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Refer To File # 504144-0001

VIA ELECTRONIC MAIL AND HAND DELIVERY

November 1, 2023

Mayor Strickland and Councilmembers
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Re: Response to Brian Thienes Appeal of Huntington Beach Planning Commission ("Planning Commission" or "Commission") Approval of Conditional Use Permit ("CUP") No. 21-024 for Hines / Clearwater Bolsa Chica Senior Living Community

Dear Mayor Strickland and Councilmembers:

Our firm represents Hines / Clearwater with respect to the environmental clearance and land use approvals for the Bolsa Chica Senior Living Community proposed for the southwest corner of Warner and Bolsa Chica in Huntington Beach (the "Project").

This letter responds to the appeal of CUP No. 21-024 filed on October 5, 2023 by Carmel & Naccasha LLP on behalf of Huntington Beach resident Brian Thienes ("Appellant").

Appellant's Objections to Planning Commission's 6-1 Approval of the CUP Are Without Merit

The Appellant's letter of October 5 is described as an appeal of the City of Huntington Beach ("City") Planning Commission's September 26, 2023 6-1 approval of CUP No. 21-04. The letter also outlines some "additional comments and concerns" regarding the Draft EIR – none of which were raised by the Appellant during either the circulation and public review of the Draft EIR or before the Planning Commission.

Appellant's counsel, Carmel & Naccasha LLP, states vaguely that "California law requires that findings in support of land use decisions of this nature be supported by substantial evidence," but fails to identify the City's very specific Zoning Code-required findings for approval of all conditional use permits.

City Zoning Code section 241.10 Required Findings, states:

An application for a conditional use permit or variance may be approved or conditionally approved if, on the basis of the application, plans, materials, and testimony submitted the Planning Commission finds that:

A. For all Conditional Use Permits:

- 1. The establishment, maintenance and operation of the use will not be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property and improvements in the neighborhood;***
- 2. The granting of the conditional use permit will not adversely affect the General Plan;***
- 3. The proposed use will comply with the provisions of the base district and other applicable provisions in Titles 20 through 25 and any specific condition required for the proposed use in the district in which it would be located.***

The Thienes October 5 appeal letter in its brief, one-page critique of the Planning Commission approval of the CUP not only fails to reference these specific required findings in the aforementioned City Code section 241.10(A), but fails to acknowledge the detailed “Findings for Approval” set forth in Attachment No. 1.4-1.7, adopted by the Commission. The Findings are based on and apply the Commission’s and City Planning staff’s review of facts of the submitted Bolsa Chica Senior Living Community applications, plans, materials and applicant and community testimony presented prior to and at the September 26 hearing as required by City Code section 241.10(A) (Exhibit 1 – incorporated by reference). In addition, the Planning Commission held a Study Session focused on the Project on August 22, 2023.

The Thienes appeal letter ironically provides only two paragraphs of negative conclusory statements without acknowledging the very detailed substantial evidence not only set forth in Attachment No. 1.4-1.7 referenced above, but provided in the detailed project and land use entitlement applications, including the Specific Plan, the Draft EIR, and included or referenced technical studies provided in the EIR, and the testimony of Hines and Clearwater and senior community representatives contained in the record of the Commission’s September 26, 2023 public hearing. This testimony included unrefuted statistical information and data on the rising need to provide for additional senior housing in Huntington Beach, and throughout California.

The Land Use Element goals and policies cited by the Appellant are only a partial, selected list of the goals and policies of the Land Use Element. In contrast the Planning Commission adopted findings apply specific facts in support of those findings that demonstrate consistency not only with the few goals and policies listed by Appellant, but consistency with a broader range of goals and policies within the General Plan Land Use, Housing and Noise Element.

One of several Commission-adopted findings directly countering Appellant’s assertion that “the Project will not enhance the affordability of existing housing . . . **or an opportunity to develop housing that meets diverse community needs**” is the following (Attachment No. 1.7):

The proposed senior living community would add 202 units of senior living capacity in a facility that includes on-site amenities for residents including recreational areas, exercise areas, dining and entertainment options that reduce the need for residents to travel off-site. Additionally, multiple nearby commercial businesses are within walking distance of the project site, and for those services that aren’t van services would be provided to residents to

access additional adjacent commercial uses, including restaurants, medical offices, and pharmacies.

By providing a more comprehensive senior living project with independent living, assisted living and memory care, and an internal array of recreational amenities and open space, dining and entertainment options, the Bolsa Chica Senior Living Community is exactly the type of development that meets diverse community needs within the 3.10 acre mixed-use Specific Plan site, and at a location near services and transit that also will promote walkability, as intended in the City's adopted Housing Element.

Moreover, as City Planning staff and/or City Attorney will confirm, a project need not be consistent with every General Plan policy. The law regarding general plan consistency is well-established: a finding of consistency requires only that the proposed project be "compatible with the objectives, policies, general land uses, and programs specified in the applicable plan. (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal. App.4th 656, 678.) The City need only demonstrate the Project here is in "harmony" with the policies of the General Plan. (*Sequoia Hills Homeowner's Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719 ["Once a general plan is in place, it is the province of elected city officials to examine the specifics of a proposed project to determine whether it would be "in harmony" with the policies stated in the plan. (citing *Greenebaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 406; *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (87 Cal.App.4th 99, 142 ["Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan's policies when applying them, and it has broad discretion to construe its policies in light of the plan's purposes. "];.)

Old East Davis Neighborhood Association v. City of Davis (2021) 73 Cal. App. 5th 895 is instructive. There, as here, the project opponents claimed that a four-story mixed-use apartment building in a neighborhood of one and two-story residences was "out of scale" with the community and violated the city's design guidelines. The Court rejected the argument concluding that "whether a new structure might or might not overwhelm this particular neighborhood requires the balancing of many factors" and could not be determined by the size of the building alone (*Ibid.* at p. 911.). On an objective basis, the Bolsa Chica Senior Living project is compatible in proportion, scale, and character to the Warner/Bolsa Chica commercial corridors and surrounding multifamily development. As stated in the Commission's adopted consistency findings for Land Use Element goals and policies in Attachment 1.6 the Project is "consistent with the overall character of the surrounding area," and "is similar in height and massing to other multistory senior living facilities in the City that are adjacent to residential uses." (Commission-adopted Findings for Approval/Land Use Element Consistency – Attachment No. 1.6.)

In objecting without any stated factual basis other than the assertion that an additional 15 feet of height over the current CG zone-allowed 50 feet will result in land use incompatibility, the Appeal ignores additional Commission-adopted Findings. Indeed, the 50-foot height limitation of the current CG zone are essentially irrelevant because the Project includes the adoption of a Specific Plan to replace the CG zoning designation. The comparison also ignores the community benefits of the Bolsa Chica Senior Living Specific Plan, the project amenities and the exponentially higher traffic associated with buildout of the CG zone.

The Project's design reflects "a traditional style of architecture that is reflective of the City's beach lifestyle that complements and enhances the architectural style of the larger surrounding area." (Findings – Attachment No. 1.6.)

The “variety of building materials, multilevel roof lines, and varying building setbacks . . . serve to break up the scale and massing of the building” (Findings – Attachment No. 1-6) provides a descriptive basis and substantial evidence that the Project’s height, with its upper-level setbacks, is compatible in proportion, scale, and character to the adjoining land uses. Contrary to the Appellant’s hyperbole, the Project can’t even be seen from the Brightwater community in which Mr. Thienes resides.

Finally, the City’s CEQA consultant, LSA, in its October 20 response to the October 5 appeal responding to the “comments and concerns regarding the EIR’s,” the proposed project is consistent with the City General Plan policies addressing aesthetic values and visual quality. Pages 6 through 8 of the LSA Responses to Appeal, Section 3. “Aesthetics-Height” points out that successful urban design generally concentrates taller buildings along commercial corridors, where multiple higher capacity arterials intersect. The four-story Beach and Ocean apartment complex on Beach Boulevard near Adams Street, the Merrill Gardens Senior Facility on Beach Boulevard near Warner Avenue, just north of a single family neighborhood, and the tall multistory buildings across from the Huntington Beach Pier near Pacific Coast Highway and Main Street, and the 14-story Huntington Gardens senior apartments on Huntington near 5 Points, all meet diverse needs, many are over 65 feet tall, and yet have existed for decades adjacent to or near old and new one-to-three story single family residences without community impacts. Like the Project, these all have responded to the “diverse community needs in terms of housing types, cost and location,” consistent with Housing Element Policy H2.1.

The Appellant’s assertion that the Project would “tower over existing residences” ignores the fact that other than the four older single-family residences on the east side of Bolsa Chica over 100 feet from these properties, the Project site is bounded by an industrial building to the south, and an older apartment complex with carports between the Project and the existing apartments.

Appellant’s CEQA Arguments Are Unsupported by Evidence and Ignore the Evidence in the Draft EIR.

The Appellant’s CEQA “claims” are nothing more than conclusory statements without any factual support. As documented by the LSA, the City’s CEQA consultant, Appellant conspicuously ignores the substantial evidence in the Draft EIR and the record before the Planning Commission documenting the substantial evidence that the findings of the Draft EIR are supported by substantial evidence. (LSA Memorandum (For these reasons alone, the Council should deny the appeal. An agency’s factual determinations are given substantial deference and are presumed correct; the challenger bears the burden of proving the contrary. ([*State Water Resources Control Bd. Cases \(2006\) 136 CA4th 674, 723*](#); [*Sierra Club v County of Napa \(2004\) 121 CA4th 1490, 1497*](#); [*San Franciscans Upholding the Downtown Plan v City & County of San Francisco \(2002\) 102 CA4th 656, 674.*](#)) We respond below to each of Appellant’s CEQA claims.

