

CALIFORNIA COASTAL COMMISSION

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



Th 12c

Addendum

January 6, 2009

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to 12c, Coastal Commission Permit Application
#A-6-OCN-08-075 (Oceanside lot line adjustment), for the Commission Meeting of January 8, 2009

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

1. On Page 6 of the staff report, the Motion, Staff Recommendation and Resolution shall be replaced in their entirety with the following:

MOTION: *I move that the Commission determine that Appeal No. A-6-OCN-08-075 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a NO vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-6-OCN-08-075 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

2. On Page 20 of the staff report, Special Condition #1c shall be revised as follows:

1. Final Parking Plans. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT**, the applicant shall submit to the Executive Director for review and written approval, final parking plans for the permitted Lot Line Adjustment. The plans shall include the following:

[...]

c. Marina Towers residents and guests shall not be entitled to, or provided with any special rights for use of the public parking lot, except that at the discretion of the City, a total of 10 parking stickers may be purchased from the City to allow 10 vehicles to park in the lot overnight pursuant to the program approved by Special Condition #6 below. Signage within the public parking lot shall be installed indicating that the lot shall not be available for overnight parking (e.g., closed between the hours of 2 a.m. and 4 5 a.m. each day). The City shall enforce the restrictions on the public spaces either through ticketing or towing pursuant to Special Condition #2 of CDP #A-6-OCN-08-75/A-6-OCN-08-102.

[...]

3. On Page 22 of the staff report, Special Condition #5 shall be corrected as follows:

5. Future Development. This permit is only for the development described in coastal development permit No. A-6-OCN-08-075/~~A-6-OCN-08-102~~. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the number of parking spaces in the public parking lot, shall require an amendment to Permit No. A-6-OCN-08-075/~~A-6-OCN-08-102~~ from the California Coastal Commission ~~or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.~~

4. On Page 22 of the staff report, the following shall be added as new Special Condition #6:

6. Overnight Parking Sticker Program. If the City chooses to implement a parking sticker program, then **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director, a program for implementing a overnight parking sticker program for the public parking lot adjacent to Marina Towers, that shall include at a minimum the following:

a. A total of 10 overnight parking stickers may be in use and issued to residents of the Marina Towers condominium development that allows the vehicle they are displayed in to park in the public parking lot adjacent to the Marina Towers condominium development overnight.

b. No other benefits or special privileges are provided by the sticker.

c. Identify the purchase price of the parking stickers.

5. On Page 30 of the staff report, the second complete paragraph shall be revised as follows:

However, the City failed to provide any restrictions that would be enforceable. The above stated conditions simply state that Marina Towers residents and guests shall not be entitled to any special rights to the parking lot, and simply limits the parking lot to the same restrictions as any other parking lot located in the Harbor region. The use restrictions on parking in the Harbor range from 2 hour parking to closed between the hours of 2-5 a.m., to 72 hour parking. If the City imposed the 72 hour parking limit, they would effectively allow all Marina Towers residents to use the public parking spaces to make up for the deficiency in their parking garage. Commission staff indicated to the City that a restriction similar to the 2-5 a.m. requirement would be the most desirable as it prevents the residents from parking in those spaces ~~overnight on a~~ 24-hour basis and thereby maximizes public access. However, the City chose to include the above described language. As such, a component of Special Condition #1 requires the applicant to provide a public parking plan that includes the prohibition of parking in the public parking lot between the hours of 2 and 4 ~~5~~. Recognizing that some Marina Residents, out of necessity, desire to park in this public lot overnight, this condition and Special Condition #6 also give the City the discretion to implement a parking sticker program for this lot. If the City chooses, they can allow the Marina Towers HOA to purchase a total of up to 10 parking stickers that would allow cars displaying this sticker to be exempt from the overnight parking restriction for this lot. According to the agent for the Homeowners Association in a letter to the Commission dated December 30, 2008, “[o]f necessity, eight to ten HOA residents or their guests park in the public parking lot overnight.” Thus, there is no need to provide any more than 10 parking stickers. Because the main public access conflict with private use of this lot will be during the day time when people are visiting the Harbor, allowing a limited number of residents to park in the lot overnight should not result in adverse public access impacts. Special Condition #1 also requires the City to enforce the nightly closure of the parking lot through either ticketing or towing. The agent for the Marina Towers Homeowners Association has suggested that if this requirement is implemented, then the Marina Towers residents who currently park in this public parking lot will be forced to park in other public parking lots that are closer to the harbor and its associated restaurants and attractions, resulting in more of an impact on public access. However, the closest public parking lot to Marina Towers site is Lot #5, which is located just across (south) of Harbor Drive North. According to a publication provided by the City titled “City of Oceanside Public Parking Lots” (see excerpt attached as Exhibit #9), Lot #5 is a “pay lot”, with the first two hours free. Thus, it does not seem likely that residents would park in this lot as it would mean paying a fee and walking across Harbor Drive North and a short distance up Harbor Drive to get to the Marina Towers condominium building. There are other lots around

the Harbor that do not charge a fee or that allow free parking after 4:00 p.m. (Lot Nos. 1 and 8A), but they are even further away than Lot #5.

6. The attached exhibit shall be added as Exhibit #9 to the staff report.

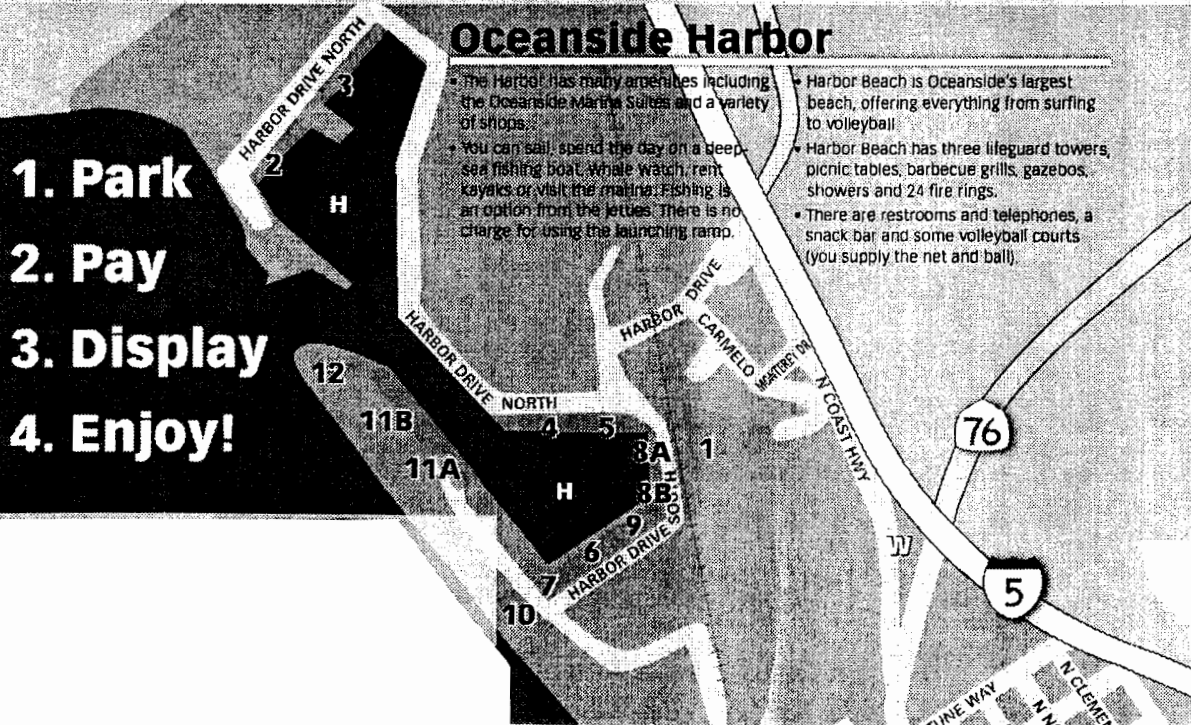
Harbor • Pier • Beaches • Docks

Harbor Parking Lots

<p>LOT</p> <p>1 East of 300 Harbor Drive South Free Parking Single space parking only Tandem space parking allowed for overflow boat trailer parking: 72 hour limit</p> <p>2 1900 Harbor Dr. North Free Parking and Slip Renters only Follow posted signs</p> <p>3 1800 Harbor Dr. North Free Parking and Slip Renters only Follow posted signs</p> <p>4 1300 Harbor Drive North Two hour Free Parking 8am-6pm and Slip Renters Follow posted signs</p> <p>5 1300 Harbor Drive North Two hour Free Parking 8am-6pm and Slip Renters Follow posted signs</p> <p>6 240 Harbor Drive South Two hour Free Parking 8am-6pm and Slip Renters Follow posted signs</p> <p>7 1200 North Pacific at Harbor Drive \$1 per hour; \$5 all day Receipt good until midnight on south side Slip Renters only on north side: look for signs</p>	<p>LOT</p> <p>8A 300 Harbor Drive South Two hour Free Parking 8am-4pm Free after 4pm</p> <p>8B 315 Harbor Drive South Two hour Free Parking 8am-6pm Free after 6pm</p> <p>9 200 Harbor Drive South Two hour Free Parking 8am-6pm Free after 6pm</p> <p>10 1200 North Pacific Street \$1 per hour; \$5 all day Receipt good until midnight</p> <p>11A 1350 North Pacific Street Boat Trainers Only \$5 4am-8pm; \$10 for overnight 8pm-4am Overnight camping allowed in marked stalls only</p> <p>11B 1350 North Pacific Street \$5 4am-8pm: Open Parking \$10 for overnight 8pm-4am: Overnight camping allowed in any space</p> <p>12 1400 North Pacific Street \$5 4am-8pm; \$10 for overnight 8pm-4am Overnight camping allowed September 16-May 14 only. Lot closed 2am-5am May 15-September 15.</p>
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See reverse side of this brochure for additional information about parking in the City of Oceanside. For parking questions not mentioned in this brochure, contact the City of Oceanside's Parking Administration at 760-434-7272. Hours of operation are 7:30 am-5:00 pm Monday-Friday, 7:30 am-4:00 pm Friday (closed on alternate days).



Oceanside Harbor

- The Harbor has many amenities including the Oceanside Marina Sales and a variety of shops.
- You can sail, spend the day on a deep-sea fishing boat, whale watch, rent kayaks or visit the marina. Fishing is an option from the jetties. There is no charge for using the launching ramp.
- Harbor Beach is Oceanside's largest beach, offering everything from surfing to volleyball.
- Harbor Beach has three lifeguard towers, picnic tables, barbecue grills, gazebos, showers and 24 fire rings.
- There are restrooms and telephones, a snack bar and some volleyball courts (you supply the net and ball).

EXHIBIT NO. 9
APPLICATION NO.
A-6-OCN-08-075
Blow-up of Oceanside Harbor Parking Lots Publication //

FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS

Th 12c

Name or description of the project: Thursday 12.c. Appeal No. A-6-OCN-08-75 (Oceanside lot line adjustment)

Time/Date of communication: Monday, January 5th, 2009, 9:00 am

Location of communication: La Jolla

Person(s) initiating communication: Dave Grubb, ~~Calvin S. [redacted]~~^{PK}, Graham Forbes, Bruce Reznik
(Speaking for CPPB - Citizens for Preservation of Parks and Beaches)

Person(s) receiving communication: Patrick Kruer

Type of communication: Meeting

Support staff recommendation. Staff recommended conditions will preserve public use of parking spaces.

Date: January 5, 2009


Patrick Kruer

RECEIVED

JAN 05 2009

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Item 12c A-6-OCN-08-095

Letters of Opposition

are available in the file in the

San Diego District Office

CALIFORNIA COASTAL COMMISSION

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



Th 12c

Filed: August 12, 2008
49th Day: Waived
Staff: Toni Ross-SD
Staff Report: December 19, 2008
Hearing Date: January 7-9, 2009

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE & DE NOVO

LOCAL GOVERNMENT: City of Oceanside

DECISION: Approved with Conditions

APPEAL NO.: A-6-OCN-08-075

APPLICANT: City of Oceanside

PROJECT DESCRIPTION: A property line adjustment affecting Marina Towers leasehold property to facilitate the sale of the property per the Purchase and Sale Agreement with the Marina Towers Association. The project also includes a revision to the original permit approved by the City and dated October 8, 2008 adding five conditions of approval designed to address protection of the existing 54 public parking spaces.

PROJECT LOCATION: The entrance to the Oceanside Harbor within the jurisdiction of the Oceanside Small Craft Harbor Precise Plan, Oceanside, San Diego County.

APPELLANTS: Citizens for the Preservation of Parks and Beaches; Commissioner Sara Wan and Commissioner Mary Shallenberger.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

Staff also recommends that the Commission approve the de novo permit application with several special conditions. Primary concerns raised by the project are loss of revenue to the Harbor District, impacts to existing free public parking located directly adjacent to the Harbor, and a low priority use on a prime high priority visitor serving lot. Five special conditions have been designed to address these concerns. Of these, four of the special conditions are intended to address the concern of adequate protection of public parking. One of the special conditions is included to address the future potential of the development being used for a higher priority visitor serving use. With the recommended special conditions the project can be found consistent with the City's LCP, the Harbor Precise Plan and the public access and recreation policies of the Coastal Act.

STAFF NOTES:

This appeal was brought to a Coastal Commission hearing on September 10, 2008. At the direction of the Commission the item was continued, to allow the City of Oceanside time to address the concerns raised at the hearing regarding the operation and enforcement of the public parking spaces located directly adjacent to the Marina Towers development and included in the lot line adjustment.

On October 8, 2008, the City of Oceanside approved an amendment to the original coastal development permit incorporating five conditions of approval addressing the public parking lot included in their updated resolution. These conditions include that the property containing the public parking lot shall be reserved for public parking, that the lot clearly delineate 50 parking spaces reserved for public use, that the Marina Towers sign at the entrance of the public parking lot be removed, that standard public parking lot signage be placed along Harbor Drive and within the public parking lot identifying it as public parking, that the City provide notification of the availability of public spaces at this location, that the City be responsible for maintenance and enforcement of the parking spaces, and lastly, that the Marina towers residents and guests shall not be entitled to, or be provided with any special rights for use of the public parking lot.

As the project has already come before the Commission on appeal, the subsequent amendment made by the City of Oceanside is considered part of and incorporated into the subject appeal. Additionally, although it was not necessary to do so in order to address the amended project, the Citizens for Preservation and Parks and Beaches appealed the coastal permit amendment and submitted additional comments and objections to the project. Additionally, while two Commissioners did not appeal the original Coastal Development permit, upon further review, including the amended Coastal Development Permit, it was determined that the project did raise concerns relating to the protection of public parking, and residential use on a high-priority visitor serving lot and thus, the Commission appealed the amended project.

SUBSTANTIVE FILE DOCUMENTS: The City of Oceanside Small Craft Harbor Precise Plan, Appeal forms, City Council resolution for Coastal Development Permit RC-16-06, Real Property Purchase and Sale Agreement dated July 16, 2008, The City of Oceanside's Local Coastal Program, The City of Oceanside's amended Resolution for Coastal Development Permit RC-16-06.

I. Appellants Contend That: The appellants contend that the approval of the coastal development permit is inconsistent with numerous policies pertaining to public access within the LCP and the Harbor Precise Plan. There are five major concerns brought forward by the appellants. The primary concern of the appellants is that by selling the property for the continuation of residential uses (67 unit condominium complex currently exists on a portion of the site) the permit is inconsistent with policies providing that areas adjacent to the shoreline and/or within the Harbor District shall be preserved for visitor-

serving and coastally dependent uses. While the appellants do not specifically state that the sale of the property will "perpetuate continued residential use," they do state that the sale of the Marina Towers will be in violation of the public access provisions of the LCP and the Coastal Act. The appellants have specifically cited in their appeal a section of the Harbor Precise Plan requiring optimization of public access as well as Coastal Act Sections 30213, 30222 and 30224. All of these policies protect and reserve both public and privately-held lands for visitor serving and recreational uses designed to enhance public opportunities for coastal recreation as a priority over private residential and general commercial development. The Coastal Act and the City's certified LCP give highest-priority to coastal-dependent types of development in areas adjacent to the ocean, with the highest of priorities given to developments that cater to those visiting the beach. As such, through approval of the CDP that facilitates a sale of this public property, the City is losing any potential redevelopment of this site in the future with a higher priority use, such as a hotel, RV Park, or coastal-dependent development. The appellants contend that because the land is currently under leasehold and the Harbor Precise Plan directs the existing leaseholds to optimize public access, the property should remain a leasehold to enhance public access.

The appellants' second contention is that the sale of the property will result in a loss of needed revenue for the Harbor District. The Harbor Precise Plan indicates that a large portion of the revenues for Harbor development are provided by the leaseholds for the land within the Harbor Area. The Marina Towers is currently operating as a leasehold, and as such, provides the Harbor district with annual funding. The sale of the property will provide both the City and the Harbor District with a one-time payment; however, funding will no longer be provided on an annual basis, and thus the Harbor District will lose a source of long term funding, inconsistent with the funding policies included in the Harbor Precise Plan.

The third concern raised by the appellants is the sale of public parks for private uses. As a component of the lot line adjustment, the Marina Towers development was given an easement over the public parking area for ingress/egress use only. The appellants contend that public parking lots are considered parklands, and as such allowing an easement for private use on the City owned parkland would require a majority vote in a municipal election.

The fourth concern raised by the appellants is the maintenance of the public parking spaces. The City has required the applicant (Marina Towers) to maintain the public parking spaces located adjacent to the condominium complex. The appellants have indicated that historically and currently, the public is not aware that these spaces are available to the public as they appear to be reserved for Marina Towers Parking. The appellants contend that by requiring Marina Towers to control the public parking spaces, public access will be further diminished as "The MT (Marina Towers) residents do not share the enthusiasm that we do for public access to the sea."

Although the City amended the CDP adding additional conditions of approval addressing the protection of the existing public parking spaces, the appellants and the Commission

determined that the amendment did not adequately address the original concerns. As such, the appellants also contend that even including the additional conditions of approval, the use of the parking lot by the general public will not be adequately protected, as the parking lot will not be restricted from overnight use.

Lastly, the appellants are concerned with the location of the lot line adjustment. As previously mentioned, the exhibits provided by the City do not *clearly* indicate how the lot line adjustment will result in the appropriate boundary line between the public parking, the historic tidelands and the private residential development. Without clear indication of the location of the public trust lands, the city owned portion of the at-grade parking lot, and the changes to lot lines, the appellants claim that it is unclear whether the approved project is consistent with the applicable Coastal Act and City LCP policies.

II. Local Government Action: The City of Oceanside approved the project on July 21, 2008 with two special conditions. The first special condition stated that the approved coastal development permit (CDP) was only approving the lot line adjustment and that any substantial modification in the design or layout would require either a revision to the CDP and/or a new permit. The second special condition stated the expiration of the permit.

On October 8, 2008, the City of Oceanside approved an amendment to the original coastal development permit incorporating five conditions of approval addressing the public parking lot included in their updated resolution. These conditions include that the property containing the public parking lot shall be reserved for public parking, that the lot clearly delineate 50 parking spaces reserved for public use, that the Marian Towers sign at the entrance of the public parking lot be removed, that standard public parking lot signage be placed along Harbor Drive and within the public parking lot identifying it as public parking, that the City provide notification of the availability of public spaces at this location, that the City be responsible for maintenance and enforcement of the parking spaces, and lastly, that the Marina towers residents and guests shall not be entitled to, or be provided with any special rights for use of the public parking lot.

III. Appeal Procedures/Substantial Issue Analysis: After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30604(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

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

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City does raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-OCN-08-075 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **NO** vote. Passage of this motion will result in a finding of Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that **Appeal No. A-6-OCN-08-075** presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. **Appeals Jurisdiction.** A lot line adjustment and, therefore, a coastal development permit is necessary to separate the residential portion of the subject lot from the public trust lands and the City-owned public parking lot on the site in order to allow the sale of the residential portion of the lot to a private entity. The Harbor District is located on an area of potential Public Trust lands in that the majority of the Harbor was developed on top of historic tidelands. When the City submitted its Local Coastal Program for approval by the Coastal Commission in 1985, the proposal included designating all the historic tidelands within the Harbor District as lands committed to urban uses per 30613 of the Coastal Act. As such, the Coastal Commission no longer retains the original jurisdiction for the area, including the subject site. However, the Commission retains appeals jurisdiction over these lands because they still consist of public trust lands, and developments on public trust lands are appealable based on Section 30603(a)(2) of the Coastal Act. Moreover, in this particular case, the lot line adjustment is within 300 feet of the MHTL, so this CDP is also appealable on that basis. Furthermore, Marina Towers is located on a parcel that includes the majority of the southern portion of Oceanside Harbor, and as such, the parcel is not only appealable because it is within 300 feet of the MHTL and consists of public trust lands, but portions of the parcel are also located between the first public road and the sea. Again, as explained in more detail above, because the proposal is for a Lot Line Adjustment, which affects all portions of the lots, the Commission retains appeals jurisdiction over the LLA.

As previously stated, a representative for the private development contended at the previous Commission hearing that the proposed Lot Line Adjustment is not appealable in that it is located more than 300 feet away from the Mean High Tide Line. The representative indicated that State Lands agreed to a boundary determination in 1963 (after the construction of Oceanside Harbor) locating the MHTL on the sandy beach outside of the Harbor. Based on this assertion, the MHTL would not include any waters of the Harbor. Since the September hearing, staff of the State Lands Commission has provided a letter indicating that the referenced Boundary Line Agreement (BLA) was not intended to fix the MHTL within the harbor. The letter states, in part:

It is important to note that this boundary line agreement fixed the ordinary high water mark in order to establish the boundary between historic state sovereign lands subject to the public trust doctrine and the City's proprietary lands and was not intended to establish boundaries for Coastal Commission or other agencies jurisdiction. This BLA (Boundary Line Agreement) did not have any affect on the physical or present location of the mean high tide line within Oceanside Harbor.

Again, the Commission agrees with the findings of Sate Lands, and therefore interprets the boundary of the MHTL per the regulations of the Coastal Act. As such, the MHTL does include the waters of Oceanside Harbor, given that the Harbor is open to marine tidal influence.

2. Project Description. The proposed Marina Towers real property site consists of approximately 1.26 acres. The property contains a 67 unit condominium complex, a parking garage, and an at-grade parking lot. The majority of the parking lot (the City indicates 54 of 66 spaces) is proposed as public parking on a separate, newly-configured and adjacent lot. The LLA accomplishes two things: 1) it excludes the downhill 200 plus/minus foot area (which State Lands Commission has indicated may include historic tidelands) to remain part of a larger former tidelands parcel in the Harbor (Parcel B); and 2) it adds about 1/3 of the uphill, upland public parking lot (a separate parcel adjoining the Marina Towers), to another larger parcel in the Harbor containing tidelands and the remaining 2/3 of the parking lot (Parcel C). In simple terms, the LLA separates the developed upland portion of the Marina Towers property from a small potentially former tidelands area, and adds a separate, sliver parcel containing the public parking lot to a larger parcel that contains the balance of the parking lot and former tidelands. (ref. Exhibit #4). All lots are currently owned by the City of Oceanside, and leased to the Harbor District. The Harbor District has sub-leased a portion of the existing larger lot to the Marina Towers Homeowners Association.

The proposed lot line adjustment is a necessary step to allow the City of Oceanside to sell the underlying land to the current lessees (Marina Towers). Including the tidelands or the public parking lot in such a sale would not be permissible. Therefore, the lot line adjustment which is to delineate the tidelands and the public parking spaces from the developed area as separate lots, will facilitate the sale of the property underlying the existing condominium complex to the Marina Towers Homeowners Association.

The Oceanside Marina Towers Association (OMTA) has contended that traditional forms of financing are becoming difficult to obtain, as leased property does not guarantee the remainder of the residential units beyond the life of the lease. The OMTA also claim that owning the land as well as the existing building (which is already individually owned by its residents) would allow potential residents to acquire financing for purchase of their condominium units with less difficulty.

The City has indicated that if the residents of Marina Towers were to desire a change in use of the property (i.e. commercial, recreational, etc.), this change would not only require an additional review and permit by the City, but would also allow the City to consider buying back the land, for use again as City-owned property available for City development or a successive leasehold.

As previously stated, at the Commission's direction, the City has since amended their Coastal Development Permit. The amended permit incorporated an additional five conditions into the project's approval. All five of these conditions are an attempt to address the protection of the 54 existing public parking spaces located directly adjacent to the Marina Towers Development. These parking spaces currently exist within the Marina Towers parcel and as amended would be incorporated into the adjacent City-owned parcel. These five additional conditions are discussed in greater detail below.

3. Policies for Protection of Public Access and Visitor Serving and Recreational Uses as the Priority. The project as approved by the City adjusts several existing lot lines, which will result in separating the filled tidelands and the residentially-developed portion (Parcel A) from the remainder of the lot (Parcel B). Proposed Parcel A is currently developed with a 67 unit condominium project through a leasehold arrangement with the Harbor District. The proposed lot line adjustment (LLA) will remove the potential public trust lands from the residential development site and will, therefore, allow the City of Oceanside to sell the underlying property to the owners of the existing condominium building, the final result being the sale of City owned land located in the Harbor District to a private entity. Because the purpose of the LLA is to allow the sale of one of the subject parcels, in analyzing the effects of the LLA, the Commission must consider the impact of the sale of the property as it is an impact caused by approval of the LLA under these circumstances. The City has a Precise Plan for the Harbor Area that is a certified component of the City LCP Land Use Plan (LUP), and as such, not only are the general LCP policies applicable, but so are the specific policies contained in the Harbor Precise Plan.

Furthermore, because portions of the parcel on which the project is located are between the first coastal road and the sea, the public access and recreation policies of the Coastal Act are also applicable. All of the applicable policies (from the City's certified LCP, the Harbor Precise Plan and the Coastal Act policies) state in part:

Coastal Act Policies

Sections 30210, 30211, 30212.5, 30213, 30220, 30221, 30222, and 30223 of the Coastal Act state:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5: Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against impacts, social and otherwise, of overcrowding or overuse by the public in any single area ...

Section 30213: Lower cost visitor serving and recreations facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

Section 30220: Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided in the area.

30222: The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

30223: Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The City has numerous policies protecting public access and recreational opportunities as well as protection of public parking and state:

Land Use Plan Policies

II. Recreation and Visitor Serving Facilities

6. Lower cost visitor and recreational facilities shall be protected, encouraged, and where possible, provided
7. In granting approvals for new development within the Coastal Zone, the City shall give priority to visitor serving commercial recreation facilities over private residential, general industrial, or general commercial uses.
10. The City shall continue to promote coastal tourism through the revitalization of the coastal area and upgrading of visitor amenities.
23. All beach lots shall be clearly signed and identified for public use.

