

AGENDA NO. 4

PLANNING COMMISSION



STAFF REPORT

DATE: August 27, 2012

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A DEVELOPMENT PLAN (D12-00013) AND CONDITIONAL USE PERMIT (CUP12-00014) TO REINSTATE THE ORIGINAL APPROVALS THAT ALLOWED THE DEVELOPMENT OF A 3,456-SQUARE FOOT MINI-MART AS PART OF AN EXISTING GAS STATION AT 1660 OCEANSIDE BOULEVARD – G & M GAS STATION A.K.A. “THE OCEANSIDER” – APPLICANT: ANDREA MUNOZ**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Class 1 categorical exemption for “Existing Facilities”; and,
- (2) Approve Development Plan (D12-00013) and Conditional Use Permit (CUP12-00014) by adopting Planning Commission Resolution No. 2012-P38 with findings and conditions of approval attached herein.

PROJECT BACKGROUND

On May 24, 2004, pursuant to a duly noticed public hearing, the Oceanside Planning Commission adopted Resolution No. 2004-P22, which approved Development Plan D-9-03 and Conditional Use Permit C-29-03. Resolution No. 2004-P22 approved plans for the changes to an existing fueling station, including but not limited to the addition of a 3,456-square foot mini-mart, subject to certain fees, dedications, reservations, exactions and conditions of approval.

On April 24, 2006, the Applicant applied for a time extension of the original Planning Commission action which adopted Resolution 2004-P22.

On September 24, 2007, pursuant to a duly noticed public hearing, the Oceanside Planning Commission adopted Resolution No. 2007-P46, which approved a time extension for Development Plan D-19-03 and Conditional Use Permit C-29-03. Resolution No. 2007-P46 continued the conditions of approval set forth in Resolution No. 2004-P22.

In February, 2010, Mr. Warsoff informed City staff members that he would not construct the median improvements. Condition No. 28 of Resolution 2004-P22 required the installation of a raised median on Oceanside Boulevard along the project frontage to prohibit left turns from the project site, and condition No. 29 required the installation of a left turn pocket, 180 feet in length with a 120-foot transition, for eastbound Oceanside Boulevard beginning at the Interstate 5 on/off ramp, as more fully set forth therein. Condition No. 20 requires the Applicant (Joseph and Barbara Warsoff) to obtain all necessary permits from any agency having jurisdiction over the project.

From February to June, staff had a series of meetings and telephone conversations with Mr. Warsoff to discuss the median improvement requirements and other issues regarding the project. Mr. Warsoff continued to refuse to install the median improvements pursuant to the Resolutions.

On June 9, 2010 City Staff sent Applicant a formal notice of the need to meet or resolve all the conditions of approval of the Conditional Use Permit and Development Plan, and requested a formal response from Applicant within thirty (30) days. Mr. Warsoff failed to respond to the letter, and was further informed that he is bound to comply with the recorded declaration of covenants, conditions and restriction and that his lack of response would require City Staff to initiate revocation of his Development Plan and Conditional Use Permit.

Mr. Warsoff did not respond to the timeline identified by staff to prevent revocation proceedings and has not satisfied the terms and conditions of approval of Development Plan D-19-03 and Conditional Use Permit C-29-03; therefore, resulting in the terms and conditions being violated due to a failure to implement Conditions of Approval Nos. 28 and 29 of Resolution 2004-P22.

On November 8, 2010, the Planning Commission took action to adopt Planning Commission Resolution No. 2010-P32 and revoked Development Plan (D-19-03), Conditional Use Permit (C-29-03), and Planning Commission Resolution Numbers 2004-P32 and 2007-P46. The basis of the revocation was due to non-compliance with the projects conditions of approval; and more specifically, implementation of a raised median along Oceanside Blvd.

Subsequent to the Planning Commissions action of November 8, 2010, the subject Gas Station and Mini-Mart went into foreclosure and eventually was purchased by G&M Oil Co. Inc. which took over operations of the facility and completed the required median improvements.

On April 30, 2012, G&M Oil Co. Inc. submitted an application for discretionary entitlements and requesting approval of Development Plan (D12-00013) and Conditional Use Permit (CUP12-00014) in order to reinstate the projects approval and bring the operating gas station and mini-mart in compliance with the original Development Plan and Conditional Use Permit conditions of approval.

Site Review: The subject site is fully developed as a service station/mini-mart on an approximately .52-acre parcel located on the northeast corner of the intersection of Vine Street and Oceanside Boulevard.

The underlying land use designation for the subject site is SC (Special Commercial) and the zoning is CS-HO (Special Commercial Highway Oriented). The larger neighborhood area encompassing the project site is the Townsite Neighborhood.

ANALYSIS

The new owner of the subject property and established gas station and mini-mart has diligently pursued rectifying all outstanding issues relative to Conditions of Approval Nos. 28 and 29 of Resolution 2004-P22, and has operated the subject Gas Station and Mini-Mart to date without any issues. The existing developed site is being operated as originally approved, is now in full compliance with the projects original approvals, and staff fully supports reinstatement of the Development Plan and Conditional Use Permit as presented. Staff has attached all previous Planning Commission staff reports (unsigned), up to and including the November 8, 2010 report that revoked the original Development Plan (D-19-03) and Conditional Use Permit (C-29-03) for reference purposes.

ENVIRONMENTAL DETERMINATION

Planning Division staff has completed a preliminary review of this project in accordance with the California Environmental Quality Act (CEQA), 1970. Based on that review, staff finds that the proposed project constitutes operations within existing facilities that will not involve expansion beyond what exist on-site at this time, and the project is categorically exempt, Class 1, "Existing Facilities" (Section 15301).

PUBLIC NOTIFICATION

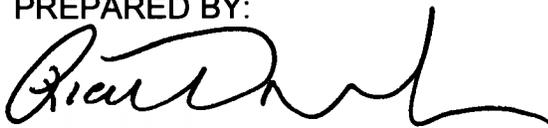
Legal notice was published in the North County Times and notices were sent to property owners of record within a 300-foot radius of the subject property, individuals and/or organizations requesting notification, the applicant and other interested parties. As of the date of preparation of this report no letters of opposition or in support of the project have been received by staff.

SUMMARY

The request for approval of a Development Plan (D12-00013) and Conditional Use Permit (CUP12-00014) to reinstate the 2004 Development Plan and Conditional Use Permit approvals that allowed the development of a 3,456 square foot mini-mart as part of an existing gas station at 1660 Oceanside Boulevard is consistent with the requirements of the Zoning Ordinance and the land use policies of the General Plan. The project meets all applicable development standards and will not impact existing land uses in the immediate area. As such, staff recommends that the Planning Commission approve the project based on the findings and subject to the conditions contained in the attached resolution. Staff recommends that the Planning Commission:

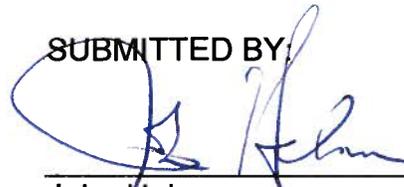
- Confirm issuance of a Class One (1), Categorical Exemption "Existing Facilities"; and,
- Adopt Planning Commission Resolution No. 2012-P38 approving Development Plan (D12-00013) and Conditional Use Permit (CUP12-00014) with findings and conditions of approval attached herein.

PREPARED BY:



Richard Greenbauer
Senior Planner

SUBMITTED BY:



John Helmer
Interim City Planner

Attachments:

1. Plans
2. Planning Commission Resolution No. 2012-P38
3. Planning Commission Staff Report dated: May 24, 2004
4. Planning Commission Resolution No. 2004-P22
5. Planning Commission Staff Report dated: September 24, 2007
6. Planning Commission Resolution No. 2007-P46
7. Planning Commission Staff Report dated: November 10, 2010
8. Planning Commission Resolution No. 2010-P32

DRAWN BY: J.M.
 DATE: 7-11-12
 CHECKED BY: J.M.
 SCALE: 1/4" = 1'-0"
 PROJECT: 12-00013
 SHEET: 12-00014

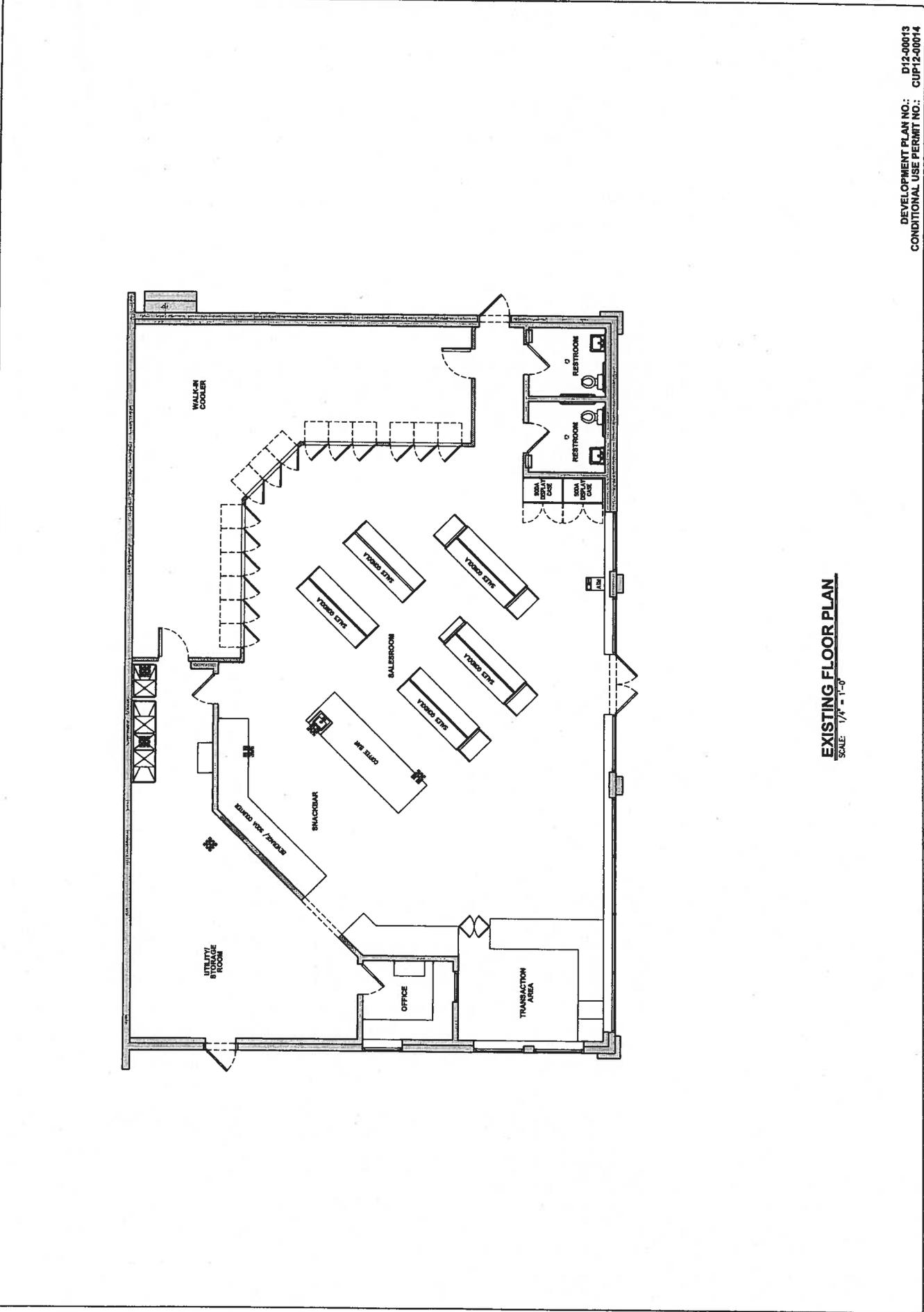
G&M OIL COMPANY, INC.
 1660 OCEANSIDE BOULEVARD
 OCEANSIDE, CALIFORNIA 92054
 (714) 235-0200

Travis Companies, Inc.
 1000 S. BROADWAY, SUITE 200, CHICAGO, IL 60605
 (312) 467-0000

NO.	REVISION
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FLOOR PLAN
 G&M OIL COMPANY FACILITY No.: 198
 1660 OCEANSIDE BOULEVARD
 OCEANSIDE, CALIFORNIA 92054

DRAWING NUMBER:
A1.0
 7/17/2012



EXISTING FLOOR PLAN
 SCALE: 1/4" = 1'-0"

DEVELOPMENT PLAN NO.: D12-00013
 CONDITIONAL USE PERMIT NO.: CUP12-00014

1 PLANNING COMMISSION
2 RESOLUTION NO. 2012-P38

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE
4 CITY OF OCEANSIDE, CALIFORNIA APPROVING A
5 DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT
6 ON CERTAIN REAL PROPERTY IN THE CITY OF
OCEANSIDE

7 APPLICATION NO: D12-00013 and CUP12-00014
8 APPLICANT: G&M Oil Co., Inc.
9 LOCATION: 1660 Oceanside Blvd.

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 Development Plan and Conditional Use Permit
14 under the provisions of Articles 11, 30, 31, 40, 41, and 43 of the Zoning Ordinance of the City
of Oceanside to permit the following:

15 reinstatement of a Development Plan and Conditional Use Permit that allowed for the
16 construction and operation of a 3,456-square foot mini-mart as part of an existing gas
17 station;

18 on certain real property described in the project description.

