

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

FILED: 11/20/95
49th DAY: 1/8/96
Opened &
Continued: 12/15/95
180TH DAY: N/A
STAFF: MV-LB
STAFF REPORT: 12/21/95
HEARING DATE: 1/9-12/96
COMMISSION ACTION:



RECORD PACKET COPY

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL JURISDICTION: City of Laguna Beach
DECISION: Permit granted with conditions by the City of Laguna Beach Board of Adjustment.
APPEAL NO.: A-5-LGB-95-260
APPLICANT: Steve Contursi
DEVELOPMENT LOCATION: 1601 South Coast Highway, Laguna Beach, Orange County
DEVELOPMENT DESCRIPTION: Construction of a 1,925 square foot, duplex with an attached, 879 square foot, four-car garage.
APPELLANT: Susan Colaninno
SUBSTANTIVE FILE DOCUMENTS:

City of Laguna Beach certified Local Coastal Program;
City of Laguna Beach Board of Adjustment Resolution No. 95-073;
City of Laguna Beach Board of Adjustment Minutes: April 6, 1995; April 13, 1995; May 4, 1995; May 25, 1995; June 1, 1995; June 22, 1995; July 13, 1995; August 3, 1995; August 10, 1995; August 24, 1995; September 14, 1995; September 28, 1995; October 12, 1995; October 19, 1995.
City of Laguna Beach Board of Adjustment Agenda: October 19, 1995; June 8, 1995.

SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE AND DE NOVO

The staff recommends that the Commission determine that a substantial issue exists with respect to one of the grounds upon which the appeal has been filed because the City's action approving the proposed development did not include any findings on the project's consistency with the public access policies of the Coastal Act and the City's certified LCP.

Staff recommends that the Commission approve the project at the de novo stage of the appeal with no special conditions.

I. MOTION FOR SUBSTANTIAL ISSUE

The staff recommends that the Commission find that Appeal No. A-5-LGB-95-260 of the City of Laguna Beach's action of approval with conditions of local Coastal Development Permit 94-133, raises substantial issue with regard to the grounds listed in Section 30603(b) of the Coastal Act.

The MOTION is:

I move that the Commission determine that Appeal No. A-5-LGB-95-260 raises NO substantial issue as to conformity with the certified Local Coastal Program for the City of Laguna Beach with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.

Staff recommends a NO vote which would result in the finding of substantial issue and the adoption of the following findings and declarations.

A majority of Commissioners present is required to pass the motion. Approval of the motion means that the City permit is valid.

II. APPEAL PROCEDURES:

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. (Coastal Act Section 30603(a)).

The City of Laguna Beach Local Coastal Program was certified in July 1992. This project is appealable under 30603(a)(1) of the Coastal Act because it is located between the sea and the first public road paralleling the sea. The grounds for appeal as stated in Section 30603(b) are:

- (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) 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 (Section 30630).

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If the staff recommends

"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 a de novo hearing on the permit project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider under Section 30604(b) of the Coastal Act is whether the proposed development is in conformity with the certified Local Coastal Program. In addition, pursuant to 30604(c) of the Coastal Act, every coastal development permit issued for development between the nearest public road and the sea must include a specific finding that the development is in conformity with the public access and recreation policies of Chapter 3.

The only persons qualified to testify before the Commission at any stage of the appeal process are the applicant, 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's administrative regulations, Sections 13110-13120, further explain the appeal hearing process.

III. APPELLANT'S CONTENTIONS

The City's action to approve the proposed development with special conditions has been appealed by Susan Colaninno (See exhibits F and G). A summary of the appellant's contentions follows:

1. Inadequate Public Beach Access: The beach access at this location is very narrow and is therefore largely ignored by the beach goers who instead use the driveway utilized by the adjoining garage, which creates a dangerous situation.
2. Adverse Impacts to Views: The view from Coast Highway to the coast will be obstructed as a result of the positioning of this development.
3. Encroachment Onto Public Way: The project requires private use of Bluebird Canyon Drive, a public way. Notice of Illegal Encroachment was issued to a previous owner in 1971 regarding construction and maintenance of a retaining wall and driveway.

IV. LOCAL GOVERNMENT ACTIONS

October 19, 1995

Laguna Beach Board of Adjustment Approval
with Conditions of local Coastal Development
Permit 94-133.

On October 19, 1995 the City of Laguna Beach Board of Adjustment approved local coastal development permit 94-133 allowing construction of a 1,925 square foot duplex with an attached, 879 square foot, four-car garage. Notice of Final Local Action was received in the Commission's South Coast District office on November 15, 1995. Ten working days from the date of receipt of final notice of action from the City was December 1, 1995. The appeal was filed on November 20, 1995. Thus the appeal has been filed in a timely manner.

V. SUBSTANTIAL ISSUE ANALYSIS

The Commission hereby finds and declares as follows:

A. Project Description

The applicant has proposed and the City has approved with conditions, the construction of a 1,925 square foot, two story, 22 foot high duplex with an attached 879 square foot, four-car garage. The lower level unit will be approximately 819 square feet. The upper level unit will be approximately 1106 square feet. A structure currently exists on the subject site. Portions of the existing structure will be removed and portions will be retained and remodeled. The area of the subject permit is referred to as Lot 1. The City's approval was subject to the following three conditions: 1) the permit will expire within two years unless extended; 2) widening of the Coast Highway sidewalk to a ten foot width; and 3) approval of subdivision of the site.

The project is related to two other City approved local coastal development permits: 94-134 (Lot 2) and 94-135 (Lot 3). Under local coastal development permit 94-134 the City approved construction of a 4,097 square foot, two story single family residence with an attached 732 square foot, 3-car garage. Under local coastal development permit 94-135 the City approved construction of a 3,510 square foot, single-family residence with and attached, 581 square foot, three-car garage. All three permits are located at the 1601 South Coast Highway address. Currently an 8 unit apartment building exists on the subject site. The City is currently in the process of reviewing a subdivision of the site to reflect the lot lines delineated on the approved plans of each of the three approved structures. Of the three local coastal development permits approved by the City, two (94-133 and 94-134) have been appealed to the Coastal Commission. This staff report deals with local coastal development permit 94-133. The staff report for 94-134, Coastal Commission Appeal No. A-5-LGB-95-261, is scheduled to be heard at this same Coastal Commission hearing.

Prior to certification of the City's Local Coastal Program, the Commission approved two coastal development permits at the subject site. Coastal development permit 5-90-152 (Maxwell) allowed demolition of the existing 8 residential units and construction of a 15,329 square foot, 30 foot high, three unit residential structure with a 4,706 square foot, 10-car garage. Grading consisting of 2,625 cubic yards was also approved. Coastal development permit 5-91-262 (Maxwell) allowed demolition of the existing eight unit apartment building and construction of 15,589 square foot, 30 foot high at maximum height, 20 foot high as measured from the centerline of the frontage road, seven unit residential structure with a subterranean 17 space garage. 2,226 cubic yards of cut was also approved. Neither permit was ever activated and both have expired.

B. Invalid Grounds for Appeal

Section 30603(b)(1) of the Coastal Act states:

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.

In the subject appeal, two of the three contentions raised by the appellant are supported by specific policies or standards from the City's certified Local Coastal Program and/or the public access policies of the Coastal Act. The appellant has made an allegation that the project approved by the City does not conform to the City's certified Local Coastal Program (LCP) with regard to preservation of views. In addition, the appellant has made an allegation that the project approved by the City is not consistent with either the public access policies of the certified LCP or the Coastal Act.

However, the third contention raised by the appellant, an existing encroachment onto a public way, is not supported by a citation of inconsistency with the City's certified LCP or with the public access policies of the Coastal Act. Moreover, this contention involves encroachment of an existing driveway and retaining wall into the Bluebird Canyon right-of-way rather than any development approved by the City on the subject site of this appeal. That is, the local coastal permit approved by the City addressed development on the applicant's property only. The City permit did not encompass the right-of-way or the existing driveway within the right-of-way. As such, the existing development adjacent to the subject site is not before the Commission in this appeal.

The appellant has also indicated that in 1971 the City issued a Notice of Illegal Encroachment to a previous property owner for a retaining wall and driveway that had been constructed previously. The appellant further indicates that said encroachment has existed at the site for approximately 20 years prior to the City's issuance of the Notice of Illegal Encroachment. Since the encroachment predates coastal permit requirements, and no modifications are proposed to the existing driveway and retaining wall, no coastal development permit is required for the pre-existing development now.

The appellant asserts that use of a portion of the public way, Bluebird Canyon Drive right-of-way, for the purpose of serving private development is inconsistent with Section 11.50.050 of the City's Municipal Code. The appellant's concern is the exclusive use of a portion of the public way to serve the subject site. In addition, the appellant expresses concern that the narrowness of the drive (that portion that serves the condominium complex and extends from Coast Highway to the beach) makes it very difficult for service trucks to access the existing pump station and for fire trucks to access the 8 condominium units closest to the beach. However, Section 11.50.050 is not part of the City's certified LCP and is not valid grounds for appeal.

Finally, the appellant states that the problem of adequate access for service trucks to the pump station and fire trucks to the beach would be solved by returning the land to the City so that the access could be widened. However, the City retains the right-of-way. The applicant's use of the right of way requires a Revocable Encroachment Permit, which the applicant has obtained, and which the City has the power to revoke.

In any case, because the existing encroachment is not development approved by the City on the subject site of this appeal, because the existing encroachment predates Coastal Act requirements and because Section 11.50.050 is not part of the City's certified LCP, this allegation is not a valid ground for appeal. Related access issues are discussed further in the following findings.

The appellant, with the exception of private encroachment onto a public way, has provided valid grounds for appeal. The following discussion will focus on whether the valid grounds cited in the appeal raise a substantial issue.

C. Public Access

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a)(2) of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby

The City's certified LCP Implementation Plan, Section 25.07.012(F)(1) states:

(F) Review Criteria. To ensure compliance with the certified local coastal program, the following criteria shall be incorporated into the review of all applications for coastal development permits:

(1) The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in the adopted local coastal program land use plan

The City's certified LCP Land Use Plan Land Use Element policy 3H states:

In providing for legal access, the City shall seek to protect the health and safety of residents and property owners from illegal and irresponsible public access.

All of the above are cited by the appellant as Coastal Act and LCP policies with which the project approved by the City is inconsistent.

The subject site is adjacent to the Bluebird Canyon Drive right-of-way. The right-of-way is approximately 40 feet wide. (See exhibit D). The northern (or upcoast) portion of the right-of-way is developed with an access road extending from Coast Highway to the beach. The upper portion of the northern segment is approximately 18 feet wide and provides vehicular access to the

Laguna Sands condominium complex to the north, City service truck access to the pump station, and lifeguard truck access to the beach. The lower portion of the access that adjoins the beach is 16 feet wide. The center of the right-of-way is developed with a five foot wide pedestrian access. The pedestrian access turns and joins with the lifeguard truck access about halfway down from Coast Highway to the beach. The southern (or downcoast) portion of the right-of-way is developed as a driveway that serves the existing development at the subject site. The driveway is approximately 16 feet wide. The proposed project would continue to access the site via the existing driveway within the Bluebird Canyon Drive right-of-way.