VII. New Development and Public Works

1. The City shall deny any project which diminishes public access to the shoreline, degrades coastal aesthetics, or precludes adequate urban services for coastal-dependent, recreation, or visitor serving uses.

The project is located within the Harbor Plan District, and therefore, the LUP policies provided in the Oceanside Small Craft Harbor Precise Plan are applicable and state:

Harbor Precise Plan Policies

1.1 Purpose and Scope

[...]

To optimally protect and enhance primarily boating and water-dependent activities, and secondarily other public oriented recreation uses in the harbor.

[...]

3.2 Project Objectives

- *Develop standards and plans for the Harbor Area which would provide a basis for local planning and leasing decisions, and facilitate the Coastal Commission's permit review process [emphasis added]*
- Produce a document that could be part of the City's Local Coastal Program, which, when completed, would be certified by the State for local control of coastal development
- Coordinate Harbor development with the planning and programming of improvements for adjacent properties within the recently established Downtown

Redevelopment Project Area which abuts the Harbor District and which is partially included in the Study Area of this plan.

3.3.1 Existing Lease Parcels - Parcel A: Oceanside Marina Towers

The 67-unit, Oceanside Marina Towers condominium complex currently occupying Parcel "A" would remain as the principle use of the parcel during the duration of both the Short-Range (to 1985) and Long-Range (post-1985) Plans. However, the Harbor District or City should indicate their desire for consideration, by the lessee, of multi-use building/parking garage possibilities and suggest that the lessee determine the potential for, and substantiate, any intended approach for realizing any alternative or additional future uses of the structure including: residential, prestige office, resort residential (seasonal), and recreational uses on the garage roof. Additionally, the VHF-FM and other communication antennas required by the Harbor Patrol and Coast Guard should be installed, as per lease, on the roof of the tower, along with other aids in navigation (lights) deemed necessary to located the Harbor.

3.4.1 Existing Parcels/Leaseholds

For the most part, existing leaseholds are expected to remain "as is" indefinitely in to the 1980's due to existing lease commitments, remaining useful life of the structures/uses, and presumption about continuing economic viability (as well as necessity in some cases) of these uses. Possible exceptions might be:

[...]

- Conversion of Parcel A (Marina Club) structure to multi-use configuration (office, etc.)

[...]

3.5.1 New Leasehold Priorities

The Coastal Act requires that first priority for new uses in the Harbor should be for harbor-dependent uses and, where feasible, uses which serve low and moderate income users. These requirements are generally consistent with existing development in the Harbor and the Short- and Long-Range Plan proposals for new uses. In developing the Precise Plan first priority was given to Harbor-dependent uses, with the extent of those uses constrained primarily by the limited available water area for boating facilities. Also implicit in the Precise Plan is recognition of the Harbor as a recreational and open space resource for the non-boating public (including persons of modest means.) All uses proposed in the Precise Plan are, therefore, either for boating and Harbor-dependent facilities or recreational and visitor-serving facilities.

In order to regulate the mix between Harbor-dependent, and recreational uses, while still retaining the District's flexibility to respond to changing market and economical conditions, it is suggested that these requirements be implemented as part of the District's leasehold/permit approval process. Specifically, the District shall give priority to Harbor-dependent uses, followed by harbor support uses, and finally harbor related uses. Harbor-dependent uses are any development or use which requires a site on or adjacent to the harbor in order to function at all (e.g. boat berthing and launching, sport fishing, swimming, and boat sales/rentals). Harbor support uses directly support or service Harbor-dependent uses (e.g. marine hardware sales, boat repair, eating establishments, and other limited commercial uses catering directly to boaters and beach-goers.) Harbor related uses are complementary to the harbor and provide a recreational and visitor-serving function (e.g. gift shops, fish markets, and specialty retail uses).

Because of the limited capacity of the Harbor boating facilities, and variable market constraints, the District may not always be able to grant leaseholds to Harbor-dependent uses. Therefore, in granting approval or renewal of a lesser priority use, the District will find that a higher priority use is not feasible due to specific demand or market conditions.

4.4.2 Land Uses

As harbor development has evolved during the ensuing fourteen years, these fourteen (14) intended lease parcels have become 10 lease parcels (land and water, Parcels A through L....have been constructed, or subsequently added to, in order to provide revenue-producing lease space. These fourteen parcels and service buildings represent the primary revenue producing leaseholds/land uses for the Harbor Area.

[...]

4. Public Access and Recreation. The appellants contend that the project as approved by the City is inconsistent with applicable policies for five main reasons. The primary contention is that by selling the City-owned property to the overlaying residential development, the City is not allowing the site to be redeveloped in the future with uses that are consistent with the Harbor Precise Plan. The current use (residential) is the lowest priority use for areas adjacent to the coastline and within the Harbor District. The second concern for the appellants is that the sale of the current leasehold will remove the revenues received by the Harbor District for the leased land. The third contention raised by the appellants is that the area being removed from the lot (public parking spaces) should be considered parkland, and as approved by the City the private residential development has a small easement over the parking lot to allow for ingress/egress. As indicated by the appellants, such an allowance is not consistent with the allowable uses on parkland (public parking lot), as the private sale (easement allowance) would require a majority vote in a municipal election.

The fourth contention included in the appeal is a concern related to the maintenance and operation of the public parking lot. The appellants indicate that the City has required the private development (Marina Towers) to maintain the parking lot. The appellants are concerned that the public spaces are not clearly identified and the Marina Towers development will not adequately maintain these spaces as public, resulting in impacts to public access. The appellants have reviewed the amended Coastal Development Permit, with conditions attempting to address the concerns relating to protection of these public parking spaces and still remain concerned that the City has not provided sufficient restrictions/regulations to ensure the full potential use of this lot by the public. Furthermore, based on additional review, it has become apparent that Marina Towers does not have sufficient residential/visitor parking included within its parking garage and the limited number of at-grade parking spaces reserved for Marina Towers. This deficiency results in increased pressure on the public parking spaces to be used as replacements for the Marina Towers parking deficiency.

The final concern raised by the appellants is the ambiguity of the location of the lot line adjustment. Exhibits have been provided by the City; however, such exhibits do not effectively notate the location of the changes. The appellants contend that it is, therefore, impracticable to review the lot line for consistency with applicable policies pertaining to public parking, etc.

a. Non-Priority Use in a Prime Visitor Serving Location

The Marina Towers site contains a high-rise residential development and public parking lot and is located adjacent to the Oceanside Harbor on public land owned by the City of Oceanside. The certified LCP Land Use Plan acknowledges the existing use of the property and states:

67-unit, Oceanside Marina Towers condominium complex currently occupying Parcel "A" would remain as the principal use of the parcel during the duration of both the Short-Range and Long-Range Plans. However, the Harbor District or City should indicate their desire for consideration, by the lessee, of multi-use building/parking garage possibilities and suggest that the lessee determine the potential for, and substantiate, any intended approach for realizing any alternative or additional future uses of the structure including: residential, prestige office, resort residential, and recreational uses on the garage roof...

The existing residential use of this ocean-fronting property is a low priority use under the public access and recreational policies of the Coastal Act, regardless of public or private ownership of such land (Sections 30221 and 30222). Visitor-serving commercial recreational facilities and water-oriented uses would have priority over private residential use in this location. The approved CDP would permit a lot line adjustment (LLA) that would facilitate the sale of the property underlying the Marina Towers development. Because the effect of approving the LLA is to allow the sale of the property, the impacts of both the LLA and the sale shall be reviewed for consistency with the City's LCP.

In this particular case, it appears there is the potential for the City to update the use on this prime lot to provide for the use on the property to be consistent with the priority uses identified in the Harbor Precise Plan. If the lease is not renewed by the City, the existing structure could be demolished in the future and the entire site utilized by the City for harbor related uses, parkland or other public recreational opportunities. It is also possible that the City and/or the Harbor could sublease the property to an interested party proposing a more appropriate use of this harbor-fronting land. The existing Land Use Plan policies acknowledge the potential to modify the existing residential use in some way that would increase the visitor-serving potential for the site. Further, the Harbor Precise Plan requires that the potential for a higher priority use be reviewed during any lease renewal or associated coastal development permit application. Not only did the City fail to review such opportunity, but the sale of the land to private ownership would preclude such future opportunities and would perpetuate a use of the property that is inconsistent with the priority land uses identified in the Harbor Precise Plan.

The Harbor Precise Plan and therefore the LCP indicate that the Marina Towers land is operated as a leasehold, and since the sale of the Marina Towers would change this leasehold status, an LCP amendment would be required to update the language included in the Harbor Precise Plan pertaining to the Marina Towers development. Again, the City did not address how the approval of the CDP would impact the certified LCP, or the policies specifically pertaining to the Marina Towers. No portion of the Harbor Precise Plan identifies residential use as a priority use in the harbor district. To the contrary, the purpose of the HPP is to “optimally protect and enhance primarily boating and water-dependent activities, and secondarily other public-oriented recreation uses in the Harbor.” The project is therefore inconsistent with the certified language currently included in the City’s LCP.

The project as approved by the City allows the continuance of a low priority use in a prime visitor serving location, when the intent of the Harbor Precise Plan is clearly to ensure that the area be preserved for harbor-related uses or public recreational uses. The approval also lacks analysis of appropriate alternatives and the necessary review to allow the perpetuation of a use that is inconsistent with the purpose of the Harbor Precise Plan. The project therefore raises concerns to the level of a significant issue for the approved development.

b. Loss of Revenue for the Harbor District

As stated in the Harbor Precise Plan Policy 4.4.2, Marina Towers is one of the ten lease parcels that provide revenue-producing lease space. The policy goes on to state that these parcels represent the primary revenue producing leaseholds/land uses in the Harbor Area. The appellants contend that the approved permit would allow the leasehold to be removed from the property and instead be sold to the property owners leasing the land underlying their existing condominium complex. Currently the lease will expire in 2036. The staff report indicates that the property will be sold to the Marina Towers development for five million dollars. The staff report has indicated that this price meets the appraised value of the site; however, no such appraisal has been reviewed by staff.

Furthermore, it is unclear to staff how the funds will be divided between the General Fund and the Harbor Fund. As previously stated, the current leasehold is included as one of the primary revenue producing leaseholds in the Harbor District. It is unclear at this time how the sale of the property will impact the Harbor, given that the revenues will be modified from a constant source of income, to a one time payoff. Because this revenue is included in the Precise Plan as a needed source of income for the Harbor maintenance, operation, and expansion, the City should have reviewed the potential impacts of this change in revenue source and its associated implications. Because no such review was conducted, a substantial issue exists with respect to the consistency of the approved project with the City's certified LCP.

c. Public Parkland Sold for Private Development

The appellants contend that the project as approved by the City results in City-owned parkland being sold to private development. The appellants contend that the lot line adjustment will result in the removal of some portion of the existing public parking spaces for the use associated with a private development. The City defines parklands as "any outdoor place set aside by the City for public use, recreation or other public purposes." The City further requires that the sale of any parkland be subject to a public vote.

The public parking lot, defined as parkland by the appellants, includes an ingress/egress easement over a portion of the lot, for access by the residents of Marina Towers. The appellants contend that this easement (or the lack of vacation of easement associated with this lot line adjustment) should be interpreted as the sale of parklands. The City has indicated that the easement for the private use existed prior to the lot line adjustment and as such, is not subject for review by the approved CDP. However, it is unclear to staff at this time, whether or not the easement is new; therefore, a determination of whether the lot line adjustment will result in the sale of public parklands without a majority vote by the public cannot be made. As stated previously, it is unclear to staff what has been included in the lot line adjustment, or how the boundary between the public lands and private development were determined. Again, the City's staff report did not address the presence of an easement over the public parking spaces, or its consistency with the City's certified LCP. Therefore, because the City did not include this in the staff report or resolution associated with the CDP and because it is currently unclear what impacts may occur with the development of an easement for private access within what could be considered parklands, the project as approved by the City raises a substantial issue with respect to the consistency with the City's certified LCP. However, it is unclear if the ordinance cited by the appellants is a component of the certified LCP and therefore whether it is applicable to the appeal of the CDP.

d. Maintenance of Public Parking Spaces

The appellants contend that the City has required the Marina Towers Homeowners Association to be responsible for the maintenance of the public parking spaces located directly adjacent to the existing condominium complex. The appellants have raised

concerns that the maintenance of the public parking spaces as available to the public would not be a priority for the residential development. The appellants further contend that both historically and presently the majority of the public is unaware of these public parking spaces. The appellants contend that if the residents of Marina Towers are responsible for the maintenance of these parking spaces, public access would not be increased, but may actually be decreased in that the residents of Marina Towers "do not share the enthusiasm that we have for public access to the sea."

The City has indicated that certain requirements were included in the approval of the lot line adjustment obliging Marina Towers to promote public access and the use by the public of these parking spaces. As previously mentioned, in the City's initial approval, no specific requirements were included in the City's resolution, nor were any specifics given for how the promotion of public use would be accomplished. The City's LCP has provisions protecting public parking in shorefront locations. The City also has a provision requiring adequate signage for any public parking facility. Again, the approved CDP did not include how the protection of these spaces for public usage would be addressed, nor did the City address what signage would be required to assure consistency with the LCP, or the Coastal Act.

The appeal was brought forth to the Commission on September 10, 2008. The Commission expressed concerns regarding adequate protection of the existing public parking spaces. At the direction of the Commission, the City of Oceanside (applicant) requested the item be continued to allow time for the City to address the Commission's concerns. On October 8th, the City approved a revised Coastal Development Permit with five additional conditions designed to address the concerns of the usage of the public spaces. The five additional conditions include that the property containing the public parking lot shall be reserved for public parking, that the lot clearly delineate 50 parking spaces reserved for public use, that the Marina Towers sign at the entrance of the public parking lot be removed, that standard public parking lot signage be placed along Harbor Drive and within the public parking lot identifying it as public parking, that the City provide notification of the availability of public spaces at this location, that the City be responsible for maintenance and enforcement of the parking spaces, and lastly, that the Marina towers residents and guests shall not be entitled to, or be provided with any special rights for use of the public parking lot.

The conditions approved by the City in the amendment are an improvement from how the public parking spaces are currently protected. However, significant concerns remain. In consultation with the City, Commission staff had conveyed the desire to restrict overnight parking at this lot. Because the Marina Towers development is deficient in parking and because the public parking lot is located directly adjacent to a residential development and, given the history of the City permitting and the residents utilizing this lot for private use, Commission staff identified that measures need to be taken to protect the public parking lot from over-utilization by the residents of this development, thus utilizing spaces that should otherwise be available to the visiting public. Thus, it was suggested that a restriction on parking from 2-5 a.m., similar to that utilized in numerous other public parking lots in the City, would address this concern and assure the parking lot is

available for the general public and not utilized as a private residential parking lot for the adjacent Marina Towers residential development. The City, however, did not apply such a restriction on the parking lot, and thus the protection of the public spaces from use by the Marina Towers residents cannot be assured. By simply stating that the restrictions would be similar to other Harbor parking facilities, the City failed to restrict long-term parking use by residents that usurps the spaces that should be available for public use.

Furthermore, the resolution includes the protection of a minimum of 50 parking spaces. During the initial review of the CDP, the City of Oceanside submitted to the Commission a figure detailing the public parking spaces. Based on this map, the number of public parking spaces in this lot is 54. Again, the resolution only requires the protection of 50 parking spaces, thus delegating four (4) of the existing public parking spaces to Marina Towers. Marina Towers has a parking garage and may use a portion of the at grade lot in question. To remove highly desirable public parking spaces for private residential use raises significant concerns, and is not consistent with the City's certified LCP. In conclusion, while the City willingly added language to better protect the existing public parking spaces, the language provided is not adequate to ensure that the parking lot will not be monopolized by the residents of Marina Towers and such language would also result in a loss of four existing public spaces.

In recent discussions with the City, it has become apparent that the Marina Towers development does not provide adequate parking for its 67 condominium units. Including both the parking garage, and Marina Tower's portion of the at-grade parking lot, the development provides 82 parking spaces. The number of parking spaces that would have been required at the time of the project approval was 134, leading to a parking deficiency of 52 parking spaces. The City has explained that at the time of approval of the construction of the Marina Towers building, all development in the harbor was required to have a Harbor Development Plan approved by the Harbor Board (Section 3604). Presumably, the Harbor Board could require, or waive, whatever standards they thought appropriate as part of this review. When the project was approved by the Harbor Board on May 24, 1972, the provision for the public parking on the land received from the Federal Government was specifically discussed and required, however there was no discussion of the amount of private parking being provided.

Today, the property is located in Zoning District D6. Parking required in this district is 1 covered and 1 open space per residential unit (per article 31 of current zoning ordinance). Guest parking is required per paragraph W.3 on page 12-26 of the D District regulations. Eight (8) guest spaces would be required. So the total requirement today would be 67 covered spaces and 75 open spaces. While the project does not result in a development such as a condominium conversion, where ample parking would be a requirement of approval, it is important to understand that a required public parking lot is not only currently being usurped by the residents of Marina Towers, but that these parking spaces would be additionally desirable for the residents, given that the Marina Towers development only provides its 67 unit owners with 85 parking spaces (1.27 spaces per unit). The conclusion being that the public component of the facility needs to be vigilantly protected in order to adequately protect the public parking spaces. Again,

the City's revised project represents an attempt at addressing these concerns, however, given the circumstances of the project and its location (immediately adjacent to the Harbor and sandy beaches, and a condominium complex deficient in parking) a better effort needs to be made to assure these spaces are protected for public use. As such, the project raises a substantial issue when reviewing the potential impacts to public access.

e. Location of Lot Line Adjustment

The final concern raised by the appellants is the location of the lot line adjustment. The approved permit is intended to result in the separation of historic public tidelands, now developed by a public parking lot, and the residential development. The entire lot is currently owned by the City, and subleased through the Harbor to the Marina Towers Homeowners Association. The lot line adjustment is intended to remove the potential public trust lands from the remainder of the lot, in order to allow the sale of the land by the City to the Marina Towers Homeowners Association. It is therefore important to assure that the division of the historic tidelands and the remainder of the property is correct. The City's staff report again failed to address the appropriate boundary of the trust lands and the exhibit included in the staff report and resolution are not clear as to where that boundary is located or how it was derived. It is currently unclear if any public trust lands will be included in the parcel to be sold to the Oceanside Marina Towers Association. Without confirmation of where the boundary of the historic tidelands is located, it is unclear if the approved project can be found consistent with the City's certified LCP, and it therefore raises a substantial issue.

5. Conclusions. In conclusion, the approved project results in several concerns for consistency with the City's LCP. The primary concern is that the effect of approval of the lot line adjustment will be the continuance of the residential use of the property, despite the fact that its location in the Harbor District means that the parcel should be reserved for harbor-related or public recreational uses. The City has numerous policies regulating the use of lands at these prime visitor serving locations. As included in both the City's LCP and the Coastal Act, residential developments are the lowest priority of developments. The proposed project would facilitate the purchase of City owned land for private uses. While the site is currently developed with a 67 unit condominium complex, upon expiration of the lease, the City is required to address the appropriateness of continuing this low priority use. The City failed to do so, and as such, has limited any future uses at this location. Should the City determine that some other sort of development was feasible upon the expiration of the lease, the City would have the opportunity to develop the site with a more appropriate use. Because the City failed to address the future use, as required by the LCP, the project is not consistent with the LCP.

Further, areas remaining in question include the potential impacts the loss of revenue would have on the maintenance, operation and future development of the Harbor as the current leasehold provides funding to the Harbor, the location of the lot line adjustment and its potential impacts on public trust lands, and the permissibility of an easement for private access on City-owned parkland. A final concern is the operation of the public parking spaces. The appellants contend that the City has required the residential

development to maintain the parking structure. The parking lot is currently underutilized because most members of the public are unaware the spaces are available for public use. The appellants are concerned that allowing the operation of the public parking lot by the residents will lead to further impacts to public access. The City attempted to address these concerns through a revised permit with additional conditions designed to protect the existing public spaces. However, after review of the amended project, the City failed to adequately protect these public spaces and as such these concerns still remain. Because the approved project could result in significant impacts to public access for both the present and future, the concerns raised by the appellants do represent substantial issue with respect to the consistency of the approved project with the City's certified LCP and the public access policies of the Coastal Act.

I. STAFF RECOMMENDATION ON THE COASTAL PERMIT

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-OCN-08-075 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following special conditions:

1. Final Parking Plans. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT**, the applicant shall submit to the Executive Director for review and written approval, final parking plans for the permitted Lot Line Adjustment. The plans shall include the following:

- a. The plans shall clearly indicate where the line between private and public parking spaces is located, as well as the exact number of parking spaces located within each lot; the number of public parking spaces shall be maximized and clearly delineated.
- b. The existing “Marina Towers” entry sign located in the private driveway shall be removed. Standard City “Public Parking” signage shall be installed on Harbor Drive, the Entrance to Marina Towers and within the public parking lot identifying the lot as available for free public parking.
- c. Marina Towers residents and guests shall not be entitled to, or provided with any special rights for use of the public parking lot. Signage within the public parking lot shall be installed indicating that the lot shall not be available for overnight parking (e.g., closed between the hours of 2 a.m. and 4 a.m. each day). The City shall enforce the restrictions on the public spaces either through ticketing or towing pursuant to Special Condition #2 of CDP #A-6-OCN-08-75/A-6-OCN-08-102.
- d. The City shall include this public parking lot on all media designed to inform the public of the City's public parking supply including any pamphlets, maps, or on the City's website, identical to how all other public parking lots are promoted.
- e. The plan shall indicate that the City shall be responsible for the maintenance and enforcement of the public parking lot.

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

2. Public Parking Protection and Enforcement Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT**, the applicant shall submit to the Executive Director for review and written approval, a final parking protection and enforcement plan. The plan shall include at a minimum:

- a. An enforcement plan to address monitoring of the public lot within the hours of operation for the purpose of prohibiting private overnight use of the public parking spaces. The submitted plan shall establish the method and timing of enforcement and monitoring of the lot. However, monitoring shall occur no less than two nights every week for the first two years. Results of the enforcement

monitoring shall be submitted to the Executive Director for review and written approval on a bi-monthly basis. Based on these reports, additional monitoring may be required.

b. If the reports required by letter "a" above indicate that the parking lot is being utilized for overnight parking by the residents of Marina Towers, or any other overnight un-permitted use, the City shall submit this information to a towing company with which they contract to tow any vehicles located in the parking lot during the hours it is closed. Such contract shall include the above approved restrictions on use.

3. Other Special Conditions of the Oceanside's Regular Coastal Permit. Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of Oceanside pursuant to an authority other than the Coastal Act.

4. Availability of Parking Spaces.

a. By acceptance of this permit, the applicant acknowledges that the Marina Towers Condominium development has limited available parking for its residents. The number of parking spaces available is 67 spaces in the underground parking garage (1 space per unit) and a maximum of 15 spaces in the surface parking lot for its guests. The adjacent public parking lot is not available for overnight parking for Marina Towers residents or its guests.

b. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

c. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

5. Future Development. This permit is only for the development described in coastal development permit No. A-6-OCN-08-075/A-6-OCN-08-102. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the number of parking spaces in the public parking lot, shall require an amendment to Permit No. A-6-OCN-08-075/A-6-OCN-08-102 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. A lot line adjustment and, therefore, a coastal development permit was necessary to separate the residential portion of the lot from the public trust lands and the City-owned public parking lot on the site in order to allow the sale of the residential portion of the lot to a private entity. The Harbor District is located on an area of Potential Public Trust lands in that the majority of the Harbor was developed on top of historic tidelands.

The proposed Marina Towers real property site consists of approximately 1.26 acres. The property contains a 67 unit condominium complex, a parking garage, and an at-grade parking lot. The majority of the parking lot (the City indicates 54 of 66 spaces) is proposed as public parking on a separate, newly-configured and adjacent lot. The LLA accomplishes two things: 1) it excludes the downhill 200 plus/minus foot area (which State Lands Commission has indicated may include historic tidelands) to remain part of a larger former tidelands parcel in the Harbor (Parcel B); and 2) it adds about 1/3 of the uphill, upland public parking lot (a separate parcel adjoining the Marina Towers), to another larger parcel in the Harbor containing tidelands and the remaining 2/3 of the parking lot (Parcel C). In simple terms, the LLA separates the developed upland portion of the Marina Towers property from a small area potentially consisting of former tidelands and adds a separate, sliver parcel containing the public parking lot to a larger parcel that contains the balance of the parking lot and former tidelands. (ref. Exhibit # 4). All lots are currently owned by the City of Oceanside, and leased to the Harbor District. The Harbor District has sub-leased a portion of the existing larger lot to the Marina Towers Homeowners Association.

The proposed lot line adjustment is a necessary step to allow the City of Oceanside to sell the underlying land to the current lessees (Marina Towers). Including the tidelands or the public parking lot in such a sale would not be permissible. Therefore, the lot line adjustment which is to separate the tidelands and the public parking spaces from the developed area as separate lots, will facilitate the sale of the property underlying the existing condominium complex to the Marina Towers Homeowners Association.

The Oceanside Marina Towers Association (OMTA) has contended that traditional forms of financing are becoming difficult to obtain, as leased property does not guarantee the

remainder of the residential units beyond the life of the lease. The OMTA also claims that owning the land as well as the existing building (which is already individually owned by its residents) would allow potential residents to acquire financing for purchase of their condominium units with less difficulty.

The City has indicated that if the residents of Marina Towers were to desire a change in use of the property (i.e. commercial, recreational, etc.), this change would not only require an additional review and permit by the City, but would also allow the City to consider buying back the land, for use again as City-owned property available for City development or a successive leasehold.

As previously stated, at the Commission's direction, the City has since amended their Coastal Development Permit. The amended permit incorporated an additional five conditions into the project's approval. All five of these conditions are an attempt to address the protection of the 54 existing public parking spaces located directly adjacent to the Marina Towers Development. These parking spaces currently exist within the Marina Towers parcel and as amended would be incorporated into the adjacent City-owned parcel. These five additional conditions are discussed in greater detail below.

Project History

The Marina Towers condominium complex received its final building permit from the City of Oceanside on October 26, 1972, and had completed substantial construction by February, 1973. Because the Commission had not yet determined if there were any "vested rights" associated with the development; on March 29, 1973, the Coastal Commission notified the developer that the project would require review by the Coastal Commission and were sent both an exemption request and a development permit application. The project was heard by the Coastal Commission at their August 1973 hearing. Commission staff recommended denial for a number of reasons including scale (the project is 17 stories high), impacts to public views, and inadequate parking. The public parking lot located north of the project site, and previously discussed, existed at the time of the construction of Marina Towers. The applicant's proposal included one parking space for every unit (same as currently existing) for a total of 67 parking spaces provided in a parking garage. However, Commission staff noted that not only would this be deficient from what was required by the City's Zoning Ordinance, this deficiency would potentially result in impacts to the adjacent public parking spaces. Sometime between the completion of the staff report and the hearing, the applicant proposed a revised parking plan that included a total of 143 private residential parking spaces and 73 previously constructed public parking spaces. The increase in parking spaces was created by allowing parking on top of the proposed parking garage and additional at-grade parking spaces (ref. Exhibit #13). The Commission approved the permit as modified by the applicant. A member of the public then appealed the project to the Regional Commission.

