



California Fair Political Practices Commission

March 7, 1988

Debra E. Corbett
Assistant City Attorney
City of Oceanside
321 North Nevada
Oceanside, CA 92054

Re: Your Request for Advice
Our Advice No. A-88-052

Dear Ms. Corbett:

You have requested advice on behalf of Lucy Chavez about application of the Political Reform Act (the "Act")^{1/} to her duties on the City of Oceanside City Council .

QUESTION

Is Ms. Chavez disqualified from participating in a decision to adopt a proposed zoning ordinance that would expand the permitted use of the property Ms. Chavez owns?

CONCLUSION

Ms. Chavez is disqualified from participating in a decision that would change the permitted use of her property because the change would materially affect her real property.

FACTS

Lucy Chavez is a member of the city council. She also owns and lives in her own home situated in district 5, which is a 14-block section of a 375-acre redevelopment project area. Currently, a property owner in district 5 may have one building on a 5,000 square-foot lot: 1) either a single-family home, or 2) a five-unit condominium.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Ms. Corbett
March 7, 1988
Page 2

The City of Oceanside contains 26,425.53 acres, which includes 14,571.97 acres of residential property.^{2/} About 33,000 lots have single-family homes. The present zoning ordinance has been in effect since 1958. In 1975 the city adopted the redevelopment plan. In 1982 the city adopted the redevelopment land use regulations ("RLUR"), which incorporated the city's present zoning ordinance guidelines.

The city council is considering the adoption of a new zoning ordinance. The proposed zoning ordinance would create a downtown district that would cover the whole redevelopment area and would be divided into subdistricts. Present districts 4a and 5 would become subdistrict 5, which would contain about 552 lots.

Proposed subdistrict 5 would remain a residential area. Nevertheless, owners of 5,000 square-foot lots with alley access would be allowed to divide their lots in half and put a single-family home on each 2,500 square-foot lot. Lots on 14 blocks in subdistrict 5, including Ms. Silva's lot, would be eligible for this type of subdivision. Present zoning that permits five-unit condominiums on 5,000 square-foot lots would not be changed.

ANALYSIS

Section 87100 prohibits a public official from making, participating in making, or in any way attempting to use her official position to influence a governmental decision in which she has a financial interest. A public official has a financial interest in a decision if the decision would foreseeably and materially affect real property in which the official has an interest worth \$1,000 or more. (Section 87103(b).)

Regulation 18702.1(a)(3) (copy enclosed) requires Ms. Silva to disqualify herself if a decision before the city council concerns the rezoning or actual or permitted use of real property in which she has an interest worth \$1,000 or more. However, disqualification is not required if the effect of the decision on the official's property is not distinguishable from the effect of the decision on the public generally or if the decision would have no financial effect on the real property. (Regulation 18702.1(c)(1) and (2).)

^{2/} These facts are based on information you provided in a telephone conversation on February 19, 1988.

Ms. Corbett
March 7, 1988
Page 3

The zoning change would not affect all the 33,000 single-family detached lots in the city similarly. (See Regulation 18703, copy enclosed.) In fact, the zoning change would affect only some of the 552 lots in proposed subdistrict 5: those 5,000 square-foot lots with alley access. Because the zoning change would not affect a significant segment of the general public, the effect of the change on Ms. Silva's property would be distinguishable from the effect on the public generally. (See In re Legan (1985) 9 FPFC Ops. 1; Miller Advice Letter, No. A-82-119; Burnham Advice Letter, No. A-86-210, copies enclosed.)

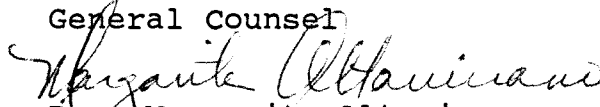
Furthermore, part of the proposed zoning ordinance would directly affect Ms. Silva's real property by permitting a new use. Ms. Silva's 5,000 square-foot lot has alley access. The zoning change would allow her to subdivide the lot into two 2,500 square-foot lots. Therefore, it is foreseeable the zoning change will have a financial effect on Ms. Silva's property because the ability to subdivide her lot will increase the value of the property. Consequently, Ms. Silva is disqualified from participating in a decision to change the zoning of her property.

Of course, if the decision concerning proposed subdistrict 5 can be separated from decisions about the rest of the zoning ordinance, Ms. Silva might not be disqualified from the other decisions. (Huffaker Advice Letter, No. A-86-343, copy enclosed.) Please contact us to discuss this possibility if you have any questions about application of the test outlined in the Huffaker letter to the facts in Ms. Silva's case.

I hope we have responded to your advice request. Please call me at (916) 322-5901 if you have any questions about this letter.

