



**CITY OF HUNTINGTON BEACH  
SUPPLEMENTAL COMMUNICATION  
Joan L. Flynn, City Clerk  
Office of the City Clerk**

**TO:** Honorable Mayor and City Council  
**FROM:** Joan L. Flynn, City Clerk *JLF*  
**DATE:** September 17, 2012  
**SUBJECT:** **SUPPLEMENTAL COMMUNICATIONS FOR THE SEPTEMBER 17, 2012,  
REGULAR CITY COUNCIL/PFA MEETING AND THE SPECIAL MEETING  
OF THE HUNTINGTON BEACH SUCCESSOR AGENCY**

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Attached is Supplemental Communications to the City Council (received after distribution of the Agenda Packet):

**Study Session**

PowerPoint communication submitted by Lori Ann Farrell, Director of Finance, dated September 17, 2012 and entitled *Employee Tax Override & Pension Reform Overview*.

**Public Hearing**

**#13.** PowerPoint communication submitted by Lori Ann Farrell, Director of Finance, dated September 17, 2012 and entitled *City of Huntington Beach Proposed Budget, Fiscal Year 2012/2013*.

**#14.** Communications received on the appeal of the Planning Commission's Denial of the Pierside Pavilion Expansion:

Gary Baker	Barry Cole	William A. & Bonnie S. Copeland
Bill Garrisi (2) - and an approximately 1100 page report which is on file in the City Clerk's Office		
Thomas E. McCann	Mark Miller	R & S Stookey
Robert L. Mayer, Jr. CEO, The Robert Mayer Corporation		
Karen Jackle, President, Huntington Beach Tomorrow		
Steve Daniel of the Rocky Mountain Chocolate Factory		
Jeffrey M. Oderman, Rutan & Tucker, LLP		Jeff Smith, Vice President, Govplace

# Employee Tax Override & Pension Reform Overview

September 17, 2012

Revised





# Employee Tax Override Background

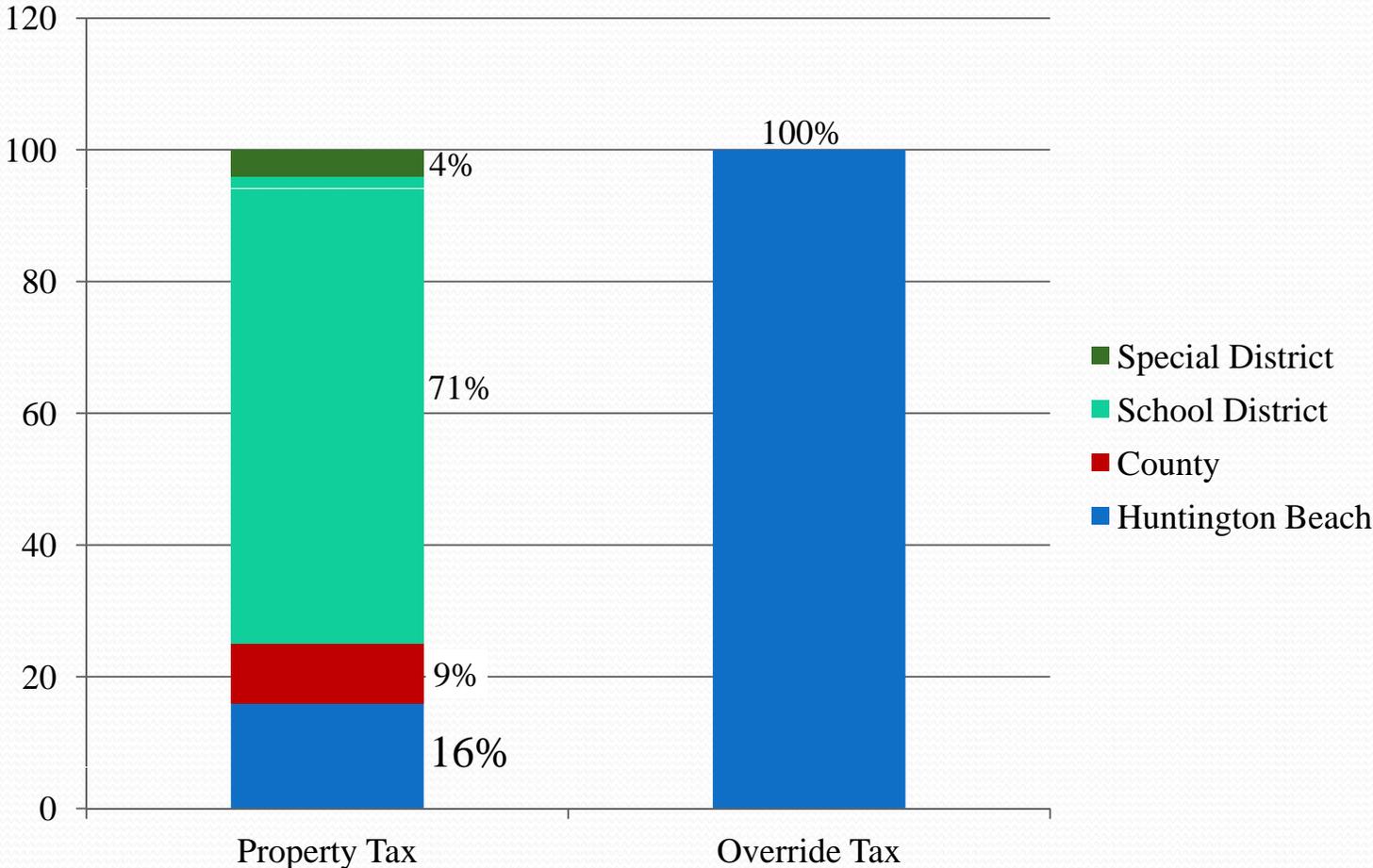
- Employee Tax Override approved by the voters in 1966
- Tax is currently set at \$0.015 cents per \$100 of assessed value
- For every \$100,000 of assessed valuation, the tax is \$15.00
- For a home with an assessed value of \$500,000, the tax is approximately \$75.00
- The tax generates \$4.2 million annually for the General Fund



# What Does the Tax Pay For?

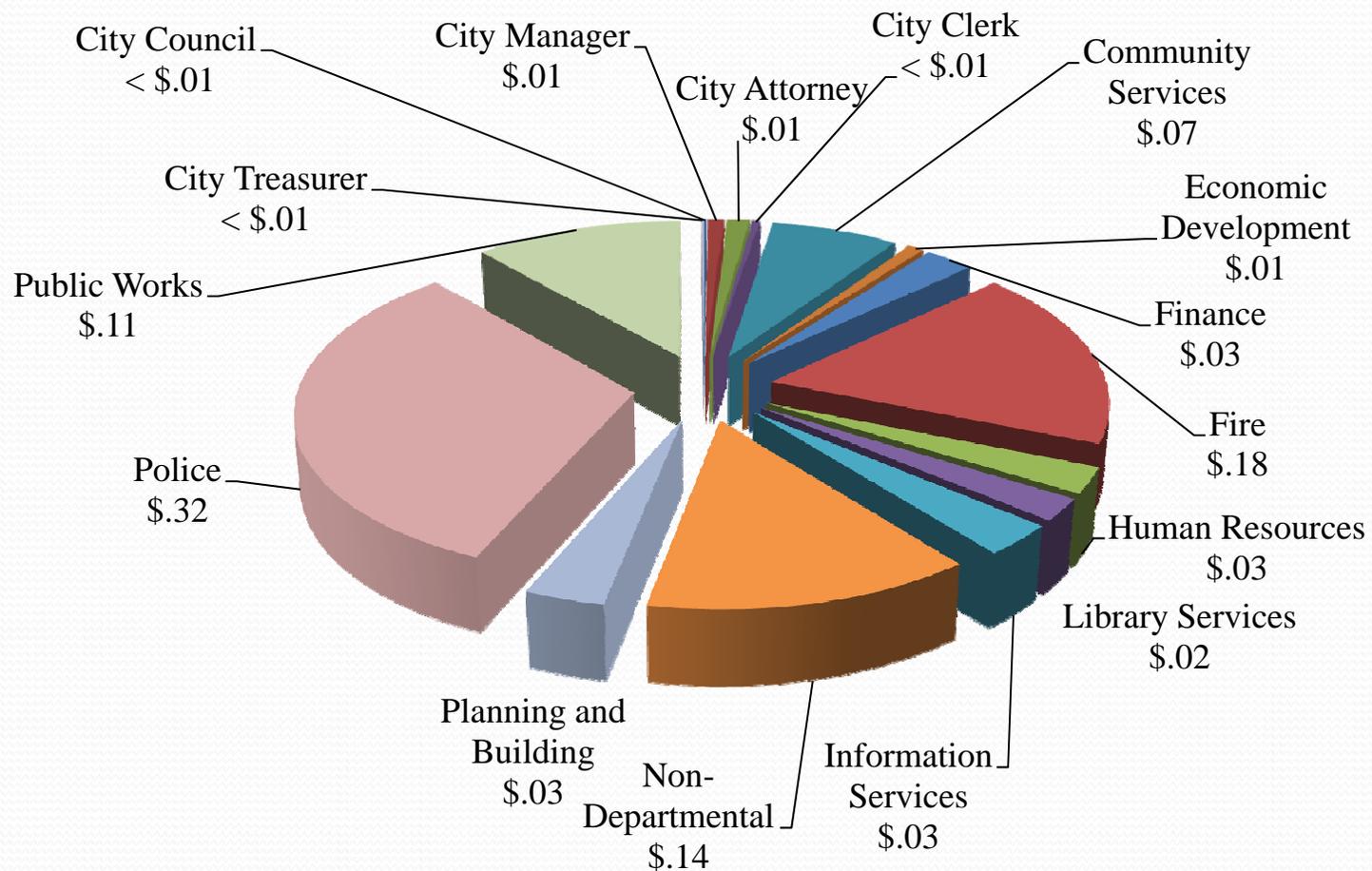
- In short, the tax can only pay for the cost of the retirement benefit level that existed prior to 1978 (i.e. Prop 13) for ALL employees (i.e. past, present and future)
- The retirement benefit level that existed prior to 1978 was the 2%@50 formula for Safety employees (and 2%@55 formula for Miscellaneous)
- The current tax rate only takes into consideration the 2%@50 formula for Safety employees
- As of August 20, 2012, City Council action permanently capped the tax rate at \$0.01500 per \$100 of assessed valuation

# Who Benefits From The Tax?



# What does the General Fund Pay For?

## \$1.00

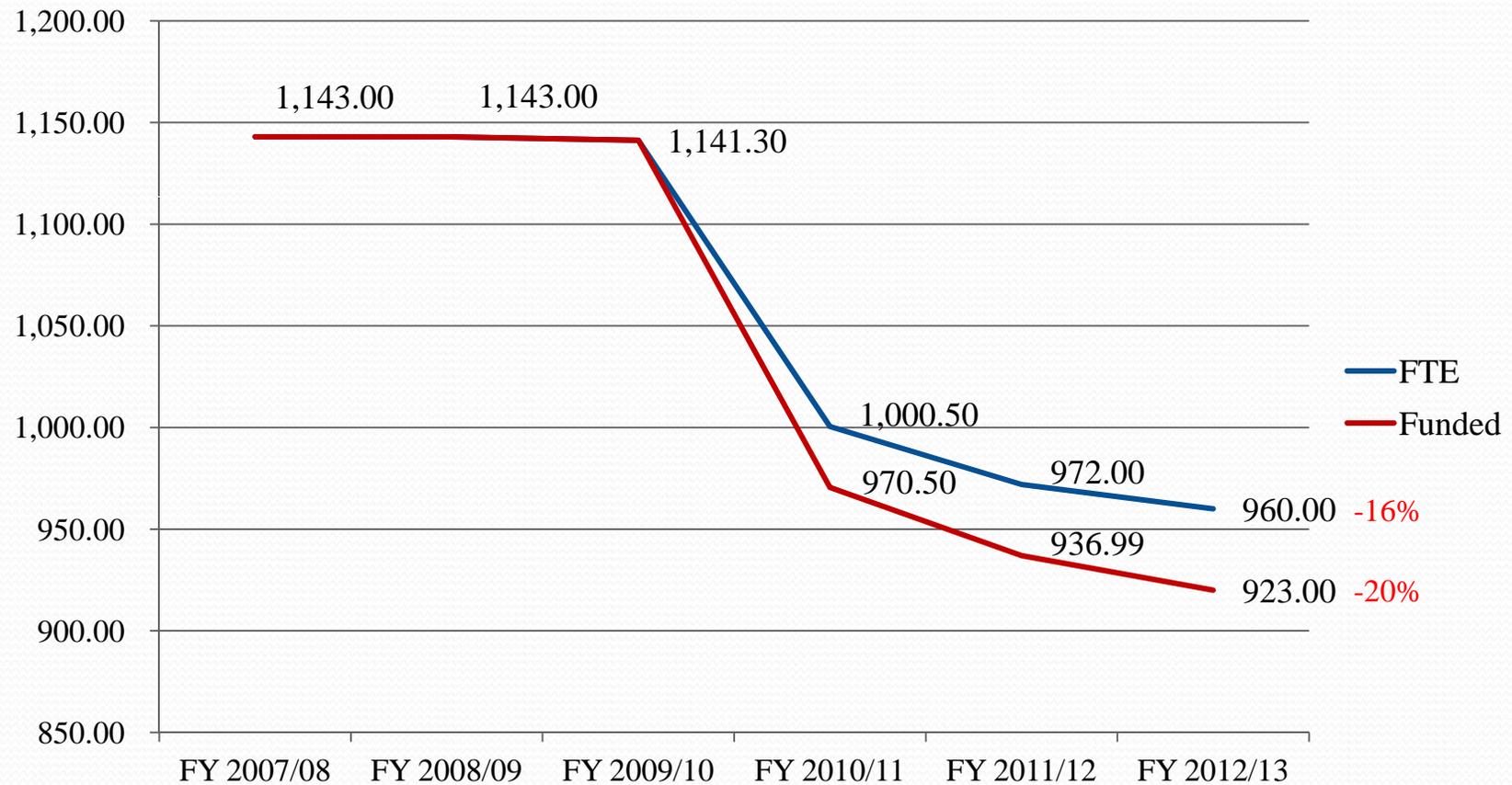




# Addressing Our Challenges

- Huntington Beach has risen to the challenge of these tough economic times
- Over \$29.0 million in cuts over the past five years – a total of 183 FTEs eliminated, and an additional 37 defunded, for a total of 220 FTEs eliminated/defunded over the past five years
- In essence, funding for one in almost every five positions has been eliminated from the budget
- Employees are paying \$1.9 million more towards their retirement costs today than five years ago and are also paying more towards their health care benefits
- If the employees picked up the full share of the CalPERS Employee Rate, the City could save an additional \$2.5 million annually

# History of City's Workforce



# Potential Budget Scenarios of Tax Elimination

Assuming Current PERS  
Contributions



# Assumptions for Budget Scenarios

*For Discussion Purposes Only*

## Assumptions

- The annual loss of revenue to the General Fund will be \$4.2 million
- The revenue loss is a structural loss (not one-time)
- All Departments will participate in budget reductions
- All reductions proposed will be structural (no one-times)
- All Departments will participate at the same proportion as their current share of the General Fund Budget
- PERS contributions by City employees remain at current levels
- Reserves will not be used as they are one-time in nature, consistent with current City Council policy on the use of reserves
- The 15% charter requirement related to infrastructure funding must be met
- No additional fines, fees, penalties will be levied to increase revenues
- Departmental cuts are potential budget reduction scenarios only; final, actual impacts will be determined by the City Council, if needed

# Potential Police Dept Impact \$1.6M

- Eliminate Crime Scene Unit (6 CSI Officers)
  - Loss of critically important investigative personnel
  - 30 suspects identified by DNA and 184 by fingerprints in a 12 month period
- Reduce Special Enforcement Team by 50% (4 Police Officers)
  - Eliminate Bella Terra Footbeat
  - Eliminate Downtown Footbeat on weeknights - Impact on SurfCity Nights
- Eliminate one Detention Officer Supervisor
  - Loss of supervision in extremely high risk/high liability area
  - Increase time to process prisoners resulting in less field time for police officers
- Reduce Police Overtime resulting in slower response times to calls for service particularly summer/holidays
- Civilianize one Lieutenant position
- Summary: Elimination of 11 positions, including 5 sworn
- OR alternative cuts, efficiencies and/or employee concessions

# Potential Fire Dept Impact \$885K

- Eliminate Urban Search & Rescue Program impacting response to industrial, traffic, structural collapse and trench rescue accidents; Severe reduction in ability to provide rescue response during earthquakes and other disasters
- Eliminate Hazmat Response Program impacting response to emergencies in industrial/manufacturing, oil wells, pipelines, waterway spills, and terrorism related incidents
- Eliminate Training Officer and Joint Training Center impacting critical training and safety resources and programs
- Eliminate Tactical Paramedic (SWAT) Program resulting in the loss of immediate triage and treatment of injured civilians and police officers
- Eliminate Volunteer Programs (CERT, RACES, and Search and Rescue)
- Reduce Oil Well inspections and administrative support
- Summary: Elimination of 4 positions, including 1 sworn
- OR alternative cuts, efficiencies and/or employee concessions



# Potential Library Dept Impact \$111K

- Closure of 2 branch libraries: Helen Murphy and Main Street OR Banning Branches, and reduce hours at the Central Library Public Service desk resulting in part time staff reduction of 2.5 FTE employees
- Eliminate supply funding for branches; Eliminate 6 story time sessions per week, 50% cut in supplies for Story Time; and reduce craft activities, training and other Youth Services program supplies
- Over 50% cut in magazine and newspaper purchases and significant cuts in subscriptions for all locations
- Summary: Elimination of 2.5 FTE part time positions
- OR alternative cuts, efficiencies and/or employee concessions

# Potential Community Services Impact \$340K

- Restructure the Art Center function with \$100,000 and the program revenue to be dedicated to a non-profit organization for the delivery of exhibits and classes at the current facility
- Eliminate a Marine Safety Officer resulting in less qualified personnel to provide this service
- Reduce part-time Parking and Camping staffing resulting in reduced ability to open gates in response to environmental conditions or activities
- Reduce Pier Plaza contract services and Beach maintenance temporary salaries impacting maintenance and cleaning
- Summary: Elimination of 3 FTE and 18 PT positions
- OR alternative cuts, efficiencies and/or employee concessions



# Potential Public Works Impact\* \$558K

- Eliminate preventive maintenance on emergency vehicle signal preemption equipment; defer signal, markings and sign replacements in residential areas from a 4-year to a 6-year cycle; and defer equipment and fleet maintenance
- Reduce mowing (50%) in City parks and facilities; defer tree trimming from a 12-year to a 15-year cycle; and reduce landscape maintenance, painting and refurbishing (45%)
- Eliminate Environmental Specialist in Urban Runoff reducing ability to respond to storm water violations
- Eliminate Maintenance position for City facilities
- Summary: Elimination of 2 FTE and 2 PT positions
- OR alternative cuts, efficiencies and/or employee concessions

\*Reduced spending on Infrastructure will also result.



# Potential Other Dept Impacts \$751K

- Eliminate a Deputy City Attorney III impacting prosecutions, preparation of ordinances, resolutions and agreements
- Reduce Code Enforcement Program impacting violation abatement times, inspection availability and citizen complaints
- Reduce professional service contracts in Finance, imaging for Planning and Building
- Reduce administrative coverage in City Manager, Economic Development, City Clerk and Human Resources Departments
- Reduce operating expenses for the City Treasurer and City Clerk, such as elimination of election handbooks
- Reduce communication and technical services, impacting the City's network system
- OR alternative cuts, efficiencies and/or employee concessions

# Potential Workforce Impact

## *With Current PERS Pickups*

Dept	Description	\$ Impact	Sworn	Misc	Part Time	TOTAL
City Attorney	Eliminate Deputy City Attorney III/Increase Contracts	(57,692)		(1.00)		(1.00)
City Clerk	Operating Reductions	(18,879)				
City Manager	Office Assistant II	(41,308)		(1.00)		(1.00)
Comm Svcs	Art Center Restructuring/ Marine Safety Officer II	(339,807)	(1.00)	(2.00)	(18.00)	(21.00)
Economic Dev	Administrative Secretary	(42,609)		(0.50)		(0.50)
Fire	Deputy Fire Marshal, Training Center Staff	(885,001)	(1.00)	(2.00)	(1.00)	(4.00)
City Treasurer	Operating Reductions	(6,547)				
Finance	Accounting Technician Supervisor	(133,839)		(1.00)		(1.00)
HR	Administrative Asst/ Personnel Asst	(129,244)		(1.50)		(1.50)
Info Svcs	Info Services Network Administrator	(155,979)		(1.00)		(1.00)
Library	Branch Library Staff	(110,930)			(2.50)	(2.50)
Planning & Bldg	Code Enforcement Officer /SIRE Temp Staff	(164,864)		(1.00)	(3.00)	(4.00)
Police	Police Officers, Lieutenant, CSI Unit	(1,571,165)	(5.00)	(6.00)		(11.00)
Public Works	Environmental Specialist, Facilities Maint Tech	(557,150)		(2.00)		(2.00)
	<b>Total</b>	<b>(4,215,014)</b>	<b>(7.00)</b>	<b>(19.00)</b>	<b>(24.50)</b>	<b>(50.50)</b>

# Potential Impacts of Tax Elimination

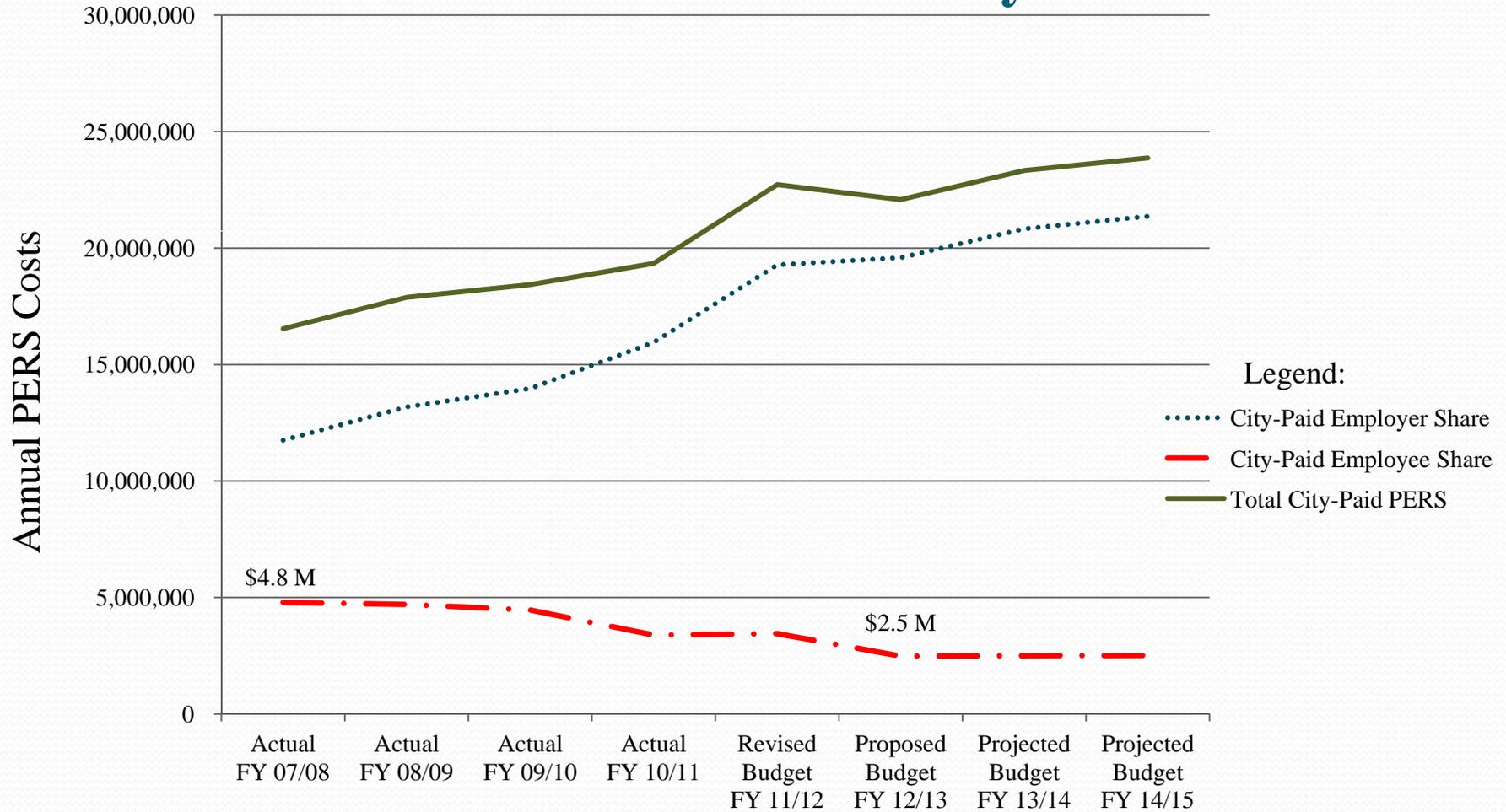
Full Employee Pick-Up Scenario

## Potential General Fund Savings By Bargaining Group

Union	EE Rate Employee Paid	EE Rate City Paid	Total EE Rate	Potential Savings	Contract Expiration
<b><u>Safety</u></b>					
Huntington Beach Fire Association	6.75%	2.25%	9.00%	327,040	9/30/13
Fire Management Association	6.75%	2.25%	9.00%	24,308	9/30/13
Police Officers Association - Safety	4.25%	4.75%	9.00%	984,971	9/30/13
Police Management Association	4.25%	4.75%	9.00%	95,583	9/30/13
Marine Safety Management	6.25%	2.75%	9.00%	34,019	9/30/13
Non Associated - Safety	5.5%/6.75%	3.5%/2.25%	9.00%	11,781	N/A
<b><u>Miscellaneous</u></b>					
POA - Non Safety	4.25%	3.75%	8.00%	108,578	9/30/13
Municipal Employees Association	4.25%	3.75%	8.00%	756,130	6/30/13
Management Employees Org.	6.75%	1.25%	8.00%	118,620	12/20/12
Non Associated – Executive Mgmt	6.75%	1.25%	8.00%	24,967	N/A
				<b>\$2,485,997</b>	

# Annual City PERS Costs

## General Fund Only





# Potential Impact of Full Employee PERS Pickups

- City costs associated with the “Employee Share” of PERS costs have decreased by \$1.9 million over the last 5 years
- If employees picked up the remaining costs of the “Employee Share” of PERS costs, the City could save an additional \$2.5 million

# Timeline

<u>Date</u>	<u>Description</u>
August 28, 2012	AB 340 Pension Reform Bill Passed
September 17, 2012	FY 2012/13 Budget Adoption Date
October 1, 2012	New Fiscal Year Begins – FY 2012/13
November 1, 2012	First Installment Due – Property Tax Bill
November 6, 2012	Election Day - Employee Tax Override Ballot Measure Z
November 7, 2012	Preliminary Election Results Announced
December 3 or 17, 2012	Election Results Certification/Measure Z Effective Date
December 10, 2012	Last Date to Pay First Installment of Property Taxes
January 1, 2013	Departmental Cuts Implemented and/or Employee Concessions Achieved, if Applicable

The background is a solid blue gradient. At the top, there are several wavy, overlapping lines in various shades of blue and cyan, creating a sense of movement or a horizon line. The word "QUESTIONS?" is centered in the middle of the image.

