

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



**August 31, 2007**

**MEMORANDUM**

TO: Commissioners and Interested Parties

FROM: Sherilyn Sarb, South Coast Deputy Director (Orange County)

SUBJ: **Second Addendum to Commission Meeting Wednesday, September 5, 2007  
at 9:00 a.m.**

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New Appeals:

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lm/g addendum September. 07 hearing

**CALIFORNIA COASTAL COMMISSION**

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August 31, 2007

# Item No. W 14a

## ADDENDUM

To: Commissioners & Interested Persons

From: South Coast District Staff

Re: Staff Report dated 8/16/07 for Appeal No. A-5-HNB-07-242 (Signal Landmark/Hearthside Homes), City of Huntington Beach, Orange County.

**Letters Received from Signal Landmark/Hearthside Homes (Project Applicant) dated 8/29/07 prepared by Manatt, Phelps & Phillips and Letter Received from City of Huntington Beach dated 8/29/07**

Commission staff received the above referenced letter from the property owner's (Signal Landmark/Hearthside Homes) consultant responding to the Substantial Issue staff report. The letter is attached to this addendum as Attachment 1. The property owner objects to the recommendation that the Commission find that the appeal raises a substantial, and also asserts that the Commission does not have appeals jurisdiction over this coastal development permit.

Commission staff received the above referenced letter on 8/29/07 from the City of Huntington Beach. The City's letter is attached as Attachment 2. The letter contains a chronology of the City's processing of local coastal development permit no. 2007-004. The letter also includes the City's position that the local coastal development permit as approved by the City raises No substantial issue and that the project is consistent with the public access, land use and visual resources of the City's certified Local Coastal Program.

Staff response to the above referenced letters is addressed in the following revisions to the staff report.

### **Other Letters Received**

As of the date of this addendum, three letters have been received in the Commission office supporting the staff recommendation to find the appeal raises a Substantial Issue with regard to the grounds upon which it was filed. The three letters are attached.

### **Staff recommends the following revisions to the above referenced staff report:**

**On Page 1 of the staff report, add the following STAFF NOTES prior to the SUMMARY OF STAFF RECOMMENDATION:**

## STAFF NOTES

The subject appeal addresses the approval by the City of Huntington Beach of a coastal development permit for off-site entry monuments and signage related to the residential subdivision known as Brightwater located on the Bolsa Chica Mesa upland of the Bolsa Chica Ecological Reserve. A few factual clarifications would be useful in understanding the subject project (entry monuments) and its relation to the approved Brightwater development (CDP #5-05-020). The Brightwater residential development is located in unincorporated Orange County area. It is located within the Bolsa Chica LCP area, but there is no certified LCP for the area. Thus, the Commission acted on the coastal development permit for the residential development. The entry monuments that are the subject of this appeal are located within the City of Huntington Beach's corporate boundary. The City of Huntington Beach has a certified LCP; thus, the City processed a coastal development permit for the entry monuments (2007-004) as a separate development. Because the entry monuments are not located within the Brightwater residential development boundary, an amendment to the Commission issued CDP #5-05-020 was not required.

### **Chronology of Commission Staff's Contact with City/Applicant**

The following describes the Commission staff's conversations with the applicant and the City regarding the appealability of this development and the grounds for appeal. Contrary to the applicant's representations in its August 29, 2007 letter, it received ample notice of the pendency of this appeal, as described below.

Commission staff received the Notice of Final Action via certified mail on Monday, July 9, 2007. On July 10, 2007 staff attempted to contact Ed Mountford, vice president of Hearthside Homes by phone to get an understanding as to why, as it initially appeared to staff, they had applied to the City to modify the Brightwater project when the Commission had already approved the residential subdivision and development, including a comprehensive signage program and entry monuments. The following week (July 16-20, 2007), following the Commission's San Luis Obispo meeting, staff and the applicant had several conversations in which he clarified the project description explaining that the entry monuments within the Brightwater subdivision were not being modified but that the City had approved additional structures within the City's jurisdiction, several hundred feet north of the Brightwater residential subdivision. The applicant also emailed staff a graphic of the structures and their approved location during the week of July 16<sup>th</sup>. Although the applicant clarified the location of the development approved under the City coastal development permit, staff informed the applicant of our concerns about the project and that we felt it should be appealed by the Commission. The applicant asked whether additional signage could satisfy our concerns to avoid a Commission appeal and staff responded that signage alone would not.

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During the week of July 16<sup>th</sup> staff also had numerous conversations with City staff concerning the project. Staff spoke by phone with the lead planner for the project and the City's principal planner. We informed the City that the project is appealable due to the fact that the site is between the sea (the Bolsa Chica wetlands) and the first public road paralleling the sea (Los Patos) and that we were going to seek a Commission appeal of the project and went on to explain the reasons we felt the project is inconsistent with the certified LCP and public access provisions of the Coastal Act. We reminded the City that the Commission had previously made the finding that the area is appealable, most recently in the Parkside LCP amendment staff report. After consultation with the planning director,, the City considered re-noticing the project as appealable. Staff discussions with the City included the appeal period, the possibility of the City re-noticing the project as appealable, and working with the applicant to postpone the Substantial Issue hearing by having the applicant grant a 49-day waiver. The lead planner informed staff that the applicant was not interested in a postponement and therefore would not be granting the required 49-day waiver.

It was therefore made very clear to both applicant and the City that staff would be seeking a Commission appeal of the subject project. Staff explained in detail to both the applicant and the City why we believe the project is not consistent with the certified LCP and the public access provisions of the Coastal Act. Commission staff contacted Commissioners Shallenberger and Wan also during the week of July 16<sup>th</sup> concerning the Brightwater monument project and received their authorization to appeal the project on their behalf. The appeal period ended on Monday, July 23<sup>rd</sup>. After the staff report was prepared, members of the public informed staff that the entry monuments approved by the City had been built, without a valid coastal development permit. Commission staff confirmed that the entry monuments subject to this appeal have been constructed. Although unpermitted development has occurred on the site, consideration of the appeal is based solely on conformity of the development with the certified Local Coastal Program and the public access policies of the Coastal Act.

**On Page 8 , add the following as new Section B, and re-letter the following sections accordingly:**

B. Commission's Appeals Jurisdiction

The applicant's letter asserts that the location of the development for which the City approved the coastal development permit (2007-004) is a non-appealable area because it is not depicted as appealable on the City of Huntington Beach's 1985 post-certification map. However, the area is located between the sea (tidally influenced Bolsa Chica wetlands area) and the first public road paralleling the sea (Los Patos Road). Public Resources Code Section 30603 defines the Commission's appeals jurisdiction to include the land between the first public road and the sea. Pub. Resources Code Section 30603(a)(1). This development is therefore appealable.

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The Commission's regulations, in conjunction with the Coastal Act, make it clear that the Commission's appeals jurisdiction is based on existing conditions, not just on the depictions in a map. For example, Section 30603 defines the extent of the Commission's appeals jurisdiction but in no way limits this jurisdiction to those areas depicted on post-certification maps. The regulations clarify that the post-certification maps are intended to provide guidance with regard to the appeals jurisdiction, without definitively describing that jurisdiction. All post-certification maps are required, pursuant to 14 CCR 13576, to include language stating: "This plat may be updated as appropriate and **may not include all lands where permit and appeal jurisdiction is retained by the Commission.**" (emphasis added). Therefore, despite the applicant's contentions to the contrary, it is not entitled to rely simply on the depictions in the post-certification map; the Commission's appeals jurisdiction is fully defined in Section 30603 of the Coastal Act, which is the binding authority for both the applicant and the Commission.

The City of Huntington Beach's post-certification map in fact clearly does not depict all of the areas subject to the Commission's appeals jurisdiction. It depicts those areas within 100 feet of wetlands or within 300 feet of the sea, but it does not even purport to map those areas that are between the first public road and the sea, as the first public road is not identified in any way on this map. The fact that this map does not depict those areas between the first public road and the sea does not deprive the Commission of the jurisdiction conferred on it through Coastal Act Section 30603.

Not only are the City and the applicant not entitled to rely on the post-cert map as a definitive depiction of the Commission's appeals jurisdiction, as discussed above, but both entities were informed prior to the filing of this appeal, and prior to any construction, that this development was appealable. The staff note, incorporated herein by reference, lays out the numerous conversations that took place between the applicant and Coastal Commission staff with regard to this appeal. Staff explained to the applicant the grounds for the appeal and the basis for the Commission's appeals jurisdiction before the appeal was filed. Commission staff similarly spoke to representatives of the City, who ultimately agreed with staff that this development is within the Commission's appeals jurisdiction and expressed its willingness to re-notice its action as appealable. Moreover, both the applicant and the City were aware of the fact that this area is located between the first public road and the sea. The applicant for the subject entry monuments is the same as the applicant for the Brightwater subdivision CDP. In the staff report for the Brightwater CDP, Commission staff clearly identified the property as being located between the first public road and the sea. Similarly, in the Commission's staff report for the Parkside Estates LCP Amendment, submitted by the City, staff also identified this area as being located between the first public road and the sea. Commission staff has consistently taken this position, as additionally shown in the LCP for the Bolsa Chica area and in the Surfcrest CDP.

In addition, the City's certified LCP Implementation Plan, Section 245.04 states:  
Appealable area: That area between the sea and the first public road paralleling the sea

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or within 300 feet of the inland extent of any each or the mean high tide line of the sea where there is no beach, whichever is greater, tidelands, submerged lands, public trust lands, that area within 300 feet of the top of any coastal bluff, and that area within 100 feet of any wetland, estuary or stream. The City's certified LCP Land Use Plan defines "sea" as follows: "Consistent with Section 30115 of the Coastal Act, "Sea" means the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and any other areas subject to tidal action through any connection with the Pacific Ocean, excluding non-estuarine rivers, streams, tributaries, creeks, and flood control and drainage channels." Thus, based on the City's own LCP, this project is within the Commission's appeals jurisdiction.

**On Page 13, add the following before the first incomplete paragraph under "Public Access":**

The following is in response to the assertions by the applicant's representative in a letter dated 8/29/07. The letter asserts that the entry monuments at Los Patos Avenue and Bolsa Chica Road will not impact public access as claimed in the staff report. The letter states "In order to mark the location of the public entry way to access these public access amenities, the Coastal Commission approved entry monuments on Brightwater Drive just east of Warner Avenue. The intent of the entry signage was to provide the public with highly visible signposting so that they could easily see the entrance to Brightwater and find the trails and recreational amenities provided by the new community."

As stated above, the Commission's approval of the Brightwater residential development allowed entry monuments at two locations providing entrance to the Brightwater community: one at the eastern end of Brightwater Drive, at Bolsa Chica Road and the one at Warner Ave. and Brightwater Road acknowledged in the letter. The letter neglects to mention the entry monument at the eastern end of Brightwater Drive and fails to address why a third entry monument, 1,000 feet north of the already monumented eastern entry is necessary. The Commission maintains the monumentation off-site at the proposed location does not identify the community but serves to privatize this segment of Bolsa Chica Street which is a public roadway serving the public street and trail system approved as part of the Brightwater development.

In addition, the letter incorrectly implies not only that the Commission approved the entry monuments but that it intended these entry monuments to be highly visible to the public in order to enhance public access. In reality, the Commission itself never approved the entry monuments located on the Brightwater property. In approving the Brightwater development (CDP #5-05-020) the Commission required public access signage, but the entry monuments were not part of the public signage plan. The Commission did not require, but did not object to, entry signage at the two entry points into the community, at either end of what is now called Brightwater Drive. The letter mischaracterizes the Commission's approval in stating that the Commission specifically "required" the community identification monuments. The entry monuments were simply approved by

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staff in the subdivision's final plans, due to the fact that they were not prohibited by the Commission's CDP – the Commission never formally took an action to approve these monuments, much less "required" that they be installed. In addition, the entry monuments simply state "Brightwater" and do not in themselves identify public trails or access and therefore were not intended to, nor do they constitute, public access signage.

Regarding the privatization concern, in addition to the subject entry monuments as Los Patos Avenue and Bolsa Chica Street, there has been public access signage posted by the applicant that states "Public Trail Access – Go Back to Warner Avenue for Beach Access". The public trail network within the Brightwater development and within the Bolsa Chica area beyond does provide connections to Bolsa Chica State Beach. There is no reason, other than to minimize use of the public trail system, to direct the public back to Warner Avenue for beach access. Furthermore, the language on the sign could suggest that the "trails" of the Brightwater development are only the internal sidewalks within the residential development, as no mention is made to the bluff trail and connections beyond. More appropriate public access sign language would be something like "Public Trail Access to Bolsa Chica and Beyond" or simply "Public Welcome". In addition, there is no mention of public access signage in the City's approval of this new monument. As a result, there is no special condition requiring public access signage or specifying the size or wording of the sign. Even if this entry monument itself were consistent with the City's LCP, which it is not, at a minimum this approval raises a substantial issue due to fact that no public access signage has been incorporated.

The applicant's letter states: "The intent of the entry signage was to provide the public with highly visible signposting so that they could easily see the entrance to Brightwater and find the trails and recreational amenities provided by the new community." The massive structures the applicant's response letter says were approved by the Commission "in order to mark the location of the public entry way to access these public access amenities" do not actually provide any public access signage. The only signage on these structures announces the name of the residential development, "Brightwater". While the entry monuments are 10 ½ feet high and 23 feet across (with the 5 ½ foot pedestrian opening), the actual public access signage provided by the applicant is 1 foot by 1 ½ on a five foot post. The applicant's claim that the scale of these monuments is necessary to proclaim the availability of the Commission required public amenities has no basis in fact because, as approved by the City, the monuments do not mention public access at all.

The applicant's letter states: "... the name Brightwater is now associated with a project approved by the Coastal Commission that provides public access, trails, public parking and habitat protection," implying that just the name Brightwater alone is adequate to make the general public aware of the public access amenities available. While those who followed the Commission's action on the Brightwater coastal development permit, those who live in the immediate vicinity, and those who generally follow the Commission's actions may be aware that the Commission required public access provisions to be incorporated into the project, this represents an extremely small percentage of the general

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population. The Commission's goal in requiring public access amenities and in requiring signage to promote those amenities is not to make them available only to those who are involved in the permitting process, but to ALL members of the general public, including those who may not be aware of the Coastal Act. Therefore, the argument that simply placing the Brightwater name on a monument would be interpreted by the general public to mean that public access amenities are available is not a reasonable conclusion.

In summary, the appropriate location for entry monumentation is at the entry to the subdivision as allowed by the Commission under CDP #5-05-020. The monuments that are the subject of this appeal are in ADDITION to the two already allowed and constructed under the Commission's previous approval of the Brightwater development. The location of the entry monuments that are the subject of this appeal is over 1,000 feet away from the eastern entrance to the development and are not necessary, as the entry monument in the approved location has already been constructed.

Moreover, at the Los Patos Avenue/Bolsa Chica Road intersection, the trail system along the bluff of the Bolsa Chica wetlands and the trails beyond is not visible. However, from the location of the approved entry monument at the actual entry to the Brightwater development, these amenities are visible. Thus, locating the entry monument at the actual entry has significantly less impact on public access in that the trails and Bolsa Chica are actually visible. Thus, placing new "entry" monuments at Los Patos Avenue, where the trail system is not visible, does significantly adversely impact public access and raises a substantial issue with regard to conformity with the access provisions of the Coastal Act and the certified LCP.

**On Page 16 of the staff report, add the following before the end of the last paragraph under the Land Use section:**

The following is in response to the allegations in the letter from the applicant's representative dated August 29, 2007. The letter recognizes that the monument on the eastern side of Bolsa Chica Street is located within the public right-of-way. The letter concludes that this does not conflict with LCP land use policies because "the entry monuments are not situated in a way that would impermissibly narrow the public right-of-way. In fact, the entry monuments are in a location that promotes walkability as they provide shade area and monumentation for the walkway along Bolsa Chica Street. Bolsa Chica Street is a two-lane street and neither vehicular nor bicycle access are adversely affected by the entry monuments." The Commission does not agree the monumentation "promotes walkability". In fact, on the eastern side of Bolsa Chica Street there is no public sidewalk provided through the monument; only landscaping. In any case, use of public right-of-way to serve private residential development, cannot be found consistent with the requirement to maximize public access. Rather than use the public right-of-way area to announce private residential development, the area could be used to provide both public parking and a bicycle lane, rather than a bicycle lane only. Other options that would maximize public access in the right-of-way area include (but are

not limited to) the placement of benches (possibly with shade structures, but less than 23 feet wide), construction of a sidewalk wider than the 5 ½ feet allowed by the opening in the monuments, or habitat enhancing landscaping. The Commission has consistently found that private residential serving development (such as these entry monuments) is not appropriate on land owned or dedicated for public use.

