area is you redevelop, and
22 there may come a time when there is a significant danger of
23 losing near-shore low-cost accommodations in Oceanside. I
24 certainly don't think we are there yet, and I think that we
25 have plenty of time between now and whenever that happens to

1 do what we need to do which is necessarily preserve it.

2 I also think the best way to preserve it is not
3 through fee schedules, it is through simply what we approve
4 and don't approve, in terms of development in the city within
5 the coastal zone.

6 So, I don't think the fee thing works, and I think
7 that there are other tools that we have to insure that we
8 maintain low-cost visitor-serving in Oceanside, but they
9 certainly have a surplus of it, at the present time.

10 **CHAIR KRUER:** Commissioner Hueso.

11 **COMMISSIONER HUESO:** I just wanted to say one last
12 thing.

13 I serve a coastal community that also has some
14 very difficult financial constraints, and we have been able
15 to produce affordable housing using redevelopment money.
16 And, I just want to send a message to the leaders of
17 Oceanside to really look at the possibilities that do exist
18 out there. We have been able to create four projects within
19 the coastal zone, some of them funded with 9 percent tax
20 credits, some with 4, and 9 percent is still a tool that you
21 can use, and I would really encourage you to use your
22 affordable housing set aside monies in the area to really
23 make an effort to build affordable housing in the coastal
24 area. It can be done. We've done it with 4 projects, and we
25 are doing many more in our city, in different parts, so it

1 would really be a good reflection on you, as you continue to
2 redevelop your neighborhoods, and you come to the Coastal
3 Commission in the future with future projects, if you do make
4 an effort to invest your 20 percent set aside within the
5 coastal zone.

6 **CHAIR KRUER:** Thank you, Commissioner Hueso.
7 Commissioner Blank.

8 **COMMISSIONER BLANK:** Thank you, Chairman Krueer.
9 Just a couple of questions for staff.

10 When I read the staff report, and I am just trying
11 to get this for the record, and for my understanding because
12 I was a bit confused. You know, usually the disagreements
13 between staff and applicants are kind of shades of gray, but
14 this disagreement seems to be about 96.6 percent disagree-
15 ment, so I am just trying to understand -- and correct me if
16 I am wrong -- so I will go through this quickly.

17 When I read the staff report, they said the LCP
18 requirement was for 375 lower-cost hotel and motel units and
19 220 recreational vehicle camping sites with 20 percent, or 75
20 units in shore-front locations, is that correct? did I read
21 that correctly?

22 **DISTRICT DIRECTOR SARB:** It is 20 percent in
23 shore-front locations, yes, that is correct.

24 **COMMISSIONER BLANK:** And, that number is 75, if
25 you do the rough math, is that correct?

1 **DISTRICT DIRECTOR SARB:** That's correct.

2 **COMMISSIONER BLANK:** And, the redevelopment
3 director in the city have made the point -- and excuse me if
4 I am off by a couple of units -- they have concluded that
5 there are 480 rooms of low-cost units, and this is where
6 there are 90.6 percent of hotel rooms are affordable at the
7 shore front, but we seem to be stuck on the definition of
8 what shore front is. I think that is the issue between near
9 shore, and shore front? Is that the, kind of the
10 distinction, between the argument about it.

11 **DISTRICT DIRECTOR SARB:** That is one of the plans
12 the city brought up, yes.

13 **COMMISSIONER BLANK:** No, no, but is that the
14 distinction between the 75 units which we say we need, and
15 the 480 units which they are claiming are low-cost units in
16 the shore front. Is that your understanding?

17 **DISTRICT DIRECTOR SARB:** Their understanding is
18 that up to Coast Highway should be considered shore front.

19 **COMMISSIONER BLANK:** Thank you.

20 **DISTRICT DIRECTOR SARB:** But, that is not our
21 position.

22 **COMMISSIONER BLANK:** Great, where is the
23 definition of shore front?

24 **DISTRICT DIRECTOR SARB:** I would say that in the
25 City of Oceanside's case, it would be on the inland side of

1 Pacific Coast Highway, where there is a bluff that goes down
2 to the beach on the seaward side of the Coast Highway, and
3 then in the area where there is the strand, there is clearly
4 development immediately adjacent to the beach, and on the
5 shore front.

6 **COMMISSIONER BLANK:** But, is there a written
7 definition of shore front?

8 **DISTRICT DIRECTOR SARB:** No, there is not.

9 **COMMISSIONER BLANK:** So, what we have here are two
10 groups with two interests, obviously us, the Commissioners
11 and staff, and the applicant who are using this ambiguous
12 definition. I mean, have we ever defined that anywhere else,
13 in any other city? or there is no regulation? I am just
14 trying to understand.

15 **EXECUTIVE DIRECTOR DOUGLAS:** You know, we have
16 talked about it in other areas, and we have looked at
17 properties, or areas, that are fronting the beach, or the
18 shoreline. In this case, the definition of going all the way
19 back to the Pacific Coast Highway, we don't consider that all
20 shore front. So, it is a call you make in a particular area.

21 **COMMISSIONER BLANK:** Because, my logic is if I
22 agree with your findings that your shore front doesn't
23 include those houses, then you could figure out if we do need
24 an in-lieu fee, but if I disagree with your findings that
25 there is no low-cost housing, then -- at least for me -- the

1 applicant and the city and the applicant's market survey has
2 kind of satisfied that need. I mean, does that logic make
3 sense?

4 **EXECUTIVE DIRECTOR DOUGLAS:** Yes, if you are
5 looking at lower-cost overnight accommodations.

6 **COMMISSIONER BLANK:** Great, okay, and those are
7 just my questions, thank you.

8 **CHAIR KRUER:** Thank you, Commissioner Blank.

9 I'll go to -- I'll weigh in on this. Let me go to
10 a couple of other Commissioners, first, and then I would like
11 to make some comments myself.

12 Commissioner Wan, and then Commissioner Burke.

13 **COMMISSIONER WAN:** Before I make some more general
14 comments, I have a question of staff.

15 In the addendum that we got -- this is where
16 Suggested Modification No. 9 is, by the way, Commissioner
17 Hueso -- it talks about what is allowed in the flood plain, I
18 believe, and it talks about landscaping, and et cetera. I
19 don't have the original LCP, if there is someplace where, for
20 example, it talks within the first 50 feet of required
21 100-foot wetland buffer zone, and since we are talking about
22 landscaping, I will bring up my favorite issue. Is there
23 some place in here that prohibits the use of invasives? We
24 are talking about a flood plain, riparian habitat, wetlands,
25 I didn't see anything in the staff report, but since I don't

1 -- since this is an amendment, I am not sure that that
2 language exists any place, and maybe somebody from the city
3 can come up and answer that question?

