

CALIFORNIA COASTAL COMMISSION

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



Click here to go to
 original staff report

Th10a

ADDENDUM

DATE: January 6, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **Addendum to Item Th10a:** Coastal Development Permit Appeal No. A-5-LGB-13-0223 (Meehan), scheduled for the Commission meeting of January 8, 2015

I. Changes to the Staff Report

To reflect changes to the staff report, new text is **bolded and underlined**; deleted text is ~~struck-through~~.

A. *Corrections to errors in the staff report.* The upper right corner of the staff report incorrectly noted the date that the appeal was filed. The staff report also incorrectly identified the proposed floor area of the residence, garage, and storage area approved by the City of Laguna Beach because the applicant modified his proposal during the City's review process. The proposed residence and garage are slightly smaller than the staff report noted and the proposed storage area is slightly larger. The following changes to the staff report are required to fix these two errors:

1. Change the date the appeal was filed at the top of page 1 from ~~7/22/14~~ to **7/22/13**:
2. Change the project description on page 1 as follows:

Construct **4,821** ~~5,350~~ square foot single-family home, attached **732** ~~767~~ square foot three-car garage, and **138** ~~125~~ square foot storage area; and retain nonconforming site conditions including casita and beach access stairway on blufftop lot.

3. Change the second full paragraph on page 4 as follows:

The Commission received a valid notice of final local action on local Coastal Development Permit No. 13-0038 on July 8, 2013 (assigned appeal no. A-5-LGB-13-0223), which approved the construction of a **4,821** ~~5,350~~ square foot single-family

home, attached ~~732~~ 767 square foot three-car garage, and ~~138~~ 125 square foot storage area and the retention of nonconforming site conditions including casita and beach access stairway on a blufftop lot at 31381 Coast Highway in Laguna Beach.

4. Change the third full paragraph on page 7 as follows:

The previous house was set back approximately 25-feet from the bluff edge, as defined in Exhibit 3. The ~~4,821~~ 5,350 square foot house approved by local Coastal Development Permit 13-0038 has a varied roofline, generally 10 to 15 feet above grade, stepping downward towards the sea, and would encroach onto the bluff face by approximately five feet. The approved ~~138~~ 125 square foot storage area (mechanical room) and deck would encroach onto the bluff face by approximately 20 feet. The approved project also includes a ~~673~~ 767 square foot three-car garage, accessed from the existing driveway off of South Coast Highway, and a pool and spa on the blufftop (Exhibit 2).

5. Change the first sentence of the first full paragraph on page 14 as follows:

The local government approved a ~~4,821~~ 5,350 square foot house and a ~~138~~ 125 square foot storage area on a bluff face.

6. Change the second sentence of the first full paragraph on page 24 as follows:

In this case, the applicant is proposing to redevelop the site with a ~~4,821~~ 5,350 square foot house, an attached ~~673~~ 767 square foot three-car garage, and a ~~138~~ 125 square foot storage area.

7. Change the second sentence of the second full paragraph on page 28 as follows:

In this case, the applicant is proposing to redevelop the site with a ~~4,821~~ 5,350 square foot house, an attached ~~673~~ 767 square foot three-car garage, and a ~~138~~ 125 square foot storage area.

- B. *Findings in response to applicant's letter.* The applicant submitted a letter dated December 19, 2014, included in this addendum. The applicant argues that because he had a Pre-Application Site Meeting and submitted a Development Review Application to the City of Laguna Beach before the Commission effectively certified an update to the City of Laguna Beach Land Use Plan, the certified Land Use Plan (specifically the sections associated with the updated definition of bluff edge identified in the staff report) is not the correct standard of review. Commission staff finds no merit to the applicant's argument because both the City and the applicant had ample notice of the impending changes to the definition of bluff edge and its effects before the application was submitted, and because the City's action occurred after the Land Use Plan was effectively certified. The following findings are added at the end of the fifth paragraph on page 7 of the staff report, within the Local Coastal Program Certification section:

The Commission approved a major update (LGB-MAJ-1-10) to the Land Use Element with suggested modifications on December 7, 2011. The Laguna Beach City Council passed Ordinance No. 1559 incorporating the suggested modifications on February 7, 2012. Both actions occurred more than one month before the applicant began formally communicating with the City in the form of a Pre-Application Site Meeting and a Development Review Application, both dated March 8, 2012. Therefore, both the City and the applicant had ample notice of the impending update to the Land Use Plan and could have considered the potential effects the update would have on the proposed project.

The applicant argues that because his initial contact with City staff occurred before the update to the Land Use Element was effectively certified (see letter and exhibit in the Addendum dated January 6, 2015), the certified Land Use Plan is not the correct standard of review for a coastal development permit application or an appeal to the Coastal Commission. The Development Review Application contains a box titled "Development Category," which lists the types of permits required for a given development. None of the boxes for coastal development permit were checked. Additionally, the application contains a number of provisions under the title "Owner's Certificate," which the applicant signed on March 8, 2012. Provision 1 reads: *"I understand there are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision-making body about this application."* Because the application was a preliminary application, not an application for a local coastal development permit, the Commission finds that the applicant did not have rational basis to expect written or verbal statements made by City of Laguna Beach staff at a preliminary meeting to be the final word on the standard of review for a local coastal development permit application or an appeal to the Coastal Commission.

The Commission effectively certified the City's Land Use Plan update on May 9, 2012. The City of Laguna Beach Design Review Board held public hearings on the proposed development on February 7, 2013 and April 11, 2013, approving local Coastal Development Permit No. 13-0038 and adopting Resolution CDP 13.07 in support of its action at the latter hearing. Finally, at a public hearing on June 18, 2013, the Laguna Beach City Council upheld the Design Review Board's action. The City's actions occurred approximately one year after the effective certification of the Land Use Plan update. Page 3 of the staff report for the second Design Review Board hearing, dated April 4, 2013, makes reference to "the City's newly adopted Land Use Element" with respect to Action 7.3.8 regulating nonconforming structures. The City made clear that the Land Use Plan was the correct standard of review and directly referenced it at one of its hearings. That City action would take precedence over any written or verbal statements made by City staff at a preliminary site meeting more than one year prior.

There are limited statutory exceptions that allow for a development application to be processed in a manner that guarantees review of the application under the applicable regulations in effect at the time of application submittal, most of which

occur under the Subdivision Map Act or provisions regulating Development Agreements. On occasion, local governments adopt ordinances or regulations that require particular land use permits to be approved or denied on the basis of the law applicable at the time of application submittal. (See, e.g. *Hock Inv. Co. v. City & County of San Francisco* (1989) 215 Cal.App.3d 438, 447.) None of the exceptions apply to the present case and as such, the applicable Local Coastal Program provisions are those in place at the time of local government action on the subject CDP application. In this case, those provisions include the updated Land Use Plan and the policies related to determining the bluff edge. Therefore, the Commission finds that the applicant had no basis to expect the City to apply old sections of its Land Use Plan and that the correct standard of review was the applicable Local Coastal Program provisions at the time of the City's action. Likewise, the correct standard of review at the Commission's substantial issue and de novo hearings is the certified Land Use Plan and the public access and recreation policies of Chapter 3 of the Coastal Act.

- C. *Findings in response to appellants' letter.* The project appellants submitted a letter dated December 31, 2014, included in this addendum. The appellants provide new analysis of the history of the beach access stairway, stating that there is no proof of its historical significance and that it should be removed. Additionally, the appellants recommend that the stone portion of the casita be preserved as a patio as an example of the history of the site. The appellants expand on their original argument that a five-foot wide sidewalk should be required, rather than the three-foot wide sidewalk proposed by the applicant and recommended with Conditions in the staff report. In response to the appellants' letter, the following findings are added at the end of the second full paragraph on page 25 of the staff report, within the Visual Resources section:

The appellants argue that there is no proof that the wooden beach access stairway was constructed at the same time as the original residence on the site, which has since been demolished. They reference a photograph showing the beach access stairway submitted by the applicant, which the applicant claimed was taken in 1929, but which was actually taken no earlier than 1938 based on the appearance of the Halliburton House in the photo. They also reference an old housing tract map and road plan, showing that area where the beach access stairway currently exists was not part of the same plot of land where the original Skidmore house was constructed in 1928. The Commission finds that while the beach access stairway may be old, there is no evidence that it is historically significant.

The appellants suggest that a portion of the casita is potentially historically significant, by virtue of its stonework which incorporates the early San Onofre breccia. The appellants suggest that the stone portion of the casita be preserved as a patio as an example of the history of the site, while the rest of the casita should be demolished because more recent construction has taken away from its historic character. The applicant's historical analysis by Galvin Preservation Associates

(2012) made similar findings. The Commission finds that a portion of the casita may be historically significant.

The following findings are added in front of the first full paragraph on page 27 of the staff report, in the Public Access and Recreation section:

There is limited space within the Caltrans right-of-way and the optimal outcome for enhancing public access is a configuration with both public parking and a public sidewalk. The applicant has communicated extensively with Caltrans, the City, and Commission staff and has determined that a three-foot wide sidewalk on top of the existing retaining wall is feasible and that public parking can be maintained. Installing a five-foot wide sidewalk in this location would require the elimination of the existing public parking spaces or an extensive relocation and reconstruction of the existing retaining wall and driveway. Finally, the guidelines referenced by the appellants are guidelines and not standards. The minimum width of 36-inches is required by the Americans with Disabilities Act, while the U.S. Access Board recommends providing wider sidewalks wherever possible. In this case, no sidewalk currently exists and the applicant's proposal to provide a three-foot wide sidewalk will enhance public access and improve pedestrian safety.

II. Additional Letters

The Commission received a letter from appellant Mark Nelson, dated January 1, 2015, included in this addendum. The letter raises the same issues detailed in Mr. Nelson's original appeal and supports staff's recommendation with the exception of the sidewalk, which Mr. Nelson argues should be five feet wide for reasons addressed in the staff report.

The Commission received a letter from Johanna Felder on behalf of Village Laguna, dated January 2, 2015, included in this addendum, which is substantially similar to Mr. Nelson's letter and which raises issues addressed in the staff report.



December 19, 2014

RECEIVED
South Coast Region

DEC 19 2014

CALIFORNIA
COASTAL COMMISSION

CALIFORNIA COASTAL COMMISSION
Attention: Zach Rehm
200 OceanGate
Long Beach, CA 90802

Re: 31381 South Coast Highway, Laguna Beach, California 92651

Dear Mr. Rehm:

This office represents John Meehan in connection with the above referenced property.

The Coastal Development Permit approved by the City of Laguna Beach to construct a new, 4,821 square foot home on the 14,350 square foot lot located at 31381 South Coast Highway in Laguna Beach has been appealed to the California Coastal Commission for further review. Staff has asked that the bluff setback determination be reviewed, proposing that the bluff definition set forth in the Commission's May 9, 2012 revision to the Laguna Beach LCP governs. John Meehan (the "Applicant") respectfully disagrees with this position and requests that Staff modify its findings.

The Applicant submitted a Development Review Application for this project on March 8, 2012 (Exhibit 1). The application sought approval for a 5,500 square foot home, 750 square foot garage and 780 square feet of deck space. In processing the application, a Site Development Review Meeting was held onsite, with the City's Director of Community Development and the Principal Planner, to identify all applicable setbacks, including the bluff location, as then defined by the Laguna Beach Municipal Code and the existing elements of the Local Coastal Program. The findings stated in the Community Development Department Site Development review meeting were prepared and sent to the Applicant on March 20, 2012 and provide, in pertinent part, as follows:

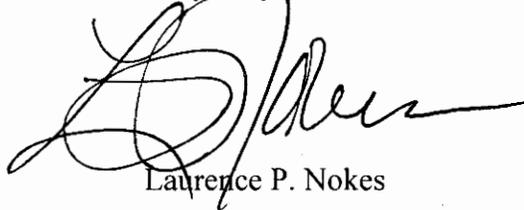
"It has been determined (through legal advice) there will be no change to the present method of the 45 degree provisions of the municipal code section 25.50.004 to determine the bluff top. The Director of Community Development reviewed the property survey provided by the applicant and determined that the 25 foot bluff top setback will be measured from the top of the most ocean ward vertical cliff edge." [Notes for Evaluation Meeting Number: 12-588; March 20, 2012]

It was not until May 9, 2012, after the Application was submitted and was in process, that the California Coastal Commission certified a change to the Local Coastal Program definition for bluff top set-backs. This Certification was made, and the code was modified, two months AFTER the current Application was commenced and the bluff and its corresponding setback were established under the existing codes, and verified by the Director of Community Development.

There is no basis to impose a setback that did not exist on the date the Application was commenced. The Applicant therefore respectfully requests that you either remove the bluff top review from the agenda, or find “no substantial issue” on this matter in your staff report and your meeting presentation.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'L. P. Nokes', written in a cursive style. The signature is positioned above the printed name 'Laurence P. Nokes'.

Laurence P. Nokes

Enclosure
cc: Client

DEVELOPMENT REVIEW APPLICATION

NC

Please completely fill-in the top-half of side one.

PROJECT LOCATION ADDRESS 31381 COAST HIGHWAY, LAGUNA BCH, CA 92651

VALUATION OF WORK \$ — LOT SIZE 14,350 SF

ASSESSOR'S PARCEL NO. 056-032-10

DESCRIBE IN DETAIL SCOPE OF WORK NEW SINGLE FAMILY RESIDENCE WITH ATTACHED 3 CAR GARAGE, NEW POOL & SPA.

	FLOOR AREA	GARAGE AREA	DECK AREA	STORAGE AREA	TOTAL REMODEL AREA	NO OF STORIES
EXISTING BUILDING	—	—	—	—	—	—
NEW CONSTRUCTION	5,500 SF	750 SF	780 SF			2
TOTALS						

The remainder of side one is for staff use only. See other side for required certificates and signatures.

TYPE OF APPLICATION	FEE	DATE RECEIVED	APPLICATION NUMBER	DATE APPROVED / DENIED			
				ADMIN	BOA/DRB	PC	CC
PRE-APPLICATION SITE MEETING	525	3/8/12	12-558				
ZONING PLAN CHECK							
DESIGN REVIEW							
COASTAL DEVELOPMENT PERMIT							
VARIANCE							
SUBDIVISION							
CEQA							
OTHER:							

YARDS	MAIN BUILDING		ACCESSORY BUILDING		HEIGHTS		CLEARANCE	BY	DATE	
	MINIMUM	SHOWN	MINIMUM	SHOWN	SHOWN	MAXIMUM				
FRONT							CEQA			
RIGHT SIDE							ZONING PLAN CHECK			
LEFT SIDE					SLOPE	HEIGHT FF/FG	ZONING / PLANNING			
REAR							STRUCTURAL PLAN CHECK			
DISTANCE BETWEEN BUILDINGS								FINAL CHECK		

Coastal Development Permit

Development Category: Local Coastal Development Permit is required, and it is , is not appealable to Coastal Commission.

Coastal Commission Permit is required.

Categorical Exclusion

Exempt (List Code Section) _____

056-032-10

Property Owner MR. JOHN MEEHAN
 Phone # _____ Cell Phone # 949.933.1813
 Mailing Address 362 PINECREST City/St/Zip LAGUNA BEACH, CA-92651
 Email Address jhmeehan@gmail.com Receive Project Updates by Email - Yes No

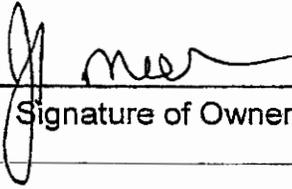
Architect/Agent MARK SINGER ARCHITECTS INC.
 Phone # 714.483.3790 Cell Phone # -
 Mailing Address 250 E. BAKER STREET City/St/Zip COSTA MESA. CA.
 Email Address info@marksingerarchitects.com
 Fax # 949.499.6214 State License # C-15647

Other Development Team Member _____
 Phone # _____ Cell Phone # _____
 Mailing Address _____ City/St/Zip _____
 Email Address _____ Receive Project Updates by Email - Yes No
 Fax # _____ State License # _____

Please note that the applicant/agent will receive a U.S. Postal Service or Email notification of project updates, such as plan check results. In addition, all other development team members listed on this page will also receive project updates by Email, including plan check results, unless indicated otherwise. This will improve communication with the applicant's team during the entitlement process.

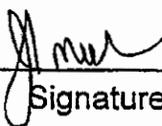
OWNER'S CERTIFICATE

1. I understand there are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision-making body about this application.
2. I understand major changes to the project may require a new application and payment of additional or new fees.
3. If this application is approved I hereby certify that I will comply with all conditions of approval. I also understand that the failure to abide by and faithfully comply with any and all conditions attached to the approval action shall constitute grounds for the revocation of said approval.
4. I hereby certify that to the best of my knowledge the information I have presented in this form and the accompanying materials is true and correct. I also understand that additional data and information may be required prior to final action on this application. I have read and understand the content contained in this certificate.
5. I understand that it is the responsibility of the property owner to ensure that discrepancies do not exist between the project's description on the permit, the architectural plans and the structural plans. If discrepancies exist between the architectural plans and the structural plans, the architectural plans shall take precedence. Ultimately, the scope of work, as described on the permit that is authorizing the construction, takes precedence over the plans. If there is a discrepancy between the plans and the description on the permit, the permit governs.
6. I am the record owner of the property described in this application, and hereby consent to the filing of the application.

 Signature of Owner
03/08/12 Date

AUTHORIZATION OF AGENT

I am the record owner of the property described in this application and hereby designate and authorize the agent as shown on this application to act on my behalf in all matters pertaining to processing of this application through the City of Laguna Beach.

 Signature of Owner
 _____ Date



P. O. Box 9668
South Laguna, CA 92652
southlaguna.org

December 31, 2014

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

RE: 31831 Coast Highway, A-5-LGB-13-0223

Commissioners:

We have the following comments regarding the staff report on the appeal of the City of Laguna Beach-issued Coastal Development permit to construct a new residence at the above address, the site of the now-demolished historical structure known as Stonehenge and the Guy Skidmore house.

We appreciate the policies cited in the staff report and respect the recommendations. However, we are supplying additional comments regarding the lack of historic significance of the stair tower, suggestions regarding keeping the stone components of the casita and increasing the width of the Coast Highway sidewalk to 5'.

1. Significance of the wood stair tower There is no proof that the stair tower was built by the Skidmores, or that it should be considered historic. Therefore we agree with staff that it should be removed.

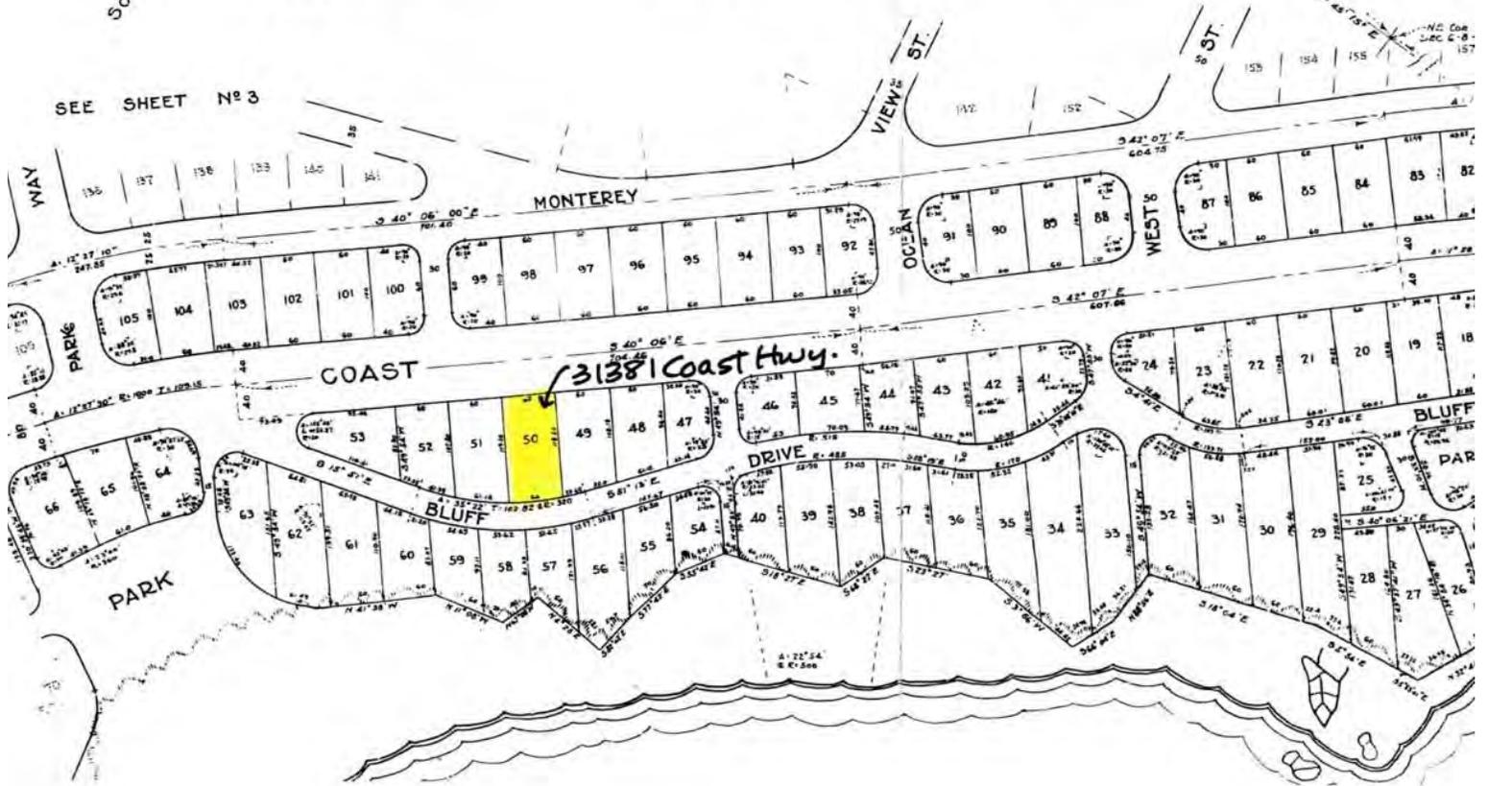
The Skidmores built the now-destroyed house at 31381 Coast Hwy. in 1925. At that time the house was on lot 50 of Tract 702 (filed July 18, 1924). See attached. Lot 50 was not an ocean-front lot since there was another lot (Lot 57) in front of it, accessed by an extension of Bluff Drive that was never built. It wasn't until April of 1927 that the Tract was reconfigured as part of Tract 831, adding oceanfront property to Skidmore's lot and renaming it Lot C. The Skidmores lost the property in 1928 ±. There is no evidence that the stairway was built in conjunction with Lot C, and it was highly unlikely since the family was about to lose the property in bankruptcy.

