

STAFF REPORT



ITEM NO. 13

CITY OF OCEANSIDE

DATE: February 14, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Community Development Department/Planning Division

SUBJECT: **CONSIDERATION OF APPEALS FOR TENTATIVE MAP (T-8-02), DEVELOPMENT PLANS (D-13-02, D-14-02), CONDITIONAL USE PERMITS (C-21-02, C-22-02) AND REGULAR COASTAL PERMIT (RC-8-02) AND CERTIFICATION OF THE EIR FOR A MULTI-USE PROJECT CONSISTING OF AN 82-ROOM HOTEL, A FULL SERVICE RESTAURANT AND 4 CONDOMINIUM UNITS PROPOSED ON 3.8 ACRES LOCATED ON THE WEST SIDE OF SOUTH COAST HIGHWAY, BETWEEN EATON STREET AND THE BUENA VISTA LAGOON**

SYNOPSIS

The item under consideration is a resolution denying the appeal of the Planning Commission's decision to certify the Environmental Impact Report (EIR) and granting the appeal of the Planning Commission's decision denying development of a hotel, restaurant, and four residential condominium units on a 3.8-acre site on the west side of South Coast Highway between Eaton Street and the Buena Vista Lagoon. Douglas Freed and Daniel DiMento have filed the appeal of the EIR certification by the Planning Commission. The project applicant, Aharon Abada representing Oceanside Three, has filed the appeal of the Planning Commission decision to deny the project. Staff is recommending that the City Council deny the appeal and certify the EIR. Staff also is recommending the City Council reverse the Planning Commission's decision, approve the project and adopt the resolutions as attached.

BACKGROUND

The Planning Commission public hearing and deliberations on the proposed multi-use project were held on October 9, 2006. The Commission certified the project EIR by a 6-0 vote. The Commission then proceeded to deny the project on a 5-to-1 vote. The decision to certify the EIR has been appealed by neighboring property owners. An appeal has been filed on the project to the City Council for further review on behalf of Mr. Aharon Abada, the project applicant and property owner. Attached to the report are the appeal letters, which outline the specific issues/concerns for each request.

Site Review: The 3.8-acre project site is vacant and is located at the southwestern corner of the intersection of South Coast Highway and Eaton Street. The project site is accessible from South Coast Highway on the east or Broadway on the west. Buena Vista Lagoon is directly adjacent to the site on the south. Single-family residential development at the terminus of Tremont Street is adjacent to a portion of the northern site boundary. A fast-food restaurant is located to the north, across Eaton Street. East of the project site, across South Coast Highway are a 2-story commercial/office development, a 2-story condominium complex, and the Buena Vista Lagoon Nature Center. The North County Transit District right-of-way and main north/south railroad tracks are located directly to the west of the site.

The property includes three legal parcels; a portion of parcel 2 is within the jurisdiction of the California Coastal Commission and is subject to the requirements of the State Coastal Act. The remainder of the project site is within the boundaries of the City's Local Coastal Program (LCP). The City's Regular Coastal Permit may be appealed to the State Coastal Commission for final action. The LCP recognizes the biological sensitivity of Buena Vista Lagoon and recommends a minimum 100-foot biological buffer from the lagoon and preservation of public views of the lagoon.

The property has two General Plan and Zoning designations. The eastern portion of the property along South Coast Highway is designated for visitor commercial (CV) uses and the western portion of the site is zoned Residential Tourist or RT.

Project Description: The proposed project consists of an 82-room hotel in the Visitor Commercial Zone on the eastern portion of the site and a 4-unit condominium in the Residential Tourist Zone in the western portion of the 3.8-acre project site. The project application consists of separate Development Plans for the hotel/restaurant and residential condominiums, a Tentative Map, Conditional Use Permits for the hotel and a 20 percent shared parking reduction, and a Regular Coastal Permit. The applicant originally proposed a 106-room hotel and 7 residential condominiums as allowed under the Zoning Ordinance, but reduced the project size based on input from the public and other interested parties. Each discretionary request is described as follows:

Development Plans: The commercial development proposal involves construction of a 3-story, 82-room condominium-hotel (condo-hotel), totaling 80,838 square feet and a 1-story, 4,180-square-foot restaurant. Access would be from a new signalized intersection on South Coast Highway and parking access from the alley off Eaton Street. The hotel will offer 70 of the hotel units for sale as condo-hotel units with length-of-time use restrictions and the 12 remaining hotel units will be exclusively for transient use. A total of 139 parking spaces will be provided for the combined hotel and restaurant use. The bulk of the parking – 106 spaces – will be provided under the hotel and lobby area. The remainder of the spaces will be on the surface. A pool and deck will be provided for hotel guest use just south of the hotel lobby.

The residential development plan is comprised of 4 detached 2-story condominium units at 3,475 square feet each. Access to this portion of the site will be strictly from

Broadway. The two-story units would each have a roof deck and balconies.

A 100-foot buffer with native vegetation will be provided between the proposed development and Buena Vista Lagoon. A 5-foot-wide public access pathway will be provided along the northern perimeter of the natural buffer area connecting Broadway to South Coast Highway. A total of 62.8 percent of the entire site will be landscaped.

The project will be built in the French Normandy style. This style is characterized by prominent cross gables, steep roofs, and decorative half-timbering. This is similar to the St. Malo neighborhood to the west across the San Diego Northern Railroad right-of-way. The applicant has considered changing the style of the structures to a modern California Craftsman style, but has not formally submitted this design to the Community Development Department/Planning Division.

Tentative Map: The Tentative Map proposes to subdivide the 3.8 gross acres into three parcels. Parcel 1 and a portion of Parcel 2 would be used for commercial uses (hotel and restaurant), the remainder of Parcel 2 would be set aside as a 100-foot buffer between the project and Buena Vista Lagoon. Parcel 3 is comprised of 4 condominium units.

Regular Coastal Permit: The hotel is proposed as a limited-term-occupancy condominium hotel. Seventy of the hotel rooms (85 percent) would be sold as limited-term condominiums and 15 percent or 12 of the hotel rooms would be retained for strict hotel usage. Twenty-five percent of the hotel rooms are required to be available during the summer season (Memorial Day to Labor Day) per policies in the City's adopted Local Coastal Plan (LCP). Owners of the 70 condo-hotel rooms would be limited to 90 days of total occupancy per year with a 29-day restriction on length of stay at any one time. The purpose of this restriction is to ensure compliance with the State Coastal Act and City's Local Coastal Program, which requires access to the coastal areas and coastal visitor-serving uses such as hotels to the widest range of people possible. Visitors to the hotel and condo-hotel portions of the project are required to pay full transit occupancy taxes (TOT) to the City as if the project was a 100-percent transient hotel all year round.

The State Coastal Commission staff sent a memorandum to Local Governments and Interested Parties regarding condominium-hotels (condo-hotels) on December 26, 2006. Coastal staff expressed a concern that condo-hotels were essentially residential investments that constitute a quasi-residential land use. In essence, they felt that condo-hotels may not provide low-cost visitor-serving coastal accommodations, as required by the State Coastal Act and requested that each jurisdiction seeking a condo-hotel use should process a Local Coastal Plan Amendment to allow this type of use. They further requested a study of existing supply and demand of low-cost visitor-serving accommodations within each jurisdiction seeking this use.

This condo-hotel project is being allowed to proceed prior to processing a Local Coastal Plan Amendment for the following reasons:

- The applicant's request for a condo-hotel preceded the current Coastal staff memorandum. In addition, the project applicant and City staff were informed by Coastal staff in mid-2006 that it was feasible to process the project with various conditions or restrictions on the condominium use by owners. These have been included as conditions of approval for the proposed project. In addition, the Coastal Commission has approved various other condo-hotel projects over the last year in jurisdictions such as Encinitas, Coronado and Huntington Beach.
- The City's adopted LCP (1985) currently has policies regarding preserving opportunities for low-cost visitor-serving uses for overnight stays. Such policies and inventory have been reviewed and analyzed and found adequate in connection with recent approvals at the Fairfield and Trendwest timeshare projects.
- Oceanside has an abundant supply of low cost coastal overnight accommodations in a range of price points (see attached tables). Citywide there are 2,180 existing lodging options available. Of those, 1308 are existing hotel/motel rooms, 230 are timeshares, 108 are vacation rentals, 241 are Recreational Vehicle (RV) spaces and 293 are hotel and timeshare units under construction. Prices range from \$38 to \$256 per night. Citywide, 34 percent of all hotel rooms and timeshare units rent for \$85 or less per night. Additionally, 101 hotel rooms are approved but not yet under construction; and 597 hotel rooms, 72 fractional timeshares and 70 condominium-hotels are in the approval process. Table 1 is a Citywide Visitor-Serving Accommodation Survey and Table 2 is a Summary of the citywide survey by price point.
- The coastal area has 67 percent of the City's existing and under construction visitor-serving accommodations which represents 1,451 units. These include 736 existing and under construction hotel rooms, 366 existing and under construction timeshare units, 108 vacation rentals and 241 RV spaces. In addition, 101 hotel rooms are approved but not yet under construction; and 477 hotel rooms, 72 fractional timeshare units and 70 condominium-hotel units are in the entitlement process. With the completion of the proposed projects there would be 2,171 visitor-serving accommodations in the coastal area, or 72 percent of all citywide units. In the coastal area at this time 42 percent of the total units rent for \$85 or less per night. Table 3 is a survey of the Coastal Visitor-Serving Accommodations and Table 4 is a Summary of the coastal survey by price point.
- The majority of hotel rooms and other visitor serving accommodations are in the coastal area, with many of the older ones now functionally obsolete. The average size of hotel and price point tends to be lower in the coastal area. Due to this supply of extremely low cost visitor-serving accommodations already in the coastal area, the approval of a condominium-hotel at the proposed site will not adversely impact the supply of low cost visitor-serving accommodations.

Given this supply, staff believes that it would be unnecessary and unreasonable to require compensation for a hypothetical loss of low cost visitor-serving accommodations.

Outlined below are the required development criteria of the underlying zoning and those proposed by the project:

Hotel/Restaurant:

CV ZONE	Required	Provided
Lot size	10,000 s.f.	137,693 s.f.
Height	36'-0"	36'-0" with higher appurtenances and equipment meeting requirements of Section 3018
<u>Setbacks:</u> (From)		
Front (Eaton)	15'-0"	18'-6"
Side (Coast Highway)	10'-0"	12'-0"
(Alley)	0'-0"	7'-0"
Rear (100' Buffer)	0'-0"	13'-0"
<u>Parking:</u> Hotel / Condo		
	1.2 per unit 82 units = 99 stalls	
Restaurant	1 stall / 50 s.f. of dining area 2,042 s.f. = 41 stalls	
		139 stalls
Total	140 stalls – 28 stalls (20% shared parking) = 112 stalls	

Residential Condominiums:

RT ZONE	Required	Provided
Lot size	6,000 s.f.	29,620 s.f.
Height	27'-0"	27'-0"
<u>Setbacks:</u>		
Front	15'-0"	15'-0"
Side	10'-0"	10'-0"
Rear	10'-0"	10'-0"

<u>Parking:</u>		
Per Unit	3 stalls / unit (over 2,500 s.f.)	3 stalls / unit = 12 stalls in private garages
Guest	1 stall	2 stalls

Conditional Use Permit: The underlying land use designation and zoning for the hotel and restaurant site is Visitor Commercial (CV). Proposals for visitor accommodation developments such as hotels may be permitted on CV zoned sites subject to approval of a Conditional Use Permit. A second use permit is being requested for reduced parking based on shared use of the restaurant and hotel parking. The reduction could reduce the total parking spaces from 140 to 112. However, the project applicant is requesting a reduction of 1 space for a total of 139 parking spaces.

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

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

Environmental Issues: An Environmental Impact Report (EIR) has been prepared in accordance with the provisions of the California Environmental Quality Act (CEQA). A summary of the findings are outlined in the EIR and are briefly summarized below:

Land Use – The proposed project is consistent with the General Plan and Zoning for the site and no land use impacts have been identified.

Aesthetics – Construction of the project will impact public views to Buena Vista Lagoon from South Coast Highway and partially from Eaton Street and Broadway. Given the location and configuration of the parcels, any project on this site would partially block public views to the lagoon. Private views are not protected under any state or local coastal or other regulations. The public view blockage from these roadways is considered to be significant and unmitigable.

Biological Resources – The project would not result in any significant impacts to sensitive habitat or endangered or threatened wildlife species. A 100-foot biological buffer would protect wetlands in Buena Vista Lagoon to the south. The buffer area would be revegetated with native species compatible with the lagoon.

Geology – Soils on the subject property would be subject to geologic issues such as liquefaction unless properly treated. The geology report outlines various measures to ensure that the proposed structures would be safe. Mitigation measures included in the EIR would reduce any potential geology issues to below a level of significance.

Hydrology and Water Quality – Implementation of measures in the hydrology and storm water management plans would reduce all impacts to below a level of significance. All stormwater exiting the site into the lagoon would be treated for removal of all harmful pollutants through the use of a bio-swale (vegetated drainage ditch) and a mechanical filtering system.

Noise – Noise impacts could occur from project construction (pile driving), and proximity of the hotel rooms and restaurant facing Coast Highway and condominiums in proximity to the train tracks. The residential condominiums and hotel rooms would mitigate potential noise impacts through the use of noise-attenuating glass on windows and sliding glass doors and use of a barrier around a roof deck. A glass or plastic barrier will be required for the outdoor patio portion of the restaurant to reduce vehicular noise to acceptable levels. Pile-driving noise impacts would be reduced by the use of drilled caissons instead of driven piles and limited hours of construction.

Traffic – No significant off-site traffic impacts were identified. The proposed project includes adding a traffic signal at the project's entrance on South Coast Highway. The Eaton street intersection would be modified to prohibit left turns onto Coast Highway from both the east and west sides of Eaton Street.

Alternatives – The following 4 project alternatives will be analyzed in the EIR: (1) No Project Alternative, (2) Reduced project alternative reducing the number of hotel rooms to 46 and splitting the hotel into two separate structures, (3) Reduced project alternative 2 where the restaurant is moved to the Eaton Street corner and the number of hotel rooms is reduced to 52, and (4) This alternative reduces the height of the hotel to one story over parking for a total of 21 hotel rooms. All four alternatives were found to be economically infeasible by the applicant and would not fully mitigate the impact of the public road (Coast Highway).

ANALYSIS

EIR Certification Appeal

Listed below are the issues raised by the appellants to oppose certification of the EIR by the Planning Commission, along with staff responses. Staff has reviewed the issues and believes that all of the concerns have been addressed by the comprehensive analysis in the EIR. The EIR was prepared in conformance with the California Environmental Quality Act (CEQA) Statutes and Guidelines and includes an analysis of a full range of environmental issues and project alternatives. A copy of the appeal is attached and below is a discussion of the major issues raised.

1. Issue

Public views of Buena Vista Lagoon would be blocked from Broadway and South Coast Highway.

The City granted the applicant a street vacation in 1982 for the 60-foot-wide portion of Broadway that projected south through the project site. The project plans indicate that a portion of Condominium A is located within the vacated extension of Broadway. The proposed condominium structure projects approximately 40 feet into the former right-of-way area. Public views toward coastal resources, such as Buena Vista Lagoon, are considered to be important under the City's Local Coastal Program and the State Coastal Act. The EIR (page 47) clearly states that public views of Buena Vista Lagoon from Broadway would be blocked by the proposed residential structure. As no mitigation measures, other than removal or redesign of the structure, would alleviate this impact, it was found to be unmitigable.

In addition, public views of the lagoon from South Coast Highway would be partially blocked by the proposed hotel and restaurant. This impact was also identified as a significant and unmitigable visual impact in the EIR.

The State CEQA Guidelines require that significant unmitigable impacts, such as the public view blockage impacts described above, be reduced or eliminated through analysis of a reasonable range of project alternatives. Project Alternatives 1, 2 and 3 address this issue. Reduced Project Alternative 1 shows the proposed hotel split into 2 separate buildings and Condominium A reduced in size and footprint resulting in an approximately 20-foot encroachment into the former Broadway ROW. Public view impacts from Broadway would be eliminated, but view impacts from South Coast Highway would remain significant and unmitigable.

Project Alternative 2 includes the elimination of Condominium A, relocation of the restaurant to the northern portion of the site and relocation of a portion of the hotel to the southern portion of the site along the lagoon buffer. Again, public view impacts from Broadway are eliminated, but public view blockage from a portion of South Coast Highway remains significant and unmitigable. The same conclusions were reached for Alternative 3 that contemplates a 1-story hotel over parking and a reduced footprint for Condominium A.

Staff believes that the EIR analyzes a reasonable range of feasible project alternatives as required by the CEQA Guidelines. If the hotel were to be reduced further in size, the project would not be feasible from an economic standpoint. The only alternative that fully reduces public view impacts from South Coast Highway is the No Project Alternative. Therefore, the City Council will need to adopt a Statement of Overriding Considerations indicating that the benefits of the project (revenue to the City, jobs, visitor-serving use or other benefits) outweigh the negative effects of partial public view blockage of the lagoon. The findings are contained in the attached resolution and were adopted by the Planning Commission as part of their certification of the EIR.

2. Issue

The buffer between Buena Vista Lagoon and the proposed project is not adequate.

The proposed project will not impact any coastal wetlands or other sensitive biological resources. In order to avoid and/or minimize potential indirect impacts to Buena Vista Lagoon, a 100-foot-wide buffer from Buena Vista Lagoon wetlands has been incorporated into the project design. The currently disturbed buffer area would be revegetated with native wetland plants compatible with the lagoon. A masonry wall between the project parking area and buffer area with a wrought iron fence in other perimeter areas will further protect this area from indirect impacts from the project and public access pathway.

The buffer design, width and use were developed in coordination with the California Department of Fish and Game (CDFG) who owns and manages the adjacent lagoon. The Department of Fish and Game indicated that the buffer was adequate in width and size. All issues raised by Fish and Game in their letter in response to the EIR have been addressed. The buffer area will be protected by a combination of masonry wall and fence where appropriate. Fish and Game or qualified open space manager will manage the area, and no brush management will occur in this area. In conclusion, the EIR analysis shows that the buffer is in conformance with the 100-foot buffer requirement in the City's Local Coastal Plan and will adequately protect the lagoon from direct and indirect project impacts.

3. Issue

No public access to the beach area is provided.

The proposed project will provide public access to the edge of the lagoon buffer area. The beach is approximately a quarter mile to the west and can only be accessed via surface streets from the site. No beach access is feasible from the project site.

4. Issue

The alternatives analysis in the EIR is not adequate.

As described above a reasonable range of feasible project alternatives, including the No Project Alternative are evaluated in the EIR in conformance with the CEQA Guidelines. Land use impacts related to pedestrian access to the lagoon area are no longer significant and unmitigable as a public pedestrian pathway was added to the project prior to the Planning Commission hearing. The five-foot-wide pedestrian pathway will be located between the project site and lagoon buffer area.

In conclusion, staff believes that the EIR was prepared and processed in conformance with the State CEQA Statutes and Guidelines. There was also significant public input on the project's environmental issues from various agencies and the public that have been addressed in the report.

Applicant Appeal of Planning Commission Denial

Listed below are the issues raised by the Planning Commission in their denial of the proposed project. The applicant and property owner, Aharon Abada, has appealed the Planning Commission decision to deny the project. Staff believes the project meets the overall intent of the zoning and visitor-serving commercial designation for the project in the City's Local Coastal Plan and continues to recommend approval of the project.

1. Issue

The physical design of the subdivision is inconsistent with the purposes of the Zoning Ordinance, and General Plan because the design is not sensitive to the adjacent Buena Vista Lagoon, views from public places, or surrounding neighbors.

The Planning Commission felt that the proposed hotel, restaurant and residential condominiums were not designed with sensitivity to the lagoon or views from public viewing points (Broadway and South Coast Highway) or views from surrounding private property. The Wildlife Agencies and City staff agrees that the 100-foot-wide lagoon buffer area is adequate to protect the lagoon from direct and indirect project impacts. This is also consistent with the 100-foot buffer requirement in the City's Local Coastal Plan (LCP).

The LCP also states that public views of lagoons and other coastal areas are to be protected to the extent feasible from public viewing points such as roads or public trails. Public views from the proposed public trail located directly adjacent to the lagoon and 100-foot buffer area will be protected and preserved under the project design.

Given the irregular shape of the project site, some public views from Broadway and South Coast Highway looking south toward the lagoon will be blocked. The view from Broadway will be partially blocked by a proposed residential condominium building. The view blockage from this vantage point will only be partially impaired as the railroad right-of-way located directly west of the project site will remain open and will continue to provide views of the lagoon. As stated above, several project alternatives explore reducing this impact by reducing the size of the residential structure or eliminating it.

Due to the long linear configuration of the commercial portion of the project site, protection of all public views from South Coast Highway is not feasible. The EIR concluded that only adoption of the No Project Alternative would fully mitigate this impact. Various reduced project alternatives were analyzed, but none could reasonably protect views of the lagoon from Coast Highway.

Several residences will lose or have their private views of Buena Vista Lagoon from their rear yards impaired by the proposed project. The State Coastal Act and City's LCP or Zoning Ordinance does not have any requirements to protect views of coastal resources from private property. The applicant has made several revisions to the proposed project in response to neighbors' concerns about view blockage and project size. These include reducing the number of condominiums from 16 allowed by the zoning ordinance to the currently proposed 4 units that are configured as single-family residences with normal

setbacks and reducing their height from 3 to 2 stories with only one story facing the existing residences. The hotel was also reduced in size from 106 to 82 units and was designed to meet all zoning requirements.

2. Issue

The proposed project as designed is not compatible with the surrounding neighborhood in terms of bulk, scale height, and loss of public views from various points around the project site.

As stated above in the staff report, the project meets all requirements of the zoning ordinance and no variances are being requested. The restaurant is one story and residential condominiums are one story facing the existing residences and two stories facing the lagoon. Surrounding development includes 2-story residential and commercial development to the east and predominantly 1-story residences to the west and north. The restaurant and condominium structures are lower than allowed by code and are compatible with existing development. The 3-story hotel is within the required 36-foot height limit and is aligned along South Coast Highway. The residences to the west are on top of a small bluff approximately 10-20 feet in height. The proposed hotel will be higher than the residences, but not by a significant amount. In most instances, the hotel will be only 10-15 feet higher than surrounding residences. The hotel will be compatible with the commercial and residential structures east of Coast Highway.

3. Issue

The parking reduction was found to be inadequate given the potential impact to surrounding neighborhoods from spillover parking from the proposed project.

A total of 139 parking spaces will be provided although a total of 140 spaces are required for the hotel (99 parking spaces) and restaurant (41 parking spaces) uses. The project qualifies for and is entitled to a 28-space reduction based on a shared parking analysis. This would result in 112 total spaces. However, the applicant is actually providing 139 spaces, an overall reduction of one space. Based on these calculations, staff believes that there will be more than adequate parking for these uses.

4. Issue

The public access to the lagoon was inadequate and did not allow bikes and pedestrian use. The lagoon buffer was not adequate and should be greater than 100 feet in width.

Public access to the lagoon will be via a 5-foot-wide public access pathway along the southern edge of the project development. This width was found to be adequate for pedestrians and birders accessing the edge of the lagoon. The California Department of Fish and Game who owns and manages the lagoon requested that the pathway be totally out of the buffer area. The Coastal Rail Trail project is not designated to go through the

project site. This bike trail accesses coastal areas via Coast Highway to Vista Way and then heads north on Broadway. Vista Way was chosen as a biker crossing point, as there is a traffic signal at this location.

The project will provide an approximately 100-foot buffer between the proposed project and Buena Vista Lagoon. This buffer was found to be adequate by the California Department of Fish and Game and the project biologist. City staff is in agreement with this assessment.

5. Issue

Potential purchase of the project site by Caltrans for I-5 widening mitigation.

An issue raised by the public at the Planning Commission hearing was the potential purchase of the project site by Caltrans for I-5 and SR 78 freeway improvement environmental mitigation; however, sale of any site for mitigation would be voluntary and should not effect the decision on this project.

FISCAL IMPACT

Not applicable.

COMMISSION OR COMMITTEE REPORT

The Planning Commission reviewed the project on October 9, 2006. After hearing considerable public testimony from area residents as well as the applicant/appellant, the Commission found the EIR to be adequate and certified it by a vote of 6-0 including the adoption of findings and a statement of overriding considerations. However, the Commission denied the project on a 5-1 vote. Commissioners indicated that the project architecture and design site is not physically suitable for the site and that parking and public access issues were not adequately addressed.

CITY ATTORNEY'S ANALYSIS

The City Attorney's Office has reviewed the proposed resolutions and approved them as to form.

In accordance with section 4605 of the Zoning Ordinance, the City Council shall consider the same application, plans, and related project materials that were the subject of the original decision denying the project by the Planning Commission.

Prior to affirming, modifying or reversing the Planning Commission decision, the City Council shall certify that the Final Environmental Impact Report has been completed in compliance with California Environmental Quality Act (CEQA), that the information therein was reviewed and considered by the City Council, and that the adoption of the Final Environmental Impact Report reflects the independent judgment and analysis of

the City Council.

The City Council shall review the record of the decision and hear testimony of the appellant, the applicant, and any other interested parties.

After the public hearing, the City Council shall affirm, modify or reverse the Planning Commission decision. If a decision is modified or reversed, the City Council shall state the specific reasons for the modification or reversal.

RECOMMENDATION

Staff has reviewed the issues raised by the appellants and believes that all of the concerns have been thoroughly addressed through the findings and conditions of approval. It is staff's recommendation that the City Council certify the EIR and reject the appeal by the appellants to certification of the EIR. Staff also is recommending the City Council reverse the Planning Commission's decision, approve the project and adopt the resolutions as attached.

PREPARED BY

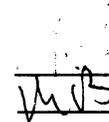

Jerry Hittleman
City Planner

SUBMITTED BY


Peter A. Weiss
Interim City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
Mike Blessing, Deputy City Manager

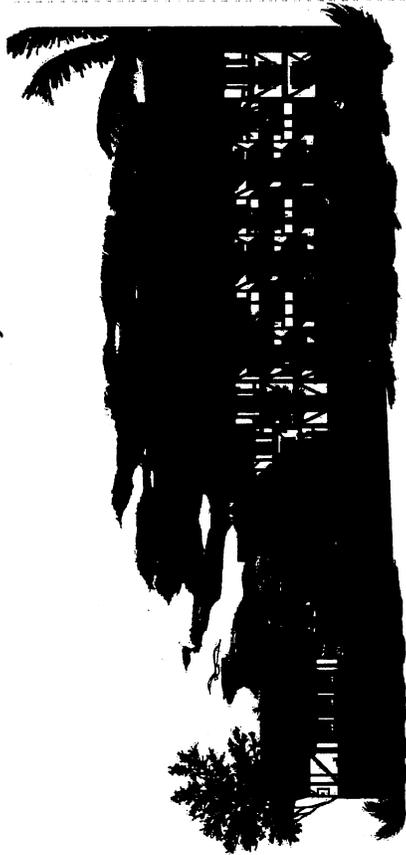


ATTACHMENTS:

1. Area Map, Site Plan, Elevations, Architectural Guidelines
2. City Council Resolution certifying the FEIR
3. City Council Resolution approving the appeal
4. Planning Commission Resolution No. 2006-P59
5. Planning Commission Resolution No. 2006-P56
6. Planning Commission Staff Report Dated October 9, 2006
7. Appeal Letters
8. Coastal Oceanside Visitor Serving Accommodations Inventory
9. Tax Analysis

RECEIVED
 SEP 21 2006
 Planning Department

Boardwalk OCEANSIDE, CA



A 82 ROOM FULL SERVICE LIMITED-TERM OCCUPANCY CONDOMINIUM HOTEL WITH RESTAURANT AND A 4 UNIT RESIDENTIAL CONDOMINIUM

LANDSCAPE ARCHITECT
 THE KEITH COMPANIES
 STEVE COOK, LANDSCAPE SENIOR DESIGNER
 3000 WHITE 3000
 SAN MARCO, CA 92068
 (V) 760-991-3207
 (F) 760-991-3208

CIVIL ENGINEER
 DANNY ABADA
 513 WARING ROAD
 SAN DIEGO, CA 92108
 (V) 619-281-1624

TRAFFIC ENGINEER
 DARNELL AND ASSOCIATES
 1409 FRONT STREET, #200
 SAN DIEGO, CA 92101
 (V) 619-233-3313

**ENVIRONMENTAL IMPACT
 CONSULTANT**
 MIKE BURCOCK, MARCIA GROBEE
 1409 FRONT STREET, #200
 SAN DIEGO, CA 92101
 (V) 619-441-2044
 (F) 619-441-6431

GEOTECHNICAL ENGINEER
 GEOTECHNICAL EXPLORATION, INC.
 1409 FRONT STREET, #200
 SAN DIEGO, CA 92101
 (V) 619-549-7222

PROJECT DATA

LAND STATISTICS (CVI)
 TOTAL ACRES 137.633 51.7316 ACRES
 BUILDING COVERAGE 25,668 SF/18.6%
 PAVED AREA 85,674 SF
 MAXIMUM SLOPE GRADIENT 16.000 CT.
 CUT 6,800 CT.
 FILL 8600 CT.
 REQUIRED LANDSCAPING PROVIDED
 FLOOR AREA RATIO ALLOWED 15%
 FLOOR AREA RATIO 62.8%

SHEET SCHEDULE

CS COVER SHEET
 A-1 SITE PLAN
 C-1 TENTATIVE MAP COVER SHEET
 C-2 PRELIMINARY GRADING PLAN
 C-3 DETAILS AND EMBLEMENTS
 C-4 CONCEPTUAL LANDSCAPE PLAN
 C-5 CONDOMINIUM / HOTEL AREAS
 L-1 CONCEPTUAL LANDSCAPE PLAN

ZONING INFORMATION

GENERAL PLAN 8C
 ZONING CV
 PARCEL ZONING CV
 CONSTRUCTION TYPE CV
 BUILDING HEIGHT 36'-0"
 EXCEPTIONS TO HEIGHT LIMITS 46'-0"
 BUILDING STORES 3 WITH BASEMENT
 TOTAL NO. OF UNITS 82

BUILDING INFORMATION

CONDOMINIUM HOTEL
 OCCUPANCY TYPE HOTEL
 PARKING 217 SPACES
 CONSTRUCTION TYPE TYPE V - 1 HR SPRINKLERED
 TYPE V - 1 HR SPRINKLERED
 TYPE V - 1 HR SPRINKLERED
 BUILDING AREAS 99,939 SF
 BUILDING AREA (WITHOUT BASEMENT) 100,184 SF
 TOTAL BUILDING AREA 100,184 SF
 TOTAL BUILDING HEIGHT 46'-0"
 EXCEPTIONS TO HEIGHT LIMITS 46'-0"
 BUILDING STORES 3 WITH BASEMENT
 TOTAL NO. OF UNITS 82

RESTAURANT

OCCUPANCY TYPE A-3
 CONSTRUCTION TYPE TYPE V - SPRINKLERED
 TOTAL BUILDING AREA 37,351 SF
 TOTAL BUILDING HEIGHT 21'-0"
 BUILDING STORES 1

LAND STATISTICS (IRTH)

TOTAL ACRES 25,668 51.7316 ACRES
 BUILDING COVERAGE 50,202 57.72%
 PAVED AREA 85,674 SF
 MAXIMUM SLOPE GRADIENT 16.000 2.1
 REQUIRED OPEN SPACE 10,200 SF
 PROVIDED OPEN SPACE 11,715 SF
 COTTON 19,200 SF

ZONING INFORMATION

GENERAL PLAN UPD
 ZONING 28 D1/A/ACRE
 CONSTRUCTION TYPE 4 UNITS, OR 3 D1/A/ACRE
 PROPOSED 28 D1/A/ACRE
 PARKING INFORMATION: 8 STALLS
 RESIDENT PARKING PROVIDED 2 STALLS
 GUEST PARKING PROVIDED 1 STALL
 OCCUPANCY TYPE R-1
 BUILDING AREA TYPE V - SPRINKLERED
 UNIT A 3,478 SF
 UNIT B 3,478 SF
 UNIT C 3,478 SF
 UNIT D 3,478 SF
 TOTAL BUILDING AREA 13,902 SF
 BUILDING HEIGHT LIMIT 2 WITH BASEMENT
 BUILDING STORES

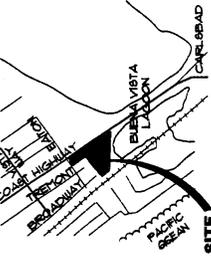
BUILDING INFORMATION

CONDOMINIUM HOTEL
 OCCUPANCY TYPE R-1
 CONSTRUCTION TYPE TYPE V - SPRINKLERED
 UNIT A 3,478 SF
 UNIT B 3,478 SF
 UNIT C 3,478 SF
 UNIT D 3,478 SF
 TOTAL BUILDING AREA 13,902 SF
 BUILDING HEIGHT LIMIT 2 WITH BASEMENT
 BUILDING STORES

Boardwalk

LOCATION

85-624-1516,17
 CITY OF OCEANSIDE, CA



SITE

OWNER

OCEANSIDE THREE
 513 WARING ROAD
 SAN DIEGO, CA 92108
 (V) 619-281-1624

ARCHITECT

4 DESIGN ARCHITECTURE AND PLANNING
 PENNETH L. GARIBO, AIA
 3000 WHITE 3000
 OCEANSIDE, CA 92064
 (V) 760-433-1786
 (F) 760-433-2810

RECEIVED

SEP 21 2006

Planning Department

COVER SHEET

CS

06-607A

LEGEND:

- ⊗ NUMBER OF PARKING STALLS LOCATED IN THIS AREA
- ▨ CONCRETE (SIDEWALKS, PATIOS, COTTON DECKS, ETC.)
- ▨ LANDSCAPING (SEE LANDSCAPE PLAN SHEET L-1 FOR INFORMATION REGARDING THESE AREAS)
- ▨ LOADING ZONE
- ▨ HOT MIX ASPHALT PAVING
- ▨ PLANTABLE RETAINING WALL (SEE CIVIL SHEET C-2 FOR HEIGHTS)
- ▨ METAL FENCING AT PROPERTY LINE (SEE DETAIL ON SHEET LB-1)
- ▨ 6" HIGH HARSHONY WALL AT LINE (SEE DETAIL AT LANDSCAPE DRAWINGS)
- ✪ EXISTING TREES TO REMAIN
- ⊕ STREET LIGHT
- ⌒ 30% WOOD GATE (SEE DETAIL ON LANDSCAPE DRAWINGS)
- FF. FIRST FLOOR LEVEL
- LF. LOWER FLOOR LEVEL
- ▨ COBBLESTONE GUTTER

RETAINING WALL SEE CIVIL ENGINEERING DRAWINGS

DECORATIVE TRELLIS EACH SIDE OF ENTRY

NEW DECORATIVE STREET IMPROVEMENTS

NEW ENTRY SIGN

NEW TRAFFIC SIGNAL

ROUND SCREEN AT PATIO SEE RESTAURANT BUILDING FOR DETAILS

SEE LANDSCAPE DRAWINGS FOR THE TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

SEE LANDSCAPE DRAWINGS FOR TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

SEE LANDSCAPE DRAWINGS FOR TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

SEE LANDSCAPE DRAWINGS FOR TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

SEE LANDSCAPE DRAWINGS FOR TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

SEE LANDSCAPE DRAWINGS FOR TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

SEE LANDSCAPE DRAWINGS FOR TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

SEE LANDSCAPE DRAWINGS FOR TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

SEE LANDSCAPE DRAWINGS FOR TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

SEE LANDSCAPE DRAWINGS FOR TRASH ENCLOSURE DETAILS

EXISTING FENCE TO REMAIN

Boardwalk

GENERAL NOTES:

1. REFER TO THE CIVIL ENGINEERING DRAWINGS FOR THE ALLEY AND STREET ADJACENTMENT.
2. SEE THE EXHIBIT ON SHEET A-18 FOR THE RETAINING WALLS.
3. SEE THE EXHIBIT ON SHEET A-19 FOR THE COMMERCIAL PARKING.
4. OPEN PARKING STALLS ARE A MINIMUM OF 8'-6" X 15'-0"

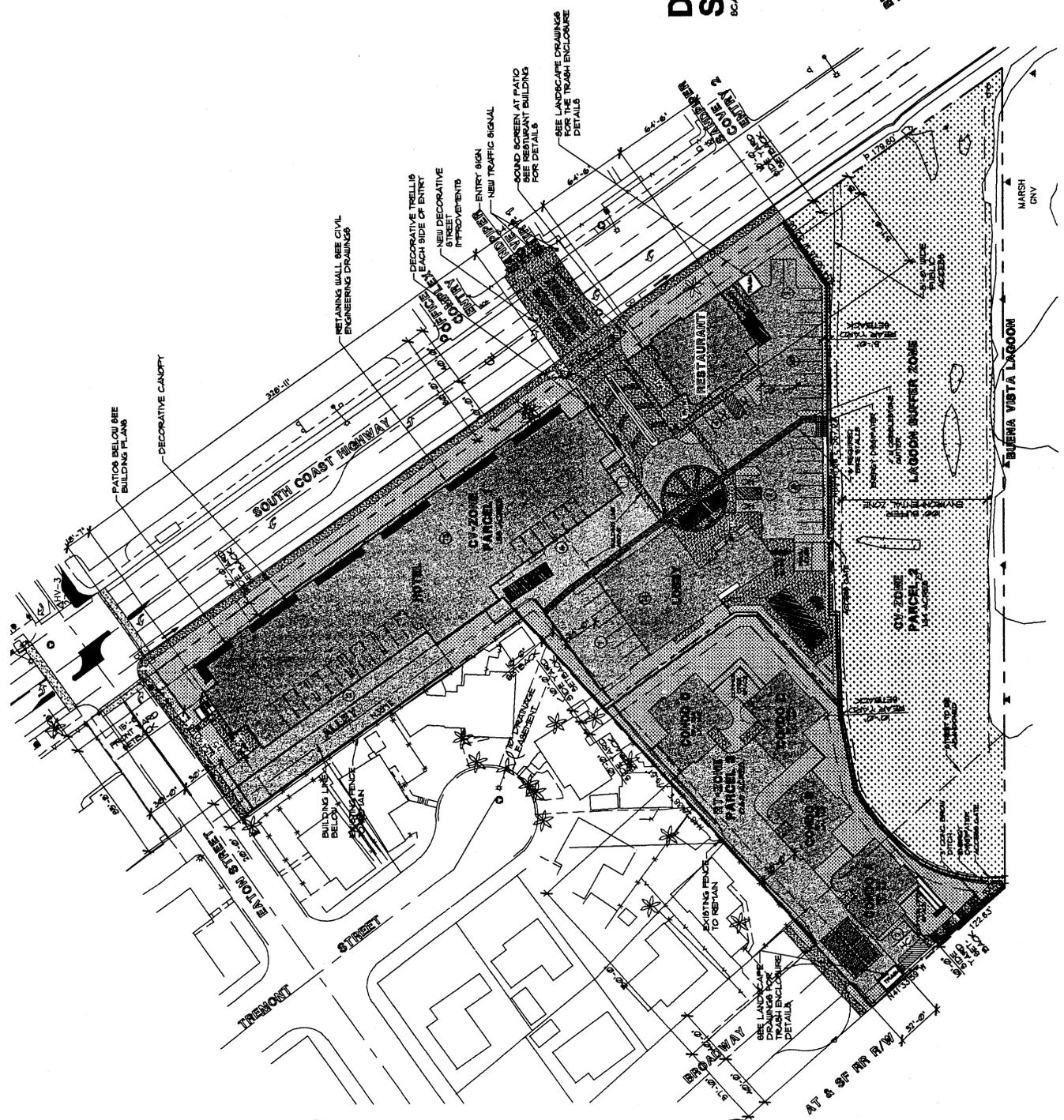
**DEVELOPMENT PLAN
SITE PLAN**

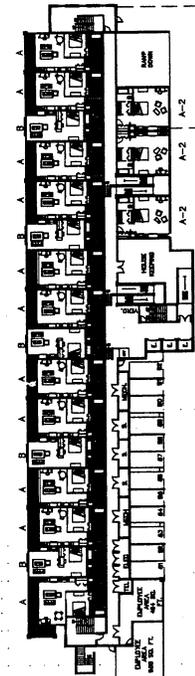
SCALE: 1" = 40'-0"

BUENA VISTA LAGOON
LAGOON VISITORS
CENTER ENTRY

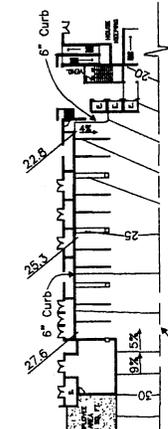
A-01
06-602A

SITE PLAN

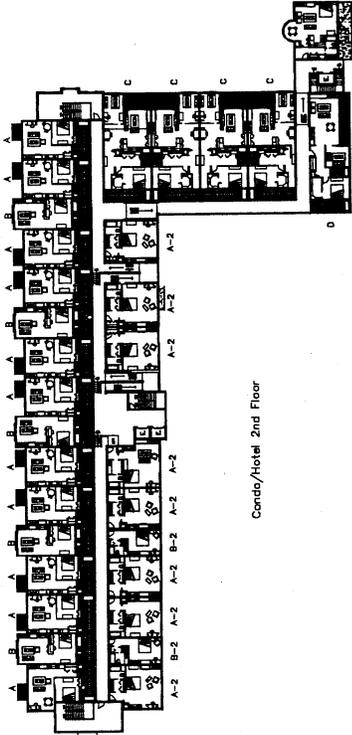




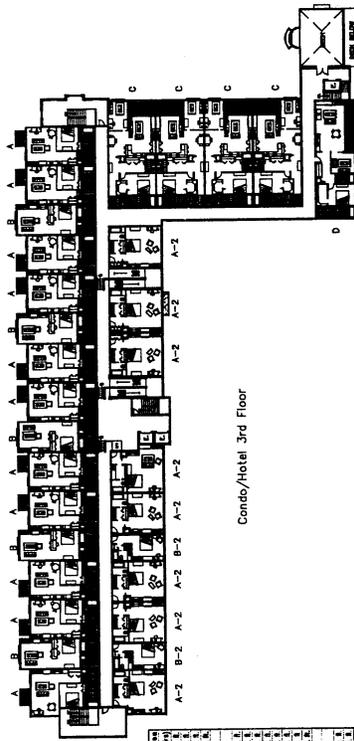
Condo/Hotel 1st Floor



Alley Access Ramp Slope Detail



Condo/Hotel 2nd Floor



Condo/Hotel 3rd Floor

- Notes:
1. See architectural building plans for unit dimensions and building sections.
 2. Interior building areas other than letter designated units are common areas.



