



Click here  
to go to additional communications  
sent to the California Coastal Commission  
regarding this permit application.

## W21.5a

February 26, 2010

Chair Bonnie Neely  
Members of the California Coastal Commission  
c/o Karl Schwing  
South Coast Area Office/Long Beach  
200 Oceangate, Suite 1000  
Long Beach, CA 90802

### SENT VIA EMAIL

**Re: W21.5a. Appeal No. A-5-LGB-10-39 (Laguna Terrace Park, Laguna Beach)** Appeals of decision by the City of Laguna Beach to grant coastal development permit 09-36 with conditions to subdivide the Laguna Terrace Mobilehome Park into 157 residential lots, and some additional lots, at 30802 South Coast Highway, Laguna Beach, Orange County. (KFS-LB)

Dear Chair Neely and Honorable Members of the Coastal Commission:

The Sierra Club's Save Hobo Aliso Task Force was formed in 2001 in response to rising concerns over development threat and ongoing Coastal Act violations associated with this environmentally sensitive area that is connected to two wilderness parks. For many years we have come before the Commission with numerous issues arising from the poor environmental stewardship of this acreage by its owners, and this appeal is yet another instance of our finite natural resources needing the guiding hand of the Coastal Commission since all compliance with the policies of the Coastal Act have been blatantly disregarded.

Commission staff has done an outstanding job identifying and detailing the numerous issues involved and the lack of consistency with the Laguna Beach certified Local Coastal Plan (LCP) related to public access and recreation, environmentally sensitive areas, water quality and hazards. A de novo hearing will not only allow the Commission to address this lack of consistency, but also consider the extent of damage arising from extensive unpermitted development. As Commission staff states in the staff report, "Commission staff does not presently believe these matters are separable." Furthermore, staff correctly asserts that, "this appeal raises issues of regional and statewide significance given the scope of the development involved and the resources at stake."

We urge the Commission to support staff's recommendation and allow this to come forward in a de novo hearing that will allow all issues to be thoroughly addressed.

Thank you all for all you do to protect and preserve our coast's finite natural resources.

Sincerely,

Penny Elia  
Save Hobo Aliso Task Force Chair  
Sierra Club  
30632 Marilyn Drive  
Laguna Beach, CA 92651  
949-499-4499

**W21.5a**

**From:** Charlotte Masarik [charlottemasarik@cox.net]

**Sent:** Saturday, February 27, 2010 6:30 PM

**To:** Karl Schwing

**Subject:** Re: W21.5a. Appeal No. A-5-LGB-10-39 (Laguna Terrace Park, Laguna Beach)

**SENT VIA EMAIL**

**Re: W21.5a. Appeal No. A-5-LGB-10-39 (Laguna Terrace Park, Laguna Beach)**

Appeals of decision by the City of Laguna Beach to grant coastal development permit 09-36 with conditions to subdivide the Laguna Terrace Mobilehome Park into 157 residential lots, and some additional lots, at 30802 South Coast Highway, Laguna Beach, Orange County. (KFS-LB)

February 28, 2010

Chair Bonnie Neely  
Members of the California Coastal Commission  
c/o Karl Schwing  
South Coast Area Office/Long Beach  
200 Oceangate, Suite 1000  
Long Beach, CA 90802

Dear Chair Neely and Good Members of the California Coastal Commission:

My husband and I urge the Commission to fully support staff's recommendation to find substantial issue for the above-referenced appeal.

We know that you all now have furlough days and staff has to work even harder to keep up with the difficult coastal issues of our time and so we truly appreciate your incredible commitment. It is notable that the staff summary is 96 pages long and staff is to be commended for its in-depth understanding of the complex issue before you. You can do no better.

With thanks to you all for your tireless work for California's Coastline and especially to Sara Wan and Pat Kruer for joining as appellants.

Sincerely,

Charlotte and Alex Masarik

Charlotte Masarik  
761 Oak Street  
Laguna Beach, Ca 92651  
949-494-1630 Land  
949-295-8040 Mobile  
[charlottemasarik@cox.net](mailto:charlottemasarik@cox.net)

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

W21.5a

**Date and time of communication:**  
(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

March 3, 2010, 10:30 a.m.

**Location of communication:**  
(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Commissioner Neely's Eureka Office

**Person(s) initiating communication:**

Maggy Herbelin, Local ORCA Representative

**Person(s) receiving communication:**

Commissioner Bonnie Neely

**Name or description of project:**

W.21.5.a. Appeal No. A-5-LGB-10-39 (Laguna Terrace Park, Laguna Beach) Appeals of decision by the City of Laguna Beach to grant coastal development permit 09-36 with conditions to subdivide the Laguna Terrace Mobilehome Park into 157 residential lots, and some additional lots, at 30802 South Coast Highway, Laguna Beach, Orange County. (KFS-LB)

**Detailed substantive description of content of communication:**

(If communication included written material, attach a copy of the complete text of the written material.)

Ms Herbelin said that the Sierra Club "Save Hobo Aliso" group is encouraging the Commission to support the staff recommendation of Substantial Issue. This is one of the finest substantial issue reports they have ever read.

**Date:** March 3, 2010

  
Bonnie Neely, Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

Coastal Commission Fax: 415 904-5400

**CALIFORNIA COASTAL COMMISSION**

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



March 4, 2010

**ADDENDUM****W21.5a**

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: SOUTH COAST DISTRICT STAFF**

**SUBJECT: ADDENDUM TO ITEM W21.5a, CALIFORNIA COASTAL COMMISSION APPEAL NO. A-5-LGB-10-039 FOR THE COMMISSION MEETING OF MARCH 10, 2010.**

---

**A. Revision to Staff Report**

Commission staff recommends changes to the staff report to address an additional appeal filed by appellant Paul R. Esslinger. Text added shown in underline, text deleted shown in ~~strike through~~, as shown below:

On page 1, add Paul R. Esslinger as an appellant:

...**APPELLANTS:** Ms. Penny Elia; Paul R. Esslinger; and Commissioners Patrick Kruer & Sara Wan

On page 2, add Exhibit 6 to the list of exhibits:

**...LIST OF EXHIBITS:**

1. Vicinity Map
2. City of Laguna Beach Resolution No. 10.004 of the City Council adopted 1/5/2010
3. Appeal by Ms. Penny Elia
4. Appeal by Commissioners Pat Kruer and Sara Wan
5. Vesting Tentative Tract Map No. 17301
6. Appeal by Mr. Paul R. Esslinger

On page 3, modify the last few sentences of the paragraph above "Grounds for Appeal" as follows:

During this appeal period, ~~two~~ three appeals have been received to date, one submitted by Ms. Penny Elia (filed as of February 16, 2010), a resident of the City of Laguna Beach (Exhibit 3), one by Mr. Paul R. Esslinger (Exhibit 6) submitted on March 1, 2010, and an appeal was filed on behalf of the Commission by Commissioners Sara Wan and Patrick Kruer on February 23, 2010 (Exhibit 4).

On page 5, make the following change:

**...III. APPELLANTS' CONTENTIONS**

The City of Laguna Beach approval of the proposed development was appealed on by ~~two~~ three appellants to date. The project was appealed by California Coastal Commissioners Sara Wan and Patrick Kruer; by Paul R. Esslinger, and by Ms. Penny Elia, a resident of the City. The

appellants contend that the proposed development does not conform to the requirements of the Local Coastal Program...

On page 6, add the following summary of appellant Paul R. Esslingers' appeal contentions:

The appeal by Mr. Paul R. Esslinger, identifies the following reasons for appeal:

- The City failed to comply with the requirements of the City's LCP, particularly with regard to water quality and biological protection policies.
- The City's action fails to comply with Land Use Plan Policy 8-A, which prohibits residential condominium conversions unless an equivalent number of rental units have been developed.
- The City's action does not comply with Title 21 (Plats and Subdivision), which is part of the LCP. For instance, the subdivision doesn't comply with Section 21.12.220 regarding the maximum length of a dead end street.
- The property is subject to ongoing Coastal Act violations. For instance, the applicant developed two spaces with mobile home uses in the year 2000 without obtaining a CDP. The subdivision approved by the City creates lots for these illegally created mobile home sites.
- The City's action fails to address legal access to an adjacent parcel occupied by Ruby's Diner, which will create a traffic/public access issue along Coast Highway.

On page 12, under Section IV.C.1.a. (Valid Appeal Contentions), add the following after the third paragraph:

...If, in fact, the development approved by the City is not consistent with certified land uses, then approval of such development would raise a substantial issue. This issue will need to be addressed by further research at the de novo stage of this process.

One appellant contends that the City's action fails to comply with Land Use Plan Policy 8-A, which prohibits residential condominium conversions unless an equivalent number of rental units have been developed. This contention is accurate. The City's LCP does require that the City prohibit condominium conversions unless an equivalent number of rentals units is provided. In this case, the division of land would allow the present renters in the mobile home park to purchase their rental space, thereby removing that space from the City's pool of residential rental units. The City's action did not require replacement of each rental space that is purchased by its occupant with an equivalent rental unit which is contrary to the requirements of the LCP.

One appellant contends that the City's action does not comply with Title 21 (Plats and Subdivision), which is part of the LCP. The appellant identifies one example, that the subdivision doesn't comply with Section 21.12.220 regarding the maximum length of a dead end street, but contends the City's action fails to comply with other provisions of Title 21 too. The example cited is cause to find that the appellant's contention raises a substantial issue. The length of dead end streets and the provision of adequate vehicle turn around at the street end is in part based on requirements for emergency vehicle access and fire protection needs. If the streets are not designed in a manner that provides for adequate emergency vehicle access, particularly for equipment to fight fires, then the fuel modification requirements for the

community might need to be larger than would otherwise be required if the streets were adequately designed. This would in turn result in more extensive impacts on sensitive habitat due to fuel modification requirements.

One appellant points out the specific creation of two mobile home spaces in the year 2000 without obtaining a CDP and that the subdivision approved by the City creates lots for these illegally created mobile home sites. This raises a substantial issue because the creation of the mobile home sites may have had adverse impacts on coastal resources, such as sensitive vegetation and water quality.

An appellant contends that the City's action fails to address legal access to an adjacent parcel occupied by Ruby's Diner, which will create a traffic/public access issue along Coast Highway. According to the appellant, there is presently shared use of a driveway known as the Laguna Terrace North access point, which provides access to the mobile home park as well as access to the Ruby's Diner parcel. According to the appellant, this is the only access to the Ruby's Diner parcel that has a traffic control signal on Coast Highway and that, without such access, there will be additional traffic congestion on Coast Highway that will be an impediment to coastal access. The appellant contends there is a loss or potential loss of shared use of the driveway as a result of the City's approval. This issue should be addressed at the de novo stage.

...The permit applicant has contended that the City is preempted from reviewing the proposed development's compliance with any requirements other than those specified in Government Code section 66427.5...

B. Exhibit 6 – Appeal by Paul Esslinger (attached)

C. Letters of Support of the Staff Recommendation (attached)

D. Ex Parte Communications (attached)

RECEIVED

CALIFORNIA COASTAL COMMISSION

South Coast Region



SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 590-5084

MAR 01 2010

CALIFORNIA COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Paul R. Esslinger

Mailing Address: 2425 Windward Lane

City: Newport Beach

Zip Code: 92660

Phone: 949-548-8851

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Laguna Beach

2. Brief description of development being appealed:

Approval of Vesting Tentative Tract Map 09-03 and Coastal Development Permit 09-36 which propose to subdivide and convert an existing rental space mobile home park to a resident-owned mobile home park at 30802 Coast Highway (Laguna Terrace Mobile Home Park).

3. Development's location (street address, assessor's parcel no., cross street, etc.):

30802 Coast Highway, Laguna Beach

4. Description of decision being appealed (check one.):

- Approval; no special conditions
Approval with special conditions:
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: A-5-LGB-10-039

DATE FILED: 3/1/2010

DISTRICT: South Coast



**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: January 5, 2010

7. Local government's file number (if any): TTM 09-03 and CDP 09-36

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

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

a. Name and mailing address of permit applicant:

Laguna Terrace Park LLC  
30802 South Coast Highway  
Laguna Beach, CA 92651

b. 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.

(1) Penny Elia  
30632 Marilyn Drive  
Laguna Beach CA 92651

(2)

(3)

(4)

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

### **SECTION IV. Reasons Supporting This Appeal**

#### **PLEASE 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.
- 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.)
- This 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.

Laguna Terrace Park, LLC (the "Applicant") has a long history of avoiding both Coastal Commission review and any meaningful analysis/mitigation of the impacts of its development activities on coastal resources. While the present application for Coastal Development Permit No. 09-36 and Vesting Tentative Map No. 17301 (the "Project") is indicative of this habit, it is hardly the only example. Appellant therefore appeals the City's approval of the Project in light of the following violations of the Coastal Act and the City's Local Coastal Program ("LCP"), consistent with Section 30603 of the Coastal Act:

#### **1. THE PROJECT FAILS TO COMPLY WITH THE CITY'S LCP**

The City's approval of Applicant's requested permits and Applicant's ongoing and proposed activities are in violation of and inconsistent with the City's LCP. At a minimum, in approving Applicant's permits, the City failed to properly comply with Land Use and Open Space/Conservation General Plan Elements policies; provisions of the Zoning Code; subdivision development standards in Title 21 (Plats and Subdivisions) of the City's Municipal Code; and Fuel Modification Guidelines from the General Plan's Safety Element. All of the City documents listed above have been made part of the City's Local Coastal Program (LCP) applicable to this property. For example, biological resource and water quality impacts associated with the project have not been addressed, as required by the LCP. This is particularly egregious considering the Environmentally Sensitive Areas within the Project boundaries. As the Commission noted in its October 27, 2009 letter to the City regarding the proposed Laguna Terrace Park subdivision, "the whole range of coastal resource issues addressed in the City's certified LCP must be considered in this request for land division, including but not limited to protection and enhancement of public access, biological resources, water quality, scenic resources, and minimization and avoidance of hazards (geologic, fire, flood, etc.)." Appellant concurs, and notes the City's complete failure to conduct any environmental impact studies addressing the Project's potential impacts on coastal resources such as biological resources and water quality, as well as the effect of the Project on consistency with the Coastal Act's and LCP's public access policies.

In addition, the City's approval of the Project fails to comply with the General Plan's Land Use element and Title 21 (Plats and Subdivision) of the Laguna Beach Municipal Code, both of which are explicitly made a part of the LCP. For instance, Policy 8-A of the Land Use Element reads as follows: "Prohibit residential condominium conversions unless an equivalent number of rental units have been developed. Under no circumstances shall a conversion be allowed which does not comply with existing development standards." The proposed conversion of the existing Laguna Terrace Park rental mobile homes to for-sale units makes no provision for the development of rental units, and is at odds with

existing development standards. One example of this is Section 21.12.220 of the Laguna Beach Municipal code (Deadend Street-length), which provides that "The maximum length of a deadend street shall not serve more than twenty-four building sites, shall not exceed seven hundred fifty feet in length and shall be terminated by a turn around." The proposed subdivision ignores this (and most other) requirements of Laguna Beach Municipal Code Title 21 (Plats and Subdivisions) with a deadend street being longer than seven hundred and fifty feet in length (K Street.) Appellant therefore requests that the Coastal Commission require the City to complete the required consistency analysis with all provisions of the City's LCP before it can approve Applicant's requested permits.

## 2. THE PROPERTY IS SUBJECT TO AN ONGOING COASTAL ACT VIOLATION (CUP 00-33)

Conditional Use Permit 00-33, as approved by the City in September of 2000, allowed for the addition of two mobile home spaces to the existing Laguna Terrace Park, bringing the total number of mobile home spaces from 156 to 158. According to a July 20, 2000 letter from the City's Community Development Assistant Director, the site of these mobile home spaces "...is designated as containing Very High Habitat Value on the South Laguna Biological Resources Map." The Applicant subsequently developed those two spaces with mobile home uses, and the Project therefore includes these two spaces in the proposed 158-lot subdivision.

To the best of Appellant's knowledge, no Coastal Development Permit was issued in connection with this Conditional Use Permit by either the City or the Coastal Commission. Such a failure to obtain a Coastal Development Permit violated the Coastal Act, which requires such Permits for "development." The Coastal Act's definition of "development" includes the "...change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land." (Coastal Act §31016.) Clearly, the addition of two residential lots where fenced storage previously existed constitutes a "change in the density or intensity of use of land", notwithstanding the fact that such change was approved through a Conditional Use Permit instead of a subdivision action. Therefore, approval of a Coastal Development Permit by either the City or the Coastal Commission was required in connection with Conditional Use Permit 00-33.

If the appeal were accepted - which we urge the Commission to do - and the Applicant's Project considered by the Coastal Commission on appeal without addressing this ongoing violation of the Coastal Act, the Coastal Commission would be officially recognizing and validating the existence of these illegal home sites. We urge the Commission to enforce the provisions of the Coastal Act, to refuse to recognize these home sites until compliance with the Coastal Act and the LCP is achieved, and issue a Notice of Violation and Cease and Desist Order to restore the site to its original conditions and impose appropriate penalties. The legality of these two lots under the Coastal Act and LCP must be resolved before the Coastal Commission acts on the proposed VTTM and CDP. As the Commission itself stated in its October 27, 2009 letter regarding the Project, "...there are issues related to ongoing violations involving the subject property that have yet to be resolved, and should be resolved prior to any further division of the subject property." The Appellant strongly concurs.

## 3. THE PLANNED CLOSURE OF THE LAGUNA TERRACE NORTH DRIVEWAY TO RUBY'S DINER WILL HINDER PUBLIC ACCESS

The northern entrance to the Laguna Terrace Park from South Coast Highway is a private road known as "Laguna Terrace North." The Applicant owns Laguna Terrace North, which is burdened by an

ingress/egress easement that runs in favor of Paul Esslinger. Paul Esslinger, in turn, leases property (including his rights to this easement) to Ruby's Diner. This ingress/egress easement serves as a key shared access point for both the Laguna Terrace Park and the Ruby's Diner restaurant located at 30622 South Coast Highway. It is also the subject of ongoing litigation between the Applicant and Paul Esslinger (Laguna Terrace Park, LLC v. Paul R. Esslinger (Orange County Superior Court, Case No. 05CC02237)), in which the Applicant has offered a variety of legal theories intended to terminate the easement. If successful in this attempt, all traffic in and out of the Ruby's Diner parking lot will be forced to use one unsignalized driveway on to South Coast Highway. This should be considered to be a part of the Project.

Removing the Laguna Terrace North access point to Ruby's Diner would create potentially significant adverse coastal access impacts as a result of its potential to result in traffic and circulation impacts on South Coast Highway as northbound traffic would be required to slow to accommodate twice as many ingress and egress movements from the one remaining Ruby's driveway. Such congestion takes on special significance given that South Coast Highway is Laguna Beach's most important coastal artery, providing public access to, from, and across the coast for virtually every member of the public who visits one of the City's many beaches. As a result, the public will suffer from increased traffic and congestion if the number of public driveways at to Ruby's Diner is cut in half.

To ensure that public access is not hindered, the Coastal Commission should condition the project to require the maintenance of the easement to Ruby's Diner at the northern entrance to Laguna Terrace Park.

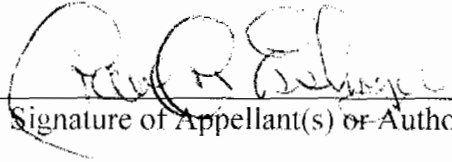
#### 4. THE COASTAL ACT REQUIRES A COASTAL DEVELOPMENT PERMIT IN CONNECTION WITH THE PLANNED CLOSURE OF THE LAGUNA TERRACE NORTH DRIVEWAY TO RUBY'S DINER

The proposed closure of the Laguna Terrace North driveway to Ruby's Diner will require the erection of physical barriers (curbs, fences, walls, etc.) to redirect automobiles that currently have access to Ruby's Diner from this driveway. The erection of such barriers clearly constitutes "development" under the Coastal Act. Section 31016 of the Coastal Act defines "development" as "... on land, in or under water, the placement or erection of any solid material or structure." However, in violation of the Coastal Act and the LCP, the Applicant has not applied for a Coastal Development Permit in connection with the proposed closure of access to Ruby's Diner from the northern entrance to Laguna Terrace North. The Coastal Commission should require that such an application be made a part of the present Vesting Tentative Tract Map and Coastal Development Permit application.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

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

  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

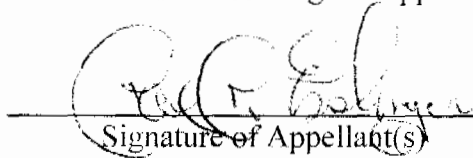
Date:

March 1, 2010  
\_\_\_\_\_

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby \_\_\_\_\_ Roger Grable and Sean Matsler of Manatt, Phelps & Phillips,  
authorize \_\_\_\_\_  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

  
\_\_\_\_\_  
Signature of Appellant(s)

Date: March 1, 2010  
\_\_\_\_\_

300063342.1



P.O. BOX 9668  
SOUTH LAGUNA, CA  
92652-7639  
southlaguna.org

**W21.5a**

February 28, 2010

Chair Bonnie Neely  
Members of the California Coastal Commission  
c/o Karl Schwing  
South Coast Area Office/Long Beach  
200 Oceangate, Suite 1000  
Long Beach, CA 90802

Subject: W21.5a. **Appeal No. A-5-LGB-10-39 (Laguna Terrace Park, Laguna Beach)**  
Appeals of decision by the City of Laguna Beach to grant coastal development permit  
09-36 with conditions to subdivide the Laguna Terrace Mobilehome Park into 157  
residential lots, and some additional lots, at 30802 South Coast Highway, Laguna  
Beach, Orange County. (KFS-LB)

Dear Chair Neely and all the members of the Coastal Commission:

We urge the Commission to fully support staff's recommendation and to find substantial  
issue for the above-referenced appeal. The staff report is truly superior, and reflects the  
attitude and ideas of the South Laguna Civic Association.

We understand that Commissioners Wan and Kruer have joined as appellants; we  
thank them for their support.

Sincerely,

A handwritten signature in blue ink that reads "Bill Rihn".

Bill Rihn, president  
(949) 415-1312

-----Original Message-----

**From:** Steve Blank [mailto:sblank@kandsranch.com]

**Sent:** Friday, February 26, 2010 5:40 PM

**To:** Vanessa Miller

**Subject:** Fwd: Feb. CCC - Dispute Resolution - Laguna Terrace Mobile Home

unsolicited ex parte

-----

Steve Blank

[www.steveblank.com](http://www.steveblank.com)

[sblank@kandsranch.com](mailto:sblank@kandsranch.com)

(415) 999-9924

twitter: sgblank

Begin forwarded message:

**From:** Penny Elia <[greenp1@cox.net](mailto:greenp1@cox.net)>

**Date:** February 26, 2010 3:20:44 PM PST

**To:** Steve Blank <[sblank@kandsranch.com](mailto:sblank@kandsranch.com)>

**Subject: Feb. CCC - Dispute Resolution - Laguna Terrace Mobile Home**

Greetings on Friday afternoon - hope all is well.

Just wanted to take a moment of your time to thank you for your astute observation during the last hearing re: the mobile home park and Hobo Aliso Ridge (Driftwood, LLC). I always appreciate when you connect those dots - you are very good at that! The SI will be coming before you on March 10th. I will not be able to be there due to work, but Mark will be there to champion the issue as he has been for so many years.

Have a lovely weekend - see you soon.

Best -

Penny Elia

Sierra Club

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATIONS**

RECEIVED  
MAR 02 REC'D  
CALIFORNIA  
COASTAL COMMISSION

Name or description of project, LCP, etc.: W 21.5a. Application No. 3-10-003  
(Laguna Terrace Park, Laguna Beach)

Date and time of receipt of communication: 3/3/10, 1:00 pm

Location of communication: Board of Supervisors' Offices, Santa Cruz, California

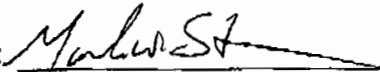
Type of communication: In person meeting

Person(s) initiating communication: Grant Weseman  
Margie Kay  
Pat Matejcek

Person(s) receiving communication: Mark Stone

Detailed substantive description of content of communication:  
(Attach a copy of the complete text of any written material received.)

I met with members of ORCA who are supportive of staff's recommendation. They and the Sierra Club feel that staff has laid out the issues and analyzed them appropriately. They are concerned about the precedent if the Commission does not follow staff recommendation in that it would signal that the Commission does not feel that these issues are important enough.

Date: 3/3/10 Signature of Commissioner: 

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred within seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used; such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.



From: planetzell@cox.net  
Sent: Tuesday, March 02, 2010 2:31 PM  
To: Karl Schwing  
Subject: Re; W21.5a Appeal No. A-5- LGB-10-39 ( Laguna Terrace Pak ,  
Laguna Beach)

W21.5A  
March 2, 2010

Chair Bonnie Neely  
Members of the California Coastal Commission c/o Karl Schwing South Coast Area Office / Long  
Beach 200 Oceangate , Suite 1000 Long Beach, CA. 90802

SENT VIA EMAIL

Re: W21.5a Appeal No. A-5 LGB-10-39 (Laguna Terrace Park, Laguna Beach) Appeals of decision by  
the City of Laguna Beach to grant coastal development permit 09-36 with conditions to subdivide the  
Laguna Terrace Mobilehome Park into 157 residential lots , and some additional lots , at 30802 South  
Coast Highway, Laguna Beach, Orange County. ( KFS-LB )

Dear Chair Neely and valued members of the Coastal Commission :

I urge the Commission to fully support staff's recommendation to find substantial issue for the above  
- referenced appeal.

I would like to thank the staff for such an excellent report on such a complex coastal issue. The 96  
page report from staff has helped many community members understand the issues at hand , including  
residents of Laguna Terrace Park . Thanks to Commissioners Wan and Krueger for joining as appellants .

Sincerely,  
Jackie Gallagher  
2845 Zell Drive  
Laguna Beach , CA. 92651

949 415-0157

**CALIFORNIA COASTAL COMMISSION**

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

**W21.5a**

Filed: February 16, 2010  
49th Day: April 6, 2010  
Staff: Karl Schwing, LB  
Staff Report: February 25, 2010  
Hearing Date: March 10, 2010  
Commission Action:



**STAFF REPORT:**  
**RECOMMENDATION ON APPEAL FINDING SUBSTANTIAL ISSUE**

**APPEAL NUMBER:** A-5-LGB-10-039

**LOCAL GOVERNMENT:** City of Laguna Beach

**DECISION:** Approval with Conditions

**APPLICANT:** Laguna Terrace Park LLC

**PROJECT LOCATION:** 30802 Coast Highway  
Laguna Beach (Orange County)

**PROJECT DESCRIPTION:** Subdivide the Laguna Terrace Mobile Home Park into 157 residential lots, 1 lettered common lot, 1 open space lot, 1 utility lot, and 2 undeveloped lots (Vesting Tentative Tract Map No. 17301).

**APPELLANTS:** Ms. Penny Elia; and  
Commissioners Patrick Kruer & Sara Wan

**SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after a public hearing, determine that **A SUBSTANTIAL ISSUE EXISTS** with respect to the grounds on which Appeal No. A-5-LGB-10-039 has been filed because the locally approved development raises issues of consistency with the Laguna Beach certified Local Coastal Program (LCP) related to public access and recreation, environmentally sensitive areas, water quality, and hazards (see Motion, page 2).