The applicant's letter also recognizes that the land on the eastern side of Bolsa Chica Street is land use designated Open Space – Parks. However, because the site is vacant and not currently developed as a park, the applicant concludes that it cannot be treated as a park. However, the Commission must recognize and acknowledge the certified land use designation, even though the site is not currently developed. Although the site is vacant, it is important that current development not prejudice future development of the site with a land use that would be inconsistent with the certified land use designation. Therefore, as approved by the City, the Commission finds the proposed monumentation raises a substantial issue with regard to conformity to the certified LCP and the public access provisions of the Coastal Act.

**On Page 17 of the staff report, add the following at the end of the Visual Resources section:**

The applicant's letter dated August 29, 2007 disputes the assertion that the entry monuments will adversely impact public views. The Commission indicates that the monuments raise a substantial issue with regard to public views due to the monuments' scale and location. Regarding this the applicant contends that this "... is exactly their intended purpose. The entry monuments are designed to be 'visible to the public' so that the public can easily find the Brightwater project site and access the public streets, parking, trails, parks and amenities. If the entry monuments were not visible to the public, it would only hamper and hinder the public's ability to find and access the amenities that the Commission required of the Brightwater development." With regard to visual impacts, it appears the applicant is arguing that the scale of the monuments is necessary to promote the public access that is associated with the "Brightwater" name. Again, the applicant is making the argument that the name "Brightwater" promotes public access although there is no mention of public access opportunities on the approved monumentation.

The applicant also argues that no public views are currently available from or across the area land use designated Open Space – Parks. Again, the Commission must consider the certified land use designation and not take action that may conflict with future development that would be consistent with that land use designation.

**On page 8 of the staff report under the heading Factors to be Considered in Substantial Issue Analysis, change the first sentence in the first paragraph under the heading as follows:**

Language to be added is shown in **bold italic underline**.  
Language to be deleted is shown ~~strike out~~.

Section 30625(b)(2) of the Coastal Act states that the Commission shall hear an appeal of a local government action **taken after certification of its LCP** carried out pursuant to ~~Section 30600(b) unless it finds that no substantial issue exists as to conformity with the certified Local Coastal Program or the public access policies of the Coastal Act.~~

This change is necessary to appropriately reflect the requirements of the statute cited.

#### **Re-Print of Exhibit E to the Staff Report**

Exhibit E to the staff report did not reproduce legibly in the initial report. Attached is a re-print of the underlying graphic which depicts the approved public access plan for the Brightwater development (CDP 5-05-020)

WED 14A

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August 29, 2007

Client-Matter: 24970-030

Patrick Kruer, Chair and  
Members of the California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Re: Appeal A-5-HNB-07-242  
Entry Monuments at Bolsa Chica Street, Huntington Beach  
Substantial Issue Hearing – September 5, 2007**

Dear Chairman Kruer and Coastal Commissioners:

On September 5, 2007, the Coastal Commission is scheduled to hold a Substantial Issue hearing in the appeal by Coastal Commissioners Wan and Shallenberger of Coastal Development Permit No. 2007-004 (the "Permit") approved and issued on June 20, 2007 by the City of Huntington Beach ("City") to Signal Landmark to construct entry monuments on Bolsa Chica Street in Huntington Beach, California.

This letter presents Signal Landmark's and its development affiliate, Hearthside Homes' response to the Substantial Issue Staff Report, dated August 16, 2007 ("Staff Report"). We plan to attend the Coastal Commission hearing on September 5, 2007, at which this matter will be considered and request the opportunity to speak in opposition to staff's recommendation. We urge the Coastal Commission to find that this appeal raises No Substantial Issue.

#### Summary

For the reasons set forth below, Signal Landmark and Hearthside Homes, Inc. (collectively "Signal") do not believe that the Commission has jurisdiction to consider this appeal, and even if jurisdiction were not an issue, the development raises no substantial issue with the City's Local Coastal Program ("LCP") or the public access policies of the Coastal Act. The Staff Report asserts that the development conflicts with the public access, land use and visual resources policies of the LCP and Coastal Act. We find this position unwarranted and unsupported. The Staff Report fails to acknowledge that the entry monuments at issue are exactly the same as the ones approved by the Coastal Commission in 2005 in connection with the Brightwater coastal development permit. (*See Exhibit 1: Commission-approved entry monuments*) The approved Brightwater plan identified two project entrances: one at Warner Avenue and the second at Bolsa Chica Street. The Commission approved entry monuments at Warner Avenue/Brightwater Drive (the CDP covered development in the unincorporated area) in 2005. Because Bolsa Chica Street is in the City of Huntington Beach, Signal applied to the City

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for a coastal development permit which is now the subject of this appeal. The entry monuments are the same size and configuration as the ones approved by the Commission in the unincorporated area. If the Commission-approved entry monuments did not deter public access, impair visual resources, or adversely affect the adjacent land uses, we fail to see how these City-approved entry monuments conflict with the City's LCP and Coastal Act polices. To assert otherwise is arbitrary and capricious. For this reason and the others discussed below, the Commission should find "no substantial issue."

1. **The Entry Monuments Do Not Impair, Diminish, or Impact Public Access to the Coast in Violation of the Public Access Policies of the Coastal Act.**

The Brightwater development and its public access programs and policies were carefully reviewed and scrutinized by the Coastal Commission and its staff in connection with the approval of Coastal Development Permit No. 5-05-020 for the Brightwater project ("Brightwater CDP"). As approved by the Coastal Commission, Brightwater is a model of access and recreational features open to the public. It provides public vehicular and pedestrian access, public parking on all streets within the residential development, interpretive kiosks and signage describing the habitat, archaeology and history of the area, neighborhood parks, and an extensive trail system through and around the entire Brightwater project site. In order to mark the location of the public entry way to access these public access amenities, the Coastal Commission approved entry monuments on Brightwater Drive just east of Warner Avenue. The intent of the entry signage was to provide the public with highly visible signposting so that they could easily see the entrance to Brightwater and find the trails and recreational amenities provided by the new community. The Commission-approved entry monuments on Brightwater Drive near Warner Avenue are exactly the same size, configuration and composition of the entry monuments on Bolsa Chica Street that have been appealed.

Because the Brightwater CDP only covered the area under the County of Orange's jurisdiction, Signal applied to the City to construct the same entry monuments at the extension of Bolsa Chica Street in the City's jurisdiction. In addition to the entry monuments covered by the City's Permit, coastal access signage similar to the signage described on page 12 of the Staff Report would be provided at this entryway.

As page 12 of the Staff Report confirms, the Commission "has already approved entry monuments for the Brightwater development which would be located at the actual entry to the development." Why the Coastal Commission-approved monuments would promote access, whereas the same monuments approved by the City would deter access and connote private development is an inconsistency not reconciled by the Commission staff.

Staff notes that unlike the entry monuments approved under the Brightwater CDP, the entry monuments approved by the City are located more than 1,000 feet north of the actual

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entrance to the Brightwater development and thus “creates the impression that one has reached the entrance to a private development.” This is simply not true. The monuments front on a wide two lane road with a median. There are no gates, guard houses, or any physical or visual obstructions that would imply exclusivity or privacy. In fact, due to the efforts of the Coastal Commission and its staff, the name Brightwater is now associated with a project approved by the Coastal Commission that provides public access, trails, public parking and habitat protection. Why a member of the public seeing entry monuments labeled “Brightwater” at the Bolsa Chica Street entrance would feel that he or she has reached an exclusive area to which they cannot enter, but would feel invited seeing the same signage further west near Warner Avenue on Brightwater Drive at the other project entrance is a contradiction that simply cannot be justified.

Staff describes the permitted development as “massive structures” that would limit public use of the trail system. These “massive structures” are the same size and constructed of the same materials as the Coastal Commission-approved entry monuments on Brightwater Drive and Warner Avenue. Staff describes the monuments as if they were 23 feet wide of solid material forming a wall or barrier to access. In fact, the entryways are 23 feet wide in order to accommodate an almost 6-foot wide pedestrian sidewalk that will lead pedestrians to the public trails. As one walks through the entryway, the information kiosks approved by the Coastal Commission are visible at the end of the street signaling the public trailhead. *(See Exhibit 2, photos along Bolsa Chica Street extension)*

In summary, in furtherance of the Coastal Act public access policies and the public access policies of the City’s LCP (Policy C1.1.5, C2.2.7 and C2.6.6), the entry monuments provide easy and visible signage to the public that will attract people and draw them down Bolsa Chica Street (whether by car, bike or walking) to the publicly-accessible Brightwater development where it can find parking, trails and access to the coast.

2. **The Permitted Development Does Not Violate the Land Use Policies of the City’s LCP.**

The Staff Report also cites several policies from the City’s LCP regarding land use. As noted by staff, the entry monument on the eastern side of Bolsa Chica Street would be located within the public right-of-way and would be adjacent to land designated Open Space/Parks in the City’s certified LUP. It is clear that staff has not physically examined the project site because if it had, it would see that the entry monuments are not situated in a way that would impermissibly narrow the public right-of-way. In fact, the entry monuments are in a location that promotes walkability as they provide shade area and monumentation for the walkway along Bolsa Chica Street. Bolsa Chica Street is a two-lane street and neither vehicular nor bicycle access are adversely affected by the entry monuments.

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Policy C7.1.3 requires that development adjacent to parks be sited and designed to be compatible with the continuance of the park use and to prevent impacts that would degrade the park area. Although the land use plan designates the property Open Space/Park, there is no park use on this property currently that would be impacted or degraded by the entry monuments. To treat this area as a developed park would imply that the Commission intends to acquire or otherwise impermissibly regulate private property for public park purposes. The cited Land Use Policy is more appropriately directed to land that actually has been developed and used for parks – given the reference to the “continuance of park use” and degradation of the “park area” as opposed to the conditions present here. The site is currently vacant and fenced, and has in the past been used for agricultural production. There is no existing public access and it is not a public park that would in any way be impacted by the entry monuments. Given that the entry monuments are located well-outside the boundary of the area designated Open Space/Parks, it is hard to see how the location of the monuments would prejudice future development of this undeveloped parcel. As this land is privately-owned, fenced and not accessible to the public, to treat it as a park and assume its dedication for public use is an impermissible regulation of private property.

3. **The Permitted Entry Monuments Do Not Adversely Impact Visual Resources.**

Staff’s final argument on appeal is that the entry monuments adversely impact public views due to their “massive size.” We find it difficult to understand how these monuments within the City’s LCP area will block public views when the same entry monuments, approved by the Commission in its approval of the Brightwater CDP were not in conflict with the visual resource policies of the Coastal Act. Staff finds fault with the fact that the entry monuments are of a height that they would be “visible to the public.” In fact, that is exactly their intended purpose. The entry monuments are designed to be “visible to the public” so that the public can easily find the Brightwater project site and access the public streets, parking, trails, parks and amenities. If the entry monuments were not visible to the public, it would only hamper and hinder the public’s ability to find and access the amenities that the Commission required of the Brightwater development. Moreover, given the location of the entry monuments, there is no impairment of public views down Bolsa Chica Street. There is a clear view down the entire length of the street to the open space beyond. Finally, at present there are no public views from and across the area designated “Open Space/Park.” This is a privately-owned parcel of property that is currently fenced. It is not a park and the public is not afforded access across it either physically or visually. Moreover, given the location of the entry monuments, even if the property were not fenced, the monuments would have absolutely no impact on views across the property.

Patrick Krueger, Chair

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4. **The Commission Lacks Jurisdiction Because the Project is Located in a “Non-Appealable” Area.**

When the City approved the Permit on June 20, 2007, it promptly filed a “Notice of Action for Non-Appealable Development” on July 9, 2007, after the local appeal period had ended. The City’s determination that the Permit was non-appealable was based upon its Appealable Jurisdiction Map that had been approved by the Coastal Commission on May 24, 1985. A copy of the portion of the City’s Map showing the area covered by the Permit is enclosed as *Exhibit 3*.

As required by 14 Cal. Code of Regs. Section 13576, the City prepared and submitted to the Coastal Commission a map that “portrays the areas where the Commission retains permit authority pursuant to Public Resources Code Sections 30603(a)(1) and (a)(2), or 30600.5.” Section 13576 provides that said map or maps “will serve as the official maps of the Commission’s permit and appeal jurisdiction.” This appeal was brought pursuant to Section 30603(a)(1). Since the area was not identified by the Coastal Commission as being within its appeal jurisdiction when it approved the City’s map, the Coastal Commission has waived its jurisdiction over this area and can no longer assert its ability to appeal coastal development permits which have been validly-issued by the City. The Commission cannot approve a map, and then come back 22 years later and assert jurisdiction over areas it declared “non-appealable.” Nothing has changed on the ground during that time to warrant a change in interpretation. In conclusion, this appeal should be dismissed because the Commission does not have jurisdiction over this area by virtue of its approval of the City’s Appealable Jurisdiction Map, and the City’s and Signal’s reliance upon the accuracy and validity of that map and the Commission’s approval.

5. **The Appeal Should be Dismissed Because Commission Staff Failed to Provide the Legally-Required Notice of Appeal to the City and Signal and Failed to Inform Both Parties of the Grounds for Appeal as Required by Law.**

The City and Signal were notified by a telephone call from staff that the City’s Permit was appealed. The only document sent to the City and Signal was a document titled, “Commission Notification of Appeal.” This document, a copy of which is enclosed as *Exhibit 4*, was received by the City on July 30, 2007 – over a week after the appeal was filed. No other documents were received on this appeal until the staff report was issued on August 16, 2007.

Section 13111(c) of the California Code of Regulations, Title 14, requires that:

- (c) The appellant shall notify the applicant, any persons known to be interested in the application, and the local government of the filing of the appeal. Notification shall be by delivering a copy of the completed Notice of Appeal to the

Patrick Kruer, Chair

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Page 6

domicile(s), office(s), or mailing address(es) of said parties. In any event, such notification shall be by such means as may reasonably advise said parties of the pendency of the appeal. **Unwarranted failure to perform such notification may be grounds for dismissal of the appeal by the Commission.** (Emphasis added.)

Section 13111(a) requires, at a minimum, that the Notice of Appeal include the specific grounds for appeal, the facts on which the appeal is based and a summary of the significant questions raised by the appeal. The document provided to the City and Signal provided none of this information. As a result, the City and Signal were denied the opportunity to be fully informed of the basis for the appeal at the earliest possible opportunity which the law clearly requires.

The Commission failed to provide Signal and the City with the proper Notice of Appeal as required by law, and because the failure to provide such notice is wholly unwarranted, the appeal should be dismissed by the Commission.

6. **The Commission Lacks Jurisdiction Over This Appeal Because the Notice of Appeal Forms Do Not Comply with the Coastal Act.**

The basis of Signal's objection to this appeal is its belief that the appeal forms purportedly drafted, executed, and submitted by Commissioners Wan and Shallenberger are not in compliance with the Coastal Act, thus depriving the Coastal Commission of jurisdiction over the appeal.

Signal is aware that it has been the practice of Commission staff to request and some Commissioners to "pre-sign" blank appeals forms. At some often distant future date, those blank forms are then filled in by staff and "false-dated" (not as of the actual date of signing, but as of the date the staff fills in the information on the pre-signed forms) and filed as Commissioner appeals. This practice, hidden from the public, has nonetheless been formally acknowledged by the Commission in prior litigation. It is Signal's understanding that Commissioners are contacted by staff and requested to appeal, but believes that in some - perhaps most or all - cases the appeals are "filed" without the Commissioners reading the information contained in the pre-signed and false-dated appeal.

It is Signal's position that this practice is contrary to the letter, intent, and stated policies of the Coastal Act and the Commission's regulations, is prone to abuse, and, if fully disclosed to the public, would undermine the public's confidence in the conduct and proceedings of the Commission. From a policy standpoint, this practice is at odds with the Coastal Act's expectation that Commission proceedings operate with the utmost integrity and respect for due

Patrick Kruer, Chair  
August 29, 2007  
Page 7

process. This expectation is codified in Section 30320 of the Coastal Act, which states in pertinent part:

*The people of California find and declare that the ... public interest and principles of fundamental fairness and due process of law require that the commission conduct its affairs in an open, objective, and impartial manner free of undue influence and the abuse of power and authority. It is further found that, to be effective, California's coastal protection program requires public awareness, understanding, support, participation, and confidence in the commission and its practices and procedures. Accordingly, this article is necessary to preserve the public's welfare and the integrity of, and to maintain the public's trust in, the commission and the implementation of this division.*

Whatever rationalization exists for this practice, it casts doubt on the integrity and ethics of the Commission. If Commissioners and Commission staff are comfortable with the pre-signing and false-dating of documents to avoid the inconvenience of the Coastal Act's procedural requirements or, worse yet, to actively circumvent the substantive requirements of the Act, then such practice represents a clear violation of the law and abuse of the Commission's power and authority.

