

CALIFORNIA COASTAL COMMISSION

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March 22, 2007

TO: Commissioners and Interested Persons

W13a

FROM: Sherilyn Sarb, Senior Deputy Director
Teresa Henry, Manager
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area
Meg Vaughn, Coastal Program Analyst

SUBJECT: Revised Findings for Major Amendment Request No. 2-06 ("Timeshares") to the City of Huntington Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the April 11-13, 2007 meeting in Santa Barbara).

SUMMARY OF LCP AMENDMENT REQUEST NO. 2-06

Request by the City of Huntington Beach to amend both the Land Use Plan (LUP) and the Implementation Plan (IP) portions of the Local Coastal Program (LCP). The proposed LUP amendment would: 1) allow "timeshares" in every Commercial Visitor district by adding "timeshares" to the list of allowable uses within the Commercial Visitor District; 2) modify Policy 3.2.4 to add timeshares as an allowable use within all Commercial Visitor districts, and 3) replace the phrase "overnight accommodation" with "hotels/motels and timeshares" in the list of uses allowed within the Commercial General land use category. The proposed IP amendment would modify the Downtown Specific Plan to: 1) add a definition of "timeshares" in the definitions section of the Downtown Specific Plan; 2) allow timeshares as an allowable use specifically within District 7 (Pacific City) and District 9 (Waterfront); and 3) provide certain restrictions on timeshares within District 7 and District 9. Proposed LCP Amendment Request No. 2-06 was submitted for Commission certification by City Council Resolution No. 2005-20.

SUMMARY OF COMMISSION ACTION

At the Commission hearing of October 12, 2006 the Commission reviewed the City of Huntington Beach Local Coastal Program Amendment 2-06. Public testimony and Commission discussion included concerns regarding assurances that existing and approved traditional hotel units (transient) would not be converted to limited ownership units. The Commission found that imposition of a deed restriction acknowledging that no such conversion would occur would be adequate to protect existing and approved transient overnight accommodations. Such deed restriction would appropriately be recorded at the time a coastal development permit is processed. Discussion also addressed the appropriate amount for an in-lieu fee to offset the lack of lower cost overnight accommodations. The Commission found that \$3,000 per non-lower cost unit was an appropriate fee amount. Therefore, the Commission **approved with revised suggested modifications** the City's request to amend the LCP as requested.

COMMISSION VOTE: The Commissioners voting on the Land Use Plan amendment prevailing side were: **Achadjian, Burke, Clark, Kram, Kruer, Neely, Padilla, Potter, Reilly, Wan, and Chair Caldwell.**

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The Commissioners voting on the Implementation Plan amendment prevailing side were: **Achadjian, Burke, Clark, Kram, Kruer, Neely, Padilla, Potter, Reilly, Shallenberger, Wan, and Chair Caldwell.**

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending that the Commission adopt the following revised findings in support of the Commission's action on October 12, 2006, approving the proposed Huntington Beach Local Coastal Program Amendment 2-06 if modified. **The motions to accomplish this are found on pages 3 and 4.** The more significant changes made to reflect the Commission's action can be found on pages 17, 18, 26, 27, 28, 30.

STANDARD OF REVIEW

For the proposed Land Use Plan amendment, the standard of review is conformance with and satisfaction of the requirements of the Chapter 3 policies of the Coastal Act. For the proposed Implementation Plan amendment, the standard of review is conformance with and adequacy to carry out the provisions of the certified Huntington Beach Land Use Plan, as amended.

SUMMARY OF PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission. On January 25, 2005 the Planning Commission held a study session to discuss the proposed amendment. On February 8, 2005 the Planning Commission held a public hearing on the proposed amendment. On March 21, 2005 the City Council held a public hearing on the proposed amendment. Three speakers spoke in favor of the project at the February 8, 2005 Planning Commission hearing. Only the applicant spoke at the City Council hearing. All staff reports were made available for public review in the Planning Department and in the Huntington Beach Public Library. Public hearing notices were mailed to property owners, occupants and interested parties. Notice of the public hearing was published in a local newspaper of general circulation.

ADDITIONAL INFORMATION

Copies of the staff report are available online on the Coastal Commission's website at www.coastal.ca.gov or at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff

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report by mail, or for additional information, contact Meg Vaughn in the Long Beach office at (562) 590-5071. The City of Huntington Beach contact for this LCP amendment is Mary Beth Broeren, Principal Planner, who can be reached at (714) 536-5271.

Exhibits

- A. Vicinity Map
- B. Location Map Pacific City & Waterfront Sites
- C. City Council Resolution No. 2005-20
- D. PKF Study
- E. Orange County Register Article re Huntington Beach Hostel
- F. Historic Site Photos

I. MOTIONS AND RESOLUTIONS

NOTE: Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the following motions.

A. Land Use Plan Amendment

Motion

"I move that the Commission adopt the following revised findings in support of the Commission's approval of the City of Huntington Beach LCP Land Use Plan amendment No. 2-06 if modified as suggested."

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the October 12, 2006, hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

The Commissioners voting on the prevailing side to approve the LUP amendment if modified were: Commissioners **Achadjian, Burke, Clark, Kram, Kruer, Neely, Padilla, Potter, Reilly, Wan, and Chair Caldwell.**

Resolution

The Commission hereby adopts the findings set forth below approving if modified as suggested, the City of Huntington Beach LCP Land Use Plan Amendment 2-06 on the grounds that the findings support the Commission's decision of October 12, 2006 and accurately reflect the reasons for it.

B. Implementation Plan Amendment

Motion

"I move that the Commission adopt the following revised findings in support of the Commission's approval of the City of Huntington Beach LCP Implementation Plan amendment No. 2-06 if modified as suggested."

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the October 12, 2006, hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

The Commissioners voting on the prevailing side to approve the IP amendment if modified were: Commissioners **Achadjian, Burke, Clark, Kram, Kruer, Neely, Padilla, Potter, Reilly, Shallenberger, Wan, and Chair Caldwell.**

Resolution

The Commission hereby adopts the findings set forth below approving if modified as suggested, the City of Huntington Beach LCP Implementation Plan Amendment 2-06 on the grounds that the findings support the Commission's decision of October 12, 2006 and accurately reflect the reasons for it.

II. SUGGESTED MODIFICATIONS

SEE APPENDIX A

III. FINDINGS

The following findings support the Commission's action of October 12, 2006 denying the proposed LCP Land Use Plan amendment and the proposed Implementation Plan amendment as submitted, and approving both if modified as suggested. Changes to the findings contained in the staff recommendation dated September 28, 2006 necessary to reflect the Commission's action are indicated as follows:

Language deleted as a result of the Commission's action is shown in ~~strike-out~~.

Language added as a result of the Commission's action is shown in **bold, underline**.

The Commission hereby finds and declares as follows:

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A. Amendment Description

The City of Huntington Beach has requested to amend both the Land Use Plan (LUP) and the Implementation Plan (IP) portions of the Local Coastal Program (LCP). Proposed LCP Amendment Request No. 2-06 was submitted for Commission certification by City Council Resolution No. 2005-20. That resolution, which contains the City's proposed changes to the LUP and IP, is attached as exhibit C.

1. LUP Amendment

The proposed LUP amendment would introduce timeshares as a visitor serving use throughout the Commercial Visitor district. This is proposed to be accomplished by modifying the existing *Table C-1 Coastal Element Land Use Plan Land Use, Density and Overlay Schedule* by adding "timeshares" to the list of "typical permitted uses" in the Commercial Visitor (CV) land use category in the table. The amendment also proposes to make a conforming change by modifying existing Policy 3.2.4 to add the Commercial Visitor district to the list of land use districts where timeshares are allowed. Under the existing certified LUP, timeshares are only allowed within the Commercial General and Mixed Use Districts. The LUP amendment also proposes to replace the term "overnight accommodations" with "hotels/motels and timeshares" in the list of allowable uses within the Commercial General land use category. Finally, *Table C-2 Community District and Subarea Schedule*, is proposed to be modified. Table C-2 is an area by area chart that identifies, among other things, specific uses allowed within the areas identified. The LUP amendment proposes to add "timeshares" to the list of permitted uses within two specific areas: Subarea 4C PCH/First (Lake) Street (an area commonly known now as Pacific City), and Subarea 4D Waterfront. Both the "Pacific City" and "Waterfront" sites front on the inland side of Pacific Coast Highway, directly across from the sandy public beach and ocean (see exhibit B).

The certified LUP identifies the following as typically permitted uses in the Commercial Visitor district: "hotels/motel, restaurants, recreation-related retail sales, cultural uses (e.g. museums) and similar uses oriented to coastal and other visitors to the City." In the Commercial General district, the certified LUP identifies "overnight accommodations" as a typically permitted use. The amendment proposes to replace the phrase "overnight accommodations" in the description of typical permitted uses within the Commercial General district with the following: "hotels/motels, timeshares."

2. Anticipated Projects

This proposed LCPA is a somewhat project-specific amendment. Specific development is envisioned and would be accommodated by the proposed changes. The development that is envisioned at Pacific City includes portions similar to a traditional timeshare and would supplement development at Pacific City that is already under way. Uses approved by the existing local coastal development permit for Pacific City include a mixed use development

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that will front along Pacific Coast Highway consisting of retail, office, restaurant, cultural, and entertainment uses; a hotel; and 516 condominium units above subterranean parking. The residential condominiums are to be located landward of the mixed use and hotel development.

Currently the permitted uses listed in Table C-2 for Subarea 4C (Pacific City) are "visitor-serving and community-serving commercial uses, restaurants, entertainment, and other uses (as permitted by the "CV" and "CG" land use categories)".

The Waterfront site is also located along the inland side of Pacific Coast Highway, between Huntington Street and Beach Boulevard. Existing development at the site includes a Hilton hotel and a Hyatt hotel. A third hotel is anticipated at this site, and this LUPA's allowance for timeshares in this area is designed to allow approval of the new hotel as a "condominium hotel," wherein individual rooms can be subdivided for sale as "condominium hotel rooms." Currently the permitted uses listed in Table C-2 for Subarea 4D (Waterfront) are "Hotels/motels and supporting visitor-serving commercial uses (in accordance with Development Agreement)".

3. IP Amendment

The proposed IP amendment would change only the Downtown Specific Plan portion of the Implementation Plan. No changes are proposed to the Zoning and Subdivision Ordinance, which comprises the bulk of the City's certified Implementation Plan. The proposed IP amendment would modify the Downtown Specific Plan (DSP) to allow timeshares by proposing the following changes. The term "timeshare" is proposed to be added to the DSP definitions section (Section 4.0.04), and timeshares are proposed to be added to the list of uses allowed within District 7 (which corresponds to the Pacific City site) and District 9 (which corresponds to the Waterfront site) of the DSP. The proposed definition of timeshares would be broad enough to allow both of the limited use forms of property ownership being proposed, as described above. District No. 7 is titled "Visitor-Serving Commercial" and District No. 9 is titled "Commercial/Recreational". New language is proposed within Districts 7 and 9 to establish certain restrictions on the newly proposed "timeshare" use within those districts. More specifically, the restrictions proposed in Districts 7 and 9 would require that these "timeshares" be allowed only as part of a master planned development and that they be subject to the following conditions: a) at least 25% of the units be permanently reserved for transient overnight accommodations during the peak summer season; b) the timeshare facility operate as a hotel, including requirements for a centralized reservations system, check-in services, advertising, security, and daily housecleaning; and c) a description specifying how the twenty-five percent reserved transient overnight requirement will be satisfied within the master planned development is required to be submitted at the time of application.

The proposed definition of timeshare is:

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Timeshares: Any master planned development wherein a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of real property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided and shall include, but not be limited to timeshare estate, interval ownership, vacation license, vacation lease, club membership, timeshare use, condominium/hotel, or uses of a similar nature.

New subsections 4.9.12 and 4.11.13 are both proposed to use the following language:

Timeshares. May be permitted as part of a master planned development and shall be conditioned as follows:

- a) At least twenty-five percent of the units be permanently reserved for transient overnight accommodations during the peak summer season (beginning the day before Memorial Day weekend and ending the day after Labor Day).
- b) The timeshare facility shall operate as a hotel including requirements for a centralized reservations system, check-in services, advertising, security, and daily housecleaning.
- c) A description specifying how the twenty-five percent reserved transient overnight requirements of Section 4.9.12 (a)/4.11.13 (a) will be satisfied within the master planned development must be submitted at time of applications.

B. History of Timeshares in the LCP

The Land Use Plan as currently certified does not allow timeshare uses within the Commercial Visitor (CV) district. Timeshare uses are currently allowed within the Commercial General (CG) district and within the Mixed Use (M), Mixed Use-Horizontally Integrated Housing (MH), and Mixed Use-Vertically Integrated Housing (MV) districts, subject to certain restrictions. Existing LUP Policy C 3.2.4 states:

Timeshares may be permitted in Commercial General District (CG) and Mixed Use Districts (M, MH, and MV) provided that any such project be conditioned as follows:

- a) That at least twenty-five percent of the units be permanently reserved for transient overnight accommodations during the summer season (beginning the day before the Memorial Day weekend and ending the day after Labor Day).*
- b) That the timeshare facility operate as a hotel including requirements for a centralized reservations system, check-in services, advertising, security, and daily housecleaning.*

The City's Land Use Plan was updated in 2001 by replacing the then existing certified Land Use Plan with an entirely new Land Use Plan (Coastal Element). The Commission

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approved the updated LUP, subject to suggested modifications, via LUP amendment 3-99, which was acted on by the Commission in June of 2001. At the time of that LUP update, the City proposed timeshares as an allowable use within the Commercial Visitor district. Timeshare use within the Commercial Visitor district was specifically rejected by the Commission at that time via a suggested modification deleting the language that was proposed to allow it. The LUP update approved through LUP amendment 3-99 does allow timeshares within Commercial General and in the Mixed Use Districts (M, MH, and MV) subject to the restrictions of LUP Policy C 3.2.4, which was added to the LUP as a suggested modification at the time of that amendment. In denying timeshare uses within the Commercial Visitor district, the Commission found:

"In terms of timeshares, Policy C 3.2.3 [the policy number changed with insertion of the suggested modifications throughout the LUP], as submitted, would allow timeshares. Though time-shares are similar to hotels in many ways there are significant differences that favor interpreting time-shares as a form of residential development. Time-shares cannot be considered to be a true visitor serving development, like a hotel, since it is membership based and it would be possible for members to stay for significant periods of time. In fact, it would be possible for a time-share member to buy enough timeslots to cover an entire year, which would basically make the time-share member a year round resident. Furthermore, the Commission recognizes that time-share membership would not promote maximum public access opportunities on a first come first serve basis such as hotels provide.

Timeshares typically involve the "selling" of units to more affluent vacationers who typically stay in the units for longer periods of time than overnight use. Because they are occupied for longer periods of time by those who buy interests in them, they are almost considered to be residential use rather than a transient visitor serving use. Under Section 30222 of the Coastal Act, residential development is a low priority use in the Coast Zone."

For these reasons (cited above) the Commission specifically denied timeshares as an appropriate use within the Commercial Visitor district. As originally proposed, the current amendment included no new language or new information addressing the concerns previously raised by the Commission regarding timeshares.

In the certified Implementation Plan, timeshares are allowed as a "quasi-residential" use within the Commercial Visitor district. At the time the IP was comprehensively updated (in April 1996, via IP amendment 1-95), the standard of review was the then certified LUP (prior to the LCPA 3-99 update). Under the LUP as it existed at that time, limited residential use was allowed within the Visitor Serving Commercial (VSC) land use designation. The principal permitted uses of the VSC land use designation were hotels, motels, restaurants, theaters, museums, specialty and beach-related retail, and service uses. It also allowed, however, office and residential uses by special permit. Residential use was allowed subject to the following restriction: "the street level or one-third of the

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total floor area shall be devoted to visitor-serving commercial uses; however at least 50% of the street level shall be visitor-serving commercial."

The City's Implementation Plan was updated in April 1996 via Implementation Plan Amendment No. 1-95. IP Amendment 1-95 replaced most of the existing IP with the City's Zoning and Subdivision Ordinance. The updated IP allows residential development within the Commercial Visitor district, consistent with the restriction in the LUP outlined above. In this way, timeshares are allowed, under the currently certified IP, within the Commercial Visitor district. But the IP recognizes timeshares not as a visitor serving use, but as a quasi-residential use that, although not visitor serving, is allowed within visitor serving designations as part of a mixed use development. Therefore, the City's currently certified LCP does not recognize timeshares as a visitor serving use.

C. Land Use Plan Amendment: Consistency with Chapter 3 Policies of the Coastal Act

1. Denial of the LUP Amendment as Submitted

Section 30213 of the Coastal Act states:

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

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facility.

Section 30222 of the Coastal Act 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.

Visitor serving uses are strongly preferred under the Coastal Act. Visitor serving uses are preferred because they maximize the number of people who can enjoy the unique experience available only along the coast. Private residential development along the coast is of highly limited use, being usable only by those able to afford coastal living. General commercial uses benefit a more limited number of people having a need for such uses. Furthermore, lesser priority uses, such as residential and general commercial, are not dependent upon being located within the coastal zone. Such uses can accomplish their

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functions virtually anywhere; whereas the coastal visitor experience is available only along the coast. Moreover, population growth in general creates greater demand for those limited amounts of visitor serving developments that are available.

The proposed LUP amendment would allow timeshares throughout the Commercial Visitor land use designation, subject only to restrictions that 25% be available for transient overnight accommodations during the summer season, and that the timeshare facility be operated as a hotel (including centralized reservations system, check-in services, etc.). However, 75% of any future timeshare facility could be available exclusively to timeshare members year-round. And 100% could be available exclusively to timeshare members for nine months of each year. Timeshare facilities provide a lower level of public accessibility than traditional hotels and motels.

There are numerous methods for dividing property and/or time interests within vacation accommodations and selling those interests to private individuals or entities. As the market changes, these methods also evolve. Commonly used terms for these methods include "timeshare", "fractional ownership", "condominium/hotel" among many others, all of which tend to be loosely defined as they are used within the industry. However, each type of timeshare proposal may necessitate different controls that must be tailored to assure that public accessibility to the facility is maximized. One step toward implementing those controls is to have clearly defined terminology. The City has not proposed a definition for the term "timeshare" in the proposed Land Use Plan amendment, exacerbating the issue. For instance, the term "timeshare" can also have a more specific meaning that defines a particular type of divided interest product. Thus, a specific definition of the term "timeshare", as well as a distinct "catch-all" phrase is necessary in the Land Use Plan. Hereinafter, within these findings, the Commission will use the phrase "Limited Use Overnight Visitor Accommodations" to mean any hotel, motel or other similar facility that provides overnight visitor accommodations wherein a purchaser receives the right in perpetuity, for life, or a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of the facility, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the facility has been divided and shall include, but not be limited to Timeshare, Condominium-Hotel, Fractional Ownership Hotel, or uses of a similar nature. Furthermore, the term "timeshare" will be used in the context of the more specific product type. The current understanding of Limited Use Overnight Visitor Accommodations raises significant issues with regard to their appropriateness within the visitor serving district. However, if a definition is not included in the LUP, even the marginal potential benefit to coastal zone visitors is not assured. The proposed LUP amendment, by introducing "timeshares" as an allowable use within the Commercial Visitor designation without describing what that use means, could result in uses approved as "timeshare" that provides little or no benefit to the general public visitor. As proposed, conversion of existing overnight accommodations could be allowed within the visitor designation too. Thus, existing and future hotel/motel rooms available to the general public are jeopardized under the current proposal. The proposed LUP amendment does

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not prioritize visitor serving uses, inconsistent with the requirements of Coastal Act Section 30222.

Moreover, Section 30213 of the Coastal Act requires that lower cost visitor facilities be protected, encouraged, and, where feasible, provided. Limited Use Overnight Visitor Accommodations in general cannot be considered lower cost. Generally, Limited Use Overnight Visitor Accommodation facilities require that potential users purchase the right to long term, recurring use. Generally, this requires significant initial investment, and often periodic fees. Such monetary requirements are often beyond the means of a large segment of the general population and certainly exclude that portion of the population that is of the least means. Traditional hotels, motels and similar overnight accommodations, do not require a long term financial commitment in exchange for use of a unit.

In addition, because the total amount of time purchased per year by members may be in months or groups of months, rather than daily or even weekly, Limited Use Overnight Visitor Accommodations use is generally considered quasi-residential. Without a definition of what is meant by the term "timeshare", these issues become even more problematic. The LUP already includes a substantial amount of areas designated for private residential development, and to a lesser extent, general commercial. The area within proximity to the coast is limited, and within that limited area, only some areas are designated specifically for Commercial Visitor. To allow what could potentially be quasi-residential use within the limited areas designated specifically for visitor serving use does not recognize, reflect, or implement the Coastal Act's priority of visitor serving uses over residential uses.

Furthermore, throughout the coastal zone lower cost overnight accommodations are becoming more and more scarce. The coastal zone area within the City of Huntington Beach and adjacent Sunset Beach do provide lower cost overnight visitor accommodations. Recreational vehicle camping is provided at both Huntington State Beach, and at Bolsa Chica State Beach. In addition, the City beach parking lot allows Recreational Vehicle camping during the non-summer months (the parking lots are used for day use parking during the busy summer months).

