

STAFF REPORT**CITY OF OCEANSIDE**

DATE: November 5, 2014

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **ADOPTION OF A RESOLUTION UPHOLDING PLANNING COMMISSION RESOLUTION NO. 2014-P23 FOR THE CONDOMINIUM CONVERSION AT 823 SOUTH PACIFIC STREET – APPLICANT: 823 S. PACIFIC, LLC**

SYNOPSIS

Staff recommends that the City Council adopt a resolution upholding Planning Commission Resolution No. 2014-P23 approving Parcel Map (P14-00008), Development Plan (D14-00005), and Regular Coastal Permit (RC14-00005) for the conversion of a single-family dwelling to a two-unit residential structure located at 823 South Pacific Street.

BACKGROUND

On September 22, 2014, the Planning Commission by a vote of 4-to-0, with 3 members absent, approved the two-unit condominium conversion project and residential addition submitted under Parcel Map (P14-00008), Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005).

On October 2, 2014, the project was called for review by Mayor Wood and Deputy Mayor Sanchez. The call for review provided several reasons which are discussed under the analysis section of this report.

The project site is located on a 3,250 square-foot lot zoned Residential Tourist (R-T) and designated Urban High-Density Residential (UHD-R). The site is located between Wisconsin Avenue and Hayes Street within the Townsite Planning Neighborhood just south of the area referred to as "The Strand". Surrounding zoning directly north, south and east includes Residential Tourist (R-T). Property to the west is the Pacific Ocean.

Surrounding uses include single and multi-family developments, some of which are used as vacation rentals consistent with permitted uses in the R-T zone.

Project Description: The project application is comprised of three components; Parcel Map (P14-00008), Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005), representing a request under the City's subdivision ordinance to permit the partial

demolition and remodel of an existing single-family home into a duplex comprised of two residential condominiums. (See Attachment #3 – Planning Commission Staff Report dated September 22, 2014)

ANALYSIS

Call for Review of the Planning Commission Decision by Deputy Mayor Sanchez

Listed below are the concerns related to this call for review, along with staff's response to each concern. Staff reviewed the issues and believes that each of the concerns raised were addressed during staff's review of the proposed project. The proposed addition was analyzed by staff on the consistency with the Land Use Element of the General Plan, the Zoning Ordinance, and the Local Coastal Program.

- The project results in the creation of two residential condominium units, one residential unit more than the existing single family home.
- The project results in 12 bedrooms and 12 baths.
- The project results in four parking spaces, one more than required by Code.
- The project results in the addition of approximately 1,500 square feet beyond the existing residence totaling nearly 4,600 square feet for a total square footage of approximately 6,166 square feet.
- The project results in the addition of a third story and a height of 35 feet, the maximum permitted by Code. This height is 12 feet higher than the existing residence.

The proposed project was analyzed by staff on the consistency with the Land Use Element of the General Plan, the Zoning Ordinance, and the Local Coastal Program.

Issues

Issue 1: The project is not consistent with the character of the surrounding community and in fact seeks to establish such a higher density and intensity of use that the project results in extremely excessive environmental impacts, insufficiently analyzed and addressed.

Staff Response:

The project is zoned Residential-Tourist (R-T). The R-T zone allows for single-family residential, multi-family residential and vacation rentals. The proposed project is a duplex. It proposes to convert a single-family home into a two-unit condominium by adding one additional unit. Presently, the project operates as a vacation rental subject to the City's Temporary Occupancy Tax (TOT). As such, no changes, other than the addition of square footage and the conversion from single-family to a duplex condominium is proposed. The project is within the density permitted under the Urban High-Density Residential (UHD-R) land use designation.

The project was analyzed under the provisions of CEQA. Due to the fact that the project consists of new construction as well as the conversion of a small structure to one with no more than two dwelling units, it complies with the Class 3 categorical exemption provisions, specifically, Section 15303 (b) "New Construction or Conversion of Small Structures".

Issue 2: The density, height, bulk, scale are inconsistent with our local coastal plan, resulting instead in a "canyonization" of Pacific Street, our first street east of the beach, with tremendous environmental impacts on the road in terms of public access, essentially privatizing our public beach.

Staff Response:

The project as proposed, although taller than the existing single family home, would not exceed 35 feet in height, the maximum height permitted by the Zoning Code. The street view elevations would be no more than 23 feet in height at the front building line, consistent with single-family homes in the vicinity which were approved under the more restrictive height standards of the previously-applicable 1992 Zoning Ordinance. The taller elements that reach the maximum height of 35 feet as viewed from South Pacific Street would be setback approximately 23 feet from the second story building line thereby precluding the "canyonization" effect.

The proposed project would be consistent with existing multi-family development located immediately to the north and south of the subject properties. The height and overall scale of the proposed development would be consistent with the pattern of redevelopment on adjacent lots, as well as some of the redevelopment on both sides of South Pacific Street.

Projects which constitute multi-family development or involve at least 70 feet of street frontage are required to dedicate and construct public access to the beach when such access is not already present within 250 feet of the proposed project. The project, although involving a multi-family development described as a duplex condominium, comprises less than 70 feet of street frontage and, therefore, is not required to provide public access. There is existing public access to the beach located within 200 feet, at the Hayes Street right-of-way.

Issue 3: Our LCP was designed to allow public views all along our coast, allowing for a stepping back, much as other coastal communities. This project represents a continued piece-meal alteration of our LCP without a true public process, in stark violation of our LCP.

Staff Response:

The project meets the requirements of the City's Local Coastal Plan (LCP). As noted above in issue 2, the third story addition is not visible to pedestrians along South Pacific Street, or beachgoers who might be directly in front of the building while standing on the

beach. The third story sits approximately 23 feet back beyond the second story. Moreover, the proposed project would not impact any existing view corridors through public rights-of-way.

As required by the City's public noticing requirements, a public notice advising the public of the proposed project and inviting comment was executed. In response, one e-mail in opposition to the project was received and reported to the Planning Commission. Additionally, a letter in the form of a legal complaint was also submitted on September 22, 2014, by the legal firm: Seltzer, Caplan, McMahon, Vitek (Attachment 5). Staff's response to this legal complaint is included as Attachment 6.

Issue 4: This project is in direct violation of council policy, with regard to our mini-dorm ordinance.

Staff Response:

The mini-dorm ordinance does not pertain to the proposed project. The subject ordinance has not been certified as an amendment to the City's LCP.

FISCAL IMPACT

The applicant has paid all fees required for the consideration of this application.

COMMISSION OR COMMITTEE REPORT

The Planning Commission reviewed the Parcel Map, Development Plan, and Regular Coastal Permit on September 22, 2014. Public hearing notices were mailed to business and residential property owners within the 300-foot radius and occupants within the 100-foot radius of the proposed project. The Planning Commission approved the project on a vote of 4-to-0, with three members absent.

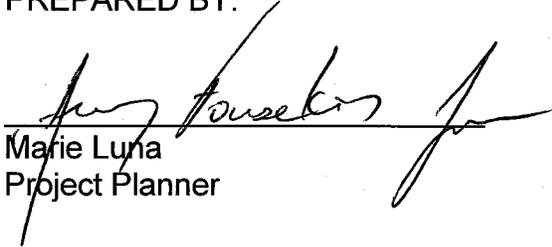
CITY ATTORNEY'S ANALYSIS

Pursuant to Oceanside Zoning Ordinance Article 4605, the City Council is authorized to hold a public hearing on the appeal. Consideration of the appeal should be based on the record of the decision of the Planning Commission and evidence presented at the public hearing. After conducting the public hearing, the Council shall affirm, modify, or reverse the Planning Commission's decision. If the decision is modified or reversed, the City Council is required to state the specific reasons for the modification or reversal, and a resolution would need to be brought back to Council to reverse the decision.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution upholding Planning Commission Resolution No. 2014-P23 approving Parcel Map (P14-00008), Development Plan (D14-00005), and Regular Coastal Permit (RC14-00005) for the conversion of a single-family dwelling to a two-unit residential structure located at 823 South Pacific Street.

PREPARED BY:


Marie Luna
Project Planner

SUBMITTED BY:


Steve Jepsen
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Assistant City Manager
Marisa Lundstedt, City Planner




ATTACHMENTS:

1. Site Plans/Floor Plans & Elevations
2. City Council Resolution
3. Planning Commission Staff Report dated September 22, 2014
4. Call for review
5. Legal Complaint Letter
6. Staff Response to Legal Complaint Letter

STUDIO 4
 2700 W. 10TH AVE. #100
 OCEANVIEW, CA 92081
 PH: 760-434-8844
 FAX: 760-434-8844
 WWW.STUDIO4ARCHITECTS.COM
 PALL LONGTON
 PRINCIPAL

PROJECT:
ADDITION AT:
 823 S. PACIFIC
 OCEANVIEW, CA 92081

OWNER:
 823 SOUTH
 PACIFIC LLC
 288 S. STATE HWY
 OCEANVIEW, CA 92081

OWNER'S REP:
 PALL LONGTON
 STUDIO 4 ARCHITECTS
 2700 W. 10TH AVE.
 OCEANVIEW, CA 92081
 PH: 760-434-8844

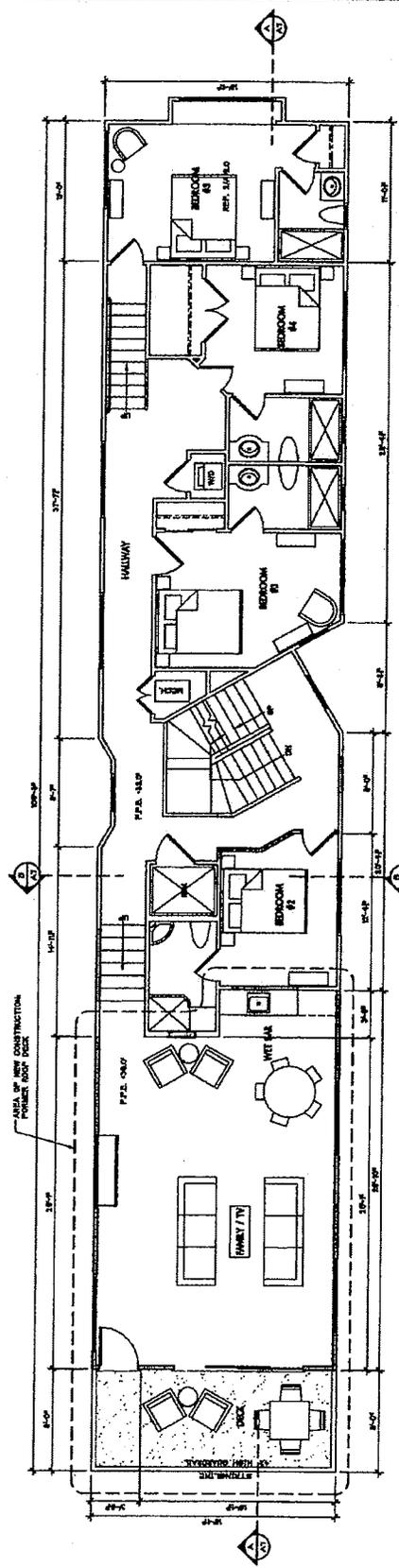
DESIGNER:
 PALL LONGTON
 STUDIO 4 ARCHITECTS
 2700 W. 10TH AVE.
 OCEANVIEW, CA 92081
 PH: 760-434-8844

DATE: 02.08.18
SCALE: 1/8" = 1'-0"
PROJECT: 2ND FLOOR PLAN

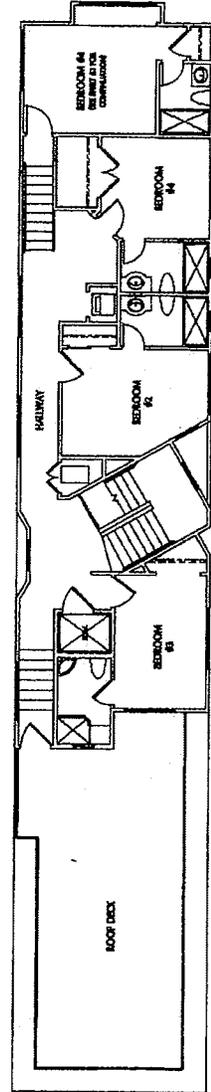
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100	ISSUED FOR CONSTRUCTION	02/08/18

DATE: 02.08.18
SCALE: 1/8" = 1'-0"
PROJECT: 2ND FLOOR PLAN

SHEET NO.: A-2.0
UNIT #2 - 2ND STORY



1 2nd FLOOR PLAN - UNIT #2
 SCALE: 1/8" = 1'-0"



1X EXISTING 2ND FLOOR PLAN
 SCALE: 3/8" = 1'-0"

UNIT #2 - 2ND STORY

ARCHITECT
STUDIO 4
 2001 15TH AVE.
 OCEANVIEW, CA 91554
 (949) 435-1100
 FAX (949) 435-1100
 P:ALBERT@STUDIO4.COM
 PAUL.L@STUDIO4.COM
 PAUL, LONICTON
 PRINCIPAL

