

Council/Agency Meeting Held: _____	City Clerk's Signature
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: April 4, 2005	Department ID Number: PL05-13

**CITY OF HUNTINGTON BEACH
REQUEST FOR ACTION**

SUBMITTED TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

SUBMITTED BY: PENELOPE *Penelope Culbreth Graft* CULBRETH-GRAFT, City Administrator

PREPARED BY: HOWARD ZELEFSKY, Director of Planning *Howard Zelefsky*

SUBJECT: APPROVE FINAL TRACT MAP NO. 16675 OF TENTATIVE TRACT MAP NO. 16675 (HARBINGER HOMES 1 LOT SUBDIVISION)

2005 MAR 23 PM 4:55
 CITY CLERK
 HUNTINGTON BEACH, CA

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue:

Final Tract Map No. 16675, located at 19042 and 19052 Delaware Street (Eastside of Delaware Street, south of Garfield Avenue) is being submitted for City Council approval.

Funding Source: Not applicable.

Recommended Action:

Motion to:

1. "Approve Final Tract Map No. 16675 and accept the offer of dedication, improvements, and bonds pursuant to findings and requirements (ATTACHMENT NO. 1)."
2. "Approve the Subdivision Agreement between the City and Harbinger Homes, Inc., and authorize execution by the Mayor and City Clerk (ATTACHMENT NO. 6)."

Alternative Action(s):

The City Council may make the following alternative motion(s):

"Deny Final Tract Map No. 16675 and reject the offer of dedication, improvements and bonds."

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REQUEST FOR ACTION

MEETING DATE: April 4, 2005

DEPARTMENT ID NUMBER: PL05-13

Analysis:

A. PROJECT PROPOSAL:

SUBDIVIDER: Harbinger Homes, Inc.
2728 17th Street
Huntington Beach, CA 92648

ENGINEER: MAM Socal, Inc.
711 W. 17th Street
Costa Mesa, CA 92627-4344

LOCATION: 19042 and 19052 Delaware Street (Eastside of Delaware Street, south of Garfield Avenue)

ZONE: RM (Residential Medium Density)

GENERAL PLAN: RM-15 (Residential Medium-Density – 15 units per acre maximum)

NO. OF ACRES: 0.61 acres/ 26,598 sq. ft. (gross)

NO. OF NUMBERED LOTS: 1

NO. OF LETTERED LOTS: 0

NO. OF UNITS: 8 (attached residential condominium units)

DATE OF COMPLETE APPLICATION: March 18, 2005

MANDATORY PROCESSING DATE: April 18, 2005

DISCUSSION:

On June 2, 2004, the Zoning Administrator approved Tentative Tract Map No. 16675 in conjunction with Conditional Use Permit No. 04-05 for the construction of eight attached residential condominium units. Tentative Tract Map No. 16675 is a 0.61-acre one lot subdivision for condominium purposes.

The subdivider has satisfied the park and recreation requirement for this project by paying \$210,885.24 in park and recreation fees. The 10% affordable housing requirement for this project has been satisfied by assignment of one unit within the project site.

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REQUEST FOR ACTION

MEETING DATE: April 4, 2005

DEPARTMENT ID NUMBER: PL05-13

The final map has been examined and certified by the City Engineer as being in conformance with the conditions of approval of the tentative map, as filed with, amended and approved by the Zoning Administrator on June 2, 2004.

Environmental Status:

This action to accept Final Tract Map No. 16675 is exempt from the requirements of the California Environmental Quality Act pursuant to Section 15268(b).

Attachment(s):

City Clerk's Page Number	No.	Description
4	1	Findings and Requirements for Acceptance of the Final Map
6	2	Vicinity Map
8	3	Tentative Tract Map No. 16675 with site plan
10	4	Tentative Tract Map No. 16675 Findings and Conditions of Approval
17	5	Final Tract Map No. 16675
20	6	Subdivision Agreement
34	7	Bonds (Monument, Labor and Materials, Faithful Performance)

RCA Author: Rami Talleh/Herb Fauland

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ATTACHMENT 1

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ATTACHMENT NO. 1
FINDINGS FOR ACCEPTANCE OF FINAL MAP

Findings for Acceptance of Final Map:

1. Final Tract Map No. 16675 is in conformance with the California Subdivision Map Act, the City of Huntington Beach Subdivision Ordinance and Tentative Tract Map No. 16675 conditions of approval, as approved by the Planning Commission.

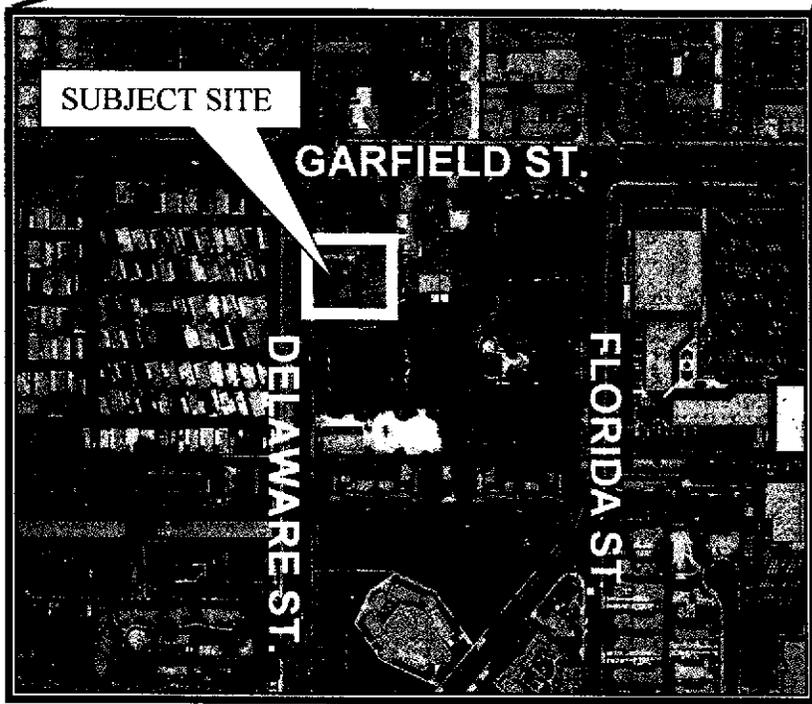
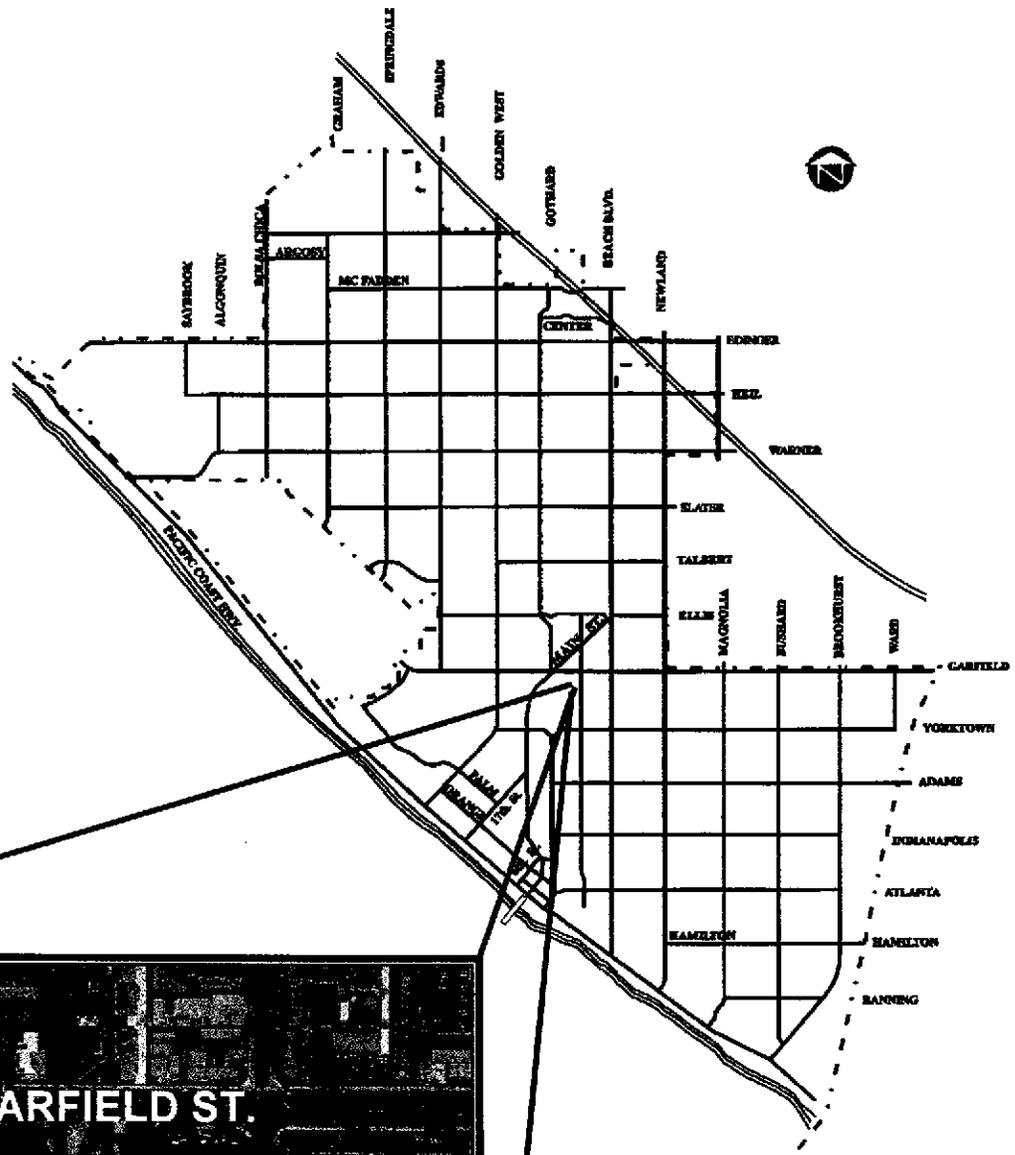
Requirements:

1. Acceptance of offer of dedication shall be subject to completion of improvements and requirements shown on the final map.
2. The City Clerk shall file the following bonds with the City Treasurer:
 - a. Faithful Performance Bond No. 661112540 (Attachment No. 7).
 - b. Labor and Material Bond No. 661112540 (Attachment No. 7).
 - c. Monument Bond (Attachment No. 7).
3. The City Clerk shall affix her signature to the map and release it for recordation by the County of Orange.

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ATTACHMENT 2

E-2.6



VICINITY MAP
FINAL TRACT MAP NO. 16675 (HARBINGER HOMES 1 LOT SUBDIVISION)
THE CITY OF HUNTINGTON BEACH

E-2.7

ATTACHMENT 3

E-2.8

MAY 05 2004

TENTATIVE TRACT MAP NO. 16675
FOR CONDOMINIUM PURPOSES
IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE
STATE OF CALIFORNIA

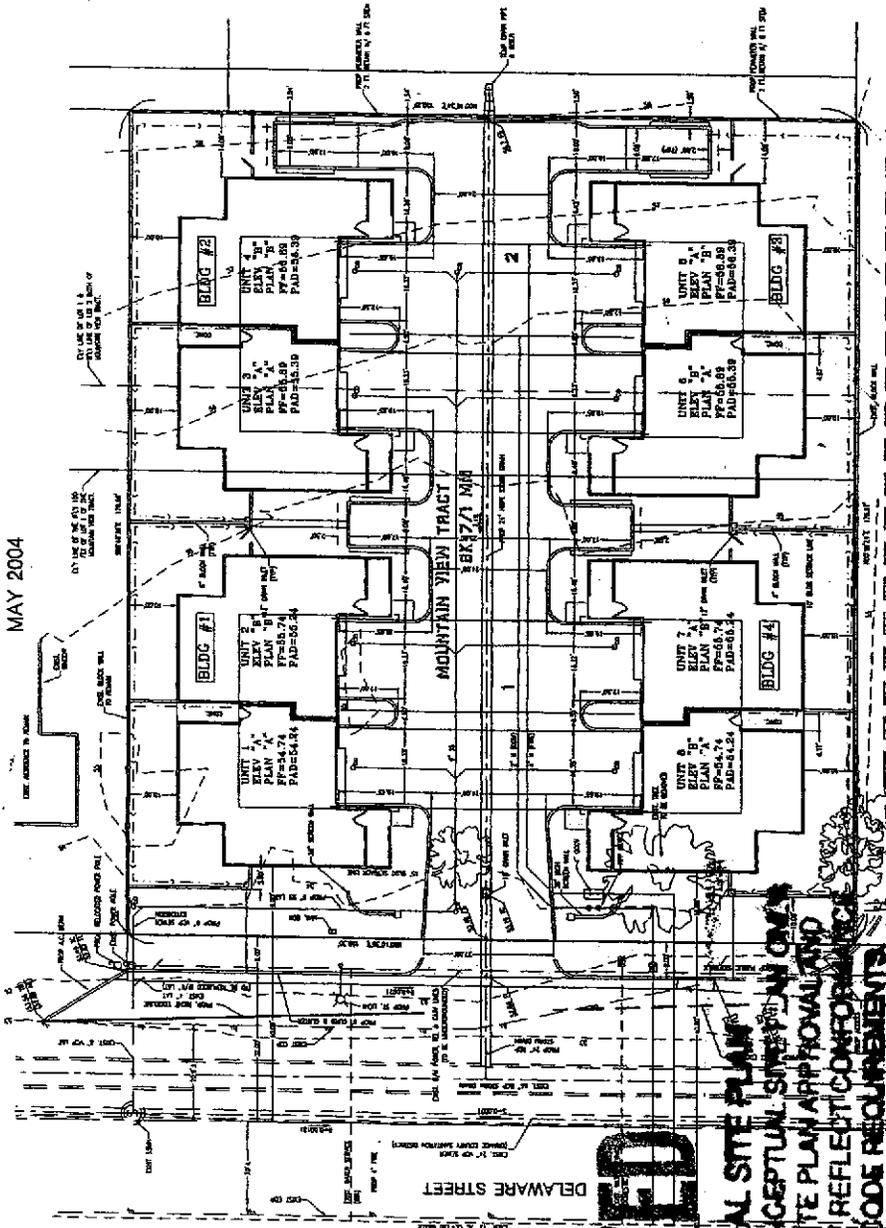
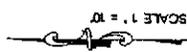
BEING THE WEST 100.00 FEET OF LOT 1 AND THE EAST 18 FEET OF THE SOUTH 150.00 FEET OF LOT 1 AND THE WEST 59.00 FEET OF THE SOUTH 150.00 FEET OF LOT 2 ALL OF THE MOUNTAIN VIEW TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 7, PAGE 1 AND OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY

MAY 2004

PROJECT OWNER
 DANIEL GILBERT CONTRERAS &
 ANDREA CONTRERAS
 CO-TRUSTEES OF THE CONTRERAS LIVING TRUST
 38045 MADORA DRIVE
 WILDOMAR, CA 92595