In November, 1973 the applicant's legal staff wrote the Commission indicating that they were taking the position the project was exempt as they had applied for an exemption

prior to the See the Sea decision (ref. CDP FX0104). The Commission agreed with the applicant and made a vested rights finding, thus the appeal to the regional board and the development permit were not pursued any further. Because the applicant was no longer required to receive a coastal development permit, the project was again modified to include only the previously proposed 67 private parking spaces and 11 additional at-grade spaces. Currently there are 67 garage parking spaces and 15 at-grade private parking spaces. It is important to note that based on the plan approved at the Commission hearing, the existing public parking totaled 75 spaces. However, the City indicates that currently 50-54 spaces are available in the public parking lot. It is unclear at this time how the loss of approximately 20 public spaces occurred, as the location of the line separating the private development from the public spaces reviewed by the Commission in 1973 appears to be identical to the line existing today.

2. Policies for Protection of Public Access and Visitor Serving and Recreational Uses as the Priority. The project adjusts several existing lot lines, which will result in separating the residentially-developed portion (Parcel A) from the historic tidelands (Parcel B) and the public parking lot (Parcel C) (ref. Exhibit #s 4, 7, 18). Proposed Parcel A is currently developed with a 67 unit condominium project through a leasehold arrangement with the Harbor District. The proposed lot line adjustment (LLA) will remove the potential public trust lands from the residential development site and will, therefore, allow the City of Oceanside to sell the underlying property to the owners of the existing condominium building, the final result being the sale of City owned land located in the Harbor District to a private entity. Because the purpose of the LLA is to allow the sale of one of the subject parcels, in analyzing the effects of the LLA, the Commission must consider the impact of the sale of the property as it is an impact caused by approval of the LLA under these circumstances. The City has a Precise Plan for the Harbor Area that is a certified component to the City LCP Land Use Plan (LUP), and as such, not only are the general LCP policies applicable, but so are the specific policies contained in the Harbor Precise Plan. Furthermore, because portions of the parcel on which the project is located are located between the first public road and the sea, the public access and recreation policies of the Coastal Act are also applicable. All of the applicable policies (from the City's certified LCP, the Harbor Precise Plan and the Coastal Act policies) are listed below and state in part:

Coastal Act Policies

Sections 30210, 30211, 30212.5, 30213, 30220, 30221, 30222, and 30223 of the Coastal Act state:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5: Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against impacts, social and otherwise, of overcrowding or overuse by the public in any single area ...

Section 30213: Lower cost visitor serving and recreations facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

Section 30220: Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided in the area.

30222: The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

30223: Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The City has numerous policies protecting public access and recreational opportunities as well as protection of public parking and state:

Land Use Plan Policies

II. Recreation and Visitor Serving Facilities

- 6.** Lower cost visitor and recreational facilities shall be protected, encouraged, and where possible, provided
- 7.** In granting approvals for new development within the Coastal Zone, the City shall give priority to visitor serving commercial recreation facilities over private residential, general industrial, or general commercial uses.
- 10.** The City shall continue to promote coastal tourism through the revitalization of the coastal area and upgrading of visitor amenities.

23. All beach lots shall be clearly signed and identified for public use.

The City has regulations for providing adequate parking and state:

3103 - Off-Street Parking and Loading Spaces Required - Multifamily Residential:

1.5 including 1 covered for studios and one bedroom units: 2 including 1 covered for units and two bedrooms or more.

VII. New Development and Public Works

1. The City shall deny any project which diminishes public access to the shoreline, degrades coastal aesthetics, or precludes adequate urban services for coastal-dependent, recreation, or visitor serving uses.

The project is located within the Harbor Plan District, and therefore, the LUP policies provided in the Oceanside Small Craft Harbor Precise Plan are applicable and state:

Harbor Precise Plan Policies

1.1 Purpose and Scope

[...]

To optimally protect and enhance primarily boating and water-dependent activities, and secondarily other public oriented recreation uses in the harbor.

[...]

3.2 Project Objectives

- *Develop standards and plans for the Harbor Area which would provide a basis for local planning and leasing decisions, and facilitate the Coastal Commission's permit review process* [emphasis added]
- Produce a document that could be part of the City's Local Coastal Program, which, when completed, would be certified by the State for local control of coastal development
- Coordinate Harbor development with the planning and programming of improvements for adjacent properties within the recently established Downtown Redevelopment Project Area which abuts the Harbor District and which is partially included in the Study Area of this plan.

3.3.2 Existing Lease Parcels - Parcel A: Oceanside Marina Towers

The 67-unit, Oceanside Marina Towers condominium complex currently occupying Parcel "A" would remain as the principle use of the parcel during the duration of both the Short-Range (to 1985) and Long-Range (post-1985) Plans. However, the Harbor District or City should indicate their desire for consideration, by the lessee, of multi-use building/parking garage possibilities and suggest that the lessee determine the potential for, and substantiate, any intended approach for realizing any alternative or additional future uses of the structure including: residential, prestige office, resort residential (seasonal), and recreational uses on the garage roof. Additionally, the VHF-FM and other communication antennas required by the Harbor Patrol and Coast Guard should be installed, as per lease, on the roof of the tower, along with other aids in navigation (lights) deemed necessary to located the Harbor.

3.4.1 Existing Parcels/Leaseholds

For the most part, existing leaseholds are expected to remain "as is" indefinitely in to the 1980's due to existing lease commitments, remaining useful life of the structures/uses, and presumption about continuing economic viability (as well as necessity in some cases) of these uses. Possible exceptions might be:

[...]

- Conversion of Parcel A (Marina Club) structure to multi-use configuration (office, etc.)

[...]

3.5.1 New Leasehold Priorities

The Coastal Act requires that first priority for new uses in the Harbor should be for harbor-dependent uses and, where feasible, uses which serve low and moderate income users. These requirements are generally consistent with existing development in the Harbor and the Short- and Long-Range Plan proposals for new uses. In developing the Precise Plan first priority was given to Harbor-dependent uses, with the extent of those uses constrained primarily by the limited available water area for boating facilities. Also implicit in the Precise Plan is recognition of the Harbor as a recreational and open space resource for the non-boating public (including persons of modest means.) All uses proposed in the Precise Plan are, therefore, either for boating and Harbor-dependent facilities or recreational and visitor-serving facilities.

In order to regulate the mix between Harbor-dependent, and recreational uses, while still retaining the District's flexibility to respond to changing market and economical conditions, it is suggested that these requirements be implemented as part of the District's leasehold/permit approval process. Specifically, the District

shall give priority to Harbor-dependent uses, followed by harbor support uses, and finally harbor related uses. Harbor-dependent uses are any development or use which requires a site on or adjacent to the harbor in order to function at all (e.g. boat berthing and launching, sport fishing, swimming, and boat sales/rentals). Harbor support uses directly support or service Harbor-dependent uses (e.g. marine hardware sales, boat repair, eating establishments, and other limited commercial uses catering directly to boaters and beach-goers.) Harbor related uses are complementary to the harbor and provide a recreational and visitor-serving function (e.g. gift shops, fish markets, and specialty retail uses).

Because of the limited capacity of the Harbor boating facilities, and variable market constraints, the District may not always be able to grant leaseholds to Harbor-dependent uses. Therefore, in granting approval or renewal of a lesser priority use, the District will find that a higher priority use is not feasible due to specific demand or market conditions.

4.4.2 Land Uses

As harbor development has evolved during the ensuing fourteen years, these fourteen (14) intended lease parcels have become 10 lease parcels (land and water, Parcels A through L....have been constructed, or subsequently added to, in order to provide revenue-producing lease space. These fourteen parcels and service buildings represent the primary revenue producing leaseholds/land uses for the Harbor Area.

[...]

3. Public Access and Recreation. The public access and recreation policies of the Coastal Act are applicable because a portion of the proposed development is located between the sea and the first public road. Section 30604(c) requires that a specific access finding be made. In addition, many policies of the Coastal Act address the provision, protection and enhancement of public access to and along the shoreline, in particular, Sections 30210, 30211 and 30212. These policies address maintaining the public's ability to reach and enjoy the water, preventing overcrowding by providing adequate recreational area, and protecting suitable upland recreational sites. Therefore, this development will be reviewed for consistency with both the public access policies of the Coastal Act and the City of Oceanside's LCP. All of the applicable policies are included in Section 2 of this staff report.

As previously discussed, the City is proposing to modify existing lot lines to accommodate the sale of a portion of property located within the Harbor District. This property is currently developed with a 67-unit residential condominium complex. Again, because the sale of the property to private ownership is intrinsically involved in the proposed lot line adjustment, impacts resulting from both components have to be properly reviewed and addressed. The project has the potential of resulting in three primary impacts to public access and recreation.

The initial review of this project resulted in five main concerns; the three remaining concerns include inadequate protection of the existing free public parking lot, loss of revenue to the Harbor, a low priority use in a prime visitor-serving location. The two other initial concerns raised by this project; parkland sold for private use and the location of the lot line adjustment have since been resolved. The area being sold for the private development does not include any "parkland" as the lot line adjustment removed the City-owned parking lot (which can be considered parkland) from the private development. The second concern regarding the location of the lot line adjustment when referring to the presence of historic tidelands has been resolved because the State Lands Commission staff does not object to the location of the LLA approved by the City.

The remaining issues can lead to impacts to public access large enough to render the project inconsistent with the City's LCP and the Coastal Act and are discussed in greater detail below.

a. Maintenance of Public Parking Spaces.

The subject site is comprised of three sections; historic tidelands to the south, private development in the middle, and a City-owned free public parking lot to the north. This project will effectively separate all three of these portion of the subject site. The public parking lot, while no longer included on the private development parcel, will still be located within the "developed area" that includes Marina Towers (ref. Exhibit Nos. 13 & 18). The private development includes an easement within the public parking lot for ingress/egress, as it would be impossible for the Marina Towers residents to access their parking garage without driving through the public parking lot. This, combined with the signage in front of the parking lot for Marina Towers, results in the general public mistaking this parking lot as intended for private use. Additionally, within the parking lot, there are private property signs further affecting how the public interprets the intent of the parking lot.

Furthermore, the private parking provided for Marina Towers residents is deficient. Currently there are 67 spaces within the private parking garage and 15 surface parking spaces, for a total of 82 parking spaces. 64 of the units are two-bedroom condos, and the remaining three units are considered penthouses and the number of rooms isn't identified. As such, given regulations at the time of construction of Marina Towers, and at present, the residential parking is deficient by nearly half (ref. Policy 3103 of City Zoning). As discussed in the project history, the Commission asserted jurisdiction over the initial construction of the Marina Towers development, stopped work and required the developer to submit a costal development permit application which included a parking facility that would provide one parking space for every unit. Staff reviewed the project and recommended denial for a number of reasons including the inadequate parking. The Commission ultimately approved the development, however with a revised parking plan. The revised plan (ref. Parking Plan for CDP F0611 - Exhibit #13) included an additional 65 residential parking spaces for a total of 142 parking spaces to serve the development. The project was ultimately exempted under a vested rights claim; however, it is important

to note that even at the time of the Marina Towers initial construction, the Commission was concerned with the lack of parking provided.

The subject appeal came before the Commission initially in September, 2008. At the Commission's direction, the hearing was postponed in order to provide the City time to revise the project to better protect the public parking. Staff received the updated conditions of approval on October 8, 2008, incorporating five conditions of approval addressing the public parking lot (ref. Exhibit #15). These conditions include that the property containing the public parking lot shall be reserved for public parking, that the lot clearly delineate 50 parking spaces reserved for public use, that the Marina Towers sign at the entrance of the public parking lot be removed, that standard public parking lot signage be placed along Harbor Drive and within the public parking lot identifying it as public parking, that the City provide notification of the availability of public spaces at this location, that the City be responsible for maintenance and enforcement of the parking spaces, and lastly, that the Marina towers residents and guests shall not be entitled to, or be provided with any special rights for use of the public parking lot.

However, the City failed to provide any restrictions that would be enforceable. The above stated conditions simply state that Marina Towers residents and guests shall not be entitled to any special rights to the parking lot, and simply limits the parking lot to the same restrictions as any other parking lot located in the Harbor region. The use restrictions on parking in the Harbor range from 2 hour parking to closed between the hours of 2-5 a.m., to 72 hour parking. If the City imposed the 72 hour parking limit, they would effectively allow all Marina Towers residents to use the public parking spaces to make up for the deficiency in their parking garage. Commission staff indicated to the City that a restriction similar to the 2-5 a.m. requirement would be the most desirable as it prevents the residents from parking in those spaces overnight and thereby maximizes public access. However, the City chose to include the above described language. As such, a component of Special Condition #1 requires the applicant to provide a public parking plan that includes the prohibition of parking in the public parking lot between the hours of 2 and 4. Special Condition #1 also requires the City to enforce the nightly closure of the parking lot through either ticketing or towing.

The City currently provides the public with various forms on media (signage, websites, printable maps, etc.) to notify the public of their parking supply. However, the public parking lot adjacent to the Marina Towers development has not been included in this media. Furthermore, the signage for the parking lot is unclear, in that the sign for public parking on Harbor Drive is small and misleading, the entrance to the parking lot has a large Marina Towers sign on it, and there is a private property sign located in the parking lot. All of these lead to a perception by the public that the lot is not accessible for free public parking. Therefore adequate signage, enforcement, and public education is necessary to assure that the public access at this prime free parking area is preserved. As such, Special Condition #1 requires the applicant to remove the Marina Towers sign, add standard public parking signs on Harbor Drive, the entrance to Marina Towers, and within the parking lot. Special Condition #1 further requires the applicant to include this parking lot on all media the City provides to inform the public of their coastal parking

supply. Special Condition #1 also requires that the City be responsible for maintaining all facets of the parking lot.

An additional concern based on the City's updated resolution is the number of public parking spaces protected. Based on the aerial views provided, it is unclear exactly how many spaces are located in the public portion of the parking lot, the number ranges between 54 and 57. In speaking with the City, it isn't possible to identify the precise number of parking spaces available, in that, the current configuration has a lack of handicap parking spaces on the public side, and may not provide adequate aisle width for safe backing up, as such, the striping in the parking lot will have to be modified and it will most likely result in a decrease of parking spaces. As such, Special Condition #1 requires that the available parking spaces in the public lot be maximized. This condition further requires that the City submit a final parking plan clearly locating the line separating the public from the private lot, as well as the number of parking spaces provided. Special Condition #5 requires the City to submit an amendment to this permit should this line or parking supply be further modified in the future. All of these special conditions help to clarify and protect the public parking supply at this location.

However, who is permitted to park in the public lot may still be unclear to guests and/or residents of Marina Towers. Historically, the residents have utilized this parking lot for their personal parking, and as such, the residents need to be notified of how the use of this parking lot is being modified. As such, Special Condition #4 requires the applicant to, at the time of sale of the property, record a deed restriction memorializing these conditions. This will then require that the City make certain that all current residents and more importantly potential buyers are aware of the parking supply, both private and public at this location.

Lastly and perhaps most importantly is the adequate enforcement of the restriction to the public parking lot. The existing lot has been allocated for public parking since its initial construction; however, the lot has never been sufficiently used as such. While all the previous stated restrictions provide a detailed plan designed to maximize public access, if the plan is not adhered to, this goes unaccomplished. As such, Special Conditions #2 requires the City to develop a monitoring program for the parking lot that requires the lot to be monitored for operation compliance at least 2 nights a week for 2 years. These reports will be submitted to the Executive Director on a bi-monthly basis. If, for any reason, the reports indicate that the parking lot is being appropriated by the Marina Towers residents, the City will be required to enter into a contract with a towing company that will be charged with enforcing the closure of the parking lot. Because the towing company stands to receive an economic gain for enforcing the use restrictions, the protection of public use will be adequately provided.

In conclusion, the public parking lot is currently functionally mute for providing public usage. The signage and deficient residential parking deters the public from parking at this location. The lack of public education further prevents the proper use of this lot. This is a free public parking lot adjacent to a coastal resource. Such a commodity is protected by the City's LCP and shall therefore be fervently guarded. A total of four

special conditions have been required to address this concern. These special conditions require that the number of parking spaces be determined, publicized, monitored, enforced, and further reviewed if modified. Only with this combination of requirements will the public parking be adequately protected, and therefore, only with these special conditions can the project be found consistent with the City's LCP and the Coastal Act.

b. Loss of Revenue to the Harbor District.

As previously discussed, the Marina Towers development is currently leasing the land from the Harbor District and ultimately the City. The proposed project is a lot line adjustment to facilitate the sale of the underlying lot to Marina Towers. The Harbor Precise Plan identified its current leaseholds as the primary source of revenue:

As harbor development has evolved during the ensuing fourteen years, these fourteen (14) intended lease parcels have become 10 lease parcels (land and water, Parcels A through L....have been constructed, or subsequently added to, in order to provide revenue-producing lease space. These fourteen parcels and service buildings represent the primary revenue producing leaseholds/land uses for the Harbor Area

The City has specified that the sale of the property underlying Marina Towers will provide both the City and the Harbor District with important economic benefits. However, how the money will be allocated has not been determined. The City assures Commission staff that the Harbor will benefit from the sale, however, no conditions require a percent of the sale to go to the harbor, only that the City will determine an adequate "pay off." If the property was considered an important revenue source for the Harbor, then it would seem most appropriate to use all the money from the sale within the Harbor. This is even more important given that historically the Marina Towers leasehold has provided the Harbor with a steady revenue source; this one-time payoff may impact the budget of the Harbor in later years. Again, the City failed to address these potential impacts. However, given that the sale of the property underlying Marina Towers is not finalized, developing special conditions to address this concern is not appropriate. However, it is important to note to the City that the future budget of the Harbor may need to be reviewed and perhaps subsidized as a result of the sale of this leasehold.

c. Non-Priority Use in a Prime Visitor Serving Location.

The proposed project is located directly inland of the Oceanside Harbor. The harbor provides numerous visitor-serving opportunities such as boat rentals, shopping, and restaurants. The City's certified Harbor Precise Plan includes that the primary goal of the Harbor is:

To optimally protect and enhance primarily boating and water-dependent activities, and secondarily other public oriented recreation uses in the harbor.

The proposed project would remove acreage from the Harbor area and sell it to the existing private development located on the site. The result being, the future ability to

modify the use at this location has been removed. The Harbor Precise Plan goes on to say:

Specifically, the District shall give priority to Harbor-dependent uses, followed by harbor support uses, and finally harbor related uses.

A residential development would not be considered a Harbor-dependent, harbor support, or a harbor related use. The plan further states:

Because of the limited capacity of the Harbor boating facilities, and variable market constraints, the District may not always be able to grant leaseholds to Harbor-dependent uses. Therefore, in granting approval or renewal of a lesser priority use, the District will find that a higher priority use is not feasible due to specific demand or market conditions.

It is unclear how the sale of the property impacts the applicability of these policies to the property. Once sold, the lot will no longer be under leasehold, and given that it will be privately owned, it may also no longer be considered part of the Harbor area. As such, the intent of the Harbor Plan, even if no longer applicable, needs to be protected. Thus, the City should continue to address priority use of this prime-visitor serving location regardless of its ownership.

Furthermore, a change in use of the current development, as opposed to complete demolition, etc. may be appropriate. As previously discussed the current development is severely under-parked, given its residential use. If in the future the building was proposed to be converted into a hotel, this would not only result in a higher-priority use at this site, but such a use might be more appropriate at this location, as the parking availability is more suited for this type of development. Special Condition #4 requires the applicant to record a deed restriction detailing the lack of parking, at the time the property is sold. Therefore, the current residents and any future residents, developers, etc. are aware of the limited parking supply.

To sum up, the proposed development is located in the Oceanside Harbor, a place that not only should innately have prime visitor-serving uses, but is also required to based on the Harbor Precise Plan and the City's LCP. By selling it into private ownership the City is limiting its ability to modify the use to a more appropriate one. Again, while not conditioned to require this, the Commission strongly suggests that the City take into account the opportunity to modify this use, when any permit application is received for this location. Furthermore, Special Condition #5 requires the applicant to amend this permit should any future modifications to the existing parking lot or development be desired.

4. Conclusion. In conclusion, the project results in numerous significant concerns to coastal resources. Namely, the project would lead to impacts to available public parking in that, the current lot is under- publicized to the general public and over-used by the private residents. The free public parking at a prime Harbor location is a valuable

resource and shall be protected as such. Special Condition #s 1, 2, 4, and 5 were designed to increase the use of this lot by the public, decrease the inappropriate use by the residents, and protect such public use in the future. These conditions allow public access to be maximized, consistent with the City's LCP and the Coastal Act. Further, Special Conditions #4 was specifically developed to assure that the current and future residents of Marina Towers and their guests were adequately informed of the lack of parking at Marina Towers, and the distinction between the parking intended for private residential use and the parking intended for use by the general public when visiting the Harbor and its various amenities.

Further concerns raised included the financial impacts of selling a leasehold that historically has provided funding to the Harbor District, and making permanent a low-priority use in a prime visitor serving location. However, reducing funding to the Harbor District isn't directly inconsistent with the City's LCP or the Coastal Act. Furthermore, while having a low priority use on a prime visitor serving location isn't promoted by the Coastal Act, modifying the use is not possible at this time. Currently the building is not beyond its lifespan, and the units are appropriated by individual owners. However, as suggested, the City should consider high-priority uses, should circumstances change in the future. Furthermore, because of its proximity to the MHTL, any coastal development permit approved at this location would be reviewable on appeal by the Coastal Commission. Special Condition #5 also requires the applicant to amend this permit should any future modifications be desired. The project, as conditioned, can be found consistent with the applicable policies of the Harbor Precise Plan, the City's LCP, and the Coastal Act.

5. Local Coastal Planning. The City of Oceanside's LCP was certified in 1985. This certification included both a Land Use Plan (LUP) and an Implementation Plan (IP). Both the LUP and the Harbor Precise Plan have policies applicable to this project. The intent of the Harbor Precise Plan is to promote Harbor-dependent and harbor-related uses. The project will result in the privatization of lands within the Harbor and may exacerbate the appropriation of the public parking spaces. The required Special Conditions will address these potential impacts, and therefore, the project will not prejudice the City's ability to continue to implement its certified LCP.

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

The proposed project has been conditioned in order to be found consistent with the public access policies of the City's LCP and the Coastal Act. Mitigation measures have been developed addressing the protection of the public parking and the future use of the

site. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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

92055

CAMP
PENDLETON

OCEAN

OCEANSIDE

92054

Project Site

- SEE A J7
- 1 SEA BREEZE DR
 - 2 BUENA VISTA LN
 - 3 CIRCLE DR
 - 4 WHITE CAP LN

EXHIBIT NO. 1
APPLICATION NO.
A-6-OCN-08-075
Location Map

CALIFORNIA COASTAL COMMISSION

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



14 2003

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

Citizens for the Preservation of Parks + Beaches
904 Leonard Ave, Oceanside, CA. Shari Mackin
92054 (760) 433-9899 OR
Zip Area Code Phone No.
439-0863
CAROLYN KRAMER

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside

2. Brief description of development being appealed: RC-16-06 for a property line adjustment affecting Marina Towers leasehold

3. Development's location (street address, assessor's parcel no., cross street, etc.): within the Oceanside Harbor Precise Plan Area

4. Description of decision being appealed:

- a. Approval; no special conditions: property line adjustment
b. Approval with special conditions: _____
c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-OCN-08-075

DATE FILED: 8/12/03

DISTRICT: San Diego

EXHIBIT NO. 2
APPLICATION NO.
A-6-OCN-08-075
Appeal form and attached letter
1 of 6 pages

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

6. Date of local government's decision: 7/16/08
7. Local government's file number (if any): RC-16-06

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

- City of Oceanside
300 N. Coast Hwy, Oceanside CA 92054
Jerry Hittleman & Doug Eddow

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

- (1) Marco Gonzalez, Surferider
Coast Law Group
169 Saxony, Encinitas, CA. 92024
- (2) _____
- (3) _____
- (4) _____
- RE
ALL

Received
AUG 12 2008
California Coastal Commission
San Diego Coast District

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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

See Attached

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

SECTION V. Certification

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

Signed CPPB - Car Signature on File
Appellant or Agent U

Date 8/6/08

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

Signed CPPB - S Signature on File
Appellant

Date 8/6/08

0016F

Received
AUG 12 2008
California Coastal Commission
San Diego Coast District

Citizens for the Preservation of Parks and Beaches

Coastal Commission

San Diego Coast District Office

7575 Metropolitan Drive Ste 103

San Diego, CA 92108-4402

Attn: Toni Ross – Planner

RE: Marina Towers Lot Line Adjustment – Appeal Attachment

Dear Ms. Ross:

The proposed lot line adjustment and subsequent sale of the Marina Towers (MT) city owned public property would result in a violation of the Coastal Act Sections:

30213: Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided;

30222: The use of private lands suitable for visitor-serving commercial The recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry; and

30224: Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Additionally, the proposed lot line adjustment would be in conflict with policy outlined in Oceanside's Local Coastal Plan (LCP), and the Harbor Precise Plan (HPP) and therefore, should not be granted.

HARBOR PRECISE PLAN AND LOCAL COASTAL PLAN:

Throughout the HPP, the MT (Lot A) is listed as a leasehold asset. The proposed action would negate the lease with the Harbor District and put the proceeds from the subsequent sale of public land into the General Fund for projects outside of the Harbor District (outside of the Visitor Serving Coastal Zone); consequently, the loss of the asset to the Harbor District will result in severe impacts to the Harbor District (operation and maintenance for visitor serving uses) and to the HPP's Short and Long Range Plans. Therefore, this action would be in violation of Section 3.6.2 Access:

"The recommendation s of the Precise Plan, as stated above, are specifically directed toward optimizing the public's right of access to the sea, by whatever means (car, boat, food, etc.), and provides continuous public access linkages (street, pedestrian paths, etc) and an appropriate mix of public open space with existing and proposed private leaseholds (which are themselves oriented to public markets)." (3-32)

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AUG 12 2009
California Coastal Commission
San Diego Coast District

Citizens for the Preservation of Parks and Beaches

Since the leasehold is listed as an existing leasehold and the leasehold is specifically directed toward optimizing the public's right of access, the proposal is in violation of the Coastal Act and in conflict with the HPP. Therefore, the action should not be approved.

