Huntington Beach LCPA 1-16 (Sunset Beach Specific Plan)
DRAFT Hazard Analysis Sug Mod
Working Document/Not for general circulation.

Hi Sunset Beach friends and neighbors --

The following is our DRAFT Comment #5 which takes us to a total of 40 pages reviewed and commented on of the 50 pages of proposed changes by the California Coastal Commission (CCC) staff to the Sunset Beach Specific Plan (aka the "Local Coastal Plan."). The remaining pages will be reviewed in the final Comment #6. Please submit your comments and concerns regarding our DRAFT comments to gailbrice@roadrunner.com Once we have received all the comments to #5 and #6, we will combine all comments into one document and distribute it for final comments.

Background Information: When Sunset Beach was annexed by Huntington Beach, the CCC invalidated our LCP plan. We are now tasked with obtaining approval of a new LCP plan. As a starting point, the CCC has provided "suggested modules" (Sug Mods) for the modifications that mostly focus on their mandate for public access and preparing for sea level rise. The City of Huntington Beach has requested that comments be submitted regarding these proposed modifications through the Sunset Beach Local Coastal Plan (LCP) Committee.

Currently development in Sunset Beach must go through the staff of the CCC for approval. Once our new plan is approved and accepted by the CCC, Huntington Beach will be designated as the sole reviewer. This will be much more desirable for many reasons.

This is a big project and we'll need to pick our battles, but we believe that we can make a difference by focusing on our local realities rather than accepting the "one size fits all" suggested modules provided by the CCC staff. We look forward to your comments.

Your Sunset Beach LCP Committee

Draft comments from the Sunset Beach LCP are provided below noting "LCP" red & underlined.

LCP: GENERAL NOTE: Throughout proposed changes, requirements from other parts of the Plan and other Federal, State and Local regulations (or other Plans created by these regulations) are often cited. Every effort should be made to make the Sunset Beach Specific Plan a stand-alone document and import the specific requirements from other regulations that are directly applicable to the issue at hand regarding the proposed pages. As the document stands now, to comply would require working through thousands of pages of other regulations and ordnances and/or flipping back and forth throughout the SB Specific Plan.

3.3 Regulations (page 34)

3.3.9 Coastal Hazards Analysis (page 60)
Add new Section 3.3.9 below after Flood Plain District Section 3.3.8 (page 60). (Entire section below is a sug mod but not in bold underline to make reading easier):

LCP: Before getting into specific comments below, we'd like to discuss an alternative process that should provide the equivalent collection of data and the same level of hazards analyses and sea level rise protection but will save hundreds of thousands of dollars for the community and time required for review by the City of Huntington Beach by removing redundancies in the process.

Currently, the proposed process per the requirements of this suggested modules is the following:

A. EXISTING PROPOSED PROCESS

1. EACH owner needs to have a specific "Coastal Hazards Analysis" report done for each development project. As described in 3.3.9 below, these reports require extensive work and will cost tens of thousands of dollars if not more especially as, to meet the requirements, they will probably need to be certified by a professional coastal engineer or equivalent.
2. The City of Huntington Beach is required to complete a "Shoreline Management Plan" within the next 5 years. Per earlier comments, the extent of this Plan is unclear.

B. ALTERNATIVE PROPOSED PROCESS

Note: The following is proposal is based on the fact that the ocean-side of Sunset Beach is only one mile long and the issues that are required to be assessed (per 3.3.9 below) are uniform across the entire length of Sunset Beach with just minor possible exception. This is different from the coastal hazards of other communities where the beach is miles long and/or the conditions vary significantly. Therefore, rather than "each owner" producing an almost identical Sunset Beach "Coastal Hazards Analysis" report that cost tens of thousands of dollars, the LCP proposes the following:

1. Prior to the preparation of the Huntington Beach "Shoreline Management Plan" for Sunset Beach:

a) The City of Huntington Beach creates a digital library of the "Coastal Hazards Analysis" reports that have already created for Sunset Beach, including the certification of the coastal engineer who has produced the report.
b) The owner applying for a new project (or > 50% modification) hires a coastal engineer who has access to the existing digital reports. The engineer for the new "Coastal Hazards Analysis" report utilizes the data from the existing reports and either certifies that it is the same for the new project or identifies applicable modification and associated conclusions.