The appellant has expressed concern that the existing pedestrian access way is not wide enough, and consequently, pedestrian members of the public use the wider area that also serves as vehicular access to the condominium complex. The result of this is that both pedestrians and automobiles use the same relatively steep, relatively narrow access way. This co-use creates a hazardous situation, as cars can come dangerously close to, and possibly strike, pedestrians. The appellant contends that because the proposed project will not improve the existing public access situation (i.e. the potential conflict between pedestrians and vehicles), it is inconsistent with the above cited public access policies of the Coastal Act and certified LCP. The appellant further contends that the project should be conditioned to require the applicant to improve the existing 5 foot wide pedestrian access way within the right-of-way by expanding it into the area currently used to serve existing development at the subject site. The appellant has asserted that such a condition is necessary in order for the project to be found consistent with the public access policies of the Coastal Act and certified LCP.

In approving the the local coastal development permit, the City did not make any findings regarding public access. The minutes for the public hearings held for the permit also do not include any reference to the project's impacts on public access. The Coastal Act and the certified LCP require that any coastal development permit issued for development between the sea and the first public road contain a specific finding that the development is in conformity with the public access policies of the Coastal Act. In approving the project, the City did not make any findings regarding public access. Therefore, the Commission finds that the appeal raises a substantial issue with regard to public access.

D. Adverse Visual Impacts

Policy 12D of the LCP Land Use Element states:

As part of the Design Review process, maximize the preservation of views of coastal and canyon areas from existing residences, and public view points while respecting the rights of property owners proposing new construction.

Policy 12G of the LCP Land Use Element states:

Future land use planning shall be compatible with the goal of providing visual access. As a consequence, all new structures and ancillary facilities shall be located to protect the public viewshed. Where this is not feasible, new development shall be sited to maximize views from public locations (i.e., roads, bluff top trails, visitor-serving facilities, etc.).

Section 25.05.040(G)(2) and (3)(d) & (e) of the LCP Implementation Plan states:

(G) Goals and Criteria. Physical improvements and site developments subject to design review shall be designed and located in a manner which best satisfies the intent and purpose of design review and the following criteria:

(2) It will not reasonably impair or inhibit the further development, use, enjoyment of, or further investment in the same or other property in the vicinity, including public lands and rights-of-way, in that it has met the following criteria:

(a) Garish and conflicting relationships to adjacent structures and uses have been avoided,

(b) Conflicts between vehicles, pedestrians and other modes of transportation are minimized by specifically providing for each applicable mode;

(3) Adverse physical or visual effects which might otherwise result from unplanned or inappropriate development have been eliminated or minimized and the design adequately addresses:

(d) Maximum retention of sun and light exposure, views, vistas and privacy,

(e) Preservation of existing views and scenic vistas from unnecessary encroachments by structures or appurtenances

Policy 7-A of the LCP Open Space/Conservation Element states:

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

Section 30251 of the Coastal Act is incorporated into the LCP's Coastal Land Use Plan Technical Appendix. It states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas ... shall be subordinate to the character of its setting.

The appellant has stated that the project approved by the City will block the public view from Coast Highway to the coast. The appellant asserts that the project does not protect the public viewshed and that a feasible alternative that would protect the viewshed does exist in the project that was previously approved by the Coastal Commission. In addition, the appellant states, that for the residents of the adjacent building to the north and those of the lower bluebird canyon area in general, views will be impaired by the project because

a large portion of their entire window to the ocean is closed off. The appellant states that adherence to the required side yard setback will alleviate the view obstruction to existing residences as well as public views.

The public view potentially effected by the project is the view from Coast Highway to the shore. The public view exists along the Bluebird Canyon right-of-way, not across the subject property, where there is an existing two story structure. In addition, expansive public views are available from the beach below the site, which can be accessed via the Bluebird Canyon Drive access way. No impacts to the beach level view will occur as a result of the proposed project.

Both the proposed and the existing building at the site are two stories. The proposed project would remove the bluffward portion of the existing structure, and remodel the rear (Coast Highway side) portion of the structure. The plans approved by the City indicate that at the rear side (adjacent to Coast Highway) the existing structure's wall will be retained and the rear portion of the wall along Bluebird Canyon Drive will also be retained. This means that the corner of the structure which may have the potential of impacting views, will not be changed. A structure currently exists in this location. By maintaining walls in that location, the project does not eliminate existing public views from Coast Highway to the shore. There will be no significant change from the existing public views as a result of the project.

The appellant also raises the issue of adverse impacts to private views created by the project. In support of this the appellant cites Section 25.05.040(G)(2) of the LCP Implementation Plan which requires that a project's design not reasonably impair or inhibit the enjoyment of other property in the vicinity. Policy 12D of the LCP Land Use Element requires preservation of coastal views from existing residences while respecting the rights of property owners proposing new construction. A two story structure currently exists at the site. The proposed development will also be two stories and will maintain approximately the same footprint as the rear portion of the existing development. Because of the existing structure, no views currently exist across the site. Consequently, the proposed project will not impact private views.

Therefore, for the reasons stated above, the Commission finds that with regard to adverse visual impacts the appeal raises no substantial issue.

E. Summary

In summary, the Commission finds that the appellant has made a valid contention which raises substantial issue with regard to the grounds upon which the appeal was filed based on Section 30603 of the Coastal Act. The Commission finds the appeal raises a substantial issue with regard to consistency with the public access policies of the City's certified LCP and the Coastal Act. Therefore, following are the findings and information necessary for the de novo hearing.

STAFF RECOMMENDATION ON THE DE NOVO HEARING

Staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS: NONE

IV. FINDINGS AND DECLARATIONS ON COASTAL DEVELOPMENT PERMIT

The Commission finds and declares as follows:

A. The findings and declarations on substantial issue are herein incorporated by reference.

B. Standard of Review

The City of Laguna Beach has a certified Local Coastal Program. Section 30604(b) of the Coastal Act states that "After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program." Evaluation of the proposed project will therefore be based on the certified Local Coastal Program for the City of Laguna Beach.

Additionally, Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

C. Public Access

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a)(2) of the Coastal Act states:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
- (2) adequate access exists nearby

The City's certified LCP Implementation Plan, Section 25.07.012(F)(1) states:

(F) Review Criteria. To ensure compliance with the certified local coastal program, the following criteria shall be incorporated into the review of all applications for coastal development permits:

(1) The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in the adopted local coastal program land use plan

The City's certified LCP Land Use Plan Land Use Element policy 3H states:

In providing for legal access, the City shall seek to protect the health and safety of residents and property owners from illegal and irresponsible public access.

All of the above are cited by the appellant as Coastal Act and LCP policies with which the project approved by the City is inconsistent.

The subject site is adjacent to the Bluebird Canyon Drive right-of-way. The right-of way is approximately 40 feet wide. (See exhibit D). The northern (or upcoast) portion of the right-of-way is developed with an access road extending from Coast Highway to the beach. The upper portion of the northern segment is approximately 18 feet wide and provides vehicular access to the Laguna Sands condominium complex to the north, City service truck access to the pump station, and lifeguard truck access to the beach. The lower portion of the access that adjoins the beach is 16 feet wide. The center of the right-of way is developed with a five foot wide pedestrian access. The pedestrian access turns and joins with the lifeguard truck access about halfway down from Coast Highway to the beach. The southern (or downcoast) portion of the right-of-way is developed as a driveway that serves the existing development at the subject site. The driveway is approximately 16 feet wide. The proposed project would continue to access the site via the existing driveway within the Bluebird Canyon Drive right-of-way. No changes to the existing driveway are proposed.

The appellant has expressed concern that the existing pedestrian access way is not wide enough, and consequently, pedestrian members of the public use the wider area that also serves as vehicular access to the condominium complex. The result of this is that both pedestrians and automobiles use the same relatively steep, relatively narrow access way. This co-use creates a hazardous situation, as cars can come dangerously close to, and possibly strike, pedestrians. The appellant contends that because the proposed project will not improve the existing public access situation (i.e. the potential conflict between pedestrians and vehicles), it is inconsistent with the above cited public access policies of the Coastal Act and certified LCP. The appellant further contends that the project should be conditioned to require the applicant to expand the existing 5 foot wide pedestrian access way within the right-of-way into the driveway area currently used to serve existing development at the subject site. The appellant has asserted that such a condition is necessary in order for the project to be found consistent with the public access policies of the Coastal Act and certified LCP.

However, as stated above, the local coastal permit approved by the City addressed development on the applicant's property only. The City's permit did not encompass the driveway within the right-of-way. The driveway is existing development which predates Coastal Act requirements. The Commission does not have the ability to require the applicant to make improvements within an area not owned by the applicant. Nor can the Commission require the applicant to make improvements within an area not before the Commission.

When access is required of an applicant to offset adverse impacts to public access, an applicant is required to offer to dedicate a public access way. Such requirements are made when there is a nexus, or connection, between the proposed development and existing public access. An offer to dedicate a public access easement can be required only if it can be shown that the development, either individually or cumulatively, directly impacts physical public access. When such a nexus exists, the offer of dedication is required. Access way improvements are generally the responsibility of the acceptor of the easement.

In this case, public access does exist adjacent to the site. The City is the holder of the right-of-way. The applicant's right to use the right-of-way does not preclude use by the public. Currently the existing driveway does not extend to the beach, as the access way on the northern portion of the right-of-way does. Development of the project will not preclude future access improvements within the right-of-way by the City.

Finally, the proposed development will result in a reduction in the intensity of use at the site, from eight units to four units. (Four units is the total of the development approved by the City under local coastal development permits 94-133, 94-134, and 94-135, all located at 1601 So. Coast Highway.) No change is proposed to the existing driveway that serves the site. Private lots generally do take access from public road rights-of-way. Use of the right-of-way by the applicant does not constitute special privilege. The access issue raised by the appellant, the potentially hazardous interaction of pedestrians and vehicles, is a pre-existing condition. The proposed development will not create the adverse situation described by the appellant. Consequently, there is no relationship between the proposed development and requiring that the public access way within the right-of-way be improved by the applicant.

Therefore, the Commission finds that the proposed project is consistent with the public access policies of the City's certified Local Coastal Program and the Coastal Act.

D. California Environmental Quality Act

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

The proposed project avoids any potential adverse impacts resulting from the project. Therefore, the Commission finds that the project will not have any adverse impacts on the environment within the meaning of the California Environmental Quality Act.

RECEIVED

DEC 7 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

RESOLUTION CDP 95-073

**A RESOLUTION OF THE BOARD OF ADJUSTMENT
OF THE CITY OF LAGUNA BEACH APPROVING
COASTAL DEVELOPMENT PERMIT APPLICATION
No. 94-133**

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:

1601 South Coast Highway, Lot 1
Lots 1, 2, 15, 16 & 17, Block 10, Laguna Heights

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 Board of Adjustment has found:

1. The project is in conformity with all the applicable provisions of the General Plan, including the Certified Local Coastal Program and any applicable specific plans in that: the visual impacts of the development have been minimized because the proposed structure is similar in size to neighboring buildings therefore maintaining compatibility with surrounding development.

2. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act in that: the proposed project is in compliance with the applicable rules and regulations set forth in the Municipal Code and will not cause any significant adverse impacts on the environment.