DESIGNER
 HARBINGER HOMES, INC.
 2728 17TH STREET
 HUNTINGTON BEACH, CA 92648
 (714) 974-2884

ENGINEER
 MAM SOCIAL INC.
 711 W. 17TH STREET
 COSTA MESA, CA 92627
 (949) 845-5370



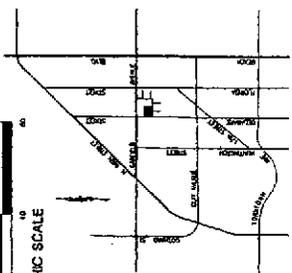
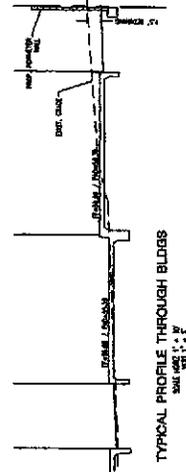
THACT BE42-48
 THACT 567/44-48
 BK

DATE
 10/6-03-402

APPROVED

CONCEPTUAL SITE PLAN
 THIS REPRESENTS A CONCEPTUAL SITE PLAN ONLY
 IT IS NOT A PRECISE SITE PLAN APPROVAL AND
 DOES NOT NECESSARILY REFLECT CONFORMANCE
 TO ALL ORDINANCE CODE REQUIREMENTS

PLANNING ADMINISTRATOR
 MARY BETH PROBERT



GENERAL SITE DATA
 PROJECT # 16675 DELAWARE STREET, HUNTINGTON BEACH, CA
 APR 15, 2004
 MAP NO. 16675
 SHEET NO. 1 OF 1
 PREPARED BY: MAM SOCIAL INC.
 CHECKED BY: J. B. BROWN
 DATE: 4/15/04

UNIT #1
 UNIT #2
 UNIT #3
 UNIT #4
 UNIT #5
 UNIT #6
 UNIT #7
 UNIT #8
 UNIT #9
 UNIT #10
 UNIT #11
 UNIT #12
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 UNIT #48
 UNIT #49
 UNIT #50

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY	4/15/04	J.B.B.
2	REVISED	4/15/04	J.B.B.
3	REVISED	4/15/04	J.B.B.
4	REVISED	4/15/04	J.B.B.
5	REVISED	4/15/04	J.B.B.
6	REVISED	4/15/04	J.B.B.
7	REVISED	4/15/04	J.B.B.
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11	REVISED	4/15/04	J.B.B.
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16	REVISED	4/15/04	J.B.B.
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19	REVISED	4/15/04	J.B.B.
20	REVISED	4/15/04	J.B.B.
21	REVISED	4/15/04	J.B.B.
22	REVISED	4/15/04	J.B.B.
23	REVISED	4/15/04	J.B.B.
24	REVISED	4/15/04	J.B.B.
25	REVISED	4/15/04	J.B.B.
26	REVISED	4/15/04	J.B.B.
27	REVISED	4/15/04	J.B.B.
28	REVISED	4/15/04	J.B.B.
29	REVISED	4/15/04	J.B.B.
30	REVISED	4/15/04	J.B.B.
31	REVISED	4/15/04	J.B.B.
32	REVISED	4/15/04	J.B.B.
33	REVISED	4/15/04	J.B.B.
34	REVISED	4/15/04	J.B.B.
35	REVISED	4/15/04	J.B.B.
36	REVISED	4/15/04	J.B.B.
37	REVISED	4/15/04	J.B.B.
38	REVISED	4/15/04	J.B.B.
39	REVISED	4/15/04	J.B.B.
40	REVISED	4/15/04	J.B.B.
41	REVISED	4/15/04	J.B.B.
42	REVISED	4/15/04	J.B.B.
43	REVISED	4/15/04	J.B.B.
44	REVISED	4/15/04	J.B.B.
45	REVISED	4/15/04	J.B.B.
46	REVISED	4/15/04	J.B.B.
47	REVISED	4/15/04	J.B.B.
48	REVISED	4/15/04	J.B.B.
49	REVISED	4/15/04	J.B.B.
50	REVISED	4/15/04	J.B.B.

ENGINEER'S STATEMENT
 I HEREBY CERTIFY THAT THE INFORMATION AND DATA CONTAINED IN THIS TRACT MAP AND THE INFORMATION CONTAINED IN THE RECORDS OF THE CITY OF HUNTINGTON BEACH, CALIFORNIA, ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATE: 4/15/04
 BY: J.B.B.
 TITLE: ENGINEER

DATE: 4/15/04
 BY: J.B.B.
 TITLE: ENGINEER

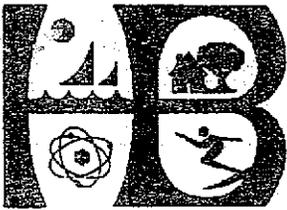
TYPICAL SECTION DELAWARE STREET
 SCALE: 1/4" = 1'-0"

TYPICAL PROFILE THROUGH BLDGS
 SCALE: 1/4" = 1'-0"

11-2.9

ATTACHMENT 4

E-2.10



OFFICE of the ZONING ADMINISTRATOR
CITY OF HUNTINGTON BEACH • CALIFORNIA

P.O. BOX 190

CALIFORNIA 92648

(714) 536-5271

NOTICE OF ACTION

June 3, 2004

Kerry Smith
Harbinger Homes, Inc.
2728 17th Street
Huntington Beach, CA 92648

SUBJECT: TENTATIVE TRACT MAP NO. 16675/CONDITIONAL USE
PERMIT NO. 04-05 (HARBINGER HOMES - EIGHT UNIT
CONDOMINIUM)

APPLICANT: Kerry Smith

REQUEST: TTM to merge two parcels into one 26,598 sq. ft. parcel for
condominium purposes; CUP to (a) construct eight two-story
condominium dwelling units with attached garages; (b)
construct approximately 90 linear feet of six-foot tall masonry
wall at a 10-foot setback from the front property line in lieu of a
15-foot minimum setback; and (c) allow terraced development
on a lot with an existing grade differential exceeding three feet
between the high point and the low point.

PROPERTY OWNER: Daniel G. Contreras, 23842 Conestoga Avenue, Murrieta, CA
92562-5200

LOCATION: 19042, 19052 Delaware Street (southwest west corner of
Delaware Street and Garfield Avenue)

PROJECT PLANNER: Ron Santos

DATE OF ACTION: June 2, 2004

On Wednesday, June 2, 2004, the Huntington Beach Zoning Administrator took action
on your application, and your application was conditionally approved. Attached to this
letter are the findings and conditions of approval.

Please be advised that the Zoning Administrator reviews the conceptual plan as a basic
request for entitlement of the use applied for and there may be additional requirements
prior to commencement of the project. It is recommended that you immediately pursue
completion of the conditions of approval and address all requirements of the Huntington
Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion

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of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

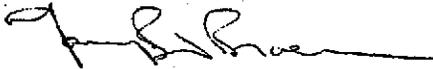
Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Zoning Administrator becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the Secretary of the Planning Commission within ten (10) calendar days of the date of the Zoning Administrator's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. A filing fee shall also accompany the notice of appeal. The appeal fee is \$1263.00 for a single-family dwelling property owner appealing the decision on his/her own property. The appeal fee is \$1540.00 for all other appeals. In your case, the last day for filing an appeal and paying the filing fee is June 14, 2004.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has begun.

You are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to *Government Code §66020*.

If you have any questions regarding this Notice of Action letter or the processing of your application, please contact the project Planner or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,



Mary Beth Broeren
Zoning Administrator

MBB:RS:rk

Attachment

c: Property Owner

E-2.12

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

TENTATIVE TRACT MAP NO. 16675/

CONDITIONAL USE PERMIT NO. 04-05

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15332 of the CEQA Guidelines, based on the following:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.
- b. The proposed development occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare or threatened species.
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quantity.
- e. The site can be served by all required utilities and public services.