Findings of Less Than Significant Effect. Without citing any evidence, Appellant disagrees with the DEIR findings that the Project would not result in any significant effect. Appellant makes two assertions: (1) the Project General Plan Amendment and Zone Change will somehow result in cumulative effects from potential future development; and (2) the DEIR did not evaluate parking effects.

Cumulative Effects. The DEIR includes an evaluation of the Project’s cumulative effects expressly following the applicable provisions of the CEQA Guidelines. Nothing more is required. CEQA does not require the evaluation of potential future projects that are not proposed. There is no evidence that

the approval of a General Plan Amendment and a Specific Plan for the senior living Project here will somehow trigger other senior living projects or new Specific Plans. (*City of Maywood v. Los Angeles Unified Sch. Dist.* (2012) 208 Cal.App.4th 362 [A proposal that has not crystallized to the point that it would be reasonable and practical to evaluate its cumulative impact need not be treated as a probable future project.].) In the event a new project is proposed, CEQA will require the evaluation of the effects of **that** project. Moreover, the City Council is able to reject any additional proposals for new projects, and given the minimum two-acre plus threshold for Specific Plan applications and the fully developed multifamily apartment and condominium uses in the surrounding area, future Specific Plan applications are unlikely.

Parking. As noted in the LSA memorandum, parking adequacy is not a CEQA environmental effect. (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 1013.) In any event, the DEIR documents that the on-site parking included in the Project provides adequate parking for Project residents, staff, and visitors. (DEIR Appendix A; LSA Memorandum, p. 2.)

Alternatives. Again, without citing any evidence, Appellant claims that a different project could have been proposed under existing CG zoning that would have fewer impacts. First, the DEIR evaluated the effects of the Project against the effects of continuing existing uses at the site. The CEQA measurement of whether a proposed project will have a significant effect is determined by comparing the proposed project against existing conditions. (CEQA Guidelines, § 15125, subd (a).) The DEIR documents that the Project will have fewer effects than existing conditions. For example, the Project will generate less traffic than the existing development. Second, the DEIR considered an alternative that could be developed under the existing CG zoning. The DEIR documented that the allowable development under the existing CG zoning would result in much greater effects than the Project, including a substantial increase in daily traffic at and around the project site with potentially significant impact on the surrounding circulation system, and increased air quality impacts. (DEIR, § 5.1; LSA Memorandum, p. 4.)

CEQA does not require an evaluation of any alternative that could conceivably be proposed. Alternatives are limited to those that would achieve most of the project objectives, and that would reduce significant environmental effects.

The project objectives here are to:

1. Develop a project that helps meet the increasing demand for senior living facilities in Huntington Beach at a scale of development suitable to current industry standards.
2. Provide opportunity for residents to age in place through provision of multiple unit types accommodating independent living, assisted living, and memory care.
3. Provide a community with around-the-clock staff assistance, as well as a range of amenities that would aid in maintaining a high quality of life and support activities associated with daily living of residents.
4. Deliver benefits to the community by expanding the range of housing opportunities with a particular focus on addressing the needs of the elderly.
5. Implement a project that would be compatible with surrounding land uses and would enhance the character of the surrounding neighborhood through high quality design.

Any hypothetical commercial facility that could be developed under the existing CG zoning would not accomplish any of the senior housing Project objectives. Further, the DEIR documents that all of the potential Project effects are less than significant using CEQA-approved standards of significance. CEQA does not require the City to evaluate some other hypothetical alternative where, as here, substantial evidence in the DEIR documents that the Project will have no unavoidable significant effects.

Appellant's Other Unsupported Claims. Appellant's other claims regarding potential lighting, recreation, utilities system effects are similarly devoid of any evidentiary support. As documented in the LSA Memorandum, Appellant simply ignores the substantial evidence in the DEIR which supports the conclusion that the Project will not have any significant effects on lighting, recreation or utility system.

In conclusion, and as set forth above, Appellant ignores the substantial evidence before the Planning Commission and City Council that the Project is consistent with the policies of the General Plan, and that the Project will not result in any significant environmental effects. The Council should deny the appeal.

Very truly yours,



Robert D. Thornton
Nossaman LLP

Very truly yours,



John P. Erskine
Nossaman LLP

RDT/JPE:dlf



CARLSBAD
CLOVIS
IRVINE
LOS ANGELES
PALM SPRINGS
POINT RICHMOND
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ROSEVILLE
SAN LUIS OBISPO

October 20, 2023

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Subject: Responses to Appeal of Planning Commission Decision to Approve Conditional Use Permit (CUP) No. 21-024 - Bolsa Chica Senior Living Community letter filed by Michael McMahon of Carmel & Naccasha LLP

Dear Mr. Beckman,

As requested by the City of Huntington Beach (City), LSA has prepared the following draft responses to the Appeal of Planning Commission Decision to Approve CUP No. 21-024 – Bolsa Chica Senior Living Community letter filed by Michael McMahon of Carmel & Naccasha LLP on October 5, 2023. Specifically, the following draft responses address comments provided on pages 2-6 of the appeal letter, starting under, “Additional comments and concerns regarding the EIR are as follows:” The draft responses have been numbered in accordance with the subheadings provided in the appeal letter.

1. Project Impacts

- a. **Comment:** The statement, “the proposed project would not result in significant and unavoidable adverse impacts to the existing environmental setting” lacks factual support. The Project would create a precedent for future development, and the EIR does not consider that the approval of the Project will pave the road for future similar developments in the area. The effects of allowing a specific plan to subvert zoning regulations would lead to increased interest in developing surrounding projects of a similar nature. The Project needs to study the long-term cumulative impact of increasing the code-required maximum density, the lack of code-required parking, and the effect on the adjoining neighborhood and their ability to absorb the street parking that would result from the deficiency of the required parking. The EIR should also study the long-term effects of the sewer capacity and water capacity of the surrounding existing development of similar nature that could be redeveloped if the Planning Commission’s approval of the Project stands. The EIR failed to provide a sewer capacity and water capacity study.
- b. **Response:** In accordance with the *State CEQA Guidelines*, potential environmental impacts related to implementation of the proposed project were analyzed and disclosed in the Draft Environmental Impact Report (Draft EIR) (April 2023).

The General Plan Amendment, Zoning Map Amendment, Conditional Use Permit, and adoption of the Specific Plan are discretionary actions to be considered by the City as part of the proposed project, independent of the CEQA environmental impact analysis. The General Plan Amendment, Zoning Map Amendment, Conditional Use Permit, and adoption of the Specific Plan are project site specific, and once approved, only apply to the project site and are not transferrable to parcels in the surrounding area.

Pursuant to Section 15130 of the *State CEQA Guidelines*, cumulative impacts are the incremental effects of an individual project when viewed in connection with the effects of past, current, and probable future projects within the cumulative impact area for land use. Pursuant to CEQA, a project is not required to analyze the cumulative impacts of a project in conjunction with future projects that have yet to be identified and are not currently in the planning phases of development. A list of the approved and pending projects in the City that are within 3 miles of the project site and were used in the cumulative impact analysis for the Draft EIR are provided in Table 4.A, Cumulative Projects List, in Section 4.0 of the Draft EIR. Based on the analysis provided in Section 4.7.10 of the Draft EIR, the proposed project would not result in a significant cumulative land use compatibility impact in the City.

As discussed in Section 4.7, Land Use and Planning, of the Draft EIR, all future projects proposed in the City that require discretionary approval, including projects potentially similar in scale to the proposed project, would be subject to their own project-specific environmental review and analysis pursuant to CEQA. Review and approval of future projects by the City would be based on their own project-specific environmental impacts and individual project merits. As stated above, the discretionary planning actions associated with the proposed project are project site-specific and would not directly result in amendments to other parcels in the surrounding area or elsewhere in the City. Therefore, the proposed project would not contribute a significant cumulative land use compatibility impact on the environment or the surrounding community in conjunction with future redevelopment projects that have yet to be identified or by creating a precedent for similar future development.

Under CEQA, parking is not considered an environmental issue unless there is evidence that absence of available parking results in an environmental impact. Nevertheless, as described in Section 1, Project Description, of the Initial Study (see Appendix A of the Draft EIR), the proposed project is anticipated to provide 207 parking spaces for residents, staff, and visitors in accordance with the parking requirements specified in the Bolsa Chica Senior Living Community Draft Specific Plan (July 2022). Approximately 4 of the 207 parking spaces would be surface parking spaces (at grade) under the porte cochère. A single-level subterranean parking garage would be built beneath the senior living community and is anticipated to provide 203 parking spaces. The ramp to the subterranean parking garage would be located on Bolsa Chica Street south of the exit-only driveway and adjacent to the multi-purpose room. Pursuant to the 2019 California Building Code Section 11B-208.2, 7 of the 207 parking spaces are anticipated to be Americans with Disabilities Act (ADA) compliant, including approximately 2 ADA van-accessible spaces. Additionally, 25 of the provided parking spaces are anticipated to be designated for carpool/clean air vehicles and

electric vehicle capable in accordance with the 2019 California Green Building Standards Code (CALGreen) Tables 5.106.5.2. and 5.106.5.3. An additional 2 parking spaces (not included in the project's total parking space count) are anticipated to be provided in the loading area accessible from Warner Avenue. The project has been designed to provide adequate on-site parking for the proposed use; and therefore, it is not anticipated that residents, staff, or visitors would need to utilize existing street parking. Therefore, the proposed project would not result in impacts to related to the availability of street parking.

