



DATE: March 16, 2011

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF AN APPEAL TO A REGULAR COASTAL PERMIT (RC10-00004) FOR THE CONSTRUCTION OF A 240-SQUARE-FOOT ADDITION AND 288-SQUARE-FOOT PERGOLA ATTACHED TO AN EXISTING SINGLE-FAMILY RESIDENCE AT 1705 SOUTH PACIFIC STREET – STENSRUD ADDITION – APPLICANT: THOR STENSRUD**

SYNOPSIS

Under consideration is an appeal of the Planning Commission's recent approval of a proposed 240-square-foot addition of enclosed habitable space and 288-square-foot open pergola to an existing single-family residence located at 1705 South Pacific Street. Staff is recommending that the City Council affirm the Planning Commission's unanimous decision and adopt the resolution of approval.

BACKGROUND

The Planning Commission approved Regular Coastal Permit (RC10-00004) by a 5-0 vote on January 10, 2011. The same proposal was the subject of a 3-3 Planning Commission vote on October 25, 2010. Planning Commissioners who opposed the proposal at the October 25 public hearing cited the as-yet-unresolved issue of Coastal Zone residential building height limits as a principal reason for voting against the project, which proposes building height in excess of the previously-applicable twenty-seven-foot height limit (under the 1992 Zoning Ordinance) but below the now-applicable thirty-five-foot height limit (under the reinstated 1986 Zoning Ordinance).

On December 8, 2010, the City Council rejected (by a 3-2 vote) a Planning Commission recommendation to reestablish twenty-seven feet as the maximum building height for residential development in the Coastal Zone. This City Council decision provided explicit policy direction to both the Planning Commission and Planning Division staff in their review of residential projects subject to the building height standards of the reinstated 1986 Zoning Ordinance. Planning Commissioners cited this policy direction in their unanimous approval of Regular Coastal Permit (RC10-00004) on January 10, 2011.

Regular Coastal Permit (RC10-00004) was appealed on January 19, 2011, by a private party. The Appellant was granted a waiver of required appeal fees on the basis of a petition that included the requisite number of signatures from property owners and tenants residing within the 300-foot public notification radius of the subject site. The letter of appeal and petition for fee waiver are included with this staff report as Attachments 5 and 6, respectively.

Additional project detail is provided in Attachment 3, the Planning Commission staff report.

ANALYSIS

Basis for Appeal

Outlined below are several issues put forth in support of the project's appeal. Staff has provided commentary on each of these issues.

Issues

1) The proposed addition and pergola will substantially impair the Appellant's views (at 1709 South Pacific Street) as well as the views at 1643 and 1701 South Pacific Street.

Section 30251 of the California Coastal Act, incorporated into the City's Local Coastal Plan (LCP), states that "the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas." The City's LCP further establishes that "the City shall protect, enhance and maximize public enjoyment of Coastal Zone scenic resources." It is generally understood that these and other LCP policies are intended to protect and enhance public views of the ocean and coastline, as experienced from public rights-of-way and other publicly-accessible areas within the Coastal Zone. Staff finds that the proposed improvements would have no impact on existing public views of the ocean and coastline. Indeed, once the adjacent vacant lot to the south is developed (an application for a Regular Coastal Permit at 1707 South Pacific Street is now under review), the proposed improvements would not be discernible from South Pacific Street or the elevated sidewalk immediately to the east.

Like most coastal jurisdictions in southern California, the City of Oceanside does not afford protection of private views as a matter of policy. Nevertheless, staff finds that the proposed project would have minimal impacts on ocean and coastline views as experienced from nearby private properties, including the Appellant's. Following field observations from various vantage points in the vicinity of the subject property, staff concludes that the proposed improvements would be sufficiently removed from the coastal stringline so as to maintain panoramic ocean and coastline views from 1643, 1701, and 1709 South Pacific Street. The proposed addition and pergola would have some impact on lateral coastline views from nearby private properties, but only at acute angles (often greater than 90 degrees) that essentially require viewers to look into

adjacent residences. Moreover, the openness of the pergola would allow considerable visual access through it from private properties to the north and south.

2) For 22 years, under Section 30251 of the California Coastal Act of 1976, the City of Oceanside has been establishing and protecting height and view policy standards both private and public on Pacific Street.

California Coastal Act Section 30251 is partially quoted in staff's response to Issue #1. Section 30251 goes on to say that permitted development in the Coastal Zone shall "minimize alteration of natural land forms...be visually compatible with the character of surrounding areas, and, where feasible...restore and enhance visual quality in visually degraded areas." Section 30251 further notes that "new development in highly scenic areas...shall be subordinate to the character of its setting." It is staff's position that the proposed addition and pergola are fully consistent with Section 30251. By maintaining the terraced design of the existing residence, the proposed improvements are visually compatible with surrounding development and in character with the topography of the coastal bluff. The proposed improvements do not involve any alteration of natural land forms, and as noted in staff's response to Issue #1, the proposed improvements do not jeopardize public views to and along the ocean and scenic coastal areas.

3) The Applicant's representative knowingly and intentionally misrepresented to the Planning Commission during the meeting on October 25, 2010, the true site conditions and the reasoning [Zoning Ordinance] Section 3017 was used to substantiate the illegal additional height increase.