There are also a fair number of relatively lower cost hotel/motel facilities in the general vicinity. This is reflected in a study prepared by PKF Consulting at the request of one of the underlying project's proponents (see exhibit D). The study indicates that there are a number in the general vicinity, but many of them, although within two to three miles of the coastal zone, are not actually in the coastal zone. They may be close enough to serve out-of-town beach-going visitors, but their continued availability is not something that can be assured by the Coastal Commission, due to their location beyond its jurisdiction.

Moreover, the trend lately is to replace the lower end facilities with higher end facilities or residential uses. Some examples of this are the conversion of the lower cost Marineland facility (though not an overnight accommodation, a significant visitor draw), which is in the process of being replaced with a high end destination resort. Even at the two sites that are

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the focus of this LCP amendment, the most recent use at each site was a lower cost motel. At the Pacific City site, the most recent establishment was the Huntington Shores Motel and a Grinder restaurant. These were demolished in 2000, though they had closed years before. Less is known about the Waterfront site, but historic aerial photos show a motel structure on the site as recently as 1987. See exhibit F for historic photos of each site.

Furthermore, a lower cost hostel in Huntington Beach was recently sold and is no longer expected to provide lower cost overnight visitor accommodations (see exhibit E). Regarding the loss of the hostel, the president of the Huntington Beach Conference and Visitors Bureau is quoted in the Orange County register as saying "The sad news is that our low-price accommodations are slowly disappearing. That just means that for international groups with very modest means, it's becoming very difficult to stay in Huntington Beach." The hostel was located just three blocks inland of Pacific Coast Highway, near the popular pier area. So, even within the City of Huntington Beach, which has a relatively large number of overnight accommodations, the lower cost accommodations are giving way to the higher cost accommodations.

The provision of overnight visitor accommodations serves a significant purpose as a subset of visitor serving uses. Overnight visitor accommodations allow those who do not live within a day's drive of the coast an opportunity to enjoy coastal zone amenities when they otherwise may not be able to. Access to coastal recreation facilities is enhanced when there are overnight lodging facilities for all economic sectors. Those members of the public that cannot get to the coast within a day's journey, would need to travel to the coast, and then would need a place to stay overnight so that, finally reaching the coast, they don't have to turn around and head back. This aspect of visitor serving use is necessary for any income level, but it is especially useful to provide overnight accommodations in the lower cost range, as is reflected in the requirements of Section 30213 of the Coastal Act. However, as proposed, the LUP amendment does not recognize this important function of visitor serving facilities.

If the former lower cost overnight accommodations are not to be replaced at the subject sites, their loss must be mitigated. Coastal Act Section 30213 requires that lower cost visitor facilities be protected, encouraged, and, where feasible, provided. In order to be consistent with Section 30213 of the Coastal Act, a measure must be included in the LUP assuring the protection of continued availability of lower cost overnight visitor accommodations within the coastal zone. But no such measure is included in the LUP amendment as proposed.

Furthermore, as the LUP amendment is proposed, it is possible that existing hotels, motels, and other types of overnight visitor accommodations could be converted to Limited Use Overnight Visitor Accommodations. Because, as proposed, the amendment simply adds "timeshares" as an allowable use without defining what that means, the LUP would provide no distinction between traditional overnight transient visitor accommodations, such as traditional hotels and motels, and Limited Use Overnight Visitor Accommodations.

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There would be no prohibition on converting existing hotel/motel type establishments to lesser priority, potentially quasi-residential Limited Use Overnight Visitor Accommodations. A loss of overnight transient visitor accommodations in favor of Limited Use Overnight Visitor Accommodations is not consistent with the priority Coastal Act Section 30222 places on visitor serving uses.

The proposal to add "timeshares" as an allowable use, especially without defining what a "timeshare" is, limiting the allowance to new development, or establishing measures to maximize the visitor serving function, does not protect and encourage lower cost visitor serving uses. In addition, the proposal does not recognize the Coastal Act preference for visitor serving uses over private residential and general commercial uses. The Commission previously denied the City's request to allow "timeshares" in the Commercial Visitor district because the use, as currently proposed without a definition or restrictions and throughout the Commercial Visitor District, cannot be found to be consistent with Section 30213 of the Coastal Act, which requires that lower cost visitor serving uses be protected, encouraged and where feasible, provided. In addition, the proposed amendment cannot be found to be consistent with Section 30222 of the Coastal Act, which places a higher priority on visitor serving uses than on private residential or general commercial uses. Therefore, the Commission finds that the proposed development is inconsistent with the Chapter 3 policies of the Coastal Act and therefore must be denied.

2. Approval of the LUP Amendment if Modified as Suggested

Since the City's submittal of the LCP amendment, City staff has clarified that the intent of the amendment is to allow two specific types of Limited Use Overnight Visitor Accommodation uses only at two specific locations: the Pacific City site and the Waterfront site (see exhibit B). It is the intent of the City to allow only a Fractional Ownership Hotel at the Pacific City site, and only a Condominium-Hotel at the Waterfront site. Limiting the Commercial Visitor sites where Limited Use Overnight Visitor Accommodations may occur significantly reduces the level of adverse impacts on the provision of visitor serving uses within the City's coastal zone. Nevertheless, limiting the sites alone does not adequately protect visitor serving uses and certainly does not protect such uses in the area where the Limited Use Overnight Visitor Accommodations would be allowed. The specific type of Limited Use Overnight Visitor Accommodations use to be allowed must be defined, and expectations of how the Limited Use Overnight Visitor Accommodations will operate in a way that increases its visitor serving function must be clearly described. Furthermore, lower cost overnight visitor accommodations must be protected. As proposed, the LUP amendment doesn't address these issues.

However, if the amendment were modified to 1) add an appropriate "catch all" phrase (i.e. Limited Use Overnight Visitor Accommodations) and define it; 2) include a specific definition for the term "timeshare"; 3) identify and define the specific types of Limited Use Overnight Visitor Accommodations desired by the City at each of the two specific sites where they are desired; 4) limit the proposed sites to the proposed uses; 5) impose

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restrictions on each of the two types of Limited Use Overnight Visitor Accommodations that would maximize their visitor serving function; 6) add an LUP policy to clarify that no existing, traditional overnight transient visitor serving accommodations could be converted to the Limited Use Overnight Visitor Accommodations; and 7) add an LUP policy that protects lower cost visitor serving overnight accommodations, then, and only then, could the LUP amendment be found consistent with Sections 30213 and 30222 of the Coastal Act. In order to accomplish this, modifications are suggested to the proposed LUP amendment.

Every community has a different set of circumstances with regard to existing hotel inventory, the range and types of facilities available, their proximity to the coast, and the availability of other lands suitable for future hotel uses. In addition, future projects may vary as to type of overnight accommodation proposed with regard to the mix of traditional hotel rooms within an overall project. Although the proposed amendment would allow overnight accommodations that will not make all units available to the general public visitor 100% of the time, the Commission has considered the range of existing inventory within the City. In this case, the Commission is making an allowance for limited use overnight accommodations in two specific visitor serving districts because of the inventory of existing overnight accommodations in the City, their range across the spectrum from lower to higher cost facilities, and the potential for new traditional hotels in the future in the Palm Goldenwest Specific Plan area (which is expected to remain in oil production for the foreseeable future – approximately 15 to 20 years). In addition, the allowance for limited use overnight accommodations that would be created by the proposed amendment, as modified, would only apply in the context of larger projects that also provide new traditional overnight accommodations, thereby increasing the pool of traditional hotel rooms available to the general public within the City, and make provisions for lower cost overnight accommodations.

The proposed amendment is a project driven amendment. The project proponents have indicated that financing for traditional hotels is not economically feasible¹. Limited Use Overnight Visitor Accommodations are proposed as a means of financing a hotel-type facility. The project proponents have indicated that their goal in proposing Limited Use Overnight Visitor Accommodations is to acquire financial backing for the initial expense of constructing the hotel, which they assert could not otherwise be built. This assertion is the basis for the City's amendment request. The future Limited Use Overnight Visitor Accommodations envisioned for these sites would either 1) provide a certain number of individual units within the hotel that could be purchased separately by an individual owner (Condominium Hotel); or 2) offer to individual entities for purchase the right to the use of a unit for a certain annual time segment to individual entities (Fractional Ownership Hotel).

The certified LUP includes "timeshares" as an allowable use in the Commercial General and Mixed Use designations. The term is also proposed to be added as a use within the

¹ The Commission takes no position with regard to economic feasibility.

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Commercial Visitor land use designation. The term "timeshares" appears to be used by the City as a "catch-all" phrase that could include a variety of ownership types. However, the term "timeshare" can have a more specific meaning that defines a particular type of divided interest product. Thus, a specific definition of the term "timeshare", as well as a distinct "catch-all" phrase is necessary in the Land Use Plan. A modification is suggested to define "timeshare" more along the lines by which it is defined in the Vacation Ownership and Time-Share Act of 2004 (Bus. & Prof. Code Section 11212(z)). In addition, a modification is suggested to add a catch-all phrase and its definition. The catch-all phrase should be sufficiently broad to encompass the two types of limited use hotels desired by the City, as well as being able to encompass the definition of "timeshare" suggested above. The catch-all phrase in the suggested modification is "Limited Use Overnight Visitor Accommodations." The suggested catch-all phrase is an umbrella term intended to encompass the suggested modification definitions for "Timeshare", "Fractional Ownership Hotel", and "Condominium-Hotel".

Although two specific types of Limited Use Overnight Visitor Accommodations are the City's goal in proposing this amendment, the only term used in the amendment is "timeshare." The currently certified LUP does not include a definition of "timeshare". This creates very broad possibilities for what could potentially be allowed within the Commercial Visitor district by the amendment as proposed. "Timeshare" is a use already allowed by the LUP within the Commercial General and in the Mixed Use designations (which allow for a variety of higher and lower priority uses). Again, however, the term is not defined. Thus, it is appropriate to provide a definition of "timeshare" in the LUP, as described above. A modification is suggested to modify the proposed amendment by adding following definition of timeshare:

Any arrangement, plan, or similar program, other than an exchange program, whereby a purchaser receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.

The LUP already includes a Glossary at the end of the document. The Glossary, a list of definitions, represents a good place to add a new definition in the LUP.

In order to limit the types of uses that can be approved in the two locations at issue to the specific types of development the City anticipates and desires to be able to approve, terms must be adopted to refer to those types of development, and specific definitions for each of those two terms must also be included within the LUP. In order to maximize the visitor serving function of the Limited Use Overnight Visitor Accommodations, and to avoid this amendment being used for unintended purposes, the definition must be specific enough to control the type of Limited Use Overnight Visitor Accommodations that can ultimately be allowed at the site. To this end, the types of individual ownership available in each hotel must be described. The type of Limited Use Overnight Visitor Accommodations put forth as appropriate by the City and by the project proponent of the Pacific City site is a

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Fractional Ownership Hotel. It is the intent of the project proponent in this case to sell financial interests in that hotel that would allow the purchaser to have an exclusive right to use an individual unit for a certain quantity of days on a periodic, recurring basis. A modification is suggested to add the following definition to the Glossary in the LUP:

Fractional Ownership Hotel – Facility providing overnight visitor accommodations where at least some of the guestrooms (units) within the facility are owned separately by multiple owners on a fractional time basis. A fractional time basis means that an owner receives exclusive right to use of the individual unit for a certain quantity of days per year and each unit available for fractional ownership will have multiple owners.

The type of limited ownership hotel put forth as appropriate by the City and the project proponent of the Waterfront site is a Condominium-Hotel. It is the intent of the project proponent in this case to sell financial interests in that hotel in the form of separate condominium ownership interests. In this case the individual owners would own interior airspace of specific units.

A modification is thus suggested to add the following definition to the Glossary in the LUP:

Condominium-Hotel - Facility providing overnight visitor accommodations where ownership of at least some of the individual guestrooms (units) within the larger building or complex is in the form of separate condominium ownership interests, as defined in California Civil Code section 1351(f). The primary function of the condominium-hotel is to provide overnight transient visitor accommodations within every unit that is available to the general public on a daily basis year-round, while providing both general public availability and limited owner occupancy of those units that are in the form of separate condominium ownership interests.

In order to maximize the visitor serving use within these Limited Use Overnight Visitor Accommodations, as required by Section 30222 of the Coastal Act, limits and restrictions must be imposed on the number of units per hotel project for which limited use ownership rights may be created and sold, and on use of the units by separate owners, as well as on how the overall hotels are operated.

For the Fractional Ownership Hotel an appropriate limit on the number of units within the overall hotel facility that may be sold in this limited ownership method is a maximum of 10% of the total number of units. In this case the project proponent anticipates a 165 room hotel, of which 14 would be sold as fractional interest units. This figure represents slightly less than 10% of the total hotel units. Assuring that 90% of the total hotel units will be available to the general public as traditional use hotel rooms tends toward maximization of the visitor serving function of the Fractional Ownership Hotel consistent with still allowing the project proponent to obtain the type of funding they have indicated is necessary to establish a hotel at the site. It should be noted, however, that the allowance for 10% of the

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units to be fractional interest units and the requirement that 90% of the units be traditional hotel rooms reflects the project proponents anticipated plan. While that ratio, in this case, is adequate to protect the visitor serving function of the anticipated future hotel at the site, a different restriction ratio may be appropriate for other sites with different circumstances.

In addition, to maximize the number of potential owners, the length of time any particular owner may use a fractional ownership unit must be limited. In this case, a maximum of 90 days per calendar year, with a maximum of 29 consecutive days of use during any 60 day period would allow a minimum of four owner entities per unit, and thus a minimum of 56 owners for all fractional ownership units. Thus, even though the fractional ownership structure reduces the pool of potential users of these 14 units when compared to the general population having access to the other units on a daily basis, there will still be at least 56 different users of the fractional ownership units. That figure is in addition to the availability of the 151 traditional hotel rooms that would become available to the general public on a daily basis year-round.

For the Condominium-Hotel **100% of the units may be individually sold.** ~~an appropriate limit on the number of units within the overall hotel facility that may be subdivided for independent sale in limited ownership form is a maximum of 75% of the total number of units in the facility (i.e. 25% of the units must be available on a transient, overnight basis to the general public every day of the year).~~ In addition **However**, to maximize the number of potential public users of those units ~~sold as condominiums~~, the length of time an owner may use a condominium-hotel unit must be limited. In this case, a maximum of 90 days per calendar year, with a maximum of 29 consecutive days of use during any 60 day period would result in each such condominium unit being available on a transient, overnight basis to the general public at least 275 days per year. Limited owner occupancy maximizes the visitor serving function of this Limited Use Overnight Visitor Accommodation.

The Commission finds that in this case ~~75%~~ **, with the use restrictions that maximize public use of the units, 100%** of the total number of Condominium-Hotel units may be separately owned. However, it should be noted that this percentage takes into consideration the number of existing, traditional, transient overnight accommodations (including an existing inventory of lower cost overnight accommodations) in the area. Within the project vicinity there are a significant number of traditional overnight accommodations available to the general public (see exhibit D). With the **required** in-lieu fee, the project would also contribute toward the provision of additional lower-cost overnight accommodations. Were it not for the presence of a significant number of these existing traditional, transient, overnight visitor accommodations in Huntington Beach and the provision of **additional** lower cost overnight accommodations **through the in-lieu fee**, the Commission may have required a ~~higher~~ **some** percentage of the total number of units within the Condominium-Hotel to be traditional, transient, overnight visitor accommodations available to the general public on a daily basis or even disallowed the use within visitor serving districts.

The Commission also recognizes that the Condominium-Hotel contemplated at the Waterfront site is part of a three phase master plan that has already contributed significantly to the supply of traditional overnight accommodations in the City. Two traditional, transient overnight hotels, a Hilton and Hyatt, already exist at the Waterfront site that provide a total of 807 rooms. With this LCP amendment, up to 210 Condominium-Hotel rooms would augment those 807 rooms. When considered as an overall master planned site, only 20% of the 1,017 rooms will be limited use rooms.

In addition, the higher percentage of units that may be sold in separate Condominium-Hotel ownership (compared to the Fractional Ownership Hotel) is acceptable because, every day of occupancy within each fractional unit within the Fractional Ownership Hotels can be sold (i.e. cumulatively, the owners have the ability to occupy those units 100% of the time/365 days per year to the complete exclusion of the general public), whereas each owner of a unit in the Condominium-Hotel will be able to occupy his/her unit a total of only 90 days per calendar year. Thus, each separately owned condominium-hotel unit will be available to the public in the transient, overnight room pool 275 days per year. Although the Fractional Ownership Hotel's separately owned units will have a bigger pool of owners able to access use of the units, the Condominium-Hotel's separately owned units will be available to the general public the majority of the year, whereas the Fractional Ownership Hotel's separately owned units never will be.

Suggested modifications are included which require that privately owned units not occupied by the owner(s) (or their guests) must be made available for overnight rental by the general public in the same manner as the traditional hotel room units. This achieves two ends: 1) it increases the facility's visitor serving function by increasing the number of transient overnight accommodations units available to the general public, and 2) it promotes the likelihood that the overall facility will be perceived as a facility available to the general public. This encourages the visitor serving function of the facilities, consistent with the requirement of Section 30222 of the Coastal Act.

It is important that all units in the hotel, both fractional ownership/condominium-hotel units as well as traditional units, be operated by a single hotel operator (of their respective facilities). This includes booking of reservations, check-in, maintenance, cleaning services, and similar responsibilities of hotel management. This requirement is important as a means of assuring the hotel does not convert to a limited ownership-only hotel and to maximize its visitor serving function. Because the traditional hotel rooms are not limited only to those who have purchased ownership interests, they are available to a much larger segment of the population. Thus, it is important that the number of traditional guestrooms not decrease, because the greater the number of traditional guestrooms, the greater the visitor serving function of the hotel. Therefore a modification is suggested to add specific language to the amendment which requires that the Limited Use Overnight Visitor Accommodations be limited as to the number of units that may be sold in separate

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ownership (**applies to Fractional Ownership Hotel**), that owner use of the separate ownership units be limited, and that the entire hotel be operated by a single hotel operation performing traditional hotel functions.

These restrictions and requirements must be implemented as part of the Fractional Ownership and Condominium-Hotel operations. Consequently, a specific entity responsible for implementing the restrictions and requirements must be identified. An appropriate entity would be one that has access and control over the entire facility. The facility's owner/operator is in the position to implement the necessary restrictions and requirements. Therefore, the suggested modifications reference the hotel owner/operator as the entity responsible for implementing the restrictions and requirements. Furthermore, a definition for the term "hotel owner/operator" is included as a suggested modification. This is necessary to identify specifically who the responsible entity is for implementing the restrictions and requirements. Furthermore, although it may be likely that the hotel would be owned and operated by the same entity, it is not certain. Therefore, measures must be in place should the hotel be owned and operated by two separate entities. It must be clear that, in such a situation, both the owner and the operator are responsible, and indeed liable, for carrying out the requirements and restrictions imposed upon each facility. This is reflected in the suggested modifications.

Other suggested modifications require that the hotel owner/operator own the on-site hotel facilities and the land, or a leasehold if the land is owned by the City as is the case at the Waterfront site. In addition, as described above, the suggested modifications require that only a certain percentage of ~~each facility's~~ **the Fractional Ownership Hotel's** total number of units may be separately owned. These modifications are necessary to assure that there is a substantial commitment from and incentive for the owner/operator to maintain a public hotel environment and ambiance, and a disincentive with regard to converting or catering to the separate owners primarily or exclusively.

As proposed, the amendment would allow "timeshares" throughout the Visitor Commercial designation. As such, a conversion of an existing hotel- or motel-type use from traditional, transient overnight accommodations to a "timeshare" use could be allowed. As described previously, allowing timeshares, undefined and unrestricted, throughout the Commercial Visitor designation does not maximize visitor serving uses. Even with the proposed definition and the minimal restrictions that the City proposes to apply through LUP Policy C3.2.4, the proliferation of timeshares in place of existing facilities providing traditional overnight accommodations would have a severe negative impact on the visitor serving function of these facilities. Therefore, a modification is suggested that would prohibit the conversion of any existing overnight accommodations, such as hotels and motels, to any form of Limited Use Overnight Visitor Accommodations. Furthermore, a modification is suggested that would limit the locations where the Limited Use Overnight Visitor Accommodation uses would be allowed. The suggested modification would limit Limited Use Overnight Visitor Accommodation use to only those two specific sites within the City's coastal zone that are intended by the City for such use: Pacific City and Waterfront.

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Section 30213 requires that lower cost visitor and recreational facilities be protected. The subject of this LCP amendment is overnight accommodations within the Commercial Visitor district. Thus, the specific type of visitor facility to be protected under this amendment is lower cost overnight visitor accommodations. The proposed amendment is a project driven amendment. The projects driving the amendment are expected to be higher cost limited use overnight visitor accommodations. In other words, even with the imposition of the use restrictions discussed herein, to ensure public availability of most of the rooms in the new facilities, that public availability will still be at a high cost. It may not be feasible to provide lower cost overnight visitor accommodations on site in conjunction with those future projects. Nevertheless, the loss of the opportunity to provide lower cost accommodations must be mitigated. This is particularly true because both sites previously supported lower cost overnight visitor accommodations.

Many moderately priced hotel and motel accommodations tend to be older structures that are becoming less and less economically viable. As more recycling occurs, the stock of lower cost overnight accommodations tends to be reduced, since it is generally not economically feasible to replace these structures with accommodations that will maintain the same low rates. In general, the Commission sees far more proposals for higher cost accommodations than for low cost ones. In an effort to stem this tide, and to protect lower cost visitor facilities as is required by Coastal Act Section 30213, the Commission has imposed in-lieu mitigation fees when development proposes only higher cost accommodations. By doing so, a method is provided to assure that some degree of lower cost overnight accommodations will continue to be provided in the coastal zone, as is required by Section 30213 of the Coastal Act.