SCALE: 1" = 30'

FILE NO. T - B - 02

SHEET 5	CITY OF OAKLAND ENGINEERING DEPARTMENT	SHEET 5
CONDOMINIUM/HOTEL AREAS FOR BOARDWALK		
APPROVED		
FILED A. 1988	FILED J. 1988	CITY ENGINEER
ENGINEER OF WORK	DESIGNED BY	PLANNING NUMBER
DATE	APPROVAL DATE	

BENCHMARK:
 Datum: STANDARD DISK STAMPED CO. 1968
 Location: LOCATED @ SW CORNER OF SWITCH BOX
 0.3 MILES W. OF INTERSECTION OF EASTON & HILL ST.
 Record From: COUNTY OF SAN DIEGO
 Elevation: 27.08' above M.S.L.

APPROVED CHANGES:

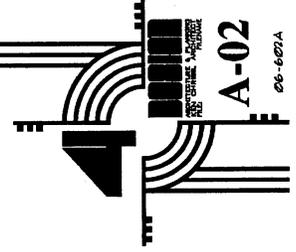
NO.	DESCRIPTION	APPROVED	DATE

Floor	Unit Type	Count	Area (sq. ft.)	Volume (cu. ft.)	Total Area (sq. ft.)	Total Volume (cu. ft.)
First Floor	Unit Type A	10 units (20' x 40')	800	20,000	800	20,000
	Unit Type B	20 units (20' x 30')	600	18,000	600	18,000
	Unit Type C	10 units (20' x 20')	200	6,000	200	6,000
	Unit Type D	5 units (20' x 15')	150	4,500	150	4,500
Second Floor	Unit Type A	10 units (20' x 40')	800	20,000	800	20,000
	Unit Type B	20 units (20' x 30')	600	18,000	600	18,000
	Unit Type C	10 units (20' x 20')	200	6,000	200	6,000
	Unit Type D	5 units (20' x 15')	150	4,500	150	4,500
Third Floor	Unit Type A	10 units (20' x 40')	800	20,000	800	20,000
	Unit Type B	20 units (20' x 30')	600	18,000	600	18,000
	Unit Type C	10 units (20' x 20')	200	6,000	200	6,000
	Unit Type D	5 units (20' x 15')	150	4,500	150	4,500
Total Unit Count						
Unit Type A	30 units (20' x 40')	2,400	60,000	2,400	60,000	
Unit Type B	60 units (20' x 30')	1,800	54,000	1,800	54,000	
Unit Type C	30 units (20' x 20')	600	18,000	600	18,000	
Unit Type D	15 units (20' x 15')	450	13,500	450	13,500	
Total Area (Gross)						
30 units (20' x 40') = 2,400 sq. ft.						
60 units (20' x 30') = 1,800 sq. ft.						
30 units (20' x 20') = 600 sq. ft.						
15 units (20' x 15') = 450 sq. ft.						
Total Area (Net)						
30 units (20' x 40') = 2,400 sq. ft.						
60 units (20' x 30') = 1,800 sq. ft.						
30 units (20' x 20') = 600 sq. ft.						
15 units (20' x 15') = 450 sq. ft.						
Total Volume (Gross)						
30 units (20' x 40') = 20,000 cu. ft.						
60 units (20' x 30') = 18,000 cu. ft.						
30 units (20' x 20') = 6,000 cu. ft.						
15 units (20' x 15') = 4,500 cu. ft.						
Total Volume (Net)						
30 units (20' x 40') = 20,000 cu. ft.						
60 units (20' x 30') = 18,000 cu. ft.						
30 units (20' x 20') = 6,000 cu. ft.						
15 units (20' x 15') = 4,500 cu. ft.						

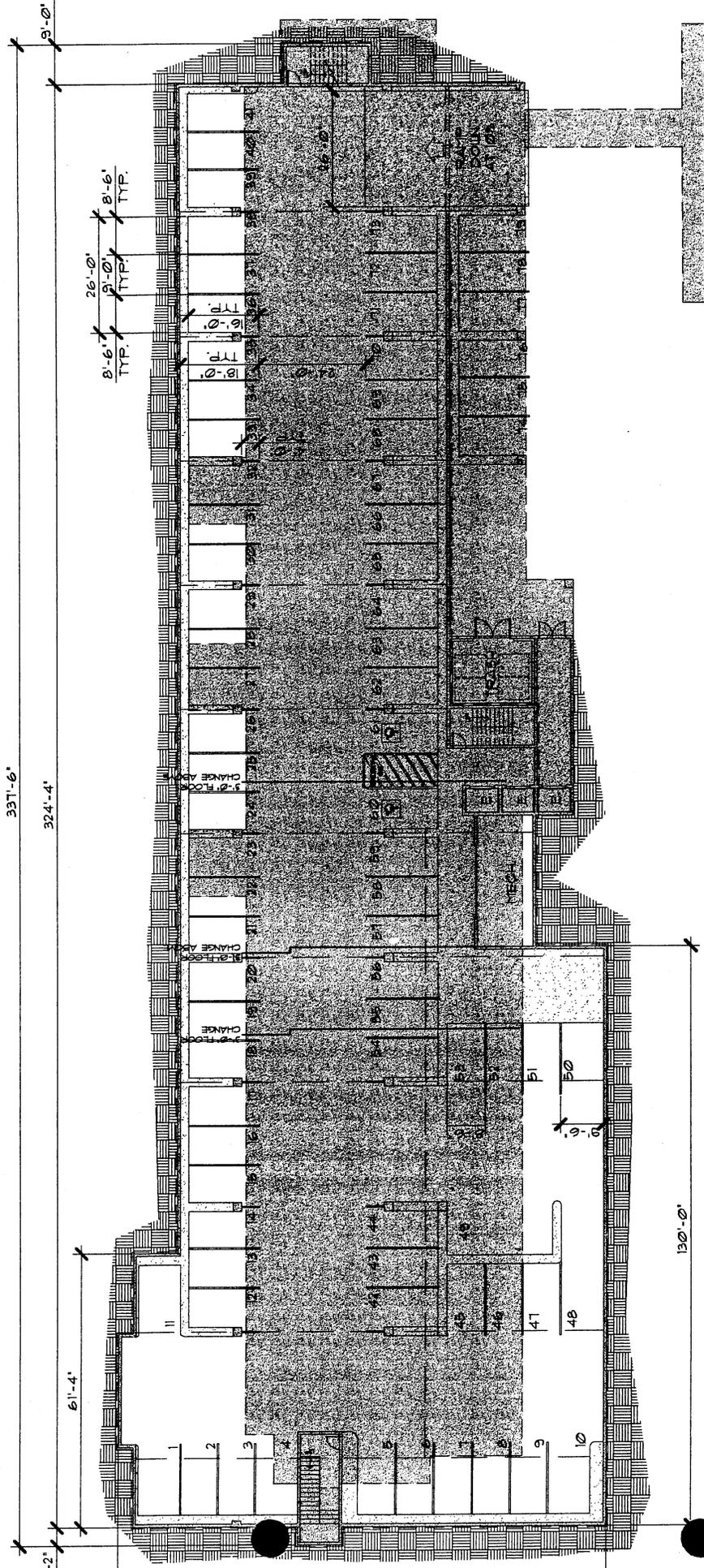
Easton St.

01.03
11.04
4.10
11.06
01.06

Boardwalk



A-02
06-607A



29346 SQ. FT.

BASEMENT PLAN

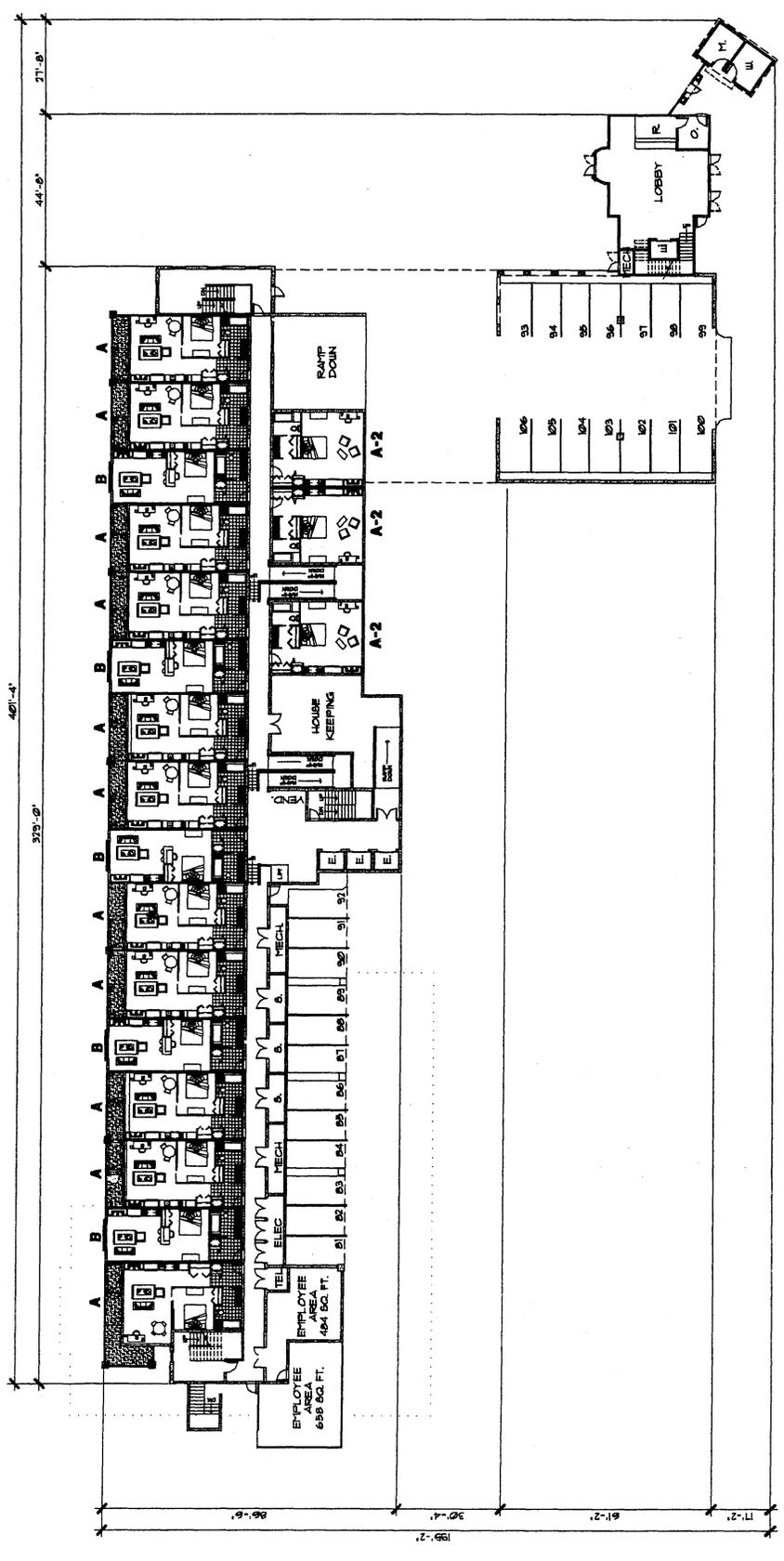
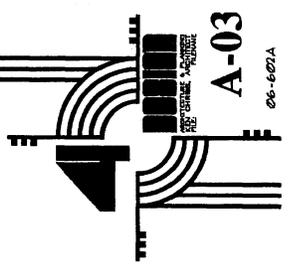
SCALE: 1/8" = 1'-0"

STATISTICS:

- PARKING SPACES 71 STALLS
- ACCESSIBLE PARKING SPACES 3 STALLS
- TOTAL IN BASEMENT 74 STALLS

8.103
 11.104
 14.104
 17.104
 20.104
 23.104
 26.104
 29.104
 32.104
 35.104
 38.104
 41.104
 44.104
 47.104
 50.104
 53.104
 56.104
 59.104
 62.104
 65.104
 68.104
 71.104
 74.104
 77.104
 80.104
 83.104
 86.104
 89.104
 92.104
 95.104
 98.104
 101.104
 104.104
 107.104
 110.104
 113.104
 116.104
 119.104
 122.104
 125.104
 128.104
 131.104
 134.104
 137.104
 140.104
 143.104
 146.104
 149.104
 152.104
 155.104
 158.104
 161.104
 164.104
 167.104
 170.104
 173.104
 176.104
 179.104
 182.104
 185.104
 188.104
 191.104
 194.104
 197.104
 200.104

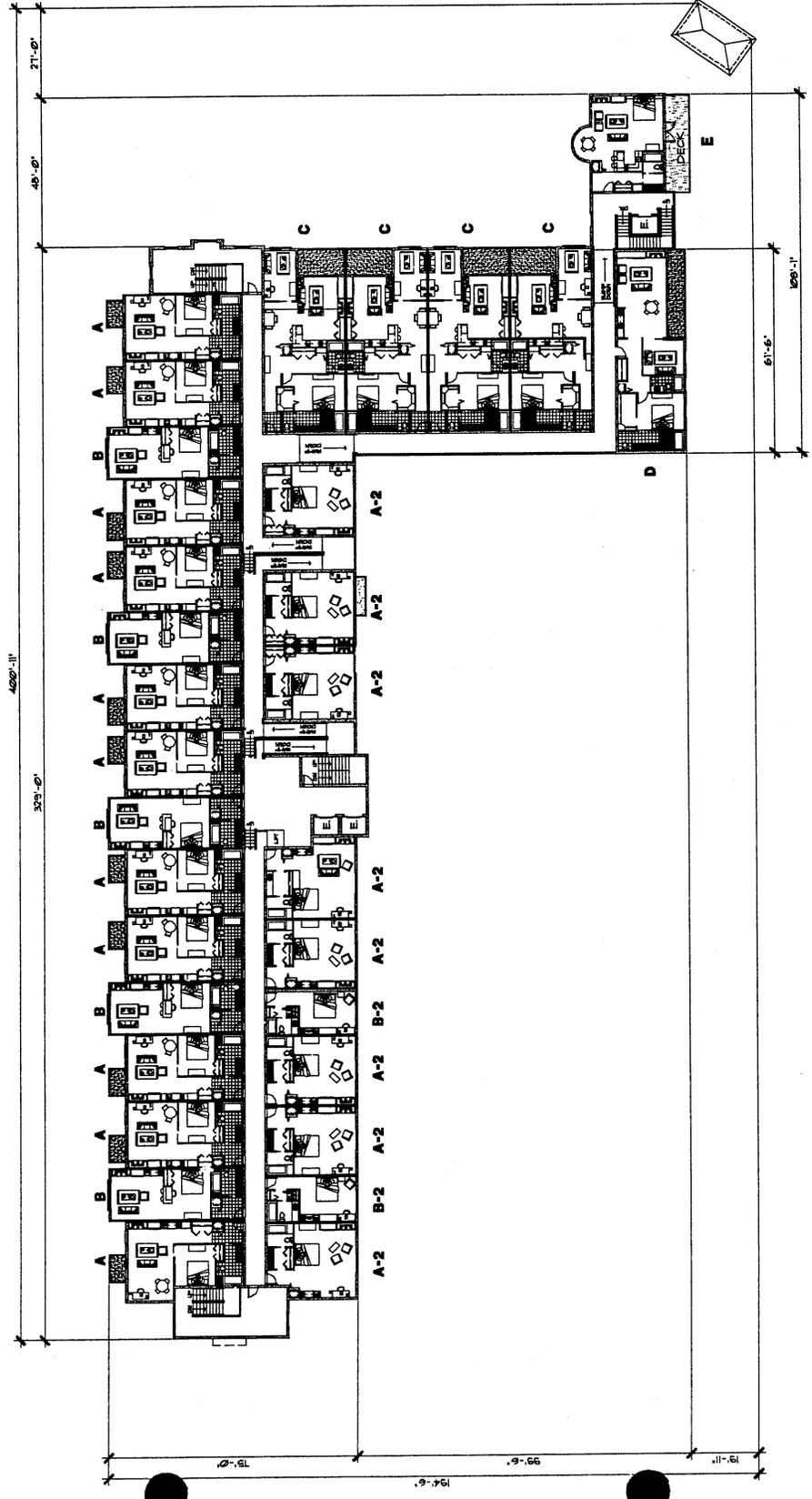
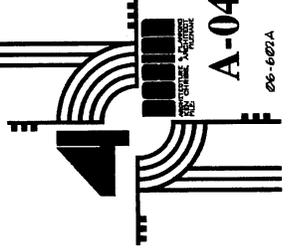
Boardwalk



FIRST FLOOR 2134 SQ. FT.
 SCALE: 1/8" = 1'-0"

3/1/03
 1/4/04
 4/1/04
 11/6/05
 3/1/06

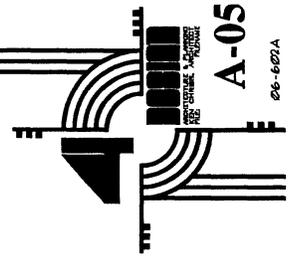
Boardwalk



SECOND FLOOR
 75,162 SQ. FT.
 SCALE: 1/8" = 1'-0"

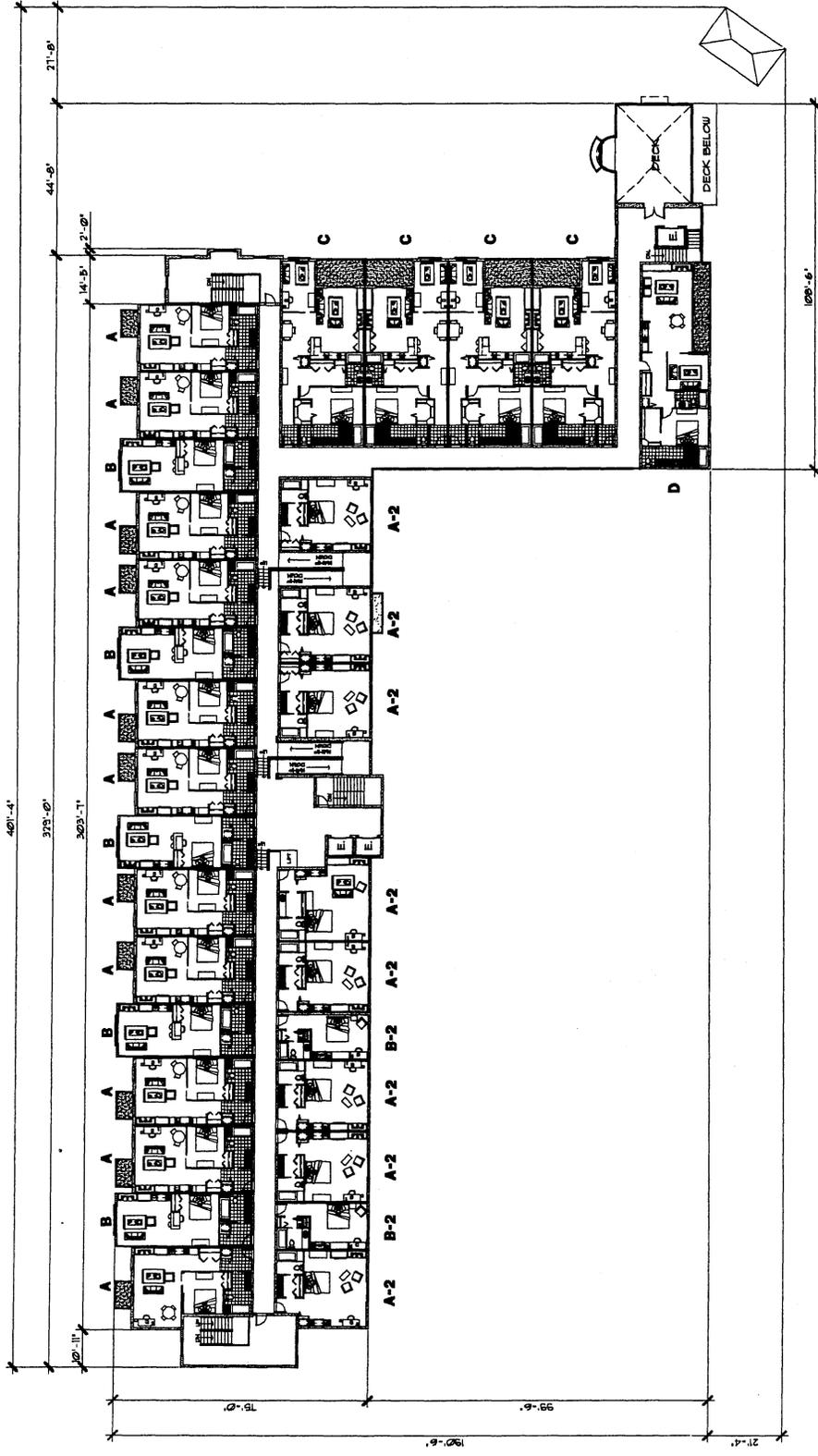
81.03
114.04
41.04
11.04
13.04
91.04

Boardwalk



A-05

06-607A

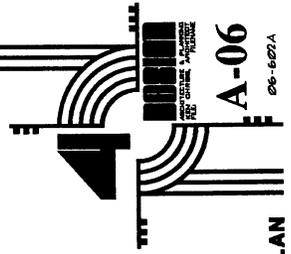


THIRD FLOOR 23,162 SQ. FT.

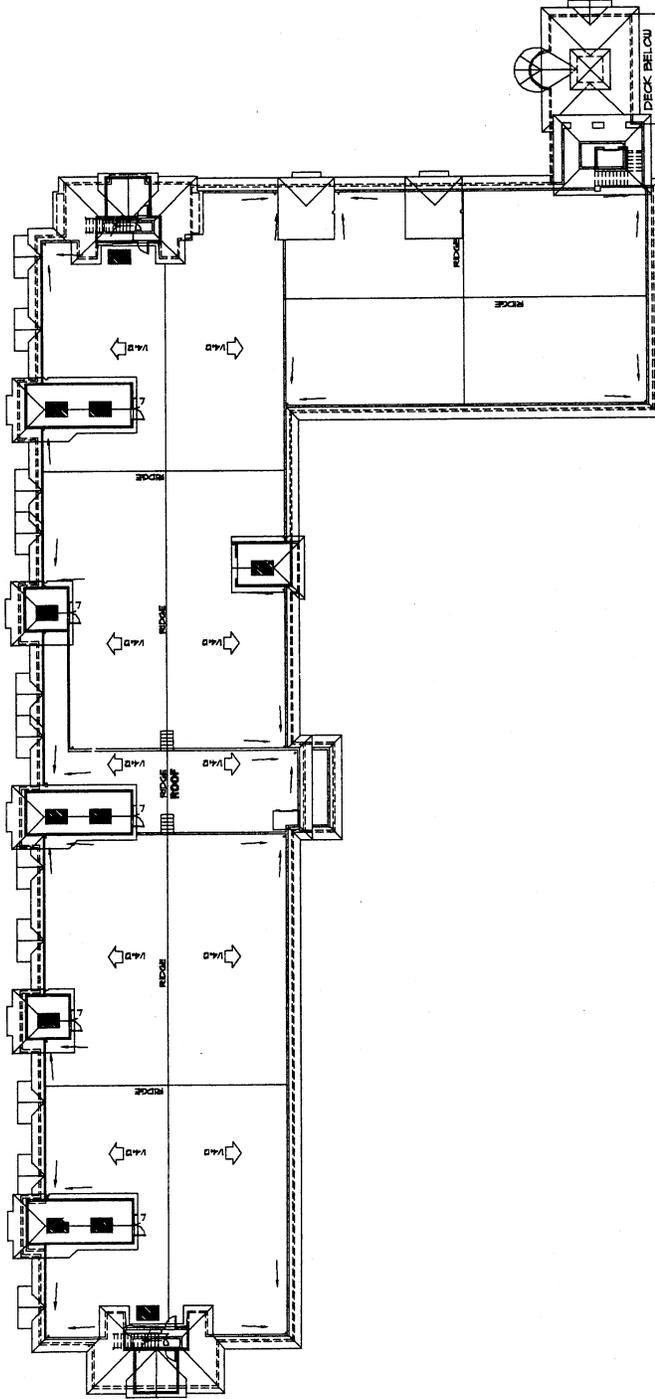
SCALE: 1/16" = 1'-0"

61.023
 11.024
 11.025
 11.026
 11.027
 11.028
 11.029
 11.030

Boardwalk



HOTEL ROOF PLAN



ROOF PLAN

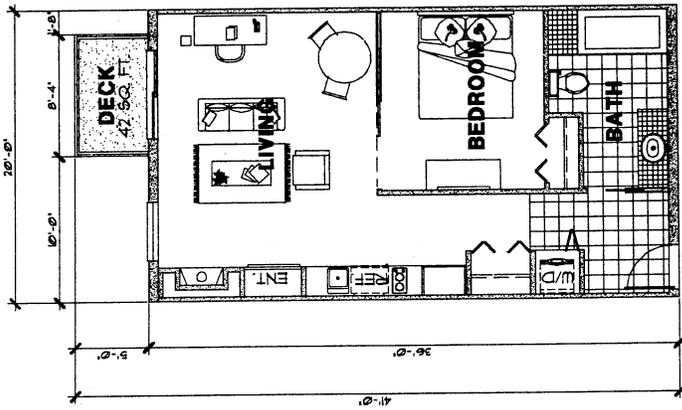
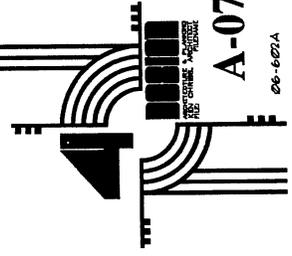
SCALE: 1/8" = 1'-0"

STATISTICS:

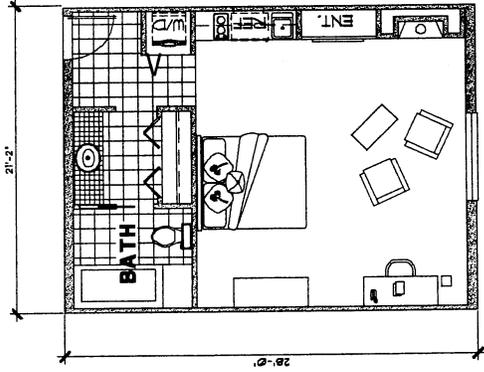
STRUCTURE AREA	19,478 SQ. FT.
ALLOWABLE AREA ABOVE HEIGHT LIMIT (10%)	1,948 SQ. FT.
ACCESS 1	573 SQ. FT.
ACCESS 2	404 SQ. FT.
MECH. SCREEN 1	136 SQ. FT.
MECH. SCREEN 2	257 SQ. FT.
MECH. SCREEN 3	231 SQ. FT.
MECH. SCREEN 4	231 SQ. FT.
TOTAL	1,934 SQ. FT. (10%)

8.10.03
 11.4.04
 11.16.06
 11.30.06
 9.19.06

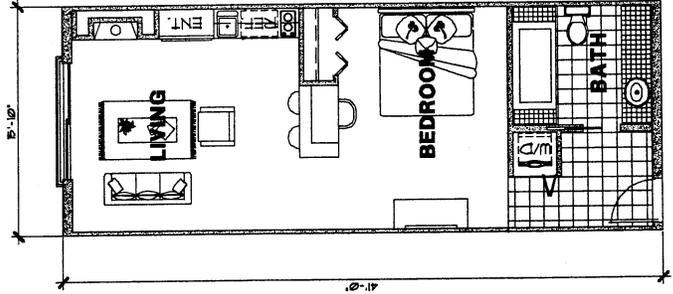
Boardwalk



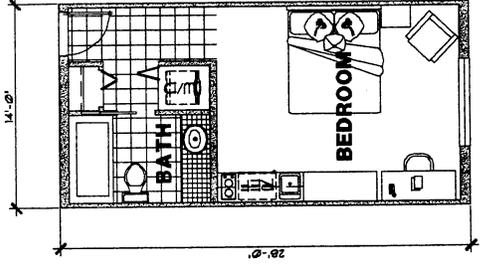
UNIT A
610 SQ. FT.



UNIT A-2
542 SQ. FT.



UNIT B
602 SQ. FT.



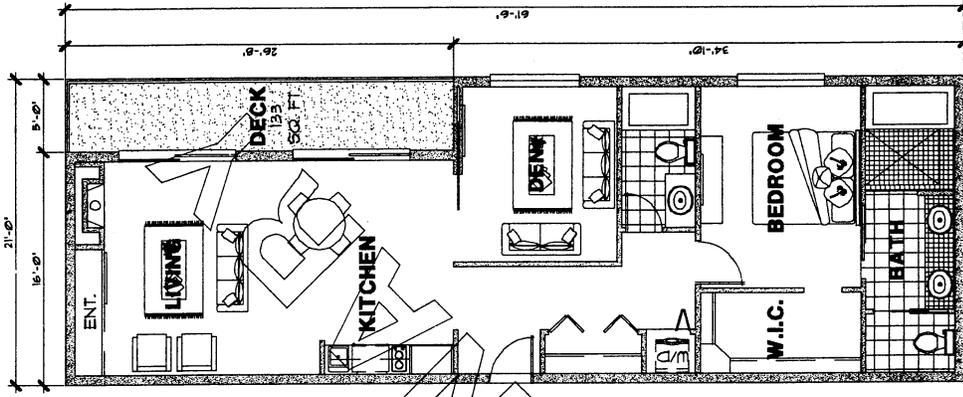
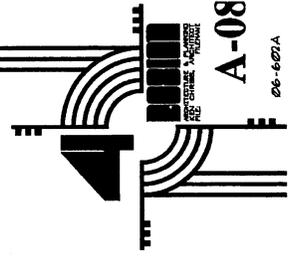
UNIT B-2
355 SQ. FT.

UNIT LAYOUTS

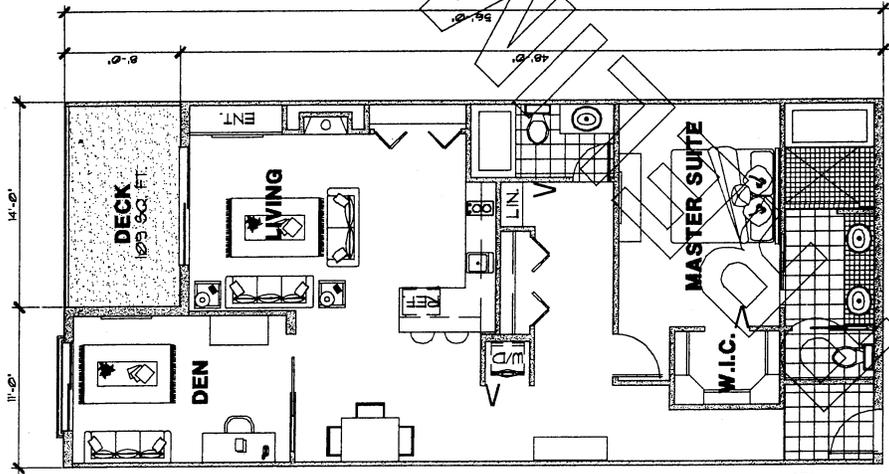
SCALE: 1/4" = 1'-0"

5.1.02
 4.1.04
 4.1.04
 11.6.05
 13.06
 9.15.06

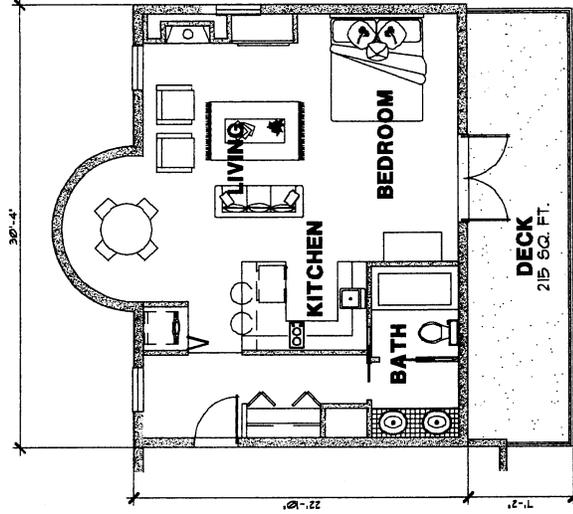
Boardwalk



UNIT D
1050 SQ. FT.



UNIT C
1215 SQ. FT.



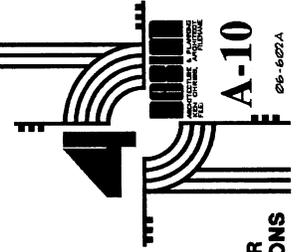
UNIT E
668 SQ. FT.

