ITEM NO. 29

STAFF REPORT

CITY OF OCEANSIDE

DATE: December 18, 2019

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **COUNCILMEMBER CALL FOR REVIEW REGARDING THE INTERPRETATION OF A ZONING DISTRICT BOUNDARY AS IT AFFECTS 1643 S. PACIFIC**

SYNOPSIS

Staff recommends that the City Council adopt a resolution upholding Planning Commission Resolution 2019-P50 upholding the City Planner's determination (ADM19-00071) that the zoning district boundary between the Residential Tourist District (RT) and the Single-Family Residential District (R-1) as it affects property located at 1643 S. Pacific Street, is located on the northern property line of the property.

BACKGROUND

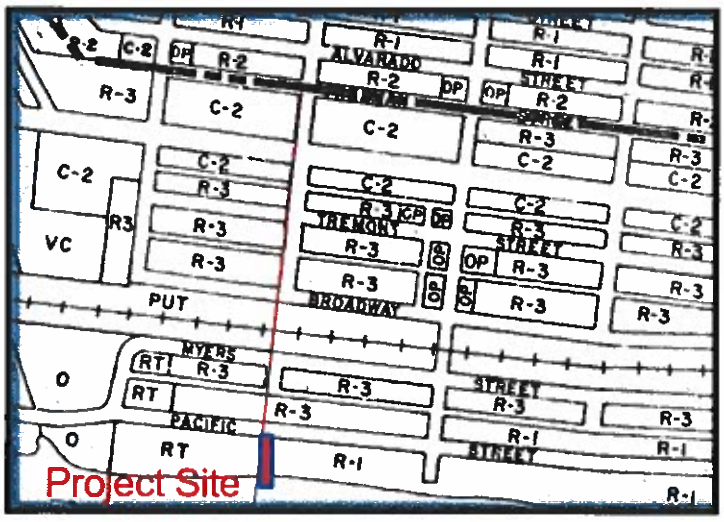
The subject property is located at 1643 S. Pacific Street (Figure 1) and currently contains a 4,172 square-foot single-family dwelling. The project site is located on the west side of Pacific Street, midblock between Morse Street and Cassidy Street and is within the South Oceanside Neighborhood Planning Area. As explained in the Planning Commission staff report (Attachment 2), the property owner submitted an application on January 8, 2019, to convert the existing single-family residence into three condominiums. At the time of the application, the City's GIS zoning map indicated the subject parcel had a Residential Tourist (RT) zoning designation. The RT zoning designation allows for multi-family development.

On May 17, 2019, Planning Division staff received an inquiry from a citizen regarding the subject property's zoning designation, specifically where the RT and Single-Family (R-1) zoning district boundary is located.

Figure 1: Project Site

As explained in the Planning Commission staff report, staff reviewed multiple sources to determine where the zoning boundary is located as it relates to the subject property. After reviewing the hardcopy of the City's 1986 Zoning Map (Figure 2), which is certified by the California Coastal Commission (CCC), and the City's GIS parcel data layer, staff concluded that the zoning district boundary between the RT and R-1 zones is located on the northern property line of the subject property and the correct zoning for the subject property is R-1, not RT.

Figure 2: 1986 Coastal Zoning Map



On May 22, 2019, the applicant was informed that the City Planner determined the zoning designation of the subject property is R-1 and the proposed three-unit condominium project was not permitted per the R-1 district. Two unit dwellings are allowed in the R-1

district when the property abuts the RT district and the property owner would be allowed to convert the existing single-family residence into two units. The applicant expressed concerns with the zoning determination because the RT zone provides for reduced setbacks and would allow short term rental of the property, should recently proposed legislation that would prohibit short term rentals outside RT zoning districts, ever be adopted. City staff informed the applicant that a zoning determination letter would be sent, formalizing the staff interpretation and outlining the process for an appeal.

On September 13, 2019, the Planning Division issued a letter to the property owner formally advising him that the City Planner has determined the subject property has a zoning designation of R-1. Pursuant to Article 2, Section 240 (C) of the Zoning Ordinance, an interpretation of the zoning map made by the City Planner may be appealed to the Planning Commission. An appeal of the zoning determination letter was submitted to the City Clerk's Office on September 18, 2019. The appeal of the zoning determination was brought before the Planning Commission on November 18, 2019. The Planning Commission voted 6-1 to deny the appeal and uphold the City Planner's determination regarding the zoning district boundary as it relates to 1643 S. Pacific Street.

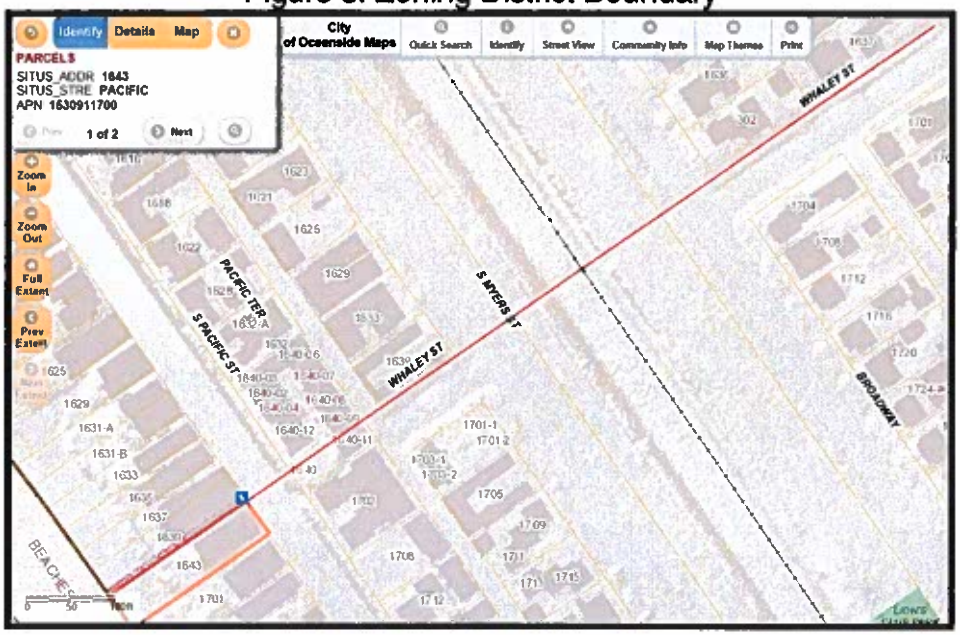
On November 25, 2019 a Call for Review was submitted by Council Member Christopher Rodriguez and Deputy Mayor Jack Feller requesting a review of the Planning Commission decision concerning the City Planner's zoning determination affecting the property located at 1643 S. Pacific Street. The Call for Review was filed on the ground that the property has been determined to have a Single-Family (R-1) zoning designation instead of Residential Tourist (RT) zoning designation.

ANALYSIS

The appellant's basis for appeal and staff responses are included in the Planning Commission staff report. As noted in the staff report, Planning staff utilized the certified 1986 Zoning Map as well as GIS parcel data to determine the appropriate zoning district boundary. Staff determined the zoning district boundary aligns with the northern property line (Figure 3) rather than the centerline of Whaley Street; resulting in a R-1 Zoning designation instead of an RT Zoning designation.

The appellant submitted a survey that indicates the centerline of Whaley Street intersects the subject parcel at the southern third of the parcel (Attachment 3), which staff does not dispute. However, the 1986 certified zoning map is the basis for determining the zone boundary and staff determined that the zone boundary aligns with the north right-of way of Whaley Street, not the centerline, and the thus the subject property is zoned R-1.

Figure 3: Zoning District Boundary



Planning staff further researched R-1 and RT Zoning Districts and has provided a comparison of the development standards for the two zoning designations in Table 1 below:

Table 1: Development Standards for R-1 and RT Zones

	R-1	RT
Maximum Height	35 ft.	35 ft.
Maximum Stories	2 stories	3 stories
Maximum Coverage	40%	none
Front Yard Setback	20' *	10' *
Side Yard Setback	3'	3'
Rear Yard Setback	15' or coastal string-line	6' or coastal string-line
Parking	SFD: 2 car garage Two Units: 1 ½ spaces/unit for 1 bedroom; 2 spaces/unit for 2 bedroom or more	1 and 2 bedroom units: 1 space/unit 3 bedrooms or more: 1 ½ spaces/unit

**Pursuant to Article 30, Section 3016, the depth of required front yards may be modified on lots located between lots having nonconforming front yards. This results in a reduced front yard setback for properties located on Pacific Street.*

ENVIRONMENTAL DETERMINATION

The proposed project is exempt from review under the California Environmental Quality

Act (CEQA) because it is not a "project" per Section 15378 of the State CEQA Guidelines.

FISCAL IMPACT

There is no direct fiscal impact associated with the land use action other than future property and sales taxes associated with the development of the property.

COMMISSION OR COMMITTEE REPORT

On November 18, 2019, the Planning Commission was presented with the project and after due consideration took action in a 6-1 vote to deny the appeal and uphold the City Planner's determination of the zoning district boundary as it relates to 1643 S. Pacific Street. There were nine (9) requests from the public to speak on the item.