Section 3017 of the 1992 Zoning Ordinance allows for measurement of building height from a finished (rather than existing) grade when the proposed finished grade is deemed compatible with the existing elevation of adjacent and surrounding properties. Following field observation, staff finds that the finished grade of the existing residence is compatible with the existing elevation of the adjacent properties to the north and south (i.e., 1701 and 1707 South Pacific Street). While staff can find no written or oral communication pertaining to the review and approval of the existing residence that explicitly establishes the measurement of building height from a finished rather than existing grade, staff concludes that such a basis point for building height measurement was reasonable and of no detriment to adjacent properties. At both the October 25, 2010, and January 10, 2011, Planning Commission public hearings on the subject request, staff acknowledged that measurement of building height from any point other than existing grade should be explicitly established and justified in the public record.

As noted earlier in this staff report, the 1992 Zoning Ordinance no longer governs building height and its measurement within the Coastal Zone, having been supplanted by the Coastal Commission certified 1986 Zoning Ordinance in May 2009. The 1986 Zoning Ordinance establishes average finished grade as the basis for building height measurement. Measured from average finished grade, the proposed improvements fall more than six feet below the maximum allowable height of thirty-five feet.

4) During the Planning Commission meeting on October 25, 2010, the Applicant's representative admitted to "the taking" of an additional one and a half feet. The elevation changes in the finished grade made by the Applicant has led to a nine-and-a-half-foot party wall at 1701 South Pacific St., the List property.

The "additional one and a half feet" refers to the finished grade elevation from which building height along a portion of the existing residence was measured; this finished grade was roughly 1.5 feet above the existing grade at the base of the principal slope on the subject property. As noted in response to Issue #3, when the proposed plans for the existing residence were under City review (in 2005), measurement of building height from finished grade was allowed under Section 3017 of the 1992 Zoning Ordinance.

The height of the party wall to which the Appellant refers was not occasioned by the measurement of building height from a finished grade elevation. Along those portions of the party wall that approach 9.5 feet (i.e., within the eastern one-third of the lot), the existing residence is situated at elevations fundamentally consistent with the existing grade on the subject property prior to its development, and, moreover, fundamentally consistent with the existing grade on the property on the opposite side of the party wall. Thus, the height of the party wall is not the result of a disparity in the respective grade elevations of the subject property and the property on the other side of the party wall. This freestanding wall was funded and constructed by the owners of both properties and was designed to afford privacy to both owners. As to whether or not the height of the party wall conforms to applicable wall-height standards, staff has informed the Appellant that he can initiate an inquiry into this issue with the City's Code Enforcement Division.

5) The Stensrud project is not in conformance with Development Standards recently applied to a property 3 doors to the north where an 82-square-foot addition has been denied various times. This 82-square-foot addition is enclosing an existing patio (currently with a solid 36-inch wall) on Pacific Street, not affecting any views. The Applicant is requesting a 240-square-foot new enclosure (currently area has only a glass railing) plus a 288-square-foot pergola.

The proposed eighty-two-square-foot addition to which the Appellant refers was denied by the Planning Commission on the grounds that it would reduce the articulation of the front elevation of the existing residence and thereby contribute to what has been called the "canyonization" of South Pacific Street – a visual phenomenon created by radically reduced front yard setbacks, unarticulated building facades and the presence of a concrete berm on the inland side of the right-of-way. This canyonization effect was discussed at length during public workshops and hearings conducted last year on the subject of residential building height in the Coastal Zone. While public opinion expressed during these workshops and hearings varied widely on the subject of building height limits, virtually all participants agreed that street-facing elevations should exhibit articulation – particularly at levels above the ground floor. The Planning Commission's recent decision on the proposed eighty-two-square-foot addition is consistent with this public consensus.

The subject request does not propose any changes to the front elevation of the existing residence. Not being visible from South Pacific Street, the proposed addition and pergola would not contribute to the canyonization of the street frontage. Furthermore, as previously noted, the proposed improvements would not impact public views of the ocean or coastline.

6) The request for a full investigation has been made various times to various City officials. All requests have been ignored and unanswered. With so many inconsistencies, false and misleading testimonies, we are now demanding a full investigation.

Staff has comprehensively reviewed the issues raised by the Appellant, as demonstrated in the above responses to the previous five points, and finds that substantial evidence supports the Planning Commission decision to approve the existing residence as well as the proposed addition.

FISCAL IMPACT

Applicable fees for the processing of the appeal, intended to recover costs associated with staff review, were waived by petition in accordance with City policy.

COMMISSION OR COMMITTEE REPORT

The Planning Commission reviewed the project on January 10, 2011. After considering public testimony from area residents, as well as the Applicant, the Commission approved the project by a 5-0 vote. Two Commissioners previously opposed to the proposal (at the October 25, 2010, public hearing) indicated their subsequent support was based on the City Council's decision (on December 8, 2010), to leave unchanged the residential building height standards of the 1986 Zoning Ordinance. Another Commissioner opined that the proposed addition and pergola would be aesthetic improvements to the existing residence. Of the two Commissioners who were absent at this second public hearing on the proposal, one had previously voted in favor of the proposal and one had voted in opposition to it.

CITY ATTORNEY'S ANALYSIS

The City Council is authorized to hold a public hearing in this matter. Consideration of the matter should be based on the testimony and evidence presented at the hearing. After conducting the public hearing, the Council shall affirm, modify or deny the project. The supporting documents(s) has been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff has reviewed the issues raised under the appeal and finds that all of these issues have been addressed through the findings established in PC Resolution 2010-P03. Staff therefore recommends that the City Council uphold the Planning Commission's decision and adopt the resolution approving the proposed project.