UNIT LAYOUTS

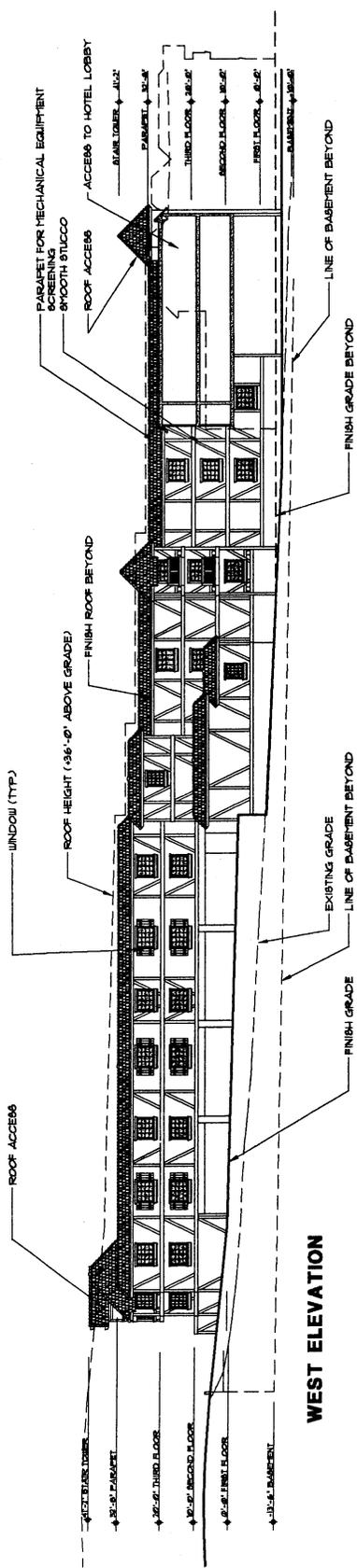
SCALE: 1/4" = 1'-0"

4.1.02
 4.1.04
 4.1.04
 4.1.04
 4.1.04
 4.1.04
 4.1.04

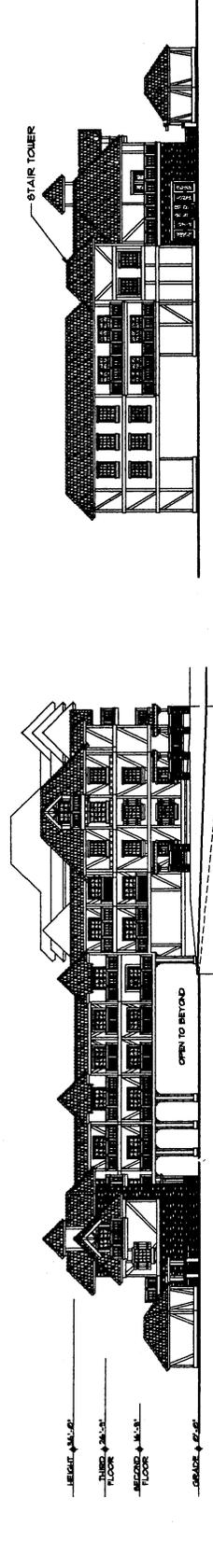
Boardwalk



A-10
 HOTEL EXTERIOR ELEVATIONS
 06-607A



WEST ELEVATION



SOUTH ELEVATION

**WEST ELEVATION
BEYOND HOTEL**

EXTERIOR ELEVATIONS

SCALE: 1/16" = 1'-0"

CONSTRUCTION OUTLINE

CONSTRUCTION: CONSTRUCTION TO BE TYPE V NON-VENTED CONSTRUCTION WITH FIRE SPRINKLERS.

FLOOR: THE FLOOR SHALL HAVE A CONCRETE SLAB THAT IS FURRED IN PLACE.

EXTERIOR WALLS: THE EXTERIOR WALLS SHALL BE METAL FRAMING WITH STUCCO FINISH OVER EXPANDED METAL LATH OVER AND OVER FINISH BOARD AT THE INTERIOR SIDE. THE INTERIOR SURFACE SHALL HAVE A SPRAY ON SAND FINISH.

ROOF: ROOF TO BE LIGHTWEIGHT CONCRETE TILE FACTORY FINISHED, AND BUILT-UP ASPHALT ROOFING.

CEILING: THE CEILING SHALL BE GYPSUM BOARD ATTACHED TO THE ROOF FRAMING WITH A SPRAY ON SAND FINISH.

INSULATION: ALL EXTERIOR WALLS TO RECEIVE FIBERGLASS BATT INSULATION, AND ALL ATTIC SPACES TO RECEIVE FIBERGLASS BATT INSULATION TO MEET TITLE 24 REGULATIONS.

WINDOWS: WINDOWS TO BE VINYL BY WINDOMASTER. ALL GLAZING TO BE TINTED AND NON-REFLECTIVE.

DOORS: MAIN ENTRANCE DOORS TO BE SOLID CORE 1 1/2" FRENCH DOORS WITH 1 1/2" SOLID CORE FLUSH METAL WITH SOLID BRASS BUTTS. INTERIOR DOORS TO BE SOLID CORE FLUSH METAL DOORS. ALL GLAZING TO BE TINTED AND NON-REFLECTIVE.

PAINTING: EXTERIOR STUCCO SIDING TO BE PAINTED WITH ONE COAT ELASTOMERIC SIDING TO BE PROVIDED AND PAINTED. INTERIOR SURFACES TO RECEIVE ONE COAT PAINT. ENAMEL PAINT SHALL BE USED IN KITCHEN AND RESTROOM. BEST PRACTICE AND WITH QUALITY MATERIALS.

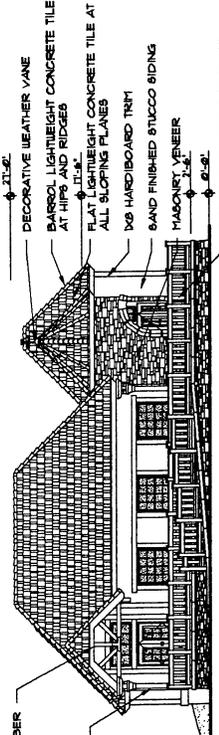
EXPOSED METAL: ALL METAL THAT IS EXPOSED TO THE EXTERIOR SHALL BE COPPER.

HANDRAILS: EXTERIOR HANDRAILS AND GUARD RAILS SHALL BE 3/4" REDWOOD AND PAINTED.

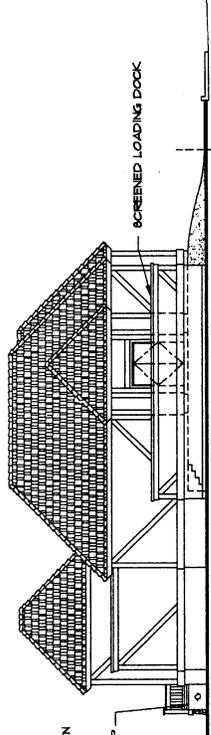
PLUMBING: ALL FIXTURES TO BE KOHLER, OR AN APPROVED EQUAL. ALL PLUMBING TO BE INSTALLED AS PER THE UPC. WATER CLOSETS TO BE WATER SAVING TYPE RESTROOMS TO BE GAS-FIRED. WATER HEATER TO BE GAS-FIRED.

MECHANICAL: INSTALL A CENTRAL FORCED AIR SYSTEM. ALL MECHANICAL WORK SHALL BE PER THE UNIFORM PLUMBING CODE.

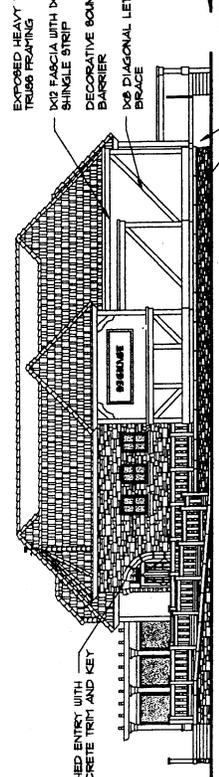
ELECTRICAL: ALL ELECTRICAL WORK TO BE PER THE NATIONAL ELECTRIC CODE. REQUIRE FOR CABLE T.V. SECURITY SYSTEM, AUDIO SYSTEM, TELEPHONE, AND COMPUTER WITH INTERNET SYSTEM.



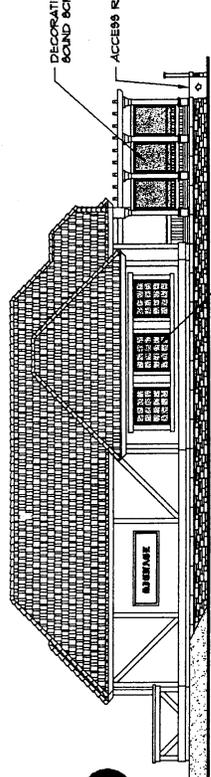
NORTH ELEVATION



SOUTH ELEVATION



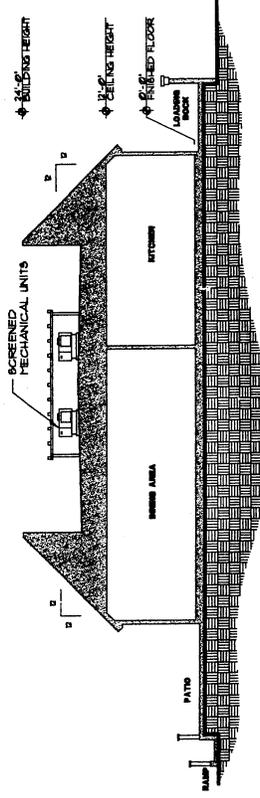
WEST ELEVATION



EAST ELEVATION

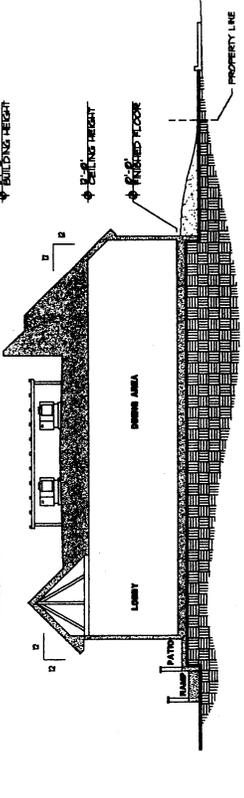
EXTERIOR ELEVATIONS

SCALE: 1/8" = 1'-0"



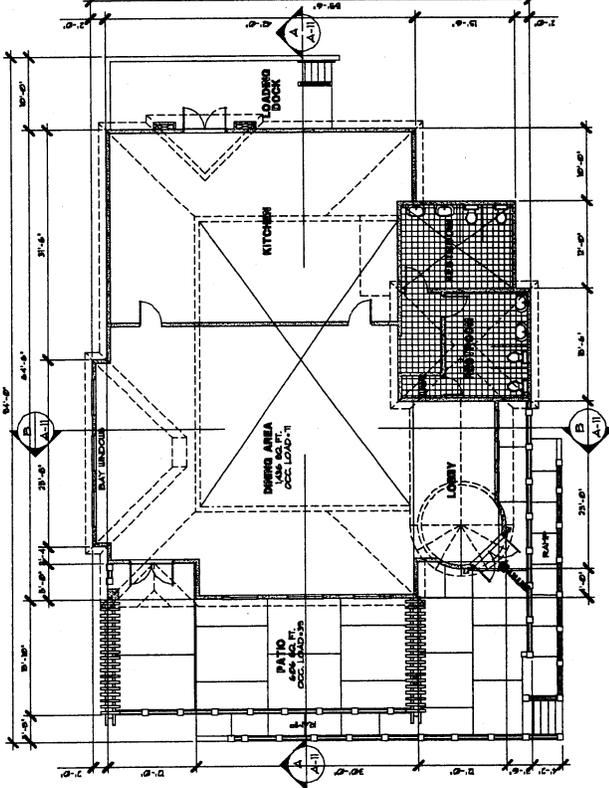
SECTION A

SCALE: 1/8" = 1'-0"



SECTION B

SCALE: 1/8" = 1'-0"



FLOOR PLAN

SCALE: 1/8" = 1'-0"
FLOOR AREA: 3293 SQ. FT.
PATIO AREA: 596 SQ. FT.

RESTAURANT



Boardwalk

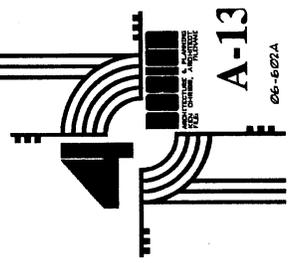
A-12

06-602A

1/10/03
1/14/04
4/1/04
7/16/04
9/28/04

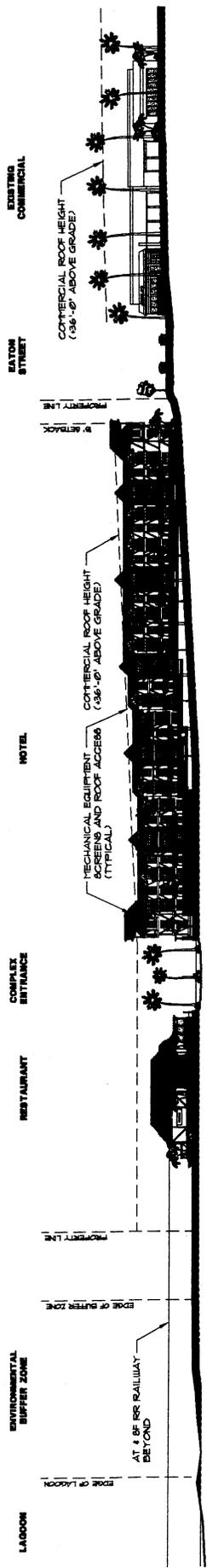
91.03
14.04
41.04
116.05
12.06
3.026

Boardwalk

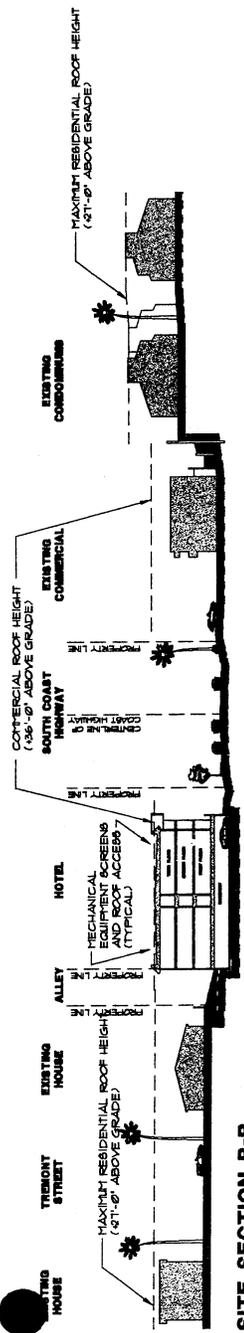


A-13

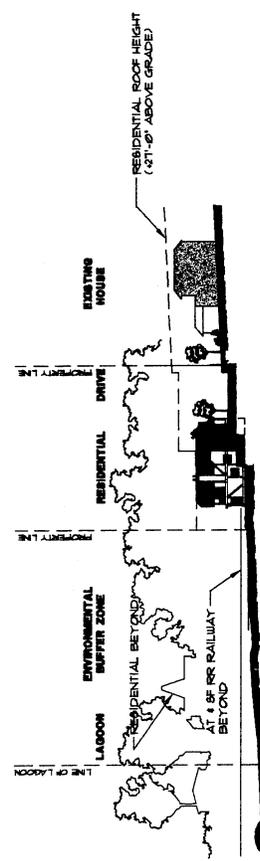
06-607A



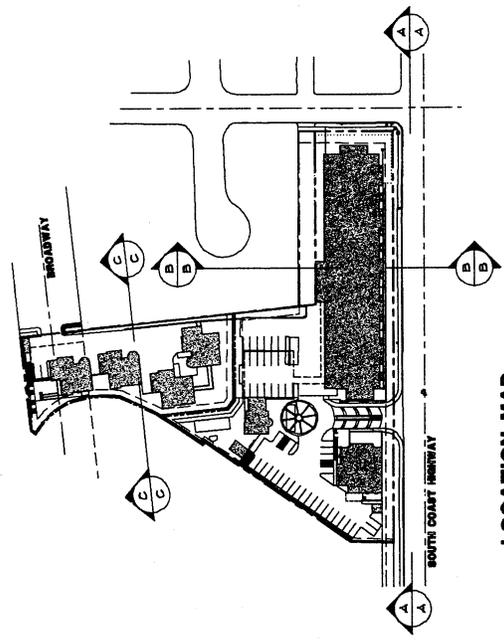
SITE SECTION A-A



SITE SECTION B-B



SITE SECTION C-C



LOCATION MAP

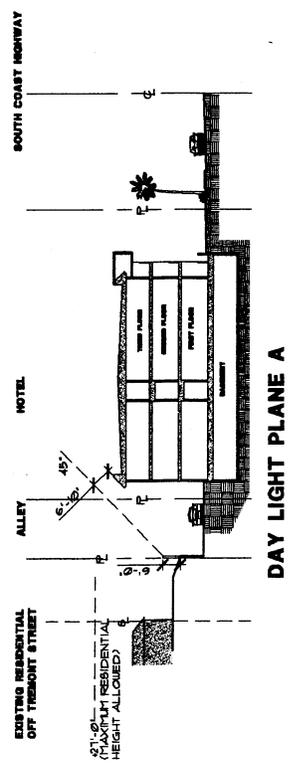
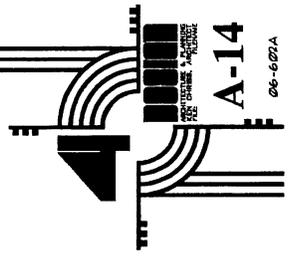
SITE SECTIONS

SCALE: 1/32" = 1'-0"

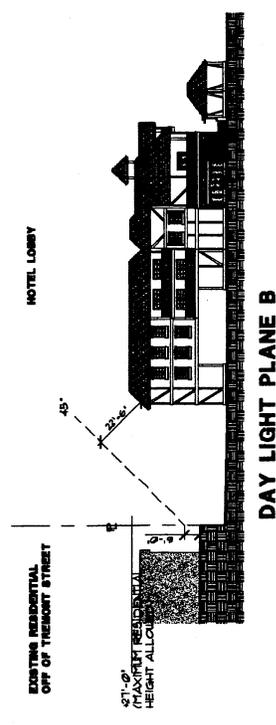
SITE SECTIONS

8.1.03
1.14.04
1.15.05
1.16.05
1.3.06
9.19.06

Boardwalk



DAY LIGHT PLANE A

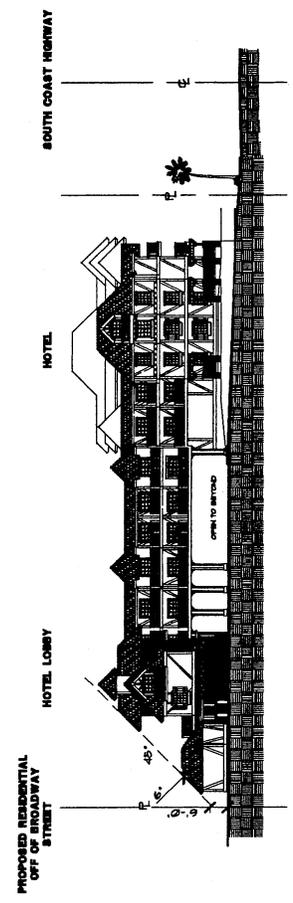


DAY LIGHT PLANE B

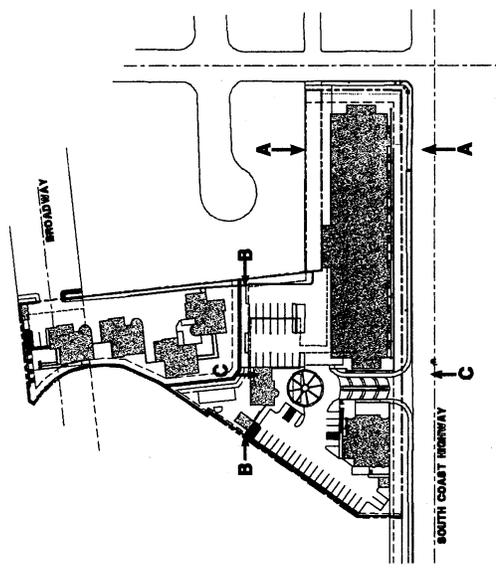
STATISTICS:

DISTANCE AVERAGED FROM 45° REQUIREMENT
PLANNING ORDINANCE SECTION 15D
DIAGRAM E

DAY LIGHT PLANE A - 6'-10"
DAY LIGHT PLANE B - 22'-6"
DAY LIGHT PLANE C - 0'-6"



DAY LIGHT PLANE C



LOCATION MAP

**DAY LIGHT PLANE ANALYSIS BETWEEN
RESIDENTIAL AND COMMERCIAL USES**

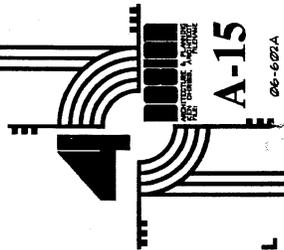
SCALE: 1" = 20'-0"

DAY LIGHT
PLANE ANALYSIS

06-607A

8.103
 4.104
 4.104
 11.6.05
 13.06
 31.06

Boardwalk

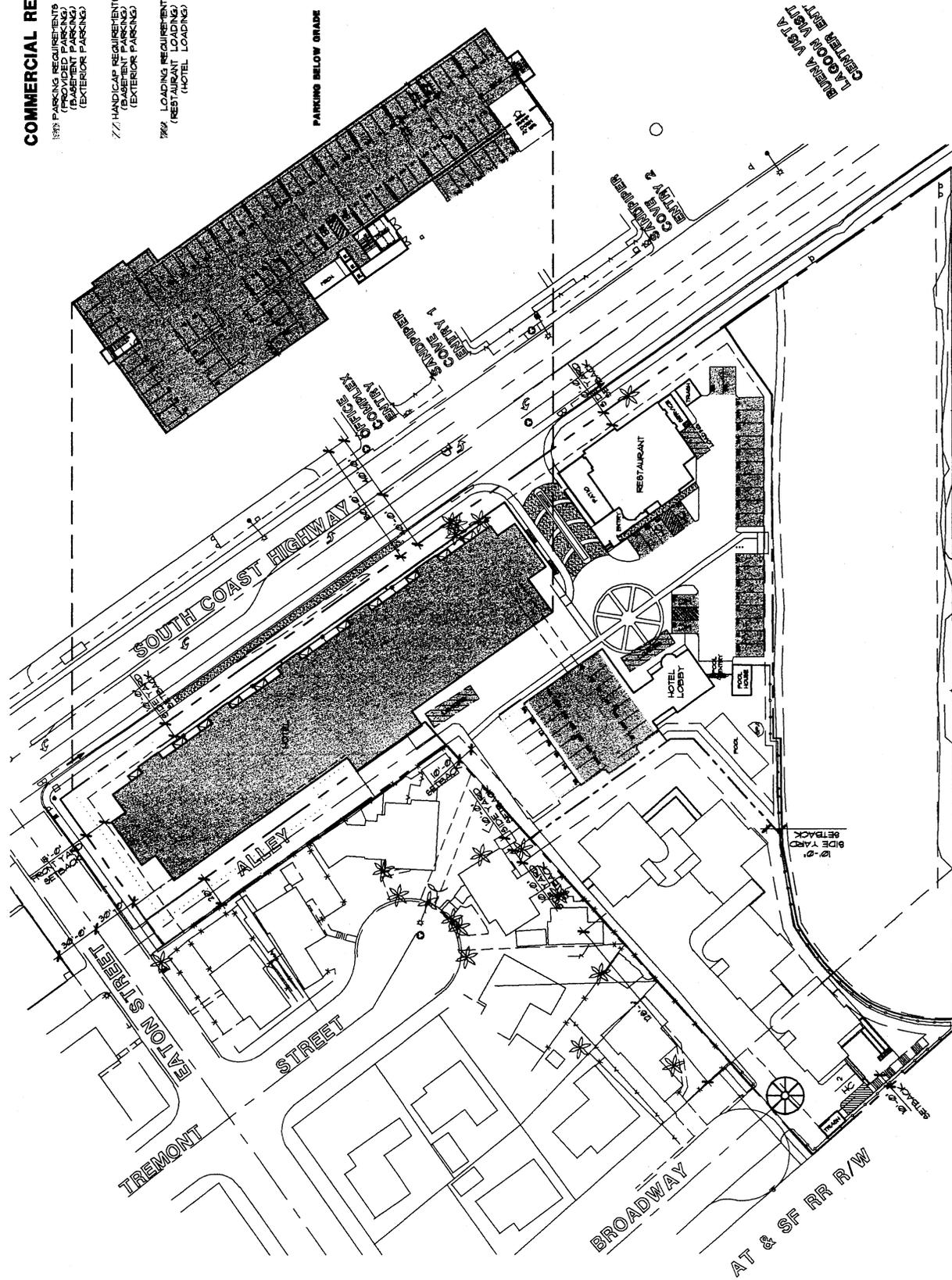


A-15

06-607A

COMMERCIAL REQUIREMENTS:

- 8103 PARKING REQUIREMENTS (PROVIDED PARKING) (EXTERIOR PARKING)
- 4104 PARKING STALLS (EXTERIOR PARKING)
- 11.6.05 REQUIRED STALLS (HANDICAP PARKING)
- 13.06 PARKING STALLS (EXTERIOR PARKING)
- 31.06 REQUIRED STALLS (HANDICAP PARKING)
- 777 HANDICAP REQUIREMENTS (RESTAURANT LOADING) (HOTEL LOADING)
- 789 LOADING REQUIREMENTS (RESTAURANT LOADING) (HOTEL LOADING)



MARSH

COMMERCIAL PARKING EXHIBIT

SCALE: 1" = 30'-0"

PARKING REQUIREMENTS: COMMERCIAL

1 Council, and the City Council reviewed and considered the information contained in
2 these documents prior to making a decision on the project. The Final Environmental
3 Impact Report and Mitigation and Monitoring and Reporting Program and Statement of
4 Overriding Considerations have been determined to be accurate and adequate
5 documents which reflect the independent judgment of the City Council.

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

- 8 1. The Final Environmental Impact Report and Mitigation and Monitoring and Reporting
9 Program for the Boardwalk Complex project IS CERTIFIED, effective as of this day.
- 10 2. Pursuant to Public Resources Code Section 21081.6 the City Council adopts the
11 Mitigation Monitoring and Reporting Program (MMRP) attached as Exhibit "B" and
12 finds and determines that said program is designed to ensure compliance with the
13 mitigation measures during project implementation.
- 14 3. Pursuant to Public Resources Code Section 21081, the City Council hereby adopts the
15 Environmental Findings and Statement of Overriding Considerations for the Boardwalk
16 Development Project Environmental Impact Report attached as Exhibit "A".

17 ///
18 ///
19 ///

1 4. Notice is HEREBY GIVEN that the time within which judicial review must be sought
2 on this decision is governed by the provisions of the California Environmental Quality
3 Act.

4 PASSED and ADOPTED by the City Council of the City of Oceanside, California this
5 _____ day of _____, 2007 by the following vote:

- 6 AYES:
- 7 NAYES:
- 8 ABSENT:
- 9 ABSTAIN:

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

Mayor of the City of Oceanside

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

Exhibit "A"

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE BOARDWALK DEVELOPMENT PROJECT ENVIRONMENTAL IMPACT REPORT (SCH NO. 2003071101)

1. INTRODUCTION

1.1 Findings of Fact and Statement of Overriding Considerations

California Environmental Quality Act, Public Resources Code Sections 21000-21178 ("CEQA), State CEQA Guidelines for Implementation of the California Environmental Quality Act, Cal. Code Regs. tit. 14 §§ 15000-15387 ("CEQA Guidelines") are "intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will *avoid* or *substantially lessen* such significant effects." Cal. Pub. Res. Code § 21002 (emphasis added). CEQA's mandate and principles are implemented, in part, through the requirement that agencies adopt findings before approving projects for which EIRs are required. (See Pub. Res. Code § 21081 (a)). For each significant environmental effect identified in any EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions.

The first permissible finding is that "[c]hanges or alterations have been required in, or incorporated into, the projects which avoid or substantially lessen the significant environmental effect as identified in the final EIR." (CEQA Guidelines § 15091 (a)(1).) The second permissible finding is that "[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency." (CEQA Guidelines § 15091 (a)(2).) The third potential conclusion is that "[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR." (CEQA Guidelines § 15091 (a)(3).) Section 21061.1 of CEQA defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." Section 15364 of the CEQA Guidelines adds another factor: "legal" considerations. See also Citizens of Goleta Valley v. Board of Supervisors ("Goleta II"), 52 Cal.3d 553, 565, 276 Cal.Rptr. 410 (1990).

The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (City of Del Mar v. City of San Diego, 133 Cal.App.3d 410, 417, 183 Cal.Rptr. 898 (1982).) "[F]easibility under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, social and

technological factors." (Id.; see also Sequoyah Hills Homeowners Ass'n v. City of Oakland, 23 Cal.App.4th 704, 715, 29 Cal.Rptr.2d 182 (1993).)

The CEQA Guidelines do not define the difference between "avoiding" a significant environmental effect and merely "substantially lessening" such an effect. The City must therefore glean the meaning of these terms from the other contexts in which the terms are used. Section 21081 of CEQA, on which CEQA Guidelines Section 15091 is based, uses the term "mitigate" rather than "substantially lessen." The CEQA Guidelines therefore equate "mitigating" with "substantially lessening." Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which will substantially lessen the significant environmental effects of such projects." (pub. Res. Code § 21002.)

For purposes of these findings, the term "avoid" refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. In contrast, the term "substantially lessen" refers to the effectiveness of such measures to substantially reduce the severity of a significant effect, but not to reduce the effect to a less than significant level. These interpretations are consistent with the holding in Laurel Hills Homeowners Ass'n v. City Council, 83 Cal.App.3d 515, 519-527, 147 Cal.Rptr. 842 (1978), in which the Court of Appeals held that an agency had satisfied its obligation to substantially lessen or avoid significant effects by adopting numerous mitigation measures, not all of which rendered the significant impacts in question (e.g., the loss of biological resources) less than significant. Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is "avoid[ed] or substantially lessen[ed]," these Findings, for purpose of clarity, in each case will specify whether the effect in question has been reduced to a less than significant level, or has been substantially lessened but remains significant.

With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or feasible environmental superior alternatives, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (14 Cal. Code Regs. §§ 10593, 15043(b); see also Pub. Res. Code § 21081(b).) The California Supreme Court has stated that, "[t]he wisdom of approving...any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (Goleta II, 52 Cal, 3d 553, 576.)

The following Findings of Fact ("Findings") are made relative to the conclusions of the Final Environmental Impact Report for the Boardwalk Development Project (SCH 2003071101). ("EIR").

1.2 Document Format

These findings have been organized into the following sections:

- (1) Section 1 provides an introduction to these Findings.
- (2) Section 2 provides a summary of the Project and overview of the discretionary actions required for approval of the Project, and a statement of the Project's objectives.
- (3) Section 3 provides a summary of public participation in the environmental review, an overview of the administrative record that has been developed for the Project, as well as findings regarding the Mitigation, Monitoring and Reporting Program (MMRP) and general findings regarding the Project and CEQA compliance.
- (4) Section 4 sets forth findings regarding those environmental impacts which were determined during the notice of preparation period either not to be relevant to the Project or which were determined to clearly not manifest at levels which were deemed to be significant for consideration at the Project-specific level.
- (5) Section 5 sets forth findings regarding significant or potentially significant environmental impacts identified in the Final EIR which the City has determined are either not significant or can be substantially lessened or reduced to a less-than-significant level through the imposition of mitigation measures included in the MMRP for the Project.
- (6) Section 6 sets forth findings regarding alternatives to the Project which were determined not to be implemented by the City.
- (7) Section 7 consists of a Statement of Overriding Considerations which sets forth the City's reasons for finding that specific economic, legal, social, technological, and other considerations associated with the Project outweigh the Project's potential unavoidable environmental effects.

2. Project Summary

2.1 Boardwalk Development Project Description

The gross area within the project location is approximately 3.8 acres of vacant land. The site is located in the west side of South Coast highway between Eaton Street and Buena Vista Lagoon in the City of Oceanside. Access to the development would be via a signalized entrance off of South Coast Highway in Parcel 1. The development includes a Development Plan, Tentative Map, Regular Coastal Permit, and Street Vacation.

The buildings have been designed to be an “entry statement” into the city of Oceanside. The originally proposed Irving Gill style of architecture has been revised to a French Normandy theme to better blend with existing development to the west and development to the south in the City of Carlsbad.

The development proposes the construction of an 82-room limited-term occupancy condominium hotel, a 4,180 square foot restaurant, and four 3,475 square foot detached condominiums. The hotel consists of 57,855 square feet of interior space and 39,897 square feet of open usable space. The hotel would also house a basement parking structure providing 74 parking stalls.

The restaurant would be located south of both the hotel and the main entrance in order to reduce the amount of traffic around Buena Vista Lagoon. Parking lots for the restaurant are located both north and the south of the entry and provide the required 48 parking space. The public eating areas of the restaurant face the hotel to the north, allowing for limited impact on the lagoon to the south.

The four detached condominiums would be located on the eastern end of the property on Parcel 3. Access to these buildings would be from the newly constructed drive located to the north of the building mass. The drive would be screened from sight of the lagoon by a colorful landscaped retaining wall and common fence. Each of the four two-story condominiums would have three bedrooms, two and a half bathrooms, and a three car garage. Each unit would also possess private balconies, roof-decks, and fireplaces. Rear patios would open up to the proposed 100 foot wide buffer adjacent to Buena Vista Lagoon. There is also a common area that includes an open air copula and passive recreational activities.

The Tentative Map proposes to subdivide the 3.8 gross acres into three parcels. Parcel 1 and Parcel 2 would be used for commercial facilities (the hotel and a restaurant) as well as the 100 foot wide buffer between the project and the lagoon. Parcel 3 would be the location for the four condominium buildings proposed for the site.

The main access to the hotel and restaurant would be an entrance off of South Coast Highway. The main access to the condominiums would be a newly constructed screened and landscaped entrance north of the buildings on Broadway. In addition, there will also be an exit from the hotel property onto Eaton Street.

Site grading for the project will consist of 7,000 cubic yards of excavation and 7,450 cubic yards of fill with a total import of 450 cubic yards.

The proximity of the proposed project to the nearby Buena Vista Lagoon was of primary concern for the placement of buildings and the preservation of open space. The project will have many features that will aid in preserving the delicate habitat of the lagoon. One hundred feet of Parcel 2 has been designated as a buffer between the lagoon

and any development; the buffer would be restored with native plant species. Project landscaping will consist of non-invasive drought tolerant plants, such as date palm, fortnight lily, and Chinese wisteria, arranged in a theme that will compliment the lagoon's native planting. This planting scheme will also add to the City of Oceanside Gateway Enhancement Project. Finally, the development will have a bio-swale that will prevent filter runoff before discharging into the buffer.

2.2 Discretionary Actions

Discretionary actions necessary for the development, which are addressed in the EIR, include a Development Plan, Tentative Map, Conditional Use Permits, and Regular Coastal Permit.

2.3 Statement of Project Objectives

The development of the project consists of a mixed-use luxury residential and commercial complex. The project is proposing a three-story 82-room limited occupancy condominium hotel, a garden restaurant, and four two-story detached condominiums in a coastal setting. The addition to the area would be valuable, with excellent access to transportation, employment, shopping, and the beach. The project would be consistent with guidelines set forth in the City of Oceanside's General Plan, City of Oceanside Zoning Ordinance, the State of California, and the City of Oceanside Local Coastal Program. The hotel, restaurant, and condominiums would transform the currently disturbed parcels into a significant destination for visitors and residents of Oceanside and would act as an anchor for commerce to the neighborhood. The City of Oceanside has designated tourist-based activities as the best use of the land. This facility has been designed to be a focal point for southern Oceanside.

3. PUBLIC PARTICIPATION AND RECORD OF PROCEEDINGS

3.1 Public Input

A public Scoping Meeting was held on August 14, 2003 at the Buena Vista Lagoon Visitor's Center. The public was invited to attend and to provide written comments regarding the project. Those comments are included in Appendix A in the Appendices to the Draft EIR.

3.2 Record of Proceedings

For purposes of CEQA and these Findings and Statement of Overriding Considerations, the Record of Proceedings for the Projects consists of the following documents and other evidence at a minimum:

- The Notice of Preparation and all other public notices issued by the City in conjunction with the Project;

- The Final EIR;
- The Draft EIR;
- All written comments and verbal public testimony presented during the public comment period on the Draft EIR or during a noticed public hearing for the Project at which such testimony was taken;
- The MMRP;
- All findings, ordinances, and resolutions adopted by the City Council in connection with the Project, and all documents incorporated by reference therein;
- All final reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and with respect to the City's actions on the Project;
- All documents submitted to the City by other public agencies or members of the public in connection with the Project, up through the close of the public hearing;
- Minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the Project;
- Any documentary or other evidence submitted to the City at such information sessions, public meetings, and public hearings;
- Matters of common knowledge to the City, including, but not limited to federal, state, and local laws and regulations;
- The City's General Plan and Municipal Code;
- Any documents expressly cited in these findings in addition to those cited above; and
- Any other materials required to be in the record of proceedings by Section 21167.6 (e) of CEQA.

The custodian of the documents comprising the record of proceedings is City Clerk, whose office is located at 300 North Coast Highway, Oceanside, CA 92054. Copies of all these documents, which constitute the record of proceedings upon which the City's

decision is based, are and at all relevant times have been available upon request at all times at the offices of the City, the custodian for such documents or other materials.

