AGENDA NO. 5

PLANNING COMMISSION *STAFF REPORT*

DATE: November 8, 2010

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A REVOCATION OF DEVELOPMENT PLAN (D-19-03) AND CONDITIONAL USE PERMIT (C-29-03) AND ASSOCIATED RESOLUTIONS (2004-P22 AND 2007-P46) ON PROPERTY LOCATED AT 1660 OCEANSIDE BOULEVARD DUE TO NON-COMPLIANCE WITH CONDITIONS OF APPROVAL – THE OCEANSIDER – APPLICANT: JOE AND BARBARA WARSOFF**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

(1) Revoke Development Plan (D-19-03) and Conditional Use Permit (C-29-03); Planning Commission Resolution No. 2004-P22, and Planning Commission Resolution No. 2007-P46, and;

(2) Adopt Planning Commission Resolution No. 2010-P32 with findings attached herein.

PROJECT BACKGROUND

On May 24, 2004, pursuant to a duly noticed public hearing, the Oceanside Planning Commission adopted Resolution No. 2004-P22, which approved Development Plan D-19-03 and Conditional Use Permit C-29-03. Resolution No. 2004-P22 approved plans for the changes to an existing fueling station, including but not limited to the addition of a 3,456-square foot mini-mart, subject to certain fees, dedications, reservations, exactions and conditions of approval. Condition No. 28 of Resolution 2004-P22 required the installation of a raised median on Oceanside Boulevard along the project frontage to prohibit left turns from the project site, and condition No. 29 required the installation of a left turn pocket, 180 feet in length with a 120-foot transition, for eastbound Oceanside Boulevard beginning at the Interstate 5 on/off ramp, as more fully

set forth therein. Condition No. 20 requires the Applicant (Joseph and Barbara Warsoff) to obtain all necessary permits from any agency having jurisdiction over the project. Condition 47 limited the approval to a two-year term unless a time extension is approved by the Planning Commission.

The Applicant did not protest any fees, dedications, reservations, exactions or conditions of approval of Resolution No. 2004-P22, including Conditions Nos. 28 and 29, within the time and manner allowed to do so under the Government Code.

On March 16, 2005, there was duly recorded with the County Recorder's Office a Declaration of "Covenants, Conditions, & Restrictions on Real Property Known as the Oceanside" declaring that the conditions of Resolution No. 2004-P22 are binding on all subsequent owners of the property.

On April 24, 2006, the Applicant applied for a time extension of the original Planning Commission action which adopted Resolution 2004-P22.

On September 24, 2007, pursuant to a duly noticed public hearing, the Oceanside Planning Commission adopted Resolution No. 2007-P46, which approved a time extension for Development Plan D-19-03 and Conditional Use Permit C-29-03. Resolution No. 2007-P46 continued the conditions of approval set forth in Resolution No. 2004-P22, except where expressly superseded, and provided that median improvements shall be constructed prior to the issuance of certificates of occupancy, unless otherwise approved by the City Engineer. Conditions Nos. 28 and 29 remained in full force and effect.

The Applicant did not protest any fees, dedications, reservations, exactions or conditions of approval of Resolution No. 2007-P46, including Conditions Nos. 28 and 29, within the time and manner allowed to do so under the Government Code.

On October 10, 2007 the Applicant submitted to the City plans for the median construction in accordance with Conditions Nos. 28 and 29. The City approved these plans on March 12, 2008.

Shortly thereafter, Applicant's Engineer submitted these approved plans to Caltrans, since a Caltrans encroachment permit was required.

In March 2008, Mr. Warsoff met with City Engineering staff and requested that installation of median improvements be postponed until trenching work associated with a CIP project (Emergency Outfall Repair) was completed, and that applicant be issued certificates of occupancy prior to the completion of the median improvements.

On December 11, 2008, Engineering Division staff initialed a Utility Release, prior to the installation of the raised median, based on Applicant's representation that Applicant would begin construction of the Median within 6 months of occupancy. Applicant thereafter began operating the service station and mini-market at the property.

On September 29, 2009 the CIP project was filed with the county.

On January 4, 2010, Mr. Warsoff informed Caltrans that it he would not perform median improvements.

In February, 2010, Mr. Warsoff informed City staff members that he would not construct the median improvements. From February to June, staff had a series of meetings and telephone conversations with Mr. Warsoff to discuss the median improvement requirements and other issues regarding the project. Mr. Warsoff continued to refuse to install the median improvements pursuant to the Resolutions.

On June 9, 2010 City Staff sent Applicant a formal notice of the need to meet or resolve all the conditions of approval of the Conditional Use Permit and Development Plan, and requested a formal response from Applicant within thirty (30) days. Mr. Warsoff has failed to respond to the letter, and was further informed that he is bound to comply with the recorded declaration of covenants, conditions and restriction and that his lack of response would require City Staff to initiate revocation of his Development Plan and Conditional Use Permit.

On June 17, 2010, Applicant communicated to City staff via e-mail that Applicant intended to seek Planning Commission approval to remove Conditions nos. 28 and 29.

On June 24, 2010, City Staff notified Applicant that Applicant had until July 8, 2010, to submit the necessary application and fees to request Planning Commission approval to remove Conditions nos. 28 and 29, or the City would institute revocation proceedings of the Development Plan and CUP.

Mr. Warsoff did not respond to the timeline identified by staff to prevent revocation proceedings and has not satisfied the terms and conditions of approval of Development Plan D-19-03 and Conditional Use Permit C-29-03; therefore, resulting in the terms and conditions being violated due to a failure to implement Conditions of Approval Nos. 28 and 29 of Resolution 2004-P22.

On October 25, 2010, The Planning Commission at the request of staff and Mr. Warsoff moved to continue the subject item to the meeting of November 8, 2010. The continuance was requested in order for staff to work on crafting and finalizing a written

agreement that would essentially allow the business to continue operating while permits for all off-site improvements were being processed by Caltrans. Mr. Warsoff did on October 25, 2010, submit a letter agreeing to the continuance and attesting that he would work diligently toward finalizing an abatement agreement.

On October 28, 2010, Mr. Warsoff contacted the City via phone and stated that after consulting with his attorney, he would not be moving forward with an abatement agreement as previously agreed upon and attested too in the letter dated October 25, 2010.

As of today's date, the permits that granted Development Plan D-19-03 and Conditional Use Permit C-29-03, are being exercised contrary to the terms and conditions of the approval because the applicant has failed to implement the Development Plan and Permit per the Conditions of approval.

Site Review: The subject site is fully developed as a service station/mini-mart on an approximately .52-acre parcel located on the northeast corner of the intersection of Vine Street and Oceanside Boulevard.

The surrounding area consists of commercial uses located north and east of the site, Cavalier Mobile Home Park is located south of the site and residential uses are located west of the site.

The site slopes slightly down in a southwesterly direction (Vine Street) with a grade differential of approximately three feet between the high and low points of the site.

The underlying land use designation for the subject site is Special Commercial and the zoning is CS-HO (Special Commercial Highway Oriented). The larger neighborhood area encompassing the project site is the Townsite Neighborhood.

ANALYSIS

Since the September 2007 time extension approval date, the applicant has had 36 months to implement the project including all off-site improvements required as part of the projects overall approval. Although the applicant has made significant progress in completing the project and was provided with a temporary occupancy permit to assist in funding the identified off-site improvements, the project implementation remains incomplete. Staff has been overly accommodating to the applicant throughout the process, and due to the potential public safety issues associated with the identified off-site improvements has no other recourse but to proceed with revocation of Development Plan (D-19-03) and Conditional Use Permit (C-29-03).

ENVIRONMENTAL DETERMINATION

A Revocation does not constitute a project under CEQA; therefore, this action does not require CEQA review.

PUBLIC NOTIFICATION

Legal notice was published in the North County Times on Friday October 15, 2010 and notices were sent to property owners of record, individuals and or organizations requesting notification, the applicant and other interested parties as per Zoning Code Section 4704 B. As of November 3, 2010, no communication from the general public supporting or opposing the Revocation has been received.

RECOMMENDATION

Pursuant to Section 4108.E Revocation of the Zoning Ordinance, a use permit or variance that is exercised in violation of a condition of approval or a provision of the Zoning Ordinance may be revoked, as provided in Section 4704.

Pursuant to Section 4704.A Duties of the City Planner, upon determination by the City Planner that there are reasonable grounds for considering revocation or modification of a use permit or development approval a revocation hearing shall be set by the Planning Commission. On August 23, 2010, the Planning Commission considered this discussion item and moved to set a Revocation Hearing date on October 25, 2010.

The City Planner recommends the Planning Commission revoke Development Plan (D-19-03) and Conditional Use Permit (C-29-03), and the associated Planning Commission Resolutions 2004-P22 and 2007-P46. The City Planner makes this recommendation, because the terms or conditions of approval of the permit have been violated through lack of implementation and the applicant's demonstrated lack of compliance with satisfying specific conditions of approval. To date, the applicant remains non-compliant with the subject approvals.

SUMMARY

The proposed Revocation is duly warranted per the Zoning Ordinance and is a direct result of the applicants' failure to perform as required by the subject permits and Resolutions of Approval. As such, staff recommends that the Planning Commission revoke the project based on the findings and subject to the conditions contained in the attached Resolution. Staff recommends that the Planning Commission:

- Revoke Development Plan (D-19-03) and Conditional Use Permit (C-29-03); Planning Commission Resolution No. 2004-P22; and Planning Commission Resolution No. 2007-P46; and

- Adopt Planning Commission Resolution No. 2010-P32 with findings attached herein.

PREPARED BY:

Richard Greenbauer
Senior Planner

SUBMITTED BY:

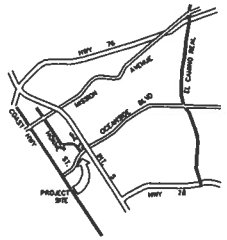
Jerry Hittleman
City Planner

Attachments:

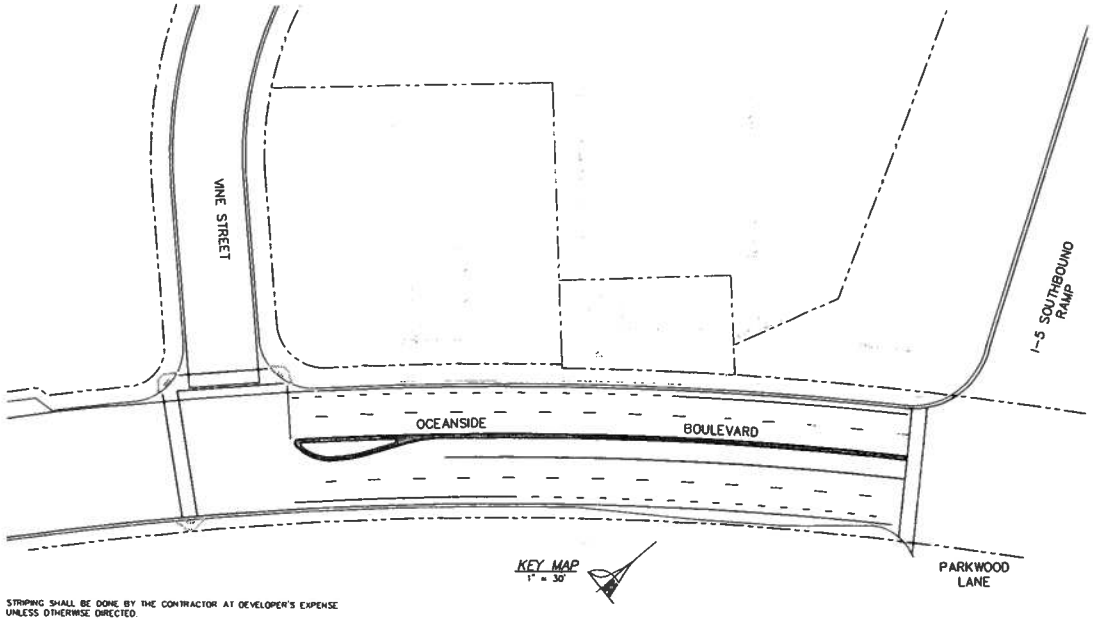
1. Plans
2. Planning Commission Resolution No. 2010-P32
3. Letter to Applicant dated September 10, 2010
4. Planning Commission Resolution No. 2004-P22
5. Planning Commission Resolution No. 2007-P46
6. Declaration of Covenants recorded at the San Diego Recorders Office via document number 2005-0214848 date March 16, 2005
7. Letter to Applicant dated June 9 & June 24, 2010
8. Email from Applicant dated June 17, 2010
9. Letter from Applicant dated October 25, 2010

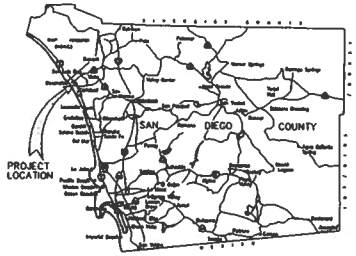
STREET IMPROVEMENT PLAN

OCEANSIDE BOULEVARD
BETWEEN VINE STREET AND I-5 SB RAMP



VICINITY MAP
NOT TO SCALE





PROJECT LOCATION MAP
NOT TO SCALE

GENERAL NOTES

1. THE CONTRACTOR SHALL NOTIFY THE SAN DIEGO GAS AND ELECTRIC COMPANY, PACIFIC TELEPHONE AND TELEGRAPH COMPANY PRIOR TO STARTING WORK NEAR COMPANY FACILITIES AND SHALL COORDINATE THEIR WORK WITH COMPANY REPRESENTATIVES. ALL TELEPHONE SERVICES WITHIN THIS SUBDIVISION ARE UNDERGROUND INSTALLATION FOR LOCATION OF ELECTRIC CABLE, GAS PIPING, TELEPHONE CABLES APPURTENANCES, CONTACT (UNDERGROUND SERVICE ALERT) 1-800-227-2600. ALSO REFER TO CITY STANDARDS.
2. A PERMIT SHALL BE OBTAINED FROM THE CITY ENGINEERING DEPARTMENT FOR WORK WITHIN EXISTING CITY RIGHTS-OF-WAY.
3. THE CONTRACTOR SHALL NOTIFY THE CITY OF OCEANSIDE ENGINEERING DEPARTMENT 48 HOURS PRIOR TO STARTING WORK SO THAT INSPECTION MAY BE PROVIDED. PLEASE CALL: (760)435-5081
4. ALL WORK SHALL BE IN ACCORDANCE WITH THE MOST RECENT EDITION OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, WITH SUPPLEMENTS (A.P.W.A. SPECIFICATIONS), THE SAN DIEGO COUNTY REGIONAL STANDARD DRAWINGS (SDRSD); CITY OF OCEANSIDE WATER, SEWER, AND RECLAIMED DESIGN & CONSTRUCTION MANUAL, AND CITY OF OCEANSIDE ENGINEER'S DESIGN AND PROCESSING MANUAL (OCEANSIDE ENGINEER'S MANUAL).
5. PAVEMENT SECTIONS SHOWN, ARE TO BE VERIFIED BY "R" VALUE TESTS (TEST METHOD NO. CALIFORNIA 301) AND PAVEMENT DESIGN REPORT; TO BE SUBMITTED BY SOILS ENGINEER AFTER UNDERGROUND UTILITIES CONSTRUCTION IS COMPLETE, FOR CITY ENGINEER APPROVAL.
6. ALL METALS PLACED IN THE GROUND SHALL BE ENCASED IN 6" OF NEUTRAL SAND
7. CONSTRUCTION EXPANSION JOINTS IN CURB AND GUTTER AT RETURNS AND AT DRIVEWAY INTERSECTIONS IS REQUIRED PER (SDRSD) G-9 AND G-10.
8. ALL UNDERGROUND UTILITIES LATERALS SHALL BE INSTALLED BEFORE CONSTRUCTION OF CURBS, CROSS GUTTERS, OR SURFACING OF THE STREETS AND SHALL BE MARKED FOR EASY LOCATION. THE ENGINEER OF WORK SHALL CERTIFY ALL IMPROVEMENTS TO WITHIN 0.1 FEET OF THE DESIGN
9. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN AN EXCAVATION PERMIT FROM THE DIVISION OF INDUSTRIAL SAFETY AND ADHERE TO ALL PROVISIONS OF THE STATE CONSTRUCTION SAFETY ORDERS.
10. SOILS REPORTS ON ALL TRENCHES SHALL BE SUBMITTED TO THE ENGINEER OF WORK AND THE CITY ENGINEER BY THE SOILS ENGINEER OF RECORD, WHICH CERTIFIES THAT TRENCH BACKFILL WAS COMPACTED AS DIRECTED BY THE SOILS ENGINEER IN ACCORDANCE WITH EARTHWORK SPECIFICATIONS AND CITY OF OCEANSIDE SPECIFICATIONS AND GRADING ORDINANCE.
11. BLUE FIRE HYDRANT MARKERS SHALL BE PLACED ON THE PAVEMENT PER CITY OF OCEANSIDE STANDARD DRAWING M-13.
12. TRAFFIC CONTROL SHALL BE IN ACCORDANCE WITH THE CURRENT STATE OF CALIFORNIA MANUAL OF TRAFFIC CONTROLS.
13. CENTERLINE MONUMENTS SHALL BE INSTALLED AT THE EC AND BC OF ALL CURVES, AT THE CENTERLINE INTERSECTION OF ALL STREETS WHERE MANHOLES ALLOW, AT THE RADIUS POINT OF CONCENTRIC CUL-DE-SACS, AND AT THE ANGLE POINT OF OFFSET CUL-DE-SACS, PER (SDRSD) M-10 AND M-11
14. ALL EXISTING IMPROVEMENTS INCLUDING CURB AND GUTTERS, SIDEWALKS, ASPHALT CONCRETE OR P.C.C PAVING, WHICH ARE BEING JOINED OR MATCHED IN CONNECTION WITH THIS PROJECT, SHALL BE JOINED OR MATCHED IN A MANNER SATISFACTORY TO THE CITY ENGINEER, INCLUDING NECESSARY SAWCUTTING, REMOVAL, REPLACEMENT, AND CAPPING
15. ALL OPERATIONS CONDUCTED ON THE PREMISES, INCLUDING THE WARMING UP, REPAIR, ARRIVAL, DEPARTURE, OR RUNNING OF TRUCKS, EARTHMOVING EQUIPMENT, CONSTRUCTION EQUIPMENT, AND ANY OTHER ASSOCIATED EQUIPMENT SHALL BE LIMITED TO THE PERIOD BETWEEN 7:00 A.M. AND 6:00 P.M. EACH DAY, MONDAY THROUGH FRIDAY, AND NO EARTHMOVING OR GRADING OPERATIONS SHALL BE CONDUCTED ON THE PREMISES ON SATURDAYS OR SUNDAYS OR LEGAL HOLIDAYS, UNLESS WAIVED BY THE CITY ENGINEER
16. STRIPING SHALL BE DONE BY THE CONTRACTOR AT DEVELOPER'S EXPENSE UNLESS OTHERWISE DIRECTED.
17. TRAFFIC STRIPES AND PAVEMENT MARKINGS SHALL NOT BE APPLIED OVER EXISTING STRIPES THAT ARE TO BE REMOVED. EXISTING STRIPES SHALL BE FIRST REMOVED BY SANDBLASTING BEFORE ANY NEW APPLICATION.
18. REFLECTIVE PAVEMENT MARKERS TO BE INSTALLED BY CONTRACTOR ON PERMANENT STRIPING. ALL STREET SIGNS SHOWN ON THESE PLANS SHALL BE THE RESPONSIBILITY OF THE DEVELOPER. SIGN SPECIFICATIONS AND INSTALLATION SHALL BE IN ACCORDANCE WITH CITY OF OCEANSIDE STANDARD DRAWING T-3 AND THE STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION SPECIFICATION FOR REGULATORY, WARNING AND GUIDE SIGNS.
19. PATCHING OF SIDEWALK IS NOT PERMITTED
20. DAMAGED, GOUGED, BROKEN, OR GRAFFITI-MARKED SECTIONS OF CURB, GUTTER, OR SIDEWALK SHALL BE REMOVED AND REPLACED.
21. A MINIMUM REPLACEMENT SECTION TO BE AT LEAST EQUAL TO SCORE MARK TO SCORE MARK (TYPICALLY 5' X 5'). FOR SIDEWALKS EXCEEDING 5' WIDTH, REPLACEMENT IS TO BE FULL WIDTH SQUARED TO THE NEXT SCORE MARK.
22. ALL VALVE CANS AND RISERS ON THE CITY'S OPERATIONAL SYSTEM WILL BE RAISED TO GRADE, INCLUDING COMPACTION AROUND RISER AND PAVING AROUND VALVE CANS, WITHIN 48 HOURS AFTER PAVEMENT HAS BEEN PLACED. THIS INCLUDES VALVE CANS AND RISERS ON THE EXISTING SYSTEMS AND ON ALL NEW SYSTEMS THAT ARE TIED INTO THE CITY'S EXISTING SYSTEMS.
23. ALL SEWER MANHOLES ON THE CITY'S OPERATIONAL SYSTEM WILL BE RAISED TO GRADE WITHIN 48 HOURS AFTER PAVEMENT HAS BEEN PLACED. THIS INCLUDES MANHOLES ON THE EXISTING SYSTEMS AND ON ALL NEW SYSTEMS THAT ARE TIED INTO THE CITY'S EXISTING SYSTEMS.
24. THE CONTRACTOR/DEVELOPER SHALL BE RESPONSIBLE FOR IMPLEMENTING, ADMINISTERING AND MAINTAINING A CONFINED SPACE ENTRY PROGRAM IN ACCORDANCE WITH SECTIONS 5156, 5157, AND 5158 TITLE 8, CALIFORNIA CODE OF REGULATIONS (CCR).