PREPARED BY



Russ Cunningham
Senior Planner

SUBMITTED BY



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
George Buell, Development Services Director
Jerry Hittleman, City Planner



ATTACHMENTS:

1. Plans
2. City Council Resolution for Approval
 - A. Planning Commission Resolution No. 2011-P03
3. Planning Commission Staff Report Dated January 10, 2011
4. Reasons for Appeal
5. Petition for Waiver of Appeal Fee

MEMORANDUM

DATE: March 16, 2011
TO: Honorable Mayor and Councilmembers
FROM: Patricia Allison, City Manager's Office
SUBJECT: AVAILABILITY OF DOCUMENT FOR REVIEW

Due to its size, Attachment 1, plans, has not been included in the agenda packet. Copies are available for review in the Planning Division and the City Manager's Office

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE SUPPORTING PLANNING COMMISSION RESOLUTION NO. 2011-P03 AND APPROVING A REGULAR COASTAL PERMIT (RC10-00004) FOR CONSTRUCTION OF A 240 SQUARE-FOOT ADDITION AND ATTACHED PERGOLA TO AN EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 1705 SOUTH PACIFIC STREET – STENSRUD ADDITION

(Thor Stensrud - Applicant)

(Dan Matlach - Appellant)

WHEREAS, an application was filed for a Regular Coastal Permit (RC10-00004) for a 240 square-foot addition and attached pergola to an existing single-family residence;

WHEREAS, on October 25, 2010, the Planning Commission of the City of Oceanside, after holding a duly advertised public hearing, voted 3-3 on the question of said Regular Coastal Permit (RC10-00004);

WHEREAS, in accordance with Municipal Code Section 2.1.34 (Tie Vote), the proposal was placed on the next regular meeting of the Planning Commission for further consideration;

WHEREAS, on November 8, 2010, the Planning Commission continued the item to the regular Planning Commission public hearing on January 10, 2011;

WHEREAS, on January 10, 2011, the Planning Commission, after holding a duly advertised public hearing, voted 5-0 to approve Regular Coastal Permit (RC10-00004);

WHEREAS, on March 16, 2011, 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 review of the Planning Commission approval on the above identified Regular Coastal Permit; and

WHEREAS, based on such evidence, testimony and staff reports, this Council makes the findings of fact as set forth in Planning Commission Resolution No. 2011-P03 as attached hereto as Exhibit "A", and incorporates them by reference as if fully set forth herein; and

1 WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of
2 Oceanside for this project, pursuant to Article 19, Section 15030 (b) of the California
3 Environmental Quality Act of 1970 and the State Guidelines thereto as amended to date, and
4 approved by the Planning Commission in conjunction with its actions on the application.

5 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

6 1. The Council upholds the Planning Commission action of January 10, 2011, as
7 established by Resolution No. 2011-P03, attached hereto as Exhibit "A" and incorporated
8 herein by this reference;

9 2. The Council makes all findings required for issuance of a Regular Coastal Permit,
10 as set forth in Resolution No. 2011-P03;

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

14 PASSED and ADOPTED by the City Council of the City of Oceanside, California this
15 16th day of March, 2011, by the following vote:

16
17 AYES:

18 NAYS:

19 ABSENT:

20 ABSTAIN:

21
22
23 _____
Mayor of the City of Oceanside

24
25 ATTEST:

26 APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

27
28 _____
City Clerk

City Attorney

PLANNING COMMISSION
RESOLUTION NO. 2011-P03

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

APPLICATION NO: RC10-00004
APPLICANT: Whitney Stensrud
LOCATION: 1705 South Pacific Street

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 Regular Coastal Permit (RC10-00004) under the provisions of Article 32 of the Zoning Ordinance of the City of Oceanside to permit the following:

construction of a 240-square foot second story addition to an existing single-family residence located at 1705 South Pacific Street;

on certain real property described in the project description.

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 application;

WHEREAS, at the public hearing on the 25th day of October, 2010 the Planning Commission arrived at a tie vote (3-3) on a motion to approve said application;

WHEREAS, per Municipal Code Section 2.1.34 (Tie Vote), in the event that the Planning Commission is unable to take action on a matter before it because of a tie vote or the lack of the required number of votes, the City Clerk shall place the item on the next regular meeting of the Planning Commission for further consideration;

WHEREAS, the Planning Commission did on the 8th day of November, 2010 further continue the item to the regularly-scheduled Planning Commission public hearing on January 10, 2011;

WHEREAS, the Planning Commission did on 10th day of January, 2011 conduct a duly advertised public hearing as prescribed by law to consider said application a second time;

1 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State
 2 Guidelines thereto, this project has been found to be exempt from environmental review per Article
 3 19, Section 15303 (b);

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

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

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)
Thoroughfare Fee (For commercial and industrial please note the 75 percent 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 \$4,597 per unit; Non-residential is \$36,775 for a 2" meter.

1 2 3 4	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 \$6,313 per unit; Non-residential is \$50,501 for a 2” meter.
5 6 7	San Diego County Water Authority Capacity Fees	SDCWA Ordinance No. 2005-03	Based on meter size. Residential is typically \$4,326 per unit; Non-residential is \$22,495 for a 2” meter.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

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 Regular Coastal Permit:

1. The proposed addition to an existing permitted single-family residence is consistent with the land use policies of the Local Coastal Program as implemented through the Zoning

1 Ordinance. Specifically, the project will not compromise existing public views within
2 the Coastal Zone area nor produce adverse massing impacts on neighboring properties.

3 2. The proposed expansion will not obstruct any existing, planned or required public beach
4 access, thereby conforming with the policies of Chapter 3 of the Coastal Act.

5 3. The proposed expansion will not result in the loss of any on-street public parking
6 resources, nor occasion additional on-site parking requirements.