As discussed in Section 4.19, Utilities, in the Initial Study (see Appendix A of the Draft EIR), domestic water service in Huntington Beach is provided by the City's Utilities Division of the City Public Works Department. Water demand associated with the proposed project would be typical of a senior living community. The senior living community and landscape improvements associated with the proposed project are anticipated to use approximately 8.42 million gallons per year, or 25.85 acre-feet per year of water. According to the City's 2020 Urban Water Management Plan, the City's projected water supply is able to meet projected water demands in the years 2025, 2030, 2035, 2040, and 2045 during normal years, single dry years, and multiple dry years. In 2020, the actual water supply and actual water demand was 25,966 acre-feet (af). In 2045, the total projected water supply and projected water demand is 26,054 af annually, with supply and demand increasing equally and incrementally every 5-year period between 2025 and 2045. Therefore, the City's existing water supplies are projected to meet full-service demands through the year 2045. The project-related water use represents approximately one-tenth of one percent of the 2020 water supply in the City's service area.¹ Consequently, anticipated water usage by the proposed project is negligible compared to the City's total annual water supply documented in the Urban Water Management Plan. The proposed project would result in less than significant impacts related to water supply and a water capacity study is not required for the proposed project.

As discussed in Section 4.19, Utilities, in the Initial Study (see Appendix A of the Draft EIR), the Utilities Division of the City's Public Works Department currently provides sewer service to the project site. The proposed project is anticipated to generate approximately 20,767 gpd of wastewater². The total amount of wastewater generated by the project represents approximately 0.03 percent³ of the daily treatment capacity at OCSD's Plant No. 2. Consequently, wastewater generated by the proposed project would be negligible (less than 1 percent) compared to the treatment facility's available capacity. Further, as part of the Conditional Use Permit approval process, the Applicant must demonstrate that the proposed sewer connection would have sufficient capacity to accommodate the proposed project with preparation of a Sewer Feasibility Study as specified in Standard Condition UTL-1. As specified in Standard Condition UTL-1, prior to issuance of a grading or building

¹ 25.85 afy/ 25,966 afy = 0.00099 or approximately one-tenth of one percent.

² In the absence of an official wastewater generation rate, wastewater can be reasonably assumed to be 90 percent of water use. 8.422 million of gallons per year = approximately 23,074 gpd. Therefore, 23,074 gpd * .9 = 20,766.6 or approximately 20,767 gpd.

³ 20,767 gpd / 64,000,000 gpd = approximately 0.00032 or 0.03 percent.

permit, the project Applicant shall submit a Sewer Feasibility Study prepared by a qualified civil engineer to the City of Huntington Beach City Engineer, or designee, for review and approval. The Sewer Feasibility Study shall include a review of the existing sewer system that would serve the project site to confirm that it has available capacity to accept the wastewater flow generated by the proposed project's uses. Any required improvements shall be identified in the Sewer Feasibility Study. The analysis, conclusions, and recommendations in the Sewer Feasibility Study shall be based on final design plans and shall be consistent with all applicable City requirements. In the event that the Sewer Feasibility Study identifies insufficient sewer capacity to serve the proposed project, the project Applicant would be required to pay a fair-share portion of the cost to improve or replace sewer lines to ensure sufficient capacity. Therefore, with implementation of Standard Condition UTL-1, the proposed project's impacts related to wastewater treatment would be less than significant.

All future development projects in the City would be required to demonstrate that water and wastewater providers would have adequate capacity to serve the project in addition to existing commitments. Therefore, the proposed project would not contribute a significant or cumulative impact related to water or sewer capacity in conjunction with future redevelopment projects that have yet to be identified.

2. Alternatives

- a. **Comment:** An Alternate project could be proposed that complies with the existing zoning that is also consistent with the surrounding community.

Also lacking support is the conclusion that "the no project alternative would result in greater environmental impacts to air quality and transportation to the surrounding circulation system due to the greater number of vehicle trips to and from the project site." Zoning similar to the adjacent properties would actually result in less impact than the proposed Project but would still achieve the goal of providing senior housing.

- b. **Response:** As discussed in Section 5.1, Alternatives, of the Draft EIR, an alternative project could be proposed that complies with the existing zoning and is consistent with the surrounding community. As described in Section 5.4.1, Maximum Buildout of the Project Site Under the Existing Commercial General (CG) Designation (Maximum CG Buildout Alternative), of the Draft EIR, redevelopment of the project site with a retail commercial project could occur under the existing CG zoning. As further described in this section, the Maximum CG Buildout Alternative would generate 7,497 daily vehicle trips, including a.m. and p.m. peak-hour trips. The 45,340 square feet of existing occupied commercial (office and strip retail plaza) uses generate approximately 947 daily vehicle trips, including a.m. and p.m. peak-hour trips. As such, the Maximum CG Buildout Alternative would result in a net increase of 6,550 daily trips, including a net increase in a.m. and p.m. peak-hour trips. This represents a substantial increase in daily traffic at and around the project site and could result in a potentially significant impact on the surrounding circulation system. Additionally, the increase in vehicle trips to and from the site would result in increased air quality impacts at and around the project site. The Maximum CG Buildout Alternative would not reduce the

daily trips to and from the project site, thereby not providing the same beneficial traffic impacts as the proposed project. Further, the Maximum CG Buildout Alternative would result in increased transportation impacts when compared to the proposed project.

The Maximum CG Buildout Alternative would not achieve any of the housing-related Project Objectives. The Maximum CG Buildout Alternative would not help the City achieve its goals of meeting the increasing demand for senior living facilities by providing as many senior housing units as possible, providing opportunities for residents to age in place through a variety of housing accommodations and around-the-clock staff assistance, or expanding the range of housing opportunities focusing on the elderly. The City of Huntington Beach is experiencing an increasing demand for senior living facilities to address the housing needs of its large senior population.¹ Retail/commercial use at the project site is allowable under the current zoning designation and would be the next most likely use to occur at the site if the proposed project is not approved. Although the Maximum CG Buildout Alternative would be able to attain one of the Project Objectives because it could implement a project that would be compatible with surrounding land uses and would enhance the character of the surrounding neighborhood through high quality design, maximum buildout of the project site under the current CG designation would result in greater environmental impacts, specifically with regards to transportation, when compared to the proposed project. For these reasons, the Maximum CG Buildout Alternative was rejected and was not considered further in the alternatives analysis.

As described in Section 5.5, Alternative 1: No Project Alternative, of the Draft EIR, the No Project Alternative would allow for the project site to remain developed with commercial (retail and office) uses and an associated surface parking lot. The existing commercial and retail uses total approximately 55,000 square feet and are contained in two buildings comprised of a three-story office building fronting on Bolsa Chica Street and a two-story commercial retail building fronting on Warner Avenue. The currently approved City General Plan and zoning designations (CG) would remain applicable to the project site and there would be no improvements implemented on the project site. The No Project Alternative would allow existing conditions on the project site to remain unchanged. The existing two-story commercial building and the three-story office building are not fully occupied, and the impacts analysis of the No Project Alternative is based on this existing level of use.

As described in Section 5.5.2.2, Air Quality, of the Draft EIR, under existing conditions, the 45,340 square feet of existing occupied commercial uses generate approximately 947 daily trips.² The proposed project is expected to generate 513 daily trips. Implementation of the proposed project would result in a net reduction of 434 daily vehicle trips to and from the project site compared to the existing conditions due to the change in use of the project site

¹ See "Age Characteristics" 2021–2029 Draft Huntington Beach Housing Element (incorporated by reference). As of 2019, 18 percent of the population is over 65, and is now (mid-2023) estimated to be 20 percent over 70. The City's Adopted 2022/23 Operating Budget estimates over 40 percent of the existing Huntington Beach population is over 65.

² See Table B: Project Trip Generation Summary provided in Section 4.7 of the Initial Study (Appendix A of the Draft EIR).

from commercial uses to a senior living community. As such, implementation of the proposed project would provide beneficial air quality impacts by decreasing the number of daily vehicle trips and associated air pollution. Air quality impacts associated with operational vehicle trips would be greater with implementation of the No Project Alternative as opposed to the proposed project.

As stated above, under existing conditions, the 45,340 square feet of existing occupied commercial uses generate approximately 947 daily trips (compared to 513 daily trips expected to be generated by the proposed project). When compared to the proposed project, the No Project Alternative would result in greater transportation-related impacts to the surrounding circulation system due to the greater number of vehicle trips (and resulting increase in Vehicle Miles Traveled) to and from the project site.

3. Aesthetics – Height

- a. **Comment:** The conclusion that "the proposed project would not conflict with relevant goals and policies in terms of preserving the visual quality in the city," is also completely unsupported. The City has developed zoning standards which do not allow for a 65-foot-high building structure. The building structure would tower over the existing residences which are only two stories tall. The proposed structure is not compatible in proportion, scale, or character to the adjoining uses.
- b. **Response:** Consistency of the proposed project with the goals and policies of the City's General Plan that address aesthetic values and visual quality is discussed in Section 4.7, Land Use, of the Draft EIR.

