

STAFF REPORT



ITEM NO. **10**

CITY OF OCEANSIDE

DATE: March 1, 2006

TO: Honorable Mayor and City Councilmembers

FROM: Community Development Department/Planning Division

SUBJECT: **ADOPTION OF A RESOLUTION OVERTURNING PLANNING COMMISSION RESOLUTION NO. 2005-P23 AND DENYING DEVELOPMENT PLAN (D-11-04) AND CONDITIONAL USE PERMIT (C-22-04) FOR A COMMERCIAL AUTOMOBILE FUELING FACILITY LOCATED AT 502 VIA DEL MONTE – SAMBER INC. FUELING FACILITY– APPLICANT: RHL DESIGN GROUP, INC.**

SYNOPSIS

The item under consideration is adoption of a resolution overturning Planning Commission Resolution No. 2005-P23 and denying Development Plan (D-11-04) and Conditional Use Permit (C-22-04) for a commercial automobile fueling facility located at 502 Via Del Monte. Staff recommends that the City Council adopt the attached resolution.

BACKGROUND

The public hearing and deliberations by the Planning Commission on the proposed commercial automobile fueling facility were held on March 28, 2005. The Commission approved the project on a 6-to-0 vote. Councilmember Feller filed a Call for Review within the 10-day appeal period. The City Council, by majority vote, may grant or deny this request to formally review the Planning Commission's decision. On April 20, 2005, the City Council voted 3-1 to hear the project. The City Council requested review of the proposed project due to concerns regarding Coach Cab taxicab operations, storage, dispatch, business license and franchise agreement.

On August 17, 2005, the City Council held a public hearing regarding the proposed project and at the hearing, members of the public expressed concerns over the environmental impacts of the project and the proximity of the outdoor storage tanks to the airport. The public also expressed concerns about the current operation at the site and alleged that the applicant was operating illegally by picking up taxi fares in the City without a valid franchise agreement in place. After the staff presentation, applicant presentation, public input and questions and answers session by the Council, the Council overturned the Planning Commission decision and denied the application by a 4-to-1 vote.

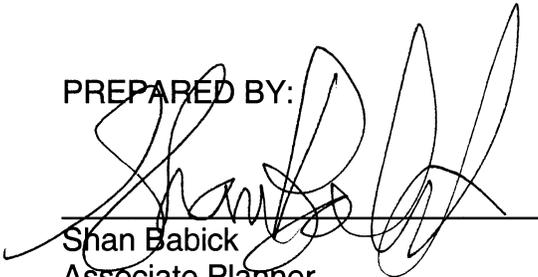
CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council adopt the resolution overturning the Planning Commission Resolution No. 2005-P-23 and denying Development Plan (D-11-04) and Conditional Use Permit (C-22-04) for a commercial automobile fueling facility located at 502 Via Del Monte as attached.

PREPARED BY:


Shan Babick
Associate Planner

SUBMITTED BY:


Steven R. Jepsen
Executive Director

SB/vnm

REVIEWED BY:

Michelle Skaggs Lawrence, Assistant to the City Manager
Mike Blessing, Deputy City Manager
Frank Watanabe, Community Development Director
Jerry Hittleman, Interim City Planner




EXHIBITS/ATTACHMENTS

- 1. Resolution

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RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OCEANSIDE OVERTURNING PLANNING COMMISSION
RESOLUTION NO. 2005-P23 AND DENYING
DEVELOPMENT PLAN (D-11-04) AND CONDITIONAL USE
PERMIT (C-22-04) FOR A COMMERCIAL AUTOMOBILE
FUELING FACILITY ON A 1.74-ACRE SITE LOCATED AT
502 VIA DEL MONTE**

**(Samber Inc. - Applicant)
(City Council - Appellant)**

WHEREAS, an application was filed for a Development Plan (D-11-04) and Conditional Use Permit (C-22-04) for a commercial automobile fueling facility located at 502 Via Del Monte, which such real property is more particularly described in EXHIBIT "A", attached hereto and incorporated herein by reference;

WHEREAS, on March 28, 2005 the Planning Commission of the City of Oceanside, after holding a duly advertised public hearing, adopted Resolution No. 2005-P23, approving said Development Plan and Conditional Use Permit;

WHEREAS, on April 20, 2005, a Call for Review was approved by the City Council of the Planning Commission decision;

WHEREAS, on August 17, 2005, the City Council of the City of Oceanside held a duly noticed public hearing and heard and considered evidence and testimony by all interested parties concerning the appeal of the approval of the above identified Development Plan and Conditional Use Permit; and

WHEREAS, based on such evidence and testimony, this Council finds that the decision of the Planning Commission did not adequately and properly address concerns for the health, safety and welfare of the public and did not take into consideration the objections of the public at the hearing on this matter.

NOW, THEREFORE, the City Council of the City of Oceanside DOES RESOLVE as follows:

1 1. The appeal of the Planning Commission action of March 28, 2005 (Resolution
2 No. 2005-P23 approving the proposed use) is granted and the application for Development Plan
3 (D-11-04) and Conditional Use Permit (C-22-04) is hereby denied.

4 2. The Development Plan and Conditional Use Permit as proposed are inconsistent
5 with the City's General Plan, are inconsistent with the Land Use Element of the General Plan
6 and with the City's Zoning Ordinance implementing the General Plan.