In past actions, the Commission has imposed an in-lieu mitigation fee to be used to provide new lower cost overnight visitor accommodations. Recent examples in the South Coast District include 5-99-169 (Maguire Partners), 5-05-385 (Seal Beach Six) and A-5-RPV-02-234 (Destination Development). Older examples include P-79-5539/5-82-291 (AVCO) and 5-89-240 (Michael Construction).

While the type of Limited Use Overnight Visitor Accommodation use anticipated pursuant to this amendment will be visitor serving, it is not expected to be lower cost. The provision of only higher cost accommodations would preclude provision of lower cost facilities, which, unless mitigated, would be inconsistent with Section 30213 of the Coastal Act. Unless provisions requiring mitigation of higher cost accommodations when they are considered for development, there is no assurance that lower cost overnight visitor accommodations will remain available along the coast. The intent of Section 30213 is to ensure a balanced mix of visitor and recreational facilities within the coastal zone, so as to provide recreational opportunities to all economic sections of the public. In order to protect, encourage and, where feasible, provide lower cost overnight visitor accommodations, a modification is suggested that would require payment of an in lieu fee to support continued availability of lower cost overnight visitor accommodations in the

general project vicinity.

Therefore, for the reasons outlined above, the Commission finds that only if modified as suggested, can the proposed LUP amendment be found to be consistent with Section 30213 of the Coastal Act, which requires that lower cost visitor facilities be protected, and with Section 30222 of the Coastal Act, which establishes a priority of visitor uses over private residential and general commercial uses.

D. Implementation Plan Amendment: Consistency with Certified Land Use Plan

1. Denial of the Implementation Plan Amendment as Submitted

a) Incorporation of Findings for Denial of the LUP Amendment as Submitted and Approval If Modified

The findings for denial of the Land Use Plan amendment as submitted and approval if modified are hereby incorporated by reference as though fully set out herein.

b) Visitor Serving Uses

The certified Land Use Plan includes the following goals, objectives and policies:

Policy C 1.1.3

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.

Goal C 3

Provide a variety of recreational and visitor commercial serving uses for a range of cost and market preferences.

Policy C 3.1.3

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

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.

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Policy C 3.2.1

Encourage, where feasible, facilities, programs and services that increase and enhance public recreational opportunities in the Coastal Zone.

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.

New LUP Policies added as Suggested Modifications to the proposed Land Use Plan amendment:

Any hotels for which a certificate of occupancy has been issued at the effective date of adoption of this Section shall not be permitted to be converted to a Limited Use Overnight Visitor Accommodation.

Within Commercial Visitor Districts (CV) Limited Use Overnight Visitor Accommodations shall be prohibited except for a Fractional Ownership Hotel in Subarea 4C (Pacific City) and a Condominium-Hotel in Subarea 4D (Waterfront) which shall be subject to the specific restrictions on quantity, management, and use of such facilities listed below.

[see Appendix A for specific restrictions]

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. On oceanfront, waterfront or nearshore areas or lands designated for visitor uses and recreational facilities, if new development is approved that is not "lower cost," an assessment of the availability of lower cost visitor uses shall be completed at the time of discretionary review and an in-lieu fee in an amount necessary to off-set the lack of the preferred lower cost facilities in or near Huntington Beach shall be imposed.

Pursuant to Section 13542(c) of Title 14 of the California Code of Regulations, the standard of review for this IP amendment is the LUP as amended and modified herein. The City's LUP as certified and modified, includes the same priority for visitor serving uses as the Coastal Act. The importance of the provision of lower cost visitor facilities is recognized in the City's certified LUP in the policy that requires that visitor serving facilities be available for a range of income groups, including lower cost facilities. The benefits of prioritizing the provision of visitor serving uses, and more specifically lower cost visitor serving uses, are described above in the findings for the Land Use Plan amendment.

The visitor serving policies of the LUP also require that access to coastal recreational

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facilities be enhanced. For people who do not live near the coast, access to coastal recreational facilities often requires that overnight accommodations be available.

As modified herein, the LUP includes policies that prevent conversion of traditional hotel/motel type units to Limited Use Overnight Visitor Accommodations. And, as modified, the LUP specifically limits Limited Use Overnight Visitor Accommodations in the Commercial Visitor District to two specific sites and types of Limited Use Overnight Visitor Accommodations (District 7 (Pacific City) – Fractional Ownership Hotel and District 9 (Waterfront) – Condominium Hotel). Finally, the LUP as modified requires an in-lieu mitigation fee with development of higher cost **limited use overnight** visitor accommodations.

The IP amendment does propose the following definition for timeshare (proposed to be added to the definition section of the Downtown Specific Plan (DSP) portion of the IP):

Timeshares: *Any master planned development wherein a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of real property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided and shall include, but not be limited to timeshare estate, interval ownership, vacation license, vacation lease, club membership, timeshare use, condominium/hotel, or uses of a similar nature.*

The proposed definition is very broad, and includes a number of different types of fractional ownership products. It appears that the City intended to use the term “timeshare” as a catch-all phrase. However, the term “timeshare” can also have a specific meaning that defines a particular type of divided interest product. The LUP contains² the catch all phrase “Limited Use Overnight Visitor Accommodations,” which is specifically defined in the LUP. In addition, the LUP definition “timeshares” is consistently with the statutory definition in the Vacation Ownership and Time-Share Act of 2004 (Bus. & Prof. Code Section 11212(z)). For clarity and internal LCP consistency, these same definitions must also be included in the IP. However, as proposed they are not included in the IP. Therefore, the proposed definition of “timeshare” is inconsistent with and inadequate to carry out the LUP.

The LUP allows only one specific type of Limited Use Overnight Visitor Accommodation at each of the two subject sites: Fractional Ownership hotel in District 7 and Condominium-Hotel in District 9. As proposed, the IP amendment would not restrict the type of Limited Use Overnight Accommodations at each of the sites to the specific types of Limited Use

² Unless otherwise indicated, further references to the LUP, even if in the present tense, as here, are to the LUP as it will exist if amended by the City’s proposal, as that proposal is modified by the Commission’s suggested modifications.

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Overnight Accommodations allowed under the LUP. Therefore, the proposed amendment is inconsistent with and inadequate to carry out the LUP.

The IP amendment also proposes to add timeshares to the list of uses which are allowable subject to approval of a conditional use permit within District 7 and District 9. The amendment further proposes that the following restrictions apply to timeshares proposed in both districts (at Sections 4.9.12 and 4.11.13):

Timeshares. May be permitted as part of a master planned development and shall be conditioned as follows:

- a) At least twenty-five percent of the units be permanently reserved for transient overnight accommodations during the peak summer season (beginning the day before Memorial Day weekend and ending the day after Labor Day).*
- b) The timeshare facility shall operate as a hotel including requirements for a centralized reservations system, check-in services, advertising, security, and daily housecleaning.*
- c) A description specifying how the twenty-five percent reserved transient overnight requirement of Section 4.9.12(a) [4.11.13(a)] will be satisfied within the master planned development must be submitted at time of application.*

However, "timeshares" are not consistent with the specific Limited Use Overnight Visitor Accommodation allowed at each of the subject sites pursuant to the LUP policy cited above. Furthermore, the LUP contains specific restrictions and requirements for each of the Limited Use Overnight Visitor Accommodations that are allowed within the subject sites. The proposed restrictions are not adequate to implement the requirements and restrictions identified in the LUP. Therefore, the proposed amendment is inadequate to carry out the LUP.

The DSP is proposed to be amended by adding "timeshares" to the list of allowable uses within District 7 and District 9. However, the LUP policy cited specifically only allows a Fractional Ownership Hotel and a Condominium-Hotel within the subject Districts (respectively) and thus "timeshares" are prohibited at the two subject sites.

Furthermore, no definitions for the two specific types of Limited Use Overnight Visitor Accommodations that are allowed by the LUP at each site are proposed. The LUP includes definitions for these terms.

Moreover, the certified Land Use Plan requires that visitor facilities be available to a range of income groups, including low cost facilities. And also requires that lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Furthermore the LUP requires in lieu mitigation fees be required with development of

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higher cost overnight accommodations. None of these requirements are carried out in the proposed IP amendment.

Furthermore, the LUP prohibits the conversion of existing **and approved** hotels, motels, and other types of overnight visitor accommodations to Limited Use Overnight Visitor Accommodations. That prohibition is not reflected in the IP amendment as proposed.

As proposed, the IP amendment would allow "timeshares" within the DSP District 7 and District 9. This is inconsistent with the LUP policy that specifies that only a Fractional Ownership Hotel may be allowed within District 7 and that only a Condominium-Hotel may be allowed within District 9. Moreover, the LUP contains specific restrictions and requirements that must be implemented with development of the Limited Use Overnight Visitor Accommodation allowed at each of those uses. The restrictions proposed in the IP amendment are not adequate to carry out the restrictions and requirements identified in the LUP. Finally, the LUP includes definitions for types of uses allowed and/or prohibited by the LUP and discussed in the IP amendment. However, the proposed IP amendment does not include definitions for these terms. Therefore, the Commission finds that the proposed IP amendment does not conform with and is inadequate to carry out the policies of the certified Land Use Plan and therefore must be denied.

2. Approval of the Implementation Plan if Modified as Suggested

However, if the amendment were modified to include: 1) definitions for the terms Timeshare, Limited Use Overnight Visitor Accommodations, Fractional Ownership Hotel and Condominium-Hotel that are consistent with the definitions in the LUP; 2) restrictions and requirements imposed on each of the two types of Limited Use Overnight Visitor Accommodations such that they adequately carry out the restrictions and requirements of the LUP; 3) addition of a prohibition on conversion of existing **or approved**, traditional overnight transient visitor serving accommodations to Limited Use Overnight Visitor Accommodations; 4) measures to protect lower cost visitor serving overnight accommodations including in lieu mitigation fees; then the proposed IP amendment could be found to conform with and be adequate to carry out the policies of the certified Land Use Plan. In addition, if the IP amendment were modified to make conforming changes to Chapter 211 (Commercial Visitor) such that it will be internally consistent with the changes of this IP amendment, then the IP amendment could be found to conform with and be adequate to carry out the policies of the Land Use Plan.

A modification is suggested to replace the City's definition of "timeshare" proposed to be added to the DSP, with the definition as it appears in the LUP. In addition, there is an existing definition of timeshare in the IP Chapter 204 Definitions that is inconsistent with the LUP definition. The "timeshare" definition in Chapter 204 must be replaced with the LUP definition. This is necessary in order to make the proposed IP amendment conform with the certified LUP, and also for clarity and internal consistency within the IP.

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The LUP specifically addresses sites within District 7 and District 9. The LUP limits the type of Limited Use Overnight Visitor Accommodations that may be permitted at these sites. Consequently it is important that the IP contains the same limitations for these specific sites. Therefore, the LUP definitions for Fractional Ownership Hotel, Condominium-Hotel and Limited Use Overnight Accommodations must be included in the DSP definitions section.

Furthermore, the LUP imposes requirements and restrictions on each of the Limited Use Overnight Visitor Accommodations allowed at each of the subject sites. The restrictions proposed in the IP amendment are not adequate to carry out the requirements and restrictions of the LUP specific to the subject sites. Therefore, modifications are suggested to include and implement the requirements and restrictions contained in the LUP. The requirements and restrictions of the LUP include limits on the total number of units that may be separately owned (**for Fractional Ownership Hotels**), and limits on the length of time an owner may occupy his/her unit, as well as, on how the overall hotels are operated. Moreover, the method of implementing the requirements and restrictions must be provided in the IP. As proposed, the amendment does not provide a method to implement the restrictions and requirements of the LUP. Thus, a modification is suggested that provides the methods to implement the requirements and restrictions contained in the LUP.

Specific measures describing how these restrictions are to be implemented must also be included in the IP. These measures must outline specifically what mechanisms must be in place to assure, for example, that each owner of a separate interest in one of the hotels is aware at the time of purchase that there are restrictions and limitations on the owners' use of each unit. Also, for example, it is important that in approving a Limited Use Overnight Visitor Accommodation, the restrictions are imposed as necessary to maximize the visitor serving function of the hotels. Mechanisms to achieve this must be in place to assure that any future hotel owner/operator is aware of the restrictions and that the restrictions can be legally enforced. Therefore a modification is suggested that establishes how these restrictions will be imposed.

It is important that implementation of the restrictions and requirements are verifiable. The restrictions and requirements imposed on the Limited Use Overnight Visitor Accommodations are necessary to assure that their visitor serving function is maximized. If they do not provide a visitor serving function, the Limited Use Overnight Visitor Accommodations would not conform with the specific LUP policy that requires them, nor with the general visitor serving policies of the LUP. Consequently specific measures to verify compliance must be outlined. Thus a modification is suggested that requires that the hotel owner/operator make records available to an independent auditor, on a yearly basis, such that the auditor can prepare a report outlining the level of compliance. The auditor's report is required to be submitted, for review and approval, to the City's Director of Planning, as well as to **the Executive Director of the Coastal Commission** ~~be available to the general public~~. Compliance with the restrictions and requirements is the responsibility, jointly and severally, of the hotel owner/operator (or the hotel owner and the

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hotel operator if the owner is a separate entity from the operator) as well as the separate unit owners. A modification is suggested that specifies what the requirements are and how they are to be accomplished. These suggested modifications are necessary in order to find that the IP amendment conforms with and is adequate to carry out the requirements of the LUP policies regarding the subject sites specifically and the visitor serving policies in general.

As proposed, conversion of existing **or approved** hotel- or motel-type facilities from traditional, transient overnight accommodations to Limited Use Overnight Visitor Accommodations could occur. Such a conversion would not conform with the LUP policy which specifically prohibits such conversions. Therefore, a modification is suggested that would prohibit the conversion of any existing **or approved** overnight accommodations, such as hotels and motels, to Limited Use Overnight Visitor Accommodations. **Further, a suggested modification is included that requires that, prior to issuance of a coastal development permit for a Limited Use Overnight Visitor Accommodation within Districts 7 and 9, the landowner(s) of the property(ies) within Districts 7 and 9 upon which the traditional/transient units/rooms are already approved or developed, shall record a deed restriction(s) acknowledging the conversion prohibition.**

The certified LUP requires that visitor serving facilities be protected, encouraged, and, where feasible, provided. The LUP further requires that new development that is not lower cost pay an in lieu mitigation fee in an amount necessary to off-set the lack of lower cost facilities. There is no IP provision proposed that implements this requirement.

While the type of Limited Use Overnight Visitor Accommodations anticipated pursuant to this amendment as modified will be visitor serving, they are not expected to be lower cost. The provision of only higher cost accommodations would preclude provision of lower cost facilities, which unless mitigated, would be inconsistent with the requirements the LUP. Unless there are provisions requiring mitigation of the higher cost accommodations, there is no assurance that lower cost overnight visitor accommodations will remain available along the coast. The intent of the LUP policies is to ensure a balanced mix of visitor and recreational facilities within the coastal zone, so as to provide recreational opportunities to all economic sectors of the public.

Thus, a modification is suggested which requires that new development of **limited use** overnight **visitor** accommodations that are not "lower cost" pay an in lieu mitigation fee to assist in the creation of a substantial contribution to new lower cost overnight visitor accommodations. The modification further requires that the fee be transferred to the designated entity prior to issuance of the coastal development permit. The modification identifies that the recipient of the in lieu mitigation fee be a public agency and/or non-profit provider of lower cost overnight visitor accommodations such as, the California State Department of Parks and Recreation, Hosteling International USA, or the City of Huntington Beach. ~~The suggested modification also provides guidance on what type of development would be "lower cost".~~

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Application No. 5-99-169 (Maguire) involved the demolition of an 81-unit motel and construction of an office building. The applicant was required to provide evidence that a mitigation fee of \$648,000 (~~\$8,000 per room lost~~) had been provided to the City of Santa Monica for the removal of low cost overnight visitor accommodations. ~~Adjusted for the U.S. Consumer Price Index (CPI) that figure would be \$9,686.08 per room lost at today's rates.~~

A-5-RPV-02-324 (Destination Development) involved the development of a site that was previously a low-cost recreational facility (Marineland) with a new high-cost resort hotel. Previously, in mitigating the abandonment of Marineland, a mass-market park, the Commission had required that the applicant provide an in-lieu fee for the acquisition of land and/or construction of a low-cost visitor serving hostel facility (A-5-RPV-91-46). The subsequent permit (A-5-RPV-02-324) carried that requirement forward, requiring the applicant to remit a fee of \$540,000 to American Youth Hostel (AYH) facilities or another agency that could provide low-cost overnight accommodations. ~~Adjusted for CPI that figure would be \$799,515. The fee was to be applied toward the renovation of 60 hostel units, thereby resulting in a per unit allocation of \$13,325.~~

P-79-5539 and 5-82-291 (AVCO) involved the construction of a new 397-room high-end resort in Laguna Niguel, Orange County. The AVCO permit required that 1 out of every 3 new overnight units be low cost (132 of 397). The applicant was required to *"construct and operate (or cause to be operated) 132 units of lower cost visitor accommodations consisting of at a minimum a 66-bed youth hostel built to the standards of the American Youth Hostel Association, the balance in moderate priced motel units."*

In 5-89-240 (Michael Construction Enterprises), the Commission approved the demolition of a low-cost 30-room motel and construction of a 62-room hotel. The applicant was required to pay \$255,450 (~~\$8,515 per low cost room lost~~) to the City of Santa Monica to mitigate the loss of the low cost visitor serving accommodations. ~~Adjusted for CPI, that figure would be \$13,919.~~

An in-lieu fee requirement was also imposed by the City of Santa Barbara for conversion of lower cost overnight accommodations to condominiums (A-4-SBC-01-167). In that case, the City of Santa Barbara, as a condition of approval of CDP 2001-00008(A), required the applicant to provide to the City Redevelopment Agency a mitigation fee in the amount of \$982,000 for loss of 96 hotel rooms. The figure was based on a study that concluded that an amount of \$982,000 would be the amount of subsidy required to make development of a 96-room economy transient lodging facility in Santa Barbara economically feasible. ~~The per room fee came to \$10,229. Adjusted for CPI, that figure would be \$11,597 per room.~~

Other hotel projects in the South Coast District area which were required to pay in lieu mitigation fees as a substitute for low-cost overnight accommodations include: 5-82-542 A3 (Westport Playa Sol Ltd.), 5-87-675 (Ritz Carlton Hotel Co.), A-207-79 (Marina Plaza),

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A-49-79 (Interstate Marina). Both the Marina Plaza and Interstate Marina hotels are in Marina del Rey. The Marina Plaza (300 rooms) was assessed \$365,000³. The Interstate Marina (300 rooms) was assessed \$365,000⁴. The Ritz Carlton in Marina del Rey (308 rooms) was assessed \$370,000⁵. It should be noted that Marina del Rey has a policy in the certified Land Use Plan calling for protection and development of low cost visitor-serving facilities.

In approving similar luxury hotel projects in the past the Commission recognized the necessity of achieving a balance between lower and higher cost facilities, but has also acknowledged that it is not necessarily appropriate to require hotel developers to include lower cost facilities on site. In each of these cases the Commission required provision of lower cost visitor accommodations in conjunction with the hotel development, but permitted the developer to provide such units off site and/or contribute in lieu fees to be used for creation of the lower cost facilities. In lieu fees in the past have resulted in construction of campgrounds, hostels, and have contributed to the recently opened first phase of Crystal Cove Historic District Cottages operated by the California Department of Parks and Recreation in the Newport Coast area of Orange County. However, use of the in lieu mitigation fee to redress deferred maintenance of existing facilities is not an appropriate use of the fee. Such a use does not increase the existing pool of lower cost overnight accommodations. The fee must be applied toward increasing the total amount of lower cost overnight accommodations available.

In-lieu fees can be utilized to provide replacement overnight accommodations in various forms throughout the State, including hostels, motels, and campsites. There is an ongoing demand for overnight accommodations of all types within the coastal zone. As the population in Southern California grows (especially in the inland areas), there will be an increased demand for a variety of visitor-serving commercial uses, but especially for lower cost overnight accommodations, in coastal areas. An adequate supply of such facilities will be required to support the larger number of people visiting the coastal zone. While the subject site may not presently be targeted for re-development with a lower cost overnight accommodation facility, other locations within the surrounding area may be suitable for this purpose. Funding directed to the second phase of the Crystal Cove Historic District Cottages would likely be appropriate.

The Commission's past practice with regard to calculation of in-lieu fees for loss of overnight accommodations has varied given project specific circumstances. In some instances, the fee has been calculated based upon the quantity of overnight units lost (e.g. A-4-SBC-01-167, 5-99-169). In other instances, the calculation was based upon some percentage of non-lower cost overnight units proposed (e.g. P-79-5539). Regardless of the method of calculation, the resultant in lieu fee should be sufficient to provide significant

³ Figure not adjusted for CPI

⁴ Figure not adjusted for CPI

⁵ Figure not adjusted for CPI

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funding toward the substantial creation of lower cost overnight visitor accommodations in or near Huntington Beach (i.e. in the coastal area of Orange or Los Angeles County).