The City's General Plan contains goals and policies to ensure that development in the City is context-sensitive and preserves and enhances the community's character, the beach, Surf City culture, and the environment (Goal LU-2, Policies A and B). The beach community is considered one of the most cherished assets of the City for both local residents and visitors. Future development in the City should maintain and enhance this unique character through the preservation of historic and cultural resources related to that identity and the perpetuation of traditional beach city architecture styles and design motifs. Commercial corridors, including Main Street and Beach Boulevard, which are frequented by both local residents and visitors, provide a good example of how traditional beach city architecture styles and design motifs are used to create the beach community character and Surf City culture that is inherent to the City's identity. Comparable existing residential development in the City that typifies this beach community character and Surf City culture include the Merrill Gardens assisted living facility, the Beach and Ocean apartment complex, and Plaza Almeria. The Jamboree Senior Housing Project, which is currently under construction at 18431 Beach Boulevard, is also a good example of a recently approved project that incorporates traditional beach city architecture styles and design motifs to preserve and enhance the Surf City culture.

Successful urban design generally concentrates higher density land uses and taller buildings along commercial corridors, especially where multiple high-traffic streets intersect, and

reduces building densities with distance from those main thoroughfares. This type of urban planning is typical of most cities in California, including Huntington Beach. Examples of higher density land uses and taller buildings located along commercial corridors in the City include the high-rise building at the southwestern corner of Beach Boulevard and Warner Avenue, the multistory buildings along Pacific Coast Highway and Main Street within downtown Huntington Beach, and the cluster of mid-rise buildings in the vicinity of where Beach Boulevard, Main Street, and Ellis Avenue, some of the City's largest arterial streets, converge. As these commercial areas transition into residential areas, building densities and heights decrease. The Merrill Gardens assisted living facility, the Beach and Ocean apartment complex, Plaza Almeria, and Jamboree Senior Housing Project are all located adjacent to important commercial corridors in the City, utilize architectural and design elements to enhance the Surf City culture of the City, and use the context of the surrounding area to inform the overall look of the development. Similarly, the proposed senior living community is located on a commercial corridor (Warner Avenue) and would incorporate many of the design and architectural elements used in these aforementioned projects to ensure that the proposed development is context-sensitive and preserves and enhances the community character, the beach community, Surf City culture, and the environment. As discussed in Section 4.1, Aesthetics, of the Draft EIR, the proposed project would be developed consistent with the existing approved design of buildings in the surrounding area and the City, which includes the informal aesthetic elements of the existing beach community. In addition, many of the commercial buildings along Warner Avenue in the immediate vicinity of the project site feature shaded outdoor space and open-air walkways that take advantage of the City's temperate year-round climate. Although the proposed project would be taller than other buildings in the immediate area, the building would be located at a major intersection in north Huntington Beach where other higher-density development is concentrated. Therefore, it would not be out of context. By contrast, the existing single-story residential uses across Bolsa Chica Street from the project site, the construction of which likely dates back to the 1920s and 30s when the City had a much smaller population and lower density, are somewhat out of scale with the current prevailing character of the surrounding area, which consists of two- and three-story development.

Similar to the comparable existing and in progress development projects mentioned above, the proposed senior living community would be designed to include complementary light colors reflective of the City's beach lifestyle and the surrounding neighborhoods. The project's streetscape design along Warner Avenue and Bolsa Chica Street would complement the architecture, frame buildings, and provide trees consistent with the overall character of the area. As such, the proposed project's design would be developed to complement and enhance the architectural style of the larger surrounding area and would include a multi-level roofline, walls, and fences as a functional part of the development to add visual interest. Similar to the four-story Beach and Ocean apartment complex, the four-story Plaza Almeria, and the four-story Jamboree Senior Living Project, the proposed project would utilize multi-level rooflines and would vary building setbacks along Warner Avenue and Bolsa Chica Street in order to break up the scale and massing of the building. In addition, similar to the Jamboree Senior Living Project, the proposed project would be

located adjacent to existing lower density residential uses. As such, development of the proposed project would be consistent with the City's approach for addressing visual compatibility issues elsewhere in the City. Based on the information provided above and the information presented in Section 4.1, Aesthetics, of the Draft EIR, the proposed project's scale, design, and height would be compatible with the surrounding area.

4. Land Use and Planning

- a. **Comment:** The Project would cause significant environmental impacts due to the conflict with the existing land use plan. Upholding the Planning Commission's approval of this Project would lead to approval of multiple projects in the area which would have a massive cumulative impacts on the community, including aesthetics, traffic, noise, solar access, wind access, and impacts to the infrastructure, such as water and sewer capacities and street parking. The Project is inconsistent with the City's established development standards, which were applied to the surrounding infrastructure. The surrounding infrastructure was not designed to handle the proposed densities. The overall impact to the surrounding community would be far from 'less than significant' when the cumulative effect of future developments similar to the proposed Project is considered.
- b. **Response:** As previously stated above, the General Plan Amendment, Zoning Map Amendment, Conditional Use Permit, and adoption of the Specific Plan are discretionary actions to be considered by the City as part of the proposed project, independent of the CEQA environmental impact analysis. The General Plan Amendment, Zoning Map Amendment, Conditional Use Permit, and adoption of the Specific Plan are project site-specific, and once approved, only apply to the project site and are not transferrable to parcels in the surrounding area. Therefore, approval of the proposed project, cannot in and of itself "lead to the approval of multiple projects in the area which would have a massive cumulative impacts on the community,..."

Pursuant to Section 15130 of the *State CEQA Guidelines*, cumulative impacts are the incremental effects of an individual project when viewed in connection with the effects of past, current, and probable future projects within the cumulative impact area for land use. Pursuant to CEQA, a project is not required to analyze the cumulative impacts of a project in conjunction with future projects that have yet to be identified and are not currently in the planning phases of development. A list of the approved and pending projects in the City that are within 3 miles of the project site and were used in the cumulative impact analysis for the Draft EIR is provided in Table 4.A, Cumulative Projects List, in Section 4.0 of the Draft EIR. Based on the analysis provided in Section 4.7.10 of the Draft EIR, the proposed project would not result in a significant cumulative land use compatibility impact in the City.

As discussed in Section 4.7, Land Use and Planning, of the Draft EIR, all future projects proposed in the City that require discretionary approval, including projects potentially similar in scale to the proposed project, would be subject to their own project-specific environmental review and analysis pursuant to CEQA. Review and approval of future projects by the City would be based on their own project-specific environmental impacts and individual project merits. As stated above, the discretionary planning actions associated

with the proposed project are project site-specific and would not directly result in amendments to other parcels in the surrounding area or elsewhere in the City. Therefore, the proposed project would not contribute a significant cumulative land use compatibility impact on the environment or the surrounding community in conjunction with future redevelopment projects that have yet to be identified or by creating a precedent for similar future development.

The proposed project's potential impacts on surrounding infrastructure, including water and wastewater (sewer) capacity, is analyzed in Section 4.19, Utilities, in the Initial Study (see Appendix A of the Draft EIR). As described in Section 4.19, and in response to Comment 1 (Project Impacts) of this appeal letter above, the proposed project would result in less than significant impacts related to water supply and a water capacity study is not required for the proposed project. Furthermore, as part of the Conditional Use Permit approval process, the Applicant must demonstrate that the proposed sewer connection would have sufficient capacity to accommodate the proposed project with preparation of a Sewer Feasibility Study as specified in Standard Condition UTL-1. As specified in Standard Condition UTL-1, prior to issuance of a grading or building permit, the project Applicant shall submit a Sewer Feasibility Study prepared by a qualified civil engineer to the City of Huntington Beach City Engineer, or designee, for review and approval. The Sewer Feasibility Study shall include a review of the existing sewer system that would serve the project site to confirm that it has available capacity to accept the wastewater flow generated by the proposed project's uses. Any required improvements shall be identified in the Sewer Feasibility Study. The analysis, conclusions, and recommendations in the Sewer Feasibility Study shall be based on final design plans and shall be consistent with all applicable City requirements. In the event that the Sewer Feasibility Study identifies insufficient sewer capacity to serve the proposed project, the project Applicant would be required to pay a fair-share portion of the cost to improve or replace sewer lines to ensure sufficient capacity. Therefore, with implementation of Standard Condition UTL-1, the proposed project's impacts related to wastewater treatment would be less than significant. All future development projects in the City would be required to demonstrate that water and wastewater providers would have adequate capacity to serve the project in addition to existing commitments. Therefore, the proposed project would not contribute a significant or cumulative impact related to water or wastewater (sewer) capacity in conjunction with future redevelopment projects that have yet to be identified.

5. Utilities and Service Systems – Energy

- a. **Comment:** The statement that "the proposed project would have less than significant impacts associated with electric power and natural gas" is wholly unsupported. The cumulative effect of approving this Project would lead to similar developments in the area, which would have a major impact to the available electricity and natural gas. The existing infrastructure is not sufficient for the bulk, density, and mass of the proposed development. Approval of this Project would cause additional projects of a similar nature that would have a cumulative effect on the availability of electricity and natural gas.

- b. Response:** As discussed in Section 4.10, Utilities and Service Systems, of the Draft EIR, electricity and natural gas consumption during project implementation is anticipated to be 1,251,306 kWh/year and 23,753 therms/year, respectively. This usage increases annual demand for electricity and natural gas in Orange County by less 0.01 percent for both electricity and natural gas and would not require or result in the relocation or construction of new or expanded electric power or natural gas facilities. As such, the proposed project would have less than significant impacts related to the availability of electricity and natural gas and would not result in a significant cumulative impact related to the availability of electricity or natural gas.