The development authorized by the City has the effect of separating an existing developed area from an adjacent undeveloped area that contains significant areas of sensitive habitat. This division creates parcels that are likely not developable without also impacting the sensitive habitat areas. Thus, such land division would be inconsistent with policies of the certified LCP that protect environmentally sensitive areas (ESAs). By dividing the land into small lots that correspond with the location of existing mobile homes, this action would also have the effect of fixing the location of those existing 'mobile' structures to areas of the property that may not be suitable for development over the long term given the presence of fire and geologic hazards in the area. The certified local coastal program also contains policies that address water quality protection and the protection of existing public access and recreation opportunities that would apply to this type of land division that the City did not apply. Therefore, staff recommends that the Commission find that the appeals raise a substantial issue and cause this matter to be brought to the Commission on de novo review at a later date.

**SUBSTANTIVE FILE DOCUMENTS:**

Laguna Beach Local Coastal Program (LCP); findings and file materials in support of dispute resolution number 5-10-014-EDD; Vesting Tentative Tract Map No. 17301; City of Laguna Beach

Agenda Bill for Item No. 18 for City Council meeting dated 1/5/10; California Coastal Commission Notice of Violation of the Coastal Act dated 5/4/2007 sent to The Athens Group and Laguna Terrace Park LLC; Letter dated October 27, 2009, from the California Coastal Commission to the Laguna Beach Planning Commission Regarding CDP No. 09-36; City of Laguna Beach Lot Line Adjustment No.s LL 95-01 and LL 95-04.

**LIST OF EXHIBITS:**

1. Vicinity Map
2. City of Laguna Beach Resolution No. 10.004 of the City Council adopted 1/5/2010
3. Appeal by Ms. Penny Elia
4. Appeal by Commissioners Pat Kruer and Sara Wan
5. Vesting Tentative Tract Map No. 17301

**I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

***MOTION AND RESOLUTION FOR SUBSTANTIAL ISSUE WITH REGARD TO APPEAL NO. A-5-LGB-10-039***

MOTION: I move that the Commission determine that Appeal No. A-5-LGB-10-039 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 that a Substantial Issue Exists. 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-LGB-10-039 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.

**II. APPEAL PROCEDURES**

After certification of a local coastal program (LCP), 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 within 100 feet of a wetland or stream, between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, mean high tide line, or the top of the seaward face of a coastal bluff. Furthermore, developments approved by local County governments may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for the four areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modifications had been properly accepted, and the City assumed permit issuing authority at that time. Section 30603(a)(2) of the Coastal Act identifies the proposed project site as being in an appealable area based on its location within 100 feet of a stream (see further discussion regarding this determination below).

Section 30603 of the Coastal Act states:

- (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.*

Section 30603(a)(2) of the Coastal Act establishes the project site as being appealable by its location within 100 feet of a stream.

On January 5, 2010, the City of Laguna Beach approved a coastal development permit for the subject development. On February 1, 2010, the Commission received the City's Notice of Final Action regarding the project, which characterized the project as non-appealable. On February 4, 2010, the Commission notified the City that the Notice of Final Action was deficient because it characterized the project as non-appealable and the Executive Director had determined that the project is appealable. Since the local government and the Executive Director disagreed regarding the appealability of the coastal development permit, the Commission held a public hearing to resolve the dispute. Title 14, Cal. Code Regs. § 13569(d). On February 12, 2010, the Commission upheld the Executive Director's determination that the City's action was appealable (see 5-10-014-EDD). In accordance with that determination, an appeal period was opened beginning February 16, 2010 and will conclude on March 1, 2010. During this appeal period, two appeals have been received to date, one submitted by Ms. Penny Elia (filed as of February 16, 2010), a resident of the City of Laguna Beach (Exhibit 3), and an appeal was filed on behalf of the Commission by Commissioners Sara Wan and Patrick Krueer on February 23, 2010 (Exhibit 4).

### Grounds for Appeal

The grounds for appeal of an approved local CDP 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.*

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of 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 public hearing on the merits of the project. The de novo hearing will be scheduled at the same hearing or a subsequent Commission hearing. A de novo public 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.

The grounds for the current appeal include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding public access and recreation, environmentally sensitive areas, water quality, and hazards.

#### Qualifications to Testify before the Commission

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have time as established by the Commission chair to address whether the appeal raises a substantial issue. 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.

The Commission will then 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.

The de novo hearing will be scheduled at a later date. A de novo public 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.

#### Factors to be Considered in Substantial Issue Analysis

Section 30625 of the Coastal Act states that the Commission shall hear an appeal of a local government action unless it finds that no substantial issue exists with respect to the grounds on which the appeal has been filed. 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 appeal raises no significant question as to conformity with the certified LCP or there is no significant question with regard to the public access policies of Chapter 3 of the Coastal Act. 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 and the public access policies of the Coastal Act;

2. The extent and scope of the development as approved or denied 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. Staff is recommending that the Commission find that **a substantial issue** exists for the reasons set forth below.

### **III. APPELLANTS' CONTENTIONS**

The City of Laguna Beach approval of the proposed development was appealed on by two appellants to date. The project was appealed by California Coastal Commissioners Sara Wan and Patrick Kruer; and by Ms. Penny Elia, a resident of the City. The appellants contend that the proposed development does not conform to the requirements of the Local Coastal Program.

The appeal by the California Coastal Commission contends that the proposed project is inconsistent with the Laguna Beach LCP, as follows:

- The City has failed to address whether the proposed land division is consistent with LCP policies regarding protection and enhancement of public access, biological resources, water quality, scenic resources, and minimization and avoidance of hazards (geologic, fire, flood, etc.). Except for making generalized findings about the project being consistent with the public access or recreation policies of Chapter 3 of the Coastal Act and consistent with criteria contained in the Certified Local Coastal Program, the City did not analyze the consistency of the proposed development with all applicable LCP policies.
- The City has failed to apply the requirements of Open Space Conservation Element Policies 8-J, 8-G, and 8-H which require the preparation of biological assessments when there is a subdivision within sensitive habitat (Environmentally Sensitive Areas/ESAs) and protection of identified habitat from impacts associated with new development and fuel modification.
- The City's action results in the creation of new parcels which are entirely within a Coastal ESA or which don't contain a site where development can occur consistent with the ESA policies of the LCP, contrary to OSCE Policy 8J.
- The City has failed to implement water quality protection requirements of the LCP that apply to new subdivisions.
- The City's action does not take into account fire hazards, geological hazards or other such hazards and the City's action will foreclose options to relocate development to avoid hazards, as opposed to defending the development against hazards in the present location.

- The City's action fails to take into account existing access trails and the requirements of Open Space Conservation Element Policy 6D and 6F which require the protection of such trails and assurance that future provision of access will not be precluded.

•

The appeal by Ms. Penny Elia identifies the following reasons for appeal:

- The City has failed to address whether the proposed land division is consistent with LCP policies regarding protection and enhancement of public access, biological resources, water quality, scenic resources, landform alteration, and minimization and avoidance of hazards (geologic, fire, flood, etc.).
- The City did not require a biological analysis nor any measures to protect ESAs, as required under the LCP.
- The City does not address fuel modification requirements and impacts associated with new subdivisions.
- The City did not address the water quality protection requirements of the LCP
- The City did not address illegal grading and land use/zoning changes that allowed for unpermitted expansion of the mobilehome park
- The City did not address unresolved/unpermitted lot line adjustments dating back to 1995
- The City failed to properly notice the City's action as being appealable to the Coastal Commission

On February 22, 2010, during the appeal period, Ms. Elia resubmitted the appeal that was originally submitted on January 20, 2010, but wasn't 'filed' until the first day of the appeal period on February 16, 2010. The resubmitted appeal contains essentially the same contentions but includes supplemental supporting documentation.

#### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

##### **A. Project Description and Location**

The subject site is an approximately 270 acre area partly developed with a mobile home park located at 30802 Coast Highway, in the City of Laguna Beach, Orange County (Exhibit #1). The developed part of the mobile home park occupies about 14 acres within and at the mouth of a steeply sided canyon. According to the applicant, the area of land occupied by the mobile home park is designated for mobile home use and surrounding lands are designated for various uses including residential, commercial and open space conservation. The majority of the developed part of the park is surrounded by undeveloped area. The site has varied topography, ranging from moderately steep slopes, and moderately sloped to flat areas at the bottom and mouth of the canyon where mobile homes and related structures currently exist. The surrounding undeveloped land is a mosaic of vegetation types including southern maritime chaparral, ceanothus chaparral, toyon-sumac chaparral and coastal sage scrub, which is identified in the City's LCP as high value habitat and has been determined by the Commission staff biologist to be environmentally sensitive habitat area (ESHA).

On January 5, 2010, the City Council of the City of Laguna Beach approved coastal development permit 09-36 that had the effect of dividing an approximately 46 acre area from an approximately 270 acre area, and further dividing that 46 acre area (which contains the mobile home park) into 157 residential lots, 1 lettered common lot, 1 open space lot, 1 utility lot, and 2 undeveloped lots. According to the City, the purpose of this land division is to “convert an existing rental space mobile home park to a resident-owned mobile home park.” The City’s position is that its action didn’t involve creation of the 46-acre area that is being further divided into small lots for residential use because that 46-acre area was previously created by two lot line adjustments the City processed in 1995 (Lot Line Adjustment No.s LL 95-01 and LL 95-04). However, those lot line adjustments, which are development under the Coastal Act, were not authorized under any coastal development permit and are unpermitted. Thus, for purposes of the Coastal Act, the property being subdivided is the approximately 270 acre property that existed prior to the lot line adjustments. No physical changes to the site are proposed.

**B. Description of Local Approval**

On January 5, 2010, City of Laguna Beach City Council approved Coastal Development Permit 09-36 for the project with the following conditions of approval:

- The subdivider shall avoid economic displacement of all non-purchasing residents by following a number of requirements specified in the condition
- The subdivider must prepare and submit a “Public Report” in accordance with California Department of Real Estate requirements
- The subdivider must notify to the owners and residents of the park the tentative price of individual lot acquisition
- The land division doesn’t conflict with existing easements
- Within 24 months of approval, the subdivider must file a Final Map with the City
- The City must be indemnified and held harmless against any legal actions brought against the City
- A deed restriction will be recorded acknowledging potential fire, erosion, landslide, mudslide, earthquake and flooding hazards
- Permit extensions may be filed
- A maximum of 157 mobile home units/spaces are permitted within the subdivision and future changes need City approval
- Existing lease/rental agreements must be honored
- Coastal Commission approval is needed for any portion of the subdivision that is within the Coastal Commission’s permit jurisdiction
- Proposed Lot 155 must be merged with adjacent lettered lot B and such lot shall not be used for mobile home or associated purposes.



## **C. Substantial Issue Analysis**

As previously stated, the local CDP may be appealed to the Commission on the grounds that it does not conform to the standards set forth in the certified Local Coastal Program (LCP) or the public access policies of the Coastal Act. The Commission must assess whether the appeal raises a substantial issue as to the project's consistency with the certified LCP or the access policies of the Coastal Act.

In making that assessment, the Commission 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 regional or statewide significance.

In the current appeals of the project approved by the City of Laguna Beach City Council, the appellants contend that the City's approval of the project does not conform to various provisions of the certified LCP and requirements set forth in the Coastal Act. Not all of the contentions raised can be considered valid appeal arguments, as the grounds for an appeal are limited to an allegation that the development does not conform to the certified LCP or the public access policies of the Coastal Act.

For clarification, the appellants' contentions have been grouped into the following categories: Valid and Invalid. Within the Valid Contentions Section, the appeals are determined to either raise "Substantial Issue" or "No Substantial Issue." Of the valid appeal contentions raised, Commission staff has recommended that the Commission find that a substantial issue exists with respect to the grounds on which the appeals have been filed. Invalid contentions are addressed on page 13.

### **1. Valid Contentions**

Those contentions determined to have valid grounds for appeal are included in the subsequent section. Section (a) describes those contentions that are found to raise a substantial issue and Section (b) addresses those which are not found to raise substantial issue with the City's certified LCP and public access provisions of the Coastal Act.

#### **a. Substantial Issue**

The following contentions made by both appellants raise a substantial issue of consistency with the regulations and standards set forth in the certified LCP:

Applicable policies of the LCP that are identified by the appellants, are as follows:

*3A Ensure adequate consideration of environmental hazards in the development review process.*

*4A Development Planning and Design Best Management Practices (BMPs) Ensure that development plans and designs incorporate appropriate Site Design, Source Control and Structural Treatment Control Best Management Practices (BMPs), where feasible, to reduce to the maximum extent practicable, pollutants and runoff from the proposed development. Structural Treatment Control BMPs shall be implemented when a combination of Site Design and Source Control BMPs are not sufficient to protect water quality.*

*4B Minimize Impervious Surfaces*

*Ensure that development minimizes the creation of impervious surfaces, especially contiguously connected impervious areas, or minimizes the area of existing impervious surfaces where feasible.*

*4C Minimize Volume and Velocity of Runoff*

*Ensure that development is designed and managed to minimize the volume and velocity of runoff (including both stormwater and dry weather runoff) to the maximum extent practicable, to avoid excessive erosion and sedimentation.*

*4D Minimize Introduction of Pollutants*

*Ensure that development and existing land uses and associated operational practices minimize the introduction of pollutants into coastal waters (including the ocean, estuaries, wetlands, rivers and lakes) to the maximum extent practicable.*

*4E Preserve Functions of Natural Drainage Systems*

*Ensure that development is sited and designed to limit disturbances and to preserve the infiltration, purification, retention and conveyance functions of natural drainage systems that exist on the site to the maximum extent practicable.*

*4F Water Conservation and Native Plants*

*Ensure that development encourage water conservation, efficient irrigation practices and the use of native or drought tolerant non-invasive plants appropriate to the local habitat to minimize the need for fertilizer, pesticides, herbicides and excessive irrigation. Prohibit the use of invasive plants, and require native plants appropriate to the local habitat where the property is in or adjacent to Environmentally Sensitive Areas (ESAs).*

*6D Require as a condition of development approval, the dedication and improvement of public trail easements.*

*6F Ensure that new development does not encroach on access to trails nor preclude future provision of access.*

*8G When subdivision or fuel modification proposals are situated in areas designated as "High Value" habitats on the Biological Values Maps and where these are confirmed by subsequent on-site assessment, require that these habitats be preserved to the greatest extent possible.*

*8H When subdivision or fuel modification proposals are situated in areas designated as "Very High Value" habitats on the Biological Values Maps and where these are confirmed by subsequent on-site assessment, require that these habitats be preserved and, when appropriate, that mitigation measures be enacted for immediately adjacent areas.*

*8J Detailed biological assessments shall be required for all new development proposals located within areas designated as Environmentally Sensitive Areas on the Coastal ESA Map. To protect these resources, the following shall be required:*

*1. No new development proposals shall be located in areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map except for uses dependent upon such resources.*

*2. When new development proposals are situated in areas adjacent to areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map and where these are confirmed*

*by subsequent on-site assessment, require that development be designed and sited to prevent impacts which would significantly degrade such areas.*

*3. Where development is proposed on an existing subdivided lot which is otherwise developable (i.e., able to be served by utilities and access, and on slopes able to accommodate development consistent with City provisions on slope/density, grading, hazards, subdivisions and road access), and is consistent with all other policies of this Land Use Plan except for its location entirely within an identified ESA as confirmed by a site-specific assessment, the following shall apply:*

*a) Resource Management uses including estuaries, nature centers and other similar scientific or recreational uses are permitted subject to a Conditional Use Permit to assure that uses are sited and designed to prevent degradation of the resource value; or alternatively;*

*b) Transfer of a density bonus to another property in the vicinity able to accommodate increased density consistent with the policies of the Land Use Plan concurrent with the recordation of an open space easement or other similar instrument over the habitat area of the parcel;*

*c) Existing dwellings shall be designated as nonconforming uses but shall be allowed to be rebuilt or repaired if damaged or destroyed by natural disaster provided however, that the floor area, height and bulk of the structure not exceed that of the destroyed structure by more than 10 percent; and*

*d) No new parcels shall be created which are entirely within a Coastal ESA or which do not contain a site where development can occur consistent with the ESA policies of this Plan.*

*10C Require projects located in geological hazard areas to be designed to avoid the hazards, where feasible. Stabilization of hazard areas for purposes of development shall only be permitted where there is no other alternative location or where such stabilization is necessary for public safety. The more unstable areas should be left ungraded and undeveloped, utilizing land use designations such as Open Space.*

The appellants contend that the City was responsible for considering all coastal resource issues addressed in the City's certified LCP that would apply to a land division including but not limited to protection and enhancement of public access, biological resources, water quality, scenic resources, and minimization and avoidance of hazards (geologic, fire, flood, etc.), but failed to do so. Except for making generalized findings about the project being consistent with the public access or recreation policies of Chapter 3 of the Coastal Act and consistent with criteria contained in the Certified Local Coastal Program, there is no evidence yet provided to the Commission that the City analyzed the consistency of the proposed development with all applicable LCP policies. The absence of such analysis is a substantial issue as there may be elements of the proposed development that do not comply with the certified LCP and the project must be modified and/or conditioned to address such issues, or denied if the issues cannot be addressed through modification or conditions.

The appellants contend that the proposed subdivision includes land that is identified on the City's biological resource values maps as high value and very high value habitat and that these areas, and perhaps others, are likely also Environmentally Sensitive Areas (ESAs). Such areas are subject to special treatment and protection under the policies of the certified LCP. LCP policies, such as Open Space Conservation Element Policy 8-J, require that detailed biological assessments be prepared for all development within and adjacent to ESAs and that

identified ESAs be protected. The City's staff report and resolution of approval of the permit makes no mention of any biological assessment nor any measures to protect ESAs that are incorporated into the proposed development or imposed through special conditions on the coastal development permit. The absence of biological information and measures imposed to protect sensitive resources raises a substantial issue as to the conformity of the City's action with the requirements of the LCP

The appellants contend that policies, such as Open Space Conservation Element Policies 8-G and 8-H, that pertain to fuel modification, new subdivisions and requirements to protect sensitive habitat areas, were not addressed by the City. Fuel modification can have significant adverse impacts on sensitive habitat. Any new land division must consider siting development such that fuel modification within sensitive habitat is avoided and that adequate setbacks are incorporated into the developed area to provide all required defensible space. There is no evidence the City considered fuel modification and the impacts it would have on sensitive habitat in this action. This raises a substantial issue as to the conformity of the development with the requirements of the LCP.

Furthermore, the appellants contend that the City's action has the effect of separating the developed part of the subject site from the remaining undeveloped portions of the site, which is largely covered in sensitive habitat. The appellants contend that those remaining undeveloped portions of the site may not be able to be developed without impacting ESAs. The appellants contend that the creation of such lots would be inconsistent with several policies of the certified Land Use Plan, include Conservation Open Space Element Policy 8J which states that "[n]o new parcels shall be created which are entirely within a Coastal ESA or which do not contain a site where development can occur consistent with the ESA policies of this Plan." Policy 8J also prohibits new development that would impact an ESA, unless the development is resource dependent. Therefore, the City's failure to address these issues raises a substantial issue as to the conformity of the development with the certified LCP.

The appellants contend that the City did not address the water quality protection requirements of the LCP, particularly as they apply to new subdivisions. Topic 4 of the Open Space Conservation Element of the City's General Plan/LCP includes numerous policies calling for the implementation of water quality best management practices in order to protect and restore water quality in the City's streams and oceans. Title 16 (Water Quality) of the City's municipal code, which is a component of the City's LCP/Implementation Plan, makes clear that the provisions of that title apply to land divisions involving four or more housing units. Since the subject land division involves the creation of 157 residential lots, those provisions clearly apply. In fact, the proposed development is a 'priority development project' subject to water quality regulations because it involves the creation of 4 or more lots and the fact it is located within a 'water quality environmentally sensitive area', according to the definition in that title. Nevertheless, no evidence has been provided to the Commission that the City considered the requirements of the LCP and Title 16. This raises a substantial issue as to the conformity of the proposed development with the certified LCP.

The appellants contend that the site is subject to seismically induced landslides and liquefaction and that the City did not consider siting development in a manner that avoids hazards. Policy 3-A of the City's Land Use Plan states that the City must "ensure adequate consideration of environmental hazards in the development review process". Conservation Open Space Element Policy 10C states the City must "[r]equire projects located in geological hazard areas to be designed to avoid the hazards, where feasible. Stabilization of hazard areas for purposes of development shall only be permitted where there is no other alternative location or where such stabilization is necessary for public safety. The more unstable areas should be left ungraded and undeveloped, utilizing land use designations such as Open Space." This is

in addition to the fire hazards mentioned above. There appears to have been no analysis regarding such hazards. Presently, the subject site is comprised of just a few lots. If hazards arise, the mobile nature of the existing development makes it possible to relocate structures to different areas of the property to avoid or minimize the exposure of development to hazards. However, with the proposed land division, the potential locations of structures will be fixed relative to the new lot lines, potentially foreclosing options to relocate and avoid hazards, as opposed to defending the development against hazards in the present location. Again, a substantial issue exists as to the conformity of the development approved by the City with the certified LCP.

The appellants contend that even though there are known trails on the subject site, the City did not address the requirements of policies 6D and 6F which pertain to the preservation of public access to trails. The City's resolution of approval states that no impacts to public access and recreation are possible because the site isn't seaward of the first public road. So, the City did not address these issues. Adverse impacts to public access and recreation could occur as a result. Thus, this raises issues as to the conformity of the proposed development with the certified LCP and the public access and recreation policies of the Chapter 3 of the Coastal Act.

Another contention raised in one of the appeals is that the City did not address illegal land use/zoning changes that were accompanied by unpermitted expansion of residential use and supporting uses into areas that were designated for open space uses. This issue is described more fully in a letter dated January 4, 2010, from Sean Matsler of Manatt, Phelps and Phillips to the City Council (see Exhibit 3, page 13) that was attached as a supporting document to Ms. Elia's appeal. It appears the City did condition its approval such that proposed Lot No. 155 would be merged instead with a proposed open space lot and the area couldn't be used for residential purposes. However, it is not clear whether that change fully addresses the land use issue raised by the appellant. If, in fact, the development approved by the City is not consistent with certified land uses, then approval of such development would raise a substantial issue. This issue will need to be addressed by further research at the de novo stage of this process.

The permit applicant has contended that the City is preempted from reviewing the proposed development's compliance with any requirements other than those specified in Government Code section 66427.5. As explained in the Commission's findings regarding the appealability of this project, which are incorporated by reference, the Government Code does not preempt local governments with certified LCPs from reviewing coastal development applications for subdivisions of mobilehome parks for consistency with LCP requirements. In addition, Government Code section 66427.5 does not apply to state agency review of mobilehome park subdivisions, and therefore does not preclude the Commission's review of this appeal.

Therefore, the Commission finds that a substantial issue exists with regard to the grounds on which the appeals were filed. With regard to the factors that the Commission typically considers in a substantial issue analysis: 1. This is a case where there the City hasn't shown the factual and legal support for its decision that the development is consistent with the Local Coastal Program and the public access policies of the Coastal Act; 2. This is a case where the extent and scope of the development approved by the local government is significant as it involves the creation of well over a hundred new residential lots; 3. The resources that could be impacted in this case are very significant in that there is extensive sensitive habitat areas that could be impacted by the proposed development; 4. This is a case where there would be a significant adverse precedent made in that the local government didn't apply all of the requirements of the LCP given their interpretation of Government Code 66427.5, as noted above; and, 5. This appeal raises issues of regional and statewide significance given the scope of the development involved and the resources at stake.

## **b. No Substantial Issue**

The following contentions are valid, but raise no substantial issue of consistency with the policies and standards set forth in the certified LCP.

None.

## **2. Invalid Contentions**

Not all of the contentions raised by the appellants can be considered valid appeal grounds, as the grounds for an appeal are limited to an allegation that the development does not conform to the certified LCP or the public access policies of the Coastal Act.

One appellant contends that the City failed to properly notice the City's action as being appealable to the Coastal Commission. While this statement is accurate, it is not a contention that could be considered as a basis for finding the City's action to raise a substantial issue as to conformity of the approved development with the certified LCP.

An appellant also contends that the City failed to address illegal grading in the subject area and that their failure to do so raises issues as to the conformity of the City's approval with the certified LCP. The factual accuracy of this claim is currently under investigation by the Commission's enforcement unit. If grading occurred at any time that the Coastal Act was effective, such grading would require a coastal development permit. However, the City's action did not authorize any grading. Thus, this contention isn't one that could be used as a basis for substantial issue. However, it is an issue that will need to be looked at during de novo review to determine whether existing developed areas are permitted and should be established as building sites over the long term.

## **D. OTHER ISSUES**

### **1. Addressing Unpermitted Development**

The appellants have raised concerns about unpermitted development including lot line adjustments and grading with impacts to sensitive vegetation and watercourses. In conjunction with its de novo review of the development authorized by the City, the Commission will need to consider the extent to which any unpermitted development has a bearing on its ability to move forward on review of the land division the City authorized. For instance, as the Commission has previously notified the City and the landowners, the unpermitted lot line adjustments will need to be addressed prior to or concurrent with the land division the landowner now wishes to have endorsed. Commission staff does not presently believe these matters are separable.