2. The Huntington Beach "Shoreline Management Plan" should include all the data that is required to prepare the Sunset Beach "Coastal Hazards Analysis" report. Rather than the 5-year deadline, this Plan should be completed as soon as possible using a coastal engineering firm with the most experience in the local coastal area.

3. After the certification of the Huntington Beach "Shoreline Management Plan" for Sunset Beach by the CCC, the Plan should be updated regularly with the data available for the "Coastal Hazards Analysis" reports.

   The owner applying for a new project (or > 50% modification) hires a coastal engineer who reviews the Coastal Hazard data in the Shoreline Management Plan and either certifies that it is the same for new project or identifies applicable modification and associated conclusions.

MOD GOAL-BASED ANALYSES

LCP: This section is a "Goal-based" analyses provided by the Coastal Commission staff. It is followed up by the actual suggested changes to the Sunset Beach Specific Plan.

A. SEA LEVEL RISE

1) Hazard Analyses Suggested Mod (HASM) – Prepare Coastal Analyses Report – Minimum 75 years, each owner needs to have own analyses done.

LCP: See comments above regarding alternative to each owner spending thousands to have own analyses done and report produces, especially on the oceanside due to the uniformity of Sunset Beach.

2) HASM – Siting Oceanside-- New development shall be sited outside areas subject to hazards (including, but not limited to, beach erosion, inundation, wave run-up, or flooding as modified by projected sea level rise) at all times during the full projected economic life of the development (assumed to be no less than 75 years). On Oceanside – can't factor in using "shoreline protection device at any time during the economic life of the development."

LCP: It is the understanding of the LCP that Coastal Hazards Analysis Reports meeting these requirements have been completed and submitted to the Coastal Commission for current oceanside projects in Sunset Beach. We have been told that even with a 75-year time frame, the projected sea level rise does not impact new development siting within the existing oceanside property lines. This includes not using "shoreline protection devices." It is unclear whether these existing reports meet all the requirement of this suggested module. Also, whether there has been a Coastal Hazards Analysis Report for a Harbor Front project. The LCP appreciates feedback on these two issues from the community, including experience with the Coastal Commission.

3) **HASM – Siting Harbor Front** -- Development on harbor-front sites shall be sited and designed to minimize risk from coastal hazards (including erosion, flooding, wave attack, wave run-up scour, storm surge, seiches) over the economic life of the development (a minimum of 75 years). Will consider existing and new bulkheads.

LCP: On the Harbor Front, it should be made clear that existing and new bulkheads should be more than "considered," they should be allowed.

4) HASM – Project Approval only if –

a) Assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area;

LCP: What's significantly?

b) Oceanfront site, that the development does not rely on existing or future shoreline protection devices to establish geologic stability or protection of the development from coastal hazards.

c) Shoreline protective device, that it is necessary to protect an **existing** principal structure, public facility or beach in danger from erosion, and that it is designed or conditioned: 1) to be sited as far landward as feasible, 2) to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, 3) to assure that there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources, and 4) to assure that it is the least environmentally damaging alternative.

5) HASM – Conditions

a) Even if meet above, additional conditions can be applied such as to height, setback, size, design, or location on the site …

b) Permits will include waving rights in the future to construct a new shoreline protection device

c) Assume risks of possible ceasing of utility services in the future

d) Development shall be removed and the affected area restored to a natural condition if government agency says it can't be occupied due to coastal hazards or cannot provide utilities.