As stated above, all future projects proposed in the City, including projects potentially similar in scale to the proposed project, would be subject to their own project-specific environmental review and analysis pursuant to CEQA, and would be required to demonstrate that electricity and natural gas providers would have adequate capacity to serve the project in addition to the service provider's existing commitments. Review and approval of future projects by the City would be based on their own project-specific environmental impacts and individual project merits. Furthermore, the discretionary planning actions associated with the proposed project are project-site specific and would not directly result in amendments to other parcels in the project area. Therefore, the proposed project would not contribute a significant cumulative impact related to the availability of electricity or natural gas in conjunction with future redevelopment projects that have yet to be identified.

6. Aesthetics – Light

- a. Comment:** The conclusion that the Project will "not create a source of substantial light or glare" similarly lacks evidentiary support. Security and patio lighting on the 5th floor would be seen from the entire neighborhood. Nothing in the EIR evaluated the lighting spillover into the wetlands that requires dark sky. If the Brightwater development respects the dark sky requirements of the Bolsa Chica Ecological Preserve, this Project must address the impact to the Bolsa Chica Ecological Preserve. The proposed building elevations in the EIR appear to show exterior lighting fixtures that are not properly shielded. The Project as approved cannot provide adequate lighting for the patio areas and still shield all of the light spillover into the surrounding neighborhood and wetlands.
- b. Response:** As discussed in Section 4.1, Aesthetics, of the Initial Study (see Appendix A of the Draft EIR), existing sources of light on the project site include exterior building lights, pole-mounted lighting in the surface parking lot, and pole-mounted streetlights along Bolsa Chica Street and Warner Avenue. Other sources of light in the vicinity of the project site include exterior lighting from adjacent properties, streetlights, and vehicle headlights. The development of the proposed five-story senior living community would introduce sources of light to the project site that are typical of commercial, and office uses, and would be similar to existing light sources. Outdoor lighting proposed as part of the project would include complementary fixtures with a similar aesthetic, emphasizing efficiency and good light control. All on-site outdoor lighting would be placed to meet safety and orientation needs. Lighting in public areas would be warmly colored, unobtrusive, and angled in a way that

minimizes spill and glare. The level of lighting intensity would vary throughout the day. All lighting associated with the proposed project would be shielded and directed downward to avoid off-site spillage, including security and patio lighting on the top floors of the proposed building. As a condition of project approval, the proposed project would be required to comply with lighting standards described in the Photometric Plan (see Standard Condition AES-1). The Photometric Plan and any other lighting plans are subject to City review and approval as part of the site plan review process. Implementation of Standard Condition AES-1, as a condition of project approval would ensure that impacts associated with new lighting would be less than significant.

According to the California Department of Fish and Wildlife (CDFW), the project site is approximately 0.5 mile north of the officially designated boundary of the Bolsa Chica Ecological Reserve along the East Garden Grove Wintersburg Channel¹ and approximately 0.16 mile north of open space and trails associated with the Ecological Reserve. Compliance with the lighting standards described in the Photometric Plan (see Standard Condition AES-1) would ensure that project lighting would be properly shielded and would not result in significant impacts associated with light and glare.

The conceptual renderings included in Figure 3-5 are intended to provide a visual depiction of the proposed building facades and architectural style of the proposed community, including proposed building materials, colors, multi-level rooflines, and landscaping. Although the conceptual renderings may appear to show improperly shielded exterior lighting fixtures, development of the proposed project would be required to provide properly shielded lighting fixtures that would be directed downward to avoid off-site light spillage consistent with the Photometric Plan (Standard Condition AES-1).

7. Hydrology and Water Quality

- a. **Comment:** Bolsa Chica Street and Warner Avenue lack sufficient storm drain facilities to capture runoff from the east that flows to the intersection of Bolsa Chica Street and Dunbar Drive, and as a result this intersection experiences flooding during normal rain events. The adjacent existing parking lot serves as an incidental detention basin and helps protect the surrounding properties. The EIR fails to analyze and address the effect of construction over the parking lot, which would reduce the available ponding space and could cause flooding on adjacent properties. This Project will increase the depth of flooding at the intersection of Bolsa Chica Street and Dunbar Drive.
- b. **Response:** The proposed project would include the demolition of the existing commercial buildings and associated parking lot in order to construct the proposed senior living community. As discussed in Section 4.10, Hydrology and Water Quality, of the Initial Study (see Appendix A of the Draft EIR), development of the proposed project would decrease

¹ California Department of Fish and Wildlife (CDFW). 2014. South Coast Region. *Bolsa Chica Ecological Reserve, Laguna Laurel Ecological Reserve, Upper Newport Bay Ecological Reserve, Orange County*. November 2014.

impervious surface area on the project site by approximately 7 percent. The proposed project would include the construction of on-site storm drain facilities and Best Management Practices (BMPs), including the biofiltration planters and modular wetlands which would be designed to treat stormwater runoff on the project site before discharging flows to the storm drain system. Additionally, the project includes a proposed stormwater detention system for excess runoff. As concluded in the Preliminary Hydrology Study, the proposed project condition would have a lower peak on-site flow rate and a lower peak on-site flow rate for 25-year and 100-year storms when compared to the pre-project/existing conditions. This reduction in on-site flow rate would improve the existing storm drainage system as it flows downstream along Bolsa Chica Street. Additionally, as specific in Standard Condition WQ-4, a Final Hydrology Study would be prepared based on final project plans and would be approved by the City. The Final Hydrology Study would confirm that the project drainage facilities comply with all applicable City code requirements and ensure that sufficient capacity in the downstream storm drain systems is available to accommodate storm runoff from the project site so that off-site flooding does not occur. The proposed on-site drainage facilities and BMPs needed to accommodate stormwater runoff would also be appropriately sized so that on-site flooding would not occur. With implementation of BMPs and Standard Conditions WQ-1 (requiring coverage under the Construction General Permit), WQ-2 (requiring preparation of an Erosion and Sediment Control Plan), and WQ-4 (requiring preparation of a Water Quality Management Plan) would ensure impacts related to on- or off-site flooding from an increase in surface runoff would be less than significant. Therefore, implementation of the proposed project would not result in increased flooding of adjacent properties or increased flooding at the intersection of Bolsa Chica Street and Dunbar Avenue during normal rain events.

8. Recreation

- a. **Comment:** Also lacking support is the statement "the proposed project does not include recreational facilities nor require the construction or expensing of recreational facilities that would result in a significant adverse physical effect to the environment, therefore project related impacts with respect to recreation are not evaluated further in this draft EIR." The proposed Project is significantly under-parked according to existing zoning. The City of Huntington Beach has established parking standards that eliminate the need for street parking. If developed, this Project would cause excessive street parking that would inhibit access to the trail system. Parking is already in short supply for people visiting the Bolsa Chica wetlands, and this project would severely impact the available street parking leading to the trailhead at the southerly terminus of Bolsa Chica Street. The Project only considers parking spaces for the residential units and fails to address the required parking spaces for the estimated 110 employees who will work at the proposed multiple restaurants, wellness centers, and studio spaces. We can assume 62 units parked at a ratio of 0.65 spaces per unit when no mechanism is in place to control whether a unit is assisted living or normal senior housing. The parking should be evaluated as worst-case senior housing and a separate calculation added for the multiple restaurant-style dining venues, wellness centers, and studio spaces. Due to the lack of parking, this development does not support the protection

and maintenance of environmental open-space resources. The lack of onsite parking will severely limit access to the Bolsa Chica trail system.

- b. Response:** Under CEQA, parking is not an environmental issue. Nevertheless, the parking requirements for the proposed project are detailed in the Specific Plan, the adoption of which would be a discretionary action to be considered by the City as part of the proposed project. As discussed in Chapter 3, Project Description, of the Draft EIR, the proposed project would provide 207 parking spaces for residents, staff/employees, and visitors of the senior living community, 4 of which would be short-term surface parking spaces (at grade) under the porte cochère. A single-level subterranean parking garage would be built beneath the senior living community and would provide 203 parking spaces. An additional two parking spaces (not included in the project's total parking space count) would be provided in the loading area accessible from Warner Avenue.

Based on the above, residents, staff, or visitors would not need to utilize existing street parking during operation of the proposed project. In addition, as discussed in Section 4.14, Population and Housing of the Initial Study (See Appendix A), although the facility is expected to employ approximately 110 employees during operation, employees would be staggered in shifts during which the number of employees on site would range from 20 to 40 employees. Employees would not utilize existing street parking spaces. Furthermore, visitor parking for the Bolsa Chica Ecological Reserve is provided by two public parking lots: the northern parking lot is located at the Warner Avenue/Pacific Coast Highway access point and the southern parking lot is located at the Pacific Coast Highway access point across from Bolsa Chica State Beach. Therefore, implementation of the proposed project is not expected to impact the availability of parking for visitors of the Bolsa Chica Ecological Reserve or impact access to the Bolsa Chica trail system.

Additionally, as discussed in Section 4.16, Recreation, of the Initial Study (see Appendix A of the Draft EIR), Chapter 17.76.040, Parkland Acquisition and Park Facilities Development Impact Free, of the City's Municipal Code requires the payment of in-lieu fees for park and recreational purposes as a condition of approving new residential and non-residential development. As such, the proposed project would be required to pay in-lieu fees to the City as a standard condition of project approval (see Standard Condition PS-4 in the Initial Study). With payment of the required park impact fees, the proposed project's contribution to deterioration of park and recreational facilities would be less than significant, and no mitigation is required.