TRACT No 702 COAST ROYAL

BEING A SUBDIVISION OF PORTIONS OF BLOCKS A, B, C, N & O OF COAST ROYAL AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 4 PAGES 74 & 75 MISC. MAPS REC. OF ORANGE COUNTY AFTER ABANDONMENT OF STREETS AND ALLEYS AS PER RESOLUTION OF THE BOARD OF SUPERVISORS AS RECORDED IN MINUTE BOOK 18. PAGE 339. ALSO PORTIONS OF LOTS 2 & 3 SEC. 6 AND LOT 4 SEC. 5 ALL IN T. 8 S. R. 8 W. S. B. & M. LAGUNA BEACH, ORANGE COUNTY, CALIFORNIA.

FILED
55
At Request of
Wessner
ORANGE COUNTY RECORDS
Wessner
500

SCALE: 1"=100'



SEE SHEET No 3

SEE

31381 Coast Hwy.

The photograph the applicant uses to try to prove the age of the stairway was not taken in 1929 as he asserts. Rather it was taken at least 10 years after the Skidmores lost the property, since the landmark Halliburton house on the ridge is in the photo and that house was completed in 1938.



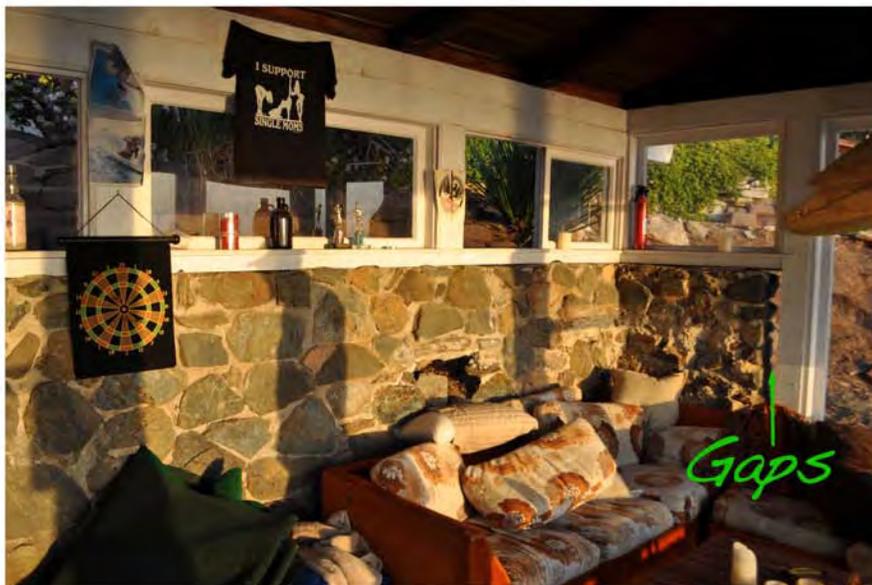
Photo dated based on architecture, design and presence of other buildings in the photo. The original cabana and the staircase to the beach remain intact and unaltered at the present time.

The above slide was submitted by the applicant in conjunction with the previous appeal in which he was requesting to demolish the historic house. It is erroneously dated 1929. Notes in green are ours.



Comment: It seems ironic to us that the applicant fought so hard to get permits to demolish what was a true historic resource, the Stonehenge house, but now is maintaining that the stairs are historic and should be allowed to remain, even though they are not as old and significant as the house was. In addition, they are non-conforming and not on his property.

2. Demolition of the Casita Since the demolition of the house and most of its surrounding stone walls there is very little left of the early San Onofre breccia (native) stone construction. The pathways and walls of the casita are among these remaining examples. The attached photo shows that the wood enclosure was built separately from the stone walls/surround. There are large gaps between the rustic, uneven walls and the framing. While we cannot date the construction of this stone work, probably used as a patio or look-out point, it is similar to other walls of the early Coast Royal construction.



Comment: We suggest that the demolition recommended in the staff report include only the framing and roof of the Casita, leaving the stone work/patio in place. This would no longer be a habitable structure and would remain as an example of the work that was on the site before the demolition of the other historical structures.

3. Sidewalk along Coast Highway: Our appeal points out that a sidewalk 5' wide is recommended in the LCP. It is also recommended for ADA access because:

“A 60-inch (1525-mm) minimum width can accommodate turns and passing space and is recommended for sidewalks adjacent to curbs in order to provide travel width away from the drop-off at street edge.” (See source of quote at the end of our letter.)

http://katana.hsrb.unc.edu/cms/downloads/Checklist_Accessible_Sidewalks_Crossings.pdf

Comment: The goal of the LCP is to provide continuous sidewalks all along Coast Highway. At this time our only way to implement this program is incremental, with each project approval. In order to create this continuous route each segment should be conforming. There are many impediments, but with new construction these difficulties can be overcome. If we allow new projects to go forward with substandard sidewalk widths we will not achieve the safe and comfortable walkways needed for the public.

Now is the time to design for the required sidewalk. There is now a blank slate on this property. The adjacent property is being designed. Grades on the driveway and garage can be adjusted. See attached possible ways to build a 5' wide sidewalk from Ann Christoph Landscape Architect FASLA. We urge the commission to require the full 5' width for the sidewalk.



We are including again the photographs from our appeal because they reproduced very poorly in the staff report. We want the Commission to be able to see the more distant views of the stair tower and how pedestrians are having to walk in the busy highway past this property.

Thank you for all of your work on this appeal and we appreciate the many LCP issues raised and addressed in the staff report.

Sincerely,



Bill Rihn, vice-president
South Laguna Civic Association

SIDEWALKS

A new sidewalk should be wider than the minimum accessible travel width of 36 inches (915 mm). Additional maneuvering space is necessary for a pedestrian using a wheelchair to turn, to pass by other pedestrians, to operate and pass through an entrance door, to use a sidewalk telephone or to activate a pedestrian crossing button. A 60-inch (1525-mm) minimum width can accommodate turns and passing space and is recommended for sidewalks adjacent to curbs in order to provide travel width away from the drop-off at street edge; a 48-inch width can accommodate side-by-side travel with a service animal.

The U.S. Access Board is a federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards for the built environment, transportation, communication, medical diagnostic equipment, and information technology.

Ann Christoph landscape architect asla

31713 coast highway, south laguna, california 92651

949-499-3574

fox 499-1804

December 31, 2014

Bill Rihn, Vice-President, South Laguna Civic Association
P. O. Box 9668
South Laguna, CA 92651

Dear Bill:

You have asked me, as a landscape architect, to suggest how one might design a 5' wide sidewalk along the highway frontage at 31381 Coast Highway. I am outlining two possibilities. I am sure there are others.

Option 1

1. Remove the wood fence. Leave the guard rail in place. Provide a paved surface behind the curb for people to get out of their cars.
2. Working with the adjacent neighbor (application now being reviewed), raise grade on the driveway not to exceed 5% slope (maximum allowed under ADA)
3. Leave a 2-3' planting space at the toe of the wall and install 5' sidewalk paralleling the new driveway grade.
4. Raise the floor level of the garages to meet the new raised driveway grade.
5. Make additional sidewalk and driveway easement dedications as necessary.

Option 2

1. Remove the wood fence. Install a cantilevered 5' wide walkway and open picket guardrail so views to the ocean are open.
2. Working with the adjacent neighbor (application now being reviewed), raise grade on the driveway so that the transition of the walkway to the driveway on each end can be more easily made.
3. Leave a 3-4' planting space at the toe of the wall and next to the driveway.
4. Raise the floor level of the garages to meet the new raised driveway grade.
5. Make additional sidewalk and driveway easement dedications as necessary.

Thank you for your work on improving pedestrian access along the highway.

Sincerely,



Ann Christoph, Landscape Architect FASLA

**LAW OFFICE OF
MARK F. NELSON**

**31423 South Coast Highway, No. 71
Laguna Beach, California 92651-6997 USA
Telephone: 949.371.1086
Facsimile: 949.371.1087
mnelson@mfglobal.com**

January 1, 2015

Via Email: zach.rehm@coastal.ca.gov

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

Re: Appeal No. A-5-LGB-13-0223 (Meehan)
31831 Coast Highway, Laguna Beach, CA (the "Meehan Property")

Dear Commissioners:

I have resided fulltime for over 22 years at the Laguna Royale Condominiums located at 31423 Coast Highway, Laguna Beach, California, immediately south of what is now the Meehan Property. I am also the long-standing President of the Laguna Royale Condominium Association governing the 78 units at Laguna Royale. Our building was constructed in 1961 and for over 52 years has been located next to the Meehan Property. We are very concerned about the proposed development of the Meehan Property.

Recommended Action

We respectfully concur with, and request approval of, the California Coastal Commission Staff Report: Appeal-Substantial Issue and De Novo dated December 12, 2014 (the "Staff Report") with the modifications recommended in the South Laguna Civic Association letter dated December 31, 2014 commenting on the Staff Report (the "SLCA Letter") regarding the lack of historic significance of the wood stair tower to the beach and increasing the width of the Coast Highway sidewalk to five feet. We also strongly support the bluff-top set back requirements in the Staff Report. We request the opportunity to review the modified development plans for the Meehan Property to further ensure that they comply with the Staff Report and do not raise any new development issues.

Analysis

1. Wood Stair Tower. There is no proof that the wood stair tower to the beach is historic in nature. That rickety tower is a fire and safety hazard, public nuisance, invitation to trespass, eyesore, encroachment on public property and does not conform with applicable laws. Therefore, we agree with the Staff Report and SLCA Letter that the tower should be removed.

2. Sidewalk along Coast Highway. Unfortunately, Laguna Beach is currently one of the most dangerous cities in the United States for pedestrians. The Laguna Beach Police Department has

investigated 3 fatal and 65 injury collisions involving pedestrians during the past 3 years. We recommend that the sidewalk along Coast Highway be expanded to five feet because that increases safety to pedestrians; complies with the City of Laguna Beach Local Coastal Program (“LCP”), Americans With Disabilities Act and applicable laws; and minimizes potential liability to the Commission, Cal Trans and the City of Laguna Beach otherwise associated with a smaller, non-conforming sidewalk width.

Conclusion.

We trust that the irony of Mr. Meehan’s historic argument in this proceeding is not lost on the Commission or Staff. How is it possible that Mr. Meehan can now suddenly conveniently claim to champion the historic nature of remaining structures on the property when during years of previous presentations to the City of Laguna Beach and the Commission, he vigorously argued that the structures on the property had no historic value? He also took advantage of two episodes of illegal demolition in 2009 and 2010 to support his claim that there were no historic structures on the property.

None of the recommendations in the Staff Report and SLCA Letter are intended to penalize applicant Meehan, but to assure preservation of the community’s interest and safety. Mr. Meehan was well aware of the unpermitted alterations to the property knowing that he would be responsible for correcting code violations and complying with all applicable laws. Mr. Meehan cannot fairly take advantage of the known violations of a prior owner relative to the LCP or the Commission.

Based on all the foregoing, we endorse the Staff Report and recommendations in the SLCA Letter respecting the wood stair tower to the beach and increasing the width of the Coast Highway sidewalk to five feet all of which will substantially improve the Meehan Property and its safety and compliance with important applicable laws and lessen significant environmental impacts.

Sincerely,

A handwritten signature in blue ink that reads "Mark F. Nelson". The signature is written in a cursive style with a large, stylized initial "M".

Mark F. Nelson



To preserve and enhance the unique village character of Laguna Beach

Jan 2, 2015

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

RE: 31831 Coast Highway, Laguna Beach, Orange County; A-5-LGB-13-0223

Commissioners:

The Coastal Commission staff has wisely recommended that the beach access stairway at 31381 Coast Highway in Laguna Beach should be removed. As staff points out, the stairway is nonconforming and almost all of it is on the county-owned public beach property. The applicants' contention that the stairs should be retained because of historical significance is curious given that they didn't mind demolishing the Skidmore house, clearly of much greater historical significance. Even if the historical argument were acceptable, the photo that purports to show the existence of the stairway in 1929 is misdated, since the Halliburton house, built in 1938, is visible in the photo.

Village Laguna is, however, concerned that the sidewalk in front of this address be given adequate attention. We have been experiencing an alarming increase in pedestrian vs vehicle accidents in Laguna Beach. In conformity with the Local Coastal Program's goal of providing continuous sidewalks along Coast Highway, it's very important to make sure a pedestrian traverse is instituted every time a property is developed or modified. The property next door to 31381 is now being designed, and this is a critical moment for these two properties to collaborate on a design to provide adequate 5-ft sidewalks. The minimal 3-ft width is not enough given the adjacent high-speed road and increasing demand for wheelchair and disability access. If we're going to do it, let's do it right.

Thank you for your careful attention to the issues involved in this project.

Sincerely,

A handwritten signature in black ink that reads "Johanna Felder". The signature is written in a cursive, flowing style.

Johanna Felder, President
Village Laguna

CALIFORNIA COASTAL COMMISSION

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

Th10a

Filed: 7/22/14
49th Day: Waived
Staff: Z. Rehm-LB
Staff Report: 12/18/14
Hearing Date: 1/8/15

STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE AND DE NOVO

Appeal Number: A-5-LGB-13-0223

Applicant: John Meehan

Agents: Larry Nokes, Dave Neish, Mark Singer, Brendan Horgan, et al.

Local Government: City of Laguna Beach

Local Decision: Approval with Conditions

Appellants: Commissioners Bochco & Brennan, Mark Nelson, Bill Rihn

Project Location: 31381 Coast Hwy., Laguna Beach, Orange County; APN 056-032-10

Project Description: Construct 5,350 square foot single-family home, attached 767 square foot three-car garage, and 125 square foot storage area; and retain nonconforming site conditions including casita and beach access stairway on blufftop lot.

Staff Recommendation: Substantial Issue – Approval with Conditions

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, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds on which appeals have been filed because the City-approved development on the bluff face and retention of nonconforming structures on the bluff face raise issues as to project’s consistency with the City of Laguna Beach certified Local Coastal Program (LCP).

The primary issue raised by the approved development is consistency with the LCP and the negative precedent of approving development on the bluff face, which negatively affects the natural landform and visual resources. Additionally, the City’s approval of the applicant’s proposal to retain a nonconforming beach access stairway would negatively affect public access along the public beach.

Appeal – Substantial Issue and De Novo Hearing

Staff also recommends that the Commission **approve** the de novo permit, with special conditions requiring the applicant to: 1) submit revised plans with the required structural setbacks and removal or relocation of nonconforming structures, 2) substantially conform to the geotechnical recommendations, 3) implement construction best management practices, 4) submit a pool/spa protection plan to prevent and detect leaks, 5) demonstrate that he has the legal right to develop a three-foot wide public sidewalk fronting the site, 6) demonstrate that he has the legal right to remove the beach access stairway on the County beach, 7) assume the risks of the development, 8) waive the right to future shoreline protective device(s), and 9) record a deed restriction against the property incorporating all of the terms and conditions of the permit.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE.....	4
II. APPELLANTS’ CONTENTIONS.....	4
III. LOCAL GOVERNMENT ACTIONS.....	4
IV. APPEAL PROCEDURES.....	5
V. FINDING AND DECLARATIONS.....	6
A. PROJECT LOCATION AND DESCRIPTION	6
B. LOCAL COASTAL PROGRAM CERTIFICATION	7
C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS	7
D. SUBSTANTIAL ISSUE ANALYSIS	8
VI. MOTION AND RESOLUTION – DE NOVO.....	15
VII. STANDARD CONDITIONS	15
VIII. SPECIAL CONDITIONS	16
IX. FINDINGS AND DECLARATIONS	20
A. PROJECT LOCATION AND DESCRIPTION	20
B. GEOLOGIC HAZARDS.....	20
C. VISUAL RESOURCES.....	25
D. PUBLIC ACCESS.....	26
E. WATER QUALITY	28
F. DEED RESTRICTION	28
G. LOCAL COASTAL PROGRAM	29
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT.....	29

APPENDICES

[Appendix A](#) - Substantive File Documents

EXHIBITS

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Project Plans
- Exhibit 3 – Commission Staff’s Determination of Bluff Edge
- Exhibit 4 – Photographs
- Exhibit 5 – City Staff Reports
- Exhibit 6 – City Resolution
- Exhibit 7 – Appeals

MOTION AND RESOLUTION FOR SUBSTANTIAL ISSUE WITH REGARD TO APPEAL NO. A-5-LGB-13-0223

Motion: *I move that the Commission determine that Appeal No. A-5-LGB-13-0223 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-13-0223 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 policies of the Coastal Act.*

II. APPELLANTS' CONTENTIONS

The Commission received a valid notice of final local action on local Coastal Development Permit No. 13-0038 on July 8, 2013 (assigned appeal no. A-5-LGB-13-0223), which approved the construction of a 5,350 square foot single-family home, attached 767 square foot three-car garage, and 125 square foot storage area and the retention of nonconforming site conditions including casita and beach access stairway on a blufftop lot at 31381 Coast Highway in Laguna Beach.

On July 22, 2013, within ten working days of receipt of the valid notice of final action, Commissioners Dayna Bochco and Brian Brennan, Mark Nelson, and Bill Rihn appealed the project on the grounds that the approved project does not conform to the requirements of the City of Laguna Beach certified LCP and the public access policies of the Coastal Act (**Exhibit 7**).

The appellants make the following contentions: a) the approved house does not incorporate historic features of the existing house, b) existing nonconforming structures are not proposed to be demolished at the same time that the site is proposed to be redeveloped, c) the approved house is sited on the bluff face and does not conform to the required setbacks, d) the approved house has not been sited to minimize landform alteration, e) the City did not condition its approval to require the applicant to waive the right to future shoreline protective device(s), f) the approved three-foot wide sidewalk fronting the approved house is inadequate, and g) the approved retention of the beach access stairway is not on the applicant's property and intrudes on the public beach.

III. LOCAL GOVERNMENT ACTIONS

On February 7, 2013 and April 11, 2013, the City of Laguna Beach Design Review Board held public hearings on the proposed project. At the conclusion of the public hearing on April 11, 2013,

the Design Review Board approved with conditions local Coastal Development Permit No. 13-0038 and adopted Resolution CDP 13.07 in support of its action.

On June 18, 2013, the City Council heard an appeal from Mark Nelson and Larry Zadan, who appealed the Design Review Board’s decision on similar grounds to those detailed in this appeal. At the conclusion of a public hearing, the City Council denied the appeal and sustained the Design Review Board’s approval of local Coastal Development Permit No. 13-0038 and adoption of Resolution CDP 13.07 Resolution. The City’s action was then final.

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. Developments 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 three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)].

In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a “major public works project” or a “major energy facility” [Coastal Act Section 30603(a)(5)].

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.*

Sections 30603(a)(1) and (2) of the Coastal Act establish the project site as being appealable by its location between the sea and first public road and the fact the site is within 300 feet of the inland extent of the beach, the mean high tide line, and the top of the seaward face of a coastal bluff.

The grounds for appeal of an approval by a certified local government of a local CDP authorizing development in the appealable area are stated in Section 30603(b)(1):

- (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 visual resources, geologic stability, setbacks, nonconforming structures, and public access, and that the approved development does not comply with the public access and recreation provisions of 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. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review.

In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation provisions of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

Qualifications to Testify before the Commission

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 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 applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. At the de novo hearing, the Commission will hear the proposed project de novo and all interested persons may speak.

V. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION AND DESCRIPTION

The subject site is a 14,350 square foot blufftop lot located at 31381 Coast Highway, between the first public road and the sea, and has a designated land use of R-1 (Residential Low Density). The site is located south of Aliso Beach in the “South Laguna” area of the City of Laguna Beach. The site is bordered by a vacant lot with a single family house in the permitting process at the north and by the Laguna Royale condominium complex at the south. Public access to the section of beach (administered by Orange County) seaward of the site is available from Aliso Beach, located approximately 1,200 feet to the north of the site, and from a pedestrian accessway at Camel Point Drive, approximately 460 feet to the north of the site (**Exhibit 1**).

The site is currently developed with a semi-circular concrete driveway with separate entry and exit ways from Coast Highway, an approximately 80 year old 200 square foot casita on the face of the bluff, and an approximately 80 year old 90-foot long wooden beach access stairway structure projecting out from the the face of the bluff, partially located on the public beach (**Exhibit 4**). The area at the top of the bluff (landward of the bluff edge as depicted in **Exhibit 3**) is currently graded and covered by landscaping and sandbags for erosion control.

The area at the top of the bluff was previously developed with an approximately 80 year old 2,654 square foot house and a 400 square foot detached garage. Following an appeal of the City of Laguna Beach’s action to approve the demolition of those structures, which the appellants argued were historic resources, the Commission approved Coastal Development Permit A-5-LGB-12-091 for the demolition at a de novo hearing on March 12, 2014. The applicant has since completed the demolition and complied with the special conditions of the Commission’s permit, specifically the implementation of interim landscaping and erosion control measures.

The previous house was set back approximately 25-feet from the bluff edge, as defined in **Exhibit 3**. The 5,350 square foot house approved by local Coastal Development Permit 13-0038 has a varied roofline, generally 10 to 15 feet above grade, stepping downward towards the sea, and would encroach onto the bluff face by approximately five feet. The approved 125 square foot storage area (mechanical room) and deck would encroach onto the bluff face by approximately 20 feet. The approved project also includes a 767 square foot three-car garage, accessed from the existing driveway off of South Coast Highway, and a pool and spa on the blufftop (**Exhibit 2**).