NOW, THEREFORE, BE IT RESOLVED, that a coastal development permit is hereby approved to the extent indicated:

Permission is granted to construct a 1,925 square foot, duplex with an attached, 879.25 square foot, four-car garage.

BE IT FURTHER RESOLVED, that the following conditions are necessary to assure that the approval hereby authorized is in compliance with the Local Coastal Program:

City's Resolution of Approval

A-5-LGB-95-260

Exhibit B.

1. The coastal development permit hereby allowed is conditioned upon the privileges granted herein being utilized within two years after the effective date hereof, and should the privileges authorized hereby fail to be executed or utilized, or where some form of construction work is involved, such construction or some unit thereof has not actually commenced within such two years, and is not diligently prosecuted to completion, this authority shall become null and void, and any privileges granted hereby shall lapse. The Board of Adjustment, after conducting a noticed public hearing, may grant a reasonable extension of time for due cause provided the request for extension is filed in writing with the Department of Community Development prior to the expiration of said initial two-year period, along with any required fees.

2. Approval is subject to the condition that the sidewalk on South Coast Highway be widened to ten feet.

3. Variance approval is conditioned upon the subdivision of this lot, which includes identical lot lines as those delineated on the approved plan.

BE IT FURTHER RESOLVED, that the subject coastal development permit shall not become effective until after an elapsed period of twenty(20) days from and after the date of the action authorizing such permit.

PASSED on October 19, 1995, by the following vote of the Board of Adjustment of the City of Laguna Beach, California.

AYES: Goldstein, Oligino, Vail, Chapman

NOES: Sabaroff

ABSENT: None

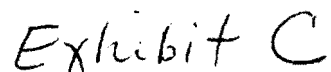
ABSTAIN: None

ATTEST:


Chairman Chapman


Staff Representative

Board of Adjustment Resolution No. CDP 95-073



5' pedestrian access

COAST HWY

vehicular
access to
adj. condos

site plan

CONDO
COMPLEX

emergency vehicle
+ pedestrian
ramp to
beach

EXISTING DRIVEWAY
TO SUBJECT SITE

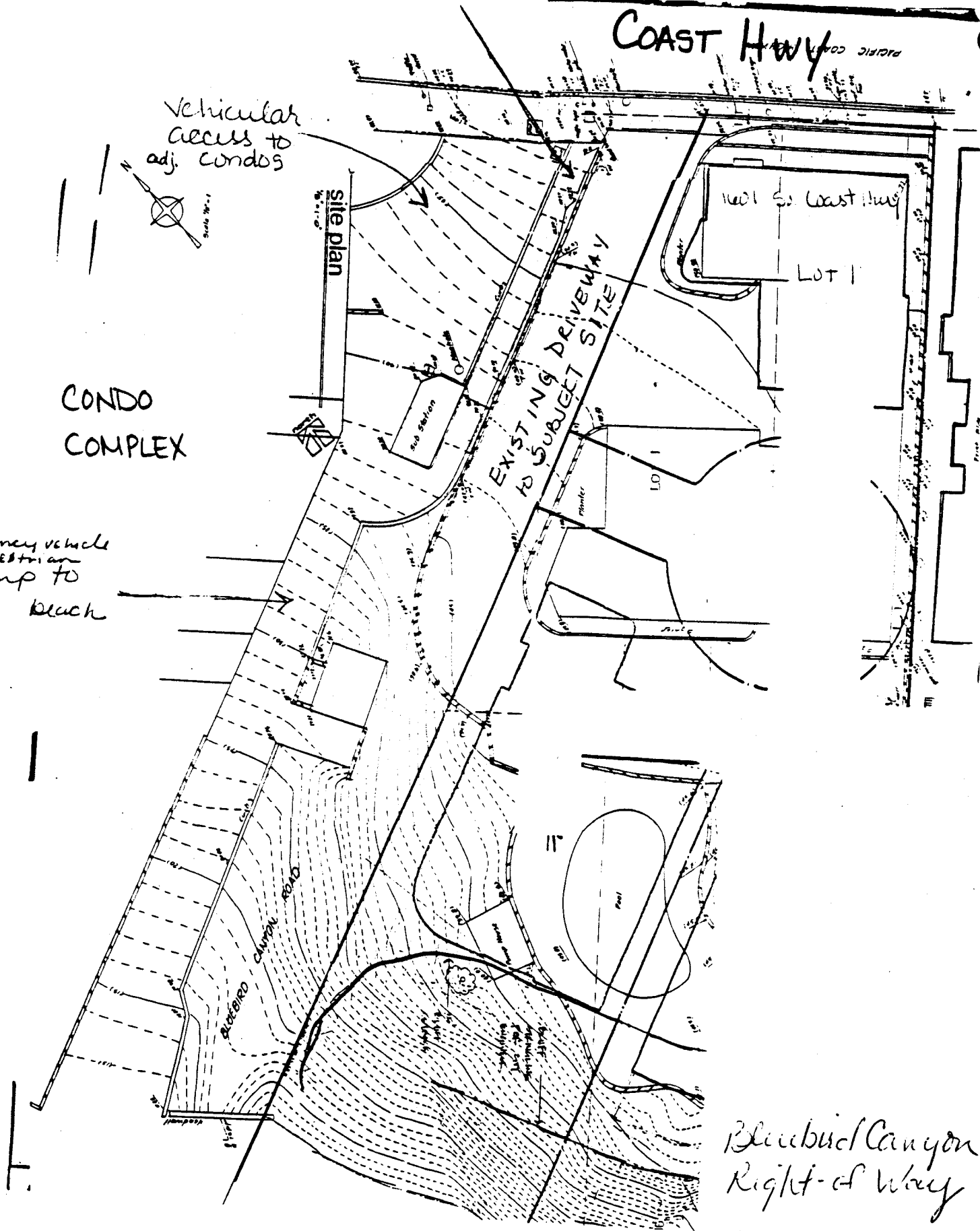
LOT 1

Bluebird Canyon
Right-of-Way

A-5-LG0-95-260

BEACH

Exhibit D



E

100

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

RECEIVED

NOV 20 1995

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

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

SECTION I. Appellant(s)

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

SUSAN COLANINNO
1585 S. COAST HIGHWAY
LAGUNA BEACH 92651 (714) 494-3064
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: CITY OF LAGUNA BEACH

2. Brief description of development being
appealed: CDP 94-133. THE PARCEL HAS NOT YET BEEN DIVIDED
INTO LOTS 1, 2, 3 WHICH SUBDIVISION WILL BE DONE BY THE PLANNING
COMMISSION AND APPROVED BY THE CITY COUNCIL. THE PROPOSED PLAN IS TO
BUILD 2 SINGLE FAMILY DWELLINGS ON LOTS 2 & 3 AND A DUPLEX ON LOT 1.

3. Development's location (street address, assessor's parcel
no., cross street, etc.): 1601 SOUTH COAST HWY. - LAGUNA BEACH 92651
LOTS 1, 2, 15, 16, 17 TOGETHER WITH A PORTION OF ALLEY IN BLOCK 12 OF
LAGUNA HEIGHTS, CROSS ST. = BLUEBIRD CANYON DR. ASSESSOR'S PARCEL No. 644-218-014

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: ☒ _____
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

local cdp 94-133

Appeal of Susan
Colaninno

(incorporates by reference
appeal of local cdp 94-134)

A-5-LG13-95-240

Exhibit

F 1/9

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

- a. ☐ Planning Director/Zoning Administrator c. ☐ Planning Commission
b. ☐ City Council/Board of Supervisors d. ☒ Other DESIGN REVIEW BOARD

6. Date of local government's decision: 10/19/95

7. Local government's file number (if any): NONE

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:

STEVE CONTURSI
720 SANDPIPER ROAD
LAGUNA BEACH, CA. 92651

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

- | | | |
|--|--|---|
| (1) <u>LEE CAMBRIA</u>
<u>P.O. Box 1664</u>
<u>LAGUNA BEACH 92652</u> | (5) <u>BARBARA PAINTER</u>
<u>744 MANZANITA DR.</u>
<u>LAGUNA BEACH 92651</u> | (9) <u>CY PAINTER</u>
<u>1665 VIKING RD.</u>
<u>LAGUNA BEACH 92</u> |
| (2) <u>ROBERT BROWN</u>
<u>1685 VIKING RD.</u>
<u>LAGUNA BEACH 92651</u> | (6) <u>DAVID KENNELLY, ESQ.</u>
<u>384 FOREST AVE.</u>
<u>LAGUNA BEACH 92651</u> | (10) <u>DR. GENE ATHERTO.</u>
<u>1801 N. COAST HWY.</u>
<u>LAGUNA BEACH 926</u> |
| (3) <u>SUSAN COLSMAN-FREYBERGER</u>
<u>1665 VIKING RD.</u>
<u>LAGUNA BEACH 92651</u> | (7) <u>VICTORIA KEDLEIAN</u>
<u>1585 S. COAST HWY.</u>
<u>LAGUNA BEACH 92651</u> | |
| (4) <u>CHARLES KNOX</u>
<u>1585 S. COAST HWY.</u>
<u>LAGUNA BEACH 92651</u> | (8) <u>HUGO SORIA</u>
<u>410 BROADWAY</u>
<u>LAGUNA BEACH, 92651</u> | |

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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.)

PLEASE SEE ATTACHED SHEETS 1-4 AND REFER TO APPEAL FOR
CDP 94-134, LOT 2.

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

SECTION V. Certification

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

Susan Colonino
Signature of Appellant(s) or
Authorized Agent

Date 11/16/95

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 _____

1585 South Coast Highway
Laguna Beach, California 92651
November 16, 1995

Ms. Meg Vaughn, Coastal Program Analyst
California Coastal Commission
South Coast Area
245 West Broadway, Suite 380
Long Beach, California 90802-4416

RECEIVED

NOV 20 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Dear Ms. Vaughn:

Please include the enclosed letter I received from Dr. William Dahlberg regarding the Monterey Cypress tree at 1601 South Coast Highway along with the picture of the pine in Pacific Grove with the other letters received to date supporting the appeal of CDP 94-134. Would you also kindly consider the information submitted for the appeal for CDP 94-134 Lot 2 for CDP 94-133, Lot 1 as well, along with the additional information in the enclosed "reasons for this appeal."

Thank you for the time you have taken in advising me.
It is greatly appreciated.

Sincerely,
Susan Falsinno

RE: 1601 SOUTH COAST HIGHWAY - LAGUNA BEACH
REASONS FOR THIS APPEAL

BEACH ACCESS

The beach access at this location is a very narrow, one way road and is therefore largely ignored by the beachgoers who instead use the driveway utilized by the adjoining garage. This is a blind driveway which results in an extremely dangerous situation as skateboarders come zooming down from out of nowhere, mothers wheel strollers, pet owners walk their dogs, people pull boats to launch, etc. It is also our understanding that Bluebird is one of the few accesses where individuals in wheelchairs can get to the beach.

Another problem is the difficulty of accessing the pump station because of the narrow driveway. In addition, if it were ever necessary for large fire trucks to reach the 8 Laguna Sands units closest to the Ocean, it would not be possible for them to pass through the narrow area where the pump station is located.