Sincerely,

Diane M. Griffiths
General Counsel


By: Margarita Altamirano
Counsel, Legal Division

DMG:MA:mk:da

Enclosures



CITY ATTORNEY
CHARLES R. REVLETT

CITY OF OCEANSIDE

JAN 29 2 25 PM '88

ASSISTANT CITY ATTORNEY
DEBRA E. CORBETT

DEPUTY CITY ATTORNEY
PAMELA K. KLAHN

January 28, 1988

California Fair Political Practices Commission
Legal Division
428 "J" Street, Suite 800
P.O. Box 807
Sacramento, California 95804-0807

Re: Request for Advice

Legal Division Staff:

This request for advice is based on the following facts:

- Lucy Chavez, Councilmember for the City of Oceanside, owns property in the City's 375 acre Redevelopment area.
- The Zoning Ordinance presently in effect was adopted in 1958.
- The Redevelopment Plan was adopted in 1975.
- The Land Use Regulations for the Redevelopment area were adopted in 1982.
- The Redevelopment Land Use Regulations ("RLUR") incorporate the City Zoning Ordinance Guidelines regarding uses. For example, District 1 allows as primary uses certain uses permitted in the City's C-1 Zone.
- The RLUR set forth additional criteria in some instances (ex. increased parking requirements, different set backs, etc.).
- The proposed Zoning Ordinance would create a "D" or "Downtown District" which covers the entire Redevelopment area. The former "districts" in the RLUR will be converted to "subdistricts" within the Downtown District.
- Councilmember Lucy Chavez's property under the existing Zoning Ordinance and RLUR is in District 5; the City Zoning that applies is R-T (supporting information enclosed).

- The proposed Zoning Ordinance subdistrict 5 provisions that would replace former district 5 provisions contain substantially similar uses.
- The area affected by former District 5 is a fourteen block area; proposed subdistrict 5 contains additional blocks as well as all blocks that were included in former District 5.
- Under provisions in the proposed ordinance, properties with alley access in subdistrict 5 will be able to subdivide 5,000 square foot lots to 2,500 square foot lots. This will allow for single family homes on 2,500 square foot lots. Five of the blocks in former District 5 and 9 blocks in new subdistrict 5 would be allowed to subdivide to 2,500 square foot lots under the new ordinance. Councilmember Chavez's property is among the fourteen blocks that meet the criteria to allow such a subdivision.
- Under the current provisions, Councilmember Chavez and people owning like properties can build either single family residences (on 5,000 square foot lots) or condominium projects of up to five units. Under the proposed Zoning Ordinance revisions, Councilmember Chavez and people owning similar properties, would be allowed to subdivide to 2,500 square foot lots and thereby build two single family residences.

The adoption of the proposed Zoning Ordinance text will trigger a rezoning of all property in the City of Oceanside. This is necessary to apply the "new zones" to properties. For the most part the terms are changing but the uses allowed would be the same. While the adoption of the text does not, in and of itself rezone property, it does determine the zone that should be on the property. The rezoning of property occurs after the text is changed and involves notice and a public hearing.

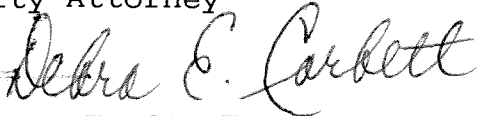
This office has reviewed the pertinent regulatory provisions as well as FPPC opinions #76-005 and #76-089 as well as Downey Cares v. Downey Community Development Corporation (196 Cal.App.3rd 983) and does not believe that Councilmember Chavez's interest would be effected differently than the "effect on the public generally". However, Councilmember Chavez has requested that this office obtain written advice on whether or not a conflict of interest exists that would disqualify her from voting on the either adoption of the text or the subsequent rezoning of City properties.

Page 3
Fair Political Practices Commission
January 28, 1988

Your prompt response to this request would be appreciated.
The City Council will be considering adoption of the proposed
Zoning Ordinance text on February 25, 1988, at a public hearing.

Very truly yours,

CHARLES R. REVLETT
City Attorney



DEBRA E. CORBETT
Assistant City Attorney

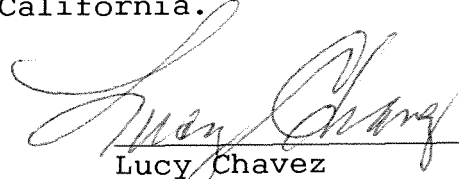
DEC:cg

cc: Lucy Chavez

AUTHORIZATION

I, LUCY CHAVEZ, hereby authorize Debra E. Corbett, Assistant City Attorney for the City of Oceanside, to obtain advice from the California Fair Political Practices Commission on my behalf.

Executed, under penalty of perjury, this 28th day of January, 1988, at Oceanside, California.


Lucy Chavez

cc: Lucy Chavez

Proposed

Oceanside Zoning Ordinance

As Recommended for Adoption
By The Planning Commission



December 1987

Blayney-Dyett, Urban and Regional Planners

Article 12 D Downtown District

Sections:

- 1210 Specific Purposes
- 1220 Land Use Regulations by Subdistrict
- 1230 Development Regulations
- 1240 Review of Plans

1210 Specific Purposes

In addition to the general purposes listed in Article 1, the specific purposes of the D Downtown District are to:

- A. Promote the long-term viability and rejuvenation of the Downtown Redevelopment Project Area;
- B. Maintain and enhance an appropriate mix of uses; and
- C. Provide land-use controls and development criteria consistent with the General Plan, the Redevelopment Plan, and the Local Coastal Program.

Consistent with these purposes, it is the intent of the D District to establish special land-use subdistricts with individual objectives as follows:

Subdistrict 1: To provide a commercial/retail and office complex offering a wide variety of goods and services to both the community at large and to tourists and visitors. Residential uses are encouraged when and where appropriate.

Subdistrict 2: To provide sites for a financial center, supported by professional offices.