### **2. Area of Deferred Certification**

In reviewing its files for the Commission's dispute resolution hearing on the appealability of this matter (see 5-10-014-EDD), Commission staff discovered that the Laguna Beach post-cert map may inaccurately depict the area of deferred certification in the vicinity of the mobile home park. When the Commission certified the Land Use Plan (LUP) for southern Laguna Beach in 1992, the Commission identified Hobo Canyon (a.k.a. Mayer Group/Mahboudi-Fardi and Esslinger Property) as an area raising Coastal Act concerns that were not adequately addressed in the LUP. The Commission therefore carved Hobo Canyon out as an area of deferred certification to which the

LUP did not apply. The following are examples from the findings which make clear that the entire Hobo Canyon site was to be deferred:

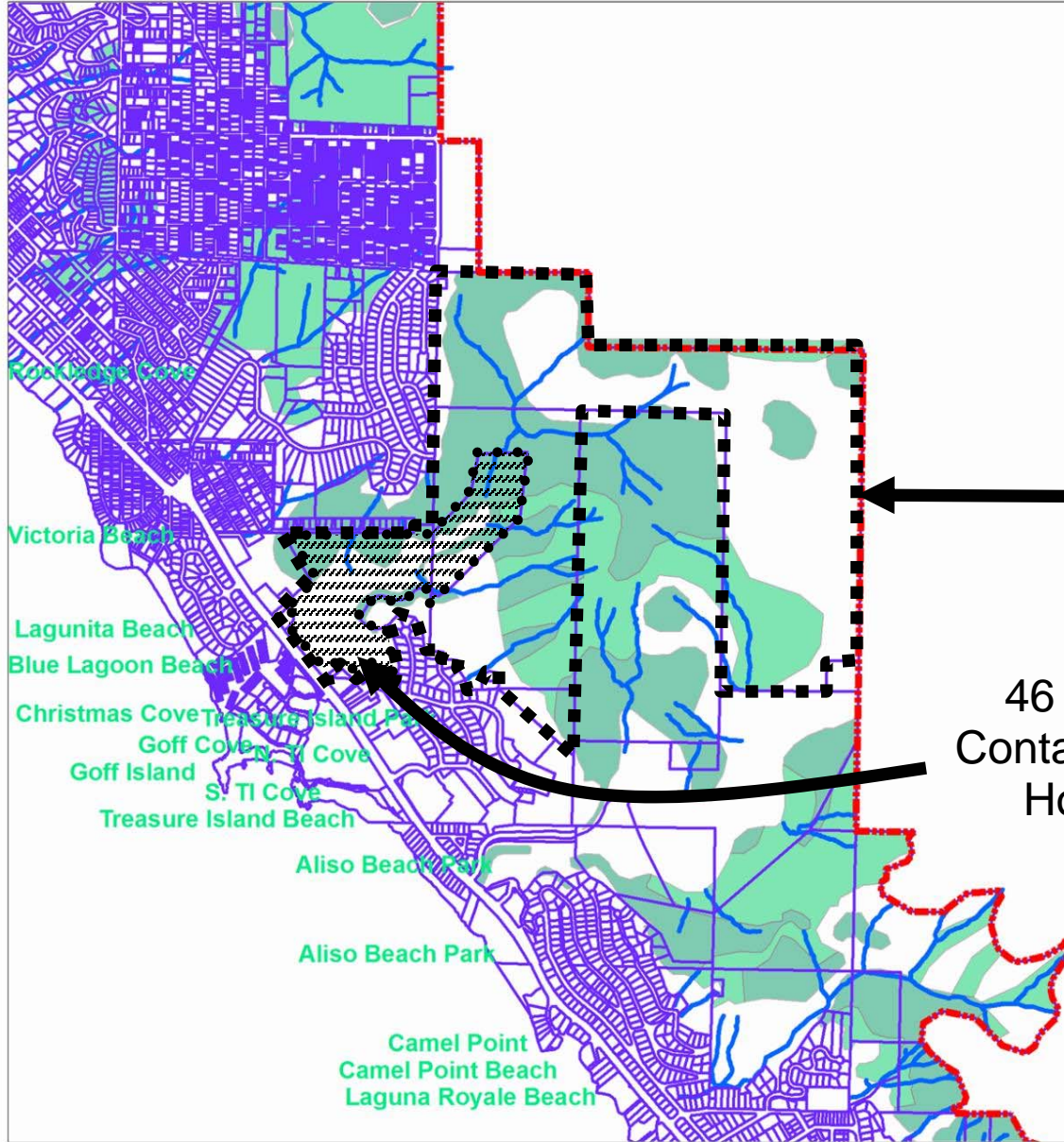
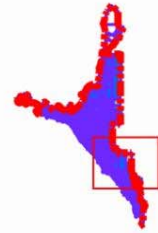
On page 16 of the Revised Findings adopted November 17, 1992 for Laguna Beach Land Use Plan Amendment 1-92, the findings state:

“At the Hobo Canyon area (also known as the Mayer/Mahboudi-Fardi parcel or the Esslinger Family Parcel), the issue at the time of the County’s LCP certification was vehicular access to the property, arising from intensity and location of development. The issue at the Hobo Canyon site remains the same and so certification for this area will also be deferred.”

Similar statements are made elsewhere in the report, and in the accompanying findings for the Implementation Plan amendment (1-92). There is also an exhibit, Exhibit H, attached to the findings that lists the areas of deferred certification and shows on a map the boundaries of the Hobo Canyon/ Mayer Group/Mahboudi-Fardi area, which includes the entire mobile home park.

The LUP expressly referred to the mobile home park as being within the Hobo Canyon area of deferred certification. The City has not subsequently submitted an LCP amendment to apply the LCP to Hobo Canyon. The post-cert map for the City of Laguna Beach that the Commission approved in 1993, however, depicts significant portions of the mobile home park as being within the City’s coastal development permit jurisdiction. Commission staff is still investigating this matter, but, in finding that the City’s action to approve a coastal development permit for the project raises a substantial issue as to the conformity of the development with the certified LCP, the Commission does not waive any arguments that the project is located within the Hobo Canyon area of deferred certification and that the Commission therefore has permit jurisdiction over the entire project for that reason.

# City of Laguna Beach



Subject Site  
Approximately  
270 Acre Area

46 Acre Area  
Containing Mobile  
Home Park

## Legend

- - - City Limits
- Parcels
- Significant Drainage Course Cr
- Very High Value Habitat
- High Value Habitat



1: 19,634

0.6 0 0.31 0.6 Miles

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

© City of Laguna Beach

## Notes

Vicinity Map  
Exhibit #1

A-5-LGB-10-039



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**RESOLUTION NO. 10.004**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
LAGUNA BEACH, CALIFORNIA, APPROVING VESTING  
TENTATIVE TRACT MAP 09-03 (VESTING TENTATIVE TRACT  
MAP 17301) AND COASTAL DEVELOPMENT PERMIT 09-36  
AT 30802 COAST HIGHWAY.**

---

WHEREAS, an application has been filed by the owner of property located at 30802 Coast Highway, requesting approval of Vesting Tentative Tract Map 09-03 (Vesting Tentative Tract Map 17301) and Coastal Development Permit 09-36 to subdivide an approximate 47-acre parcel into 157 mobile home spaces and four lettered lots, for the purpose of converting an existing rental space mobile home park into a resident-owned mobile home park; and

WHEREAS, pursuant to the requirements of the California Environmental Quality Act (CEQA), the proposed project qualifies for a Class 1 (Existing Facilities) Categorical Exemption, under Section 15301 of the State CEQA Guidelines because the project "involves negligible or no expansion of an existing use" inasmuch as the existing land use of the project site is a mobile home park and the requested subdivision would not physically change the site and/or surroundings, change the existing land use, or change the Park density; and

WHEREAS, on October 28, 2009 and November 18, 2009, the Planning Commission conducted legally noticed public hearings and, after reviewing all documents and testimony, voted to recommend to the City Council approval of the Vesting Tentative Tract Map 09-03 (Vesting Tentative Tract Map 17301) and Coastal Development Permit 09-36; and

WHEREAS, on January 5, 2010, the City Council conducted a legally noticed public hearing and, after reviewing all documents and testimony, desires to approve the Vesting

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Tentative Tract Map 09-03 (Vesting Tentative Tract Map 17301) and Coastal Development Permit 09-36; and

WHEREAS, for the portion of the proposed subdivision that is located within the City's Coastal Development Permitting jurisdiction, the proposed subdivision is consistent with the criteria of the Certified Local Coastal Program (Laguna Beach Municipal Code Section 25.07.012 (F)(1-9)) and the required Coastal Development Permit findings can be made, as indicated below:

1. The proposed subdivision and conversion of Laguna Terrace Mobile Home Park to a resident-owned mobile home park is preempted from Municipal Code and General Plan compliance by Government Code Section 66427.5 of the California Subdivision Map Act;

2. The proposed subdivision is not located between the sea and the first public road paralleling the sea and, therefore, does not have the potential to interfere with the public access and public recreation policies of Chapter 3 of the Coastal Act;

3. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act in that the proposed subdivision will not result in any physical site changes and, therefore, qualifies for a Categorical Exemption, under Section 15301 (Existing Facilities), Class 1.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH does RESOLVE and ORDER as follows:

1. The proposed subdivision map review is preempted by the provisions of Government Code Section 66427.5 and consistency of the map with the Laguna Beach General Plan is exempt.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2. The conversion of the existing mobile home park to resident ownership is consistent with the California Subdivision Map Act and no physical changes are proposed.

3. The site is physically suitable for the proposed conversion in that the existing land use of the project site is for a mobile home park and the requested subdivision would not physically change the site and/or surroundings, change the existing land use, or change the Park density.

4. The subdivision does not include any physical improvements/changes and, therefore, will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

5. The subdivision does not include any physical improvements/changes and, therefore, will not cause serious public health problems.

6. The subdivision does not include any physical improvements/changes and, therefore, will not conflict with any easements acquired by the public at large and which are recorded or established by judgment of a court of competent jurisdiction.

7. The proposed map meets the requirements of the Subdivision Map Act and the Laguna Beach Subdivision Ordinance, and has been reviewed as being consistent with those requirements.

8. The conversion of the existing rental mobile home park to resident ownership will not displace low and/or moderate-income families or tenants in that the subdivision complies with Government Code Section 66427.5 and will prevent the economic displacement of nonpurchasing residents.

1  
2 9. The proposed project is not located between the sea and the first public road  
3 paralleling the sea.  
4

5 10. Pursuant to the California Environmental Quality Act (CEQA), the proposed project  
6 qualifies for a Class 1 (Existing Facilities) Categorical Exemption under Section 15301 of the  
7 State CEQA Guidelines and will not result in an environmental impact.

8 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH  
9 does further RESOLVE and ORDER as follows:  
10

11 Approval of Vesting Tentative Tract Map 09-03 (Vesting Tentative Tract Map  
12 17301) and Coastal Development Permit 09-36 subject to the following conditions:

13 1. Pursuant to Government Code Section 66427.5, the subdivider shall avoid the  
14 economic displacement of all nonpurchasing residents in the following manner:

15 (a) The subdivider shall offer each existing tenant an option to either purchase his/her  
16 subdivided lot, which is to be created by the conversion of the park to resident  
17 ownership, or to continue residency as a rental tenant.  
18

19 (b) As to nonpurchasing residents who are not lower income households, as defined  
20 in Section 50079.5 of the Health and Safety Code, the monthly rent, including any  
21 applicable fees or charges for use of any preconversion amenities, may increase from  
22 the preconversion rent to market levels, as defined in an appraisal conducted in  
23 accordance with nationally recognized professional appraisal standards, in equal  
24 annual increases over a four-year period.  
25

26 (c) As to nonpurchasing residents who are lower income households, as defined in  
27 Section 50079.5 of the Health and Safety Code, the monthly rent, including any  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion, except that in no event shall the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period.

2. Prior to the approval of the Final Map by the City, the subdivider shall show proof that the applicant has submitted a "Public Report" application to the California Department of Real Estate (DRE). Within the "Public Report" application, the applicant shall provide detailed provisions for responsibility of infrastructure, maintenance of common areas and property owner rules and regulations pursuant to the DRE requirements.

3. Notwithstanding any other provision of law, the subdivider shall, prior to filing a notice of intention with the DRE pursuant to Section 11010 of the California Business and Professions Code, disclosing to the homeowners and residents of the park, by written notice, the tentative price of the subdivided interest proposed to be sold or leased.

4. The proposed subdivision and associated improvements shall not conflict with any existing public easements.

5. Within 24 months of the approval of the Vesting Tentative Tract Map, or as otherwise provided by the law, a Final Map based upon a field survey shall be submitted to the City, and deemed complete for review and approval. An incomplete or inaccurate Final Map shall not be deemed submitted pursuant to the Subdivision Map Act. Prior to the recordation of the Final Map, the surveyor/engineer preparing the map shall tie the boundary of the map in the Horizontal Control System established by the County Surveyor as described in Sections

1  
2 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County  
3 Subdivision Manual, Sub-article 18, as may be amended. The surveyor/engineer shall also  
4 provide the City with a representation of the Final Map in digital DXF format that is  
5 positioned in the NAD83 coordinate system.  
6

7 6. The landowner/subdivider shall defend, hold harmless and indemnify, at his/her/its  
8 expense, the City, City Council and members thereof, commissions, boards, officials,  
9 officers, employees, agents and representatives from any and all third party claims, actions or  
10 proceedings to the attack, set aside, void or annul and approval of this Vesting Tentative  
11 Tract Map and Coastal Development Permit, which action is brought within the time period  
12 provided for in California Government Code Section 66499.37, as same may be amended.  
13 This obligation shall encompass all costs and expenses incurred by the City in defending  
14 against any claim, action or proceeding, as well as costs or damages the City may be required  
15 by a court to pay as a result of such claim, action or proceeding. The City shall notify the  
16 landowner/developer in the defense of any claim, action or proceeding within a timely  
17 manner of receipt the same.  
18  
19

20 7. Prior to the approval of the Final Map by the City, a deed restriction acknowledging  
21 the potential fire, erosion, landslide, mudslide, earthquake and flooding hazards of the site  
22 and waiving liability claims against the City shall be filed and recorded with the Orange  
23 County Clerk and Recorder.  
24

25 8. Twenty four (24) months from the date the map is approved by the City Council,  
26 Vesting Tentative Tract Map 09-03 shall expire. A one (1) year extension of the conditional  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

approval may be requested by written application to the Department of Community Development for processing, if filed prior to the approved subdivision expiration.

9. A maximum of 157 mobile home units/spaces are permitted within the proposed subdivision. Any future increase in mobilehome space density shall be approved by both Conditional Use Permit (pursuant to Laguna Beach Municipal Code Chapter 25.46) and subdivision approval (pursuant to Government Code Section 66427.5). Any future subdivision lot changes and/or parcel reconfigurations are subject to the applicable Laguna Beach Municipal Codes and/or California Subdivision Map Act provisions.

10. In order to avoid the economic displacement of all nonpurchasing residents, after the approval of the proposed land division, the applicant/property owner(s)/future property owner(s) shall honor existing tenant-owner lease/rental agreements/contracts for all existing nonpurchasing residents.

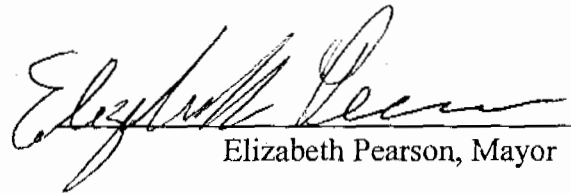
11. A Final Map for Vesting Tentative Tract Map 09-03 shall not be reviewed or approved by the City Council until a Coastal Development Permit has been approved and issued by the California Coastal Commission for the deferred area of the subdivision, which is located outside of the City's Coastal Development Permitting jurisdictional boundaries. In the event that the California Coastal Commission requires modifications to the subdivision that are not in substantial conformance with the approved Tentative Map, then the applicant may be required to obtain approval of an amended Tentative Map.

12. The proposed Tentative Tract Lot 155 is not approved as a residential mobile home lot, and the Final Map shall reflect the merging of the proposed Lot 155 area within the

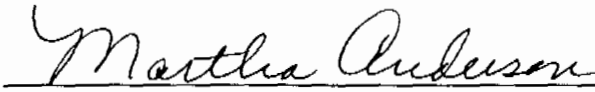
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

adjacent lettered Lot B. Lot B shall not be used for the placement of a mobile home and/or associated mobile home residential purposes.

ADOPTED this 5<sup>th</sup> day of January, 2010.

  
Elizabeth Pearson, Mayor

ATTEST:

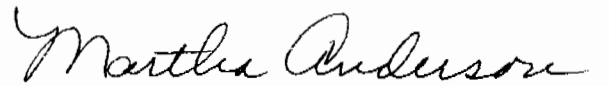
  
City Clerk

I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Resolution No. 10.004 was duly adopted at a Regular Meeting of the City Council of said City held on January 5, 2010, by the following vote:

AYES: COUNCILMEMBER(S): Boyd, Egly, Pearson

NOES COUNCILMEMBER(S): Rollinger, Iseman

ABSENT COUNCILMEMBER(S): None



City Clerk of the City of Laguna Beach, CA



**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
200 OCEANGATE, 10<sup>TH</sup> FLOOR  
LONG BEACH, CA 90802-4416  
VOICE (562) 590-5071 FAX (562) 590-5084

JAN 26 2010

CALIFORNIA  
COASTAL COMMISSION



**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**

**SECTION I. Appellant(s)**

Name: Penny Elia

Mailing Address: 30632 Marilyn Drive

City: Laguna Beach

Zip Code: 92651

Phone: 949-499-4499

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

Laguna Beach

2. Brief description of development being appealed:

Taken from Laguna Beach City Council Recap online:

18. VESTING TENTATIVE TRACT MAP 09-03 AND COASTAL DEVELOPMENT PERMIT 09-36 Request for approval of a Vesting Tentative Tract Map and Coastal Development Permit to subdivide and convert an existing rental space mobile home park to a resident-owned mobile home park

Egly-Boyd 3/2 Adopt Resolution No. 10-004 as amended, conditionally approving Vesting Tentative Tract Map 09-03 and Coastal Development Permit 09-36 at 30802 Coast Highway. (Noes: Rollinger, Iseman)

3. Development's location (street address, assessor's parcel no., cross street, etc.):

30802 Coast Highway  
Laguna Beach, CA 92651

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

**Note:** For jurisdictions with a total ICP, 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.

<b><u>TO BE COMPLETED BY COMMISSION:</u></b>	
APPEAL NO:	<u>A-5-LGB-10-039</u>
DATE FILED:	<u>2/16/2010</u>

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: January 5, 2010

7. Local government's file number (if any): CDP 09-36 and VTTM 09-03

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

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

a. Name and mailing address of permit applicant:

Laguna Terrace Park LLC  
30802 South Coast Highway  
Laguna Beach, CA 92651  
James Lawson - Manager  
Stephen Esslinger - Owner

b. 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.

(1) Penny Elia  
30632 Marilyn Drive  
Laguna Beach, CA 92651

(2)

(3)

(4)

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

### SECTION IV. Reasons Supporting This Appeal

#### PLEASE 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.
- 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.)
- This 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.

This appeal stems from a January 5, 2010 action by the City of Laguna Beach approving the vesting of a Tentative Tract Map and the issuance of a Coastal Development Permit. This timely appeal is brought pursuant to Public Resources Code §30603 of the Coastal Act and the City of Laguna Beach certified Local Coastal Program "LCP" (certified January 13, 1993 and amended July 20, 2004).

The City Council decision under appeal brings several areas of concern to the Commission: 1) multiple inconsistencies with the Coastal Act and the City's Local Coastal Program (LCP) 2) questionable legality of General Plan Amendment 3) questionable legality of zoning change 4) unpermitted development 5) illegal grading resulting in destruction of ESHA and mapped watercourses 6) unresolved Notice of Violation from the Coastal Commission's Enforcement Division (V-5-07-006) 7) failure to re-circulate notice of public hearing to advise of appealability of matter.

#### Inconsistencies with Coastal Act and City's LCP

The proposed division of land is development subject to regulation under the Coastal Act and certified LCP. The division of land can result in the establishment of additional development potential and certain expectations and rights on the part of the land owner(s) for certain levels of development. The effects of such development while processing the land division that would make such development possible must be considered. The whole range of coastal resource issues addressed in the City's certified LCP should have been considered in this request for land division, including but not limited to protection and enhancement of public access, biological resources, water quality, scenic resources, landform alteration, and minimization and avoidance of hazards, i.e. geologic, fire, flood, etc.

The City's biological resource values maps indicate this area as high value and very high value habitat (this area also includes multiple endangered species). These areas are also very likely to be Environmentally Sensitive Areas (ESAs). During multiple Coastal Commission hearings over the past seven years, Karlin Marsh has been quoted extensively. Please note the following excerpt as it relates to Hobo Canyon and the surrounding environs:

South Laguna Biological Resources Inventory  
Prepared for the City of Laguna Beach  
By Karlin G. Marsh, Biological Consultant

January 20, 1992

In terms of habitat complexity, extent and ecosystem intactness, Hobo Canyon is the most significant of South Laguna’s open spaces and is indeed among the most biologically valuable open spaces in the entire city.

As observed in the field by Contributor Roberts, the land block almost seems designed (by nature) as a rare plant preserve. Five rare and threatened planet species have been found, as well as six which are of regional restricted distribution or at range edge. Among the former is the State of California threatened big-leaved crownbeard, in major stands within the heart of its small US population.

Dr. John Dixon, the Long Beach and San Francisco staff have a complete report by Karlin Marsh in each of their respective offices.

LCP policies such as Open Space Conservation Element Policy 8-J requires that detailed biological assessments be prepared for all development within and adjacent to ESAs and that identified ESAs be protected. The City’s staff report makes no mention of any biological assessment nor any measures to protect ESAs that are incorporated into the proposed development or imposed through special conditions on the coastal development permit.

Another concern is fuel modification as it relates to new subdivisions and requirements to protect sensitive habitat areas. A fuel modification plan is required by the City, and as staff and the Commission know after years of testimony and submitted documentation, there have been far too many fuel modification problems associated with this area already. Note Open Space Conservation Element Policies 8-G and 8-H that pertain to fuel modification.

Implementation of water quality requirements of the LCP have been completely ignored in this area that is mapped with multiple watercourses and prone to flooding and mudslides. Hobo Canyon itself is a streambed, or was before it was graded and paved, and has had serious flooding problems in the past that required evacuation of many of the mobilehome units. The San Diego Regional Water Quality Control Board just adopted a newly strengthened MS4 Permit (NPDES) that must also be considered as it relates to the receiving waters of the Pacific Ocean. Topic 4 of the Open Space Conservation Element of the City’s General Plan/LCP includes numerous policies requiring implementation of water quality BMPs in order to protect and restore water quality. This proposed development is a “priority development project” subject to water quality regulations because it involves the creation of four or more lots and is located within a “water quality environmentally sensitive area.” The proposed development does not comply with the requirements of Title 16 and has not been analyzed for compliance. Furthermore, current residents of the mobilehome park have been advised that a sewer line repair project will begin in the next few months. Based on a recent review of the City’s file on this property there are no permits for this project and no application can be located. It is unclear if this sewer project is in the City’s jurisdiction or the Coastal Commission’s (area of deferred certification).

#### Questionable Legality of General Plan Amendment and Zoning Changes

#### Illegal Grading and Unpermitted Development

Coastal Commission staff is in receipt of the 36-page letter from Manatt, Phelps & Phillips, LLP dated January 4, 2010 that was sent to the Laguna Beach City Council and the City’s attorney prior to the hearing on January 5, 2010. This letter was never addressed during the entire hearing. The letter

addresses in great detail illegal grading and zoning changes that were implemented to add to the footprint of the mobilehome park and create more lots. This letter further substantiates the volumes of documentation the Sierra Club has previously submitted to Coastal Commission staff during the preparation for the vested rights claim hearing on Hobo Aliso Ridge (October 16, 2008). Please reference archived webcast for details:

<http://www.cal-span.org/cgi-bin/media.pl?folder=CCC>

#### 14. VESTED RIGHTS CLAIM.

a. Application No. 5-07-412-VRC (Driftwood Properties LLC, Laguna Beach) Application of Driftwood Properties for graded pads and right to maintain pads, including fuel modification in compliance with requirements of City of Laguna Beach, at vacant land at northern terminus of Driftwood Drive, at Northern Terminus of Driftwood Drive, Laguna Beach, Orange County. (KFS-LB/LW-SF) [DENIED]

In addition to this, Sierra Club has recently uploaded numerous aerials and overlays to Commission staff via the Commission's ftp site that illustrate the illegal grading and expansion of the mobilehome park into ESIIA and multiple watercourses. These aerials also illustrate unpermitted development, but additional unpermitted grading and development are open to discovery.

	HoboCyn w:parcels.jpg	
1172964		2009-10-23 14:25:31
	HoboDenuding&Grading1.pdf	
303061		2009-10-22 19:53:58
	HoboDenuding&Grading2.pdf	
324321		2009-10-22 19:54:09
	HoboMaintenanceYard.pdf	
170597		2009-10-22 19:54:19
	1973 HoboCynAerial.pdf	
201276		2009-10-22 19:52:55
	1986 HoboCynAerial.pdf	
206117		2009-10-22 19:53:07
	1994 HoboCynAerial.pdf	
237052		2009-10-22 19:53:18
	1994 HoboCynAerialRevised.pdf	
237104		2009-10-23 17:34:44
	2000 HoboCynAerial.pdf	
437598		2009-10-23 17:35:13
	2006 HoboCynAerial.pdf	
952112		2009-10-22 19:53:42

Unpermitted grading was also conducted under the cover of multiple Coastal Development Permits issued by the Commission. This unpermitted grading is visible in the aerials previously submitted.

#### Unresolved Notice of Violation

On May 4, 2007. Laguna Terrace Park LLC, Stephen Esslinger, owner, was sent a Notice of Violation, V-5-07-006. Property location: APNs 056-240-64, 056-240-65, 656-191-38, 656-191-39, 656-191-40. Unpermitted development: Lot lines adjusted (via LLA 95-01 and 95-04) without benefit of required

coastal development permits.

This violation has not been resolved in almost three years yet the same landowner is proceeding with a subdivision application and vesting of a tentative tract map that involves parcels listed above. Notice of Violation attached.

#### Failure of City of Laguna Beach to Recirculate Hearing Notice to Advise Public of Appealability

Please reference the following emails 1) from Coastal Commission staff to City of Laguna Beach staff 2) from Penny Elia to City staff with copies to Laguna Beach City Council, Coastal Commission staff and multiple regulatory agencies:

From: Karl Schwing

Sent: Tuesday, December 22, 2009 5:25 PM

To: 'Drapkin, Scott CD'

Cc: Montgomery, John CD; Teresa Henry

Subject: Laguna Terrace Mobile Home Park, VITM 09-03, CDP 09-36 - Appealability

Scott,

It has come to my attention that the City has mailed out a public hearing notice on the subject vesting tentative tract map and coastal development permit to divide the Laguna Terrace Mobile Home Park into 158 mobile home lots and 4 lettered lots and that a hearing is scheduled for January 5, 2010, before the City Council. As you know, part of the project area is within the City's jurisdiction and part is within the Commission's jurisdiction. We do believe there remain a number of outstanding issues with this land division and that it is premature for the City to proceed at this time, as discussed in our letter to the Planning Commission in October. However, the main purpose of this email is to advise you of our disagreement with your determination regarding the appealability of the City's action on its coastal permit to the Commission. The hearing notice states that the City's action on the portion of the development that is within its jurisdiction would not be appealable to the Commission. We can understand how the City arrived at this conclusion if it were relying on the lot lines identified by Lot Line Adjustment 95-01 that received certain City approvals but has not been approved by any coastal development permit. For purposes of the Coastal Act, the lot lines are as they were proceeding that lot line adjustment. Therefore, we view the action the City is now considering on vesting tentative tract map 17301 (application no. 09-03/CDP 09-36) as authorizing a division of land that involves the larger approximately 229.31 acre parcel that we understand existed prior to LLA 95-01 and that this mobile home park is partly located on. Since there is an appeals area (which is identified on the City's post-cert map) within that larger parcel that is a part of the land division that would be partially authorized by this pending coastal permit, the City's action on that coastal permit is appealable to the Commission. Therefore, we recommend that the City re-circulate the hearing notice to indicate that its action on the coastal permit for the development that is within its jurisdiction is appealable to the Commission.

Please note that I will be out of the office and returning on January 4, 2010. If you have questions or wish to discuss further and are in need of urgent assistance, Teresa Henry, our District Manager, will have limited availability the week of December 28th and is familiar with this matter.

Thanks for your attention to this issue.