Not only does this practice raise the question of whether an appeal is truly the appeal of a Commissioner (as opposed to staff), but also whether the Commissioner truly understands the appeal, has actual knowledge of the facts to which he or she has attested, and whether the appeal has been timely filed. The fact that neither the City nor Signal were provided with the Notice of Appeal and were allowed to review the Commissioners' purported grounds for the appeal until receipt of the staff report some four weeks after the appeal was filed and the reasons for the appeal were submitted, further underscores our questioning as to whether these forms were prepared and submitted on July 23, 2007 as required by law. Signal believes that the purported appeals filed by Commissioners Wan and Shallenberger in this case were the product of this inappropriate practice, as evidenced by the fact that the dates on the appeals forms appear to have been added separately from the signatures. For that reason, Signal objects to the Commission's jurisdiction over this appeal on the grounds that the appeals were not filed by Commissioners as intended by the Coastal Act and were not timely filed.

**7. Conclusion: The Appeal Should Be Dismissed for Lack of Jurisdiction. Even if Jurisdiction is Proper, the Permit Raises No Substantial Issue.**

In conclusion, the Commission lacks jurisdiction over this appeal. The project is located in an area deemed "not appealable" by the Commission when it approved the City's appealable jurisdiction map in connection with the certification of the City's LCP. The City and Signal were not provided copies of the Notice of Appeal as required by the Commission's own regulations and as provided in those regulations, the unwarranted failure to do so may be grounds

Patrick Kruer, Chair

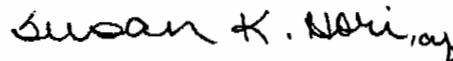
August 29, 2007

Page 8

for dismissal of the appeal. The Commission's Notices of Appeal did not comply with the requirements of the Coastal Act in that the forms may have been pre-signed by the Commissioners without full knowledge of the basis for the appeal before they were signed and submitted.

This appeal raises no substantial issue with the City's LCP policies or the public access policies of the Coastal Act. The permitted entry monuments are of the same scale, size, and composition as the ones permitted by the Coastal Commission in the Brightwater CDP. The permitted entry monuments provide highly visible sign-posting to the public of the location of the Brightwater project's public trails and parks. The permitted entry monuments are on Bolsa Chica Street in a location to encourage public access despite the presence of a privately-gated community immediately adjacent to the entry signs. The entry monuments do not block public views of the coast, and are compatible with adjacent developed and undeveloped areas. For these reasons, we request that the Commission reject the staff recommendation and determine that no substantial issue exists to warrant an appeal of the City's Permit.

Very truly yours,

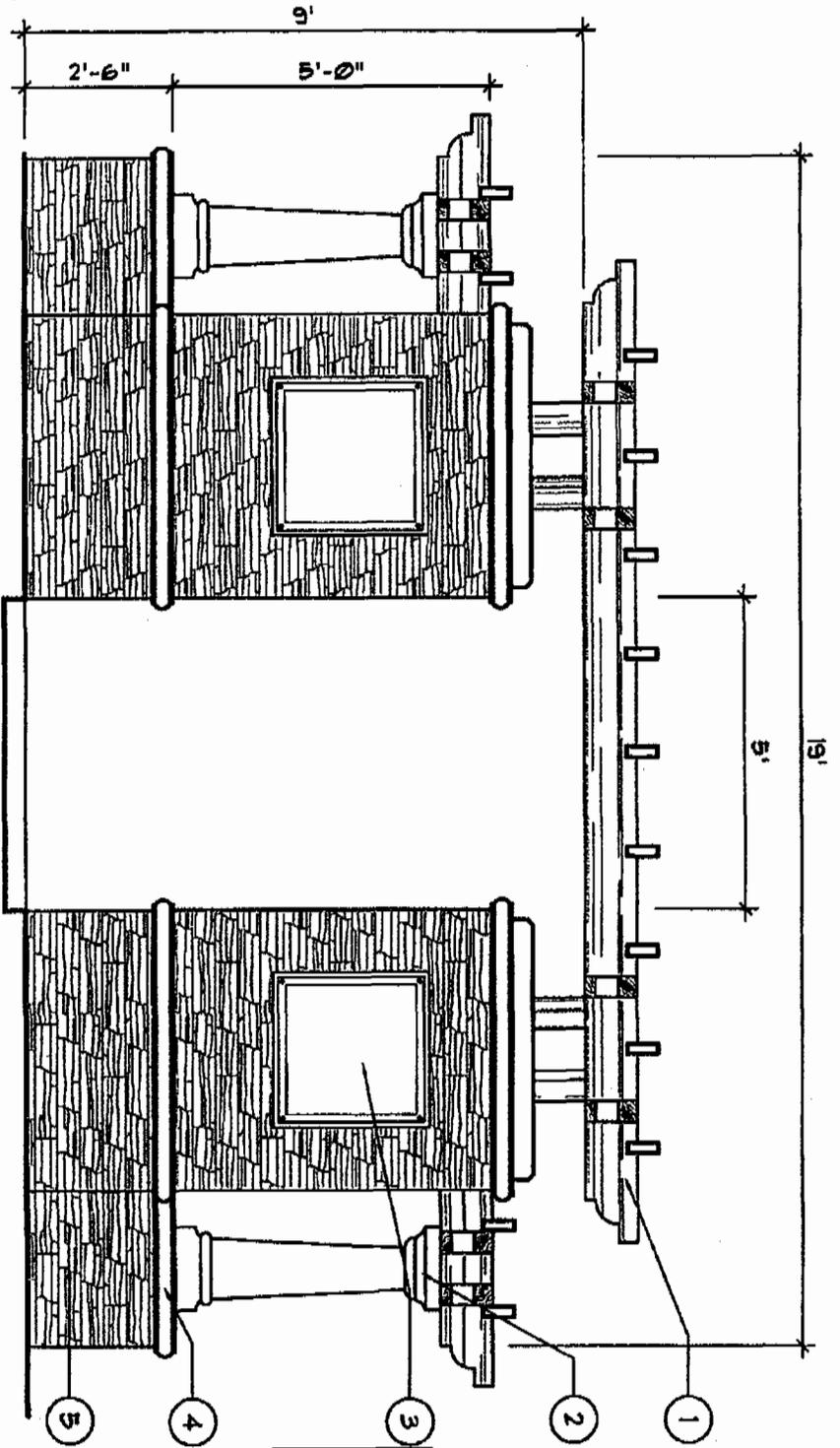


Susan K. Hori  
Manatt, Phelps & Phillips, LLP

**Enclosures**

cc: Peter Douglas  
Sharilyn Sarb  
Teresa Henry  
Meg Vaughn

Extracted from Brightwater Public Access Plan (Sheet PAD-2), approved by California Coastal Commission



- ① WOOD OVERHEAD STRUCTURE
- ② PRECAST CONCRETE COLUMN
- ③ BRONZE PROJECT/LOGO PLAQUE
- ④ PRECAST CONCRETE CAP
- ⑤ STONE VENEER PORTAL COLUMN



PEDESTRIAN ARBOR AT ENTRY

3

Commission-Approved Entry Monuments

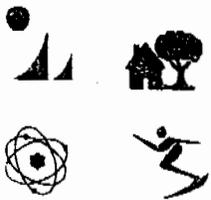
Exhibit 1



Photos Along Bolsa Chica Street Extension

Exhibit 2

WED 14A



# City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

## DEPARTMENT OF PLANNING

Phone 536-5271  
Fax 374-1540

August 29, 2007

Meg Vaughn  
Coastal Program Analyst  
California Coastal Commission  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach CA 90802-4416

RE: **APPEAL A-5-HNB-07-242 (BRIGHTWATER ENTRY MONUMENT)**

Dear Ms. Vaughn:

The purpose of this letter is to provide additional information to supplement the appeal staff report for the Brightwater Entry Monument and request that the Coastal Commission determine there is no substantial issue with this appeal.

In processing Coastal Development Permit (CDP) No. 2007-004, the City followed noticing and hearing procedures outlined in the City's Zoning Ordinance (Chapter 245) and in accordance with the City's Local Coastal Program. In determining the appropriate procedures for application processing, staff relied on the Post-LCP Certification Commission Jurisdiction Map for the City of Huntington Beach, adopted by the California Coastal Commission on May 24, 1985. This map includes detailed information on the coastal zone boundary, permitting, and appeal jurisdiction areas in Huntington Beach. The City's map depicts numerous areas with minute detail of the appealable jurisdiction areas, ranging from areas 100 ft. from wetlands to areas 300 ft. from bluffs to areas 300 ft. from the mean high tide line. Based on this map, it is clear that the location of the entry monument is in the non-appealable area of the coastal zone and determined that the CDP shall be processed as a non-appealable development project.

The following is a chronology of the City's review and processing of the Coastal Development Permit:

June 4, 2007 The Planning Department sent out Notice of the Public Hearing for the Coastal Development Permit. Two notices were sent to the California Coastal Commission's South Coast Area Office in Long Beach, one to the office and one to Theresa Henry in the same office (Attachment No. 1). The Notice of Public Hearing included a statement the project site is located in the non-appealable jurisdiction of the Coastal Zone. The Notice of Public Hearing was also published in the Huntington Beach Independent newspaper on June 7, 2007 (Attachment No. 2).

June 20, 2007 The Public Hearing was held for Coastal Development Permit No. 2007-004. During the public hearing, there were two public comments on the

**ATTACHMENT 2**

Coastal Commission--Brightwater Entry Monument  
August 29, 2007  
Page 2 of 3

project regarding the obstruction of views, visibility relating to traffic issues, and the plant materials used in the landscaping of the project. The Zoning Administrator conditionally approved the Coastal Development Permit with the following conditions:

1. The site plan and elevations received and dated March 26, 2007 shall be the conceptually approved design except that the maximum height of the entry monumentation structure shall be 10 ft. 6 in. (applicant requested a 15 ft. high structure).
2. Prior to submittal for building permits, one set of plans, revised pursuant to Condition of Approval No. 1, shall be submitted to the Planning Department for review, approval and inclusion in the entitlement file.

July 5, 2007            The City appeal period for the Coastal Development Permit ends. No appeal was filed during the City appeal period (10 working days).

July 6, 2007            The building permit was issued for the construction of the entry monument.

July 6, 2007            The Notice of Action of the Coastal Development Permit was sent to Theresa Henry at the South Coast Area Office of the California Coastal Commission (Attachment No. 3).

July 20, 2007           Theresa Henry from the South Coast District Office called the City regarding the Brightwater Entry Monument. This is the first time that the City received any communication from the Coastal Commission regarding this project and the possibility that the Commission might appeal the project because it is located within the appealable jurisdiction area.

July 30, 2007           The City received the Commission Notification of Appeal from the Meg Vaughn from the South Coast District Office of the California Coastal Commission.

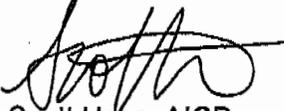
Planning staff has read the appeal staff report for the Brightwater Entry Monument and would like to respond to some of the issues raised in the report. The approved entry monument was designed and conditioned to maintain public access and public views to coastal resources. The entry monument will not impede public access because it is proposed to occupy only small portions of private property and the public right-of-way (sidewalk and parkway) and does not encroach into the roadway to obstruct vehicular access. Also, by maintaining a sufficient clearance over the public sidewalks, it will not obstruct pedestrian or bicycle access. Since gates are not proposed, there would be no physical or visual obstructions that would imply that Bolsa Chica Street is a private street for the exclusive use of the residents of the Brightwater Residential Development. The structure consists of a wood trellis on top of four stone veneer pilasters as opposed to a solid mass structure. The height of the monument along with the open design will ensure that public views and access to coastal resources will be preserved.

Coastal Commission--Brightwater Entry Monument  
August 29, 2007  
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The entry monument is proposed to be located adjacent to vacant land on the east side of Bolsa Chica Street that is designated as Open Space/Park by the City's Land Use Plan. Staff's analysis finds that the entry monument does not conflict with the existing land use designation of Open Space/Park. The location, design, and minimal height of the entry monument does not conflict with this designation or with the intended use of the vacant land. In addition, gateway or entry identification signage such as the Brightwater Entry Monument is consistent with the Implementation Programs of the City's Coastal Element and with similar entry signage approved for the overall Brightwater residential project.

The City of Huntington Beach contends that the project as approved by the City is consistent with policies regarding public access, land use and visual resources in the certified Local Coastal Program. We respectfully request that the Coastal Commission determine that there is no substantial issue.

Very truly yours,



Scott Hess, AICP  
Director of Planning

Attachments:

1. Notice of Public Hearing
2. Published Notice of Public Hearing
3. Notice of Action Letter



**CITY OF HUNTINGTON BEACH  
NOTICE OF PUBLIC HEARING  
BEFORE THE ZONING ADMINISTRATOR**

You are receiving this Notice of Public Hearing because you own property, are a resident, or conduct business within close proximity of the item checked below. The Zoning Administrator Public Hearing is scheduled for:

**WHEN:** Wednesday, June 20, 2007 **TIME:** 1:30 PM

**WHERE:** Room B-8, Lower Level, City Hall Huntington Beach Civic Center, 2000 Main Street, Huntington Beach

**ALL INTERESTED PERSONS** are invited to attend said hearing and express opinions or submit evidence for or against the application as outlined below. A copy of the application is on file in the Planning Department, 2000 Main Street, Huntington Beach, California 92648, for review by the public. If you challenge the Zoning Administrator's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City at, or prior to, the public hearing. If there are any further questions please call the Project Planner at 536-5271 and refer to the application below.

NOTICE IS HEREBY GIVEN that the Zoning Administrator will hear the following items:

**CONDITIONAL USE PERMIT NO. 2007-014 : COASTAL DEVELOPMENT PERMIT NO. 2007-004 (BRIGHTWATER ENTRY MONUMENTATION):**  
**Applicant:** Linda White **Request:** To permit the entry monumentation for the Brightwater Residential Project consisting of a 15 ft. high decorative block wall and trellis structure located within the required landscaped setback area and portions of the public right-of-way in lieu of the maximum allowed height of 42 inches. **Location:** 17261 Bolsa Chica Street, Huntington Beach (corner of Bolsa Chica Street and Los Patos Avenue) **Project Planner:** Tess Nguyen

NOTICE IS HEREBY GIVEN that Item #1 is categorically exempt from the provisions of the California Environmental Quality Act.

NOTICE IS HEREBY GIVEN that Item #1 is located in the non appealable jurisdiction of the Coastal Zone and includes Coastal Development Permit No. 2007-004, filed on March 26, 2007, in conjunction with the above request. The Coastal Development Permit hearing consists of a public hearing, Zoning Administrator discussion and action. The Zoning Administrator's action may be appealed to the Planning Commission within 10 working days accompanied by an appeal fee set by City Council resolution. Item #1 is not appealable to the California Coastal Commission.

**ON FILE:** A copy of the staff report will be available to interested parties at the City of Huntington Beach, Planning Department.