The proposed lot line adjustment is in conflict with the Local Coastal Plan and Harbor Precise Plan as approvals of the lot line adjustment will result in the Harbor District losing a funding mechanism (leasehold interest) to implement the Harbor Precise Plan's "short-range and long-range plans." Section 3.4.1 Existing Parcels/Leaseholds states:

"For the most part, existing leaseholds are expected to remain "as is" indefinitely into the 1980's due to existing lease commitments, remaining useful life of the structures/uses, and presumptions about continuing economic viability (as well as necessity in some cases) of these uses. Possible exceptions might be: Conversion of Parcel A (Marina Club) structure to multi-use configuration (office, etc.)." (3-22).

Furthermore, policy 4.4.2 Land Uses states:

"As Harbor development has evolved during the ensuing fourteen years, these fourteen (14) intended lease parcels have become 10 lease parcels (land and water), Parcels A [MT] through L...have been constructed, or subsequently added to, in order to provide revenue-producing lease space. These fourteen parcels and service building represent the primary revenue producing leaseholds/land uses for the Harbor Area. Land uses for these parcels, service building and the remaining land area within the Harbor Area are described in the following paragraphs and charts, both in terms of their originally intended use (1963 Plan) and their present uses." (4-5) See Table 4-1 Recommended Leaseable Areas, 1963 (4-6).

It is clear that the leasehold revenues of the MT have been used to plan for future public assets and visitor serving uses within the Harbor District. For that reason, the lot line adjustment should not be granted.

PUBLIC ROADWAY:

A public roadway easement bisects part of the lot and has not been addressed (vacated or other).

FEDERALLY DEEDED PUBLIC PARKLAND AND CITY OF OCEANSIDE POLICY:

The proposal to sale public parkland is subject to a public vote (Ord. No. 72-26, § 1, 5-24-72), which has not taken place; in addition the proposed lot line adjustment proposes to take a portion of deeded public parkland and sell it to the Marina Towers Association. The public presently enjoys and has access to public parking on the parkland at the MT (City Code Sec. 21.1. Definitions for park, "Park means any outdoor place set aside by the city for public use, recreation or other public purposes.") and should the lot line be adjusted, change the use of the federally deeded parkland (public property) to another use: private property. Since public parking falls under the definitions of a park, and with the proposed lot line adjustment, a change in use will occur; therefore, the federally deeded parkland property is subject to Article XIII, Sale of City-Owned Property: Sec. 2.81. Sale of city-owned land:

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AUG 12 2008

California Coastal Commission
San Diego Coast District

Citizens for the Preservation of Parks and Beaches

"No person, corporation, or city official, on and after the effective date of this article, shall sell all or part of any city-owned real property being used as a public park, public playground, or public recreational area under the authority or operation of such city on such date; or, take any action or do any act that would prevent all or part of such city-owned land from being used as a public park, public playground, or public recreational area, unless such sale, action, or act, is first approved by a majority vote in a municipal election in the City of Oceanside." (Ord. No. 72-26, § 1, 5-24-72)

Since the proposed sale of the parkland has not been presented to the public for a municipal election, the lot line adjustment and subsequent sale of public parkland is illegal without a vote of the citizens of Oceanside.

PUBLIC PARKING:

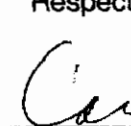



Public parking is available at the MT through the present lease held with the Harbor District. Control and maintenance of the public's 48 parking spaces should not be left in control of the Marina Towers Association. Even though we have submitted several requests, we have been unable to acquire from the City of Oceanside, an accounting of which of the 65 surface parking stalls located at the MT are on the public's parkland and considered "public parking." For many years, and as recent as today, the public is unaware of the public parking (federally deeded parkland), as the MT residents do not share the enthusiasm that we do for public access to the sea.

It should be also noted that the Staff Report and Exhibits for the proposed lot line adjustment do not adequately reflect the intent of the lot line adjustment.

SUMMARY:

The proposed lot line adjustment and subsequent sale of the Marina Towers (MT) city owned public property would result in a violation of the Coastal Act (lower cost visitor and recreational facilities), be in conflict with our Local Coastal and Harbor Precise Plans as well as City of Oceanside Ord. No. 72-26, § 1, 5-24-72: Sale of City-Owned Land.

Respectfully,

	Signature on File		Signature on File
	Carolyn Krammer		Shari Mackin

Citizens for the Preservation of Parks and Beaches

904 Leonard Avenue, Oceanside, CA 92054

cc: files
Surfrider
ORCA
Coast Law
Sierra Club

Received
AUG 1 2008
California Coastal Commission
San Diego Coast District

RESOLUTION NO. 08-R0447-2

A RESOLUTION OF THE HARBOR BOARD OF DIRECTORS
APPROVING A REGULAR COASTAL PERMIT (RC-16-06) FOR A LOT
LINE ADJUSTMENT FOR THE MARINA TOWERS LOCATED ON
HARBOR DRIVE NORTH – APPLICANT: CITY OF OCEANSIDE

WHEREAS, on July 16, 2008, the Harbor Board of Directors held a duly noticed public hearing to consider an application for a Regular Coastal Permit (RC-16-06) for a lot line adjustment for property owned by the City on Harbor Drive North;

WHEREAS, the applicant is the City of Oceanside;

WHEREAS, studies and investigations made by the Harbor Board of Directors reveal the following facts:

FINDINGS:

For the Regular Coastal Permit:

1. The proposed project is consistent with the Land Use Plan objectives and policies of the Local Coastal Program as implemented through the Harbor Precise Plan, in that the project site property is identified in the Precise Plan as "Parcel A: Oceanside Marina Towers." The Precise Plan states that the 67-unit Marina Towers condominium complex would remain as the principal use of the parcel during the duration of both the short range and long range plans, and sale of Marina Towers will not alter the designated residential use envisioned within the Precise Plan.

The proposed lot line adjustment is consistent with the policies of the Local Coastal Program as implemented through the City Zoning Ordinance and Harbor Precise Plan as the lot line adjustment will not result in any physical changes to the property or harbor. The proposed action will create a logical lot formation in that no tidelands property will be associated with the lot that includes the Marina Towers. Specifically, the action will adjust lot lines to more accurately reflect the Parcel A leasehold: Oceanside Marina Towers described in Section 3.3.1 of the Oceanside Harbor Precise Plan.

2. The project will not substantially alter or impact existing public enjoy

EXHIBIT NO. 3
APPLICATION NO.
A-6-OCN-08-075
Resolution
1 of 2 pages

Craft Harbor in the coastal zone area as no physical changes in terms of traffic, land use or appearance will occur to the Marina Towers or Harbor area.

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

WHEREAS, the Harbor Board finds that the project is exempt from further environmental review pursuant to Article 19, Section 15305, Minor Alterations in Land Use Limitations of the State Guidelines of the California Environmental Quality Act.

NOW, THEREFORE, the Harbor Board of the City of Oceanside does resolve that Regular Coastal Permit (RC-16-06) is hereby approved in accordance with the following conditions:

Planning:

1. This Regular Coastal Permit approves only a lot line adjustment. Any substantial modification in the design or layout shall require a revision to the Regular Coastal Permit and/or a new Regular Coastal Permit.
2. This Regular Coastal Permit shall expire on July 16, 2010, unless implemented as required by the Local Coastal Program or unless a time extension is granted by the and Harbor Board.

PASSED AND ADOPTED by the Oceanside Harbor Board of the City of Oceanside this 16th day of July, 2008 by the following vote:

AYES: WOOD, FELLER, KERN, SANCHEZ
NAYS: CHAVEZ
ABSENT: NONE
ABSTAIN: NONE

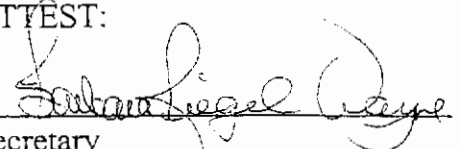
Signature on File

President

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

Signature on File

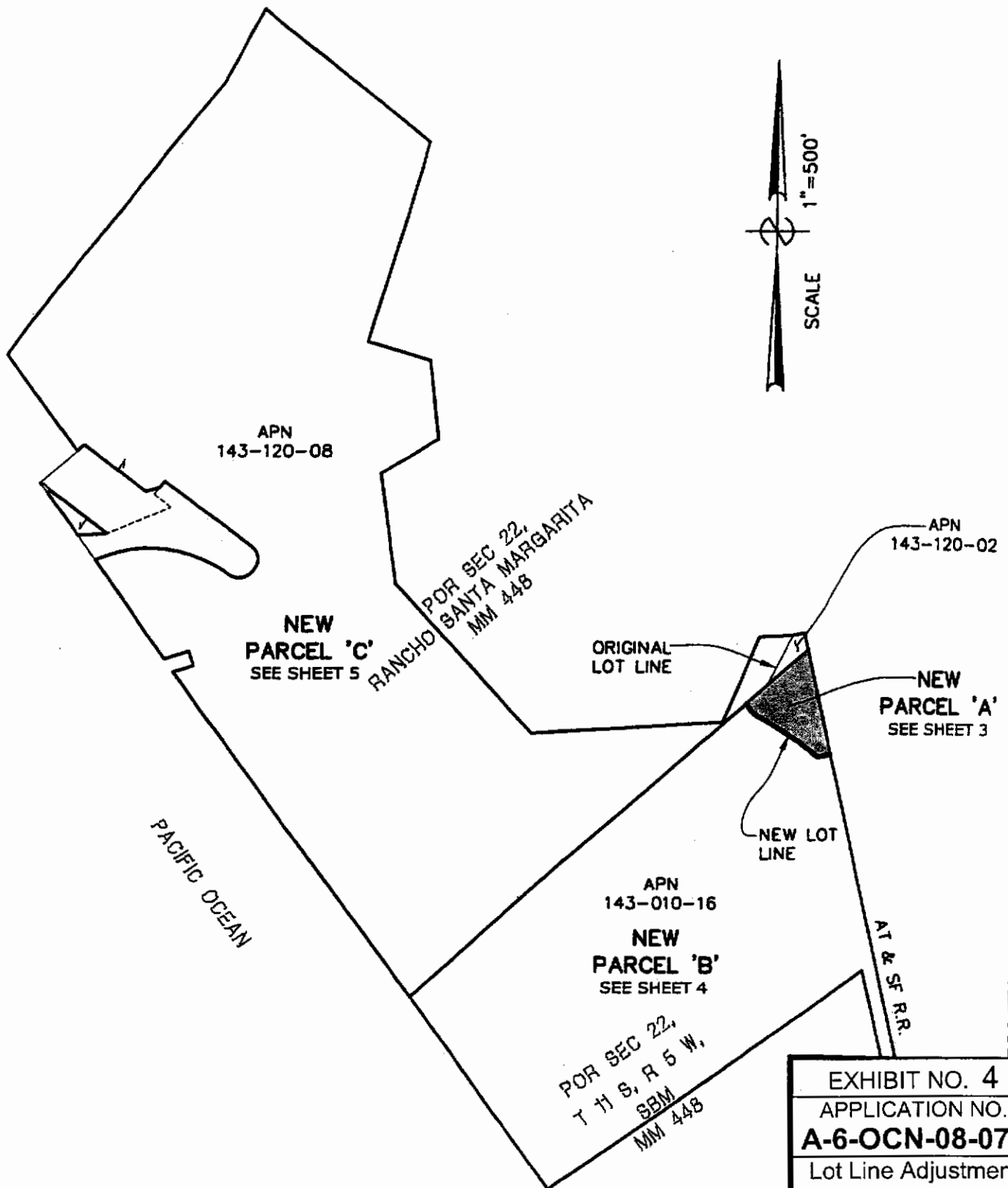
ATTEST:



Secretary

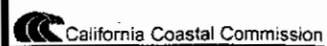
General Counsel

EXHIBIT "B"



- NEW LOT LINE
- - - ORIGINAL LOT LINE
(TO BE REMOVED)
- ORIGINAL PARCEL

EXHIBIT NO. 4
APPLICATION NO.
A-6-OCN-08-075
Lot Line Adjustment



LOT LINE ADJUSTMENT

DATE: DEC. 20, 2007

SHEET 2 OF 6

CALIFORNIA COASTAL COMMISSION

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



March 8, 2006

Mr. Jerry Hittleman
City of Oceanside
Planning Dept.
300 N. Coast Highway
Oceanside, CA 92054

Re: Marina Towers Property

Dear Mr. Hittleman:

This is in response to your letter of February 27, 2006 wherein you request clarification of Coastal Commission staff's position regarding the potential sale of the Marina Towers property by the City of Oceanside to the current residential leaseholders. You are correct that a lot line adjustment or new parcel map and, therefore, a coastal development permit would be necessary to separate the residential lot for sale purposes from the public trust lands on the site currently occupied by public parking. A boundary line agreement between the City and the State acting through the State Lands Commission would also be required to determine the extent of public trust lands on the existing parcel. The City's decision to approve the coastal development permit for the lot line adjustment would be appealable to the Coastal Commission.

In addition, a Local Coastal Program Land Use Plan amendment, which in this case is also an Oceanside Small Craft Harbor Precise Plan Amendment, would be required to change the current designation of "Existing Lease Parcel "A" - Oceanside Marina Towers". Presumably, the City would also address the land use designation of the separated parcel to reflect the public lands and public parking use.

Several Chapter 3 policies of the Coastal Act are applicable to this proposal including the following public access and recreation policies:

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211.

Development shall not interfere with the public's right of access to the sea acquired through use or legislative authorization, including, but not limited to, dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

EXHIBIT NO. 5
APPLICATION NO.
A-6-OCN-08-07!
Letter from Coastal Commission Staff
1 of 3 pages

Section 30212.5.

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213.

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

Section 30220.

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221.

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222.

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

Section 30223.

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The Marina Towers site contains a high-rise residential development and public parking and is located adjacent to the Oceanside Harbor on public land owned by the City of Oceanside. The certified LCP Land Use Plan acknowledges the existing, pre-Coastal Act use of the property and states the "67-unit, Oceanside Marina Towers condominium complex currently occupying Parcel "A" would remain as the principal use of the parcel during the duration of both the Short-Range and Long-Range Plans. However, the Harbor District or City should indicate their desire for consideration, by the lessee, of multi-use building/parking garage possibilities and suggest that the lessee determine the potential for, and substantiate, any intended approach for realizing any alternative or

Mr. Jerry Hittleman
March 8, 2006
Page 3

additional future uses of the structure including: residential, prestige office, resort residential (seasonal), and recreation uses on the garage roof...."


The existing residential use of this ocean-fronting property is a low priority use under the Coastal Act regardless of public or private ownership of such land (Sections 30221 and 30222). Visitor-serving commercial recreational facilities and water-oriented uses would have priority over private residential use in this location. In this particular case, it appears there is the potential for the existing residential units to be converted to hotel or seasonal timeshare units, or the existing structure could be demolished in the future and the entire site utilized by the City for parkland or other public recreational opportunities. The existing Land Use Plan policies acknowledge the potential to modify the existing residential use in some ways that would increase the visitor-serving potential for the site. Sale of the land to private ownership would preclude such options and appears to Commission staff to be short-sighted and not in the interest of maximizing public use of this prime visitor-serving location. Therefore, based on what we know at this time, it is likely Commission staff would not support the potential LCP amendment as it would be inconsistent with the public access and recreation policies of the Coastal Act.

Commission staff does not currently have information regarding the affordability of residential units in the Marina Towers to persons of low and moderate income. Coastal Act Section 30604(f) requires the Commission to encourage housing opportunities for persons of low and moderate income. In Section 30604(g), the Legislature found, "that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone." To the extent that sale of the property would make the residences less affordable to such persons, that would also raise concerns under Coastal Act Section 30604.

In addition, the permit for the lot line adjustment/parcel map should not be approved by the City unless the LCP amendment is certified by the Coastal Commission. Approval prior to Commission review of the LCP amendment could lead to an appeal to the Commission of the City's decision to approve the coastal development permit.

Thank you for the opportunity to comment on the proposal prior to the City taking action. Commission staff would encourage the City to retain ownership of the parcel, enhance existing public use and pursue conversion of the private use to public recreational use over the long-term. Please feel free to call me if you have any further questions.

Signature on File



Sherilyn Sarb
District Manager

cc: Deborah Lee
Bernie Rhinerson (Marina Towers HOA)

CITY OF OCEANSIDE

Property Management Division

August 18, 2008

AUG 21 2008

Ms. Shari Mackin
Citizens for the Preservation of Parks and Beaches
1469 Moreno Street
Oceanside, California 92054

Re: Public Parking Lot Adjacent to the Marina Towers

Dear Ms. Mackin:

I am writing to you in response to your letter to Mr. Peter Weiss dated July 27, 2008, regarding the public parking lot and the proposed sale of the underlying property to the Oceanside Marina Towers Association ("OMTA"). Please be advised that the proposed sale does not change the configuration of the northerly boundary of the OMTA property and southerly boundary of the public parking lot as originally set forth in the lease agreement between OMTA and the Oceanside Small Craft Harbor District ("District").

I have drawn a "red" line on the attached diagram that you had included with your letter to Mr. Weiss. The "red" line represents the proposed boundary between the OMTA property and the public parking lot. The parking spaces to the left (south) of the red line are part of the OMTA property and the parking spaces to the right (north) of the red line are part of the public parking lot. This allocation of parking spaces is the same as set forth in the lease between OMTA and the District.

Please note that the boundary between the OMTA property and the public parking lot is actually a straight line that follows the southeasterly Rancho Santa Margarita y Las Flores boundary as shown on Miscellaneous Map 448. It is "jagged" because your diagram does not accurately reflect the location of the parking spaces in relationship to the proposed boundary. For additional clarification, I have also attached a copy of an aerial photograph of the applicable portion of the OMTA property and the public parking lot showing the actual boundary in "yellow" as a straight line.

Very Truly Yours,

Signature on File

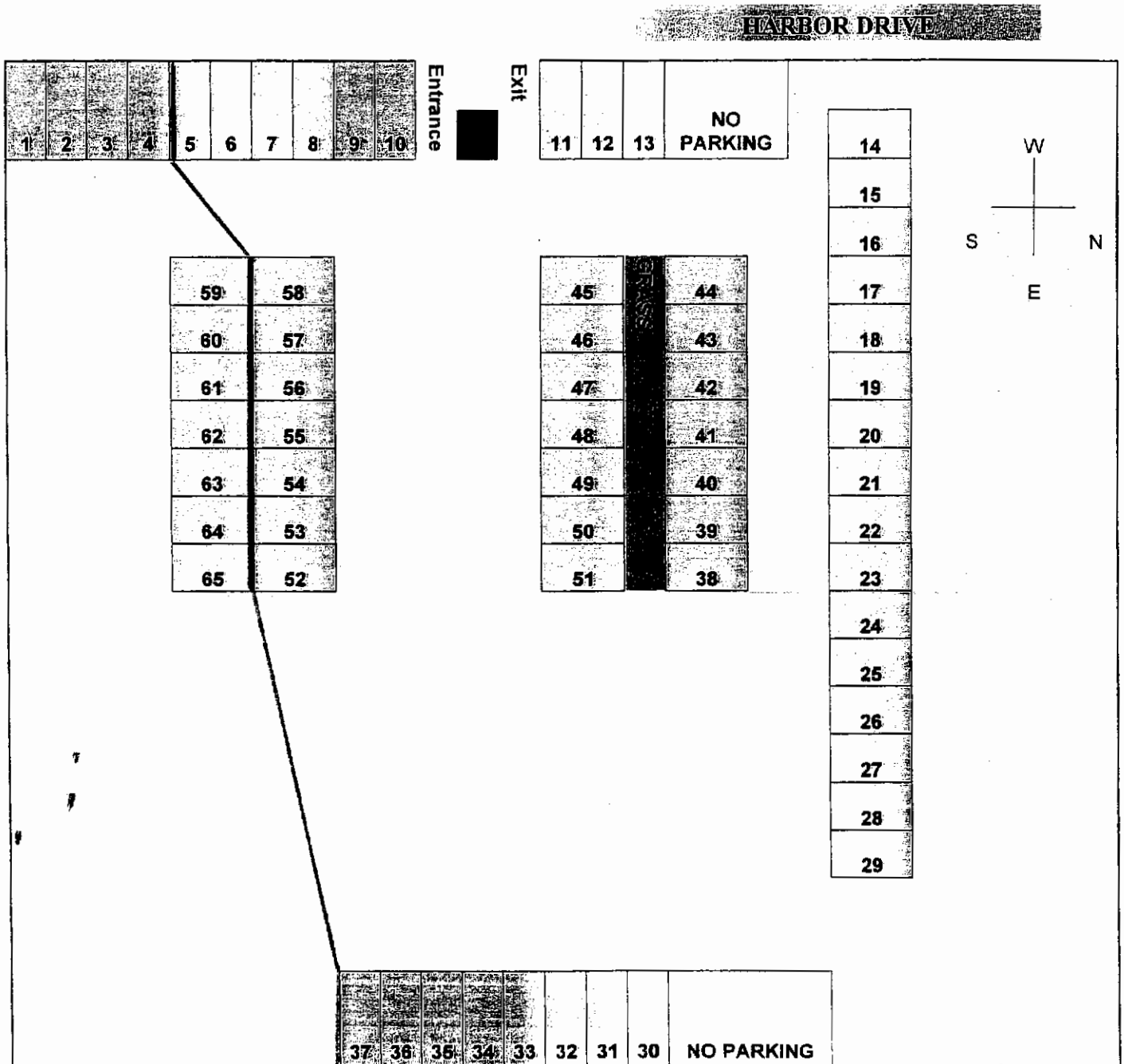
Douglas E. Eddow
Real Estate Manager
City of Oceanside

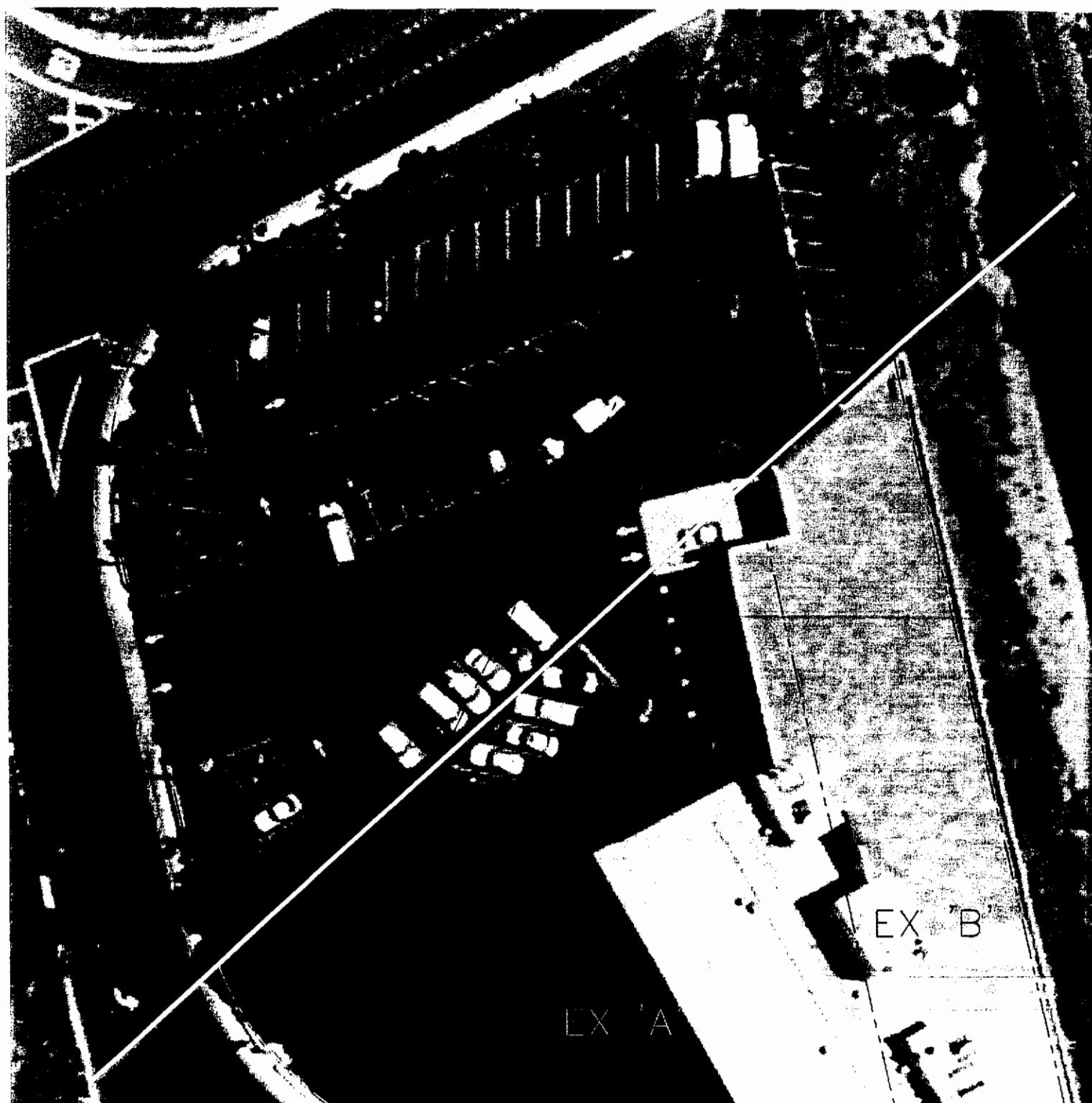
cc: Peter Weiss, City Manager
John Mullen, City Attorney
Ray Duncan, Harbor and Beaches Division Manager
Toni Ross, California Coastal Commission

EXHIBIT NO. 6
APPLICATION NO.
A-6-OCN-08-075
Existing Public Parking Spaces

Citizens for the Preservation of Parks and Beaches

PARKING LOTS AND STALLS NOT TO SCALE





W 11b

MARINA TOWERS LOT LINE ADJUSTMENT

Exhibit 7

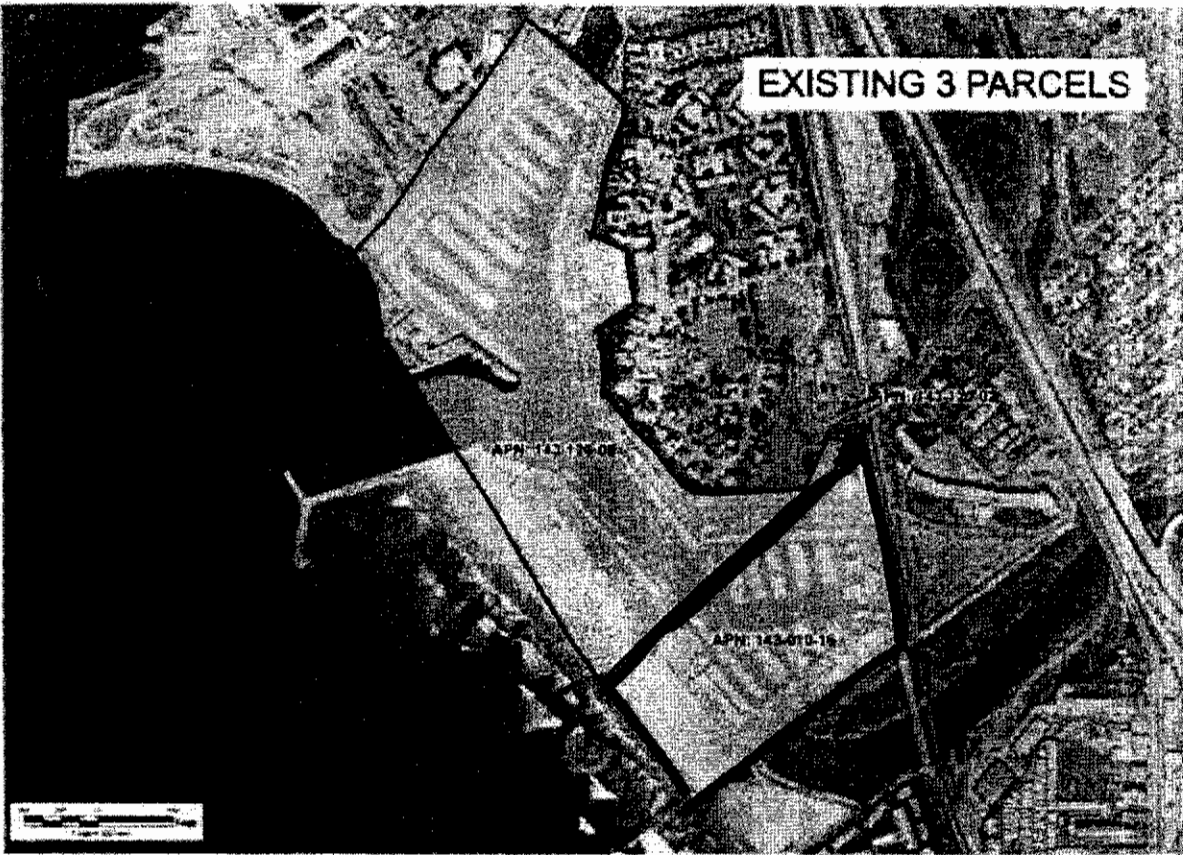


EXHIBIT NO. 7
APPLICATION NO.
A-6-OCN-08-075
Lot Line Map

A-6-OCN-08-0

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JUL 30 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

NOTICE OF FINAL ACTION
REGULAR COASTAL PERMIT RC-16-06
MARINA TOWERS SALE

DATE: July 21, 2008

The following project is located within the City of Oceanside Coastal Zone. A local decision approving the application for a Coastal Development Permit has been finalized and approved by the Harbor Board of Directors on July 16, 2008.