19 WHEREAS, the Planning Commission, after giving the required notice, did on the 27th
20 day of August, 2012 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; this project is categorically exempt from CEQA per Article 19, Section 15301
Existing Facilities, Class 1(b);

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:

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1 FINDINGS:

2 For the Development Plan:

- 3 1. The proposed location of the use is in accord with the objectives of this ordinance and the
4 purposes of the district in which the site is located because the development plan that
5 allowed the original construction of a 3,456-square foot mini-mart as part of an existing gas
6 station has not been altered and remains consistent with the intent of the General Plan
7 Special Commercial (SC) Land Use Designation and Special Commercial Highway
8 Oriented (SC-HO) zoning designation in that all proposed improvements, on-site and off-
9 site have been completed, and the existing use will continue to provide a balance of
10 employment opportunities for the City of Oceanside.
- 11 2. The reinstatement of the Development Plan that allowed the original construction of a
12 3,456-square foot mini-mart as part of an existing gas station remains consistent with the
13 Zoning Ordinance and the General Plan Land Use Element, because all required site
14 improvements have been implemented in accordance with the projects original
15 approvals. All improvements, both on and off site were designed and constructed in a
16 manner that remains consistent with the existing built environment on adjacent sites and
17 that is compatible with adjacent land uses.
- 18 3. That the area covered by the original Development Plan is adequately, reasonably, and
19 conveniently served by existing and planned public services, utilities, and public
20 facilities. No modification of the site beyond what was originally approved and
21 constructed has or is planned as part of the reinstatement of the projects original
22 approvals and no new additional public services, utilities, or public facilities will be
23 needed to serve the site.
- 24 4. The project to reinstate the original Development Plan without any new modifications to
25 the site being proposed will ensure that the overall project remains compatible with
26 existing and potential development on adjoining properties and within the surrounding
27 neighborhoods.
- 28 5. That the site plan and physical design of the project was found to be consistent with the
29 policies contained within Section 1.24 and 1.25 of the Land Use Element of the General
Plan, the Development Guidelines for Hillside, and Section 3039 of the Oceanside
Zoning ordinance during the projects original approvals because the site is relatively flat

1 and Hillside guidelines are not applicable to this site, and the proposed development was
2 determined to be compatible with the surrounding built environment. No modifications
3 to the site are proposed as part of this action to reinstate a Development Plan and
4 Conditional Use Permit for the 3,456-square foot gas station with mini-mart; therefore, the
5 project remains consistent with the General Plan and Oceanside Zoning Ordinance and
6 compatible with the surrounding built environment.

7 For the Conditional Use Permit:

- 8 1. The location of the mini-mart, within the CS-HO commercial zone is in accord with the
9 objectives of the Zoning Ordinance and the purposes of the district in which the site is
10 located. A Gas Station with Mini-Mart is permitted within the Special Commercial
11 Highway Oriented (CS-HO) zone district, subject to approval of a Conditional Use
12 Permit.
- 13 2. That the proposed location of the conditional use and the proposed conditions under
14 which it would be operated or maintained will be consistent with the General Plan; will
15 not be detrimental to the public health, safety or welfare of persons residing or working
16 in or adjacent to the neighborhood of such use; and will not be detrimental to properties
17 or improvements in the vicinity or to the general welfare of the City. Subject to
18 approval of a Conditional Use Permit, Mini-Marts to support the Gas Station activities
19 are allowed. The request to reinstate the Conditional Use Permit for the Mini-Mart
20 facility would not physically change or alter the existing operations of the site and the
21 subject use has operated without incident further displaying that no public health, safety
22 or welfare issues will occur from allowing the business to continue operations.
- 23 3. The mini-mart is conditioned and is required to comply with all provisions of the Zoning
24 Ordinance. The proposed use is subject to specific operational conditions that will cause
25 the use to operate in a manner that is compatible with the surrounding land uses.

26 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
27 approve Development Plan (D12-00013) and Conditional Use Permit (CUP12-00014) subject to
28 the following conditions:

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1 **Building:**

- 2 1. Exterior lighting shall comply with the Palomar Dark Sky Ordinance; all exterior
3 lighting must be shielded.

4 **Planning:**

- 5 1. This Development Plan (D12-00013) and Conditional Use Permit (CUP12-00014), permits
6 the reinstatement of prior approvals to allow the construction and operation of a 3,456-
7 square foot mini-mart as part of an existing gas station. Any substantial modification to
8 the Development Plan in the design or layout shall require a revision to the Development
9 Plan and Conditional Use Permit and/or a new Development Plan and Conditional Use
10 Permit.
11 2. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold
12 harmless the City of Oceanside, its agents, officers or employees from any claim, action or
13 proceeding against the City, its agents, officers, or employees to attack, set aside, void or
14 annul an approval of the City, concerning Development Plan (D12-00013) and Conditional
15 Use Permit (CUP12-00014). The City will promptly notify the applicant of any such
16 claim, action or proceeding against the City and will cooperate fully in the defense. If
17 the City fails to promptly notify the applicant of any such claim action or proceeding or
18 fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible
19 to defend, indemnify or hold harmless the City.
20 3. A covenant or other recordable document approved by the City Attorney shall be prepared
21 by the developer and recorded prior to issuance of building permits. The covenant shall
22 provide that the property is subject to this resolution, and shall generally list the conditions
23 of approval.
24 4. Prior to the issuance of building permits, compliance with the applicable provisions of the
25 City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed
26 and approved by the Planning Division. These requirements, including the obligation to
remove or cover with matching paint all graffiti within 24 hours and shall be recorded in
the form of a covenant affecting the subject property.

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5. Prior to the transfer of ownership and/or operation of the site the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner and or operator. This notification's provision shall run with the life of the project and shall be recorded as a covenant on the property.
6. Failure to meet any conditions of approval for this development shall constitute a violation of Development Plan (D12-00013) and Conditional Use Permit (CUP12-00014).
7. Unless expressly waived, all current zoning standards and City ordinances and policies in effect at the time building permits are issued are required to be met by this project. The approval of this project constitutes the applicant's agreement with all statements in the Description and Justification, Development Plan and other materials and information submitted with this application, unless specifically waived by an adopted condition of approval.
8. The applicant, tenants, or successors in interest shall comply with the City's business license requirements as necessary.
9. No coin operated amusement devices shall be maintained on license premises.
10. At any time the premise causes policing problems, the Police Department may recommend the licensee to furnish security personnel during the times identified by the Police Department. If after such recommendation the licensee does not take steps to control policing problems, the Police Department may require the licensee to furnish security personnel during times identified by the Police Department.
11. The premises shall be maintained primarily as a convenience store and the annual sales of alcoholic beverages shall not exceed 25 percent of the quarterly annual sale of all other products.
12. No more than 25 percent of total shelf space may be devoted to the display and sale of alcoholic beverages.

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1 13. All landscaping, fences, walls, etc. on the site, in medians within the public right-of-way
2 and within any adjoining public parkways shall be permanently maintained by the owner,
3 his assigns or any successors-in-interest in the property. The maintenance program shall
4 include: a) normal care and irrigation of the landscaping b) repair and replacement of plant
5 materials c) irrigation systems as necessary d) general cleanup of the landscaped and open
6 areas e) parking lots and walkways, walls, fences, etc. Failure to maintain landscaping shall
7 result in the City taking all appropriate enforcement actions including but not limited to
8 citations. This maintenance program condition shall be recorded with a covenant as
9 required by this resolution.

10 PASSED AND ADOPTED Resolution No. 2012-P38 on August 27, 2012 by the
11 following vote, to wit:

12 AYES:

13 NAYS:

14 ABSENT:

15 ABSTAIN:

16 _____
Tom Rosales, Chairperson
Oceanside Planning Commission

17 ATTEST:

18 _____
19 Richard Greenbauer, Acting Secretary

20 I, RICHARD T. GREENBAUER, Acting Secretary of the Oceanside Planning Commission,
21 hereby certify that this is a true and correct copy of Resolution No. 2012-P38.
22

23 Dated: August 27, 2012

24 Applicant accepts and agrees with all conditions of approval and acknowledges impact fees may
25 be required as stated herein:
26

27 _____
28 Applicant/Representative

_____ Date

DATE: May 24, 2004

TO: Chairman and Members of the Planning Commission

FROM: Planning Department

SUBJECT: **CONSIDERATION OF A DEVELOPMENT PLAN (D-19-03) AND
CONDITIONAL USE PERMIT (C-29-03) FOR THE
CONSTRUCTION OF A NEW 3,456-SQUARE FOOT MINI-MART
AT AN EXISTING GAS/SERVICE STATION LOCATED AT 1660
OCEANSIDE BOULEVARD - UNION 76 AT OCEANSIDE
BOULEVARD AND VINE - APPLICANT: JOE AND BARBARA
WARSOFF**

RECOMMENDATION

Staff recommends that the Planning Commission approve Development Plan (D-19-03), Conditional Use Permit (C-29-03) and adopt Planning Commission Resolution No. 2004-P22 as attached.

PROJECT DESCRIPTION AND BACKGROUND

Background: The existing service station is located at 1660 Oceanside Boulevard and was constructed in 1968 by the Humble Oil Company. In subsequent years the station has change ownership and the current owner purchased the facility in May 2003.

Site Review: The subject site is currently used as a service station on .52-acres and is located on the northeast corner of the intersection of Vine Street and Oceanside Boulevard. Currently, there exists on-site a 1,680-square foot service building that will be removed.

The surrounding area consists of commercial uses located north and east of the site, Cavalier Mobile Home Park is located south of the site and residential uses are located west of the site.

The site slopes slightly down in a southwesterly direction (Vine Street) with a grade differential of approximately 3 feet between the high and low points of the site.

The underlying land use designation for the subject site is Special Commercial and the

zoning is CS-HO (Special Commercial Highway Oriented). The larger neighborhood area encompassing the project site is the Townsite Neighborhood.

Project Description: The project application consists of two components, which include a Development Plan and Conditional Use Permit. Each discretionary request is described as follows:

Development Plan: The applicant is requesting the construction of a 3,456-square foot mini-mart at the existing service station and the removal of the existing 1,680-square foot building that formerly housed the service bays. The existing canopy and current fuel dispenser's configuration (8 fueling positions) will not be changed. The proposed mini-mart will be situated on the northern portion of the subject site. The proposed architecture is contemporary and the building materials consists of wood and stucco. The proposed design includes masonry pilasters and the stucco will be scored to break-up the walls and provide accents. Exterior colors are off-white with a blue and orange accent striping.

The existing monument sign as well as the existing off-site pole sign will remain and there will be no changes to these signs. The proposed wall signs are consistent with the Zoning Ordinance standards.

The new building will also necessitate several site improvements, such as the closure of one existing driveway, new trash enclosure, relocation of the existing propane tank to the north and creation of several landscape areas to meet current development standards.

Vehicular access to the site is provided from three driveways located on both Vine Street and Oceanside Boulevard. One existing driveway located on Vine Street will be removed and the other driveway on Vine Street will be modified to improve ingress and egress. The two driveways located on Oceanside Boulevard will remain the same.

The project requires 17-parking spaces and project provides 17-parking spaces.

Approximately 16 percent of the project will be landscaped, which is above the minimum requirement of 15 percent. The landscape concept plan includes Queen Palm trees and the shrubs include India Hawthorne and New Zealand Flax.

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

	MINIMUM REQUIRED	PROPOSED
LOT SIZE	10,000 square feet	22,651 square feet
SETBACKS		
Front	15 feet	98 feet
Side	0 feet	15 feet
Comer side	10 feet	68 feet
Rear	0 feet	2 feet
PARKING	17 Parking Spaces	17 Parking Spaces
BUILDING HEIGHT	50-feet (max)	27-feet (max)

Conditional Use Permit: A Conditional Use Permit is required for the proposed construction of a 3,456-square foot mini-mart. The proposed hours-of-operation will be 24-hours-a-day, 7-days-a-week.

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

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

ANALYSIS

KEY PLANNING ISSUES

1. Is the proposed project Development Plan consistent with the development criteria of the Community Commercial Zone and the surrounding neighborhood?
2. Is the proposed mini-mart compatible with the surrounding neighborhood?

DISCUSSION

Staff's review of the project focused on consistency with the General Plan and zoning regulations, as well as the project's compatibility with the surrounding area.

The applicant has stated that the proposed mini-mart is primarily due to the changes in the service station industry. The proposed mini-mart is necessary for the business to remain competitive within the existing and emerging marketplace. Due to consumer demands and the increase in the technical expertise needed to repair today's vehicles,

the service station has evolved into more of a convenient retail operation.

Staff has reviewed the operational characteristics of the service station and believes that the proposed mini-mart will not impact surrounding land uses. The service station is situated adjacent to a major roadway and Interstate 5 is consistent with surrounding and future commercial land uses. The project meets all development standards and the proposed design will upgrade and modernize the existing service station.

ENVIRONMENTAL DETERMINATION

The proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA).

SUMMARY

In summary, staff believes that the proposed Development Plan and Conditional Use Permit is consistent with the requirements of the Zoning Ordinance and the land use policies of the General Plan. The project meets or exceeds all development standards and the design of the structures is compatible with the commercial structures within the surrounding neighborhood. Therefore, staff recommends approval of the project. The Commission's action should be:

- Move to approve Development Plan (D-19-03) and Conditional Use Permit (C-29-03) and adopt Planning Commission Resolution No. 2004-P22 as attached.