The City Council has relied on all of the documents listed above in reaching its decision on the Project, even if not every document was formally presented to the City Council or City Staff as part of the City files generated in connection with the Project. Without exception, any documents set forth above not found in the Project files fall into two categories. First, many of them reflect prior planning or legislative decisions of which the City Council was aware in approving the Project. (See City of Santa Cruz v. Local Agency Formation Commission 76 Cal.App.3d 381, 391-392, 42 Cal.Rptr. 873 (1978); Dominey v. Department of Personnel Administration, 205 Cal.App.3d 729, 738, n.6, 252 Cal.Rptr. 620 (1988).) Second, other of the documents influenced the expert advice provided to City Staff or consultants, who then provided advice to the City. For that reason, such documents form part of the underlying factual basis for the City's decisions relating to the adoption of the Project. (See Pub. Res.Code § 21167.6 (e)(10); Browning-Ferris Industries v. City Council of San Jose, 181 Cal.App.3d 852, 226, Cal.Rptr 575 (1986; Stanislaus Audubon Society, Inc. v. County of Stanislaus, 33 Cal.App.4th 144, 153, 155, 39 Cal.Rptr.2d 54 (1985).)

The Final EIR was completed in compliance with CEQA, and reflects the City's independent judgment, The City Council believes that its decision on the Project is one which must be made after a hearing required by law at which evidence is required and discretion in the determination of facts is vested in the City. As a result, any judicial review of the City's decision will be governed by Section 21168 of CEQA and Code of Civil Procedure Section 1094.5. Regardless of the standard of review that is applicable, the City Council has considered evidence and arguments presented to the City prior to or at the hearings on this matter. In determining whether the Project has a significant impact on the environment, and in adopting Findings pursuant to Section 21080 of CEQA, the City Council has complied with CEQA Sections 21081.5 and 21082.2.

3.3 Mitigation, Monitoring, and Reporting Program

CEQA requires the lead agency approving a project to adopt a MMRP for the changes to the project that it had adopted or made a condition of project approval in order to ensure compliance with project implementation. A MMRP has been defined and serves that function for the Final EIR. The MMRP designates responsibility and anticipated timing for the implementation of mitigation. The City will serve as the overall MMRP Coordinator. An MMRP has been prepared for the Project and has been adopted concurrently with these Findings. (See Pub. Res. Code § 21081.6 (a)(1).) The City will use the MMRP to track compliance with Project mitigation measures.

3.4 General Findings

The City Hereby finds as follows:

3.4.1 The foregoing statements are true and correct;

3.4.2 The City is the "Lead Agency" for the Project evaluated in the Final EIR and independently reviewed and analyzed the Draft EIR and Final EIR for the Project;

3.4.3 The Notice of Preparation of the Draft EIR was circulated for public review between June 24, 2005 and August 8, 2005. It requested that responsible agencies respond as to the scope and content of the environmental information germane to that agency's specific responsibilities;

3.4.4 The public review period for the Draft EIR was for 45 days between June 24, 2005 and August 8, 2005.

3.4.5 The Draft EIR was completed in compliance with CEQA;

3.4.6 The Final EIR reflects the City's independent judgment;

3.4.7 The City evaluated comments on environmental issues received from persons who reviewed the Draft EIR. In accordance with CEQA, the City prepared written responses describing the disposition of significant environmental issues raised. The Final EIR provides adequate, good faith, and reasoned responses to the comments. The City reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information to the Draft EIR regarding including all comments received up to the date of adoption of these Findings, concerning the environmental impacts identified and analyzed in the Final EIR.

3.4.8 The City finds that the Final EIR provides objective information to assist the decision-makers and the public at large in their consideration of the environmental consequences of the Project. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the Draft EIR. The Final EIR was prepared after the review period and responds to comments made during the public review period;

3.4.9 The Final EIR evaluated the following direct and cumulative impacts: land use and planning, aesthetics, biological resources, cultural resources, geology and soils, hydrology and water quality, noise, and transportation/traffic circulation. Additionally, the Final EIR considered Growth Inducing Impacts of the project, as well as a reasonable range of project alternatives. All of the significant environmental impacts of the project were identified in the Final EIR.

3.4.10 CEQA requires the lead agency approving a project to adopt a MMRP for the changes to the project which it has adopted or made a condition of project approval in order to ensure compliance with project implementation. The MMRP included in the Final EIR as certified by the City serves that function. The MMRP includes all of the

mitigation measures identified in the Final EIR and has been designed to ensure compliance during implementation of the Project. In accordance with CEQA, the MMRP provides the measures to ensure that the mitigation measures are fully enforceable;

3.4.11 The MMRP designates responsibility and anticipated timing for the implementation of mitigation; the City will serve as the MMRP Coordinator;

3.4.12 In determining whether the Project may have a significant impact on the environment, and in adopting Findings pursuant to Section 21081 of CEQA, the City has complied with CEQA Sections 21080.5 and 21082.2;

3.4.13 The impacts of the Project have been analyzed to the extent feasible at the time of certification of the Final EIR;

3.4.14 The City made no decisions related to approval of the Project prior to the initial certification of the Final EIR by the Planning Commission. The City also did not commit to a definite course of action with respect to the Project prior to the initial certification of the Final EIR by the Planning Commission;

3.4.15 Copies of all the documents incorporated by reference in the Final EIR are and have been available upon request at all times at the offices of the City Clerk and/or Planning Department, the custodians of record for such documents or other materials.

3.4.16 Textual refinements and errata were compiled and presented to the decision-makers for review and consideration. The City staff has made every effort to notify the decision-makers and the interested public/agencies of each textual change in the various documents associated with the review of the Project. These textual refinements arose for a variety of reasons. First, it is inevitable that draft documents will contain errors and will require clarifications and corrections. Second, textual clarifications were necessitated in order to describe refinements suggested as part of the public participation process;

3.4.17 Additionally, the responses to the comments on the Draft EIR, which are contained in the Final EIR, clarify and amplify the analysis in the Draft EIR;

3.4.18 Having reviewed the information contained in the Draft EIR, Final EIR, the administrative record, as well as the requirements of CEQA and the State CEQA Guidelines regarding re-circulation of Draft EIRs, and having analyzed the changes in the Draft EIR which have occurred since the close of the public review period. The City finds that there is no new significant information regarding adverse environmental impacts of the Project in the Final EIR and finds that re-circulation of the Draft EIR is not required; and

3.4.19 Having received, reviewed, and considered all information and documents in the final EIR, as well as all other information in the record of proceedings on this

matter, the following Findings and Statement of Overriding Considerations are hereby adopted by the City as the CEQA Lead Agency. These Findings set forth the environmental basis for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the Project.

4. Environmental Issues Determined Not to be Potentially Affected by the Project

Based on the responses to the Project's Notice of Preparation, the following environmental issues were determined by the City to be either inapplicable to the Project based upon the nature of the Project and/or the absence of any potential impact related to the issue or because the issue was potentially impacted to a degree deemed to be less than significant and, therefore, not warranting further consideration in the Final EIR other than as set forth in Section 9 of the Final EIR. No substantial evidence has been presented to or identified by the City which would modify or otherwise alter the City's less-than-significant determination for each of the following environmental issues: (1) Cultural Resources, (2) Hazards and Hazardous Materials, (3) Utilities and Service Systems, (4) Agriculture, (5) Air Quality, (6) Mineral Resources, (8), Population and Housing, (10) Public Services, and (11) Recreation.

5. Findings Regarding Potentially Significant Environmental Effects Which Are Determined Not to Be Significant or Which Can Be Substantially Lessened or Avoided Through Feasible Mitigation Measures

The City has determined based on the threshold criteria for significance presented in the Final EIR that the following environmental effects of the Project will not manifest at levels which have been determined by the City to be significant or, if significant, feasible mitigation measures identified in the Final EIR and adopted by the City as conditions of Project approval will result in the avoidance or substantial reduction of those effects.

Environmental effects related to the Project in the following areas were found to be either insignificant or capable of being mitigated to a level of insignificance: Biological Resources, Geology/Soils, Water Quality/Hydrology, Noise, and Transportation/Traffic.

5.1 Land Use and Planning

Environmental Impacts: The proposed project includes a 100-foot buffer between the developed area and Buena Vista Lagoon. A representative of the California Department of Fish and Game met on-site with the applicant, the project biologist, and City staff during the initial stages of project planning. The representative tentatively approved the proposed 100-foot wide buffer, and recommended that public access to the lagoon be terminated in order to protect sensitive resources within the lagoon. Because the lagoon is located in the State Coastal Zone, restricting public access is a violation of the Local Coastal program and California State Coastal Act.

Finding: Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect identified in the Final EIR to below a level of significance.

Facts in Support of Findings: Conflict with any land use plan would be considered a significant impact. Restricting public access to the lagoon with the proposed 100-foot buffer would be in direct conflict with the Local Coastal Program because the lagoon is located within the State Coastal Zone.

(a) The Buena Vista Lagoon is located in the California's State Coastal Zone. It is a violation of the City of Oceanside's Local Coastal Program and the State Coastal Act to deny the public access to a publicly zoned coastal area.

Mitigation Measures: Because the proposed project is consistent with existing zoning, no land use mitigation measures are required. Mitigation for the access issue would require:

(a) Either the provision of a public trail/path through the project site outside the 100-foot buffer, but directly adjacent to it, to connect Broadway to Coast Highway, or

(b) Consultation with the CDFG and Coastal Commission to design controlled public access through the 100-foot wide buffer area. Gates could be an option to control access and limit it to certain times of the day or week.

5.2 Aesthetics

Environmental Impacts: Construction of the project will impact public views to Buena Vista Lagoon. The existing view from southbound South Coast highway will be blocked. Views looking south from Eaton Street and Broadway will be partially blocked.

The hotel could potentially be a source of light and glare for the lagoon and surrounding residential developments. This additional light would be caused by lighting and security used by the hotel.

Finding: Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect identified in the Final EIR to below a level of significance.

Facts in Support of Finding: When a proposed project will block public views of a scenic vista, it is considered a significant impact. Buena Vista Lagoon would be obscured from three vantage points.

A substantial increase in light or glare that is generated by a proposed project is considered a significant impact. Security lighting and additional lighting used by the hotel could potentially create a source of light and glare.

Mitigation Measures: The project has incorporated design measures, including architectural details and extensive landscaping, to provide a visually appealing development. Potential light and glare impacts would be avoided by compliance with the City's lighting Ordinance. Nonetheless, due to the loss of public views to Buena Vista Lagoon, visual impacts cannot be fully mitigated.

5.3 Biological Resources

Environmental Impacts: Development of the site would impact 1.22 acres of non-native grassland and 1.34 acres of ruderal habitat. The project would introduce new development adjacent to the lagoon, which would result in indirect impacts.

Finding: Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect identified in the Final EIR to below a level of significance.

Facts in Support of Finding: Impacts would be significant if the development results in adverse impacts to any state- or federal-listed or special status species; has a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service; has a substantial adverse effect on federally-protected wetlands; interfere substantially with the movement of any native resident or migratory fish or wildlife species; conflicts with any local protection policies or ordinances; or conflicts with the provisions of an adopted Habitat Conservation Plan.

The proposed project would have a significant impact on non-native grassland.

Mitigation: Mitigation for the loss of non-native grassland would require acquisition of 0.61-acre of credits in approved Mitigation or Conservation Bank, Pre-Approved Mitigation Area, or in the Wildlife Corridor Planning Zone.

As no direct impacts would occur to wetlands, no mitigation measures are necessary. In order to avoid and/or minimize potential impacts to Buena Vista Lagoon, the following measures have been incorporated:

- The project is proposing restore the 100-foot buffer. Removal of the existing dirt road and re-introduction of native species will remove exotic plants from the area and discourage transient activity in the lagoon.

- No activities will take place in the buffer to the lagoon. Silt fencing and gravel bags will be used around the southern end of the development envelope to prevent run-off from reaching the lagoon.
- The buffer may be offered to the California Department of Fish and Game for long-term management and endowed by the applicant. Alternatively, the buffer may be managed by a 3rd party per a Management Monitoring Plan, developed in consultation with the CDFG and the City of Oceanside.
- If feasible, project construction should avoid avian breeding season. If infeasible, measures should be taken to avoid disturbing avian breeding season.
- It is recommended that lighting be directed away from the lagoon.
- Short-term impacts to the buffer area would be avoided by installation of temporary fencing during project construction.
- The project's landscaping plan is proposing to incorporate non-invasive drought-tolerant plants to compliment the lagoon's native habitat.
- All windows will be tinted and glazed to be non-reflective.
- Garbage bins would be stored in completely enclosed areas and the leachate from the bins would be directed to the sanitary sewer. The restaurant would be required to implement any necessary vermin control programs.
- The project will be constructed in compliance with the City's Noise Ordinance.
- The project will be required to install a traffic signal at the project entrance and South Coast Highway, which will have the effect of slowing traffic as it approaches the intersection.

5.4 Geology and Soils

Environmental Impacts: The site's shallow, loose soils will not provide suitable support for the project.

Finding: Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect identified in the Final EIR to below a level of significance.

Facts in Support of Finding: A project site that is unable to support project construction is considered unsuitable. The top 3 feet of soil on the proposed project site is unable to support the proposed development.

Mitigation: To reduce the impacts to below a level of significance, the geotechnical report recommends that the surface soils and shallow alluvial soils (to a depth of 3 feet below grade) be removed and recompact as part of site preparation. When properly processed and recompact, the onsite soils should provide adequate bearing capacity for the project as currently designed. In addition, due to the potential for liquefaction and settlement, it is recommended that the restaurant building and southern portion of the hotel building be supported on drilled caissons or driven piles.

5.5 Noise

Environmental Impacts: The project will impact the surrounding neighborhood during construction. The hotel and restaurant structures require pilings for stability, and installation of these pilings will raise noise levels in the neighborhood while the excavation is in progress.

The project itself will be impacted due to its location. Due to the proximity of the condominiums the railroad tracks, noise levels inside the structures will not always meet City regulations. Noise levels on the outside patio of the restaurant will also exceed City approved levels due to traffic noise from South Coast Highway.

Finding: Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect identified in the Final EIR to below a level of significance.

Facts in Support of Finding: When a project has an impact that will expose people to noise levels in excess of standards established in the local general plan or noise ordinance, it is considered significant.

Mitigation: The mitigation necessary for the Boardwalk project to meet the requirements consists of the following minor structural modifications:

- Buildings 2, 3, and 4, will have supplemental ventilation. For building 4, the supplemental ventilation is also acceptable when paired with dual panes in all of the windows.
- The outside mitigation for the project is restricted to Building 4. A five-foot barrier of either ½-inch thick plexiglass or 1/4- inch thick tempered glass needs to be constructed.

- The three sides of building 4 that face the railroad tracks will require upgraded structural noise protection consisting of double-paned windows that would provide sufficient noise reduction to reach the 45-dBA level necessary.
- In the rooms facing South Coast Highway, sliding glass doors would be sufficient for noise reduction. Balconies shall be fitted with a combination solid base and glass upper panel that would stand 6 feet tall.
- The restaurant will have a dining patio that could potentially be affected by traffic noise from South Coast Highway. Barriers will be required to mitigate traffic noise for the tables closest to the street. A 6-foot high barrier of transparent glass or plastic will produce a sufficient reduction in traffic noise. A 5-foot high barrier is also necessary for the tables on the side of the patio that faces the driveway to the development.

Slight modifications to the construction process and equipment shall reduce the amount of noise generated by pile driving and maintain a noise level that is acceptable:

- Drilled caissons shall be used instead of driven piles.
- A shroud and drop hammer shall be used to muffle the sound.
- Pile driving shall be restricted to 2.4 hours a day in order to keep the 24-hour average within the City of Oceanside's standards.

5.5 Traffic

Environmental Impacts: The Boardwalk is projected to generate 820 trips on a daily basis. The am peak hour is projected at 49 trips, and the pm peak hour is projected at 66 trips.

Finding: Pursuant to CEQA Section 21081(a)(1) and State CEQA Guidelines section 15091(a)(1), the City finds that conditions, changes, or alterations have been required in, or incorporated into, the Project which will reduce the significant environmental effect identified in the Final EIR to below a level of significance.

Facts in Support of Finding: When a project has an impact that will reduce the level of service in excess of standards established in the local general plan or traffic circulation element, is considered significant.

Mitigation: No significant impacts to roadway segments or intersections were identified. Nonetheless, the project will provide the following improvements:

- Channelization on South Coast Highway in front of the project and through the Eaton Street intersection to the satisfaction of the City Engineer
- A traffic signal on South Coast Highway at the project access to allow signalized access to the project and to the existing development on the eastern side of South Coast Highway.
- Stop signs at the project's alley access to Eaton Street and at the detached condominiums' access to Broadway.

6. MITIGATION MEASURES TO BE IMPLEMENTED BY ANOTHER PUBLIC AGENCY

The decision making body, having reviewed and considered the information in the Final EIR, the related documents, and record, finds that none of the changes or alterations required in, or incorporated into the project, are within the responsibility or jurisdiction of another public agency.

7. FINDINGS REGARDING ALTERNATIVES

7.1 Environmental Impacts: Because the Project will cause significant environmental effects, the City must consider the feasibility of any environmentally superior alternatives to the Project, evaluating whether these alternatives could avoid or substantially lessen the unavoidable significant effects while achieving most of the objectives of the Project. The Draft EIR included a discussion of three alternatives: Alternative 1, Alternative 2, and Alternative 3.

The project will have potentially significant unmitigable impacts in Land Use and Planning and Aesthetics.

In rejecting alternatives, the City has examined the objectives of the Project and weighed the ability of the various alternatives to meet those objectives. The City believes that the Project best meets these objectives with the least environmental impact. The Project Objective is as follows:

The development proposes the construction of an 82-room limited occupancy condominium hotel, a 4,180 square foot restaurant, and four 3,475 square foot condominium buildings. The hotel consists of 57,855 square feet of interior space and 39,897 square feet of open usable space. The hotel would also house a basement parking structure, providing 74 parking stalls.

Description of the No Project Alternative: The No Project Alternative would not allow the proposed development, leaving the land in its present condition. No new

impacts would occur to land use, aesthetics, biological resources, cultural resources, geology, hydrology/water quality, noise, or traffic.

Finding: On a comparative basis, the No Project Alternative would potentially violate the property owner's right to make reasonable beneficial use of the property. The No Project Alternative is inconsistent with the long-standing General Plan and Zoning for the property. The City would not benefit the increased tax increment generated by the project.

Facts in Support of Finding: While the No Project Alternative essentially maintains the physical status quo on-site, it is not necessarily feasible or environmentally superior. On a comparative basis, the No Project Alternative would:

- Potentially violate the property owner's rights to make reasonable beneficial use of the property consistent with uniformly applied policies, ordinances, regulations, and constitutional protections and reasonable investment backed expectations of development and use consistent with the General Plan, designating the property to be developed for industrial uses.
- Re-direct the development to be developed elsewhere, with impacts to that area.
- Be inconsistent with the General Plan.

Description of the Reduced Project Alternative 1: Under this alternative, the restaurant and lobby would remain in the same location as the proposed project, but the three-story hotel would be split between two buildings over basement parking and the number of potential rooms would be reduced to approximately 46. Three of the condominiums would remain the same as the proposed project, but Condominium A would be reduced in size to 1,659 square feet. A six-foot wide pedestrian walkway would be included along the project's perimeter adjacent to the lagoon buffer zone.

Finding: This alternative would result in roughly the same impacts to biological resources, geology/soils, hydrology/water quality, noise, and traffic as those resulting from the proposed project. Impacts to land use would be avoided by inclusion of public access to the lagoon. Impacts to visual quality, while reduced, would remain significant.

Facts in Support of the Finding: While this alternative would meet the basic objectives of the project, market research has determined that a project of this type with fewer than 82 rooms would be economically infeasible on this property. While it would reduce land use impacts to below a level of significance by providing public access to the lagoon, it would not reduce impacts to visual quality to below a level of significance and thus is not considered to be environmentally preferable.

Description of Reduced Project Alternative 2: In this alternative the lobby and three of the condominiums would remain as in the proposed project, but the restaurant

would be moved to the corner of Eaton Street and South Coast Highway. The hotel would be split into two buildings, one a 3-story building above basement parking occupying a portion of the area where the hotel is currently proposed, and the other a 2-story building at grade adjacent to the lagoon buffer zone. The number of potential rooms would be reduced to approximately 52, and condominium A would be eliminated.

Finding: Impacts to geology/soils, hydrology and water quality, noise, and traffic would be similar to those resulting from the proposed project. Land use impacts would be avoided by the inclusion of public access, but indirect impacts to biological resources could increase by placement of the hotel adjacent to the lagoon buffer. Visual impacts would be reduced, but not to below a level of significance.

Facts in Support of Finding: Like Project Alternative 1, this alternative would meet the basic project objectives, but it would not be economically feasible with fewer than 82 rooms. It would also not be environmentally preferable as additional indirect biological impacts could occur, and visual impacts would remain significant and unmitigable.

Description of Reduced Project 3: This alternative would largely retain the buildings in the same places as in the proposed project, but the hotel would be reduced to one story above parking. Condominium A would be reduced to 1, 659 square feet, as in the Reduced Project Alternative.

Finding: This alternative would result in similar impacts to land use and aesthetics as the Reduced Project Alternative 2. Impacts relative to all other issues would be similar to those of the Proposed Project.

Facts in Support of Finding: With a potential of approximately 21 rooms, this alternative would not meet the basic project objective to provide a significant visitor destination, and would be the least economically feasible. Although the hotel would be reduced to a single story, visual impacts would remain significant and unmitigable, and it would thus not be environmentally preferable.

8. OVERRIDING CONSIDERATIONS

If a project has substantial environmental impacts that cannot be avoided or substantially reduced by feasible mitigation measures or project alternatives, CEQA and the CEQA Guidelines permit a public agency to approve the project only if the agency makes findings that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the project's unavoidable adverse environmental effects and thereby render those adverse effects acceptable. (CEQA § 21081(b); CEQA Guidelines § 15093.)

The City is approving the Boardwalk Development Project even though the Project may have unavoidable significant impacts on Land Use and Planning and Aesthetics. The

City finds that the benefits of the Project outweigh the adverse environmental effects for each of the following reasons:

- A. The Project will lead to the creation of a significant visitor-serving destination as desired by the City and provide for a buffer to the Buena Vista Lagoon.
- B. The Project will be a source of important tax revenue for the City. As documented in the economic analysis by PKF Consulting, the City will benefit from transit occupancy tax of \$394,200 annually. Additionally, the City will receive its share of annual property taxes of \$103,429 and sales taxes of \$20,310.
- C. The property owner has (or will, as a result of this project) contributed other community benefits totaling \$3,403,840 including:
 - 1. Undergrounding electric utility on South Coast Highway along the property
 - 2. Installing a signal light on South Coast Highway at project entrance, which will also serve the existing condominium development east of South Coast Highway
 - 3. Replace 4 inch water line with 8 inch water line from subject property to the intersection of Eaton and Broadway
 - 4. Previously built 12 low income housing units
 - 5. Maintain buffer zone adjacent to Buena Vista Lagoon
 - 6. Previously paid property taxes on buffer
 - 7. Donated land for Audubon Nature Center
- D. The Project will be consistent with the General Plan and accordingly will contribute to planned and orderly growth and development in the City.
- E. The Project will utilize efficiently land that is currently vacant.
- F. The Project will generate an increase in jobs in the City with an anticipated payroll of approximately \$2,160,000.

CHAPTER D

MITIGATION MONITORING AND REPORTING PROGRAM

This document identifies mitigation measures which would reduce or eliminate potential environmental impacts of the proposed development. The City of Oceanside is required to implement all adopted mitigation measures. To ensure compliance, the following Mitigation Monitoring Program and checklist is provided. This program is to be adopted by the Lead and Responsible agencies upon formulation of Findings, to comply with Assembly Bill 3180 (Public Resources Code Section 21080.6).

The Planning, Public Works Department, and Building (Code Enforcement) Departments of the City of Oceanside will administer the Mitigation Monitoring Plan. Augments by possible contract personnel, these Departments are responsible for enforcement of City zoning regulations, which is provided on a full-coast recovery basis by the City. Authorization to commence any on-site activity occurs only after concurrence of the respective City Departments.

Information contained within the following checklist identifies the mitigation measure, the conditions required to verify compliance, the department responsible for determining compliance, and the monitoring schedule. The City of Oceanside determines which measures are applicable to the specific discretionary actions identified in the monitoring schedule.

(This page intentionally left blank).

<u>Mitigation Measure</u>	<u>Type</u>	<u>Monitor</u>	<u>Schedule</u>
<p><u>Land Use and Planning</u></p> <p><i>Direct Impact:</i> California Department of Fish and Game tentatively approved the 100-foot wide buffer, but they expressed a strong desire to see the informal access to the lagoon closed to the public in order to protect sensitive resources existing within the lagoon. Elimination of the existing informal access to the lagoon is not consistent with the Local Coastal Program's or the state Coastal Act's requirement to continue to provide access to coastal resources.</p> <p><i>Mitigation:</i> Mitigation for the access issue would require:</p> <ul style="list-style-type: none"> • Either the provision of a public trail/path through the project site outside the 100-foot buffer, but directly adjacent to it, to connect Broadway to Coast Highway, or • Consultation with the CDFG and Coastal Commission to design controlled public access through the 100-foot wide buffer area. Gates could be an option to control access and limit it to certain times of the day or week. <p>If public access is not provided, this will result in a significant, unmitigable land use impact. Possible alternatives are considered in Chapter VI. of the FEIR.</p>	<p>CM</p> <p>CM</p>	<p>Planning Department</p> <p>Planning Department</p>	<p>Prior to issuance of grading permit.</p> <p>Prior to issuance of grading permit.</p>

<u>Aesthetics</u>			
<u>Direct Impact:</u> The project would not be consistent with Coastal Act and Local Coastal Program requirements to protect and enhance public views to Buena Vista Lagoon. The project' hotel blocks western-facing views to the lagoon			
<u>Mitigation:</u> No mitigation shall be implemented. Excluding the hotel from the project would make the project infeasible.			
<u>Biological Resources</u>			
<u>Direct Impacts:</u> The property is within the Offsite Mitigation Zone II of the City's Draft Subarea Plan. Construction of the project would impact 1.22 acres of non-native grassland.			
<u>Mitigation:</u> Mitigation for the loss of the non-native grassland would require acquisition of 1.22 acres of credits in an approved mitigation or Conservation Bank, Pre-Approved Mitigation Area, or in the Wildlife Corridor Planning Zone.		CM	Prior to issuance of grading permit
In order to avoid and/or minimize potential indirect impacts to Buena Vista Lagoon, the following mitigation measures have been incorporated:		CM	During Construction
<ul style="list-style-type: none"> Restoration of the 100-foot buffer. This would remove a number of exotic plants from the buffer, and discourage the current trespassing by transients into the lagoon area. 		“	“

<ul style="list-style-type: none"> • No activities will take place inside the buffer. Silt fencing and gravel bags will be used throughout the footprint of the development envelope. • With the completed project, storm water runoff will be directed into a series of gravel filter ditches with pervious bottoms. The gravel ditches run to a grass-filter bio-swale that runs along the entire southern border of the development envelope. A storm water filter unit will be installed at the junction of the grass filter bio-swale and the largest gravel filter ditch. • Long term management of the buffer will be provided in one of two scenarios: <ol style="list-style-type: none"> 1. The buffer will be offered to the California Department of Fish and Game for long-term management. The applicant will provide an endowment (total amount to be determined in consultation with the CDFG) for management in perpetuity; or 2. The buffer will be managed by a third party per a Management and monitoring Plan (MMP). The MMP shall include a funding commitment adequate to cover the cost of its implementation, outline actions that would be taken to manage biological resources, identify who would be responsible for implementing the MMP, and the City department responsible for its implementation. The MMP shall be implemented prior to (or concurrent with) the initiation of construction. 	<p>“</p> <p>“</p> <p>CM</p>	<p>“</p> <p>“</p> <p>Planning Department</p>	<p>“</p> <p>“</p> <p>During Construction</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------	----------------------------------------------	----------------------------------------------

<ul style="list-style-type: none"> • If possible, project construction should avoid the avian breeding season. If infeasible, measures should be taken to avoid disturbing avian breeding season from indirect effects (e.g., noise, line-of-sight disturbances, night-lighting). • A four-foot high wall will be constructed along the southern boundary of the parking area by the restaurant that will block headlights from the buffer and lagoon. • Short-term impacts to the buffer would be avoided by installation of temporary fencing during project construction. View fencing is proposed on top of the block wall along the parking area, and then along the remainder of the development boundary adjacent to the buffer. A combination block wall and metal cat-proof fencing is proposed between the developed area and the buffer to discourage intrusion by humans and pets. • The project's landscaping plan is proposing to incorporate non-invasive drought-tolerant plants to compliment the lagoon's native habitat. • Garbage bins will be stored in completely enclosed areas and the leachate from the bins would be directed to the sanitary sewer. Surface runoff from the rest of the project site would not be allowed to commingle with the leachate. The restaurant would be required to maintain and keep the refuse disposal area clean, as well as implement any necessary vermin control programs. Bird feeding would not be permitted in the outdoor dining area. • The project will be constructed in compliance with the City's Noise Ordinance. 	CM	Engineering Division	During Construction
<ul style="list-style-type: none"> • [Continuation of list from previous row] 	"	"	"
<ul style="list-style-type: none"> • [Continuation of list from previous row] 	CM	Engineering Division	During Construction
<ul style="list-style-type: none"> • [Continuation of list from previous row] 	CM	Engineering Division	During Design
<ul style="list-style-type: none"> • [Continuation of list from previous row] 	OM		
<ul style="list-style-type: none"> • [Continuation of list from previous row] 	CM	Engineering Division	During Construction

<ul style="list-style-type: none"> The project will be required to install a traffic signal at the project access and South Coast Highway, which will have the effect of slowing traffic as it approaches the intersection. 	CM	Engineering Division	During construction as determined with City Engineer
<p><u>Cultural Resources</u></p> <p><i>Direct Impacts:</i> No historic or archaeological resources have been identified within the Boardwalk project area. Therefore, no impacts to cultural resources are anticipated.</p> <p><i>Mitigation:</i> The ground was obscured in some areas by vegetation. Therefore, it is recommended that an archaeologist and a Native American Monitor from the San Luis Rey Band field check the property during brush removal to observe areas where ground visibility was poor during the survey. If archaeological resources are identified, these must be documented and assessed as to site significance and the significance of impacts. If significant impacts are identified, appropriate mitigation measures shall be developed and implemented. Additionally, a paleontological monitor shall be on-</p>	CM	Planning Department	During brush removal During grading

<p>site during grading to monitor for fossil resources where any grading occurs within underlying Marine Terrace deposits.</p>		
<p><u>Geological Resources</u></p>		
<p><i>Direct Impacts:</i> The loose fill and topsoils Will not provide a stable soil base for the proposed structures of the Boardwalk Development Project.</p>		
<p><i>Mitigation:</i> To reduce the impacts to below a level of significance, the geotechnical report recommends that the surface soils and shallow alluvial soils (to a total depth of 3 feet below grade) be removed and recompacted as part of site preparation. When properly processed and recompacted, the on-site soils should provide adequate bearing capacity for the project currently designed. In addition, due to the potential for liquefaction and settlement, it is recommended that the restaurant building and southern portion of the hotel building be supported on drilled caissons or driven piles.</p>	<p>CM</p>	<p>Engineering Division During Construction</p>
<p>A. Preparation of Soils for Site Development</p>	<p>CM</p>	<p>Engineering Division During construction</p>
<ul style="list-style-type: none"> Existing debris and vegetation on-site must be removed prior to the preparation of areas to receive structural improvements or properly compacted fill. 	<p>CM</p>	<p>Engineering Division During construction</p>
<ul style="list-style-type: none"> To provide a more uniform, firm soil base for the proposed structures and major improvements and to partially mitigate the effects of possible liquefaction, the existing loose fill, topsoil, and underlying alluvium beneath the proposed 	<p>CM</p>	<p>Engineering Division During construction</p>

<p>building sites and extending for a distance of at least 8 feet beyond the perimeter (where possible), shall be excavated to a depth of at least 3 feet from the existing surface. This depth shall be no less than 2.5 feet in parking areas. The bottom of the excavation shall be scarified, moisture conditioned, and properly recompacted to at least 90% of maximum dry density. The excavated loose fill, topsoil, and alluvium shall be cleaned of any debris and deleterious materials, watered to approximately optimum moisture content, and compacted to at least 90% of maximum dry density, in accordance with ASTM D1557-98 standards. Those areas supporting improvements such as sidewalks, driveways, and pavement should be similarly prepared. Any parking areas shall have a layer of at least 2.5 feet thick of properly compacted fills under the base and asphalt layers.</p> <ul style="list-style-type: none"> • Any buried object , utility lines, or irrigation lines, etc., which might be discovered, shall be removed and the excavation properly backfilled with approved on-site or imported fill soils and compacted to at least 90% maximum dry density. • Any backfill soils placed in utility trenches or behind retaining walls that support structures and other improvements (such as patios, sidewalks, driveways, pavements, etc.) shall be compacted to at least 90% of maximum dry density of low expansive soils. 		
<p>B. Design Parameters for proposed Foundations</p> <ul style="list-style-type: none"> • For buildings other than the restaurant and main hotel 	<p>Engineering Division</p>	<p>During construction</p>
	<p>Engineering Division</p>	<p>During construction</p>
	<p>Engineering Division</p>	<p>During design</p>

building, new 12-inch wide footings will be placed at least 18 inches into properly compacted soils. These footings will have a preliminary allowable soil bearing capacity equal to 1500 pounds per square foot (psf). Due to limited of the proposed compacted fill mat and the nature of the underlying natural soils, no additional bearing capacity will be allowed for deepened footings or increase in width.