QUESTIONS?

**Public Employee Pension  
Reform Act  
(PEPRA)  
AB 340**



# AB 340 Pension Reform Highlights

- Governor signed into law September 12, 2012
- Most provisions effective January 1, 2013
- Effects ALL public employers, including CHARTER cities that contract with CalPERS
  - Exception – Charter cities and counties with an independent pension plan without CalPERS reciprocity
- Generally, only “new” employees and/or “new” members impacted
  - Exceptions – applies to “new” and current
    - Prohibition against AIRTIME purchase
    - New Post-Retirement Employment Restrictions



# AB 340 Pension Reform Highlights

## Additional Provisions:

- Defines “new” employee as employee hired on/after 01/01/13 with no prior public sector work history or public sector employment with no reciprocity to CalPERS
- Defines “new” member as employee who was not a member of CalPERS on 01/01/13 or worked for a system without reciprocity to CalPERS or has a break in service from active CalPERS covered employment of greater than 6 months
- Requires 3 Year Final Compensation vs. Single Highest Year for “new” employees/members
- Caps Final Compensation for “new” employees/members at \$110k if in Social Security and \$132k for others



# AB 340 Pension Reform Highlights

- Limits Post-Retirement Public Employment – applies to “new” and current employees
  - Mandatory Wait Period of 180 days for post-retirement employment (exception Police and Fire)
  - Emergency approval requires action by governing body
- Prohibits Purchase of Air Time – “new” and current employees (current employees may apply by 12/31/12)
- Eliminates Benefits if Convicted Felon – applies to “new” and current employees
- Eliminates Pension Spiking



# AB 340 Pension Reform Highlights

- Safety Industrial Disability Retirement changed to provide the greater of:
  - Fifty percent of final compensation
  - A service retirement allowance, if qualified
  - An actuarially reduced amount, determined by CalPERS if the service age is less than 50 or not qualified for service retirement
- Benefit will not be lower than what would have been received prior to January 1, 2013
- Government Code Section 21400 effective until January 1, 2018

# AB 340 Pension Reform Highlights

## Creates Reduced Benefit Formulas for NEW Employees

Plan Type	Benefit Formula	Minimum Ret. Age	Maximum Benefit
Miscellaneous	2% @62	52	2.5% @67
Safety - Basic	1.426% @50	50	2% @57
Safety – Option 1	2% @50	50	2.5% @57
Safety – Option 2	2% @50	50	2.7% @57

*\*New Employee – No prior service in a public agency; or has been separated from prior active service in a public agency for more than six months. For Public Safety – it is mandatory that the Agency Option will be the plan that is LOWER than, but CLOSEST to the current Public Safety plan at age 55. For COHB – Option 2. May also opt for 2<sup>nd</sup> tier lower plans through collective bargaining.*



# AB 340 Pension Reform Highlights

## Cost Sharing Provisions

- Cost sharing for current employees not impacted at this time (existing MOU language prevails)
- Provides for 50/50 sharing of “Normal Cost” for “new” employees/members (minimum contribution)
- Mandates 50/50 cost-sharing of “Normal Cost” in 2018 for current employees (minimum contribution)
- “Normal Cost” is NOT the required employee contribution (8% for Miscellaneous/9% for Safety)
  - “Normal Cost” is actuarially determined by CalPERS
- Eliminates EPMC for NEW employees



# AB 340 Pension Reform Highlights

## Other Ancillary Provisions

- Prohibits new supplemental defined benefit plans for ALL employees after January 1, 2013 (PARS)
- Limits “PERSABLE” final compensation – eliminates
  - Bonus pay
  - Termination/Severance Payments [GC 31461 (1)(C)(4)]
  - Uniform Allowance
  - Leave payouts in excess of annual leave accruals [GC 31461 (1)(C)(2)]



# AB 340 Pension Reform Highlights

**QUESTIONS?**



# City of Huntington Beach Proposed Budget

FISCAL YEAR 2012/2013

September 17, 2012

# A Roadmap to Success – The Strategic Plan

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- Improve Long-Term Financial Sustainability
- Enhance Economic Development
- Maintain Public Safety
- Improve the City's Infrastructure
- Develop, Retain and Attract Quality Staff

# FY 2012/13 Proposed Budget

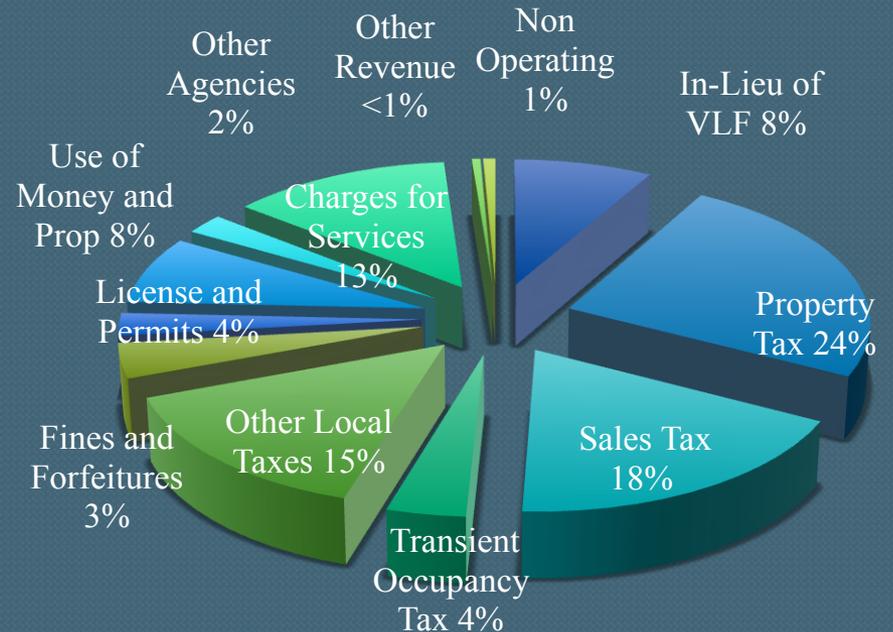
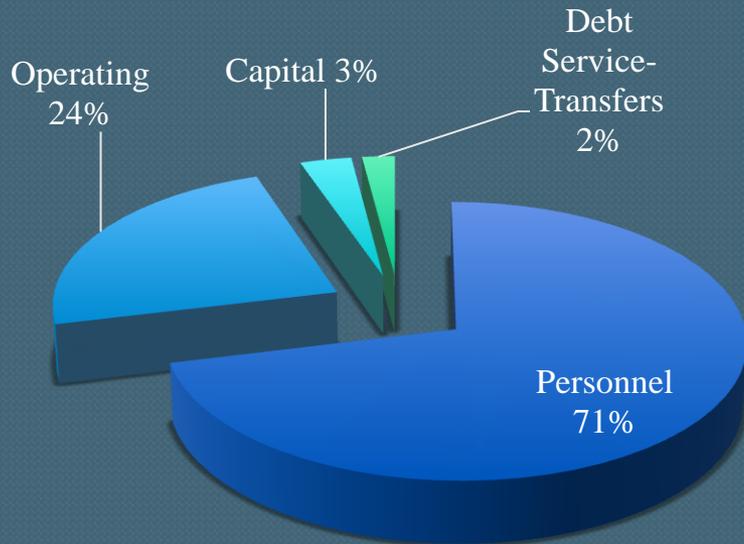
- The Proposed All Funds budget totals \$294.7 million, a 6.0% decrease from the Adopted FY 2011/12 budget
- The Proposed General Fund budget totals \$186.2 million, a 1.4% increase from the Adopted FY 2011/12 budget



# FY 2012/13 General Fund Budget

Expenditures \$186,167,437\*

Revenues \$182,897,667



\*1.5 million funded from Pars Obligation Set-Aside, and \$1.7 million from the CIR

# *Improve Long-Term Sustainability*

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- Over \$29.0 million in cuts over five years – total of 183 FTEs eliminated, and an additional 37 defunded, for a total of 220 FTEs (almost 1 in 5 positions eliminated or defunded)
- \$2.5 million General Fund budget challenge identified with abolishment of Redevelopment on February 1, 2012
- In general, revenues have improved in the past year in several areas including, sales tax, TOT, parking and planning and building fees
- Departments have proposed structural reductions in personnel (15 FTEs and 10.75 part-time reductions) for a total reduction of 25.75 positions to present this balanced budget
- Reduces Operating expenses by an additional \$600,000

## *Improve the City's Infrastructure*

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- \$3.0 million has been proposed in the Equipment Replacement Budget
- The Proposed Budget meets the 15% charter requirement for infrastructure and adds \$3.8 million to meet this goal:
  - \$1.7 million will be added to the CIP for various infrastructure projects (funded by the CIR)
  - \$1.3 million from General Fund for a total of \$3.0 million
  - Plus a Transfer to the Infrastructure Fund of \$640,000 and \$200,000 in additional infrastructure related equipment

# *Enhance Economic Development*

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- Includes the new Successor Agency Budget
- Reflects the new Housing Authority Budget
- Reduces staffing in the Economic Development Department consistent with revised funding levels
- Includes increased revenue for successful economic development projects (e.g. Costco, Nordstrom Rack and Dick's Sporting Goods)

# *FY 2012/13 Budget Accomplishments*

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- Reflects a structurally balanced budget
- Maintains Economic Uncertainties Reserve at existing levels to provide solid safety net
- Increases spending on Infrastructure and capital projects
- Maintains a commitment to replacing the City's aged equipment inventory
- Maintains General Fund spending for public safety at current proportional levels
- Maintains funding for tuition reimbursement, EAP and other programs that will help the City develop, attract and retain quality staff

# City of Huntington Beach FY 2012/13 Proposed Budget

Questions?

Esparza, Patty

**SUPPLEMENTAL  
COMMUNICATION**

**From:** Flynn, Joan  
**Sent:** Friday, September 14, 2012 4:38 AM  
**To:** 'gary@gbakers.com'  
**Cc:** Esparza, Patty; Lugar, Robin  
**Subject:** Re:

Meeting Date: 9/17/2012  
Agenda Item No. 14

Thank you for your correspondence Mr. Baker. We have entered it into the public record, will place it into the meeting supplemental communication packet which is uploaded to the website, and will make copies available to the public if requested.

I will see you at Monday's meeting if you are in attendance. Joan

Joan L. Flynn, CMC  
Huntington Beach City Clerk

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**From:** Gary Baker [mailto:gary@gbakers.com]  
**Sent:** Thursday, September 13, 2012 11:12 PM  
**To:** dhanson@surfcity-hb.org <dhanson@surfcity-hb.org>; connieboardman@surfcity-hb.org <connieboardman@surfcity-hb.org>; Bohr, Keith; Carchio, Joe; mathewharper@surfcity-hb.org <mathewharper@surfcity-hb.org>; joeshaw@surfcity-hb.org <joeshaw@surfcity-hb.org>; Dwyer, Devin  
**Cc:** Fikes, Cathy; Stephenson, Johanna; Lugar, Robin; Flynn, Joan

September 14, 2012

Members of the City Council  
City of Huntington Beach  
2000 Main St .  
Huntington Beach , Ca. 92648

Re; Proposed Pierside Pavilion expansion-Appeal of Planning Commission's Denial Of Mitigated Negative Declaration No. 11-007/ Coastal Development Permit No. 11-012/Conditional use Permit No.11-021/Variance No. 11-005: Design review No.11-015

Dear Honorable Council Members:

My name is Gary Baker, and I am an owner/ resident of Pier Colony @ 200 Pacific Coast Hwy , Huntington Beach , Ca. 92648.

I am writing you, re: the above appeal for the Pierside Pavilion Expansion, which will come before you on September 17, 2012 . I am asking you to uphold the Planning Commissions decision to deny this project.

This seems like this should be a very easy decision for the City Council, given that the planning commissioners have been very diligent in their effort to conform to current Zoning, City Plan, Downtown Specific Plan, Coastal Development, etc. They have investigated all aspects and found that this project as designed has many flaws / violations. And as I understand, the planning commissioners are appointed by the City Council Members, therefore your good judgment in appointing these members can only dictate that their conclusions be something that you also would agree with.

However, just in case you might like some extra fact findings, let me offer you this:

1. In 1988 there was an area known as the 100 block of 3<sup>rd</sup> St. It was vacated to make room for a mixed use area, now known as Pierside Pavilion/ Pier Colony (Main/Pier re-development Phase 1). And as you know the CUP (88-7 & 88-3) was in place only if it complied with the new (about to be

adopted) Downtown Specific Plan. Also as you know the DTSP states that all vacated streets (1988 DTSP section 4.2.15 also DTSP section 3.2.5) shall provide a view (2830 jpeg) corridor not less than the width of the former street. According to the American Land Title Association (ALTA) (see appendix A&B (4084,4086.jpg)) conducted July 27, 1988 the width of 3<sup>rd</sup> Street was 60 feet. Clearly if this project is built as proposed, this will impede upon the View Corridor. Even the developers in their plans (A0) (see appendix C (2687.jpg)) show a 60 foot view corridor and still are trying to build over the limits.

2. On a second note, I would ask how it is that there are presently two staircases that are in violation of the DTSP View Corridor? Of course, I understand that was not your decision, but please don't allow yourselves to compound this previous error. We cannot change our history, however, we can keep it from happening in our future.

3. Let's stray from the legal aspects for a moment and talk of aesthetic. I know, it's all very subjective, however, with previous City Councils and yourselves, you have been very specific and consistent about the downtowns

architecture. As you drive down Pacific Coast Hwy passing Beach Blvd you notice a large beautiful hotel, the Hyatt, a great rendition of Mediterranean architecture. Further as we pass the Hilton Waterfront Hotel, another wonderful example of the Mediterranean architecture, not the same, different in their own right, but Mediterranean none the less. Next will be the New Pacific City, and from the renderings I have seen, which I believe you have approved, "village" approach with the same Mediterranean theme. As we pass Pier Colony, who just recently spent over \$300,000 in updating the color scheme and landscaping to match new development in the downtown area (i.e. parking structure on 3<sup>rd</sup> and Walnut and Main Street) we notice the same feel and consistency. Next is Pierside Pavilion, now while they recently renovated the old theater, the existing front of the building is as it was in 1989. And you know what? It still fits in your downtown theme. The new proposed contemporary "box" style building, See appendix D(2830 jpeg)) certainly is not in keeping with the existing architecture or the "Downtown Experience".

a. As a side note the Design Review Board approved the project, then denied the project they re-approved without any changes made. At the Planning Commission meeting Mr. Peterson (member of the DRB) was ask about findings at the DRB and his recollection was very vague, stating that he remembered discussing the colors, but not about architecture, mass, height, parking, etc., and yet it was approved?

4. Now, lets look at the effect you will have on the city and residents of this great city should you allow this project to proceed. In particular the residents of Pier Colony will be faced with losing drastic amounts of their view, hence equating to extensive losses in property values. And as a matter of fact, the losses are not just the homeowners that face the Pierside Pavilion Expansion project, but, the entire building, as well as other Pacific Coast Hwy homes with ocean views. The comparative prices will affect every homeowner in the area. Even if personal views are not protected, certainly property values are. One neighbor should not be allowed under a well developed city as ours, to destroy property values for another. Next you must consider that a great many of the homes directly adjacent to Pierside Pavilion Expansion have limited windows for light and air circulation. A building as proposed would drastically cut off air flow, available light, etc. resulting in more power consumption for our city and state. Now, I know with Pacific City they did a shadow effect survey for summer months and again for winter months. Do we have a report showing any of this? Certainly not that I have seen. Pierside Pavilion, as you know, is requesting a proposed 4 story structure. Plus the extensive use of noise amplifying, reflecting glass will greatly add to the noise element. When the original CUP (88-7 & 88-3) was issued it was apparent that commercial and residential are a very difficult challenge. But precautions were put into effect, i.e. Pier Colony had to be raised 8 foot above grade, all doors and windows had to be dual glazed, energy efficient, a 60 foot wide view corridor in place, a set back of upper level floors, along with an open courtyard for open air space and sound dispersion. This plan was the most applicable for the two projects.

a. What about the Fire Department? Can they access the top floors of the buildings from the smaller corridor? (see Appendix E (2817 jpeg)) According to the Fire Department, this would be of serious concern. ( this has been noted in the Staff report)

5. Next, for a moment, let's assume you pass this Pierside Pavilion Expansion project. I ask you, What happens to the Kiosk/ Carts CUP (no. 2010-017)? Currently the owner has I believe the right to 18 carts. Based on the available footprint of the proposed building there would not be an area to place carts that do not impede pedestrian traffic. I believe the existing CUP states that the carts should be placed parallel to Pacific Coast Hwy and to Main St . However, on any given day, the owner allows the cart renters to place their carts perpendicular to both Pacific Coast Hwy and Main St . What about visitor friendly areas? What about pedestrian traffic close to the very busy Pacific Coast Hwy ? Given the proposed 15 foot sidewalk, a cart is approximately 6.5 feet in length, and the storefront door opening is 3 feet, plus there was to be additional landscaping on PCH. This is clearly not a viable solution for safe and unobstructed pedestrian traffic.

6. What is the real reason for the Pierside Pavilion Expansion? Currently from his own admission, the owner of Pierside Pavilion has struggled to lease current available spaces. So would the roof top bar or new restaurant bring more commercial/office tenants to this area? Or would the roof top bar and new restaurant bring enough revenue to pay for the empty office spaces? And would the roof top bar and new restaurant be much more appealing to a new buyer? Perhaps. After all, 130,000+ sq ft of downtown Huntington Beach is very attractive unless you know that perhaps 50% is vacant. But I would guess that's not your problem either. Your problem is however, it is not a good thing for Huntington Beach to have a huge amount of empty office/retail spaces. When you or future members are promoting this city, I'm sure it is best to have few vacancies, with businesses that are thriving in your cities economy. So you must ask yourselves, how does this project help the city of Huntington Beach ? Is it the revenue from the new build project? Is it new tax dollars? Additional sales tax dollars? Is it new industry being brought into the city? A short term lease with businesses going out in 90 days does not create revenue. Empty office space does not create revenue. An empty store front does not create revenue. A large, over scaled, "block" building does not add to the ambiance of a well developed city. So again I ask, how does this help the City of Huntington Beach ?

There are a great many opportunities for a Pierside Pavilion expansion, without the severe effect on its neighbors and the city. With a little creativity and planning I am sure an expansion could be developed that would not create a hardship for everyone except the owner/developer. So many possibilities for open air courtyards are utilized in many cities across the country. On a few occasions I was involved in meetings with the owner/ developer and each time they were very assured that this project as proposed would fly through Planning Commission and after the denial they again felt the City Council would pass without any objection or any changes made to their design and dimensions.

So I ask you City Council Members, please deny this appeal and keep this city on the correct path it was intended as it was redeveloped. The last 20 + years have been good for the city and with your wisdom and good judgment we shall continue to be the bright light for Orange County .

Please support your Planning Commission, the great citizens of Huntington Beach and deny this Pierside Pavilion Expansion  
Thank you  
Sincerely,  
Gary Baker

Gary Baker



WALNUT N 99-07-1/2 W

627 76' AVENUE

STREET

3rd

P3 BECK BUILDING

2 STORY STUCCO APARTMENT BLDG

WOOD FRAME BUILDING

17 1 STORY CONCL. BRICK BUILDING

WOOD BLDG

WOOD BLDG

WOOD BLDG

WOOD BLDG

GARAGES

CONCRETE 24

CONCRETE

CONCRETE SIDEWALK

CONCRETE SIDEWALK

CONCRETE SIDEWALK

DIET

4 3 2 1

10 9 8 7 6

13

15

19

12

16

14 ASPH

28

29

20

21

41

42

43

44

45

46

47

48

49

50

3 ESSENTIAL WATER PURPOSES PER DEED REC. 06/15/08

2.5' SPACED TO THE CITY OF WASHINGTON BEHIND PER DEED REC. 11/11/08 IN BLOCK 112, PG. 47

10' DEW BEELINE PER DEED REC. 11/11/08 IN BLOCK 112, PG. 47

15' GATE 1.5' BELLY

17' GATE 1.5' BELLY

19' GATE 1.5' BELLY

21' GATE 1.5' BELLY

CONCRETE 11

CONCRETE SIDEWALK

ALLEY

ALLEY

D.R.





WALNUT AVENUE

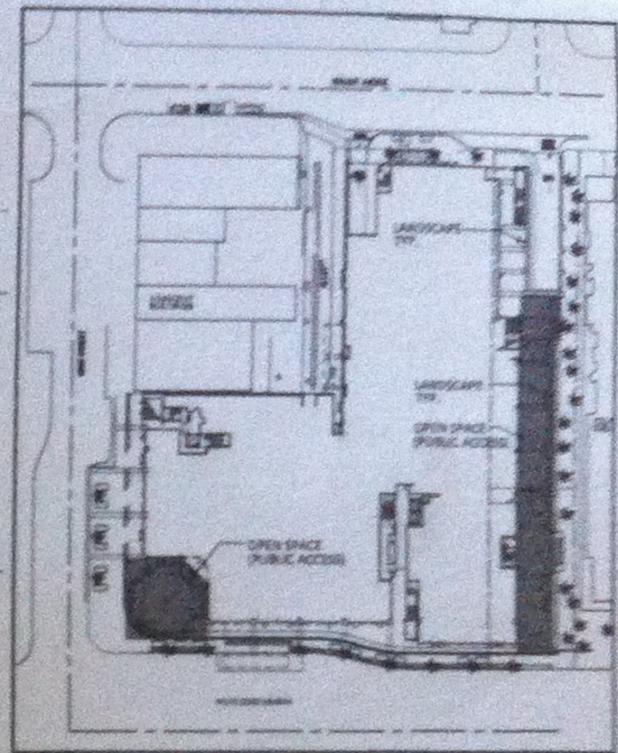
MAIN STREET

ADJACENT BUILDINGS

ALLEY

ADJACENT BUILDING

PACIFIC COAST HIGHWAY



LEGEND  
 OPEN SPACE 8,285 S.F. 0.30%  
 LANDSCAPE 3,555 S.F. 1.75%  
 OPEN SPACE AND LANDSCAPE DIAGRAM

	COMMERCIAL OR MIXED-USE		SECTION
	REQUIRED	PROPOSED	
MINIMUM PARCEL SIZE	20,000 SQ. FT. AREA	20,000 SQ. FT. AREA	0.2.1.1
MAXIMUM SITE COVERAGE	75% MAXIMUM	75% MAXIMUM	0.2.1.2
MAXIMUM DENSITY	20 UNITS	20	0.2.1.3
MAXIMUM BUILDING HEIGHT	35' MAXIMUM	35'	0.2.1.4
MAXIMUM BUILDING HEIGHT	35' MAXIMUM	35' MAXIMUM	0.2.1.5
UPPER STORY SETBACK	0' AVERAGE	0' AVERAGE	0.2.1.6
FRONT YARD SETBACK	0' MINIMUM	0'	0.2.1.7
REAR YARD SETBACK	5' MINIMUM	5'	0.2.1.8
LEFT SIDE SETBACK	5' MINIMUM	5'	0.2.1.9
RIGHT SIDE SETBACK	5' MINIMUM	5'	0.2.1.10
PUBLIC OPEN SPACE	10% MAXIMUM	10% MAXIMUM	0.2.1.11

BUILDING AREA SUMMARY  
 EXISTING AREA 89,422 S.F.  
 IN-FILL AREA 8,422 S.F.  
 NEW BUILDING AREA 27,773 S.F.  
 TOTAL AREA 125,617 S.F.  
 BUILDING FOOTPRINT 34,122 S.F.