PREPARED BY:

SUBMITTED BY:

Shan M. Babick
Associate Planner

Gerald S. Gilbert
Planning Director

GSG/SMB/fil

Attachments:

1. Planning Commission Resolution No. 2004-P22
2. Management Plan
3. Site Plans/Floor Plans and Elevations

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PLANNING COMMISSION
RESOLUTION NO. 2004-P22

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF OCEANSIDE, CALIFORNIA APPROVING A
DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT ON
CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: D-19-03 and C-29-03
APPLICANT: Joe and Barbara Warsoff
LOCATION: 1660 Oceanside Boulevard

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

WHEREAS, there was filed with this Commission a verified petition on the forms
prescribed by the Commission requesting a Development Plan and Conditional Use Permit under
the provisions of Articles 11, 41 and 43 of the Zoning Ordinance of the City of Oceanside to permit
the following:

construction of a 3,456-square foot mini-mart;
on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 24th day
of May, 2004 conduct a duly advertised public hearing as prescribed by law to consider said
application.

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State
Guidelines thereto; this project is not subject to CEQA per Article 19 Section 15301 and therefore
the project is exempt from CEQA;

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

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

<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
Drainage Fee	Ordinance No. 85-23 Resolution No. 89-231	\$9,575 per acre
Public Facility Fee	Ordinance No. 91-09 Resolution No. R91-39	\$441 per thousand square feet
School Facilities Mitigation Fee	Ordinance No. 91-34	\$.34 per square foot
Traffic Signal Fee	Ordinance No. 87-19	\$7.80 per vehicle trip
Thoroughfare Fee (For commercial and industrial please note the .75 per cent discount)	Ordinance No. 83-01	\$177 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. 02-OR-332-1	Fee based on meter size Typical is \$17,908 for a 2" meter
Wastewater System Buy-in fees	Oceanside City Code § 29.11.1 Resolution No. 87-97 Ordinance No. 02-OR-333-1	Based on meter size Typical is \$21,923 for a 2" meter
San Diego County Water Authority Capacity Fees	SDCWA Ordinance No. 2000-3	Based on meter size. Typical is \$10,421 for a 2" meter.

WHEREAS, the current fees referenced above are merely fee amount estimates of the impact fees that would be required if due and payable under currently applicable ordinances and resolutions, presume the accuracy of relevant project information provided by the applicant, and are not necessarily the fee amount that will be owing when such fee becomes due and payable;

WHEREAS, unless otherwise provided by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 32B of the Oceanside City Code and the City expressly reserves the right to amend the fees and fee calculations consistent with applicable law;

1 WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee,
2 dedication, reservation or other exaction to the extent permitted and as authorized by law;

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

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

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

11 FINDINGS:

12 For the Development Plan:

- 13 1. The site plan and physical design of the project is consistent with the Zoning Ordinance
14 and the underlying Special Commercial Highway Oriented (CS-HO) zone by providing a
15 new 3,456-square foot mini-mart.
- 16 2. The Development Plan conforms to the General Plan of the City.
- 17 3. The project site can be adequately served by existing public facilities, services and
18 utilities.
- 19 4. The project, as proposed, is compatible with the existing and potential development on
20 adjoining commercial properties or in the surrounding neighborhood.
- 21 5. The site plan and physical design of the project is consistent with the policies contained
22 within Section 1.24 of the Land Use Element of the General Plan.

23 For the Conditional Use Permit for the Mini-mart:

- 24 1. The location of the mini-mart, within the CS-HO commercial zone is in accord with the
25 objectives of the Zoning Ordinance and the purposes of the district in which the site is
26 located.
- 27 2. The proposed use will not be detrimental to properties or improvements in the vicinity or
28 to the general welfare of the City.

1 3. The mini-mart is conditioned and is required to comply with all provisions of the Zoning
2 Ordinance. The proposed use is subject to specific operational conditions that will cause
3 the use to operate compatibly with the surrounding land uses.

4 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
5 approve Development Plan (D-19-03), Conditional Use Permit (C-29-03) subject to the following
6 conditions:

7 **Building:**

- 8 1. Applicable Building Codes and Ordinances shall be based on the date of submittal for
9 Building Department plan check.
- 10 2. The granting of approval under this action shall in no way relieve the applicant/project from
11 compliance with all State and local building codes.
- 12 3. Site development, parking, access into buildings and building interiors shall comply with
13 Part 2, Title 24, C.C.R. (Disabled Access – Non-residential buildings - D.S.A.).
- 14 4. All electrical, communication, CATV, etc. service lines, within the exterior lines of the
15 property shall be underground (City Code Sec. 6.30).
- 16 5. The building plans for this project are required by State law to be prepared by a licensed
17 architect or engineer and must be in compliance with this requirement prior to submittal
18 for building plan review.
- 19 6. All outdoor lighting shall meet Chapter 39 of the City Code (Light Pollution Ordinance) and
20 shall be shielded appropriately. Where color rendition is important high-pressure sodium,
21 metal halide or other such lights may be utilized and shall be shown on final building and
22 electrical plans.
- 23 7. The developer shall monitor, supervise and control all building construction and supportive
24 activities so as to prevent these activities from causing a public nuisance, including, but not
25 limited to, strict adherence to the following:
 - 26 a) Building construction work hours shall be limited to between 7 a.m. and 6 p.m.
27 Monday through Friday, and on Saturday from 7 a.m. to 6 p.m. for work that is not
28 inherently noise-producing. Examples of work not permitted on Saturday are

1 concrete and grout pours, roof nailing and activities of similar noise-producing
2 nature. No work shall be permitted on Sundays and Federal Holidays (New Year's
3 Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day) except
4 as allowed for emergency work under the provisions of the Oceanside City Code
5 Chapter 38 (Noise Ordinance).

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

11 **Engineering:**

- 12 8. An erosion control plan and precise grading and private improvement plan shall be
13 prepared, reviewed, secured and approved prior to the issuance of any building permits.
14 The plan shall reflect all new and existing pavement, flatwork, landscaped areas, special
15 surfaces, curbs, gutters, medians, striping, signage, and footprints of all structures, walls,
16 drainage devices and utility services. Parking lot striping shall be shown on all Precise
17 Grading and Private Improvement Plans.
- 18 9. All right-of-way alignments, street dedications, exact geometrics and widths shall be
19 dedicated and improved as required by the City Engineer.
- 20 10. Design and construction of all improvements shall be in accordance with standard plans,
21 specifications of the City of Oceanside and subject to approval by the City Engineer.
- 22 11. Prior to issuance of a building permit all improvement requirements shall be covered by a
23 development agreement and secured with sufficient improvement securities or bonds
24 guaranteeing performance and payment for labor and materials, setting of monuments,
25 and warranty against defective materials and workmanship.
- 26 12. Prior to issuance of a building permit a phasing plan for the construction of public and
27 private improvements including landscaping, shall be approved by the City Engineer.
- 28 13. The approval of the project shall not mean that closure, vacation, or abandonment of any
public street, right-of-way, easement, or facility is granted or guaranteed to the developer.

1 The developer is responsible for applying for all closures, vacations, and abandonments
2 as necessary. The application(s) shall be reviewed and approved or rejected by the City
3 under separate process(es) per codes, ordinances, and policies in effect at the time of the
4 application.

5 14. Where proposed off-site improvements, including but not limited to slopes, public utility
6 facilities, and drainage facilities, are to be constructed, the applicant shall, at his own
7 expense, obtain all necessary easements or other interests in real property and shall dedicate
8 the same to the City as required. The applicant shall provide documentary proof
9 satisfactory to the City that such easements or other interest in real property have been
10 obtained prior to issuance of any grading, building or improvement permit for the
11 development. Additionally, the City, may at its sole discretion, require that the applicant
12 obtain at his sole expense a title policy insuring the necessary title for the easement or other
13 interest in real property to have vested with the City of Oceanside or the applicant, as
14 applicable.

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

- 18 a) Dirt, debris and other construction material shall not be deposited on any public
19 street or within the City's storm water conveyance system.
- 20 b) All grading and related site preparation and construction activities shall be limited
21 to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. No earthmoving
22 or grading operation shall be conducted on Saturdays, Sundays or legal holidays
23 unless written permission is granted by the City Engineer with specific limitations
24 to the working hours and types of permitted operations. All on-site construction
25 staging areas shall be as far as possible (minimum 100 feet) from any existing
26 residential development. Because construction noise may still be intrusive in the
27 evening or on holidays, the City of Oceanside Noise Ordinance also prohibits "any
28 disturbing excessive, or offensive noise which causes discomfort or annoyance to
reasonable persons of normal sensitivity."

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

3 16. All traffic signal contributions, highway thoroughfare fees, park fees, reimbursements,
4 and other applicable charges, fees and deposits shall be paid prior to the issuing of any
5 building permits, in accordance with City Ordinances and policies. The developer shall
6 also be required to join into, contribute, or participate in any improvement, lighting, or
7 other special district affecting or affected by this project. Approval of the project shall
8 constitute the developer's approval of such payments, and his agreement to pay for any
9 other similar assessments or charges in effect when any increment is submitted for final
10 map or building permit approval, and to join, contribute, and/or participate in such
11 districts.

12 17. Pavement sections for all streets, alleys, driveways and parking areas shall be based upon
13 approved soil tests and traffic indices. The pavement design is to be prepared by the
14 developer's soil engineer and must be approved by the City Engineer, prior to paving.

15 18. Any existing broken pavement, concrete curb, gutter or sidewalk or any damaged during
16 construction of the project, shall be repaired or replaced as directed by the City Engineer.

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

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

25 21. Prior to any grading of any part of the tract or project, a comprehensive soils and geologic
26 investigation shall be conducted of the soils, slopes, and formations in the project. All
27 necessary measures shall be taken and implemented to assure slope stability, erosion
28

1 control, and soil integrity. No grading shall occur until a detailed grading plan, to be
2 prepared in accordance with the Grading Ordinance and Zoning Ordinance, is approved by
3 the City Engineer.

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

8 23. Landscaping plans, including plans for the construction of walls, fences or other structures
9 at or near intersections, must conform to intersection sight distance requirements.
10 Landscape and irrigation plans for disturbed areas must be submitted to the City Engineer
11 prior to the issuance of a preliminary grading permit and approved by the City Engineer
12 prior to the issuance of building permits. Frontage and median landscaping shall be
13 installed prior to the issuance of any building permits. Project fences, sound or privacy
14 walls and monument entry walls/signs shall be designed, reviewed and constructed by the
15 landscape plans and shown for location only on grading plans. Plantable, segmental walls
16 shall be designed, reviewed and constructed by the grading plans and landscaped/irrigated
17 through project landscape plans. All plans must be approved by the City Engineer and a
18 pre-construction meeting held, prior to the start of any improvements.

19 24. The drainage design on the development plan is conceptual only. The final design shall be
20 based upon a hydrologic/hydraulic study to be approved by the City Engineer during final
21 engineering. All drainage picked up in an underground system shall remain underground
22 until it is discharged into an approved channel, or as otherwise approved by the City
23 Engineer. All public storm drains shall be shown on City standard plan and profile sheets.
24 All storm drain easements shall be dedicated where required. The applicant shall be
25 responsible for obtaining any off-site easements for storm drainage facilities.

26 25. Sediment, silt, grease, trash, debris, and/or pollutants shall be collected on-site and disposed
27 of in accordance with all state and federal requirements, prior to stormwater discharge either
28 off-site or into the City drainage system.

29 26. The development shall comply with all applicable regulations established by the United
30 States Environmental Protection Agency (USEPA) as set forth in the National Pollutant

1 Discharge Elimination System (N.P.D.E.S.) permit requirements for urban runoff and
2 storm water discharge and any regulations adopted by the City pursuant to the N.P.D.E.S.
3 regulations or requirements. Further, the applicant may be required to file a Notice of
4 Intent with the State Water Resources Control Board to obtain coverage under the
5 N.P.D.E.S. General Permit for Storm Water Discharges Associated with Construction
6 Activity and may be required to implement a Storm Water Pollution Prevention Plan
7 (SWPPP) concurrent with the commencement of grading activities. SWPPP's include
8 both construction and post construction pollution prevention and pollution control
9 measures and identify funding mechanisms for post construction control measures. The
10 developer shall comply with all the provisions of the Clean Water Program during and
11 after all phases of the development process, including but not limited to: mass grading,
12 rough grading, construction of street and landscaping improvements, and construction of
13 dwelling units. The applicant shall design the Project's storm drains and other drainage
14 facilities to include Best Management Practices to minimize non-point source pollution,
satisfactory to the City Engineer.

15 27. Upon acceptance of any fee waiver or reduction by the Developer, the entire project will
16 be subject to prevailing wage requirements as specified by Labor Code section
17 1720(b)(4). The Developer/Subdivider/Project Proponent/Applicant shall agree to execute
18 a form acknowledging the prevailing wage requirements prior to the granting of any fee
19 reductions or waivers.

20 28. The project shall install a raised median on Oceanside Boulevard along the project
21 frontage to prohibit left turns from the project site. The median shall be approximately
22 250 feet in length beginning at the intersection of Vine Street, and be of sufficient length
23 to restrict left turns from the adjacent Best Western motel driveway east of the project
24 site. The median shall be designed and constructed to the satisfaction of the
Transportation Manager.

25 29. The project shall install a left turn pocket, 180 feet in length with a 120-foot transition,
26 for eastbound Oceanside Boulevard beginning at the Interstate 5 on/off ramp. The turn
27 pocket shall be designed to Caltrans design standards.

28 30. "Right Turn Only" signs shall be installed on both driveway approaches from the project
site onto Oceanside Boulevard.

