

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

Th18b

ADDENDUM

DATE: August 7, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **Addendum to Item Th18b:** Appeal No. A-5-LGB-15-0045 (Laguna Beach Fire Department), scheduled for the Commission meeting of August 13, 2015

I. Applicant's Briefing Book

The applicant submitted a Briefing Book which is attached in its entirety to the online version only of this addendum and may be viewed at:

<http://documents.coastal.ca.gov/reports/2015/8/th18b-8-2015.pdf>

II. Letters Opposing Appeal/Supporting Project

Attached are eight letters opposing the appeal and supporting the project as approved by the City.

III. Additional Comment Letter

Three additional letters commenting on alternate methods of fuel modification are attached.



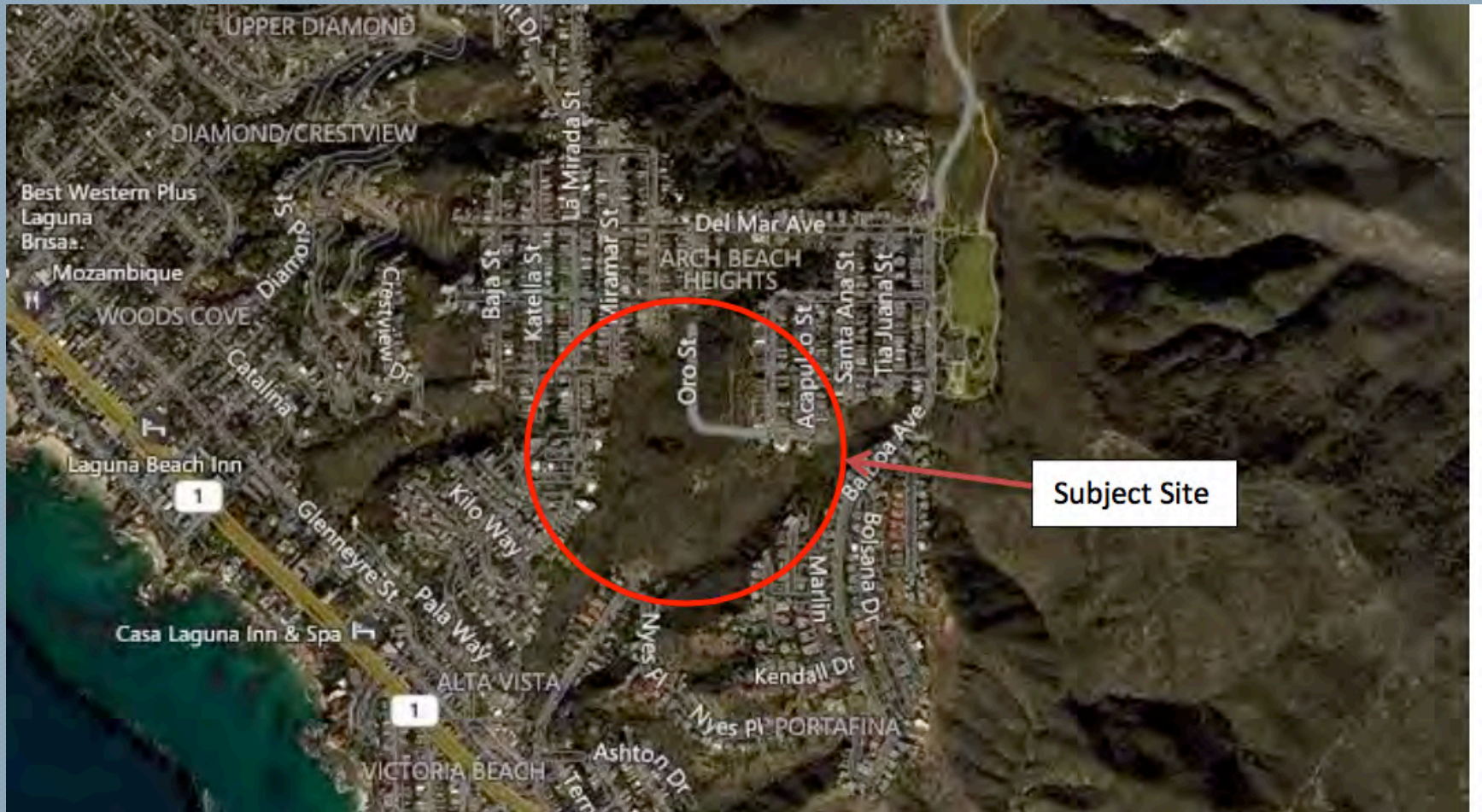
A-5-LGB-15-0045

City of Laguna Beach
Fire Department

CCC Hearing
August 13, 2015
Item Th18b

A copy of these briefing materials has been provided to CCC Staff.

Location



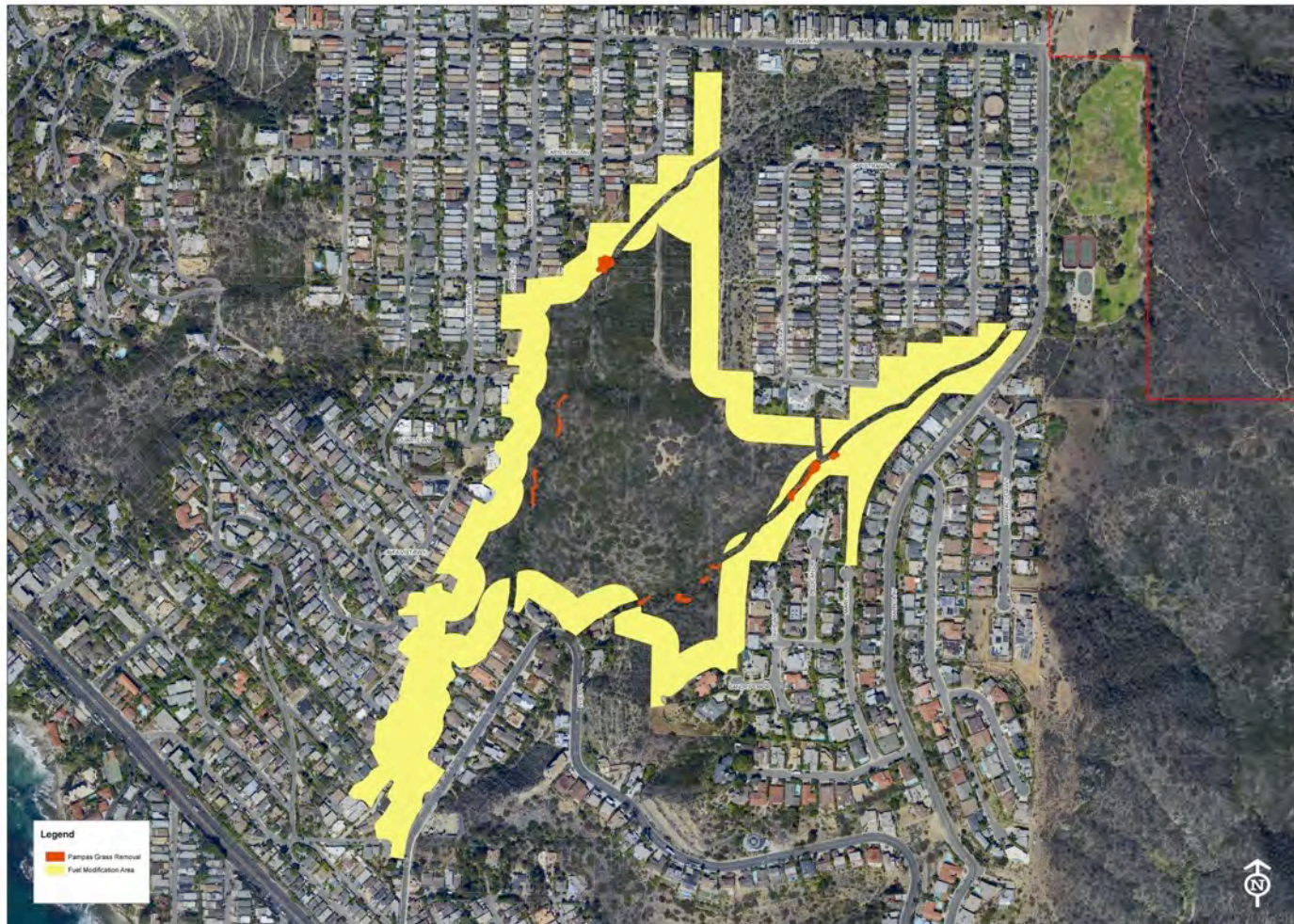
Project Description

- ① Laguna Beach Fire Department proposes fuel modification along rim of Nyes and Oro Canyon in Laguna Beach.
- ① Fuel modification measures involve thinning vegetation canopy by 50%, with goal of creating safe firebreak between undeveloped canyon areas and existing residential development.
- ① Vegetation thinning will be accomplished by hand & includes use of chain saws.
- ① No goats will be used.

Project Need

- Fire hazard is a significant threat in Laguna Beach.
- Firefighters need defensible space to defend structures and protect residences from fire risk.
- No significant fires have been recorded in Nyes and Oro Canyon area to date.
- Chimney effect: heat & winds concentrate to drive fire upwards to rapidly spread & shoot up canyon.
- Fire event would close off only available egress routes needed for evacuation of this area.
- Site is difficult to access as there are only two ways in and out.

Project Location



Oro Canyon Fuel Modification Zone limited to 100-ft around Perimeter

Location of Habitat



Fuel Modification Zone Habitat Study Map (see next slide for species)

Habitat Species

Habitat identified within project site includes southern maritime chaparral, coastal sage scrub, transitional habitat dominated by native vegetation. Non-natives & ornamental species also present.

Project will impact the following habitat areas:

- Coastal Sage Scrub 0.2 acre
- Chaparral 6.74 acres (inc. 1.27 acres disturbed chaparral)
- Coastal sage scrub/chaparral ecotone 1.27 acres

Project Site Photos



Shows vegetation area adjacent to residential development & undeveloped area where 50% thinning will occur.



Existing Vegetation



Existing dense vegetation located within proposed 100 ft perimeter of fuel modification zone



City Approved Project

- Fuel modification activities proposed to create safe firebreak from edge of existing residential landscaping extending approx. 100 ft into undeveloped, steeply sloped canyons.
- Also project includes removal of invasive pampas grass consistent with policy to maintain natural habitat of canyon stream bed.
- Project site is 22-acre area.
- City approval includes mitigation measures to minimize adverse impacts to habitat to maximum extent feasible.

Mitigation Measures

- ⦿ LUP requires mitigation for any habitat impacts;
- ⦿ Thinning of vegetation and hierarchy of vegetation removal requires removal of non-natives & dead or dying vegetation first;
- ⦿ Native vegetation removal only allowed if fire safety goals could not be met otherwise;
- ⦿ Emphasis on removal of non-natives may allow natives to better succeed in future;
- ⦿ Temporary impacts (i.e. no permanent displacement of habitat & root systems will remain intact);

Mitigation Measures

- ⦿ Zone limited to 100ft (LCP allows up to 270ft);
- ⦿ Pre-construction biological surveys conducted;
- ⦿ Qualified biologist to monitor activities & provide worker awareness training on-site;
- ⦿ Offsite mitigation inc. placement of a conservation easement across a City owned, undeveloped 42-acre parcel located just north of Park Avenue and west of Alta Laguna Boulevard;
- ⦿ Mitigation plan to be developed in consultation with CDFW.

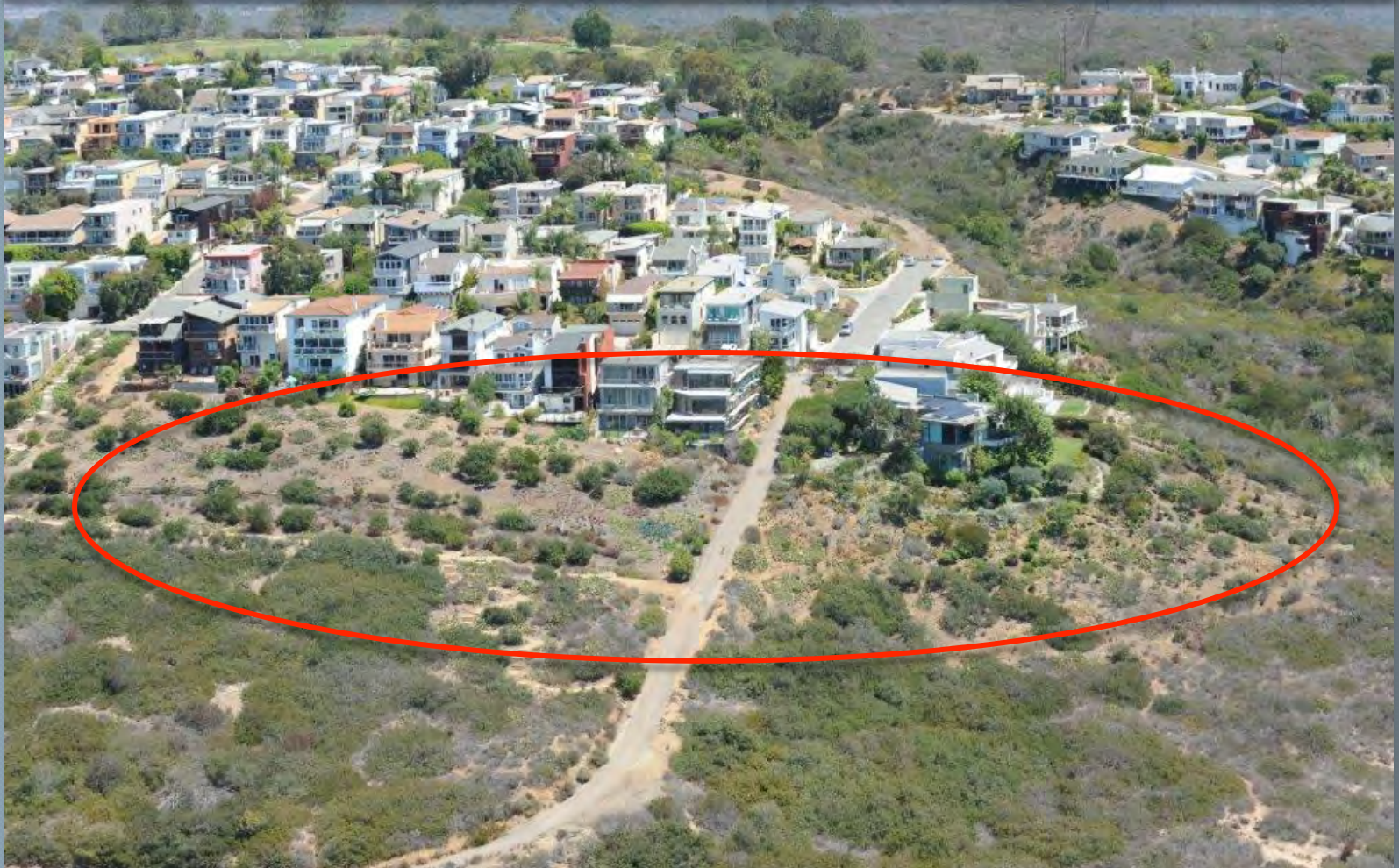
Adjacent Area after Fuel Mod

Shows fuel modification area after 50% reduction of vegetation to illustrate what proposed project area will look like



Existing Post Fuel Mod Area

Adjacent area shows vegetation after fuel modification completed



Conclusion

Applicant supports staff recommendation for
No Substantial Issue



Vaughn, Meg@Coastal

From: dds@job-law.com <ddsessions@job-law.com>
Sent: Thursday, August 06, 2015 2:57 PM
To: Vaughn, Meg@Coastal
Subject: A-5-LGB-15-0045

I object to this appeal!

Don D. Sessions, Sessions Kimball, Employee Rights Attorneys, 23456 Madero, Suite 170, Mission Viejo CA 92691, Cell (949)701-7260, Office (949) 380-0900.

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Vaughn, Meg@Coastal

From: William Kelley <BillKelley@GMail.Com>
Sent: Thursday, August 06, 2015 3:06 PM
To: Vaughn, Meg@Coastal
Cc: Matt Lawson; Ann City of Laguna Beach Larson; John City of Laguna Beach Pietig; LaTendresse, Jeff FD
Subject: Project A-5-LGB-15-0045 Agenda Item Th18b

Dear Members of the Coastal Commission and Staff:

I have reviewed some of the information on this project until my head was swimming with details. It is unbelievable to me all of the care and effort and cost that has gone into planning this important project of fuel modification for the Nyes-Oro Canyons in Laguna Beach by my home.

It is unimaginable that anyone could exert more care and thoughtfulness in attempting protection of the environment than has been done on this project. In my opinion, it may be possible that we the residents have become positioned in the endangered category by the lack of urgency required for the proving of the protection of the environment.

There is no substantial consideration that has not been made in the design and plan of this project. The spirit and intent of all legislation has surely been met and exceeded.

May I encourage the Commission to make every effort to quickly consider the merits of the appeal in light of the extremely careful attention given to the project by the many consultants and dedicated staff of the City and the Fire Department.

Sincerely,

William G. Kelley
462 Nyes Place
Laguna Beach, California
949 357 0040



**Tim Templeton
2828 Chillon Way
Laguna Beach, CA 92651**

August 6, 2015

Ms. Meg Vaughn
Coastal Program Analyst
South Coast District Office
California Coastal Commission
200 Oceangate
Long Beach, CA 90802

RE: OPPOSE APPEAL OF NYES/ORO CANYON FUEL MODIFICATION
Appeal # A-5-LGB-15-0045/ Agenda Item # Th18b

Dear Ms. Vaughn:

I am a longtime Laguna Beach resident and a current member of the City's Emergency/Disaster Preparedness Committee. I'm writing to request that the Commission reject the appeal of our Nyes/Oro Canyon Fuel Modification project, in essence finding "no substantial issue", allowing the Fire Department to proceed. This project is intended to clear dangerous brush from a very high risk fire area, an area classified by CAL FIRE as lying within the Very High Fire Hazard Severity Zone, the state's highest classification for brush fire risk.

Our Fire Chief, Jeff LeTendresse has been tirelessly working with various state and local groups to ensure that the guidelines for this project have been followed. I have personally read the resultant 90 page report, in which all care seems to have been taken to ensure full compliance with existing regulations. Since we are in a record drought, any further delays continue to put the city at risk.

Sincerely,

Tim Templeton

Matt Lawson
P.O. Box 5245
Laguna Beach, CA 92652

August 6, 2015

Ms. Meg Vaughn
Coastal Program Analyst
South Coast District Office
California Coastal Commission
200 Oceangate
Long Beach, CA 90802

RE: OPPOSE APPEAL OF NYES/ORO CANYON FUEL MODIFICATION
Appeal # A-5-LGB-15-0045/ Agenda Item # Th18b

Dear Ms. Vaughn:

As a longtime Laguna Beach resident and current Chair of the City's Emergency/Disaster Preparedness Committee I would urge in the strongest terms that the Commission find "no substantial issue" for this project so that our Fire Department can commence urgently needed fuel modification work on this extremely dangerous brush filled interior canyon that is surrounded by dense residential development in the heart of our city.

This location has been identified by our Fire Department as the most dangerous interior canyon in our entire city, substantially all of which has been classified by CAL FIRE as lying within the Very High Fire Hazard Severity Zone, the state's highest classification for brush fire risk.

As you know, 2015 is shaping up to be an extremely dangerous year for wildland fires. In 1993, our city of only about 23,000 residents was the site of the 7th most destructive wildland fire incident and the 15th most destructive fire disaster in U.S. history, starting with 9/11. More than 400 homes were destroyed or severely damaged. We were lucky. Nobody died and no serious injuries occurred. We might not be so fortunate if a wildfire ignited in Nyes/Oro Canyon where numerous structures would likely be fully involved before fire apparatus could arrive on scene.

On July 3, we narrowly averted what could have been one of the worst mass casualty events in the recent history of California thanks to the valor and skill of our Fire Dept., mutual aid responders and regional air resources. They were able to rapidly contain and knock down a brush fire along Laguna Canyon Road (site of the '93 fire) during the July 4th holiday weekend when traffic gridlock throughout the City would have made large-scale evacuation impossible.

Working closely with Community Development staff, our Fire Department has taken great pains and spared no expense to ensure that this project will be undertaken in an environmentally and aesthetically sensitive fashion fully in keeping with the Coastal Act and our Local Coastal Program. I concur with Commission staff that there is no substantial basis for this appeal and urge the Commission to allow us to get on with the important work of protecting the City's 23,000 residents, 16,000 local employees and six million annual visitors. This fuel modification project is also essential to protect our unique natural environment as well as our historic built environment from the ravages of another devastating wildfire.

Sincerely,



Jerry Myers

1278 Glenneyre Street Suite 283, Laguna Beach, CA, 92651 | ibildhomes@cox.net

August 6, 2015

Ms. Meg Vaughn
Coastal Program Analyst
South Coast District Office
California Coastal Commission
200 Ocean Gate
Long Beach, CA 90802

RE: OPPOSE APPEAL OF NYES/ORO CANYON FUEL MODIFICATION

Appeal # A-5-LGB-15-0045 / Agenda Item # Th18b

Dear Ms. Vaughn:

I have lived in Laguna Beach since 1970. Our family and friends have lived through and survived many disasters in these forty-five years, most notably the firestorm of 1993 that destroyed over 400 homes, including homes belonging to my family and closest friends. They lost everything and had to start over.

I am asking that for the safety of all current and future generations of Laguna Beach residents that the Coastal Commission find no substantial issue with the Nyes/Oro Canyon Fuel Modification project. Our Fire Department and CAL FIRE have identified this area to be of the highest concern should another wildfire occur.

I have worked diligently over the years as a resident, General Contractor and now as a Board member of both the City's Emergency/Disaster Preparedness Committee and CERT program (Community Emergency Response Team) to make Laguna Beach a safer place to live. We now have an opportunity to make substantial progress for the safety of our residents and the Fuel Modification Program is something that will benefit us all for many years to come. I urge you to allow the modification program to continue as planned.

Sincerely,

Jerry Myers

Ms. Meg Vaughn
Coastal Program Analyst
South Coast District Office
California Coastal Commission
200 Oceangate
Long Beach, CA 90802

RE: OPPOSITION TO APPEAL OF NYES/ORO CANYON FUEL MODIFICATION
Appeal # A-5-LGB-15-0045/ Agenda Item # Th18b

Dear Ms. Vaughn:

I would urge that the Commission deny this appeal so that our Fire Department can begin urgently needed fuel modification work on this extremely dangerous, brush-filled interior canyon that is surrounded by residential development in the heart of our city. It is an urgent public safety need.

This location has been identified by our Fire Department as one of the most dangerous interior canyons in our entire city—a city classified by CAL FIRE as primarily (93%) within the Very High Fire Hazard Severity Zone, the state's highest classification for brush fire risk.

As you know, 2015 is shaping up to be an extremely dangerous year for wildland fires and Laguna Beach is in the eye of danger. In fact, a dangerous fire started in Laguna Canyon due to a tree falling on a power pole. Luckily, it was contained at a small size, unlike the devastation that occurred here in 1993. We don't want a repeat of either.

The Nyes/Oro Canyon project has been carefully and sensitively developed to protect both the natural environment and surrounding residential neighborhoods. Working closely with Community Development staff, our Fire Department has taken great pains and spared no expense to ensure that this project will be undertaken in an environmentally and aesthetically sensitive fashion and in keeping with the Coastal Act and our Local Coastal Program.

I too believe that there is no substantial basis for this appeal and urge the Commission to allow Laguna Beach to get on with the important work of protecting the city's 23,000 residents as well as workers and visitors. This fuel modification project is designed to protect our unique natural environment AND residential and business structures from another devastating wildfire.

