



DATE: March 15, 2006

TO: Honorable Mayor and City Councilmembers
Honorable President and Members of the Harbor Board of Directors

FROM: Public Works Department

SUBJECT: **DIRECTION FROM CITY COUNCIL REGARDING THE DISPOSITION OF THE OCEANSIDE MARINA TOWERS ASSOCIATION'S LAND ACQUISITION REQUEST, WHICH INCLUDES PROPERTY LINE ADJUSTMENTS; AMENDMENTS TO THE HARBOR PRECISE PLAN AND THE LOCAL COASTAL PLAN; AND THE TERMS AND CONDITIONS OF THE PROPOSED SALE**

SYNOPSIS

Staff is requesting direction from the City Council regarding the disposition of the Oceanside Marina Towers Association's land acquisition request, which includes property line adjustments; amendments to the Harbor Precise Plan and the Local Coastal Plan concerning the leasehold designation language; and the terms and conditions of the proposed sale.

BACKGROUND

The Marina Towers real property ("Property") consists of approximately 2.0 acres. The Property is currently ground leased to the Oceanside Marina Towers Association ("OMTA"), which ground lease expires in December 2036. The Property is improved with a seventeen-story building containing sixty-seven residential condominium units, a parking structure and other residential-related improvements. The OMTA has requested the purchase of a portion of the Property ("Proposed Property").

Three issues remain outstanding with regard to a potential sale of the Marina Towers Proposed Property; this includes a modification of the "leasehold" designation in the Harbor Precise Plan, a "property line adjustment" to segregate the Proposed Property, and agreement on the major business terms.

1. Leasehold Designation Amendment

The Harbor Precise Plan designated the Marina Towers Property as a leasehold through 1980 and beyond. It is recommended that the leasehold parcel designation and the language related to the leasehold be amended to provide for the sale of the Marina Towers Proposed Property. This change to the Harbor Precise Plan will need to be reflected in the Local Coastal Plan. The California

Coastal Commission ("Commission") staff has conveyed their opposition to this proposed change.

2. Property Line Adjustment

A property line adjustment will be necessary to separately identify the Proposed Property. This will require segregating the public parking area for public ownership retention, and identifying and protecting the small appendage portion of "tide and submerged land" on the southern tip of the Property. The State Lands Commission has indicated that a boundary settlement agreement or a property lot line adjustment would be necessary to protect the "tide and submerged land" designated property.

3. Major "Business" Terms of the Proposed Purchase and Sale Agreement

The following major "business" terms have been proposed as the foundation for a potential purchase and sale agreement of the Marina Towers Proposed Property.

- a. The City of Oceanside will continue to own the existing parking lot adjacent to the property to be conveyed to the Marina Towers and will continue to make it available to the public. OMTA will have an access easement over said property.
- b. A payment in the amount of \$2,000,000, with \$1,200,000 of said amount to be paid at the close of escrow and \$800,000, plus 5 percent simple interest, to be paid in ten (10) years, and secured by a promissory note and deed of trust.
- c. The balance of the purchase price to be made in the form of payments equal to 3 percent of the purchase price of each condominium unit transferred over the next sixty (60) years, and also secured by a promissory note and deed of trust ("Transfer Fee").
- d. OMTA shall commence and complete the construction and installation of façade improvements to the exterior of the Marina Towers building as set forth in a schedule of performance, to be agreed upon by the parties.

ANALYSIS

1. Leasehold Designation Amendment

In order to make a sale of the Proposed Property consistent with language in the Harbor Precise Plan, (which is part of the certified Local Coastal Plan), City staff is requesting direction from the City Council as to how they would like to proceed with amending the Harbor Precise Plan and the Local Coastal Plan. We have been informed by the Commission staff that an application to amend the Local Coastal Plan is necessary and must be approved by the local regulatory agency

(e.g., City of Oceanside) through a public hearing process and then submitted to the Coastal Commission for their review and approval.

The Coastal Commission staff has recently indicated that they would not be in support of changing the "leasehold" language in the Harbor Precise Plan per the attached letter dated March 8, 2006.

2. Property Line Adjustment

City staff, in order to create a separate legal parcel for the Proposed Property; address the small appendage portion of the Property that is considered "tide and submerged land"; and separate the public parking lot portion of the Property, is requesting direction from the City Council as to how they would like to proceed with adjusting the property lines.

The property line adjustment would realign the legal boundaries to be consistent with the boundaries described in the Harbor Precise Plan and is necessary only if the property is to be sold. The property line adjustment will be between four or fewer existing adjoining parcels where the land taken from one parcel is added to an adjoining parcel, and a great number of parcels than originally existed is not thereby created. The property line adjustment will not be creating any new parcels and the resulting parcels will conform to the City's General Plan and the Local Coastal Plan. No tentative map, final map, or parcel map is required for the property line adjustment.

