

LAGUNAARTMUSEUM

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June 25, 2014

California Coastal Commission
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

RECEIVED
South Coast Region

JUN 30 2014

CALIFORNIA
COASTAL COMMISSION

RE: Appeal # A-5-LGB-14-0034
The Ranch at Laguna Beach
31106 South Coast Highway
Laguna Beach, CA 92651

Dear California Coastal Commission,

On behalf of Laguna Art Museum, we are writing this letter in support of the renovation project at The Ranch, led by its principal, Mark Christy. Mark has been a valuable member of the Laguna Beach community and has a 30-year history of philanthropy and community involvement. He has led celebrated and sensitive historic projects (including the restoration of Hobie Building and Tuvalu Building) both of which were given commendation by the Heritage Committee in addition to winning beautification awards. Mr. Christy's philanthropy has extended to the museum, as well as a number of local organizations including Schoolpower, Boys & Girls Club of Laguna Beach, Laguna Plein Air Painters Association, Pacific Marine Mammal Center, Laguna Beach Live!, Little League and a number of local, regional, and national environmental groups.

Laguna Art Museum has been a longtime fixture on the Laguna Beach coastline and an important part of the community for nearly a hundred years. Working within the tradition of the oldest cultural institution in Orange County, the Museum maintains its historic ties to the community and values the preservation of the natural splendor of Laguna Beach's shoreline, as well as its rich heritage vested in its landmarks and buildings. In this way, we have much in common with The Ranch project

We at the museum have personally toured the property at The Ranch, and were impressed by the organization's commitment to honoring the property's heritage including improvements to the original Thurston Homesite and Camp Elizabeth Dolph outdoor venue, the beautiful restoration of the original rooms, the focus on the preservation of native plants as well as efforts to eradicate invasive non-native plants, and a commitment to the proper pruning and care of trees. We were also delighted to learn that the renovations will not only be reducing the original building footprints by thousands of feet, but also be converting the landscape to recycled water where available. The renovation is supported enthusiastically and virtually unanimously by the community, and not surprisingly so, as it will surely provide a venue with a deep connection to the soul of Laguna Beach, and a valuable windfall for visitors and locals alike.

For these reasons we urge the California Coastal Commission to approve the renovation project at the Ranch.

Sincerely,



Malcolm Warner
Executive Director



Ed Fosmire
Deputy Director

RECEIVED
South Coast Region

JUL 07 2014

July 6, 2014

California Coastal Commission
200 OceanGate
10th Floor
Long Beach, CA 90802

CALIFORNIA
COASTAL COMMISSION

RE: Appeal No. A-5-LGB-14-034 (Laguna Beach Golf and Bungalow Village, LLC, Laguna Beach) 31106 Coast Highway, Laguna Beach

Commissioners:

The undersigned former council members of the City of Laguna Beach wish to express our support for the approach that the applicant is taking to upgrade and refurbish the former Aliso Creek Inn and Golf Course, now known as "The Ranch." We have served over a thirty-year period, all of us with strong environmental backgrounds.

We find the following features favorable from an environmental and community preservation standpoint.

1. Preserving the existing footprint of the hotel and restaurant complex.
2. Removing former carports and making small scale additions to enhance the functioning of the hotel (spa and employee lockers/lounge)
3. Refurbishing the buildings in a rural/rustic manner in keeping with character of Laguna Beach.
4. Dividing some of the larger hotel units into two rooms so that more visitors can be accommodated and so that charges for rooms will be based on the smaller size.
5. Remodeling the restaurant to be more open inside and with better views of the cliffs and the golf course. Reopening the restaurant to full service/all meals. (This popular restaurant has been closed for several years and thus it has not been possible for many members of the public to enjoy the beautiful canyon environment from the restaurant area.)

Improving the meeting/banquet rooms, providing ADA access, elevator, etc.

6. Preserving and enhancing the golf course as it has been for decades, highly valued by locals—a low cost public course. Converting to reclaimed water for irrigation.
7. Making it possible for visitors and residents to experience this secluded scenic canyon in a low-key, non-pretentious setting intended to convey the essence of Laguna Beach history and way of life.

8. Removal of invasive plants from the Aliso Creek banks, in conjunction with the Laguna Canyon Foundation.
9. There are no condominiums, no intrusions into the open space, no high-rise buildings, none of the highly impactful features that were so objectionable in previous proposals.

We recognize that there are outstanding issues for the Coastal Commission, the public and the applicant to consider. These are not included in the permits approved by the city planning commission and thus are not a part of the project being appealed. These include the Camp Elizabeth Dolph heritage Eucalyptus grove area, the feasibility of a trail, a possible new entrance and linkage to Aliso Beach for both "Ranch" visitors and the public. The role of CEQA in this permit review is an important consideration. It is a legitimate function of your review to look at the total picture of this and possible future phases.

However, it is also appropriate to realize that the phases that are part of the present application are very moderate in their scope, and approval of these phases does not preclude consideration of these other items as conditions or separate permits.

We urge you to recognize the beneficial aspects of this project, and address the items important to the LCP, CEQA and environmental review in an expeditious fashion. Please schedule an early de novo hearing date.

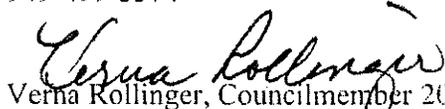
Sincerely,



Bobbie Minkin Chambers, Councilmember 1980-1984
250 Cliff Drive #8, Laguna Beach, CA 92651
949-715-3612



Ann Christoph, Councilmember 1990-1994
31713 Coast Highway, Laguna Beach, CA 92651
949-499-3574



Verna Rollinger, Councilmember 2008-2012
825 Park Ave. Laguna Beach, CA 92651
949-494-9878

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

Item W15a

Filed: June 16, 2014
49th Day: August 4, 2014
Staff: Liliana Roman-LB
Staff Report: June 27, 2014
Hearing Date: July 9, 2014
Commission Action:

STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE

Local Government: City of Laguna Beach

Local Decision: Approval with Conditions

Appeal Number: A-5-LGB-14-0034

Applicant: Laguna Beach Golf and Bungalow Village, LLC

Appellant: Mark Fudge

Project Location: 31106 South Coast Hwy, City of Laguna Beach, Orange County;
APN# 672-591-19

Project Description: Expansion and remodel of an existing hotel, restaurant, banquet and golf course facility (previously Aliso Creek Inn and Golf Course) on an 84 acre site; including addition of 33 hotel rooms (64 existing, 97 proposed), construction of a new hotel wellness/spa and fitness center; employee lounge, accessory structures; new building facades, reduction and modification of existing assembly areas and restaurant floor area; and a new valet parking program for assembly uses and special events.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which appeal number A-5-LGB-14-0034 has been filed because the locally approved development raises issues of consistency with the City of Laguna Beach Local Coastal Program (LCP) and the public access policies of Chapter Three of the Coastal Act.

The appellant contends that the project approved by the City is inconsistent with the City's certified Local Coastal Program policies and the public access policies of Chapter 3 of the Coastal Act for the following reasons: a) lack of environmental review pursuant to CEQA; b) remodeling of "non-conforming" buildings inconsistent with LCP policy; c) unclear whether proposed hotel remodel and expansion will result in higher room rates and adversely impact the City's stock of affordable

overnight accommodations; d) inconsistent with LCP Policies regarding historic preservation; e) City-approved 20% parking reduction may result in adverse impacts to coastal public access; and f) potential threats from coastal hazards (flooding) not adequately addressed.

There are significant coastal resources on and around the project site (Ranch at Laguna Beach, previously known as Aliso Creek Inn and Golf Course) because it is located in Aliso Canyon and is in close proximity to Aliso Creek . The significant coastal resources consist of the surrounding sensitive habitat, existing overnight accommodations, recreation amenities and remarkable views of City’s ridgelines. Due to its location within a flood plain and potential historical and archeological significance, the site is of local and statewide significance -worthy of the most careful planning efforts. The City’s action lacks legal support under the LCP and Chapter 3 public access policies because its action on the CDP could adversely impact valuable coastal resources, including recreational and access amenities.

Through certification of the LCP, the City was delegated the responsibility to assure implementation of a development plan at the subject site that delivers all of the benefits promised to the public. All inconsistencies in the City’s approval with the LCP will have lasting effects and could result in adverse impacts upon coastal resources, public access and coastal hazards. Accordingly, the appellants’ contentions raise concerns about the future interpretation of LCP policies to ensure LCP compliance.

Therefore, the appeal is both precedential and raises issues of statewide significance. For the reasons stated above, the appeal raises a substantial issue of consistency with the regulations and standards set forth in the certified City of Laguna Beach LCP and the public access policies of the Coastal Act.

IMPORTANT NOTE

The Commission will not take public testimony during the ‘substantial issue’ phase of the appeal hearing unless at least three (3) commissioners request it. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow at a subsequent Commission meeting, during which it will take public testimony. Written comments may be submitted to the Commission during either phase of the hearing.

I. MOTION AND RESOLUTION

Motion: *I move that the Commission determine that Appeal No. A-5-LGB-14-0034 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

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

Resolution to Find Substantial Issue:

*The Commission hereby finds that Appeal No. A-5-LGB-14-0034 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. APPELLANT'S CONTENTIONS

The Commission received a notice of final local action on City of Laguna Beach Local Coastal Development Permit (CDP) 14-573 on June 2, 2014. As stated previously, CDP 14-573 (assigned Appeal No. A-5-LGB-14-0034) approved an expansion and remodel of an existing hotel, restaurant, banquet and golf course facility, including the addition of 33 hotel rooms (64 existing and 97 proposed), construction of a new hotel wellness/spa and fitness center, employee lounge, accessory structures, new building facades, reduction and modification of existing assembly areas and restaurant floor area, and a new valet parking program for assembly uses and special events.

On June 16, 2014, within ten working days of receipt of the notice of final action, Mr. Mark Fudge, a City of Laguna Beach resident, appealed the local action on the grounds that the approved project does not conform to the requirements of the certified LCP. The appeal is included as Exhibit 1. Briefly, the appeal contends that the proposed hotel expansion and remodel a) lacks environmental review pursuant to CEQA; b) provided inadequate public outreach and public noticing of local hearing; c) includes remodeling of “non-conforming” buildings; d) is unclear whether proposed hotel remodel and expansion will result in higher room rates and adversely impact the City’s stock of affordable overnight accommodations; e) is inconsistent with LCP Policies regarding historic preservation; f) City approved parking reduction may result in adverse impacts to coastal public access; and g) potential threats from coastal hazards (flooding) not adequately addressed and therefore the project as approved by the local government is not consistent with the protection of coastal resources, minimization of coastal hazards and public access protection policies of the certified Local Coastal Program and the Chapter Three policies of the Coastal Act.

III. LOCAL GOVERNMENT ACTION

On May 14, 2014, the City of Laguna Beach Planning Commission held a public hearing on the proposed project and approved with conditions local Coastal Development Permit CDP No. 14-573, Conditional Use Permit 14-574, and Design Review 14-575 for the remodel/renovation and expansion of an existing hotel, restaurant, banquet and golf course facility. The Coastal

Commission South Coast Office received the notice of final action on June 2, 2014. On June 16, 2014 the appeal was filed by Mr. Mark Fudge (Exhibit 1) during the Coastal Commissions ten (10) working day appeal period. No other appeals were received.

IV. APPEAL PROCEDURES

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

Section 30603 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 in an appealable area because it is located within 100 feet of Aliso Creek (Exhibit #5). All of the issues raised in the subject appeal, on which the Commission finds there is a substantial issue as described further below, apply to proposed development located in the appeals area.

The grounds for appeal of an approval of a local CDP authorizing development in the appealable area are stated in Section 30603(b)(1), which states *(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in [the Coastal Act].*

The grounds listed for the current appeals include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding protection of public access, minimization of coastal hazards, and protection of coastal resources set forth in the Coastal Act. 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 on which the appeal was filed pursuant to section 30603. 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 a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review.

Question Regarding Appellant’s Standing to Appeal

On June 20, 2014, staff received correspondence (included as Exhibit 6) from Fred Gaines, representing the applicant/property owner contending that Mark Fudge, the appellant, does not have standing to appeal because he is not an “aggrieved person.” Mr. Fudge did appear at the local hearing and spoke on this item, however, Mr. Gaines contends that the comments made by Mr. Fudge at the hearing differ from the issues raised in his appeal and that Mr. Fudge did not raise any concerns regarding the proposed development’s conformity with the certified LCP at the local hearing; instead Mr. Fudge raised concerns regarding CEQA compliance.

Staff counsel reviewed Mr. Gaines correspondence and concluded that the appellant does have standing for appeal. There are three distinct definitions of an aggrieved person in Coastal Act Section 30801 in relation to appeals of local government actions on CDPs. One defines an aggrieved person as someone who simply “appeared at a public hearing of the... local government...in connection with the decision or action appealed.” An aggrieved person is also someone who informed the local government of the nature of his concerns through other appropriate means prior to a hearing. The final definition is one who, for good cause, couldn’t do either of the other two. Mr. Fudge is clearly an aggrieved person under the first definition because he “appeared at a public hearing of the... local government...in connection with the decision or action appealed,” nothing more is required under Section 30801 to qualify as an aggrieved person for purposes of establishing standing to appeal a local government action on a CDP.

Qualifications to Testify before the Commission

If the Commission, by a vote of 3 or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant(s), persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

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

At the de novo hearing, the Commission will hear the proposed project de novo and all interested persons may speak. The de novo hearing will occur at a subsequent meeting date. The only item before the Commission at this time is the question of substantial issue.

V. FINDINGS AND DECLARATIONS

A. Project Location and Description

The subject site is located at 31106 Coast Hwy, Laguna Beach, Orange County. The site is an 84-acre property located at the bottom of Aliso Canyon on the inland side of South Coast Highway, across from Aliso Beach. Aliso Creek, a designated blue line stream, bisects the property. Access to the site is provided by a driveway that extends about a quarter-mile inland from South Coast Highway. The subject site is currently developed with a 64-room hotel, restaurant, banquet hall, and 9-hole golf course. The entire facility is composed of 23 detached buildings (Exhibit 5). The site is surrounded by an open space nature preserve (Aliso & Wood Canyons Wilderness Park) that contains environmentally sensitive habitat area, as well as a public trail system. Significant views of the site, the nature preserve and ocean beyond are available from the ridge trails of the adjacent park.

B. Local Coastal Program Certification

The City of Laguna Beach's Local Coastal Program was certified with suggested modifications, in July 1992 except for the three areas of deferred certification, Irvine Cove, Hobo Aliso Canyon, and Three Arch Bay. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and the City assumed permit issuing authority at that time. The City's LCP is comprised of a variety of planning documents including the Land Use Element, Conservation/Open Space Element, and Safety Element of the City's General Plan. The Implementation Plan (IP) portion is Title 25, the City's Zoning Code.

C. Factors to be Considered in Substantial Issue Analysis

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with the certified LCP and, if applicable, the access policies of Chapter 3 of the Coastal Act. The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." 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 relevant provisions 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 with respect to whether the local government action conforms with the access provisions of Chapter 3 of the Coastal Act and the City's certified LCP for the reasons set forth below.

D. Substantial Issue Analysis

As stated in Section IV of this report, the local CDP may be appealed to the Commission on the grounds that the proposed development does not conform to the standards set forth in the certified Local Coastal Program (LCP) or the public access policies of the Coastal Act. Pursuant to Section 30625 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, if applicable, the access policies of the Coastal Act.

In making that assessment, the Commission considers whether the appellant's contentions regarding the inconsistency of the local government action with the certified LCP or the public access policies, if applicable, raise significant issues in terms of the extent and scope of the approved development, the factual and legal support for the local action, the precedential nature of the local action, whether a significant coastal resource would be affected, and whether the appeal has statewide significance.

On May 14, 2014, the City of Laguna Beach Planning Commission held a public hearing on the proposed project and approved with conditions Coastal Development Permit 14-573, Local Conditional Use Permit 14-574 and Planning Commission Design Review 14-575 for the remodel/renovation and expansion of an existing mixed-use hotel, restaurant, banquet and golf course facility including:

- Complete interior and exterior remodel/renovation of structures (hotel rooms, hotel lobby, lodge, restaurant, assembly areas, etc.) - hotel buildings A-3, B-1, B-2, B-3, B-7, B-8, C1, and F within 100' of stream and within appealable area
- Intensification of hotel use through the addition of 33 new hotel rooms within nine existing detached hotel structures (97 total) – within appealable area
- reduction and modification of assembly areas including demolition of two detached banquet facilities (approximately 3,000 sq. ft. reduction),
- a 200 sq. ft. reduction in restaurant floor area,
- construction of a 2,000 sq. ft. hotel wellness spa
- construction of a 475 sq. ft. fitness center,
- construction of a 1,600 sq. ft. employee lounge proposed to replace an existing carport area
- new accessory structures such as a new detached porte-cochere at the entrance of the existing lodge and 139 sq. ft. new pool bar,
- additions to existing structures, including a new lodge, 1,593 sq. ft. basement level golf cart parking garage, and new 1,810 sq. ft. elevated patio area over the new golf cart parking garage, enclosure of existing lower and upper level patio decks associated with the restaurant and assembly areas consisting of a 122 sq. ft. housekeeping storage area, 196 sq. ft. pool/spa equipment room, and a 196 sq. ft. pool bar storage room,

- and a new valet parking program during assembly uses and special events – some parking lots within appeals area.

One of the appellant's contentions is that the applicant/property owner failed to provide early neighborhood communication and that the City did not adequately provide public notice of the local hearing. The appellant indicates that the applicant/property owner was aware of known interested parties who previously expressed interest and requested notice of development projects specifically in Aliso Canyon (based on past development proposals and through direct contact with interested parties). The appellant contends that none of the interested parties were made known of the May 14, 2014 local government hearing and therefore were not in attendance at the local hearing. Although certainly a concern, the adequacy of compliance with the local government public noticing requirements is not a ground for appeal of the Coastal Development Permit and is therefore not addressed in this report.

1. Public Access - Affordable Overnight Accommodations

Relevant LCP and Coastal Act Sections

Land Use Element Policy 6.2:

Preserve and encourage an increase of the City's stock of affordable motel and hotel rooms available for short-term visitors. Protect, encourage, and where feasible provide, affordable overnight accommodations.

Action 6.2.1 Continue to enforce existing ordinances and coastal policies that limit changes in use of existing hotels and motels to preserve visitor-serving uses.

Action 6.2.2 Investigate and, if appropriate, amend the Municipal Code to ensure that affordable hotels and motels are maintained for short-term visitor occupancy. A method to define whether a facility providing overnight accommodation is low, moderate, or high cost shall be evaluated as part of the investigation. Establish standards that would require new high-cost visitor accommodations provide affordable overnight accommodation or pay an "in-lieu" fee. (Ongoing implementation -short-to-long-term.)

Action 6.2.3 Maintain an inventory of the number of existing motel and hotel rooms and room rates. (Ongoing implementation -short-to-long-term.)

Action 6.2.4 Any hotel/motel rooms for which a certificate of occupancy has been issued on or before the effective date of adoption of this Land Use Element shall not be permitted to convert to a Limited Use Overnight Visitor Accommodation. (Ongoing implementation - short-to-long-term.)

Coastal Act Section 30210:

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

Coastal Act Section 30213:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Appellant's Contentions

The appellant contends that the price points of the rooms after the remodel project are unclear and it is unclear whether the updated hotel room rates will be considered "affordable." The appellant included in the appeal submittal supporting documents including a "Laguna Beach Independent" news article dated July 3, 2013 which referred to the hotel's room rates within the \$159 to \$299 range before the remodel.

Analysis

Resolution 14-574, the resolution of the Planning Commission of the City of Laguna Beach approving the local CDP declares the project is in conformity with all the applicable provisions of the General Plan and certified LCP and specifically refers to Land Use Element Policy 6.2 as the proposed project will result in the preservation of 64 existing short-term accommodations and 33 additional units. No other LCP policies are cited. However, the City staff report does not contain any discussion regarding current room rates and whether the existing hotel falls within the City's existing stock of available high, moderate or low/affordable overnight accommodations. The City considered the project in conformance with LUE Policy 6.2 simply based on the fact that the project would not result in a loss in the stock of hotel rooms. Policy 6.2 aims to protect, encourage and where feasible provide affordable overnight accommodations, however, there is no evidence in the City's record that the *affordability* of the existing hotel rooms and proposed 33 new rooms resulting from the proposed hotel remodel and expansion was at all considered in the City's review. The hotel remodel/intensification is within the Commission's appeal jurisdiction. Additionally, the overall effect that the proposed hotel remodel/renovation and expansion project would have to the overall stock of affordable overnight accommodations within the City was not addressed in the City's approval. The issue of affordable overnight accommodations in the coastal zone is of great significance both regionally and statewide.

Therefore, on this issue, there is a substantial issue raised by the appeal that warrant further investigation to determine whether the City's approval of Coastal Development Permit 14-574 is consistent with the certified Local Coastal Program and the public access policies regarding lower cost visitor and recreational facilities of Chapter 3 of the Coastal Act.

2. New Construction Where Non-Conforming Building or Use Exists

Relevant LCP and Coastal Act Sections

LBMC Title 25 Section 25.56.012 New Construction Where Non-Conforming Building or Use Exists: *While a non-conforming use exists on any lot, no new building shall be erected or placed thereon even though the new building and its use would otherwise conform to the provisions of this title. Once the nonconforming use of building is entirely removed from the lot or the building is*

made to comply in use to the regulations of the particular district wherein located, then the lot may be used for any purpose conforming with this title.

LBMC Title 25 Section 25.07.008(B)(2) *Improvements to any structure which would result in a change in the intensity of use of the structure is not exempt from the need for a CDP.*

LBMC Title 25 Section 25.08.18 *Intensification of use means a use that is changed to a use which has a greater parking requirement; the subdivision of an existing building or suite by interior walls to accommodate additional uses; or, the enlargement of the floor area of an existing building.*

Appellant's Contentions

The appellant contends that based on his review of file documents many buildings appear to be nonconforming and raises this as a concern. On pages 8-9 and page 19 of the appeal the appellant contends that the City's approval is not in conformance with Title 25 Section 25.56.012 as there are existing buildings on the subject site that are nonconforming and that the proposed project includes construction of new structures including a new hotel wellness spa, employee lounge and fitness center. The appellant also contends that the work approved by the City currently underway including demolition of carports and hotel buildings renovations is development that would require a CDP in accordance with the provisions in Title 25.

Analysis

The appellant raises a concern regarding nonconforming buildings and contends that the City approval for construction of new buildings on the site is not in accordance with Title 25 Section 25.56.012. The appellant also contends that the project has been broken up into phases in order to avoid a thorough review pursuant to the certified LCP. The appellant however, does not specifically cite what the existing building non-conformities might be, but simply states that based on the original pre-Coastal Act construction of the site many of the buildings appear to be nonconforming to current LCP and Coastal Act policies. Although the appellant does not cite specific building or use nonconformities, it is clear from review of the site plan that eight (8) buildings associated with the hotel use in the vicinity of Aliso Creek are nonconforming as to minimum 25-foot building setbacks from the creek. These buildings are within the Commission's appeal jurisdiction. The appellant further contends that in accordance with Title 25, the demolition of carport structures and hotel remodel requires a CDP.

City approved CDP 14-573 project description includes "modification of existing building facades and an increase in hotel rooms within the existing buildings." The CDP approval appears to include the intensification/addition of 33 new hotel rooms to the current 64 hotel rooms (comprised of nine detached hotel buildings) but not the actual remodel of the hotel buildings to accommodate those extra 33 new rooms. The applicant proposes to accommodate the additional 33 rooms within the existing footprint of the nine detached hotel buildings through a complete interior and façade remodel of all of the hotel structures. The "remodel" of the hotel structures is not included in the CDP project description. The City's record does not include information regarding the extent of demolition proposed for the hotel buildings remodel or any plans of proposed work. The appellant provided a photo included in a Laguna Beach Independent news article dated May 23, 2014 (Exhibit 4) which shows the extent of demolition of some of the hotel buildings. Except for that photograph, there is no further information to determine whether the "remodel" of the hotel may be considered a "major remodel."

The City’s staff report states:

“Currently, the applicant has been issued several building permits for demolition of existing carports and for interior/exterior modifications of existing hotel structures (including plumbing and electrical upgrades) that do not require design review approval or result in any intensification of use.”

Table-1 in the City’s staff report provides a summary of proposed development. According to Table-1, for the hotel use, the proposed development is: addition of 33 rooms (no addition in floor area), exterior and interior remodel, pool bar, and new entry structure/porte cochere; required permits for proposed hotel use development are Planning Commission Design Review, Coastal Development Permit and Flood Plain Building Permit. Per the information contained in Table-1 of the City’s staff report, the CDP which is the subject of this appeal would seem to include both the addition of 33 new rooms (i.e., intensification of use) and the hotel exterior and interior remodel. However, the language of the staff report stated above seems to state otherwise; that the interior/exterior modifications would not result in any intensification of use.

Therefore, the City’s record is unclear in regards to how it determined that some parts of the proposed project were exempt from CDP requirements, and some were not, since the different components are integrated and all affect the existing structures. This appears to be piece mealizing the project in order to avoid a thorough review pursuant to the certified LCP. It is unclear how the interior/exterior modifications to the hotel structures (currently underway and approved by the City without a CDP) would not result in a change in the intensity of use of the structures – as the additional 33 new rooms (i.e., intensification of use) are proposed to be accommodated within the existing hotel floor area through a complete interior/exterior remodel. It seems that the remodel/improvements to the hotel structures would in fact result in 33 additional hotel rooms thereby changing the intensity of use of the structures and would therefore per LBMC Title 25 Section 25.07.008(B)(2) would not be exempt from CDP requirements.

The appellant does raise a substantial issue relative to the proposed project’s conformity with LCP provisions that govern non-conforming structures that warrants further investigation due to the significance of the coastal resources that may be affected by the City’s decision and the precedential value of the City’s decision for future interpretation of its LCP.

3. Public Access – Pedestrian Access

Relevant LCP

Land Use Element Policy 3.5 *Promote safe and adequate pedestrian access to and within commercial areas.*

Open Space/Conservation Element Policy 6D: *Require as a condition of approval, the dedication and improvement of public trail easements.*

Appellant’s Contentions

The appellant contends that the City’s approval does not make any effort to improve access to and from the site and the beach. Specifically, that the driveway/access road only accommodates vehicular traffic and there is no sidewalk for pedestrians or bike path. Additionally, the appellant contends that it is also unclear whether approval of the proposed project would preclude future provision of access to trails/trail connections from the Aliso and Wood Canyons Wilderness Park to the Pacific Ocean.

Analysis

The subject site is located within Aliso Creek Canyon and is approximately a quarter-mile inland from the Pacific Ocean at Aliso Beach, a popular Orange County beach. The site is adjacent to Aliso Wood and Wilderness Park, a popular Orange County park of regional significance. The amenities (golf course, hotel, restaurant, etc.) at the subject site are available to the general public and not a private club. There currently is no dedicated pedestrian connection from the Wilderness Park trails to the nearby beach. Pedestrians must walk along the driveway that provides vehicular access between the site and South Coast Highway. The subject site is a located such that it would serve as gateway connection between the extensive trails of the Aliso and Wood Canyons Wilderness Park to Aliso Beach as there is a traffic controlled intersection at Coast Hwy and the site’s quarter-mile driveway/access road. The public beach is just seaward of Coast Hwy. The minutes of the City Planning Design Review Board hearing include a discussion between City Planning Design Review Board Commissioners and the applicant regarding the possibility of a public trail through the site. The applicant indicated that no trail was proposed due to liability issues to users of a trail through the site due to dangers posed by the golf course use. However, neither the City staff report or City record include documents pertaining to a possible trail alignment(s) through the site or promoting safe and adequate pedestrian access to the site or any documentation that these issues were addressed in the City’s review of the project. Further, landowners who dedicate public recreation accessways to a public entity are generally indemnified from liability associated with the public’s use of that dedicated accessway. (Government Code, section 831.4.) It appears that the extent and scope of the City’s approval did not fully address these public access issues of regional significance and therefore raises a substantial issue relative to the City action’s conformity with the certified LCP.

4. Public Access – Parking Impacts

Relevant LCP

Land Use Element Policy 5.3:

Evaluate and, if necessary, modify the commercial parking standards for new development and/or changes of use, especially when such occurrences impact adjacent residential or visitor-serving areas.

Land Use Element Policy 5.2:

Ensure that all new development, including subdivisions and the creation of new building sites and remodels that involve building additions, is adequately evaluated to ascertain potential negative impacts on natural resources and adjacent development, emphasizing impact avoidance over impact mitigation.

LBMC Section 25.52.012(G) Parking Spaces Required (in part)

Hotel	1 space per room, plus 1 space per each 15 rooms
Restaurant	1 space for each 100 sq. ft. or 1 space for each 3 seats
Assembly Area	1 space for each 100 sq. ft. or 1 space for each 3 seats
Spa	1 space for each 250 sq. ft.
Fitness Facility	1 space for each 100 sq. ft.
Golf Course, miniature or “Par 3”	3 spaces per hole

Appellant's Contentions

The appellant contends that the City's approval of a 20% parking reduction (allowed pursuant to LBMC Section 25.52.012(G)) for integrated hotel/restaurant/conference use will have impacts that may adversely affect public access to the coast as parking spillover from subject site may impact beach parking. The only ancillary parking available near the subject site is a public parking lot for Aliso Beach just seaward of Coast Hwy.

Analysis

The parking requirement pursuant to LBMC Section 289 for the proposed remodel/expansion project is 336 parking spaces. But with the City approved 20% parking reduction allowable for hotel uses with ancillary restaurant/conference/assembly facilities, the parking requirement goes down to 289 spaces. Only 215 parking spaces proposed to be provided on site. However, the use of valet parking will increase the number of vehicles that can be accommodated on the site.

The applicant provided the City a Traffic Impact and Parking Analysis dated April 16, 2014 prepared by RBF Consulting which concluded that based on City's thresholds of significance, the project would result in no significant traffic or on-site parking impacts. The study concluded that during typical operations, the hotel/restaurant/golf course uses would require 193 onsite parking spaces to adequately accommodate the proposed project uses. Therefore, the study found that the proposed 215 parking spaces to be provided on site would be adequate during typical daily operations, resulting in no significant adverse impacts to nearby uses due to insufficient parking at the subject site. During special event/assembly area use conditions (i.e., weddings, fundraisers, luncheons, etc.) a total of 289 parking spaces would be required to accommodate those additional uses. The City's approval stipulated that the applicant shall provide valet parking during all hours of operation for assembly or special events in order to accommodate an additional 80 parking spaces on site and therefore comply with the City's parking requirements for the combined hotel, restaurant, golf course and assembly facilities all continued uses included as part of the proposed project.

