

**CITY OF HUNTINGTON BEACH
PLANNING COMMISSION STUDY SESSION**

**ENTITLEMENT PLAN AMENDMENT NO. 14-001/
VARIANCE NO. 14-007
(PACIFIC CITY RESIDENTIAL)
JANUARY 27, 2015**

SUMMARY

- **Location:** 21002 Pacific Coast Highway, 92648 (bounded by Pacific View Avenue, First Street, Atlanta Avenue and Huntington Street)
- **Proposed Project:** The proposed project is a request to amend existing plans for the residential portion of the mixed-use development pursuant to Section 241.18 of the Huntington Beach Zoning and Subdivision Ordinance (ZSO). The proposed modifications are to amend the site plans, floor plans, and elevations for the mixed use development by redesigning the residential site layout and building elevations of the development.

The modifications for the residential plans include:

- Removing a driveway access into the subterranean garage from the loop road;
- Adding an emergency vehicle access only driveway from Huntington Street;
- Redesigning the architecture with a contemporary style;
- Determination of the code required number of parking spaces; and
- A Variance for the quantity of parking spaces provided onsite.

□ **Background:**

- On June 7, 2004, the City Council approved Environmental Impact Report No. 02-01, Tentative Tract Map No. 16338, Conditional Use Permit No. 02-20, Special Permit No. 02-04, Coastal Development Permit No. 02-12, and Conceptual Master Plan for the Pacific City project. The approved Pacific City mixed use project allowed subdivision of the approximately 31 acre site into three parcels and permitted development of 516 condominiums, an eight story, 400 room hotel, spa and health club, and 191,100 square feet of visitor-serving commercial uses with retail, office, restaurant, cultural, and entertainment uses. The approved project was subsequently reduced through an entitlement plan amendment in 2008 to a 250 room hotel and a corresponding reduction in the parking through a revised shared parking analysis.
- The Final Map was recorded on August 30, 2007. The project started construction on two thirds of the subterranean parking structure along Pacific Coast Highway but ceased construction in approximately 2008 due to the downturn in the economy and market conditions. The site was then acquired by Crescent Heights. In 2012, Crescent Heights obtained approvals for the following entitlements:
 - a) EPA No. 12-005 and DA No. 12-001 which amended conditions of approval related to affordable housing, park and school fees, and project phasing;
 - b) EPA 12-007 which amended the residential site plan, floor plans, and elevations; and
 - c) EPA 12-009 which replaced the Master Association with a Master Declaration of CC&Rs governing each of the three parcels.

Crescent Heights intended to develop the residential parcel and sell the commercial parcel to a separate owner. DJM Capital Partners acquired the two commercial parcels from Crescent Heights and sold the hotel parcel to Pacific City Hotel LLC. DJM revised the commercial plans under EPA No. 13-001, VAR No. 13-008, and Special Permit No. 13-001 and received approval from City Council on September 16, 2013. Pacific City Hotel LLC revised the hotel plans under EPA No. 13-005 and Special Permit No. 13-003 and received approval from Planning Commission on February 11, 2014. Both the retail and hotel parcels are currently under construction. UDR acquired the residential parcel from Crescent Heights in 2014.

- The current owners of the three parcels are as follows:
 - DJM Capital Partners – commercial
 - Pacific City Hotel LLC – hotel
 - UDR – residential

CEQA:

Environmental Impact Report No. 02-01 analyzed the approximately 31 acre mixed use development consisting of 516 condominiums, 400-room hotel, and up to 240,000 sq. ft. of visitor-serving commercial uses, private and public open space and associated infrastructure. Infrastructure improvements included the extension of Pacific View Avenue between First and Huntington Streets and improvements to Huntington and First Streets, Atlanta Avenue and Pacific Coast Highway.

The applicant is proposing to redesign the residential portion of the Pacific City development and remain within the scope of the EIR. The residential portion is proposed with 516 apartment dwelling units, four stories high, and two levels of subterranean garage with 1,167 spaces provided onsite. Access to the parking structure will be from Huntington Street, First Street, and the interior private loop road in the project. The trash and service driveway will be off Huntington Street. Based on the proposed development, the project is consistent with the scope of the previously approved EIR.

□ **Issues**

- Site Layout and Circulation
- Architectural Design and Design Review Board recommendations
- Vehicular Access Points
- Total number of required parking spaces and Parking Variance

□ **The Planning Commission public hearing is tentatively scheduled for February 10, 2015.**

□ **Attachments:**

1. City Council approved Notice of Action dated June 18, 2004 and Development and Use Requirements letter dated June 9, 2004
2. Entitlement Plan Amendment No. 12-005 and Development Agreement No. 12-001 Notice of Action
3. Entitlement Plan Amendment No. 12-007 Notice of Action
4. Entitlement Plan Amendment No. 12-009 Notice of Action
5. Excerpts of Site Plan, Floor Plans, Elevations dated January 13, 2015 – full set of plans available online
6. Project Narrative received and dated October 3, 2014 and Variance Narrative received and dated December 8, 2014



CITY OF HUNTINGTON BEACH

2000 MAIN STREET

CALIFORNIA 92648

OFFICE OF THE CITY CLERK

June 18, 2004

California Coastal Commission
South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90801-4302

**RE: NOTICE OF FINAL ACTION OF HUNTINGTON BEACH CITY COUNCIL ACTION
ON APPEAL OF PLANNING COMMISSION'S APPROVAL OF COASTAL DEVELOPMENT
PERMIT NO. 02-12 WITHIN A NON-APPEALABLE AREA OF THE COASTAL ZONE
(Pacific City Mixed Use Project – 21002 Pacific Coast Highway)**

Applicant: Makallon Atlanta Huntington Beach, LLC, Ethen Thacher, 4100 MacArthur Blvd., Ste 200, Newport Beach, CA 92660

Appellants: Makar Properties, LLC, 4100 MacArthur Blvd., Ste 200, Newport Beach, CA 92660; and,
The Robert Mayer Corporation, 660 Newport Center Drive, Ste 1050, Newport Beach, CA 92658.

Coastal Development Permit No. 02-12 Request: To permit subdivision and development of a mixed-use project consisting of retail, office, restaurant, cultural, and entertainment uses (191,100 sq. ft.); a 400 room, eight-story hotel with spa and health club; 516 condominium units above subterranean parking; a 2.0-acre open space/park and public easement corridor; Pacific View Ave. extension; and associated infrastructure on a 31-acre site.

Location: 21002 Pacific Coast Highway (Inland side of Pacific Coast Highway bounded by First Street, Atlanta Avenue, and Huntington Street).

Coastal Zone Status: Non-Appealable Jurisdiction of the Coastal Zone. The City's Post-LCP Certification Commission Jurisdiction Map adopted May 24, 1985 indicates that the project site is not appealable to the Coastal Commission, and Coastal Commission Staff confirmed this in July 2003 based upon their written communication with the Coastal Commission's Mapping Division in their San Francisco Office.

Environmental Status: Environmental Impact Report No. 02-01 was prepared by EIP Associates, a consultant hired by the City to analyze the potential impacts to the project, and certified by the City Council on June 7, 2004.

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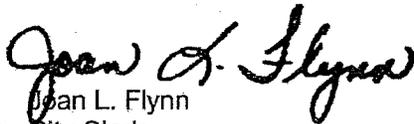
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(Telephone: 714-536-5227)

Attachment No. 1.1

Action: On June 7, 2004, after hearing a staff report presentation, conducting a public hearing, and discussion, the City of Huntington Beach City Council conditionally approved Coastal Development Permit No. 02-12 with Findings and Conditions of Approval as well as Tentative Tract Map No. 16338, Conditional Use Permit No. 02-20 with Special Permit No. 02-04, and Conceptual Master Plan (Attachment No. 1).

Sincerely,


Joan L. Flynn
City Clerk

JF: pe

Enclosure: Amended Findings & Conditions of Approval

cc: The Robert Mayer Corporation - Appellant
Makar Properties, LLC. - Appellant
Makallon Atlanta Huntington Beach, LLC - Applicant
Penny Culbreth-Graft, City Administrator
Jennifer McGrath, City Attorney
Howard Zelefsky, Planning Director
Scott Hess, Planning Manager
Mary Beth Broeren, Principal Planner

CITY COUNCIL APPROVED
FINDINGS AND CONDITIONS OF APPROVAL
FOR PACIFIC CITY PROJECT

**(TENTATIVE TRACT MAP NO. 16338/ CONDITIONAL USE PERMIT NO. 02-20/
SPECIAL PERMIT NO. 02-04/ COASTAL DEVELOPMENT PERMIT NO. 02-12/
MASTER PLAN -- PACIFIC CITY MIXED USE PROJECT)**

(June 14, 2004)

FINDINGS FOR APPROVAL - TENTATIVE MAP NO. 16338:

1. Tentative Tract Map No. 16338 to subdivide approximately 27.8 acres (31.5 gac) into three parcels (a 17.2 acre parcel for residential condominium purposes; a 6.47 acre parcel for retail, office, restaurant, cultural, and entertainment development; and a 4.12 acre parcel for a hotel development); dedicate a 2.03 acre easement for a Village Green Park/open space, and a 20 foot wide pedestrian corridor easement with public access; and dedicate Pacific View Avenue per the Precise Plan of Street Alignment is consistent with the General Plan Land Use Map designations on the subject site. The commercial portion of the site is designated CV-F7-sp (Commercial Visitor - Max. 3.0 Floor Area Ratio - Specific Plan Overlay) and General Plan Subarea 4C (PCH/Lake Street), and the residential portion of the site is RH-30-sp (High Density Residential - Max. 30 u/gac - Specific Plan Overlay) and General Plan Subarea 4I (Atlanta-First Street). The subdivision will provide for a mixed-use project consistent with the design concept envisioned by the Downtown Specific Plan and General Plan, and will provide for necessary public improvements around the site. In addition, the applicant will pay the full City Park Land In-Lieu Fees.
2. The site is physically suitable for the type and density of development. The 27.8-acre project site provides the necessary area for a mixed-use development (191,100 sq. ft. mixed-use project with retail, office, restaurant, cultural, and entertainment uses, a 400 room, eight story hotel, spa and health club above two levels of subterranean parking, and 516 multiple-family residential condominium units above two levels of subterranean parking) consistent with the intensity and density of the Downtown Specific Plan – District 7A (Visitor-Serving Commercial) and 8A (High Density Residential) with a Coastal Zone overlay, the General Plan designations, and with the implementation of mitigation measures.
3. The design of the subdivision or the proposed improvements will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. Notwithstanding the foregoing, the City Council may approve such a tentative map if an environmental impact report was prepared with respect to the project, subject to a finding being made that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.
4. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided. The tentative map provides all the necessary easements and access requirements of the City for the public and provides the necessary public improvements. The improvements include

dedications, curbs, gutters, sidewalks, streets, and easements with public access through the development and to a Village Green park/open space easement to adequately serve the site and adjacent properties.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 02-20:

1. Conditional Use Permit No. 02-20 to construct a 191,100 sq. ft. mixed use project consisting of retail, office, restaurant, cultural, and entertainment uses and a 400 room, eight story hotel, spa and health club above two levels of subterranean parking with 1,542 spaces; construct 516 condominium units within a mix of two, three, and four story buildings above two levels of subterranean parking with 1,291 spaces; permit alcohol beverage sales, live entertainment indoors and outdoors, dancing, 10,550 sq. ft. of outdoor dining; carts and kiosks in conjunction with the mixed commercial and hotel development; permit a reduction in the number of parking spaces required for the mixed use project (1,542 spaces in lieu of min. 1,776 spaces) and for tandem parking spaces; permit valet service, parking entrance gates, attendant booths, and/or collection of fees within the subterranean parking garage; permit any additional soil remediation activities for the site to complement and complete the prior and on-going remediation activities, which may include but are not limited to excavation, temporary stockpiling, and on-site remediation; permit associated infrastructure improvements including the extension of Pacific View Avenue; permit development on a site with a grade differential of greater than three (3) feet from the low to the high point; improve a 2.03 acre Village Green Park easement; and Master Plan will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The project has been evaluated for compatibility with the surrounding neighborhood and includes perimeter buildings that provide transition and scale to adjacent properties, provides more than code required residential open space and open air commercial amenities, is designed on a pedestrian scale and character, provides the required parking to serve the uses on site, and meets the goals and policies of the General Plan.
2. The conditional use permit will be compatible with surrounding uses because the project is designed with a contemporary Mediterranean architectural theme which is compatible with the Downtown Design Guidelines and the project will provide architectural elements and features to enhance the pedestrian character and scale of the street scene surrounding the project. In addition, the project incorporates the proper massing and scale, the design features of the Mediterranean architectural style and the colors and materials recommended by the Design Guidelines for the Downtown. The project will provide public improvements to make the project compatible with other adjacent public improvements required of downtown development to provide a consistent streetscape for the project area. The project also is designed with buildings that terraces with the grade, especially along Huntington Street.
3. The conditional use permit for 1,542 parking spaces in lieu of the 1,776 spaces required per Schedule "A" in Section 231.04 of the ZSO for the Reduced Project Alternative Plan (191,100 sq. ft.) is substantiated by the Parking Demand Analysis prepared by Linscott, Law, and Greenspan dated October 15, 2003. This analysis is based on the proposed use of the buildings which will not generate additional parking demand than the proposed 1,542 spaces.

In addition, a Transportation Demand Management Plan which exceeds the minimum required by Section 230.36 of the ZSO will be submitted prior to issuance of a building permit.

4. The proposed request will comply with the provisions of the base district and other applicable provisions in the Downtown Specific Plan and Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The proposed project with the special permits provides a development that is consistent with the design guidelines, is compatible with the scale and transition of surrounding development, and provides consistent public improvements for the development.
5. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of CV-F7-sp (Commercial Visitor - Max. 3.0 Floor Area Ratio - Specific Plan Overlay) and General Plan Subarea 4C (PCH/Lake Street) for the commercial portion of the site, and RH-30-sp (High Density Residential - Max. 30 u/gac - Specific Plan Overlay) and General Plan Subarea 4I (Atlanta-First Street) for the residential portion of the site. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Goal LU 1: Achieve development that maintains or improves the City's fiscal viability and reflects economic demands while maintaining and improving the quality of life for the current and future residents of Huntington Beach.

Policy LU 1.1.2: Promote development in accordance with the Economic Development Element.

Goal LU 2: Ensure that development is adequately served by transportation infrastructure, utility infrastructure, and public services.

Policy LU 2.1.7: Ensure that development shall not occur without providing for adequate school facilities.

Goal LU 4: Achieve and maintain high quality architecture, landscape, and public open spaces in the City.

Policy LU 4.1.1: Require adherence to or consideration of the policies prescribed for Design and Development in the Huntington Beach General Plan, as appropriate.

Policy LU 4.1.2: Require that an appropriate landscape plan be submitted and implemented for development projects subject to discretionary review.

Policy LU 4.2.1: Require that all structures be constructed in accordance with the requirements of the City's building and other pertinent codes and regulations; including new, adaptively re-used, and renovated buildings.

Policy LU 4.2.4: Require that all development be designed to provide adequate space for access and parking.

Policy LU 4.2.5: Require that all commercial, industrial, and public development incorporate appropriate design elements to facilitate access and use as required by State and Federal Laws such as the American's with Disabilities Act.

Goal LU 7: Achieve a diversity of land uses that sustain the City's economic viability, while maintaining the City's environmental resources, scale and character.

Policy LU 7.1.2: Require that development be designed to account for the unique characteristics of project sites and objectives for community character and in accordance with the Development "Overlay" Schedule, as appropriate.

Policy LU 7.1.5: Accommodate the development of a balance of land uses that maintain the City's fiscal viability and integrity of environmental resources.

Goal LU 8: Achieve a pattern of land uses that preserves, enhances, and establishes a distinct identity for City's neighborhoods, corridors, and centers.

Policy LU 8.1.1: Accommodate land use development in accordance with the patterns and distribution of use and density depicted on the Land Use Plan Map, in accordance with the appropriate principles.

Policy LU 9.3.1: Permit the development of master-planned residential projects that incorporate a mix of housing types, neighborhood-serving commercial services, schools, parks, open space, and other elements in areas designated for residential on the Land Use Map.

Policy LU 9.3.2: Require the design of new residential subdivisions to consider the following:

- a. Establish a street configuration involving the interconnection of individual streets that emphasizes a pattern of "blocks" rather than cul-de-sacs.
- b. Integrate public squares, mini-parks, or other landscaped elements.
- c. Cluster residential units and, if possible, integrate small clusters of multi-family housing within single-family areas to preserve open space.
- d. Establish a common "gathering" or activity center within a reasonable walking distance of residential neighborhoods. This center may contain services, such as child or adult-care, recreation, public meeting rooms, recreational facilities, small convenience commercial uses, or similar facilities.
- e. Site common facilities around a public park or plaza to encourage a high level of community activity.
- f. Establish a continuous network of sidewalks, bicycle and pedestrian paths, and other elements that link all community areas and provide linkages to land uses in adjacent areas.
- g. Orient housing units to neighborhood and collector streets.

- h. Site and design of units and incorporate elements, such as porches, that emphasize front yards as an activity area and “outdoor living room,” by locating garages in the rear or side yards.
- i. Consider reduced street widths to achieve a more “intimate” relationship between structures, to the extent feasible and in accordance with Huntington Beach Fire Department regulations.
- j. Consider an increase in front yard setbacks, sidewalk widths, and the inclusion of landscaped parkways, especially in neighborhoods where the street width is reduced.
- k. Include alleys or other means to minimize the dominance of garages along the street frontage.
- l. Include setbacks and other design elements that buffer residential units from the impacts of abutting existing commercial and/or industrial development.

Policy LU 9.3.3: Require that nonresidential structures incorporated in residential neighborhoods be designed to be compatible with and convey the visual and physical scale and character of residential structures.

The mixed-use project consisting of retail, office, restaurant, cultural, entertainment uses and a 400 room, eight-story hotel proposed for the site represents development that would support the needs and reflect market demand of City residents and visitors. The proposed development improves the project site, much of which is currently vacant, and provides additional destination uses that would attract and complement new and existing retail, restaurant, and hotel uses.

The design of the project promotes development of commercial buildings that convey a unified, high-quality visual image and character. It is in conformance with the City’s Design Guidelines. The City’s Design Review Board has reviewed the proposed architecture, colors, and materials and recommends approval of the design concept. The project provides for adequate access along all public streets, and required parking pursuant to a parking analysis in a two-level subterranean parking structure.

The proposed multiple family residential buildings are well articulated and have enhanced building elevations along street frontages. Ground floor units along the perimeter of the residential site are oriented towards the street. The design of the residential subdivision includes four district neighborhoods emphasizing a cluster of buildings around a 2.03-acre village green park with recreational areas and a 20-foot wide pedestrian corridor. Connecting the village green park to Pacific View Avenue is a 65-foot entry corridor that is accessible to either crosswalk on Pacific View Avenue providing access to the retail promenade. With subterranean parking, there are no garages to dominate the street scene and front yard/patios become activity areas. In addition, there will be a landscaped parkway adjacent to the curb around the perimeter of the site. The residential project is separate from commercial activities by Pacific View Avenue.

There will be surplus parking for the project; a total of 1,542 commercial parking spaces and 1,291 residential parking spaces are proposed. The number of residential parking spaces is based on Schedule “A” in Section 231.04 of the ZSO, and the number of commercial/hotel parking spaces is based on a Parking Demand Analysis prepared by Linscott, Law, and Greenspan. The Analysis concluded the peak demand for the Reduced Retail Commercial

Alternative Plan would be 1,372; thus, there will be 170 surplus parking spaces for the commercial/hotel development.

There will be public improvements made in conjunction with the project to ensure that the development is adequately served with infrastructure. In addition, the developer will be paying required school fees and comply with a Mitigation Agreement with all affected school districts.

B. Coastal Element

Goal C 1: Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Objective C 1.1: Ensure that adverse impacts associated with coastal zone development are mitigated or minimized to the greatest extent feasible.

Policy C 1.1.1: With the exception of hazardous industrial development, new development shall be encouraged to be located within, contiguous or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individual or cumulative, on coastal resources.

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Policy C 1.1.7: Encourage cluster development in areas designated for residential use within the Coastal Zone.

Objective C 1.2: Provide a land use plan that balances location, type, and amount of land use with infrastructure needs.

Policy C 1.2.1: Accommodate existing uses and new development in accordance with the Coastal Element Land Use Plan and the Development and Density Schedule, Table C-1.

Policy C 1.2.3: Prior to the issuance of a development entitlement, the City shall make the finding that adequate services (i.e., water, sewer, roads, etc.) can be provided to serve the proposed development, consistent with policies contained in the Coastal Element, at the time of occupancy.

Policy C 2.2.3: Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

Policy C 2.4.1: Maintain an adequate supply of parking that supports the present level of demand and allows for the expected increase in private transportation use.

Goal C 3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences

Objective C 3.2: Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low-cost facilities and activities.

Policy C 3.2.3: Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including, but not limited to, shops, restaurants, hotels and motels, and day spas.

Objective C 4.1: Provide opportunities within the Coastal Zone for open space as a visual and aesthetic resource.

The proposed project would develop a mix of commercial and residential uses on parcels contiguous to similar uses in an established, urban, downtown area. Public services are currently available to the project site, as well as the surrounding parcels, and the project includes improvements to existing infrastructure to ensure adequate service after project implementation. The project includes a 2.03-acre Village Green park easement, 65-foot Village Green park entry corridor, and a 20-foot wide pedestrian easement corridor from Atlanta Avenue to PCH which will be available to the public. Residential units are designed in building clusters. Parking is provided for the residential and commercial uses in two level subterranean parking structures. With the reduced commercial retail project alternative plan (191,100 sq. ft.), there will be surplus parking spaces for the commercial/hotel uses based on a shared parking analysis that will allow for a future demand for increased parking. Views of the beach/ocean will be available from locations along the public sidewalk along the inland side of PCH and from terraced lookouts within the retail promenade walkway and the hotel.

C. Economic Development Element

Goal ED 2: Aggressively retain and enhance the existing commercial, industrial, and visitor-serving uses while attracting new uses to Huntington Beach.

Objective ED 2.6: Expand and enhance the existing visitor-serving uses.

Policy ED 2.6.1: Encourage the attraction of coastal and inland visitor-serving uses to offer a wider spectrum of visitor opportunities

Policy ED 2.6.2: Encourage visitor supported commercial development to concentrate in selected areas of the City, thereby creating identifiable visitor-oriented centers.

Goal ED 3: Enhance Huntington Beach's economic development potential through strategic and land use planning and sound urban design practices.

Objective ED 3.1: Maximize the economic viability of commercial and industrial use through the creation of specialized districts and nodes.

Policy ED 3.1.1: Create differentiated clusters or nodes of retail, industrial, and office uses.

Policy ED 3.2.1: Create commercial-recreation nodes along the inland side of Pacific Coast Highway.

Policy ED 3.2.2: Encourage mixed-use (retail/office/residential) structures on the downtown area and at the visitor-serving nodes along Pacific Coast Highway.

Policy ED 3.2.3: Attract visitor-serving uses near the beach in order to create better linkages between the beach and visitor-supporting retail uses.

The proposed project promotes development in accordance with Huntington Beach's Economic Development Element, as retail, office, restaurant, cultural, entertainment uses, and a 400 room, eight-story hotel development will broaden and stabilize the City's economic base and further diversify the range of overnight accommodations. In addition, the visitor-serving retail and commercial uses would further support the economic needs of the City.

D. Housing Element

Policy H 3.1.1: Encourage the provision and continued availability of a range of housing types throughout the community, with variety in the number of rooms and level of amenities.

The residential portion of the project is designed for 516 residential units in four different neighborhoods. There will be 15 varied floor plans in a townhome and stacked flat design. The floor plan sizes range from an average of 850 sq. ft. to 2,450 sq. ft. with one, two, and three bedrooms. Also, 15% of the total project units will be affordable for low to moderate-income families. These units will be on-site and off-site.

E. Circulation Element

Policy CE 2.3.1: Require development projects to mitigate off-site traffic impacts and pedestrian, bicycle, and vehicular conflicts to the maximum extent feasible.

Policy CE 2.3.4: Require that new development mitigate its impact on City streets, including but not limited to, pedestrian, bicycle, and vehicular conflicts, to maintain adequate levels of service.

The applicant will be constructing Pacific View Avenue, improvements to Atlanta Ave., Huntington Street, First Street, and PCH, and a bus turnout on PCH. The EIR included a detailed traffic analysis to document potential impacts associated with the project. Mitigation would be required for the intersection of PCH and Seapoint, and PCH and Warner, as well as a traffic signal at 1st and Atlanta. Mitigation Measures TR-1 through TR-3 require the developer to contribute its fair share of the cost of these improvements and construct the signal.

F. Recreation and Community Services Element

Goal 5: Provide parks and other open space areas that are efficiently designed to maximize use while providing cost efficient maintenance and operations.

The residential portion of the project is required to provide 4.81 acres of open space area based on 25% of the total residential floor area. The proposal is for 9.28 acres of common

and private open space which represents 53.8% of the site. Some of this common area will be accessible by the public including a 2.03 acre Village Green park/open space easement, 65 foot Village Green park entry corridor, and a 20 foot wide pedestrian easement corridor from Atlanta Avenue to PCH. In addition, the applicant will be paying the full (100%) City Park Land In-Lieu Fees.

G. Subarea Schedule

Subarea 4C PCH/First Street (Commercial/Hotel Component):

- Permitted Uses: Visitor-serving and community-serving commercial uses, restaurants, entertainment, and other commercial uses.
- Density/Intensity: Maximum 3.0 FAR; maximum height of eight stories
- Establish a unified “village” character, using consistent architecture and highly articulated facades and building masses.
- Require vertical setbacks of structures above the second floor.
- Incorporate pedestrian walkways, plazas, and other common open spaces for public activity.
- Provide pedestrian linkages with surrounding residential and commercial areas.
- Establish a well-defined entry from PCH.
- Maintain views of the shoreline and ocean.

The mixed-use project consists of retail, office, restaurant, cultural, entertainment uses (live entertainment and dancing) and a 400 room, eight-story hotel. The commercial buildings are two to three stories clustered along a crescent shaped pedestrian walkway with a series of gathering areas and plazas for public activity and views to the ocean. A unified, high-quality visual image and character is created by the unique building designs and architecture. There is a 20-foot wide pedestrian walkway through the commercial project from PCH to Pacific View Avenue and then it continues through the residential area connecting Pacific View Avenue to Atlanta Avenue. Along the PCH frontage is a meandering walkway with defined entries at First Street and Huntington Street.

Subarea 4I Atlanta-First Street (Residential Component):

- Permitted Uses: Multi-family residential, parks and other recreational amenities, schools, and open spaces.
- Density/Intensity: Maximum height of four stories; Maximum 30 units per net acre.
- Requires the preparation and conformance to a specific plan or master plan.
- Establish a cohesive, integrated residential development in accordance with the policies and principles stipulated for “New Residential Subdivisions” (Policies 9.3.1 – 9.3.4).
- Allow for the clustering of mixed density residential units and integrated commercial sites.
- Require variation in building heights from two to four stories to promote visual interest and ensure compatibility with surrounding land uses.

There are 516 multiple family residential units proposed at a maximum density of 30 units per net acre in accord with the Downtown Specific Plan. The units are in two to four story, well articulated buildings with enhanced building elevations along street frontages. The

residential development is consistent with the policies of 9.3.1 to 9.3.3 as noted under the Land Use Element of this section. Incorporated into the project is a 2.03-acre Village Green park easement, 65-foot Village Green park entry corridor, and a 20-foot wide pedestrian easement corridor from Atlanta Avenue to PCH, which will be open to the public.

FINDINGS FOR APPROVAL – SPECIAL PERMIT NO. 02-04:

1. The granting of Special Permits pursuant to Section 4.1.02 of the Downtown Specific Plan in conjunction with Conditional Use Permit No. 02-20 is for the following:
 - a. Encroach into the minimum building setback along Pacific Coast Highway (30 ft. in lieu of min. 50 ft.) and along Pacific View Avenue (15 ft. in lieu of min. 20 ft.);
 - b. Exceed the maximum slope percentage for three driveway ramps into the residential below grade parking structures (15% in lieu of maximum 10%); and
 - c. Exceed the maximum height for retaining walls and private patio walls in the required perimeter residential setback areas (3.5 ft. to 6 ft. in lieu of maximum 3.5 ft.).