Applicant: City of Oceanside

Agent: Doug Eddow and Jerry
Hittleman,
Project Mgr. and Planner

Address: 300 North Coast Hwy.
Oceanside, CA 92054

Address: same

Phone: (760) 435-5012, Doug and
(760) 435-3535, Jerry

Phone: same

Project Location: Oceanside Harbor Aquatics Center on Parcel "F",
and replacement of existing public restroom facilities on Lot
"11B" within the Oceanside Small Craft Harbor Precise Plan Area.

AP Number: NA

Acreage/Area: Approx. 1.26 acres
of total affected
land area

Zoning: Harbor Precise Plan
General Plan (LUP): Harbor

- Proposed Development: The project involves approval of a Regular Coastal Permit for a property line adjustment affecting the Marina Towers leasehold property to facilitate sale of the property per the Purchase and Sale Agreement with the Marina Towers Association.

A detailed description of the project and scope of work is contained within the attached Harbor Board of Directors Staff Report.

Application File Number: RC-16-06


Filing Date: 2006

Action By: Board of Directors, Oceanside Small
District - July 16, 2008

Action: Approved Denied XX Approved with

NOTICE OF FINAL ACTION

A6-OCN-

EXHIBIT NO. 8
APPLICATION NO.
A-6-OCN-08-075
Notice of Final Action
 California Coastal Commission

Conditions and Findings for local agency approval: Yes (see attached Harbor District Board of Directors resolution approving the project.)

N/A Appealable to the Oceanside Planning Commission in writing within 10 days of Planning Director's decision

N/A Appealable to the Oceanside City Council in writing within 10 days of the adoption of the decision resolution by the Planning Commission.

XX Appealable to the Coastal Commission pursuant to Public Resources Code Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days of the Coastal Commission's receipt of the Notice of Final Action.

Address: California Coastal Commission
San Diego District Office
7575 Metropolitan Dr., Ste. 103
San Diego, CA 92108-4402
Phone: (619) 767-2370

Please mail copies to: (1) California Coastal Commission, (2) Applicant, (3) anyone requesting notification within seven (7) days following decision.

Attachments:

Harbor District Board of Directors Resolution
Staff Report, Harbor Dist. Board of Directors, July 16, 2008
Approved Exhibits

AG-OCN-08-75 10



W11b

CITY OF OCEANSIDE
OFFICE OF CITY MANAGER

September 8, 2008

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Subject: Oceanside Marina Towers Property Line Adjustment

Chairman Krueger and Commissioners:

This letter is to clarify an issue that has been raised regarding Item 11B, Appeal A-6-OCN-08-75, scheduled for your September 10, 2008 agenda. The subject of the appeal is the Property Line Adjustment to facilitate the sale of the property to the Marina Towers Association.

The Coastal Commission staff report represents the "Loss of Revenue for the Harbor District" as a potentially substantial issue. The Coastal staff report questions how the sale of the property will impact the Harbor, given the revenues will be modified from a constant source of income, to a one time payoff.

As part of the public process, the Oceanside City Council directed the Harbor District not be economically impacted by the property line adjustment or sale of the property. The City Council has made a clear public statement that there would be an equitable distribution of the sales' proceeds between the City and the Harbor District. The City Council has not made a decision on whether that equitable distribution would be in the form of an on-going, annual revenue stream, the equivalent one-time payoff, or other alternative. The distribution, in whatever form, would at a minimum replace the \$57,000 annual income provided by the current lease. What is clear; is that there would be no adverse economic impact on the Harbor District.

Based on the City Council approval of the property line adjustment, there will not be a loss of revenue to the Harbor District. As such, there is not a substantial issue, as related to the "Loss of Revenue for the Harbor District".

Sincerely,


Signature on File

Peter A. Weiss
City Manager

cc: Mayor and Councilmembers

RECEIVED

SEP 9 2008

EXHIBIT NO. 9
APPLICATION NO.
A-6-OCN-08-075
Letter from the City
 California Coastal Commission

A-6-OC
Letter 1

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



PAUL D. THAYER, Executive Officer
(916) 574-1800 FAX (916) 574-1810
Relay Service From TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1828
Contact FAX: (916) 574-1855
Contact Email: fossumc@slc.ca.gov

April 10, 2008

G -10.06

John Paul Hanna
Hannah and Van Atta
525 University Avenue, Suite 600
Palo Alto, CA 94301-1921

John P. Mullen, City Attorney
City of Oceanside
300 North Coast Hwy.
Oceanside, CA 92054

RE: Oceanside/Marina Towers Title Settlement and Exchange Agreement

Dear Messrs. Hanna and Mullen:

This will summarize the details of the proposal that I have discussed verbally with John Hanna. Hanna & Van Atta represents the Oceanside Marina Towers Association ("Association"). The Association (and its 67 members) occupies the condominium residential project known as Marina Towers, which consists of a 17-story building located on land situated within and owned by the City of Oceanside. The Association and its members are tenants under a long-term ground lease entered into with the City. The City wishes to sell the underlying fee, and the Association and its members wish to buy the underlying fee so that the leasehold condominiums can then become fee title condominiums.

The Ground Lease Agreement ("Ground Lease") contains a description of the leasehold premises. The existing parcel which is within APN: 143-010-16 (shown on Exhibit "C" attached hereto) includes historic tidelands. The proposal is to resolve the issues involving the title to the City property and eliminate any public trust interest from the Marina Towers parcel prior to conveyance of the Marina Towers site by the City to the Association.

In order to clear the City's title to the Marina Towers site, a title settlement agreement would resolve boundary issues through an exchange and termination of any state and public trust interest in the Marina Towers site and the adjacent parcel shown on the attached Exhibit C). The exchange would include the City's deed and conveyance of the remainder of the City property to the City as trustee c

EXHIBIT NO. 10
APPLICATION NO. A-6-OCN-08-075
First Letter from State Lands
 California Coastal Commission

A6-OCN-1
Letter from

and submerged lands as granted by the legislature pursuant to Chapter 846, Statutes of 1979.

The City could then deed title to the Marina Towers parcel over to the Association and its members. The City would also include an easement for ingress and egress over the two parking lot parcels, which would be necessary to provide access from the Marina Tower parcel to the adjacent public streets. The Marina Towers Association and its members would quitclaim to the City any interest under their long-term Ground Lease in the new tidelands parcel.

This Agreement would be settlement of a title dispute and is therefore exempt from the California Environmental Quality Act pursuant to Public Resources Code Section 21080.11; the Subdivision Map Act pursuant to Government Code Section 66412 (e); and the California Coastal Act pursuant to Public Resources Code Section 30416 (c). The resolution of title would result in the Marina Towers parcel and the adjacent city owned parking lot parcels existing free of any state or public trust interest and outside the retained or original jurisdiction of the Coastal Commission (Public Resources Code Sections 30600 (b), 30601 (2)). Should the City desire to proceed with resolving the title issues as described, please let me know so that we can prepare the paperwork to take the matter to our Commission. The form of the agreement would be similar to the agreement approved by the City and State Lands Commission in 2003 with CH Oceanside, LLC involving the south bank of the San Luis Rey River opposite the subject property.

If you have any questions please do not hesitate to contact Staff Counsel Jennifer Lucchesi lucchej@slc.ca.gov, who will be processing the agreement, or me.

Sincerely,

Signature on File

— Curtis L. Fossum
Assistant Chief Counsel

cc: Grace Kato, Granted Lands Representative

A6-OCN-08-75

14

W11b

DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project: Appeal No. A-6-OCN-08-075
City of Oceanside Lot Line Adjustment
Date/time of receipt of communication: September 8, 2008 @ 9:00 am
Location of communication: Palo Alto
Type of communication: Telephone
Person(s) initiating communication: Steve Kaufmann, Lou Lightfoot,
Susan McCabe

Detailed substantive description of content of communication:

The applicants told me that the project was appealed by a local group. Staff is recommending substantial issue. The Homeowners Association is supporting No Substantial Issue.

The lot line adjustment proposed by the city is to create a separate parcel of non-tideland city-owned land upon which the Marina Towers condominium complex is located to sell the property to the Homeowners Association.

Applicants believe the project is not within CCC appeal jurisdiction –

1. it is not located between the first public road and the sea
2. nor is the Marina Towers' property within the appeal jurisdiction as it is excluded under the Commission-adopted post certification appeals map.

They discussed the grounds for appeal presented by the appellants. They noted that the Commission did not appeal the project but staff added an issue and cited it as the appellants a primary issue.

Staff's added issue is that the site-specific Harbor Precise Plan policy requires the City to examine other uses for the property in the event the land lease expires. The project proponents do not believe this ground for appeal is properly before the Commission as it was not raised by the appellants nor do they believe there is merit to the issue.

Staff also reviewed the appellants' appeal contentions relating to the public parking lot adjacent to the Marina Towers property. Applicants have explained that the public parking lot will remain entirely under City ownership and control and that no part of the parking lot would be included within the parcel that would be sold to the HOA.


Signature on File

Monday, September 08, 2008

Commissioner

Date

A6-OCN-
Ex Parte

EXHIBIT NO. 11
APPLICATION NO.
A-6-OCN-08-075
Ex Parte
 California Coastal Commission

Received
SEP 16 2008
California Coastal Commission
San Diego Coast District



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WED 11.B

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September 4, 2008

Chairman Patrick Kruer and Honorable Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 91405

Re: Appeal No. A-6-OCN-08-075 (City of Oceanside Lot Line Adjustment)

Dear Chair Kruer and Members of the Commission:

This firm, along with Susan McCabe, represents the Oceanside Marina Towers Homeowners Association ("HOA") in the above appeal. The HOA supports the City of Oceanside's position that in this instance the above appeal does not and cannot raise a "substantial issue."

The appeal filed concerns the City's decision to approve a Lot Line Adjustment ("LLA"). The LLA creates a 1.26 acre upland parcel (Parcel A) that is improved with the existing 17-story Marina Towers building containing 67 privately owned condominium units, its private parking structure and other residential-related improvements.

Although not clearly explained by the Staff Report, the LLA accomplishes two things: (1) it excludes the downhill 200 plus/minus foot area (that may include former tidelands), which remains part of a larger former tidelands parcel in the Harbor (Parcel B), and (2) it adds about 1/3 of the uphill, upland public parking lot – a separate parcel adjoining the Marina Towers property, to another larger parcel in the Harbor containing tidelands and the remaining 2/3 of the parking lot (Parcel C). In simple terms, the LLA separates the developed upland portion of the Marina Towers property from a small potentially former tidelands area, and adds a separate, sliver parcel containing the public parking lot to a larger parcel that contains the balance of the parking lot and former tidelands. (Exhibit 1.)

The City owns all the parcels, which it leases to the Harbor District. As the Staff Report states, the City intends to sell the ground lease to upland Parcel A to the HOA for an upfront payment of \$5 million. The sale, however, is not "development," nor is it a part of the City LLA approval appealed. Moreover, under Section 30600 of the Coastal Act, the geographic scope of the appeal is strictly limited to 1 portion of the property located on potentially former tidelands. The remaining developed portion of the Marina Towers property is not subject to appeal.

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EXHIBIT NO. 12
APPLICATION NO.
A-6-OCN-08-075
Letter from
Applicants agent
1 of 25 pgs
California Coastal Commission

Chairman Kruer and Commissioners
September 4, 2008
Page 2

The Staff recommendation is, unfortunately, premised on several fundamental factual and legal errors. These include the following:

1. It errs regarding the location of the LLA and historic tidelands;
2. It errs regarding the limited scope of the Commission's appeal jurisdiction and nature of the "development" approved and appealed;
3. The grounds raised in the appeal filed are legally irrelevant, given the limited scope of the Commission's limited appeal jurisdiction;
4. Staff has added grounds that are not raised in the appeal filed, and those grounds similarly are legally irrelevant, given the limited scope of the appeal jurisdiction here;
5. None of the grounds addressed in the Staff Report raise a substantial issue in any event.

For the reasons discussed further below, the appeal filed raises "no substantial issue."

I. The Staff Report Fundamentally Errs Regarding the Location of the Lot Line Adjustment and Historic Tidelands

The Staff Report confuses the location of the LLA and the potentially former tidelands involved. It states in error that the LLA involves a public parking lot that consists of historic tidelands.

Exhibits 2 and 3 show the LLA. The LLA first excludes from the privately developed portion of the Marina Towers property the 200 plus/minus feet of potentially former tidelands at the extreme, southern downhill portion of the property adjacent to and inland of Harbor Drive South.¹ (Exhibit 4 [photo].) That is the only portion of the LLA involving the issue of tidelands.

The public parking lot lies at the extreme opposite, northern end of the property, ranging between 36 and 50 feet above the Harbor. One-third of the public parking lot is located on a separate, sliver parcel, which is adjacent to the Marina Towers property, and it is clearly and indisputably uplands. The LLA adds this parcel to larger Parcel C, which includes tidelands and the remaining two-thirds of the public parking lot. The public parking lot would remain "as is," without any change.

¹ In actuality, this area is 90-100 plus/minus feet. The original map was prepared at 60 scale but blown up, so that the area appears to 200 plus/minus feet, and that is how State Lands has referred to it. For purposes of this letter, we have adopted the State Lands' reference.

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The record clearly explains the location of the area that is arguably former tidelands. In a letter dated August 19, 2005, and copied to Commission Staff, the State Lands Commission explained:

“... [W]hile the CSLC [California State Lands Commission] asserts no claim that the northern portion of the subject property intrudes onto sovereign lands, evidence does exist that will not allow disclaimer of interest in the southern 200 plus/minus feet.”

and

“The southern 200 plus/minus feet of the parcel may have included tide and submerged lands prior to artificial changes to the area.” (Exhibit 5; emphasis added.)

II. The Staff Report Fundamentally Errs Regarding the Scope of the Commission’s Appeal Jurisdiction and the Nature of the “Development” Approved by the City

The Staff Report also does not accurately state the nature of the “development” that the City approved and the limited scope of the Commission’s geographic and subject matter appeal jurisdiction in this matter.

A. The Nature of the “Development” Approved

Under the Coastal Act, the Commission has appeal jurisdiction over “development.” (Pub. Res. Code § 30603.) The only “development” involved in this appeal is a LLA. Neither the sale of the underlying property, nor even an extension of the lease that presently exists, constitutes “development” under Section 30106 of the Coastal Act.² The Staff Report errs in lumping the sale in with the LLA.

As stated, the LLA does nothing more than exclude the 200 plus/minus feet of potentially former tidelands at the downhill edge of the Towers property and add a sliver of the public parking lot parcel (this small parcel contains approximately 1/3 of the lot) to another large parcel in the Harbor that contains the remainder of the lot. This efficiently separates the privately developed uplands from the other parcels in the Harbor containing tidelands and the public parking lot.

² In proceedings before the City, Marina Towers reserved the argument that the LLA does not even require a CDP since, in the factual circumstances presented here, the Lot Line Adjustment will not result in any “change in the density or intensity of use” of the property.

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B. Geographic Scope of the Commission's Appeal Jurisdiction

The Staff Report further errs in stating that appeal jurisdiction in this matter can be based, in part, on the location of the Marina Towers development "between the first coastal road and the sea." (Staff Report, p. 7.) This clearly is inaccurate, as shown by the Commission's adopted Post-Cert Map and a letter from District Director Sherilyn Sarb to the City, dated September 16, 2005, regarding appeal jurisdiction for this site.

The first public road in this area is Harbor Drive, and this site and the LLA approved are inland of Harbor Drive North and South. This is well illustrated by Exhibits 6, 7 and 8. The Commission's own "Post LCP Certification and Permit Appeal Jurisdiction" map, which the Commission adopted on December 17, 1985, also plainly demonstrates this to be the case. It shows first the "First Public Road" – Harbor Drive, and this the Legend shows "Appeal Jurisdiction" by a cross-attached designation." Exhibit 6 shows the Marina Towers site plotted on the Post-Cert map, and, not surprisingly, since the site is inland of the First Public Road, it does not lie geographically within the Commission's appeal jurisdiction.

Moreover, in September 2005 District Director Sarb wrote the City to address "whether or not the above referenced property is within the Coastal Commission appeal jurisdiction." The letter made no claim that this property lies seaward of the first public road, but rather explained:

"The Post LCP Certification and Permit Appeal Jurisdiction Map approved by the Coastal Commission on December 17, 1985 indicates the southern portion of the property is within the Commission's appeal jurisdiction . . . The area that is potentially subject to the public trust corresponds to the southern 200 plus/minus feet of the parcel referred to in the August 19, 2005 letter from Michael Valentine of the State Lands Commission (CSLC)." (Exhibit 9; emphasis added.)

C. The Limited Scope of Commission Jurisdiction Over Tidelands

Indeed, the sole and exclusive basis upon which appeal jurisdiction conceivably lies is the 200 plus/minus foot area that the State Lands Commission identified "may" constitute former tidelands. Section 30603 of the Coastal Act defines and limits the Commission's appeal jurisdiction. It states that "[a]fter certification of a local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

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Chairman Kruer and Commissioners
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“... Developments approved by the local government ... (1) that are located on tidelands, submerged lands, public trust lands ...” (Emphasis added.)

At best, the scope of this appeal is limited to the 200 plus/minus foot area, and nothing more. But, note that Section 30603 refers to the developments approved on “tidelands,” not former tidelands. Arguably, the Commission has no jurisdiction over this appeal at all because it is undisputed that no existing tidelands are involved. Regardless, none of the issues actually raised in the appeal filed – or even the additional extra-appeal issues Staff has raised – concern this 200 plus/minus foot area. For that reason, the appeal presents “no substantial issue.”

D. The Commission’s Adopted Post-Cert Map Further Limits the Scope of Appeal Jurisdiction

The Commission’s adopted Post-Cert map further explains:

“In areas where a parcel is bisected by the appeals jurisdiction boundary, only that portion of the parcel within the area defined as appealable is subject to the Commission’s appeal jurisdiction.” (Exhibit 6; emphasis added.)

Here, the parcel containing the Towers property is bisected by the appeals jurisdiction boundary. Although the Commission has before it a LLA, the only portion of the property physically within the Commission’s appeal jurisdiction, again, is the 200 plus/minus feet of potentially former tidelands. As the adopted Post-Cert Map states, that is the only portion of the parcel that is subject to the Commission’s appeal jurisdiction.

III. The Staff Report Fundamentally Misstates the Grounds for Appeal Set Forth in the Appeal Filed

A “substantial issue” is limited to consideration of the grounds for appeal set forth in an appeal filed. Section 30625(b) of the Coastal Act states, in relevant part, that “The commission shall hear an appeal unless it determines the following:

“(2) With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.” (Emphasis added.)

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If an appeal does not raise an issue, the issue cannot be considered. If Staff wishes to raise additional issues beyond those set forth in an appeal, it has the vehicle of an appeal by two commissioners. (Pub. Res. Code § 30625.)

Here, only one appeal was filed with respect to the City's decision – the appeal by the Citizens for the Preservation of Parks and Beaches. (Staff Report, Exh. 2.) No Commissioner appeal was filed. But, Staff did comment on this project when it was before the City in 2006. (Staff Report, Exh. 5.)

We are puzzled by the Staff Report's recitation of the appeal grounds, and we invite the Commission to compare Exhibits 2 and 5 to the Staff Report. It appears that Staff has simply added its own issues from its 2006 comment letter, and then stated that those issues were raised in the appeal by the Citizens for Preservation of Parks and Beaches when, by our reading, they clearly were not.

The Staff Report asserts that "the primary concern raised by the appellant is that the sale of the City-owned property will facilitate and perpetuate continued residential use of a prime visitor-serving location," (Staff Report, p. 2), and that "the primary contention is that by selling the City-owned property to the overlaying residential development, the City is not allowing the site to be redeveloped in the future with uses that are consistent with the Harbor Precise Plan." (Staff Report, p. 12).

While we nonetheless address Staff's issues below, we believe the Commission will search in vain to find these issues raised in the appeal filed. Although touted by Staff as the "primary" appeal issues, in fact they are not properly before the Commission.

IV. The Issues Actually Set Forth in the Appeal Do Not and Cannot Raise a Substantial Issue

None of the issues actually set forth in the appeal filed involve grounds that relate to the geographic location of the tidelands, which provides the sole basis for appeal. Further, none of the grounds relate to the LLA that the City approved. For these reasons, discussed below, the appeal does not and legally cannot raise a substantial issue, and the Commission should so find.

Chairman Kruer and Commissioners
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A. The Intent of the Lot Line Adjustment

The appeal asserts that the City's decision does not adequately reflect the intent of the LLA. To the contrary, the City's decision excludes from the Marina Towers property the 200 plus/minus feet of arguably former tidelands area at the downhill portion of the property, and the City of Oceanside will continue to own the existing public parking lot, 1/3 of which has been added to another parcel and the remaining 2/3 of the parking lot. As to the tidelands, the City's Staff Report explains:

"In addition to creating a separate legal parcel, the proposed PLA [Property Line Adjustment] will also eliminate the fragmentation of the tide and submerged lands areas within the Harbor. The proposed PLA will remove that portion of the Property which is tide and submerged lands and consolidate those lands into the remainder of the Harbor, which consists primarily of such tide and submerged lands. This will allow for better management and conservation of these sensitive coastal resources." (City Staff Report, p. 2.)

The City's intent in approving the LLA could not have been more clear.

B. Federally Deeded Public Parkland – the Public Parking Lot – Is Not A Part Of The Lot Line Adjustment

In 2006, the appellant raised an issue that the City subsequently addressed. The appellant argued that the proposed sale of the property to the HOA involved federally deeded public parkland, and therefore required a public vote, which had not taken place. This area encompassed the public parking lot, which the federal government deeded to the City for public parkland purposes. To resolve the issue, the City modified the LLA so that the area acquired from the U.S. Government – the public parking lot – is no longer a part of the 1.26 acres that would be created by the LLA. The 1.26 acres includes only the Marina Towers building, and its associated landscaping and pool, and private parking garage. As discussed above, the separate parking lot parcel is, in turn, being added to the existing larger Parcel C, so that the sliver containing 1/3 of the public parking lot is joined with the other large Harbor parcel containing the remaining 2/3 of the parking lot, as well as tide and submerged lands.

The attached aerial and comparison map – 2006 vs. 2007 – demonstrates how the federally deeded public parkland was excluded from the LLA. (Exhibits 2 and 10.)

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C. The Public Roadway Easement Is Not A Part of the Lot Line Adjustment

The public roadway easement referred to in the appeal reflects the prior alignment of Harbor Drive, which was re-aligned when the public parking lot was constructed. The public roadway easement continues to run through the middle of the public parking lot, but as explained in the preceding Section, the public parking lot was excluded from the LLA. (See Exhibit 10.)

Thus, the old easement has no relevance to the LLA. It also has no consequence since the road has been realigned and the public parking lot will remain “as is.”

D. The Public Parking Lot Will Remain “As Is” – Just As It Has For The Last 30 Years

As noted, the public parking lot is located on a separate parcel that is distinct from the new Parcel A created by the LLA, and is geographically and topographically distinct from the potentially former tidelands area downhill. Thus, the concerns in the appeal regarding the parking lot are legally irrelevant. It bears emphasis added that the public parking area will remain “as is” as result of the LLA, and even as a result of the sale. The parking lot is currently signed for public parking directly across from the entrance to traffic in both directions on Harbor Drive, and that will not change.

The appeal erroneously confuses “control” and “maintenance” of the parking lot. The City maintains complete control over the operation and management of this public parking lot. The HOA is contractually obligated to “maintain” it – i.e., to physically maintain the surface, the landscaping, the striping of parking spaces and the lighting.

But, regardless, it is not properly a ground for appeal.

E. The Sale Of The Property By The City Is Not Properly Raised On Appeal, But The City (Owner) And Harbor District (Lessee) Will Continue To Fund Harbor Maintenance, Operation and Expansion, Without Change

Finally, the appeal contends that the sale of the property to the HOA will result in lost revenue for the Harbor. As noted above, the sale is not properly raised by the appeal; the only “development” subject to CDP review is the LLA, not a sale,

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and the only portion of the property subject to appeal jurisdiction is the 200 plus/minus feet of arguably former tidelands.

