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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF ORANGE**

13 CALIFORNIANS FOR
14 HOMEOWNERSHIP, INC., a
15 California nonprofit public benefit
16 corporation,

17 Petitioner,

18 v.

19 CITY OF HUNTINGTON BEACH,

20 Respondent.

21 THDT INVESTMENT, INC.,

22 Real Party in Interest.

Case No. 30-2019-01107760-CU-WM-CJC
Judge Layne Melzer Dept.C12

**VERIFIED PETITION FOR
WRIT OF MANDATE**

[C.C.P. § 1094.5; Gov. Code § 65589.5]

INTRODUCTION

Petitioner Californians for Homeownership, Inc. alleges as follows:

1. California is in the midst of a “housing supply and affordability crisis of historic proportions.” Gov. Code § 65589.5(a)(2). That crisis is driven in major part by “activities and policies of many local governments that limit the approval of housing” Gov. Code § 65589.5(a)(1)(B).

2. The law requires cities like Huntington Beach to plan for areas where housing can be built to meet regional housing needs. Huntington Beach designated an

CALIFORNIANS FOR HOMEOWNERSHIP, INC.
LOS ANGELES, CA

1 area along and near Beach Boulevard for the development of a walkable urban
2 neighborhood with a variety of residential buildings.

3 3. Real Party in Interest THDT Investment, Inc. proposed a 48-unit mixed-
4 income condominium Project for that corridor after working with the City’s planning
5 staff for two years to craft a proposal that complied with all applicable requirements.

6 4. The City’s professional staff determined that the Project met all City
7 standards and should be approved. But when confronted with neighborhood
8 opposition, the City’s elected officials ignored the City’s own rules and rejected the
9 Project.

10 5. The City’s reasons for rejecting the Project were pretextual. They had no
11 basis in fact, did not meet the relevant legal standards, and reflected a choice to ignore
12 City staff’s professional judgment in favor of uninformed speculation.

13 6. Californians for Homeownership seeks a writ under the Housing
14 Accountability Act to require the City to approve the Project.

15 **PARTIES**

16 7. Petitioner Californians for Homeownership, Inc. (“Californians”) is a
17 California nonprofit public benefit corporation and 501(c)(3) public charity. Its
18 mission is to address California’s housing crisis through litigation in support of the
19 production of housing affordable to families at all income levels.

20 8. Californians is a “housing organization” under Government Code
21 Section 65589.5 because it is “a nonprofit organization whose mission includes . . .
22 advocating for increased access to housing for low-income households” and because
23 it filed written comments with the City prior to the decision at issue in this Petition.

24 9. Respondent City of Huntington Beach is a city situated in Orange
25 County. Through its governing body, the Huntington Beach City Council, it rejected
26 the Project at issue in this Petition.

27 10. Real Party in Interest THDT Investment, Inc. (“THDT”) is a California
28 corporation. It is the applicant seeking to build the Project at issue in this Petition.

JURISDICTION AND VENUE

11. The Court has general subject matter jurisdiction over this action pursuant to Code of Civil Procedure Section 1094.5 and Government Code Section 65589.5.

12. The Court has personal jurisdiction over the City of Huntington Beach pursuant to Code of Civil Procedure Section 410.10.

13. Venue for this action properly lies with this Court pursuant to Code of Civil Procedure Section 394.

THE HOUSING ACCOUNTABILITY ACT

14. In recent years, the California Legislature has sought to address what it has described as a “housing supply and affordability crisis of historic proportions.” Gov. Code 65589.5(a)(2). “The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives. While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.” *Id.* (subdivision numbers omitted).

15. As a result of the housing crisis, younger Californians are being denied the opportunities for housing security and homeownership that were afforded to previous generations. Families across economic strata are being forced to rent rather than experience the wealth-building benefits of homeownership.¹ Many middle and lower income families devote more than half of their take-home pay to rent, leaving

¹ California Department of Housing and Community Development, *California’s Housing Future: Challenges and Opportunities: Final Statewide Housing Assessment 2025* (2018), available at http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_Final_Combined.pdf, at 18-19.