Subdistrict 3: To provide for a mix of office development, interspersed with residential development in response to market demands.

Subdistrict 4(A): To provide a mix of transient and permanent residential uses along the South Strand between Tyson and Wisconsin streets.

Subdistrict 4(B): To provide transient residential uses (hotels and motels) in close proximity to the beach and recreational facilities.

Subdistrict 5: To provide a high-density residential neighborhood in an urban setting in close proximity to shopping, employment, transportation and recreational facilities.

Subdistrict 6(A): To provide sites for highway business and tourist/visitor uses related to the harbor and the Interstate 5 freeway, primarily oriented to visitor-serving commercial establishments.

Subdistrict 6(B): To provide sites for highway business and tourist/visitor uses related to the harbor and the Interstate 5 freeway, primarily oriented to recreational commercial facilities.

Subdistrict 6(C): To provide sites for uses supporting the Oceanside Small Craft Harbor, consistent with the Harbor Precise Plan.

Subdistrict 7(A): To provide sites for a high-density residential environment in an urban setting in close proximity to shopping, employment, transportation and recreational facilities.

Subdistrict 7(B): To provide for a mix of recreational and commercial uses conveniently located near recreational and residential areas.

Subdistrict 8: To provide a mix of hospital and medical uses, office development, interspersed with residential development in response to market demand.

Subdistrict 9: To provide opportunities for commercial uses supporting other land uses within the downtown and serving the entire community. Residential uses are encouraged where appropriate.

Subdistrict 10: To provide a joint open space and recreational area within the floodplain of the San Luis Rey riverbed.

Subdistrict 11: To provide sites for commercial uses serving the adjacent residential neighborhood.

Subdistrict 12: To provide a special community/tourist recreational sub-district that relates to the pier, ocean, beach, marina and freeway.

Subdistrict 13: To provide for a mix of visitor/commercial and office uses.

1220 Land Use Regulations by Subdistrict

In Schedule D-1, the letter "P" designates use classifications permitted in the D Downtown District. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use Regulations" that follow. Any use that falls within a use category which has an "L" designator is specifically prohibited unless stated otherwise by the prescribed limitation. The letter "U" designates use classifications permitted on approval of a use permit. The letter "C" designates use classifications permitted on approval by the Community Development Commission. The letters "P/U" designate use classifications permitted on the site of a permitted use, but requiring a use permit on the site of a conditional use. Letters in parentheses in the "Additional Regulations" column reference regulations following the schedule, or located elsewhere in this Title. Where letters in parentheses are opposite a use classification heading, referenced regulations shall apply to all use classifications under the heading.

**SCHEDULE D-1:
PROPOSED LAND-USE REGULATIONS:
D DOWNTOWN DISTRICT**

P - Permitted
U - Use Permit
C - *Community Development Commission approval required*
L - Limited (See Additional Regulations)
- - Not Permitted

(Revised: August 26, 1987)

Subdistricts:	1	2	3	4A	4B	5	6A	6B	6C	7A	7B	8	9	10	11	12	13
Residential																	
Day Care, Ltd.	U	U	U	-	-	-	-	-	-	-	-	U	U	-	-	-	-
Group Residential	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Multifamily Residential	L18	-	U	P	-	P	-	U	-	P	-	U	U	-	-	-	-
Residential Care, Limited	-	-	U	-	-	-	-	-	-	U	-	U	-	-	-	-	-
Single-family Residential	-	-	U	P	-	P	-	-	-	P	-	-	-	-	-	-	-
Public and Semipublic																	
Clubs & Lodges	U	U	U	-	-	-	U	-	U	-	U	-	U	-	-	-	-
Cultural Institutions	C	C	C	-	-	-	C	-	-	-	U	U	U	-	-	U	U
Day Care, General	U	U	U	-	-	-	-	-	-	-	-	-	U	-	-	-	-
Emergency Health Care	U	U	-	-	-	-	U	-	-	-	-	P	U	-	-	-	-
Government Offices	P	P	P	-	-	-	P	-	U	-	-	-	P	-	-	U	U
Hospitals	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Park & Recreation Facilities	U	-	U	U	-	U	P	P	P	U	U	U	U	P	-	L14	L14
Public Safety Facilities	U	U	U	U	U	U	U	U	U	U	U	U	U	-	U	U	U
Religious Assembly	-	U	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Residential Care, General	-	-	-	-	-	-	-	-	-	-	-	U	-	-	-	-	-
Utilities, Major	L22	L22	L22	L22	L22	L22	L22	L22	L22	L22	L22	L22	L22	L22	L22	L22	L22
Utilities, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Commercial Uses																	
Ambulance Services	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Banks and Savings & Loans	P	P	P	-	-	-	-	-	-	-	-	U	P	-	-	-	-
With Drive-up Service	U	U	-	-	-	-	-	-	-	-	-	-	U	-	-	-	-
Catering Services	C	C	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-

PROPOSED LAND USE REGULATIONS: D DOWNTOWN DISTRICT
(continued)