- 1 31. The existing southerly driveway from the project site onto Vine Street shall be removed.
- 2 32. Sufficient storage space on the project site shall be allowed for truck circulation,
3 deliveries and parking.
- 4 33. Crosswalks shall be installed on all approaches to the Oceanside Boulevard/Vine Street
5 intersection. The existing traffic signal at this intersection shall be modified to allow
6 pedestrian access for the east leg, and the existing "No Ped Crossing" signs on the
7 eastside of the intersection shall be removed.
- 8 34. Five-foot sidewalk (not including 6" top of curb) shall be installed on the north side of
9 Oceanside Boulevard and the east side of Vine Street for the full length of the project.
10 The sidewalk shall be ADA compliant and be contiguous to the curb.
- 11 35. ADA compliant pedestrian access shall be provided at all project driveways and the
12 intersection of Oceanside Boulevard and Vine Street.
- 13 36. Sight distance requirements at all driveway and street intersections shall conform to the
14 intersection corner sight distance criteria as provided by the California Department of
15 Transportation Highway Design Manual.
- 16 37. A traffic control plan shall be prepared according to the City traffic control guidelines and
17 be submitted to and approved by the Transportation Manager prior to the start of work
18 within open City rights-of-way. Traffic control during construction of streets that have
19 been opened to public traffic shall be in accordance with construction signing, marking
20 and other protection as required by the Caltrans Traffic Manual and City Traffic Control
21 Guidelines.
- 22 38. Traffic control during construction adjacent to or within all public streets must meet
23 Caltrans standards and City Traffic Control Guidelines. Traffic control plans shall be in
24 effect from 8:00 a.m. to 3:30 p.m. unless approved otherwise.
- 25 39. A haul route shall be obtained at least 7 days prior to the start of hauling operations and
26 must be approved by the Transportation Manager. Hauling operations shall be 8:00 a.m. to
27 3:30 p.m. unless approved otherwise.
- 28 40. Street lights shall be installed on Oceanside Boulevard and Vine Street along the frontage of
the project. The system shall be designed to provide uniform lighting, and be secured prior
to the recordation of map or building permit issuance, if a map is not recorded. The
subdivider shall pay all applicable fees, energy charges, and/or assessments associated with

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

3 41. The applicant shall pay all applicable traffic signal and thoroughfare fees.

4 **Fire:**

5 42. Plans shall be submitted to the Fire Prevention Bureau for plan check review and approval
6 prior to the issuance of building permits.

7 43. Fire extinguishers are required and shall be included on the plans submitted for plan check.

8 44. Buildings shall meet Oceanside Fire Departments current adopted codes at the time of
9 building permits.

10 45. In accordance with the Uniform Fire Code Sec. 901.4.4, approved addresses, for
11 commercial shall be placed on the structure in such a position as to be plainly visible and
12 legible from the street or roadway fronting the property. Numbers shall contrast with their
13 background.

14 46. Commercial Buildings require 6-inch high address numbers.

15 **Planning:**

16 47. This Development Plan and Conditional Use Permit shall expire on May 24, 2006, unless
17 the Planning Commission grants a time extension.

18 48. This Development Plan and Conditional Use Permit approves only the construction of a
19 3,456-square foot mini-mart as shown on the plans and exhibits presented to the Planning
20 Commission for review and approval. No deviation from these approved plans and exhibits
21 shall occur without Planning Department approval. Substantial deviations shall require a
22 revision to the Development Plan and Conditional Use Permit or a new Development Plan
23 and Conditional Use Permit.

24 49. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold
25 harmless the City of Oceanside, its agents, officers or employees from any claim, action or
26 proceeding against the City, its agents, officers, or employees to attack, set aside, void or
27 annul an approval of the City, concerning Development Plan D-19-03 and Conditional Use
28 Permit C-29-03. The City will promptly notify the applicant of any such claim, action or
proceeding against the City and will cooperate fully in the defense. If the City fails to
promptly notify the applicant of any such claim action or proceeding or fails to cooperate
fully in the defense, the applicant shall not, thereafter, be responsible to defend,
indemnify or hold harmless the City.

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

5 51. Landscape plans, meeting the criteria of the City's Landscape Guidelines and Water
6 Conservation Ordinance No. 91-15, including the maintenance of such landscaping, shall be
7 reviewed and approved by the City Engineer and Planning Director prior to the issuance of
8 building permits. Landscaping shall not be installed until bonds have been posted, fees
9 paid, and plans signed for final approval. The following special landscaping requirements
shall be met:

10 a) Parkway tree plantings along arterial roads shall be a minimum of two-inch
11 diameter trees so as to ensure a mature landscape theme is achieved in a reasonable
12 amount of time.

13 b) Arterial street trees in parkways shall be planted at a minimum of 30 feet on center,
14 each side of street, as a solitary planting. Approved root barriers shall be
15 incorporated.

16 52. All landscaping, fences, walls, etc. on the site, in any adjoining public parkways shall be
17 permanently maintained by the owner, his assigns or any successors-in-interest in the
18 property. The maintenance program shall include normal care and irrigation of the
19 landscaping; repair and replacement of plant materials; irrigation systems as necessary; and
20 general cleanup of the landscaped and open areas, parking lots and walkways, walls, fences,
21 etc. Failure to maintain landscaping shall result in the City taking all appropriate
22 enforcement actions by all acceptable means including but not limited to citations and/or
23 actual work with costs charged to or recorded against the owner. This condition shall be
recorded with the covenant required by this Resolution.

24 53. A trash enclosure must be provided as required by Chapter 13 of the City Code and shall
25 also include additional space for storage and collection of recyclable materials per City
26 standards. Recycling is required by City Ordinance. The enclosure must be built in a flat,
27 accessible location as determined by the City Engineer. The enclosure shall meet City
28 standards including being constructed of concrete block, reinforced with rebar and filled

1 with cement. A concrete slab must be poured with a berm on the inside of the enclosure to
2 prevent the bin(s) from striking the block walls. The slab must extend out of the enclosure
3 for the bin(s) to roll out onto. Steel posts must be set in front of the enclosure with solid
4 metal gates. All driveways and service access areas must be designed to sustain the weight
5 of a 50,000-pound service vehicle. Trash enclosures and driveways and service access areas
6 shall be shown on both the improvement and landscape plans submitted to the City
7 Engineer. The specifications shall be reviewed and approved by the City Engineer. The
8 City's waste disposal contractor is required to access private property to service the trash
9 enclosures, a service agreement must be signed by the property owner and shall remain in
10 effect for the life of the project. All trash enclosures shall be designed to provide user
11 access without the use and opening of the service doors for the bins. Trash enclosures shall
12 have design features such as materials and trim similar to that of the rest of the project. This
13 design shall be shown on the landscape plans and shall be approved by the Planning
14 Director.

14 54. A covenant or other recordable document approved by the City Attorney shall be prepared
15 by the applicant and recorded prior to issuance of building permits. The covenant shall
16 provide that the property is subject to this Resolution, and shall generally list the conditions
17 of approval.

18 55. The project shall prepare a Management Plan. The Management Plan is subject to the
19 review and approval of the Planning Director and the Police Chief prior to the occupancy of
20 the project, and shall be recorded as CC&R's against the property. The Management Plan
21 shall cover the following:

- 22 a) Security - The Management Plan, at a minimum, shall address onsite management,
23 hours-of-operation and measures for providing appropriate security for the project
24 site.
- 25 b) Maintenance - The Management Plan shall cover, but not be limited to anti-
26 graffiti and site and exterior building, landscaping, parking lots, sidewalks,
27 walkways and overall site maintenance measures and shall ensure that a high
28 standard of maintenance at this site exists at all times. The maintenance portion
of the management plan shall include a commitment for the sweeping and
cleaning of parking lots, sidewalks and other concrete surfaces at sufficient
intervals to maintain a "like new" appearance. Wastewater, sediment, trash or

1 other pollutants shall be collected on site and properly disposed of and shall not be
2 discharged off the property or into the City's storm drain system.

3 c) Any graffiti within the center shall be removed by the center management or its
4 designated representative within 24 hours of occurrence. Any new paint used to
5 cover graffiti shall match the existing color scheme.

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

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

16 58. Failure to meet any conditions of approval for this development shall constitute a violation
17 of the Conditional Use Permit and Development Plan.

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

24 60. This Conditional Use Permit shall be called for review by the Planning Commission if
25 complaints are filed and verified as valid by the Code Enforcement Office concerning the
26 violation of any of the approved conditions or assumptions made by the application.

27 61. The hours-of-operation are not limited, but shall be reviewed and may be limited by the
28 Planning Commission when valid issues or complaints pertaining to the hours-of-operation
arise.

62. Elevations, siding materials, colors, roofing materials and floor plans shall be
substantially the same as those approved by the Planning Commission. These shall

1 be shown on plans submitted to the Building Department and Planning
2 Department.

3 **Water Utilities:**

4 63. All public water and/or sewer facilities not located within the public right-of-way shall be
5 provided with easements sized according to the City's Engineers Manual. Easements
6 shall be constructed for an all weather access.

7 64. No trees or structures or building overhang shall be located within any water or
8 wastewater utility easement.

9 65. The property owner shall maintain private water and wastewater utilities located on
10 private property.

11 66. A separate irrigation meter is required and approved backflow prevention device is
12 required.

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

15 68. The developer shall be responsible for developing all water and sewer facilities necessary
16 to develop the property. Any relocation of water and/or sewer lines is the responsibility
17 of the developer and shall be done by an approved licensed contractor at the developer's
18 expense.

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1 69. All water and wastewater construction shall conform to the most recent edition of the
2 City's Engineers Manual, or as approved by the Water Utilities Director.

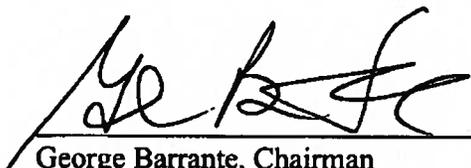
3 PASSED AND ADOPTED Resolution No. 2004-P22 on May 24, 2004 by the following
4 vote, to wit:

5 AYES: Barrante, Chadwick, Schaffer, Parker, Nack and Neal

6 NAYS: None

7 ABSENT: Todd

8 ABSTAIN: None

9
10 
11 _____
George Barrante, Chairman
Oceanside Planning Commission

12 ATTEST:

13 
14 _____
15 Gerald S. Gilbert, Secretary

16 I, GERALD S. GILBERT, Secretary of the Oceanside Planning Commission, hereby certify that
17 this is a true and correct copy of Resolution No. 2004-P22.

18 Dated: May 24, 2004
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21641

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF TRACT 101 OF SOUTH OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 622, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF A 22,803 SQUARE FOOT PARCEL OF LAND AS SAID PARCEL IS DESCRIBED ON RECORD OF SURVEY MAP NO. 8847, FILED MARCH 20, 1967, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SAID POINT BEARING NORTH 53°26'54" WEST, 50.00 FEET FROM THE NORTHWESTERLY LINE OF THAT 80.00 FOOT RIGHT OF WAY DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, UNDER PARCEL 1 RECORDED APRIL 6, 1955 IN BOOK 5595, PAGE 443 OF OFFICIAL RECORDS, AND BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 53°26'54" WEST, 100.00 FEET; THENCE AT RIGHT ANGLES SOUTH, 36°33'06" WEST, 151.27 FEET TO THE NORTHEASTERLY LINE OF THE 60.00 FOOT RIGHT OF WAY AS DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, RECORDED JULY 7, 1966 UNDER FILE NO. 110753 OF OFFICIAL RECORDS, BEING A POINT IN THE ARC OF A 170.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE ALONG SAID RIGHT OF WAY LINE SOUTHEASTERLY ALONG SAID CURVE, 47.37 FEET THROUGH AN ANGLE OF 15°57'57"; THENCE TANGENT TO SAID CURVE SOUTH 56°20'32" EAST, 83.65 FEET (RECORD SOUTH 56°23'03" EAST, 83.77 FEET) TO A TANGENT 20.00 FOOT RADIUS CURVE CONCAVE NORTHERLY; THENCE SOUTHEASTERLY AND EASTERLY ALONG SAID CURVE 30.98 FEET THROUGH AN ANGLE OF 88°44'54" TO A POINT IN THE ARC OF A 2040.08 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY IN SAID NORTHWESTERLY LINE OF THE 80.00 FOOT RIGHT OF WAY ABOVE DESCRIBED; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID NORTHWESTERLY LINE 130.71 FEET THROUGH AN ANGLE OF 3°40'16" TO A LINE WHICH BEARS SOUTH 53°26'54" EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 53°26'54" WEST, 50.00 FEET TO THE TRUE POINT OF BEGINNING.

DATE: September 24, 2007

TO: Chairman and Members of the Planning Commission

FROM: Community Development Department/Planning Division

SUBJECT: **TIME EXTENSION TO DEVELOPMENT PLAN (D-19-03) AND
CONDITIONAL USE PERMIT (C-29-03) FOR THE
CONSTRUCTION OF A NEW 3,456-SQUARE FOOT MINI-MART
AT AN EXISTING GAS/SERVICE STATION LOCATED AT 1660
OCEANSIDE BOULEVARD WITHIN THE TOWNSITE
NEIGHBORHOOD – UNION 76 “THE OCEANSIDER” –
APPLICANT: JOE AND BARBARA WARSOFF**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Class 32, Categorical Exemption “In-Fill Development Projects”; and,
- (2) Adopt Planning Commission Resolution No. 2007-P46 approving the Time Extension for Development Plan (D-19-03) and Conditional Use Permit (C-29-03) with findings and conditions of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

Background: On May 24, 2004, the Planning Commission considered a Development Plan (D-19-03) and Conditional Use Permit (C-29-03) proposing construction of a 3,456-square foot mini-mart in the Townsite Neighborhood. The Planning Commission adopted Resolution No. 2004-P22, including Condition 47 that limits the approval to a two-year term unless a time extension is approved by the Planning Commission.

