

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**W 11a****ADDENDUM**

[Click here to go to the original staff report.](#)

TO: Commissioners and Interested Persons

FROM: South Coast District Staff

SUBJECT: Application No. 5-10-163 (Jeanne Harris + Cheryl Pitt), Item No. W 11a, Scheduled for hearing on Wednesday August 10, 2011 in Watsonville.

Letters of Opposition

Three letters of opposition to the project have been received. The first two letters focus on the project's conformance with the Pier Bowl Specific Plan, a planning document created by the City which has not been certified by the Commission. The Land Use Plan certified by the Commission does not incorporate the goals and policies of the Pier Bowl Specific Plan. The City of San Clemente has a certified Land Use Plan but does not have a certified Implementation Plan, and therefore the City does not have a certified Local Coastal Program. Therefore, the standards of review for the project are the Chapter 3 policies of the Coastal Act, with the certified Land Use Plan used as guidance. The third letter is regarding the parking supply in the Pier Bowl area.

The letter from Mr. Bataille states that the Tropicana Resort Hotel was developed without the requisite parking, and that it continues to be in violation of its permit. Coastal Development Permit 5-87-042-A2 allowed the conversion of a street level garage to a 1200 sq. ft. restaurant, and required the provision of 8 off-site parking spaces for the existing bed and breakfast use (Tropicana) and 23 in-lieu parking certificates for the restaurant use. Off-site parking for the Tropicana was secured with 8 parking spaces at the San Clemente Cove Timeshare development at 104 South Alameda Lane with a purchase agreement and a deed restriction. Commission staff is not aware of any issue with those 8 parking spaces. However, the Tropicana did not fulfill the obligations of the restaurant parking, as they received a reduction in in-lieu fees from the City after the permit was issued. The required in-lieu fee was not paid, and therefore there is a continuing violation with respect to Coastal Development Permit Amendment 5-87-042-A2. Any development on that site which would result in a change in parking requirements would be required to resolve all violations regarding the required parking.

The development proposed under this application, at 614 Avenida Victoria, does not rely on in-lieu parking to satisfy its parking needs. The parking for the residential use is provided on-site, and the required four spaces for a take-out restaurant / retail use has been purchased by the applicant off-site at the San Clemente Cove Timeshare development. Therefore, the proposed project would provide all required parking, and would not result in impacts to the public parking supply.

Revisions to Staff Report

Revise the staff report as follows. Deletions are marked in ~~strike-out text~~. Additions are marked in **bold, underlined text**.

On page 10 of the staff report, modify the second paragraph as follows:

The Pier Bowl Specific Plan is a specific plan for the area outlining additional land use and zoning policies, which has not been certified by the Commission. **The Pier Bowl Specific Plan**~~This plan~~ states that the subject property, 614 Avenida Victoria, should be used as a park to connect Avenida Victoria to Coronado Lane. **The plan states: “In order to accomplish this, the City should pursue the acquisition of the vacant lot located at 614 Avenida Victoria...”**~~However, the plan also states that implementation of the stated goal is subject to the ability of the City to finance the project.~~ The property was not acquired by the City, and was instead purchased by the applicants, who now have a legal right to make economic use of the property. The subject property has a land use designation of Mixed Use in the certified Land Use Plan. The proposed development would be compatible with that land use designation.



Agenda #W11A

Application 5-10-163

Phillips family

OPPOSED

August 5, 2011

Chair Mary K. Shallenberger

C/o Ms Teresa Henry, District Manager

California Coastal Commission

200 Oceangate, 10th Floor

Long Beach, CA 90802-4416

RE: August 10-12 Agenda – Application 5-10-163 – Harris + Pitt – San Clemente

Dear Chair Shallenberger & Ms. Henry:

This firm represents the owners, Mr. & Mrs. Phillips, of the property adjacent (630 Avenida Victoria) to the above listed application. The Phillips property contains rental apartments and visitor serving commercial uses, most notably the Beach Garden Restaurant and Cassanos Pizza restaurants.

We are **opposed** to the approval of this residential project for a number of reasons.

1. **The public shall have priority for visitor-serving and recreational opportunities on open land over private residential uses (Coastal Act Section 30222).** This site is designated in the Specific Plan for a park/access way and has not been purchased by the City/RDA as they have misdirected available funds to government administration and employee salaries. The public should have the right for continued use of the property as open space and also access over the possibilities of construction of private residences. Viable economic use of the property could easily be much needed visitor serving commercial-retail uses for beach visitors and include a pedestrian pathway. The present property owners were well aware of the planning and zoning designation as a park/access way before they purchased the property.

31103 RANCHO VIEJO RD., SUITE D-2660, SAN JUAN CAPISTRANO, CALIFORNIA 92675

OFFICE 949 240-1322 CELL 949 300-8619

phillip@prsgroup.biz

2. Approval of this residential project will dramatically **curtail** the ability of other properties on Coronado Lane or Avenida Victoria from adding **visitor serving facilities**. Development of this property, designated in the adopted Specific Plan as a park and walkway between Coronado Lane and Avenida Victoria, will produce pedestrian "plug" between the streets and eliminate easy access for visitors and eliminate the beach "park & stairway" as shown in the Pier Bowl Specific Plan and a pathway which has been available for many decades.
3. **Beachgoer parking will continue to be reduced.** In the past the Coastal Commission has applied conditions to other Pier Bowl development projects by requiring parking at The San Clement Cove Timeshare located at 104 South Alameda Lane. Once the projects were complete, such as the Coastal Commission approved Tropicana Resort Hotel, the required lease for parking at The San Clemente Cove was terminated by the project applicant and the new hotel guests reverted to available beach parking. The **Coastal Commission** and the City failed miserably to enforce the **off-site parking requirements which continue, to this day, to remain unenforced. Projects have been built with no parking.**
4. The proposed project will be a step towards "**Mc Mansionization**" of the area. This is a **3,200** square foot lot being developed with a **4,769** square foot structure containing 2 units for the owners and a small retail area facing the beach. The proposed project has "Zero" setback on the northerly property line.
5. **The Coastal Commission and the city of San Clemente have continually failed to come to agreement on the use and validity of the adopted Pier Bowl Specific Plan** and therefore continue to force area property owners to develop properties not to their highest and best use but to some use that neither best serves the beachgoers or the permanent residents in a satisfactory manner.
6. **The proposed project property has served for decades as a pedestrian pathway to the beach**, and directly to the sole railroad crossing, for those residents or beachgoers required to park many blocks away, to the east and to the south, due to the extremely limited beach proximity public parking. Access is the main reason the subject land was proposed and designated for continued use as a pedestrian stairway and open space park in the Pier Bowl Specific Plan for the last 18+ years. The property has a very long history as pedestrian access way.

We respectfully request the Commission **deny application # 5-10-163** and provide opportunity for the City or RDA to acquire the property for open space and pedestrian access or provide for commercial development while retaining the pedestrian access way.

Sincerely, for the Phillips family

The PRS Group



Phillip R. Schwartz

President

AGENDA ITEM W11a
APPLICATION NO. 5-10-163
Frank W. Battaile and Dan Bogoshian
OPPOSED

LAW OFFICE OF FRANK W. BATAILE

110 Newport Center Drive, Suite 200
Newport Beach, California 92660

(949)719-1120
F.Battaile@BattaileLaw.com

RECEIVED
South Coast Region

August 3, 2011

AUG 4 2011

CALIFORNIA
COASTAL COMMISSION

Members of the California Coastal Commission
c/o John Del Arroz, Coastal Program Analyst
South Coast Area Office
200 Oceangate, Ste. 1000
Long Beach, CA 90802-4302

Re.: Application Number: 5-10-163
Applicant: Jeanne Harris and Cheryl Pitt
Location: 614 Avenida Victoria, San Clemente, Orange County

Members of the Coastal Commission:

I am writing on behalf of Mr. Dan Bogoshian who is a resident of San Clemente. Mr. Bogoshian is an enthusiastic supporter of development in San Clemente's Pier Bowl, and is especially supportive of development that will be user friendly for visitors to the coastal zone. Nevertheless, Mr. Bogoshian must oppose this particular project because it will interfere with wider development of the remainder of Pier Bowl. In particular, the subject property is designated in San Clemente's Pier Bowl Specific Plan ("Specific Plan," excerpts attached) as "Park, Beach or Public Open Space," and is also a designated pedestrian pathway that will link the ocean front along Avenida Victoria with prospective mixed use development along Coronado Lane and the remainder of Pier Bowl. (Specific Plan, pp. 6-10, 10-5.) This Project will generate visitor friendly facilities for this particular property, but at the cost of preventing similar visitor friendly development in the remainder of Pier Bowl. When viewed from an area-wide perspective as it should be, the Project is not consistent with the goals of either the Coastal Act or the Specific Plan. It should not be approved. Instead, development of properties in Pier Bowl should be conducted on a coordinated area-wide basis that realizes the goals of the Redevelopment Act, the Specific Plan and the Coastal Act.

There are a number of important points that are missing from the Staff Report or are not stated correctly.

1. The Entire Pier Bowl Is Blighted.

The City of San Clemente established the Pier Bowl Redevelopment Area in 1975, having found that Pier Bowl is characterized by crumbling infrastructure, inadequate public services, and economic stagnation. Those conditions remain to this day in one of the most naturally beautiful locations in the world.

The Specific Plan was adopted in 1993 for the ostensible purpose of implementing a plan of redevelopment to eliminate the blight and promote visitor friendly mixed use - throughout Pier Bowl. The RDA and the City have ever since declined to implement the Specific Plan, preferring instead to maintain the area in a perpetual state of blight to justify the perpetual diversion of tax revenues. That perpetual blight discourages the use by the public of coastal resources, and discourages private investment in the development of Pier Bowl with mixed uses that would provide opportunities for coastal visitors.