In conclusion, a parking study was undertaken that indicates adequate on-site parking would be provided and the City's action regarding the on-site parking requirement for the approval of Coastal Development Permit 14-574 could be found consistent with the certified Local Coastal Program. However, if parking is not sufficient, there would be impacts upon the already heavily used public parking lot at nearby Aliso Beach, which would raise a substantial issue with regards to the City action's conformity with the certified LCP and the public access policies of Chapter 3 of the Coastal Act. Thus, this issue will be given further consideration at the de novo stage of the process.

5. Historical Interest/Preservation

Relevant LCP Sections

LBMC Section 25.45.002: Intent and purpose:

The purpose of this chapter is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement perpetuation, and use of improvements, buildings and their settings, structures, objects, monuments, sites, places, and areas within the city that reflect special elements of the city's architectural, artistic, cultural, engineering aesthetic, historical, political, social, and other heritage to achieve &e following objectives:

(A) Safeguard the heritage of the city by providing for the protection of historic resources representing significant elements of its history;

- (B) Enhance the visual character of the city by encouraging the preservation of those buildings which make a significant contribution to the older neighborhoods of the city particularly to the designated historic register structures reflecting unique and established architectural traditions;*
- (C) Foster public appreciation of and civic pride in the beauty of the city and the accomplishments of its past;*
- (D) Strengthen the economy of the city by protecting and enhancing the city's attractions to residents, tourists, and visitors;*
- (E) Promote the private and public use of historic resources for the recreation, prosperity and general welfare of the people;*
- (F) Stabilize and improve property values within the city.*

Open Space and Conservation Element Section 12A:

Promote the conservation of land having archaeological and/or paleontological importance, for its value to scientific research and to better understand the cultural history of Laguna Beach and its environs.

Open Space and Conservation Element Section 12B:

Develop a program which systematically inventories, records and preserves significant cultural resources in the community, in accordance with guidelines in the City's Local Coastal Program.

Appellant's Contentions

The appellant contends on pages 9-10 that there are archaeological sites all along Aliso Creek and therefore there is a high potential for the presence of buried archaeological resources beneath the existing developed and undeveloped areas. Additionally, the appellant asserts that the site is a well known and documented area of historical interest as it is the site of historic groves of trees considered to be the "original homestead" in Laguna Beach and an old Girl Scout Camp/Dolph Sisters Campground Area. The appellant also contends that there are grant deed restrictions regarding permitted uses within the campground area, an area that the applicant intends to intensify and utilize as a gathering space for wedding receptions and special events, contrary to the original grant deed restrictions. The appellant further contends that there is no evidence that an assessment by a historic consultant was undertaken and that City's approval did not review the site for its historical importance as a historical resource and did not honor the intent and purpose of the LCP policies regarding the protection of historic resources.

Analysis

Resolution 14-574, the resolution of the Planning Commission of the City of Laguna Beach approving the local CDP declares that no structures of historical significance would be impacted by the proposed project. No LCP policies are cited. The City staff report does not contain any discussion regarding consideration of the historic tree grove or the Girl Scout Camp/Dolph Sisters Campground Area. The plans submitted do not identify the area. It appears that any work in that area of the site was deemed not to require a CDP and therefore is not included in the project description for the proposed remodel and expansion of the existing facilities. There is no documentation in the City's record indicating what if any work is proposed or has already been undertaken in the historic tree grove area or the Girl Scout Camp/Dolph Sisters Campground Area, nor is there documentation that any historic assessment was undertaken for these areas or for the entire site as a whole. Therefore, the appellant raises a substantial issue relative to the City action's conformity with certified LCP policies related to historical and archeological resources.

6. Natural Hazards

Relevant LCP Sections

Land Use Element Policy 10.3:

Ensure that development, including subdivisions, new building sites and remodels with building additions, is evaluated to ascertain potential negative impacts on natural resources. Proposed development shall emphasize impact avoidance over impact mitigation. Any mitigation required due to an unavoidable negative impact should be located on-site, where feasible. Any off-site mitigation should be located within the City's boundaries close to the project, where feasible. (Similar to Policies 5.2 and 7.4).

Action 10.3.2 Continue to require in-depth analysis of constraint issues for properties, especially those designated on the City's hazard maps so that the nature of the constraint and the best options for mitigation or avoidance will be considered at all stages of the approval process since these constraints may affect what development is appropriate for the property.

Open Space and Conservation Element Section 10A:

Require that plan review procedures recognize and avoid geologically unstable areas, flood-prone lands, and slopes subject to erosion and slippage.

Title 25.38 Flood Plain Management Section 25.38.20 Definitions:

"Substantial Improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed.

- 1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or*
- 2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."*

Appellant's Contentions

The appellant contends that the City's approval did not adequately address the hazards of siting new development within a special flood hazard area and that the project as a whole appears to be a "major remodel" but instead has been broken up into "phases" the first of which is the demolition of carports and the remodel of hotel rooms currently underway.

Analysis

A portion of the proposed development is located within a Federal Emergency Management Agency FEMA designated special flood hazard area therefore a floodplain development building permit is required by the City. The site is situated within a FEMA designated special flood hazard area AE which identifies portions of the site as high risk for flooding; the base flood elevations (BFE) for the

site ranges from 23 to 32 feet above sea level. Many of the first level finished floors of the existing hotel buildings are located below the FEMA designated BFEs.

On June 13, 2013, the Commission approved LCPA 1-13-A adopting a revised flood management section (Chapter 25.38 Floodplain Management) into the certified IP. The approved Floodplain Management Chapter requires flood protection measures for development located within the AE flood zone. Much of the proposed development falls within this zone.

The City's staff report prepared for the project indicates that flood proofing measures and/or raising lowest floor levels above the base flood elevation as modified for sea level rise required for "substantial improvements" as defined in Chapter 25.38 will not be required for all project structures. This is based upon the determination by the City that the proposed remodel/renovation of existing hotel buildings does not meet the definition of "substantial improvement" contained in Chapter 25.38 and therefore the renovated buildings would be exempt from current LCP Flood Plain Management policies. However, proposed new buildings (i.e., spa, fitness center, employee lounge, pool bar) were considered new structures/new development and therefore must be built in compliance with LCP Flood Plain Management policies.

City approved CDP 14-573 project description includes "modification of existing building facades and an increase in hotel rooms within the existing buildings." The CDP approval appears to include the intensification/addition of 33 new hotel rooms to the current 64 hotel rooms (comprised of nine detached hotel buildings) but not the actual remodel of the hotel buildings to accommodate those extra 33 new rooms. The applicant proposes to accommodate the additional 33 rooms within the existing footprint of the nine detached hotel buildings through a complete interior and façade remodel of all of the hotel structures. The "remodel" of the hotel structures is not included in the CDP project description. The City's record does not include information regarding the extent of demolition proposed for the hotel buildings remodel or any plans of proposed work. The appellant provided a photo included in a Laguna Beach Independent news article dated May 23, 2014 (Exhibit 4) which shows the extent of demolition of some of the hotel buildings. Except for that photograph, there is no further information to determine whether the "remodel" of the hotel may be considered a "major remodel." This is important because depending on the extent of the work proposed to each building, the LCP Flood Plain Management policies would or would not apply.

The City's staff report conclusion includes the following statement:

"The Aliso Creek Inn and Golf Course facilities have served both residents and visitors for more than 60 years. The aging structures are now in need of significant upgrade and repairs and approval of the proposed project would extend the longevity of this important City amenity."

The City's determination that the proposed development would not result in a substantial improvement relies, at least in part on Title 25.38 Flood Plain Management definition of "substantial improvement" subsection (1). However, no information on how this determination was made has been provided. Subsection (1) allows the exclusion from the otherwise required floodplain requirements only when there is a violation identified by local code enforcement and then, only the minimum improvements necessary to correct the violation. The staff report reads:

“Based on the aforementioned comparison and the FEMA permitted exclusion of redevelopment costs associated with upgrades to correct existing violations of state or local health, sanitary, or safety code specifications to assure safe living conditions.”

No evidence of a code violation was included in the City’s record. Moreover, the proposed project cannot be considered to be the “minimum necessary to assure safe living conditions.” Without evidence of a code violation this exclusion from the flood plain requirements cannot be implemented. And, the exclusion from floodplain requirements cannot apply to a project that goes well beyond the minimum work necessary to correct a code violation (which code violation has not yet been demonstrated). Therefore the appeal raises a substantial issue with regard to the grounds upon which it has been filed.

In addition, Section 25.38.042 identifies the information that must be submitted for “any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 25.38.031.” The subject site is located, at least in part, in a “special flood hazard zone” as described in Section 25.38.031. Section 25.38.042 requires submittal of plans showing location, dimensions, and elevations of the area in question [subject site], existing or proposed structure, storage of materials and equipment and their location; proposed locations of water supply, sanitary sewer, and other utilities; grading information showing existing and proposed contours, any proposed fill, and drainage facilities; expected life of development (minimum of 75 years); and the adjusted base flood elevation necessary to reflect sea level rise as specified in Section 25.38.041(C)(2) (among other required information). However, none of this information for the proposed new structures is included in the file as forwarded by the City. The project approved by the City includes, in addition to proposed new structures and proposed additions to existing structures, grading and a retaining wall. Without the complete information required by Section 25.38.042, it is difficult to determine whether the floodplain management requirements of the certified Implementation Plan (Chapter 25.38) have been appropriately considered and implemented. Therefore the appeal raises a substantial issue with regard to the City action’s consistency with the LCP on this issue.

7. Biological Resources

Relevant LCP Sections

Open Space and Conservation Element Policy 7K: *Preserve as much as possible the natural character of the landscape (including coastal bluffs, hillsides and ridgelines) by requiring proposed development plans to preserve and enhance scenic and conservation values to the maximum extent possible, to minimize impacts on soil mantle, vegetation cover, water resources, physiographic features, erosion problems, and require re-contouring and replanting where the natural landscape has been disturbed.*

Open Space and Conservation Element Policy 8A: *Preserve the canyon wilderness throughout the City for its multiple benefits to the community, protecting critical areas adjacent to canyon wilderness, particularly stream beds whose loss would destroy valuable resources.*

Open Space and Conservation Element Policy 8C: *Identify and maintain wildlife habitat areas in their natural state as necessary for the preservation of species.*

Open Space and Conservation Element Policy 8M: *When new development proposals are situated in areas adjacent to “Environmentally Sensitive Areas” as designated on the Coastal ESA Map and where these are confirmed by subsequent onsite assessment, require that development be designed and sited to prevent impacts which would degrade such areas.*

Open Space and Conservation Element Policy 8N: *Prohibit intrusion of fuel modification programs into environmentally sensitive areas, including chaparral and coastal sage scrub.*

Appellant’s Contentions

The appellant contends that extensive tree trimming has been conducted in an historic eucalyptus grove as well as in a known area of bird nesting and roosting within pine trees that surround the golf course adjacent to canyon slopes and that slope vegetation has been cleared around the perimeter of the golf course. The appellant raises questions regarding whether or not native vegetation was disturbed by these activities and notes that the tree trimming took place during the bird nesting season.

Analysis

The 84-acre site is located within Aliso Canyon and is bisected by Aliso Creek, a designated blue line stream. The site is developed with multiple buildings and a 9-hole golf course surrounded by open space, slopes and ridges covered in native vegetation. Both the 9-hole golf course and site structures abut open space areas and Aliso Creek. The slopes along the southern bank of Aliso Creek are mapped high value and very high value habitat in the Open Space/Conservation Element, a component of the certified LCP.

The only proposed landscaping/vegetation removal included in the project description for the local coastal development permit is new landscaping in the vicinity of the lodge building. A preliminary landscaping plan was submitted depicting proposed low water use and native plants in the vicinity of the lodge proposed to be remodeled. A biological survey is not included in the City record. There is no information in the City staff report of the City record regarding any permits or approvals for vegetation removal and tree trimming, therefore, it is unclear whether vegetation removal has taken place within 100 feet of the stream and within the Commission’s appeal jurisdiction. There isn’t sufficient information to determine whether or not critical habitat areas adjacent to canyon wilderness and the stream bed were protected during these alleged trimming and clearing activities undertaken without a coastal development permit. This is a significant issue as high value habitat may have been adversely affected by the local government’s decision. Therefore the appeal raises a substantial issue with regard to the City action’s consistency with the LCP on this issue.

8. Protection of Water Quality

Relevant LCP Sections

Open Space and Conservation Element Policy 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.

Open Space and Conservation Element Policy 4C – Minimize Volume and Velocity of Runoff
Ensure that development is designed and managed to minimize the volume and velocity of runoff (including both storm water and dry weather runoff) to the maximum extent practicable, to avoid excessive erosion and sedimentation.

Open Space and Conservation Element Policy 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.

Appellant's Contentions

The appellant contends that as the project has been broken up into phases, there has not been a thorough evaluation of water quality impacts for the project as a whole. Based on his site visit, the appellant contends that it does not appear that construction phase BMPs are being implemented with the current work undertaken under Phase I (i.e., demolition of carports and expansion/remodel of hotel structures) and points out that the CDP which is the subject of this appeal does include water quality BMP conditions.

Analysis

The proposed project includes construction of new structures and additions to existing structures. The project plans in the City record do not include drainage plans for the proposed new structures depicting/addressing how site drainage/water runoff will be controlled or treated or any proposed structural treatment control BMPs or include a site plan depicting construction phase erosion control measures. The City Resolution approving the CDP does include a condition for construction phase BMPs, however, there is no discussion in the City staff report or City record regarding how the proposed project would implement structural BMPs to ensure water quality for the life of the project as required by the Open Space and Conservation Element Policies cited above.

Due to the proximity of the blue line stream at the subject site, which drains directly into the Pacific Ocean at Aliso Beach Park, control of site drainage/water runoff is an issue of significance as significant coastal resources (water quality) may be adversely affected by the local government's decision. Therefore, the appeal raises a substantial issue with regard to the City action's consistency with the LCP on this issue.

9. California Environmental Quality Act (CEQA)

Relevant LCP Sections

Land Use Element Action 7.4.2 *“Continue preparation of initial studies, pursuant to the California Environmental Quality Act (CEQA), for any proposed development, including single-family residences located within environmentally sensitive areas.”*

LBMC Section 25.07.012(G) *“Findings. A coastal development permit application may be approved or conditionally approved only after the approving authority has reviewed the development project and made all of the following findings:...(3) The proposed development will*

not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.”

CEQA Guidelines Section 18.36.050 Class 3 Exemption—New construction or conversion of small structures

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel or to be associated with a project within a two-year period. Examples of this exemption include but are not limited to:

A. One single-family residence or a second dwelling unit in a zone which permits residential uses. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption;

B. A duplex or similar multi-family residential structure totaling no more than four dwelling units if not in conjunction with the building or conversion of two or more such structures. In urbanized areas, exemption applies to single apartments, duplexes, and similar structures designed for not more than six dwelling units;

C. A store, motel, office, restaurant or similar commercial or institutional structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use, if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

D. Water mains, sewage, electrical, gas, and other utility extensions including street improvements, to serve individual customers;

E. Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. (Ord. 5119-B, 2001)

CEQA Guidelines Section 15300.2. Exceptions

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Appellant's Contentions

The appellant disputes the adequacy of the City's environmental review in accordance with CEQA. In addition to the LCP policy noted above, the appellant raises contentions based on CEQA, on authority other than the Coastal Act. The appellant contends that categorical exemptions are not allowed, period, if a project is in an environmentally sensitive area.

Analysis

The City of Laguna Beach is the lead agency for purposes of CEQA compliance. As determined by the City, this project is categorically exempt from CEQA as a Class 3 exemption. Per CEQA Guidelines regarding a Class 3 Exemption referenced above, this exemption applies to construction of new or conversion of existing structures and per Subsection (C), specifically a store, motel, office, restaurant or similar commercial structure not exceeding 2,500 sq. ft. for up to four such commercial buildings not exceeding 10,000 sq. ft. in floor area and the surrounding area is not environmentally sensitive.

The majority of the 84 acre site is surrounded by slopes with sensitive habitat mapped in the City's Open Space/Conservation Element (a component of the certified LCP) as high value and very high value habitat. In addition, Aliso Creek, a designated blue line stream runs through the site. The stream itself is a rare habitat that may be ESHA. Although the proposed development is all within existing development footprint, there is no dispute that the entire site is surrounded by environmentally sensitive area. While it appears that there is a lack of factual support in the City's use of CEQA Section 15303(c) to exempt the project from CEQA review requirements and that significant coastal resources may be affected by this decision, the Commission does not have authority to review a lead agency's CEQA determination for purposes of establishing whether or not the lead agency's CEQA determination is consistent with CEQA-the proper avenue for such a determination lies with filing a lawsuit challenging the lead agency's CEQA determination. Therefore, the appeal does not raise a substantial issue with regard to the City action's consistency with the LCP on this issue.

Conclusion

The project site (Ranch at Laguna Beach, previously known as Aliso Creek Inn and Golf Course) is significant due to its Aliso Canyon location and for its proximity to Aliso Creek and surrounding sensitive habitat, existing overnight accommodations, recreation amenities and remarkable views of City's ridgelines. Due to its location within a flood plain and potential historical and archeological significance, the site is of local and statewide significance -worthy of the most careful planning efforts. The City's action lacks legal support under both the LCP and Chapter 3 public recreation and access policies because its action on the CDP could adversely impact valuable coastal resources, including recreational and access amenities.

Through certification of the LCP, the City was delegated the responsibility to assure implementation of a development plan at the subject site that delivers all of the benefits promised to the public. All inconsistencies in the City's approval with the LCP will have lasting effects and could result in adverse impacts upon coastal resources, public access and coastal hazards. Accordingly, the appellants' contentions raise concerns about the future interpretation of LCP policies to ensure LCP compliance.

Therefore, the appeal is both precedential and raises issues of statewide significance. For the reasons stated above, the appeal raises a substantial issue of consistency with the regulations and standards set forth in the certified City of Laguna Beach LCP and the Chapter 3 public access policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Laguna Beach Local Coastal Program (LCP)
2. City File Record for Local Coastal Development Permit No. 14-573

EXHIBITS:

1. Appeal
2. City Staff Report
3. City Resolution
4. Vicinity Maps/Aerial Photos
5. Project Plans
6. Correspondence from Fred Gaines, applicant's representative

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

VOICE (562) 590-5071 FAX (562) 591-5084

RECEIVED
South Coast Region

JUN 16 2014

CALIFORNIA
COASTAL COMMISSION

EDMUND G. BROWN JR., Governor

COASTAL COMMISSIONEXHIBIT # 1PAGE 1 OF 50**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: Mark Fudge

Mailing Address: P.O. Box 130

City: Laguna Beach

Zip Code: 92652 - 0130 Phone: 949-481-1100

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Laguna Beach

2. Brief description of development being appealed:

"a Conditional Use Permit, Coastal Development Permit and Planning Commission Design Review for expansion and remodel of an existing hotel, restaurant, banquet and golf course facility located at 31106 Coast Highway (previously Aliso Creek Inn and Golf Course). The project includes 1) modification of existing building facades, 2) reduction and modification of existing assembly areas, 3) development of a new hotel wellness spa, employee lounge and fitness center, 4) an increase in hotel rooms within the existing buildings, 5) a decrease in net restaurant floor area and 6) a request for the use of valet parking when assembly uses and/or special events are proposed. The applicant is also requesting approval of a 20% parking reduction for integrated hotel/conference use that is allowed pursuant to Municipal Code Section 25.52.012(G). Lastly, a portion of the proposed development is located within a Federal Emergency Management Agency FEMA designated special flood hazard area and therefore a floodplain development building permit is required."

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

The Ranch at Laguna Beach (formerly Aliso Creek Inn and Golf Course)
31106 South Coast Highway
Laguna Beach, CA 92651



CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 591-5084

COASTAL COMMISSION

EXHIBIT # 1
PAGE 2 OF 50

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

- Approval; no special conditions
- Approval with special conditions: (resolution attached)
- 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-14-0034

DATE FILED: 6.16.14

DISTRICT: South Coast



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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.

Date: June 13, 2014

To: California Coastal Commission

From: Mark Fudge

Re: City of Laguna Beach - Conditional Use Permit 14-574, Coastal Development Permit 14-573 and Planning Commission Design Review 14-575.

This appeal stems from a May 14, 2014 action by the City of Laguna Beach approving: "a Conditional Use Permit, Coastal Development Permit and Planning Commission Design Review for expansion and remodel of an existing hotel, restaurant, banquet and golf course facility located at 31106 Coast Highway (previously Aliso Creek Inn and Golf Course). The project includes 1) modification of existing building facades, 2) reduction and modification of existing assembly areas, 3) development of a new hotel wellness spa, employee lounge and fitness center, 4) an increase in hotel rooms within the existing buildings, 5) a decrease in net restaurant floor area and 6) a request for the use of valet parking when assembly uses and/or special events are proposed. The applicant is also requesting approval of a 20% parking reduction for integrated hotel/conference use that is allowed pursuant to Municipal Code Section 25.52.012(G). Lastly, a portion of the proposed development is located within a Federal Emergency Management Agency FEMA designated special flood hazard area and therefore a floodplain development building permit is required."

This timely appeal is brought pursuant to Public Resources Code section 30603(a)(1) and is located within 25 feet of a blue-line stream that flows directly into the receiving waters of the Pacific Ocean.

The city of Laguna Beach conducted an unlawful development process and allowed the applicant to obtain permits he had no reasonable expectation of receiving. The Planning Commission was considering a project in an environmentally sensitive area that had inadequate or no environmental review. I attended the meeting of May 14th, 2014, voiced my concerns about the lack of an initial study being done and about the potential for damage to the environment. In spite of my testimony, the Planning Commission voted unanimously to approve this project. I am disturbed that my voice was



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not heard and am therefore bringing my appeal directly to the Coastal Commission in hopes of finding a more receptive and responsive audience to my pleas.

- 1. During the meeting of May 14, 2014, the principal planner, Scott Drapkin informed the Planning Commissioners that the mere fact that a project is in an environmentally sensitive area (ESA) does not mean that it needs to have an initial study prepared...

That is in direct conflict with **Action 7.4.2 of the Land Use Element**, which states:

“Continue preparation of initial studies, pursuant to the California Environment Quality Act (CEQA), for any proposed development, including single-family residences located within environmentally sensitive areas. “

California Code of Regulations, Title 14 Section Article 5. Preliminary Review of Projects and Conduct of Initial Study - Section 15063(c)(4) states that one of the purposes of an initial study is to **“facilitate environmental assessment early in the design of a project.”**

In this case however, the staff decided to employ a fabricated categorical exemption to avoid any environmental assessment. This in turn violated the underlying purpose of CEQA which is to **“Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.”** (14 CA ADC 15002(a)) (emphasis added). It is clear that the public was completely left out of this process.

- 2. The staff report mis-stated a categorical exemption that the Planning Commission relied upon to exempt the project from CEQA.

The staff report (prepared by principal planner Scott Drapkin and Belinda Ann Deines) (attached) stated that the project (golf course/hotel/restaurant/spa remodel and new construction) was exempt from CEQA based on a categorical exemption - 15303(c). The exemption was misrepresented in the agenda bill because it was misquoted - it had words added (“an increase of”) and it excluded an entire sentence - which changed the meaning of the exemption.

The staff report (and subsequent Agenda Bill) stated:

Environmental Status: Categorical Exemption, Article 19 Section 15303(c)

“15303(c) a store, hotel, office restaurant or similar structure not involving the use of significant amounts of hazardous substances and not exceeding **an increase of 2500** square feet in floor area is considered exempted development from CEQA. “ (emphasis added).



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The actual code (Title 14, Article 19 California Code of Regulations) reads:

"15303(c) a store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. *In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available **and the surrounding area is not environmentally sensitive.**" (emphasis added).*

The chairman asked Scott Drapkin (principal planner) about the applicability of the exemption and was told that counsel (Phil Kohn, city attorney) had reviewed and agreed with the use of the exemption. Therefore the commission felt the matter had been put to rest - they trusted the staff's misrepresentation. At that point, the public comments portion of the meeting was closed and I could make no testimony.

Additionally, categorical exemptions are not allowed, period, if a project is in an environmentally mapped sensitive area.

Title 14, Article 19, Sec 15300.2 Exceptions (to Exemptions) - (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located - a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, **except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.** (emphasis added)

- 3. The decision of the planning commission does not comply with the requirements in the Coastal Development Permit chapter 25.07 of the muni-code:

LBMC 25.07.012(G) states: "Findings. A coastal development permit application may be approved or conditionally approved only after the approving authority has reviewed the development project and made all of the following findings: ...

(3) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act".

Impacts on the environment are unknown because environmental review was not performed as per the requirements of CEQA. This standard was obviously not met. The finding could not have been made. However, based on a recent site visit, review of the staff report and review of recent news articles (attached), I trust the attached appeal outlines all of the very obvious concerns.



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Areas that should be reviewed include (but are not limited to) water quality, hydrology, water supply, visual resources, noise, air quality, biological and historic resources and archaeological resources. This is an area rich in flora and fauna with a mapped blue-line stream (Aliso Creek) traversing it. The area has been called "Laguna's Yosemite". It has a long history - it was the site of Laguna's first homestead - and is considered by some to be the birthplace of Laguna. It is hard to determine what the "period of significance" should be and therefore an historic assessment should be required. In addition, the site is the connection from the Aliso and Wood Canyons Wilderness Park to the Pacific Ocean.

- 4. This project involves an expansion and remodel of an existing hotel, restaurant, banquet and golf course facility. The project was broken into "phases" - the first of which is already well under way. That work was approved under ministerial permits even though it appears to be a "major remodel" (the city insists it is not, but is using the definition from an ordinance that has not yet been certified by the Coastal Commission).

In addition, this "piecemeal" approach would be in violation of CEQA in two respects:

Section 15268(d) states: **"Where a project involves an approval that contain elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA."**

and

Exceptions (to exemptions) **"15300.2(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant."**

Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

- 5. Based on a review of much documentation, it would appear that many of the buildings are non-conforming. Should the Coastal Commission grant this appeal, this is certainly an area of concern based on the original pre-Coastal Act construction.



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LBMC25.56.012 New construction where nonconforming building or use exists.

While a nonconforming use exists on any lot, no new building shall be erected or placed thereon even though the new building and its use would otherwise conform to the provisions of this title. Once the nonconforming use or building is entirely removed from the lot or the building is made to comply in use to the regulations of the particular district wherein located, then the lot may be used for any purpose conforming with this title. (Ord. 1282 § 1, 1994).

According to the 5/14/14 staff report, "The project includes: 3) development of a new hotel wellness spa, employee lounge and fitness center.

The carports throughout the project have been demolished and the hotel buildings have all been stripped and taken down to the studs in preparation for adding 33 hotel rooms - all within the existing building footprints - bringing the total from 64 to 97 (over 50% increase). A recent site visit revealed that the project does not appear to have any BMPs or water quality management plans being implemented for the work underway. It would seem that a CDP should have been obtained for this "phase 1" work and possibly a "stop work" order issued until the matter is resolved to your satisfaction.

LBMC 25.07.008(B)(2) "Improvement to any structure which would result in a change in the intensity of use of the structure" (...is not exempt from the need for a CDP...).

LBMC 25.08.018 defines "intensification of use means a use that is changed to a use which has a greater parking requirement; the sub-division of an existing building or suite by interior walls to accommodate additional uses; or, the enlargement of the floor area of an existing building."

- 6. It is not clear whether or not the proposed project meets Goal 6 of the LUE which states in **Policy 6.2: Preserve and encourage an increase of the City's stock of affordable motel and hotel rooms available for short-term visitors. Protect, encourage, and where feasible provide, affordable overnight accommodations.**

What are the room rates going to be? Are they affordable? What studies (if any) are being used to determine this?

- 7. It is well known and documented that the site of this project lies in an area of historical interest. The city staff report contends that there was a "thorough analysis of the proposed project" and that "staff evaluated the project scope based on the City's Municipal Code design review criteria. The criteria includes...historic preservation..."


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From what is available for public review, there is no evidence that this aspect was given a true assessment by a historic consultant. The area includes historic groves of trees, what was the "original homestead" in Laguna, an old Girl Scout Camp (which the applicant intends to intensify and use for wedding receptions and special events contrary to the original grant deed restrictions), etc. Again, CEQA was circumvented. Public Resources Code states:

21084.1. Historical Resources Guidelines.

A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. For purposes of this section, an historical resource is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources. Historical resources included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1, or deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1, are presumed to be historically or culturally significant for purposes of this section, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. The fact that a resource is not listed in, or determined to be eligible for listing in, the California Register of Historical Resources, not included in a local register of historical resources, or not deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1 shall not preclude a lead agency from determining whether the resource may be an historical resource for purposes of this section. (emphasis added)

The intent and purpose of LBMC 25.45.002 was not honored and is therefore inconsistent with the LCP.

25.45.002 Intent and purpose.

The purpose of this chapter is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings and their settings, structures, objects, monuments, sites, places, and areas within the city that reflect special elements of the city's architectural, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage to achieve the following objectives:

- (A) Safeguard the heritage of the city by providing for the protection of historic resources representing significant elements of its history;
- (B) Enhance the visual character of the city by encouraging the preservation of those buildings which make a significant contribution to the older neighborhoods of the city particularly to the designated historic register structures reflecting unique and established architectural traditions;
- (C) Foster public appreciation of and civic pride in the beauty of the city and the accomplishments of its past;
- (D) Strengthen the economy of the city by protecting and enhancing the city's attractions to residents, tourists and visitors;
- (E) Promote the private and public use of historic resources for the education, prosperity and general welfare of the people:


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- (F) Stabilize and improve property values within the city. (Ord. 1458 § 1, 2006; Ord. 1179 § 5, 1989).

There may also be a need for a "NEPA Section 106 Review" which address protection of historic resources when federal permits (i.e. FEMA) are required for an undertaking.

- 8. The proposed project failed to provide required early neighbor communication.

Municipal Code Section 25.05.040(C)(1) Early Neighborhood Communication. The applicant shall take verifiable, reasonable steps as established by the city to communicate with owners of property within three hundred feet of the applicant's property.

The applicant did not provide early notification to adjacent property owners, nor did it provide early notice to individuals who previously expressed interest and requested notice of development projects specifically in Aliso Canyon. The applicant was very aware of known, interested parties based on past development proposals and direct contact with interested parties via personal conversations and email communications.

- 9. The proposed project failed to provide required public notice.

Municipal Code Section 25.05.040(E) Public Notice. Public notice shall be mailed to the property owners within three hundred feet of the subject property at least forty calendar days prior to the first public hearing and is subject to the provisions of Section 25.05.065(B) and (C), except that the requirements for newspaper advertising shall not be required, and the public notice for coastal development permits must be in accordance with Section 25.07.014 of this title.

Municipal Code Section 25.07.014(B) Noticing for Appealable Developments. Within ten calendar days of accepting an application for an appealable coastal development permit or at least ten calendar days prior to the first public hearing on a development proposal, the city shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to each applicant, to all persons who have requested such notice, to all property owners within one hundred feet of the proposed project, to all residents within one hundred feet of the proposed project and to the coastal commission.