REFERENCE DRAWINGS

CITY OF OCEANSIDE DWG NO R-684A, R-1031, R-1038, R1606, R-3014, R-4630, R-8085-A, S-230, S-1609, W-865

SHEET INDEX

1. TITLE SHEET
2. STREET IMPROVEMENT PLAN
3. STREET STRIPING PLAN
4. TRAFFIC CONTROL PLAN

A.P.N.
152-320-25

LEGAL DESCRIPTION

THAT PORTION OF TRACT 101 OF SOUTH OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO 622, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MARCH 20, 1967

OWNER/PERMITEE

JOE WARSOFF
4615 SUNBURST ROAD
CARLSBAD, CALIFORNIA 92008

JOE WARSOFF PRESIDENT/CEO
PHONE NO. (760) 720-4646

WORK ITEMS

DESCRIPTION	STD DWG /DETAIL	SYMBOL
STAMPED CONCRETE	-	
LANDSCAPED MEDIAN	-	
TYPE B-T MEDIAN CURB	SDRSD G-6	

"DECLARATION OF ENGINEER OF WORK"

I HEREBY DECLARE THAT THE DESIGN OF THE IMPROVEMENTS AS SHOWN ON THESE PLANS COMPLIES WITH PROFESSIONAL ENGINEERING STANDARDS AND PRACTICES. AS THE ENGINEER IN RESPONSIBLE CHARGE OF THE DESIGN OF THESE IMPROVEMENTS. I ASSUME FULL RESPONSIBLE CHARGE FOR SUCH DESIGN. I UNDERSTAND AND ACKNOWLEDGE THAT THE PLAN CHECK OF THESE PLANS BY THE CITY OF OCEANSIDE IS A REVIEW FOR THIS LIMITED PURPOSE OF ENSURING THE PLANS COMPLY WITH CITY PROCEDURES AND OTHER APPLICABLE POLICIES AND ORDINANCES. THE PLAN CHECK IS NOT A DETERMINATION OF THE TECHNICAL ADEQUACY OF THE DESIGN OF THE IMPROVEMENTS. SUCH PLAN CHECK DOES NOT, THEREFORE, RELIEVE ME OF MY RESPONSIBILITY FOR THE DESIGN OF THESE IMPROVEMENTS.

AS ENGINEER OF WORK, I AGREE TO INDEMNIFY AND SAVE THE CITY OF OCEANSIDE, ITS OFFICERS, AGENTS, AND EMPLOYEES HARMLESS FROM ANY AND ALL LIABILITY, CLAIMS, DAMAGES OR INJURIES TO ANY PERSON OR PROPERTY WHICH MIGHT ARISE FROM THE NEGLIGENT ACTS, ERRORS OR OMISSIONS OF THE ENGINEER OF WORK, MY EMPLOYEES, AGENTS OR CONSULTANTS.

ENGINEER MICHAEL W. BORAMS — LICENSE NO. — DATE

NOTE: PRIVATE WATER, SEWER AND FIRE SYSTEMS SHOWN ON THESE PLANS ARE SYSTEM SHOWN ON THESE PLANS ARE FOR REFERENCE ONLY THE BUILDER/ENGINEER/DEVELOPER IS RESPONSIBLE TO SUBMIT A SEPARATE SET OF PLANS TO THE BUILDING AND/OR FIRE DEPARTMENT FOR PLAN CHECK AND APPROVAL.

AS-BUILT CERTIFICATION

I HEREBY CERTIFY THAT AS THE ENGINEER IN RESPONSIBLE CHARGE OF THE WORK FOR THIS PROJECT, I HAVE REVIEWED THE ENGINEERING WORK AS SHOWN ON THESE PLANS TO DETERMINE GENERAL COMPLIANCE WITH PLANS AND SPECIFICATIONS, AND THAT THE COMPLETED CONSTRUCTION IS IN CONFORMANCE WITH THESE PLANS.

CIVIL ENGINEER OF RECORD MICHAEL W. BORAMS, RCE 48834 — DATE

REGISTERED PROFESSIONAL ENGINEER MICHAEL W. BORAMS No. 48834 Exp. 9/30/08 CIVIL STATE OF CALIFORNIA

CORNERSTONE ENGINEERING, INC.
708 OAK STREET
BAKERSFIELD CA 93304
TEL: (661) 325-9511
FAX: (661) 323-6129
630 MISSION AVENUE
OCEANSIDE, CA 92054
TEL: (760) 722-7496
FAX: (760) 722-0988
CONSULTING CIVIL ENGINEERING AND LAND SURVEYING
www.cornerstoneeng.com

PLANS APPROVED BY TRANSPORTATION — DATE

APPROVED BY WATER UTILITIES DEPARTMENT — WATER UTILITIES DIRECTOR — DATE

PLANS APPROVED BY FIRE DEPT — FIRE MARSHALL — DATE

APPROVED CHANGES:

NO	DESCRIPTION	APPVD	DATE

BENCHMARK
Description: CITY OF OCEANSIDE, BM #D-6, BRASS DISC "COS BM- D-6"
Location: EPC NE VINE & OCEANSIDE BLVD.
Record From
Elev: ELEV.=16.216 M.S.L. Datum:

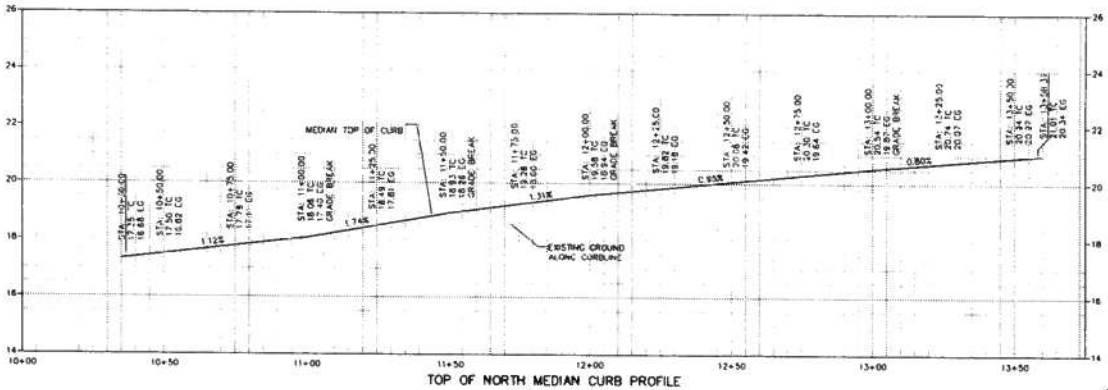
FILE NO. 0-19-03

SHEET 1 — CITY OF OCEANSIDE PUBLIC WORKS DEPARTMENT — 4 SHEETS
TITLE SHEET

STREET IMPROVEMENT PLAN FOR OCEANSIDE BOULEVARD
BETWEEN VINE STREET AND I-5 SB RAMP

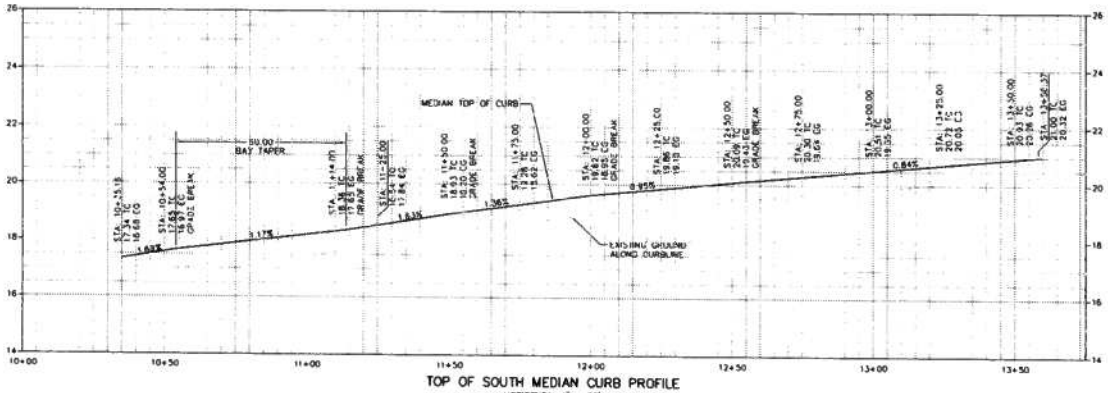
APPROVED
SCOTT D. SMITH R.C.E. 38835 CITY ENGINEER

ENGINEER OF WORK MICHAEL W. BORAMS R.C.E. 48834 — Checked By: — Approval Date: — PLAN NUMBER R-13923



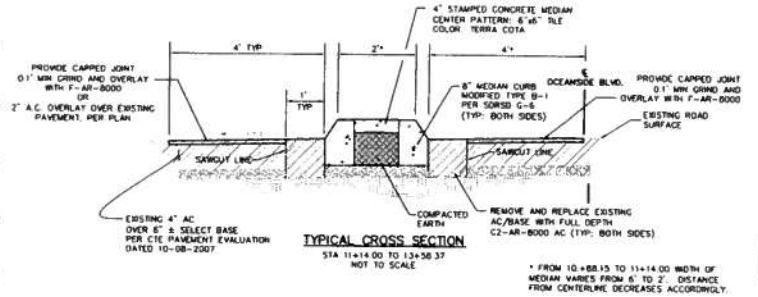
TOP OF NORTH MEDIAN CURB PROFILE

HORIZONTAL 1" = 20'
VERTICAL 1" = 2'



TOP OF SOUTH MEDIAN CURB PROFILE

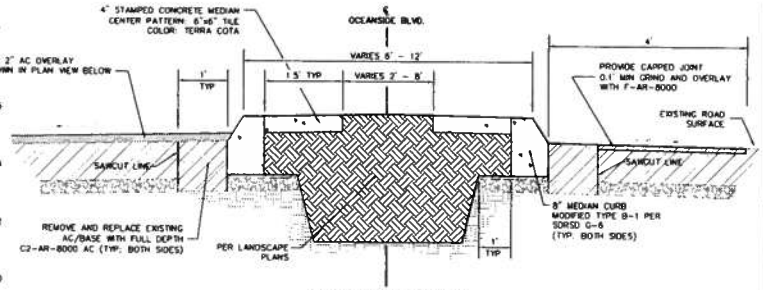
HORIZONTAL 1" = 20'
VERTICAL 1" = 2'



TYPICAL CROSS SECTION

STA 11+14.00 TO 13+58.37
NOT TO SCALE

* FROM 10+88.15 TO 11+14.00 WIDTH OF MEDIAN VARIES FROM 6' TO 2'. DISTANCE FROM CENTERLINE DECREASES ACCORDINGLY.



TYPICAL CROSS SECTION

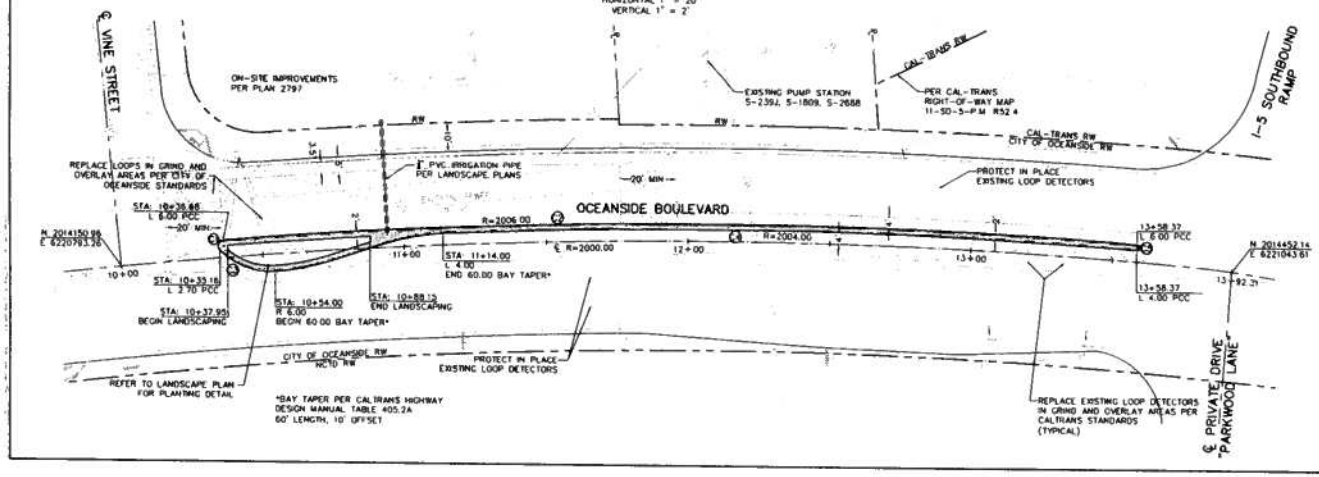
STA 10+37.85 TO 10+88.15
NOT TO SCALE

DETAIL

MODIFIED TYPE B-1 MEDIAN CURB

LEGEND FOR OVERLAY ELEMENTS

DESCRIPTION	SYMBOL
2" AC OVERLAY	
FEATHERED AC OVERLAY WITH A 1" GRIND AT EXISTING PAVEMENT MATCH LINES.	
2" AC OVERLAY - GRIND EXISTING PAVEMENT TO MATCH WITH NEW GUTTER ELEVATIONS.	
PROVIDE CAPPED JOINT 0.1' MIN GRIND AND OVERLAY WITH F-AR-8000	



CURVE TABLE			
TOP OF CURB			
CURVE	RADIUS	DELTA	LENGTH
C1	2.00'	130°22'41"	4.55'
C2	2006.00'	9°23'37"	322.86
C3	23.00'	49°52'47"	21.40'
C4	2004.00'	7°00'04"	244.96'
C5	1.00'	180°00'00"	3.14'

GRAPHIC SCALE

(IN FEET)
1 inch = 20 ft.

FILE NO. D-19-03

REGISTERED PROFESSIONAL ENGINEER MICHAEL W. BORANIC No. 40834 Exp. 9/30/08 CIVIL STATE OF CALIFORNIA

SHEET 2	CITY OF OCEANSIDE PUBLIC WORKS DEPARTMENT	4 SHEETS
MEDIAN IMPROVEMENT PLAN		

STREET IMPROVEMENT PLAN FOR OCEANSIDE BOULEVARD

BETWEEN VINE STREET AND I-5 SB RAMP

APPROVED

SCOTT G. SMITH R.C.E. 58633 CITY ENGINEER

ENGINEER OF WORK	Checked By	PLAN NUMBER
MICHAEL W. BORANIC R.C.E. 40834	Approval Date	R-13923

CONSTRUCTION NOTES

1. PAINT 4" SKIP WHITE - LANELINE - STD. PLANS DETAIL 9.
2. PAINT 8" SOLID WHITE - CHANNELIZING LINE - STD. PLANS DETAIL 38.
3. PAINT 6" SOLID WHITE - BIKE LANE LINE - STD. PLANS DETAIL 39.
4. PAINT 6" SKIP WHITE - INTERSECTION LINE BIKE LANE - STD. PLANS DETAIL 39A
5. PAINT 12" SOLID WHITE - CROSSWALK AND LIMIT LINE - STD. PLANS A24E - THERMOPLASTIC
6. APPLY TYPE IV TURN ARROW - STD. PLANS A24A. - THERMOPLASTIC
7. INSTALL TRAFFIC SIGN AS DESIGNATED ON PLAN.
8. REMOVE EXISTING PAVEMENT STRIPING - GRIND OR SANDBLAST
9. BIKE LANE LEGEND - THERMOPLASTIC