4 DISTRICT DIRECTOR SARB: I am not aware of any
5 specific provisions elsewhere in the LCP that would prohibit
6 invasive species, and so that is something that we could
7 incorporate into this language, typical as to the type of
8 requirement we have been doing recently.

9 COMMISSIONER WAN: Can a representative of the
10 city come up?

11 Do you understand what I am saying here?

12 MS. MC VEY: Commissioner Wan, if I understand
13 what you are saying, you would like add a provision that says
14 within a 50-foot --

15 COMMISSIONER WAN: No, in general, in this area,
16 as it relates to the use of plantings, that invasive species
17 not be utilized, and I think that is something that the
18 Commission has pretty much been doing everywhere.

19 COMMISSIONER REILLY: Nope native.

20 CHAIR KRUER: Nope native.

21 MS. MC VEY: Commissioner Wan, yes, we can do
22 that. That is no problem.

23 COMMISSIONER WAN: No, I am not limiting it to
24 natives, and the reason is because they have lawns in here,
25 and grass, and you can't limit it to the use of natives. I

1 am talking about invasive species. There is a difference,
2 okay.

3 MS. MC VEY: Can I just consult.

4 [Pause]

5 The city manager has just informed me that the
6 MHCP already have that provision in it, and that we would not
7 allow invasives.

8 COMMISSIONER WAN: Okay, so, but you wouldn't
9 object to having that?

10 MS. MC VEY: No, we wouldn't.

11 COMMISSIONER WAN: All right, thank you.

12 That takes care of a very minor point, but one
13 that I had to raise.

14 I am just going to make a general statement, and
15 we are spending a lot of time arguing about mitigation fees
16 for low-cost visitor-serving facilities. I know this
17 Commission has allowed condos in the past, condo hotels. I
18 am not sure how much we've allowed in the way of time share
19 hotels, but I personally have a problem with them, because
20 they do limit the amount of rooms that are available to the
21 public, to the general public. It is getting to the point,
22 particularly here where we are now going to time share units,
23 where in order -- it is going to get to the point where in
24 order to rent a room on the coast, you are going to have to
25 wind up being able to buy a room on the coast, and I am very

1 concerned about that.

2 I am also concerned about everybody waiving around
3 this condition that says, well, you know, we are going to
4 have 375 rooms are reserved for lower-cost visitor serving,
5 but that is a condition I don't see how it is ever
6 enforceable. You can't just allow the conversion of
7 everything, and then when you get down to 375 rooms, just
8 stop allowing it. You have to do something in the process of
9 getting there.

10 I don't see how that is an enforceable condition,
11 frankly. It may be in the LCP, but I don't see how you deal
12 with it, unless you really start to deal with it as you go.
13 It is not fair to do to just the last guy in line, and say,
14 okay everybody else got to convert, now there are only 375
15 rooms left, you don't get to convert. I just don't think
16 that that is an enforceable provision. And, as the result of
17 all of this I am not going to be able to support this.

18 **CHAIR KRUER:** Thank you, Commissioner Wan.
19 Commissioner Burke, and then Commissioner Kram.

20 **COMMISSIONER BURKE:** I have just a question of the
21 city, for my own clarification. If I could get somebody from
22 the city to come up?

23 **CHAIR KRUER:** Commissioner Burke has a question
24 for you.

25 **COMMISSIONER BURKE:** Last month when we met in San

1 Diego, Commissioner Wan and I drove back together, and it was
2 my -- I thought that I saw a hotel being built in Oceanside.
3 Is that true? It was just on the ocean side of the freeway,
4 but probably a half a kilometer from the ocean. And, it was
5 about 450 or 550 -- just a guesstament -- room hotel. Was
6 that in Oceanside?

7 MS. MC VEY: Commissioner, no, there is not a
8 450-500 room hotel.

9 COMMISSIONER BURKE: Is there a hotel under
10 construction?

11 MS. MC VEY: We have a Holiday Inn Express under
12 construction, but maybe what you saw, we have a Wyndham time
13 share project that contains 168 units, of which 32 are time
14 shares -- it is a 168 units, of which 32 are hotel rooms.

15 COMMISSIONER BURKE: And, if you are traveling
16 north, it is on the lefthand side of the freeway?

17 MS. MC VEY: You would --

18 COMMISSIONER BURKE: It is on the ocean side?

19 MS. MC VEY: It is on the ocean side, right at the
20 pier at Oceanside. Now, on the left, if you are traveling
21 north, by the harbor, a rather colorful one, that is not it?

22 COMMISSIONER BURKE: This was bigger than 168
23 rooms, but the sign said Oceanside, but you know, those signs
24 aren't always accurate, anyway.

25 MS. MC VEY: I wish we had a 450-hotel room, but it

1 is not --

2 **COMMISSIONER BURKE:** Okay, I happen to agree with
3 Commissioner Wan, there is no way, this number of rooms, you
4 know, it is tough to enforce, but I think, after all of the
5 time you have put in on this, I don't think you ought to be
6 punished, either, so I am not sure what to do about that.

7 I always agree with the Chairman, that is how I
8 get to sit next to Kram.

9 But, you know, I think that as it relates to
10 affordable housing, Ben Hueso is going to be my new poster
11 boy, because I think that there are ways that you can build
12 affordable housing at the ocean, and I think the basis of the
13 whole problem is like Cour [sic.] says, it is the land
14 cost, accumulating the land. But, there is land along the
15 ocean that doesn't bow to private industry, private people,
16 which, if you really had the desire to build affordable
17 housing could be made available, as there is all kinds of
18 railroad land, all of those right-of-ways that run down the
19 coast, which with today's building techniques could provide
20 all kinds of affordable housing, so it is something that we
21 ought to keep in mind.

22 Anyway, I am glad to hear that hotel was not in
23 Oceanside, because it was, obviously, a -- I don't even know
24 if you remember seeing it, I pointed it out to you at the
25 time, but it was obviously a luxury hotel, and I just

1 couldn't figure out if the two were going on in the same city
2 at the same time.

3 **CHAIR KRUER:** Commissioner Kram.

4 **COMMISSIONER KRAM:** Thank you, Chairman.

5 I agree with Commissioner Burke, in terms of the
6 way he was talking about affordable accommodations, and hotel
7 rooms. I just think we need to adjust our thinking, in terms
8 of what we mean by affordable, and the definition changes
9 depending on the location, what is affordable in Monarch Bay
10 may not be affordable elsewhere, and maybe we need to spend
11 some time figuring that out.

12 I wanted to talk about something that was raised
13 by the city, and ask staff about what was the rationale
14 behind the idea that the hotel and time share operator had to
15 be the same person?