In addition the posting of the meeting agenda was improperly posted on the city bulletin board (the only 24 hour/day access in the city) by the city clerk. The stapled agenda was simply thumbtacked in mass and was unreadable. The pages should've been individually posted so the public had access to the full agenda of the meeting. When it was brought up to the clerk she subsequently has changed the method of posting to meet the requirements of the Brown Act.


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- 10. The proposed project has not taken appropriate construction BMPs or water quality issues into account based upon a review of available files at Laguna Beach City Hall. This project is located within 25 feet of a mapped blue-line stream that flows directly into the receiving waters of the Pacific Ocean. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City's certified LCP used as guidance.

The following are submitted for staff review and consideration:

Protection of Water Quality - During Construction

Construction Best Management Practices Plan for the project site, prepared by a licensed professional, shall incorporate erosion, sediment, and chemical control Best Management Practices (BMPs) designed to minimize to the maximum extent practicable the adverse impacts to receiving waters associated with construction. Construction Best Management Practices Plan on the project site prior to and concurrent with the project staging, demolition and construction operations are requested. The BMPs shall be maintained throughout the development process.

A. Said plan shall include the following requirements:

- (i) No construction materials, debris, or waste shall be placed or stored in a manner where it may be subject to wave, wind, rain, or tidal erosion and dispersion.
- (ii) Any and all refuse and debris resulting from construction and demolition activities shall be removed from the project site within 72 hours of completion of demolition and construction. Construction and demolition debris and sediment shall be removed from or contained and secured within work areas each day that construction or demolition occurs to prevent the accumulation of sediment and other debris that could be discharged into coastal waters. All demolition/ construction debris and other waste materials removed from the project site shall be disposed of or recycled in compliance with all local, state and federal regulations. No debris or other waste materials shall be placed in coastal waters or be allowed to move into coastal waters. If a disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- (iv) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction and demolition activities. BMPs shall include, but are not limited to:
 placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and Pacific Ocean
- (v) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and kept as far away from a storm drain inlet and receiving waters as possible.

B. The required Construction Best Management Practices Plan for the project site shall also include the following BMPs designed to prevent spillage and/or runoff of construction and demolition-related materials, sediment, or contaminants associated with construction activity.

- (i) Develop and implement spill prevention and control measures and ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include


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a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The fueling and maintenance area shall be located as far away from the receiving waters and storm drain inlets as possible and shall not be located on the beach if at all possible. If fueling or maintenance is proposed to be on the beach then the applicant shall submit a plan showing how there is essentially no possibility of contaminating beach materials through those operations.

(ii) Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters, and more than fifty feet away from a storm drain, open ditch or surface waters.

(iii) Provide and maintain adequate disposal facilities for solid waste, including excess concrete, produced during construction.

(iv) Provide and maintain temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, wind barriers such as solid board fence or hay bales, and silt fencing.

(v) Stabilize any stockpiled fill with geofabric covers or other appropriate cover, and close and stabilize open trenches as soon as possible.

(vi) Prior to final inspection of the proposed project the applicant shall ensure that no gasoline, lubricant, or other petroleum-based product was deposited on the beach or at any beach facility. If such residues are discovered, the residues and all contaminated sand shall be reported to the Executive Director in order to determine if the removal and disposal of the contaminated matter shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

- 11. Section 30253

New development shall:

(I) Minimize risks to life and property in areas of high geologic, flood, and fire hazard;...

- 12. Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

- 13. Section 30232

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

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- 14. Sections 30230, 30231 and 30232 of the Coastal Act require that marine resources be maintained, enhanced, and restored in a manner that will sustain the biological productivity of all species of marine organisms in coastal waters, and that the biological productivity and water quality of coastal waters be maintained and restored by controlling polluted runoff. This development is located on a mapped blue-line stream that flows directly into the receiving waters of the Pacific Ocean.
- 15. ORDINANCE #206.- Governor's Declared Emergency Drought Requirements
The South Coast Water District's Ordinance #206 (attached in full for review) is very clear in its language that during a prolonged drought this golf course is required to use reclaimed water. Potable water is still being used even after a recent upgrade to the reclaimed water system in the Canyon. This is the only golf course in this area utilizing potable water during an emergency drought declaration.

In conclusion, it is hard to comment on all the ways the project will be out of compliance with the General Plan and the LCP of the city because there has been no opportunity to review what hasn't been generated (environmental review). There are some conditions on the permits approved, but no mitigation monitoring is indicated. I do know there has already been clearing of vegetation around the golf course and tree-trimming done in a very, very old eucalyptus grove, as well as pine trees that are known nesting and roosting habitat for a variety of rare and endangered bird species. All of the tree trimming was done during the nesting and roosting season. Attached to the appeal are points that I think may be of issue in regards to the Land Use Element (Certified in May 2012 by the Coastal Commission) and the Open Space/Conservation Element to give you an idea of the extent of the concerns I have. Clearly there are many violations related to the Chapter 3 Policies of the Coastal Act.

The prior project proposed for this site by "The Athens Group" was subjected to the scrutiny of a draft EIR - which is unavailable for my review as it is locked up in a planner's office. That project was much larger in scope, but in this case, size doesn't matter as many of the same elements are included in this project. The Athens' project It was also much less appealing to the public, but this is not a popularity contest. Comparing the processes required for the two projects, one can scarcely believe they are both proposed for the same piece of land.

This project is out of compliance with the Coastal Act, the General Plan, the LCP, the LBMC and CEQA.

The city and the applicant have opened Pandora's Box and it is apparent the project can now be reviewed in it's entirety as if it were being built on vacant land. It must comply with all applicable, current standards for new construction. In that light we would ask you to stop all work on the project



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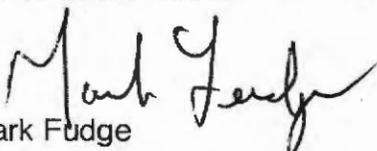
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as it is apparent that the current work, as well as any proposed development, is subject to a Coastal Development Permit and requires environmental review.

Please review this project in it's entirety and ensure that the people of Laguna and California are protected by protecting their environment and protecting and preserving our finite natural resources. I am confident in any findings that you make on this project. My only concern is that the proper environmental work is done and all underlying laws are complied with. If the project as proposed meets that standard, or if you decide to restore the area to it's natural state, or any point in between, I will be satisfied. I ask that the Commission finds substantial issue and reviews the project de novo.


Mark Fudge

Land Use Element Inconsistencies:

=====
Laguna, and the site of this project specifically, is rich with natural beauty. It is important that the city properly manages re-development activities - especially in environmentally sensitive areas.

LUE GOAL 1: Create a community that is sustainable, resilient, and regenerative.

The City can move toward sustainability and a reduction of greenhouse gas emissions by the way it manages land development and building construction, conserves habitats and natural resources, provides efficient transportation and mobility systems, and develops its infrastructure and public services.

=====
It is unclear if pedestrian access has been addressed appropriately, if at all. There should be a better walkway provided for access from the project to the beach..from the beach to the project (which is located in an area of rich natural resources)..currently there is a small road with no sidewalks, and it is dangerous. (see below)

LUE GOAL 3: Preserve, enhance, and respect the unique, small-scale village character and individual identity of Laguna Beach's commercial areas.


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Intent - Laguna Beach's commercial areas are predominantly low-scale, which contributes to the pedestrian-oriented street environment. The village charm of Laguna Beach is a character that community members have long worked to preserve and enhance. An example of such a preservation technique is the Downtown Specific Plan, adopted in 1989 to preserve the "village atmosphere." The following policies apply to all commercial areas of the City and encourage compatibility of uses, the creation of small businesses, **pedestrian orientation and access**, art-related uses, enhanced and appropriate landscaping, and the preservation of historically significant commercial structures.

Policy 3.5 - Promote safe and adequate pedestrian access to and within commercial areas.

Action 3.5.1 Evaluate the adequacy and safety of sidewalks and pedestrian circulation in commercial zones and amend policies and standards as necessary.

Policy 3.6 - Encourage creation of public spaces and sidewalk areas as part of new development and major remodels.

Policy 3.8 - Encourage pedestrian access and orientation in all commercial areas

There is no evidence that the placement of new development was reviewed as to what would be the most suitable area to maximize the preservation of sensitive resources. (see below)

Action 3.10.1 Establish criteria for placement of new development on the most suitable area of the lot to maximize the preservation of sensitive resources

It is unclear if any measures were taken to maximize protection of the community's coastal and other natural resources because none of the measures have been available for public review. All of the original work was done without a Coastal Development Permit (ministerial permits were obtained for work that should have had a CDP per LBMC 25.07.008(B)(2)) or a public meeting. Only the Phase 2 and Phase 3 aspects of the project have been available for review. There have been conditions placed on the work, but no mediation monitoring is addressed. (see below)

LUE GOAL 4: Recognizing that Laguna Beach is a worldwide visitor destination, enhance the visitor experience while maximizing protection of the community's coastal and other natural resources.



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Intent - The increasing number of visitors to Laguna Beach **requires the protection of the community's sensitive coastal and other natural resources.** The intent of the following policies and actions is to enhance the visitor experience along the coast, while **minimizing impacts on Laguna Beach's natural resources.** The primary method of implementing this goal is through development of a Coastal Resources Protection Program. Elements of such a program include, but are not necessarily limited to, the following: 1) Potential rezoning of designated areas adjacent to the coast to provide visitor-serving uses that include a mix of commercial uses and public services and facilities. **Potential sites would be designated based on their potential to accommodate high levels of visitor traffic with minimal impact on sensitive coastal resources and minimal effects on neighboring land uses.** The intent of potential rezoning would be to serve the City's increasing number of beach visitors and enhance coastal access, while redirecting beach activity from locations identified as more environmentally sensitive to less sensitive beach areas. 2) Ongoing coastal resource protection through enforcement and public education. 3) Potential impact fee on new visitor-serving land uses benefiting from visitor activity that would help offset costs associated with protecting coastal resources from the increasing number of community visitors. 4) Identification of a site for development of a Coastal Resources Interpretive Center.

Policy 4.1 Develop and adopt a program to **protect sensitive coastal resources.**

Action 4.1.2 Evaluate and, if appropriate, adopt a program to rezone and encourage redevelopment of properties in specified areas of the coast to **better provide public coastal access while protecting sensitive coastal resource areas.**

Policy 4.2 Promote policies to accommodate visitors, reduce conflicts between visitor serving uses/ infrastructure and residents, and **reduce impacts on the City's natural resources.**

Policy 4.3 Maintain and enhance access to coastal resource areas, particularly the designated public beaches, by ensuring that access points are safe, attractive, and pedestrian friendly.

Action 4.3.2 Maintain and improve public pedestrian access to and along beaches and oceanfront bluff using public rights-of-way and public easements. Protect, and where feasible, formalize, continued public use over areas used historically by the public (i.e. public prescriptive rights) to gain access to and along beaches, oceanfront bluffs, and other recreational areas.

It is unclear whether or not the impacts of noise from the intensified use of the hotel rooms and event space have been evaluated and what the effects will be on the neighbors and wildlife, especially as it applies to the intensification of development and use of the Dolph Sisters Historical Campground area. This land had very specific deed restrictions associated with it that have been completely ignored by the applicant. Also if the

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impacts of the intensified use have been evaluated for their effects to the sensitive open space surrounding the project as well as impacts on other visitor-serving areas (Aliso Beach). (see below)

LUE GOAL 5 Promote compatibility among land uses in the community.

Intent - Laguna Beach has a varied mix of land uses in close proximity to one another. For example, residential zones abut commercial and light industrial zones and **building sites abut sensitive open space, creating the potential for incompatible land uses.** Spillover parking from commercial areas negatively impacts some residential neighborhoods. Pressures to develop larger structures in all areas of the City have resulted in negative aesthetic and other impacts upon the community. In order to counteract the negative effects and avert future conflicts among land uses, the following policies and actions address the need to evaluate and, where appropriate, amend zoning standards and consider rezoning areas that are incompatible, establish compatibility guidelines for new development and subdivisions, and consider the adoption of neighborhood parking programs.

Policy 5.2 Ensure that all new development, including subdivisions and the creation of new building sites and remodels that involve building additions, is adequately evaluated to ascertain potential negative impacts on natural resources and adjacent development, emphasizing impact avoidance over impact mitigation. Required mitigation should be located on-site rather than off-site. Any off-site mitigation should be located within the City's boundaries and in close proximity to the project. (Similar to Policies 7.4 and 10.3.)

As proposed, the project has been approved for a 20% parking reduction. This will have impacts that may adversely affect public access to the coast. The project is under-parked by at least 80 parking spaces (please not attached newspaper article reference to the under parking). The only ancillary parking available near the project site is the public access parking lot for Aliso Beach. There is concern that the applicant will use this as overflow parking given the expansion and intensification of event space, especially the Dolph Sisters Campground area that is currently being promoted for weddings and other large, outdoor events. This campground area is very fragile and intensification of use should be carefully reviewed given the resources on the site and surround the site. (see below)

Policy 5.3 Evaluate and, if necessary, modify the commercial parking standards for new development and/or changes of use, especially when such occurrences impact adjacent residential or visitor-serving areas.

Policy 5.4 Preserve and maintain the residential character and livability of neighborhoods adjacent to commercial districts and/or individual businesses by regulating and minimizing impacts from commercial activities, including but not necessarily limited to deliveries, amplified music, light trespass, alcohol-related impacts, and employee or valet parking. Establishment of any new preferential parking districts in the coastal zone shall be prohibited.



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Action 5.4.1 Investigate, formulate, and implement solutions to problems created in residential areas related to entertainment and alcohol service in adjacent commercial areas.

It is unclear what the price points of the rooms will be and whether they meet any criteria of "affordable". Please see recent attached article that would lead the reader to believe that this will be an upscale venue that has not taken into consideration "affordability" as required by the City's LUE and Policy 30213 of the Coastal Act. (see below)

LUE Goal 6 Provide a diversity of land uses that enhance the community.

Policy 6.2 Preserve and encourage an increase of the City's stock of affordable motel and hotel rooms available for short-term visitors. Protect, encourage, and where feasible provide, affordable overnight accommodations.

30213. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Due to the highly sensitive environmental area surrounding the project, the city circumvented the processes required by CEQA when it avoided the requirement for an Initial Study (as per Action 7.4.2) (see below)

LUE GOAL 7 - Protect, preserve, and enhance the community's natural resources.

Intent - Having an abundance of scenic coastal, hillside, and canyon areas, the community has a lengthy history of stewardship to ensure the environmental protection of its natural resources. **Long-term preservation of dedicated open space and coastal resources is of the highest priority.** Policies in both the Land Use and Open Space/Conservation Elements require the protection and preservation of our magnificent natural resources for community members, visitors and future generations.


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Policy 7.1 Protect dedicated and accepted open space.

Policy 7.3 Design and site new development to **protect natural and environmentally sensitive resources**, such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize natural landform alterations. (Same as Policy 10.2.)

Action 7.3.2 Review all applications for new development to determine potential threats from coastal and other hazards. (Ongoing implementation.)

Action 7.3.3 Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards. (Ongoing implementation.)

Policy 7.4 **Ensure that development**, including subdivisions, new building sites and remodels with building additions, **is evaluated to ascertain potential negative impacts on natural resources**. Proposed development shall emphasize impact avoidance over impact mitigation. Any mitigation required due to an unavoidable negative impact should be located on-site, where feasible. Any off-site mitigation should be located within the City's boundaries close to the project, where feasible. (Similar to Policies 5.2 and 10.3.)

Action 7.4.1 Prepare and adopt California Environmental Quality Act (CEQA) thresholds of significance tailored to address the City's natural resources, such as marine resources, streams, drainage courses, ESHA and high- and very-high value habitat.

Action 7.4.2 Continue preparation of initial studies, pursuant to the California Environment Quality Act (CEQA), for any proposed development, including single-family residences located within environmentally sensitive areas.(Same as Action 10.3.1.)

Action 7.4.3 Review development to minimize adverse impacts to abutting dedicated open-space areas; taking into consideration both the appropriate habitat buffer zones and the required fuel modification zones.

There is no way to know if this project has been evaluated sufficiently to protect public health and safety and natural resources including the preparation of a comprehensive fuel modification program given the intensification of the project area and the proximity of very high value habitat. There was no opportunity for public review until the project was already halfway started. There has been no public discussion of water quality impacts, roadway improvements, pedestrian access (other than the denial of a trail connection to the park for safety reasons) or cumulative impacts to sensitive biological and coastal resources. (see below)



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LUE GOAL 10 Ensure that proposals for new development, subdivisions, and major remodels are sufficiently evaluated to protect public health and safety and natural resources.

Intent - In a community with extremely high land values and minimal developable land, pressure has increased to develop larger buildings, including **development on environmentally sensitive lots has been increasing. Larger structures and development into environmentally sensitive areas have the potential to create numerous impacts on the environment and surrounding neighborhoods.** Some potential impacts include 1) **water quality impacts**, 2) land movements, 3) a decrease in safety response times on steep hillside roads during emergencies, and 4) the **potential cumulative impacts to sensitive biological and coastal resources** from which community members and visitors derive health benefits. **The following policies are adopted to ensure that applications for new subdivisions, the creation of building sites, new development, and major remodels are thoroughly evaluated to mitigate potential health and safety impacts related to new development.**

Policy 10.2 Design and site new development to **protect natural and environmentally sensitive resources** such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize landform alterations. (Same as Policy 7.3)

Action 10.2.1 Adopt standards that **require new development and related improvements to be located on the most suitable areas of the site so as to maximize safety and the preservation of sensitive resources.**

Action 10.3.1 Continue preparation of initial studies, pursuant to the California Environment Quality Act (CEQA), for any proposed development, including single- family residences, located within environmentally sensitive areas. (Same as Action 7.4.2)

Action 10.3.2 Continue to require in-depth analysis of constraint issues for properties, especially those designated on the City's hazard maps so that the nature of the constraint and the best options for mitigation or avoidance will be considered at all stages of the approval process since these constraints may affect what development is appropriate for the property.

Action 10.6.1 The development proposal should address the required fuel modification as part of the initial application and should **integrate fuel modification provisions into the site plan in such a way as to minimize impact on existing native vegetation and areas of visual prominence. Any required thinning of flammable vegetation shall be conducted outside of the bird nesting season if feasible.** Alternative means to thinning and/or removal of native vegetation for fire hazard management such as minimizing the building envelope, and/or siting of the structure(s) away from hazard areas, and/or use of fire retardant design and materials are preferred where feasible.


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Open Space and Conservation Element Policies Inconsistencies:

The most recent approval did have BMPs as a condition, but it is unclear that the same was required for the original permits (Phase 1 - removal of carports and expansion/remodel of hotel. It does not appear that BMPs are being implemented with current construction. (see below)

Water Quality and Conservation
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.

Will the intensified use (97 hotel rooms vs 64) create more runoff? It is unclear whether this was reviewed or not. Will the intensified use increase introduction of pollutants? (see below)

4C Minimize Volume and Velocity of Runoff

Ensure that development is designed and managed to minimize the volume and velocity of runoff (including both storm water 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.

Have the natural drainage systems been reviewed? (see below)

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.

Have native plants been assessed? Will this be done in Phase 3 (Landscaping)? (see below)


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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).**

Compliance with these is unclear. (see below)

4G Minimize Construction Impacts

Ensure that all development minimizes erosion, sedimentation and other pollutants in runoff from construction-related activities to the maximum extent practicable. Ensure that development minimizes land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize the impacts on water quality.

4H Continue Application and Maintenance of Best Management Practices (BMPs)

Require the property owner, homeowner's association or local government, as applicable, to continue the application and maintenance of Source Control and/or Structural Treatment Control BMPs as necessary to reduce runoff pollution, including appropriate construction related erosion and sediment control measures.

4I Watershed Protection and Restoration

Promote the protection and restoration of offshore, coastal, lake, stream or wetland waters and habitats and preserve them to the maximum extent practicable in their natural state. Oppose activities that may degrade the quality of offshore, coastal, lake, stream or wetland waters and habitat and promote the rehabilitation of impaired waters and habitat.

4J Infiltrate Runoff

Promote infiltration of both storm water and dry weather runoff, as feasible, to protect natural hydrologic conditions.

Does this development impact trails? There was discussion about extending the trail from the park to allow beach access, but this was abandoned because it would be unsafe due to flying golf balls) Does the new development preclude future provision of access to trails?(see below)

Master Plan of Trails

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.


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6I Provide public pedestrian access to Open Space/Recreation areas, except where it is inconsistent with public safety or the protection of fragile coastal resources.

It is very clear that the development is visible from many places on the trail system and along the canyon bottom as well as from ridge lines that ring the canyon. (see below)

Visual Resources

7A Preserve to the maximum extent feasible the quality of public views from the hillsides and along the City's shoreline.

7F As a condition of approval for new building construction, require the dedication of open space easements, development rights, or the use of some similar instrument for the purpose of protecting unusually significant natural features. Preserve and provide an optimum setting for prominent site features such as natural rock outcroppings, promontories and ridges.

Was the criteria for treatment of the urban edge between existing development and open space considered? (see below)

7G The Design Review process for an individual project shall include criteria for treatment of the urban edge between existing development and open space in areas designated "Residential/Hillside Protection" on the Land Use Plan Map. The criteria shall be developed to reflect topographic constraints and shall include at a minimum:

- a. Treatments to screen development, including the use of vegetation, variable setbacks and modified ridgelines or berms;
- b. Fuel modification techniques for new development which provide the following: result in graduated fuel modification zones in which on the minimum amount of native vegetation is selectively thinned; prohibit grading or discing for fuel modification; confine fuel modification to the development side of the urban open space edge to the maximum extent; avoid fuel modification encroachment into environmentally sensitive areas; locate structures with respect to topographic conditions to incorporate setbacks, minimize fuel modification requirements and maximize hazards; and provide requirements for ongoing maintenance.
- c. Treatments for fuel modification and maintenance techniques for existing development consistent with standards in (b) above to the maximum extent feasible.

This project is on property adjacent to the Aliso Greenbelt and no known site specific view analysis was generated. Some of the development will be visible from the floor of Aliso Canyon. It is located on the floor of Aliso Canyon. (see below)

7H For new development proposed on property adjacent to the Aliso Greenbelt, a site specific view analysis shall be required. Said analysis shall identify appropriate measures to ultimately screen the development and shall be approved by the Design Review Board. Such measures may include but shall not necessarily be limited to: a) Setback of structures, b) landscape screening, c) berms or "false ridges," d) use of earthtone or


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color and materials which will serve to blend the structures with the natural landscape. If the analysis indicates that development cannot feasibly be screened by the measures above, such that the trails or the canyon bottoms of Wood and Aliso Canyons, then the City shall impose other conditions of development so as to protect the viewshed and integrity of the greenbelt. Such measures may include limitation on building height, bulk or footprint, lot line adjustment or other similar measures. In any case, development should not be visible from the floor of Aliso Canyon.

Extensive tree trimming (under the direction of an arborist according to the applicant) has been done in an historic eucalyptus grove as well as in a known area of nesting and roosting within pine trees that surround the golf course and hug the canyon walls.. Slope vegetation has been cleared around the perimeter of the golf course. It is unclear whether native plants were disturbed, but given the palette of Southern Maritime Chaparral in this unique canyon it is highly likely ESHA has been destroyed and/or disturbed. In conferring with the local chapter of the Audubon Society they confirmed that they were never consulted about this tree trimming and advised that it had in fact been done during nesting and roosting season. (see below)

7K Preserve as much as possible the natural character of the landscape (including coastal bluffs, hillsides and ridgelines) by requiring proposed development plans to preserve and enhance scenic and conservation values to the maximum extent possible, to minimize impacts on soil mantle, vegetation cover, water resources, physiographic features, erosion problems, and require recontouring and replanting where the natural landscape has been disturbed.

Vegetation and Wildlife Resources

8A Preserve the canyon wilderness throughout the City for its multiple benefits to the community, protecting critical areas adjacent to canyon wilderness, particularly stream beds whose loss would destroy valuable resources.

8C Identify and maintain wildlife habitat areas in their natural state as necessary for the preservation of species.

This project area is traversed by Aliso Creek and is surrounded by "Very High" habitat value areas.

8F Environmentally Sensitive Areas (ESA's) as defined in Section 30107.5 of the California Coastal Act shall be identified and mapped on a Coastal ESA Map. The following areas shall be designated as Environmentally Sensitive Areas: those areas shown on the Biological Resource Values Map in the Open Space/Conservation Element as "Very High" habitat value, and streams on the Major Watersheds and Drainage Courses Map which are also streams as identified on the USGS 7.5 Minute Quadrangle Series and any other areas which contain environmentally sensitive habitat resources as identified through an on-site biological assessment process, including areas of "High" and "Moderate" habitat value on the Biological Resources Values Map and areas which meet the definition of ESA's in Section 30107.5 of the Coastal Act, including streams, riparian habitats,


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and areas of open coastal waters, including tidepools, areas of special biological significance, habitats of rare or endangered species, near-shore reefs and rocky intertidal areas and kelp beds.

There was no known biological assessment done as required by 8G. (see below)

8G Detailed biological assessments shall be required for all new development proposals, including all subdivisions and fuel modification proposals, located within or adjacent to areas designated high or very high value on the Biological Values Map. Such biological assessments shall utilize the biological value criteria specified in the Biological Resources Inventories (1983, 1992 and 1993).

This development is not dependent on such resources. (see below)

8L Except as otherwise provided in Policies 8H, 8I and 8K, no development proposals shall be located in areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map except for uses dependent upon such resources.

8M When new development proposals are situated in areas adjacent to "Environmentally Sensitive Areas" as designated on the Coastal ESA Map and where these are confirmed by subsequent onsite assessment, require that development be designed and sited to prevent impacts which would degrade such areas.

8N Prohibit intrusion of fuel modification programs into environmentally sensitive areas, including chaparral and coastal sage scrub.

8O Preserve and protect fish and/or wildlife species for future generations.

It is unclear that the development was identified as being in a very high value habitat in documentation. (see below)

8R Identify development projects situated in or immediately adjacent to high or very high value habitat in documentation accompanying any Design Review Board application.

Was the restoration of the creek promoted? (see below)

Watersheds and Watercourses


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9A Promote the preservation and restoration of Laguna's natural drainage channels, freshwater streams, lakes and marshes to protect wildlife habitat and to maintain watershed, groundwater and scenic open space.

Aliso Creek is a mapped "blue-line" stream. Setbacks to the stream banks may be too close for some of the development. (see below)

9C a) Streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon Biological Values Maps which are also "blue-line" streams identified on the USGS 7.5 Minute Quadrangle Series, shall be identified and mapped on the Coastal Environmentally Sensitive Areas Map of the Land Use Plan. For these streams, a minimum setback of 25 feet from the top of the stream banks shall be required in all new developments. A greater setback may be necessary in order to protect all riparian habitat based on a site-specific assessment. No disturbance of major vegetation, or development, shall be allowed within the setback area. This provision shall not apply to channelized sections of streams without significant habitat value. Where development is proposed on an existing subdivided lot which is otherwise developable consistent with all City ordinances and other policies of this Plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures, have been exhausted.

b) Require a setback of a minimum of 25 feet measured from the centerflow line of all natural drainage courses or streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon Biological Values Maps other than the "blue-line" streams referenced in 9-C(a) above. Such setback shall be increased upon the recommendation of the City Engineer and environmental planner through the environmental review process. However, a variance may be given in special circumstances where it can be proven that design of a proposed structure on an affected lot will preserve, enhance or restore the significance of the natural watercourse. A t no time shall grubbing o f vegetation, elimination o f trees, or disturbance of habitat be allowed within the setback area before or after construction.

The "Phase 1" portion of this project (removal of carports and remodeling of the hotel buildings) was done without Design Review. (see below)

9E Require Design Review for development projects which include portions of a natural drainage course.

This property is adjacent to the Aliso Greenbelt. There are no known conditions regarding activity restrictions during the rainy season. (see below)

9R Erosion control measures shall be required for new development in areas designated Hillside Management/ Conservation (now referenced as Residential/Hillside Protection), as specified in Title 22 of the City's Municipal


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Code for properties adjacent to the Aliso Greenbelt. No grading, trenching or similar activity shall be permitted within Aliso/Wood Canyon Watershed during the rainy season from October 1 to April 1.

9S All graded areas shall be planted and maintained for erosion control and visual enhancement purposes. Use of native plant species shall be emphasized.

The restoration of Aliso Creek in a natural state was not a known condition of this project. It has not been protected from the infringement of new development. Increase of flow has not been known to be reviewed (see below)

9T Restore and retain Aliso Creek in a natural state and protect the Creek from infringement of new development.

9U Protect Aliso Canyon Area from any increase in flow which might have adverse impacts on the water quality in Aliso Creek and prevent excessive erosion and sedimentation and emphasize the prevention of siltation from adversely impacting the South Laguna Marine Life Refuge.

Parts of this project are in flood-prone lands. (see below)

Natural Hazards

10A Require that plan review procedures recognize and avoid geologically unstable areas, flood-prone lands, and slopes subject to erosion and slippage.

It is unclear whether a waiver of liability has been obtained. (see below)

10E Development in the areas designated "Residential/Hillside Protection" on the Land Use Plan Map or within potential geologic hazard areas identified on the Geological Conditions Map of the Open Space/Conservation Element shall not be permitted unless a comprehensive geological and soils report is prepared pursuant to Title 14 of the City's Municipal Code, and adequate mitigation measures have been approved and implemented by the City's geologist. For projects located in areas subject to hazards as identified on the Geologic Conditions Map or subject to erosion, landslide or mudslide, earthquake, flooding or wave damage hazards confined by a geologic assessment, as a condition of approval or new development a waiver of liability shall be required through a deed restriction.

The area surrounding the project is rich with Laguna and California history. It was the location of Laguna's first homestead. Based upon the last Draft EIR for this area, there are known archaeological concerns. It should be reviewed for its historical importance as a historical resource for the city, state and nation. (see below)



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Archaeology/Paleontology

12A Promote the conservation of land having archaeological and/or paleontological importance, for its value to scientific research and to better understand the cultural history of Laguna Beach and environs.

12B Develop a program which systematically inventories, records and preserves significant cultural resources in the community, in accordance with the guidelines in the City'S Local Coastal Plan.

Coastal Act Section 30244 "Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required." Because the CC recognizes that archaeological sites have cultural and religious values for Native American descendants, they no longer consider archaeological excavations to recover scientific data as reasonable mitigation.

The Aliso Creek Golf Course was built in 1950 and the Laguna Country Club village was built in 1963 and later converted into the inn. These properties are over 50 years old and if federal funds or permits are involved, the properties themselves are eligible for listing in the National Register of Historic Places and the California Register of Historic Resources. Since the developments occurred prior to CEQA and there are archaeological sites all along Aliso Creek, there is a high potential for the presence of buried archaeological resources beneath the development not to mention the undeveloped areas.

Finally, because the project will affect Aliso Creek, the applicant needs to secure a Corps of Engineers Section 404 permit and this requires compliance with Section 106 of the National Historic Preservation Act.