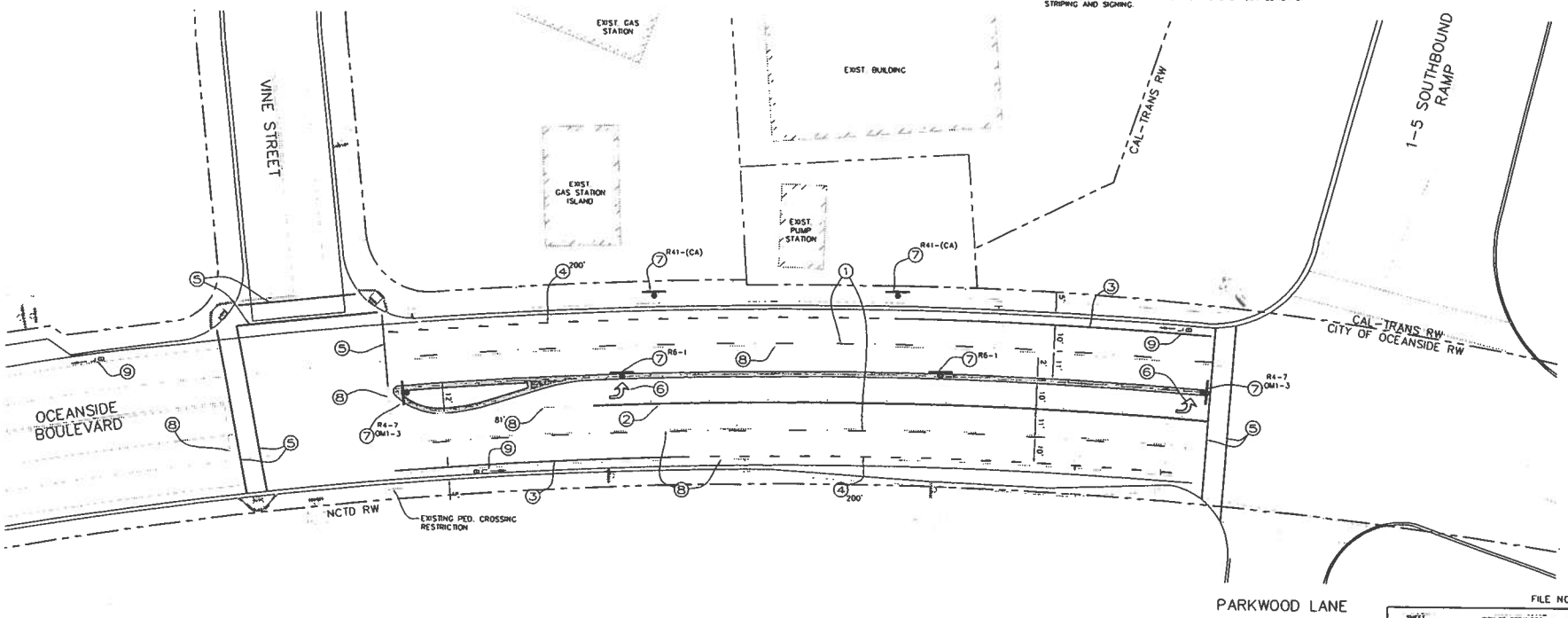
*ALL SIGNS BEING PLACED OR WORK TAKING PLACE WITHIN THE CALIFORNIA DEPARTMENT OF TRANSPORTATION'S RIGHT-OF-WAY WILL BE PERMITTED UNDER ENCROACHMENT PERMIT #11-07-6TK-0470

LEGEND

R2-1(40)	SPEED LIMIT 40 MPH
R4-7	KEEP RIGHT
R6-1	ONE-WAY
R7-9	NO PARKING - BIKE LANE
R41(CA)	RIGHT TURN ONLY
OM1-3	SOLID YELLOW OBJECT MARKER
OM4-3	SOLID RED OBJECT MARKER
W1-7	TWO WAY ARROW
	EXISTING SIGN
	PROPOSED SIGN
	BIKE LANE LEGEND

STRIPING AND SIGNING GENERAL NOTES

1. INSTALLATION OF ALL STRIPING, SIGNS AND PAVEMENT MARKERS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
2. ALL STRIPING AND SIGNING SHALL CONFORM TO THE MOST RECENTLY ADOPTED EDITION OF THE FOLLOWING MANUALS:
   A. CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (FHWA'S MUTCD 2003 EDITION AS AMENDED FOR USE IN CALIFORNIA), DOCUMENT NO. AEC1231054, FILED DECEMBER 31, 2006.
   B. STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, 2006 EDITION (GREENBOOK), DOCUMENT NO. AEC1231061, INCLUDING THE REGIONAL AND CITY OF SAN DIEGO SUPPLEMENT, DOCUMENT NO. AEC1231062, FILED DECEMBER 31, 2006.
3. ALL SIGNING AND STRIPING IS SUBJECT TO THE APPROVAL OF THE CITY ENGINEER PRIOR TO INSTALLATION AND/OR REMOVAL.
4. THE CONTRACTOR SHALL REMOVE ALL CONFLICTING STRIPING, PAVEMENT MARKINGS AND LEGENDS BY SANDBLASTING AND/OR GRINDING WITH THE SEAL. ANY DEBRIS SHALL BE PROMPTLY REMOVED BY THE CONTRACTOR.
5. SIGN POSTS SHALL BE INSTALLED WITH SQUARE PERFORATED STEEL TUBING WITH A BREAKAWAY BASE PER CITY OF SAN DIEGO STANDARD DRAWING M-45.
6. ALL RAISED MEDIAN NOSES SHALL BE PAINTED YELLOW
7. ALL SIGNS SHOWN ON THE STRIPING AND SIGNING PLANS SHALL BE NEW SIGNS PROVIDED AND INSTALLED BY THE CONTRACTOR, EXCEPT FOR EXISTING SIGNS SPECIFICALLY INDICATED TO BE RELOCATED OR TO REMAIN.
8. STRIPED CROSSWALKS SHALL HAVE AN INSIDE DIMENSION OF 10 FEET UNLESS INDICATED OTHERWISE.
9. ALL LIMIT LINES/STOP LINES, CROSSWALK LINES, PAVEMENT LEGENDS, AND ARROWS (EXCEPT BIKE LANES) SHALL BE THERMOPLASTIC.
10. THE CONTRACTOR SHALL NOTIFY THE CITY TRAFFIC ENGINEER A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO AND UPON COMPLETION OF STRIPING AND SIGNING.



GRAPHIC SCALE
(IN FEET)
1 inch = 20 ft

REGISTERED PROFESSIONAL ENGINEER MICHAEL R. BORAKS No. 48834 Exp. 9/30/08 Civil State of California

REGISTERED PROFESSIONAL ENGINEER MARTIN C. LAUNER No. 1634 Exp. 9-30-08 TRAFFIC State of California

FILE NO. 0-19-03

SHEET 3 — CITY OF OCEANSIDE PUBLIC WORKS DEPARTMENT — 4 SHEETS

SIGNING AND STRIPING PLAN

STREET IMPROVEMENT PLAN FOR OCEANSIDE BOULEVARD
BETWEEN VINE STREET AND I-5 SB RAMP

APPROVED

SCOTT D. SMITH R.C.E. 38659 CITY ENGINEER

ENGINEER OF WORK: MICHAEL R. BORAKS R.C.E. 48834

Checked By: Approval Date:

PLAN NUMBER R-13923

PLANNING COMMISSION
RESOLUTION NO. 2010-P32

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA REVOKING A DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT THAT WERE ISSUED PERSUANT TO TWO RESOLUTIONS OF APPROVAL FOR A CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO:	D-19-03 and C-29-03
APPLICANT:	Joe and Barbara Warsoff
LOCATION:	1660 Oceanside Blvd.

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

WHEREAS, there was a duly noticed and held Public Hearing by this Commission on August 23, 2010 setting a hearing date for the Revocation of the subject Development Plan, Conditional Use Permit, and Two Resolutions of Approval under the provisions of Article 4704 of the Zoning Ordinance of the City of Oceanside.

WHEREAS, the Planning Commission, after giving the required notice, did on the 25th day of October, 2010 conduct a duly advertised public hearing as prescribed by law to consider said action, and continued this item to November 8, 2010.

WHEREAS, the Planning Commission finds that the proposed Revocation action is not a project as defined by the California Environmental Quality Act and therefore is exempt from the requirements of environmental review pursuant to the provisions of the California Environmental Quality Act.

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

<u>For the Revocation of the Development Plan, Conditional Use Permit, and Two Resolutions of Approval</u>:

1. On May 24, 2004, pursuant to a duly noticed public hearing, the Oceanside Planning Commission adopted Resolution No. 2004-P22, which approved Development Plan D-19-03 and Conditional Use Permit C-29-03. Resolution No. 2004-P22 approved plans for the changes to an existing fueling station, including but not limited to the addition of a 3,456-

square foot mini-mart, subject to certain fees, dedications, reservations, exactions and conditions of approval. Condition No. 28 of Resolution 2004-P22 required the installation of a raised median on Oceanside Boulevard along the project frontage to prohibit left turns from the project site, and condition No. 29 required the installation of a left turn pocket, 180 feet in length with a 120-foot transition, for eastbound Oceanside Boulevard beginning at the Interstate 5 on/off ramp, as more fully set forth therein. Condition No. 20 requires the Applicant (Joseph and Barbara Warsoff) to obtain all necessary permits from any agency having jurisdiction over the project. Condition 47 limited the approval to a two-year term unless a time extension is approved by the Planning Commission.

2. The Applicant did not protest any fees, dedications, reservations, exactions or conditions of approval of Resolution No. 2004-P22, including Conditions Nos. 28 and 29, within the time and manner allowed to do so under the Government Code.

3. On March 16, 2005, there was duly recorded with the County Recorder's Office a Declaration of "Covenants, Conditions, & Restrictions on Real Property Known as the Oceansider" that declaring that the conditions of Resolution No. 2004-P22 are binding on all subsequent owners of the property.

4. On April 24, 2006, the Applicant applied for a time extension of the original Planning Commission action which adopted Resolution 2004-P22.

5. On September 24, 2007, pursuant to a duly noticed public hearing, the Oceanside Planning Commission adopted Resolution No. 2007-P46, which approved a time extension for Development Plan D-19-03 and Conditional Use Permit C-29-03. Resolution No. 2007-P46 continued the conditions of approval set forth in Resolution No. 2004-P22, except where expressly superseded, and provided that median improvements shall be constructed prior to the issuance of certificates of occupancy, unless otherwise approved by the City Engineer. Conditions Nos. 28 and 29 remained in full force and effect.

6. The Applicant did not protest any fees, dedications, reservations, exactions or conditions of approval of Resolution No. 2007-P46, including Conditions Nos. 28 and 29, within the time and manner allowed to do so under the Government Code.

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7. On October 10, 2007 the Applicant submitted to the City plans for the median construction in accordance with Conditions Nos. 28 and 29. The City approved these plans on March 12, 2008.

8. Shortly thereafter, Applicant's Engineer submitted these approved plans to Caltrans, since a Caltrans encroachment permit was required.

9. In March 2008, Mr. Warsoff met with City Engineering staff and requested that installation of median improvements be postponed until trenching work associated with a CIP project (Emergency Outfall Repair) was completed, and that Applicant be issued certificates of occupancy prior to the completion of the median improvements.

10. On December 11, 2008, Engineering Division staff initialed a Utility Release, prior to the installation of the raised median, based on Applicant's representation that Applicant would begin construction of the Median within 6 months of occupancy. Applicant thereafter began operating the service station and mini-market at the property.

11. On September 29, 2009 the CIP project was filed with the county.

12. On January 4, 2010, Mr. Warsoff informed Caltrans that it he would not perform median improvements.

13. In February, 2010, Mr. Warsoff informed City staff members that he would not construct the median improvements.

14. On June 9, 2010 City Staff sent Applicant a formal notice of the need to meet or resolve all the conditions of approval of the Conditional Use Permit and Development Plan, and requested a formal response from Applicant within thirty (30) days.

15. On June 17, 2010, Applicant communicated to City staff via e-mail that Applicant intended to seek Planning Commission approval to remove Conditions nos. 28 and 29.

16. On June 24, 2010, City Staff notified Applicant that Applicant had until July 8, 2010, to submit the necessary application and fees to request Planning Commission approval to remove Conditions nos. 28 and 29, or the City would institute revocation proceedings of the Development Plan and CUP.

17. Applicant did not submit the necessary application and fees to request Planning Commission approval to modify these conditions of approval.

18. The Planning Commission finds that Conditions of Approval Nos. 28 and 29 of Resolution 2004-P22, as extended by Resolution No. 2007-P46, have not been fulfilled.

19. The Planning Commission finds that the terms and conditions of approval of Development Plan D-19-03 and Conditional Use Permit C-29-03 have been violated due to a failure to implement Conditions of Approval Nos. 28 and 29 of Resolution 2004-P22.

20. The Planning Commission further finds that the permits granted by Development Plan D-19-03 and Conditional Use Permit C-29-03, are being exercised contrary to the terms and conditions of the approval because the Applicant has failed to implement the Development Plan and Use Permit pursuant to the Conditions of approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby revoke Development Plan (D-19-03), and Conditional Use Permit (C-29-03) as previously approved by Planning Commission Resolutions 2004-P22 and 2007-P46. Pursuant to Oceanside Zoning Ordinance §4603 and §4704, this resolution becomes final 10 days from the date of its adoption in the absence of the filing of an appeal or call for review.

PASSED and ADOPTED Resolution No. 2010-P32 on November 8, 2010 by the following vote, to wit:

AYES:

NAYES:

ABSENT:

ABSTAIN:

_____
Robert Neal, Chairperson
Oceanside Planning Commission

ATTEST:

_____
Jerry Hittleman, Secretary

I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2010-P32.

Dated: November 8, 2010

CITY OF OCEANSIDE

DEVELOPMENT SERVICES DEPARTMENT / PLANNING DIVISION

September 10, 2010

Joe and Barbara Warsoff
4615 Sunburst Rd.
Carlsbad, CA 92008

Re: Development Plan (D-19-03), Conditional Use Permit (C-29-03) Revocation
(Union 76 "The Oceansider")

Dear Mr. and Mrs. Warsoff:

This letter is being sent to inform you that a hearing date for the revocation of Development Plan D-19-03 and Conditional Use Permit C-29-03, associated with Planning Commission resolutions 2004-P22 and 2007-P46 has been set for October 25, 2010 at 7:00 P.M. in the City Council Chambers located at 300 N. Coast Highway.

Pursuant to Section 4108.E Revocation of the Zoning Ordinance, a use permit or variance that is exercised in violation of a condition of approval or a provision of the Zoning Ordinance may be revoked, as provided in [Section 4704].

Pursuant to Section 4704.A Duties of the [City Planner], upon determination by the [City Planner] that there are reasonable grounds for considering revocation or modification of a use permit [or] variance a revocation hearing shall be set by the Planning Commission.

The Planning Commission set October 25, 2010 as a hearing date for the revocation of Development Plan (D-19-03) and Conditional Use Permit (C-29-03), and Planning Commission Resolution No. 2004-P22, and 2007-P46 (attached). Public notice of the hearing is required by Section 4704.B.

The Planning Commission has set this revocation hearing because the "Owners" Joseph and Barbara Warsoff did on March 16, 2005 at the San Diego Recorders Office have recorded via document number 2005-0214848 a Declaration of Covenants, Conditions, & Restrictions on Real Property known as the Oceansider identifying on-site and off-site improvements required to be made on the Property as a condition of any development of the property, and in accordance with Resolution 2004-P22, and the applicant's demonstrated lack of compliance with specific conditions of approval numbers 28 and 29 of said resolution.

Planning Commission Resolution No. 2004-P22 was approved by the Planning Commission on May 24, 2004 with specific requirements to be satisfied as part of the sites overall development. The following two conditions of approval have not been completed:

28. The project shall install a raised median on Oceanside Boulevard along the project frontage to prohibit left turns from the project site. The median shall be approximately 250 feet in length beginning at the intersection of Vine Street, and be of sufficient length to restrict left turns from the adjacent Best Western motel driveway east of the project site. The median shall be designed and constructed to the satisfaction of the Transportation Manager.

29. The project shall install a left turn pocket, 180 feet in length with a 120-foot transition, for eastbound Oceanside Boulevard beginning at the Interstate 5 on/off ramp. The turn pocket shall be designed to Caltrans design standards.

Planning Commission Resolution No. 2007-P46 was approved by the Planning Commission on September 24, 2007 granting a time extension for Development Plan (D-19-03) and Conditional Use Permit (C-29-03) and included condition of approval number two that emphasized median improvements shall be constructed prior to the issuance of certificate of occupancy, unless otherwise approved by the City Engineer, and to date has not been completed.

On June 2, 2010 City Staff contacted Mr. Warsoff via letter identifying the following timeline of actions taken to satisfy the required improvements, and the actions that have led to the lack of compliance necessary to satisfy the required conditions of approval:

Mr. Warsoff authorized Cornerstone Engineering to design and prepare an improvement plan for the raised median and the signage. Mr. Warsoff asked his Engineer to process the plans with the City of Oceanside and Caltrans. The Engineer of Work submitted the improvement plan number R-13923 to the Engineering Division on October 10, 2007. The improvement plan was reviewed by Engineering staff, and approved by the City Engineer on March 12, 2008. The plan was also submitted to Caltrans for review and approval. Mr. Warsoff decided to stop processing the plan with Caltrans, and never obtained the required permit necessary to conduct the required improvements.

City Engineering staff members, Marty Eslambolchi and Jim Knowlton met with Mr. Warsoff and his Engineer, Mr. Boraks in early March 2008 regarding the raised median construction. In the meeting Mr. Warsoff requested that staff grant him an occupancy permit prior to constructing the raised median; due to a lack of funds, and under the premise that he would acquire sufficient financial support within 6-months. However, to date, Mr. Warsoff has not fulfilled his obligation as discussed in that meeting and in compliance with the resolution of approval.

The City Engineer reiterated that Mr. Warsoff had not complied with Condition number 2 of the time extension resolution of approval that was approved by the Planning

Commission on September 24, 2009. Condition number 2 re-emphasized the requirement of the raised median improvement on Oceanside Boulevard along the project frontage.

The City Engineer gave Mr. Warsoff thirty days from the date of the letter to inform staff of his action plans and timetable for obtaining the required permit from Caltrans and commencement date of construction. Mr. Warsoff has failed to respond to the letter, and was further informed that the he is bound to comply with the recorded declaration of covenants, conditions and restriction and that his lack of response would require City Staff to initiate revocation of his Development Plan and Conditional Use Permit.

If you have any questions, please do not hesitate to call me (760) 435-3519.

Sincerely,

Richard Greenbauer,
Senior Planner

Cc: file

CITY OF OCEANSIDE

DEVELOPMENT SERVICES DEPARTMENT / PLANNING DIVISION

September 10, 2010

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If you have any questions, please do not hesitate to call me (760) 435-3519.

Sincerely,

Richard Greenbauer,
Senior Planner

Cc: file

For official copy contact Oceanside City Clerk

PLANNING COMMISSION
RESOLUTION NO. 2004-P22

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA APPROVING A DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO:	D-19-03 and C-29-03
APPLICANT:	Joe and Barbara Warsoff
LOCATION:	1660 Oceanside Boulevard

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 Development Plan and Conditional Use Permit under the provisions of Articles 11, 41 and 43 of the Zoning Ordinance of the City of Oceanside to permit the following:

construction of a 3,456-square foot mini-mart;

on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 24th day of May, 2004 conduct a duly advertised public hearing as prescribed by law to consider said application.

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; this project is not subject to CEQA per Article 19 Section 15301 and therefore the project is exempt from CEQA;

WHEREAS, there is hereby imposed on the subject development project certain fees, dedications, reservations and other exactions pursuant to state law and city ordinance;

WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS HEREBY GIVEN that the project is subject to certain fees, dedications, reservations and other exactions as provided below:

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Description	Authority for Imposition	Current Estimate Fee or Calculation Formula
Drainage Fee	Ordinance No. 85-23 Resolution No. 89-231	$9,575 per acre
Public Facility Fee	Ordinance No. 91-09 Resolution No. R91-39	$441 per thousand square feet
School Facilities Mitigation Fee	Ordinance No. 91-34	$.34 per square foot
Traffic Signal Fee	Ordinance No. 87-19	$7.80 per vehicle trip
Thoroughfare Fee (For commercial and industrial please note the .75 per cent discount)	Ordinance No. 83-01	$177 per vehicle trip (based on SANDAG trip generation table available from staff and from SANDAG)
Water System Buy-in Fees	Oceanside City Code §37.56.1 Resolution No. 87-96 Ordinance No. 02-OR-332-1	Fee based on meter size Typical is $17,908 for a 2" meter
Wastewater System Buy-in fees	Oceanside City Code § 29.11.1 Resolution No. 87-97 Ordinance No. 02-OR-333-1	Based on meter size Typical is $21,923 for a 2" meter
San Diego County Water Authority Capacity Fees	SDCWA Ordinance No. 2000-3	Based on meter size. Typical is $10,421 for a 2" meter.