LCP: Due to the uniformity of Sunset Beach, it's difficult to see how one development project or one existing principal structure would benefit from a shoreline protection device without potentially causing significant harm farther down the beach due to impacting sand replenishment and/or increased erosion. Therefore, although current private Coastal Hazards Analysis Reports on the oceanside indicate that shoreline protection devices should not be needed for Sunset Beach within the 75-year timeframe, if needed, shouldn't they be considered within a local beach-wide and regional context regarding the potential negative impact of the shoreline protection devices? For example –

As sand replenishment projects move sand from north to south, should one or all the oceanfront residents in Surfside be allowed to use shoreline protection devices if they impact the supply of sand to Sunset Beach? Wouldn't the hazard be the same for shoreline protective devices that just consider Sunset Beach and not also consider the impact to beaches/properties south of Sunset Beach? This has recently been a problem in Laguna Beach with one house building a sea wall which caused significant sand loss and erosion of the beaches and properties of their adjacent southern neighbors. In summary, it seems that shoreline protection should not be considered on a property by property basis, including to protect existing properties. Rather, if needed, shoreline protection devices should only be considered on a regional-wide basis through coordination of the affected cities after a major study is conducted to assess risks vs. benefits and identify the potential unintended consequences for the affected coastline. This could possibly be done through coordination of the Shoreline Management Plans required by the various cities.

Note: It should be made clear that "shoreline protection devices" does not include the permanent berms in front of the oceanfront properties.

3.3 Regulations (page 34)

3.3.9 Coastal Hazards Analysis (page 60)

Add new Section 3.3.9 below after Flood Plain District Section 3.3.8 (page 60). (Entire section below is a sug mod but not in bold underline to make reading easier):

3.3.9 Coastal Hazards Analysis

All new development including major remodels proposed within the Sunset Beach Specific Plan Boundaries (as shown on Exhibits 1.1 Vicinity Map, 1.2 Aerial Photograph, 1.3 Zoning Map, 21. Land Use Plan, 3.1 Specific Plan Districts, and in Appendix A Legal Description) shall provide the information and comply with the requirements identified below. All new development proposals shall be designed in conjunction with sea level rise scenarios described in (b) and (c) below.

1. Coastal Hazards Analysis Report

LCP: See earlier comments on cost-effective/equivalently-protective alternative to each new development owner preparing a Coastal Hazards Analysis Report.

All coastal development permit applications for new development including major remodel in the Sunset Beach area (described above) shall submit a Coastal Hazards Analysis Report with the information identified below, prepared by an appropriately licensed professional(s) with expertise in coastal processes. The Coastal Hazards Analysis Report shall include:

a) Analysis of potential coastal hazards from erosion, flooding, wave attack, wave run-up, scour, storm surge, seiches, tsunamis and other hazards/conditions. These shall be evaluated in conjunction with sea level rise scenarios indicated below and shall also consider localized uplift or subsidence, tide range, wave climate, local topography, bathymetry, geologic conditions, water table elevation, and potential tsunami inundation areas. The status of the U.S. Army Corps of Engineers led periodic sand replenishment program and the width of the ocean fronting beach at the time of the report and over the economic life of the development shall also be considered.

LCP: Agree that sand replenishment programs by the U.S. Army Corp of Engineers should be considered. Also, the additional sand that will be generated from the deepening of the ship channel access to the Seal Beach Weapons Station should also be allowed to be considered.

b) Conditions that shall be considered must include: a seasonally eroded beach combined with long-term projections for beach erosion over the economic life of the development (minimum 75 years), high tide conditions combined with long-term (minimum 75 year) projections for sea level rise, storm waves from a 100-year event or a storm that compares to the 1982/83 El Nino event, and at least one scenario shall consider long-term erosion that assumes that one or more replenishment cycles are missed, such that there is a 15 year period between nourishment projects.

c) The hazard analysis shall be used to identify current and future site hazards, to help guide site and development design and hazard mitigation and to identify sea level rise thresholds above which limitations in the development's design and siting would cause the improvements to become significantly less stable.

d) A statement of the preparer's qualifications.