FINDINGS FOR APPROVAL - TENTATIVE TRACT MAP NO. 16675:

1. Tentative Tract Map No. 16675 to merge two parcels into one 26,598 sq. ft. parcel for condominium purposes is consistent with the General Plan Land Use Element designation of RM-15 (Residential Medium-Density – 15 units/acre) on the subject property and applicable provisions of the Huntington Beach Zoning & Subdivision Ordinance. The RM-15 General Plan designation and RM zoning designation provide for residential development at a maximum density of 15 units per acre. The proposed subdivision will provide for multi-family residential (townhouse) development at a density of 13.1 units per acre.
2. The site is physically suitable for the type and density of development. The 0.61 acre subject property can accommodate the proposed one lot subdivision and eight unit residential development project in conformance with applicable land use and development standards including minimum lot size and lot width, and maximum development density. The project site was previously developed, has no significant topographic features, contains no rock outcroppings, wetlands, environmental hazards or other constraints, is accessible from an existing public street, and is surrounded by compatible residential land uses.
3. The design of the subdivision and the proposed improvements will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The project site was previously developed, is not environmentally sensitive, contains no fish or wildlife habitat, and is not located within an earthquake fault zone, flood zone, hazardous waste site or other known environmental hazard area. Proposed improvements will be constructed in accordance with applicable City building codes and engineering standards, including requirements for submittal of a hydrological study, a water quality management plan, a detailed soils analysis and an erosion control plan. In addition, the project is subject to the requirements of the Air Quality Management

District, and HBZSO requirements for the replacement of all mature trees to be removed on a two for one basis.

4. The design of the subdivision and the proposed improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided. No public easements for access through or use of the property exist and none are necessary.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 04-05:

1. Conditional Use Permit No. 04-05 to (a) construct eight two-story condominium dwelling units with attached garages; (b) construct approximately 50 linear feet of six-foot tall masonry wall at a 10-foot setback from the front property line in lieu of a 15-foot minimum setback; and (c) allow terraced development on a lot with an existing grade differential exceeding three feet between the high point and the low point will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The project will not generate noise, traffic, odors or other impacts at levels inconsistent with the residential character of the existing neighborhood. Adequate parking to serve the proposed project will be provided on site in conformance with the requirements of the HBZSO. The project will provide new housing anticipated to have a positive impact on the value of property in the neighborhood. Proposed fencing within the front setback will be designed to maintain long-term quality (masonry construction) and is conditioned to incorporate a decorative finish and cap.
2. The conditional use permit will be compatible with surrounding uses because the project consists of construction of townhouse style multi-family residential dwellings in a neighborhood predominately developed with multi-family housing of comparable or lesser quality and design, including an existing mobile home park located across the street. The proposed dwellings are designed to convey a high level of quality and a character consistent with the City's Urban Design Guidelines. No dwellings exist on adjacent properties within 50 feet of the subject property with the exception of one single-family dwelling located to the north. Conditions of approval ensure no direct alignment of windows in the proposed dwelling with windows in the existing dwelling to minimize impacts on privacy at the adjoining property. In addition, the project will be terraced to minimize cut and fill grading.
3. The proposed eight-unit condominium project will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, including maximum density, height and lot coverage; and minimum lot size, lot width, building setbacks, landscaping, off-street parking and open space requirements. The ZSO authorizes walls/fences exceeding six feet in height with approval of a conditional use permit.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RM-15 (Residential Medium-Density – 15 units/acre) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

L.U. Policy 9.1.1: Accommodate the development of single- and multi-family residential units in areas designated by the Land Use Plan Map, as stipulated by the Land Use and Density Schedules.

E - 2.14

The proposed Tentative Tract Map and Conditional Use Permit provide for the construction of eight dwelling units at a density of 13.1 units per acre. The General Plan Land Use and Density Schedule allows for residential development on the subject property at a maximum density of one unit per 15 acres.

L.U. Policy 9.1.3: Require that multi-family residential projects be designed to convey a high level of quality and distinctive neighborhood character, including the following guidelines:

- a. Design building elevation to convey the visual character of individual units rather than a singular building mass and volumes.
- b. Include separate and well defined entries to convey the visual character of individual identity for each residential unit, which may be accessed from exterior facades, interior courtyards and/or common areas.
- c. Site and design parking areas and facilities that are integrated with but do not dominate the architectural character of the structure.
- d. Include an adequate landscape setback along the street frontage that is integrated with abutting sidewalks and provides continuity throughout the neighborhood.

The proposed design conveys a visual character comparable to single-family residential development and features substantial articulation of building elevations and masses, including a variety of roof lines, wall planes, window and door arrangements. All dwellings feature attached integrated garages and covered porch entries. Open parking spaces are distributed throughout the site to minimize large expanses of paving and, pursuant to conditions of approval, provided on driveways with decorative paving. Conditions of approval also require integration of the public sidewalk with a pedestrian walkway to be constructed on each side of the main entry driveway.

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CONDITIONS OF APPROVAL – TENTATIVE TRACT MAP NO. 16675:

Tentative Tract Map No. 16675, for the merger of two parcels into one 26,550 sq. ft. parcel for condominium purposes, received and dated May 5, 2004, shall be the approved layout.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 04-05:

The site plan, floor plans, and elevations received and dated May 5, 2004 shall be the conceptually approved design with the following modifications:

1. A raised pedestrian sidewalk (four-foot minimum width) shall be provided along the north side of the driveway entrance, between the public sidewalk and the driveway leading to the garage at unit number 1. An additional sidewalk may be constructed along the south side of the driveway, between the public sidewalk and the driveway leading to the garage at unit number 8.
2. The entry driveway shall have textured and colored pavement for the full depth of the "throat" (i.e., between the public sidewalk and the driveways leading to the garages at units numbered 1 and 8 - approximately 25 linear feet). In addition, the drive aisle shall have textured and colored pavement for the full width, at the segment of drive aisle between the easterly edge of the driveways leading to the garages at units numbered 2 and 7 and the westerly edge of the driveways leading to units numbered 3 and 6.
3. The proposed masonry wall within the front setback shall be constructed of split-face block or slump stone in lieu of the proposed precision block; or shall be stucco or stone finished, and shall feature a cap course.
4. The kitchen window on Unit #2 shall be relocated to avoid alignment with the existing window in the dwelling on the adjacent property to the north or fitted with obscure glass, as necessary for conformance with the requirements of HBZSO Section 230.22 – Residential Infill Lot Developments.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Zoning Administrator concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

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ATTACHMENT 5

TRACT MAP No. 16675 FOR CONDOMINIUM PURPOSES IN THE CITY OF HUNTINGTON BEACH COUNTY OF ORANGE STATE OF CALIFORNIA

ACCEPTED AND FILED AT THE
REQUEST OF

DATE _____
TIME _____ FEE \$ _____
INSTRUMENT # _____
BOOK _____ PAGE _____
FOM DAILY
COUNTY CLERK-RECORDER
BY _____
DEPUTY

BEING THE WEST 100.00 FEET OF LOT 1, AND THE EAST 18.00 FEET OF THE
SOUTH 150 FEET OF LOT 1 AND THE WEST 59.00 FEET OF THE SOUTH 150.00
FEET OF LOT 2, ALL OF THE MOUNTAIN VIEW TRACT, AS SHOWN ON A MAP
RECORDED IN BOOK 7, PAGE 1 OF MISCELLANEOUS MAPS, IN THE OFFICE OF
THE COUNTY RECORDER OF SAID COUNTY.