Rami Talleh, Liaison to the Zoning Administrator  
2000 Main Street  
Huntington Beach, CA 92648  
(714) 536-5271

APP. NO. 2007-011

✓  
163-311-13  
Maurice M & Linda Aouate  
7184 Holmes Ct  
Canton, MI 48107-1655

110-016-14  
Signal Landmark  
6 Executive Cir 250  
Irvine, CA 92614-6732

✓ 110-016-35  
Signal Landmark  
6 Executive Cir 250  
Irvine, CA 92614-6732

163-131-25  
Cabo Del Mar Homeowners Assn  
1176 Main St  
Irvine, CA 92614-6766

✓ 163-131-24  
Altic Prop Llc  
4639 Tremont Ln  
Corona Del Ma, CA 92625-3130

✓ 163-292-36  
Guy & Nancy Van Patten  
PO Box 1962  
Huntington Be, CA 92647-1962

110-016-33  
City Of Huntington Beach  
2000 Main St  
Huntington Be, CA 92648-2702

110-016-18  
Donald E Goodell  
6102 Eaglecrest Dr  
Huntington Be, CA 92648-5548

✓ 163-311-01  
Chong Choi  
4903 Shelburne Dr  
Huntington Be, CA 92649-6404

163-311-02  
Michael R Burley  
4915 Shelburne Dr  
Huntington Be, CA 92649-6404

✓ 163-311-03  
Robert S Jouret  
4927 Shelburne Dr  
Huntington Be, CA 92649-6404

✓ 163-311-04  
James Yamashita  
4939 Shelburne Dr  
Huntington Be, CA 92649-6404

163-311-05  
Kusal Tan  
4953 Shelburne Dr  
Huntington Be, CA 92649-6404

✓ 163-311-06  
Tamara J Shaw  
4965 Shelburne Dr  
Huntington Be, CA 92649-6404

✓ 163-311-07  
James Filipan  
17280 Hampton Ln  
Huntington Be, CA 92649-6402

✓ 163-311-08  
J A & Sylvia Kuttel  
17298 Hampton Ln  
Huntington Be, CA 92649-6402

✓ 163-311-09  
Abilio A Hernandez  
17308 Hampton Ln  
Huntington Be, CA 92649-6400

✓ 163-311-10  
George M Kapnas \*M  
17347 Hampton Ln  
Huntington Be, CA 92649-6401

✓ 163-311-11  
William D Helzer  
17337 Hampton Ln  
Huntington Be, CA 92649-6401

✓ 163-311-12  
Michael Mc Alister  
17327 Hampton Ln  
Huntington Be, CA 92649-6401

✓ 163-311-14  
Hanbury-Craven  
17301 Hampton Ln  
Huntington Be, CA 92649-6401

✓ 163-311-15  
Rho & Ping Chao  
4930 Shelburne Dr  
Huntington Be, CA 92649-6403

✓ 163-311-16  
Mark J Schwene  
4918 Shelburne Dr  
Huntington Be, CA 92649-6403

✓ 163-281-08  
Tony & Sherry Chao \*B\*  
17222 Green St  
Huntington Be, CA 92649-4411

✓ 163-281-09  
John B Choi  
17242 Green St  
Huntington Be, CA 92649-4411

✓ 163-281-10  
Jose & Cheri Ramirez  
17252 Green St  
Huntington Be, CA 92649-4411

✓ 163-281-11  
John & Kathrine Ditttrick  
4881 Seapine Cir  
Huntington Be, CA 92649-4412

✓ 163-281-12  
Yung & Shin Chang  
4901 Seapine Cir  
Huntington Be, CA 92649-4412

✓ 163-281-13  
Christos & Christina Tsimerekis  
4911 Seapine Cir  
Huntington Be, CA 92649-4412

✓ 163-281-14  
Russell L Newman  
4921 Seapine Cir  
Huntington Be, CA 92649-4412

15

A Ceccarelli  
331 Seapine Cir  
Huntington Be, CA 92649-4412

163-281-16  
Edward J Ramaekers  
4952 Seapine Cir  
Huntington Be, CA 92649-4412

163-281-17  
Helen J Gouin  
4942 Seapine Cir  
Huntington Be, CA 92649-4412

163-281-18  
Michael A Barto  
4932 Seapine Cir  
Huntington Be, CA 92649-4412

163-281-19  
Michael F Reed  
4922 Seapine Cir  
Huntington Be, CA 92649-4412

163-281-20  
Bret Archambault  
4912 Seapine Cir  
Huntington Be, CA 92649-4412

163-281-21  
Si-Hyong & June Kim  
4902 Seapine Cir  
Huntington Be, CA 92649-4412

163-281-22  
Randy P & Terry Feit  
4882 Seapine Cir  
Huntington Be, CA 92649-4412

163-281-23  
Eugene S Goto  
4881 Los Patos Ave  
Huntington Be, CA 92649-4457

163-281-24  
John K & Julie Radle  
4901 Los Patos Ave  
Huntington Be, CA 92649-4458

163-281-25  
Dennis T Oba  
4911 Los Patos Ave  
Huntington Be, CA 92649-4458

163-281-26  
Johnson D A & G A  
4921 Los Patos Ave  
Huntington Be, CA 92649-4458

163-281-27  
Paul W Bowman  
4931 Los Patos Ave  
Huntington Be, CA 92649-4458

163-281-28  
Leslie A & Peggy Wiedema \*B\*  
4941 Los Patos Ave  
Huntington Be, CA 92649-4458

163-281-29  
Gregory  
4961 Los Patos Ave  
Huntington Be, CA 92649-4458

163-281-30  
Douglas A Ames *MICHAEL MITCHELL, TR*  
4971 Los Patos Ave  
Huntington Be, CA 92649-4458

163-281-31  
Allen Zeroski  
4981 Los Patos Ave  
Huntington Be, CA 92649-4458

~~163-292-18  
Jerry R & Verle Saylor  
17161 Green St  
Huntington Be, CA 92649-4410~~

163-292-19  
Jonathan D Roth \*B\*  
17181 Green St  
Huntington Be, CA 92649-4410

163-292-20  
Ralph E Caldeira  
4861 Curtis Cir  
Huntington Be, CA 92649-4313

163-292-21  
Daniel W Garwick  
4851 Curtis Cir  
Huntington Be, CA 92649-4313

163-292-22  
Thomas G & Karil Scully  
4841 Curtis Cir  
Huntington Be, CA 92649-4313

163-292-23  
Stanley Varon  
4831 Curtis Cir  
Huntington Be, CA 92649-4313

163-292-34  
Elizabeth Aguayo  
4812 Curtis Cir  
Huntington Be, CA 92649-4313

163-292-35  
Schuesler  
4832 Curtis Cir  
Huntington Be, CA 92649-4313

163-292-37  
Ananias B Palicte  
4852 Curtis Cir  
Huntington Be, CA 92649-4313

163-292-38  
John M & Gwendolyn Ramsay  
4862 Curtis Cir  
Huntington Be, CA 92649-4313

163-292-39  
Mohamed & Noha Khouraki  
17231 Green St  
Huntington Be, CA 92649-5100

163-292-40  
Scott Langer  
4861 Los Patos Ave  
Huntington Be, CA 92649-4456

163-292-41  
Nancy M Donave  
4831 Los Patos Ave  
Huntington Be, CA 92649-4456

✓ 163-292-42  
Samuel P Moreno  
4821 Los Patos Ave  
Huntington Be, CA 92649-4456

✓ 163-292-45  
Mohamed & Noha Khouraki  
17231 Green St  
Huntington Be, CA 92649-5100

✓ 163-311-17  
Signal Landmark  
4343 Von Karman Ave  
Newport Beach, CA 92660-2099

~~163-311-20  
Signal Landmark  
4343 Von Karman Ave  
Newport Beach, CA 92660-2099~~

✓ 163-311-23  
Signal Landmark  
4343 Von Karman Ave  
Newport Beach, CA 92660-2099

✓ 163-292-43  
Mohamed & Noha Khouraki  
17231 Green St  
Huntington Be, CA 92649-5100

✓ 163-292-46  
Allen L Rossi  
4811 Los Patos Ave  
Huntington Be, CA 92649-4456

~~163-311-18  
Signal Landmark  
4343 Von Karman Ave  
Newport Beach, CA 92660-2099~~

~~163-311-21  
Signal Landmark  
4343 Von Karman Ave  
Newport Beach, CA 92660-2099~~

✓ 163-281-06  
Cambridge <sup>Co</sup> FDC MGMT, INC  
2600 Nutwood Ave 10Th  
Fullerton, CA 92831-3145

~~163-292-44  
Mohamed & Noha Khouraki  
17231 Green St  
Huntington Be, CA 92649-5100~~

✓ 163-292-47  
Zachary P Halopoff \*M\*  
4801 Los Patos Ave  
Huntington Be, CA 92649-4456

~~163-311-19  
Signal Landmark  
4343 Von Karman Ave  
Newport Beach, CA 92660-2099~~

~~163-311-22  
Signal Landmark  
4343 Von Karman Ave  
Newport Beach, CA 92660-2099~~

\*\*\* 74 Printed \*\*\*

PUBLIC HEARING NOTIFICATION CHECKLIST "B"  
MAILING LABELS October 2006:G:\Labels\Labels\Public Hearing

President H.B. Chamber of Commerce 19891 Beach Blvd., Ste. 140 Huntington Beach, CA 92648	1	Huntington Harbor POA P. O. Box 791 Sunset Beach, CA 90742	10	Sue Johnson 19671 Quiet Bay Lane Huntington Beach, CA 92648	16
Dave Stefanides Orange County Assoc. of Realtors 25552 La Paz Road Laguna Hills, CA 92653	2	William D. Holman PLC 19 Corporate Plaza Drive Newport Beach CA 92660-7912	11		
President Amigos De Bolsa Chica P. O. Box 1563 Huntington Beach, CA 92647	3	Jeffrey M. Oderman RUTAN & TUCKER, LLP 611 Anton Blvd., 14 <sup>th</sup> Floor Costa Mesa CA 92626-1950	12	Pacific Coast Arch eological Society, Inc. P.O. Box 10926 Costa Mesa, CA 92627 Attn: Jane Gothold	18
Sunset Beach Community Assoc. Pat Thies, President PO Box 215 Sunset Beach, CA 90742-0215	4	Pres., H.B. Hist. Society C/O Newland House Museum 19820 Beach Blvd. Huntington Beach, CA 92648	13	Director O.C. Plng. & Dev. Services Dept. P.O. Box 4048 Santa Ana, CA 92702-4048	19
President Huntington Beach Tomorrow PO Box 865 Huntington Beach, CA 92648	5	Community Services Dept. Chairperson Historical Resources Bd.	14	Vicky Wilson O.C. Public Facilities & Res. Dept. P. O. Box 4048 Santa Ana, CA 92702-4848	19
Julie Vandetmost BIA-OC 17744 Sky Park Circle, #170 Irvine CA 92614-4441	6	Council on Aging 1706 Orange Ave. Huntington Beach, CA 92648	15	Planning Director City of Costa Mesa P. O. Box 1200 Costa Mesa, CA 92628-1200	20
Richard Spicer SCAG 818 West 7th, 12th Floor Los Angeles, CA 90017	7	Jeff Metzel Seacliff HOA 19391 Shady Harbor Circle Huntington Beach, CA 92648	6	Planning Director City of Fountain Valley 10200 Slater Ave. Fountain Valley, CA 92708	21
E.T.I. Corral 100 Mary Bell 20292 Eastwood Cir. Huntington Beach, CA 92646	8	John Roe Seacliff HOA 19382 Surfdale Lane Huntington Beach, CA 92648	6	Planning Director City of Newport Beach P.O. Box 1768 Newport Beach, CA 92663-8915	22
Ray Hiemstra Environmental Board Chairman 214 19 <sup>th</sup> Street #5 Huntington Beach, CA 92648	9	Lou Mannone Seacliff HOA 19821 Ocean Bluff Circle Huntington Beach CA 92648	6	Planning Director City of Westminster 8200 Westminster B vd. Westminster, CA 92683	23
Planning Director City of Seal Beach 211 Eight St. Seal Beach, CA 90740	24	Mary Lou Beckman Ocean View Elementary School Distr :t 17200 Pinehurst Lane Huntington Beach CA 92647	31	HB Hamptons HOA Progressive Community Mgmt. 27405 Puerta Real #300 Mission Viego, CA 92691	38

0965

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PUBLIC HEARING NOTIFICATION CHECKLIST "B"

MAILING LABELS March 7, 2007:G:Labels\Labels\Public Hea

California Coastal Commission Theresa Heary South Coast Area Office 200 Oceangate, 10th Floor Long Beach, CA 92802-4302	25	Clark Hampton Westminster School District 14121 Cedarwood Avenue Westminster CA 92683	32	Sally Graham Meadowlark Area 5161 Gelding Circle Huntington Beach, CA 92649	39
California Coastal Commission South Coast Area Office 200 Oceangate, 10th Floor Long Beach, CA 92802-4302	25	Stephen Ritter HB Union High School District 10251 Yorktown Avenue Huntington Beach, CA 92646	33	Cheryle Browning Meadowlark Area 16771 Roosevelt Lane Huntington Beach, CA 92649	39
Ryan P. Chamberlain Caltrans District 12 3337 Michelson Drive, Suite 380 Irvine, CA 92612-1699	26		34	Hearthside Homes 6 Executive Circle, Suite 250 Irvine, CA 92614	40
Director Local Solid Waste Enf. Agy. O.C. Health Care Agency P.O. Box 355 Santa Ana, CA 92702	27	Goldenwest College Attn: Fred Owens 15744 Goldenwest St. Huntington Beach CA 92647	35	Bolsa Chica Land Trust 5200 Warner Avenue, Ste. 108 Huntington Beach, CA 92649	41
New Growth Coordinator Huntington Beach Post Office 6771 Warner Ave. Huntington Beach, CA 92647	28	OC County Harbors, Beach and Parks Dept. P. O. Box 4048 Santa Ana, CA 92702-4048	36	Bolsa Chica Land Trust Evan Henry, President 1812 Port Tiffin Place Newport Beach, CA 92660	41
Marc Ecker Fountain Valley Elem. School Dist. 17210 Oak Street Fountain Valley CA 92708	29	Huntington Beach Mall Attn: Pat Rogers-Laude 7777 Edinger Ave. #300 Huntington Beach CA 92647	37	Steve Homer, Chair person SEHBNA P.O. Box 5696 Huntington Beach, CA 92615	42
Dr. Gary Rutherford, Super. HB City Elementary School Dist. 20451 Cramer Lane Huntington Beach, CA 92648	30	Country View Estates HOA Carric Thomas 6642 Trotter Drive Huntington Beach CA 92648	38	OC Sanitation District 10844 Ellis Avenue Fountain Valley CA 92708	42
David Perry HB City Elementary School Dist. 20451 Cramer Lane Huntington Beach, CA 92648	30	Country View Estates HOA Gerald Chapman 6742 Shire Circle Huntington Beach CA 92648	38	Eric Pendegruff, Plant Manager AES Huntington Beach, LLC 21730 Newland Street Huntington Beach CA 92646	42
Richard Loy 9062 Kahului Drive Huntington Beach CA 92646	42	Huntington Beach Girls Softball* Mike Erickson P.O. Box 3943 Huntington Beach, CA 92605-3943	47	AYSO Region 56 Commissioner Cathy White 22041 Catalina Circle Huntington Beach, CA 92646	47
John Ely 22102 Rockport Lane Huntington Beach CA 92646	42	AYSO Region 117 John Almanza 9468 Cormorant Cr Fountain Valley, CA 92708	47	AYSO Region 55 Commissioner Duane Hurtado P.O. Box 1852 Huntington Beach, CA 92647	47

City of Huntington Beach

JUN 12 2007

PROOF OF PUBLICATION

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE )

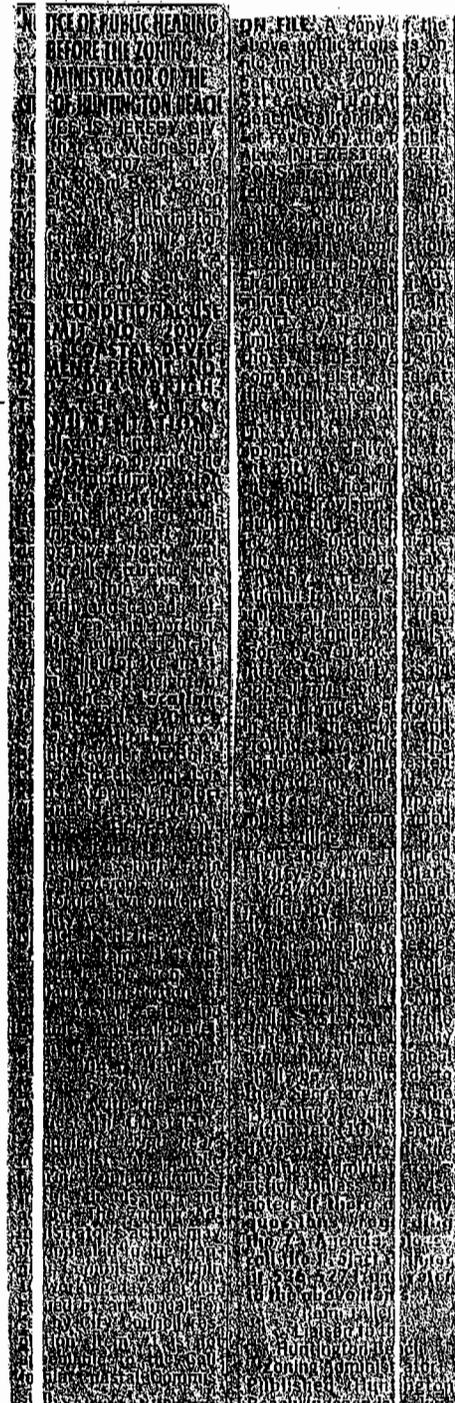
I am a Citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the below entitled matter. I am a principal clerk of the HUNTINGTON BEACH INDEPENDENT, a newspaper of general circulation, printed and published in the City of Huntington Beach, County of Orange, State of California, and that attached Notice is a true and complete copy, as was printed and published in the Huntington Beach issue of said newspaper to wit the Issue(s) of:

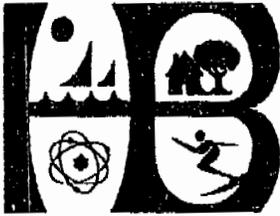
JUNE 07, 2007

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

Executed on JUNE 07, 2007
at Costa Mesa, California.