PROJECT:
 ADDITION AT:
 623 S. PACIFIC
 OCEANVIEW, CA 91554

OWNER:
 623 SOUTH
 PACIFIC LLC
 1815 S. COAST HWY.
 OCEANVIEW, CA 91554

OWNER'S REP:
 PAUL LONICTON
 STUDIO 4 ARCHITECTS
 2001 15TH AVE.
 OCEANVIEW, CA 91554
 (949) 435-1100

ISSUE DATES:
 REVISIONS:
 01.02.14
 02.03.14

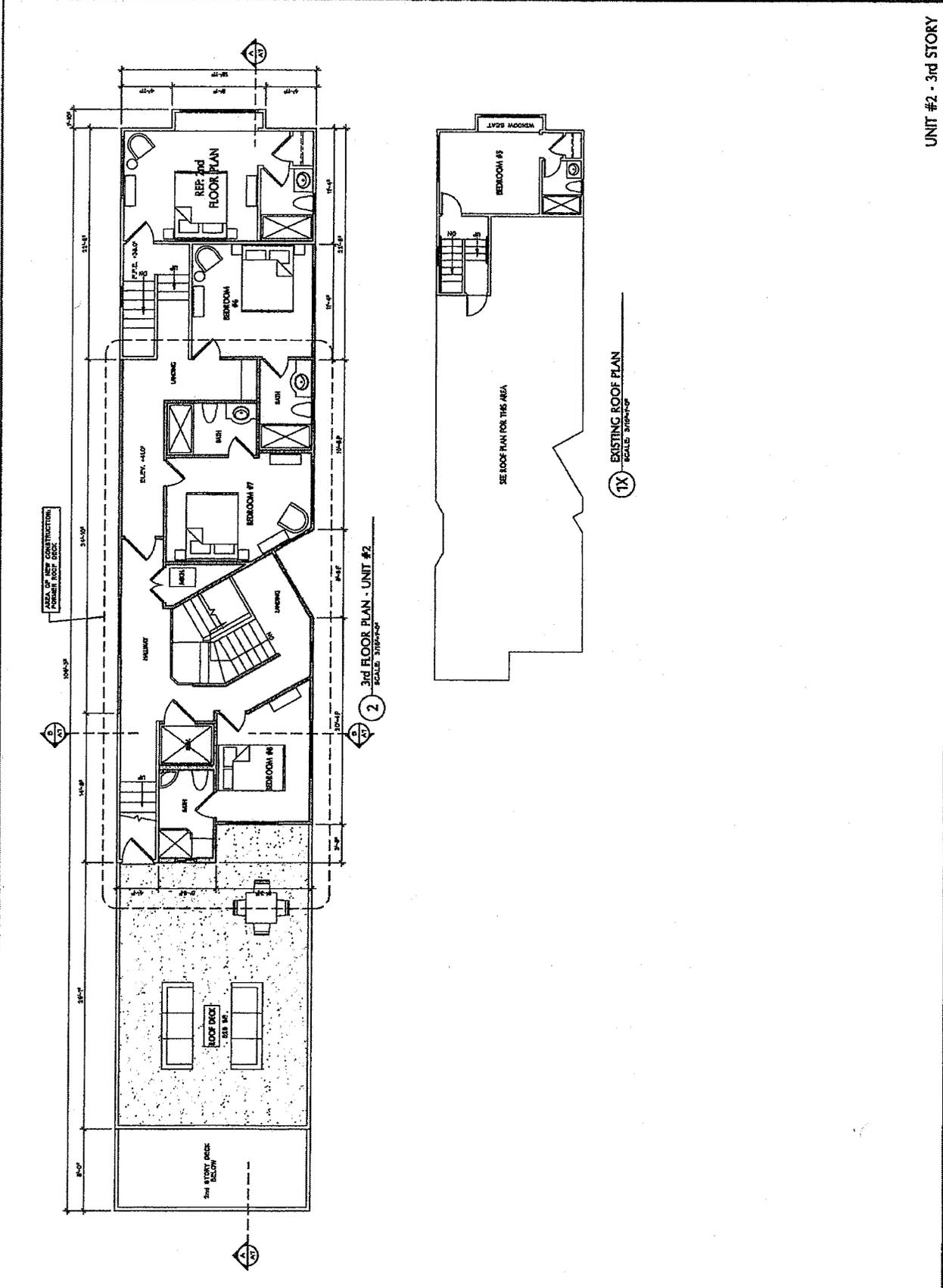
PROVISION:
 07/2014 PLANNING

DRAWING STATUS:
 11. PRELIMINARY
 12. PERMITTED
 13. CONTRACT DOCUMENTS
 14. CONTRACT ADMINISTRATION
 15. AS-BUILT
 16. ARCHIVE
 17. NOT FOR CONSTRUCTION
 18. FOR INFORMATION ONLY

DESIGNED BY:
 CHECKED BY:
 DATE:
 01.02.14
 02.03.14

SHEET TITLE:
 3rd STORY
 PLAN

SHEET NO.:
 A-3.0



UNIT #2 - 3rd STORY

ARCHITECT
STUDIO 4
 1000 W. 10TH AVENUE
 DENVER, CO 80202
 PHONE 724-4000 FAX
 PHONE 724-4005
 PAUL LONGTON
 ARCHITECT

PROJECT:
ADDITION AT:
 833 SOUTH
 PACIFIC
 OAKLAND, CA 94606

OWNER:
 B33 SOUTH
 PACIFIC LLC
 381 S. COURT HWY
 OAKLAND, CA 94606

OWNER'S REP.:
 PAUL LONGTON
 STUDIO 4 ARCHITECTS
 1000 W. 10TH AVENUE
 DENVER, CO 80202

DESIGNER:
 BRUCE DARR
 1000 W. 10TH AVENUE
 DENVER, CO 80202

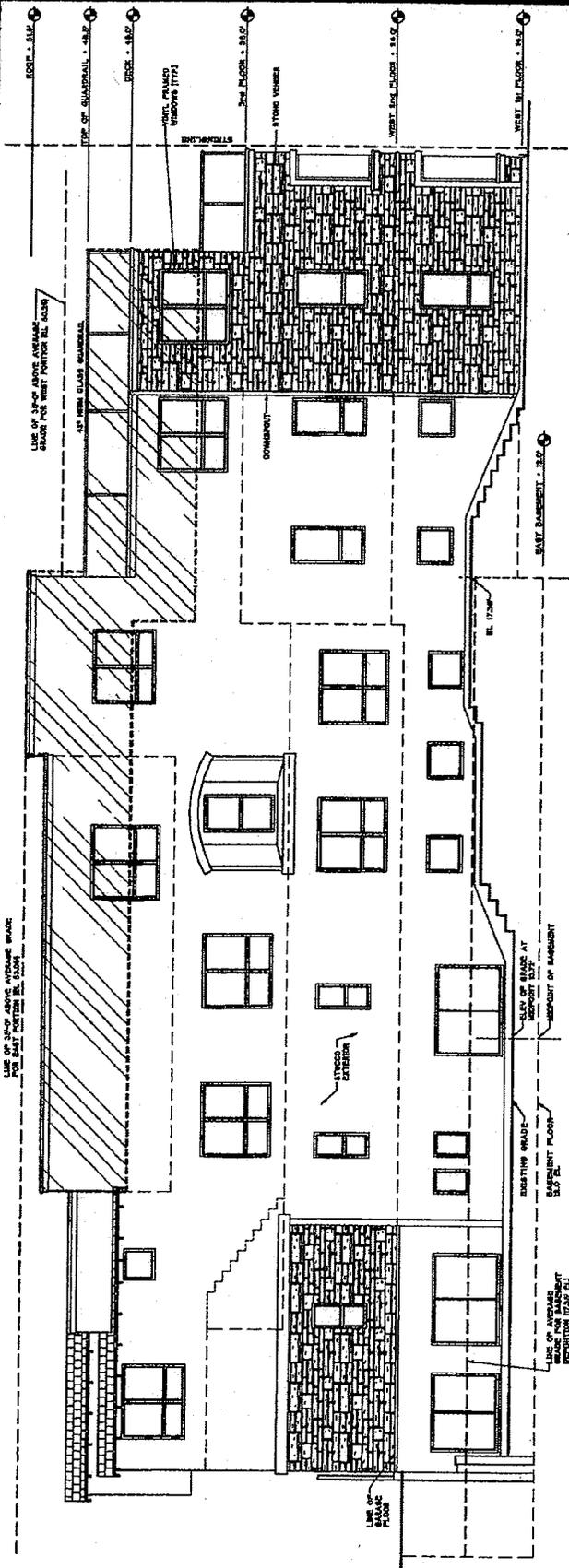
DATE:
 05.09.11

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

- EXISTING
- NEW
- TO BE DEMOLISHED
- TO BE RELOCATED
- TO BE ENLARGED
- TO BE REDUCED
- TO BE REPLACED
- TO BE ADDED
- TO BE REMOVED
- TO BE REFINISHED
- TO BE REPAIRED
- TO BE RESTORED
- TO BE RECONSTRUCTED
- TO BE REFINISHED
- TO BE REPAIRED
- TO BE RESTORED
- TO BE RECONSTRUCTED

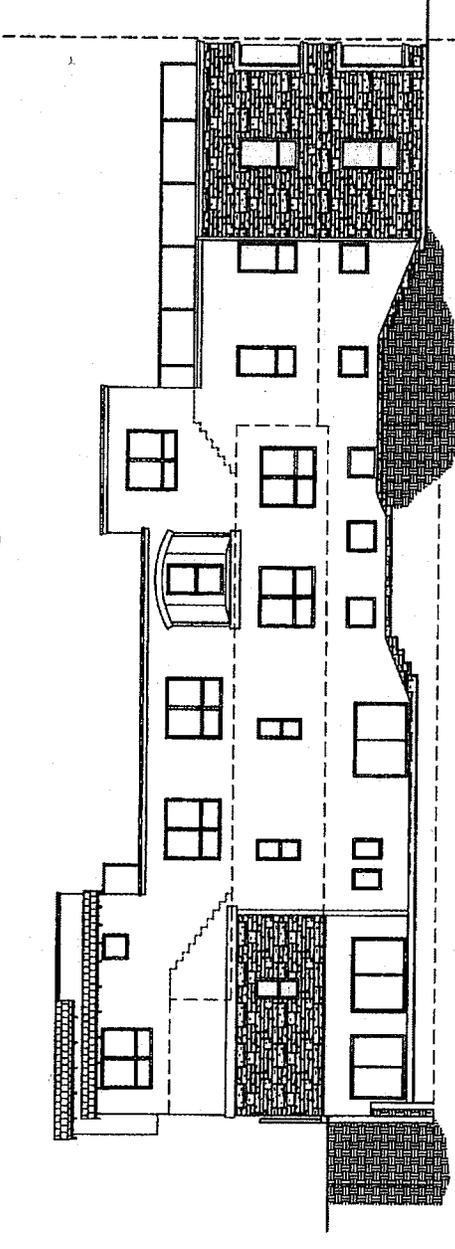
EXTERIOR ELEVATIONS

A-5.0



BUILDING LIGHT ALLOWABLE AT WEST END
 SEE PLAN A-5.1 FOR WEST END
 SEE PLAN A-5.2 FOR WEST END

2 NORTH ELEVATION
 SCALE: 1/8" = 1'-0"



2X EXISTING NORTH ELEVATION
 SCALE: 1/8" = 1'-0"

STUDIO 4
 400 S. PACIFIC
 OAKLAND, CA 94612
 (415) 778-3000
 PAUL LONGSTON
 ARCHITECT
 PRINCIPAL

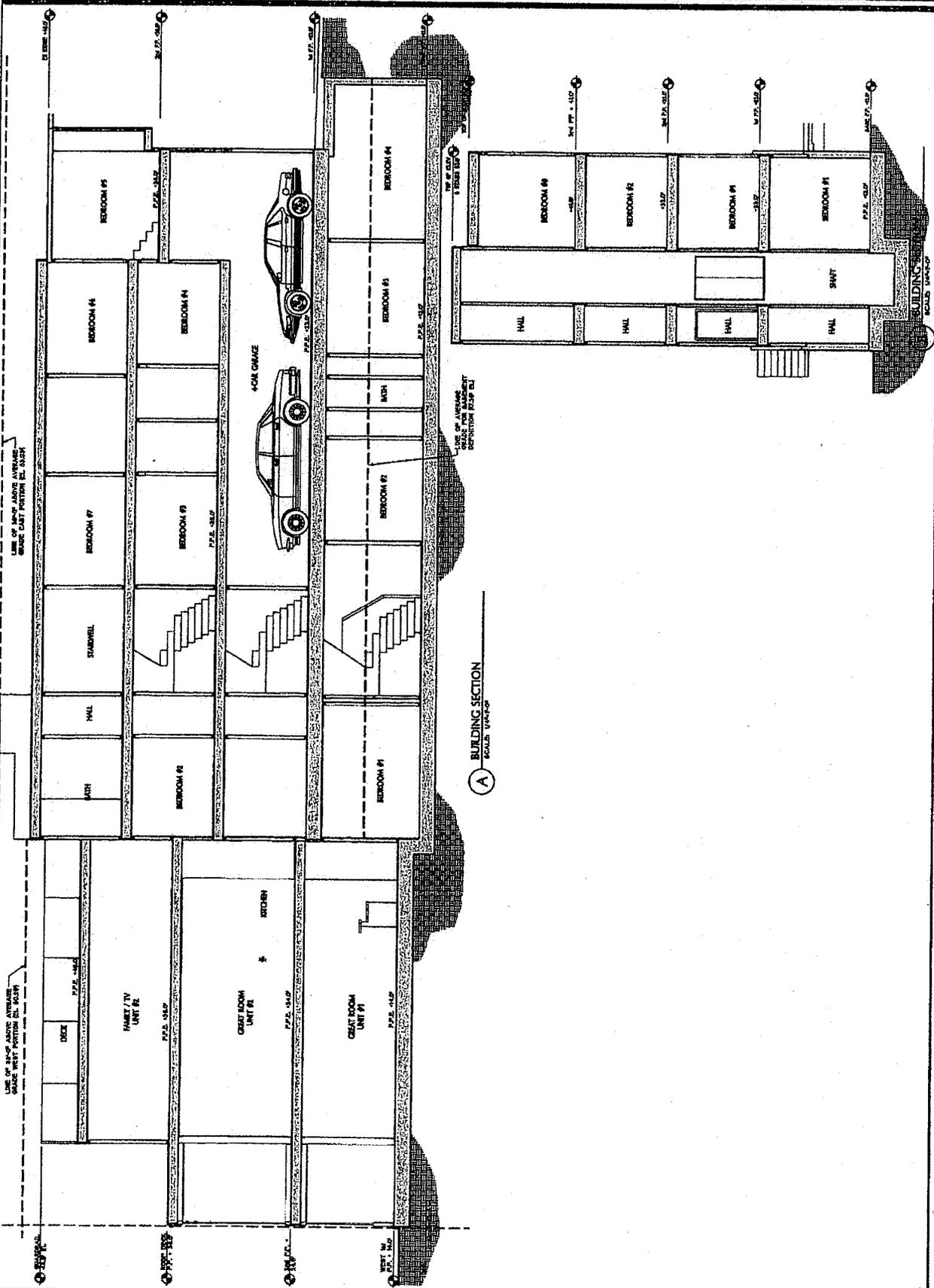
PROJECT:
 ADDITION AT:
 400 S. PACIFIC
 OAKLAND, CA 94612

OWNER:
 823 SOUTH
 PACIFIC LLC
 1001 S. CLAY ST. #100
 OAKLAND, CA 94607

OWNER'S REP:
 PAUL LONGSTON
 STUDIO 4 ARCHITECTS
 2800 AREA DRIVE
 OAKLAND, CA 94618
 (415) 778-3000

DATE:
 07.18.14

SCALE:
 AS SHOWN



BUILDING SECTIONS
 SHEET NO. A-7.0

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE UPHOLDING PLANNING COMMISSION RESOLUTION NO. 2014-P23 AND APPROVING PARCEL MAP (P14-00008) DEVELOPMENT PLAN (D14-00005) AND REGULAR COASTAL PERMIT (RC14-00005) FOR THE REMODEL AND CONDOMINIUM CONVERSION OF A SINGLE FAMILY DWELLING TO A TWO-UNIT RESIDENTIAL STRUCTURE AT 823 SOUTH PACIFIC STREET

(823 S. Pacific, LLC - Applicant)

WHEREAS, a call for review was filed of the Planning Commission approval of Parcel Map (P14-00008), Development Plan (D14-00005), and Regular Coastal Permit (RC14-00005) for the remodel and conversion of a single family dwelling to a two-unit residential structure at 823 South Pacific Street, to which such real property is more particularly described in Exhibit "A", attached hereto and incorporated herein by reference;

WHEREAS, on September 22, 2014 the Planning Commission of the City of Oceanside, after holding a duly advertised public hearing, adopted Resolution No. 2014-P23, approving said Parcel Map (P14-00008), Development Plan (D14-00005), and Regular Coastal Permit (RC14-00005);

WHEREAS, on November 5, 2014, the City Council of the City of Oceanside held a duly noticed public hearing and heard and considered evidence and testimony by all interested parties concerning the Planning Commission approval on the above identified Parcel Map, Development Plan, and Regular Coastal Permit; and

WHEREAS, based on such evidence, testimony and staff reports, this Council finds that the findings of fact articulated by the Planning Commission adequately address all zoning and planning issues with regard to this project and the Council accepts the findings of fact as set forth in Planning Commission Resolution No. 2014-P23 as attached hereto as Exhibit "B", and incorporates them by reference as if fully set forth herein;

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

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

- 6 1. The Council affirms the Planning Commission action of September 22, 2014 and
7 upholds the approval of the application for Parcel Map (P14-00008), Development Plan
8 (D14-00005), and Regular Coastal Permit (RC14-00005) and confirmation of the Notice
9 of Exemption. Planning Commission Resolution No. 2014-P23 is attached hereto as
10 Exhibit "B" and incorporated herein by this reference;
- 11 2. Notice is hereby given that the time within which judicial review must be sought on this
12 decision is governed by CCP Section 1094.6(b) as set forth in Oceanside City Code
13 Section 1.10., and Public Resources Code §21167(d).