LCP: It would be helpful to specify the minimum qualification that would make the report acceptable. For example, due to the interdisciplinary nature of assessing the impact of forces of water on shorelines, a degree in Geology may be determined to be unacceptable but rather a coastal engineering background may be required. It would be very unfortunate to complete a costly Coastal Hazards Analysis report only to have it not accepted because of the preparer's qualifications.

e) Identification of coastal hazards affecting the site.

f) Identification of all legally existing principle structures.

g) All input parameters for hazard analysis shall be clearly described in the analysis and, if a range of values is considered, the basis for the selection shall be described.

h) Any additional sea level rise related impacts that could be expected to occur over the life of the project, such as saltwater intrusion or elevated water table must also be evaluated. This may be especially significant for areas with a high groundwater table, wetlands, or coastal resources that might rely upon groundwater.

i) On harbor front sites, the Coastal Hazards Analysis Report shall include an assessment of the effectiveness of existing bulkheads or the need for a new bulkhead on unbulkheaded sites for the life of the structure (75 years).

j) The best available scientific information with respect to the level of future sea level rise and effects of long-range sea level rise shall be considered in the preparation of findings and recommendations for all requisite geologic, geo-technical, hydrologic, engineering investigations, and wave uprush studies used to prepare the Coastal Hazards Analysis Report.

LCP: This provision can be eliminated as the "best available science" is defined in the next item.

k) Accepted sea level rise scenarios shall be based on best available science. As a starting reference point, the current best available science is the National Research Council's 2012 report, *Sea-Level Rise for the Coasts of California, Oregon and Washington: Past, Present and Future* (NRC 2012). This report provides sea level rise projections of 2-12 inches by 2030, 5-24 inches by 2050, and 17-66 inches by 2100 for Southern California. Within these ranges, the high scenarios should be selected, at minimum. Sea level rise amounts expected by years other than 2030, 2050, and 2100 should be calculated by interpolating or extrapolating data points using best fit equations. Sea level rise projections that match the anticipated project life of the development under consideration should be used.

LCP: Sea level rise isn't a "one size fits all" situation in Southern California. Sunset Beach is fortunate to be located adjacent to two of the largest wetlands in California. The combination of the Bolsa Chica wetlands and the Seal Beach Weapons Station will provide a significant mitigating factor. Therefore, it should be made clear that the "high scenarios" are probably not appropriate for Sunset Beach and that a justified lower projection by qualified professional will be acceptable.

Note: The LCP is currently looking further into the impact of using the above as the "best available science." Therefore, additional comments on this section should be anticipated in the draft final of the combined comments that will be released to the community.

Significant community support functions (such as waste water treatment, provision of potable or firefighting water, or fire and life safety command and equipment centers), energy production and distribution infrastructure, critical community shelter facilities used in an emergency, or structures that house vulnerable populations that cannot readily be evacuated, including hospitals, schools, and care facilities for the elderly and/or disabled, shall be subject to a higher level of design scrutiny with analysis based on a minimum of either 55 inches (4.6 feet) of sea level rise or an extrapolation of projected sea level rise rates for the expected economic life of the structure (assumed to be no less than 75 years) whichever is greater.

LCP: Due to the small size of Sunset Beach, except for the fire station on Warner, none of these other "significant community support functions" are applicable to our community and should be removed from the Plan.

l) Identification of necessary mitigation measures to address the current and reasonably expected future hazardous conditions identified in the Coastal Hazard Analysis Report. Mitigation measures to address current hazards include siting development away from hazardous areas and/or elevating the finished floor of structures to be at or above the base flood elevation (as calculated pursuant to this Section 3.3.9 and to Sea Level Rise Policies 2.4.3 through 2.4.5 of this Specific Plan. Mitigation measures to address reasonably expected future hazards include waterproofing, flood shields, watertight doors, moveable floodwalls, partitions, water-resistive sealant devices, sandbagging and other similar flood-proofing techniques. The basis for the expected effectiveness of all mitigation measures proposed shall be described in the Coastal Hazard Analysis Report.

