

AGENDA NO.

3

PLANNING COMMISSION RESOLUTION NO. 2007-P19

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

APPLICATION NO: V-7-06, RC-20-05
APPLICANT: Paul and Denise Bos
LOCATION: 1026 South Myers 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 Variance and Regular Coastal Permit under the provisions of Articles 10 and 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

remodel of and addition to an existing single-family home with front yard and rear yard setbacks deviating from applicable zoning regulations;
on certain real property described in the property description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 9th day of April, 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 categorically exempt from CEQA per Article 19, Section 15301 Existing Facilities;

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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<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
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	\$2,072 per unit for residential
School Facilities Mitigation Fee	Ordinance No. 91-34	\$2.63 per square foot residential (\$2.63 for Vista; \$2.63 for Fallbrook)

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:

1 FINDINGS:

2 For the Variance:

- 3 1. The homes directly to the north and south of the subject property have front yard
4 setbacks of 10 feet. The lot is also restricted in size due to the 10 feet of land that the
5 railroad took from the easterly side of the property. The size and location of the lot is
6 unique in relation to surrounding properties.
- 7 2. The granting of the application would not be detrimental or injurious to property or
8 improvements in the vicinity of the development site, or to the public health, safety or
9 general welfare.
- 10 3. That granting the application is consistent with the purposes of this ordinance and will
11 not constitute a grant of special privilege inconsistent with limitations on other
12 properties in the vicinity and in the same zoning district. Permitting the subject property
13 to have reduced setback areas in the front and rear yards will be consistent with
developments in the immediate area.

14 For the Regular Coastal Permit:

- 15 1. The proposed project is consistent with the policies of the Local Coastal Program and its
16 effective zoning code.

17 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
18 approve Variance (V-7-06) and Regular Coastal Permit (RC-20-05) subject to the following
19 conditions:

20 Building:

- 21 1. Applicable Building Codes and Ordinances shall be based on the date of submittal for
22 Building Division plan check. (Currently the 2001 California Building Code and 2004
23 California Electrical Code)
- 24 2. The granting of approval under this action shall in no way relieve the applicant from
25 compliance with all State and local building codes.
- 26 3. The building plans for this project are required by State law to be prepared by a licensed
27 architect or engineer and must be in compliance with this requirement prior to submittal for
building plan review.
- 28 4. Compliance with the Federal Clean Water Act (BMPs) must be demonstrated on the plans.
- 29

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

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

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

17 6. Separate/unique addresses will/may be required to facilitate utility releases. Verification
18 that the addresses have been properly assigned by the City's Planning Division must
19 accompany the building permit application.

20 7. Structural Calculations and Energy Calculations/documentation will be required at time of
21 plans submittal to the Building Division for plan check.

22 8. Fire resistive construction must be maintained on the rear property line wall.

23 **Engineering:**

24 9. The project involves demolition of an existing structure or surface improvements, the
25 grading plans shall be submitted and erosion control plans be approved by the City Engineer
26 prior to the issuance of a demolition permit. No demolition shall be permitted without an
27 approved erosion control plan.

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

1 11. The approval of the project shall not mean that closure, vacation, or abandonment of any
2 public street, right-of-way, easement, or facility is granted or guaranteed to the developer.
3 The developer is responsible for applying for all closures, vacations, and abandonments as
4 necessary. The application(s) shall be reviewed and approved or rejected by the City under
5 separate process(es) per codes, ordinances, and policies in effect at the time of the
6 application.

7 12. Prior to the issuance of a grading permit, the developer shall notify and host a neighborhood
8 meeting with all of the area residents located within 300 feet of the project site, and residents
9 of property along any residential streets to be used as a "haul route," to inform them of the
10 grading and construction schedule, haul routes, and to answer questions.

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

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

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

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

28 d) A haul route shall be obtained at least 7 days prior to the start of hauling operations
29 and must be approved by the City Engineer. Hauling operations shall be 8:00 a.m.
to 3:30 p.m. unless approved otherwise.