These Special Permits result in a greater benefit from the project and will promote a better living environment because the arrangement of structures, parking, circulation areas, and open space areas relate to the surrounding built environment in pattern, function, scale, and character. The commercial portion of the project is a blend of the reduced building setbacks along PCH north of the site and the greater setbacks of the hotels along PCH to the south of the site. The placement and design of structures along PCH and Pacific View Avenue with reduced setbacks, except for the hotel, results in a better project because it facilitates and encourages pedestrian activity and conveys a visual link to PCH and Pacific View Avenue. The reduced setbacks, except for the hotel, allow for clustering of buildings to create unique plaza areas throughout the project envisioned by the “Village Concept” of the DTSP. The hotel would not result in better land use planning so therefore it is conditioned to be redesigned to have a minimum 50 ft. setback from the PCH right of way consistent with the DTSP and the Waterfront Hilton development to the south of the subject site.

The increased ramp slope is an acceptable standard for driveways without parking on either side. The increased ramp slope allows for a more efficient use of land and more usable open space area resulting in a better project.

There will be private patio walls, retaining walls, and landscaped planters along Pacific View Ave., First Street, Atlanta Ave., and Huntington Street separating the ground floor private patios with the public sidewalks around the perimeter of the residential project site that will exceed the max. 42 inches required by up to two ft. six inches (2’ 6”). This special permit is necessary due to the grade differences between the ground floor patios and adjacent public sidewalk grades, and that there is an EIR mitigation measure that requires walls and barriers around patio areas and open space areas be shielded by at least a five ft., six in. (5’ 6”) high block wall or Plexiglas sheets to minimize exterior noise levels to these areas.

2. The granting of Special Permits will provide better land planning techniques with maximum use of aesthetically pleasing types of architecture, landscaping, site layout and design due to the use of appropriate site planning by the arrangement of structures, parking, circulation areas, and open space areas.

3. The granting of Special Permits will not be detrimental to the general health, welfare, safety, and convenience of the neighborhood or City in general, nor detrimental or injurious to the value of property or improvements of the neighborhood or of the City in general. The project has been evaluated for compatibility with the surrounding neighborhood and includes perimeter buildings that provide transition and scale to adjacent properties, provides more than code required residential open space and open air commercial amenities, is designed on a pedestrian scale and character, provides the required parking to serve the uses on site, and meets the goals and policies of the General Plan.
4. The granting of Special Permits will be consistent with objectives of the Downtown Specific Plan in achieving a development adapted to the terrain and compatible with the surrounding environment. The project does include the arrangement of structures, parking, circulation areas, and open space areas that relate to the surrounding built environment in pattern, function, scale, and character. The commercial portion of the project has varied setbacks along PCH that is similar to the existing developments to the north and south. The reduced setbacks allow for clustering of buildings to create unique plaza areas throughout the project envisioned by the "Village Concept" of the DTSP. The incorporation of the special permits into the project benefits the overall design and therefore provides a better living environment for the resident, tenant, customer, and visitor to the downtown area.
5. The granting of Special Permits is consistent with the policies of the Coastal Element of the City's General Plan and the California Coastal Act. The project is consistent with the Coastal Element goals, objectives, and policies as noted under the Conditional Use Permit Findings. The proposed project would develop a mix of commercial and residential uses on parcels contiguous to similar uses in an established, urban, downtown area. Public services are currently available to the project site, as well as the surrounding parcels, and the project includes improvements to existing infrastructure to ensure adequate service after project implementation. The project includes a 2.03-acre Village Green park easement, 65-foot Village Green park entry corridor, and a 20-foot wide pedestrian easement corridor from Atlanta Avenue to PCH which will be available to the public. Residential units are designed in building clusters. Parking is provided for the residential and commercial uses in two level subterranean parking structures. With the reduced retail commercial project alternative plan (191,100 sq. ft.), there will be surplus parking spaces for the commercial/hotel uses based on a shared parking analysis that will allow for a future demand for increased parking. Views of the beach/ocean will be available from locations along the public sidewalk along the inland side of PCH and from terraced lookouts within the retail promenade walkway and the hotel. The proposed special permits in conjunction with Conditional Use Permit No. 02-20, Coastal development Permit No. 02-12, Tentative Tract Map No. 16338, and the incorporation of and implementation of adopted conditions of approval and the Mitigation Monitoring and Reporting Program of Final EIR No. 02-01 will comply with State and Federal Law.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 02-12:

1. Coastal Development Permit No. 02-12 for the development project conforms with the General Plan, including the Local Coastal Program. The proposed project would develop a mix of commercial and residential uses on parcels contiguous to similar uses in an established, urban, downtown area. Public services are currently available to the project site,

as well as the surrounding parcels, and the project includes improvements to existing infrastructure to ensure adequate service after project implementation. The project includes a 2.03-acre Village Green park easement, 65-foot Village Green park entry corridor, and a 20-foot wide pedestrian easement corridor from Atlanta Avenue to PCH which will be available to the public. Residential units are designed in building clusters. Parking is provided for the residential and commercial uses in two level subterranean parking structures. With the reduced project alternative plan (191,100 sq. ft.), there will be surplus parking spaces for the commercial/hotel uses based on a shared parking analysis that will allow for a future demand for increased parking. Views of the beach/ocean will be available from locations along the public sidewalk along the inland side of PCH and from terraced lookouts within the retail promenade walkway and the hotel.

2. The project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code except for any special permits approved concurrently. The proposed is consistent with the design guidelines, is compatible with the scale and transition of surrounding development, and provides consistent public improvements for the development.
3. At the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project will provide all necessary infrastructures to adequately service the site and not impact adjacent development. In addition, the project provides the necessary public improvements such as dedications, curb, gutters, sidewalks, streets, easements and reciprocal access between properties to adequately serve the site and adjacent properties.
4. The development conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed project does not conflict with any public recreation policies and it will add opportunities for access by improving the perimeter sidewalks and creating lookouts that are consistent with the City's General Plan, Coastal Element, and Downtown Specific Plan as referenced in the Conditional Use Permit Findings.

The proposed project would develop a mix of commercial and residential uses on parcels contiguous to similar uses in an established, urban, downtown area. Public services are currently available to the project site, as well as the surrounding parcels, and the project includes improvements to existing infrastructure to ensure adequate service after project implementation. The project includes a 2.03-acre Village Green park easement, 65-foot Village Green park entry corridor, and a 20-foot wide pedestrian easement corridor from Atlanta Avenue to PCH which will be available to the public. Residential units are designed in building clusters. Parking is provided for the residential and commercial uses in two level subterranean parking structures. With the reduced project alternative plan (191,100 sq. ft.), there will be surplus parking spaces for the commercial/hotel uses based on a shared parking analysis that will allow for a future demand for increased parking. Views of the beach/ocean will be available from locations along the public sidewalk along the inland side of PCH and from terraced lookouts within the retail promenade walkway and the hotel.

CONDITIONS OF APPROVAL – TENTATIVE TRACT MAP NO. 16338:

1. Tentative Tract Map No. 16338 and associated engineering exhibits received and dated February 13, 2004 for the subdivision of 34 gross acres into three lots, one of which is for condominium purposes, shall be the approved layout with the following modifications:
 - a. Identify gross and net acreages for each lot in the summary table.
 - b. Fully dimension the Village Green park area, and identify it as open to the public.
 - c. Identify Lot No. 1 as a lot for residential condominium purposes.
 - d. Meandering public sidewalks shall be provided along the perimeter of the project in lieu of the straight public sidewalks. (CC)
 - e. Traffic calming alternatives to control traffic and decrease speed along Pacific View Ave. to create a more pedestrian friendly atmosphere shall be considered and subject to review and approval by the Design Review Board. (CC)

2. Prior to submittal of the Final Tract Map to the Public Works Department for processing and approval, the following shall be required:
 - a. At least 90 days before City Council action on the final tract map, CC&Rs shall be submitted to the Planning Department for review and approval by the Community Services Department, Public Works Department, and the City Attorney. The CC&Rs shall reflect the common driveway access easements, and maintenance of all walls and common landscape areas by the Homeowners' Association. The CC&Rs must be in recordable form prior to recordation of the Final Tract Map map.
 - 1) The CC&Rs shall include language to address the right of the public to use the 2.03 acre Village Green park easement, pocket park, minimum 65 foot Village Green park entry corridor, and 20 foot wide pedestrian easement, and further that the right to meander off of the easements, and to walk over, traverse, and otherwise use, for recreational purposes, the areas identified as pedestrian public circulation areas depicted on the Wall & Fence Plan as approved by the Planning Commission, and the right for City to erect signs on the easements or pedestrian public circulation areas designating such property as being open for public use and access.
 - 2) Grantor may not make any improvements to the easements or the pedestrian public circulation areas (including, without limitation, the installation of entry gates, signs prohibiting or restricting entry, or other improvements), or take any action (excluding normal maintenance), that would affect, in any manner, the right of the public to the unimpeded use of the easements or pedestrian public circulation areas without the prior written consent of Grantee, which Grantee may give or withhold in Grantee's sole and absolute discretion. The CC&Rs shall include language that requires the Master Association to maintain the 2.03 acre park easement open space, and public access corridors as identified in the Final Tract Map and approved Improvement Plans.
 - 3) Notwithstanding anything to the contrary contained herein, Grantor shall have the right to install privacy gates to prevent public access to the portions of Lots 1, 2, and 3 which are not identified as pedestrian public circulation areas as depicted on the Wall & Fence Plan as approved by the Planning Commission.

- 4) The CC&Rs shall include the formation of a Master Association that shall govern, oversee, coordinate, and control all individual Homeowner's Associations and all Business Associations that include all areas of the proposed development for the primary purpose of coordinating and control of uniform maintenance, liability, repair of all common areas, public walkway easements and "A" Street. The Master Association shall also be solely responsible for the maintenance and replacement of the required landscaped medians in First Street, Atlanta Avenue, Huntington Street, and Pacific View Avenue, the decorative pavement within public streets adjacent to the project, and those items specified in the Maintenance License Agreement between the Master Association and the City.
 - 5) The CC&Rs shall address the maintenance of all awnings and rails for the commercial and residential portions of the project. They shall also define allowable uses and structures in the 20-foot pedestrian corridor for the commercial portion of the project; fences and other permanent and temporary barriers shall be prohibited. Exclusive use by any business, carts, kiosks, and tables are not permitted. Benches, potted plants and similar amenities may be permitted subject to the approval of the Departments of Planning and Public Works.
 - 6) The CC&Rs shall refer to the Special Utility Easement Agreement. (PW)
 - 7) The CC&Rs shall refer to the Maintenance License Agreement.
- b. A draft Affordable Housing Agreement Plan received and dated Dec. 23, 2003 shall be the conceptually approved plan. It shall be modified as necessary to reflect the requirements below and shall be submitted to the Planning Department for review and approval prior to recordation of the Tract Map. The agreement shall provide for affordable housing on-site, or combination of on-site and off-site. The contents of the agreement shall include the following:
- 1) Minimum 15 percent (78 units) of the total units shall be affordable to families of very low-income (less than 50% of Orange County median), low-income level (less than 80% of Orange County median), and moderate-income level (less than 100% of Orange County median) for a period of sixty years. Section 1 Requirements of the Plan is acceptable with the clarification that it shall be for a period of 60 years.
 - 2) A detailed description of the type, size, location and phasing of the affordable units, on-site and off-site.
 - 3) Off-site affordable units (new or rehabilitated) shall be proportionate in size and bedroom mix to the proposed one, two and three bedroom condominium units, and under the full control of the applicant.

- 4) The affordable units shall be constructed and/or acquired prior to or concurrent with the market rate units. The affordable units must be entitled, approved, and building permits obtained (and/or restrictive covenant recorded) concurrent with the following development phasing:

<u>PHASE</u> (Exhibit D-007)	<u>RESIDENTIAL</u> <u>UNITS</u>	<u>AFFORDABLE</u> <u>RESIDENTIAL UNITS</u>
IIa	68	10
III	125	20
IV	203	30
Va	120	18

As an example, concurrent with issuing permits for any of the 68 units in phase IIa, at least 10 affordable units must be identified, entitled, approved, and building permits obtained, and/or covenant recorded. All affordable units must be made available for occupancy prior to issuance of building permits for the last phase of development unless such units are included as part of that phase; or evidence of the applicant's reasonable progress towards attainment of completion of the affordable units for the respective phase.

- 5) A minimum of 50% of the required number of affordable housing units shall be on-site and the remaining number of units can be on-site or off-site. An option to the minimum 50% on-site is that the applicant may elect to build these units off-site, provided that the number of units is increased on a 2:1 basis and located within a redevelopment area. (PC)
- 6) If units are located off-site, the applicant shall consider sites located throughout the City and provide documentation thereof to the Planning Department. (PC)
- 7) Modify the Off-Site Units section of the Draft Affordable Housing Plan as follows: (PC)
- Section 2.A. (second bullet) – delete last sentence referencing Oak View area.
 - Section 2.B. – delete last sentence referencing the Center Avenue area.
 - Add Section 4. – Applicant shall notify affected school districts of all projects intended to satisfy the off-site affordable housing requirements so that the school district(s) may identify cumulative impacts. Projects will be required to mitigate impacts to affected schools districts consistent with State law.
3. The following conditions shall be completed prior to recordation of the Final Tract Map unless otherwise stated. Bonding may be substituted for construction in accordance with the provisions of the Subdivision Map Act. (PW)
- a. Dedicate a minimum 2.03 acres easement for Village Green park purposes to the City of Huntington Beach. The minimum 2.03 acres shall be inclusive of the public park entry corridor between the park and Pacific View Ave. The loop road may be private and include vehicle gates; it shall remain accessible to the public for pedestrian access. The Village Green park entry corridor shall be a minimum of 65 feet in width at its narrowest point and shall be a public easement dedicated on the Final Tract Map.

- b. An agreement shall be executed between the City and applicant prior to Final Tract Map approval that binds the Master Association and individual Associations in perpetuity for the conditions stated herein and that the Village Green Park will always be for public use and not changed to be for private use.
- c. The developer shall provide a Maintenance License Agreement to be a part of the Master Association agreement for maintenance of the medians, landscaping in the medians and adjacent to the project for Pacific View Avenue, First Street, Atlanta Avenue, Huntington Street and "A" Street if public. The agreement shall state that the Master Association shall be responsible for all costs associated with maintenance, repair, replacement, and fees imposed by County, City, and the Orange County Sanitation District for pumping, inspection, or other related fees for the dry weather flow diversion and First Flush Water Runoff Treatment Control System approved by the City. Furthermore, the Agreement shall address the Master Association's responsibility for the maintenance of the 2.03-acre park easement, all enhanced paving adjacent to public streets, "A" Street, pedestrian easements, sidewalk, parkway landscaping, Edison-owned street lighting and street furniture located behind public street curbs within the project site. Maintenance shall include but not be limited to sidewalk cleaning, trash cans, disposal of trash, signs, the regular maintenance and cleaning of all angled parking areas (i.e., markings, street sweeping) along Pacific View Avenue between First Street and Huntington Street, etc. The Master Association shall be solely responsible for paying the cost of maintenance, inspections, cleanup, operation, monitoring, replacement planting, and equipment replacement of all improvements required for this project. (PW)
- d. The sewer and portions of the storm drain systems located within private streets shall be private and maintained by the Homeowner's Association.
- e. A bond shall be posted for the potential conversion of Pacific View Avenue to a 4-lane divided roadway as dictated by the General Plan. The bond shall be maintained until such time that the roadway conversion improvements are completed and accepted by the City, or a General Plan Amendment is approved to eliminate the requirement of the conversion, or 10 years from the date of tract acceptance, whichever occurs first. The amount of the bond shall be determined by a preliminary design of full-width street improvements for Pacific View Avenue (in conformance with the Precise Plan of Street Alignment) and cost estimate prepared by the applicant and approved by the City Engineer. (PW)
- f. The two intersections of "A" Street and Pacific View shall be designed as enhanced intersections per the approved conceptual plan and shall be depicted on the Street Improvement Plans. (PW)
- g. Agreements with appropriate school districts intending to mitigate the impact on school facilities shall be executed. The Planning Department shall be provided with a copy of the agreement prior to recordation of the final tract map.
- h. A Letter of No Further Action (or Letter of Closure) shall be obtained from the Fire Department regarding the soil remediation of the entire site prior to recordation of the Final Tract Map, or issuance of any grading permits, whichever occurs first. (FD)

4. The water system for the entire project shall be a public system; except, any portion of the fire service water system that is not public shall be maintained by the HOA in accordance with the language to be provided by the Fire Department for the CC&Rs. (FD)
5. Prior to commencing soil remediation or grading operations, the name and phone number of an on-site field supervisor hired by the developer shall be submitted to the Departments of Planning and Public Works. In addition, clearly visible signs shall be posted on the perimeter of the site every 250 feet indicating who shall be contacted for information regarding this development and any construction/grading-related concerns. This contact person shall be available immediately to address any concerns or issues raised by adjacent property owners during the construction activity. He/She will be responsible for ensuring compliance with the conditions herein, specifically, grading activities, truck routes, construction hours, noise, etc. Signs shall include the applicant's contact number and the City's contact number regarding grading and construction activities, and "1-800-CUTSMOG" in the event there are concerns regarding fugitive dust and compliance with AQMD Rule No. 403. (PW)
6. The applicant shall notify all property owners and tenants within 500 feet of the perimeter of the property of a tentative grading schedule at least 30 days prior to such grading. The project sponsor shall designate a "disturbance coordinator" who shall be responsible for responding to any local complaints regarding construction noise; the coordinator (who may be an employee of the developer or general contractor) shall determine the cause of the complaint and shall require that reasonable measures warranted to correct the problem be implemented; and a telephone number for the noise disturbance coordinator shall be posted conspicuously at the construction site fence and included on the notification sent to neighbors adjacent to the site. (PW)
 - a. At least 30 days prior to grading, a notice shall be mailed to all property owners, residents and businesses located within 500 feet of the project site notifying them that the rodent population on site will be disturbed during grading and construction and may create a temporary nuisance to the neighboring area. This notice may be included in the notice of commencement of grading operations as required above.
7. A third party consultant, approved by the City, shall be responsible for monitoring on-site activities during the grading and construction phases of the project and shall serve as an agent for the City. The developer shall reimburse the City for all costs associated with this third party monitoring as determined by the City.
8. A third party remediation consultant will be retained by the City from the Fire Department's approved list of qualified consultants, for the purpose of providing review, recommendations and oversight of future remediation, sampling and closure reports. The consultant's scope shall include review of all documentation of work performed to date, review of any new reports and data, and field and laboratory oversight. The consultant shall work at the direction of the City of Huntington Beach. The applicant shall reimburse the City for all costs submitted by the third party consultant.

9. During the project construction phase, the applicant shall publish an informational newsletter annually and distribute to property owners, residents and businesses within a 1,000-foot radius of the project. (PC)
10. Final on-site grades and elevations on the grading plan may vary by no more than two (2) feet from the on-site grades and elevations, except adjacent to the perimeter of the site which shall vary by no more than one (1) foot from the street grades and elevations on the approved Tentative Map with the approval of the Planning Department.
11. Prior to approval of the Final Tract Map, 100% of the City Park Land In-Lieu Fees for the residential portion of the project shall be paid. (CC)
12. The Departments of Planning, Public Works, Fire, Building & Safety, and Community Services are responsible for compliance with all conditions of approval herein as noted after each condition. The Planning Director and Public Works Director shall be notified in writing if any changes to the Final Tract Map are proposed as a result of the plan check process. Permits shall not be issued until the Planning Director and Public Works Director have reviewed and approved the proposed changes for conformance with the intent of the City Council's action and the conditions herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the City Council may be required pursuant to the HBZSO.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 02-20 WITH SPECIAL PERMITS/ COASTAL DEVELOPMENT PERMIT NO. 02-12:

1. The conceptual site plan, floor plans, and elevations for the reduced project alternative plan received and dated December 23, 2003 shall be the conceptually approved layout, with the following modifications:
 - a. The retaining wall/fence combinations along PCH shall not exceed 42" in height.
 - b. The below grade parking structures for the residential and commercial developments shall be redesigned to address the detailed comments identified in the Parking Plan Review by International Parking Design, Inc. dated January 14, 2004. Drive aisles for parking spaces shall be minimum 26 feet in width. Signage shall be provided for residential guest parking areas and guest parking spaces shall be clearly marked and accessible. Identify electric vehicle charging station parking spaces. The redesigned parking structures shall comply with the new 2005 Title 24 regulations (and any subsequent revisions, and shall include "variable volume exhaust fans with CO₂ sensors" subject to review by the Departments of Planning, Building & Safety, Fire, and Public Works.
 - c. Revise Exhibit D-006 as follows: provide minimum 25' setback from the property lines at the intersection of PCH and First St. for carts and kiosks; provide continuous eight foot wide sidewalk along the PCH frontage without any encroachment of carts and kiosks; provide minimum 20 foot wide entryway (without any carts/kiosks) to the project from the PCH/First St. intersection; and the minimum 20 foot wide public pedestrian easement shall be consistent with the tract map without any encroachment of carts and kiosks.

- d. The outdoor deck/dining areas for the hotel restaurant along PCH between the Porte Cochere and Huntington Street shall have a minimum setback of 25' from PCH.
 - e. The hotel at the podium level shall be setback 50' from the PCH right-of-way and the hotel tower (above the podium level) shall have an upper story setback of minimum ten feet from the podium level consistent with the General Plan, Subarea Schedule.
 - f. Maintain minimum 10' free and clear (without obstruction) pedestrian path along Pacific View Ave. from First Street to the Porte Cochere entryway for the hotel.
 - g. Identify three areas for bike rack installation on the site plan subject to the review of the Planning Department; one shall be in the residential portion of the site. The number of bike racks shall be comparable to City of Irvine's standards.(CC)
2. The project shall comply with the Mitigation Measures of the Pacific City Environmental Impact Report (EIR No. 02-01).
 3. The project shall be developed in accord with the Phasing Diagram (Exhibit D-007). Phase IIa (Residential) and IIb (Commercial Parking Structure) shall be developed concurrently. Building permits for Phase III (Residential) and other residential phases shall not be issued until Phase IIb and IIc are completed, or evidence of the applicant's reasonable progress towards attainment of completion.
 4. If any environmentally sensitive habitat is found on the site it will be protected from significant disruption, and only uses dependent on those resources shall be allowed in those areas. (CC)
 5. Prior to the issuance of any grading permits, the following shall be completed:
 - a. The applicant shall submit to the Director of Public Works a project WQMP that:
 - 1) Addresses site design BMPs such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, and creating reduced or "zero discharge" areas
 - 2) Incorporates the applicable Routine Source Control BMPs
 - 3) Incorporates Treatment Control BMPs to treat all dry weather flows and the first flush of a storm event (the volume of runoff produced from a 24-hour, 85th percentile storm event)
 - 4) Generally describes the long-term operation and maintenance of the Treatment Control BMPs
 - 5) Identifies the entity that will be responsible for long-term operation and maintenance of the Treatment Control BMPs
 - 6) Describes the mechanism for funding the long-term operation and maintenance of the Treatment Control BMPs

- 7) Describes the following management of dry weather, first flush & storm flow discharges:
- Dry Weather Flows: The system shall be designed to divert all Pacific City dry weather flows into a structural filtration facility for treatment. Drainage areas A., B and the First Street watershed shall then be routed to the Atlanta Stormwater Pump Station (ASWPS) for discharge into Orange County Sanitation District's system
 - First Flush: The drainage system shall be designed to treat the first flush (the volume of runoff produced from a 24-hour, 85th percentile storm event) with a structural filtration system. Following treatment, first flush flows from drainage Area B shall then be discharged into the First Street storm drain; first flush flows from Area A will then be routed to the ASWPS for discharge into the Huntington Beach Flood Control Channel.
 - Storms Flows: Storm flows above the first flush from Area B will be discharged untreated into the First Street storm drain. Storm flows from Area A will be routed untreated to the ASWPS for discharge into the Huntington Beach Flood Control Channel.
- b. The applicant, at their expense, shall develop concept and design plans and costs estimated for a regional urban runoff treatment solution for the First Street watershed storm flows. Upon review and approval by the City, the applicant shall post a minimum 8-year bond for the equivalent of 1/7 of the capital construction cost into an Urban Runoff Treatment Trust Fund for the First Street watershed storm flows. Additionally, the applicant shall include in the Pacific City master CC&Rs that the project shall pay for 1/7 of the on-going annual operation and maintenance cost for this First Street regional treatment system. Upon implementation of this system the Pacific City Homeowners Association will be relieved of the obligation to maintain their on-site treatment system. (PC)
6. Prior to issuance of a precise grading permit, the following conditions shall be complied with:
- a. A Pedestrian Accessibility Plan for the entire project site, depicting on-site and off-site improvements, shall be submitted for review and approval by the Building & Safety and Public Works Departments and by a third party consultant. The applicant shall reimburse the City for the consultant's review. **(B & PW)**
 - b. At no additional cost to the developer, the City reserves the right to increase the water main pipe sizes necessary to support the proposed development, for the benefit of the City. For example, the City will require that the 12-inch water pipeline in Huntington Street, as required by the approved hydraulic analysis, be increased to an 18-inch pipeline. The City will pay the incremental difference in materials cost between a 12-inch and an 18-inch pipeline. **(PW)**

- c. The Village Green park area, pocket park, and entry corridor shall be designed and a detailed park improvement plan shall include typical neighborhood amenities including but not limited to tot lot play equipment, open turf play area and picnic tables and benches. All amenities must conform to current Consumer Product Safety Guidelines with certain amenities in compliance with the Americans with Disabilities Act. The entry corridor to the park (from Pacific View Ave.) and all other corridors must incorporate an architectural feature that properly identifies the area as public space. The plan shall identify play equipment, architectural features, plant material, ground cover, sidewalks, lighting, etc. and shall be reviewed and approved by the Community Services Commission, Community Services Director, and Public Works Director prior to installation. (CS/PW)
 - d. The median in Atlanta Avenue shall be designed to provide a solid landscaped median barrier through the intersection of Atlanta Avenue and Alabama Street, unless otherwise modified as determined by the Public Works Department and/or the Public Works Commission.
 - e. The project WQMP shall be reviewed and approved by the City Council. (CC)
 - f. The landscape plans shall incorporate native and/or drought-resistant plants consistent with what is permitted by the City of Huntington Beach Design Guidelines and Downtown Specific Plan.
7. During grading activities, the following shall be adhered to:
- a. The project developer(s) shall require contractors to utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) and low-emission diesel construction equipment to the extent that the equipment is readily available in the Southern California area and cost effective. Contract specification language shall be reviewed by the City prior to issuance of a grading permit. (PC)
 - b. All trucks hauling dirt, sand, soil onto or off the project site are to be covered. (PC)
8. The following conditions shall be completed prior to final building permit inspection, or occupancy, of the first residential unit:
- a. All existing *Washingtonia robusta* located along Pacific Coast Highway within the existing Caltrans right-of-way shall be relocated or replaced with an equivalent total trunk height either within the project, or relocated off-site as approved by the City Landscape Architect. (PW)
 - b. The applicant shall satisfy the project's fair share contribution of 22 percent of the cost of the installation of a third northbound through lane on Pacific Coast Highway at the Warner Avenue intersection. The County of Orange and Caltrans will be responsible to complete this improvement. The costs will be based on estimates prepared by the County of Orange for completion of the project or through a separate preliminary design and cost estimate prepared by the applicant to specifically address the requirements of this condition. (PW)

- c. The applicant shall satisfy the project's fair share contribution of 26 percent of the cost of the installation of a second westbound right turn lane at the intersection on Seapoint Avenue at Pacific Coast Highway. The City shall ensure completion of this improvement by providing funds for the balance of the cost of the improvement. The applicant shall prepare plans and obtain appropriate permits for the installation, including obtaining encroachment permits from Caltrans, as needed. Final determination of fair share contribution shall be based on the actual design and construction of the improvement. The City shall complete the improvement as a capital project. (PW)
 - d. The applicant shall construct a new traffic signal at the intersection of First Street and Atlanta Avenue unless an alternative intersection design including traffic calming measures, which achieves the same objective as Mitigation Measure TR-3, is reviewed and approved by the Public Works Department and/or Public Works Commission. The applicant shall enter into an agreement with the City to clearly indicate the applicant's responsibility to fund 57% of commitment to the cost of the improvement and the City's reimbursement to the applicant for the balance of the costs. (PW)
 - e. The applicant shall construct a new traffic signal at the intersection of Huntington Street and Atlanta Avenue unless modified to include traffic calming measures such as a roundabout as reviewed and approved by the Public Works Department and/or Public Works Commission. The applicant shall enter into an agreement with the City to clearly indicate the applicant's responsibility to fund 59% of the commitment to the cost of the improvement and the City's reimbursement to applicant for the balance of the costs. (PW)
 - f. The Village Green park, pocket park, and corridor shall be improved prior to the occupancy of the first residential unit (other than the model homes). (PW)
 - g. The applicant shall be responsible for 59% of the costs to improve street and sidewalk conditions on the south side of Atlanta Avenue within the existing right-of-way, between Huntington and Delaware Streets to improve pedestrian and vehicular safety conditions. (PC)
9. Submit detailed plans of the following for final review and approval by the Design Review Board:
- a. Elevations, colors and materials of the hotel.
 - b. Final colors and materials of the commercial and residential buildings.
 - c. Public Art Concept Plan.
 - d. Landscape and hardscape plans on private and public property.
 - e. Planned Sign Program.
 - f. Furniture and utilities throughout the project
10. At least 500 parking spaces shall be available for self-parking (not valet) in the commercial parking structure.
11. Employee parking shall be on-site and any parking fees for employees shall not exceed the annual parking pass fee for beach parking. (CC)

12. Parking meters shall be provided at all on-street public parking locations within or fronting the project frontage. Meters shall be installed according to City requirements and standards and shall meet the specifications of the City. The City will be responsible for the collection of revenue and maintenance of all parking meters. A plan depicting the location and design of the parking meter layout shall be submitted for review and approval by the Community Services and Public Works Departments.