CITY ATTORNEY'S ANALYSIS

The City Council is authorized to hold a public hearing in this matter. Consideration of the matter should be based on the testimony and evidence presented at the hearing. The supporting documents have been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution upholding Planning Commission Resolution 2019-P50 upholding the City Planner's determination (ADM19-00071) that the zoning district boundary between the Residential Tourist District (RT) and the Single-Family Residential District (R-1) as it affects property located at 1643 S. Pacific Street, is located on the northern property line of the property.

PREPARED BY

Shannon Vitale
Planner II

SUBMITTED BY

Deanna Lorson
City Manager

REVIEWED BY:

Jonathan Borrego, Deputy City Manager
Jeff Hunt, City Planner

ATTACHMENTS:

1. City Council Resolution (Call for Review)
2. Planning Commission Staff Report (November 18, 2019)
3. Survey of Subject Parcel
4. Call for Review Dated: 11/25/2019

ATTACHMENT 1

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE UPHOLDING PLANNING COMMISSION RESOLUTION NO. 2019-P50 UPHOLDING THE CITY PLANNER'S DETERMINATION (ADM19-00071) THAT THE ZONING DISTRICT BOUNDARY BETWEEN THE RESIDENTIAL TOURIST DISTRICT AND THE SINGLE FAMILY RESIDENTIAL DISTRICT AS IT AFFECTS PROPERTY LOCATED AT 1643 S. PACIFIC STREET, IS LOCATED ON THE NORTHERN PROPERTY LINE OF THE PROPERTY.

(Appellant: PAUL LONGTON ON BEHALF OF 1900 S. PACIFIC, LLC.)

WHEREAS, on September 13, 2019, the Planning Division issued a zoning determination letter to the property owner formally advising him that the zoning district boundary between the Residential Tourist District and the Single-Family Residential District as it affects property located at 1643 S. Pacific Street is located on the northern property line of the property and the subject property is zoned Single-Family Residential; and

WHEREAS, on September 18, 2019, an appeal of the City Planner's zoning determination of said zoning district boundary was filed with the City Clerk; and

WHEREAS, on November 18, 2019, the Planning Commission of the City of Oceanside, was presented with an appeal of the City Planner's determination and after holding a duly advertised public hearing, voted 6-1 to deny the appeal and uphold the City Planner's determination of the zoning district boundary; and

WHEREAS, on November 25, 2019, a Call for Review of the Planning Commission's decision concerning the City Planner's zoning determination affecting the property located at 1643 S. Pacific was filed with the City Clerk; and

WHEREAS, on December 18, 2019, 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's decision to uphold the City Planner's zoning determination; and

WHEREAS, based on such evidence, testimony, and staff reports, this Council has determined that the findings of fact as set forth in Planning Commission Resolution No. 2019-50 address all of the issues raised in the call for review of this project, and therefore the Council accepts the findings of fact as set forth in Planning Commission Resolution No. 2019-P50, attached hereto as Exhibit "A", and incorporates them by reference as if fully set forth herein;

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

1. The Council affirms the Planning Commission action of November 18, 2019 and upholds the City Planner's Determination that the zoning district boundary between the Residential Tourist District and Single-Family Residential District as it affects property located at 1643 S. Pacific Street is located on the northern property line of the subject property and the subject property bears a zoning designation of single-family residential (R-1).

2. Notice is hereby given that the time within which judicial review must be sought on this decision is governed by CCP Section 1094.6(b) as set forth in Oceanside City Code Section 1.10.

PASSED and ADOPTED by the City Council of the City of Oceanside, California this 18th day of December, 2019, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
Mayor of the City of Oceanside

ATTEST:

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

_____
City Clerk

_____
City Attorney

EXHIBIT A

PLANNING COMMISSION
RESOLUTION NO. 2019-P50

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA UPHOLDING THE CITY PLANNER'S ZONING BOUNDARY DETERMINATION AS IT AFFECTS PROPERTY LOCATED AT 1643 S. PACIFIC STREET, ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO:	ADM19-00071
APPLICANT:	CITY OF OCEANSIDE
APPELLANT:	PAUL LONGTON
LOCATION:	1643 S. Coast Highway

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

WHEREAS, there was filed with this Commission a verified letter determining the zoning district boundary under the provisions of Article 2 of the Zoning Ordinance of the City of Oceanside to determine the following:

The zoning district boundary between the Residential Tourist District (RT) and the Single-Family Residential District (R-1) as it affects property located at 1643 S. Pacific Street, is located on the northern property line of the property

on certain real property described in the project description.

WHEREAS, on September 18, 2019, a timely appeal of the City Planner's determination of said zoning district boundary was filed with the City Clerk; and

WHEREAS, the Planning Commission, after giving the required notice, did on the 4th day of November, 2019 conduct a duly advertised public hearing as prescribed by law to consider said determination;

WHEREAS, staff has determined that the zoning determination is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" per Section 15378 of the State CEQA Guidelines;

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes effective 20 days from its adoption in the absence of the filing of an appeal or call for review;

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

1. Section 220.B. of the City's Zoning Ordinance states "Where contiguous properties are classified in different zoning district, the centerline of the street or right-of-way shall be the district boundary, unless otherwise depicted on the zoning map.
2. The City's 1986 zoning map that is certified by the California Coastal Commission was relied upon to determine the zoning district boundary between the RT and R-1 district.
3. Research involving the City's GIS and a digitized version of the certified 1986 coastal zoning map concludes the zoning district boundary between the RT and the R-1 districts aligns with the northern property line of the subject property.
4. Aerial photos of the subject property taken in 1986 indicate a dwelling existed on the subject parcel.
5. Aligning the zoning district boundary with the middle of Whaley Street in 1986 would have resulted in the subject parcel and the existing dwelling on the subject property being split by the zoning district boundary.
6. No evidence was submitted to support an interpretation that the RT\R-1 zoning district boundary as depicted on the 1986 certified zoning map aligns with the centerline of Whaley Street.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oceanside does hereby deny the appeal and does hereby uphold the City Planner's determination of the zoning district boundary (ADM19-00071).

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PASSED AND ADOPTED Resolution No. 2019-P50 on November 18, 2019 by the following vote, to wit:

AYES: Kyle, Goodkind, Balma, Busk, Rosales and Custer

NAYS: Morrissey

ABSENT: None

ABSTAIN: None

Kyle Krahel, Chairperson
Oceanside Planning Commission

ATTEST:

Jeff Hunt, Secretary

I, JEFF HUNT, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2019-P50.

Dated:_____

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

_____ _____

Applicant/Representative Date

ATTACHMENT 2

AGENDA NO. 6

PLANNING COMMISSION *STAFF REPORT*

DATE: November 18, 2019 (Continued from the November 4, 2019 Planning Commission meeting)

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department-Planning Division

ADOPTION OF A RESOLUTION UPHOLDING THE CITY PLANNER'S DETERMINATION (ADM19-00071) THAT THE ZONING DISTRICT BOUNDARY BETWEEN THE RESIDENTIAL TOURIST DISTRICT (RT) AND THE SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1) AS IT AFFECTS PROPERTY LOCATED AT 1643 S. PACIFIC STREET, IS LOCATED ON THE NORTHERN PROPERTY LINE OF THE PROPERTY. APPELLANT: PAUL LONGTON ON BEHALF OF 1900 S PACIFIC, LLC

RECOMMENDATION

Staff recommends that the Planning Commission, by motion:

1. Confirm that pursuant to the California Environmental Quality Act (CEQA) of 1970, this action is exempt from CEQA because it is not a "project" per Section 15378 of the State CEQA Guidelines.

2. Adopt Planning Commission Resolution 2019-P50 upholding the City Planner's determination (ADM19-00071) that the zoning district boundary between the Residential Tourist District (RT) and the Single-Family Residential District (R-1) as it affects property located at 1643 S. Pacific Street, is located on the northern property line of the property.

PROJECT DESCRIPTION AND BACKGROUND

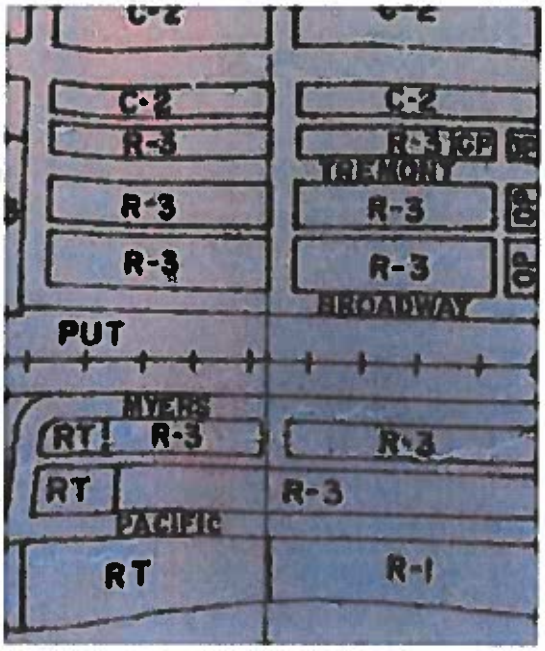
Background:

The subject property is located at 1643 S. Pacific Street, see Figure 1; and currently contains a 4,172-sf single-family dwelling. On January 8, 2019 applications for a Tentative Parcel Map (P19-00001), Development Plan (D19-00001) and Regular Coastal Permit (RC19-00001)

Figure 1: Project Site

were submitted to the Planning Division. The proposed project would convert the existing single-family dwelling into three condominiums. At the time of application, the City's GIS zoning map indicated the RT/R-1 zoning district boundary was on the south property line of the subject parcel, and thus the subject property was zoned RT. The RT Zone provides for multi-family development as a permitted use.