[Handwritten Signature]
Signature





**OFFICE of the ZONING ADMINISTRATOR  
CITY OF HUNTINGTON BEACH • CALIFORNIA**

P.O. BOX 190

CALIFORNIA 92648

(714) 536-5271

**NOTICE OF ACTION  
COASTAL DEVELOPMENT PERMIT NO. 2007-004/  
CONDITIONAL USE PERMIT NO. 2007-014**

**NON-APPEALABLE DEVELOPMENT**

TO: South Coast Area Office  
California Coastal Commission  
Attn: Theresa Henry  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4302

**CERTIFIED MAIL**

APPLICANT: Linda White, 6 Executive Circle, Suite 250, Irvine, CA 92614

PROPERTY OWNER: Signal Landmark, 6 Executive Circle, Suite 250, Irvine, CA 92614

REQUEST: To permit the entry monumentation for the Brightwater Residential Project consisting of a 15 ft. high decorative block wall and trellis structure located within the required landscaped setback area and portions of the public right-of-way in lieu of the maximum allowed height of 42 inches.

LOCATION: 17261 Bolsa Chica Street, Huntington Beach (east and west side of Bolsa Chica Street, south of Los Patos Avenue)

PROJECT PLANNER: Tess Nguyen

COASTAL STATUS: NON-APPEALABLE

DATE OF LOCAL  
APPEAL EXPIRATION: July 5, 2007

The above application was acted upon by the Zoning Administrator of the City of Huntington Beach on, June 20, 2007, and the request was **Conditionally Approved**.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Zoning Administrator is final unless an appeal is filed to the Planning Commission by the applicant or an aggrieved party. Said appeal must be in writing and must set forth in detail the actions and grounds by and upon which the applicant or interested party deems himself aggrieved.

As of July 5, 2007, there have been no appeals filed on the above entitlement.

If there are any further questions, please contact the planner at 536-5271.

Jeanie Cutler, Secretary  
Huntington Beach Zoning Administrator

Attachment: Notice of Local Action for Coastal Development Permit No. 2007-004/  
Conditional Use Permit No. 2007-014

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</span></p> <p><i>Brenda</i></p>	
<p>1. Article Addressed to:</p>	<p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span></p> <p><i>Brenda</i> <span style="float: right;"><i>7/19/07</i></span></p>	
<p>So Coast Area Office CA Coastal Comm Attention: Theresa Henry 200 Oceangate, 10th Floor Long Beach, CA 90802-4302</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from sender's label)</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
	<p>9992 5969 0000 0280 5002</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-0100

*END 07-04/07*

WED 14A

**Meg Vaughn**

---

**From:** Julie Bixby [julie@bixby.org]  
**Sent:** Thursday, August 23, 2007 9:20 PM  
**To:** Meg Vaughn  
**Cc:** Karl Schwing  
**Subject:** Public comments for item #W-14a, Brightwater monuments appeal

August 23, 2007

California Coastal Commission  
Attn: Meg Vaughn  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4416

Dear Ms. Vaughn & Coastal Commissioners:

Regarding Appeal No. A-5-HNB-07-242 (Hearthside Homes), item # W-14a on the September, 2007 agenda: I agree with the staff recommendation that there is a substantial issue with the Brightwater monumentation, and a de novo hearing should be conducted at a future date.

When people pass the intersection of Los Patos and Bolsa Chica St, heading south, the first thing they come to after the monumentation is the lone entrance for the Sandover houses, a private, GATED entry. This can leave the false impression that the entrance to Brightwater farther down the road is also gated, as it cannot be seen from the main intersection. In essence, the staff report fear of public land being used to announce private residential development has come true, since the monumentation occurs BEFORE the gated Sandover entry is reached and not after it has been passed.

Furthermore, Bolsa Chica Street has been narrowed after Los Patos, with a center median which PREVENTS parking along this PUBLIC road, adding to the illusion of a private development.

Regarding "support for the local action", I was one of three people who attended the local hearing. A couple who live on Los Patos was vehemently opposed to the structures. I was concerned about the plants to be incorporated with the structures, that they were not natives or drought-tolerant. There was no one who attended to support the local action other than the developer.

Sincerely,

Julie Bixby  
17451 Hillgate Ln  
Huntington Beach, CA 92649

WED 14A

California Coastal Commission  
Attn: Meg Vaughn  
200 OceanGate, 10th Floor  
Long Beach, CA 90802-4416

RECEIVED  
AUG 28 2007

# W-14a

Dear Ms. Vaughn:

Regarding Appeal No. A-5-HNB-07-242 (Hearthside Homes), I agree with the staff recommendation that there is a substantial issue with the Brightwater monumentation, and a de novo hearing should be conducted at a future date.

Please do this. This monumentation which is already constructed should be removed and a permit be issued if the Coastal Commission approves this project.

Thank you.

*Eileen Murphy*  
Eileen Murphy  
201 21<sup>st</sup> Street  
HB CA 92648

*Aug 24, 2007*



WED 14A

**RECEIVED**  
South Coast Region

AUG 29 2007

CALIFORNIA  
COASTAL COMMISSION

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Dr. Gerald Chapman  
*Vice President*  
Paul Arms  
*Treasurer*  
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**ENDORSEMENTS**

Amigos de Bolsa Chica  
Algalita Marine Research  
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Anza Borrego Foundation  
Ballona Wetlands Land  
Trust  
City of Huntington Beach  
Friends of Harbors,  
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Orange County  
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Peninsula Open Space Trust  
Sea and Sage Audubon  
Sierra Club  
Angeles Chapter  
Surfrider Foundation

August 27, 2007

California Coastal Commission  
Attn: Meg Vaughn  
200 Oceangate, 10<sup>th</sup> floor  
Long Beach, Calif. 90802-4416

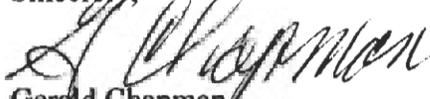
#W-14a

Dear Commissioners

Regarding Appeal No. A-5- HNB-07-2442 by Commissioners Wan and Shallenberger ( Hearthside Homes), the Land Trust agrees with the staff recommendation that there is substantial issue with the Brightwater monumentation, and a de novo hearing should be conducted at a future date.

Enclosed are pictures of the monumentation which certainly raise the question as to whether there is public access as required by previous Coastal Commission approvals. Does this meet Commission requirements for public access to the park?

Sincerely,

  
Gerald Chapman  
President











**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

Filed: 7/23/07  
49th Day: 9/10/07  
Staff: Meg Vaughn-LB  
Staff Report: 8/16/07  
Hearing Date: 9/5-7/07  
Commission Action:

**W 14a****STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE**

**LOCAL GOVERNMENT:** City of Huntington Beach

**LOCAL DECISION:** Approval with Conditions

**APPEAL NUMBER:** A-5-HNB-07-242

**APPLICANT:** Signal Landmark  
Linda White

**PROJECT LOCATION:** 17261 Bolsa Chica Street  
(east and west side of Bolsa Chica Street, south of Los Patos Avenue)  
Huntington Beach, Orange County

**PROJECT DESCRIPTION:** Construction of entry monumentation for "Brightwater" residential development consisting of 10 ft. 6 in. high (in lieu of maximum allowed height of 42 inches) decorative block wall and trellis structure located within portions of the public right of way.

**APPELLANTS:** Commissioners Shallenberger and Wan

**SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that a **SUBSTANTIAL ISSUE** exists with respect to the grounds on which the appeal has been filed. The appellants contend that the project approved by the City is inconsistent with policies regarding public access, land use, and visual resources in the certified Local Coastal Program, as well as the public access policies of the Coastal Act. As described in the findings of this report, the project approved by the City does not maximize public access and is inconsistent with the land use and visual resource policies of the LCP. The scale and location of the project do not maximize public access because they create the impression that Bolsa Chica Street is a private residential street not available to the public. This is especially important, because the public Bolsa Chica Street provides access to the public trail system that was required as a condition of approval of Coastal Development Permit No. 5-05-020 for the

Brightwater residential development, as well as public trails within and around the Bolsa Chica Reserve. These trails link to trails out to the coast as well. The project approved by the City is inconsistent with the land use policies of the certified LCP in that it does not take into account the fact that the site immediately to the east is land use designated Open Space Parks. In addition, the project would occupy the public right of way, which is not an appropriate use of public land. The scale and location of the proposed monuments would impact public views from the park site and from Bolsa Chica Street. Thus, the locally approved development does not conform to the City of Huntington Beach certified Local Coastal Program (LCP). Therefore, staff is recommending that the Commission find that a substantial issue exists with respect to the grounds upon which the appeals were filed.

The motion to carry out the staff recommendation is found on page 7.

**SUBSTANTIVE FILE DOCUMENTS:**

City of Huntington Beach Certified Local Coastal Program  
Appeal of Commissioners Shallenberger and Wan  
City Permit Record for local Coastal Development Permit No. 2007-004/Conditional Use Permit No 2007-014  
Coastal Development Permit No. 5-05-020 (Brightwater)

**I. APPELLANT'S CONTENTIONS**

**Summary of Appeal Contentions**

The local coastal development permit, 2007-004, approved by the City of Huntington Beach Zoning Administrator, is inconsistent with the certified Huntington Beach Local Coastal Program (LCP) and with the public access policies of the Coastal Act. The permit is inconsistent with the certified LCP policies regarding public access, land use, and visual resources for the following reasons.

**Public Access**

The City's approved local Coastal Development Permit No. 2007-004 is inconsistent with the public access policies of the certified LCP and the Coastal Act. The approved development would allow an entry monument that is 10 ½ feet in height located within public right of way property and adjacent to property that is land use designated Open Space – Parks. Two monuments were approved by the City, one on either side of Bolsa Chica Street, approximately 40 to 80 feet south of the intersection with Los Patos Avenue. The proposed 10 ½ foot high block wall and trellis monument is intended to announce the name of a nearby residential subdivision ("Brightwater").

The entry monument project approved by the City is inconsistent with the public access policies of the Coastal Act and the City's certified LCP in that the scale and location of the structures will create the impression that this stretch of Bolsa Chica Street, which is public, is the private entry into the Brightwater residential development, and thus not accessible to the general public. Adverse impacts to public access in this area are especially important because the Brightwater residential development includes public trails which provide views of the Bolsa Chica wetlands and the ocean beyond. In approving the Brightwater development the Commission specifically prohibited gated entry and required public access provisions including parking and public trails. Moreover, these public trails link to the public trail network within the Bolsa Chica Ecological Reserve. By creating the impression that Bolsa Chica Street is private, and not accessible to the general public, public access to these trails would be significantly impacted. Further, the proposed location of the massive entry monuments at the entry to Bolsa Chica Street south of Los Patos is not consistent with the actual location of the entry to the Brightwater residential development. The entry to the Brightwater residential development is located more than 300 to 400 feet south of the intersection of Bolsa Chica Street and Los Patos Avenue [further review indicates the distance is actually closer to 1,000 feet south of the intersection], and only occurs on the western side of Bolsa Chica Street. No part of the Brightwater residential development exists or has been approved on the eastern side of Bolsa Chica Street. The intent of entry monumentation typically is to announce that one has arrived at a particular development. The scale and location of the proposed monuments makes that announcement inappropriately at a location that is public, not private. If any entry monumentation is appropriate, it would be more appropriately located at the actual entry point of the residential development. The proposed placement near the intersection of Los Patos Avenue, because it creates the impression of exclusive entrance to residents of the development, creates significant adverse impacts on public access, inconsistent with the public access policies of both the Coastal Act and the City's certified LCP.

### Land Use

The entry monuments approved by the City are inconsistent with the land use policies of the City's certified LCP. The monument proposed to be located on the eastern side of Bolsa Chica Street would be placed within the public right of way and immediately adjacent to land that the City's certified Land Use Plan designates Open Space Parks. The City's findings for approval of the local coastal development permit state: "The 23-foot wide entry monumentation structure is proposed to occupy 10 feet of private property [western side of Bolsa Chica Street] and 13 feet of public right-of-way (sidewalk and parkway)." Although the structure is proposed to maintain sufficient clearance over the sidewalk for pedestrian use, it is not appropriate to use public land (right of way) to announce private residential development.

Land Use Plan policy C 7.1.3 requires that development adjacent to parks be sited and designed to prevent impacts that would degrade the park area and be compatible with

the continuance of the park use. The City's approval does not address the fact that the proposed entry monumentation will be located immediately adjacent to land designated Open Space Parks. The site is currently vacant. Consideration of how the proposed development would impact future development consistent with the Open Space Parks land use designation should be considered at this time. It is important that current development not prejudice future development of the site with a land use that would be inconsistent with this certified land use designation. As described above, the entry monuments would create the impression of privatization of public land, which could adversely impact the future of the site.

Land Use Plan policy C 1.2.2 requires development be designed to account for the unique characteristics of the site and objectives for Coastal Zone character in accordance with the Development "Overlay" schedule in Table C-1. The proposed entry monuments do not take into account the unique opportunity of the subject site to establish an entry to the public trail network that is available from Bolsa Chica Street.

In addition, the land immediately adjacent to the east of the project site is land use designated Open Space Parks. Table C-1, referred to in policy C 1.2.2 describes typical permitted uses for land use categories. For Open Space Parks, typical permitted uses include: "public parks and recreational facilities, which provide activities such as, but not limited to: picnic and observation areas, nature trails, peripheral bike paths, tot-lots, play fields, informational signs and/or displays. Ancillary development may include buildings such as maintenance equipment storage, restrooms, nature centers, concession stands, and parking." Private residential monumentation, for a residential development located more than 300 to 400 feet to the south and only on the western side of the street, is not a use consistent with the uses described in policy C 1.2.2. Whether the monument is placed within the public right of way (as proposed), or within the area land use designated Open Space Parks, it is not consistent with the uses contained in Table C-1 of the certified Land Use Plan and thus inconsistent with policy C 1.2.2 of the Land Use Plan. Placement of the entry monuments in the location and at the scale proposed could prejudice future development of the land designated Open Space Park, which would be inconsistent with the land use policies of the certified LCP.

### Visual Resources

The City's certified Land Use Plan contains policies to protect public views. The City's approval of the related conditional use permit, 2007-014, allows construction of a 10 ½ foot entry structure "in lieu of the maximum allowed height of 42 inches". The structure approved by the City is three times larger than the maximum height allowed for such structures. Such massive structures in and adjacent to the public right of way, as well as adjacent to land designated for public park and open space recreational uses, would be visible to the public. In addition to the impacts to public access described above due to the scale and location of the structures, impacts to public views would also occur. Public views at this site occur from and across the future park as well as down Bolsa Chica

Street toward the open space wetland areas beyond. The scale and location of the proposed development will adversely impact those public views, inconsistent with the requirements of the visual resource policies of the City's certified LCP.

## **II. LOCAL GOVERNMENT ACTION**

Local Coastal Development Permit No. 2007-004 was approved by the Huntington Beach Zoning Administrator on June 20, 2007. The local coastal development permit was erroneously noticed by the City as a non-appealable development within the coastal zone. No public hearing notice was received in the Commission office. Commission staff first became aware of the project when it received a Notice of Action for Non-Appealable Development for the project on July 9, 2007. The City was subsequently informed by Commission staff that the site is subject to the appeals jurisdiction of the Coastal Commission. Based on the date of receipt of the Notice of Action, the ten working day appeal period for local Coastal Development Permit 2007-004 began on July 10, 2007 and ran through July 23, 2007. An appeal of local Coastal Development Permit No. 2007-004 was received from Commissioners Shallenberger and Wan on July 23, 2007 (see exhibit B), within the allotted ten working day appeal period.

## **III. APPEAL PROCEDURES**

After certification of Local Coastal Programs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the appealable areas, such as those located between the sea and the first public road paralleling the sea, or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county. [Coastal Act Section 30603(a)].

Section 30603(a)(1) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road paralleling the sea. In this case the sea is the tidally influenced wetlands of the Bolsa Chica and the first public road paralleling the sea is Los Patos Avenue.

Section 30603 of the Coastal Act states, in part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may

be appealed to the Commission for only the following types of developments:

- (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
- (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The grounds for appeal of a local government action approving a Coastal Development Permit for development in the appealable area are stated in Section 30603(b)(1), which states:

- (b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Section 30625(b)(2) of the Coastal Act requires the Commission to hold a de novo hearing on the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo portion of the public hearing on the merits of the project. The de novo portion of the hearing may be scheduled at the same hearing or a subsequent Commission hearing. The de novo hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The Chair will set the time limit for public testimony at the time of the hearing. As noted in Section 13117 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

If the appeal is found to raise a substantial issue, at the de novo hearing, the Commission will hear the proposed project de novo and all interested persons may speak. The de novo hearing will occur at a subsequent meeting date. All that is before the Commission at this time is the question of substantial issue.