The Specific Plan emphasizes the importance of pedestrian-friendly links between Coronado Lane and Avenida Victoria to promote mixed use development of Coronado Lane. "A pedestrian circulation plan shall be included in the Specific Plan requiring interconnection of each of the nine sub-areas. The pedestrian circulation routes that should receive special attention include: . . . c. Coronado Lane to Avenida Victoria." (Specific Plan, section 304.B.2, p. 3-7.) A key part of the pedestrian-friendly links between Coronado Lane and Avenida Victoria - as set forth expressly in the Specific Plan - is the use of the Subject Property as an open space pedestrian "paseo." (Specific Plan, p. 10-5.)

This Project will promote visitor friendly use of this particular lot, but only at the expense of interfering with the visitor friendly development of Pier Bowl generally. The proposed Project would make realization of the Specific Plan impossible. It would, therefore, frustrate the goals and purposes of the Coastal Act on an area-wide basis

2. The Specific Plan Promotes the Goals of the Coastal Act

The Specific Plan, if implemented, would vigorously promote the goals of the Coastal Act to promote public access to the coastal zone, to promote low cost visitor and recreational facilities such

as cafes, restaurants, and beach oriented shops, and would provide necessary public parking. (Coastal Act sections 30210-30222.) The ultimate effect of this Project will be to take the remainder of Pier Bowl out of any possible plan of redevelopment of the Pier Bowl Core Area and to limit realization of Coastal Act goals to this property only.

The Specific Plan provides for coordinated development of the entire Pier Bowl in a way that ensures economic viability. Toward that end the Specific Plan requires that “The City shall consider economic strategies that will encourage uses with the highest probability of success and generate increase revenue for the City. The City shall pursue an aggressive program to recruit quality development, and consider incentives to attract these uses.” (Specific Plan, section 308, p. 3-15.)

This Project is tantamount to rewriting the Specific Plan to shift the entire focus of community development to Avenida Victoria and to simply abandon Coronado Lane to perpetual blight. The Specific Plan mandates otherwise. “The street [Coronado] has a pedestrian character and presents an excellent opportunity to increase commercial activity over time.” (Specific Plan, section 203.A. p. 2-4.) Promoting mixed use development on Coronado would promote the goals of the Coastal Act. Preventing development of Coronado by approving this Project would limit realization of the Coastal Act’s goals to a single property.

Other specific polices in the Specific Plan include the following: “The City should consider incentives for the conversion of residential buildings in mixed-use areas to commercial uses on the ground floor.” “The City shall facilitate a cooperative spirit with the development community to encourage economic development in the Pier Bowl.” “The City should encourage uses and activities, on both public and private land, that encourage pedestrian activity to help stimulate revenue-generating uses in the Pier Bowl.” “The City shall fund the full costs of public infrastructure and public services required to support development in the Pier Bowl Redevelopment Area.” And, “The City shall require dedication of land for, and construction of . . . pedestrian . . . improvements consistent withy City-wide policies.” (Specific Plan, section 308, p. 3-16.)

Those policies should not be applied with a narrow view limited to project-by-project analysis. The policies and the goals they serve relate to the entire Pier Bowl. Those goals may appear to be met by this Project, but only concerning this particular parcel of property, and only at the cost of preventing realization of the same goals concerning other properties. Again, by stepping back and looking at the long-term big picture, it is clear that this Project violates the Specific Plan policies and, by extension, the goals and policies of the Coastal Act.

3. The Open Space Designation

There is nothing in the designation of 614 Avenida Victoria as “Park, Beach or Public Open Space” that would suggest that it is merely advisory, or some kind of concept that may or may not ever come to fruition. While the City may have decided not to acquire it, that does not change it’s designation in the Specific Plan as open space. To the extent it is zoned otherwise, that zoning is

inconsistent with the Specific Plan and it is the Specific Plan that takes precedence. There are 2 key maps in the Specific Plan. One shows the Project site as "Park, Beach or Public Open Space." (Specific Plan, p. 10-5.) Another shows the site as the location for part of a "Pedestrian Circulation Route." (Specific Plan, p. 6-10.) That pedestrian access is crucial to realizing the full long-term potential of the Pier Bowl Core Area including Coronado Lane.

The Staff Report says that "the plan also states that implementation of the stated goal is subject to the ability of the City to finance the project." Neither I nor Mr. Bogoshian can find any such language in the Specific Plan. Some City staff members dismiss this concern by saying that the open space designation is contingent on the City acquiring the property. If your staff received that information from City staff, they were misinformed. City staff has never been able to point to any such condition in the Specific Plan or any other document. The Project site is designated "Park, Beach or Public Open Space" without qualification.

4. The Specific Plan Emphasizes Pedestrian Circulation Throughout Pier Bowl

The Pier Bowl Core Standards make clear the emphasis on pedestrian circulation. "Purpose - The Pier Bowl Core Development and Design Standards are established to accommodate a mixed-use district emphasizing pedestrian- and beach-oriented activity. This district promotes commercial uses at the street level; and office, lodging and multi-family residential uses on the upper stories of a project." (Specific Plan, section 402.A.1, p. 4-4.) The number one "Principal Use Permitted" in the Pier Bowl Core is: "1. Pedestrian-oriented specialty retail uses designed to serve the shopping needs of tourists and beach users . . ." (Specific Plan, section 402.B.1, p. 4-4.)

Also, "Pedestrian Circulation. Since the Pier Bowl is a mixed-use residential, recreational, and commercial area, it has a pedestrian orientation. Even those people who drive to the Pier Bowl generally park in a centralized location and walk a long way to their final destination. For this reason, the pedestrian circulation system is an important part of the Circulation Plan." (Specific Plan, section 604, p. 6-9.)

The Specific Plan provides further emphasis on pedestrian circulation. "Goal. Improve . . . pedestrian circulation in the Pier Bowl." (Specific Plan, section 304.B.1, p. 3-7.) And, "Policies. The pedestrian circulation routes that should receive special attention include: . . . c. Coronado Lane to Avenida Victoria." (Specific Plan, section 304.B.2, p. 3-7.)

5. The "Pier Bowl Feasibility Study and Implementation Strategy

In 1993 the City commissioned a study entitled the "Pier Bowl Feasibility Study and Implementation Strategy." ("Feasibility Study," excerpts attached.) "The purpose of this study is to provide the City with a financing and implementation strategy for the Pier Bowl Specific Plan." (Feasibility Study, p. i.) One of the identified obstacles to implementing the Specific Plan is

the small amount of commercial development. "Lack of Retail/Restaurant Focus in Pier Bowl. Currently, the Pier Bowl is not viewed as a major dining or retail destination. This limits the type of visitor attracted to the Pier Bowl area. While development of several high-quality restaurants in the area could help change that perception, additional commercial uses need to be developed to bring more foot traffic to the Pier Bowl area." (Feasibility Study, p. II-20.)

The City's own Feasibility Study refers to Coronado Lane specifically. "Additional redevelopment is planned within the Pier Bowl core area, specifically along Coronado Lane." (Feasibility Study, p. IV-1.) And, "The Pier Bowl Core. The Pier Bowl Core area consists of developed uses, with the exception of one small parcel on Coronado Lane. Therefore, development within this area will primarily be achieved through the consolidation and redevelopment of parcels. The area has potential for new retail, commercial, and lodging issues." (Feasibility Study, p. IV-5.) And yet, since that time - almost 18 years ago - there has not been even one such project. Not a single substandard building has been demolished and replaced or even renovated. The potential for economic mixed use development, and the attendant promotion of the goals of the Coastal Act, remain unrealized.

CONCLUSION

When viewed from an area-wide perspective as it should be, the Project is not consistent with the goals of either the Coastal Act or the Specific Plan. It should not be approved. Instead, development of properties in Pier Bowl should be conducted on a coordinated area-wide basis that realizes the goals of both the Specific Plan and the Coastal Act.

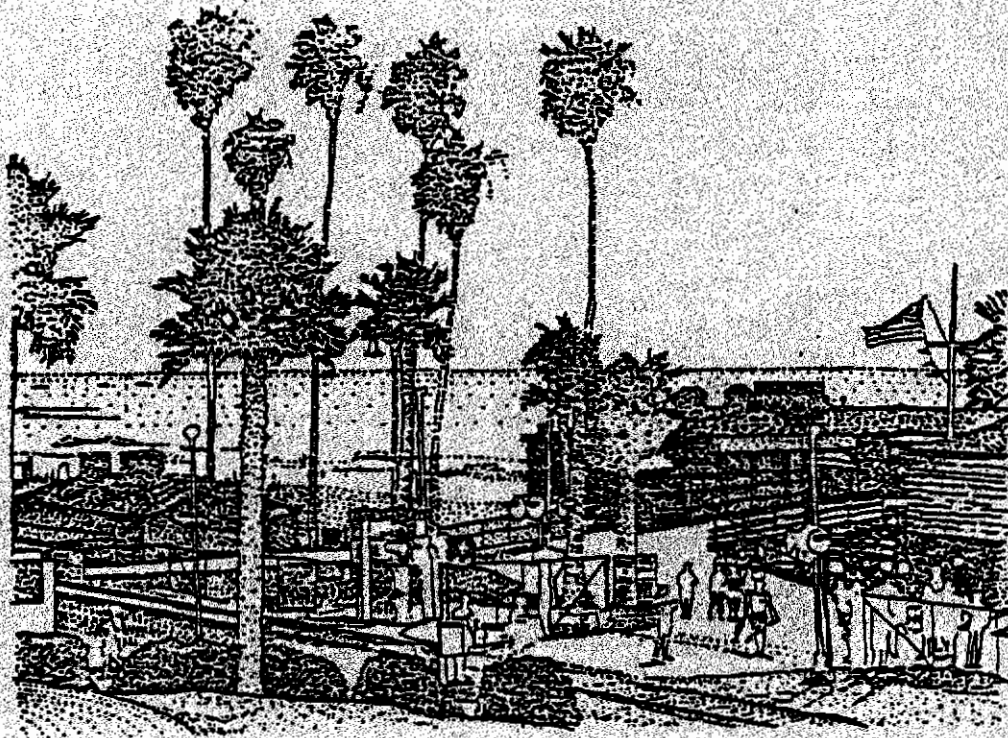
Very truly yours,


Frank W. Battaglia

EXCERPTS FROM PIER BOWL SPECIFIC PLAN

City of SAN CLEMENTE

PIER BOWL



SPECIFIC PLAN

ADOPTED OCTOBER 13, 1993

Coronado Lane is zoned high-density residential. This street is lined with condominiums and apartments. The Thirtieth Street Architects Draft Master Plan and General Plan Advisory Committee (GPAC) both recommend that this street eventually take on the same character as Avenida Victoria. The street has a pedestrian character and presents an excellent opportunity to increase commercial activity over time.