7 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
8 approve Regular Coastal Permit (RC10-00004) subject to the following conditions:

9 **Building:**

10 1. Applicable Building Codes and Ordinances shall be based on the date of submittal for
11 Building Division plan check. (As of January 1, 2008 the 2007 California Building
12 Code, and 2007 California Electrical Code)

13 2. The granting of approval under this action shall in no way relieve the
14 applicant/project from compliance with all State and Local building codes.

15 3. Compliance with the Federal Clean Water Act (BMP's) must be demonstrated on the
16 plans.

17 4. The developer shall monitor, supervise and control all building construction and
18 supporting activities so as to prevent these activities from causing a public nuisance,
19 including, but not limited to, strict adherence to the following:

20 a) Building construction work hours shall be limited to between 7:00 a.m. and
21 6:00 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00
22 p.m. for work that is not inherently noise-producing. Examples of work not
23 permitted on Saturday are concrete and grout pours, roof nailing and activities
24 of similar noise-producing nature. No work shall be permitted on Sundays and
25 Federal Holidays (New Year's Day, Memorial Day, July 4th, Labor Day,
26 Thanksgiving Day, Christmas Day) except as allowed for emergency work
27 under the provisions of the Oceanside City Code Chapter 38 (Noise
28 Ordinance).

29 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

1 requirement. Small amounts of construction debris may be stored on-site in a
2 neat, safe manner for short periods of time pending disposal.

- 3 5. For all new construction, setbacks and Type of Construction must comply with the
4 2007 California Building Code. New Exterior openings less than five feet from the
5 property line must be protected per table 704.8 of the CBC. New Exterior walls less
6 than five feet to the property line must be one hour rated per Table 602 of the CBC.

7 **Fire:**

- 8 6. Fire Department requirements shall be placed on plans in the notes section.

9 **Planning:**

- 10 7. This Regular Coastal Permit shall expire on October 25, 2013, unless implemented per the
11 Zoning Ordinance or unless the Planning Commission grants a time extension.

- 12 8. This Regular Coastal Permit approves only a 240-square foot second story addition to an
13 existing single-family home, as presented to the Planning Commission for review and
14 approval. No deviation from these approved plans and exhibits shall occur without
15 Planning Division approval. Substantial deviations shall require a revision to the Regular
16 Coastal Permit or a new Regular Coastal Permit.

- 17 9. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold
18 harmless the City of Oceanside, its agents, officers or employees from any claim, action or
19 proceeding against the City, its agents, officers, or employees to attack, set aside, void or
20 annul an approval of the City, concerning Regular Coastal Permit (RC10-00004). The City
21 will promptly notify the applicant of any such claim, action or proceeding against the
22 City and will cooperate fully in the defense. If the City fails to promptly notify the
23 applicant of any such claim action or proceeding, or fails to cooperate fully in the
24 defense, the applicant shall not, thereafter, be responsible to defend, indemnify or hold
25 harmless the City.

- 26 10. All mechanical rooftop and ground equipment shall be screened from public view as
27 required by the Zoning Ordinance: that is, on all four sides. Roof jacks, mechanical
28 equipment, screens and vents shall be painted with non-reflective paint to match the roof.
29 This information shall be shown on the building plans.

13. 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

1 and approved by the Planning Division. These requirements, including the obligation to
2 remove or cover with matching paint all graffiti within 24 hours, shall be noted on the
3 Architectural Site Plan and shall be recorded in the form of a covenant affecting the subject
4 property. A covenant or other recordable document approved by the City Attorney shall
5 be prepared by the applicant and recorded prior to the issuance of building permits. The
6 covenant shall provide that the property is subject to this resolution, and shall generally
7 list the conditions of approval.

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

12 15. Failure to meet any conditions of approval for this development shall constitute a violation
13 of the Regular Coastal Permit.

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

19 17. Elevations, siding materials, colors, roofing materials and floor plans shall be
20 substantially the same as those approved by the Planning Commission. These shall be
21 shown on plans submitted to the Building Division and Planning Division.

22 18. The proposed addition shall be substantially the same material, colors and design as the
23 existing single-family residence.

24 ///////////////

25 ///////////////

26 ///////////////

27 ///////////////

28 ///////////////

29 ///////////////

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

5 PASSED AND ADOPTED Resolution No. 2011-P03 on January 10, 2011 by the following
6 vote, to wit:

7 AYES:

8 NAYS:

9 ABSENT:

10 ABSTAIN:

11 _____
12 Robert Neal, Chairperson
13 Oceanside Planning Commission

14 ATTEST:

15 _____
16 Jerry Hittleman, Secretary

17 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
18 this is a true and correct copy of Resolution No. 2011-P03.

19
20 Dated: January 10, 2011

21
22 Applicant accepts and agrees with all conditions of approval and acknowledges impact fees may
23 be required as stated herein:

24 _____
25 Applicant/Representative

_____ Date

AGENDA NO. 3

PLANNING COMMISSION



STAFF REPORT

DATE: January 10, 2011 (Continued from the November 8, 2010 meeting)

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A REGULAR COASTAL PERMIT (RC10-00004) FOR THE CONSTRUCTION OF A 240-SQUARE FOOT ADDITION TO AN EXISTING RESIDENCE LOCATED AT 1705 SOUTH PACIFIC STREET – STENSRUD ADDITION – APPLICANT: WHITNEY STENSRUD**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Class 1, Categorical Exemption per Section 15301 "Existing Facilities" of the California Environmental Quality Act; and
- (2) Approve Regular Coastal Permit (RC10-00004) by adopting Planning Commission Resolution No. 2011-P03 with findings and conditions of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

Background: Situated within the Coastal Zone and the South Oceanside Neighborhood Planning Area, the subject property is a 6,900-square foot beachfront lot now accommodating a 3,811-square foot single-family residence and 444-square foot garage. Comprised of two stories over a daylight basement, the existing residence and garage were constructed in 2005. These improvements were approved under the land use and development standards of the City's 1992 Zoning Ordinance, which is no longer operative within the Coastal Zone. The current proposal has been evaluated under the standards of the 1986 Zoning Ordinance, which was formally reapplied to Coastal Zone properties outside of the Downtown Redevelopment Area in May of 2009.