MAM SOCIAL, INC. MICHAEL A. MURPHY, R.C.E. 23132
DATE OF SURVEY: JULY 2004

OWNERSHIP CERTIFICATE

WE, THE UNDERSIGNED, BEING ALL PARTIES HAVING ANY RECORD TITLE INTEREST IN THE LAND COVERED BY THIS MAP, DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF SAID MAP, AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE ALSO DEDICATE TO THE CITY OF HUNTINGTON BEACH:

- 1) AN ACCESS EASEMENT OVER THE PRIVATE STREETS AND DRIVES FOR POLICE, FIRE AND EMERGENCY SERVICES.

WE ALSO HEREBY RELEASE AND RELINQUISH TO THE CITY OF HUNTINGTON BEACH:

- 1) ALL VEHICULAR ACCESS RIGHT TO DELAWARE STREET, EXCEPT FOR THE PRIVATE STREET CONNECTION, UNLESS OTHERWISE APPROVED BY THE PLANNING COMMISSION.

WE HEREBY ALSO RESERVE:

- 1) A DRAINAGE EASEMENT ACROSS LOT 1, FOR THE BENEFIT OF PORTIONS OF LOTS 2 & 3 OF THE MOUNTAIN VIEW TRACT, WM 7/1, O.R.

HARBINGER HOMES INC., A CALIFORNIA CORPORATION

Kerry Smith
KERRY SMITH, PRESIDENT

ENGINEER'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES AT THE REQUEST OF HARBINGER HOMES INC. IN JULY, 2004. I HEREBY STATE THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN SUCH POSITIONS; AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY.

Michael A. Murphy
MICHAEL A. MURPHY
R.C.E. NO. 23132
MY REGISTRATION EXPIRES 12/31/05



COUNTY SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND THAT ALL MAPPING PROVISIONS OF THE SUBDIVISION MAP ACT HAVE BEEN COMPLIED WITH AND I AM SATISFIED SAID MAP IS TECHNICALLY CORRECT RELATIVE TO THE TRACT MAP BOUNDARY.

DATED THIS _____ DAY OF _____ 2005

RAYMOND L. WATHE, COUNTY SURVEYOR
L.S. 6185, EXPIRATION DATE: 3/31/06

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND IT TO BE SUBSTANTIALLY IN CONFORMANCE WITH THE TENTATIVE MAP, IF REQUIRED, AS FILED WITH, AMENDED AND APPROVED BY THE CITY ZONING ADMINISTRATOR; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND CITY SUBDIVISION REGULATIONS HAVE BEEN COMPLIED WITH AND THE MAP IS TECHNICALLY CORRECT IN ALL RESPECTS NOT STATED TO BY THE COUNTY SURVEYOR.

DATED THIS _____ DAY OF _____ 2005

ROBERT F. BEARDSLEY
DIRECTOR OF PUBLIC WORKS, CITY OF HUNTINGTON BEACH
R.C.E. 22826 EXP. 12/31/05

CITY PLANNING COMMISSION CERTIFICATE

I, HOWARD ZELEFSKY, SECRETARY TO THE PLANNING COMMISSION OF THE CITY OF HUNTINGTON BEACH, CALIFORNIA, DO HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND IT TO BE SUBSTANTIALLY THE SAME AS THE TENTATIVE MAP FILED WITH, AMENDED AND APPROVED BY THE HUNTINGTON BEACH CITY PLANNING COMMISSION.

DATED THIS _____ DAY OF _____ 2005

HOWARD ZELEFSKY, SECRETARY
CITY OF HUNTINGTON BEACH PLANNING COMMISSION

CITY CLERK'S CERTIFICATE

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS

I HEREBY CERTIFY THAT THIS MAP WAS PRESENTED FOR APPROVAL TO THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH AT A REGULAR MEETING THEREOF HELD ON THE _____ DAY OF _____ 2005, AND THAT THEREUPON SAID COUNCIL, BY AN ORDER DULY PASSED AND ENTERED APPROVE SAID MAP AND DID ACCEPT ON BEHALF OF THE PUBLIC:

THE DEDICATION OF AN ACCESS EASEMENT OVER THE PRIVATE STREETS AND DRIVES FOR POLICE, FIRE AND EMERGENCY SERVICES.

I ALSO HEREBY ACCEPT ON BEHALF OF THE CITY OF HUNTINGTON BEACH:

THE VEHICULAR ACCESS RIGHTS TO DELAWARE STREET, AS RELEASED AND RELINQUISHED.

AND DO ALSO APPROVE SUBJECT MAP PURSUANT TO THE PROVISIONS OF SECTION 66436(a)(3)(A) AND (C) OF THE SUBDIVISION MAP ACT

DATED THIS _____ DAY OF _____ 2005

JOAN L. FLYNN
CITY CLERK
CITY OF HUNTINGTON BEACH

BY _____
DEPUTY

COUNTY TREASURER-TAX COLLECTOR'S CERTIFICATE

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF MY OFFICE, THERE ARE NO LIENS AGAINST THE LAND COVERED BY THIS MAP ON ANY PART THEREOF FOR UNPAID STATE, COUNTY, MUNICIPAL OR LOCAL TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES NOT YET PAYABLE.

AND DO CERTIFY TO THE RECORDER OF ORANGE COUNTY THAT THE PROVISIONS OF THE SUBDIVISION MAP ACT HAVE BEEN COMPLIED WITH REGARDING DEPOSITS TO SECURE PAYMENT OF TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES ON THE LAND COVERED BY THIS MAP.

DATED THIS _____ DAY OF _____ 2005

JOHN M.W. MOORLACHI
COUNTY TREASURER - TAX COLLECTOR

BY _____
DEPUTY TREASURER - TAX COLLECTOR

BENEFICIARY:

PFF BANK AND TRUST AS BENEFICIARY UNDER DEED OF TRUST RECORDED JULY 26, 2004, AS INSTRUMENT NO. 200400674790.

NOTARY ACKNOWLEDGMENTS

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS

ON THIS 3/10/05 BEFORE ME MARY ELLEN MURPHY
PERSONALLY APPEARED KERRY SMITH
PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND:

SIGNATURE Mary Ellen Murphy MY PRINCIPAL PLACE OF BUSINESS IS
NOTARY PUBLIC IN AND FOR SAID STATE IN ORANGE COUNTY

Mary Ellen Murphy MY COMMISSION EXPIRES 4/3/08
PRINT NAME NO. 1483192

STATE OF CALIFORNIA }
COUNTY OF _____ } SS

ON THIS _____ BEFORE ME _____
PERSONALLY APPEARED _____
PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND:

SIGNATURE _____ MY PRINCIPAL PLACE OF BUSINESS IS
NOTARY PUBLIC IN AND FOR SAID STATE IN _____ COUNTY

PRINT NAME _____ MY COMMISSION EXPIRES _____

SIGNATURE OMISSIONS

PURSUANT TO THE PROVISIONS OF SECTION 66436(c)(3)(A) & (C) OF THE SUBDIVISION MAP ACT, THE FOLLOWING SIGNATURES HAVE BEEN OMITTED:

W.M. ELLIOTT AND VERA L. ELLIOTT, HOLDER OF AN UNDIVIDED ONE-HALF INTEREST IN MINERAL AND HYDROCARBON SUBSTANCES AS RESERVED IN A DEED RECORDED IN BOOK 1259, PAGE 258, OFFICIAL RECORDS.

KATHERINE HENRICKSON McDONALD, HOLDER OF AN UNDIVIDED ONE-HALF INTEREST IN MINERAL AND HYDROCARBON SUBSTANCES AS RESERVED IN A DEED RECORDED IN BOOK 4210, PAGE 222, OFFICIAL RECORDS.