On April 24, 2006, the applicant applied for a time extension of the original Planning Commission action which adopted Resolution 2004-P22.

Site Review: The subject site is currently used as a service station on .52 acres and is located on the northeast corner of the intersection of Vine Street and Oceanside Boulevard. Currently, there exists on-site a 1,680-square foot service building that will be removed.

The surrounding area consists of commercial uses located north and east of the site, Cavalier Mobile Home Park is located south of the site and residential uses are located west of the site.

The site slopes slightly down in a southwesterly direction (Vine Street) with a grade differential of approximately three feet between the high and low points of the site.

The underlying land use designation for the subject site is Special Commercial and the zoning is CS-HO (Special Commercial Highway Oriented). The larger neighborhood area encompassing the project site is the Townsite Neighborhood.

Project Description: The applicant has requested a time extension for a project that includes a Development Plan and Conditional Use Permit. Each discretionary request is described as follows:

Development Plan (D-19-03) represents a request for the following:

- (a) A time extension of a previously approved development plan that includes the construction of a 3,456-square foot mini-mart at the existing service station and the removal of the existing 1,680-square foot building that formerly housed the service bays.

Conditional Use Permit (C-29-03) represents a request for the following:

- (b) A time extension of a previously approved conditional use permit for the proposed 3,456-square foot mini-mart. The proposed hours-of-operation will be 24-hours-a-day, 7-days-a-week.

The applicant is requesting the construction of a 3,456-square foot mini-mart at the existing service station and the removal of the existing 1,680-square foot building that formerly housed the service bays. The existing canopy and current fuel dispenser's configuration (8 fueling positions) will not be changed. The proposed mini-mart will be situated on the northern portion of the subject site. The proposed architecture is contemporary and the building materials consist of wood and stucco. The proposed design includes masonry pilasters and the stucco will be scored to break-up the walls and provide accents. Exterior colors are off-white with a blue and orange accent striping.

The existing monument sign as well as the existing off-site pole sign will remain and there will be no changes to these signs. The proposed wall signs are consistent with the Zoning Ordinance standards.

The new building will also necessitate several site improvements, such as the closure of one existing driveway, new trash enclosure, relocation of the existing propane tank to the north and creation of several landscape areas to meet current development standards, including median landscaping.

Vehicular access to the site is provided from three driveways located on both Vine Street and Oceanside Boulevard. One existing driveway located on Vine Street will be removed and the other driveway on Vine Street will be modified to improve ingress and egress. The two driveways located on Oceanside Boulevard will remain the same.

The project requires 17 parking spaces and project provides 17 parking spaces.

Approximately 16 percent of the project will be landscaped, which is above the minimum requirement of 15 percent. The landscape concept plan includes Queen Palm trees, Western Redbud, and Strawberry Trees; shrubs include New Zealand Flax, Autumn Sage, Mexican Sage, Ingram Rosemary, Foxtail Agave, and Red Bougainvillea; groundcover shall include blue fescue, feather grass, prostrate rosemary, blue oat grass, and pea gravel mulch. Median landscaping shall take into consideration the future landscape plans for Oceanside Boulevard east of Interstate 5 and west of El Camino Real

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

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

ANALYSIS

KEY PLANNING ISSUES

1. General Plan conformance

The General Plan Land Use Map designation on the subject property is Special Commercial (SC). The proposed project is consistent with this designation and the goals and objectives of the City's General Plan as follows:

Land Use Element 2.2 Commercial Development

Section 2.24 Special Commercial

Policy C: Uses and development standards shall be established through the following special policies and identified guidance systems to best utilize and/or protect the unique characteristics of externality.

Section 2.242 Interstate 5, State Highway 76, and State Highway 78 Corridors

Policy A: Commercial sites adjacent to freeway off-ramps and expressway intersections shall coordinate site development to provide joint use of entrance/exit points, parking areas, freeway/expressway-oriented signage, rest areas and visitor-serving facilities.

Policy B: Given the proximity and visibility from major travel corridors, development shall place major emphasis on providing visitor-serving uses and facilities. Larger sites may provide commercial development of community serving or higher level.

Policy C: Commercial sites west of Interstate 5 are recognized as entry points to the Coastal Zone and shall be encouraged to provide commercial uses, services and facilities compatible to and in support of coastal dependent uses.

Policy D: Commercial developments shall be encouraged to provide facilities that promote and support the use of public transportation systems.

The applicant has stated that the proposed mini-mart is primarily due to the changes in the service station industry. The proposed mini-mart is necessary for the business to remain competitive within the existing and emerging marketplace. Due to consumer demands and the increase in the technical expertise needed to repair today's vehicles, the service station has evolved into more of a convenient retail operation.

Staff has reviewed the operational characteristics of the service station and believes that the proposed mini-mart will not impact surrounding land uses. The service station is situated adjacent to a major roadway and Interstate 5 is consistent with surrounding and future commercial land uses. The project meets all development standards and the proposed design will upgrade and modernize the existing service station.

2. Zoning Compliance

This project is located in the Special Commercial Highway-Oriented (CS-HO) District and complies with the requirements of that zoning designation. The following table summarizes proposed and applicable development standards for the project site:

	ZONING REQUIREMENTS	PROPOSED
MINIMUM LOT SIZE	10,000 square feet	22,651 square feet
OFF-STREET PARKING	17-parking spaces	17-parking spaces
FRONT YARD	15-feet	98 feet
SIDE YARD	0-feet	15 feet
CORNER SIDE YARD	10-feet	68 feet
REAR YARD	0-feet	2 feet
MAXIMUM HEIGHT	50-feet	27-feet

The project meets all applicable requirements of the Oceanside Zoning Ordinance.

DISCUSSION

Issue: Approval of a time extension

The application is conditioned for a maximum of 24 months from the original expiration date of May 24, 2004. Staff finds that the time extension application is consistent and complies with local regulations, ordinances, and the General Plan. The development plan and conditional use permit will not threaten public health, safety, or the welfare of others residing and or working in the vicinity of the project.

ENVIRONMENTAL DETERMINATION

The proposed project is categorically exempt pursuant to Class 32, Article 19, Section 15332 In-Fill Development Projects, of the California Environmental Quality Act.

PUBLIC NOTIFICATION

Legal notice was published in the North County Times and notices were sent to property owners of record within a 300-foot radius of the subject property, individuals and or organizations requesting notification, applicant and other interested parties. As of September 18, 2007, no communication supporting or opposing the request has been received.

SUMMARY

In reviewing the proposed time extension application staff finds that the project is consistent with development criteria of the Zoning Ordinance and the applicable land use policies of the General Plan. The project is consistent with the surrounding neighborhood. Staff believes that the time extension of the original approval will not be detrimental to the public's health, safety, or welfare. Therefore, staff recommends extending the time of the original date of expiration. The Commission's action should be:

- Move to approve a time extension for Development Plan (D-19-03) and Conditional Use Permit (C-29-03) and adopt Planning Commission Resolution No. 2007-P46 as attached.

PREPARED BY:

SUBMITTED BY:

Sally Schifman
Planner II

Jerry Hittleman
City Planner

REVIEWED BY: _____
Amy Volzke, Principal Planner

JH/SS/fil

Attachments:

1. Plans
2. Planning Commission Resolution No. 2007-P46
3. Planning Commission Resolution No. 2004-P22

1 PLANNING COMMISSION
2 RESOLUTION NO. 2007-P46

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE
4 CITY OF OCEANSIDE, CALIFORNIA APPROVING A TIME
5 EXTENSION FOR A DEVELOPMENT PLAN AND
6 CONDITIONAL USE PERMIT ON CERTAIN REAL PROPERTY
7 IN THE CITY OF OCEANSIDE

8 APPLICATION NO: D-19-03 and C-29-03 Time Extension
9 APPLICANT: Joe and Barbara Warsoff
10 LOCATION: 1660 Oceanside Boulevard

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

13 WHEREAS, there was filed with this Commission a verified petition on the forms
14 prescribed by the Commission requesting a time extension to a Development Plan and Conditional
15 Use Permit under the provisions of Articles 11, 41 and 43 of the Zoning Ordinance of the City of
16 Oceanside to permit the following:

17 construction of a 3,456-square foot mini-mart;
18 on certain real property described in the project description.

19 WHEREAS, the Planning Commission, after giving the required notice, did on the 24th day
20 of September, 2007 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; this project is not subject to CEQA per Article 19 Section 15332 and therefore,
24 the project is exempt from CEQA;

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

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

//////
//////
//////
//////

1	<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
2			
3	Parkland Dedication/Fee	Ordinance No. 91-10 Resolution No. 06-R0334-1	\$3,503 per unit
4			
5	Drainage Fee	Ordinance No. 85-23 Resolution No. 06-R0334-1	Depends on area (range is \$2,843-\$15,964 per acre)
6			
7	Public Facility Fee	Ordinance No. 91-09 Resolution No. 06-R0334-1	\$.713 per square foot or \$713 per thousand square feet for non-residential uses and \$2,072 per unit for residential
8			
9			
10	School Facilities Mitigation Fee	Ordinance No. 91-34	\$.42 per square foot non- residential for Oceanside (\$.42 for Vista and Fallbrook) \$2.63 per square foot residential (\$2.63 for Vista; \$2.63 for Fallbrook)
11			
12			
13			
14			
15	Traffic Signal Fee	Ordinance No. 87-19 Resolution No. 06-R0334-1	\$15.71 per vehicle trip
16			
17	Thoroughfare Fee (For commercial and industrial please note the .75 per cent discount)	Ordinance No. 83-01 Resolution No. 06-R0334-1	\$255 per vehicle trip (based on SANDAG trip generation table available from staff and from SANDAG)
18			
19			
20	Water System Buy-in Fees	Oceanside City Code §37.56.1 Resolution No. 87-96 Ordinance No. 05-OR 0611-1	Fee based on water meter size. Residential is typically \$3,746 per unit; Non- residential is \$19,967 for a 2" meter.
21			
22			
23	Wastewater System Buy-in fees	Oceanside City Code § 29.11.1 Resolution No. 87-97 Ordinance No. 05-OR 0610-1	Based on capacity or water meter size. Residential is typically \$4,587 per unit; Non-residential is \$24,444 for a 2" meter.
24			
25			
26			
27			
28			

1 WHEREAS, the current fees referenced above are merely fee amount estimates of the
2 impact fees that would be required if due and payable under currently applicable ordinances and
3 resolutions, presume the accuracy of relevant project information provided by the applicant, and are
4 not necessarily the fee amount that will be owing when such fee becomes due and payable;

5 WHEREAS, unless otherwise provided by this resolution, all impact fees shall be calculated
6 and collected at the time and in the manner provided in Chapter 32B of the Oceanside City Code
7 and the City expressly reserves the right to amend the fees and fee calculations consistent with
8 applicable law;

9 WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee,
10 dedication, reservation or other exaction to the extent permitted and as authorized by law;

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

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

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

19 FINDINGS:

20 For the Time Extension of the Development Plan and Conditional Use Permit:

- 21 1. The project has been conditioned for payment of all applicable impact fees, and therefore
22 will be paying its fair share toward needed public services.
- 23 2. All changes in City policy have been addressed through revised Conditions of Approval.
24 Therefore, this Time Extension will not adversely affect the City's General Plan or any
25 existing applicable City policy.
- 26 3. There have been no significant changes affecting the project site, or the surrounding areas.
27 As such, extending the opportunity to implement this use would not adversely affect the
28 General Plan designations and policies for the project area. Likewise, the prior approved
conditions for the operation of the use will provide measures of land use compatibility
within the area.

1 For the Development Plan:

- 2 1. The site plan and physical design of the project is consistent with the Zoning Ordinance
3 and the underlying Special Commercial Highway Oriented (CS-HO) zone by providing a
4 new 3,456-square foot mini-mart.
- 5 2. The Development Plan conforms to the General Plan of the City.
- 6 3. The project site can be adequately served by existing public facilities, services and
7 utilities.
- 8 4. The project, as proposed, is compatible with the existing and potential development on
9 adjoining commercial properties or in the surrounding neighborhood.
- 10 5. The site plan and physical design of the project is consistent with the policies contained
11 within Section 1.24 of the Land Use Element of the General Plan.

11 For the Conditional Use Permit for the Mini-Mart:

- 12 1. The location of the mini-mart, within the CS-HO commercial zone is in accord with the
13 objectives of the Zoning Ordinance and the purposes of the district in which the site is
14 located.
- 15 2. The proposed use will not be detrimental to properties or improvements in the vicinity or
16 to the general welfare of the City.
- 17 3. The mini-mart is conditioned and is required to comply with all provisions of the Zoning
18 Ordinance. The proposed use is subject to specific operational conditions that will cause
19 the use to operate compatibly with the surrounding land uses.

20 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
21 approve the time extension for Development Plan (D-19-03), Conditional Use Permit (C-29-03).
22 Planning Commission Resolution No. 2004-P22 shall continue to be effective with the approval of
23 this time extension. The following conditions shall supersede where conflicts arise:

23 Building:

- 24 1. Projects submitted after January 1, 2008 will be plan checked and constructed under the
25 newly adopted ICC codes.