Figure 2: 1986 Coastal Zoning Map



Based on an inquiry from a citizen received on May 17, 2019, Planning Division staff conducted research regarding the subject property's zoning, specifically, where the RT/R-1 zoning district boundary is located as it affects the subject property. Staff reviewed the hardcopy of the City's 1986 zoning map that is certified by the California Coastal Commission (CCC). The map does not show parcel lines, but indicates where zoning district boundaries are located in relation to entire blocks. Using a straight-edge, a line was drawn extending the RT/R-1 district boundary eastward, that seemed to indicate the RT/R-1 boundary aligns with the north right of way of Whaley Street; see Figure 2.

Staff then reviewed the City's GIS parcel layer which indicates the north right of way of Whaley Street aligns with the north property line of the subject parcel. Based on this, staff concluded that the correct zoning for the subject parcel was R-1. The R-1 zone only allows for a duplex if adjacent to RT zoning.

On May 22, 2019, the applicant was informed that staff interprets the zoning of the subject property to be R-1 and that the proposed three unit condominium project was not allowed. Subsequently, the applicant met with City staff including the City Attorney's Office to Discuss the zoning district boundary and potential options to pursue. During these discussions, the applicant indicated he was concerned with staff's interpretation of the zoning for the subject parcel because the RT zone provides for smaller setbacks which would better accommodate onsite parking; and the RT zone would provide for short term rental of the property, should recently proposed legislation that would prohibit short term rental of residential zoned properties, ever be adopted. City staff informed the applicant that a Zoning Determination Letter would be sent, formalizing the staff interpretation and outlining the process for an appeal.

Project Description:

On September 13, 2019, the Planning Division issued a letter to the property owner formally advising him that the subject property was zoned R-1; see Attachment 2. In conducting research for the letter, staff reviewed the certified hardcopy of the 1986

coastal zoning map and the pencil line that had been drawn on the map that extended the RT/R-1 boundary inland. Staff also utilized the City's GIS in a similar manner to assist in this determination. Staff also researched plat maps of the area to determine the length of blocks. Finally, staff reviewed aerial photos of the subject property taken in 1986 that indicate a house existed on the subject property at the time of CCC certification of the map. Based on this additional analysis, the district boundary was again determined to be in line with the north right-of-way of Whaley Street.

An appeal of the zoning determination letter was submitted to the City Clerk's Office on September 18, 2019, see Attachment 3. Additional information regarding the basis of the appeal was submitted to the Planning Division on September 29, 2019, and is included with Attachment 3.

ANALYSIS

1. Appeal

The appellant makes the following arguments (in ***italics***). A staff response is noted afterwards.

a. The zoning district boundary change should occur at a block address change (1600's to 1700's).

The City's GIS reveals that address numbers north of Whaley Street are in the 1600's, while the numbers south of Whaley Street are in the 1700's; see Figure 3, below. Staff noted this addressing during research, but looked at additional information in determining the zone boundary. Ultimately, the 1986 certified zoning map is the basis for determining the zone boundary. All other information, including addresses, surveys, drawn lines, etc. should only be used to help interpret the 1986 map. As noted above, the 1986 map does not indicate parcel lines, nor does the map indicate addresses; but instead the map utilizes a larger, block perspective.

b. The zoning district boundary change should be represented as a line down the center of Whaley Street;

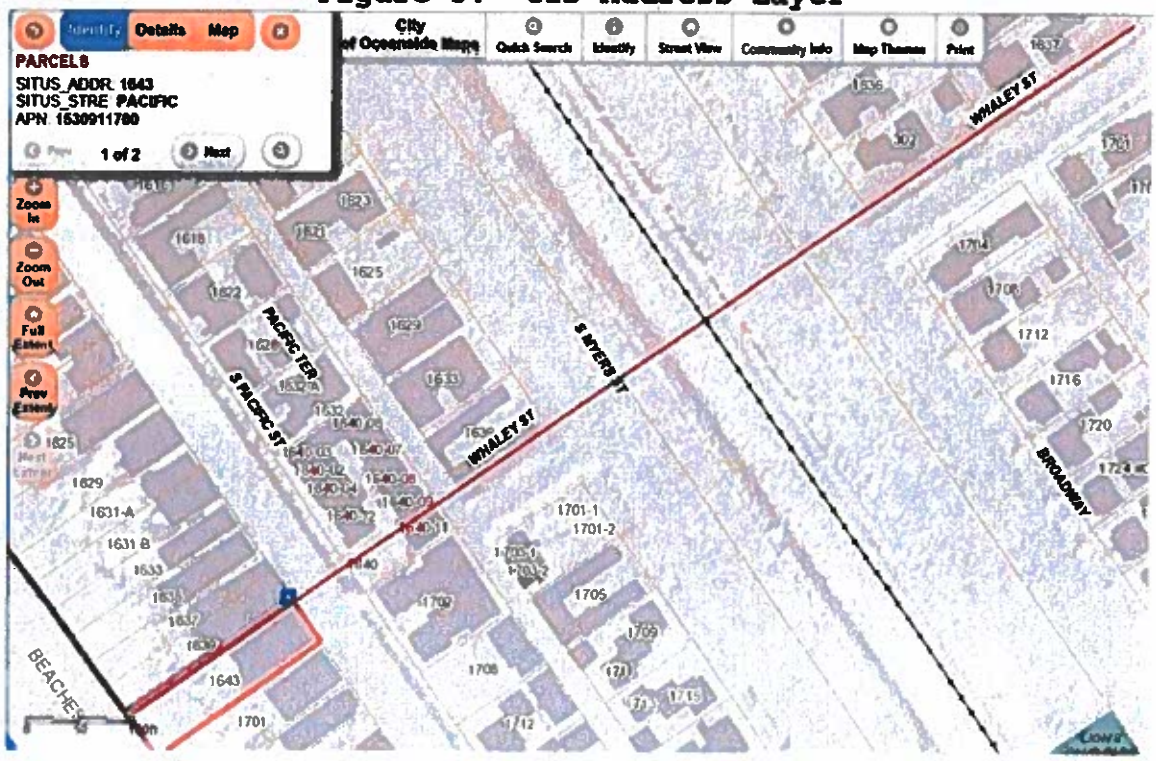
As noted in the September 13, 2019 zoning determination letter, the Section 220.B. of the City's zoning ordinance provides:

> Where contiguous properties are classified in different zoning districts, the centerline of the street of right-of-way shall be the district boundary, unless otherwise depicted on the zoning map. [underline added]

This is the essence of the determination and appeal. Staff used several tools and methods to try to objectively determine the location of the zoning district boundary per the

September 13th letter. Based on staff analysis and review of the 1986 zoning map, staff interpreted the zoning map to indicate the zoning district boundary is depicted other than in the centerline of Whaley Street.

Figure 3: GIS Address Layer



c. That the line drawn by staff is bent towards the north, whereas if the line were drawn straight, the zone change would be centered on Whaley Street.

In response to the appeal, staff did additional analysis. Staff utilized the City GIS parcel layer that indicates the locations of parcel lines and right-of-ways. A digitized red line was drawn which indicated the north right-of-way of Whaley Street aligns with the north parcel line of the subject parcel; see Figure 3, above. Staff also scanned the hardcopy of the 1986 zoning map and then used a pdf drawing tool to digitally place a straight red line on it, and thus depict several options of where the zoning district boundary could potentially be located. These depictions are noted in Figures 4, 5 and 6, below.

Figure 4 below, depicts a red line overlain on the original pencil line that was hand drawn with a straight edge onto the 1986 zoning map, as included in the September 13 letter. Figure 4 shows that almost all the south edges of the 1600 blocks, and thus the north line of the Whaley Street right-of-way align with the red line and with the RT\R-1 boundary, which is also consistent with Figure 3, above. Both of these figures support the zoning determination per the September 13 letter.