- The passive earth pressure of the properly recompacted fill soils (to be used for design of shallow foundations and footings to resist the lateral forces) shall be based on an Equivalent Fluid Weight of 275 pounds per cubic foot. This passive earth pressure shall only be considered valid for design if the ground adjacent to the foundation structure is essentially level for a distance of at least three times the total depth of the foundation and is properly compacted or dense native soil.
- An allowable Coefficient of Friction of 0.35 times the dead load may be used between the bearing soils and concrete foundations, walls, or floor slabs.
- The geotechnical report details site-specific seismic design criteria per the Uniform Building Code used to calculate the base shear needed for the design of the residential structures. Due to the presence of potentially liquefiable soils, it was determined that the site could experience a total settlement on the order of 7 inches (from a 0.25g seismic event); although it is estimated that differential settlement due to soil liquefaction, driven piles may be extended into more dense natural soils of low liquefaction potential. Lightly loaded,

CM

Engineering Division

During construction

<p>low-occupancy structures such as the condominiums may be placed on a recompact fill mat at a minimum of 5 feet in thickness.</p> <ul style="list-style-type: none"> All footings and slabs should contain at least a nominal amount of reinforcing steel to reduce the separation of cracks, should they occur. A minimum of steel for continuous footing should include at least four No. 5 steel bars, with two bars near the bottom of the footing and two bars near the top. If isolated square footings are to be used, they should contain, at a minimum, a grid of No.4 steel bars on 12-inch centers, both ways, with no less than three bars each way. Interior floor slabs on-grade on properly compacted soil should be a minimum of 6 inches actual thickness and be reinforced with at least No. 4 steel bars on 15-inch centers, in both directions, placed mid-height in the slab. Slabs should be underlain by a t3-inch thick layer of clean sand (S.E. = 30 or greater) overlying a vapor retardant and pouring of concrete, and the moisture content of sub-grade soil for slabs and footings shall be checked within 48 hours prior to placement. Building slabs may be thicker and more heavily reinforced if designed as mat slabs. While some cracking of slabs may still be expected, the geotechnical report contains detailed recommendations for construction and reinforcement. <p>C. Design Parameters for Caissons</p> <ul style="list-style-type: none"> Where caissons are used, they shall be designed by the project Civil/Structural Engineer to support all vertical and lateral 	<p>“</p>	<p>“</p>	<p>“</p>
	<p>CM</p>	<p>Engineering Division</p>	<p>During design</p>

<p>loads of the proposed structures.</p> <ul style="list-style-type: none"> • For vertical loading, all end-bearing caissons should be embedded into the firm soils to a depth of 25 feet (to be approved upon observation by the project geologist). The contractor shall excavate and construct the caissons as detailed in the geotechnical report to facilitate observations by the project geologist throughout the process. • Caissons shall be spaced and constructed as detailed in the geotechnical report in accordance with the current UBV requirements accepted by the City of Oceanside, and also in accordance with the ACI 336, 3R-93 Design and Construction of Drilled Piers, of the American Concrete Institute. 	<p>“</p> <p>“</p>	<p>“</p> <p>“</p>	<p>During construction</p>
<p>D. Floor Slab Vapor Transmission.</p> <ul style="list-style-type: none"> • Vapor moisture can cause problems to moisture sensitive floors, some floor sealers, or sensitive equipment in direct contact with the floor, in addition to mildew and staining on slabs, walls, and carpets. • The project shall incorporate vapor retarders made of PVC, polyethylene (visqueen), or Vaporshield. These materials are not waterproof; if full waterproofing is necessary for basement-level areas such as the parking garage, other supplemental waterproofing systems may be necessary. 	<p>CM</p>	<p>Engineering Division</p>	<p>During construction</p>
<p>E. Retaining Walls</p>			

<ul style="list-style-type: none"> Any proposed retaining walls should only be founded in properly compacted fills or dense native soils and shall be designed using the criteria detailed in the geotechnical report. 	CM	Engineering Division	During construction
<p>F. Slopes</p> <ul style="list-style-type: none"> It is anticipated that temporary slopes into the existing fill and formational material of approximately 10-15 feet in height may be required for the construction of retaining walls and the lower-level parking garage. The existing dense formational materials may be cut vertical in the lower 5 feet and at a ratio of 0.5;1 (horizontal to vertical) in the upper 10 feet of the temporary cut (for an unsupported period not to exceed eight weeks), assuming no surcharge loads are placed or exist within 12 feet of the vertical cuts. Existing fill soils along the residential subdivision to the north may be cut at a gradient of 0.5;1 for a maximum height of 10 feet, but these areas shall be evaluated prior to any excavation of the temporary cuts. 	“	“	During design & construction
<ul style="list-style-type: none"> Any plans for temporary cuts must be evaluated by the project geologist prior to grading, and the project geologist shall also observe any steep slopes during construction. All trenches, excavations and temporary slopes shall be constructed in accordance with Title 8, Construction Safety Orders, issued by OSHA; or in accordance with any additional measures specified in the geotechnical report. 	CM	Engineering Division	“
<p>G. Site Drainage Conditions</p>	CM	Engineering Division	During construction

<ul style="list-style-type: none"> • Adequate measures shall be taken to properly finish-grade the building site after the structural and other improvements are in place. Drainage from the site and adjacent properties shall be directed away from the foundations, onto the natural drainage direction or into properly designed and approved drainage facilities. Additional measures shall also be implemented to prevent surface runoff from entering footing excavations or ponding on finished building pad areas. 		
<p>H. Additional Recommendations and Grading Notes</p> <p>The geotechnical report also lists some general recommendations related to slab drying times, underground utilities, paving, and footing excavations. All required grading operations shall be performed in accordance with the General Earthwork Specifications and the requirements of the City of Oceanside's Grading Ordinance.</p> <p>In June 2002, GEI prepared a letter with supplemental recommendations after review of the Preliminary Grading Plan, Erosion Control Plan, and Tentative Map. The additional recommendations are as follows:</p>		
<ul style="list-style-type: none"> • As the building pads on Parcel 3 will include recompacted on-site soils and fill soils to reach planned grades, in areas where loose or soft soils are encountered 3 feet below the existing surface (prior to recompaction), biaxial geogrid (Enkagrid Max 30 or Fortrac 35/35 MP) shall be placed at the bottom of the excavation. The geogrid shall be placed so that the 		

<p>building pad fill soils rest on a layer of compacted fill, and so that the geogrid can provide more resistance to potential liquefaction.</p> <ul style="list-style-type: none"> • Compacted fill shall be placed and compacted as recommended in the geotechnical report. The first soil layer shall be placed and compacted by lightweight track-mounted equipment, with larger equipment to be used at an elevation of 3 feet over the geogrid layers. • The retaining walls for Parcel 3 should be shored if the recommended temporary slopes are not developed, or they should be built in slot segments no longer than 10 feet in length. Either method shall comply with the details outlined in the geotechnical study, and the project geologist shall observe any temporary cuts made for slot or conventional fully developed temporary cuts. 	“	“	“
<p><u>Noise</u></p>			
<p><i>Direct Impacts:</i> Noise generated by nearby AT/SF railroad tracks and South Coast Highway will impact the condominiums, restaurant, and hotel.</p>			
<p><i>Mitigation:</i> The following mitigation will be required for the proposed residential condominiums:</p> <ul style="list-style-type: none"> • For buildings 2, 3, and 4, the necessary mitigation consists of supplemental ventilation, such as air-conditioning or a fresh 	CM	Engineering Division	During design and construction

<p>air intake furnace fan to reduce railroad noise. For building 4, the supplemental ventilation is also acceptable when paired with dual panes in all of the windows.</p> <ul style="list-style-type: none"> The outside mitigation for the residential portion of the project is restricted to Building 4. The exterior noise level on the roof deck exceeds the required level by 5dB. To reduce the noise to an acceptable level, a barrier needs to be constructed in the roof deck of Building 4. The barrier shall have a height of five feet and would consist of panels of either 1/2-inch thick plexiglass or 1/4-inch tempered glass. No additional exterior mitigation is necessary for the residential portion of the proposed project. The three sides of Building 4 that face the railroad tracks will require upgraded structural noise protection consisting of double-paned windows that would provide sufficient noise reduction to reach the 45 dBA level necessary for compliance with the City's Noise Element. <p>The following mitigation will be required for the proposed hotel:</p> <ul style="list-style-type: none"> In rooms facing South Coast Highway, a noise reduction of 27 dBA is necessary to meet the 45 dBA standard. Sliding glass doors with a sound transmission class rating of 30 or higher would be sufficient for noise reduction. Balconies shall be fitted with a combination solid base and glass upper panel that would stand 6 feet tall, achieving a noise reduction of 7 dBA. 	<p>“</p> <p>CM</p> <p>“</p> <p>“</p>	<p>“</p> <p>Engineering Division</p> <p>“</p> <p>“</p>	<p>“</p> <p>During design and construction</p> <p>“</p> <p>During design</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------	--------------------------------------------------------	------------------------------------------------------------------------------

<p>The following mitigation will be required for the proposed restaurant:</p> <ul style="list-style-type: none"> Barriers will be required to mitigate traffic noise from South Coast Highway for the tables closest to the street. A 6-foot barrier of transparent glass or plastic will produce sufficient reduction in traffic noise. A 5-foot high barrier is also necessary for the tables on the side of the patio that faces the driveway to the development. <p>Slight modifications to the construction process and equipment shall reduce the amount of noise generated by pile driving and maintain a noise level that is acceptable:</p> <ul style="list-style-type: none"> Drilled Caissons shall be used instead of driven piles. A shroud and drop hammer shall be used to muffle sound. Pile driving shall be restricted to 2.4 hours per day in order to keep the 24-hour average within the City of Oceanside's standards. 	<p>“</p> <p>CM</p>	<p>“</p> <p>Engineering Division</p>	<p>During design and construction</p> <p>During construction</p>
<p><u>Traffic</u></p> <p><i>Direct Impacts:</i></p> <p>The Boardwalk project is projected to generate 820 trips on a daily basis. The am peak hour is projected at 49 trips, and the pm peak hour is projected at 66 trips. This will create an increase in traffic flow on South Coast Highway and surrounding areas.</p> <p><i>Mitigation:</i></p>			

<p>In order to maintain order in traffic flow in the surrounding area, the following mitigation shall be implemented by the proposed project:</p> <ul style="list-style-type: none"> • The project will provide channelization on South Coast Highway in front of the project and through the Eaton Street intersection to the satisfaction of the City Engineer. • The project will install a traffic signal on South Coast Highway at the project access to allow signalized access to the project and to the existing development on the eastern side of South Coast Highway. • The project will install a stop sign at the project's alley access to Eaton Street. • The project will install a stop sign at the project's condominiums' access to Broadway. 	<p>CM</p>	<p>Engineering Division</p>	<p>During construction as determined with City Engineer</p>
	<p>“</p>	<p>“</p>	<p>“</p>
	<p>“</p>	<p>“</p>	<p>During construction During Construction</p>
	<p>CM</p>	<p>Engineering Division</p>	

TYPE:

- CM = Construction Mitigation
- OM = Operations Management

1
2
3
4
5
6
7
8
9
10
11

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE GRANTING THE APPEAL OF PLANNING COMMISSION RESOLUTION NO. 2006-P56 AND APPROVING TENTATIVE MAP (T-8-02), DEVELOPMENT PLANS (D-13-02, D-14-02), CONDITIONAL USE PERMITS (C-21-02, C-22-02) AND REGULAR COASTAL PERMIT (RC-8-02) FOR A MULTI-USE PROJECT ON 3.8 ACRES LOCATED ON THE WEST SIDE OF SOUTH COAST HIGHWAY, BETWEEN EATON STREET AND THE BUENA VISTA LAGOON

**(Oceanside Three - Applicant)
(Oceanside Three - Appellant)**

12 WHEREAS, an application was filed for a Tentative Map (T-8-02), Development
13 Plans (D-13-02, D-14-02), Conditional Use Permits (C-21-02, C-22-02) and Regular
14 Coastal Permit (RC8-02) for a multi-use project on a 3.8 acres located on the west side of
15 South Coast Highway, between Eaton Street and the Buena Vista Lagoon, which such real
16 property is more particularly described in EXHIBIT "A", attached hereto and incorporated
17 herein by reference;

18 WHEREAS, on October 9, 2006 the Planning Commission of the City of Oceanside,
19 after holding a duly advertised public hearing, denied without prejudice said Tentative
20 Map, Development Plans, Conditional Use Permits and Regular Coastal Permit;

21 WHEREAS, on October 23, 2006, the Planning Commission adopted Resolution
22 No. 2006-P56 denying without prejudice said Tentative Map, Development Plans,
23 Conditional Use Permits and Regular Coastal Permit;

24 WHEREAS, on October 31, 2006, an appeal was timely filed by Oceanside Three
25 of the Planning Commission decision with the City Clerk of the City of Oceanside;

26 WHEREAS, the City Planner has reviewed the proposed project for compliance
27 with the California Environmental Quality Act (CEQA) and has conducted a Final
28 Environmental Impact Report and Mitigation and Monitoring and Reporting Programs, in

1 accordance with the California Environmental Quality Act (CEQA). Based upon the
2 results of the Final Environmental Impact Report and Mitigation and Monitoring and
3 Reporting Programs, the City Planner has determined that the project could result in
4 significant effects on the environment. However, revisions to the project made by or
5 agreed to by the applicant would avoid the effects or mitigate the effects to a point where
6 clearly no significant effects would occur; therefore, the City Planner has prepared a Final
7 Environmental Impact Report and Mitigation and Monitoring and Reporting Programs;

8 WHEREAS, the City Council does hereby find that the Final Environmental
9 Impact Report and Mitigation and Monitoring and Reporting Programs has been prepared
10 in accordance with requirements of the California Environmental Quality Act (CEQA),
11 the State CEQA Guidelines, and the Environmental Review Procedures of the City of
12 Oceanside, and hereby adopts the Final Environmental Impact Report and Mitigation and
13 Monitoring and Reporting Programs;

14 WHEREAS, on February 14, 2007, the City Council of the City of Oceanside held a
15 duly noticed public hearing and heard and considered evidence and testimony by all
16 interested parties concerning the appeal of the denial of the above identified, Tentative
17 Map, Development Plans, Conditional Use Permits, and Regular Coastal Permit; and

18 WHEREAS, based on such evidence and testimony this Council approved the appeal
19 and reversed the decision of the Planning Commission;

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

22 1. The City Council has reviewed the information contained in the Final
23 Environmental Impact Report and Mitigation and Monitoring and Reporting Programs
24 and in the exercise of their independent review and judgment, finds that the
25 Environmental Impact Report in the form presented has been prepared in accordance with
26 requirements of the California Environmental Quality Act (CEQA) and the
27 Environmental Review Procedures of the City of Oceanside and hereby adopts the same.
28

1 2. The appeal of Planning Commission Actions of October 9, 2006: Denial of
2 Tentative Map (T-8-02), Development Plans (D-13-02, D-14-02), Conditional Use
3 Permits (C-21-02, C 22-02) and Regular Coastal Permit (RC-8-02) is granted.

4 3. The decision of the Planning Commission is reversed, including the finding
5 of inconsistency with the City's General Plan and Zoning Ordinance. The project is
6 consistent with the Land Use Element of the General Plan and the City's Zoning
7 Ordinance implementing the General Plan because it meets all height land use, density
8 and buffer requirements. No variances are regulated for project approval. The project
9 conforms with the zoning, intensity of land use, development and standards applicable to
10 property within the CV and RT Zones and the City's Local Coastal Program by providing
11 a 100' buffer from Buena Vista Lagoon and 36' height limit.

12 4. Pursuant to CCP Section 1094.6 (f), notice is hereby given that the time
13 within which judicial review must be sought on this decision is governed by CCP Section
14 1094.6 as set forth in Oceanside City Code Section 1.10.

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

<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
Drainage Fee	Ordinance No. 85-23 Resolution No. 06-R0334-1	\$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
Traffic Signal Fee ///	Ordinance No. 87-19	\$15.71 per vehicle trip

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
Thoroughfare Fee (For commercial and industrial please note the .75 per cent discount)	Ordinance No. 83-01	\$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	Based on meter size Typical \$3,746
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 Typical \$4,587
San Diego County Water Authority Capacity Fees	SDCWA Ordinance No. 2005-03	Based on meter size. Residential is typically \$4,154 per unit

6. 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;

7. 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;

8. 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;

1 9. Pursuant to Gov't Code §66020(d)(1), NOTICE IS FURTHER GIVEN that
2 the 90-day period to protest the imposition of any fee, dedication, reservation, or other
3 exaction described in this resolution begins on the effective date of this resolution and any
4 such protest must be in a manner that complies with Section 66020;

5 10. Pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
6 effective 10 days from its adoption;

7 11. Studies and investigations made by this Commission and in its behalf reveal
8 the following facts:

9 FINDINGS:

10 For the Tentative Map:

- 11 a. The proposed subdivision creates parcels that are consistent and exceed the
12 requirements of the CV and RT zoning designations. The subdivision map is
13 consistent with the General Plan of the City and concurrent commercial and
14 residential designations for the subject property. The map also allows for sale of
15 condominium hotel units with length of stay restrictions. The map also allows the
16 100' buffer to be placed on a separate parcel.
- 17 b. The proposed building pads on the site will conform to the topography of the site,
18 therefore, making it suitable for commercial and residential development. The 3.8-
19 acre site is physically suitable to allow for the development of 82 hotel units, a
20 restaurant, and four condominium units.
- 21 c. The subdivision complies with all other applicable ordinances, regulations and
22 guidelines of the City. No variances are requested to deviate from zoning or any
23 other regulations.
- 24 d. The design of the subdivision or proposed improvements will not conflict with
25 easements, acquired by the public at large, for access through the property within
26 the subdivision. A public access easement will be granted for a pathway along the
27 perimeter of the lagoon buffer area.
- 28

1 e. That the design of the subdivision or the proposed improvements will not cause
2 substantial environment damage or substantially and avoidably injure fish or
3 wildlife or their habitat. A 100-foot buffer will be preserved between the
4 development and Buena Vista Lagoon. The buffer area will be planted with
5 native vegetation.

6 For the Commercial Development Plan:

7 a. The site plan and physical design of the project are consistent with the Zoning
8 Ordinance and the underlying Commercial Special (CS) zoning designation.
9 Hotels are allowed with approval of a conditional use permit (findings included
10 below) and restaurants are allowed by right.

11 b. The Development Plan conforms to the General Plan of the City by implementing
12 visitor serving uses on South Coast Highway, a major gateway to the City of
13 Oceanside.

14 c. The project site can be adequately served by existing public facilities, services and
15 utilities. All public utilities are in Coast Highway and Eaton Street. A new traffic
16 signal will be constructed at the project entrance on Coast Highway.

17 d. The project, as proposed, is compatible with the development on adjoining
18 properties or in the surrounding neighborhood. The hotel and restaurant will front
19 on Coast Highway and will be compatible with other commercial and residential
20 uses on Coast Highway to the north of the project site.

21 e. The site plan and parameters for the architecture and physical design of the project
22 are consistent with the policies contained within Sections 1.24 and 1.25 of the
23 Land Use Element of the General Plan. The plan is consistent with the General
24 Plan and Zoning and will not require approval of any variances from these
25 regulations.

26 For the Residential Development Plan:

27 a. The site plan and physical design of the project is consistent with the Zoning
28 Ordinance and the underlying Residential Tourist (RT) zoning designation. The

1 four residential condominiums will be detached. They will comply with all height,
2 setback, and other zoning requirement of the RT zone and no variances from these
3 standards have been requested.

4 b. The Development Plan conforms to the General Plan of the City by implementing
5 residential uses accessed from Broadway, a residential street that terminates at the
6 project site.

7 c. The project site can be adequately served by existing public facilities, services and
8 utilities. All public utilities are in Broadway and Eaton Street and they will
9 adequately serve the project site.

10 d. The project, as proposed, is compatible with the development on adjoining
11 properties or in the surrounding neighborhood. The four detached residential
12 condominiums will be accessed exclusively from Broadway and will be
13 compatible with other single family and multi-family homes on Broadway and
14 Tremont Street.

15 e. The site plan and parameters for the architecture and physical design of the project
16 are consistent with the policies contained within Sections 1.24 and 1.25 of the
17 Land Use Element of the General Plan. The residential units and site plan are
18 consistent with the General Plan and Zoning and will not require approval of any
19 variances from these regulations.

20 For the Hotel Conditional Use Permit:

21 a. The location of the 82-room hotel, within the CV industrial zone is in accord with
22 the objectives of the Zoning Ordinance and the purposes of the district in which
23 the site is located and no variances are requested.

24 b. The proposed use will not be detrimental to properties or improvements in the
25 vicinity or to the general welfare of the City as the residential portion of the
26 project is located away from Coast Highway and commercial uses are on Coast
27 Highway. The hotel is compatible with other commercial, office and residential
28

1 uses in the vicinity and will provide needed visitor-serving commercial uses at
2 this highly traveled gateway to the City.

- 3 c. The 82-room hotel is conditioned and is required to comply with all provisions of
4 the Zoning Ordinance. The proposed use is subject to specific conditions and
5 mitigation measures that will cause the use to operate in compatibility with the
6 surrounding land uses.

7 For the Shared Parking Reduction Conditional Use Permit:

- 8 a. The 139 parking spaces proposed for the commercial portion of the project that
9 includes an 82-room hotel and restaurant will be adequate for these uses. A
10 shared parking analysis is provided in the project traffic impact study (Darnell &
11 Associates, Inc., August 2006) which shows that given peak usage for the
12 restaurant and hotel, there will be adequate parking for the commercial portion of
13 the project. The residential portion of the project is not part of the shared parking
14 request.
- 15 b. The proposed shared parking conditional use permit will not be detrimental to
16 properties or improvements in the vicinity or to the general welfare of the City.
17 The traffic/parking study shows that the site will have adequate onsite parking and
18 no parking will spill over onto adjacent streets.

19 For the Regular Coastal Permit:

- 20 a. The proposed project is consistent with the objectives and policies of the Local
21 Coastal Program. Specifically, the project will provide a hotel and restaurant,
22 both visitor serving commercial uses that will facilitate and enhance the public's
23 access and ability to enjoy coastal resources.
- 24 b. The proposed project, within the appeal area as identified in the Local Coastal
25 Plan, conforms to the public access and land use policies of Chapter 3 of the
26 Coastal Act. The project is designed to improve and enhance accessibility to
27 coastal and coastal wetland areas in Oceanside. The project will create new
28 visitor serving accommodations and residences and protect sensitive coastal

1 resources (Buena Vista Lagoon wetlands) through provision of a 100-foot buffer
2 with native vegetation. The project will not obstruct any existing, planned or
3 required public access to the lagoon through provision of a public pathway
4 adjacent to the buffer zone; therefore, the project is in conformance with the
5 policies of Chapter 3 of the Coastal Act.

6 12. The City Council does hereby approve Tentative Map (T-8-02), Development
7 Plans (D-13-02, D-14-02), Conditional Use Permits (C-21-02, C-22-02) and Regular
8 Coastal Permit (RC-8-02) subject to the following conditions:

9 **Building:**

- 10 1. Applicable Building Codes and Ordinances shall be based on the date of submittal
11 for Community Development Department/Building Division plan check.
- 12 2. The granting of approval under this action shall in no way relieve the
13 applicant/project from compliance with all State and local building codes.
- 14 3. Site development, parking, access into buildings and building interiors shall comply
15 with all State and Federal Disabled Accessibility Regulations and statutes.
- 16 4. All electrical, communication, CATV, etc. service lines, within the exterior lines of
17 the property shall be underground (City Code Sec. 6.30).
- 18 5. The building plans for this project are required by State law to be prepared by a
19 licensed architect or engineer and must be in compliance with this requirement
20 prior to submittal for building plan review.
- 21 6. All outdoor lighting shall meet Chapter 39 of the City Code (Light Pollution
22 Ordinance) and shall be shielded appropriately. Where color rendition is important
23 high-pressure sodium, metal halide or other such lights may be utilized and shall be
24 shown on final building and electrical plans.
- 25 7. Compliance with the Federal Clean Water Act (BMP's) must be demonstrated on the
26 plans.
- 27 8. A complete soils report, structural calculations and energy
28 calculations/documentation shall be submitted to the Community Development

1 Department/Building Division for review and approval concurrently with the first
2 plan check submittal.

3 9. An allowable area analysis and exit analysis shall be submitted to the Community
4 Development Department/Building Division for review and approval concurrently
5 with the first building plan check submittal.

6 10. The developer shall submit to the Community Development Department/Building
7 Division building permit plans designed in accordance with the adopted 2002
8 National Code.

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

12 a) Building construction work hours shall be limited to between 7:00 a.m. and
13 6:00 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00
14 p.m. for work that is not inherently noise-producing. Examples of work not
15 permitted on Saturday are concrete and grout pours, roof nailing and activities
16 of similar noise-producing nature. No work shall be permitted on Sundays
17 and Federal Holidays (New Year's Day, Memorial Day, July 4th, Labor Day,
18 Thanksgiving Day, and Christmas Day) except as allowed for emergency
19 work under the provisions of the Oceanside City Code Chapter 38 (Noise
20 Ordinance).

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

26 12. Separate/unique addresses will/may be required to facilitate utility releases.
27 Verification that the addresses have been properly assigned by the City's Planning
28 Division must accompany the Building Permit application.

- 1 13. A complete Soils Report, Structural Calculations, & Energy
2 Calculations/documentation will be required at time of plans submittal to the
3 Building Division for plan check.
- 4 14. A private sewer system design must be submitted to the Building Division and
5 approved prior to the construction of the sewer system. If a gravity flow system is
6 not used, an engineered mechanical system must be submitted and approved by all
7 City of Oceanside Departments.
- 8 15. Fire sprinklers are required for apartment, condominium and hotel buildings that
9 are three (3) or more stories in height. [UBC 904.2.9]
- 10 16. Retaining walls that will be installed, as a part of this design must be designed per
11 the Soils report for the whole project.
- 12 17. Tenant Improvements or other construction to the existing building requires
13 permits (including all required Inspections and approvals, and Issuance of
14 Certificate of Occupancy) from the Building Division.

15 **Engineering:**

- 16 18. Vehicular access rights to South Coast Highway shall be relinquished to the City
17 from all abutting lots except for at the approved access location shown on the
18 approved tentative map.
- 19 19. All right-of-way alignments, street dedications, exact geometrics and widths shall
20 be dedicated and improved as required by the Public Works Director.
- 21 20. Prior to or concurrent with recordation of the final map, the developer shall
22 acquire from the City of Oceanside the fifteen (15) feet portion of Broadway
23 shown off-site on the westerly side of the project property.
- 24 21. Design and construction of all improvements shall be in accordance with standard
25 plans, specifications of the City of Oceanside and subject to approval by the Public
26 Works Director.
- 27 22. Prior to issuance of a building permit all improvement requirements shall be
28 covered by a development agreement and secured with sufficient improvement

1 securities or bonds guaranteeing performance and payment for labor and materials,
2 setting of monuments, and warranty against defective materials and workmanship.

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

10 24. Prior to approval of the final map or any increment, all improvement requirements,
11 within such increment or outside of it if required by the Public Works Director,
12 shall be covered by a subdivision improvement agreement and secured with
13 sufficient improvement securities or bonds guaranteeing performance and payment
14 for labor and materials, setting of monuments, and warranty against defective
15 materials and workmanship.

16 25. Prior to approval of the final map a phasing plan for the construction of public and
17 private improvements including landscaping, streets and arterials shall be approved
18 by the Public Works Director. All improvements shall be under construction to the
19 satisfaction of the Public Works Director prior to the issuance of any building
20 permits. All improvements shall be completed prior to issuance of any certificates
21 of occupancy.

22 26. Where proposed off-site improvements, including but not limited to slopes, public
23 utility facilities, and drainage facilities, are to be constructed, the applicant shall, at
24 his own expense, obtain all necessary easements or other interests in real property
25 and shall dedicate the same to the City of Oceanside as required. The applicant
26 shall provide documentary proof satisfactory to the City of Oceanside that such
27 easements or other interest in real property have been obtained prior to issuance of
28 any grading, building or improvement permit for the development/project.

1 Additionally, the City of Oceanside, may at its sole discretion, require that the
2 applicant obtain at his sole expense a title policy insuring the necessary title for the
3 easement or other interest in real property to have vested with the City of
4 Oceanside or the applicant, as applicable.

5 27. Pursuant to the State Map Act, improvements shall be required at the time of
6 development. A covenant, reviewed and approved by the City Attorney, shall be
7 recorded attesting to these improvement conditions and a certificate setting forth
8 the recordation shall be placed on the map.

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

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

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

20 b) All grading and related site preparation and construction activities shall be
21 limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. No
22 engineering related construction activities shall be conducted on Saturdays,
23 Sundays or legal holidays unless written permission is granted by the Public
24 Works Director with specific limitations to the working hours and types of
25 permitted operations. All on-site construction staging areas shall be as far as
26 possible (minimum 100 feet) from any existing residential development.
27 Because construction noise may still be intrusive in the evening or on
28 holidays, the City of Oceanside Noise Ordinance also prohibits "any

1 disturbing excessive, or offensive noise which causes discomfort or
2 annoyance to reasonable persons of normal sensitivity.”

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

5 d) A haul route shall be obtained at least 7 days prior the start of hauling
6 operations and must be approved by the Public Works Director. Hauling
7 operations shall be 8:00 a.m. to 3:30 p.m. unless approved otherwise.

8 30. A traffic control plan shall be prepared according to the City traffic control
9 guidelines and be submitted to and approved by the Public Works Director prior to
10 the start of work within open City rights-of-way. Traffic control during
11 construction of streets that have been opened to public traffic shall be in
12 accordance with construction signing, marking and other protection as required by
13 the Caltrans Traffic Manual and City Traffic Control Guidelines. Traffic control
14 plans shall be in effect from 8:00 a.m. to 3:30 p.m. unless approved otherwise.

15 31. Approval of this development project is conditioned upon payment of all
16 applicable impact fees and connection fees in the manner provided in chapter 32B
17 of the Oceanside City Code. All drainage fees, traffic signal fees and
18 contributions, highway thoroughfare fees, park fees, reimbursements, and other
19 applicable charges, fees and deposits shall be paid prior to recordation of the map
20 or the issuance of any building permits, in accordance with City Ordinances and
21 policies. The developer shall also be required to join into, contribute, or
22 participate in any improvement, lighting, or other special district affecting or
23 affected by this project. Approval of the tentative map (project) shall constitute
24 the developer's approval of such payments, and his agreement to pay for any other
25 similar assessments or charges in effect when any increment is submitted for final
26 map or building permit approval, and to join, contribute, and/or participate in such
27 districts.

- 1 32. South Coast Highway shall have 5-foot sidewalk (not including 6" top of curb)
2 contiguous with the curb constructed/extended as required along the project
3 frontage to the southerly property line of the project. Eaton Street shall be
4 improved with curb, gutter and 5-foot sidewalk along the project frontage.
5 Broadway shall be improved with curb and gutter for the entire length of the turn
6 around at the project frontage.
- 7 33. South Coast Highway, Eaton Street and Broadway shall provide a minimum of 10
8 feet parkway between the face of curb and the right of way line along the project
9 frontage. Sidewalk improvements shall comply with ADA requirements.
- 10 34. Sight distance requirements at the project driveway or street shall conform to the
11 corner sight distance criteria as provided by the California Department of
12 Transportation Highway Design Manual. Project driveway on South Coast
13 Highway shall include minimum 20-foot radius curb returns and the developer
14 shall show compliance with a final corner sight distance analysis prior to issuance
15 of any grading, building or improvement permit for the project.
- 16 35. Streetlights shall be maintained and installed on all public streets per City
17 Standards. The system shall provide uniform lighting, and be secured prior to
18 occupancy. The developer shall pay all applicable fees, energy charges, and/or
19 assessments associated with City-owned (LS-2 rate schedule) streetlights and shall
20 also agree to the formulation of, or the annexation to, any appropriate street
21 lighting district.
- 22 36. Prior to approval of the grading plans, the developer shall contract with a
23 geotechnical engineering firm to perform a field investigation of the existing
24 pavement on South Coast Highway, Eaton Street and Broadway adjacent to the
25 project boundary. The limits of the study shall be half-street plus twelve (12) feet
26 along the project's frontage for South Coast Highway and Eaton Street and the
27 entire turn around area at the project frontage for Broadway. The field
28 investigation shall include a minimum of one pavement boring per every fifty

1 linear feet of street frontage. Should the existing AC thickness be determined to
2 be less than three inches or without underlying Class II base material, the
3 developer shall remove and reconstruct the pavement section as determined by the
4 pavement analysis submittal process detailed in Item No. 2 below.

5 37. Upon review of the pavement investigation, the Public Works Director shall
6 determine whether the developer shall: 1) Repair all failed pavement sections,
7 header cut and grind per the direction of the Public Works Director, and construct
8 a two-inch thick rubberized AC overlay; or 2) Perform R-value testing and submit
9 a study that determines if the existing pavement meets current City
10 standards/traffic indices. Should the study conclude that the pavement does not
11 meet current requirements, rehabilitation/mitigation recommendations shall be
12 provided in a pavement analysis report, and the developer shall reconstruct the
13 pavement per these recommendations, subject to approval by the Public Works
14 Director.

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

19 39. Any existing broken pavement, concrete curb, gutter or sidewalk or any damaged
20 during construction of the project, shall be repaired or replaced as directed by the
21 Public Works Director.

22 40. The portion of the alley southerly of Eaton Street and Westerly of South Coast
23 Highway used by this project for Water and Sewer lines shall have alley
24 improvements constructed in accordance with the standard plans and specifications
25 of the City of Oceanside and as approved by the Public Works Director.

26 41. All existing overhead utility lines within the development and/or within any full
27 width street or right-of-way abutting a new development, and all new extension
28 services for the development of the project, including but not limited to, electrical,

1 cable and telephone, shall be placed underground per Section 901.G. of the
2 Subdivision Ordinance (R91-166) and as required by the Public Works Director
3 and current City policy.

4 42. The developer shall underground existing overhead utilities and relocate such
5 utilities (and any other utilities) to the South Coast Highway right of way along the
6 project frontage from the existing fifteen (15) feet easement westerly and adjacent
7 to South Coast Highway with the agreement of the utility owners. Subsequent to
8 the utility relocation, the developer may proceed with vacating such easement to be
9 completed prior to or concurrent with recordation of the final map.

10 43. The developer shall comply with all the provisions of the City's cable television
11 ordinances including those relating to notification as required by the Public Works
12 Director.

13 44. The developer shall install 2-inch PVC conduit, together with 1/4-inch pull- rope
14 and pull-boxes at 400 feet intervals for future signal interconnect cable on all
15 arterial-level or above, streets.

16 45. Grading and drainage facilities shall be designed and installed to adequately
17 accommodate the local storm water runoff and shall be in accordance with the
18 City's Engineers Manual and as directed by the Public Works Director.

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

25 47. Prior to any grading of any part of the tract or project, a comprehensive soils and
26 geologic investigation shall be conducted of the soils, slopes, and formations in the
27 project. All necessary measures shall be taken and implemented to assure slope
28 stability, erosion control, and soil integrity. No grading shall occur until a detailed

1 grading plan, to be prepared in accordance with the Grading Ordinance and Zoning
2 Ordinance, is approved by the Public Works Director.

3 48. This project shall provide year-round erosion control including measures for the
4 site required for the phasing of grading. Prior to the issuance of grading permit, an
5 erosion control plan, designed for all proposed stages of construction, shall be
6 reviewed, secured by the applicant with cash securities and approved by the Public
7 Works Director.

8 49. A precise grading and private improvement plan shall be prepared, reviewed,
9 secured and approved prior to the issuance of any building permits. The plan shall
10 reflect all pavement, flatwork, landscaped areas, special surfaces, curbs, gutters,
11 medians, striping, signage, footprints of all structures, walls, drainage devices and
12 utility services. Parking lot striping and any on site traffic calming devices shall be
13 shown on all Precise Grading and Private Improvement Plans.

14 50. Landscaping plans, including plans for the construction of walls, fences or other
15 structures at or near intersections, must conform to intersection sight distance
16 requirements. Landscape and irrigation plans for disturbed areas must be
17 submitted to the Public Works Director prior to the issuance of a preliminary
18 grading permit and approved by the Public Works Director prior to the issuance of
19 occupancy permits. Frontage and median landscaping shall be installed prior to
20 the issuance of any certificates of occupancy. Any project fences, sound or
21 privacy walls and monument entry walls/signs shall be shown on, bonded for and
22 built from the landscape plans. These features shall also be shown on the precise
23 grading plans for purposes of location only. Plantable, segmental walls shall be
24 designed, reviewed and constructed by the grading plans and landscaped/irrigated
25 through project landscape plans. All plans must be approved by the Public Works
26 Director and a pre-construction meeting held, prior to the start of any
27 improvements.

- 1 51. Open space areas and down-sloped areas visible from a collector-level or above
2 roadway and not readily maintained by the property owner, shall be maintained by
3 a homeowners' association that will insure installation and maintenance of
4 landscaping in perpetuity. These areas shall be indicated on the final map and
5 reserved for an association.
- 6 52. Future buyers shall be made aware of any estimated monthly costs. The
7 disclosure, together with the CC&R's, shall be submitted to the Public Works
8 Director for review prior to the recordation of final map.
- 9 53. The drainage design on the project is conceptual only. The final design shall be
10 based upon a hydrologic/hydraulic study to be approved by the Public Works
11 Director during final engineering. All drainage picked up in an underground
12 system shall remain underground until it is discharged into an approved channel, or
13 as otherwise approved by the Public Works Director. All public storm drains shall
14 be shown on City standard plan and profile sheets. All storm drain easements shall
15 be dedicated where required. The applicant shall be responsible for obtaining any
16 off-site easements for storm drainage facilities.
- 17 54. A storm drain easement acceptable to the City of Oceanside shall be dedicated
18 across the project for the continuation of an existing 12" RCP storm drain from the
19 project property line near Tremont Street cul-de-sac to the new outflow location on
20 the southerly side of this project parcel 1. Maintenance of such 12" RCP storm
21 drain shall be the responsibility of the project homeowners' association.
- 22 55. This project is located immediately adjacent to a FEMA mapped flood plain and
23 the developer shall comply with applicable FEMA regulations. The developer
24 shall record a covenant against the project property indemnifying and holding the
25 City of Oceanside harmless from any claims regarding drainage and flooding prior
26 to issuance of any grading, building or improvement permit.
- 27
28

- 1 56. Storm drain facilities shall be designed and located such that the inside travel lanes
2 on streets with Collector or above design criteria shall be passable during
3 conditions of a 100-year frequency storm.
- 4 57. Sediment, silt, grease, trash, debris, and/or pollutants shall be collected on-site and
5 disposed of in accordance with all state and federal requirements, prior to
6 stormwater discharge either off-site or into the City drainage system.
- 7 58. Unless an appropriate barrier is approved on a landscape plan, a minimum 42-inch
8 high barrier, approved by the Public Works Director, shall be provided at the top
9 of all slopes whose height exceeds 20 feet or where the slope exceeds 4 feet and is
10 adjacent to an arterial street or state highway.
- 11 59. The development shall comply with all applicable regulations established by the
12 United States Environmental Protection Agency (USEPA) as set forth in the
13 National Pollutant Discharge Elimination System (NPDES) permit requirements
14 for urban runoff and stormwater discharge and any regulations adopted by the City
15 pursuant to the NPDES regulations or requirements. Further, the applicant may be
16 required to file a Notice of Intent with the State Water Resources Control Board to
17 obtain coverage under the NPDES. General Permit for Storm Water Discharges
18 Associated with Construction Activity and may be required to implement a Storm
19 Water Pollution Prevention Plan (SWPPP) concurrent with the commencement of
20 grading activities. SWPPPs include both construction and post construction
21 pollution prevention and pollution control measures and identify funding
22 mechanisms for post construction control measures. The developer shall comply
23 with all the provisions of the Clean Water Program during and after all phases of
24 the development process, including but not limited to: mass grading, rough
25 grading, construction of street and landscaping improvements, and construction of
26 dwelling units. The applicant shall design the Project's storm drains and other
27 drainage facilities to include Best Management Practices to minimize non-point
28 source pollution, satisfactory to the Public Works Director.

1 60. Upon acceptance of any fee waiver or reduction by the developer, the entire
2 project will be subject to prevailing wage requirements as specified by Labor Code
3 section 1720(b)(4). The developer shall agree to execute a form acknowledging the
4 prevailing wage requirements prior to the granting of any fee reductions or
5 waivers.

6 61. The developer shall prepare and submit an Operations & Maintenance (O&M)
7 Plan to the Public Works Director with the first submittal of engineering plans.
8 The O&M Plan shall be prepared by the applicant's Civil Engineer. It shall be
9 directly based on the project's Storm Water Mitigation Plan (SWMP) previously
10 approved by the project's approving authority Planning Commission. The O&M
11 Plan shall be approved by the Public Works Director prior to approval of any plans
12 by the Public Works Department. At a minimum the O&M Plan shall include the
13 designated responsible parties to manage the stormwater BMP(s), employee's
14 training program and duties, operating schedule, maintenance frequency, routine
15 service schedule, specific maintenance activities, copies of resource agency
16 permits, cost estimate for implementation of the O&M Plan and any other
17 necessary elements.