Since the safety of the public is at stake, it is our opinion that a portion of Bluebird Canyon Drive which is presently being used exclusively by 1601 South Coast Highway should instead be developed for the purpose of improving the beach access and making it safe.

REVOCABLE ENCROACHMENT PERMIT

Bluebird Canyon Drive is in actuality a 40' wide public way. We are concerned about the private use

of this public way for access to the subject property. From the information available a Notice of Illegal Encroachment was issued by the City in 1971 notifying the owner that he had constructed and maintained an illegal encroachment consisting of a retaining wall and driveway on Bluebird Canyon Drive (copy enclosed). This retaining wall contributed to the view obstruction from the scenic corridor, specifically Pacific Coast Highway. Since the illegal encroachment had existed for approximately 20 years prior to the Notice of Illegal Encroachment, the question that occurs to us is: Was this the first time the City became aware of this illegal encroachment? Then, in 1990, a revocable license and encroachment permit was issued for the encroachment into Bluebird. Was this the first encroachment permit issued for this matter?

We can understand that without the encroachment permit the subject parcel becomes effectively landlocked, but we really wonder if the continued exclusive use of a portion of the public way is in the best interests of the citizens of Laguna Beach and anyone else using our Beach. Mention has been made a number of times in the past that the subject property deserves the right to enjoy the same privileges as others in the immediate vicinity. It seems to us that giving approximately 15' of City property to this parcel for its exclusive use is an extremely beneficial privilege that no one else in the immediate vicinity enjoys. In addition, the abandoned alley shown on City maps has also apparently wound up for the exclusive use of this parcel.

Please note that I am acting on behalf of all of the owners and residents of Laguna Sands with whom I have been in contact since they concur with the issues raised herein. We want it made clear that we are not objecting to having this property developed. Thank you for your kind attention to our concerns.

Planning

March 16, 1971

Mr. George Logan
1010 North Main Street
Santa Ana, California 92701

Dear George:

THE SHOALS
1601 SOUTH COAST HIGHWAY

As requested, the attached information is provided, showing retaining wall in Bluebird Canyon Drive right-of-way, as per attached diagram.

It is my understanding that you are to prepare a letter, notifying the property owner that the wall is in the right-of-way and may be required to be moved at property owner's expense in the future, or...?

Very truly yours,

Alvin O. Autry
City Planner

AOA:jf
Attachments

F7

WHEN RECORDED, MAIL TO:

JACK J. RIMEL
CITY ATTORNEY
1010 North Main Street
Fourth Floor
Santa Ana, California 92701
Telephone: 547-7395

FREE
C3

RECORDED AT REQUEST OF JACK J. RIMEL IN OFFICIAL RECORDS OF ORANGE COUNTY, CALIF. 3 ⁴³ PM MAR 18 1971 J. WYLLIE DANNY, County Recorder
--

NOTICE OF ILLEGAL ENCROACHMENT

NOTICE IS HEREBY GIVEN that the owner of the below-described property has constructed and maintains an illegal encroachment consisting of a retaining wall and driveway approach in Bluebird Canyon Drive in the City of Laguna Beach.

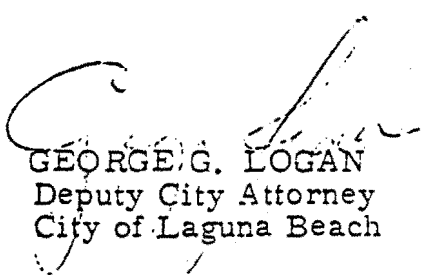
The unlawful encroachment is depicted on the map attached hereto as Exhibit "A".

The property served by said retaining wall and driveway is described as follows:

"Lots 1, 2, 15, 16 & 17 of Block 10, Laguna Heights
No. 3, Miscellaneous Maps, Book 8, Page 1."
Said property is further described as "1601 South
Coast Highway, Laguna Beach, California".

The City Council of the City of Laguna Beach has the authority to, and may require the removal of, said encroachment prior to any future development upon said property.

DATED: March 17, 1971


GEORGE G. LOGAN
Deputy City Attorney
City of Laguna Beach

JACK J. RIMEL
CITY ATTORNEY OF LAGUNA BEACH,

RECEIVED

NOV 20 1995

CALIFORNIA
COASTAL COMMUNITY
SOUTH COAST DISTRICT

WILLIAM E. DAHLBERG, D.D.S.

1859 Deermont Road, Glendale, California 91207 • (818) 240-6333

Monday AM

Susan,

Enclosed is the photocopy of the Cypress Tree on the 17-Mile Drive in Pacific Grove. It is a landmark and a California Treasure. In my younger days we touched and climbed the tree, but now is blocked off by a fence to preserve it. It has many problems but remains. The tree in front of us at Laguna Sands should be in the same category and preserved as is is not replaceable.

Good Luck

Bill D.

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

RECEIVED

OCT 18 1995

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

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

SECTION I. Appellant(s)

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

SUSAN COLANINNO
1555 SOUTH COAST HIGHWAY
LAGUNA BEACH 92651 (714) 494-3064
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: CITY OF LAGUNA BEACH

2. Brief description of development being
appealed: COASTAL DEVELOPMENT PERMIT 94-134 THE PARCEL HAS NOT YET
BEEN DIVIDED INTO LOTS 1 & 3 WHICH SUBDIVISION MUST BE APPROVED BY
THE PLANNING COMMISSION AND CITY COUNCIL. THE PROPOSED PLAN IS TO
BUILD 2 SINGLE FAMILY DWELINGS ON LOTS 2 & 3; LOT 1 HAS, TO DATE, NOT BEEN ADDRESSED

3. Development's location (street address, assessor's parcel
no., cross street, etc.): 1601 SOUTH COAST HWY - LAGUNA BEACH 92651
LOTS 1, 2, 15, 16 & 17 TOGETHER WITH A PORTION OF ALLEY IN BLOCK 10 OF
LAGUNA HEIGHTS. CROSS ST. = BLUEBIRD CANYON DR. ASSESSOR'S PARCEL NO. = 644-218-0

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: ✓
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

Appeal of Susan Colaninno
(incorporated by reference
into appeal of local
corp 94-133)

A-5-LGB-95-260

Exhibit

61

5. Decision being appealed was made by (check one):
- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other DESIGN REVIEW BOARD
6. Date of local government's decision: 9/14/95
7. Local government's file number (if any): NONE

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:

STEVE CONTURSI
720 SANDPIPER ROAD
LAGUNA BEACH, CA 92651

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

(1) <u>LEE CAMARIA</u> <u>P.O. Box 1664</u> <u>LAGUNA BEACH, 92651</u>	(5) <u>BARBARA PAINTER</u> <u>744 MANZANITA DR.</u> <u>LAGUNA BEACH, 92651</u>	(9) <u>Mrs. Cy PAINTER</u> <u>1665 VIKING R.D.</u> <u>LAGUNA BEACH, --</u>
(2) <u>ROBERT BREWIN</u> <u>1665 VIKING ROAD</u> <u>LAGUNA BEACH 92651</u>	(6) <u>DAVID KENNELLY, ESQ.</u> <u>384 FOREST AVE.</u> <u>LAGUNA BEACH, 92651</u>	
(3) <u>SUSAN GELSMAN-FRAYBERGER</u> <u>1665 VIKING ROAD</u> <u>LAGUNA BEACH, 92651</u>	(7) <u>VICTORIA KEOLEIAN</u> <u>1555 S. COAST HWY.</u> <u>LAGUNA BEACH, 92651</u>	
(4) <u>CHARLES KNOX</u> <u>1555 S. COAST HWY.</u> <u>LAGUNA BEACH, 92651</u>	(8) <u>HUGO SORIA</u> <u>410 BROADWAY</u> <u>LAGUNA BEACH, 92651</u>	

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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.)

PLEASE SEE ATTACHED SHEETS 1-10 PLUS 2 ATTACHMENTS

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

SECTION V. Certification

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

Susan Polamino

Signature of Appellant(s) or
Authorized Agent

Date 10/12/95

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 _____

My reasons for filing this appeal are as follows:

1. The view from Pacific Coast Highway will be obstructed as a result of the positioning of this development.
2. The beach access at this location is inadequate and unsafe.
3. The over 55 year old cypress tree on this site is destined for destruction during construction.
4. The approved encroachments will destroy the natural resources in this environmentally sensitive area.

I have included summary descriptions from the following: Laguna Beach General Plan; Laguna Beach General Plan, Topic 12B Issue and Consideration Elements; Laguna Beach Act; Laguna Beach General Plan, Land Use Element; Laguna Beach Coastal Land Use Plan, Technical Appendix; Laguna Beach Municipal Code. I believe these descriptions apply to this appeal.

1. SCENIC CORRIDOR VIEW PRESERVATION

The Laguna Beach General Plan, Land Use Element under subdivision View Preservation, Topic 12B requires that "as part of the Design Review process, maximize the preservation of views of coastal areas from existing residences, and public view points while respecting the rights of property owners proposing new construction." It is extremely important that the Coastal Commission understand that I am not trying to restrict anyone's property rights, but it is very difficult for me to understand why the proposed project is not abiding by the 25' minimum bluff top setback as ascertained by

23
strengthen measurement and the 13' side yard setbacks previously approved. As a result of these encroachments, the present plan blocks the public view corridor from the road, specifically Pacific Coast Highway, whereas the previously approved 7 unit Condominium development did not. (Please see attached approved plan for 7 unit condo.)

Section 30251 of the California Coastal Act requires that "The scenic and visual qualities of coastal areas shall be protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the beach and scenic coastal environment." The following policy was added to the Land Preservation section of the Laguna Beach City Land Use Element 12.6: "Future land use planning shall be compatible with the goal of providing visual access. As a consequence, all new structures and ancillary facilities shall be located to protect the public viewshed. Where this is not feasible, new development shall be sited to maximize views from public locations (i.e., roads, bluff top trails)" I feel that the project does not "protect the public viewshed," but this in fact is feasible since it was protected by the plans approved by the Coastal Commission in 1993.

The Laguna Beach Municipal Code, under Zoning also addresses the issue of view when speaking of new developments and states: (3) "Adverse physical or visual effects which might otherwise result from unplanned or inappropriate development have been eliminated or minimized and the design adequately addresses: (d) maximum retention of views, vistas e) preservation

65

of existing views and scenic vistas from unnecessary encroachments by structures or appurtenances." I do not believe that this plan adequately addresses the above mentioned policies and, therefore, does not implement this code. The Laguna Beach General Plan, Open Space and Conservation Elements under Visual Resources, topic 7A.

Policies further reiterates: "Preserve to the maximum extent feasible the quality of public views from the hillsides and along the City's shoreline." The Laguna Beach Municipal Code, Chapter 25.05.040 G continues to say: "..... site developments subject to design review shall be designed and located in a manner which best preserves..... the following between..... 2) it will not reasonably impair..... the enjoyment of.... other property in the vicinity, including rights of way....." How can the residents of the adjacent building to the north and those of the lower bluebird canyon area in general not be impaired in their enjoyment of their property when the northward building in particular will close either a large portion of, or, their entire window to the ocean? Not encroaching into the bluff top or side yard setbacks will help to at least partially alleviate this obstruction of views from existing residences as well as public views. In so doing, however, the view of the proposed project will not be adversely affected since there is nothing in front to impact it.