#### **IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

**MOTION:** I move that the Commission determine that Appeal No. A-5-HNB-07-242 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

#### **STAFF RECOMMENDATION:**

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

#### **RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-5-HNB-07-242 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

## **V. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **A. Project Description**

The project approved by the City would allow construction of entry monumentation for the “Brightwater” residential development. The entry monumentation would consist of two monuments on either side of Bolsa Chica Street, approximately eighty feet south of the intersection with Los Patos Avenue. Each monument would be a ten foot, six inch high decorative block wall and trellis structure. The stone walls of the proposed monuments would extend to eight feet in height, with a width of twenty three feet across, and to a depth of approximately eight feet (from front to back). (See exhibit C). The stone walls would be topped to an additional total height of ten feet six inches with a trellis structure. The monuments approved by the City would include a five foot, eight inch opening to accommodate a pedestrian sidewalk. The entry monument proposed on the eastern side of Bolsa Chica Street would be located within the public right of way. The monument on the western side of the street would be located within the yard setback area of the existing Sandover residential development.

The location of the proposed monuments would be approximately 1,000 feet north of the intersection of Bolsa Chica Street and Brightwater Drive (currently under construction). The entry into the “Brightwater” residential development is located at the intersection of Bolsa Chica Street and Brightwater Drive (see exhibit F). [Note: The appellants’ contentions state that the distance between the proposed monuments and the entry to the Brightwater residential development is 300 – 400 feet. However, review of the City’s record and the Brightwater coastal development permit file (5-05-020) indicate the distance is actually closer to 1,000 feet.]

The City’s approval was subject to two special conditions: 1) the height of the monuments be reduced from the originally proposed 15 feet to 10 feet six inches, and, 2) plans reflecting the change required in special condition No. 1 be submitted to the Planning Department (see exhibit A).

### **B. Factors to be Considered in Substantial Issue Analysis**

Section 30625(b)(2) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with the certified Local Coastal Program or the public access policies of the Coastal Act. The term “*substantial issue*” is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission’s regulations simply indicates

that the Commission will hear an appeal unless it “finds that the appellant raises no significant questions”. In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the Local Coastal Program;
2. The extent and scope of the development as approved by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government’s coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified Local Coastal Program or with the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists with respect to the grounds on which an appeal has been filed in order to decide whether to hear the appeal de novo.

In making the substantial issue assessment, the Commission typically considers whether the appellants’ contentions regarding the inconsistency of the local government action with the certified LCP raise significant issues in terms of the extent and scope of the approved development, the support for the local action, the precedential nature of the project, whether a significant coastal resource would be affected, and whether the appeal has statewide significance.

In this case, the appellants contend that the City’s approval of the proposed project does not conform to the requirements of the certified LCP (see Section I and exhibit B) regarding public access, land use and visual impacts. In addition,

the appellants contend that the City's approval of the proposed project is inconsistent with the public access policies of the Coastal Act.

Staff is recommending that the Commission find that a **substantial issue** does exist with respect to whether the approval of the project is consistent with the provisions of the certified Local Coastal Program and public access policies of the Coastal Act for the reasons set forth below.

**C. Substantial Issue Analysis**

1. Public Access

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

The City's certified Land Use Plan contains the following policies regarding public access:

Policy C 1.1.5 states:

*New residential development should be sited and designed in such a manner that it maintains and enhances public access to the coast.*

Policy C 2.2.7 states:

*Develop a riding and hiking trail network and support facilities that provide linkages within the Coastal Zone where feasible and appropriate.*

Policy C 2.6.6 states:

*Promote public access to coastal wetlands for limited nature study, passive recreation and other low intensity uses that are compatible with the sensitive nature of these areas.*

It is also important to note that the residential development the proposed monuments are intended to announce, the Brightwater residential development, was approved by the Coastal Commission under Coastal Development Permit No. 5-05-020 (Brightwater). That development was originally proposed as a private, guard gated community. However, as approved by the Commission the

development will be open to general public vehicular and pedestrian access, also allowing public parking on all subdivision streets. Also, as approved by the Commission the development will include a public trail along the southern bluff edge of the development, with public paseos and pocket parks throughout (see exhibit E). The Commission's approval also required public access signage. The project also included community identification signage at the two entry points into the Brightwater development (Brightwater Drive entries at Bolsa Chica Street and at Warner Avenue).

In approving the Brightwater development the Commission found:

*“The provision of public access in new development proposals is one of the main tenants [sic] of the Coastal Act, especially in conjunction with new development located between the sea and the first public road, such as the subject project. The 225-acre Bolsa Chica Mesa is located between the first public road and the mean high tide of the sea. At roughly 50 ft. above mean sea level, spectacular views of the wetlands and the associated wildlife and uninterrupted views of the Bolsa Chica State Beach and Pacific Ocean are available from the upper bench of the Bolsa Chica Mesa. Santa Catalina Island is also often visible from the project site. The Bolsa Chica Wetlands at approximately 1,000 acres is the largest remaining wetland in Southern California. Following the 1997 State acquisition of most of the remaining wetlands that were under private ownership, a comprehensive Bolsa Chica wetlands restoration effort is now underway. Given the prominence of the adjacent Bolsa Chica wetlands, appropriate public access and passive recreational opportunities must be provided and conspicuously posted. Further, the Coastal Act gives priority to land uses that provide opportunities for enhanced public access, public recreation and lower cost visitor recreational uses.”*

A trail connection between the Brightwater trail system and the East Garden Grove Wintersburg Flood Control Channel levee trail is also anticipated in the future and shown on the approved public access plan for the Brightwater development.

In considering the entry monumentation project, it is important to consider its potential impacts on the public amenities available in the area and especially those amenities required as a condition of approval of the Brightwater development (5-05-020). The entry monuments would be placed near the intersection of the public streets Los Patos Avenue and Bolsa Chica Street, creating the impression that Bolsa Chica Street south of Los Patos is the entry to a private residential development. In addition, the entry monuments would be ten feet, six inches in height where, according to the Notice of Action, the City

would typically allow a height of only 42 inches. The scale of the entry monuments is massive, with stone walls extending to eight feet in height, with a width of 23 feet across, and to a depth (from back to front) of approximately eight feet. The eight foot stone wall would be topped to an additional total height of ten feet six inches with a trellis structure.

It is important to note that the Commission has already approved entry monuments for the Brightwater development which would be located at the actual entry to the development. Moreover, along with the community identification signage (entry monuments), the Commission required public access signage to be placed at the entry to the residential development in order to make clear the public nature of the development's streets, trails and parks. The impression that the development is private that would be created by the proposed monuments, would, in effect, make the Commission's required public access signage moot as the public would be unlikely to pass by the massive monuments to reach the point where the public access signage would be visible.

The size and location of the entry monumentation creates the impression that one has reached the entrance to a private development, even though the entry to the development the monuments announce is actually located more than 1,000 feet south of the intersection and only on the western side to the street. More importantly, the development is comprised of publicly accessible streets with abundant public parking and many public amenities such as public trails and parks. The public access trails link to the trail system along the Bolsa Chica wetlands and beyond. These trails, in addition to providing recreational opportunities also provide significant opportunities for nature study and views of the wetlands and ocean beyond. The proposed massive structures would limit public use of the public trail system by creating the erroneous impression that the public is not allowed beyond the monuments.

The placement and size of the entry monuments conflict with the certified LCP and Coastal Act policies regarding public access. Section 30210 of the Coastal Act requires that public access be maximized. Policy C 1.1.5 of the City's certified LCP cited above requires that new residential development (to which the proposed monumentation would be ancillary) be sited and designed in such a manner that it maintains and enhances public access to the coast. Both the siting (location) and the design of the proposed project would inhibit rather than maintain and enhance access to the coast. Policy C 2.2.7 of the LCP requires development of a trail network that provides linkages within the Coastal Zone. The proposed development would limit, not maintain and enhance, public use of the trail network associated with the Brightwater development, the Bolsa Chica trail system and links to the coast. Policy C 2.6.6 requires promotion of public access to coastal wetlands for certain low intensity uses. The Brightwater trail system will provide views over the Bolsa Chica wetlands system and ocean and

will provide a link to the public trails within the state reserve area. The proposed development would have the effect of limiting public use of these trails, inconsistent with the requirements of Policy C 2.6.6. Therefore, for all the reasons cited above, the development as approved by the City is inconsistent with the public access policies of the City's certified LCP and the public access policies of the Coastal Act.

In considering whether an appeal raises a substantial issue one factor the Commission considers is the significance of the coastal resources affected by the decision. In this case, the coastal resource affected is public access. Public access is a significant coastal resource and maximizing public access is one of the Commission's strongest mandates. Therefore, the resource affected is indeed significant and the adverse impacts created by the proposed development upon the significant resource are considerable.

Another factor the Commission considers in determining whether an appeal raises a substantial issue is whether the appeal raises local issues, or those of regional or statewide significance. In this case, the appeal raises issues of at least regional, and possibly statewide, significance. The proposed monuments would adversely impact public access to the Bolsa Chica public trails system, a resource of regional significance. Members of the general public come from throughout the entire County of Orange area and beyond to bird watch, hike, or bike the trail system. As the largest remaining wetland in Southern California, the public trail system leading to and within the Bolsa Chica area constitutes a resource of statewide significance. Further, Bolsa Chica State Beach, located across Pacific Coast Highway from the Bolsa Chica wetland area, can be accessed via this trail system. Thus, the appeal raises issues of regional and statewide significance.

## 2. Land Use

The City's certified Land Use Plan contains the following policies regarding land use:

### Policy C 1.2.2

*Require that development be designed to account for the unique characteristics of project sites and objectives for Coastal Zone character in accordance with the Development "Overlay" schedule in Table C-1, as appropriate.*

### Policy C 7.1.3

*Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which*

*would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The entry monument proposed on the eastern side of Bolsa Chica Street as approved by the City would be located within the public right of way and immediately adjacent to land that is land use designated Open Space Parks in the City's certified Land Use Plan. The City's findings for approval of the local coastal development permit state: "The 23-foot wide entry monumentation structure is proposed to occupy 10 feet of private property and 13 feet of public right-of-way (sidewalk and parkway)."

It appears, from a project plan submitted by the property owner that the approval would also narrow the public right of way by 20 feet. Although this is not included in the project description contained the City's approval, if it is a part of the City's approval, this aspect raises additional concerns. The public right of way in this location could be used to provided bicycle lanes, public benches, or other similar public amenities. In addition, at a minimum, if this is a part of the City's approval it should be included in the written project description. This aspect of the project should be clarified as part of the coastal development permit process.

The entry monument project approved by the City is inconsistent with the land use policies of the City's certified LCP. The monument proposed to be located on the eastern side of Bolsa Chica Street would be placed within the public right of way and immediately adjacent to land that the City's certified Land Use Plan designates Open Space Parks. Although the structures would include pedestrian openings of five feet eight inches wide and approximately eight feet in height, this is not sufficient to offset the impression of private entry created by the massive scale and location of the monuments.

Furthermore the use of public land area to announce private residential development is not an appropriate use of public land (right of way). If the area is not needed to accommodate anticipated traffic flow, the area would be more appropriately used to accommodate a bicycle lane, public benches, bike racks or similar public serving development.

Land Use Plan policy C 7.1.3, cited above, requires that development adjacent to parks be sited and designed to be compatible with the continuance of the park use and to prevent impacts that would degrade the park area. The City's approval does not address the fact that the proposed entry monumentation will be located immediately adjacent to land designated Open Space Parks (the site is currently vacant). Consideration of how the proposed development would impact future development consistent with the Open Space Parks designation should occur at this time. It is important that current development not prejudice future development of the site with a land use that would be inconsistent with this certified land use designation. This is particularly important in this case because project plans submitted by the property owner depict lot lines, a street cul

de sac and the notation “future development” within the land designated Open Space Parks (see exhibit G). These plan notations raise the issue of whether the proposed placement of the entry monuments was in fact chosen in order to serve development not yet proposed and which would conflict with the certified land use designation. The issue of prejudicing possible future use of the Open Space Parks site is emphasized by this proposal to locate the proposed monumentation, not at the entrance to the actual, approved residential development, but at the intersection of public streets far from the actual entrance.

Any future development of the land adjacent to the project on the eastern side must be consistent with the certified land use designation. Development other than as parkland would require approval of an LCP amendment allowing the change in land use designation. The project plans submitted by the applicant indicate that residential development is being contemplated in the area designated Open Space Parks. Residential development is a much lower priority under the City’s certified LCP than public parks. Thus, approval of an LCP amendment allowing such a shift in land use is problematic and should not be assumed.

It appears possible that the intent of placing the entry monuments in the proposed location is to create the impression that both sides of Bolsa Chica Street, south of Los Patos Avenue is residential area. This conflicts with the certified land use designation of the site on the east of the proposed development, which is designated Open Space Parks. Thus, the project is inconsistent with LCP Policy C 7.1.3 which requires that development in areas adjacent to parks and recreation areas be sited and designed to be compatible with the recreation area.

In addition, as described above, the land immediately adjacent to the east of the project site is land use designated Open Space Parks. Table C-1, referred to in policy C 1.2.2 describes typical permitted uses for land use categories. For Open Space Parks, typical permitted uses include: “public parks and recreational facilities, which provide activities such as, but not limited to: picnic and observation areas, nature trails, peripheral bike paths, tot-lots, play fields, informational signs and/or displays. Ancillary development may include buildings such as maintenance equipment storage, restrooms, nature centers, concession stands, and parking.” Private residential monumentation, for a residential development located more than 1,000 feet to the south and only on the western side of the street, is not a use consistent with the uses described in policy C 1.2.2. Whether the monument is placed within the public right of way, or within the area land use designated Open Space Parks, it is not consistent with the uses contained in Table C-1 of the certified Land Use Plan and thus is inconsistent with policy C 1.2.2 of the Land Use Plan. Placement of the entry monuments in the location and at the scale proposed, could prejudice future development of the land designated Open Space Parks, which would be inconsistent with the land use polices of the certified LCP.

Land Use Plan policy C 1.2.2 requires development be designed to account for the unique characteristics of the site and objectives for Coastal Zone character in accordance with the Development “Overlay” schedule in Table C-1. The proposed entry monuments do not take into account the unique opportunity of the subject site to establish an entry point with support facilities (e.g. parking, restrooms, interpretive signs, etc.) to the public facilities beyond including but not limited to the trail network within the Brightwater development, open space and trails contemplated at the Shea property, the Bolsa Chica Reserve, and beyond that is available from Bolsa Chica Street. And in fact, the project would reduce or even eliminate public awareness of the availability of these public amenities and open space.

Therefore, for the reasons cited above, the development as approved by the City is inconsistent with the land use policies of the City’s certified LCP.

3. Visual Resources

The City’s certified Land Use Plan contains the following policies regarding visual resources:

Policy C 4.1.2

*Designate lands for the provision of passive and visual open space on the Coastal Land Use Map, which provide a balance to the urban and suburban development of the Coastal Zone.*

Policy C 4.2.1 (in pertinent part)

*Ensure that the following minimum standards are met by new development in the Coastal Zone as feasible and appropriate:*

- a)...
- b)...
- c) *Evaluation of project design regarding visual impact and compatibility.*
- d) ...

Policy C 4.5.2 (in pertinent part)

Establish special regulations for on-premise signs within the Coastal Zone that may include but will not be limited to:

- a) ...
- b) Limits to the height, size, design and materials of signs.
- c) ...
- d) ...

e) ...

The City's certified Land Use Plan contains the policies cited above to protect public views. The City's approval of the related conditional use permit, 2007-014, allows construction of a 10 ½ foot entry structure "in lieu of the maximum allowed height of 42 inches". The structure approved by the City is three times larger than the maximum height allowed for such structures. Such massive structures in and adjacent to the public right of way, as well as adjacent to land designated for public park and open space recreational uses, would be visible to the public. In addition to the impacts to public access described above due to the scale and location of the structures, impacts to public views would also occur. Public views at this site occur from and across the future park as well as down Bolsa Chica Street toward the open space wetland areas beyond. The scale and location of the proposed development will adversely impact those public views, inconsistent with the requirements of the visual resource policies of the City's certified LCP.

#### 4. Conclusion

For the reasons described above, the development approved by the City is inconsistent with the public access, land use, and visual resource policies of the City's certified LCP. The development approved by the City is also inconsistent with the public access policies of the Coastal Act. Further, the inconsistencies raise issues with regard to significant coastal resources. Finally, the inconsistencies are of regional and statewide, not just local, concern. Thus the City's approval is inconsistent with the certified LCP and with the public access policies of the Coastal Act. As described above, these issues raise a substantial issue with regard to the grounds upon which the appeal was filed. Therefore the Commission finds that the appeal raises a substantial issue.

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OFFICE of the ZONING ADMINISTRATOR  
CITY OF HUNTINGTON BEACH • CALIFORNIA

P.O. BOX 190

CALIFORNIA 92648

(714) 536-5271

NOTICE OF ACTION  
COASTAL DEVELOPMENT PERMIT NO. 2007-004/  
CONDITIONAL USE PERMIT NO. 2007-014

RECEIVED  
South Coast Region

NON-APPEALABLE DEVELOPMENT

CERTIFIED MAIL

CALIFORNIA  
COASTAL COMMISSION

TO: South Coast Area Office  
California Coastal Commission  
Attn: Theresa Henry  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4302

APPLICANT: Linda White, 6 Executive Circle, Suite 250, Irvine, CA 92614

PROPERTY OWNER: Signal Landmark, 6 Executive Circle, Suite 250, Irvine, CA 92614

REQUEST: To permit the entry monumentation for the Brightwater Residential Project consisting of a 15 ft. high decorative block wall and trellis structure located within the required landscaped setback area and portions of the public right-of-way in lieu of the maximum allowed height of 42 inches.