1 little money to pay for transportation, food, healthcare and other necessities.² Unable
2 to set aside money for savings, these families are also at risk of losing their housing in
3 the event of a personal financial setback. Indeed, housing insecurity in California has
4 led to a mounting homelessness crisis.³

5 16. Beyond the human toll, California’s housing crisis harms the
6 environment. “[W]hen Californians seeking affordable housing are forced to drive
7 longer distances to work, an increased amount of greenhouse gases and other
8 pollutants is released and puts in jeopardy the achievement of the state’s climate
9 goals.” Gov. Code § 65584.

10 17. At the core of California’s affordable housing crisis is a failure to build
11 enough housing to meet demand. California’s Legislative Analyst’s Office estimates
12 that the state should have been building approximately 210,000 units a year in major
13 metropolitan areas from 1980 to 2010 to meet housing demand. Instead, it built
14 approximately 120,000 units per year.⁴ Today, California ranks 49th out of the 50
15 states in existing housing units per capita.⁵

16 18. California’s housing crisis has been building for decades. The
17 Legislature has recognized that the crisis is driven, in part, “by activities and policies
18 of many local governments that limit the approval of housing, increase the cost of
19 land for housing, and require that high fees and exactions be paid by producers of
20 housing.” Gov. Code §65589.5(a)(1)(B).

21 19. As part of its efforts to address the crisis in the 1980s, the legislature
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23 ² *Id.* at 27.

24 ³ *Id.* at 3, 48-50.

25 ⁴ Legislative Analyst’s Office, *California’s High Housing Costs: Causes and*
26 *Consequences* (2015), available at <https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf>, at 21.

27 ⁵ McKinsey & Company, *A Tool Kit to Close California’s Housing Gap: 3.5*
28 *Million Homes By 2025* (2016), available at https://www.mckinsey.com/~media/mckinsey/featured_insights/Urbanization/Closing_Californias_housing_gap/Closing-Californias-housing-gap-Full-report.ashx, at document page 6.

1 passed the Housing Accountability Act (often called the “anti-NIMBY⁶ law”), which
2 limits the ability of localities to reject proposed housing development projects. Gov.
3 Code §65589.5. In recent years, the Legislature has strengthened the Act. Stats. 2016
4 c. 420 (A.B. 2584) § 1; Stats. 2017 c. 378 (A.B. 1515) § 1.5. As amended, the Act
5 limits local review of zoning-compliant housing development projects in three key
6 ways:

7 20. First, the Act generally requires a city to approve a housing development
8 project if it complies with “applicable, objective general plan, zoning, and subdivision
9 standards and criteria, including design review standards, in effect at the time that the
10 housing development project's application is determined to be complete.” Gov. Code
11 § 65589.5(j)(1) (emphasis added). If a city considers a project out of compliance with
12 objective zoning and land requirements, it must make specific findings to that effect
13 within a prescribed period; otherwise, the project is deemed compliant. Gov. Code
14 § 65589.5(j)(2).

15 21. Second, the Act requires cities to treat a project as complaint with such
16 standards “if there is substantial evidence that would allow a reasonable person to
17 conclude” that the project is in compliance. Gov. Code § 65589.5(f)(4).

18 22. Third, if a city determines that a project is consistent with its objective
19 standards but nevertheless rejects it, it must

20 base its decision regarding the proposed housing development project
21 upon written findings supported by a preponderance of the evidence on
22 the record that both of the following conditions exist:

23 (A) The housing development project would have a specific,
24 adverse impact upon the public health or safety unless the project
25 is disapproved or approved upon the condition that the project be
26 developed at a lower density. As used in this paragraph, a
27 “specific, adverse impact” means a significant, quantifiable, direct,
28 and unavoidable impact, based on objective, identified written
 public health or safety standards, policies, or conditions as they

6 NIMBY stands for “Not In My Backyard.”

1 existed on the date the application was deemed complete.