18 62. The developer shall enter into a City-Standard Stormwater Facilities Maintenance
19 Agreement with the City obliging the project proponent to maintain, repair and
20 replace the Storm Water Best Management Practices (BMPs) identified in the
21 project's approved Storm Water Mitigation Plan (SWMP), as detailed in the O&M
22 Plan into perpetuity. The Agreement shall be approved by the City Attorney prior
23 to issuance of any precise grading permit and shall be recorded at the County
24 Recorder's Office prior to issuance of any building permit. Security in the form of
25 cash (or certificate of deposit payable to the City) or an irrevocable, City-Standard
26 Letter of Credit shall be required prior to issuance of a precise grading permit.
27 The amount of the security shall be equal to 10 years of maintenance costs, as
28 identified by the O&M Plan. The applicant's Civil Engineer shall prepare the

1 O&M cost estimate. The O&M cost estimate shall be approved by Public Works
2 Director prior to approval of any engineering plans for the project.

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

9 64. The Agreement shall include a copy of executed on-site and off-site access
10 easements necessary for the operation and maintenance of BMPs that shall be
11 binding on the land throughout the life of the project to the benefit of the party
12 responsible for the O&M of BMPs, until such time that the storm water BMP
13 requiring access is replaced, satisfactory to the Public Works Director. The
14 agreement shall also include a copy of the O&M Plan approved by the Public
15 Works Director.

16 65. The BMPs described in the project's approved Storm Water Mitigation Plan
17 (SWMP) shall not be altered in any way, shape or form without formal approval by
18 either an Administrative Substantial Conformance issued by the Community
19 Development Department/Planning Division or the project's final approving
20 authority City Council at a public hearing. The determination of whatever action is
21 required for changes to a project's approved SWMP shall be made by the
22 Community Development Department/Planning Division.

23 **Transportation:**

24 66. ADA compliant pedestrian access shall be provided at all project driveways.

25 67. The project shall install a new traffic signal on Coast Highway at the primary
26 project driveway. All aspects of the new traffic signal shall be constructed to the
27 satisfaction of the Public Works Director. The traffic signal shall be installed prior
28 to certificate of occupancy.

1 68. The project shall construct a landscaped median island on Coast Highway at Eaton
2 Street. The landscaped median island shall be designed and constructed to prevent
3 left-turning movements out from either the west and east legs of Eaton Street. In
4 addition, a landscaped bulb-out shall be constructed within the eastbound lane of
5 the east leg of Eaton Street. All intersection improvements shall be completed to
6 the satisfaction of the Public Works Director and as depicted in Figure 8 in the
7 project traffic report. The median island and bulb-out shall be constructed prior to
8 certificate of occupancy.

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

12 70. A traffic control plan shall be prepared according to the City traffic control
13 guidelines and be submitted to and approved by the Public Works Director prior to
14 the start of work within open City rights-of-way. Traffic control during
15 construction of streets that have been opened to public traffic shall be in
16 accordance with construction signing, marking and other protection as required by
17 the Caltrans Traffic Manual and City Traffic Control Guidelines.

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

21 72. A haul route shall be obtained at least 7 days prior to the start of hauling operations
22 and must be approved by the Public Works Director. Hauling operations shall be
23 8:00 a.m. to 3:30 p.m. unless approved otherwise.

24 73. Streetlights shall be installed on Coast Highway along the frontage of the project.
25 The system shall be designed to provide uniform lighting, and be secured prior to
26 the recordation of map or building permit issuance, if a map is not recorded. The
27 subdivider shall pay all applicable fees, energy charges, and/or assessments
28

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

3 74. The applicant shall pay all applicable traffic signal and thoroughfare fees prior to
4 issuance of building permits.

5 **Fire:**

6 75. A minimum fire flow of 3,000 gallons per minute shall be provided.

7 76. The size of fire hydrant outlets shall be 2 ½ “X 2 ½ “ X 4”.

8 77. The fire hydrants shall be installed and tested prior to placing any combustible
9 materials on the job site.

10 78. All fire flow testing shall be conducted using Best management Practice (BMP) as
11 established by the Water Utilities Department to assure clean water runoff
12 standards are met during tests.

13 79. All weather access roads shall be installed and made serviceable prior to and
14 maintained during time of construction.

15 80. All streets less than 32 feet wide shall be posted “NO PARKING FIRE LANE”
16 per Vehicle Code Section 22500.1 and in accordance with the Fire Department
17 Standard Guidelines for Emergency Access.

18 81. All security gates shall have a knock-box override and as required have strobe
19 activation capability.

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

22 83. All existing fire hydrants within 400 feet of the project shall be shown on the site
23 plan.

24 84. Standpipe outlets in each of the three stairwells and additional fire hydrants in the
25 alley and in the vehicle access to the condos.

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

28

- 1 86. Future development of the property will require compliance with all applicable
2 Fire Department standards.
- 3 87. Landscape plan not approved, remove prohibited species, Palms allowed on Coast
4 Highway only. Trees and large shrubs must be 10 feet off of the structure at
5 maturity from dripline to farthest projection of the structure.
- 6 88. Submit a copy of as built plans on a CD for all projects on the job site before final
7 occupancy.
- 8 89. Submit a Fire Technical Report with the building plans to the building department
9 for plan review.
- 10 90. Fire sprinklers are required and decks must also be sprinklered.
- 11 91. Future development of the property will require compliance with all applicable
12 Fire Department Codes and Standards.
- 13 92. Fire Department requirements shall be placed on plans in the notes section, and
14 details section.
- 15 93. All structural mitigation notes and details resulting from the wildland urban
16 interface report and Fire Department conditions shall be included on the
17 architectural plans when submitted to the Building Division for building permit.
- 18 94. Roofs shall be a class A assembly. Roofs shall have a class "A" roof covering. For
19 roof coverings where the profile allows a space between the roof covering and roof
20 decking, the space at the eave ends shall be fire stopped to preclude entry of flames
21 or embers. Fascia must be 2X.
- 22 95. In the urban wildland interface areas, paper faced insulation shall be prohibited in
23 attics or ventilated spaces.
- 24 96. Eave assembly must be 1-hour fire rated construction.
- 25 97. Eaves and soffits shall be protected on the exposed underside by materials
26 approved for a minimum 1-hour fire resistance rated construction. Fascias are
27 required and must be protected on the backside by materials approved for a
28

1 minimum of 1-hour fire resistance rated construction or 2 inch (51mm) nominal
2 dimension lumber.

3 98. Gutters and downspouts shall be constructed of noncombustible material.

4 99. Gutters shall be designed to reduce the accumulation of leaf litter and debris that
5 contributes to roof edge ignition.

6 100. Exterior walls of buildings or structures shall be constructed with materials
7 approved for a minimum of 1-hour fire resistance rated construction on the exterior
8 side or constructed with approved noncombustible materials. Exterior wall
9 coverings must meet the 1-hour fire resistance requirement. Exception: Heavy
10 timber or log wall construction. Such material shall extend from the top of the
11 foundation to the underside of the roof sheathing. Unenclosed under floor
12 protection: Buildings or structures shall have all under floor areas enclosed to the
13 ground with exterior walls with a 1-hour fire rating. Exception: Complete
14 enclosure may be omitted where the underside of all exposed floors and all
15 exposed structural columns, beams and supporting walls are protected as required
16 for exterior 1 hour fire resistance rated construction or heavy timber construction.

17 101. Where fencing attached to or immediately adjacent to structures face the vegetative
18 fuels, the first 5 feet (1524 mm) of such fencing which connects to the structure,
19 shall be constructed of noncombustible, heavy timber or fire retardant pressure
20 treated wood or material.

21 102. Unenclosed accessory structures attached to buildings with habitable spaces and
22 projections such as deck assemblies shall be a minimum of a 1-hour fire rated
23 assembly, which includes railings. When the attached structure is located and
24 constructed so that the structure or any portion thereof projects over a descending
25 slope surface greater than 10 percent, the area below the structure shall have all
26 under floor areas enclosed to within 6 inches (152 mm) of the ground, with
27 exterior wall construction in accordance with Section 504.5.

28

1 103. Exterior glazing or other transparent, translucent or opaque glazing shall be
2 tempered glass, multilayered glass panels, or glass block each having a fire
3 protection rating of not less than 20 minutes. Glazing frames made of vinyl
4 materials shall have welded corners, metal reinforcement in the interlock area, and
5 be certified to ANSI/AAMA/NWDA 101/I.S.2-97 structural requirements.
6 Skylights shall be tempered glass or a class "A" rated assembly. Exterior
7 windows, window walls and glazed doors, windows within exterior doors, and
8 skylights shall be tempered glass, multilayered glazed panels, glass block or have a
9 fire protection rating of not less than 20 minutes.

10 104. Exterior doors shall be approved noncombustible construction, solid core wood not
11 less than 1 3/4 inches thick (45mm), or have a fire protection rating of not less than
12 20 minutes. Windows Within doors and glazed doors shall be in accordance with
13 Section 504.8. of the ICC code. Exception: Vehicle access doors.

14 105. Attic ventilation openings, foundation or under floor vents, or other ventilation
15 openings in vertical exterior walls and vents through roofs shall not exceed 144
16 square inches (0.0929 m²) each. Such vents shall be covered with noncombustible
17 corrosion resistant mesh with openings not to exceed 1/4 inch (6.4 mm), or shall be
18 designed and approved to prevent flame or ember penetration into the structure.
19 Turbine attic vents shall be equipped to allow only one way direction rotation and
20 shall not free spin in both directions. Attic ventilation openings shall not be
21 located in soffits, in eave overhangs, between rafters at eaves, or in other overhang
22 areas. Gable end and dormer vents shall be located at least 10 feet (3048 mm)
23 from property lines. Under floor ventilation openings shall be located as close to
24 grade as practical.

25 106. Detached accessory structures located less than 50 feet (15 240 mm) from a
26 building containing a habitable space shall be a minimum 1-hour fire resistance
27 rated assembly. When the detached structure is located and constructed so that the
28 structure or any portion thereof projects over a descending slope surface greater

1 than 10 percent, the area below the structure shall have all under floor areas
2 enclosed to within 6 inches (152 mm) of the ground, with exterior wall
3 construction with a 1 hour fire resistance rating. Exception: The enclosure may be
4 omitted where the underside of all exposed floors and all exposed structural
5 columns, beams and supporting walls are protected as required for exterior 1-hour
6 fire resistance rated construction or heavy timber construction.

7 107. Trees and large shrubs must be 10 feet off of structures measured at maturity of the
8 tree from the dripline of the tree to the farthest projection of the structure.

9 108. Brush management is required in all zones when they are adjacent to any highly
10 flammable area of native or naturalized vegetation.

11 109. Provide an urban interface/wildland Fire consultant to provide structural and brush
12 management mitigation information prior to the approval of the application and
13 submittal of building plans. The qualifications of any other Urban Interface
14 consultant must be provided to the Oceanside Fire Department for review prior to
15 a submittal being accepted. Accepted contractors for Wildland Urban Interface
16 Technical Reports are as follows:

- 17 • Firewise 2000 Inc. (760)-745-3947
- 18 • Lamont Landis (760)-702-4370
- 19 • Scott E. Franklin (661)-254-2376
- 20 • James Hunt (805)-688-4625 (800)-737-2826

21 110. Brush management zones shall be measured on a horizontal plane from the farthest
22 projection of the structure (including decks) outward. Brush management zone 1
23 is the area from the structure to a point 40 feet away. This zone shall be modified
24 and planted with succulent plants. Native plants and hydro seeding will not be
25 allowed in this zone. Groundcovers must be low growing less than 1 foot in height.
26 Shrubs shall not be located within 20 foot of the dripline of the trees at maturity.
27 Shrubs shall be planted in small groups 6 or less, with 20 foot of clear spacing in-
28 between the groups of shrubs. Grass and other vegetation located more than 50

1 feet from buildings or structures and less than 4 inches in height need not be
2 removed where necessary to stabilize the soil and prevent erosion, but it must be
3 maintained at a height of 4 inches. Irrigation is required for zone 1 and 2. The
4 second zone is the area between 41 to 70 feet from the structure. This zone shall
5 be modified and planted with succulent plants. Shrubs shall not be located within
6 20 foot of the dripline of the trees at maturity. Shrubs shall be planted in small
7 groups 6 or less, with 20 foot of clear spacing in-between the groups of shrubs.
8 Groundcovers must be low growing less than 1 foot in height. All dead and dying
9 vegetation in addition to undesirable plants and weeds listed in the Fire
10 Department plant guidelines shall be removed; this zone shall be permanently
11 irrigated.

12 111. Zone three is the area between 71 and 100 feet from the building. In this zone
13 50% of the native vegetation may remain, but it must be broken up. All dead and
14 dying vegetation in addition to undesirable plants species and weeds as listed in the
15 Fire Department plant guidelines shall be removed.

16 112. Zone one shall contain no habitable structures, structures that are directly attached
17 to habitable structures, or other combustible construction that provides a means for
18 transmitting fire to the habitable structures. Structures such as fences, walls,
19 trellises, and non-habitable gazebos shall be of non-combustible construction, and
20 not plantable.

21 113. Off-site fuel modification is not recommended due to problems inherent with
22 enforcement of regulations on adjacent property and the potential for confusion
23 regarding responsibility for fuel modification on areas outside of legal ownership.
24 Proper on-site fuel modification design should determine where development can
25 safely be located and should be an integral part of the development proposal.
26 Should off-site fuel modification be deemed a necessity, appropriate legally
27 recorded instruments must be established that clearly state the responsibilities and
28 rights of the parties involved relative to the establishment and maintenance of the

1 fuel modification area. It should be understood that the allowance of off-site fuel
2 modification by an adjacent property owner may affect the rights and/or use of the
3 off-site property. All agreements for any off-site fuel modifications shall be
4 integrated into fuel modification plans with a letter from adjoining property owner
5 giving rights to maintain fuels.

6 114. On large developments, fuel modification zones should be located within common
7 lettered lots owned and maintained by associations representing common
8 ownership; i.e. homeowners' associations. The integrity and longevity of the fuel
9 modification zones shall be maintained with sufficient tract/project conditions and
10 CC&Rs to specifically identify the restrictions within the fuel modification areas.
11 When fuel modification zones are located on private property, deed restrictions are
12 required to specifically identify the restrictions on any portion of the property
13 subject to fuel modification.

14 115. Site Inspection – site inspection may reveal conditions which have changed since
15 the plan review. When such discrepancies arise, field inspection shall take
16 precedence. Final approval is contingent upon field inspection. If the field
17 inspection reveals that the conditions have not been met, you will be required to
18 bring the project into compliance with the conditions, or your final approval will
19 be rescinded until the project is compliant.

20 116. Submit 3 sets of plans prepared by a licensed landscape architect or other design
21 professional with equivalent credentials, for review.

22 117. The following shall be included on the conceptual fuel modification plan:

- 23 a) Trees and shrubs represented on the landscape plans must be
24 diagrammatically shown at 100 percent maturity. The distance from the
25 structure to the dripline edge of the tree at maturity must be accurate and
26 called out on the plans. It is the landscape architects responsibility to
27 confirm that the distances of trees and large shrubs are accurate on the plans
28

1 and out in the field. If on final field inspection the conditions are not met,
2 you will be required to correct them.

3 b) Trees and large shrubs must be 10 feet off of the structure measured at
4 maturity from the dripline to the farthest projection of the structure.
5 Landscape architects are responsible for making sure that their plans are
6 accurate. At final inspection if the Fire Department conditions have not
7 been met, the landscaping will be changed in order to meet the conditions
8 imposed upon the project, or the project final will not be signed off.

9 118. Tree and shrub dimensions must be put in the planting legend at 100% maturity.
10 Shrubs with dimensions over 5 feet in height must also be called out on the
11 landscape plans, and the dimensions of that shrub must be shown. If shrubs are
12 over 5 feet in height they must also be 10 feet off of the structure measured at
13 shrub edge at maturity to the farthest projection of the structure.

14 119. Delineation of each zone (setback, irrigated, and thinning) with a general
15 description of each zone's dimensions and character; i.e., 0-40' Zone 1, with
16 existing vegetation removed, irrigated, and planted with drought-tolerant and fire-
17 resistant plant material. (Refer to fuel modification packet)

18 120. Remove undesirable plant species in accordance with the Oceanside Fire
19 Department Plant List. (Refer to fuel modification packet)

20 121. Identify the design of the proposed development, showing all property lines,
21 contour lines, and the proposed location of all structures nearest to the fuel
22 modification area, if available.

23 122. Identify all proposed off-site fuel modification areas and appropriate legal
24 agreements with adjacent property owners.

25 123. Existing and new plants will be in accordance with the Oceanside Fire Department
26 approved plant palette.

27 124. Precise fuel modification plans shall include all information required on
28 conceptual fuel modification plans and the following additional information.

- 1 a) Location and detail of permanent zone markers (refer to fuel modification
- 2 packet).
- 3 b) Plant palette to be installed in accordance to acceptable guidelines.
- 4 c) Irrigation plans and specifications.
- 5 d) Building footprints or statements that clearly indicates the limits of
- 6 proposed development.
- 7 e) All applicable maintenance requirements and assignments of responsibility.
- 8 f) Tracked or project conditions, CC&R and/or deed restrictions relative to
- 9 fuel modifications. (Refer to fuel modification packet)

10 **Planning:**

11 125. This Tentative Map, Development Plans, Conditional Use Permits and Regular
12 Coastal Permit, shall expire on February 14, 2009, unless the project is implemented
13 or a time extension is granted by the Planning Commission.

14 126. This Tentative Map, Development Plans, Conditional Use Permits and Regular
15 Coastal Permit approves only the construction of an 82-room hotel totaling 80,838
16 square feet, a 4,180-square foot restaurant and 4 residential condominium units as
17 shown on the plans and exhibits presented to the Planning Commission for review
18 and approval. No deviation from these approved plans and exhibits shall occur
19 without Community Development Department/Planning Division approval.
20 Substantial deviations shall require a revision to the Development Plan or Plans or a
21 new Development Plan(s).

22 127. The applicant, permittee or any successor-in-interest shall defend, indemnify and
23 hold harmless the City of Oceanside, its agents, officers or employees from any
24 claim, action or proceeding against the City, its agents, officers, or employees to
25 attack, set aside, void or annul an approval of the City, concerning Development
26 Plans (D-13-02, D-14-02), Conditional Use Permits (C-21-02, C-22-02), Regular
27 Coastal Permit (RC-8-02) and Tentative Map (T-8-02). The City will promptly
28 notify the applicant of any such claim, action or proceeding against the City and

1 will cooperate fully in the defense. If the City fails to promptly notify the
2 applicant of any such claim action or proceeding or fails to cooperate fully in the
3 defense, the applicant shall not, thereafter, be responsible to defend, indemnify or
4 hold harmless the City.

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

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

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

19 b) The developer shall be responsible for irrigating and landscaping all
20 embankments within the project, and all slopes along major streets.

21 c) Street/parkway trees (minimum 15-gallon) shall be planted at a minimum of
22 one tree per unit or lot and two trees per corner lot. Approved root barriers
23 shall be incorporated.

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

27 130. All landscaping, fences, walls, etc. on the site, in medians in the public right-of-way
28 and in any adjoining public parkways shall be permanently maintained by the owner,

1 his assigns or any successors-in-interest in the property. The maintenance program
2 shall include normal care and irrigation of the landscaping; repair and replacement of
3 plant materials; irrigation systems as necessary; and general cleanup of the
4 landscaped and open areas, parking lots and walkways, walls, fences, etc. Failure to
5 maintain landscaping shall result in the City taking all appropriate enforcement
6 actions by all acceptable means including but not limited to citations and/or actual
7 work with costs charged to or recorded against the owner. This condition shall be
8 recorded with the covenant required by this resolution.

9 131. All commercial buildings projects shall dispose of or recycle solid waste in a
10 manner provided in City Ordinance 13.3.

11 132. A letter of clearance from the affected school district in which the property is
12 located shall be provided as required by City policy at the time building permits
13 are issued.

14 133. Trash enclosures must be provided as required by Chapter 13 of the City Code and
15 shall also include additional space for storage and collection of recyclable materials
16 per City standards. Recycling is required by City Ordinance. The enclosures must
17 be built in a flat, accessible location as determined by the City Engineer. The
18 enclosures shall meet City standards including being constructed of concrete block,
19 reinforced with rebar and filled with cement. A concrete slab must be poured with a
20 berm on the inside of the enclosure to prevent the bin(s) from striking the block
21 walls. The slab must extend out of the enclosure for the bin(s) to roll out onto. Steel
22 posts must be set in front of the enclosure with solid metal gates. All driveways and
23 service access areas must be designed to sustain the weight of a 50,000-pound
24 service vehicle. Trash enclosures and driveways and service access areas shall be
25 shown on both the improvement and landscape plans submitted to the City Engineer.
26 The specifications shall be reviewed and approved by the City Engineer. The City's
27 waste disposal contractor is required to access private property to service the trash
28 enclosures, a service agreement must be signed by the property owner and shall

1 remain in effect for the life of the project. All trash enclosures shall be designed to
2 provide user access without the use and opening of the service doors for the bins.
3 Trash enclosures shall have design features such as materials and trim similar to that
4 of the rest of the project. This design shall be shown on the landscape plans and shall
5 be approved by the Community Development Department/Planning Division.

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

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

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

20 137. Failure to meet any conditions of approval for this development shall constitute a
21 violation of the Development Plans, Conditional Use Permits, Regular Coastal
22 Permit, and Tentative Map.

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

1 139. These Development Plans, Conditional Use Permits, Regular Coastal Permit and
2 Tentative Map shall be called for review by the Planning Commission if complaints
3 are filed and verified as valid by the Code Enforcement Office concerning the
4 violation of any of the approved conditions or does not conform with the information
5 contained in or representations made in the application, any supporting material
6 submitted to the City or during any hearing on the application.

7 140. The developer's construction of all fencing and walls associated with the project
8 shall be in conformance with the approved Development Plan. Any substantial
9 change in any aspect of fencing or wall design from the approved Development Plan
10 shall require a revision to the Development Plan or a new Development Plan.

11 141. A minimum 3-foot fence made of a natural or natural-appearing material shall be
12 installed between the pedestrian pathway and 100-foot buffer area along Buena Vista
13 Lagoon.

14 142. If any aspect of the project fencing and walls is not covered by an approved
15 Development Plan, the construction of fencing and walls shall conform to the
16 development standards of the City Zoning Ordinance. In no case, shall the
17 construction of fences and walls (including combinations thereof) exceed the
18 limitations of the zoning code, unless expressly granted by a Variance or other
19 development approval.

20 143. Elevations, siding materials, colors, roofing materials and floor plans shall be
21 substantially the same as those approved by the Planning Commission. These shall
22 be shown on plans submitted to the Community Development
23 Department/Planning Division and Building Division.

24 144. A reciprocal access and parking agreement shall be recorded for and between the
25 hotel use and restaurant.

26 145. The following restrictions shall apply to the Condominium Hotel:
27
28

1 a) The permitted development is authorized to construct no more than 70 hotel
2 units as individually owned condominium hotel units. The following
3 restrictions shall apply:

- 4 • The project shall have an on-site operator to manage rental of all
5 units. Whenever any individually owned hotel unit is not occupied
6 by its owner(s), that unit shall be available for hotel rental by the
7 general public on the same basis as a traditional hotel room, and its
8 availability shall not be conditioned on a renter's willingness to rent
9 any additional unit.
- 10 • The hotel operator shall market and advertise all rooms to the
11 general public. Unit owners may also market and advertise their
12 units but all reservations shall be made by and through the hotel
13 operator.
- 14 • Unit owners shall not discourage rental of their unit or create
15 disincentives meant to discourage rental of their unit.
- 16 • All individually owned hotel units shall be rented at the same or
17 comparable rate to that charged by the hotel operator for the
18 traditional hotel rooms of a similar class or amenity level.
- 19 • The hotel operator shall maintain records of usage by owners and
20 renters and rates charged for all units, and shall be responsible for
21 reporting Transient Occupancy Taxes based on record of use for all
22 units, a service for which the hotel operator may charge the unit
23 owner a reasonable fee.
- 24 • Each individually owned hotel unit shall be used by its owner(s) – no
25 matter how many owners there are – for no more than 90 days per
26 calendar year with a maximum of 29 days use during any
27 immediately preceding 30-day time period.

- 1 • The use period limitations shall be unaffected by multiple owners or
2 the sale of a unit to a new owner during the calendar year, meaning
3 that all such owners of any given unit shall be collectively subject to
4 the use restriction as if they were a single, continuous owner.
- 5 • No portion of the project may be converted to time-share, full-time
6 occupancy condominium, apartment, or any other type of project that
7 differs from the approved 70 individually owned condominium hotel
8 units.

9 146. CC&R'S Modifications:

- 10 a) Prior to the issuance of any coastal permit, the applicant shall submit for
11 review and written approval of the City Planner the Declaration of
12 Restrictions or CC&R's, which shall include:
 - 13 • All the specific restrictions listed above.
 - 14 • An acknowledgment that these same restrictions are independently
15 imposed as condition requirements of the Local Coastal Plan.
 - 16 • A statement that provisions of the CC&R's that reflect the
17 requirement of these conditions shall not be changed without a Local
18 Coastal Plan approved amendment to this development permit,
19 unless it is determined by the City Planner that an amendment is not
20 legally required.
 - 21 • The CC&R's, as approved by the City Planner, must be recorded
22 against all individual property titles.

23 147. Condition Compliance and Enforcement:

- 24 a) The applicant or any successor-in-interest as hotel owner-operator shall
25 maintain the legal ability to ensure compliance with the terms and
26 conditions of the regular coastal permit at all times in perpetuity and shall
27 be responsible in all respects for ensuring that all parties subject to this
28 regular coastal permit comply with the terms and conditions of this regular

1 coastal permit. Each owner of an individual condominium unit is jointly
2 and severally liable with the hotel owner-operator for violations of the
3 terms and conditions of this regular coastal permit.

4 148. All documents related to the marketing and sale of the condominium interests,
5 including marketing materials, sales contracts, deeds, CC&R's and similar
6 documents, shall notify potential buyers of the following:

7 a) The owners of individual hotel units are jointly and severally liable with the
8 hotel owner-operator for any violations of the terms and conditions of this
9 permit.

10 b) The occupancy of the units is restricted to 90 days per year with a 29 day
11 maximum stay in any preceding 30-day period and, when not in use by the
12 owner, the unit will be made available for rental by the hotel operator and
13 that the permit contains additional restrictions on use and occupancy.

14 149. The applicant and any successor-in-interest as hotel owner-operator, and each
15 future unit owner shall obtain, prior to sale of individual units, a written
16 acknowledgement from the buyer that occupancy is limited to 90 days per calendar
17 year with a maximum of 29 days during any preceding 30-day period, that the unit
18 must be available for rental by the hotel operator when not occupied by the owner,
19 and that there are further restrictions on use and occupancy in the coastal
20 development permit.

21 150. The applicant and all successors-in-interest as hotel owner-operator shall monitor
22 and record hotel occupancy and use by the general public and the owners of
23 individual hotel units throughout each year. The record shall be sufficient to
24 demonstrate compliance with the restrictions set forth in the above conditions.
25 The hotel owner-operator shall also maintain documentation of rates paid for hotel
26 occupancy and of advertising and marketing efforts. All such records shall be
27 maintained for ten years and shall be made available to the City Planner upon
28 request and to the auditor required by Paragraph E hereinafter. Within 30 days of

1 commencing hotel operations, the hotel owner-operator shall submit notice to the
2 City Planner of commencement of hotel operations.

3 151. On the first anniversary of the opening of hotel operations, and exactly every year
4 thereafter, the hotel owner-operator shall retain an independent auditing company
5 to perform an audit to evaluate compliance with these conditions. The audit shall
6 evaluate compliance by the hotel owner, operator and owners of individual hotel
7 units during the prior one-year period. The hotel owner-operator shall obtain the
8 City Planner's written approval of the independent auditor before the auditor is
9 retained. Such approval shall be sought at least 3 months before the deadline for
10 retaining an auditor (the first anniversary of hotel operations). The hotel owner-
11 operator shall require the auditor to prepare a report identifying the auditor's
12 findings, conclusions and the evidence relied upon, and such report shall be
13 submitted to the City Planner within 6 months after the conclusion of each one-
14 year period of hotel operations. After five years, the one-year audit period may be
15 extended to two years upon written approval of the City Planner. The City Planner
16 may grant such approval if each of the previous audits revealed compliance with
17 the conditions.

18 152. If the hotel owner and hotel operator at any point become separate entities, the
19 hotel owner and the hotel operator shall be jointly and severally liable for
20 violations of the terms and conditions of this permit.

21 153. Prior to issuance of a coastal permit, the applicant shall submit for review and
22 written approval of the City Planner, a plan specifying how the applicant will
23 implement the requirements of this condition. The plan must include, at a
24 minimum, the sale, deed and CC&R documents that will be used to satisfy the
25 permit conditions and the rental program agreement entered into between
26 individual unit owners and the hotel owner-operator. The plan must demonstrate
27 that the applicant has established mechanisms that provide the applicant or any
28 successor-in-interest as hotel owner-operator adequate legal authority to

1 implement the requirements of this condition. Any proposed changes to the
2 approved plan and subsequent documents pertaining to compliance with and
3 enforcement of the terms and conditions of the permit, including deeds and
4 CC&R's, shall be reported to the City Planner. No change to the agreement and
5 subsequent documents pertaining to compliance with and enforcement of the terms
6 and conditions of this permit, including deeds and enforcement of the terms and
7 CC&R's shall occur without a City approved amendment to the permit unless the
8 City Planner determines that no such amendment is required.

9 154. A minimum 15 percent or 12 hotel rooms shall be retained for permanent use as
10 hotel rooms available to the public at any time and shall not be sold as
11 condominiums to private parties.

12 155. A minimum 25 percent or 21 hotel rooms shall be available for lease to the public
13 during the summer season – Memorial Day to Labor Day of each year.

14 156. The 100-foot buffer area adjacent to Buena Vista Lagoon shall be placed under a
15 conservation easement to be approved by the California Department of Fish and
16 Game and the City of Oceanside.

17 157. The 100-foot buffer area adjacent to Buena Vista Lagoon shall be offered for
18 dedication to the California Department of Fish and Game for permanent
19 management as part of Buena Vista Lagoon or subject to approval of the
20 California Department of Fish and Game and the City Planner, the property shall
21 be managed by a qualified open space management entity under an endowment
22 provided by the applicant.

23 158. The applicant shall comply with all mitigation measures in the mitigation,
24 monitoring and reporting program included in the project's Final Environmental
25 Impact Report dated August 18, 2006 (SCH No. 2003071101).

26 **Water Utilities:**

27 159. All public water and/or sewer facilities not located within the public right-of-way
28 shall be provided with easements sized according to the Water, Sewer, and

1 Reclaimed Water Design and Construction Manual. Easements shall be
2 constructed for all weather access.

3 160. No trees, structures or building overhang shall be located within any water or
4 wastewater utility easement.

5 161. The property owner will maintain private water and wastewater utilities located on
6 private property.

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

8 163. The developer shall construct a public reclamation water system that will serve each
9 lot and or parcels that are located in the proposed project in accordance with the City
10 of Oceanside Ordinance No. 91-15. The proposed reclamation water system shall be
11 located in the public right-of-way or in a public utility easement.

12 164. A water and sewer study must be prepared by the developer at the developer's
13 expense, and reviewed and approved by the Water Utilities Department.

14 165. If the fire service and domestic water are combined, then a fire flow meter shall be
15 installed.

16 166. Backflow prevention device assemblies are required at each of the proposed water
17 line connections per standards and shall be clearly shown and identified on approved
18 Improvement plans.

19 167. A service agreement for the lift station(s) shall be provided to the Water Utilities
20 Department.

21 168. The existing water and sewer within Broadway must be upsized to current standards.
22 The existing 12" VCP sewer main within Eaton will be inspected by our field
23 personnel to determine limits of required slip lining or appropriate refurbishment and
24 or replacement.

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

27 170. The developer will be responsible for developing all water and sewer utilities
28 necessary to develop the property. Any relocation of water and/or sewer utilities is

1 the responsibility of the developer and shall be done by an approved licensed
2 contractor at the developer's expense.

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

7 172. A Grease, Oil, and Sand Interceptor, described by the Uniform Plumbing Code,
8 relating to restaurants, shall be installed in each building sewer in an appropriate
9 location and shall be maintained by the property owner. The location shall be called
10 out on the approved building plans.

11 173. Subterranean parking spaces shall be drained to the City's Storm Drain System and
12 shall comply with the California Regional Water Quality Control Board Order No.
13 2001-01.

14 174. Water and Wastewater Buy-in fees and the San Diego County Water Authority Fees
15 are to be paid to the City and collected by the Water Utilities Department at the time
16 of building permit issuance.

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

20 ///

21 ///

22 ///

23

24

25

26

27

28

1 176. All new development of single-family and multi-family residential units shall
2 include hot water pipe insulation and installation of a hot water recirculation device
3 or design to provide hot water to the tap within 15 seconds in accordance with City
4 of Oceanside Ordinance No. 02-OR126-1.

5 PASSED and ADOPTED by the City Council of the City of Oceanside, California
6 this _____ day of _____, 2007 by the following vote:

7 AYES:

8 NAYS:

9 ABSENT:

10 ABSTAIN:

11
12 _____
13 Mayor of the City of Oceanside

14
15
16 ATTEST:

17 APPROVED AS TO FORM:
18 OFFICE OF THE CITY ATTORNEY

19
20 _____
21 City Clerk

22
23 _____
24 *Robert J. Smith, ASST.*
25 City Attorney

Oceanside Three
5173 Waring Road, Suite 123
San Diego, CA 92120

January 2004

PROJECT: Boardwalk, Oceanside

Legal Description:

Parcels 1, 2 and 3 in the City of Oceanside, County of San Diego, State of California, as shown at page 11758 of parcel maps, filed in the Office of the County Recorder of San Diego County, October 26, 1981.

RECEIVED
JAN 29 2004
Planning Department

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

PLANNING COMMISSION
RESOLUTION NO. 2006-P59

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE BOARDWALK PROJECT ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: D-13-02, D-14-02, C-21-02, C-22-02, RC-8-02 and T-8-02
APPLICANT: Oceanside Three
LOCATION: Southwest of the intersection of South Coast Highway and Eaton Street

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

WHEREAS, an Environmental Impact Report was prepared and circulated for public and agency review and proper notification was given in accordance with the California Environmental Quality Act; and

WHEREAS, the Planning Commission, after giving the required notice, did on the 9th day of October 2006, conduct a duly advertised public hearing on the content of the Final Environmental Impact Report and the Mitigation Monitoring and Reporting program; and

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

For the Final Environmental Impact Report:

1. The Final Environmental Impact Report was completed in compliance with the provisions of the California Environmental Quality Act (CEQA).
2. There are certain significant environmental effects detailed in the Environmental Impact Report which have been avoided or substantially lessened by the establishment of measures which are detailed in Exhibit "A" Environmental Findings and Statement of Overriding Considerations for the Pacific Coast Business Park.
3. The Final Environmental Impact Report and Mitigation and Monitoring and Reporting Programs for the project (included in the Final EIR) and were presented to the Planning Commission, and the Planning Commission reviewed and considered the information contained in these documents prior to making a decision on the shopping center and revised reclamation plan. The Final Environmental Impact Report and Mitigation and

1 Monitoring and Reporting Program for the business park have been determined to be
2 accurate and adequate documents, which reflect the independent judgment of the City.

3 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
4 CERTIFY the Final Environmental Impact Report for the Boardwalk Project Development Plans
5 (D-13-02, D-14-02), Conditional Use Permits (C-21-02, C-22-02), Regular Coastal Permit (RC-8-
6 02) and Tentative Map (T-8-02) subject to the following recommendations and conditions:

- 7 1. Pursuant to Public resources Code Section 21081.6 the Planning Commission adopts the
8 Mitigation Monitoring and Reporting Program (MMRP) for the project and finds and
9 determines that said programs are designed to ensure compliance with the mitigation
10 measures during project implementation.
- 11 2. Notice is HEREBY GIVEN that the time within which judicial review must be sought on
12 this decision is governed by the provisions of the California Environmental Quality Act.

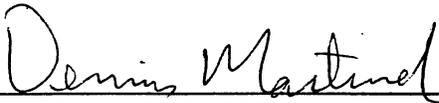
13 PASSED AND ADOPTED Resolution No. 2006-P59 on October 9, 2006 by the
14 following vote, to wit:

15 AYES: Parker, Horton, Blom, Beach, Balma and McLeod

16 NAYS: Martinek

17 ABSENT: None

18 ABSTAIN: None

19 
20 _____
21 Dennis Martinek, Chairman
22 Oceanside Planning Commission

23 ATTEST:

24 
25 _____
26 Jerry Hittleman, Secretary

27 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
28 this is a true and correct copy of Resolution No. 2006-P59.

29 Dated: October 9, 2006

1 PLANNING COMMISSION
2 RESOLUTION NO. 2006-P56

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE
4 CITY OF OCEANSIDE, CALIFORNIA DENYING WITHOUT
5 PREJUDICE A TENTATIVE MAP, DEVELOPMENT PLANS,
6 CONDITIONAL USE PERMITS AND A REGULAR COASTAL
7 PERMIT ON CERTAIN REAL PROPERTY IN THE CITY OF
8 OCEANSIDE

7 APPLICATION NO: T-8-02, D-13-02, D-14-02, C-21-02, C-22-02, and RC-8-02
8 APPLICANT: Oceanside Three
9 LOCATION: Southwest corner of South Coast Highway and Eaton Street

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

12 WHEREAS, there was filed with this Commission a verified petition on the forms
13 prescribed by the Commission requesting a Tentative Map, Development Plans, Conditional Use
14 Permits and a Regular Coastal Permit under the provisions of Articles 13, 41 and 43 of the Zoning
15 Ordinance of the City of Oceanside to permit the following:

16 construction of an 82-room hotel totaling 80,828 square feet, a 4,180-square foot restaurant,
17 and four (4) residential condominium units on a 3.8-acre site;
18 on certain real property described in the project description.;

19 WHEREAS, the Planning Commission, after giving the required notice, did on the 9th day
20 of October, 2006 conduct a duly advertised public hearing as prescribed by law to consider said
21 application.