	1	2	3	4A	4B	5	6A	6B	6C	7A	7B	8	9	10	11	12	13
Commercial Recreation and Entertainment	-	-	-	-	-	-	L9	L9	U	-	L9	-	-	U	-	L7	-
Communication Facilities	U	U	-	-	-	-	-	-	-	-	-	-	U	-	-	-	U
Eating & Drinking Establishments	C	C	-	L2	-	-	L2	L2	C	-	C	L6	C	-	C	L2	U
With Alcoholic Beverage Service	L8	L8	-	L2	-	-	L2	L2	U	-	L2	-	U	-	U	L2	U
With Live Entertainment	-	-	-	-	-	-	L2	L2	U	-	-	-	-	-	-	L2	L2
With Take-Out Service	L9	L9	-	L2	-	-	L9	L9	U	-	L9	-	U	-	C	L9	U
Food & Beverage Sales	-	-	-	-	-	L21	C	C	C	-	L15	-	L10	-	C	L2	C
Marine Sales and Services	-	-	-	-	-	-	C	C	U	-	U	-	-	-	-	-	-
Offices, Business & Professional	L11	L11	L11	-	-	-	L3	L3	U	-	L3	L4	L11	-	L3,11	L2	L11
Personal Services	L12	L12	C	-	-	-	L2	L2	-	-	L16	-	L12	-	C	L2	L2
Retail Sales	L13	C	-	L2	-	-	L2	L2	U	-	L17	L5	L13	-	L13	L2	L9
Travel Services	P	P	P	-	-	-	L2	L2	-	-	P	-	P	-	U	L2	C
Vehicle/Equipment Sales & Services																	
Automobile Rentals	L1	L1	-	-	-	-	L2	L2	-	-	L2	-	L1	-	-	L1	L2
Commercial Parking	U	U	U	U	-	-	U	U	U	-	-	-	U	-	-	U	U
Service Stations	-	-	-	-	-	-	U	-	-	-	-	-	U	-	-	-	U
Vehicle/Equipment Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Visitor Accommodations																	
Bed and Breakfast Inns	-	-	-	U	U	L19	U	U	U	-	-	-	-	-	-	U	U
Hotels, Motels & Time-Share	U	U	-	U	L20	L19	U	U	U	-	U	-	-	-	-	U	U
Accessory Uses	P/U	P/U	P/U	-	-	-	-	-	-	-	-	-	P/U	-	-	-	-

D District Additional Use Regulations

- L-1 On-site storage limited to two rental cars.
- L-2 Permitted as an accessory use in a hotel with a use permit.
- L-3 Permitted above the ground floor with approval by the Community Development Commission.
- L-4 Only medical and dental offices permitted.
- L-5 Only pharmacies occupying less than 50 percent of the gross floor area on the floor on which they are located are permitted as an accessory use in a medical office building or a hospital.
- L-6 Only coffee shops occupying less than 50 percent of the gross floor area on the floor on which they are located are permitted as an accessory use within a medical office building or a hospital.
- L-7 Only tennis/racquetball courts, health/fitness clubs as part of a hotel development are allowed with approval by the Community Development Commission.
- L-8 Only in licensed restaurants with approval by the Community Development Commission.
- L-9 Only "limited" or "small-scale" facilities, as defined in the Use Classifications allowed with a use permit.
- L-10 Bakeries permitted in subdistrict 9; Community Development Commission review required for all other uses for compatibility with the objective of the subdistrict, as prescribed in Section 1210. A use permit is required for establishments (including bakeries) occupying more than 1,500 square feet.
- L-11 Accountants, attorneys, consultants, brokers, insurance agencies, engineers, architects, planners, and real estate brokers are permitted. All other uses in this category require Community Development Commission review for compatibility with the objectives of the subdistrict, as prescribed in Section 1210.
- L-12 Barber shops, beauty shops, and tailors permitted. All other uses in this category require Community Development Commission review for compatibility with the objectives of the subdistrict. In subdistricts 1, 2, and 9 self-service laundromats are prohibited.
- L-13 Book or stationery stores (excluding bookstores classified as adult businesses), dress or millinery shops, drug stores, dry goods, notion stores, florist shops, jewelry and shoe stores, clothing or wearing apparel shops and camera shops are permitted. All other uses in this category require Community Development Commission review for compatibility with the objectives of the subdistrict, as prescribed in Section 1210. Secondhand stores are prohibited.

- L-14 Private noncommercial facilities, including swim clubs and tennis clubs, allowed only as an accessory use to a hotel with a use permit.
- L-15 Delicatessens and grocery stores permitted. Convenience food stores require a use permit.
- L-16 Barber shops and beauty shops permitted. Laundry agencies require Community Development Commission review for compatibility with the objectives of the subdistrict, as prescribed in Section 1210. Non-attendant laundry agencies are not permitted.
- L-17 Clothing stores, dry goods, notions and souvenir shops, florist shops, jewelry shops, millinery shops, drug stores and camera stores permitted. All other uses require Community Development Commission review for compatibility with the objectives of the subdistrict, as prescribed in Section 1210.
- L-18 Permitted above the ground floor as part of a mixed-use development with approval by the Community Development Commission.
- L-19 Permitted on The Strand with approval by the Community Development Commission.
- L-20 Hotels and motels allowed with use permit. Time shares may be allowed with use permit if a substantial number of units are permanently reserved for transient overnight accommodations during the summer season (June 1 through Labor Day weekend).
- L-21 Food and beverage sales allowed with a use permit in the area on the northwest quadrant of Sixth and Cleveland streets, in an area extending 150 feet north along Cleveland Street and 100 feet west along Sixth Street.
- L-22 A use permit is required for generating plants, electric substations, lone switching buildings, refuse collection, recycling or disposal facilities, water reservoirs, water or wastewater treatment plants, transportation or communication utilities, and similar facilities of public agencies or public utilities. Above-ground electrical transmission lines are not permitted unless determined to be consistent with a utility corridor plan approved by the Planning Commission. Flood-control or drainage facilities are permitted if they are consistent with approved master-drainage and/or flood-control plans.