The project site is surrounded by ridge lines that have direct views into the canyon. It is unclear that the preservation of those views has been assessed. (see below)

Ridgelines

13H Preserve public views of coastal and canyon areas from ridgelines.

It is unclear whether constraint mapping was done for this project. (see below)

Constraint Mapping

15B Require the constraint analysis to consider pertinent environmental features of the site such as, but not limited to, topography, drainage, soil stability, rock outcroppings, major ridgelines, accessibility, public/private view corridors, high and very high value habitats and wildlife migration corridors; to identify, after consideration of these features, the most desirable portion of the site; and to provide a ranking, if necessary, when there are multiple and competing environmental features.

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I5C Require a constraint analysis for existing building sites where Design Review Board approval is required and there are multiple significant environmental constraints.

SOUTH COAST WATER DISTRICT ORDINANCE NO. 206**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF SOUTH COAST WATER DISTRICT ESTABLISHING A WATER CONSERVATION & WATER SUPPLY
SHORTAGE PROGRAM FOR USERS OF POTABLE WATER PROVIDED BY THE DISTRICT****Section I. Title**

South Coast Water District Water Conservation & Water Supply Shortage Ordinance (“Ordinance”)

Section II. Findings

1. **A reliable minimum supply of potable water is essential** to the public health, safety and welfare of the people and economy of Southern California.
2. **Southern California is a semi-arid region, largely dependent on imported water** supplies from Northern California and the Colorado River. Population growth, drought, climate change, environmental concerns, government policy changes, restrictions on pumping and other factors in our region, in other parts of the State and in the western U.S. make Southern California highly-susceptible to water supply reliability issues.
3. **Careful water management requires active conservation measures** not only in times of drought but at all times. It is essential to ensure a reliable minimum supply of water to meet current and future water supply needs.
4. **California Constitution Article X, Section 2** declares for the general welfare:
 - a. Water resources be put to beneficial use
 - b. Prevention of water waste and unreasonable water use or methods of water use
 - c. Full exercise of water conservation with a view to reasonable and beneficial water use



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LONG BEACH, CA 90802-4416
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EXHIBIT # 1
PAGE 31 OF 50

Attachments:

Resolution (staff report available online at www.lagunabeachcity.net)
Laguna Beach Independent newspaper articles
Orange County Register newspaper articles



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PAGE 32 OF 50

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.

Mark Fudge
Signature of Appellant(s) or Authorized Agent

Date: June 16, 2014

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: _____

Oceanfront Owners Facing New Remodel Rules

COASTAL COMMISSION

lagunabeachindy.com /oceanfront-owners-facing-new-remodel-rules/

MAY 03 EXHIBIT # 1
PAGE 33 OF 50

Jennifer Erickson

Under rules proposed by the California Coastal Commission staff, reroofing an ocean front home and replacing framing ridden with dry rot could be considered a major remodel and trigger a 25-foot setback rule, which would require Mark Spencer to lop off a quarter of his Laguna Beach house.

Scenarios such as this prompted Laguna's city staff to dispute the coastal staff's proposed revisions, which include new criteria for what constitutes a major coastal remodel and new non-conformity provisions that would likely threaten private beach access stairs from bluff top homes.

Despite numerous meetings with Coastal Commission staff since 2011, city staff has made little headway in attempting to persuade their counterparts to relax suggested measures viewed locally as too stringent.

The looming changes prompted Community Development Director John Montgomery to flag the dispute for Laguna's 800-plus waterfront property owners, notifying them of a hearing on the matter in January. "To me, it was the only fair way to do it," he said.

A Laguna contingent, this time including two Council members and two planning commission members, met again with coastal staffers in Long Beach last week. Planning Manager Ann Larson hoped that bringing Laguna's decision makers to the table might erode the coastal staff's intransigence. But the meeting didn't yield a compromise, and Montgomery expects more deliberations.

Laguna's City Council inadvertently opened the Pandora's box in 2011 by approving an ordinance to redefine "major remodel" rules, among other things. Coastal staff apparently seized the opportunity to accelerate their own voter-approved 1972 mandate to conserve coastal resources by tweaking Laguna's development rules.

When the city modifies laws affecting coastal development, its local coastal plan must reflect those revisions and be certified by the Coastal Commission. A certified local coastal program serves as a road map for permissible development and allows property owners to obtain permits locally, bypassing the Coastal Commission.

The Coastal Commission examines a city's modifications for compliance with the California Coastal Act before approving certification. Sometimes coastal staff will add their own language, and usually the city agrees.

Not this time. Two years into deliberations, city and coastal staff continue to dispute key points of revised remodel rules for prized oceanfront homes.

The Coastal Commission's policies are intended to combat sea level rise and bluff erosion and strengthen shoreline protections, said Larson. The coastal staff aims to bring nonconforming structures into conformance statewide by acting incrementally, wielding their pens on amendments to local coastal plans that involve major remodels.

Laguna is one of the first coastal jurisdictions pressured under this tactic. So far no other city has yet incorporated the commission's remodel rules into their code.

Montgomery said the proposed policy changes would make it very difficult for staff to help residents navigate minor

remodels.

The most onerous recommendation would require city staff to cumulatively track remodeling in every oceanfront home for 75 years, instead of the current three-year period. If a homeowner undertook a 40 percent remodel in 2014 and then a new owner opted for a 10 percent change 20 years later, that would trigger a major remodel designation. The new owner would be required to conform to current building standards, such as setbacks 25 feet from bluffs and removal of beach access stairs.

"It's hard to keep track of anything over 10 years, much less 40 years," said Montgomery. "It would be a nightmare."

Another point of contention is the coastal staff's definition of changes that should be included when calculating remodel percentages. They want to include interior walls as well as roof and foundation repairs in the remodel calculation, while city staff would consider some cases to be "repair and maintenance" and exempt from contributing to the remodel percentage.

"My place being 100 years old, I suspect it may have some termite damage," Robert Harker said of his Victoria Beach home. "If I have to look to some kind of 75-year control beyond where I am now, that doesn't make any sense at all to me."

The proposed rules will be difficult for architects, realtors, and owners trying to explain to a new buyer what is permissible, said local architect Morris Skenderian.

Coastal staff stipulations would also threaten established nonconforming structures, such as beach access stairs, a surefire point of contention with homeowners, said Montgomery. The city allows for routine maintenance, repair and even minor improvements for such structures, but the new recommendations would likely require coastal development permits.

The coastal staff also proposed that all new development on oceanfront sites be subject to a coastal hazard analysis and to a minimum 25-foot setback. City staff believes there should be exceptions for minor developments such as decks, patios and walkways.

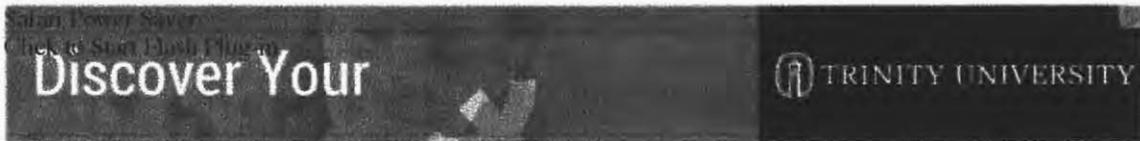
"This is very disconcerting," said Richard Bracamonte, who hopes to rebuild his Victoria Drive home. He can comply with the 25-foot setback for the main structure, but he envisioned balconies that would encroach on the setback, as neighbors have done. Now he's not sure they'll be allowed.

The city can circumvent the stalemate with a remodel ordinance that isn't certified by the Coastal Commission, but then any development subject to the ordinance could be challenged with an appeal to the Coastal Commission.

Or Laguna can submit a revised ordinance for certification that omits objectionable coastal staff language. In that event, Montgomery predicts the commission might well dictate a compromise that, finally, "may not be palatable to the city, is the bottom line."

COASTAL COMMISSION

EXHIBIT # 1
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City Council selects firm for Aliso Creek EIR

Study will analyze environmental impacts of proposed Athens Group development.

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SEPT 5, 2007

By **CHRISTA WOODALL** / STAFF WRITER

The Laguna Beach City Council voted unanimously to award consulting firm PMC with the contract to prepare the environmental impact report, or EIR, for the Aliso Creek Area Redevelopment Plan.

An EIR assesses the potential significant environmental impacts of a proposed development. It is required by the California Environmental Quality Act before decisions about the project can be made by city officials.

Among the topics to be studied on the 325-acre Aliso Creek plan are water quality and hydrology, water supply, visual resources, noise, air quality and biological resources. The study will also evaluate the use of an electronic mitigation monitoring database.

Developer The Athens Group will reimburse the City for PMC's \$435,270 fee.

Several residents petitioned the City Council to arrange an opportunity for a public dialogue with The Athens Group. In response, the council set a public meeting for 6 p.m. on Oct. 23.

Community Development Director John Montgomery said detailed information about the project's current plan is online at www.lagunabeachcity.net/government, under the heading of "Aliso Creek Area Redevelopment Plan."



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COASTAL COMMISSION

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Golf Resumes at Aliso Creek

FEB 17, 2011 COASTAL COMMISSION

lagunabeachindy.com/golfing-resumes-at-aliso-creek/

Jennifer Erickson

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After a two-month storm-caused closure, the 83-acre Aliso Creek Golf Course will reopen this Sunday, Feb. 20, donating golf proceeds that day to the Laguna Relief and Resource Center's fund for local victims of the same flood that shut it down last December.

Even though the weekend weather forecast is for precipitation, general manager Kurt Bjorkman is optimistic loyal patrons will want to be the first to tee up on the restored links. "Weather stands in the way of no golfer," he said, adding that 120 tee-times are booked on the nine-hole course and everyone is aware of the potential for rain. "A lot of people are really excited to get out on the course," he added.



J.D. Blashaw, Aliso Creek's director of golf operations, tries out the renovated course. Photo by Ted Reckas

When the deluge began on Dec. 22, J.D. Blashaw, Aliso Creek's director of golf operations, said that the banks of the creek completely overwhelmed the course, awash in three to four feet of water that left behind a foot-thick residue of mud once the runoff subsided. *

"It was a little scary to be here while it was going on," agreed Bjorkman. He couldn't see the grass, or even the base of the tree trunks.

Though it was "heartbreaking" to witness the damage, golf course superintendent Greg Jones and his team immediately went to work clearing the debris, re-building bunkers, replanting trees, repairing bridges over the creek and reseeding the entire course. "The restored course is incredible with pristine greens and immaculate tee boxes," he promised.

Lying in a flood basin, the golf course has habitually fallen victim to the vagaries of storms, and was most recently damaged by deluges in 1997 and 1994.

The clean up effort included a fleet of small tractors to muck out the mud (small, so as not to do more harm to the over-soft ground). During the closure the property staffed the golf shop in order to stay in touch with the community, according to Blashaw, who said a lot of people came down just to check out the progress.

Though he admitted that it's certainly tough for any business to be down for two months, Blashaw said the forced course restoration leaves the grounds in an extraordinary rugged canyon better than before.

While he couldn't give specific figures for their losses, Bjorkman conceded that January is a somewhat busy time for golf at Aliso Creek and that the losses were "significant."

Despite extensive damage to the grounds, the 60-room guest facilities were largely unscathed by the storm. No

bookings were dropped during the closure, though room reservations slowed, Bjorkman said. The hotel appeals to a different audience than the course, and the former restaurant's meeting space caters to a lot of groups and retreats. Still, the course's closure "changed the overall heart beat of the whole property," he said.

Both Blashaw and Bjorkman emphasized the course's importance to local clientele.

For many, this is the only course they play, said Blashaw. "Some guests say you don't know what you have until you lose it," he added. Indeed, it is a nod to their loyalty to locals that they are donating the proceeds from their opening day to the Laguna Relief and Resource Center, since, said Bjorkman, though their business was hurt, "it does not compare to the impact that the storm has had on many of our Laguna Beach neighbors."

The nine-hole course, allowing golfers to circle the greens in about two hours, makes it particularly appealing to locals, who can, for example, knock off work early and get in round and still make it home for dinner with the kids, Bjorkman said. And fees are competitive, \$36 for Fridays and weekends and as low as \$22 for twilight hours midweek. "A lot of people really want to keep it a secret," said Bjorkman.

A concierge at the Surf and Sand hotel earlier this week agreed that the nine-hole course nearby is an asset for business guests, who are delighted to squeeze in round of golf when they get a little time off.

Due to changes made by the current owner, Montage Hotel & Resorts Inc., a Nevada-based investor group that also owns the Montage Resort across the street, the former Canyon Lodge restaurant is now used solely as event space, Bjorkman said that the expanded golf snack shop, renamed Ben Brown's 10th Hole after the original owner and developer, now has a full bar, serves breakfast, lunch, snacks, including grilled items, and is open from 7 a.m. to 7 p.m. And you don't have to play golf to enjoy the extraordinary canyon views.

For additional information and reservations, call 949-499-2271 or visit www.alisocreekinn.com.

COASTAL COMMISSION

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Aliso Creek Inn and Golf Course for sale

Site of the Laguna Beach hotel and nine-hole course dates to 1871. The owners are being quiet about a potential buyer.

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By JOANNA CLAY / ORANGE COUNTY REGISTER

DEC 28, 2012



Aliso Creek Inn and Golf Course in Laguna Beach is for sale and has a potential buyer. However, the owners are mum about the details.

Spokeswoman Joan Gladstone said putting the 85-acre property up for sale is a "business decision." She declined to provide further information while the sale is in progress.

Laguna Beach City Manager John Pietig said Friday that Mark Christy, co-owner of Hobie surf stores in Laguna Beach, Corona del Mar, Dana Point and San Clemente, asked about the property and its history in the past several months. Pietig said he couldn't provide specifics about the inquiry.

"I have absolutely zero comment," Christy said.

The property, at 31106 Coast Highway, dates to 1871, when it was the home of George and Sarah Thurston, according to the inn's website. Bill Bryant purchased it in the 1940s and built the golf course.

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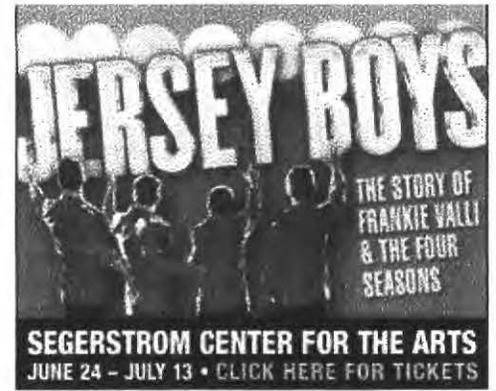
Ben Brown bought it in 1956 and turned it into the Laguna Beach Country Club. In the 1960s, the site added what became a 62-room inn. Brown's wife, Violet, named it Aliso Creek Inn and Golf Course in 1978, eight years after Ben's death.

Aliso Creek Properties LLC., an investor group, bought the property from the Brown family in 2004. The group made headlines a year later when it announced a proposal for a major overhaul of the property into a resort along with The Athens Group, the developer behind the Montage Resort & Spa.

* Aliso Creek Properties halted the environmental impact report process, which would have required public hearings, and decided to postpone the project in 2009, Gladstone said.

The property also was affected by flooding in December 2010, when four feet of water inundated the nine-hole golf course, closing it for two months.

"Aliso Creek Inn and Golf Course is a fixture in the local community and we are grateful to be part of it," Gladstone said in a statement. "We hope the new owner will feel as embraced by the community as we have during our ownership period."

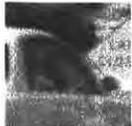


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Investors Selling Aliso Creek Inn **COASTAL COMMISSION**

DECEMBER 28, 2012

lagunabeachindy.com /investors-selling-aliso-creek/

EXHIBIT # 1
PAGE 40 OF 50

Andrea Adelson

Local resident and sports retailer Mark Christy is believed to lead in investor group buying Laguna Beach's Aliso Creek Inn and Golf Course from its current owner, private investors that deep-sixed an ambitious plan to remake the flood-prone property into a high-end conference center and spa fringed by tee-close homes amid the recession in 2009.

Few details have yet to emerge about the pending transaction for the 85-acre hidden jewel at the mouth of Aliso Canyon, a water shed that supports environmentally threatened plants and animals and spills polluted urban runoff onto Aliso Beach, one of the county's most popular beaches. *

"We're pleased that the potential buyer intends to continue to provide Laguna Beach with a resort and golf course that reflects the community's values," Joan Gladstone, a spokesman for the property's owner, Aliso Creek Properties LLC, said last week. She declined to identify the potential buyer, saying details of the transaction are confidential.

The seller, Aliso Creek Properties LLC, is one of six hotels in the portfolio of Redwood City's Ohana Real Estate Investors. Ohana oversees the investments of Pierre Omidyar, the founding chairman of the online auction site eBay. The other properties include Montage resorts in Laguna Beach, Beverly Hills and Deer Valley; Santa Barbara's Bacara resort; a Laguna Beach Travelodge; and development projects in Sonoma County, Hawaii and Mexico. Omidyar is worth \$8.2 billion as of September 2012, making him the 141st richest person in the world and 42nd richest U.S. resident, according to Forbes magazine.

Christy, a real estate agent who also co-owns San Clemente-based Hobie Sports and its five surf shops, declined to comment directly.

Christy made informal inquiries about Aliso Creek in recent months, Laguna's City Manager John Pietig confirmed.

One hotel expert suggested that a deal could only make economic sense if the current owners agreed to sell at a considerable loss.

The nine-hole golf course with 62 aging suites and a lodge used as an event center was acquired from the late Violet Brown for \$17.6 million in 2004, according to Alan X. Reay, founder of Irvine-based Atlas Hospitality Group, a California hotel broker.

"They were buying it for its potential," said Reay, who explained that recent deals for hotels with 18-hole courses in Rancho Bernardo and Fallbrook fetched about \$50,000 a room, compared to the \$277,000 a room paid by Aliso Creek Properties.

"People fall in love with real estate," said Reay, adding that an unbranded hotel without a known operator must turn to private investors for financing rather than a traditional lender. Aliso Creek Inn's dated suites need upgrades of \$100,000 per unit, he figured.

"We hope that the new owner will feel as embraced by the community as we did during our ownership," Gladstone

said.

The inn and golf course was once the centerpiece of a larger redevelopment project that also included 240 hillside acres designated for open space, 13 acres off Driftwood Drive slated for estate-sized homes and a public access trail to county wilderness parks across the golf course. In 2005, such a project was projected to take five years to realize, but throw off \$6.4 million in assorted tax revenue, compared to \$890,000 at the time. The projection came at a town hall meeting from John Mansour, an executive of Athens Group, developer of the Montage resort.

After four years and millions paid to a score of consultants to prepare a draft environmental impact report, the project was formally withdrawn in December 2009, said the city's planning manager, Ann Larson. "What they were proposing wasn't allowed," she said, and would have required local hearings over a coastal plan amendment and review by the California Coastal Commission.

While some of the studies could possibly be recertified by a new owner, the property's bigger problem will be compliance with flood-zone requirements, she said.

The city's ordinance allows improvements to a structure in a flood zone, but only up to 50 percent of its market value, she said.

A new owner presents an opportunity to environmentalists, working on restoring native habitat in Aliso Canyon.

"I'd like to see the new landowner embrace a more modest approach that reflects the extraordinary scenic and environmental resources of Aliso Canyon," said Derek Ostensen, president of Laguna Canyon Foundation, which supports the Aliso Wood Wilderness Park that adjoins the golf course. "There are a number of great resorts/hotels that have taken this approach and it has been both successful business for the owner and a positive benefit for the community and environment.

"If that process is done in a manner consistent with Laguna's aesthetic and environmental values, redevelopment could be a win-win for both the landowner and the community," he said. "The previous development proposal was very aggressive and involved extensive new condos and development far into Aliso Canyon."

COASTAL COMMISSION

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Christy Acquires Laguna's 'Yosemite'

COASTAL COMMISSION

JUNE 28, 2013

lagunabeachindy.com/christy-acquires-lagunas-yosemite/

EXHIBIT # 1
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LB Indy Staff

The acquisition of Aliso Creek Inn and Golf Course was announced Thursday by a private investment group led by lifetime Laguna Beach resident and business owner Mark Christy. Terms were not disclosed.

Laguna Beach Golf & Bungalow Village, LLC purchased the property from Aliso Creek Properties, LLC, which has owned the property since 2004.

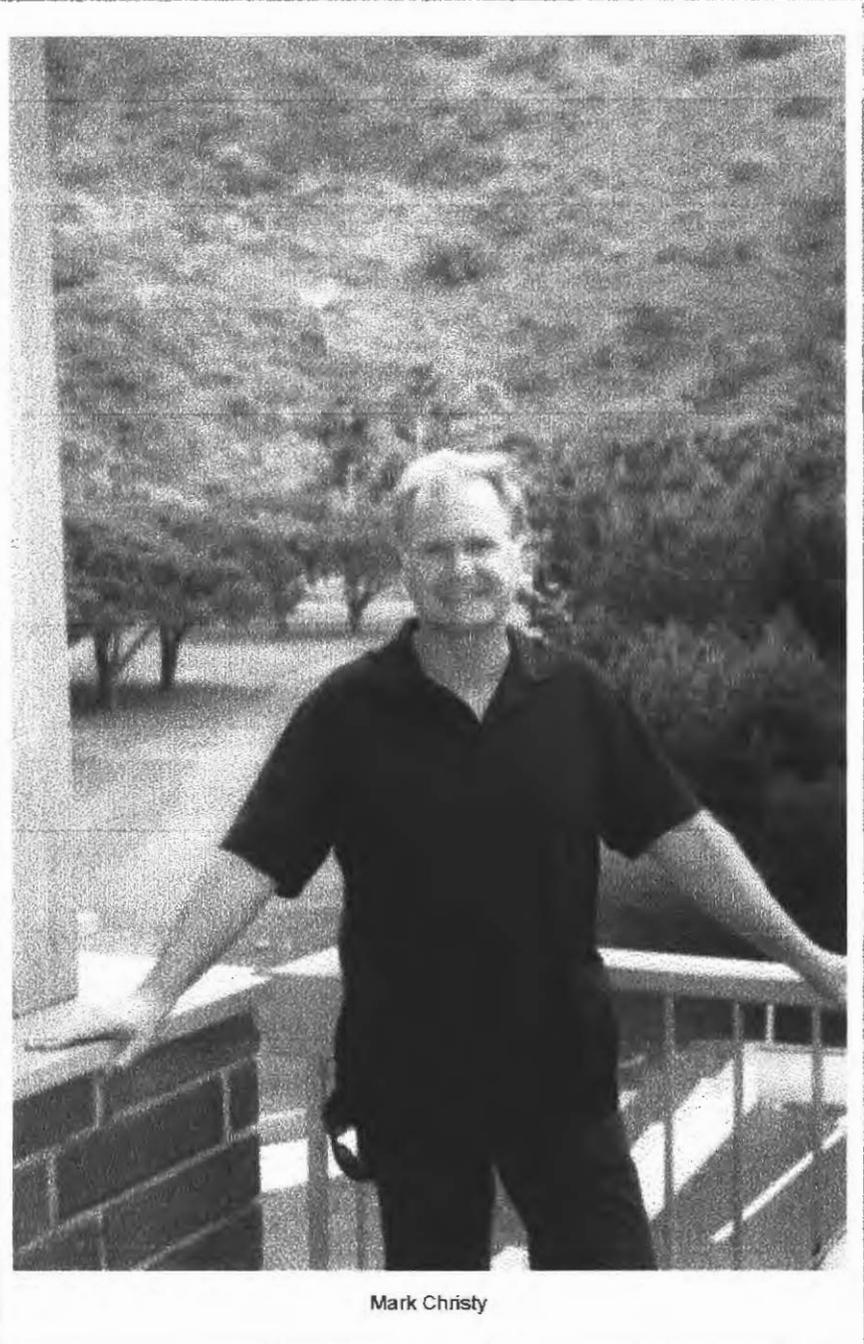
"Our investment group is primarily comprised of local, like-minded individuals who share a deep love and respect for this iconic property," said Christy, the group's managing member, in a statement.

"There is something genuinely magical and timeless about this natural setting. A friend aptly describes it as 'Yosemite in Laguna.' With that in mind, we plan to preserve its integrity while embracing the future."

Aliso Creek Inn and Golf Course features a 62-room hotel, course and a 15,000-foot restaurant with views of verdant Aliso Canyon and the golf course. The 87-acre property developed 60 years ago

is situated between Aliso and Wood Canyons Regional Park to the north and Aliso Beach and the Pacific Ocean to the south. The property's history dates back to 1871 when homesteaders George and Sarah Thurston staked claim to the site.

"This property holds a special place in my heart," said Christy. "My late father taught me to play golf on these fairways when I was about 8 years old. Years later, I taught my own son the game on this course, and it is still our "go to" spot when we need quality time together."



Mark Christy

New Owners to Remake Aliso Creek Inn

July 3, 2013

lagunabeachindy.com/new-owners-to-remake-aliso-creek-inn/

COASTAL COMMISSION

Andrea Adelson

Among Laguna Beach's 20 hotels, Aliso Creek Inn may well be the lone holdout to lack flatscreen TVs in its suites. In two of its 62 rooms, guests still dial on rotary phones. Reviews on Tripadvisor alternately rave about its unspoiled natural splendor or rant about smelly, dated accommodations.

Now, restoring the hidden but shabby gem with its canyon view restaurant and challenging nine-hole golf course is in the hands of new owners, led by local surf shop owner Mark Christy. "We're honored and quite fortunate to be the new stewards," said Christy, whose group is the fifth owner in 142 years.



Blues artist and local resident John Heussenstamm, practices on the Aliso Creek putting green.

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"We love this place and respect what it means to the community. We'll take good care of it," promised Christy, who described a love affair with the natural setting that started in the '60s golfing with his father and brother. He recalled envying the evening walks of its third owner, the widowed Violet Brown, escorted from her creekside living quarters by Ginger, a St. Bernard.

Not surprisingly, golf fans and conservationists are eager to learn plans for the 80-acre property, known as Laguna's little Yosemite.

"As redevelopment of the site commences, it will be important to preserve the canyon's vital natural resources, scenic vistas, water quality and Laguna character," said Derek Ostensen, president of Laguna Canyon Foundation, an open space advocacy group. He expressed optimism in Christy's adhering to values sensitive to the environment and local attitudes.

"Everyone is supportive of a successful business here," said Ostensen, noting, though, that Aliso and neighboring Hobo canyons were identified in a biological inventory as Laguna's most highly valued habitat because of its diversity.

Blues artist and local resident John Heussenstamm, practicing on the putting green, voiced a practical lament. "I'd hate for the new owner's to jack up the price; that's probably everybody's fear," said Heussenstamm, who favors the \$22 twilight rate. Weekend rates at the course are \$39.

Christy says considering options for restoring the existing property are only starting. "We have no timeline and nothing is definite," he said.

After months in gestation, the deal by the private investment group Laguna Beach Golf & Bungalow LLC closed last week for undisclosed terms. The seller, Aliso Creek Properties LLC, whose principles include investors in Montage Hotels and Resorts LLC, purchased the property in 2004 from Violet Brown. She managed the property for 30 years after the death of her husband, Ben. Locals still know the place as Ben Brown's. The property's history dates back to 1871 when homesteaders George and Sarah Thurston staked claim to the site.

Golf & Bungalow LLC paid \$19 million – a figure Christy disputes — for the property, according to Alan X. Reay, president of Irvine's Atlas Hospitality Group, which specializes in hotel sales. "The price doesn't make sense on current rates," he said, referring to the hotel's \$159 to \$299 room rate, but reflects a bet by investors that they can either reuse the property by adding more rooms or renovating and raising rates.

Montage's investors paid \$17.6 million for the property, Reay said, unsuccessful at realizing their redevelopment plans. After a public furor, the investors ditched a plan to expand the course to 18 holes into the bordering Aliso Wood Canyon Wilderness park. Amid the recession, in December 2009 they withdrew an ambitious redevelopment plan to remake the flood-prone property into a high-end conference center and spa with tee-close homes along the course and estate-sized homes along nearby Driftwood Drive.

In 2005, such a project was projected to take five years to realize, but throw off \$6.4 million in assorted tax revenue, compared to \$890,000, John Mansour, an executive of Athens Group, developer of the Montage, projected at a town hall meeting at the time.

Christy likened the plan to developing a state of the art ballpark in Boston within historic, revered Fenway Park.

"We're looking forward to restoring the existing buildings and giving them a fresher, lighter twist, something that says Laguna," he said, while remaining in the current footprint.

No plans for Aliso Creek have yet surfaced in the city's planning department, said planning manager Ann Larsen. "I think it's way too early."

Updating the current structures may not require a coastal development permit, which would require Coastal Commission approvals, she said. To comply with the city's flood-zone ordinance, though, improvements can only be made up to 50 percent of the market value, excluding costs for building code upgrades, she said.

Such makeovers can require investors with longevity. For example, revamping Santa Barbara's El Encanto, a historic 77-room hotel, took nine years and \$1 million per room, Reay pointed out.

But for investors "who fall in love with a property," he said, even a 20-year horizon to recoup their investment isn't too long.