22 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State
23 Guidelines thereto; an environmental impact report was prepared in conformance with CEQA;

24 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
25 effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

26 WHEREAS, studies and investigations made by this Commission and in its behalf reveal
27 the following facts:

28 FINDINGS:

29 For the Tentative Map:

1. The physical design of the subdivision is inconsistent with the purposes of the Zoning

1 Ordinance, and General Plan because the design is not sensitive to the adjacent Buena
2 Vista Lagoon, views from public places, or surrounding neighbors.

- 3 2. The proposed subdivision is incompatible with the existing and potential development
4 on adjoining properties or in the surrounding neighborhood because the proposed
5 structure is of greater height, bulk and scale than the surrounding residential
6 neighborhood, and is not sensitive to the adjacent wetland habitat.

7 For the Conditional Use Permits:

- 8 1. The proposed project as designed is not compatible with the surrounding neighborhood
9 in terms of bulk, scale height, and loss of public views from various points around the
10 project site.
11 2. The parking reduction was found to be inadequate given the potential impact to
12 surrounding neighborhoods from spillover parking from the proposed project.

13 For the Development Plans:

- 14 1. The proposed hotel portion of the project was found to be not in conformance with the
15 surrounding neighborhood in terms of height, bulk and scale. The restaurant was not
16 designed to be compatible with the site in that it was oriented away from the adjacent
17 lagoon. The style of the structures (French Normandy), was not appropriate for the site
18 which is the gateway to Oceanside from Carlsbad.
19 2. The access to the residential portion of the project was found not to be adequate for
20 pedestrians accessing the lagoon and was not compatible with the design of existing
21 adjacent residential units.

22 For the Regular Coastal Permit:

- 23 1. The proposed project was found not to be in conformance with the City of Oceanside
24 Local Coastal Program. The public access to the lagoon was inadequate and did not
25 allow bikes and pedestrian use. The lagoon buffer was not adequate and should be
26 greater than 100 feet in width.

27 ///////////////
28 ///////////////
29 ///////////////
///////////////
///////////////
///////////////

1 2. Public views of Buena Vista Lagoon were also found to be impaired by the public from
2 surrounding streets and sidewalks will be impaired by the project structures as designed.

3 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
4 deny without prejudice Tentative Map (T-8-02), Development Plans (D-13-02, D-14-02),
5 Conditional Use Permits (C-21-02, C-22-02), and Regular Coastal Permit (RC-8-02).

6 PASSED on October 9, 2006 by the following vote, to wit:

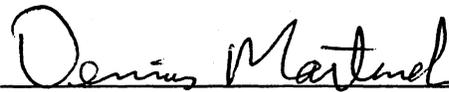
7 AYES: Martinek, Horton, Blom, Beach, Balma and McLeod

8 NAYS: Parker

9 ABSENT: None

10 ABSTAIN: None

11 ADOPTED Resolution No. 2006-P56 on October 23, 2006.

12
13 

14 Dennis Martinek, Chairman
15 Oceanside Planning Commission

16 ATTEST:

17 
18 _____
19 Jerry Hittleman, Secretary

20 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
21 this is a true and correct copy of Resolution No. 2006-P56.

22
23 Dated: October 23, 2006



DATE: October 9, 2006

TO: Chairman and Members of the Planning Commission

FROM: Community Development Department/Planning Division

SUBJECT: **CONSIDERATION OF DEVELOPMENT PLANS (D-13-02 AND D-14-02), CONDITIONAL USE PERMITS (C-21-02 AND C-22-02), REGULAR COASTAL PERMIT (RC-8-02), AND TENTATIVE MAP (T-8-02) FOR A MULTI-USE PROJECT: AN 82-ROOM HOTEL, A FULL SERVICE RESTAURANT AND 4 CONDOMINIUM UNITS ARE PROPOSED ON 3.8 ACRES LOCATED ON THE WEST SIDE OF SOUTH COAST HIGHWAY, BETWEEN EATON STREET AND THE BUENA VISTA LAGOON – BOARDWALK – APPLICANT: OCEANSIDE THREE**

RECOMMENDATION

Staff recommends that the Planning Commission approve Development Plans (D-13-02, D-14-02), Conditional Use Permits (C-21-02, C-22-02), Regular Coastal Permit (RC-8-02), Tentative Map (T-8-02) and certify the Environmental Impact Report and adopt Planning Commission Resolution Nos. 2006-P56 and 2006-P59 as attached.

PROJECT DESCRIPTION AND BACKGROUND

Site Review: The 3.8-acre project site is vacant and is located at the southwestern corner of the intersection of South Coast Highway and Eaton Street. The project site is accessible from South Coast Highway on the east or Broadway on the west. Buena Vista Lagoon is directly adjacent to the site on the south. Single-family residential development at the terminus of Tremont Street are adjacent to a portion of the northern site boundary. A fast-food restaurant is located to the north, across Eaton Street. The North County Transit District right-of-way and main north/south railroad tracks are located directly to the west of the site.

The property includes three legal parcels; a portion of parcel 2 is within the jurisdiction of the California Coastal Commission and is subject to the requirements of the State Coastal Act. The remainder of the project site is within the boundaries of the City's Local Coastal Program (LCP). The City's Regular Coastal Permit may be appealed to the State Coastal

Commission for final action. The LCP recognizes the biological sensitivity of Buena Vista Lagoon and recommends a minimum 100-foot biological buffer from the lagoon.

The property has two General Plan and Zoning designations. The eastern portion of the property along South Coast Highway is designated for visitor commercial (CV) uses and the western portion of the site is zoned Residential Tourist or RT.

Project Description: The proposed project consists of an 82-room hotel in the Visitor Commercial Zone on the eastern portion of the site and a 4-unit condominium in the Residential Tourist Zone in the western portion of the 3.8-acre project site. The project application consists of separate Development Plans for the hotel/restaurant and residential condominiums, a Tentative Map, Conditional Use Permits for the hotel and a 20 percent shared parking reduction, and a Regular Coastal Permit. Each discretionary request is described as follows:

Development Plans: The commercial development proposal involves construction of an 82-room, condo-hotel, totaling 80,838 square feet and a 4,180-square foot restaurant. Access would be from a new signalized intersection on South Coast Highway and parking access from the alley off Eaton Street. A total of 139 parking spaces will be provided for the combined hotel and restaurant use. The bulk of the parking – 106 spaces – will be provided under the hotel and lobby area. The remainder of the spaces will be on the surface. A pool and deck will be provided for hotel guest use just south of the hotel lobby.

The residential development plan is comprised of 4 detached condominium units at 3,475 square feet each. Access to this portion of the site will be strictly from Broadway. The two-story units would each have a roof deck and balconies.

A 100-foot buffer with native vegetation will be provided between the proposed development and Buena Vista Lagoon. A 5-foot-wide public access pathway will be provided along the northern perimeter of the natural buffer area connecting Broadway to South Coast Highway. A total of 62.8 percent of the entire site will be landscaped.

The hotel portion of the project is proposed to be built in the French Normandy style. This style is characterized by prominent cross gables, steep roofs, and decorative half-timbering. This is similar to the St. Malo neighborhood to the west across the San Diego Northern Railroad right-of-way.

Tentative Map: The Tentative Map proposes to subdivide the 3.8 gross acres into three parcels. Parcel 1 and a portion of Parcel 2 would be used for commercial uses (hotel and restaurant), the remainder of Parcel 2 would be set aside as a 100-foot buffer between the project and Buena Vista Lagoon. Parcel 3 is comprised of 4 condominium units.

The hotel is proposed as a limited term occupancy condominium hotel. Seventy of the hotel rooms would be sold as limited term condominiums and 15 percent or 12 of the

hotel rooms would be retained for strict hotel usage. Twenty five percent of the hotel rooms are required to be available during the summer season (Memorial Day to Labor Day). Owners of the 70 condo-hotel rooms would be limited to 90 days of occupancy per year with a 29-day restriction on length of stay. The purpose of this restriction is to ensure compliance with the State Coastal Act and City's Local Coastal Program, which requires access to the coastal areas and coastal visitor-serving uses such as hotels to the widest range of people possible. Visitors to the hotel and condo-hotel portions of the project are required to pay full transit oriented taxes (TOT) to the City as if the project was a 100-percent transient hotel.

Outlined below are the required development criteria of the underlying zoning and those proposed by the project:

Hotel/Restaurant:

CV ZONE	Required	Provided
Lot size	10,000 s.f.	137,693 s.f.
Height	36'-0"	36'-0" with higher appurtenances and equipment meeting requirements of Section 3018
Setbacks: (From)		
Front (Eaton)	15'-0"	18'-6"
Side (Coast Highway)	10'-0"	12'-0"
(Alley)	0'-0"	7'-0"
Rear (100' Buffer)	0'-0"	13'-0"
Parking: Hotel / Condo	1.2 per unit 82 units = 99 stalls	
Restaurant	1 stall / 50 s.f. of dining area 2,042 s.f. = 41 stalls	
Total	140 stalls – 28 stalls (20% shared parking) = 112 stalls	139 stalls

Residential Condominiums:

RT ZONE	Required	Provided
Lot size	6,000 s.f.	29,620 s.f.
Height	27'-0"	27'-0"
<u>Setbacks:</u>		
Front)	15'-0"	15'-0"
Side	10'-0"	10'-0"
Rear	10'-0"	10'-0"
<u>Parking:</u>		
Per Unit	3 stalls / unit (over 2,500 s.f.)	3 stalls / unit = 12 stalls in private garages
Guest	1 stall	2 stalls

Conditional Use Permit: The underlying land use designation and zoning for the hotel and restaurant site is Visitor Commercial (CV). Proposals for visitor accommodation developments such as hotels, may be permitted on CV zoned sites subject to approval of a Conditional Use Permit. A second use permit is being requested for reduced parking based on shared use of the restaurant and hotel parking.

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

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

ANALYSIS

KEY PLANNING ISSUES

1. Is the project consistent with applicable City policies and findings required for approval of the Development Plan and Conditional Use Permit?
2. Is the proposed Development Plan consistent with the surrounding neighborhood?
3. Is the project consistent with the policies and regulations of the City's Local Coastal Program and the State Coastal Act?

DISCUSSION

The underlying Visitor Commercial (CV) zoning designation for the site permits a wide variety of commercial uses including visitor accommodation uses, subject to approval of

a conditional use permit. The proposed hotel development will be directly adjacent to Coast Highway and other commercial uses to the north and east. Residential uses to the west are at a higher elevation than the proposed project and will be adjacent to the proposed residential and hotel uses.

All uses on the proposed project site are consistent with the commercial and residential zoning and General Plan designations for the proposed project site. Visitor-serving commercial uses are allowed and encouraged along Coast Highway, a heavily traveled coastal road.

Surrounding uses include the Buena Vista Lagoon Audubon Nature Center condominiums and retail/offices to the east, existing residences to the northwest, commercial uses further north on Coast Highway and Buena Vista Lagoon to the south. All of these uses are compatible with the hotel, restaurant and residential condominium uses of the proposed project.

The hotel and restaurant will serve visitors and residents seeking access to Buena Vista Lagoon and the nearby Buena Vista Lagoon Audubon Center as well as the beach. The hotel will be oriented toward naturalists interested in the lagoon wildlife. The proposed public access pathway along the perimeter of the lagoon buffer area as well as the nature trails associated with the Nature Center to the east will provide birders and other lagoon users with access to this unique resource.

Existing views toward the lagoon from the rear and side yards of the existing residences to the north will be impaired by the proposed hotel, restaurant and condominiums. Private views of the lagoon from these residences are not a goal or requirement of the City's Local Coastal Program or State Coastal Act. However, views of the lagoon from public areas such as Coast Highway or Broadway are protected under the LCP. These views would be partially obstructed by the proposed project and have been found to be unmitigable impacts in the environmental impact report (EIR) described in more detail below. Given the shape and location of the project site, some public view blockage would be unavoidable.

The proposed condo-hotel use would apply to 70 of the 82 hotel rooms. Individual hotel rooms would be able to be purchased as condominiums with limited use by owners (90 days total uses per year with 29-day maximum stays). When owners are not using the units, they would be available to the public as hotel rooms. A total of 15 percent of the hotel units (12 units) would always be available to the public. The purpose of the limited use by condo-hotel owners and the retention of 12 permanent hotel rooms is to ensure availability and access to visitors in the coastal area as dictated by the State Coastal Act and the City's LCP. The applicant has agreed to provide transit-oriented tax (TOT) for both the condo-hotel and strict hotel users of the project.

The project's architectural design will compliment the French Normandy style of the St. Malo project directly west of the proposed project across the railroad tracks. The project design is in compliance with applicable zoning standards including parking requirements,

minimum setbacks, height and landscaping. The project will benefit the City of Oceanside commerce and tourism while contributing toward strengthening the City's economic base and providing job opportunities.

ENVIRONMENTAL DETERMINATION

An Environmental Impact Report (EIR) has been prepared in accordance with the provisions of the California Environmental Quality Act (CEQA). A summary of the findings are outlined in the EIR and are briefly summarized below:

Land Use – The proposed project is consistent with the General Plan and Zoning for the site and no land use impacts have been identified.

Aesthetics - Construction of the project will impact public views to Buena Vista Lagoon from South Coast Highway and partially from Eaton Street and Broadway. Given the location and configuration of the parcels, any project on this site would partially block public views to the lagoon. Private views are not protected under any state or local coastal or other regulations. The public view blockage from these roadways is considered to be significant and unmitigable.

Biological Resources – The project would not result in any significant impacts to sensitive habitat or endangered or threatened wildlife species. A 100-foot biological buffer would protect wetlands in Buena Vista Lagoon to the south. The buffer area would be revegetated with native species compatible with the lagoon.

Geology - Soils on the subject property would be subject to geologic issues such as liquefaction unless properly treated. The geology report outlines various measures to ensure that the proposed structures would be safe. Mitigation measures included in the EIR would reduce any potential geology issues to below a level of significance.

Hydrology and Water Quality – Implementation of measures in the hydrology and storm water management plans would reduce all impacts to below a level of significance. All stormwater exiting the site into the lagoon would be treated for removal of all harmful pollutants through the use of a bio-swale (vegetated drainage ditch) and a mechanical filtering system.

Noise – Noise impacts could occur from project construction (pile driving), and proximity of the hotel rooms and restaurant facing Coast Highway and condominiums in proximity to the train tracks. The residential condominiums and hotel rooms would mitigate potential noise impacts through the use of noise attenuating glass on windows and sliding glass doors and use of a barrier around a roof deck. A glass or plastic barrier will be required for the outdoor patio portion of the restaurant to reduce vehicular noise to acceptable levels. Pile driving noise impacts would be reduced by the use of drilled caissons instead of driven piles and limited hours of construction.

Traffic – No significant off-site traffic impacts were identified. The proposed project includes adding a traffic signal at the project's entrance on South Coast Highway. The Eaton street intersection would be modified to prohibit left turns on to Coast Highway from both the east and west sides of Eaton Street.

Alternatives – The following 4 project alternatives will be analyzed in the EIR: (1) No Project Alternative, (2) Reduced project alternative reducing the number of hotel rooms to 46 and splitting the hotel into two separate structures, (3) Reduced project alternative 2 where the restaurant is moved to the Eaton Street corner and the number of hotel rooms is reduced to 52, and (4) This alternative reduces the height of the hotel to one story over parking for a total of 21 hotel rooms. All four alternatives were found to be economically infeasible by the applicant.

SUMMARY

The proposed development, as modified by recommended conditions of project approval and mitigation measures from the EIR is consistent with the requirements of the Zoning Ordinance, Local Coastal Program, and the land use policies of the General Plan. The project design is compatible with existing and proposed development in the immediate area and will provide needed visitor commercial accommodations and uses in the coastal area. Therefore, staff recommends approval of the project. The Commission's action should be:

- Move to approve Development Plans (D-13-02, D-14-02), Conditional Use Permits (C-21-02, C-22-02), Regular Coastal Permit (RC-8-02) and Tentative Map (T-8-02) and certify the Environmental Impact Report and adopt Planning Commission Resolution Nos. 2006-P56 and 2006-P59 as attached.

SUBMITTED BY:


Jerry Hittleman
Acting City Planner

JH/fil

Attachments:

1. Site plan, floor plan and elevations
2. Planning Commission Resolution Nos. 2006-P56 and 2006-P59
3. Exhibit "A"

Received by: Nindie
Via: hand delivered - D. Dimento
Copy to: City Clerk, Jerry
Hittleman, Mike Blessing

2006 OCT 19 A 11: 24

ACCEPTANCE OF APPEAL

(OFFICE USE ONLY)

RECEIVED
CITY CLERK DEPARTMENT
CITY OF OCEANSIDE

Appeal of: BOARD WALK PROJECT EIR Resolution #2006-P59

Date of Final Action: 10/9/2006 Date Filed: 10/19/2006

RECEIVED

OCT 19 2006

Form of Appeal: \$656 Appeal Fee _____ Petition

Planning Department

Person Submitting Appeal: DOUGLAS FREED, DAN. DIMENTO

Company/Developer Representative, Company Name: ~~Oceanside Tree~~

Name of Person who Prepared the Appeal: _____

DOUGLAS FREED, DANIEL DIMENTO

Name of Spokesperson for the Appeal: _____

DOUGLAS FREED, DANIEL DIMENTO

Address: 2110 Broadway, Oceanside, CA, 92054 / 2116 Broadway

Phone Number: 760/722-7604, 760/231-9096

E-mail and/or Fax: Same

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: [Handwritten Signature]

Date: 10/19/2006

10/19/06

October 18, 2006

Oceanside City Clerks Office
Appeal to Oceanside City Planners
City of Oceanside Clerks Office
300 N. Coast Highway
Oceanside, CA 92054

Subject: Appeal of FEIR
Boardwalk Project

Dear City Planners:

On October 9, 2006, the Oceanside Planning Commission, by a vote of 6-1, approved the EIR for the Boardwalk project. Staff did not adequately address concerns raised by the Draft EIR and glossed over the stipulated negative impacts: LCP requirement to maintain public views in the Broadway right of way were ignored, as were several other factors. These comments are based on the Final EIR dated August 18, 2006. While a number of changes have been made to the project since the DEIR was issued over a year ago, there still remain significant environmental impacts that have not been adequately addressed, and for which insufficient mitigation has been provided.

Public Views

The EIR concedes, "views looking south from Eaton Street and Broadway will be partially blocked". FALSE. The view (site line) along Broadway will be totally blocked with the construction of Condominium A. Also, the developer proposes to encroach into the fifteen feet left after street abandonment of 1982 by placing trash receptacles there. The Broadway site line is down a public right of way. The LCP is very specific to not allow development when it blocks public view. They should have required a stipulation that the site line not be blocked. The EIR also states regarding mitigation, "nonetheless, due to the loss of public views to Buena Vista Lagoon, visual impacts cannot be fully mitigated." There is a way to mitigate the view loss: apply the requirements set forth by the LCP that the public view must not be blocked. This would require elimination of Condo A and several other scale concessions.

The owner/developer enjoyed a large windfall when the City vacated 65 feet of Broadway in 1982. It was agreed that a cul-de-sac would be constructed. It was also agreed to refrain from interfering with the view along Broadway. The owner/developer on October 5, 2006 came to agreement with Engineering to reinstate the required cul-de-sac, but re-located it to be in front of 2116 Broadway. This is an unacceptable change. Attempts to speak with the owner about Condo A and related issues were ignored.

Additional view impacts

The FEIR recognizes that there will be a significant loss of public views of the lagoon. However, it fails to describe the full impact of this loss, or to evaluate alternatives that could significantly reduce these impacts. This area has historic significance and is also identified as a gateway to the city- with a monument marker placed right across Coast highway from the

project. The historic importance and its special importance as a primary entrance to the city make the visual impacts of particular concern. There is no justification for the conclusion that view impacts are unmitigatable. Clearly the impacts could be significantly reduced using alternative site plans, reduced height, and providing better view corridors.

Buffer

The FEIR provides insufficient analysis of the adequacy of the proposed 100 foot wide buffer. The fact that this was negotiated with the CDFG does not satisfy CEQA requirements to analyze the impacts and provide adequate mitigation. Furthermore, this area is within the Coastal Zone and is subject to the more stringent MHCP and LCP requirements for protection of sensitive coastal resources. There is nothing in the FEIR analysis that substantiates a determination that this area of heavy public use, with a major proposed increase in public use, will be adequately protected.

Public Access

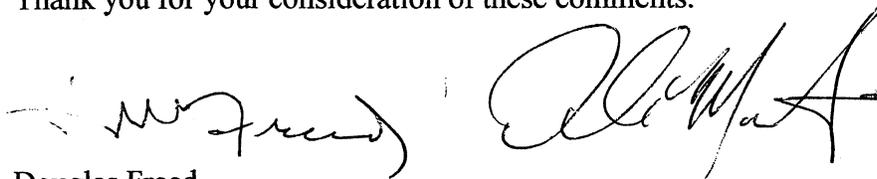
This project does not explain how it expects the users of the condos and hotel will access the beach. The FEIR has not evaluated coastal access in this area, while it has added hundreds of coastal visitors. This could have a serious indirect adverse impact, and requires further attention.

Alternatives Analysis

The FEIR concludes that impacts to land use and aesthetics remain significant and unmitigable. The CEQA process requires that the alternatives analysis look at ways to reduce, if not completely avoid significant impacts. Other than the no build alternative, none of the others significantly reduced the effect of the two items of greatest concern- land use and aesthetics. Clearly there are other ways to use this site that would reduce these impacts.

This EIR is faulty in regards to public view, buffer, and public access issues. I respectfully request that the favorable vote by the Planning Commission on the EIR be reversed.

Thank you for your consideration of these comments.

The image shows two handwritten signatures in black ink. The signature on the left is 'Douglas Freed' and the signature on the right is 'Daniel Di Mento'. Both signatures are written in a cursive, flowing style.

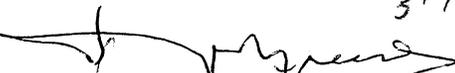
Douglas Freed
Daniel Di Mento

October 16, 2006

To Whom It May Concern:

As property owners or tenants within the noticed area of the proposed Boardwalk Project in Oceanside, we are signing this to show our support in appealing the certification of the project's EIR (Resolution number 2006-P59).

Sincerely,

Name	Signature	Address
Cathy Dillento		2116 Broadway, Oceanside,
STEPHEN BROWN		2112 S BROADWAY, OCEANSIDE
David Dillento		2116 BROADWAY, OCEANSIDE
Michelle Cheadle		2010 Broadway Oceanside
Autumn Morris		2115 S. Tremont Oceanside
TAKO MORRIS		2115 S. TREMONT ST. OCEANSIDE
KADEN MORRIS		2115 S. TREMONT ST OCEANSIDE
Susan Brown		2107 S. Tremont St. Oceanside, CA 92054
David D. Prochazka		2107 S. Tremont St. Oceanside CA 92054
Katie Vermeren		2107 S. TREMONT S
Darryl King		311 EATON ST O'side, CA 92054
DOUGLAS FREED		303 EATON ST.
Leotrckfeld		302 Eaton St. Oside, CA
Stallard		302 EATON 92054

George + Josephine Alkfeld
302 Eaton
Street

Marcus Weizel	Marcus Weizel	1605 S. Tremont Street
Corrie Padilla	Corrie Padilla	2018 Broadway #2
Amy Wong	Amy Wong	2014 Broadway #
Jon Hudson	Jon Hudson	2014 Broadway #2
Robert Elliot	Robert Elliot	301 1/2 VISTA WAY
Laurie Martin	Laurie Martin	301 1/2 Vista Way
Dillon Martin	Dillon Martin	301 1/2 Vista Way
ARWOLD VANDEN HEUVEL	Arwold Vanden Heuvel	301 Vista Way
ELLEN NEWTON	Ellen Newton	301 VISTA WAY
Steve Patrick	Steve Patrick	301 Vista Way
KAREN DUGAN	Karen Dugan	2106 S. TREMONT
DOUGLAS FREED	Douglas Freed	2110 BROADWAY
Dawn Gilmartin	Dawn Gilmartin	2030 S. Tremont #12
CATHERINE KLINGBEIL	Catherine Klingbeil	2030 S. TREMONT ST #15
Courtney Tanksley	Courtney Tanksley	2013 S. Tremont St #2
DANA TAYLOR	D. Taylor	2112 S. Tremont

October 19 , 2006

RECEIVED

OCT 19 2006

City of Oceanside Department of the City Clerk
300 North Coast Highway
Oceanside, California 92054

Planning Department

Attention: Ms. Barbara Riegel Wayne, City Clerk

Subject: Review of Environmental Impact Report for the proposed Boardwalk Development Project (T-8-02,D-13-02, D-14-02, V-11-02, RC-8-02), (SCH No. 2003071101), South Coast Highway, Oceanside , California

Dear Ms Riegel:,

In accordance with the requirements for the City of Oceanside (City) I am submitting this document to provide comment and appeal the approved Environmental Impact Report (EIR) for the subject project site. I received a copy of this document and have reviewed it prior to submitting this letter.

General

Based on my review, several concerns arise that should be considered prior to full acceptance of this document. (1) I do not believe the City planning commission was given adequate time to review this document (2) the public distribution of this document was not consistent and it appears that some residents were given access while others were unaware of the project. The latter concerns were rebuffed by the project architect during the recent hearing 10 days ago and need to be supported by evidence that a standard effort was made to reach the local residents. (3) I am appealing this document on the grounds that the offsite conditions or environmental factors are not mitigated by the project and that the project may increase the potential for impact to the surrounding area. For example, the client's engineer indicated that the design was in the "preliminary stages" and that seismic concerns would be addressed in the design and / or mitigated by the design. Based on the above referenced document review and the responses / design recommendations presented at the October 9, meeting, I do not believe this to be the case. Seismic design and public safety is not an afterthought and should be considered a design constraint. The earthquakes and secondary seismic hazards do not know that your project is there and given the location in a lagoonal deposit site, near a standing body of water, there is significant impacts that will remain following the implementation of any design. Designs should start with the constraints that cannot change, such as the culvert under Highway 101, shape of the lagoon, flood levels and seismic hazards THEN follow CEQA requirements for impact on the site. This is a flaw in the design approach on such a challenging site and therefore could not be understood easily by the planning commissioner(s) in a relatively short period of time.

PROPOSED DEVELOPMENT

Based on a review of the site, and discussions on October 9, 2006 as well as review of the subject document, alternative plans and layouts did not adequately address the critical aspects of the offsite constraints such as traffic, wind, sound, seismic, and flooding.

Traffic will be directed primarily onto the 101 near the elevation of the lagoon bridge. This places the primary entrance and exit opposite that of Sanpiper Cove development. Considering the severe seasonal swing in the traffic pattern not just the September (post high season) traffic data should be reviewed. Much of the analysis on traffic was done for the intersection of West Vista Way. Although studies of the signalization on Eaton were raised at the October 9 meeting , no significant data from those past studies were done. The traffic studies consider a 2 dimensional traffic pattern. This is flawed in that we have a local vertical curve (line of sight) problem along highway 101 at Eaton street that cannot and will not be corrected by this development. The effects of topography are not in this case simply incorporated into the data. The history of the traffic accidents at the intersection of Eaton and highway 101 need to be addressed and mitigated by the increased traffic on the local streets. Please note that page S-24 of the EIR indicates that there will be a signal at Eaton and 101 which is contrary to the statements given at the October 9 meeting.

The edge of the lagoon and the 100 year flood (probabilistic analysis level-unknown) are coincident with the edge of the proposed fill. This raises several concerns: (a) the public needs access to the raw data regarding how the edge of the lagoon was determined by an engineer. To simply state that it was certified, this should be considered inadequate supporting data. (b) the constraint of the nearby culvert/crossing along 101 will, according to the city traffic engineer not change, and therefore may continue to flood the area of the main entrance and exit of the project. (c) most communities that deal with lagoonal/ lake and river front developments require that the developer raise the site grades a specific "free board" above the lagoon elevation following 30 to 100 year static settlements of the fill over soft lagoon deposits as well as seismic settlements. That is to say, FEMA now requires that these near water developments be separated with a levee or embankment such that the free board be maintained in the event of wind, seismic/ static settlement, wave action, lateral spreading or seiche, etc. The fact that the designs were preliminary and they indicated that this would be mitigated in the future is therefore an inadequate response even at an EIR level study. Placing the main exit and the entrance in an area prone to flooding and potential seismic hazards is contrary to known industry standards of design. Lateral spreading is likely a significant secondary seismic hazard and was inadequately discussed in the EIR report.

Given the pronounced seismic secondary hazards at the site the elevation of the structures and the setback from the street, should consider the impact if all or part of the structure, appurtenances or the facade were to collapse or be "deposited" into the highway 101 should the design level earthquake impact the area.

The use of a "floating slab" for a foundation of the hotel/condominium main building is not a sufficient mitigation of the soft/loose lagoonal deposit on this site. This is a structural mat-type foundation and therefore is still susceptible to settlement unless the soft deposits are removed and reworked and/or treated prior to placement of this type of foundation. It therefore could become "tilted" and therefore out of the tolerance for operation of a safe structure at some time in the future. Comparing the use of the mat foundation under the Empire State Building, as suggested in the October 9 meeting, is not similar to this project insofar as that structure is built upon dense granitic rock and is not designed upon soft/ loose earth materials. As an alternative to the above ground mitigation, a ground improvement program consisting of grouting or other similar treatments could be employed to reduce the potential for significant settlements or tilt to affect the building. If the structure tilts beyond its tolerable amounts due to static or seismic settlements, the hotel/ condominium will likely need to be restored and could cause it to close for an extended period of time until this corrective action is taken. Therefore, the differential settlement data presented in the subject EIR document is inadequate. Although possibly not the most economic solution, pile supported foundations (drilled or driven) would likely be the most favorable foundation for this site to provide adequate support of the 30 to 45 foot high building(s).

In addition to the above, placement of densified soils over loose ground, IF mitigated within the project, may impact the existing improvements outside of the project by inducing off site long-term settlements. This was not adequately addressed in the subject EIR document. Therefore, an impact of the settlement and potential impact of fill over soft/loose lagoonal earth materials should be re-evaluated.

GRADING and GRADING SEQUENCE

The time of year that the grading will occur must be addressed at the level of the EIR due to the sharp seasonal difference in the traffic, noise, etc, in this area. Given 7,000 cubic yards of grading at the site and 450 cubic yards of import, this is a significant concern. If a 6 to 7 cubic yard dump truck capacity, this would be approximately 70 round trips for import or 140 truck trips without the movement of the onsite soil off site to allow temporary clearance. No trailer dumps should be allowed on this project considering traffic and turning area(s).

During construction, vibration(s) to the nearby structures in Sandpiper cove on soft / loose soils may be significant. There is a potential for damaging these structures due to mud vibrations or "mud waves" within the soft / loose lagoonal deposits during construction. Care should be taken to sequence the remedial grading such that stockpiles are not allowed to impact existing improvements, which was not discussed in the EIR.

Temporary grading below 5 feet onsite will likely require shoring in accordance with Cal-OSHA requirements. There is a potential for temporary excavations to be more than 10 feet

(cited as 10 to 15 feet) onsite and within close proximity to existing improvements. These temporary slopes are proposed at gradients of 63 degrees up from the horizontal without shoring. This should be considered a significant potential impact considering the backcut may be as close as 5 feet from the existing roadway, highway 101.

CLOSURE

Although a project could be adequately designed for this site, the current EIR should be supplemented to address some key issues and carefully reviewed by planning commission prior to full acceptance.

Respectfully submitted,



Andrew T. Guatelli

Distribution: (2) Addressee

RECEIVED
OCT 31 2006
Planning Department

OCEANSIDE THREE
Aharon Abada, Principal
6121 Ramony Drive
San Diego, CA 92120
(858) 967-5329

Received by: Holly
Via: hand-delivered
Copy to: Jerry Hittleman
Mike Blessing
C. Clerk

2006 OCT 31 A 11:49

RECEIVED
CITY CLERK DEPARTMENT
CITY OF OCEANSIDE

October 31, 2006

CITY OF OCEANSIDE
Barbara Wayne City Clerk
300 North Coast Highway
Oceanside, CA 92054

Re: Appeal of Denial of Boardwalk Project

Dear Mr. Hittleman:

On October 23, 2006, the City of Oceanside Planning Commission adopted a resolution denying an application for the BOARDWALK PROJECT.

I hereby appeal this denial to the Oceanside City Council.

In response to concerns raised by the Planning Commissioners, I am willing to make some minor modifications to the plan to address the following issues:

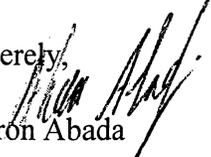
- Restaurant reorientation to accommodate lagoon views
- An improved trail through the project to accommodate bicycles
- Lowering of roof lines on the condominiums to lessen view impacts

In addition, I would like to discuss further with the City the condo/hotel ownership requirements and am willing to increase the room availability to the general public.

Given the sensitive location of the project, I anticipate that any further review and action by the Planning Commission would be appealed to the City Council. Therefore, I desire to have the Council review the matter at this time.

I know this project is an economic benefit to the City and furthers your goal of visitor-serving accommodations. The application requests no change or variance in zoning ordinances and complies with conditions requested by the environmental regulatory agencies. I have worked with the neighborhood and have previously made changes to the plans to accommodate some of their concerns. I believe we can continue to work together to make this a successful project.