26 Engineering:

- 27 2. Median improvements shall be constructed prior to the issuance of certificate of
28 occupancy, unless otherwise approved by the City Engineer.

- 1 3. Prior to issuance of a building permit, a phasing plan for the construction of public and
2 private improvements, including landscaping on-site and within the median, shall be
3 approved by the City Engineer.
- 4 4. Where proposed off-site improvements, including but not limited to the median, slopes,
5 public utility facilities, and drainage facilities, are to be constructed, the applicant shall, at
6 his own expense, obtain all necessary easements or other interests in real property and shall
7 dedicate the same to the City as required. The applicant shall provide documentary proof
8 satisfactory to the City that such easements or other interest in real property have been
9 obtained prior to issuance of any grading, building or improvement permit for the
10 development. Additionally, the City, may at its sole discretion, require that the applicant
11 obtain at his sole expense a title policy insuring the necessary title for the easement or other
12 interest in real property to have vested with the City of Oceanside or the applicant, as
13 applicable.
- 14 5. Landscaping plans, including plans for the construction of walls, fences or other structures at
15 or near intersections, must conform to intersection sight distance requirements. Landscape
16 and irrigation plans for disturbed areas must be submitted to the City Engineer prior to the
17 issuance of a preliminary grading permit and approved by the City Engineer prior to the
18 issuance of building permits. Frontage and median landscaping should be installed prior to
19 the issuance of certificate of occupancy. Project fences, sound or privacy walls and
20 monument entry walls/signs shall be designed, reviewed and constructed by the landscape
21 plans and shown for location only on grading plans. Plantable, segmental walls shall be
22 designed, reviewed and constructed by the grading plans and landscaped/irrigated through
23 project landscape plans. All plans must be approved by the City Engineer at a pre-
24 construction meeting held, prior to the start of any improvements.
- 25 6. The Project Proponent shall prepare and submit an Operations & Maintenance (O&M)
26 Plan to the City Engineer with the first submittal of engineering plans. The O&M Plan
27 shall be prepared by the applicant's Civil Engineer. It shall be directly based on the
28 project's Storm Water Mitigation Plan (SWMP) previously approved by the project's
approving authority (Planning Commission/City Council). The O&M Plan shall be
approved by the City Engineer prior to approval of any plans by the Public Works

1 Department. At a minimum the O&M Plan shall include the designated responsible
2 parties to manage the storm water BMP(s), employee's training program and duties,
3 operating schedule, maintenance frequency, routine service schedule, specific
4 maintenance activities, copies of resource agency permits, cost estimate for
5 implementation of the O&M Plan and any other necessary elements.

6 7. The Project Proponent shall enter into a City-Standard Stormwater Facilities Maintenance
7 Agreement with the City obliging the project proponent to maintain, repair and replace
8 the Storm Water Best Management Practices (BMPs) identified in the project's approved
9 Storm Water Mitigation Plan (SWMP), as detailed in the O&M Plan into perpetuity. The
10 Agreement shall be approved by the City Attorney prior to issuance of any precise
11 grading permit and shall be recorded at the County Recorder's Office prior to issuance of
12 any building permit. Security in the form of cash (or certificate of deposit payable to the
13 City) or an irrevocable, City-Standard Letter of Credit shall be required prior to issuance
14 of a precise grading permit. The amount of the security shall be equal to 10 years of
15 maintenance costs, as identified by the O&M Plan. The applicant's Civil Engineer shall
16 prepare the O&M cost estimate. The O&M cost estimate shall be approved by the City
17 Engineer prior to approval of any engineering plans for the project.

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

23 9. The Agreement shall include a copy of executed on-site and off-site access easements
24 necessary for the operation and maintenance of BMPs that shall be binding on the land
25 throughout the life of the project to the benefit of the party responsible for the O&M of
26 BMPs, until such time that the stormwater BMP requiring access is replaced, satisfactory
27 to the City Engineer. The Agreement shall also include a copy of the O&M Plan
28 approved by the City Engineer.

10. The BMPs described in the project's approved Storm Water Mitigation Plan (SWMP)
shall not be altered in any way, shape or form without formal approval by either an

1 Administrative Substantial Conformance issued by the Community Development
2 Department/Planning Division or the project's final approving authority (Planning
3 Commission/ City Council) at a public hearing. The determination of whatever action is
4 required for changes to a project's approved SWMP shall be made by the Community
5 Development Department/Planning Division.

- 6 11. Thermoplastic crosswalks shall be installed at the existing pedestrian crossings located on
7 the east and north legs of the intersection of Oceanside Boulevard at Vine Street. These
8 improvements shall be completed prior to issuance of certificate of occupancy and to the
9 satisfaction of the City Engineer.

10 **Planning:**

- 11 12. This Development Plan (D-19-03) and Conditional Use Permit (C-29-03) expires shall be
12 extended 24 months from the original expiration date of May 24, 2006.
- 13 13. All of the conditions of Planning Commission Resolution No. 2004-P22 shall continue to
14 apply for 24 months from the original expiration date of May 24, 2006, except those
15 conditions listed here, which shall supersede.
- 16 14. A covenant or other recordable document approved by the City Attorney shall be prepared
17 by the applicant and recorded prior to issuance of building permits. The covenant shall
18 provide that the property is subject to this resolution, and shall generally list the conditions
19 of approval.
- 20 15. Landscape plans, meeting the criteria of the City's Landscape Guidelines and Water
21 Conservation Ordinance No. 91-15, including the maintenance of such landscaping, shall be
22 reviewed and approved by the City Engineer prior to the issuance of building permits.
23 Landscaping shall not be installed until bonds have been posted, fees paid, and plans signed
24 for final approval. The following special landscaping requirements shall be met:
- 25 a) Parkway tree plantings along arterial roads shall be a minimum of two-inch diameter
26 trees so as to ensure a mature landscape theme is achieved in a reasonable amount of
27 time.
- 28 b) Arterial street trees in parkways shall be planted at a minimum of 30 feet on center,
each side of street, as a solitary planting. Approved root barriers shall be
incorporated.

- 1 c) All landscaping, fences, walls, etc. on the site, in the median, in the public right-of-
2 way, and in any adjoining public parkways shall be permanently maintained by the
3 owner, his assigns or any successors-in-interest in the property. The maintenance
4 program shall include normal care and irrigation of the landscaping; repair and
5 replacement of plant materials; irrigation systems as necessary; and general cleanup
6 of the landscaped and open areas, parking lots and walkways, walls, fences, etc.
7 Failure to maintain landscaping shall result in the City taking all appropriate
8 enforcement actions by all acceptable means including but not limited to citations
9 and/or actual work with costs charged to or recorded against the owner. This
10 condition shall be recorded with the covenant required by this resolution.
- 11 d) There shall be an assessment/evaluation of existing gas and electric lines prior to
12 placement of palms and tree grates on Oceanside Boulevard; trees shall be
13 relocated as necessary.
- 14 e) The landscape plans for this project shall take into consideration any future
15 landscape plans for Oceanside Boulevard east of Interstate 5 and west of El Camino
16 Real.

16 16. The project shall prepare a Management Plan. The Management Plan is subject to the
17 review and approval of the City Planner and the Police Chief prior to the occupancy of the
18 project, and shall be recorded as CC&R's against the property. The Management Plan shall
19 cover the following:

- 20 a) Security - The Management Plan, at a minimum, shall address on-site management,
21 hours-of-operation and measures for providing appropriate security for the project
22 site.
- 23 b) Maintenance - The Management Plan shall cover, but not be limited to anti-
24 graffiti and site and exterior building, landscaping, parking lots, sidewalks,
25 walkways, median, and overall site maintenance measures and shall ensure that a
26 high standard of maintenance at this site exists at all times. The maintenance
27 portion of the management plan shall include a commitment for the sweeping and
28 cleaning of parking lots, sidewalks and other concrete surfaces at sufficient

1 intervals to maintain a "like new" appearance. Wastewater, sediment, trash or
2 other pollutants shall be collected on-site and properly disposed of and shall not
3 be discharged off the property or into the City's storm drain system.

4 c) Any graffiti within the center shall be removed by the center management or its
5 designated representative within 24 hours of occurrence. Any new paint used to
6 cover graffiti shall match the existing color scheme.

7 d) Failure to meet any conditions of approval for this development shall constitute a
8 violation of the time extension for the Conditional Use Permit and Development
9 Plan.

10 17. No coin operated amusement devices shall be maintained on license premises.

11 18. At any time the premise causes policing problems, the Police Department may recommend
12 the licensee to furnish security personnel during the times identified by the Police
13 Department. If after such recommendation the licensee does not take steps to control
14 policing problems, the Police Department may require the licensee to furnish security
15 personnel during times identified by the Police Department.

16 19. The premises shall be maintained primarily as a convenience store and the annual sales of
17 alcoholic beverages shall not exceed 25 percent of the quarterly annual sale of all other
18 products.

19 20. No more than 25 percent of total shelf space may be devoted to the display and sale of
20 alcoholic beverages.

21 **Water Utilities:**

22 21. All public water and/or sewer facilities not located within the public right-of-way shall be
23 provided with easements sized according to the Water, Sewer, and Reclaimed Water
24 Design and Construction Manual. Easements shall be constructed for all weather access.

25 22. A separate irrigation meter and approved backflow prevention device is required and shall
26 be displayed on the plans

27 23. All Water and Wastewater construction shall conform to the most recent edition of the
28 Water, Sewer, and Reclaimed Water Design and Construction Manual or as approved by the
Water Utilities Director.

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

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

9 26. Water and Wastewater Buy-in fees and the San Diego County Water Authority Fees are to
10 be paid to the City and collected by the Water Utilities Department at the time of Building
11 Permit issuance.

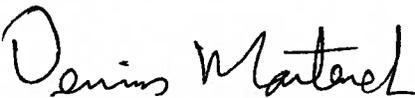
12 PASSED AND ADOPTED Resolution No. 2007-P46 on September 24, 2007 by the following
13 vote, to wit:

14 AYES: Martinek, Parker, Horton, Neal, Troisi and Bertheaud

15 NAYS: None

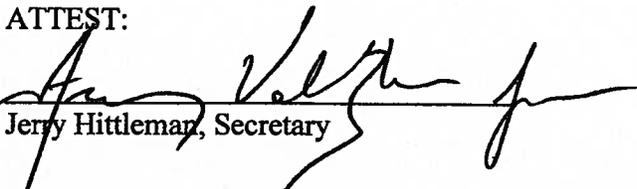
16 ABSENT: Balma

17 ABSTAIN: None

18 

19 _____
20 Dennis Martinek, Chairman
21 Oceanside Planning Commission

22 ATTEST:

23 
24 _____
25 Jerry Hittleman, Secretary

26 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
27 this is a true and correct copy of Resolution No. 2007-P46.

28 Dated: September 24, 2007

21641

EXHIBIT "A"

LEGAL DESCRIPTION

RECEIVED
APR 24 2006
Planning Department

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF TRACT 101 OF SOUTH OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 622, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF A 22,803 SQUARE FOOT PARCEL OF LAND AS SAID PARCEL IS DESCRIBED ON RECORD OF SURVEY MAP NO. 8847, FILED MARCH 20, 1967, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SAID POINT BEARING NORTH 53°26'54" WEST, 50.00 FEET FROM THE NORTHWESTERLY LINE OF THAT 80.00 FOOT RIGHT OF WAY DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, UNDER PARCEL 1 RECORDED APRIL 6, 1955 IN BOOK 5595, PAGE 443 OF OFFICIAL RECORDS, AND BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 53°26'54" WEST, 100.00 FEET; THENCE AT RIGHT ANGLES SOUTH, 36°33'06" WEST, 151.27 FEET TO THE NORTHEASTERLY LINE OF THE 60.00 FOOT RIGHT OF WAY AS DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, RECORDED JULY 7, 1966 UNDER FILE NO. 110753 OF OFFICIAL RECORDS, BEING A POINT IN THE ARC OF A 170.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE ALONG SAID RIGHT OF WAY LINE SOUTHEASTERLY ALONG SAID CURVE, 47.37 FEET THROUGH AN ANGLE OF 15°57'57"; THENCE TANGENT TO SAID CURVE SOUTH 56°20'32" EAST, 83.65 FEET (RECORD SOUTH 56°23'03" EAST, 83.77 FEET) TO A TANGENT 20.00 FOOT RADIUS CURVE CONCAVE NORTHERLY; THENCE SOUTHEASTERLY AND EASTERLY ALONG SAID CURVE 30.98 FEET THROUGH AN ANGLE OF 88°44'54" TO A POINT IN THE ARC OF A 2040.08 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY IN SAID NORTHWESTERLY LINE OF THE 80.00 FOOT RIGHT OF WAY ABOVE DESCRIBED; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID NORTHWESTERLY LINE 130.71 FEET THROUGH AN ANGLE OF 3°40'16" TO A LINE WHICH BEARS SOUTH 53°26'54" EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 53°26'54" WEST, 50.00 FEET TO THE TRUE POINT OF BEGINNING.