16 **DISTRICT DIRECTOR SARB:** The hotel and?

17 **COMMISSIONER KRAM:** And the time share operator,
18 needed to be the same.

19 **DISTRICT DIRECTOR SARB:** Hotel and the -- the idea
20 behind that is that when the units are not occupied by the
21 owner, they are made available to the general public, in the
22 same way as the traditional hotel units are, and so to have
23 control over that the hotel operator is the booking agent.
24 The owners are able to go ahead and market their units, but
25 the central booking is through the hotel operator. And,

1 again, that is to try to maximize the availability of the
2 units to the general public.

3 CHAIR KRUER: Mr. Douglas.

4 EXECUTIVE DIRECTOR DOUGLAS: Mr. Chair, the
5 Commission did wrestle with this, in the context of another
6 project. I think it was Encinitas? or where? Huntington
7 Beach, but there was another one where the Commission allowed
8 -- I think it was Encinitas -- where the Commission allowed a
9 condominium hotel and it required that it be one entity, so
10 that the enforcement of the time restrictions, and the
11 availability, or the ability to market was in the hands of
12 the entity that could be held accountable for failure to meet
13 those requirements.

14 And, in Encinitas, I believe the developer of the
15 hotel came back and tried to change that, to separate the
16 two, the operating versus the construction, and I don't
17 believe that was permitted, just because of this very reason,
18 how do you enforce the component that makes it available and
19 marketable for the period of time when it is not occupied by
20 the owner.

21 COMMISSIONER KRAM: Okay, thank you.

22 CHAIR KRUER: Okay, is that it, Commissioner Kram?

23 COMMISSIONER KRAM: Yes.

24 CHAIR KRUER: Okay, I would like to make a few
25 comments on the suggestion -- the motion that is on the floor

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1 is, in their redevelopment area, their \$27 million commit-
2 ment is only part of their commitment as a private-public
3 partnership, and the other part is their lease, and I am sure
4 if we saw the lease, it is a very sweet lease, and in fact to
5 make and encourage, so they really have more than a \$27
6 million contribution, I would think, number one.

7 Number two, It is very important to remember that
8 at this time, with the credit markets they way they are, and
9 the costs, even though T-bills have gone down, and credit
10 spreads are going up dramatically. I applaud the city and
11 the developer that there are no 3-star, 4-star, or 5-star
12 hotels in Oceanside, and this is a 4-star hotel, and I am
13 just amazed that they have that kind of commitment, and
14 commitment to desire to build a 4-star hotel, and they have a
15 developer that is willing to do it, but it isn't that cost,
16 whether it is \$3 million, or more, whatever. That cost --
17 you don't look at the total cost of your project, you look at
18 what it does to your equity requirement, and that equity
19 requirement, a lot of times then, will knock a project out to
20 be economically feasible, et cetera.

21 Lenders, traditionally, you change the IRR, the
22 calculation of what that does, it has a dramatic effect on
23 the bottom line, I can tell you, when you have equity
24 requirements in there, and to do that to a project.

25 And, I just think -- Commissioner Reilly talked

1 about it -- we are struggling because we have had 3 or 4
2 projects like this, but this is the one that really is
3 different than the other ones. There is no question in my
4 mind. In San Diego County, along the coast, there is as much
5 affordable overnight rooms in the Oceanside area than any
6 place. Now, the city has said, from their survey, it is over
7 90 percent.

8 Well, I for one don't want to be one that wants to
9 add on, make this project maybe become infeasible, or make it
10 more difficult. That is what they are trying to achieve, and
11 I really think that we should support the motion, and we
12 should, in this case, at least reward them for what they are
13 doing under their private-public partnership, and to the
14 extent they are going, and their developer, too. I don't how
15 he is doing it, but they are doing it.

16 So, I am going to support the motion.

17 Mr. Douglas.

18 **EXECUTIVE DIRECTOR DOUGLAS:** If I may, just before
19 you bring this to a vote, I just want to make clear to the
20 Commission that we are talking about several things here.

21 One is we are talking about a project-driven
22 amendment, and I think your comments addressed that. And, we
23 agree and recognize that there is a uniqueness here because
24 of this public-private partnership. So, it may well be, that
25 you could say, "Okay, we don't think that in-lieu fees should

1 apply in this case."

2 But, then, you have the larger amendment that
3 applies to the larger redevelopment area, and within that,
4 and you are locking in the LCP here for however long it takes
5 for the city to come back to want to change it. So, you are
6 making long term decisions here.

7 So, as you look at the rest of the amendment area,
8 there are two elements of that, that I think are important to
9 consider. One is whether or not you agree with the staff for
10 an in-lieu fee when you have a conversion of an existing
11 lower-cost accommodation, and that is the 50 percent rule.
12 Or, whether you want to just deal with new construction of
13 overnight accommodations, which is the 25 percent.

14 So, there are actually three components here. I
15 just throw it out there so that you understand it. Whether
16 or not you are interested in separating those off and
17 treating them separately, that is up to you. But, you are
18 making an LCP decision here, that is going to lock in a
19 decision for the foreseeable future.

20 And, I think the notion of us having the
21 opportunity to address affordable lower-cost accommodations
22 later on is illusory, because that really depends on what the
23 city wants to do, in terms of amending the LCP. This
24 Commission doesn't have the authority to go back and change
25 it later.

1 So, I just throw that out, so that you can
2 deliberate with that in mind, too, thank you.

3 **CHAIR KRUER:** Commissioner Burke.

4 **COMMISSIONER BURKE:** To make sure I understand
5 what the Executive Director is saying, you would like for us
6 to consider, is to modify the existing amendment to be
7 restricted to new construction?

8 **EXECUTIVE DIRECTOR DOUGLAS:** That certainly is
9 outside of this specific project area, yes, that is a
10 possibility, and I think that would be a better way to
11 protect affordable housing -- I mean, lower-cost overnight
12 accommodations.

13 **COMMISSIONER BURKE:** Would the maker of the motion
14 accept that?

15 **COMMISSIONER HUESO:** That gets to another
16 discussion on rehabing older hotels.

17 **COMMISSIONER BURKE:** Right, but that is not before
18 us today, and this is the project. And, it quite frankly,
19 makes a difference on whether I vote for it or against it.

20 **COMMISSIONER HUESO:** That makes a difference in
21 your mind?