(140-1746.2)

1230 Development Regulations

The following schedule prescribes development regulations and standards for the D District. The first column establishes the basic requirements for permitted and conditional uses in each subdistrict within the D District. Letters in parentheses in the "Additional Regulations" column refer to regulations following the schedule or located elsewhere in the zoning ordinance.

D DOWNTOWN DISTRICT PROPERTY DEVELOPMENT REGULATIONS

	Basic Requirements	Additional Regulations
Residential Development		
Minimum Site Area Per Unit (sq. ft.)	1,000	
Minimum Lot Area (sq. ft.)	5,000	(A)(B)(U)
Minimum Lot Width (ft.)	50	(U)
Minimum Setbacks		(C)(U)(V)
Front (ft.)	10	(D)
Side (ft.)	3' for lots 75' wide or less except where courts are required; 10' from one side-lot line for lots greater than 75' wide plus required courts.	(E)(F)
Corner Side (ft.)	10	(D)
Rear (ft.)	None except as re- quired for courts	(X)
Maximum Height (ft.) of Structures	45	(G)(H)
Signs	See Article 33	(T)
Public Access to the Beach		(W)
Minimum Site Landscaping	25%	(J)(AA)
Vehicular Access: Maximum Driveway Width (ft.)	24 feet	(Q)(Y)

--- **D District Property Development Regulations (continued)** ---

	Basic Requirements	Additional Regulations
Private Outdoor Living Space	Minimum 48 sq. ft. required with minimum dimension 5 feet	(S)
Courts Required		(R)
Required Facade Modulation	25% of front and street side elevation must be set back at least 10 feet from setback line	
Parking	See Article 31	(Z)
Nonresidential Development		
Minimum Lot Area (sq. ft.)	5,000	(A)(B)
Minimum Lot Width (ft.)	50	
Minimum Setbacks:		(Residential Only)
Front (ft.)	10	(D)
Side (ft.)	-	(D)(E)(F)
Corner Side (ft.)	10	(D)
Rear (ft.)	-	(D)(E)(F)
Maximum Height (ft.) of Structures	45	(G)(H)
Minimum Site Landscaping	15%	(I)(J)
Fences and Walls		(K)(L)
Public Access to the Beach		(W)
Off-Street Parking and Loading		(M)(N)(X)
Signs	See Article 33	(T)
Outdoor Facilities	See Section 3020	(O)
Employee Eating Areas		(P)

D District Property Development Regulations (continued)

	Basic Requirements	Additional Regulations
Screening of Mechanical Equipment	See Section 3021	
Refuse Storage Areas	See Section 3022	
Underground Utilities	See Section 3023	
Performance Standards	See Section 3024	
Nonconforming Structures	See Article 35	

**D DOWNTOWN DISTRICT:
Additional Development Regulations**

- (A) The provisions of Section 3013: Development on Substandard Lots shall apply except that in the D District mergers of lots under common ownership shall not be required for purposes of compliance with this ordinance.
- (B) See Section 3014: Uncertainty of Boundaries.
- (C) The provisions of Section 3015: Building Projections into Required Yards and Courts apply except that in the D District, covered porches and stairs may project only 3 feet into the front or rear yard and 2 feet into the side yard. Double-frontage lots shall provide front yards on each frontage except no setbacks on alleys shall be required.
- (D) Along Mission Avenue and Hill Street, setbacks shall be as follows:
 - (1) Lots fronting Mission Avenue: 50 feet from street centerline;
 - (2) Lots fronting Hill Street: 45 feet from street centerline.
- (E) A 5-foot setback shall be provided along all alleys. A 10-foot side or rear yard shall adjoin Subdistricts 1, 3, 4A, 4B, 5, 7A, 8 and an R district, and structures shall not intercept a 1:1 or 45-degree day-light plane inclined inward from a height of 12 feet above existing grade at the subdistrict or R district boundary line.
- (F) Visible yards not used for parking shall have a 3-foot planting strip adjoining an interior property line within 50 feet of a street property line, providing that such a planting strip is not required for a lot with a single-family dwelling.

- (G) Additional limitations on heights shall apply as follows:

The Strand

No building shall exceed the present elevation of Pacific Street as defined at the time of passage of Proposition A. April 13, 1982.

Pacific Street

West side of Pacific Street from Fifth Street to Ninth Street.

The lesser of two stories or 27 feet.

East side of Pacific Street from Fourth Street to Ninth Street.

The lesser of three stories or 35 feet.

East side of Pacific Street from First Street to Wisconsin Street.

The lesser of two stories or 27 feet.

Subdistrict 12

The lesser of three stories or 35 feet.

Myers Street

West side of Myers Street from First Street to Wisconsin Street.

The lesser of three stories or 35 feet.