2 (B) There is no feasible method to satisfactorily mitigate or avoid
3 the adverse impact identified pursuant to paragraph (1), other than
4 the disapproval of the housing development project or the approval
5 of the project upon the condition that it be developed at a lower
6 density.

7 Gov. Code § 65589.5(j)(1)(A). The Act expressly notes the Legislature’s intent that
8 the law be interpreted such that these circumstances “arise infrequently.” Gov. Code
9 § 65589.5(a)(3).

10 23. The Act applies to residential developments, including “[m]ixed-use
11 developments consisting of residential and nonresidential uses with at least two-thirds
12 of the square footage designated for residential use.” Gov’t Code § 65589.5(h)(2).

13 24. The Act contains a statement of intent regarding its interpretation: “It is
14 the policy of the state that [the Act] should be interpreted and implemented in a
15 manner to afford the fullest possible weight to the interest of, and the approval and
16 provision of, housing.” Gov. Code § 65589.5(a)(2)(L).

17 25. The Act provides an express private right of action to challenge the
18 disapproval of a housing development to any “housing organization.” Gov. Code
19 § 65589.5(k)(1)(A). A “‘housing organization’ means a trade or industry group
20 whose local members are primarily engaged in the construction or management of
21 housing units or a nonprofit organization whose mission includes providing or
22 advocating for increased access to housing for low-income households and have filed
23 written or oral comments with the local agency prior to action on the housing
24 development project.” Gov. Code § 65589.5(k)(2).

25 26. “A housing organization shall be entitled to reasonable attorney’s fees
26 and costs if it is the prevailing party in an action to enforce” the Act. Gov. Code
27 § 65589.5(k)(2).

28 27. An action to enforce the Act is brought under Code of Civil Procedure
Section 1094.5. Gov. Code § 65589.5(m).

1 28. ‘‘In any action taken to challenge the validity of a decision by a city,
2 county, or city and county to disapprove a project . . . pursuant to [the Act], the city,
3 county, or city and county shall bear the burden of proof that its decision has
4 conformed to all of the conditions specified in [the Act].’’ Gov. Code § 65589.6.

5 FACTS

6 *The Project*

7 29. The Project at issue in this Petition is a proposed 48-unit, 4-story mixed-
8 use condominium project planned for 8041 Ellis Avenue in Huntington Beach, near
9 the intersection with Beach Boulevard. The Project would provide 5 income-
10 restricted affordable housing units. It includes an 891 square-foot retail component.