9. Utilities and Service Systems – Wastewater

- a. Comment:** Additionally unsupported is the statement "therefore, impacts related to the construction of wastewater treatment or collection facilities would be less than significant." Recently the Orange County Sanitation District upgraded the sewer force mains and lift stations throughout the City. These systems should have been designed to comply with the existing zoning and did not consider the increased density this Project carries. This Project should consider the cumulative effect of increasing the density of existing sites within the vicinity to verify that additional sewer capacity is available to serve this site and future

developments of this nature. The EIR failed to provide an adequate sewer and water capacity study.

- b. Response:** The proposed project's potential impacts on surrounding infrastructure, including water and wastewater (sewer) capacity, are analyzed in Section 4.19, Utilities, in the Initial Study (see Appendix A of the Draft EIR). As discussed in Section 4.19, the Utilities Division of the City's Public Works Department currently provides sewer service to the project site. The proposed project is anticipated to generate approximately 20,767 gpd of wastewater. The total amount of wastewater generated by the project represents approximately 0.03 percent of the daily treatment capacity at OCDS's Plant No. 2. Consequently, wastewater generated by the proposed project would be negligible (less than 1 percent) compared to the treatment facility's available capacity. Further, as part of the Conditional Use Permit approval process, the Applicant must demonstrate that the proposed sewer connection would have sufficient capacity to accommodate the proposed project with preparation of a Sewer Feasibility Study as specified in Standard Condition UTL-1. As specified in Standard Condition UTL-1, prior to issuance of a grading or building permit, the project Applicant shall submit a Sewer Feasibility Study prepared by a qualified civil engineer to the City of Huntington Beach Engineer, or designee, for review and approval. The Sewer Feasibility Study shall include a review of the existing sewer system that would serve the project site to confirm that it has available capacity to accept the wastewater flow generated by the proposed project's uses. Any required improvements shall be identified in the Sewer Feasibility Study. The analysis, conclusions, and recommendations in the Sewer Feasibility Study shall be based on final design plans and shall be consistent with all applicable City requirements. In the event that the Sewer Feasibility Study identifies insufficient sewer capacity to serve the proposed project, the project Applicant would be required to pay a fair-share portion of the cost to improve or replace sewer lines to ensure sufficient capacity. Therefore, with implementation of Standard Condition UTL-1, the proposed project's impacts related to wastewater treatment would be less than significant.

As described in Section 4.19, Utilities, of the Initial Study (see Appendix A of the Draft EIR) and in response to Comment 1 (Project Impacts) of this appeal letter above, the proposed project would result in less than significant impacts related to water supply and a water capacity study is not required for the proposed project.

All future development project in the City would be required to demonstrate that water and wastewater providers would have adequate capacity to serve the project in addition to existing commitments. Therefore, the proposed project would not contribute a significant impact related to water or sewer capacity in conjunction with future redevelopment projects that have yet to be identified.

10. Project Impacts

- a. Comment:** We dispute the statement that "given the current visual quality of the project site, implementation of the proposed project consistent with the development standards and design guidelines specified in the specific plan would promote a cohesive community

identity and enhance the visual quality of the project site to viewers on an off-site." Increasing the maximum height of the building to 65 feet would block the skyline view from the public way. The open sky view at the corner of Bolsa Chica Street and Warner Avenue would be forever impacted by replacing it with a massive residential structure and destroying public view of the sky would have a negative impact on the community.

Staff incorrectly concludes "therefore, implementation of the proposed project would not result in significant shade or shadow impacts to nearby residential uses." The shade and shadow study prepared by CRTKL is seriously flawed; a 65-foot-tall structure will cast a shadow in the easterly and westerly directions during sunrise and sunset during the spring and fall equinox; however, only the winter solstice was studied. This study proposes a shadow less than the building height. A study of the spring and fall equinox would prove expansive shadows would be cast on the residential properties to the east and west of the proposed development.

- b. **Response:** Development of the proposed project would result in a change to the existing skyline at the project site as viewed from public vantage points along Bolsa Chica Street and Warner Avenue. However, no designated scenic vistas or scenic resources are visible from the project site, and development of the proposed project would not obstruct any scenic views. The project site is located within an urbanized area predominantly developed with multiple-story commercial, industrial, and residential uses. The proposed project would be developed consistent with the design of existing development, which includes the informal aesthetic elements of the existing beach community and would use multilevel rooflines and varying building setbacks along Bolsa Chica Street and Warner Avenue to break up the scale and massing of the building. As described in Section 4.1, Aesthetics, of the Draft EIR, the consistency analysis shows that the proposed project would not conflict with the relevant goals and policies in terms of preserving the visual quality in the City such as ensuring new development projects are of compatible proportion, scale, and character to complement adjoining uses; and protecting existing Surf City culture and identity. Therefore, the proposed project would not result in a significant impact to the skyline or scenic resources.

The EIR includes shade and shadow study of the potential shade and shadow effects of the Project during morning and early afternoon hours to graphically show potential impacts on neighboring properties. Shadows cast by structures vary in length and direction throughout the day and from season to season. Shadow lengths increase during the "low sun" or winter season and are longest on the winter solstice. The winter solstice, therefore, represents the worst-case shadow condition, and the potential for loss of access to sunlight that a project could cause is greatest. Shadow lengths are shortest on the summer solstice. Shadow lengths on the spring and fall equinoxes would fall midway between the summer and winter extremes. Two figures were prepared to illustrate the morning and afternoon shade effects of the proposed project on nearby residential uses during both the winter and summer solstices (see Appendix C, Bolsa Chica Senior Living Community Shadow Studies, of the Draft EIR). As shown on those figures, during both the winter and summer solstices, no shadows would be cast in either the morning or afternoon hours on the apartment complex buildings to the west or the single-family residential homes to the east. Shadows from the proposed

project would be cast primarily on Bolsa Chica Street and Warner Avenue during the winter solstice, and on Bolsa Chica Street and the apartment complex carports to the west of the project site during the summer solstice. Therefore, implementation of the proposed project would not result in significant shade or shadow impacts to nearby residential uses. It is also worth noting that the proposed project has been designed to minimize shading on light-sensitive uses in the surrounding area. By siting the proposed project on the south side of a major commercial corridor, most of the shadows cast by the proposed building would fall on Warner Avenue itself or commercial uses on the other side of the street, which are not light-sensitive.

11. Cumulative Impacts

- a. **Comment:** Approval of the General Plan amendment and Zoning amendment would not "render the proposed project consistent with the city's establish development standards and no mitigation would be required." The existing zoning has been in place for years and has been relied upon by the residents to protect the integrity of the community. Allowing the General Plan amendment and the Zoning Map amendment to change the zoning from CG to Specific Plan would cause long-term environmental impacts to the community. If this Project is built a landslide of similar developments will forever change the character and density of the community, as evidenced by the recent development at Bella Terra and downtown Huntington Beach. This Project must evaluate the cumulative impacts of all sites of similar nature that would be subject to redevelopment. This Project is not compatible with the long-term established development standards in the area.
- b. **Response:** The General Plan Amendment, Zoning Map Amendment, Conditional Use Permit, and adoption of the Specific Plan are discretionary actions to be considered by the City as part of the proposed project, independent of the CEQA environmental impact analysis. The General Plan Amendment, Zoning Map Amendment, Conditional Use Permit, and adoption of the Specific Plan are project site specific, and once approved, only apply to the project site and are not transferrable to parcels in the surrounding area.

Pursuant to Section 15130 of the *State CEQA Guidelines*, cumulative impacts are the incremental effects of an individual project when viewed in connection with the effects of past, current, and probable future projects within the cumulative impact area for land use. Pursuant to CEQA, a project is not required to analyze the cumulative impacts of a project in conjunction with future projects that have yet to be identified and are not currently in the planning phases of development. A list of the approved and pending projects in the City that are within 3 miles of the project site and were used in the cumulative impact analysis for the Draft EIR are provided in Table 4.A, Cumulative Projects List, in Section 4.0 of the Draft EIR. Based on the analysis provided in Section 4.7.10 of the Draft EIR, the proposed project would not result in a significant cumulative land use compatibility impact in the City.

As discussed in Section 4.7, Land Use and Planning, of the Draft EIR, all future projects proposed in the City that require discretionary approval, including projects potentially similar in scale to the proposed project, would be subject to their own project-specific environmental review and analysis pursuant to CEQA. Review and approval of future

projects by the City would be based on their own project-specific environmental impacts and individual project merits. As stated above, the discretionary planning actions associated with the proposed project are project site-specific and would not directly result in amendments to other parcels in the surrounding area or elsewhere in the City. Therefore, the proposed project would not contribute a significant cumulative land use compatibility impact on the environment or the surrounding community in conjunction with future redevelopment projects that have yet to be identified or by creating a precedent for similar future development.

12. Air Quality

- a. **Comment:** The EIR failed to study air quality in the vicinity of the Project and used air quality data from Anaheim, California, which is approximately ten miles from the proposed development. As stated in the initial study, "occupants of facilities such as schools, daycare centers, parks and playgrounds, hospitals and nursing and convalescent homes are considered to be more sensitive than the general public to air pollutants because these population groups have increased susceptibility to respiratory disease." The air quality study fails to consider the proposed development and the residents who will be living in the proposed development. Bolsa Chica Street and Warner Avenue are both three-lane major highways that produce a significant amount of emissions. The study should consider the effect of these emissions on the people who will be living in the proposed development. As stated in the EIR, "Air pollutant exposures and their associated health burdens vary considerably within places in relation to sources of air pollution. Motor vehicle traffic is perhaps the most important source of intra-urban spatial variation in air pollution concentration." Obviously, this site is not suitable for senior housing due to the proximity of the high-volume roadways.