THE TEXAS COMPANY, HOLDER OF RIGHTS OF WAY OVER AND ACROSS SAID LAND AS RESERVED IN A DEED RECORDED IN BOOK 4214, PAGE 253, OFFICIAL RECORDS.

E-2.18

SHEET 2 OF 2
 1. NUMBERED LOT
 0.61 ACRES NET
 BEING ALL OF TENTATIVE TRACT MAP 16675

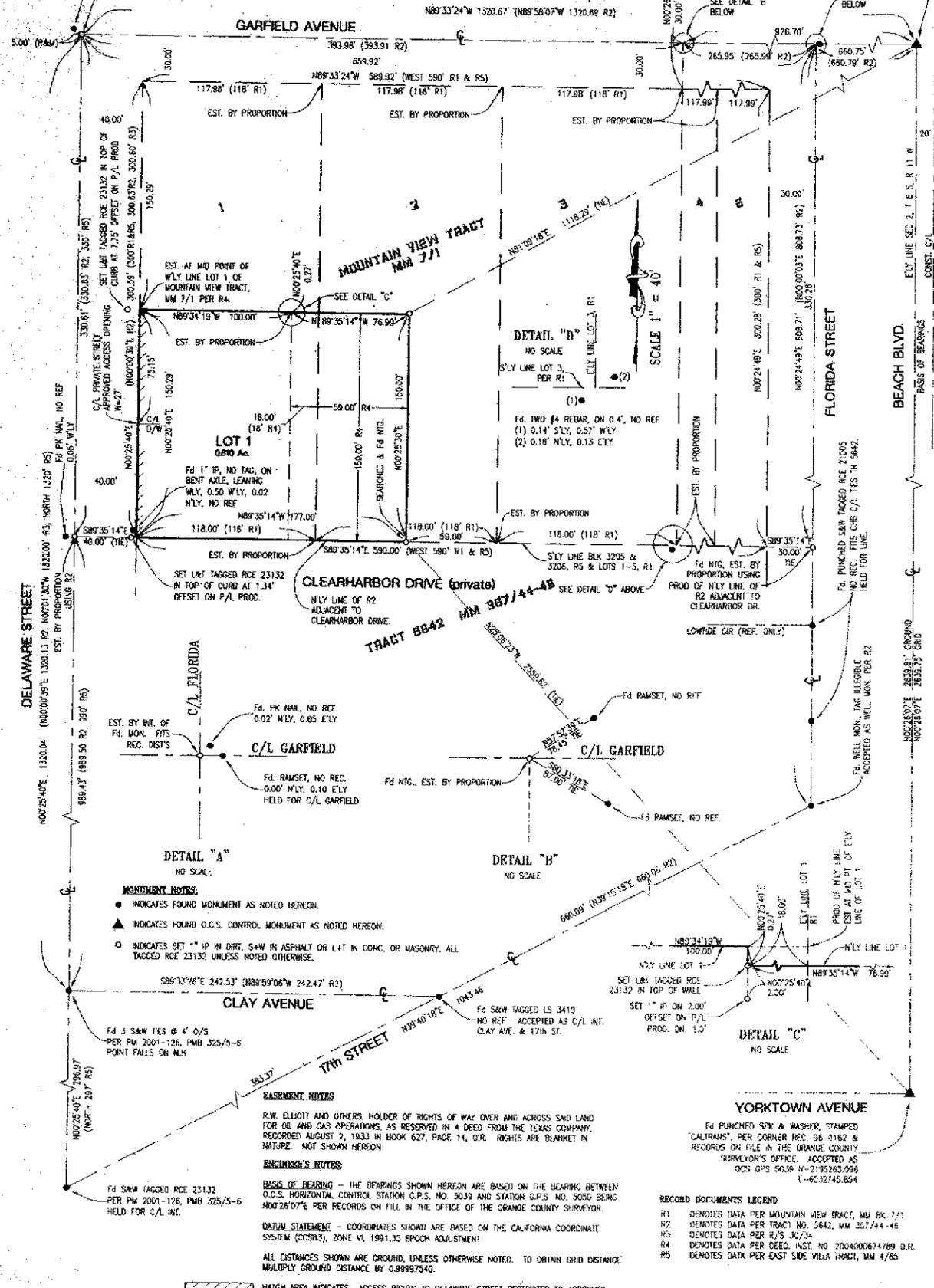
TRACT MAP No. 16675

FOR CONDOMINIUM PURPOSES

IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE STATE OF CALIFORNIA

MAM SOCIAL INC.
 MICHAEL A. MURPHY, R.C.E. 23132
 DATE OF SURVEY: JULY 2004

Fd. SPK & WASHER, STAMPED "CALTRANS", PER-CORNER REC. 96-0185 & RECORDS ON FILE IN THE ORANGE COUNTY SURVEYOR'S OFFICE. ACCEPTED AS OCS GPS 5050 N-2197902.766 E-6032765.907



- MONUMENT NOTES:**
- INDICATES FOUND MONUMENT AS NOTED HEREON.
 - ▲ INDICATES FOUND O.C.S. CONTROL MONUMENT AS NOTED HEREON.
 - INDICATES SET 1" IP IN DIRT, SAW IN ASPHALT OR L-1 IN CONC. OR MASONRY. ALL TAGGED RCE 231.32 UNLESS NOTED OTHERWISE.

- EASEMENT NOTES:**
- R.W. ELLIOTT AND OTHERS, HOLDER OF RIGHTS OF WAY OVER AND ACROSS SAID LAND FOR OIL AND GAS OPERATIONS, AS RESERVED IN A DEED FROM THE TEXAS COMPANY, RECORDED AUGUST 2, 1933 IN BOOK 627, PAGE 14, O.R. RIGHTS ARE BLANKET IN NATURE. NOT SHOWN HEREON.
- ENGINEER'S NOTES:**
- BASIS OF BEARING** - THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARING BETWEEN O.C.S. HORIZONTAL CONTROL STATION C.P.S. NO. 5039 AND STATION G.P.S. NO. 5000 BEING N00726707E PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.
- DATUM STATEMENT** - COORDINATES SHOWN ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM (CCSR3), ZONE VI, 1991.15 EPOCH ADJUSTMENT.
- ALL DISTANCES SHOWN ARE GROUND, UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCE MULTIPLY GROUND DISTANCE BY 0.99997540.

- RECORD DOCUMENTS LEGEND:**
- R1 DENOTES DATA PER MOUNTAIN VIEW TRACT, MM BK 7/1
 - R2 DENOTES DATA PER TRACT NO. 5642, MM 367/44-45
 - R3 DENOTES DATA PER R/S 30/34
 - R4 DENOTES DATA PER DEED, INST. NO. 2004000674/89 D.R.
 - R5 DENOTES DATA PER EAST SIDE VILLA TRACT, MM 4/85

E-2.19

**INTENTIONALLY
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ATTACHMENT 6

E-2.20

SUBDIVISION AGREEMENT BY AND BETWEEN
THE CITY OF HUNTINGTON BEACH AND

HARBINGER HOMES, INC.

FOR TRACT NO. 16675

THIS AGREEMENT ("Agreement") is entered into this 4th day of
FEBRUARY 2005, by and between the CITY OF
HUNTINGTON BEACH, a municipal corporation of the State of California, hereinafter referred
to as "CITY," and HARBINGER HOMES, INC., a California corporation,
hereinafter referred to as "SUBDIVIDER."