22 **COMMISSIONER BURKE:** So, I don't care what you do

23 --

24 **COMMISSIONER HUESO:** But, maybe you could --

25 **COMMISSIONER BURKE:** -- about it. What I am going

1 to do --

2 **COMMISSIONER HUESO:** -- speak more specifically,
3 in terms of it applies, because I have concerns about the
4 projects themselves not being able to be upgraded --

5 **COMMISSIONER BURKE:** And, I don't think this would
6 prohibit them at all from being upgraded. I just think they
7 would all have to come back here and be evaluated related to
8 in-lieu fees? Am I correct or incorrect?

9 **COMMISSIONER HUESO:** Actually, that doesn't sound
10 bad, but you are suggesting this on what section?

11 **EXECUTIVE DIRECTOR DOUGLAS:** Can I explain what I
12 think Commissioner Burke was just saying --

13 **COMMISSIONER HUESO:** I don't understand.

14 **EXECUTIVE DIRECTOR DOUGLAS:** -- following up to
15 what I was suggesting.

16 It would be to allow the project specific
17 component of the LCP --

18 **COMMISSIONER HUESO:** Under what modification are
19 we talking about, 5 or 6?

20 **EXECUTIVE DIRECTOR DOUGLAS:** That would be No. 6.
21 It would allow that to go forward with no in-lieu fee. In
22 other words, that would be eliminated.

23 It would eliminate the provision of converting
24 existing lower-cost overnight accommodations, with the 50
25 percent rule, that would be eliminated.

1 But, it would apply the in-lieu fee requirement to
2 new construction, in the redevelopment area, outside of this
3 specific project, to 25 percent of those units.

4 **COMMISSIONER HUESO:** To new construction, --

5 **EXECUTIVE DIRECTOR DOUGLAS:** New construction.

6 **COMMISSIONER HUESO:** -- or to conversions?

7 **EXECUTIVE DIRECTOR DOUGLAS:** New construction.

8 **COMMISSIONER BURKE:** Well, outside of this
9 project.

10 **EXECUTIVE DIRECTOR DOUGLAS:** Outside of this
11 project, that's right.

12 **COMMISSIONER ACHADJIAN:** Shouldn't that be a
13 separate issue?

14 **COMMISSIONER HUESO:** Right now, I'll tell you why
15 I would have a problem with that.

16 Right now, in terms of new construction. Maybe on
17 already built units, we can apply an in-lieu fee as you
18 mention, but on new construction, we already see that this
19 project doesn't pencil out. It is new construction. Every
20 time you are going to propose a new construction in this
21 area, it is not going to make sense financially without the
22 city's involvement and intervention financially, so I don't
23 see that this -- we can make this modification, and just kill
24 all development in the area of new hotels.

25 **COMMISSIONER BURKE:** It didn't kill this one. It

1 may not kill the next one. You just evaluate them each on
2 their own individual basis.

3 **COMMISSIONER HUESO:** But, you are saying you are
4 going to add an in-lieu fee to new --

5 **COMMISSIONER BURKE:** It is up to the Commission,
6 and we don't have to do that.

7 **COMMISSIONER HUESO:** -- construction --

8 **CHAIR KRUER:** See I was -- let me say this.

9 **COMMISSIONER BURKE:** It will still come to us.

10 **COMMISSIONER HUESO:** I am not understanding where
11 you are coming from.

12 **COMMISSIONER BURKE:** It comes to us, and we can
13 make a judgment.

14 **CHAIR KRUER:** They are going to exempt this
15 project that is in front of us now, but they want to, in the
16 LCP, put in in-lieu fees having to do with converting any
17 existing units that meet the test of 50 percent or greater,
18 and then also they want to attach it to new projects.

19 **COMMISSIONER HUESO:** But, that is not what
20 Director --

21 **CHAIR KRUER:** And, I have a problem with that. I
22 mean, again we are right back -- what you are proposing here
23 is that, one thing is to talk about existing conversions, but
24 then you are going back -- you know, if you have got a
25 problem with this hotel, and you are in the redevelopment

1 area, and you are not on the ocean, you are back a couple of
2 blocks, 2 or 3 blocks, economics are even worst, and so you
3 are proposing in-lieu fees, and this is the kind of thing
4 that doesn't make common sense.

5 **COMMISSIONER REILLY:** Mr. Chairman, as "seconded"
6 I thought the one thing that we had all agreed on in the
7 condo hotel discussion, in all of the previous projects, was
8 that we weren't going to allow existing hotel rooms to be
9 converted to condo hotels. It sounds like that is what you
10 are allowing here. You are suggesting we should allow that.

11 If you don't, you are not putting restrictions on
12 conversions, but you are putting it on new, I mean, what --

13 **EXECUTIVE DIRECTOR DOUGLAS:** I was just saying
14 there are three components that I am suggesting that you
15 consider.

16 One of them is conversion of existing; one is new
17 construction in the development area outside of this specific
18 project; and the third is this specific project.

19 So, if you are -- I don't know how you want to
20 look at it, but we need some guidance on all three of those.

21 **COMMISSIONER REILLY:** Well, let ask this.

22 Where have we applied these fees previously to new
23 construction, and are we basically saying we are going to do
24 that up and down the coast?

25 **EXECUTIVE DIRECTOR DOUGLAS:** We have applied the

1 in-lieu fee to new construction, in fact, you are going to
2 have another project on this agenda that is going to have
3 that.

4 What we are saying here is that this specific
5 project that you are talking about, because of the public-
6 private partnership, if you don't feel that this -- and as
7 you indicated, what you see as existing stock, that it
8 shouldn't apply there, then that is the call you have to make

9 Then, the question is, okay, what do you do in the
10 rest of the area? do you apply the restriction of condo
11 conversion to existing units that are going to be converted,
12 and have an in-lieu fee required there? or are you going to
13 require it for new construction in that area? or neither?

14 **COMMISSIONER REILLY:** When you talk about existing
15 units to be --

16 **EXECUTIVE DIRECTOR DOUGLAS:** Right.

17 **COMMISSIONER REILLY:** -- converted to what?

18 **EXECUTIVE DIRECTOR DOUGLAS:** Well, what we have
19 heard, and what I heard from one of the city council members,
20 is that there are existing lower-cost motels that are being
21 converted to condominiums, and the question is --

22 **COMMISSIONER REILLY:** I heard that on the strand.
23 I didn't hear it that in the redevelopment area.

24 **EXECUTIVE DIRECTOR DOUGLAS:** Well, you could limit
25 it to a particular geographic area.

1 I am trying to figure out how to wrestle with --
2 **COMMISSIONER REILLY:** All I said, though, is I
3 thought we had agreed that the one condo conversion we
4 wouldn't allow was to take existing hotel rooms and convert
5 them into condo units, and I thought we were clear on that
6 point, and it sounds like we are not clear on that point.

7 **CHAIR KRUER:** We are not clear, okay.