In any event, the appeal misconstrues the property ownership, the relationship of the City Council and Harbor District, and the nature of the property at issue. The circumstances here are unusual because the City is the owner of the property, this particular property is uplands, and the City Council and Harbor District Board are one in the same.

Most importantly, nothing in the certified LCP limits the financial decisions made by the City or the Harbor District. The Section 4.4.2 of the Harbor Precise Plan, cited in the Staff Report, does note that Marina Towers is one of the lease parcels that provides revenue-producing lease space – in this case, an annual \$57,000 lease payment. However, the sale of the property will replace this annual lease payment -- \$1,980,000 over the remaining life of the lease (28.5 years x \$57,000, plus escalators), with a lump sum, upfront payment of \$5,000,000 – over 2 times what would otherwise be paid. More importantly, this premium upfront payment must be compared to the net present value of the future rental revenue of the current sublease, which is \$750,000. The City Council and Harbor District Board determined that this annual lease payment is insignificant -- less than 1% of the Harbor District's budget, and in any case the City has the authority to provide funding to the Harbor, as appropriate.

It also bears emphasis that this particular property is uplands and that the portion of Oceanside Harbor landward of the mean high tide line is not subject to a tidelands grant. In that latter instance, revenues obtained from improvements on tidelands would be restricted for uses on tidelands consistent with the purposes of the tidelands grant. (State of California ex rel. State Lands Commission v. County of Orange (1982) 134 Cal.App.3d 20.) Here, however, not only is there no grant, but the sale strictly involves City-owned uplands, which are not be subject to restrictions on use.

Nothing in the certified LCP or the Harbor Precise Plan alter the funding relationship between the City and its District or otherwise limit the sale of this property. Again, no substantial issue is raised with respect to the conformity of the development approved – the LLA -- to the LCP.

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V. The Issue That Staff Characterizes As the “Primary” Issue Was Not Set Forth In The Appeal, Does Not Involve The Lot Line Adjustment, Is Wrong, And Does Not And Cannot Raise a Substantial Issue

Finally, we address Staff’s issue – what it calls the “primary” issue – the assertion that the sale of the City-owned property will facilitate and perpetuate continued residential use of a prime visitor-serving location, in violation of the Harbor Precise Plan.

Preliminarily, we emphasize that this issue is Staff’s issue, and is not raised by the appeal, despite Staff’s erroneous and repeated assertion that it is. (Compare Staff Report, Exhibit 2 (the Appeal) vs. Exhibit 5 (District Director Sarb’s 2006 letter to the City.) Moreover, the sale is not before the Commission; it does not constitute “development” any more than a decision to lease or to extend this particular lease.

Nonetheless, we address the issue anyway because Staff also has misstated and misapplied the applicable policy in the Harbor Precise Plan. The Harbor Precise Plan includes a specific policy dealing with Oceanside Marina Towers:

“3.3.1 Existing Lease Parcels – Parcel A: Oceanside Marina Towers

“The 67-unit, Oceanside Marina Towers condominium complex currently occupying Parcel “A” would remain as the principal use of the parcel during the duration of both the Short-Range (to 1985) and Long-Range (post-1985) Plans. However, the Harbor District or City should indicate their desire for consideration, by the lessee, of multi-use building/parking garage possibilities and suggest that the lessee determine the potential for, and substantiate, any intended approach for realizing any alternative or additional future uses of the structure including: residential, prestige office, resort residential (seasonal), and recreational uses on the garage roof. . . .” (Emphasis added.)

Citing this policy, Staff leaps in error to argue that the LCP “acknowledges the potential to modify the existing residential use in some way that would increase the visitor-serving potential for the site,” such as “harbor-related uses, parkland or other public recreational opportunities.” As Staff further asserts:

“The Harbor Precise Plan includes policies that require the City to address, during any permit review for development within the Harbor Area, the potential for the redevelopment of any location with a high-priority use, such as a visitor-serving, or harbor-dependent development.” (Staff Report, p. 2.)

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No one reading the above policy could reasonably conclude that the policy had in mind recycling this specifically addressed site to high-priority visitor-serving. Indeed, the policy contemplates retention of the structure and expressly includes, for the most part, consideration of future non-priority uses for the property: “residential, prestige office, resort residential (seasonal), and recreational uses on the garage roof.” And, why these uses? Because in 1978, when this LCP was submitted, this was a fledgling condominium project in financial straits, and the LCP was intended to provide alternative uses so that ultimately the structure would support a viable use.

Nothing in this policy reflects the intent that redevelopment of the site include knocking down the building when the existing lease terminates in 2036 and replacing it with harbor-related uses, parkland, or other public recreational opportunities, even assuming that made sense (and it does not) on this hillside property outside of, and above, the Harbor proper.

The Staff Report further asserts in error that “[n]o portion of the Harbor Precise Plan identifies residential use as a priority use in the harbor district.” (Staff Report, p. 14.) That is obviously wrong. The precise policy of the Harbor Precise Plan that applies to the Marina Towers project expressly states that the “condominium project” “would remain as the principal use of the parcel during the duration of both the Short-Range (to 1985) and Long-Range (post-1985) Plans,” and further that as the very first alternative use that should be considered is “residential.” (Harbor Precise Plan, § 3.3.1.)

Staff also states that this policy required the City to review Staff’s suggested uses during the permit process. The policy is not mandatory; it says “should,” and that it is the lessee’s decision, not the City’s or the Harbor District’s decision, of whether to consider the alternative uses of the site suggested. And, that is exactly what happened here, consistent with policy. Thirty years after the policy was certified, the condominium project succeeded, and today there are 67 condominium units owned by entities and individuals. The financial situation and the choices that made sense in 1978 do not make sense today. The HOA has made that clear in proceeding with the sale, and the City in its decision noted the policy and that with the LLA, the property will continue to be utilized as a condominium project as it has since the mid-1970s, as permitted by the LCP, with no changes following the sale. (City Decision and Staff Report, pp. 2-3.)

Finally, Staff errs in also suggesting that because the above policy refers to the Marina Towers as an “existing lease parcel,” the sale of the Marina Towers would change the leasehold status and an LCP amendment would be required to update the

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language in the Harbor Precise Plan. (Staff Report, p. 13.) The Harbor Precise Plan referred to Marina Towers as an “existing lease parcel” in order to identify the property for purposes of the Harbor’s Short-Range Plan, which the Plan defined as an implementation phase from 1979 to 1985. (Harbor Precise Plan, pp. 2-1, 3-5.) The Plan explained in the paragraph that immediately preceded the discussion of Oceanside Marina Towers and other lease parcels: “The narrative portions of the Short-Range Plan are contained in the following sections, with lease parcel, service building and parking designations keyed to the accompanying map.” (Harbor Precise Plan, p. 3-5.) Other than to identify the property, the reference to “existing lease parcel” had no significance for any policy of the Harbor Precise Plan, and the sale of the property does not otherwise alter the policies or implementation requirements of the LCP in any manner. No LCP amendment was required.

In short, even if the appeal filed had placed these issues before the Commission (and, again, they did not), the issues have no merit, and would not raise a substantial issue.

Conclusion

For all the foregoing reasons, the HOA respectfully requests that the Commission find that the appeal raises “no substantial issue.” The HOA’s suggested motion is set forth on Attachment 1.

Very truly yours,

Signature on File

Steven H. Kaufmann

cc w/attachments: Ms. Toni Ross, Coastal Program Analyst, CCC – SD
Mr. Jerry Hittleman, City of Oceanside
Mr. Doug Eddow, City of Oceanside
Mr. John Mullen, Esq., City of Oceanside
Mr. Jules Briskin, Oceanside Marina Towers HOA
Mr. Lou Lightfoot, The Lightfoot Planning Group
Ms. Susan McCabe

Chairman Kruer and Commissioners
September 4, 2008
Page 13

HOA'S REQUESTED MOTION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-6-OCN-08-075 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

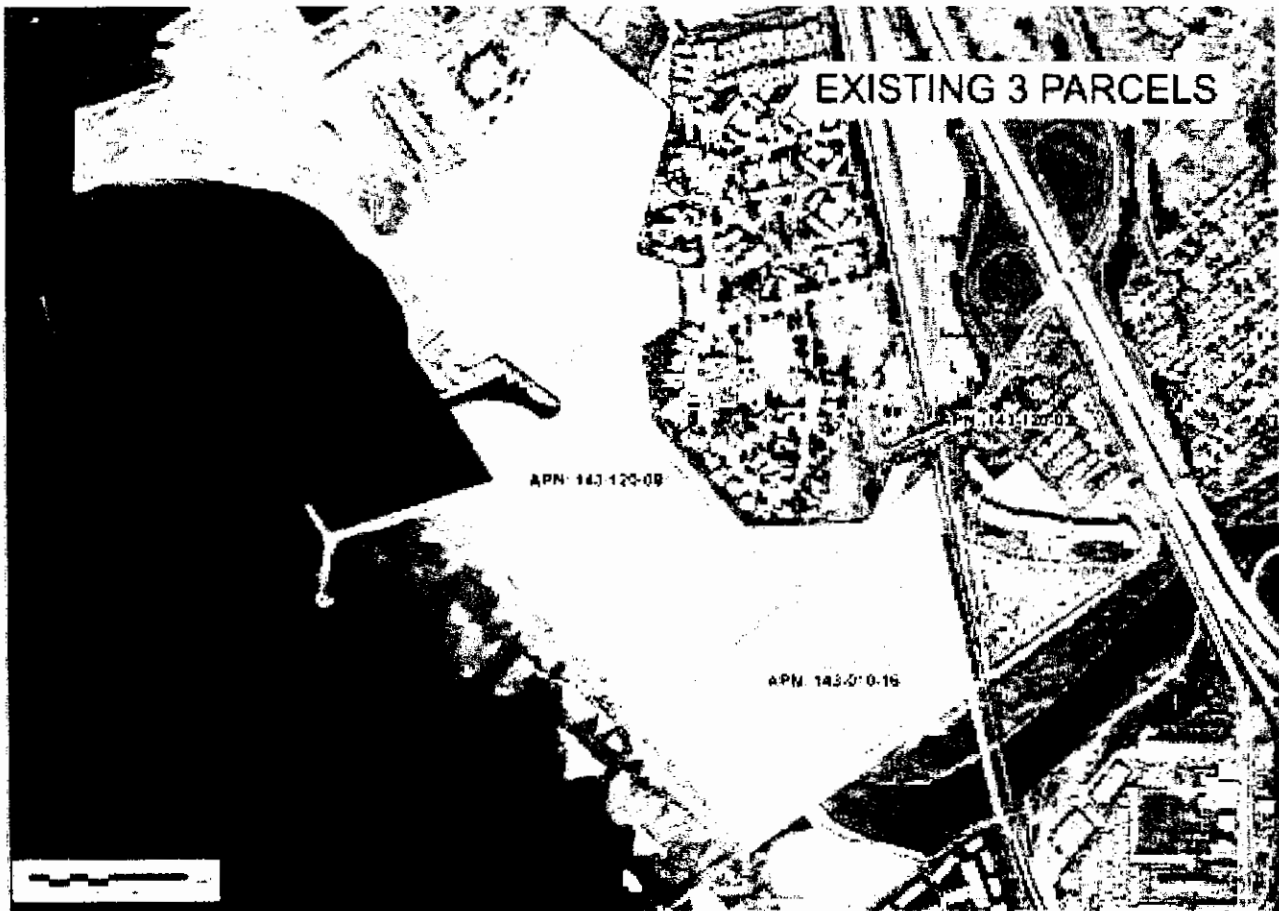
The HOA requests a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that **Appeal No. A-6-OCN-08-075** presents no substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

MARINA TOWERS LOT LINE ADJUSTMENT

Exhibit 1





Source: MapInfo/Esri.com, aerial, 1994

✓
NO
EAST
FARM
CITY

MARINA TOWERS



Lot Line Adjustment

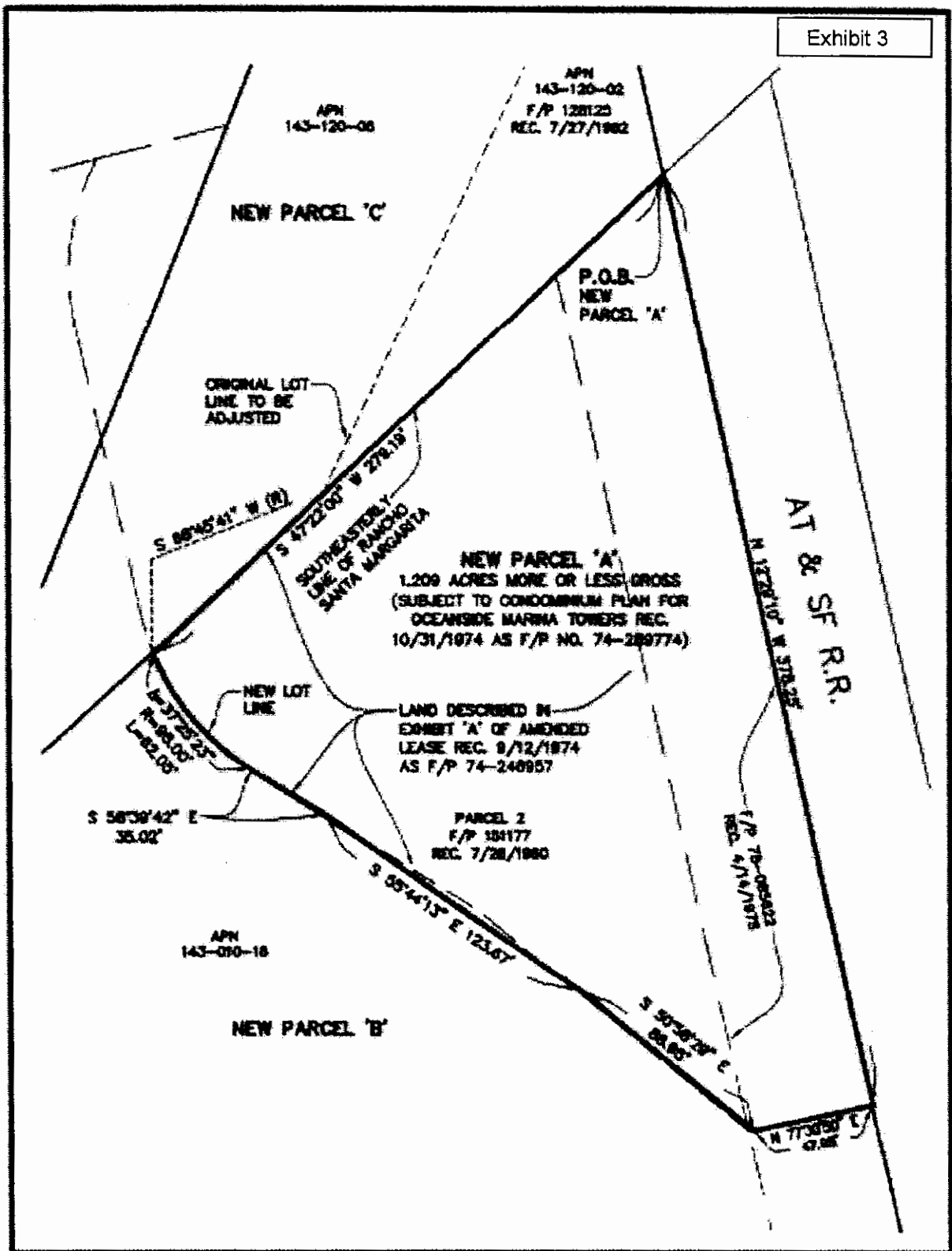
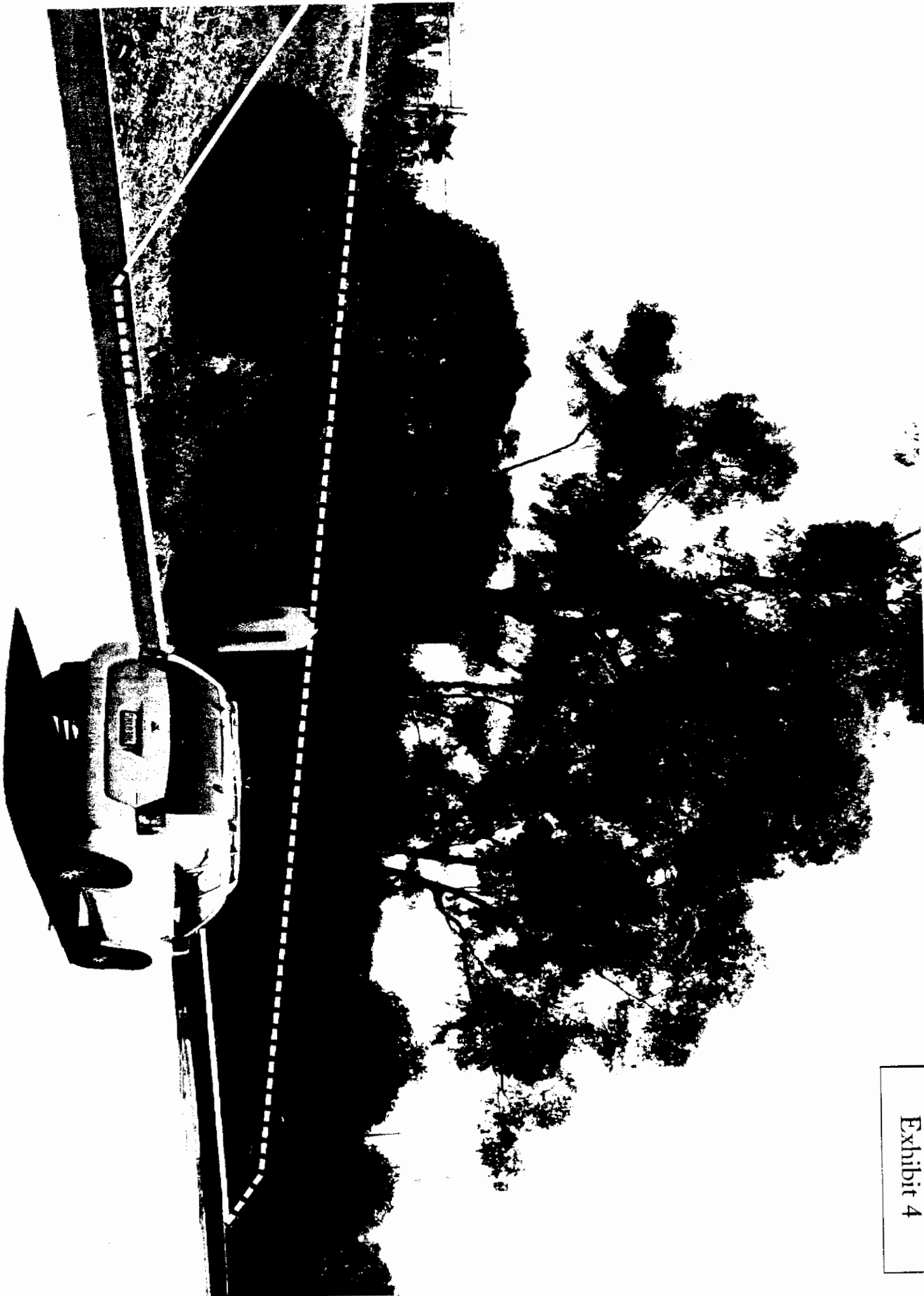


Exhibit 4



CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



PAUL D. THAYER, *Executive Office*,
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone 1-800-735-2921
from Voice Phone 1-800-735-2925

Contact Phone: (916) 574-0234
Contact FAX: (916) 574-1324

August 19, 2005

File Ref: SD 2005-07-29.7 / G10-06

Ms. Pamela Walls
City Attorney
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054-2885

RECEIVED

AUG 25 2005

OCEANSIDE CITY ATTORNEY

RE: Marina Towers Condominiums, 1200 N. Harbor Drive, Oceanside

Dear Ms. Walls:

This is in response to your recent request for a determination by the State Lands Commission (CSLC) whether it asserts a sovereign title interest in the property that the subject condominiums occupy and whether it asserts that the condominiums intrude into an area that is subject to the public easement in navigable waters.

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable rivers, sloughs, lakes, etc. The CSLC has certain residual and review authority for tide and submerged lands legislatively granted in trust to local jurisdictions (Public Resources Code §6301 and §6306). All tide and submerged lands, granted or ungranted, as well as navigable rivers, sloughs, etc., are impressed with the Common Law Public Trust.

That portion of the subject parcel (shown on Map Number 3, as described in the submitted City memorandum, dated July 21, 2005) with the exception of the southern 200 plus/minus feet, is located within Rancho Santa Margarita y Las Flores and within lands the State did not acquire or patent and outside of historical tide and submerged lands. The southern 200 plus/minus feet of the parcel may have included tide and submerged lands prior to artificial changes to the area.

Accordingly, while the CSLC asserts no claim that the northern portion of the subject property intrudes onto sovereign lands, evidence does exist that will not allow disclaimer of interest in the southern 200 plus/minus feet. One alternative to resolve this situation is a boundary line agreement between the City and the State, acting through the CSLC. Public Resources Code Section 6357 provides for boundary line agreements and actions taken in furtherance thereof are exempt from the Subdivision Map Act, the Coastal Act and the California Environmental Quality Act. Other

August 19, 2005

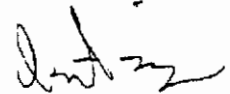
acceptable alternatives the City may want to consider to resolve the situation may include a property line adjustment.

If you have any questions or desire formal resolution of the boundary issue, please contact Jennifer Lucchesi at (916) 574-0234.

Sincerely,



Signature on File



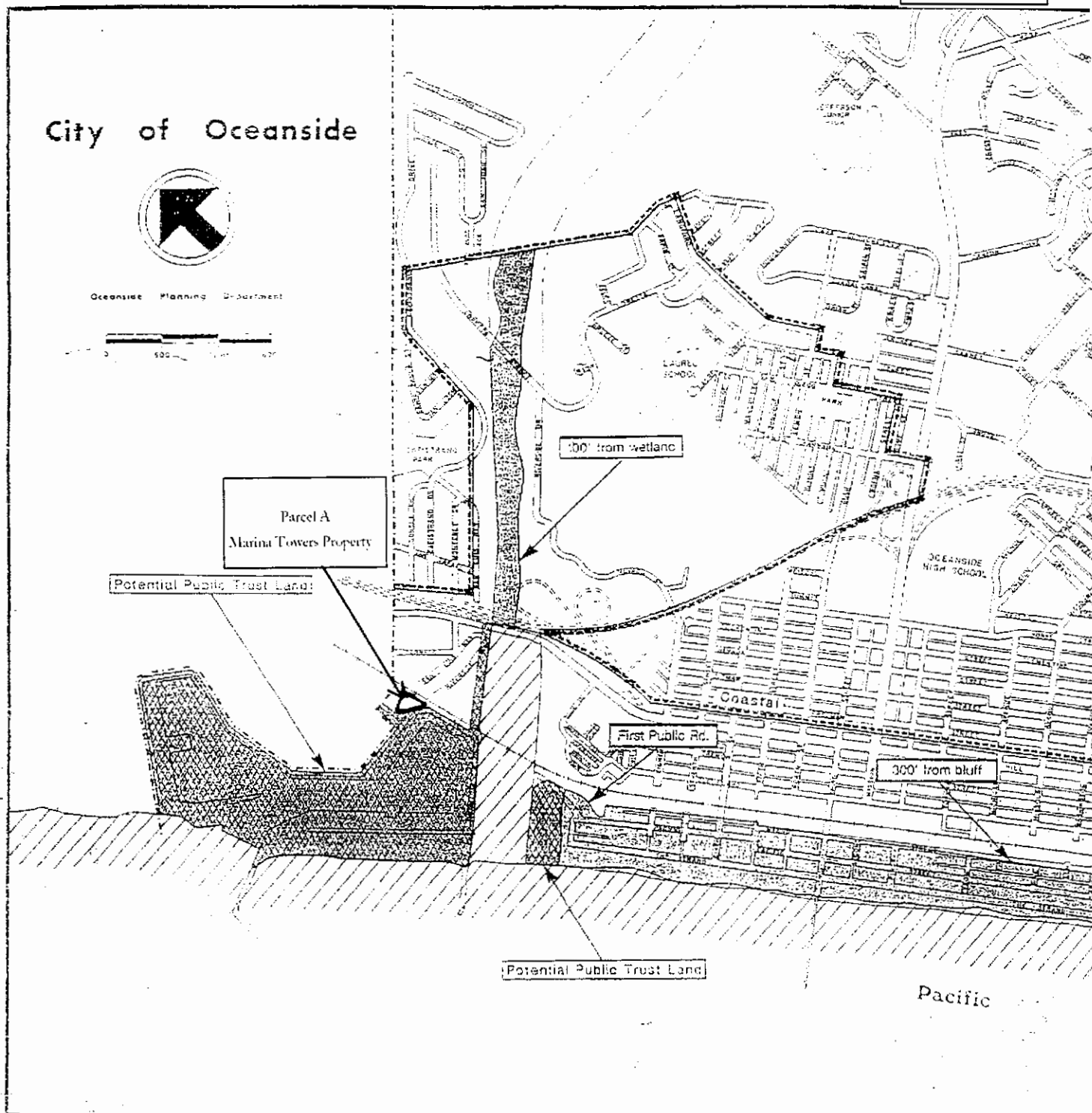
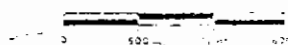
Michael R. Valentine, Chief
Division of Land Management.

cc: Sherilyn Sarb, CCC
Doug Eddow, City of Oceanside
Curtis Fossum
Jennifer Lucchesi

City of Oceanside



Geography Planning Department



Post LCP Certification
Permit and Appeal Jurisdiction
County of San Diego City ofceanside

Not:

This report was prepared to show whether the Commission's findings on the effects of the 1980-81 and 1981-82 school years on the number of students in the public schools in the United States were consistent with the findings of the 1980-81 and 1981-82 school years. The Commission's findings on the effects of the 1980-81 and 1981-82 school years on the number of students in the public schools in the United States were consistent with the findings of the 1980-81 and 1981-82 school years.

Legend



Permit Jurisdiction

71. 9.23.98 including the following: the proposed plan for the 100 long and the 100 short bridge piers.



Appeal Jurisdiction

This area includes land between the river and the 100-year flood. Subsidized and unimproved lands (15,000 acres) include a number of one-acre plots and other small plots. The total is the biggest number of plots in the entire database. Also included are sales between 100 and 1,000 acres and included are sales under 100 of the land in the previous issue of the database.



Original Jurisdiction to Enforce

This area includes lands where the Commission has delegated original permit jurisdiction to the local government for areas potentially subject to the public trust but which are filled, developed, and committed to broad uses.