In the past Commission actions cited above, the in-lieu fee (adjusted for inflation) has ranged from ~~\$255,450 to \$982,000~~ \$14,635 to \$1,216 per either ~~per~~ low cost unit lost or ~~per~~ new higher cost unit created. The in lieu fee also sometimes was based on the dollar amount necessary to create new lower cost units. **In this case the City is proposing to collect \$3,000 (2006 dollars) per limited use overnight visitor accommodation unit approved. For the development that would be allowed pursuant to this amendment, that results in a total of \$672,000 (2006 dollars). This total fee collected is comparable to fees the Commission has previously required. The Commission finds that amount to be substantial in this circumstance.** In this case the Commission finds that the fee should be tied to cost for creation of new units. This basis is appropriate because the goal and intent of the in-lieu fee is to provide for the creation of new lower cost units. This cost continues to rise as available land for such uses, especially within the coastal zone in southern California, becomes more rare and more expensive. In addition, the Commission has received testimony (e.g. at the Commission's August 2006 workshop on Condominium Hotels) that construction costs have increased significantly over the last few years. In recent years these costs have outstripped inflation. Thus, in order for the fee to actually result in meaningful provision of lower cost overnight units, the Commission finds that the appropriate fee should be \$3,000 \$50,000 (in 2006 dollars which shall be adjusted annually to account for inflation i.e. according to increases in the Consumer Price Index – U.S. City Average) times 25% of the total quantity of proposed non-lower-cost and limited use overnight visitor accommodation units. This fee amount is necessary to off set the lack of lower cost units being provided on site with new development.

However, it should be noted the Commission considered various approaches to calculate the in-lieu fee and the fee chosen in this case should not be construed as the standard for future projects. A different in-lieu fee and/or fee structure may be considered in the future for projects that impact the provision of lower cost overnight units. The Commission considered imposition of a fee structure that would provide an on-going, rather than one-time, source of funding toward the provision of lower cost overnight units. For example, a fee structure involving payment of a fee each time the limited use unit was sold was one possibility the Commission considered. However, the Commission determined that the complexity involved in development of such a fee structure for this amendment would take additional research and time, that was not available in this case.

The mitigation fee must be directed to a public agency or private non-profit provider of lower cost overnight visitor accommodations. Examples of acceptable recipients of the required fee include the California State Department of Parks and Recreation, Hosteling International USA, or similar public agency or non-profit group. The in-lieu fees are intended to offset the loss of overnight accommodations in the region. The fee may be applied toward land acquisition, construction costs, and some limited administrative costs.

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~~The final amount of the in lieu mitigation fee will be determined as part of the coastal development permit review process.~~ The recipient of the fee must be approved by the Director of Planning. The applicant shall be required to pay the fee into a specified fund prior to the issuance of the coastal development permit.

Therefore, the Commission finds that only if modified as suggested to require an in lieu mitigation fee when new development that is not lower cost is proposed, can the proposed IP amendment conform with and be adequate to carry out the LUP policy that requires such an in lieu fee and with the visitor serving policies of the LUP.

If modified as suggested, the amendment will conform with and be adequate to carry out the visitor serving policies of the certified LUP. Therefore, for the reasons outlined above, the Commission finds that only if modified as suggested, can the proposed IP amendment be found to be in conformance with and adequate to carry out the LUP policies regarding visitor serving commercial development.

IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is not required to prepare an EIR for each LCP. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended IP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b). The City of Huntington Beach LCP amendment 2-06 consists of an amendment to the both the Land Use Plan (LUP) and the Implementation Plan (IP).

As outlined in this staff report, the LUP amendment, as proposed, is inconsistent with the Chapter 3 policies of the Coastal Act regarding the higher priority of visitor serving uses over lower priority uses such as residential or quasi-residential and with regard to protecting lower cost visitor facilities. However, if modified as suggested, the amendment could be found to be consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act, including the visitor serving policies. And also as outlined in this staff report, the proposed IP amendment, only if modified as suggested, will be consistent with and adequate to carry out the visitor serving policies of the certified Land Use Plan. Thus, the Commission finds that the proposed LUP amendment, if modified as suggested, meets the requirements of and conforms with the Chapter 3 policies of the Coastal Act. In

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addition, the Commission finds that the IP amendment, if modified as suggested, is in conformity with and adequate to carry out the land use policies of the certified LUP. Therefore, the Commission finds that approval of the LCP amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP amendment request 2-06 if modified as suggested herein.

APPENDIX A

HNB LCPA 2-06 Suggested Modifications

Certification of City of Huntington Beach LCP Amendment Request No. 2-06 is subject to the following modifications. Suggested Modifications Nos. 1–13 are modification to the Land Use Plan. Suggested Modifications 14–34 are modifications to the Implementation Plan.

The City's existing language is shown in plain text.

The City's proposed additions are shown in **bold text**.

The City's proposed deletions are shown in ~~strike out, underlined, italic text~~.

The Commission's suggested additions are shown in **bold, italic, underlined text**.

The Commission's suggested deletions are shown in ~~**bold, italic, underlined, strike out text**~~.

Text added as a result of the Commission's action is shown in **bold, italic, double underline**.

Text removed as a result of the Commission's action is shown in ~~**bold, italic, double underline strike out text**~~.

The more significant changes made as a result of the Commission's action are found on pages 10, 11, 13, 15 – 22.

Note: The numbering used in the suggested modification below may be re-numbered as necessary to conform to the format of the existing certified LCP document.

LAND USE PLAN

SUGGESTED MODIFICATION NO. 1

Add the following definition to the Glossary, Huntington Beach General Plan, which is found at the end of the certified Land Use Plan, pages IV-C-146 through IV-C-155, in alphabetical order:

Condominium-Hotel –Facility providing overnight visitor accommodations where ownership of at least some of the individual guestrooms (units) within the larger building or complex is in the form of separate

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condominium ownership interests, as defined in California Civil Code section 1351(f). The primary function of the Condominium-Hotel is to provide overnight transient visitor accommodations within every unit that is available to the general public on a daily basis year-round, while providing both general public availability and limited owner occupancy of those units that are in the form of separate condominium ownership interests.

SUGGESTED MODIFICATION NO. 2

Add the following definition to the Glossary, Huntington Beach General Plan, which is found at the end of the certified Land Use Plan, pages IV-C-146 through IV-C-155, in alphabetical order:

Fractional Ownership Hotel – Facility providing overnight visitor accommodations where at least some of the guestrooms (units) within the facility are owned separately by multiple owners on a fractional time basis. A fractional time basis means that an owner receives exclusive right to use of the individual unit for a certain quantity of days per year and each unit available for fractional ownership will have multiple owners.

SUGGESTED MODIFICATION NO. 3

Add the following definition to the Glossary, Huntington Beach General Plan, which is found at the end of the certified Land Use Plan, pages IV-C-146 through IV-C-155, in alphabetical order:

Hotel Owner/Operator – The entity that owns and operates a hotel. If the hotel operator is separate from the hotel owner both are jointly and severally responsible for ensuring compliance with the requirements described in this LCP and/or recorded against the property, as well as jointly and severally liable for violations of said requirements and restrictions.

SUGGESTED MODIFICATION NO. 4

Add the following definition to the Glossary, Huntington Beach General Plan, which is found at the end of the certified Land Use Plan, pages IV-C-146 through IV-C-155, in alphabetical order:

Limited Use Overnight Visitor Accommodations – Any hotel, motel, or other similar facility that provides overnight visitor accommodations wherein a purchaser receives the right in perpetuity, for life, or a term of years, to the

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recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of the facility, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the facility has been divided and shall include, but not be limited to Timeshare, Condominium-Hotel, Fractional Ownership Hotel, or uses of a similar nature.

SUGGESTED MODIFICATION NO. 5

Add the following definition to the Glossary, Huntington Beach General Plan, which is found at the end of the certified Land Use Plan, pages IV-C-146 through IV-C-155, in alphabetical order:

Timeshare – Any arrangement, plan, or similar program, other than an exchange program, whereby a purchaser receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.

SUGGESTED MODIFICATION NO. 6

Delete the City's proposed new language to Land Use Plan Policy C 3.2.4 (on page IV-C-108) as follows:

Timeshares may be permitted in the Commercial General District (CG), and, Mixed Use Districts (M, MH, and MV), **and Commercial Visitor District (CV) as part of a master plan project,** provided that any such project be conditioned as follows: (I-C 1, I-C 2, I-C3, I-C 7)

- a) That at least twenty-five percent of the units within any given facility be permanently reserved for transient overnight accommodations during the summer season (beginning the day before the Memorial Day weekend and ending the day after Labor Day).
- b) That the timeshare facility operate as a hotel including requirements for a centralized reservations system, check-in services, advertising, security, and daily housecleaning.

SUGGESTED MODIFICATION NO. 7

Add the following new Land Use Plan Policy after existing Policy number 3.2.4 and re-number policies accordingly:

Any hotel rooms for which a certificate of occupancy has been issued at

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the effective date of adoption of this Section shall not be permitted to be converted to a Limited Use Overnight Visitor Accommodation.

SUGGESTED MODIFICATION NO. 8

Add the following new Land Use Plan Policy after the new policy above (Suggested Modification No. 7) and re-number policies accordingly:

Within Commercial Visitor Districts (CV) Limited Use Overnight Visitor Accommodations shall be prohibited except for a Fractional Ownership Hotel in Subarea 4C (Pacific City) and a Condominium-Hotel in Subarea 4D (Waterfront) which shall be subject to the specific restrictions on quantity, management, and use of such facilities listed below.

SUGGESTED MODIFICATION NO. 9

Add the following new subset (a) to the new Land Use Plan Policy added as Suggested Modification No. 8, above (re-number policies as necessary):

a. Fractional Ownership Hotel Area 4C

A Fractional Ownership Hotel may be permitted in Area 4C (Pacific City), described in Table C-2, subject to the following requirements as well as those contained in Section 4.9.12 of the Downtown Specific Plan:

Any hotel rooms for which a certificate of occupancy has been issued at the effective date of adoption of this Section shall not be permitted to be converted to a Limited Use Overnight Visitor Accommodation.

A minimum of 90% of the total number of guestrooms (units) within the Fractional Ownership Hotel facility shall be available to the general public as traditional use hotel rooms year-round. A maximum of 10% of the total number of units within the facility may be owned by separate individual entities on a fractional time basis. Fractional interests sold shall not exceed three month (1/4) intervals within any one-year period.

The hotel owner/operator shall retain control and ownership of all land, structures, recreational amenities, meeting space, restaurants, "back of house" and other non-guest facilities.

The non-fractional use guestrooms (units) shall be available to the general public on a daily, year-round basis.

The facility shall have an on-site hotel operator to manage rental of all guestrooms/units.

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The hotel operator shall manage all guestrooms/units as part of the hotel inventory, which management shall include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing units for use by guests and owners.

When an individual owner chooses not to occupy his/her unit, that unit shall be added to the pool of hotel rooms available to the general public.

Fractional time owners shall have limited rights to use their units including a maximum use of 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period.

SUGGESTED MODIFICATION NO. 10

Add the following new subset (b) to the new Land Use Plan Policy added as Suggested Modification No. 8, above (re-number as necessary):

b. Condominium-Hotel Area 4D

A Condominium-Hotel may be permitted in Subarea 4D (Waterfront), described in Table C-2, subject to the following requirements as well as those contained in Section 4.11.13 of the Downtown Specific Plan:

Any hotel rooms for which a certificate of occupancy has been issued at the effective date of adoption of this Section shall not be permitted to be converted to a Limited Use Overnight Visitor Accommodation.

A minimum of 25% of the guestroom/units within the Condominium-Hotel facility shall be retained in ownership by the hotel owner/operator and utilized as traditional hotel units available to the general public on a year-round basis. A maximum of 75% of the guestroom/units within the Condominium-Hotel facility may be subdivided into separate condominiums for sale as individual ownership interests.

The hotel owner/operator shall retain control and ownership of all structures, recreational amenities, meeting space, restaurants, "back of house" and other non-guest facilities. When the Condominium-Hotel is located on land owned by the City, the hotel owner/operator shall be a leaseholder of the land upon which the Condominium-Hotel exists.

The Condominium-Hotel facility shall have an on-site hotel operator to manage rental/booking of all guestrooms units.

The hotel operator shall manage all guestrooms/units as part of the hotel

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inventory, which management shall include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing units for use by guests and owners.

Owners of individual units shall have limited rights to use their units including a maximum use of 90 days per calendar year with a maximum of 29 days of use during any 60 day period.

When not occupied by the individual owner, each unit shall be available to the general public in the same manner as the traditional guestrooms/units.

SUGGESTED MODIFICATION NO. 11

Add the following new Land Use Plan Policy after existing Policy number 3.2.1 and re-number policies accordingly:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. On oceanfront, waterfront or nearshore areas or lands designated for visitor uses and recreational facilities, an assessment of the availability of lower cost visitor uses shall be completed at the time of discretionary review and an in-lieu fee in an amount necessary to off-set the lack of the preferred lower cost facilities in or near Huntington Beach shall be imposed.

SUGGESTED MODIFICATION NO. 12

Modify Table C-1, (on page IV-C-26) as follows:

Commercial General (CG)	Retail commercial, professional offices, eating and drinking establishments, household goods, food sales, drugstores, building materials and supplies, personal services, recreational commercial, hotels/motels, timeshares, overnight accommodations, <u>overnight accommodations</u> , cultural facilities, government offices, educational, health, institutional and similar uses.
Commercial Visitor (CV)	Hotels/motels, <u>timeshares</u> , restaurants, recreation-related retail sales, cultural uses (e.g., museums) and similar uses oriented to coastal and other visitors to

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	<p>the City.</p> <p><u>In Subarea 4C (Pacific City) only, a Fractional Ownership Hotel subject to restrictions may be allowed.</u></p> <p><u>In Subarea 4D (Waterfront) only, a Condominium-Hotel subject to restrictions may be allowed.</u></p> <p>Marine related development such as marinas, retail marine sales, boat rentals, and boat storage which are coastal dependent developments shall have priority over any other type of development (consistent with resource protection) on or near the shoreline.</p>
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SUGGESTED MODIFICATION NO. 13

Modify Table C-2, (on page IV-C-37) as follows (only those portions of the table to be changed are shown):

Subarea	Characteristic	Standards and Principles
4C PCH/First (Lake) Street <u>Pacific City</u>	Permitted Uses	Category: Commercial Visitor ("CV") Visitor-serving and community-serving commercial uses, restaurants, entertainment hotels/motels, <u>timeshares</u>, a Fractional Ownership Hotel subject to restrictions, and other uses (as permitted by the "CV" <u>and "CG"</u> land use category s).
4D Waterfront	Permitted Uses	Category: "-F7" Hotels/motels, <u>timeshares</u> supporting visitor-serving commercial

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		uses (in accordance with Development Agreement), <u>a</u> <u>Condominium-Hotel</u> <u>subject to restrictions.</u>
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IMPLEMENTATION PLAN

SUGGESTED MODIFICATION NO. 14

In the Downtown Specific Plan Section 4.0.04 (Definitions), delete the proposed timeshares definition:

~~**Timeshares: Any master planned development wherein a purchaser receives the right in perpetuity, for life, or a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of real property, annually or on some other a seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided and shall include, but not be limited to timeshare estate, interval ownership, vacation license, vacation lease, club membership, vacation lease, club membership, timeshare use, condominium/hotel, or uses of a similar nature.**~~

Replace with the following timeshare definition:

Timeshare – Any arrangement, plan, or similar program, other than an exchange program, whereby a purchaser receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.

Add the following definitions to the Downtown Specific Plan Section 4.0.04 (Definitions), in alphabetical order:

SUGGESTED MODIFICATION No. 15

Condominium-Hotel –Facility providing overnight visitor accommodations where ownership of at least some of the individual guestrooms (units) within the larger building or complex is in the form of separate

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condominium ownership interests, as defined in California Civil Code section 1351(f). The primary function of the Condominium-Hotel is to provide overnight transient visitor accommodations within every unit that is available to the general public on a daily basis year-round, while providing both general public availability and limited owner occupancy of those units that are in the form of separate condominium ownership interests.

SUGGESTED MODIFICATION No. 16

Fractional Ownership Hotel – Facility providing overnight visitor accommodations where at least some of the guestrooms (units) within the facility are owned separately by multiple owners on a fractional time basis. A fractional time basis means that an owner receives exclusive right to use of the individual unit for a certain quantity of days per year and each unit available for fractional ownership will have multiple owners.

SUGGESTED MODIFICATION No. 17

Hotel Owner/Operator – The entity that owns and operates a hotel. If the hotel operator is separate from the hotel owner both are jointly and severally responsible for ensuring compliance with the requirements described in this LCP and/or recorded against the property, as well as jointly and severally liable for violations of said requirements and restrictions.

SUGGESTED MODIFICATION No. 18

Limited Use Overnight Visitor Accommodations – Any hotel, motel, or other similar facility that provides overnight visitor accommodations wherein a purchaser receives the right in perpetuity, for life, or a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of the facility, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the facility has been divided and shall include, but not be limited to Timeshare, Condominium-Hotel, Fractional Ownership Hotel, or uses of a similar nature.

SUGGESTED MODIFICATION NO. 19

Modify the City's proposed addition to Section 4.9.01(b) Permitted Uses, as

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follows:

~~Timeshare Units~~ Fractional Ownership Hotel pursuant to section 4.9.12

SUGGESTED MODIFICATION NO. 20

Delete proposed Section 4.9.12 of the Downtown Specific Plan and replace with the following Section 4.9.12:

4.9.12 Fractional Ownership Hotel: May be permitted and shall be conditioned as follows:

- a) A minimum of 90% of the total number of hotel guestrooms/units within the Fractional Ownership Hotel facility shall be available as transient hotel rooms. The non-fractional hotel rooms shall be operated as transient overnight visitor accommodations available to the general public on a daily basis, year-round.
- b) A maximum of 10% of the total number of guestrooms/units within the Fractional Ownership Hotel facility may be subdivided into separate saleable units each of which can be owned by multiple owners on a fractional time basis. A fractional time basis means that an owner (or owners) receives an exclusive right to the use of an individual unit for a combined period not to exceed the approved time period, which approved time period at the option of the hotel owner/operator may range up to three calendar months, in any one calendar year.
- c) The hotel owner/operator retains control and ownership of all land, structures, recreational amenities, meeting space, restaurants, "back of house" and other non-guestroom/units.
- d) The hotel operator shall maintain records of usage by owners and renters and rates charged for all units, and shall be responsible for reporting Transient Occupancy Taxes based on records of use for all units, a service for which the hotel operator may charge the unit owner a reasonable fee.
- e) No portion of the Fractional Ownership Hotel (neither fractional units nor traditional hotel units) may be converted to full-time occupancy condominium or any other type of Limited Use Overnight Visitor Accommodations or other project that differs from the approved hotel units.
- f) When an owner of a fractional interest in a unit chooses not to occupy his/her unit for any portion of the time allotted to him/her, that unit shall be available to the general public on the same basis as the traditional hotel units.

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- g) Any hotel rooms for which a certificate of occupancy has been issued at the effective date of adoption of this Section shall not be permitted to be converted to a Limited Use Overnight Visitor Accommodation.
- h) Prior to issuance of a coastal development permit for any type of hotel facility, the landowner(s) of the property(ies) upon which the existing and/or approved traditional hotel units/rooms (i.e. transient hotel rooms) are or will be developed within District 7 shall execute and record a deed restriction(s), subject to the review and approval of the Planning Director and the Executive Director of the Coastal Commission, which prohibits the conversion of traditional hotel units/rooms to any other type of ownership (e.g. limited use overnight visitor accommodations). The deed restriction(s) shall run with the land, shall be executed and consented to by the existing lessee(s) of the affected property(ies) and shall be binding on the landowner(s), lessee(s), and on all successors and assigns of the landowner(s) and lessee(s), including without limitation any future lienholders. The deed restriction(s) shall not be removed or changed without approval of an amendment to the LCP by the Coastal Commission and to the underlying coastal development permit. However minor changes that do not conflict with subsection a) and g) above may be processed as an amendment to the coastal development permit only, unless it is determined by the Director of Planning and the Executive Director of the Coastal Commission that an amendment is not legally required.
- i) Fractional time owners shall have the right to the use of their units including a maximum use of 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period.
- j) The hotel owner/operator shall be required to submit, prior to issuance of a coastal development permit, for the review and approval of the Director of Planning, a Declaration of Restrictions or CC & R's (Covenants, Conditions & Restrictions), either of which shall include:
 - 1. All the specific restrictions listed in a through i above;
 - 2. Acknowledgement that these same restrictions are independently imposed as condition requirements of the coastal development permit;
 - 3. A statement that provisions of the Declaration/CC & R's that reflect the requirements of a through i above cannot be changed without approval of an LCP amendment by the Coastal Commission and subsequent coastal development permit amendment. However, minor changes that do not conflict with a) –i) above may be processed as an amendment to the coastal development permit, unless it is determined by

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the Director of Planning that an amendment is not legally required. If there is a section of the Declaration/CC&R's related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the Declaration/CC&R's on amendments.