Additional height may be approved by the Community Development Commission for: (1) all uses in all subdistricts except Subdistrict 4B, the portion of District 5 easterly of Myers Street, and 12 west of Pacific; and (2) hotels in Subdistricts 4B, 5, and 12 east of Pacific, if the Commission finds superior design results incorporating open space and amenities that otherwise could not be obtained.

- (H) See Section 3018: Exceptions to Height Limits. All height exceptions require approval by the Community Development Commission.
- (I) Planting Areas - All visible portions of a required setback area adjoining a street shall be planting area or hardscape that includes driveways, walks, parking areas, as well as areas covered by ornamental gravel, crushed rock, or similar materials.
- (J) See Section 3019: Landscaping, Irrigation and Hydroseeding.
- (K) The maximum height of a fence or wall shall be 8 feet.
- (L) A 6-foot solid masonry or concrete wall shall adjoin the property line of the site of a new ground-floor residential use abutting an existing nonresidential use or the property line of a new nonresidential use

abutting the site of an existing ground-floor residential use. However, no wall shall be required where the portion of the site within 10 feet of the property line is occupied by planting area or by a building having no openings except openings opposite a street property line.

- (M) A triangular yard adjoining both sides of a driveway crossing a street property line shall have a depth of 5 feet at the edge of the driveway and a width measured on both sides of the driveway of 50 feet, or the distance to the intercepting property line, whichever is less. At least 50 percent of each yard shall be planting area. Visible yards shall have a 2-foot planting strip along interior property lines within 50 feet of a street property line; this strip shall be counted in determining compliance with the 50 percent planting area requirement.
- (N) See Article 31: Off-Street Parking and Loading Regulations.
- (O) See Section 3025: Antennas and Microwave Equipment and Section 3038: Recycling Facilities.
- (P) Outdoor eating facilities for employees shall be provided for all office buildings that contain more than 20,000 square feet if no public park is within 1,000 feet. See Section 3028: Employee Eating Areas.
- (Q) On corner lots or lots with double frontages, vehicular access shall be provided from the secondary street or alley.
- (R) Courts Opposite Windows, Multifamily Units

Courts shall be provided for all multifamily development as follows:

- (1) Courts Opposite Walls on the Same Site: The minimum depth shall be one-half the height of the opposite wall but not less than 16 feet opposite a living room and 10 feet opposite a required window of any habitable room.
 - (2) Courts Opposite Interior Property Line: The minimum depth of a court for a required window of a habitable room shall be 10 feet, measured from the property line.
 - (3) Court Dimensions: Courts shall be 16 feet wide -- 8 feet on either side of the centerline of the required window -- and shall be open to sky, provided that eaves may project 2 feet into a court.
- (S) Open Space.
 - (1) Basic Requirement. Total open space on a site having three or more dwelling units shall be at least 200 square feet per dwelling unit.
 - (2) Private Outdoor Living Space. Private outdoor living space shall be on patios or balconies within which a horizontal rectangle has no dimension less than 5 feet.

- (3) Shared Open Space. Shared open space, provided by non-street side yards, patios and terraces, shall be designed so that a horizontal rectangle inscribed within it has no dimension less than 10 feet, shall be open to the sky, and shall not include driveways or parking areas, or area required for front or street side yards.
- (4) Parkland Dedication. All multifamily housing projects shall be subject to the parkland dedication requirements of Chapter 32, Subdivisions, of the City Code because apartments contribute to increased demand for community and neighborhood parks in the same manner as condominiums, cooperatives, and single-family housing. The applicant shall dedicate land or pay a fee, or a combination of dedication and fee as provided by Chapter 32, Article IV of the City Code, and the credit for improvement and private open space under Section 32.50 of the City Code shall apply, if warranted. The fees shall be calculated according to a schedule adopted by the City Council by resolution and shall be payable at the time a building permit is issued.
- (T) The Development Criteria and Land Use Regulations adopted by the Oceanside Community Development Commission pertaining to signs shall apply where they are more restrictive than Article 33.
- (U) Within Subdistrict 5, lots bounded by ^{4th} ~~Fifth~~, Eighth, Tremont and Cleveland streets, with the exception of all corner lots contained therein, may be subdivided upon approval by the Community Development Commission, provided that each lot thus created is 2,500 square feet or more in area and 25 feet or more in width.

One dwelling unit may be located on each such subdivided lot provided that each lot meets the yard, density and occupancy requirements of a standard lot with the following exceptions:

- (1) Vehicular access to enclosed garages shall be provided from the alley.
- (2) Courts shall be provided opposite one interior property line which shall be a minimum depth of 8 feet from a window of a habitable room and a minimum width of 16 feet -- 8 feet on either side of the centerline of the required window -- and shall be open to the sky, provided that eaves may project 2 feet into a court.
- (V) Proposals for front yard, side yard or rear yard will be judged on the merits of each individual proposal and the architectural compatibility of all proposed structures with existing or proposed structures on adjoining parcels. Functional site layout with special attention to design of recreational, parking and landscaped areas may produce an acceptable proposal with minimum or no setbacks. Owners of abutting property shall be provided written notice of proposals for no setback on side and rear yards at least 10 days prior to Community Development Commission approval.

Buildings along The Strand shall be designed so that when viewed from the beach, the visual impact of the bulk of the structure is minimized to the maximum extent possible.