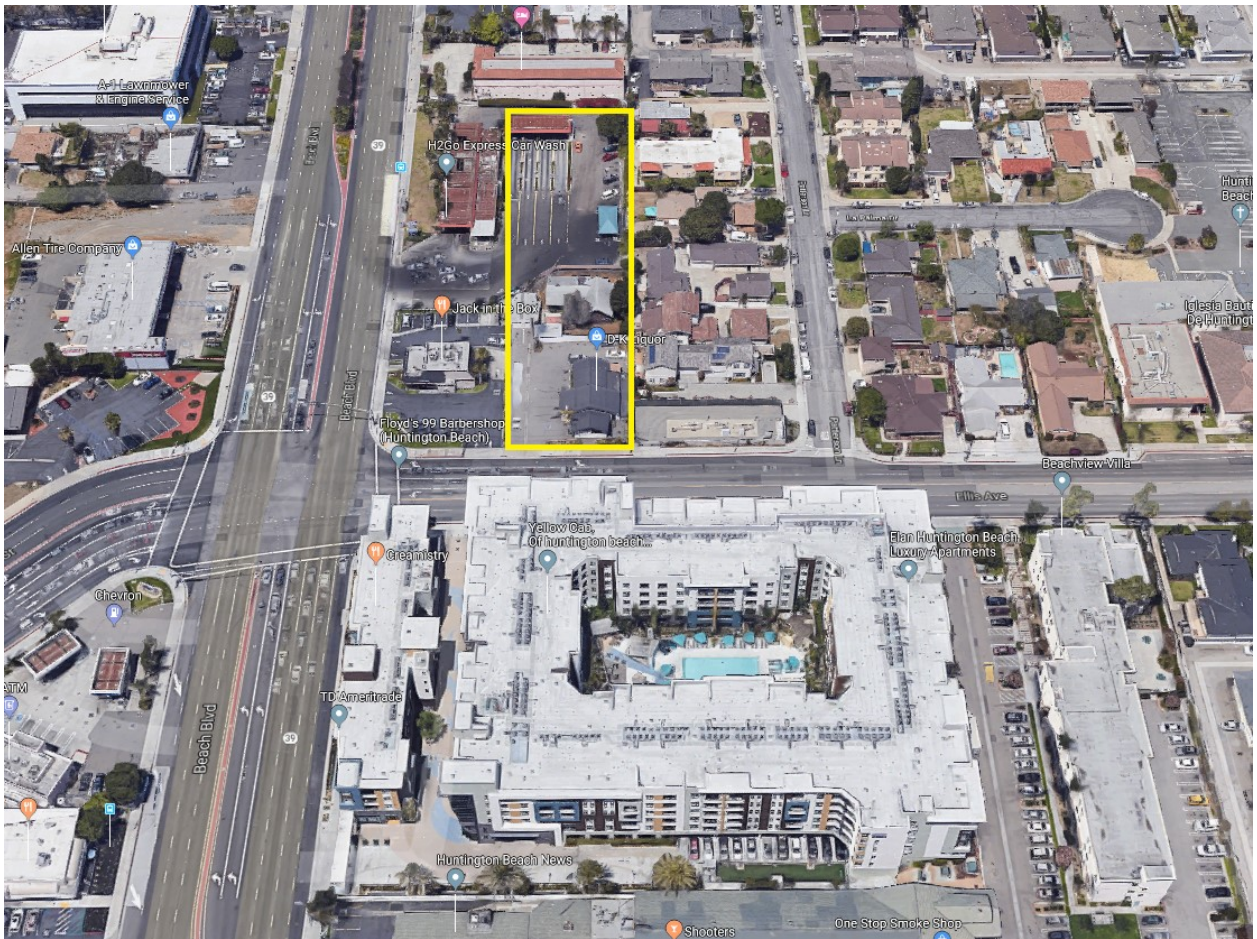
11 30. The Project site is currently home to a liquor store, a single family home,
12 and part of a car wash. The site fronts on Ellis Avenue, which is six travel lanes wide
13 along the Project site frontage.

14 31. The Project is located in the Town Center – Neighborhood area of the
15 Beach and Edinger Corridors Specific Plan, which is to be developed as follows:

16 Near-term development activities would take advantage of the large
17 areas of vacant and underutilized land in this area to provide the
18 investment opportunities that would begin the formation of the urban
19 neighborhood surrounding and supporting the Town Center Core. This
20 neighborhood would feature the City’s widest range of contemporary
21 housing types and possibly a wide mixture of uses, all concentrated
within walking distance of the Town Center Core’s theater, shops,
restaurants, cafes, nightlife, and amenities.

22 32. The Project is situated across Ellis Avenue from the Elan development, a
23 six-story 274-unit apartment building developed in 2015 at twice the density of the
24 Project. Adjacent uses along Ellis Avenue include a Jack In The Box fast food
25 restaurant and a lot containing utility equipment.
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28

33. The Project would be situated approximately as indicated in yellow:⁷



Administrative Proceedings

34. From 2017 to 2018, THDT and its principals and representatives engaged in extensive discussions with Huntington Beach planning staff regarding the potential development of the site at 8041 Ellis Avenue, submitting plans for developments ranging from 51 to 65 units.

35. In November 2018, THDT filed its application to build the Project that is the subject of this Petition. The application was deemed complete on April 1, 2019. The application sought approval of the Project and related entitlements, including a tentative tract map, a conditional use permit, and environmental approvals.

⁷ Image attribution: Google; Maxar Technologies; U.S. Geological Survey; USDA Farm Service Agency.

1 36. On May 14, 2019, the Huntington Beach Planning Commission held a
2 study session to discuss the Project.