WHEREAS, the current fees referenced above are merely fee amount estimates of the impact fees that would be required if due and payable under currently applicable ordinances and resolutions, presume the accuracy of relevant project information provided by the applicant, and are not necessarily the fee amount that will be owing when such fee becomes due and payable;

WHEREAS, unless otherwise provided by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 32B of the Oceanside City Code and the City expressly reserves the right to amend the fees and fee calculations consistent with applicable law;

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WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law;

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 Development Plan:

1. The site plan and physical design of the project is consistent with the Zoning Ordinance and the underlying Special Commercial Highway Oriented (CS-HO) zone by providing a new 3,456-square foot mini-mart.
2. The Development Plan conforms to the General Plan of the City.
3. The project site can be adequately served by existing public facilities, services and utilities.
4. The project, as proposed, is compatible with the existing and potential development on adjoining commercial properties or in the surrounding neighborhood.
5. The site plan and physical design of the project is consistent with the policies contained within Section 1.24 of the Land Use Element of the General Plan.

For the Conditional Use Permit for the Mini-mart:

1. The location of the mini-mart, within the CS-HO commercial zone is in accord with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.
2. The proposed use will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

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3. The mini-mart is conditioned and is required to comply with all provisions of the Zoning Ordinance. The proposed use is subject to specific operational conditions that will cause the use to operate compatibly with the surrounding land uses.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approve Development Plan (D-19-03), Conditional Use Permit (C-29-03) subject to the following conditions:

Building:

1. Applicable Building Codes and Ordinances shall be based on the date of submittal for Building Department plan check.
2. The granting of approval under this action shall in no way relieve the applicant/project from compliance with all State and local building codes.
3. Site development, parking, access into buildings and building interiors shall comply with Part 2, Title 24, C.C.R. (Disabled Access – Non-residential buildings - D.S.A.).
4. All electrical, communication, CATV, etc. service lines, within the exterior lines of the property shall be underground (City Code Sec. 6.30).
5. The building plans for this project are required by State law to be prepared by a licensed architect or engineer and must be in compliance with this requirement prior to submittal for building plan review.
6. All outdoor lighting shall meet Chapter 39 of the City Code (Light Pollution Ordinance) and shall be shielded appropriately. Where color rendition is important high-pressure sodium, metal halide or other such lights may be utilized and shall be shown on final building and electrical plans.
7. The developer shall monitor, supervise and control all building construction and supportive activities so as to prevent these activities from causing a public nuisance, including, but not limited to, strict adherence to the following:
   a) Building construction work hours shall be limited to between 7 a.m. and 6 p.m. Monday through Friday, and on Saturday from 7 a.m. to 6 p.m. for work that is not inherently noise-producing. Examples of work not permitted on Saturday are

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concrete and grout pours, roof nailing and activities of similar noise-producing nature. No work shall be permitted on Sundays and Federal Holidays (New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day) except as allowed for emergency work under the provisions of the Oceanside City Code Chapter 38 (Noise Ordinance).

b) The construction site shall be kept reasonably free of construction debris as specified in Section 13.17 of the Oceanside City Code. Storage of debris in approved solid waste containers shall be considered compliance with this requirement. Small amounts of construction debris may be stored on site in a neat, safe manner for short periods of time pending disposal.

Engineering:

8. An erosion control plan and precise grading and private improvement plan shall be prepared, reviewed, secured and approved prior to the issuance of any building permits. The plan shall reflect all new and existing pavement, flatwork, landscaped areas, special surfaces, curbs, gutters, medians, striping, signage, and footprints of all structures, walls, drainage devices and utility services. Parking lot striping shall be shown on all Precise Grading and Private Improvement Plans.

9. All right-of-way alignments, street dedications, exact geometrics and widths shall be dedicated and improved as required by the City Engineer.

10. Design and construction of all improvements shall be in accordance with standard plans, specifications of the City of Oceanside and subject to approval by the City Engineer.

11. Prior to issuance of a building permit all improvement requirements shall be covered by a development agreement and secured with sufficient improvement securities or bonds guaranteeing performance and payment for labor and materials, setting of monuments, and warranty against defective materials and workmanship.

12. Prior to issuance of a building permit a phasing plan for the construction of public and private improvements including landscaping, shall be approved by the City Engineer.

13. The approval of the project shall not mean that closure, vacation, or abandonment of any public street, right-of-way, easement, or facility is granted or guaranteed to the developer.

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The developer is responsible for applying for all closures, vacations, and abandonments as necessary. The application(s) shall be reviewed and approved or rejected by the City under separate process(es) per codes, ordinances, and policies in effect at the time of the application.

14. Where proposed off-site improvements, including but not limited to slopes, public utility facilities, and drainage facilities, are to be constructed, the applicant shall, at his own expense, obtain all necessary easements or other interests in real property and shall dedicate the same to the City as required. The applicant shall provide documentary proof satisfactory to the City that such easements or other interest in real property have been obtained prior to issuance of any grading, building or improvement permit for the development. Additionally, the City, may at its sole discretion, require that the applicant obtain at his sole expense a title policy insuring the necessary title for the easement or other interest in real property to have vested with the City of Oceanside or the applicant, as applicable.

15. The developer shall monitor, supervise and control all construction and construction-supportive activities, so as to prevent these activities from causing a public nuisance, including but not limited to, insuring strict adherence to the following:

a) Dirt, debris and other construction material shall not be deposited on any public street or within the City's storm water conveyance system.

b) All grading and related site preparation and construction activities shall be limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. No earthmoving or grading operation shall be conducted on Saturdays, Sundays or legal holidays unless written permission is granted by the City Engineer with specific limitations to the working hours and types of permitted operations. All on-site construction staging areas shall be as far as possible (minimum 100 feet) from any existing residential development. Because construction noise may still be intrusive in the evening or on holidays, the City of Oceanside Noise Ordinance also prohibits "any disturbing excessive, or offensive noise which causes discomfort or annoyance to reasonable persons of normal sensitivity."

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c) The construction site shall accommodate the parking of all motor vehicles used by persons working at or providing deliveries to the site.

16. All traffic signal contributions, highway thoroughfare fees, park fees, reimbursements, and other applicable charges, fees and deposits shall be paid prior to the issuing of any building permits, in accordance with City Ordinances and policies. The developer shall also be required to join into, contribute, or participate in any improvement, lighting, or other special district affecting or affected by this project. Approval of the project shall constitute the developer's approval of such payments, and his agreement to pay for any other similar assessments or charges in effect when any increment is submitted for final map or building permit approval, and to join, contribute, and/or participate in such districts.

17. Pavement sections for all streets, alleys, driveways and parking areas shall be based upon approved soil tests and traffic indices. The pavement design is to be prepared by the developer's soil engineer and must be approved by the City Engineer, prior to paving.

18. Any existing broken pavement, concrete curb, gutter or sidewalk or any damaged during construction of the project, shall be repaired or replaced as directed by the City Engineer.

19. Grading and drainage facilities shall be designed and installed to adequately accommodate the local storm water runoff and shall be in accordance with the City's Engineers Manual and as directed by the City Engineer.

20. The applicant shall obtain any necessary permits and clearances from all public agencies having jurisdiction over the project due to its type, size, or location, including but not limited to the U. S. Army Corps of Engineers, California Department of Fish and Game, U. S. Fish and Wildlife Service and/or San Diego Regional Water Quality Control Board (including NPDES), San Diego County Health Department, prior to the issuance of grading permits.

21. Prior to any grading of any part of the tract or project, a comprehensive soils and geologic investigation shall be conducted of the soils, slopes, and formations in the project. All necessary measures shall be taken and implemented to assure slope stability, erosion

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control, and soil integrity. No grading shall occur until a detailed grading plan, to be prepared in accordance with the Grading Ordinance and Zoning Ordinance, is approved by the City Engineer.

22. This project shall provide year-round erosion control including measures for the site required for the phasing of grading. Prior to the issuance of grading permit, an erosion control plan, designed for all proposed stages of construction, shall be reviewed, secured by the applicant with cash securities and approved by the City Engineer.

23. Landscaping plans, including plans for the construction of walls, fences or other structures at or near intersections, must conform to intersection sight distance requirements. Landscape and irrigation plans for disturbed areas must be submitted to the City Engineer prior to the issuance of a preliminary grading permit and approved by the City Engineer prior to the issuance of building permits. Frontage and median landscaping shall be installed prior to the issuance of any building permits. Project fences, sound or privacy walls and monument entry walls/signs shall be designed, reviewed and constructed by the landscape plans and shown for location only on grading plans. Plantable, segmental walls shall be designed, reviewed and constructed by the grading plans and landscaped/irrigated through project landscape plans. All plans must be approved by the City Engineer and a pre-construction meeting held, prior to the start of any improvements.

24. The drainage design on the development plan is conceptual only. The final design shall be based upon a hydrologic/hydraulic study to be approved by the City Engineer during final engineering. All drainage picked up in an underground system shall remain underground until it is discharged into an approved channel, or as otherwise approved by the City Engineer. All public storm drains shall be shown on City standard plan and profile sheets. All storm drain easements shall be dedicated where required. The applicant shall be responsible for obtaining any off-site easements for storm drainage facilities.

25. Sediment, silt, grease, trash, debris, and/or pollutants shall be collected on-site and disposed of in accordance with all state and federal requirements, prior to stormwater discharge either off-site or into the City drainage system.

26. The development shall comply with all applicable regulations established by the United States Environmental Protection Agency (USEPA) as set forth in the National Pollutant

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Discharge Elimination System (N.P.D.E.S.) permit requirements for urban runoff and storm water discharge and any regulations adopted by the City pursuant to the N.P.D.E.S. regulations or requirements. Further, the applicant may be required to file a Notice of Intent with the State Water Resources Control Board to obtain coverage under the N.P.D.E.S. General Permit for Storm Water Discharges Associated with Construction Activity and may be required to implement a Storm Water Pollution Prevention Plan (SWPPP) concurrent with the commencement of grading activities. SWPPP's include both construction and post construction pollution prevention and pollution control measures and identify funding mechanisms for post construction control measures. The developer shall comply with all the provisions of the Clean Water Program during and after all phases of the development process, including but not limited to: mass grading, rough grading, construction of street and landscaping improvements, and construction of dwelling units. The applicant shall design the Project's storm drains and other drainage facilities to include Best Management Practices to minimize non-point source pollution, satisfactory to the City Engineer.

27. Upon acceptance of any fee waiver or reduction by the Developer, the entire project will be subject to prevailing wage requirements as specified by Labor Code section 1720(b)(4). The Developer/Subdivider/Project Proponent/Applicant shall agree to execute a form acknowledging the prevailing wage requirements prior to the granting of any fee reductions or waivers.

28. The project shall install a raised median on Oceanside Boulevard along the project frontage to prohibit left turns from the project site. The median shall be approximately 250 feet in length beginning at the intersection of Vine Street, and be of sufficient length to restrict left turns from the adjacent Best Western motel driveway east of the project site. The median shall be designed and constructed to the satisfaction of the Transportation Manager.

29. The project shall install a left turn pocket, 180 feet in length with a 120-foot transition, for eastbound Oceanside Boulevard beginning at the Interstate 5 on/off ramp. The turn pocket shall be designed to Caltrans design standards.

30. "Right Turn Only" signs shall be installed on both driveway approaches from the project site onto Oceanside Boulevard.

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31. The existing southerly driveway from the project site onto Vine Street shall be removed.

32. Sufficient storage space on the project site shall be allowed for truck circulation, deliveries and parking.

33. Crosswalks shall be installed on all approaches to the Oceanside Boulevard/Vine Street intersection. The existing traffic signal at this intersection shall be modified to allow pedestrian access for the east leg, and the existing "No Ped Crossing" signs on the eastside of the intersection shall be removed.

34. Five-foot sidewalk (not including 6" top of curb) shall be installed on the north side of Oceanside Boulevard and the east side of Vine Street for the full length of the project. The sidewalk shall be ADA compliant and be contiguous to the curb.

35. ADA compliant pedestrian access shall be provided at all project driveways and the intersection of Oceanside Boulevard and Vine Street.

36. Sight distance requirements at all driveway and street intersections shall conform to the intersection corner sight distance criteria as provided by the California Department of Transportation Highway Design Manual.

37. A traffic control plan shall be prepared according to the City traffic control guidelines and be submitted to and approved by the Transportation Manager prior to the start of work within open City rights-of-way. Traffic control during construction of streets that have been opened to public traffic shall be in accordance with construction signing, marking and other protection as required by the Caltrans Traffic Manual and City Traffic Control Guidelines.

38. Traffic control during construction adjacent to or within all public streets must meet Caltrans standards and City Traffic Control Guidelines. Traffic control plans shall be in effect from 8:00 a.m. to 3:30 p.m. unless approved otherwise.

39. A haul route shall be obtained at least 7 days prior to the start of hauling operations and must be approved by the Transportation Manager. Hauling operations shall be 8:00 a.m. to 3:30 p.m. unless approved otherwise.

40. Street lights shall be installed on Oceanside Boulevard and Vine Street along the frontage of the project. The system shall be designed to provide uniform lighting, and be secured prior to the recordation of map or building permit issuance, if a map is not recorded. The subdivider shall pay all applicable fees, energy charges, and/or assessments associated with

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City-owned (LS-2 rate schedule) streetlights and shall also agree to the formulation of, or the annexation to, any appropriate street lighting district.

41. The applicant shall pay all applicable traffic signal and thoroughfare fees.

Fire:

42. Plans shall be submitted to the Fire Prevention Bureau for plan check review and approval prior to the issuance of building permits.

43. Fire extinguishers are required and shall be included on the plans submitted for plan check.

44. Buildings shall meet Oceanside Fire Departments current adopted codes at the time of building permits.

45. In accordance with the Uniform Fire Code Sec. 901.4.4, approved addresses, for commercial shall be placed on the structure in such a position as to be plainly visible and legible from the street or roadway fronting the property. Numbers shall contrast with their background.

46. Commercial Buildings require 6-inch high address numbers.

Planning:

47. This Development Plan and Conditional Use Permit shall expire on May 24, 2006, unless the Planning Commission grants a time extension.

48. This Development Plan and Conditional Use Permit approves only the construction of a 3,456-square foot mini-mart as shown on the plans and exhibits presented to the Planning Commission for review and approval. No deviation from these approved plans and exhibits shall occur without Planning Department approval. Substantial deviations shall require a revision to the Development Plan and Conditional Use Permit or a new Development Plan and Conditional Use Permit.

49. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold harmless the City of Oceanside, its agents, officers or employees from any claim, action or proceeding against the City, its agents, officers, or employees to attack, set aside, void or annul an approval of the City, concerning Development Plan D-19-03 and Conditional Use Permit C-29-03. The City will promptly notify the applicant of any such claim, action or proceeding against the City and will cooperate fully in the defense. If the City fails to promptly notify the applicant of any such claim action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify or hold harmless the City.

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50. All mechanical rooftop and ground equipment shall be screened from public view as required by the Zoning Ordinance. That is, on all four sides and top. The roof jacks, mechanical equipment, screen and vents shall be painted with non-reflective paint to match the roof. This information shall be shown on the building plans.

51. Landscape plans, meeting the criteria of the City's Landscape Guidelines and Water Conservation Ordinance No. 91-15, including the maintenance of such landscaping, shall be reviewed and approved by the City Engineer and Planning Director prior to the issuance of building permits. Landscaping shall not be installed until bonds have been posted, fees paid, and plans signed for final approval. The following special landscaping requirements shall be met:

a) Parkway tree plantings along arterial roads shall be a minimum of two-inch diameter trees so as to ensure a mature landscape theme is achieved in a reasonable amount of time.

b) Arterial street trees in parkways shall be planted at a minimum of 30 feet on center, each side of street, as a solitary planting. Approved root barriers shall be incorporated.

52. All landscaping, fences, walls, etc. on the site, in any adjoining public parkways shall be permanently maintained by the owner, his assigns or any successors-in-interest in the property. The maintenance program shall include normal care and irrigation of the landscaping; repair and replacement of plant materials; irrigation systems as necessary; and general cleanup of the landscaped and open areas, parking lots and walkways, walls, fences, etc. Failure to maintain landscaping shall result in the City taking all appropriate enforcement actions by all acceptable means including but not limited to citations and/or actual work with costs charged to or recorded against the owner. This condition shall be recorded with the covenant required by this Resolution.

53. A trash enclosure must be provided as required by Chapter 13 of the City Code and shall also include additional space for storage and collection of recyclable materials per City standards. Recycling is required by City Ordinance. The enclosure must be built in a flat, accessible location as determined by the City Engineer. The enclosure shall meet City standards including being constructed of concrete block, reinforced with rebar and filled

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with cement. A concrete slab must be poured with a berm on the inside of the enclosure to prevent the bin(s) from striking the block walls. The slab must extend out of the enclosure for the bin(s) to roll out onto. Steel posts must be set in front of the enclosure with solid metal gates. All driveways and service access areas must be designed to sustain the weight of a 50,000-pound service vehicle. Trash enclosures and driveways and service access areas shall be shown on both the improvement and landscape plans submitted to the City Engineer. The specifications shall be reviewed and approved by the City Engineer. The City's waste disposal contractor is required to access private property to service the trash enclosures, a service agreement must be signed by the property owner and shall remain in effect for the life of the project. All trash enclosures shall be designed to provide user access without the use and opening of the service doors for the bins. Trash enclosures shall have design features such as materials and trim similar to that of the rest of the project. This design shall be shown on the landscape plans and shall be approved by the Planning Director.

54. A covenant or other recordable document approved by the City Attorney shall be prepared by the applicant and recorded prior to issuance of building permits. The covenant shall provide that the property is subject to this Resolution, and shall generally list the conditions of approval.

55. The project shall prepare a Management Plan. The Management Plan is subject to the review and approval of the Planning Director and the Police Chief prior to the occupancy of the project, and shall be recorded as CC&R's against the property. The Management Plan shall cover the following:

a) Security - The Management Plan, at a minimum, shall address onsite management, hours-of-operation and measures for providing appropriate security for the project site.

b) Maintenance - The Management Plan shall cover, but not be limited to anti-graffiti and site and exterior building, landscaping, parking lots, sidewalks, walkways and overall site maintenance measures and shall ensure that a high standard of maintenance at this site exists at all times. The maintenance portion of the management plan shall include a commitment for the sweeping and cleaning of parking lots, sidewalks and other concrete surfaces at sufficient intervals to maintain a "like new" appearance. Wastewater, sediment, trash or

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other pollutants shall be collected on site and properly disposed of and shall not be discharged off the property or into the City's storm drain system.

c) Any graffiti within the center shall be removed by the center management or its designated representative within 24 hours of occurrence. Any new paint used to cover graffiti shall match the existing color scheme.