B. CASA ROMANTICA

The Casa Romantica is situated on a bluff-top overlooking San Clemente's Pier and the rest of the Pier Bowl. The Spanish Colonial Revival style residence was built in 1928 and represents an important part of San Clemente's past. The original home of Ole Hanson, the founder of San Clemente, the Casa Romantica is considered an historic and aesthetic treasure of the community. The City purchased the Casa Romantica in 1988 in order to preserve the Casa Romantica as a historic landmark. The Casa Romantica is included in to the National Registry of Historic Places. The Casa Romantica property consists of 2.43 acres and is accessed by Avenida Granada. The property slopes downward, from north to south, with a coastal bluff on the ocean side that drops off to the railroad tracks and beach below. The single-story Spanish Colonial Revival style residence is designed around a central courtyard. The main building occupies approximately 8,000 square feet and has nine (9) bedrooms. Two (2) large contemporary-style condominium complexes border either side of the building.

The Casa Romantica is currently leased to an operator who arranges weddings, receptions, and other special events on the grounds; and it is also the site of the San Clemente Historical Society Museum. An objective of the City is to explore more productive revenue-generating uses and to increase the public's accessibility and use of the Casa.

C. PIER BOWL MUNICIPAL PARKING LOT

The Municipal Parking Lot consists of 165 off-street parking spaces on the north side of Avenida Del Mar below the Casa Romantica site. Bordering the parking lot is a parkway with a meandering red-stamped concrete sidewalk and a landscaped strip that includes palm trees, coral trees, and turf.

The primary function of the parking lot is to provide needed parking for the commercial uses and the beach. The parking lot presently provides a dramatic view corridor of the Pier and the ocean from Avenida Del Mar. As one travels down from the top of Avenida Del Mar, the Pier Bowl and the ocean can be seen as a backdrop to the street and buildings. Around the final bend of Avenida Del Mar, white water views of the ocean can be seen. At this point, the Pier, the surf, and the sand are all in view.

Chapter 3: Goals, Objectives, and Policies

1. Goal

- Improve vehicular and pedestrian circulation in the Pier Bowl.

2. Policies

- The City shall designate Avenida Del Mar as the primary thoroughfare to, and from, the Pier Bowl and take measures to limit traffic on residential streets.
- The City shall direct circulation by providing visual landmarks, landscaping, and signage in the Pier Bowl area.
- The City shall designate the intersection of Avenida Del Mar and Calle Seville as the Pier Bowl entrance and specify appropriate street and parkway enhancements at that location.
- When considering new development, the City shall ensure that traffic generation is compatible with infrastructure capacity.

- A pedestrian circulation plan shall be included in the Specific Plan requiring interconnection of each of the nine sub-areas. The pedestrian circulation routes that should receive special attention include:

- a. The Casa Romantica to the Municipal Parking Lot;
- b. North Beach to the Pier;
- c. Coronado Lane to Avenida Victoria;
- d. T-Street to the Pier;
- e. The Pier Bowl to the Del Mar Commercial District.

- The City shall encourage the increased use of the Linda Lane Parking Lot through directional signage.
- The City shall discourage new development from adding curb cuts on Avenida Del Mar and Avenida Victoria.
- The City shall consider the feasibility of providing a link from the coastal bike trail to the pier.

308. ECONOMIC DEVELOPMENT

Economic development is an important factor in the future success of the Pier Bowl. Public improvements (such as streetscape plans, beach facilities, a parking structure, new pedestrian-oriented parks, pathways, and public spaces) cannot be constructed or maintained without the economic means to offset their cost. Plans for the Pier Bowl should include measures intended to stimulate economic vitality while achieving high-quality development.

Economic development and design considerations can form a synergistic relationship. New development should preserve and enhance the village character and the unique environment of the Pier Bowl. Through the preservation and enhancement of the area's unique character, the economic vitality of the area will also benefit.

A. GOALS

- Enhance the Pier Bowl's financial viability through the development of both commercial and non-commercial uses, while seeking the right balance between economic development and maintaining the area's pedestrian orientation, scale, and unique village character.
- Fund the cost of mitigating adverse impacts on the City's existing infrastructure.
- Provide for a fair allocation of costs for improvements among land uses and reimburse those who are required to provide up-front financing of improvements.

B. POLICIES

- The City shall consider economic strategies that will encourage uses with the highest probability of success and generate increased revenue for the City. The City shall pursue an aggressive program to recruit quality development, and consider incentives to attract these uses.
- The City shall develop a financing plan which determines, to the extent feasible, the scope of public facilities and infrastructure to be funded, the responsibilities of the public- and private-sector participants, and the methods of financing the improvements.
- The City should seek a public/private venture to develop City property in a manner that will provide the City a return on its investment without compromising quality-of-life.

Chapter 3: Goals, Objectives, and Policies

- The City should consider incentives for the conversion of residential buildings in mixed-use areas to commercial uses on the ground floor.
- The City shall facilitate a cooperative spirit with the development community to encourage economic development in the Pier Bowl.
- The City should encourage uses and activities, on both public and private land, that encourage pedestrian activity to help stimulate revenue-generating uses in the Pier Bowl.
- The City shall fund the full costs of public infrastructure and public services required to support development in the Pier Bowl Redevelopment Area from revenues generated by development within the Pier Bowl, except where specific existing City, County, State, or other sources are available.
- The City shall allocate the backbone infrastructure and public facilities costs to property and development within the Pier Bowl Redevelopment Area based on the general principles of benefit received, with consideration to the financial feasibility of the proposed land use.
- The City shall use pay-as-you-go financing to the extent possible. Use of debt financing shall only be used when essential to provide facilities necessary to permit development or to maintain service standards.
- The City shall require developers who proceed ahead of the infrastructure sequencing plan to pay the costs of extending the backbone infrastructure to their project, subject to future reimbursement.
- The City shall require dedication of land for, and construction of, road improvements, pedestrian and other improvements consistent with City-wide policies.

402 PIER BOWL CORE STANDARDS

A. PURPOSE AND APPLICABILITY

1. Purpose - The Pier Bowl Core Development and Design Standards are established to accommodate a mixed-use district emphasizing pedestrian- and beach-oriented activity. This district promotes commercial uses at the street level; and office, lodging and multi-family residential uses on the upper stories of a project.
2. Applicability - This section applies to the Pier Bowl Core Sub-Area (Figure 6).

B. PRINCIPAL USES PERMITTED - Also refer to Section D, Land-Use Requirements for Mixed Use, to determine the floor level at/on which each use is permitted.

1. Pedestrian-oriented specialty retail uses designed to serve the shopping needs of tourists and beach-users, including apparel, art galleries, beach sundries, book stores, flowers, gifts, jewelry, newsstands, novelties, recreational, surf and sport, travel agencies, and tourist- or recreation-oriented businesses and shops, or similar uses.
2. Small-scale specialty food establishments, such as sandwich shops, candy stores, ice cream shops, frozen yogurt shops, bakeries, coffee houses, and similar businesses. For the purpose of this section, "small scale" shall be defined as an establishment with under 1,000 square feet of gross floor area. Establishments with 1,000 or more square feet of gross floor area shall be considered a "restaurant" and shall be permitted only under Paragraph C of this section upon approval of a Conditional Use Permit.
3. General and professional offices (excluding medical and dental offices), such as architecture, engineering, financial, consulting, law, real estate, and similar office uses.
4. Parks and open space, public and private.

C. CONDITIONAL USES PERMITTED - Also refer to Section D, Land Use Requirements for Mixed Use, to determine the floor level at/on which each use is permitted.

1. Bed-and-breakfast inns, hotels, motels, and time shares. Bed-and-breakfast inns shall be subject to the standards prescribed in the City Zoning Ordinance.

603. PUBLIC TRANSPORTATION

Public transportation in the Pier Bowl is provided by Orange County Transit Authority (OCTA) bus service. The OCTA Route 394-A provides service to the Pier via Avenida Del Mar and Avenida Victoria. The Pier Bowl is also serviced by Amtrack passenger rail service, which make two (2) morning southbound stops and one (1) afternoon northbound stop.