3 37. On May 28, 2019, the Planning Commission held a public hearing on the
4 Project.

5 38. In advance of the May 28 meeting, the City’s planning staff issued a staff
6 report recommending approval of the Project and the related entitlements. The staff
7 report concluded that the Project was consistent with all of the applicable zoning and
8 General Plan designations, that it met the requirements of the Subdivision Map Act,
9 and that it would be “compatible with the surrounding existing and anticipated land
10 uses.” The staff report also concluded that local accident rates had decreased after the
11 development of the Elan project across the street.

12 39. At the May 28 meeting, the Planning Commission determined that it
13 would reject the Project and directed staff to return with proposed findings of denial.

14 40. On June 11, 2019, the Planning Commission adopted findings rejecting
15 the Project.

16 41. On June 20, 2019, THDT filed a timely appeal of the Planning
17 Commission’s decision to the Huntington Beach City Council.

18 42. On August 19, 2019, the City Council held a public hearing to consider
19 THDT’s appeal and continued its consideration of the appeal to September 3, 2019.

20 43. On September 3, 2019, in advance of the City Council’s meeting,
21 Californians for Homeownership sent the City Council a letter providing comments
22 on the appeal. The letter referenced the City’s obligations under the Housing
23 Accountability Act and stated that the City would violate the Act if it rejected the
24 Project. It was sent by email to all seven members of the City Council, the
25 administrative assistant assigned to the City Council, the Community Development
26 Director, the Associate Planner in charge of the appeal, and the City Attorney. It was
27 also submitted through the City’s online submission portal for comments on matters
28 being considered by the City Council, which provided a confirmation of receipt.

1 44. On September 3, 2019, the City Council held the continued public
2 hearing, made a *de novo* decision rejecting the Project, and made written Findings of
3 Denial. The City’s final Findings of Denial are attached to this Petition as Exhibit A.

4 **FIRST CAUSE OF ACTION**

5 **Administrative Mandate (C.C.P. § 1094.5)**

6 **For Violation of the Housing Accountability Act, Gov. Code § 65589.5**

7 45. Californians incorporates and realleges all of the foregoing paragraphs.

8 46. The Project is a “housing development project” under the Housing
9 Accountability Act because it is a “[m]ixed-use development[] consisting of
10 residential and nonresidential uses with at least two-thirds of the square footage
11 designated for residential use.” Gov. Code § 65589.5(h)(2).

12 47. Under the Act, the governing body of a city “disapproves” a housing
13 development project when it “[v]otes on a proposed housing development project
14 application and the application is disapproved, including any required land use
15 approvals or entitlements necessary for the issuance of a building permit.” Gov. Code
16 § 65589.5(h)(5). Thus, for the purposes of the Act, the City Council’s September 3,
17 2019 decision constituted a disapproval of the Project.

18 48. The Findings of Denial do not identify “applicable, objective general
19 plan, zoning, and subdivision standards and criteria, including design review
20 standards, in effect at the time that the [Project’s] application [was] determined to be
21 complete.” *See* Gov. Code § 65589.5(j)(1).

22 49. The record contains “substantial evidence that would allow a reasonable
23 person to conclude that the” Project is consistent with all applicable, objective general
24 plan, zoning, and subdivision standards and criteria because, among other things, the
25 City’s professional staff reached that conclusion. *See* Gov. Code § 65589.5(f)(4).

26 50. The Findings of Denial do not identify a “specific, adverse impact upon
27 the public health or safety,” meaning a “significant, quantifiable, direct, and
28 unavoidable impact, based on objective, identified written public health or safety

1 standards, policies, or conditions as they existed on the date the application was
2 deemed complete.” *See* Gov. Code § 65589.5(j)(1)(A).

3 51. The Findings of Denial do not explain why “[t]here is no feasible method
4 to satisfactorily mitigate or avoid” the listed impacts, “other than the disapproval” of
5 the Project. *See* Gov. Code § 65589.5(j)(1)(B).

6 52. The Findings of Denial are not supported by the evidence in the record.