Finally, the approved development includes the retention of the existing approximately 200 square foot casita on the bluff face and the retention of the approximately 90-foot long wood beach access stairway on the bluff face and the public beach (**Exhibit 2 and Exhibit 4**). The applicant argues that these structures are historic resources and should be preserved.

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 Commission approved a major update (LGB-MAJ-1-10) to the Land Use Element on December 7, 2011 and concurred with the Executive Director’s determination that the suggested modification had been properly accepted on May 9, 2012. The Implementation Plan (IP) portion of the LCP 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 public access and recreation

provisions 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.

D. SUBSTANTIAL ISSUE ANALYSIS

Staff is recommending that the Commission find that a substantial issue exists with respect to whether the local government action conforms with the visual resources, geologic hazards, setbacks, nonconforming structures, and public access policies of the City’s certified LCP and the public access policies of Chapter 3 of the Coastal Act, for the reasons set forth below.

1. The approved development is sited on the bluff face.

The Land Use Element, a component of the City of Laguna Beach certified LCP, contains the following definition of “Oceanfront Bluff Edge or Coastal Bluff Edge”:

The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff, the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step like feature at the top of the bluff, the landward edge of the topmost riser shall be considered the bluff edge. Bluff edges typically retreat over time as a result of erosional processes, landslides, development of gullies, or by grading (cut). In areas where fill has been placed near or over the bluff edge, the original bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

Based on the definition, the bluff edge is located as depicted in **Exhibit 3**, seaward of which a downward gradient is maintained continuously to the base of the bluff, with a small level pad cut into the bluff face where the existing casita is sited (see photographs in **Exhibit 4**). The area where the downward gradient exists continuously is the bluff face. The applicant argues that the bluff edge is the line where a 45 degree slope is maintained continuously, but that definition is based on an interpretation of old City definitions and policies. The major update to the Land Use Plan, which made clear the definition of bluff edge, was certified on May 9, 2012, more than one year before the City's final action to approve the development.

Policy 7.3 of the Land Use Element states:

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.

Action 7.3.5 of the Land Use Element states:

Prohibit development on oceanfront bluff faces, except public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize landform alteration of the oceanfront bluff face, to not contribute to further erosion of the oceanfront bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.

The City's action is inconsistent with Policy 7.3 and Action 7.3.5 because it approved development on an oceanfront bluff face. In its action, it failed to protect an area of unique scenic quality and public views. The second sentence in Action 7.3.5 does not apply to the approved development because it is not a public improvement. The policy explicitly prohibits private developments on ocean front bluff faces.

2. The approved development does not conform to required bluff setbacks.

Action 10.2.7 of the Land Use Element states:

Require all new development located on oceanfront bluffs to be sited in accordance with the stringline but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools that require a structural foundation. The setback shall be increased where necessary to ensure geologic safety and stability of the development.

Action 10.2.8 of the Land Use Element states:

On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10 feet from the bluff edge. Require accessory

structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards.

The City's action is inconsistent with Action 10.2.7 and 10.2.8 because it approved a principal structure (the house) and accessory structures (the storage area and decks) with zero setback from the bluff edge. In fact, the approved development encroaches onto the bluff face.

3. The approved development is not sited in the most suitable area of the lot to preserve visual resources and minimize natural landform alteration, and the City did not condition the permit to minimize future natural landform alteration.

Policy 2.8 of the Land Use Element states:

Require building design and siting to be compatible and integrated with natural topographic features, minimize significant alteration of natural topography and/or other significant onsite resources, and protect public views as specified in the Design Guidelines and the Landscape and Scenic Highways Resource Document.

Action 7.3.3 of the Land Use Element states:

Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.

Policy 7.10 of the Land Use Element states:

Require new construction and grading to be located in close proximity to preexisting development to minimize environmental impacts and growth-inducing potential.

The approved house and accessory storage area and decks encroach onto the bluff face and will likely require substantial grading and deepened foundations. The applicant has not provided Commission staff with a foundation plan, so the proposed foundation elements are unknown. The portion of the site above the bluff edge is already graded, following the demolition of the pre-existing structure. Development within the required setbacks from the bluff edge could likely be accomplished with a conventional foundation.

Development on the bluff face also impacts visual resources. Viewing the bluff from the public beach, the approved house would obscure a portion of the natural landform, which is inconsistent with the LCP policies on visual resources.

Finally, the City's action to approve the development without conditioning it to minimize future landform alteration is inconsistent with numerous LCP policies.

Action 7.3.7 of the Land Use Element states:

Require swimming pools located on oceanfront bluff properties to incorporate leak prevention and detection measures.

Action 7.3.9 of the Land Use Element states:

Ensure that new development, major remodels and additions to existing structures on oceanfront and oceanfront bluff sites do not rely on existing or future bluff/shoreline protection devices to establish geologic stability or protection from coastal hazards. A condition of the permit for all such new development on bluff property shall expressly require waiver of any such rights to a new bluff/shoreline protection device in the future and recording of said waiver on the title of the property as a deed restriction.

Policy 7.7 of the Land Use Element states:

Protect marine resources by implementing methods to minimize runoff from building sites and streets to the City's storm drain system (e.g., on-site water retention).

In its approval (**Exhibit 7**), the City did not impose conditions requiring the applicant to waive the right to future shoreline protective device(s), it did not require the approved swimming pool to incorporate leak prevention and detection measures, and it did not require a strong construction best management practices plan to minimize runoff from the building site. By failing to condition its approval to minimize landform alteration in the form of erosion, runoff, and potential future shoreline protective device(s), the City's action was inconsistent with its LCP.

The applicant argues that because the City did require a geotechnical report and a slope stability analysis, and because that analysis determined that the approved development would have a minimum factor of safety against sliding of greater than 1.5, the City's action to approve development on the bluff face was consistent with the LCP. The applicant bases his argument primarily on Action 10.2.6 (and similarly worded policies and actions within the Land Use Element), which states:

Require all new development located on an oceanfront bluff top to be setback from the oceanfront bluff edge a sufficient distance to ensure stability, ensure that it will not be endangered by erosion, and to avoid the need for protective devices during the economic life of the structure (75 years). Such setbacks must take into consideration expected long-term bluff retreat over the next 75 years, as well as slope stability. The predicted bluff retreat shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat made possible by continued and accelerated sea level rise, future increase in storm or El Nino events, and any known site-specific conditions. To assure stability, the development must maintain a minimum factor of safety against landsliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer) for the economic life of the structure.

That argument is faulty because policies requiring slope stability are only part of the LCP and approved development must still be consistent with LCP policies regarding landform alteration, view preservation, and setbacks.

4. The approved development is inconsistent with LCP policies requiring removal of nonconforming structures.

In its action to approve local Coastal Development 11-0038, the City of Laguna Beach Design Review Board made the following finding (**Exhibit 5**):

“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 in that:

The proposed project may not be in compliance with this finding in that the existing beach stairs, located partially on the public beach, impact physical public access and should be removed or relocated off the public beach.”

Several members of the Board stated during their deliberations that they would like the beach access stairs removed because they impede access on the public beach but that they did not believe they possessed the authority to require that nonconforming structures be removed under the permit because those structures were not specifically being proposed to be remodeled or substantially repaired.

However, Action 7.3.8 of the Land Use Element states:

On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways and stairways, which encroach into oceanfront bluffs.

Action 7.3.10 of the Land Use Element states:

Allow oceanfront and oceanfront bluff homes, commercial structures, or other principal structures, that are legally nonconforming as to the oceanfront and/or oceanfront bluff edge setback, to be maintained and repaired; however, improvements that increase the size or degree of nonconformity, including but not limited to development that is classified as a major remodel pursuant to the definition in the Land Use Element Glossary, shall constitute new development and cause the pre-existing nonconforming oceanfront or oceanfront bluff structure to be brought into conformity with the LCP.

Zoning Code Section 25.56.002 states:

A nonconforming building, structure or improvement is one which lawfully existed on any lot or premises at the time the first zoning or districting regulation became effective with which such building, structure or improvement, or portion thereof, did not conform in every respect. Any such nonconforming building, structure or improvement may be continued and maintained, except as otherwise provided in this

chapter, but may not be moved in whole or in part unless and except every portion thereof is made to conform to the provisions of this title.

And Zoning Code Section 25.56.012 states:

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.

The Land Use Element is clear in its direction to require removal of unpermitted and obsolete structures which encroach onto oceanfront bluffs, specifically including stairways. This applies to the subject property in that the applicant has not demonstrated that a legal right or permit for the stairway exists, and it directly encroaches on the bluff face and the public beach.

The zoning code (the Implementation Plan portion of the City of Laguna Beach certified LCP) is even more clear in its definition of nonconforming building, structure, or improvement and in its direction to entirely remove any nonconforming building or use before the lot may be redeveloped – even if the new building would otherwise conform to the zoning code. In this case, the approved new house does not conform to the zoning code because it violates the setback requirements. But even if the new house was set back appropriately from the bluff, the zoning code is clear that nonconforming buildings and uses must be removed before the new house is developed. Therefore, the City action to approve the retention of the nonconforming beach access stairway and casita was inconsistent with the LCP.

Additionally, the City’s action to approve the retention of the beach access stairway was inconsistent with the public access and recreation provisions of the Coastal Act because the beach access stairway is partially located on the public beach and partially restricts lateral access along that beach.

Conclusion

Returning to the five factors the Commission has considered in determining whether substantial issue exists, the approved development raises substantial issues in regard to all five 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*

The action of the local government (City of Laguna Beach Design Review Board and City Council) was inconsistent with numerous policies of certified LCP and numerous provisions of the Coastal Act. The facts provided in the application file and the plans for the approved development clearly

demonstrate that the local government’s decision was inconsistent with the legal provisions of the LCP and the Coastal Act.

2. The extent and scope of the development as approved or denied by the local government

The local government approved a 5,350 square foot house and a 125 square foot storage area on a bluff face. Additionally, the local government approved the retention of a nonconforming 200 square foot casita and a nonconforming beach access stairway on a bluff face. In aggregate, this would represent complete development of the subject site and the site would be unlikely to be redeveloped in conformity with the LCP and the Coastal Act within the next 75 years (the useful life of the principal structure). Thus, the scope of the approved development is substantial.

3. The significance of the coastal resources affected by the decision

California’s coastal bluffs are a significant resource. They represent a rare and visually pleasing landform which California citizens and governments have historically sought to preserve.

4. The precedential value of the local government’s decision for future interpretations of its LCP

Allowing the local government’s decision to approve development on a bluff face would set an extreme negative precedent for future interpretations of its LCP. Historically, the City of Laguna Beach has required principal structures to be set back 25 feet from the bluff edge, and has sometimes required further setbacks based on stringline measurements. If local Coastal Development Permit No. 13-0038 is found to be consistent with the LCP, the local government will have set a precedent for bluff face development that future applicants will reference if they wish to develop other oceanfront bluff sites, of which there are hundreds in Laguna Beach.

5. Whether the appeal raises local issues, or those of regional or statewide significance

Bluff face development and the proliferation of private beach access stairways on public beaches are issues of statewide significance. Requiring consistency with the public access and recreation provisions of the Coastal Act is significant to all the people of California who wish to enjoy the public beaches of California.

In conclusion, staff recommends that the Commission find that a substantial issue exists with respect to whether the local government action conforms with the visual resources, geologic hazards, setbacks, nonconforming structures, and public access policies of the City’s certified LCP and the public access policies of Chapter 3 of the Coastal Act.

VI. MOTION AND RESOLUTION FOR DE NOVO HEARING ON A-5 LGB-13-0223:

Staff recommends that the Commission make the following motion and adopt the following resolution:

Motion: *I move that the Commission approve Coastal Development Permit No. A-5-LGB-13-0223 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

VII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

VIII. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Submittal of Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director two (2) sets of final architectural plans, grading plans, drainage and run-off control plans, and landscaping plans that substantially conform with the City-approved development, but shall be revised in the following ways:
 - A. All structural elements of the house, and all structural elements of any other structure which requires a structural foundation, shall be set back a minimum of 25 feet from the bluff edge, as identified in Exhibit 3 of the staff report dated 12/18/14;
 - B. All structural elements of accessory structures which do not require structural foundations shall be set back a minimum of 10 feet from the bluff edge, as identified in Exhibit 3 of the staff report dated 12/18/14; and
 - C. All existing nonconforming structures which are sited on the bluff face, including but not limited to the casita and the beach access stairway, shall be identified for removal or relocation to a portion of the site set back a minimum of 10 feet from the bluff edge, as identified in Exhibit 3 of the staff report dated 12/18/14.
 - D. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low or very low water plants as identified by California Department of Water Resources for South Coastal Region 3. (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

2. **Conformance with Geotechnical Recommendations.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director’s

review and approval, along with a copy of each plan, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans including foundation and grading/drainage plans and certified that each of those final plans is consistent with all the recommendations contained in the geologic engineering investigations.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

3. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris. The applicant shall comply with the following construction-related requirements:

- A) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- B) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers, on the beach or in the intertidal zone.
- C) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- D) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- E) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- F) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- G) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the 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 unless the Executive Director determines that no amendment or new permit is legally required.
- H) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- I) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- J) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- K) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include 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 area shall be located as far away from the receiving waters and storm drain inlets as possible.

- L) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- M) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

4. **Pool and Spa Protection Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, two (2) full size sets of a pool/spa protection plan prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by leakage from the proposed pool and spa. The pool and spa protection plan shall incorporate and identify on the plans the following measures, at a minimum: 1) installation of a pool and spa leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the pool and spa which is separate from the water meter for the house to allow for the monitoring of water usage for the pool and spa, and 2) use of materials and pool and spa design features, such as but not limited to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the pool and spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and where feasible 3) installation of a sub drain or other equivalent drainage system under the pool and spa that conveys any water leakage to an appropriate drainage outlet.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

5. **Legally Required Development Rights – Sidewalk.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate that it has secured a legal right, interest, or other entitlement to construct a three-foot wide sidewalk along the seaward (west) side of South Coast Highway in an area fronting the residence, which may be partially or entirely within the right-of-way administered by the California Department of Transportation (Caltrans). The sidewalk shall be designed in substantial conformance to the sidewalk proposed on the City approved plans, but the design may be modified in order to comply with Caltrans guidelines, subject to the review and approval of the Executive Director. The design shall preserve all existing on-street parking spaces along South Coast Highway.

Should Caltrans reject the applicant's proposal to construct a sidewalk which preserves all existing parking spaces along its right-of-way, the applicant shall submit an alternatives analysis, where the applicant identifies the alternative which best enhances public access along Coast Highway, including the preservation of all existing on-street parking spaces and demonstration that it has secured a legal right, interest, or other entitlement to construct the alternative prior to issuance of the coastal development permit. The applicant shall submit the alternative analysis for the review and approval of the Executive Director. The Executive Director shall determine, after review and approval of the design whether or not the chosen alternative design legally

requires an amendment to this coastal development permit if the design is substantially different from the original plan as approved by the City.

6. **Legally Required Development Rights – Beach Access Stairway.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate that has secured a legal right, interest, or other entitlement to remove the beach access stairway which is partially sited on the public beach administered by the County of Orange, consistent with Actions 7.3.8 and 7.3.10 of the City’s Land Use Element and Sections 25.56.002 and 25.56.012 of the City’s Zoning Code.
7. **Assumption of Risk, Waiver of Liability, and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from slope instability, erosion, landslides and wave uprush, storm conditions, and sea level rise; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission’s approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
8. **No Future Shoreline Protective Device(s).**
 - A) By acceptance of this Permit, the applicant agrees, on behalf of himself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to coastal development permit No. A-5-LGB-13-0223 including, but not limited to, the residence, and any future improvements, in the event that the development is threatened with damage or destruction from sea level rise, flooding, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
 - B) By acceptance of this Permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the addition and remodel, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the bay before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and the bay and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
9. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcels governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized

development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of all parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IX. FINDINGS AND DECLARATIONS:

A. PROJECT LOCATION AND DESCRIPTION

The project description and location is hereby incorporated by reference from Section V of the Substantial Issue portion of this staff report beginning on page six.

B. GEOLOGIC HAZARDS

The Land Use Element, a component of the City of Laguna Beach certified LCP, contains the following definition of “Oceanfront Bluff Edge or Coastal Bluff Edge”:

The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff, the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step like feature at the top of the bluff, the landward edge of the topmost riser shall be considered the bluff edge. Bluff edges typically retreat over time as a result of erosional processes, landslides, development of gullies, or by grading (cut). In areas where fill has been placed near or over the bluff edge, the original bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

Based on the definition, the bluff edge is located as depicted in **Exhibit 3**, seaward of which a downward gradient is maintained continuously to the base of the bluff, with a small level pad cut into the bluff face at the location of the casita..

Policy 7.3 of the Land Use Element states:

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.

Action 7.3.3 of the Land Use Element states:

Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.

Action 7.3.5 of the Land Use Element states:

Prohibit development on oceanfront bluff faces, except public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize landform alteration of the oceanfront bluff face, to not contribute to further erosion of the oceanfront bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.

The applicant has retained multiple geologic consultants, which have taken soil samples and conducted slope stability analyses. Borella Geology conducted the initial study (April 25, 2012) and concluded that coastline and the geology of the site have remained relatively stable for a period of at least 80 years. Borella Geology conducted a slope stability analysis which concluded that the majority of the bluff is grossly stable San Onofre Breccia.

GeoSoils Inc. (May 18, 2012) performed a coastal hazards analysis and concluded that the shoreline and the bluff fronting the site will not be significantly impacted by sea level rise or wave run-up and will be stable for at least 100 years and that a shoreline protective device will not be required to protect the development.

TerraCosta Consulting Group (October 22, 2014) conducted a peer review of Borella Geology study and a separate geotechnical analysis of the subject site. TerraCosta concurred with Borella Geology's assessment that the majority of the bluff is grossly stable, but discovered the presence of a 9.5 foot bluff overhang at the sea cliff where the beach access stairway is located. Its analysis further indicated that the bluff overhang may increase to 14.7 feet in the next 70-80 years if marine erosion affects the sea cliff, at which point "we would anticipate a vertical failure removing the overhang." Nonetheless, TerraCosta concluded that the proposed new development of the site is set on stable San Onofre Breccia and would be unaffected by a failure of the overhang. TerraCosta delineated the bluff edge near the top of the vertical sea cliff, landward of the beach access stairway, but seaward of the casita and 70 feet seaward of the development approved by the City. TerraCosta's analysis shows that the downward slope of the bluff is 24-26 degrees in the area between the bluff edge as depicted in **Exhibit 3** and the area near the vertical sea cliff. The applicant argues that a 45 degree slope should be the standard for determining the bluff edge, but this is not supported by the certified LCP. The bluff edge description referenced at the top of this section was certified by the Commission more than one year before the City's action on the subject development.

The Commission's staff geologist, Dr. Mark Johnsson, has visited the site, reviewed the geotechnical studies and analyses, and generally agrees with the findings that the majority of the slope is stable and that the development approved by the City would be located on a portion of the bluff with a minimum factor of safety against landsliding greater than 1.5. However, Dr. Johnsson classifies the portion of the bluff where development is sited in the approved plans as the bluff face, based on the definition of bluff edge in the Land Use Element. Dr. Johnsson also disagrees with the

TerraCosta analysis that the overhang is unlikely to fail for 70-80 years, suggesting that it could fail at any time, which would immediately threaten the casita and the beach access stairway.

Action 7.3.8 of the Land Use Element states:

On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways and stairways, which encroach into oceanfront bluffs.

Action 7.3.10 of the Land Use Element states:

Allow oceanfront and oceanfront bluff homes, commercial structures, or other principal structures, that are legally nonconforming as to the oceanfront and/or oceanfront bluff edge setback, to be maintained and repaired; however, improvements that increase the size or degree of nonconformity, including but not limited to development that is classified as a major remodel pursuant to the definition in the Land Use Element Glossary, shall constitute new development and cause the pre-existing nonconforming oceanfront or oceanfront bluff structure to be brought into conformity with the LCP.

Action 10.2.8 of the Land Use Element states:

On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards.

Zoning Code Section 25.56.002 states:

A nonconforming building, structure or improvement is one which lawfully existed on any lot or premises at the time the first zoning or districting regulation became effective with which such building, structure or improvement, or portion thereof, did not conform in every respect. Any such nonconforming building, structure or improvement may be continued and maintained, except as otherwise provided in this chapter, but may not be moved in whole or in part unless and except every portion thereof is made to conform to the provisions of this title.

Zoning Code Section 25.56.012 states:

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.

Based on the preceding policies of the Land Use Element the zoning code, both components of the certified LCP, the casita and the beach access stairway are nonconforming structures. The structures are nonconforming because they do not conform to the bluff edge setback requirements for accessory structures referenced in Action 10.2.8 of the Land Use Element. Additionally, both structures are nonconforming structure because they encroach into the 20-foot rear yard setback specified in zoning code section 25.10.008. Furthermore, the beach access stairway is nonconforming because a portion of it is not on the applicant's property. Finally, the applicant has not presented evidence showing that either the casita or the beach access stairway lawfully existed on the lot at the time the first zoning or districting regulation became effective, calling into question whether they were ever legal, conforming structures. Zoning code Section 25.56.002 defines nonconforming structure and zoning code Section 25.56.012 states: "while a nonconforming use exists on any lot, no new building shall be erected or placed thereon." Therefore, the Commission finds that both the casita and the beach access stairway are nonconforming structures and both must be removed prior to construction of a new house on the site.

The report by the applicant's geologic consultant indicates that the bluff overhang near both nonconforming structures is subject to failure within the economic life of the primary structure (70-80 years) and the Commission's staff geologist indicates that the bluff overhang could fail at any time. Bluff retreat may accelerate if the effects of sea level rise are worse than the scenarios presented in the applicant's hazards analysis.

The Land Use Element, a portion of the Land Use Plan of the certified LCP contains specific policies for bluff setbacks. Action 10.2.7 of the Land Use Element states:

Require all new development located on oceanfront bluffs to be sited in accordance with the stringline but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools that require a structural foundation. The setback shall be increased where necessary to ensure geologic safety and stability of the development.

Action 10.2.8 of the Land Use Element states:

On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards.