- k) The CC & R's or Declaration of Restrictions described above shall be recorded against all individual property titles simultaneously with the recordation of the condominium airspace map.
- l) The provisions of the CC & R's or Declaration of Restrictions described above shall not be changed without approval of an amendment to the LCP by the Coastal Commission. However minor changes that do not conflict with a) through k) above may be processed as an amendment to the coastal development permit, unless it is determined by the Director of Planning that an amendment is not legally required.
- m) The hotel owner/operator or any successor-in-interest hotel owner/operator shall maintain the legal ability to ensure compliance with the terms and conditions stated above at all times in perpetuity and shall be responsible in all respects for ensuring that all parties subject to these restrictions comply with the restrictions. Each owner of a fractional interest in a unit is jointly and severally liable with the hotel owner/operator for violations of the terms and conditions hereof imposed by the special conditions of the coastal development permit. Violations of the coastal development permit can result in penalties pursuant to Public Resources Code Section 30820.
- n) All documents related to the marketing and sale of the fractional interest units, including marketing materials, sales contracts, deeds, CC & R's and similar documents, shall notify buyers of the following:
 - 1. The owners of a fractional interest in a unit are jointly and severally liable with the hotel owner/operator for any violations of the terms and conditions hereof imposed by the coastal development permit.
 - 2. The occupancy of the units is restricted to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, and when not in use by the owner, the unit shall be made available for rental by the hotel operator to the general public and that the coastal development permit contains additional restrictions on use and occupancy
- o) The hotel owner/operator and any successor-in-interest hotel owner/operator, and each future owner of a fractional interest in a unit shall obtain, prior to sale of a fractional interest, a written

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acknowledgement from the buyer that occupancy by the owner is limited to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, that the unit must be available for rental by the hotel operator to the general public when not occupied by the owner, and that there are further restrictions on use and occupancy in the coastal development permit and the CC & R's or Declaration of Restrictions.

- p) The hotel owner/operator and any successor-in-interest hotel owner/operator shall monitor and record hotel occupancy and use by the general public and the owners of a fractional interest in a unit throughout each year. The monitoring and record keeping shall include specific accounting of owner usage for each individual guestroom/unit. The records shall be sufficient to demonstrate compliance with the restrictions set forth in a through i above. The hotel owner/-operator shall also maintain documentation of rates paid for hotel occupancy and of advertising and marketing efforts. All such records shall be maintained for ten years and shall be made available to the City, and to the general public Executive Director of the Coastal Commission upon request and to the auditor required by section q below. Within 30 days of commencing hotel operations, the hotel owner/operator shall submit notice to the Director of Planning and to the Executive Director of the California Coastal Commission of commencement of hotel operations.
- q) Within 90 days of the end of the first calendar year of hotel operations, and within 90 days of the end of each succeeding calendar year, the hotel owner/operator shall retain an independent auditing company, approved by the Director of Planning, to perform an audit to evaluate compliance with special conditions of the coastal development permit which are required by this Section regarding notice, recordkeeping, and monitoring of the Fractional Interest Hotel. The audit shall evaluate compliance by the hotel owner/operator and owners of fractional interests in a unit during the prior calendar year period. The hotel owner/operator shall instruct the auditor to prepare a report identifying the auditor's findings, conclusions and the evidence relied upon, and such report shall be submitted to the Director of Planning, for review and approval, and shall be available to the general public Executive Director of the Coastal Commission upon request, within six months after the conclusion of each one year period of hotel operations. After the initial five calendar years, the one-year audit period may be extended to two years upon written approval of the Director of Planning. The Director of Planning may grant such approval if each of the previous audits revealed compliance with all restrictions imposed above.

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SUGGESTED MODIFICATION NO. 21

Add new Section 4.9.13 as follows:

4.9.13 If the hotel owner and the hotel operator at any point become separate entities, the hotel owner and the hotel operator shall be jointly and severally responsible for ensuring compliance with the requirements identified above. If the hotel owner and hotel operator become separate entities they shall be jointly and severally liable for violations of the terms and conditions (restrictions) identified above.

SUGGESTED MODIFICATION NO. 22

Add new Section 4.9.14 as follows:

4.9.14 A coastal development permit application for a Fractional Interest Hotel shall include a plan specifying how the requirements outlined in 4.9.12 will be implemented. The plan must include, at a minimum, the form of the sale, deed and CC & Rs/Declaration of Restrictions that will be used to satisfy the requirements and the form of the rental program agreement to be entered into between the individual unit owners and the hotel owner-operator. The plan must demonstrate that the applicant will establish mechanisms that provide the hotel operator and any successor-in-interest hotel operator adequate legal authority to implement the requirements of Section 4.9.12 above. An acceptable plan meeting these requirements shall be incorporated into the special conditions of approval of any coastal development permit for a Fractional Interest Hotel. Any proposed changes to the approved plan and subsequent documents pertaining to compliance with and enforcement of the terms and conditions required by Section 4.9.12 and this section including deeds and CC & R's/Declaration shall not occur without an amendment to the coastal development permit, unless it is determined by the Director of Planning that no such amendment is legally required.

SUGGESTED MODIFICATION NO. 23

4.9.15 Any hotel rooms for which a certificate of occupancy has been issued at the effective date of adoption of this Section shall not be permitted to be converted to a Fractional Ownership Hotel.

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SUGGESTED MODIFICATION NO. 24

4.9.16 In Lieu Fee Required

1. New development of overnight accommodations that are not “lower cost” shall be required to pay, as a condition of approval of a coastal development permit, an in-lieu fee to provide significant funding to assist in the creation of a substantial contribution to lower cost overnight visitor accommodations in or near Huntington Beach. The specific dollar amount of the fee shall be ~~\$50,000~~ \$3,000 in 2006 dollars (which shall be adjusted annually to account for inflation i.e. according to increases in the Consumer Price Index – U.S. City Average) times 25% of the total quantity of proposed ~~non-lower-cost and limited use overnight visitor accommodation units.~~
2. Prior to issuance of the coastal development permit, and upon execution of an appropriate agreement between the City and the designated recipient that assures use of the in-lieu fee for the intended mitigation, the applicant shall transfer the fee to the entity designated in the agreement, which shall be the City of Huntington Beach, the California State Department of Parks and Recreation, Hosteling International USA, or similar public agency and/or non-profit provider of lower cost overnight visitor accommodations. If the in lieu fee, or any portion thereof, is not committed toward a use (i.e. with an effective agreement in place for use toward an identifiable project) within one year of payment of the fee, the in lieu fee shall be made available to be applied toward lower-cost overnight visitor accommodations at Crystal Cove State Park.
3. The specific dollar amount that will define what type(s) of development constitute “lower cost” overnight visitor accommodations will depend on the local and regional supply of overnight visitor accommodations, type and location of proposed development at the time of discretionary review.

SUGGESTED MODIFICATION NO. 25

Modify the City’s proposed addition to Section 4.11.01(b) Permitted Uses as follows:

~~Timeshare Units~~ Condominium-Hotel pursuant to section 4.11.13

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SUGGESTED MODIFICATION NO. 26

Delete proposed Section 4.11.13 of the Downtown Specific Plan and replace with the following Section 4.11.13:

4.11.13 Condominium-Hotel: May be permitted and shall be conditioned as follows:

- a) Any hotel rooms for which a certificate of occupancy has been issued at the effective date of adoption of this Section shall not be permitted to be converted to a Condominium-Hotel.**
- b) A maximum of 75% of the total number of guestroom/units may be subdivided into condominiums and sold for individual ownership.**
- b) The hotel owner/operator shall retain control and ownership of all structures, recreational amenities, meeting space, restaurants, "back of house" and other non-guest unit facilities. When the Condominium-Hotel is located on land owned by the City, the hotel owner/operator shall be a leaseholder of the land upon which the Condominium-Hotel exists.**
- c) The Condominium-Hotel facility shall have an on-site hotel operator to manage rental/booking of all guestroom/units. Whenever any individually owned hotel unit is not occupied by its owner(s), that unit shall be available for hotel rental by the general public on the same basis as a traditional hotel room.**
- d) The hotel operator shall market and advertise all rooms to the general public. Unit owners may also independently market and advertise their units but all booking of reservations shall be made by and through the hotel operator.**
- e) The hotel operator shall manage all guestroom/units as part of the hotel inventory, which management will include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing units for use by guests/owners, a service for which the hotel operator may charge the unit owner a reasonable fee.**
- f) If the hotel operator is not serving as the rental agent for an individually owned unit, then the hotel operator shall nevertheless have the right, working through the individually owned units' owners or their designated agents, to book any unoccupied room to fulfill demand, at a rate similar to comparable accommodations in the hotel. The owner or an owner's rental agent may not withhold units from use. In all circumstances, the hotel operator shall have full access to the condominiums' reservation and**

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- booking schedule so that the operator can fulfill its booking and management obligations hereunder.
- g) All guestroom/unit keys shall be electronic and created by the hotel operator upon each new occupancy to control the use of the individually owned units.
 - h) Unit owners shall not discourage rental of their unit or create disincentives meant to discourage rental of their unit.
 - i) All individually owned hotel units shall be rented a rate similar to that charged by the hotel operator for the traditional hotel rooms of a similar class or amenity level.
 - j) The hotel operator shall maintain records of usage by owners and renters and rates charged for all units, and shall be responsible for reporting Transient Occupancy Taxes based on records of use for all units, a service for which the hotel operator may charge the unit owner a reasonable fee.
 - k) Each individually owned hotel unit shall be used by its owner(s) (no matter how many owners there are) for not more than 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period.
 - l) The use period limitations identified in (k) above, shall be unaffected by multiple owners or the sale of a unit to a new owner during the calendar year, meaning that all such owners of any given unit shall be collectively subject to the use restriction as if they were a single, continuous owner.
 - m) No portion of the Condominium-Hotel may be converted to full-time occupancy condominium or any other type of Limited Use Overnight Visitor Accommodations or other project that differs from the approved Condominium-Hotel.
 - n) Prior to issuance of a coastal development permit for the Condominium-Hotel, the landowner(s) of the property(ies) within District 9 upon which the traditional units/rooms (i.e. transient hotel rooms) are developed shall execute and record a deed restriction(s), subject to the review and approval of the Planning Director and the Executive Director of the Coastal Commission, which prohibits the conversion of those traditional hotel units/rooms to any other type of ownership (e.g. limited use overnight visitor accommodations). The deed restriction shall run with the land, shall be executed and consented to by the existing lessee(s) of the affected property(ies) and shall be binding on the landowner(s) and lessee(s), and on all successors and assigns of the landowner(s) and lessee(s), including without limitation any future lienholders. This deed restriction(s) shall not be removed or changed without approval of an amendment to the underlying coastal development permit and approval of an

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- amendment to the LCP by the Coastal Commission. However minor changes that do not conflict with subsection a) and m) above may be processed as an amendment to the coastal development permit only, unless it is determined by the Director of Planning and the Executive Director of the Coastal Commission that such an amendment is not legally required.
- o) The hotel owner/operator shall be required to submit, prior to issuance of a coastal development permit, for the review and approval of the Director of Planning, a Declaration of Restrictions or CC & R's (Covenants, Conditions & Restrictions) either of which shall include:
1. All the specific restrictions listed in a through m above;
 2. Acknowledgement that these same restrictions are independently imposed as condition requirements of the coastal development permit;
 3. A statement that provisions of the CC & Rs/Declaration of Restrictions that reflect the requirements of a through n above cannot be changed without approval of an LCP amendment by the Coastal Commission and subsequent coastal development permit amendment. However, minor changes that do not conflict with a) – m) above may be processed as an amendment to the coastal development permit, unless it is determined by the Director of Planning that an amendment is not legally required. If there is a section of the C&Rs/Declaration of Restrictions related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the Declaration/CC&R's on amendments.
- p) The CC & R's or Declaration of Restrictions described above shall be recorded against all individual property titles simultaneously with the recordation of the condominium airspace map.
- q) The provisions of the CC & R's or Declaration of Restrictions described above shall not be changed without approval of an amendment to the LCP by the Coastal Commission. However minor changes that do not conflict with a) through p) above may be processed as an amendment to the coastal development permit, unless it is determined by the Director of Planning that an amendment is not legally required.
- r) The hotel owner/operator or any successor-in-interest shall maintain the legal ability to ensure compliance with the terms and conditions stated above at all times in perpetuity and shall be responsible in all respects for ensuring that all parties subject to

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these restrictions comply with the restrictions. Each owner of an individual quest room/condominium unit is jointly and severally liable with the hotel owner-operator for any and all violations of the terms and conditions imposed by the special conditions of the coastal development permit with respect to the use of that owner's unit. Violations of the coastal development permit can result in penalties pursuant to Public Resources Code Section 30820.

- s) All documents related to the marketing and sale of the condominium interests, including marketing materials, sales contracts, deeds, CC & Rs and similar documents, shall notify buyers of the following:
1. Each owner of any individual hotel unit is jointly and severally liable with the hotel owner-operator for any violations of the terms and conditions of the coastal development permit with respect to the use of that owner's unit; and
 2. The occupancy of the units by owner(s) is restricted to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, and when not in use by the owner, the unit shall be made available for rental by the hotel operator to the general public per the terms of the coastal development permit and that the coastal development permit contains additional restrictions on use and occupancy.
- t) The hotel owner/operator and any successor-in-interest hotel owner and operator, and each future individual unit owner shall obtain, prior to sale of individual units, a written acknowledgement from the buyer that occupancy by the owner is limited to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, that the unit must be available for rental by the hotel operator to the general public when not occupied by the owner, and that there are further restrictions on use and occupancy in the coastal development permit and the CC & R's or Declaration of Restrictions.
- u) The hotel owner/operator and any successor-in-interest hotel owner and operator shall monitor and record hotel occupancy and use by the general public and the owners of individual hotel units throughout each year. The monitoring and record keeping shall include specific accounting of owner usage for each individual questroom/unit. The records shall be sufficient to demonstrate compliance with the restrictions set forth in a through n above. The hotel owner-operator shall also maintain documentation of rates paid for hotel occupancy and of

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advertising and marketing efforts. All such records shall be maintained for ten years and shall be made available to the City, and the ~~general public~~ Executive Director of the Coastal Commission upon request and to the auditor required by section v below. Within 30 days of commencing hotel operations, the hotel owner-operator shall submit notice to the Director of Planning and to the Executive Director of the California Coastal Commission of commencement of hotel operations.

- v) Within 90 days of the end of the first calendar year of hotel operations, and within 90 days of the end of each succeeding calendar year, the hotel owner-operator shall retain an independent auditing company, approved by the Director of Planning, to perform an audit to evaluate compliance with special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring of the Condominium-Hotel. The audit shall evaluate compliance by the hotel owner/operator and owners of individual hotel units during the prior one-year period. The hotel owner/operator shall instruct the auditor to prepare a report identifying the auditor's findings, conclusions and the evidence relied upon, and such report shall be submitted to the Director of Planning, for review and approval, and shall be available to the ~~general public~~ Executive Director of the Coastal Commission upon request, within six months after the conclusion of each one year period of hotel operations. After the initial five calendar years, the one-year audit period may be extended to two years upon written approval of the Director of Planning. The Director of Planning may grant such approval if each of the previous audits revealed compliance with all restrictions imposed above.

SUGGESTED MODIFICATION NO. 27

Add new Section 4.11.14, as follows:

4.11.14 If the hotel owner and the hotel operator at any point become separate entities, the hotel owner and the hotel operator shall be jointly and severally responsible for ensuring compliance with the requirements identified above. If the hotel owner and hotel operator become separate entities, they shall be jointly and severally liable for violations of the terms and conditions (restrictions) identified above.

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SUGGESTED MODIFICATION NO. 28

Add new Section 4.11.15, as follows:

4.11.15 A coastal development permit application for a Condominium-Hotel shall include a plan specifying how the requirements outlined in 4.11.13 will be implemented. The plan must include, at a minimum, the form of the sale, deed and CC & Rs/Declaration of Restrictions that will be used to satisfy the requirements and the form of the rental program agreement to be entered into between the individual unit owners and the hotel owner/operator. The plan must demonstrate that the applicant will establish mechanisms that provide the hotel operator and any successor-in-interest hotel operator adequate legal authority to implement the requirements of Section 4.11.13 above. An acceptable plan meeting these requirements shall be incorporated into the special conditions of approval of any coastal development permit for a Condominium-Hotel. Any proposed changes to the approved plan and subsequent documents pertaining to compliance with and enforcement of the terms and conditions required by Section 4.11.13 and this section including deeds and CC&Rs/Declaration of Restrictions shall not occur without an amendment to the coastal development permit, unless it is determined by the Director of Planning that an amendment is not legally required.

SUGGESTED MODIFICATION NO. 29

Add new Section 4.11.16, as follows:

4.11.16 Any hotel rooms for which a certificate of occupancy has been issued in the District at the effective date of adoption of this Section (4.11.13) shall not be permitted to be converted to Limited Use Overnight Visitor Accommodations.

SUGGESTED MODIFICATION NO. 30

Add new Section 4.11.17, as follows:

4.11.17 In Lieu Fee Required

- 1. New development of overnight accommodations that are not "lower cost" shall be required to pay, as a condition of approval of a coastal development permit, an in-lieu fee to provide significant funding to assist in the creation of a substantial contribution to lower cost overnight visitor accommodations in or near Huntington Beach. The specific dollar amount of the fee shall be ~~\$50,000~~ \$3,000 in 2006 dollars (which shall be adjusted annually to account for inflation i.e.**

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- according to increases in the Consumer Price Index – U.S. City Average) times 25% of the total quantity of proposed non-lower-cost and limited use overnight visitor accommodation units.
2. Prior to issuance of the coastal development permit, and upon execution of an appropriate agreement between the City and the designated recipient that assures use of the in-lieu fee for the intended mitigation, the applicant shall transfer the fee to the entity designated in the agreement, which shall be the City of Huntington Beach, the California State Department of Parks and Recreation, Hosteling International USA, or similar public agency and/or non-profit provider of lower cost overnight visitor accommodations. If the in lieu fee, or any portion thereof, is not committed toward a use (i.e. with an effective agreement in place for use toward an identifiable project) within one year of payment of the fee, the in lieu fee shall be made available to be applied toward lower-cost overnight visitor accommodations at Crystal Cove State Park.
 3. The specific dollar amount that will define what type(s) of development constitute “lower cost” overnight visitor accommodations will depend on the local and regional supply of overnight visitor accommodations, type and location of proposed development at the time of discretionary review.

Suggested Modification No. 31

In the Zoning and Subdivision Ordinance, in Chapter 211 C Commercial Districts, within Section 211.04 CO, CG, and CV Districts: Land Use Controls, on the allowable uses chart (pages 211-2 through 211-4), on page 211-4, under Quasi Residential, delete timeshares, residential hotels, and single room occupancy as uses within the CV district and add the following under Visitor Accommodations, after Hotels, Motels:

	CO	CG	CV	Additional Provisions
Visitor Accommodations				
Bed & Breakfast Inns	PC	PC	PC	(K)
Hotels, Motels	-	PC	PC	(I)
Condominium-Hotel/	-	-	PC	(W) [or lettered as
				<u>appropriate]</u>

Fractional Ownership Hotel

Quasi Residential				
Timeshares	-	PC	PG	(I), (J)
Residential Hotel	-	PC	PG	(J)
Single Room Occupancy		PC	PG	

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Suggested Modification No. 32

At the end of section 211.04, Additional Provisions, add new Additional Provision (W) [or lettered as appropriate to conform to the City's format]:

(W) In the CV District, Condominium-Hotels and/or Fractional Interest Hotels are allowed only at the Pacific City (Downtown Specific Plan District 7) and Waterfront (Downtown Specific Plan District 9) sites. Refer to Downtown Specific Plan.

Suggested Modification No. 33

In the Zoning and Subdivision Ordinance, in Chapter 203 Definitions, add the following definitions in alphabetical order:

Hotel Owner/Operator – The entity that owns and operates a hotel. If the hotel operator is separate from the hotel owner both are jointly and severally responsible for ensuring compliance with the requirements described in this LCP and/or recorded against the property, as well as jointly and severally liable for violations of said requirements and restrictions.

Limited Use Overnight Visitor Accommodations – Any hotel, motel, or other similar facility that provides overnight visitor accommodations wherein a purchaser receives the right in perpetuity, for life, or a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of the facility, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the facility has been divided and shall include, but not be limited to Timeshare, Condominium-Hotel, Fractional Ownership Hotel, or uses of a similar nature.

SUGGESTED MODIFICATION NO. 34

Replace existing definition of “timeshare” in Chapter 204 with the following:

Timeshare – Any arrangement, plan, or similar program, other than an exchange program, whereby a purchaser receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.