7 53. Californians is a “housing organization” under the Act because it is a
8 “nonprofit organization whose mission includes providing or advocating for increased
9 access to housing for low-income households” and it “filed written . . . comments
10 with the local agency prior to action” on the Project. Gov. Code § 65589.5(k)(2).

11 54. In rejecting the Project, the City acted in bad faith and willfully violated
12 the Act because, among other things, it knew that (1) its professional staff had
13 concluded that the Project met all relevant standards, making it impossible for the
14 City to conclude that there was not “substantial evidence that would allow a
15 reasonable person to conclude that” the Project met those standards; (2) the Findings
16 of Denial did not meet the requirements of the Act, and at least four commenters
17 (including Californians) identified the City’s obligations under the Act during the
18 public hearing process; and (3) the Findings of Denial were not supported by the
19 evidence in the record.

20 55. Californians has no available administrative remedies.

21 56. Californians has no plain, speedy or adequate remedy at law, other than
22 the relief sought herein.

23 57. Accordingly, Californians is entitled to a writ of mandate directing the
24 City to approve the Project.

25 58. In the alternative, Californians is entitled to a writ of mandate voiding the
26 City’s September 3, 2019 decision and directing the City to reconsider the Project in a
27 manner that conforms to the requirements of the Act.
28

PRAYER

WHEREFORE, Petitioner prays for relief as follows:

1. A writ of mandate directing the City of Huntington Beach to approve the 8041 Ellis Avenue Project, or in the alternative, a writ of mandate voiding the City's September 3, 2019 decision rejecting the Project and directing the City to reconsider the Project in a manner that conforms to the requirements of the Housing Accountability Act;
2. Costs of suit;
3. Attorneys' fees as allowed by law, including under Government Code Section 65589.5(k)(2);
4. Such other and further relief as the Court deems just and proper.

Dated: October 28, 2019

Respectfully Submitted,
CALIFORNIANS FOR HOMEOWNERSHIP, INC.

By 
Matthew P. Gelfand

Attorneys for Petitioner,
Californians for Homeownership, Inc.

EXHIBIT A

SUGGESTED FINDINGS FOR DENIAL
TENTATIVE TRACT MAP NO. 18157 CONDITIONAL USE PERMIT NO. 17-042

SUGGESTED HEALTH AND SAFETY FINDINGS FOR DENIAL - TENTATIVE TRACT
MAP NO. 18157 AND CONDITIONAL USE PERMIT NO. 17-042:

The City Council finds and determines that the project will have a negative impact to health and safety for reasons more particularly described herein:

1. In light of the evidence in the record, the project would have a specific, adverse impact on public health and safety due to unsafe ingress/egress conditions caused by the project. Vehicular access is provided via a single driveway along Ellis Avenue. Due to the proximity of the project access driveway to the Beach and Ellis intersection, the project will require right turns only in and out of the project site. This would prohibit motorists from exiting the project site to turn left onto Ellis Avenue. Residents and visitors also cannot access the project site from eastbound Ellis Avenue without continuing past the project to make a u-turn at Patterson Lane to make a right turn into the project site. The Ellis/Patterson intersection is currently unsignalized. According to the project Traffic Impact Analysis, prepared by a licensed traffic engineering firm, the project will generate 222 additional u-turns at the Ellis/Patterson intersection. Based on accident data provided by the Transportation Division of the Huntington Beach Public Works Department, the Ellis/Patterson intersection has experienced an increase in traffic accidents within the last few years, while other intersections and street segments near the project site have had a decrease in accidents. The increase in approximately 222 u-turns at this intersection as a result of the project will exacerbate accident rates at this intersection causing an adverse public safety impact. Furthermore, the Traffic Impact Analysis discloses that motorists entering and exiting the site may experience significant delays during the PM peak hour due to westbound vehicular queuing along Ellis Avenue. Traffic delays on Ellis Avenue will contribute to motorists attempting to turn left to enter and exit the project site. The Traffic Impact Analysis recommends installation of a "STOP" sign and signage restricting outbound movements to right turns only in an effort to improve safe ingress and egress at the site. However, these measures are not adequate enough to improve safety and the study also recommends additional driveway treatments to further regulate the turn restrictions, such as the installation of raised pavement to physically prevent left turns out of the site. This suggests that is a reasonable assumption that motorists will lose patience and attempt left turns out of the site onto Ellis Avenue creating an unsafe condition, particularly during the PM peak hour when there is a long vehicular queue of traffic on Ellis Avenue in front of the project driveway. Additionally, motorists may attempt to avoid having to make a u-turn at the unsignalized Ellis/Patterson intersection resulting in additional delay due to vehicular queuing on westbound Ellis Avenue. These motorists entering the site from eastbound Ellis Avenue will attempt left turns from a through lane across traffic into the project driveway creating unsafe conditions on both eastbound and westbound sides of Ellis Avenue.
2. There is no feasible method to satisfactorily mitigate the adverse impact. The site cannot accommodate an alternative access point or an additional access point to mitigate the negative safety impacts caused by project generated traffic. The project site does not have access to another street or alley. The appellant proposed a raised "porkchop" design at the