As per the attached sheet entitled Scenic and Visual Resources taken from the Laguna Beach Coastal Land Use Plan, Technical Appendix - Local Coastal Program, referring to the California Coastal Act, Section 30251, the local

21

jurisdiction does not appear to be protecting the scenic corridors. The proposed plan appears to extend 6' further down the slope which rises from Bluebird Canyon Drive than the previously approved plan for a 7 unit Condominium. According to the attached plot plan for those condominiums, a 13' side yard was to be maintained whereas my information indicates that the proposed building will only have a 7' setback. In my opinion, this additional 6' encroachment down the slope will tend to obstruct the public view from the scenic corridor.

2. INADEQUATE AND UNSAFE BEACH ACCESS

The Federal Beach Management Code, Chapter 25.07 Coastal Development Permit Section 25.07.012 (F) Beach Access States:

"To ensure compliance with the certified local coastal program, the following criteria shall be incorporated into the review of all applications for coastal development permits. (1) The proposed development will not encroach upon any existing physical accessway legally utilized by the public....."

The California Coastal Act under article 2 Public Access, Section 30210, Access states: "..... maximum access shall be provided for all the people consistent with public safety needs and the need to protect public rights" Section 30211 states further:

"Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization....." In addition, Section 30212 points out that (a) "Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where....."

9 7

2) adequate access exists nearby" In the General Plan, Open Space and Conservation Elements under the section entitled Addendum to Open Space/Conservation Element the following has been added to the Policies on Public Beaches and Shoreline Access; 3H: "In providing for legal access, the City shall seek to protect the health and safety of residents and property owners from illegal and irresponsible public access."

Some years ago a revocable encroachment permit was granted on the beach access on this property. The access presently designated for public use is excessively narrow and therefore ignored by beach goers who instead utilize the driveway (Quebird Canyon Drive) used by coming from the garage at this location. With the steady increase of beach attendance through the years, the situation has become more and more dangerous as skateboarders come zooming down from out of nowhere, mothers wheel strollers down the driveway, families parade up and down with beach gear, and pet owners walk their dogs. A solution is therefore required to preserve the public's safety. Reversing the encroachment permit, thus returning the beach access to the beach goers would help remedy this risky situation. It seems clear that "adequate access" does not "exist nearby" and that this access is not "consistent with public safety needs." In my estimation the City has not protected "the health and safety of residents and property owners from irresponsible public access." As long as the revocable encroachment is in place, the proposed project will infringe upon the "safety of residents and property owners from irresponsible public access," since the beach goers use the driveway instead of the excessively narrow one way walkway which is less than 5' wide. Quebird Canyon Drive is, in actuality,

a 40' wide public way, a substantial portion of which is used exclusively for access to the property at 1601 South Coast Highway

An additional problem which would be rectified by returning this land to the City would be the accessing of the pump station located at this site. Due to the narrowness of the drive, it has been extremely difficult for servicing trucks to get through. The Laguna Beach Municipal Code under Reversible Encroachment Permits, Section 11.50.050 states: "A reversible encroachment permit will conform to the following requirements: a) It should be located in a manner that is not physically hazardous to the traveling public, including motorists and pedestrians." (Motorists would be those emerging from the garage, pedestrians would be the trash cans, etc.) c) "It should not conflict with or cause any other unacceptable interference, including impediments to the maintenance or repair of pipe lines or substructures of any public utility." Would the pump station not fall into this category? Another "unacceptable interference" resulting from this encroachment is the fact that should there be a need to have large fire trucks access the 8 units closest to the ocean at 1585 South Coast Highway, they would be unable to pass through the portion of the drive near the pump station where it is too narrow.

3. TREE PRESERVATION

In the Laguna Beach General Plan, Land Use Element under Urban Design Policies, Topic 11G states: "To the maximum extent feasible, require the preservation of existing trees in conjunction with development approvals." The Laguna Beach Municipal Code under Zoning, Section 25.05.04

#3C further requires that "the design adequately addresses minimum ecological disturbance of the site, including retention of trees" From all indications there is no provision in the plans of the proposed project to maintain the more than 55 year old, unique and distinctively shaped cypress tree which graces this site and enhances the beauty of our Coastline. In 1993 the Coastal Commission approved a 7 unit condominium, and although it was more dense, it allowed for preservation of this tree, thus complying with the code. Surely if there was sufficient room for a 7 unit condominium project to "build around" it, 2 single family dwellings can be designed in such a way as to accommodate the tree.

4. PRESERVATION OF NATURAL RESOURCES IN ENVIRONMENTALLY SENSITIVE AREA

Topic I, Coastal Land Features in The Laguna Beach General Plan, Open Space and Conservation Elements requires that "The City shall impose a 25' minimum setback or a distance ascertained by stringline measurements for all bluff top development, notwithstanding the fact that ecologic and environmental constraints may require an additional setback." The arc method was used to delineate the bluff top setback for a portion of this parcel (the northward section) and therefore does not meet the requirement of a stringline measurement as mentioned above. How can two different methods of delineation be used on one parcel? (arc or linear) * (Please see addendum on page 10)

In the Laguna Beach Municipal Code, Chapter 22.02 under Intent and Purpose 22.02.010(a) it states: "It is the declared intent of the City to promote the conservation of natural resources, including the natural beauty of the

P.0010

land and vegetation In view of the fact that the bluff top and side yard setbacks are not being adhered to in this project, it appears to me that the conservation of our natural resources is not being promoted. From the information at hand it is my understanding that the decking will extend out another 10' into the bluff top setback further eroding "the natural beauty of the land." To additionally support the preservation of our bluffs, the Laguna Beach General Plan, Open Space and Conservation Elements in its addendum has added the following policy to the section on Visual Resources 7K "Preserve as much as possible the natural character of the landscape (including coastal bluffs) by requiring proposed development plans to consider scenic and conservation values" Section 30251 of the California Coastal Act states: "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to minimize the alteration of natural land forms"

As a further endorsement of the importance of preserving the bluff top setback as an important natural resource, I refer to Description of Coastal Bluffs under the chapter entitled Coastal Bluffs of the Laguna Beach Coastal Land Use Plan, Technical Appendix - Local Coastal Program: A "The topographic irregularity of Laguna's shoreline and natural features have created a picturesque and unique coastline uncommon in Southern California. For this reason the coastal bluffs are regarded in the community as a prized natural resource In this same chapter under Development Controls it goes on to say: "As described in this report the coastal bluffs constitute a fragile natural resource particularly

susceptible to damage and destruction." In 1969 a study was done which "was largely responsible for the designation of coastal bluffs and adjacent ocean property as "Environmentally Sensitive Areas". The Laguna Beach Municipal Code, Chapter 25.07.0 Coastal Development Permits F has the following requirement:

(2) "The proposed development will not adversely affect ... environmentally sensitive areas..." In my opinion, the proposed development will "adversely affect" this environmentally sensitive area because of its encroachment down the slope adjoining Bluebird Canyon Drive, resulting in a 7' side yard setback whereas it appears to me that a 13' side yard setback had been approved previously for the First Condominium project on this site in 1993.

It has been difficult to separate individually the various ways in which, in my opinion, the proposed development does not conform to the standards set forth in the local coastal program and the public access policies of the Coastal Act because they are all so intertwined and interrelated. Briefly stated, however, I feel that the decision warrants a new hearing because:

- 1) Public safety is at stake because of the inadequate beach access presently available.
- 2) The picturesque, unique cypress tree on this site should be preserved as a significant natural resource.
- 3) The 25' bluff top and 13' side yard setbacks previously approved should be adhered to thus preserving
 - a) Our beautiful shoreline
 - b) Existing views

Please note that this project is being appealed directly to the Coastal Commission prior to exhaustion of local appeals as per telephone conversation with Meg Vaughan on October 2, 1995, since the Design Review Board

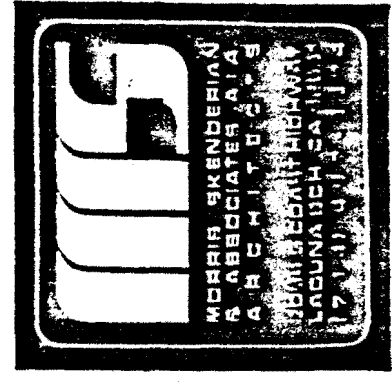
acted on a Coastal Development Permit, and the local government charges a fee for the filing of appeals.

Thank you sincerely for taking the time to read this appeal. Your kind consideration is greatly appreciated.

* ADDENDUM

RE: ARC VS LINEAR METHOD OF DELINEATING THE BLUFF TOP:

It has just been brought to my attention that in 1948 the engineering firm of Lester Fayle did a topography map and established the exact location of the bluff, as well as the bluff top, which was accepted by the City Engineer of Laguna Beach. I have documentation to prove both of these facts.



OCTOBER 3, 1990

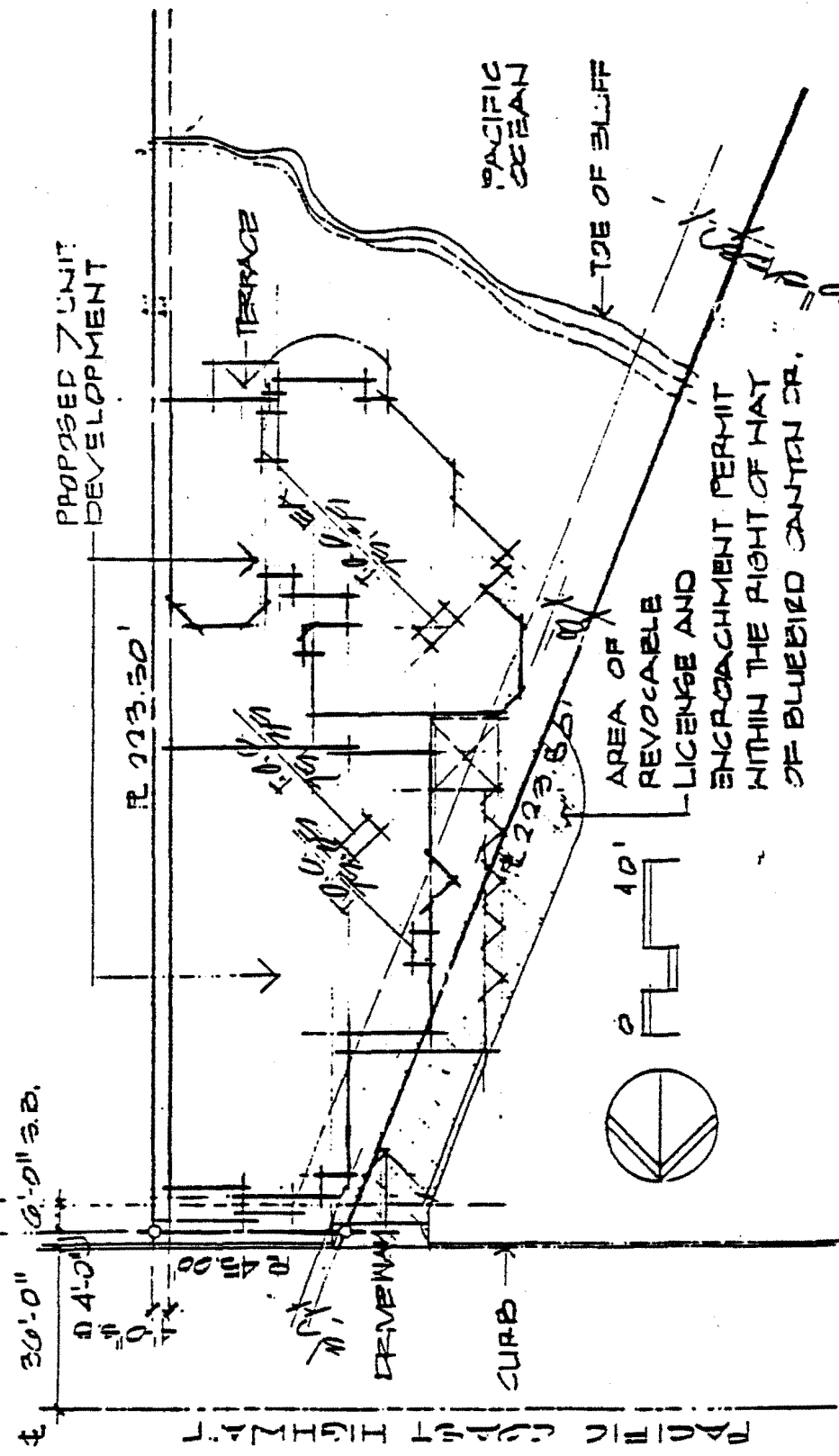
7 UNIT RESIDENTIAL DEVELOPMENT
FOR WINSLOW MAXWELL