COASTAL COMMISSION

EXHIBIT # 1
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New Look for Laguna Hotel Taking Shape

OCT 7, 2013

lagunabeachindy.com/new-look-aliso-inn-taking-shape/

COASTAL COMMISSION

Rita Robinson

EXHIBIT # 1

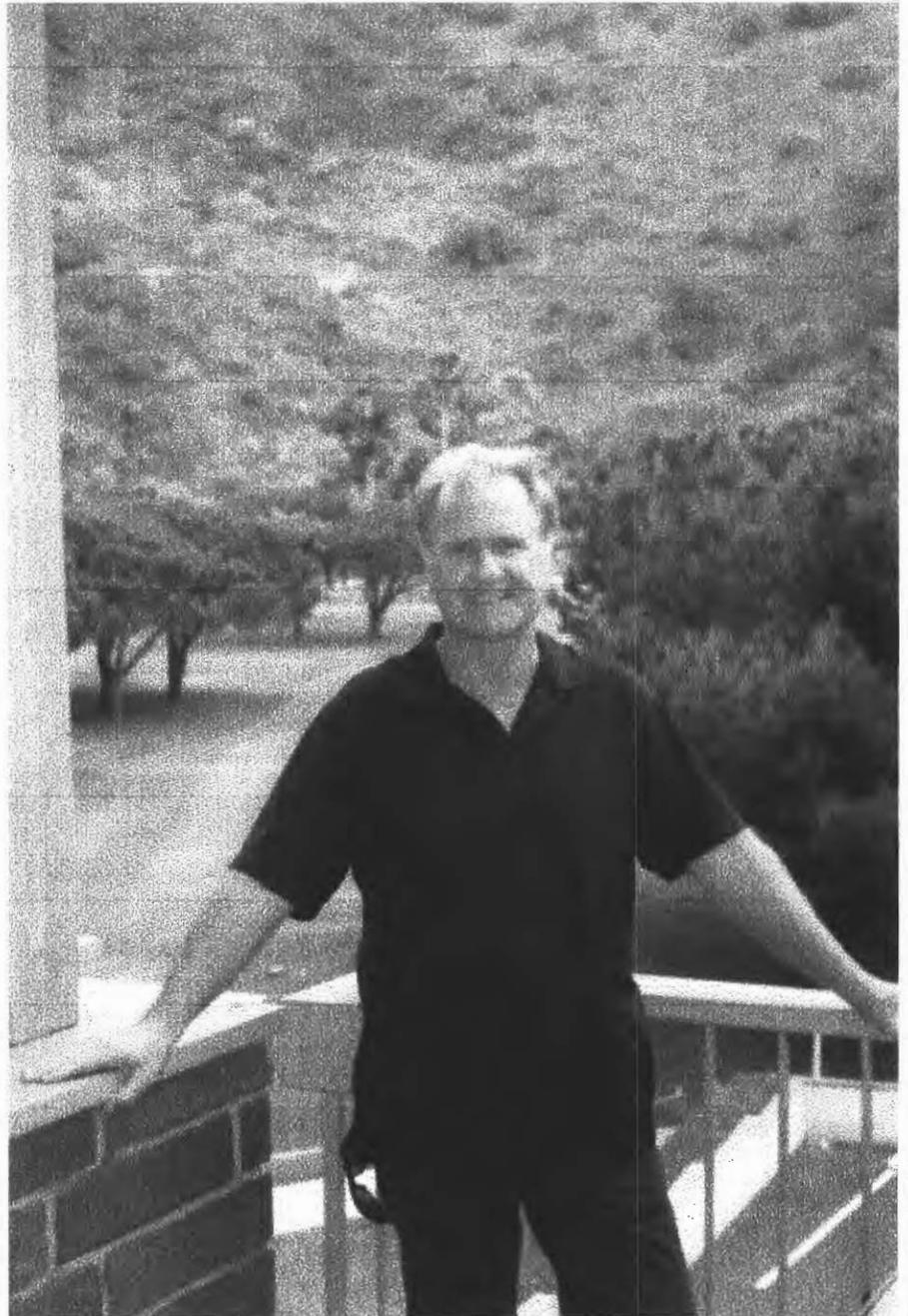
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The Aliso Creek Inn will shut down for several months beginning Nov. 1 to begin room renovations by the new owners, though the golf course and banquet facilities will remain open and available for holiday bookings, a co-owner and manager said this week.

Changes at the Aliso Canyon resort will be unobtrusive, aligning with the footprint of buildings already there, said local resident Mark Christy, who heads up Laguna Beach Golf & Bungalow LLC. The property's name may also change, said Christy, because regular patrons find it blasé after favoring the person and the history behind the previous name. "Very few locals have ever called it Aliso Creek Inn," he said. "We've always called the course Ben Brown's."

Christy said no official plans have been submitted to the city, which was confirmed by city planner Ann Larson. Scott Drapkin, another city planner, said if the renovations go beyond simple painting, wallpapering and reflooring, such as upgrading electrical systems and plumbing, permits would be required. Noting the upcoming start date, he added that the time it would take to receive permits would vary depending on the extent of the room remodels. Some building permits are issued over-the-counter in the same day, Larson added.

Christy said redesign plans, under the oversight of local architect Morris Skenderian, are in the works.



Aliso Creek Inn principal Mark Christy lays plans to start improvements on the aging property.

Revamping an old property opens and empties pockets. "That place needs a lot of money; \$100,000 a room could go very quickly," said Alan X. Reay, president of Irvine's Atlas Hospitality Group, a hotel broker. "The issue with old buildings is, once you open them up, you never know what you will find."

Because beach resorts generate most of their revenue during summer, Reay thought renovating rooms in the winter made sense. The inn will then reap the benefits next summer.

In an earlier article, Christy compared development plans by the previous owner to plunking a state-of-the-art ballpark within Boston's historic, revered Fenway Park. "That's not what we're doing," he asserted. "We're renovating what's there and keeping the golf course as it is. There's a dollar limit."

Christy said plans will respect the integrity and heritage of the property, which dates back to the 1871 152-acre homestead by George and Sarah Thurston. "If Vi Brown were alive, she would love it," he said. Mrs. Brown, the third owner of the property, sold it to Aliso Creek Properties LLC in 2004. Her husband, Ben, developed the property decades ago and operated the well-known Ben Brown's Restaurant, a local favorite. She renamed it Aliso Creek Inn and Golf Course in 1978, eight years after his death.

Aliso Creek Properties, whose principles include investors in Montage Hotels and Resorts LLC, shelved their own ambitious redevelopment plan during the recent economic downturn and sold the property to Christy's group in July.

Renovating the lodge, however, will need approval from the city's design review board, Christy said, particularly to comply with American with Disabilities Act requirements. "It needs it obviously," he commented.

"It's very compartmentalized. It doesn't have handicapped-defined restrooms. It doesn't have an elevator. It doesn't have the stuff it needs to have in order to be functional for a variety of uses, be it weddings or banquets or whatever. Literally, I don't think the carpeting has been changed in 50 years. It needs to be loved and we're going to love it."

Christy said the overhaul will add a "sense of arrival" that the property now lacks.

Nothing will be demolished on the property, management confirmed, only modernization of structures, utilities and amenities. Christy said there's no plan to add a bike or hiking trail through the property, which sits at the south end of Aliso and Wood Canyons Regional Park. "We're not going to run it down the middle of the course because there's five holes that cross that trail and a golf ball can travel at 200 miles per hour," he said, adding that he is open to future discussions.

The 62-room, single-story hotel was originally built by Brown with a creekside bungalow where he and his wife lived. Groups that hold regular meetings there, such as Laguna's Rotary Club and the PTA Coffee Break series, were notified that meeting rooms would be closed during renovation.

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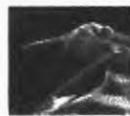
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Laguna Beach Planning Commission approves overhaul plan for hotel

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By SHIRIN GHAFFARY / STAFF WRITER

5/20/14



A major remodeling of The Ranch at Laguna Beach hotel and golf course won unanimous approval of the Planning Commission.

The facility, formerly called Aliso Creek Inn and Golf Course, plans renovations including upgrades to the entrance facade and an increase in hotel rooms to 97 from 64.

Other plans include changing the parking layout, adding valet parking, altering the floor area of the restaurant to create a new hotel lobby, and building a spa and fitness facility.

"I grew up playing golf on these courses, so this is an exciting day for myself and my partners," said owner Mark Christy, a Laguna Beach resident. "From my perspective, we're bringing you something exceedingly right."

Some planning commissioners voiced small concerns about the project at the May 14 meeting. Commissioner Norm Grossman noted the lack of a trail connection from the golf course to the ocean. City staff and Christy responded that building a trail would come with great liability for the applicant because it would have to be completely



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enclosed to protect passers-by from flying golf balls.

Commissioner Ken Sadler said he'd like improvements to the design aesthetic, along with real stone as opposed to veneer.

"We think this project is the perfect thing in Laguna Beach," Christy said. "We want to make it the coolest point in town."

Contact the writer: sghaffary@ocregister.com

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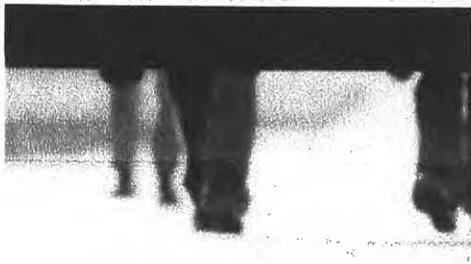
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New Era Unfolding in Aliso Canyon

MAY 23, 2014

lagunabeachindy.com /new-era-unfolding-aliso-canyon/

Andrea Adelson

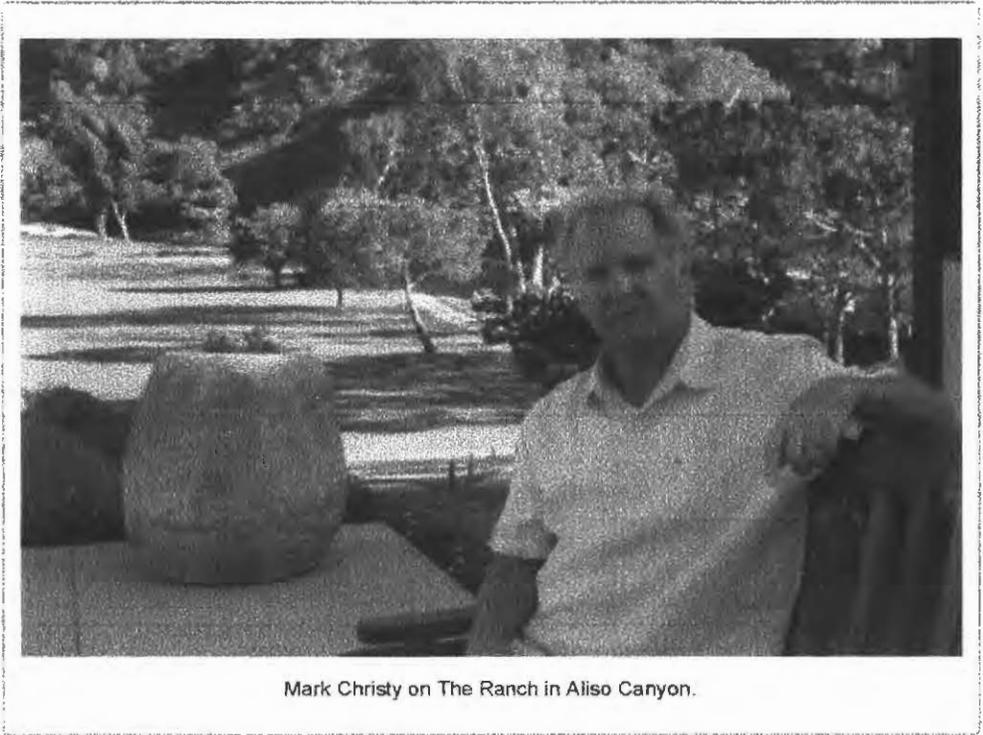
The new owner of The Ranch at Laguna Beach figures he's spent \$30,000 in the last year trimming 107 trees on the 84-acre property, including towering eucalyptus "widow makers," as well as cutting down non-native pines.

"The haircut they haven't had in 40 years," explained co-owner Mark Christy, pulled aside a leafy curtain that obscured golfer's views of limestone formations and the creek bisecting the nine-hole course. Pruning also made more visible the aging hotel buildings, stripped to their frames some months ago.

Last week, Christy received the go-ahead vote from Laguna Beach's Planning Commission to move ahead with his broader vision to rejuvenate the property initially developed in the '40s, the former Aliso Creek Inn and Golf Course. Some hotel experts predict the renovation will transform it into a trophy, luxury golf property.

"We want to make it the coolest place in town," Christy told the commission.

Now, more than a name change and landscaping will undergo change on what some have described as Laguna's "Yosemite." The hotel's room count will rise to 97 rooms from 64, a spa and fitness center erected near the pool, a hotel lobby embedded in the restaurant, and banquet room enlarged and patio extended.



Mark Christy on The Ranch in Aliso Canyon.

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rebuilt water tower, a kitchen garden, and a vast concrete patio stamped to look like worn planks.

"Both of those histories were somewhat lost in the property until he made a very conscious decision and investment to bring them back for the benefit of the site's character and the community's connection with it," said Derek Ostensen, president of the Laguna Canyon Foundation, who was consulted over removing invasive species throughout the property.

"We don't want this to be a secret," said Christy, who envisions holding weddings and public events at Scout Camp, as he's renamed the site. A fire hydrant was added at the request of the fire chief, he said.



Mark Christy describes Scout Camp, his rein visioning a former scout camp on the premises.

And giving visibility to the town's history provides a lure to prospective visitors, who have many alternative choices in the area, pointed out Ranch consultant Vikram Sood, of San Diego's NuPala Hospitality Group. "People are looking for a place with a story," he said.

The project appealed to Sood, a veteran hotel manager, because of Christy's "innate knowledge of Laguna" and his clear vision. "It's a pleasure to be part of that journey," he said, noting that the property will remain self-managed by general manager Kurt Bjorkman, marketing director Jim Tolbert and chef Camron Woods.

Ranch rooms, reconfigured to a still spacious 830 square feet but sans kitchens, will offer modern amenities, but conjure the beach vernacular where Christy spent his boyhood weekends. Like his grandmother's cottage No. 9 in Crystal Cove State Park's historic district, rooms will be sheathed in board and batten siding, masking wireless internet and sound-muffling construction. Drawing on her own memories, Christy's sister Laurie Alter, who runs decor stores, will furnish the rooms with mid-century modern amenities, even including the vintage game Pick Up Sticks.

The redesign will allow The Ranch to cater to both tourists and corporate travelers, a segment that boycotted Aliso Inn because longtime former owner Violet Brown made few improvements. "Nothing was compliant," said Christy, referring to access for the disabled.

Since buying out the principals who developed the nearby Montage resort last year, Christy has unfurled the welcome mat for the town's non-profits, which struggle to find affordable, adequately sized venues for fundraising galas.

"That's a great marketing tool," noted Reay, of Atlas Hospitality. "He's entrenched in the community. They'll probably do very well," Reay predicted.

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**CITY OF LAGUNA BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

AGENDA ITEM	No 5	DATE 5/14/14
TO	PLANNING COMMISSION	RECEIVED South Coast Region JUN 18 2014
CASE	Conditional Use Permit 14 574 Coastal Development Permit 14 573 and Planning Commission Design Review 14-575	
APPLICANT	Laguna Beach Golf & Bungalow Village LLC	CALIFORNIA COASTAL COMMISSION
LOCATION	31106 Coast Highway (The Ranch at Laguna Beach)	
ENVIRONMENTAL STATUS	Categorical Exemption, Article 19 Section 15303(c)	
PREPARED BY	Belinda Ann Deines Assistant Planner (949) 464 6626 and Scott Drapkin Principal Planner (949) 497 0362	

REQUESTED ACTION Approval of a Conditional Use Permit Coastal Development Permit and Planning Commission Design Review for expansion and remodel of an existing hotel restaurant banquet and golf course facility located at 31106 Coast Highway (previously Aliso Creek Inn and Golf Course) The proposed project includes (1) modification of existing building facades (2) reduction and modification of existing assembly areas (3) development of a new hotel wellness spa employee lounge and fitness center (4) an increase in hotel rooms within the existing buildings (5) a decrease in net restaurant floor area and (6) a request for the use of valet parking when assembly uses and/or special events are proposed The applicant is also requesting approval of a 20% parking reduction for integrated hotel/conference use that is allowed pursuant to Municipal Code Section 25 52 012(G) Lastly a portion of the proposed development is located within a Federal Emergency Management Agency (FEMA) designated special flood hazard area and therefore a floodplain development building permit is required

BACKGROUND The property is located on the inland side of Coast Highway across from Aliso Beach The property is bisected by Aliso Creek a United States Geological Survey designated Blue Line Stream which meanders westerly from the City boundary through the property under Coast Highway over Aliso Beach and exits into the Pacific Ocean The facility is located at the bottom of a deep canyon with steep picturesque hillsides located to the property's north and south The existing approximate 84 acre site is developed with a hotel restaurant banquet and golf course facility that includes approximately 23 detached buildings The facility is located at the terminus of an approximate ¼ mile 25 foot wide two way driveway with access obtained from Coast Highway The access driveway is also shared by easement with the South Coast Water District and the District's main maintenance/storage facilities are situated on both sides of the driveway

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Construction of the golf course began in the late 1940s and in September 1950 a 9 hole golf course was opened to the public. In 1956 Ben Brown purchased the property and began plans for a new destination resort. A plan was approved by the County of Orange for a 10-story hotel, 80 guest lodges, a special events pavilion, a large clubhouse and restaurant, swimming pools, tennis courts, and other recreational amenities. After an economic decline in the 1960s, plans for the resort changed and a 64-unit apartment complex (later converted into the present day 64 suite hotel rooms), hotel front desk and a penthouse suite were constructed. In 1967 construction began on Ben Brown's Restaurant and a new golf shop (lodge). This property was later annexed into the City from the County of Orange in the late 1980s with the South Laguna Annexation.

Currently, the applicant has been issued several building permits for demolition of existing carports and for interior/exterior modifications of existing hotel structures (including plumbing and electrical upgrades) that do not require design review approval or result in any intensification of use.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) Section 21084 of the Public Resources Code requires guidelines to include a list of project classes that have been determined not to have a significant effect on the environment and are exempt from the provisions of CEQA. Pursuant to the California Government Code Section 15303(c), a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances and not exceeding an increase of 2,500 square feet in floor area is considered exempt development from CEQA. The proposed restoration and remodel of the Aliso Creek Inn and Golf Course does not include the use of significant amounts of hazardous material or a net floor area increase to any building that exceeds 2,500 square feet and therefore is considered exempt.

STAFF ANALYSIS

The proposed remodel will generally result in a comprehensive upgrade to the entire hotel, restaurant, banquet and golf course facility. The proposed development application includes the request for Planning Commission approval of a Conditional Use Permit, Design Review, Coastal Development Permit and a floodplain development building permit.

The property is split zoned and therefore requires consideration for conformance with the underlying zoning district where the specific development is being proposed. The proposed remodel includes development that is located within the Commercial Hotel Motel (CHM Zone) and the Recreation (REC) Zone. The proposed development area is designated with a General Plan land use classification of Commercial Tourist Corridor and Public Recreation and Parks. The portion of the facility devoted to hotel use is generally located within the City's CHM Zoning District and the restaurant, assembly areas, golf course and associated golf shop are generally located within the City's REC Zone. The applicant is also proposing the development of a new hotel fitness, employee lounge, porte cochere and new spa area. Valet parking is being proposed in conjunction with all assembly and special events.

The below Table 1 summarizes existing conditions, proposed development, the required permits and the applicable zoning districts where the development is occurring. Specific analysis in regards to design, parking, floodplain and Coastal Development Permit review are also provided further below.

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Proposed Development Summary, Table-1

Use	Zoning District	Existing	Proposed Development	Required Permit
Hotel	Commercial Hotel Motel	Existing 64 room hotel	Add 33 rooms (no addition in floor area) for a total number of 97 hotel rooms Exterior and interior remodel pool bar and new entry structure (porte cochere)	PCDR CDP and Flood Plain Building Permit
Hotel Employee Lounge and Hotel Storage	Commercial Hotel Motel	Carport structure to be demolished	1 529 square foot structure (753 square feet devoted to employee lounge and 776 square feet devoted to hotel storage)	CUP and PCDR
Restaurant (lodge)	Recreation	7 814 square feet (230 seats)	A decrease in gross floor area of 218 square feet and exterior remodel (including façade upgrades enclosing existing decks air conditioning units retaining walls skylights and grading)	CUP and PCDR
Assembly Areas (lodge)	Recreation	7 224 70 square feet (206 seats)	The removal of two assembly buildings (2 992 80 square feet) and the remodel of existing assembly floor area and decks	CUP and PCDR
Hotel Wellness Spa	Commercial Hotel Motel	New	Approximate 2 000 square foot new building (building combined with fitness)	CUP CDP PCDR and Flood Plain Building Permit
Hotel Fitness Area	Commercial Hotel Motel	New	Approximate 475 square foot new building (building combined with wellness spa)	CUP CDP PCDR and Flood Plain Building Permit
Golf Course	Recreation	Nine hole golf course	Golf cart covered parking and observation patio deck	CUP PCDR and Flood Plain Building Permit
Valet Parking	Recreation	Existing parking lot	Valet parking when assembly uses are proposed	CUP

The entire facility has an existing license to provide full service alcohol throughout the site (including the restaurant golf course and hotel facilities) from the California Department of Alcoholic Beverage Control

CONDITIONAL USE PERMIT 14 574

Commercial Hotel-Motel Zoning District – Pursuant to the provisions of the CH M Zoning District proposed ancillary uses that are incidental and subordinate to the primary hotel use require approval of a Conditional Use Permit including the proposed new hotel fitness area employee lounge wellness spa, porte cochere and pool bar Pursuant to Municipal Code Section 25 21 002 hotels and motels are permitted uses within the CH M Zoning District and therefore the proposed increase in hotel rooms is not subject to the approval of a Conditional Use Permit

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In an effort to modernize the hotel the applicant is proposing to create a combined approximate 2 000 square foot wellness spa and 475 square foot fitness center. The new wellness spa and fitness center would be located where two existing assembly buildings are proposed to be demolished. Spa services including massages and facials would be available to both hotel guests and to the public. The proposed fitness center would only be available to hotel guests. A new pool bar is proposed that consists of a round open air seating area with the serving bar located in the structure's center. The pool bar would only be available to hotel guests. The applicant is also proposing a new detached front entry feature (porte cochere) to be located near the entrance of the existing lodge. Lastly, a new detached approximate 1 600 square foot hotel employee lounge and storage areas are proposed to replace an existing carport.

Recreation Zoning District – The lodge is located within the Recreation Zone and consists of a restaurant/bar, hotel lobby and assembly areas. Pursuant to Municipal Code Section 25 42 008, golf courses are permitted in the Recreation Zone subject to the approval of a Conditional Use Permit. The lodge area (including the restaurant, assembly areas and golf shop) is subordinate and incidental to the golf course and the proposed modifications to these uses are subject to Planning Commission approval of a Conditional Use Permit. The proposed modifications primarily include interior changes within the existing building, enclosing several existing deck areas and exterior facade upgrades. The applicant is proposing to demolish approximately 3 000 square feet of assembly areas and approximately 200 square feet of restaurant floor area. The proposed modifications will result in a decrease of assembly area from 7 224 70 square feet to 4 231 90 square feet and a decrease in restaurant floor area from 7 814 square feet to 7 595 50 square feet. The primary decrease in assembly area is a result of the proposed demolition of the two detached banquet facilities and the restaurant floor area decrease is a result of the conversion of existing restaurant floor area to hotel lobby area.

Valet Service – The applicant is requesting approval to provide valet parking service in conjunction with use of the assembly areas for banquets, weddings or special events. Pursuant to Municipal Code Section 25 52 006(D), valet parking proposed to fulfill on-site parking requirements requires the approval of a Conditional Use Permit. An application for valet parking is required to include a parking program that provides specific operational information. The applicant has provided an engineered valet parking program that is discussed below in the Parking analysis section of this report.

PLANNING COMMISSION DESIGN REVIEW 14 575. Staff conducted a pre-application site meeting with the property owner and applicant on September 24, 2013. The project has been reviewed for zoning compliance and has completed all applicable department reviews including Fire, Public Works and Water Quality. Prior to completion of this report, staff observed the structure as represented by the current staking. A landscape plan has been submitted and peer reviewed by the City's consulting landscape architect. The peer review found that the proposed landscaping will comply with the City's landscape guidelines and fuel modification requirements.

Additionally, staff has conducted a thorough analysis of the proposed project and associated Municipal Code provisions. The proposed scope of work is in compliance with all height, setback and open space requirements of the applicable zoning districts. Lastly, staff evaluated the project scope based on the City's Municipal Code design review criteria. The criteria includes the following topics: access, design articulation, environmental context, General Plan compliance, historic preservation, landscaping, lighting and glare, neighborhood compatibility, pedestrian orientation, privacy, public art, sign quality, sustainability, swimming pools and view equity. Where applicable, staff believes that the

project is consistent with the design review criteria and has included specific design review project findings for approval in the attached Resolution. The following is a summary of the proposed improvements and zoning requirements that require design review consideration.

Commercial Hotel/Motel Zone (CH-M Zone) The CH-M Zone does not require any front side or rear yard setbacks; however, landscape open space is required to equal 25% of the non-residential gross floor areas. The mixed-use facility's non-residential floor area (located in the CH-M Zone) is equal to 79,319 square feet, and the site's landscape open space requirement is thus 19,830 square feet. The proposed remodel includes the provision of approximately three million square feet of landscape open space (located in the CH-M Zone) and therefore is consistent with required open space. The property located in the CH-M zone has a maximum height requirement of 22 feet above the rear property line or 36 feet, whichever is less. The building height changes proposed in the CH-M Zone are below 22 feet and therefore are in compliance with maximum height requirements of the Zone.

Hotel Room Intensification

Nine detached structures that contain 64 existing hotel rooms are currently under construction for interior/exterior remodel and plumbing/electrical upgrades. The applicant proposes new air conditioning units, which are subject to Planning Commission Design Review approval. The hotel room intensification from 64 to 97 rooms will not require any existing building design modifications from the aforementioned building permit approved for remodel. Only building facade changes and window/door modifications are proposed to the hotel buildings. No building height changes are proposed.

New Buildings and Additions

The following new structures are proposed in the CH-M Zone: (1) a wellness spa/fitness center, (2) an employee lounge, (3) a pool bar, and (4) detached porte cochere. The wellness spa/fitness center consists of a single-story building that is approximately 2,500 square feet in gross floor area. The employee lounge structure is proposed to be 1,529 square feet and includes 753 square feet of area devoted to employee lounge and 776 square feet of area devoted to hotel storage. This structure is proposed to replace an existing carport located adjacent to the north parking lot. A new porte cochere is proposed at the north (main) parking lot and will be a maximum of 18 feet high. The structure will be used as covered drop-off/pick-up and valet assistance. Improvements associated with the existing pool area include relocation of the existing Jacuzzi spa and installation of a 139 square foot approximate 15-foot high palapa pool bar. Lower-level additions to existing structures include a 122 square foot housekeeping storage area, a 196 square foot pool/spa equipment room, and a 196 square foot pool bar storage room. These minor additions are considered incidental to the hotel use.

Recreation Zone (REC Zone) – The REC Zone does not require any front side or rear yard setbacks. The maximum building height allowed in the REC Zone is 15 feet above natural grade. The applicant is not proposing any new building height changes in excess of 15 feet.

Lodge Renovation

The lodge includes a remodel of the existing hotel lobby, restaurant, and assembly areas. The majority of the restaurant modifications occur within existing covered patio areas and will not result in privacy or view equity concerns. The scope of work related to the existing lodge structure includes a 1,339 square foot restaurant/lobby renovation, a new 1,593 square foot basement-level golf cart parking garage, and enclosure of existing lower and upper level patio decks associated with the restaurant and

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assembly areas. A new 1,810 square foot elevated patio area is also proposed over the new golf cart storage area. The new elevated patio is intended to serve as a scenic observation area for facility guests.

Pursuant to Municipal Code Section 25.05.040, the proposed new improvements that involve upper story and elevated deck modifications require design review approval. The existing legal nonconforming two-story lodge is approximately 35 feet 1 inch measured from lowest finished floor to the top of the parapet. With the exception of enclosing patio decks under existing roofs and façade upgrades, no new lodge upgrades/improvements are proposed to exceed 15 feet high.

PARKING The site currently contains a total of 204 parking spaces allocated to the following existing land uses: (1) 64 hotel rooms, (2) 7,814 square feet of restaurant gross floor area, (3) 7,224.7 square feet of assembly area, and (4) a nine-hole golf course. Pursuant to the Municipal Code, the aforementioned uses would require a total of 380 parking spaces. The site is therefore currently deficient 176 parking spaces and is considered legal nonconforming. (See the below Table 2 for a summary of the Municipal Code required parking under existing conditions.)

Existing Required Parking, Table-2

Land Use	Municipal Code Parking Requirement	No. Parking Spaces Required
Hotel (64 rooms)	1 space per room plus 1 space per each 15 rooms	68.3
Restaurant (7,814 sf and 230 seats)	1 space for each 100 sf or 1 space for each 3 seats, whichever more restrictive	78.1 (67 based on # of seats)
Assembly (including Conference, Banquet and Meeting Areas) (7,814 sf and 226 seats)	1 space for each 30 sf or 1 space for each 3 fixed seats, whichever more restrictive	206.4 (185.3 based on # of seats)
Golf Course (nine holes)	3 spaces per hole	27
	Total Spaces Required	380

As described previously, the applicant is proposing a 2,185 square foot reduction to the existing restaurant gross floor area, a 2,992.8 square foot reduction in assembly area, a new 1,977.1 square foot wellness spa (that would be available to hotel guests and the public) and 33 additional hotel rooms. The proposed new hotel fitness facility (only available to hotel guests) and hotel employee lounge are considered ancillary hotel amenities and pursuant to the Municipal Code do not require additional parking. The proposed reduction in restaurant and assembly areas would result in a decrease of 87.6 required parking spaces. The proposed increase in hotel rooms and new spa area would result in an increase of 43.1 parking spaces.

Based on the increase in hotel rooms, the new spa floor area, and the net decrease in restaurant and assembly floor areas, the proposed development would result in a net change of 44 fewer required parking spaces and a total site parking requirement of 336 parking spaces. (See Table 3 for a summary of the Municipal Code required parking with the proposed development.) In addition, the applicant has redesigned the existing parking lots to accommodate an additional 11 parking spaces for a total of 215 on-site parking spaces.

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Proposed Development Required Parking, Table-3

Land Use and Proposed Development	Municipal Code Parking Requirement	No Parking Spaces Required
Hotel (97 rooms)	1 space per room plus 1 space per each 10 rooms	103.5
Restaurant (7,595 sf and 225 seats)	1 space for each 100 sf or 1 space for each 3 seats whichever more restrictive	70.6 (based on # of seats)
Assembly Building (including Conference Banquet and Meeting Areas) (4,231.9 sf and 360 seats)	1 space for each 30 sf or 1 space for each 3 fixed seats whichever more restrictive	120.9 (120 based on # of seats)
Spa (1,997.1 sf)	1 space per each 250 sf	7.9
Golf Course	3 Spaces per hole	27
	Total Spaces Required (215 on site parking spaces proposed)	336

Pursuant to Municipal Code Section 25.52.012(G) a hotel with integrated restaurant uses or conference facilities can be permitted a 20% reduction from the total required parking for ancillary uses with Planning Commission approval. This permitted reduction is based on the assumption that guests of the facility would be utilizing multiple uses during single visits. The Code allows an even greater parking reduction if a traffic study conducted by a licensed traffic engineer is submitted and approved by the Planning Commission. The applicant is requesting a 20% reduction of parking based on the aforementioned provisions. Based on the requested 20% reduction if approved by the Planning Commission the facility parking would be reduced from 336 to 289 required on site parking spaces.

As indicated above the proposed 215 available on site self park parking spaces satisfies the Municipal Code parking requirements for the daily parking demand of the restaurant, hotel and golfing facilities (209 parking spaces required). However, the site does not have sufficient parking to compensate for the aforementioned uses simultaneous with an event using the proposed assembly areas. Under full hotel occupancy and maximum parking demand of the restaurant, golf course and assembly uses the site would be deficient 80 parking spaces. To compensate for the required parking during an assembly event the applicant is proposing the operation of an on site valet parking program. The applicant proposes to provide a total of 290 parking spaces via a combination of on site self park and valet parking spaces. Further, the valet operations are designed consistent with the Fire Department required 20 foot wide fire equipment access lane and the parking/traffic engineer has also confirmed that the valet program would operate sufficiently. (See pages 15-18 of the *Aliso Creek Inn & Golf Course Project Traffic Impact & Parking Analysis* attached as Exhibit C)

FLOODPLAIN DEVELOPMENT The site has been damaged by floods several times over its history and redevelopment of certain amenities has been required. As indicated by the FEMA Flood Insurance Rate Map (FIRM) the special flood hazard area at this location is designated A1 which identifies certain portions of the property as high risk for flooding with base flood elevations (BFEs) provided (generally including the hotel areas and the golf course). The BFE for the area of proposed development ranges from 23 to 32 feet above sea level and many of the first level finished floors of the hotel building are located below the FEMA designated BFEs.