LOCATION: 17261 Bolsa Chica Street, Huntington Beach (east and west side of Bolsa Chica Street, south of Los Patos Avenue)

PROJECT PLANNER: Tess Nguyen

COASTAL STATUS: NON-APPEALABLE

DATE OF LOCAL

APPEAL EXPIRATION: July 5, 2007

The above application was acted upon by the Zoning Administrator of the City of Huntington Beach on, June 20, 2007, and the request was Conditionally Approved.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Zoning Administrator is final unless an appeal is filed to the Planning Commission by the applicant or an aggrieved party. Said appeal must be in writing and must set forth in detail the actions and grounds by and upon which the applicant or interested party deems himself aggrieved.

As of July 5, 2007, there have been no appeals filed on the above entitlement.

If there are any further questions, please contact the planner at 536-5271.

Jeanie Cutler, Secretary  
Huntington Beach Zoning Administrator

Attachment: Notice of Local Action for Coastal Development Permit No. 2007-004/  
Conditional Use Permit No. 2007-014

COASTAL COMMISSION  
A5 HNB 07-242

EXHIBIT # A  
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OFFICE of the ZONING ADMINISTRATOR  
CITY OF HUNTINGTON BEACH • CALIFORNIA

P.O. BOX 190

CALIFORNIA 92648

NOTICE OF ACTION

(714) 536-5271

June 21, 2007

Linda White  
6 Executive Circle, Suite 250  
Irvine, CA 92614

**SUBJECT:** COASTAL DEVELOPMENT PERMIT NO. 2007-004/CONDITIONAL  
USE PERMIT NO. 2007-014 (BRIGHTWATER ENTRY  
MONUMENTATION)

**APPLICANT:** Linda White

**REQUEST:** To permit the entry monumentation for the Brightwater Residential  
Project consisting of a 15 ft. high decorative block wall and trellis  
structure located within the required landscaped setback area and  
portions of the public right-of-way in lieu of the maximum allowed  
height of 42 inches.

**PROPERTY OWNER:** Signal Landmark, 6 Executive Circle, Suite 250, Irvine, CA 92614

**LOCATION:** 17261 Bolsa Chica Street, Huntington Beach (east and west side of  
Bolsa Chica Street, south of Los Patos Avenue)

**PROJECT PLANNER:** Tess Nguyen

**DATE OF ACTION:** June 20, 2007

On Wednesday, June 20, 2007, the Huntington Beach Zoning Administrator took action on  
your application, and your application was conditionally approved. Attached to this letter are  
the findings and conditions of approval.

Please be advised that the Zoning Administrator reviews the conceptual plan as a basic  
request for entitlement of the use applied for and there may be additional requirements prior to  
commencement of the project. It is recommended that you immediately pursue completion of  
the conditions of approval and address all requirements of the Huntington Beach Zoning and  
Subdivision Ordinance in order to expedite the processing/completion of your total application.  
The conceptual plan should not be construed as a precise plan, reflecting conformance to all  
Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action  
taken by the Zoning Administrator becomes final at the expiration of the appeal period. A

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person desiring to appeal the decision shall file a written notice of appeal to the Secretary of the Planning Commission within ten (10) working days of the date of the Zoning Administrator's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of One Thousand Two Hundred Eighty-Seven Dollars (\$1287.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and One Thousand Five Hundred Sixty-Nine Dollars (\$1569.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is July 5, 2007.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has begun.

Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020.

If you have any questions regarding this Notice of Action letter or the processing of your application, please contact the Project Planner at (714) 374-1744, (email: [tnghuyen@surfcity-hb.org](mailto:tnghuyen@surfcity-hb.org)), or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,



Mary Beth Broeren  
Zoning Administrator

MBB:tnjc  
Attachment

- c: Honorable Mayor and City Council  
Chair and Planning Commission  
Paul Emery, Deputy City Administrator  
Scott Hess, Director of Planning  
Herb Fauland, Acting Planning Manager  
Jacques Pelletier, Division Chief/Fire Marshal  
Terri Elliott, Principal Civil Engineer  
Gerald Caraig, Permit-Plan Check Manager  
Signal Landmark, Property Owner  
Project File

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ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

COASTAL DEVELOPMENT PERMIT NO. 2007-004/  
CONDITIONAL USE PERMIT No. 2007-014

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15303 of the CEQA Guidelines, because the project consists of construction of a small accessory structure.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2007-004:

1. Coastal Development Permit No. 2007-004 to permit the entry monumentation for the Brightwater Residential Project consisting of a 10 ft. 6 in. high decorative block wall and trellis structure located within the required landscaped setback area and portions of the public right-of-way in lieu of the maximum allowed height of 42 inches conforms with the General Plan, including the Local Coastal Program land use designation of Residential Low-Density. The project is consistent with the Coastal Element Land Use Policy C 1.1.1 to encourage development within, contiguous to or in close proximity to existing developed areas able to accommodate it. A portion of the proposed construction will occur on the site of an existing residential development. The remaining portion within the public right-of-way is within close proximity to the existing neighborhood.
2. The project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The Zoning Code allows a deviation from the standards for height of walls within the required landscaped setback subject to the approval of a Conditional Use Permit.
3. At the time of occupancy, the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project will be constructed in an urbanized area with direct access from an existing public street and with all necessary services and infrastructure available including water, sewer, and roads.
4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project will not impede public access or impact public views to coastal resources. The 23-foot wide entry monumentation structure is proposed to occupy 10 feet of private property and 13 feet of the public right-of-way (sidewalk and parkway). The structure will not encroach into the roadway and therefore will not obstruct vehicular access. Since the structure will maintain a sufficient clearance over the sidewalks, it will not obstruct pedestrian access. Because the entry monumentation structure consists of a wood trellis on top of four stone veneer pilasters, public views to coastal resources will be maintained.

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FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2007-014:

1. Conditional Use Permit No. 2007-014 to permit the entry monumentation for the Brightwater Residential Project consisting of a 10 ft. 6 in. high decorative block wall and trellis structure located within the required landscaped setback area and portions of the public right-of-way in lieu of the maximum allowed height of 42 inches will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The monumentation structure will contribute to the appearance of the streetscape because of its distinctive architectural design, use of high quality building materials, and provision of decorative landscaping. Located approximately 80 ft south of the intersection of Los Patos Avenue and Bolsa Chica Street, the proposed structure is outside of the visibility triangle. Therefore, the structure will not impact traffic safety or impede with traffic circulation along Bolsa Chica Street.
2. The conditional use permit will be compatible with surrounding uses because the proposed structure will incorporate enhanced design features, ornamental landscaping, and open space areas. The proposed structure design, colors, and materials will compliment the existing neighborhood character and the existing single family homes in the vicinity. The existing landscaping at the southwest corner of Los Patos Avenue and Bolsa Chica Street will be replicated on the east side of Bolsa Chica Street in creating the entrance to the Sandover and the Brightwater residential developments. Landscaping such as large trees, shrubs, and vines will be provided along the street frontage to further enhance the existing streetscape.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The HBZSO authorizes deviations from the wall height restrictions subject to approval of a Conditional Use Permit. Furthermore, only a 10 ft. portion of the 23 ft. wide structure is located within the required landscaped area. The remaining portion of the structure is located within the public right-of-way and will be subject to issuance of an Encroachment Permit by the Public Works Department.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RL (Low Density Residential) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:
  - a. LU 7.1.2: Require that development be designed to account for the unique characteristics of project sites and objectives for community character as appropriate.
  - b. LU 9.2.1: Require that all new residential developments within existing residential neighborhoods be compatible with existing structures, including
    - Maintenance of the predominant or median existing front yard setback and
    - Use of complementary building materials, colors, and forms, while allowing flexibility for unique design solutions.
  - c. UD 1.1: Identify and reinforce a distinctive architectural and environmental image for each district in Huntington Beach.

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- d. UD 1.1.1(a): Design public streetscape improvements (landscape features, signage, and street furniture) to provide unique qualities to the "Old Town," Holly-Seacliff, Ellis/Goldenwest Quartersection, Southeast Residential, Northwest Residential, and Huntington Harbour districts.
- e. UD 1.3.5: Require that privately developed walls make a positive visual contribution to the public streetscape including provisions for plant material enhancements such as vine pockets or decorative plantings, and design features such as sculptured or textured masonry units.

The proposed monumentation structure will meet the objectives for community character by incorporating distinctive architectural design, high quality building materials, and decorative landscaping improvements. The proposed structure is designed with enhanced features such as stone pilasters, wood trellis, and lighting to provide a prominent landmark for the existing Sandover and future Brightwater residential developments. The proposed structure along with ornamental landscaping will make a positive visual contribution to the public streetscape.

**CONDITIONS OF APPROVAL – COASTAL DEVELOPMENT PERMIT NO. 2007-004 /  
CONDITIONAL USE PERMIT NO. 2007-014:**

1. The site plan and elevations received and dated March 26, 2007 shall be the conceptually approved design except that the maximum height of the entry monumentation structure shall be 10 ft. 6 in.
2. Prior to submittal for building permits, one set of plans, revised pursuant to Condition of Approval No. 1, shall be submitted to the Planning Department for review, approval and inclusion in the entitlement file.

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

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STATE OF CALIFORNIA - THE RESOURCES AGENCY

Gray Davis, Governor

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



**APPEAL FROM COASTAL  
DECISION OF LOCAL GOVERNMENT**

**SECTION I. Appellant(s)**

Name, mailing address and telephone number of appellant(s):

Commissioners Shallenberger and Wan

200 Oceangate, Suite 1000

Long Beach, CA 90802

(562) 590-5071

**SECTION II. Decision Being Appealed**

1. Name of local government: City of Huntington Beach

2. Brief description of development being appealed:

Entry monumentation for "Brightwater" residential development consisting of 10 ft. 6 in. high (in lieu of maximum allowed height of 42 inches) decorative block wall and trellis structure located within the portions of the public right of way.

3. Development's location (street address, assessor's parcel no., cross street, etc.):  
17261 Bolsa Chica Street (east and west side of Bolsa Chica Street, south of Los Patos Avenue), Huntington Beach, Orange County

4. Description of decision being appealed:

a. Approval; no special conditions: \_\_\_\_\_

b. Approval with special conditions: XX

c. Denial: \_\_\_\_\_

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

**COASTAL COMMISSION**

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EXHIBIT # B

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Page 2

**DISTRICT: South Coast**

5. Decision being appealed was made by (check one):
- a. Planning Director/Zoning Administrator: XX
  - b. Board of Supervisors: \_\_\_\_\_
  - c. Planning Commission: \_\_\_\_\_
  - d. Other: \_\_\_\_\_
6. Date of local government's decision: June 20, 2007
7. Local government's file number: Coastal Development Permit No. 2007-004

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties.  
(Use additional paper as necessary.)

1. Name and mailing address of permit applicant:
- Linda White  
6 Executive Circle, Ste. 250, Irvine, CA 92614
2. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.
- a. Ed Mountford, Signal Landmark, 6 Executive Circle, St. 250, Irvine, CA 92614
  - b. Not known at this time

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**SECTION IV. Reasons Supporting This Appeal**

Note: Appeals of local government Coastal Permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page. Please state briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing.

The local coastal development permit, 2007-004, approved by the City of Huntington Beach Zoning Administrator, is inconsistent with the certified Huntington Beach Local Coastal Program (LCP) and with the public access policies of the Coastal Act. The permit is inconsistent with the certified LCP policies regarding public access, visual resources and land use.

Following is a discussion of the areas where the City approved permit is inconsistent with specific LCP policies and public access policies of the Coastal Act.

**Public Access:**

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

The City's certified Land Use Plan contains the following policies regarding public access:

Policy C 1.1.5 states:

*New residential development should be sited and designed in such a manner that it maintains and enhances public access to the coast.*

Policy C 2.2.7 states:

*Develop a riding and hiking trail network and support facilities that provide linkages within the Coastal Zone where feasible and appropriate.*

Policy C 2.6.6 states:

*Promote public access to coastal wetlands for limited nature study, passive recreation and other low intensity uses that are compatible with the sensitive nature of these areas.*

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**Land Use:**

The City's certified Land Use Plan contains the following policies regarding land use:

Policy C 1.2.2

*Require that development be designed to account for the unique characteristics of project sites and objectives for Coastal Zone character in accordance with the Development "Overlay" schedule in Table C-1, as appropriate.*

Policy C 7.1.3

*Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

**Visual Resources:**

The City's certified Land Use Plan contains the following policies regarding visual resources:

Policy C 4.1.2

*Designate lands for the provision of passive and visual open space on the Coastal Land Use Map, which provide a balance to the urban and suburban development of the Coastal Zone.*

Policy C 4.2.1 (in pertinent part)

*Ensure that the following minimum standards are met by new development in the Coastal Zone as feasible and appropriate:*

- a) ...
- b) ...
- c) *Evaluation of project design regarding visual impact and compatibility.*
- d) ...

Policy C 4.5.2 (in pertinent part)

Establish special regulations for on-premise signs within the Coastal Zone that may include but will not be limited to:

- a) ...
- b) Limits to the height, size, design and materials of signs.

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- c) ...
- d) ...
- e) ...

Public Access

The City's approved local coastal development permit no. 2007-004 is inconsistent with the policies listed above. The approved development would allow an entry monument that is 10 ½ feet in height located within public right of way property and adjacent to property that is land use designated Open Space – Parks. Two monuments were approved by the City, one on either side of Bolsa Chica Street, approximately 40 to 80 feet south of the intersection with Los Patos Avenue. The proposed 10 ½ foot high block wall and trellis monument is intended to announce the name of a nearby residential subdivision ("Brightwater").

The entry monument project approved by the City is inconsistent with the public access policies of the Coastal Act and the City's certified LCP in that the scale and location of the structures will create the impression that this stretch of Bolsa Chica Street, which is public, is the private entry into the Brightwater residential development, and thus not accessible to the general public. Adverse impacts to public access in this area are especially important because the Brightwater residential development includes public trails which provide views of the Bolsa Chica wetlands and the ocean beyond. In approving the Brightwater development the Commission specifically prohibited gated entry and required public access provisions including parking and public trails. Moreover, these public trails link to the public trail network within the Bolsa Chica Ecological Reserve. By creating the impression that Bolsa Chica Street is private, and not accessible to the general public, public access to these trails would be significantly impacted. Further, the proposed location of the massive entry monuments at the entry to Bolsa Chica Street south of Los Patos, is not consistent with the actual location of the entry to the Brightwater residential development. The entry to the Brightwater residential development is located more than 300 to 400 feet south of the intersection of Bolsa Chica Street and Los Patos Avenue, and only occurs on the western side of Bolsa Chica Street. No part of the Brightwater residential development exists or has been approved on the eastern side of Bolsa Chica Street. The intent of entry monumentation typically is to announce that one has arrived at a particular development. The scale and location of the proposed monuments makes that announcement inappropriately at a location that is public, not private. If any entry monumentation is appropriate, it would be more appropriately located at the actual entry point of the residential development. The proposed placement at the intersection of Los Patos Avenue, because it creates the impression of exclusive entrance to residents of the development, creates significant adverse impacts on public access, inconsistent with the public access policies of both the Coastal Act and the City's certified LCP.

Land Use

Furthermore, the entry monuments approved by the City are inconsistent with the Land Use policies of the City's certified LCP. The monument proposed to be located on the eastern side of Bolsa Chica Street would be placed within the public right of way and immediately adjacent to land

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that the City's certified Land Use Plan designates Open Space Parks. The City's findings for approval of the local coastal development permit state: "The 23-foot wide entry monumentation structure is proposed to occupy 10 feet of private property [western side of Bolsa Chica Street] and 13 feet of public right-of-way (sidewalk and parkway)." Although the structure is proposed to maintain sufficient clearance over the sidewalk for pedestrian use, it is not appropriate to use public land (right of way) to announce private residential development.

Land Use Plan policy C 7.1.3, cited above, requires that development adjacent to parks be sited and designed to prevent impacts that would degrade the park area and be compatible with the continuance with the park use. The City's approval does not address the fact that the proposed entry monumentation will be located immediately adjacent to land designated Open Space Parks. The site is currently vacant. Consideration of how the proposed development would impact future development consistent with the Open Space Parks land use designation should be considered at this time. It is important that current development not prejudice future development of the site with a land use that would be inconsistent with this certified land use designation. As described above, the entry monuments would create the impression of privatization of public land, which could adversely impact the future of the site.