13. Hours of construction and related activity shall be limited to between the following hours:
(PC)

Construction:	Mon.-Fri. 7AM – 6PM; Clean Up/Securing Area 6PM-8PM
Construction/ Clean-Up:	Sat. 7AM – 5PM
Pile Driving:	Mon.-Fri. 8AM – 6PM
Truck Hauling:	Mon.-Fri. 8AM-5PM; early delivery trucks must park on-site (not on street) with engine not idling between 7AM-8AM

13. An employee entrance and parking plan during construction shall be submitted to the Planning Director for review and approval. The entrance and parking is to be located in an area that minimizes impacts to surrounding residents.

14. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.

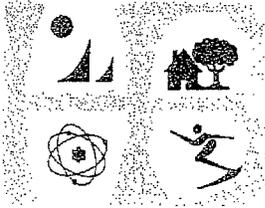
15. The Departments of Planning, Public Works and Fire are responsible for compliance with all conditions of approval herein as noted after each condition. The Planning Director and Public Works Director shall be notified in writing if any changes to tract map are proposed as a result of the plan check process. Permits shall not be issued until the Planning Director and Public Works Director have reviewed and approved the proposed changes for conformance with the intent of the City Council's action and the conditions herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the City Council's may be required pursuant to the HBZSO.

CONDITIONS OF APPROVAL –PACIFIC CITY MASTER PLAN:

1. The Pacific City Master Plan received and dated July 10, 2003 shall be the approved conceptual plan or as modified herein.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

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



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING

Phone 536-5271
Fax 374-1540
374-1648

June 9, 2004

Ethen Thacher
Makallon Atlanta Huntington Beach, LLC
4100 MacArthur Blvd., Ste 200
Newport Beach, CA 92660

SUBJECT: DEVELOPMENT AND USE REQUIREMENTS FOR TENTATIVE TRACT MAP NO. 16338/ CONDITIONAL USE PERMIT NO. 02-20 WITH SPECIAL PERMIT NO. 02-04/ COASTAL DEVELOPMENT PERMIT NO. 02-12 - PACIFIC CITY.

Please find enclosed a list of city policies, standard plans, and development and use requirements, excerpted from the Huntington Beach Zoning & Subdivision Ordinance and Municipal Codes, which are applicable to the above named project. The list is intended to assist you in identifying requirements, which must be satisfied during the various stages of project implementation. All requirements listed, along with any conditions of approval adopted by the City Council, would be effective upon final approval of your project.

If you have any questions, please contact Scott Hess, Planning Manager at (714) 536-5554.

Sincerely,

Scott Hess
Planning Manager

Attachments:

1. City Policies, Standard Plans, and Code Requirements of the City of Huntington Beach Zoning and Subdivision Ordinance and Municipal Code dated June 9, 2004
2. Memo from Gerald Caraig, Building and Safety Dept., dated January 16, 2004 regarding Development Review Comments

cc. Mary Beth Broeren, Principal Planner
Terri Elliott, Principal Civil Engineer
Matt McGrath, Supervisor/Development and Petrochem
Bob Stachelski, Transportation Manager

CITY POLICIES, STANDARD PLANS, AND CODE REQUIREMENTS OF THE CITY OF HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE AND MUNICIPAL CODE

**TENTATIVE TRACT MAP NO. 16338/ CONDITIONAL USE PERMIT NO. 02-20
WITH SPECIAL PERMITS/ COASTAL DEVELOPMENT PERMIT NO. 02-12
(PACIFIC CITY MIXED USE PROJECT)**

(Please Note: These requirements are based upon the plans that were reviewed and approved by the City Council on June 7, 2004. When detailed working drawings are submitted for review there may be additional changes required to the plans to ensure compliance with all applicable City Codes and Ordinances)

June 9, 2004

TENTATIVE TRACT MAP NO. 16338:

The following requirements shall be completed prior to recordation of the Final Tract Map unless otherwise stated. Bonding may be substituted for construction in accordance with the provisions of the Subdivision Map Act.

1. Final hydrology and hydraulic studies for both on-site and off-site facilities shall be submitted for Public Works review and approval. Runoff shall be limited to pre-1986 Q's, which must be established in the hydrology study. If the analyses shows that the City's current drainage system cannot meet the volume needs of the project runoff, the developer shall be required to attenuate site runoff to an amount not to exceed the 25-year storm as determined using pre-1986 design criteria. At the City's discretion, the dry weather flow for Drainage Area "B" may be routed into Drainage Area "A" to the Atlanta Stormwater Pump Station (ASWPS). Unless otherwise satisfied pursuant to CUP No. 02-20 conditions relating to regional urban runoff treatment, the Master Association shall be responsible for all costs associated with the dry weather flow diversion and treatment (including pumping charges and OCSF fees, etc). The storm water flows for Drainage Area "B" will go to the First Street storm drain system that the applicant is designing and constructing. All flows, both dry weather and storm flow shall be treated in accordance with the City's MS4 Permit and other City's applicable requirements and standards. (ZSO 253.12 & 255.04)
2. The developer shall submit the overall project water demands (including fire, domestic and irrigation requirements) for the development to ensure that project demands utilized in the approved hydraulic analysis (i.e., "*Water Analysis for Pacific City*" prepared by Tetra Tech, Inc. dated July 29, 2002) are consistent. Any changes in the project demands or uses, which may impact the results of the approved hydraulic analysis (such as the addition of the Village Green Park), shall necessitate further hydraulic modeling and/or review to determine what affects the changes may have on the City's water distribution system. Any further hydraulic analysis required as a result of these proposed changes shall be at the sole cost of the developer. Any additional water infrastructure improvements required due to the changes in the project demands or uses shall be at the sole cost of the developer. (ZSO 253.12 & MC 14.20)

3. The developer shall submit for approval by the Fire Department and Public Works Dept., a hydraulic water analyses to ensure that the public on-site water system within "A" Street is adequate to meet the demands of the development. The analyses shall include, but not be limited to piping sizes, domestic, irrigation, and fire flow requirements. (ZSO 253.12)
4. The sanitary sewer system shall be designed and constructed to serve the development including any offsite improvements necessary to accommodate any increased flow associated with the subdivision either in its entirety or by individual phasing. (ZSO 253.12)
5. A qualified, Licensed Engineer shall prepare a detailed soils and geotechnical analysis. This analysis shall include Phase II Environmental on-site soil sampling in areas not previously investigated and laboratory testing of materials to provide detailed recommendations for grading, chemical and fill properties, liquefaction, foundations, landscaping, dewatering, ground water, retaining walls, pavement sections and utilities. (ZSO 251.06 & 253.12)
6. The following shall be shown as a dedication to the City of Huntington Beach on the Final Tract Map: (ZSO 230.84A & 253.10K)
 - a) First Street, between Pacific Coast Highway and Atlanta Avenue, to provide a 57.5-foot right-of-way easterly from the existing centerline and convey any remaining elements of the northern section of the First Street right-of-way for public street purposes.
 - b) Atlanta Avenue between First Street and Huntington Street to provide a 60-foot right-of-way southerly from the existing centerline.
 - c) Huntington Street, between Pacific Coast Highway and Pacific View Avenue, to provide a 40-foot right-of-way westerly from the existing centerline.
 - d) Pacific View Avenue, between First Street and Huntington Street, to provide a 90-foot right-of-way in conformance with the requirements of the Precise Plan of Street Alignment for the roadway.
 - e) Pacific Coast Highway, between First Street and Huntington Street, to provide a 60-foot right-of-way northerly from the existing centerline or as required to satisfy the improvement requirements of Caltrans to obtain necessary encroachment permits.
 - f) A blanket easement over the private streets and access ways for Police and Fire Department access purposes.
 - g) The domestic water system and appurtenances within First Street, Atlanta Avenue, Huntington Street, Pacific Coast Highway, Pacific View Avenue, and "A" Street as shown on the improvement plans.
 - h) A water utility easement shall be submitted for review and approval by the City of Huntington Beach, covering the public water facilities and appurtenances located within "A" Street. The easement shall be a minimum total width of 10-feet clear (5-feet either side and beyond the end of the water pipeline or appurtenance) of unobstructed paved or landscaped surface, pursuant to Utilities Division standards. Where access is restricted or impacted by structures, walls, curbs, etc. the easement shall be a minimum width of 20-feet to allow for access and maintenance operations, pursuant to Water Division standards. No structures, parking spaces, trees, curbs, walls, sidewalks, etc., shall be allowed within the

easement. Utilities Division personnel shall have access to public water facilities and appurtenances at all times via Knox box at each vehicular gated entry.

- i) Access rights in, over, across, upon and through the private streets, the Village Green Park, and access ways for the purpose of maintaining, servicing, cleaning, repairing, and replacing the public water system.
 - j) A 2-foot wide public utility easement along both sides of each private street.
 - k) The public sanitary sewer system and appurtenances within First Street, Atlanta Avenue, Huntington Street, Pacific Coast Highway, and Pacific View Avenue as shown on the improvement plans.
 - l) The storm drain system and appurtenances within First Street, Atlanta Avenue, Huntington Street, Pacific Coast Highway, and Pacific View Avenue as shown on the improvement plans, except those facilities (i.e., clarifiers, BMPs, etc.) designated to be maintained by the Master Association on the improvement plans, WQMPs, and in the CC & R's.
 - m) Pedestrian access easements shall be designated as follows:
 - 1. Pacific View Avenue, First Street to east driveway – 10 feet south side.
 - 2. First Street, Pacific Coast Highway to Atlanta – 4 feet east side.
 - 3. Huntington Street, Atlanta Avenue to Pacific View Avenue – 2 feet west side.
 - 4. Pacific Coast Highway – First Street to Huntington Street – 8 feet total width following the proposed pedestrian walkway.
7. All vehicular access rights to First Street, Pacific Coast Highway, Pacific View Avenue, Atlanta Avenue and Huntington Street shall be released and relinquished to the City of Huntington Beach except at locations approved by the Public Works Department. (ZSO 230.84A)
8. Prior to approval of the Final Tract Map, 100% of the City Park Land In-Lieu Fees shall be paid. The required in-lieu fees and/or land dedication for park and recreational facilities are based upon the standards and formula for dedication of land (determined by the total number of residential units) pursuant to Section 254.08 of the HBZSO. The value of the park easement and/or improvements can not be credited to the payment of the in-lieu fees pursuant to the HBZSO.
9. A reproducible mylar copy and a print of the recorded tract map shall be submitted to the Department of Public Works at the time of recordation. (ZSO 253)
10. The engineer or surveyor preparing the Final Tract Map shall comply with Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18 for the following item: (ZSO 253)
- a. Tie the boundary of the tract map into the Horizontal Control System established by the County Surveyor.
 - b. Provide a digital-graphics file of said tract map to the County of Orange.

11. Provide a digital-graphics file of said tract map to the City per the following design criteria: (ZSO 253)

a. Design Specification:

- i) Digital data shall be full size (1:1) and in compliance with the California coordinate system – STATEPLANE Zone 6 (Lambert Conformal Conic projection), NAD 83 datum in accordance with the County of Orange Ordinance 3809.
- ii) Digital data shall have double precision accuracy (up to fifteen significant digits).
- iii) Digital data shall have units in US FEET.
- iv) A separate drawing file shall be submitted for each individual sheet.
- v) Digital data shall be in compliance with the Huntington Beach Standard Sheets, drawing names, pen color and layering conventions.
- vi) Feature compilation shall include, but shall not be limited to: Assessor's Parcel Numbers (APN), street addresses and street names with suffix.

b. File Format and Media Specification:

- i) Shall be in compliance with one of the following file formats (AutoCAD DWG format preferred):
 - AutoCAD (version 2000, release 4) drawing file: ____.DWG
 - Drawing Interchange File: ____.DXF
- ii) Shall be in compliance with the following media type:
 - CD Recordable (CD-R) 650 Megabytes

11. The grading plans and improvement plans shall be submitted to the Department of Public Works for review. The engineer shall submit cost estimates for determining bond amounts. (ZSO 255.16C & MC 17.05)

12. If the Final Tract Map is recorded before required improvements are completed, a Subdivision Agreement and accompanying security may be substituted for construction in accordance with the provisions of the Subdivision Map Act. (SMA)

13. All improvement securities (Faithful Performance, Labor & Material and Monument Bonds) and Subdivision Agreement shall be posted with the Public Works Department and approved as to form by the City Attorney. (ZSO 255.16)

14. A Certificate of Insurance shall be filed with the Public Works Department and approved as to form by the City Attorney. (ZSO 253.12K)

15. The Homeowner's Association(s) shall enter into a Special Utility Easement Agreement with the City of Huntington Beach, for maintenance and control of the area within the public water pipeline easement, which shall address repair to any enhanced pavement, etc., if the public water pipelines and/or appurtenances require repair or maintenance. The HOA shall be responsible for repair and replacement of any enhanced paving due to work performed in the maintenance and repair of any

water pipeline. The Special Utility Easement Agreement shall be referenced in the CC&R's. (Resolution 2003-29)

16. A phasing map shall be submitted for approval by the Planning, Public Works and Fire Departments showing improvements to be constructed. All required infrastructures including all public streets shall be designed with the first phase. The phasing plan shall include public improvements, construction employee parking, utility relocation, material location and fire access. (ZSO 253.12L)
17. The Final Tract Map and phased maps shall be consistent with the approved Tentative Tract Map. (ZSO 253.04)
18. All applicable Public Works fees shall be paid. Fees shall be calculated based on the currently approved rate at the time of payment unless otherwise stated. (ZSO 250.16)

CONDITIONAL USE PERMIT NO. 02-20/COASTAL DEVELOPMENT PERMIT NO. 02-12

1. The site plan, floor plans and elevations as approved by the City Council shall be the conceptually approved layout. Construction plans/working drawings submitted for plan check shall depict the following information:
 - a. Parking lot striping detail shall comply with Chapter 231 of the Zoning and Subdivision Ordinance and Title 24, California Administrative Code.
 - b. Depict all utility apparatus, such as but not limited to back flow devices and Edison transformers on the site plan. Utility meters shall be screened from view from public rights-of-way. Electric transformers in a required front or street side yard shall be enclosed in subsurface vaults. Backflow prevention devices shall be prohibited in the front yard setback and shall be screened from view.
 - c. All exterior mechanical equipment shall be screened from view on all sides. Rooftop mechanical equipment shall be setback 15 feet from the exterior edges of the building. Equipment to be screened includes, but is not limited to, heating, air conditioning, refrigeration equipment, plumbing lines, ductwork and transformers. Said screening shall be architecturally compatible with the building in terms of materials and colors. If screening is not designed specifically into the building, a rooftop mechanical equipment plan showing screening must be submitted for review and approval with the application for building permit(s).
 - d. Depict the location of all gas meters, water meters, electrical panels, air conditioning units, mailboxes (as approved by the United States Postal Service), and similar items on the site plan and elevations. If located on a building, they shall be architecturally designed into the building to appear as part of the building. They shall be architecturally compatible with the building and non-obtrusive, not interfere with sidewalk areas and comply with required setbacks.

- e. If outdoor lighting is included, energy saving lamps shall be used. All outside lighting shall be directed to prevent "spillage" onto adjacent properties and shall be shown on the site plan and elevations.
 - f. The Porte Cochere area off Pacific View Avenue for hotel loading and unloading shall be designed for a 72,000 lbs. load of fire apparatus. All streets shall comply with Fire Dept. City Specification No. 401. (FD)
 - g. Backflow devices and Fire Department Connections in bermed setback areas along must be enclosed in retaining walls. (FD)
 - h. Identify two more pedestrian access ways at street level into the residential area for emergency personnel access purposes, one off of Huntington Street and the other on the east end of Pacific View Avenue. (FD)
 - i. The driveway entrances shall have textured and colored pavement (behind sidewalk on private property) as indicated on the plan.
 - j. Buildings shall comply with the height limits of the Downtown Specific Plan (Exhibits A-402 & A-403).
 - k. Private open space areas for ground floor and above ground residential units shall comply with the Downtown Specific Plan (Exhibit D-002).
 - l. Parking for the one-bedroom residential units shall comply with Section 231.18.D.6 of the HBZSO.
 - m. Site coverage shall include projecting balconies and elevated walkways in accord with the Downtown Specific Plan.
 - n. Revised site plan in accord with applicable requirements within No.2 below that affect the layout.
2. Prior to issuance of a precise grading permit, the following shall be completed:
- a. The Final Tract Map shall be recorded with the County of Orange. (ZSO 253.22)
 - b. Separate plans for removals, stockpiling, surcharge and other independent or phased remedial or earth moving operations shall be prepared by a Licensed Civil Engineer, and be submitted to the Public Works Department for review and approval. (MC 17.05.140)
 - c. Precise Grading Plans, prepared by a Licensed Civil Engineer, shall be submitted to the Public Works Department for approval. (MC 17.05)

d. Improvement Plans prepared by a Licensed Civil Engineer, shall be designed per City's Standards, (including Public Works, Water Division, and Park, Tree and Landscape Standards) and shall be submitted to the Public Works Department for approval. The following improvements shall be shown on the plans: (ZSO 255.12)

1) The water infrastructure shall be designed and constructed to support the demands of this development, in accordance with the approved hydraulic analysis (i.e., "*Water Analysis for Pacific City*" prepared by Tetra Tech, Inc., dated July 29, 2002). The developer shall design and construct the following water improvements per City of Huntington Beach Water Division Standards.

Location of public water pipelines and appurtenances are subject to approval by the Utilities Division, and shall not be located within buildings or parking structures.

The proposed public water system shall conform to all City of Huntington Beach standard plans and design criteria, including the separation requirements between other utilities. In order to conform to these requirements, it may be necessary to replace certain existing pipelines "in place" with new pipelines, rather than to abandon the existing pipeline; or replace the existing pipeline with a new pipeline at a new location. Whether the pipelines are replaced in place or relocated, it is the responsibility of the developer to keep the City's customers in service throughout the duration of construction.

- i. A new 18-inch water main on Pacific View Avenue between First Street and Huntington Street.
- ii. A new 12-inch water main in Huntington Street that will connect to an existing 12-inch water main in Atlanta Avenue with an existing water main in Huntington Street, as well as to the new 18-inch water main in Pacific View Avenue. (This pipeline shall be constructed and put into service prior to taking the existing 18-inch water line in Pacific View Avenue out of service).
- iii. A new 12-inch water main in First Street that will connect to an existing 12-inch water main in Atlanta Avenue and with the new 18-inch water main in Pacific View Avenue.
- iv. A new 12-inch water main in First Street that will connect to the new 12-inch water main in Pacific Coast Highway and with the new 18-inch water main in Pacific View Avenue.
- v. A new 12-inch water main in Pacific Coast Highway that will connect with the new 12-inch water main in First Street and with an existing 12-inch water main in Huntington Street.
- vi. The water infrastructure constructed in the public right-of-way and in "A" Street shall be PUBLIC and shall be constructed per Utilities Division Standards. Pipe roping and/or deflection of curvilinear alignment is not allowed. All other proposed water infrastructure improvements constructed within the development shall be PRIVATE with backflow protection devices required at each point of connection to the City's water system.
- vii. The two pipelines connecting "A" Street to Atlanta Avenue and "A" Street to approximately 140-foot northeast towards Huntington Street shall be private and

maintained by the HOA with appropriate backflow devices required at each point of connection to the City's water system.

- viii. The quantity and placement of domestic water services, meters and other appurtenances shall meet Utilities Division approval. The development shall be master-metered to the fullest extent possible, and shall be sized to meet the minimum requirements set by the California Plumbing Code (CPC). The service laterals shall be a minimum of one-inch in size for residential uses and two-inches in size for commercial uses.
 - ix. Each separate landscaping area (i.e., Homeowner's Association property, Property (Business) Owner's Association property, public common landscaping area(s), Village Green Park, etc.) shall have a separate irrigation meter(s), service(s) and backflow protection device(s). The meter(s) shall be sized to meet the minimum requirements set by the City Landscape Architect.
 - x. Separate backflow protection devices shall be installed per City of Huntington Beach Utilities Division standards for domestic, irrigation and fire water services.
 - xi. An automatic fire sprinkler system shall be installed throughout the entire project and shall have a separate dedicated fire service with an appropriate backflow protection device. (Fire Dept. City Specifications #406 and 413)
 - xii. The Fire Department shall determine the number and location of fire hydrants, as well as the fire flow requirements (Fire Dept. City Specification # 407).
 - xiii. In accordance with Utilities Division standards for water improvements located in area(s) containing remediated soil, the Utilities Division shall require copper water services, and nitrile gaskets on all PVC pipelines.
- 2) The sewer facilities shall be designed per the final approved sewer study.
 - 3) All drainage facilities shall be designed per a final approved hydrology and hydraulics study.
 - 4) Removal and replacement of the existing paving to centerline on First Street, Atlanta Avenue, and Huntington Street. The pavement sections shall have a service life of 20-years. Pacific Coast Highway shall be replaced per Caltrans requirements.
 - 5) New landscaped medians along the project frontage in First Street, Atlanta Avenue, Pacific View Avenue, Huntington Street between Pacific View Avenue and Pacific Coast Highway, and the upgraded medians in Pacific Coast Highway shall be designed and constructed per Public Works, Caltrans (for Pacific Coast Highway), Park Tree and Landscape standards and the City's Arboricultural and Landscape Standards and Specifications. Separate water and electrical meters shall be provided for each median.
 - 6) All proposed sidewalks shall meet A.D.A., Title 24 and Public Works standards to the maximum extent feasible as depicted on the site plan.
 - 7) A.D.A. compliant access through all improvements including off-site locations where improvements are included in project related plans.

- 8) New curb, gutter and sidewalk along the project frontage on First Street, Atlanta Avenue, Huntington Street and Pacific View Avenue per Public Works Standard Plan numbers 202 and 207, unless special design standards (i.e., decorative concrete) are approved by the City.
- 9) New curb and gutter along the project frontage on Pacific Coast Highway per Caltrans standards.
- 10) New 8-ft. wide sidewalk along the project frontage on Pacific Coast Highway between First Street and Huntington Street located within an appropriate pedestrian access easement.
- 11) The median in Pacific Coast Highway shall be redesigned to eliminate the left turn pocket formerly accessing the project site. The median shall be designed to Caltrans standards and shall include landscaping, separate water and electrical meters.
- 12) The intersections of First Street at Atlanta Avenue and First Street at Pacific Coast Highway shall be designed as an enhanced intersection per the Urban Design Guidelines subject to Planning Department approval. The intersection of First Street and Atlanta Avenue shall be designed to include improvements with and surrounding the entire intersection. The intersection of First Street and Pacific Coast Highway shall be designed to incorporate elements of the Enhanced Intersection treatments on the southeast (PCH) and northeast (First Street) legs.
- 13) The existing driveways on Pacific Coast Highway shall be removed and replaced with curb and gutter per Caltrans standards.
- 14) Driveways on Pacific View Avenue shall be designed to provide the lane configuration depicted in the approved project traffic impact study and environmental documents.
- 15) A parking management plan shall be submitted to address the final design issues of the parking structure for the commercial element of the project. The parking management plan should include an evaluation of valet operations, parking fee structure, and operational characteristics (pay parking systems, etc.). Similar final design reviews shall be submitted for each of the residential parking structure designs, including fully dimensioned circulation and parking, designation of guest parking areas and security gates.
- 16) Revised design plans for the residential parking entrances from public streets must be submitted for review and approval. The revised design shall address the transition of grades, gate location, gate operational characteristics and elements to discourage non-residents from attempting to enter the resident only driveways. The residential gated entryway off Pacific View Avenue shall comply with Fire Dept. City Specification No. 403. In addition, the gated entryway plan shall be reviewed by the United States Postal Service. Prior to the installation of any gates, such plan shall be reviewed and approved by the Planning, Fire and Public Works Departments.
- 17) Revise the layout of Pacific View Avenue to provide a 16-foot westbound travel lane (measured from curb face to median barrier) between First Street and the westernmost driveway and between Huntington Street and the easternmost driveway.
- 18) Full-width street improvements for Pacific View Avenue in conformance with the Precise Plan of Street Alignment. This requirement shall be used to prepare a cost estimate for the purposes of providing security for the future conversion of the roadway.