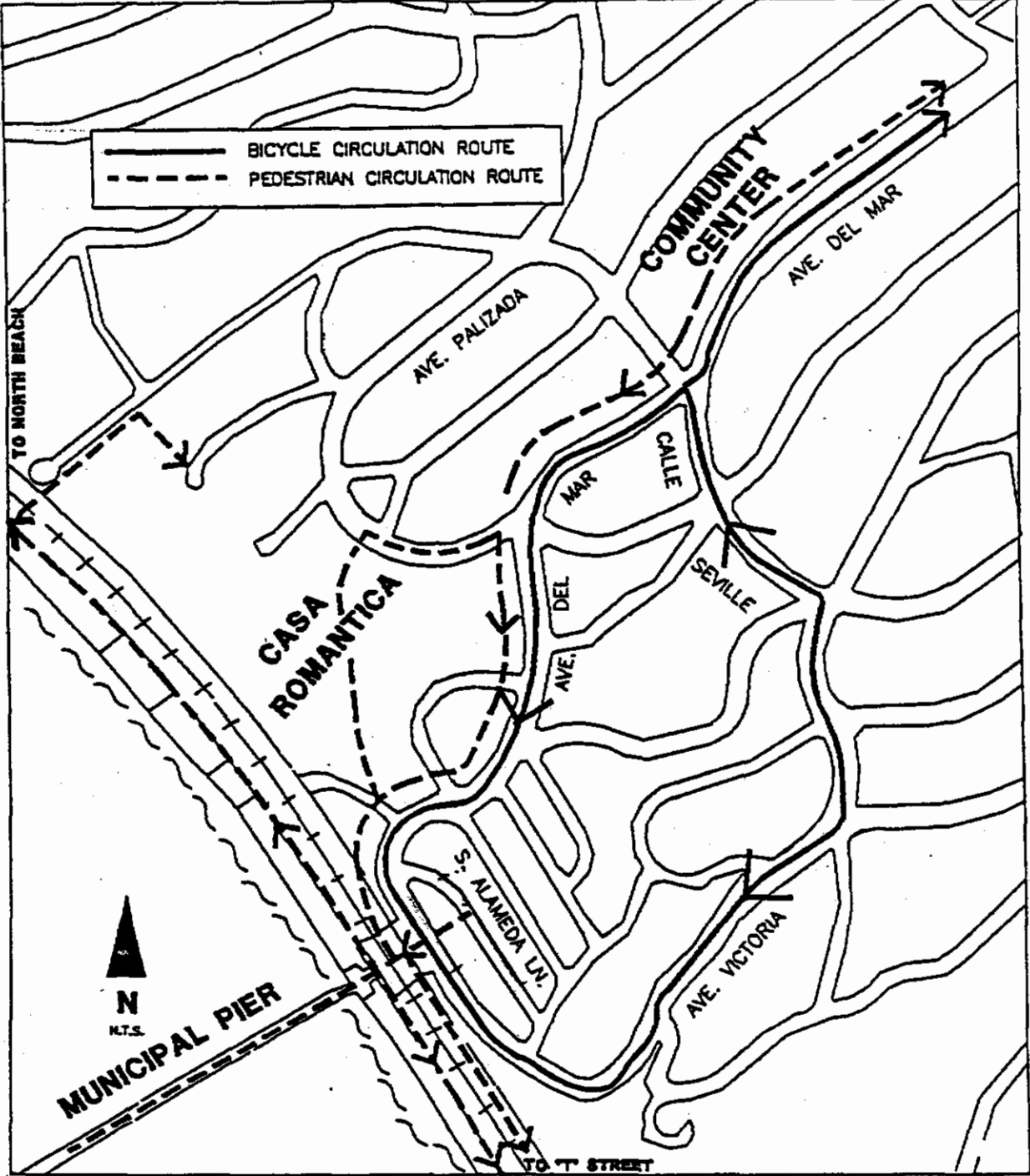
The City will continue to work with OCTA and Amtrack to maintain and improve mass-transit service to the Pier Bowl. The enhancement of public transportation is seen as an opportunity to reduce auto dependency and parking demand in the Pier Bowl.

Potential improvements to the public-transportation system include: enhancing the existing train depot and bus stop, and the development of a local shuttle service. The shuttle service, if implemented, will be operational during the peak summer period and would connect satellite parking facilities, transit centers, activity areas, and possibly neighboring cities.

604. PEDESTRIAN CIRCULATION

Since the Pier Bowl is a mixed-use residential, recreational, and commercial area, it has a pedestrian orientation. Even those people who drive to the Pier Bowl generally park in a centralized location and walk a long way to their final destination. For this reason, the pedestrian circulation system is an important part of the Circulation Plan.

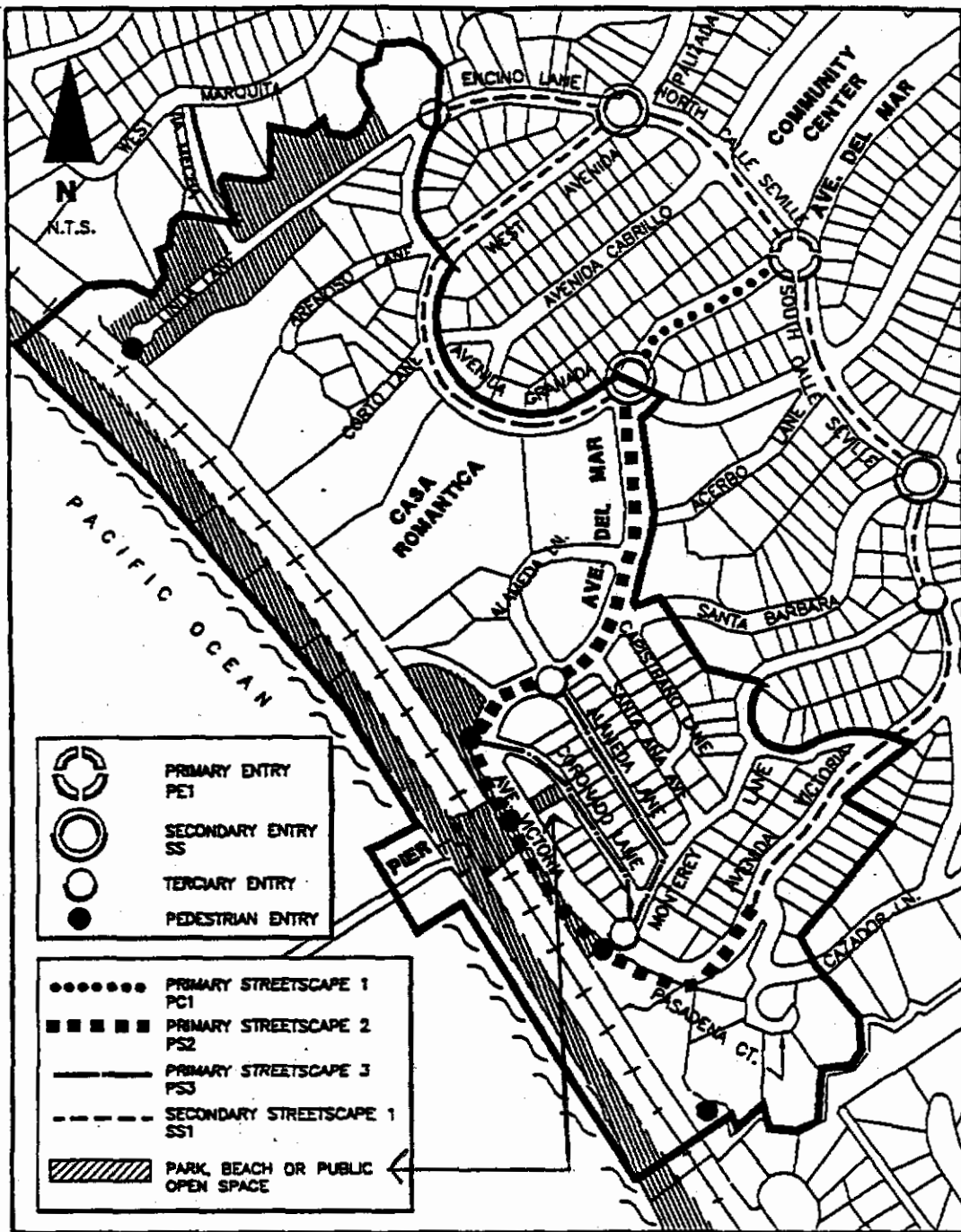
Along primary and secondary vehicular circulation routes, it is important to provide safe pedestrian sidewalks and walkways. For pedestrian safety, sidewalks should be provided on both sides of the street; and crosswalks should be placed across Avenida Del Mar and Avenida Victoria at key locations. All sidewalks in the Pier Bowl core and beach and park sub-areas should have a minimum sidewalk width of ten (10) feet. The pedestrian-circulation system is designed to interconnect parking areas and major points of interest within the Pier Bowl. These walkways are also planned to connect to other pedestrian activity areas within the City including: the Del Mar Business District, North Beach, and T-Street. The sidewalks and walkways will be incorporated into the design of the Pier Bowl's streetscape program. Details on the design standards for sidewalks are discussed in Chapter 10, Landscape and Streetscape Design Standards. (See Figure 16.)



**PIER BOWL
SPECIFIC PLAN**

PEDISTRIAN AND BICYCLE CIRCULATION

FIGURE 16



**PIER BOWL
SPECIFIC PLAN**

PIER BOWL STREETScape PLAN

EXCERPTS FROM FEASIBILITY STUDY



FINAL REPORT

**Pier Bowl Feasibility Study and
Implementation Strategy**

Prepared for:

The City of San Clemente

Prepared by:

Economic & Planning Systems, Inc.

July 1993

EPS #3005

EXECUTIVE SUMMARY

OVERVIEW

1. The purpose of this study is to provide the City with a financing and implementation strategy for the Pier Bowl Specific Plan.
2. The findings in this report are based on a review of the market conditions for specific land uses planned for the Pier Bowl area, an assessment of the financial feasibility of development at key parcels in the Pier Bowl (the Casa Romantica and Beachcomber sites) and an analysis of the public facility needs and financing options. The results of this study are synthesized into an illustrative implementation strategy for the Specific Plan. The specifics of the implementation steps must be refined given the actual timing of development, negotiations with developers, the actual needs for facilities and the availability of public funds.
3. Using the strategy as a guide, the City will be in a position to methodically pursue development on the Casa Romantica site, promote the development and redevelopment of other sites in the Pier Bowl and finance the range of public improvements identified for the Pier Bowl.

MARKET REVIEW

HOTEL

1. The competitive market area for San Clemente includes Laguna Beach, Dana Point and San Clemente.
2. The hotel market within this area is currently over-built relative to the strength of demand. The current average annual occupancy rate is 61 percent in the market area.
3. Projected growth in demand from the leisure, business and tourist markets over the next five years would increase the occupancy rate to 68 percent without the development of any new hotels.
4. San Clemente does not have a local business market base upon which a new hotel can count for room nights. It also lacks the package of commercial and recreational amenities sought by leisure and business visitors.
5. A new hotel in San Clemente will have to compete with more established resort markets in Laguna Beach and Dana Point.
6. Given its competitive position, a new hotel in San Clemente would have to be very price competitive to capture demand.
7. Financing hotel development is extremely difficult today. Banks require 30 to 40 percent equity contribution and demonstration of strong market demand.