NOT FOR CONSTRUCTION

**NADEL**  
 Architects Inc.  
 Special Projects  
 1900 La Brea Dr.  
 Fourth Floor  
 Los Angeles, CA 90025  
 T 310.552.2100  
 F 310.552.2102  
 www.nadelinc.com

**THEORY**  
 PROPERTIES LLC

**PIERSIDE PAVILION**  
 300 PACIFIC COAST HIGHWAY  
 HAWAIIAN BEACH, CALIFORNIA

**SITE PLAN/  
 LANDSCAPE**

**Esparza, Patty**

---

**From:** Surf City Pipeline [noreply@user.govoutreach.com]  
**Sent:** Tuesday, September 11, 2012 5:09 PM  
**To:** CITY COUNCIL; agendaalerts@surfcity-hb.org  
**Subject:** Surf City Pipeline: Comment on an Agenda Item (notification)

**Request # 12281 from the Government Outreach System has been assigned to Johanna Stephenson.**

---

**Request type:** Comment

**Request area:** City Council - Agenda & Public Hearing Comments

**Citizen name:** Barry Cole

**Description:** City Council members –

This is the cut down version letter sent to the local media and all the hundreds of local condo owners in Huntington Beach.

The Pierside Pavilion expansion will ruin home owner's lifestyles. This overbuilt commercial project is too close to a residential neighborhood structure and must be denied. We are not just talking about taking away value, we are talking about taking away the historic and well thought out standards of the city's master planning we have had for decades that should never change. This change is not for an emergency for the city's eminent domain project but for uncaring developers who don't give a darn about HB, but only contribute to HB politicians. The over building developers are telling our elected officials to change the city's master plans by just a variance, which the planning commission has recently rejected, so they may over build and make PCH and Main Street a mess.

The owner/developers are expanding their existing building by adding a new building protruding 10 feet in front of the existing building to PCH (it will be the only monstrosity you will see) and widening the building too close to our building at 200 PCH. When driving up on PCH, it will wipe the view of Main St. and retail stores. God forbid if there is a major fire between buildings. Shame on anyone who votes for letting this dense over building variance blunder to continue. There are hundreds of resident voters and neighbors like us who want to see you turn down this project.

**Expected Close Date:** 09/12/2012

[Click here to access the request](#)

Note: This message is for notification purposes only. Please do not reply to this email. Email replies are not monitored and will be ignored.

## **SUPPLEMENTAL COMMUNICATION**

Meeting Date: 9/17/12

Agenda Item No. 14

# SUPPLEMENTAL COMMUNICATION

September 13, 2012

Meeting Date:

9/17/12

To: Don Hansen, Mayor

Agenda Item No.

14

**Concerning: Pierside Pavilion Expansion Appeal-September 17, 2012**

Dear Mayor,

I would like to comment on my support of the planning commission's Denial of this project. A hearing is scheduled for Monday to appeal the decision of Huntington Beach's Planning Commission for further expansion (as an exception) of Pier side Pavilion development.

I have been the owner of unit #124 in Pier Colony (200 Pacific Coast Highway) since 2000, which is adjacent to the proposed project. We oppose any additional development on the commercial space currently in use at Pierside Pavilion. Here are the reasons for this opposition:

#1 – Our condo unit already is subject to heavier foot traffic than normal since the extension of 3<sup>rd</sup> Street to PCH serves as a corridor for all parking lots located on Walnut. This space was designated by the Coastal Development Plan to remain as designed to allow for this foot traffic flow.

#2 – Allowing this access space to be further narrowed will only make the corridor less conducive to a normal flow and will restrict access to the coast. Future plans for Main Street to be closed to through traffic will further complicate "how" visitors get from the back street garages and parking spaces to PCH. This proposed tightening of the space will only add to congestion, noise and backlogs of human traffic flow.

#3 – Our view of the original design of the Pier Colony Residence was that adequate space existed between commercial enterprises and residential Condominiums to allow for a balance due to the larger separation. We feel the original plan is the best and while there is noise from foot traffic and bar revelers, it works as it exists and can be cleared in a relative short period of time.

#4-The addition of additional restaurant/bar combinations with only serve to put further pressure on the existing businesses, that, at time struggle with enough business to maintain profitability. The turnover within the downtown area should serve as an indication that we do not need any more capacity for bars or restaurants, especially when it infringes on design plans for space formally established by the development in the 1980's.

#5-The development of Pacific City, which will eventually take place, will add more to the consumption of open space within our community. Projects need to be in compliance with a consistent plan rather than modified due to the deep legal pockets or Influential activity to push through development that is not in the interest of the existing businesses or private property owners who live in the immediate and adjacent area.

We maintain that the current design plan works as it should, as it was intended during its concept and inception; any change to that only furthers our beautiful town and "Surf City" image to be driven

DATE RECEIVED  
HUNTINGTON BEACH, CA

- towards over built and over-commercialized open-space. This will make Huntington Beach less desirable as a vacation destination and more like the rest of the Beach communities to the north of us in the South Bay and Santa Monica vicinity-nothing but concrete to the beach.

**Maintain the quality of our residential area**

**Limit further development so we maintain a well designed community**

**Respect the Coastal Development design plan**

**Keep the business area vibrant, not overdone**

Thank you for your consideration in upholding the denial of the Pierside Pavilion Expansion.

Sincerely,

*Bill & Bonnie*

William A. Copeland & Bonnie S. Copeland, owners  
200 Pacific Coast Highway #124  
Huntington Beach, CA 92648

Bill Garrisi  
200 Pacific Coast Highway, #123  
Huntington Beach, CA 92648

Members of the City Council  
City of Huntington Beach  
2000 Main Street  
Huntington Beach, CA 92648

*RE: Proposed Pierside Pavilion Expansion – Appeal of Planning Commission’s denial of Mitigated Negative Declaration No. 11-007/Coastal Development Permit No. 11-012/Conditional Use Permit No. 11-021/Variance No. 11-005; Design Review No. 11-015*

Dear Honorable Council Members:

As is written, the proposed development at 300 Pacific Coast Highway, referred to here as Pierside Pavilion, has numerous areas where the plan deviates from the codes guiding development in Huntington Beach, particularly the Downtown Specific Development Plan and the Huntington Beach Zoning Ordinance. Some of these deviations have been noted in Staff Reports accompanying the project, but some have yet to be discussed. Approval of this proposed project would trample upon the intent behind the Downtown Specific Plan, infringe upon the property rights enjoyed by current residents of the area, and set a precedent for uncontrolled development that will be difficult to correct. In addition, approval of this proposal has the potential to be a significant financial liability to the city, both due to the loss of property values and the taxes to be collected from that, as well as via potential litigation.

Each of the areas where I have noted a potential area of non-compliance in the proposed project is summarized below, with references to the appropriate supporting documentation. This documentation is all publically available, but for convenience each pertinent section of the referenced documentation has been attached to a printed copy of this letter.

### **Third Street View Corridor**

The most egregious of these deviations is in regards to the view corridor that was to be maintained after the vacation of 3<sup>rd</sup> Street in 1988-1989. As is discussed below, there was a very clear requirement in the 1988 DTSP providing for a view corridor to be left roughly where 3<sup>rd</sup> Street was to be vacated by the City of Huntington Beach. This corridor was to be the width of the former street, as is defined below, and should be left there in perpetuity.

1. Huntington Beach city officials discussed the necessity of a view corridor in official documentation as far back as February of 1988  
*Reference: Exhibit W – 1988 Environmental Assessment showing View Corridor.pdf*  
<https://www.box.com/s/occj7tphu9l5r19txkt1>  
*Reference: Exhibit P – 03291988 Meeting Minutes*  
<https://www.box.com/s/cl46eszfmep1bq143ix>

2. The original Pier Colony/Pierside Pavilion project was proposed as either the current mix of residential and commercial uses, or as a single commercial site with a hotel situated where the current Pier Colony development now stands. It is interesting to note that even in some of the earlier proposals, a view corridor was drawn into the plans.

*Reference: Exhibit R – 03211988 Staff Report Proposals A&B.pdf*

<https://www.box.com/s/pfyk0etxg40z1iapaj76>

*Reference: Exhibit S – 03211988 CC Minutes.pdf Page 7*

<https://www.box.com/s/m3ankkc2zf3nqp08bd6g>

3. The City of Huntington Beach chose to accept the proposal including a mix of commercial and residential. This was not allowed due to the restrictions on types of development allowed in District 3. As of the 1985 DTSP, residential was not allowed south of Main Street in District 3. Rather than seek a variance, approval for Conditional Use Permit 88-7 was restricted to be granted when City Council approval was granted for the 1988 DTSP.

*Reference: Exhibit N - pc-19880405-minutes.pdf Page 15*

<https://www.box.com/s/kek9si4oc4lnyds8g9sz>

16. Conditional use permit 88-7 and coastal development permit no 88-3 shall not become effective until the proposed revisions to the DTSP are approved by City Council and in effect

*Reference: Exhibit S – 03211988 CC Minutes.pdf Page 7*

<https://www.box.com/s/m3ankkc2zf3nqp08bd6g>

4. The original Pier Colony/Pierside Pavilion project was approved via Conditional Use Permit 88-7, which explicitly stated that approval for the project was contingent upon acceptance of the 1988 Downtown Specific Development Plan.

*Reference: Exhibit M - Letter on CUP 88-7 - 5.6.1989.pdf*

<https://www.box.com/s/0rcs3ait6x35tp5h5m18>

*Notes: The attached letter states that 88-7 would not be in effect until all the DTSP revisions were approved, which would include language about view corridors*

*Reference: Exhibit N - pc-19880405-minutes.pdf page 15*

<https://www.box.com/s/kek9si4oc4lnyds8g9sz>

16. Conditional use permit 88-7 and coastal development permit no 88-3 shall not become effective until the proposed revisions to the DTSP are approved by City Council and in effect

5. The 1988 Downtown Specific Development Plan had a very clear requirement that any multiblock consolidation that resulted in a street vacation between Walnut Avenue and Pacific Coast Highway was to leave a view corridor not less than the width of the vacated street.

*Reference: Exhibit B – DTSP Code Amendment CA-88-3 3.15.1988 Page 60*

<https://www.box.com/s/ls1suzxc65861iej97x0>

The following conditions will apply to City vacation of streets and alleys for consolidation of parcels greater than one block in size.

(f) Any development proposing the vacation of streets intersecting PCH in District #2 and District #3 shall provide a **view corridor not less than the width of the former street** between Walnut Avenue and PCH. In addition, horizon view corridors shall be maintained in District #10. No structures greater than five (5) feet in height shall be allowed within such view corridor. A pedestrian easement

ten (10) feet wide shall be provided through the development generally parallel to the vacated street.

6. The language regarding street vacations in the 1988 DTSP was discussed at several different points prior to approval, and in each case, votes were held to maintain the “shall” language rather than “should” in regards to view corridors.

Planning Commission Motion

*Reference: Exhibit H - PC-19880315 minutes.pdf Page 7*

<https://www.box.com/s/l2lb6lik5z60exiyomac>

*Note: A straw vote on 3/15/88 to maintain view corridors in district 2 and 3 between Walnut and PCH was passed.*

City Council Motion

*Reference: Exhibit I - cc-19880502-minutes.pdf Page 15*

<https://www.box.com/s/aez1klse7lq7pm0bovel>

*Note: The city council held a vote on 5/2/88 to discuss the language of the street vacate on (shall vs should). Motion fails, shall is kept in the language*

7. Planning Commission approval for CUP 88-7 was made after a public hearing on 4/5/88. During that same meeting, prior to discussion of CUP 88-7, the Planning Commission had discussed and accepted the final language for the Downtown Specific Plan, including the language regarding street vacations

*Reference: Exhibit H - PC-19880315 minutes.pdf Page 7*

<https://www.box.com/s/l2lb6lik5z60exiyomac>

*Reference: Exhibit R – pc-19880405 minutes.pdf*

<https://www.box.com/s/pfyk0etxg40z1iapaj76>

8. Based on the definitions found in Ordinance 2836, a Street is defined as “A public or an approved private thoroughfare or road easement which affords the principal means of access to abutting property, not including an alley.” The definition is not explicit as to whether or not sidewalks are included in this measurement, so it becomes necessary to examine the definition of Street Line. A Street Line is defined as “the boundary line between a street and abutting property.” Based on these two definitions, it is clear that a street is measured from property line to property line. This is further clarified by referring to tract maps of the area during that era, all of which show 3<sup>rd</sup> Street as being either 30’ to the centerline, or 60’ wide.

For further clarification, please refer to the California Streets and Highways Code, Division 9, Part 3, Chapter 3, Section 8308 which defines Street to mean ““Street” and “highway” include all or part of, or any right in, a state highway or other public highway, road, street, avenue, alley, lane, driveway, place, court, trail, or other public right-of-way or easement, or purported public street or highway, and rights connected therewith, including, but not limited to, restrictions of access or abutters' rights, sloping easements, or other incidents to a street or highway.”

*Reference: Exhibit C - Ordinance-2836-definitions.pdf Page 13*

<https://www.box.com/s/63bj4nuzyxsgzk1epx1f>

*Reference: Exhibit D – HB Downtown – TR000155-1904.pdf*

<https://www.box.com/s/nky5819bi4dncxh8yx51>

*Reference: Exhibit AE – CA Streets and HWY Code Section 8300-8309 (Definitions).pdf*

<https://www.box.com/s/epsfjb38qb3um93pz125>

*Reference: Exhibit F - Record of Survey 003418 (1990 3rd and Walnut).pdf*

<https://www.box.com/s/n30gppsqvijeyceau4zr>

9. Submitted applicant plans show a 60' view corridor, but deemed an error in staff report responses.

*Reference: Exhibit A – Pierside Staff Report Late.pdf Page 3*

<https://www.box.com/s/gtdtiyz5xtjmkn3re02>

*Reference: Exhibit L - Current Plans with View Corridor Noted.pdf*

<https://www.box.com/s/rbbx3a17n1t9eljk8c7l>

10. Building to building, the first floor of the current Pierside Pavilion and the first floor of Pier Colony are separated by at least 60 feet. There are staircases encroaching upon that width, but the mass of the building is separated from Pier Colony by at least 60'. This is referenced in the Staff Report for CUP 03-28.

*Reference: Exhibit Q – 03092004 Staff Report CUP 03-28 – Page 7*

<https://www.box.com/s/x2xamfae4442lv3r286p>

11. The new building and infill is proposed to be parallel to staircases that already infringe upon the 60' view corridor, and the open space view corridor would be reduced to less than 40'. This view corridor should be measured from the edge of the existing retaining wall between Pier Colony and Pierside Pavilion (first permanent structure 5' tall or greater)

*Reference: Exhibit L - Current Plans with View Corridor Noted.pdf*

<https://www.box.com/s/rbbx3a17n1t9eljk8c7l>

## **Front Yard Setbacks**

The proposed new development extends the wall of the building to within 6 ½' from the property line. This replaces a large open space, and serves to visually and physically project the new building into the scenic view corridor along Pacific Coast Highway. By narrowing the existing sidewalk width, pedestrian traffic will be forced closer to Pacific Coast Highway, which is a high speed thoroughfare. Interactions between pedestrians and traffic are virtually unavoidable, and will most likely result in a lawsuit against the city at some point.

1. As per the 2011 DTSP, Section 3.3.1.10, a 15' minimum dedication of sidewalk area from edge to the property line for parcels fronting Pacific Coast Highway between 1<sup>st</sup> and 6<sup>th</sup> Street is required.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 109*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

*Reference: Exhibit AB – Setback Measurements.pdf*

<https://www.box.com/s/z8xoedqpu8zb65sms8vd>

2. As can be seen in Figure 3-28 of the DTSP, the front yard setback is measured from the property line to the edge of the building envelope. As the plans are drawn, this distance is 6 ½ feet, and thereby in violation of subpart 2 above along Pacific Coast Highway
  - a. Had the original intent of the requirement have been to leave a set separation between the curb and the building, than the requirement would have been written as the one for Main Street, which shows a dedication from the center line of the roadway

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 109*  
<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

3. In the original plan application, this requirement was noted and a variance requested. Justification for said variance was that allowing for a 6' setback will allow the proposed building to come in line with the existing Pier Colony building. This justification is false; the building envelope at Pier Colony is well over the 15' setback called for in the DTSP

*Reference: Exhibit V – Pierside Pavilion Staff Report.pdf Page 58*  
<https://www.box.com/s/s3za9vvvo8pmv74y8pi9>

### **Excessive Building Height**

The proposed building calls for a maximum building height of 68 feet, with an additional variance increasing the overall height to 90 feet. This additional variance represents a 22 foot variance added to the top of a 68 foot tall building. In addition, the proposed rooftop dining area has a glass wall over 42" in height. In sum, this proposal is calling for a building to be built taller than the existing building, and with excessively high protrusions on the roof. This will add clutter to the view from Pacific Coast Highway, and draw attention away from Main Street. The proposed high wall along the rooftop dining area would constitute a 5<sup>th</sup> floor to the building, which brings an additional level of noncompliance.

1. As per Section 3.3.1.8 of the DTSP (Building Height), the maximum height for a building of this size is limited to 45' and/or 4 stories.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 108*  
<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>
2. As per section 3.2.8 of the DTSP (Exceptions to Height Limits) and Chapter 230.72 of the HBZO (Exceptions to Height Limits), limitations are placed upon the height allowed for mechanical equipment and other appurtenances to being 10' above the height of the roof. This proposal is requesting a variance allowing for a 22' increase.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 69*  
<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>  
*Reference: Exhibit X – HB Building Code Chp 230.pdf Page 36*  
<https://www.box.com/s/h1r2rhr9cjnmgldhdln>
3. The requested rooftop dining area as proposed plans for a wall over 42" tall along the perimeter. As per Section 2.7 of the DTSP (Definitions), being over 42" tall constitutes a separate story which brings the project to a total of 5 floors and out of compliance in that regard.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 58*  
<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

## **Improperly Recorded Tract Map Drawings**

When the Pier Colony/Pierside Pavilion project was first conceived and built, several parcels were seized by the city of Huntington Beach via eminent domain and consolidated into two tracts. Those tracts are referenced as 13478 and 13722. A restriction of approval for CUP 88-7 was that the tract maps be drawn to accurately reflect the division between residential and commercial sections of the project. This was not properly carried out. As can be seen from the developer map, the boundary between the two tracts is located several feet into the Pier Colony development, past the existing retaining wall and in the landscaped area of the residential complex.

This error has been the source of some friction between the two properties over the past several years, but has never been thoroughly researched. Residents of Pier Colony have begun the process of working to have this error corrected, but are expecting the process to take significant time. While the documentation regarding this is clear, it is expected to cause additional friction between the two properties.

This proposed development takes advantage of this error and uses land that should belong to Pier Colony as a part of its open space requirements and landscaping requirements. While the current proposal is already not in compliance with the landscaping requirement of the Open Spaces section of the DTSP (discussed below), moving this lot line to where it was originally intended will further bring the project out of compliance.

*Reference: Exhibit Y – CUP 88-7 as approved.pdf Page 27*

<https://www.box.com/s/xfga0eag883yergntlzx>

*Reference: Exhibit Z – Pierside Plans 7-5-12.pdf Page 1*

<https://www.box.com/s/5qx9019btlnyy7ntj9z3>

## **Outdoor Eating Facility**

The proposed project plans for a 2<sup>nd</sup> floor dining establishment with rooftop dining allowed above the 4<sup>th</sup> floor. As per Section 3.2.24.2 of the DTSP “Outdoor dining shall be an extension of an existing or proposed eating establishment on contiguous property and shall be located directly adjacent to the eating establishment.” The proposed dining establishment is situated 2 floors from the proposed rooftop dining area, and thereby does not meet the definition of being directly adjacent.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 84*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

## **Residential Buffer**

In Staff comments letter, comments were made as to the validity of the residential buffers as pertaining to this project. This comment suggests that as per section 3.2.21 of the DTSP, Residential Buffers need not be applied. This requirement refers to Figure 3-10, which delineates where residential buffers shall apply. The area between Pierside Pavilion and Pier Colony is not delineated as requiring a residential buffer.

If the position of Staff is that the two sites should not be treated as a commercial site adjacent to a residential neighborhood, than Section 3.2.14 of the DTSP (Mixed Use Projects) must apply as per the original Conditional Use Permit 88-7. In that case, significant buffer areas are to be left between noise and odor generating facilities and the residential portions of the site. Architecture is to remain consistent across all aspects of the project, and buildings must be sited so as to reduce conflict between residential and commercial portions of the site.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 73,74,77*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

*Reference: Exhibit V – Pierside Pavilion Staff Report.pdf Page 147*

<https://www.box.com/s/s3za9vvvo8pmv74y8pi9>

*Reference: Exhibit Y – CUP 88-7 as approved.pdf*

<https://www.box.com/s/xfga0eag883yergntlzx>

### **Ground floor visitor serving**

The proposed project includes a significant amount of office space planned for the ground floor, in violation of Section 3.3.1.3 of the DTSP. This is in addition to the 4891 square feet listed on the floor plans as being currently used as office space, also in violation of that same statute.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 103*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

### **Public View**

Significant areas of the corridor separating Pier Colony from Pierside Pavilion will no longer have views of the Pacific Ocean in this proposal. In particular, the entire 2<sup>nd</sup> floor area along that corridor, listed currently as being public access open space, will have either severely restricted or no view of the ocean. No studies have been shown detailing the loss of public view from within the corridor between Pier Colony and Pierside Pavilion, specifically from on the second floor public access area adjacent to the wall of the Pierside Pavilion building. As per Section 3.3.1.14 of the DTSP, a Public View Analysis must be performed from all affected areas, and increased setbacks may be required to protect this valuable resource.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 110*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

### **Public Open Space**

As per Section 3.3.1.15 of the DTSP, 30% of the open space in a project must be landscaped. According to the plans released by the developer, 1,555 square feet of the 8,880 square feet of open space is considered landscaped. This is 17.5%, not the 30% minimum as required by the DTSP. In addition, from the plans released by the developer, it would appear that some of the area considered landscaped would actually be area considered to be a part of Pier Colony. This should not be included in the calculations for Pierside Pavilion.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 110*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

*Reference: Exhibit Z – Pierside Plans 7-5-12.pdf*

<https://www.box.com/s/5qx9019btlnyy7ntj9z3>

### **Rooftop Mechanical Equipment**

As per HBZO Chapter 230.76 Screening of Mechanical Equipment, all mechanical equipment is to be screened from view from adjacent properties, and shall be set back 15' from the edge of the roofline. This proposed property does not comply with that; in fact it intends to have the mechanical equipment right at the edge of the roof. This is of particular concern due to the close proximity of the building with its neighbor, as well as the fact that the neighbor in question is a residence located in the same vertical plane as the proposal.

*Reference: Exhibit X – HB Building Code Chp 230.pdf Page 37*

<https://www.box.com/s/h1r2rhr9cqnmglhdhln>

### **Pedestrian Corridor Narrowing**

As is written, the developer plans show a 9'6" walkway between the edge of the Black Bull building wall and the existing stairway. This is less than the allowed 10' minimum pedestrian easement required by the DTSP. This is a safety hazard, as well as a violation of the intent to use that pedestrian corridor as a public route to the ocean.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 25*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 66 (Street Vacations)*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

*Reference: Exhibit B – DTSP Code Amendment CA-88-3 3.15.1988 Page 60*

<https://www.box.com/s/ls1suzxc65861iej97x0>

*Reference: Exhibit Z – Pierside Plans 7-5-12.pdf Page 1*

<https://www.box.com/s/5qx9019btlnyy7ntj9z3>

### **Design Issues**

The proposed structure is a monolithic, glass walled block placed squarely in between where the current edge of Pierside Pavilion ends and the edge of the Pier Colony complex. It is proposed to be taller than both existing buildings, does not utilize a similar "wedding cake" style of upper floor setbacks, and is of a drastically different architectural style than the existing buildings. It has been stated several times that this building is designed to stand out from the existing buildings.

In addition to the obvious areas of noncompliance with the Downtown Specific Plan, this design causes the project to be out of compliance with the Coastal Element of the DTSP. For this, it is informative to read the guidance memo written by the California Coastal Commission, in which it is noted that public views of the beach area from the water are considered a protected resource. In this case, the view is seen daily by thousands of visitors from the pier, and view along Pacific Coast Highway is considered to be a scenic route. A large glass walled, monolithic building will by design stand out from the

Mediterranean architecture found in the remainder of that area, and will thereby detract from the harmonious landscape currently existing.

*Reference: Exhibit U – Coastal Commission Memo regarding Views from Ocean to Land.pdf*

<https://www.box.com/s/krd28qzahooa4vn051hm>

## **Safety**

In the Staff Report, it was noted that with the proposed development, it will no longer be possible for an Aerial Rescue truck to gain access between Pier Colony and Pierside Pavilion. Due to how close the proposed building is to the retaining wall along the Pier Colony property line, the close proximity of the proposed building to the edge of Pacific Coast Highway, as well as the clear width of the corridor between buildings, access for larger fire apparatus will become impossible. In the case of a fire at Pier Colony, residents on the upper floors cannot depend upon the fire department for either rescue, or in all likelihood, to have the ability to fight a fire from the exterior of the building. This is a severe health and safety risk to those living in Pier Colony, and should this project be approved, an extremely large liability to the city.

*Reference: Exhibit V – Pierside Pavilion Staff Report.pdf Page 76*

<https://www.box.com/s/s3za9vvvo8pmv74y8pi9>

In addition, the Huntington Beach Police Department states that “the requested modifications will significantly affect the quality of life for the local residents by creating public nuisances and adding to the already congested Downtown area”. (Page 89 of the Pierside Pavilion Staff Report) Noise is already an issue in that area, and the addition of another alcohol serving facility will only add to the severe issues faced in downtown in regards to public intoxication.