Land Use Plan policy C 1.2.2 requires development be designed to account for the unique characteristics of the site and objectives for Coastal Zone character in accordance with the Development "Overlay" schedule in Table C-1. The proposed entry monuments do not take into account the unique opportunity of the subject site to establish an entry to the public trail network that is available from Bolsa Chica Street.

In addition, the land immediately adjacent to the east of the project site is land use designated Open Space Parks. Table C-1, referred to in policy C 1.2.2 describes typical permitted uses for land use categories. For Open Space Parks, typical permitted uses include: "public parks and recreational facilities, which provide activities such as, but not limited to: picnic and observation areas, nature trails, peripheral bike paths, tot-lots, play fields, informational signs and/or displays. Ancillary development may include buildings such as maintenance equipment storage, restrooms, nature centers, concession stands, and parking." Private residential monumentation, for a residential development located more than 300 to 400 feet to the south and only on the western side of the street, is not a use consistent with the uses described in policy C 1.2.2. Whether the monument is placed within the public right of way (as proposed), or within the area land use designated Open Space Parks, it is not consistent with the uses contained in Table C-1 of the certified Land Use Plan and thus inconsistent with policy C 1.2.2 of the Land Use Plan. Placement of the entry monuments in the location and at the scale proposed, could prejudice future development of the land designated Open Space Park, which would be inconsistent with the land use polices of the certified LCP.

Visual Resources

The City's certified Land Use Plan contains the policies cited above to protect public views. The City's approval of the related conditional use permit, 2007-014, allows construction of a 10 ½ foot entry structure "in lieu of the maximum allowed height of 42 inches". The structure approved by

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the City is three times larger than the maximum height allowed for such structures. Such massive structures in and adjacent to the public right of way, as well as adjacent to land designated for public park and open space recreational uses, would be visible to the public. In addition to the impacts to public access described above due to the scale and location of the structures, impacts to public views would also occur. Public views at this site would occur from and across the future park as well as down Bolsa Chica Street toward the open space wetland areas beyond. The scale and location of the proposed development will adversely impact those public views, inconsistent with the requirements of the visual resource policies of the City's certified LCP.

Appealability

The project, although noticed by the City as non-appealable to Coastal Commission, is appealable due to the subject site's location between the sea and the first public road parallel to the sea. In this case the first public road parallel to the sea is Los Patos Avenue, and the sea is the tidally influenced areas below the bluffs adjacent to the subject site.

Conclusion

For the reasons described above, the development approved by the City is inconsistent with the public access policies of the Coastal Act and with the City's certified Local Coastal Program.

**NOTE:** The above description need not be a complete or exhaustive statement of your reasons of appeal. However, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
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State briefly your reasons for this appeal. (include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary).

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my personal knowledge.

Signed: [Signature]  
Appellant or Agent

Date: 7/22/27

Agent Authorization: I designate the above identified persons to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
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State briefly your reasons for this appeal. Include a summary description of local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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SECTION V. Certification

The information and facts stated above are correct to the best of my own knowledge.

Signed: [Signature]  
Appellant or Agent

Date: 7/23/17

Agent Authorization: I designate the above identified persons to act as my agent in all matters pertaining to this appeal.

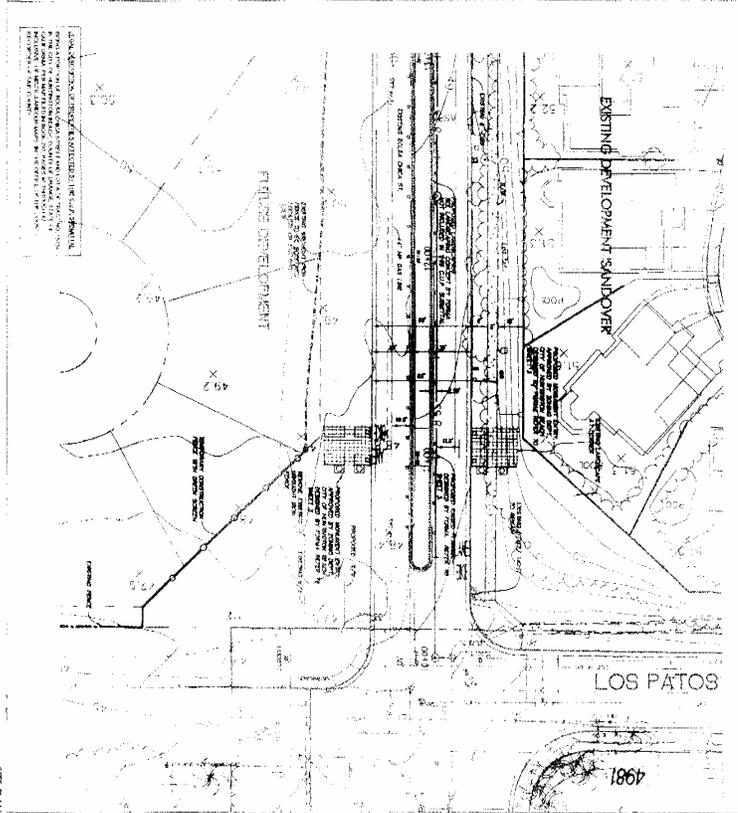
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Date: \_\_\_\_\_

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BRIGHTWATER  
 KORTMAN HILLES



COASTAL COMMISSION  
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SOUTHWEST CORNER OF LOS PATOS AND BOLSON CHICA. VIEW LOOKING SOUTH.

SOUTHWEST CORNER OF LOS PATOS AND BOLSON CHICA. VIEW LOOKING SOUTH.

SOUTHWEST CORNER OF LOS PATOS AND BOLSON CHICA. VIEW LOOKING SOUTH.

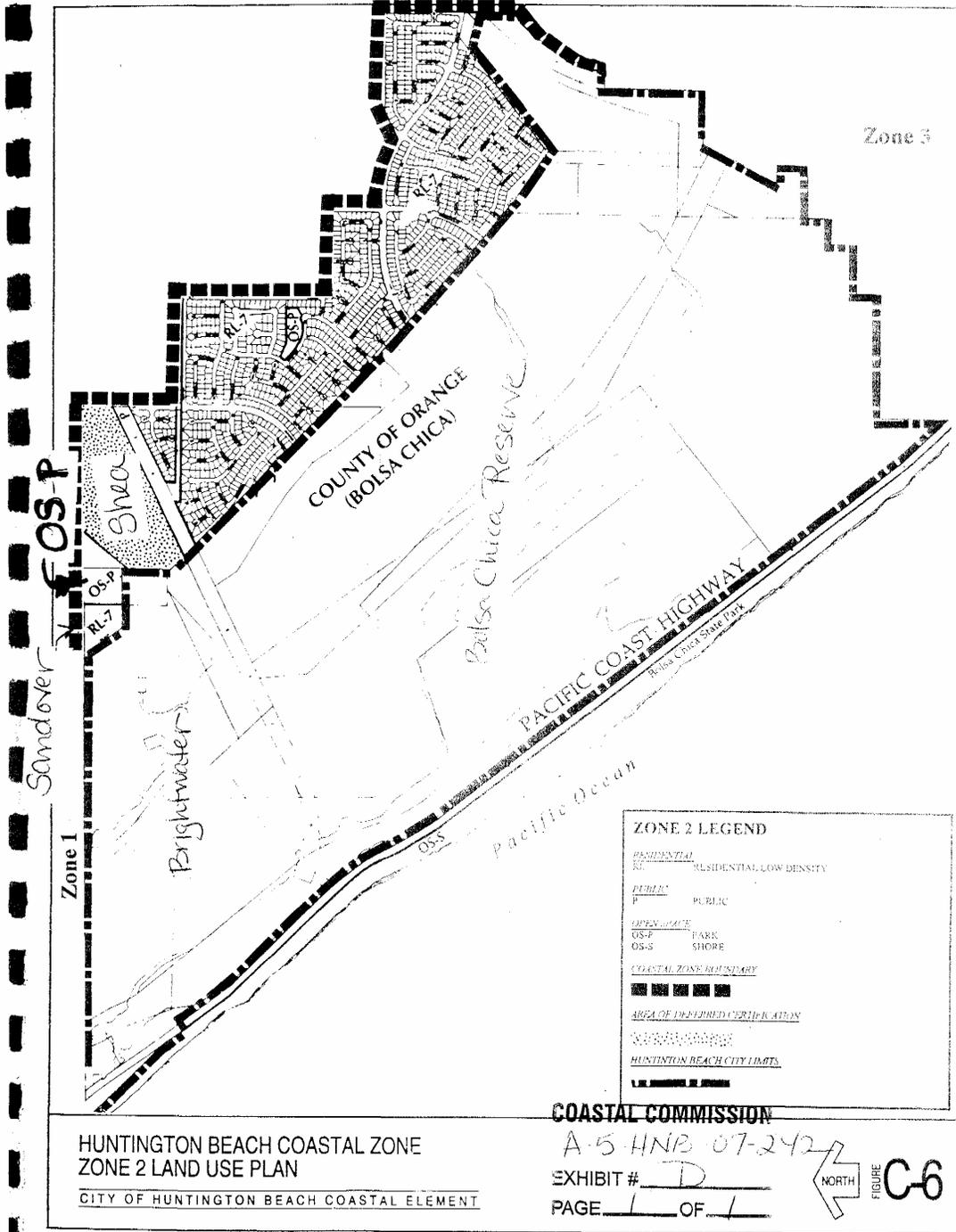
SOUTHWEST CORNER OF LOS PATOS AND BOLSON CHICA. VIEW LOOKING SOUTH.

BOLSON CHICA STREET  
 PROJECT ENTRY C.U.P.

1/27/12

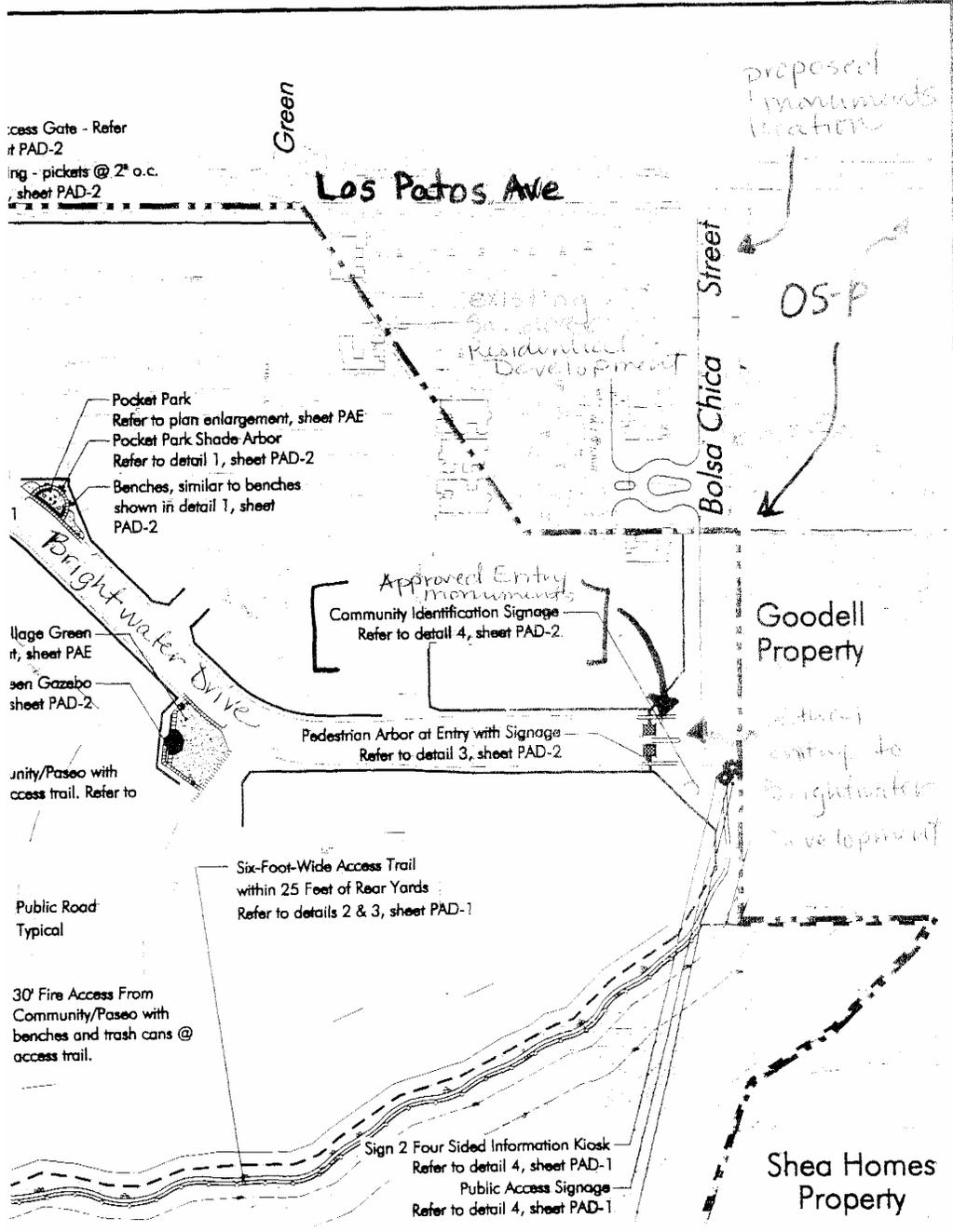


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 Exhibit F



**FC**

PLANNING - C  
 12212 Mission  
 Ph: (949) 860-  
 1990; www.fc

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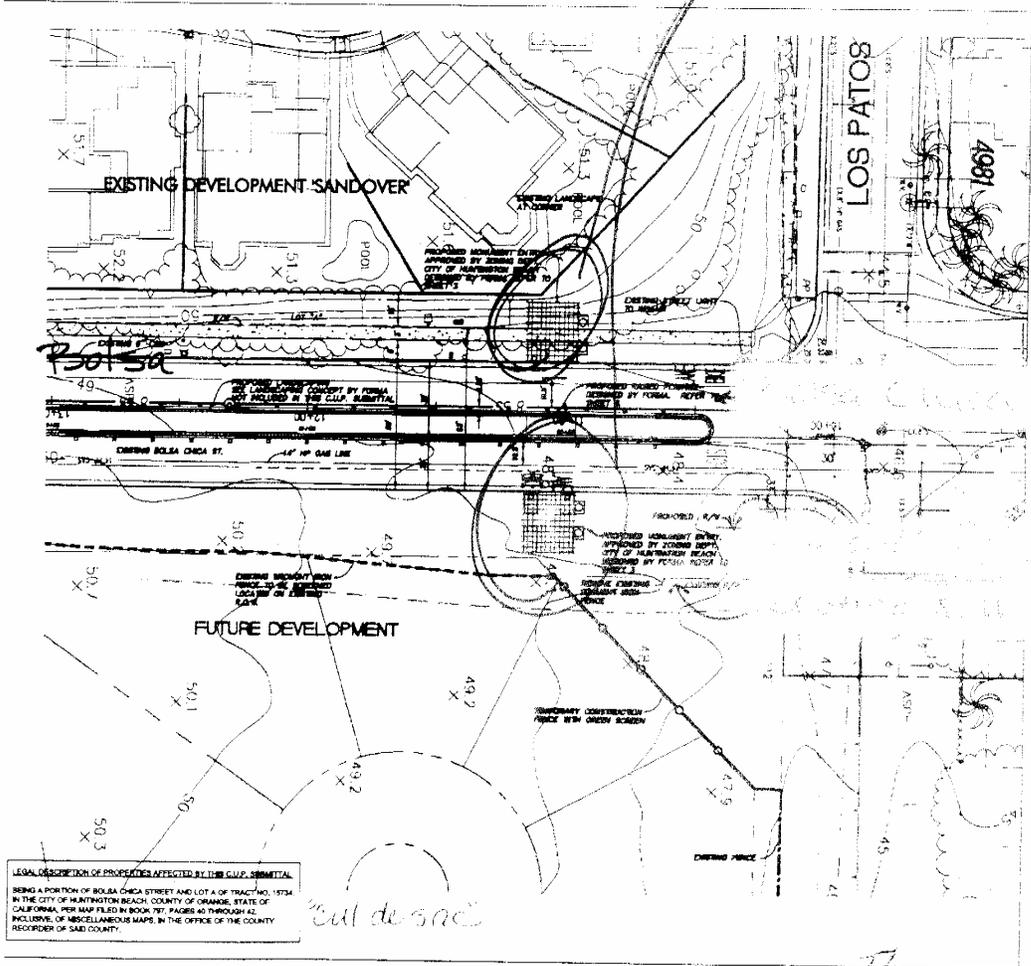
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Site Plan of "Future Developed" Notations

Proposed entry monuments



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Exhibit G

SITE PLAN  
@ 1" = 20'