Sincerely,

Charles Barr, Sandi Cain, Mike Mitchell, Jerry (Sonny) Myers, Susan Reese, K. Alx Simmons, Laguna Beach CERT board of directors. (Cain and Myers also sit on the city's Emergency & Disaster Preparedness Committee)

Robert Eric Elster, LFACHE

22353 Eagle Rock Way Laguna Beach CA 92651-8318

August 7, 2015

Ms. Meg Vaughn
Coastal Program Analyst
South Coast District Office
California Coastal Commission
200 Oceangate
Long Beach, CA 90802

Subj: Nyes/Oro Canyon Fuel Modification Project , Appeal #A-5-LGB-15-0045
/Agenda Item #Th18b on August 13th, 2015 Meeting

Dear Ms. Vaughn:

I strongly urge that the Commission reject the appeal of the subject project. I have read the report of the Commission staff and their recommendation of a "no substantial issue" finding of the appeal; I believe their report is complete and well-reasoned and should be the basis for such a finding by the Commission.

I am a 16+ year resident of Laguna Beach, currently an appointed member of the City's Emergency/Disaster Preparedness Committee. It has become clear to me that the brush-filled interior canyons of the City pose an extreme danger to the closely adjacent residential housing; the Nyes/Oro Canyon Fuel Modification Project addresses reduction of that danger in one of the most dangerous of these interior canyons. By creating a reduced-fuel zone in those areas of the canyons closest to homes, it creates time for our Fire Department and any required mutual aid to mobilize and effectively contain fires before loss to property or lives occurs.

Throughout the definition of the project, the City of Laguna Beach staff have ensured that the work will be done to conform to all environmental and legal requirements of the Coastal Act and Local Coastal Program. The project has been well-structured to remove dead and dying brush, remove non-native plant material, identify and protect endangered plant species, and minimize removal of plant roots in order to maintain stability of the steep canyon walls. There are provisions for pre-work surveys and identification of plants to be protected, full-time independent supervision of the work crews, and other measures to ensure that there is minimal impact on the integrity of the canyon flora and fauna.

No doubt other sources have pointed out in more detail the July 3, 2015 brush fire in Laguna Canyon as an indication of the danger present in Laguna Beach; that potential exists just as much in the Nyes/Oro Canyon area, which has even more restricted access to the area for resident evacuation and fire apparatus access.

I urge the Commission to reject the appeal and allow the City of Laguna Beach to move forward with this project which will protect the residents, businesses and their employees, and six million annual visitors, and which will at the same time protect the natural coastal environment from future uncontrollable wildfires.

Very truly yours,

Robert E. Elster

David Horne
565 Emerald Bay
Laguna Beach, CA 92651

Ms. Meg Vaughn
Coastal Program Analyst
South Coast District Office
California Coastal Commission
200 Ocean Gate
Long Beach, CA 90802

RE: OPPOSE APPEAL OF NYES/ORO CANYON FUEL MODIFICATION

Appeal # A-5-LGB-15-0045/ Agenda Item # Th18b

Dear Ms. Vaughn:

On October 27, 1993 my house burned to the ground along with literally hundreds of my neighbors here in Laguna Beach during that terrible day that I will never forget. Until that point in time, I had cavalierly thought that wildfires happen "elsewhere" and certainly not to me. I was badly mistaken.

Since that event, I have been active in local and statewide groups that work to reduce the threat of catastrophic wildfires. I founded the Greater Laguna Coast Fire Safe Council that has received grants for over \$200,000 for educational and fuel reduction programs in the region. I am the Treasurer and serve on the Board of Directors of the California Fire Safe Council that has distributed over \$80,000,000 to community groups across the state to accomplish the same goals—reduce the threat of future wildfires. My heart goes out to people whenever I read of homes lost and families displaced by the fires that occur so frequently here in California. I know what they are going through. Still, I keep at it as I don't want such a devastating loss to happen to me again or anyone else.

In all my efforts, I have always worked closely with the fire professionals, again at the local, state and national level and applaud their determination to do as much preventative work as possible that will help reduce the likelihood and severity of future fires.

One such effort, the above mentioned Nyes/Oro Canyon Project, is being undertaken in Laguna Beach by the Laguna Beach Fire Department to accomplish a significant fuel reduction program. I urge you to allow this work to go forward. It is important to all of us in Laguna Beach. The plan outlined by the Fire Department is excellent and will be a critical step in decreasing the threat of future wildfires.

Thank you for your consideration.

Sincerely,

David Horne

Vaughn, Meg@Coastal

From: Penny Elia <greenp1@cox.net>
Sent: Tuesday, July 28, 2015 2:52 PM
To: Vaughn, Meg@Coastal; Henry, Teresa@Coastal; Schwing, Karl@Coastal; Sarb, Sherilyn@Coastal; Willis, Andrew@Coastal
Subject: Fwd: Agenda Item #16 - REPORT ON EXPANSION OF THE CITY'S FUEL MODIFICATION ZONES

I copied several of you on this a couple of years ago. Just thought some of this might be helpful now that I have read the staff report. The fire department no longer does what it used to do to create defensible space. For some reason homeowners are no longer responsible for being part of the solution. The fuel mod has to all be absorbed by the open/natural spaces. Please take a look at what the City used to do 20 years ago. Why was all of this ceased? I can't get anyone at the City to give me a straight answer, so not sure why the fuel mod can't begin with the property owners versus the open space.

Thanks for considering this information. You seem to be better with communicating with the City than I, so hoping you might see some benefit to sharing this.

Begin forwarded message:

From: Penny Elia <greenp1@cox.net>
Date: September 5, 2013 7:50:57 AM PDT
To: kellyboyd2006@gmail.com, elizabethpearson2@cox.net, tiseman2@aol.com, bob whalen <bobwhalen1@gmail.com>, steve dicterow <sdicterow1121@yahoo.com>
Cc: Dan Stefano <dstefano@lagunabeachcity.net>, jlatendresse@lagunabeachcity.net, ipietig@lagunabeachcity.net, "Karl@Coastal Schwing" <Karl.Schwing@coastal.ca.gov>, "Teresa@Coastal Henry" <teresa.henry@coastal.ca.gov>, "Sherilyn@Coastal Sarb" <Sherilyn.Sarb@coastal.ca.gov>, "Andrew@Coastal Willis" <Andrew.Willis@coastal.ca.gov>, "Lisa@Coastal Haage" <Lisa.Haage@coastal.ca.gov>, Pat Veasart <Pat.Veasart@coastal.ca.gov>, rlardie@lagunabeachcity.net, Richard Halsey <rwh@CALIFORNIACHAPARRAL.ORG>, "Aaron@Coastal McLendon" <Aaron.McLendon@coastal.ca.gov>
Subject: Agenda Item #16 - REPORT ON EXPANSION OF THE CITY'S FUEL MODIFICATION ZONES

"Think from the house out" <http://www.werc.usgs.gov/project.aspx?projectID=226>

Good morning, members of the City Council -

I'm sorry I will not be able to attend the City Council hearing tomorrow evening but did want to share some thoughts with you and our fire department on the expansion of fuel mod zones.

I have had the pleasure of working with Ray Lardie for some time and have enjoyed working with Dan Stefano over the last couple of years. They are not only competent fire department staff, but they are also good planners and environmental advocates when it comes to protecting and preserving our finite natural resources which we so highly value here in Laguna Beach. We all realize that climate change is a reality and one that is not a friend of our fire departments. Richard Halsey of the Chaparral Institute recently wrote this email following the Yarnell Fire:

In reading and talking to folks about the 19 firefighter deaths this past week in the Yarnell Fire, I am reminded of how I felt after learning about the details of the 2006 Esperanza Fire where 5 firefighters were killed defending a house. The house was at the top of a long, deep canyon: a fire chimney. You couldn't have designed a more hazardous location. After the report came out basically laying blame on the firefighters themselves for their own deaths, I wrote an essay concerning the one issue the investigators, and the fire service in general, refused to acknowledge (but everyone talks about privately). The house should never have been built in the first place. You can read what I wrote here: <http://www.californiachaparral.org/afirefighters.html>

Everything I wrote back in 2006 is applicable to what just happened in Arizona. I am hoping this time, the fire service and the country will seriously rethink the whole fire suppression model. The majority of the money spent on wildland fire needs to be spent BEFORE the fire. Making structures firesafe. Creating adequate defensible space. Developing firefighter safety zones near communities. Establishing strategic fuel breaks within 1,000 feet of communities. And most importantly, strict land planning regulations that prevent homes from being built in dangerous locations. Stop putting firefighters at risk to attempt fire suppression in the backcountry, far from communities. And stop placing firefighters at risk to protect structures in hazardous locations.

The climate is changing. The fires are getting more dangerous. It is a different world. The phrase, "I've never seen a fire like this before," is becoming a bit trite. Let's do something about it. Focus on saving lives (including firefighter lives) and property, instead of trying (and continually failing) to stop fires. This means focusing on communities instead of trying to fight the natural environment.

- Rick

We all respect our fire department and all they do to keep us safe. We want them to be safe as well. With that in mind, I would like to once again address an old program the fire department had back in the 90s when they did individual home/neighborhood assessments and graded homeowners on their individual fire safety especially if they were living in wildland interface which are the areas identified in the staff report for agenda item 16 you will hearing tomorrow night (I have attached samples of what I am referring to below). Not only do homeowners put themselves at risk by building in fire threatened areas, but in many cases they do nothing to protect their homes in the way of their own clearing of vegetation. Rather, they rely upon the fire department to create additional fuel break/mod zones in our natural resource areas and then put themselves at risk to save their home during a fire event. It would be great to see the City Council working with the fire department to carefully analyze new permit applications that would not allow building in fire threatened areas and also insist upon homeowners in these areas having the proper clearance around their homes. Currently, neither is happening. The fire department is just put into a high risk situation every time a new home is approved in an unsafe area. They deserve better.

It would also be very helpful for the City Council to review the CDP application that was withdrawn at the last minute back in 2008 that would have created some excellent guidelines via the City's LUP to assist with the development of fuel mod zones.

c. City of Laguna Beach LCP Amendment No. LGB-MAJ-1-07c (Fuel Modification & Assorted Implementation Plan Revisions). Public hearing and action on City of Laguna Beach LCP Amendment to change fuel modification provisions of the Land Use Plan and modify Implementation Plan (IP) provisions for Residential Hillside Protection Zone, sign and

parking regulations, Arch Beach Heights Specific Plan (lot combinations), Second Residential Unit and Flood Damage Prevention ordinances, and add new IP sections for Artists' Live/Work Units, short-term lodging, telecommunications facilities, bed & breakfast inns, and delete obsolete zones including Residential Hillside Zone and M-1 Industrial Zone, among other changes. (MV-LB) **[IP APPROVED WITH MODIFICATIONS, LUP WITHDRAWN]**

Again, I'm sorry I can't attend the hearing tomorrow night to speak with you about this personally. I hope you find some of these thoughts helpful and that perhaps we can move a few of these ideas and past programs forward.

Hope you are all enjoying the lovely fog and cool temps today.

All the best -

Penny Elia
Save Hobo Aliso Task Force, Sierra Club
Laguna Beach
949-499-4499



June 20, 1995

Dear Resident:

During the months of May and June, the Laguna Beach Fire Department inspected more than 1,500 properties along the wildland interface. Your home was one of the properties inspected by professional firefighters. The purpose of the inspection was to identify hazards that could contribute to the spread of a wildland fire in the hills and canyons of Laguna Beach.

The Laguna Beach Fire Department has taken a proactive approach to fire protection. Information generated by field inspections will become part of a computer data base. Computerization will be used to assist in identifying areas that could be at risk and the possible need for additional fuel modification zones. By using Laguna Beach Firefighters to gather information and identify hazards, the professionals with the responsibility of fighting the fire are directly involved in the Fire Preplan Process. This action most certainly will save lives and property when the next wildland fire strikes Laguna Beach.

The Laguna Beach Fire Department needs your help! Please take a few minutes and review the enclosed Field Worksheet that firefighters used when they visited your residence. Each section on the Worksheet reflects an area of concern. When you review the Worksheet, look for ways to improve fire safety in and around your home. One of the most effective methods of protecting your home is to create and maintain a defensible space around your property. The cost effective action of removing dead brush and vegetation, along with the trimming and pruning of trees and bushes, will greatly decrease the spread of fire and improve the chances of your home surviving the next wildland fire.

It is my sincere hope that you will use the information that your Fire Department has provided to reduce the risk of a wildland fire extending onto your property. If you would like more information or to meet with the firefighters who inspected your property, please do not hesitate to contact my office, (714)497-0700.

Thank you for your efforts in making our community a fire safe environment.

Sincerely,

A handwritten signature in cursive script that reads "Bill Edmundson".

Bill Edmundson, Fire Chief

505 FOREST AVE.

LAGUNA BEACH, CA 92651

TEL (714) 497-3311

FAX (714) 497-0771

♻️ RECYCLED PAPER

LAGUNA BEACH FIRE DEPARTMENT
FIELD WORKSHEET

Laguna Beach Wildfire Hazard Information Mitigation System

SITE ADDRESS: [30632 MARILYN]

STRUCTURE

FUEL / VEGETATION

1. ROOFING MATERIAL

- 0 no structure
- 1 concrete roof
- 2 tile or metal roof
- 3 rock/gravel roof
- 4 fiberglass, composite (asphalt shingle) roof
- 5 wooden shingle roof

2. EXPOSED OPEN WOODEN DECKS or UNDERSIDE OF HOMES

- 0 no structure
- 1 no decks or exposed underside
- 2 exposed protruding deck
- 3 exposed wooden underside of home
- 4 exposed decks & underside of structure

3. EXTERIOR SIDING OF THE STRUCTURE

- 0 no structure
- 1 concrete, rock, brick
- 2 composite, aluminum, tile
- 3 stucco siding
- 4 wood siding

4. EAVES and/or OVERHANGS

- 0 no structure
- 1 no exposed eaves / overhangs
- 2 boxed in eaves / overhangs
- 3 exposed roof eaves / overhangs

5. DEFENSIBLE SPACE AROUND STRUCTURE

- 0 no structure / fuel
- 1 all flammable vegetation has been cut away from the structure for a distance of 30 feet. (this does not apply to maintained green growing landscaping.)
- 2 flammable vegetation has not been maintained

6. GENERAL TYPE and CLASSIFICATION OF LANDSCAPING

- 0 no landscaping: plants, trees or grass
- 1 light landscaping: succulents, lowbedding, growing plants
- 2 medium: average amounts of fuel
- 3 high: large and/or many plants & trees
- 4 very high: many large trees; enough to limit seeing the structure

7. DENSITY of FUELS and VEGETATION

- 0 no fuels or vegetation
- 1 average distance between plants is greater than the plant's diameter
- 2 average distance between plants is 1/2 of the plants diameter
- 3 difficult to walk between the plants
- 4 cannot walk between the plants

8. GEN'L PROPERTY MAINT. and CONDITION

- 0 no fuel or vegetation
- 1 all fuels & vegetation well-maintained
- 2 most fuels pruned back & maintained
- 3 fuels are not pruned, limbed, but maintained
- 4 fuels & vegetation overgrown & not maintained
- 5 fuel & vegetation maintenance needed!

9. AMOUNT OF DEAD TO LIVING FUELS

- 0 no dead fuels
- 1 <5% of all fuel is dead/dying
- 2 <10% of all fuel is dead/dying
- 3 <25% of all fuel is dead/dying
- 4 25%> or more all fuels are dead/dying

LAGUNA BEACH FIRE DEPARTMENT

Laguna Beach Wildfire Hazard Information Mitigation System

Inspected by: [Penning]

Date: [5-14-98]

Time: [_____]

TOPOGRAPHY	OVERALL TOTAL
<p>10. DISTANCE of the STRUCTURE to the WILDLAND 0 <input type="checkbox"/> no structure 1 <input type="checkbox"/> > 500 feet away 2 <input type="checkbox"/> > 300 feet away 3 <input type="checkbox"/> > 100 feet away 4 <input checked="" type="checkbox"/> directly adjacent to the wildland or open space</p>	<p>TOTAL OF 1 THROUGH 9-----[14] TOTAL OF 10 THROUGH 15-----[11] OVERALL TOTAL SCORE-----[25]</p>
<p>11. TYPE of WILDLAND / OPEN SPACE 0 <input checked="" type="checkbox"/> closest open space has a fuel modification zone 1 <input type="checkbox"/> closest open space is primarily grasslands 2 <input type="checkbox"/> closest open space is average Laguna Chaparral 4'-6" in height</p>	<p>COMMENTS</p>
<p>12. DEGREE of SLOPE 0 <input type="checkbox"/> 0 degrees / flat 1 <input checked="" type="checkbox"/> 0-10 degrees 2 <input type="checkbox"/> 10-20 degrees 3 <input type="checkbox"/> 20-30 degrees 4 <input type="checkbox"/> 30-40 degrees 5 <input type="checkbox"/> > 40 degrees</p>	
<p>13. ASPECT of PROPERTY (general) 0 <input type="checkbox"/> faces North 1 <input type="checkbox"/> faces East 2 <input type="checkbox"/> faces South 3 <input checked="" type="checkbox"/> faces West</p>	
<p>14. DISTANCE of the PROPERTY to STEEP SLOPES 0 <input type="checkbox"/> > 500' away from a steep slope 1 <input type="checkbox"/> < 500' away from a steep slope 2 <input type="checkbox"/> < 100' away from a steep slope 3 <input checked="" type="checkbox"/> < 30' away from a steep slope</p>	
<p>15. DISTANCE of PROPERTY to 'CHUTES' of 'CHIMNEYS' 0 <input checked="" type="checkbox"/> > 500' away from a chimney 1 <input type="checkbox"/> < 500' away from a chimney 2 <input type="checkbox"/> < 100' away from a chimney 3 <input type="checkbox"/> < 30' away from a chimney</p>	

Vaughn, Meg@Coastal

From: Penny Elia <greenp1@cox.net>
Sent: Friday, August 07, 2015 11:56 AM
To: Vaughn, Meg@Coastal; Schwing, Karl@Coastal
Subject: Fwd: SOCWA Follow-up
Attachments: WaterConservationMeasuresJuly14 (2).pdf; RECLAIMED WATER MAP (1).pdf

This is another avenue we have been pursuing for years. I would like the Commissioners to have the big picture on all of this since we have made very little progress over the years. There are alternatives.

Thanks so much!

Begin forwarded message:

From: Mike beanan <conxtns@hotmail.com>
Date: August 7, 2015 8:32:28 AM PDT
To: "bburnett@socwa.com" <bburnett@socwa.com>
Cc: mike dunbar <mdunbar@ebservicedistrict.com>, Dan Feron San Mar WD <danf@smwd.com>
Subject: SOCWA Follow-up

Betty,

Please find attached recent correspondence to the Laguna Beach City Council requesting a recycled water system with a preliminary map.

With the annual wildfire season, a recycled water system to prevent and suppress fires remains a critical unmet need. Recycled water for an irrigated Laguna Greenbelt is recommended in the city's Fuel Modification Guidelines and is a typical feature among Homeowners Associations in surrounding cities.

A new citywide recycled water system is eligible for State funds and future revenue from routine irrigation and other non-potable uses can mitigate initial costs.

Recycled water, properly distributed, can replace as much as 50% of daily water demands.

Thanks for reviewing this request and any advice to proceed forward,

Mike



P. O. Box 9668
South Laguna, CA 92651
SouthLaguna.org

July 14, 2015

Re: Item #14 Water Conservation Measures

Dear Members of the City Council and Water Board,

We ask that the City and Water District plan for a reclaimed water distribution system within the Laguna Beach County Water District area, to be implemented as soon as possible.

Now that the Driftwood open space adjacent to Aliso and Wood Canyons Wilderness Park has been acquired, it seems to us that it provides an opportunity for a feasible route for sending reclaimed water north to Laguna Beach, a route more direct and less costly than a pipeline on Coast Highway.

We suggest that a pipe could extend from the treatment plant in Aliso Canyon up the hillside to Moulton Meadows Park. According to Joe McDivitt of the South Coast Water District, a reservoir (tank) would be needed at the top of the hill. From the reservoir the reclaimed line could extend along Balboa to the fire road and Top of the World. From there to Top of the World School, Top of the World Park and Alta Laguna Park which could all then be watered with reclaimed water. The line could extend down Park Avenue to Thurston School. At Wendt Terrace a line could extend over to Bluebird Park. The main line would continue down Park to the High School, then to City Hall, the festival grounds, medians and Village Entrance, then to Main Beach and Heisler Parks.

Connections could be made along the way to the open space edges to emergency irrigation systems to be used in case of fire.

This proposed routing keeps most of the pipeline installation on city streets, and would provide reclaimed water to our most important community landscaped areas.

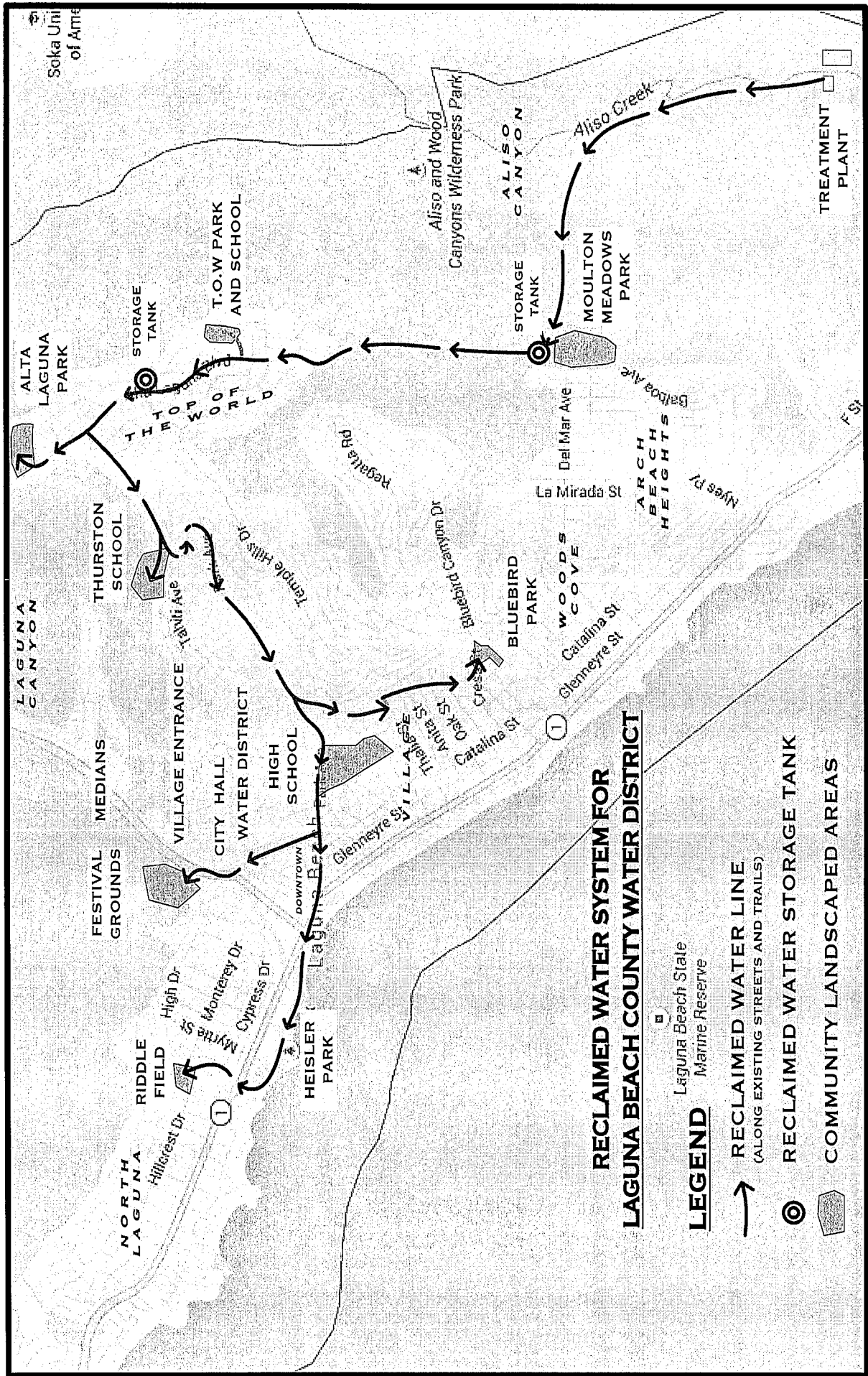
A reclaimed water system will save domestic water and reduce the amount of sewage effluent flowing out to our ocean at Aliso Beach every day.

