



Newmeyer & Dillion LLP
895 Dove Street
Second Floor
Newport Beach, CA 92660
(949) 854-7000

June 10, 2025

Charles S. Krolikowski
Charles.Krolikowski@ndlf.com

VIA E-MAIL AND HAND DELIVERY

Planning Commission
City of Huntington Beach
Civic Center, Lower Level, Room B-8
2000 Main Street
Huntington Beach, CA 92648
Planning.Commission@surfcity-hb.org

Re: Project No. 25-265 - 16471 Malden Circle, Huntington Beach, CA 92649
Comment Letter Regarding Appeal of CUP No. 24-007 and CDP No. 24-005

Dear Honorable Commissioners:

This office represents Sam Panebianco, and Brad Bailey, occupant of the real property located at 16481 Peale Lane, Huntington Beach, CA (APN 178-411-24) ("Bailey Residence") and longtime resident within the Huntington Harbor community. The Bailey Residence is directly adjacent to 16471 Malden Circle, Huntington Beach ("Property"), the real property that is the subject of the City of Huntington Beach's ("City") Project No. 25-265 ("Project").

Mr. Bailey provides the following comments related to the appeal of the Zoning Administrator's approval of Conditional Use Permit ("CUP") No. 24-007 and Coastal Development Permit ("CDP") No. 24-005 ("Approvals").

1. **The Project's Macabre Mansionization of Huntington Harbor's Unique Residential Development Character Conflicts with the City's General Plan.**

The purpose of zoning and land use regulations/development standards is to function similarly to contracts, wherein property owners forego certain rights to use their land as they wish in exchange for the assurance that neighboring properties will be similarly restricted. This mutual restriction on development is intended to enhance the total welfare of the community itself. (*Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916, 923.) Here, the proposed Project seeks to invalidate that social contract.

The Project's design, massing, and height are in direct conflict with multiple aspects of the City's General Plan. Indeed, the General Plan's Land Use Element identifies multiple goals to be followed when applicants seek to develop or redevelop their properties. For example, Goal LU-1 of the City's Land Use Element ensures that, "[n]ew commercial, industrial, **and residential development** is coordinated to ensure that the land use pattern is consistent with the overall goal and needs of the community." Further, LU-1, Policy D, requires the City to, "ensure that new development projects are of **compatible proportion, scale, and character to complement adjoining uses.**"

Land Use Goal LU-2 requires that, "New development preserves and enhances a distinct Surf City identity, culture, and character in neighborhoods, corridors and centers." In this regard, the City must ensure new development complies with these goals by requiring building design and architecture be context-sensitive, creative, complementary of the City's beach culture, and **compatible with surrounding development**. (City's Land Use Element, p. 2-33, Goal LU-2, Policy C.) Finally, Goal LU-4 requires that the City ensure single-family residences are of **compatible proportion, scale, and character to surrounding neighborhoods**. (*Id.*, p. 2-34, Goal LU-4, Policy D.)

The current existing home on the Property includes a 2,845 square foot, 13-foot high, single-story residence. **The Project proposes a complete scrape and rebuild (new development) to a large, three-story mansion, thirty-five feet in height, and approximately 275 percent larger than the current residence (7,696 square feet).** The building would encompass almost the entire area of the lot, with only minimal setbacks from the adjoining properties (including the Bailey Residence). In other words, the new building will stand as out as a monolith, towering over all other properties in the area.

To call this Project a, "demolition and rebuild," is an understatement. Instead, the Project would accomplish a complete redesign of the neighborhood's character. Currently, the nearby neighborhood consists of one/two-story coastal homes with direct access to the Huntington Harbor. This Project runs roughshod through that character, which was built throughout the years on the collaborative efforts of numerous prior and existing owners. The Applicant's Project changes that character to the detriment of those they will share space with – their neighbors.

In addition, the Project proposes a thirty-foot Victorian-style roof (totaling thirty-five feet in height with the various AC-units and decorative additions), with immense open windows reminiscent of the Notre Dame, and two 23-foot tall Corinthian-style Roman columns paralleling the large front glass door. For the back of the Property, the Project proposes three-story glass windows with metal balconies that overhang the main structure and cover the width of the entire building. The entire size, scale and mass of the Project is completely out of touch with other single-family homes within the

neighborhood. Simply put, granting the Approvals would not maintain neighborhood compatibility and negatively affect neighboring properties by decreasing light and ventilation (air) between structures and increase building bulk and massing to the detriment of the entire community. The Project must be redesigned.