Karl Schwing

California Coastal Commission

South Coast Area Office/Long Beach

From: Penny Elia <greenpl@cox.net>

Date: January 4, 2010 10:03:05 AM PST

To: Scott CD Drapkin <sdrapkin@lagunabeachcity.net>

Cc: Toni Iseman <Tiseman2@aol.com>, elizabethpearson2@cox.net, kellyboyd2006@gmail.com, Jane Egly <jhegly@aol.com>, Verna Rollinger <vernarollinger@cox.net>, Karl Schwing <kschwing@coastal.ca.gov>, Sherilyn Sarb <ssarb@coastal.ca.gov>, Andrew Willis <awillis@coastal.ca.gov>, Aaron McLendon <amclendon@coastal.ca.gov>, Erinn Wilson <EWilson@dfg.ca.gov>, Ben Neill <bneill@waterboards.ca.gov>, James Smith <jsmith@waterboards.ca.gov>, Chad Loflen <cloflen@waterboards.ca.gov>, Tony Felix <TFelix@waterboards.ca.gov>, Mike WQ Phillips <mphillips@lagunabeachcity.net>, Ken CM Frank <kcf Frank@lagunabeachcity.net>, John CD Montgomery <jmontgomery@lagunabeachcity.net>, Peter Douglas <pdouglas@coastal.ca.gov>, Lisa Haage <lhaage@coastal.ca.gov>, Teresa Henry <thenry@coastal.ca.gov>, David WQ Shissler <dshissler@lagunabeachcity.net>, Steve PW May <smay@lagunabeachcity.net>, jonathan\_d\_snyder@fws.gov

Subject: Agenda Item #18 - Laguna Beach City Council - January 5, 2010

Good morning, Scott -

Hope you enjoyed a lovely holiday season.

Would you please be kind enough to advise why Coastal Commission staff's recommendation below has not been addressed?

However, the main purpose of this email is to advise you of our disagreement with your determination regarding the appealability of the City's action on its coastal permit to the Commission. The hearing notice states that the City's action on the portion of the development that is within its jurisdiction would not be appealable to the Commission. We can understand how the City arrived at this conclusion if it were relying on the lot lines identified by Lot Line Adjustment 95-01 that received certain City approvals but has not been approved by any coastal development permit. For purposes of the Coastal Act, the lot lines are as they were preceding that lot line adjustment. Therefore, we view the action the City is now considering on vesting tentative tract map 17301 (application no. 09-03/CDP 09-36) as authorizing a division of land that involves the larger approximately 229.31 acre parcel that we understand existed prior to LLA 95-01 and that this mobile home park is partly located on. Since there is an appeals area (which is identified on the City's post-cert map) within that larger parcel that is a part of the land division that would be partially authorized by this pending coastal permit, the City's action on that coastal permit is appealable to the Commission. Therefore, we recommend that the City re-circulate the hearing notice to indicate that its action on the coastal permit for the development that is within its jurisdiction is appealable to the Commission.

Based on the above along with decades of questionable and destructive development activity at the park, numerous LCP inconsistencies that include but are not limited to potential for additional development, impacts to biological resources (very high and high value habitat/ESAs and multiple mapped watercourses), fuel modification related to new subdivisions and requirements to protect sensitive habitat areas, implementation of water quality protection requirements (new MS4 Permit as an example), and the general complete lack of analysis of the impacts of this possible "priority development project" we are unclear as to why this is moving forward to City Council with approval

recommendation.

Time and time again the words "bullet proof" are used from the dais as it relates to proposed projects and various issues. It would appear from staff's recommendation for adoption that you find this proposal bullet proof.

Thank you for taking the time to consider these comments.

Best wishes in the New Year -

Penny Elia  
Sierra Club  
949-499-4499

This concludes our timely submission. However, we are in the process of compiling new aerials and overlays for submission at a later date.

Thank you for considering this large amount of information that has been compiled over many years.

Attachments: Notice of Violation V-5-07-006  
Manatt, Phelps & Phillips, LLP



**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

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

*Penny Elia*

\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date:

*1/17/2010*

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby  
authorize

\_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date:

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

**CALIFORNIA COASTAL COMMISSION**

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



**NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT  
REGULAR AND CERTIFIED MAIL**

May 4, 2007

Martyn Hoffmann  
The Athens Group  
31106 Pacific Coast Highway  
Laguna Beach, CA 92651

Laguna Terrace Park LLC  
c/o Stephen Esslinger  
30802 Coast Highway #K-2  
Laguna Beach, CA 92651

Violation File Number: V-5-07-006

Property Location: Assessor's Parcel No.s 056-240-64, 056-240-65, 656-191-38, 656-191-39, and 656-191-40, City of Laguna Beach, Orange County

Unpermitted Development: Lot lines adjusted (via LLA 95-01 and 95-04) without benefit of the required coastal development permits

Dear Mr. Hoffmann and Mr. Esslinger:

Our staff has confirmed that a purported adjustment of lot lines has occurred on properties currently owned by Driftwood Properties LLC and Laguna Terrace LLC without the benefit of the required coastal development permits. The subject properties are located within the Coastal Zone area of the City of Laguna Beach ("City") and an area of deferred certification, in which the Coastal Commission retains permit authority. The unpermitted purported lot line adjustments ("LLAs") at issue are numbered by the City of Laguna Beach as 95-01 (Orange County Recorder's Doc No. 19950520276) and 95-04 (Orange County Recorder's Doc No. 19950449870)

Pursuant to Section 30600(a) of the Coastal Act<sup>1</sup>, any person wishing to perform or undertake non-exempt development in the coastal zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined, in relevant part, by Section 30106 as:

*"Development" means... change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section*

<sup>1</sup> The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code ("PRC"). All further section references are to the PRC, and thus, to the Coastal Act, unless otherwise indicated.

V-5-07-006 (Athens Group and Esslinger LLA's)

Page 2 of 3

*66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use... [underlining added for emphasis]*

Divisions of land are, as noted above, specifically included in the definition of "development" under the Coastal Act. Section 25.07.006(D) of the City's certified Local Coastal Program ("LCP"), which defines "development" for the purposes of the LCP, mirrors the definition of development in the Coastal Act and includes such land divisions. Lot line adjustments are a division of land in that they divide land by changing the boundaries of parcels. La Fe, Inc. v. Los Angeles County (1999) 73 Cal. App. 4<sup>th</sup> 231, 86 Cal. Rptr. 2d 217. Furthermore, lot line adjustments can reconfigure parcels to facilitate development, thus changing the density of intensity of use of a parcel. Id. In this sense as well, LLAs are development pursuant to the Coastal Act. Therefore, LLAs No.s 95-01 and 95-04 constitute development under the Coastal Act and LCP and require a coastal development permit.

Commission staff has researched our permit files and concluded that no coastal development permits have been issued by the Coastal Commission or the City for either LLA. The unpermitted purported LLAs affect parcels located in an area subject to the City's coastal development permit authority and an area of deferred certification, in which the Coastal Commission retains permit authority. Please note that even if the City found the LLAs to be exempt from the Subdivision Map Act because the LLAs would not result in a greater number of parcels than originally existed, they are still subject to the permit provisions of the Coastal Act and LCP, since these are separate and independent legal authorities.

Any attempt to conduct development in the Coastal Zone without a valid coastal development permit constitutes a violation of the Coastal Act and LCP. In order to resolve this violation, we are requesting that you take whatever steps are necessary to correct the records with all relevant departments of the City and Orange County, including, but not limited to, the County Recorder's Office, and with any other relevant regulatory bodies and state or local agencies, to accurately indicate that the line separating the two lots remains as it was prior to the purported LLAs at issue. Please contact me by no later than **May 21, 2007**, regarding how you intend to resolve this violation. If the lot lines are not clarified or if the unpermitted development were not otherwise resolved under the Coastal Act and LCP, we will consider taking formal enforcement action to resolve this matter. Please be aware that the Executive Director is authorized, after providing notice and the opportunity for a hearing before the Commission as provided for in Section 30812, to record a Notice of Violation against the subject properties.

Furthermore, since LLAs No.s 95-01 and 95-04 did not receive the approval of the required coastal development permit, neither LLA is valid. Thus, future development proposed on the parcels affected by the LLAs must be analyzed based on the pre-violation lot line configuration.

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me at (562) 590-3071, or in the event of my absence, Southern California Enforcement Supervisor Pat Veasart at (805) 585-1800.

V-5-07-006 (Athens Group and Esslinger LLA's)  
Page 3 of 3

Sincerely,



Andrew Willis  
District Enforcement Analyst

cc: John Montgomery, City of Laguna Beach  
Lisa Hauge, Chief of Enforcement, CCC  
Pat Veasart, Southern California Enforcement Supervisor, CCC  
Teresa Henry, South Coast District Manager, CCC  
Karl Schwing, Orange County Permit Supervisor, CCC  
Alex Helperin, Staff Counsel, CCC

January 4, 2010

Client-Matter: 43150-030

**BY E-MAIL: KELLYBOYD2006@GMAIL.COM  
ELIZABETHPEARSON2@COX.NET  
TISEMAN2@AOL.COM  
JHEGLY@AOL.COM  
VERNAROLLINGER@COX.NET**

City Council  
City of Laguna Beach  
505 Forest Avenue  
Laguna Beach, California 92651

**Re: Agenda Item No. 18**

Honorable Councilmembers:

The City's consideration of Coastal Development Permit 09-36 ("CDP") and Vesting Tentative Tract Map 09-03 (collectively, the "Project") at 30802 South Coast Highway ("Project Site") has been premised on the fact that the entirety of Project Site is suitably zoned and designated for mobile home uses. This assumption is wrong with respect to the eastern-most portion of the Project Site, including Lot 155, Lot B, and a portion of Lot A (the "Subject Property", see attached Exhibit A.)

The Subject Property is located in the Open Space zone (*not* the Mobile Home zone) and is designated Open Space (*not* Village Medium Low Density) by the General Plan. This fact was determined following research by City staff as described in the July 24, 1990 Agenda Bill attached as Exhibit B. According to that Agenda Bill, "Two of the proposed spaces (K-53 and K-54) were located in the Open Space zone rather than the Mobilehome Park zone." A related Agenda Bill (June 13, 1990, Exhibit B) noted that the Open Space zoning boundary was located on the seaward side space K-53.

According to Map 17301 (Vesting Tentative Tract Map 09-03, Exhibit A), space K-52 corresponds with proposed lot 154. Although not labeled, it is reasonable to assume that the immediately adjacent inland lot, labeled as proposed lot 155, therefore corresponds with space K-53. As a result, the Subject Property, which is landward of the property line between spaces K-53 (lot 155) and K-52 (lot 154) is located in the Open Space zone.


City of Laguna Beach City Council  
Page 2

A visual comparison of the 1989 South Laguna General Plan and Local Coastal Plan map (Exhibit C) and the 1990 South Laguna Zoning Map (Exhibit D) against the current zoning and General Plan maps (Exhibit E) confirms that the Mobile Home zone and Village Medium Low Density designation area have somehow expanded inland over the past 20 years. Our search of City records reveals no General Plan Amendment or Zone Change authorizing such a reduction of the City's open space. Accordingly, in our view, the preexisting designation and zoning continue to apply notwithstanding the current versions of these documents.

The Subject Property is used today for residential and storage purposes. In the future, at least one of the lots proposed on the Subject Property (Lot 155) would be used for residential purposes. None of these uses are consistent with the Subject Property's open space designation. According to the City's Municipal Code, "All structures, including radio, television or telecommunication antennas and related support structures and equipment, shall be prohibited within areas zoned as Open Space/Conservation." (Laguna Beach Municipal Code § 25.41.007.) Nor are the existing or proposed uses consistent with the General Plan, which states that the Open Space category is "... intended to preserve land in its natural state for open space purposes." (Laguna Beach General Plan Land Use Element, p. 7-3.)

The legality of the rezoning and General Plan Amendment must be resolved before the proposed Project moves forward. Therefore, we respectfully request that the Council continue consideration of the Project until such time as the applicant has revised the Project to comply with the Subject Property's Open Space land use designations and/or has secured a Zone Change and General Plan Amendment officially changing the Subject Property's land use. Our two previous letters to the City on this matter—dated August 31 and October 28, 2009—are attached and hereby incorporated by reference. Thank you, in advance, for your consideration.

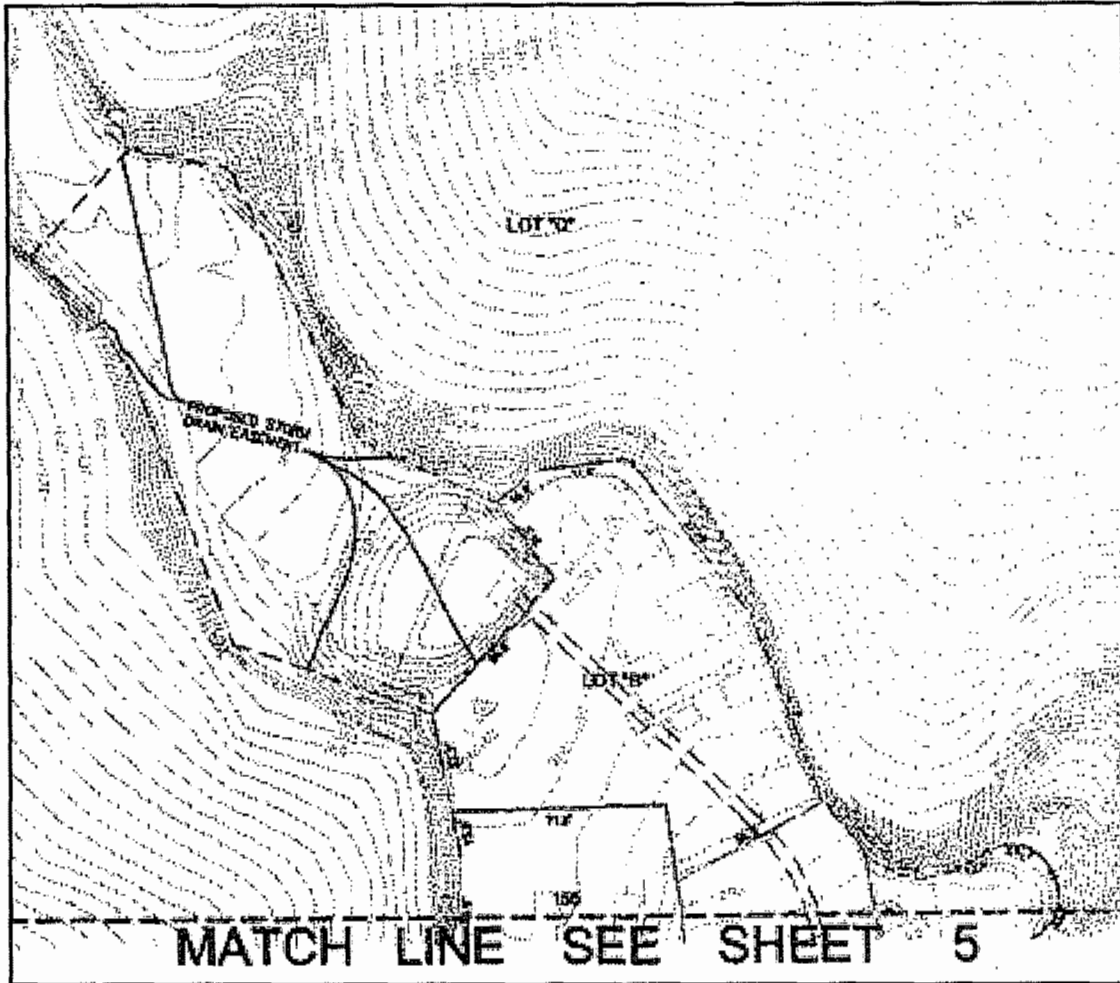
Sincerely,



Sean Matsler

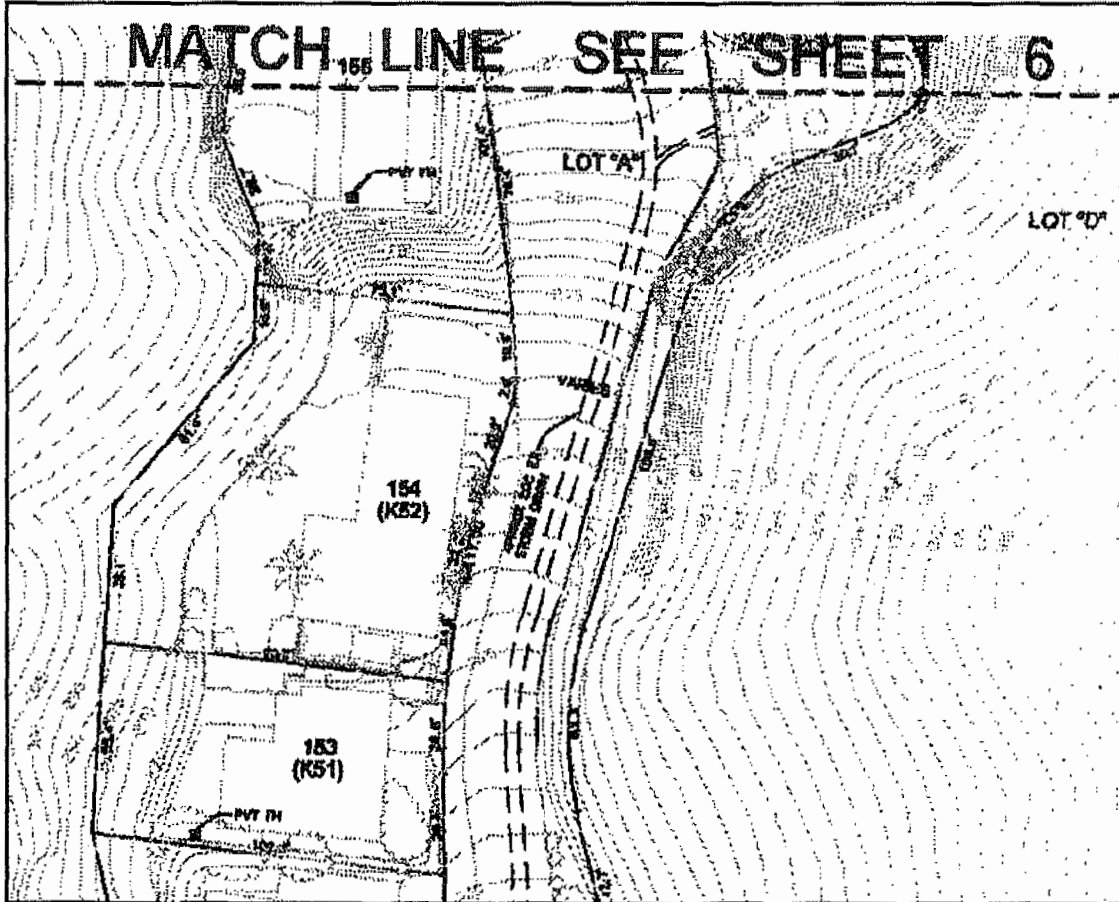
cc: Darren Esslinger (by e-mail)  
Gerard M. Mooney, Esq. (by e-mail)  
Phil Kohn, Esq. (by e-mail)  
Scott Drapkin (by e-mail)  
Martha Anderson, City Clerk (by e-mail)

**EXHIBIT A**  
**Subject Property**



Source: Sheet 6 of Vesting Tentative Tract Map No. 17301





Source: Sheet 5 of Vesting Tentative Tract Map No. 17301

**EXHIBIT B**

**June 13, 1990 and July 24, 1990 Agenda Bills**

City of Laguna Beach

STAFF REPORT

AGENDA ITEM: PH-2

DATE: 6/13/90

TO: PLANNING COMMISSION  
CASE: Conditional Use Permit 90-12  
LOCATION: Laguna Terrace Mobile Home Park  
30802 Coast Highway  
ENVIRONMENTAL STATUS: Categorically Exempt  
PREPARED BY: Kathryn Lottes

**BACKGROUND:** This item was continued from the Planning Commission meeting of May 9, 1990 to allow staff to investigate previous grading activity on the site and associated environmental issues.

**STAFF ANALYSIS:** Further research revealed that a grading violation occurred in the mobilehome park in Hobo Canyon just prior to annexation; this grading violation was never resolved by the County due to the anticipated annexation. Staff recommends a condition of approval to address this issue by requiring restoration of the area. In addition, considering the potential safety issues related to storm water runoff and mudflows from the Hobo Canyon watershed down into the mobilehome park, the restoration should provide for water retention in order to improve the existing drainage conditions.

Upon further investigation by staff, it was discovered that the two mobilehome sites proposed at the far end of the park in Hobo Canyon are actually located in an Open Space zone as shown in the original South Laguna Specific Plan. Detailed comparison and measurement of the applicant's zoning boundary map against the South Laguna Specific Plan Zoning Map shows that the two proposed sites were located in an Open Space zone at the time of annexation. Staff has determined that the zoning boundary map submitted by the applicant is incorrect because it shows the open space boundary line beyond the proposed spaces when, in fact, the line is actually located immediately behind the existing spaces (see Exhibits B and C).

This inaccuracy was not discovered, however, until after the applicant's detailed plan (which was assumed to be correct) was used to draw the existing zoning map. For further clarification, staff suggests that the Planning Commission direct staff to correct the present zoning map for South

SEARCHED

Laguna in order to maintain consistency with the Open Space designation on the South Laguna Specific Plan Zoning Map in the Hobo Canyon area.

The Open Space zone does not permit any residential development and therefore the proposed mobilehome spaces K53 and K54 are not permitted without an appropriate zone change.

The remaining two mobilehome spaces K36 and G17 are located within the existing Mobilehome Park zone. As stated in the previous staff report, these additional spaces are within the maximum density requirement of 4,000 sq. ft. per unit. Two additional spaces would increase the number of mobilehomes from 156 to 158, resulting in a density of one unit per 5,781 sq.ft. of park area.

As discussed in the 5/9/90 staff report, state legislation limits the city's regulatory control of mobile homes to certain park-wide issues such as density and parking. Therefore, the focus of this application is the establishment of the spaces rather than the actual development of the sites. If approved by the City, the applicant will then be required to obtain the necessary permits from the Department of Housing and Community Development (HCD) before any improvements, including the siting of mobile homes, could be undertaken.

Staff recommends the inclusion of conditions that require the applicant to submit to the City, detailed site plans for each space prior to issuance of permits from HCD. In this way, the City can make sure that parking requirements are met. This will also provide a chance for the City to review any grading and drainage plans related to the new spaces and to comment, if necessary, to HCD. However, the restoration plan will be handled separately by the City design review process.

**CONCLUSION AND RECOMMENDATION:** Since two of the four mobilehome spaces proposed are located in an Open Space zone, staff recommends approval of Conditional Use Permit 90-12, modified to include only mobilehome spaces K36 and G17. In addition to the conditions initially recommended, project approval should include conditions related to restoration of the illegally graded area and improvement of the existing drainage conditions for reasons of public health and safety.

**ATTACHMENTS:** Exhibit A (Orange County Investigation Report)  
Exhibit B (Zoning Boundary Map Submitted by Applicant)  
Exhibit C (South Laguna Specific Plan Zoning Map)  
Resolution

83

City of Laguna Beach  
AGENDA BILL

NO. 10  
MEETING DATE: 7/24/90

SUBJECT: APPEAL OF A PLANNING COMMISSION DECISION REGARDING THE ESTABLISHMENT OF ADDITIONAL MOBILEHOME SPACES WITHIN AN EXISTING MOBILEHOME PARK at 30802 SOUTH COAST HIGHWAY.

SUMMARY OF THE MATTER:

The Laguna Terrace Mobile Home Park requested approval to establish four (4) additional spaces within an existing mobilehome park at 30802 South Coast Highway. At a regularly scheduled meeting held on May 9, 1990, the Planning Commission discussed and continued the item to allow staff additional research time.

At the Planning Commission meeting held June 13, 1990 staff presented additional findings including an unresolved grading violation and evidence that the zoning boundary map submitted by the applicant was incorrectly drawn. Two of the proposed spaces (K-53 and K-54) were located in the Open Space zone rather than the Mobilehome Park zone. At the request of the applicant, the item was continued to the Planning Commission hearing of June 27, 1990.

On June 27, 1990 based on the facts presented and public testimony received, the Planning Commission approved Conditional Use Permit 90-27, modified to include only the two mobilehome spaces located within the existing Mobilehome Park zone and including conditions of approval requiring restoration and improvement of the area illegally graded.

RECOMMENDATION: It is recommended that the City Council:

DENY THE APPEAL AND SUSTAIN THE APPROVAL OF THE PLANNING COMMISSION AS SET FORTH BY RESOLUTION 90-12.

SCANNED

Appropriations Requested: \$ None

Submitted by: [Signature]

Fund: \_\_\_\_\_

Coordinated With: \_\_\_\_\_

Attachments: Appeal Form, PC Staff

Reports/Minutes of 5/9/90, 6/13/90,

and 6/27/90, Resolution 90-12.