- 1 14. A traffic control plan shall be prepared according to the City traffic control guidelines and
2 be submitted to and approved by the City Engineer prior to the start of work within open
3 City rights-of-way. Traffic control during construction of streets that have been opened to
4 public traffic shall be in accordance with construction signing, marking and other protection
5 as required by the Caltrans Traffic Manual and City Traffic Control Guidelines. Traffic
6 control plans shall be in effect from 8:00 a.m. to 3:30 p.m. unless approved otherwise.
- 7 15. Approval of this development project is conditioned upon payment of all applicable impact
8 fees and connection fees in the manner provided in Chapter 32B of the Oceanside City code.
9 All drainage fees, traffic signal fees and contributions, highway thoroughfare fees, park fees,
10 reimbursements, and other applicable charges, fees and deposits shall be paid prior to
11 recordation of the map or the issuance of any building permits, in accordance with City
12 Ordinances and policies. The developer shall also be required to join into, contribute to or
13 participate in any improvement, lighting, or other special district affecting or affected by this
14 project. Approval of the project shall constitute the developer's approval of such payments,
15 and his agreement to pay for any other similar assessments of charges in effect when any
16 increment is submitted for final map or building permits approval, and to join, contribute,
17 and/or participate in such districts.
- 18 16. Pavement sections for all streets, alleys, driveways and parking areas shall be based upon
19 approved soil tests and traffic indices. The pavement design is to be prepared by the
20 developer's soil engineer and must be approved by the City Engineer prior to paving.
- 21 17. Any existing broken pavement, concrete curb, gutter or sidewalk or any damaged during
22 construction of the project, shall be repaired or replaced as directed by the City Engineer.
- 23 18. Grading and drainage facilities shall be designed and installed to adequately accommodate
24 the local stormwater runoff and shall be in accordance with the City's Engineers Manual
25 and as direct by the City Engineer.
- 26 19. Prior to any grading of any part of the project, a comprehensive soils and geologic
27 investigation shall be conducted of the soils, slopes, and formations in the project. All
28 necessary measures shall be taken and implemented to assure slope stability, erosion control,
29 and soil integrity. No grading shall occur until an appropriate grading plan, to be prepared
in accordance with the Grading Ordinance and Zoning Ordinance, is approved by the City
Engineer.

- 1 20. An erosion control plan and appropriate grading and private improvement plans shall be
2 prepared, reviewed, secured, and approved prior to the issuance of any building permits.
3 The plans shall reflect all pavement, flatwork, landscaped areas, special surfaces, curbs,
4 gutters, and footprints of all structures, walls, drainage devices and utility services.
- 5 21. Sediment, silt, grease, trash, debris, and/or pollutants shall be collected on-site and disposed
6 of in accordance with all state and federal requirements, prior to stormwater discharge either
7 off-site or into the City drainage system.
- 8 22. Upon acceptance of any fee waiver or reduction by the Project Proponent/Applicant, the
9 entire project will be subject to prevailing wage requirements as specified by Labor Code
10 section 1720(b)(4). The Project Proponent/Applicant shall agree to execute a form
11 acknowledging the prevailing wage requirements prior to the granting of any fee reductions
12 or waivers.
- 13 23. Walls, fences, and gates shall be shown on the landscape plans with details. Location of all
14 improvements on the landscape plan shall comply with City of Oceanside ordinances and
15 requirements; meeting the satisfaction of the City Engineer.
- 16 24. All landscaping, fences, walls, etc. on the site shall be permanently maintained by the
17 owner, his assigns or any successors-in-interest in the property. The maintenance program
18 shall include normal care and irrigation of the landscaping; repair and replacement of plant
19 materials and irrigation systems as necessary; and general cleanup of the landscaped and
20 open areas, walkways, walls, fences, etc. Failure to maintain landscaping shall result in the
21 City taking all appropriate enforcement actions by all acceptable means including but not
22 limited to citations and/or actual work with costs charged to or recorded against the owner.
23 This condition shall be recorded with the covenant required by this document.
- 24 25. Landscape plans, meeting the criteria of the City's Landscape Guidelines and Water
25 Conservation Ordinance No. 91-15, including the maintenance of such landscaping, shall be
26 reviewed and approved by the City Engineer prior to the issuance of building permits.
27 Landscaping shall not be installed until bonds have been posted, fees paid, and plans signed
28 for final approval. The following special landscaping requirements shall be met:
29 a) To mitigate the loss of landmark and/or mature existing trees on-site, the determiner
of replacement shall be determined on-site at a pre-construction meeting. The total
number of tree caliper lost shall be equal to the total number of caliper replaced. A

1 field survey shall be performed under the supervision of the City Landscaping
2 Section to evaluate the existing tree population and the replacement requirements.
3 The existing trees to remain or proposed for removal shall be identified on the
4 Landscape Plan. The existing tree type, location, and caliper shall be shown on the
5 plans. Replacement trees shall be identified and shown on the Landscape Plan and
6 shall be subject to review and approval by the City Engineer.

- 7 b) Prior to the issuance of any permit by the Engineering Department, the developer
8 shall provide landscape plans to match the approved landscape conceptual plan. All
9 trees shall be spot located by a Landscape Architect at a preconstruction meeting and
10 shall meet the current City of Oceanside requirements. Location of public utilities
11 shall be verified by the Landscape Architect; location of trees and shrubs field
12 adjusted. Trees shall not be located in utility easements.
- 13 c) Street trees in the right-of-way or located on-site if not in the right-of-way, shall be a
14 minimum of 15-gallon and maintained in perpetuity by the owner meeting the
15 satisfaction of the City Engineer.
- 16 d) Existing automatic irrigation shall be protected in place and repaired, updated, or
17 replaced to meet the satisfaction of the City Engineer. All landscape areas shall be
18 provided with automatic irrigation.
- 19 e) Any deviation of the landscape plans shall be reviewed and approved by the
20 Planning Division and Engineering Department.
- 21 f) The driveway shall be comprised of drivable drought tolerant native or naturalized
22 ground cover installed in a manner which shall tolerate vehicular parking/passage as
23 approved by the City Engineer and the City Planner.
- 24 g) A minimum of fifty percent (50%) of the required front yard shall be planting area
25 or landscape that may include areas covered by ornamental gravel, crushed rock or
26 similar materials.

