

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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LAGUNA BEACH, CA 90802-4416

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Staff: RMR-LB

Staff Report: November 12, 1996

Hearing Date: December 10, 1996

Commission Action:

REVISED FINDINGS
STAFF REPORT AND RECOMMENDATION ON APPEAL
NO SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Laguna Beach

LOCAL DECISION: Permit granted by the Laguna Beach City Council

APPEAL NUMBER: A-5-LGB-95-162

APPLICANT: John McNaughton

PROJECT LOCATION: 287 Crescent Bay Dr., Laguna Beach, Orange County

PROJECT DESCRIPTION: Clearing of vegetation and construction of a staircase on a coastal bluff face.

APPELLANT: June Sloan AGENT: Richard Nunis

COMMISSION ACTION: No Substantial Issue

DATE OF ACTION: July 11, 1996

COMMISSIONERS ON
PREVAILING SIDE: Belgard, Randa, Rick, Staffel, Steinberg, Wear,
Calcagno

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following revised findings in support of the Commission's action on July 11, 1996, finding that no substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS:

City of Laguna Beach certified Local Coastal Program; Coastal Development Permits 5-84-825 (McNaughton), 5-84-825A (McNaughton), P-76-8048 (Frank), P-78-4260 (Nelson), P-7-27-78-3782 (Barrett), A438-78 (Barrett), 5-84-252 (McDonald), 5-85-690 (Squire), 5-84-423 (Parry), 5-84-588 (Nunis), 5-84-205 (Montapert), 5-83-892 (City of Laguna Beach), 5-84-241 (Tarnutzer), 5-83-252 (1367 Circle Way), 5-85-241 (1379 Circle Way), 5-83-900 (1137 Marine Way)

Geologic Reports: 287 Crescent Bay Dr. -- Moore & Taber June 1, 1979, Moore & Taber January 25, 1979, Nevin April 8, 1976, Peter & Associates 1984 (5-84-825), Geofirm January 14, 1986 (5-84-825A); Munson Associates 1985 (5-85-690), Munson Associates 1984 (5-84-252); 297 Crescent Bay Dr. --Dames & Moore Oct. 1943, Dames & Moore 4-18-72, Dames & Moore 2-9-83, Dames & Moore 7-11-72.

STAFF NOTE:

For the purposes of this staff report there are two staircases: 1) the proposed 30 foot section leading from a landing on the face of the bluff to the beach which was approved by the City and is the subject of this appeal and no substantial issue staff report, and 2) the existing 30+ foot stairs leading from the patio at the bluff top down the bluff to the landing. This second staircase is not a part of this appeal and is referred to in this staff report as the "existing" staircase. In 1994 the City issued a building permit but not a coastal development permit to remove concrete steps and replace them with the present "existing" steps. The Commission found on appeal that the proposed staircase is a "continuation" of the "existing" stairs.

A coastal development permit for the proposed development was denied by the City of Laguna Beach Board of Adjustment/Design Review and appealed to the City Council which overturned the Board of Adjustment decision and approved the staircase. The City Council approval of the coastal development permit for the proposed development was then appealed to the Coastal Commission. A history of the City Council's action is included on page 6.

I. APPELLANT'S CONTENTIONS

The appellants appealed the City of Laguna Beach's decision to approve Local Coastal Development Permit 95-33 for construction of an at-grade 30 foot long

railroad tie stairway down a coastal bluff. The grounds for the appellant's appeal is that the stairway does not conform with the coastal bluff setback policies of the certified LCP.

II. LOCAL GOVERNMENT ACTION

Appeal History

This appeal was received at the South Coast office on June 23, 1995, appealed by June Sloan (297 Crescent Bay Drive) and initially scheduled for hearing on August 11, 1995. The applicant submitted a 49 day waiver in writing on August 8, 1995 requesting that the item be heard at the next possible Southern California hearing. On September 14, 1995 the applicant requested that the application be agendized at our earliest convenience. On October 19, 1995 the applicant submitted a letter requesting that the application not be agendized until after March of 1996. On May 3, 1996 the applicant's agent, David Neish, requested, in writing, that the application be agendized for June. This final request to be re-agendized was made too late to revise the staff report in time for the June hearing. The appeal was scheduled for the July 1996 Commission meeting and the Commission found no substantial issue.

Local Government Action

May 5, 1995	Board of Adjustment Denial of Variance and CDP 95-33
June 19, 1995	Laguna Beach City Council Approval of Development Permit 95-33 Variance Application 6207 Design Review 95-068

III. 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 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 Section 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. (emphasis added)

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access and recreation questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

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 30603).

On July 11, 1996, the Commission found that the appellant's contentions did not raise a substantial issue of conformity with the certified LCP. Therefore, the action of the local government stands. These revised findings reflect the Commission's action. Only Commissioners who voted on the prevailing side of the vote for no substantial issue can vote on the revised findings.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission adopt the findings below in support of the following resolution:

A. SUBSTANTIAL ISSUE

The Commission determines that appeal number A-5-LGB-95-162 raises No Substantial Issue as to conformity with the certified Local Coastal Program for the City of Laguna Beach.