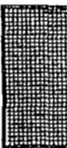


Approved: [Signature]  
City Manager

**EXHIBIT C**

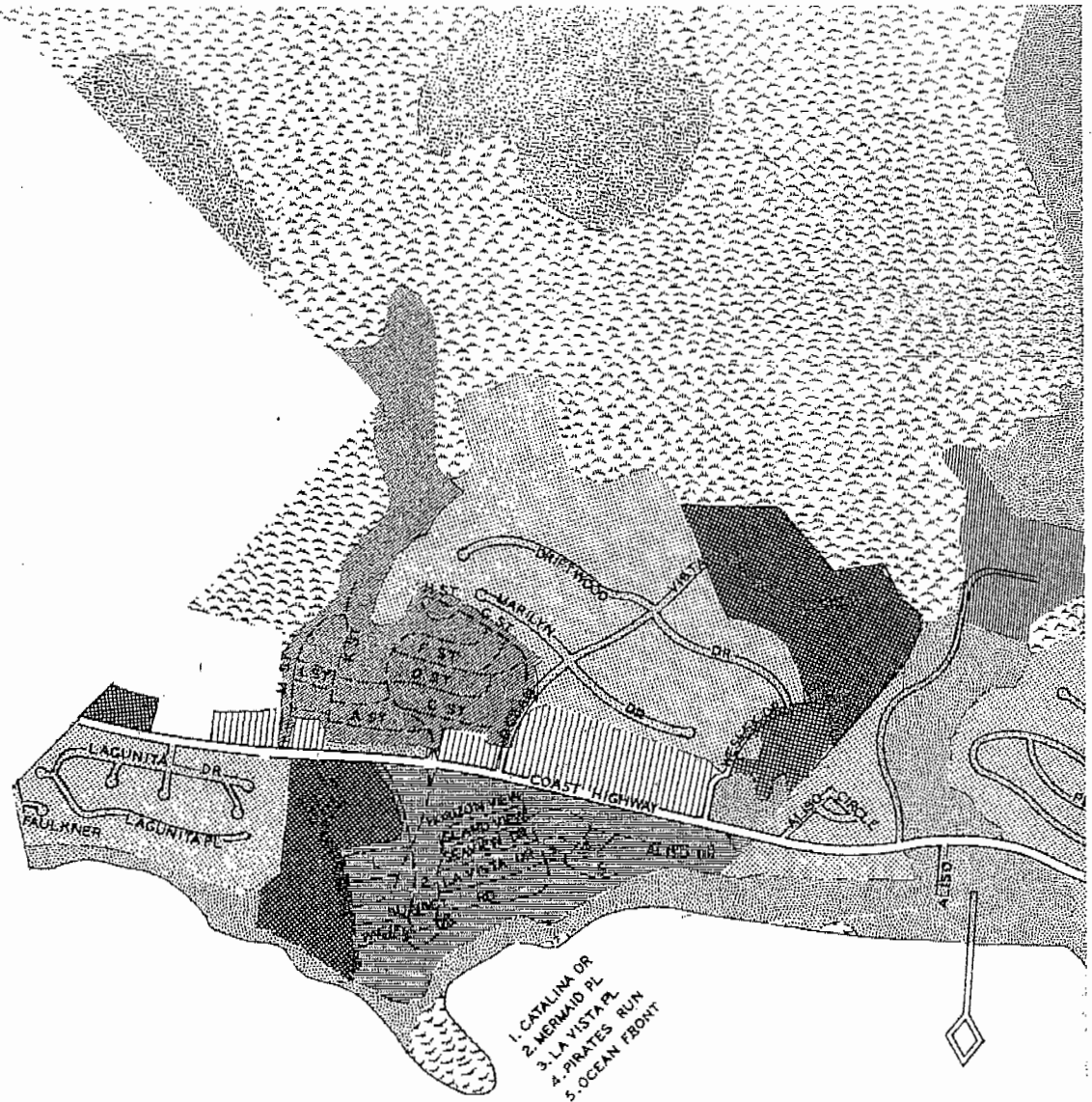
**1989 South Laguna General Plan and Local Coastal Plan Map**

**City of Laguna Beach**  
**South Laguna**

# General Plan and Local Coastal Plan

-  HILLSIDE MANAGEMENT/CONSERVATION
-  VILLAGE LOW DENSITY  
3-7 DU/ACRE
-  VILLAGE MEDIUM-LOW DENSITY  
8-10 DU/ACRE
-  VILLAGE HIGH DENSITY  
15-22 DU/ACRE
-  LOCAL BUSINESS/PROFESSIONAL
-  COMMERCIAL/TOURIST CORRIDOR
-  PUBLIC/INSTITUTIONAL
-  PUBLIC RECREATION AND PARKS
-  OPEN SPACE





**EXHIBIT D**

**1990 South Laguna Zoning Map**

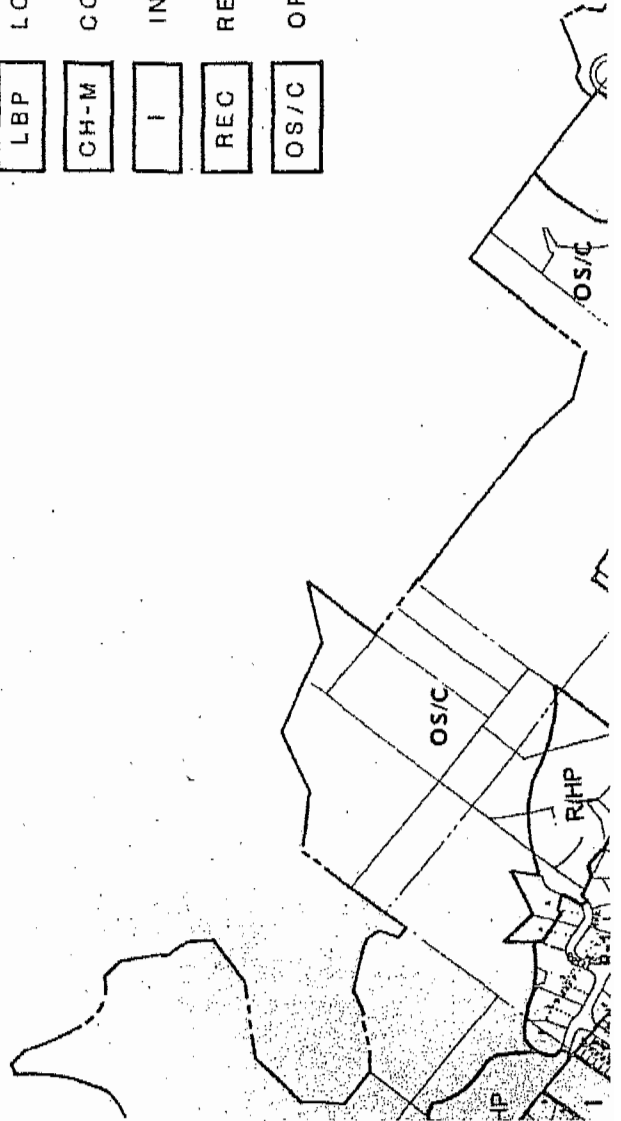
# CITY OF LAGUNA BEACH

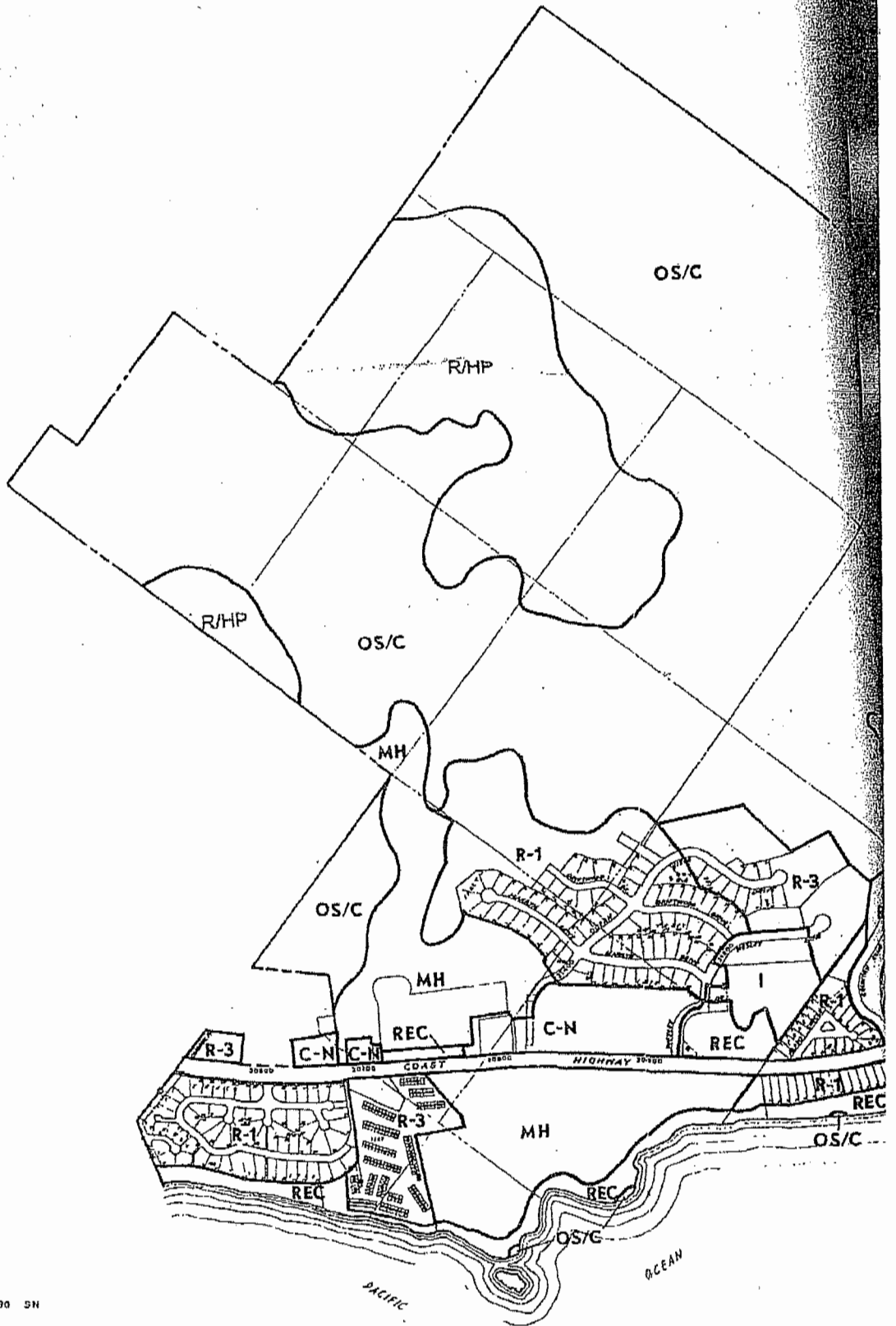
south laguna

# ZONING

NOTE: MAP DOES NOT NECESSARILY REFLECT APPROVED PROPERTY LINES

R/HP	RESIDENTIAL/HILLSIDE PROTECTION
R-1	RESIDENTIAL LOW DENSITY
TAB	THREE ARCH BAY
V-C	VILLAGE COMMUNITY
MH	MOBILEHOME
R-3	RESIDENTIAL HIGH DENSITY
C-N	COMMERCIAL NEIGHBORHOOD
LBP	LOCAL BUSINESS PROFESSIONAL
CH-M	COMMERCIAL HOTEL-MOTEL
I	INSTITUTIONAL
REC	RECREATION
OS/C	OPEN SPACE/CONSERVATION



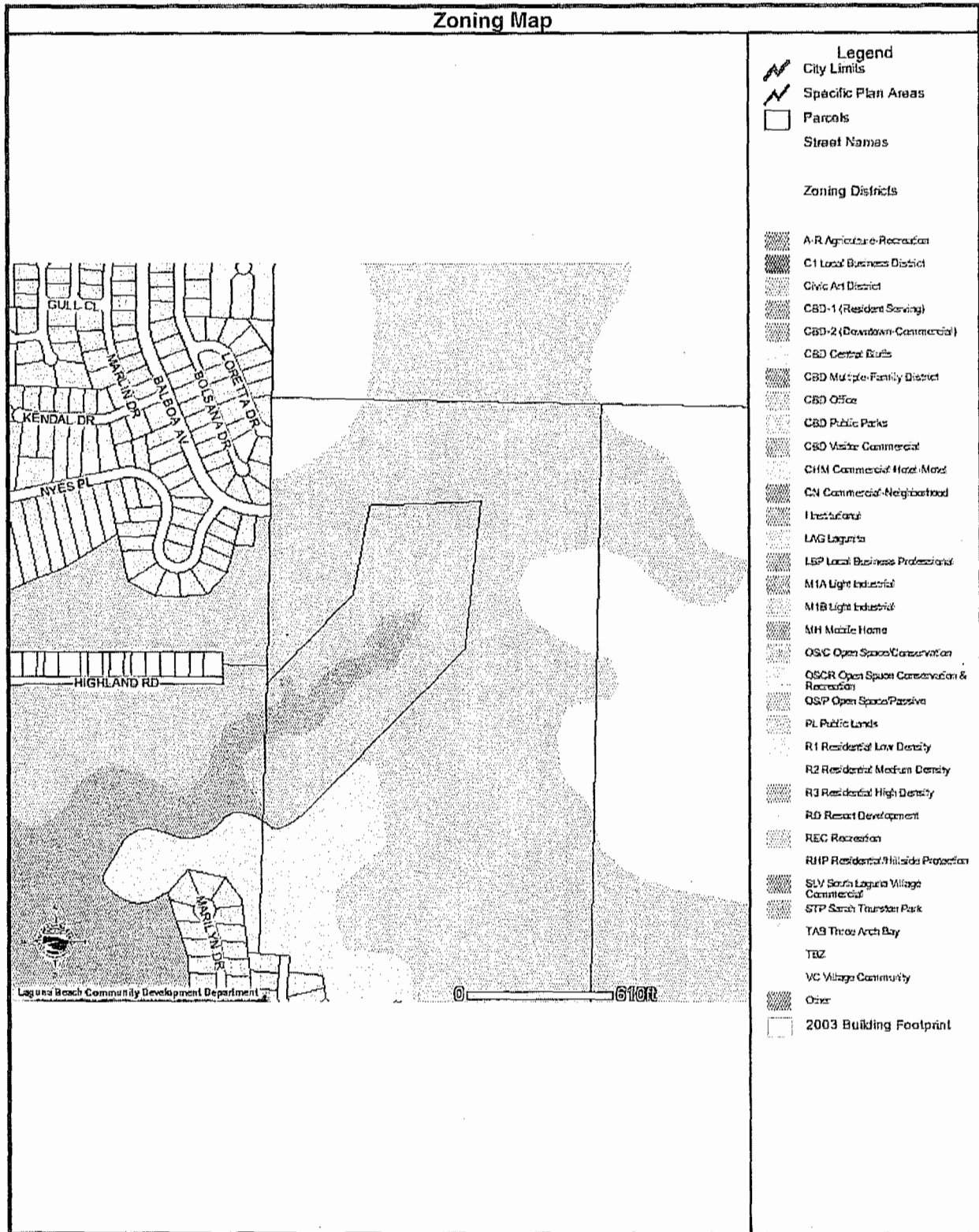


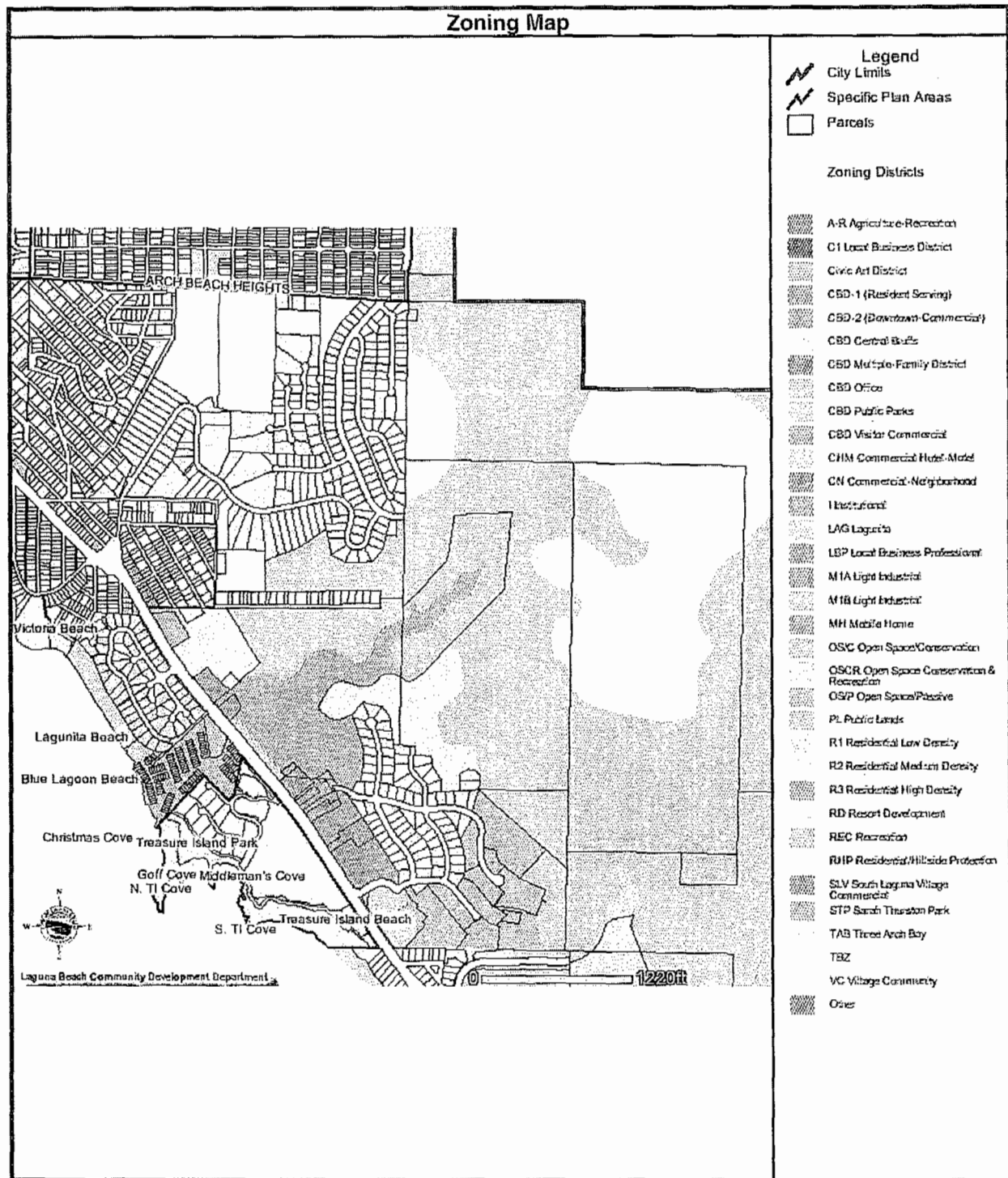
3-00 SN

1-43 DE

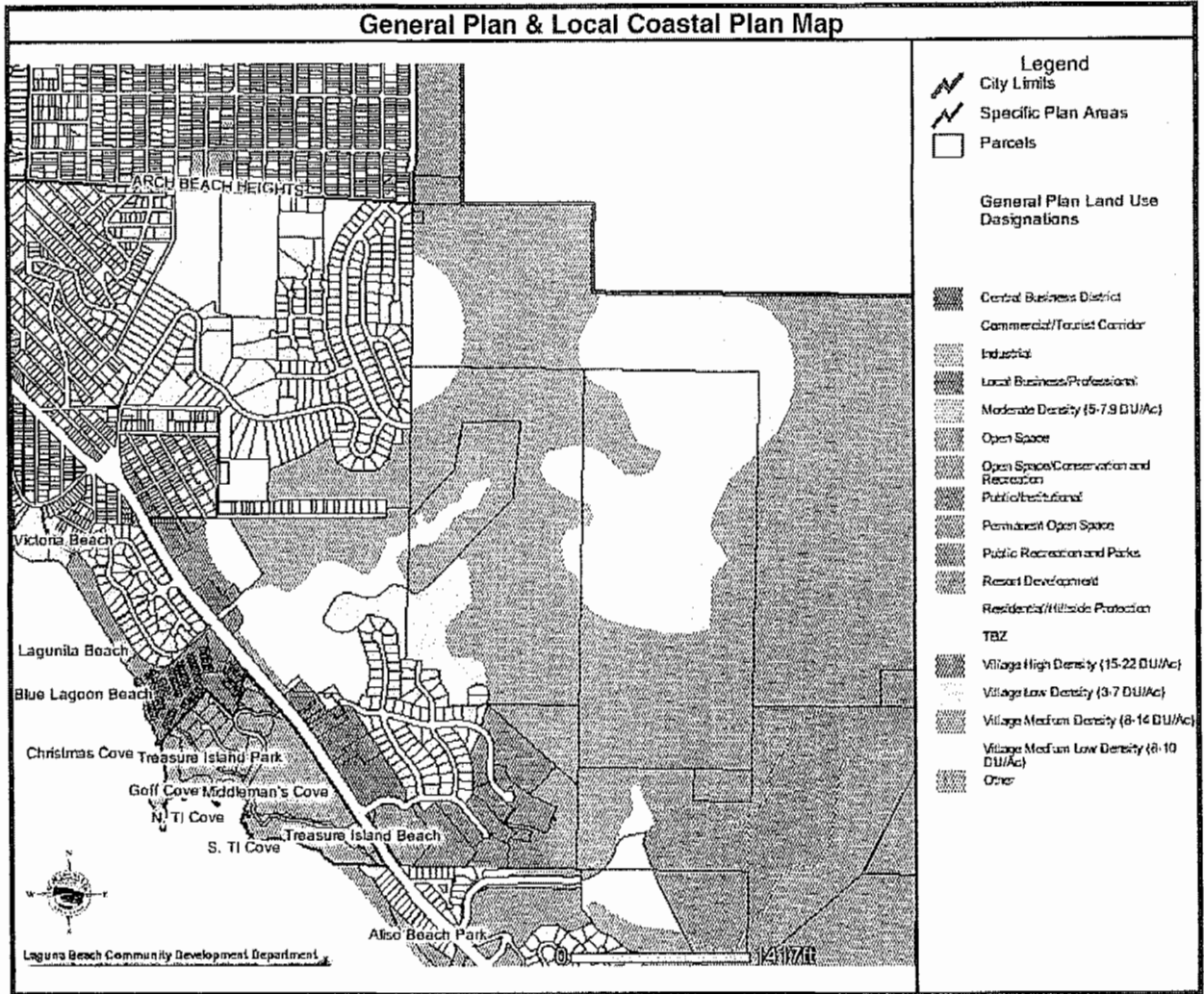
**EXHIBIT E**

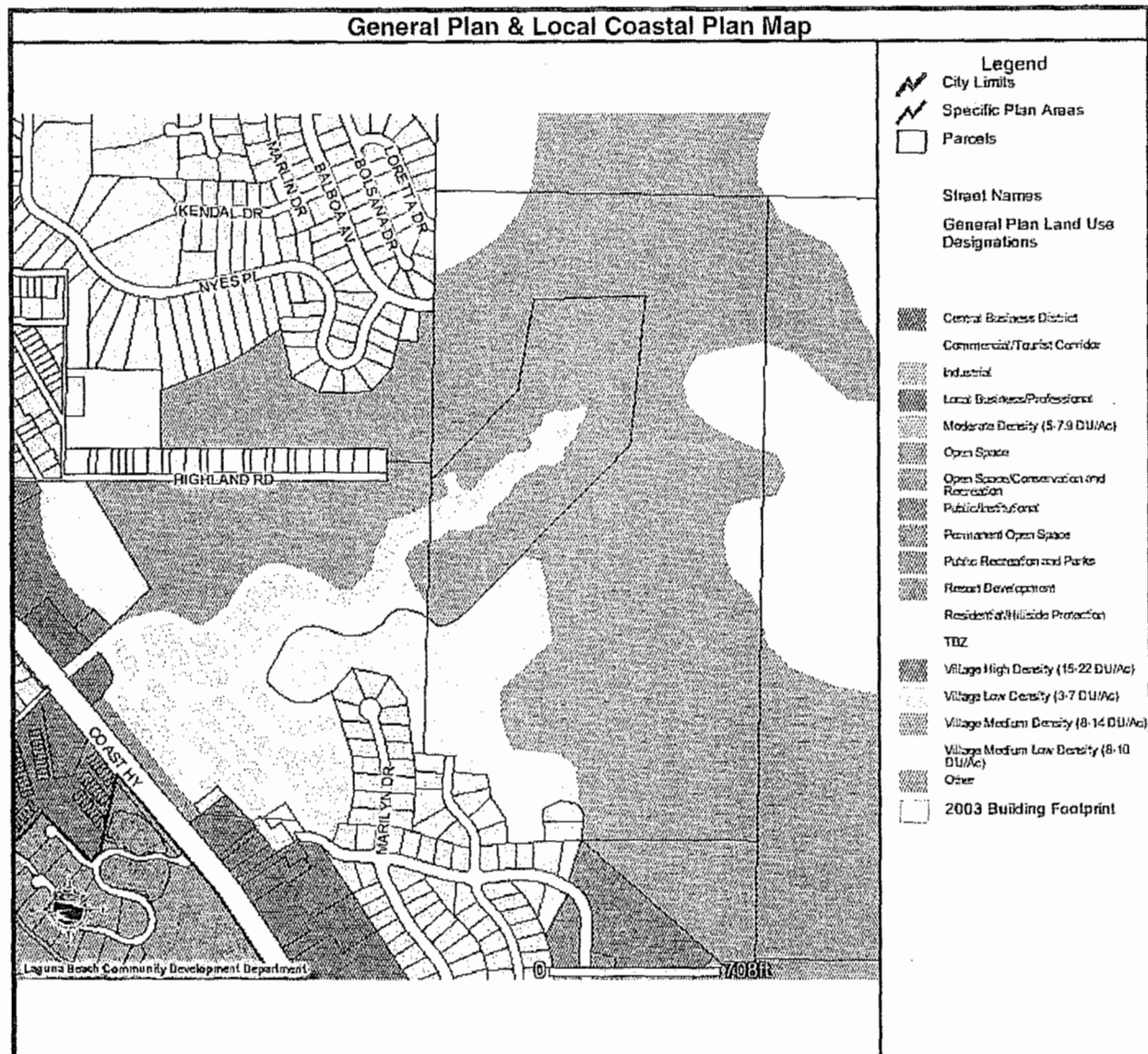
**Existing Zoning and General Plan Maps**











**EXHIBIT F**

**August 31, 2009 Letter from Manatt, Phelps & Phillips**

August 31, 2009

Client-Matter: Y11396

**BY E-MAIL SDRAPKIN@LAGUNABEACHCITY.NET**

Mr. Scott Drapkin  
Planning Division  
Community Development Department  
City of Laguna Beach  
505 Forest Avenue  
Laguna Beach, California 92651

**Re: Laguna Terrace Park, LLC (VTTM 17301)**

Dear Mr. Drapkin:

We are writing in connection with the proposed Laguna Terrace Park Coastal Development Permit and Vesting Tentative Tract Map at 30802 South Coast Highway. This letter will outline three points that have been missing from the legal correspondence surrounding this project: (A) there is a clear mandate for California Environmental Quality Act review in connection with this project, which review must include the proposed termination of the shared Laguna Terrace Park/Ruby's Diner access easement; (B) contrary to past pronouncements by the applicant, the City *is* authorized to impose conditions of approval on this project because the Government Code restrictions on mobilehome subdivisions do not extend to the Coastal Development Permit; and (C) the proposed conversion is subject to the *Mello Act* and therefore must provide for replacement housing (which, like the project itself, is subject to California Environmental Quality Act review.) Each of these points is detailed below.

A. THE PROJECT IS SUBJECT TO ENVIRONMENTAL REVIEW UNDER CEQA

We understand that the City of Laguna Beach ("City") has not yet determined whether the proposed Coastal Development Permit and 161-lot Vesting Tentative Tract Map (collectively, the "Conversion") will be subject to environmental review under the California Environmental Quality Act ("CEQA.") As demonstrated below, the Conversion *is* subject to CEQA, and *is not* covered by any CEQA exemption.

(1) The Conversion is a "Project" Under CEQA

The Conversion is a "project" subject to CEQA. The term "project" means an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable

Mr. Scott Drapkin  
Page 2

indirect physical change in the environment, and which is an activity that involves the issuance to a person of a permit or other entitlement for use by one or more public agencies. (*See* Pub. Res. Code § 21065.) Here, the City is being asked to approve two discretionary actions – a Tentative Tract Map and a Coastal Development Permit – both of which have the potential to result in a physical change to the environment. (*See* Laguna Beach Municipal Code §§ 11.12.050 and 25.07.012, respectively.) As discussed in greater detail below, the Conversion could result in potential impacts to one or more of the following environmental areas: air quality, biological resources, cultural resources, aesthetics, traffic, noise, utilities, water quality, geology/soils, population/housing, and land use. Therefore, the Conversion qualifies as a “project” for purposes of CEQA.

(2) The Required CEQA Review Must Consider the Elimination of the Laguna Terrace Park/Ruby’s Diner Shared Access Easement

The northern entrance to the Laguna Terrace Park is a private road known as Laguna Terrace North. The applicant owns Laguna Terrace North, which is burdened by an ingress/egress easement that runs in favor of Paul Esslinger. Paul Esslinger, in turn, leases property (including his rights to this easement) to Ruby’s Diner. This ingress/egress easement serves as a key shared access point for both the Laguna Terrace Park and the Ruby’s Diner restaurant located at 30622 South Coast Highway. It is also the subject of ongoing litigation between the applicant and Paul Esslinger (*Laguna Terrace Park, LLC v. Paul R. Esslinger* (Orange County Superior Court, Case No. 05CC02237)), in which the applicant has offered a variety of legal theories intended to terminate the easement. Removing this access point would force all Ruby’s traffic to use a single point of ingress and egress, and could therefore create substantial adverse traffic and circulation impacts. The termination of the Laguna Terrace North must be considered to be a part of the “project” for purposes of CEQA because this litigation is being pursued concurrently with the Conversion application.

