

# AGENDA NO 3

## PLANNING COMMISSION RESOLUTION NO. 2006-P66

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA APPROVING A VARIANCE ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

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APPLICATION NO: V-17-05  
APPLICANT: Alan and Stacey Regotti  
LOCATION: 1569 Camino Corto

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

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a Variance under the provisions of Articles 14 and 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

the construction of a 10-foot turret that is structurally part of a 6-foot tall CMU fence and placing an entry gate 20 feet from the front property line;  
on certain real property described in the Environmental Quality Act of 1970, and State Guidelines thereto; this project is categorically exempt from CEQA per Article 19, Section 15303(e) as the project entails new construction of accessory structures, like a fence;

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

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

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

FINDINGS:

For the Variance:

1. Special topographic and locational conditions apply to the development site that warrants the granting of the Variance. The area proposed to exceed the maximum fence

1 height has a natural slope downward and is situated well below the existing grade of the  
2 public roadway. The paved public roadway, a cul-de-sac, has an unimproved 20-foot  
3 parkway that provides sufficient distance from the street for an entry gate to be  
4 constructed within the 25-foot required setback for an entry gate in the Agricultural  
5 District.

6 2. Exceeding the maximum six feet fence and wall height permitted within the Agricultural  
7 District will not appear out-of-character with property improvements in the vicinity,  
8 because the additional height of the fence is located on a low point on the land. As such,  
9 granting the Variance will not be detrimental or injurious to property or improvements in  
10 the vicinity of the development site, or to the public health, safety or general welfare.

11 3. Granting of the Variance is consistent with the purpose of the Zoning Ordinance and will  
12 not constitute a grant of special privilege inconsistent with limitations on other  
13 properties in the vicinity and in the same zoning district. The distance between the  
14 paved road way and the property line is considerable and generally a typical for  
15 improvements in Oceanside.

16 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
17 approve Variance (V-17-05) subject to the following conditions:

18 **Building:**

19 1. Applicable Building Codes and Ordinances shall be based on the date of submittal for  
20 Community Development Department/Building Division plan check.

21 2. The wall, fence, and turret shall be designed by a California State licensed Engineer.

22 3. Applicable Building Codes and Ordinances shall be based on the date of submittal for  
23 Community Development Department/Building Division plan check. (Currently the 2001  
24 California Building Code, and 2004 California Electrical Code)

25 4. The granting of approval under this action shall in no way relieve the applicant from  
26 compliance with all State and Local building codes.

27 5. The building plans for this project shall be prepared by a licensed architect or engineer and  
28 shall comply with this requirement prior to submittal for building plan review.

1 All electrical, communication, CATV, etc. service lines within the exterior lines of the  
2 property shall be underground (City Code Sec. 6.30).

- 1 7. Compliance with the Federal Clean Water Act (BMP's) must be demonstrated on the plans.
- 2 8. The developer shall monitor, supervise and control all building construction and supporting
- 3 activities so as to prevent these activities from causing a public nuisance, including, but not
- 4 limited to, strict adherence to the following:
- 5 a) Building construction work hours shall be limited to between 7:00 a.m. and 6:00
- 6 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00 p.m. for work
- 7 that is not inherently noise-producing. Examples of work not permitted on Saturday
- 8 are concrete and grout pours, roof nailing and activities of similar noise-producing
- 9 nature. No work shall be permitted on Sundays and Federal Holidays (New Year's
- 10 Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day)
- 11 except as allowed for emergency work under the provisions of the Oceanside City
- 12 Code Chapter 38 (Noise Ordinance).
- 13 b) The construction site shall be kept reasonably free of construction debris as
- 14 specified in Section 13.17 of the Oceanside City Code. Storage of debris in
- 15 approved solid waste containers shall be considered in compliance with this
- 16 requirement. Small amounts of construction debris may be stored on-site in a neat,
- 17 safe manner for short periods of time pending disposal.
- 18 9. Documentation of properly recorded easements (for access and utilities) shall be shown on
- 19 the Plot Plans submitted for Building Permits.
- 20 10. The portion of the fence that exceeds six feet and the turret that is a maximum ten feet tall
- 21 shall be designed by a licensed Architect or Engineer.