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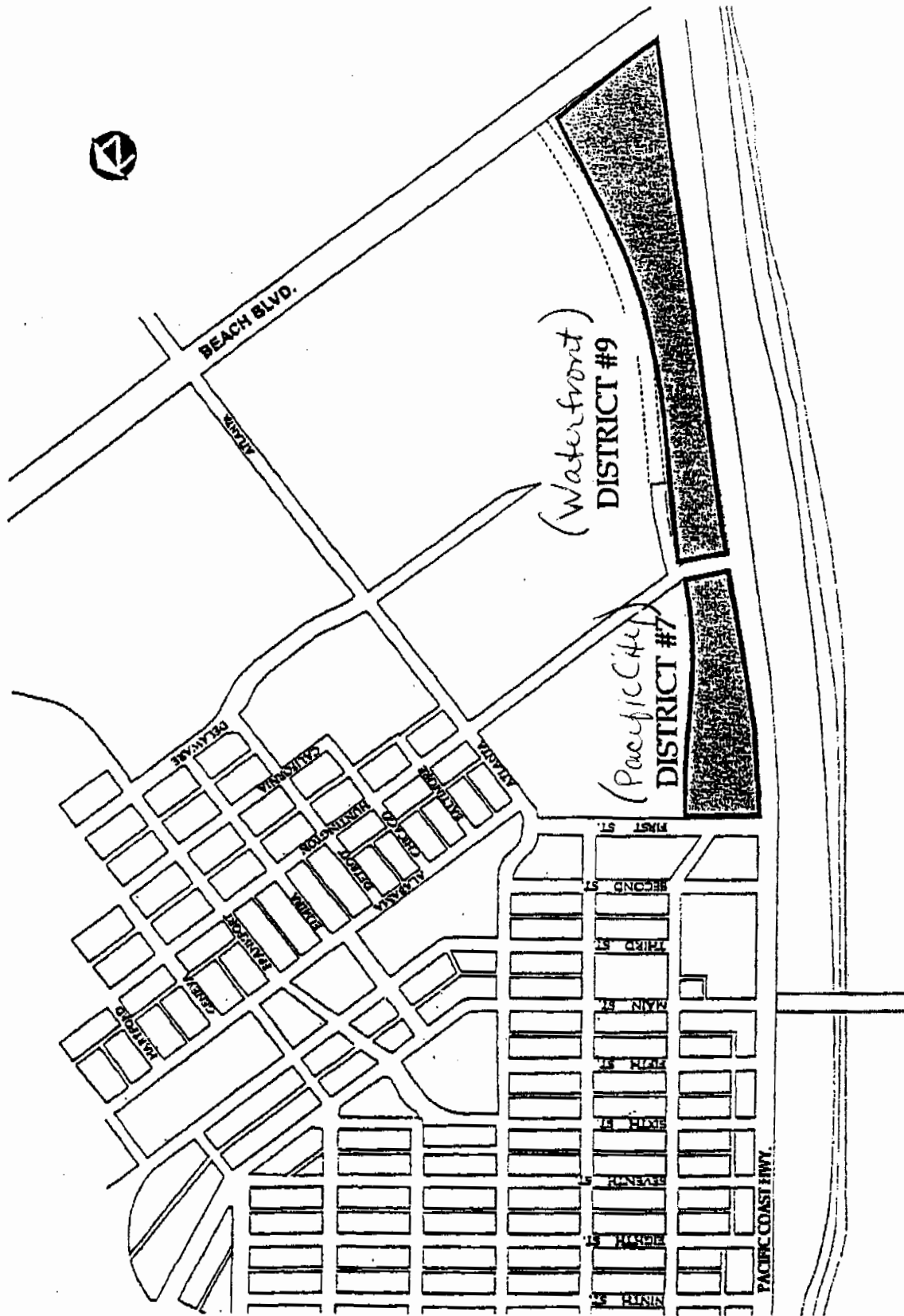
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Add the following new definitions to Chapter 204:

Condominium-Hotel – Facility providing overnight visitor accommodations where ownership of at least some of the individual guestrooms (units) within the larger building or complex is in the form of separate condominium ownership interests, as defined in California Civil Code section 1351(f). The primary function of the Condominium-Hotel is to provide overnight transient visitor accommodations within every unit that is available to the general public on a daily basis year-round, while providing both general public availability and limited owner occupancy of those units that are in the form of separate condominium ownership interests.

Fractional Ownership Hotel – Facility providing overnight visitor accommodations where at least some of the guestrooms (units) within the facility are owned separately by multiple owners on a fractional time basis. A fractional time basis means that an owner receives exclusive right to use of the individual unit for a certain quantity of days per year and each unit available for fractional ownership will have multiple owners.

Downtown Specific Plan District No. 7 and District No. 9 Map



VICINITY MAP

Exhibit B

RESOLUTION NO. 2005-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HUNTINGTON BEACH ADOPTING LOCAL COASTAL PROGRAM
AMENDMENT NO. 03-02 TO AMEND THE LOCAL COASTAL PROGRAM
LAND USE PLAN AND IMPLEMENTING ORDINANCES TO PERMIT
TIMESHARES IN THE COMMERCIAL VISITOR LAND USE CATEGORY
AND TO REFLECT ZONING TEXT AMENDMENT NO. 03-03 AND
REQUESTING CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Section 30503 and 30510, the Planning Commission of the City of Huntington Beach held a public hearing to consider the adoption of the Huntington Beach Local Coastal Program Amendment No. 03-02; and

Such amendment was recommended to the City Council for adoption; and

The City Council, after giving notice as prescribed by law, held at least one public hearing on the proposed Huntington Beach Local Coastal Program Amendment No. 03-02, and the City Council finds that the proposed amendment is consistent with the Huntington Beach General Plan, the Certified Huntington Beach Local Coastal Program (including the Land Use Plan), and Chapter 6 of the California Coastal Act; and

The City Council of the City of Huntington Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act,

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

SECTION 1: That Local Coastal Program Amendment No. 03-02 is the subject of this Resolution to allow timeshares in the Commercial Visitor district of the Local Coastal Program, including Subareas 4C and 4D, and modifying Policy 3.2.4 to add reference to the allowance of timeshares in the Commercial Visitor District and replace overnight accommodation language with hotels/motel and timeshares in the Commercial General land use category for consistency (Exhibit A).

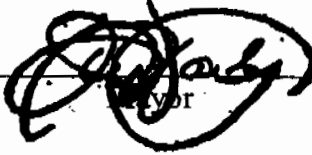
SECTION 2: That the Huntington Beach Local Coastal Program Amendment No. 03-02 incorporates Zoning Text Amendment No. 03-03, a copy of which is attached hereto as Exhibit B, and incorporated by this reference as though fully set forth herein, is hereby approved.

COASTAL COMMISSION

HNB LCPA 2-06

EXHIBIT # C
PAGE 1 OF 20

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 21st day of March, 2005.


Mayor

REVIEWED AND APPROVED:


City Administrator

APPROVED AS TO FORM:


City Attorney LHM3/1/05

INITIATED AND APPROVED:


Director of Planning

Exhibits

- A. Local Coastal Program Element Amendments
- B. Zoning Text Amendments

C₂

EXHIBIT A

C₃

COASTAL ELEMENT LAND USE PLAN
LAND USE, DENSITY AND OVERLAY SCHEDULE
TABLE C-1 (Continued)

LAND USE CATEGORY	TYPICAL PERMITTED USES
COMMERCIAL	
Commercial Neighborhood (CN)	<p>Small-scale retail commercial, professional offices, eating and drinking establishments, household goods, food sales, drug stores, personal services, cultural facilities, institutional, health, government offices and similar uses. Generally, individual establishments should not exceed 10,000 square feet. If feasible, their frontage should be designed to convey the visual character of small storefronts.</p> <p>The Commercial Neighborhood (CN) designation shall utilize the standards of the General Commercial District (CG) of the Zoning Code for implementation.</p>
Commercial General (CG)	<p>Retail commercial, professional offices, eating and drinking establishments, household goods, food sales, drugstores, building materials and supplies, personal services, recreational commercial, hotels/motels, timeshares overnight accommodations, cultural facilities, government offices, educational, health, institutional and similar uses.</p>
Commercial Visitor (CV)	<p>Hotels/motels, timeshares restaurants, recreation-related retail sales, cultural uses (e.g., museums) and similar uses oriented to coastal and other visitors to the City.</p> <p>Marine related development such as marinas, retail marine sales, boat rentals, and boat storage which are coastal dependent developments shall have priority over any other type of development (consistent with resource protection) on or near the shoreline.</p>
INDUSTRIAL	
Industrial (I)	<p>Light manufacturing, energy production, resource production, research and development, warehousing, business parks and professional offices, supporting retail, financial, restaurants and similar uses. Warehouse and sales outlets.</p> <p>Marine related activities such as boat construction and dry boat storage. Coastal dependent development shall have priority over any other type of development (consistent with resource protection) on or near the shoreline.</p>
PUBLIC INSTITUTIONAL	
Public (P)	<p>Governmental administrative and related facilities, such as public utilities, schools, libraries, museums, public parking lots, infrastructure, religious and similar uses.</p>

COMMUNITY DISTRICT AND SUBAREA SCHEDULE
TABLE C-2 (continued)

Subarea	Characteristic	Standards and Principles
4B Existing Oil Property (Cont.)	Design and Development	<p>Category: Specific Plan ("-sp")</p> <ul style="list-style-type: none"> Requires the preparation of and development in conformance with a Conceptual Master Plan of Development and Specific Plan. The preparation of a Specific Plan may be phased in conformance with the conceptual Master Plan. Establish a cohesive, integrated residential development in accordance with the policies and principles stipulated for "New Residential Subdivisions" (Policies LU 9.3.1 and LU 9.3.4). Allow for the clustering of mixed density residential units and integrated commercial sites. Require variation in building heights from two (2) to four (4) stories to promote visual interest and ensure compatibility with surrounding land uses. Commercial development shall be prohibited along the Palm Avenue frontage. Residential development along Palm Avenue shall be compatible in size, scale, height, type, and massing with existing development on the north side of Palm Avenue. Visitor Serving Commercial development shall be oriented along the Pacific Coast Highway frontage. Minimize vehicular access points onto arterial streets and highways including Palm Avenue, Golden West Street, Pacific Coast Highway, and Seapoint Street. Open space and neighborhood parks, which may be private, shall be provided on site.
	Permitted Uses	<p>Category: Commercial Visitor ("CV")</p> <p>Visitor-serving and community-serving commercial uses, restaurants, entertainment, hotels/motels, timeshares and other uses (as permitted by the "CV" and "CG" land use categories)</p>
	Density/Intensity	<p>Category: "-F7"</p> <ul style="list-style-type: none"> Height: eight (8) stories
4C PCH/First (Lake) Street	Design and Development	<p>Category: Specific Plan ("-sp")</p> <ul style="list-style-type: none"> 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.

**COMMUNITY DISTRICT AND SUBAREA SCHEDULE
TABLE C-2 (continued)**

Subarea	Characteristic	Standards and Principles
4D Waterfront	Permitted Uses	Category: Commercial Visitor ("CV") Hotels/motels, timeshares and supporting visitor-serving commercial uses (in accordance with Development Agreement)
	Density/Intensity	Category: "-F7" <ul style="list-style-type: none"> Hotel/motel rooms: 1,690 Commercial: 75,000 square feet
	Design and Development	Category: Specific Plan ("-sp") As defined by the adopted Development Agreement.
4E PCH/Beach Northeast	Permitted Uses	Category: Open Space Conservation ("OS-C"), uses permitted by the Commercial Visitor ("CV") land use category, and free-standing multi-family housing ("RM"). (Please refer to the Land Use Map for the exact boundaries of each land use designation.)
	Density/Intensity	Category: <ul style="list-style-type: none"> For RM designations, 15 units per acre For CV designations, F2 Height: three (3) stories
	Design and Development	Category: <ul style="list-style-type: none"> Establish a major streetscape element to identify the Beach Boulevard-PCH intersection. Site, design, and limit the scale and mass of development, as necessary, to protect wetlands. Maintain visual compatibility with the downtown. Incorporate onsite recreational amenities for residents. Minimize access to and from PCH, providing an internal roadway system. Incorporate extensive landscape and streetscape.
4F Wetlands	Permitted Uses	Category: Conservation ("OS-C") <ul style="list-style-type: none"> Wetlands conservation.
4G Edison Plant	Permitted Uses	Category: Public ("P") and Conservation ("OS-C") <ul style="list-style-type: none"> Wetlands conservation. Utility uses.
	Design and Development	In accordance with Policy LU 13.1.8.
4H Brookhurst- Magnolia	Permitted Uses	Category: Conservation ("OS-C") Wetlands conservation.

C 6

facilities on private land to be open to the public. (I-C 7)

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. (I-C 1, I-C 2, I-C 3, I-C 4)

C 3.2.4

Timeshares may be permitted in Commercial General District (CG), and Mixed Use Districts (M, MH, and MV), **and Commercial Visitor District (CV) as part of a master plan project**, provided that any such project be conditioned as follows: (I-C 1, I-C 2, I-C 3, I-C 7)

- a) That at least twenty-five percent of the units be permanently reserved for transient overnight accommodations during the summer season (beginning the day before the Memorial Day weekend and ending the day after Labor Day).
- b) That the timeshare facility operate as a hotel including requirements for a centralized reservations system, check-in services, advertising, security, and daily housecleaning.

C 3.2.5

Establish an ongoing program to permit recreational vehicle camping during the winter months at City beach parking lots. (I-C 22j)

C 3.2.6

Encourage additional overnight recreational vehicle camping facilities, adequately screened, in the recreation areas on both sides of Newland Street near Pacific Coast

Highway and on the State beach parking lots during the winter months. (I-C 22j)

C 3.2.7

Investigate the feasibility of providing year round camping below the bluffs, northwest of the Municipal Pier, between Ninth Street and Goldenwest Street. (I-C 22j)

C 3.2.8

Promote the implementation of and funding for the proposed Orange Coast River Park concept. The Orange Coast River Park is envisioned as a linkage of public parks (Talbert and Fairview Regional Parks) and private open space lands along and near the mouth of the Santa Ana River, including possible linkages with open space lands located on the inland side of Pacific Coast Highway, between the Santa Ana River and Beach Boulevard in Huntington Beach. (I-C 1, I-C 2, I-C 17)

C 3.2.9

Promote and support the implementation of the proposed Wintersburg Channel Class I Bikeway. (I-C 1, I-C 2)

C 3.2.10

Promote and support the development of, the City and County portions of the Harriett M. Wieder Regional Park. Include a continuous trail system from Huntington Central Park to the beach, along the eastern border of the Bolsa Chica wetlands, if feasible. (I-C 1, I-C 2, I-C 17)

C 3.2.11

Encourage and support the following recreational facilities and design characteristics within the Harriett M. Wieder Regional Park: (I-C 1, I-C 2)

- a) Limit above ground structures to support facilities such as restrooms, picnic tables, bike racks, view

C 7

EXHIBIT B

C₈

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING THE DOWNTOWN SPECIFIC PLAN OF
THE CITY OF HUNTINGTON BEACH

WHEREAS, the City Council of the City of Huntington Beach has previously adopted the Downtown Specific Plan; and

Pursuant to the California State Planning and Zoning Law, the Huntington Beach Planning Commission and Huntington Beach City Council have held separate, duly noticed public hearings relative to amending the Downtown Specific Plan, wherein both bodies have carefully considered all information presented at said hearings; and

After due consideration of the findings and recommendations of the Planning Commission and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan,

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

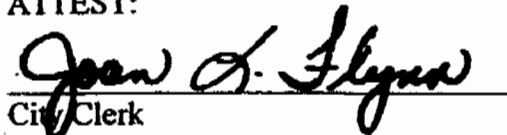
SECTION 1: The Downtown Specific Plan is hereby amended as set forth in the Legislative Draft attached hereto as Exhibit A.

SECTION 2: Except as specifically modified herein, all other sections of the Huntington Beach Downtown Specific Plan shall remain in full force and effect.

SECTION 3: This ordinance shall become effective immediately upon certification of the California Coastal Commission.

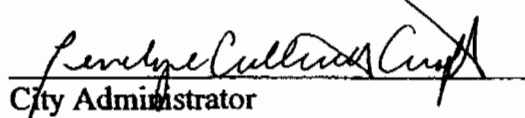
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 4th day of April, 2005.

ATTEST:

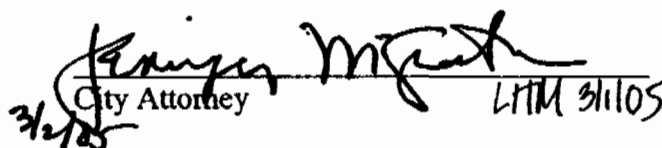

City Clerk


Mayor

REVIEWED AND APPROVED:


City Administrator

APPROVED AS TO FORM:


City Attorney LHM 3/1/05

INITIATED AND APPROVED:

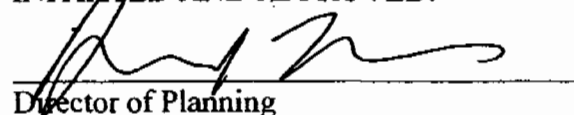

Director of Planning

EXHIBIT A


C₁₀

Res. No. 2005-20

STATE OF CALIFORNIA
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, JOAN FLYNN, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at an **regular** meeting thereof held on the **21st of March, 2005** by the following vote:

AYES: Hansen, Coerper, Hardy, Green, Bohr
NOES: Sullivan, Cook
ABSENT: None
ABSTAIN: None



City Clerk and ex-officio Clerk of the
City Council of the City of
Huntington Beach, California

ORDINANCE NO. 3702

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING THE DOWNTOWN SPECIFIC PLAN OF
THE CITY OF HUNTINGTON BEACH

WHEREAS, the City Council of the City of Huntington Beach has previously adopted the Downtown Specific Plan; and

Pursuant to the California State Planning and Zoning Law, the Huntington Beach Planning Commission and Huntington Beach City Council have held separate, duly noticed public hearings relative to amending the Downtown Specific Plan, wherein both bodies have carefully considered all information presented at said hearings; and

After due consideration of the findings and recommendations of the Planning Commission and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan,

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

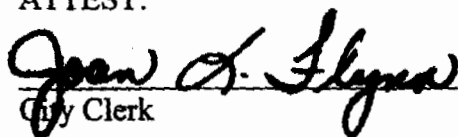
SECTION 1: The Downtown Specific Plan is hereby amended as set forth in the Legislative Draft attached hereto as Exhibit A.


SECTION 2: Except as specifically modified herein, all other sections of the Huntington Beach Downtown Specific Plan shall remain in full force and effect.

SECTION 3: This ordinance shall become effective immediately upon certification of the California Coastal Commission.

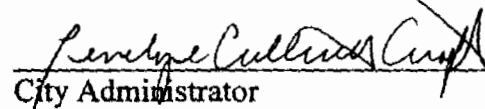
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 4th day of April, 2005.

ATTEST:

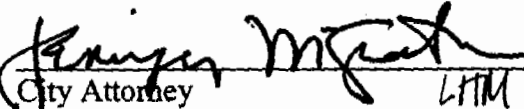

City Clerk


Mayor

REVIEWED AND APPROVED:


City Administrator

APPROVED AS TO FORM:


City Attorney LHM 3/11/05
3/2/05

INITIATED AND APPROVED:

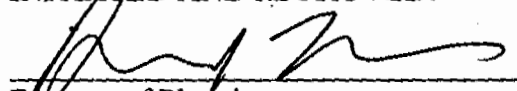

Director of Planning

EXHIBIT A

Public open space: Outdoor or unenclosed area on the ground floor or above floor levels designed and accessible for use by the general public. Public open space may include one of the following: patios, plazas, balconies, gardens or view areas accessible to the general public, and open air commercial space, open to the street on the first floor, or on at least one side, above the first floor, or open to the sky. The open space requirement can be met anywhere in the development; however, open space provided above the second floor will receive only fifty (50) percent credit toward this requirement. This requirement cannot be met by open areas which are inaccessible to the general public or are contrary to specific requirements of a district.

Public right-of-way: That property dedicated through acquisition or easement for the public right-of-way or utility purposes which includes the area spanning from the property line on one side of a street to the property line on the other side of a street.

Recreational Vehicle: A travel Trailer, pick-up camper or motorized home with or without a mode of power and designed for temporary human habitation for travel or recreational purposes.

Rehabilitation: The physical repair, preservation, or improvement of a building or structure. Does not include an expansion of existing floor area greater than ten (10) percent; does not increase the building height; does not result in an increase in permitted density.

Residual parcel: A legal lot which does not meet the requirements for a building site within the District in which it is located, and where the abutting sites are already developed.

Right-of-Way (ROW): That portion of property which is dedicated or over which an easement is granted for public streets, utilities or alleys.

Semi-subterranean parking: Parking structure which is partially recessed into the development site, and which may or may not support additional structures above (e.g. dwelling units, tennis courts, or parking structures).

Setback: A stipulated area adjacent to the lot lines which must be kept free of structures over forty-two (42) inches high.

Street level: The elevation measured at the centerline of the public street adjacent to the front setback at a point midway between the two side property lines.

Suite Hotel: A building designed for or occupied as a temporary lodging place which contains guest rooms and may contain kitchenettes and a separate living room for each unit.

Timeshares: Any master planned development wherein a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of real property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided and shall include, but not be limited to timeshare estate, interval ownership, vacation license, vacation lease, club membership, timeshare use, condominium/hotel, or uses of a similar nature.

Townlot: The area and parcels bounded by Pacific Coast Highway on the southwest, Goldenwest Street on the northwest, Palm Avenue on the north and northeast, and Sixth Street on the east and southeast.

4.9 DISTRICT #7: VISITOR-SERVING COMMERCIAL

Purpose. This District extends southeast of the Downtown core adjacent to Pacific Coast Highway. The principal purpose of this District is to provide commercial facilities to serve seasonal visitors to the beaches as well as to serve local residents on a year round basis. This District also provides a continuous commercial link between the Downtown and the visitor-commercial/recreation District near Beach Boulevard.

Boundaries. District #7 extends from First Street to Huntington Avenue between PCH and the proposed Walnut Avenue extension.