Please expedite implementing such as system. As usual, SLCA is prepared to assist in planning and seeking grants to move us forward with recycled water for Laguna Beach.

Sincerely,




A handwritten signature in black ink, appearing to read "A. O'L.", is written over the typed name.

Greg O'Loughlin, President



**RECLAIMED WATER SYSTEM FOR
LAGUNA BEACH COUNTY WATER DISTRICT**

LEGEND

-  RECLAIMED WATER LINE
(ALONG EXISTING STREETS AND TRAILS)
-  RECLAIMED WATER STORAGE TANK
-  COMMUNITY LANDSCAPED AREAS

Laguna Beach State
Marine Reserve

Soka Uni
of Ame

TREATMENT
PLANT

ALTA
LAGUNA
PARK

STORAGE
TANK

T.O.W PARK
AND SCHOOL

Aliso and Wood
Canyons Wilderness Park

ALISO
CANYON

Aliso Creek

STORAGE
TANK

MOULTON
MEADOWS
PARK

LAGUNA
CANYON

THURSTON
SCHOOL

THE
TOP
OF
WORLD

Regatta Rd

Temple Hills Dr

VILLAGE ENTRANCE

FESTIVAL
GROUNDS

MEDIANS

CITY HALL

WATER DISTRICT

HIGH SCHOOL

DOWNTOWN
LAGUNA BEACH

HEISLER
PARK

NORTH
LAGUNA

RIDDLE
FIELD

Myrtle St

High Dr

Monterey Dr

Cypress Dr

Glenneyre St

Thalassia
Village

Alta St

Oak St

Catalina St

BLUEBIRD
PARK

WOODS
COVE

Catalina St

Glenneyre St

La Mirada St

Del Mar Ave

Garbosa Ave

ARCH
BEACH
HEIGHTS

Nyses Pl

FS

Th18b

August 6, 2015



CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Ocean Gate, 10th Floor
Long Beach, CA 90802-4302

RE: Appeal No. A-5-LGB-15-0045 (Laguna Beach Fire Department Fuel Modification)

Dear Commissioners,

The mission of the Sierra Club is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Orange County Sierra Club members are concerned with all projects that impact wildlife habitat, particularly when they impact sensitive and threatened habitat and species.

This project would impact Coastal Sage Scrub habitat in Oro and Nyes Canyons in Laguna Beach. Southern California's coastline was once covered by coastal sage scrub but is now largely developed. Only scattered pockets of this endangered habitat remain and it is critical that every effort be made to protect and restore this habitat so that it can continue to support the wildlife that depends on it including federally listed species such as the California Gnatcatcher, Big-Leaved Crownbeard and a variety of other species that exist only in this special area.

We appreciate the fact that the City of Laguna Beach is obtaining a Coastal Development Permit for this project so that the facts can be thoroughly discussed and reviewed. In the past this has not been the case and that has resulted in irreparable harm to critical habitat. We believe that the CDP process provides important opportunities for public input and regulatory review that result in better protection of coastal resources. The Sierra Club is hopeful that this will begin a trend for the City and that they will handle all upcoming fuel modification planned for the City's open space area through the permitting process. We are aware of other fuel modification plans in sensitive habitat areas that will involve the utilization of police power/nuisance abatement orders versus permitting.

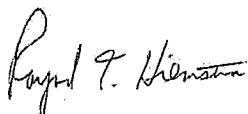
With this in mind we are requesting that Coastal Commission staff work with the City of Laguna Beach to modify the fuel modification plan to improve protection of critical habitat before approving the permit. The project is proposed to occur over a three year period so there is time to develop and test the best fuel modification methods to increase fire safety while protecting critical habitat.

To provide more detail we have the following comments on the proposed fuel modification project:

1. All Coastal Sage Scrub community plants should be left intact. We agree that all exotic and invasive species should be removed from the proposed fuel modification area. In fact they should be removed from the entire canyon to reduce the chance of fire and improve wildlife habitat. However we think the blanket requirement to remove 50% of the vegetation in the fuel modification area is arbitrary that current fire science shows conclusively that superior fire protection is provided by removing non-native vegetation and leaving native vegetation intact.
2. All encroachment into public land should be eliminated and restored to Coastal Sage Scrub habitat. Fire science literature cites data from fire events that reveals encroachment and the highly flammable plant and manmade materials that come with it far exceed the amount or condition of native habitat in predicting the occurrence of a fire and damage to structures when a fire occurs. Unfortunately many homeowners have encroached onto public property in this area, removing native habitat and installing "improvements." These encroachments need to be identified and eliminated as part of this project. Conducting fuel modifications outside of these encroachments unnecessarily impacts critical habitat, encourages more encroachment, and degrades public property.
3. The fuel modification plan should be developed using the latest techniques and information. There is evidence that thinning vegetation alone is not effective in increasing fire safety. All options, including modification of landscaping and building materials on adjacent private property need to be considered as part of the fuel modification program. Private Property owners in this area know they live in a fire zone and need to be active participants in fire protection through modification of their homes and property. Please find attached a sample of a Field Worksheet that was used by the Laguna Beach Fire Department during the 1990s. This program has been eliminated for some reason and has allowed wildland interface homeowners to not only encroach into open space with their "improvements" but also landscape to an extent that is no longer defensible by the Fire Department.

In closing, we believe that delaying a decision on this issue until Coastal Commission and Laguna Beach staff develop a fuel modification plan consistent with current fire science and with tested and published best practices for fire risk management at the wild urban interface will have no impact of fire safety to residents and property. The result will be a revised fuel modification plan that provides better fire safety, protects critical habitat and brings property owners fully into the process. This will not only be good for Oro and Nyes Canyon but will set an example for the rest of Laguna Beach and California.

Thank You,



Ray Hiemstra
Chair
Sierra Club Orange County Conservation Committee



June 20, 1995

Dear Resident:

During the months of May and June, the Laguna Beach Fire Department inspected more than 1,500 properties along the wildland interface. Your home was one of the properties inspected by professional firefighters. The purpose of the inspection was to identify hazards that could contribute to the spread of a wildland fire in the hills and canyons of Laguna Beach.

The Laguna Beach Fire Department has taken a proactive approach to fire protection. Information generated by field inspections will become part of a computer data base. Computerization will be used to assist in identifying areas that could be at risk and the possible need for additional fuel modification zones. By using Laguna Beach Firefighters to gather information and identify hazards, the professionals with the responsibility of fighting the fire are directly involved in the Fire Preplan Process. This action most certainly will save lives and property when the next wildland fire strikes Laguna Beach.

The Laguna Beach Fire Department needs your help! Please take a few minutes and review the enclosed Field Worksheet that firefighters used when they visited your residence. Each section on the Worksheet reflects an area of concern. When you review the Worksheet, look for ways to improve fire safety in and around your home. One of the most effective methods of protecting your home is to create and maintain a defensible space around your property. The cost effective action of removing dead brush and vegetation, along with the trimming and pruning of trees and bushes, will greatly decrease the spread of fire and improve the chances of your home surviving the next wildland fire.

It is my sincere hope that you will use the information that your Fire Department has provided to reduce the risk of a wildland fire extending onto your property. If you would like more information or to meet with the firefighters who inspected your property, please do not hesitate to contact my office, (714)497-0700.

Thank you for your efforts in making our community a fire safe environment.

Sincerely,

A handwritten signature in cursive script that reads "Bill Edmundson".

Bill Edmundson, Fire Chief

505 FOREST AVE.

LAGUNA BEACH, CA 92651

TEL (714) 497-3311

FAX (714) 497-0771



STRUCTURE	FUEL / VEGETATION
<p>1. ROOFING MATERIAL 0 [] no structure 1 [] concrete roof 2 <input checked="" type="checkbox"/> tile or metal roof 3 [] rock/gravel roof 4 [] fiberglass, composite (asphalt shingle) roof 5 [] wooden shingle roof</p> <p>2. EXPOSED OPEN WOODEN DECKS or UNDERSIDE OF HOMES 0 [] no structure 1 <input checked="" type="checkbox"/> no decks or exposed underside 2 [] exposed protruding deck 3 [] exposed wooden underside of home 4 [] exposed decks & underside of structure</p> <p>3. EXTERIOR SIDING OF THE STRUCTURE 0 [] no structure 1 [] concrete, rock, brick 2 [] composite, aluminum, tile 3 <input checked="" type="checkbox"/> stucco siding 4 [] wood siding</p> <p>4. EAVES and/or OVERHANGS 0 [] no structure 1 [] no exposed eaves / overhangs 2 <input checked="" type="checkbox"/> boxed in eaves / overhangs 3 [] exposed roof eaves / overhangs</p>	<p>5. DEFENSIBLE SPACE AROUND STRUCTURE 0 [] no structure / fuel 1 <input checked="" type="checkbox"/> all flammable vegetation has been cut away from the structure for a distance of 30 feet. (this does not apply to maintained green growing landscaping.) 2 [] flammable vegetation has not been maintained</p> <p>6. GENERAL TYPE and CLASSIFICATION OF LANDSCAPING 0 [] no landscaping: plants, trees or grass 1 [] light landscaping: succulents, lowbedding, growing plants 2 <input checked="" type="checkbox"/> medium: average amounts of fuel 3 [] high: large and/or many plants & trees 4 [] very high: many large trees; enough to limit seeing the structure</p> <p>7. DENSITY of FUELS and VEGETATION 0 [] no fuels or vegetation 1 <input checked="" type="checkbox"/> average distance between plants is greater than the plant's diameter 2 [] average distance between plants is 1/2 of the plants diameter 3 [] difficult to walk between the plants 4 [] cannot walk between the plants</p> <p>8. GEN'L PROPERTY MAINT. and CONDITION 0 [] no fuel or vegetation 1 <input checked="" type="checkbox"/> all fuels & vegetation well maintained 2 [] most fuels pruned back & maintained 3 [] fuels are not pruned, limbed, but maintained 4 [] fuels & vegetation overgrown & not maintained 5 [] fuel & vegetation maintenance needed!</p> <p>9. AMOUNT OF DEAD TO LIVING FUELS 0 [] no dead fuels 1 <input checked="" type="checkbox"/> <5% of all fuel is dead/dying 2 [] <10% of all fuel is dead/dying 3 [] <25% of all fuel is dead/dying 4 [] 25%> or more all fuels are dead/dying</p>

LAGUNA BEACH FIRE DEPARTMENT

Laguna Beach Wildfire Hazard Information Mitigation System

Inspected by: [Penning]

Date: [5-14-95] Time: [_____]

TOPOGRAPHY	OVERALL TOTAL
10. DISTANCE of the STRUCTURE to the WILDLAND	TOTAL OF 1 THROUGH 9-----[14]
0 [] no structure	TOTAL OF 10 THROUGH 15-----[11]
1 [] > 500 feet away	OVERALL TOTAL SCORE-----[25]
2 [] > 300 feet away	COMMENTS
3 [] > 100 feet away	
4 [x] directly adjacent to the wildland or open space	
11. TYPE of WILDLAND / OPEN SPACE	
0 [x] closest open space has a fuel modification zone	
1 [] closest open space is primarily grasslands	
2 [] closest open space is average Laguna Chaparral 4'-6' in height	
12. DEGREE of SLOPE	
0 [] 0 degrees / flat	
1 [x] 0-10 degrees	
2 [] 10-20 degrees	
3 [] 20-30 degrees	
4 [] 30-40 degrees	
5 [] > 40 degrees	
13. ASPECT of PROPERTY (general)	
0 [] faces North	
1 [] faces East	
2 [] faces South	
3 [x] faces West	
14. DISTANCE of the PROPERTY to STEEP SLOPES	
0 [] > 500' away from a steep slope	
1 [] < 500' away from a steep slope	
2 [] < 100' away from a steep slope	
3 [x] < 30' away from a steep slope	
15. DISTANCE of PROPERTY to 'CHUTES' of 'CHIMNEYS'	
0 [x] > 500' away from a chimney	
1 [] < 500' away from a chimney	
2 [] < 100' away from a chimney	
3 [] < 30' away from a chimney	

CALIFORNIA COASTAL COMMISSION

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

Th18b

Appeal Filed: 7/6/15
 49th Day: 8/24/15
 Staff: M. Vaughn-LB
 Staff Report: 7/23/15
 Hearing Date: 8/13/15

STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal Number: A-5-LGB-15-0045

Applicants: City of Laguna Beach Fire Department

Local Government: City of Laguna Beach

Local Decision: Approval with Conditions

Appellant: Marc Wright

Project Location: Nyes/Oro Canyons Area; Adjoining Arch Beach Heights, Portofina and Lower Nyes Canyon Area Neighborhoods
 City of Laguna Beach, Orange County

Project Description: Appeal of City of Laguna Beach Local Coastal Development Permit No. 15-0265 for the approval with conditions of fuel modification on approximately 22 acres of undeveloped hillside canyon area adjacent to existing residential development.
 No building, structure, hardscape or grading are proposed.

Staff Recommendation: No Substantial Issue

Important Hearing Procedure Note: This is a substantial issue only hearing. Testimony will be taken **only** on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes **total** per side. Please plan your testimony accordingly. Only the applicants, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeal has been filed for the following reasons: the project, as approved by the City of Laguna Beach, is consistent with the habitat protection, view protection, and hazards policies and standards of the City's certified Local Coastal Program. Although the proposed development (fuel modification adjacent to existing residential development) will occur in a sensitive habitat area, the local coastal development permit includes

adequate mitigation to minimize and/or avoid potential adverse impacts coastal resources. The City's approval minimizes adverse impacts to habitat area by: thinning vegetation rather than removing it entirely; by imposing a hierarchy of vegetation removal by requiring removal of non-native and/or dead and dying first, and only allowing removal of native vegetation, when otherwise fire safety goals would not be achieved; by requiring the presence of a qualified biologist while the project is carried out, including the requirement for pre-construction biological surveys to enable flagging and avoidance of impacts to special status species; and by requiring that a mitigation plan be developed in consultation with the California Department of Fish and Wildlife to offset unavoidable project impacts. Therefore, the Commission finds that the City's approval of coastal development permit 15-0265 is consistent with the policies of the certified LCP and therefore raises no substantial issue with regard to the grounds upon which the appeal was filed.

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EXHIBITS

- Exhibit 1 – Project Location and Vicinity Map
- Exhibit 2 – City of Laguna Beach Design Review Board Resolution No. CDP 15.24
- Exhibit 3 – Appeal with Local Coastal Development Permit
- Exhibit 4 – City’s Response to Appeal
- Exhibit 5 – Project Boundary
- Exhibit 6 – Vegetation Type Map
- Exhibit 7 – Open Space/Conservation Element Biological Resources Map
- Exhibit 8 – CalFIRE Fire Hazard Severity Zones Map
- Exhibit 9 – California Department of Fish & Wildlife MND Comment Letter, 3/16/15
- Exhibit 10 – MND Biologic and Geologic Mitigation Measures
- Exhibit 11 – California Chaparral Institute Letter, 3/28/08

I. MOTION AND RESOLUTION - NO SUBSTANTIAL ISSUE

Motion: *I move that the Commission determine that Appeal No. A-5-LGB-15-0045 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 **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings 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:

The Commission hereby finds that Appeal No. A-5-LGB-15-0045 presents NO SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.

II. APPELLANTS' CONTENTIONS

On June 22, 2015, the Commission received a valid Notice of Final Local Action for Local Coastal Development Permit (CDP) No. 15-0265, which approved a fuel modification plan on approximately 22 acres of undeveloped area in the Nyes/Oro Canyons area adjacent to existing residential development located in the Arch Beach Heights, Portofina and Lower Nyes Canyon area Neighborhoods, in the City of Laguna Beach, Orange County (Exhibit 1). Upon receipt of the valid notice of final action, the Commission appeal period was established, running June 23 through close of business on July 6, 2015. On July 6, 2015, within the 10 working day appeal period, Marc Wright timely filed an appeal of the local CDP (Exhibit 3). No other appeals were received. Marc Wright opposed the project at the local hearing and thus qualifies as an “aggrieved person” pursuant to Coastal Act Section 30801 and California Code of Regulations Section 13111.

The appellant alleges that the project approved by the City is not consistent with the City’s certified Local Coastal Program (LCP). More specifically, the appellant alleges the City’s action is inconsistent with sections of Chapter 25 07 (Coastal Development Permits), Chapter 25.15 (Residential/Hillside Protection Zone), Chapter 25.37 (Public Lands Zone), Chapter 25.41 (Open Space Zone) of Title 25, a part of the City’s certified Implementation Plan; and Chapter 12.08 (Preservation of Heritage Trees) of Title 12 Trees and Vegetation (only Chapter 12.08 of Title 12 is part of the City’s certified Implementation Plan portion of the LCP; Title 15 Fire (no part of Title 15 is part of the City’s certified Implementation Plan); and the following portions of the City’s Open Space/Conservation Element portion of the City’s certified Land Use Plan portion of the certified LCP: Topic 7 Visual Resources, Topic 8 Vegetation and Wildlife Resources, Topic 10 Natural Hazards, Topic 13 Ridgelines, and Topic 14 Hillside Slopes; and finally, uncited “sections of the California Code relevant to noticing of public government meetings, of local government actions, of vetting and qualifying contractors and technical and scientific contractors, and of disclosure and proper noticing and adjudication of known and potential conflicts of interest in planning, designing,

engineering, and contracting for City business.” The City’s response to the appellant’s allegations is attached as Exhibit 4.

The appellant’s allegations that describe a valid ground for appeal are discussed in the Substantial Issue Analysis section of this staff report.

III. LOCAL GOVERNMENT ACTIONS

The City of Laguna Beach held two public hearings on Local Coastal Development Permit No. 15-0265 before the Design Review Board. On March 19, 2015 the public hearing was continued. On May 7, 2015 the Design Review Board approved with conditions Local Coastal Development Permit 15-0265. No local appeal was filed.

IV. APPEAL PROCEDURES

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

Section 30603 of the Coastal Act states:

- (a) *After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
 - (1) *Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
 - (2) *Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

Section 30603(a)(2) of the Coastal Act establishes the project site as being in an appealable area because it is located within 100 feet of a stream. The project is located on the steep sides of Nyes and Oro Canyons. In addition, work is proposed within the stream to remove invasive pampas grass. The project site is more than 300 feet inland of any beach or mean high tide line.

Grounds for Appeal

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1), which states:

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

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal. If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. The de novo hearing will be scheduled at the same hearing or a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

The grounds for the current appeal are that the approved development does not conform to the standards set forth in the certified LCP. The subject site is not located between the sea and the first public road.

Qualifications to Testify before the Commission

Staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeal has been filed. Therefore, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes **total** per side. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant(s), persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

The action currently before the Commission is to find whether there is a “substantial issue” or “no substantial issue” raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal. Commission staff recommends a finding of no substantial issue. If the Commission decides that the appellant’s contentions raise no substantial issue as to conformity with the City’s certified Local Coastal Program, the action of the local government becomes final. Alternatively, if the

Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the City's certified Local Coastal Program, the local coastal development permit is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

V. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The applicant proposes to conduct fuel modification activities that would span approximately 22 acres, extending from the edge of existing residential landscaping approximately 100 feet into the undeveloped, steeply sloped canyons. The fuel modification would involve thinning the vegetation canopy by 50%, with the goal of creating a safe firebreak between the undeveloped canyon areas and the existing residential development located along the rim of Oro and Nyes Canyons in the City of Laguna Beach, Orange County. Vegetation thinning will be accomplished by hand-cutting, including the use of chain saws. No goats will be used. Vegetation thinning will follow a removal hierarchy as recommended by the project's biologic consultant, Glenn Lukos Associates.

The 50% thinning factor is intended to be achieved applying a removal hierarchy: first non-native vegetation and dead or dying material would be removed, and then trimming of woody native species would occur only if the 50% thinning threshold is not achieved via the initial removal of non-natives and dead/dying vegetation. To preserve soil stability on the steep canyon slopes, the root systems will be left intact. In addition, ornamental vegetation located between the residential structures and native vegetation, that is not maintained/irrigated, extends beyond the residential property and is not fire retardant, would also be removed. The project also includes the removal of pampas grass from the two streams, both blue-line ephemeral drainages. The streams are located along the floor of Nyes and Oro Canyons. The intent of the proposed fuel modification is creation of defensible space adjacent to existing homes in the Arch Beach Heights and the Portofino and Lower Nyes Canyon neighborhoods.

The project is expected to take a total of approximately 2-3 months; however, depending upon City budget constraints, it may occur in three phases with each phase involving an estimated 4 weeks annually over a three-year period. In addition, maintenance fuel modification performed by hand crews is expected to occur annually, but is expected to require a much less intensive effort after the initial vegetation thinning.

Habitat within the project includes southern maritime chaparral, coastal sage scrub, and a transitional habitat dominated by native vegetation. Non-native vegetation and ornamental species are also present. California gnatcatcher (*Polioptila californica californica*) has potential to occur within the coastal sage scrub on-site. Additionally, the California Endangered Species Act-threatened big-leaved crownbeard (*Verbesina dissita*) and California Rare Plant Rank 4.2 Coulter's matilija poppy (*Romneya coulteri*) have been observed within the study area.

The City-approved project includes mitigation for impacts to sensitive habitat. The fuel modification project will impact approximately 0.20 acre of coastal sage scrub, 6.74 acres of chaparral (including 1.27 acres of disturbed chaparral), and 1.27 acres of coastal sage scrub/chaparral ecotone. The mitigation for these impacts includes placement of a conservation easement or similar instrument across a City owned, undeveloped 42-acre parcel (APN 641-461-11) located just north of Park Avenue and west of Alta Laguna Boulevard. Greater detail regarding this and other habitat impacts and mitigation measures are described later in this staff report.

The fuel modification area is bordered by residentially developed lots. The subject site (Fuel modification area) is comprised of a number of vacant lots. The land use designations on the various vacant lots are: Village Low Density; Residential/Hillside Protection; and Permanent Open Space. The zoning designations on the various vacant lots are Residential Low Density, Arch Beach Heights Specific Plan; Residential Low Density; Residential/Hillside Protection; and Open Space/Conservation.

B. Local Coastal Program Certification

The City of Laguna Beach Local Coastal Program was certified on January 13, 1993. The City's LCP is comprised of a variety of planning documents including the Land Use Element (LUE), Open Space/Conservation Element (OSC), Coastal Technical Appendix and the Fuel Modification Guidelines only of the City's Safety Element; the Implementation Plan is comprised of a number of documents including Title 25 Zoning.

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 City's certified Local Coastal Program, and if applicable, the access policies of Chapter 3 of the Coastal Act. The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulation 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 had been guided by the following factors:

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

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

Staff is recommending that the Commission find that no substantial issue exists with respect to whether the local government action conforms to the provisions of the City’s certified Local Coastal Program for the reasons set forth below.

D. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a Coastal Development Permit issued by the local government after certification of its Local Coastal Program (LCP) are the standards set forth in the certified LCP or the public access policies of the Coastal Act. The subject coastal development permit is appealable to the Commission due to the project’s location within 100 feet of a stream.

The appellant’s grounds for appeal are attached as Exhibit 3. In summary, the appellant raises concerns that the project approved by the City is not consistent with the City’s certified LCP primarily for the following reasons: the fuel modification plan will result in removal of native vegetation and will adversely impact Environmentally Sensitive Areas (ESAs). Native vegetation and ESAs are protected under the policies and standards of the LCP. The appellant alleges the project approved by the City is inconsistent with those policies and standards of the certified LCP. In addition, the appellant alleges that the project will have adverse effects on visual resources, which are also protected under the City’s LCP. The appellant contends the project is inconsistent with the visual resources policies and standards of the certified LCP. LCP policies also address reduction of hazards. The appellant contends that the project will create slope instability, and so it is inconsistent with the LCP hazard policies.