The property line adjustment would typically be processed administratively and, once signed by the affected property owners, would be recorded with the County Recorder. There is typically no discretionary review or approval required from any City commission or the City Council. Commission staff has indicated that a property line adjustment to create a separate lot of the Proposed Property would require an approval of a coastal development permit by the City of Oceanside, which may be subject to an appeal to the Commission.

The State Lands Commission has indicated that a boundary settlement agreement or property line adjustment could be utilized to separate the small appendage portion of the Property prior to any sale of the balance thereof in lieu of the property line adjustment.

3. Major "Business" Terms of the Proposed Purchase and Sale Agreement

City staff is also requesting direction from the City Council as to whether staff should continue to proceed with the above described major "business" terms, as part of the proposed purchase and sale agreement currently being negotiated with OMTA.

FISCAL IMPACT

With respect to the separation of the “tide and submerged land”, the adjustments to the property lines and the amendments to the Harbor Precise Plan and the Local Coastal Plan, other than staff time, there should be no significant fiscal impact.

Under the terms of the sale of the Proposed Property, based on certain assumptions regarding the average sales price, number of sales per year and annual real estate appreciation, the sale could potentially produce significantly more revenue (and corresponding value) to the City than under the current lease. Due to the length of the remaining term of the current lease and the period of the Transfer Fee payments under the proposed sale, the value to the City is looked at in terms of “present value”. The “present value” of the sale of the Proposed Property, could be in the range of \$3,000,000 to \$6,000,000, whereas the “present value” of the current lease, including an assumed residual value of the land and improvements, is about \$2,052,000.

As a footnote, inasmuch as the Transfer Fee revenue generated is not a guaranteed or fixed amount, there is the distinct possibility that the revenue over the sixty year period could vary significantly, in either direction. It should be further noted that the valuation of the Proposed Property, as one of the terms of the final purchase and sale agreement, will be subject to a then current appraisal. Additionally, at this time, the parties are negotiating the legal terms of the final purchase and sale agreement, which could also affect the “business” terms of the transaction as generally described above.

INSURANCE REQUIREMENTS

Does not apply.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY’S ANALYSIS

The staff report has been prepared in consultation with the City Attorney’s Office. Further analysis will be provided upon City Council’s decision and direction to staff.

RECOMMENDATION

Staff is requesting direction from the City Council regarding the disposition of the Oceanside Marina Towers Association’s land acquisition request regarding three items:

1. Initiate a “Leasehold Designation Amendment” to modify the Harbor Precise Plan and the Local Coastal Plan to provide for the proposed sale of the Marina Towers underlying real property.

2. "Property Line Adjustment" would provide for a change in parcel boundaries by action of the City Engineer/Public Works Director to modify lot lines to identify the proposed sale parcel, retained public parking lot and to segregate the "tide and submerged land" designated area for retained City ownership.
3. "Major Business Terms" of the proposed purchase and sales agreement, discussion and direction with regard to the proposed major deal points.

PREPARED BY:



Douglas E. Eddow
Real Property Manager

SUBMITTED BY:



Steven R. Jepsen
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Assistant to the City Manager

Peter A. Weiss, Public Works Director

Donald L. Hadley, Director of Harbor and Beaches







Attachments:

1. Map
2. Coastal Commission letter of March 8, 2006

PARCEL "A"
 Quitclaim Deed
 recorded 7/21/60, Doc. #147820
 Grantor: United States of America

PARCEL "F"
 Quitclaim Deed
 recorded 7/27/62, Doc. #128125
 Grantor: United States of America

PARCEL "G"
 Quitclaim Deed
 recorded 10/20/65, Doc. #190800
 Grantor: United States of America