The City-approved development permits a principal structure (the house) and accessory structures (the storage area and decks) with zero setbacks from the bluff edge. That is inconsistent with the LCP policies requiring a 25 foot bluff edge setback for principal structures and a 10 foot bluff edge setback for accessory structures, which are similar to the requirements of the Coastal Act. The

applicant argues that different definitions of bluff edge are found in the zoning code and in the old (replaced) Land Use Element, but in cases of inconsistency between the Land Use Plan and the Implementation Plan portions of an LCP, the Land Use Plan prevails. In this case, the Land Use Element is part of the certified Land Use Plan and its definition of bluff edge and policies regarding required setbacks are clear.

Zoning Code Section 25.56.012 of the certified LCP requires the removal of nonconforming structures when a site is proposed to be redeveloped. In this case, the applicant is proposing to redevelop the site with a 5,350 square foot house, an attached 767 square foot three-car garage, and a 125 square foot storage area. Because the applicant is proposing to redevelop the site, the Commission can require that nonconforming structures be removed prior to construction of a new principal building (the house) on the lot. In order to ensure that the development complies with the required setbacks, the Commission imposes **Special Condition 1**, requiring the applicant to submit revised plans with all structural elements of the house set back a minimum of 25 feet from the bluff edge and all accessory structures which do not require structural foundations set back a minimum of 10 feet from the bluff edge, as defined in **Exhibit 3**.

Special Condition 1 also requires the applicant to identify the nonconforming casita and the nonconforming beach access stairway for removal or relocation a minimum of 10 feet landward of the bluff edge, consistent with the LCP. This condition would allow the applicant to relocate the casita to a portion of the property which is set back a minimum of 10 feet from the bluff edge, if the applicant elects to identify such a location on the final plans. The applicant will not be able to relocate the beach access stairway off of the bluff face because there is nowhere else on the site where the stairway could go, so the stairway will have to be identified for removal on the applicant's final plans for redevelopment of the site. In order to ensure that the applicant is able to legally remove the private beach access stairway which is partially located on public beach administered by the Orange County, **Special Condition 6** requires the applicant to demonstrate that he has secured a legal right, interest, or other entitlement to remove the beach access stairway.

In order to ensure that the site is safe to develop, **Special Condition 2** requires the applicant to submit final grading and foundation plans which substantially conform to the geotechnical recommendations. In order to ensure that a leak does not threaten the stability of the bluff, **Special Condition 4** requires the applicant to submit a pool and spa plan which includes leak prevention and detection measures.

No development in the ocean or near the shoreline can be guaranteed to be safe from hazards. All development located in or near the ocean has the potential for damage caused by wave energy, floods, sea level rise, seismic events, storms, and erosion. The proposed project is located adjacent to the beach about 200 feet inland of the Pacific Ocean and is susceptible to natural hazards. The Commission routinely imposes conditions for assumption of risk in areas at high risk from hazards. **Special Condition 7** ensures that the applicant understands and assumes the potential hazards associated with the development. As specified in the LCP, **Special Condition 8** requires the applicant to waive the right to a future shoreline protective device. The Commission finds that only as conditioned is the development consistent with the geologic hazards, setbacks, and related policies of the City of Laguna Beach certified LCP.

C. VISUAL RESOURCES

Policy 2.8 of the Land Use Element states:

Require building design and siting to be compatible and integrated with natural topographic features, minimize significant alteration of natural topography and/or other significant onsite resources, and protect public views as specified in the Design Guidelines and the Landscape and Scenic Highways Resource Document.

The design of the house approved by the City is generally compatible with the natural landform and is successful in preserving some public views from South Coast Highway. The Design Review Board encouraged the applicant to slightly reduce the height of the roof and step the roofline down with the slope of the site. However, the proposal to continue to step the building down onto the bluff face is inconsistent with Policy 2.8 of the Land Use Element because it does not minimize significant alteration of natural topography. The proposed house would require grading of the bluff face, deepened foundations, and potentially substantial foundation elements that could be exposed by erosion over the life of the development. These elements would harm the visual resource of the bluff and the bulk of the house on the bluff face would harm coastal bluff views from the ocean and the public beach. In order to preserve scenic views of the coastal bluff, **Special Condition 1** requires the applicant to submit revised plans showing that all structures conform with the required setbacks and are not located on the bluff face.

Policy 1.1.13 of the City's certified Land Use Element states:

Encourage preservation of historic structures and adaptive reuse of buildings.

Policy 2.2 of the Land Use Element states:

Encourage the preservation of historically significant residential structures and protect the character-defining components of Laguna Beach's traditional neighborhoods.

The applicant interprets the LCP to allow for the preservation of the nonconforming casita and the nonconforming beach access stairway because they are potentially historically significant structures. Each structure is approximately 80 years old and the applicant asserts that they were constructed by the Skidmore Brothers as part of the Coast Royale subdivision. The applicant acknowledges that the structures were likely constructed at the same time as the original house, which the applicant successfully sought to demolish through Coastal Development Permit A-5-LGB-12-091 (Commission approved March 22, 2014).

However, as the applicant successfully argued in the de novo hearing on the proposed demolition of the house, the historic preservation policies of the LCP are not absolute. They must be considered in conjunction with site specific conditions and with other LCP policies, which may conflict. In the case of the casita and beach access stairway, the historic preservation policies conflict with the previously referenced policies regarding geologic hazards and visual resources. Because the structures do not conform to the required setbacks and are potentially sited in an unstable portion of

the bluff face (near the overhang which is subject to failure), they must be removed or relocated. The beach access stairway cannot be relocated on the bluff face but the casita could be relocated to another part of the site. The beach access stairway is an unsightly private development on the public beach and on the face of an approximately 90-foot high coastal bluff (**Exhibit 4**). In order to conform with the visual resource policies of the LCP, the Commission imposes **Special Condition 1**, requiring the applicant to submit plans which identify all nonconforming structures for removal or relocation to a portion of the site set back a minimum of 10 feet from the bluff edge, as identified in **Exhibit 3**. That condition would allow the applicant to preserve the casita, consistent with the historic preservation policies of the LCP, by relocating it to another portion of the site. The Commission finds that only as conditioned is the proposed development consistent with the LCP.

D. PUBLIC ACCESS AND RECREATION

Policy 3.6 of the Land Use Element states:

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

Action 8.1.1 of the Land Use Element states:

Require pedestrian safety improvements for development projects on North Coast Highway, South Coast Highway, Coast Highway and Laguna Canyon Road.

The application proposes a three-foot wide sidewalk along the ocean side (west) of Coast Highway, in an area on top of a retaining wall which is currently covered by a thick curb and a guardrail (**Exhibit 2** and **Exhibit 4**). The applicant proposes to improve this area and create a three-foot wide sidewalk, while maintaining the existing space for public parking between the sidewalk the roadway. The area subject to improvement may be partially on the applicant's property and partially on Caltrans right-of-way or it may be entirely on Caltrans right-of-way.

Some of the project appellants argue that the applicant should be required to construct a five-foot wide sidewalk, consistent with the Community Design and Landscape Guidelines adopted by Resolution 89.104, which is included in the City of Laguna Beach LCP. For Zone 7 of the City, where the site is located, the guidelines state:

Provide sidewalk along ocean side of Pacific Coast Highway in existing right-of-way, or provide 5' sidewalk if additional right-of-way can be obtained. Require planting and sidewalk construction per Case C as part of project approval for new proposed projects.

According to the guidelines, a sidewalk should be provided along the ocean side of Pacific Coast Highway in the existing right-of-way. There is currently no such sidewalk, but the applicant has offered to construct one as part of the proposed project, consistent with the guidelines. In discussions at City hearings and in discussions with Commission staff, the applicant has indicated his willingness to dedicate a portion of his property for a pedestrian throughway or sidewalk, but has emphasized that site constraints make the design very difficult. The front of the applicant's property

features an approximately 15-foot high retaining wall above a semicircular driveway which has ingress and egress points at Coast Highway. It would be uncomfortable and perhaps dangerous for a public sidewalk to slope down and loop around the retaining wall adjacent to the driveway and then reconnect to Coast Highway.

The Commission finds that the public right-of-way above the retaining wall is the most feasible location for a sidewalk and supports the applicant's proposal to provide a sidewalk there. However, the Commission also finds that the existing on-street parking spaces on Coast Highway are an important public resource and must be preserved to maintain the public's ability to park and walk to the pedestrian beach accessway approximately 460 feet to the north of the site (and to other public beach accessways north and south of the site). Therefore, in order to enhance pedestrian access while preserving public parking resources, the Commission imposes **Special Condition 5**, which requires the applicant to work with Caltrans and demonstrate that it has the legal right to construct a three-foot wide sidewalk along Coast Highway. Should Caltrans reject the applicant's proposal to construct a sidewalk which preserves all existing parking spaces along its right-of-way, the applicant shall conduct an alternatives analysis and select the alternative which best enhances public access, subject to the review and approval of the Executive Director.

Policy 4.2 of the Land Use Element states:

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

This policy applies not just to the importance of providing a public sidewalk along Coast Highway, but to the necessity of removing the private beach access stairway which is partially located on the public beach. The public beach is administered by Orange County, but it is within the City and it is one of the City's natural resources. Requiring private improvements on public beaches to be removed during site redevelopment – consistent with Zoning Code Section 25.56.012 – serves to reduce conflicts between visitor serving uses and residents.

The Commission may also look to the public access provisions of the Coastal Act in its analysis of development between the first public road and the sea.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the

use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities be provided and that development shall not interfere with public access. The nonconforming beach access stairway is inconsistent with the public access policies of the Coastal Act because it restricts access along the dry sand of the public beach.

Zoning Code Section 25.56.012 of the certified LCP requires the removal of nonconforming structures when a site is proposed to be redeveloped. In this case, the applicant is proposing to redevelop the site with a 5,350 square foot house, an attached 767 square foot three-car garage, and a 125 square foot storage area. Because the applicant is proposing to redevelop the site, the Commission can require that nonconforming structures be removed prior to construction of a new principal building (the house) on the lot. Accordingly, **Special Condition 1** requires the applicant to identify the nonconforming casita and the nonconforming beach access stairway for removal or relocation a minimum of 10 feet landward of the bluff edge, consistent with the LCP. In order to ensure that the applicant is able to legally remove the private beach access stairway which is partially located on public beach administered by the Orange County, **Special Condition 6** requires the applicant to demonstrate that has secured a legal right, interest, or other entitlement to remove the beach access stairway.

E. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, **Special Condition 3** requires the applicant to comply with construction-related requirements and implement construction best management practices to preserve water quality. **Special Condition 1 and Special Condition 2** require the applicant to submit final grading and drainage plans, and **Special Condition 1** further requires the applicant to submit final landscaping plans which include only native plants or non-native drought tolerant non-invasive plants. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the water quality policies of the LCP.

F. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as set forth in **Special Condition 9**, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. LOCAL COASTAL PROGRAM

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 Commission approved a major update (LGB-MAJ-1-10) to the Land Use Element on December 7, 2011 and concurred with the Executive Director's determination that the suggested modification had been properly accepted on May 9, 2012. The Implementation Plan (IP) portion of the LCP is Title 25, the City's Zoning Code.

The Commission finds that only as conditioned is the development is consistent with the City of Laguna Beach's certified LCP.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, 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.

As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the public access policies of the Coastal Act.

Appendix A – Substantive File Documents

1. City of Laguna Beach certified Local Coastal Program (LCP)
2. City File for Local Coastal Development Permit No. 13-0038
3. Commission File for Coastal Development Permit No. A-5-LGB-12-091 (Meehan)
4. Commission File for Coastal Development Permit No. A-5-LGB-14-0037 (Koga)

Exhibit 1:

Vicinity Map

Application No:
A-5-LGB-13-0223



California Coastal
Commission

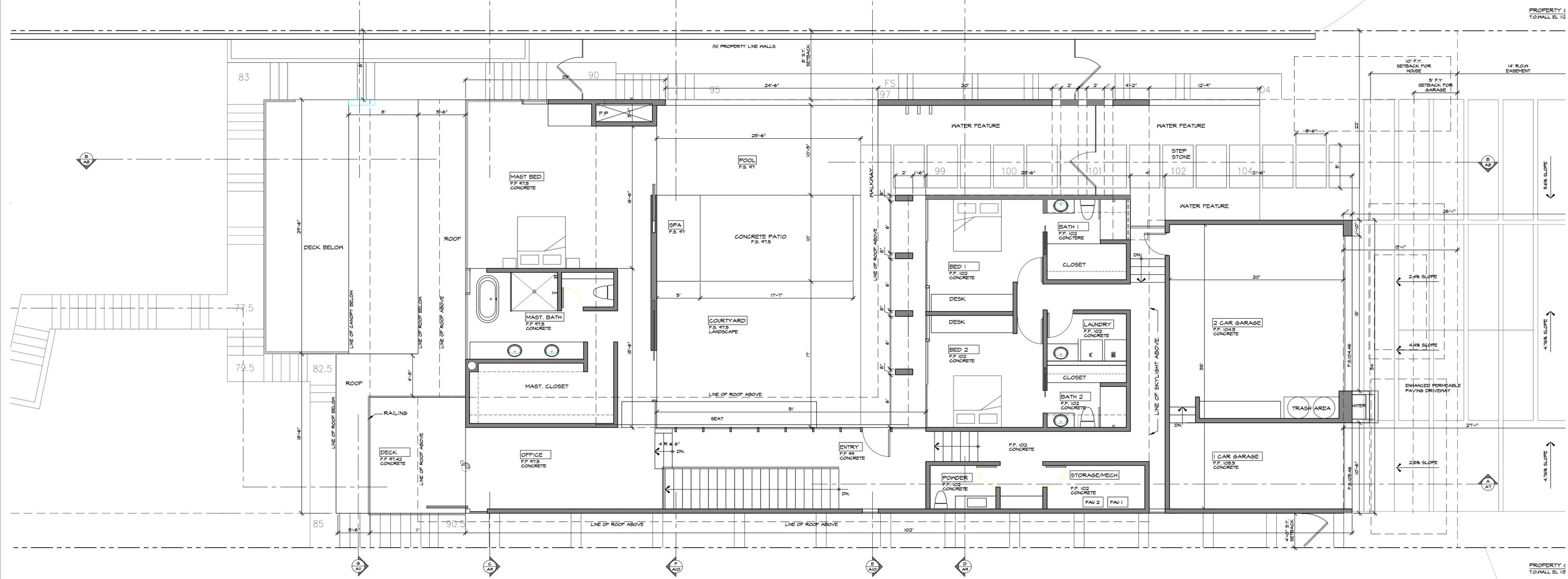


Photo: Bing Maps

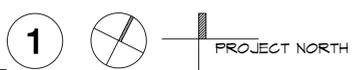
Exhibit 2.2: Upper Level Plan Application No. A-5-LGB-13-0223

- PLAN NOTE**
1. SHOWER COMPARTMENTS SHALL BE FINISHED WITH A SMOOTH, NONABSORBENT SURFACE TO A HEIGHT NOT LESS THAN 10' ABOVE THE DRAIN INLET, TYP.
 2. WHERE MORE THAN ONE SMOKE ALARM IS REQUIRED TO BE INSTALLED WITHIN AN INDIVIDUAL DWELLING UNIT, THE SMOKE ALARMS SHALL BE INTERCONNECTED IN SUCH A MANNER THAT THE ACTIVATION OF ONE ALARM WILL ACTIVATE ALL OF THE ALARMS IN THE INDIVIDUAL UNIT. THE ALARM SHALL BE CLEARLY AUDIBLE IN ALL BEDROOMS OVER BACKGROUND NOISE LEVELS WITH ALL INTERVENING DOORS CLOSED. (401.2.10.3)
 3. CONTRACTOR TO NOTIFY OWNER NOT TO WASH OUT THE GARAGE FLOOR WITH WATER DUE TO LIVING SPACE UNDER THE GARAGE. SINCE IT IS COVERED BY STRUCTURE THE SUN CANNOT DRY THE DAMPNESS AND RESIDUAL MOISTURE CAN CREATE DRY ROT AND MOLD.

REVISIONS	
1	ZONING CORRECTION 1
2	ZONING CORRECTION 2
3	ZONING CORRECTION 3
4	DR2
5	03/12/13



UPPER LEVEL PLAN
SCALE: 1/4"=1'-0"



PROPERTY C
TOWALL EL. 112

MARK SINGER ARCHITECTS, INC. AIA
250 E. BAKER ST. #500 COSTA MESA, CA 92626
TEL: 714.483.1370 PHONE 949.441.1491 FAX: INFO@MARKSINGERARCHITECTS.COM

M E H A N RESIDENCE
31931 COAST HIGHWAY, LAGUNA BEACH, CA 92651

DATE ISSUED:

PROPERTY C
TOWALL EL. 112

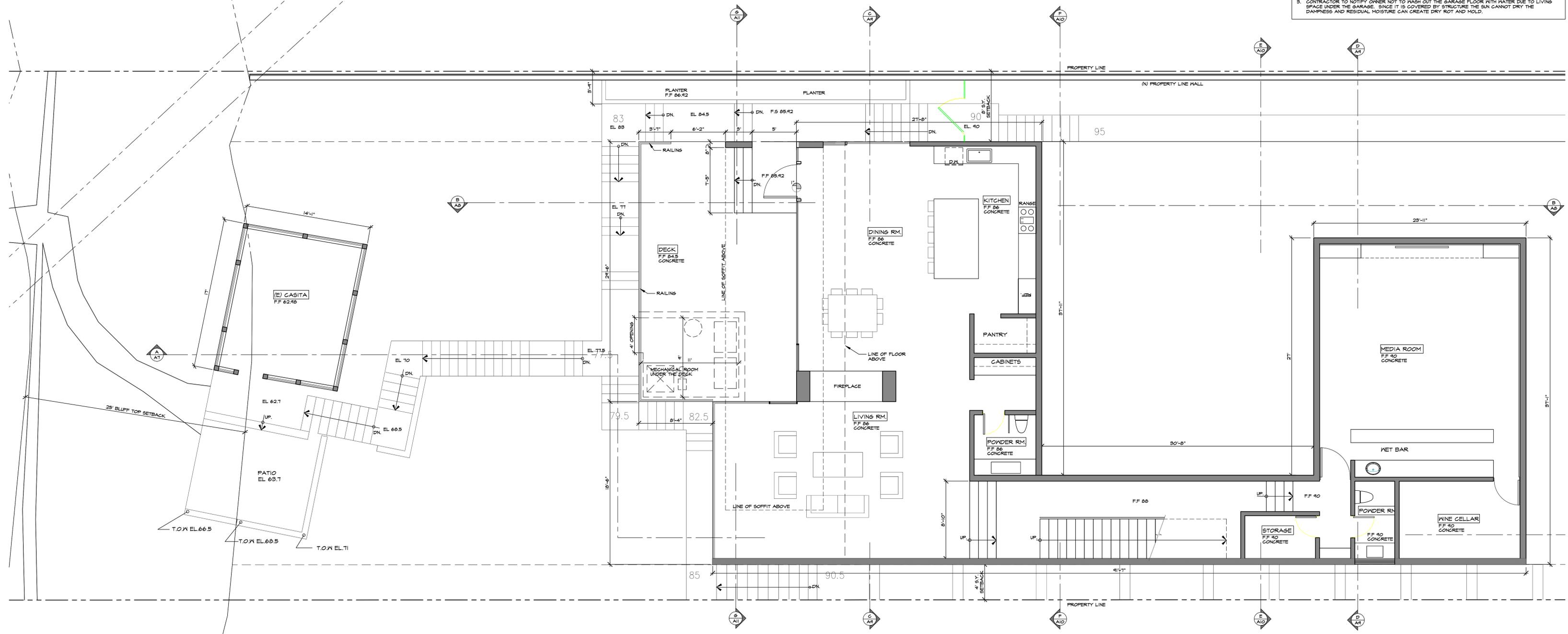
A2

UPPER LEVEL PLAN

Exhibit 2.3: Lower Level Plan Application No. A-5-LGB-13-0223

PLAN NOTE

1. SHOWER COMPARTMENTS SHALL BE FINISHED WITH A SMOOTH, NONABSORBENT SURFACE TO A HEIGHT NOT LESS THAN 10' ABOVE THE DRAIN INLET, TYP.
2. WHERE MORE THAN ONE SMOKE ALARM IS REQUIRED TO BE INSTALLED WITHIN AN INDIVIDUAL DWELLING UNIT, THE SMOKE ALARMS SHALL BE INTERCONNECTED IN SUCH A MANNER THAT THE ACTIVATION OF ONE ALARM WILL ACTIVATE ALL OF THE ALARMS IN THE INDIVIDUAL UNIT. THE ALARM SHALL BE CLEARLY AUDIBLE IN ALL BEDROOMS OVER BACKGROUND NOISE LEVELS WITH ALL INTERVENTING DOORS CLOSED. (401.2.10.3)
3. CONTRACTOR TO NOTIFY OWNER NOT TO WASH OUT THE GARAGE FLOOR WITH WATER DUE TO LIVING SPACE UNDER THE GARAGE. SINCE IT IS COVERED BY STRUCTURE THE SUN CANNOT DRY THE DAMPENESS AND RESIDUAL MOISTURE CAN CREATE DRY ROT AND MOLD.