LCP: The presence of the permanent beams in front of oceanfront properties should be included in the acceptable mitigation measures. See additional comments regarding the permanent berms in the "Encroachment" Section

j) Assessment of the availability of and potential risks to services to the site, including risks to public or private roads, stormwater management, water, sewer, electricity, etc. facilities over the life of the development (minimum 75 years), when taking sea level rise into account, as described above.

2. Siting of Development

Based upon the information and analysis provided by the Coastal Hazards Analysis Report, as required in Subsection 1 above, new development shall (underline added by LCP) be sited outside areas subject to hazards (including, but not limited to, beach erosion, inundation, wave run-up, or flooding as modified by projected sea level rise) at all times during the full projected economic life of the development (assumed to be no less than 75 years). If complete avoidance of hazard areas is not feasible, (underline added by LCP) all new development shall be designed to avoid areas subject to hazards to the maximum extent practicable and to withstand anticipated hazard impacts (including, but not limited to, beach erosion, inundation, wave run-up, or flooding). Such design considerations shall include, but are not limited to, elevating development above the Base Flood Elevation[1] as modified to reflect sea level rise scenarios, to the maximum extent

[1] Base flood elevation" (BFE) means the elevation shown on the Flood Insurance Rate Map for zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.

practicable. Development plans shall consider hazards currently affecting the property as well as hazards that can be reasonably anticipated over the economic life of the structure.

LCP: This section is confusing. The initial use of "shall" would indicate that one can't site a new development in areas "subject to hazards." But later in the section, it provides conditions where this is possible. The use of "shall" should be changed to avoid this confusion.

All new development shall be designed to assure stability, assure that it will not be endangered by erosion, and to avoid the need for protective devices (other than necessary bulkheads on harbor-fronting sites consistent with Section 5 below)) during the economic life of the structure (a minimum of 75 years). If there is an existing protective device on the property (other than necessary bulkheads on harbor-fronting sites consistent with Section 5 below), any proposed new development (including major remodels) shall not rely on the protective device to meet the minimum factor of safety for the development or to assure that the development will be geologically stable for life of the project (a minimum of 75 years).

LCP: See earlier comments regarding the use of shoreline protection devices for existing properties.

Except as expressly described Subsection 3.3.11 *Encroachments*, no private development shall be allowed seaward of an oceanfront site property line.

LCP: See earlier comments that, besides no "private developments" (except those allowed under Subsection 3.3.11 *Encroachments*), that due to the extensive public access and public facilities already provided in Sunset Beach, no "public developments" (except for lifeguard towers and volleyball courts) should also not be allowed seaward of the oceanfront property line.

3. Shoreline Protection Device on Oceanfront Sites

Development on oceanfront sites shall be sited and designed to minimize risk from wave run-up, flooding and beach erosion hazards without requiring a shoreline protection device at any time during the economic life of the development. Development on oceanfront sites shall be required to utilize a foundation system adequate to protect the structure from wave and erosion hazard without requiring the construction of protective devices that would substantially alter natural landforms along the coast.

LCP: See earlier comments regarding the use of shoreline protection devices. Also see earlier comments regarding the selection of foundations systems based on balancing hazards from sea level rise vs. liquefaction from earthquakes.

4. Existing Structure

"Existing structure" for purposes of this section shall consist only of a legally existing principal structure(s), e.g. residential dwelling, and required garage existing as of the effective date of certification of this Sunset Beach Specific Plan by the Coastal Commission, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs,

landscaping etc. No shoreline protective device shall be allowed for the sole purpose of protecting an accessory structure.

LCP: See earlier comments regarding the use of shoreline protection devices for existing properties.