driveway entrance to prevent left turns out of the project site as recommended by the Traffic Impact Analysis. This could potentially address the adverse health and safety impact to an uncertain degree. However, this design does not meet Fire Department access standards and would result in the project failing to comply with all applicable code requirements. Huntington Beach Fire Department Specification No. 401 contains minimum standards for fire apparatus access and No. 403 has additional requirements for driveway width when there are multiple lanes of travel with an “island divider”, like the proposed driveway with the raised “porkchop” design. Each lane of travel must be a minimum of 14 ft. wide. Two lanes of travel require a minimum 28 ft. wide driveway, without counting additional width required for an “island divider”. The proposed project driveway is 24 ft. wide total. Since the proposed raised “porkchop” design would take up a portion of the driveway width, it will result in a driveway that is less than 24 ft. wide. Since the proposed driveway is only 24 ft. wide when there is a 28 ft. minimum width (excluding additional width required for the raised “porkchop”), there is no feasible mitigation available for the adverse health and safety condition resulting from the proposed “porkchop” driveway design. The raised “porkchop” design would impede Fire Department access to the site resulting in an additional adverse health and safety impact caused by the project. Therefore, insufficient access to the project site and project generated traffic will have a direct adverse impact to health and safety which cannot be mitigated.

SUGGESTED FINDINGS FOR DENIAL - TENTATIVE TRACT MAP NO. 18157:

The City Council finds and determines that certain conditions (b), (c) and (d) listed in Government Code Section 66474 would result as a consequence of approval of Tentative Tract Map No. 18157, for reasons more particularly described herein:

1. Approval of the project would result in a design of the proposed subdivision that is not consistent with the General Plan and Beach and Edinger Corridors Specific Plan (BECSP) in that the project design fails to further a number of goals and policies contained within the General Plan and BECSP. More particular detail and analysis is contained below.
2. Approval of the project would result in a site that is not physically suitable for the type of development in that the site will not function as an integrated development compatible with the vision of the BECSP by merging three existing lots into a single long and narrow 0.95 acre parcel. The long and narrow parcel is not physically suitable for the proposed mass, bulk, and intensity of the proposed four story mixed use project and does not complement the scale and proportion of surrounding one and two-story developments. The project will generate conflicts with vehicular circulation on Ellis Ave. and there will be no connectivity for bicyclists to continue onto Beach Blvd.
3. Approval of the project would result in a site that is not physically suitable for the proposed density of development in that the proposed project results in a density of approximately 50 dwelling units per acre while the adjacent residential property is built at an aggregate density of 13 dwelling units per acre.

The design and improvement of proposed Tentative Tract Map No. 18157 does not further the goals and policies of the General Plan or the BECSP as follows:

Land Use Element

Goal LU-1: New commercial, industrial, and residential development is coordinated to ensure that 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.

Goal LU-3: Neighborhoods and attractions are connected and accessible to all residents, employees, and visitors.