14 PASSED and ADOPTED by the City Council of the City of Oceanside, California this
15 day of _____, 2014, by the following vote:

16 AYES:

17 NAYS:

18 ABSENT:

19 ABSTAIN:

20
21 _____
Mayor of the City of Oceanside

22
23 ATTEST:

24 APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

25
26 _____
City Clerk

27 _____
City Attorney

EXHIBIT "A"

Order Number: DEN-2810173 (4)
Page Number: 6

LEGAL DESCRIPTION

Real property in the City of Oceanside, County of San Diego, State of California, described as follows:

LOT 13 IN BLOCK "C" OF MYERS' ANNEX TO OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 984, FILED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN DIEGO, APRIL 13, 1906.

EXCEPTING THEREFROM ANY PORTION THEREOF NOW OR HERETOFORE LYING BELOW THE ORDINARY HIGH TIDE LINE OF THE PACIFIC OCEAN.

APN: 150-356-21-00

RECEIVED

MAY 20 2014

CITY OF OCEANSIDE
DEVELOPMENT SERVICES

EXHIBIT "B"

PLANNING COMMISSION
RESOLUTION NO. 2014-P23

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

APPLICATION NO: P14-00008, D14-00005, RC14-00005
APPLICANT: 823 South Pacific, LLC.
LOCATION: 823 South Pacific Street

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a Parcel Map, Development Plan and Regular Coastal Permit under the provisions of the City of Oceanside Local Coastal Program and 1986 Zoning Ordinance to permit the following:

conversion of a single-family home into a two-unit residential condominium with additional square footage totaling 6,116 square feet. The result is a duplex structure with two units, one located along the basement level, the other located within two levels: level one - the street level, and level two right above it. Unit One would provide four bedrooms and four baths. Unit Two would comprise two stories on levels one and two, and would provide eight bedrooms and eight baths for a cumulative project total of 12 bedrooms and 12 baths. The project would also include an existing four-car garage comprised of two tandem spaces, on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 22nd day of September, 2014 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 (Section 15303(b)); this project qualifies for a Class 3 categorical exemption (New Construction or Conversion of Small Structures), as it involves the construction of a duplex or similar multi-family residential structure, totaling no more than two dwelling units;

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

EXHIBIT

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

3 <u>Description</u>	4 <u>Authority for Imposition</u>	5 <u>Current Estimate Fee or 6 Calculation Formula</u>
7 Parkland Dedication/Fee	8 Ordinance No. 91-10 9 Resolution No. 06-R0334-1	\$3,503 per unit
10 Drainage Fee	11 Ordinance No. 85-23 12 Resolution No. 06-R0334-1	13 Depends on area (range is 14 \$2,843-\$15,964 per acre)
15 Public Facility Fee	16 Ordinance No. 91-09 17 Resolution No. 06-R0334-1	18 \$2,072 per unit for residential
19 School Facilities Mitigation 20 Fee	21 Ordinance No. 91-34	22 \$2.63 per square foot 23 residential
24 Traffic Signal Fee	25 Ordinance No. 87-19 26 Resolution No. 06-R0334-1	27 \$15.71 per vehicle trip
28 Thoroughfare Fee	29 Ordinance No. 83-01	30 \$255 per vehicle trip (based 31 on SANDAG trip generation 32 table available from staff and 33 from SANDAG)
34 Water System Buy-in Fees	35 OceansideCity Code §37.56.1 36 Resolution No. 87-96 37 Ordinance No. 05-OR 0611-1	38 Fee based on water meter 39 size. Residential is typically 40 \$4,597 per unit.
41 Wastewater System Buy-in 42 fees	43 OceansideCity Code § 44 29.11.1 45 Resolution No. 87-97 46 Ordinance No. 05-OR 0610-1	47 Based on capacity or water 48 meter size. Residential is 49 typically \$6,313 per unit.
50 San Diego County Water 51 Authority Capacity Fees	52 SDCWA Ordinance No. 53 2005-03	54 Based on meter size. 55 Residential is typically 56 \$4,326 per unit.
57 Inclusionary housing in lieu 58 fees—Residential only.	59 Chapter 14-C of the City 60 Code	61 \$1,000 per development 62 project, \$100 per unit, plus 63 \$1.15 per square foot.

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
4 are 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
6 calculated and collected at the time and in the manner provided in Chapter 32B of the Oceanside
7 City Code and the City expressly reserves the right to amend the fees and fee calculations
8 consistent with 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 §2114, this resolution becomes
16 effective 20 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 Parcel Map (P14-00008) to convert an existing single-family residence to a two-unit
21 condominium:

22 1. That the proposed Parcel Map is consistent with the General Plan of the City by meeting
23 and exceeding lot size requirements and other applicable provisions of the Zoning
24 Ordinance and the Subdivision Ordinance.

- 25 • The Parcel Map is for the purpose of converting an existing single-family
26 residence into a two-unit residential condominium on an existing 3,250-
27 square-foot lot created on April 13, 1906 and located in the Townsite
28 Neighborhood. The site is zoned Residential-Tourist (RT) and has a land
29 use designation of Urban High-Density Residential (UHD-R). The RT zone
and UHD-R land use designation allow for single-family and multi-family
residential. As such, the proposed Parcel Map is consistent with the

1 General Plan, Zoning and Subdivision Ordinances. The conversion does
2 not affect the size, zoning or land use designation of this existing lot.

3 2. That the site is physically suitable for the type and proposed density of development by
4 providing lot areas consistent with the South Oceanside Neighborhood Planning Area.

- 5 • The proposed subdivision would create two residential condominium
6 units in place of one single-family home. The residential conversion
7 from single-family residence into a two-unit condominium is consistent
8 with the character and pattern of development in this area zoned and
9 designated Urban High-Density Residential (UHD-R) and zoned
10 Residential Tourist (RT). The two-unit condominium project would
11 create a cumulative total of 12 bedrooms and 12 bathrooms and would
12 provide four parking spaces, one in excess of Code requirements, within
13 the existing parking configuration of four enclosed parking spaces
14 arranged as two pairs of tandem stalls. The project will not include
15 alteration of existing landscape, hardscape, or other exterior features.
16 The project will continue to exhibit its current architectural style
17 including a pitched roof, large vinyl framed windows, a stucco exterior
18 with slate stone veneer surrounding the garage. Aside from height, the
19 footprint of the structure would not be changed. Upon conversion to
20 condominiums, the duplex is expected to continue to serve as vacation
21 rentals, although each unit could also function as a long-term rental or an
22 owner occupied residence. This project would be consistent with
23 existing, multi-family development located immediately to the north and
24 of the subject properties, in terms of both architecture and site design.
25 The 35-foot height and overall scale of the proposed development would
26 be consistent with the pattern of redevelopment on adjacent lots, as well
27 as some of the redevelopment on both sides of South Pacific Street
28 wherein numerous developments are utilized as vacation rentals. Exterior
29 wall treatments, fenestration and other finish materials would
 complement other recently approved and developed projects in the
 vicinity.

1 3. That the design of the subdivision or the proposed improvements will not cause
2 substantial environmental damage or substantially and avoidably injure fish or wildlife
3 or their habitat.

- 4 • The proposed subdivision involves the conversion of an existing single-
5 family home into a two-unit condominium. Aside from height, the
6 footprint of the structure would not be changed. Therefore, the proposed
7 improvements will not cause substantial environmental damage or
8 substantially and avoidably injure fish or wildlife or their habitat.

9 4. That the design of the subdivision or the type of improvements meets City standards and
10 will not conflict with easements, acquired by the public at large, for access through or
11 the use of property within the proposed subdivision.

- 12 • The proposed subdivision involves the conversion of a single-family
13 residence into two residential condominiums and the addition of habitable
14 square footage. Proposals that constitute multi-family development or
15 involve at least 70 feet of street frontage are required to dedicate and
16 construct public access to the beach when such access is not already
17 present within 250 feet of the proposed project. The subject request does
18 involve multi-family development, but comprises less than 70 feet of
19 street frontage as the lot is 25 feet wide. Moreover, the existing public
20 access to the beach is located within 200 feet, at the Hayes Street right-
21 of-way; therefore, there is no easement acquired by the public at large for
22 access through or the use of property within the proposed subdivision.

23 5. That the subdivision complies with all other applicable ordinances, regulations and
24 guidelines of the City of Oceanside.

- 25 • The proposed subdivision would not involve any variances from the
26 regulations established at the time of this approval; however, there is an
27 existing legal non-conforming front yard setback which would be
28 maintained at eight feet, nine inches. Staff finds that this variation from
29 the front yard setback would benefit the streetscape by relieving the
monotony occasioned by previous projects that have implemented the

1 block-face averaging provision of the superseded 1992 Zoning
2 Ordinance.

3 For the Development Plan (D14-00005) to allow conversion of an existing single-family
4 residence to a duplex with the addition of 1,572 square feet of habitable space including a new
5 third story:

- 6 1. The approval of the proposed duplex conversion and associated addition of habitable
7 space will be subject to conditions that, in view of the size and shape of the parcel and
8 present zoning and use of the subject property, provide the same degree of protection to
9 adjoining properties, including protection from unreasonable interference with the use
10 and enjoyment of said properties, depreciation of property values, and any potentially
11 adverse impacts on the public peace, health, safety and welfare. The proposed project
12 would be consistent with applicable land use and development standards, including on-
13 site parking requirements and approval would be conditioned upon the prohibition of
parking in the driveways.

14 For Regular Coastal Permit (RC14-00005) to allow conversion of an existing single-family
15 residence to a duplex with the addition of 1,572 square feet of habitable space including a new
16 third story:

- 17 1. The proposed duplex conversion conforms to the policies of the Local Coastal Program
18 (LCP), including those pertinent to coastal access (Article 2), recreation (Article 3), land
19 resources (Article 5) and development (Article 6), in that it:
- 20 • Does not interfere with the public's right to access the coastline and
21 ocean, given that dedicated public access ways exist within 250 feet of
22 the subject site;
 - 23 • Provides for recreational use of private oceanfront land;
 - 24 • Does not impact environmentally sensitive habitat area or prime
25 agricultural land;
 - 26 • Does not impact environmentally sensitive habitat area with adequate
27 public services;
 - 28 • Protects views to and along the ocean;
 - 29 • Is visually compatible with the character of surrounding areas.

1 2. The project site, 823 South Pacific Street, is situated within the Appeal Area of the
2 Coastal Zone and conforms to the public access and recreation policies of Chapter 3 of
3 the Coastal Act. The entire 800 Block of South Pacific Street measures 450 feet in
4 length, with public beach access located at both ends (where South Pacific Street
5 intersects with Wisconsin Avenue and Hayes Street). Thus, all properties in the 800
6 block of South Pacific Street are situated within 250 feet of existing public beach access.

7 **Building:**

- 8 1. Construction shall comply with the 2013 edition of the California Codes including the
9 California Green Building Standards. The granting of approval under this action shall in
10 no way relieve the applicant/project from compliance with all State and local building
11 codes.
12 2. The building plans for this project are required by State law to be prepared by a licensed
13 architect or engineer and must be in compliance with this requirement prior to submittal
14 for building plan review.
15 3. Exterior lighting must comply with Chapter 39 of the Oceanside Code of Ordinances
16 and Section 5.106.8 of the 2013 California Green Building Code.
17 4. The developer shall monitor, supervise and control all building construction and supporting
18 activities so as to prevent these activities from causing a public nuisance, including, but not
19 limited to, strict adherence to the following:
20 a) Building construction work hours shall be limited to between 7:00 a.m. and 6:00
21 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00 p.m. for work
22 that is not inherently noise-producing. Examples of work not permitted on Saturday
23 are concrete and grout pours, roof nailing and activities of similar noise-producing
24 nature. No work shall be permitted on Sundays and Federal Holidays (New Year's
25 Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day)
26 except as allowed for emergency work under the provisions of the Oceanside City
27 Code Chapter 38 (Noise Ordinance).
28 b) The construction site shall be kept reasonably free of construction debris as
29 specified in Section 13.17 of the Oceanside City Code. Storage of debris in
approved solid waste containers shall be considered compliance with this

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

3 5. Separate/unique addresses will be required to facilitate utility releases. Verification that the
4 addresses have been properly assigned by the City's Planning Division must accompany
5 the Building Permit application.

6 6. Site development, common use areas, access and adaptability of apartments and
7 condominiums shall comply with California Code of Regulations Part 2, Title 24
8 (Disabled Access & Adaptability - HCD).

9 7. All electrical, communication, CATV, etc. service lines, within the exterior lines of the
10 property shall be underground (City Code Sec. 6.30).

11 **Fire:**

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

13 9. Per the 2013 California Fire Code, all new residential units shall be fire sprinklered. The
14 minimum allowable water meter for a fire sprinklered home is 3/4-inch.

15 **Water Utilities:**

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

20 11. The property owner shall maintain private water and wastewater utilities located on private
21 property.

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

24 13. All Water and Wastewater construction shall conform to the most recent edition of the
25 Water, Sewer, and Reclaimed Water Design and Construction Manual or as approved by
26 the Water Utilities Director.

27 14. Residential units shall be metered individually. Private utility systems for residential
28 developments are not allowed.