(3) The Conversion is *not* Exempt from CEQA Review

Although certain discretionary projects are exempt from CEQA review, the Conversion is not one of them. The applicant may argue that the Conversion is exempt under Public Resources Code Section 21080.8, which relates to “... the conversion of an existing rental mobilehome park to a *resident initiated* subdivision, cooperative, or condominium for mobilehomes if the conversion will not result in an expansion of or change in existing use of the property.” (Pub. Res. Code § 21080.8; Emphasis added.) However, that exemption is inapplicable to the Conversion. Instead of a *resident initiated* subdivision, the subject Conversion is being initiated by Laguna Terrace Park LLC, *owner* of the subject mobilehome park. No other CEQA exclusion or exemption applies.

(4) The Conversion may Result in Numerous Significant Effects on the Environment

According to the applicant, the Laguna Terrace Park currently has 158 residential spaces, 135 of which are rented under either long term or month to month tenancies. The remaining 23 residential spaces are either vacant (17), homes with removal pending (2), park-owned (2) or occupied by homes under storage agreements with mobilehome dealers or banks (2). Since the proposed tract map includes 158 residential lots, it is reasonably foreseeable that approval of the proposed Tentative Tract Map and a Coastal Development Permit would result in occupation of all 158 residential spaces as well as the reconstruction of the two homes with removal pending. It is also reasonably foreseeable that, as set forth in Section B of this letter, the City may condition the Conversion to construct on- and off-site improvements. The Conversion therefore has the potential to result in environmental impacts relating to, among other things, air quality, biological resources, cultural resources, aesthetics, traffic, noise, utilities, water quality, geology/soils, population/housing, and land use.

- Air Quality – The addition of 23 occupied residences will cause an increase in peak hour traffic volume and intersection congestion that may (i) conflict with or obstruct implementation of the applicable air quality plan; (ii) violate air quality standards; (iii) expose sensitive receptors to substantial pollutant concentrations; and/or (iv) create objectionable odors affecting a substantial number of people. In addition, any CEQA document prepared in connection with the Conversion must consider the potential incremental contribution of the additional residential occupations on cumulative global warming impacts. Any required on- or off-site improvements would only contribute to these impacts.
- Biological Resources – According to the Laguna Beach General Plan Open Space/Conservation Element, the inland valley portion of the Conversion project site is almost completely surrounded by a “Very High Value” biological resource area. Environmental review under CEQA is required to determine whether the proposed Conversion, and/or required on- and off-site improvements associated with the Conversion, will (i) have a substantial adverse effect, either directly or through habitat modifications, on any California Department of Fish and Game or U.S. Fish and Wildlife Service candidate, sensitive, or special status species; (ii) have a substantial adverse effect on any California Department of Fish and Game or US Fish and Wildlife Service riparian habitat or other sensitive natural community; (iii) have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act; (iv) interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; (e) conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance;

and/or (v) conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

- Cultural Resources – The proposed Conversion, and/or required on- and off-site improvements associated with the Conversion, may involve grading and/or excavation. Such activities may, in turn, cause a substantial adverse change in the significance of a historical resource, an archaeological resource, a paleontological resource. Human remains may also be disturbed.
- Aesthetics – The Laguna Beach Scenic Highways Element designates Pacific Coast Highway as a scenic highway. Environmental review under CEQA is required to assess whether and how the Conversion may affect existing scenic vistas, generally, and views from Pacific Coast Highway, specifically. It must also consider the potential for the Conversion project—in both its construction and operational phases—to substantially degrade the existing visual character and quality of the site and its surroundings. Finally, increased light and glare from the increased automobile traffic must be addressed.
- Traffic – The addition of 23 occupied residences may cause an increase in peak hour traffic volume and intersection congestion that may be substantial in relation to the existing traffic load and capacity of the street system. It may also result in a shortage of parking, and inadequate emergency access to/from the park.
- Noise – Noise associated with the increased residential traffic—and potentially on- and off-site improvements construction traffic—may expose area residents to noise levels in excess of standards established standards, and may increase in ambient noise levels in the project vicinity. The proposed Conversion, and/or required on- and off-site improvements associated with the Conversion, may also expose area residents to the generation of excessive groundborne vibration and/or groundborne noise levels.
- Utilities – The addition of 23 occupied residences may exceed the current capacities of the existing utility system, triggering the need for new or expanded water or wastewater treatment facilities, and/or new or expanded water drainage facilities. The construction of such facilities could, in turn, cause significant environmental effects, and must therefore be addressed.
- Water Quality – A large portion of the Conversion project site is located in a valley and is surrounded by steep canyon walls. Given this topography, it is possible that the Conversion may expose people or structures to a significant risk

of loss, injury or death involving flooding. The proposed Conversion, and/or required on- and off-site improvements associated with the Conversion, may also substantially alter the existing drainage pattern of the site or area in a manner which would result in substantial erosion or siltation or flooding on- or off-site. Finally, demolition of existing residences associated with the relocation of tenants may also give rise to adverse water quality impacts.

- Geology/Soils – As stated above, a large portion of the Conversion project site is located in a valley, surrounded by steep canyon walls. Given this topography, it is possible that the Conversion may expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.
- Population/Housing – The proposed Conversion would induce population growth by up to 23 residential units. In addition, an unknown number of existing renters will not be able to afford to purchase the converted mobilehome lots or to pay the increased rent contemplated by Government Code Section 66427.5. The Conversion may therefore result in environmental impacts associated with the relocation of these renters to other areas (e.g., demolition and removal of debris.)
- Land Use – The City has already identified areas in which the proposed Conversion conflicts with the adopted General Plan. According to the City’s June 16, 2009 Agenda Bill, “... the proposed design of the subdivision appears to be inconsistent with numerous General Plan and Municipal Code provisions; including but not limited to: density, required parking, required access, circulation and required fuel modification. General Plan Land Use Policy 10-C discourages the approval of subdivisions requests that do not conform to design and zoning standards. In addition, subdivision design improvements must be in compliance with the Municipal Code and the General Plan in order to approve the proposed subdivision and make the Coastal Development Permit and Tentative Tract Map findings. Consequently, the proposed subdivision design may require the removal of certain nonconforming mobile homes, which again creates the possibility of displacing existing mobile home residents.” (City of Laguna Beach 6/16/09 Agenda Bill.)

**B. THE CITY IS NOT PROHIBITED FROM IMPOSING CONDITIONS OF APPROVAL**

Both State statute and local ordinance allow the City to impose conditions of approval in connection with the proposed Conversion of the Laguna Terrace Park subdivision and Coastal Development Permit.



(1) State Law Allows the City to Impose Subdivision Improvements in Connection With the Mobilehome Conversion

The applicant believes that Government Code Section 66427.5 "... expressly prohibits cities from imposing additional requirements for approval of a subdivision to be created by conversion of a rental mobilehome park to resident ownership." (May 12, 2009 letter from Hart, King & Coldren.) What the applicant fails to note is that Government Code Section 66428.1(d) provides an exception to this rule, allowing cities to impose offsite design or improvement requirements that are "necessary to mitigate an existing health or safety condition." (Cal. Govt. Code §66428.1(d).)

The City has previously identified a range of existing health and safety concerns related to the Conversion, including density, required parking, required access, circulation and required fuel modification. (City of Laguna Beach 6/16/09 Appeal Report.) These and other health and safety concerns can and must be addressed through subdivision conditions under Section 66428.1(d).

(2) The Municipal Code Allows the City to Condition the Coastal Development Permit Approval

In all of the correspondence regarding the City's ability to condition the Conversion under Government Code Section 66427.5, it has gone all but unnoticed that the Conversion involves *two* separate approvals: (i) a Tentative Tract Map, and (ii) a Coastal Development Permit. As discussed immediately above, the City's authority to impose subdivision improvements in connection with the Tentative Tract Map is limited to instances where such improvements are necessary to mitigate an existing health or safety condition. (See Cal. Govt. Code §66428.1(d).) The City's authority to condition the Coastal Development Permit, however, is subject to no such constraints.

With respect to Coastal Development Permit conditions, the Laguna Beach Municipal Code provides that, "[i]n approving an application for a coastal development permit, the approving body may impose conditions necessary to enable the required findings to be made. When conditions pertaining to public access and/or open space or conservation easements are imposed, notification of such action shall be submitted to the executive director of the coastal commission in accordance with Section 25.07.018." (Laguna Beach Municipal Code § 25.07.012(H).) The applicable findings include:

- (1) The project is in conformity with all the applicable provisions of the general plan, including the certified local coastal program and any applicable specific plans;

Mr. Scott Drapkin  
Page 7

- (2) Any development located between the sea and the first public road paralleling the sea is in conformity with the certified local coastal program and with the public access and public recreation policies of Chapter 3 of the Coastal Act;
- (3) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

(Laguna Beach Municipal Code § 25.07.012(G).) Findings #1 and #3 cannot be made today. With respect to Finding #1, the City has already determined that "... the proposed design of the subdivision appears to be inconsistent with numerous General Plan and Municipal Code provisions; including but not limited to: density, required parking, required access, circulation and required fuel modification." (City of Laguna Beach 6/16/09 Appeal Report.) These issues must be addressed pursuant to General Plan Land Use Policy 10-C, which discourages the approval of subdivisions that do not conform to design and zoning standards. Addressing these issues, in turn, may require the removal of certain nonconforming mobile homes and the displacement of existing mobilehome residents. (City of Laguna Beach 6/16/09 Appeal Report.)

Similarly, Finding #3 cannot be made today. Without preparation of an Initial Study, and Negative Declaration or Environmental Impact Report, the City lacks any foundation upon which to determine that "The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act."

C. THE CONVERSION MUST BE EVALUATED FOR MELLO ACT COMPLIANCE

Laguna Terrace Park is located within the Coastal Zone. As such, the City must comply with the *Mello Act*. (Cal. Govt. Code § 65590(a). Under the *Mello Act*, the conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income is not allowed unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. (Cal. Govt. Code § 65590(b).) The term "conversion" is specifically defined to include the change of a residential mobilehome to a condominium, cooperative, or similar ownership form. (Cal. Govt. Code § 65590(g)(1).)


The applicant must provide the City with evidence of the income levels of the existing residents in order to determine the scope of required *Mello Act* compliance. In the event that the applicant is required to provide replacement housing, potential impacts associated with that relocation must be evaluated as part of the Conversion's CEQA document. Separate evaluations of the Conversion and the replacement housing would subject the CEQA document to segmentation—or so-called "project-splitting"—challenges.

Mr. Scott Drapkin  
Page 8

D. THE RECENT *SEQUOIA PARK ASSOCIATES* CASE IS INAPPLICABLE

The recent *Sequoia Park Associates v. County of Sonoma* (Sonoma County Superior Court No. SCV240003) has no bearing on the Conversion. The issue before the Court of Appeal in that case related to the validity of the County's mobilehome conversion implementation ordinance. The Court held that regulation of such conversions was expressly preempted by State statute. Importantly, nothing in the Court's decision challenged the applicability of state laws including but not limited to CEQA, the Coastal Act or the *Mello Act* to mobilehome conversions. Because preemption is not an issue here, the *Sequoia Park Associates* decision is inapplicable.

Sincerely,



Susan Hori

cc: Darren Esslinger  
Gerard M. Mooney, Esq.  
Phil Kohn, Esq.

70077355.2

**EXHIBIT G**

**October 28, 2009 Letter from Manatt, Phelps & Phillips**

300036478.2

October 28, 2009

Client-Matter: 43150-030

**BY E-MAIL: ZURSCHMIEDE@COX.NET  
RWHALEN@SYCR.COM  
LAGUNA452@COX.NET  
NGROSSMAN@SOCAL.DEVRY.EDU  
ANEEJAY@AOL.COM**

City of Laguna Beach Planning Commissioners  
City of Laguna Beach  
505 Forest Avenue  
Laguna Beach, California 92651

**Re: Agenda Item No. 3**

Honorable Commissioners:

We are writing in connection with the proposed Laguna Terrace Park Coastal Development Permit ("CDP") and Vesting Tentative Tract Map at 30802 South Coast Highway (collectively, the "Project.") This letter responds to the Staff Report prepared in connection with the Project ("Staff Report") and to the September 14, 2009 letter from the applicant's counsel, Hart, King & Coldren ("HKC.") Our August 31, 2009 letter to City Planner Scott Drapkin is attached hereto and incorporated by reference.

At the outset, we take objection to HKC's hyperbolic contention that our August 31 letter contained "purposeful misrepresentations [that were] maliciously designed to derail the lawful and essentially ministerial mobilehome park subdivision process initiated by the Laguna Terrace application." Our August 31 letter was written for the purpose of raising legitimate issues relating to the processing of this application. We objected not to the Project itself, but to the applicant's overly aggressive argument that Government Code Section 66427.5 somehow inoculates it from any regulation by the City of Laguna Beach. Such an approach would inappropriately circumvent not only the City's General Plan and Coastal Act, but also the California Environmental Quality Act ("CEQA.") In the process, well-established standards of environmental protection, coastal access, and basic public health and safety would suffer. Fortunately, that's not the law.

**1. The Project is Not Exempt from CEQA**

The Staff Report inappropriately concludes that the Project qualifies for a Categorical Exemption from CEQA under CEQA Guidelines Section 15301. Like all Categorical Exemptions, Section 15301 is inapplicable when, as here, there is a reasonable possibility that the Project will have a significant effect on the environment due to unusual circumstances. (*See* CEQA Guidelines § 15300.2(c).) Such a reasonable possibility exists in the case of the Project.

According to the applicant, the Laguna Terrace Park currently has 158 residential spaces, 135 of which are rented under either long term or month to month tenancies. The remaining 23 residential spaces are either vacant (17), homes with removal pending (2); park-owned (2) or occupied by homes under storage agreements with mobilehome dealers or banks (2.) Since the proposed tract map includes 158 residential lots, it is reasonably foreseeable that approval of the Project would result in occupation of all 158 residential spaces as well as the reconstruction of the two homes with removal pending. Under CEQA, such reasonably foreseeable indirect physical changes in the environment must be analyzed as part of the overall project. (Pub. Res. Code § 21065.) As a result, the Project has the potential to result in environmental impacts relating to, among other things, air quality, biological resources, cultural resources, aesthetics, traffic, noise, utilities, water quality, geology/soils, population/housing, and land use – all of which were discussed in detail in our August 31, 2009 letter.

The California Legislature intended that CEQA be interpreted in the manner that affords the fullest possible protection to the environment. (*See, e.g., Friends of Mammoth v. Board of Supervisors*, 8 Cal.3d 247 (1972).) Applying a Categorical Exemption to a project when there is a reasonable possibility that the project will have multiple significant effects on the environment is contrary to both that policy guidance and CEQA's plain meaning.

**2. Compliance With the Mello Act is Required**

The Project site is located within the Coastal Zone. As such, the City must comply with the *Mello Act*. (Cal. Govt. Code § 65590(a). Under the *Mello Act*, the conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income is not allowed unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. (Cal. Govt. Code § 65590(b).) The term "conversion" is specifically defined to include the change of a residential mobilehome to a condominium, cooperative, or similar ownership form. (Cal. Govt. Code § 65590(g)(1).) Compliance with the *Mello Act* means that the applicant must provide the City with evidence of the income levels of the existing residents in order to determine the scope of required *Mello Act* compliance. To date, we are aware of no such evidence being provided to the City.

Notably, the City's own peer review law firm (Endeman, Lincoln, Turek & Heater) agrees that *Mello Act* compliance is required in connection with the Project. In their September 11, 2009 letter, they wrote that "...the proposed subdivision may have impacts that go beyond those on Park residents. First, the 1982 Mello Act, California Government Code sections 65590 and 65590.1, regulates the conversion of existing residential units occupied by persons and families of low or moderate income as defined in Health and Safety Code section 50093. Among other things, the Act requires the provision of replacement housing prior to approval of the conversion of such units. The Staff Report acknowledges that the Park is within the coastal zone within the meaning of the Mello Act." Again, we are aware of no evidence of the income levels of the current occupants of the Park having been provided to the City.

**3. Government Code Section 66427.5 Does Not Preempt the CDP**

By its own terms, Government Code Section 66427.5 only applies "[a]t the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a rental mobilehome park to resident ownership." The proposed CDP is not a tentative or parcel map. It is a separate, stand-alone permit required by the City in connection with the performance of work in the Coastal Zone. (See Laguna Beach Municipal Code § 25.07.006.) Since the CDP is not covered by Section 66427.5, all applicable provisions of the Laguna Beach Municipal Code apply, including the following required findings:

- (a) The project is in conformity with all the applicable provisions of the general plan, including the certified local coastal program and any applicable specific plans;
- (b) Any development located between the sea and the first public road paralleling the sea is in conformity with the certified local coastal program and with the public access and public recreation policies of Chapter 3 of the Coastal Act;
- (c) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

(Laguna Beach Municipal Code § 25.07.012(G).) As discussed in our August 31, 2009 letter, Findings (a) and (c) cannot be made today. With respect to Finding (a), the City has already determined that "...the proposed design of the subdivision appears to be inconsistent with numerous General Plan and Municipal Code provisions; including but not limited to: density, required parking, required access, circulation and required fuel modification." (City of Laguna Beach 6/16/09 Appeal Report.) Similarly, Finding (c) cannot be made today. Without preparation of an Initial Study, and Negative Declaration or Environmental Impact Report, the City lacks any foundation upon which to determine that "[t]he proposed development will not

City of Laguna Beach Planning Commissioners  
Page 4

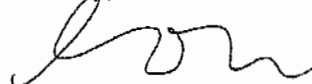
have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.”

In order to make the required findings, the Laguna Beach Municipal Code provides that the approving body may impose conditions of approval. (Laguna Beach Municipal Code § 25.07.012(H).) To be consistent with the General Plan, as required by Finding (a), the City must address the range of existing health and safety concerns related to the Project, including density, required parking, required access, circulation and required fuel modification. (City of Laguna Beach 6/16/09 Appeal Report.) Failure do so would violate General Plan Land Use Policy 10-C, which discourages the approval of subdivisions requests that do not conform to design and zoning standards.

**4. Conclusion**

We respectfully request that the Commission continue tonight’s hearing until such time as the applicant has fully complied with CEQA, the *Mello Act*, and the Laguna Beach Municipal Code provisions governing Coastal Development Permits.

Sincerely,



Sean Matsler

cc: Darren Esslinger (by e-mail)  
Gerard M. Mooney, Esq. (by e-mail)  
Phil Kohn, Esq. (by e-mail)  
Scott Drapkin (by e-mail)  
Martha Anderson, City Clerk (by e-mail)

300010853.3



February 19, 2010

RECEIVED  
South Coast Region

FEB 22 2010

Karl Schwing  
California Coastal Commission  
South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802

CALIFORNIA  
COASTAL COMMISSION

Re: Taken from Laguna Beach City Council Recap online:  
18. VESTING TENTATIVE TRACT MAP 09-03 AND COASTAL DEVELOPMENT PERMIT 09-36 Request for approval of a Vesting Tentative Tract Map and Coastal Development Permit to subdivide and convert an existing rental space mobile home park to a resident-owned mobile home park.

Egly-Boyd 3/2 Adopt Resolution No. 10-004 as amended, conditionally approving Vesting Tentative Tract Map 09-03 and Coastal Development Permit 09-36 at 30802 Coast Highway. (Noes: Rollinger, Iseman)

Dear Mr. Schwing:

This letter is a follow up to the appeal I filed on January 12, 2010 for the above-referenced, and a request for re-activation based upon the Coastal Commission opening the appeal period. Please note the enclosed appeal has been updated to reflect Commission discussions from the February 12, 2010 hearing in Oceanside. I have not included the previous attachments in an effort to save paper, but have added a new attachment for your reference and noted it in the attachments listing.

Thank you for activating this appeal based on the Commission's decision on the dispute resolution regarding appealability on February 12, 2010. I look forward to receiving information on a hearing date once it is scheduled.

Respectfully submitted,



Penny Elia  
30632 Marilyn Drive  
Laguna Beach, CA 92651  
949-499-4499

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
 200 OCEANGATE, 10<sup>TH</sup> FLOOR  
 LONG BEACH, CA 90802-4416  
 VOICE (562) 590-5071 FAX (562) 590 5084

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**

**SECTION I. Appellant(s)**

Name: Penny Elia

Mailing Address: 30632 Marilyn Drive

City: Laguna Beach

Zip Code: 92651

Phone: 949-499-4499

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

Laguna Beach

2. Brief description of development being appealed:

Taken from Laguna Beach City Council Recap online:

18. VESTING TENTATIVE TRACT MAP 09-03 AND COASTAL DEVELOPMENT PERMIT 09-36 Request for approval of a Vesting Tentative Tract Map and Coastal Development Permit to subdivide and convert an existing rental space mobile home park to a resident-owned mobile home park

Egley-Boyd 3/2 Adopt Resolution No. 10-004 as amended, conditionally approving Vesting Tentative Tract Map 09-03 and Coastal Development Permit 09-36 at 30802 Coast Highway. (Noes: Rollinger, Iseman)

3. Development's location (street address, assessor's parcel no., cross street, etc.):

30802 Coast Highway  
 Laguna Beach, CA 92651

4. Description of decision being appealed (check one.):

- Approval; no special conditions  
 Approval with special conditions:  
 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: A-5-LGB-10-039  
 DATE FILED: 2/22/2010

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
200 OCEANGATE, 10<sup>TH</sup> FLOOR  
LONG BEACH, CA 90802-4416  
VOICE (562) 590-5071 FAX (562) 590-5084



DISTRICT:	South Coast District Office - Long Beach
-----------	--

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: January 5, 2010

7. Local government's file number (if any): CDP 09-36 and VTTM 09-03

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

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

a. Name and mailing address of permit applicant:

Laguna Terrace Park LLC  
30802 South Coast Highway  
Laguna Beach, CA 92651  
James Lawson - Manager  
Stephen Esslinger - Owner

b. 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.

(1) Penny Elia  
30632 Marilyn Drive  
Laguna Beach, CA 92651

(2)

(3)

(4)

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

### SECTION IV. Reasons Supporting This Appeal

#### **PLEASE 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.
- 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.)
- This 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.

This appeal stems from a January 5, 2010 action by the City of Laguna Beach approving the vesting of a Tentative Tract Map and the issuance of a Coastal Development Permit. This timely appeal is brought pursuant to Public Resources Code §30603 of the Coastal Act and the City of Laguna Beach certified Local Coastal Program "LCP" (certified January 13, 1993 and amended July 20, 2004).

The City Council decision under appeal brings several areas of concern to the Commission: 1) multiple inconsistencies with the Coastal Act and the City's Local Coastal Program (LCP) 2) questionable legality of General Plan Amendment 3) questionable legality of zoning change 4) unpermitted development 5) illegal grading resulting in destruction of ESIA and mapped watercourses 6) unresolved Notice of Violation from the Coastal Commission's Enforcement Division (V-5-07-006) 7) failure to re-circulate notice of public hearing to advise of appealability of matter. This area is contiguous with Hobo Aliso Ridge, Aliso Woods Canyon Wilderness Park and South Coast Wilderness Park.

#### Inconsistencies with Coastal Act and City's LCP

The proposed division of land is development subject to regulation under the Coastal Act and certified LCP. The division of land can result in the establishment of additional development potential and certain expectations and rights on the part of the land owner(s) for certain levels of development. The effects of such development while processing the land division that would make such development possible must be considered. The whole range of coastal resource issues addressed in the City's certified LCP should have been considered in this request for land division, including but not limited to protection and enhancement of public access, biological resources, water quality, scenic resources, landform alteration, and minimization and avoidance of hazards, i.e. geologic, fire, flood, etc.

The City's biological resource values maps indicate this area as high value and very high value habitat (this area also includes multiple endangered species). These areas are also very likely to be Environmentally Sensitive Areas (ESAs). During multiple Coastal Commission hearings over the past seven years, Karlin Marsh has been quoted extensively. Please note the following excerpt as it relates to Hobo Canyon and the surrounding environs:

South Laguna Biological Resources Inventory  
Prepared for the City of Laguna Beach  
By Karlin G. Marsh, Biological Consultant

January 20, 1992

## Page 29 – 3.0 Description of South Laguna's Open Space Areas

In terms of habitat complexity, extent and ecosystem intactness, Hobo Canyon is the most significant of South Laguna's open spaces and is indeed among the most biologically valuable open spaces in the entire city.

As observed in the field by Contributor Roberts, the land block almost seems designed (by nature) as a rare plant preserve. Five rare and threatened plant species have been found, as well as six which are of regional restricted distribution or at range edge. Among the former is the State of California threatened big-leaved crownbeard, in major stands within the heart of its small US population.

Dr. John Dixon, the Long Beach and San Francisco staff have a complete report by Karlin Marsh in each of their respective offices.

LCP policies such as Open Space Conservation Element Policy 8-J requires that detailed biological assessments be prepared for all development within and adjacent to ESAs and that identified ESAs be protected. The City's staff report makes no mention of any biological assessment nor any measures to protect ESAs that are incorporated into the proposed development or imposed through special conditions on the coastal development permit.

Another concern is fuel modification as it relates to new subdivisions and requirements to protect sensitive habitat areas. A fuel modification plan is required by the City, and as staff and the Commission know after years of testimony and submitted documentation, there have been far too many fuel modification problems associated with this area already. Note Open Space Conservation Element Policies 8-G and 8-H that pertain to fuel modification.

Implementation of water quality requirements of the LCP have been completely ignored in this area that is mapped with multiple watercourses and prone to flooding and mudslides. Hobo Canyon itself is a streambed, or was before it was graded and paved, and has had serious flooding problems in the past that required evacuation of many of the mobilehome units. The San Diego Regional Water Quality Control Board just adopted a newly strengthened MS4 Permit (NPDES) that must also be considered as it relates to the receiving waters of the Pacific Ocean. Topic 4 of the Open Space Conservation Element of the City's General Plan/LCP includes numerous policies requiring implementation of water quality BMPs in order to protect and restore water quality. This proposed development is a "priority development project" subject to water quality regulations because it involves the creation of four or more lots and is located within a "water quality environmentally sensitive area." The proposed development does not comply with the requirements of Title 16 and has not been analyzed for compliance. Furthermore, current residents of the mobilehome park have been advised that a sewer line repair project will begin in the next few months. Based on a recent review of the City's file on this property there are no permits for this project and no application can be located. It is unclear if this sewer project is in the City's jurisdiction or the Coastal Commission's (area of deferred certification).

## Questionable Legality of General Plan Amendment and Zoning Changes

## Illegal Grading and Unpermitted Development

Coastal Commission staff is in receipt of the 36-page letter from Manatt, Phelps & Phillips, LLP dated

January 4, 2010 that was sent to the Laguna Beach City Council and the City's attorney prior to the hearing on January 5, 2010. This letter was never addressed during the entire hearing. The letter addresses in great detail illegal grading and zoning changes that were implemented to add to the footprint of the mobilehome park and create more lots. This letter further substantiates the volumes of documentation the Sierra Club has previously submitted to Coastal Commission staff during the preparation for the vested rights claim hearing on Hobo Aliso Ridge (October 16, 2008). Please reference archived webcast for details:

<http://www.cal-span.org/cgi-bin/media.pl?folder=CCC>

#### 14. VESTED RIGHTS CLAIM.

a. Application No. 5-07-412-VRC (Driftwood Properties LLC, Laguna Beach) Application of Driftwood Properties for graded pads and right to maintain pads, including fuel modification in compliance with requirements of City of Laguna Beach, at vacant land at northern terminus of Driftwood Drive, at Northern Terminus of Driftwood Drive, Laguna Beach, Orange County. (KFS-LB/LW-SF) [DENIED]

In addition to this, Sierra Club has recently uploaded numerous aerials and overlays to Commission staff via the Commission's ftp site that illustrate the illegal grading and expansion of the mobilehome park into ESHA and multiple watercourses. These aerials also illustrate unpermitted development, but additional unpermitted grading and development are open to discovery.