The proposed project was reviewed by the Planning Commission on October 25, 2010. With only six members of the Planning Commission present at the meeting, a motion for approval of the proposal received a 3-3 vote, which resulted in no action being taken. In accordance with Municipal Code Section 2.1.34 (Tie Vote), the proposal was automatically

placed on the agenda of the next regularly-scheduled Planning Commission meeting (i.e. November 8, 2010) for further consideration. At the applicant's behest, the proposal was further continued to the January 10, 2011 Planning Commission meeting.

Should the proposal be the subject of a second tie vote, the proposal will be deemed denied.

Site Review: Per the 1986 Zoning Ordinance, the subject site bears a zoning designation of R-1 (Single-Family Residential). The land use designation of the subject site is Single-Family Detached Residential (SFD-R). The site abuts a single-family residence to the north, a vacant lot to the south, multi-family dwellings to the east and the Pacific Ocean to the west. Measuring 30 feet in width and 230 feet in length, the site occupies a portion of coastal bluff that exhibits a significant downward slope from South Pacific Street to the coastal stringline. While relatively flat within 30 feet of South Pacific Street, the property slopes steeply through the midsection of its developable length, descending nearly 21 feet below the adjacent street grade to that portion of the beach immediately eastward of the rock revetment that stretches from Wisconsin Street to the mouth of Buena Vista Lagoon.

The existing residence exhibits a terraced design, with separate levels of habitable space stepping down the coastal bluff. At the South Pacific Street frontage, the residence presents two stories, comprised of a master bedroom/bathroom over a street-facing garage. As the residence extends westward over the coastal bluff, both of these stories step down with the slope of the lot, such that their finished floors end up 4½ to seven feet below their respective heights at the street frontage. Additionally, both of these stories are set back from the western extent of the daylight basement, which reaches to the coastal stringline; the first story terminates 11 feet eastward of the coastal stringline, while the second story terminates 23½ feet from this point. Where the first and second stories terminate on the rear elevation, open deck areas extend over the enclosed spaces below. These open deck areas are rimmed with glass safety railing. The open deck adjacent to the first story is covered by an open-beam pergola.

Project Description: The applicant requests a 240-square foot addition to the second story of the existing residence, which would be achieved by enclosing what now serves as open deck area. The proposal would extend the enclosed portion of the second story an additional 10 feet toward the coastal stringline. The applicant further seeks to place an open-beam pergola over the remaining portions of open deck area immediately westward of the proposed expansion.

The proposed expansion of second-story habitable space would add square footage to the existing master bedroom.

The project is subject to the following Ordinances and City policies:

1. General Plan Land Use Element
2. 1986 Zoning Ordinance
3. Local Coastal Program
4. California Environmental Quality Act (CEQA)

ANALYSIS

KEY PLANNING ISSUES

1. General Plan

The General Plan Land Use Map designation for the subject property is Single-Family Detached Residential (SFD-R). The proposed project is consistent with this designation as well as the goals and objectives of the City's General Plan as follows:

A. Land Use Element

Goal 1.23: Architecture

Objective: The architectural quality of all proposed projects shall enhance neighborhood and community values and City image.

Policy A: Architectural form, treatments, and materials shall serve to significantly improve on the visual image of the surrounding neighborhood.

The proposed improvements would be architecturally consistent with the existing residence, in that they would maintain its terraced profile as well as its exterior wall color and texture. Even with the proposed expansion, the second story would continue to be offset 12.5 feet from the western extent of the first story and 23 feet from the western extent of the daylight basement. Furthermore, it is staff's position that the proposed expansion would better integrate an existing chimney into the overall building form and thereby create a more balanced structure along both the north and south elevations.

The proposed improvements would not impact the scale or form of the residence as viewed from South Pacific Street, nor would they significantly increase massing impacts on adjacent properties to the north and south.

Goal 1.32: Coastal Zone

Objective: To provide for the conservation of the City's coastal resources and fulfill the requirements of the California Coastal Act of 1976.

Policy A: The City shall utilize the certified Local Coastal Plan for review of all proposed projects within the Coastal Zone. Specifically, the goals and policies of the Local Coastal Program Land Use Plan are the guiding policy review document.

The proposed project was reviewed by staff for compliance with the policies of the Local Coastal Program Land Use Plan. Staff finds that the application complies with said policies in the Local Coastal program, including those that speak to: the preservation and enhancement of the visual quality of the urban environment; the preservation of public views; compatibility with the surrounding neighborhood; and creative design. The proposed addition would not alter the existing streetscape, compromise existing public views or diminish the architectural integrity of the existing residence.