The appellant cites sections of Title 25 of the certified Implementation Plan, including the sections that address the various zones in which the project will occur. For example, the appellant alleges the project is inconsistent with the Residential Hillside Protection zone’s requirement that new development proposals include fuel modification plans and that those plans should minimize impacts to native vegetation and to areas of visual prominence (Section 25.15.004(A)(7)). This section also requires that the fuel modification plan incorporate alternative means to vegetation thinning were feasible, such as minimizing building envelope, siting the structure away from hazard areas, and/or use of fire retardant design and materials. However, these alternatives, as stated in the cited section, are intended for new development, that is new construction of structures, and is to be applied “where feasible”. The proposed fuel modification plan, however, is not new construction of structures. Rather it is proposed to protect *existing* residential development from fire hazard. This is an important distinction that is not made by the appellant.

The appellant also cites the sections of Title 25 that describe the uses allowed in the various zones in which the project will occur. The appellant alleges that the fuel modification project is not one of the uses specifically allowed within the various zones, and so, the appellant contends, the project is inconsistent with those sections of the IP. However, the fact that fuel modification will need to occur in certain areas and under certain circumstances in the City is recognized throughout the certified LCP. This is evidenced in the various policies that apply generally in the City addressing

fuel modifications. For example, Policy 8G of the Open Space/Conservation Element portion of the certified Land Use Plan (LUP) refers to the need to provide a biological assessment with new development, including fuel modification plans, located within or adjacent to high and very high value habitat areas. In addition, all development within the Residential Hillside Protection zone must address fuel modification in conjunction with new development proposals.

Also, many of the appellant's allegations include that the project is not consistent with the Intent and Purpose section of the various zones in which the project will occur. These contentions are also based upon the allegation that the fuel modification project is not consistent with the LCP habitat and visual policies because it will remove native vegetation. These contentions are addressed below.

So, to condense the issues raised by the appeal, the appellant alleges the project approved by the City is inconsistent with the policies and standards of the certified LCP that protect native vegetation and ESA, and visual resources. These issues are addressed below.

As described in greater detail below, this appeal raises no substantial issue as to conformity with the standards set forth in the certified LCP. The Notice of Final Action (revised 6/18/15) issued by the City of Laguna Beach, including the attached Design Review Board Resolution No. 15.24 (Exhibit 2), indicates that the City considered the relevant provisions of the certified Local Coastal Program.

Vegetation and Wildlife

The City's Land Use Plan (LUP) portion of the certified LCP is comprised of the Land Use Element (LUE), the Open Space/Conservation (OSC) Element, and the Coastal Technical Appendix. Regarding Vegetation and Wildlife, the OSC Element includes a Biological Resource Values Map depicting areas of High and Very High Value Habitat. Much of Nyes and Oro Canyons are mapped as High Value Habitat, with some interior areas identified on the map as Very High Value (Exhibit 7). Policy 8-F of the OSC Element designates areas identified as Very High Value on the Biological Resource Values Map as Environmentally Sensitive Areas (ESAs). In addition, Policy 8-F designates as ESA "*streams on the Major Watersheds and Drainage Courses Map which are also streams as identified on the USGS 7.5 Minute Quadrangle Series and any other areas which contain environmentally sensitive habitat resources as identified through an on-site biological assessment process, including areas of "High" and "Moderate" habitat value on the Biological Resources Values Map and areas which meet the definition of ESA's in Section 30107.5 of the Coastal Act, including streams, riparian habitats, and areas of open coastal waters, including tidepools, areas of special biological significance, habitats of rare or endangered species, near-shore reefs and rocky intertidal areas and kelp beds.*" Both Nyes and Oro Canyons are identified on the Major Watersheds and Drainage Courses Map as significant drainage courses and constitute blue-line ephemeral drainages.

Following are additional, relevant OSC Element Vegetation and Wildlife policies:

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

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

Policies 8H, 8I and 8K require that any development that is allowed within habitat areas preserve the habitat to the greatest extent feasible, that any disturbance is minimized, and require mitigation measures. Policy 8K prohibits the creation of new development sites within ESA.

8Q Encourage the preservation of existing drought-resistant, native vegetation and encourage the use of such vegetation in landscape plans.

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

A Biological Technical Report was prepared for the proposed project by Glenn Lukos Associates (GLA), dated January 2015, as required by OSC Element Policy 8-G (in part): “Detailed biological assessments shall be required for all new development proposals, including all subdivisions and fuel modification proposals, located within or adjacent to areas designated high or very high value on the Biological Values Map.” Inclusion of the Biological Technical Report is also consistent with Policy 8R, which requires that projects in or adjacent to high and very high value habitat include documentation of such in any DRB application. The study area encompassed 43.97 acres including the undeveloped slopes south of Alisos Avenue and Oro Street, west of Quivera Street, north and west of Nyes Place, and east of Alta Vista Way, on moderate to steep canyon hillsides adjacent to residential housing developments and includes moderate to steep canyons. Of the 43.97 acre study area, approximately 22 acres will be subject to the proposed fuel modification. The vegetation types were mapped and biological surveys were conducted to determine where special status species occur within the Study Area. The areas were also evaluated for the presence of aquatic features. The Vegetation Map is attached as Exhibit 6. A map showing the location of the fuel modification area is attached as Exhibit 5.

The site specific Biological Technical Report finds that, although approximately 33.6 acres (of which approximately 12.18 acres are within the proposed fuel modification area) of the Study Area have been mapped by the City (Biological Resources Values Map) as High Value Habitat, approximately 2.03 acres within the fuel modification area do not exhibit characteristics associated with High Value Habitat. These areas are primarily located immediately adjacent to existing residential development and exhibit high levels of disturbance and a lack of vegetation or are comprised wholly of ornamental vegetation.

The Biological Technical Report found that habitat within the Study Area (totaling 43.97 acres of which approximately 22 acres will be subject to fuel modification activity) includes southern maritime chaparral (28.50 acres, including 2.77 acres of disturbed chaparral), coastal sage scrub (2.26 acres, including 0.67 acres of disturbed scrub), sage scrub/chaparral ecotone (7.05 acres), Western Sycamore (0.04 acre) and 3.07 acres of ornamental vegetation, 2.88 acres of disturbed area, and 0.17 acre of bare ground. California gnatcatcher (*Polioptila californica californica*), although not detected during the site survey, has potential to occur within the coastal sage scrub on-site. Additionally, the California Endangered Species Act-threatened big-leaved crownbeard (*Verbesina dissita*) (three occurrences of multiple individuals) and two California Rare Plant Rank 4.2 Coulter’s

matilija poppy (*Romneya coulteri*) were observed within the study area. Although Sycamores are located within the canyon, they are outside the fuel modification area/area of impact.

The fuel modification project will impact approximately 0.37 acre of coastal sage scrub (including 0.17 acre of disturbed coastal sage scrub), 6.74 acre of chaparral (including 1.27 acres of disturbed chaparral), and 1.27 acres of coastal sage scrub/chaparral ecotone. Mitigation measures required by the City’s approval are intended to avoid any impacts to Crownbeard, Coulter’s matilija poppy, and California Gnatcatcher (See below).

Area figures, including areas of impact, are summarized in the table below.

Vegetation Type	Total Acres: Study Area	Total Acres: Fuel Mod Area	Total Impacts <small>All w/in Fuel Mod Area</small>
Sage Scrub	2.26	0.74	0.37
Coastal Sage Scrub	1.59	0.41	0.20
Disturbed Coastal Sage Scrub	0.67	0.33	0.17
Chaparral	28.50	13.47	6.74
Chaparral	25.73	10.93	5.47
Disturbed Chaparral	2.77	2.54	1.27
CSS/Chaparral Ecotone	7.05	2.53	1.27
Western Sycamore	0.04	0.02	0.00
Disturbed/Developed	5.95	5.24	2.63
Ornamental Vegetation	3.07	2.79	1.40
Disturbed	2.88	2.45	1.23
Bare Ground	0.17		
Total	43.97	22.01	11.01

Most significantly, the proposed project avoids any impacts to most of the sensitive habitat areas by limiting the fuel modification activities to the area within one hundred feet of existing development. As approved by the City, the fuel modification project includes a number of mitigation measures relative to Biological Resources (Exhibit 10). Project mitigation measures include: a biological survey, including surveying for nesting birds, big-leaved crownbeard, and Coulter’s matilija poppy, conducted by a qualified biologist be conducted within 48 hours prior to commencement of fuel modification activities, and all identified sensitive species shall be flagged by the biologist and avoided. For any special status plants identified, all native and non-native vegetation within 15 feet

shall be maintained in place; the proposed thinning hierarchy to remove first non-natives and dead and dying plants to achieve the 50% threshold, then only if the threshold cannot be achieved otherwise, woody native species will be removed based upon a specific hierarchy of first coastal goldenbush, then California buckwheat, then black sage and finally California sagebrush.

Only when these measures still do not meet the 50% threshold will the following plants be removed in the following order: laurel sumac, then toyon then lemonade berry. Big pod ceanothus and bush rue are to be avoided to the maximum extent feasible. Hand removal of invasive pampas grass that have colonized in the bottom of the canyons using an approved EPA/Caltrans approved herbicide. In addition, a qualified biologist must be retained to provide on-site monitoring, including: identification and marking of special-status species prior to commencement of fuel modification activities, on-site monitoring of the vegetation thinning to ensure compliance with the 50% thinning hierarchy protocol, conduct worker awareness, monitoring during invasive plant removal and preceding herbicide application to the pampas grass for the purpose of identifying and marking special status plants, and efficacy monitoring to be conducted within 1 – 3 weeks after each herbicide treatment. Finally, prior to commencing the fuel modification project, the City will develop, in consultation with the California Department of Fish and Wildlife, an off-site mitigation plan for southern maritime chaparral and coastal sage scrub/chaparral ecotone creation or enhancement to offset impacts due to the fuel modification plan.

The mitigation measures imposed by the City are adequate to offset unavoidable habitat impacts created by the project. By imposing the requirement (and as proposed by the applicant) to limit vegetation removal to 50% of the existing vegetation, eliminates the potential to remove all vegetation within 100 feet of the residences. Limiting removal to no more than 50% existing vegetation assures that at least parts of the habitat to endure within the 100-foot wide fuel modification area. Moreover, selective removal of vegetation based upon removing vegetation with lesser habitat value first (i.e. removal of non-natives and dead and dying plants first), could potentially result in increased habitat value in those areas of the project that will achieve or approach the 50% vegetation removal via only non-natives and dead/dying vegetation. Removal of non-natives within sensitive habitat is typically considered restoration. It is not known the extent to which this may be the result, but the potential exists in those areas dominated by non-natives and dead and dying vegetation. This is supported by the fact that, although mapped on the OSC Biological Resources Map as High Value Habitat, the site specific Biological Technical Report revealed that areas closest to the residential development actually exhibit high levels of disturbance, a lack of vegetation, and/or are dominated by ornamentals. Specifically, regarding this, the Biological Technical Report states:

“As depicted in Exhibit 8, approximately 33.66 acres of the Study area is mapped by the City of Laguna Beach as “High Value Habitat”, approximately 12.18 of which occurs within the proposed fuel modification area. However, several areas within those mapped as High Value Habitat do not exhibit characteristics associated with High Value Habitat; primarily those areas immediately adjacent to existing residential development that exhibit high levels of disturbance and a lack of vegetation or are comprised wholly of ornamental vegetation. These areas comprise a total of approximately 2.03 acres of the areas mapped as high value habitat occurring within the proposed fuel modification area. These areas do not support a high diversity of plant species nor do they facilitate wildlife movement, because they are

comprised of non-native plant species and occur at the urban interface, which already serves to limit wildlife movement and dispersal.”

Moreover, in the past fire breaks, including fire breaks in the City of Laguna Beach, involved complete removal of all vegetation within up to 270 feet from development, believing this was most protective from fire hazards. However, that method has since been called into question. Issues associated with this earlier method of excess levels of vegetation removal for fuel modification and fire breaks include (according to the California Chaparral Institute and others, Exhibit 11), almost counter-intuitively, increased fire hazard in that although the bare soil won't burn, the bareness invites invasion of weeds that can create fine, flashy fuels that increase the probability of ignition, this weedy vegetation tends to ignite more easily and spread more quickly than native vegetation and provides a “ladder” for flames to spread. Creating a bare 270 foot zone around residences creates a direct, unimpeded pathway for embers to reach a structure. Other issues raised by excessive vegetation removal include the creation of a false sense of security (embers can be blown a mile or more into the urban environment), the costs associated with removing and maintaining the level of vegetation removal, and maintenance (annual removal of the weedy species that replace the removed native vegetation is required whereas a properly thinned, 100-foot vegetation management zone can avoid such a yearly expense). Although the fuel modification guidelines in the certified LCP allow vegetation thinning in the project area up to 270 feet from a structure, the project approved by the City minimizes habitat impacts by allowing thinning only up to 100 feet. Based on the foregoing, the fuel modification program approved by the City will provide more effective fire protection, retain some habitat value, and will require less maintenance and cost.

In its approval of the fuel modification project, the City has required additional off-site mitigation for habitat impacts. Two sites were identified in the City's review of the project as possible locations for off-site mitigation. In any case, the City has required that a more specific mitigation plan be developed in consultation with the California Department of Fish and Wildlife (CDFW). CDFW reviewed the Mitigated Negative Declaration (MND) prepared for the project and provided comments (Exhibit 10). The project was revised based on the CDFW comments and this is reflected in the revised MND and the final project as approved by the City. It is important to recognize, though, when considering mitigation for the proposed project, that although impacts to habitat will result from the project, they may be considered temporary in that no permanent structures will be proposed (i.e. no permanent displacement of habitat), that the root systems will remain intact, and that the emphasis on the removal of non-natives may allow natives to better succeed in the future. In any case, OSC Element Policies 8H, 8I and 8K require that mitigation for impacts to habitat be required, and the City's action in approving the proposed project with conditions, does require mitigation consistent with the policies of the certified LUP.

In addition, the City is requiring, and the applicant is proposing, the removal of invasive pampas grass which has colonized areas of the canyon bottoms. This aspect of the project is consistent with Policy 8A which requires that canyons, particularly stream beds, be preserved. The pampas grass removal will occur within the canyon bottoms of both Nyes and Oro canyons which are both designated ephemeral blue line streams. In addition, removal of the invasive pampas grass is consistent with Policy 8C which requires that habitat areas be identified and maintained in their

natural state. Removal of the invasives from the stream bed will contribute to maintaining the habitat in a more natural state.

The appellant contends that the 50% vegetation removal standard not defined. However, vegetation is very often quantified using percent coverage. In conjunction with proposed development projects, the Commission routinely reviews habitat restoration and monitoring plans. These plans most often include a percent vegetation coverage to describe success criteria. The desired percentage varies with the types of habitat and respective projects. In any case, the Commission has routinely accepted quantifying vegetation by assessing the percent coverage of the area by vegetation.

As approved by the City, the project is consistent with most of the Vegetation and Wildlife policies of the OSC Element of the Land Use Plan portion of the certified LUP. These policies provide a definition of ESA (8F), require that projects in or adjacent to ESA prepare a detailed, site specific biological assessment, that canyon and stream beds be preserved and protected, that wildlife habitats be identified and maintained as necessary for the preservation of species, that development in and adjacent to ESA protect and maintain the ESAs including maximum preservation of high value habitats, and also require mitigation to offset impacts. However, Policy 8N states: “Prohibit intrusion of fuel modification programs into environmentally sensitive areas, including chaparral and coastal sage scrub.” In this case, existing, pre-Coastal small lot single-family residential development exists adjacent to undeveloped land which supports significant habitat.

If a project were proposed today, the OSC Element policies would strictly apply. Assessing whether subdivisions should occur adjacent to sensitive habitat or whether the number or location of proposed lots would need to be modified as necessary to protect habitat, would all be part of the coastal development permit review process. Likewise, construction of a new home would need to consider siting and materials in order to reduce the need for fuel modification. However, in this case, the lots were subdivided and developed before the Coastal Act was created. Thus, the habitat protection policies must be applied based on the pre-existing development layout.

As described elsewhere in this report, fire hazard is a significant threat in the majority of Laguna Beach, including in the area of the proposed fuel modification project. Therefore, the habitat policies of the certified LUP must be applied in a manner that is most protective of the habitat while recognizing the need to protect existing structures and residents. The proposed fuel modification is intended to protect existing structures, or at least increase the time available to evacuate should that become necessary. In approving the project, the City has considered all the competing requirements, and applied the policies in the manner that minimizes adverse impacts to the habitat to the greatest extent feasible. The City’s approval minimizes adverse impacts to habitat area by: thinning vegetation rather than removing it entirely; by imposing a hierarchy of vegetation removal by requiring removal of non-native and/or dead and dying first, and only allowing removal of native vegetation, when otherwise fire safety goals would not be achieved; by requiring the presence of a qualified biologist while the project is carried out, including the requirement for pre-commencement biological surveys to enable flagging and avoidance of impacts to special status species; and by requiring that a mitigation plan be developed in consultation with the California Department of Fish and Wildlife to offset unavoidable project impacts.

Therefore, the Commission finds that the City’s approval of coastal development permit 15-0265 is consistent with the policies of the certified LCP and therefore raises no substantial issue with regard to the grounds upon which the appeal was filed.

Fire Hazard and Fuel Modifications

The fuel modifications guidelines of the City’s Safety Element are included as part of the City’s certified Land Use Plan. Only the fuel modification guidelines are part of the certified LUP, no other part of the City’s Safety Element is part of the LUP. Although the City has updated its Safety Element since the LUP was certified, the portion of the Element included in the certified LUP has not been changed since it was originally certified in 1993¹. Although understanding of the fuel modification process has evolved since that time, much in the guidelines remains effective. The guidelines suggest graduated thinning of fuel as you move further from a structure. Widths of the thinning zones vary based upon the degree of fire hazard. In areas of highest fire hazard, such as the subject site, the fuel modification guidelines would allow thinning up to 270 feet from structures, with greater degrees of vegetation thinning nearest to structures and lesser thinning in the zones furthest from structures. The recommended thinning distances from structures varies based upon topography and fire hazard potential. However, more recent information suggests that thinning such wide swaths may not increase fire protection. And it will not minimize impacts to habitat.

Government Code Section 51175-89 directs the California Department of Forestry and Fire Protection (Cal FIRE) to identify areas of very high fire hazard severity zones within Local Responsibility Areas (LRA) throughout the State. The Cal FIRE Fire Hazard Severity Zones Map (Exhibit 8) designates the subject site and the entire surrounding area as a Very High Fire Hazard Severity Zone. In 1993, hundreds of homes burned as a result of wildfire in the City of Laguna Beach. Fire hazard is a significant and legitimate concern in the City of Laguna Beach. The City’s fuel modification guidelines are intended to reduce the risk of fire, but also recognize the importance of maintaining native vegetation and other sensitive habitat.

The fuel modification guidelines contained in the certified LUP include the following language: “Steep narrow canyons have a much higher fire hazard potential because heat and winds concentrate to drive the fire upwards, thereby creating a “chimney effect”.” In addition, the guidelines state: “The minimum amount of native vegetation shall be selectively thinned to control the heat and intensity of wildland fires as they approach a residential area while preserving to the maximum extent feasible the quality of the natural areas surrounding the site.”

More recently, the City updated the Land Use Element (LUE) of the certified LUP. Much of the City’s current guidelines, including both the LUE and the Safety Element fuel modification guidelines address fuel modification relative to new development proposals, including new structures and land divisions. However, regarding fuel modification relative to existing development, the LUE contains the following Policies:

Policy 7.6 Implement individualized fuel modification programs for existing legal building sites whenever environmentally sensitive resources are present.

¹ The City submitted a Local Coastal Program Amendment (LGB-MAJ-LCPA 1-07C) which included updates to the fuel modification guidelines, however it was withdrawn by the City prior to Commission action.

Policy 10.6 Require all fuel modification to be located within the site being developed. Exceptions may be granted for existing legal building sites when findings can be made by the approval authority that other alternatives are not available and a strict application of this provision would endanger environmentally sensitive resources or deny a property owner reasonable use of an already existing legal building site. Fuel modification performed by private property owners cannot go beyond property lines without agreement by the adjacent property owners. Fuel modification on public land to protect existing development should be avoided whenever feasible; if avoidance isn't feasible, measures must be employed to minimize the amount of fuel modification necessary on public land.

The City has approved the minimum amount of vegetation thinning necessary to achieve the desired fire hazard protection. Although native vegetation will be removed, the certified LCP recognizes that that may be necessary where pre-existing development abuts undeveloped open space.

Therefore, the Commission finds that the City's approval of coastal development permit 15-0265 is consistent with the policies of the certified LCP and therefore raises no substantial issue with regard to the grounds upon which the appeal was filed.

Visual Resources

The Open Space/Conservation Element of the certified Land Use Plan portion of the City's LCP includes policies regarding Visual Resources. Below are the relevant policies.

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

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

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

- c. Treatments for fuel modification and maintenance techniques for existing development consistent with standards in (b) above to the maximum extent feasible.*

The appellant has not made clear how the proposed fuel modification project would create adverse visual impacts. No structures are proposed, and all vegetated areas will retain at least 50% of the vegetation. The area subject to the vegetation thinning would be visible almost exclusively to the adjacent residents, with perhaps slight views from adjacent street ends. The subject site is not located in an area generally accessed by the general public. It is well up narrow roads in the hillsides. The scope of the vegetation thinning project prevents it from being visible from Coast Highway or along the shoreline. Thus, the project is not inconsistent with Policy 7A cited above. As with many of the LCP requirements regarding fuel modification, distinctions are made between standards for new construction and new land divisions compared to necessary fuel modification in pre-existing neighborhoods that abut open space, as is reflected in Policy 7G(b) versus 7G(c) above. Policy 7G(b) applies to development such as new construction or new land divisions, where constraints are fewer. Policy 7G(c) applies to pre-existing development and recognizes the likelihood of constraints in applying fuel modification requirements. For example, in the case of an existing home such as those surrounding the subject site, locating the structure to minimize fuel modification into adjacent open space cannot be done. The homes have already been constructed in their location. Moreover, even if it was possible to relocate the homes, the lots tend to be small and relocation, in addition to being difficult, would not create greater fire protection. However, as approved by the City, the fuel modification plan does incorporate the aspects of Policy 7G(b) that are feasible as required by the LCP. This includes minimizing the amount of native vegetation that is thinned. In any case, the proposed fuel modification plan will not create adverse impacts on visual resources.

Therefore, the Commission finds that the City's approval of coastal development permit 15-0265 is consistent with the policies of the certified LCP and therefore raises no substantial issue with regard to the grounds upon which the appeal was filed.

Hazards

The appellant contends that fuel modification project will likely create much greater hazard in destabilizing slopes as a result of the vegetation thinning. The OS/C element includes a map of Geologic Conditions. The subject site is not identified on the map as being in one of the mapped hazards areas. Nevertheless, a site may still be in a hazard area even if not shown on the map. Following are the relevant Hazard policies of the OS/C element:

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

10E Development in the areas designated "Residential Hillside/Protection" on the Land Use Plan Map or within potential geologic hazard areas identified on the Geological Conditions Map of the Open Space/Conservation Element shall not be permitted unless a comprehensive geological and soils report is prepared pursuant to Title 14 of the City's Municipal Code, and adequate mitigation measures have been approved and

implemented by the City's geologist. For projects located in areas subject to hazards as identified on the Geologic Conditions Map or subject to erosion, landslide or mudslide, earthquake, flooding or wave damage hazards confirmed by a geologic assessment, as a condition of approval or new development a waiver of liability shall be required through a deed restriction.

Although the site is not identified as a geologic hazard area on the Geologic Conditions map, a Geotechnical Evaluation was prepared in conjunction with the proposed fuel modification project². The Geotechnical Evaluation includes recommended guidelines to increase soil stability in conjunction with the fuel modification. The recommended guidelines include conducting the fuel modifications in the spring and completed in the early summer, to allow for some re-establishment of the native canopy prior to the next rainfall season; limiting the fuel modification efforts to the canopy, minimizing damage to the existing root systems; and, application of surficial amendments, such as spray adhesives, fiber rolls, or jute matting, after the fuel modification is complete and prior to the winter season. Root systems will remain in the thinned areas in order to reduce erosion. The Geotechnical Evaluation also states: "These guidelines are considered to be geotechnically appropriate for the likely soil conditions and are not intended to supersede the criteria for fuel modification required for safe fire prevention or the responsibilities of the governing fire agencies." The recommended geotechnical guidelines have been incorporated into the proposed project and are conditions of the City's approval of the project.