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

- 1 16. No trees, structures or building overhang shall be located within any water or wastewater
2 utility easement.
- 3 17. All lots with a finish pad elevation located below the elevation of the next upstream
4 manhole cover of the public sewer shall be protected from backflow of sewage by installing
5 and maintaining an approved type backwater valve, per the Uniform Plumbing Code
6 (U.P.C.).
- 7 18. Water and Wastewater Buy-in fees and the San Diego County Water Authority Fees are to
8 be paid to the City and collected by the Water Utilities Department at the time of Building
9 Permit issuance.
- 10 19. All Water Utilities Fees are due at the time of building permit issuance per City Code
11 Section 32B.7, unless the developer/applicant applies and is approved for a deferral of all
12 fees per City of Oceanside Ordinance No. 09-OR0676-1.
- 13 20. All new development of single-family and multi-family residential units shall include hot
14 water pipe insulation and installation of a hot water recirculation device or design to
15 provide hot water to the tap within 15 seconds in accordance with City of Oceanside
Ordinance No. 02-OR126-1.

16 **Engineering:**

- 17 21. This project involves demolition of an existing structure or surface improvements; an
18 erosion control plan shall be submitted and approved by the City Engineer before
19 issuance of any demolition permit. No grading operation shall be allowed in
20 conjunction with the demolition operation without an approved grading plan. No
21 demolition shall be permitted without an approved erosion control plan.
- 22 22. Design and construction of all improvements shall be in accordance with standard plans,
23 specifications of the City of Oceanside and subject to approval by the City Engineer.
- 24 23. The owner/developer shall obtain a precise grading permit per the City Grading
25 Regulations Manual. This project may qualify to prepare a minor grading plan instead
26 of a precise grading plan, if the project meets the minor grading permit requirements.
27 The grading permit requires a comprehensive soils and geologic investigation of the
28 soils, slopes, and formations in the project. All necessary measures shall be taken and
29 implemented to assure slope stability, erosion control, and soil integrity. No grading

1 shall occur until a detailed grading plan, to be prepared in accordance with the Grading
2 Ordinance and Zoning Ordinance, is approved by the City Engineer.

3 24. Prior to the issuance of a grading permit, the owner/developer shall notify and host a
4 neighborhood meeting with all of the area residents located within 300 feet of the project
5 site, to inform them of the grading and construction schedule, and to answer questions.

6 25. The owner/developer shall monitor, supervise and control all construction and
7 construction-supportive activities, so as to prevent these activities from causing a public
8 nuisance, including but not limited to, insuring strict adherence to the following:

- 9 a) Dirt, debris and other construction material shall not be deposited on any public
10 street or within the City's stormwater conveyance system.
- 11 b) All grading and related site preparation and construction activities shall be
12 limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. No
13 engineering related construction activities shall be conducted on Saturdays,
14 Sundays or legal holidays unless written permission is granted by the City
15 Engineer with specific limitations to the working hours and types of permitted
16 operations. All on-site construction staging areas shall be as far as possible
17 (minimum 100 feet) from any existing residential development. Because
18 construction noise may still be intrusive in the evening or on holidays, the City of
19 Oceanside Noise Ordinance also prohibits "any disturbing excessive or offensive
20 noise which causes discomfort or annoyance to reasonable persons of normal
21 sensitivity."
- 22 c) The construction site shall accommodate the parking of all motor vehicles used
23 by persons working at or providing deliveries to the site. An alternate parking
24 site can be considered by the City Engineer in the event that the lot size is too
25 small and cannot accommodate parking of all motor vehicles.
- 26 d) The owner/developer shall complete a haul route permit application (if required
27 for import/export of dirt) and submit to the City of Oceanside Engineering
28 Division 48 hours in advance of beginning of work. Hauling operations (if
29 required) shall be 8:00 a.m. to 3:30 p.m. unless approved otherwise by the City.

- 1 26. Grading and drainage facilities shall be designed and installed to adequately
2 accommodate the local stormwater runoff and shall be in accordance with the City's
3 Grading Ordinance and current San Diego County Hydrology Manual.
- 4 27. It is the responsibility of the owner/developer to evaluate and determine that all soil
5 imported as part of this development is free of hazardous and/or contaminated material
6 as defined by the City and the County of San Diego Department of Environmental
7 Health. Exported or imported soils shall be properly screened, tested, and documented
8 regarding hazardous contamination.
- 9 28. Sediment, silt, grease, trash, debris, and/or pollutants shall be collected on-site and
10 disposed of in accordance with all state and federal requirements, prior to stormwater
11 discharge either off-site or into the City drainage system.
- 12 29. A traffic control plan shall be prepared according to the City traffic control guidelines
13 and approved to the satisfaction of the City Engineer prior to the start of any work
14 within the public right-of-way. Traffic control during construction of streets that have
15 been opened to public traffic shall be in accordance with construction signing, marking
16 and other protection as required by the Caltrans Traffic Manual and City Traffic Control
17 Guidelines. Traffic control plans shall be in effect from 8:00 a.m. to 3:30 p.m. unless
18 approved otherwise by the City.
- 19 30. The developer/owner shall construct private driveway to serve this project in accordance
20 with the City of Oceanside Engineers Design and Processing Manual.
- 21 31. The developer/owner shall construct curb and gutter and sidewalk on South Pacific Street
22 along the property frontage in accordance with the City of Oceanside Engineers Design and
23 Processing Manual. Sidewalk improvements shall comply with ADA requirements.
- 24 32. Sight distance requirements at the project driveway shall conform to the corner sight
25 distance criteria as provided by SDRSD.
- 26 33. Pavement sections Pacific Street and project driveway shall be based upon approved soil
27 tests. The pavement design is to be prepared by the owner's/developer's soil engineer
28 and must be approved by the City Engineer, prior to paving.
- 29 34. Any existing broken pavement, concrete curb, gutter or sidewalk or any damaged during
construction of the project, shall be repaired or replaced as directed by the City
Engineer.

- 1 35. The owner/developer shall comply with all the provisions of the City's cable television
2 ordinances including those relating to notification as required by the City Engineer.
- 3 36. The owner/developer shall obtain any necessary permits and clearances from all public
4 agencies having jurisdiction over the project due to its type, size, or location, including
5 but not limited to the U. S. Army Corps of Engineers, California Department of Fish
6 & Wildlife, U. S. Fish and Wildlife Service, San Diego Regional Water Quality Control
7 Board (including NPDES), and/or San Diego County Health Department, prior to the
8 issuance of a grading permit.
- 9 37. The approval of the development shall not mean that proposed grading or improvements
10 on adjacent properties (including any City properties/right-of-way or easements) is
11 granted or guaranteed to the owner/developer. The owner/developer is responsible for
12 obtaining permission to grade to construct on adjacent properties. Should such
13 permission be denied, the development shall be subject to going back to the public
14 hearing or subject to a substantial conformity review.
- 15 38. A comprehensive geotechnical report is required prior to approval of any grading plan
16 and permit. If shoring is required for the construction of this development, the shoring
17 design and structural calculations shall be included in the geotechnical report. The
18 Geotechnical Engineer shall be responsible to prepare the report, and seal/stamp, and
19 sign the report, and is fully responsible for all the proposed mitigations and
20 recommendations.
- 21 39. This project shall provide year-round erosion control including measures for the site
22 required for the phasing of grading. Prior to the issuance of grading permit, an erosion
23 control plan, designed for all proposed stages of construction, shall be reviewed, secured
24 by the owner/developer with cash securities and approved by the City Engineer.
- 25 40. The drainage design on the development plan is conceptual only. The final design shall
26 be based upon a hydrologic/hydraulic study to be approved by the City Engineer during
27 final engineering. All drainage picked up in an underground system shall remain
28 underground until it is discharged into an approved channel, or as otherwise approved by
29 the City Engineer. The owner/developer shall be responsible for obtaining any off-site
easements for storm drainage facilities.

1 41. The owner/developer shall comply with applicable FEMA regulations. The
2 owner/developer shall record a covenant against the property indemnifying and holding
3 the City harmless from any claims regarding drainage and flooding prior to issuance of
4 any grading permit. During final engineering design, the Engineer of Record shall
5 evaluate potential impact to flood hazard areas. Elevation and flood proofing shall be in
6 accordance with the City of Oceanside Ordinance 94-03 and Federal Emergency
7 Management Agency (FEMA) requirements.

8 42. Following approval of the Storm Water Mitigation Plan (SWMP) by the City Engineer
9 and prior to issuance of grading permits, the owner/developer shall submit and obtain
10 approval of an Operation & Maintenance (O&M) Plan, prepared to the satisfaction of
11 the City Engineer. The O&M Plan shall include an approved and executed Maintenance
12 Mechanism pursuant to Section 5 of the Standard Urban Storm Water Mitigation Plan
13 (SUSMP). The O&M shall satisfy the minimum Maintenance Requirements pursuant to
14 Section 5 of the SUSMP. At a minimum the O&M Plan shall include the designated
15 responsible party to manage the stormwater BMP(s), employee training program and
16 duties, operating schedule, maintenance frequency, routine service schedule, specific
17 maintenance activities, copies of resource agency permits, cost estimate for
18 implementation of the O&M Plan, a non-refundable cash (or certificate of deposit
19 payable to the City), or an irrevocable, City-Standard Letter of Credit security to provide
20 maintenance funding in the event of noncompliance to the O&M Plan, and any other
21 necessary elements. The owner/developer shall provide the City with access to site for
22 the purpose of BMP inspection and maintenance by entering into an Access Rights
23 Agreement with the City. The owner/developer shall complete and maintain O&M
24 forms to document all operation, inspection, and maintenance activities. The
25 owner/developer shall retain records for a minimum of 5 years. The records shall be
26 made available to the City upon request.

27 43. The owner/developer shall enter into a City-Standard Stormwater Facilities Maintenance
28 Agreement with the City obliging the owner/developer to maintain, repair and replace
29 the Storm Water Best Management Practices (BMPs) identified in the project's
approved SWMP, as detailed in the O&M Plan into perpetuity. The Agreement shall be
approved by the City Attorney prior to issuance of any precise grading permit and shall

1 be recorded at the County Recorder's Office prior to issuance of any building permit.
2 Security in the form of cash (or certificate of deposit payable to the City) or an
3 irrevocable, City-Standard Letter of Credit shall be required prior to issuance of a
4 precise grading permit. The amount of the security shall be equal to 10 years of
5 maintenance costs, as identified by the O&M Plan, but not to exceed a total of \$25,000.
6 The owner/developer's Civil Engineer shall prepare the O&M cost estimate.

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

12 45. The Agreement shall include a copy of executed on-site and off-site access rights
13 necessary for the operation and maintenance of BMPs that shall be binding on the land
14 throughout the life of the project to the benefit of the party responsible for the O&M of
15 BMPs, satisfactory to the City Engineer. The agreement shall also include a copy of the
16 O&M Plan approved by the City Engineer.

17 46. The BMPs described in the project's approved SWMP shall not be altered in any way,
18 unless reviewed and approved to the satisfaction of the City Engineer. The
19 determination of whatever action is required for changes to a project's approved SWMP
20 shall be made by the City Engineer.

21 47. The owner/developer shall provide a copy of the cover page of approved SWMP with
22 the first engineering submittal package. All Stormwater documents shall be in
23 compliance with the latest edition of submission requirements.

24 48. Approval of this development is conditioned upon payment of all applicable impact fees
25 and connection fees in the manner provided in chapter 32B of the Oceanside City Code.
26 All traffic signal fees and contributions, highway thoroughfare fees, park fees,
27 reimbursements, and other applicable charges, fees and deposits shall be paid prior to the
28 issuance of any building permits, in accordance with City Ordinances and policies.

29 49. Upon acceptance of any fee waiver or reduction by the owner/developer, the entire
project may be subject to prevailing wage requirements as specified by Labor Code

1 section 1720(b) (4). The owner/developer shall agree to execute a form acknowledging
2 the prevailing wage requirements prior to the granting of any fee reductions or waivers.

3 50. Design and construction of all improvements shall be in accordance with the City of
4 Oceanside Engineers Design and Processing Manual, City Ordinances, and standard
5 engineering and specifications of the City of Oceanside and subject to approval by the
6 City Engineer.

7 51. All right-of-way alignments, street dedications, exact geometrics and width shall be
8 dedicated and constructed or replaced, if required by the City Engineer.

9 52. This tentative parcel map shall be recorded as one. The City Engineer may require the
10 dedication and construction of necessary utilities, streets and other improvements outside
11 the area of this particular parcel map, if such is needed for circulation, parking, access or
12 for the welfare or safety of future occupants of the development.

13 53. The owner/developer shall provide the City of Oceanside with a certification from each
14 public utility and each public entity owning easements within the proposed project
15 stating that: (a) they have received from the owner/developer a copy of the proposed
16 parcel map; (b) they object or do not object to the filing of the parcel map without their
17 signature; (c) in case of a street dedication affected by their existing easement, they will
18 sign a "subordination certificate" or "joint-use certificate" on the parcel map when
19 required by the governing body. In addition, the owner/developer shall furnish proof to
20 the satisfaction of the City Engineer that no new encumbrances have been created that
21 would subordinate the City's interest over areas to be dedicated for public road purposes
22 since submittal of the project.

23 54. Pursuant to the State Map Act, a covenant must be submitted for review and approval by
24 the City Attorney, and shall be recorded attesting to these conditions and a certificate
25 setting forth the recordation shall be placed on the map.

26 55. Any existing public or private pavement, concrete curb, gutter, driveways, pedestrian
27 ramps and sidewalk within the project, or adjacent to the project boundary that are already
28 damaged, shall be repaired or replaced as directed by the City Engineer.

29 56. The owner/developer shall place a covenant on the non-title sheet of the parcel map
agreeing to the following: "The present or future owner/developer shall indemnify and

1 save the City of Oceanside, its officers, agents, and employees harmless from any and all
2 liabilities, damages or claims arising from any landslide on this site”.

3 57. The owner/developer shall place a covenant on the non-title sheet of the parcel map
4 agreeing to the following: “The present or future owner/developer shall indemnify and
5 save the City of Oceanside, its officers, agents, and employees harmless from any and all
6 liabilities, damages or claims arising from any flooding that occurs on this site, and any
7 flooding that is caused by this site impacting adjacent properties”.

8 58. Open space areas and down-sloped areas visible from a collector-level or above roadway
9 and not readily maintained by the property owner, private driveways and common areas,
10 shall be maintained by the owner(s), or a homeowners' association that will insure
11 installation and maintenance of landscaping in perpetuity. These areas shall be indicated
12 on the parcel map and reserved for an association. Future buyers shall be made aware of
13 any estimated monthly costs. The disclosure, together with the CC&R's, shall be submitted
14 to the City Engineer for review prior to the recordation of parcel map.

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

26 60. In the event that the conceptual plan does not match the conditions of approval, the
27 resolution of approval shall govern.

28 **Planning:**

29 61. Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005) shall expire
two years from the effective date unless implemented as required by the Zoning Ordinance.

1 Absent the timely appeal of this approval, it will expire on September 22, 2016 unless
2 implemented as required by the Zoning Ordinance.