California Coastal Commission

NOTE

In addition to these geographic areas of appeal jurisdiction the following types of development are appealable throughout the coastal zone pursuant to PRC Section 30603 (a)(4) and (a)(5):

1. Any development approved by a county that is not designated as a principal permitted use under zoning approved pursuant to the applicable Local Coastal Program;
2. Any development that constitutes a major public works project or a major energy facility.

In areas where a parcel is bisected by the appeals jurisdiction boundary, only that portion of the parcel within the area defined as appealable is subject to the Commission's appeal jurisdiction.

Marina Towers Property

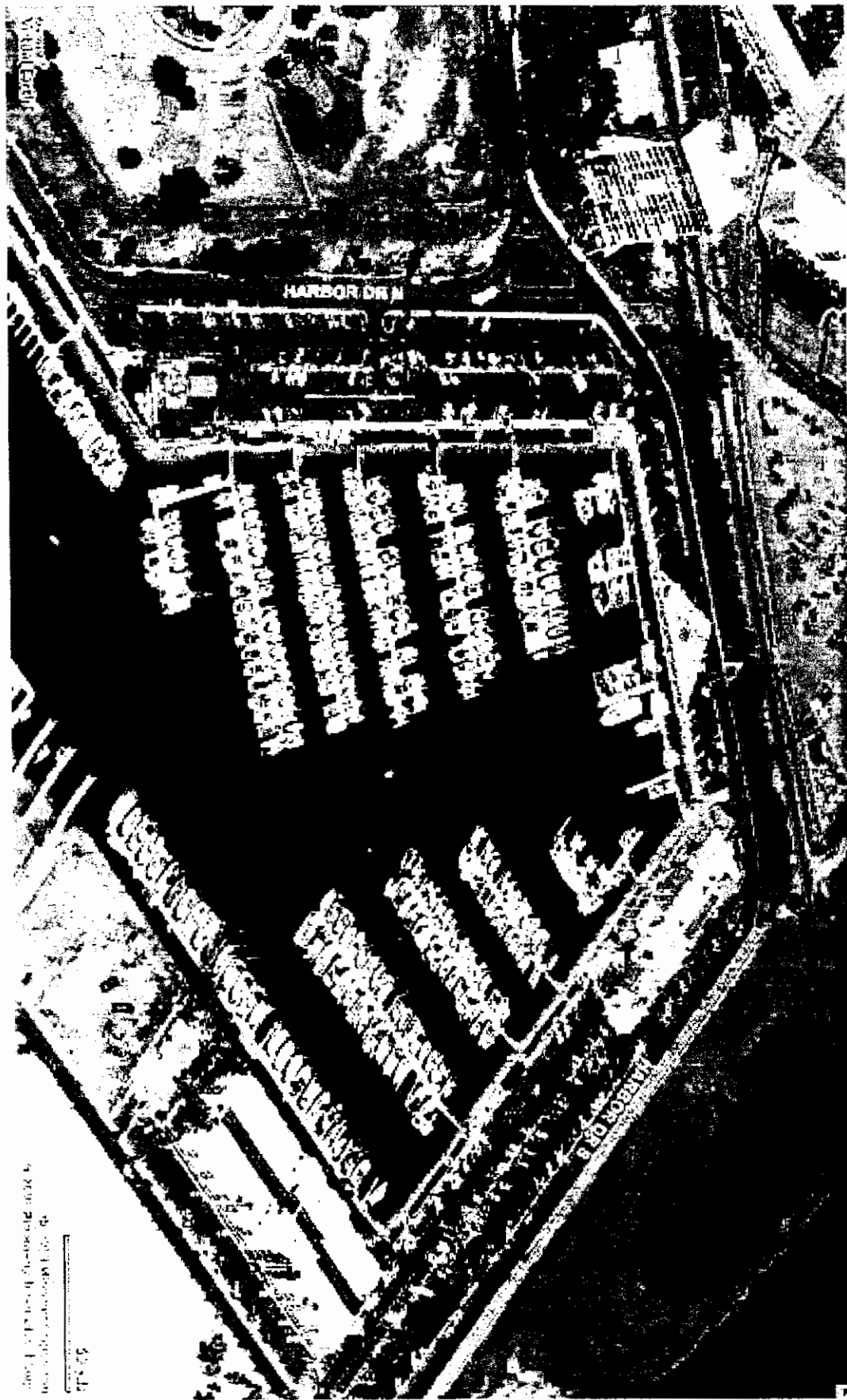


Exhibit 7

No Scale

30 ft
0 10 20 30 40 50 60 70 80 90 100
Feet

HARBOR
OVERVIEW



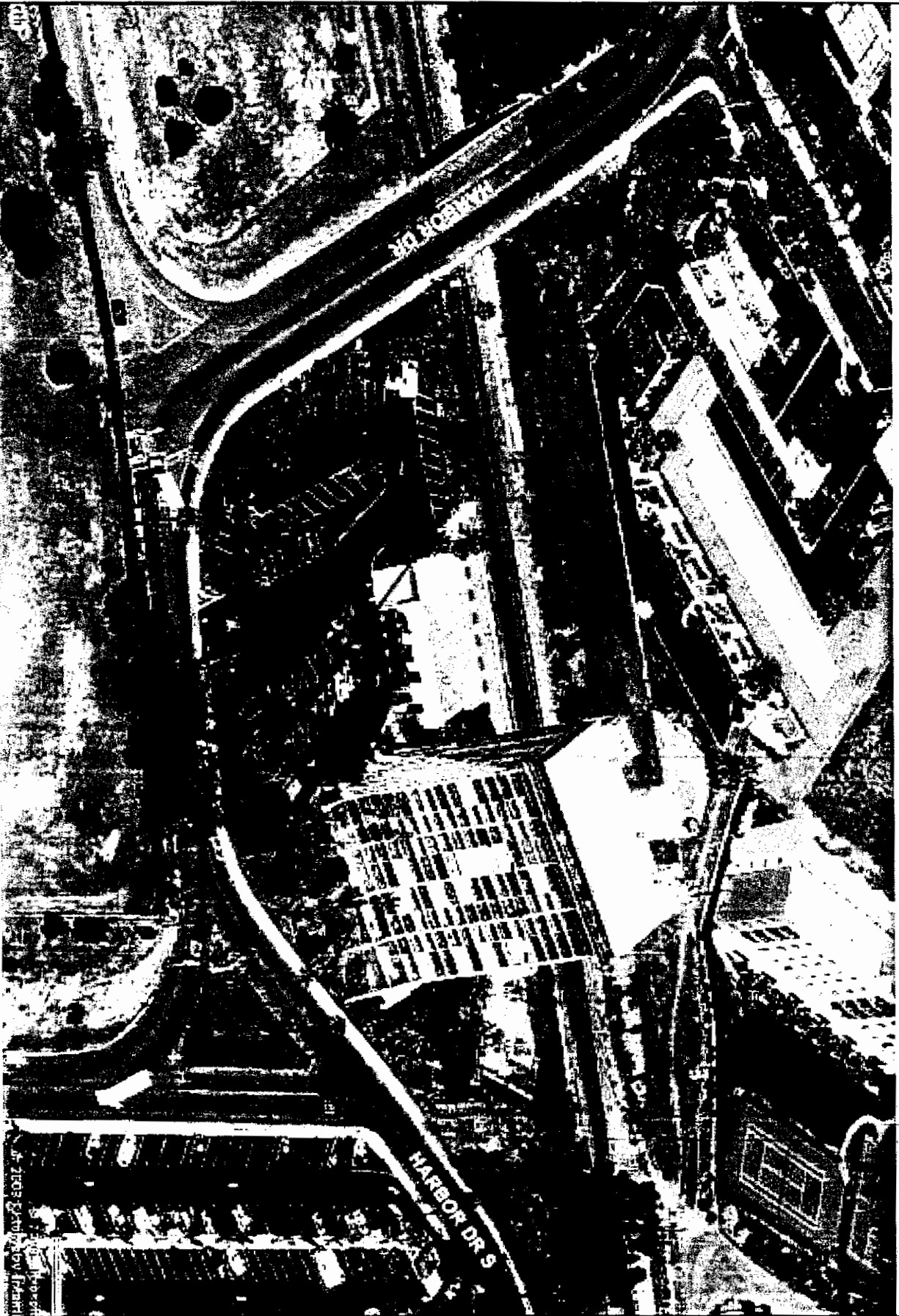
MARINA TOWERS

10
100-45
100-1
100-1
100-1

✓

Marina Towers property after LJA - inland of Harbor Drive

Exhibit 8



No Scale

LINE 1000 - 1000 FT



MARINA TOWERS

1000
FOOT
SCALE



CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370



September 16, 2005

Ms. Pamela Walls
City of Oceanside
Office of the City Attorney
300 North Coast Highway
Oceanside, CA 92054-2885

RECEIVED

SEP 20 2005

OCEANSIDE CITY ATTORNEY

Re: Marina Towers site

Dear Ms. Walls:

This is in response to your letter dated July 25, 2005 wherein you ask whether or not the above referenced property is within the Coastal Commission appeal jurisdiction. The Post LCP Certification Permit and Appeal Jurisdiction Map approved by the Coastal Commission on December 17, 1985 indicates the southern portion of the property is within the Commission's appeal jurisdiction. This specific area includes land where, pursuant to Section 30613 of the Coastal Act, the Commission has delegated original permit jurisdiction to the local government because the area is potentially subject to the public trust but it has been filled, developed, and committed to urban uses.

The area that is potentially subject to the public trust corresponds to the southern 200 plus/minus feet of the parcel referred to in the August 19, 2005 letter from Michael Valentine of the State Lands Commission (CSLC). The letter indicates this area may have included tide and submerged lands prior to artificial changes to the area.

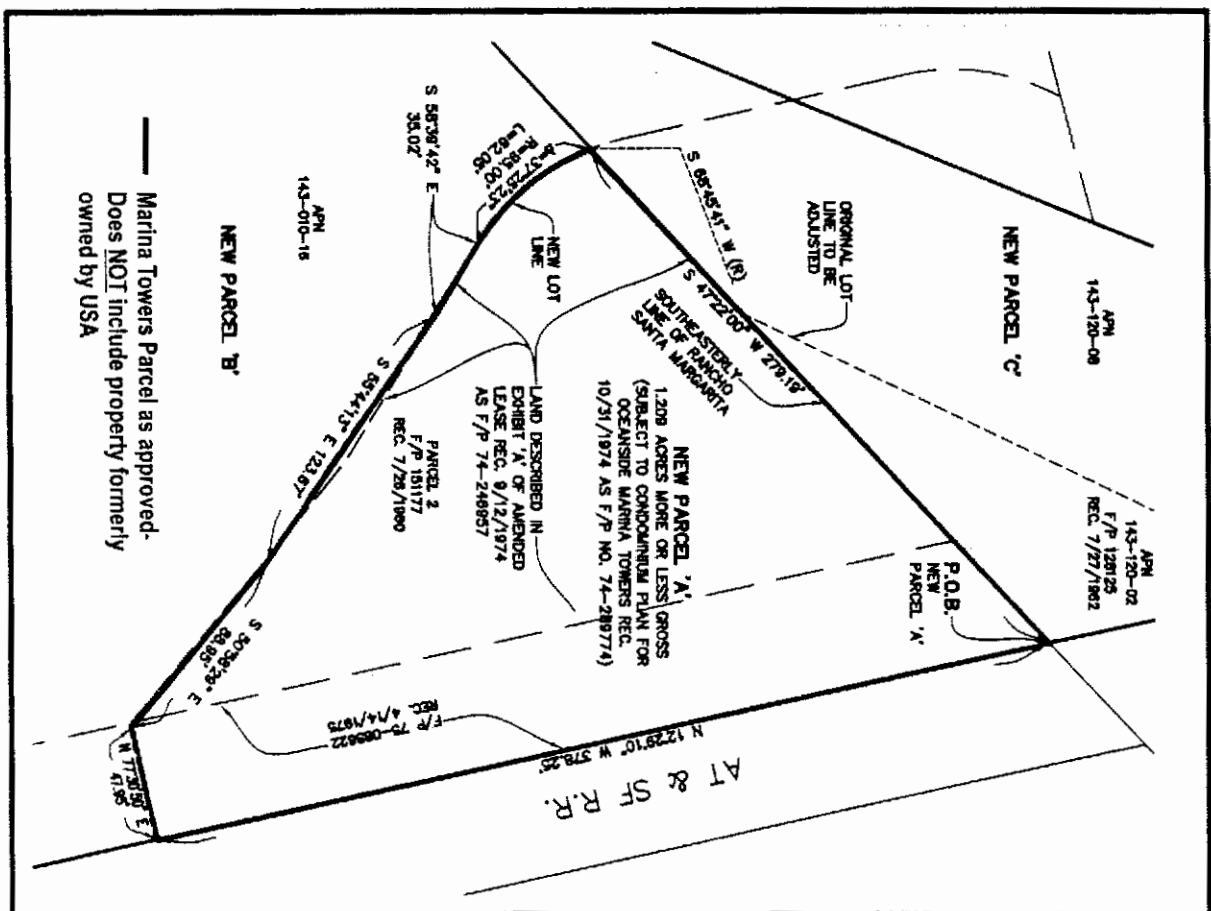
Therefore, the City of Oceanside has coastal development permit authority for the entire site. The City decision on a coastal development permit for development affecting the area of Commission appeals jurisdiction would be appealable to the Coastal Commission. Such development would include, but is not limited to, division of land including lot splits and boundary adjustments. As stated in the State Lands Commission letter, a boundary line agreement between the City and the State acting through the CSLC is exempt from the Coastal Act and would not require a coastal development permit.

I hope this answers your questions regarding Coastal Commission jurisdiction over this property. Please call me at (619)767-2370 if you have any further questions.

Sincerely,

Sherilyn Sarb
Sherilyn Sarb
District Manager

2007 Approval

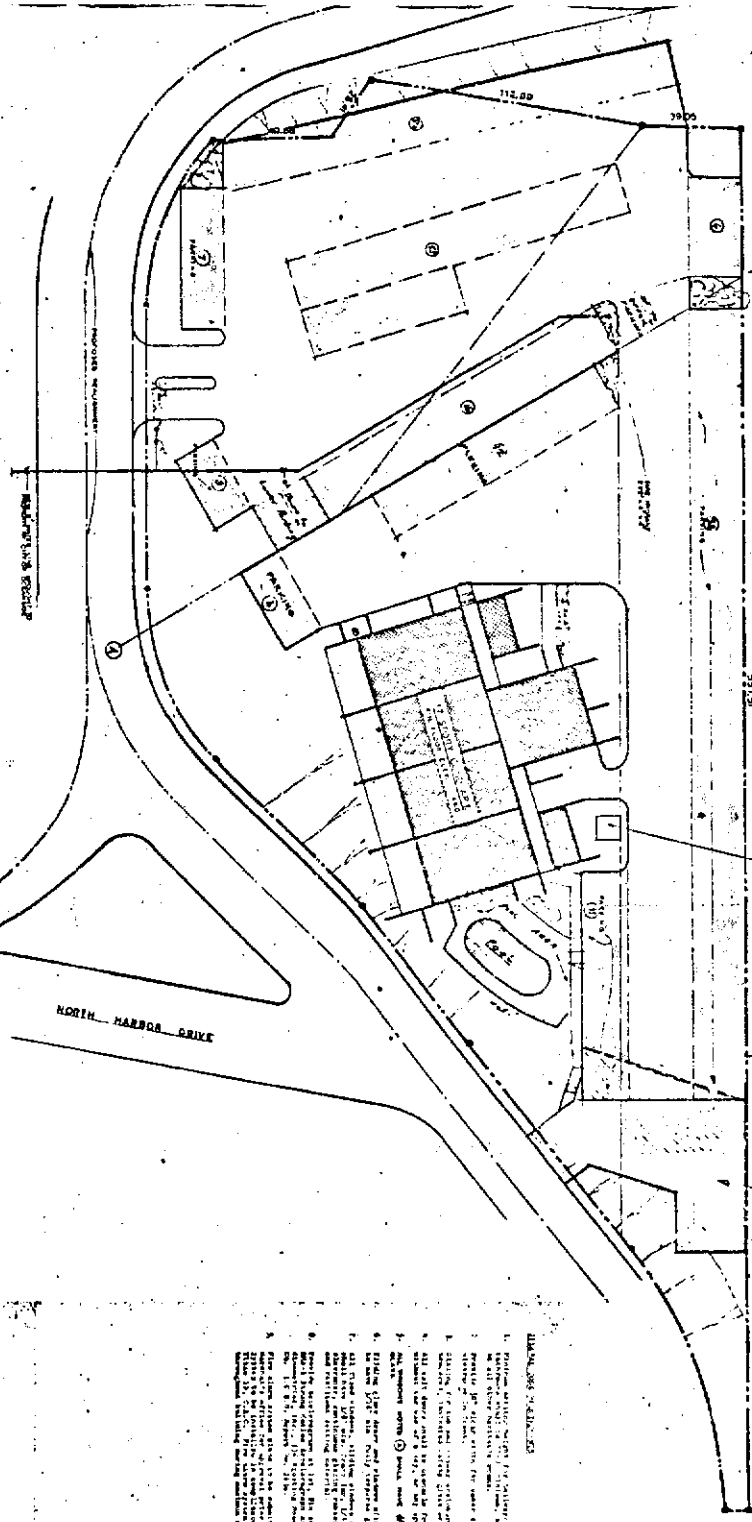


Blue - Marine Access
 Red - Common Area



SITE PLAN

GENERAL NOTES:
 1. All dimensions are in feet.
 2. All areas are to be landscaped.
 3. All areas are to be paved.
 4. All areas are to be graded.
 5. All areas are to be finished.
 6. All areas are to be finished.
 7. All areas are to be finished.
 8. All areas are to be finished.
 9. All areas are to be finished.
 10. All areas are to be finished.



GENERAL NOTES:
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 7. All areas are to be finished.
 8. All areas are to be finished.
 9. All areas are to be finished.
 10. All areas are to be finished.

EXHIBIT NO. 13

APPLICATION NO.

A-6-OCN-08-075

Parking Plan from 1973

California Coastal Commission

A-1

OWNER • DEVELOPER • BUILDER

OCEANSIDE MARINA TOWERS INC.

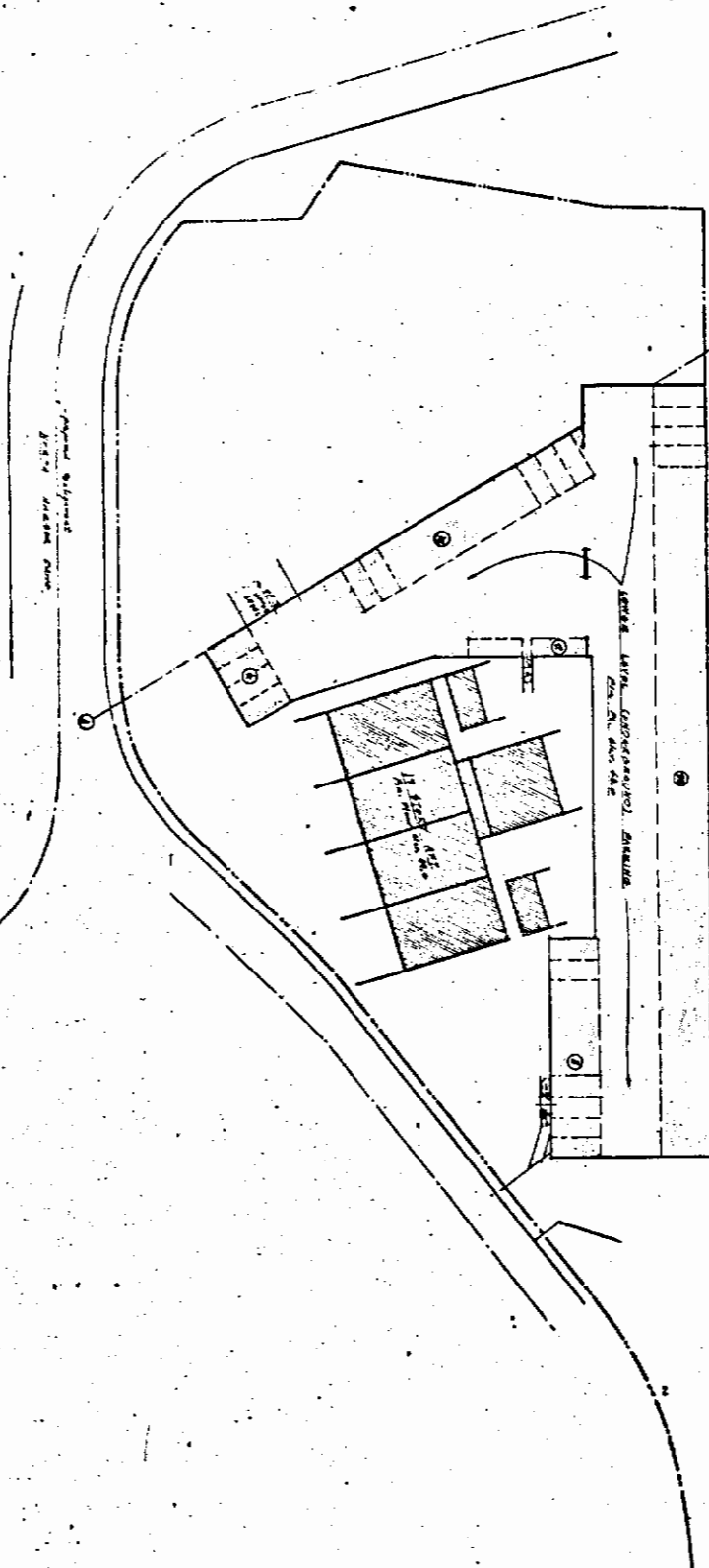
OCEANSIDE MARINA TOWER

OCEANSIDE • CALIFORNIA



LOANER LEVEL SURVEYING PARKING AREA
BY OWNER

Proposed Highway
Right of Way



AREA MARKING

V-1-V

OWNER'S COPY

DATE

BY

3/7/72

10/1/72

OWNER • DEVELOPER • BUILDER
OCEANSIDE MARINA TOWERS

OCEANSIDE MARINA TOWER
OCEANSIDE • CALIFORNIA

GEORGE HUGHES & ASSOCIATES
ARCHITECTS

REGISTERED ARCHITECTS
STATE OF CALIFORNIA

To whom it may concern:

I am resident of Oceanside for over 40 years. I love this city, my city. I want the best for it. I frequently go to the City Council meetings and I understand that the City is going to sell the land under the Marina Towers for five million. I think, it would be more beneficial for the city to give them an extension of the lease another 20 years and charge them 2% of every sale because having a long term lease they can sell their property and finance it. It would be 2 % of every sale and that is good money. If the building is in good condition after 40 years you can convert it to a first class hotel and in any case the land value would be at least 40 million.

I think you should consider this option instead of taking a short term view of the situation.


Respectfully,

A Concerned Citizen

RECEIVED

NOV 05 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 14
APPLICATION NO.
A-6-OCN-08-075
Letter of Comment
Page 1 of 3
 California Coastal Commission

OCEANSIDE HARBOR BOARD OF DIRECTORS

OCT 10 2008

RESOLUTION NO. 08-R0605-2

CALIFORNIA
COASTAL COMMISSION
SANDIEGO COAST DISTRICT

A RESOLUTION OF THE HARBOR BOARD OF DIRECTORS APPROVING A
REVISION TO REGULAR COASTAL PERMIT (RC-16-06) FOR A LOT LINE
ADJUSTMENT FOR THE MARINA TOWERS LOCATED ON HARBOR DRIVE
NORTH – APPLICANT: CITY OF OCEANSIDE

WHEREAS, on October 8, 2008, the Harbor Board of Directors held a duly noticed public hearing to consider an application for a Revision to Regular Coastal Permit (RC-16-06) for a lot line adjustment for property owned by the City on Harbor Drive North;

WHEREAS, the applicant is the City of Oceanside;

WHEREAS, studies and investigations made by the Harbor Board of Directors reveal the following facts:

FINDINGS:


For the Revision to Regular Coastal Permit:

1. The proposed project is consistent with the Land Use Plan objectives and policies of the Local Coastal Program as implemented through the Harbor Precise Plan, in that the project site property is identified in the Precise Plan as "Parcel A: Oceanside Marina Towers." The Precise Plan states that the 67-unit Marina Towers condominium complex would remain as the principal use of the parcel during the duration of both the short range and long range plans, and sale of Marina Towers will not alter the designated residential use envisioned within the Precise Plan.

The proposed lot line adjustment is consistent with the policies of the Local Coastal Program as implemented through the City Zoning Ordinance and Harbor Precise Plan as the lot line adjustment will not result in any physical changes to the property or harbor. The proposed action will create a logical lot formation in that no tidelands property will be associated with the lot that includes the Marina Towers. Specifically, the action will adjust lot lines to more accurately reflect the Parcel A leasehold: Oceanside Marina Towers described in Section 3.3.1 of the Oceanside Small Craft Harbor Precise Plan.

///

///

EXHIBIT NO. 15
APPLICATION NO.
A-6-OCN-08-075
Amended Resolution
1 of 3 pgs
 California Coastal Commission

2. The project will not substantially alter or impact existing public enjoyment of the Small Craft Harbor in the coastal zone area as no physical changes in terms of traffic, land use or appearance will occur to the Marina Towers or Harbor area.

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

WHEREAS, the Harbor Board finds that the project is exempt from further environmental review pursuant to Article 19, Section 15305, Minor Alterations in Land Use Limitations of the State Guidelines of the California Environmental Quality Act.

NOW, THEREFORE, the Harbor Board of the City of Oceanside does resolve that Revision to Regular Coastal Permit (RC-16-06) is hereby approved in accordance with the following conditions:

1. This Regular Coastal Permit approves only a lot line adjustment. Any substantial modification in the design or layout shall require a revision to the Regular Coastal Permit and/or a new Regular Coastal Permit.

2. This Regular Coastal Permit shall expire on October 8, 2010, unless implemented as required by the Local Coastal Program or unless a time extension is granted by the and Harbor Board.

3. The property northerly of the Marina Towers property (shown in Exhibit A, attached) shall be reserved for public parking. The applicant shall be required to reserve and clearly delineate a minimum of 50 parking spaces to be used for public purposes. The public parking lot shall have the same restrictions as the other public parking areas in the Harbor.

4. The existing "Marina Towers" entry sign located in the public driveway shall be removed within 60 days of final action of the PLA.

5. Standard City "PUBLIC PARKING" parking signs shall be placed along Harbor Drive and within the public parking lot identifying the public parking area. The City shall provide notification to the public of the availability of the public parking through the City's Quarterly Magazine, Parking Guide, and any similar notification used for other public parking lots.

6. The City shall be responsible for the maintenance and enforcement of the public parking lot.

7. Marina Towers residents and guests shall not be entitled to, or be provided with any special rights for use of the public parking lot.