Figure 4: North Right-Of-Way of Whaley Street

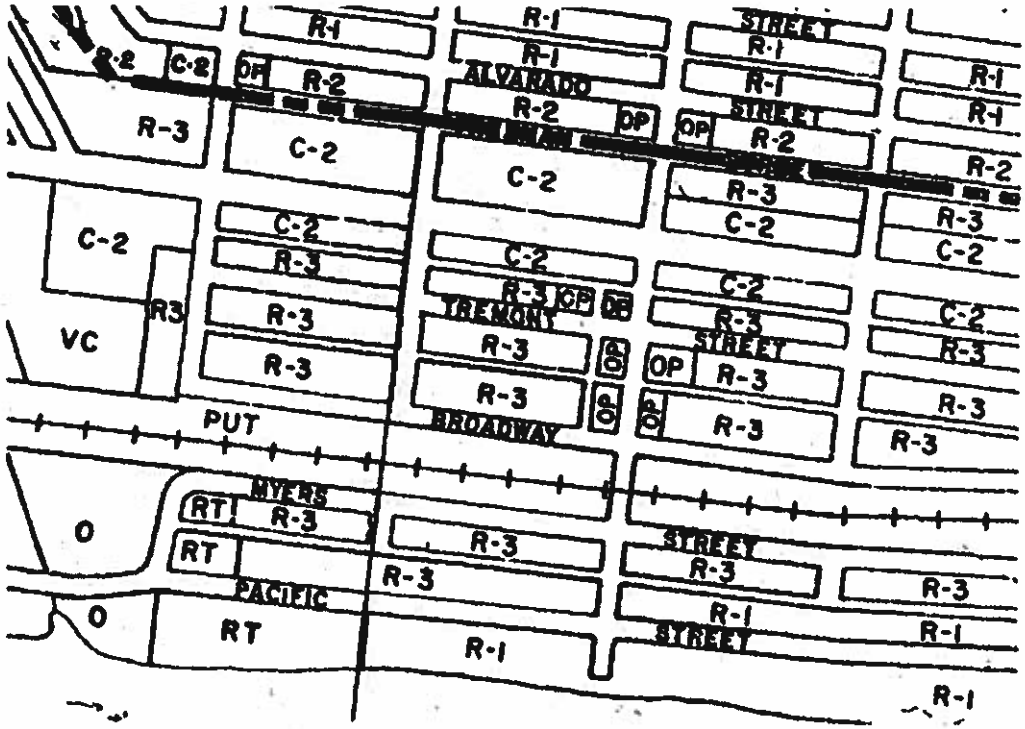


Figure 5 below, depicts a red line starting from the centerline of Whaley Street at the Coastal Zone boundary at Coast Highway to the RT/R-1 boundary at the subject parcel. The exhibit shows that the centerline of Whaley Street at Coast Highway does not align with the centerline of Whaley at Myers Street and has to skew to the north in order to align with the RT/R-1 boundary. Figure 5 doesn't support the contention that the zone boundary aligns with the centerline of Whaley Street.

Figure 6 below, depicts a red line starting from the centerline of Whaley Street at Myers Street to the RT/R-1 boundary at the subject parcel, and is similar to Exhibit 2, but focuses on the three blocks closest to the subject parcel. Figure 6 also seems to show that the RT/R-1 boundary does not align with the centerline of Whaley Street at Myers Street, and thus doesn't support the contention that the RT\R-1 boundary aligns with the centerline of Whaley Street.

Figure 5: Centerline of Whaley Street at Coastal Zone Boundary to RT\R-1 Boundary

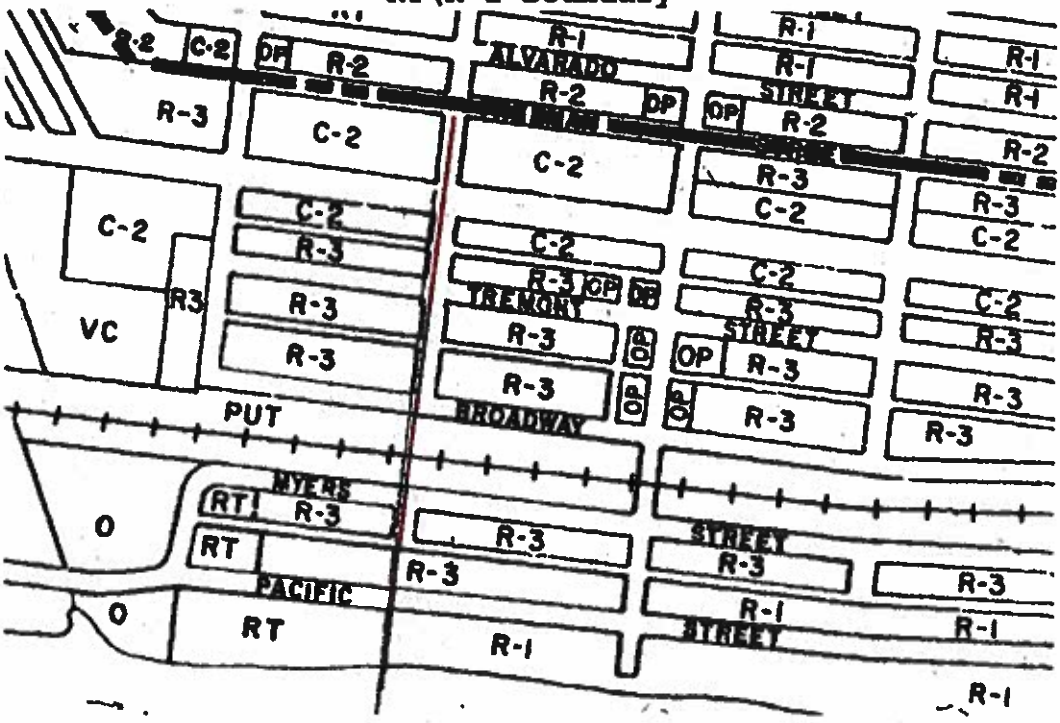
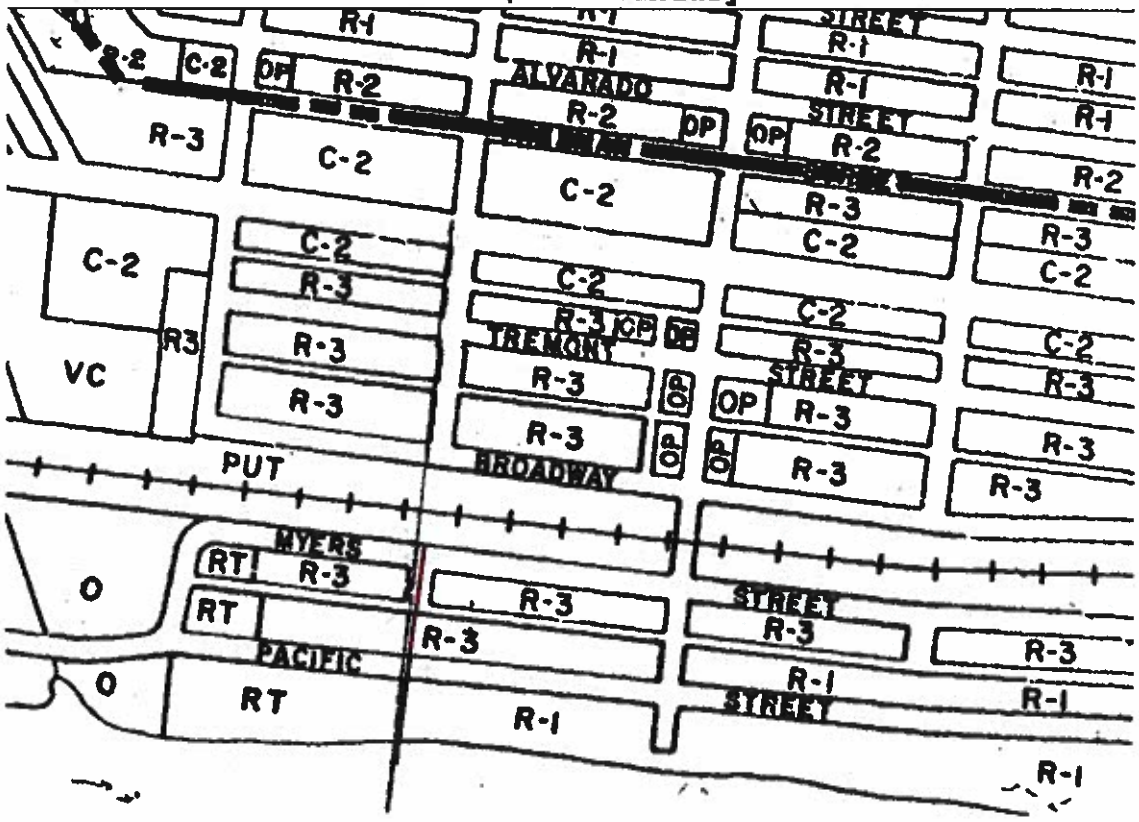


Figure 6: Centerline of Whaley Street at Myers Street to RT\R-1 Boundary



The appellant has submitted a survey (see Attachment 3) that indicates the centerline of Whaley Street intersects the subject parcel at the southern third of the parcel, which staff does not dispute. However, ultimately, the 1986 certified zoning map is the basis for determining the zone boundary. All other information, including addresses, surveys, drawn lines, etc. should only be used to help interpret the 1986 zoning map. The appellant offers no evidence that the RT\R-1 zone boundary on the 1986 certified zoning map aligns with the centerline of Whaley Street. And again, staff's analysis of the 1986 map indicates the zone boundary aligns with the north right-of-way of Whaley Street, not the centerline, and thus the subject property is zoned R-1.

d. If centered on Whaley Street, then 2/3 of the subject property would be zoned RT and reasonably that would determine the entire property is zoned RT.