RECITALS

WHEREAS, SUBDIVIDER is the owner of a tract of land in CITY, which it is seeking to
subdivide into lots and to dedicate certain streets, alleys, and other improvements therein to
public use, and is about to file with CITY a map of the tract of land known as Tract No.
16675; and

As a condition of the approval of and prior to the recordation of this subdivision map,
SUBDIVIDER is required to improve and dedicate the streets and alleys, and to perform certain
other improvements in the subdivision; and

SUBDIVIDER desires to enter into an agreement with CITY to delay performance of
certain of the work; to agree to perform this work as herein provided; and to execute and deliver
to CITY bonds for the faithful performance of this agreement, for the payment of all labor and
material in connection therewith, and for the guarantee and warranty of the work for a period of
one (1) year following completion and acceptance thereof against any defect in work or labor
done, or defective materials furnished, as required by Sections 66499 and 66499.3 of the
California Government Code, and Chapter 255 of CITY's Zoning and Subdivision Ordinance.

E-2.21

NOW, THEREFORE, in consideration of the promises and agreements of the parties as herein set forth, the parties agree as follows:

1. GENERAL IMPROVEMENTS

SUBDIVIDER hereby agrees to do and perform and pay for all of the work in said tract required by the conditions of approval of the subdivision map not completed at the time of the recordation thereof, including, but not limited to, the construction of: streets, including excavation, paving, curbs, gutters, sidewalks, trees and landscaping; sewers, including construction of main lines and lot laterals and structures; street lights; street signs; and domestic water systems, including the construction of water mains, services and installation of meters. SUBDIVIDER also agrees to pay all engineering costs and any other deposits, fees or conditions as required by CITY ordinance or resolution and as may be required by the City Engineer. All of the work shall be done and performed in accordance with the plans, specifications and profiles which have been approved by the City Engineer and filed in the office of the City Engineer. All of the work shall be done at the sole cost and expense of SUBDIVIDER. All of the work shall be completed on or before two (2) years from the date hereof, unless the conditions of approval of the subdivision map require an earlier completion date. All labor and material bills therefor shall be paid solely by SUBDIVIDER. CITY may withhold all occupancy permits until completion of all these improvements.

2. ARTERIAL HIGHWAY IMPROVEMENT

SUBDIVIDER agrees to complete all arterial highway improvements, including perimeter walls and landscaping required by the conditions of approval of the subdivision map, prior to release or connection of utilities for occupancy for any lot in the tract.

E - 2.22

3. GUARANTEE

SUBDIVIDER shall guarantee all work and material required to fulfill its obligations as stated herein for a period of one (1) year following the date of City Council acceptance of same.

4. PLANT-ESTABLISHMENT WORK

SUBDIVIDER agrees to perform plant-establishment work for landscaping installed under this Agreement. This plant-establishment work shall consist of adequately watering plants, replacing unsuitable plants, performing weed, rodent and other pest control and other work determined by CITY's Public Works Department to be necessary to ensure establishment of plants. This plant-establishment work shall be performed for a period of one (1) year from and after the date City Council accepts the work as complete.

5. IMPROVEMENT PLAN WARRANTY

SUBDIVIDER warrants the improvement plans for the work are adequate to accomplish the work as promised herein and as required by the conditions of approval of the subdivision map. If at any time before the City Council accepts the work as complete or during the one (1) year guarantee period, the improvement plans prove to be inadequate in any respect, SUBDIVIDER shall make whatever changes, at its own cost and expense, as are necessary to accomplish the work as promised.

6. NO WAIVER BY CITY

Inspection of the work and/or materials, or approval of work and/or materials, or any statement by any officer, agent or employee of CITY indicating the work or any part thereof complies with the requirements of this Agreement, or acceptance of the whole or any part of the work and/or materials, or payments therefor, or any combination of all of these acts, shall not

E-2.23

relieve SUBDIVIDER of its obligations to fulfill this Agreement as prescribed; nor shall CITY be stopped from bringing any action for damages arising from SUBDIVIDER's failure to comply with any of the terms and conditions hereof.

7. COSTS

SUBDIVIDER shall, at its own cost and expense, pay when due, all the costs of the work, including inspections thereof and relocation of existing utilities required thereby.

8. SURVEYS

SUBDIVIDER shall set and establish survey monuments in accordance with the filed map and to the satisfaction of CITY before acceptance of any work as complete by the City Council.

9. IMPROVEMENT SECURITY

Upon executing this Agreement, SUBDIVIDER shall, pursuant to *California Government Code* Section 66499, and the *Huntington Beach Zoning and Subdivision Ordinance*, provide as security to CITY:

A. Faithful Performance:

For performance security, in the amount of Seventy-two Thousand Dollars (\$ 72,000.00), which is one hundred percent (100%) of the estimated cost of the work. SUBDIVIDER shall present such additional security in the form of:

Cash, certified check, or cashier's check.

Acceptable corporate surety bond.

Acceptable irrevocable letter of credit.

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With this security, SUBDIVIDER guarantees performance under this Agreement and maintenance of the work for one (1) year after its completion and acceptance against any defective workmanship or materials or any unsatisfactory performance.

B. For Labor and Material: Security in the amount of Thirty-six Thousand Dollars (\$ 36,000.00), which is fifty percent (50%) of the estimated cost of the work.

SUBDIVIDER shall present such security in the form of:

Cash, certified check, or cashier's check.

Acceptable corporate surety bond.

Acceptable irrevocable letter of credit.

With this security, SUBDIVIDER guarantees payment to the contractor, to its subcontractors, and to persons renting equipment or furnishing labor or materials to them or to SUBDIVIDER.

SUBDIVIDER may, during the term of this Agreement, substitute improvement security provided that the substituted security is acceptable to the City Attorney; however, any bond or other security given in satisfaction of this condition shall remain in full force and effect until one (1) year after the work of improvement is finally accepted in writing by CITY, and SUBDIVIDER may be required by CITY to provide a substitute security at any time.

10. INDEMNIFICATION, DEFENSE, HOLD HARMLESS

SUBDIVIDER hereby agrees to protect, defend, indemnify and hold harmless CITY, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands and defense costs

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(including without limitation, costs and fees of litigation of every nature or liability of any kind or nature) allegedly suffered, incurred or threatened, including personal injury, death, property damage, inverse condemnation, or any combination of these, and resulting from any act or omission (negligent or nonnegligent) in connection with the matters covered by this Agreement, but save and except those that arise from the sole active negligence or willful misconduct of CITY. SUBDIVIDER will conduct all defense at its sole cost and expense and CITY shall approve selection of SUBDIVIDER's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by SUBDIVIDER.

The promise and agreement in this Section are not conditioned or dependent on whether or not CITY has prepared, supplied, or reviewed any plan(s) or specifications(s) in connection with this work or subdivision, or has insurance or other indemnification covering any of these matters.

11. INSURANCE

In addition to SUBDIVIDER's covenant to defend, hold harmless and indemnify CITY, SUBDIVIDER shall obtain and furnish to CITY a policy of general public liability insurance, including motor vehicle coverage. Said policy shall indemnify SUBDIVIDER, its officers, agents and employees, while acting within the scope of their duties, against any and all claims of arising out of or in connection with this Agreement, and shall provide coverage in not less than the following amount: combined single limit bodily injury and property damage, including products/completed operations liability and blanket contractual liability, of One Million Dollars (\$1,000,000) per occurrence. If coverage is provided under a form which includes a designated general aggregate limit, the aggregate limit must be no less than One

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Million Dollars (\$1,000,000). This policy shall name City of Huntington Beach, its officers, officials, employees, agents and volunteers as Additional Insureds, and shall specifically provide that any other insurance coverage which may be applicable to this Agreement shall be deemed excess coverage and that SUBDIVIDER's insurance shall be primary.

The abovementioned insurance shall not contain a self-insured retention, or a "deductible" or any other similar form of limitation on the required coverage, except with the express written consent of CITY.