Hobo Cyn w:parcels.jpg	
1172964	2009-10-23 14:25:31
HoboDenuding&Grading1.pdf	
303061	2009-10-22 19:53:58
HoboDenuding&Grading2.pdf	
324321	2009-10-22 19:54:09
HoboMaintenanceYard.pdf	
170597	2009-10-22 19:54:19
1973 HoboCynAerial.pdf	
201276	2009-10-22 19:52:55
1986 HoboCynAerial.pdf	
206117	2009-10-22 19:53:07
1994 HoboCynAerial.pdf	
237052	2009-10-22 19:53:18
1994 HoboCynAerialRevised.pdf	
237104	2009-10-23 17:34:44
2000 HoboCynAerial.pdf	
437598	2009-10-23 17:35:13
2006 HoboCynAerial.pdf	
952112	2009-10-22 19:53:42

Unpermitted grading was also conducted under the cover of multiple Coastal Development Permits issued by the Commission, including, but not limited to 5-98-151-A1 and 5-95-286. This unpermitted grading is visible in the aerials previously submitted.

## Unresolved Notice of Violation

On May 4, 2007, Laguna Terrace Park LLC, Stephen Esslinger, owner, was sent a Notice of Violation, V-5-07-006. Property location: APNs 056-240-64, 056-240-65, 656-191-38, 656-191-39, 656-191-40. Unpermitted development: Lot lines adjusted (via LLA 95-01 and 95-04) without benefit of required coastal development permits.

This violation has not been resolved in almost three years yet the same landowner is proceeding with a subdivision application and vesting of a tentative tract map that involves parcels listed above. Notice of Violation attached.

Also in question is the sale by Laguna Terrace Park LLC of a related parcel to The Athens Group for the development of an off-site parking lot at 30782 Coast Hwy (APN 656-191-38). This parcel was formerly a gas station and never had any remediation action taken following the removal of the gas tanks and the development of a parking lot for off-site Montage Resort employee parking. Extensive grading and bluff stabilization were involved in the development of this parking lot that received a Conditional Use Permit (04-50), Variance 7174, Coastal Development Permit 04-91 and an associated negative declaration from the City of Laguna Beach under Resolution No. 05-032 on March 15, 2005 (first page enclosed). Adjacent to this parcel is unpermitted development that occurred on a large lot associated with the mobile home park that runs parallel to Coast Hwy. Development includes grading, bluff stabilization, light installation and irrigation system.

## Failure of City of Laguna Beach to Recirculate Hearing Notice to Advise Public of Appealability

Please reference the following emails 1) from Coastal Commission staff to City of Laguna Beach staff 2) from Penny Elia to City staff with copies to Laguna Beach City Council, Coastal Commission staff and multiple regulatory agencies:

From: Karl Schwing

Sent: Tuesday, December 22, 2009 5:25 PM

To: 'Drapkin, Scott CD'

Cc: Montgomery, John CD; Teresa Henry

Subject: Laguna Terrace Mobile Home Park, VTTM 09-03, CDP 09-36 - Appealability

Scott,

It has come to my attention that the City has mailed out a public hearing notice on the subject vesting tentative tract map and coastal development permit to divide the Laguna Terrace Mobile Home Park into 158 mobile home lots and 4 lettered lots and that a hearing is scheduled for January 5, 2010, before the City Council. As you know, part of the project area is within the City's jurisdiction and part is within the Commission's jurisdiction. We do believe there remain a number of outstanding issues with this land division and that it is premature for the City to proceed at this time, as discussed in our letter to the Planning Commission in October. However, the main purpose of this email is to advise you of our disagreement with your determination regarding the appealability of the City's action on its coastal permit to the Commission. The hearing notice states that the City's action on the portion of the development that is within its jurisdiction would not be appealable to the Commission. We can understand how the City arrived at this conclusion if it were relying on the lot lines identified by Lot Line Adjustment 95-01 that received certain City approvals but has not been approved by any coastal development permit. For purposes of the Coastal Act, the lot lines are as they were preceding that lot line adjustment. Therefore, we view the action the City is now considering on vesting tentative tract map 17301 (application no. 09-03/CDP 09-36) as authorizing a division of land that involves the larger



approximately 229.31 acre parcel that we understand existed prior to L.I.A 95-01 and that this mobile home park is partly located on. Since there is an appeals area (which is identified on the City's post-cert map) within that larger parcel that is a part of the land division that would be partially authorized by this pending coastal permit, the City's action on that coastal permit is appealable to the Commission. Therefore, we recommend that the City re-circulate the hearing notice to indicate that its action on the coastal permit for the development that is within its jurisdiction is appealable to the Commission.

Please note that I will be out of the office and returning on January 4, 2010. If you have questions or wish to discuss further and are in need of urgent assistance, Teresa Henry, our District Manager, will have limited availability the week of December 28th and is familiar with this matter.

Thanks for your attention to this issue.

Karl Schwing  
California Coastal Commission  
South Coast Area Office/Long Beach

From: Penny Elia <greenpl@cox.net>  
Date: January 4, 2010 10:03:05 AM PST  
To: Scott CD Drapkin <sdrapkin@lagunabeachcity.net>  
Cc: Toni Iseman <Tiseman2@aol.com>, elizabethpearson2@cox.net, kellyboyd2006@gmail.com, Jane Egly <jhegly@aol.com>, Verna Rollinger <vernarollinger@cox.net>, Karl Schwing <kschwing@coastal.ca.gov>, Sherilyn Sarb <ssarb@coastal.ca.gov>, Andrew Willis <awillis@coastal.ca.gov>, Aaron McLendon <amclendon@coastal.ca.gov>, Erinn Wilson <EWilson@dfg.ca.gov>, Ben Neill <bneill@waterboards.ca.gov>, James Smith <jsmith@waterboards.ca.gov>, Chad Loflen <cloflen@waterboards.ca.gov>, Tony Felix <TFelix@waterboards.ca.gov>, Mike WQ Phillips <mphillips@lagunabeachcity.net>, Ken CM Frank <kcf Frank@lagunabeachcity.net>, John CD Montgomery <jmontgomery@lagunabeachcity.net>, Peter Douglas <pdouglas@coastal.ca.gov>, Lisa Haage <lhaage@coastal.ca.gov>, Teresa Henry <thenry@coastal.ca.gov>, David WQ Shissler <dshissler@lagunabeachcity.net>, Steve PW May <smay@lagunabeachcity.net>, jonathan\_d\_snyder@fws.gov  
Subject: Agenda Item #18 - Laguna Beach City Council - January 5, 2010

Good morning, Scott -

I hope you enjoyed a lovely holiday season.

Would you please be kind enough to advise why Coastal Commission staff's recommendation below has not been addressed?

However, the main purpose of this email is to advise you of our disagreement with your determination regarding the appealability of the City's action on its coastal permit to the Commission. The hearing notice states that the City's action on the portion of the development that is within its jurisdiction would not be appealable to the Commission. We can understand how the City arrived at this conclusion if it were relying on the lot lines identified by Lot Line Adjustment 95-01 that received certain City approvals but has not been approved by any coastal development permit. For purposes of the Coastal Act, the lot lines are as they were preceding that lot line adjustment. Therefore, we view the action the City is now considering on vesting tentative tract map 17301 (application no. 09-03/CDP 09-36) as

authorizing a division of land that involves the larger approximately 229.31 acre parcel that we understand existed prior to LIA 95-01 and that this mobile home park is partly located on. Since there is an appeals area (which is identified on the City's post-cert map) within that larger parcel that is a part of the land division that would be partially authorized by this pending coastal permit, the City's action on that coastal permit is appealable to the Commission. Therefore, we recommend that the City re-circulate the hearing notice to indicate that its action on the coastal permit for the development that is within its jurisdiction is appealable to the Commission.

Based on the above along with decades of questionable and destructive development activity at the park, numerous LCP inconsistencies that include but are not limited to potential for additional development, impacts to biological resources (very high and high value habitat/ESAs and multiple mapped watercourses), fuel modification related to new subdivisions and requirements to protect sensitive habitat areas, implementation of water quality protection requirements (new MS4 Permit as an example), and the general complete lack of analysis of the impacts of this possible "priority development project" we are unclear as to why this is moving forward to City Council with approval recommendation.

Time and time again the words "bullet proof" are used from the dais as it relates to proposed projects and various issues. It would appear from staff's recommendation for adoption that you find this proposal bullet proof.

Thank you for taking the time to consider these comments.

Best wishes in the New Year -

Penny Elia  
Sierra Club  
949-499-4499

This concludes our timely submission and second, updated submittal. However, we are in the process of compiling new aerials and overlays for submission at a later date.

Thank you for considering this large amount of information that has been compiled over many years.

Attachments: Notice of Violation V-5-07-006  
Manatt, Phelps & Phillips, LLP  
First page of Resolution No. 05-032 of City of Laguna Beach

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

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

*Penny Elia*

\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: *Resubmitted 7/19/10*

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby  
authorize

\_\_\_\_\_

to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

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

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

NO FEE  
2005000432326 10:30am 06/06/05  
211 130 R28 12  
0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00

1 RECORDING REQUESTED BY  
2 CITY OF LAGUNA BEACH  
3 AND WHEN RECORDED MAIL TO:

4 CITY CLERK  
5 CITY OF LAGUNA BEACH  
6 505 FOREST AVENUE  
7 LAGUNA BEACH, CA 92651

THIS SPACE RESERVED FOR RECORDING

8 **RESOLUTION NO. 05.032**

9 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH  
10 APPROVING CONDITIONAL USE PERMIT 04-50, VARIANCE 7174; COASTAL  
11 DEVELOPMENT PERMIT 04-91 AND ASSOCIATED NEGATIVE DECLARATION AT  
12 30782 COAST HIGHWAY

13 WHEREAS, an application has been filed by the owner of property located at 30782 Coast  
14 Highway requesting approval of Conditional Use Permit 04-50, Variance 7174 and Coastal  
15 Development Permit 04-91 to establish a permanent street level private parking lot at 30782  
16 Coast Highway and to indirectly access the parking lot across property not owned by the  
17 applicant; and

18 WHEREAS, the Planning Commission of the City of Laguna Beach, acting in accordance  
19 with the provisions of Municipal Code Section 25.05.030, conducted a legally noticed public  
20 hearing regarding this proposal on December 15, 2004; and

21 WHEREAS, the Planning Commission carefully considered the oral and documentary  
22 evidence and arguments presented at the hearing; and

23 WHEREAS, in accordance with the California Environmental Quality Act, an Initial  
24 Study was conducted and the project qualifies for a Negative Declaration in that potential  
25 impacts are less than significant. The public comment period for the proposed Negative  
26 Declaration was from November 22, 2004 through December 13, 2004. All public comments  
27 have been considered in making the determination of potential environmental impacts; and  
28

Fee - 0- Per Government Code 6103

*Mandy De Andrade*  
Deputy City Clerk

12P  
NF

**CALIFORNIA COASTAL COMMISSION**

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



**APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT**

RECEIVED  
South Coast Region

FEB 23 2010

**SECTION I. Appellant(s)**

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

Coastal Commissioners: Sara Wan & Pat Kruer

200 Oceangate, Suite 1000

Long Beach, CA 90802 (562) 590-5071

**SECTION II. Decision Being Appealed**

1. Name of local/port government: City of Laguna Beach
2. Brief description of development being appealed: Subdivide the Laguna Terrace Mobilehome Park into 157 residential lots, and some additional lots
3. Development's location (street address, assessor's parcel no., cross street, etc.): 30802 South Coast Highway, Laguna 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: A-5-LGB-10-039

DATE FILED: 2/23/2010

DISTRICT: South Coast

5. Decision being appealed was made by (check one):
  - a. Planning Director/Zoning Administrator: \_\_\_\_\_
  - b. City Council/Board of Supervisors:  X
  - c. Planning Commission: \_\_\_\_\_
  - d. Other: \_\_\_\_\_
6. Date of local government's decision:  1/5/2010
7. Local government's file number:  CDP 09-36

**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:
 

Laguna Terrace Park, LLC; Attn: Jim Lawson   
 30802 South Coast Highway   
 Laguna Beach, CA 92651
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.  Sean Matsler   
 Manatt | phelps | phillips   
 695 Town Center Drive, 14th Floor   
 Costa Mesa, California 92626
  - b.  Penny Elia   
 30632 Marilyn Drive   
 Laguna Beach, CA 92651

## **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. (Use additional paper as necessary.)

The subject site is an approximately 270 acre area partly developed with a mobile home park located at 30802 Coast Highway, in the City of Laguna Beach, Orange County. The developed part of the mobile home park occupies about 14 acres within and at the mouth of a steeply sided canyon. According to the applicant, the area of land occupied by the mobile home park is designated for mobile home use and surrounding lands are designated for various uses including residential, commercial and open space conservation. The majority of the developed part of the park is surrounded by undeveloped area. The site has varied topography, ranging from moderately steep slopes, and moderately sloped to flat areas at the bottom and mouth of the canyon where mobile homes and related structures currently exist. The surrounding undeveloped land is a mosaic of vegetation types including southern maritime chaparral, ceanothus chaparral, toyon-sumac chaparral and coastal sage scrub, which is identified in the City's LCP as high value habitat and has been determined by the Commission staff biologist to be environmentally sensitive habitat area (ESHA).

On January 5, 2010, the City Council of the City of Laguna Beach approved coastal development permit 09-36 that had the effect of dividing an approximately 46 acre area from an approximately 270 acre area, and further dividing that 46 acre area (which contains the mobile home park) into 157 residential lots, 1 lettered common lot, 1 open space lot, 1 utility lot, and 2 undeveloped lots. According to the City, the purpose of this land division is to "convert an existing rental space mobile home park to a resident-owned mobile home park." The City's position is that their action didn't involve creation of the 46-acre area that is being further divided into small lots for residential use because that 46-acre area was previously created by two lot line adjustments the City processed in 1995 (Lot Line Adjustment No.s LL 95-01 and LL 95-04). However, those lot line adjustments, which are development under the Coastal Act, were not authorized under any coastal development permit and are unpermitted. Thus, for purposes of the Coastal Act the property being subdivided is the approximately 270 acre property that existed prior to the lot line adjustments. No physical changes to the site are proposed.

The division of land is development subject to regulation under the Coastal Act and the certified LCP. The division of land can result in the establishment of additional development potential and certain expectations and rights on the part of the land owner(s) for certain levels of development. Thus, even though there is no physical development currently contemplated, it is important to consider the effects of such development while processing the land division that would make such development possible. Therefore, the whole range of coastal resource issues addressed in the City's

certified LCP must be considered in this request for land division, including but not limited to protection and enhancement of public access, biological resources, water quality, scenic resources, and minimization and avoidance of hazards (geologic, fire, flood, etc.). Except for making generalized findings about the project being consistent with the public access or recreation policies of Chapter 3 of the Coastal Act and consistent with criteria contained in the Certified Local Coastal Program, the City did not analyze the consistency of the proposed development with all applicable LCP policies.

For example, the proposed subdivision includes land that is identified on the City's biological resource values maps as high value and very high value habitat. These areas, and perhaps others, are likely also Environmentally Sensitive Areas (ESAs) that are subject to special treatment and protection under the policies of the certified LCP. LCP policies, such as Open Space Conservation Element Policy 8-J, require that detailed biological assessments be prepared for all development within and adjacent to ESAs and that identified ESAs be protected. The City's staff report and resolution of approval of the permit makes no mention of any biological assessment nor any measures to protect ESAs that are incorporated into the proposed development or imposed through special conditions on the coastal development permit. In addition, there are policies such as Open Space Conservation Element Policies 8-G and 8-H that pertain to fuel modification related to new subdivisions and requirements to protect sensitive habitat areas. These requirements have not been analyzed, or a determination made, as to whether or not the proposed land division is consistent with the certified LCP or the Coastal Act.

Furthermore, the City's action has the effect of separating the developed part of the subject site from the remaining undeveloped portions of the site, which is largely covered in sensitive habitat. Those remaining undeveloped portions of the site may not be able to be developed without impacting ESAs. The creation of such lots would be inconsistent with several policies of the certified Land Use Plan, include Conservation Open Space Element Policy 8J which states that "[n]o new parcels shall be created which are entirely within a Coastal ESA or which do not contain a site where development can occur consistent with the ESA policies of this Plan." Policy 8J also prohibits new development that would impact an ESA, unless the development is resource dependent.

Another issue that must be addressed in the proposed subdivision is the implementation of water quality protection requirements of the LCP. Topic 4 of the Open Space Conservation Element of the City's General Plan/LCP includes numerous policies calling for the implementation of water quality best management practices in order to protect and restore water quality in the City's streams and oceans. Title 16 (Water Quality) of the City's municipal code, which is a component of the City's LCP/Implementation Plan, makes clear that the provisions of that title apply to land divisions involving four or more housing units. Since the subject land division involves the creation of 157 residential lots, those provisions clearly apply. In fact, the proposed development is a 'priority development project' subject to water quality regulations because it involves the creation of 4 or more lots and the fact it is located within a 'water quality environmentally sensitive area', according to the definition in that title. Nevertheless, the proposed development does not comply with the requirements of Title



16, nor has the City staff analyzed whether or not the proposed land division can meet such requirements.

The City's maps of the site indicate the site contains areas that are subject to seismically induced landslides and liquefaction. Policy 3-A of the City's Land Use Plan states that the City must "ensure adequate consideration of environmental hazards in the development review process". Conservation Open Space Element Policy 10C states the City must "[r]equire projects located in geological hazard areas to be designed to avoid the hazards, where feasible. Stabilization of hazard areas for purposes of development shall only be permitted where there is no other alternative location or where such stabilization is necessary for public safety. The more unstable areas should be left ungraded and undeveloped, utilizing land use designations such as Open Space." This is in addition to the fire hazards mentioned above. There appears to have been no analysis regarding such hazards. Presently, the subject site is comprised of just a few lots. If hazards arise, the mobile nature of the existing development makes it possible to relocate structures to different areas of the property to avoid or minimize the exposure of development to hazards. However, with the proposed land division, the potential locations of structures will be relatively fixed, foreclosing options to relocate and avoid hazards, as opposed to defending the development against hazards in the present location.

The City's maps of the site also show there are trails located on the approximately 270 acre site. Open Space Conservation Element Policy 6D states that the City must "[r]equire as a condition of development approval, the dedication and improvement of public trail easements" and Policy 6F says the City must "[e]nsure that new development does not encroach on access to trails nor preclude future provision of access." The proposed development must be reviewed for impacts upon access to existing trails. The City clearly did not conduct such an analysis given that its resolution of approval states that no impacts to public access and recreation are possible because the site isn't seaward of the first public road. Clearly, such impacts could occur and need to be considered.

Since the City has authorized a land division that is inconsistent with the policies of the certified LCP, the development must be appealed.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 5

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/our knowledge.

Signed:   
Appellant or Agent

Date: 2/23/2010

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

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

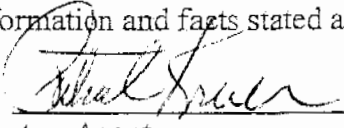
Date: \_\_\_\_\_

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/our knowledge.

Signed:   
Appellant or Agent

Date: 2/23/2010

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

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

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





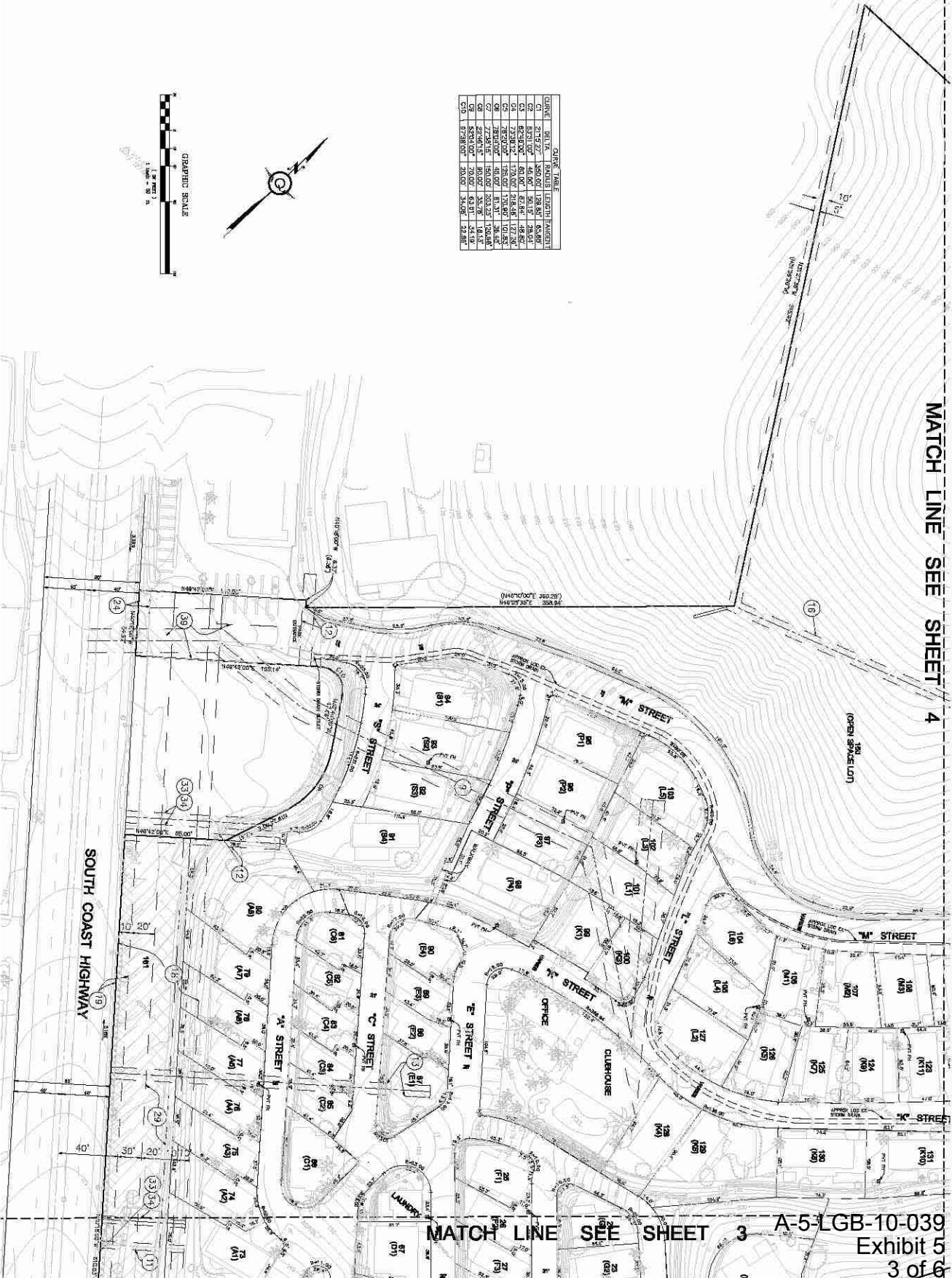


DKA/ARFI  
 1000 N. 10th St.  
 Suite 100  
 Phoenix, AZ 85004  
 Phone: (602) 254-1100  
 Fax: (602) 254-1101  
 Website: www.dka-arfi.com

APPROVED FOR THE CITY OF PHOENIX BY THE CITY ENGINEER ON 08/14/2012  
 APPROVED FOR THE COUNTY OF MARICOPA BY THE COUNTY ENGINEER ON 08/14/2012  
 APPROVED FOR THE STATE OF ARIZONA BY THE STATE ENGINEER ON 08/14/2012  
 THIS MAP IS A TENTATIVE VESTING TRACT MAP FOR THE TRACT DESCRIBED IN THE METEORIC ACT OF 1908, AS AMENDED, AND IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE CITY OF PHOENIX, THE COUNTY OF MARICOPA, AND THE STATE OF ARIZONA MAKE NO WARRANTY, REPRESENTATION, OR GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE CITY OF PHOENIX, THE COUNTY OF MARICOPA, AND THE STATE OF ARIZONA SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR FROM THE USE OF THIS MAP. THE USER OF THIS MAP SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND FOR OBTAINING ALL NECESSARY SURVEY DATA AND RECORDS. THE USER OF THIS MAP SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND FOR OBTAINING ALL NECESSARY SURVEY DATA AND RECORDS.