COASTAL COMMISSION

As required by FEMA and Municipal Code Section 25 38 when the cost of a proposed development project located within a special flood hazard area equals or exceeds 50% of the market value of an existing structure the proposed development is considered a substantial improvement. If a proposed development is located within a special flood hazard area and is determined to be a 'substantial improvement' then redevelopment must comply with the specific flood prevention/protection standards of Municipal Code Section 25 38 050(C). Consequently, staff has required the applicant to submit a 'market value' appraisal for the structures proposed to be remodeled and compared the appraisal with an independent estimation of the proposed construction cost. Based on the aforementioned comparison and the FEMA permitted exclusion of redevelopment costs associated with upgrades to correct existing violations of state or local health, sanitary or safety code specifications to assure safe living conditions, the proposed development would not result in a substantial improvement.

The proposed wellness spa/fitness building, pool bar and employee lounge structures are new buildings and therefore must comply with the flood prevention/protection standards of Municipal Code Floodplain Management Ordinance. Additionally, Municipal Code Section 25 38 055 requires that businesses located in special flood hazard areas install contingency flood proofing measures at flood vulnerable building locations. As conditioned in the attached Resolution, staff will confirm engineering and structural compliance with the aforementioned provision prior to and after the issuance of a building permit.

COASTAL DEVELOPMENT PERMIT 14-573 A Coastal Development Permit is required because the proposed project constitutes development under the City's Coastal Development Permit Ordinance. Pursuant to Municipal Code Section 25 07 012(G), all three of the following findings must be made to approve a Coastal Development Permit: (1) the project is in conformity with the applicable provisions of the General Plan, including the certified local coastal program and any applicable specific plans; (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; and (3) the proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. The findings for granting a Coastal Development Permit have been made and are indicated in the attached Resolution.

CONCLUSION The Abiso Creek Inn and Golf Course facilities have served both residents and visitors for more than 60 years. The aging structures are now in need of significant upgrade and repairs, and approval of the proposed project would extend the longevity of this important City amenity. In addition, General Plan Land Use Element Policy 6.2 establishes policies and encourages the preservation and net increase in the City's short-term accommodations. The proposed project will result in the preservation of 64 existing short-term accommodations and add 33 additional units. Further, the proposed project will result in less parking demand than under existing conditions, and the applicant is also proposing a parking program that would provide Municipal Code compliant on-site parking when current parking conditions are nonconforming. Lastly, and as supported in the attached Resolution, the project is consistent with the City's General Plan, Local Coastal Program, Municipal Code Design Review Criteria, the California Environmental Quality Act (CEQA) and the flood plain requirements of the Federal Emergency Management Agency (FEMA).

COASTAL COMMISSION

RECOMMENDATION Staff recommends that the Planning Commission adopt the Resolution that conditionally approves Conditional Use Permit 14 574 Coastal Development Permit 14 573 and Planning Commission Design Review 14 575

ATTACHMENTS Exhibit A Application
Exhibit B Plans
Exhibit C Traffic/Parking Analysis
Resolution

COASTAL COMMISSION

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COASTAL COMMISSION

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

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

6 (Fee Exempt per Govt. Code 6103)

THIS SPACE RESERVED FOR RECORDING

7
8 **RESOLUTION NO. 14-574**

9 A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF LAGUNA BEACH
10 **APPROVING CONDITIONAL USE PERMIT 14-574, PLANNING COMMISSION**
11 **COASTAL DEVELOPMENT PERMIT 14-573 AND DESIGN REVIEW 14-575**
12 **AT 31106 COAST HIGHWAY (THE RANCH AT LAGUNA BEACH)**

13 WHEREAS, an application has been filed by the owners of The Ranch at Laguna Beach
14 (previously the Aliso Creek Inn and Golf Course) in accordance with the provisions of Municipal
15 Code Section 25.05.030, 25.05.040 and 25.05.050 requesting approval of a Conditional Use Permit,
16 Design Review and a Coastal Development Permit for the remodel of The Ranch at Laguna Beach,
17 including (1) upgrading existing building facades, (2) reduction and modification of existing
18 assembly areas, (3) development of a new hotel spa, employee lounge and fitness area, (4) an
19 increase in hotel rooms within existing buildings, (5) a decrease in restaurant floor area and (6) a
20 request for the use of valet parking when assembly uses and/or special events are proposed; and

21
22 WHEREAS, the Planning Commission of the City of Laguna Beach, acting in accordance
23 with the provisions of Municipal Code Section 25.05.030, 25.05.040 and 25.05.050, conducted a
24 legally noticed public hearing regarding this proposal on May 14, 2014; and

25
26 WHEREAS, the Planning Commission carefully considered the oral and documentary
27 evidence and arguments presented at the hearing; and

28 WHEREAS, the proposed project is exempt from the provisions of the California

COASTAL COMMISSION

Conditional Use Permit 14-574,
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& Planning Commission Design Review 14-575
May 14, 2014
Page 2

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Environmental Quality Act pursuant to Categorical Exemption, Article 19, Section 15303(c); and

WHEREAS, the Planning Commission has made the following findings in regard to
Conditional Use Permit 14-574:

1. The site for the proposed use is adequate in size and topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly adjust such uses with the land and uses in the vicinity in that the site is approximately 84 acres and the proposed remodel complies with the minimum requirements of the Commercial Hotel-Motel Zoning District and the Recreation Zoning District; including, but not limited to, setbacks, site coverage, open space, building height and parking.
2. The site for the proposed use has access to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use in that any increase in additional traffic is anticipated to be minimal and existing circulation and access conditions are considered adequate and capable of providing efficient access without reducing adjacent circulation/intersection level of service.
3. The proposed use will have no substantial adverse effect upon abutting property in that alterations have been conditioned to mitigate any such effect.
4. The proposed use is consistent with the objectives and policies of the City's General Plan in that Land Use Element Policy 6.2, establishes policies and encourages the preservation and net increase in the City's short-term accommodations and the proposed project will result in the preservation of 64 existing short-term accommodations and 33 additional units.
5. The Conditions stated in the decision are deemed necessary to protect the public health, safety

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5 and general welfare in that provisions have been included to ensure continued land use compatibility.

6 WHEREAS, the Planning Commission has made the following findings in regard to
7 **Planning Commission Design Review 14-575** and the applicable Design Review Criteria:

8 1. Access – Potential conflicts between vehicles, pedestrians and other modes of transportation
9 have been minimized to a level considered to be less than significant with the provision of a
10 parking and traffic study. The project includes on-site parking to accommodate all proposed
11 hotel, golf course, restaurant and ancillary uses, including a valet parking plan for assembly uses
12 and special events (when proposed). Handicapped access shall be provided as required by
13 applicable statutes.
14

15 2. Design Articulation - The project includes new structures and additions to existing structures
16 that are consistent in appearance with regard to building and retaining wall mass. The design
17 involves articulation techniques including architectural features, wall offsets and terracing to
18 reduce the appearance of scale. New stone elements, windows and wall colors are proposed on all
19 elevations to give visual interest.
20

21 3. Design Integrity – The applicant proposes to update the exterior of all structures, including
22 new structures and proposed additions, with contemporary features, materials and colors. The
23 subject site is under construction for exterior upgrades throughout the property that are also
24 consistent in architectural style and design.
25

26 4. Environmental Context – The proposed project preserves the City's natural scenic setting by
27 limiting new construction to infill development in areas of the site with demolition of existing
28 structures. The amount of grading outside of the building footprint has been minimized by utilizing

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5 the existing terrain in the design.

6 5. General Plan Compliance – As indicated under “Conditional Use Permit” and “Coastal
7 Development Permit,” the project is in compliance with the applicable policies of the General Plan,
8 including applicable specific plans, and the Certified Local Coastal Program.

9 6. Historic Preservation – No structures of historical significance would be impacted by the
10 proposed project.

11 7. Landscaping – The applicant has submitted a landscape plan as required with the proposed new
12 structures and upper level additions. All landscape will be integrated as part of the structure’s design
13 and any new plantings will meet fuel modification requirements and alternatives. Proposed
14 landscaping incorporates the guidelines contained in the City’s Landscape and Scenic Highways
15 Resource Document under neighborhood landscape Area 12, South Laguna.

16 8. Lighting and Glare –All proposed exterior lighting will be installed in compliance with the Good
17 Neighbor Outdoor Lighting Ordinance and proposed reflective materials are not anticipated to
18 visually impact neighboring properties with additional glare.

19 9. Neighborhood Compatibility – The proposed development respects neighborhood character and
20 is compatible with existing structures throughout the mixed-use facility. The scope of work
21 maintains historical pattern of development by designing new structures as one-story and small-scale.

22 10. Pedestrian Orientation – Existing onsite pedestrian pathways, open spaces and courtyards will
23 be improved and upgraded with the use of landscape and hardscape as part of the overall
24 commercial development design.

25 11. Privacy – The placement of new assembly and outdoor activity areas will not result in invasion
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of privacy of neighboring properties.

12. Public Art – The applicant has submitted an Art in Public Places application to install public art as required by Ordinance.

13. Sign Quality – New signage shall be subject to design review, incorporated into the architecture of the structure and shall be made of high quality materials, be simple in design and be visually compatible with the surrounding physical environment in terms of color, scale and size.

14. Sustainability – Proposed development will be constructed in compliance with Title 24 and Green Building Code requirements.

15. Swimming Pools, Spas and Water Features – The proposed Jacuzzi spa will be smaller in size and relocated adjacent to the existing hotel pool to minimize grading and noise impacts. New perimeter pool fencing and other pool improvements, including the pool bar, storage and mechanical rooms, are neighborhood compatible.

16. View Equity – The new structures, upper-level additions and landscaping will not have any impacts to existing views from neighboring properties.

WHEREAS, the Planning Commission has made the following findings in regard to Coastal Development Permit 14-573:

1. The project is in conformity with all the applicable provisions of the General Plan, including the certified local coastal program in that Land Use Element Policy 6.2, establishes policies and encourages the preservation and net increase in the City's short-term accommodations and the proposed project will result in the preservation of 64 existing short-term accommodations and 33

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additional units.

2. None of the project components and/or modifications are located between the sea and the first public road paralleling the sea.

3. Pursuant to the California Government Code Section 15303(c), a store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances and not exceeding an increase of 2,500 square feet in floor area is considered exempted development from CEQA. The proposed restoration and remodel of the Aliso Creek Inn and Golf Course does not propose the use of hazardous substances or a net floor area increase of any building that exceeds 2,500 square feet and therefore is considered categorically exempt from CEQA.

NOW, THEREFORE, BE IT RESOLVED that **Conditional Use Permit 14-574, Coastal Development Permit 14-573 and Planning Commission Design Review 14-575** are hereby granted to the following extent:

Approval for the remodel of The Ranch at Laguna Beach (previously the Aliso Creek Inn and Golf Course), including (1) upgrading existing building facades, (2) reduction and modification of existing assembly areas, (3) development of a new hotel spa, employee lounge and fitness area, (4) an increase in hotel rooms within existing buildings, (5) a decrease in restaurant floor area and (6) a request for the use of valet parking when assembly uses and/or special events are proposed.

BE IT FURTHER RESOLVED, that the following condition(s) are set forth to protect the health, safety and welfare of the community and to assure the intent and purpose of the regulations:

1. The Conditional Use Permit shall be subject to review if written complaints are received, and

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1 shall be subject to administrative review one (1) year after issuance of the certificate of use to
2 determine if the approved conditions of approval are in compliance. These reviews may result in a
3 formal noticed public hearing before the Planning Commission. After the public hearing on the
4 matter, the Planning Commission may require immediate condition compliance, amend the
5 conditions of approval or proceed with revocation of the Conditional Use Permit as specified in
6 Municipal Code Section 25.05.075.

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11 2. It is understood that the conditions of approval apply herein to any future owners or lessees
12 operating under this Conditional Use Permit. This means in legal terms that the conditions of
13 approval for the Conditional Use Permit shall be and hereby are obligations of and binding upon the
14 applicant and his/her heirs, successors, assigns, agents and representatives. The conditions shall
15 constitute a covenant running with and binding the land in accordance with the provisions of
16 California Civil Code Section 1468. Failure to comply with such conditions, and each of them, and
17 any other related federal, state and local regulations may be grounds for revocation of the Conditional
18 Use Permit, in addition to other remedies that may be available to the City.

19
20
21 3. Applicable Certificate of Use and/or Certificate of Occupancy shall not be issued until City staff
22 has verified compliance with all conditions of approval.

23 4. This Conditional Use Permit shall not become effective until any required Design Review
24 approval has been obtained.

25
26 5. This Conditional Use Permit shall not become effective until the owner of the subject property
27 has signed an affidavit in the form attached to this Resolution, whereby the property owner
28 acknowledges and consents to the imposition of the conditions set forth in this Resolution, and

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agrees that such conditions shall constitute restrictions running with the land and shall be binding upon the property owner and their heirs, successors and assigns. If the applicant is different than the owner of the subject property, then this Conditional Use Permit shall also not become effective until the applicant has signed an affidavit in the form attached to this Resolution, whereby the applicant acknowledges and consents to the imposition of the conditions set forth in this Resolution, and agrees that such conditions shall be binding upon the applicant and their heirs, successors and assigns.

6. If the use authorized under this Resolution and Conditional Use Permit is abandoned or terminated for any reason for a period of at least one year, the Conditional Use Permit shall automatically expire and become void.

7. In the absence of specific provisions or conditions herein to the contrary, the application and all plans or exhibits attached to the application are relied upon, incorporated and made a part of this resolution. It is required that such plans or exhibits be complied with and implemented in a consistent manner with the approved use and other conditions of approval. Such plans and exhibits for which this Conditional Use Permit has been granted shall not be changed or amended except pursuant to a subsequent Conditional Use Permit or Variance as might otherwise be required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.

8. No additions or enlargements of structures upon property for which this Conditional Use Permit has been granted shall be allowed except pursuant to a subsequent Conditional Use Permit or Variance as might otherwise be required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.

COASTAL COMMISSION

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5 9. No proposed change or modification to the specifically permitted approval for remodel of The
6 Ranch at Laguna Beach (previously the Aliso Creek Inn and Golf Course) as described in this
7 resolution shall be allowed except pursuant to a subsequent or amended Conditional Use Permit
8 granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.

9
10 10. The applicant shall not allow, act, cause or permit any lessee, agent, employee, exhibitor or
11 concessionaire any "prohibited discharge" (as defined in Municipal Code Section 16.01.020) into the
12 City's storm water drainage system or to the adjacent Laguna Canyon Creek.

13 11. A 20-foot fire lane that circles the perimeter of the hotel facilities shall be provided as
14 indicated on the approved plans. The entire fire lane shall be painted with the appropriate lane
15 markings per the Fire Code.

16 12. The parking lots shall include a minimum 20-foot-wide clear fire lane pursuant to the
17 approved Fire Department access plans. The fire lane shall also be provided during valet
18 operations.

19
20 13. A minimum of 209 on-site parking spaces shall be available for daily facility operations, via a
21 combination of self-park and valet parking spaces, with 80 additional valet parking spaces provided
22 when assembly uses or special events are proposed. The parking shall comply with the conclusions
23 of the April 16, 2014, *Aliso Creek Inn & Golf Course Project Traffic Impact and Parking Analysis*.

24 14. Valet parking shall be provided during all hours of operation for assembly or special events
25 pursuant to the valet parking program identified in the April 16, 2014, *Aliso Creek Inn & Golf Course*
26 *Project Traffic Impact and Parking Analysis*, including the provision of the specified 20-foot wide fire
27 equipment access lanes.
28

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15. The required parking shall be available free of charge to the employees and customers of the facility during the approved hours of operation, including valet services operating during assembly uses and special events.

16. The hotel shall be limited to 96 rooms without kitchens and one with a kitchen.

17. The following floor areas shall not be exceeded: (1) restaurant floor area shall not exceed 7,595.5 square feet and limited to 225 seats (including outdoor seating); (2) assembly areas shall not exceed 7,345 square feet (including outdoor assembly/seating areas) and (3) the new wellness spa shall not exceed 1,997.1 square feet.

18. The proposed use is subject to the food facility requirement of the Orange County Health Department. A building permit shall not be issued until after Orange County Health Department plan approval.

19. Alcohol service and consumption is permitted throughout the facility, including any new approved areas, subject to the California Department of Alcoholic Beverage Control approval.

20. Prior to the final of the building permit, that applicant shall show proof to the City that the project has been reviewed by the South Coast Water District for conformance with grease interceptor requirements.

21. The new spa may be available to the public and hotel guests, and shall include massage and facials.

22. The new fitness center and pool bar shall only be available to hotel guests.

23. The associated site improvements, upgrades and new construction shall not negatively impact the Aliso Creek. Creek protection measures such as (but not limited to) temporary debris walls and

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5 drainage curbing shall be installed prior to construction and removed immediately after construction
6 is completed. All protection measures shall be properly maintained and replaced when needed.

7 24. The drainage or debris from washing down and or cleaning of the site, before, during and after
8 construction, shall not be permitted to enter the Creek.

9 25. All construction tools and or equipment shall be cleaned/maintained offsite.

10 26. Per 25.38.050(C), the proposed new structures will be engineered to comply with the required
11 structural flood mitigation for commercial structures that are not elevated and the structural design
12 will be reviewed by the City's Floodplain Administrator and the Building Official for compliance with
13 these provisions prior to building permit issuance.

14
15 27. The subject property is located within an identified FEMA "special flood hazard area"
16 (SFHA) and therefore may be prone and/or subject to flooding and water damage during certain
17 and/or extreme local precipitation. To mitigate potential flooding damage, the permittee is
18 responsible to install devices intended to seal structural openings, such as doors and windows,
19 from flood waters immediately after forecasted heavy precipitation and/or after the City has
20 declared the possibility for potential flooding conditions. These devices include, but are not
21 limited to, flood shields/gates, watertight doors, moveable floodwalls, partitions, water-resistive
22 sealant devices and other similar techniques. The floodproofing measures" should be designed to
23 prevent flooding up to six (6) inches above the latest Flood Insurance Rate Map (FIRM) - base
24 flood elevation (BFE). These flooding devices shall be stored on-site and shall be maintained in
25 good repair on the premises for rapid and effective deployment when flooding is imminent. The
26 permittee shall also provide the City with a "single point of contact" including the name, telephone
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number, fax number and e-mail address of a contact person that the City can forewarn of potential flooding and/or heavy precipitation. Although the City will make every effort to contact businesses and property owners prior to forecasted heavy precipitation, the permittee is responsible to monitor local weather conditions to mitigate potential flood damage to the property and/or business. If the property and/or business location already has floodproofing devices installed or available on site, it is the permittee's responsibility to confirm that these devices are not damaged and will operate efficiently and install correctly. It is also advisable that the permittee regularly practice installing the required floodproofing devices prior to the need to install them. The applicant shall submit plans to the Community Development Department for approval of the contingency flood proofing measures.

28. Prior to the final of a building permit, the applicant shall install or pay an in-lieu fee for the provision of public art pursuant to Municipal Code Section 1.09 (Art in Public Places).

29. Prior to final of building permit, the applicant shall submit a lighting plan for the Planning Commission review.

NOW THEREFORE BE IT RESOLVED that the above decision was rendered on May 14, 2014.

ADOPTED this 14th day of May, 2014.

AYES: Commissioner(s) Dietrich, Grossman, Sadler, Johnson, Zur Schmiede

NOES: Commissioner(s) None

ABSENT: Commissioner(s) None

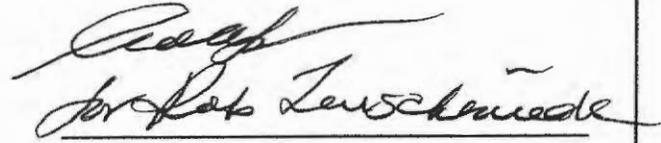
COASTAL COMMISSION

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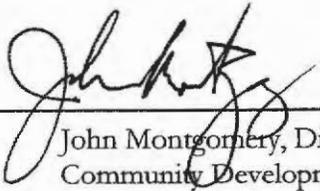
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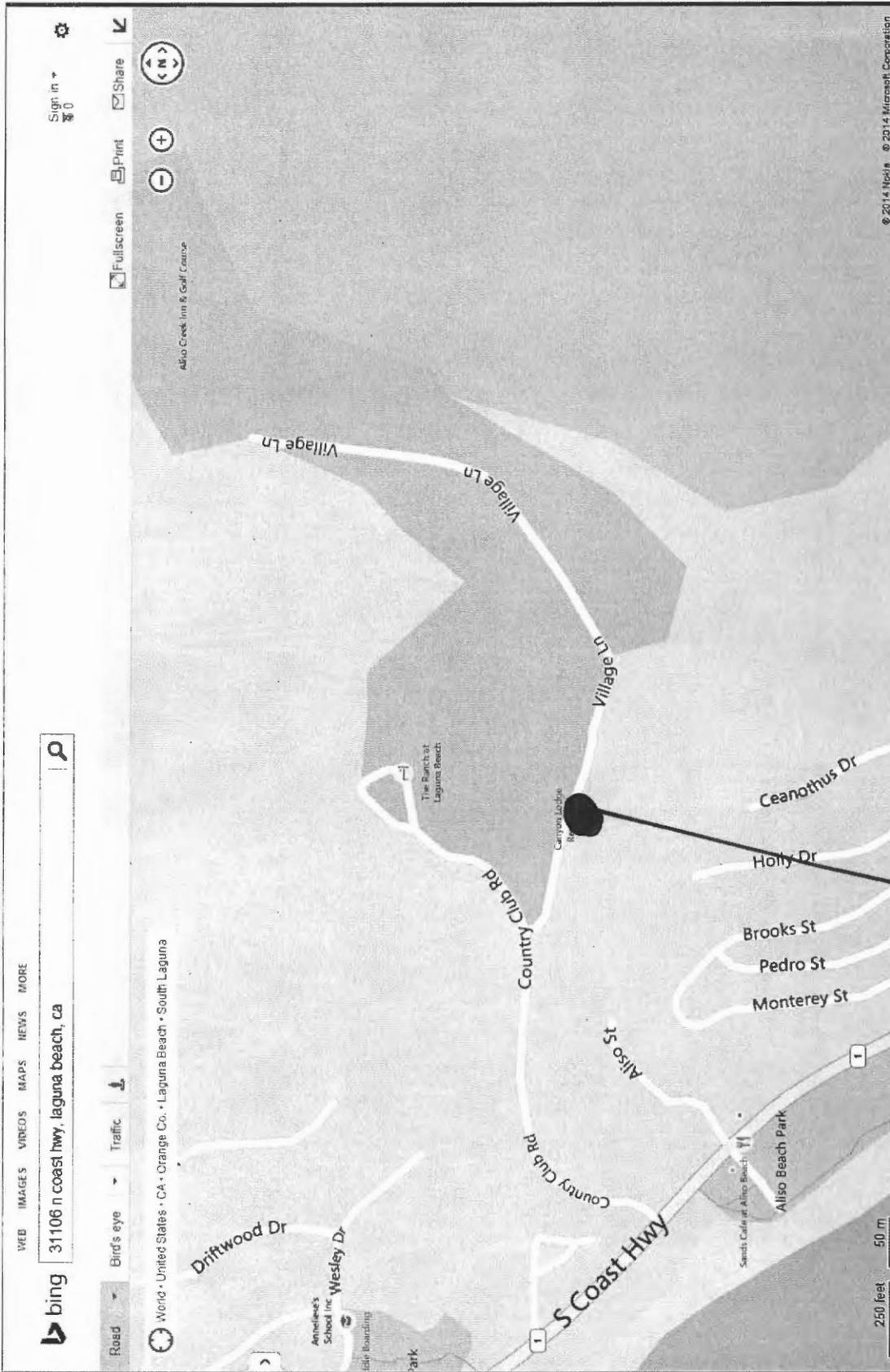
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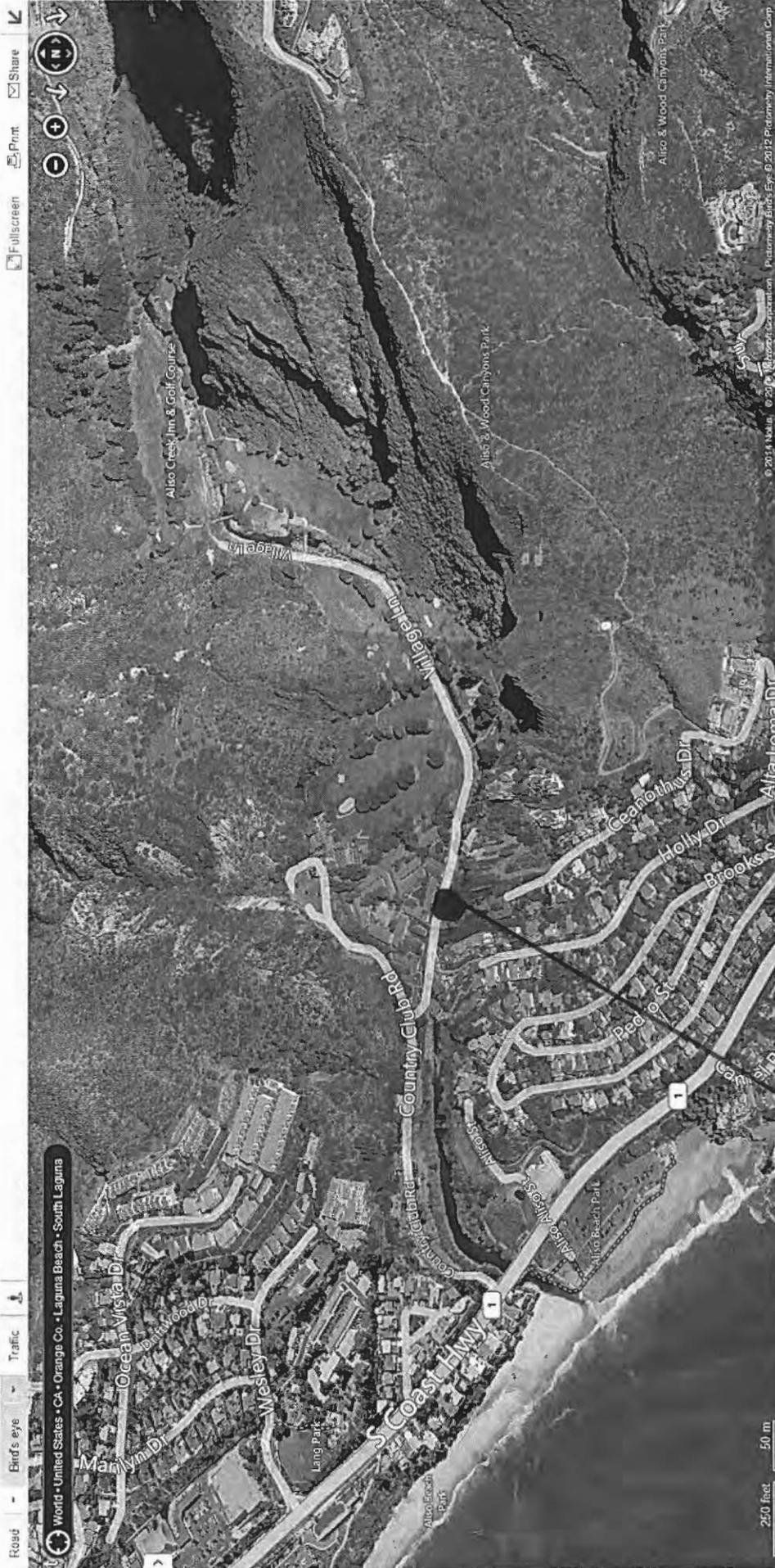
Robert Zur Schmiede, Chairperson
Planning Commission
City of Laguna Beach, California



John Montgomery, Director
Community Development
City of Laguna Beach, California



subject site



subject site

COASTAL COMMISSION

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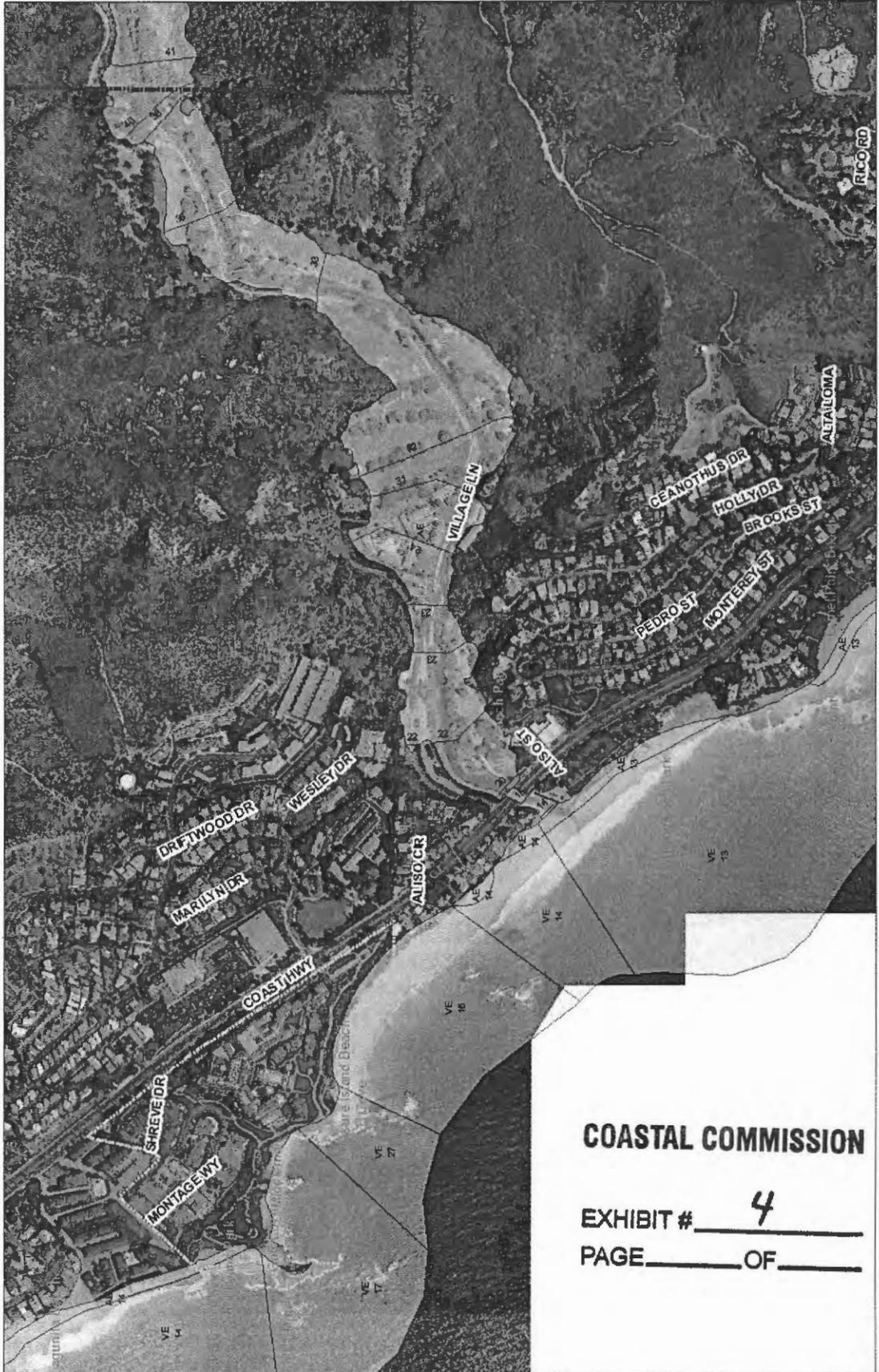
City of Laguna Beach - Flood Zones - Montage Resort & Aliso Creek Areas



- Legend**
- City Limits
 - Specific Plan Areas
 - FEMA 2-Ft. Cross-Sections
 - FEMA 100-Year Base Flood (1)
 - A
 - AE FLOODWAY
 - AF
 - VE
 - 2008 Color Aerial Orthophotos
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
 - 2008 Building Footprints

1:5,787

Notes
Flood Zones - Downtown Area



Data here that appear on this map may or may not be accurate, current, or otherwise reliable.