SITE CHARACTERISTICS RELEVANT TO RESTAURANT DEVELOPMENT

Development of additional restaurants in the Pier Bowl has not occurred due to several constraints. These include parking, poor access and visibility, lack of a retail/restaurant focus in the area, and the cost of development. Each of these constraints are discussed below.

Parking

As detailed in the Land Use/Development Standards chapter of the Specific Plan, restaurants must provide one parking space per four seats. Stacked parking may be allowed if valet service is provided. According to the preliminary estimates, the size of restaurants anticipated on the three sites in the Pier Bowl would require 107 additional parking spaces. The Casa Romantica and Beachcomber site restaurants could potentially mitigate parking on-site (approximately 80 spaces); however, this leaves a need for an additional 27 new public parking spaces for the remaining two restaurants. These parking needs can be accommodated through the re-stripping of the existing municipal lot. Because the parking is needed when the restaurant opens for business, those restaurants that cannot accommodate their parking requirements will be delayed from development until after additional parking spaces are created.

Access and Visibility

As noted in the retail section, the access and visibility for establishments in the Pier Bowl is limited. Until the area becomes established as a destination, the limited visibility may be a liability for new restaurants.

Lack of Retail/Restaurant Focus in Pier Bowl

As discussed above, one of the issues with operating a restaurant in the Pier Bowl is the primarily beach focus of the tourist and local resident who visit the area. Currently, the Pier Bowl is not viewed as a major dining or retail destination. This limits the type of visitor attracted to the Pier Bowl area. While development of several high-quality restaurants in the area could help change that perception, additional commercial uses need to be developed to bring more foot traffic to the Pier Bowl area.

Cost of Development

The restaurant sites identified in the Specific Plan all have limited development potential without significant improvements in the area's infrastructure or development of the sites. A potential infrastructure need that may affect new development in the area is the addition of a \$440,000 sewer lateral and pumping station to provide needed sewer capacity. Public Works staff indicate that parallel capacity may be needed prior to any additional development within the Bowl.

In addition, each site has unique characteristics that increase the cost of site development. The Casa Romantica is in need of extensive renovation. Furthermore, on-site, subterranean parking will be required to mitigate parking needs of any hotel/time share and restaurant on the Casa Romantica/Alameda Lane site. The Beachcomber/Robison site will require

IV. PUBLIC FACILITY FINANCING

The Pier Bowl Specific Plan identifies over \$13 million in public facility improvements needed to both implement the plan elements, provide an adequate level of service for existing residents and businesses, and to serve new development planned for the area (excluding the subterranean parking structure.) Funding for these improvements will need to come from a variety of sources. In addition, the improvements will need to be made over time. In some instances, the City will have to prioritize or modify improvements in the Specific Plan document due to the lack of adequate funding.

The purpose of this chapter is to identify sources of funding for the planned improvements and recommend actions that will lead to their funding. In addition, this chapter will identify how much of the improvement funding should, and can, come from new development. The "burden" on new development is a critical component of attracting new business to the area. It is critical to provide adequate public improvements that allow businesses to operate while also not over-burdening land developers to a point where it becomes uneconomical to develop their land.

The need for many public facilities is dependent on the level of development that occurs within the Pier Bowl. This is especially true for parking improvements. The remainder of this chapter will describe the level of development expected in the Pier Bowl, the facilities needed to serve that new development along with existing facility needs of the area, sources of facility funding, and application of those funds to the various proposed improvements. The chapter concludes with an illustrative implementation strategy and a description of the key steps needed to realize the public and private development described in the Specific Plan.

LAND USE

Development within the Pier Bowl is limited by the available land within the Pier Bowl, the ability to redevelop property to different uses, and the physical characteristics of the available sites – primarily the steep topography of the ocean bluffs. Most of the 54 acres of land included in the Specific Plan area are already developed.

The two primary development sites in the Pier Bowl are the Casa Romantica/Alameda Lane site, owned by the City of San Clemente, and the Beachcomber/Robison sites. Additional redevelopment is planned within the Pier Bowl core area, specifically along Coronado Lane. The intensity of development that will occur is dependent on the relationship between the market support for specific uses, the relevant Specific Plan guidelines and the City Council's and Coastal Commission's approval.



PIER BOWL CORE

The Pier Bowl Core area consists of developed uses, with the exception of one small parcel on Coronado Lane. Therefore, development within this area will primarily be achieved through the consolidation and redevelopment of parcels. The area has the potential for new retail, commercial, and lodging uses. The success of such redevelopment will depend on the provision of additional parking and the ability to attract people into the area to shop.

Based on existing and proposed plans for the Core area, it is assumed that over 31,000 square feet of development could occur in this area during the next twenty years. Retail and restaurant uses are assumed for ground floors, with lodging assumed for the upper floors. Lodging could take the form of time share, a bed and breakfast Inn, or condominiums. Given the market conditions, we have assumed that only 35,000 square feet of new development is likely to occur in this area during the time that facilities are being funded. Development proposals along Coronado Lane could increase the lodging potential to upwards of 30,000 square feet. All parking for the new lodging in this area is assumed to be mitigated on-site.

PIER

The pier currently houses the Fisherman's Restaurant. This space has recently been approved for expansion. In addition, long-term plans for an additional restaurant at the end of the pier are included within the Specific Plan. However, because of the significant infrastructure costs required (sewer and water extensions, pier reinforcement and parking), the new restaurant has not been assumed to be developed for the financing plan. This assumption is also influenced by the fact that the long walk to the end of the pier may discourage patronage of a new restaurant.

RESIDENTIAL AREAS

The Pier Bowl includes existing single family, condominium, and multi-family uses. Potentially some of these uses may be consolidated into higher-density developments, bed and breakfast Inns, or other types of residentially-oriented uses. Actual development cannot accurately be projected at this time because no specific proposals are before the City nor are there vacant parcels to be developed. Furthermore, existing land uses are likely to use existing sewer and water connections and existing parking privileges to mitigate the cost of new development. No additional land use development has been assumed for this financing plan from the residential areas.

PROPOSED PUBLIC FACILITIES

The Specific Plan calls for numerous public facility improvements to both serve the residents of the area, as well as enhance the Pier Bowl area for tourism. Many of the facilities detailed in the Specific Plan are required to maintain or improve existing public

AGENDA W11a

5-10-163

Dan Bogoshian

In opposition

August 4, 2011

Mary K. Shallenberger, Chairwoman

Coastal Commission

200 Oceangate, floor 10

Long Beach, CA 90802

Subject: Application #5-10-163- Harris & Pitt

Chairwoman and Commissioners:

My family has owned our home in the San Clemente Pier Bowl area for 25 years and have seen many projects proposed and but only a few developed. We are opposed to the Harris/Pitt residential project. We feel that the property should continue as a direct pathway to the beach and the new location for additional commercial retail development or hotel that would serve tourists and the local neighborhood.

Some years ago, you approved The Cove timeshare development with additional parking. If the Harris/Pitt property was a new hotel or had commercial activities instead of two homes, there is more than ample parking, available for sale in The Cove to handle the new patrons.

The City of San Clemente Beach Parking fund has about 8-9 million dollars available to provide more beach parking. Businesses on the Pier, such as The Fisherman Restaurant, park all of their patrons and employees in the beach parking lots and have not added to the available beach parking supply. During most months all available parking is used so many potential beachgoers come to our area and then leave because no public parking is available. The City and the Coastal Commission should utilize the Beach Parking Fund to provide more public parking while the Harris/Pitt developers should buy the already available private parking from The Cove.

Thirty five years ago, the City of San Clemente declared our Pier Bowl area "blighted" and formed a Redevelopment Agency. Very little money has been spent in the Pier Bowl area to improve our infrastructure so

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COASTAL COMMISSION


my family and I paid for a planning consultant to come up with plans that would implement the General Plan, the Specific Plan and the Coastal Commission criteria. Enclosed is a copy of the implementation plan, prepared by we residents, that was given to the City a eighteen (18) months ago. To date, almost two decades after the RDA was formed and the Specific Plan adopted, little has been to add sidewalks, streetlights or improve the parking and circulation. Our area seems more blighted than before.

The City of San Clemente General Plan, the Pier Bowl Specific Plan and the Coastal Commission guidelines address the need for beach and visitor serving parking. No money has been spent to develop a Parking Management Plan for the Pier Bowl area. No one has added the "blighted" Pier Bowl area to a program to be addressed by a Traffic Task Force. No one has looked carefully into a plan to utilize the adaptive re-use of many of the existing buildings so that additional onsite parking was available.

Our strong concern is that approval of this mixed use residential project will set precedence for future development that will not enhance our area but, in fact, add to the existing blighted situation and under parked beach facility.

Please deny this project and have the City develop a better plan that will service all of the community not just the landowner.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Bogoshian". The signature is fluid and cursive, with the first name being more prominent.

Daniel Bogoshian

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**W11a**

Filed: March 9, 2011
49th Day: April 27, 2011
180th Day: September 5, 2011
Staff: John Del Arroz - LB
Staff Report: July 21, 2011
Hearing Date: August 10-12, 2011
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER:** 5-10-163**APPLICANT:** Jeanne Harris + Cheryl Pitt**AGENT:** Michael Luna + Associates**PROJECT LOCATION:** 614 Avenida Victoria, San Clemente, Orange County.**PROJECT DESCRIPTION:** New 4,769 square foot mixed use development consisting of two residential units and one ground floor commercial space, and 477 cubic yards of grading, on a vacant lot**LOCAL APPROVAL:** Approval in Concept dated 5/11/2010 from City of San Clemente**SUMMARY OF STAFF RECOMMENDATION**

The proposed project is located in the Pier Bowl, the primary visitor serving area of San Clemente, on a vacant lot. The subject site is directly inland of the main entryway to the San Clemente Pier. The site is surrounded by existing residential and commercial visitor serving developments. Like this proposal, the first row of lots inland of the pier have ground floor commercial uses, and upper floor uses ranging from residential to overnight accommodations. Lots in the area are often constrained due to small lot size and limited street access, which impacts the capacity to supply on-site parking to support all proposed uses. Due to these concerns, the applicants are proposing to purchase from the nearby San Clemente Cove timeshare development 4 of the 15 existing excess parking spots, for the proposed commercial use on the subject site. The subject site is listed as Mixed Use in the City's certified Land Use Plan. However, an uncertified planning document created by the City, the Pier Bowl Specific Plan, states that the City should inquire whether it could purchase the property for use as a stairway to connect Avenida Victoria (the first road inland of the beach) and Coronado Lane (the second road inland of the beach).