*Reference: Exhibit V – Pierside Pavilion Staff Report.pdf Page 89-90*

<https://www.box.com/s/s3za9vvvo8pmv74y8pi9>

The addition of planters and trees at the immediate border between the sidewalk and the road has the potential to decrease driver visibility of the sidewalk as well as increase the severity of potential vehicular accidents in that area. The area between 2<sup>nd</sup> Street and Main Street, on Pacific Coast Highway, has a huge volume of pedestrian traffic, particularly in the summer. Instances can be observed daily where pedestrians are jaywalking there, or trying to cut across traffic lanes to beat the walk signal to cross Pacific Coast Highway. Reducing the ability of drivers on Pacific Coast Highway to observe the entirety of the sidewalk can only lead to accidents. Unfortunately too, the downtown area does see a significant number of drivers driving under the influence of alcohol, and adding more distractions and obstacles within the immediate vicinity of the street can only lead to an increase in both the number as well as severity of accidents.

## **Parking**

Parking is a significant issue in the downtown area, and the addition of a large office building will only serve to exacerbate the issue. With that in mind, there are several areas where this proposed project fails to conform with both local as well as federal regulations.

The amount of Handicapped Accessible parking spaces is insufficient. Parking level P1 shows 139 total spaces, with 4 shown as being handicapped, and parking level P2 shows 150 total spaces, with 3 handicapped. As per section 208.2 of the Americans with Disabilities Act, Table 208.2 requires 5 handicapped accessible spaces on each level.

*Reference: Exhibit AA – 2010ADAStandards.pdf Page 69*

<https://www.box.com/s/ghtszc675ri8lx5bkedy>

The proposed project takes advantage of a shared parking agreement with the City of Huntington Beach, and utilizes spaces available in the parking garage located at the corner of 3<sup>rd</sup> Street and Walnut Ave. In the original agreement, the lions share of the shared parking was required due to the existence of a theater in the complex. However, in more recent iterations of the shared parking agreement, the usage has shifted from being driven by the theater requirements towards predominantly office space. As per Section 3.2.26.11.8 of the DTSP (Shared Parking Agreements), these agreements can only exist if the land uses have distinctly different hours of operation, or hours that do not overlay each other. In this case, the two dominant land uses (office and retail), have hours of operation that significantly overlay each other. Office hours are typically considered to be 8 AM to 5 PM, while many of the retail operations in the area open between 6 AM and 8 AM, and close between 6 PM and 9 PM depending upon season.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 96*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

Figure 3-16 in the DTSP provides for additional parking spaces to be required by the planning commission for new development in the downtown area. Office space will by nature require that each occupied parking space will be occupied for many hours each day, placing additional strain upon the already taxed parking structures in the immediate area. While the current DTSP allows for a minimum of 2 spaces required per 1000 square feet of office space, it would be logical to utilize the 4 spaces per 1000 square feet requirement that is in effect for the remainder of Huntington Beach.

*Reference: Exhibit J – 2011 Downtown Specific Plan.pdf Page 90*

<https://www.box.com/s/yf2q80ze7l2mrja9n9f2>

## **Noise**

The addition of the restaurant/bar, both on the second floor as well as any rooftop usage, will increase the noise at the residential area to the south. (Pier Colony)

The city of Huntington Beach commissioned a study to determine the potential noise impacts of the proposed project. As a part of this, long term (4 day) readings were taken of ambient noise levels in the pedestrian corridor between Pier Colony and Pierside Pavilion. These readings were taken from Friday, October 28 2011 through Monday, October 31 2011.

As pointed out in city documentation, the downtown area experiences significant seasonality in traffic patterns, with peak pedestrian traffic occurring between Memorial Day and Labor Day every year. The validity of a noise study performed in late fall, when pedestrian traffic is at a minimum is questionable, particularly when dealing with the impact of a business such as a restaurant. In this case, the majority of the noise generated will come from speech, and as the ambient noise increases, the noise emanating from said restaurant or bar will increase as people increase their volume of speech to compensate.

In addition, a significant amount of the measured noise is coming from the existing Black Bull restaurant and bar at the southeastern corner of the project, a use that has already been the source of a multitude of noise complaints.

The noise study itself uses measurements taken 10 years prior to this study at a restaurant in Rancho Mirage, which is a small (10% population of Huntington Beach, trending toward an older demographic) town in the Palm desert. Nowhere in the noise study are details of the measurements taken, or their relevance to the proposed development. At a bare minimum, detail should be included showing the number of tables, any on site mitigation at the reference location, foot traffic at the reference location, and some detail on microphone heights used in testing. In addition, the testing was performed in January of 2002. The Palm Springs area, like downtown Huntington Beach, will experience seasonality in their visitors, and it is questionable if measurements taken in January would match those taken at a time when visitors to the area are at their peak. As referenced above, the level of noise emanating from this baseline source would be higher should the ambient noise levels be higher.

The noise study assumes that noise from the proposed development will propagate from the source outward equally; while this proposed development will be at both corners of what is proposed to be essentially a long hard lined tunnel (the pedestrian corridor between Pier Colony and Pierside Pavilion). This corridor already has the propensity to channel and focus sound; the proposed narrowing will only exacerbate that situation. Some modifications to the measurements need to be made to account for this impact. In addition, the proposed new restaurant will cover 2 floors, both with outside seating, and the noise impact of each should be evaluated both separately as well as in conjunction with the other.

Further study should be done to determine the impact of the noise at multiple elevations. Pier Colony has homeowners on 4 floors; a thorough noise study must include the impact at each level of the residential area given that the proposed development plans to include noise generating aspects on multiple floors.

In addition, the noise impact study did nothing to account for the narrowing of the pedestrian corridor between Pier Colony and Pierside Pavilion. Assuming pedestrian traffic remains the same or increases with the addition of new businesses in that area, channeling those same people through a smaller area, now covered in glass and concrete, will increase the intensity of noise in the residential area.

*Reference: Exhibit AD – 6-12-12 noise study.pdf Page 1-47*

<https://www.box.com/s/2uh2uolcxjppp9izobu7>

### **Construction Noise**

Construction is anticipated to last 12 months, with self imposed hours of operation between 8AM and 5PM. (9hrs per day) Based on the noise study submitted, the noise involved in the construction will range from a low of 76dB in the Physical Improvements stage to a high of 89dB in the Site Preparation stage. Again, I would challenge these estimations, as the majority of the work will be performed in an area that is basically a narrow concrete tunnel, which has a propensity to focus and reflect sound rather than allow it to dissipate.

Even should these assumptions prove to be accurate, these are very high sound levels to subject a residential area to. According to OSHA, 21CFR Part 1910, "Protection against the effects of noise exposure shall be provided when sound levels exceeded those shown in Table G-16" (21CFR 1910.95(a)).

The accompanying table shows sound levels down to 85dB, which is within even the optimistic estimates shown on the noise study. These noise levels are considered by OSHA to be dangerous, and would require mitigation even in an industrial facility, let alone a residential area.

*Reference: Exhibit AC – OSHA Reg 21CFR1910.95.pdf Page 125*

<https://www.box.com/s/gcnqlai5469m66blrrnm>

*Reference: Exhibit V – Pierside Pavilion Staff Report.pdf Page 92-93*

<https://www.box.com/s/s3za9vvvo8pmv74y8pi9>

*Reference: Exhibit AD – 6-12-12 noise study.pdf Page 43-49*

<https://www.box.com/s/2uh2uolcxjppp9izobu7>

## Summary

In summary, with the exception of the issues surrounding the loss of the view corridor, most of these issues individually seem to be relatively minor. However, when viewed from the perspective of the total project, these issues all add up to an ill-conceived project that tramples upon the intent behind the Downtown Specific Plan and will irreparably damage the ocean centric view many people still have of the downtown Huntington Beach area. This proposal is nothing more than a thinly veiled attempt to add a massive office building to some of the most valuable real estate in Huntington Beach; a building that would be much better suited in a dense urban area similar to downtown Long Beach. Planning staff noted many of these issues in their Staff Report, and noted many potential changes that if implemented could bring the proposed project closer to being in compliance with the DTSP, but even in the staff report it was noted that with all of the proposed modifications, the project would still not be in full compliance with the DTSP. Due to both the scope as well as the quantity of the known issues with the proposed project, approval will most likely result in a significant liability to the City of Huntington Beach.

Development in the downtown area is a desirable, perhaps even vital opportunity for the city to grow, and by extension improve property values and quality of life for those of us who are lucky enough to reside here. However, these opportunities should not be used by developers to push upon the city projects that are ill conceived, not within the spirit of the Downtown Specific Development Plan, and frankly ill-suited to serve the general public.

Failure to adhere to a strict interpretation of the guidelines set forth in the Downtown Specific Development Plan would also set a dangerous precedent for future development in the downtown area. There are currently several vacant lots in the close vicinity of this area, and should the precedent be set that the Downtown Specific Development Plan can be modified to this extent, any developer interested in building would be expected to request their own variances. This would make it very difficult to achieve the overall desired look of the downtown area.

I would be happy to discuss my concern with you in greater detail at your convenience, and I look forward to hearing your responses to my comments. If the proposed project does go forward, I reserve my right to pursue any and all options available to me to appeal the decision, both through administrative appeals as well as via the court system.

Thank you for your time

Bill Garrisi

Bill Garrisi  
200 Pacific Coast Highway, #123  
Huntington Beach, CA 92648

Members of the City Council  
City of Huntington Beach  
2000 Main Street  
Huntington Beach, CA 92648

*RE: Proposed Pierside Pavilion Expansion – Appeal of Planning Commission’s denial of Mitigated Negative Declaration No. 11-007/Coastal Development Permit No. 11-012/Conditional Use Permit No. 11-021/Variance No. 11-005; Design Review No. 11-015*

Dear Honorable Council Members:

I am writing this in response to one of the staff attachments for the meeting to be held on Monday, 9/17.

Attachment 7 shows the tentative dimension plan accepted on the 4/05/1988 approval of CUP 88-7. Hand drawn onto this plan was a measurement showing a 40’ view corridor between the two planned facilities. It is important to note that the view corridor noted on that attachment was drawn in recent times, not during the approval process in 1988. Attachment Exhibit Y – CUP 88-7 as approved.pdf, submitted to the city council as an attachment to my letter dated 9/13, shows the original document as accepted by the city in 1988.

When referring to the full document, it becomes apparent that the acceptance of that site plan was not to construe acceptance of the plans, but as a conceptual idea of the differences between the hotel and condominium projects. That same plan was submitted originally in the 3/21/1988 Staff Report, in which the planning commission was requesting guidance from the city council as to which proposal should be pursued, the condominium project or the hotel.

Furthermore, to quote from the conditions of approval for CUP 88-7,

CONDITONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 88-7:

1. The site plan, floor plan and elevations received and dated March 25, 1988, shall be the conceptually approved layout with the modifications described herein:
  - a. Number of units shall be reduced from 160 to 130 in order to create a greater separation of the residential from the commercial portions of the project; provide an increase in the average unit size; provide for a better overall building profile; and to provide greater view opportunities.

This referenced document does not in any way show that a 40’ wide view corridor was to be deemed sufficient. However, even had that been the case, based on the documentation in my previous letter, it can be seen that would have been an improper approval. Settled land use cases have proven that prior improper development is not to influence current proposals, and so it would be legally indefensible to base acceptance of the current project upon development improperly performed in the past.

Thank You

Bill Garrisi

## References

Reference: Exhibit S – 03211988 CC Minutes.pdf Page 7  
<https://www.box.com/s/m3ankkc2zf3nqp08bd6g>  
Reference: Exhibit H - PC-19880315 minutes.pdf Page 7  
<https://www.box.com/s/l2lb6lik5z60exiyomac>  
Reference: Exhibit R – pc-19880405 minutes.pdf  
<https://www.box.com/s/pfyk0etxg40z1iapaj76>  
Reference: Exhibit N - pc-19880405-minutes.pdf page 15  
<https://www.box.com/s/kek9si4oc4lnyds8g9sz>  
Reference: Exhibit Y –CUP 88-7 as approved .pdf  
<https://www.box.com/s/xfga0eag883yergntlzx>

EXHIBIT 'Y'

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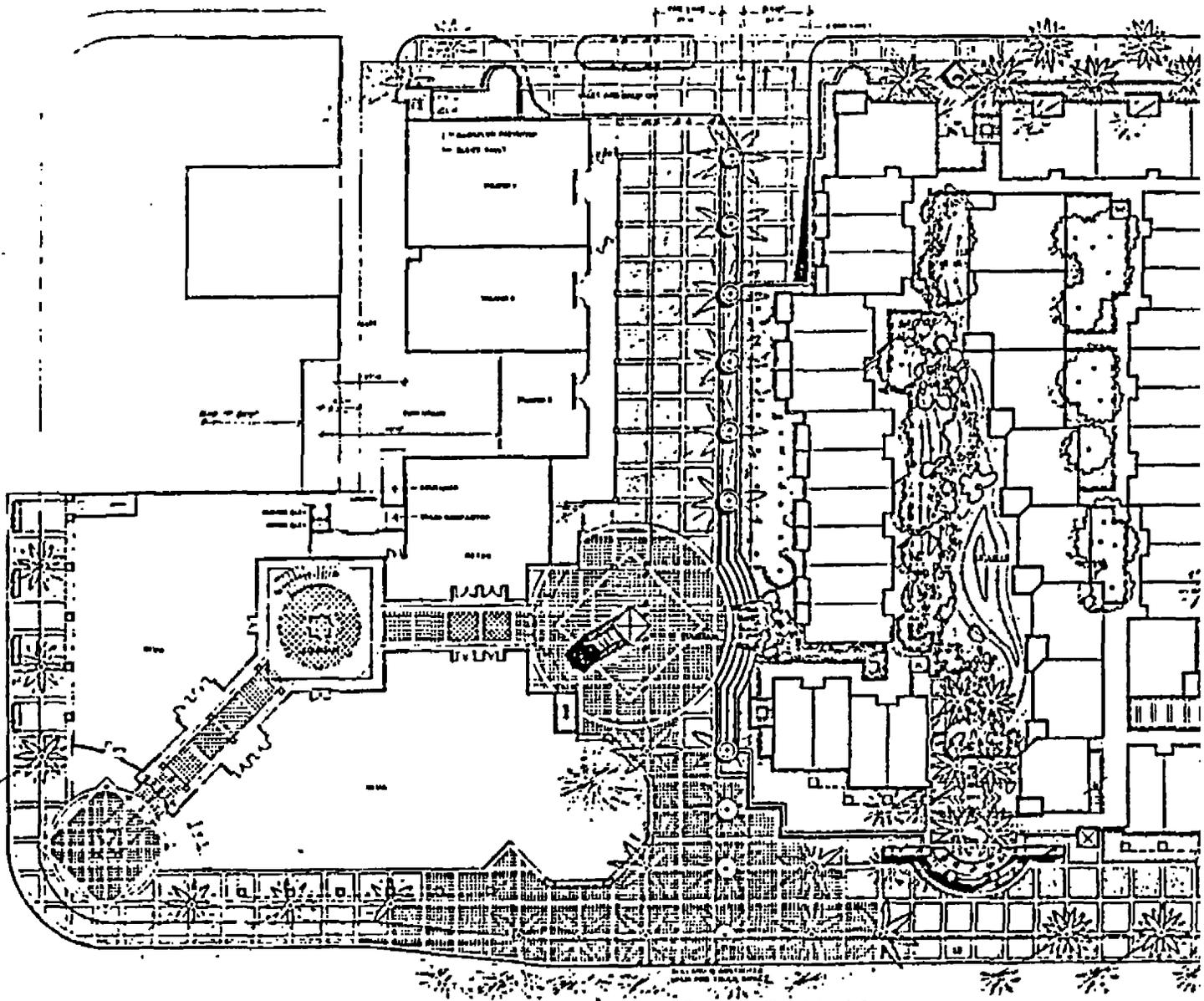
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ARCHITECT :  
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(213) 392-9501

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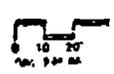


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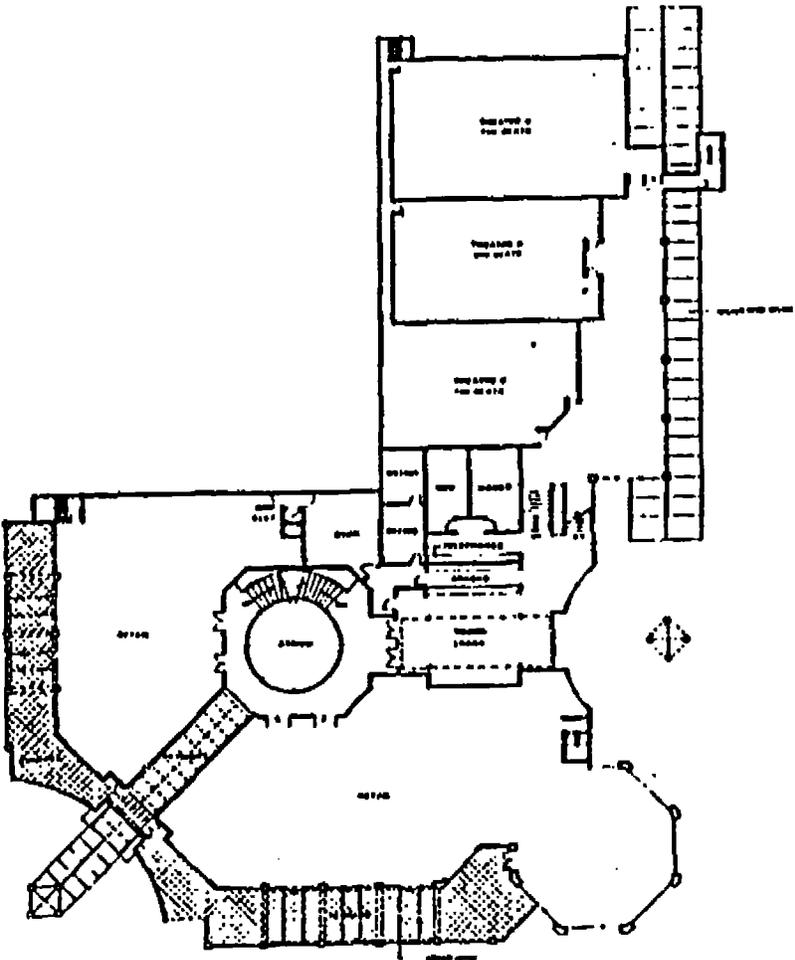
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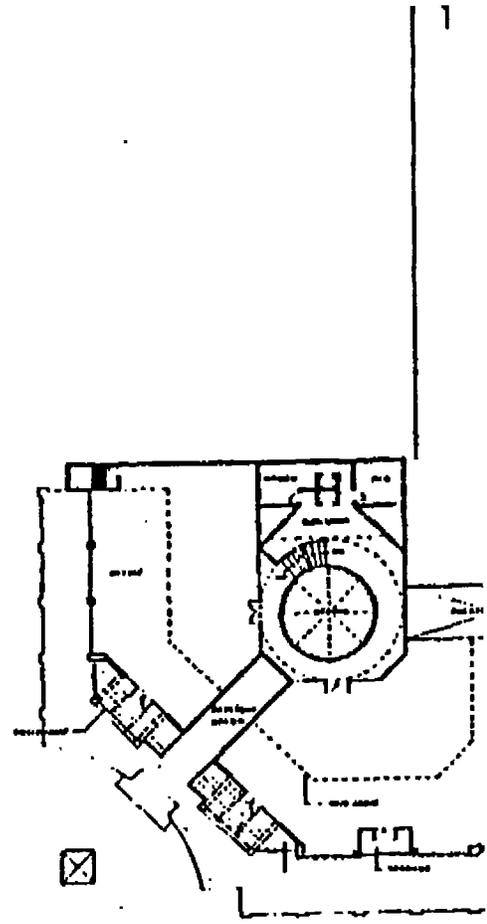
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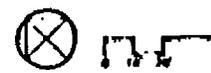
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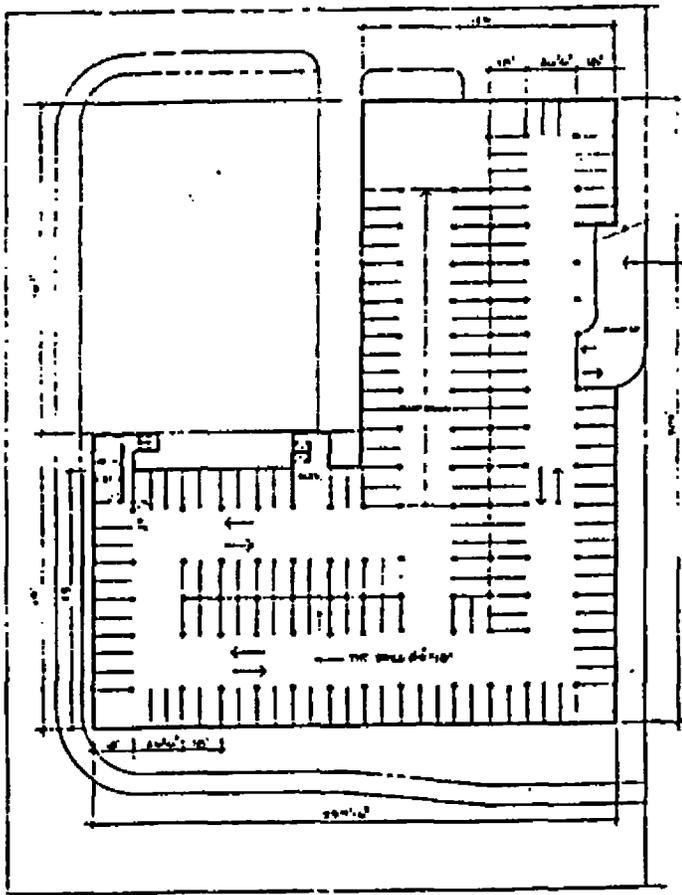
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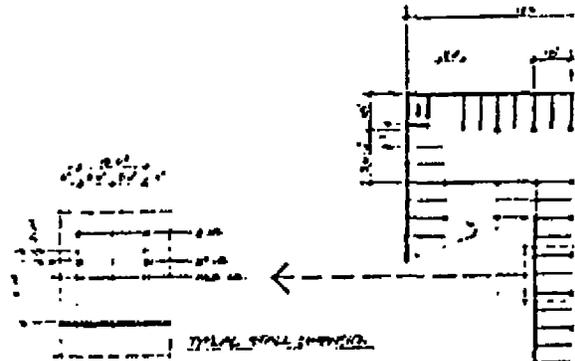


PLANS





ENTERTAINMENT CENTER PARKING  
FIRST LEVEL  
152 STALLS



ENTERTAINMENT CENTER PARKING  
LOWER LEVEL  
148 STALLS

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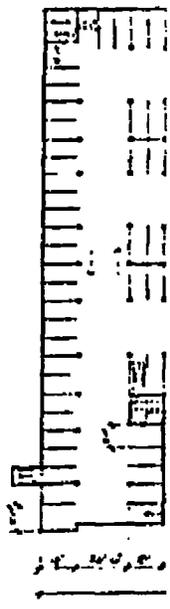
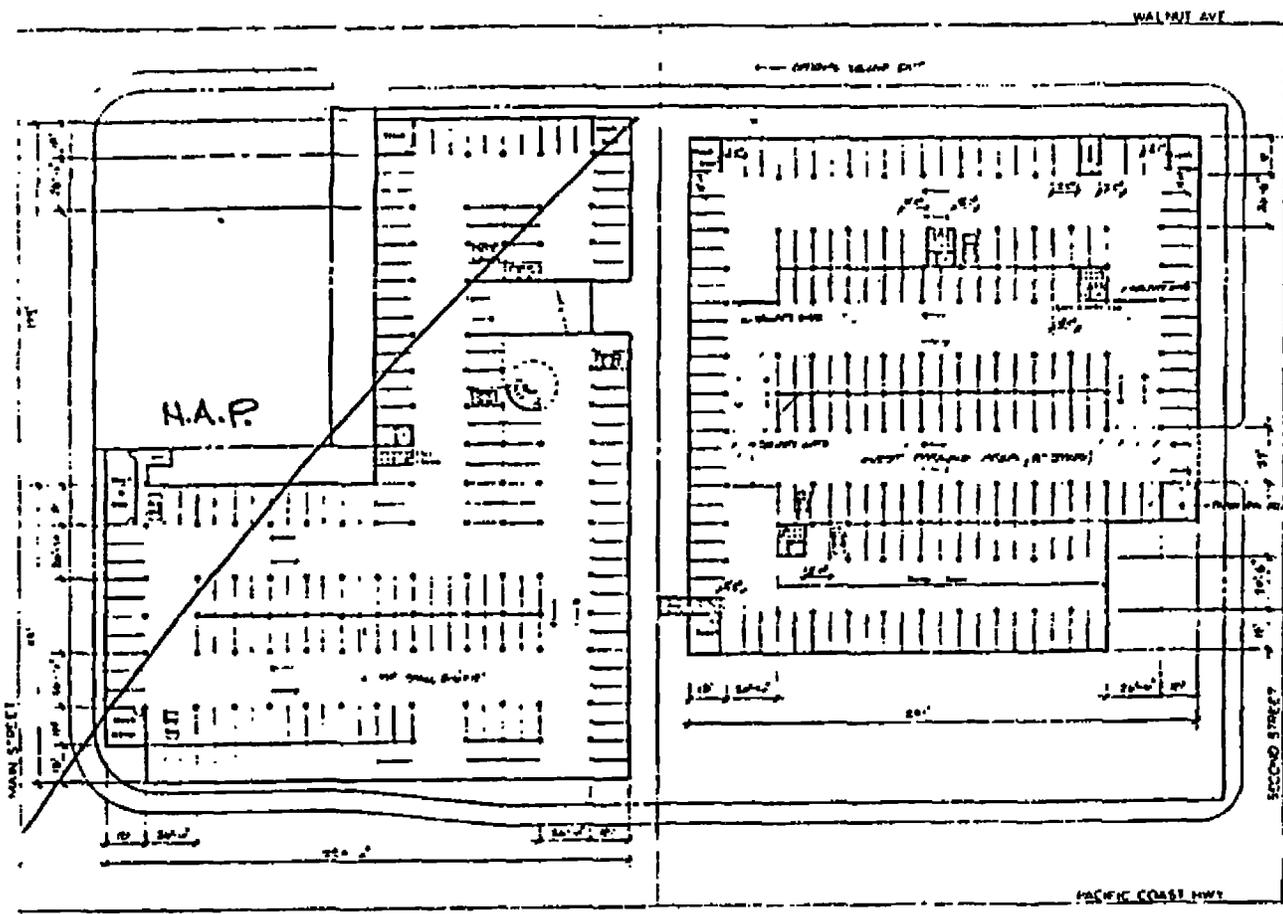
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GARAGE F