4.9.01 Permitted Uses.

- (a) The following list of Visitor-Serving Commercial uses in District No. 7 may be allowed. Other visitor serving related uses as described in the Land Use Plan, and which have the same parking demand as the existing use not specified herein may be allowed subject to the approval of the Director. Change of use shall be subject to the approval of the Director:

- Art gallery
- Bakeries
- Banks and savings and loans branch offices (not to exceed five-thousand (5,000) square feet)
- Beach, swimming and surfing equipment
- Bicycle sales, rental and repair
- Boat and marine supplies
- Bookstores
- Carts and Kiosks pursuant to Section 230.94 of the Huntington Beach Zoning and Subdivision Ordinance
- Clothing stores
- Delicatessens
- Florists
- Groceries (convenience)
- Ice cream parlors
- Laundromats, laundries
- Meat or fish markets
- Newspaper and magazine stores
- Newsstands
- Outdoor dining pursuant to S.4.2.33
- Photographic equipment sales
- Photographic processing
- Professional Office (not to exceed fifty [50] percent of total floor area)
- Public Transportation Center
- Shoe stores
- Sporting goods
- Tourist related public and semi-public buildings, services and facilities
- Travel agency

Note: Visitor-serving commercial uses must be a part of all development proposals in this District, with a minimum requirement that the entire street level be devoted to Visitor-Serving Commercial Uses.

- (b) The following list of uses, or change of such use in District No. 7 may be allowed subject to the approval of a Conditional Use Permit.

- Automobile service stations
- Dancing and/or live entertainment
- Health and sports clubs
- Liquor stores
- Restaurants
- Taverns
- Theaters
- Hotels and motels
- Permanent parking lots and parking structures
- **Timeshare Units pursuant to section 4.9.12**

4.9.02 Minimum Parcel Size. No minimum parcel size shall be required for this District. However, prior to the approval of any development, including subdivision, a master site plan for the entire District shall be approved by the Planning Commission. Development which is in conformance with the site plan may then be permitted.

4.9.03 Maximum Density/Intensity.

- (a) The maximum intensity of development shall be calculated by Floor Area Ratio (FAR) for the District. The floor area ratio shall apply to the whole District. The floor area ratio shall be 3.0 calculated on net acreage.

4.9.04 Maximum Building Height. The maximum building height shall be eight (8) stories.

4.9.05 Maximum Site Coverage. The maximum site coverage shall be fifty (50) percent of the net site area.

4.9.06 Setback (Front Yard). The minimum front yard setback for all structures exceeding forty-two (42) inches in height shall be fifty (50) feet from PCH.

4.9.07 Setback (Side Yard). The minimum exterior side yard requirement shall be twenty (20) feet.

4.9.08 Setback (Rear Yard). The minimum rear yard setback shall be twenty (20) feet from the proposed Walnut Avenue extension.

Note: An additional ROW dedication will be required to provide for the Walnut Avenue extension.

4.9.09 Setback (Upper Story). No upper story setback shall be required in this District.

4.9.10 Open Space. Public open space and/or pedestrian access shall be required for development projects in order to assure a predominantly visitor-serving orientation.

4.9.11 Corridor Dedication. Development in District #7 shall require the dedication of a twenty (20) foot corridor between Atlanta Avenue and PCH for public access between the southern end of the Pacific Electric ROW and PCH. This requirement may be waived if an alternative public use is provided or if the corridor is deemed unnecessary by the City. Any proposal for an alternative public use must be approved by the Planning Commission.

4.9.12 Timeshares. May be permitted as part of a master planned development and shall be conditioned as follows:

- a) At least twenty-five percent of the units be permanently reserved for transient overnight accommodations during the peak summer season (beginning the day before Memorial Day weekend and ending the day after Labor Day).**
- b) The timeshare facility shall operate as a hotel including requirements for a centralized reservations system, check-in services, advertising, security, and daily housecleaning.**
- c) A description specifying how the twenty-five percent reserved transient overnight requirement of Section 4.9.12 (a) will be satisfied within the master planned development must be submitted at time of application.**

4.11 DISTRICT #9: COMMERCIAL/RECREATION

Purpose. The purpose of this District is to encourage large, coordinated development that is beach-oriented and open to the public for both commercial and recreational purposes.

Boundaries. District #9 is bounded by PCH on the south, Beach Boulevard on the east, Huntington Street on the west, and on the north by the proposed Walnut Avenue extension.

4.11.01 Permitted Uses.

(a) The following list of commercial recreation uses in District No. 9 may be allowed. Other visitor serving related uses as described in the Land Use Plan, and which have the same parking demand as the existing use not specified herein may be allowed subject to the approval of the Director. A change of use shall be subject to the approval of the Director. For example:

- Carts and Kiosks pursuant to Section 230.94 of the Huntington Beach Zoning and Subdivision Ordinance
- Retail sales
- Tourist related uses
- Outdoor dining pursuant to S.4.2.33

(b) The following list of uses, or change of such use in District No. 9 may be allowed subject to approval of a Conditional Use Permit. For example:

- Dancing and/or Live entertainment
- Recreational facilities
- Restaurants
- Hotels, motels
- **Timeshare Units pursuant to section 4.11.13**

4.11.02 Minimum Parcel Size. No minimum parcel size shall be required for this District. However, prior to approval of a Conditional Use Permit by the Planning Commission for any development, a master site plan for the entire District shall be approved by the Planning Commission. Development which is in conformance with the site plan may then be permitted.

4.11.03 Maximum Density/Intensity. The maximum intensity of development shall be calculated by floor area ratio (FAR) for this District. The floor area ratio shall apply to the entire project area. Floor area ratios shall be calculated on net acreage.

(a) The maximum floor area for developments in this District shall be calculated with a multiple of 3.0.

4.11.04 Maximum Building Height. No maximum building height shall be required.

4.11.05 Maximum Site Coverage. The maximum site coverage shall be thirty-five (35) percent of the net site area.

Note: A maximum of twenty-five (25) percent of the net site area can be used for parking and vehicular accessways.

- 4.11.06 Setback (Front Yard). The minimum front yard setback for all structures exceeding forty-two (42) inches in height shall be fifty (50) feet, from PCH and Beach Boulevard.
- 4.11.07 Setback (Side Yard). The minimum exterior side yard requirement shall be twenty (20) feet.

Exception: The minimum exterior yard requirement from Beach Boulevard shall be fifty (50) feet.

- 4.11.08 Setback (Rear Yard). The minimum rear yard setback shall be twenty (20) feet.

Note: An additional ROW dedication will be required to provide for the Walnut Avenue extension.

- 4.11.09 Setback (Upper Story). No upper story setback shall be required.

- 4.11.10 Open Space. Development projects within this District shall provide public open space. A minimum of thirty (30) percent of the net site area must be provided for such a purpose. This area shall be available for public or semi-public uses for recreational purposes. Open space must have minimum dimensions of twenty-five (25) feet in each direction. Paved areas devoted to streets, driveways and parking areas may not be counted toward this requirement. A maximum of fifteen (15) percent of the required thirty (30) percent may be enclosed recreation space such as gyms, handball courts, health clubs, interpretive centers or similar facilities. A fee may be imposed for the use of such facilities.

- 4.11.11 Pedestrian Overpass. A pedestrian overpass may be required to connect the development in this District to the City Beach, as a condition of approval for any new development on, or further subdivision of, parcels within the District. The City may waive this requirement if the City determines that overpasses are unnecessary or impractical considering the type and design of new developments.

- 4.11.12 Mobile home District. A portion of District #9 is zoned for mobile home use. Within this mobile home area, the provisions of the Mobile home District of the Huntington Beach Zoning and Subdivision Ordinance shall apply (see Section 4.16).

- 4.11.13 Timeshares. May be permitted as part of a master planned development and shall be conditioned as follows:**

- a) At least twenty-five percent of the units be permanently reserved for transient overnight accommodations during the peak summer season (beginning the day before Memorial Day weekend and ending the day after Labor Day).**
- b) The timeshare facility shall operate as a hotel including requirements for a centralized reservations system, check-in services, advertising, security, and daily housecleaning.**
- c) A description specifying how the twenty-five percent reserved transient overnight requirement of Section 4.11.13 (a) will be satisfied within the master planned development must be submitted at time of application.**

Public open space: Outdoor or unenclosed area on the ground floor or above floor levels designed and accessible for use by the general public. Public open space may include one of the following: patios, plazas, balconies, gardens or view areas accessible to the general public, and open air commercial space, open to the street on the first floor, or on at least one side, above the first floor, or open to the sky. The open space requirement can be met anywhere in the development; however, open space provided above the second floor will receive only fifty (50) percent credit toward this requirement. This requirement cannot be met by open areas which are inaccessible to the general public or are contrary to specific requirements of a district.

Public right-of-way: That property dedicated through acquisition or easement for the public right-of-way or utility purposes which includes the area spanning from the property line on one side of a street to the property line on the other side of a street.

Recreational Vehicle: A travel Trailer, pick-up camper or motorized home with or without a mode of power and designed for temporary human habitation for travel or recreational purposes.

Rehabilitation: The physical repair, preservation, or improvement of a building or structure. Does not include an expansion of existing floor area greater than ten (10) percent; does not increase the building height; does not result in an increase in permitted density.

Residual parcel: A legal lot which does not meet the requirements for a building site within the District in which it is located, and where the abutting sites are already developed.

Right-of-Way (ROW): That portion of property which is dedicated or over which an easement is granted for public streets, utilities or alleys.

Semi-subterranean parking: Parking structure which is partially recessed into the development site, and which may or may not support additional structures above (e.g. dwelling units, tennis courts, or parking structures).

Setback: A stipulated area adjacent to the lot lines which must be kept free of structures over forty-two (42) inches high.

Street level: The elevation measured at the centerline of the public street adjacent to the front setback at a point midway between the two side property lines.

Suite Hotel: A building designed for or occupied as a temporary lodging place which contains guest rooms and may contain kitchenettes and a separate living room for each unit.

Timeshares: Any master planned development wherein a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of real property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided and shall include, but not be limited to timeshare estate, interval ownership, vacation license, vacation lease, club membership, timeshare use, condominium/hotel, or uses of a similar nature.

Townlot: The area and parcels bounded by Pacific Coast Highway on the southwest, Goldenwest Street on the northwest, Palm Avenue on the north and northeast, and Sixth Street on the east and southeast.

December 17, 2004

Ms. Rosemary Medel
Associate Planner
City of Huntington Beach
2000 Main Street
Huntington Beach, California 92648

PKF
Consulting

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Telephone (213) 680-0900
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RECEIVED
South Coast Region

MAY 17 2006

CALIFORNIA
COASTAL COMMISSION

Dear Ms. Medel:

PKF Consulting has been retained by the Robert Mayer Corporation to analyze for the City of Huntington Beach the adequacy of the hotel supply within Huntington Beach and Sunset Beach. To conduct our analysis, we have evaluated the existing supply of hotels and hotel rooms within this market, the rooms available at each quality level, and the monthly/seasonal occupancies and average daily rates for a representative sample. We also looked at two comparable California destinations relative to these same criteria, namely Carmel and Santa Barbara.

Based on the analysis presented herein, we conclude that there is an adequate supply of transient visitor accommodations in the Huntington Beach and Sunset Beach market.

This report is subject to the attached Statement of Assumptions and Limiting Conditions. Our analysis and conclusions are based on the following facts and assumptions.

Huntington Beach/Sunset Beach Hotel Supply

The market comprised of Huntington Beach and Sunset Beach contains 1,795 hotel rooms in 21 hotels. These hotels offer a wide range of quality levels, from one- to four-diamond equivalency ratings, which translates to a wide range of rooms at differing rates available to overnight visitors. The ratings and equivalencies are based on the AAA standards of quality for hotel ratings, with which the majority of hotels are affiliated. The table on the following page shows the number of hotels and hotel rooms within each quality level.

Huntington Beach/Sunset Beach Dispersion of Hotel Quality Levels		
Quality Rating (in diamonds)	Total Hotels	Total Number of Rooms
♦♦♦♦	2	807
♦♦♦	4	363
♦♦	8	411
♦	7	214
Source: Automobile Association of America and PKF Consulting		

COASTAL COMMISSION

EXHIBIT # D
PAGE 1 OF 11

HNB LCPA 2-06

This chart shows that from a physicality standpoint, there are a number of hotel rooms within the market positioned to capture a wide variety of guests.

Definition of "Transient Visitor Accommodations" and "Adequate Supply"

Based on our analysis, which is presented and substantiated in the following, we conclude that there is an adequate supply of transient visitor accommodations within Huntington Beach and the Huntington Beach/Sunset Beach hotel market. Before detailing our analysis and rationale, it is important to provide definitions of "transient visitor accommodations" and "adequate supply."

Transient visitor accommodations are defined as lodging that is available for rent for a minimum of one night to a maximum of thirty days for the purposes of visiting a destination for commercial, leisure, group, government, military, or other temporary purposes. Transient visitor accommodations are subject to transient occupancy tax, which is discussed in more detail later in this letter.

An adequate supply of rooms within a hotel market would be defined as a large enough capacity to accommodate the demand desiring hotel rooms in that market in all seasons, including during times of peak levels of demand. In a previous study of room supply in another California destination, having an "adequate supply" was reported as market occupancies lower than 95 percent during peak periods of demand. If occupancies exceed 95 percent during peak visitation months, it was deemed that a surplus of rooms was not available and therefore the supply was not adequate. If occupancies during peak demand periods did not exceed 95 percent, then it was concluded that an adequate supply was available.

From the alternative perspective, adequate supply must also achieve an economic balance that prevents an oversupply of rooms during lower periods of demand. By achieving this balance, profitability of the individual hotels can be maintained at a level where regular maintenance and capital expenditures can be sustained and properties are not forced into bankruptcy due to idle capacities. An over-saturation of hotel supply within a market can cause just such consequences. Destination markets such as Phoenix and Salt Lake City have experienced this problem. Salt Lake City is a ski resort that is located proximate to the city center, while Phoenix is a desert destination with self-contained resorts and resort activities such as golf and tennis. In such markets, it may be easy to find land zoned for hotel use, and when financing is readily available additional supply can ensue. However, if demand does not keep pace with supply, the consequences are idle capacity, deferred property upkeep, and potentially bankruptcies.

Based on these definitions, a market containing an adequate supply of hotel rooms would also be considered a "healthy" and balanced market. The inverse would also be true, that a "healthy" and balanced market contains an adequate supply of hotel rooms.

D₂

Effect of Rate on Occupancy Levels

An important consideration when determining adequate supply is the effect of rates on occupancy levels. Typically there is an inverse relationship between occupancy and rates in hotel markets. More specifically, occupancies will typically increase as rates decrease, and alternately occupancies will decrease as rates rise. Independent of location-specific demand, significant peaks in occupancy levels can also signify rates that are below market levels, and low occupancy levels can be indicative of rates that are higher than the market can bear.

Advance Reservation Accommodation

Of course, even during peak periods of demand, a visitor seeking accommodations can very likely be accommodated if reservations are made in advance. Peaks in demand are often fueled by last-minute reservations and walk-in demand that may not have originally sought accommodations or planned to stay in the particular market.

Proximity to Regional Supply

Unlike other visitor destinations, which may be located in more remote areas with limited facilities and amenities available, Huntington Beach is located within the greater Orange County and Los Angeles County markets. With its beachfront location near the northern border of Orange County, just a few miles from the southern border of Los Angeles, visitors to Huntington Beach have the option to stay in the immediate area, or choose from over 50,000 hotel rooms within Orange County or over 100,000 rooms within Los Angeles County.

Visitation to Huntington Beach

With annual visitation levels of approximately 11 million, Huntington Beach is an attractive tourist destination. Of these visitors, a significant number are day visitors who do not require overnight accommodations in Huntington Beach. This is due to a number of factors, including the high quality of the surf which draws surfers from the immediate region, as well as the accessibility of the City's beaches and the abundance of parking proximate to the beach. Therefore, a high level of visitation does not directly translate into a high demand for transient overnight accommodations.

Seasonality and Patterns of Demand

Huntington Beach is less of a seasonal market than other visitor destinations, for two key reasons. First, its location within the Los Angeles Basin, as discussed in the previous paragraph, generates demand from a number of segments (leisure, commercial, and group) throughout the year. Of course, additional demand is captured during the summer months and on weekends due to Huntington Beach's ocean orientation. It is important to note that weekends are a time of high demand for Huntington Beach, even outside of the summer months, illustrating that Huntington Beach is more of a year-round destination than several other visitor markets.

D₃

Second is the weather pattern in Huntington Beach, which is mild and sunny for most months of the year. The average temperature in Huntington Beach is 62 degrees Fahrenheit, from a low of 50 degrees Fahrenheit in December to a high just over 80 degrees Fahrenheit in August. Much of the coastline within Orange and Los Angeles Counties is comprised of south- and southwest-facing beaches, offering a better climate year-round than its San Diego, Central California, and Northern California neighbors. As one moves south along the California coast to San Diego, coastal weather patterns bring fog during the summer months, specifically in the morning hours. Moving north along the coastline, temperatures tend to be lower on the average (57 degrees Fahrenheit in Carmel) accompanied by wind and heavier levels of precipitation.

Long-Term Permanency of Hotel Supply

The economic impact of tourism is extremely significant within southern California, especially in coastal markets. This has not only benefited hotel owners and operators in the profitability of their hotel properties, but also provides significant revenues to individual cities. Cities benefit from hotel developments within their borders through transient occupancy tax (TOT) revenues charged on every hotel room night sold, and may also receive considerable revenues from property tax income, particularly from developments located within the redevelopment zones. These revenues can be a significant portion of the City's revenue and budgetary considerations, and is so coveted that some cities have either contributed to private hotel developments or developed hotel properties themselves to get a foothold in these valuable revenue streams. Because of the importance of these revenue sources to cities, it is highly unlikely that existing hotel properties will cease to exist or that land available for development or redevelopment of hotels or other visitor-serving accommodations would be rezoned for other uses. This further protects the adequacy of supply in all markets in the long-term, including Huntington Beach.

Diversity of Hotel Product within Huntington Beach

As mentioned in the beginning of this letter, Huntington Beach offers a diverse selection of hotel products, relative to the facilities and amenities offered, quality level, and rate. As every quality level from one- to four-diamond is represented within the market, this ensures that anyone seeking accommodations in Huntington Beach, regardless of price, will have lodging options available to them. Occupancies levels in all months suggest appropriate rate positioning of the properties within the market and a balanced supply to satisfy the demand in the market.

Analysis of Adequate Supply

We have completed an analysis of occupancy segmented by month for the Huntington Beach market, as well as for the markets of Santa Barbara and Carmel. We further divided Huntington Beach into quality levels to determine whether the supply is appropriately paired with the demand. For Huntington Beach we used a sampling of the hotel market totaling nearly 1,200 rooms, or 67 percent of the total hotel supply within the Huntington Beach/Sunset Beach market. The hotels in the sample represent the two-, three-, and four-diamond quality levels.

D4

The following table presents the occupancy and rate by month for the Huntington Beach market.

Huntington Beach/Sunset Beach Estimates of Hotel Occupancy and Rate by Month (Trailing Twelve Months)						
Month	TOTAL		4-Diamond		2-3 Diamond	
	Occ %	ADR	Occ %	ADR	Occ %	ADR
October 2003	51.0%	\$138.98	54.3%	\$167.24	43.6%	\$60.03
November	54.4	137.10	59.1	163.77	44.0	56.92
December	51.8	131.10	53.1	161.99	48.9	56.00
January 2004	58.3	131.71	62.1	158.41	49.9	57.19
February	62.1	145.35	70.6	168.81	43.1	59.18
March	62.0	142.82	66.0	172.12	52.8	60.67
April	63.3	147.74	71.0	172.94	46.1	60.80
May	65.9	145.30	70.0	175.84	56.8	61.03
June	74.0	147.90	77.0	180.17	67.4	65.23
July	78.6	169.93	82.1	209.71	70.9	66.72
August	75.4	165.08	80.4	200.08	64.1	66.72
September	63.6	148.40	67.2	180.72	55.6	60.80

Bold typeface denotes occupancies in excess of 80 percent.

Source: Individual Hotels and PKF Consulting

The occupancy levels shown above show that even during the period of highest demand, which has historically been the month of July, an average of 384 units remain available each night of the month to capture potential future demand. Occupancies in the summer months have not exceed 79 percent as a market, which is well under the benchmark of 95 percent that would suggest an inadequate supply. This leads to the conclusion that there is an adequate supply of hotel rooms in the Huntington Beach and Sunset Beach market.

As a test of reasonableness, we evaluated two other destination markets within California as to the adequacy of their hotel supply. Both of these markets, Santa Barbara and Carmel, are located in more remote areas, have a lower population base, require more lengthy travel from major metropolitan areas, and have fewer amenities within their overall vicinities. This features lead to occupancies during high periods of demand in excess of 80 percent for the Santa Barbara and Carmel markets, and in one instance, in excess of 90 percent. The following table shows the monthly rate and occupancy levels for a representative sample of hotels within Santa Barbara and Carmel.

D5

Santa Barbara and Carmel Estimates of Hotel Occupancy and Rate by Month (Trailing Twelve Months)				
Month	Santa Barbara		Carmel	
	Occ %	ADR	Occ %	ADR
October 2003	74.2%	\$176.74	N/A	N/A
November	67.1	164.65	84.1%	\$252.74
December	55.0	153.51	51.9	194.72
January 2004	59.3	152.75	60.3	207.19
February	68.1	164.97	64.4	198.33
March	70.1	157.93	69.4	220.88
April	67.4	166.67	68.7	226.49
May	67.7	176.90	77.7	241.52
June	71.8	182.78	73.1	265.97
July	84.0	206.91	76.7	275.93
August	88.0	220.52	89.8	288.09
September	76.2	184.42	92.0	325.04
October	74.1	174.51	83.4	280.16
November	N/A	N/A	78.0	289.00

Bold typeface denotes occupancies in excess of 80 percent.
Source: Individual Hotels and PKF Consulting

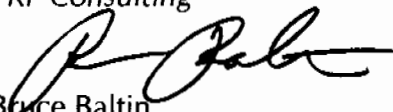
Based on our analysis and interpretation of this data, coupled with our knowledge of the overall hotel industry and our experience in the Huntington Beach hotel market, we conclude that there is an adequate supply of transient visitor accommodations (hotel rooms) in Huntington Beach.