Thus, the City's review of the proposed project did require a geologic and soils report and did incorporate into the project the recommended geotechnical guidelines, as required by Policy 10E of the OS/C Element of the certified LCP. Therefore, the Commission finds that the City's approval of coastal development permit 15-0265 is consistent with the policies of the certified LCP and therefore raises no substantial issue with regard to the grounds upon which the appeal was filed.

Heritage Trees

The appellant contends that the City failed to recognize the existence in the project area of several individual specimen and strands of native trees that meet the Heritage Tree criteria, inconsistent with the requirements of the Heritage Trees section (Section 12.08 of the City's Municipal Code) of the certified LCP. However, the Biological Technical Report prepared in conjunction with the proposed project mapped the vegetation on the project site and in the vicinity (discussed in more detail previously). The Biological Technical Report identified 0.04 acre of Western Sycamore along the canyon bottom, outside the fuel modification area/area of impact. No other trees were identified. The appellant does not provide more specific information regarding the type or location of the trees in question, or how these trees meet the Heritage Tree criteria. Furthermore, the City confirmed the absence of Heritage Trees within the project site in its letter dated 7/16/15 (Exhibit 4). No evidence of the presence of heritage trees on-site has been presented. Therefore, the Commission finds that the City's approval of coastal development permit 15-0265 is consistent with the policies of the certified LCP and therefore raises no substantial issue with regard to the grounds upon which the appeal was filed.

Conclusion

² Update Geotechnical Evaluation of Potential Slope Stability Impacts, Proposed Arch Beach Heights Fuel Modification Area 1, Nyes and Oro Canyons, Laguna Beach, California, prepared by Geofirm, dated 3/14/14, updated 7/8/14.

Applying the five factors listed in the prior section clarifies that the appeal raises “no substantial issue” with respect to Chapter 3 of the Coastal Act, and therefore, does not meet the substantiality standard of Section 30265(b)(1), because the nature of the proposed project and the local government action are consistent with policies of the City’s certified LCP.

The first factor is 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 City’s conclusion was adequately supported by sufficient evidence and findings. The City required preparation of site specific biology and geology reports, and imposed conditions necessary to assure consistency with the certified LCP, including provisions regarding habitat, hazards, and views. The local coastal development permit contains a high degree of factual and legal support. The appellant has not provided factual evidence supporting inconsistency with the LCP.

The second factor is the extent and scope of the development as approved or denied by the local government. The scope of the approved development is vegetation thinning of approximately 22 acres in the area between residential development and open space in a State recognized very high fire hazard severity zones. The City’s approval limits the scope of the project by: allowing vegetation removal to 100 feet from residential development, limiting vegetation removal to 50% of existing vegetation, and establishing a hierarchy of vegetation types to be removed. Therefore, the scope of the approved development supports a finding that the appeal raises “no substantial” issues.

The third factor is the significance of the coastal resources affected by the decision. The significance of the coastal resource is substantial, in that the resource is sensitive habitat. However, the City’s approval includes measures to assure that impacts are minimized as required by the LCP.

The fourth factor is the precedential value of the local government’s decision for future interpretations of its LCP. In the past the City has implemented fuel modification projects such as this one under nuisance abatement provisions. Commission staff has indicated that, generally, these types of project should be subject to the review associated with the coastal development permit process. Therefore, the precedential value of the local government’s decision to process a coastal development permit, rather than issue a nuisance abatement, is positive. Although the proposed development (fuel modification adjacent to existing residential development) will occur in a sensitive habitat area, the local coastal development permit includes adequate mitigation to minimize and/or avoid potential adverse impacts to coastal resources. Therefore, the precedential value of the local government’s decision is positive.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Impacts to coastal resources, including habitat, are important statewide issues. The City addressed CEQA with preparation and adoption of a Mitigated Negative Declaration. The City’s approval is considered the factors required by the LCP and its approval of the project is consistent with the certified LCP and therefore does not raise issues of statewide significance.

In conclusion, the issues raised by the appellant do not demonstrate that the City’s action is not consistent with the certified LCP. Therefore, Commission staff recommends that the Commission find that the appeal raises no substantial issue.



Vicinity Map
Nyes/Oro Canyon Fuel Modification
A-5-LGB-15-0045 Exhibit 1

RESOLUTION CDP 15.24

**A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE
CITY OF LAGUNA BEACH APPROVING COASTAL DEVELOPMENT PERMIT
APPLICATION NO 15-0265**

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:

Nyes/Oro Canyon Area Fuel Modification Project

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, in that: while the project is not fully consistent with Policy 8N of the Open Space/Conservation Element in that it does not *prohibit* fuel modification in areas of chaparral and coastal sage scrub, it would not permanently remove chaparral or coastal sage scrub plants or cause loss of habitat type; further, potentially significant impacts to southern maritime chaparral and coastal sage scrub/chaparral ecotonal habitat would be reduced to less than significant through off-site mitigation. The project is viewed as consistent with the General Plan in that it achieves a balance between protection of native vegetation that includes areas of High Value habitat (through incorporation of various project features and mitigation measures) while improving fire safety in a residential area where fire hazards have reached a critical level of concern. The project would establish a fire break thereby creating defensible space adjacent to homes in Arch Beach Heights and the Portofino and Lower Nyes Canyon neighborhoods, and enhancing residents' ability to evacuate and survive a severe fire event. In considering all aspects of the General Plan, perfect conformity is not required because the proposed project would further the General Plan objectives and policies, and would not obstruct their attainment; and

2. The project site is not located between the sea and the first public road; and

3. The project will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act in that: a Mitigated Negative Declaration has been prepared for the proposed project, and it has been determined that potentially significant impacts have been reduced to a level of insignificance. A Mitigation Monitoring Program has also been prepared and incorporated into the Mitigated Negative Declaration. On the basis of the whole record, including the initial study and any comments received, there is no substantial evidence that the project will have a significant effect on the environment, and the Mitigated Negative Declaration reflects independent judgment and analysis.

A-5-LGB-15-0045

Exhibit 2

1/6

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

Permission is granted in the Nyes/Oro Canyon area to conduct fuel modification on approximately 22 acres. Fuel modification will extend from the edge of existing residential landscaping approximately 100 feet into the undeveloped, steeply sloped canyons, and will result in 50% thinning of the vegetation canopy to achieve a safe firebreak flanking Oro and Nyes Canyons. Thinning would be accomplished by hand-cutting; no goats will be used. To minimize impacts on native vegetation, thinning will follow a thinning hierarchy recommended in the January 2015 Biological Technical Report prepared by Glenn Lukos Associates. Thinning will focus on the removal of non-native vegetation and dead or dying material; possible trimming of woody native species will occur only if the 50% threshold is not achieved through removal of the dead, dying and non-native vegetation. To preserve soil stability, the root system will be left intact. Ornamental vegetation, generally located between residential structures and the native vegetation, that is not maintained/irrigated, extends beyond the residential property and is not fire retardant, will be removed. Pampas grass in two blue-line ephemeral drainages will be removed.

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

1. If vegetation thinning is performed during winter months, then rare plant locations shall be identified (e.g. GPS coordinates recorded) during the spring so that they can be properly flagged and avoided during vegetation thinning activities.
2. Coordinate with US Fish and Wildlife Service to conduct habitat assessment for the Pacific pocket mouse; if permits are required, such permits shall be obtained prior to commencement of fuel modification.
3. The use of chainsaws and onsite chipper(s) shall be avoided when ground-level ozone (the main component of smog) or carbon monoxide emissions reach an unhealthy level for sensitive groups (Level Orange, Air Quality Index).
4. All chainsaws shall comply with the California Air Resources Board (ARB) Tier II emissions control; the City selected contractor, prior to commencement of fuel modification operations, shall provide demonstration of such compliance.
5. No boom sprayer application of herbicide shall be permitted when winds are greater than 5 mph; no backpack sprayer application using a wand and nozzle hood shall occur when winds are greater than 10 mph; no wick and dauber applications shall occur when winds are greater than 15 mph.
6. To the extent practicable, vegetation thinning within coastal sage scrub and chaparral habitats should be limited to the winter months outside of the growing/blooming season in order to avoid impacts to special-status plants. However, if seasonal fire conditions warrant, fuel modification activities may be required during the spring and summer months. Under such circumstances, areas known to support or have potential to support big-leaved crownbeard, Coulter's matillija poppy, intermediate mariposa lily or other special-status species shall be identified in the field by a biologist prior to commencement of fuel modification activities. To avoid impacts to special-status plants, a qualified biologist shall flag locations.
7. Fencing shall be installed around special-status plants utilizing a 15-foot buffer, and this area shall be prohibited from fuel modification activities.

8. In order to minimize impacts to native vegetation, thinning shall focus on the removal of non-native species and dead or dying material to achieve a threshold of no more than 50% vegetative cover. In areas dominated by non-native species or dead and dying material, cover may be reduced to less than 50%. Where it is not possible to reduce cover to at least 50% through removal of only non-natives, and dead or dying material, woody native species will be removed in accordance with the following hierarchy:

- Initial vegetation removals will include all non-native species as well as dead and dying vegetation.
- If cover is not reduced to at least 50% after removing non-native species and dead plant material, then non-special-status native species such as coastal goldenbush may be removed. If 50% cover is not attained after removing coastal goldenbush, then California buckwheat will be removed followed by black sage and California sagebrush until 50% cover is attained. If 50% cover is not attained after removing coastal sage scrub elements, laurel sumac may be removed followed by toyon and lemonade berry until 50% cover is attained. Big pod ceanothus and bush rue shall be avoided to the maximum extent feasible.
- Native and non-native shrubs (including ornamentals located within the 15-foot buffer) that are shading big-leaved crownbeard shall not be removed.

9. All special-status species shall be retained, including big-leaved crownbeard, Coulter's matilija poppy, and all vegetation within the 15-foot buffer that provides shading/overstory for such species.

10. To avoid impacts to nesting and migratory birds including coastal California gnatcatcher, it is recommended that any removal or clearing of vegetation be conducted outside of the breeding season, which extends from February 1 to August 31. In the event that seasonal conditions promote a high risk for wildfires, work may occur during the breeding season if a qualified biologist conducts a survey for nesting birds within 48 hours prior to the commencement of fuel modification activities in the area, and ensures that no active nests are affected.

- The qualified biologist conducting surveys for nesting birds shall have experience in conducting breeding bird surveys.
- Surveys for nesting birds shall be conducted in all areas that are to be disturbed by fuel modification activities and (as access to adjacent areas allows) any other suitable habitat within 300 feet of the disturbance areas (and within 500 feet for raptors). Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or other factors as determined applicable by the biologist.

11. Conduct invasive plant removal of the pampas grass as an offset to the temporary impacts within the study area due to fuel modification activities in accordance with the following:

- All herbicide application shall be in accordance with product labels.
- No herbicide application shall occur during times of precipitation or when precipitation is forecasted during the subsequent 48-hour period.
- The contractor responsible for herbicide application shall hold a valid Pest Control Business License issued by the California Department of Pesticide Regulation.
- See also mitigation in 2(b), 3(b), and 8(f)

12. A qualified biologist shall be retained to provide onsite monitoring as follows:
- Identification and marking of special-status species prior to commencement of fuel modification activities.
 - Onsite monitoring of vegetation thinning operations as necessary to ensure compliance with the 50% thinning protocol, and areas of avoidance.
 - Conduct worker awareness training for all contractors, hand crews, and herbicide application crews that will be accessing the site; the education shall be conducted prior to starting work on the project.
 - Onsite monitoring as necessary during invasive plant removal and preceding herbicide application for the purpose of identifying and marking special-status plants.
 - Efficacy monitoring shall be conducted within 1-3 weeks after each herbicide treatment.
 - A City-approved representative may be utilized for onsite monitoring during fuel modification activities, in coordination with the qualified biologist.

13. Reduce impacts to southern maritime chaparral and coastal sage scrub/chaparral ecotonal habitats through 1:1 replacement of "in-kind" habitat or through 3:1 dedication of existing "in-kind" habitat that has been mapped as High Value or Very High Value within City open space, subject to confirmation by a qualified biologist that the areas identified meet the thresholds for High and/or Very High Value Habitat. Sufficient area does not exist onsite to fully mitigate the proposed impacts to a level of less than significant. As a result, mitigation in the form of southern maritime chaparral and coastal sage scrub/chaparral ecotone habitat creation or enhancement is required, at a minimum of a 1:1 ratio or habitat dedication at a 3:1 ratio to offset the proposed impacts, and would have to occur in offsite locations within City open space, in consultation with the California Department of Fish and Wildlife and provided that the site selected does not occur within a fuel modification zone and that such site shall be excluded from future fuel modification plans. With either 1:1 restoration or 3:1 dedication, the impacts to 8.01 acres of southern maritime chaparral and coastal sage scrub/chaparral ecotonal habitats would be reduced to less than significant.

14. A conservation easement or similar instrument to establish the required offsite mitigation receiver site shall be recorded prior to commencement of fuel modification activities.

15. All fuel modification activities other than hand removal of pampas grass shall avoid the drainage areas, to include 50 feet on either side of stream.

16. Prior to commencement of fuel modification activities, the project site shall be surveyed by a biologist for aquatic resources and if found, such resource locations shall be flagged. These areas shall be prohibited from fuel modification activities.

17. Fuel modification should be conducted in the spring and completed in the early summer to allow for some re-establishment of the native canopy prior to the next rainfall season.

18. Fuel modification efforts should be limited to the canopy, and should minimize damage to the existing root systems.

19. Fuel modification areas with a thick accumulation of soil on terrain sloping between a 3:1 to 1:1 (horizontal: vertical) ratio should consider surficial amendments, such as spray adhesives, fiber rolls, ~~or~~ jute matting, or Caltrans #2 Mulch, after the modification is complete and prior to the winter seasons.

20. All surficial amendments, including spray adhesives, shall meet Caltrans/EPA test standards, as demonstrated by the City contractor.

21. City contract agreement with contractor shall include stipulation to comply with all applicable environmental laws, rules, regulations, restrictions and ordinances relating to hazardous materials.

22. Herbicide application shall not occur during rainy days or when precipitation is forecasted within the next 48 hours.

23. Any exposed soils resulting from herbicide application shall be covered with Caltrans #2 Mulch prior to the rainy season each year to reduce the potential for sediment transport and runoff to enter waterways.

24. City contract agreement with contractor shall include stipulation to comply with accepted treatment options, and the above required mitigation.

25. All chainsaws shall only be operated with a muffler (unmodified, with the spark arrestor screen included) and maintained in good condition, and City contract agreement with contractor shall include such stipulation.

26. 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.

27. 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.

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

29. 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.

30. 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.

31. 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.

32. 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.

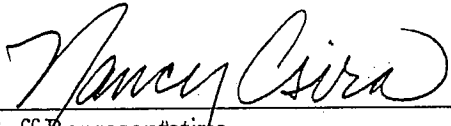
33. Grounds for Revocation. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.

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.

PASSED on May 7, 2015, by the following vote of the Design Review Board of the City of Laguna Beach, California.

AYES: LeBon, Liuzzi, McErlane, Mullen-Kress, Simpson
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Staff Representative



Chair Pro Tem Liuzzi

Board of Adjustment Resolution No. CDP 15-24

RECEIVED

EDMUND G. BROWN JR., Governor

CALIFORNIA COASTAL COMMISSION

South Coast Region



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

JUL 06 2015

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Marc Wright
Mailing Address: 1630 Del Mar Avenue
City: Laguna Beach, CA Zip Code: 92651 Phone: 949-445-3389

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach

2. Brief description of development being appealed:

CCC Post-Cert No. 5-LGB-15-0493 | DESIGN REVIEW 15-0266, COASTAL DEVELOPMENT PERMIT 15-0265 AND A MITIGATED NEGATIVE DECLARATION

"City of Laguna Beach Fire Department requests design review and a coastal development permit to conduct fuel modification in the Nyes/Oro Canyon area including FIFTY PERCENT THINNING; thinning will focus on the removal of non-native species and dead or dying material."

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

Project Location: Nyes/Oro Canyon Area Fuel Modification, Laguna Beach, Ca 92651 Orange County

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

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: 1A-5-LGB-15-0045

DATE FILED: 7.6.15

DISTRICT: South Coast

Exhibit 3
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors,
- Planning Commission
- Other BOARD OF ADJUSTMENT/DESIGN REVIEW BOARD

6. Date of local government's decision: MAY 7, 2015

7. Local government's file number (if any): Local Application No. 15-0265

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Board of Adjustment/Design Review Board of the City of Laguna Beach, California
505 Forest Avenue
Laguna Beach, California 92651

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Fire Chief Jeff LaTendresse

(2) Planning Consultant Kathy Lottes

(3) Kevin Trigg, chief engineering geologist with Geofirm

(4) Matt Lawson, Chair of the Emergency Disaster Preparedness Committee

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The project is inconsistent with several sections of the City of Laguna Beach Local Coastal Program and related sections of the California Code. They include, in the Laguna Beach Municipal Code, the following:

Title 25 ZONING
Sections 25.07.008 and 25.07.010

Chapter 25.07 COASTAL DEVELOPMENT PERMITS
25.07.008 Exemptions

Chapter 25.15 R/HP RESIDENTIAL/HILLSIDE PROTECTION ZONE

Chapter 25.15 R/HP RESIDENTIAL/HILLSIDE PROTECTION ZONE
25.15.004 Design criteria, (A) (7)

Chapter 25.15 R/HP RESIDENTIAL/HILLSIDE PROTECTION ZONE
25.15.008 Uses permitted subject to a conditional use permit, (A)

Chapter 25.15 R/HP RESIDENTIAL/HILLSIDE PROTECTION ZONE
25.15.012 Required findings, (A), (B), (C) and (D)

Chapter 25.37 PUBLIC LANDS (PL) ZONE
25.37.002 Intent and purpose.

Chapter 25.37 PUBLIC LANDS (PL) ZONE
25.37.004 Applicable areas.

Chapter 25.37 PUBLIC LANDS (PL) ZONE
25.37.006 Uses permitted.

Title 25 ZONING
Chapter 25.41 O-S OPEN SPACE ZONE
25.41.002 Intent and purpose.

Title 25 ZONING
Chapter 25.41 O-S OPEN SPACE ZONE
25.41.004 Uses permitted.

Title 25 ZONING
Chapter 25.41 O-S OPEN SPACE ZONE
25.41.006 Uses permitted subject to a conditional use permit.

Title 25 ZONING
Chapter 25.41 O-S OPEN SPACE ZONE
25.41.008 Development standards, (C) (3) and (4)

Title 12 TREES AND VEGETATION
Chapter 12.08 PRESERVATION OF HERITAGE TREES
12.08.010 Intent and purpose.

Title 12 TREES AND VEGETATION
Chapter 12.08 PRESERVATION OF HERITAGE TREES
12.08.020 Heritage tree criteria.

Title 15 FIRE
Chapter 15.01 CALIFORNIA FIRE CODE
15.01.030 Amendment to Chapter 3 of the Fire Code
Sections 319, 321 and 322

Title 15 FIRE
Chapter 15.01 CALIFORNIA FIRE CODE
15.01.050 Amendment to Chapter 49 of the Fire Code, Requirements for Wildland-Urban Interface Fire Areas

Laguna Beach General Plan, Open Space/Conservation element
Topic 7, Visual Resources
Topic 8, Vegetation and Wildlife Resources
Topic 10, Natural Hazards
Topic 13, Ridgelines
Topic 14, Hillside Slopes

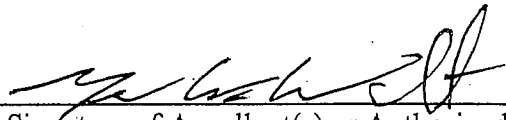
And sections of California Code relevant to noticing of public government meetings, of vetting and qualifying contractors and technical and scientific contractors, and of disclosure and proper noticing and adjudication of known and potential conflicts of interest in planning, designing, engineering, and contracting for City business.

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

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 7/6/15

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: _____

The project is inconsistent with several sections of the City of Laguna Beach Local Coastal Program and related sections of the California Code. They include, in the Laguna Beach Municipal Code, the following:

SECTION	REASONS
Title 25 ZONING	
<p>Title 25 ZONING Sections 25.07.008</p>	<p>The Coastal Act, in Section 30107.5, defines an environmentally sensitive area as "...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."</p> <p>In City's LCP, Title 25, ZONING, Sections 25.07.008, "Certain types of development, [enumerated in this section], 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..."</p> <p>The proposed fuel modification project does not meet the definition of any of the types of development exempted under this section.</p>
<p>Chapter 25.07 COASTAL DEVELOPMENT PERMITS 25.07.010 Categorical Exclusions</p>	<p>Project site includes areas of coastal sage scrub, which is designated as high value habitat in the LCP.</p> <p>Therefore, this project is not located in a categorical exclusion area, and can not</p>

	<p>be exempt from CDP requirements on such grounds.</p> <p>Further, additional material and information that may be presented to CCC in due course will indicate that the extent of high value habitat area within the project site has been understated in the City's project plan.</p>
<p>Chapter 25.15 R/HP RESIDENTIAL/HILLSIDE PROTECTION ZONE</p>	
<p>Chapter 25.15 R/HP RESIDENTIAL/HILLSIDE PROTECTION ZONE 25.15.004 Design criteria; (A) (7)</p>	<p>Project site is in R/HP.</p> <p>Subsection A.7 establishes these criteria for fuel modification in this zone:</p> <p>(7) Fuel Modification. "... in such a way as to minimize impact on existing native vegetation and areas of visual prominence. Alternative means to thinning and/or removal of native vegetation for fire hazard management... are preferred where feasible. (Ord. 1485 § 3, 2008; Ord. 1303 § 1, 1995; Ord. 1255 § 2, 1992; Ord. 1234 § 1, 1992; Ord. 1187 § 2(2), 1989).</p> <p>The subject project plan calls, without justification, for precisely the methods of fuel modification that this section of the LCP seeks to prevent and avoid.</p>
<p>Chapter 25.15 R/HP RESIDENTIAL/HILLSIDE PROTECTION ZONE 25.15.008 Uses permitted subject to a conditional use permit, (A)</p>	
<p>Chapter 25.15 R/HP RESIDENTIAL/HILLSIDE PROTECTION ZONE</p>	<p>The proposed project does not meet these development project standards for</p>

<p>25.15.012 Required findings, (A), (B), (C) and (D)</p>	<p>Required Findings for approval:</p> <ul style="list-style-type: none"> • Conformity with CLP • No adverse environmental impacts that can not be mitigated • No adverse effect on adjacent property, or matters affecting public health, safety and welfare <p>The basis on which the City asserts such standards to be met do not conform with accepted methods of, and standards for assessing environmental and human impacts of habitat destruction, land destabilization, soil erosion, and the loss for all time of habitat and species that have ever existed only on a single, small bit of the planet.</p>
<p>Chapter 25.37 PUBLIC LANDS (PL) ZONE 25.37.002 Intent and purpose.</p>	<p>Material and data may be presented in the proper venue that will show that the City erred when it asserted and implied that the areas to be cleared, and the methods to be used in clearing them, would not gravely conflict with the mandate under this section.</p> <p>This section describes the intent and purpose of the PL Zone as being, "...to enhance the community scale and openness expressed in the general plan by preserving, protecting and recognizing open spaces. The public lands designation is intended to assure the protection and preservation of natural open space, wilderness areas, and bluff faces..." (Ord. 927 § 1, 1978).</p>
<p>Chapter 25.37 PUBLIC LANDS (PL) ZONE 25.37.004 Applicable areas.</p>	
<p>Chapter 25.37 PUBLIC LANDS (PL) ZONE</p>	