- e. Traffic signal plans for the intersections of First Street at Atlanta Avenue and Huntington Street at Atlanta Avenue shall be prepared by a Licensed Civil or Traffic Engineer and submitted for review and approval.
- f. Traffic signal plans for the intersections of Pacific Coast Highway at First Street and Pacific Coast Highway at Huntington Street shall be prepared to Caltrans standards by a Licensed Civil or Traffic Engineer and submitted for review and approval. All Caltrans requirements for the modification of these traffic signals shall be satisfied in order to obtain the appropriate encroachment permits, including the submittal of fact sheets for design exceptions.
- g. Signing and striping plans shall be prepared for Pacific View Avenue, First Street, Atlanta Avenue, and Huntington Street in accordance with the City standards applicable at the time of plan preparation.
- h. Signing and striping plans shall be prepared for Pacific Coast Highway per Caltrans standards. All Caltrans requirements for obtaining applicable encroachment permits shall be satisfied, including the submittal of all fact sheets for design exceptions.
- i. Street lighting plans shall be prepared for Pacific View Avenue, First Street, Atlanta Avenue, Huntington Street, and Pacific Coast Highway in accordance with Public Works standards, Urban Design Guidelines, and the "Downtown Design Guidelines – Implementation Packet." The system shall be designed as an Edison-owned street light system with the full cost of construction, electricity, and maintenance to be the responsibility of the Master Association.
- j. A traffic control plan for all work within the City right-of-way shall be submitted to the Public Works Department for review and approval. The City's plans shall be prepared according to the Traffic Control Plan Preparation Guidelines. Plans for Pacific Coast Highway shall be per Caltrans requirements and subject to Caltrans review and approval.
- k. A traffic control plan for all work within the State right-of-way shall be submitted to Caltrans. Plans for Pacific Coast Highway shall be per Caltrans requirements and subject to Caltrans review and approval.
- l. A Landscape Planting and Irrigation Plan, prepared by a Licensed Landscape Architect, shall be submitted to the Public Works Department for review and approval by the City Landscape Architect and the Planning Director. The Developer shall submit irrigation demands to ensure proper irrigation service sizing. (ZSO 232)
- m. Storm Drain, Storm Water Pollution Prevention Plans (SWPPP) and Water Quality Management Plans (WQMP) conforming with the current National Pollution Discharge Elimination System (NPDES) requirements, prepared by a Licensed Civil Engineer, shall be submitted to the Department of Public Works for review and approval. Catch basins shall be grated and not have side openings. (DAMP)
 - 1) A SWPPP shall be prepared and updated as needed during the course of construction to satisfy the requirements of each phase of the development. The plan shall incorporate all necessary Best Management Practices (BMPs) and other City requirements to eliminate polluted runoff

- until all construction work for the project is completed. The SWPPP shall include treatment and disposal of all de-watering operation flows, and for nuisance flows during construction.
- 2) A WQMP shall be prepared, maintained and updated as needed to satisfy the requirements of the adopted NPDES program. Upon approval of the WQMP, three signed copies and an electronic copy on CD (.pdf or .doc format) shall be submitted to the Public Works Department.
 - 3) BMPs shall not be located within the public right-of-way. The maintenance of all BMPs shall be the responsibility of the Master Association and shall be addressed in the CC&R's.
- n. A suitable location, as approved by the City, shall be depicted on the grading plan for the necessary trash enclosure(s). The area shall be paved with an impervious surface, designed not to allow run-on from adjoining areas, designed to divert drainage from adjoining roofs and pavements diverted around the area, and screened or walled to prevent off-site transport of trash. The trash enclosure area shall be covered or roofed. Connection of trash area drains to a storm sewer system is prohibited. (DAMP)
 - o. Locations of the trash containers shall be verified with Rainbow Disposal. If the locations of the container collections are within the underground parking garages, the parking garages shall be designed to accommodate the appropriate loads and shall meet the minimum height and circulation requirements as set by Rainbow Disposal and the City.
 - p. A designated vehicle wash area that does not drain into a storm drainage system shall be provided for common usage. Wash water from this area may be directed to the sanitary sewer (in accordance with City requirements and with prior approval of the sewer agency), to an engineered infiltration system, or to an equally effective alternative as approved by the City Engineer. Pre-treatment may be required. (DAMP)
 - q. The developer shall coordinate the development of a truck haul route with the Department of Public Works if the import or export of material is required. This plan shall include the approximate number of truck trips and the proposed truck haul routes. It shall specify the hours in which transport activities can occur and methods to mitigate construction-related impacts to adjacent residents. These plans must be submitted for approval to the Department of Public Works. (MC 17.05.210)
 - r. The applicant's grading/erosion control plan shall abide by the provisions of AQMD's Rule 403 as related to fugitive dust control. (PW)
 - s. The project shall comply with all provisions of the HBMC Section 17.04.085 and Fire Dept. City Specification 429, Methane District Building Permit Requirements.
 - t. The project shall comply with all provisions of the Huntington Beach Fire Code and Fire Dept. City Specification 422, Well Abandonment.
 - u. Existing mature trees or palms that are to be removed must be replaced at a 2 for 1 ratio with a 36" box tree or palm equivalent (13'-14' of trunk height for Queen Palms and 8'-9' of brown trunk). Applicant shall provide a Consulting Arborist report on all the existing trees or palms. Said report shall quantify, identify, size and analyze the health of the existing trees. The report shall also recommend how the existing trees that are to remain (if any) shall be protected or relocated (*Washingtonia robusta*) and how far construction/grading shall be kept from the trunk (PW)

- v. All applicable Public Works fees shall be paid.
3. Prior to submittal for building permits, the following shall be completed:
- a. Zoning entitlement conditions of approval, EIR No. 02-01 Mitigation Measures, and this letter describing Huntington Beach Zoning and Subdivision Ordinance Code and Municipal Code requirements (including Public Works Dept. and Fire Dept. requirements) shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.
 - b. Plans shall comply with all applicable Huntington Beach Fire Code (HBFC), Huntington Beach Municipal Code (HBMC), and/or Uniform Building Code (UBC) standards.
 - c. Submit three (3) copies of the site plan and floor plans and the processing fee to the Planning Department for addressing purposes.
 - d. An engineering geologist shall be engaged to submit a report indicating the ground surface acceleration from earth movement for the subject property. All structures within this development shall be constructed in compliance with the g-factors as indicated by the geologist's report. Calculations for footings and structural members to withstand anticipated g-factors shall be submitted to the City for review prior to the issuance of building permits.
 - e. Contact the United States Postal Service for approval of mailbox location(s).
 - f. A legal instrument must be recorded to assure that the parking garage is shared, operated and maintained by potential future property owners in perpetuity for the commercial/retail/hotel subterranean parking garage where it straddles lots 2 and 3 of tentative tract 16338. **(BD)**
 - g. All of the subterranean parking garage venting must have emergency smoke evacuation capability. In addition, these garages must also have an enhanced communication system for Fire Department (and Police Department) communications which shall include a repeater type radio system as specified by the Fire and Police Departments to allow adequate communication inside the parking garages, from inside the garages to the exterior and to/from the fire control rooms. **(FD/PD)**
 - h. Contact the Police Dept. to review the final parking structure design in order to address issues such as lighting, access control, and surveillance opportunities. **(PD)**
 - i. Standpipe systems in stairwell areas shall not impede code required minimum widths. **(FD)**
 - j. All buildings with floors more than 55 feet above or below the lowest floor having Fire Department access (as measured from the top of the floor surface used for human occupancies) are subject to "high rise" code requirements. **(FD)**

- k. A Public Art Plan shall be prepared in collaboration with an art consultant and the Departments of Planning and Community Services. Prior to issuance of building permits for Phase II of the project, the Plan shall be submitted to the Planning Department for review and approval by the Design Review Board. It shall be consistent with the City's Design Guidelines, include a total of six visual art elements (original) designed by artists within the commercial and residential developments, incorporate Pacific City culture and history, and shall be integrated into the development of the project.
 - l. Residential type structures on the subject property, whether attached or detached, shall be constructed in compliance with the State acoustical standards set forth for units that lie within the 60 CNEL contours of the property. Evidence of compliance shall consist of submittal of an acoustical analysis report and plans, prepared under the supervision of a person experienced in the field of acoustical engineering, with the application for building permit(s).
4. During grading operations, the following requirements shall be complied with:
- a. Construction shall be prohibited Sundays and Federal holidays.
 - b. Wet down the areas that are to be graded or that are being graded, in the late morning and after work is completed for the day.
 - c. The construction disturbance area shall be kept as small as possible.
 - d. Wind barriers shall be installed along the perimeter of the site and/or around areas being graded.
 - e. Remediation operations, if required, shall be performed in stages concentrating in single areas at a time to minimize the impact of fugitive dust and noise on the surrounding areas. (PW)
 - f. During grading and construction, on-site parking shall be provided for all construction workers and equipment unless approved otherwise by the Public Works Department.
 - g. During grading and construction, the property owner is responsible for all required clean up of off-site dirt, pavement damage and/or re-striping of the public rights-of-way as determined by the Public Works Department.
 - h. The SWPPP, Erosion control and dewatering plans shall be revised and updated as necessary through the phases of the project. Copies of the current plans shall be maintained on-site for review by City or State inspectors. (DAMP)
5. Prior to issuance of building permits, the following requirements shall be complied with:
- a. A precise grading permit shall be issued. (MC 17.05.090)
 - b. All landscape planting, irrigation and maintenance shall comply with the City Arboricultural and Landscape Standards and Specifications. (ZSO 232.04)
 - c. The Consulting Arborist (approved by the City Landscape Architect) shall review the final landscape tree planting plan and approve in writing the selection and locations proposed for new trees and the protection measures and locations of existing trees to remain. Existing trees to remain shall also be addressed by said Arborist with recommendations/requirements for protection during construction. Said Arborist report shall be incorporated onto the Landscape Architect's plans as construction notes and/or construction requirements. The report shall include the

Arborist's name, certificate number and the Arborist's wet signature on the final plan. Standard landscape code requirements apply. The Water Ordinance #14.52, the "Water Efficient Landscape Requirements" shall apply. (ZSO 232)

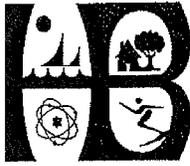
- d. A planned sign program for all signage shall be submitted to the Planning Department. Said program shall be approved prior to the first sign request.
 - e. Fire hydrants must be installed before combustible construction begins. Prior to installation, shop drawings shall be submitted to the Public Works Department and approved by the Fire Department. (Fire Dept. City Specification 407)
 - f. Fire access roads shall be provided in compliance with Fire Dept. City Specification 401. Include the circulation plan and dimensions of all access roads.
 - g. Park Impact Fees for the commercial component of the project shall be paid.
 - h. School impact fees shall be paid.
 - i. A Mitigation Monitoring Fee shall be paid to the Planning Department (the fee as of May, 2004 is 10% of the cost of Pacific City EIR).
 - j. Traffic impact fees shall be paid at the rate established at the time of payment. The fee is subject to an annual adjustment and is based on the trip generation for the actual building square footage, units or rooms as applicable using the methodology approved as part of the project traffic impact study. Based on the rate applicable prior to December 1, 2004 (\$128 per daily trip), and the proposed project entitlements (12,002 daily trips) a fee estimate of \$1,536,256 will be required. This fee excludes any deduction for improvements to be constructed or previous land use that qualify for fee credits. The actual fee for each project phase shall be calculated based on the currently approved rate at the time of payment. (MC 17.65.050)
6. The following development requirements shall be completed prior to final inspection or occupancy:
- a. All street improvements shall be completed prior to the first final building inspection.
 - b. All improvements as shown on the grading plans shall be completed. (ZSO 255.20)
 - c. Installation of required landscaping and irrigation systems shall be completed prior to final inspection. (ZSO 232)
 - d. All landscape irrigation and planting installation shall be certified to be in conformance to the City approved landscape plans by the Landscape Architect of record in written form to the City Landscape Architect prior to the final landscape inspection and approval.
 - e. The opening of the Village Green park for public use shall be delayed to allow a 90-day plant establishment and one year maintenance period to be completed. The park shall be temporarily fenced for a period of 15 months following the completion of park improvements. (Resolution 4545)
 - f. A Transportation Demand Management Plan for the commercial component of the project shall be submitted for review and approval prior to issuance of the first Certificate of Occupancy.

- g. Applicant shall provide the City with Microfilm copies (in City format) and CD (AutoCAD only) copy of complete City approved landscape construction drawings as stamped "Permanent File Copy" prior to starting landscape work. Medians in First Street, Atlanta Ave, Huntington Street, Pacific View Avenue and Pacific Coast Highway shall have CD (Auto CAD) and photo mylar "as-builts" in 24" x 36" and 11" x 17" format. Copies shall be given to the City Landscape Architect for permanent City record.
 - h. All new and existing overhead utilities shall be installed underground in accordance with the City's Underground Utility Ordinance. In addition, all electrical transformers shall be installed underground. (MC 17.64)
 - i. Secondary emergency personnel access gates must be secured with KNOX and association (if any) hardware. (Fire Dept. City Specification # 403)
 - j. Courtyard, Paseo, and all project pool areas must have a KNOX access installed on entry gates. Please contact the Huntington Beach Fire Department Administrative Office, (714) 536-5411. (Fire Dept. City Specification # 403).
 - k. 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.
 - l. The development complies with all applicable Huntington Beach Fire Code (HBFC), Huntington Beach Municipal Code (HBMC), and/or Uniform Building Code (UBC) standards, HBZSO.
 - m. Compliance with all conditions of approval specified herein shall be accomplished and verified by the Planning Department.
7. The use shall comply with the following:
- a. Service roads and fire access lanes, as determined by the Fire Department, shall be posted, marked, and maintained; no parking shall be allowed in the residential loop road, excepting the designated parking area at the northerly end of the archway opposite the "Village Green". If fire lane violations occur and the services of the Fire Department are required, the applicant/property owner will be liable for expenses incurred. (Fire Dept. City Specification # 415)
 - b. There shall be no outside storage of vehicles, vehicle parts, equipment, trailers, trucks, or merchandise, except locations where outdoor merchandise display may have been approved by conditional use permit and depicted on the approved site plan.
 - c. Restaurants with or without alcohol sales are permitted.
 - d. Based upon the approved CUP, live entertainment will be allowed subject to an Entertainment Permit issued by the Police Department in three outdoor locations in the retail promenade, and within the hotel banquet area and hotel restaurant. Dancing is allowed within the hotel banquet

area and hotel restaurant. Live entertainment shall not be allowed in the right-of way areas, the PCH walkway, and the 20-foot wide pedestrian corridor.

- e. Any other requests for live entertainment and/or dancing shall conform to the requirements of the Downtown Specific Plan.
 - f. The three outdoor live entertainment uses shall not impede or interfere with the emergency access aisles, including from the interior of adjacent commercial/retail units to exterior exit ways. (FD)
8. The Planning Director ensures that all code requirements herein are complied with. The Planning Director shall be notified in writing if any changes to the site plan, elevations and floor plans are proposed as a result of the plan check process. Building permits shall not be issued until the Planning Director has reviewed and approved the proposed changes for conformance with the intent of the City Council's action, EIR No. 02-01 Mitigation Measures, and the code requirements herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the Huntington Beach Zoning and Subdivision Ordinance.
 9. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
 10. Tentative Tract Map No. 16338, Conditional Use Permit No. 02-20, and Coastal Development Permit No. 02-12 shall become null and void unless exercised within two (2) years of the date of final approval. An extension of time may be granted by the Director of Planning pursuant to a written request submitted to the Planning Department a minimum 60 days prior to the expiration date.
 11. Tentative Tract Map No. 16338, Conditional Use Permit No. 02-20, and Coastal Development Permit No. 02-12 may be revoked pursuant to a public hearing for revocation, if any violation of these requirements or the Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs.
 12. The development shall comply with all applicable provisions of the Municipal Code, Building Division, and Fire Department as well as applicable local, State and Federal Fire Codes, Ordinances, and standards, except as noted herein.
 13. The project shall comply with the Mitigation Measures of the Pacific City Environmental Impact Report (EIR No. 02-01).
 14. The applicant shall submit a check in the amount of \$43 for the posting of the Notice of Determination at the County of Orange Clerk's Office. The check shall be made out to the County of Orange and submitted to the Planning Department within two (2) days of the City Council's action.

15. All landscaping shall be maintained in a neat and clean manner, and in conformance with the HBZSO. Prior to removing or replacing any landscaped areas, check with the Departments of Planning and Public Works for Code requirements. Substantial changes may require approval by the Planning Commission.
16. All permanent, temporary, or promotional signs shall conform to Chapter 233 of the HBZSO. Prior to installing any new signs, changing sign faces, or installing promotional signs, applicable permit(s) shall be obtained from the Planning Department. Violations of this ordinance requirement may result in permit revocation, recovery of code enforcement costs, and removal of installed signs.
17. An Encroachment Permit is required from the City for all work within the City's right-of-way and a separate Encroachment Permit is required from Caltrans for all work within the State's right-of-way. **(PW)**
18. A Certificate of Occupancy must be approved by the Planning Department and issued by the Building and Safety Department prior to occupying any commercial buildings.



CITY OF HUNTINGTON BEACH

INTER-DEPARTMENT COMMUNICATION

From: Gerald Caraig

Ext.: 1575

1/16/2004

To: Scott Hess

Project Location: Proposed Pacific City Project (31 acres)

Building Safety Development Review Comments for the proposed Pacific City Tract Map and CUP plans received 1-5-04.

Grading Plan:

- 1 Protection of adjacent public way with regard to pedestrian traffic and structure of existing adjacent roads. Coordinate with Public Works all proposed shoring work.
- 2 The grading plan shall account for overall accessibility of the site for the physically challenged, i.e. title 24 provisions for accessibility. This should be coordinated with the principal project architect to determine location of ramps, on site stairs, path of travel from the public way, bus stops and a path to access the proposed park [village green] from all streets with public walkways. Recommend obtaining the services of a 3rd party accessibility consultant to review proposed path of travel.
- 3 When was ground water encountered and how will this be addressed during these phases?

Conceptual 1/5/2004:

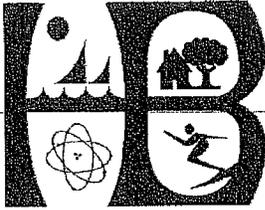
- 1 A construction type I-FR appears to be required for the hotel/commercial/subterranean structure. [complete building analysis required]
- 2 A construction type of II-1 HR appears to be required for the flats over a construction type I-FR subterranean structure. [complete building analysis required]
- 3 A complete egress analysis/plan of all structures will be required. The courts of the proposed flats may need to function as exit courts.
- 4 Clarify egress from the subterranean structures, how do these impact the courts above. Exit stair terminations to grade are not clear and will need further review.
- 5 Address impact of ground water/hydrostatic pressure to subterranean garage structure as well as run off from off site into garage structures.
- 6 Mechanical ventilation required at all subterranean garage.

- 7 Occupancy classification of all areas needs to be stated.
- 8 The designer needs to show the distance to all interior property lines and center line of streets. Wall and opening protection need to be identified when required.
- 9 Clear distance to other buildings on the same property and overhangs. Wall and opening protection required.
- 10 Type of construction of all buildings need to be stated.
- 11 Occupancy classification of all areas needs to be stated. Assembly or meeting rooms with 50 or more and less than 300 must be classified as assembly A-3. Assembly or meeting rooms with 300 or more must be classified A-2.1. The analysis must use 15 SF per occupant load factor for dining; use 7 SF per occupant for concentrated use; use 3 SF occupant load factor for waiting areas. See Uniform Building Code © Table 10-A for other occupant load factors to use with other uses.
- 12 Sprinkling will be required when the total building area exceeds 5000 SF of gross floor area of all covered spaces. This is a local ordinance requirement.
- 13 Methane barrier: Contact Fire Department for requirements.
- 14 Site plans must show final surface drainage elevations and finish floor elevation, building address, distance to property lines, distance between building on the same property, easements, all required disabled access features and signage, etc.
- 15 Elevation views must show building height measured above adjacent ground surface.
- 16 Provide for each building a Building Code Analysis on the plans (Title Sheet) to show compliance with Uniform Building Code ©, 1997 edition for:
 - a) Occupancy requirements (Chapter 3). Designer shall assume R-1 occupancy classification for all dwelling portions. Use standard occupancy classifications from Uniform Building Code © chapter 3 and Table 3-A for all other areas.
 - b) Allowable Area (Chapter 5).
- 17 Exiting (Chapter 10). Provide an occupant load analysis on the plans and provide an exit plan to show all required exit locations and extent to the public way.
- 18 Ventilation and lighting must be provided to all portions of the buildings. See Uniform Building Code © Chapter 12 for requirements.
- 19 All buildings to be plan checked and issued a building under the term "Shell Only" must have this term stated on the plans.
- 20 Buildings issued a permit as a "Shell Only" must have a note on the plans: "Exits from spaces may cause modification to building shell and the owner will be responsible for any structural alterations."

- 21 Buildings issued a permit as a "Shell Only" must have a note on the plans: "Interior improvement designers must refer to original plans to comply with original assumptions of the building shell."
- 22 Soils report required for this site and must include liquefaction analysis along with recommendations. The recommendations must be reproduced on the plans and listed in the sheet index.
- 23 Soils report must show distance to fault(s). Classify fault type and soil type used by the Uniform Building Code © for seismic design.
- 24 Soils report for protection of buried pipe due to corrosion. Recommendations must provide specific method to install protective materials or devices. The recommendations must be reproduced on the plans and listed in the sheet index.
- 25 Show building address on front elevation view and the site plan.
- 26 "Conditions of Approval" to be submitted with plan check documents.
- 27 "Roof Truss" drawings and calculations must be submitted with plan check documents and must not be a deferred item.
- 28 Provide on the plans required wall and opening protection and fire resistance of wall and parapet due to location on property. See Uniform Building Code © Section 503 and Table 5-A. Distance between buildings or to interior property lines must be stated on the plans.
- 29 Stair and landing structural framing and design of railings and handrails must be included in the design drawings of the plans and must not be a deferred item.
- 30 Store front style framing or window walls must be included with the structural drawings at plan check submittal and must not be a deferred item.
- 31 Identify all rescue type windows or doors from rooms used as sleeping rooms.
- 32 Roof covering must meet a listed class "C" or better fire retardant rating.
- 33 Roof or floor mounted equipment weighing 400 pounds or more must be shown on the structural framing plans and must be include in the structural analysis and provide a design for anchorage to the building frame.
- 34 Assembly type occupancies require 100 PSF Live Load.
- 35 "Exits" used for this project requires 100 PSF Live Load. This includes portions of floors, stairs, exit balconies, etc.
- 36 Calculations must include the following special loads:
 - a) Seismic dead load, W , is the total dead load and applicable portions of other loads listed below.
 - i) In storage and warehouse occupancies, a minimum of 25 percent of the floor live load shall be applicable. Parking garage is a storage type facility.

- ii) Where a partition load is used in the floor design, a load of not less than 10 psf shall be included.
 - iii) Total weight of permanent equipment shall be included.
- 37 Structural calculations shall be prepared to comply with the with Uniform Building Code ©, 1997 edition.
 - a) Assume $N_a = 1.3$ and $N_v = 1.6$ or compute lower value for distance from fault.
 - b) Assume "Roe" factor is 1.5 or compute lower factor, but not less than 1.
 - c) Calculations must show load combinations used by UBC Sections 1612.2, 1612.3, and 1612.4.
 - d) Show the earthquake force E , E_m and Ω_0 in the calculations.
- 38 Provide analysis to meet setback requirements by Uniform Building Code © Section 1633.2.11 of setback distance to property line walls or distance between buildings on the same lot. Show provided setback distance meets or exceeds required minimum setback.
- 39 This facility needs elevator access to the upper floors.
- 40 Building must not be located over utility easements.
- 41 Design all commercial facilities to provide bathrooms for each tenant and their use. Refer to Uniform Plumbing Code (CPC) Chapter 4 and Table 4-1 for required facilities. Show bathroom facilities provided meets or exceeds the required minimum and comply with the Disabled Access Standards of the State Building Code, 1998. The total number of female facilities must be equal to the total number of male facilities as required by footnote 14 of CPC Table 4-1.
- 42 Footings or footings with curbs supporting wood framing must be shown on the Grading, Architectural and Structural drawings for required 6" above adjacent finished grade or finished pavement.
- 43 Parking garage occupancies will need to have a clarifier installed as required by the building and plumbing codes.
- 44 All food preparation occupancies will need to have a clarifier or grease interceptor installed as required by the building and plumbing codes.
- 45 Food preparation areas will require Orange County Health approval. Provide a letter from the Orange County Health Agency stating the project is approved prior to permits issued.
- 46 Design all residential buildings with height of over 2 stories with yards of 4 feet minimum. See Uniform Building Code Section 1203.4.2 for residential occupancies to determine the required clear yard width.
- 47 Elevators in four storied or more buildings are required to have stretcher type cabs.

- 48 All areas of newly designed or newly constructed commercial buildings and facilities shall be made accessible to persons with disabilities as required. T24 sec. 1103B.1 and sections 1104B to 1110B for occupancy types, and facilities covered by 1114B to 1126B.
- 49 All areas of newly designed or newly constructed covered multifamily dwellings buildings and facilities shall be made accessible to persons with disabilities as required. T24 sec. 1103A, and 1105A.
- 50 All areas of newly designed or newly constructed hotel, motel or resort buildings and facilities shall be made accessible to persons with disabilities as required. T24 sec. 1103B, and 1111B and facilities covered by 1114B to 1126B.
- 51 The proposed park shall be accessible to people with physical disabilities.
- 52 Identify all rescue type windows or doors from rooms used as sleeping rooms.
- 53 Walls and floors separating units must meet one-hour minimum fire-resistive construction and meet the state standards for sound reduction.
- 54 Floors separating units or over parking spaces not associated with the dwelling must meet the required sound reduction values.
- 55 Floors separating units or over parking spaces must meet the required hourly fire resistive rating for the occupancies involved.
- 56 Designer must coordinate between all trades associated with fire protection devices and construction assemblies.
- 57 Roof covering must meet a listed class B or better fire retardant assembly.
- 58 "Noise Study" when required by Planning must be submitted with plan check documents. The recommendations of the report must be incorporated in to the construction details and reproduced on the plans.
- 59 Building permit final inspection of any building or phase of construction requires a certification of fire protection of structural members, installation of fire and smoke control protective devices, alarms and visual emergency devices by a qualified inspection firm will be required. The Uniform Administrative Code © Section 302.5 requires the architect to employ an inspection firm and this firm is to meet the provisions of section 306.1.10, 306.1.14, 306.2 and 306.3.
- 60 Protection of pedestrians at project boundaries.
- 61 **It is recommended that the developer or principal architect secure the services of a building code consultant to go over building analysis, construction, life safety, and accessibility issues and to secure a report by which dialogue can be started with the building department. This will stream line the design and plan review process as major code issues can be discussed and resolved prior to preparation of working drawings.**



Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

NOTICE OF ACTION

July 25, 2012

Chaim Elkoby
21002 HB, LLC
2200 Biscayne Boulevard
Miami, FL 33137

SUBJECT: ENTITLEMENT PLAN AMENDMENT NO. 12-005 and DEVELOPMENT AGREEMENT NO. 12-001 (AMENDMENTS TO CONDITIONAL USE PERMIT NO. 02-20/TENTATIVE TRACT MAP NO. 16338 AND TO ENTER INTO A DEVELOPMENT AGREEMENT - PACIFIC CITY)

**APPLICANT/
PROPERTY
OWNER:**

Chaim Elkoby, 21002 HB, LLC

REQUEST:

EPA: To amend the conditions of approval for Conditional Use Permit No. 02-20, Special Permit No. 02-04, Coastal Development Permit No. 02-12, and Tentative Tract Map No. 16338 for the Pacific City project. The Pacific City project is approved for 191,100 square feet of retail, office, restaurant, cultural, and entertainment uses; an eight-story 250 room hotel, spa, and health club; a 2.03 acre open space/park easement; and 516 multifamily residential units above subterranean parking. The applicant proposes to amend conditions of approval pertaining to affordable housing (TTM: No. 2.b.), school impact mitigation requirements (TTM: No. 3.g.), park land in-lieu fee requirements (TTM: No. 11.), project phasing (CUP: No. 3.), and description of public open space amenities (CUP: No. 6.c.). **DA:** To enter into a development agreement between the City of Huntington Beach and 21002 HB, LLC for a term of 10 years for the Pacific City project. The applicant requests the development agreement to provide assurances that the land use designations and development standards are vested, to establish that a delay fee will be paid to the City if more than 50 percent of the residential units are constructed prior to construction of the retail or hotel components of the project, to establish future condominium sale provisions, and to establish affordable housing provisions for the project.

LOCATION:

21002 Pacific Coast Highway, 92648 (bounded by Pacific Coast Highway, First Street, Atlanta Avenue, and Huntington Street)

DATE OF

ACTION:

July 24, 2012

On Tuesday, July 24, 2012, the Huntington Beach Planning Commission took action on your application and **Entitlement Plan Amendment No. 12-005 was approved with findings and conditions of approval.** Attached to this letter are the findings and conditions of approval.

On Tuesday, July 24, 2012, the Huntington Beach Planning Commission also took action on your **Development Agreement No. 12-001 application and approved it with findings for approval by approving the draft City Council Ordinance and forwarding its recommendation to the City Council**. Attached to this letter are the findings, draft ordinance, and development agreement. The Development Agreement No. 12-001 application will now be forwarded to the City Council for final review and action at a noticed public hearing. You will be notified of the upcoming City Council meeting when it is scheduled.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission on Entitlement Plan Amendment No. 12-005 becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of One Thousand, Seven Hundred Sixty-Three Dollars (\$1,763.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Three Thousand, Three Eighty-Three Dollars (\$3,383.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is **August 3, 2012, at 5:00 PM.**

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, or at an alternative time specified as a condition of approval, unless actual construction has started.

"Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020."

If you have any questions, please contact Jane James, the project planner, at jjames@surfcity-hb.org or (714) 536-5596 or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,

Scott Hess, Secretary
Planning Commission

By:



Jane James, Senior Planner

SH:JJ:jd

Attachments: 1. Findings and Conditions of Approval – EPA No. 12-005 and DA No. 12-001
2. Draft City Council Ordinance – Pacific City Development Agreement
3. ~~Exhibit A – Development Agreement No. 12-001~~ (Not Attached – On File)
4. ~~June 18, 2004, Notice of Action letter – TTM 16338; CUP-02-20; SP-02-04; GBP-02-12~~ Not Attached

c. ~~Honorable Mayor and City Council~~
Chair and Planning Commission
Fred A. Wilson, City Manager
Scott Hess, Director of Planning and Building
Bill Reardon, Division Chief/Fire Marshal
Mike Vigliotta, Deputy City Attorney III
Debbie DeBow, Principal Civil Engineer
Mark Carnahan, Inspection Manager

Jane James, Senior Planner
Property Owner
Project File

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 12-005
DEVELOPMENT AGREEMENT NO. 12-001

FINDINGS FOR CEQA:

The Planning Commission finds and determines all of the following, based on substantial evidence in light of the whole record:

- A. Pacific City Environmental Impact Report No. 02-01 ("EIR") was certified by the City Council on June 7, 2004;
- B. No substantial changes are proposed to the project, as proposed to be modified by this entitlement plan amendment, which will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- C. No substantial changes have occurred with respect to the circumstances under which the project, as proposed to be modified by this entitlement plan amendment, is undertaken which will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- D. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified as complete, shows any of the following:
 - (1) The project, as proposed to be modified by this entitlement plan amendment, will have one or more significant effects not discussed in the EIR; or
 - (2) Significant effects previously examined will be substantially more severe than shown in the EIR; or
 - (3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, as proposed to be modified by this entitlement plan amendment, but the project proponents decline to adopt the mitigation measures or alternative; or
 - (4) Mitigation measures or alternatives that are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative; and
- E. In accordance with CEQA Guidelines Sections 15162 and 15163, no subsequent environmental impact report or supplement to the EIR need be prepared for this entitlement plan amendment and no further environmental review or documentation is required.

FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 12-005:

1. Entitlement Plan Amendment No. 12-005 is a request to permit modifications to the conditions of approval for the approved Pacific City project to: a) Amend Tentative Tract Map No. 16338 (TTM) Condition of Approval (COA) No. 2.b. to establish a new Affordable Housing Plan requiring 10% moderate income level (less than 120% of County median) on-site and 5% very low off-site by City Housing Authority instead of 15% in a combination of on-site and off-site; b) Delete TTM COA No. 3.g. regarding developing an agreement with school districts to mitigate impacts of the project so that project is subject to current State law; c) Amend TTM COA No. 11 to require Park Land In-Lieu Fees to be due at final inspection instead of at Final Tract Map approval; d) Amend Code Requirement No. 8 to reflect that the project will be subject to new Development Impact Fees, including Park Land In-Lieu Fees, that are in effect at the time of building permit final inspection instead of basing fees on land value; e) Amend Conditional Use Permit (CUP) No. 02-20 COA No. 3 to bifurcate the phasing of the retail and hotel construction in junction with the residential construction instead of requiring the commercial construction prior to or simultaneously with the residential development and establish a "time extension" fee to the City through a separate Development Agreement; and f) Amend CUP COA No. 6.c to solidify description of the public open space amenities as passive uses.

The proposed amendments will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The project modifications will update the 2004 project entitlements for consistency with current standards regarding payment of development impact fees but will maintain compatibility with the surrounding area. The modifications to amend the phasing of the project development also maintain compatibility with the surrounding area by requiring installation and maintenance of a decorative scrim around any portion of the project not under construction. The modifications to conditions of approval will not result in physical changes to the approved project entitlements (although pending applications to amend the residential site plan, floor plans, and building elevations are underway). The proposed amendments will not generate significant traffic, air quality, noise, odors, or other detrimental impacts onto surrounding properties.

2. The entitlement plan amendment will be compatible with surrounding uses because the modifications to the existing conditions of approval will only modify payment of Development Impact Fees, phasing of construction, requirements of the affordable housing plan, and solidifies description of the public open space as passive uses. The entitlement plan amendment does not amend the approved Pacific City mixed use project consisting of the subdivision of the approximately 31 acre site into three parcels and development of 516 condominiums, an eight story, 250 room hotel, spa and health club, and 191,100 square feet of visitor-serving commercial uses with retail, office, restaurant, cultural, and entertainment uses. The approved project remains compatible with other residential, commercial, and beach open space uses in the surrounding area.
3. The proposed entitlement plan amendment will comply with the provisions of the base district and other applicable provisions in SP 5 (Downtown Specific Plan), Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, and any specific condition required for the proposed use in the district in which it is located. The project modifications will update the 2004 project entitlements for consistency with current standards regarding payment of development impact fees and phasing of construction.

4. The granting of the entitlement plan amendment will not adversely affect the General Plan. The entitlement plan amendment is consistent with the Land Use Element designations of CV-F7-sp (Commercial Visitor - 3.0 floor area ratio - specific plan overlay) and RH-30-sp (High Density Residential - 30 du/gac - specific plan overlay) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Economic Element

Policy ED 2.4.2: Seek to capture the “new growth” businesses such entertainment-commercial developments.

Policy ED 2.4.3: Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market place.

B. Coastal Element

Goal C 1: Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Objective C 1.1: Ensure that adverse impacts associated with coastal zone development are mitigated or minimized to the greatest extent feasible.

Policy C 1.1.1: With the exception of hazardous industrial development, new development shall be encouraged to be located within, contiguous or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individual or cumulative, on coastal resources.

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Policy C 1.1.7: Encourage cluster development in areas designated for residential use within the Coastal Zone.

Objective C 1.2: Provide a land use plan that balances location, type, and amount of land use with infrastructure needs.

Policy C 1.2.1: Accommodate existing uses and new development in accordance with the Coastal Element Land Use Plan and the Development and Density Schedule, Table C-1.

Policy C 1.2.3: Prior to the issuance of a development entitlement, the City shall make the finding that adequate services (i.e., water, sewer, roads, etc.) can be provided to serve the proposed development, consistent with policies contained in the Coastal Element, at the time of occupancy.

Policy C 2.2.3: Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

Policy C 2.4.1: Maintain an adequate supply of parking that supports the present level of demand and allows for the expected increase in private transportation use.

Goal C.3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences.

Objective C.3.2: Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low-cost facilities and activities.

Policy C.3.2.3: Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including, but not limited to, shops, restaurants, hotels and motels, and day spas.

Objective C.4.1: Provide opportunities within the Coastal Zone for open space as a visual and aesthetic resource.

C. Housing Element

Goal H.2: Provide adequate housing sites to accommodate regional housing needs.

Goal H.3: Assist in development of affordable housing.

Policy H.3.1: Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

D. Land Use Element

Objective LU.7.1: Accommodate the development of a balance of land uses that provides for commercial, employment, entertainment, and recreation needs of existing and future residents, and provides employment opportunities for residents of the City and the surrounding region and captures visitor and tourist activity.

Policy LU.8.1.1: Accommodate land use development in accordance with the patterns and distribution of use and density depicted on the Land Use Plan Map, in accordance with the principles discussed below:

- a. Not applicable
- b. Vary uses and densities along the City's extended commercial corridors, such as Beach Boulevard.
- c. Increase diversification of community and local commercial nodes to serve adjacent residential neighborhoods.
- e. Intermix uses and densities in large-scale development projects.
- f. Site development to capitalize upon potential long-term transit improvements.
- g. Establish linkages among community areas, which may include pedestrian and vehicular paths, landscape, signage, other streetscape elements, open space, transitions, in form, scale, and density of development, and other elements.

Goal LU.9: Achieve the development of a range of housing units that provides for the diverse economic, physical, and social needs of existing and future residents of Huntington Beach.

Objective LU.10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, and capitalize on Huntington Beach's recreational resources.

Policy 10.1.8: Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures prevent negative impacts on adjacent properties.

Goal LU 11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The entitlement plan amendment would ensure that the project is developed in accordance with current standards and regulations and the approved development plans, which provide a visitor serving mixed use project along with a housing choice adjacent to an existing public transit route and provides an alternative for residents seeking to be within walking distance of work, services or commercial uses and reduce dependency on their automobile. The entitlement plan amendment affects only certain conditions of approval for the project and not the proposed development itself and maintains consistency with the General Plan. The entitlement plan amendment would guarantee that the project is subject to current Development Impact Fees and that the project provides 51 on-site affordable housing units and 26 off-site units. These units would help the City to satisfy its affordable housing obligations while providing housing for moderate income households (51 units) and very low income households (26 units). The entitlement plan amendment references a development agreement which specifies a delay fee if the retail and hotel construction lags behind the residential construction, thus encouraging the orderly development of the mixed use master plan. The proposed project will modify conditions of approval and allow development to proceed to provide a wide range and diversity of commercial uses and cater to the needs of local residents and residents in the surrounding region. The project will provide additional entertainment uses that will encourage tourism to the site and the surrounding area. The project will facilitate employment opportunities and will not impact the subject site and surrounding area.

FINDINGS FOR APPROVAL - DEVELOPMENT AGREEMENT NO. 12-001:

1. The granting of the development agreement will not adversely affect the General Plan. The development agreement is consistent with the Land Use Element designations of CV-F7-sp (Commercial Visitor - 3.0 floor area ratio - specific plan overlay) and RH-30-sp (High Density Residential - 30 du/gac - specific plan overlay) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Economic Element

Policy – ED 2.4.2: Seek to capture the “new growth” businesses such entertainment-commercial developments.

Policy – ED 2.4.3: Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market place.

B. Coastal Element

Goal C 1: Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Objective C 1.1: Ensure that adverse impacts associated with coastal zone development are mitigated or minimized to the greatest extent feasible.

Policy C 1.1.1: With the exception of hazardous industrial development, new development shall be encouraged to be located within, contiguous or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individual or cumulative, on coastal resources.

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Policy C 1.1.7: Encourage cluster development in areas designated for residential use within the Coastal Zone.

Objective C 1.2: Provide a land use plan that balances location, type, and amount of land use with infrastructure needs.

Policy C 1.2.1: Accommodate existing uses and new development in accordance with the Coastal Element Land Use Plan and the Development and Density Schedule, Table C-1.

Policy C 1.2.3: Prior to the issuance of a development entitlement, the City shall make the finding that adequate services (i.e., water, sewer, roads, etc.) can be provided to serve the proposed development, consistent with policies contained in the Coastal Element, at the time of occupancy.

Policy C 2.2.3: Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

Policy C 2.4.1: Maintain an adequate supply of parking that supports the present level of demand and allows for the expected increase in private transportation use.

Goal C 3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences.

Objective C 3.2: Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low-cost facilities and activities.

Policy C 3.2.3: Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including, but not limited to, shops, restaurants, hotels and motels, and day spas.

Objective C 4.1: Provide opportunities within the Coastal Zone for open space as a visual and aesthetic resource.

C. Housing Element

Goal H 2: Provide adequate housing sites to accommodate regional housing needs.

Goal H 3: Assist in development of affordable housing.

Policy H 3.1: Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

D. Land Use Element

Objective – LU 7.1: Accommodate the development of a balance of land uses that provides for commercial, employment, entertainment, and recreation needs of existing and future residents, and provides employment opportunities for residents of the City and the surrounding region and captures visitor and tourist activity.

Policy LU 8.1.1: Accommodate land use development in accordance with the patterns and distribution of use and density depicted on the Land Use Plan Map, in accordance with the principles discussed below:

- a. Not applicable
- b. Vary uses and densities along the City's extended commercial corridors, such as Beach Boulevard.
- c. Increase diversification of community and local commercial nodes to serve adjacent residential neighborhoods.
- e. Intermix uses and densities in large-scale development projects.
- f. Site development to capitalize upon potential long-term transit improvements.
- g. Establish linkages among community areas, which may include pedestrian and vehicular paths, landscape, signage, other streetscape elements, open space, transitions, in form, scale, and density of development, and other elements.

Goal LU 9: Achieve the development of a range of housing units that provides for the diverse economic, physical, and social needs of existing and future residents of Huntington Beach.

Objective – LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, and capitalize on Huntington Beach's recreational resources.

Policy – 10.1.8: Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures prevent negative impacts on adjacent properties.

Goal LU 11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The development agreement implements the approved project and would ensure that the project is developed in accordance with current standards and regulations and the approved development plans, which provide a visitor serving mixed use project along with a housing choice adjacent to an existing public transit route and provides an alternative for residents seeking to be within walking distance of work, services or commercial uses and reduce

~~dependency on their automobile. The development agreement is consistent with the General Plan in so far as the approved project itself is consistent with the General Plan. The development agreement would guarantee that the project is subject to current Development Impact Fees and that the project provides 51 on-site affordable housing units and 26 off-site units. These units would help the City to satisfy its affordable housing obligations while providing housing for moderate income households (51 units) and very low income households (26 units). The development agreement specifies a delay fee if the retail and hotel construction lags behind the residential construction, thus encouraging the orderly development of the mixed use master plan. The development agreement provides flexibility to the developer and allows development to proceed to provide a wide range and diversity of commercial uses and cater to the needs of local residents and residents in the surrounding region. The project will provide additional entertainment uses that will encourage tourism to the site and the surrounding area. The project will facilitate employment opportunities and will not impact the subject site and surrounding area.~~

CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 12-005:

1. The conditions of approval shall be amended as follows:

New Tentative Tract Map No. 16338 Condition of Approval No. 2.b.:

"An Affordable Housing Plan (the "Plan"), which reflects the requirements described below, shall be prepared by Applicant and submitted to the Planning and Building Department for review and approval prior to issuance of the first residential building permit. The contents of the Plan shall include the following:

(1) An obligation to provide 15% of the residential units as affordable units, with applicant providing 10% (51 units) on-site in the form of moderate income level (less than 110% of Orange County median) units for a period of 55 years to be dispersed among the market rate units and the City of Huntington Beach Housing Authority ("City HA") providing 5% (26 units) off-site in the form of very low income units.

(2) The affordable units provided by the applicant shall be on-site and the affordable units provided by the City HA shall be off-site.

(3) A detailed description of the type, size, location and phasing of the affordable units, on-site and off-site.

(4) A detailed description of the disbursement of the affordable housing units and, at full build-out, dispersal of the units throughout the Project, consistent with the disbursement plan. The applicant shall prepare an annual monitoring report that demonstrates: (i) the location of these and future affordable units are consistent with the disbursement plan; and (ii) the applicable rents are being charged for the affordable units.

(5) The first 50% (258) of the market rate residential units may be constructed and occupied prior to the construction and occupancy of any affordable units. Prior to final inspection of 75% (387) of the market rate residential units, 25 of the on-site affordable units must be entitled, approved and building permits obtained (and/or restrictive covenants recorded). The remaining 26 on-site affordable units must be entitled, approved and building permits obtained (and/or restrictive covenants recorded) prior to final inspection of 100% of the market rate residential units. The trigger points of 50% and 75% may vary by up to 5% to account for phasing or building types. If construction is completed and units

~~receive final inspection for up to the first 50% of market rate units and no further construction of market rate residential units is commenced for a period of five (5) years following completion of construction of the units occupied, applicant shall designate and establish 10% of the existing market rate units as moderate affordable units.~~

Delete Tentative Tract Map No. 16338 Condition of Approval No. 3.g in its entirety

~~"Agreement with appropriate school district intending to mitigate the impact on school facilities shall be executed. The Planning Department shall be provided with a copy of the agreement prior to recordation of the final tract map."~~

New Tentative Tract Map No. 16338 Condition of Approval No. 11.:

"City Park Land In-Lieu fees shall be due on a building by building basis at the time a certificate of occupancy or final building inspection approval is issued for that building and shall be in the amount applicable at the time the fees are paid or become due, whichever comes first."

New CUP No. 02-20 with Special Permits/CDP No. 02-12 Condition of Approval No. 3.:

"If construction on either the retail or the hotel site has not commenced prior to the commencement of construction of the market rate residential units, a decorative scrim shall immediately be placed around the site not under construction with both a public art component and leasing information for that property. The owner/developer of the site, whether the retail or the hotel, shall be responsible for installation and maintenance of the scrim. If the applicable owner/developer fails to commence construction or install and maintain the scrim prior to the time the residential owner/developer commences construction, then the residential owner/ developer shall be responsible for installing and maintaining the scrim. Prior to occupancy of more than 50% of the market rate residential units the owner/developers of the retail and hotel sites shall become subject to construction and completion obligations detailed in a Development Agreement for the Project."

New CUP No. 02-20 with Special Permits/CDP No. 02-12 Condition of Approval No. 6.c.:

"The Village Green park area, pocket park, and entry corridor shall be designed by the applicant and a detailed park improvement plan, prepared by the applicant, shall include typical neighborhood amenities including, but not limited to, tot lot play equipment, open turf play area and picnic tables and benches, while also insuring that the public use is in keeping with the residential character of the park. In part this shall be accomplished by a design that focuses on passive activities consistent with residential use. All amenities must conform to current Consumer Product Safety Guidelines with certain amenities in compliance with the Americans with Disabilities Act. The entry corridor to the park (from Pacific View Ave.) and all other corridors must incorporate an architectural feature that properly identifies the area as public space. The plan shall identify play equipment, architectural features, plant material, ground cover, sidewalks, lighting, etc. and shall be reviewed and approved by the Community Services Commission, Community Services Director, and Public Works Director prior to installation."

2. All conditions of approval and mitigation measure required under Environmental Impact Report No. 02-01, Tentative Tract Map No. 16338, Conditional Use Permit No. 02-20, Special Permit No. 02-04, Coastal Development Permit No. 02-12, and Conceptual Master Plan for the Pacific City project shall remain valid, with exception of the conditions of approval identified in No. 1 above, as modified herein.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

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

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH ADOPTING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF HUNTINGTON BEACH AND 21002 HB, LLC (PROPERTY OWNER) (DEVELOPMENT AGREEMENT NO. 12-001)

WHEREAS, the City Council approved Environmental Impact Report No. 02-01, Tentative Tract Map No. 16338, Conditional Use Permit No. 02-20, Special Permit No. 02-04, Coastal Development Permit No. 02-12 and Conceptual Master Plan for the Pacific City Project to develop an approximately 31-acre property located at 21002 Pacific Coast Highway (Property) with a mixed use project consisting of 516 condominiums, a 400 room hotel (subsequently reduced to 250 rooms) with spa and health club, and 191,100 feet of visitor serving commercial uses with retail, office, restaurant, cultural, and entertainment uses with a shared use of parking (Project) pursuant to Downtown Specific Plan No. 5 (SP 5); and

The City and Property Owner each mutually desire to enter into a Development Agreement with one another to permit and ensure that the Property is developed in accordance with the approved entitlements to achieve the mutually beneficial development of the Property.

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. That the City Council hereby finds that Development Agreement No. 12-001 conforms to Government Code Section 65864 et. seq. and that:

- a. Development Agreement No. 12-001 is consistent with the Huntington Beach General Plan and the applicable provisions of SP 13; and
- b. Development Agreement No. 12-001 is consistent with Chapter 246 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and the Huntington Beach Municipal Code; and
- c. Development Agreement No. 12-001 will not be detrimental to the health, safety and general welfare, and will not adversely affect the orderly development of the property because it is consistent with applicable land use regulations of SP 13, mitigation measures adopted for the Project in accordance with EIR No. 02-01, and conditions approved for Tentative Tract Map No. 16338, Conditional Use Permit No. 02-20, Special Permit No. 02-04, and Coastal Development Permit No. 02-12; and
- d. The City Council has considered the fiscal effect of Development Agreement No. 12-001 on the City and the effect on the housing needs of the region in which the City is situated and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources.

SECTION 2. Based on the above findings, the City Council of the City of Huntington Beach hereby approves Development Agreement No. 12-001 and adopts it by this ordinance pursuant to Government Code Section 65867.5. This action is subject to a referendum.

ATTACHMENT NO. 2.1

SECTION 3. This ordinance shall take effect 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the ____ day of _____, 2012.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

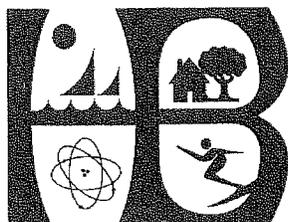
REVIEWED AND APPROVED:

APPROVED AS TO FORM:

City Manager

Director of Planning and Building

Exhibit A: Development Agreement No. 12-001



Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

NOTICE OF ACTION

October 24, 2012

Chaim Elkoby
21002 HB, LLC
2200 Biscayne Boulevard
Miami, FL 33137

SUBJECT: ENTITLEMENT PLAN AMENDMENT NO. 12-007 (AMENDMENTS TO SITE PLAN, FLOOR PLANS, AND ELEVATIONS APPROVED UNDER CONDITIONAL USE PERMIT NO. 02-20/COASTAL DEVELOPMENT PERMIT NO. 02-12/SPECIAL PERMIT NO. 02-04/TENTATIVE TRACT MAP NO. 16338 - PACIFIC CITY RESIDENTIAL)

**APPLICANT/
PROPERTY
OWNER:**

Chaim Elkoby, 21002 HB, LLC, 2200 Biscayne Boulevard, Miami, FL 33137

REQUEST:

To amend the site plan, floor plans, and elevations for a 516 unit multi-family residential development originally approved under Conditional Use Permit No. 02-20, Special Permit No. 02-04, Coastal Development Permit No. 02-12, and Tentative Tract Map No. 16338 for the Pacific City project. The Pacific City project is approved for 191,100 square feet of retail, office, restaurant, cultural, and entertainment uses; an eight-story 250 room hotel, spa, and health club; a 2.03 acre open space/park easement; and 516 multifamily residential units above subterranean parking. The applicant proposes to amend plans for the 17.23 acre residential portion only at this time. The proposed modifications include redesigning the cluster building layout, relocating the public open space from the center of the project to the northern edge of Pacific View Avenue while maintaining the previous 2.03 acre size, relocating the pedestrian corridor from the middle to the perimeter, expanding the common recreational area within the project center, rearranging the layout of the two levels of subterranean parking, and complying with the previous Special Permit requests to allow encroachments of retaining walls and private patio wall in the required perimeter residential setback areas and to exceed maximum parking ramp slopes. Access points to the project and the subterranean parking remain the same. The proposed project also includes amendments to the floor plans and elevations. Changes to the elevations, building colors and materials consist of amending the project design from traditional Mediterranean to a contemporary, modern aesthetic. Although the original project was approved as condominiums the applicant intends to lease the units as apartments at this time. Overall, the original count of 516 multi-family units remains the same.

LOCATION: 21002 Pacific Coast Highway, 92648 (bounded by Pacific Coast Highway, First Street, Atlanta Avenue, and Huntington Street)

DATE OF ACTION: October 23, 2012

On Tuesday, October 23, 2012, the Huntington Beach Planning Commission took action on your application, and your application was approved with findings and conditions of approval. Attached to this letter are the findings and conditions of approval.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of One Thousand, Seven Hundred Sixty-Three Dollars (\$1,763.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Three Thousand, Three Eighty-Three Dollars (\$3,383.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is **November 2, 2012 at 5:00 PM.**

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, or at an alternative time specified as a condition of approval, unless actual construction has started.

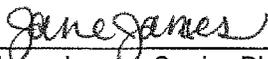
"Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020."

If you have any questions, please contact Jane James, the project planner, at jjames@surfcity-hb.org or (714) 536-5596 or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,

Scott Hess, Secretary
Planning Commission

By:



Jane James, Senior Planner

SH:JJ:kd

Attachment: Findings and Conditions of Approval – EPA No. 12-007

c: Honorable Mayor and City Council
Chair and Planning Commission
Fred A. Wilson, City Manager

Notice of Action: EPA 12-007

October 24, 2012

Page 3

Scott Hess, Director of Planning and Building
Bill Reardon, Division Chief/Fire Marshal
Mike Vigliotta, Deputy City Attorney III
Debbie DeBow, Principal Civil Engineer
Mark Carnahan, Inspection Manager
Jane James, Senior Planner
Property Owner
Project File

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 2012-007

FINDINGS FOR CEQA:

The Planning Commission finds and determines all of the following, based on substantial evidence in light of the whole record:

- A. Pacific City Environmental Impact Report No. 02-01 ("EIR") was certified by the City Council on June 7, 2004;
- B. No substantial changes are proposed to the project, as proposed to be modified by this entitlement plan amendment, which will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- C. No substantial changes have occurred with respect to the circumstances under which the project, as proposed to be modified by this entitlement plan amendment, is undertaken which will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- D. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified as complete, shows any of the following:
 - (1) The project, as proposed to be modified by this entitlement plan amendment, will have one or more significant effects not discussed in the EIR; or
 - (2) Significant effects previously examined will be substantially more severe than shown in the EIR; or
 - (3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, as proposed to be modified by this entitlement plan amendment, but the project proponents decline to adopt the mitigation measures or alternative; or
 - (4) Mitigation measures or alternatives that are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative; and
- E. In accordance with CEQA Guidelines Sections 15162 and 15163, no subsequent environmental impact report or supplement to the EIR need be prepared for this entitlement plan amendment and no further environmental review or documentation is required.

FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 2012-007:

1. Entitlement Plan Amendment No. 2012-007 is a request to permit modifications to the residential site plan, floor plans, and elevations originally approved under Tentative Tract Map No. 16338, Conditional Use Permit No. 2002-20, Special Permit No. 2002-04, Coastal Development Permit No. 2002-12, and Conceptual Master Plan for the Pacific City project. The proposed amendments will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The project modifications will update the 2004 project entitlements for consistency with current standards regarding building layout and architectural design but will maintain compatibility with the surrounding area. The modifications to amend the site plans and elevations maintain compatibility with the surrounding area by abiding by the previously approved setbacks, access from surrounding streets, building height, and open space areas. The project relocates the pedestrian corridor and public open space to improve accessibility and visibility of these two project features. The modifications will not generate significant traffic, air quality, noise, odors, or other detrimental impacts onto surrounding properties.
2. The entitlement plan amendment will be compatible with surrounding uses because the modifications remain consistent with the previously approved plans and remain compatible with other residential, commercial, and beach open space uses in the surrounding area.
3. The proposed entitlement plan amendment will comply with the provisions of the base district and other applicable provisions in SP 5 (Downtown Specific Plan), Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, and any specific condition required for the proposed use in the district in which it is located with exception of the two previously approved special permits. The project modifications will update the 2004 project entitlements for consistency with current design aesthetics and site layout.
4. The granting of the entitlement plan amendment will not adversely affect the General Plan. The project is consistent with the Land Use Element designation of RH-30-sp (High Density Residential - 30 du/gac - specific plan overlay) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Economic Element

Policy ED 2.4.2: Seek to capture the “new growth” businesses such entertainment-commercial developments.

Policy ED 2.4.3: Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market place.

B. Coastal Element

Goal C 1: Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Objective C 1.1: Ensure that adverse impacts associated with coastal zone development are mitigated or minimized to the greatest extent feasible.

Policy C 1.1.1: With the exception of hazardous industrial development, new development shall be encouraged to be located within, contiguous or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individual or cumulative, on coastal resources.

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Policy C 1.1.7: Encourage cluster development in areas designated for residential use within the Coastal Zone.

Objective C 1.2: Provide a land use plan that balances location, type, and amount of land use with infrastructure needs.

Policy C 1.2.1: Accommodate existing uses and new development in accordance with the Coastal Element Land Use Plan and the Development and Density Schedule, Table C-1.

Policy C 1.2.3: Prior to the issuance of a development entitlement, the City shall make the finding that adequate services (i.e., water, sewer, roads, etc.) can be provided to serve the proposed development, consistent with policies contained in the Coastal Element, at the time of occupancy.

Policy C 2.2.3: Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

Policy C 2.4.1: Maintain an adequate supply of parking that supports the present level of demand and allows for the expected increase in private transportation use.

Objective C 3.2: Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low-cost facilities and activities.

Objective C 4.1: Provide opportunities within the Coastal Zone for open space as a visual and aesthetic resource.

C. Housing Element

Goal H 2: Provide adequate housing sites to accommodate regional housing needs.

Goal H 3: Assist in development of affordable housing.

Policy H 3.1: Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

D. Land Use Element

Objective LU 7.1: Accommodate the development of a balance of land uses that provides for commercial, employment, entertainment, and recreation needs of existing

and future residents, and provides employment opportunities for residents of the City and the surrounding region and captures visitor and tourist activity.

Policy LU 8.1.1: Accommodate land use development in accordance with the patterns and distribution of use and density depicted on the Land Use Plan Map, in accordance with the principles discussed below:

- a. Not applicable
- b. Vary uses and densities along the City's extended commercial corridors, such as Beach Boulevard.
- c. Increase diversification of community and local commercial nodes to serve adjacent residential neighborhoods.
- e. Intermix uses and densities in large-scale development projects.
- f. Site development to capitalize upon potential long-term transit improvements.
- g. Establish linkages among community areas, which may include pedestrian and vehicular paths, landscape, signage, other streetscape elements, open space, transitions, in form, scale, and density of development, and other elements.

Goal LU 9: Achieve the development of a range of housing units that provides for the diverse economic, physical, and social needs of existing and future residents of Huntington Beach.

Objective LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, and capitalize on Huntington Beach's recreational resources.

Goal LU 11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The entitlement plan amendment would ensure that the project is developed in accordance with current standards and regulations and the approved development plans, which provides a multi-family residential option within a master planned mixed use development site. The multi-family residential project provides an alternative for residents seeking to be within walking distance of work, services or commercial uses and reduce dependency on their automobile. The entitlement plan amendment affects only the site plan layout, floor plans, and architectural design of the residential units but maintains the overall approved density of 516 units along with a 2.03 acre publicly accessible but privately owned and maintained park. Affordable housing units are to be provided through the recently approved amendments to conditions of approval and development agreement, which specifies that the project provide 51 on-site affordable housing units for moderate income households and 26 off-site units for very low income households by the City's Housing Authority. The revised project was previously found in conformance with the General Plan and the revised plans maintain consistency with the General Plan.