REVISIONS	
1	ZONING CORRECTION 1
2	ZONING CORRECTION 2
3	ZONING CORRECTION 3
4	DR2
5	03/12/13

MARK SINGER ARCHITECTS, INC. AIA

250 E. BAKER ST., #500 COSTA MESA, CA 92626
TEL: 714.443.1374 PHONE 949.1491.1491 FAX: INFO@MARKSINGERARCHITECTS.COM

M E E H A N RESIDENCE

31933 COAST HIGHWAY, LAGUNA BEACH, CA 92651

DATE ISSUED:

LOWER LEVEL PLAN 1

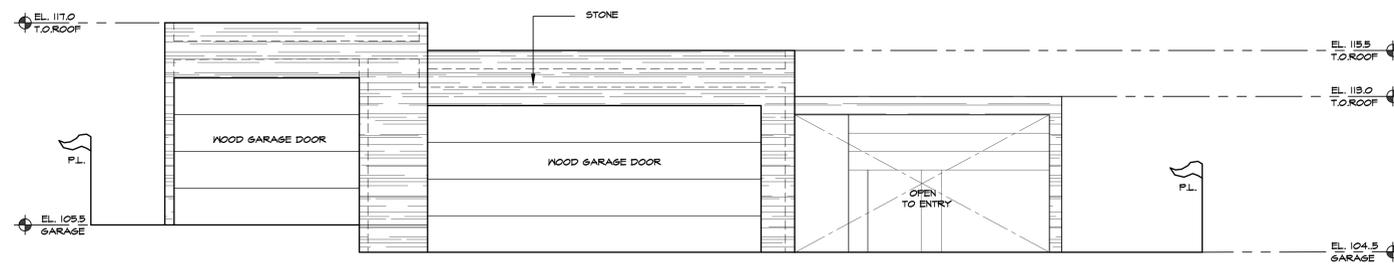
SCALE: 1/4"=1'-0"

PROJECT NORTH

A3

LOWER LEVEL PLAN

MAXIMUM BUILDING HEIGHT = EL. 128.00

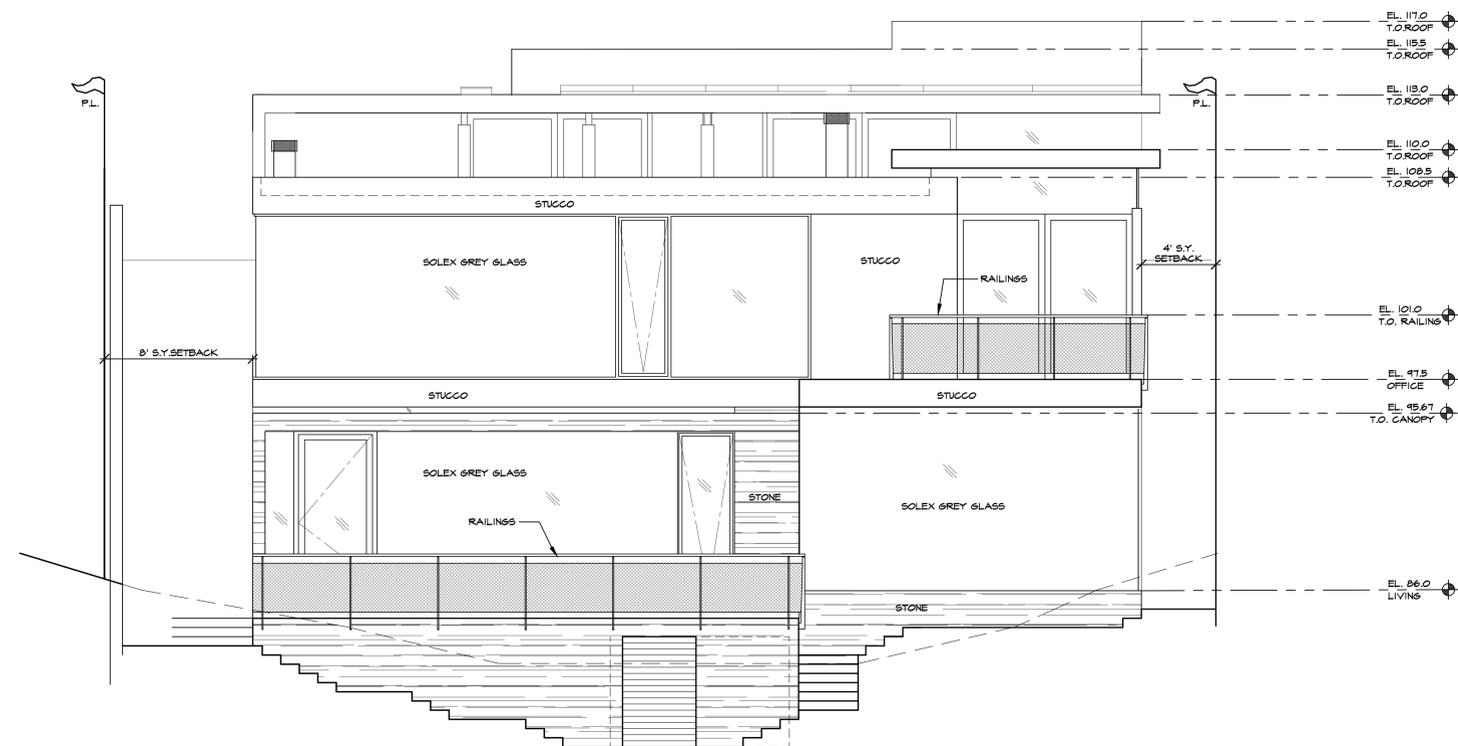


EAST ELEVATION

1

SCALE: 1/4"=1'-0"

MAXIMUM BUILDING HEIGHT = EL. 128.00



WEST ELEVATION

2

SCALE: 1/4"=1'-0"

REVISIONS	
△	ZONING CORRECTION 1
△	ZONING CORRECTION 2 10/25/12
△	ZONING CORRECTION 3 12/25/12
△	DR2 03/12/13

MARK SINGER ARCHITECTS, INC. AIA

250 E. BAKER ST., #500 COSTA MESA, CA 92626
TEL: 714.443.1374 PHONE 949.1491.1491 FAX: INFO@MARKSINGERARCHITECTS.COM

M E H A N RESIDENCE

31531 COAST HIGHWAY, LAGUNA BEACH, CA 92651

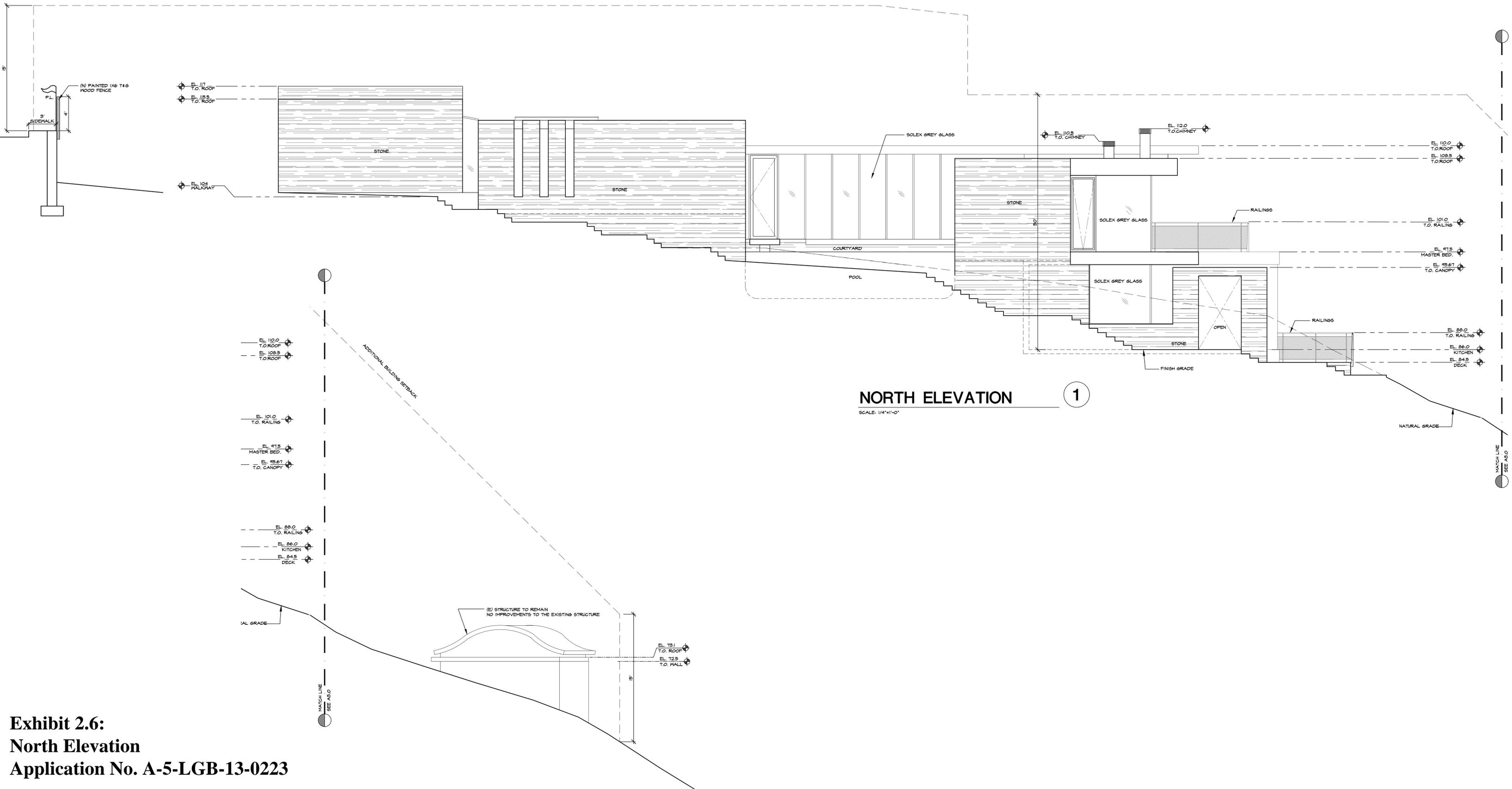
DATE ISSUED:

east & west elevations

A4

Exhibit 2.4:
East and West Elevations
Application No. A-5-LGB-13-0223

MAXIMUM BUILDING HEIGHT = EL. 128.00



REVISIONS	
△	ZONING CORRECTION 1
△	ZONING CORRECTION 2 10/25/12
△	ZONING CORRECTION 3 12/25/12
△	DR2 03/12/13

MARK SINGER ARCHITECTS, INC. AIA
 250 E. BAKER ST., #500 COSTA MESA, CA 92626
 TEL: 714.831.1370 PHONE 949.1491.1214 FAX: INFO@MARKSINGERARCHITECTS.COM

M E H A N RESIDENCE
 31531 COAST HIGHWAY, LAGUNA BEACH, CA 92651

DATE ISSUED:	

A6

Exhibit 2.6:
North Elevation
Application No. A-5-LGB-13-0223

North Elevation

Exhibit 4.1:

Graded Blufftop Site of Pre-existing House

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photo: Commission staff (10/24/14)

Exhibit 4.2:

Bluff Face

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photo: Commission staff (10/24/14)

Exhibit 4.3:

Casita on Bluff Face

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photo: Commission staff (10/24/14)

Exhibit 4.4:

Area of Proposed Three-Foot Wide Sidewalk

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photos: Commission staff (8/14/13)

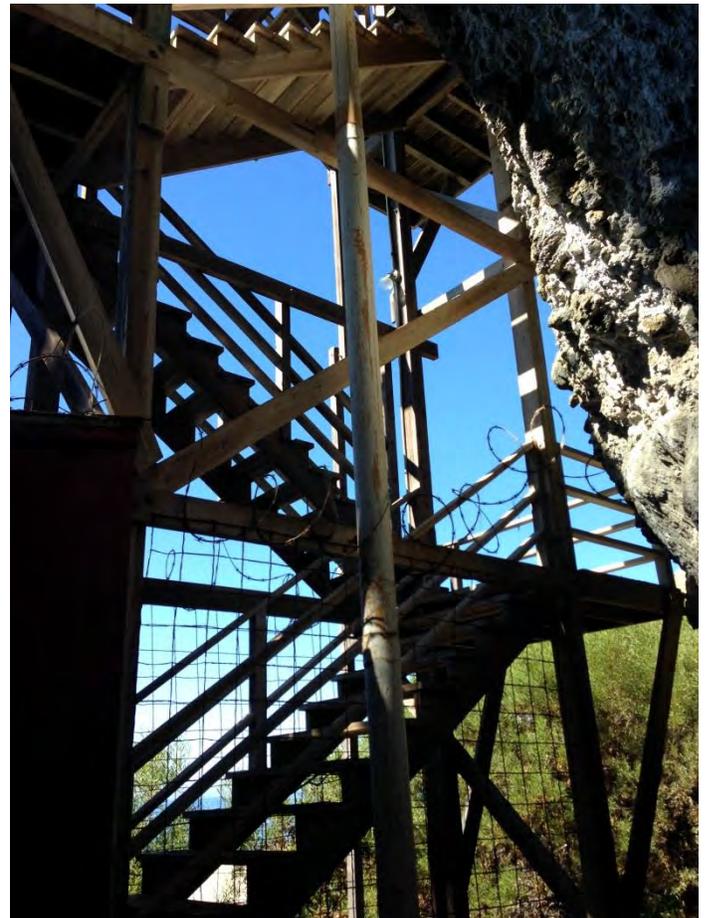
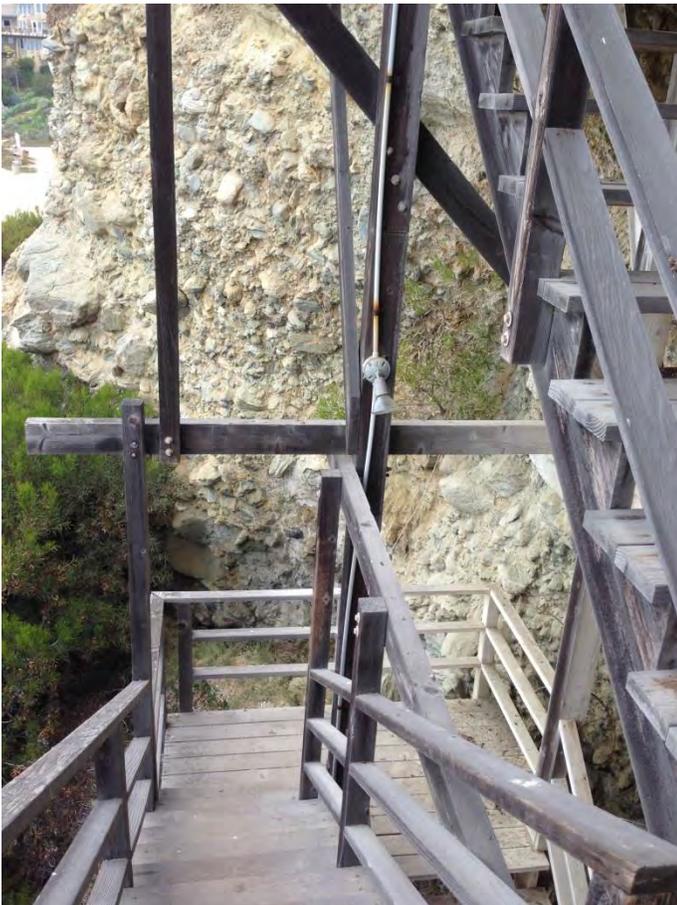
Exhibit 4.5:

Beach Access Stairway on Bluff Face and Public Beach

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photos: Commission staff (8/14/13 and 10/24/14)

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

04/2013 Scanned

HEARING DATE: February 7, 2013

TO: DESIGN REVIEW BOARD

CASE: Design Review 13-0037
Coastal Development Permit 13-0038

APPLICANT: Mark Singer, Architect
(949) 499-6214

LOCATION: Meehan Residence
31381 Coast Highway
APN 056-032-10

ENVIRONMENTAL STATUS: In accordance with the California Environmental Quality Act (CEQA) guidelines, the project is categorically exempt pursuant to Section 1530, Class 3, (a) (new construction) that allows construction of one single-family residence in a residential zone.

PREPARED BY: Nancy Csira, Principal Planner
(949) 497-0332

REQUESTED ACTION: The applicant requests design review and a coastal development permit to construct a 5,320 square-foot single-family residence, 125 square-foot storage/mechanical area and 767 square-foot attached three-car garage in the R-1 zone. Design review is required for the new structure, covered parking, elevated decks (773 square feet), skylights, grading, retaining walls, pool, spa, air conditioning units, construction in an environmentally sensitive area (oceanfront) and to maintain nonconforming site conditions including vehicular access, driveway grade and improvements in the bluff top (beach access stairs and cabana).

PROJECT SITE DESCRIPTION: The subject site is located in the R-1 (Residential Low Density) zone with a General Plan designation of "Village Low Density." The area of the oceanfront property, excluding the bluff top area, is 14,350 square feet and is located on the west side of Coast Highway between Camel Point and West Street. The topography of the lot is approximately 37.2 percent. The subject site is bound by surrounding properties as follows:

	Zone	General Plan	Existing Use
North	R-1	VLD	77 unit condominium building with underground parking
East	R-1	VLD	Mostly single-family dwellings with two-car garages
South	R-1	VLD	Vacant building site
Project Site	R-1	VMD	Single-family dwelling, detached two-car garage with living area above and accessory structures

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 12

SCANNED

DESIGN REVIEW HISTORY: The property is developed with an existing two-story, 2,654 square-foot single-family dwelling, detached two-car garage with hexagonal shaped room above and accessory structures (trellis, cabana and beach stairs). Prior entitlements associated with the subject site include Design Review 11-193 (12/15/11) and CDP 12-222 (2/9/12) to demolish the dwelling and detached garage structure. The structures were listed on the 1981 City's Historic Inventory but were subsequently deemed demolished and beyond repair, due to unpermitted work performed by prior property owners. The existing trellis was constructed without building permits and is also proposed to be demolished.

On February 6, 2013, the California Coastal Commission will be considering an appeal of Coastal Development Permit 12-222 submitted by Village Laguna and the South Laguna Civic Association. The appellants contend that the proposed demolition does not conform to the City's certified Local Coastal Program (LCP) or public access policies and is not consistent with the historical preservation policies of the LCP. The report prepared by the California Coastal Commission staff (linked online to the meeting agenda) and concludes that the appeal raises no substantial issue with respect to the grounds on which the appeal has been filed.

STAFF REVIEW BACKGROUND: On March, 20, 2012, zoning staff conducted a pre-submittal site meeting with the property owner and design team. The issues staff believed to be important to consider, includes vehicular access, on-site turnaround, public sidewalk, mass, scale, view, privacy and retention of nonconforming structures encroaching into the blufftop. A copy of the meeting notes is attached.

STAFF ANALYSIS: The applicant proposes a 5,320 square-foot, two-story single family dwelling with an attached 767 square-foot three-car garage. The existing ingress/egress easement and steep driveway will remain. The existing legal nonconforming cabana and beach access stairs are also proposed to remain.

Property Development Standards and Zoning Code Consistency: The project is consistent with the development standards of the R-1 zone. Due to lot topography, the site qualifies for a reduced front setback allowing five feet for the garage and ten feet for the house. The required oceanfront setback is twenty-five feet measured from the top of the oceanfront bluff or the building stringline, whichever is more restrictive.

In this instance, the blufftop setback is more restrictive than the building stringline. Pursuant to LBMC 25.50.004(4)(a), an "oceanfront bluff" is an oceanfront landform having a slope of forty-five degrees or greater from horizontal whose top is ten or more feet above mean sea level. The vertical face steeper than 45 degrees has been identified as the bluff top. The stringline setback is shown on the site plan depicted as a line across a parcel that connects the oceanward ends of the nearest adjacent walls of the main buildings on adjacent lots.

Design Review Criteria: Physical improvements and site developments subject to design review should be designed and located in a manner which best satisfies the design review criteria. Please refer to the *City's Design Guidelines - A Guide to Residential Development* on the City's website, www.lagunabeachcity.net. The intent of these guidelines is to clarify the

COASTAL COMMISSION

13-0037 & CDP 13-0038
31381 Coast Highway
February 7, 2013
Page 3 of 8

criteria that members of the community, the Design Review Board, the City Council and design professionals use in the design review process.

Access: *Conflicts between vehicles, pedestrians and other modes of transportation should be minimized by specifically providing for each applicable mode of transportation.*

The subject site gains dual indirect access with a driveway through subject site. A recorded 14-foot wide ingress and egress easement is located across both adjacent properties (31371 Coast Highway and 31423 Coast Highway). The access driveway is steeper than the 10% average grade allowed by code, varying from 7.3% to 26.5%. A profile of the driveway grade is shown on the preliminary grading plan (Page 2, Sheet 1 of 2).

The front setback is measured from the 100-foot right-of-way dedication line. The minimum on-site turnaround dimension is 25 feet and must be provided for all required on-site parking spaces. This allows vehicles to turnaround within the property limits to be able to head into traffic on Coast Highway versus backing out into travel lanes. This requirement has been met.

The City's *Landscape and Scenic Highways Resource Document* recommends that a five-foot wide sidewalk be provided along Coast Highway. City Council direction supports obtaining a 5-foot wide sidewalk for all new development on Coast Highway. Staff encouraged the applicant to provide a five-foot wide sidewalk and landscape buffer; however, the applicant proposes to provide a three-foot wide sidewalk and new four-foot high wood fence as shown on Section 2 (Sheet A-5). Since the minimum required driveway width is 10 feet, the applicant might use the excess four feet of the access easement to provide a wider sidewalk and landscape buffer. It appears that five feet would be difficult to be accomplished along the complete frontage due to the reduced width of access to the condominium property. No landscaping has been provided at the street frontage.

An existing sewer tunnel is located within the 10-foot wide sewer easement near the bluff edge and is 50 feet below grade. The applicant is required to coordinate construction within the easement with South Coast Water District and has indicated that the proposed excavation adjacent to the existing cabana is allowed.

Design Articulation: *Within the allowable building envelope, the appearance of building and retaining wall mass should be minimized. Articulation techniques including, but not limited to, separation, offsets, terracing and reducing the size of any one element in the structure may be used to reduce the appearance of mass.*

The elevation of the main level of the new residence will be at approximately the same finished floor of the current main level. A new lower level will be excavated below. A green roof is proposed for the garage and will be no higher than the highest ridge of the existing main residence. The flat roof of the main structure steps down four feet. The ceiling heights for the main level and lower level are proposed to be twelve feet each.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 3 OF 12

Very large 12-foot deep ocean-facing overhangs may add to the apparent mass as depicted by the project staking. Furthermore, these large overhangs may not step with the hillside as the Board typically approves.

The proposed excavated patio adjacent to the existing cabana and the proposed ground level filled terrace which steps down from the new lower level create seven- to ten-foot retaining walls that require additional railings on top of the wall. The exposed view of the wall and railing are up to 14 feet at the highest point.