8 I want to --

9 Commissioner Wan, do you have a question?

10 **COMMISSIONER WAN:** Yes, I am trying to figure out
11 what he said here, it is very hard to follow.

12 And, I am trying to boil this down to the
13 difference between Suggested Modification 5 and Suggested
14 Modification 6, and maybe I am wrong, and maybe somebody can
15 explain that to me.

16 It looks to me like Modification 5 is the one that
17 deals with existing overnight accommodations, and in-lieu
18 fees -- and it doesn't say in-lieu fees. It just says -- it
19 talks about what you do if you are going to demolish existing
20 units, okay, and I think that is the one that everybody is
21 concerned about. They don't want to allow conversion of
22 existing units.

23 Modification 6 deals with new units, and so,
24 maybe, somehow, you need to separate those two in your
25 thinking, because I think that is what is happening now, is

1 we are mixing those two modifications. Maybe I am wrong, but
2 if you look at this, Modification 5 does not apply to this
3 hotel, okay? am I right? or am I wrong?

4 **COMMISSIONER REILLY:** Either one of them do.

5 **COMMISSIONER WAN:** Modification 6 does apply to
6 this hotel, because it is talking -- Modification 6 is the
7 one that is talking about in-lieu fees for new hotels. It is
8 a general one. It doesn't just apply to this hotel, but it
9 is the one that talks about in-lieu fees for new development.

10 Modification 5 talks about existing -- protection
11 of existing overnight visitor accommodations, and it may be
12 that in this discussion what you want to do is to separate
13 out that, and not eliminate Modification 5, but eliminate
14 Modification 6.

15 I am just trying to make it simpler. I don't know
16 if I am getting my point across.

17 **EXECUTIVE DIRECTOR DOUGLAS:** How you described it
18 is correct.

19 **CHAIR KRUER:** Excuse me, Director Douglas.

20 Let me recognize the city first, for a minute, and
21 asked them to weigh in on this.

22 **MS. MC VEY:** Thank you, Mr. Chairman.

23 Number one, the LCPA before you already has a
24 provision that does not allow conversions of existing hotel
25 rooms to condo hotels, so that is included in it.

1 I also want to distinguish, so that we are all
2 clear about conversions, in general. I think what was
3 referred to earlier is that we do, along the beach, along the
4 strand, have some old beach cottages, and some of those are
5 being converted into other houses, so there has been
6 renovation of those homes, and there has been redevelopment
7 of some of those homes right on the strand, so that is
8 residential conversions, if you will.

9 The LCPA before you does not allow -- and it is
10 specifically states -- conversion of existing hotel rooms to
11 condo hotels, so Commissioner Wan is correct that these are
12 two separate issues. Modification No. 5, as proposed, as we
13 understand it -- trying to follow the conversation here --
14 does have a \$30,000 a door fee for redevelopment of existing
15 hotels.

16 And, if I may, give you an example. We have a
17 27-room Coast Inn. If they were to redevelop, it is a narrow
18 1-story building between two 2-story buildings, and if they
19 wanted to redevelop, that would be the redevelopment of an
20 existing motel. It is way much older.

21 Versus No. 6, what you are discussing -- and we
22 object to both of these -- is the \$30,000 a door on 25
23 percent of all new hotels, and both are problematic.

24 **CHAIR KRUER:** Okay.

25 Commissioner Blank.

1 **COMMISSIONER BLANK:** Can I ask the maker and
2 seconder of the amending motion if they could split their
3 motion into No. 5 and 6, and if not, I would like make that
4 motion.

5 **COMMISSIONER REILLY:** Want to do them separately?

6 **COMMISSIONER BLANK:** Yeah, I would like to vote on
7 them separately, and if not, I'll make the motion.

8 **COMMISSIONER REILLY:** I have no problem.

9 **COMMISSIONER BLANK:** Okay, is that okay with you?

10 **COMMISSIONER HUESO:** Just do 5?

11 **COMMISSIONER BLANK:** Okay, okay.

12 **COURT REPORTER:** Please turn on your microphones.

13 **CHAIR KRUER:** Okay, let's just take that up
14 separately -- excuse me. The maker and seconder have agreed
15 that they will take these two separately, Modification 5 and
16 6.

17 So, right now, then we will take up 5, and I will
18 call for the question, and that is that they are asking, the
19 maker and the seconder, that the Commission reject Suggested
20 Modification No. 5, and they are asking for a "Yes" vote.

21 Thank you, and, no --

22 **COMMISSIONER WAN:** Point of clarification.

23 **EXECUTIVE DIRECTOR DOUGLAS:** No.

24 **CHAIR KRUER:** Point of clarification on it.

25 **COMMISSIONER WAN:** Okay, I just want everybody to

1 understand that this is a protection -- No. 5 deals with
2 existing overnight visitor serving. It does not deal with
3 new.

4 CHAIR KRUE: Clerk, call the roll, please, and
5 they are asking for a "Yes" vote.

6 SECRETARY MILLER: Commissioner Blank.

7 COMMISSIONER BLANK: For No. 5, no.

8 SECRETARY MILLER: Commissioner Burke?

9 COMMISSIONER BURKE: No.

10 SECRETARY MILLER: Commissioner Lowenthal?

11 COMMISSIONER LOWENTHAL: No.

12 SECRETARY MILLER: Commissioner Hueso?

13 COMMISSIONER HUESO: Yes.

14 SECRETARY MILLER: Commissioner Kram?

15 COMMISSIONER KRAM: No.

16 SECRETARY MILLER: Commissioner Neely?

17 VICE CHAIR NEELY: Yes.

18 SECRETARY MILLER: Commissioner Potter?

19 COMMISSIONER POTTER: Aye.

20 SECRETARY MILLER: Commissioner Reilly?

21 COMMISSIONER REILLY: Yes.

22 SECRETARY MILLER: Commissioner Shallenberger?

23 COMMISSIONER SHALLENBERGER: No.

24 SECRETARY MILLER: Commissioner Wan?

25 COMMISSIONER WAN: No.

1 **SECRETARY MILLER:** Commissioner Achadjian?

2 **COMMISSIONER ACHADJIAN:** Yes.

3 **SECRETARY MILLER:** Chairman Kruer.

4 **CHAIR KRUER:** Yes.

5 **EXECUTIVE DIRECTOR DOUGLAS:** Before you announce
6 the vote, I don't want anymore confusion, but I want to make
7 sure that it is understood what -- the motion was to reject
8 Modification No. 5, right?

9 **CHAIR KRUER:** Right, that is correct.

10 **EXECUTIVE DIRECTOR DOUGLAS:** Okay, all right.

11 **CHAIR KRUER:** So, we can announce the vote. It
12 was 6-6 wasn't it?