As noted above, staff does not agree that the RT\R-1 zone boundary is centered on Whaley Street. And the appellant is not arguing that the zone boundary aligns with the southern line of the subject property which would result in the entire parcel being zoned RT. Instead, the appellant argues the subject parcel is split zoned and therefore the entire parcel "reasonably ... is zoned RT". However, there is no provision in the City's zoning ordinance that provides that a parcel with split zoning shall automatically be zoned the majority zone. If the zone boundary did align with the southern third of the subject parcel – which staff disputes - then the proposal for three condominiums would require a zoning map amendment to rezone the southern third of the subject parcel to RT. It is possible that staff could support a zoning map amendment to RT for the subject parcel because the General Plan designation for the subject property is High Density - CRH.

As noted in the September 13 letter, aerial photos indicate the subject parcel had a dwelling on it in 1986. Staff has no evidence to indicate any intentional location of the RT\R-1 boundary on the 1986 map; but it is conceivable that the zoned boundary was located on the north parcel line of the subject parcel - as noted on the 1986 zoning map - in order to avoid split-zoning the subject parcel and the existing dwelling.

2. Local Coastal Program compliance.

Staff reviewed the zoning determination for consistency with the Local Coastal Program (LCP). The zoning determination does not involve any change to a zoning provision or map. The determination is purely an interpretation of the CCC certified 1986 zoning map that is part of the LCP. Section 220.B. of the zoning ordinance, that provides for interpretations of zoning maps, as noted above, has been certified by the CCC.

ENVIRONMENTAL DETERMINATION

The proposed project is exempt from review under the California Environmental Quality Act (CEQA) per Section 15061(b)(3) that exempts projects where it is certain that there is no possibility that the activity may have a significant effect on the environment.

PUBLIC NOTIFICATION

Legal notice was published in the newspaper and mailed notices were sent to property owners of record within 500 feet and tenants within 100 feet of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), and interested parties. The City received no communications from the public.

SUMMARY

Staff conducted additional research in response to the appeal and still believes the 1986 certified zoning map indicates the RT/R-1 zoning district boundary aligns with the north right-of-way of Whaley Street, resulting in the entire parcel located at 1643 S. Pacific Street being zoned R-1. Therefore, staff recommends that the Planning Commission, by motion:

1. Confirm that pursuant to the California Environmental Quality Act (CEQA) of 1970, this action is exempt from CEQA because it is not a "project" per Section 15378 of the State CEQA Guidelines; and

2. Adopt Planning Commission Resolution 2019-P50 upholding the City Planner's determination (ADM19-00071) that the zoning district boundary between the Residential Tourist District (RT) and the Single-Family Residential District (R-1) as it affects property located at 1643 S. Pacific Street, is located on the northern property line of the property.

PREPARED AND SUBMITTED BY:

Jeff Hunt
City Planner

JH/fil

Attachments:

1. PC Resolution No. 2019-P50 upholding the City Planner's zoning district boundary determination
2. Zoning District Boundary Determination Letter, dated September 13, 2019
3. Appeal form and appellant's argument

PLANNING COMMISSION
RESOLUTION NO. 2019-P50

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA UPHOLDING THE CITY PLANNER'S ZONING BOUNDARY DETERMINATION AS IT AFFECTS PROPERTY LOCATED AT 1643 S. PACIFIC STREET, ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO:	ADM19-00071
APPLICANT:	CITY OF OCEANSIDE
APPELLANT:	PAUL LONGTON
LOCATION:	1643 S. Coast Highway

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

WHEREAS, there was filed with this Commission a verified letter determining the zoning district boundary under the provisions of Article 2 of the Zoning Ordinance of the City of Oceanside to determine the following:

The zoning district boundary between the Residential Tourist District (RT) and the Single-Family Residential District (R-1) as it affects property located at 1643 S. Pacific Street, is located on the northern property line of the property

on certain real property described in the project description.

WHEREAS, on September 18, 2019, a timely appeal of the City Planner's determination of said zoning district boundary was filed with the City Clerk; and

WHEREAS, the Planning Commission, after giving the required notice, did on the 4th day of November, 2019 conduct a duly advertised public hearing as prescribed by law to consider said determination;

WHEREAS, staff has determined that the zoning determination is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" per Section 15378 of the State CEQA Guidelines;

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes effective 20 days from its adoption in the absence of the filing of an appeal or call for review;

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

1. Section 220.B. of the City's Zoning Ordinance states "Where contiguous properties are classified in different zoning district, the centerline of the street or right-of-way shall be the district boundary, unless otherwise depicted on the zoning map.
2. The City's 1986 zoning map that is certified by the California Coastal Commission was relied upon to determine the zoning district boundary between the RT and R-1 district.
3. Research involving the City's GIS and a digitized version of the certified 1986 coastal zoning map concludes the zoning district boundary between the RT and the R-1 districts aligns with the northern property line of the subject property.
4. Aerial photos of the subject property taken in 1986 indicate a dwelling existed on the subject parcel.
5. Aligning the zoning district boundary with the middle of Whaley Street in 1986 would have resulted in the subject parcel and the existing dwelling on the subject property being split by the zoning district boundary.
6. No evidence was submitted to support an interpretation that the RT\R-1 zoning district boundary as depicted on the 1986 certified zoning map aligns with the centerline of Whaley Street.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oceanside does hereby deny the appeal and does hereby uphold the City Planner's determination of the zoning district boundary (ADM19-00071).

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PASSED AND ADOPTED Resolution No. 2019-P50 on November 18, 2019 by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____

Kyle Krahel, Chairperson
Oceanside Planning Commission

ATTEST:

_____

Jeff Hunt, Secretary

I, JEFF HUNT, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2019-P50.

Dated:_____

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

_____ _____

Applicant/Representative Date

CITY OF OCEANSIDE

DEVELOPMENT SERVICES DEPARTMENT / PLANNING DIVISION

September 13, 2019

David Fischbach
1640 Oceanside Blvd
Oceanside, CA 92054

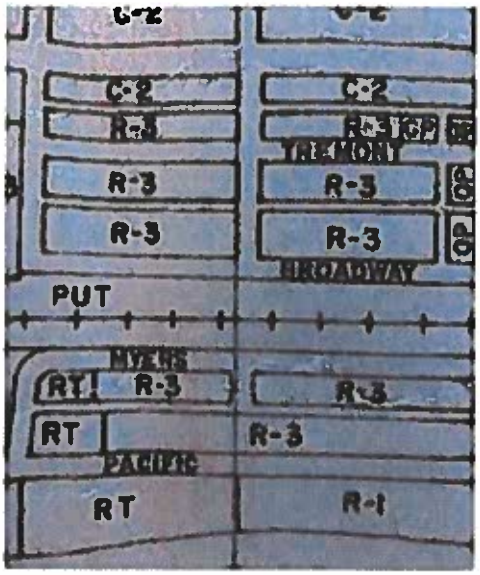
Dear Mr Fischbach:

Subject: Zoning District Boundary Affecting Property at 1643 S. Pacific St.

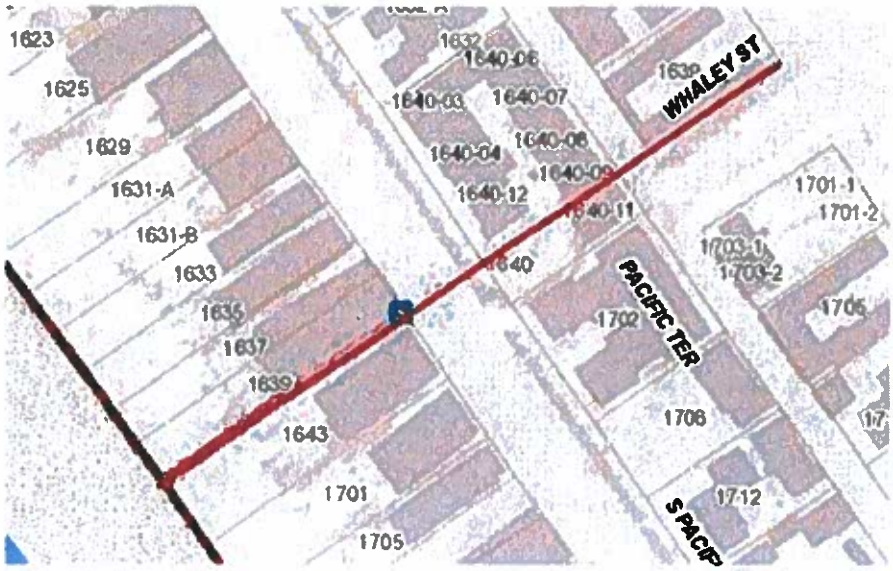
This letter provides a determination of the zoning district boundary between the RT/CZ District and the R-1/CZ District as it affects property located at 1643 S. Pacific St. Section 240.B.5. of the City Zoning Ordinance provides:

> *Should any uncertainty remain as to the location of a district boundary or other feature shown on the zoning map, the location shall be determined by the City Planner.*

The City zoning map affecting the subject property was adopted in 1986. A screenshot of the map is as follows [pencil line added]:



The City utilizes a digital version to administer and interpret the City's 1986 zoning map. A screenshot of the City's digital zoning map is as follows [red line added]:



Based on the straight pencil line and straight red line that were both added by me, it appears that the north property line of the property located at 1643 S. Pacific Street aligns with the north right-of-way of Whaley Street. And furthermore, it appears that the boundary between the RT/CZ and R-1/CZ zoning districts aligns with the north right-of-way of Whaley Street. This would be consistent with direction provided in the Zoning Ordinance, per Section 220.B. of the City Zoning Ordinance that states:

> *Where contiguous properties are classified in different zoning districts, the centerline of the street or right-of-way shall be the district boundary, unless otherwise depicted on the zoning map.*

The interpretation that the boundary between the RT/CZ and R-1/CZ zoning districts aligns with the north right-of-way of Whaley Street would be consistent with direction provided in the Zoning Ordinance, per Section 240.B.1. of the City Zoning Ordinance that states:

> *District boundaries shown as approximately following the property line of a lot shall be construed to follow such property line.*

Finally, an aerial photo taken in 1986 of the area including the subject property indicates there was a house existing on the subject property in 1986; see screenshot below [red line added].