Design Integrity: *Consistency with the applicant's chosen style of architecture should be achieved by the use of appropriate materials and details.*

The proposed flat roofed contemporary structure incorporates unfilled limestone and smooth coat stucco exterior walls, Spanish cedar wood window/door frames and garage doors, solar grey glass, and both glass and bronze railings (See Color & Materials selections attached).

Environmental Context: *Development should preserve and, where possible, enhance the city's scenic natural setting. Natural features, such as existing heritage trees, rock out-cropping, ridgelines and significant watercourses should be protected. Existing terrain should be utilized in the design and grading should be minimized.*

The applicant has provided a Geotechnical Report, Coastal Hazards and Wave Runup Study and Water Quality Management Report (WQMP). These reports are linked online to the meeting agenda. Peer review of the Geotechnical Report has been completed and approved subject to standard conditions. The report evaluates the engineering geological and soils conditions beneath the subject property (including steep ocean bluff) and provides foundation information and recommendations for the proposed new residence, spa and pool. Caissons are required at the seaward edge to support the new deck (25 feet deep) and residence (34 feet deep). Refer to Figure 2-Section AA in the geotechnical report.

The Coastal Hazards and Wave Runup Study conclude that because the development is located well above the beach, the development is safe from coastal hazards. The study notes that there are large bed-rock outcroppings in the surf zone in front of the site and adjacent properties that act as a breakwater to incoming waves. The study notes that new shoreline protection will likely not be required to protect the existing stairway or the proposed development over the next 100 years. The study states that neither the retention of the stairway nor the proposed development will create or contribute to erosion, geologic instability or destruction of the site or adjacent area.

A Water Quality Management Plan (WQMP) has been provided and will be peer reviewed during building plan check. The plan includes best management practices for site design to minimize storm water runoff, project's impervious footprint and conserve natural areas.

Grading quantities include the grading required for the pool and spa. The applicant is proposing to excavate a lower level with 12-foot ceiling heights below where the main level currently exists. Most of the fill outside the building footprint is proposed in the courtyard and new oceanward terraces accessed from the lower level.

COASTAL COMMISSION

APPROVED 2/13/13 06:20 AM

Grading	Outside Structural Footprint	Inside Structural Footprint	Total
Cut	50 CY	550 CY	600 CY
Fill	330 CY	140 CY	470 CY
Net Export	- 280 CY	410 CY	130 CY

General Plan Compliance: *The development shall comply with all applicable policies of the general plan, including all of its elements, applicable specific plans, and the certified local coastal program.*

The City's newly adopted Land Use Element includes Action 7.3.8 which states: "On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways, and stairways, which encroach into oceanfront bluffs". The cabana and beach stairs are considered legal nonconforming structures since there is evidence that they existed before South Laguna was annexed into the City of Laguna Beach. No improvements are proposed to these structures at this time. Repair and maintenance of these structures may be permitted. However, removing or replacing more than 50% of the structural elements would constitute a major remodel or new structure. In this case, the structures would have to be removed from within the blufftop setback.

Landscaping: *Landscaping shall be incorporated as an integrated part of the structure's design and relate harmoniously to neighborhood and community landscaping themes. View equity shall be an important consideration in the landscape design. The relevant landscaping guidelines contained in the city's "Landscape and Scenic Highways Resource Document" should be incorporated, as appropriate, in the design and planned maintenance of proposed landscaping.*

The City's landscape consultant indicates that *Metrosideros Excelsus* and *Laurus Nobilis* located in the side setbacks could exceed hedge height restrictions. The proposed landscape open space is twice the 15% lot area required. Total impervious surface area has slightly decreased from existing 49.2 percent to 47.3 percent by incorporating permeable surfaces.

Lighting and Glare: *Adequate lighting for individual and public safety shall be provided in a manner which does not significantly impact neighboring properties. Reflective materials and appurtenances that cause glare or a negative visual impact (e.g., skylights, white rock roofs, high-gloss ceramic tile roofs, reflective glass, etc.) should be avoided or mitigated to a level of insignificance in those locations where those surfaces are visible from neighboring properties.*

Low-voltage site lighting shown on the landscape plan (Sheet L-2) includes seven path lights, seven recessed wall lights and three tree down-lights. Timer-controlled low-voltage building lighting as shown on Sheets E-1 and E-2 includes eight soffit down-lights, six in-ground lights and fifteen surface-mounted fixtures.

Three new linear skylights are proposed and will be fitted with automatic night shades.

COASTAL COMMISSION

20130207 130037-0038

Neighborhood Compatibility: *Development shall be compatible with the existing development in the neighborhood and respect neighborhood character. Neighborhood character is the sum of the qualities that distinguish areas within the city, including historical patterns of development (e.g., structural heights, mass, scale or size), village atmosphere, landscaping themes and architectural styles.*

The existing 77 unit condominium building directly next door should not be a factor of neighborhood compatibility. The condominium buildings are very large and are built within the blufftop including foundation supports on the beach. The proposed program consists of 6,985 square-feet (living, garage, storage, mechanical and deck area) is 48.7% of the net lot area.

Privacy: *The placement of activity areas (e.g., decks, picture windows and ceremonial or entertainment rooms) in locations that would result in a substantial invasion of privacy of neighboring properties should be minimized.*

The new oceanward decks and terrace areas increase the amount of activity area. Based on the raised finished surfaces of these expanded areas, they may impact privacy enjoyed by some of the condominiums and the privacy of the subject property.

Sustainability: *New development should consider architecture and building practices which minimize environmental impacts and enhance energy efficiency by: (a) reducing energy needs of buildings by proper site and structural design; (b) increasing the building's ability to capture or generate energy; (c) using low-impact, sustainable and recycled building materials; (d) using the latest Best Management Practices regarding waste and water management; and (e) reducing site emissions.*

Energy management is achieved by installing skylights, a green roof and windows that allow cross ventilation. Roof overhangs and deck areas provide sun-shading and screening. Water management is achieved by reducing the amount of impervious surfaces and by implementing a WQMP.

Swimming Pools, Spas and Water Features: *Swimming pools, spas and water features shall be located, designed and constructed where: (a) Geology conditions allow; (b) Noise produced by circulatory mechanical pumps and equipment is mitigated; and (c) Any associated fencing or other site improvements are compatible with neighboring properties.*

The proposed in-ground pool and spa will be located within the courtyard. The pool equipment and air conditioning units are proposed in a vault below the oceanfront terrace. Six-foot high solid property line walls are proposed in the side setbacks and minimum five-foot high bronze gates are proposed to provide the required pool security fencing.

View Equity: *The development, including its landscaping, shall be designed to protect existing views from neighboring properties without denying the subject property the reasonable opportunity to develop as described and illustrated in the city's "Design Guidelines." The "Design Guidelines" are intended to balance preservation of views with the right to develop property.*

COASTAL COMMISSION

000491/3082013

The project staking is no higher than the existing main structure to be demolished and ocean views from Coast Highway and homes across Coast Highway will be improved due to the removal of the garage structure and mature existing tree. However, the structure projects closer towards the ocean. It appears that the structure could be pulled back to better adhere to the hillside and to align with the adjacent condominium structure. This may preserve views for the adjacent structures on either side of the subject property (condominiums and 31365 Coast Highway). The existing home at 31365 has a large picture window oriented to take an angular view the subject site bluff area. The structure ultimately approved on the subject site, will determine the stringline for development on the vacant parcel to the north. Design Objective 15.1 of the City's Design Guidelines - A Guide to Residential Development states: "Locate and design new buildings or site development to facilitate view equity, anticipating future views from neighboring potential development and to vacant or undeveloped land."

Design Review Guidelines: A three-car garage is proposed. Pursuant to LBMC 25.52.012(G), the Board must find that the additional covered parking space does not increase the appearance of mass and bulk. The garage frontage is divided into a double-car garage door and a single-car garage door. The single-car garage finished floor and roof is one foot higher than the double-car garage providing some articulation.

Nonconforming Site Conditions: The site has been historically accessed using the driveway within an indirect ingress/egress access easement. The objectives set forth by the City's Transportation, Circulation and Growth Management Element discourages new driveway access onto Coast Highway to minimize interruptions to traffic flow (Policy 2B). In addition, Policy 6A encourages joint parking agreements for the purpose of consolidating access driveways and curb cuts. Therefore, staff believes the request to maintain the nonconforming indirect access and driveway grade is approvable.

The geological report, coastal hazards and wave runup study conclude that the existing blufftop development (beach access stairs and cabana) do not impact the stability of the site. On January 24, 2012, the Coastal Commission informed staff that the beach access stair is not located entirely within the subject property limits and is partially constructed onto the public beach. In 1989, when South Laguna was annexed into the City of Laguna Beach, all existing development (including the beach access stairs and cabana) was grandfathered and considered to be legal nonconforming. These structures may be repaired provided no more than 50% of the structure is demolished.

Coastal Development Permit: A coastal development permit is required for all new development within the coastal zone. The City's determination is appealable to the California Coastal Commission. The Design Review Board may consider the following findings for approval:

- 1. *The project is in conformity with all the applicable provisions of the General Plan, including the Certified Local Coastal Program and any applicable specific plans in that:*

Alteration of natural landforms should be minimized and the visual character of the surrounding area maintained to achieve compliance with the *Residential Design*

COASTAL COMMISSION

13-0037 & CDP 13-0038
February 7, 2013

Guidelines (1D). Visual impacts of the development have not been minimized because the proposed structure on some levels projects further oceanward than the adjacent condominium structure therefore not maintaining compatibility with surrounding development (1G). The proposed residence should be pulled back to be in line with the existing adjacent structure.

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 in that:*

The proposed project may not be in compliance with this finding in that the existing beach stairs, located partially on the public beach, impact physical public access and should be removed or relocated off the public beach. (2A); and

3. *The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act in that:*

The proposed project is in compliance with the applicable rules and regulations set forth in the Municipal Code and will not cause any significant adverse impacts on the environment (3A).

COMMUNITY INTEREST: There have been no letters or telephone calls received by the City as of the date of this report.

CONCLUSION: The applicant proposes to construct a new single-family residence in conformance with all required development standards in the R-1 zone and to maintain the nonconforming site conditions. Staff notes that the structure could be stepped back to be in-line with the profile of the adjacent condominium structure. Public views across the site will be improved with the removal of the garage structure and mature tree. The Board should evaluate potential privacy and view equity impacts to adjacent neighbors. The Board should also evaluate and provide direction on the sidewalk width and beach access stairs on the public beach issues.

ATTACHMENTS:

- Project Summary Tables
- Site Meeting Notes (3/20/12)
- Color and Materials
- Vicinity/Aerial/Contour Map
- Oblique Photos (4)

REPORTS LINKED ON CITY'S WEBSITE:

- Coastal Commission Staff Report (1/17/13)
- Geological Report (10/26/12)
- Coastal Hazards and Wave Runup Study (5/18/12)
- Water Quality Management Plan (6/2012)

Go to: http://lagunabeachcity.granicus.com/GeneratedAgendaViewer.php?view_id=3&event_id=27 or
Path: www.lagunabeachcity.net>City Hall>City Council>meeting, agendas>Design Review Board>February 7, 2013>Agenda

COASTAL COMMISSION

EXHIBIT # 5
PAGE 8 OF 12

JUN 24 2013

COASTAL COMMISSION

City of Laguna Beach
AGENDA BILL

CALIFORNIA No. 24
COASTAL COMMISSION Meeting Date 6/18/2013

EXHIBIT # 5
PAGE 9 OF 12

SUBJECT: APPEAL OF APPROVAL OF DESIGN REVIEW 13-37 AND COASTAL DEVELOPMENT PERMIT 13-38 AT 31381 COAST HIGHWAY

SUMMARY OF THE MATTER:

The applicant obtained design review approval of a new 5,320-square-foot single-family residence and attached three-car garage in the R-1 zone. Design review was required for the new structure, elevated decks, covered parking, skylights, grading, retaining walls, pool and spa, air conditioning units, construction in an environmentally sensitive area (oceanfront site) and to maintain nonconforming site conditions including vehicular access, driveway grade and improvements in the bluff setback (beach access stairs and cabana).

The decision of the Design Review Board has been appealed by two adjacent property owners to the south of the project site.

Background:

The subject property currently contains a single-family dwelling, a detached garage, and nonconforming guest house ("cabana") and beach access stairs. On February 9, 2012, the Design Review Board approved a coastal development permit to allow the demolition of the existing dwelling and garage. This approval was upheld by the City Council on appeal and is currently awaiting an appeal hearing before the Coastal Commission on a subsequent appeal filed with that agency.

On May 23, 2012, the property owner submitted plans for the construction of a new home on the property. The plans were processed through zoning plan check and scheduled for design review consideration on February 7, 2013. The City Attorney confirmed for the Board and neighbors that the application for the new development could be processed while the applicant awaits a Coastal Commission decision on the demolition permit. While approval of the demolition permit is needed before new construction may proceed, the pending Coastal Commission appeal does not preclude the City's ability to process design review for the proposed new home.

(continued)

RECOMMENDATION: It is recommended that the City Council:

Deny the appeal and sustain the Design Review Board's approval of Design Review 13-37 and Coastal Development Permit 13-38 at 31381 Coast Highway.

Appropriations Requested: \$ None

Submitted by: John Kelly

Fund: None

Coordinated with: _____

Attachments: Project Summary ; Appeals; Letters (p. 7-55);

Pre-application Meeting Notes (p.56); DR Staff Report/Minutes

2/7/13 (p. 63); and 4/11/13 (p.78); Aerial Vicinity Maps

Approved: John Kelly

City Manager

COASTAL COMMISSION

EXHIBIT # 5
PAGE 10 OF 12

Appeal of DR 13-37/CDP 13-38
31381 Coast Highway
June 18, 2013
Page 2

Design Review Board Actions:

The project was initially heard at a regular Design Review Board meeting on February 7, 2013. A copy of the design review hearing minutes begins on page 71 of the attachments to this agenda bill. At that hearing, several community members spoke in favor of the project, while several neighbors testified with view equity and design articulation concerns. One community member expressed concern about the request to maintain the nonconforming beach access stairs. The four participating Board members each commented upon the project, specifically with regard to view equity, design articulation and environmental context. The Board members advised the applicant that despite the constraints posed by the topography and the existing indirect driveway access, some sidewalk improvement needed to be provided for pedestrians along Coast Highway. The Board acknowledged that the sidewalk might be less than the normally requested 5-foot width and could perhaps be provided below Coast Highway, along the existing driveway.

The Board heard the project for a second time on April 11, 2013. The proposed structure had been pulled back from the bluff setback, lowered in height and reduced in size. A 3-foot wide Coast Highway sidewalk had been added in response to the Board's direction. Several community members again testified both in favor of and in opposition to the project. A copy of the design review hearing minutes is attached, beginning on page 83.

Four of the five Board members agreed that the applicant had been responsive to the direction given at the initial hearing. In order to address a remaining view equity concern, Board members requested and the applicant agreed to lower and pull back a portion of the proposed roof. The project was subsequently approved on a 4-1 vote.

Basis for Appeal:

A copy of the appeal is attached for reference. The appellants outline four specific reasons for the appeal:

1. The Coastal Commission review of the local coastal development permit related to the demolition of the existing structures is still pending and the appellant questions the appropriateness of approving a permit for a replacement structure until the matter of the demolition permit is resolved.

Response: The pending review (appeal) of the demolition permit before the Coastal Commission does not stay or impact the processing of an independent application for the redevelopment of the project site. Nevertheless, the applicant is precluded from moving forward with new construction until such time as final approval of the demolition permit has been obtained.

2. The Design Review Board did not properly address the issue of the private stair tower to the beach. The appellants object to the coastal development permit finding that the stairway does not affect public beach access.

Response: The project site includes beach access stairs, which are constructed in part on the applicant's property and in part on the County beach. The stairs have existed for some time, predating the City's annexation of the South Laguna area. In approving the coastal development permit for the project, the Design Review Board determined that public access to the beach and associated recreation opportunities do not appear to have been affected by the historic existence of this nonconforming structure, and that the approved project does not propose improvements or

COASTAL COMMISSION

Appeal of DR 13-37/CDP 13-38

31381 Coast Highway

June 18, 2013

Page 3

EXHIBIT # 5
PAGE 11 OF 12

alterations to the stairs that would impact the status quo. The Board further indicated that separate entitlement(s) would be required if alterations to the stairs are proposed in the future.

3. The Design Review Board did not comply with the policy to require 5-foot sidewalk for public access along Coast Highway.

Response: The Design Review Board generally tries to obtain a 5-foot wide sidewalk improvement along Coast Highway whenever possible and feasible. The Board has approved sidewalks of lesser width in certain cases due to site-specific conditions. In this case, the project site is accessed by an existing shared driveway eight feet below Coast Highway. The existing condition restricts sidewalk improvement options. The Board discussed the option of having pedestrians descend and walk along the driveway and then climb back up to Coast Highway but decided that it would be preferable to design a sidewalk at the Coast Highway level. It was decided that a cantilevered sidewalk of three feet at the specific location would provide adequate pedestrian access on Coast Highway without impacting the overhead clearance for vehicles using the private shared driveway below.

4. The approved design blocks substantial beach, white water and ocean views from the appellants' homes.

Response: View equity was a primary consideration in the Design Review Board's review of the approved project. It was acknowledged that the nonconforming condominium structure immediately to the south takes some side views across the two building sites to the north and that several of the units were impacted by the initially proposed design. The project was subsequently lowered, reduced in size and pulled back from the oceanfront bluff to improve view equity for the adjacent properties. At the second (final) hearing, the applicant agreed to additional height and footprint reductions and thus satisfied the Board's concerns related to view equity. The additional height and footprint reductions were not required to be staked.

City Council Appeal Procedures:

LBMC Section 25.05.070(B)(9) sets forth the procedures and review criteria for design review appeals. Subsection (e) stipulates that consideration of such appeals is to be limited to the grounds specifically stated in the underlying notice of appeal. The decision of the Design Review Board is presumed to be reasonable, valid and not an abuse of discretion. The appellant has the burden of proof of demonstrating otherwise.

The options available to the City Council are:

- Deny the appeal and sustain the decision of the Design Review Board to approve the project.
- Deny the appeal but modify the decision of the Design Review Board.
- Grant the appeal, overturn the decision of the Design Review Board, and deny the project.
- Grant the appeal, overturn the decision of the Design Review Board, and remand the project to the Design Review Board with specific direction.

A decision to modify or overturn the Design Review Board's decision must be accompanied by a statement of reasons.

PROJECT SUMMARY TABLES

04/2013

EXHIBIT # <u>5</u>		ZONING STANDARDS			
PAGE <u>12</u> OF <u>12</u>		REQUIRED/ALLOWED	EXISTING	PROPOSED	CONFORMS (Yes/No)
DESCRIPTION					
USE		SFD	SFD	SFD	Yes
ZONE		R-1			
LOT AREA		6,000 SF	14,350 SF (NET)	No change	Yes
LOT WIDTH (AVG.)		70 feet	60 feet	No change	No
LOT DEPTH (AVG.)		80 feet	241.5 feet	No change	Yes
LOT SLOPE (%)			37.2%		
MAX. BUILDING HEIGHT		15 feet above curb	12.5 feet	4 feet	Yes
MAX. HEIGHT FROM GRADE		30 feet	24.9 feet	24 feet	Yes
SETBACKS:					
Front Yard		5 feet garage 10 feet house	0 feet 36 feet	12.1 feet 33.6 feet	Yes Yes
Rear Yard		25 feet from blufftop	138 feet to house 0 feet (accessory)	86.3 feet to house No change	Yes No
Side Yards		12 feet TOTAL 4 feet minimum	8 feet TOTAL N 8 feet/S 0 feet	12 feet TOTAL N 8 feet/S 4 feet	Yes Yes
LOT COVERAGE (BSC)		35%/5,022.5 SF	2,194 SF/15.3%	3,557 SF/24.8%	Yes
LANDSCAPE OPEN SPACE		15%/2,152.5 SF	42.5%/6,106 SF	38.2%/5,484 SF	Yes

PROJECT DATA			
DESCRIPTION	EXISTING	PROPOSED	TOTAL
LIVING AREA:			
Lower Floor		2,645 SF	2,645 SF
Main Floor		2,176 SF	2,176 SF
TOTAL	(-2,654 SF)	4,821 SF	4,821 SF
GARAGE			
	(- 400 SF)	732 SF	732 SF
STORAGE/MECH.			
		138 SF	138 SF
DECK AREA			
		673 SF	673 SF

SITE WORK			
GRADING	Outside of Structural Footprint	Inside Structural Footprint	Total
Cut	160 CY	800 CY	960 CY
Fill	110 CY	140 CY	250 CY
Net Export	50 CY	660 CY	710 CY

IMPERVIOUS SURFACES	Square Footage		% of Lot Area	
	Existing	Proposed	Existing	Proposed
Structure	2,194 SF	3,557 SF	15.3%	24.8%
Hardscape (including driveway)	4,855 SF	2,511 SF	33.8%	17.5%
TOTAL	7,049 SF	6,068 SF	49.2%	42.3%

**A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE
CITY OF LAGUNA BEACH APPROVING COASTAL DEVELOPMENT PERMIT
APPLICATION NO 13.0038**

Whereas, an application has been filed in accordance with Title 25-07 of the Laguna Beach Municipal Code, requesting a Coastal Development Permit for the following described property located within the City of Laguna Beach:

31381 Coast Highway
APN 056-032-10

and;

Whereas, the review of such application has been conducted in compliance with the requirements of Title 25.07, and;

Whereas, after conducting a noticed public hearing, the Design Review Board has found:

1. The project is in conformity with all the applicable provisions of the General Plan, including the Certified Local Coastal Program and any applicable specific plans in that the alteration of natural landforms has been minimized and the visual character of the surrounding area has been maintained due to the building design and use of materials and compliance of the project with the Design Guidelines for Hillside Development.

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 in that vertical and lateral public access exists to and along this portion of the coast and the proposed development will not create any adverse impacts to this access; therefore no clear nexus can be demonstrated in this case for a public access dedication.