5. Harbor Bulkheads

Development on harbor-front sites shall be sited and designed to minimize risk from coastal hazards (including erosion, flooding, wave attack, wave run-up scour, storm surge, seiches) over the economic life of the development (a minimum of 75 years).

a) Harbor Front Sites with Existing Bulkheads

For properties with legally constructed bulkheads as of the effective date of certification of this Sunset Beach Specific Plan, evaluation of the need for and effectiveness of the bulkhead to protect existing principal structures shall be included as part of the Coastal Hazards Analysis required in Subsection A.1 above.

New development on harbor front sites shall be permitted only when the bulkhead at the site is necessary to protect existing principal structures and is deemed adequate, based upon the information required by this Coastal Hazards Analysis section, to support the proposed and existing development. Modifications to an existing bulkhead shall be required as a condition of approval to meet this requirement; however, fill of coastal waters shall be avoided to the extent feasible. Revisions to an existing bulkhead shall be accommodated no further channelward than the footprint of the existing bulkhead to the extent feasible. New fill of coastal waters shall be avoided, and, if unavoidable, shall be minimized and mitigated.

b) Harbor Front Sites with No Bulkheads
For properties where no legally constructed bulkhead exists as of the effective date of certification of this Sunset Beach Specific Plan, a new bulkhead shall only be allowed when it is demonstrated, based upon the information contained in the required Coastal Hazards Analysis Report, that it is required to serve coastal-dependent uses or to protect legally existing principal structures (as of the effective date of this Sunset Beach Specific Plan) or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Fill of coastal waters shall be avoided to the extent feasible, and any fill shall be minimized and mitigated.

LCP: Section b) should be eliminated as there are no Harbor Front Sites without existing Bulkheads.

c) Bulkhead Condition Report. Where a coastal hazards analysis report shows that an existing bulkhead on the site cannot be removed and/or an existing or replacement bulkhead is required to protect existing principal structures, public facilities or beaches in danger from erosion, the applicant shall submit a bulkhead condition report that includes the following:

LCP: The following numbers should be 1), 2) etc. so it's clear that they are a subset of c) especially as this section ends in 6 and the next major topic is 6.

1. A statement of the preparer's qualifications;

2. An analysis of the condition of any existing bulkhead including whether the top elevation meets current City standards, the condition of the sheetpiles or panels, the condition of existing tiebacks and/or deadmen or similar, and any other relevant conditions;

3. Recommendations regarding the need for repair, augmentation or replacement of the bulkhead or any parts thereof;

4. If augmentation or replacement in the existing alignment is necessary, recommendations that will avoid channelward encroachment of the bulkhead;

5. If replacement is necessary and the existing bulkhead is channelward of adjacent bulkheads, recommended alternatives that will relocate the bulkhead in as much alignment with adjacent bulkheads, and as far landward, as necessary to minimize fill of coastal waters.

6.Required Findings and Analysis

LCP: This section is confusing as to who does what. It initially seems that it may be a requirement under the Coastal Hazards Analysis report preparation, but it appears to be the Coastal Development application review requirement by the City of Huntington Beach (after the Specific Plan approval by the Coastal Commission). The title of this section should be changed to clarify this and also made clear in the text below.

In addition to any other required findings, written findings of fact, analysis and legal conclusions addressing coastal hazards must be included in support of all coastal development permit approvals, conditional approvals, or denials. These findings shall support a determination of whether or not the proposed development conforms to the requirements of this section. Such findings shall address the specific project impacts identified by the Coastal Hazards Analysis as required by Section 1 above or shall substantiate why such impacts are not anticipated. The findings shall explain the basis for the conclusions and decisions on the coastal development permit and shall be supported by substantial evidence in the record. Findings for approval or conditional approval shall conclude that the project as proposed, or as conditioned, conforms to the certified Local Coastal Program. A coastal development permit shall be granted only if the decision making body finds:

i. The project, as proposed or as conditioned, assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area; and,
ii. If the project involves new development, and/or an addition to an existing structure on an oceanfront site, that the development does not rely on existing or future shoreline protection devices to establish geologic stability or protection of the development from coastal hazards; or,

iii. If the development includes a shoreline protective device, that it is necessary to protect an existing principal structure, public facility or beach in danger from erosion, and that it is designed or conditioned: 1) to be sited as far landward as feasible, 2) to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, 3) to assure that there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources, and 4) to assure that it is the least environmentally damaging alternative.

iv. No shoreline protective device shall be allowed for the sole purpose of protecting an accessory structure.