3 62. Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005) is granted
4 for the following purposes only:

5 a) Conversion of an existing single-family residence into a duplex; a two-unit
6 condominium resulting in four bedrooms, four baths within Unit One and eight
7 bedrooms and eight baths in Unit Two for a cumulative total of 12 bedrooms and
8 12 baths, served by four enclosed parking spaces in a tandem configuration;

9 b) Addition of 1,572 square feet of habitable space, 1,047 square feet of which will
10 constitute a new third story above basement and 525 square feet to the second
11 floor.

12 63. No deviation from these approved plans and exhibits shall occur without Planning
13 Commission approval. Substantial deviations shall require a revision to the Development
14 Plan and/or Regular Coastal Permit or entirely new entitlements.

15 64. Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005) may be
16 called for review by the Planning Commission if complaints are filed and verified as
17 valid by the City Planner or the Code Enforcement Officer concerning the violation of
18 any of the approved conditions or the project assumptions demonstrated under the
19 application approval.

20 65. The validity of Development Plan (D14-00005) and Regular Coastal Permit (RC14-
21 00005) shall not be affected by changes in ownership or tenants.

22 66. A request for changes in conditions of approval or a change to the approved plans that
23 would affect conditions of approval shall be treated as a new application. The City
24 Planner may waive the requirements for a new application if the changes requested are
25 minor, do not involve substantial alterations or addition to the plan or the conditions of
26 approval, and are consistent with the intent of the project's approval or otherwise found
27 to be in substantial conformance.

28 67. Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005) may be
29 revised or renewed in accordance with the provisions of the Zoning Ordinance. Any
application for Development Plan (D14-00005) and Regular Coastal Permit (RC14-
00005) revision or renewal shall also be evaluated against existing land use and

1 development policies as well as any intervening changes to the site area and/or
2 neighborhood.

3 68. The applicant, permittee, or any successor-in-interest shall defend, indemnify and hold
4 harmless the City of Oceanside, its agents, officers or employees from any claim, action
5 or proceeding against the City, its agents, officers, or employees to attack, set aside, void
6 or annul an approval of the City concerning Development Plan (D14-00005) and
7 Regular Coastal Permit (RC14-00005). The City will promptly notify the applicant of
8 any such claim, action or proceeding against the City and will cooperate fully in the
9 defense. If the City fails to promptly notify the applicant of any such claim action or
10 proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter,
11 be responsible to defend, indemnify or hold harmless the City.

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

16 70. Prior to issuance of a building permit, the applicant and landowner shall execute and
17 record a covenant, in a form and content acceptable to the City Attorney, which shall
18 provide:

- 19 a) That the applicant understands that the site may be subject to extraordinary
20 hazard from waves during storms and from erosion and the applicants assumes
21 the liability from those hazards.
- 22 b) That the applicant unconditionally waives any claim of liability on the part of the
23 City and agrees to defend, indemnify and hold harmless the City and its advisors
24 relative to the City's approval of the project for any damage due to natural
25 hazards.

26 71. Prior to the transfer of ownership and or operation of the site, the owner shall provide a
27 written copy of the applications, staff report and resolutions for the project to the new
28 owner and or operator. This notification provision shall run with the life of the project
29 and shall be recorded as a covenant on the property.

72. Failure to meet any conditions of approval for this project shall constitute a violation of
Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005).

- 1 73. Unless expressly waived, all current zoning standards and City ordinances and policies
2 in effect at the time building permits are issued are required to be met by this project.
3 The approval of this project constitutes the applicant's agreement with all statements in
4 the Description and Justification and other materials and information submitted with this
5 application, unless specifically waived by an adopted condition of approval.
- 6 74. Elevations, siding materials, colors, roofing materials and floor plans shall be
7 substantially the same as those approved by the Planning Commission. These shall be
8 shown on plans submitted to the Building Division for building permits.
- 9 75. All mechanical rooftop and ground equipment shall be screened from public view as
10 required by the Zoning Ordinance. That is, on all four sides and top. The roof jacks,
11 mechanical equipment, screening and vents shall be painted with non-reflective paint to
12 match the roof. All roof top surfaces shall have a non-reflective surface and mechanical
13 appurtenances shall be painted to match the roof color. This information shall be shown
14 on the building plans.
- 15 76. HVAC casings shall be fully enclosed and shall not project into a required yard or
16 project above the district's height requirement.
- 17 77. Prior to issuance of any building permit, the applicant shall submit a detailed plan that
18 delineates public access laterally across the front of the 25-foot wide lot (e.g. different
19 color/texture for sidewalk than driveway) and that provides additional landscape that
20 functions as parkway. Subject to review and final approval by the City Engineer and
21 City Planner.
- 22 78. Any metallic material (i.e. copper) shall be treated at the time that it is installed, or
23 earlier, so that its surface does not reflect light. Non-metallic roofing material is
24 preferred and non-reflective roofing material is required. The copper roofing shall be
25 treated to have a non-reflective surface (patina) at the time it is installed.
- 26 79. Buildings, structures, fences or walls located on lots contiguous to the shoreline, shall be
27 compatible in scale with the existing development and shall not extend further seaward
28 than the line established on the String-line Setback Map.
- 29 80. Fence height limitations and opacity requirements are subject to Section 1050(U) of the
Zoning Ordinance and required front yards. Fence materials shall be 75 percent
transparent.

- 1 81. All wood fences adjacent to public right-of-way, visible from the public right-of-way, or
2 facing the shore will be stained or otherwise finished with a waterproof material.
- 3 82. The developer's construction of all fencing and walls associated with the project shall be
4 in conformance with the approved Development Plan and Regular Coastal Permit. Any
5 substantial change in any aspect of fencing or wall design from the approved
6 Development Plan and Regular Coastal Permit shall require a revision to the
7 Development Plan and Regular Coastal Permit or a new Development Plan and Regular
8 Coastal Permit.
- 9 83. If any aspect of the project fencing and walls is not covered by the approved
10 Development Plan and Regular Coastal Permit, the construction of fencing and walls
11 shall conform to the development standards of the City Zoning Ordinance. In no case
12 shall the construction of fences and walls (or combinations thereof) exceed the
13 limitations of the Zoning Ordinance, unless expressly granted by a Variance or other
14 development approval.
- 15 84. The project shall dispose of or recycle solid waste in a manner provided in City
16 Ordinance 13.3.
- 17 85. A letter of clearance from the affected school district in which the property is located
18 shall be provided as required by City policy at the time building permits are issued.
- 19 86. Prior to the issuance of building permits the developer or owner shall make an
20 irrevocable offer of dedication to the City of Oceanside an easement for lateral public
21 access and passive recreational use along the shoreline adjacent to this property. The
22 document shall provide that the offer of dedication shall not be used or construed to
23 allow anyone, prior to acceptance of the offer, to interfere with any rights of public
24 access acquired through a use which may exist on the property. The easement shall be
25 located along the entire width of the property line to the toe of the bluff (toe of the
26 seawall, a line 25 feet inland of the daily high water line, which is understood to be
27 ambulatory from day to day). The easement shall be recorded free of prior liens and free
28 of any other encumbrances which may affect said interest. The easement shall run with
29 the land in favor of the City of Oceanside, and is binding on all successors and
assignees.

1 87. The applicant shall post signage no more than 1.5 square feet in area that indicates that
2 parking is not permitted in the driveway in front of the garages and provides contact
3 information for both property management and the City of Oceanside Parking
4 Enforcement Division. The applicant shall work with Planning Division staff to
5 determine the most appropriate size, design and material for said signage.

6 PASSED AND ADOPTED Resolution No. 2014-P23 on September 22, 2014 by the
7 following vote, to wit:

8 AYES: Neal, Balma, Rosales and Ross

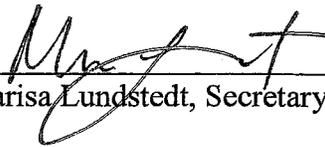
9 NAYS: None

10 ABSENT: Martinek, Troisi, Morrissey

11 ABSTAIN: None

12 
13 _____
14 Robert Neal, Chairperson
15 Oceanside Planning Commission

16 ATTEST:

17 
18 _____
19 Marisa Lundstedt, Secretary

20 I, MARISA LUNDSTEDT, Secretary of the Oceanside Planning Commission, hereby certify
21 that this is a true and correct copy of Resolution No. 2014-P23.

22 Dated: September 22, 2014

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

26 _____
27 Applicant/Representative

28 _____
29 Date

AGENDA NO. 7

PLANNING COMMISSION

STAFF REPORT

DATE: September 22, 2014

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A PARCEL MAP (P14-00008), DEVELOPMENT PLAN (D14-00005) AND REGULAR COASTAL PERMIT (RC14-00005) FOR THE CONVERSION OF AN EXISTING SINGLE-FAMILY HOME INTO A TWO-UNIT RESIDENTIAL CONDOMINIUM AT 823 SOUTH PACIFIC STREET. – 823 S. PACIFIC ST CONDO CONVERSIONS – APPLICANT: 823 S. PACIFIC, LLC.**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Class 3 Categorical Exemption for New Construction or Conversion of Small Structures, pursuant to Section 15303(a) of the California Environmental Quality Act (CEQA); and,
- (2) Approve Parcel Map (P14-00008), Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005) by adopting Planning Commission Resolution No. 2014-P23 with findings and conditions of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

Background: The applicant has submitted applications to convert a single-family home into a two-unit residential condominium with additional square footage totaling 6,116 square feet. The result is a duplex structure with two units, one located along the basement level, the other located within two levels: level one – the street level, and level two right above it. Unit One would provide four bedrooms and four baths. Unit Two, comprise of two stories on levels one and two would provide eight bedrooms and eight baths for a cumulative total of 12 bedrooms and 12 baths. Four enclosed parking spaces, one in excess of Code requirements, would be provided within an enclosed street level tandem four-car garage.

Presently, the lot is fully developed with a 1970s single-family home used as a vacation rental. The square footage addition and condominium conversion of the home into two separate units, would allow for additional short-term vacation rental opportunities, as well as long-term resident occupancy. The current proposal is subject to the City's General Plan, Local Coastal Program and 1986 Zoning Ordinance, which was formally reinstated for Coastal Zone properties outside of the Downtown Redevelopment Area in May 2009.

Site Review: The project site located within the Townsite Planning Neighborhood is zoned Residential-Tourist (RT), and has a land use designation of Urban High-Density Residential (UHD-R). These designations provide for single and multi-family residential uses serving both residents and visitors. The subject property abuts other multi-family residential developments to the north and south, bungalow-style apartments to the east and the Pacific Ocean to the west. The lot measures 25 feet in width and 130 feet in length, which is typical of beachfront properties south of Wisconsin Avenue. The property occupies a portion of coastal bluff that descends approximately 10 vertical feet from South Pacific Street to the beach immediately inland of the revetment. Like other properties in the 800 Block of South Pacific Street, the subject site was excavated to allow beach-level development to extend eastward to the front yard setback. Beach-level development on the subject site has little to no visibility from South Pacific Street, depending upon one's vantage point within the public right-of-way.

Existing development on the subject site consists of a two-story 4,594-square-foot single-family residence. The project will add 1,572 square feet and remodel the interior to create two units totaling 6,166 square feet of habitable space, 828 square feet of garage, and 676 square feet of exterior deck areas. No roof deck is proposed; decks will be added to each of the floors facing the ocean. Presently, this building features two stories from the street level over a daylight basement. The building has a slightly pitched roof along; windows along the east elevation facing the street and a street facing garage with a total of four enclosed parking spaces, including two tandem spaces.

Project Description: The project application is comprised of the following entitlements:

Parcel Map (P14-00009), Development Plan (14-00005) and a Regular Coastal Permit (RC 14-00005) for 823 S. Pacific representing a request for the following:

The partial demolition and remodel of the existing single-family structure into a duplex with two residential condominiums. Currently, the existing home is two stories over a basement and includes 4,594 square feet plus an 828-square-foot garage. The proposed development would convert the single-family home to a duplex condominium structure (2 units) as well as enclose a significant portion of the open-deck area on the existing third level (second story above basement). It would also add a new fourth level (third story above basement). As proposed, the addition would add 1,572 square feet of habitable space, 525 square feet to the second level and 1,047 to the third level. This expansion would accommodate each of the two newly created units with a great room and a kitchen, and would accommodate the second unit with an additional family/TV room and wet bar. The second unit would also include a 150-square-foot open-deck

along the west elevation on the building's second floor. Also along the west elevation, the second unit would include a 525-square-foot open roof deck on the third floor. The western extent of the new third floor (fourth level overall) would step back from the second floor; it would come within 15 feet of the second floor (third level), with the remaining 26 feet being utilized as an open deck. The eastern extent of the new third floor would be setback 24 feet from the second floor. The new third floor, because of being stepped back at both the east and west elevations would not be visible to pedestrians and beachgoers directly in front of the building.

The final design of the proposed building includes a lower unit consisting of four bedrooms and four baths and an upper unit consisting of eight bedrooms and eight baths over two floors. The duplex would include 6,166 square feet of habitable space, 828 square feet of garage area, and 785 square feet of deck area. Together, these two units will feature 12 bedrooms and 12 baths. The beach level of the duplex residence would qualify as a basement in accordance with both the 1986 Zoning Ordinance and the 2010 California Building Code, which require that basements be sufficiently buried such that the average separation between adjacent finished grade and the finished floor of the story above amounts to less than six feet. Situated entirely below South Pacific Street, habitable space at the beach level would be substantially buried beneath adjacent finished grade by means of elevated walkways similar to those found on surrounding properties to the north and south.

As stipulated in the "parking exceptions" section of Article 27 of the 1986 Zoning Code, parking requirements of 1.5 parking spaces per unit for units having three bedrooms or more apply. The parking exceptions apply because the lot is 3,250 square feet, under the 7,500-square-foot threshold established by this exception and it was legally subdivided in 1906, prior to January 20, 1958 date specified by the Code. As such, the project requires three parking spaces although it provides four spaces within the existing parking configuration of four enclosed parking spaces arranged as two pairs of tandem stalls. The project will not include alteration of existing landscape, hardscape, or other exterior features. The project will continue to exhibit its current architectural style including a pitched roof, large vinyl framed windows, a stucco exterior with slate stone veneer surrounding the garage. Aside from height, the footprint of the structure would not be changed. Upon conversion to condominiums, the duplex is expected to continue to serve as vacation rentals, although each unit could also function as a long-term rental or an owner occupied residence.

Regular Coastal Permits (RC14-00005) represents a request for the following:

The addition and remodel of the existing building resulting in a two-unit residential condominium. Presently the building is indicated to be a single-family home with 4,594 square feet of habitable space, an 828-square-foot garage and 495 square feet of deck area. The overall architectural design of the remodeled building will be similar to the existing building although a third floor which steps back at both the east and west elevations will be added. The overall square footage of the unit will be increased by 1,572 square feet for a total of 6,166 square feet. The garage space will remain at 828 square

feet, plus the deck area will increase 495 square feet to 785 square feet. Below is a table summarizing the unit and square footage distribution.