1001 SOUTH COAST HIGHWAY
LAGUNA BEACH, CA

LOTS 1, 2, 15, 16 & 17 BLOCK 10

10/1/90

G14



SCENIC AND VISUAL RESOURCES

CALIFORNIA COASTAL ACT

Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas...shall be subordinate to the character of its setting.

BACKGROUND AND SETTING

- A. Application of Study: The orientation of this discussion concerns views from public areas such as highways, beaches, parks and vista points and excludes consideration of views from private property. The principal focus of the report concerns property situated adjacent to the major transportation system in the city, i.e., Laguna Canyon Road and Pacific Coast Highway, since it is along these roadways that a majority of residents and non-residents view the community and have visual access to scenic corridors.¹ The fact that Pacific Coast Highway and Laguna Canyon Road have been designated as Scenic Highways by the State and County, respectively, underscores the importance of the scenic qualities within these corridors and signifies the visual appeal of these corridors as a resource of public importance.

The City of Laguna Beach adopted a Scenic Highways Element in 1975 as a component of the General Plan. Since this element addresses the need for programs to protect and enhance the scenic corridor, much like the objectives of the Local Coastal Plan, these two documents share a common interest and goal and therefore should contain mutually compatible policies and objectives. The recommendations and/or programs developed in conjunction with this report may also have direct application to the objectives of the Scenic Highways Element, which states: "The local jurisdiction is to develop and adopt a program of corridor protection which will protect and enhance the scenic quality of the route."

The quality of views in Laguna Beach has historically been an important consideration in reviewing development proposals. The special quality of the city's visual environment has resulted in considerable attention to this subject in many city documents.

¹ Scenic corridors or public view corridors are defined herein as the visible land area from the roadway edge and more generally described as the view from the road.

Additional discussion of scenic and visual resources appears in Topics 11 and 12 of the Land Use Element and Topics 7 and 13 of the Open Space/Conservation Element.

- B. Visual Environment: The scenic qualities symbolic of Laguna Beach represent one of the community's more valuable resources. Laguna Canyon Road and Pacific Coast Highway each afford a picturesque and diversified view profile of the community, featuring prominent natural features such as ocean bluffs and rock outcroppings, natural canyons, undeveloped hillsides and ridgelines and, most notably, the Pacific Ocean. These natural features serve to preserve the rural character of the city and provide natural open space vistas throughout the community. The uncluttered hillsides and open space areas offer residents and visitors relief from urbanization and physically confines and separates Laguna Beach from development occurring elsewhere in the county.

ISSUE IDENTIFICATION AND ANALYSIS

- A. Excavation and Grading: Perhaps the most significant disturbance to the scenic corridor can result from projects which may require extensive grading, recontouring and movement of earth for roadway, utility and house construction. This activity frequently results in the alteration of the natural topography, creating exposed cut and fill slopes devoid of vegetation. Moreover, grading activities sometimes change natural topographic features such as canyons, drainage swales and rock outcroppings, and may permanently disfigure the natural appearance of hillside terrain and disrupt natural skyline profiles.
- B. New Development: The construction of houses, hotels, commercial buildings and other structures can adversely affect the scenic quality of highway corridors. Many factors associated with building construction can negatively impact views, including size, height and bulk of the structure, architectural design and special decorative treatments, density or intensity of development, and the type of land use, i.e., urban vs. rural. With proper design considerations and land use controls, the visual impact of new development can be minimized and accomplished in a manner compatible with the natural landscape.
- C. Outdoor Advertising: There potentially exists a conflicting relationship between outdoor advertising and programs designed to enhance the visual environment. Businessmen, for example, have the right to advertise, which facilitates commerce and trade in the community and fosters prosperity; visual blight, conversely, which may result due to a proliferation of advertising signs, can downgrade the community and depreciate economic values. The need therefore for outdoor advertising and for a visually pleasing environment seemingly represents competing objectives. The goal must be to achieve an acceptable compromise and balance, providing opportunities for advertising while maintaining the scenic quality of the community.

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(213) 590-5071

RECEIVED

FEB 16 1993

PLANNING DIVISION

Page 1 of 3
Date: February 10, 1993
Permit No. 5-91-262

COASTAL DEVELOPMENT PERMIT

On May 9, 1991, the California Coastal Commission granted to

WINSLOW MAXWELL

this permit subject to the attached Standard and Special conditions, for development consisting of:

Demolition of an eight unit motel/apartment and construction of a 30 foot high at maximum point, 20 foot high as measured from centerline of frontage road, 3 level, 15,589 square foot seven unit residential structure with a subterranean 17 space garage at the middle level on a bluff top lot. 2,226 cubic yards of cut is proposed.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at
1601 S. Coast Highway, Laguna Beach.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By:

Meg Vaughn

Title:

Staff AnalystACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date

Signature of Permittee

E17

COASTAL DEVELOPMENT PERMIT

Page 2 of 3
Permit No. 5-91-262

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. Plans Conforming to Geologic Recommendation

All recommendations contained in the Geotechnical Environmental Study prepared by Leighton and Associates in 1984 and updated April 17, 1991, regarding the proposed development shall be incorporated into all final design and construction plans including grading and drainage. All plans must be reviewed and approved by the consultant. Prior to transmittal of the permit the applicant shall submit, for review and approval by the Executive Director, foundation plans for the project signed by the consultant incorporating the recommendations made in the referenced report.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

G18

2. Assumption of Risk:

Prior to the issuance of the coastal development permit, the applicant [landowner] shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from landslide, soil erosion and fire, and the (b) applicant hereby waives any future claims of liability against the Commission or its successors in interest for damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

3. Revised Plans

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval, revised plans which show that no development will occur within the 25 foot setback from the edge of the blufftop.

4. Drainage/Erosion Control

Prior to issuance of the Coastal Development Permit, the applicant shall submit for review and approval by the Executive Director, a drainage/erosion control plan, prepared by a licensed engineer, which indicates that the runoff from impermeable surfaces is directed to the street to the extent feasible, or piped to the base of the bluff, and any remainder to energy dissipation devices and basins which will disperse the runoff in a non-erosive manner.

5. Landscaping Plan

Prior to issuance of a Coastal Development Permit, the applicant shall submit for review and approval by the Executive Director, a landscaping plan, prepared by a licensed landscape architect, which incorporates native and drought tolerant plants to the site.

MV:tn
0727E

E419

Laguna Beach, California 92651

October 10, 1995

To: Design Review Board

Bob Chapman

Sam Goldstein

Al Ogino

Dan Sabaroff

Greg Vail

Allen Stahlberg, Alternate

RECEIVED

OCT 18 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Dear Honorable Members:

At the Design Review Board meeting of 9/14/95 I addressed the issue of view obstruction to which one of the members of the Board responded that when a person buys a condominium next to an empty lot, he/she should expect that something will eventually be built there. My problem with this statement is that, first of all, I do not consider the property at 1601 South Coast Highway an empty lot. There is a pool and rental units are connected to the pool on that parcel. This certainly cannot be designated as being empty. Secondly, I feel it is extremely important that the Board understand that I am not objecting to having "something" built there. It is not my intention to try to restrict anyone's property rights. However, it appears to me that there is sufficient room to move the proposed project back within the 25' bluff top and 13' side yard setbacks previously approved for a 7 unit condominium which, obviously, was more dense but yet able to be accommodated in that same space. In so doing, it will obliterate less of my view and that of my neighbors, as well as the view from the scenic corridor, specifically Pacific Coast Highway, as defined in the Local Coastal Program, without impacting theirs which would remain unobstructed. In addition, the proposed placement of the northward building, in particular, will close, either in large measure, or entirely, one of the best

Eric

previous means as viewed by means of the lower bluebird canyon area.

Why, in fact, are the bluff top and side yard setbacks adjoining Bluebird different this time from those which I believe were approved for the previously proposed 7 unit Condominium? Is the arc method responsible for the decreased side yard setback from 13' to 7'? Everyone at Laguna Sands concurred at that time with the proposed 7 unit Condominium project which, according to available information, shows a 13' side yard setback on the property that adjoins Bluebird Canyon Drive. What is causing me a problem is that this setback has been reduced to 7'.

Enclosed please find a copy of a letter from the Director of Community Development regarding the use of the arc method. I am seriously concerned about the misgivings raised by Mr. Sutterwick regarding its use. This project was apparently approved by the City and the Coastal Commission with a 25' bluff top setback and a 13' side yard. Please see attached a copy of what I believe was previously approved for a 7 unit Condominium and refer to copy of Coastal Development Permit dated 2/14/93. What logical sequence has allowed this building to creep down the slope 6' in the past two years? I do not understand.

In brief, my principal concerns center around; a) the apparent change from a 13' side yard setback in 1993 to a 7' setback in 1995 and b) no blufftop setback encroachment previously to the granting of a variance allowing such an encroachment. For these and all the foregoing reasons, I feel your honorable body should perhaps reconsider your decision.

Thank you for your kind attention to this matter.

Yours respectfully,
Susan Polanino

Attachments
cc: City Council

G.21



August 8, 1995

Hugo Soria
410 Broadway
Laguna Beach, CA 92651

Re: 1601 South Coast Highway

Dear Hugo:

This letter has been prepared in response to your request for clarification of the bluff-top setback for property located at 1601 South Coast Highway.

On June 8, 1995, a memorandum from the Community Development Department was addressed to the Board of Adjustment/Design Review Board for the purpose of establishing the blufftop location for the proposed development at 1601 South Coast Highway. (See attachment)

As stated, the staff approach was to create an even, relatively constant blufftop setback line that was aligned with the natural contour of the land. The basis for the line was the occurrence of several "patches" of topography consisting of a 45 degree or steeper slope, which represent the basis for measuring the 25-foot setback.