Staff recommends a **YES** vote which would result in the adoption of the following findings and declarations. Only those Commissioners who voted in favor of the finding of No Substantial Issue at the July 1996 hearing can vote on the motion to approve the revised findings.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

The applicants are proposing to construct a staircase to extend from an existing staircase down a coastal bluff to the beach at 287 Crescent Bay Drive. For the purposes of this staff report there are two staircases: 1) the proposed 30 foot section leading from a landing on the bluff face to the beach which is the subject of this appeal, and 2) the existing 30+ foot stairs which extend from a patio at the bluff top to the bluff face. The City and the applicant have characterized the proposed staircase on appeal as a "continuation" of the "existing" stairs which were constructed in 1994. The 1994 building permit was for the replacement of concrete steps with the "existing" steps.

Documents included with the submittal indicate that the proposed steps will be at grade and constructed with railroad ties. Staff has determined from site plans that the proposed stairway would connect with the existing stairs and landing and extend approximately 30 feet down the bluff to rip-rap at the beach level.

B. DESCRIPTION OF THE PROJECT VICINITY

The residence at 287 Crescent Bay Dr. is one of ten lots and eight residences located along the blufftop between Crescent Bay Point Park and the public access at Circle Way. The bluffs along Crescent Bay Dr., however, are up to 80+ feet high and most of the lots include an ancient landslide on the bluff face. Several of the residences have been in existence for 30+ years. Two of the lots 271 and 297 Crescent Bay Dr. have seawalls. 299 Crescent Bay Dr. has a hidden concrete and rock revetment approved by the Commission. The seawalls at 279, 297, and 271 predate the Coastal Act, as do the staircases on these lots.

The bluff decreases in height along Crescent Bay Dr. from the west to the east towards the public access. The lots along Circle Way adjacent to the public access

increase in bluff height from west to east to Cliff Dr. Most of the residences along Circle Way and Cliff Dr. have seawalls or rock revetments, fences, and stairways to the beach constructed prior to passage of the Coastal Act. In addition, the low bluffs along this stretch of beach have been graded and landscaped. Much of this development predates passage of the Coastal Act.

C. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section III of these findings, the grounds for an appeal of a Coastal Development Permit issued by the local government following certification of its Local Coastal Program are the policies of the Certified LCP and the access and recreation policies of the Coastal Act. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with the policies of the certified LCP. In this case, the Commission finds that no substantial issue exists with respect to the grounds on which the appeal has been filed.

1. LCP Policies

Section 30603(b) of the Coastal Act provides specific grounds for appeal of a local government decision after a Local Coastal Program has been certified for the area. Non-conformance with the standards set forth in the certified Local Coastal Program is one of the grounds for appeal. The appellants contend that the proposed project allows development on a bluff face, and thus is not consistent with an LCP policy prohibiting all development within 25 feet from coastal bluff edges unless it complies with a stringline.

2. City Action of Approval

Mr. McNaughton applied for CDP 95-33 from the Board of Adjustment/Design Review to build his staircase. The CDP was denied, appealed to the City Council, and approved by the City Council. The City Council's approval of a City issued coastal development permit was then appealed to the Coastal Commission.

Included with the appeal submittal was a May 1, 1995 letter from Mr. McNaughton to the Board of Adjustment/Design Review Board, the May 3, 1995 staff recommendation to the Board of Adjustment/Design Review from the Department of Community Development, the May 4, 1995 minutes of the City of Laguna Beach Board of Adjustment/Design Review Board denying a permit application, and the Resolution from the City Council overturning the denial and approving the proposed development.

In its May 3, 1995 recommendation to the Board of Adjustment, the Department of Community Development advocated approval of the proposed beach staircase even though it did not conform with the LCP bluff top policy because of the following extenuating circumstances: 1) when the residence was built no regulations prohibited a beach staircase, 2) completion of the beach staircase was impeded by uncertainty over a proposed seawall, 3) the beach staircase is not new development but continuation of the existing stairs, 4) adjacent properties have beach staircases, and 5) the proposed staircase minimized visual and environmental impacts.

The project on appeal before the Commission is for the extension of the existing stairs for another 30+ feet down the coastal bluff and across existing rip-rap to the beach. The existing stairs are not included in this appeal because they are not included in the project description of the development approved by the City. The project before the Commission includes only the bottom half of the stairway which has not yet been constructed.

3. Analysis

The City of Laguna Beach City Council approved the proposed bluff stairs and found that the proposed development was approvable because of extenuating circumstances. The City found that the proposed development was a continuation of the existing bluff stairs which already extend beyond the bluff-top stringline. The City also found that the stairs would be located in existing altered bluff areas, would not involve excavation or major construction, would consist of railroad ties placed at grade, is consistent with existing development and the visual quality of the area and would not be damaging to the environment. Finally, the City found that because there were existing stairs the proposed stairs did not constitute new development subject to the 25 foot bluff setback policy

The Commission finds that the LCP the City's decision to approve the stairs in light of the extenuating factors identified above does not present a substantial issue.

The Commission finds that the findings of the City of Laguna Beach support its action and do not present a substantial issue as to conformity with the LCP. The Commission finds that the proposed development is a continuation of the existing stairs which had been approved by the City of Laguna Beach. The Commission also finds that the proposed stairs are not environmentally damaging to the coastal bluff resources.

Revised Findings

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Therefore, the Commission finds that the City's approval of local coastal development permit 95-33 does not raise a substantial issue with respect to conformity with the City's Certified Local Coastal Program.