The primary issue areas identified with the proposed development include 1) visual impacts (e.g. height), 2) feasibility of the proposed off-site parking, and 3) conflicting land uses between the uncertified Pier Bowl Specific Plan and the certified Land Use Plan. Staff has reviewed the proposed development and found that 1) the project does not result in impacts to public views; 2) the proposed off-site parking, as conditioned, would not result in impacts to the public parking supply; and 3) the proposed project is consistent with the certified Land Use Plan. Therefore, Staff is recommending that the Commission **APPROVE** a coastal development for the proposed development with **Five (5) Special Conditions** regarding: **1) future development on the site;**

2) submittal of a parking and signage plan; 3) drought tolerant landscaping; 4) construction debris and water quality; 5) liability for costs and attorney fees; and 6) a generic deed restriction, referencing all of the above conditions. As conditioned, the proposed development does not adversely affect visual resources, public access and recreation, or the adjacent beach. **See Page Two for the motion to carry out the staff recommendation.** Staff recommends that the Commission find that the proposed development, as conditioned, conforms with the Chapter 3 policies of the Coastal Act and previous Commission approvals, and will not prejudice the City's ability to prepare an LCP.

SUBSTANTIVE FILE DOCUMENTS:

1. City of San Clemente Approval in Concept
2. City of San Clemente certified Land Use Plan
3. City of San Clemente Mitigated Negative Declaration issued April 22, 2010
4. Offsite Parking Easement Agreement dated July 3, 2008
5. Coastal Development Permit 5-83-455

LIST OF EXHIBITS:

1. Vicinity Map
2. Site Plan
3. Elevations
4. Off-site parking space Plan

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the coastal development permit with special conditions:

MOTION: *“I move that the Commission approve Coastal Development Permit No. 5-10-163 pursuant to the staff recommendation.”*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-10-163. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-10-163. Accordingly, any future improvements to the visitor serving commercial/residential building authorized by this permit, including but not limited to a change in intensity of use, a change in use of the commercial visitor serving use, and repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 5-10-163 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

2. Parking Plan

A. By acceptance of this permit, the applicants agree on behalf of themselves and all successors and assigns that they shall provide dedicated off-site parking to support the proposed commercial use for the structural life of the proposed development. As proposed, this parking plan shall be consistent with the Off-Site Parking Easement Agreement, Offer to Purchase, and Settlement Agreement [Agreement] agreed to by the applicants and Grand Pacific Development, the owner of the development at 104 South Alameda Lane. The Agreement provides that the owner at 104 South Alameda Lane will

dedicate four parking spaces for customers who will be using the commercial development at 614 Avenida Victoria only (Exhibit 4). These parking spaces shall be made available to the public free of charge during the business hours of the commercial space at 614 Avenida Victoria. No changes to the availability, hours or cost of the off-site parking shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required. If, for any reason, the four parking spaces at 104 South Alameda Lane become unavailable for use by the customers of 614 Avenida Victoria, and/or fees or other restrictions are imposed which effectively render those spaces unusable by customers, the landowner of the commercial space at 614 Avenida Victoria shall obtain replacement parking and seek authorization for the change through the coastal development permit process.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and approval of the Executive Director, two (2) full sized copies of a Signage Plan for both 104 South Alameda Lane and 614 Avenida Victoria. The plan shall include at a minimum, the following components:

1. A sample of each sign and a site plan depicting the location of each sign. At a minimum, plans shall indicate the size, wording and placement of signs. Signage plans shall depict the size of the sign face, size of the letters on the sign, overall height of the sign, and the method of posting (i.e. attached to free standing post, attached to wall, etc.). All signs and the lettering thereon shall be of sufficient size, to render them easily legible to drivers and occupants of vehicles. All signs shall be maintained consistent with the approved sign plan, including but not limited to maintaining the legibility of the lettering and keeping signs free of vegetation or other conditions that would affect the legibility of the signs;
2. Signage shall be posted at a clearly visible location at 104 South Alameda Lane which identifies and reserves four parking spaces for exclusive use of customers of the commercial use at 614 Ave. Victoria.
3. Signage shall be posted within the proposed retail / take out restaurant commercial space, in location(s) visible to patrons visiting the commercial use, stating the location of the off-site parking.
4. Signage shall be posted which is clearly visible to motorists on Coronado Lane identifying the location of the parking for 614 Avenida Victoria at 104 South Alameda Lane.

C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) of 614 Avenida Victoria and of 104 South Alameda Lane have recorded against those parcel(s), in a form and content acceptable to the Executive Director, the easement agreement that provides a minimum of four (4) parking spaces for the use of patrons of 614 Avenida Victoria on the property located at 104 South Alameda Lane. The easement agreement shall include a legal description and graphic depiction prepared by a licensed surveyor of the entire parcel or parcels governed by the agreement/easement. The recorded easement agreement shall not be modified and/or removed without an amendment to this Coastal Development Permit.

D. The permittees shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Landscaping - Drought Tolerant, Non Invasive Plants

A. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).

B. The applicants shall conform to the revised landscaping plan submitted March 9, 2011 showing usage of native and/or non-invasive drought tolerant plant species. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Construction Responsibilities and Debris Removal

By acceptance of this permit, the permittees agree that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:

A. No demolition debris, construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wind or rain erosion or dispersion.

B. The permittees shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

C. All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.

D. Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters or onto the beach, and more than fifty feet away from a storm drain, open ditch or surface waters.

E. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall

include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the sea.

- F. All construction equipment and materials shall be stored and managed in a manner to minimize the potential for discharge of pollutants. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.
- G. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any street or drainage unless specifically authorized by the California Regional Water Quality Control Board.
- H. In the event that hydrocarbon-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

The permittees shall undertake the approved development in accordance with this condition.

5. LIABILITY FOR COSTS AND ATTORNEYS FEES

The Permittees shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

6.. Generic Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project is located at 614 Avenida Victoria, in the Pier Bowl area of San Clemente, Orange County. The subject site is a 3,200 sq. ft. vacant lot located directly opposite from the municipal pier and approximately 200 feet from the beach. The owners of the property are listed as Escrow Support Systems, Inc. and Marsha Hamilton. The trustees of Escrow Support Systems, Inc. are the applicants, Jeanne Harris and Cheryl Pitt. A letter was sent to Marsha Hamilton inviting her to be a co-applicant, but no response was received. The Pier Bowl area is the primary visitor-serving beach destination point in San Clemente. The site is designated in the City's certified Land Use Plan as Mixed Use 4.1 with pedestrian and architecture overlays, requiring commercial uses along the street frontage, and a Spanish Colonial Revival architectural style. The primary uses in the Pier Bowl are residential, commercial, and visitor serving.

The proposed project would result in a 4,769 sq. ft., 29' high mixed use development with two residential units, and an 800 sq. ft. retail/take-out restaurant use on the ground floor. Grading includes 477 cubic yards of cut. Four parking spaces are proposed on-site to meet the parking demand for the residential units and will be accessed from Coronado Street, at the rear of the lot. The commercial portion of the site will utilize four off-site parking spaces at the San Clemente Cove timeshare/hotel at 104 South Alameda Lane, 100 feet to the north of the subject site. The applicants have submitted an Off-Site Parking Easement Agreement, Offer to Purchase, and Settlement Agreement with Grand Pacific Development, the owner of the San Clemente Cove timeshare development. These agreements indicate that the Applicants have secured a parking easement for four parking spaces at 104 South Alameda Lane for the structural life of the proposed development, and that the easement will bind all future owners of 104 South Alameda Lane and 614 Avenida Victoria.

B. Public Access

Coastal Act Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30213 states (in relevant part):

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Coastal Act Section 30221 states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Coastal Act Section 30222 states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Coastal Act Section 30240 of the Coastal Act states (in relevant part):

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Coastal Act Section 30252 states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

Coastal Act Section 30210 requires maximum access and recreational opportunities shall be provided. Coastal Act Section 30211 requires the protection of the public's right to access the sea. Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities be protected, encouraged and where feasible, provided. Section 30221 requires land suitable for recreational use to be protected for recreational use and development. Section 30222 prioritizes visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over private residential use. Coastal Act Section 30240 requires preservation of adjacent park and recreation areas. Coastal Act Section 30252 requires new development projects to provide adequate parking facilities.

Parking

The proposed development includes all required parking for the proposed uses. Four parking spaces are proposed on site to serve the two residential units. Access to the residential parking is located at the rear of the lot, at Coronado Lane. The applicants propose to provide the required four parking spaces for the commercial portion of the property at the San Clemente Cove timeshare development (Coastal Development Permit 5-83-455). These parking spaces will be made available to patrons of the commercial use at the subject site free of charge. The San Clemente Cove was permitted by the Commission with a special condition allowing for excess parking on the site to be made available for new development in the Pier Bowl. The City has a record of the amount of parking required by the timeshare development, and assigned to other uses in the area. Out of 64 total parking spaces, 41 are required for the timeshare development, and 8 have been assigned to the Tropicana Bed and Breakfast (Coastal Development Permit 5-87-042), resulting in a total of 15 available parking spaces. The proposed parking would be located approximately 100 feet from the rear of the subject lot. The entrance to the commercial space is located on Avenida Victoria, resulting in a walking distance of

approximately 270 feet to reach the ground floor of the subject site from the off-site parking location. 270 feet is a reasonable distance for patrons to walk, and would be shorter than the walking distance required for patrons traveling between the public parking lot located approximately 300 feet to the northeast and the majority of the businesses in the Pier Bowl area. The applicants propose to install signs alerting the public to the existence of the off-site parking. To ensure that the proposed signage is adequate to direct the public towards the off-site parking, the Commission imposes Special Condition 2, requiring submittal of a parking plan requiring signage directing the public to the four off-site parking spaces, for review and approval by the Executive Director prior to issuance of the Coastal Development Permit. As conditioned, the proposed development will provide adequate parking for the development and will not result in impacts to the public parking supply. Therefore, the proposed project will not result in impacts to public access, and is consistent with Coastal Act Section 30252.