LCP: See earlier comments regarding the use of shoreline protection devices for existing properties.

7. Conditions

a) If found necessary to conform to the development standards contained in this specific plan or any other applicable policy or standard of the certified LCP, the proposed new development shall be modified, by special condition, relative to height, setback, size, design, or location on the site and may be required to incorporate other project design approaches or otherwise make the project conform to the requirements of the LCP to avoid or minimize the adverse impacts that the proposed development may have on coastal resources.

LCP: "Coastal resources" should be defined and not arbitrary. For example, a "coastal resource" could be "view" and a condition could be arbitrarily applied for required change relative to height, even though there are public view sights and beach access every 250 feet on the oceanside of Sunset Beach and already have height limitations.

If special conditions of approval are required in order to bring the project into conformance with the certified Local Coastal Program, the findings shall explain how the special condition(s) alleviate or mitigate the adverse effects which have been identified. Mitigation shall not be permitted to substitute for implementation of a feasible project alternative that would lessen or avoid impacts to shoreline sand supply, public access or other coastal resources.

LCP: Again, this seems too open ended, broad and potential arbitrary. This should be clarified.

b) Except as provided in Section 6iii above, a condition of any permit for new development (which includes an addition to an existing structure) on oceanfront sites, shall expressly require the applicant to waive on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to construct a new shoreline protection device in the future to protect the development approved pursuant to the permit, and record this waiver of future shoreline protection device on the title of the property as a deed restriction.

LCP: It should be clarified that "addition to an existing structure" only applies to a > 50% modification to the existing facility. See earlier definitions. See also earlier comments regarding shoreline protection devices, including regarding existing primary construction. If as noted earlier, it is determined that shoreline protection devices cannot be approved on a property-by-property basis, but rather they're a beach-wide/regional decision, then it seems redundant to require this deed restriction.

c) Assumption of Risk. As a condition of approval of all new development where coastal hazards have been identified pursuant to the Coastal Hazards Analysis as required pursuant to this section (3.3.10), the applicant and property owner shall acknowledge any hazards present at the site, or that could affect services to the site (e.g. stormwater management, roads, water, sewer, electricity, etc.), assume the risk of injury and damage from such hazards, unconditionally waive any claim of damage or liability against the decision making authority from such hazards, including damage or liability caused by the abandonment or other loss of services to the site, and to indemnify and hold harmless the decision making authority against any and all liability, claims, demands, damages, costs, expenses, and amounts paid in settlement arising from any injury or damage due to such hazards. The applicant shall record this assumption of risk on the title of the property as a deed restriction.

LCP: This issue is a legal one and has been referred to the City Attorney's office of Huntington Beach.

d) d) Development Duration. Development shall be removed and the affected area restored to a natural condition if: (a) any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed; (b) services to the site can no longer be maintained (e.g., utilities, roads); (c) the development is no longer located on private property due to the migration of the public trust lands; (d) removal is required pursuant to LCP policies for sea level rise adaptation planning, including through the Community Resilience Program and/or a Shoreline Management Plan; or (e) the development requires new and/or augmented shoreline protective devices. The applicant shall record this development duration requirement on the title of the property as a deed restriction.

LCP: This issue is a legal one and has been referred to the City Attorney's office of Huntington Beach.

End of LCP Comments #5. Please send comments to these draft comments to gailbrice@roadrunner.com. Remaining Comment #6 will be coming out soon.