DATE: November 8, 2010

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A REVOCATION OF DEVELOPMENT PLAN (D-19-03) AND CONDITIONAL USE PERMIT (C-29-03) AND ASSOCIATED RESOLUTIONS (2004-P22 AND 2007-P46) ON PROPERTY LOCATED AT 1660 OCEANSIDE BOULEVARD DUE TO NON-COMPLIANCE WITH CONDITIONS OF APPROVAL – THE OCEANSIDER – APPLICANT: JOE AND BARBARA WARSOFF**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Revoke Development Plan (D-19-03) and Conditional Use Permit (C-29-03); Planning Commission Resolution No. 2004-P22, and Planning Commission Resolution No. 2007-P46, and;
- (2) Adopt Planning Commission Resolution No. 2010-P32 with findings attached herein.

PROJECT BACKGROUND

On May 24, 2004, pursuant to a duly noticed public hearing, the Oceanside Planning Commission adopted Resolution No. 2004-P22, which approved Development Plan D-19-03 and Conditional Use Permit C-29-03. Resolution No. 2004-P22 approved plans for the changes to an existing fueling station, including but not limited to the addition of a 3,456-square foot mini-mart, subject to certain fees, dedications, reservations, exactions and conditions of approval. Condition No. 28 of Resolution 2004-P22 required the installation of a raised median on Oceanside Boulevard along the project frontage to prohibit left turns from the project site, and condition No. 29 required the installation of a left turn pocket, 180 feet in length with a 120-foot transition, for eastbound Oceanside Boulevard beginning at the Interstate 5 on/off ramp, as more fully

set forth therein. Condition No. 20 requires the Applicant (Joseph and Barbara Warsoff) to obtain all necessary permits from any agency having jurisdiction over the project. Condition 47 limited the approval to a two-year term unless a time extension is approved by the Planning Commission.

The Applicant did not protest any fees, dedications, reservations, exactions or conditions of approval of Resolution No. 2004-P22, including Conditions Nos. 28 and 29, within the time and manner allowed to do so under the Government Code.

On March 16, 2005, there was duly recorded with the County Recorder's Office a Declaration of "Covenants, Conditions, & Restrictions on Real Property Known as the Oceanside" declaring that the conditions of Resolution No. 2004-P22 are binding on all subsequent owners of the property.

On April 24, 2006, the Applicant applied for a time extension of the original Planning Commission action which adopted Resolution 2004-P22.

On September 24, 2007, pursuant to a duly noticed public hearing, the Oceanside Planning Commission adopted Resolution No. 2007-P46, which approved a time extension for Development Plan D-19-03 and Conditional Use Permit C-29-03. Resolution No. 2007-P46 continued the conditions of approval set forth in Resolution No. 2004-P22, except where expressly superseded, and provided that median improvements shall be constructed prior to the issuance of certificates of occupancy, unless otherwise approved by the City Engineer. Conditions Nos. 28 and 29 remained in full force and effect.

The Applicant did not protest any fees, dedications, reservations, exactions or conditions of approval of Resolution No. 2007-P46, including Conditions Nos. 28 and 29, within the time and manner allowed to do so under the Government Code.

On October 10, 2007 the Applicant submitted to the City plans for the median construction in accordance with Conditions Nos. 28 and 29. The City approved these plans on March 12, 2008.

Shortly thereafter, Applicant's Engineer submitted these approved plans to Caltrans, since a Caltrans encroachment permit was required.

In March 2008, Mr. Warsoff met with City Engineering staff and requested that installation of median improvements be postponed until trenching work associated with a CIP project (Emergency Outfall Repair) was completed, and that applicant be issued certificates of occupancy prior to the completion of the median improvements.

On December 11, 2008, Engineering Division staff initialed a Utility Release, prior to the installation of the raised median, based on Applicant's representation that Applicant would begin construction of the Median within 6 months of occupancy. Applicant thereafter began operating the service station and mini-market at the property.

On September 29, 2009 the CIP project was filed with the county.

On January 4, 2010, Mr. Warsoff informed Caltrans that it he would not perform median improvements.

In February, 2010, Mr. Warsoff informed City staff members that he would not construct the median improvements. From February to June, staff had a series of meetings and telephone conversations with Mr. Warsoff to discuss the median improvement requirements and other issues regarding the project. Mr. Warsoff continued to refuse to install the median improvements pursuant to the Resolutions.

On June 9, 2010 City Staff sent Applicant a formal notice of the need to meet or resolve all the conditions of approval of the Conditional Use Permit and Development Plan, and requested a formal response from Applicant within thirty (30) days. Mr. Warsoff has failed to respond to the letter, and was further informed that he is bound to comply with the recorded declaration of covenants, conditions and restriction and that his lack of response would require City Staff to initiate revocation of his Development Plan and Conditional Use Permit.

On June 17, 2010, Applicant communicated to City staff via e-mail that Applicant intended to seek Planning Commission approval to remove Conditions nos. 28 and 29.

On June 24, 2010, City Staff notified Applicant that Applicant had until July 8, 2010, to submit the necessary application and fees to request Planning Commission approval to remove Conditions nos. 28 and 29, or the City would institute revocation proceedings of the Development Plan and CUP.

Mr. Warsoff did not respond to the timeline identified by staff to prevent revocation proceedings and has not satisfied the terms and conditions of approval of Development Plan D-19-03 and Conditional Use Permit C-29-03; therefore, resulting in the terms and conditions being violated due to a failure to implement Conditions of Approval Nos. 28 and 29 of Resolution 2004-P22.

On October 25, 2010, The Planning Commission at the request of staff and Mr. Warsoff moved to continue the subject item to the meeting of November 8, 2010. The continuance was requested in order for staff to work on crafting and finalizing a written

agreement that would essentially allow the business to continue operating while permits for all off-site improvements were being processed by Caltrans. Mr. Warsoff did on October 25, 2010, submit a letter agreeing to the continuance and attesting that he would work diligently toward finalizing an abatement agreement.

On October 28, 2010, Mr. Warsoff contacted the City via phone and stated that after consulting with his attorney, he would not be moving forward with an abatement agreement as previously agreed upon and attested too in the letter dated October 25, 2010.

As of today's date, the permits that granted Development Plan D-19-03 and Conditional Use Permit C-29-03, are being exercised contrary to the terms and conditions of the approval because the applicant has failed to implement the Development Plan and Permit per the Conditions of approval.

Site Review: The subject site is fully developed as a service station/mini-mart on an approximately .52-acre parcel located on the northeast corner of the intersection of Vine Street and Oceanside Boulevard.

The surrounding area consists of commercial uses located north and east of the site, Cavalier Mobile Home Park is located south of the site and residential uses are located west of the site.

The site slopes slightly down in a southwesterly direction (Vine Street) with a grade differential of approximately three feet between the high and low points of the site.

The underlying land use designation for the subject site is Special Commercial and the zoning is CS-HO (Special Commercial Highway Oriented). The larger neighborhood area encompassing the project site is the Townsite Neighborhood.

ANALYSIS

Since the September 2007 time extension approval date, the applicant has had 36 months to implement the project including all off-site improvements required as part of the projects overall approval. Although the applicant has made significant progress in completing the project and was provided with a temporary occupancy permit to assist in funding the identified off-site improvements, the project implementation remains incomplete. Staff has been overly accommodating to the applicant throughout the process, and due to the potential public safety issues associated with the identified off-site improvements has no other recourse but to proceed with revocation of Development Plan (D-19-03) and Conditional Use Permit (C-29-03).

ENVIRONMENTAL DETERMINATION

A Revocation does not constitute a project under CEQA; therefore, this action does not require CEQA review.

PUBLIC NOTIFICATION

Legal notice was published in the North County Times on Friday October 15, 2010 and notices were sent to property owners of record, individuals and or organizations requesting notification, the applicant and other interested parties as per Zoning Code Section 4704 B. As of November 3, 2010, no communication from the general public supporting or opposing the Revocation has been received.

RECOMMENDATION

Pursuant to Section 4108.E Revocation of the Zoning Ordinance, a use permit or variance that is exercised in violation of a condition of approval or a provision of the Zoning Ordinance may be revoked, as provided in Section 4704.

Pursuant to Section 4704.A Duties of the City Planner, upon determination by the City Planner that there are reasonable grounds for considering revocation or modification of a use permit or development approval a revocation hearing shall be set by the Planning Commission. On August 23, 2010, the Planning Commission considered this discussion item and moved to set a Revocation Hearing date on October 25, 2010.

The City Planner recommends the Planning Commission revoke Development Plan (D-19-03) and Conditional Use Permit (C-29-03), and the associated Planning Commission Resolutions 2004-P22 and 2007-P46. The City Planner makes this recommendation, because the terms or conditions of approval of the permit have been violated through lack of implementation and the applicant's demonstrated lack of compliance with satisfying specific conditions of approval. To date, the applicant remains non-compliant with the subject approvals.

SUMMARY

The proposed Revocation is duly warranted per the Zoning Ordinance and is a direct result of the applicants' failure to perform as required by the subject permits and Resolutions of Approval. As such, staff recommends that the Planning Commission revoke the project based on the findings and subject to the conditions contained in the attached Resolution. Staff recommends that the Planning Commission:

- Revoke Development Plan (D-19-03) and Conditional Use Permit (C-29-03); Planning Commission Resolution No. 2004-P22; and Planning Commission Resolution No. 2007-P46; and
- Adopt Planning Commission Resolution No. 2010-P32 with findings attached herein.

PREPARED BY:

SUBMITTED BY:

Richard Greenbauer
Senior Planner

Jerry Hittleman
City Planner

Attachments:

1. Plans
2. Planning Commission Resolution No. 2010-P32
3. Letter to Applicant dated September 10, 2010
4. Planning Commission Resolution No. 2004-P22
5. Planning Commission Resolution No. 2007-P46
6. Declaration of Covenants recorded at the San Diego Records Office via document number 2005-0214848 date March 16, 2005
7. Letter to Applicant dated June 9 & June 24, 2010
8. Email from Applicant dated June 17, 2010
9. Letter from Applicant dated October 25, 2010

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PLANNING COMMISSION
RESOLUTION NO. 2010-P32

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA REVOKING A DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT THAT WERE ISSUED PURSUANT TO TWO RESOLUTIONS OF APPROVAL FOR A CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: D-19-03 and C-29-03
APPLICANT: Joe and Barbara Warsoff
LOCATION: 1660 Oceanside Blvd.

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

WHEREAS, there was a duly noticed and held Public Hearing by this Commission on August 23, 2010 setting a hearing date for the Revocation of the subject Development Plan, Conditional Use Permit, and Two Resolutions of Approval under the provisions of Article 4704 of the Zoning Ordinance of the City of Oceanside.

WHEREAS, the Planning Commission, after giving the required notice, did on the 25th day of October, 2010 conduct a duly advertised public hearing as prescribed by law to consider said action, and continued this item to November 8, 2010.

WHEREAS, the Planning Commission finds that the proposed Revocation action is not a project as defined by the California Environmental Quality Act and therefore is exempt from the requirements of environmental review pursuant to the provisions of the California Environmental Quality Act.

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

For the Revocation of the Development Plan, Conditional Use Permit, and Two Resolutions of Approval:

1. On May 24, 2004, pursuant to a duly noticed public hearing, the Oceanside Planning Commission adopted Resolution No. 2004-P22, which approved Development Plan D-19-03 and Conditional Use Permit C-29-03. Resolution No. 2004-P22 approved plans for the changes to an existing fueling station, including but not limited to the addition of a 3,456-

1 square foot mini-mart, subject to certain fees, dedications, reservations, exactions and
2 conditions of approval. Condition No. 28 of Resolution 2004-P22 required the installation
3 of a raised median on Oceanside Boulevard along the project frontage to prohibit left turns
4 from the project site, and condition No. 29 required the installation of a left turn pocket,
5 180 feet in length with a 120-foot transition, for eastbound Oceanside Boulevard beginning
6 at the Interstate 5 on/off ramp, as more fully set forth therein. Condition No. 20 requires
7 the Applicant (Joseph and Barbara Warsoff) to obtain all necessary permits from any
8 agency having jurisdiction over the project. Condition 47 limited the approval to a two-year
term unless a time extension is approved by the Planning Commission.

9 2. The Applicant did not protest any fees, dedications, reservations, exactions or conditions of
10 approval of Resolution No. 2004-P22, including Conditions Nos. 28 and 29, within the
time and manner allowed to do so under the Government Code.

11 3. On March 16, 2005, there was duly recorded with the County Recorder's Office a
12 Declaration of "Covenants, Conditions, & Restrictions on Real Property Known as the
13 Oceansider" that declaring that the conditions of Resolution No. 2004-P22 are binding on
all subsequent owners of the property.

14 4. On April 24, 2006, the Applicant applied for a time extension of the original Planning
15 Commission action which adopted Resolution 2004-P22.

16 5. On September 24, 2007, pursuant to a duly noticed public hearing, the Oceanside Planning
17 Commission adopted Resolution No. 2007-P46, which approved a time extension for
18 Development Plan D-19-03 and Conditional Use Permit C-29-03. Resolution No. 2007-
19 P46 continued the conditions of approval set forth in Resolution No. 2004-P22, except
20 where expressly superseded, and provided that median improvements shall be constructed
21 prior to the issuance of certificates of occupancy, unless otherwise approved by the City
Engineer. Conditions Nos. 28 and 29 remained in full force and effect.

22 6. The Applicant did not protest any fees, dedications, reservations, exactions or conditions of
23 approval of Resolution No. 2007-P46, including Conditions Nos. 28 and 29, within the
time and manner allowed to do so under the Government Code.