37

25.37.006 Uses permitted.	
Title 25 ZONING Chapter 25.41 O-S OPEN SPACE ZONE 25.41.002 Intent and purpose.	Inevitable effect of proposed project will violate this section.
Title 25 ZONING Chapter 25.41 O-S OPEN SPACE ZONE 25.41.004 Uses permitted.	<p>Project will result in conditions that restrict or impair some of the limited permitted uses, including:</p> <ul style="list-style-type: none"> • Natural water recharge • Wildlife preserve and sanctuary • Historical preserves • Scientific study <p>Further, CC staff recommendations in, in Laguna Beach LCPA 1-07 C LUP Fuel Modifications & Various Implementation Plan Changes, B. Findings for Denial of Land Use Plan Amendment 1-07C as Submitted, state that “the certified LUP does address fuel modification plans in sections other than the Safety Element. These include the following Open Space/Conservation Element policies: Policy 7-G which requires that fuel modification plans minimize impacts to visual resources; Policies 8-F, 8-G, and 8-H which encourage avoiding fuel modification impacts to sensitive habitat...”</p> <p>The project plan violates this section and will obviously do precisely the kinds of damage proscribed here in ways that are visually intuitive upon inspection; and which observation is supported by substantial amounts of professional and academic study.</p> <p>Where assertions in the environmental component of the City’s project plan assert anything otherwise, it is so</p>

	<p>erroneous that such mistakes, oversights, and omissions call into question either or all of the qualifications, actual efforts invested by, or veracity of those who did the study and prepared the report.</p> <p>The gravity of these errors, and the publicly stated threat by City officials to, based largely on the environmental element in question, declare police power to move this project forward without CC review, calls for review, under the Public Records Act, if necessary, of all reference material, research work product, and correspondence and communication team among project team members involved in, or with supervisory authority over the study and report.</p>
<p>Title 25 ZONING Chapter 25.41 O-S OPEN SPACE ZONE 25.41.006 Uses permitted subject to a conditional use permit.</p>	
<p>Title 25 ZONING Chapter 25.41 O-S OPEN SPACE ZONE 25.41.008 Development standards, (C) (3) and (4)</p>	<p>Project will violate conditions requiring that any fuel modification should minimize impact on native vegetation.</p> <p>For example, the plan calls for growth to be thinned or reduced "by 50%." The project plan does not specify how that quantity would be measured. But a 50% reduction in forage, shelter, moisture retaining organic material, and soil stabilizing biota, however measured, will inevitably have an immense impact on the existing native vegetation.</p>

Title 12 Trees & Vegetation	
Title 12 TREES AND VEGETATION Chapter 12.08 PRESERVATION OF HERITAGE TREES 12.08.010 Intent and purpose.	City's environmental assessment fails to recognize the existence in the project area of several individual specimen and stands of native trees that meet the Heritage Tree criteria defined in these sections.
Title 12 TREES AND VEGETATION Chapter 12.08 PRESERVATION OF HERITAGE TREES 12.08.020 Heritage tree criteria.	
Title 15 Fire	
Title 15 FIRE Chapter 15.01 CALIFORNIA FIRE CODE 15.01.030 Amendment to Chapter 3 of the Fire Code Sections 319, 321 and 322	For reasons that are plainly obvious, and backed by best practices, and voluminous authoritative empirical research, CC staff noted in LAND USE PLAN SUGGESTED MODIFICATIONS A. Suggested Modifications to the Fuel Modifications Program Suggested Modification No. 1 (Land Use Plan) , "Through sound management of the vegetation and planting at the urban wildlands interface it is possible to increase moisture content and reduce fuel loading, thus moderating potential fire hazard. The process of changing the moisture content by adding irrigation or planting moisture-retentive plants and reducing the volume of shrubs and woody debris by thinning and removal is termed fuel modification. <i>Thinning and removal can be accomplished by the use of hand crews or by a combination of manual removal and grazing. The City has used both methods to maintain fuel modification zones. In the past cattle grazed the Irvine and Moulton Ranches to the north and east; and in recent years the City has contracted with herders to have goats graze vegetation in planned bands between homes and naturally vegetated areas.</i> "

<p>Title 15 FIRE Chapter 15.01 CALIFORNIA FIRE CODE 15.01.050 Amendment to Chapter 49 of the Fire Code, Requirements for Wildland-Urban Interface Fire Areas</p>	<p>Please see section immediately above.</p>
<p>OPEN SPACE/CONSERVATION ELEMENT Laguna Beach General Plan</p>	
<p>Topic 7, Visual Resources</p>	<p>The City's project plan does not comply with existing ordinances, or more appropriate ones recommended by CC staff stating in, IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS B. Suggested Modifications to Chapter 25.15 Residential Hillside Protection Suggested Modification No. 1(Implementation Plan)</p> <p>"As part of the environmental review process for any project, the City <i>may also shall</i> require detailed environmental studies to identify specific impacts, <i>measures to avoid those impacts</i>, and <i>when allowable impacts are unavoidable</i>, the necessary mitigation measures.</p> <p>"(6) Landscaping. The proposal should maintain native vegetation to the greatest extent possible and should include the provision of additional native vegetation to mitigate potential visual impacts and erosion concerns associated with the development proposal. <u><i>Invasive plantings shall be prohibited.</i></u> "</p> <p>The plan provides no rationale. Nor does existing City code include such intuitive requirements which are common to most municipalities with similar geology and environments.</p>

Topic 8, Vegetation and Wildlife Resources

CC staff recommendations in Laguna Beach LCPA 1-07 C LUP Fuel Modifications & Various Implementation Plan Changes, **IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS, (F) (d) (3) and (4)**,

recommended that,

"3) The proposed development will have no adverse impact on Environmentally Sensitive Areas (ESAs) including, but not limited to, high and very high value habitat.

"3) 4) The proposed development, after the incorporation of reasonable mitigation measures, will not have any significant adverse impacts on non-ESA high or very high value habitat."

These recommendations reflect the visibly obvious fact that ESAs, ESHAs, as well as waterways subject to mandatory protection, are so densely spaced in this area that a person could not stand in any spot without being in contact with some or all of these protected elements.

Thinning them by the intended "50%" (which, again, is impossible to measure on any dimension, and based on no accepted theory or methodology) would be in inevitable violation of these sections of City ordinances.

Topic 10, Natural Hazards

CC staff, recognizing obvious necessity based on natural dynamics which apply to this project site, noted that, **C. Findings for Approval of Land Use Plan Amendment 1-07C if Modified**, "measures to minimize impacts that fuel

	<p>breaks have on coastal resources while achieving effective hazard reduction. While the Commission is recognizing that fuel breaks can be useful to address fire hazards, the Commission's approval, with modification, of the revised Safety Element does not mean the Commission has endorsed any specific portion of the City's fuel break program. A comprehensive plan to address fire hazards for existing development that includes land use plan and implementation plan components is still necessary."</p> <p>The project plan, particularly the components dealing with expanding fire breaks on slopes much steeper than acceptable under other sections of the LCP, would violate this section which recognizes conditions necessitated by the laws of physics.</p> <p>No rationale is provided by the city for such risky measures, likely to create much greater hazard in destabilizing slopes on which homes sit.</p> <p>It seems intuitive that public safety demands that CC review the rationale for such plans, and consider the inevitable effects if they were allowed to go forward.</p>
<p>Topic 13, Ridgelines</p>	<p>The proposed plan violates this ordinance which is in the LCP:</p> <p>Section 25.15.004 "Design Criteria provides standards that apply to development within the Residential Hillside Protection Zone. The preamble</p>

	<p>to this section states: "The area included in the Residential/Hillside Protection Zone encompasses a substantial amount of the City's undeveloped hillsides. Not only does this land incorporate some of the most undisturbed physical environments in the City, it also supports many environmentally sensitive habitats. These include rare species of flora or fauna, significant watercourses, ridgelines and unique landforms such as rock outcroppings and caves. In addition, land within this Zone typically contains physical conditions such as steep topography and geologically sensitive areas which amplify the environmental and safety concerns of this Zoning District."</p>
Topic 14, Hillside Slopes	Please see number 10.
<p>And sections of California Code relevant to noticing of public government meetings, of local government actions, of vetting and qualifying contractors and technical and scientific contractors, and of disclosure and proper noticing and adjudication of known and potential conflicts of interest in planning, designing, engineering, and contracting for City business.</p>	



July 16, 2015

RECEIVED
South Coast Region

JUL 20 2015

California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302

CALIFORNIA
COASTAL COMMISSION

Subject: A-5-LGB-15-0045

Dear Honorable Commissioners,

The City of Laguna Beach has received and reviewed the appeal of the City's approval of Design Review 15-0266, Coastal development Permit 15-0265 and a Mitigated Negative Declaration to conduct fuel modification in the Nyes/Oro Canyon. The City believes that the Commission should find no substantial issue exists.

The appellant has provided a list of City Code and General Plan topics; however, he has not demonstrated any substantive reasons or explanations to support the appeal. The City conducted a neighborhood meeting and the Design Review Board held two noticed public hearings. At no time did the appellant ever assert that the project was inconsistent with the City's LCP. Rather, he has expressed issues with the City's environmental determination. The City and its biologist worked closely with the State Department of Fish and Game and the U.S. Department of Fish and Wildlife Services in the preparation of the Mitigated Negative Declaration that was ultimately approved.

The area of the proposed fuel modification is located in the City's Very High Fire Hazard Severity Zone. The State of California is entering its fourth year of severe drought conditions and also its fourth year of record heat, and fire protection and safety issues are of paramount concern. In 1993, the City of Laguna Beach experienced a disastrous vegetation fire that resulted in over 16,000 acres being burned and over 400 structures being completely destroyed or damaged. This is still the seventh most expensive fire in US history! Very recently, on July 3, 2015, the City experienced a 14-acre brush fire that could have resulted in significant loss of property had it not been for the efforts of the City Fire Department resources and other emergency responders.

The fire hazard to the neighborhoods in the Nyes/Oro Canyon area is a serious public nuisance that the City believes it has the right and responsibility to abate. Nevertheless, the City chose to process the proposal through the normal permit

A-5-LGB-15-0045
Exhibit
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1/7

approval procedure. We strongly encourage the Coastal Commission to uphold the City's processing and approval of the Coastal Development Permit.

The following discussion provides an explanation of the project's consistency with the LCP in response to the appellant's listing of references.

1. Title 25 Zoning, Sections 25.07.008 and 25.07.010:

Municipal Code Section 25.07.008 relates to certain development that is exempt from the requirement for a coastal development permit. These exemptions include improvements to certain types of improvements to existing residential and non-residential structures, repair and maintenance activities, utility connections and destroyed structures, all of which do not apply to the proposed fuel modification project. The project was, in fact, processed for a coastal development permit under Sections 25.07.004 and 25.07.006 wherein the definition of "development" with respect to coastal permit requirements includes the removal or harvesting of major vegetation. Therefore, Section 25.07.008 is not applicable.

Section 25.07.010 states that development in any categorical exclusion area adopted pursuant to the California Coastal Act is exempt from the Coastal Development Permit regulations. This section is not applicable to the proposed project because the area is not in a categorical exclusion area.

2. Chapter 25.07 Coastal Development Permits, 25.07.008 Exemptions:

See discussion related to Section 25.07.008 above in #1.

3. Chapter 25.15 R/HP Residential/Hillside Protection Zone

a. Section 25.15.004 Design criteria (A)(7):

Design criteria (A)(7) relates to fuel modification for new structures and specifies that fuel modification should be integrated into the site plan, minimizing impacts on native vegetation and areas of visual prominence. Section 25.15.004 further states that alternative means to thinning - such as minimizing the building envelope, siting of the structure away from hazard areas, and use of fire retardant design and materials - are preferred where feasible. This section is not applicable because no buildings or structures are proposed as part of the proposed fuel modification. The City's project is more appropriately described as a fuel break as opposed to a standard fuel modification plan that would be required for the development of new structures.

b. Section 25.15.008 Uses permitted subject to a conditional use permit (A):

The applicable regulations for fuel modification are found in Section 25.05.040 (Design Review) and Chapter 25.07 (Coastal Development Permits) rather than under Section 25.15.008. Therefore, Section 25.15.008 does not apply to the proposed project.

c. Section 25.15.012 Required findings (A), (B), (C) and (D):

Review of the proposed fuel modification project is based on the design review criteria specified in Section 25.05.040(H) and the additional standards that are required for coastal development permits that are set forth in Section 25.07.012(F). In connection with the approval of Resolution CDP 15-24 and the adoption of the Mitigated Negative Declaration, the City found: (A) the project is consistent with the City's General Plan/Local Coastal Plan (finding 1 of Resolution CDP 15-24); (B) the project would not create a significant impact on the environment (finding 2 of Resolution CDP 15-24); (C) the project would not negatively affect adjacent property and the fuel modification would increase public safety and welfare (pages 6 and 7 of the March 19, 2015 staff report); and (D) the fuel modification plan would be maintained long-term by the City to protect the residents from wildfire hazards (page 4 of the May 7, 2015 staff report, Item 5 ["project phasing will likely take place over a multi-year period due to budgeting constraints and annual maintenance will follow"]).

4. Chapter 25.37 Public Lands (PL) Zone (Sections 25.37.002, 25.37.004, 25.37.006)

The Public Lands (PL) Zone requirements are not applicable as the fuel modification project is not located within the PL zoning district.

5. Chapter 25.41 O-S Open Space Zone

a. Section 25.41.002 Intent and Purpose

Section 25.41.002 states that the Open Space/Conservation designation is established solely for the purpose of preserving land in its natural state on behalf of the public interest. The fuel modification project is consistent with this section in that it does not propose the development of any buildings or structures, or any infrastructure, grading or hardscape improvements that might conflict with preserving land in its natural state. In fact, the project will minimize impacts to native vegetation as demonstrated in the adjacent Arch Beach Heights View Park (also located in the O-S Zone), where fuel modification has been conducted over the last 3-4 years in a manner similar to that proposed for the Nyes/Oro Canyon.

b. Section 25.41.004 Uses Permitted, and

c. Section 25.41.006 Uses Permitted Subject to a Conditional Use Permit

The applicable provisions for the review and approval of fuel modification are Sections 25.05.040(B)(1)(o), 25.07.004 and 25.07.006. The project was reviewed and approved based on the required review criteria and applicable findings specified in these sections. Sections 25.41.004 and 25.41.006 are not applicable to the proposed project.

d. Section 25.41.008 Development Standards (C)(3) and (4)

Section 25.41.008(C)(3) states that landscaping plans should minimize any impact on existing native vegetation, especially those species that are of high biological value. In addition, restorative landscaping should incorporate indigenous plant materials and is also encouraged as a means of mitigating visual impacts associated with the construction of new buildings, structures or other improvements within the zone. In fact, the project minimizes potential impacts on native vegetation through establishment of a thinning protocol including a 50% thinning threshold, hand-cutting, flagging and avoidance of special-status plant species, leaving plant root systems intact, removal of invasive pampas grass, and worker awareness training and onsite monitoring by a qualified biologist during fuel modification activities. The removal of non-native, dead and dying vegetation, which is expected to achieve most of the 50% threshold, will also aid in the regrowth of native vegetation in the thinned areas. Therefore, the project is consistent with this section.

Section 25.41.008(C)(4) relates to limiting building heights to one-story, not to exceed 15 feet. The project does not propose any buildings or structures and, therefore, this section is not applicable.

6. Title 12 Trees and Vegetation, Chapter 12.08 Preservation of Heritage Trees

- a. Section 12.08.010 Intent and Purpose
- b. Section 12.08.020 Heritage Tree Criteria

There are no Heritage Trees on the project site. Therefore, the above sections are not applicable.

7. Title 15 Fire, Chapter 15.01 California Fire Code

- a. Section 15.01.030 Amendment to Chapter 3 of the Fire Code
 - 319 Fuel modification requirements for new construction or major remodel
 - 321 Unusual circumstances
 - 322 Use of equipment
- b. Section 15.01.050 Amendment to Chapter 49 of the Fire Code
Requirements for Wildland-Urban Interface Fire Areas

The Fire Code is not a part of the City's LCP. Nevertheless, the project is consistent with the California Fire Code.

8. Laguna Beach General Plan, Open Space/Conservation Element

- a. Topic 7, Visual Resources

The project is consistent with Policy 7A in that the proposed fuel modification preserves the quality of public views from the hillsides. No buildings, structures, infrastructure, grading or hardscape improvement are proposed that might

interfere with such public views. In addition, project features, such as the 50% thinning threshold and the focus on removing non-native, dead and dying vegetation, will allow much of the existing native vegetation to remain, thus avoiding denuding of the hillsides.

The project is consistent with Policy 7G(c) in that treatments for fuel modification and maintenance techniques for existing development are consistent with standards in 7G(b) for new development to the maximum extent feasible. Project impacts to native vegetation are minimized, there will be no grading or discing for fuel modification, fuel modification will be conducted adjacent to existing residential development, encroachment into environmentally sensitive areas will be minimized through flagging/avoidance of special-status species, and implementation of the recommended thinning hierarchy and ongoing maintenance will comply with all mitigation measures and project conditions.

b. Topic 8, Vegetation and Wildlife Resources

As discussed in the Initial Study for the Mitigated Negative Declaration, while the proposed project is not fully consistent with Policy 8N insofar as it does not *prohibit* fuel modification into areas of chaparral and coastal sage scrub, it would not permanently remove chaparral or coastal sage scrub plants or cause loss of habitat type. Further, potentially significant impacts to southern maritime chaparral and coastal sage scrub/chaparral ecotonal habitats would be mitigated through 3:1 dedication of existing "in-kind" habitat that has been mapped as High Value or Very High Value within City open space, subject to confirmation by a qualified biologist. In addition, the project is fully consistent with other vegetation and wildlife resource policies in the City's Open Space/Conservation Element. The project furthers other objectives of the City, including Safety Element objectives to improve fire safety, particularly in areas where fire hazards have reached a critical concern.

More aggressive wildland management techniques that involve expansion of the City's fuel break program into the interior canyon areas (including the project site) and cooperation with other local jurisdictions, neighborhood associations and agencies are a high priority for the City. This priority is reflected in the Safety Element policies related to Fire Hazards, including the following. Policy 4B states: "Review and continually maintain each year the City's fuel modification program." Policies 4C and 4D respectively state: "Work with adjacent local jurisdictions and agencies on the ongoing implementation of the City's fuel modification program," and "Coordinate the City's fuel modification program with neighborhood associations." Finally, Policy 4E states: "Work with governmental jurisdictions and agencies on the cooperative, integrated implementation of the Orange County Report of the Wildland/Urban Interface Task Force's recommendations."

Precise and perfect conformity with each every aspect of the General Plan is not required. From an overall standpoint, the proposed project would promote and advance the objectives and policies of the General Plan and would not obstruct their attainment. In conclusion, inconsistency with a discrete policy may indicate a

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physical impact (which has been evaluated here as less-than-significant), but such inconsistency is not by itself an impact.

c. Topic 10, Natural Hazards

Topic 10 relates to natural hazards that occur in the City's undeveloped open space areas and the potential risk related to geologic, flood and fire hazards. The policies in this Topic relate to how to avoid these hazards and balance the need to protect the open space areas and protect the public health and safety of the residents. Although this project is referred to as a fuel modification plan, it is considered by the City as a fuel break and is entirely different than the typical fuel modification plan that the City requires of development projects adjacent to the wildland areas. The most applicable policy in this topic is Policy 10G, which states that "fuel modification plans, where appropriate shall be included within the boundary of the developed land use zone." This stated intent requires that for subdivision proposals and/or development of legal building sites, the fuel modification must not extend outside of their property boundaries into the open space, and fuel modification of building sites must be located on the property being developed.

Because of its experience in dealing with prior wildfire events, the City has instituted a fuel break program that goes further than the fuel modification that is required of all projects that are considered new construction or a major remodel. There are many properties that were developed prior to the City's requirement to provide fuel modification and are at extreme risk of fire hazards. The subject area includes many of these at-risk properties. The fuel break program balances the risk of fire hazards and sensitive modification of the natural open space areas to protect existing developed areas.

d. Topic 13, Ridgelines

The project does not propose the construction or development of any buildings, structures or related infrastructure improvements or grading. Therefore, it will not alter the natural profile of ridgelines, rock outcroppings, vertical slopes or otherwise affect the function of ridgelines as a link between adjoining open space areas. The aesthetic appearance of thinned vegetation is addressed under Topic 7, Visual Resources. Topic 13 policies are not applicable to the proposed project.

e. Topic 14, Hillside Slopes

The project does not result in or require new construction and grading, creation of new building sites, driveway access, dumping of excess fill, new roads or extensions of existing roads into currently inaccessible areas. Public views of hillside slopes are addressed under Topic 7, Visual Resources. Topic 14 policies are not applicable to the proposed project.

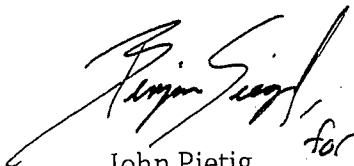
9. California Code

The California Code is not part of the City's LCP and is not an applicable basis for the appeal. The appellant does not indicate how he believes the City violated the California Code; however, the City's position is that no violations have occurred.

In closing, the City's analysis and approval of the project is fully consistent with its certified LCP. The City has taken painstaking care to faithfully abide by its LCP Policies and Implementation Plan. The City hopes that you take a thoughtful look at the appellant's unsubstantiated and unfounded allegations to the contrary, give them no credence and find that no substantial issue exists.

City Staff will be attending the Coastal Commission hearing in August to describe and vigorously support the adequacy of the City's review and processing of the Coastal Development Permit for this project. If you would like to speak to staff prior to the hearing, please do not hesitate to contact Ann Larson, Assistant Director of Community Development, at (949) 497-0320.