SUGGESTED CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 2012-007:

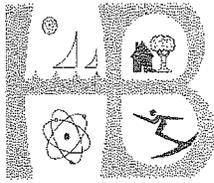
1. Site plans, floor plans, and elevations received and dated September 14, 2012, including the colors and materials boards received August 30, 2012 and colored renderings and elevations received and dated September 18, 2012 with the following modifications:
 - a. The sidewalk width along Huntington Street shall be increased by two additional feet.
 - b. The floor plans shall be revised so that all dens have at least 50% of one wall open to the adjacent room or hallway or the den space shall be counted as a bedroom and code required parking shall be provided.
 - c. The final hardscape and landscape design of the relocated pedestrian corridor along First Street and Pacific View Avenue shall be subject review and approval by the Director of Planning and Building prior to the issuance of grading permits.
2. The following conditions are required to be completed prior to issuance of a building permit:
 - a. All project and entitlement related mitigation measures, code requirements, and conditions of approval of the original Pacific City project shall remain in effect (including but not limited to: street and frontage improvements, sewer, water and storm drain infrastructure improvements, traffic mitigation fair share contributions, traffic signals, signing and striping, completion of Pacific View Avenue, medians, traffic impact fees, decorative paving, street lighting, street dedications, pedestrian easements, et al.). (PW)
 - b. All existing Agreements between the City of Huntington Beach and the original Pacific City property owner shall be replaced with comparable agreement(s) to be approved by and executed with the City and the new property owner(s). These agreements include: the Subdivision Agreement, Special Utility Easement Agreement, License and Maintenance Agreement, Agreement Regarding Village Green Park, Agreement Regarding City Requirements. (The intent of this Condition of Approval is to capture and transfer certain responsibilities identified in the original agreements between the City and the original property owner, and execute new agreements between the City and the new property owner(s) in a manner consistent with the requirements of the original project approved Conditions of Approval. (PW)
 - c. The following items are conditions of approval of the previous project that are applicable to the current project and are repeated below since they may not be obvious from the original documents (PW):
 - i) Installation of an all-way stop at the intersection of Pacific View Avenue and Huntington Street.
 - ii) Relocation of the crosswalk at the intersection of Pacific Coast Highway/1st Street from the north leg to the south leg, and installation of enhanced paving at that intersection.
 - d. To address the proposed revisions to the recorded Final Tract Map No. 16338, the applicant shall comply with one of the following options (PW):
 - i) The existing pedestrian access easements and the Village Green Park/open space easement shall be formally vacated by the City of

Huntington Beach and new pedestrian access easement(s) and a Village Green Park/open space easement shall be dedicated to the City.

- ii) A revised Tentative Tract Map and Final Tract Map shall be submitted/processed through and approved by the City of Huntington Beach and recorded with the County of Orange, showing the vacation(s) of the existing pedestrian access easements and the Village Green Park/open space easement and dedication (to the City) of new pedestrian access easement(s) and the Village Green Park/open space easement.
 - e. Huntington Street shall be re-stripped near the proposed locations of the relocated driveways. A striping/signage plan shall be prepared by a registered Civil or Traffic Engineer and submitted for review and approval by the Public Works Department prior to re-stripping of Huntington Street. (PW)
3. Any proposed phasing of construction of the residential units, common recreational open space, and publicly accessible open space shall be submitted for review and approval by the Directors of Planning and Building, Public Works, and Community Services.
 4. All conditions of approval and mitigation measure required under Environmental Impact Report No. 2002-01, Tentative Tract Map No. 16338, Conditional Use Permit No. 2002-20, Special Permit No. 2002-04, Coastal Development Permit No. 2002-12, Conceptual Master Plan, Entitlement Plan Amendment No. 2006-02, Entitlement Plan Amendment No. 2008-01, and Entitlement Plan Amendment No. 2012-005 for the Pacific City project shall remain valid, with exception of the conditions of approval identified in No. 1 above, as modified herein.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

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



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING AND BUILDING

www.huntingtonbeachca.gov

Planning Division

714.536.5271

Building Division

714.536.5241

NOTICE OF ACTION

November 8, 2012

Chaim Elkoby
21002 HB, LLC
2200 Biscayne Boulevard
Miami, FL 33137

SUBJECT: ENTITLEMENT PLAN AMENDMENT NO. 12-009 (AMENDMENT TO CONDITIONS OF APPROVAL FOR TENTATIVE TRACT MAP NO. 16338, CONDITIONAL USE PERMIT NO. 02-20, SPECIAL PERMIT NO. 02-04, AND COASTAL DEVELOPMENT PERMIT NO. 02-12 – REPLACE MASTER ASSOCIATION WITH MASTER DECLARATION OF CC&RS FOR PACIFIC CITY)

**APPLICANT/
PROPERTY
OWNER:**

Chaim Elkoby, 21002 HB, LLC, 2200 Biscayne Boulevard, Miami, FL 33137

REQUEST:

To amend the originally approved conditions of approval for Tentative Tract Map No, 16338, Conditional Use Permit No. 02-20, Special Permit No. 02-04, and Coastal Development Permit No. 02-12 for Pacific City. The applicant proposes to amend conditions of approval requiring a Master Association for all three parcels and replace it with a Master Declaration of CC&Rs governing each of the three parcel Owners.

LOCATION:

21002 Pacific Coast Highway, 92648 (bounded by Pacific Coast Highway, First Street, Atlanta Avenue, and Huntington Street)

**DATE OF
ACTION:**

November 6, 2012

On November 6, 2012, the Planning and Building Department of the City of Huntington Beach took action on your application, and your application was **conditionally approved**. Attached to this letter are the conditions of approval for your application.

Attachment No. 4.1

Please be advised that the Department of Planning and Building reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to issuance of building permits. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your project. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

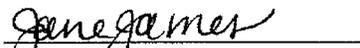
Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Department of Planning and Building is final unless an appeal is filed to the Planning Commission by you or by an interested party. A person desiring to appeal the decision shall file a written notice of appeal to the Secretary of the Planning Commission within ten (10) calendar days of the date of the Planning and Building Department's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. A filing fee of \$494 shall also accompany the notice of appeal. Said appeal must be in writing and must set forth in detail the action and grounds by which the applicant or interested party deems himself aggrieved. The last day for filing an appeal and paying the filing fee for the above noted application is **Friday, November 16, 2012 at 5:00 p.m.**

If you have any questions, please contact Jane James at (714) 536-5596 or jjames@surfcity-hb.org or the Planning Division Planning and Zoning Information Counter at (714) 536-5271.

Sincerely,

Scott Hess, AICP
Director of Planning and Building

by:


Jane James
Senior Planner

Attachments:

1. Findings and Conditions of Approval – EPA 12-009
2. Matrix Comparing Original Conditions of Approval with Revised Conditions of Approval dated November 6, 2012
3. October 24, 2012 Notice of Action Letter – EPA No. 12-005
4. July 25, 2012 Notice of Action Letter – EPA No. 12-007 and Development Agreement No. 12-001
5. June 18, 2004, Notice of Action Letter – TTM 16338; CUP 02-20; SP 02-04; CDP 02-12

Cc: Honorable Mayor and City Council
Chair and Planning Commission
Fred A. Wilson, City Administrator
Scott Hess, AICP, Director of Planning and Building
Herb Fauland, Planning Manager
Kellee Fritzal, Economic Development Deputy Director

Notice of Action: EPA 12-009
November 8, 2012
Page 3

Bill Reardon, Division Chief/Fire Marshal
Debbie DeBow, Senior Civil Engineer
Mark Carnahan, Inspection Manager

ATTACHMENT #1

Attachment No. 4.4

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 12-009

FINDINGS FOR CEQA:

The Director of Planning and Building finds and determines all of the following, based on substantial evidence in light of the whole record:

- A. Pacific City Environmental Impact Report No. 02-01 ("EIR") was certified by the City Council on June 7, 2004;
- B. No substantial changes are proposed to the project, as proposed to be modified by this entitlement plan amendment, which will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- C. No substantial changes have occurred with respect to the circumstances under which the project, as proposed to be modified by this entitlement plan amendment, is undertaken which will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- D. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified as complete, shows any of the following:
 - (1) The project, as proposed to be modified by this entitlement plan amendment, will have one or more significant effects not discussed in the EIR; or
 - (2) Significant effects previously examined will be substantially more severe than shown in the EIR; or
 - (3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, as proposed to be modified by this entitlement plan amendment, but the project proponents decline to adopt the mitigation measures or alternative; or
 - (4) Mitigation measures or alternatives that are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative; and
- E. In accordance with CEQA Guidelines Sections 15162 and 15163, no subsequent environmental impact report or supplement to the EIR need be prepared for this entitlement plan amendment and no further environmental review or documentation is required.

FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 12-009:

1. Entitlement Plan Amendment No. 12-009 is a request to permit modifications to the conditions of approval for the approved Pacific City project to Amend Tentative Tract Map No. 16338 Conditions of Approval (COA) No. 2.a., 3.b., 3.c., 3.d., and 4. The conditions in question originally required formation of a Master Association to govern, oversee, coordinate, and control all individual Homeowner's Associations and all Business Associations. The proposed amendments replace the Master Association with a Master Declaration of Covenants, Conditions, and Restrictions to govern each of the three established parcels on the site and to specify the maintenance and other responsibilities of each individual parcel owner.

The proposed amendments will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The modifications to conditions of approval will not result in physical changes to the approved project and continue to specify maintenance provisions of common areas, landscaped medians, and street improvements. The proposed amendments to conditions of approval will not generate significant traffic, air quality, noise, odors, or other detrimental impacts onto surrounding properties.

2. The entitlement plan amendment will be compatible with surrounding uses because the modifications to the existing conditions of approval will only modify the requirement to form a Master Association and replace it with a Master Declaration of CC&Rs to govern all three parcels on the site. The entitlement plan amendment does not amend the approved Pacific City mixed use project consisting of the subdivision of the approximately 31 acre site into three parcels and development of 516 condominiums, an eight story, 250 room hotel, spa and health club, and 191,100 square feet of visitor-serving commercial uses with retail, office, restaurant, cultural, and entertainment uses. The approved project remains compatible with other residential, commercial, and beach open space uses in the surrounding area.
3. The proposed entitlement plan amendment will comply with the provisions of the base district and other applicable provisions in SP 5 (Downtown Specific Plan), Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, and any specific condition required for the proposed use in the district in which it is located. The project modifications continue to comply with applicable zoning code provisions.
4. The granting of the entitlement plan amendment will not adversely affect the General Plan. The entitlement plan amendment is consistent with the Land Use Element designations of CV-F7-sp (Commercial Visitor - 3.0 floor area ratio - specific plan overlay) and RH-30-sp (High Density Residential - 30 du/gac - specific plan overlay) on the subject property. In addition, the proposed modifications to the conditions of approval do not alter the overall approved project or entitlements and it continues to be consistent with the following goals and policies of the General Plan:

A. Economic Element

Policy ED 2.4.2: Seek to capture the "new growth" businesses such entertainment-commercial developments.

Policy ED 2.4.3: Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market place.

B. Coastal Element

Goal C 1: Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Objective C 1.1: Ensure that adverse impacts associated with coastal zone development are mitigated or minimized to the greatest extent feasible.

Policy C 1.1.1: With the exception of hazardous industrial development, new development shall be encouraged to be located within, contiguous or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individual or cumulative, on coastal resources.

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Policy C 1.1.7: Encourage cluster development in areas designated for residential use within the Coastal Zone.

Objective C 1.2: Provide a land use plan that balances location, type, and amount of land use with infrastructure needs.

Policy C 1.2.1: Accommodate existing uses and new development in accordance with the Coastal Element Land Use Plan and the Development and Density Schedule, Table C-1.

Policy C 1.2.3: Prior to the issuance of a development entitlement, the City shall make the finding that adequate services (i.e., water, sewer, roads, etc.) can be provided to serve the proposed development, consistent with policies contained in the Coastal Element, at the time of occupancy.

Policy C 2.2.3: Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

Policy C 2.4.1: Maintain an adequate supply of parking that supports the present level of demand and allows for the expected increase in private transportation use.

Goal C 3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences.

Objective C 3.2: Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low-cost facilities and activities.

Policy C 3.2.3: Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including, but not limited to, shops, restaurants, hotels and motels, and day spas.

Objective C 4.1: Provide opportunities within the Coastal Zone for open space as a visual and aesthetic resource.

C. Housing Element

Goal H 2: Provide adequate housing sites to accommodate regional housing needs.

Goal H 3: Assist in development of affordable housing.

Policy H 3.1: Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

D. Land Use Element

Objective LU 7.1: Accommodate the development of a balance of land uses that provides for commercial, employment, entertainment, and recreation needs of existing and future residents, and provides employment opportunities for residents of the City and the surrounding region and captures visitor and tourist activity.

Policy LU 8.1.1: Accommodate land use development in accordance with the patterns and distribution of use and density depicted on the Land Use Plan Map, in accordance with the principles discussed below:

- a. Not applicable
- b. Vary uses and densities along the City's extended commercial corridors, such as Beach Boulevard.
- c. Increase diversification of community and local commercial nodes to serve adjacent residential neighborhoods.
- e. Intermix uses and densities in large-scale development projects.
- f. Site development to capitalize upon potential long-term transit improvements.
- g. Establish linkages among community areas, which may include pedestrian and vehicular paths, landscape, signage, other streetscape elements, open space, transitions, in form, scale, and density of development, and other elements.

Goal LU 9: Achieve the development of a range of housing units that provides for the diverse economic, physical, and social needs of existing and future residents of Huntington Beach.

Objective LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, and capitalize on Huntington Beach's recreational resources.

Policy 10.1.8: Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures prevent negative impacts on adjacent properties.

Goal LU 11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The entitlement plan amendment affects only certain conditions of approval for the project and not the proposed development itself and maintains consistency with the General Plan. The proposed project will modify conditions of approval and allow development to proceed to provide a wide range and diversity of commercial uses and cater to the needs of local

residents and residents in the surrounding region. The project will provide additional entertainment uses that will encourage tourism to the site and the surrounding area as well as provide additional housing opportunities. The project will facilitate employment opportunities and will not impact the subject site and surrounding area.

CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 12-009:

1. The conditions of approval shall be amended as follows:

New Tentative Tract Map No. 16338 Condition of Approval No. 2.a.:

On or before issuance of a precise grading permit, CC&Rs shall be submitted to the Planning and Building Department for review and approval as to form by the Planning and Building, Community Services and Public Works Departments, and the City Attorney. The CC&Rs and relocated pedestrian corridor easements (by separate instrument) must be recorded prior to (i) issuance of a building permit for Lot 1 and (ii) issuance of a building permit for the vertical, above-ground construction on Lots 2 and 3. The CC&Rs shall address the maintenance and other shared responsibilities of common and/or public facilities defined as "Maintenance Responsibilities" in the License and Maintenance Agreement recorded on September 28, 2007 as Document No. 2007000588431 (as may be amended from time to time with prior City approval) by one or more of the Owners of Lot 1, Lot 2 and Lot 3 of Tract Map No. 16338 (each an "Owner", collectively, "Owners" as further defined in the CC&Rs) as set forth below.

- 1) The CC&Rs shall include language to address the right of the public to walk over, traverse, and otherwise use for recreational purposes the 2.03 acre Village Green park easement, pocket park, 20 foot wide pedestrian easement, and the areas identified as pedestrian public circulation areas on the Final Tract Map or as subsequently amended by a separate recorded instrument, and the right for City to erect signs on the easements or pedestrian public circulation areas designating such property as being open for public use and access.
- 2) The Owners may not make any improvements to the easements or the pedestrian public circulation areas (including, without limitation, the installation of entry gates, signs prohibiting or restricting entry, or other improvements), or take any action (excluding normal maintenance), that would affect, in any manner, the right of the public to the unimpeded use of the easements or pedestrian public circulation areas without the prior written consent of the City, which the City may withhold in the City's sole and absolute discretion. The CC&Rs shall include language that requires one or more of the Owners to maintain, at their sole cost and expense, the 2.03 acre park easement open space, and public access corridors as identified in the Final Tract Map and approved Improvement Plans.
- 3) Notwithstanding anything to the contrary contained herein, the Owners shall have the right to install privacy gates to prevent public access to the portions of Lots 1, 2, and 3 which are not identified as pedestrian public circulation areas as depicted on the Final Tract Map, or as subsequently amended by a separate recorded instrument.
- 4) The CC&Rs shall include provisions that address the Maintenance Responsibilities within the Maintenance Areas (both as defined and set forth in the License and Maintenance Agreement) by one or more of the Owners.

- 5) [No Changes] The CC&Rs shall address the maintenance of all awnings and rails for the commercial and residential portions of the project. They shall also define allowable uses and structures in the 20-foot pedestrian corridor for the commercial portion of the project; fences and other permanent and temporary barriers shall be prohibited. Exclusive use by any business, carts, kiosks, and tables are not permitted. Benches, potted plants and similar amenities may be permitted subject to the approval of the Departments of Planning and Public Works.
- 6) The CC&Rs shall refer to the Special Utility Easement Agreement recorded on September 28, 2007 as Document No. 2007000588430, and the License and Maintenance Agreement recorded on September 28, 2007 as Document No. 2007000588431, each as may be amended from time to time with prior City approval. Prior to the issuance of a precise grading permit, a First Amendment to each such agreement shall be submitted to the Public Works Department for review and approval as to form by the Public Works Department and the City Attorney. Such First Amendments must be recorded prior to issuance of a building permit.

New Tentative Tract Map No. 16338 Condition of Approval No. 3.b.

The CC&Rs shall refer to the Agreement Regarding City Requirements recorded on October 15, 2007 as Document No. 2007000628743 and the Agreement Regarding Village Green Park recorded on September 28, 2007 as Instrument No. 2007000588432, providing that prior to the issuance of a precise grading permit (a) a First Amendment to Agreement Regarding City Requirement to bind the Owners in perpetuity to the conditions stated herein and (b) a First Amendment to Agreement Regarding Village Green Park to ensure that the Village Green Park will always be open for public use, shall be submitted to the Planning and Building Department for review and approval as to form by the Planning and Building, Community Services and Public Works Departments and the City Attorney. Such First Amendments must be recorded prior to issuance of a building permit.

New Tentative Tract Map No. 16338 Condition of Approval No. 3.c.

The License and Maintenance Agreement, as modified by the First Amendment, shall provide (i) for maintenance of the Maintenance Areas, including the medians and landscaping in the medians adjacent to the project for Pacific View Avenue, First Street, Atlanta Avenue and Huntington Street, the 2.03-acre park easement, all enhanced paving adjacent to public streets, pedestrian easements, sidewalks, parkway landscaping, Edison-owned street lighting and street furniture located behind public street curbs within the project site, (ii) that the Owners shall be responsible for all costs associated with maintenance, repair, replacement, and fees imposed by County, City, and the Orange County Sanitation District for pumping, inspection, or other related fees for the dry weather flow diversion and First Flush Water Runoff Treatment Control System approved by the City and (iii) that the Owners shall be responsible for paying the cost of maintenance, inspections, cleanup, operation, monitoring, replacement planting, and equipment replacement of all improvements required for this project. Maintenance shall include but not be limited to sidewalk cleaning, trash cans, disposal of trash, signs, the regular maintenance and cleaning of all angled parking areas (i.e., markings, street sweeping) along Pacific View Avenue between First Street and Huntington Street, etc.

New Tentative Tract Map No. 16338 Condition of Approval No. 3.d.

The sewer and portions of the storm drain systems located within private streets shall be private and maintained by the Owner of Lot 1.

New Tentative Tract Map No. 16338 Condition of Approval No. 4.

The water system for the entire project shall be a public system; except, any portion of the fire service water system that is not public shall be maintained by the Owners in accordance with the language to be provided by the Fire Department for the CC&Rs.

2. All conditions of approval required pursuant to Tentative Tract Map No, 16338, Conditional Use Permit No. 02-20, Special Permit No. 02-04, Coastal Development Permit No. 02-12, Entitlement Plan Amendment No. 06-02, Entitlement Plan Amendment No. 08-01, Entitlement Plan Amendment No. 12-005, and Entitlement Plan Amendment No. 12-007 for Pacific City shall remain valid, except as modified herein.
3. The development services divisions and departments (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Divisions and Departments have reviewed and approved the proposed changes for conformance with the intent of the Director's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.
4. EPA No. 12-009 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning & Building Department a minimum 30 days prior to the expiration date.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

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

ATTACHMENT #2

Attachment No. 4.12

Pacific City
Proposed Amendments to Conditions of Approval
Entitlement Plan Amendment No. 2012-009
November 6, 2012

	June 4, 2004 Approved/Existing Language	November 6, 2012 Revised Language	Staff Comments
<p>Tentative Tract Map No. 16338 Condition of Approval No. 2.a</p>	<p>At least 90 days before City Council action on the final tract map, CC&Rs shall be submitted to the Planning Department for review and approval by the Community Services Department, Public Works Department, and the City Attorney. The CC&Rs shall reflect the common driveway access easements, and maintenance of all walls and common landscape areas by the Homeowners' Association. The CC&Rs must be in recordable form prior to recordation of the Final Tract Map map.</p>	<p>On or before issuance of a precise grading permit, CC&Rs shall be submitted to the Planning and Building Department for review and approval as to form by the Planning and Building, Community Services and Public Works Departments, and the City Attorney. The CC&Rs and relocated pedestrian corridor easements (by separate instrument) must be recorded prior to (i) issuance of a building permit for Lot 1 and (ii) issuance of a building permit for the vertical, above-ground construction on Lots 2 and 3. The CC&Rs shall address the maintenance and other shared responsibilities of common and/or public facilities defined as "Maintenance Responsibilities" in the License and Maintenance Agreement recorded on September 28, 2007 as Document No. 2007000588431 (as may be amended from time to time with prior City approval) by one or more of the Owners of Lot 1, Lot 2 and Lot 3 of Tract Map No. 16338 (each an "Owner", collectively, "Owners" as further defined in the CC&Rs) as set forth below.</p>	<p>Allows the common areas to be maintained by each of the three parcel owners instead of one Homeowner's Association. Also reflects existing License and Maintenance Agreement recorded after adoption of the original conditions and relocated pedestrian corridor approved by EPA 12-007.</p>

	<p>1) The CC&Rs shall include language to address the right of the public to use the 2.03 acre Village Green park easement, pocket park, minimum 65 foot Village Green park entry corridor, and 20 foot wide pedestrian easement, and further that the right to meander off of the easements, and to walk over, traverse, and otherwise use, for recreational purposes, the area identified as pedestrian public circulation areas depicted on the Wall & Fence Plan as approved by the Planning Commission, and the right for City to erect signs on the easements or pedestrian public circulation areas designating such property as being open for public use and access.</p> <p>2) Grantor may not make any improvements to the easements or the pedestrian public circulation areas (including, without limitation, the installation of entry gates, signs prohibiting or restricting entry, or other improvements), or take any action (excluding normal maintenance), that would affect, in any manner, the right of the public to the unimpeded use of the easements or pedestrian public circulation areas without the prior written consent of Grantee, which Grantee may give of withhold in Grantee's sole and absolute discretion. The CC&Rs shall include language that requires the Master Association to maintain the 2.03 acre park easement open space, and public access</p>	<p>1) The CC&Rs shall include language to address the right of the public to walk over, traverse, and otherwise use for recreational purposes the 2.03 acre Village Green park easement, pocket park, 20 foot wide pedestrian easement, and the areas identified as pedestrian public circulation areas on the Final Tract Map or as subsequently amended by a separate recorded instrument, and the right for City to erect signs on the easements or pedestrian public circulation areas designating such property as being open for public use and access.</p> <p>2) The Owners may not make any improvements to the easements or the pedestrian public circulation areas (including, without limitation, the installation of entry gates, signs prohibiting or restricting entry, or other improvements), or take any action (excluding normal maintenance), that would affect, in any manner, the right of the public to the unimpeded use of the easements or pedestrian public circulation areas without the prior written consent of the City, which the City may withhold in the City's sole and absolute discretion. The CC&Rs shall include language that requires one or more of the Owners to maintain, at their sole cost and expense, the 2.03 acre park easement open space, and public</p>	
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<p>corridors as identified in the Final Tract Map and approved Improvement Plans.</p> <p>3) Notwithstanding anything to the contrary contained herein, Grantor shall have the right to install privacy gates to prevent public access to the portions of Lots 1, 2, and 3 which are not identified as pedestrian public circulation areas as depicted on the Wall & Fence Plan as approved by the Planning Commission.</p> <p>4) The CC&Rs shall include the formation of a Master Association that shall govern, oversee, coordinate, and control all individual Homeowner's Associations and all Business Associations that include all areas of the proposed development for the primary purpose of coordinating and control of uniform maintenance, liability, repair of all common areas, public walkway easements and "A" Street. The Master Association shall also be solely responsible for the maintenance and replacement of the required landscaped medians in First Street, Atlanta Avenue, Huntington Street, and Pacific View Avenue, the decorative pavement within public streets adjacent to the project, and those items specified in the Maintenance License Agreement between the Master Association and the City.</p>	<p>access corridors as identified in the Final Tract Map and approved Improvement Plans.</p> <p>3) Notwithstanding anything to the contrary contained herein, the Owners shall have the right to install privacy gates to prevent public access to the portions of Lots 1, 2, and 3 which are not identified as pedestrian public circulation areas as depicted on the Final Tract Map, or as subsequently amended by a separate recorded instrument.</p> <p>4) The CC&Rs shall include provisions that address the Maintenance Responsibilities within the Maintenance Areas (both as defined and set forth in the License and Maintenance Agreement) by one or more of the Owners.</p>
<p>5) [No Changes] The CC&Rs shall address the maintenance of all awnings and rails for the</p>	<p>5) [No Changes] The CC&Rs shall address the maintenance of all awnings and rails for the</p>

	<p>commercial and residential portions of the project. They shall also define allowable uses and structures in the 20-foot pedestrian corridor for the commercial portion of the project; fences and other permanent and temporary barriers shall be prohibited. Exclusive use by any business, carts, kiosks, and tables are not permitted. Benches, potted plants and similar amenities may be permitted subject to the approval of the Departments of Planning and Public Works.</p> <p>6) The CC&Rs shall refer to the Special Utility Easement Agreement. (PW)</p> <p>7) The CC&Rs shall refer to the Maintenance License Agreement.</p>	<p>commercial and residential portions of the project. They shall also define allowable uses and structures in the 20-foot pedestrian corridor for the commercial portion of the project; fences and other permanent and temporary barriers shall be prohibited. Exclusive use by any business, carts, kiosks, and tables are not permitted. Benches, potted plants and similar amenities may be permitted subject to the approval of the Departments of Planning and Public Works.</p> <p>6) The CC&Rs shall refer to the Special Utility Easement Agreement recorded on September 28, 2007 as Document No. 2007000588430, and the License and Maintenance Agreement recorded on September 28, 2007 as Document No. 2007000588431, each as may be amended from time to time with prior City approval. Prior to the issuance of a precise grading permit, a First Amendment to each such agreement shall be submitted to the Public Works Department for review and approval as to form by the Public Works Department and the City Attorney. Such First Amendments must be recorded prior to issuance of a building permit.</p>	<p>Tentative Tract Map No. 16338 Condition of Approval No. 3.b.</p> <p>An agreement shall be executed between the city and applicant prior to Final Tract Map approval that binds the Master Association and individual Associates in perpetuity for the conditions stated herein and that the Village Green Park will always be for public use and</p> <p>The CC&Rs shall refer to the Agreement Regarding City Requirements recorded on October 15, 2007 as Document No. 2007000628743 and the Agreement Regarding Village Green Park recorded on September 28, 2007 as Instrument No. 2007000588432,</p> <p>Reflects that certain agreements were recorded after adoption of original</p>
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<p>Tentative Tract Map No. 16338 Condition of Approval No. 3.c.</p>	<p>not changed to be for private use.</p>	<p>providing that prior to the issuance of a precise grading permit (a) a First Amendment to Agreement Regarding City Requirement to bind the Owners in perpetuity to the conditions stated herein and (b) a First Amendment to Agreement Regarding Village Green Park to ensure that the Village Green Park will always be open for public use, shall be submitted to the Planning and Building Department for review and approval as to form by the Planning and Building, Community Services and Public Works Departments and the City Attorney. Such First Amendments must be recorded prior to issuance of a building permit.</p>	<p>conditions; those agreements refer to Master Association and will be amended to refer to the Master Declaration of CC&R along with Owner responsibilities.</p>
<p>The developer shall provide a Maintenance License Agreement to be part of the Master Association agreement for maintenance of the medians, landscaping in the medians and adjacent to the project for Pacific View Avenue, First Street, Atlanta Avenue, Huntington Street, and "A" Street if public. The agreement shall state that the Master Association shall be responsible for all costs associated with maintenance, repair, replacement, and fees imposed by County, City, and the Orange County Sanitation District for pumping, inspection, or other related fees for the dry weather flow diversion and First Flush Water Runoff Treatment Control System approved by the City. Furthermore, the Agreement shall address the Master Association's responsibility for the</p>	<p>The License and Maintenance Agreement, as modified by the First Amendment, shall provide (i) for maintenance of the Maintenance Areas, including the medians and landscaping in the medians adjacent to the project for Pacific View Avenue, First Street, Atlanta Avenue and Huntington Street, the 2.03-acre park easement, all enhanced paving adjacent to public streets, pedestrian easements, sidewalks, parkway landscaping, Edison-owned street lighting and street furniture located behind public street curbs within the project site, (ii) that the Owners shall be responsible for all costs associated with maintenance, repair, replacement, and fees imposed by County, City, and the Orange County Sanitation District for pumping, inspection, or other related fees for the dry weather flow diversion and First Flush Water</p>	<p>Reflects that certain agreements were recorded after adoption of original conditions; those agreements refer to Master Association and will be amended to refer to the Master Declaration of CC&R along with Owner responsibilities.</p>	<p>Reflects that certain agreements were recorded after adoption of original conditions; those agreements refer to Master Association and will be amended to refer to the Master Declaration of CC&R along with Owner responsibilities.</p>