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HOTEL PARKING  
104 STALLS

CONDOMINIUM PARKING UPPER LEVEL  
100 STALLS

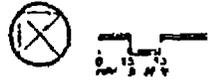
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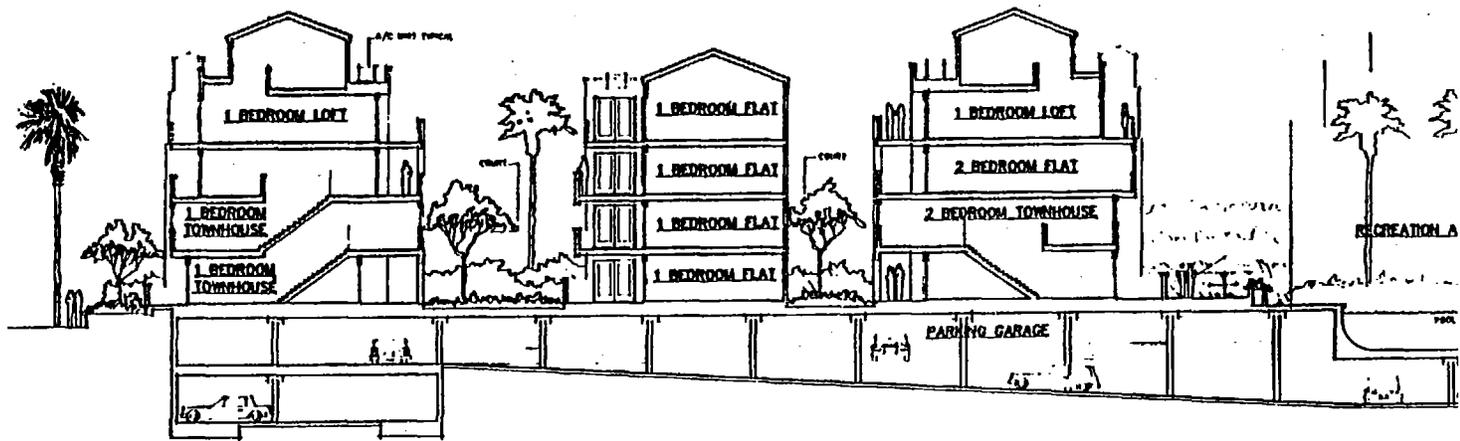
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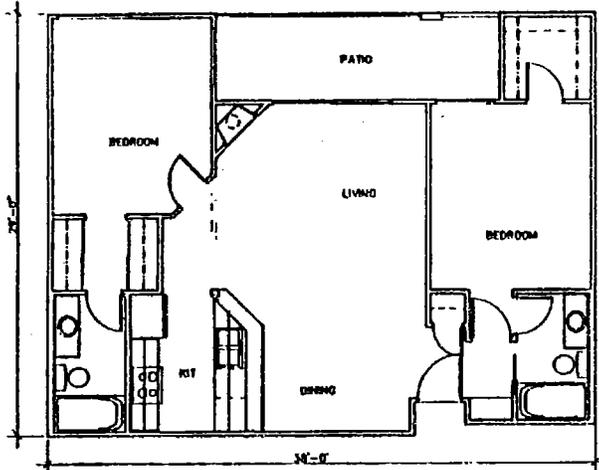
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## SECTION



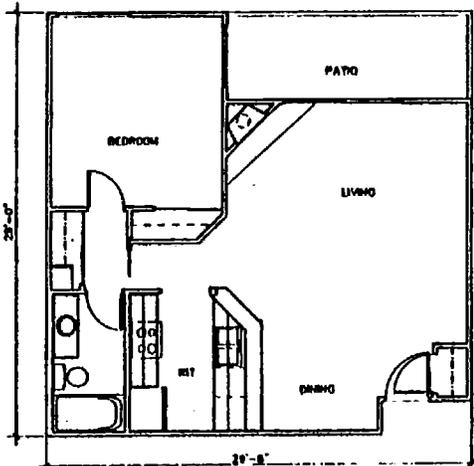
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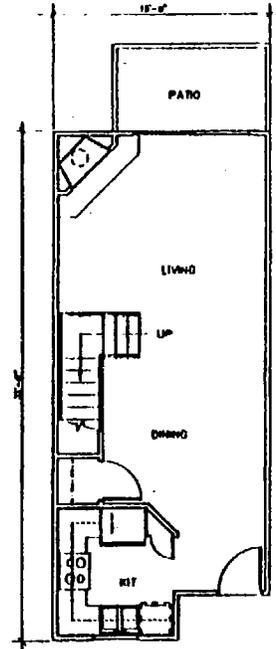
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970 SQ.FT.



**1 BEDROOM FLAT**

740 SQ.FT.



LOWER LEVEL



UPPER LEVEL

**1 BEDROOM TOWNHOUSE**

777 SQ.FT.

28.

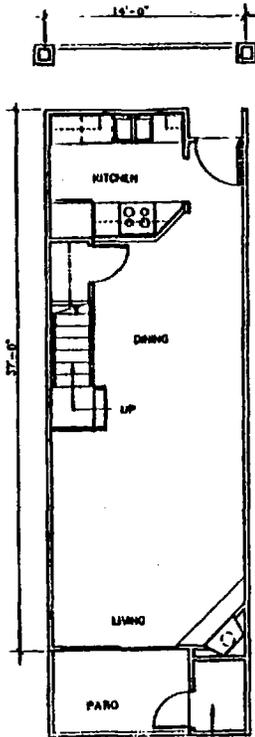
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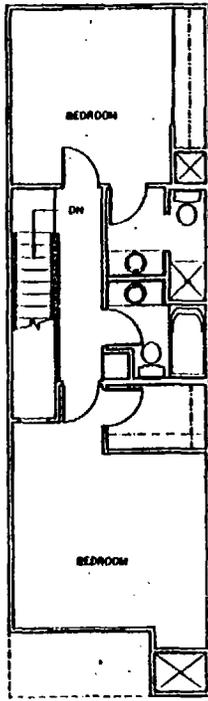


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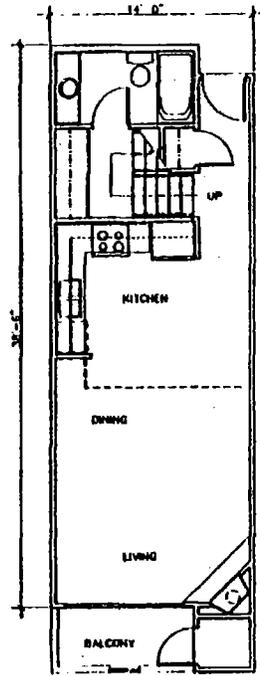


LOWER LEVEL



UPPER LEVEL

**2 BEDROOM TOWNHOUSE**  
1087 SQ.FT.



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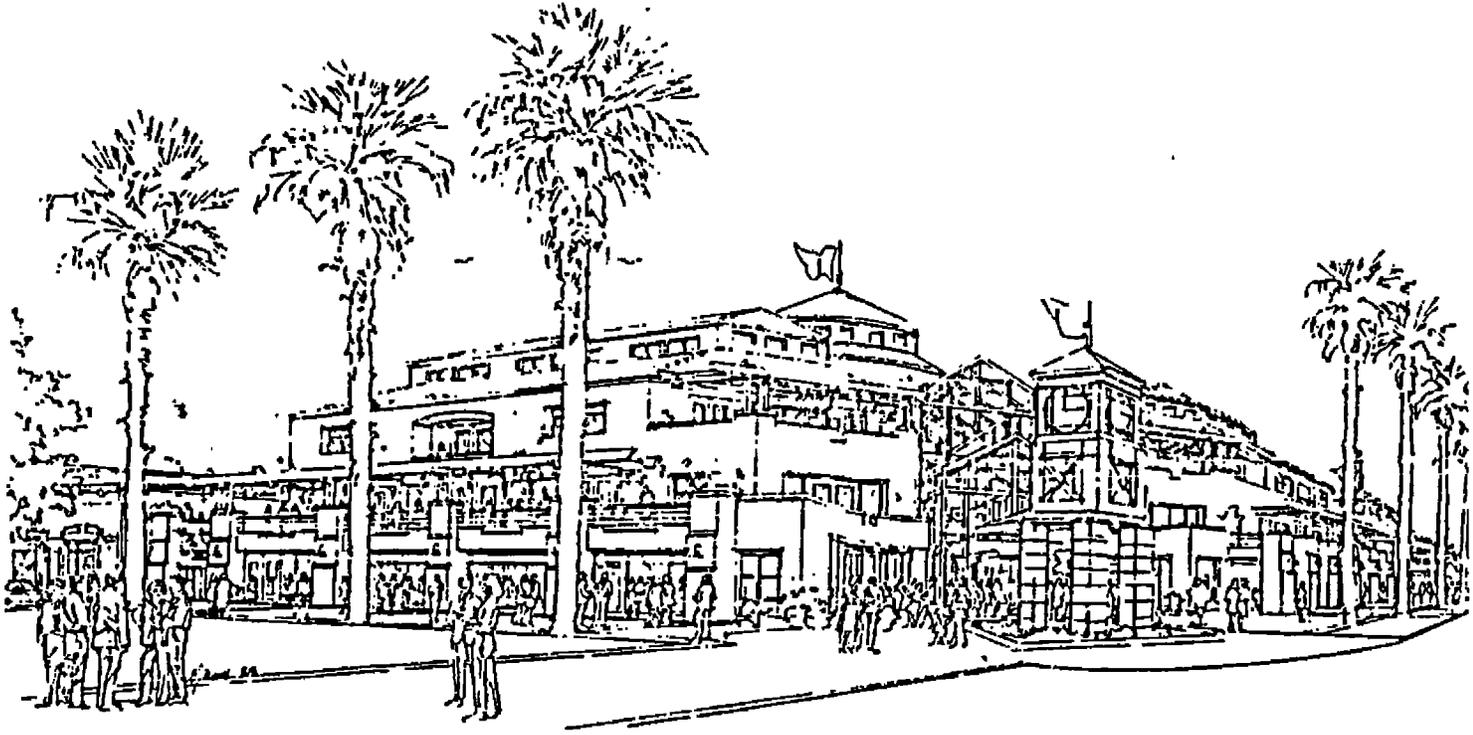
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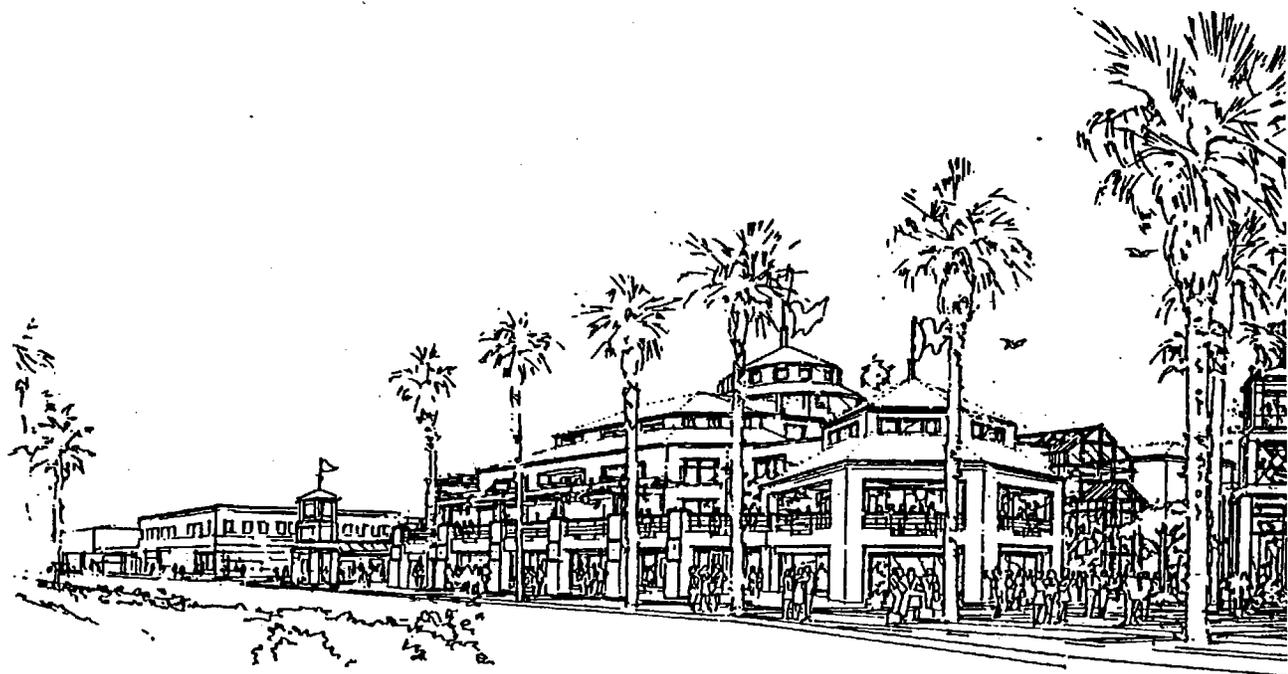




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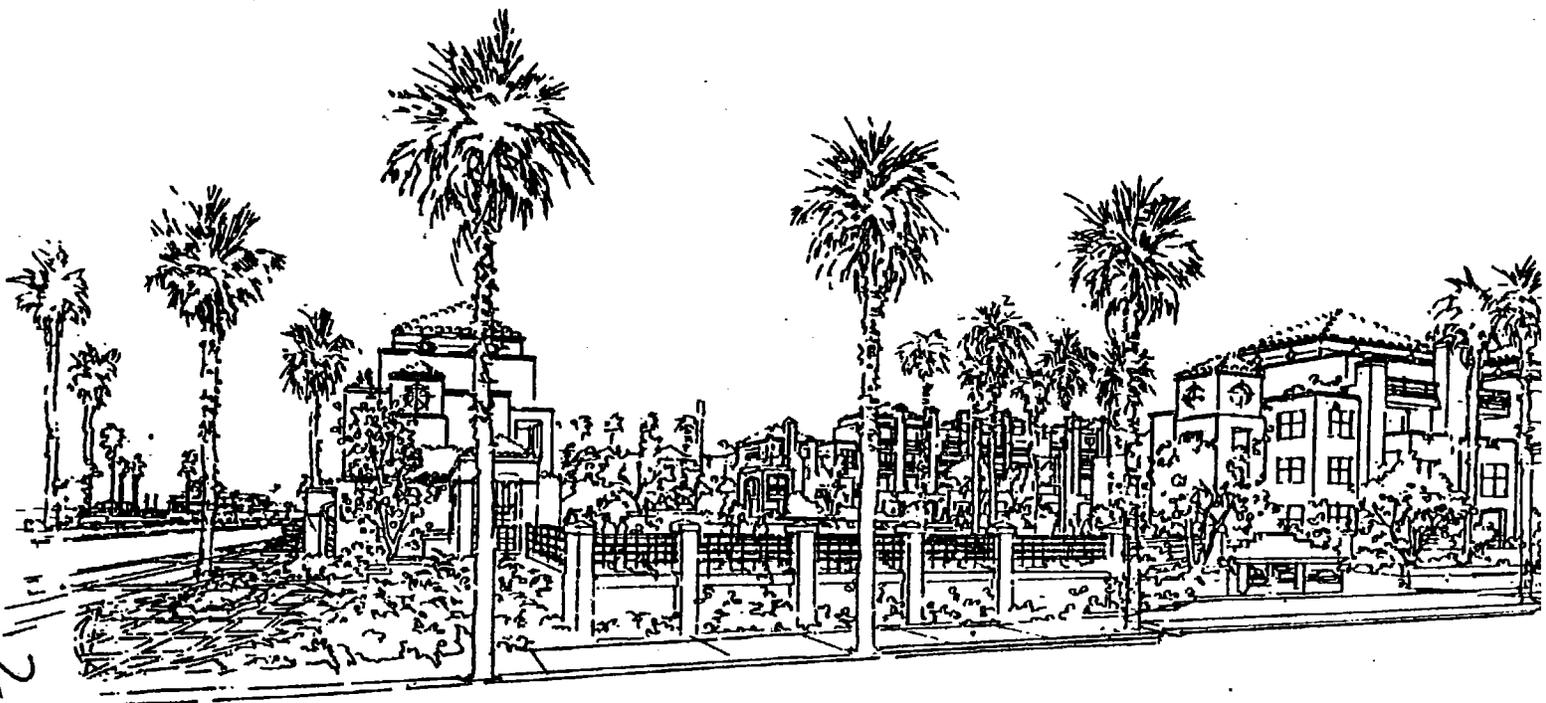
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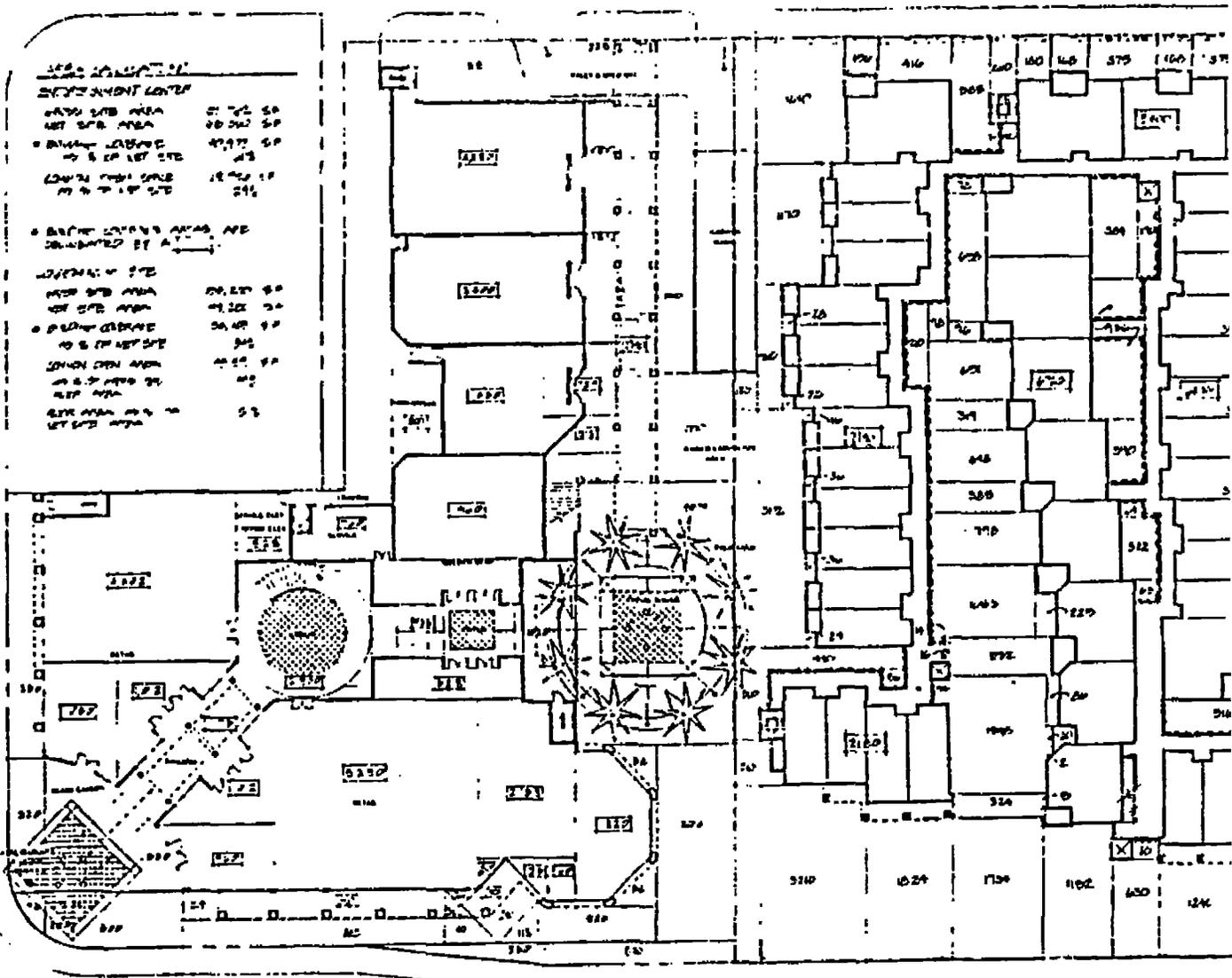
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TOTAL LOT AREA 27,720 SQ  
 ENTERTAINMENT CENTER  
 TOTAL SITE AREA 20,000 SQ  
 BUILDING FOOTPRINT 17,977 SQ  
 TO & FROM SITE 413  
 TOTAL OPEN SPACE 18,583 SQ  
 TO & FROM SITE 241

\* OTHER LOT'S AREAS ARE  
 DEMARCATED BY A ---

TOTAL SITE AREA 20,000 SQ  
 TOTAL SITE AREA 17,977 SQ  
 BUILDING FOOTPRINT 17,977 SQ  
 TO & FROM SITE 413  
 TOTAL OPEN SPACE 18,583 SQ  
 TO & FROM SITE 241  
 TOTAL SITE AREA 20,000 SQ



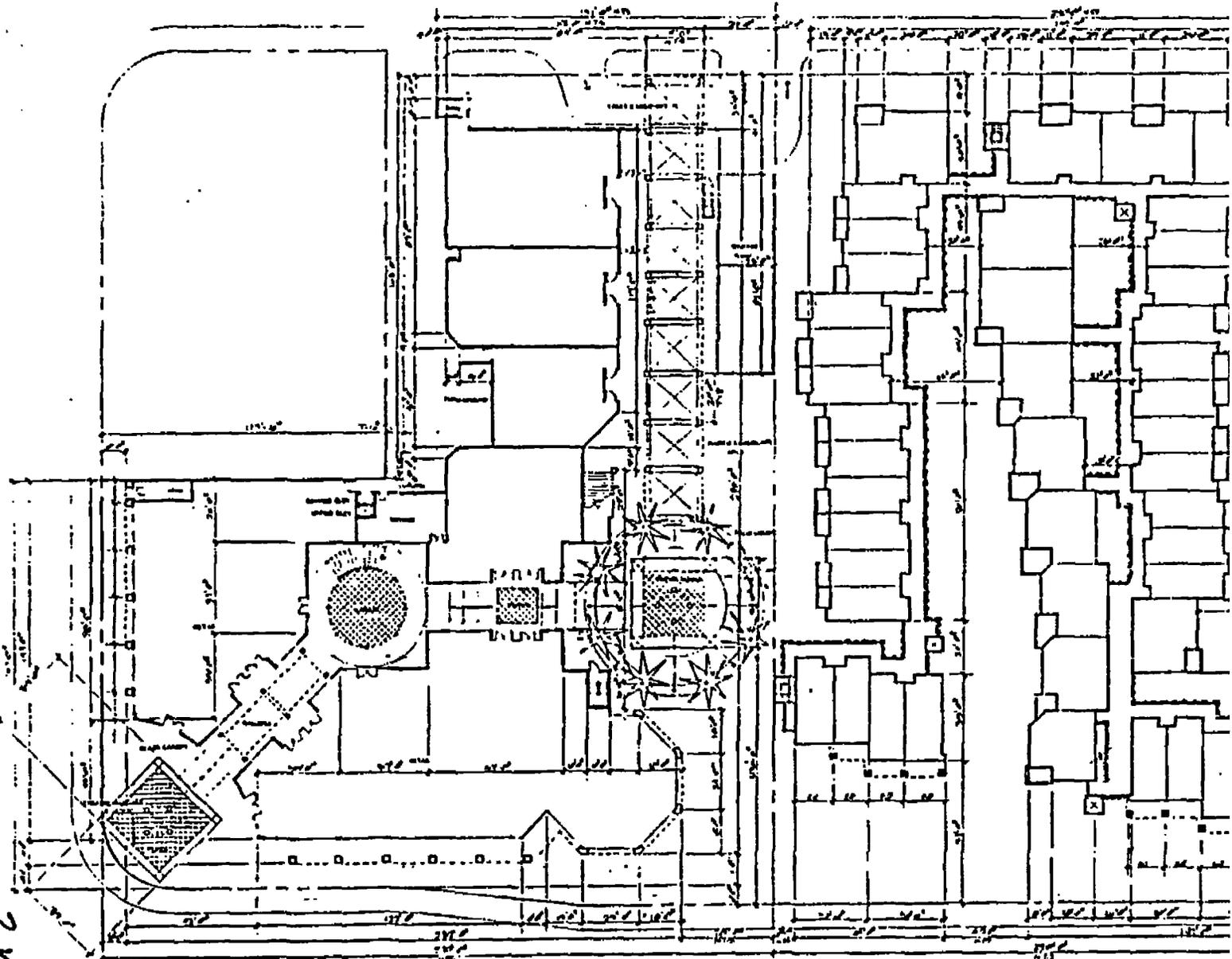
WZ

HUNTINGTON PIER COLONY  
ENTERTAINMENT CENTER

SITE CO

CALIFORNIA RESORTS  
 305 Walnut Avenue, Huntington Beach, California 92648  
 TOGAWA & SMITH ARCHITECTS PLANNERS  
 2914 Main Street, Santa Monica, California 90405





**HUNTINGTON PIER COLONY**  
**ENTERTAINMENT CENTER**

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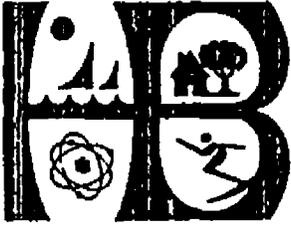
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22



**ATTACHMENT NO. 10**  
**FINAL FINDINGS AND CONDITIONS OF APPROVAL**



## Huntington Beach Planning Commission

P.O. BOX 190

CALIFORNIA 92648

April 19, 1988

California Resorts/  
City of Huntington Beach  
Redevelopment Agency

**SUBJECT:** CONDITIONAL USE PERMIT NO. 88-7 WITH SPECIAL PERMITS,  
COASTAL DEVELOPMENT PERMIT NO. 88-3 AND TENTATIVE TRACT  
NO. 13478

**REQUEST:** To develop a mixed use project with a 90,000 square foot  
entertainment complex, including retail, office and a  
6-plex movie theater in addition to a 160 unit  
condominium project.