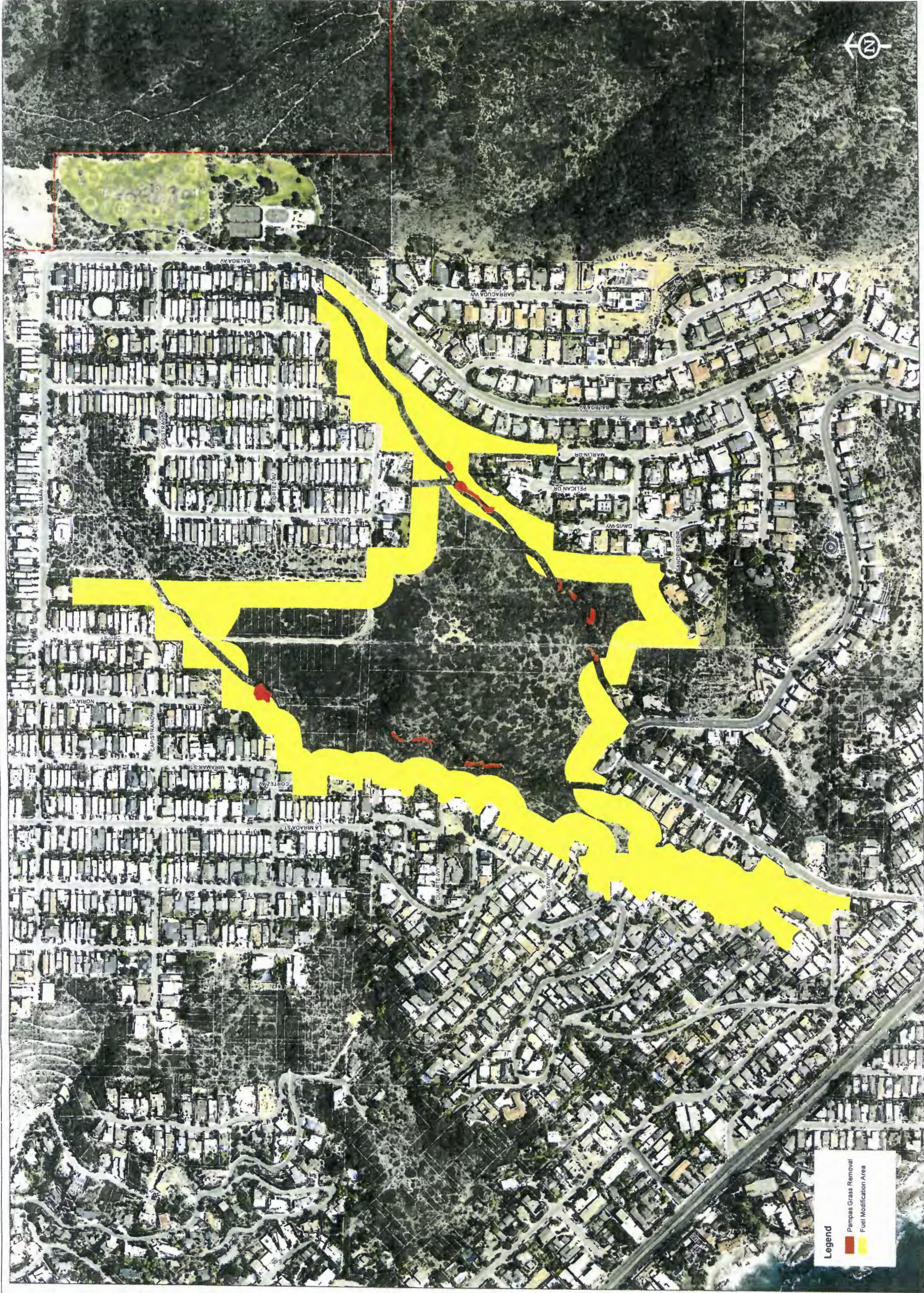
Sincerely,



John Pietig
City Manager

cc. Fire Chief
Director of Community Development
Assistant Director of Community Development

47



YES! ORO CANYON FUEL MODIFICATION PROJECT SITE

0 310 620 1,240 Feet



Legend

Vegetation Type	
■	Chaparral
■	Coastal Sage Scrub
■	Coastal Sage Scrub/Chaparral
■	Disturbed
■	Disturbed Chaparral
■	Disturbed Coastal Sage Scrub
■	Ornamental
■	Sycamore

**NYES/ORO CANYON
FUEL MODIFICATION STUDY MAP**

0 305 610 1,220 Feet

—MATCH LINE "A"

General Plan and Local Coastal Plan

Biological Resource Values

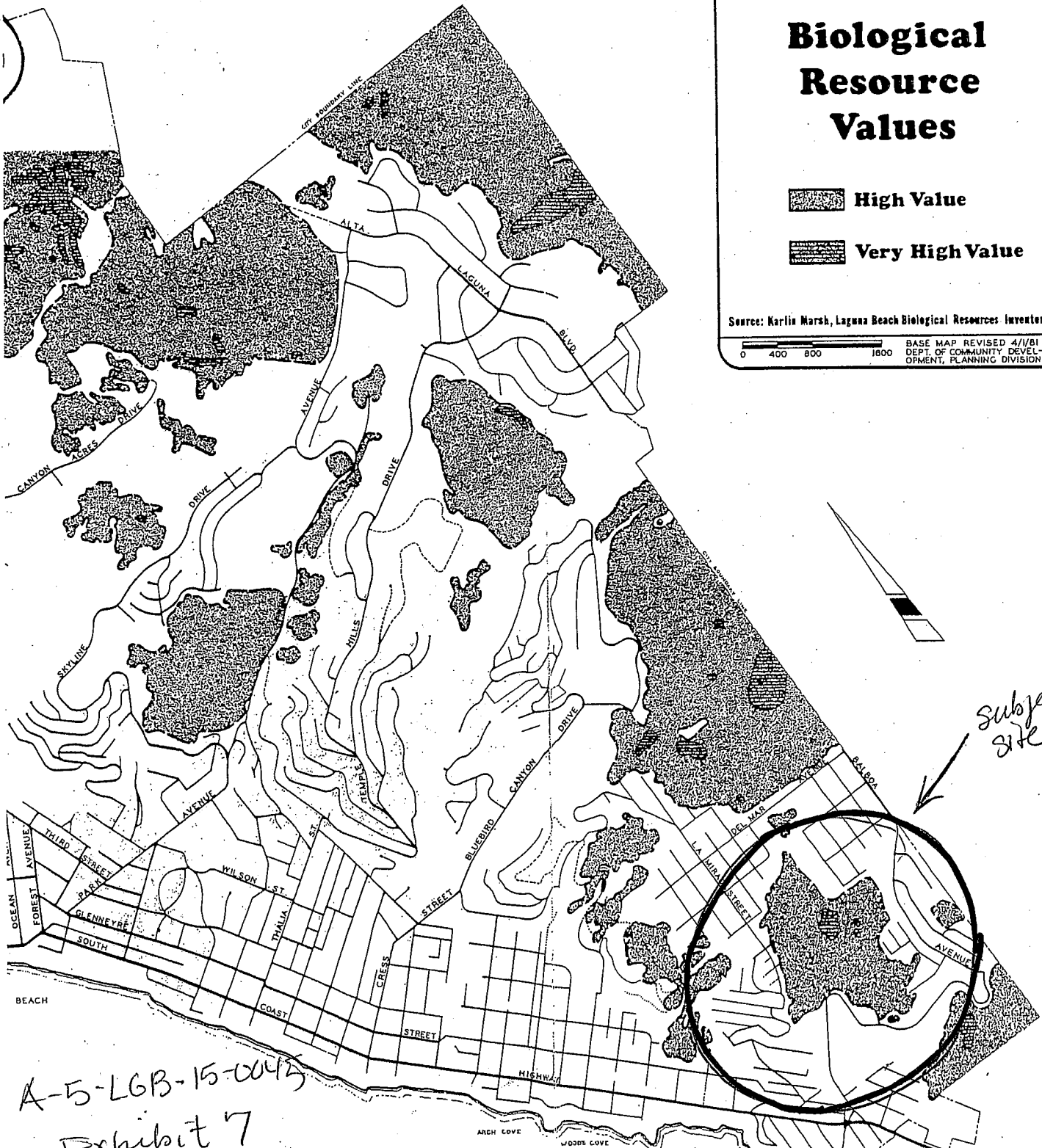
 High Value

 Very High Value

Source: Karlin Marsh, Laguna Beach Biological Resources Inventory

0 400 800 1600

BASE MAP REVISED 4/1/81
DEPT. OF COMMUNITY DEVELOPMENT,
PLANNING DIVISION



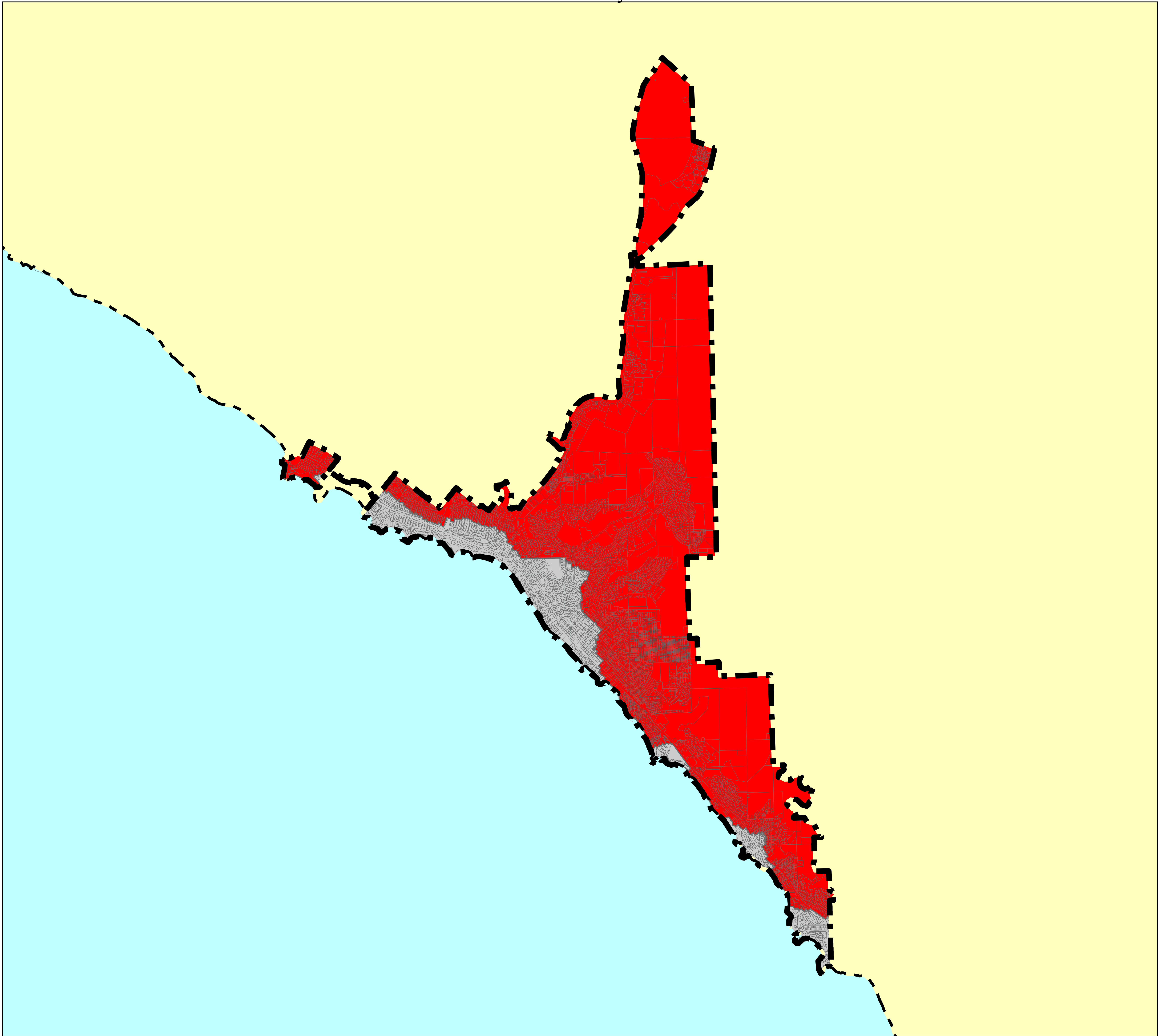
Subject Site

*A-5-LGB-15-00425
Exhibit 7*

*OS/C Element
City of Laguna Beach*

Exhibit 7

Very High Fire Hazard Severity Zones in LRA As Recommended by CAL FIRE



Fire Hazard Severity Zones

Local Responsibility Area State or Federal Responsibility Areas

VHFHSZ VHFHSZ

Non-VHFHSZ Non-VHFHSZ

--- City Boundary

--- Parcels

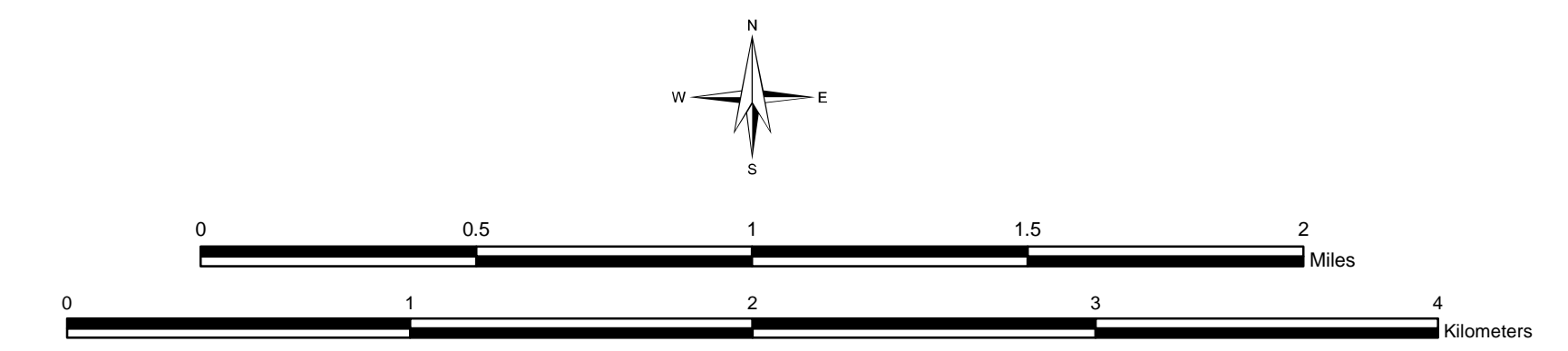
--- County Boundary

Government Code 51175-89 directs the California Department of Forestry and Fire Protection (CAL FIRE) to identify areas of very high fire hazard severity zones within Local Responsibility Areas (LRA). Mapping of the areas, referred to as Very High Fire Hazard Severity Zones (VHFHSZ), is based on data and models of potential fuels over a 30-50 year fire horizon and their associated expected fire behavior, and expected burn probabilities to quantify the likelihood and nature of vegetation fire exposure (including firebrands) to buildings. Details on the project and specific modeling methodology can be found at <http://www.cdf.ca.gov/projects/land/firehazard/>. Local Responsibility Area VHFHSZ maps were initially developed in the mid-1990s and are now being updated based on improved science, mapping techniques, and data.

In late 2005 to be effective in 2008, the California Building Commission adopted California Building Code Chapter 7A requiring new buildings in VHFHSZ to use ignition resistant construction methods and materials. These new codes include provisions to improve the ignition resistance of buildings, especially from firebrands. The updated very high fire hazard severity zones will be used by building officials for new building permits in LRA. The updated zones will also be used to identify property whose owners must comply with natural hazards disclosure requirements at time of property sale and 100 foot defensible space clearance. It is likely that the fire hazard severity zones will be used for updates to the safety element of general plans.

This specific map is based on a geographic information system dataset that depicts final CAL FIRE recommendations for Very High FHSZs within the local jurisdiction. The process of finalizing these boundaries involved an extensive local review process, the details of which are available at <http://frap.cdf.ca.gov/projects/hazard/brand/> (click on "Conduct as guest without logging in"). Local government has 120 days to designate, by ordinance, very high fire hazard severity zones within its jurisdiction after receiving the recommendation. Local government can add additional VHFHSZs. There is no requirement for local government to report their final action to CAL FIRE when the recommended zones are adopted. Consequently, users are directed to the appropriate local entity (county, city, fire department or Fire Protection District) to determine the status of the local fire hazard severity zone ordinance.

This map was developed using data products such as parcel and city boundaries provided by local government agencies. In certain cases, this includes copyrighted geographic information. The maps are for display purposes only - questions and requests related to parcel or city boundary data should be directed to the appropriate local government entity.



Projection Albers, NAD 1983
Scale 1: 20,000
at 36" x 42"
October 2011

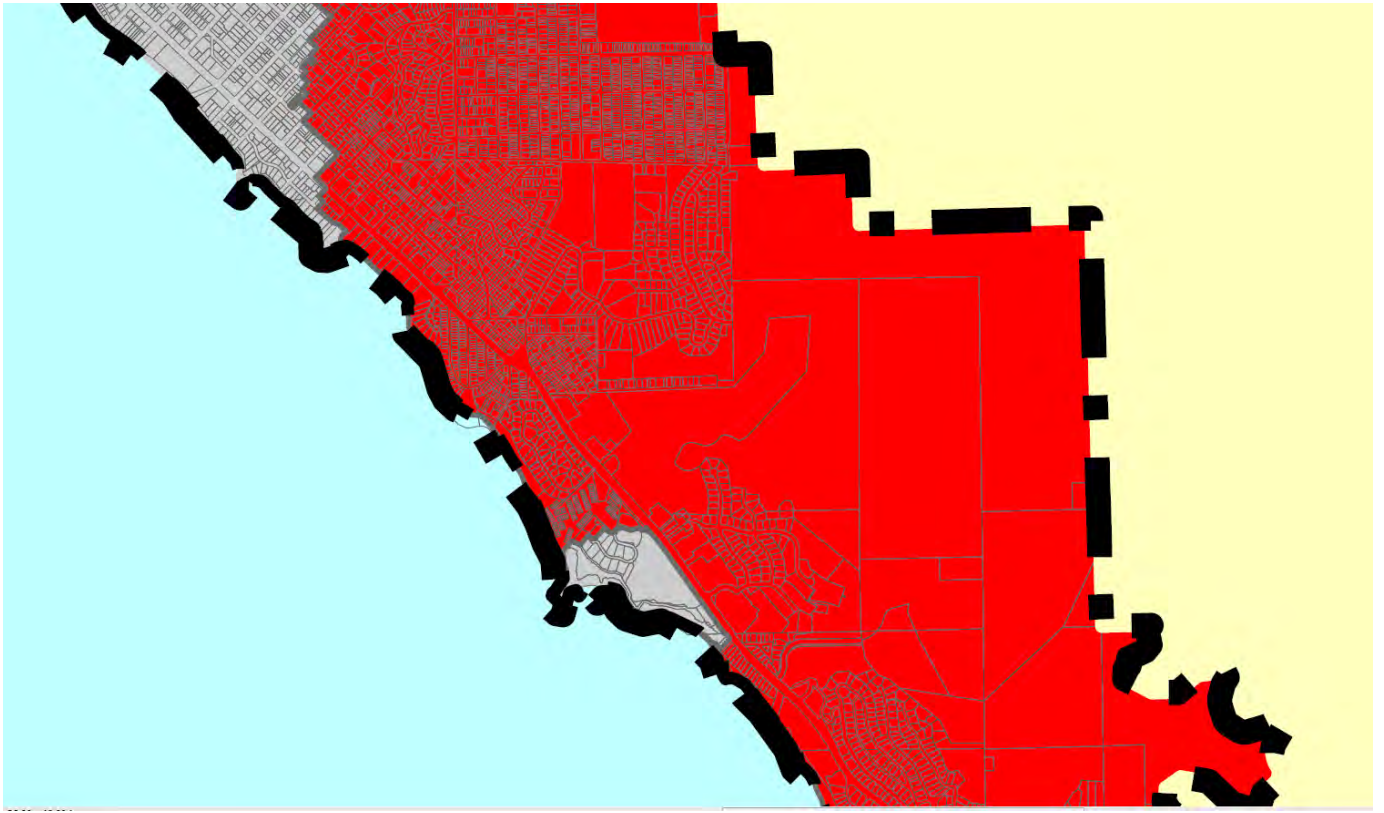
The State of California and the Department of Forestry and Fire Protection make no representations or warranties regarding the accuracy of data or maps. Neither the State nor the Department shall be liable under any circumstances for any direct, special, incidental, or consequential damages with respect to any claim by any user or third party on account of, or arising from, the use of data or maps.

Obtain FRAP maps, data, metadata and publications on the Internet at <http://frap.cdf.ca.gov>
For more information, contact CAL FIRE-FRAP, PO Box 944246, Sacramento, CA 94244-2460, (916) 327-3939.

Jerry Brown, Governor, State of California
John Laird, Secretary for Resources, The Natural Resources Agency
Ken Pimlott, Director, Department of Forestry and Fire Protection

Map ID: LagunaBeach

DATA SOURCES
CAL FIRE Fire Hazard Severity Zones (FHSZL06_1)
CAL FIRE Very High Fire Hazard Severity Zones in LRA - Orange (c30fhsz106_3)





State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
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 San Diego, CA 92123
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 www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
 CHARLTON H. BONHAM, Director



March 16, 2015

Ms. Kathy Lottes
 City of Laguna Beach, Fire Department
 505 Forest Avenue
 Laguna Beach, CA 92651
 klottes@lagunabeachcity.net

Subject: Comments on the Notice of Intent to Adopt a Mitigated Negative Declaration for the Nyes/Oro Canyon Fuel Modification Plan (SCH# 2015021085)

Dear Ms. Lottes:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Intent to Adopt a Mitigated Negative Declaration (MND) for the Nyes/Oro Canyon Fuel Modification Plan, dated February 17, 2015. The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines § 15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code § 2050 *et seq.*) and Fish and Game Code section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning program.

The 44-acre fuel modification plan (Plan) study area surrounds Oro and Nyes Canyon in the City of Laguna Beach (City). The Plan proposes to thin 22 acres (50%) of the study area around the outside edges in order to create a fire break between the canyon and residential areas. Thinning practices would prioritize removal of non-native vegetation, leaving native vegetation as intact as is feasible. The habitat consists of southern maritime chaparral, coastal sage scrub, and a transitional habitat dominated by native vegetation. Non-native vegetation and ornamental species are also present within the study area. California gnatcatcher (*Poliioptila californica californica*) has potential to occur within the coastal sage scrub on-site. Additionally, the CESA- threatened big-leaved crownbeard (*Verbesina dissita*) and California Rare Plant Rank 4.2 Coulter's matilija poppy (*Romneya coulteri*) have been observed within the study area.

We offer the following comments and recommendations to assist the City in avoiding or minimizing potential project impacts on biological resources.

1. The Department is unclear as to the proposed timing of vegetation clearing. Biological Resources mitigation measure 3(a) states that, "to the extent practicable, vegetation thinning within coastal sage scrub and chaparral habitats should be limited to the winter months outside of the growing/blooming season in order to avoid impact to special-status plants" (MND, table 1, page 1). This is in contrast to Geology and Soils mitigation measure 5(a)(iv), proposed to mitigate landslides, which states, "fuel modification should be

S O U R C E

conducted in the spring and completed in the early summer to allow for some re-establishment of the native canopy prior to the next rainfall season" (MND, table 1, page 4). The Department would prefer vegetation thinning in the winter months to avoid impacts to special-status plants and nesting birds. The final MND should clarify the preferred timeline for vegetation thinning, and discuss impacts of its preferred and alternate timelines.

2. The draft MND proposes mitigation for permanent impacts to southern maritime chaparral and coastal sage/scrub chaparral ecotone habitats through either 1:1 replacement (creation or enhancement) of in-kind habitat or through 3:1 dedication of existing in-kind habitat via a conservation easement or similar instrument. The draft MND states that the mitigation "...would have to occur in off-site locations within City open space. With either 1:1 restoration or 3:1 dedication, the impacts to 8.01 acres of southern maritime chaparral and coastal sage scrub/chaparral ecotonal habitats would be reduced to less than significant" (MND, page 10). However, the draft MND does not provide any additional information on the location of the offsite mitigation sites nor does it provide details on replacement. Replacement (i.e., creation or enhancement) should be conducted consistent with plans that include, at a minimum: the location of the mitigation site(s); time of year that planting will occur; a description of the irrigation methodology; measures to control exotic vegetation on site; a monitoring program which includes provisions for replanting areas where planted materials have not survived; success criteria; and contingency measures should the success criteria not be met. Accordingly, the final MND should include the site(s) selected, maps and/or figures of the site(s), a replacement plan (should replacement be selected) and a discussion of the time frame for restoration or dedication. The site(s) selected should not be located within a current fuel modification zone, and should be excluded from future plans for fuel modification.
3. Mitigation measure 3(a) provides for minimization for nesting and migratory birds (MND, table 1, page 1); however, the mitigation language in the MND does not completely address the Department's concerns regarding avian species in that nesting buffers are not discussed. If avoidance of the avian breeding season is not feasible, the Department recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.
4. The Department requests clarification as to the status of non-native vegetation within the 15-foot buffer proposed for big-leaved crownbeard and Coulter's matilija poppy. Biological Resources mitigation measure 3(a) states that "...this area shall be prohibited from fuel modification activities," and that "all special-status species shall be retained, including big-leaved crownbeard, Coulter's matilija poppy, and native shrubs that provide shading/overstory for such species" (MND, table 1, page 1-2). Non-native vegetation also provides shading and overstory for special-status species; therefore, the final MND should clarify that all vegetation within the 15-foot buffer, including non-natives, will be avoided during fuel modification.