3. The proposed development will not have any significant adverse impact on the environment within the meaning of the California Environmental Quality Act in that the proposed project, subject to the conditions with CDP findings of 1D, 2B, 3B as outlined in the staff report – specifically that there is no unreasonable effect on public use of the beach with the beach stairs; that there is no right to build until a demolition permit has been issued by the Coastal Commission; that the stairs and cabana are shown for reference only and there is no right to alter those nonconformities unless separate approvals are received and subject to the conditions that the roof over the office be lowered one foot and that the eave connected to the office be pulled back by two feet to minimize impacts on the visual and scenic quality of coastal resources, does not present any adverse impacts on the environment.

NOW, THEREFORE, BE IT RESOLVED, that a Coastal Development Permit is hereby approved to the extent indicated:

Permission is granted in the R-1 Zone to construct a new single-family residence.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 1 OF 3

1. Notice of Receipt and Acknowledgement. The Coastal Development Permit ("permit") is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Community Development Department.

2. Expiration. If development has not commenced within two years from the final action of the approval authority on the application, the permit will expire. Development, once commenced, shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Community Development Director or permit approval authority.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Community Development Department an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the approval authority and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

6. Indemnification. The permittee, and the permittee's successors, heirs and assigns, shall protect, defend, indemnify and hold harmless the City, its officers, employees or agents arising out of or resulting from the negligence of the permittee or the permittee's agents, employees or contractors.

7. Plan Reliance and Modification Restriction. 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 permit has been granted shall not be changed or amended except pursuant to a subsequent amendment to the permit or new permit as might otherwise be required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.

8. Grounds for Revocation. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.

BE IT FURTHER RESOLVED, that the subject Coastal Development Permit shall not become effective until after an elapsed period of fourteen (14) calendar days from and after the date of the action authorizing such permit.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 3 OF 3

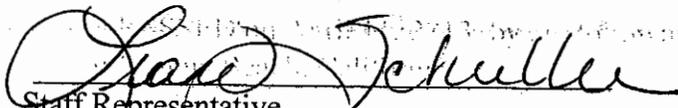
PASSED on April 11, 2013, by the following vote of the Design Review Board of the City of Laguna Beach, California.

AYES: McErlane, Simpson, Wilkes, Zur Schmiede
NOES: Liuzzi
ABSENT: None
ABSTAIN: None

ATTEST:



Chairperson Zur Schmiede



Staff Representative
Board of Adjustment Resolution No. CDP 13.07

CALIFORNIA COASTAL COMMISSION

COASTAL COMMISSION RECEIVED

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

South Coast Region



EXHIBIT # 7
PAGE 1 OF 34

JUL 22 2013

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
CALIFORNIA COASTAL COMMISSION

SECTION I. Appellant(s)

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

Coastal Commissioners: Dayna Bochco & Brian Brennan
200 Oceangate, Suite 1000
Long Beach, CA 90802 (562) 590-5071

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach
2. Brief description of development being appealed: Construct a 5,320 square foot single-family residence, 125 square foot storage/mechanical area and 767 square foot attached three-car garage, 773 sq ft. of elevated decks, grading, retaining walls, pool, spa, landscaping, and to maintain nonconforming site conditions including vehicular access, driveway grade and improvements in the bluff top setback (beach access stairs and cabana)
3. Development's location (street address, assessor's parcel no., cross street, etc.): 31381 Coast Highway, Laguna Beach, Orange County, APN 056-32-10
4. Description of decision being appealed:
 - a. Approval; no special conditions: _____
 - b. Approval with special conditions: XX
 - c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: South Coast District

SECTION IV. Reasons Supporting This Appeal

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

The proposed project raises an issue as to consistency with the Historic Resources, Nonconforming Development, Geologic Stability, Public Access, and Scenic View provisions of the City's certified Land Use Plan and the public access and recreation policies of Chapter 3 of the Coastal Act.

Historic Resources

The Land Use Element portion of the City's Land Use Plan states in Policy 2.2
Encourage the preservation of historically significant residential structures and protect the character-defining components of Laguna Beach's traditional neighborhoods.

The Land Use Element portion of the City's Land Use Plan states in Action 5.1.3
Promote preservation of historic structures and adaptive reuse of existing buildings.
(*Short-to-medium-term implementation.*)

The Land Use Element portion of the City's Land Use Plan states in Definition 59. Historic Preservation
The preservation of historically significant structures in order to facilitate restoration and rehabilitation of such structure(s) to a former condition. Destruction or alteration of properties with historic significance, as identified in the City's historic resources inventory or historic register, should be avoided whenever possible. Special preservation consideration should also be given to any structure over 45 years old.

The Land Use Element portion of the City's Land Use Plan states in Definition 60. Historically Significant
Buildings and their settings, improvements, 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 and/or character.

Chapter 25.45 of the City's certified Implementation Plan is the section regarding historic preservation. Section 25.45.002 of the City's certified Implementation Plan states, in part:

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... 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 the 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...

EXHIBIT # 7
PAGE 3 OF 34

Section 25.45.010 of the City's certified Implementation Plan states, in part:

Procedures for demolition. The following procedures shall be applied to all historic structures listed on the historic register and those structures listed on the historic inventory.

- A. Demolition permits are subject to compliance with the provisions of the California Environmental Quality Act and Title 14 of this code.
- B. Applicants for demolition of historic buildings which appear on the city's historic inventory or register or as required in this chapter shall make application for a demolition permit with the department of community development.
- C. Upon receipt of the application to demolish, the department of community development shall, within thirty days, solicit input from the heritage committee prior to scheduling the request for public hearing before the design review board. Public noticing shall be as specified in Section 25.05.065(C) of this title.
- D. Design Review Board Action. After the appropriate environmental review, pursuant to the California Environmental Quality Act (CEQA), the design review board shall receive a recommendation from the heritage committee and shall address and mitigate the cumulative impacts of allowing the demolition of structures that contribute to the overall neighborhood character or streetscape, but which may be individually insignificant. After conducting the public hearing, the design review board shall take the following action:
Approve permit, subject to a waiting period of up to ninety calendar days to consider relocation and/or documentation....

E. Findings. Prior to issuance of a demolition permit, the design review board shall make one of the following findings:

1. The action proposed is consistent with the purposes of the ordinance and the historic resources element of the general plan; or
2. There are no reasonable alternatives to demolition.

The subject site is already the subject of an appeal pending with the Commission (Appeal No. A-5-LGB-12-091), regarding the City of Laguna Beach's decision to approve CDP 12-222 for the demolition of the existing single family residence. The City's action was appealed to the Commission in part due to concerns about whether demolition was consistent with the historic resource protection policies of the certified LCP. The Commission found that the appeal raised a Substantial Issue at its hearing in February 2013. However, the de novo review on that demolition has not yet returned for a hearing by the Commission.

The City states in its resolution of approval “that there is no right to build until a demolition permit has been issued by the Coastal Commission.” However, the City’s latest action on CDP 13.0038 presumes that demolition of the existing historic structure will be authorized by the Commission. So, an issue raised again in this latest action is whether the existing house should be retained due to its historic qualities, or if mitigation for loss of historic elements can be addressed in the new construction. Policy 2.2 and Action 5.1.3 encourage the preservation of historic structures or adaptive reuse of existing structures, which was not considered in the City’s action on this Coastal Development Permit. There is also no indication in the City’s action of any attempt to incorporate or replicate the historic elements of the existing home in the new one.

Non-conforming development

Implementation Plan Section 25.07.008 states (in part):

Exemptions

Certain types of development, described as follows, are considered to be without risk of adverse environmental effect on coastal resources, including public access, and therefore do not require a coastal development permit unless indicated otherwise.

A) Improvements to Single-family homes. Improvements to single-family dwellings and mobilehomes including structures normally associated with a single-family residence such as garages, swimming pools, fences, storage sheds and landscaping are exempt unless classified as one of the following:

...

2) improvements to any structure located on a beach, wetland or stream, or where the structure or proposed improvements would encroach within fifty feet of a coastal bluff edge;...

Implementation Plan Section 25.56.002 states:

Nonconforming building, structure or improvement.

A nonconforming building, structure or improvement is one which lawfully existed on any lot or premises at the time the first zoning or districting regulation became effective with which such building, structure or improvement, or portion thereof, did not conform in every respect.

Any such nonconforming building, structure or improvement may be continued and maintained, except as otherwise provided in this chapter, but may not be moved in whole or in part unless and except every portion thereof is made to conform to the provisions of this title.

Implementation Plan Section 25.56.012 states:

New construction where nonconforming building or use exists.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 5 OF 31

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.

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.8:

On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways and stairways, which encroach into oceanfront bluffs.

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.10

Allow oceanfront and oceanfront bluff homes, commercial structures, or other principal structures, that are legally nonconforming as to the oceanfront and/or oceanfront bluff edge setback, to be maintained and repaired; however, improvements that increase the size or degree of nonconformity, including but not limited to development that is classified as a major remodel pursuant to the definition in the Land Use Element Glossary, shall constitute new development and cause the pre-existing nonconforming oceanfront or oceanfront bluff structure to be brought into conformity with the LCP.

The Open Space and Conservation Element portion of the Land Use Plan states in Policy 7A:

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

The Open Space and Conservation Element portion of the Land Use Plan states in 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 recontouring and replanting where the natural landscape has been disturbed.

The bluff located on the site is subject to wave action and is a protected landform due to its scenic quality and visibility from the public beach below. The City-approved project contains existing structures that are non-conforming and potentially unpermitted, but which the City has authorized to be retained. This includes a large stairway that descends the bluff face and is partly founded on public beach, and a 199 sq. ft. cabana.

Both the cabana and stairway are non-conforming with regard to the required bluff edge setbacks, with the stairway also potentially being an unpermitted structure. The City, in their approval, considered the cabana and beach stairs as legal nonconforming structures since there is evidence that they existed before South Laguna was annexed into the City. During the review of Appeal No. A-5-LGB-12-091, City staff stated that they have no record of any permits for repair of the stairway since the City gained permitting jurisdiction over the area. The stairway, located on the bluff face, is in a sensitive location where according to Implementation Plan Section 25.07.008, development requires a Coastal Development Permit. There is no evidence of

COASTAL COMMISSION

EXHIBIT # 7
PAGE 6 OF 31

approvals for any development that has occurred since the effective date of the California Coastal Zone Conservation Act ("Prop 20"), and therefore any such development that occurred after the effective date of Prop 20 do not appear to have received coastal development permit approval. The City's determination of the stairway as legal nonconforming also did not include an analysis of whether the stairway had proper permits prior to passage of Prop 20 (Nov. 8, 1972—see former Pub. Res. Code section 27404) or an analysis of whether unpermitted development had occurred to the stairway and cabana, and as a result, whether the stairway and cabana may be considered unpermitted structures. Furthermore, the City notes that the beach stairs are "not safe to climb due to the repair required to resurface the landings / steps," which raises the question of whether the stairs should be considered as an obsolete structure. The condition of the cabana is unknown and may also be obsolete. Therefore, the City's approval to maintain these structures raises an issue as to whether the City's action is consistent with Action 7.3.8 of the Land Use Element of the City's certified Land Use Plan.

The existing stairs also remain an impediment to lateral public access along the beach, and the stairway and cabana impact the scenic quality of views to and along the coast and views of the natural bluff located on the site. The continuing presence of these structures would continue to result in impacts to public access and scenic views. Therefore, the City's action raises the question of whether the retention of the stairs and cabana is consistent with the policies of the LCP regarding public access, scenic views, and the public access policies of Chapter 3 of the Coastal Act.

Geologic Stability / Protective Devices

The Land Use Element portion of the City's Land Use Plan states in Policy 2.8

Require building design and siting to be compatible and integrated with natural topographic features, minimize significant alteration of natural topography and/or other significant onsite resources, and protect public views as specified in the *Design Guidelines* and the *Landscape and Scenic Highways Resource Document*

The Land Use Element portion of the City's Land Use Plan states in Action 2.8.2

Establish criteria for placement of new development on the most suitable area of the lot to maximize the preservation of sensitive resources. (*Same as Action 3.10.1*)

The Land Use Element portion of the City's Land Use Plan states in 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.*)

The Land Use Element portion of the City's Land Use Plan states in 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.*)

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.3: EXHIBIT # 7
Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards. (Ongoing implementation.) PAGE 7 OF 34

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.4:
Require new development to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (Ongoing implementation.)

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.5:
Prohibit development on oceanfront bluff faces, except public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize landform alteration of the oceanfront bluff face, to not contribute to further erosion of the oceanfront bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.6:
Require new development on oceanfront blufftop lots to incorporate drainage improvements, removal of and/or revisions to irrigation systems, and/or use of native or drought-tolerant vegetation into the design to minimize threats to oceanfront bluff recession. (Ongoing implementation.)

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.7:
Require swimming pools located on oceanfront bluff properties to incorporate leak prevention and detection measures. (Ongoing implementation.)

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.9:
Ensure that new development, major remodels and additions to existing structures on oceanfront and oceanfront bluff sites do not rely on existing or future bluff/shoreline protection devices to establish geologic stability or protection from coastal hazards. A condition of the permit for all such new development on bluff property shall expressly require waiver of any such rights to a new bluff/shoreline protection device in the future and recording of said waiver on the title of the property as a deed restriction.

The Land Use Element portion of the City's Land Use Plan states in 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. (Short-to-medium term implementation.)

The Land Use Element portion of the City's Land Use Plan states in Action 10.2.6:
Require all new development located on an oceanfront bluff top to be setback from the oceanfront bluff edge a sufficient distance to ensure stability, ensure that it will not be endangered by erosion, and to avoid the need for protective devices during the economic life of the structure (75 years). Such setbacks must take into consideration expected long-term bluff retreat over the next 75 years, as well as slope stability. The predicted bluff

retreat shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat made possible by continued and accelerated sea level rise, future increase in storm or El Nino events, and any known site-specific conditions. To assure stability, the development must maintain a minimum factor of safety against landsliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer) for the economic life of the structure.

The Land Use Element portion of the City's Land Use Plan states in Action 10.2.7

Require all new development located on oceanfront bluffs to be sited in accordance with the stringline but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools that require a structural foundation. The setback shall be increased where necessary to ensure geologic safety and stability of the development.

The Land Use Element portion of the City's Land Use Plan states in Action 10.2.8:

On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards.

The Land Use Element portion of the City's Land Use Plan states in Definition 101. Oceanfront Bluff Edge or Coastal Bluff Edge

The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff, the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step like feature at the top of the bluff, the landward edge of the topmost riser shall be considered the bluff edge. Bluff edges typically retreat over time as a result of erosional processes, landslides, development of gullies, or by grading (cut). In areas where fill has been placed near or over the bluff edge, the original bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

The Land Use Element portion of the City's Land Use Plan states in Definition 102. Oceanfront Bluff/Coastal Bluff

A bluff overlooking a beach or shoreline or that is subject to marine erosion. Many oceanfront bluffs consist of a gently sloping upper bluff and a steeper lower bluff or sea cliff. The term "oceanfront bluff" or "coastal bluff" refers to the entire slope between a marine terrace or upland area and the sea. The term "sea cliff" refers to the lower, near vertical portion of an oceanfront bluff.

The Open Space and Conservation Element portion of the Land Use Plan states in Policy 1 I:

The City shall impose a 25-foot minimum setback or a distance ascertained by stringline measurements for all blufftop development, notwithstanding the fact that ecological and environmental constraints may require an additional setback.

The Open Space and Conservation Element portion of the Land Use Plan states in Policy 10C:

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

Finally, there are issues that concern the consistency of this City action with the newly updated and certified Land Use Element (LUE) of the City's LCP, which became effective May 2012. First, the new LUE requires in Action 7.3.9 that CDPs for new development require a waiver of rights of future bluff or shore protection device in the future and recording of said waiver as a deed restriction. The City's action in approving a new residence did not include such a requirement, and therefore the City's action appears to be inconsistent with Action 7.3.9.

Action 7.3.6 and 7.3.7 of the Land Use Element of the Land Use Plan requires new development to incorporate drainage improvements and use of drought tolerant vegetation, and leak prevention measures in pools and spas. It is unclear from the City's action whether the proposed development is consistent with these standards.

Secondly, there is a question of whether the City correctly defined the bluff edge. In the document titled City of Laguna Beach – Community Development Department Pre-Application Site Development Review Meeting Evaluation, the City states:

“It has been determined (through legal advice) that there will be no change to the present method of the 45-degree provisions of Municipal Code Section 25.50.004 to determine the bluff top. The Director of Community Development reviewed a property survey provided by the applicant and determined that the 25-foot bluff top setback will be measured from the top of the most ocean ward vertical cliff edge.”

The adoption of the new LUE resulted in new definitions of Coastal Bluff, and Coastal Bluff Edge (referenced above). However, the City's decision appears to have relied on the previous definition of a coastal bluff as a landform with a slope of at least 45 degrees. This definition places the bluff edge much lower and much further seaward than the new definitions would require. Since the bluff top setbacks are based on the location of the bluff edge, the development has been authorized lower on the bluff face and further seaward than would otherwise be allowed, perhaps even on the bluff face. Therefore, it appears that the City's approval may have resulted in development which is inconsistent with the LCP's prohibitions on structures located on the bluff face or within the blufftop setback. The City's approval therefore has the potential to result in negative impacts to the geologic stability of the proposed residence, the setback requirements for future development in the area such as the vacant lot located to the north of the site, the natural bluff landform, and scenic views along the ocean. Therefore the City's action raises an issue as to consistency with these policies.

Thus, the Commission files this appeal to look at the City's decision and these issues more closely.

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

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

SECTION V. Certification

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

Signed: *M. Boelke*
Appellant or Agent

Date: 7/22/2013

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

Signed: _____

Date: _____

COASTAL COMMISSION

EXHIBIT # 7
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)
PAGE 11 OF 31

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 7/22/2013

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: _____

JUL 22 2013

CALIFORNIA COASTAL COMMISSION

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

CALIFORNIA EXHIBIT # 7
COASTAL COMMISSION PAGE 12 OF 34



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION I. Appellants

Mark F. Nelson
31423 Coast Hwy. #71
Laguna Beach, CA 92651

Bill Rihn
South Laguna Civic Association
P. O. Box 9668
South Laguna, CA 92652

949-371-1086

949-415-1312

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach
2. Brief description of development being appealed:

Approval of Coastal Development Permit 13-38 approved by the City of Laguna Beach to construct a new 5,350 sq. ft. residence and to maintain nonconforming site conditions including beach access stairs and cabaña. The property is the subject of a previous appeal to the Coastal Commission of the City of Laguna Beach approval to demolish a residence that is on the City's historic inventory. The de novo hearing on this appeal (A-5-LGB-12-091) has not been heard by the Commission because the hearing has not been requested by the applicant.

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

31381 Coast Highway, Laguna Beach, on the ocean side of Coast Highway, between Camel Point Drive and West Street

APN 056-032-10 Lot C, Tract 831

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

X Approval; no special conditions

TO BE COMPLETED BY COMMISSION:	
APPEAL NO:	<u>A-5-LGB-13-0223</u>
DATE FILED:	<u>7/22/13</u>
DISTRICT:	<u>5</u>

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

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

Planning Director/Zoning Administrator

X City Council, upholding the decision of the Design Review Board on appeal.

Planning Commission

Other

6. Date of local government's decision: June 18, 2013

7. Local government's file number (if any): Design Review 13-37 and Coastal Development Permit 13-38

SECTION III. Identification of Other Interested Persons

Mark Singer
250 E. Baker #300
Costa Mesa, CA 92626

Mark Nelson
31423 Coast Hwy. #71
Laguna Beach, CA 92651

Lawrence Zadan
31423 Coast Hwy. #81
Laguna Beach, CA 92651

Brent Stickler #61
31423 Coast Hwy
Laguna Beach, CA

Sande Stickler #61
31423 Coast Hwy
Laguna Beach, CA

Debbie Marshall
31365 Coast Hwy.
Laguna Beach, CA 92651

Ann Christoph
31713 Coast Highway
Laguna Beach, CA 92651

Ginger Osborne
31651 Santa Rosa Drive
Laguna Beach, Ca 92651

Charlie Rohrer
675 Cliff Drive
Laguna Beach, CA 92651

Anders Lasater
Anders Lasater Architects
384 Forest Avenue, Suite 12
Laguna Beach, California 92651

Bill Ives
31538 Egan Road
Laguna Beach, CA 92651

Bill Rihn
31681 Third Avenue
Laguna Beach, Ca 92651

Charlotte Masarik
761 Oak Street
Laguna Beach, Ca 92651

Larry Nokes
470 Broadway, Suite 200
Laguna Beach, 92651

John Meehan
362 Pinecrest
Laguna Beach, CA 92651

Clayton Daniels
1745 S. Coast Hwy.
Laguna Beach, CA 92651

Mark Puente
31361 Coast Hwy.
Laguna Beach, CA 92651

Troy Barnes 715-0652
No answer and no address found

Tibor Komoroczy
27721 Niguel Village Drive
Laguna Niguel, CA 92677

Tracie Breedlove
376 Pinecrest Drive
Laguna Beach, CA 92651

Dirk Larson
376 Pinecrest Drive
Laguna Beach, CA 92651

Jamie Blakely
1781 Glenneyre Street
Laguna Beach, CA 92651

Ron Marshall
31365 Coast Hwy.
Laguna Beach, CA 92651

COASTAL COMMISSION

EXHIBIT # 7
PAGE 14 OF 34

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT(Page 4)EXHIBIT # 7
PAGE 15 OF 34

We are appealing the City of Laguna Beach decision to allow construction of a new residence at 31381 Coast Highway. The appeal of the permit for the demolition of the existing historic building is still pending with the Coastal Commission. On February 6, 2013 the Commission found Substantial Issue on Appeal A-5-LGB-12-091—an appeal of the City of Laguna Beach approval to demolish the historic building. A hearing on this appeal has not been requested by the applicant. Since demolition of the existing historic building has not been approved by the Commission, we maintain that approval of a replacement residence is premature.

We are appealing for the following additional reasons:

1. Public Access—Sidewalk

The project does not provide adequate public access along Coast Highway. A five-foot wide sidewalk is required for handicapped access and for two persons to walk side by side. It is required by the Community Design and Landscape Guidelines adopted by Resolution 89.104 which is included in the City of Laguna Beach LCP. **(See Attachment A.)**

Under Coast Highway is the following:

“Provide 5 foot wide sidewalk on both sides on Pacific Coast Highway, except where noted on plan (Zone 7).”