Table 4.7.B: Gen. plan consistency analysis ERC-A

We disagree with the statement "these recreational and open-space elements would be for private use by residents and not open to the public but are anticipated to reduce the strain on surrounding parks and open spaces as residents would be more likely to use the on-site facilities." The proposed Project does nothing to maintain the current Park per capita ratio of 5.0 acres per 1,000 persons, as the proposed development does not include any public open space for parks.

- b. **Response:** As stated in Section 4.2, Air Quality, of the Draft EIR, air quality monitoring stations are located throughout the nation and are maintained by the local air pollution control district and State air quality regulating agencies in compliance with State and federal air quality regulations. The South Coast Air Quality Management District (SCAQMD), together with CARB, maintains ambient air quality monitoring stations in the Basin. Air quality data used in the air quality analysis for the proposed project was obtained from the closest air quality monitoring station to the project site, which is located at 1630 West Pampas Lane in Anaheim, California. Therefore, the air quality analysis provided in the Draft EIR utilized the closest air quality monitoring data available for the project site. The air

quality analysis provided in the Draft EIR is consistent with current regulatory requirements and policies pertaining to the analysis of a project's air quality impact pursuant to CEQA.

CEQA is intended to evaluate potential impacts of a proposed project on the surrounding environment and does not require the Lead Agency to evaluate the potential impacts of the environment on a proposed project, unless there is evidence that the project will exacerbate an existing significant environmental impact. The Draft EIR documents that the proposed project will reduce trips as compared to existing conditions. In the 2015 case *California Building Industry Association v. Bay Area Quality Management District*, the California Supreme Court ruled that in general, CEQA does not require analysis nor mitigation of the impact of existing environmental conditions on a project's users or residents. An exception applies when a proposed project risks exacerbating existing environmental hazards, but only when the proposed project's impact on the environment, not the environment's impact on the proposed project, compels the evaluation. The comment generally focuses on potential impacts of the surrounding transportation network and associated emissions on the proposed project's future residents, which is not required to be evaluated under CEQA. Because this comment is concerned with air quality impacts originating from the surrounding transportation network affecting the residents at the project site, precedent set by *California Building Industry Association v. Bay Area Quality Management District* applies and no analysis of the suggested impacts with respect to CEQA is required.

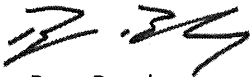
As discussed in Section 4.15, Public Services, of the Initial Study (see Appendix A of the Draft EIR), the City maintains a parkland level of service goal of 5 acres of parkland per 1,000 residents. Based on the City's estimated 2022 population of 196,100 (California Department of Finance 2022) and the City's parkland-to-resident ratio, the City provides approximately 5.47 acres of parkland per 1,000 residents, which exceeds the City's minimum standard. As discussed in Section 4.14, Population and Housing, of the Initial Study (see Appendix A of the Draft EIR), implementation of the project would result in a population increase of approximately 278 senior residents. Given the City's parkland-to-resident level of service ratio, project implementation would create the need for 1.39 acres of parkland, which represents approximately 0.13 percent (thirteen hundredths of one percent) of the City's total existing 1,073 acres of public parklands. Although the project would incrementally increase the need for park facilities in the City, the increase of 0.13 percent would be negligible as it represents well less than 1 percent of the City's existing parkland. Furthermore, the City would continue to meet the parkland-to-resident ratio standard with the addition of 278 senior living residents and the proposed project would be consistent with Policy ERC-A of the City's General Plan.

The proposed community will include shared indoor and outdoor recreational spaces. Residents of the senior living community are not anticipated to use off-site parkland and recreational facilities, as the community is intended to contain on-site services and amenities for the daily needs of the proposed project's residents. Nevertheless, some project employees, residents, or their visitors may use other public recreational facilities. As a result, the project would create an incremental increase in the use of area parks. Chapter 17.76.040, Parkland Acquisition and Park Facilities Development Impact Fee, of the City's

Municipal Code requires the payment of in-lieu fees for park and recreational purposes as a condition of approving new non-residential development. The proposed project would be required to pay in-lieu fees to the City as a standard condition of project approval (see Standard Condition PS-4). With payment of the required park impact fees, the proposed project's contribution to deterioration of parks and recreation facilities would be less than significant.

Sincerely,

LSA Associates, Inc.



Ryan Bensley
Principal

Attachment: Appeal of Planning Commission Decision to Approve Conditional Use Permit (CUP)
No. 21-024 - Bolsa Chica Senior Living Community letter filed by Michael McMahon
of Carmel & Naccasha LLP (annotated)



City of Huntington Beach

2000 Main Street ♦ Huntington Beach, CA 92648

(714) 536-5227 ♦ www.huntingtonbeachca.gov

Office of the City Clerk

Robin Estanislau, City Clerk

NOTICE OF APPEAL TO CITY COUNCIL

Appeal of Planning Commission Decision

Date: October 5, 2023

To: Community Development Department
City Attorney
City Council Office
Administration
Chair and Planning Commission
Public Works Department

Filed by: **Michael McMahon of Carmel & Naccasha LLP**

Re: APPEAL OF PLANNING COMMISSION DECISION TO APPROVE CUP NO. 21-024 –
BOLSA CHICA SENIOR LIVING COMMUNITY

Date for Public Hearing: TBD

Copy of appeal letter attached: Yes

Fee collected: \$4,582.00

Completed by: Tania Moore, Senior Deputy City Clerk

**IN ORDER TO MEET A 10-DAY PRE-HEARING ADVERTISING DEADLINE, OUR AGENDA
SCHEDULE STATES LEGAL NOTICE AND MAILING LABELS MUST BE RECEIVED IN THE
CITY CLERK'S OFFICE 18 DAYS PRIOR TO PUBLIC HEARING DATE**

***FOR ITEMS THAT REQUIRED EXPANDED ADVERTISING, PLEASE CONSULT WITH THE
CITY ATTORNEY'S OFFICE**

Sister City: Anjo, Japan

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CITY OF
HUNTINGTON BEACH

October 4, 2023

mmcmahon@carnaclaw.com

Robin Estanislau
City Clerk
City of Huntington Beach
2000 Main Street
Huntington Beach CA 92648

RE: Conditional Use Permit 21-024

- *Bolsa Chica Senior Living Community*

Dear Ms. Estanislau:

Carmel & Naccasha, LLP, has been retained by Brian Thienes to submit these preliminary comments objecting to and appealing the approval of the above-referenced Conditional Use Permit ("CUP") by the Planning Commission on September 26, 2023 to the City Council. Mr. Thienes is the owner of certain real property located in the City of Huntington Beach, near the proposed Bolsa Chica Senior Living Community located at 4952 and 4972 Warner Avenue, Huntington Beach, CA ("Project"). The size, mass, and scale of the Project is entirely inconsistent with the size, scale and character of the surrounding neighborhood and community.

Our comments and objections to the CUP and Project are as follows:

California law requires that findings in support of land use decisions of this nature be supported by substantial evidence in the administrative record. Below are specific deficiencies in the findings approved by the Planning Commission.

Land Use Element:

Goal LU-1: New commercial, industrial, and residential development is coordinated to ensure the land use pattern is consistent with the overall goals and needs of the community.

Policy LU-1D: Ensure that new development projects are of compatible proportion, scale, and character to complement adjoining uses.

Policy LU-2E: Intensify the use and strengthen the role of public art, architecture, landscaping, site design, and development patterns to enhance the visual image of Huntington Beach.

Goal LU-4: A range of housing types is available to meet the diverse economic, physical, and social needs of future and existing residents, while neighborhood character and residences are well maintained and protected.

The findings justifying the foregoing goals and policies are simply conclusory statements, unsupported by substantial evidence in the administrative record, as required by law. The fact is that the Project is not consistent with the overall goals and needs of the community, is not of compatible proportion, scale and character to complement adjoining uses, does not intensify the use or strengthen the roles of architecture, landscaping, site design and development patterns, and will not provide a housing range that meets diverse economic and social needs or maintain and protect the neighborhood character.

Housing Element:

Goal H1: Maintain and enhance the quality and affordability of existing housing in Huntington Beach.

Policy H2.1: Provide site opportunities for development of housing that responds to diverse community needs in terms of housing types, cost, and location emphasizing locations near services and transit that promote walkability.

Again, the findings justifying the foregoing goals and policies are simply conclusory statements, unsupported by substantial evidence in the administrative record, as required by law. The Project will not enhance the affordability of existing housing, nor will it provide a site opportunity to develop housing that meets the diverse community needs in terms of housing type and cost.

Furthermore, Mr. Thienes objects to the method by which the CUP was approved, specifically consideration of the CUP separately from the General Plan amendment, Zoning Map amendment, and certification of the EIR. If the CUP were unchallenged, the City Council would be robbed of the ability to modify the findings and conditions while considering the legislative amendments and certification of the EIR. Since no conditions can be placed on legislative amendments, this bifurcated approval method usurps decision making authority that rightly belongs to the City Council.