CURVE	DELTA	CHORD	LENGTH	INVERT
C1	27°15'00"	46.00'	50.00'	28.00'
C2	67°30'00"	50.00'	57.84'	48.85'
C3	67°30'00"	50.00'	57.84'	48.85'
C4	72°30'00"	170.00'	218.36'	127.26'
C5	72°30'00"	48.00'	51.31'	38.83'
C6	72°30'00"	48.00'	51.31'	38.83'
C7	27°15'00"	150.00'	203.32'	130.65'
C8	27°15'00"	20.00'	23.84'	14.13'
C9	27°15'00"	20.00'	23.84'	14.13'
C10	67°30'00"	30.00'	34.00'	24.88'



MATCH LINE SEE SHEET 4

MATCH LINE SEE SHEET 3 A-5-LGB-10-039  
 Exhibit 5  
 3 of 6

DATE	BY	DESCRIPTION
08/14/2012	[Signature]	PREPARED
08/14/2012	[Signature]	CHECKED
08/14/2012	[Signature]	APPROVED

DATE	BY	DESCRIPTION
08/14/2012	[Signature]	PREPARED
08/14/2012	[Signature]	CHECKED
08/14/2012	[Signature]	APPROVED

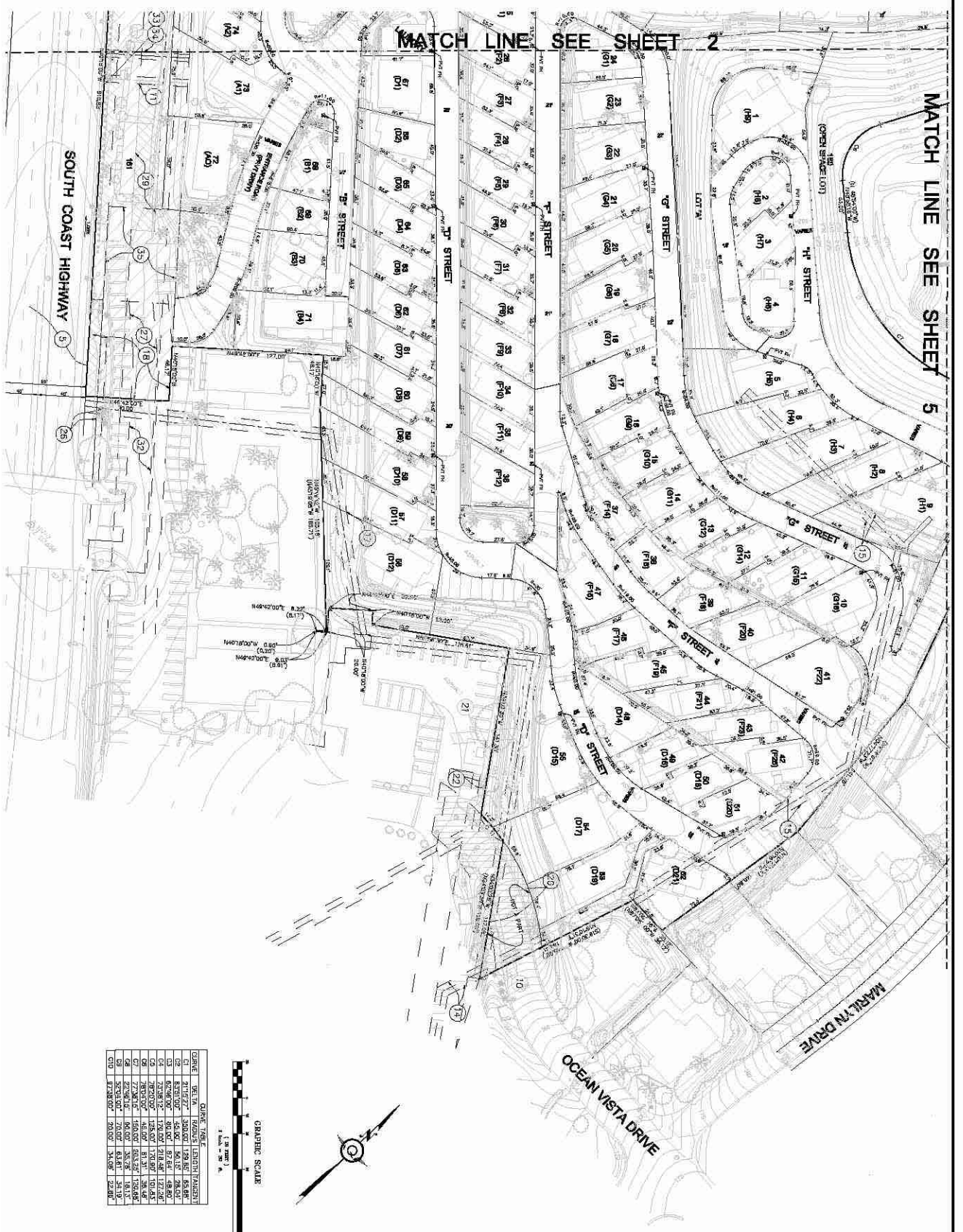
  

DATE	BY	DESCRIPTION
08/14/2012	[Signature]	PREPARED
08/14/2012	[Signature]	CHECKED
08/14/2012	[Signature]	APPROVED

VESTING TENTATIVE TRACT MAP NO. 17301

MATCH LINE SEE SHEET 5

MATCH LINE SEE SHEET 2

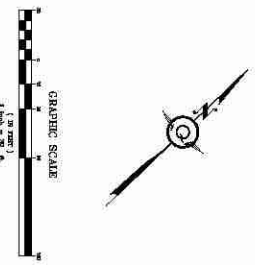


SOUTH COAST HIGHWAY

OCEAN VISTA DRIVE

MARLIN DRIVE

LOT	AREA (SQ. FT.)	AREA (SQ. METERS)
1	1,234	142
2	1,345	155
3	1,456	168
4	1,567	181
5	1,678	194
6	1,789	207
7	1,890	220
8	1,901	221
9	2,012	234
10	2,123	247
11	2,234	260
12	2,345	273
13	2,456	286
14	2,567	299
15	2,678	312
16	2,789	325
17	2,890	338
18	2,901	339
19	3,012	352
20	3,123	365
21	3,234	378
22	3,345	391
23	3,456	404
24	3,567	417
25	3,678	430
26	3,789	443
27	3,890	456
28	3,901	457
29	4,012	470
30	4,123	483
31	4,234	496
32	4,345	509
33	4,456	522
34	4,567	535
35	4,678	548
36	4,789	561
37	4,890	574
38	4,901	575
39	5,012	588
40	5,123	601
41	5,234	614
42	5,345	627
43	5,456	640
44	5,567	653
45	5,678	666
46	5,789	679
47	5,890	692
48	5,901	693
49	6,012	706
50	6,123	719
51	6,234	732
52	6,345	745
53	6,456	758
54	6,567	771
55	6,678	784



**DKA/ART**  
 DANA K. TULL, P.E.  
 10000 W. 10TH AVENUE, SUITE 100  
 DENVER, CO 80231  
 PHONE: 303.755.1234  
 FAX: 303.755.1235  
 WWW.DKAART.COM

APPROVED FOR THE CITY OF DENVER BY THE PLANNING AND ZONING COMMISSION ON 10/15/2015. THE CITY OF DENVER HAS REVIEWED THIS TENTATIVE TRACT MAP FOR CONFORMANCE WITH THE CITY OF DENVER TRACT MAP ACT AND THE CITY OF DENVER TRACT MAP REGULATIONS. THE CITY OF DENVER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE CITY OF DENVER IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS TENTATIVE TRACT MAP. THE CITY OF DENVER IS NOT RESPONSIBLE FOR ANY DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR FROM THE USE OF THIS TENTATIVE TRACT MAP.



**P.L.T. COLLINS & ASSOCIATES**  
 1000 W. 10TH AVENUE, SUITE 100  
 DENVER, CO 80231  
 PHONE: 303.755.1234  
 FAX: 303.755.1235  
 WWW.PLTCOLLINS.COM

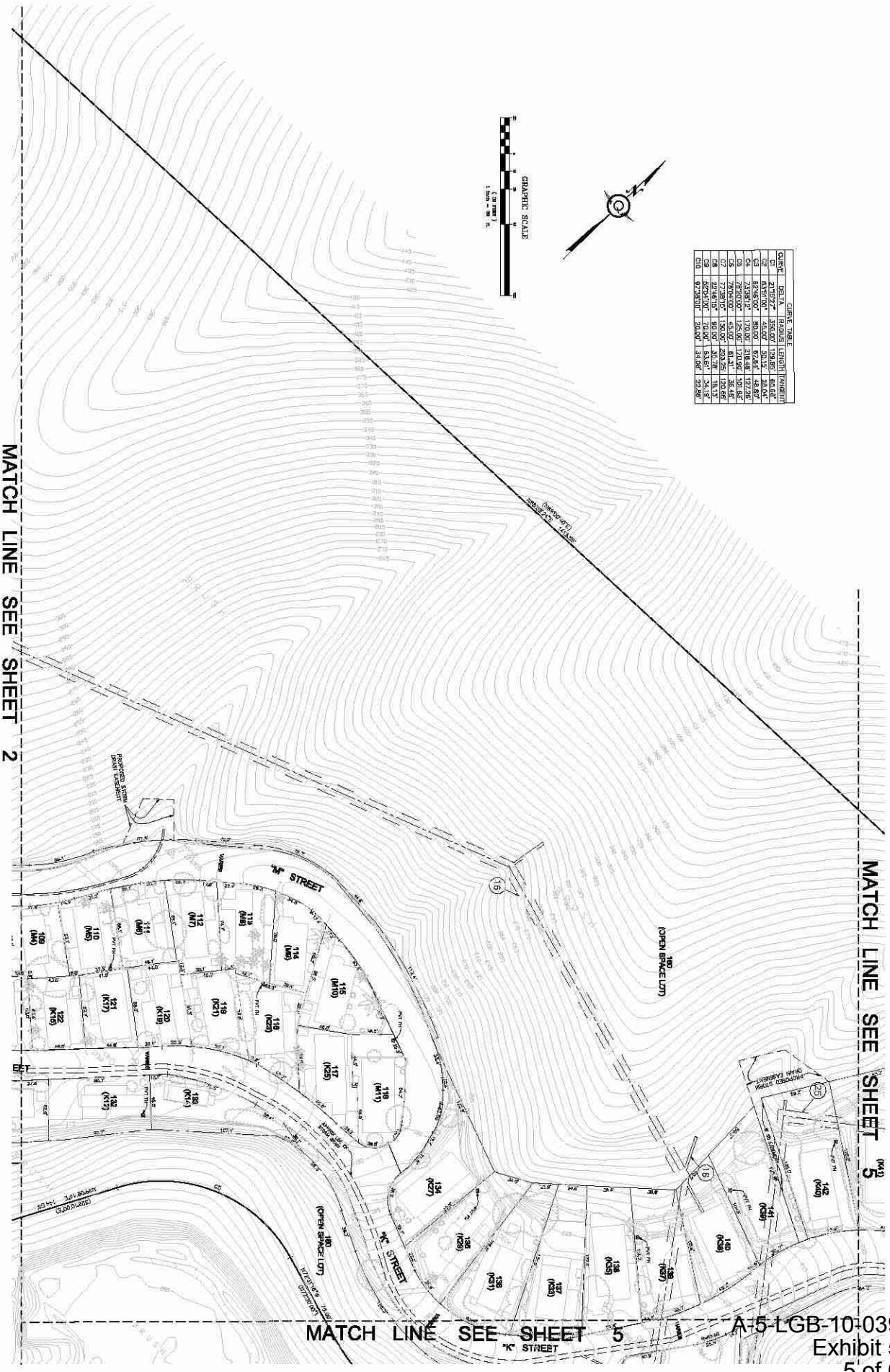
DATE	BY	DESCRIPTION
10/15/2015	[Signature]	APPROVED FOR THE CITY OF DENVER

**MAP OWNERS AND BENEFITORS**  
 LAKEMAN TRADING PARTNERS, LLC  
 1000 W. 10TH AVENUE, SUITE 100  
 DENVER, CO 80231  
 PHONE: 303.755.1234  
 FAX: 303.755.1235  
 WWW.LAKEMANTRADING.COM

**TENTATIVE TRACT NO. 17301**  
 17301  
 3 OF 6

**VESTING TENTATIVE TRACT MAP NO. 17301**

CHAIN	DETA	ANGLE	LENGTH	INVERT
C1	2175.27	130.00'	1738.85	45.81'
C2	1826.00	80.00'	1826.00	48.80'
C3	1728.00	170.00'	1728.00	51.80'
C4	1630.00	170.00'	1630.00	54.80'
C5	1532.00	170.00'	1532.00	57.80'
C6	1434.00	170.00'	1434.00	60.80'
C7	1336.00	170.00'	1336.00	63.80'
C8	1238.00	170.00'	1238.00	66.80'
C9	1140.00	170.00'	1140.00	69.80'
C10	1042.00	170.00'	1042.00	72.80'



MATCH LINE SEE SHEET 2

MATCH LINE SEE SHEET 5

MATCH LINE SEE SHEET 5

A-5-LGB-10-039  
Exhibit 5  
5 of 6

**DCAMERI**  
DICKSON, COLE, & REED  
INCORPORATED  
10000 W. 10TH AVENUE  
DENVER, CO 80202  
TEL: 303.733.8800  
FAX: 303.733.8801  
WWW.DCAMERI.COM

THIS DOCUMENT IS A PRELIMINARY PLANNING DOCUMENT AND IS NOT A CONTRACT. IT IS SUBJECT TO CHANGE WITHOUT NOTICE. THE USER OF THIS DOCUMENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER OF THIS DOCUMENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER OF THIS DOCUMENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

NO.	DATE	DESCRIPTION
1	10/10/03	PRELIMINARY
2	11/10/03	REVISED
3	12/10/03	REVISED
4	01/10/04	REVISED
5	02/10/04	REVISED
6	03/10/04	REVISED
7	04/10/04	REVISED
8	05/10/04	REVISED
9	06/10/04	REVISED
10	07/10/04	REVISED
11	08/10/04	REVISED
12	09/10/04	REVISED
13	10/10/04	REVISED
14	11/10/04	REVISED
15	12/10/04	REVISED
16	01/10/05	REVISED
17	02/10/05	REVISED
18	03/10/05	REVISED
19	04/10/05	REVISED
20	05/10/05	REVISED
21	06/10/05	REVISED
22	07/10/05	REVISED
23	08/10/05	REVISED
24	09/10/05	REVISED
25	10/10/05	REVISED
26	11/10/05	REVISED
27	12/10/05	REVISED
28	01/10/06	REVISED
29	02/10/06	REVISED
30	03/10/06	REVISED
31	04/10/06	REVISED
32	05/10/06	REVISED
33	06/10/06	REVISED
34	07/10/06	REVISED
35	08/10/06	REVISED
36	09/10/06	REVISED
37	10/10/06	REVISED
38	11/10/06	REVISED
39	12/10/06	REVISED
40	01/10/07	REVISED
41	02/10/07	REVISED
42	03/10/07	REVISED
43	04/10/07	REVISED
44	05/10/07	REVISED
45	06/10/07	REVISED
46	07/10/07	REVISED
47	08/10/07	REVISED
48	09/10/07	REVISED
49	10/10/07	REVISED
50	11/10/07	REVISED
51	12/10/07	REVISED
52	01/10/08	REVISED
53	02/10/08	REVISED
54	03/10/08	REVISED
55	04/10/08	REVISED
56	05/10/08	REVISED
57	06/10/08	REVISED
58	07/10/08	REVISED
59	08/10/08	REVISED
60	09/10/08	REVISED
61	10/10/08	REVISED
62	11/10/08	REVISED
63	12/10/08	REVISED
64	01/10/09	REVISED
65	02/10/09	REVISED
66	03/10/09	REVISED
67	04/10/09	REVISED
68	05/10/09	REVISED
69	06/10/09	REVISED
70	07/10/09	REVISED
71	08/10/09	REVISED
72	09/10/09	REVISED
73	10/10/09	REVISED
74	11/10/09	REVISED
75	12/10/09	REVISED
76	01/10/10	REVISED
77	02/10/10	REVISED
78	03/10/10	REVISED
79	04/10/10	REVISED
80	05/10/10	REVISED
81	06/10/10	REVISED
82	07/10/10	REVISED
83	08/10/10	REVISED
84	09/10/10	REVISED
85	10/10/10	REVISED
86	11/10/10	REVISED
87	12/10/10	REVISED
88	01/10/11	REVISED
89	02/10/11	REVISED
90	03/10/11	REVISED
91	04/10/11	REVISED
92	05/10/11	REVISED
93	06/10/11	REVISED
94	07/10/11	REVISED
95	08/10/11	REVISED
96	09/10/11	REVISED
97	10/10/11	REVISED
98	11/10/11	REVISED
99	12/10/11	REVISED
100	01/10/12	REVISED



**R.T. COLLINS & ASSOCIATES**  
REGISTERED PROFESSIONAL ENGINEER  
NO. 10000 W. 10TH AVENUE, SUITE 1000  
DENVER, CO 80202  
TEL: 303.733.8800  
FAX: 303.733.8801  
WWW.DCAMERI.COM

NO.	DATE	BY	DESCRIPTION
1	10/10/03	RT	PRELIMINARY
2	11/10/03	RT	REVISED
3	12/10/03	RT	REVISED
4	01/10/04	RT	REVISED
5	02/10/04	RT	REVISED
6	03/10/04	RT	REVISED
7	04/10/04	RT	REVISED
8	05/10/04	RT	REVISED
9	06/10/04	RT	REVISED
10	07/10/04	RT	REVISED
11	08/10/04	RT	REVISED
12	09/10/04	RT	REVISED
13	10/10/04	RT	REVISED
14	11/10/04	RT	REVISED
15	12/10/04	RT	REVISED
16	01/10/05	RT	REVISED
17	02/10/05	RT	REVISED
18	03/10/05	RT	REVISED
19	04/10/05	RT	REVISED
20	05/10/05	RT	REVISED
21	06/10/05	RT	REVISED
22	07/10/05	RT	REVISED
23	08/10/05	RT	REVISED
24	09/10/05	RT	REVISED
25	10/10/05	RT	REVISED
26	11/10/05	RT	REVISED
27	12/10/05	RT	REVISED
28	01/10/06	RT	REVISED
29	02/10/06	RT	REVISED
30	03/10/06	RT	REVISED
31	04/10/06	RT	REVISED
32	05/10/06	RT	REVISED
33	06/10/06	RT	REVISED
34	07/10/06	RT	REVISED
35	08/10/06	RT	REVISED
36	09/10/06	RT	REVISED
37	10/10/06	RT	REVISED
38	11/10/06	RT	REVISED
39	12/10/06	RT	REVISED
40	01/10/07	RT	REVISED
41	02/10/07	RT	REVISED
42	03/10/07	RT	REVISED
43	04/10/07	RT	REVISED
44	05/10/07	RT	REVISED
45	06/10/07	RT	REVISED
46	07/10/07	RT	REVISED
47	08/10/07	RT	REVISED
48	09/10/07	RT	REVISED
49	10/10/07	RT	REVISED
50	11/10/07	RT	REVISED
51	12/10/07	RT	REVISED
52	01/10/08	RT	REVISED
53	02/10/08	RT	REVISED
54	03/10/08	RT	REVISED
55	04/10/08	RT	REVISED
56	05/10/08	RT	REVISED
57	06/10/08	RT	REVISED
58	07/10/08	RT	REVISED
59	08/10/08	RT	REVISED
60	09/10/08	RT	REVISED
61	10/10/08	RT	REVISED
62	11/10/08	RT	REVISED
63	12/10/08	RT	REVISED
64	01/10/09	RT	REVISED
65	02/10/09	RT	REVISED
66	03/10/09	RT	REVISED
67	04/10/09	RT	REVISED
68	05/10/09	RT	REVISED
69	06/10/09	RT	REVISED
70	07/10/09	RT	REVISED
71	08/10/09	RT	REVISED
72	09/10/09	RT	REVISED
73	10/10/09	RT	REVISED
74	11/10/09	RT	REVISED
75	12/10/09	RT	REVISED
76	01/10/10	RT	REVISED
77	02/10/10	RT	REVISED
78	03/10/10	RT	REVISED
79	04/10/10	RT	REVISED
80	05/10/10	RT	REVISED
81	06/10/10	RT	REVISED
82	07/10/10	RT	REVISED
83	08/10/10	RT	REVISED
84	09/10/10	RT	REVISED
85	10/10/10	RT	REVISED
86	11/10/10	RT	REVISED
87	12/10/10	RT	REVISED
88	01/10/11	RT	REVISED
89	02/10/11	RT	REVISED
90	03/10/11	RT	REVISED
91	04/10/11	RT	REVISED
92	05/10/11	RT	REVISED
93	06/10/11	RT	REVISED
94	07/10/11	RT	REVISED
95	08/10/11	RT	REVISED
96	09/10/11	RT	REVISED
97	10/10/11	RT	REVISED
98	11/10/11	RT	REVISED
99	12/10/11	RT	REVISED
100	01/10/12	RT	REVISED

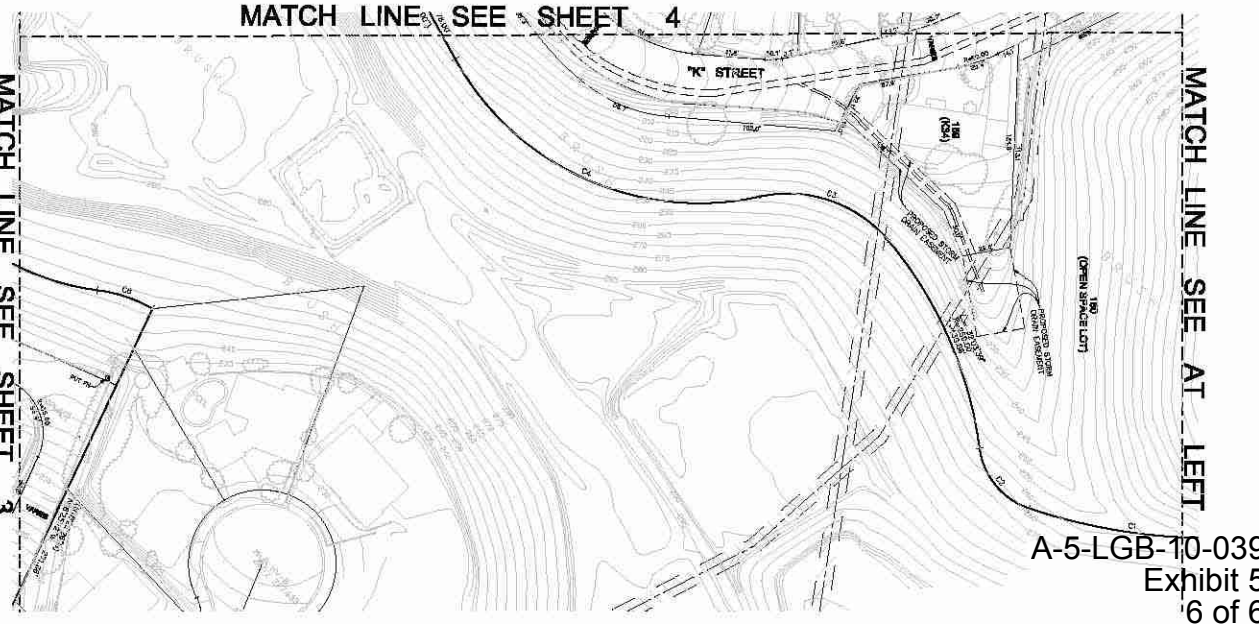
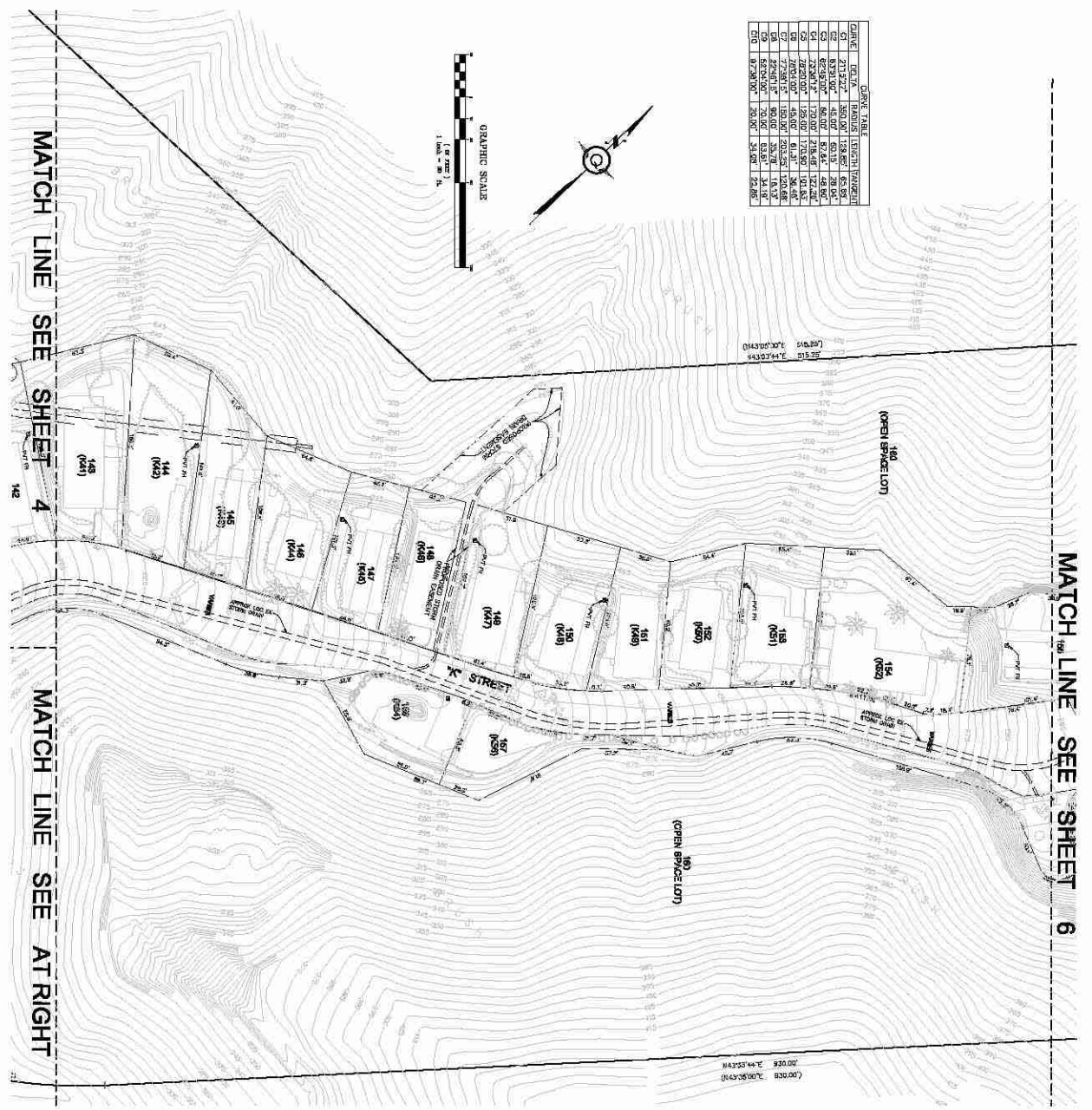
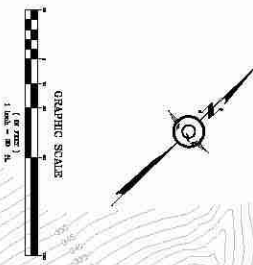
**LANDMARK TENDRAGE PARTNERS, LLC**  
10000 W. 10TH AVENUE, SUITE 1000  
DENVER, CO 80202  
TEL: 303.733.8800  
FAX: 303.733.8801  
WWW.DCAMERI.COM

**TENTATIVE TRACT NO. 17301**  
17301  
DENVER, CO

**VESTING TENTATIVE TRACT MAP NO. 17301**



CHAIN	BEARING	LENGTH	PERIMETER
01	211°32'22"	350.00'	128.85'
02	83°39'00"	48.00'	81.13'
03	5°33'41"	170.00'	216.84'
04	272°20'00"	128.00'	173.50'
05	7°15'00"	150.00'	201.35'
06	272°41'12"	90.00'	131.91'
07	83°30'00"	70.00'	118.13'
08	87°28'00"	28.00'	53.80'



A-5-LGB-10-039  
Exhibit 5  
6 of 6

**DCARRETT**  
DICKSON, TULL, REED  
PLANNERS & ARCHITECTS  
10000 W. 10TH AVENUE, SUITE 100  
DENVER, CO 80202  
TEL: 303.755.8800  
WWW.DCARRETT.COM

APPROVED FOR THE CITY OF DENVER BY THE PLANNING AND ZONING COMMISSION ON 10/12/2010. THE CITY OF DENVER HAS REVIEWED THIS TRACT MAP AND HAS DETERMINED THAT IT IS IN ACCORDANCE WITH THE CITY OF DENVER ZONING ORDINANCE AND THE CITY OF DENVER SUBDIVISION MAP ACT. THE CITY OF DENVER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE CITY OF DENVER IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS TRACT MAP. THE CITY OF DENVER IS NOT RESPONSIBLE FOR ANY DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR FROM THE USE OF THIS TRACT MAP.



**R. J. COLLINS ASSOCIATES**  
ENGINEERS ARCHITECTS  
1000 W. 10TH AVENUE, SUITE 100  
DENVER, CO 80202  
TEL: 303.755.8800  
WWW.RJCOLLINS.COM

NO.	DATE	BY	DESCRIPTION
1	10/12/2010	RJC	PRELIMINARY
2	10/12/2010	RJC	FINAL

**LANDMARK TERRACE PARK, LLC**  
1000 W. 10TH AVENUE, SUITE 100  
DENVER, CO 80202  
TEL: 303.755.8800

**PROJECT TITLE**  
TENTATIVE TRACT NO. 17301  
17301  
DENVER, CO

**PROJECT TITLE**  
VESTING TENTATIVE TRACT MAP NO. 17301