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Photo credit: Laguna Beach Independent, May 23, 2014



renovation/remodel of Hotel
structures currently underway

COASTAL COMMISSION

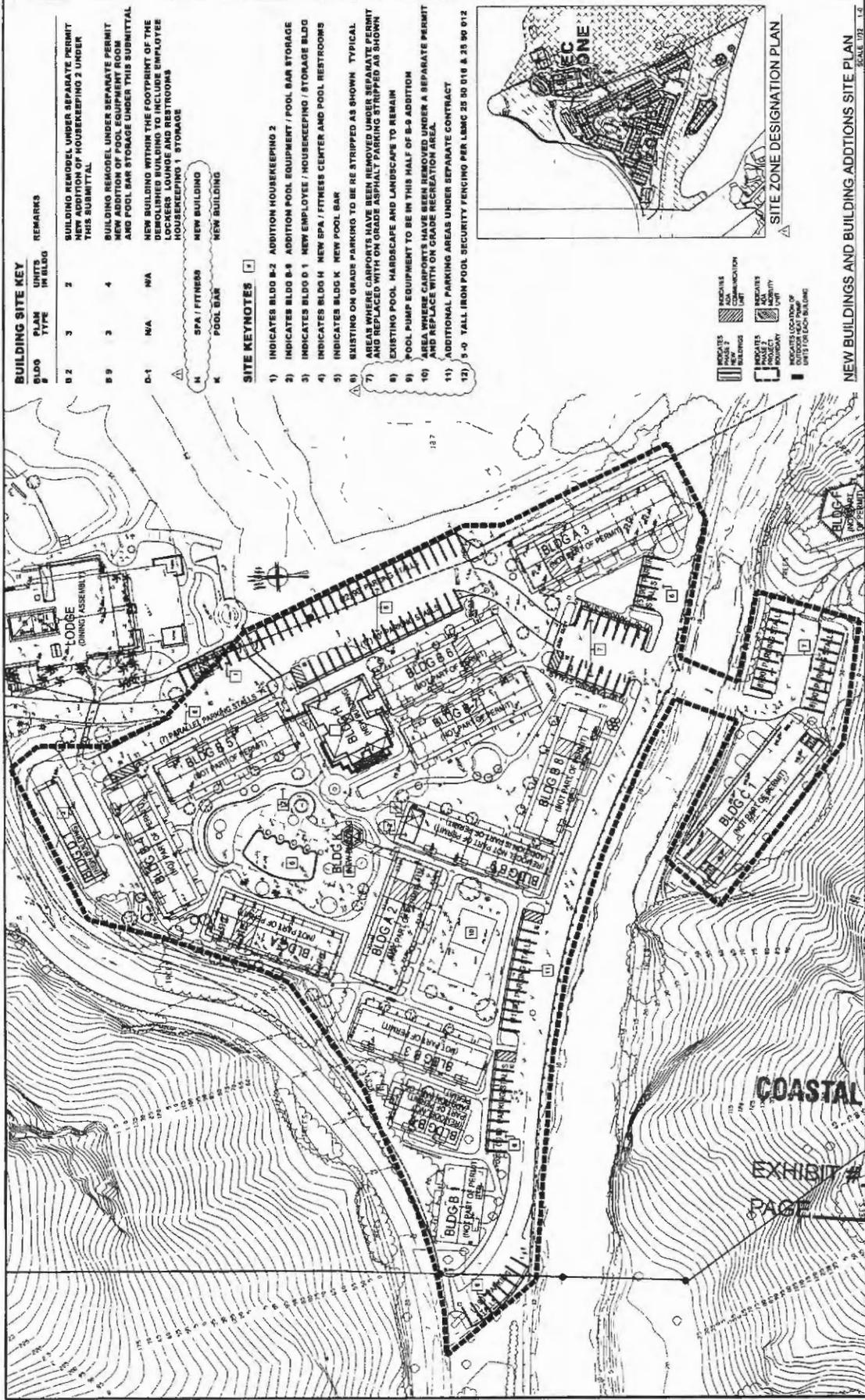
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NO.	DATE	REVISIONS
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**ALSO CREEK INN REMODEL
NEW BUILDINGS AND ADDITIONS**
NEW BUILDING AND ADDITIONS SITE PLAN

PROJECT NO.	15-23013
DATE	12-29-2014
SCALE	A-1-1

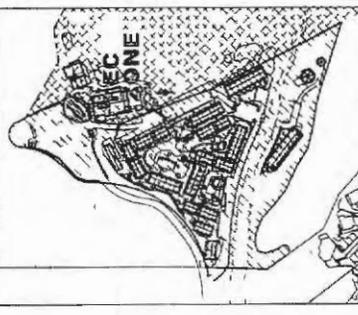


BUILDING SITE KEY

BLDG	PLAN TYPE	UNITS IN BLDG	REMARKS
B-2	3	2	BUILDING REMODEL UNDER SEPARATE PERMIT NEW ADDITION OF HOUSEKEEPING 2 UNDER THIS SUBMITTAL
B-9	3	4	BUILDING REMODEL UNDER SEPARATE PERMIT NEW ADDITION OF POOL EQUIPMENT ROOM AND POOL BAR STORAGE UNDER THIS SUBMITTAL
D-1	N/A	N/A	NEW BUILDING WITHIN THE FOOTPRINT OF THE DEMOLISHED BUILDING TO INCLUDE EMPLOYEE LOCKERS, LOUNGE AND RESTROOMS HOUSEKEEPING 1 STORAGE
H	SPA / FITNESS		NEW BUILDING
K	POOL BAR		NEW BUILDING

SITE KEYNOTES

- INDICATES BLDG B-2 ADDITION HOUSEKEEPING 2
- INDICATES BLDG B-9 ADDITION POOL EQUIPMENT / POOL BAR STORAGE
- INDICATES BLDG D-1 NEW EMPLOYEE / HOUSEKEEPING / STORAGE BLDG
- INDICATES BLDG H NEW SPA / FITNESS CENTER AND POOL RESTROOMS
- INDICATES BLDG K NEW POOL BAR
- EXISTING ON GRADE PARKING TO BE STRIPPED AS SHOWN. TYPICAL
AREAS WHERE CARPORTS HAVE BEEN REMOVED UNDER SEPARATE PERMIT
AND REPLACED WITH ON GRADE ASPHALT PARKING STRIPPED AS SHOWN
- EXISTING POOL HARDSCAPE AND LANDSCAPE TO REMAIN
- POOL PUMP EQUIPMENT TO BE IN THIS HALF OF B-9 ADDITION
- AREA WHERE CARPORTS HAVE BEEN REMOVED UNDER A SEPARATE PERMIT
AND REPLACE WITH ON GRADE RECREATION AREA
- ADDITIONAL PARKING AREAS UNDER SEPARATE CONTRACT
- 5-9 TALL IRON POOL SECURITY FENCING PER LPMC 25 00 010 & 25 00 012



- INDICATES EXISTING BUILDING
- INDICATES NEW BUILDING
- INDICATES EXISTING ADJACENT PROPERTY
- INDICATES EXISTING PROPERTY BOUNDARY
- INDICATES LOCATION OF UNITS FOR EACH BUILDING

COASTAL COMMISSION
EXHIBIT # 5
PAGE 1 OF 23

NO.	DATE	DESCRIPTION
1	2-11-14	DB
2		
3		
4		
5		
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7		
8		
9		
10		



AISI
ARCHITECTURAL INTERIORS SYSTEMS, INC.

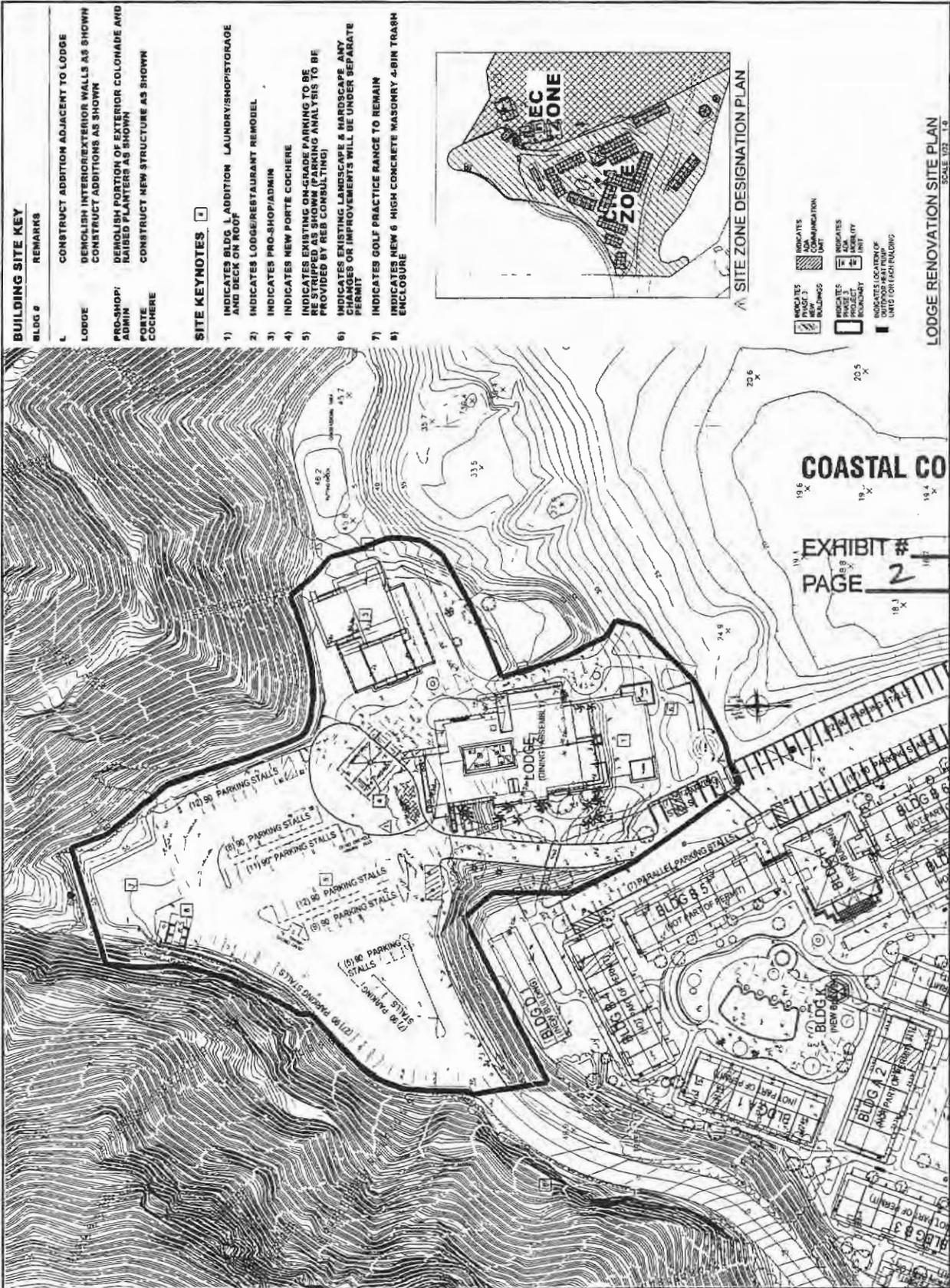
31106 S COAST HWY LAGUNA BEACH CALIFORNIA 92651

**ALSO CREEK INN REMODEL
LODGE RENOVATION**

LODGE RENOVATION SITE PLAN



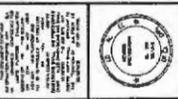
DATE	11-11-2013
SCALE	AS SHOWN
NO.	2-4-2014
REV.	A-11



COASTAL COMMISSION

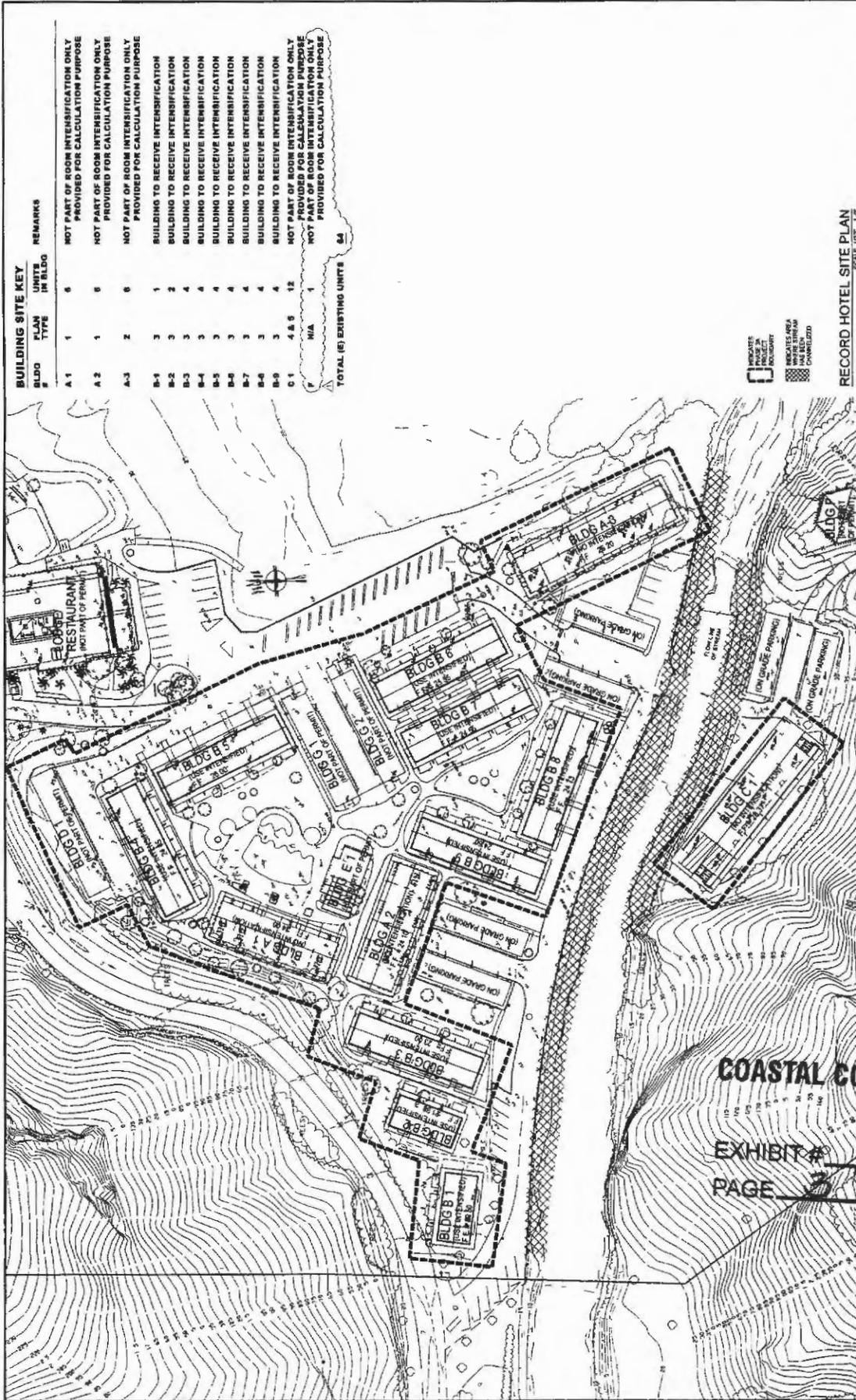
EXHIBIT # 5
PAGE 2 OF 23

REVISIONS	DATE	BY	CHKD
1	12/11/13		
2	2/3/14		



3106 S COAST HWY LAGUNA BEACH CALIFORNIA 92651
ALISO CREEK INN REMODEL
HOTEL ROOM INTENSIFICATION
 RECORD HOTEL SITE PLAN

DATE	11/11/2013
DATE	2/3/2014
DATE	RD-11



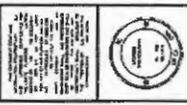
BUILDING SITE KEY	BLDG	PLAN TYPE	UNITS IN BLDG	REMARKS
	A-1	1	6	NOT PART OF ROOM INTENSIFICATION ONLY PROVIDED FOR CALCULATION PURPOSE
	A-2	1	6	NOT PART OF ROOM INTENSIFICATION ONLY PROVIDED FOR CALCULATION PURPOSE
	A-3	2	6	NOT PART OF ROOM INTENSIFICATION ONLY PROVIDED FOR CALCULATION PURPOSE
	B-1	3	1	BUILDING TO RECEIVE INTENSIFICATION
	B-2	3	2	BUILDING TO RECEIVE INTENSIFICATION
	B-3	3	4	BUILDING TO RECEIVE INTENSIFICATION
	B-4	3	4	BUILDING TO RECEIVE INTENSIFICATION
	B-5	3	4	BUILDING TO RECEIVE INTENSIFICATION
	B-6	3	4	BUILDING TO RECEIVE INTENSIFICATION
	B-7	3	4	BUILDING TO RECEIVE INTENSIFICATION
	B-8	3	4	BUILDING TO RECEIVE INTENSIFICATION
	B-9	3	4	BUILDING TO RECEIVE INTENSIFICATION
	C-1	4, 4, 5	12	NOT PART OF ROOM INTENSIFICATION ONLY PROVIDED FOR CALCULATION PURPOSE
		N/A	1	NOT PART OF ROOM INTENSIFICATION ONLY PROVIDED FOR CALCULATION PURPOSE
TOTAL (R) EXISTING UNITS				64

INDICATES PROJECT BOUNDARY
 INDICATES AREA TO BE REMOVED
 CHANNELLED

RECORD HOTEL SITE PLAN
 SCALE 1/8" = 1'-0"

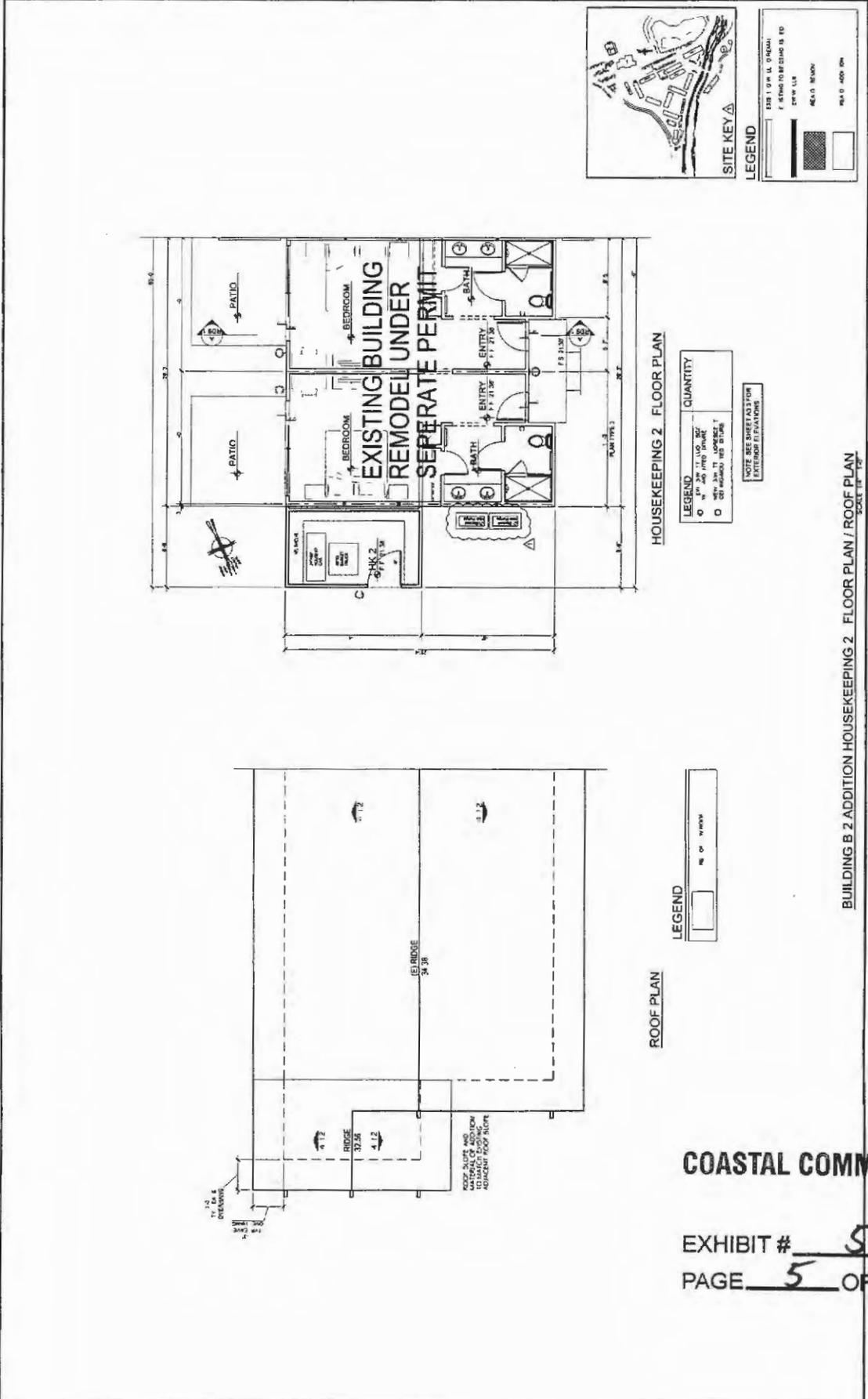
COASTAL COMMISSION
 EXHIBIT # 5
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REVISIONS	DATE	DESCRIPTION
1	12.14.09	
2		
3		
4		
5		
6		
7		
8		
9		
10		



**BUILDING B-2 ADDITION HOUSEKEEPING 2
FLOOR PLAN / ROOF PLAN**
**ALSO CREEK INN REMODEL
NEW BUILDINGS AND ADDITIONS**
 31106 S COAST HWY LAGUNA BEACH CALIFORNIA 92651

DATE	10.2.2013
SCALE	1/8" = 1'-0"
DATE	1 29 2014
SCALE	A-31



HOUSEKEEPING 2 FLOOR PLAN

LEGEND	QUANTITY
○	11 1/2" x 11 1/2" x 1/2" 2X4
○	11 1/2" x 11 1/2" x 1/2" 2X6
○	11 1/2" x 11 1/2" x 1/2" 2X8
○	11 1/2" x 11 1/2" x 1/2" 2X10
○	11 1/2" x 11 1/2" x 1/2" 2X12

SEE SEE SHEETS FOR EXTENSIVE DETAILS

ROOF PLAN

LEGEND	NO. OF SHEETS
□	

COASTAL COMMISSION

EXHIBIT # 5
 PAGE 5 OF 23

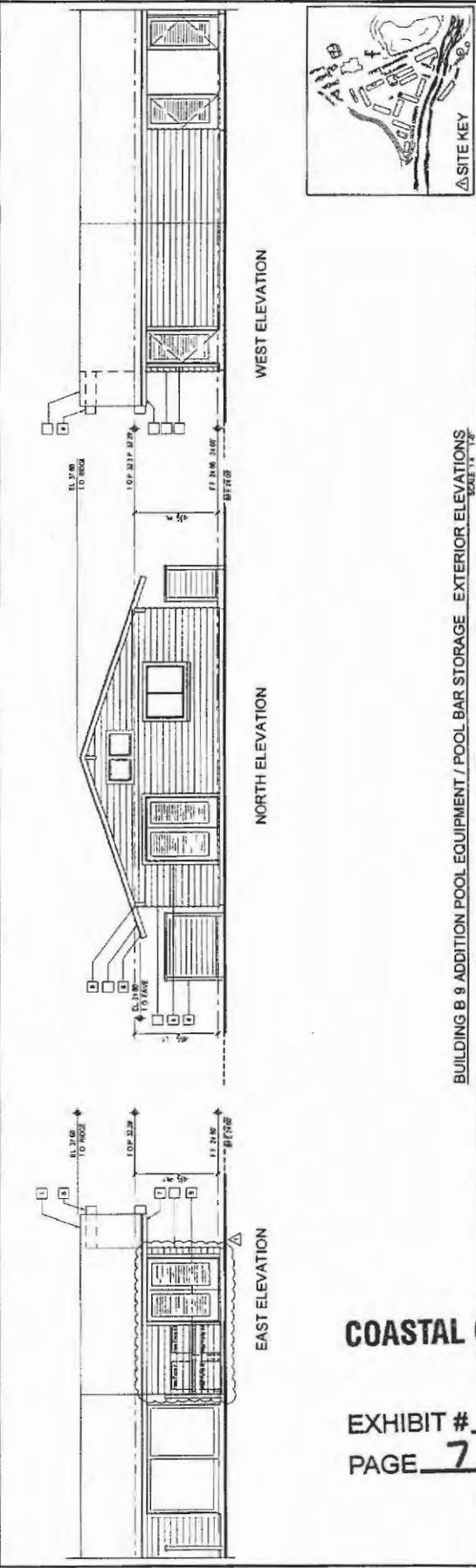
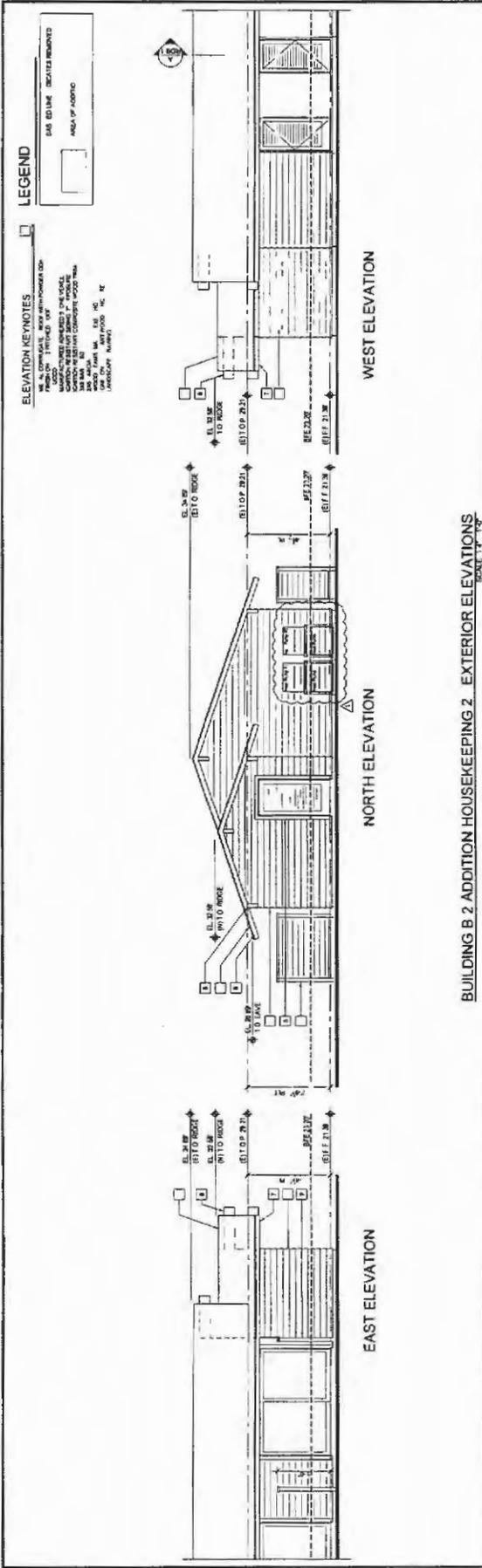
BUILDING B 2 ADDITION HOUSEKEEPING 2 FLOOR PLAN / ROOF PLAN
 SHEET # A-31

NO.	DATE	REVISIONS
1	1.26.14	1.0.0



**ALSO CREEK INN REMODEL
NEW BUILDINGS AND ADDITIONS**
BUILDING B-2 B-9 ADDITIONS EXTERIOR ELEVATIONS

1.28.2014	13.001
A-3-3	



COASTAL COMMISSION

EXHIBIT # 5
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REVISIONS	DATE	BY	APP
A	1/29/14	DDP	

ALISA
ARCHITECTS

31106 S COAST HWY LAGUNA BEACH CALIFORNIA 92651

**ALISO CREEK INN REMODEL
NEW BUILDINGS AND ADDITIONS**

BUILDING D-1 EXTERIOR ELEVATIONS

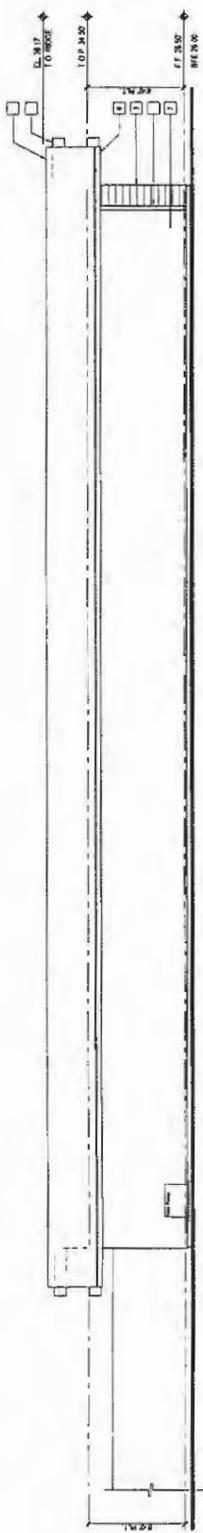


31106 S COAST HWY LAGUNA BEACH CALIFORNIA 92651

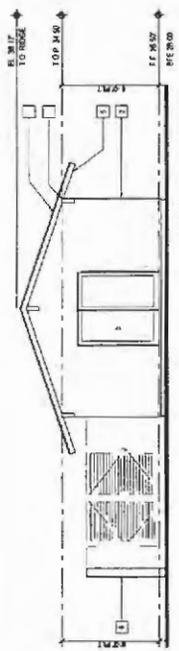
**ALISO CREEK INN REMODEL
NEW BUILDINGS AND ADDITIONS**

BUILDING D-1 EXTERIOR ELEVATIONS

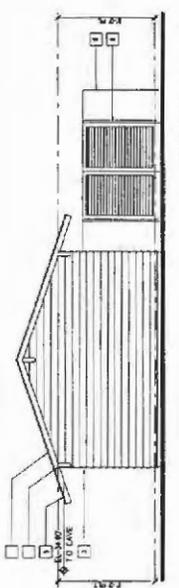
DATE	1/29/2014
PROJECT NO.	10-3-2013
SCALE	1/8" = 1'-0"
DATE	1/29/2014
PROJECT NO.	10-3-2013
SCALE	1/8" = 1'-0"
DATE	1/29/2014
PROJECT NO.	10-3-2013
SCALE	1/8" = 1'-0"



NORTH ELEVATION



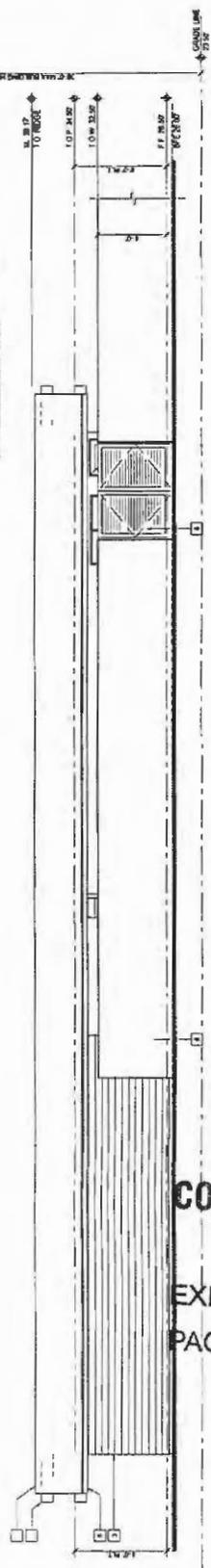
EAST ELEVATION



WEST ELEVATION

- ELEVATION KEYNOTES**
- 1. SEE ARCHITECTURAL PLAN FOR WINDOW AND DOOR SCHEDULES.
 - 2. SEE ARCHITECTURAL PLAN FOR ROOF SCHEDULES.
 - 3. SEE ARCHITECTURAL PLAN FOR FINISH SCHEDULES.
 - 4. SEE ARCHITECTURAL PLAN FOR MATERIAL SCHEDULES.
 - 5. SEE ARCHITECTURAL PLAN FOR COLOR SCHEDULES.