- (W) In Subdistricts 4A and 12, permanent facilities shall be provided for pedestrian access from the nearest public streets on the bluff top to the public beach. Between Ninth Street and Wisconsin Avenue, such access shall be provided on the average of every 800 feet, but in no event will there be fewer than seven such pedestrian routes. Between Ninth Street and Wisconsin Avenue, no fewer than four permanent facilities shall be provided for vehicular access from the nearest public street on the bluff top to the beach.
 - (X) Where a rear-lot line adjoins an alley, a 4-foot setback is required if vehicular access is to be provided from the alley.
 - (Y) Any vehicular access over 24 feet in width requires Community Development Commission approval.
 - (Z) Additional requirements for parking in the D District are as follows:
 - 1. All parking shall be in an enclosed garage. Up to 25 percent may be in a semi-enclosure with Community Development Commission approval.
 - 2. Tandem parking (for projects with four or fewer units) may be allowed with a use permit. Tandem parking is prohibited in projects of five or more units.
 - 3. Visitor parking spaces are required in projects with 25 or more units at a ratio of one additional space per five units.
 - (AA) Planting on roofs, porches or in planting boxes shall not qualify as landscaping, but area devoted to common patios, pools and other recreational facilities may be included in determining compliance with the landscaping requirement. In addition, for projects of four or fewer units, private outdoor living space can be used to satisfy up to 10 percent of the minimum site landscaping requirement.
-

1240 Review of Plans

Certain projects shall require concept plan review under the provisions of Article 42; all projects shall require development plan review and approval of the Planning Commission and the Oceanside Community Development Commission (see Article 43).

**OCEANSIDE
ZONING
ORDINANCE**

**CITY OF OCEANSIDE
CALIFORNIA
JANUARY 1986**

ARTICLE 32

RESIDENTIAL TOURIST ZONE (R-T ZONE)

Section 3200: PURPOSE. The R-T Zone is intended to accommodate tourist and year-round visitor-serving facilities by providing permanent and transient residential and related uses to serve all income levels. The R-T Zone is primarily designated on shorefront property in order to optimize public access to the beach.

Section 3201: GENERAL CRITERIA. The following general criteria are hereby established for use in the classification or reclassification of land to the R-T Zone:

- (a) Consistency with the General Plan, the Coastal Land Use Plan, the Redevelopment Plan, Development Criteria, and Land Use Regulations shall be established.
- (b) Residential-Tourist zoned properties shall be located with primary access to a public street.
- (c) The existing utility system (water, sewer, drainage, electrical, gas and communication systems) shall be found to be adequate or new systems shall be constructed to adequately serve R-T developments. All utilities shall be underground.
- (d) All projects with the exception of a single family home must file a Development Plan pursuant to the provisions of City of Oceanside Article 16, Section 1611 governing Development Plans. Those projects in the Redevelopment Area must be approved by the Community Development Commission, with an advisory recommendation by the Planning Commission.

Section 3202: PERMITTED USES. Only the following uses are permitted in the R-T Zone subject to the provisions of Article 27 governing off-street parking requirements:

- (1) Single-family, subject to R-1 standards. ✓
- (2) Multiple-family residences.
- (3) Condominiums and stock cooperatives.
- (4) Tourist cottages and summer rentals.
- (5) Public and semi-public uses.
- (6) Mobile Home Parks with a Conditional Use Permit.
- (7) Certain other uses with a Conditional Use Permit (as allowed in Article 15).

Section 3203: HEIGHT OF BUILDINGS. Building height is limited to 35 feet unless a Conditional Use Permit is issued in accordance with Article 15. Height standards in the Redevelopment Area are governed by the Development Criteria and Land Use Regulations. No building or structure shall exceed any adopted height restrictions that may appear in any other adopted Plan or Policy of the City including Proposition A passed by the voters April 13, 1982.

Section 3204: BUILDING SETBACKS. The minimum front yard, side yard, and rear yard setbacks shall be 10 feet for front, 3 feet for side yards, and 6 feet for rear yards unless alternate setbacks are approved through the development plan process.

- (1) Proposals for alternate front yard, side yard or rear yard setbacks will be judged on the merits of each individual proposal and the architectural compatibility of all proposed structures with existing or proposed structures on adjoining parcels. Functional site layout with special attention to design of recreational, parking and landscaped areas may produce an acceptable proposal with minimum or no setbacks. Abutting property owners shall be advised of proposals for no setback on side and rear yards prior to approval of same.
- (2) Single family residential buildings shall have a concrete driveway approach to parking areas at least 20 feet in length by 9 feet wide per parking space.
- (3) Buildings along The Strand should be designed so that when viewed from the beach, the visual impact of the bulk of the structure is minimized to the maximum extent possible.

Section 3205: RESIDENTIAL BUILDING DENSITY. In all residential development, the density should not exceed the maximum standard of 43 dwelling units per acre, except that higher densities may be approved by the Planning Commission when development is in a master planned development.

Section 3206: AREA. The minimum required area of a lot in the R-T Zone shall not be less than 6,000 square feet, unless otherwise shown on the zoning map.

Section 3207: LOT WIDTH. Every lot created after the effective date of this ordinance shall maintain a width of not less than 60 feet at the rear line of the required front yard.