Sincerely,


Aharon Abada

ACCEPTANCE OF APPEAL
(OFFICE USE ONLY)

Appeal of: Planning Commission Denial

Date of Final Action: 10/23/06 Date Filed: 10/31/06

Form of Appeal: \$656 Appeal Fee Petition

Person Submitting Appeal: Oceanside Three

Company/Developer Representative, Company
Name: Aharon Abada

Name of Person who Prepared the Appeal: Aharon Abada

Name of Spokesperson for the Appeal: Aharon Abada

Address: 6121 Romany Dr. San Diego, CA 92120

Phone Number: 858 967-5328

E-mail and/or Fax: abada@cox.net

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: _____ Date: _____

TABLE 1

CITYWIDE - Oceanside Visitor Serving Accommodations

Project Type	Address	Coastal Y/N	Total Rooms	Hotel Rooms	Time Share	Fractional Time Share	Condo / Hotel / RV Spaces	Weighted Average Room Rate	Average Occupancy Rates for FY05/06	AAA Rating
EXISTING										
Hotel / Motel										
Beachwood Motel	210 Surfdrider Way	Y	28	28				\$55	31%	NR
Best Western Marty's Valley Inn	3240 E. Mission Ave.	N	107	107				\$104	59%	***
Coast Inn	921 N. Coast Hwy.	Y	27	27				\$60	31%	NR
Days Inn at the Coast	1501 Carmelo Dr.	Y	80	80				\$104	86%	**
Dolphin Hotel	133 S. Coast Hwy.	Y	25	25				\$46	69%	NR
Extended Stay America	3190 Vista Way	N	101	101				\$119	72%	NR
Guest House Inn & Suites	1103 N. Coast Hwy.	Y	80	80				\$114	37%	NR
Hilltop Motel	1607 S. Coast Hwy.	Y	13	13				\$38	45%	NR
Holiday Inn Express	3170 Vista Way	N	62	62				\$105	60%	**
La Quinta	937 N. Coast Hwy	Y	38	38				\$160	86%	**
Marina Comfort Suites	888 N Coast Hwy	N	72	72				\$152	31%	***
Motel 6	909 N. Coast Hwy.	Y	106	106				\$73	76%	NR
Motel 6 #679	3708 Plaza Dr.	Y	136	136				\$58	72%	NR
Motel 9	822 N. Coast Hwy.	N	44	44				\$80	59%	NR
Ocean Breeze Inn	2020 S. Coast Hwy.	Y	11	11				\$60	55%	NR
Oceanside Inn & Suites	1820 S. Coast Hwy.	Y	21	21				\$69	35%	NR
Oceanside Inn Hotel & Suites	1680 Oceanside Blvd	N	80	80				\$69	48%	***
Oceanside Marina Inn	2008 Harbor Dr. North.	Y	52	52				\$197	71%	***
Oceanside Travelodge	1401 N. Coast Hwy.	Y	28	28				\$101	46%	NR
Pacific Inn	901 N. Coast Hwy.	Y	59	59				\$57	23%	NR
Quality Inn & Suites	1403 Mission Ave.	N	72	72				\$110	39%	NR
Ramada Inn Limited	1440 Mission Ave.	N	66	66				\$109	72%	NR
	Hotel / Motel Sub-Total		1308	1308				\$93	60%	
Time Shares										
Aquamarine Villas - Timeshares	711 S. Meyers	Y	26		26			\$240		
Southern Calif Beach Club	121 S. Pacific	Y	52		52			\$175		
The Blue Whale Timeshare	904 N. The Strand	Y	12		12			\$85		
World Mark - Trendwest	1301 Carmelo Drive	Y	140		140			\$175		
	Time Share Sub-Total		230	0	230	0	0	\$169		
Vacation Rentals / Spaces										
Marina Del Mar - Vacation Rentals	1202 N. Pacific Street	Y	78	78				\$256		
R & R Vacation Rentals	934 S. Meyers	Y	2	2				\$107		
La Playa Beachfront Properties - Vacation Rentals	218 1/2 S. The Strand	Y	2	2				\$131		
Oceanside RV Park	1510 So. Coast Hwy	Y	139					\$44	139	
Paradise By the Sea - RV Park	1537 So. Coast Hwy	Y	102					\$60	102	
Roberts Cottages	704 N. The Strand	Y	26	26				\$102		
	Vacation Rental / Spaces Sub-Total		349	108	0	0	241	\$117		
Projects Under Construction										
Fairfield Resort	Pacific Street	Y	168	32	136			TBD		
Marriott Residence Inns	Ocean Ranch	N	125	125				TBD		
	Buildings Under Construction Sub-Total		293	157	136	0	0			
	Total Existing / Under Construction Accommodations		2180	1573	366	0	241			

TABLE 1

CITYWIDE - Oceanside Visitor Serving Accommodations

Project Type	Address	Coastal Y/N	Total Rooms	Hotel Rooms	Time Share	Fractional Time Share	Condo / Hotel Spaces	RV Spaces	Weighted Average Room Rate	Average Occupancy Rates for FY05/06	AAA Rating
FUTURE											
Approved Projects Pending Construction											
Holiday Inn Express - (Carmelo Hotel)	1401 Carmelo Drive	Y	101	101							
Proposed Projects on File	Entitled, construction pending Sub-Total		101	101	0	0	0	0			
Coastal Lagoon		Y	82	12			70		TBD		
CityMark		Y	124	124					TBD		
Westin		Y	413	341		72			TBD		
Drive-in Movie Theatre		N	120	120					TBD		
	Proposed - Apps on File Sub-Total		739	597	0	72	70	0			
	Total Future Rooms		840	698	0	72	70	0			

Total Existing	1887	1416	230	0	0	241
Total Under Construction	293	157	136	0	0	0
Total Approved	101	101	0	0	0	0
Total Proposed	739	597	0	72	70	0
Grand Total	3020	2271	366	72	70	241

CITYWIDE - Existing Oceanside Hotel Summary By Pricepoint

Hotel price ranges	# Hotels	# Rooms	Rental Type Other Than Hotel	Coastal Y/N	Price	Rooms	% of Units
\$38 to \$85 per night				Y	\$38	13	
				Y	\$46	25	
				Y	\$55	28	
				Y	\$57	59	
				Y	\$58	136	
				Y	\$60	27	
				Y	\$60	11	
				Y	\$69	21	
				N	\$69	80	
				Y	\$73	106	
				N	\$80	44	
				Y	\$85	12	
Summary of \$38 to \$85	12	562	Time Share	Y		562	34%
\$100 to \$131 per night				Y	\$101	28	
			Vacation Rental	Y	\$102	26	
				N	\$105	62	
				Y	\$104	80	
				N	\$104	107	
				Y	\$107	2	
				N	\$109	66	
				N	\$110	72	
				Y	\$114	80	
				N	\$119	101	
			Vacation Rental	Y	\$131	2	
Summary of \$100 to \$131	11	626		Y		626	38%
\$150 to \$200 per night				N	\$152	72	
				Y	\$160	38	
			Time Share	Y	\$175	52	
			Time Share	Y	\$175	140	
				Y	\$197	52	
Summary of \$150 to \$200	5	354		Y		354	22%
Over \$200 per night				Y	\$256	78	
			Vacation Rental	Y	\$240	26	
			Time Share	Y		104	6%
Summary of Over \$200	2	104		Y		104	6%
Totals	30	1,646				1,646	100%

Note: Summary does not include RV Space Rental

TABLE 3

COASTAL -Oceanside Visitor Serving Accommodations Inventory

Map #	Project Type	Address	Total Rooms	Hotel Rooms	Time Share	Fractional Time Share	Condo/ Hotel	RV Spaces	Weighted Average Room Rate	Average Occupancy Rates for FY05/06	AAA Rating
	EXISTING										
	Coastal Hotel / Motel										
11	Hilltop Motel	1607 S. Coast Hwy.	13	13					\$38	45%	NR
10	Dolphin Hotel	133 S. Coast Hwy.	25	25					\$46	69%	NR
9	Beachwood Motel	210 Surfider Way	28	28					\$55	31%	NR
8	Pacific Inn	901 N. Coast Hwy.	59	59					\$57	23%	NR
7	Motel 6 #679	3708 Plaza Dr.	136	136					\$58	72%	NR
6	Coast Inn	921 N. Coast Hwy.	27	27					\$60	31%	NR
20	Ocean Breeze Inn	2020 S. Coast Hwy.	11	11					\$60	55%	NR
12	Oceanside Inn & Suites	1820 S. Coast Hwy.	21	21					\$69	35%	***
9	Motel 6	909 N. Coast Hwy.	106	106					\$73	76%	NR
3	Oceanside Travelodge	1401 N. Coast Hwy.	28	28					\$101	46%	NR
2	Days Inn at the Coast	1501 Carmelo Dr.	80	80					\$104	35%	**
4	Guest House Inn & Suites	1103 N. Coast Hwy.	80	80					\$114	37%	NR
5	La Quinta	937 N. Coast Hwy	38	38					\$160	86%	**
1	Oceanside Marina Inn	2008 Harbor Dr. North.	52	52					\$197	71%	***
		Hotel / Motel Sub-Total	704	704			0		\$85	51%	
	Coastal Time Shares										
3	Aquamarine Villas - Timeshares	711 S. Meyers	26		26				\$240		
4	Southern Calif Beach Club	121 S. Pacific	52		52			139	\$175		
2	The Blue Whale Timeshare	904 N. The Strand	12		12				\$85		
1	World Mark - Trendwest	1301 Carmelo Drive	140		140				\$175		
		Coastal Time Shares	230	0	230	0	0		\$169		
	Coastal Vacation Rentals / Spaces										
1	Marina Del Mar	1202 N. Pacific Street	78	78					\$256		
5	Oceanside RV Park	1510 So. Coast Hwy	139					139	\$44		
6	Paradise By the Sea - RV Park	1537 So. Coast Hwy	102					102	\$60		
2	Roberts Cottages	704 N. The Strand	26	26					\$102		
4	R & R Vacation Rentals	934 S. Meyers	2	2					\$107		
3	La Playa Beachfront Properties - Vacation Rentals	218 1/2 S. The Strand	2	2					\$131		
		Coastal Vacation Rentals / Spaces	349	108	0	0	0	241	\$77		
		Total Existing Coastal Rooms	1283	812	230	0	0	241			
	Coastal Projects Under Construction										
1	Fairfield Resort	Pacific Street	168	32	136				TBD		
		Coastal Projects Under Construction Sub-Total	168	32	136	0	0	0			
		Total Coastal Existing and Projects Under Construction	1451	844	366	0	0	241			

TABLE 3

COASTAL -Oceanside Visitor Serving Accommodations Inventory

Map #	Project Type	Address	Total Rooms	Hotel Rooms	Time Share	Fractional Time Share	Condo/Hotel	RV Spaces	Weighted Average Room Rate	Average Occupancy Rates for FY05/06	AAA Rating
	FUTURE										
	Approved Coastal Projects Pending Construction										
	Holiday Inn Express - (Carmelo Hotel)	1401 Carmelo Drive	101	101					TBD		
		Coastal Projects Pending Sub-Total	101	101	0	0	0				
	Proposed Coastal Projects on File										
	Coastal Lagoon		82	12			70		TBD		
	CityMark		124	124					TBD		
	Westin		413	341		72			TBD		
		Proposed Projects on File Sub-Total	619	477	0	72	70				

Total Existing COASTAL	1283	812	230	0	0	0	241
Total COASTAL Under Construction	168	32	136	0	0	0	0
Total Approved COASTAL	101	101	0	0	0	0	0
Total Proposed COASTAL	619	477	0	72	70	0	0
Grand Total COASTAL	2171	1422	366	72	70	70	241

COASTAL - Existing Oceanside Hotel Summary By Price Point

Hotel price ranges	# Hotels	# Rooms	Rental Type Other than Hotel	Price	Rooms	% of Units
\$38 to \$85 per night				\$38	13	
				\$46	25	
				\$55	28	
				\$57	59	
				\$58	136	
				\$60	27	
				\$60	11	
				\$69	21	
				\$73	106	
			Time Share	\$85	12	
Summary of \$38 to \$85	10	438			438	42%
\$100 to \$131 per night				\$101	28	
				\$102	26	
				\$104	80	
				\$107	2	
				\$114	80	
				\$131	2	
Summary of \$100 to \$131	4	218			218	21%
\$150 to \$200 per night				\$160	38	
			Time Share	\$175	52	
			Time Share	\$175	140	
				\$197	52	
Summary of \$150 to \$200	4	282			282	27%
Over \$200 per night			Vacation Rental	\$256	78	
			Time Share	\$240	26	
Summary of Over \$200	2	104			104	10%
Totals	20	1,042			1,042	100%

Note: Summary does not include RV Space Rentals

**Tax Analysis for the Proposed
Condominium Hotel in the City of
Oceanside, California**

Prepared for:
Mr. Aharon Abada
Oceanside Three Partners
6121 Romany Drive
San Diego, California 92120

Prepared by:
PKF Consulting
Los Angeles, California

October 2006

October 13, 2006



865 South Figueroa Street
Suite 104
Los Angeles CA 90017

Telephone (213) 680-0900
Telefax (213) 623-8240

Mr. Aharon Abada
Oceanside Three Partners
6121 Romany Drive
San Diego, California 92120

Dear Mr. Abada:

In accordance with your request, we have completed a tax analysis of the proposed condominium hotel, the Boardwalk Project, in the City of Oceanside. The fieldwork and data collection for this study were undertaken in October 2006. This report was written in October and is dated October 11, 2006. Our analysis is presented in the form of a letter report.

The income projections used in this report are based on a market study of the Boardwalk Project that was completed in July 2006. The income projections are provided for your reference in the Addendum of this report.

Based on discussions with you, we have analyzed the tax revenue that will be generated for the City of Oceanside for the following development scenario:

- The proposed Boardwalk Project will be positioned as an upscale, full-service condominium hotel. The mixed-use development will feature 82 for-sale condominium hotel rooms that will be placed back into a rental program, subject to restrictions set forth by the City of Oceanside and the coastal commission. The property will also feature a three-meal restaurant, outdoor pool and whirlpool, fitness center, two conference rooms and four private residences.

Presented in this report are projections for transient occupancy tax, property tax, sales tax, and business tax for a representative year in 2006 dollars, and the first ten years of operation of the Boardwalk Project.

This analysis has been prepared for your use to present to the Planning Commission of the City of Oceanside. It is subject to the attached Assumptions and Limited Conditions found in the addendum of this report.

ANNUAL TRANSIENT OCCUPANCY TAX

We project that the proposed condominium hotel will open in January 2009 with the occupancy, and average daily rates and rooms revenue as shown in the table below. The following tables summarize our findings for a representative year and a 10-year period. The TOT rate in the City of Oceanside is 10 percent.

Projected Occupancy and ADR for 10 Year Period Beginning 2009				
Year	Occupancy	ADR	Rooms Revenue	TOT at 10%
2006 Rep	72%	\$200	\$3,942,000	\$394,200
2009	65	202	3,594,000	359,400
2010	70	214	4,100,000	410,000
2011	72	227	4,474,000	447,400
2012	72	238	4,691,000	469,100
2013	72	246	4,849,000	484,900
2014	72	253	4,987,000	498,700
2015	72	261	5,144,000	514,400
2016	72	268	5,282,000	528,200
2017	72	276	5,440,000	544,000
2018	72	284	5,617,000	561,700

Source: PKF Consulting

ANNUAL PROPERTY TAX

The annual property tax collected from the proposed condominium hotel project for a representative year and a 10-year period are outlined in the table on the following page. The total property tax paid to the City of Oceanside comprises of the property tax paid by the owners of the 82 condominium hotel units, the four private residences and the hotel operators. In determining the condominium hotel property tax, we have assumed a total property tax rate of 1.0 percent of which the 21 percent is for the City of Oceanside.

Total Annual Property Tax		
Year	Total Property Tax 1.0%	Oceanside Property Tax 21%
2006 Rep	\$492,521	\$103,429
2009	537,800	112,938
2010	554,454	116,435
2011	570,578	119,821
2012	588,185	123,519
2013	605,291	127,111
2014	622,909	130,811
2015	642,057	134,832
2016	660,748	138,757
2017	681,001	143,010
2018	700,831	147,174

Source: PKF Consulting

Condominium Hotel Values and Property Taxes

The table below presents our estimated value for the condominium hotel units followed by the property taxes.

Estimated Value of the 82 Condominium Hotel Units					
Unit Type	Total Units	Square Feet	Estimated Value		
			Price Per SF	Per Unit	Aggregate
Unit Type A	33	674,9091	750	\$506,182	\$16,704,000
Unit Type A-2	19	545,6316	800	436505	8293600
Unit Type B	15	602	750	451500	6772500
Unit Type B-2	4	355	850	301750	1207000
Unit Type C	8	1215	700	850500	6804000
Unit Type D	2	1050	700	735000	1470000
Unit Type E	1	668	750	501000	501000
Total	82	54909			
				Total price per SF	\$760
				Total price in 2006 Dollars	\$41,752,100

Source: PKF Consulting

Property Tax from the 82 Condominium Units			
Year	Value of 82 Units	Total Property Tax	
		1.0%	21%
2006 Rep	\$41,752,100	\$417,521	\$ 87,679
2009	45,623,647	456,236	95,810
2010	46,992,356	469,924	98,684
2011	48,402,127	484,021	101,644
2012	49,854,191	498,542	104,694
2013	51,349,817	513,498	107,835
2014	52,890,311	528,903	111,070
2015	54,477,020	544,770	114,402
2016	56,111,331	561,113	117,834
2017	57,794,671	577,947	121,369
2018	59,528,511	595,285	125,010

Source: PKF Consulting

Four Private Residences Value and Property Tax

The following assumptions were used in determining the property tax for the four private residences.

- An estimated value of \$1,500,000 was provided by Mr. Abada for each of the four private residences.
- A total property tax rate of 1.0 percent and 21.0 percent for the City of Oceanside.

Estimated Value for the Four Private Residences					
Year	Unit 1	Unit 2	Unit 3	Unit 4	Total
2006 Rep	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$6,000,000
2007	1545000	1545000	1545000	1545000	6,180,000
2008	1591350	1591350	1591350	1591350	6,365,400
2009	1639091	1639091	1639091	1639091	6,556,362
2010	1688263	1688263	1688263	1688263	6,753,053
2011	1738911	1738911	1738911	1738911	6,955,644
2012	1791078	1791078	1791078	1791078	7,164,314
2013	1844811	1844811	1844811	1844811	7,379,243
2014	1900155	1900155	1900155	1900155	7,600,620
2015	1957160	1957160	1957160	1957160	7,828,639
2016	2015875	2015875	2015875	2015875	8,063,498
2017	2076351	2076351	2076351	2076351	8,305,403
2018	2138641	2138641	2138641	2138641	8,554,565

Source: PKF Consulting

Property Tax from the Four Private Residences			
Year	Value of Four Residences	Total Property Tax 1.0%	Oceanside Property Tax 21%
2006 Rep	\$6,000,000	\$60,000	\$12,600
2009	6,556,362	65,564	13,768
2010	6,753,053	67,531	14,181
2011	6,955,644	69,556	14,607
2012	7,164,314	71,643	15,045
2013	7,379,243	73,792	15,496
2014	7,600,620	76,006	15,961
2015	7,828,639	78,286	16,440
2016	8,063,498	80,635	16,933
2017	8,305,403	83,054	17,441
2018	8,554,565	85,546	17,965

Source: PKF Consulting

Rental Program and Ancillary Facilities

Due to the nature of this hotel, 100 percent of real estate and property taxes for guestrooms will be the unit owner's responsibility. The subject hotel will only be responsible for taxes relative to public space. We have estimated this expense at \$200 per available room.

Rental Program Property Tax		
Year	Total Property Tax 1.0%	Oceanside Property Tax 21%
2006 Rep	\$15,000	\$3,150
2009	16,000	3,360
2010	17,000	3,570
2011	17,000	3,570
2012	18,000	3,780
2013	18,000	3,780
2014	18,000	3,780
2015	19,000	3,990
2016	19,000	3,990
2017	20,000	4,200
2018	20,000	4,200

Source: PKF Consulting

ANNUAL SALES TAX

The annual sales tax for the proposed condominium hotel was derived from our projections for revenue generated from food and beverage, parking, other operated departments and rentals and other income. Our complete income projections are provided in the addendum of this report.

The food and beverage facilities at the subject property will consist of a three-meal restaurant with seating for 110. The facilities also include an outside patio area. The indoor area of the restaurant will measure 3,293 square feet; and the outdoor patio area will measure 980 square feet. In addition to the restaurant, our projections include revenue generated from room service and catering for the meeting spaces.

Other operated department revenue is generated primarily by the in-room movies, concessions, and sundry shop. In addition, income from concessions, commissions, cash discounts, interest income, vending machines, forfeited advance deposits, and service charges.

Rentals and other income revenue refer to revenue generated from rent paid by outside businesses on the property.

Sales tax in the City of Oceanside is 7.75 percent. 1.0 percent stays in the City of Oceanside.

Year	Annual Sales Tax		
	Other Revenue	Sales Tax at 7.75%	1.0% to Oceanside
2006 Rep	\$2,031,000	\$157,403	\$20,310
2009	2,002,000	155,155	20,020
2010	2,221,000	172,128	22,210
2011	2,354,000	182,435	23,540
2012	2,425,000	187,938	24,250
2013	2,497,000	193,518	24,970
2014	2,572,000	199,330	25,720
2015	2,649,000	205,298	26,490
2016	2,727,000	211,343	27,270
2017	2,810,000	217,775	28,100
2018	2,895,000	224,363	28,950

Source: PKF Consulting

ANNUAL BUSINESS TAX

The City of Oceanside collects a business tax that equals 50 cents for every \$1,000 of gross receipts. In addition, an administrative fee of \$75 per year is collected from hotels

Business Tax		
	Total Revenue	Business Tax
2006 Rep	\$5,993,000	\$ 3,072
2009	5,615,000	2,883
2010	6,343,000	3,247
2011	6,851,000	3,501
2012	7,140,000	3,645
2013	7,370,000	3,760
2014	7,584,000	3,867
2015	7,819,000	3,985
2016	8,035,000	4,093
2017	8,277,000	4,214
2018	8,540,000	4,345

Source: PKF Consulting

CONCLUSION

Based on our analysis the proposed Boardwalk Project is estimated to generate a total of \$521,011 in 2006 dollars in total taxes for the City of Oceanside. We project that the total taxes paid to the City of Oceanside over the course of the first ten years of operation will total \$6,922,279. The following table presents the total taxes for a representative year in 2006 dollars and the first 10 years of operation of the Boardwalk Project.

Year	Total Taxes					Total
	TOT	Sales Tax	Utilities	Business	Property Tax	
2006 Rep	\$394,200	\$20,310	\$19,300	\$3,072	\$103,429	\$521,011
2009	359,400	20,020	20,700	2,883	112,938	495,241
2010	410,000	22,210	21,600	3,247	116,435	551,892
2011	447,400	23,540	22,300	3,501	119,821	594,262
2012	469,100	24,250	23,000	3,645	123,519	620,514
2013	484,900	24,970	23,600	3,760	127,111	640,741
2014	498,700	25,720	24,400	3,867	130,811	659,098
2015	514,400	26,490	25,100	3,985	134,832	679,707
2016	528,200	27,270	25,800	4,093	138,757	698,320
2017	544,000	28,100	26,600	4,214	143,010	719,324
2018	561,700	28,950	27,400	4,345	147,174	742,169
Total Taxes						\$6,922,279

Source: PKF Consulting

We thank you for the opportunity to conduct this study and look forward to discussing our findings with you.

Sincerely,

PKF Consulting



Bruce Baltin
Senior Vice President

Addendum

Proposed Boardwalk Project
Representative Year of Operation

Number of Units:
Number of Annual Rooms Available:
Number of Rooms Occupied:
Annual Occupancy:
Average Daily Rate:
Revenue Per Available Room:

Revenues

Rooms
Food & Beverage
Telecommunications
Garage and Parking
Other Operated Departments
Rentals and Other Income
Total Revenues

Departmental Expenses

Rooms
Food & Beverage
Telecommunications
Garage and Parking
Other Operated Departments
Total Departmental Expenses

Departmental Profit

Undistributed Expenses

Administrative & General
Marketing
Property Operation and Maintenance
Utility Costs
Total Undistributed Operating Expenses

Gross Operating Profit

Base Management Fee

Fixed Expenses

Property Taxes
Insurance
Reserves
Total Fixed Expenses

Net Operating Income before Disbursement/Reimbursement

Disbursement to Owner

Reimbursement by Owner

Net Operating Income after Disbursement

Source: *PKF Consulting*

Stated in 2006 Dollars

75
27,375
19,710
72.0%
\$200.00
\$144.00

Amount	Ratio	Per Room	P.O.R.
\$3,942,000	65.8%	\$52,560	\$200.00
1,577,000	26.3%	21,027	80.01
20,000	0.3%	267	1.01
99,000	1.7%	1,320	5.02
296,000	4.9%	3,947	15.02
59,000	1.0%	787	2.99
5,993,000	100.0%	79,907	304.06

986,000	25.0%	13,147	50.03
1,183,000	75.0%	15,773	60.02
19,000	95.0%	253	0.96
59,000	59.6%	787	2.99
192,000	64.9%	2,560	9.74
2,439,000	40.7%	32,520	123.74

3,554,000	59.3%	47,387	180.31
-----------	-------	--------	--------

525,000	8.8%	7,000	26.64
450,000	7.5%	6,000	22.83
188,000	3.1%	2,507	9.54
173,000	2.9%	2,307	8.78
1,336,000	22.3%	17,813	67.78

2,218,000	37.0%	29,573	112.53
-----------	-------	--------	--------

240,000	4.0%	3,200	12.18
---------	------	-------	-------

15,000	0.3%	200	0.76
75,000	1.3%	1,000	3.81
239,720	4.0%	3,196	12.16
329,720	5.5%	4,396	16.73

1,648,280	27.5%	21,977	83.63
-----------	-------	--------	-------

1,774,000	29.6%	23,653	90.01
-----------	-------	--------	-------

(446,000)	-7.4%	(5,947)	(22.63)
-----------	-------	---------	---------

\$320,280	5.3%	\$4,270	\$16.25
-----------	------	---------	---------

**Proposed Boardwalk Project
Projected Operating Results
Calendar Years**

Number of Units:
Number of Annual Rooms Available:
Number of Rooms Occupied
Annual Occupancy:
Average Daily Rate:
Revenue Per Available Room:

Revenues
Rooms
Food & Beverage
Telecommunications
Garage and Parking
Other Operated Departments
Rentals and Other Income
Total Revenues

Departmental Expenses
Rooms
Food & Beverage
Telecommunications
Garage and Parking
Other Operated Departments
Total Departmental Expenses

Departmental Profit

Undistributed Expenses
Administrative & General
Marketing
Property Operation and Maintenance
Utility Costs
Total Undistributed Operating Expenses

Gross Operating Profit

Base Management Fee

Fixed Expenses
Property Taxes
Insurance
Reserves
Total Fixed Expenses

Net Operating Income

Disbursement to Owner

Net Operating Income before Disbursement/Reimbursement

Net Operating Income After Reserve

Source: PKF Consulting

	2009		2010		2011		2012		2013	
	75	Ratio								
Number of Units:	27,375		27,375		27,375		27,375		27,375	
Number of Annual Rooms Available:	17,790		19,160		19,710		19,710		19,710	
Number of Rooms Occupied:	65,0%		70,0%		72,0%		72,0%		72,0%	
Annual Occupancy:	\$202.00		\$214.00		\$227.00		\$238.00		\$246.00	
Average Daily Rate:	\$131.30		\$149.80		\$163.44		\$171.36		\$177.12	
Revenue Per Available Room:										
Revenues										
Rooms	\$3,594,000	64.0%	\$4,100,000	64.6%	\$4,474,000	65.3%	\$4,691,000	65.7%	\$4,849,000	65.8%
Food & Beverage	1,555,000	27.7%	1,725,000	27.2%	1,828,000	26.7%	1,883,000	26.4%	1,939,000	26.3%
Telecommunications	19,000	0.3%	22,000	0.3%	23,000	0.3%	24,000	0.3%	24,000	0.3%
Garage and Parking	97,000	1.7%	108,000	1.7%	114,000	1.7%	118,000	1.7%	121,000	1.6%
Other Operated Departments	292,000	5.2%	323,000	5.1%	343,000	5.0%	353,000	4.9%	364,000	4.9%
Rentals and Other Income	58,000	1.0%	65,000	1.0%	69,000	1.0%	71,000	1.0%	73,000	1.0%
Total Revenues	5,615,000	100.0%	6,343,000	100.0%	6,851,000	100.0%	7,140,000	100.0%	7,370,000	100.0%
Departmental Expenses										
Rooms	1,024,000	28.5%	1,094,000	26.7%	1,142,000	25.5%	1,177,000	25.1%	1,212,000	25.0%
Food & Beverage	1,217,000	78.3%	1,309,000	75.9%	1,371,000	75.0%	1,412,000	75.0%	1,454,000	75.0%
Telecommunications	18,000	94.7%	20,000	90.9%	22,000	95.7%	22,000	91.7%	23,000	95.8%
Garage and Parking	58,000	59.8%	65,000	60.2%	69,000	60.5%	71,000	60.2%	73,000	60.3%
Other Operated Departments	190,000	65.1%	210,000	65.0%	223,000	65.0%	229,000	64.9%	236,000	64.8%
Total Departmental Expenses	2,507,000	44.6%	2,698,000	42.5%	2,827,000	41.3%	2,911,000	40.8%	2,998,000	40.7%
Departmental Profit	3,108,000	55.4%	3,645,000	57.5%	4,024,000	58.7%	4,229,000	59.2%	4,372,000	59.3%
Undistributed Expenses										
Administrative & General	574,000	10.2%	591,000	9.3%	609,000	8.9%	627,000	8.8%	646,000	8.8%
Marketing	492,000	8.8%	506,000	8.0%	522,000	7.6%	537,000	7.5%	553,000	7.5%
Property Operation and Maintenance	205,000	3.7%	211,000	3.3%	217,000	3.2%	224,000	3.1%	231,000	3.1%
Utility Costs	188,000	3.3%	194,000	3.1%	200,000	2.9%	206,000	2.9%	212,000	2.9%
Total Undistributed Operating Expenses	1,459,000	26.0%	1,502,000	23.7%	1,548,000	22.6%	1,594,000	22.3%	1,642,000	22.3%
Gross Operating Profit	1,649,000	29.4%	2,143,000	33.8%	2,476,000	36.1%	2,635,000	36.9%	2,730,000	37.0%
Base Management Fee	225,000	4.0%	254,000	4.0%	274,000	4.0%	286,000	4.0%	295,000	4.0%
Fixed Expenses										
Property Taxes	16,000	0.3%	17,000	0.3%	17,000	0.2%	17,000	0.2%	18,000	0.2%
Insurance	82,000	1.5%	84,000	1.3%	87,000	1.3%	90,000	1.3%	92,000	1.2%
Reserves	112,300	2.0%	190,290	3.0%	274,040	4.0%	285,600	4.0%	294,800	4.0%
Total Fixed Expenses	210,300	3.7%	291,290	4.6%	378,040	5.5%	392,600	5.5%	404,800	5.5%
Net Operating Income	1,213,700	21.6%	1,597,710	25.2%	1,823,960	26.6%	1,956,400	27.4%	2,030,200	27.5%
Disbursement to Owner	1,617,000	28.8%	1,845,000	29.1%	2,013,000	29.4%	2,111,000	29.6%	2,182,000	29.6%
Net Operating Income before Disbursement/Reimbursement	(454,000)	-8.1%	(524,000)	-8.3%	(601,000)	-8.8%	(619,000)	-8.7%	(638,000)	-8.7%
Net Operating Income After Reserve	\$50,700	0.9%	\$276,710	4.4%	\$411,960	6.0%	\$464,400	6.5%	\$486,200	6.6%

Full Year of Operation

Proposed Boardwalk Project
Projected Operating Results
Calendar Years

Number of Units: 75
 Number of Annual Rooms Available: 27,375
 Number of Rooms Occupied: 19,710
 Annual Occupancy: 72.0%
 Average Daily Rate: \$253.00
 Revenue Per Available Room: \$182.16

	2014		2015		2016		2017		2018	
	Amount	Ratio								
Revenues										
Rooms	\$4,987,000	65.8%	\$5,144,000	65.8%	\$5,282,000	65.7%	\$5,440,000	65.7%	\$5,617,000	65.8%
Food & Beverage	1,997,000	26.3%	2,057,000	26.3%	2,119,000	26.4%	2,183,000	26.4%	2,248,000	26.3%
Telecommunications	25,000	0.3%	26,000	0.3%	26,000	0.3%	27,000	0.3%	28,000	0.3%
Garage and Parking	125,000	1.6%	129,000	1.6%	132,000	1.6%	136,000	1.6%	141,000	1.7%
Other Operated Departments	375,000	4.9%	386,000	4.9%	397,000	4.9%	409,000	4.9%	422,000	4.9%
Rentals and Other Income	75,000	1.0%	77,000	1.0%	79,000	1.0%	82,000	1.0%	84,000	1.0%
Total Revenues	7,584,000	100.0%	7,819,000	100.0%	8,035,000	100.0%	8,277,000	100.0%	8,540,000	100.0%
Departmental Expenses										
Rooms	1,248,000	25.0%	1,286,000	25.0%	1,324,000	25.1%	1,364,000	25.1%	1,405,000	25.0%
Food & Beverage	1,498,000	75.0%	1,543,000	75.0%	1,589,000	75.0%	1,637,000	75.0%	1,686,000	75.0%
Telecommunications	24,000	96.0%	24,000	92.3%	25,000	96.2%	26,000	96.3%	27,000	96.4%
Garage and Parking	75,000	60.0%	77,000	59.7%	79,000	59.8%	82,000	60.3%	84,000	59.6%
Other Operated Departments	243,000	64.8%	251,000	65.0%	258,000	65.0%	266,000	65.0%	274,000	64.9%
Total Departmental Expenses	3,083,000	40.7%	3,181,000	40.7%	3,275,000	40.8%	3,375,000	40.8%	3,476,000	40.7%
Departmental Profit	4,496,000	59.3%	4,638,000	59.3%	4,760,000	59.2%	4,902,000	59.2%	5,064,000	59.3%
Undistributed Expenses										
Administrative & General	665,000	8.8%	685,000	8.8%	706,000	8.8%	727,000	8.8%	749,000	8.8%
Marketing	570,000	7.5%	587,000	7.5%	605,000	7.5%	623,000	7.5%	642,000	7.5%
Property Operation and Maintenance	238,000	3.1%	245,000	3.1%	252,000	3.1%	260,000	3.1%	267,000	3.1%
Utility Costs	219,000	2.9%	225,000	2.9%	232,000	2.9%	239,000	2.9%	246,000	2.9%
Total Undistributed Operating Expenses	1,692,000	22.3%	1,742,000	22.3%	1,795,000	22.3%	1,849,000	22.3%	1,904,000	22.3%
Gross Operating Profit	2,804,000	37.0%	2,896,000	37.0%	2,965,000	36.9%	3,053,000	36.9%	3,160,000	37.0%
Base Management Fee	303,000	4.0%	313,000	4.0%	321,000	4.0%	331,000	4.0%	342,000	4.0%
Fixed Expenses										
Property Taxes	18,000	0.2%	18,000	0.2%	19,000	0.2%	19,000	0.2%	20,000	0.2%
Insurance	95,000	1.3%	98,000	1.3%	101,000	1.3%	104,000	1.3%	107,000	1.3%
Reserves	303,360	4.0%	312,760	4.0%	321,400	4.0%	331,080	4.0%	341,600	4.0%
Total Fixed Expenses	416,360	5.5%	428,760	5.5%	441,400	5.5%	454,080	5.5%	468,600	5.5%
Net Operating Income before Disbursement/Reimbursement	2,084,640	27.5%	2,154,240	27.6%	2,202,600	27.4%	2,267,920	27.4%	2,349,400	27.5%
Disbursement to Owner	2,244,000	29.6%	2,315,000	29.6%	2,377,000	29.6%	2,448,000	29.6%	2,528,000	29.6%
Reimbursement by Owner	(657,000)	-8.7%	(676,000)	-8.6%	(697,000)	-8.7%	(718,000)	-8.7%	(739,000)	-8.7%
Net Operating Income after Disbursement	\$497,640	6.6%	\$515,240	6.6%	\$522,600	6.5%	\$537,920	6.5%	\$560,400	6.6%

Source: PKF Consulting

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS

This report is made with the following assumptions and limiting conditions:

Economic and Social Trends - The consultant assumes no responsibility for economic, physical or demographic factors which may affect or alter the opinions in this report if said economic, physical or demographic factors were not present as of the date of the letter of transmittal accompanying this report. The consultant is not obligated to predict future political, economic or social trends.

Information Furnished by Others - In preparing this report, the consultant was required to rely on information furnished by other individuals or found in previously existing records and/or documents. Unless otherwise indicated, such information is presumed to be reliable. However, no warranty, either express or implied, is given by the consultant for the accuracy of such information and the consultant assumes no responsibility for information relied upon later found to have been inaccurate. The consultant reserves the right to make such adjustments to the analyses, opinions and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.

Hidden Conditions - The consultant assumes no responsibility for hidden or unapparent conditions of the property, subsoil, ground water or structures that render the subject property more or less valuable. No responsibility is assumed for arranging for engineering, geologic or environmental studies that may be required to discover such hidden or unapparent conditions.

Hazardous Materials - The consultant has not been provided any information regarding the presence of any material or substance on or in any portion of the subject property or improvements thereon, which material or substance possesses or may possess toxic, hazardous and/or other harmful and/or dangerous characteristics. Unless otherwise stated in the report, the consultant did not become aware of the presence of any such material or substance during the consultant's inspection of the subject property. However, the consultant is not qualified to investigate or test for the presence of such materials or substances. The presence of such materials or substances may adversely affect the value of the subject property. The value estimated in this report is predicated on the assumption that no such material or substance is present on or in the subject property or in such proximity thereto that it would cause a loss in value. The consultant assumes no responsibility for the presence of any such substance or material on or in the subject property, nor for any expertise or engineering knowledge required to discover the presence of such substance or material. Unless otherwise stated, this report assumes the subject property is in compliance with all federal, state and local environmental laws, regulations and rules.

Zoning and Land Use - Unless otherwise stated, the projections were formulated assuming the hotel to be in full compliance with all applicable zoning and land use regulations and restrictions.

Licenses and Permits - Unless otherwise stated, the property is assumed to have all required licenses, permits, certificates, consents or other legislative and/or administrative authority from any local, state or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

Engineering Survey - No engineering survey has been made by the consultant. Except as specifically stated, data relative to size and area of the subject property was taken from sources considered reliable and no encroachment of the subject property is considered to exist.

Subsurface Rights - No opinion is expressed as to the value of subsurface oil, gas or mineral rights or whether the property is subject to surface entry for the exploration or removal of such materials, except as is expressly stated.

Maps, Plats and Exhibits - Maps, plats and exhibits included in this report are for illustration only to serve as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose, nor should they be removed from, reproduced or used apart from the report.

Legal Matters - No opinion is intended to be expressed for matters which require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate consultants.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS

(continued)

Right of Publication - Possession of this report, or a copy of it, does not carry with it the right of publication. Without the written consent of the consultant, this report may not be used for any purpose by any person other than the party to whom it is addressed. In any event, this report may be used only with proper written qualification and only in its entirety for its stated purpose.

Testimony in Court - Testimony or attendance in court or at any other hearing is not required by reason of rendering this appraisal, unless such arrangements are made a reasonable time in advance of said hearing. Further, unless otherwise indicated, separate arrangements shall be made concerning compensation for the consultant's time to prepare for and attend any such hearing.

Archeological Significance - No investigation has been made by the consultant and no information has been provided to the consultant regarding potential archeological significance of the subject property or any portion thereof. This report assumes no portion of the subject property has archeological significance.

Compliance with the American Disabilities Act - The Americans with Disabilities Act ("ADA") became effective January 26, 1992. We assumed that the property will be in direct compliance with the various detailed requirements of the ADA.

Definitions and Assumptions - The definitions and assumptions upon which our analyses, opinions and conclusions are based are set forth in appropriate sections of this report and are to be part of these general assumptions as if included here in their entirety.

Dissemination of Material - Neither all nor any part of the contents of this report shall be disseminated to the general public through advertising or sales media, public relations media, news media or other public means of communication without the prior written consent and approval of the consultant(s).

Distribution and Liability to Third Parties - The party for whom this report was prepared may distribute copies of this appraisal report only in its entirety to such third parties as may be selected by the party for whom this report was prepared; however, portions of this report shall not be given to third parties without our written consent. Liability to third parties will not be accepted.

Use in Offering Materials - This report, including all cash flow forecasts, market surveys and related data, conclusions, exhibits and supporting documentation, may not be reproduced or references made to the report or to PKF Consulting in any sale offering, prospectus, public or private placement memorandum, proxy statement or other document ("Offering Material") in connection with a merger, liquidation or other corporate transaction unless PKF Consulting has approved in writing the text of any such reference or reproduction prior to the distribution and filing thereof.

Limits to Liability - PKF Consulting cannot be held liable in any cause of action resulting in litigation for any dollar amount which exceeds the total fees collected from this individual engagement.

Legal Expenses - Any legal expenses incurred in defending or representing ourselves concerning this assignment will be the responsibility of the client.