Based on the aerial photo taken in 1986, it appears that if the zone boundary had been established in the middle of the Whaley Street right-of-way, it would have resulted in the house on the subject property being split by the two zoning districts. This result would also apply to the survey that you submitted, that indicates the zone boundary is in the middle of the Whaley Street right-of-way. It is reasonable to conclude that the zoning district boundary was intentionally established in 1986 to align with the north right-of-way of Whaley Street to avoid splitting the existing house on 1643 S. Pacific Street.

Based on all of the above information, it is my determination that the boundary between the RT/CZ and R-1/CZ zoning districts, aligns with the north right-of-way of Whaley Street. And as a result, the property located at 1643 S. Pacific Street is zoned R-1/CZ.

Section 240.C. provides:

> *An interpretation of the zoning regulations or zoning map by the City Planner may be appealed to the Planning Commission ... as provided in Article 46.*

Article 46 provides for an appeal of the City Planner's determination by you or by any interested party. A copy of this letter will be mailed to all property owners within 500' of the subject property and all tenants within 100' of the subject property. An appeal must be filed within 20 days of the date of this letter and must be accompanied by the filing fee or necessary signatures. You should review Article 46 for details regarding any appeal of this determination.

Please feel free to contact me regarding any questions or if you need any assistance.

Sincerely,

Jeff Hunt, AICP
City Planner

OCEANSIDE CA

Planning Division
300 North Coast Highway
Oceanside, CA 92054
Tel (760) 435-3000 Fax (760) 967-3922

APPEAL OF ADMINISTRATIVE ACTION

APPEALS MUST BE FILED WITHIN 10 CALENDAR DAYS OF THE APPROVAL AND ADOPTION DATE

PROJECT/ACTION BEING APPEALED

PROJECT NAME: 1643 S. Pacific

APPROVAL AND ADOPTION DATE:

FORM OF APPEAL

APPEAL FEE - $1,838 ☒ PETITION ☐ (PLEASE SEE BELOW FOR EXPLANATION/SIGN OFF)

LETTER INCLUDING A STATEMENT SPECIFICALLY IDENTIFYING THE PORTION(S) OF THE DECISION BEING APPEALED AND THE BASIS FOR THE APPEAL IS ATTACHED ☐

PERSON FILING APPEAL

NAME: Paul Langton

Daytime Telephone: 760 458.0987

ADDRESS: 2909 Mesa Dr. CITY: Oceanside STATE: CA ZIP: 92054

APPEALED BY
APPLICANT (COMPANY/REP) ☐ INTERESTED PARTY ☒ PROPERTY OWNER WITHIN NOTICE AREA ☐

SIGNATURE: [signature]

DATE: 9.18.19

CONTACT PERSON
(IF DIFFERENT FROM PERSON FILING APPEAL)

NAME: Same

ADDRESS | CITY | STATE | ZIP

Daytime Telephone | Fax Number | Email Address

Section 4604: To appeal by petition for a waiver of the appeal fee, the appeal must be accompanied by the signatures of 50% of the property owners within the noticed area or 25 signatures of the property owners or tenants within the noticed area, whichever is less.

I hereby certify that this appeal is being submitted in accordance with the Zoning Ordinance and meets the criteria specified in Section 4604 for an appeal by petition.

Signature: _____ Date: _____

NOTE: All petitions must contain original signatures, along with the printed name and address of each signer.

RECEIVED

SEP 18 2019

OCEANSIDE CITY CLERK

Received by: Julie Crowther

Via: counter

Copy to: CAO, CMO, Jeff Hunt

Jeff Hunt

From:	Paul Longton <pjlongton@gmail.com>
Sent:	Sunday, September 29, 2019 4:31 PM
To:	Jeff Hunt
Cc:	Jonathan Borrego; Faletusi Liulamaga; Shannon Vitale; Russ Cunningham
Subject:	Re: Appeal of 1643 S Pacific
Attachments:	Fischbach-1643 S Pacific StEXHIBIT.pdf; 1600-1700 Demarcation.pdf; Centerline of Whaley.pdf; Google Earth 1.pdf; Google Earth.pdf

Warning: External Source

Hi Jeff,

1) Yes, you are correct in that the appeal is of the administrative action outlined in your letter of September 13th regarding zoning of 1643 S Pacific.

2) The attached surveyor's exhibit shows the intent of our appeal in that the Zone change from RT to R1 should happen at a block address change (1600's to 1700's) and that change would be represented as a line down the center of Whaley Street to the east. The line that shows the RT/R1 change in the image (screen shot) on the 1st page of your letter is bent towards the north (thus the property line of the properties on Whaley) whereas if the line were drawn straight the line of the zone change would be centered on Whaley.

If centered on Whaley then 2/3 of 1643 would be in RT and 1/3 in R1. It seems reasonable that the 2/3 would determine the Zone.

I am also attaching screen shots that, in my opinion, support our rationale.

Thanks again for the follow up to remind me to respond to your letter.

Respectfully,
Paul

Paul Longton, Architect
760.458.0987 cell

On Thu, Sep 19, 2019 at 4:19 PM Jeff Hunt <JHunt@oceansideca.org> wrote:

Hi Paul,

I am in receipt of the appeal form that was submitted regarding 1643 S Pacific St; as attached. Please provide the following additional information:

1. Identify what City administrative action you are appealing. I assume it is the zoning district boundary determination letter dated September 13, 2019, also attached; but I need confirmation as the appeal form did not identify the action.
2. Identify the basis for the appeal. In other words, on what grounds was the administrative action in error.

Upon receipt of the above information, I will schedule the appeal for review by the Planning Commission. Thank you

and I look forward to hearing from you.

Jeff Hunt, AICP
City Planner
City of Oceanside, CA

-----Original Message-----
From: Xerox
Sent: Thursday, September 19, 2019 3:27 PM
To: Jeff Hunt <JHunt@oceansideca.org>
Subject: Appeal of 1643 S Pacific

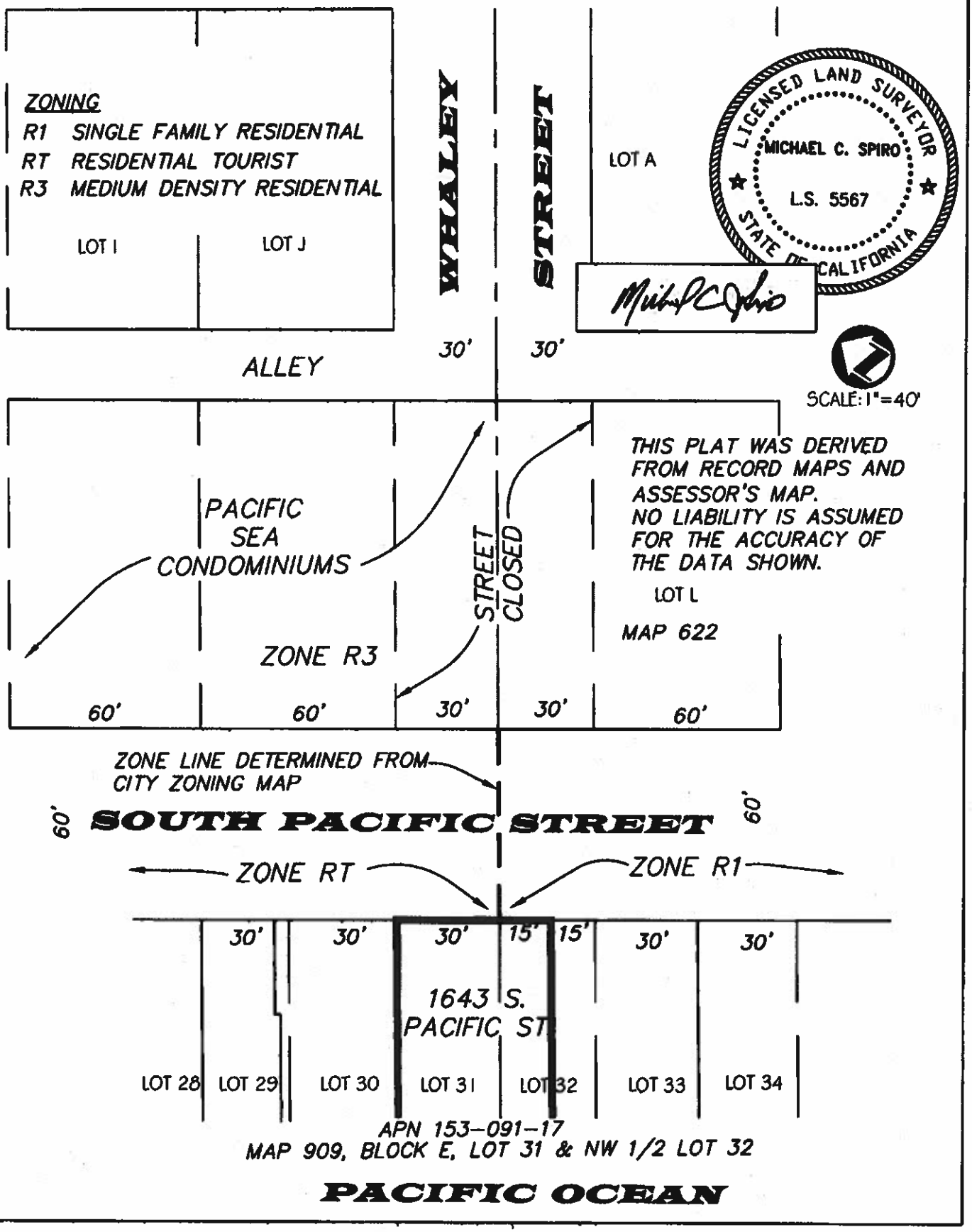
Please open the attached document. It was sent to you using a Xerox multifunction printer.