13 **SECRETARY MILLER:** The vote was 6 to 6.

14 **CHAIR KRUER:** So that failed, that motion fails.

15 **CHAIR KRUER:** Modification 6, again the maker and
16 seconder are asking the Commission to reject Suggested
17 Modification No. 6. Clerk please call the roll, and they are
18 asking for a "Yes" vote.

19 **SECRETARY MILLER:** Commissioner Burke?

20 **COMMISSIONER BURKE:** Yes.

21 **SECRETARY MILLER:** Commissioner Lowenthal?

22 [Discussion off microphones]

23 **COMMISSIONER LOWENTHAL:** Yes.

24 **COMMISSIONER ACHADJIAN:** They asking for a "Yes"?

25 **COMMISSIONER HUESO:** We are asking for a "Yes"

1 vote.

2 [Discussion off microphones]

3 SECRETARY MILLER: Commissioner Hueso?

4 COMMISSIONER HUESO: Yes.

5 SECRETARY MILLER: Commissioner Kram?

6 COMMISSIONER KRAM: Yes.

7 SECRETARY MILLER: Commissioner Neely?

8 VICE CHAIR NEELY: Yes.

9 SECRETARY MILLER: Commissioner Potter?

10 COMMISSIONER POTTER: Aye.

11 SECRETARY MILLER: Commissioner Reilly?

12 COMMISSIONER REILLY: Yes.

13 SECRETARY MILLER: Commissioner Shallenberger?

14 COMMISSIONER SHALLENBERGER: No.

15 SECRETARY MILLER: Commissioner Wan?

16 COMMISSIONER WAN: No.

17 SECRETARY MILLER: Commissioner Achadjian?

18 COMMISSIONER ACHADJIAN: Aye.

19 SECRETARY MILLER: Commissioner Blank?

20 COMMISSIONER BLANK: Yes.

21 SECRETARY MILLER: Chairman Kruer.

22 CHAIR KRUER: Yes.

23 SECRETARY MILLER: Nine, three.

24 CHAIR KRUER: Nine, three. That motion passes,

25 rejecting Modification No. 6.

1 CHIEF COUNSEL SMELTZER: I think it was 10 - 2.

2 CHAIR KRUER: What was the vote? is it 10 - 2?

3 COURT REPORTER: Mr. Chairman, I don't think all
4 Commissioners have their microphones on. I can't hear them.

5 CHIEF COUNSEL SMELTZER: Commissioner Wan ought to
6 use her mike, yes.

7 COMMISSIONER REILLY: Mr. Chairman, can we ask
8 staff, what provisions are in here, in different sections,
9 that specifically relate to in-lieu fees for the project
10 before us?

11 EXECUTIVE DIRECTOR DOUGLAS: Well, I think what we
12 can say is we can make the changes to conform to what you
13 just did, wherever it appears, so that there would be no
14 in-lieu fee in the area for new construction. Wherever those
15 appear, I mean, Sherilyn can go through it, but to save time,
16 I think you can do that.

17 COMMISSIONER REILLY: Part of the reason I am
18 asking is that Section 5 doesn't have an in-lieu fee. It has
19 a reference to one.

20 EXECUTIVE DIRECTOR DOUGLAS: Well, Section 5 you
21 kept.

22 COMMISSIONER REILLY: Pardon me?

23 DISTRICT DIRECTOR SARB: You are correct, Section
24 5 was referencing the in-lieu fee program that is also
25 applied in Section 6, which was rejected, so we would have to

1 incorporate into the suggested modifications somewhere to
2 conform to the Commission's action, the description of the
3 in-lieu fee that would be --

4 **COMMISSIONER REILLY:** Or, existing and not new.

5 **DISTRICT DIRECTOR SARB:** That is correct.

6 **COMMISSIONER REILLY:** And let me, if I might,
7 could I just ask another question?

8 Then, on Item 7 and 8 would you also eliminate the
9 "Z" area references to in-lieu, or modify those?

10 **DISTRICT DIRECTOR SARB:** Yes, those areas apply to
11 condo hotels and fractional units, so for new development the
12 provision for any in-lieu fees would be eliminated.

13 **COMMISSIONER REILLY:** All right, so we have taken
14 the fee stuff out of 7 and 8, as well?

15 **DISTRICT DIRECTOR SARB:** Yes.

16 [General Discussion]

17 **COMMISSIONER REILLY:** Mr. Chairman, just a comment
18 on our procedures.

19 **EXECUTIVE DIRECTOR DOUGLAS:** No, I feel like we --

20 [General Discussion]

21 **COMMISSIONER REILLY:** Mr. Chair, Mr. Chair.

22 **CHAIR KRUER:** Commissioner Reilly.

23 **COMMISSIONER REILLY:** Yes, thank you, if I still
24 have the floor, I do have a question on the flood control
25 provisions that were just added in the addendum.

1 As I understand it -- and I am from the Russian
2 River, so we deal with floods a lot -- as I understand it,
3 you are not allowing development in the flood plain, but you
4 are allowing fill? And, I will just tell you, in our county,
5 it is exactly the opposite. We have a no-net fill in the
6 flood plain, because you are having provisions in there
7 saying that you have got to prove that it is not going to
8 have some impact downstream. There is no way to prove that.
9 And, we do allow development in a flood plain, as long as the
10 bottom of the development is 18 inches above the 100-year
11 flood level.

12 So, I would just say that for what you are
13 restrictions are here, FEMA has, basically, asked us to do
14 exactly the opposite, so, they have asked for no net fill,
15 and they have asked for any development to be sited, you
16 know, higher than the 100-year flood plain. So, I am not
17 quite sure where these particular provisions came from.

18 **DISTRICT DIRECTOR SARB:** These provisions are the
19 existing provisions in the LCP, which is a very old LCP, but
20 we were just not going along with the city's request to
21 delete these provisions, so that is why they are standing the
22 way they are.

23 **COMMISSIONER REILLY:** Well, if you are going to
24 leave them in there, you might suggest that maybe somebody
25 have a conversation with FEMA, either our staff or their

1 staff, and stuff, and see what more current provisions they
2 are looking for.

3 **DISTRICT DIRECTOR SARB:** I know that for any flood
4 plain development, we do limit the amount of fill, and there
5 is that provision that it cannot adversely impact the flood
6 plain hydrology.

7 So, the idea is that only uses that are capable of
8 withstanding periodic flooding would occur, would be allowed
9 in the flood plain area.

10 **COMMISSIONER REILLY:** Okay, including gazebos, and
11 other kinds of structures like it. I mean, you are allowing
12 for fill within the flood plain, up to 3 feet, and that does
13 have hydraulic implications for other areas. There is no way
14 for it not to.