Recommendations for Zone 7 state:

“Provide sidewalk along the ocean side of Pacific Coast Highway in existing right-of-way, or provide 5’ sidewalk if additional right-of-way can be obtained. Require planting and sidewalk construction per Case C **(Attachment B)** as part of project approval for new proposed projects.”

Since this is a new proposed project the 5’ sidewalk should have been required. Yet the project was approved with “an approximate 3’ wide sidewalk ... The width of the sidewalk will vary based on the available space to create the sidewalk,” as described in the Letter of March 1, 2013 by Mark Singer, Architect for the project. There were no conditions of approval regarding right-of-way dedications, required width or required details of sidewalk installation.

Therefore the project does not “conform with all applicable provisions of the Certified Local Program” as found by the City-adopted resolution.

Please review the photos of the area proposed for the “approximate 3’ wide sidewalk. **(Attachment C)** The space for the future sidewalk includes curb, a guard rail, a fence and a retaining wall. The “available space” is unlikely to allow even a 3 foot sidewalk without further construction/modification to the situation. None of these kinds of modifications were required by the City-approved permit.

This property is between two public coastal access stairways/paths—at Camel Point and south of Laguna Royale. Pedestrians on Coast Highway wanting to access either of these coastal access points do not have a safe continuous path of travel. If a safe and adequately wide sidewalk is not installed as a condition of approval on this property, it will set a precedent for approvals on the adjacent vacant lot, and it is highly unlikely that there will ever be a safe and adequate sidewalk at this location.

2. Public Access—Stair TowerEXHIBIT # 7
PAGE 16 OF 34

The City, in granting the Coastal Development Permit, did not properly address the issue of the private stair tower from the applicant's property that is for the most part built off the applicant's property and on the public beach. (See Attachment D.)

The City's Finding that "there is no unreasonable effect on the public use of the beach with the beach stairs" is not supportable, since the stair tower is not only non-conforming, it is not on the applicant's property. It is unacceptable to allow continued intrusion onto the public beach with private improvements.

In the staff report for the substantial issue hearing on the demolition, Coastal Staff wrote about the pending City review of the new proposed residence. The staff report stated that while the demolition permit may not be the proper venue for dealing with the stair issue, the consideration of the new residence was.

"The City's consideration of the new residence and the retention of the nonconforming stairway and guest house is an opportunity to evaluate the possibility of bringing all the development on the site into conformity with current land use regulations. The City's action should address the impact of these structures, and whether the new residential construction and retention of the accessory structures would be consistent with the policies of the City's certified LCP and the Coastal Act's public access and recreation policies. Therefore the City's review should address any potential for impacts to: 1) scenic views; 2) public access, including impacts resulting from nonconforming private structures located on the public beach; 3) effects of nonconforming structures on the stability of the bluff; and 4) alterations to natural landforms."

Except for item 2, where the Design Review Board found that "there is no unreasonable effect on the public use of the beach with the beach stairs," these questions were not addressed in the review. We question this finding because an encroachment onto property not owned by the applicant is unreasonable and not permitted. Scenic views of the cliff are an especially important as can be seen in the attached photographs (Attachment E.)

CONCLUSION

In summary, we ask that the Commission find substantial issue and consider this permit de novo.

There is ample evidence that the City's decision was not consistent with the LCP in relation to public access, both in neglecting to require a 5 foot wide public sidewalk and in not resolving the existing beach access stair tower that privatizes beach land dedicated for public use.

Attachments:

- A. Components of the LCP of the City of Laguna Beach
- B. Excerpts from LCP, South Laguna Community Design and Landscape Guidelines, Res. 89.104
- C. Photographs of existing conditions where sidewalk is needed.
- D. Site plan showing location of stair tower
- E. Beach stair photographs
- F. South Laguna Civic Association letter of April 11, 2013

COASTAL COMMISSION

EXHIBIT # 7
PAGE 17 OF 34

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION V. Certification

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

Bill Rho
Signature of Appellant(s) of Authorized Agent
Date: July 16, 2013

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: _____

COASTAL COMMISSION

EXHIBIT # 7
PAGE 18 OF 34

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION V. Certification

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

Mark J. Nelson
Signature of Appellant(s) of Authorized Agent
Date: 17 July 2013

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: _____

Attachment A Components of the Local Coastal Program of the City of Laguna Beach

Local Coastal Program

City Council Resolution 92.014 (adopted on February 18, 1992) approved the City's Local Coastal Program (LCP). The City's LCP was certified by the California Coastal Commission on January 13, 1993. The City's LCP constitutes all of the following:

1. General Plan Land Use Map, excluding Blue Lagoon and Three Arch Bay;
2. Land Use and Open Space/Conservation General Plan Elements;
3. Zoning Map;
4. Downtown Specific Plan;
5. Laguna Canyon Annexation Specific Plan;
6. Title 25 (Zoning Code);
7. Chapter 12.08, Preservation of Heritage Trees Ordinance;
8. Chapter 14.78 Geology Reports – Preparation and Requirements Ordinance;
9. Title 21 (Plats and Subdivision);
10. Title 22 (Excavation and Grading);
11. Shoreline Protection Guidelines (as adopted by Resolution 88.43);
12. Design Guidelines for Hillside Development (as adopted by Resolution 89.104);
13. **South Laguna Community Design and Landscape Guidelines (as adopted by Resolution 89.104);**
14. Fuel Modification Guidelines (of the Laguna Beach Safety General Plan Element); and
15. Summer Festival Parking Agreements

COASTAL COMMISSION

EXHIBIT # 7
PAGE 19 OF 34

A subsequent LCP amendment, approved in 2004 by the Coastal Commission, also includes Title 16 (Water Quality Control) as part of the City's LCP.

Any amendments to the above affected documents, maps, ordinances, resolutions, Specific Plans or General Plan Elements require Coastal Commission approval as LCP Amendments. Resolutions and Ordinances can be adopted and be in effect while the LCP amendment is being processed. A City Council Resolution adopting the LCP Amendment and requesting certification by the California Coastal Commission must be adopted prior to application being made to the Coastal Commission. The LCP is not amended until the Coastal Commission approves and certifies the proposed amendment. If suggested modifications are approved by the Coastal Commission, the City will have to make an analysis and policy decision on each suggested change, and it may necessitate amendments to the previously adopted resolutions or ordinances.

The Post-Certification Maps provided to the City by the Coastal Commission specify both the 'Appealable Jurisdiction' of the Coastal Commission and the 'Areas of Deferred Certification' or 'white-holed' areas of the City.

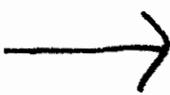
On May 13, 1993, the Coastal Commission approved Categorical Exclusion Order E-93-1 for the City of Laguna Beach. On November 9, 1993, the City Council approved Resolution 93.089 which acknowledges the Categorical Exclusion Order and agrees to the terms and conditions thereof. These approvals exclude certain development categories, including single family residential development, for eleven (11) geographic areas of the City from the requirement to obtain Coastal Development Permits. Maps of these excluded areas were approved with Resolution 93.089.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 20 OF 34

Case E for the commercial areas will be further explained in the following section on Design Details. EXHIBIT # 7 PAGES 21 OF 34

General recommendations:

- 
- o Provide 5 foot wide sidewalk on both sides on Pacific Coast Highway, except where noted on the plan (Zone 7).
 - o Provide street trees Eucalyptus torquata at 25' on center (o.c.) in areas noted as Case E, and Eucalyptus cladocalyx informally spaced at a 40' o.c average in the Scenic Highway setback area outside the right-of-way. (See Cases A through F.)
 - o Provide striped bicycle trails along Pacific Coast Highway in conformance with the Access map, Figure 5 within the Access Component of the Specific Plan.
 - o Provide bus stop benches and bus shelters where indicated on the master plan and as detailed. Existing benches, bus shelters and other items not in conformance with this plan should be removed.
 - o Underground utilities where still above ground (areas shown on Figure 11). The area from Aliso Circle north to the City of Laguna Beach is scheduled for undergrounding in 1989. Schedule undergrounding in Zone 6 to correspond with streetscape improvements in the commercial area. Undergrounding in Zone 4, 5, and 6 is scheduled for 1986.

Specific recommendations:

The following recommendations are numbered and correspond to numbered indications shown at the appropriate locations on the Landscape and Streetscape Master Plan, Figure 11.

Zone 1

Improve per Cases A and D when individual projects are approved or street improvements are made.

- 1.01 The following scenic improvements should be included as conditions of approval for the planned additions to and renovations of the Monarch Bay Plaza:
- a. Remove existing signs on the slope and consolidate signing designed per the Specific Plan requirements.
 - b. Do minor renovations and additions to existing slope plantings.
 - c. Plant service station landscape areas in conformance with the Specific Plan.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 22 OF 34

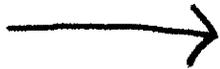
Provide streetscape improvements per Case C on the ocean side between the two entrances to Bluff Drive, and per Case A on the inland side between West and Catalina.

Provide streetscape improvements per Case E on both sides of the street in the local commercial area.

6.01 Nonconforming signs should be made consistent with City standards.

6.02 Provide median improvements per detail.

Zone 7



7.01 Provide sidewalk along the ocean side of Pacific Coast Highway in existing right-of-way, or provide 5' sidewalk if additional right-of-way can be obtained. Require planting and sidewalk construction per Case C as part of project approval for new proposed projects.

7.02 Provide sidewalk or signing and striping for pedestrian walkway along one side of Monterey Street, connecting to the County right of way from Monterey to Aliso Beach Park (Zone 8).

Zone 8

8.01 Improve existing trail in County right-of-way connecting Monterey Street with Aliso Beach Park.

8.02 Install new sidewalk on ocean side retaining existing landscaping. Provide slope retention where necessary.

Zone 9

Improve per Cases A and C when individual projects are approved or when street improvements are made.

9.01 Encourage the planting of vines such as Ficus Repens (creeping fig) to grow on the concrete block retaining walls. Work with the property owners to irrigate and maintain these vines. Improve per Case A if walls are altered or removed.

Zone 10

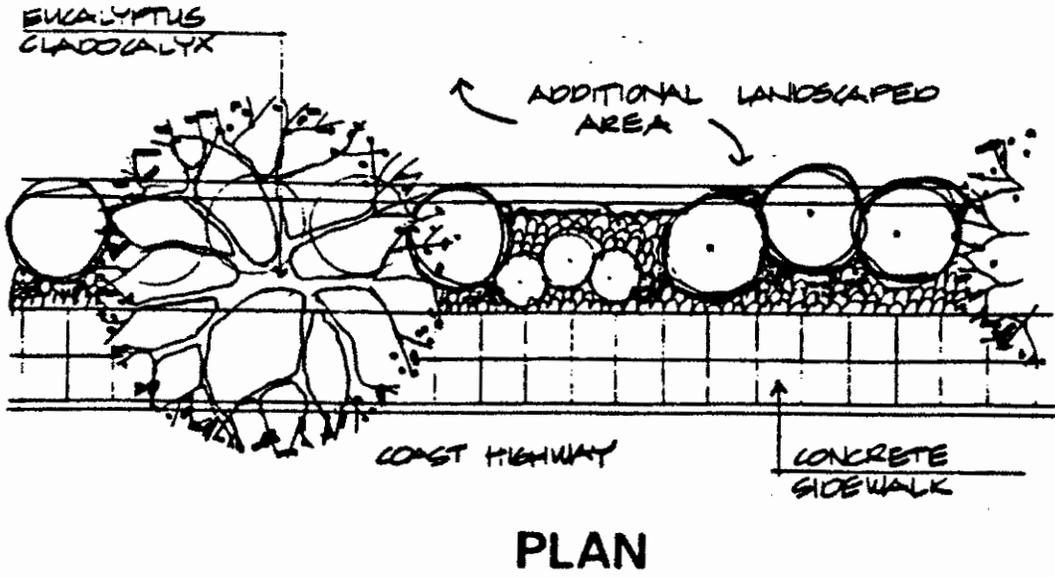
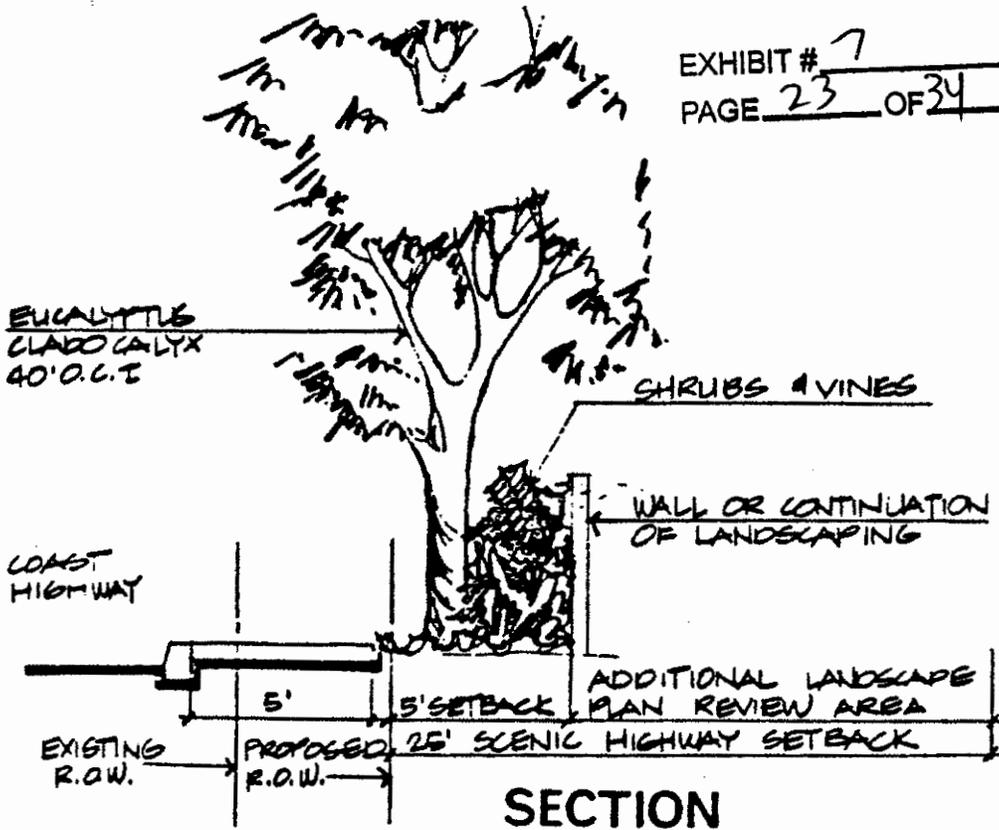
10.01 On the inland side at Aliso School, improve as per Case A. Work with the school district to provide better maintenance of this area.

10.02 On the ocean side at Treasure Island retain the existing Eucalyptus, constructing meandering walks away from the edge of the curb and maintain views of the ocean.

10.03 North of the new entrance to the Alpha Beta

COASTAL COMMISSION

EXHIBIT # 7
PAGE 23 OF 34



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

A RESOLUTION OF THE CITY COUNCIL OF LAGUNA BEACH, CALIFORNIA, ADOPTING 1) AMENDMENTS TO THE GENERAL PLAN/COASTAL PLAN LAND USE MAP; 2) A GENERAL PLAN AMENDMENT INCORPORATING ADDENDA AND A TECHNICAL APPENDIX TO THE LAGUNA BEACH GENERAL PLAN; 3) COMMUNITY DESIGN AND LANDSCAPE GUIDELINES; AND 4) DESIGN GUIDELINES FOR HILLSIDE DEVELOPMENT

WHEREAS, the City Council directed the Planning Commission to initiate the preparation of appropriate amendments and additions to the Laguna Beach General Plan to address the goals, policies and land use standards for the South Laguna area; and

WHEREAS, the Planning Commission of the City of Laguna Beach has, after conducting a duly noticed public hearing, recommended that the City Council modify the General Plan/Coastal Plan Land Use Map and incorporate certain addenda to the General Plan; and

WHEREAS, the Planning Commission has recommended incorporation of various goals, policies and guidelines from the South Laguna Specific Plan with the Laguna Beach General Plan to ensure the unique qualities of South Laguna are properly addressed; and

WHEREAS, after conducting a duly noticed public hearing as prescribed by law and after consideration of the testimony, staff reports and records of both the City Council and the Planning Commission hearings, the City Council desires to amend the General Plan and adopt certain design guidelines; and

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

WHEREAS, adoption of the General Plan amendments and sets of guidelines recited above have been determined as exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15265, 15305 and 15308 of CEQA.

WHEREAS, said General Plan has been amended consistent with the provisions set forth in California Government Code 65350 et seq.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Laguna Beach does hereby resolve as follows:

Section 1. The City Council hereby amends the General Plan/Coastal Plan Land Use Map as shown in Exhibit A attache hereto.

Section 2. The City Council hereby adopts and incorporates various addenda and a Technical Appendix into the Laguna Beach General Plan as specified in Exhibit P attached hereto.

Section 3. The City Council hereby adopts the "Community Design and Landscape Guidelines" as set forth in Exhibit Q attached hereto for the purpose of enhancing the aesthetic character of South Laguna.

Section 4. The City Council hereby formally adopts the City of Laguna Beach's existing "Design Guidelines for Hillside Development" for the purpose of providing specific design considerations for residential development in hillside areas.

ADOPTED this 12 day of December, 1989

Lida Lenney
Mayor

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

ATTEST:

Verna L. Rollinger
City Clerk

I, VERNA L. ROLLINGER, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing resolution was duly adopted at an Adj.Reg Meeting of the City Council of said City held on December 12, 1989, by the following vote:

AYES: COUNCILMEMBER(S) Fitzpatrick, Gentry, Kenney, Collison, Lenney
NOES: COUNCILMEMBER(S) None
ABSENT: COUNCILMEMBER(S) None

Verna L. Rollinger
City Clerk of the City of Laguna Beach, California

Attachment C Photographs of existing conditions where sidewalk is needed.



Pedestrian access along Coast Highway is unsafe.
31381 Coast Highway is behind the fence to the right.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 27 OF 34



31381 Coast Highway is at right. There is insufficient space for an adequate sidewalk without creating that space with new construction. This construction was not required as a condition of approval. An "approximate 3' wide sidewalk" approved, but a 5' walk is required by the LCP.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 28 OF 34

COASTAL COMMISSION

EXHIBIT # 7
PAGE 29 OF 34

Attachment E Photographs of stair tower illustrating visual impact and relationship with cliff.



COASTAL COMMISSION

EXHIBIT # 7
PAGE 31 OF 34



COASTAL COMMISSION

EXHIBIT # 7
PAGE 32 OF 34



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

April 11, 2013

Design Review Board
City of Laguna Beach
505 Forest Ave.
Laguna Beach, CA 92651

COASTAL COMMISSION

RE: 31381 Coast Highway

EXHIBIT # 7
PAGE 33 OF 34

Dear Members of the Board:

The South Laguna Civic Association (SLCA) has urged preservation and restoration of the historic building on this property since 2010, when we brought the illegal partial demolition of this house to the attention of the Heritage Committee. The historic building should be restored, and the demolition of the building requested by the applicant should not be permitted. The reasons are stated in our appeal (attached) of the Council-granted demolition permit to the Coastal Commission. The Commission found that the proposal raised a substantial issue and granted a de novo hearing. This hearing has not been scheduled, according to the Commission staff because the applicant has not requested it.

We believe that the application before you is premature. The applicant has no permit to remove the buildings to make way for the proposed buildings shown in this application. We ask you to table this request until the issue of the demolition permit is resolved.

We have several additional concerns:

The beach stair tower, which, except for a small corner, is on County beach property

The staff report states, "All existing development (including the beach access stairs and cabaña) was grandfathered and considered to be legal nonconforming."

When we asked for documentation of Council action regarding this grandfathering/legal nonconforming decision, staff replied, "The existing condition pre-existed annexation and since permit records in the South Laguna area are less than complete, existing development for which no evidence existed to the contrary were accepted as legal, nonconforming. There is no City Council document." The decision on this nonconforming status then, is not based on a resolution or ordinance, it is an administrative determination.

The stair structure may be nonconforming, but the bigger issue is that it is on someone else's property—the County's. County policy is that a Public Property permit would be required to keep an existing encroachment. An encroachment onto public land cannot be grandfathered, and adverse possession provisions do not apply. A Public Property permit would be discretionary, have a time limit, be revocable with 30 days' notice, and involve paying a fee, as well as rent based on the fair market value of the area occupied on public land. The access and resources policies of the Local Coastal Plan also come into play, since coastal policies do not allow stairs that, as these are described on p. 3 of the staff report, "encroach into the ocean front bluffs."

Discussing finding # 2 for the Coastal Development Permit, related to public access and recreation, staff says, "The proposed project may not be in compliance with this in that the existing beach stairs, located partially on the public beach, impact physical public access and should be removed or relocated off the public beach."

Without a finding of compliance, the Design Review Board cannot grant a Coastal Development Permit. We recommend that the words "may not" be changed to "is not" and that the CD permit be denied or tabled until the stair issue is resolved.

The sidewalk

A 5'-wide sidewalk is required to be dedicated and installed as part of construction projects along Coast Highway, per the Landscape Scenic Highways plan, Detail D-12. A 3'-wide sidewalk does not meet this requirement and is inadequate from the point of view of pedestrian safety. While the applicant may argue that the adjacent property to the north has not provided sidewalk access, at this time incremental implementation of the sidewalk plans of the Landscape and Scenic Highways Resource Document is the only option available. It is critical that each project meet the sidewalk requirements so that ultimately we will have a continuous and safe walkway system.

A 5'-wide sidewalk paralleling the driveway is preferable to a narrow walkway above. With that solution planting could be installed at the upper level, and a guard rail at the top of the wall instead of a fence would provide improved views from the highway and from above. Sufficient area to construct a 5' sidewalk at the driveway level should be dedicated to the public.

Thank you for considering these comments.

Sincerely,



Bill Rihn, president