56. Prior to the issuance of building permits, compliance with the applicable provisions of the City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed and approved by the Planning Department. These requirements, including the obligation to remove or cover with matching paint all graffiti within 24 hours, shall be noted on the Landscape Plan and shall be recorded in the form of a covenant affecting the subject property.

57. Prior to the transfer of ownership and/or operation of the site the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner and/or operator. This notification's provision shall run with the life of the project and shall be recorded as a covenant on the property.

58. Failure to meet any conditions of approval for this development shall constitute a violation of the Conditional Use Permit and Development Plan.

59. Unless expressly waived, all current zoning standards and City ordinances and policies in effect at the time building permits are issued are required to be met by this project. The approval of this project constitutes the applicant's agreement with all statements in the Description and Justification, Management Plan and other materials and information submitted with this application, unless specifically waived by an adopted condition of approval.

60. This Conditional Use Permit shall be called for review by the Planning Commission if complaints are filed and verified as valid by the Code Enforcement Office concerning the violation of any of the approved conditions or assumptions made by the application.

61. The hours-of-operation are not limited, but shall be reviewed and may be limited by the Planning Commission when valid issues or complaints pertaining to the hours-of-operation arise.

62. Elevations, siding materials, colors, roofing materials and floor plans shall be substantially the same as those approved by the Planning Commission. These shall

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be shown on plans submitted to the Building Department and Planning Department.

Water Utilities:

63. All public water and/or sewer facilities not located within the public right-of-way shall be provided with easements sized according to the City's Engineers Manual. Easements shall be constructed for an all weather access.

64. No trees or structures or building overhang shall be located within any water or wastewater utility easement.

65. The property owner shall maintain private water and wastewater utilities located on private property.

66. A separate irrigation meter is required and approved backflow prevention device is required.

67. Water services and sewer laterals constructed in existing right-of-way locations are to be constructed by approved and licensed contractors at developer's expense.

68. The developer shall be responsible for developing all water and sewer facilities necessary to develop the property. Any relocation of water and/or sewer lines is the responsibility of the developer and shall be done by an approved licensed contractor at the developer's expense.

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69. All water and wastewater construction shall conform to the most recent edition of the City's Engineers Manual, or as approved by the Water Utilities Director.

PASSED AND ADOPTED Resolution No. 2004-P22 on May 24, 2004 by the following vote, to wit:

AYES: Barrante, Chadwick, Schaffer, Parker, Nack and Neal

NAYS: None

ABSENT: Todd

ABSTAIN: None

George Barrante, Chairman
Oceanside Planning Commission

ATTEST:

Gerald S. Gilbert, Secretary

I, GERALD S. GILBERT, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2004-P22.

Dated: May 24, 2004

PLANNING COMMISSION
RESOLUTION NO. 2007-P46

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA APPROVING A TIME EXTENSION FOR A DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO:	D-19-03 and C-29-03 Time Extension
APPLICANT:	Joe and Barbara Warsoff
LOCATION:	1660 Oceanside Boulevard

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 time extension to a Development Plan and Conditional Use Permit under the provisions of Articles 11, 41 and 43 of the Zoning Ordinance of the City of Oceanside to permit the following:

construction of a 3,456-square foot mini-mart;

on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 24th day of September, 2007 conduct a duly advertised public hearing as prescribed by law to consider said application.

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; this project is not subject to CEQA per Article 19 Section 15332 and therefore, the project is exempt from CEQA;

WHEREAS, there is hereby imposed on the subject development project certain fees, dedications, reservations and other exactions pursuant to state law and city ordinance;

WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS HEREBY GIVEN that the project is subject to certain fees, dedications, reservations and other exactions as provided below:

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Description	Authority for Imposition	Current Estimate Fee or Calculation Formula
Parkland Dedication/Fee	Ordinance No. 91-10 Resolution No. 06-R0334-1	$3,503 per unit
Drainage Fee	Ordinance No. 85-23 Resolution No. 06-R0334-1	Depends on area (range is $2,843-$15,964 per acre)
Public Facility Fee	Ordinance No. 91-09 Resolution No. 06-R0334-1	$.713 per square foot or $713 per thousand square feet for non-residential uses and $2,072 per unit for residential
School Facilities Mitigation Fee	Ordinance No. 91-34	$.42 per square foot non-residential for Oceanside ($.42 for Vista and Fallbrook) $2.63 per square foot residential ($2.63 for Vista; $2.63 for Fallbrook)
Traffic Signal Fee	Ordinance No. 87-19 Resolution No. 06-R0334-1	$15.71 per vehicle trip
Thoroughfare Fee (For commercial and industrial please note the .75 per cent discount)	Ordinance No. 83-01 Resolution No. 06-R0334-1	$255 per vehicle trip (based on SANDAG trip generation table available from staff and from SANDAG)
Water System Buy-in Fees	Oceanside City Code §37.56.1 Resolution No. 87-96 Ordinance No. 05-OR 0611-1	Fee based on water meter size. Residential is typically $3,746 per unit; Non-residential is $19,967 for a 2" meter.
Wastewater System Buy-in fees	Oceanside City Code § 29.11.1 Resolution No. 87-97 Ordinance No. 05-OR 0610-1	Based on capacity or water meter size. Residential is typically $4,587 per unit; Non-residential is $24,444 for a 2" meter.

WHEREAS, the current fees referenced above are merely fee amount estimates of the impact fees that would be required if due and payable under currently applicable ordinances and resolutions, presume the accuracy of relevant project information provided by the applicant, and are not necessarily the fee amount that will be owing when such fee becomes due and payable;

WHEREAS, unless otherwise provided by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 32B of the Oceanside City Code and the City expressly reserves the right to amend the fees and fee calculations consistent with applicable law;

WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law;

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 Time Extension of the Development Plan and Conditional Use Permit:

1. The project has been conditioned for payment of all applicable impact fees, and therefore will be paying its fair share toward needed public services.
2. All changes in City policy have been addressed through revised Conditions of Approval. Therefore, this Time Extension will not adversely affect the City's General Plan or any existing applicable City policy.
3. There have been no significant changes affecting the project site, or the surrounding areas. As such, extending the opportunity to implement this use would not adversely affect the General Plan designations and policies for the project area. Likewise, the prior approved conditions for the operation of the use will provide measures of land use compatibility within the area.

For the Development Plan:

1. The site plan and physical design of the project is consistent with the Zoning Ordinance and the underlying Special Commercial Highway Oriented (CS-HO) zone by providing a new 3,456-square foot mini-mart.
2. The Development Plan conforms to the General Plan of the City.
3. The project site can be adequately served by existing public facilities, services and utilities.
4. The project, as proposed, is compatible with the existing and potential development on adjoining commercial properties or in the surrounding neighborhood.
5. The site plan and physical design of the project is consistent with the policies contained within Section 1.24 of the Land Use Element of the General Plan.

For the Conditional Use Permit for the Mini-Mart:

1. The location of the mini-mart, within the CS-HO commercial zone is in accord with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.
2. The proposed use will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.
3. The mini-mart is conditioned and is required to comply with all provisions of the Zoning Ordinance. The proposed use is subject to specific operational conditions that will cause the use to operate compatibly with the surrounding land uses.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approve the time extension for Development Plan (D-19-03), Conditional Use Permit (C-29-03). Planning Commission Resolution No. 2004-P22 shall continue to be effective with the approval of this time extension. The following conditions shall supersede where conflicts arise:

Building:

1. Projects submitted after January 1, 2008 will be plan checked and constructed under the newly adopted ICC codes.

Engineering:

2. Median improvements shall be constructed prior to the issuance of certificate of occupancy, unless otherwise approved by the City Engineer.

3. Prior to issuance of a building permit, a phasing plan for the construction of public and private improvements, including landscaping on-site and within the median, shall be approved by the City Engineer.

4. Where proposed off-site improvements, including but not limited to the median, slopes, public utility facilities, and drainage facilities, are to be constructed, the applicant shall, at his own expense, obtain all necessary easements or other interests in real property and shall dedicate the same to the City as required. The applicant shall provide documentary proof satisfactory to the City that such easements or other interest in real property have been obtained prior to issuance of any grading, building or improvement permit for the development. Additionally, the City, may at its sole discretion, require that the applicant obtain at his sole expense a title policy insuring the necessary title for the easement or other interest in real property to have vested with the City of Oceanside or the applicant, as applicable.

5. Landscaping plans, including plans for the construction of walls, fences or other structures at or near intersections, must conform to intersection sight distance requirements. Landscape and irrigation plans for disturbed areas must be submitted to the City Engineer prior to the issuance of a preliminary grading permit and approved by the City Engineer prior to the issuance of building permits. Frontage and median landscaping should be installed prior to the issuance of certificate of occupancy. Project fences, sound or privacy walls and monument entry walls/signs shall be designed, reviewed and constructed by the landscape plans and shown for location only on grading plans. Plantable, segmental walls shall be designed, reviewed and constructed by the grading plans and landscaped/irrigated through project landscape plans. All plans must be approved by the City Engineer at a pre-construction meeting held, prior to the start of any improvements.

6. The Project Proponent shall prepare and submit an Operations & Maintenance (O&M) Plan to the City Engineer with the first submittal of engineering plans. The O&M Plan shall be prepared by the applicant's Civil Engineer. It shall be directly based on the project's Storm Water Mitigation Plan (SWMP) previously approved by the project's approving authority (Planning Commission/City Council). The O&M Plan shall be approved by the City Engineer prior to approval of any plans by the Public Works

Department. At a minimum the O&M Plan shall include the designated responsible parties to manage the storm water BMP(s), employee's training program and duties, operating schedule, maintenance frequency, routine service schedule, specific maintenance activities, copies of resource agency permits, cost estimate for implementation of the O&M Plan and any other necessary elements.

7. The Project Proponent shall enter into a City-Standard Stormwater Facilities Maintenance Agreement with the City obliging the project proponent to maintain, repair and replace the Storm Water Best Management Practices (BMPs) identified in the project's approved Storm Water Mitigation Plan (SWMP), as detailed in the O&M Plan into perpetuity. The Agreement shall be approved by the City Attorney prior to issuance of any precise grading permit and shall be recorded at the County Recorder's Office prior to issuance of any building permit. Security in the form of cash (or certificate of deposit payable to the City) or an irrevocable, City-Standard Letter of Credit shall be required prior to issuance of a precise grading permit. The amount of the security shall be equal to 10 years of maintenance costs, as identified by the O&M Plan. The applicant's Civil Engineer shall prepare the O&M cost estimate. The O&M cost estimate shall be approved by the City Engineer prior to approval of any engineering plans for the project.

8. At a minimum, maintenance agreements shall require the staff training, inspection and maintenance of all BMPs on an annual basis. The project proponent shall complete and maintain O&M forms to document all maintenance activities. Parties responsible for the O&M plan shall retain records at the subject property for at least 5 years. These documents shall be made available to the City for inspection upon request at any time.

9. The Agreement shall include a copy of executed on-site and off-site access easements necessary for the operation and maintenance of BMPs that shall be binding on the land throughout the life of the project to the benefit of the party responsible for the O&M of BMPs, until such time that the stormwater BMP requiring access is replaced, satisfactory to the City Engineer. The Agreement shall also include a copy of the O&M Plan approved by the City Engineer.

10. The BMPs described in the project's approved Storm Water Mitigation Plan (SWMP) shall not be altered in any way, shape or form without formal approval by either an

Administrative Substantial Conformance issued by the Community Development Department/Planning Division or the project's final approving authority (Planning Commission/ City Council) at a public hearing. The determination of whatever action is required for changes to a project's approved SWMP shall be made by the Community Development Department/Planning Division.

11. Thermoplastic crosswalks shall be installed at the existing pedestrian crossings located on the east and north legs of the intersection of Oceanside Boulevard at Vine Street. These improvements shall be completed prior to issuance of certificate of occupancy and to the satisfaction of the City Engineer.

Planning:

12. This Development Plan (D-19-03) and Conditional Use Permit (C-29-03) expires shall be extended 24 months from the original expiration date of May 24, 2006.

13. All of the conditions of Planning Commission Resolution No. 2004-P22 shall continue to apply for 24 months from the original expiration date of May 24, 2006, except those conditions listed here, which shall supersede.

14. A covenant or other recordable document approved by the City Attorney shall be prepared by the applicant and recorded prior to issuance of building permits. The covenant shall provide that the property is subject to this resolution, and shall generally list the conditions of approval.

15. Landscape plans, meeting the criteria of the City's Landscape Guidelines and Water Conservation Ordinance No. 91-15, including the maintenance of such landscaping, shall be reviewed and approved by the City Engineer prior to the issuance of building permits. Landscaping shall not be installed until bonds have been posted, fees paid, and plans signed for final approval. The following special landscaping requirements shall be met:

    a) Parkway tree plantings along arterial roads shall be a minimum of two-inch diameter trees so as to ensure a mature landscape theme is achieved in a reasonable amount of time.

    b) Arterial street trees in parkways shall be planted at a minimum of 30 feet on center, each side of street, as a solitary planting. Approved root barriers shall be incorporated.

c) All landscaping, fences, walls, etc. on the site, in the median, in the public right-of-way, and in any adjoining public parkways shall be permanently maintained by the owner, his assigns or any successors-in-interest in the property. The maintenance program shall include normal care and irrigation of the landscaping; repair and replacement of plant materials; irrigation systems as necessary; and general cleanup of the landscaped and open areas, parking lots and walkways, walls, fences, etc. Failure to maintain landscaping shall result in the City taking all appropriate enforcement actions by all acceptable means including but not limited to citations and/or actual work with costs charged to or recorded against the owner. This condition shall be recorded with the covenant required by this resolution.

d) There shall be an assessment/evaluation of existing gas and electric lines prior to placement of palms and tree grates on Oceanside Boulevard; trees shall be relocated as necessary.

e) The landscape plans for this project shall take into consideration any future landscape plans for Oceanside Boulevard east of Interstate 5 and west of El Camino Real.

16. The project shall prepare a Management Plan. The Management Plan is subject to the review and approval of the City Planner and the Police Chief prior to the occupancy of the project, and shall be recorded as CC&R's against the property. The Management Plan shall cover the following:

a) Security - The Management Plan, at a minimum, shall address on-site management, hours-of-operation and measures for providing appropriate security for the project site.

b) Maintenance - The Management Plan shall cover, but not be limited to anti-graffiti and site and exterior building, landscaping, parking lots, sidewalks, walkways, median, and overall site maintenance measures and shall ensure that a high standard of maintenance at this site exists at all times. The maintenance portion of the management plan shall include a commitment for the sweeping and cleaning of parking lots, sidewalks and other concrete surfaces at sufficient

intervals to maintain a "like new" appearance. Wastewater, sediment, trash or other pollutants shall be collected on-site and properly disposed of and shall not be discharged off the property or into the City's storm drain system.

c) Any graffiti within the center shall be removed by the center management or its designated representative within 24 hours of occurrence. Any new paint used to cover graffiti shall match the existing color scheme.

d) Failure to meet any conditions of approval for this development shall constitute a violation of the time extension for the Conditional Use Permit and Development Plan.

17. No coin operated amusement devices shall be maintained on license premises.

18. At any time the premise causes policing problems, the Police Department may recommend the licensee to furnish security personnel during the times identified by the Police Department. If after such recommendation the licensee does not take steps to control policing problems, the Police Department may require the licensee to furnish security personnel during times identified by the Police Department.

19. The premises shall be maintained primarily as a convenience store and the annual sales of alcoholic beverages shall not exceed 25 percent of the quarterly annual sale of all other products.

20. No more than 25 percent of total shelf space may be devoted to the display and sale of alcoholic beverages.

Water Utilities:

21. All public water and/or sewer facilities not located within the public right-of-way shall be provided with easements sized according to the Water, Sewer, and Reclaimed Water Design and Construction Manual. Easements shall be constructed for all weather access.

22. A separate irrigation meter and approved backflow prevention device is required and shall be displayed on the plans

23. All Water and Wastewater construction shall conform to the most recent edition of the Water, Sewer, and Reclaimed Water Design and Construction Manual or as approved by the Water Utilities Director.

24. All lots with a finish pad elevation located below the elevation of the next upstream manhole cover of the public sewer shall be protected from backflow of sewage by installing and maintaining an approved type backwater valve, per the Uniform Plumbing Code (U.P.C.).

25. A Grease, Oil, and Sand Interceptor, described by the Uniform Plumbing Code, relating to restaurants, shall be installed in each building sewer in an appropriate location and shall be maintained by the property owner. The location shall be called out on the approved Building Plans.

26. Water and Wastewater Buy-in fees and the San Diego County Water Authority Fees are to be paid to the City and collected by the Water Utilities Department at the time of Building Permit issuance.

PASSED AND ADOPTED Resolution No. 2007-P46 on September 24, 2007 by the following vote, to wit:

AYES: Martinek, Parker, Horton, Neal, Troisi and Bertheaud

NAYS: None

ABSENT: Balma

ABSTAIN: None

Dennis Martinek, Chairman
Oceanside Planning Commission

ATTEST:

Jerry Hittleman, Secretary

I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2007-P46.

Dated: September 24, 2007

2005-0214848

DOC # 2005-0214848

MAR 16, 2005 10:43 AM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 79.00
PAGES: 23

8196

F8
23P
IC-3P

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CITY CLERK
CITY OF OCEANSIDE
300 North Coast Highway
Oceanside, CA 92054

THIS SPACE FOR RECORDER'S USE ONLY

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS ON REAL PROPERTY KNOWN AS THE OCEANSIDER

WHEREAS, Joseph Warsoff and Barbara Warsoff, hereinafter referred to as the "OWNERS" of approximately 0.52 acres of real property generally located in the 1600 block of Oceanside Boulevard in Oceanside, which such real property is more particularly described in the Property Description attached as Exhibit "A" and incorporated herein by reference, and hereinafter referred to as the "PROPERTY";

WHEREAS, Conditions 52, 54, 56, and 57 of Resolution No. 2004-P22 require that a covenant be recorded by the property owners to reflect the restrictions and on-site and off-site improvements required to be made on the PROPERTY prior to and as the condition of any development of the property, in accordance with the resolution (Resolution No. 2004-P22 is attached as Exhibit "B" and incorporated herein by reference, and hereinafter referred to as the "RESOLUTION");

WHEREAS, Condition 55 of the Resolution requires an approved Management Plan to be recorded as a covenant against the PROPERTY (the Management Plan is attached as Exhibit "C" and incorporated herein by reference, and hereinafter referred to as the "MANAGEMENT PLAN;")

WHEREAS, the OWNERS intend to restrict the PROPERTY in accordance with the conditions of the RESOLUTION and MANAGEMENT PLAN, as required by the Planning Commission;

NOW, THEREFORE, the OWNERS declare that said real property shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied subject to the covenants, conditions and restrictions set forth in this Declaration of Covenants, Conditions and Restrictions (hereinafter the "DECLARATION") expressly and exclusively for the use and benefit of the PROPERTY and each and every person and entity who now, or in the future, owns any portion of the PROPERTY. This DECLARATION shall constitute covenants running with the land and shall be binding on and for the benefit of OWNERS, their successors and assigns, and all subsequent owners of the PROPERTY, together with their grantees, successors, heirs, executors, administrators, devisees and assigns.