Unit #	Level	Proposed Square Footage	Proposed #Bedrooms/Baths	Required Parking
1	Beach Basement Level	2,112	4/4	1.5 spaces
2	First Story (street) level	1,146	1/1	1.5 spaces
	Second Story (second level)	1,861	4/4	
	Third Story (third level)	1,047	3/3	
	TOTAL	4,054	8/8	
TOTAL	Three stories plus basement	6,166	12/12	3 spaces (4 spaces will be provided within a 4-car garage which includes 2 tandem spaces.

The project site is located within the appeal jurisdiction of the Local Coastal Program pursuant to Section III.D.1 of the Coastal Permit Handbook adopted May 8, 1985, and no on-street public parking spaces will be lost as a result of this project.

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

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

ANALYSIS

KEY PLANNING ISSUES

1. General Plan

The General Plan Land Use Map designation for the subject property is Urban High Density Residential (UHD-R). The proposed project is consistent with this land use designation as well as the goals and objectives of the City's General Plan, as follows:

A. Land Use Element

Goal 1.23: Architecture

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

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

The project will continue to exhibit its current architectural style including a pitched roof, large vinyl framed windows, a stucco exterior with slate stone veneer surrounding the garage. Aside from height, the footprint of the structure would not be changed. Due to the third floor addition, the height of the structure will increase from 26 feet to 35 feet above finished grade. The massing impact of this additional floor will be minimized in that it will be setback at both the western and eastern elevations rendering it not readily visible by pedestrians and beach goers, depending on view point.

Goal 1.32: Coastal Zone

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

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

The proposed project has been reviewed by staff for compliance with the policies of the Local Coastal Program (LCP). Staff finds that the application complies with applicable policies of the LCP, as follows:

Adequate access to and along the coast shall be provided and maintained.

Proposals that constitute multi-family development or involve at least 70 feet of street frontage are required to dedicate and construct public access to the beach when such

access is not already present within 250 feet of the proposed project. The subject request does involve multi-family development, but the subject properties together comprise less than 70 feet of street frontage; and existing public access to the beach is located within 200 feet, at the Hayes Street right-of-way.

The City shall maintain existing view corridors through public rights-of-way.

Located on an interior lot substantially removed from both Wisconsin Avenue and Hayes Street, the proposed project would not impact any existing view corridors through public rights-of-way.

The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

The project will continue to exhibit its current architectural style including a pitched roof, large vinyl framed windows, a stucco exterior with slate stone veneer surrounding the garage. Aside from height, the footprint of the structure will not be changed. The newly created duplex condominium would be consistent with existing and recently approved developments immediately to the north, in terms of both architecture and site design. The height and overall scale of the proposed residences would be consistent with the pattern of redevelopment on adjacent lots, as well as some of the redevelopment on both sides of South Pacific Street.

New development shall utilize optimum landscaping to accent and enhance desirable site characteristics and architectural features.

As evidenced by existing development along South Pacific Street between Wisconsin Avenue and the City's southern boundary, front yard landscaping is highly constrained by the narrowness of the typical lot, which often affords only enough lateral dimensions for driveways and pedestrian access. Such is the case with the subject property. Nevertheless, the proposed project would improve the curb appeal of the property with enhanced paving on the driveway and new planting areas in the public right-of-way subject to final review and approval by the City Engineer and the City Planner.

The City shall require that all new residential development provides adequate on-site parking.

The project requires three parking spaces; although it provides four spaces within the existing parking configuration of four enclosed parking spaces arranged as two pairs of tandem stalls.

2. Zoning Compliance

As noted above, the proposed project is subject to the standards of the 1986 Zoning Ordinance, which was reinstated for properties in those portions of the Coastal Zone located outside of the Downtown Redevelopment Area. The 1986 Zoning Ordinance identifies both single-family homes and vacation rentals as land uses permitted by right

within the RT (Residential-Tourist) Zone. With respect to development standards, the proposed project complies with all applicable RT parameters, with maintenance of the existing legal non-conforming front yard setback allowed due to the proposal's classification as an addition to existing development. The proposal would not intensify this or any other legal non-conformity. The following table illustrates the proposal's conformance to RT development standards:

Table 1: Development Standards

	REQUIRED	PROPOSED
FRONT YARD	❖ String-line, calculated per Section 1716	8 feet 9 inches (No change)
SIDE YARD	3feet	3 feet
REAR YARD	Coastal string-line	Coastal string-line
MAXIMUM HEIGHT	35 feet above average finished grade	35 feet above average finished grade

❖ *This string-line provision places the required front yard setback approximately three (3) feet farther westward of the existing building line at 817 South Pacific Street and approximately six (6) feet farther westward of the existing building line at 819 South Pacific Street. The string-line angles toward the interior of both properties from the near corner of the existing residence at 815 South Pacific Street to the near corner of the existing residence at 823 South Pacific Street.*

Maintenance of the existing legal non-conforming front yard setback would align the proposed duplex with the three recently approved duplexes immediately to the north (811, 813 and 815 South Pacific Street). The proposed duplex would be situated roughly six feet back of the six-unit residential condominium building immediately to the north (819 and 821 South Pacific Street). Staff finds that this variation from the front yard setback at 823 South Pacific Street would benefit the streetscape by relieving the monotony occasioned by previous projects that have implemented the block-face averaging provision of the superseded 1992 Zoning Ordinance.

As noted in the table above, the proposed building as remodeled, would not exceed the maximum allowable building height of 35 feet as measured above average finished grade. For a depth of 23 feet westward of the front building line, the height of the residences would not exceed 26 feet as measured from existing street grade. At the coastal string-line, the residences would be terraced back at the second and third floor levels, and would incorporate open decks on the second and third floor levels. Stepping back from the coastal string-line would reduce massing impacts as viewed from the beach. No stair or elevator enclosures projecting above the primary roofline and no rooftop decks are proposed for the duplex residences.

DISCUSSION

Issue: Project compatibility with the existing neighborhood and surrounding properties: Is the proposed conversion of multi-family development to single-family detached units consistent with the existing pattern of beachfront development along the 800 Block of South Pacific Street?

Recommendation: Staff finds that the proposed residences would be compatible in bulk and scale with the surrounding built environment. The project will continue to exhibit its current architectural style including a pitched roof, large vinyl framed windows, a stucco exterior with slate stone veneer surrounding the garage. Aside from height, the footprint of the structure will not be changed. The newly created duplex condominium would be consistent with existing and recently approved development immediately to the north, in terms of both architecture and site design. The height and overall scale of the proposed residences would be consistent with the pattern of redevelopment on adjacent lots, as well as some of the redevelopment on both sides of South Pacific Street.

ENVIRONMENTAL DETERMINATION

Planning Division staff has completed a preliminary review of this project in accordance with the City of Oceanside's Environmental Review Guidelines and the California Environmental Quality Act (CEQA), 1970. Based upon that review, staff finds that the proposed project constitutes "New Construction or Conversion of Small Structures", and the project is categorically exempt, Class 3, Section 15303(b) as it involves the construction of a duplex or similar multi-family residential structure, totaling no more than two dwelling units.

PUBLIC NOTIFICATION

Legal notice was published in the paper and notices were sent to property owners and occupants within a 300-foot radius of the subject property, individuals and/or organizations requesting notification, the applicant and other interested parties.

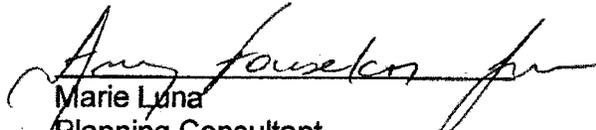
SUMMARY

The proposed project is consistent with the policies and guidelines of the City's Local Coastal Program, as well as the standards of the City's Zoning Ordinance and General Plan. Staff thus recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Class 3 Categorical Exemption for New Construction or Conversion of Small Structures, pursuant to Section 15303(b) of the California Environmental Quality Act (CEQA); and

- (2) Approve Parcel Map (P14-00008), Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005) by adopting Planning Commission Resolution No. 2014-P23 with findings and conditions of approval attached herein.

PREPARED BY:


Marie Luna
Planning Consultant

SUBMITTED BY:


Marisa Lundstedt
City Planner

ML/ML/fil

Attachments:

1. Plans
2. Planning Commission Resolution No. 2014-P23
3. Other Attachments (Application Page, Description and Justification, Legal Description, Notice of Exemption)

Holly Trobaugh

From: Esther Sanchez
Sent: Thursday, October 02, 2014 1:05 PM
To: Marisa Lundstedt; Zack Beck; Holly Trobaugh; John Mullen; Steve Jepsen; Michelle Skaggs-Lawrence
Cc: Jim Wood; Cristina Sanchez
Subject: Appeal by Deputy Mayor Sanchez and Mayor Wood of Planning Commission Items 5, 6 & 7 (September 22, 2014 Agenda)

I discussed the planning commission items referenced above with Mayor Jim Wood, and the Mayor has agreed to join me in appealing these items to the full city council.

Appeal of Planning Commission Items 5, 6 and 7, Planning Commission Agenda of September 22, 2014.

Item 5: Appeal of the following item:

Consideration of a TENTATIVE TRACT MAP (T14-00003), CONDITIONAL USE PERMIT (CUP14-00011), DEVELOPMENT PLAN (D14-00006), REGULAR COASTAL PERMIT (RC14-00006), to permit the partial demolition of six existing dwelling units totaling 5,296 square feet and allow for additional square footage as well as their conversion from apartments into six condominium units totaling 12,868 square feet, including a total of 20 bedrooms and 22 baths, as well as eight enclosed parking spaces including two car lifts. Bearing a zoning designation of R-T and a Local Coastal Program land use designation of High Density Residential, the subject properties are located at 817 and 819 South Pacific Street, within the Coastal Zone and the Townsite Neighborhood Planning Area. – **817 & 819 S. PACIFIC ST CONDO CONVERSIONS – Applicant: Strands End Limited, LLC; Leeds Properties, LLC**

The grounds of the appeal are the following:

This project is not consistent with the character of the surrounding community and in fact seeks to establish such a higher density and intensity of use that the project results in extremely excessive environmental impacts, insufficiently analyzed and addressed. The density, height, bulk, scale are inconsistent with our local coastal plan, resulting instead in a “canyonization” of Pacific Street, our first street east of the beach, with tremendous environmental impacts on the road in terms of public access, essentially privatizing our public beach.

Our LCP was designed to allow public views all along our coast, allowing for a stepping back, much as other coastal communities. This project represents a continued piece-meal alteration of our LCP without a true public process, in stark violation of our LCP.

This project is in direct violation of council policy, with regard to our mini-dorm ordinance.

We also incorporate by reference the objections by the community, represented by Erik L. Schraner, Esq., of Seltzer, Caplan, McMahon and Vitek, in his 10 page letter dated September 22, 2014, filed with the Planning Department, reference “817 & 819 South Pacific Street, September 22, 2014 Planning Commission Agenda Item No. 5.”

Item 6: Appeal of the following item:

7
1381102114
Consideration of a TENTATIVE PARCEL MAP (P14-00007), DEVELOPMENT PLAN (D14-00004), REGULAR COASTAL PERMIT (RC14-00004), to permit the conversion of a single-family home into a two-unit condominium with additional square footage totaling 6,443 square feet, with unit one providing four bedrooms and four baths, and unit two providing eight bedrooms and eight baths for a total of 12 bedrooms and 12 baths as well as four enclosed parking spaces within a tandem four-car garage. Bearing a zoning designation of R-T and a Local Coastal Program land use designation of High Density Residential, the subject property is located at 825 South Pacific Street, within the Coastal Zone and the Townsite Neighborhood Planning Area. – **825 S. PACIFIC ST CONDO CONVERSIONS – Applicant: 825 South Pacific, LLC**

This project is not consistent with the character of the surrounding community and in fact seeks to establish such a higher density and intensity of use that the project results in extremely excessive environmental impacts, insufficiently analyzed and addressed. The density, height, bulk, scale are inconsistent with our local coastal plan, resulting instead in a “canyonization” of Pacific Street, our first street east of the beach, with tremendous environmental impacts on the road in terms of public access, essentially privatizing our public beach

Our LCP was designed to allow public views all along our coast, allowing for a stepping back, much as other coastal communities. This project represents a continued piece-meal alteration of our LCP without a true public process, in stark violation of our LCP.

This project is in direct violation of council policy, with regard to our mini-dorm ordinance.

We also incorporate by reference the objections by the community, represented by Erik L. Schraner, Esq., of Seltzer, Caplan, McMahon and Vitek, in his 10 page letter dated September 22, 2014, filed with the Planning Department, reference “823 & 825 South Pacific Street, September 22, 2014 Planning Commission Agenda Item No. 6 & 7.”

Item 7: Appeal of the following item:

Consideration of a TENTATIVE PARCEL MAP (P14-00008), DEVELOPMENT PLAN (D14-00005), REGULAR COASTAL PERMIT (RC14-00005), to permit the conversion of a single-family home into a two-unit condominium with additional square footage totaling 6,116 square feet, with unit one providing four bedrooms and four baths, and unit two providing eight bedrooms and eight baths for a total of 12 bedrooms and 12 baths as well as four enclosed parking spaces within a tandem four-car garage. Bearing a zoning designation of R-T and a Local Coastal Program land use designation of High Density Residential, the subject property is located at 823 South Pacific Street, within the Coastal Zone and the Townsite Neighborhood Planning Area. – **823 S. PACIFIC ST CONDO CONVERSIONS – Applicant: 823 South Pacific, LLC**

This project is not consistent with the character of the surrounding community and in fact seeks to establish such a higher density and intensity of use that the project results in extremely excessive environmental impacts, insufficiently analyzed and addressed. The density, height, bulk, scale are inconsistent with our local coastal plan, resulting instead in a “canyonization” of Pacific Street, our first street east of the beach, with tremendous environmental impacts on the road in terms of public access, essentially privatizing our public beach

Our LCP was designed to allow public views all along our coast, allowing for a stepping back, much as other coastal communities. This project represents a continued piece-meal alteration of our LCP without a true public process, in stark violation of our LCP.

This project is in direct violation of council policy, with regard to our mini-dorm ordinance.

We also incorporate by reference the objections by the community, represented by Erik L. Schraner, Esq., of Seltzer, Caplan, McMahon and Vitek, in his 10 page letter dated September 22, 2014, filed with the Planning

Department, reference "823 & 825 South Pacific Street, September 22, 2014 Planning Commission Agenda Item No. 6 & 7."

Holly Trobaugh

From: Debbie Walker
Sent: Thursday, October 02, 2014 2:06 PM
To: Esther Sanchez
Cc: Marisa Lundstedt; Zack Beck; Holly Trobaugh; John Mullen; Steve Jepsen; Michelle Skaggs-Lawrence; Jim Wood; "Cristina Sanchez" [EX:/O=CITY OF OCEANSIDE/OU=OCEANSIDE-NT/cn=Recipients/cn=csanchez]
Subject: Re: Appeal by Deputy Mayor Sanchez and Mayor Wood of Planning Commission Items 5, 6 & 7 (September 22, 2014 Agenda)

I spoke with Mayor Wood and he agrees.