	<p>maintenance of the 2.03-acre park easement, all enhanced paving adjacent to public streets, "A" Street, pedestrian easements, sidewalk, parkway landscaping, Edison-owned street lighting and street furniture located behind public street curbs within the project site. Maintenance shall include but not be limited to sidewalk cleaning, trash cans, disposal of trash, signs, the regular maintenance and cleaning of all angled parking areas (i.e., markings, street sweeping) along Pacific View Avenue between First Street and Huntington Street, etc. The Master Association shall be solely responsible for paying the cost of maintenance, inspections, cleanup, operation, monitoring replacement planting, and equipment replacement of all improvements required for this project.</p>	<p>Runoff Treatment Control System approved by the City and (iii) that the Owners shall be responsible for paying the cost of maintenance, inspections, cleanup, operation, monitoring, replacement planting, and equipment replacement of all improvements required for this project. Maintenance shall include but not be limited to sidewalk cleaning, trash cans, disposal of trash, signs, the regular maintenance and cleaning of all angled parking areas (i.e., markings, street sweeping) along Pacific View Avenue between First Street and Huntington Street, etc.</p>	
<p>Tentative Tract Map No. 16338 Condition of Approval No. 3.d.</p>	<p>The sewer and portions of the storm drain systems located within private streets shall be private and maintained by the Homeowner's Association.</p>	<p>The sewer and portions of the storm drain systems located within private streets shall be private and maintained by the Owner of Lot 1.</p>	<p>Replaces Homeowner Association with Owner of Lot 1.</p>
<p>Tentative Tract Map No. 16338 Condition of Approval No. 4.</p>	<p>The water system for the entire project shall be a public system; except, any portion of the fire service water system that is not public shall be maintained by the HOA in accordance with the language to be provided by the Fire Department for the CC&Rs.</p>	<p>The water system for the entire project shall be a public system; except, any portion of the fire service water system that is not public shall be maintained by the Owners in accordance with the language to be provided by the Fire Department for the CC&Rs.</p>	<p>Replaces Homeowner Association with Owner.</p>

<p>Tentative Tract Map No. 16833 Public Works Standard Code Requirement No. 1.</p>	<p>Final hydrology and hydraulic studies for both on-site and off-site facilities shall be submitted for Public Works review and approval. Runoff shall be limited to pre-1986 Q's, which must be established in the hydrology study. If the analyses shows that the City's current drainage system cannot meet the volume needs of the project runoff, the developer shall be required to attenuate site runoff to an amount not to exceed the 25-year storm as determined using pre-1986 design criteria. At the City's discretion, the dry weather flow for Drainage Area "B" may be routed into Drainage Area "A" to the Atlanta Stormwater Pump Station (ASWPS). Unless otherwise satisfied pursuant to CUP No. 02-20 conditions relating to regional treatment, the Master Association shall be responsible for all costs associated with the dry weather flow diversion and treatment (including pumping charges and OCSD fees, etc.). The storm water flows for Drainage Area "B" will go to the First Street storm drain system that the applicant is designing and constructing. All flows, both dry weather and storm flow shall be treated in accordance with the City's MS4 Permit and other City's applicable requirements and standards. (ZSO 253.12 & 255.04).</p>	<p>Final hydrology and hydraulic studies for both on-site and off-site facilities shall be submitted for Public Works review and approval. Runoff shall be limited to pre-1986 Q's, which must be established in the hydrology study. If the analyses shows that the City's current drainage system cannot meet the volume needs of the project runoff, the developer shall be required to attenuate site runoff to an amount not to exceed the 25-year storm as determined using pre-1986 design criteria. At the City's discretion, the dry weather flow for Drainage Area "B" may be routed into Drainage Area "A" to the Atlanta Stormwater Pump Station (ASWPS). Unless otherwise satisfied pursuant to CUP No. 02-20 conditions relating to regional urban runoff treatment, the Owners shall be responsible for all costs associated with the dry weather flow diversion and treatment (including pumping charges and OCSD fees, etc.). The storm water flows for Drainage Area "B" will go to the First Street storm drain system that the applicant is designing and constructing. All flows, both dry weather and storm flow shall be treated in accordance with the City's MS4 Permit and other City's applicable requirements and standards. (ZSO 253.12 & 255.04).</p>	<p>This is a standard code requirement and not subject to amendment by EPA action. It is included here for reference only.</p>
<p>Tentative Tract Map No. 16388 Public Works</p>	<p>The Homeowner's Association(s) shall enter into a Special Utility Easement Agreement with the City of Huntington Beach,</p>	<p>The Special Utility Easement Agreement, as amended by the First Amendment, shall address the maintenance and control of the area within</p>	<p>This is a standard code requirement</p>

<p>Standard Code Requirement No. 15.</p>	<p>for maintenance and control of the area within the public water pipeline easement, which shall address repair to any enhanced pavement, etc., if the public water pipelines and/or appurtenances require repair or maintenance. The Owners shall be responsible for repair and replacement of any enhanced paving due to work performed in the maintenance and repair of any water pipeline. The Special Utility Easement Agreement shall be referenced to in the CC&R's.</p>	<p>the public water pipeline easement and addresses repair of any enhanced pavement, etc., if the public water pipelines and/or appurtenances require repair or maintenance. The Owners shall be responsible for repair and replacement of any enhanced paving due to work performed in the maintenance and repair of any water pipeline, which responsibility shall be allocated between the Owners as set forth in the CC&R's. The CC&R's shall require the Owners to abide by the provisions of the Special Utility Easement Agreement.</p>	<p>and not subject to amendment by EPA action. It is included here for reference only.</p>
<p>CUP No. 02-20, SP No. 02-04, CDP No. 02-12, Public Works Standard Code Requirement No. 2.d.1.vii and ix</p>	<p>vii. The two pipelines connecting "A" Street to Atlanta Avenue and "A" Street to approximately 140-feet northeast towards Huntington Street shall be private and maintained by the HOA with appropriate backflow devices required at each point of connection to the City's water system.</p> <p>ix. Each separate landscaping area (i.e., the Homeowner's Association property, Property (Business) Owner's Association property, public common landscaping area(s), Village Green Park, etc.) shall have a separate irrigation meter(s), service(s), and backflow protection device(s). The meter(s) shall be sized to meet the minimum requirements set by the City Landscape Architect.</p>	<p>vii. The two pipelines connecting "A" Street to Atlanta Avenue and "A" Street to approximately 140-feet northeast towards Huntington Street shall be private and maintained by the Owner of Lot 1 with appropriate backflow devices required at each point of connection to the City's water system.</p> <p>ix. Each separate landscaping area (i.e., the landscape area on Lot 1, the landscape area on Lot 2, the landscape area on Lot 3 and the landscape medians in the public right-of-way shall have a separate irrigation meter(s), service(s) and backflow protection device(s). The meter(s) shall be sized to meet the minimum requirements set by the City Landscape Architect.</p>	<p>This is a standard code requirement and not subject to amendment by EPA action. It is included here for reference only.</p>
<p>CUP No. 02-20, SP No. 02-04, CDP No. 02-12,</p>	<p>BMPs shall not be located within the public right-of-way. The maintenance of all BMPs shall be the responsibility of the Master</p>	<p>BMPs shall not be located within the public right-of-way. The maintenance of all BMPs shall be the responsibility of the WQMP</p>	<p>This is a standard code requirement</p>

Public Works Standard Code Requirement No. No. 2.d.18.m.3	Association and shall be addressed in the CC&R's.	Responsible Party (as defined on the CC&Rs) and shall be addressed in the CC&R's.	and not subject to amendment by EPA action. It is included here for reference only.
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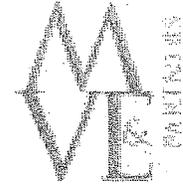
Attachment No. 4.21

Plans will be available online Wednesday, January 21, 2015

The Planning Commission will be notified when the plans are available. Please contact Jill Arabe at (714) 374-5357.

MVE & Partners, Inc.

Architecture | Planning | Interiors
1900 Main Street, Suite 800
Irvine, CA 92614
Phone: (949) 809-3388 Fax: (949) 809-3399



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OCT 03 2014

Dept. of Planning
& Building

Project Narrative - Updated 10/02/2014
Pacific City Apartments

Overview

This project consists of 516 apartments in six buildings varying from three to four stories, over 2 levels of subterranean parking. The project also includes a guardhouse at the front entry, a leasing office (located within one of the residential buildings), a public park and a common amenity building and pool deck.

The total net rentable residential square footage is 575,000 square feet. There will be between four and eight employees on site during the day.

This application is being initiated because in the intervening years since the project was originally entitled as a residential condominium project in 2004, the market demand has changed and the current residential use is anticipated to be apartments. These apartments, though on the large size for the market, are substantially smaller than the 1,600 sf average size originally entitled. This reduction in average unit size (to approximately 1,100 sf) made the footprint of the project much smaller and required alterations to the site plan.

Currently UDR, a national developer, owns the site and is requesting an Amendment to the Entitlement Plan.

The surrounding use to the south of the property is Pacific City Retail and Hotel sites. The retail building is currently under construction. MVE & Partners, architects of Pacific City Residential, have met with SMS Architects (architects of the retail project) to coordinate landscape and exterior material choices in order to increase compatibility between the two sites in the effort to create a distinctive, memorable sense of place.

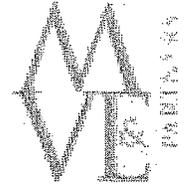
The adjacent use to the west across First St. is currently an oil field site and an empty lot.

The adjacent use to the north of the property is single family residential, including several small scale multi-unit buildings.

The adjacent use to the east is a mobile home park.

The project is an apartment use, and is intended to provide housing for singles, couples and families who want to live in central Huntington Beach, but do not wish to purchase or maintain a house or condominium. UDR believes that many of the people who will live at Pacific City Residential will be entrepreneurial types who share a passion for the beach, surfing and access to a pedestrian friendly commercial district. A mixture of studios, one bedroom apartments, two

bedroom apartments and three bedroom apartments will accommodate singles, couples and families.



Project Design

The design of the project is focused on outdoor living in order to take advantage of Huntington Beach's wonderful weather as well as to encourage people to spend time outdoors and in the neighborhood.

This focus on outdoor living starts with the units – typical units throughout the project are wider than they are deeper. For apartments on a double-loaded corridor this means that natural light is more abundant in the apartments. Large amounts of glazing, with plenty of operable windows, ensure that residents can turn off the air conditioning and let the ocean breeze cool their units. Large balconies are semi-recessed into the unit to provide a sense that the living space continues from the interior rooms right outside.

Apartments facing the surrounding streets have ground level entry terraces that allow residents to reach the sidewalk directly from their apartments, and upper units overlook carefully designed landscape spaces which enhance the natural setting. The streetside landscaping is intended to foster the sense of a shared front yard for the building and provide a pleasant, walkable connection to the beach from the single family residential neighborhood to the north.

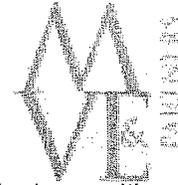
Apartments facing in towards the center of the project face six beautiful courtyards, each one designed to take advantage of sunlight during different times of the day. These courtyards are very large compared to most typical “podium” residential projects, which allows more privacy for residents and also plenty of elbow room for outdoor living. These spaces are the shared outdoor living room for the residents, and feature a variety of interesting landscaping, seating and water features to draw residents out of their apartments.

One of the major features of the project is a curving pedestrian paseo that provides a wide walkway connecting all six courtyards and out beyond to the sidewalk. This paseo is intended to be the main pedestrian route that many residents will take daily – on their morning walk to the beach or to Main Street for coffee. This main paseo is designed with the look and feel of a boardwalk, though its material will be a composite decking.

Secondary walkways are located between each of the six buildings and connect to the paseo. These walks provide more access to the sidewalk at different points around the site, and also provide direct pedestrian access to the central common amenity building and pool deck.

The amenity building has been designed to integrate with the public park and resident pool deck. The landscape design for the public park includes varying heights of landscape that form a “swell”. The amenity building itself takes the form of a wave, and the pool deck is meant to be the shallows. This design idea attempts to integrate the private and public spaces within the “horseshoe loop” of Pacific City Circle while still maintaining privacy between the two, all the while referencing one of the most distinctive aspects of Huntington Beach – its ocean waves.

The amenity “wave” building is broken into three sections, allowing residents to pass through gates into the public park. The public park is envisioned as a place where residents will relax alongside retail users, other residential neighbors and the public at large.



In many ways, the public park and amenity building are the signature design statement of the project, emphasizing the idea of outdoor living and easy pedestrian access to shopping, recreation and restaurants. The architectural design of the apartments is a modern design that incorporates natural colors and textures with the intent of creating a seamless environment from inside to outside to encourage indoor/outdoor living for residents. Though elegant in material and detail, the residential buildings are meant to be somewhat of a backdrop to the outdoor spaces and the people that use them.

Affordable Housing

10% of the project's apartments units are being set aside as moderate income units (110% of AMI). These affordable units include unit types in proportion to the overall unit mix of the project, and are located throughout the project. See sheet A0.02 for specific locations of units on floorplans as well as a detailed affordable housing plan. Affordable units will have the same level of finish as non-affordable units in compliance with HBZSO Section 230.26.

Project Parking

This project conforms to parking ratios mandated by the Downtown Specific Plan, providing: 1 stall for each studio and 1 bedroom, 2 stalls for each two bedroom unit, and 2.5 stalls for every three bedroom unit, as well as 0.5 spaces guest stalls for each unit.

The parking tabulation is included on Sheet A0.01, and total required parking is 1088 stalls.

Total parking provided on site is 1108 stalls, which includes 1088 subterranean stalls and 20 parallel spaces located at ground level on Pacific City Circle.

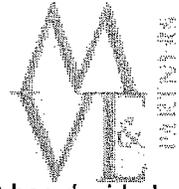
Guest parking is intermingled with resident parking within the subterranean parking garage. Intermingling the parking spaces allows better access for both residents and guests to each building's elevator cores because there is no "gated off" guest parking area underneath one or two buildings. The guest spaces are generally located in groups that roughly follow the natural path that guests will travel when entering the garage. Guest entrance is only through the garage ramp located along the inner loop road.

Street Parking on Pacific View

There are currently 16 proposed parallel parking spaces on the north side of Pacific View (adjacent to the proposed public park). These 16 spaces are located between the intersections of Pacific City Circle (the loop road) and Pacific View.

Sidewalk Design

All proposed public sidewalks are of a curving, meandering design preferred by the City of Huntington Beach; however the design team is proposing straight sidewalks for approximately 12% of the proposed sidewalks, namely the sidewalks adjacent to Building 1 (on First and Pacific View) as well as adjacent to Building 6 (on Pacific View). The section of straight sidewalks are more harmonious to the building facades, and are also meant to contrast with the



sidewalk running through the adjacent public park, which is the most curving, meandering sidewalk proposed.

The sidewalk on Huntington ~~Beach~~^{Street} is being widened to be 6' wide; however, UDR has decided to replace the entire sidewalk so there will not be a joint along the length of the sidewalk.

Rooftop pergolas

The project includes approximately 50 rooftop decks, and the design team is proposing that these decks have a decorative metal structure above each deck. These decorative pergola structures do not include a roof, that is, they are primarily open to sky. The inclusion of these pergolas into the project intends to improve the overall design by increasing the roofline variation along the buildings to break down the massing, as well as provide a sense of enclosure for residents using the decks without providing an actual enclosure.

Emergency Vehicle Access

Emergency Vehicle Access is provided off of Huntington Street. The access was formerly shown off of Atlanta and has been moved to Huntington St. to avoid removing street parking spaces along Atlanta Street.

PACIFIC CITY RESIDENTIAL

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NARRATIVE ENTITLEMENT PLAN AMENDMENT NO. 14-001
12-5-14 DESIGN REVIEW NO. 14-006
VARIANCE REQUEST NO. _____

DEC 08 2014
Dept. of Planning
& Building

VARIANCE REQUEST:

To permit a reduction of 14% of the required parking 1290 spaces based on staff's interpretation of the Downtown Specific Plan Parking Sec. 3.2.26.4 and Sec. 3.2.26.6. The project proposes the following parking:

Bldg:

1. 303 sp
2. 211 sp
3. 220 sp
4. 126 sp
5. 116 sp
6. 112 sp

Loop Rd:

24 sp

Total: 1112 sp

Sec. 3.2.26.4 Vehicle Spaces Required
Project Description

<u>Unit Type</u>	<u>Quantity</u>	<u>Parking Ratio</u>	<u>Total Parking Required</u>
Studio	50	1.0 sp/du	50
1 bd	188	1.0 sp/du	188
2 bd	211	2.0 sp/du	422
3 bd	67	2.5 sp/du	168
Guest		.5 sp/du	258
Total	516 du		1086 pk sp

Code Requirement of 1086 pk sp
Proposed 1112 pk sp
A surplus of 26 spaces

Sec. 3.2.26.6 Coastal Zone Design Standards

Reg. "A minimum of two on site parking spaces per dwelling unit in the Coastal Zone."

The project proposes 516 residential units $2 \times 516 = 1032$ parking space minimum. However, staff has interpreted this provision to be exclusive of guest parking and therefore the minimum residential requirement in the Coastal Zone is 2.5 parking spaces per dwelling unit for a total of 1290 parking spaces. The project proposes 1112 total parking spaces resulting in a reduction of approximately 14%.

Request: To permit 14% reduction in the proposed total parking, based on the staff interpretation of the Coastal Parking Requirement.

In order to support findings for approval for a Variance, respond to the following on a separate page:

(a) What exceptional circumstances apply to the subject property (including size, shape, topography, location or surrounds) that deprive it of privileges normally enjoyed?

As part of the previous entitlement process the current owners of Pacific City Residential are required to build a 2.03 acre public park. As a percentage of the total site area (17.2 acres), the park represents 11.8% of the total site area which is a very large percentage of the site area and is a significant burden to the project.

If the park was not required, these two acres could be used for surface parking, accommodating between 200 and 230 parking spaces. The difference between UDR's proposed parking of 1,112 spaces and Planning's interpretation of the parking requirements (1,290 spaces) is 178 spaces, which could all be accommodated within the area UDR is being required to set aside and improve as a public park.

Although the public park is an attractive public benefit provided by the project, it effectively burdens the project greatly because the additional parking spaces can only be accommodated in a subterranean garage. The marginal cost of providing the additional spaces below grade is a very high cost that burdens the project. The increased cost includes excavation, additional structure, drainage, mechanical venting and additional stairs and elevator stops.

In addition, UDR's project is particularly burdened due to its proximity to the ocean and the fact that the water table is unusually high. This results in a significantly higher cost to excavate, de-water, and provide appropriate sealing and protection for the lowest level of the underground parking garage, a distinguishing feature of this particular site which adds an even greater level of cost to the additional parking spaces in question.

Additionally, The project is surrounded on four sides with public streets. Two of which, First St. and Atlanta Ave., currently provide 30 spaces of public parking. The project will front onto the new Pacific View Avenue which will also provide new public parking opportunities.

(b) Explain why the request will not constitute a grant of special privilege.

To UDR's knowledge, in the history of the City of Huntington Beach no other multifamily residential project has been required to meet the higher parking ratio that the City's Planning staff now says is required, and no other similarly sited projects are subject to a requirement to improve and dedicate for public use such a large portion of the project site which otherwise could be utilized for parking.

The amount of parking proposed by UDR (1,112 total spaces, a 2.15 space/unit ratio) is consistent with Municipal Code Section 231.04, Schedule A, which applies in all portions of the City of Huntington Beach outside the Coastal Zone. The amount of parking proposed by UDR is also consistent with Downtown Specific Plan Section 3.2.26.4, which incorporates the off-street parking requirements of Municipal Code Section 231.04, Schedule A into the Downtown Specific Plan.

The higher amount of parking City Planning staff says is required is based upon staff's interpretation of a provision in the Downtown Specific Plan (Section 3.2.26.6) that was added in 2011 and, as far as UDR has been able to determine, has never been applied to any other multi-family project in the Downtown Specific Plan area. When the City approved the 3 most comparable multi-family residential projects in the Downtown Specific Plan area (Pier Colony, Town Square, and Plaza Almeria) the City Planning staff, Planning Commission, and City Council all utilized the same methodology for calculating parking requirements that UDR is proposing to use for Pacific City. (See, generally, the separate letter submitted by UDR's counsel, Jeffrey M. Oderman of the law firm of Rutan & Tucker LLP). UDR is not asking for the City to grant it a "special privilege"—it is only asking that it be treated the *same* as every other multi-family residential project in the City.

The amount of parking proposed by UDR is also consistent with the amount of parking approved by the California Coastal Commission for similar multi-family residential projects in coastal communities throughout Southern California. (See Letter from Rutan & Tucker LLP pp. 10-11 referring to projects in Long Beach and Santa Monica and parking studies performed for other projects from Santa Monica to San Diego.)

(c) Why is this request necessary for the preservation and enjoyment of one or more substantial property rights when compared with other properties in the same zoning designation?

As noted above, the higher amount of parking City Planning staff says is required for UDR's project has never been required of any other multi-family residential project in the City of Huntington Beach, whether inside or outside the Coastal Zone. UDR asks only that it be treated the *same* as every other multi-family residential project in the City.

Pacific City Residential is meeting a high standard of urban design by providing all of its parking underground, as well as making every side of the project a "front" in terms of architecture. Abutting the project to the north is a neighborhood of single and multifamily lots, many of which rely on street parking because these "grandfathered" lots don't comply with current parking standards. Pacific City Residential should not need to overcompensate for parking because of deficient parking on other properties.

(d) State reasons why the granting of the request will not be materially detrimental to the public welfare.

1. UDR's proposed number of parking spaces is more than adequate to park the project. UDR commissioned the traffic engineering firm of Linscott Law & Greenspan to study comparable multifamily projects within the Coastal Zone and make a recommendation on the number of parking spaces that should be provided based for the Pacific City Residential Project. LL&G recommended the UDR provide 949 parking spaces, significantly less than the number of parking spaces which UDR is proposing (1,112 spaces). This parking study is attached to this variance application.

2. In a popular beachfront area, the first parking to be utilized by City residents, guests and visitors is always the cheapest parking. Street side, metered parking is generally the least expensive parking

available except for private guest parking. The presumed rationale for requiring Pacific City Residential to provide an extraordinary amount of parking is the idea that apartment residents will invite guests who will then occupy the metered parking instead of leaving it for City residents and other visitors. However, there is no incentive for Pacific City Residential guests to occupy the street parking, which in contrast to provided guest parking, is unshaded and metered, making it the most desirable parking option for Pacific City guests.

3. Upon completion, the project will be surrounded by a greater number of on-street parking spaces than currently exist. In addition, public parking for a fee is available at the beach and the Pacific City Commercial Center, within walking distance of the project.

December 8, 2014

RECEIVED

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Dept. of Planning
& Building

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

Re: Pacific City Residential Project; Entitlement Plan Amendment No. 14-001/
Design Review No. 14-006/Variance No. _____; Off-Street Parking Requirements

Dear Members of the Planning Commission:

The law firm of Rutan & Tucker, LLP, represents DCO Pacific City LLC ("UDR"), owner of the Pacific City residential property located at 21002 Pacific Coast Highway, Huntington Beach (the "Subject Property"). On UDR's behalf, I am submitting this letter in support of the above-referenced entitlement application and I respectfully request that this letter be included in the public hearing record.

The purpose of this letter is to explain why UDR believes its proposed project fully satisfies all applicable City off-street parking requirements. This letter is being submitted concurrently with UDR's filing of an application for a parking variance but UDR's position is that its project does not in fact *require* a variance. UDR respectfully requests that the Planning Commission address this issue—is a variance even required?—before acting on the variance. If the Commission agrees with UDR's position as set forth in this letter and approves the entitlement application as submitted, the variance application will become moot and there will be no need for the Commission to take action on it. Only if the Commission rejects UDR's position would it be necessary for the Commission to act on UDR's variance application.

UDR's filing of the variance application should not be construed as an admission that a variance is needed. UDR has filed a variance application only in order to avoid unnecessary delays in the processing of its development project. Hopefully, the adequacy of the parking for UDR's Pacific City residential project will be resolved to the mutual satisfaction of the City and UDR.

1. The Project.

UDR is proposing to construct 50 studio units, 188 1-bedroom units, 211 2-bedroom units, and 67 3-bedroom units, for a total of 516 residential units (the "Project"). The Project is located in the Coastal Zone, in District 5 of the DSP area.

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2. UDR's Calculation of the DSP Off-Street Parking Requirement for the Project (1,086 Total Parking Spaces Required; 2.10 Spaces Per Unit).

UDR has calculated the off-street parking requirement for its project in accordance with DSP § 3.2.26.4, which in Figure 3-15 sets forth the parking requirements for residential uses as follows:¹

Residential Uses		
<u>Use</u>	<u>District</u>	<u>Off-Street Parking Spaces</u>
Single-family	All Districts	<ul style="list-style-type: none"> • 2 enclosed, side-by-side or tandem, spaces per unit for up to 3 bedrooms • 1 space for each additional bedroom¹ • 1 additional space where no on-street parking is allowed²
Multi-family	District 1 (Excluding Subdistricts)	<ul style="list-style-type: none"> • Studio and 1 bedroom units: 1 enclosed space per unit • 2 bedroom units: 2 spaces (1 enclosed) per unit • 3 or more bedroom units: 2.5 spaces (1 enclosed) per unit • 0.25 guest spaces per unit
	All Other Districts	<ul style="list-style-type: none"> • Studio and 1 bedroom units: 1 enclosed space per unit • 2 bedroom units: 2 spaces (1 enclosed) per unit • 3 or more bedroom units: 2.5 spaces (1 enclosed) per unit • 0.5 guest spaces per unit
Live/Work	District 1	<ul style="list-style-type: none"> • 1 bedroom residential units: 1 space per unit • Commercial: 1 space per 500 sf
<p>¹ All required parking for additional bedrooms shall comply with the following:</p> <ul style="list-style-type: none"> • Shall be minimum 9' x 19' in size. • May be unenclosed (carport or open to sky) or enclosed (garage). If accessed from an alley, a 5-foot setback from the rear property line is required in order to meet the required 25-foot turning radius as required by this Specific Plan and the HBZSO. • Must be located on private property between the required garage spaces and the public right-of-way (e.g., alley). • A parallel space (9 feet wide) in front of the garage door does not satisfy this requirement. <p>² All required additional parking spaces where no on-street parking is permitted or planned to be removed shall comply with the following:</p> <ul style="list-style-type: none"> • Shall be minimum 9' x 19' feet in size • Must be unenclosed (carport or open to sky). • Must meet the 25-foot turning radius as required by the Specific Plan and the HBZSO. • Must be located on private property between the required garage spaces and the alley and shall be fully accessible from the alley. • A parallel parking space (9 feet wide) in front of the garage door would satisfy this requirement. 		