In addition, Mr. Thienes objects to the General Plan amendment to change the land use designation from CG to mixed-use (MU) and objects to the Zoning Map amendment to change the zoning from CG to specific plan (SP). Mr. Thienes also objects to the increase in allowable floor area ratio to 2.5 and to raising the maximum building height to 65 feet. The impact to the environment has not been reasonably assessed and conclusions of the Environmental Impact Report ("EIR") lack support. The Project's inconsistency with the City of Huntington Beach policy and zoning will cause significant physical environmental impacts to Mr. Thienes's neighborhood.

Additional comments and concerns regarding the EIR are as follows:

Project Impacts

The statement "the proposed project would not result in significant and unavoidable adverse impacts to the existing environmental setting" lacks factual support. The Project would create a precedent for future development, and the EIR does not consider that the approval of the Project will pave the road for future similar developments in the area. The effects of allowing

1 cont.

a specific plan to subvert zoning regulations would lead to increased interest in developing surrounding projects of a similar nature. The Project needs to study the long-term cumulative impact of increasing the code-required maximum density, the lack of code-required parking, and the effect on the adjoining neighborhood and their ability to absorb the street parking that would result from the deficiency of the required parking. The EIR should also study the long-term effects of the sewer capacity and water capacity of the surrounding existing development of similar nature that could be redeveloped if the Planning Commission's approval of the Project stands. The EIR failed to provide a sewer capacity and water capacity study.

Alternatives

2

An alternate project could be proposed that complies with the existing zoning that is also consistent with the surrounding community.

Also lacking support is the conclusion that "the no project alternative would result in greater environmental impacts to air quality and transportation to the surrounding circulation system due to the greater number of vehicle trips to and from the project site." Zoning similar to the adjacent properties would actually result in less impact than the proposed Project but would still achieve the goal of providing senior housing.

Aesthetics - Height

3

The conclusion that "the proposed project would not conflict with relevant goals and policies in terms of preserving the visual quality in the city," is also completely unsupported. The City has developed zoning standards which do not allow for a 65-foot-high building structure. The building structure would tower over the existing residences which are only two stories tall. The proposed structure is not compatible in proportion, scale, or character to the adjoining uses.

Land Use and Planning

4

The Project would cause significant environmental impacts due to the conflict with the existing land use plan. Upholding the Planning Commission's approval of this Project would lead to approval of multiple projects in the area which would have a massive cumulative impacts on the community, including aesthetics, traffic, noise, solar access, wind access, and impacts to the infrastructure, such as water and sewer capacities and street parking. The Project is inconsistent with the City's established development standards, which were applied to the surrounding infrastructure. The surrounding infrastructure was not designed to handle the proposed densities. The overall impact to the surrounding community would be far from 'less than significant' when the cumulative effect of future developments similar to the proposed Project is considered.

Utilities and Service Systems - Energy

5

The statement that "the proposed project would have less than significant impacts associated with electric power and natural gas" is wholly unsupported. The cumulative effect of approving this Project would lead to similar developments in the area, which would have a major impact to the available electricity and natural gas. The existing infrastructure is not sufficient for the bulk, density, and mass of the proposed development. Approval of this Project would cause

5 cont. | additional projects of a similar nature that would have a cumulative effect on the availability of electricity and natural gas.

Aesthetics - Light

6 | The conclusion that the Project will “not create a source of substantial light or glare” similarly lacks evidentiary support. Security and patio lighting on the 5th floor would be seen from the entire neighborhood. Nothing in the EIR evaluated the lighting spillover into the wetlands that requires dark sky. If the Brightwater development respects the dark sky requirements of the Bolsa Chica Ecological Preserve, this Project must address the impact to the Bolsa Chica Ecological Preserve. The proposed building elevations in the EIR appear to show exterior lighting fixtures that are not properly shielded. The Project as approved cannot provide adequate lighting for the patio areas and still shield all of the light spillover into the surrounding neighborhood and wetlands.

Hydrology and Water Quality

7 | Bolsa Chica Street and Warner Avenue lack sufficient storm drain facilities to capture runoff from the east that flows to the intersection of Bolsa Chica Street and Dunbar Drive, and as a result this intersection experiences flooding during normal rain events. The adjacent existing parking lot serves as an incidental detention basin and helps protect the surrounding properties. The EIR fails to analyze and address the effect of construction over the parking lot, which would reduce the available ponding space and could cause flooding on adjacent properties. This Project will increase the depth of flooding at the intersection of Bolsa Chica Street and Dunbar Drive.

Recreation

8 | Also lacking support is the statement “the proposed project does not include recreational facilities nor require the construction or expensing of recreational facilities that would result in a significant adverse physical effect to the environment, therefore project related impacts with respect to recreation are not evaluated further in this draft EIR.” The proposed Project is significantly under-parked according to existing zoning. The City of Huntington Beach has established parking standards that eliminate the need for street parking. If developed, this Project would cause excessive street parking that would inhibit access to the trail system. Parking is already in short supply for people visiting the Bolsa Chica wetlands, and this project would severely impact the available street parking leading to the trailhead at the southerly terminus of Bolsa Chica Street. The Project only considers parking spaces for the residential units and fails to address the required parking spaces for the estimated 110 employees who will work at the proposed multiple restaurants, wellness centers, and studio spaces. We can assume 62 units parked at a ratio of 0.65 spaces per unit when no mechanism is in place to control whether a unit is assisted living or normal senior housing. The parking should be evaluated as worst-case senior housing and a separate calculation added for the multiple restaurant-style dining venues, wellness centers, and studio spaces. Due to the lack of parking, this development does not support the protection and maintenance of environmental open-space resources. The lack of on-site parking will severely limit access to the Bolsa Chica trail system.

Utilities and Service Systems - Wastewater

9 Additionally unsupported is the statement “therefore, impacts related to the construction of wastewater treatment or collection facilities would be less than significant.” Recently the Orange County Sanitation District upgraded the sewer force mains and lift stations throughout the City. These systems should have been designed to comply with the existing zoning and did not consider the increased density this Project carries. This Project should consider the cumulative effect of increasing the density of existing sites within the vicinity to verify that additional sewer capacity is available to serve this site and future developments of this nature. The EIR failed to provide an adequate sewer and water capacity study.

Project Impacts

10 We dispute the statement that “given the current visual quality of the project site, implementation of the proposed project consistent with the development standards and design guidelines specified in the specific plan would promote a cohesive community identity and enhance the visual quality of the project site to viewers on an off-site.” Increasing the maximum height of the building to 65 feet would block the skyline view from the public way. The open sky view at the corner of Bolsa Chica Street and Warner Avenue would be forever impacted by replacing it with a massive residential structure and destroying public view of the sky would have a negative impact on the community.

Staff incorrectly concludes “therefore, implementation of the proposed project would not result in significant shade or shadow impacts to nearby residential uses.” The shade and shadow study prepared by CRTKL is seriously flawed; a 65-foot-tall structure will cast a shadow in the easterly and westerly directions during sunrise and sunset during the spring and fall equinox; however, only the winter solstice was studied. This study proposes a shadow less than the building height. A study of the spring and fall equinox would prove expansive shadows would be cast on the residential properties to the east and west of the proposed development.

Cumulative Impacts

11 Approval of the General Plan amendment and Zoning amendment would not “render the proposed project consistent with the city’s establish development standards and no mitigation would be required.” The existing zoning has been in place for years and has been relied upon by the residents to protect the integrity of the community. Allowing the General Plan amendment and the Zoning Map amendment to change the zoning from CG to Specific Plan would cause long-term environmental impacts to the community. If this Project is built a landslide of similar developments will forever change the character and density of the community, as evidenced by the recent development at Bella Terra and downtown Huntington Beach. This Project must evaluate the cumulative impacts of all sites of similar nature that would be subject to redevelopment. This Project is not compatible with the long-term established development standards in the area.

Air Quality

12 The EIR failed to study air quality in the vicinity of the Project and used air quality data from Anaheim, California, which is approximately ten miles from the proposed development.

12 cont.

As stated in the initial study, "occupants of facilities such as schools, daycare centers, parks and playgrounds, hospitals and nursing and convalescent homes are considered to be more sensitive than the general public to air pollutants because these population groups have increased susceptibility to respiratory disease." The air quality study fails to consider the proposed development and the residents who will be living in the proposed development. Bolsa Chica Street and Warner Avenue are both three-lane major highways that produce a significant amount of emissions. The study should consider the effect of these emissions on the people who will be living in the proposed development. As stated in the EIR, "Air pollutant exposures and their associated health burdens vary considerably within places in relation to sources of air pollution. Motor vehicle traffic is perhaps the most important source of intra-urban spatial variation in air pollution concentration." Obviously, this site is not suitable for senior housing due to the proximity of the high-volume roadways.

Table 4.7.B: Gen. plan consistency analysis ERC-A

We disagree with the statement "these recreational and open-space elements would be for private use by residents and not open to the public but are anticipated to reduce the strain on surrounding parks and open spaces as residents would be more likely to use the on-site facilities." The proposed Project does nothing to maintain the current Park per capita ratio of 5.0 acres per 1,000 persons, as the proposed development does not include any public open space for parks.

In conclusion and for the foregoing reasons, we urge the Huntington Beach City Council to uphold the appeal of the CUP and deny approval of the Project unless and until the issues identified in this letter have been resolved satisfactorily.

Sincerely,

CARMEL & NACCASHA LLP

Michael M. McMahon

Michael McMahon

MMM/lmh