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

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

- 1 7. On October 10, 2007 the Applicant submitted to the City plans for the median construction
2 in accordance with Conditions Nos. 28 and 29. The City approved these plans on March
3 12, 2008.
- 4 8. Shortly thereafter, Applicant's Engineer submitted these approved plans to Caltrans, since
5 a Caltrans encroachment permit was required.
- 6 9. In March 2008, Mr. Warsoff met with City Engineering staff and requested that installation
7 of median improvements be postponed until trenching work associated with a CIP project
8 (Emergency Outfall Repair) was completed, and that Applicant be issued certificates of
9 occupancy prior to the completion of the median improvements.
- 10 10. On December 11, 2008, Engineering Division staff initialed a Utility Release, prior to the
11 installation of the raised median, based on Applicant's representation that Applicant would
12 begin construction of the Median within 6 months of occupancy. Applicant thereafter
13 began operating the service station and mini-market at the property.
- 14 11. On September 29, 2009 the CIP project was filed with the county.
- 15 12. On January 4, 2010, Mr. Warsoff informed Caltrans that it he would not perform median
16 improvements.
- 17 13. In February, 2010, Mr. Warsoff informed City staff members that he would not construct
18 the median improvements.
- 19 14. On June 9, 2010 City Staff sent Applicant a formal notice of the need to meet or resolve all
20 the conditions of approval of the Conditional Use Permit and Development Plan, and
21 requested a formal response from Applicant within thirty (30) days.
- 22 15. On June 17, 2010, Applicant communicated to City staff via e-mail that Applicant
23 intended to seek Planning Commission approval to remove Conditions nos. 28 and 29.
- 24 16. On June 24, 2010, City Staff notified Applicant that Applicant had until July 8, 2010, to
25 submit the necessary application and fees to request Planning Commission approval to
remove Conditions nos. 28 and 29, or the City would institute revocation proceedings of
the Development Plan and CUP.
- 26 17. Applicant did not submit the necessary application and fees to request Planning
Commission approval to modify these conditions of approval.

- 1 18. The Planning Commission finds that Conditions of Approval Nos. 28 and 29 of Resolution
2 2004-P22, as extended by Resolution No. 2007-P46, have not been fulfilled.
- 3 19. The Planning Commission finds that the terms and conditions of approval of Development
4 Plan D-19-03 and Conditional Use Permit C-29-03 have been violated due to a failure to
5 implement Conditions of Approval Nos. 28 and 29 of Resolution 2004-P22.
- 6 20. The Planning Commission further finds that the permits granted by Development Plan D-
7 19-03 and Conditional Use Permit C-29-03, are being exercised contrary to the terms and
8 conditions of the approval because the Applicant has failed to implement the Development
9 Plan and Use Permit pursuant to the Conditions of approval.

10 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
11 revoke Development Plan (D-19-03), and Conditional Use Permit (C-29-03) as previously
12 approved by Planning Commission Resolutions 2004-P22 and 2007-P46. Pursuant to Oceanside
13 Zoning Ordinance §4603 and §4704, this resolution becomes final 10 days from the date of its
14 adoption in the absence of the filing of an appeal or call for review.

15 PASSED and ADOPTED Resolution No. 2010-P32 on November 8, 2010 by the
16 following vote, to wit:

- 17 AYES: Neal, Troisi, Martinek, Rosales and Scrivener
18 NAYES: Bertheaud
19 ABSENT: Balma
20 ABSTAIN: None


Robert Neal, Chairperson
Oceanside Planning Commission

21 ATTEST:
22 
Jerry Hittleman, Secretary

23 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
24 this is a true and correct copy of Resolution No. 2010-P32.

25 Dated: November 8, 2010

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF TRACT 101 OF SOUTH OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 622, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF A 22,803 SQUARE FOOT PARCEL OF LAND AS SAID PARCEL IS DESCRIBED ON RECORD OF SURVEY MAP NO. 8847, FILED MARCH 20, 1967, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SAID POINT BEARING NORTH 53°26'54" WEST, 50.00 FEET FROM THE NORTHWESTERLY LINE OF THAT 80.00 FOOT RIGHT OF WAY DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, UNDER PARCEL 1 RECORDED APRIL 6, 1955 IN BOOK 5595, PAGE 443 OF OFFICIAL RECORDS, AND BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 53°26'54" WEST, 100.00 FEET; THENCE AT RIGHT ANGLES SOUTH, 36°33'06" WEST, 151.27 FEET TO THE NORTHEASTERLY LINE OF THE 60.00 FOOT RIGHT OF WAY AS DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, RECORDED JULY 7, 1966 UNDER FILE NO. 110753 OF OFFICIAL RECORDS; BEING A POINT IN THE ARC OF A 170.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE ALONG SAID RIGHT OF WAY LINE SOUTHEASTERLY ALONG SAID CURVE, 47.37 FEET THROUGH AN ANGLE OF 15°57'57"; THENCE TANGENT TO SAID CURVE SOUTH 56°20'32" EAST, 83.65 FEET (RECORD SOUTH 56°23'03" EAST, 83.77 FEET) TO A TANGENT 20.00 FOOT RADIUS CURVE CONCAVE NORTHERLY; THENCE SOUTHEASTERLY AND EASTERLY ALONG SAID CURVE 30.98 FEET THROUGH AN ANGLE OF 88°44'54" TO A POINT IN THE ARC OF A 2040.08 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY IN SAID NORTHWESTERLY LINE OF THE 80.00 FOOT RIGHT OF WAY ABOVE DESCRIBED; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID NORTHWESTERLY LINE 130.71 FEET THROUGH AN ANGLE OF 3°40'16" TO A LINE WHICH BEARS SOUTH 53°26'54" EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 53°26'54" WEST, 50.00 FEET TO THE TRUE POINT OF BEGINNING.



Application for Discretionary Permit

Development Services Department / Planning Division
(760) 435-3520
Oceanside Civic Center 300 North Coast Highway
Oceanside, California 92054-2885

STAFF USE ONLY

ACCEPTED
RECEIVED
APR 30 2017
CITY OF OCEANSIDE
DEVELOPMENT SERVICES

BY
RG

Please Print or Type All Information

HEARING

PART I - APPLICANT INFORMATION

1. APPLICANT G + M OIL CO., INC.	2. STATUS OWNER
3. ADDRESS 16868 A ST., HB 92647	4. PHONE/FAX/E-mail (714) 375-4700
5. APPLICANT'S REPRESENTATIVE (or person to be contacted for information during processing) ANDREA MUNOZ	
6. ADDRESS 16868 A ST., HB 92647	7. PHONE/FAX/E-mail (714) 475-6327 amunoz@ gmoc.com

GPA
MASTER/SP.PLAN
ZONE CH.
TENT. MAP
PAR. MAP
DEV. PL. D12-00013
C.U.P. WP12-00014
VARIANCE
COASTAL
O.H.P.A.C.

PART II - PROPERTY DESCRIPTION

8. LOCATION 1660 OCEANSIDE BLVD	9. SIZE 22,800 SF
10. GENERAL PLAN SPECIAL COM.	11. ZONING HIGHWAY
12. LAND USE SERVICE STATION	13. ASSESSOR'S PARCEL NUMBER 152-320-25
14. LATITUDE ORIENTED	15. LONGITUDE

PART III - PROJECT DESCRIPTION

33° 11' 20.46" N 117° 21' 51.47" W

16. GENERAL PROJECT DESCRIPTION
PERMIT EXISTING FOOD MARKET AND GAS STATION WITH NEW CUP (TO COMPLY WITH PREVIOUSLY CONSTRUCTED AND PERMITTED BITE)

17. PROPOSED GENERAL PLAN SPECIAL COM.	18. PROPOSED ZONING HIGHWAY ORIENTED	19. PROPOSED LAND USE SERVICE STATION	20. NO. UNITS 1	21. DENSITY N/A
22. BUILDING SIZE 3,456	23. PARKING SPACES 18	24. % LANDSCAPE 14.35%	25. % LOT COVERAGE or FAR 3,750 LANDSCAPING	

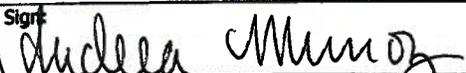
PART IV - ATTACHMENTS

26. DESCRIPTION/JUSTIFICATION	27. LEGAL DESCRIPTION	28. TITLE REPORT
29. NOTIFICATION MAP & LABELS	30. ENVIRONMENTAL INFO FORM	31. PLOT PLANS
32. FLOOR PLANS AND ELEVATIONS	33. CERTIFICATION OF POSTING	34. OTHER (See attachment for required reports)

PART V - SIGNATURES

SIGNATURES FROM ALL OWNERS OF THE SUBJECT PROPERTY ARE NECESSARY BEFORE THE APPLICATION CAN BE ACCEPTED. IN THE CASE OF PARTNERSHIPS OR CORPORATIONS, THE GENERAL PARTNER OR CORPORATION OFFICER SO AUTHORIZED MAY SIGN. (ATTACH ADDITIONAL PAGES AS NECESSARY).

35. APPLICANT OR REPRESENTATIVE (Print): ANDREA MUNOZ	36. DATE 4/18/12	37. OWNER (Print) GEORGE A. PEARSON	38. DATE 4/18/12
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Sign:  Sign: 

- I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT. FURTHER, I UNDERSTANDING THAT SUBMITTING FALSE STATEMENTS OR INFORMATION IN THIS APPLICATION MAY CONSTITUTE FRAUD, PUNISHABLE IN CIVIL AND CRIMINAL PROCEEDINGS.
- I HAVE READ AND AGREE TO ABIDE BY THE CITY OF OCEANSIDE DEVELOPMENT SERVICES DEPARTMENT AND ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT POLICY NO. 2011-01/POLICY AND PROCEDURE FOR DEVELOPMENT DEPOSIT ACCOUNT ADMINISTRATION.



G&M Oil Company, Inc.
G&M Oil Co., LLC

RECEIVED
APR 30 2012
CITY OF OCEANSIDE
DEVELOPMENT SERVICES

G&M Oil # 198
The former "Oceansider"
1660 Oceanside Boulevard, Oceanside
Conditional Use Permit Submittal Package

Description and Justification
April 27, 2012

This application includes a Conditional Use Permit Application to replace the previously approved and permitted developments (D-19-03, C-29-03). The site is an existing gasoline service station with a food market. The subject property consists of 0.52 acres located at the northeast corner of Oceanside Blvd. and Vine St. It is surrounded on the north, west and east by commercial development and on the south by a mobile home park. Highway 5 is approximately 100 yards to the east.

The project site, APN. 152-320-25, has a General Plan Land Use Designation of Special Commercial (SC) and the corresponding zoning classification of Highway Oriented (HO). The proposed uses are consistent with those identified for and existing on site.

The approved project consisted of a new 3,456 SF food mart building and an existing fuel facility with canopy to remain. New landscaping, on and off-site work was done as part of the approved project. The changes are consistent with the underlying General Plan and Zoning regulations, as well as the surrounding land uses.

Therefore,

The proposed location of the use is in accord with the objectives of this ordinance and the purposes of the district in which the site is located.

That the proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

That the proposed conditional use will comply with the provisions of this ordinance, including any specific condition required for the proposed conditional use in the district in which it would be located.

21641

EXHIBIT "A"

LEGAL DESCRIPTION

RECEIVED
 APR 24 2006
 Planning Department

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF TRACT 101 OF SOUTH OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 622, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF A 22,803 SQUARE FOOT PARCEL OF LAND AS SAID PARCEL IS DESCRIBED ON RECORD OF SURVEY MAP NO. 8847, FILED MARCH 20, 1967, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SAID POINT BEARING NORTH 53°26'54" WEST, 50.00 FEET FROM THE NORTHWESTERLY LINE OF THAT 80.00 FOOT RIGHT OF WAY DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, UNDER PARCEL 1 RECORDED APRIL 6, 1955 IN BOOK 5595, PAGE 443 OF OFFICIAL RECORDS, AND BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 53°26'54" WEST, 100.00 FEET; THENCE AT RIGHT ANGLES SOUTH, 36°33'06" WEST, 151.27 FEET TO THE NORTHEASTERLY LINE OF THE 60.00 FOOT RIGHT OF WAY AS DESCRIBED IN DEED TO THE CITY OF OCEANSIDE, RECORDED JULY 7, 1966 UNDER FILE NO. 110753 OF OFFICIAL RECORDS, BEING A POINT IN THE ARC OF A 170.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE ALONG SAID RIGHT OF WAY LINE SOUTHEASTERLY ALONG SAID CURVE, 47.37 FEET THROUGH AN ANGLE OF 15°57'57"; THENCE TANGENT TO SAID CURVE SOUTH 56°20'32" EAST, 83.65 FEET (RECORD SOUTH 56°23'03" EAST, 83.77 FEET) TO A TANGENT 20.00 FOOT RADIUS CURVE CONCAVE NORTHERLY; THENCE SOUTHEASTERLY AND EASTERLY ALONG SAID CURVE 30.98 FEET THROUGH AN ANGLE OF 88°44'54" TO A POINT IN THE ARC OF A 2040.08 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY IN SAID NORTHWESTERLY LINE OF THE 80.00 FOOT RIGHT OF WAY ABOVE DESCRIBED; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID NORTHWESTERLY LINE 130.71 FEET THROUGH AN ANGLE OF 3°40'16" TO A LINE WHICH BEARS SOUTH 53°26'54" EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 53°26'54" WEST, 50.00 FEET TO THE TRUE POINT OF BEGINNING.

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APR 30 2012

CITY OF OCEANSIDE
 DEVELOPMENT SERVICES