2. Zoning Compliance

Staff finds that the proposed addition complies with the requirements of R-1 (Single-Family Residential) Zone. The following table illustrates the proposal's conformance with R-1 development standards:

Table 1: Development Standards

	REQUIRED	PROPOSED
FRONT YARD	Blockface Average	No change
SIDE YARD	3 feet	3 feet
REAR YARD	Coastal Stringline	No change
MAXIMUM HEIGHT	35 feet above average finished grade	28.5 feet above average finished grade

The proposed improvements would meet all development standards in terms of height, setbacks, and design as specified in the Oceanside Zoning Ordinance.

DISCUSSION

Issue: Project compatibility with the existing neighborhood and surrounding properties: All proposed improvements to the property would be consistent with, and compatible to, the existing residence and the adjoining homes in the surrounding homes.

Recommendation: Staff finds that the proposed improvements to the property would be architecturally consistent with the existing residence as well as consistent with the bulk and scale of surrounding neighborhood. The 240-square foot addition would fall more than six feet below the allowable height limit of 35 feet, while maintaining the terraced design of the existing residence.

Issue: Project consistency with development standards of the 1986 Zoning Ordinance:

While the existing residence was reviewed and approved under the standards of the 1992 Zoning Ordinance, the current proposal is subject to the standards of the 1986 Zoning Ordinance, which not only provides for greater building height (35 feet vs. 27 feet under the '92 Code), but also allows for building height to be measured from the average finished grade, rather than the existing grade from all points on the site, as called for by the '92 Code.

Recommendation: On September 13, 2010, the Planning Commission recommended to the City Council that the residential building height standards of the 1986 Zoning Ordinance be amended to generally coincide with those of the previously applicable 1992 Zoning Ordinance. This recommendation will be considered by the City Council at a regularly scheduled public hearing on December 8, 2010. In the interim, the Planning Commission directed staff to continue evaluating projects under currently applicable building height standards (35 feet and two stories, in the case of the subject property). As noted earlier, the proposed addition falls well below the maximum allowable building height as established by the 1986 Zoning Ordinance. In addition to its conformance to currently applicable building height standards, the proposed addition demonstrates compatibility with the bulk and scale of adjacent development. Consequently, on the basis of both conformance and compatibility, staff is supportive of the proposal.

ENVIRONMENTAL DETERMINATION

The proposed project has been reviewed pursuant to the California Environmental Quality Act (CEQA) and the project is exempt under the provisions of the California Environmental Quality Act (CEQA) Class 1 15301 (e), Categorical Exemption "Existing Facilities"

PUBLIC NOTIFICATION

In advance of the October 25, 2010 Planning Commission public hearing on the proposal, legal notice was published in the North County Times and notices were sent to property owners of record within a 300-foot radius and occupants within a 100-foot radius of the subject property, individuals and or organizations requesting notification, the applicant, and other interested parties. No additional notification is required for further consideration of the proposal following the tie vote at the previous public hearing, in accordance with Municipal Code 2.1.34.

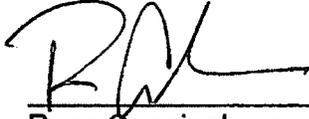
SUMMARY

Regular Coastal Permit (RC10-00004) is consistent with the requirements of the Zoning Ordinance, the land use policies of the General Plan and the policies of the Local Coastal Program. The project meets all applicable development standards for the district in which

it is situated. The project's scale and architecture are compatible with the surrounding neighborhood and complementary to the existing residence. Accordingly, staff recommends that the Planning Commission approve the proposal subject to the conditions contained in the attached resolution. Staff recommends that the Planning Commission:

- Confirm issuance of Class 1, Categorical Exemption for Existing Facilities of the California Environmental Quality Act.
- Move to approve Regular Coastal Permit RC10-00004 and adopt Planning Commission Resolution No. 2010-P33 as attached.

PREPARED BY:



Russ Cunningham
Senior Planner

SUBMITTED BY:



Jerry Hittleman
City Planner

JH/RC/fil

Attachments:

1. Plans
2. Planning Commission Resolution No. 2011-P03

RECEIVED

JAN 19 2011

OCEANSIDE CITY CLERK

Received by: Cathy
Via: hand delivered
Copy to: Clerk, Holly,
Angellina G. Benti, D. H. H. Hama

ACCEPTANCE OF APPEAL

(OFFICE USE ONLY)

SECTION 4604

Appeal of: Regular Coastal Permit RC10-00004, Stensrud

Date of Final Action: 1-10-11 Date Filed: 1/19/11

Form of Appeal: \$1,281 Appeal Fee _____ Petition X

Person Submitting Appeal: Daniel Matlach

Company/Developer Representative, Company Name: N/A

Name of Person who Prepared the Appeal: Daniel Matlach & Candace Cross

Name of Spokesperson for the Appeal: Daniel Matlach

Address: 1709 S Pacific St, Oceanside

Phone Number: 760-967-9894

E-mail and/or Fax: dmatlach@cox.net, ccross100@cox.net
760-967-7354

Appeals must be filed within 10 days of the date of final action. **Section 4604:** To appeal by petition for a waiver of the appeal fee, the appeal must be accompanied by the signatures of 50% of the property owners within the noticed area or 25 signatures of the property owners or tenants within the noticed area, whichever is less.

I hereby certify that this appeal is being submitted in accordance with the Zoning Ordinance and meets the criteria specified in Section 4604 for an appeal by petition.

Signature: [Signature] Date: 1/19/11

RECEIVED

JAN 19 2011

OCEANSIDE CITY CLERK

APPEAL OF PLANNING COMMISSION APPROVAL OF REGULAR COASTAL
PERMIT (RC10-00004)
January 11, 2011

TO: City Clerk, City of Oceanside, CA

RE: Appeal of Planning Commission Approval of Regular Coastal Permit RC10-00004

FROM: Daniel Matlach
Candace Cross
1709 S Pacific St, Oceanside
760-967-9894

This submittal and signatures of residents in the noticed area shall serve as an appeal of the decision made by the Planning Commission at the hearing on January 10, 2011 regarding Regular Coastal Permit RC10-00004, the Stensrud Project.