¹ Note: The off-street parking requirements for multi-family residential projects set forth in Figure 3-15 of the Downtown Specific Plan are identical to the off-street parking requirements for multi-family residential projects that apply city-wide. See Municipal Code Section 231.04, Schedule A.

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Applying Figure 3-15 to the Project, the parking calculation works as follows: (1) 50 studio units: 50 spaces (1 space/unit); plus (2) 188 1-BR units: 188 spaces (1 space/unit); plus (3) 211 2-BR units: 422 spaces (2 spaces/unit); plus (4) 67 3-BR units: 168 spaces (2.5 spaces/unit); plus (5) 0.5 guest spaces per unit for all 516 units: 258 spaces; equals (6) 1,086 total parking spaces required (an overall ratio of approximately 2.10 spaces/unit). UDR's entitlement application and project drawings provide for 1,112 off-street parking spaces (1,088 in a subterranean garage and 24 surface spaces along the loop road), 26 spaces in excess of what UDR believes to be the code requirement.

There is a separate off-street parking requirement set forth in DSP § 3.2.26.6 that states "[e]ach dwelling unit located in the Coastal Zone shall have a minimum of 2 on-site parking spaces." Multiplying the 516 residential units in the Project times 2 parking spaces per unit yields an off-street parking requirement under § 3.2.26.6 of 1,032 spaces, *less* than the number of spaces required under § 3.2.26.4 (Figure 3-15). Accordingly, UDR acknowledges that the *stricter* of the 2 off-street parking standards must prevail, in this case the one set forth in § 3.2.26.4 (Figure 3-15), which means that the off-street parking requirement for the Project is, again, 1,086 spaces (with UDR proposing to provide 1,112 spaces, 26 in excess of the code requirement).

UDR's calculations are summarized in Exhibit "A" attached hereto.

3. City Staff's Calculation of the DSP Off-Street Parking Requirement for UDR's Project (1,290 Total Parking Spaces; 2.50 Spaces Per Unit).

As of the date this letter and UDR's variance application are being submitted to the City, City staff has told UDR that staff calculates the parking requirement for UDR's Project by "mixing and matching" the parking requirements in §§ 3.2.26.4 and 3.2.26.6 of the DSP. In short, City staff takes the 2.0 minimum number of parking spaces required under § 3.2.26.6 (the "coastal zone" standard) and *combines it* with the 0.5 guest parking space requirement in Figure 3-15 in § 3.2.26.4 to come up with a minimum requirement of 2.5 off-street parking spaces for any multi-family residential project in the coastal zone (1,290 parking spaces for the Project).² (See summary in last column of Exhibit "A" attached hereto.) This is two hundred four (204) spaces more than UDR believes is required by Code and one hundred seventy-eight (178) more spaces than UDR is proposing to provide, a *significant* difference and, based on an estimated average cost for subterranean structured parking of \$45,000 per space, a difference that, if the City staff's position were accepted, would result in an \$8 million additional cost impact for an already extremely expensive and difficult project.

² Figure 3-15 in § 3.2.26.4 requires only 0.25, not 0.5, guest spaces for multi-family residential projects in District 1 of the DSP area, so the Director's methodology for calculating off-street parking requirements would yield a minimum requirement of 2.25 parking spaces per unit in District 1, not 2.50.

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4. The DSP's Off-Street Parking Requirements Are Clear On Their Face and Consistent with UDR's Position. There is No Justification for the Interpretation Manufactured by City Staff.

A. The 1,112 Parking Spaces Proposed By UDR Are Considerably More than Enough to Meet the Peak Parking Requirements of the Project; the City Staff's Interpretation Grossly Overstates the Number of Parking Spaces Actually Needed.

Before addressing the Code issues, UDR wishes to emphasize that it is *not* attempting to "cut corners." Indeed, the objective data demonstrates that UDR's proposed parking ratio of 2.16 spaces per unit (1,112 spaces/516 units = 2.16 spaces/unit) is *far greater than what the Project actually needs*. In this regard, the highly respected engineering firm of Linscott Law & Greenspan ("LL&G") recently performed detailed weekday and weekend hourly parking counts at 6 multi-family residential projects comparable to UDR's Project, all of them in the Coastal Zone (in Huntington Beach, Marina del Rey, Hermosa Beach, Newport Beach, and Long Beach), and found that the actual peak parking rate for these projects is only 1.32 spaces per unit, the 85th percentile ratio is only 1.48 spaces per unit, and the *maximum* peak parking ratio among *any* of the 6 studied projects is 1.84 spaces per unit. (See the November 7, 2014, LL&G Updated Parking Study for the Proposed Pacific City Apartments (Coastal Zone Analysis) attached hereto as Exhibit "B.")³

LL&G's findings are summarized below:

No.	Property	Location	Units	# of Parking Spaces (Supply)	# of Parking Spaces/Unit (Supply)	# of Parking Spaces (Peak Demand)	# of Parking Spaces/Unit (Peak Demand)
1	Pier Colony	Huntington Beach	130	292	2.25	170	1.31
2	Jefferson at Marina del Rey	Marina del Rey	298	662	2.22	548	1.84
3	Westerly on Lincoln	Marina del Rey	583	1,217	2.09	793	1.36
4	Playa Pacifica	Hermosa Beach	285	462	1.62	353	1.24
5	Balboa Bay Club	Newport Beach	145	271	1.87	184	1.27
6	1900 Ocean Boulevard	Long Beach	265	337	1.27	241	0.91
TOTALS (AVERAGES)						1.90	1.32

³ Pursuant to a meeting held with City staff on December 3, 2014, the LL&G parking study currently is being revised to include additional information. The updated study likely will be the one presented to the Planning Commission for consideration. Based on discussions with LL&G, UDR is confident that the updated study will be completely consistent with the analysis and conclusions in the initial draft LL&G study referred to in this letter.

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LL&G also notes that the 2 most reputable professional publications on the subject (*Parking Generation* (4th edition) published by the Institute of Transportation Engineers (ITE) and *Shared Parking* (2nd edition) published by the Urban Land Institute (ULI)) found even *lower* parking ratios of 1.20-1.65 spaces per unit for apartment complexes.

Based on the foregoing data, LL&G's recommendation is that UDR's Project provide 949 parking spaces or 1.84 parking spaces per unit. *UDR is proposing instead to develop 1,112 parking spaces—163 more spaces or 17.2% more total parking than is recommended based on the LL&G parking study.*

UDR has heard that the City is concerned with the adequacy of parking at UDR's Residences at Bella Terra project. Setting aside the fact that UDR did not entitle that project and merely "inherited" the plans as approved by the City, the comparison is clearly an "apples to oranges" one. The Residences at Bella Terra project has a higher mix of larger-sized units and provides (only) 1.5 parking spaces/unit. *UDR's Pacific City project will create 42% more parking compared to The Residences at Bella Terra.* Parking issues at Bella Terra have absolutely nothing to do with the adequacy of parking at Pacific City.

B. The City Staff's Position (DSP Requires Minimum of 2.5 Parking Spaces/Unit) Has Never Been Applied to Any Residential Project in the History of the City of Huntington Beach.

It is important that the Planning Commission understand just how extreme the City staff interpretation of the "standard" code parking requirement really is: *it has never been applied to any residential project in the history of the City of Huntington Beach.*

First of all, there is no counterpart to DSP § 3.2.26.6 in the "general" off-street parking requirements of the City's Zoning Ordinance. Thus, there is no potential for the City to apply the same "mix and match" methodology outside the Coastal Zone that City staff would have the Commission apply by adding the 0.5 space/unit guest parking requirement in DSP § 3.2.26.4 to the 2-space/unit minimum in DSP § 3.2.26.6.

It is also a fact (assuming the City complied with its duties under the California Public Records Act)⁴ that the City has never applied Planning staff's "mix and match" methodology for calculating off-street parking requirements to any residential project *within* the Coastal Zone either. In fact, *the only 3 times the City has in the past evaluated the off-street parking requirement for multi-family residential projects in the DSP area that have studio or 1-bedroom*

⁴ On July 23, 2014, this office submitted a Public Records Act request to the City asking the City to produce all public records relating to this subject. A copy of that request is attached hereto as Exhibit "C."

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units⁵ it has calculated the parking requirement in the identical manner that UDR believes should be applied here. Here is the proof:

(1) In May 1988, the City Council approved development entitlements for the Town Square mixed-use project on Main Street in the DSP area.⁶ The residential portion of the project consisted of 89 condominium units—55 1-BR units, 18 2-BR units, and 16 3-BR units. City staff calculated the required amount of parking for the residential portion of the Town Square project exactly as UDR proposes should be done for Pacific City. (See Exhibit “D” attached hereto, at pp. 5-7.) At 2.5 parking spaces/unit, the parking requirement for Town Square would have been 223 spaces; based on the bedroom mix City staff instead calculated the “required” amount of parking to be 195 spaces and the applicant proposed and the City approved the project with 197 spaces, a ratio of 2.21 spaces/unit and only slightly higher than the parking ratio proposed by UDR for Pacific City.⁷

(2) At about the same time the City was considering the Town Square project it also approved Pier Colony, part of another (horizontal) mixed-use project on PCH in the DSP area. As proposed by the developer, the residential portion of the project comprised 160 units—112 1-BR units and 48 2-BR units. Once again, City staff calculated the required amount of parking for Pier Colony exactly as UDR proposes should be done for Pacific City. (See Exhibit “E” attached hereto, at pp. 6-7.) At 2.5 parking spaces/unit, the parking requirement for the 160 units proposed would have been 400 spaces; based on the bedroom mix City staff instead calculated the “required” amount of parking to be 345 spaces, a ratio of 2.16 spaces/unit, the *exact* parking ratio UDR proposes for Pacific City.⁸

⁵ It is only with smaller units (studios and 1-bedroom units) and larger units (3 or more bedrooms)—that the difference in methodology between how UDR and City Planning staff calculate the parking requirement makes a difference. Since under DSP § 3.2.26.4 2-BR units require 2 parking spaces/unit plus 0.5 guest spaces (2.5 total spaces/unit), staff’s interpretation/application of § 3.2.26.6 results in the same number of required spaces for projects with all 2-BR units.

⁶ See Exhibit “D” attached hereto. Planning Director Hess appears to have been the responsible planner for this project as his initials appear at the end of the staff’s report to the Planning Commission and his name is handwritten in on the copy of the staff report to the Council that was produced in response to UDR’s Public Records Act request referred to in footnote 4 above.

⁷ At the time, the City’s Zoning Ordinance and DSP required a minimum of 1-1/2 parking spaces for studio and 1-BR units. This was *reduced* to 1 space/unit when the DSP was amended in 1990. (City Council Ordinance No. 3071, p. 2 [revision to former DSP § 4.2.13].)

⁸ Ultimately, the City Council approved a downsized Pier Colony project with fewer total residential units (130) but a higher ratio of larger 2-BR units (70). (See Exhibit “B” at pp. 2-3.) If the City had required the project to provide 2.5 parking spaces per unit, a minimum of 325 spaces would have been needed. Instead, the City approved the project with only 292 parking spaces (a parking ratio of slightly less than 2.25 spaces/unit).

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(3) In 1991, the City approved the Plaza Almeria project located at 300 Main Street in the DSP area. At the time the residential portion of this project consisted of 68 units—8 1-BR units and 60 2-BR units. Just as it had done with the Town Square and Pier Colony projects, City staff calculated the required amount of parking for Pier Colony exactly as UDR proposes should be done for Pacific City. (See Exhibit “F” attached hereto, at pp. 3-5.) At 2.5 parking spaces/unit, the parking requirement for the 68 units proposed would have been 170 spaces; based on the handful of 1-BR units in the bedroom mix City staff instead calculated the “required” amount of parking to be only 166 spaces.⁹

The bottom line is that UDR is not asking the Planning Commission to grant it any “special privilege” not afforded to other multi-family residential developers in the City of Huntington Beach. In fact, the exact opposite is true. *All UDR is asking is that it be treated the same as other multi-family residential developers in the City—both within and outside the DSP area and the Coastal Zone.*

The City has studied the adequacy of parking in the DSP area multiple times over the past 15 years or so. Never have any of the parking studies conducted by the City indicated that the residential projects in the DSP area—including Town Square, Pier Colony, or Plaza Almeria—were “under-parked.” Why is UDR being required to provide so much more parking than these other projects were required to provide?

C. The Planning Staff’s Interpretation Flies in the Face of the “Plain Meaning” of Applicable Provisions of the DSP and Violates Widely Accepted Rules as to How Statutes and Ordinances Are to be Interpreted.

When interpreting a statute or ordinance, “[c]ourts generally give the words. . . their plain meaning. A court’s inquiry ends if the words of a statute [or ordinance] are clear and unambiguous; the plain meaning of the statute [or ordinance] governs, and there is no need for judicial construction.” (58 Cal Jur. 3d, “Statutes,” § 85, pp. 484-485; numerous case citations omitted.) Here, the “plain meaning” of DSP § 3.2.26.6 is exactly what it says—that “[e]ach dwelling unit located in the Coastal Zone shall have a minimum of 2 on-site parking spaces,” *not*, as staff would have you believe, 2-1/2 spaces. The minimum 2 space/unit requirement in DSP § 3.2.26.6 is *inclusive* of guest parking spaces. If the City Council and the California Coastal Commission (“CCC”) had intended DSP § 3.2.26.6 to mean that studio and 1-bedroom units in the DSP area must provide a minimum of 2.5 parking spaces/unit (2 spaces for each

⁹ In 1996-1997, the Plaza Almeria developer returned to the City and requested that its project approvals be revised. The residential portion of its project was converted to 45 all 2-BR units. (Exhibit “F” hereto at pp. 3-5.) Since the parking requirement for 2-BR units under § 3.2.26.4 of the DSP is 2.5 spaces/unit (2 spaces/DU plus 0.5 guest spaces/DU), the 1997 revisions to the Plaza Almeria project neither support or undermine UDR’s position as to how the DSP parking requirement should be applied to Pacific City.

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unit's resident(s) plus 0.5 guest spaces), they could easily have said so; they didn't. With the Council and CCC having chosen the words they did, the City staff and Planning Commission "may not, under the guise of statutory construction, rewrite the law or give the words an effect different from the plain and direct import of the terms used." (58 Cal.Jur.3d, *supra*, § 85, p. 485.)

DSP §§ 3.2.26.4 and 3.2.26.6 are set forth in entirely *separate* sections of that document. Each of them is self-contained. Neither section refers to, incorporates, or cross-references the other. Accordingly, there is absolutely no basis in the DSP for pulling the guest parking space provision out of the multi-family residential table in § 3.2.26.4 and inserting it (as an *additional* requirement) in § 3.2.26.6, which is the effect of what Planning staff's approach does. When the City desires to express residential off-street parking requirements separately for the resident(s) of a dwelling unit and the guests of that unit, it has shown the clear ability to do so (see Muni Code § 231.04, Schedule A and DSP § 3.2.26.4, Figure 3-15); the fact it did *not* do so when § 3.2.26.6 was added to the DSP in 2011 shows no such result was intended.

Another of the most basic principles of statutory interpretation is that "[s]tatutory interpretations that render words surplusage are to be avoided as are interpretations that would render related provisions nugatory. The courts [and the City] should give meaning to every word of a statute if possible." (58 Cal.Jur.3d, *supra*, § 91, pp. 495-496; numerous case citations omitted.) "An interpretation with the effect of making statutory language null and void is to be avoided." (*Id.*, § 107, p. 519; case citations omitted.) "When two statutes touch upon a common subject, they are to be construed in reference to each other so as to harmonize the two in such a way that no part of either becomes surplusage." (*Id.*, § 118, p. 536; case citations omitted.) The Planning staff's methodology interpretation directly violates these basic principles because it (1) renders as mere surplusage the language in DSP § 3.2.26.4 Figure 3-15 stating the off-street parking requirement for studio and 1-bedroom units is 1 space/unit and (2) requires that language to be considered null and void. If staff's interpretation of the DSP were correct, the 1 space/unit requirement for studio and 1-BR units in § 3.2.26.4 would have to be ignored and increased to 2 spaces to be correct. Once again, if the City Council and Coastal Commission had *intended* that result they could easily have said so—by simply changing the 1 space/unit provision in Figure 3-15 to 2 spaces/unit when the DSP was amended in 2011 (which would have disposed of the need to add § 3.2.26.6 entirely). Once again, they did *not* choose to do that, which reflects that they did *not* intend to leave inconsistent surplusage in the document.

"Statutes [and ordinances] must be harmonized, both internally and with each other, to the extent possible. Thus, wherever possible, seemingly conflicting or inconsistent provisions should be reconciled to avoid the declaration of an irreconcilable conflict. . . ." (58 Cal.Jur.3d, *supra*, § 114, p. 531; case citations omitted.) DSP §§ 3.2.26.4 and 3.2.26.6 can *only* be harmonized by acceptance of UDR's interpretation, not Director Hess's interpretation. It makes sense for the City to calculate the parking requirement for UDR's Project separately under those 2 provisions of the DSP and then hold UDR to the stricter of the 2 parking requirements that

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result. It makes no sense to “mix and match” the parking requirements by taking some parking requirements from § 3.2.26.6 (minimum 2 space/unit requirement for studio and 1-BR units), other parking requirements from § 3.2.26.4 (“base” parking space requirement for 2- and 3-BR units and guest parking space requirement for *all* units) and then combining those calculations in a manner that results in a direct conflict with the language in § 3.2.26.4 as to how the parking requirement for studio and 1-BR units is supposed to be determined.

D. There is No “Legislative History” Supporting Planning Staff’s Interpretation of the “Standard” Parking Requirements in the DSP and No Evidence Their Long After-the-Fact Interpretation Was Intended or Is Required to Comply With Any Policies or Standards of the California Coastal Commission.

“If there is no ambiguity in the language of the statute [or ordinance], then the legislature is presumed to have meant what it said, and the plain meaning of the language governs. . . . The courts [and Planning Commission] may not speculate that the legislature meant something other than what it said nor may they alter or otherwise rewrite a statute [or ordinance] so as to make it express an intention that does not appear from the language involved.” (58 Cal.Jur.3d, *supra*, § 111, pp. 525-527; case citations omitted.)

Even if the language of DSP §§ 3.2.26.4 and 3.2.26.6 were not absolutely clear as applied to the issue raised by this appeal, however, and resort to legislative history were needed to interpret those regulations, the fact remains that there is not a shred of legislative history supporting the interpretation now being given to those codes by the City’s Planning Department.

As noted above, UDR submitted a Public Records Act request to the City asking the City to produce every public record relating to this issue. I have reviewed every one of the *nearly 40,000 pages* produced by City staff. Just so there is no misunderstanding, I am providing the Planning Commission with CDs containing the *entire* list of documents produced. So what did I find? Answer: absolutely nothing. There is not a single word, a single sentence, a single page in this mass of documents that supports staff’s interpretation.

Section 3.2.26.6 was added to the DSP in 2011. Planning staff has verbally stated to UDR representatives that this was done to provide consistency with the Coastal Act (in particular, Section 30252) and LCP policies and programs (C1.1.5, C2.4.2, I-C9 f-1) and to ensure the provision of adequate parking for new developments in the Coastal Zone. UDR takes no issue with enforcement of the California Coastal Act’s requirements and policies. In fact, however, there does not appear to have been the slightest mention at the time the 2011 amendment to the DSP was prepared, processed, or approved as to (1) what the intent of § 3.2.26.6 was or (2) how § 3.2.26.6 was supposed to be reconciled or harmonized with § 3.2.26.4. *In particular, nowhere in the record is there any indication that City staff, the Planning Commission, the City Council, or the California Coastal Commission believed studio*

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and 1-BR units require a minimum of 2.5 parking spaces (2 for the resident(s) plus 0.5 for guests).

On the contrary, the CCC's actions over the years clearly demonstrate it does *not* demand or expect studio and 1-BR units in multi-family residential projects will provide 2.5 parking spaces/unit (2 spaces for the resident(s) and 0.5 for guests) and it has oftentimes issued coastal development permits for projects similar to UDR's Pacific City Project with far less parking and completely in line with the current UDR request. See, e.g., the following:

- On July 24, 2001, CCC staff issued its report to the Commission for a proposed 556-unit residential condominium project in downtown Long Beach—a project very similar in terms of size and bedroom mix to UDR's Pacific City Project. The project proposal was for 1,008 parking spaces, 888 spaces for the exclusive use of residents and 120 spaces for use of guests *and* the general public, for an overall parking ratio of 1.81 spaces/unit (including the *public* parking component), *far below* the 2.10 spaces/unit that UDR proposes to provide in its Pacific City Project. (See Exhibit "G" hereto at pp. 4 and 9-17 and Exhibit "H" hereto, Section I ["Introduction"], p. 1.) Notwithstanding that the City of Long Beach's certified LCP at the time normally required 2 spaces/DU plus 1 guest space per 6 units (2.17 parking spaces/DU, just slightly higher than the amount of parking UDR proposes to provide in its Pacific City project), CCC staff concluded that with the 1.81 spaces/unit proposed the project "will provide an adequate parking supply to meet the needs of the residents and guests without causing negative impacts to coastal access or access to public recreational facilities" and the Coastal Commission approved a *variance* reducing the "normal" parking requirement by 197 spaces, 16% fewer than required by the City of Long Beach's LCP. (Exhibit "G" at pp. 11, 12, 15.) The Commission found the variance was supportable based upon an extensive parking study of 11 similar multi-family residential projects in Long Beach, San Diego, Marina del Rey, and San Diego conducted by Kaku Associates--the same firm that prepared Huntington Beach's Downtown Parking Master Plan study. (*Id.*, p. 15; see Exhibit "H" attached hereto.) The Kaku study demonstrated that "the actual parking demand for guests and residents combined [for these 11 projects] ranges from 0.66 to 1.59 spaces per occupied dwelling unit" and that "[d]evelopments with a high proportion of studio and one-bedroom units, . . . [which is the case with UDR's Pacific City Project] tend to experience parking demands in the lower end of this range." (Exhibit "G" at p. 15; Exhibit "H" at pp. 7, 20.)¹⁰

¹⁰ The 2001 Kaku parking study resulted in remarkably similar findings to the LL&G parking study performed for UDR's Project. (See Exhibit "B".) See also Exhibit "I" at p. 15, which surveys the parking requirements of no fewer than 36 local jurisdictions throughout the State of California, none of which has a standard parking requirement for studio and 1-bedroom residential units higher than 1.7

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- More recently, on July 19, 2011, CCC staff issued its report to the Commission for a proposed 20-unit residential condominium complex in downtown Santa Monica. Coastal staff advised that “[t]he proposed project will provide parking at the Commission’s current parking ratio of 2 parking spaces per unit with 1 guest parking space per four units, for a total of 45,” or a ratio of 2.25 spaces per unit, only slightly more parking than the 2.16 space/unit ratio UDR proposes to provide. CCC staff assured the Commission this amount of parking “will not adversely impact coastal access and will be consistent with Section 30252 of the Coastal Act and with the applicable policies of the City’s certified LUP.” (See Exhibit “I” hereto at p. 7.)

If the California Coastal Commission truly had some sort of policy that all residential projects in the coastal zone, including studio and 1-bedroom units, must provide a minimum of 2.5 parking spaces (2 for the resident(s) and 0.5 for guests), *WHERE IS THAT POLICY?* UDR has asked the City to produce any CCC policy under which the City claims to be operating and any communications from the Coastal Commission regarding any such CCC policy and UDR has received *nothing* in response. Moreover, if the Coastal Commission truly insists that residential projects in Huntington Beach’s coastal zone, including studio and 1-bedroom units, must provide a minimum of 2.5 parking spaces (2 for the resident(s) and 0.5 for guests), why then did the Commission approve the City’s original DSP in 1983-1984 and at least 6 amendments to the DSP between 1983 and 2009 *without requiring such a provision to be included?* (See in this regard, City Council Resolution No. 5308-A and Ordinance No. 2646-A, adopted October 10, 1983, and October 17, 1983, respectively; Ordinance No. 2942, adopted May 16, 1988; Ordinance No. 3071, adopted October 15, 1990; Ordinance No. 3180, adopted February 1, 1993; Ordinance No. 3239, adopted October 17, 1994; Ordinance No. 3280, adopted May 1, 1995; Resolution No. 2000-107 and Ordinance No. 3483, adopted November 6, 2000, and November 20, 2000, respectively.) The answer is clear: *because the Coastal Commission has no such policy.* There is no question the Coastal Commission is acutely sensitive to the need for private developments in the coastal zone—residential and non-residential—to provide adequate off-street parking, but the Commission has no uniform “one size fits all” policy as to how much parking is needed for a multi-family residential project such as UDR’s Pacific City Project. Twisting DSP § 3.2.26.6 to mean something that flatly contradicts what it says based upon a supposed Coastal Commission edict that does not exist cannot be justified.

E. The Planning Staff’s Interpretation Would Lead to Absurd Consequences.

Even if DSP §§ 3.2.26.4 and 3.2.26.6 were ambiguous, which they are not, the Planning Commission must be guided by the rule that “[i]f a statute [or ordinance] is amenable to two alternative interpretations, the one that leads to the more reasonable result will be followed.” (58

spaces (far less than City staff’s interpretation of 2.5 spaces in this case) and with the average or mean running somewhere between 1.25-1.5 spaces/unit.

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Cal.Jur.3d, *supra*, § 106, p. 517; case citations omitted.) An interpretation “leading to absurd consequences should not be chosen.” (*Id.*, § 108, pp. 520-521; case citations omitted.) UDR respectfully submits that if DSP § 3.2.26.6 is interpreted as City staff says it should be interpreted—even studio and 1-BR units in multi-family units in the DSP area must provide a minimum of 2.5 parking spaces--the result would be unreasonable and absurd consequences, consequences that should be avoided. UDR says this for 3 separate reasons.

First of all, the off-street parking requirements that apply city-wide (outside the coastal zone) require only 1.5 spaces per multi-family residential unit (1 for the resident(s) and 0.5 for guests). The effect of staff’s interpretation would be to increase that requirement by *sixty-seven percent (67%)* for projects in the coastal zone, a gigantic increase. There is no reasonable basis for concluding that multi-family residential projects in the coastal zone necessitate this much “extra” parking.

Secondly, if Planning staff’s interpretation were followed it would create the anomaly of requiring residential developers to provide more parking for *multi-family* residential projects than they are required to provide for *single-family* residential projects. In this regard, Figure 3-15 in DSP § 3.2.26.4 requires a single-family residential project to provide only 2 parking spaces for up to 3 bedrooms, with no guest space requirement and no additional spaces required unless no on-street parking is allowed. Thus, acceptance of Planning staff’s interpretation would result in a situation in which a studio apartment in a multi-family project would necessitate a requirement for 2.5 parking spaces and a 3-bedroom single-family home would only have to provide 2 parking spaces. What is the sense of that? Every professional analysis confirms that single-family residential units need more parking than multi-family residential units. (See, *e.g.*, the ITE’s *Parking Generation Manual* (4th edition).

Third, and finally, staff’s interpretation would lead to unreasonable results simply because it would require the developers of small studio and 1-BR multi-family residential units to provide much more parking than is actually needed in the real world. Who really believes that a studio apartment or even a 1-BR unit requires 2.5 parking spaces? Is there any parking study that could possibly support such an excessive standard? The answer UDR has come to after reviewing the LL&G parking study, the 2001 parking study performed by Kaku Associates for the coastal project in Long Beach, a variety of Coastal Commission project records, and nearly 40,000 pages of City records is a resounding “NO.”

* * *

UDR is well aware of and fully supports the City staff’s position that UDR’s Pacific City Project should be adequately parked. UDR’s plan accomplishes that objective—plus providing a very healthy “contingency factor.” UDR is not asking for any favors or special treatment; it simply asks to be treated the same way every other multi-family residential developer in the history of the City of Huntington Beach has been treated. UDR’s Project will only “need” a

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maximum of 949 parking spaces (1.84 spaces/unit) but UDR is prepared to provide 1,112 (2.16 spaces/unit). This is much more than enough. Please enforce the DSP the way it was written, the way it was intended, and the way it has been implemented in the past: approve UDR's EPA and Design Review *without* the need for a variance and affirm that UDR's proposal to provide 1,112 parking spaces for its 516 units fully complies with the DSP's off-street parking requirements.

Sincerely,

RUTAN & TUCKER, LLP



Jeffrey M. Oderman

JMO:jmo

Attachments - Not attached; available upon request

cc: Scott Hess, AICP, Director of Planning and Building
Jill Ann Arabe, Associate Planner
Michael Gates, City Attorney
Mike Vigliotta, Chief Assistant City Attorney