///

///

1 8. Failure to meet any conditions of approval for this development shall constitute a violation of the
2 Regular Coastal Permit.

3 9. A covenant or other recordable document approved by the City Attorney shall be prepared and
4 recorded prior to or concurrent with the recordation of the Lot Line Adjustment. The covenant
5 shall provide that the property is subject to this resolution, and shall generally list the conditions
6 of approval.

7 PASSED AND ADOPTED by the Oceanside Harbor Board of the City of Oceanside this 8th day
8 of October, 2008 by the following vote:

9 AYES:

10 NAYS:

11 ABSENT:

12 ABSTAIN:

13 _____
President

15 ATTEST:

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

16 _____
17 Signature on File

18 _____
Secretary

19 _____
20 General Counsel

21 A RESOLUTION OF THE HARBOR BOARD OF DIRECTORS APPROVING A REVISION TO
22 REGULAR COASTAL PERMIT (RC-16-06) FOR A LOT LINE ADJUSTMENT FOR THE MARINA
23 TOWERS LOCATED ON HARBOR DRIVE NORTH - APPLICANT: CITY OF OCEANSIDE
24
25
26
27
28

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Commissioner Sara Wan
Mailing Address: 45 Fremont Street
Suite 2000
San Francisco, CA 94105
Phone Number: 415-904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside
2. Brief description of development being appealed: Amendment to coastal development permit for lot line adjustment to separate the residential portion of the lot from the public trust lands and to separate and delineate the public parking areas from the private parking area. The amendment specifically addresses restrictions to protect the public parking.
3. Development's location (street address, assessor's parcel no., cross street, etc:)
The entrance to the Oceanside Harbor within the Oceanside Small Craft Harbor Precise Plan area, Oceanside, San Diego County.
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-OCN-08-102

DATE FILED: 10/27/08

DISTRICT: San Diego

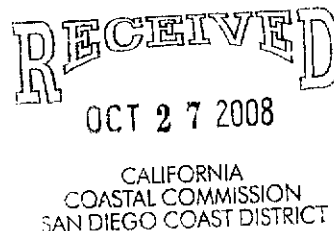


EXHIBIT NO. 16
APPLICATION NO.
A-6-OCN-08-075
Appeals for amended CDP
1 of 16 pgs
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

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

a. ☐ Planning Director/Zoning
Administrator

c. ☐ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☒ Other

Date of local government's decision: 10/8/08

Local government's file number (if any): RC-16-06 Revised 2008

SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

City of Oceanside
300 N. Coast Highway
Oceanside, CA 92054
Attn: Jerry Hittleman

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

Citizens for the Preservation of Parks & Beachs
904 Leonard Avenue
Oceanside, CA 92054

SECTION IV. Reasons Supporting This Appeal

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

See Attachment "A" Dated October 27, 2008

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

SECTION V. Certification

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

Signed: _____ Signature on File

Signed: *[Signature]*
Appellant or Agent

Date: 10/27/2008

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

Signed: _____

Date: _____

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 787-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Commissioner Mary Shallenberger
Mailing Address: 45 Fremont Street
Suite 2000
San Francisco, CA 94105
Phone Number: 415-904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside
2. Brief description of development being appealed: Amendment to coastal development permit for lot line adjustment to separate the residential portion of the lot from the public trust lands and to separate and delineate the public parking areas from the private parking area. The amendment specifically addresses restrictions to protect the public parking.
3. Development's location (street address, assessor's parcel no., cross street, etc.): The entrance to the Oceanside Harbor within the Oceanside Small Craft Harbor Precise Plan area, Oceanside, San Diego County.
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-OCN-08-102

DATE FILED: 10/27/08

DISTRICT: San Diego

RECEIVED
OCT 27 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

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

a. ☐ Planning Director/Zoning
Administrator

c. ☐ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☒ Other

Date of local government's decision: 10/8/08

Local government's file number (if any): RC-16-06 Revised 2008

SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

City of Oceanside
300 N. Coast Highway
Oceanside, CA 92054
Attn: Jerry Hittleman

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

Citizens for the Preservation of Parks & Beachs
904 Leonard Avenue
Oceanside, CA 92054

SECTION IV. Reasons Supporting This Appeal

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

CALIFORNIA COASTAL COMMISSION

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



Attachment A
Marina Towers Lot Line Adjustment Amendment
October 27, 2008

The City of Oceanside initially approved a lot line adjustment for land located within the Harbor District and developed with a 67 unit condominium complex, a parking garage, and a parking lot (including 54 required public parking spaces). An appeal was filed (A-6-OCN-08-075); and, at the substantial issue determination hearing in September 2008, a key concern was the protection of public parking at the site. The City has subsequently processed an amendment to attempt to address the Commission's questions relative to public parking at the site. However, the decision raises the following concerns:

- The City's action fails to preclude overnight parking at the Marina Towers lot which still allows the residents to usurp public parking spaces for private use; and
- The City's action reduced the previously identified public parking spaces from 54 to 50 spaces at the site.

Originally, the City approved the lot line adjustment for the Marina Towers development and that decision became the subject of an appeal by the Commission and other members of the public. A lot line adjustment and, therefore, a coastal development permit was necessary to separate the residential portion of the lot from the public trust lands on the site in order to allow the sale of the residential portion of the lot to a private entity. The approved lot line adjustment also was utilized to separate and delineate the public parking areas from the private parking areas. However, no special conditions addressing this issue were included.

An appeal was filed with the Commission for the lot line adjustment on August 12, 2008. The Substantial Issue determination was brought to the September, 2008 hearing in Eureka. A number of concerns were raised by the Commission and the appellants regarding the approved lot line adjustment. However, the primary concern of the Commission was the protection of the existing public parking. The Marina Towers' parking lot is required to provide 54 of the on-site parking spaces for free public parking. However, it appears that currently the majority of parking spaces are being utilized by the residents of Marina Towers. The Commission recommended the City amend the Coastal Development Permit (CDP) to include conditions that would better protect the public parking (more adequate signage, restrictions for tenant use, etc.)

The City of Oceanside agreed to amend the CDP, and took revised language to the City Council on October 8, 2008. Included in the revised resolution were conditions that addressed signage, the number of public parking spaces, maintenance requirements and the following condition:

3. The property northerly of the Marina Towers property (shown in Exhibit A, attached) shall be reserved for public parking. The applicant shall be required to

reserve and clearly delineate a minimum of 50 parking spaces to be used for public purposes. The public parking lot shall have the same restrictions as the other public parking areas in the Harbor.

The conditions approved by the City in the amendment are an improvement from how the public parking spaces are currently protected. However, significant concerns remain. In consulting with the City, Commission staff had conveyed the desire to restrict overnight parking at this lot. Because the lot is located directly adjacent to a residential development and the history of the City permitting and the residents utilizing this lot for private use, Commission staff identified that measures need to be taken to protect the public parking lot from over-utilization by the residents of this development. Thus, it was suggested that a restriction on parking from 2-5 a.m., similar to that utilized in numerous other public parking lots in the City, would address this concern and assure the parking lot is available for the general public and not utilized as a private residential parking lot for the adjacent Marina Towers residential development. The City however did not want to put such a restriction on the parking lot, and thus the protection of the public spaces from use by the Marina Towers residents cannot be assured. By simply stating that the restrictions would be similar to other Harbor parking facilities, the City failed to restrict long-term parking use by residents that usurps the spaces for public use.

Furthermore, the resolution includes the protection of a minimum of 50 parking spaces. During the initial review of the CDP, the City of Oceanside submitted to the Commission a figure detailing the public parking spaces. Based on this map, the number of public parking spaces in this lot is 54. Again, the resolution only requires the protection of 50 parking spaces, thus delegating four (4) of the existing public parking spaces to Marina Towers. Marina Towers has a parking garage and a portion of the at grade lot in question. To remove highly desirable public parking spaces for private residential use raises significant concerns, and is not consistent with the City's certified LCP. In conclusion, while the City willingly added language to better protect the existing public parking spaces, the language provided is not adequate to ensure that the parking lot will not be monopolized by the residents of Marina Towers and such language would also result in a loss of four existing public spaces.

CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

Citizens for the Preservation of Parks & Beaches

904 Leonard Ave, Oceanside, Ca.

92054

Zip

(760) 433-9899-Sheri

Area Code Phone No.

760) 439-0863-Carolyne

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside

2. Brief description of development being appealed: RC-16-06 Revised 2008 - Revisions affecting property line adjustment and Marina Towers Leasehold.

3. Development's location (street address, assessor's parcel no., cross street, etc.): Oceanside Harbor entrance within the jurisdiction of the Oceanside Small Craft Harbor Precise Plan

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: RC-16-06 Revised 2008

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-OCN-08-102

DATE FILED: 10/27/08

DISTRICT: San Diego

RECEIVED
OCT 27 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

D/86

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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

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

6. Date of local government's decision: 10/8/08

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

City of Oceanside
300 N. Coast Hwy, Oceanside, CA 92054

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

(1) Marco Gonzalez, Coast Law Group/Surfrider
169 Saxony, Encinitas, CA 92024

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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

See Attached

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

SECTION V. Certification

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

Signed Ca Signature on File
Appellant or Agent

Date 10/26/08

Signature on File

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

Signed _____
Appellant

Date _____

Citizens for the Preservation of Parks and Beaches

October 26, 2008

California Coastal Commission
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402
RE: Regular Coastal Permit (RC-16-06 REVISION)

Receiver

100 27 2008

California Coastal Commission
San Diego Coast District

Dear Commissioners:

The permit as filed, violates Sections 30210 and 30213 of the Coastal Act and should not be approved as submitted.

The Citizens for the Preservation of Parks and Beaches support Coastal Commission Staff's recommendation that an additional condition be included in the Regular Coastal Permit which *will provide assurances* that the public parking lot located adjacent to the Marina Towers *will remain open for public parking*, by asking that signage be installed in the public parking lot adjacent to the Marina Towers, which prohibits overnight parking (i.e., parking not permitted from 2:00 am to 5:00 am); therefore being consistent with Lots 4 and 5 directly adjacent to this lot.

The language in the Staff Report (October 8, 2008) supporting the Adoption of a Resolution Approving a Revision to the Coastal Permit (property line adjustment) is vague; it imposes no parking restrictions in the public lot whatsoever; in contrast, the public parking lots *adjacent to* (Lots 4 and 5) and public street (Harbor Drive) *surrounding* the Marina Towers, *all have 2 hour parking restrictions* (see Attachment 2). The permit, if approved as submitted, will hinder public access through the residents on-going pleasure of control of this lot through long-term residential parking uses; hence the majority of the parking spaces will continue to be used as a long-term parking facility for residents and *restrict access to low cost, conveniently located visitor serving uses adjacent to the Marina Towers* (Monterey Bay and Crabby Bob's restaurants). Even the Harbor Precise Plan notes concerns with "circulation and parking activities on this [Chart House/Crabby Bob's] limited-parking site..." Considering the age of the Harbor Precise Plan, it was clear that parking in this area (Lots 4 and 5 – adjacent to the Marina Towers) was, and is still at premium and should be according to the Harbor Precise Plan, "carefully monitored...in order to institute necessary mitigation measures." Additionally, the Harbor Precise Plan shows that due to "spaces lost to restaurant expansion" the impact was a "30 space deficit in Lots #4 and #5," which are directly west and adjacent to the Marina Towers. Allowing Marina Tower residents to continue to use the parking lot adjacent to the Marina Towers for overnight/long term residential parking clearly violates the spirit (if not words) of the Coastal Act, Local Coastal Plan and Harbor Precise Plan and should not be granted. We need more access to parking in this area for access to low-cost visitor serving uses, not restrictions through long-term residential uses.

Further, the City's Staff Report states, "... (RC-16-06 REVISION) which would designate that the property to the north of the Marina Towers Property be reserved for public parking

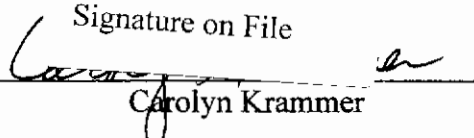
904 Leonard Avenue Oceanside, CA 90254

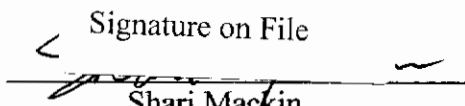
and delineate a minimum of 50 parking spaces for public purposes." What it doesn't state is that should the coastal permit be approved, it will result in a loss of public parking at this site. The statement should read, "....delineate a minimum of 58 parking spaces for public purposes." These parking spaces as well as the access they will provide to low-cost visitor serving uses and the shore has been kept from the public use for more than 20 years through a lease and use permit (Attachment 3) by the city to the residents of the Towers – we need to insure that we do not lose one parking space to trash receptacles, storage, or other residential uses. Please do not provide through the approval of the coastal permit as submitted, the residents of the Marina Towers, *carte blanche to control the access* of this public lot. We oppose the continued use and availability of public parking for overnight uses for the residents of the Marina Towers.

The Towers residents have used this public parking lot for years to store vehicles, trash receptacles for their homes, and recreational vehicles while the beach going public has had to walk for lengthy distances or have been turned away from attending harbor events, fireworks, or other beach related venues due to the exclusive use of this parking lot by the residents. Should this lot be approved for overnight use, the public will never have true "conspicuous" (LCP) public parking in this lot; rather, it will remain as a "placeholder reminder" of what the Marina Towers still has control of – access to low cost visitor serving uses and access to the shore.

To conclude, the Harbor Precise Plan's Short-Term Plan includes making improvements to "signage" and the Long-Range Plan includes making "additional parking improvements throughout the Harbor, *particularly in high use areas.*" This is the perfect opportunity to implement both the short and long-term plans by conditioning the permit with 2 hour parking and no overnight parking just as Lots 4 and 5 (highly impacted lots adjacent Marina Towers located in a "high use area" with a "30 space deficit" HPP) are conditioned. We urge you to condition the permit and not allow the Marina Towers residents to hinder access to low cost visitor serving uses by using this parking lot for long-term, and residential overnight parking.

Thank you,

Signature on File

 Carolyn Krammer

Signature on File

 Shari Mackin

Citizens for the Preservation of Parks and Beaches

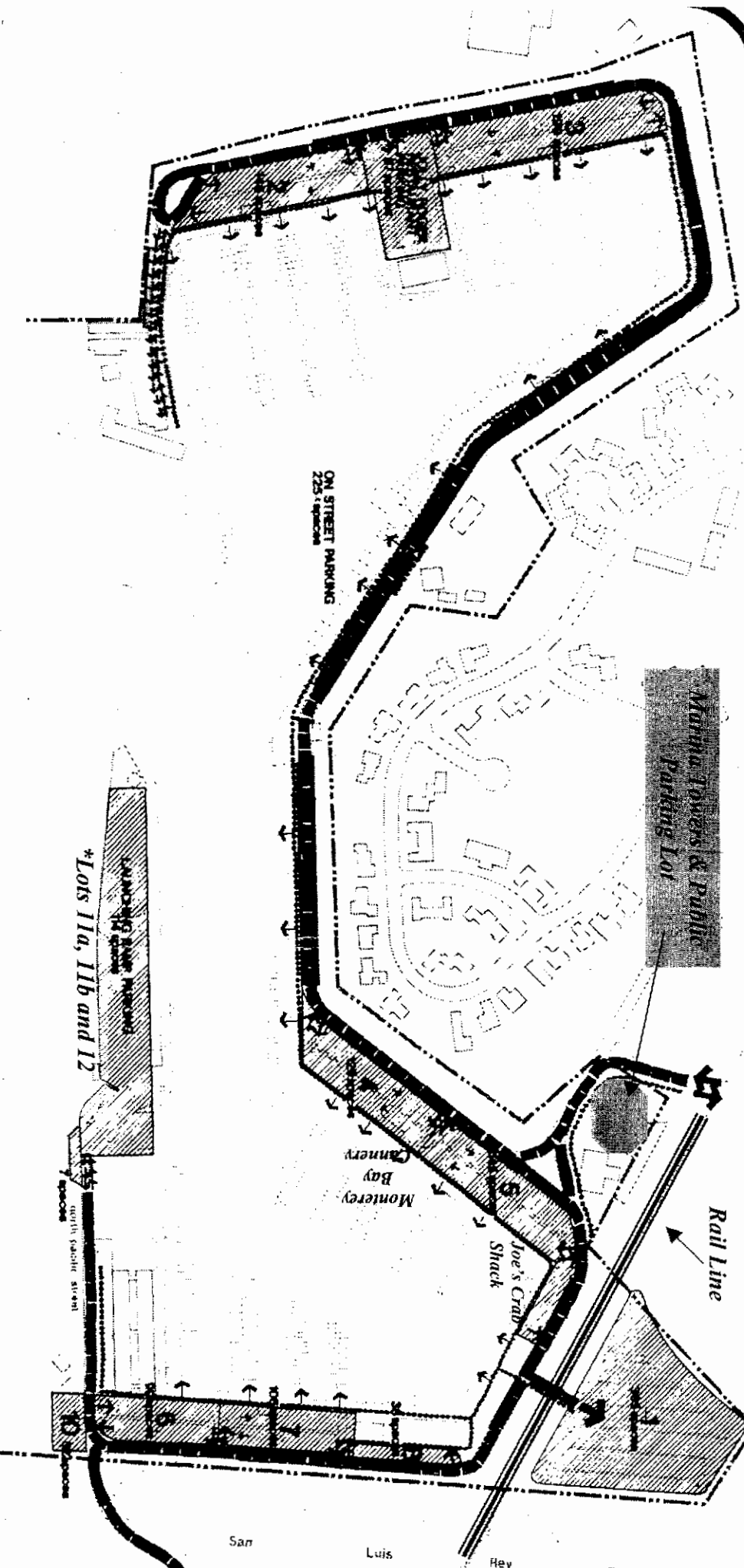
attach:

- Attachment 1
- Attachment 2
- Attachment 3


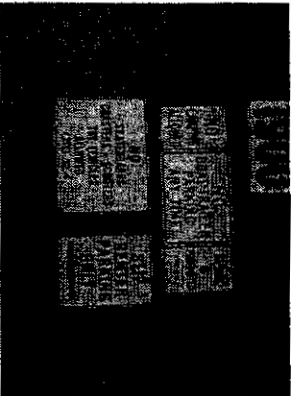

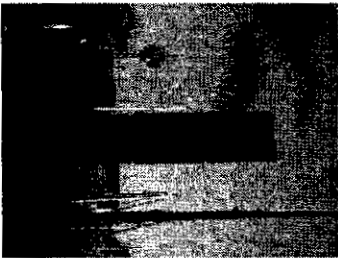

cc: Coast Law
 files

ATTACHMENT 2- Harbor Precise Plan Public Parking & Circulation -- Figure 4-8

Lot 1	Newly posted "72 hr parking"
Lot 2	Slip Renters Only
Lot 3	72 hour slip renter parking (with red line down lot - "fire lane")
Lot 4-Adjacent to Marina Towers	2 hour
Lot 5-Adjacent to Marina Towers	2 hour
Lot 6	2 hour
Lot 7	2 hour
Lot 8	2 hour
Lot 10	2 hour; closed from 10 pm - 6 am
*Lots 11a and 11b	Overnight camping (located in boat launching area \$15.00 fee)
*Lot 12	Closed from 2 am - 5 am
Harbor Drive	2 hour



ATTACHMENT 1 – Harbor Parking Lots (photos taken October 14, 2008)

PARKING LOTS	COMMENTS/PICTURES		
Lot 1			
Lot 2	<p>This lot is has been newly posted with this sign. This has not been a "posted 72-hour" lot until recently (within the last couple of weeks).</p> 		
Lot 3 *	<p>This lot is parking for slip renters only.</p>    <p>This particular lot is discretely posted 72-hour parking; however, I believe the 72 hour parking is limited to the Slip Renter Parking as the arrow points down to parking spaces for Slip Renter Parking ONLY.</p>		

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



PAUL D. THAYER, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
Relay Service From TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-0234
Contact FAX: (916) 574-1855

December 18, 2008

File Ref: G10-06

Ms. Louise Warren
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: Marina Towers Condominiums, 1200 N. Harbor Drive, Oceanside

Dear Ms. Warren:

This letter is in response to some apparent confusion with regards to the affect various boundary line agreements, including the 1963 Boundary Line Agreement (BLA) with the city of Oceanside, has on the present and physical location of the mean high tide line within Oceanside Harbor. As explained below, the 1963 BLA does not effect the physical or present location of the mean high tide line within Oceanside Harbor.

As background, the State of California, by virtue of its sovereignty, acquired certain historic tide and submerged lands in the Gulf of Santa Catalina in the vicinity of Oceanside, San Diego County. The State's sovereign tide and submerged lands at this location were legislatively granted in trust to the city of Oceanside pursuant to Chapter 846, Statutes of 1979. The City of Oceanside and the State, acting by and through the State Lands Commission, have entered into numerous Boundary Line Agreements and Title Settlement Agreements within the City's grant, pursuant to Public Resources Code Sections 6357 and 6307, with various upland property owners over the years (State Lands Commission Agreements BLA 37, BLA 192 and AD 454, the latter two being within the San Luis Rey River).

In 1963, because the ordinary high water mark, as it last naturally existed, had been affected by both artificial and natural processes, the State Lands Commission and the City found it to be in the best interests of the State to fix the boundary between the State's sovereign lands and City proprietary property in the area of the mouth of Oceanside Harbor along the Pacific Ocean. As a result, the Commission and the City entered into a boundary line agreement (BLA 37).

EXHIBIT NO. 17
APPLICATION NO.
A-6-OCN-08-075
Second letter from State Lands
 California Coastal Commission

December 18, 2008

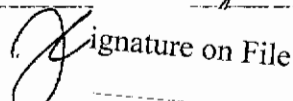
Page 2

It is important to note that this boundary line agreement fixed the ordinary high water mark in order to establish the boundary between historic state sovereign lands subject to the public trust doctrine and the City's proprietary lands and was not intended to established boundaries for Coastal Commission or other agencies jurisdiction. This BLA did not have any affect on the physical or present location of the mean high tide line within Oceanside Harbor. Additionally, to the extent that BLA 192 and AD 454 acknowledged the City's ownership of the San Luis Rey River as public trust lands those agreements may be considered a modification of BLA 37 as it crossed the mouth of the San Luis Rey River. To date, no title settlement has resolved the boundary of the historic location of San Luis Rey River between the Ocean and the interstate highway along the river's northern boundary.

As stated in previous correspondence relating to the subject condominiums, the portion of the subject parcel, with the exception of the southern 200 plus/minus feet, is located within Rancho Santa Margarita y Las Flores and within lands the State did not acquire or patent and are landward of historical tide and submerged lands. The southern 200 plus/minus feet of the parcel may have included sovereign public trust lands of the San Luis Rey River prior to artificial changes to the area. These trust lands would be subject to Chapter 846, Statutes of 1979.

If you have any questions or concerns, please do not hesitate to contact me at (916) 574-0234.

Sincerely,

 Signature on File

Jennifer Lucchesi
Staff Counsel

cc: Grace Kato

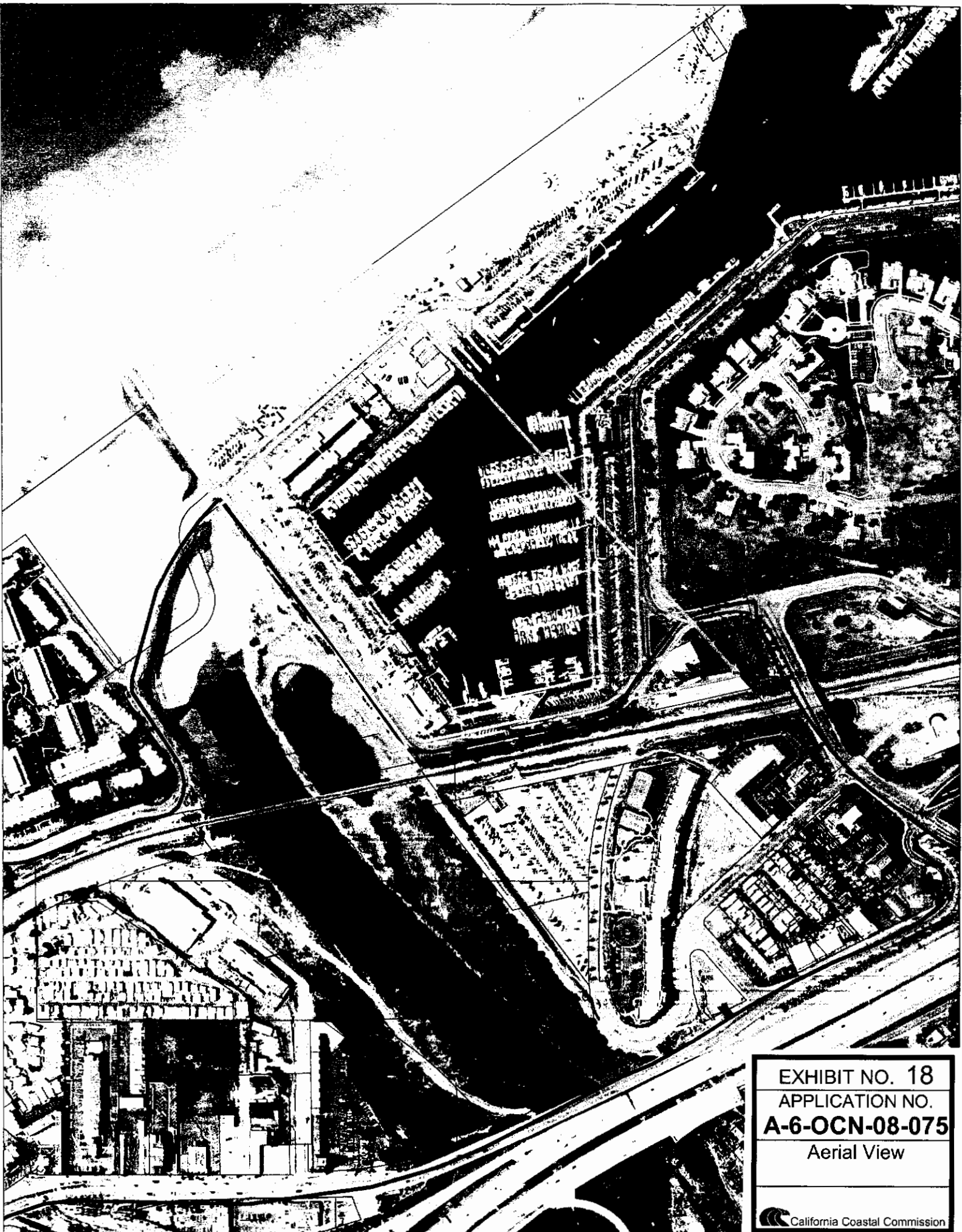


EXHIBIT NO. 18

APPLICATION NO.

A-6-OCN-08-075

Aerial View



California Coastal Commission