OWNERS HEREBY DECLARE AND COVENANT AS FOLLOWS:

1. Compliance with each and every condition of approval as set forth in the RESOLUTION shall be required and satisfied as a condition of any grading, improvement or development of the PROPERTY. The RESOLUTION sets forth specific requirements for on-site and off-site improvements, grading, payment of fees, site development, building and use standards.

2. Compliance with the MANAGEMENT PLAN shall also be required.

3. No provision of this DECLARATION is intended to, nor shall it be deemed to, modify, waive, delete or amend any condition or provision of the RESOLUTION or the MANAGEMENT PLAN. Each and every condition of the RESOLUTION and MANAGEMENT PLAN are expressly incorporated into this DECLARATION and made a part hereof, and shall constitute covenants running with the land.

4. The City shall have the right, but not the obligation, to enforce the provisions of this DECLARATION. In the event it becomes necessary for the City to institute legal action to enforce any provision of this DECLARATION, the City shall be entitled to recover from the OWNERS, their assigns or any successors in interest in the PROPERTY, reasonable attorneys' fees and costs incurred by the City in such action.

5. This DECLARATION shall constitute covenants running with the land and shall be binding on and for the benefit of OWNERS, their transferees, successors and assigns, and any other present or future interest holders or estate holders or any portion or all of the PROPERTY.

5. This DECLARATION shall not be modified, removed or released without the express written consent of the City of Oceanside.

IN WITNESS WHEREOF, Joseph Warsoff and Barbara Warsoff execute this Declaration this 10th day of March, 2005.

OWNERS:

Joseph Warsoff

By: Joseph Warsoff, owner

Barbara Warsoff

Barbara Warsoff, owner

APPROVED AS TO FORM:

CITY ATTORNEY

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego } ss.

On 3/10/05 (Date) before me, Vida Murrell notary (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Barbara Warsoff and Joseph Warsoff (Name(s) of Signer(s))

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence

VIDA MURRELL
Commission # 1481644
Notary Public - California
San Diego County
My Comm. Expires Apr 9, 2008

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Vida Murrell
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Declarations of Covenants Conditions + Restrictions on real property known as the Oceanside
Document Date: 3/10/05 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: Barbara Warsoff and Joseph Warsoff

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

© 1999 National Notary Association • 9350 De Soto Ave., P.O. Box 2402 • Chatsworth, CA 91313-2402 • www.nationalnotary.org Prod. No. 5907 Reorder: Call Toll-Free 1-800-876-6827

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF TRACT 101 OF SOUTH OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 622, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF A 22,803 SQUARE FOOT PARCEL OF LAND AS SAID PARCEL IS DESCRIBED ON RECORD OF SURVEY MAP NO. 8847, FILED MARCH 20, 1967, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SAID POINT BEARING NORTH 53°26'54" WEST, 50.00 FEET FROM THE NORTHWESTERLY LINE OF THAT 80.00 FOOT RIGHT OF WAY DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, UNDER PARCEL 1 RECORDED APRIL 6, 1955 IN BOOK 5595, PAGE 443 OF OFFICIAL RECORDS, AND BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 53°26'54" WEST, 100.00 FEET; THENCE AT RIGHT ANGLES SOUTH, 36°33'06" WEST, 151.27 FEET TO THE NORTHEASTERLY LINE OF THE 60.00 FOOT RIGHT OF WAY AS DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, RECORDED JULY 7, 1966 UNDER FILE NO. 110753 OF OFFICIAL RECORDS; BEING A POINT IN THE ARC OF A 170.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE ALONG SAID RIGHT OF WAY LINE SOUTHEASTERLY ALONG SAID CURVE, 47.37 FEET THROUGH AN ANGLE OF 15°57'57"; THENCE TANGENT TO SAID CURVE SOUTH 56°20'32" EAST, 83.65 FEET (RECORD SOUTH 56°23'03" EAST, 83.77 FEET) TO A TANGENT 20.00 FOOT RADIUS CURVE CONCAVE NORTHERLY; THENCE SOUTHEASTERLY AND EASTERLY ALONG SAID CURVE 30.98 FEET THROUGH AN ANGLE OF 88°44'54" TO A POINT IN THE ARC OF A 2040.08 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY IN SAID NORTHWESTERLY LINE OF THE 80.00 FOOT RIGHT OF WAY ABOVE DESCRIBED; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID NORTHWESTERLY LINE 130.71 FEET THROUGH AN ANGLE OF 3°40'16" TO A LINE WHICH BEARS SOUTH 53°26'54" EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 53°26'54" WEST, 50.00 FEET TO THE TRUE POINT OF BEGINNING.

Exhibit B

8200

PLANNING COMMISSION
RESOLUTION NO. 2004-P22

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA APPROVING A DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO:	D-19-03 and C-29-03
APPLICANT:	Joe and Barbara Warsoff
LOCATION:	1660 Oceanside Boulevard

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 Development Plan and Conditional Use Permit under the provisions of Articles 11, 41 and 43 of the Zoning Ordinance of the City of Oceanside to permit the following:

construction of a 3,456-square foot mini-mart;

on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 24th day of May, 2004 conduct a duly advertised public hearing as prescribed by law to consider said application.

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; this project is not subject to CEQA per Article 19 Section 15301 and therefore the project is exempt from CEQA;

WHEREAS, there is hereby imposed on the subject development project certain fees, dedications, reservations and other exactions pursuant to state law and city ordinance;

WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS HEREBY GIVEN that the project is subject to certain fees, dedications, reservations and other exactions as provided below:

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Description	Authority for Imposition	Current Estimate Fee or Calculation Formula
Drainage Fee	Ordinance No. 85-23 Resolution No. 89-231	$9,575 per acre
Public Facility Fee	Ordinance No. 91-09 Resolution No. R91-39	$441 per thousand square feet
School Facilities Mitigation Fee	Ordinance No. 91-34	$.34 per square foot
Traffic Signal Fee	Ordinance No. 87-19	$7.80 per vehicle trip
Thoroughfare Fee (For commercial and industrial please note the .75 per cent discount)	Ordinance No. 83-01	$177 per vehicle trip (based on SANDAG trip generation table available from staff and from SANDAG)
Water System Buy-in Fees	Oceanside City Code §37.56.1 Resolution No. 87-96 Ordinance No. 02-OR-332-1	Fee based on meter size Typical is $17,908 for a 2" meter
Wastewater System Buy-in fees	Oceanside City Code § 29.11.1 Resolution No. 87-97 Ordinance No. 02-OR-333-1	Based on meter size Typical is $21,923 for a 2" meter
San Diego County Water Authority Capacity Fees	SDCWA Ordinance No. 2000-3	Based on meter size. Typical is $10,421 for a 2" meter.

WHEREAS, the current fees referenced above are merely fee amount estimates of the impact fees that would be required if due and payable under currently applicable ordinances and resolutions, presume the accuracy of relevant project information provided by the applicant, and are not necessarily the fee amount that will be owing when such fee becomes due and payable;

WHEREAS, unless otherwise provided by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 32B of the Oceanside City Code and the City expressly reserves the right to amend the fees and fee calculations consistent with applicable law;

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WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law;

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 Development Plan:

1. The site plan and physical design of the project is consistent with the Zoning Ordinance and the underlying Special Commercial Highway Oriented (CS-HO) zone by providing a new 3,456-square foot mini-mart.
2. The Development Plan conforms to the General Plan of the City.
3. The project site can be adequately served by existing public facilities, services and utilities.
4. The project, as proposed, is compatible with the existing and potential development on adjoining commercial properties or in the surrounding neighborhood.
5. The site plan and physical design of the project is consistent with the policies contained within Section 1.24 of the Land Use Element of the General Plan.

For the Conditional Use Permit for the Mini-mart:

1. The location of the mini-mart, within the CS-HO commercial zone is in accord with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.
2. The proposed use will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

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3. The mini-mart is conditioned and is required to comply with all provisions of the Zoning Ordinance. The proposed use is subject to specific operational conditions that will cause the use to operate compatibly with the surrounding land uses.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approve Development Plan (D-19-03), Conditional Use Permit (C-29-03) subject to the following conditions:

Building:

1. Applicable Building Codes and Ordinances shall be based on the date of submittal for Building Department plan check.
2. The granting of approval under this action shall in no way relieve the applicant/project from compliance with all State and local building codes.
3. Site development, parking, access into buildings and building interiors shall comply with Part 2, Title 24, C.C.R. (Disabled Access – Non-residential buildings - D.S.A.).
4. All electrical, communication, CATV, etc. service lines, within the exterior lines of the property shall be underground (City Code Sec. 6.30).
5. The building plans for this project are required by State law to be prepared by a licensed architect or engineer and must be in compliance with this requirement prior to submittal for building plan review.
6. All outdoor lighting shall meet Chapter 39 of the City Code (Light Pollution Ordinance) and shall be shielded appropriately. Where color rendition is important high-pressure sodium, metal halide or other such lights may be utilized and shall be shown on final building and electrical plans.
7. The developer shall monitor, supervise and control all building construction and supportive activities so as to prevent these activities from causing a public nuisance, including, but not limited to, strict adherence to the following:
   a) Building construction work hours shall be limited to between 7 a.m. and 6 p.m. Monday through Friday, and on Saturday from 7 a.m. to 6 p.m. for work that is not inherently noise-producing. Examples of work not permitted on Saturday are

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concrete and grout pours, roof nailing and activities of similar noise-producing nature. No work shall be permitted on Sundays and Federal Holidays (New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day) except as allowed for emergency work under the provisions of the Oceanside City Code Chapter 38 (Noise Ordinance).

b) The construction site shall be kept reasonably free of construction debris as specified in Section 13.17 of the Oceanside City Code. Storage of debris in approved solid waste containers shall be considered compliance with this requirement. Small amounts of construction debris may be stored on site in a neat, safe manner for short periods of time pending disposal.

Engineering:

8. An erosion control plan and precise grading and private improvement plan shall be prepared, reviewed, secured and approved prior to the issuance of any building permits. The plan shall reflect all new and existing pavement, flatwork, landscaped areas, special surfaces, curbs, gutters, medians, striping, signage, and footprints of all structures, walls, drainage devices and utility services. Parking lot striping shall be shown on all Precise Grading and Private Improvement Plans.

9. All right-of-way alignments, street dedications, exact geometrics and widths shall be dedicated and improved as required by the City Engineer.

10. Design and construction of all improvements shall be in accordance with standard plans, specifications of the City of Oceanside and subject to approval by the City Engineer.

11. Prior to issuance of a building permit all improvement requirements shall be covered by a development agreement and secured with sufficient improvement securities or bonds guaranteeing performance and payment for labor and materials, setting of monuments, and warranty against defective materials and workmanship.

12. Prior to issuance of a building permit a phasing plan for the construction of public and private improvements including landscaping, shall be approved by the City Engineer.

13. The approval of the project shall not mean that closure, vacation, or abandonment of any public street, right-of-way, easement, or facility is granted or guaranteed to the developer.

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The developer is responsible for applying for all closures, vacations, and abandonments as necessary. The application(s) shall be reviewed and approved or rejected by the City under separate process(es) per codes, ordinances, and policies in effect at the time of the application.

14. Where proposed off-site improvements, including but not limited to slopes, public utility facilities, and drainage facilities, are to be constructed, the applicant shall, at his own expense, obtain all necessary easements or other interests in real property and shall dedicate the same to the City as required. The applicant shall provide documentary proof satisfactory to the City that such easements or other interest in real property have been obtained prior to issuance of any grading, building or improvement permit for the development. Additionally, the City, may at its sole discretion, require that the applicant obtain at his sole expense a title policy insuring the necessary title for the easement or other interest in real property to have vested with the City of Oceanside or the applicant, as applicable.

15. The developer shall monitor, supervise and control all construction and construction-supportive activities, so as to prevent these activities from causing a public nuisance, including but not limited to, insuring strict adherence to the following:

a) Dirt, debris and other construction material shall not be deposited on any public street or within the City's storm water conveyance system.

b) All grading and related site preparation and construction activities shall be limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. No earthmoving or grading operation shall be conducted on Saturdays, Sundays or legal holidays unless written permission is granted by the City Engineer with specific limitations to the working hours and types of permitted operations. All on-site construction staging areas shall be as far as possible (minimum 100 feet) from any existing residential development. Because construction noise may still be intrusive in the evening or on holidays, the City of Oceanside Noise Ordinance also prohibits "any disturbing excessive, or offensive noise which causes discomfort or annoyance to reasonable persons of normal sensitivity."

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c) The construction site shall accommodate the parking of all motor vehicles used by persons working at or providing deliveries to the site.

16. All traffic signal contributions, highway thoroughfare fees, park fees, reimbursements, and other applicable charges, fees and deposits shall be paid prior to the issuing of any building permits, in accordance with City Ordinances and policies. The developer shall also be required to join into, contribute, or participate in any improvement, lighting, or other special district affecting or affected by this project. Approval of the project shall constitute the developer's approval of such payments, and his agreement to pay for any other similar assessments or charges in effect when any increment is submitted for final map or building permit approval, and to join, contribute, and/or participate in such districts.

17. Pavement sections for all streets, alleys, driveways and parking areas shall be based upon approved soil tests and traffic indices. The pavement design is to be prepared by the developer's soil engineer and must be approved by the City Engineer, prior to paving.

18. Any existing broken pavement, concrete curb, gutter or sidewalk or any damaged during construction of the project, shall be repaired or replaced as directed by the City Engineer.

19. Grading and drainage facilities shall be designed and installed to adequately accommodate the local storm water runoff and shall be in accordance with the City's Engineers Manual and as directed by the City Engineer.

20. The applicant shall obtain any necessary permits and clearances from all public agencies having jurisdiction over the project due to its type, size, or location, including but not limited to the U. S. Army Corps of Engineers, California Department of Fish and Game, U. S. Fish and Wildlife Service and/or San Diego Regional Water Quality Control Board (including NPDES), San Diego County Health Department, prior to the issuance of grading permits.

21. Prior to any grading of any part of the tract or project, a comprehensive soils and geologic investigation shall be conducted of the soils, slopes, and formations in the project. All necessary measures shall be taken and implemented to assure slope stability, erosion

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control, and soil integrity. No grading shall occur until a detailed grading plan, to be prepared in accordance with the Grading Ordinance and Zoning Ordinance, is approved by the City Engineer.

22. This project shall provide year-round erosion control including measures for the site required for the phasing of grading. Prior to the issuance of grading permit, an erosion control plan, designed for all proposed stages of construction, shall be reviewed, secured by the applicant with cash securities and approved by the City Engineer.

23. Landscaping plans, including plans for the construction of walls, fences or other structures at or near intersections, must conform to intersection sight distance requirements. Landscape and irrigation plans for disturbed areas must be submitted to the City Engineer prior to the issuance of a preliminary grading permit and approved by the City Engineer prior to the issuance of building permits. Frontage and median landscaping shall be installed prior to the issuance of any building permits. Project fences, sound or privacy walls and monument entry walls/signs shall be designed, reviewed and constructed by the landscape plans and shown for location only on grading plans. Plantable, segmental walls shall be designed, reviewed and constructed by the grading plans and landscaped/irrigated through project landscape plans. All plans must be approved by the City Engineer and a pre-construction meeting held, prior to the start of any improvements.

24. The drainage design on the development plan is conceptual only. The final design shall be based upon a hydrologic/hydraulic study to be approved by the City Engineer during final engineering. All drainage picked up in an underground system shall remain underground until it is discharged into an approved channel, or as otherwise approved by the City Engineer. All public storm drains shall be shown on City standard plan and profile sheets. All storm drain easements shall be dedicated where required. The applicant shall be responsible for obtaining any off-site easements for storm drainage facilities.

25. Sediment, silt, grease, trash, debris, and/or pollutants shall be collected on-site and disposed of in accordance with all state and federal requirements, prior to stormwater discharge either off-site or into the City drainage system.

26. The development shall comply with all applicable regulations established by the United States Environmental Protection Agency (USEPA) as set forth in the National Pollutant

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Discharge Elimination System (N.P.D.E.S.) permit requirements for urban runoff and storm water discharge and any regulations adopted by the City pursuant to the N.P.D.E.S. regulations or requirements. Further, the applicant may be required to file a Notice of Intent with the State Water Resources Control Board to obtain coverage under the N.P.D.E.S. General Permit for Storm Water Discharges Associated with Construction Activity and may be required to implement a Storm Water Pollution Prevention Plan (SWPPP) concurrent with the commencement of grading activities. SWPPP's include both construction and post construction pollution prevention and pollution control measures and identify funding mechanisms for post construction control measures. The developer shall comply with all the provisions of the Clean Water Program during and after all phases of the development process, including but not limited to: mass grading, rough grading, construction of street and landscaping improvements, and construction of dwelling units. The applicant shall design the Project's storm drains and other drainage facilities to include Best Management Practices to minimize non-point source pollution, satisfactory to the City Engineer.

27. Upon acceptance of any fee waiver or reduction by the Developer, the entire project will be subject to prevailing wage requirements as specified by Labor Code section 1720(b)(4). The Developer/Subdivider/Project Proponent/Applicant shall agree to execute a form acknowledging the prevailing wage requirements prior to the granting of any fee reductions or waivers.

28. The project shall install a raised median on Oceanside Boulevard along the project frontage to prohibit left turns from the project site. The median shall be approximately 250 feet in length beginning at the intersection of Vine Street, and be of sufficient length to restrict left turns from the adjacent Best Western motel driveway east of the project site. The median shall be designed and constructed to the satisfaction of the Transportation Manager.

29. The project shall install a left turn pocket, 180 feet in length with a 120-foot transition, for eastbound Oceanside Boulevard beginning at the Interstate 5 on/off ramp. The turn pocket shall be designed to Caltrans design standards.

30. "Right Turn Only" signs shall be installed on both driveway approaches from the project site onto Oceanside Boulevard.

31. The existing southerly driveway from the project site onto Vine Street shall be removed.

32. Sufficient storage space on the project site shall be allowed for truck circulation, deliveries and parking.

33. Crosswalks shall be installed on all approaches to the Oceanside Boulevard/Vine Street intersection. The existing traffic signal at this intersection shall be modified to allow pedestrian access for the east leg, and the existing "No Ped Crossing" signs on the eastside of the intersection shall be removed.

34. Five-foot sidewalk (not including 6" top of curb) shall be installed on the north side of Oceanside Boulevard and the east side of Vine Street for the full length of the project. The sidewalk shall be ADA compliant and be contiguous to the curb.

35. ADA compliant pedestrian access shall be provided at all project driveways and the intersection of Oceanside Boulevard and Vine Street.

36. Sight distance requirements at all driveway and street intersections shall conform to the intersection corner sight distance criteria as provided by the California Department of Transportation Highway Design Manual.

37. A traffic control plan shall be prepared according to the City traffic control guidelines and be submitted to and approved by the Transportation Manager prior to the start of work within open City rights-of-way. Traffic control during construction of streets that have been opened to public traffic shall be in accordance with construction signing, marking and other protection as required by the Caltrans Traffic Manual and City Traffic Control Guidelines.

38. Traffic control during construction adjacent to or within all public streets must meet Caltrans standards and City Traffic Control Guidelines. Traffic control plans shall be in effect from 8:00 a.m. to 3:30 p.m. unless approved otherwise.