Sent from my iPhone

On Oct 2, 2014, at 1:04 PM, Esther Sanchez <ESanchez@ci.oceanside.ca.us> wrote:

I discussed the planning commission items referenced above with Mayor Jim Wood, and the Mayor has agreed to join me in appealing these items to the full city council.

Appeal of Planning Commission Items 5, 6 and 7, Planning Commission Agenda of September 22, 2014.

Item 5: Appeal of the following item:

Consideration of a TENTATIVE TRACT MAP (T14-00003), CONDITIONAL USE PERMIT (CUP14-00011), DEVELOPMENT PLAN (D14-00006), REGULAR COASTAL PERMIT (RC14-00006), to permit the partial demolition of six existing dwelling units totaling 5,296 square feet and allow for additional square footage as well as their conversion from apartments into six condominium units totaling 12,868 square feet, including a total of 20 bedrooms and 22 baths, as well as eight enclosed parking spaces including two car lifts. Bearing a zoning designation of R-T and a Local Coastal Program land use designation of High Density Residential, the subject properties are located at 817 and 819 South Pacific Street, within the Coastal Zone and the Townsite Neighborhood Planning Area. – **817 & 819 S. PACIFIC ST CONDO CONVERSIONS – Applicant: Strands End Limited, LLC; Leeds Properties, LLC**

The grounds of the appeal are the following:

This project is not consistent with the character of the surrounding community and in fact seeks to establish such a higher density and intensity of use that the project results in extremely excessive environmental impacts, insufficiently analyzed and addressed. The density, height, bulk, scale are inconsistent with our local coastal plan, resulting instead in a “canyonization” of Pacific Street, our first street east of the beach, with tremendous environmental impacts on the road in terms of public access, essentially privatizing our public beach.

Our LCP was designed to allow public views all along our coast, allowing for a stepping back, much as other coastal communities. This project represents a continued piece-meal alteration of our LCP without a true public process, in stark violation of our LCP.

This project is in direct violation of council policy, with regard to our mini-dorm ordinance.

We also incorporate by reference the objections by the community, represented by Erik L. Schraner, Esq., of Seltzer, Caplan, McMahon and Vitek, in his 10 page letter dated September 22, 2014, filed with the Planning Department, reference "817 & 819 South Pacific Street, September 22, 2014 Planning Commission Agenda Item No. 5."

Item 6: Appeal of the following item:

Consideration of a TENTATIVE PARCEL MAP (P14-00007), DEVELOPMENT PLAN (D14-00004), REGULAR COASTAL PERMIT (RC14-00004), to permit the conversion of a single-family home into a two-unit condominium with additional square footage totaling 6,443 square feet, with unit one providing four bedrooms and four baths, and unit two providing eight bedrooms and eight baths for a total of 12 bedrooms and 12 baths as well as four enclosed parking spaces within a tandem four-car garage. Bearing a zoning designation of R-T and a Local Coastal Program land use designation of High Density Residential, the subject property is located at 825 South Pacific Street, within the Coastal Zone and the Townsite Neighborhood Planning Area. – **825 S. PACIFIC ST CONDO CONVERSIONS – Applicant: 825 South Pacific, LLC**

This project is not consistent with the character of the surrounding community and in fact seeks to establish such a higher density and intensity of use that the project results in extremely excessive environmental impacts, insufficiently analyzed and addressed. The density, height, bulk, scale are inconsistent with our local coastal plan, resulting instead in a "canyonization" of Pacific Street, our first street east of the beach, with tremendous environmental impacts on the road in terms of public access, essentially privatizing our public beach

Our LCP was designed to allow public views all along our coast, allowing for a stepping back, much as other coastal communities. This project represents a continued piece-meal alteration of our LCP without a true public process, in stark violation of our LCP.

This project is in direct violation of council policy, with regard to our mini-dorm ordinance.

We also incorporate by reference the objections by the community, represented by Erik L. Schraner, Esq., of Seltzer, Caplan, McMahon and Vitek, in his 10 page letter dated September 22, 2014, filed with the Planning Department, reference "823 & 825 South Pacific Street, September 22, 2014 Planning Commission Agenda Item No. 6 & 7."

Item 7: Appeal of the following item:

Consideration of a TENTATIVE PARCEL MAP (P14-00008), DEVELOPMENT PLAN (D14-00005), REGULAR COASTAL PERMIT (RC14-00005), to permit the conversion of a single-family home into a two-unit condominium with additional square footage totaling 6,116 square feet, with unit one providing four bedrooms and four baths, and unit two providing eight bedrooms and eight baths for a total of 12 bedrooms and 12 baths as well as four enclosed parking spaces within a tandem four-car garage. Bearing a zoning designation of R-T and a Local Coastal Program land use designation of High Density Residential, the subject property is located at 823 South Pacific Street, within the Coastal Zone and the Townsite Neighborhood Planning Area. – **823 S. PACIFIC ST CONDO CONVERSIONS – Applicant: 823 South Pacific, LLC**

This project is not consistent with the character of the surrounding community and in fact seeks to establish such a higher density and intensity of use that the project results in extremely excessive environmental impacts, insufficiently analyzed and addressed. The density, height, bulk, scale are inconsistent with our local coastal plan, resulting instead in a "canyonization" of Pacific Street, our first street east of the beach, with tremendous environmental impacts on the road in terms of public access, essentially privatizing our public beach

Our LCP was designed to allow public views all along our coast, allowing for a stepping back, much as other coastal communities. This project represents a continued piece-meal alteration of our LCP without a true public process, in stark violation of our LCP.

This project is in direct violation of council policy, with regard to our mini-dorm ordinance.

We also incorporate by reference the objections by the community, represented by Erik L. Schraner, Esq., of Seltzer, Caplan, McMahon and Vitek, in his 10 page letter dated September 22, 2014, filed with the Planning Department, reference "823 & 825 South Pacific Street, September 22, 2014 Planning Commission Agenda Item No. 6 & 7."

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September 22, 2014

Planning Commission
 City of Oceanside
 300 North Coast Highway
 Oceanside, California 92054

Via Email & Hand Delivery

Re: **823 & 825 South Pacific Street
 September 22, 2014 Planning Commission Agenda Item No. 6 & 7**

Dear Members of the Planning Commission:

We represent Beachin, LLC concerning the proposed conversion of 823 and 825 South Pacific Street from single-family rental residences to two-unit condominiums.

Requested Action.

We request that the Planning Commission deny the application to convert the existing structure into a two-unit condominium because the proposals do not comply with Oceanside's certified local coastal program, the Subdivision Map Act, and the California Environmental Quality Act.

Discussion.

823 and 825 South Pacific Street do not comply with Oceanside's certified local coastal program ("LCP") for the following reasons:

A. Grade is measured incorrectly.

The applicants did not measure "grade" as required by the LCP. Grade is an important measurement because many of the development restrictions imposed by the LCP are measured from grade. The LCP defines grade as:

"Grade" means the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a

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sidewalk, the above-ground level shall be measured at the sidewalks.¹
 (emphasis added.)

In addition, building height is defined as:

The vertical distance measured from the average level of the highest and lowest point of that portion of the building-site covered by the building to the ceiling of the uppermost story.

Instead of measuring ground level at the center of all walls, applicants measured ground level at a point outside the walls. The correct grade level for both projects is:

823 South Pacific:	14.65 feet EL.² $(12 + 12 + 12 + 22.5) / 4$ 12 feet EL is finished ground level for the bottom floor 22.5 feet EL is the ground level listed on the plans for the east wall
825 South Pacific:	14.25 feet EL $(11.5 + 11.5 + 11.5 + 22.5) / 4$ 13.44 is the finished ground level for the bottom floor 23.07 is the ground level listed on the plans for the east wall

According to applicant's plans, the low point for 823 South Pacific is 13.72 feet EL, which is somehow 1.7 feet higher than the finished floor. And for 825 South Pacific, the low point rises higher to what appears to be 14.5 feet EL, which is somehow 3 feet higher than the finished floor.

B. The projects exceed the three story limitation.

The LCP limits buildings to no more than three stories.³ The proposed buildings, however, have four floors and can only satisfy the three story limitation if the bottom floor does not qualify as a "story", as defined in the LCP.

¹ City of Oceanside Zoning Ordinance §234.

² The numbers on the site plans available for review are blurry so the exact measurements could not be confirmed from the plans.

³ 1986 Zoning Ordinance §1709(b).

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The LCP's definition of a story excludes a basement or cellar. But if the "finished floor level directly above the basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story."⁴

Applicant incorrectly measured from grade to the ceiling of the floor level directly above the basement. The LCP requires applicant to measure from grade to the finished floor level directly above the basement.

Although both sets of available plans do not provide an elevation for the finished surface of the floor, the plans do provide the height of the ceiling for the floor level directly above the alleged basement. No matter which floor elevation you use, the finished floor is more than 6 feet (the distance is greater than 7 feet) above the correct grade for both projects.

823 South Pacific: **7.85 feet is the distance from grade to ceiling**
(22.5 finished floor height – 14.65 grade height)
(The ceiling is lower than the finished floor so the distance is actually greater)

825 South Pacific: **8.25 feet is the distance from grade to ceiling**
(22.5 finished floor – 14.25 grade height)
(The ceiling is lower than the finished floor so the distance is actually greater)

Thus, the basement must be counted as story and the proposed buildings have four stories in a zone in which only three stories are allowed.

C. The two structures will exceed the 35 foot height limit.

The LCP limits "building height" in the RT zone to 35 feet.⁵ The certified LCP defines building height as:

"Building height" means the vertical distance measured from the average level of the highest and lowest point of that portion of the building-site covered by the building to the ceiling of the uppermost story."

⁴ 1986 Zoning Ordinance §274.

⁵ 1986 Oceanside Zoning Ordinance Section 3203.

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Applicant's plans identify the highest and lowest point of the portion of the building site covered by the building as less than 12 feet EL.

823 South Pacific Street: 39.6 feet is the distance from roof (51.6 feet) to the average level of the highest and lowest point (12)⁶ (12 is the highest and lowest point of the building site covered by the building so the average is 12)

825 South Pacific Street: 41 feet is the distance from roof (52.5 feet) to the average level (11.5) (11.5 is the highest and lowest point of the building site covered by the building so the average is 11.5)

823 South Pacific has a building height of 39.6 feet and, therefore, exceeds the 35 foot building height limit. Likewise, 825 South Pacific Street has a building height of 41 feet and exceeds the 35 foot building height.

In addition, the available plans do not identify the height of the ceiling so the actual proposed building height cannot be calculated and the City cannot make the required findings to approve the project.

The projects also fail to comply with the second building height measurement specified in Section 1709 of the Oceanside Zoning Ordinance. This height restriction requires building height to be measured from average finished grade to the top of the structure with exceptions for specified structures, such as penthouses or roof structures for air conditioning or similar equipment. This results in the following building heights:

823 South Pacific: 38.35 feet building height
(53 feet to roof – 14.65 finished grade level)

825 South Pacific: 38.25 feet building height
(52.5 feet to roof – 14.25 finished grade level)

823 and 825 South Pacific Street, therefore, exceed the allowed building height using both building height restrictions specified in the LCP.

⁶ Ceiling height is not provided on the available plans.

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D. The projects do not comply with the LCP's condominium conversion regulations.

Applicant has not submitted a Site and Structural Conditions Report as required by Section 3105, and the information submitted by the applicant does not provide the information required to satisfy Section 3105(a), including the required statement of repairs and improvements.

In addition, the LCP requires that the applicant bring the building into full compliance with all applicable building regulations. The California Building Code has been updated several times since the existing structures were built or modified. Both structures must, therefore, be brought into full compliance with the 2013 California Building Code. Since the projects have not been conditioned to require compliance with this LCP requirement, the City cannot make the required findings.

E. Applicant and City do not appear to have issued the required condominium conversion notices.

Applicant and City do not appear to have issued the following required condominium conversion notices:

- Issuance of a notice of intent to convert to each person applying for the rental of a unit in the property.⁷
- Compliance with the Subdivision Map Act's condominium conversion notice requirements specified in Government Code sections 66427.1, 66452.19, and 66452.20.
- City must issue specified notices to tenants in compliance with the requirements for service of legal process by mail.⁸

F. Applicant must pay condo conversion fee or enter into an agreement not to sell the condo units for 5 years.

The LCP requires all residential condominium conversion to pay a condo conversion fee or enter into an agreement not to sell condominium units for 5 years.⁹ Applicant must comply

⁷ Government Code section 66427.1(a)(1).

⁸ Government Code Section 66451.3(b).

⁹ Oceanside Zoning Ordinance Section 3110

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with this requirement and the approvals must be conditioned on compliance with this requirement or else the required findings cannot be made to approve the project.

City can only waive these requirements if Section 3110(b) applies and it cannot apply in this situation.

G. The project does not comply with the LCP parking requirements.

Applicant proposes to provide 4 tandem parking spaces to comply with the minimum parking requirements. The City shall require that all new residential development provides adequate on-site parking. In areas where beach parking demand is critical, parking requirements for new residential development shall be strictly enforced.¹⁰ Nothing in the 1986 Zoning Ordinance, however, authorizes the use of tandem parking spaces to comply with the parking requirements.

In addition, tandem parking spaces do not comply with the requirement that parking spaces "be provided with adequate ingress and egress" and the General Plan requirement that "developments shall design parking areas to maximize efficiency, safety, convenience, and open space."¹¹ Tandem parking spaces do not provide adequate ingress and egress, particularly in structures that will be used as vacation rental.

H. The proposed findings are inadequate.

The proposed findings are inadequate in that the City does not propose to make all required findings and there is no available evidence to support all the required findings. The proposed findings are inadequate for the following reasons:

- City does not propose to make the findings required by LCP Section 3109.
- No proposed finding and no evidence to support that to the extent feasible, the design of the subdivision provides for future passive or natural heating or cooling in the subdivision.
- No proposed finding that the subdivision design or improvements are not likely to cause serious public health problems.
- No proposed finding as to water quality required Government Code Section 66474.6.

¹⁰ Local Coastal Program Policy 17.

¹¹ 1986 Zoning Ordinance §2702; General Plan Policy 1.20.