Attachment File Type: pdf, Multi-Page

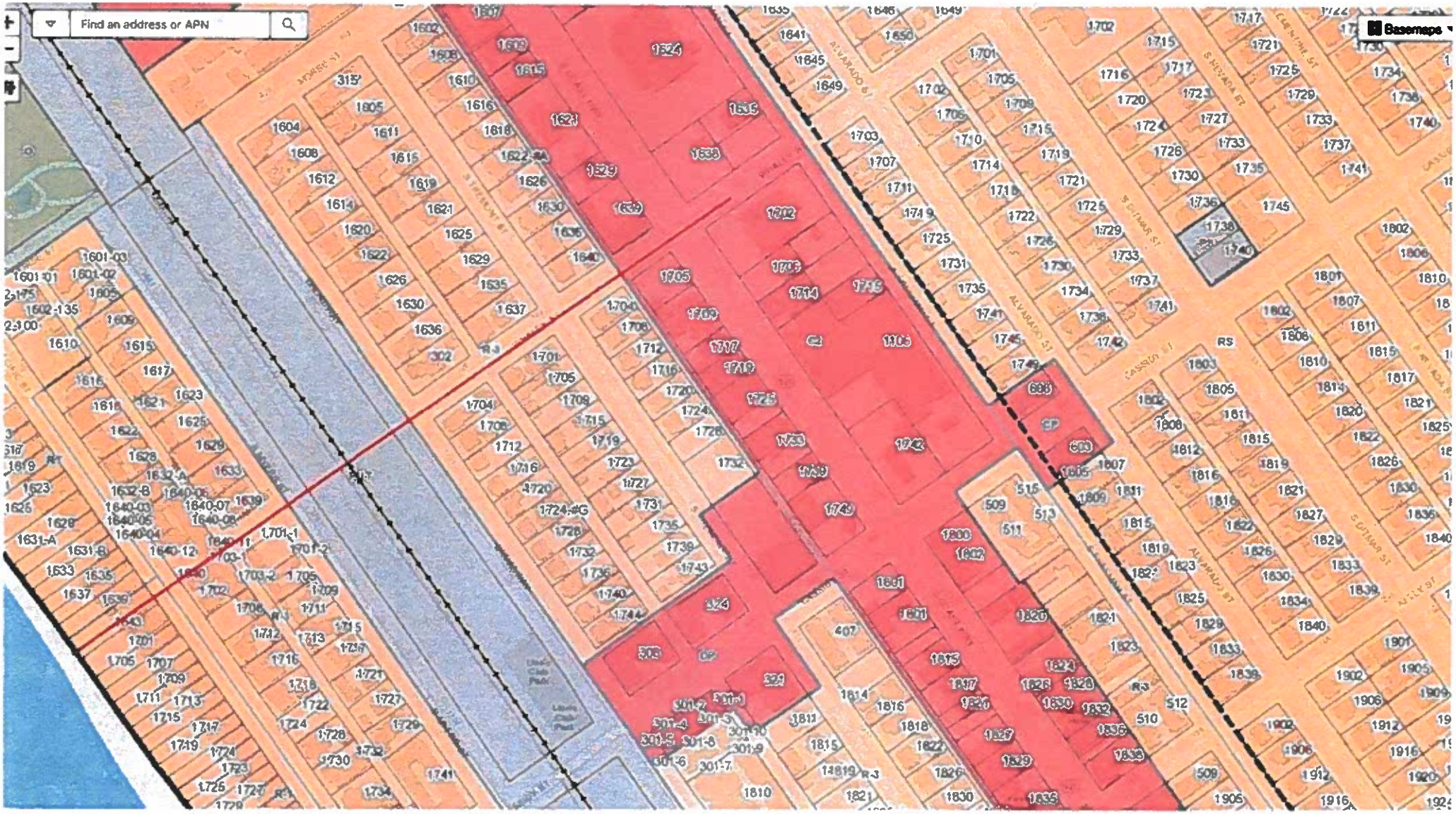
Multifunction Printer Location: City Hall South 1st Floor - Planning
Device Name: xrx0000aad622ac

For more information on Xerox products and solutions, please visit http://www.xerox.com

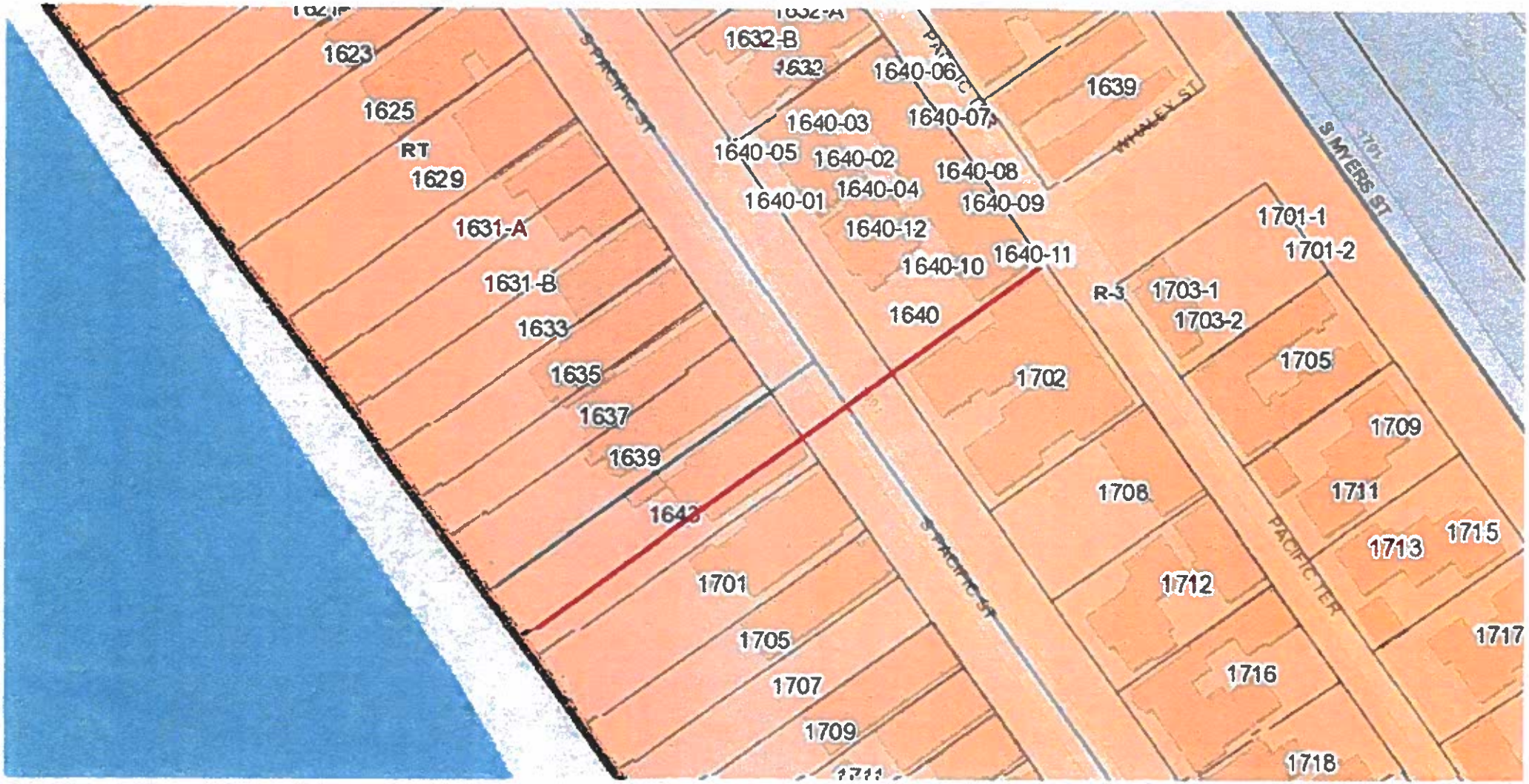
PLAT OF 1643 SOUTH PACIFIC STREET, OCEANSIDE, CA 92054