25 **Fire:**

- 26 26. In accordance with the California Fire Code Sec. 901.4.4, approved addresses for residential
27 occupancies shall be placed on the structure in such a position as to be plainly visible and
28 legible from the street or roadway fronting the property. Numbers shall be contrasting with
29 their background.

- 1 27. Single-family dwellings require 4-inch address numbers.
- 2 28. Plans shall be submitted to the Fire Prevention Bureau for plan check review and approval
- 3 prior to the issuance of building permits.
- 4 29. Buildings shall meet Oceanside Fire Department's current codes at the time of building
- 5 permit application.

6 **Planning:**

- 7 30. This Variance and Regular Coastal Permit approves only a remodel and addition to an
- 8 existing single-family home with front and rear yard setbacks deviating from applicable
- 9 zoning regulations as shown on the plans and exhibits presented to the Planning
- 10 Commission for review and approval. No deviation from these approved plans and exhibits
- 11 shall occur without Planning Division approval. Substantial deviations shall require a
- 12 revision to the Variance and/or Regular Coastal Permit or a new Variance and/or Coastal
- 13 Permit.
- 14 31. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold
- 15 harmless the City of Oceanside, its agents, officers or employees from any claim, action or
- 16 proceeding against the City, its agents, officers, or employees to attack, set aside, void or
- 17 annul an approval of the City, concerning Variance V-7-06 and Regular Coastal Permit
- 18 RC-20-05. The City will promptly notify the applicant of any such claim, action or
- 19 proceeding against the City and will cooperate fully in the defense. If the City fails to
- 20 promptly notify the applicant of any such claim action or proceeding or fails to cooperate
- 21 fully in the defense, the applicant shall not, thereafter, be responsible to defend,
- 22 indemnify or hold harmless the City.
- 23 32. All single-family dwelling projects shall dispose of or recycle solid waste in a manner
- 24 provided in City Code Section 13.3.
- 25 33. A covenant or other recordable document approved by the City Attorney shall be prepared
- 26 by the applicant and recorded prior to issuance of building permits. The covenant shall
- 27 provide that the property is subject to this resolution, and shall generally list the conditions
- 28 of approval.
- 29 34. 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 Division. These requirements, including the obligation to

1 remove or cover with matching paint all graffiti within 24 hours, shall be noted on the
2 Landscape Plan and shall be recorded in the form of a covenant affecting the subject
3 property.

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

8 36. Failure to meet any conditions of approval for this development shall constitute a violation
9 of the Variance and Regular Coastal Permit.

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

15 38. Side and rear elevations and window treatments shall be trimmed to substantially match
16 the front elevations. A set of building plans shall be reviewed and approved by the
17 Planning Division prior to the issuance of building permits.

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

21 40. The Owner's use of the easement area (held by the City in the North County Transit
22 District (NCTD) Railroad Right-of-Way) to access and maintain the wall at the rear
23 property line of Owner's property shall be controlled by a right-of-entry permit issued by
24 NCTD. The City of Oceanside, its boards, officers, agents, employees, successors and
25 assigns shall be named as an additional insured on the insurance policies that NCTD will
26 require per the right-of-entry permit between NCTD and Owner. Copies of the insurance
27 policy(s) and/or certificate(s) with appropriate endorsement(s) shall be furnished to the
28 City concurrently when the Owner submits the same to NCTD. Owner shall not use or
29 operate any motorized vehicle within the City's easement without first obtaining the
City's prior written permission, which permission may be granted or denied at City's sole

1 and final discretion. The right-of-entry permit must be obtained prior to issuance of
2 building permits

3 **Water Utilities:**

- 4 41. The developer will be responsible for developing all water and sewer utilities necessary to
5 develop the property. Any relocation of water and/or sewer utilities is the responsibility of
6 the developer and shall be done by an approved licensed contractor at the developer's
7 expense.
- 8 42. The property owner will maintain private water and wastewater utilities located on private
9 property.
- 10 43. No trees, structures or building overhang shall be located within any water or wastewater
11 utility easement.

12 PASSED on April 9, 2007 by the following vote, to wit:

13 AYES: Martinek, Blom, Balma, Horton and McLeod

14 NAYS: Parker and Troisi

15 ABSENT: None

16 ABSTAIN: None

17 ADOPTED Resolution No. 2007-P19 on April 23, 2007.

18 _____
19 Dennis Martinek, Chairman
20 Oceanside Planning Commission

21 ATTEST:

22 _____
23 Jerry Hittleman, Secretary

24
25 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
26 this is a true and correct copy of Resolution No. 2007-P19.

27 Dated: April 23, 2007
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29