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- No proposed finding that required notices, such as the required notice of intent to convert, were sent to each person applying for the rental of a unit in the property.¹²
- Without conditions requiring applicant to comply with the Subdivision Map Act's notices and rights of first refusal requirement, City cannot make the findings required to approve a condominium conversion.
- No evidence available that applicant has complied with the Subdivision Map Act's condominium conversion notice requirements specified in Government Code sections 66427.1, 66452.19, and 66452.20.
- The parcel maps have not been conditioned to require applicant to issue the notices required by the Subdivision Map Act.
- The parcel maps have not been conditioned to require applicant to offer a right of first refusal.
- If applicant rents a unit, each tenant must be given up to 180 days to vacate the unit.
- No evidence available that City issued the required notices to tenants in compliance with the requirements for service of legal process by mail.¹³

I. Design Standards.

823 and 825 South Pacific do not comply with the following LCP design standards:

- Front Yard Setback. The LCP imposes a 10-foot front yard setback. Although the setback may be decreased, the City can only do so based on the standards specified in the RT zoning regulations. Using the required standard, a decreased setback can only be approved based on architectural compatibility. The proposed findings do not include any findings or evidence necessary to support a reduced front yard setback.
- Compatibility In Height And Scale. The LCP requires all development to be compatible in height, scale, color, and form with the surrounding neighborhood.¹⁴ Applicant's proposed structures are incompatible with existing development because both proposed structure exceed the height limit and the three story limitation.
- Design Standards. The LCP requires the Planning Commission to apply the design standards in the Coastal Development Design Standards manual. This includes the following design standards:

¹² Government Code section 66427.1(a)(1).

¹³ Government Code Section 66451.3(b).

¹⁴ Local Coastal Program; 1986 Zoning Ordinance §1703(e).

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1. Proposed new development should consider surrounding views when designing building height. Coastal Development Design Standards IV.A.3.
2. Ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood. Coastal Development Design Standards V.1.
3. Buildings are seen together as a total effect that defines the City/neighborhood. Emphasize this special character further through distinctive landscaping and other features. Coastal Development Design Standards V.5.
4. Pedestrian scale can be achieved at the base of large vertical building surfaces by the use of arcades, by emphasizing horizontal divisions, surface textures and other architectural details. Coastal Development Design Standards VI.A.1.
5. Relate the height of buildings to important attributes of the City pattern and to the height and character of surrounding development. Coastal Development Design Standards VI.A.3.

The proposed structure would include four stories, more than any other building in the surrounding neighborhood, fail to comply with the height regulations, and will block surrounding views and be out of scale with the height and character of surrounding development. Furthermore, City does not propose findings to support compliance with the LCP's design standards.

J. California Environmental Quality Act.

Both projects do not comply with the California Environmental Quality Act ("CEQA"). City claims that the projects qualify for a Class 3 categorical exemption and is therefore exempt from CEQA. The Class 3 categorical exemption, however, only applies to the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.¹⁵ The proposed conversion, however, includes the addition of a new story and major modifications to the exterior of the structure and; therefore, does not qualify for the Class 3 categorical exemption.

¹⁵ CEQA Guidelines §15303.

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In addition, the Class 3 categorical exemption is qualified by location, cumulative impact, and significant effects due to unusual circumstances.¹⁶ The proposed structures do not qualify for a categorical exemption for the following reasons:

- Due to their location on a public right-of-way and public view corridor, the projects will impact public views in violation of the Local Coastal Program.
- The project does not provide adequate parking to meet the parking demands of a vacation rental.
- The project does not provide parking for employees.
- The project is incompatible with the bulk and scale of the surrounding neighborhood.
- Applicant proposes to rent the proposed structures as vacation and to host parties, weddings, and corporate. Past parties, weddings, and corporate retreats on applicant's nearby properties included dj's and live music, in addition to the crowd noise, causing excessive noise levels that disturbed the surrounding residences.
- Holding parties, weddings, and corporate retreats will cause noise impacts to the surrounding residences and disturb the surrounding neighbors sleep.

In addition, the same person or group appears to own all four project sites that will be heard by the Planning Commission on September 22nd. CEQA forbids projects from being piecemealed to make the project's environmental impacts appear smaller than they are. Furthermore, the Class 3 Categorical exemption does not apply to projects as large as the four combined projects (809, 817, 819, 823, and 825 South Pacific Street).

These items support a fair argument that the project may have a significant environmental effect on the environment. For these reasons, the City is required to prepare a mitigated negative declaration or an environmental impact report.

Sincerely,



Erik L. Schraner, Esq.
SELTZER CAPLAN McMAHON VITEK
A Law Corporation

¹⁶ CEQA Guidelines §15300.2.

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cc: Beachin, LLC
Marisa Lundstedt, City Planner, City of Oceanside

STAFF RESPONSE TO LEGAL COMPLAINT LETTER
SUBMITTED TO THE PLANNING COMMISSION ON SEPTEMBER 22, 2014 BY
SELTZER, CAPLAN, MCMAHON, VITEK
(Re: 823 South Pacific Street)

The legal complaint letter pertains to the conversion of a single family residence to a two-unit residential condominium project proposed at 823 South Pacific Street filed by the applicant: 823 S. Pacific, LLC.. The project includes three applications: Tentative Parcel Map (P14-00008), Development Plan (D14-00005) and Regular Coastal Permit (RC14-00005).

Staff Summary

The issues raised in the legal complaint letter are similar to those raised previously when similar projects at 811, 813, and 815 were approved by the City on June 27, 2012 and subsequently appealed to the Coastal Commission under appeal numbers OCN-12-054, OCN-12-055 and OCN-12-056. These projects converted the existing single family homes on each of these lots to two-unit duplexes. The conversions included the addition of square footage and a third story to a height of 35 feet, the same height as that proposed by the subject project. At its hearing on March 6-8, 2013, the Coastal Commission found the developments as approved by the City did not result in adverse impacts on coastal resources and recommended that the Commission determine that no substantial issues existed relative to the appellants' contentions. The Coastal Commission denied each of the appeals and approved the projects at 811, 813 and 815. These projects have now been developed and permitted.

Staff Response to Legal Complaint

A. The public notice is defective

Response: The Notice complies with the City's noticing requirements and was correctly executed. It indicates the project is within the coastal zone; it was filed by the required date; it indicates the application case numbers assigned; it provides a brief description of the project and planning commission hearing date; it is not required to provide appeals procedures (see copy of Notice, Attachment A)

B. The available plans do not include any grade or building height measurements.

Response: Plans submitted by the applicant and available to the public do include grade and building height measurements. Plans are available for viewing upon request at the planning counter or by calling the project planner whose contact information appears on the public notice. This project, with the exception to the tract map filing, is essentially the same as the project approved by the Planning Commission on March 11, 2013. The grade and building height measurements remain the same.

C. Grade is measured incorrectly

Response: The City's certified definition of "grade" states:

Grade. "Grade" means the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the above-ground level shall be measured at the sidewalks.

Specifically, the complaint contends that the City accepted the finished "grade" instead of the finished "ground" level in order to measure the elevation of the center of all walls, as described above. The complaint further contends if the City used the ground level instead of the grade level, the definitions for "story" and building height" would be calculated differently and are, therefore, also inaccurate. In response, staff would like to refer to the response given by the Coastal Commission on prior appeals as it is applicable to this project.

"The City has indicated that the terms ground and grade are used interchangeably and it stands to reason that the City would have the best understanding of how its ordinances are interpreted." In the cases appealed prior to the Coastal Commission, the Commission found that since the buildings at 811, 813 and 815 South Pacific Street did not obstruct any public views of the coast and ocean, the matter by which the City defines "grade" did not raise a substantial issue. In that the subject project is in close proximity to 823 South Pacific Street, Staff contends that the same interpretation applies.

D. Both buildings exceed the three story limitation

Response: The City's definition of story states:

Story. "Story" means a portion of a building included between the surface of any floor and the surface of the floor next above it. If there is not floor above it, then the space between such floor and the ceiling next above it shall be considered a story. If the finished floor level directly above the basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

The complaint contends that if the term "grade" emphasized in "C" above, was measured accurately to the ground level at the center of all walls and not finished grade, the finished floor level would be more than six feet above grade. If the first level is more than six feet above ground, it cannot be considered a basement and must be considered a story. If the first floor was considered a story, and not a basement, the project would be four levels and thus would not be consistent with the restriction for development in the R-T zone to three stories.

As previously discussed in "C" above, the City uses the terms ground and grade interchangeably and the Coastal Commission has agreed to this interpretation. Like other properties in the 800 block of South Pacific Street, the subject site was excavated to allow beach-level habitable space (daylighted basement). As currently constructed, the existing building is two stories over a daylighted basement. Because the first level of the building can be defined as a basement, it is not included in the calculation of the number of stories. The City's zoning ordinance defines a "basement" as follows:

Basement. "Basement" means that portion of a building between floor and ceiling which is partly below and partly above ground but so located that the vertical distance from grade to the floor below is less than the vertical grade from grade to ceiling. (The City is aware this language is incorrect and that the intent of the policy is to require more of the basement level to be below grade than above. The City has an established practice of interpreting the definition of basement in this manner and the Coastal Commission concurs).

As proposed, the existing structure would be improved with an additional level above the existing 3rd level (second story). The current development includes three levels with the first level being located mostly underground, and therefore, considered a basement. The additional level proposed is only possible because the first level can be considered a basement. A substantial percentage of beachfront homes are constructed with daylighted basements and they are considered "conforming".

E. The structure will exceed the 35-foot height limit

Response: The height limit in the Residential Tourist (R-T) designation is 35 feet. "Building height" means the vertical distance measured from the average level of the highest and lowest point of that portion of the building site-covered by the building to the ceiling of the uppermost story.

The complaint contends that the City accepted a calculation for the height of the existing building inaccurately. The City accepted the points of the building site to be measured from lowest and highest points *adjacent to the building* and the complaint contends that the height should be measured from the lowest and highest points *covered by the building*. This discrepancy results in finished heights between 3-4 feet higher in elevation. Again, the City has traditionally accepted points adjacent to the building and the Coastal Commission has concurred.

F. The project does not comply with the LCP's condominium conversion regulations.

Response: Condominium conversions are governed by Article 31 of the City's 1986 Zoning Ordinance. This Article applies to multi-residential rental units converted into multi-residential condominiums. It does not apply to a single family residence converted into condominiums, since a single family residence is not considered a "unit". Therefore, this project is not subject to the LCP's condominium conversion regulations.

G. Applicant and City do not appear to have issued the required condominium conversion notices.

Response: As indicated above the requirements of Article 31 pertaining to condominium conversions do not apply to this project. Not only is this project a single family home and not subject to the condominium conversion requirements, but it has been used as a summer vacation rental as permitted in the R-T zone. As there are no permanent residents, none will be displaced by this conversion from a single family residence to a duplex which will be subdivided to create a two-unit residential condominium. Therefore the conversion noticing requirements of Article 31; specifically Sections 3111 through 3113 do not apply.

H. Applicant must pay the condo conversion fee or enter into an agreement not to sell the condo units for 5 years.

Response: As indicated in F and G, above, this project is not subject to the condo conversion requirements indicated in Article 31 of the City's 1986 Zoning Ordinance.

I. The project does not comply with the LCP parking requirements

Response: The proposed two-unit residential condominium project will provide four enclosed parking spaces, one in excess of Code requirements, within a four-car garage which includes two tandem spaces.

According to Article 27 of the 1986 Zoning Ordinance which pertains to this development area, parking requirements for lots in the R-T zone which total 7,500 square feet or less and which were legally subdivided prior to January 20, 1958, are as follows:

- 1 parking space for 1 and 2 bedroom units; and
- 1.5 parking spaces for 3 bedrooms or more.

In that the project site constitutes a lot created on April 13, 1906 by Subdivision Map 984 and totals 6,500 square feet, these parking provisions, classified as an "exception" to the current parking requirements apply. The two units, given the bedroom count per unit, require three parking spaces. However, four parking

spaces will be provided. Below is a table illustrating the parking provisions in accordance with Zoning Code Article 27 of the 1986 Zoning Ordinance.

PARKING PROVISIONS

Unit #	Level	Proposed Square Footage	Proposed #Bedrooms/Baths	Required Parking
1	Beach Basement Level	2,112	4/4	1.5 spaces
2	First Story (street level)	1,146	1/1	
	Second Story (second level)	1,861	4/4	
	Third Story (third level)	1,047	3/3	
	TOTAL	4,054	8/8	1.5 spaces
TOTAL	Three stories plus basement	6,166	12/12	3 spaces/4 spaces provided within a 4-car garage which includes 2 tandem spaces.

J. The proposed finding are inadequate

Response: The findings required of condominium conversions are not applicable to this project for reasons stated in F and G, above.

K. Design Standards

Response: With respect to development standards, the proposed project complies with all applicable RT parameters, with maintenance of the existing legal non-conforming front yard setback allowed due to the proposal's classification as an addition to existing development. The proposal would not intensify this or any other legal non-conformity. The following table illustrates the proposal's conformance to RT development standards:

Table 1: Development Standards

	REQUIRED	PROPOSED
FRONT YARD	❖ String-line, calculated per Section 1716	3 feet 6 inches (No change)
SIDE YARD	3feet	3 feet
REAR YARD	Coastal string-line	Coastal string-line
MAXIMUM HEIGHT	35 feet above average finished grade	35 feet above average finished grade

The existing structure is situated 3'-6" from the front property line; will maintain the 3 foot side yard setback and will be developed to the rear yard "stringline setback". Aside from the increase in height, which will not be visible to pedestrians along South Pacific Street, all other aspects of the development envelope remain identical to that on the existing structure (front, side and rear yard setbacks). The "stringline" in this case is a line on a map loosely following the line of development on the beach-fronting homes along the City's coast. The certified "Stringline Setback Map" was developed in 1983 by overlaying an imaginary stringline on an aerial photo of the shoreline in the City of Oceanside. The map shows how far new development may extend towards the ocean. The stringline map was based on existing building patterns, as well as anticipated future developments and remodels/expansions. This "stringline" was certified by the Coastal Commission in 1986 as part of the City's Local Coastal Program.

L. California Environmental Quality Act

The project does not comply with the Class 3 categorical exemption.

Response: According to the California Environmental Quality Act, Class 3 categorical exemptions pertains to : New Construction Or Conversion Of Small Structures. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Examples of a Class 3 exemption include:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

(b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.

This project adds one unit to the existing single family home. It accomplishes this through the addition of approximately 1,500 square feet. This is far below the 10,000 square foot thresh-hold established by CEQA for applying the Categorical Exemption provisions.

Staff Conclusion

Staff contends that the proposed development will be of compatible height and scale to the surrounding community. And, while the proposed structure will appear taller and larger than some of the residences in the same block, it nevertheless meets all of the height, setback, floor area ratio and density requirements of the certified LCP and when looking collectively at the surrounding community, is within average heights and established scale of development. In addition, the proposed project does not result in the blockage of any public views. The project can also be found to provide adequate parking such that no impacts to public access are anticipated. Given that no resource impacts are expected to be caused by this project, the subject development is found to be consistent with the certified LCP, the City's 1986 Zoning Ordinance and General Plan. The Categorical Exemption

The proposed project is for the conversion of a single family residence into two residential condominium units as well as the addition of square footage, and a third story. Staff contends the proposed two-unit residential condominium is consistent in size and scale with other development in the vicinity. In this particular case, given that no impacts to coastal resources will result from variances, the proposed development and the project will not create an adverse precedent for interpretation of the City's LCP, and it does not affect significant coastal resources. The objections to the project suggested in the complaint do not raise any substantial issues of regional or statewide significance.