REASONS FOR APPEAL OF REGULAR COASTAL PERMIT RC10-00004

1. Legal precedent is established in previous litigation protecting adjacent view rights under the 1986 Zoning Ordinance.

The proposed addition and pergola will substantially impair the Appellant's views (1709 S Pacific Street) as well as the views at 1643 and 1701 S Pacific Street.

2. California Coastal Act of 1976, Article 6, Development, Section 30251 – Scenic and visual qualities

“The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting”.

For 22 years, under Section 30251 of the California Coastal Act of 1976, the City of Oceanside has been establishing and protecting height and view policy standards both private and public on Pacific Street.

3. The Applicant's Representative knowingly and intentionally misrepresented to the Planning Commission during the meeting on October 25, 2010 the true site conditions and the reasoning Section 3017 was used to substantiate the illegal additional height increase.

This testimony represents the third time false and or misleading information has been submitted to the City in duly sanctioned public hearings pertaining to a Regular Coastal Permit under the City's approved Local Coastal Program.

4. During the Planning Commission meeting on October 25, 2010, the Applicant's Representative admitted to “the taking” of an additional one and a half feet. The elevation changes in the finished grade made by the Applicant has led to a nine and half foot party wall at 1701 S. Pacific St., the List property.

This is a code violation and a major health and safety issue for the List Family (1701 S Pacific St).

5. Planning Commissioners' decisions are inconsistent with the new Development Guidelines introduced by staff.

The Stensrud project is not in conformance with Development Standards recently applied to a property 3 doors to the north where an 82 square foot addition has been denied various times. This 82 square foot addition is enclosing an existing patio (currently with a solid 36 inch wall) on Pacific Street, not affecting any views. The Applicant is requesting a 240 square foot new enclosure (currently area has only a glass railing) plus a 288 square foot pergola.

6. **The City of Oceanside is currently prosecuting other projects (residential and commercial) for Development Standards and code violations. A full investigation of this project, beginning with the original application for a Regular Coastal Permit (RC13-00), should be completed before any additional Permits are approved.**

The request for a full investigation has been made various times to various City officials. All requests have been ignored and unanswered. With so many inconsistencies, false and misleading testimonies, we are now demanding a full investigation.

City of Oceanside Zoning Ordinance – Article 47 Enforcement – 4702 Enforcement Responsibilities states “The planning Director and the Code Enforcement Office shall enforce all provisions of this ordinance related to discretionary permits and shall have responsibility for revocation of discretionary permits, as provided in Section 4704. The Building official shall enforce the provisions of this ordinance pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building or structure. All other officers of the City shall enforce provisions related to their area of responsibility.

Appealing the Decision by the Planning Commission to the City Council.

Project Address: 1705 So Pacific Street

Identification No. RC-10-00004

ATTACHMENT 5

RECEIVED

JAN 19 2011

OCEANSIDE CITY CLERK

1 Name: Sharon M. List
Address: 30425 Via El Delora
Temecula, CA 92592
Signature: [Signature]

2 Name: Rhonda Rae List
Address: 16200 Davis Road
Moreno Valley, CA 92555
Signature: [Signature]

3 Name: Dawn List
Address: 1701 S. Pacific St
Oceanside, CA 92054
Signature: [Signature]

4 Name: ANNETTE MACDONALD
Address: 1639 S. PACIFIC ST.
OCEANSIDE, CA 92054
Signature: [Signature]

5 Name: JOHN H. MACDONALD
Address: 1639 S. PACIFIC ST.
OCEANSIDE, CA 92054
Signature: [Signature]

6 Name: Mavis B. Postley
Address: 1635 SOUTH PACIFIC ST.
OCEANSIDE, CA 92054
Signature: [Signature]

7 Name: DAN MATLACH
Address: 1709 S. PACIFIC ST.
OCEANSIDE, CA 92054
Signature: [Signature]

8 Name: Manica Angel
Address: 1709 S Pacific St
Signature: [Signature]

9 Name: JACOB ALTMAN
Address: 1629 S. MYERS ST
APT 2 E
Signature: [Signature]

10 Name: _____
Address: _____
Signature: _____

Appealing the Decision by the Planning Commission to the City Council.

Project Address: 1705 So Pacific Street

Identification No. RC-10-00004

1 Name: Shanenen O'Brien

Address: 1708 S. Pacific St
Oceanside CA 92054

Signature: Shanenen O'Brien

2 Name: MIKE ESCARCEGA

Address: 1708 S. Pacific St.

Signature: [Signature]

3 Name: CHARLENE DEVEI

Address: 1712 S. PACIFIC
OSIDE CA 92054

Signature: [Signature]

4 Name: Victoria Escarcega

Address: 1708 S. Pacific St.

Signature: Victoria Escarcega

5 Name: MIKE TURNER

Address: 1712 S. PACIFIC
OSIDE, CA 92054

Signature: Mike Turner

6 Name: Tiphonie Litalien

Address: 1702 S. Pacific

Signature: [Signature]

7 Name: Wes Cameron

Address: 1702 S Pacific #6

Signature: [Signature]

8 Name: Dominique Venzor

Address: 1702 S. Pacific St.