Provision of Public Access and Recreational Opportunities

The proposed development would result in the construction of a mixed-use structure with a commercial visitor serving use on the ground floor and two residential units on the upper floors. The retail/take-out restaurant use is proposed along Avenida Victoria, directly opposite the municipal pier, in a prime visitor serving location. Provision of an existing visitor serving use on the subject site will result in additional visitor serving facilities within the Pier Bowl area, and an improvement in the ability of the public to access the area. To ensure that future development on the site does not result in the elimination of the visitor-serving use, the Commission imposes Special Condition 1, requiring a Coastal Development Permit for future improvements on the site. The proposed development will provide for additional visitor serving amenities for users of the public beach, and is compatible with the adjacent recreation use at the beach across from the subject site. The proposed development would provide for adequate parking. As conditioned, the proposed project is consistent with Coastal Act Sections 30210, 30221, and 30222.

Prescriptive Rights

The subject site is just inland of the first public road paralleling the sea. Aerial views of the site show that there is some evidence of a pioneered trail existing across the subject site from Coronado Lane to Avenida Victoria. To gain access to the beach, a person must also cross over Avenida Victoria and other public lands between the road and the beach. Thus, the subject site doesn't offer direct beach access. Although there is evidence of a pioneered trail, there is not sufficient evidence that development of the subject site would result in impacts to any existing public prescriptive rights (i.e. implied dedication of access) on the site. In order to establish that there has been an implied dedication of land from a private owner to the public, the public must show that the land has been used for at least five years as if it were public land, without asking or receiving permission from the owner, with the actual or presumed knowledge of the owner and without bona fide attempts by the owner to prevent such use. *Gion v. City of Santa Cruz and Dietz v. King*, consolidated cases, (1970).² Cal.3d 29, 38. In this case, no such evidence has been submitted. Moreover, the site is located one lot away from the intersection of Coronado Lane and Avenida Victoria, and 6 lots away from the intersection of Monterey Lane and Avenida Victoria. Usage of the subject site to cross to the beach would only be a shorter route for the residents and guests of a few lots along Coronado Lane, which are primarily developed with residential uses. Usage of any trails which may exist on the subject site would be limited to a

small group of the residents directly adjacent to the subject property. Visitors and other residents of the Pier Bowl area would use the other streets and sidewalks to access the beach. Additionally, there are no letters on file which claim that a history of use by the public exists on the subject site. Further, even if there was substantial evidence on file attempting to support a finding of a prescriptive easement over the subject lot, the California Court of Appeal has expressly found that the "Commission is not vested with the authority to adjudicate the existence of prescriptive rights for public use of privately owned property." (*LT-WR, LLC v. CCC* (2007) 152 Cal.App.4th 770, 806.) Therefore, the proposed project does not raise issues of consistency with Coastal Act Section 30211 regarding protection of the public's right of access to the sea.

Pier Bowl Specific Plan

The Pier Bowl Specific Plan is a specific plan for the area outlining additional land use and zoning policies, which has not been certified by the Commission. This plan states that the subject property, 614 Avenida Victoria, should be used as a park to connect Avenida Victoria to Coronado Lane. However, the plan also states that implementation of the stated goal is subject to the ability of the City to finance the project. The property was not acquired by the City, and was instead purchased by the applicants, who now have a legal right to make economic use of the property. The subject property has a land use designation of Mixed Use in the certified Land Use Plan. The proposed development would be compatible with that land use designation.

Therefore, the Commission finds the development, as proposed and conditioned, to be consistent with Coastal Act Sections 30210, 30211, 30213, 30221, 30222, 30240, and 30252.

C. Visual Resources

Section 30251 of the Coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...

The project site has been staked to illustrate the height of the proposed building. The proposed structure will not obstruct ocean views from Avenida Victoria. The proposed structure will only be visible when looking along the coast or towards the Pier Bowl from the municipal Pier. The proposed structure will be visually compatible with the surrounding neighborhood and is similar in height to other structures along Avenida Victoria. Although the proposed structure is taller than the neighboring structures, it meets the maximum height of 30 feet specified in the Land Use Plan, and would be of similar size to the structures located a few lots to the south. The structure complies with the architectural style required by the City's certified Land Use Plan, and the façade of the structure will be softened by articulation of the upper levels and landscaping located on each level.

The proposed development may result in obstruction of private views from adjacent residences. However, the Commission has consistently held that private views are not protected by the visual protection policies of Chapter 3 of the Coastal Act. Therefore, as conditioned, the Commission

finds the project is consistent with Chapter 3 policies of the Coastal Act with respect to protecting visual resources.

D. Water Quality

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment and the adjacent beach. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes Special Conditions 3 and 4, requiring, but not limited to, usage of drought-tolerant landscaping, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters, and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

E. COSTS AND ATTORNEYS FEES

Title 14, section 13055(g) of the California Code of Regulations authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with the Commission's regulations, the Commission imposes **Special Condition 6** requiring reimbursement of any costs and attorneys fees the Commission incurs "in connection with the defense of any action brought by a party other than the Applicant/Permittee ... challenging the approval or issuance of this permit."

F. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000.

The proposed development, as conditioned, is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

In this case, the City of San Clemente is the lead agency and the Commission is a responsible agency for the purposes of CEQA. A Mitigated Negative Declaration was approved by the City of San Clemente on April 22, 2010. Mitigation measures included a measures to reduce illumination, to require procedures for discovery of archeological or paleontological resources on site, require conformance with geotechnical recommendations, require a geotechnical report to identify expansive soils, and to reduce noise impacts during construction,

The proposed project is located in an urban area. Infrastructure necessary to serve the project exists in the area (i.e. utility lines, roads). The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. As conditioned, the proposed project has been found consistent with the public access, recreation, visual resource, and water quality policies of the Coastal Act. Mitigation measures to minimize adverse effects include: 1) placing restrictions on future development on the site; 2) requiring submittal of a parking and signage plan; 3) requiring the use of drought tolerant landscaping on the site; 4) requiring the usage of Best Management Practices regarding construction debris and water quality; and 5) a generic deed restriction, referencing all of the above conditions, to notify future owners of the development restrictions on the property.

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Google maps

Address 614 Avenida Victoria
San Clemente, CA 92672

Get Google Maps on your phone

Text the word "GMAPS" to 466453



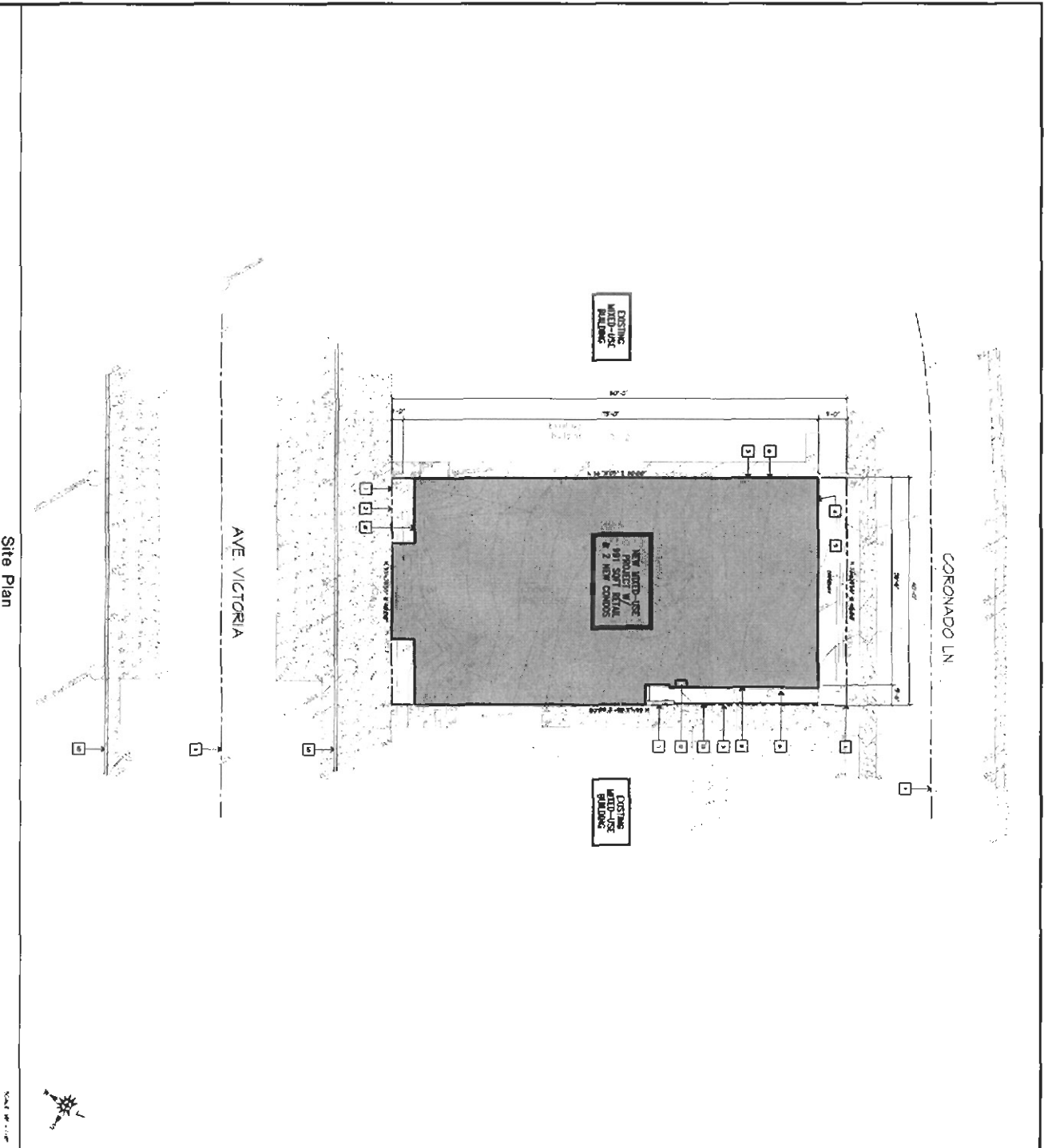
Google

Map data ©2011 Google

COASTAL COMMISSION

EXHIBIT # 1

PAGE OF



COASTAL COMMISSION

EXHIBIT # 2

PAGE OF

Site Plan Keynotes

- 1. All Contours shown include existing contours.
- 2. Water features to be located to suit the site in a visual and usable form as per the project.
- 3. Proposed lot divisions and new building footprint are shown for information only. Final lot divisions and building footprint are subject to the City's approval.
- 4. All proposed building footprints are shown for information only. Final building footprint is subject to the City's approval.
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- 10. All proposed building footprints are shown for information only. Final building footprint is subject to the City's approval.