39. A haul route shall be obtained at least 7 days prior to the start of hauling operations and must be approved by the Transportation Manager. Hauling operations shall be 8:00 a.m. to 3:30 p.m. unless approved otherwise.

40. Street lights shall be installed on Oceanside Boulevard and Vine Street along the frontage of the project. The system shall be designed to provide uniform lighting, and be secured prior to the recordation of map or building permit issuance, if a map is not recorded. The subdivider shall pay all applicable fees, energy charges, and/or assessments associated with

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City-owned (LS-2 rate schedule) streetlights and shall also agree to the formulation of, or the annexation to, any appropriate street lighting district.

41. The applicant shall pay all applicable traffic signal and thoroughfare fees.

Fire:

42. Plans shall be submitted to the Fire Prevention Bureau for plan check review and approval prior to the issuance of building permits.

43. Fire extinguishers are required and shall be included on the plans submitted for plan check.

44. Buildings shall meet Oceanside Fire Departments current adopted codes at the time of building permits.

45. In accordance with the Uniform Fire Code Sec. 901.4.4, approved addresses, for commercial shall be placed on the structure in such a position as to be plainly visible and legible from the street or roadway fronting the property. Numbers shall contrast with their background.

46. Commercial Buildings require 6-inch high address numbers.

Planning:

47. This Development Plan and Conditional Use Permit shall expire on May 24, 2006, unless the Planning Commission grants a time extension.

48. This Development Plan and Conditional Use Permit approves only the construction of a 3,456-square foot mini-mart as shown on the plans and exhibits presented to the Planning Commission for review and approval. No deviation from these approved plans and exhibits shall occur without Planning Department approval. Substantial deviations shall require a revision to the Development Plan and Conditional Use Permit or a new Development Plan and Conditional Use Permit.

49. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold harmless the City of Oceanside, its agents, officers or employees from any claim, action or proceeding against the City, its agents, officers, or employees to attack, set aside, void or annul an approval of the City, concerning Development Plan D-19-03 and Conditional Use Permit C-29-03. The City will promptly notify the applicant of any such claim, action or proceeding against the City and will cooperate fully in the defense. If the City fails to promptly notify the applicant of any such claim action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify or hold harmless the City.

Description: San Diego,CA Document-Year.DocID 2005.214848 Page: 15 of 23
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50. All mechanical rooftop and ground equipment shall be screened from public view as required by the Zoning Ordinance. That is, on all four sides and top.. The roof jacks, mechanical equipment, screen and vents shall be painted with non-reflective paint to match the roof. This information shall be shown on the building plans.

51. Landscape plans, meeting the criteria of the City's Landscape Guidelines and Water Conservation Ordinance No. 91-15, including the maintenance of such landscaping, shall be reviewed and approved by the City Engineer and Planning Director prior to the issuance of building permits. Landscaping shall not be installed until bonds have been posted, fees paid, and plans signed for final approval. The following special landscaping requirements shall be met:

a) Parkway tree plantings along arterial roads shall be a minimum of two-inch diameter trees so as to ensure a mature landscape theme is achieved in a reasonable amount of time.

b) Arterial street trees in parkways shall be planted at a minimum of 30 feet on center, each side of street, as a solitary planting. Approved root barriers shall be incorporated.

52. All landscaping, fences, walls, etc. on the site, in any adjoining public parkways shall be permanently maintained by the owner, his assigns or any successors-in-interest in the property. The maintenance program shall include normal care and irrigation of the landscaping; repair and replacement of plant materials; irrigation systems as necessary; and general cleanup of the landscaped and open areas, parking lots and walkways, walls, fences, etc. Failure to maintain landscaping shall result in the City taking all appropriate enforcement actions by all acceptable means including but not limited to citations and/or actual work with costs charged to or recorded against the owner. This condition shall be recorded with the covenant required by this Resolution.

53. A trash enclosure must be provided as required by Chapter 13 of the City Code and shall also include additional space for storage and collection of recyclable materials per City standards. Recycling is required by City Ordinance. The enclosure must be built in a flat, accessible location as determined by the City Engineer. The enclosure shall meet City standards including being constructed of concrete block, reinforced with rebar and filled

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with cement. A concrete slab must be poured with a berm on the inside of the enclosure to prevent the bin(s) from striking the block walls. The slab must extend out of the enclosure for the bin(s) to roll out onto. Steel posts must be set in front of the enclosure with solid metal gates. All driveways and service access areas must be designed to sustain the weight of a 50,000-pound service vehicle. Trash enclosures and driveways and service access areas shall be shown on both the improvement and landscape plans submitted to the City Engineer. The specifications shall be reviewed and approved by the City Engineer. The City's waste disposal contractor is required to access private property to service the trash enclosures, a service agreement must be signed by the property owner and shall remain in effect for the life of the project. All trash enclosures shall be designed to provide user access without the use and opening of the service doors for the bins. Trash enclosures shall have design features such as materials and trim similar to that of the rest of the project. This design shall be shown on the landscape plans and shall be approved by the Planning Director.

54. A covenant or other recordable document approved by the City Attorney shall be prepared by the applicant and recorded prior to issuance of building permits. The covenant shall provide that the property is subject to this Resolution, and shall generally list the conditions of approval.

55. The project shall prepare a Management Plan. The Management Plan is subject to the review and approval of the Planning Director and the Police Chief prior to the occupancy of the project, and shall be recorded as CC&R's against the property. The Management Plan shall cover the following:

a) Security - The Management Plan, at a minimum, shall address onsite management, hours-of-operation and measures for providing appropriate security for the project site.

b) Maintenance - The Management Plan shall cover, but not be limited to anti-graffiti and site and exterior building, landscaping, parking lots, sidewalks, walkways and overall site maintenance measures and shall ensure that a high standard of maintenance at this site exists at all times. The maintenance portion of the management plan shall include a commitment for the sweeping and cleaning of parking lots, sidewalks and other concrete surfaces at sufficient intervals to maintain a "like new" appearance. Wastewater, sediment, trash or

Description: San Diego,CA Document-Year.DocID 2005.214848 Page: 17 of 23
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other pollutants shall be collected on site and properly disposed of and shall not be discharged off the property or into the City's storm drain system.

c) Any graffiti within the center shall be removed by the center management or its designated representative within 24 hours of occurrence. Any new paint used to cover graffiti shall match the existing color scheme.

56. Prior to the issuance of building permits, compliance with the applicable provisions of the City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed and approved by the Planning Department. These requirements, including the obligation to remove or cover with matching paint all graffiti within 24 hours, shall be noted on the Landscape Plan and shall be recorded in the form of a covenant affecting the subject property.

57. Prior to the transfer of ownership and/or operation of the site the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner and/or operator. This notification's provision shall run with the life of the project and shall be recorded as a covenant on the property.

58. Failure to meet any conditions of approval for this development shall constitute a violation of the Conditional Use Permit and Development Plan.

59. Unless expressly waived, all current zoning standards and City ordinances and policies in effect at the time building permits are issued are required to be met by this project. The approval of this project constitutes the applicant's agreement with all statements in the Description and Justification, Management Plan and other materials and information submitted with this application, unless specifically waived by an adopted condition of approval.

60. This Conditional Use Permit shall be called for review by the Planning Commission if complaints are filed and verified as valid by the Code Enforcement Office concerning the violation of any of the approved conditions or assumptions made by the application.

61. The hours-of-operation are not limited, but shall be reviewed and may be limited by the Planning Commission when valid issues or complaints pertaining to the hours-of-operation arise.

62. Elevations, siding materials, colors, roofing materials and floor plans shall be substantially the same as those approved by the Planning Commission. These shall

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be shown on plans submitted to the Building Department and Planning Department.

Water Utilities:

63. All public water and/or sewer facilities not located within the public right-of-way shall be provided with easements sized according to the City's Engineers Manual. Easements shall be constructed for an all weather access.

64. No trees or structures or building overhang shall be located within any water or wastewater utility easement.

65. The property owner shall maintain private water and wastewater utilities located on private property.

66. A separate irrigation meter is required and approved backflow prevention device is required.

67. Water services and sewer laterals constructed in existing right-of-way locations are to be constructed by approved and licensed contractors at developer's expense.

68. The developer shall be responsible for developing all water and sewer facilities necessary to develop the property. Any relocation of water and/or sewer lines is the responsibility of the developer and shall be done by an approved licensed contractor at the developer's expense.

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69. All water and wastewater construction shall conform to the most recent edition of the City's Engineers Manual, or as approved by the Water Utilities Director.

PASSED AND ADOPTED Resolution No. 2004-P22 on May 24, 2004 by the following vote, to wit:

AYES: Barrante, Chadwick, Schaffer, Parker, Nack and Neal

NAYS: None

ABSENT: Todd

ABSTAIN: None

George Barrante, Chairman
Oceanside Planning Commission

ATTEST:

Gerald S. Gilbert, Secretary

I, GERALD S. GILBERT, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2004-P22.

Dated: May 24, 2004

Description: San Diego,CA Document-Year.DocID 2005.214848 Page: 20 of 23
Order: j Comment:

8216

EXHIBIT C

SITE MANAGEMENT PLAN

UNION 76 "THE OCEANSIDER"
1660 Oceanside Boulevard
D-19-03, C-29-03

Intent and Scope
This Management Plan is intended to provide a description of the operational characteristics of the Union 76 Station located on the northeast corner of Oceanside Boulevard and Vine Street intersection. This plan covers the operational characteristics of the Gas Pumps and the Food Mart.

Hours of Operation
Food Mart and Fuel Sales operates 24 hours a day, seven days a week. Beer and Wine sales are restricted between the hours of 02:00 AM and 06:00 AM.

Employees
The projected number of employees will remain as it currently exists; 2 employees. The exact number of employees may vary slightly from time to time.

Employee Parking
Employee parking shall be directed to areas less proximate to the front entrance.

Security
Security is provided 24-hours everyday. Twenty-four hour security cameras are installed and located to the extent necessary to address specific areas and problems as they occur. Signage prohibiting loitering is placed in conspicuous locations to further deter potential problems.

Lighting
Since facility is open for 24 hours, lighting for decorative purposes, including facade and landscape lighting, shall remain on. Lighting for the business signs and security shall remain on during business hours. On-site lighting complies with the Oceanside Municipal Code.

Noise Abatement
In the event that a particular use or activity becomes a nuisance, appropriate measures to control volume will be taken subject to review and approval by the Planning Director. Noise will not exceed limits determined by the Oceanside Municipal Code.

Storage and Display
Although outdoor storage or display of merchandise or material, as well as parking lot sales, are not anticipated, they would be subject to the standards established in Oceanside's Zoning Ordinance, Section 3020, Outdoor Facilities.

EXHIBIT C

UNION 76 "THE OCEANSIDER"
1660 Oceanside Boulevard
D-19-03, C-29-03

Signage
Sign permits are required for all new signs and the refacing of existing permitted signs. All signs shall comply with Oceanside's Zoning Ordinance, Article 33. May 24,2004, Staff Report for D-19-03, C-29-03 highlights that the existing monument sign and off-site pole sign shall remain; there will be no changes to the two signs.

Access
The site has been designed to enhance access and circulation on-site and off-site. The access driveway on Oceanside Boulevard is restricted to right-in right-out turning movements only.

Deliveries
All deliveries shall be limited to off-peak hours, between 9:00 to 11:00 AM and 1:00 to 4:00 PM.

Landscaping and Site Maintenance
Owner shall ensure that a high standard of maintenance at the site exists at all times. Maintenance of site and exterior building, landscaping, fences, walls and landscaping in the adjoining public parkways will all always be maintained and be the responsibility of the property owner. The maintenance program includes the following:

- Normal care and irrigation of the landscaping; repair and replacement of plant materials and irrigation systems as necessary.
- General cleanup, sweeping and cleanup of the landscaped and open areas, parking lot, walkways, walls and fences at sufficient intervals to maintain a "like new" appearance.
- Wastewater, sediment, trash and other pollutants shall be collected on-site and properly disposed of and shall not be discharged off the property or into the City's storm drain system.
- Parkway tree plantings along arterial roads shall be a minimum of two-inch diameter trees so as to ensure a mature landscape theme is achieved in a reasonable amount of time.
- Arterial street trees in parkways shall be planted at a minimum of 30 feet on center, each side of street, as a solitary planting. Approved root barriers shall be incorporated.

CITY OF OCEANSIDE
ENGINEERING

June 9, 2010

Mr. Joe Warsoff
1660 Oceanside Boulevard
Oceanside, CA 92054

Via Certified Mail

Subject: The Oceansider (D-19-2003)

Dear Mr. Warsoff,

The purpose of this letter is two-fold. First, it responds to issues raised in your e-mail of May 26, 2010. Second, it serves as formal notice of your need to meet or resolve all conditions of approval related to the Conditional Use Permit and Development Plan for your business, the Oceansider.

Response to Issues in E-mail of May 26, 2010

City staff has received the May 26, 2010, e-mail communication (Attachment 1). The following bulleted statements shall serve as a formal response to that correspondence.

- Issue: Staff Non-responsiveness

  Response: On May 12, 2010, Mr. Marty Eslambolchi received an e-mail from you. On May 13, 2010, Mr. Eslambolchi placed a return telephone call to you and left a voice message (760-722-1304) with Oceansider staff; no return correspondence or e-mail was received by Mr. Eslambolchi. It appears that a subsequent e-mail was intended to be sent to Mr. Eslambolchi from you; however, the following incorrect address was used: melembolchi@ci.oceanside.ca.us. Thus, Mr. Eslambolchi did not receive that e-mail.

- Issue: Release of Security

  Response: As discussed with you and your engineer, City staff has requested that final as-built drawings be submitted in order to proceed with grading and landscape security releases. It is anticipated that the release of applicable securities will occur in a timely fashion once an appropriate submittal is provided.

- Issue: Sign Permits for Canopy Signage

  Response: Until all conditions of approval for the Development Plan/Conditional Use Permit (CUP) are fulfilled, the City will not issue any additional permits concerning non-life/safety matters. Please be advised that directional signage (i.e. a "No Left Turn") sign does not require a sign permit.

- Issue: Refusal to Compensate for Delay in Issuing Permit for Pole Sign Faces

  Response: Should you continue to believe that you are entitled to compensation from the City on this matter, you are advised to seek legal counsel.

- Fulfillment of the "Right Turn Only" sign requirement stated in project condition #30, from Planning Commission Resolution No. 2004-P22, is your responsibility, not the City's. Again, no sign permit is needed for this type of signage.
- Issue: Alleged Threat by City Staff

  Response: The alleged threats by City staff have been investigated and addressed the City's Human Resources Department, and it has been determined that there was no wrong- doing by staff.

Notice to meet or resolve all conditions of approval related to the Conditional Use Permit and Development Plan for your business, the Oceansider

In March 2008, Mr. Eslambolchi and Mr. Jim Knowlton met with you and Mr. Michael Boraks (Cornerstone Engineering) to discuss construction schedule for the project's required public right-of-way (ROW) safety improvements. During that meeting, you requested that City staff allow the project extra time to construct the ROW safety improvements. It was stated that this request was primarily based upon financial burden and an opportunity to operate the facility would accommodate cash flow; which in turn would assist with funding the construction activities. A verbal agreement that you would construct the improvements within the next six (6) months, as well as maintain the respective temporary traffic control devices during that time extension. City staff accepted the proposal as effort to reasonably assist you and accommodate a cohesive construction approach during the City's Emergency Land Outfall Replacement project. At the same meeting, it was also discussed and agreed upon that the Oceansider public improvements would be constructed prior to the final paving activities for the City project.

After several months had passed, it came time for the Oceansider project to commence with construction of the Oceanside Boulevard safety improvements. At that time, you informed staff that you had no intention to honor the previous arrangement. Staff informed you that the outstanding improvements were required of the project as a condition of approval; despite that, you stated that you would not construct the improvements. Finally, in February 2010 during a meeting at the Engineering counter in City Hall South, you unequivocally stated to me that you would not be constructing the outstanding ROW improvements.

Therefore, this letter shall also serve as formal notice that failure to fulfill all project conditions may result in the revocation of the project's current conditional use permit (C-29-2003). At this point in time, you have two options to address this matter:

1. **Amend Development Plan (D-19-2003)**
   This option requires the submittal of an application to amend your approved Development Plan (D-19-2003). This action, if approved, would remove the right-of-way safety improvement requirements. The City Zoning Ordinance requires that this request be considered by the Planning Commission in a public hearing. An application for this is enclosed, and a fee of $3,339 would be required. Be advised that, at this time and due to safety concerns, staff would not support this request. However, the Planning Commission may find differently. Please contact Jerry Hittleman at (760-435-3535) if additional information is needed.

2. **Construct the right-of-way safety improvements as identified within the existing Planning Commission Resolution (2004-P22)**
   If reconsideration is given to construction of the agreed-upon improvements, please provide a schedule which thoroughly addresses the timing and completion of all outstanding public right-of-way safety improvements. This schedule shall establish a plan for timely project completion, and shall be submitted in writing to Mr. Marty Eslambolchi within thirty (30) calendar days from the receipt of this letter. If you are unable to submit a plan for timely project completion within (30) calendar days from the receipt of this letter, the City will consider granting additional time, provided that an Abatement Agreement is executed by July 30, 2010. You are strongly encouraged to immediately consult your engineer.

Please provide City staff a written response which clearly indicates the intended course of action on this matter. Failure to provide a written response within thirty days (30) shall indicate that there is no intent to pursue either of the above options. In that case, City staff will, unfortunately, be forced to commence with the CUP revocation process.

Finally, I am aware that a meeting with the Mayor has been requested. Development Services Director George Buell is making arrangements for the meeting. A City representative will contact you to schedule a time and date for the meeting.

Sincerely,

Scott O. Smith
City Engineer

SOS: lv

Attachments:

(Attachment 1) Email communication
Development Processing Guide-General Application Package
Development Processing Guide-Appendix A

ATTACHMENT 1

From: Joe Warsoff [mailto:jwarsoff@gmail.com]
Sent: Wednesday, May 26, 2010 2:24 PM
To: Russ Cunningham
Cc: meslembolchi@ci.oceanside.ca.us
Subject: Fwd: THE OCEANSIDER GAS STATION

---------- Forwarded message ----------
From: **Joe Warsoff** <jwarsoff@gmail.com>
Date: Wed, May 26, 2010 at 1:11 PM
Subject: THE OCEANSIDER GAS STATION
To: jwood@ci.oceanside.ca.us
Cc: esanchez@ci.oceanside.ca.us, citystaff@ci.oceanside.ca.us

We are trying to set a meeting to finalize all disputes with the city and our station. As of now, we have sent 2 e-mails to Marty Eslembolchi with no response. It is our feeling that the city is with-holding security bonds for completed work, refusing to issue sign permits, refusing to compensate us for wrong data not allowing new sign faces for 8 months (check with your legal dept), not getting us "Right Turn
Only" signs you say we need at our Oceanside Blvd exits (to cut the city's liability for accidents), etc.....
Before our opening in 12/2008, we were issued a CUP and now the city inspector **(Kieth Pirillo)** is verbally & **physically (in front of 2 city employees)** threatening to harm me & cancel this CUP.
PLEASE INVESTIGATE THESE PROBLEMS AND LET ME KNOW THE RESULTS

Thank you
Joe Warsoff
cell# 760-720-4646

CITY OF OCEANSIDE
DEVELOPMENT SERVICES DEPARTMENT

June 24, 2010

Mr. Joe Warsoff
1660 Oceanside Boulevard
Oceanside, CA 92054

Subject: The Oceansider (D-19-2003)

Dear Mr. Warsoff,

This letter is in response to your e-mail correspondence of June 17, 2010.