Signature: [Signature]

9 Name: Andrea Cameron

Address: 1702 S. Pacific St. #6

Signature: A Cameron

10 Name: Christopher Bertina

Address: 1702 S Pacific St.

Signature: Chris Bertina

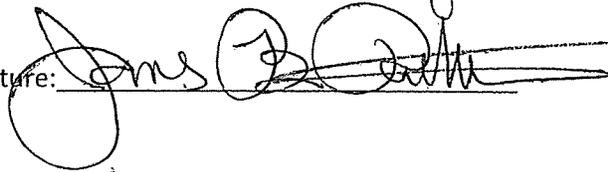
Appealing the Decision by the Planning Commission to the City Council.

Project Address: 1705 So Pacific Street

Identification No. RC-10-00004

1 Name: James B Penner

Address: 1635 So Pacific

Signature: 

2 Name: Anne Kellogg-Dunne

Address: 1643 So Pacific St
Oceanside, CA 92054

Signature: 

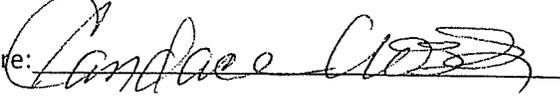
3 Name: JACOB SHARP

Address: 1643 S. PACIFIC ST
OCEANSIDE CA 92054

Signature: 

4 Name: Candace Cross

Address: 1709 S Pacific ST
Oceanside, CA 92054

Signature: 

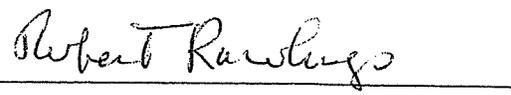
5 Name: Renny Dowling

Address: 1716 S. Pacific ST

Signature: 

6 Name: Robert Rawlings

Address: 1640 S. Pacific St Unit 3
Oceanside, CA 92054

Signature: 

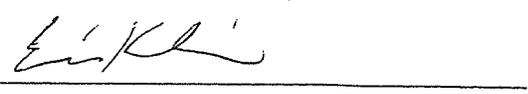
7 Name: Loria Sanchez

Address: 1713 S Myers St

Signature: 

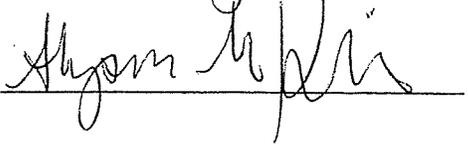
8 Name: ERIC Klee

Address: 1717 S. Myers

Signature: 

9 Name: Alyson Klee

Address: 1717 S. Myers St.

Signature: 

10 Name: MICHAEL BISONK

Address: 1721 MYERS ST.

Signature: 

Appealing the Decision by the Planning Commission to the City Council.

Project Address: 1705 So Pacific Street

Identification No. RC-10-00004

1 Name: BRANDON BURROWS

2 Name: _____

Address: 1702 S. PACIFIC ST.

Address: _____

Signature: 

Signature: _____

3 Name: PHOENIX ANDERSON

4 Name: _____

Address: 1702 South Pacific St #7

Address: _____

Signature: 

Signature: _____

5 Name: _____

6 Name: _____

Address: _____

Address: _____

Signature: _____

Signature: _____

7 Name: _____

8 Name: _____

Address: _____

Address: _____

Signature: _____

Signature: _____

9 Name: _____

10 Name: _____

Address: _____

Address: _____

Signature: _____

Signature: _____

Appealing the Decision by the Planning Commission to the City Council.
Project Address: 1705 So Pacific Street
Identification No. RC-10-00004

1 Name: Audrey E. Smith 2 Name: _____
Address: 1711 Pacific Street Address: _____

Signature: Audrey E. Smith Signature: _____
3 Name: JAN CIPOLLA 4 Name: _____

Address: 1711 PACIFIC ST. Address: _____
Signature: Jan Cipolla Signature: _____

5 Name: _____ 6 Name: _____
Address: _____ Address: _____
Signature: _____ Signature: _____

7 Name: _____ 8 Name: _____

Appealing the Decision by the Planning Commission to the City Council.

Project Address: 1705 So Pacific Street

Identification No. RC-10-00004

1 Name: Eva L. Dausel
Address: 1717 So. Pacific St.
Signature: _____

2 Name: _____
Address: _____
Signature: _____

3 Name: Joseph Facello
Address: 1633 S. MYERS #6
Signature: JF/10

4 Name: _____
Address: _____
Signature: _____

5 Name: FRANK VRETENAR
Frank Vretenar
Address: 1702 SO. PACIFIC ST
Signature: Frank Vretenar

6 Name: _____
Address: _____
Signature: _____

7 Name: MARY KAY VRETENAR
Mary Kay Vretenar
Address: 1702 S PACIFIC ST.
Signature: Mary Kay Vretenar

8 Name: _____
Address: _____
Signature: _____

9 Name: _____
Address: _____
Signature: _____

10 Name: _____
Address: _____
Signature: _____

Appealing the Decision by the Planning Commission to the City Council.

Project Address: 1705 So Pacific Street

Identification No. RC-10-00004

1 Name: Jim Heros

Address: 1713 S. Pacific St.

Signature: 

2 Name: _____

Address: _____

Signature: _____

3 Name: _____

Address: _____

Signature: _____

4 Name: _____

Address: _____

Signature: _____

5 Name: _____

Address: _____

Signature: _____

6 Name: _____

Address: _____

Signature: _____

7 Name: _____

Address: _____

Signature: _____

8 Name: _____

Address: _____

Signature: _____

9 Name: _____

Address: _____

Signature: _____

10 Name: _____

Address: _____

Signature: _____