Site Plan Legend

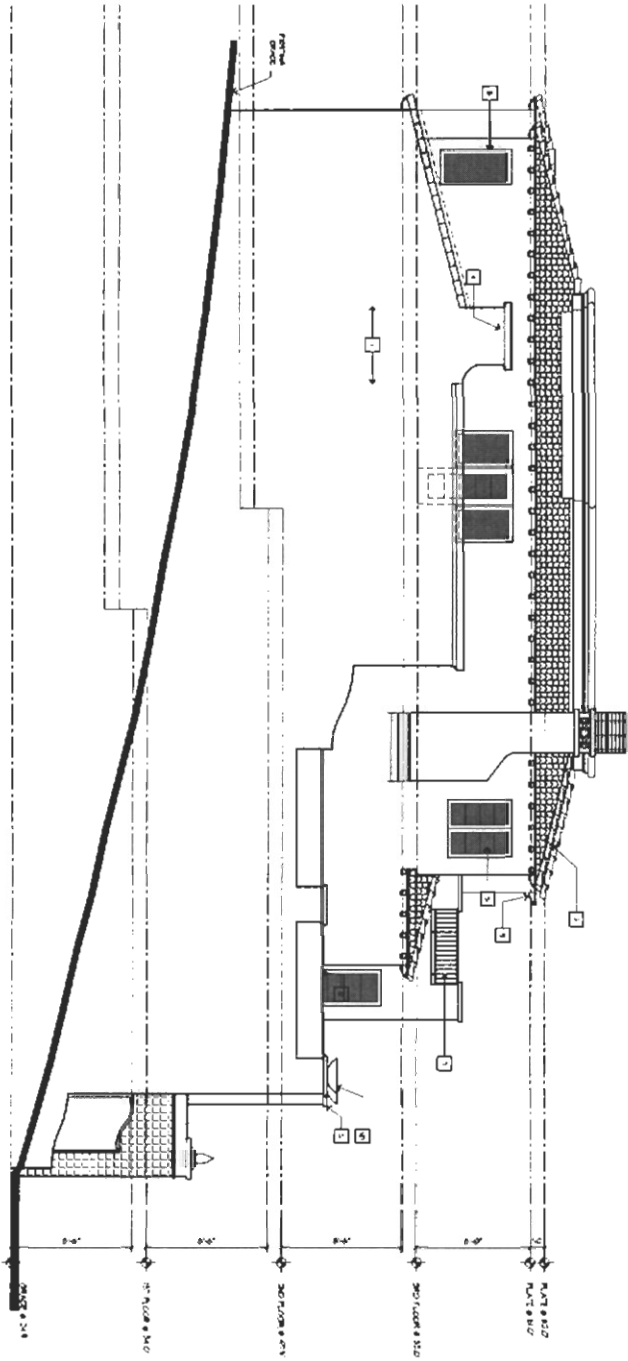
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Michael Luna
 &
 Associates
 Architects
 514 Avenida
 Vista
 San Clemente
 California, 92673

**Pier Bowl
 Mixed-Use**

Site Plan

A1.0



Left Elevation

Elevation Keynotes

- 1 1/2" x 8" x 16" BRICK
- 2 1/2" x 8" x 16" BRICK
- 3 1/2" x 8" x 16" BRICK
- 4 1/2" x 8" x 16" BRICK
- 5 1/2" x 8" x 16" BRICK
- 6 1/2" x 8" x 16" BRICK
- 7 1/2" x 8" x 16" BRICK
- 8 1/2" x 8" x 16" BRICK
- 9 1/2" x 8" x 16" BRICK
- 10 1/2" x 8" x 16" BRICK
- 11 1/2" x 8" x 16" BRICK
- 12 1/2" x 8" x 16" BRICK
- 13 1/2" x 8" x 16" BRICK
- 14 1/2" x 8" x 16" BRICK
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- 17 1/2" x 8" x 16" BRICK
- 18 1/2" x 8" x 16" BRICK
- 19 1/2" x 8" x 16" BRICK

COASTAL COMMISSION

EXHIBIT # 3

Elevation Keynotes

Michael Luna

Associates

Architect

PAGE OF
 Pier Bowl
 Mixed-Use

814 Avenida Victoria
 San Clemente
 California, 92672

Left Elevation



A3.1

**SAN CLEMENTE COVE RESORT
CONDOMINIUM PLAN**

SOUTH ALAMEDA LANE

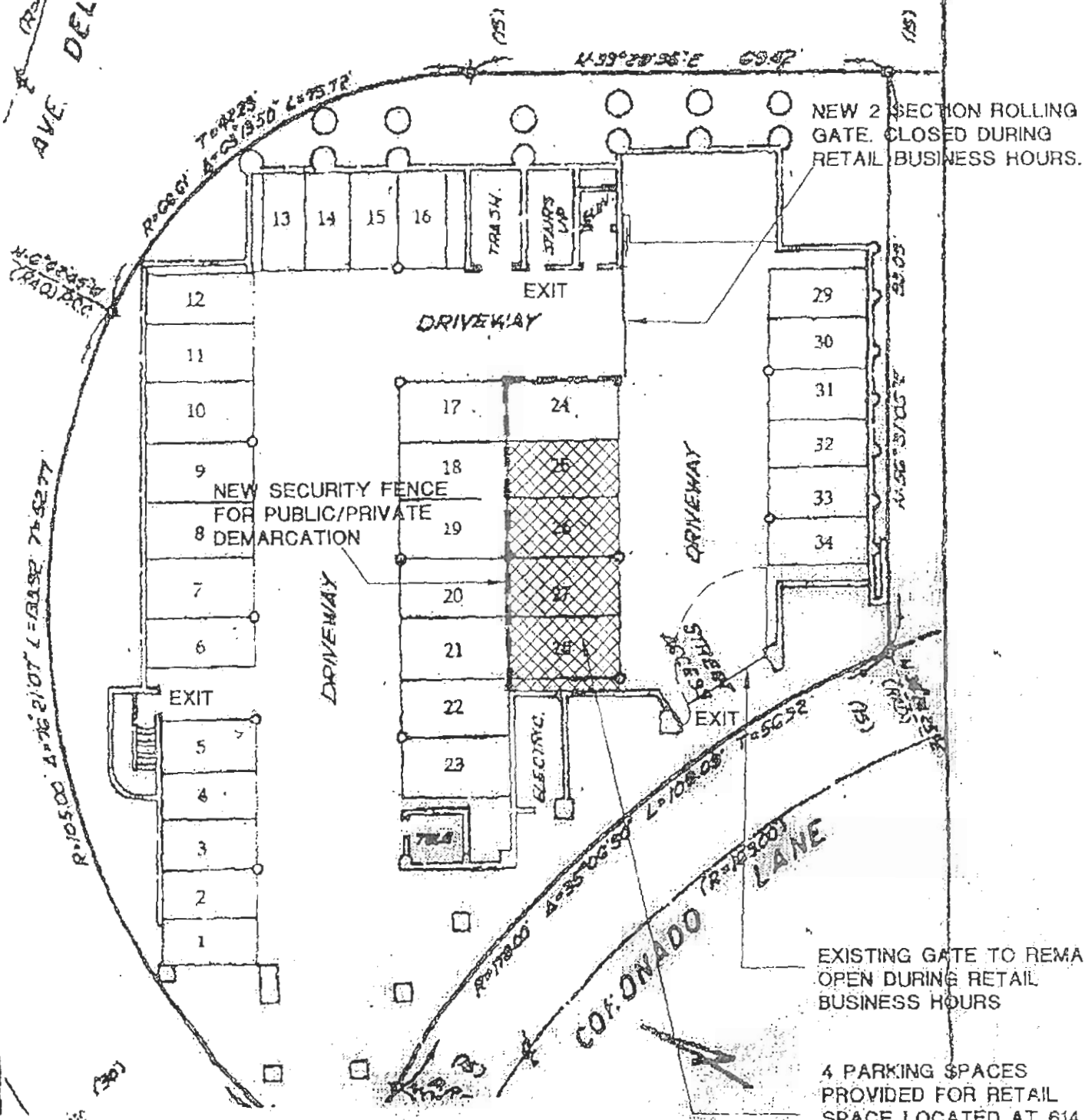
AVE. DEL MAR

AVE. DEL MAR

AVE. DEL MAR

SOUTH ALAMEDA LANE

CONFONADO LANE



NEW 2 SECTION ROLLING GATE. CLOSED DURING RETAIL BUSINESS HOURS.

NEW SECURITY FENCE FOR PUBLIC/PRIVATE DEMARCATION

EXISTING GATE TO REMAIN OPEN DURING RETAIL BUSINESS HOURS

4 PARKING SPACES PROVIDED FOR RETAIL SPACE LOCATED AT 614 AVENIDA VICTORIA

COASTAL COMMISSION