Another approach to the same problem would be to construct or "swing" a 25-foot arc from the most landward slope at or steeper than 1 to 1. A depiction of this method has been superimposed on the attached original sketch from the June 8th memorandum to the Board. It can be seen that this method is somewhat less restrictive than the more continuous line established by staff.

Although it is not unusual for staff to use an arc, especially when analyzing features represented by a point (such as the beginning or end of a natural drainage course), this method was rejected for the instant case for several reasons:

1. The language of the code does not require a 1 to 1 or steeper slope as a basis for a blufftop measurement. Rather, the code addresses itself to any "landform" that may qualify as a bluff. Landforms are represented by contour lines rather than points on the ground, hence the staff decision to establish a setback generally parallel with a contour line (Reference: MC 25.50.004(B)(4)(a)(ii)).
2. The use of an arc or a series of arcs (see attached sketch), creates a setback condition that is extremely difficult to locate, measure and visualize in the field. The reference

August 8, 1995

Hugo Soria

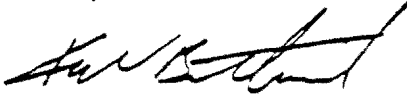
Page Two

points are not readily located nor are measurements easily made. This method is potentially error-prone and can result in costly misunderstandings and mistakes during inspection and construction.

3. The use of an arc to define a blufftop setback condition is sometimes misleading in the sense that the mathematical concept of a circle bears very little, if any, relationship to the natural features it is designed to protect. The keyword is "landform."

For the reasons described above, I continue to believe that the original setback line demarcated in the June 8, 1995 memorandum is an accurate representation of the blufftop condition.

Sincerely,

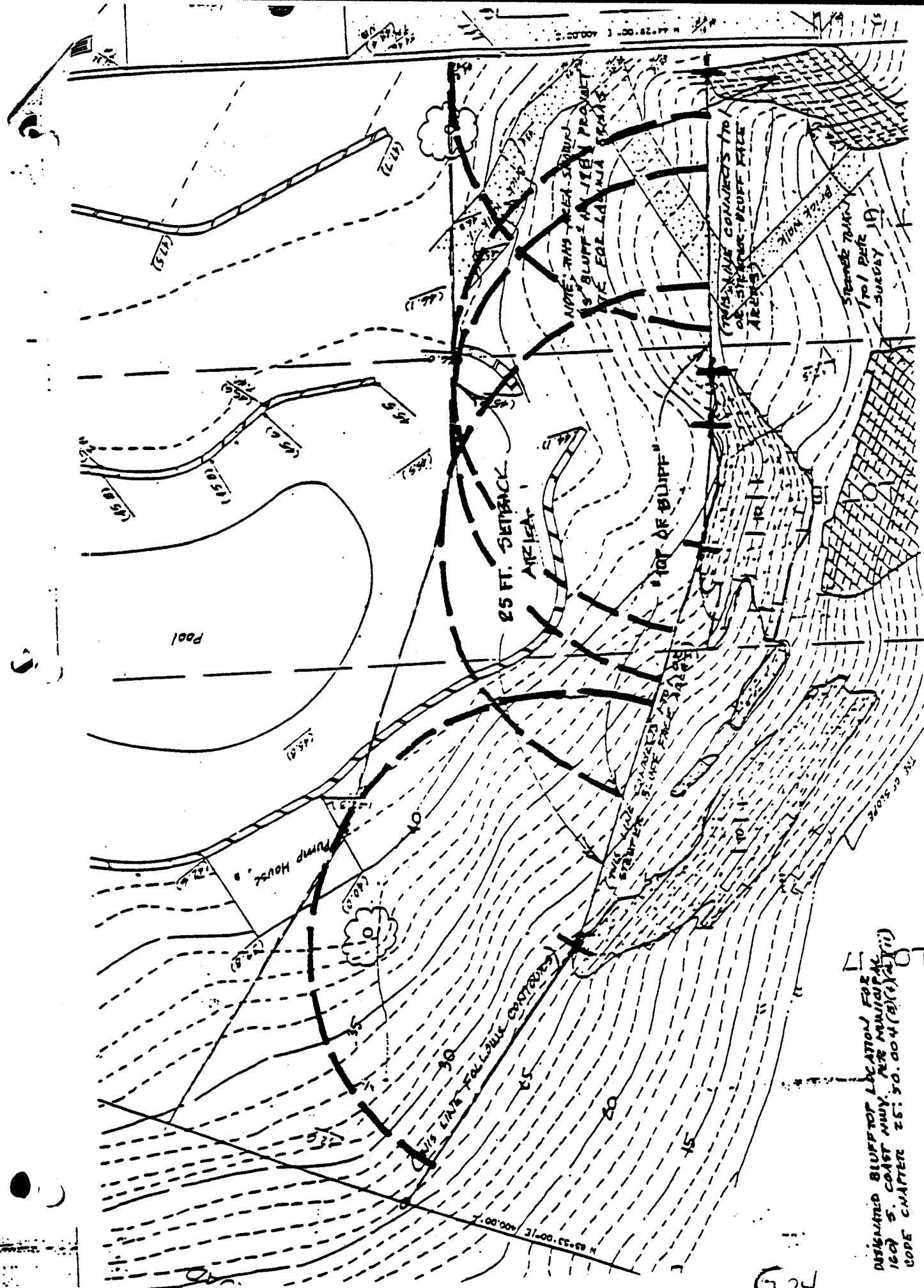


Kyle Butterwick
Director
Community Development

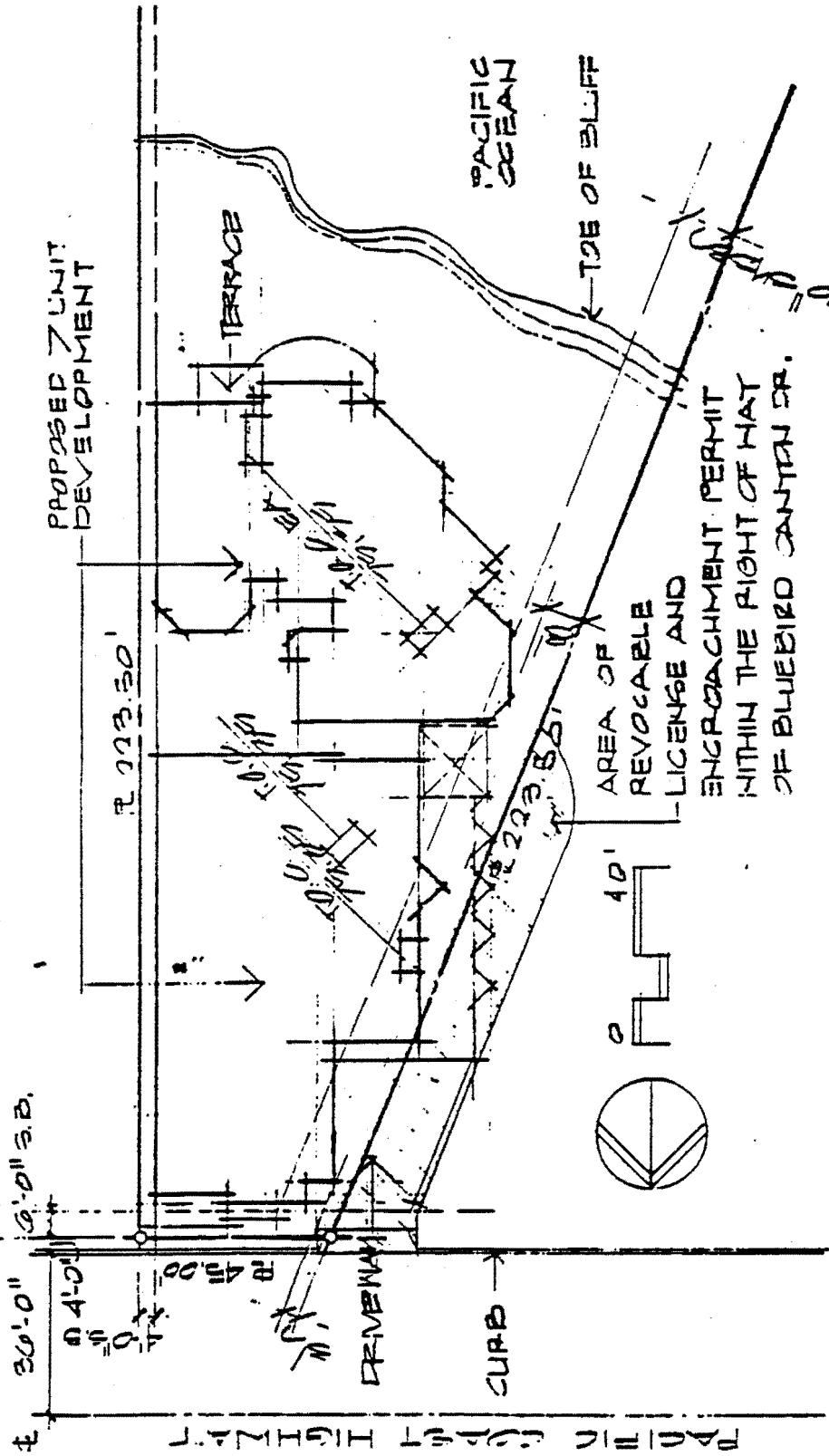
Attachments

cc: Design Review Board

623



G24

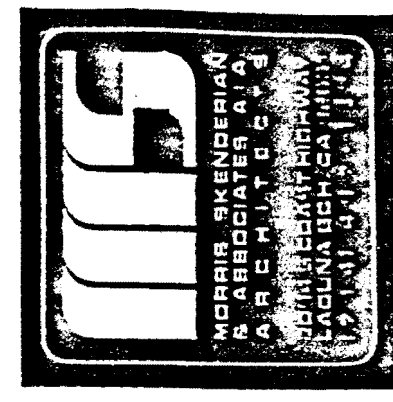


**7 UNIT RESIDENTIAL DEVELOPMENT
FOR WINSLOW MAXWELL**

1601 SOUTH COAST HIGHWAY
LAGUNA BEACH, CA

LOTS 1, 2, 15, 16 & 17 BLOCK 10

11/1/77 (Rev)



OCTOBER 3, 1990

585

EXHIBIT TO A-5-LGB-95-260 (CONTURSI)

As of December 19, 1995, the South Coast District office has received 25 letters regarding the subject appeal. All 25 letters support the appeal and OBJECT to the proposed development. The letters object based on one or more of the following concerns:

1. Inadequate/Unsafe Beach Access
2. Obstruction of Existing Views
3. Destruction of the Cypress Tree at the Site
4. Impacts to the Coastal Bluff

Ten letters are attached hereto as a sampling of the 25 letters received.

6005F

Exhibit H

Dr. and Mrs. William E. Dahlberg

1585 South Coast Highway, #47

Laguna Beach, California 92651

October 22, 1995

RECEIVED

California Coastal Commission
South Coast Area
P.O. Box 1450
245 W. Broadway, Suite 380
Long Beach, CA 90802-4416

OCT 24 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Attn: Meg Vaughn

Dear Ms. Vaughn,

We are writing you regarding an appeal currently submitted to the Commission involving property located at 1601 South Coast Highway, Laguna Beach, 92651.