Section 3208: LIMITATIONS ON PERMITTED USE. When any non residential use is to be placed on a lot abutting property in any residential zone, there shall be erected and maintained along such abutting property line a block, stone, brick, stucco, or

concrete wall at least six (6) feet in height, except in a required front yard setback, where the height shall be forty-two (42) inches. This provision shall be met before a certificate of occupancy permit may be issued for such use by the Building Official. For purposes of this section only, hotels and motels shall not be considered as residential uses.

Section 3209: SIGNS. The height, width, depth, colors and design features, including lighting and structural support of each and all signs to be erected outside of buildings or attached to any building shall be subject to Article 33, Sign Ordinance of the City of Oceanside.

Section 3210: LANDSCAPING. The following criteria shall apply:

- (1) A coordinated landscape design shall be developed for each site which contributes to a continuous and integrated design.
- (2) All landscaping shall be of a type which is easily maintained.
- (3) All landscaped areas shall contain an approved permanent irrigation system and, if adjacent to a street or parking area, shall be enclosed by a six (6) inch high concrete curb unless otherwise expressly approved by the Commission.
- (4) Landscaping should be provided in all front yards and side yards abutting a public street; and it is required that all other areas not used for driveway, parking, building or loading should also be landscaped. Special attention should be given to landscaping on the interior as well as the exterior of parking lots for multiple vehicles.
- (5) The utilization of depressed parking lots and/or mounded, landscaped buffers of parking areas is encouraged.
- (6) Parkways, if any, within the public right-of-way, except at approved sidewalk or driveway approach locations, shall be landscaped.
- (7) Landscaping plans are subject to regulations as defined in the City of Oceanside Guidelines and Specifications for Landscape Development (April 19, 1982; Resolution No. 82-79).

Section 3211: PUBLIC ACCESS TO BEACH. Permanent facilities shall be provided for pedestrian access from the nearest public street on the bluff top to the public beach. Between Ninth Street and Wisconsin Avenue, such access will be provided on the

average of every eight hundred (800) feet, but in no event will there be fewer than seven (7) such pedestrian access routes. Between Ninth Street and Wisconsin Avenue, no fewer than four (4) permanent facilities shall be provided for vehicular access from the nearest public street on the bluff top to the beach.

Section 3212: PARKING. Parking shall be provided in accordance with Article 27 of the Zoning Ordinance governing off-street parking requirements.

Development Criteria and Land Use Regulations

For the Downtown Oceanside
Redevelopment Project Area

(2) Primary Land Uses

The primary land uses in District 4 (B) are the following uses permitted in an R-T Zone under the Oceanside Zoning Ordinance.

- a. Hotels and motels with a C.U.P.
- b. Time share condominiums with a C.U.P., provided that a substantial number of units are permanently reserved for transient overnight accommodations during the summer season (June 1 through Labor Day Weekend).

(3) Alternate Land Uses

Alternate uses are any uses permitted by right or with a C.U.P. in the R-T Zone of the Oceanside Zoning Ordinance and not listed above as a primary land use nor listed below as a prohibited land use.

(4) Prohibited Land Uses

Permanent residential uses; amusement parks; clubs, meeting places, lodges, etc.; and miniature golf courses.

(f) District 4 (C)

(1) Objective

The objective of this use district is to provide a mix of transient and permanent residential uses adjacent to the beach front. Because of the unique nature of this area, a special zone, the South Strand Zone (S-S) has been created. The uses permitted and the development criteria are specified in the S-S Zone.

(g) District - 5

(1) Objective

The objective of this use district is to provide a high density residential neighborhood in an urban setting in close proximity to shopping, employment, transportation and recreational facilities.

(2) Primary Land Uses

The primary land uses in District 4 are the following uses permitted in an R-T Zone under the Oceanside Zoning Ordinance.

- a. Single-family houses
- b. Duplexes
- c. Multiple family dwellings

(3) Alternate Land Uses

Alternate uses are any uses permitted by right or with a CUP in the R-T Zone of the Oceanside Zoning Ordinance and not listed above as a primary land use nor listed below as a prohibited land use.

(4) Prohibited Land Use

Amusement parks; meeting places; lodges; miniature golf courses; hotels and motels

(h) District - 6 (A)

(1) Objective

This use district is designed primarily to furnish highway business and tourist/visitor uses related to the harbor and freeway. This area will furnish hotels, motels, restaurants, recreation and a limited variety of goods and services at a strategic location for tourists, visitors, traveling business people and residents of the community.

(2) Primary Land Uses

The primary land uses in District 6 (A) are the following uses permitted in the V-C Zone in the Oceanside Zoning Ordinance.

- a. Restaurants, cafes and snack areas as ~~the~~ necessary uses in hotels.
- b. Gift, sundries, and souvenir shops as accessory uses in hotels.
- c. Community buildings and public uses.
- d. Office uses above the first floor.

(3) Alternate uses are any uses permitted by right or with a CUP in the V-C Zone of the Oceanside Zoning Ordinance and not listed above as a primary land use nor listed below as a prohibited land use.



California Fair Political Practices Commission

February 1, 1988

Debra E. Corbett
Assistant City Attorney
Civic Center
321 North Nevada
Oceanside, CA 92054

Re: 88-052

Dear Ms. Corbett:

Your letter requesting advice under the Political Reform Act was received on January 29, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Margarita Altamirano, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
General Counsel

DMG:plh
cc: Lucy Chavez