I acknowledge you have chosen the first option provided in Scott Smith's June 9, 2010 letter to you. Under this option, you intend to seek Planning Commission approval to remove the requirement that you install a raised median in Oceanside Boulevard. Please note, in order to continue with this course, you must file your application and submit fees not later than July 8, 2010.

If you fail to submit the fee and application by that date, the City will assume you have no further interest in pursuing this option. Furthermore, if we do not receive the fee and application submittal by the July 8, 2010 deadline, as noted in Mr. Smith's previous letter, we will institute revocation proceedings before the Planning Commission. You will be notified of the date and time that this item will be heard and you will be given an opportunity, pursuant to Articles 41 and 47 of the Zoning Ordinance to present your case to the Planning Commission prior to a decision being made on the revocation.

As you have been advised on numerous occasions, the statute of limitations to protest any of the conditions of approval for your project has long passed, and we will not entertain modifications of your project outside the formal modification process. Accordingly, staff would not recommend approval of a proposal to remove or modify the requirement to construct the median. Traffic Engineering staff does not view a cone-type "candlestick" median delineator to be a viable long-term solution. Your project was entitled three years ago and you have been enjoying the benefits of an operational gas station and mini mart since obtaining your occupancy permit on December 11, 2008. To date, you have not fulfilled your obligations under the Resolutions of Approval for your project.

I acknowledge your statement that you have purchased the "right turn" signs, and I will send appropriate staff to verify their installation. Please notify us as soon as they are installed so that we may confirm this.

All other matters raised in your letter are outside the purview of the Development Services Department, and no useful purpose will be served by continuing to discuss them in this venue. As Mr. Smith stated, if you continue to believe you are entitled to compensation from the City, you should seek your own legal counsel.

Sincerely,

George Buell
Development Services Director

cc: Mayor Jim Wood
Scott Smith, City Engineer
Jerry Hittleman, City Planner
Leslie Gallagher, Deputy City Attorney II

June 17, 2010

Att: Scott Smith
ssmith@ci.oceanside.ca.us
Copies to the following:
gbuell@ci.oceanside.ca.us
jhittleman@ci.oceanside.ca.us
meslambolchi@ci.oceanside.ca.us
jwood@ci.oceanside.ca.us

This letter (e-mail) is in response to your letter dated 6/9/2010.

Regarding any future work on the "median" on Oceanside Blvd., in front of the Oceansider station & convenience store, I would like to go before the planning commission to re-evaluate the need. Since the main reason for this median was to prevent accidents due to left turns, and as far as I know only 1 has occurred since 1990, I feel the median will cause more congestion and accidents if built. Also, a traffic study should be done to see the problems that will be caused by the "bubble" at the west end of the proposed median (especially during morning and evening rush hours). We have already purchased "Right Turn Only" signs for both exits on Oceanside Blvd and they will be installed this week. Secondly, if a "median" is still required, why cannot we use the cone type sticks that were in front of Boneys and the IHOP restaurant. These will not create the "bubble" at the west end, at Vine Street.

Now I have a proposed solution to all of the items mentioned in the letter of 6/9/2010. We would like to get reimbursed for our expenses and dollar losses due to the freeway pole sign "mistake". The total amount was about $300,000. Also, we would like to get reimbursed for the extra costs (for plans, engineering, drawings, etc.) caused by the "mistake" made by Jim Knowlton and acknowledged by Marty Eslembolchi at a meeting with Cornerstone Engineering. This amount of extra expense was about $40,000. Thirdly, there is the problem with Kieth Pirillo.

Proposal: If the City of Oceanside will consider a strip of cone type sticks in lieu of the median (which we will pay for, and the city will maintain), we would consider a payment of $150,000 from the city and a signed apology from Keith Pirillo as complete settlement.
As per the last line of page 1 of the letter of 6/9/2010, we will have to seek legal counsel if this cannot be worked out. I sincerely do not want to do this.

OCT 25 2010
Planning Department

Monday, October 25, 2010.

City of Oceanside Planning Commission
Re: Item No. 4

To Whom it May Concern:

I, Joe Warsoff, 1660 Oceanside Blvd. agree to a two (2) week continuance. (CUP 29-0 & D-19-03)

I, Joe Warsoff, will diligently work toward finalizing the Abatement Agreement with the City of Oceanside by this Thursday, October 28, 2010 at 5 p.m. in City Hall, City of Oceanside.

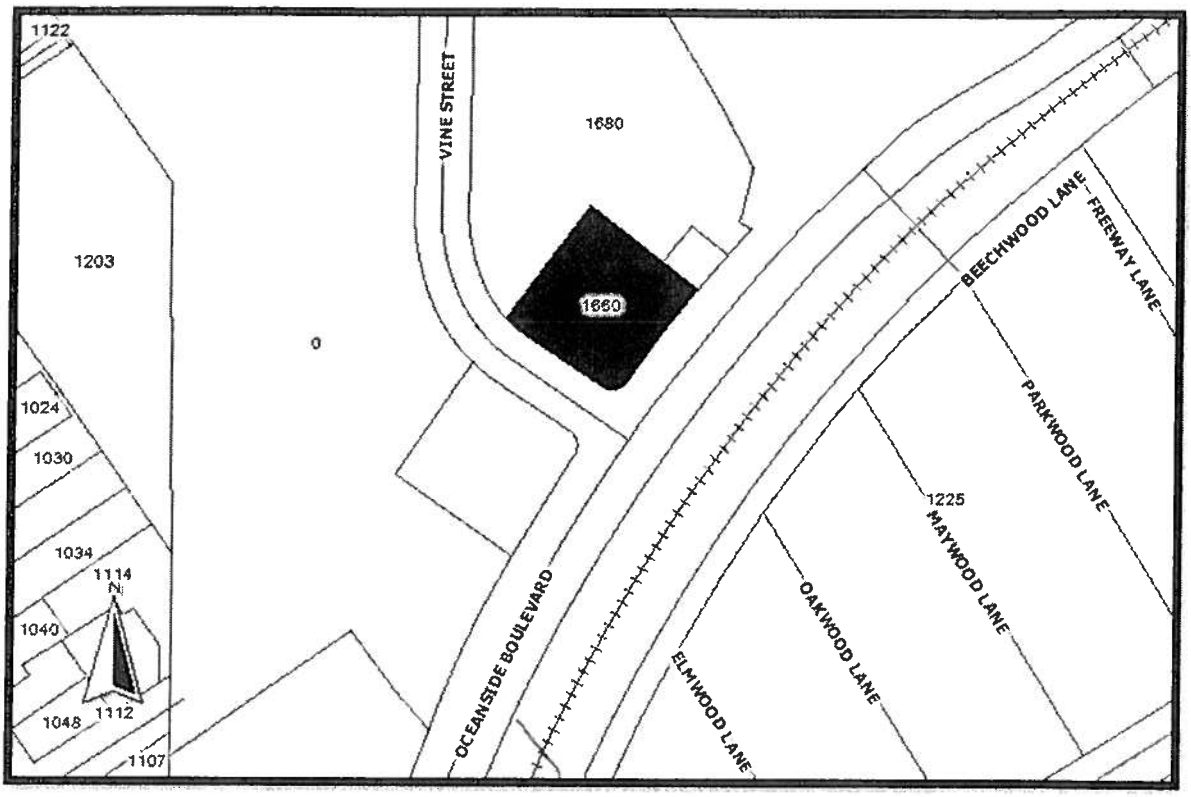
Sincerely,

Joe Warsoff

Joe Warsoff

All papers from the City will be provided with enough time to be reviewed by an attorney of my choosing or the two weeks will not be enough

Joe Warsoff



File Number: D-19-03, C-29-03

Applicant: Joe and Barbara Warsoff

Description:

DEVELOPMENT (D-19-03) and CONDITIONAL USE PERMIT (C-29-03) and associated resolutions (2004-P22 and 2007-P46) for failure to comply with Conditions of Approval in the established time frames. The project site is zoned CS-HO (Special Commercial- Highway Oriented) and is situated within the Townsite Neighborhood. – **THE OCEANSIDER**

Environmental Determination:

The project is exempt from the California Environmental Quality Act.

City of Oceanside, Planning Division
300 N. Coast Highway
Oceanside, CA 92054
(760) 435-3520

Application For Planning Commission Hearing

Planning Department (760) 435-3520
Oceanside Civic Center
300 North Coast Highway
Oceanside, California 92054-2885

RECEIVED
DEC 18 2003
Planning Department

Please Print or Type All Information

STAFF USE ONLY	
ACCEPTED 12-18-03	BY SMB
HEARING	
GPA	
MASTER/SP.PLAN	
ZONE CH.	
TENT. MAP	
PAR. MAP	
DEV. PL.	D-14-03
C.U.P.	C-29-03
VARIANCE	
COASTAL	
O.H.P.A.C.	

PART I – APPLICANT INFORMATION

1. APPLICANT JOE & BARBARA WARSOFF	2. STATUS
3. ADDRESS 4615 SUNBURST ROAD, CARLSBAD 92008	4. PHONE/FAX 760-720-4646
5. APPLICANT'S REPRESENTATIVE (or person to be contacted for information during processing) GARY ENGINEERING, INC. ATT"N: BOB FAUDOA	
6. ADDRESS 4901 MORENA BLVD. #304 SD, CA 92117	7. PHONE/FAX 858-483-0620 858-483-2943

PART II – PROPERTY DESCRIPTION

RSI - 3/24/04

8. LOCATION 1660 OCEANSIDE BLVD. OCEANSIDE, CA 92054			9. SIZE
10. GENERAL PLAN SPECIAL COMM.	11. ZONING HIGHWAY ORIENTED	12. LAND USE SERVICE STATION	13. ASSESSOR'S PARCEL NUMBER 152-320-25

PART III – PROJECT DESCRIPTION

14. GENERAL PROJECT DESCRIPTION

REMOVE EXISTING LUBE BAY BUILDING AND INSTALL NEW FOOD MART BUILDING AND LANDSCAPING AND ON-SITE IMPROVEMENTS

15. PROPOSED GENERAL PLAN	16. PROPOSED ZONING	17. PROPOSED LAND USE	18. NO. UNITS	19. DENSITY
SPECIAL COMM.	HIGHWAY ORIENTED	SERVICE STATION	1	N/A
20. BUILDING SIZE	**21. PARKING SPACES**	**22. % LANDSCAPE**	**23. % LOT COVERAGE**	
3,456 SF (NEW)	18 SPACES	16.35 %	3,730 SF LANDSCAPING	

PART IV – ATTACHMENTS

ALL APPLICATIONS				DEV. PLANS, C.U.P.s & TENT. MAPS
	24. DESCRIPTION/JUSTIFICATION		25. LEGAL DESCRIPTION	30. FLOOR PLANS AND ELEVATIONS
	26. 300-FT. RADIUS MAP		27. PROPERTY OWNERS' LIST	31. CONSTRUCTION SCHEDULE
	28. ENVIRONMENTAL ASSESSMENT		29. PLOT PLANS	32. OTHER

PART V – SIGNATURES

THE APPLICANT OR HIS/HER REPRESENTATIVE MUST BE PRESENT AT THE HEARING. FAILURE TO BE PRESENT MAY RESULT IN DENIAL OF THE APPLICATION.

SIGNATURES OF ALL OWNERS OF THE SUBJECT PROPERTY ARE NECESSARY BEFORE THE APPLICATION CAN BE ACCEPTED. IN THE CASE OF PARTNERSHIPS OR CORPORATIONS, THE GENERAL PARTNER OR CORPORATION OFFICER SO AUTHORIZED MAY SIGN. (ATTACH ADDITIONAL PAGES AS NECESSARY).

33. APPLICANT OR REPRESENTATIVE (Print): BOB FAUDOA	34. DATE 12-17-03	37. OWNER (Print) BARBARA WARSOFF	38. DATE 12-18-03
Sign:		Sign: Barbara Warsoff	
I DECLARE UNDER PENALTYOF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.			
35. APPLICANT (Print): BOB FAUDOA	36. DATE 12-17-03	39. OWNER Print):	40. DATE
Sign:		Sign:	

GARY ENGINEERING

CITY OF OCEANSIDE **GARY ENGINEERING**

RECEIVED
DEC 18 2003
Planning Department

"THE OCEANSIDER"
UNION 76 REMODEL
Conditional Use Permit Submittal Package

Description and Justification
November 26, 2003

This application includes a Conditional Use Permit (CUP) for the remodel of an existing Union 76 service station. The subject property consists of 0.52 acres located in the northeast corner of the Oceanside Boulevard and Vine Street intersection (APN 152-320-25). It is surrounded on the north and east by commercial development, on the west by a vacant lot, and on the south by a Trailer Park. Highway 5 is approximately 100 yards to the west.

The project site has a General Plan Land Use designation of Special Commercial (SC) and the corresponding Zoning classification of Highway Oriented (HO). The proposed uses are consistent with those identified for, and existing on, the site.

BACKGROUND

The existing service station, which was constructed by Texaco, has been in operation for over 30 years. Mr. Joe Warsoff, as a the site operator, has run the facility since 1990. In May 2003, Mr. & Mrs. Joe Wasoff purchased the property, and has run the facility under the Union 76 since.

The proposed remodel is necessary for the business to remain competitive within the existing and emerging marketplace. The remodel will upgrade the facility to new industry standards, eliminating the outdated use of the 1,680 square foot steel service bay building and service the surrounding community with more appropriate and new services. The current 1,536 square foot canopy with (4) four multi-product dispensers and underground product tanks will remain in place and undisturbed.

SCOPE OF WORK

The Scope of Work for the project involves removing the existing service bays and construction of a new 3,456 Food Mart building, redesign of the sites circulation, closing one driveway and installing new enhanced landscaping and irrigation system. The proposed changes are needed to upgrade and modernize the facility in order to compete in the modern marketplace and meet current engineering standards. The proposed changes are consistent with the underlying General Plan and Zoning regulations, as well as the surrounding land uses.

Architecture:

The proposed new Food Mart building will be wood-frame, stucco clad structure. The new structure will be located at the rear property line, requiring the use of a one-hour fire wall, which will be constructed with tan split block masonry units, and 4-score masonry blocks as accents. Masonry pilasters (columns) will be used to break up the wall and will serve as a dual purpose to support the wall and building structure. Colors will be primarily an off-white with the blue and orange accent stripping that will serve to identify the corporate colors of Union 76.

Canopy:

The existing 4-column canopy and dispensers to remain undisturbed. The current dispenser configuration serves 8-fueling positions.

Circulation:

Currently there are four driveways serving the project. The driveway southwest of Vine Street will be closed in order to meet landscaping and parking requirements, and the northwest driveway on Vine Street to be shifted south approximately 14'-0' to better accommodate parking and circulation. This will also help in obtaining a bigger planter area on the north property line.

The two driveways on Oceanside Boulevard to remain open. The driveway on the east will be the primary entry point to the project site. The westerly driveway is to remain open to allow the Fuel Transport Truck to deliver fuel to the underground tanks. Since this part of the facility operation is critical, the need to facilitate the delivery of fuel has always driven the location of new or existing driveways. The proposed driveway configuration will improve both on-site and local area circulation, which will benefit public health, safety and welfare of those visiting the area.

Please refer to the Traffic Impact Analysis prepared by VRPA Technologies, dated October 2003, for additional comments and proposed mitigation measures for the project.

Parking Requirements:

The proposed project meets the requirements of the Zoning Ordinance for both parking and landscaping. The project is required to provide a total 18 parking spaces (1 space for each 200 square feet of building area - 3,456 SF/200 SF = 17.28 spaces). As proposed, the project provides 18 spaces (17 standard and 1 ADA accessible).

Landscape Requirements:

The project is required to provide 15% on-site landscaping. As proposed, the project will provide a total of 16.35% landscaping. Off-site landscaping will include six (6) 48" square tree wells.

The landscape design for the project takes into consideration the high visual profile of it's corner location and strives to update the existing and new landscape area with colorful, drought tolerant and low maintenance planting that is contextually compatible with the community. The preservation of sight-lines for both safety and signage visibility were a high priority in the landscape design.

Signs:

The site signage will remain unchanged except for the addition of new wall signs for the new Food Mart structure. All new signs will be internally illuminated

CONDITIONAL USE PERMIT

This application will consist of two (2) Conditional Use Permits; the first is for the removal of the existing lube bay building and the installation of a new Food Mart building, the second would be for the Beer and Wine sales.

Food Mart:

The first CUP is for the proposed new Food Mart building. Currently the sales areas and service bay's occupy 1,680 square feet of the site. The new Food Mart will increase to a total of 3,456 square feet. This increase in size will basically take advantage of the unused surface area at the rear and side of the existing building. In fact, the new building will be closer by 15'-0" to the rear of the property. The new Food Mart will offer a variety of food and consumer goods typically associated with this type of establishment. In addition, Pizza preparation and sales will also be offered. These changes will allow for facility to eliminate the outdated use of service bays, and allow the facility to remain viable in this very competitive market.

Beer and Wine Sales:

Second CUP is for the retail sales of Beer and Wine. The Alcohol Beverage Control (ABC) and Police Department permits will be applied for and acquired.

SUMMARY

The proposed remode will be a benefit to the community. By eliminating an existing driveway cut on Vine Street and adding median improvements on Oceanside Boulevard, on-site and local off-site traffic circulation will improve. The proposed remodel will enhance the sites viability through modernization will benefit the local business community. The project meets all of the goals and objectives of the City's General Plan and Zoning Ordinance because it is in conformance with these documents.

JUSTIFICATION

Highlights:

- The project will eliminate one non-conforming driveway cut and add median improvements, which will result in enhanced circulation.
- New stucco-clad building structure to be more compatible with the local surrounding architecture.
- Removal of an outdated auto lube service with new convenience store services to better serve the community.
- Upgrade in landscaped area and irrigation system.

Conditional Use Permits:

The City of Oceanside Zoning Ordinance stipulates that three specific findings must be made before a Conditional Use Permit can be adopted. The following findings are for the Conditional Use Permit for the new Food Mart and Beer & Wine Sales.

1. The proposed location of the project uses is in accord with the objectives of the Zoning Ordinance and is consistent with the surrounding properties in the district because they are commercial uses on property designated for, and currently supporting, commercial uses by the General Plan and Zoning Ordinance, and the project is similar in use and complimentary to surrounding commercial uses.

2. The proposed uses are allowed uses within a Special Commercial land use district. The project site currently supports similar uses, the proposed uses are consistent with those already on-site and they will not be detrimental to the public health, safety and welfare.

3. The proposed uses comply with the Zoning Ordinance because the meet Special Commercial District development regulations and do not need any variances. The project revised circulation results in a circulation pattern that is consistent with current engineering design standards which will enhance the area's local circulation which benefits the health, safety and welfare of the community at large.

Your favorable consideration is appreciated.