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MITIGATION MONITORING PROGRAM TABLE - NYES/ORO CANYON FUEL MODIFICATION PLAN

ENVIRONMENTAL FACTOR	REFERENCE #	MITIGATION MEASURES	RESPONSIBLE PARTY
AIR QUALITY	2(b)	The use of chainsaws and onsite chipper(s) shall be avoided when ground-level ozone (the main component of smog) or carbon monoxide emissions reach an unhealthy level for sensitive groups (Level Orange, Air Quality Index).	Fire Chief
	2(b)	All chainsaws shall comply with the California Air Resources Board (ARB) Tier II emissions control; the City selected contractor, prior to commencement of fuel modification operations, shall provide demonstration of such compliance.	Fire Chief
	2(b)	No boom sprayer application of herbicide shall be permitted when winds are greater than 5 mph; no backpack sprayer application using a wand and nozzle hood shall occur when winds are greater than 10 mph; no wick and dauber applications shall occur when winds are greater than 15 mph.	Fire Chief
BIOLOGICAL RESOURCES	3(a)	To the extent practicable, vegetation thinning within coastal sage scrub and chaparral habitats should be limited to the winter months outside of the growing/blooming season in order to avoid impacts to special-status plants. However, if seasonal fire conditions warrant, fuel modification activities may be required during the spring and summer months. Under such circumstances, areas known to support or have potential to support big-leaved crowbeard, Coulter's matilija poppy, intermediate mariposa lily or other special-status species shall be identified in the field by a biologist prior to commencement of fuel modification activities. To avoid impacts to special-status plants, a qualified biologist shall flag locations.	Fire Chief
	3(a)	Fencing shall be installed around special-status plants utilizing a 15-foot buffer, and this area shall be prohibited from fuel modification activities.	Fire Chief

TABLE 1, PAGE 1

Exhibit 10

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MITIGATION MONITORING PROGRAM TABLE - NYES/ORO CANYON FUEL MODIFICATION PLAN

<p>BIOLOGICAL RESOURCES (continued)</p>	<p>3(a)</p>	<p>In order to minimize impacts to native vegetation, thinning shall focus on the removal of non-native species and dead or dying material to achieve a threshold of no more than 50% vegetative cover. In areas dominated by non-native species or dead and dying material, cover may be reduced to less than 50%. Where it is not possible to reduce cover to at least 50% through removal of only non-natives, and dead or dying material, woody native species will be removed in accordance with the following hierarchy:</p> <ul style="list-style-type: none"> ○ Initial vegetation removals will include all non-native species as well as dead and dying vegetation. ○ If cover is not reduced to at least 50% after removing non-native species and dead plant material, then non-special-status native species such as coastal goldenbush may be removed. If 50% cover is not attained after removing coastal goldenbush, then California buckwheat will be removed followed by black sage and California sagebrush until 50% cover is attained. If 50% cover is not attained after removing coastal sage scrub elements, laurel sumac may be removed followed by toyon and lemonade berry until 50% cover is attained. Big pod ceanothus and bush rue shall be avoided to the maximum extent feasible. ○ Native and non-native shrubs (including ornamentals located within the 15-foot buffer) that are shading big-leaved crownbeard shall not be removed. <p>All special-status species shall be retained, including big-leaved crownbeard, Coulter's matilija poppy, and native shrubs <u>all vegetation within the 15-foot buffer that provides shading/overstory for such species.</u></p>	<p>Fire Chief</p>
<p>3(a)</p>	<p>3(a)</p>	<p>To avoid impacts to nesting and migratory birds including coastal California gnatcatcher, it is recommended that any removal or clearing of vegetation be conducted outside of the breeding season, which extends from February 1 to August 31. In the event that seasonal conditions promote a high risk for wildfires, work may occur during the breeding season if a qualified biologist conducts a survey for nesting birds within 48 hours prior to the commencement of fuel modification activities in the area, and ensures that no active nests are affected.</p> <ul style="list-style-type: none"> ○ <u>The qualified biologist conducting surveys for nesting birds shall have experience in conducting breeding bird surveys.</u> <p>(continued)</p>	<p>Fire Chief</p>

TABLE 1, PAGE 2

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MITIGATION MONITORING PROGRAM TABLE - NYES/ORO CANYON FUEL MODIFICATION PLAN

<p>BIOLOGICAL RESOURCES (continued)</p>		<ul style="list-style-type: none"> ○ <u>Surveys for nesting birds shall be conducted in all areas that are to be disturbed by fuel modification activities and (as access to adjacent areas allows) any other suitable habitat within 300 feet of the disturbance areas (and within 500 feet for raptors). Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or other factors as determined applicable by the biologist.</u> 	
	<p>3(a)</p>	<p>Conduct invasive plant removal of the pampas grass as an offset to the temporary impacts within the study area due to fuel modification activities in accordance with the following:</p> <ul style="list-style-type: none"> ○ All herbicide application shall be in accordance with product labels. ○ No herbicide application shall occur during times of precipitation or when precipitation is forecasted during the subsequent 48-hour period. ○ The contractor responsible for herbicide application shall hold a valid Pest Control Business License issued by the California Department of Pesticide Regulation. ○ See also mitigation in 2(b), 3(b), and 8(f) 	<p>Fire Chief</p>
	<p>3(a)</p>	<p>A qualified biologist shall be retained to provide onsite monitoring as follows:</p> <ul style="list-style-type: none"> ○ Identification and marking of special-status species prior to commencement of fuel modification activities. ○ Onsite monitoring of vegetation thinning operations as necessary to ensure compliance with the 50% thinning protocol, and areas of avoidance. ○ Conduct worker awareness training for all contractors, hand crews, and herbicide application crews that will be accessing the site; the education shall be conducted prior to starting work on the project. ○ Onsite monitoring as necessary during invasive plant removal and preceding herbicide application for the purpose of identifying and marking special-status plants. ○ Efficacy monitoring shall be conducted within 1-3 weeks after each herbicide treatment. ○ A City-approved representative may be utilized for onsite monitoring during fuel modification activities, in coordination with a qualified biologist. 	<p>Fire Chief</p>

TABLE 1, PAGE 3

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MITIGATION MONITORING PROGRAM TABLE - NYES/ORO CANYON FUEL MODIFICATION PLAN

BIOLOGICAL RESOURCES (continued)	3(a)	Reduce impacts to southern maritime chaparral and coastal sage scrub/chaparral ecotonal habitats through 1:1 replacement of "in-kind" habitat or through 3:1 dedication of existing "in-kind" habitat that has been mapped as High Value or Very High Value within City open space, subject to confirmation by a qualified biologist that the areas identified meet the thresholds for High and/or Very High Value Habitat. Sufficient area does not exist onsite to fully mitigate the proposed impacts to a level of less than significant. As a result, mitigation in the form of southern maritime chaparral and coastal sage scrub/chaparral ecotone habitat creation or enhancement is required, at a minimum of a 1:1 ratio or habitat dedication at a 3:1 ratio to offset the proposed impacts, and would have to occur in offsite locations within City open space, <u>in consultation with the California Department of Fish and Wildlife and provided that the site selected does not occur within a fuel modification zone and that such site shall be excluded from future fuel modification plans.</u> With either 1:1 restoration or 3:1 dedication, the impacts to 8.01 acres of southern maritime chaparral and coastal sage scrub/chaparral ecotonal habitats would be reduced to less than significant.	Fire Chief
	3(a)	<u>A conservation easement or similar instrument to establish the required offsite mitigation receiver site shall be recorded prior to commencement of fuel modification activities.</u>	Fire Chief
	3(b)	All fuel modification activities other than hand removal of pampas grass shall avoid the drainage areas, to include 50 feet on either side of stream.	Fire Chief
	3(b)	Prior to commencement of fuel modification activities, the project site shall be surveyed by a biologist for aquatic resources and if found, such resource locations shall be flagged. These areas shall be prohibited from fuel modification activities.	Fire Chief
GEOLOGY AND SOILS	5(a)(iv)	Fuel modification should be conducted in the spring and completed in the early summer to allow for some re-establishment of the native canopy prior to the next rainfall season.	Fire Chief
	5(a)(iv)	Fuel modification efforts should be limited to the canopy, and should minimize damage to the existing root systems.	Fire Chief

MITIGATION MONITORING PROGRAM TABLE - NYES/ORO CANYON FUEL MODIFICATION PLAN

GEOLOGY AND SOILS (continued)	5(a)(iv)	Fuel modification areas with a thick accumulation of soil on terrain sloping between a 3:1 to 1:1 (horizontal: vertical) ratio should consider surficial amendments, such as spray adhesives, fiber rolls, or jute matting, <u>or Caltrans #2 Mulch</u> , after the modification is complete and prior to the winter seasons.	Fire Chief
	5(a)(iv)	<u>All surficial amendments, including spray adhesives, shall meet Caltrans/EPA test standards, as demonstrated by the City contractor.</u>	Fire Chief
HAZARDS & HAZARDOUS MATERIALS	7(a)	City contract agreement with contractor shall include stipulation to comply with all applicable environmental laws, rules, regulations, restrictions and ordinances relating to hazardous materials.	Fire Chief
HYDROLOGY AND WATER QUALITY	8(f)	Herbicide application shall not occur during rainy days or when precipitation is forecasted within the next 48 hours.	Fire Chief
	8(f)	Any exposed soils resulting from herbicide application shall be covered with Caltrans #2 Mulch prior to the rainy season each year to reduce the potential for sediment transport and runoff to enter waterways.	Fire Chief
	8(f)	City contract agreement with contractor shall include stipulation to comply with accepted treatment options, and the above required mitigation.	Fire Chief
NOISE	11(d)	All chainsaws shall only be operated with a muffler (unmodified, with the spark arrestor screen included) and maintained in good condition, and City contract agreement with contractor shall include such stipulation.	Fire Chief

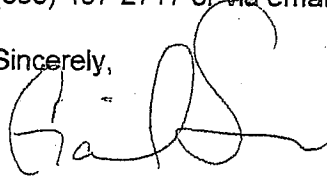
TABLE 1, PAGE 5

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Ms. Kathy Lottes
City of Laguna Beach, Fire Department
March 16, 2015
Page 3 of 3

We appreciate the opportunity to comment on the referenced MND. Questions regarding this letter and further coordination on these issues should be directed to Jennifer Edwards at (858) 467-2717 or via email at jennifer.edwards@wildlife.ca.gov.

Sincerely,



Gail K. Sevens
Environmental Program Manager
South Coast Region

cc: Scott Morgan (State Clearinghouse)

SCANNED

March 28, 2008

Honorable Senator Darrell Steinberg
Chair, Natural Resources and Water Committee
California State Senate
State Capitol, Room 4035
Sacramento, CA 95814

Subject: Senate Bill 1618 (Hollingsworth)

Dear Chairman Steinberg and Members of the Committee:

As a group of fire professionals, scientists, and other concerned citizens, we wish to express our opposition to Senate Bill 1618. If signed into law, the bill will have significant negative impacts on:

- Natural resources
- Creating and maintaining fire safe environments
- Community values
- Individual rights
- Citizen compliance with defensible space regulations

SB 1618 codifies the scientifically indefensible position that 300 feet of clearance to bare mineral soil around a home is an acceptable approach to reducing fire risk (see photo, Attachment #1).

By exempting local fire officials from the California Endangered Species Act and the California Environmental Quality Act (CEQA) in order to conduct excessive vegetation clearance operations, SB 1618 would permit up to 1,000 feet of vegetation management around structures without the environmental oversight currently required. This could involve as much as 72 total acres for an isolated home site. Environmental laws are in place to protect California's sensitive natural resources and prevent exactly the kind of unnecessary damage SB 1618 would inflict.

California's current vegetation management regulations calling for 100-feet of defensible space around structures are based on sound scientific research and firefighter experience. Depending on fuels and slope, defensible space may need to be increased slightly on a case by case basis. However, the 300 feet of "clearance" as referenced by SB 1618 is overkill and is consequently unlikely to affect loss of structures due to wildfires. The additional costs of vegetation management beyond 100 feet outstrip the potential benefits.

A-5-LGB-15-0045

Exhibit 11

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The Science

Dr. Jack Cohen (2000), a research scientist with the US Forest Service, has concluded after extensive investigations that home ignitions are not likely unless flames and firebrand ignitions occur within 120 feet of the structure. His findings have shown that,

...effective fuel modification for reducing potential WUI (wildland/urban interface) fire losses need only occur within a few tens of meters from a home, not hundreds of meters or more from a home. This research indicates that home losses can be effectively reduced by focusing mitigation efforts on the structure and its immediate surroundings (Cohen 1999).

Cohen's work is consistent with the research on homes with nonflammable roofs conducted by other scientists. During WUI wildland fire events, the Stanford Research Institute (Howard et al. 1973) found a 95 percent survival rate for homes with a defensible space of 30 to 54 feet, and Foote and Gilless (1996) at Berkeley found an 86 percent home survival rate for homes with a defensible space of 84 feet.

Although vegetation management is a critical component in reducing fire risk and hazard, excessive clearance distances around structures are unnecessary and create a number of serious problems.

1. Creating a False Sense of Security: One of the key problems with SB 1618's call for excessive levels of clearance is that it distracts attention from changes that will ultimately prove far more important to saving homes. One of the primary reasons homes burn is from burning embers that can be blown a mile or more into the urban environment. By creating such an intense focus on the removal of native vegetation, factors such as ember ignition, flammable ornamental landscaping, un-safe home design, and yard debris are frequently ignored. There is good reason to believe far more homes will be saved by attention to building codes than to excessive clearance.

2. Costs: It can cost local jurisdictions or homeowners thousands of dollars an acre to remove vegetation in the manner suggested by SB 1618. The bill would also "increase the level of service provided by a local agency, thereby imposing a state-mandated local program" without the funding to support such a program. Financial resources that could be used to provide proven measures that would decrease losses during a wildfire (such as better planning, retrofitting older structures, and increased funding for local fire departments) would be wasted on implementing SB 1618. Given that reducing vegetation more than 100 feet from a home has little to no effect on home ignition risks, the increased costs are simply not warranted.

3. Maintenance: On a long-term cost basis alone, excessive clearing activity is not justified as it easily exceeds the presumed benefits. Once native habitat is cleared, weedy, non-native grasses and forbs invade. These annual weeds must be removed on an annual

basis, requiring the homeowner to conduct clearance operations year after year. A properly thinned, 100-foot vegetation management zone can avoid such a yearly expense.

4. Fire Risk: Excessive clearance distances can increase what they are supposedly designed to reduce: fire risk and hazard. While 300 feet of bare, mineral soil will obviously not burn, it sets the stage for another set of problems including:

- The weeds that invade cleared areas create fine, flashy fuels that increase the probability of an ignition. Such fine fuels are more easily ignited than native vegetation and provide a "ladder" for flames to spread into other types of fuels.
- Fine, flashy fuels are a common factor in firefighter fatalities. These fuels dry quickly and can be responsible for rapid ignitions, creating massive amounts of heat instantly. While grassy fuels certainly burn at lower intensities than woody fuels, they are definitely not the benign fuel bed many people think they are.
- Burning embers from both burning vegetation and homes are one of the most common reasons homes ignite during wildland fires. Anecdotal information obtained during the 2007 wildfires appears to indicate that fire-resistant vegetation (properly spaced, thinned, and hydrated trees and shrubs) around a home can act as both an ember catcher and a heat sink, reducing the risk of the home's ignition. Creating a bare 300 foot zone around a home creates a direct, unimpeded pathway for embers to reach the structure.
- Equipment used in removing weeds is frequently responsible for starting fires.
- Many fires start at the WUI. Increasing the amount of flashy fuels in this high ignition area will likely lead to increased fire events.

5. Erosion: Native vegetation is critical for stabilizing slopes, reducing erosion, and preserving natural watersheds and water quality. Excessive vegetation clearance would dramatically increase erosion because shallow-rooted grasses that would likely colonize the site after clearance operations provide less protection than the deeper-rooted natives.

6. Habitat Loss/Personal Rights: Current State law permits an effective vegetation management strategy that also preserves the right of individual citizens who enjoy being able to retain valuable, fire-resistant native plant communities near their homes. SB 1618 takes away that right as well as allowing unnecessary damage to as much as 72 acres of native habitat for isolated home sites. Being able to enjoy unspoiled, natural landscapes and visits by wildlife near one's home are important community values. SB 1618 is inconsistent with those values and will seriously compromise community aesthetics.

7. Enforcement: Depending on the jurisdiction, compliance with California's current defensible space regulations (Public Resource Code 4291) can be marginal at best. Fire service professionals have often expressed frustration over their inability to enforce

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current guidelines due to a lack of inspectors and cooperation from homeowners. One solution to this problem is to provide fire protection agencies additional funding to hire more inspectors. Such an approach would be much more effective in reducing fire risk than allowing for greater clearance distances.

In San Diego County, a Memorandum of Understanding (MOU) was signed in 1997 between California Fish & Game, US Fish & Wildlife Service, San Diego County Fire Chief's Association and Fire Districts' Association of San Diego County; this MOU currently permits zoned fuel modification on private and public lands to a maximum of 100 feet from structures without environmental review. In the past, both Fish & Game and Fish & Wildlife Service have clearly stated that they would support doing away with the existing MOU if vegetation management zones were extended. Potential cancellation of this important MOU would mean greatly increased restrictions placed on home owners for fuel modification and clearly endanger currently successful efforts by local Fire Safe Councils to help homeowners manage vegetation around their homes.

Concluding Remarks

We have discussed the implications of SB 1618 with many federal, state, and local fire officials, local Fire Safe Council members, and resource agency representatives. They have uniformly disagreed with the bill's approach (see Attachment #4 for details on Los Angeles County's opposition). They have reaffirmed their support for the current defensible space standards which generally include a three tiered strategy:

- 0-30 feet: mineral soil or fire resistant vegetation (irrigated landscaping).
- 30-100 feet: approximately 50% removal of native vegetation, trees limbed up to 8 to 10 feet.
- If needed (depending on slope and fuels as determined by the local Fire Marshal), 100-200 feet with the removal of usually no more than 25% of native vegetation, trees limbed 8 to 10 feet.

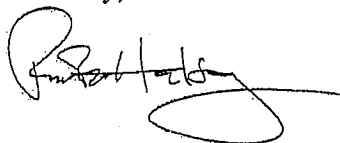
Fire risk cannot be reduced by any single approach (SDRFSF 2008). It involves a multitude of variables, the most important being location (where the structure exists), design (how, and with what materials, the structure is built), and fuel management (including not only vegetation, but flammable yard material). Protecting homes in the wildland-urban interface from wildfire requires working **from the structure out, not from the wildland in, stripping the landscape unnecessarily**. Unfortunately, in advocating excessive clearing of wildland vegetation, SB 1618 reverses these priorities and removes homeowner incentives for choosing more effective and less damaging solutions.

Suggesting, as SB 1618 does, that 300-foot clearance or 1,000-foot vegetation management zones are reasonable approaches to fire risk reduction demonstrates a failure to understand the true nature of fire and the importance of natural resources.

We urge you to reject SB 1618 and affirm the balanced approach to fire risk reduction represented by the currently accepted 100-foot defensible space guidelines, efforts to improve building design, and fire safe land planning.

Thank you for your interest in enhancing fire safety in California.

Sincerely,



Richard W. Halsey
Director
California Chaparral Institute
P.O. Box 545, Escondido, CA 92029
Email: rwh@californiachaparral.org Phone: 760-822-0029

Also signed on behalf of:

Scott Franklin, retired Fire Captain and Vegetation Management Officer, County of Los Angeles Fire Department

Jeffrey Bowman, retired Fire Chief, San Diego City Fire and Rescue Department and Chairman of the San Diego Regional Fire Safety Forum

William Middleton, retired Assistant Fire Chief, San Diego City Fire and Rescue Department, member of the San Diego Regional Fire Safety Forum

David C. Bacon, Chief (retired), Aviation and Fire Management-Cleveland National Forest, USDA, Forest Service

Herbert A. Spitzer Jr., retired Assistant Fire Chief, Forestry Division, County of Los Angeles Fire Department.

Timothy Ingalsbee, Ph.D., Executive Director, Firefighters United for Safety, Ethics, and Ecology

Rich Fairbanks, Fire Program Associate. California Nevada Region, The Wilderness Society

Michael Archer, Publisher/Wildfire Consultant, Firebomber Publications, member of the San Diego Regional Fire Safety Forum

C. J. Fotheringham, Department of Organismic Biology, Ecology and Evolution, University of California, Los Angeles

Jon E. Keeley, Ph.D., Adjunct Professor, Department of Ecology & Evolutionary Biology, University of California, Los Angeles

Philip W. Rundel, Ph.D., Distinguished Professor of Biology Department of Ecology and Evolutionary Biology, University of California, Los Angeles

Wayne Spencer, Ph.D., Senior Conservation Biologist, Conservation Biology Institute

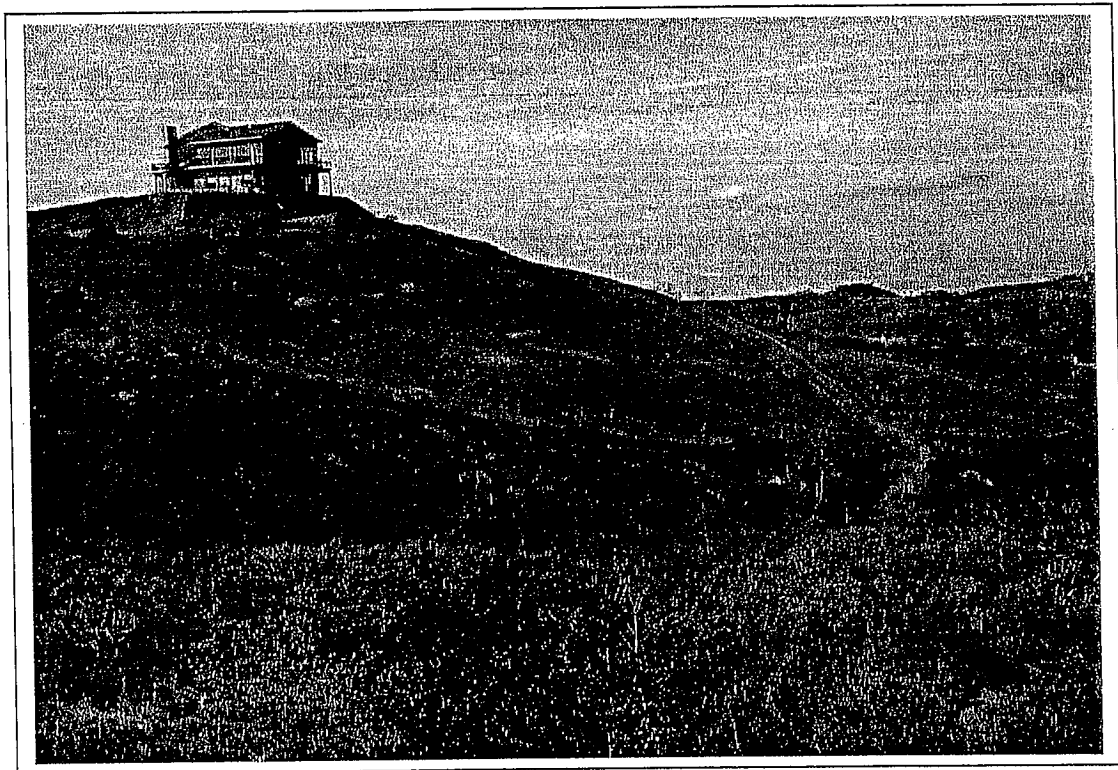
Jeff Kuyper, Executive Director, Los Padres ForestWatch, Santa Barbara, CA.

Signatures continued on next page

Carrie Schneider, California Native Plant Society, San Diego Chapter
Greg Rubin, owner of California's Own Native Landscape Design.
Lori L. Paul, RVT, wildlife biologist
Kit Wilson, GIS/land planning/fire map consultant

Attachments:

1. Photo of 300 feet of clearance
2. References
3. Fuel management position paper from the San Diego Regional Fire Safety Forum
4. Los Angeles County Report and Recommendations on SB 1618
5. Preventing Disaster by Dr. J. D. Cohen



Attachment #1: Example of the impact of 300 feet of clearance that will be authorized by SB 1618. Photo taken near Valley Center, California, by Richard W. Halsey.

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Attachment #2 References

- Cohen, J.D. 1999. Reducing the wildland fire threat to homes: where and how much? USDA Forest Service General Technical Report PSW-GTR-173, pp 189-195.
- Cohen, J.D. 2000. Preventing disaster: home ignitability in the wildland-urban interface. *Journal of Forestry* 98: 15-21.
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- LAC. 2008. Report and Recommendations – SB 1618 (Hollingsworth) Defensible Space (Item No. 26, Agenda of March 25, 2008). Los Angeles County Board of Supervisors.
- SDRFSF. 2008. Land Use/Fuel Management position paper #3 from the San Diego Regional Fire Safety Forum. <http://www.sdfiresafety.org/Vegetation.pdf>
- USFS. 2007. An Assessment of Fuel Treatment Effects on Fire Behavior, Suppression Effectiveness, and Ignition on the Angora Fire. USDA. R5-TP-025. 32 p.