INDICATES MAXIMUM BUILDING DEVELOPMENT BASED ON
LOCAL ORDINANCES AND REGULATIONS. SEE LOCAL
ORDINANCES AND REGULATIONS FOR MORE INFORMATION.



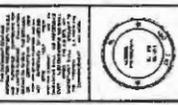
SOUTH ELEVATION

BUILDING D-1 EXTERIOR ELEVATIONS

COASTAL COMMISSION

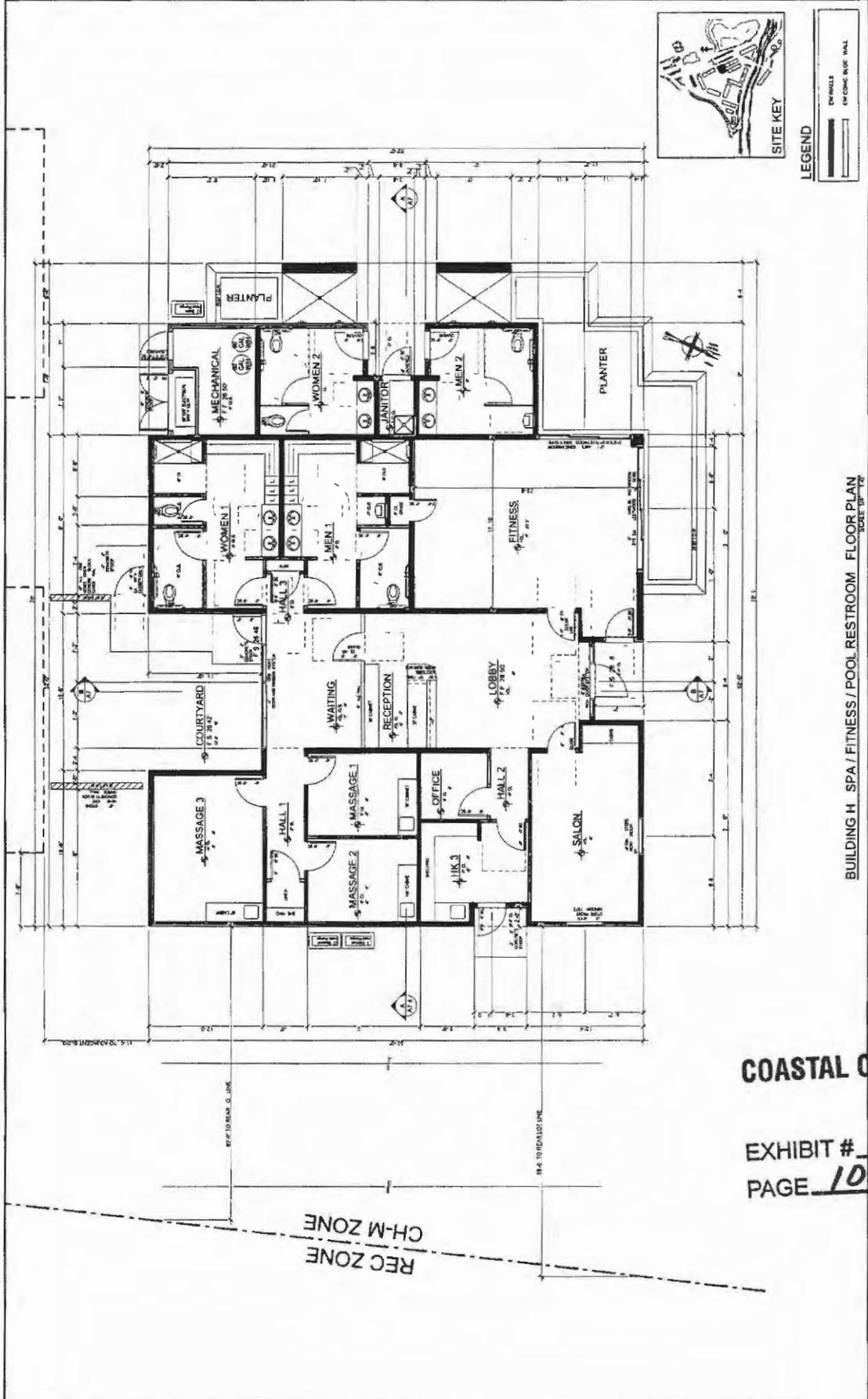
EXHIBIT # 5
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REVISIONS	DATE	BY	DESCRIPTION
A	1/29/14	DB	



BUILDING H SPA / FITNESS / POOL RESTROOM FLOOR PLAN
ALSO CREEK INN REMODEL
NEW BUILDINGS AND ADDITIONS
 3100 S COAST HWY LAGUNA BEACH CALIFORNIA 92651

DATE: 10/22/2013
 15:00
 1/29/2014
 A-71



LEGEND
 - EXTERIOR WALL
 - EXTERIOR CURB WALL

BUILDING H SPA / FITNESS / POOL RESTROOM FLOOR PLAN
 SCALE: 1/8" = 1'-0"

COASTAL COMMISSION

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REC ZONE
 CH-M ZONE

NO.	DATE	DESCRIPTION
1	1/28/14	DDP

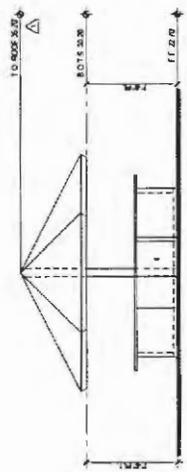


31106 S COAST HWY LAGUNA BEACH CALIFORNIA 92651
**ALSO CREEK INN REMODEL
 NEW BUILDINGS AND ADDITIONS**

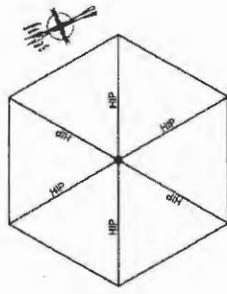


BUILDING K POOL BAR

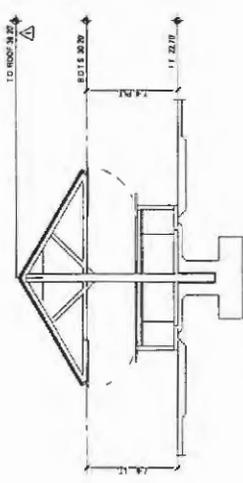
DATE: 03/20/13
 1/28/2014
 A-81



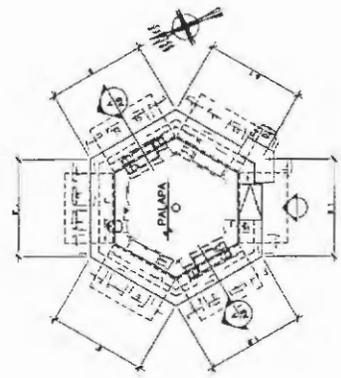
ELEVATION A



ROOF PLAN



BUILDING SECTION A



FLOOR PLAN

BUILDING K POOL BAR
 SCALE: 1/8" = 1'-0"

COASTAL COMMISSION

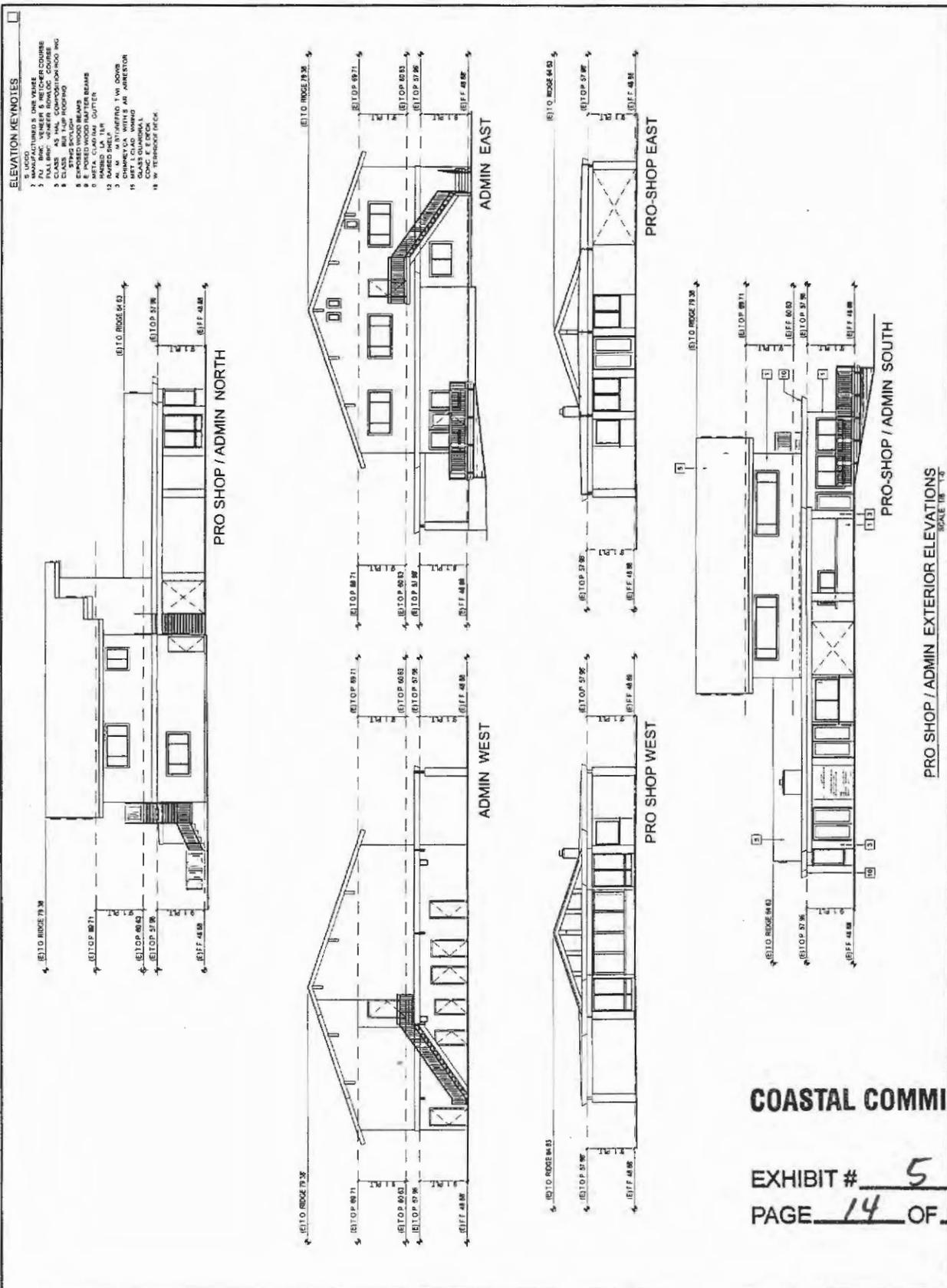
EXHIBIT # 5
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REVISIONS	DATE	BY

AIMS
ARCHITECTURAL INTERIORS & MODELING SERVICES, INC.
11111 S. LAKE AVENUE, SUITE 100
LAGUNA BEACH, CALIFORNIA 92653
TEL: 949.261.1111 FAX: 949.261.1112
WWW.AIMSSERVICES.COM

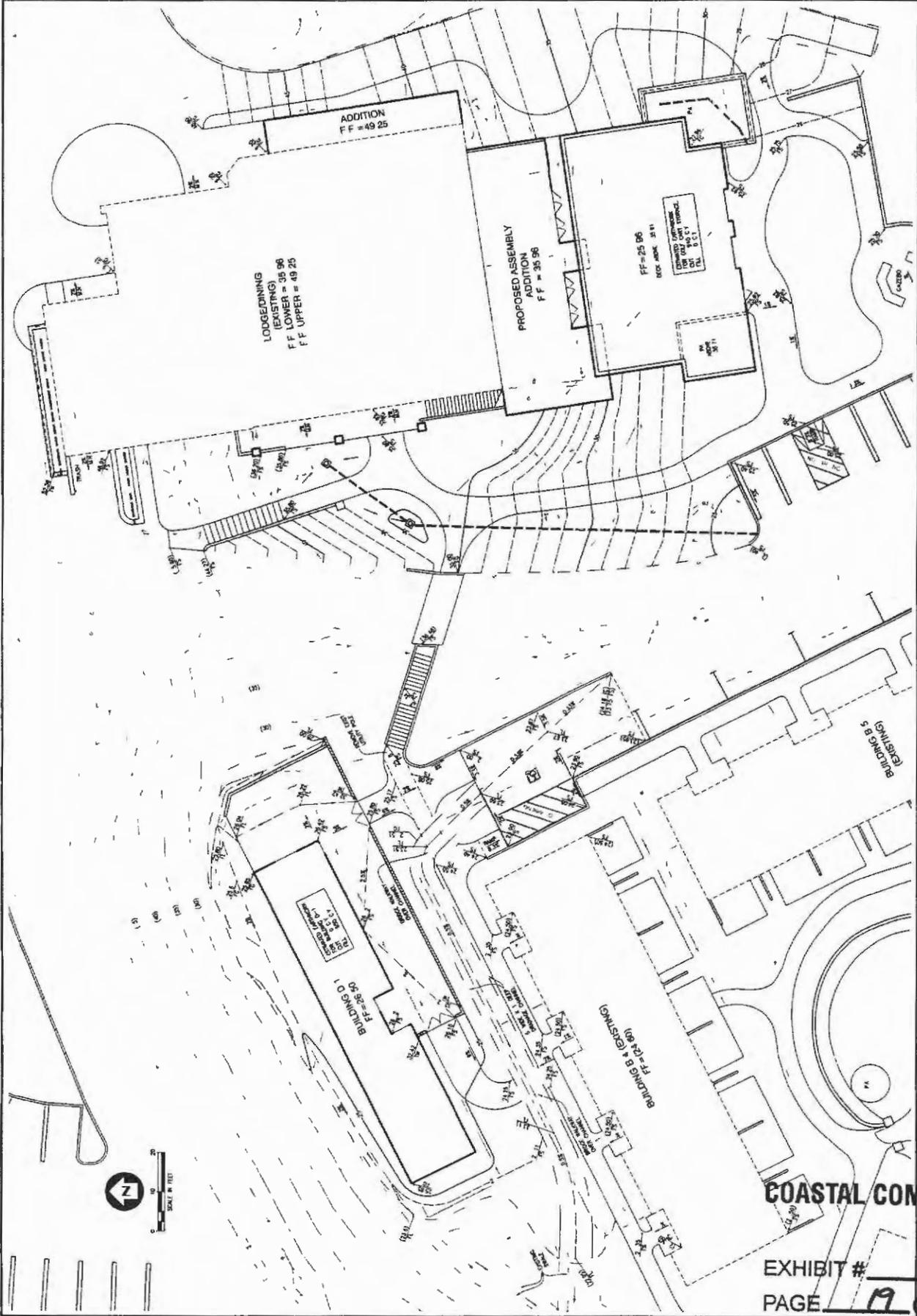
PRO-SHOP / ADMIN EXTERIOR ELEVATIONS
ALSO CREEK INN REMODEL
LODGE RENOVATION
31106 S COAST HWY LAGUNA BEACH CALIFORNIA 92651

NO. OF SHEETS	11
DATE	11-11-2013
SCALE	AS SHOWN
DATE	2-4-2014
NO.	A-34

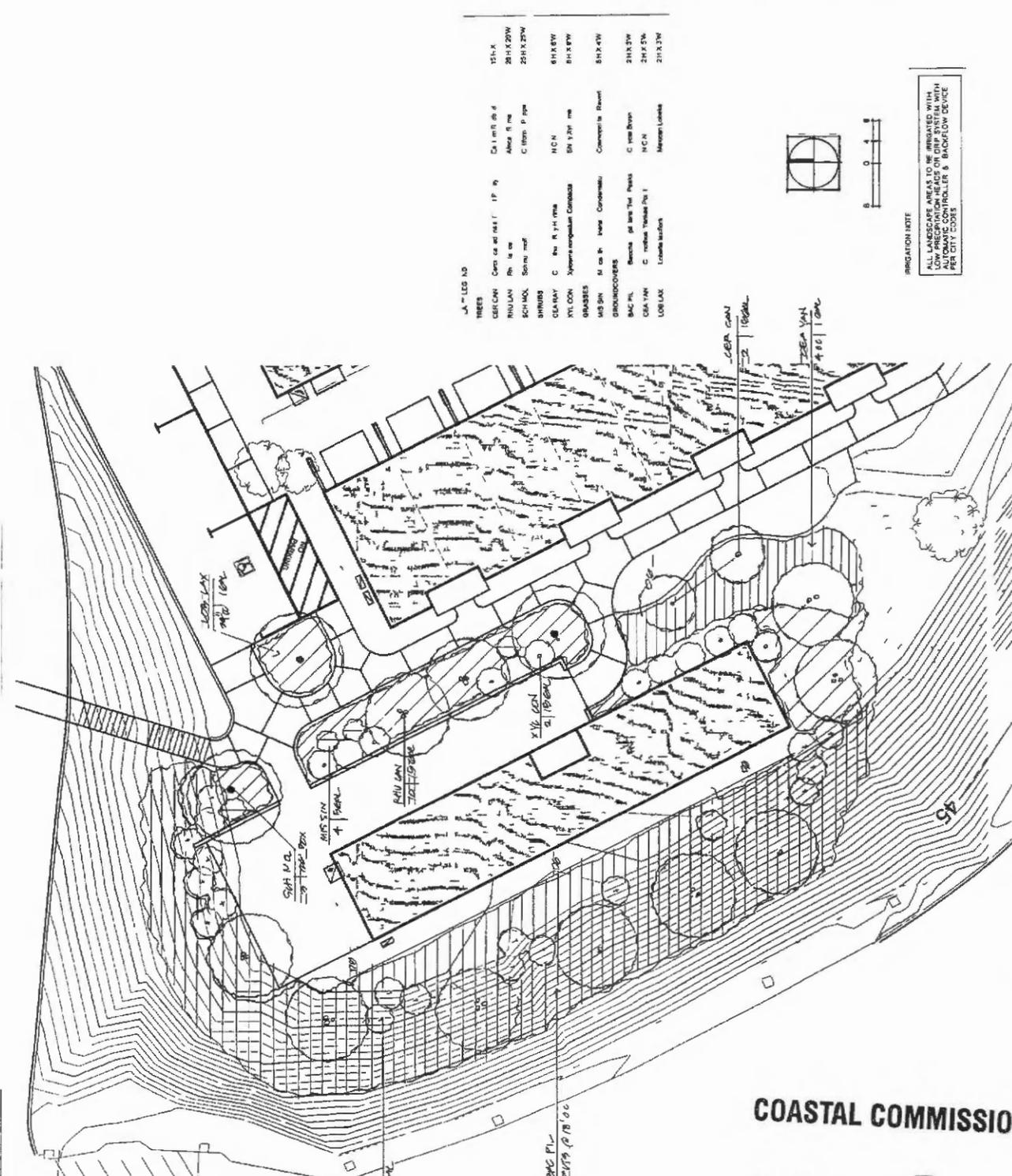


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PLANT	QTY	SPACING	NOTES
15H-K	1	20H X 20W	Call out in 4' x 4' grid
20H-K20W	1	20H X 20W	Allow 4' min
25H-K25W	1	25H X 25W	Call out in 4' x 4' grid
6H-K2W	1	6H X 2W	Call out in 4' x 4' grid
8H-K2W	1	8H X 2W	Call out in 4' x 4' grid
8H-K4W	1	8H X 4W	Call out in 4' x 4' grid
24H-K2W	1	24H X 2W	Call out in 4' x 4' grid
24H-K3W	1	24H X 3W	Call out in 4' x 4' grid
27H-K3W	1	27H X 3W	Call out in 4' x 4' grid



IRRIGATION NOTE
ALL IRRIGATION AREAS TO BE PROVIDED WITH
LOW PRECIPITATION HEADS OR DRIP SYSTEM WITH
AUTOMATIC CONTROLLER & BACKFLOW DEVICE
PER CITY CODES

COASTAL COMMISSION

EXHIBIT # 5
PAGE 22 OF 23

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG*
REBECCA A. THOMPSON
NANCI SESSIONS-STACEY
KIMBERLY A. RIBLE
ALICIA B. BARTLEY

* a professional corporation

LAW OFFICES OF
GAINES & STACEY LLP
16633 VENTURA BOULEVARD, SUITE 1220
ENCINO, CA 91436-1872

TELEPHONE (818) 933-0200
FACSIMILE (818) 933-0222
INTERNET: WWW.GAINESLAW.COM

RECEIVED
South Coast Region

JUN 20 2014

CALIFORNIA
COASTAL COMMISSION

June 18, 2014

ORIGINAL BY U.S. MAIL

VIA E-MAIL kschwing@coastal.ca.gov and VIA FACSIMILE (562) 590-5084

Mr. Karl Schwing
California Coastal Commission
200 West Oceangate, #1000
Long Beach, CA 90802

Re: Appeal No. A-5-LGB-14-0034
31109 South Coast Highway, Laguna Beach

Dear Mr. Schwing:

This office represents Morris Skenderian and Laguna Beach Bungalow and Village, LLC (the "LLC"). The LLC is the property owner for which Morris Skenderian is listed as the applicant in the City's Notice of Final Action for City of Laguna Beach, Local Coastal Development Permit No. 14-573. Mr. Skenderian is the property owner's architect. We are advised that an appeal from the City's final decision was filed on June 13, 2014 by Mark Fudge. We are also advised that a co-appellant, Penny Elia, has withdrawn her appeal. The appeal period ended on June 16, 2014 and there have been no other appeals.

We have not yet had the opportunity to review Mr. Fudge's appeal. However, the facts already demonstrate that Mr. Fudge does not have standing to appeal because Mr. Fudge is not an "aggrieved person" as required by California Code of Regs., Title 14, §13111(a). An aggrieved person who has standing to appeal a local government decision to the Coastal Commission is defined in California Code of Regs., Title 14, §13006 by reference to the same definition used in Public Resources Code §30801. Section 30801 provides that an "aggrieved person" means:

COASTAL COMMISSION

G&S\2012-001

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Mr. Karl Schwing
June 18, 2014
Page 2

“any person who, in person or through a representative, appeared at a public hearing of the commission, local government, or port governing body in connection with the decision or action appeal, or who, by other appropriate means prior to a hearing, informed the commission, local government, or port governing body of the nature of his concerns or who for good cause was unable to do either.”

Mr. Fudge did appear at the hearing of the City of Laguna Beach Planning Commission on May 14, 2014. Mr. Fudge did not provide any statement or evidence in writing. The entire content of Mr. Fudge’s statement to the Planning Commission is as follows (as transcribed from the public video of the May 14th meeting):

Mr. Fudge: My name is Mark Fudge and I wanted to wish all these people the very best of luck with their project. I have a couple of procedural things, a few concerns, one of which I’ll address to Mr. Skendarian. When you sent out your notice for your meeting and you sent them out on the 9th for the 12th of when you were going to meet with the public. I don’t think 3 days is enough time.

Commissioner: You need to talk to us.

Mr. Fudge: I understand. That was a concern to him. The project looks fine to me. One of my other concerns is a grove of trees at the back of the golf course that is about 100 years old. It appears in some of the first photographs of Laguna. Maybe you or maybe the applicant would like to think about making those these Heritage Trees. There’s any number of places you can find the photos. I throw that out there. And my main concern is about the application of CEQA. It says that the project is exempt and I’m curious as to how that was arrived at. Maybe some discussion could be had on that. From what I can see in the canyon there are a number of protected wildlife and plant material species that some concern has to be given to the location of the property causes some concern. I don’t think that the project is going to affect those but then it doesn’t alleviate the City and Staff from doing the initial study and simply giving it a categorical exemption simply based on the status of where the project is is simply not appropriate. Those are my concerns. Thank you.

Please note four things about Mr. Fudge’s statement. First, he states without equivocation “[t]he project looks fine to me.” That statement certainly does not express concerns which are then raised in his appeal.

Mr. Karl Schwing
June 18, 2014
Page 3

Second, Mr. Fudge's comment about notice for a meeting does not refer to any meeting of any agency of the City of Laguna Beach. The comment related to a private meeting to which Mr. Skenderian had invited neighboring property owners to meet and discuss the project.

Third, the trees to which Mr. Fudge refers to as potential heritage trees are at the back of the golf course, far from any of the development which was approved by the City in the Local CDP. The applicant has not proposed to remove any of the trees. The protection of "heritage trees" is not a part of the LCP, and not an issue as to whether or not the project conforms to the LCP.

Fourth, the major concern that Mr. Fudge expresses is that the City has approved a categorical exemption to apply to the development. The Coastal Commission does not review local government decisions on CEQA. CEQA is not a part of the LCP and is an independent law which is not contained in local codes but is governed by statute and Resources Agency regulations.

Mr. Fudge made no statement of any concern of the development's conformity with the Certified LCP. Since conformity with the standard set forth in the LCP is the only basis on which an appeal may be based (See Public Resources Code §30603), the absence of any statement by Mr. Fudge of any concern about any standard in the LCP, or even any aspect of the project to which a standard in the LCP might apply, fails to qualify Mr. Fudge as an "aggrieved person" with standing to file an appeal.

The purpose of having a standard that a person not be qualified to file an appeal without making his concerns known to the local government is that the local government has no opportunity to consider those concerns and potentially address them. The appeal which Mr. Fudge has prepared now goes on for some 30 pages of "concerns" which he never expressed to the Laguna Beach Planning Commission. This cannot reasonably be the basis on which a person qualifies as an aggrieved person for purposes of an appeal.

Under Public Resources Code §30802, an aggrieved person can only raise the issues in a proceeding to attack a Coastal Commission decision on the grounds that were articulated to the Commission. By incorporating the definition of an "aggrieved person" from Section 30801, the regulation establishes not only that the person express their concerns, but that the appeal can only be based upon those concerns that the appellant expressed. A full presentation at the local administrative hearing is necessary to preserve the integrity of the administrative proceedings "and to endow them with a dignity beyond that of mere shadow-play." *Tahoe Vista Concerned Citizens v. County of Placer* (1998) 67 CalApp.4th 95, 104.

G&S2012-001

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Mr. Fudge's failure to raise the issues that he now puts into his appeal deprived the property owner of a fair opportunity to meet those issues during the local hearing and deprived the City of the opportunity to make a full determination of all of those issues. Full presentation is necessary to avoid surprising the applicant in the event of a further review. See City of Walnut Creek v. County of Contra Costa (1980) 101 Cal.App.3d 1012, 1021. Mr. Fudge's failure to have raised any relevant issue of conformity with the LCP makes him ineligible to appeal on the grounds which he has stated.

As to Mr. Fudge's present claim that the LCP requires that categorical exemptions not be used when a development is in an environmentally sensitive area, Mr. Fudge made no such claim to the Planning Commission, and Mr. Fudge is factually wrong that any of the development is in an environmentally sensitive area. All of the proposed development is in areas already developed and no development is proposed for any environmentally sensitive area.

Finally, this is not the case where some other person raised the issues at the City level which Mr. Fudge now seeks to raise to the Coastal Commission. In fact, no other person or party raised the issues which Mr. Fudge has now advanced in his appeal.

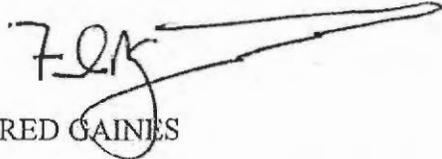
We request that you maintain this application on the agenda for the Coastal Commission's July 2014 meeting and recommend that the appeal raises no substantial issue because Mr. Fudge is not qualified as an aggrieved person to appeal or to raise the issues which he raises in his appeal.

Thank you for your immediate attention to this matter. Please let us know if we can provide you with any further information or assistance.

Sincerely,

GAINES & STACEY LLP

By


FRED GAINES

cc: Lilitana Roman (Via Email lroman@coastal.ca.gov)
Sherman L. Stacey, Esq. (Via Email)

COASTAL COMMISSION

EXHIBIT # 6
PAGE 4 OF 4