15 **CHAIR KRUER:** Thank you, Commissioner Reilly.
16 Commissioner Hueso, is there anything else?
17 amending motions?

18 **COMMISSIONER HUESO:** We have voted on 5 and voted
19 on 6 --

20 **COMMISSIONER ACHADJIAN:** And, 7, 8, and 4?

21 [MOTION]

22 **COMMISSIONER HUESO:** I want to move that the
23 Commission reject Suggested Modification No. 7 as provided by
24 staff, and accept the language provided by the City of
25 Oceanside in its December 7, 2007 letter.

1 **CHAIR KRUER:** Is there a "second" to Commissioner
2 Hueso's motion?

3 **VICE CHAIR NEELY:** Second.

4 **CHAIR KRUER:** Seconded by Vice Chair Neely.

5 As the maker of the motion, would you like to
6 speak to that, Commissioner Hueso?

7 **COMMISSIONER HUESO:** I just want to ask if every-
8 body has a copy of their letter? The December 7th letter
9 from the City of Oceanside? It in the packet.

10 **COMMISSIONER BURKE:** No, we don't have it over
11 here.

12 **COMMISSIONER KRAM:** No, we don't have it.

13 **COMMISSIONER ACHADJIAN:** Maybe you can put it on
14 the screen?

15 **COMMISSIONER HUESO:** Can we trail this motion, and
16 I'll make another motion while people get that letter.

17 **CHAIR KRUER:** Go ahead.

18 [MOTION]

19 **COMMISSIONER HUESO:** I move the Commission reject
20 Suggested Modification No. 8.

21 **COMMISSIONER ACHADJIAN:** It is No. 8?

22 **VICE CHAIR NEELY:** Second.

23 **CHAIR KRUER:** It has been moved by Commissioner
24 Hueso, seconded by Vice Chair Neely, and they are asking to
25 reject Suggested Modification No. 8, and asking for a "Yes"

1 vote.

2 Would you like to speak to that motion,
3 Commissioner Hueso?

4 COMMISSIONER HUESO: No.

5 CHAIR KRUER: Vice Chair Neely?

6 VICE CHAIR NEELY: No, thank you.

7 CHAIR KRUER: Okay.

8 Yes, Commissioner Reilly.

9 COMMISSIONER REILLY: ~~In~~ terms of the conditions
10 and restrictions that are listed in here, I went through
11 them, and it seems like they are very similar to what we have
12 done in the past. It seems like every time we see them, they
13 are slightly expanded, they are slightly longer, they are
14 slightly more complex.

15 My preference would be to stick with the real
16 clear ones, like we had at Long Point and Del, and in
17 Huntington Beach, but they are very similar to what we
18 required in those things. And, it basically is saying that
19 if, in fact, the condo hotel is a financing mechanism, and it
20 really is intended to be a hotel, which is what applicants
21 have been telling us. Then, we need to have conditions to
22 insure that it walks like a duck, and talks like a duck, and
23 acts like a duck, that these are the ways to do it, is to
24 make sure that it has these kinds of conditions, that it
25 actually functions as a hotel to the greatest extent

1 possible. And, we have been fairly consistent in putting
2 these conditions in on the projects before us, and I am a
3 ~~little reluctant~~ to make an exception in this case.

4 It was important for me to get the in-lieu fees
5 taken out of these things, but once that is out, I don't have
6 a problem with restrictions.

7 **CHAIR KRUER:** Commissioner Wan.

8 **COMMISSIONER WAN:** I am going to agree with
9 Commissioner Reilly.

10 Regardless of how you feel about time shares, this
11 Commission has been saying that, and as he said, the
12 applicants are saying the purpose of this was to enable them
13 to build a hotel. That is the only justification to allow it
14 to begin with, therefore, there are conditions necessary to
15 make sure it operates as a hotel, and if you take out
16 Modification 8, you don't have conditions to require that it
17 is operated as a hotel.

18 **CHAIR KRUER:** Okay, anybody else?

19 Commissioner Lowenthal, did you want to speak to
20 this? Okay.

21 Okay, then, let's call the roll. Again, the maker
22 and seconder are asking for a "Yes" vote on Modification No.
23 8.

24 **SECRETARY MILLER:** Commissioner Lowenthal?

25 **COMMISSIONER LOWENTHAL:** No.

1 **SECRETARY MILLER:** Commissioner Hueso?
2 **COMMISSIONER HUESO:** Yes.
3 **SECRETARY MILLER:** Commissioner Kram?
4 **COMMISSIONER KRAM:** No.
5 **SECRETARY MILLER:** Commissioner Neely?
6 **VICE CHAIR NEELY:** Yes.
7 **SECRETARY MILLER:** Commissioner Potter?
8 **COMMISSIONER POTTER:** No.
9 **SECRETARY MILLER:** Commissioner Reilly?
10 **COMMISSIONER REILLY:** No.
11 **SECRETARY MILLER:** Commissioner Shallenberger?
12 **COMMISSIONER SHALLENBERGER:** No.
13 **SECRETARY MILLER:** Commissioner Wan?
14 **COMMISSIONER WAN:** No.
15 **SECRETARY MILLER:** Commissioner Achadjian?
16 **COMMISSIONER ACHADJIAN:** No.
17 **SECRETARY MILLER:** Commissioner Blank?
18 **COMMISSIONER BLANK:** No.
19 **SECRETARY MILLER:** Chairman Kruer?
20 **CHAIR KRUER:** No.
21 **SECRETARY MILLER:** Two, ten.
22 **CHAIR KRUER:** That particular motion did not pass,
23 so it is still in there, Modification No. 8.
24 Commissioner Hueso, anything else before we go
25 back to the second motion? We had the main motion, now the

1 second motion?

2 **COMMISSIONER HUESO:** I just want to ask for
3 clarification on No. 4, if we are going to amend the language
4 on Modification No. 4 to suggest that the in-lieu fees have
5 been dropped?

6 **EXECUTIVE DIRECTOR DOUGLAS:** Yes, as we indicated,
7 we are going to make all of the changes that need to be made
8 to delete the in-lieu fee requirement as to new construction.

9 **COMMISSIONER HUESO:** Okay, so that is fine, and we
10 can go back to the main motion.

11 **CHAIR KRUER:** Okay, then we will go back to Motion
12 No. 2. We took up the first motion, and the maker and
13 seconder have asked for a "Yes" vote, and the passage of this
14 motion will result in the certification and implementation
15 program amendment with the suggested modifications, and the
16 adoption of resolutions and findings.

17 Do you want to say anything more, Commissioner
18 Hueso?

19 **COMMISSIONER HUESO:** Just to recommend a "Yes"
20 vote.