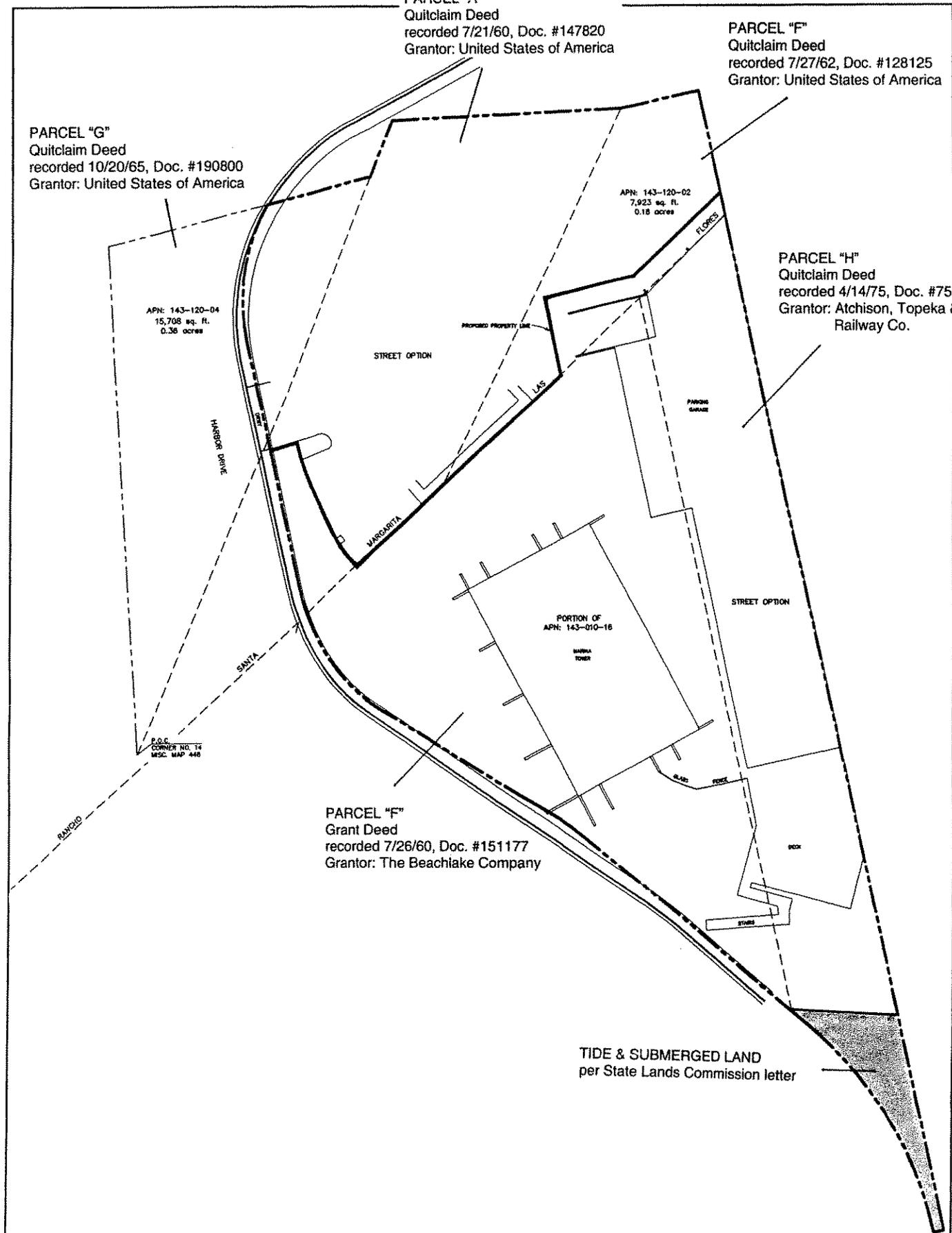
PARCEL "H"
 Quitclaim Deed
 recorded 4/14/75, Doc. #75-08562
 Grantor: Atchison, Topeka & Santa
 Railway Co.

APN: 143-120-04
 15,708 sq. ft.
 0.36 acres

APN: 143-120-02
 7,923 sq. ft.
 0.18 acres

PORTION OF
 APN: 143-010-16
 MARINA
 TOWER

PARCEL "F"
 Grant Deed
 recorded 7/26/60, Doc. #151177
 Grantor: The Beachlake Company



----- ORIGINAL PARCEL BOUNDARY PER EXHIBITS "A", "B", "D" AND "E" AREA= 2.00 ACRES MORE OR LESS
 _____ NEW PARCEL BOUNDARY



CALIFORNIA COASTAL COMMISSION

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



March 8, 2006

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

RECEIVED

MAR 9 - 2006

CITY MANAGER OFFICE

Re: Marina Towers Property

Dear Mr. Hittleman:

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

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

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

Section 30210.

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

Section 30211.

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

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Section 30212.5.

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

Section 30213.

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

Section 30220.

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

Section 30221.

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

Section 30222.

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

Section 30223.

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

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

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

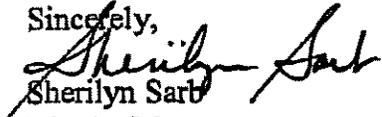
The existing residential use of this ocean-fronting property is a low priority use under the Coastal Act regardless of public or private ownership of such land (Sections 30221 and 30222). Visitor-serving commercial recreational facilities and water-oriented uses would have priority over private residential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

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

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

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

Sincerely,


Sherilyn Sarb
District Manager

cc: Deborah Lee
Bernie Rhinerson (Marina Towers HOA)