**LOCATION:** The area approximately bounded by Pacific Coast Highway,  
Main Street, Walnut Avenue and Second Street

**DATE OF  
APPROVAL:** April 5, 1988

### FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 88-7:

1. The proposed mixed use project with an entertainment/commercial center (a maximum 1,750 seat theater; 23,575 square feet of commercial; 15,925 square feet of office space; 10,000 square foot restaurant with 3,500 square foot outdoor deck area; and a maximum 3,000 square foot night club) and 130 condominium units will not have a detrimental effect upon the general health, welfare, safety and convenience of persons residing or working in the vicinity and will not be detrimental to the value of the property and improvements in the vicinity. All required parking for the proposed project will be provided on-site for the residential portion with a minimum of 300 spaces on-site for commercial. The remainder (approximately 675 spaces) will be provided within a parking facility adjacent to the proposed site.
2. The proposed mixed use project with entertainment/commercial center and 130 condominium units is designed to be compatible with existing and proposed uses in the vicinity.

3. The location, site layout and design of the proposed mixed use project with entertainment/commercial center and 130 unit condominium project is properly related to the streets, drives and other structures and uses in the vicinity in a harmonious manner.
4. The architecture and design of the proposed mixed use project is in conformance with the adopted Design Guidelines for the Downtown Specific Plan.
5. The general appearance including architectural features of the proposed mixed use project shall enhance the orderly and harmonious development of the Downtown Specific Plan.
6. The proposed mixed use project with entertainment/commercial center and 130 condominium units is consistent with the goals and policies of the Huntington Beach General Plan.

FINDINGS FOR APPROVAL - SPECIAL PERMITS:

1. The following special permits for deviations to the requirements of the Downtown Specific Plan promote a better living environment and provide maximum use of the land in terms of site layout and design; exceeding the required amount of common open space.
  - a. Setbacks of 10 feet in lieu of 15 feet along Pacific Coast Highway and Walnut for encroachment of a colonade.
  - b. A reduction in the required alley width from 30 feet to 27 feet and a reduction in the main accessway width from the required 28 feet to 27 feet.
  - c. An increase in site coverage to create a better project profile and to help reduce the potential conflict of adjacent residential and commercial uses is necessary. Residential will have a maximum site coverage of 59 percent and commercial a maximum of 60 percent. At the request of the Planning Commission the residential site coverage was increased from 50 percent to a maximum of 59 percent.
2. The approval of the special permits for encroachment in setbacks, accessway widths and increase in site coverage will not be detrimental to the general health, welfare, safety and convenience of the neighborhood in general, nor detrimental or injurious to the value of property or improvements of the neighborhood.

CONDITIONAL USE PERMIT NO. 88-7 WITH SPECIAL PERMITS, COASTAL  
DEVELOPMENT PERMIT NO. 88-3 AND TENTATIVE TRACT NO. 13478  
Page Three

3. The special permit requests for encroachment in setbacks, accessway widths and increase in site coverage are consistent with the objectives of the Downtown Specific Plan in achieving a development adapted to the parcel and compatible with the surrounding environment.
4. The special permits for encroachment in setbacks, accessway widths and increase in site coverage are consistent with the policies of the Coastal Element of the City's General Plan and the California Coastal Act.

FINDINGS FOR APPROVAL - TENTATIVE TRACT 13478:

1. The proposed two lot subdivision for condominium and commercial purposes of the 170,912 net square foot parcel of land zoned Downtown Specific Plan-District 3, is proposed to be constructed having 130 residential condominium units and 90,000 square feet of commercial and retail.
2. The property was previously studied for a greater intensity of land use at the time the land use designation and Downtown Specific Plan-District 3 zoning designation were placed on the subject property.
3. The Huntington Beach General Plan is designed with provisions for the type of land use proposed, mixed use with entertainment/commercial center and residential, as well as setting forth provisions for the implementation of the proposed project.
4. The site is relatively flat and physically suitable for the proposed density and type of development.
5. Tentative Tract 13478 is consistent with the goals and policies of the Huntington Beach General Plan.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 88-3:

1. The proposed mixed use project with entertainment/commercial center and 130 residential condominium units conforms with the plans, policies, requirements and standards of the Huntington Beach Coastal Element.

CONDITIONAL USE PERMIT NO. 88-7 WITH SPECIAL PERMITS, COASTAL  
DEVELOPMENT PERMIT NO. 88-3 AND TENTATIVE TRACT NO. 13478  
Page Four

2. Coastal Development Permit No. 88-3 is consistent with the CZ suffix and the Downtown Specific Plan as well as other provisions of the Huntington Beach Ordinance Code applicable to the project.
3. The proposed mixed use project with entertainment/commercial center and 130 condominium units shall be provided with infrastructure in a manner that is consistent with the Huntington Beach Coastal Element and Land Use Plan of the General Plan.
4. The proposed mixed use project with entertainment/commercial center and 130 condominium units conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act.
5. The Mellow Bill Affordable Housing requirements, Government Code Section 65590(d), are satisfied in the following manner:
  - a. The City has provided density bonuses within three miles of the coastal zone which have provided affordable housing.
  - b. Due to the location and economics involved it would not be feasible to develop affordable housing on this site. The value of the land coupled with the need to provide subterranean parking on site would prohibit the ability to provide for affordable housing.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 88-7:

1. The site plan, floor plan and elevations received and dated March 25, 1988, shall be the conceptually approved layout with the modifications described herein:
  - a. Number of units shall be reduced from 160 to 130 in order to create a greater separation of the residential from the commercial portions of the project; provide an increase in the average unit size; provide for a better overall building profile; and to provide greater view opportunities.
  - b. The finished floor of the first level units and adjacent common open space areas of the residential portion of the project shall be elevated to a maximum of 8 feet above existing grade for the creation of a greater physical separation of the residential from the commercial portions of the project.

- c. The residential building elevations adjacent to Pacific Coast Highway and Second Street shall be modified to show a greater degree of upper story setback or other building wall movement, subject to review by the Design Review Board.
- d. The vallet/passenger drop off area adjacent to Walnut Avenue shall be modified to reduce the potential conflict of pedestrians and vehicles entering the project, subject to review by the Planning Commission.
- e. The residential project shall include the following sound mitigation features:
  - (1) Double glassing on all exterior perimeter windows
  - (2) Intensified landscape materials with water feature
  - (3) Vertical separation from pedestrian accessway
- f. All private open space shall comply with the minimum dimension and square feet requirements of the Downtown Specific Plan.
- g. Parking layout shall show minimum 26 foot aisleways with all spaces dimensioned at 8-1/2 feet by 18 feet except those adjacent to a wall over 42 inches in height which shall be 12 feet in width.
- h. Depict all utility apparatus, such as but not limited to backflow devices and Edison transformers, on the site plan. They shall be prohibited in the front and exterior yard setbacks unless properly screened by landscaping or other method approved by the Community Development Director.
- i. Depict commercial electrical vault in a location that presents the least public hazard subject to review and approval by the Fire Department, Public Works Department and Community Development Department.
- j. Adequate trash enclosures shall be provided with a method of trash pick up subject to the approval of the Public Works Department and Community Development Department.
- k. The three security gates in the residential parking structure shall be located so no dead-end driveways are created for guest parking.

1. Circulation in the entertainment center parking structure shall provide a continuous flow on the first level down to the second level subject to the approval of the Public Works Department and Department of Community Development.
  - m. Site coverage shall not exceed 59 percent for residential and 60 percent for commercial.
  - n. Parking layout shall be modified to add an additional 155 spaces on-site. If it is not feasible to incorporate the total additional spaces on-site, the shortfall must be made up in the off-site adjacent parking structure as identified in Condition No. 5.
2. Prior to the issuance of building permits, the following shall be completed:
    - a. Street improvements as determined necessary by the Fire Department.
    - b. Water mains and fire hydrants shall be installed and operating.
    - c. All existing or abandoned oil well sites must be abandoned pursuant to Department of Gas and Oil and Fire Department standards.
    - d. A circulation and parking management plan by a traffic engineer addressing valet parking, ingress and egress to the site, the allocation and assignment of parking spaces for residential tenants, and the need for a second ingress and egress ramp to the residential subterranean parking structure shall be submitted and approved by the Department of Community Development.
    - e. Prior to combustible or above grade construction, a fire protection plan, pursuant to Article 87 of the Huntington Beach Fire Code, shall be submitted for approval by the Fire Department. The plan shall have provisions for: phased installation of sprinkler systems, on-site security, and telephone for emergency notification.
    - f. Final tract map for the subject site shall be accepted by the City Council and recorded with the County Recorder's Office.

- g. A copy of the revised site plan, elevations and floor plans, pursuant to Condition No. 1 of this report shall be submitted as record for the conditional use permit file.
  - h. A landscape and irrigation plan pursuant to the Downtown Design Guidelines and Article 960 shall be submitted and approved by the Community Development Department and Public Works Department.
  - i. A rooftop mechanical screening plan submitted and approved by the Department of Community Development.
  - j. An affordable housing agreement plan to provide affordable housing within 3 miles of the Coastal Zone for the replacement of the 12 existing units displaced as a result of this project shall be submitted for review and approval by the Community Development Department.
  - k. Hydrology/hydraulic drainage studies shall be submitted to the Public Works Department for approval.
  - l. A grading plan and soils report shall be submitted to the Department of Public Works for approval.
  - m. All applicable Public Works fees shall be paid prior to issuance of building permits.
  - n. The applicant shall post a cash deposit for the public improvements on one-half width of Main Street from Pacific Coast Highway to Heidi's adjacent to the subject property in an amount to be determined by Public Works.
  - o. The parking facility identified in Condition No. 5 shall be approved by the City of Huntington Beach.
3. The following Fire Department requirements shall be complied with:
- a. Fire lane shall be minimum 27 feet clear width from Walnut to Pacific Coast Highway. Turf block is unacceptable as a fire lane surface.
  - b. Building address numbers shall be installed pursuant to Fire Department standards.

- c. Fire flow for entertainment/condominium plan is 4,750 gallons per minute. Water system shall provide minimum fire flows.
  - d. Five fire hydrants are required for this project in locations to be approved by the Fire Department.
  - e. Alleyway from Walnut Avenue, behind existing buildings shall be a minimum 27 feet clear width for Fire Department access.
  - f. All structures in project shall be provided with the following:
    - (1) Automatic fire sprinklers throughout with combination standpipe systems;
    - (2) Fire alarm system with graphic annunciators.
  - g. Elevators throughout project shall be a minimum size of 6 feet-8 inches by 4 feet-3 inches with minimum opening of 42 inches.
  - h. Access for emergency purposes shall be provided to all perimeter stairways from public streets.
4. The following Public Works Department requirements shall be complied with:
- a. A right turn lane shall be constructed at Pacific Coast Highway and Main Street per City and CalTrans design criteria. The appropriate right of way shall be dedicated to accommodate the right turn lane.
  - b. The traffic signal at Pacific Coast Highway and Main Street shall be relocated per City and CalTrans standards.
  - c. Walnut Avenue, Main Street and Second Street shall be constructed per Public Works standards.
  - d. Driveways shall be 27 feet wide minimum and radius type construction.

- e. The parking structure for the condominium units requires two entries/exits unless one entry is determined adequate by a traffic engineer pursuant to Condition No. 2.d.
- f. The proposed 27 foot wide commercial alley is adequate until the property to the west dedicates an additional 5 feet.
- g. Landscaping (including public right of way) shall be per the Downtown Guidelines and maintained by the developer/homeowner's association.
- h. Street lighting shall be installed per the Downtown Guidelines and the City electrician's requirements.
- j. Parking shall be prohibited on Walnut Avenue and Pacific Coast Highway.
- j. All utilities located in the alleys and streets to be abandoned shall be removed per the direction of utility companies' representatives.
- k. A 12 inch minimum sewer main shall be constructed in Main Street and Walnut Avenue and connect to the County's coast truck sewer at the alley between Main and Third Street.
- l. A 12 inch water mains shall be constructed in:
  - (1) Main Street from the existing 12 inch main in the south side of Pacific Coast Highway to Walnut Avenue.
  - (2) Walnut Avenue from Main to Second Street, connecting the existing mains in the north/south alleys.
  - (3) Second Street from Walnut to Pacific Coast Highway.
- m. Any on-site water facilities required to be dedicated to the City shall be located in vehicular travelways. The developer/homeowner's association shall be held responsible for repairing the enhanced pavement, if the water facilities need to be maintained or repaired.
- n. All security gate configurations shall include on-site turn-arounds (no backing into the streets) and shall be approved by the Public Works Department, Fire Department and Community Development Department.

5. The project shall be responsible for providing the balance of required off-street parking spaces in a parking structure to be built at the northwest corner of Walnut and Third Streets. Prior to the issuance of a building permit, an off-site parking plan shall be approved and adopted by the City as identified in these conditions or other adequate contingency plan. Such parking sufficient for this project and off-site requirements shall be available prior to the issuance of a Certificate of Occupancy for the theaters.
6. Provide a centralized mail delivery facility which shall be architecturally compatible with the structures.
7. All dwellings on the subject property shall be constructed in compliance with State Acoustical standards set forth for units that are within the 60 CNEL contour of the property.
8. All guest parking spaces for residential shall be designated as such by marking "Guest Parking" on the surface of each stall.
9. Street furniture and other required improvements shall be provided in public plaza areas according to the Downtown Design Guidelines and dedicated to the City of Huntington Beach.
10. A planned sign program shall be submitted to the Design Review Board for review and approval for all signing. Said program shall be approved by the Department of Community Development prior to the first sign request.
  - a. Advertising of the theater complex, including the marquee, shall not be permitted at the corner of Pacific Coast Highway and Main Street.
11. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
12. Natural gas shall be stubbed in at the locations of cooking facilities, water heaters, and central heating units. This requirement may be waived provided the applicant installs a more energy efficient alternative subject to the review and approval by the Community Development Department.
13. Low-volume heads shall be used on all spigots and water faucets.
14. If lighting is included in the parking lot, high-pressure sodium vapor lamps shall be used for energy savings. All outside lighting shall be directed to prevent "spillage" onto adjacent properties.

15. The location of the night club shall be limited to 3,000 square feet at a location facing Main Street subject to review and approval by the Community Development Director.
16. Conditional Use Permit No. 88-7 and Coastal Development Permit No. 88-3 shall not become effective until the proposed revisions to the Downtown Specific Plan are approved by City Council and in effect.
17. Any modifications to plans shall be subject to additional review and approval by the Planning Commission. Any modifications which result in an increase of project intensity shall be subject to additional public hearings. Modifications to interior layouts or exterior finishes shall be subject to Design Review Board review and approval.

CONDITIONS OF APPROVAL - TENTATIVE TRACT 13478:

1. Prior to final recordation of Tentative Tract 13478 the following shall be completed:
  - a. CC&R's for the subdivision addressing the conditions herein, Article 915 and Condition 2.d of Conditional Use Permit No. 88-7 shall be reviewed and approved by the City Attorney and Department of Community Development in accordance with Article 915.
  - b. Legal documents which will provide for restricting the use of common spaces for the designated purpose, as approved on the final development plan, for the residential project, shall be submitted and approved by the Department of Community Development and the City Attorney.
2. The tentative tract map shall be revised to show:
  - a. Typical cross section for Pacific Coast Highway and the public alley.
  - b. Right of way radii of 25 feet at Pacific Coast Highway and Main and Pacific Coast Highway and Second Street.
  - c. Right of way radii of 30 feet at Walnut and Second Street.
  - d. A 12 foot wide raised median in Walnut Avenue.

CONDITIONAL USE PERMIT NO. 88-7 WITH SPECIAL PERMITS, COASTAL  
DEVELOPMENT PERMIT NO. 88-3 AND TENTATIVE TRACT NO. 13478  
Page Twelve

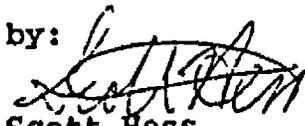
- e. The sidewalk in Second Street is 7 foot wide.
  - f. Adjustment in lot lines, if necessary, to be consistent with division between commercial and condominium uses.
3. All Pacific Coast Highway improvements shall meet CalTrans criteria.
  4. Vehicular access rights to the streets surrounding the tract shall be dedicated to the City except at approved driveway locations.
  5. Tentative Tract No. 13478 shall not become effective until the proposed revisions to the Downtown Specific Plan have been approved by City Council and are in effect.

I hereby certify that Conditional Use Permit No. 88-7 with Special Permits, Coastal Development Permit No. 88-3 and Tentative Tract No. 13478 was approved by the Planning Commission of the City of Huntington Beach on April 5, 1988, upon the foregoing findings and conditions. This approval represents conceptual approval only; detailed plans must be submitted for review and the aforementioned conditions completed prior to final approval.

Sincerely,

Mike Adams, Secretary  
Planning Commission

by:

  
Scott Hess  
Senior Planner

MA:SH:kla  
(0393d-1-12)

H13 6/17 6/24  
Pilot 6/13 6/20

**PUBLIC NOTICE**

**NOTICE OF A JOINT PUBLIC HEARING BY THE CITY COUNCIL OF HUNTINGTON BEACH AND THE REDEVELOPMENT AGENCY OF THE CITY OF HUNTINGTON BEACH ON THE SECOND AMENDED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY AND CALIFORNIA RESORTS.**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Huntington Beach and the Redevelopment Agency of the City of Huntington Beach will hold a joint public hearing on June 27, 1988, at 7:00 PM in the Council Chambers, City Hall, 2000 Main Street, Huntington Beach, California, to consider and act upon the Second Amended Disposition and Development Agreement between the Redevelopment Agency of the City of Huntington Beach and California Resorts and sale of the land pursuant thereto. The Agreement provides for the development of a six-plex movie theatre, retail commercial and office space along Main Street and public plaza with subterranean parking and residential condominium units, within the Main-Pier Redevelopment Project Area. Description of the sites can be found in the Agreement.

The terms of the lease and sale of property between the Agency and California Resorts are set forth in the Agreement.

The proposed projects are covered by a final Environmental Impact Report for the Main-Pier Redevelopment Project Area for which a Notice of Preparation was filed on May 6, 1985.

Copies of the Amended Disposition and Development Agreement and the Environmental Impact Report are on file for public inspection and copying for the cost of duplication at the office of the City Clerk, City of Huntington Beach, California, between the hours of 8:00 AM and 5:00 PM, Monday thru Friday, exclusive of holidays.

Interested persons may submit written comments addressed to the City Clerk of the City of Huntington Beach, Post Office Box 190, Huntington Beach, California 92648, prior to the hour of 5:00 PM on June 24, 1988.

AT the time and place noted above, all persons interested in the above matter may appear and be heard.

Dated: June 10, 1988

CITY OF HUNTINGTON BEACH, By: Alica M. Wentworth, City Clerk

Published Orange Coast Daily Pilot June 13, 20, 1988

Linda

Make sure this ad goes out today and is published on 6.13 & 6.20  
Thanks MA

PUBLIC NOTICE	PUBLIC NOTICE
<p><b>NOTICE OF A JOINT PUBLIC HEARING BY THE CITY COUNCIL OF HUNTINGTON BEACH AND THE REDEVELOPMENT AGENCY OF THE CITY OF HUNTINGTON BEACH ON THE AMENDED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY AND HUNTINGTON PACIFICA I, doing business as HUNTINGTON PACIFICA DEVELOPMENT GROUP</b></p> <p>NOTICE IS HEREBY GIVEN that the City Council of the City of Huntington Beach and the Redevelopment Agency of the City of Huntington Beach will hold a joint public hearing on <del>October 28, 1986</del> at 7:30 P.M. in the Council Chambers, City Hall, 2000 Main Street, Huntington Beach, California, to consider and act upon the Amended Disposition and Development Agreement between the Redevelopment Agency of the City of Huntington Beach and <del>Huntington Pacifica Development Group</del> and sale of the land pursuant thereto. The Agreement provides for the development of a <del>first rate</del> high quality hotel, retail commercial and office space along Main Street and public plaza with a pedestrian overcrossing of Pacific Coast Highway to the pier side development, within the Main Pier Redevelopment Project Area. Descriptions of the sites can be found in the Agreement.</p> <p>The terms of the lease and sale of property between the Agency and <del>Huntington Pacifica Development Group</del> are set forth in the Agreement.</p> <p>The proposed projects are covered by a final Environmental Impact Report for the Main Pier Redevelopment Project Area for which a Notice of Prep-</p>	<p>aration was filed on May 6, 1985.</p> <p>Copies of the Amended Disposition and Development Agreement and the Environmental Impact Report are on file for public inspection and copying for the cost of duplication at the office of the City Clerk, City of Huntington Beach, 2000 Main Street, Huntington Beach, California, between the hours of 8:00 A.M. and 5:00 P.M., Monday thru Friday, exclusive of holidays.</p> <p>Interested persons may submit written comments addressed to the City Clerk of the City of Huntington Beach, Post Office Box 190, Huntington Beach, California 92648, prior to the hour of 5:00 P.M. on <del>October 17, 1986</del>.</p> <p>At the time and place noted above, all persons interested in the above matter may appear and be heard.</p> <p>Dated: <del>October 1, 1986</del>  <b>CITY OF HUNTINGTON BEACH, By: Alicia M. Wentworth, City Clerk</b>      Published Orange Coast Daily Pilot <del>October 6, 1986</del></p> <p>M331</p>

Second -  
California Resorts

June 27, 1988  
at 7:00 pm

Second -  
California Resorts

Six-plex  
movie theatre  
subterranean  
parking and  
residential  
condominium  
units

California Resorts

June 24, 1988

June 10, 1988

June 13, 20, 1988

**PUBLIC NOTICE**

**NOTICE OF A JOINT PUBLIC HEARING BY THE CITY COUNCIL OF HUNTINGTON BEACH AND THE REDEVELOPMENT AGENCY OF THE CITY OF HUNTINGTON BEACH ON THE SECOND AMENDED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY AND CALIFORNIA RESORTS.**

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AT the time and place noted above, all persons interested in the above matter may appear and be heard.

Dated: June 10, 1988

**CITY OF HUNTINGTON BEACH, By: Alica M. Wentworth, City Clerk**

Published Orange Coast Daily Pilot June 13, 20, 1988

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CABLE ADDRESS RUTAN TUC CSMA

June 13, 1988

VIA MESSENGER

IN REPLY PLEASE REFER TO

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PHILIP M. PRINCE\* LAYNE M. MELZER  
JOHN L. FELLOWS III\* PATRICK K. RAFFERTY  
DAVID H. MOCHNER\*

\*A PROFESSIONAL CORPORATION

Mr. Uri E. Gati  
GATI ASSOCIATES, INC.  
14225 Ventura Blvd., #200  
Sherman Oaks, CA 91423

Dawn C. Honeywell, Esq.  
STRADLING, YOCCA, CARLSON & RAUTH  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660

Mr. Mike Adams  
Director of Planning  
CITY OF HUNTINGTON BEACH  
2000 Main Street  
Huntington Beach, CA 92648

Re: California Resorts DDA

Dear Uri, Dawn, and Mike:

I am enclosing a revised draft of the DDA which incorporates the changes discussed in our June 1, 1988, meeting at City Hall. If you want me to send a copy of the document to anyone else, please let me know. My understanding is that Mike will distribute copies of the DDA to anyone else at City Hall who needs to review it.

I trust that the DDA is sufficiently close to the final version of the document to enable us to proceed with the

Mr. Uri E. Gati  
Dawn C. Honeywell, Esq.  
Mr. Mike Adams

June 13, 1988  
Page 2

scheduled public hearing on June 27th. According to my notes, the only items remaining to be resolved are as follows:

1. The Permitted Title Exceptions need to be listed in Section 201.1. If preliminary title reports are not already available, Uri or Mike should see that they are ordered immediately. Uri's engineer will have to review the underlying documents to determine whether easements, etc., are consistent with the development plan. Please advise me as soon as you have completed this task so that I can incorporate the information into the DDA.
2. In our last meeting, it was agreed that the Agency would notify Uri how much of the \$1,000,000.00 available for relocation, oil, and hazardous waste removal has already been spent. There is a blank in Section 201.4(ii) to fill in this number. Please advise.
3. My notes indicated that Mike Adams was going to review the Schedule of Performance. To date, I have not heard any of Mike's comments.
4. Mike was also going to review the language in the Scope of Development regarding the Developer's obligations to provide on-site parking.