7 3. The proposed use would not be compatible with the surrounding land uses
8 because the proposed use would subject the public to potential sources of objectionable noise,
9 light, odors and other emissions as well as exposure to toxic or other dangerous materials.

10 4. The proposed use would be incompatible with the public safety policy because the
11 proposed use encourages violation of Chapter 35 of the Oceanside City Code.

12 5. The proposed use would be incompatible with the goals of the airport influence
13 area in that large, above-ground fuel storage tanks pose a potential hazard for airport operations
14 in the immediate area.

15 6. The proposed use would be detrimental to the public health, safety and welfare
16 because of increased air pollution to this area.

17 7. The propose use would be detrimental to the public health, safety and welfare
18 because of the proximity of the site to the San Luis Rey River and the potential chemical runoff
19 via stormwater drains to the San Luis Rey River located north of the subject site.

20 8. The proposed use would be detrimental to the public health, safety and welfare
21 because increased Code Enforcement contact will be necessary to monitor the proposed
22 business activities.

23 9. The project does not conform to the zoning, intensity of land use, development
24 and performance standards applicable to property within the IL (Limited Industrial) Zone and is
25 inconsistent with the general plan policy of limiting outdoor storage areas.

26 10. Development Plan (D-11-04) and Conditional Use Permit (C-22-04) are denied.

27 11. Pursuant to CCP Section 1094.6 (f), notice is hereby given that the time within
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1 which judicial review must be sought on this decision is governed by CCP Section 1094.6 as set
2 forth in Oceanside City Code Section 1.10.

3 PASSED by the City Council of the City of Oceanside, California the 17th day of August
4 2005 by the following vote:

5 AYES: Wood, Sanchez, Feller, Mackin

6 NAYS: Chavez

7 ABSENT: None

8 ABSTAIN: None

9 And adopted by the City Council of the City of Oceanside, California this _____ day of _____,

10 2006 by the following vote:

11 AYES:

12 NAYS:

13 ABSENT:

14 ABSTAIN:

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19 ATTEST:

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City Clerk

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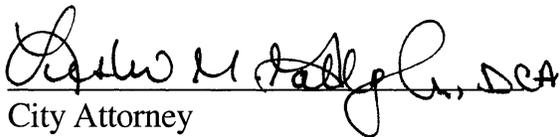
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Mayor of the City of Oceanside

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



City Attorney

EXHIBIT A

The land referred to is situated in the County of San Diego, City of Oceanside, State of California, and is described as follows:

All that portion of the land deeded by Corporation Grant Deed, recorded in the Office of the County Recorder of San Diego County, as Document No. 84-077935 on March 2, 1984, in the South Half of the Southwest Quarter of the Southeast Quarter of Section 13, Township 11 South, Range 5 West, San Bernardino Base and Meridian, in the City of Oceanside, County of San Diego, State of California, according to the United States Government Survey, more particularly described as;

Commencing at the Southwest Corner of said South Half;

thence along the West line of said South Half North $0^{\circ}09'30''$ West 440.00 feet;

thence leaving said West line North $89^{\circ}50'42''$ East 196.39 feet (North $89^{\circ}50'30''$ East 196.03 feet record) to an intersection with a line that bears South $0^{\circ}19'29''$ West (South $0^{\circ}20'35''$ West record) as a Southerly extension of the East line of Parcel 1 of Parcel Map No. 13007 recorded File No. 83-415630 on November 16, 1983, County of San Diego; said intersection point also being the True Point of Beginning;

thence continuing North $89^{\circ}50'42''$ East 148.12 feet (North $89^{\circ}50'30''$ East 148.31 feet record) to the beginning of a tangent 300.00 foot radius curve concave Northerly;

thence Easterly along the arc of said curve through a central angle of $26^{\circ}28'36''$ a distance of 138.63 feet ($26^{\circ}30'25''$ a distance of 138.79 feet record);

thence tangent to said curve North $63^{\circ}22'05''$ East 275.00 feet (North $63^{\circ}20'05''$ East 274.96 feet record) to the beginning of a tangent 300.00 foot radius curve Southerly,

thence Easterly along the arc of said curve, through a central angle of $27^{\circ}00'43''$ a distance of 141.43 feet ($27^{\circ}00'30''$ a distance of 141.42 feet record);

thence North $0^{\circ}22'48''$ East 30.00 feet (North $0^{\circ}20'05''$ East 30.00 feet record) to an intersection with the North line of said South Half;

thence along said North line North $89^{\circ}27'12''$ West 663.02 feet (North $89^{\circ}29'25''$ West 663.05 feet record) to a 2" iron pipe LS No. 4384 marking the Southeast corner of said Parcel 1 of Parcel Map No 13007,

thence South $0^{\circ}19'29''$ West 221,72 feet along the Southerly extension of the East line of said Parcel 1 of Parcel Map No. 13007 (South $0^{\circ}20'35''$ West 221.28 feet record) to the True Point of beginning.

(Record) refers to Certificate of Compliance recorded November 20, 1997 as File/page No. 1997 0588152 of Official Records.

ORDER NO. : 2507007573-2

Excepting therefrom that portion lying Easterly of the Westerly line of Jones Road as said road having been dedicated to the public by Resolution No 66-61, a Copy being recorded May 31, 1966 as Document No. 89693, Records of San Diego County.