21 **CHAIR KRUER:** Yes, and he is recommending a "Yes"
22 vote.

23 Clerk, if there is no one else, would you call the
24 roll, please.

25 **SECRETARY MILLER:** Commissioner Lowenthal?

1 **COMMISSIONER LOWENTHAL:** What was the recommended?
2 **CHAIR KRUER:** A "Yes" vote.
3 **COMMISSIONER LOWENTHAL:** Yes.
4 **SECRETARY MILLER:** Commissioner Hueso?
5 **COMMISSIONER HUESO:** Yes.
6 **SECRETARY MILLER:** Commissioner Kram?
7 **COMMISSIONER KRAM:** Yes.
8 **SECRETARY MILLER:** Commissioner Neely?
9 **VICE CHAIR NEELY:** Yes.
10 **SECRETARY MILLER:** Commissioner Potter?
11 **COMMISSIONER POTTER:** Aye.
12 **SECRETARY MILLER:** Commissioner Reilly?
13 **COMMISSIONER REILLY:** Yes.
14 **SECRETARY MILLER:** Commissioner Shallenberger?
15 **COMMISSIONER SHALLENBERGER:** No.
16 **SECRETARY MILLER:** Commissioner Wan?
17 **COMMISSIONER WAN:** No.
18 **SECRETARY MILLER:** Commissioner Achadjian?
19 **COMMISSIONER ACHADJIAN:** Aye.
20 **SECRETARY MILLER:** Commissioner Blank?
21 **COMMISSIONER BLANK:** Aye.
22 **SECRETARY MILLER:** Commissioner Burke?
23 **COMMISSIONER BURKE:** No.
24 **CHAIR KRUER:** Chairman Kruer?
25 **CHAIR KRUER:** Yes, the Commission hereby certifies

1 the Implementation Program Amendment for the City of
2 Oceanside.

3 Did you have something to say?

4 **MS. MC VEY:** Mr. Chairman, prior to your
5 conclusion, could we get a clarification, so we understand
6 what you just did, please.

7 **CHAIR KRUER:** Okay, we will go through it.

8 **MS. MC VEY:** Thank you.

9 **CHAIR KRUER:** Modifications that were rejected
10 were No. 6, and then No. 8 did not pass, so you got 6 --

11 **EXECUTIVE DIRECTOR DOUGLAS:** And, that's it.

12 **CHAIR KRUER:** -- and that's it.

13 **EXECUTIVE DIRECTOR DOUGLAS:** And, we are going to
14 make all of the --

15 **CHAIR KRUER:** Go ahead and clarify how you are
16 going to incorporate in there.

17 **EXECUTIVE DIRECTOR DOUGLAS:** We are going to make
18 all changes that are necessary to conform with your deletion
19 of Modification No. 6, and then we accepted a number of
20 changes that the city had recommended.

21 And, No. 5 stays in, as does No. 8, and that's it.

22 **COMMISSIONER REILLY:** And, just to be clear, on
23 the ones that we kept, is the in-lieu fee based on any kind
24 of site specific stuff? or is it just a flat \$30,000 for
25 every one? I mean, how are we treating that?

1 EXECUTIVE DIRECTOR DOUGLAS: Well, the way that it
2 had been recommended was \$30,000 per unit. That, now, would
3 only apply to existing.

4 If they want to amend that at some point in the
5 future, they can certainly come forward and suggest that.

6 COMMISSIONER REILLY: Fine, okay.

7 COMMISSIONER WAN: And, I would suggest that,
8 because it got so complicated, that it really be specific,
9 that it not, at some point in the future, that that not be
10 specifically \$30,000. It seems to me it ought to be site
11 specific. But, that is something you will have to deal with
12 through another process.

13 MS. MC VEY: Correct, so in Modification 4, the
14 reference to the in-lieu fee stays, only for those that are
15 existing, but not new? is that correct?

16 COMMISSIONER REILLY: That is correct.

17 EXECUTIVE DIRECTOR DOUGLAS: That is correct.

18 MS. MC VEY: No. 5, the \$30,000 door fee for
19 redevelopment of existing rooms, based on 50 percent of new
20 rooms has stayed.

21 EXECUTIVE DIRECTOR DOUGLAS: Correct.

22 MS. MC VEY: Redevelopment of existing rooms, and
23 Modification No. 6, you have eliminated --

24 EXECUTIVE DIRECTOR DOUGLAS: That is correct.

25 MS. MC VEY: So, the new rooms not.

1 No. 7, the condominium hotels, you are accepting
2 our language, portions of our language? portion.

3 And, Modification No. 8, you are staying with the
4 staff recommendation?

5 **EXECUTIVE DIRECTOR DOUGLAS:** That is correct.

6 **MS. MC VEY:** I see.

7 **COMMISSIONER KRAM:** I don't think it was clear --
8 I don't know how everyone else feels -- about whether it was
9 site specific or not on the redevelopment issue?

10 **EXECUTIVE DIRECTOR DOUGLAS:** Well --

11 **CHAIR KRUER:** I think it was clear, when we were
12 discussing it.

13 **EXECUTIVE DIRECTOR DOUGLAS:** -- and I think the
14 message is if there is a desire to change that, to modify
15 that, we are certainly willing to work with the city on an
16 amendment.

17 **CHAIR KRUER:** Ms. McVey, do you want to say
18 anything else? I'm sorry.

19 **MS. MC VEY:** Well, we undoubtedly want to, I
20 guess, express our willingness to work with staff and with
21 the Commission in the future, so that our redevelopment area
22 can reach its fruition. It is somewhat dismaying that our
23 2006 ADR is \$66.00 so those owners of 27-room motels that
24 want to redevelop are going to get dinged \$30,000 a door for
25 50 percent of any net new rooms added. All of the hotel

1 owners of these hotels are going to be distraught, to say the
2 least.

3 **CHAIR KRUER:** I think we are going to take a 10-
4 minute bio-break here.

5 *

6 (Andi wants Krue's rarks after 19.a. completed ?? or after a
7 break??)

8 *

9 [Whereupon the hearing concluded at 5:50 p.m.]

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STATE OF CALIFORNIA)
) SS.
COUNTY OF MADERA)
)

I, PRISCILLA PIKE, Hearing Reporter for the State of California, do hereby certify that the foregoing 117 pages represents a full, true, and correct transcript of the proceedings as reported by me before the California Coastal Commission on December 12, 2007.

Dated: January 5, 2008

PRISCILLA PIKE

PRISCILLA PIKE

CHAIR KRUER: Okay.
20.a.

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[Whereupon the hearing concluded at 5:50 p.m.]