Prior to commencing performance of the work hereunder, SUBDIVIDER shall furnish to CITY a certificate of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverage as required by this Agreement; the certificate shall:

1. provide the name and policy number of each carrier and policy;
2. state that the policy is currently in force; and
3. promise to provide that such policy will not be canceled or modified without thirty (30) days' prior written notice of CITY.

SUBDIVIDER shall maintain the foregoing insurance coverage in full force until the work under this Agreement is fully completed and accepted by CITY.

The requirement for carrying the foregoing insurance coverage shall not derogate from SUBDIVIDER's defense, hold harmless and indemnification obligations as set forth in this Agreement. CITY or its representatives shall at all times have the right to demand the original or a copy of the policy of insurance. SUBDIVIDER shall pay, in a prompt and timely manner, the premium on all insurance hereinabove required.

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12. NONPERFORMANCE AND COSTS

If SUBDIVIDER fails to complete the work within the time specified in this Agreement, and subsequent extensions, if any, or fails to maintain the work, CITY may proceed to complete and/or maintain the work by contract or otherwise, and SUBDIVIDER agrees to pay all costs and charges incurred by CITY (including, but not limited to: engineering, inspection, surveys, contract, overhead, etc.) immediately upon demand.

SUBDIVIDER hereby consents to entry on the subdivision property by CITY and its forces, including contractors, in the event CITY proceeds to complete and/or maintain the work.

Once action is taken by CITY to complete or maintain the work, SUBDIVIDER agrees to pay all costs incurred by CITY, even if SUBDIVIDER subsequently completes the work.

13. RECORD MAP

In consideration hereof, CITY shall allow SUBDIVIDER to file and record the Final Map or Parcel Map for the Subdivision.

14. NOTICES

Any notices, certificates, or other communications hereunder shall be given either by personal delivery to SUBDIVIDER or to CITY as the situation shall warrant, or by enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the United States Postal Service, to the addresses specified below. CITY and SUBDIVIDER may designate different addresses to which subsequent notices, certificates or other communications will be sent by notifying the other party via personal delivery, reputable overnight courier or U. S. certified mail-return receipt requested:

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TO CITY:

City of Huntington Beach
ATTN: Director of Public Works
2000 Main Street
Huntington Beach, CA 92648

TO SUBDIVIDER:

HARBINGER HOMES, INC.
120 MONTE VISTA AVE.
COSTA MESA, CA 92627

15. CONSENT

When CITY's consent/approval is required under this Agreement, its consent/approval for one transaction or event shall not be deemed to be a consent/approval to any subsequent occurrence of the same or any other transaction or event.

16. MODIFICATION

No waiver or modification of any language in this Agreement shall be valid unless in writing and duly executed by both parties.

17. SECTION HEADINGS

The titles, captions, section, paragraph and subject headings, and descriptive phrases at the beginning of the various sections in this Agreement are merely descriptive and are included solely for convenience of reference only and are not representative of matters included or excluded from such provisions, and do not interpret, define, limit or describe, or construe the intent of the parties or affect the construction or interpretation of any provision of this Agreement.

18. INTERPRETATION OF THIS AGREEMENT

The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. If any provision of this Agreement is held by an arbitrator or court of competent jurisdiction to be unenforceable, void, illegal or invalid, such holding shall not invalidate or affect the remaining

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covenants and provisions of this Agreement. No covenant or provision shall be deemed dependent upon any other unless so expressly provided here. As used in this Agreement, the masculine or neuter gender and singular or plural number shall be deemed to include the other whenever the context so indicates or requires. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation contrary to which the parties have no right to contract, then the latter shall prevail, and the provision of this Agreement which is hereby affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.

19. DUPLICATE ORIGINAL

The original of this Agreement and one or more copies hereto have been prepared and signed in counterparts as duplicate originals, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original. Each duplicate original shall be deemed an original instrument as against any party who has signed it.

20. IMMIGRATION

SUBDIVIDER shall be responsible for full compliance with the immigration and naturalization laws of the United States and shall, in particular, comply with the provisions of the *United States Code* regarding employment verification.

21. LEGAL SERVICES SUBCONTRACTING PROHIBITED

SUBDIVIDER and CITY agree that CITY is not liable for payment of any subcontractor work involving legal services, and that such legal services are expressly outside the scope of services contemplated hereunder. SUBDIVIDER understands that pursuant to Huntington Beach City Charter Section 309, the City Attorney is the exclusive legal counsel for

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CITY; and CITY shall not be liable for payment of any legal services expenses incurred by SUBDIVIDER.

22. ATTORNEY'S FEES

In the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees, such that the prevailing party shall not be entitled to recover its attorney's fees from the nonprevailing party.

23. SURVIVAL

Terms and conditions of this Agreement, which by their sense and context survive the expiration or termination of this Agreement shall so survive.

24. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

25. ENTIRETY

The parties acknowledge and agree that they are entering into this Agreement freely and voluntarily following extensive arm's length negotiations, and that each has had the opportunity to consult with legal counsel prior to executing this Agreement. The parties also acknowledge and agree that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by that party or anyone acting on that party's behalf, which are not embodied in this Agreement, and that that party has not executed this Agreement in reliance on any representation, inducement, promise, agreement, warranty, fact or circumstance not expressly set forth in this Agreement. This Agreement contains the entire agreement between the parties respecting the subject matter of this Agreement and supersedes all

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prior understandings and agreements whether oral or in writing between the parties respecting the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized offices the day, month and year first above written.

SUBDIVIDER,

HARBINGER HOMES, INC.,
a California Corporation

By: K Smith
KERRY SMITH
print name

ITS: (circle one) Chairman President Vice President

AND

By: K Smith
KERRY SMITH
print name

ITS: (circle one) Secretary Chief Financial Officer/Asst.
Secretary - Treasurer

REVIEWED AND APPROVED:

[Signature]
City Administrator

CITY OF HUNTINGTON BEACH, a
municipal corporation of the State of California

Mayor

City Clerk

APPROVED AS TO FORM:

[Signature] 3/14/05
City Attorney

INITIATED AND APPROVED:

[Signature] 3-3-05
City Engineer

E-2.32



INSURANCE AND INDEMNIFICATION WAIVER MODIFICATION REQUEST

- Requested by: Christi Mendoza, Risk Mangement
- Date: March 10, 2005
- Name of contractor/permittee: Harbinger Homes
- Description of work to be performed: Tract Map submission to the City Council for approval and recording for construction of eight (8) condominium homes on Delaware
- Value and length of contract: Dollar value: ^{\$72,000} ~~not established~~; March 16, 2005 council timeline
- Waiver/modification request: *Delay in submission of* Certificates of insurance (COI) to accompany tract map
- Reason for request and why it should be granted: *Insurance cost is substantial and developer is at least six (6) weeks from initial construction.* Request delay
- Identify the risks to the City in approving this waiver/modification: *None.* or submission of COI *Wm*

18
18 _____
Department Head Signature

_____ *3/10/05*
Date: *Wm*

APPROVALS

Approvals must be obtained in the order listed on this form. Two approvals are required for a request to be granted. Approval from the City Administrator's Office is only required if Risk Management and the City Attorney's Office disagree.

1. Risk Management	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied	<i>[Signature]</i>	<i>3/14/05</i>
2. City Attorney's Office	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied	<i>Jennifer McGeach</i>	<i>3/14/05</i>
3. City Administrator's Office	<input type="checkbox"/> Approved <input type="checkbox"/> Denied	_____	_____

If approved, the completed waiver/modification request is to be submitted to the City Attorney's Office along with the contract for approval. Once the contract has been approved, this form is to be filed with the Risk Management Division of Administrative Services

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**On File for Public
Review in the
Office of the City Clerk**

E-2.34

ATTACHMENT 7

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