If anyone has any questions regarding this last draft, please let me know.

Very truly yours,

RUTAN & TUCKER



Jeffrey M. Oderman

JMO:jb  
Enclosure  
cc: Mr. Richard A. Harlow (w/encl.)

6/112/012304-0001/010



**CITY OF HUNTINGTON BEACH**  
INTER-DEPARTMENT COMMUNICATION

To City Clerk's Office

From Michael Adams, *MA by S*  
Planning Director

Subject REVIEW OF CALIFORNIA  
RESORTS DDA

Date June 14, 1988

A public notice published in the Dally Pilot on June 13, 20, 1988 stated that copies of the Amended Disposition and Development Agreement and the Environmental Impact Report between the Redevelopment Agency and California Resorts are currently on file for public inspection in the City Clerk's office. (see attached copy of notice)

These copies will be available for review on the third floor at Shelley Stice's desk. Any requests for copies may be directed to her.

MA:ss

**PUBLIC NOTICE**

**NOTICE OF A JOINT PUBLIC HEARING BY THE CITY COUNCIL OF HUNTINGTON BEACH AND THE REDEVELOPMENT AGENCY OF THE CITY OF HUNTINGTON BEACH ON THE SECOND AMENDED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY AND CALIFORNIA RESORTS.**

NOTICE IS HEREBY GIVEN that the City Council of the City of Huntington Beach and the Redevelopment Agency of the City of Huntington Beach will hold a joint public hearing on June 27, 1988, at 7:00 PM in the Council Chambers, City Hall, 2000 Main Street, Huntington Beach, California, to consider and act upon the Second Amended Disposition and Development Agreement between the Redevelopment Agency of the City of Huntington Beach and California Resorts and sale of the land pursuant thereto. The Agreement provides for the development of a six-plex movie theatre, retail commercial and office space along Main Street and public plaza with subterranean parking and residential condominium units, within the Main-Pier Redevelopment Project Area. Description of the sites can be found in the Agreement.

The terms of the lease and sale of property between the Agency and California Resorts are set forth in the Agreement.

The proposed projects are covered by a final Environmental Impact Report for the Main-Pier Redevelopment Project Area for which a Notice of Preparation was filed on May 6, 1985.

Copies of the Amended Disposition and Development Agreement and the Environmental Impact Report are on file for public inspection and copying for the cost of duplication at the office of the City Clerk, City of Huntington Beach, California, between the hours of 8:00 AM and 5:00 PM, Monday thru Friday, exclusive of holidays.

Interested persons may submit written comments addressed to the City Clerk of the City of Huntington Beach, Post Office Box 190, Huntington Beach, California 92648, prior to the hour of 5:00 PM on June 24, 1988.

AT the time and place noted above, all persons interested in the above matter may appear and be heard.

Dated: June 10, 1988

CITY OF HUNTINGTON BEACH, By: Alica M. Wentworth, City Clerk

Published Orange Coast Daily Pilot June 13, 20, 1988

City Council, City of Huntington Beach  
2000 Main Street  
Huntington Beach, CA 92648

9/12/12

Dear City Council Members,

I write to oppose the adoption of the Mitigated Negative Declaration of the Pierside Pavilion Expansion Project (300 Pacific Coast Highway, Huntington Beach, CA ).

I own and live in Units 424 and 426 with my wife Carol in Pier Colony Condominiums at 200 Pacific Coast Highway. On our balconies we look directly at the Pierside Pavilion building. We moved there in 1991 for my job with Hughes Aircraft Co, rented at Pier Colony for a year and a half, bought 424 at an auction in 1993. We subsequently acquired 426 in 2000 and with City and Pier Colony Board of Directors approval we connected the two units to give us 2200 square feet of living space on the most desirable floor in Pier Colony.

I served 20 years in the Air Force, retired in 1986, worked in the Aerospace Industry for 14 years and worked for Walt Disney Imagineering for 7 years. I retired from Disney in 2006. Carol and I have lived frugally and have paid off both mortgages for units 424 and 426. We now live a comfortable life with pensions and no mortgage payments sharing as often as possible our Pier Colony dream with our four children and six grandchildren.

The proposal documented in Draft Mitigated Negative Declaration No. 11-007 is seriously flawed. The idea of constructing a four story, 90 feet high, 27,772 sq ft mixed-use, visitor serving/ office building and 9,401 sq ft infill expansion by existing storefronts in the narrow spaces between Pier Pavilion, Pier Colony and Pacific Coast Highway is absurd.

During the 21 years we have lived in Pier Colony we have observed the creation and dissolution of many businesses at the south west corner of Pierside Pavilion. Most of the time the retail space on the first floor at this corner has been vacant. The congestion and noise on this corner has increased significantly. We believe that serious safety issues will occur as a result of the proposed modification to Pierside Pavilion. Moving storefronts closer to Pacific Coast Highway and closing off the open area at the south west corner will severely limit the space between Pier Colony, Pierside Pavilion and Pacific Coast Highway resulting in acute pedestrian dangers which don't exist today. We don't believe the Pierside Pavilion owner has any leases pending for the proposed expansion. We also think it will take him years to completely lease the building based on his inability to lease the current space.

The noise analysis commissioned by the city is seriously flawed. Data from other cities were used at less than maximum sound generation from traffic noise. The heavy period for downtown Huntington Beach, as I'm sure you're aware, is between Memorial Day and Labor Day. There was no noise data taken at all during this period. Also the intensification of the sound due to the closing in of space between Pier Colony and Pierside Pavilion ( the canyon effect ) was ignored completely. As a result, any conclusions based on the data obtained to date are highly questionable.

Fire Department Access with the proposed Pierside Pavilion is addressed in Attachment 4.12 on page 76 of the 201 page Pierside Pavilion Staff Report which I've extracted below.

1. Fire Lanes – The Fire Department review of the plan included a site visit and evaluation of the Fire Lanes called out in the plan
  - a. The clear width of the existing Fire Lane is shown as 24 1/2 feet on the plan, but the actual width currently provided is 17' clear ( from the existing structure to the planter boxes and grass). The rooftop deck would make the proposed structure the highest at the property in regards to distance above the lowest level of Fire Department Access to lowest level of the occupied floor (roof deck). This presents additional challenges to the Fire Department's Access.
  - b. The proposed 4 story structure with the rooftop deck will hinder the fire Department's Aerial Ladder Access to the existing 4 story structure ( south side), which will make prompt rescue difficult and will lessen the probability of fighting a fire in upper stories from the exterior.

For those of us that live in the 4 story structure ( south side ) i.e. Pier Colony on the 3<sup>rd</sup> and 4<sup>th</sup> floors facing Pierside Pavilion, this is very serious issue. We are even more passionate about this inability of the Fire Department to get to us for evacuation purposes in case of a fire than we are about our loss of view and the resulting property devaluation.

Many of my colleagues who reside at Pier Colony have written you letters addressing code issues and variances with the current downtown development plan. Also, some have addressed the original intent of the downtown development plan of the late 1980s. We feel that the Pier Colony residents have lived up to their responsibilities to the community and deserve a fair and impartial judgment on a project which affects their property value and the quality of their lives. We believe that judgment should maintain the current profile of the Pier Pavilion building as much as possible and addresses our concerns about safety and environment affecting the entire community.

Sincerely,

*Thomas E McCann*  
Thomas E McCann

## SUPPLEMENTAL COMMUNICATION

Meeting Date: 9/17/12

Agenda Item No. 14

**Esparza, Patty**

---

**From:** Stephenson, Johanna  
**Sent:** Thursday, September 13, 2012 3:28 PM  
**To:** Esparza, Patty  
**Subject:** FW: Pierside Pavillion expansion

Johanna Stephenson / Executive Assistant / [johanna.stephenson@surfcity-hb.org](mailto:johanna.stephenson@surfcity-hb.org) / O: 714.536.5575 / C: 714.536.5233

---

**From:** Mark Miller [mailto:[mark@ceilingfan.com](mailto:mark@ceilingfan.com)]  
**Sent:** Thursday, September 13, 2012 3:26 PM  
**To:** Shaw, Joe  
**Cc:** Stephenson, Johanna  
**Subject:** Pierside Pavillion expansion

Hi Joe

My name is Mark Miller I am a native of Huntington Beach, an original home owner at Pier Colony Condominiums and a Huntington Beach business owner of The Trading Post Fan Company on Warner and Goldenwest. I am writing to you today to urge you to vote against the expansion of the Pierside Pavilion this coming Monday September 17th.

If you happen to believe that the expansion is a good idea I would first ask you to do your due diligence and I will invite you to spend a Friday or Saturday night in my condo (directly across from The Blackbull Bar) to experience the tremendous drunk and disorderly people yelling, screaming, smoking, urinating outside, fighting etc. to determine if you feel that more liquor licenses, drinking establishments and traffic gridlock are a good ideas in this mixed use area.

I would love to have you experience what it is like living there now before you vote yes for more drunken insanity.

Thank-you,

Mark Miller

200 PCH unit #317

714 404-6443

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 9/17/12

Agenda Item No. 14

**Esparza, Patty**

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**From:** Surf City Pipeline [noreply@user.govoutreach.com]  
**Sent:** Friday, September 14, 2012 1:57 PM  
**To:** CITY COUNCIL; agendaalerts@surfcity-hb.org  
**Subject:** Surf City Pipeline: Comment on an Agenda Item (notification)

**Request # 12318 from the Government Outreach System has been assigned to Johanna Stephenson.**

---

**Request type:** Problem

**Request area:** City Council - Agenda & Public Hearing Comments

**Citizen name:** R & S Stookey

**Description:** As taxpayers and voters, we wish to express our being against the behemoth expansion of Pierside Plaza in downtown Huntington Beach (PCH & Main). The residential building (200 PCH) beside this expansion will suffer many adverse effects. Please think of more than one greedy building owner and think of those (130 owners) who chose to invest and live in downtown HB and their being able to keep the value of what was purchased and enjoyed, before word of expansion.

**Expected Close Date:** 09/17/2012

[Click here to access the request](#)

Note: This message is for notification purposes only. Please do not reply to this email. Email replies are not monitored and will be ignored.

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 9/17/12

Agenda Item No. 14

**Esparza, Patty**

---

**From:** Fikes, Cathy  
**Sent:** Friday, September 14, 2012 3:23 PM  
**To:** Esparza, Patty  
**Subject:** FW: Support for the Pierside Pavillion

---

**From:** RJ Mayer  
**Sent:** Friday, September 14, 2012 3:11 PM  
**To:** 'Don.hansen@surfcity-hb.org'; Joe Shaw (joe-shaw@surfcity-hb.org); Connie Boardman (connie.boardman@surfcity-hb.org); Keith.Bohr; Devin.Dwyer@surfcity-hb.org; 'Joe.Carchio@serfcity-hb.org'; matthew.harper@surfcity-hb.org  
**Cc:** Joe Daichendt (Joe@TheoryR.com); Fred Wilson (fred.wilson@surfcity-hb.org); jdshafer@waterfrontresort.com; paul.devitt@hyatt.com; Bob Hall (bob.hall@surfcity-hb.org)  
**Subject:** Support for the Pierside Pavillion

September 14, 2012

**Mayor Don Hansen**  
**City of Huntington Beach - City Council Members**  
**2000 Main Street**  
**Huntington Beach, CA 92648**

**Dear Mayor Hansen and City Council Members:**

The Robert Mayer Corporation has worked closely with the City of Huntington Beach for many years developing the landmark Hyatt Regency Resort & Spa and The Waterfront Resorts, a Hilton Hotel. We are very familiar with how these developments have improved the area and produced a thriving economic environment for the City of Huntington Beach. Development is never an easy task to pass thru a City Planning Department, Coastal Commissions, etc. but Joe Daichendt and Theory R Properties have gone to great lengths to plan this new project at Pierside Pavilion to meet the needs of the community. We have been in the development business for 55 years and know that there are always growing pains when change is proposed to an area and we often hear opposition that people do not want new development "in their backyard". However, the benefits here far outweigh the drawbacks. The Pierside Pavilion Expansion Project will be a great asset to Huntington Beach and the community at large providing well needed office space, restaurants and retail along Pacific Coast Highway.

The City of Huntington Beach has gone through major transformations over the last 15 years and it truly has become a favorite destination for tourists worldwide. We like to think that the City of HB and the surrounding businesses have improved tremendously with the developments that we have built and it is thriving today, even in this down-turned economy.

The Daichendt family is committed to improving the Pierside Pavilion project and seeing the future success of this development that they have put so much energy into. Please except this e-mail as evidence of my strong support the expansion project at Pierside Pavillion and thank you for your consideration passing this project through the Council.

Sincerely,

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 9/17/2012

Agenda Item No. 14

**Robert L. Mayer, Jr**  
Chief Operating Officer



**The Robert Mayer Corporation**

8951 Research Dr.  
Irvine Ca. 92618  
949.759.8091 Ext. 234  
Fax: 949.721-7984  
[rj@mayercorp.com](mailto:rj@mayercorp.com)

COMMUNICATIONS  
INTERNATIONAL

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... ..



# HUNTINGTON BEACH TOMORROW

*Making a difference today for Huntington Beach tomorrow*

P.O. Box 865, Huntington Beach, California 92648

(714) 840-4015

HBTomorrow.com

## HBT's Mission

is  
to promote and maintain  
a high quality of life  
in Huntington Beach.

HBT advocates for:

Citizen Participation  
Clean & Healthy Environment  
Efficient & Safe Traffic Flow  
Open & Responsive Government  
Preserve Open Space  
Preserve Our Quality of Life  
Recreational Opportunities for All  
Responsible Planned Growth  
Sound Infrastructure  
Sustainable Tax Base

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*Secretary*  
Linda D. Couey

### Directors

Monica Hamilton  
Shawn Roselius

September 17, 2012

Honorable Mayor, Council Members and  
City Clerk  
City of Huntington Beach  
2000 Main Street  
Huntington Beach, California 92648

Via Email

In Re: HB City Council September 17, 2012 Agenda Item 14

A primary area of HBT advocacy is to work to preserve open space, especially keeping our beaches in the public domain. That applies to all aspects of beach open space, including our view corridors.

Our beaches and coast are valuable **public** assets for our community. We must be vigilant against encroachment of any kind, especially against encroachment by a favored few. There are no great overriding considerations here. It does **not** serve the greater public interest to subvert the law put in place to retain the protection of public view corridors when public streets were being vacated in order to consolidate multiple blocks into mega-projects.

While others will cite the details in opposition to this proposal, to us this is simple; we quote the late Peter Douglas, God rest his soul, "the coast is never saved -- it is forever in the process of being saved." Part of that is seeing that past obligations are honored.

Huntington Beach Tomorrow asks that this council follow the law, honor past obligations and reject this proposed encroachment on property that was meant to remain open to the public in perpetuity.

Please.

Thank you.

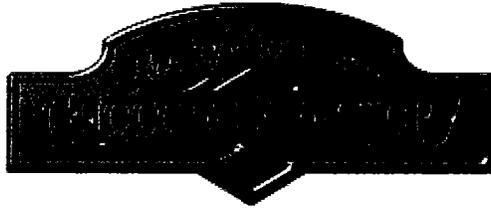
Sincerely,  
Karen Jackle  
President

Cc: Joan Flynn, City Clerk  
Cathy Fikes

## **SUPPLEMENTAL COMMUNICATION**

Meeting Date: 9/17/2012

Agenda Item No. 14



RECEIVED  
2012 SEP 17 AM 11:31  
CITY OF HUNTINGTON BEACH

200 MAIN STREET, SUITE 106  
HUNTINGTON BEACH, CA 92648  
(714) 969-0795 (714) 969-8382 FAX

September 17, 2012

Mayor Hansen  
City of Huntington Beach - City Council  
2000 Main Street  
Huntington Beach, CA 92648

RE: Pierside Pavilion Expansion Project

Dear Mayor Hansen and City Council Members:

As you know, Rocky Mountain Chocolate Factory has been in the downtown Huntington Beach area for 20 years and we are very involved in the Business Improvement District. As a local business owner, we would like to offer our support of the new building project which Joe Daichendt and Theory R Properties are proposing. Joe has been working on this project for over nine years and has been working diligently with the Planning Commission, City development agencies, Coastal Commission, etc. to get this project approved. We feel that this plan would be a great addition to our downtown as it will revitalize the area by making Pierside Pavilion an anchor destination for local and visitors alike.

Along those same lines, it would bring additional office personnel, restaurant patronage and retail shoppers to the area which will generate revenue to the City of Huntington Beach. This looks to be an amazing new building project including extensive renovations to the existing building for a new, fresh look to a landmark building. The only issue I have is to insure adequate parking for this new project.

Thank you for your consideration of this project.

Sincerely,

Rocky Mountain Chocolate Factory

Steve Daniel

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 9/17/2012

Agenda Item No. 14

September 11, 2012

**SUPPLEMENTAL  
COMMUNICATION**

**VIA E-MAIL AND  
OVERNIGHT MAIL**

Jennifer McGrath, City Attorney  
City of Huntington Beach  
2000 Main Street  
Huntington Beach, CA 92648

Meeting Date: 9/17/2012  
Agenda Item No. 14

Re: Pierside Pavilion Expansion Project (City Council Appeal of August 14, 2012,  
Planning Commission Action With Respect to Mitigated Negative Declaration  
No. 11-007 / Coastal Development Permit No. 11-021 / Entitlement Plan  
Amendment No. 11-007 / Variance No. 11-005)

Dear Ms. McGrath:

The law firm of Rutan & Tucker LLP has been retained to represent Theory R Properties LLC, owner of the Pierside Pavilion project, with respect to the above-referenced matter, which I understand will be heard by the Huntington Beach City Council at its September 17, 2012, meeting. I am writing to set forth my client's legal position that the Planning Commission decision (on a 3-1-2 vote) to disapprove the Mitigated Negative Declaration ("MND") and project entitlements for the Pierside Pavilion expansion project was *not* supported by substantial evidence and reflects a fundamental misunderstanding of the scope of the Commission's authority under the California Environmental Quality Act ("CEQA"). I respectfully request that you consider the points raised in this letter, discuss them with the City Council as you deem appropriate, and ask the City Council to act consistent with the indisputable facts and applicable governing law. Unless the Planning Commission decision is overturned by the City Council my client feels it has no choice but to consider exercising its available legal options, including potential litigation.

The Planning Commission's denial was based entirely on (1) the supposed failure of the MND to properly analyze and address a "public view corridor" between Pierside Pavilion and the adjacent Pier Colony property and (2) the alleged inconsistency between the project proposal and provisions in the City's General Plan and Downtown Specific Plan relating to protection of this view corridor. Accordingly, I will limit my letter to that particular issue.

My client believes the Planning Commission actions were without adequate factual or legal basis and improper for the following reasons:

Jennifer McGrath, City Attorney  
September 11, 2012  
Page 2

1. As my client has already demonstrated (with a public view analysis) and as the City staff correctly explained to the Planning Commission, *there is no public view corridor between Pierside Pavilion and Pier Colony in the area where Third Street formerly existed.* (See August 14, 2012, staff report to Planning Commission, pp. 9, 17, Attachment No. 1.4, Attachment Nos. 2.1 and 2.4, Attachment Nos. 5.6 and 5.28-29, and Attachment Nos. 6-11 (City staff response BIXB-4 to comment on MND) and 6-12 (City staff response EYAO-5 to comment on MND).) This basic fact is not in dispute. The City cannot protect something that does not exist. The Planning Commission's--and, now, the City Council's--decisions must be supported by "substantial evidence," which means "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." Substantial evidence means "facts, reasonable assumptions predicated on facts, and expert opinions supported by facts." State CEQA Guidelines, §15384(a), 15064(f)(5), and Public Resources Code §§21080(e) and 21082.2(c). There is no substantial evidence to support a denial of the Pierside Pavilion expansion project based on its supposed impacts on an existing public view corridor down the former 3<sup>rd</sup> Street right-of-way.<sup>1</sup>

2. As the City staff also correctly explained to the Commission (see, again, Attachment No. 6-11—staff response BIXB-4), when the Pierside Pavilion and Pier Colony projects were initially entitled back in 1988 it was *not* the City's intent that the projects would be subject to the then-pending (and uncertain) Downtown Specific Plan that was amended sometime later to add requirements relating to preservation of view corridors along vacated street rights-of-way between Walnut and PCH. I happen to have been the attorney for the former owner(s) who were the original applicants for the Pierside Pavilion/Pier Colony project and worked on both the Second Amended and Restated Disposition and Development Agreement and the separate City Development Agreement that were approved for the project(s) at that time, and I can assure you my former client (California Resorts) did *not* agree that its vested rights in the project entitlements it worked for years to obtain could be torn up and rewritten by the City *after* the project was approved. The City's concurrence is demonstrated by the fact that the City approved Pierside Pavilion and Pier Colony to be built *without* a public view corridor. It would constitute the most egregious form of inverse condemnation for the City to reverse its position after nearly 25 years have gone by and demand at this late date that a public view corridor be created that would necessitate the demolition of a significant portion of my client's existing improvements.

3. Even *assuming* for the sake of discussion that some sort of public view corridor exists at this time, *the proposed Pierside Pavilion expansion project will not further encroach*

---

<sup>1</sup> By the way, while Commissioner Bixby questioned whether 3<sup>rd</sup> Street was ever actually vacated, I believe City staff has in fact verified that the abandonment language in Final Map Nos. 13722 and 13478 for the Pierside Pavilion and Pierside Colony projects, together with the fact the public street right-of-way is *not* depicted on those maps, establishes that the vacation did in fact occur back in 1989.

Jennifer McGrath, City Attorney  
September 11, 2012  
Page 3

*into or adversely impact any such "view corridor."* The project plans demonstrate that the exterior building lines will *not* be pushed out further into the open area between Pierside Pavilion and Pier Colony but, instead, will simply extend from the existing outer edge of the southerly face of the building on the Pierside Pavilion property perpendicular to the (non-existent) "sightline" between Walnut and PCH.

4. The provision in the Downtown Specific Plan (Section 3.2.5.8) relating to preservation of public view corridors applies only to new developments in District 1 that involve the vacation of streets intersecting PCH. 3<sup>rd</sup> Street was vacated back in 1989; DTSP §3.2.5.8 does not apply to a project proposal made nearly a quarter of a century later.

5. For purposes of analyzing the environmental impacts of a proposed project under CEQA, the starting point is to determine the "environmental baseline." Subject to very narrow exceptions not applicable here, the environmental baseline is the "actual environmental conditions existing at the time of CEQA analysis," not a hypothetical past or future condition. See, e.g., *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4<sup>th</sup> 310, 320-322, and cases cited therein, and State CEQA Guidelines §15125(a.) Given that the "actual environmental conditions existing at the time of CEQA analysis" for the proposed Pierside Pavilion expansion project are that *no public view corridor exists between Pierside Pavilion and Pier Colony*, a properly conducted CEQA analysis necessarily must conclude that the project will have *no impact* on public views. Thus, the MND cannot be found defective based upon a failure to adequately address public views.

6. Finally, even if one could thread a tiny view through the existing buildings on the Pierside Pavilion and Pier Colony properties and/or from some vantage point on *private* property an existing view would be impacted by the proposed Pierside Pavilion expansion project, that *still* would not be sufficient to trigger a "significant impact" finding that would invalidate the MND for the Pierside Pavilion expansion project. See, e.g., State CEQA Guidelines, Appendix G, questions I(a) and (b) (aesthetic/view impacts deemed "significant" for CEQA purposes only if project would have a "substantial adverse effect on a scenic vista" or "substantially damage scenic resources," including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway); *Bowman v. City of Berkeley* (2004) 122 Cal.App.4<sup>th</sup> 572 (held: 4-story mixed-use project that would block sunlight to adjacent properties and some private views of the Berkeley hills had no significant view impacts); *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4<sup>th</sup> 249 (court upholds Class 32 "urban infill" categorical exemption for 14-story condominium tower that blocked certain views and cast shadows on nearby properties, citing the statement in *Bowman* that "obstruction of a few private views in a project's immediate vicinity is not generally regarded as a significant environmental impact"); and *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4<sup>th</sup> 477, 492-494 (upholding EIR's conclusion that aesthetic/view impacts of a 96-unit, 45-65 foot tall condominium development—the equivalent of 2-3 stories when viewed

Jennifer McGrath, City Attorney  
September 11, 2012  
Page 4

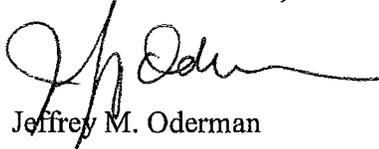
from the plaintiffs' properties—were not significant for CEQA purposes, even though project would block ocean views enjoyed by the residents of the petitioner mobile home park).

\* \* \*

For the foregoing reasons, my client respectfully submits that the Planning Commission's denial of the Pierside Pavilion expansion project should be *reversed* and the City Council should certify the MND and approve the project. If you have any questions concerning any of the foregoing points, please let me know. Thank you for your consideration.