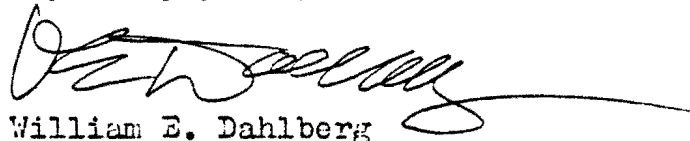
Our family feels there are several factors involving this property which deserve attention and consideration.

We support the appeal currently submitted and we reemphasize that the removal of a landmark cypress tree at this location and replace it with construction does and will greatly impact the public view corridor greatly needed in this region of Laguna Beach.

In addition the beach access is unsafe and greatly inadequate not only due to public traffic but due to emergency equipment and city maintenance equipment. Present and previous owners of this property have had the unusual ability to utilize at least 15 feet of city property for their private use and to place a requirement on the present builder to provide proper and safer access for public use of the beach would not create a hardship for the property owner.

Thank you for your consideration of this very important matter and we are available for further consultation is desired.

Very truly yours,



William E. Dahlberg

WED/1

RECEIVED

October 22, 1995

OCT 24 1995

Meg Vaughn
South Coast Division
California Coastal Commission
245 W. Broadway Suite 380
Long Beach, Calif. 90802

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Re: appeal process- 1601 S. Coast Highway- Laguna Beach

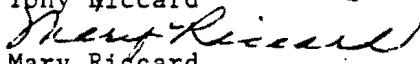
Dear Ms. Vaughn,

We are owners of a unit in a condominium adjacent to the proposed project at 1601 S. Coast Highway in Laguna Beach. It is our feeling that whoever develops 1601 should provide adequate beach access for the general public. The current situation is most dangerous. There exists an inadequate pedestrian walk which is so cumbersome that most people walk down our driveway in front of an electric gate. When we either enter or leave the building, we just hope nobody is in the way. We feel that it is an accident waiting to happen. We trust that the new developers will be forced to dedicate part of their land so that this danger is eliminated.

Thank you for your consideration in the matter.

Sincerely,


Tony Riccard


Mary Riccard

2865 Mt. Rainier Dr. S.
Seattle, Washington 98144
October 23, 1995

RECEIVED

OCT 24 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DIST.

Meg Vaughn
California Coastal Commission
South Coast Division
245 West Broadway, Suite 380
Long Beach, CA 90802-4416

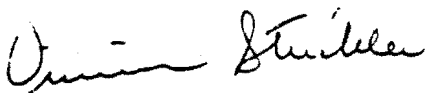
Dear Ms. Vaughn,

I support the appeal submitted regarding 1601 South Coast Highway in Laguna Beach. I own a unit in the Laguna Sands at 1585 South Coast Highway, immediately adjacent to proposed construction.

The two reasons for my support of the appeal relate to beach access and public view of the beach. The existing beach access is dangerous. Our garage doors open to this narrow passageway which is also used by people walking to the beach. Secondly, public view will be severely curtailed if construction reduces this narrow driveway.

I hope these issues will be taken into consideration by the Coastal Commission.

Yours truly,



Vivienne Strickler

PGA TOUR GOLF COURSE PROPERTIES, INC.

A subsidiary of PGA TOUR, INC.
100 TPC Boulevard
Ponte Vedra Beach, Florida 32082
904-285-3700



Joe Walser, Jr.
Chief Operating Officer

RECEIVED

OCT 27 1995

CALIFORNIA
COASTAL COMMISSION
WITH COAST DIST.

October 23, 1995

Meg Vaughn
California Coastal Commission
South Coast Area
245 West Broadway
Suite 380
Long Beach, CA 90802-4416

Dear Ms. Vaughn:

I am supporting the appeal regarding 1601 S. Coast Highway in Laguna Beach.

1. Make the beach access safe. The beach access at this location is not adequate since the beach access is so narrow the beachgoers rarely use it. Instead, they use the driveway. It would be possible to improve the access by widening it on the south side of the beach access.
2. The proposed project impedes the public view from the scenic corridor, specifically, the Pacific Coast Highway. This could be rectified by placing the proposed building within the 13 foot side yard approved by the Coastal Commission previously.

Sincerely,

Joe Walser, Jr.



Printed on Recycled Paper

H5

RECEIVED

OCT 30 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST AREA

1585 S. Coast Highway
Laguna Beach, Calif.
October 27, 1995

Ms. Meg Vaughn
California Coastal Commission
South Coast Area
P.O. Box 1450
245 West Broadway, Suite 380
Long Beach, Ca. 90902

Dear Ms. Vaughn,

The historic old cypress tree that so gallantly overlooks the Pacific Ocean at the end of Bluebird Canyon is about to be exterminated in the name of development! The cypress is one of the most historical landmark trees in the Southland, and we cannot silently tolerate such gross destruction of what little natural beauty remains along our coastline.

The property I am concerned about is at 1601 S. Coast Highway. The Coastal Commission should take a look at beach access at the above address also, it is terribly dangerous at present, and more cars and more development can only make matters worse.

Sincerely,

Barbara Cooper
Barbara Cooper

H6

1585 S. Coast Hwy.
Laguna Beach, CA. 92651
October 27, 1995

Ms. Meg Vaughn
California Coastal Commission
245 W. Broadway, Suite 380
Long Beach, CA. 90802

RECEIVED

OCT 31 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DIVISION

Dear Ms. Vaughn:

Please add my name to those supporting the appeal forwarded regarding the proposed development at 1601 South Coast Hwy. - Laguna Beach. The safety of the beach access is an issue that has concerned me for some time, so I am now hoping that someone will investigate the situation and finally decide that it should be made wider so that the people who now take the driveway will use the access ramp.

I am also disturbed by the fact that this development is not following the same setbacks (side yard + bluff top) that the Coastal Commission had approved before for a condo project here. Because of this, our beautiful Monterey Cypress will be gone, our coastline defaced, + views obstructed.

Thank you for your help.

Sincerely yours,
Victoria Pelecan

RECEIVED

Juan M. Garcia
230 Diamond st.
Laguna Beach, CA.
92651.

October 31, 1995.

NOV 6 1995

Ms. Meg Vaughn
California Coastal Commission.
South Coast Area
245 W. Broadway, Suite 380
Long Beach, CA. 90802-4416

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST AREA

Dear Ms. Vaughn:

This letter supports the appeal regarding 1601 South Coast Highway in Laguna Beach.

Since I work at the Laguna Sands Building and also go to Bluebird Beach, I have the opportunity to see daily that the beach ramp here is almost never used. This results in a very unsafe condition, because, cars are leaning and entering the garage while the people are walking down the driveway; I feel that the solution to the problem is to make this walkway wider, so it gets used.

I do not understand why the owner is cutting down the beautiful cypress tree in the cliff instead of designing his house around it. It is part of history of Laguna Beach.

Please save the cypress and make the beach ramp safe.
Thanks you.

Very truly yours,

Juan M. Garcia.

Juan M. Garcia

H2

D.H. Dadourian
5170 EL ROBLE STREET • LONG BEACH, CA 90815

November 4, 1995

RECEIVED

NOV 7 1995

Ms. Meg Vaughn
Coastal Program Analyst
California Coastal Commission
South Laguna Area
245 West Broadway, Suite 380
Long Beach CA 90802

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST AREA

RE: 1601 South Coast Highway
Laguna Beach

Dear Ms. Vaughn,

I am an owner at the Laguna Sands Condominium complex at 1585 South Coast Highway, right next to this proposed project. We have enjoyed the natural beauty and panoramic view of Laguna Beach for many many years!

This letter is being written to you to express my concern over several issues that surround the proposed project at 1601 South Coast Highway.

First is the issue of **VIEW**. That precious natural state that is being ruined by overbuilding and callous disregard for the neighbors around you. This project will block a portion of my current natural view, as it will block the view of many others in the Laguna Sands complex. And not to mention that this project will cause the destruction of the beautiful Monterey Cypress tree which is a landmark for Laguna residents.

Another issue is that this project will compromise the **SAFETY** of residents and neighborhood beach goers because of the narrowing of the walkway from South Coast Highway down to the beach. You see, children and adults will then use the Laguna Sands driveway rather than the narrowing ramp for access down to the beach this causing a safety hazard.

None of this is right or good for our neighborhood! Things should get better not worse. The **VIEW** should be preserved

Hg

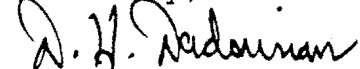
not ruined, and safety of beach goers should never be compromised.

Please address these issues and these concerns. It's not that we don't want a project, but we want a project that will not ruin that natural view and compromise the safety of residents.

There are many others in our complex who find it hard to make time to express their concerns about safety and overbuilding that share these same concerns.

Thank you for your help.

Sincerely,

A handwritten signature in cursive script, appearing to read "D.H. Dadourian".

D.H. (Dick) Dadourian

HOUSE OF IMPORTS

AUTHORIZED MERCEDES-BENZ DEALER

November 9, 1995

RECEIVED

NOV 17 1995

Ms. Meg Vaughn
Coastal Program Analyst
California Coastal Commission
South Coast Area
Post Office Box 1450
245 West Broadway, Suite 380
Long Beach, California 90802-4416

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Dear Ms. Vaughn:


The narrow pedestrian path at 1601 south Coast Highway in Laguna Beach is ignored by those who use the beach at this site as though it does not exist. Instead, most people simply walk down the driveway used by Laguna Sands. The beach access needs to be improved in order to alleviate this danger.

On the bluff at this same site, there is a majestic Monterey Cypress tree that is going to be destroyed due to development. It is a Laguna landmark and adds to the beauty of the bluff and the public view from Pacific Coast Highway.

As the owner of a unit at Laguna Sands, I would like to request that the Coastal Commission please look into these problems.

Thank you.

Sincerely,



Michael B. O'Donoghue

MBO:ma

November 15, 1995

RECEIVED

NOV 30 1995

CALIFORNIA COSTAL COMMISSION
SOUTH COAST AREA
245 West Broadway Suite 380
Long Beach, California 90802

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Attention: Meg Vaughn

Dear Ms. Vaughn

Re: Beach Access between 1585
S. Coast Highway and contin-
gent to 1601 S. Coast Hghwy.

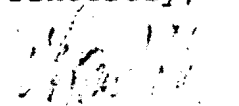
Twice, I have personally seen near casualties on this road in a time span of two weeks. One, when a family of five were walking down the access road for the condo's rather than use the narrow path (beach access), when someone exiting the condo garage in a car at the same time the Beach Patrol car was coming up from the beach, and the group was caught in between. Two good sets of brakes prevented an accident that could have been disastrous.

The second time, three small children came racing down the road from the sidewalk, rather than use the beach path, and were nearly hit by a car leaving the garage. One child fell in front of the car skinning her leg. It could have been alot worse.

If the beach access is not widened, it is an accident waiting to happen - perhaps a fatality. Who will be responsible then??

Thank you for your attention to this grave concern of many people and mothers.

Sincerely,


V.E. Boothby

VEB:d

H12