Policy LU-3A: Ensure that future development and reuse projects are consistent with the Land Use Map to provide connections between existing neighborhoods and city attractions.

Policy LU-3C: Ensure connections are well maintained and safe for users.

Circulation Element

Goal CIRC-1c: Through ongoing evaluation of jurisdiction, efficient transportation management provides the highest level of safety, service and resources.

Policy CIRC-1F: Require development projects to provide circulation improvements to achieve stated City goals and to mitigate to the maximum extent feasible traffic impacts to adjacent land uses and neighborhoods as well as vehicular conflicts related to the project.

Policy CIRC – 1G: Limit driveway access points, require driveways to be wide enough to accommodate traffic flow from and to arterial roadways, and establish mechanisms to consolidate driveways where feasible and necessary to minimize impacts to the smooth, efficient, and controlled flow of vehicles, bicycles, and pedestrians.

The proposed lot consolidation, subdivision, design and improvement is not consistent with the above goals and policies of the General Plan or the BECSP because the infill project is not compatible in density, intensity, proportion, scale, and character with the surrounding land uses and does not complement the adjoining uses in that the proposed four story mixed use development is significantly more intense than the adjacent one-story commercial and two-story multi-family residential developments.

The BECSP encourages buildings to orient towards streets and provide enhancements to the pedestrian and public experience. However, in the proposed project, approximately five percent of the building length is oriented towards Ellis Ave. while the remainder is oriented to the established residences to the east and commercial uses to the west. Further, the project architectural design and scale is not compatible with the vision of the BECSP. The adjacent properties will be impacted by the height and massing of the proposed project. The length and height of the proposed building is not compatible with the long, narrow characteristics of the 0.95 acre site because it is too bulky and too intense for the available land area. The project does not support the vibrant commercial corridor envisioned in the BECSP Five Points District because only one and a half percent (1.5%) of the total square footage of the project is allocated to commercial use.

The proposed project does not create continuity with new and existing development along the Beach Boulevard corridor because the project does not propose to augment or expand the existing bikeways. Furthermore, ingress and egress to the project site generates conflicts with the flow of traffic on Ellis Ave. There is no access or connectivity to the project site from Beach Blvd and insufficient vehicular access is provided via a single driveway along Ellis Avenue. Motorists exiting the project site will be unable to safely turn left onto Ellis Ave. from the driveway and motorists entering the project site from eastbound Ellis Ave. will be unable to turn left into the project site due to congestion and narrow roadway widths. Residents and visitors cannot directly access the project site from eastbound Ellis Ave. and must continue past the project to Patterson Ln. to make a u-turn on Ellis Ave., resulting in inefficient vehicular movements. Additionally, even though motorists will be required to exit the project via a right hand turn onto Ellis Ave., motorists who do not abide by this restriction may create vehicular hazards and conflicts due to frequent congestion and queuing on Ellis Ave.

SUGGESTED FINDINGS FOR DENIAL - CONDITIONAL USE PERMIT NO. 17-042:

The City Council finds and determines that it is unable to make all of the required findings, contained in Section 241.10(A) of the HBZSO, for reasons more particularly described below:

1. Conditional Use Permit No. 17-042 for the development of a mixed-use building consisting of 48 condominium residences and 891 sf. of retail space will not 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 in that the project does not further the vision of the Town Center Neighborhood Segment of the BECSP, which envisions a vibrant commercial corridor within the Five Points District of the BECSP. The proposed project is located within the Five Points District and does not further a vibrant commercial corridor because only one and a half percent (1.5%) of the total square footage of the project is allocated to commercial use, there is insufficient vehicular ingress and egress to the site, and the project proposes marginal public open space that does not contribute to the BECSP's vision of walkability and pedestrian connections between public and private property.

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VERIFICATION

I, Matthew P. Gelfand, declare:

1. I hold the position of Counsel at Petitioner Californians for Homeownership, Inc., and am familiar with the matters discussed in the foregoing Petition.
2. I have read the Petition and know the contents thereof. The statements of fact therein are true and correct of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 28, 2019 at Los Angeles, California.



Matthew P. Gelfand