**Planning:**

- 22 11. This Variance (V-17-05) shall expire on November 13, 2008, unless the Planning
- 23 Commission grants a time extension.
- 24 12. This Variance approves the walls, gate, and turret as shown on the plans and exhibits
- 25 presented to the Planning Commission for review and approval. No deviation from these
- 26 approved plans and exhibits shall occur without Community Development
- 27 Department/Planning Division approval. Substantial deviations shall require a revision to
- 28 the Variance or a new Variance.

- 1 13. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold  
2 harmless the City of Oceanside, its agents, officers or employees from any claim, action or  
3 proceeding against the City, its agents, officers, or employees to attack, set aside, void or  
4 annul an approval of the City, concerning Variance (V-17-05). The City will promptly  
5 notify the applicant of any such claim, action or proceeding against the City and will  
6 cooperate fully in the defense. If the City fails to promptly notify the applicant of any  
7 such claim action or proceeding or fails to cooperate fully in the defense, the applicant  
8 shall not, thereafter, be responsible to defend, indemnify or hold harmless the City.
- 9 14. A covenant or other recordable document approved by the City Attorney shall be prepared  
10 by the property owner and recorded prior to the issuance of building permits. The covenant  
11 shall provide that the property is subject to this resolution, and shall generally list the  
12 conditions of approval.
- 13 15. Prior to the transfer of ownership and/or operation of the site, the owner shall provide a  
14 written copy of the applications, staff report and resolutions for the project to the new  
15 owner. This notification's provision shall run with the life of the project and shall be  
16 recorded as a covenant on the property.
- 17 16. Failure to meet any conditions of approval for this development shall constitute a violation  
18 of the Variance.
- 19 17. Unless expressly waived, all current zoning standards and City ordinances and policies in  
20 effect at the time building permits are issued are required to be met by this project. The  
21 approval of this project constitutes the applicant's agreement with all statements in the  
22 Description and Justification, and other materials and information submitted with this  
23 application, unless specifically waived by an adopted condition of approval.
- 24 18. Prior to the issuance of building permits, compliance with the applicable provisions of the  
25 City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed  
26 and approved by the Community Development Department/Planning Division. These  
27 requirements, including the obligation to remove or cover with matching paint all graffiti  
28 within 24 hours, shall be noted on the Building Plans and shall be recorded in the form of a  
covenant affecting the subject property.

1 **Water:**

- 2 19. All public water and/or sewer facilities not located within the public right-of-way shall be  
3 provided with easements sized according to the Water, Sewer, and Reclaimed Water Design  
4 and Construction Manual. Easements shall be constructed for all weather access.  
5 20. No trees, structures or building overhang shall be located within any water or wastewater  
6 utility easement.  
7 21. The property owner will maintain private water and wastewater utilities located on private  
8 property.

8 PASSED on November 13, 2006 by the following vote, to wit:

- 9 AYES: Martinek, Parker, Horton, Blom, Balma and McLeod  
10 NAYS: None  
11 ABSENT: Beach  
12 ABSTAIN: None

13 ADOPTED Resolution No. 2006-P66 on November 20, 2006.

14  
15 \_\_\_\_\_  
16 Dennis Martinek, Chairperson  
17 Oceanside Planning Commission

17 ATTEST:

18  
19 \_\_\_\_\_  
20 Jerry Hittleman, Secretary

21 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that  
22 this is a true and correct copy of Resolution No. 2006-P66.

23  
24 Dated: November 20, 2006

Form No. 3301 (6/00)  
Short Form Commitment, EAGLE  
EAGLE PLUS

ORDER NO: 1536641  
FILE NO:  
LENDER REF: 1813020583

**Exhibit "A"**

The land referred to in this policy is situated in the **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO, CITY OF FALLBROOK**, and described as follows:

**LOT 7 OF SHIRLEY HILLS ESTATES, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 8997, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 6, 1978.**

**APN:121-280-06-00**