Shows Centerline of Whaley St



Shows line of demarcation between 1600 & 1700 Blocks at Neighbors on City GIS map

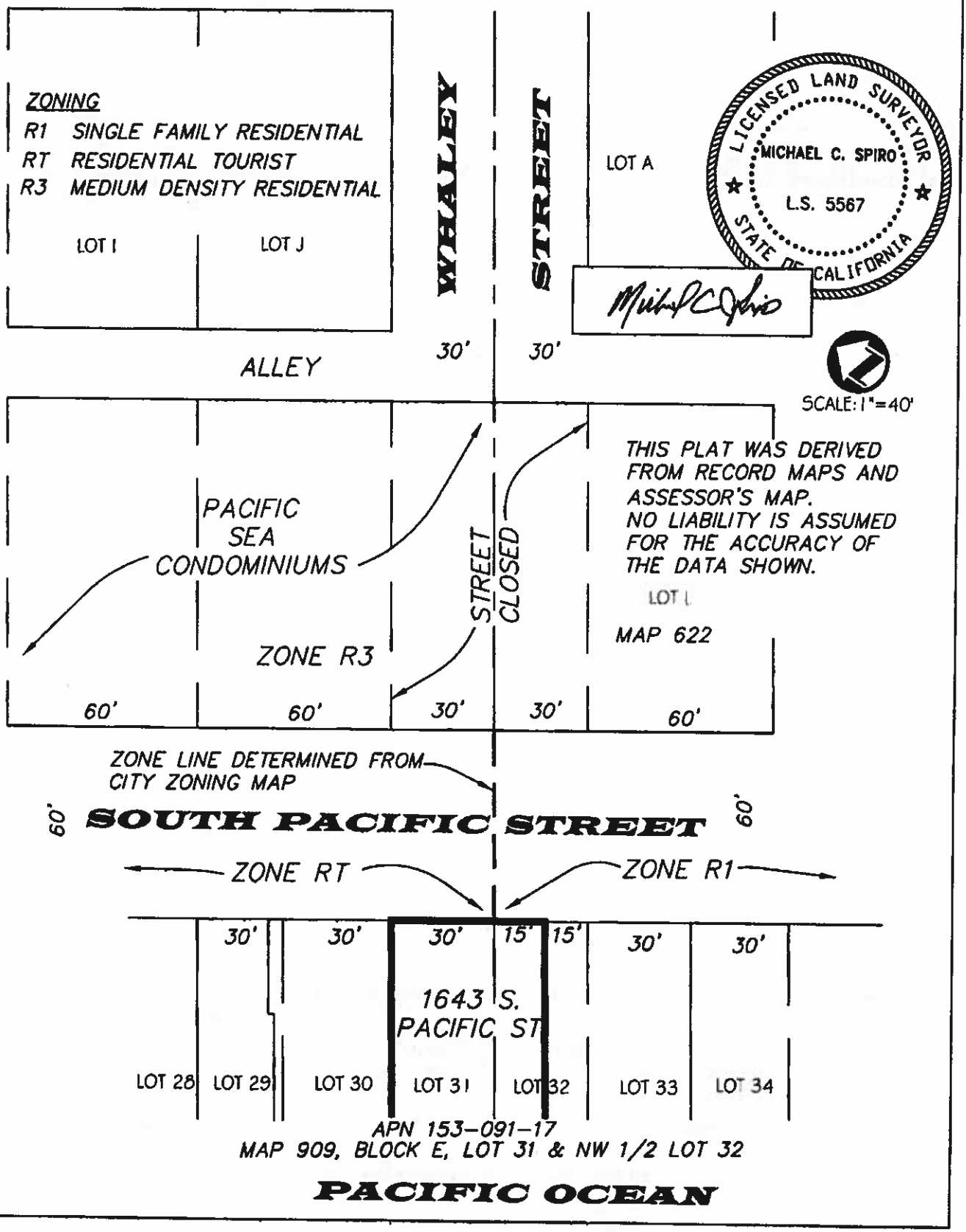


RT - R1
Google Earth


RT - R1
Legend
Google Earth

ATTACHMENT 3

PLAT OF 1643 SOUTH PACIFIC STREET, OCEANSIDE, CA 92054



ATTACHMENT 4

Shannon Vitale

From: Jeff Hunt
Sent: Monday, December 2, 2019 5:19 PM
To: Shannon Vitale; Russ Cunningham
Subject: FW: Councilmember Call for Review for December 18 Council Meeting

FYI.
Jeff

From: Judy Krueger
Sent: Monday, December 2, 2019 4:38 PM
To: City Council <Council@oceansideca.org>
Cc: Jeff Hunt <JHunt@oceansideca.org>
Subject: RE: Councilmember Call for Review for December 18 Council Meeting

There is a typographical correction to the previously distributed call for review. The call for review is filed on the ground that the property is zoned RT not R1, as depicted in the owner's survey, and that the applicant relied to his detriment on the City's GIS system.

Judy Krueger
Program Specialist/Agenda Coordinator
City Manager's Office
760-435-3074

From: Judy Krueger
Sent: Monday, December 2, 2019 2:56 PM
To: City Council <Council@oceansideca.org>
Cc: Jeff Hunt <JHunt@oceansideca.org>
Subject: Councilmember Call for Review for December 18 Council Meeting

"Pursuant to Article 46 of the Oceanside Zoning Ordinance, I {Christopher Rodriguez} and Deputy Mayor Jack Feller, hereby call for review the decision of the Planning Commission concerning City Planner zoning determination affecting 1643 South Pacific Street (ADM 19-00071). This call for review is filed on the ground that the property is zoned RS not RT as depicted in the property owner's survey and that the applicant relied to his detriment on the City's GIS system."

Judy Krueger
Program Specialist/Agenda Coordinator
City Manager's Office
760-435-3074

Received by: VPavolas
Via: E-mail
Copy to: City Manager, CAO, Planning

Vaida Pavolas

From: Christopher Rodriguez
Sent: Sunday, November 24, 2019 6:48 PM
To: City Clerk - Public Records Request; Zeb Navarro; John Mullen
Cc: Jack Feller
Subject: 1643 South Pacific Street (ADM 19-00071)

Pursuant to Article 46 of the Oceanside Zoning Ordinance, I and Deputy Mayor Jack Feller, hereby call for review the decision of the Planning Commission concerning City Planner zoning determination affecting 1643 South Pacific Street (ADM 19-00071). This call for review is filed on the ground that the property is zoned RS not RT as depicted in the property owner's survey and that the applicant relied to his detriment on the City's GIS system. Preferably I would like to see this on the next city council meeting scheduled for December 4, 2019.

Respectfully,
Christopher Rodriguez
Councilmember District 2
Email: crodriguez@ci.oceanside.ca.us
Cell: 760-435-3046

RECEIVED
NOV 25 2019
OCEANSIDE CITY CLERK

Vaida Pavolas

From: John Mullen
Sent: Monday, November 25, 2019 4:13 PM
To: Vickie Prosser
Cc: Jack Feller; Vaida Pavolas
Subject: RE: 1643 South Pacific Street (ADM 19-00071)

From: Vickie Prosser
Sent: Monday, November 25, 2019 9:31 AM
To: Zeb Navarro <ZNavarro@oceansideca.org>
Cc: Jack Feller <JFeller@oceansideca.org>; Christopher Rodriguez <CRodriguez@oceansideca.org>
Subject: FW: 1643 South Pacific Street (ADM 19-00071)

Good morning!

Deputy Mayor Feller asked me to confirm that this request also comes from him. If you have any questions or if I need to do anything further, please do not hesitate to contact me.

Have a wonderful day!

Vickie Prosser, Aide to
Deputy Mayor Jack Feller
(760) 435-3043
vprosser@oceansideca.org

From: Christopher Rodriguez <CRodriguez@oceansideca.org>
Date: November 24, 2019 at 6:48:30 PM PST
To: City Clerk - Public Records Request <PublicRecordsRequest@oceansideca.org>, Zeb Navarro <ZNavarro@oceansideca.org>, John Mullen <JMullen@oceansideca.org>
Cc: Jack Feller <JFeller@oceansideca.org>
Subject: 1643 South Pacific Street (ADM 19-00071)

Pursuant to Article 46 of the Oceanside Zoning Ordinance, I and Deputy Mayor Jack Feller, hereby call for review the decision of the Planning Commission concerning City Planner zoning determination affecting 1643 South Pacific Street (ADM 19-00071). This call for review is filed on the ground that the property is zoned RS not RT as depicted in the property owner's survey and that the applicant relied to his detriment on the City's GIS system. Preferably I would like to see this on the next city council meeting scheduled for December 4, 2019.

Respectfully,

Christopher Rodriguez
Councilmember District 2
Email: crodriguez@ci.oceanside.ca.us
Cell: 760-435-3046