Future Hotel Development within Huntington Beach

Huntington Beach possesses opportunities for continued hotel development. Currently, 140 hotel rooms are planned in the downtown area at the intersection of Fifth Street and Pacific Coast Highway and major portions of the downtown area remain zoned for mixed-use and commercial developments that can support visitor accommodation in the long-term future. Additionally, there is significant acreage along Pacific Coast Highway with water views that is zoned for hotels and other visitor-serving uses which can be expected to be developed as existing oil production on the sites is depleted and phased out. Therefore, even with continued growth in population and the resulting induced demand for transient accommodations, we believe that the additional inventory planned and proposed will maintain an adequate supply of transient visitor accommodations in the future.

Should you have any questions relative to our assumptions and conclusions, or in the interpretation of the information contained herein, we would be happy to provide our assistance. We appreciate the opportunity to work on this most interesting assignment.

Most sincerely,
 PKF Consulting


 Bruce Baltin
 Senior Vice President

De

Huntington Beach & Sunset Beach
Hotels and Hotel Rooms by Quality Level

Name of Establishment	Minimum Published Rate	AAA Diamonds	City & State	Zip/Postal Code	Rooms
4-Diamond Quality (or equivalent)					
HYATT REGENCY HUNTINGTON BEACH	235	4	HUNTINGTON BEACH, CA	92648	517
HILTON WATERFRONT BEACH RESORT	174	4	HUNTINGTON BEACH, CA	92648	290
3-Diamond Quality (or equivalent)					
BEST WESTERN REGENCY INN	65	3	HUNTINGTON BEACH, CA	92648	64
HOTEL HUNTINGTON BEACH	75	3	HUNTINGTON BEACH, CA	92647	224
HARBOUR INN AT SUNSET BEACH	80	3*	SUNSET BEACH	90742	25
BEST WESTERN HUNTINGTON BEACH INN	100-250	3*	HUNTINGTON BEACH, CA	92648	50
2-Diamond Quality (or equivalent)					
COMFORT SUITES HUNTINGTON BEACH	80	2	HUNTINGTON BEACH, CA	92647	102
HOWARD JOHNSON EXPRESS INN & SUITES	65	2	HUNTINGTON BEACH, CA	92647	65
PACIFIC VIEW INN & SUITES	59-199	2	HUNTINGTON BEACH, CA	92649	21
RANCHO BOLSA CHICA INN	110-135	2*	SUNSET BEACH	90742	10
EXTENDED STAY AMERICA HUNTINGTON BEACH	57-76	2*	HUNTINGTON BEACH, CA	92647	104
GUESTHOUSE INNS HUNTINGTON BEACH (former St	45-85	2*	HUNTINGTON BEACH, CA	92648	34
OCEAN FRONT RAMADA LIMITED	100	2*	SUNSET BEACH	90742	50
ECONO LODGE SUNSET BEACH	70	2*	SUNSET BEACH	90742	25
1-Diamond Quality (or equivalent)					
BEACH INN MOTEL	69	1	HUNTINGTON BEACH, CA	92648	38
SUN N SANDS MOTEL	69	1	HUNTINGTON BEACH, CA	92648	17
HUNTINGTON SUITES	58-88	1*	HUNTINGTON BEACH, CA	92648	66
777 MOTOR INN	40	1*	HUNTINGTON BEACH, CA	92649	42
OCEAN VIEW MOTEL	55	1*	HUNTINGTON BEACH, CA	92649	29
HUNTINGTON SURF INN	59-129	1*	HUNTINGTON BEACH, CA	92648	9
EDELWEISS INN	55	1*	HUNTINGTON BEACH, CA	92647	13
					1,795

* Closed for remodeling scheduled to open in February 2005

*These are not AAA ratings but are estimations of quality level based on amenities and published rates.

Source: PKF Consulting and Smith Travel Research

Quality Rating	Total Hotels	Total Number of Rooms
4	2	807
3	4	363
2	8	411
1	7	214

D7

Addendum

Statement of Assumptions and Limiting Conditions

Dg

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS

This report is made with the following assumptions and limiting conditions:

Economic and Social Trends - The consultant assumes no responsibility for economic, physical or demographic factors which may affect or alter the opinions in this report if said economic, physical or demographic factors were not present as of the date of the letter of transmittal accompanying this report. The consultant is not obligated to predict future political, economic or social trends.

Information Furnished by Others - In preparing this report, the consultant was required to rely on information furnished by other individuals or found in previously existing records and/or documents. Unless otherwise indicated, such information is presumed to be reliable. However, no warranty, either express or implied, is given by the consultant for the accuracy of such information and the consultant assumes no responsibility for information relied upon later found to have been inaccurate. The consultant reserves the right to make such adjustments to the analyses, opinions and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.

Hidden Conditions - The consultant assumes no responsibility for hidden or unapparent conditions of the property, subsoil, ground water or structures that render the subject property more or less valuable. No responsibility is assumed for arranging for engineering, geologic or environmental studies that may be required to discover such hidden or unapparent conditions.

Hazardous Materials - The consultant has not been provided any information regarding the presence of any material or substance on or in any portion of the subject property or improvements thereon, which material or substance possesses or may possess toxic, hazardous and/or other harmful and/or dangerous characteristics. Unless otherwise stated in the report, the consultant did not become aware of the presence of any such material or substance during the consultant's inspection of the subject property. However, the consultant is not qualified to investigate or test for the presence of such materials or substances. The presence of such materials or substances may adversely affect the value of the subject property. The value estimated in this report is predicated on the assumption that no such material or substance is present on or in the subject property or in such proximity thereto that it would cause a loss in value. The consultant assumes no responsibility for the presence of any such substance or material on or in the subject property, nor for any expertise or engineering knowledge required to discover the presence of such substance or material. Unless otherwise stated, this report assumes the subject property is in compliance with all federal, state and local environmental laws, regulations and rules.

Zoning and Land Use - Unless otherwise stated, the projections were formulated assuming the hotel to be in full compliance with all applicable zoning and land use regulations and restrictions.

Licenses and Permits - Unless otherwise stated, the property is assumed to have all required licenses, permits, certificates, consents or other legislative and/or administrative authority from any local, state or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

Engineering Survey - No engineering survey has been made by the consultant. Except as specifically stated, data relative to size and area of the subject property was taken from sources considered reliable and no encroachment of the subject property is considered to exist.

Subsurface Rights - No opinion is expressed as to the value of subsurface oil, gas or mineral rights or whether the property is subject to surface entry for the exploration or removal of such materials, except as is expressly stated.

Maps, Plats and Exhibits - Maps, plats and exhibits included in this report are for illustration only to serve as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose, nor should they be removed from, reproduced or used apart from the report.

Legal Matters - No opinion is intended to be expressed for matters which require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate consultants.

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STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS

(continued)

Right of Publication - Possession of this report, or a copy of it, does not carry with it the right of publication. Without the written consent of the consultant, this report may not be used for any purpose by any person other than the party to whom it is addressed. In any event, this report may be used only with proper written qualification and only in its entirety for its stated purpose.

Testimony in Court - Testimony or attendance in court or at any other hearing is not required by reason of rendering this appraisal, unless such arrangements are made a reasonable time in advance of said hearing. Further, unless otherwise indicated, separate arrangements shall be made concerning compensation for the consultant's time to prepare for and attend any such hearing.

Archeological Significance - No investigation has been made by the consultant and no information has been provided to the consultant regarding potential archeological significance of the subject property or any portion thereof. This report assumes no portion of the subject property has archeological significance.

Compliance with the American Disabilities Act - The Americans with Disabilities Act ("ADA") became effective January 26, 1992. We assumed that the property will be in direct compliance with the various detailed requirements of the ADA.

Definitions and Assumptions - The definitions and assumptions upon which our analyses, opinions and conclusions are based are set forth in appropriate sections of this report and are to be part of these general assumptions as if included here in their entirety.

Dissemination of Material - Neither all nor any part of the contents of this report shall be disseminated to the general public through advertising or sales media, public relations media, news media or other public means of communication without the prior written consent and approval of the consultant(s).

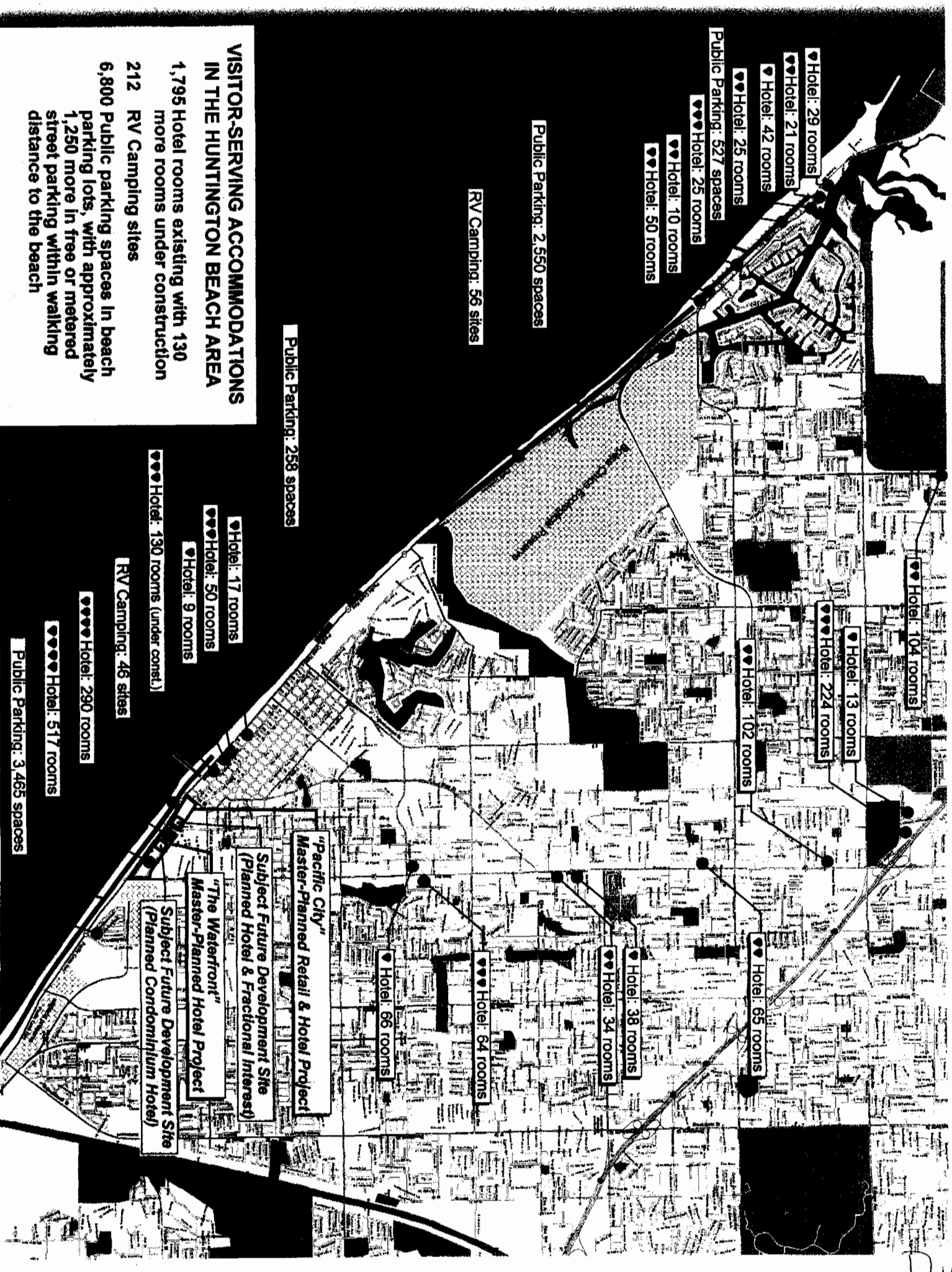
Distribution and Liability to Third Parties - The party for whom this report was prepared may distribute copies of this appraisal report only in its entirety to such third parties as may be selected by the party for whom this report was prepared; however, portions of this report shall not be given to third parties without our written consent. Liability to third parties will not be accepted.

Use in Offering Materials - This report, including all cash flow forecasts, market surveys and related data, conclusions, exhibits and supporting documentation, may not be reproduced or references made to the report or to PKF Consulting in any sale offering, prospectus, public or private placement memorandum, proxy statement or other document ("Offering Material") in connection with a merger, liquidation or other corporate transaction unless PKF Consulting has approved in writing the text of any such reference or reproduction prior to the distribution and filing thereof.

Limits to Liability - PKF Consulting cannot be held liable in any cause of action resulting in litigation for any dollar amount which exceeds the total fees collected from this individual engagement.

Legal Expenses - Any legal expenses incurred in defending or representing ourselves concerning this assignment will be the responsibility of the client.

D 10



▼ Hotel: 29 rooms

▼ Hotel: 21 rooms

▼ Hotel: 42 rooms

▼ Hotel: 25 rooms

Public Parking: 527 spaces

▼ Hotel: 25 rooms

▼ Hotel: 10 rooms

▼ Hotel: 50 rooms

Public Parking: 2,550 spaces

RV Camping: 56 sites

▼ Hotel: 104 rooms

▼ Hotel: 13 rooms

▼ Hotel: 224 rooms

▼ Hotel: 102 rooms

▼ Hotel: 65 rooms

▼ Hotel: 38 rooms

▼ Hotel: 34 rooms

▼ Hotel: 64 rooms

▼ Hotel: 66 rooms

"Pacific City"
Master-Planned Retail & Hotel Project

Subject Future Development Site
(Planned Hotel & Fractional Interests)

"The Waterfront"
Master-Planned Hotel Project

Subject Future Development Site
(Planned Condominium Hotel)

▼ Hotel: 17 rooms

▼ Hotel: 50 rooms

▼ Hotel: 9 rooms

▼ Hotel: 130 rooms (under const.)

RV Camping: 46 sites

▼ Hotel: 290 rooms

▼ Hotel: 517 rooms

Public Parking: 3,465 spaces

VISITOR-SERVING ACCOMMODATIONS IN THE HUNTINGTON BEACH AREA

1,795 Hotel rooms existing with 130
more rooms under construction

212 RV Camping sites

6,800 Public parking spaces in beach
parking lots, with approximately
1,250 more in free or metered
street parking within walking
distance to the beach

Tuesday, September 19, 2006

Huntington's hostel sold

The future of the former cheap haven for vacationing Europeans and surfers is uncertain. It might become a bed and breakfast or a women's retreat.

By DAVID LETTIS
THE ORANGE COUNTY REGISTER

HUNTINGTON BEACH – The former Huntington Beach Hostel – a haven for surfers and international travelers seeking low-cost rooms close to the beach – has sold for \$1.8 million.

The new owner was not disclosed Monday.

"It won't be the international hostel anymore but we didn't want to see the building torn down," said Kevin Yarter, an investor who will oversee renovations of the Eighth Street property for the owner.

Possibilities include a bed and breakfast or women's retreat, he said.

Residents and business leaders say the loss of the city's only hostel could make it more difficult for international travelers and students to afford Surf City.

"The sad news is that our low-price accommodations are slowly disappearing," said Doug Traub, president of the Huntington Beach Conference and Visitors Bureau. "That just means that for international groups with very modest means, it's becoming very difficult to stay in Huntington Beach."

Known until earlier this year as the Colonial Inn, the hostel had 38 dormitory-style beds and catered to Europeans, Australians and surfers. Guests paid \$22 a night.

It closed July 31. Fullerton has the only other hostel in Orange County.

Mary Parkinson and her husband, Jim, bought the wood-framed house in 1982 for \$180,000. In January, Parkinson said the hostel didn't fit in with the neighborhood – where single-story bungalows have been replaced with million-dollar, three-story homes.

The property went on the market in November for \$2.6 million. The 4,800-square-foot house was built in 1906 and opened as the Evangeline Hotel.

The effects of the closure are being felt in the surfing community.

COASTAL COMMISSION

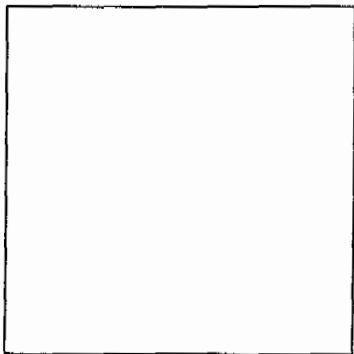
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"I'm a little sad because all these people from all over the world come and stay there and most of them are surfers," said Rick Fignetti, owner of Rockin Fig Surf Headquarters on Main Street.

"They knew they had a nice place to stay for cheap," he said. "A lot of them are students with small bank accounts and it was their life's dream to make it out to Huntington Beach."

CONTACT US: 714-796-6696 or dlettis@ocregister.com



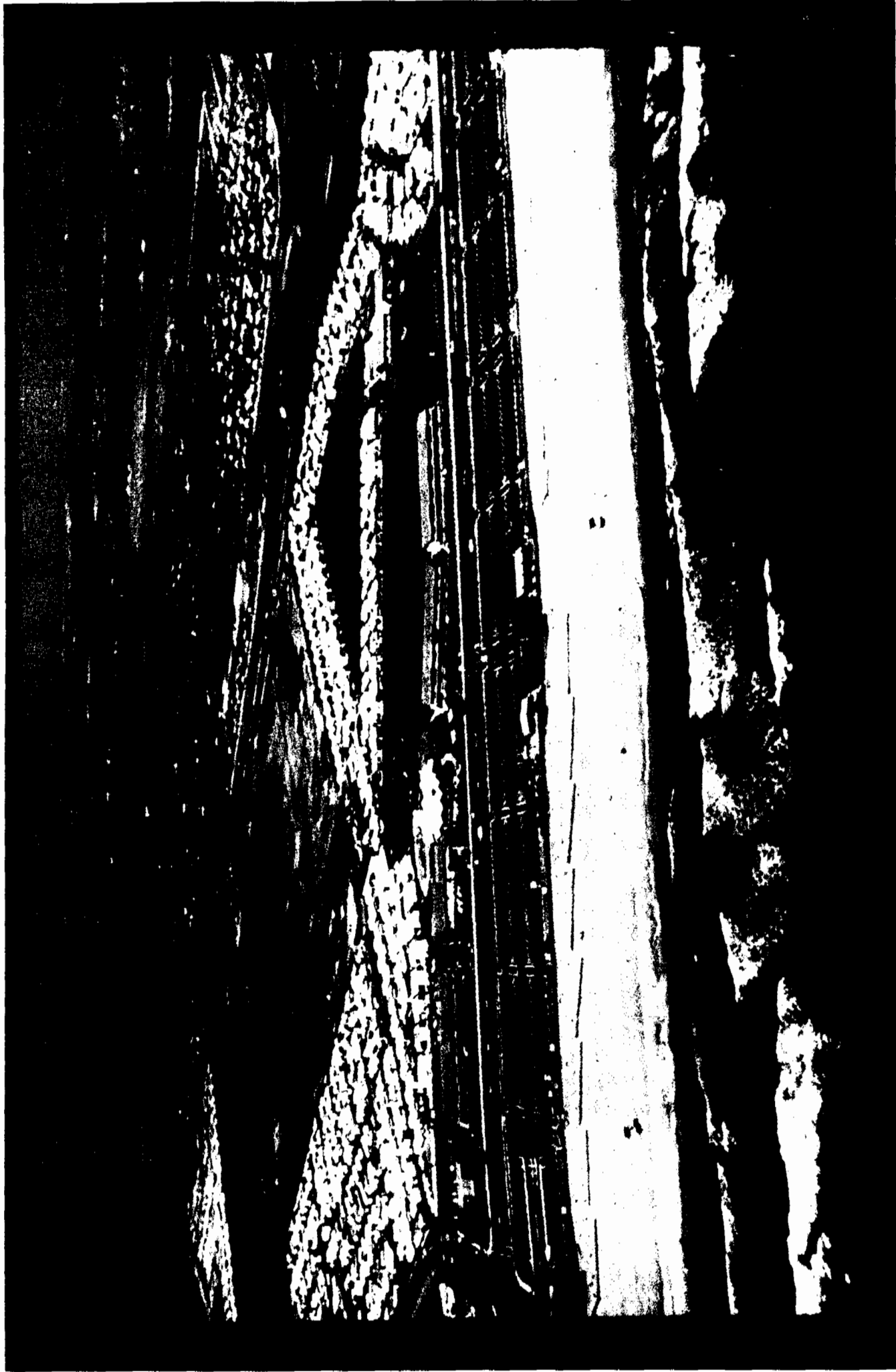
LANDMARK: The former Huntington Beach Hostel, once a mecca for young people vacationing on a lean budget, sold for \$1.8 million. Guests paid \$22 a night. Built in 1906, the 4,800-square-foot building opened as the Evangeline Hotel.

MARK AVERY, THE ORANGE COUNTY REGISTER

E₂



DSP
Pacific City Site - District 7



Waterfront Site - DSP District 9