Sincerely,

RUTAN & TUCKER, LLP



Jeffrey M. Oderman

JMO:jmo

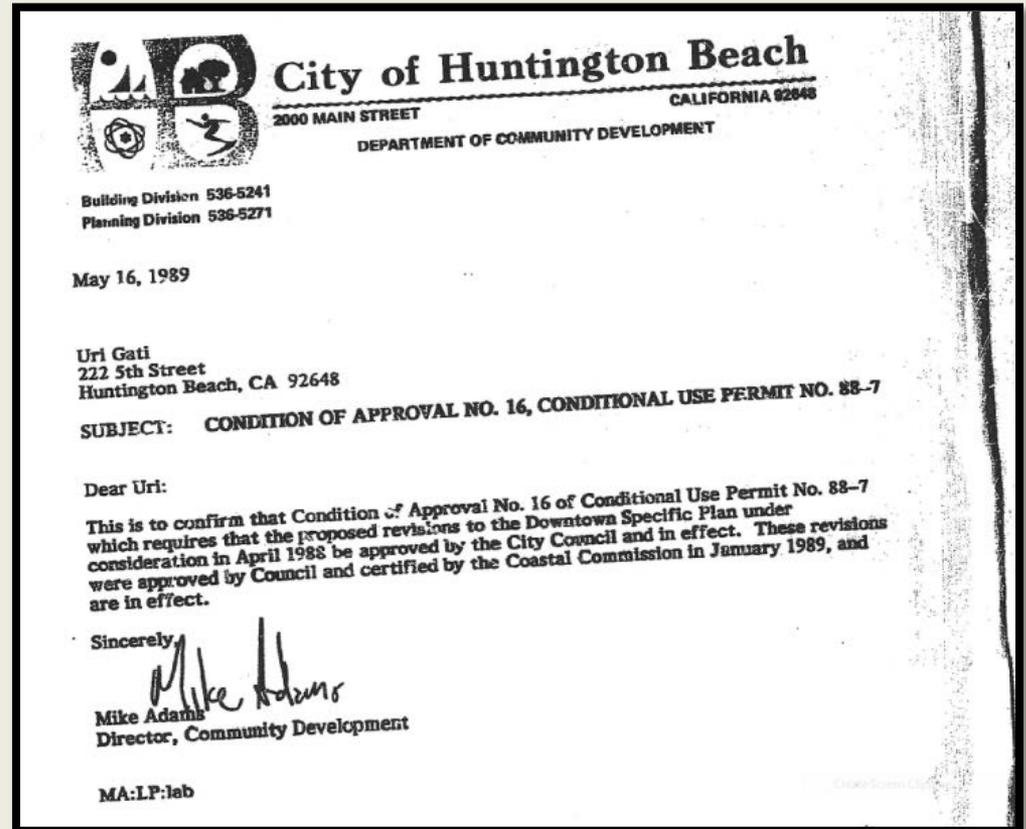
cc: Joe Daichendt, Theory R Properties LLC  
Michael Adams, Michael C. Adams Associates

# Pier Colony Homeowners

Comments on the Pierside Pavilion  
Expansion Project

# 1988 – Conditional Use Permit 88-7 for the Pierside Project

- 88-7 would not go into effect until the approval of the 1988 DTSP



16. Conditional Use Permit No. 88-7 and Coastal Development Permit No. 88-3 shall not become effective until the proposed revisions to the Downtown Specific Plan are approved by City Council and in effect.

# 1988 DTSP Section 4.2.15 on Street Vacations

- DTSP Code Amendment 88-3 – View Corridor

(f) Any development proposing the vacation of streets intersecting PCH in District 2 and District 3 shall provide a view corridor not less than the width of the former street between Walnut Avenue and PCH. No structures greater than five (5) feet in height shall be allowed within such view corridor. A pedestrian easement ten (10) feet wide shall be provided through the development generally parallel to the vacated street.

# View Corridor Upholding

- 5/2/1988 – City Council Meeting

A motion was made by Mays, seconded by Kelly, to change the word "shall" to "may" on page 60 section 4.2.15 (f) pertaining to view corridors. The motion failed by the following roll call straw vote:

AYES: Kelly, Mays  
NOES: Green, Finley, Erskine, Winchell, Bannister  
ABSENT: None

- 3/15/1988 – Planning Commission Meeting

(i) Maintain view corridors at vacated streets in District 2 and District 3 between Walnut Avenue and Pacific Coast Highway.

A STRAW VOTE MOTION WAS MADE BY LIVENGOOD, SECOND BY LEIPZIG, TO APPROVE REVISIONS (a) THROUGH (i), BY THE FOLLOWING VOTE:

AYES: Pierce, Livengood, Silva, Leipzig, Ortega, Higgins  
NOES: Bourguignon

**STRAW VOTE MOTION PASSED**



# Street Definition

- 9080.127 Definition of Ultimate Right-of-Way: The adopted maximum width for any street, alley or thoroughfare as established by the General Plan; by a precise plan of street, alley or private street alignment; **by a recorded parcel map; or by a standard plan of the Department of Public Works.** Such thoroughfares shall include any adjacent public easement used as a walkway and/or utility easement.



## CITY OF HUNTINGTON BEACH INTER-DEPARTMENT COMMUNICATION

To **Scott Hess**  
**Associate Planner**

From **Catherine M. O'Hara**  
**Assistant Planner**

Subject **Environmental Assessment**  
**No. 88-5**

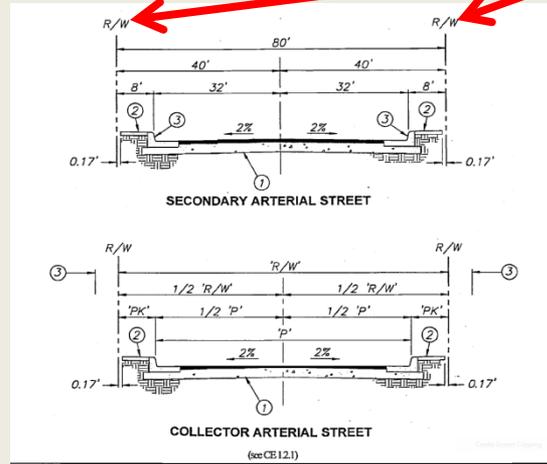
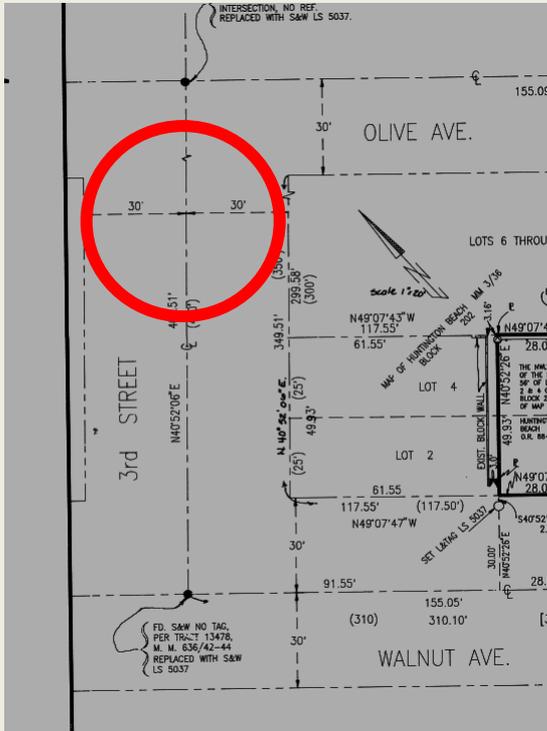
Date **February 23, 1988**

Although no additional CEQA review is required, the Phase I project should comply with the suggested standards set forth in the Downtown Specific Plan for District #3. **Namely, view corridors should be maintained along the existing right-of-ways,** and view light and air corridors should be included in order to ensure that the area maintain a pleasant pedestrian environment.

CMO: gbm

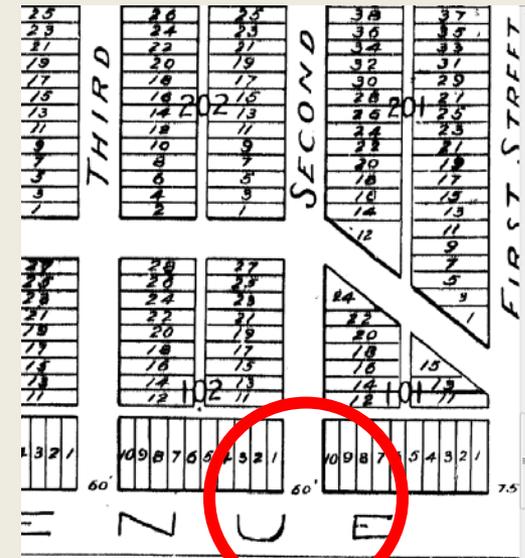
# Examples of 3<sup>rd</sup> Street Widths

Record of Survey 90-1182 – 60'



HB General Plan – Circulation Element Sidewalk to Sidewalk

Google Earth – 60'



Tract Map TR000155-1904 – 60'

# The HB Coastal Element

- Goals, objectives and policies of the coastal zone for coastal element conflicts

## GENERAL RESOURCE PROTECTION POLICIES

The following general policies shall provide the framework for interpreting this Coastal Element:

1. When policies within the Coastal Element conflict, such conflicts shall be resolved in a manner which on balance is the most protective of significant coastal resources.
2. Where there are conflicts between the policies set forth in this Coastal Element and those set forth in any element of the City's General Plan, other City plans, or existing ordinances, the policies of this Land Use Plan (LUP) shall take precedence.
3. In the event of any ambiguities or silence of this Coastal Element not resolved by (1) or (2) above, or by other provisions of the City's LCP, the policies of the California Coastal Act shall guide interpretation of this Coastal Element.

# In Summary

- There was a mistake made on the width of the view corridor in 1988
- Stairwells encroach on the view corridor
- Lets not compound our mistakes from the past

**There must be a better way to design this project so it is mutually beneficial to everyone!**

# Issues with the Pierside Project

- Third Street View Corridor
- Front Yard Setbacks
- Improperly drawn tract maps
- Outdoor Eating Facility not adjacent
- Residential Buffers
- Public Open Space (insufficient landscaped area)
- Pedestrian Corridor Narrowing
- Fire Access to Pier Colony
- Decreased public safety (police report)
- Parking Issues

# Staff Arguments against the View Corridor

- No View Corridor Requirement Existed in the 1984 DTSP
- Requirement that CUP 88-7 approval be contingent upon acceptance of 1988 DTSP was procedural, not necessary
- Potential View Corridor would be 40' wide, not 60'

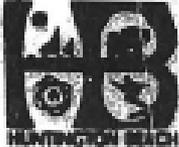
# Requirement of a View Corridor

- Approval of the original project was contingent upon approval of 1988 DTSP
  - The 1984 DTSP did not allow Residential uses south of Main Street (Sect 4.5.01 (d))
- 1988 DTSP was modified to allow Residential in D3, but also required multi block consolidations to maintain view corridors
  - View corridor requirement was discussed concurrently with addition of residential to D3
- Had the intent been to simply get the project approved, a variance could have been requested to allow Residential in that area

# Requirement of a View Corridor

- In early planning stages, it was noted that a view corridor be maintained
  - Environmental Assessment, meeting minutes
- Approval of CUP 88-7 was contingent upon several modifications, one of which was that the scope of the condo project be decreased.
  - CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 88-7:
    - 1. The site plan, floor plan and elevations received and dated March 25, 1988, shall be the conceptually approved layout with the modifications described herein:
      - a. Number of units shall be reduced from 160 to 130 in order to create a greater separation of the residential from the commercial portions of the project; provide an increase in the average unit size; provide for a better overall building profile; and to provide greater view opportunities.

# Requirement of a View Corridor

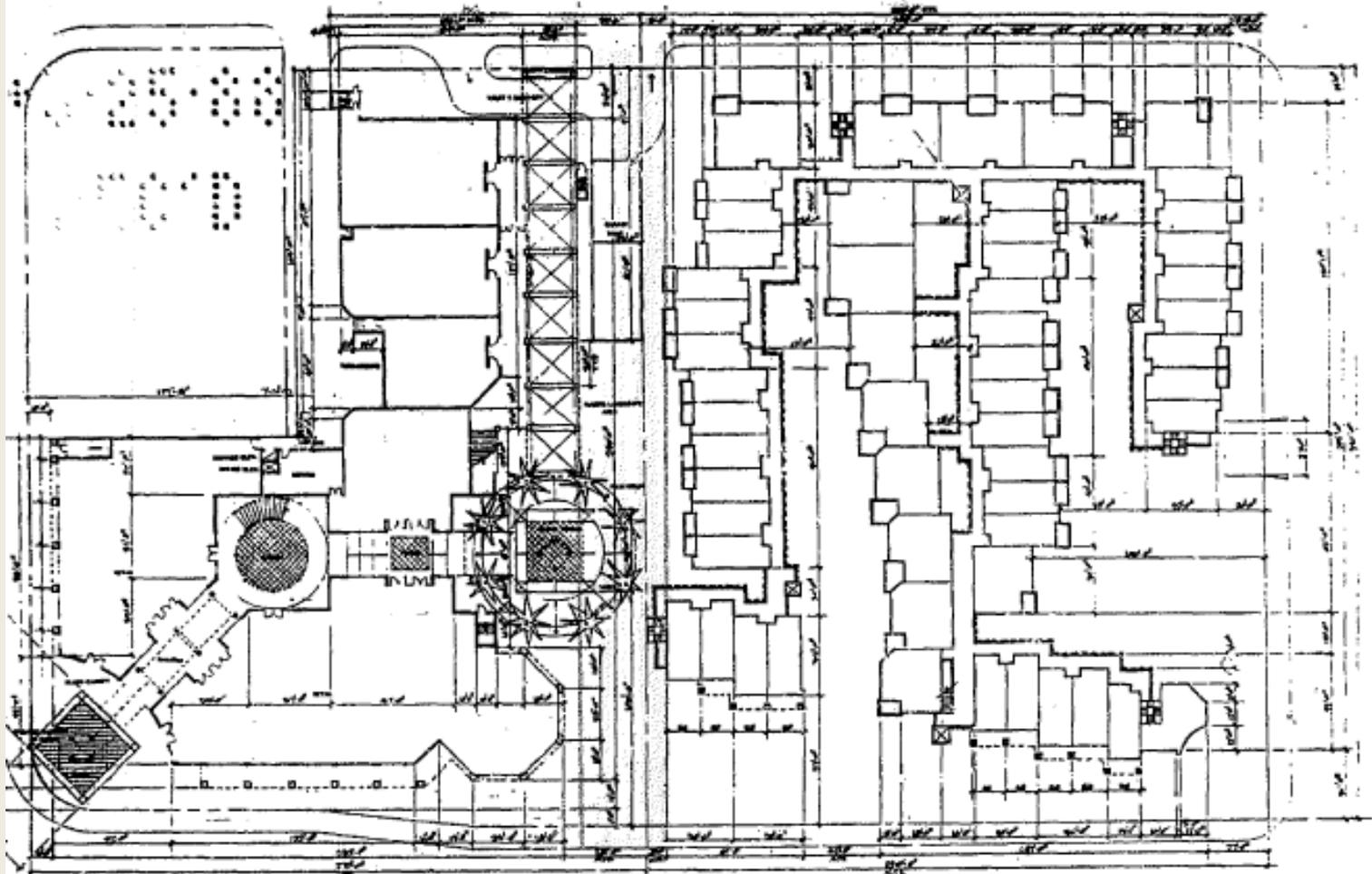
	<b>CITY OF HUNTINGTON BEACH</b> INTER-DEPARTMENT COMMUNICATION		
To	Scott Hess Associate Planner	From	Catherine M. O'Hara Assistant Planner
Subject	Environmental Assessment No. 88-5	Date	February 23, 1988

- Page 2 of Environmental Assessment

Although no additional CEQA review is required, the Phase I project should comply with the suggested standards set forth in the Downtown Specific Plan for District #3. Namely, view corridors should be maintained along the existing right-of-ways, and view light and air corridors should be included in order to ensure that the area maintain a pleasant pedestrian environment.

# Requirement of a View Corridor

CONCEPTUALLY APPROVED PLAN DATED 3/25/88

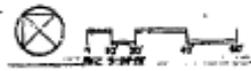


HUNTINGTON PIER COLONY  
ENTERTAINMENT CENTER

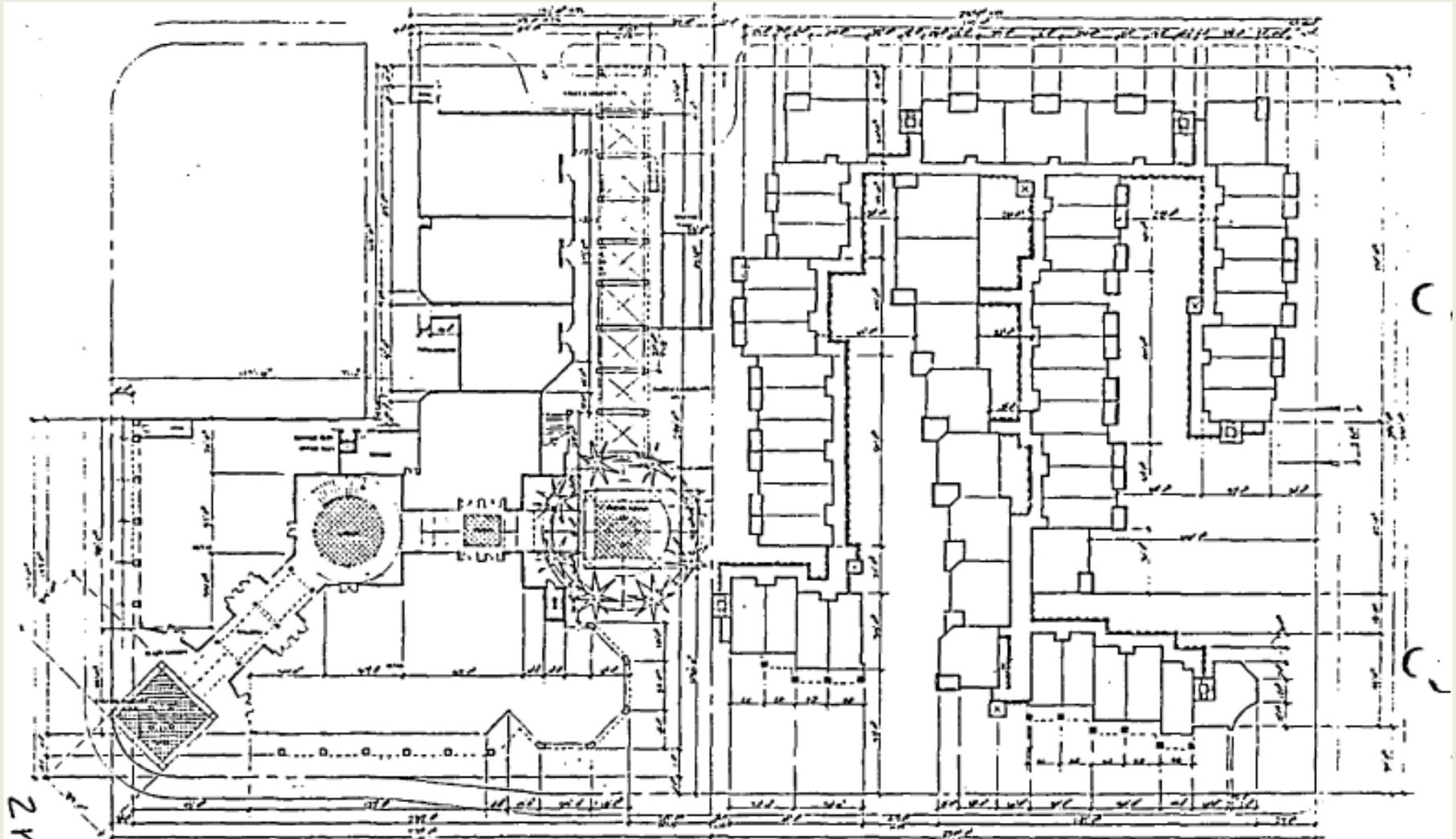
CALIFORNIA RESORTS  
305 Walnut Avenue, Huntington Beach, California 92648  
TOGAWA & SMITH ARCHITECTS PLANNERS  
2914 Main Street, Santa Monica, California 90405

DIMENSION PLAN

40' SEPARATION (VIEW CORRIDOR)



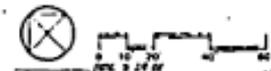
# Requirement of a View Corridor



HUNTINGTON PIER COLONY  
ENTERTAINMENT CENTER

DIMENSION PLAN

CALIFORNIA RESORTS  
305 Walnut Avenue, Huntington Beach, California 92648  
TOGAWA & SMITH ARCHITECTS PLANNERS  
2914 Main Street, Santa Monica, California 90405



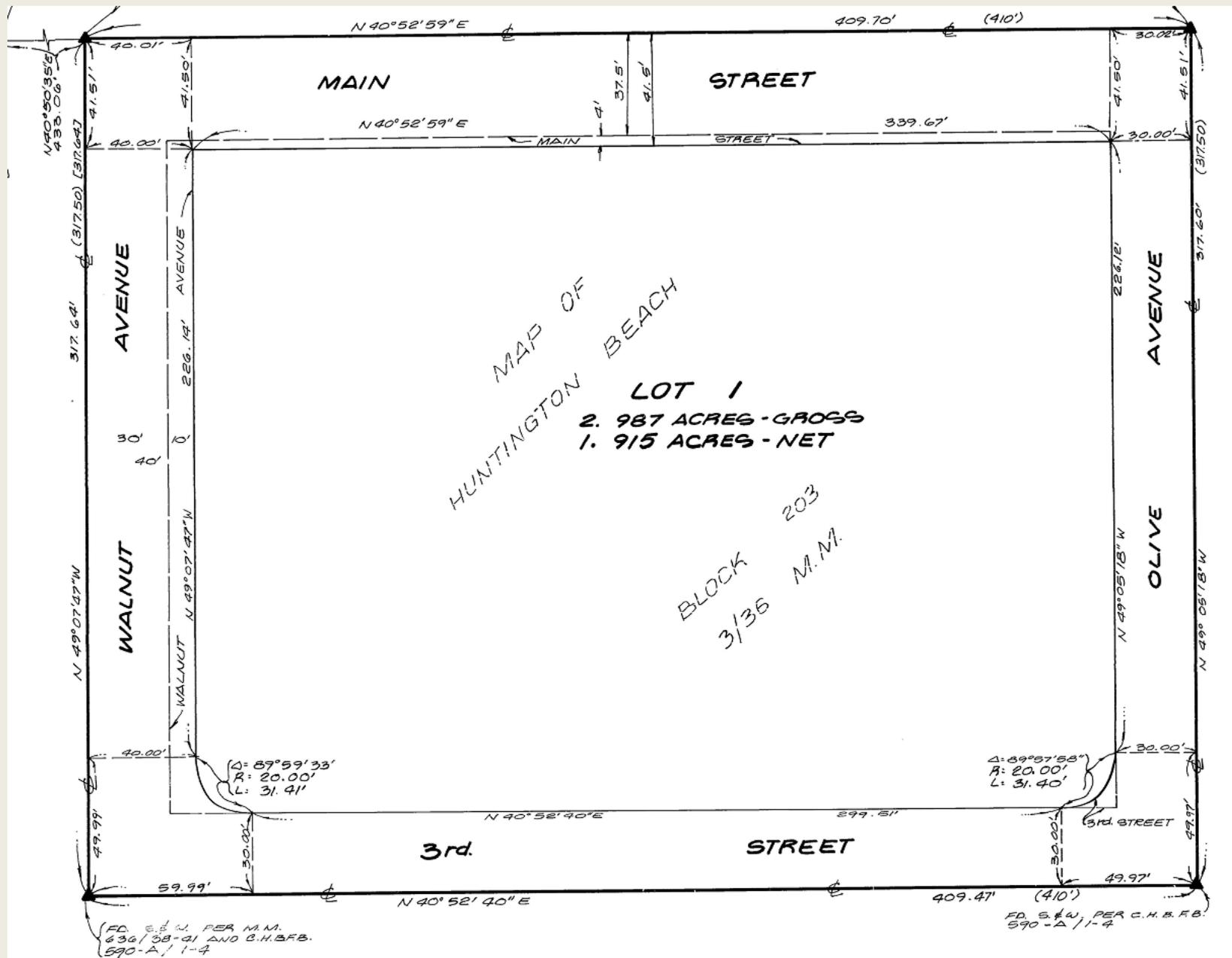
# Width of the View Corridor

- Staff has concluded that any potential view corridor be 40' wide, based on a narrow interpretation of the term “Street”
- Ordinance 2836 defines “Street” as “A public or an approved private thoroughfare or road easement which affords the principal means of access to abutting property, not including an alley.”
  - Potential for interpretation

# Width of the View Corridor

- However, “Street Line” is defined as “the boundary line between a street and abutting property.” This shows that the street is actually the entire space between property lines
- CA Streets and Highway Code defines “Street” to “include all or part of, or any right in, a state highway or other public highway, road, street, avenue, alley, lane, driveway, place, court, trail, or other public right-of-way or easement, or purported public street or highway, and rights connected therewith, including, but not limited to, restrictions of access or abutters' rights, sloping easements, or other incidents to a street or highway
- See attached Tract Maps from the era showing 3<sup>rd</sup> Street as 60' wide, or 30' to centerline

# Tract Map 14133, December 1989





# Summary

- It was impossible to build the Pierside Pavilion/Pier Colony project under the 1984 DTSP, and that was recognized by Staff at the time
- The 1988 DTSP required a view corridor to be left along the vacated 3<sup>rd</sup> Street corridor, as do all subsequent iterations
- The width of 3<sup>rd</sup> Street was measured at that time to be 60' wide
- The final project did include staircases and balconies encroaching upon the required view corridor
  - Case law shows that preexisting noncompliant development not be used as a basis for new development

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- Parking Issues

# Tom McCann



3<sup>RD</sup> ST  
200

FREE PARKING  
Free & Secure  
PEDEGAN  
ELECTRIC  
5th and  
10th and  
15th and  
20th and  
25th and  
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100th and





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# Rob Bryant