Following client discussion with former and current City officials, they are fully aware of the issues the community faces from this Project and share many of the concerns identified herein.

2. The Project's Constitutes an Invasion of Privacy By Increasing Noise and Effecting the Quiet Enjoyment of the Surrounding Community.

The Project includes three five-ton AC units located on top of the building, directly adjacent to the Baily Residence's master bedroom. The AC units will substantially increase the noise output at the Property, and will immediately affect all adjacent properties owners whenever used.

Further, the Project also calls for an elevator shaft and expansive, round windows which point directly to the Bailey Residence's courtyard. Direct sight access of this magnitude and at that height, when compared to the surrounding properties, constitutes an invasion of privacy.

Finally, the Project's three-story glass wall and large metal balconies on the second and third floors expand the width of the building to the property's lot lines. The balconies effectively loom over the neighboring properties, establishing an oppressive presence over the adjoining properties and directly affect the quiet enjoyment (*impacts to light, air and view*) of those properties.

3. The Project's Size and Safety Threats Require Further Investigation and Environmental Review.

Adding a structure nearly three times the size of the current building, prompts the need for a full analysis of the structural integrity of the surrounding area, including the Huntington Harbor's seawall. Notably, the Huntington Harbor recently received a "D" rating by the City on its Infrastructure Report Card. (See, City Council Public Hearing, January 21, 2025, HB Report Card Study Session PowerPoint, p. 5.)

Here, the Project's additional mass and weight puts a strain on an already dilapidated infrastructure. The City's proposed conditional approvals do not require the Applicant to reinforce the seawall or update the foundation to ensure the structural integrity of the land. This places the Property (and any homes adjacent thereto) at the potential danger of collapse.

Proper analysis of the Project's effect(s) on the environment and neighboring properties must be analyzed by and through proper environmental review as set forth in

the California Environmental Quality Act (Pub. Resources Code, § 21000, et seq.) (“CEQA”). Instead of performing the required analysis, the City has permitted the Applicant to avoid the same by claiming the Project holds a Class 3 Exemption pursuant to Section 15303 of the CEQA Guidelines. However, this exemption is not applicable where there is a reasonable probability that the Project will have a significant effect on the environment due to unusual circumstances. (*North Coast Rivers Alliance v. Westlands Water District* (2014) 227 Cal.App.4th 832, 868, citing 14 CCR § 15300.2.) An unusual circumstance is “some feature of the project that distinguishes it from others in the exempt class.” (*Ibid.*)

As the Project is not proposed on flat land but on the water with substantial modifications, a higher level of due diligence and review is necessary. Moreover, the Project falls within the City’s Coastal Zone, prompting further analysis as to the Project’s impact on the ocean and seawall. The City’s review of the Project provides no such analysis to determine whether further review and analysis is required. Certainly, additional loads on a specific area of dilapidated infrastructure (i.e. an unusual circumstance) establish potential significant effects on the environment prompting further analysis pursuant to CEQA Guidelines, Section 15300.2. (*Id.*, p. 869, “What is ‘unusual’ is ‘judged relative to the typical circumstances relates to an otherwise typically exempt project.’”)

4. Conclusion.

Therefore, Mr. Panebianco and Mr. Bailey respectfully request that the Planning Commission grant the appeal/overturn the Approvals for the Project and require the Applicant to provide a plan that conforms with the neighboring community’s characteristics, remains code-compliant, and fully analyzes the potential risks of the Project’s effect(s) on the environment.

Should the Planning Commission deny the appeal, Mr. Panebianco and Mr. Bailey fully intend to appeal this issue to the City Council and Coastal Commission, as necessary. Mr. Panebianco and Mr. Bailey reserve the right to amend and supplement these comments up and until the decision on the Project’s Approvals are final.

Should you have any questions regarding the items set forth in this letter, please do not hesitate to contact me.

Respectfully,



Charles Krolkowski

cc: Lisa Lane Barnes, City of Huntington Beach City Clerk,
Lisalane.barnes@surfcity-hb.org ; Greg Tross, greg.tross@ndlf.com; Client