

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Long Beach, CA 90802-4302
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Filed: March 26, 2007
49th Day: May 14, 2007
Staff: Ryan Todaro-LB
Staff Report: April 19, 2007
Hearing Date: May 9-11, 2007
Commission Action:

**Th 15a through f**

COMBINED STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Laguna Beach

LOCAL DECISION: Approval, no conditions

APPEAL NUMBERS: A-5-LGB-07-107, A-5-LGB-07-108, A-5-LGB-07-109,
A-5-LGB-07-110, A-5-LGB-07-111, A-5-LGB-07-112

APPLICANT: **City of Laguna Beach (Department of Marine Safety)**

PROJECT LOCATION: Divers Cove/Picnic Beach, Bird Rock Beach, Sleepy Hollow Beach, Thalia St. Beach, Oak St. Beach, Goff Cove, Laguna Beach, Orange County

PROJECT DESCRIPTION: The applicant proposes to replace 7 temporary/seasonal elevated lifeguard chairs with 7 new permanent lifeguard towers, which would measure approximately 14'9" tall with a 4' X 4' shelter footprint, founded on cement caissons, on several beaches throughout Laguna Beach.

APPELLANTS: **Sandra Siani, Commission Chairman Patrick Kruer and Commissioner Sara Wan**

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that a **substantial issue** exists with respect to the grounds on which the appeals have been filed for the following reason: Pursuant to Section 30603(b)(1) of the Coastal Act, the locally approved development does not conform to the standards set forth in the City of Laguna Beach certified Local Coastal Program (LCP) and the public access and recreation policies of the Coastal Act. The motion to carry out the staff recommendation is on page 4.

The appellants contend, among other things, that the proposed permanent lifeguard towers create adverse visual impacts, present potential impacts to wildlife habitat, would be located in areas subject to potential hazards (erosion, wave attack or run-up), failed to provide required early neighbor communications, failed to provide required visual staking

and failed to provide required public noticing, and impact lateral public access and recreation on these beaches. Staff analyzed the appellants' contentions and concludes that a substantial issue exists with regard to the approved local coastal development permits (06-74, 06-76, 06-77, 06-78, 06-79, 06-80) on the grounds that, as approved, they do not conform to the policies of the City of Laguna Beach certified LCP and public access and recreation policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS:

1. Local Coastal Development Permit Nos. 06-74, 06-76, 06-77, 06-78, 06-79, 06-80
2. City of Laguna Beach Certified Local Coastal Program.

I. APPELLANTS' CONTENTIONS

Local Coastal Development Permit Nos. 06-74, 06-76, 06-77, 06-78, 06-79, 06-80, approved by the City's Design Review Board on January 25, 2007, have been appealed by Sandra Siani, and on behalf of the Commission by Commission Chairman Patrick Kruer and Commissioner Sara Wan on the grounds that the approved projects do not conform to the requirements of the Certified LCP (see Exhibits 5A and 5B) and the public access and recreation policies of the Coastal Act. The appellants contend that the proposed projects do not conform to the requirements of the certified LCP and the public access and recreation policies of the Coastal Act with regard to the following issues:

A. Visual Impacts

The appellants contend that replacing the smaller, temporary elevated lifeguard chairs with larger, permanent towers would create a year-round and unnecessary visual impact.

B. Hazards

The appellants contend that the structures approved by the City could be located in areas subject to erosion, wave attack or wave run-up and could potentially require protective devices at some point over the life of the structures.

C. Habitat

The appellants contend that the projects approved by the City would be located on the sandy beach and near tidepools, which the Commission generally considers to be sensitive habitat and in some cases Environmentally Sensitive Habitat Areas (ESHA).

D. Public Access and Recreation

The appellants contend that by replacing temporary structures with permanent structures, lateral public access and recreation on these beaches would be impacted.

E. Miscellaneous

Ms. Siani contends that the projects were approved by the City without the required early neighbor communication, visual staking and public notice. She also contends that the City did not have engineering plans or studies available for review by the public, nor were there

meeting minutes from previous hearings available for review. Ms Siani also contends that the proposed projects would set unwanted precedent. In addition, Ms. Siani contends that the proposed projects have not taken appropriate construction Best Management Practices (BMPs) or water quality issues into account and recommended conditions for consideration (see Exhibit 5B). Furthermore, Ms. Siani contends that the projects are also subject to Coastal Act policies including Sections 30230, 30231, 30232, 30235, 30251, 30253 and 30255. Finally, Ms. Siani contends that the proposed projects are not consistent with the California Environmental Quality Act (CEQA).

II. LOCAL GOVERNMENT ACTION

On January 25, 2007, the City of Laguna Beach's Design Review Board approved each of the 6 permits (Local Coastal Development Permit Nos. 06-74, 06-76, 06-77, 06-78, 06-79, 06-80) to replace 7 temporary/seasonal elevated lifeguard chairs with 7 new permanent lifeguard towers on several beaches throughout Laguna Beach (see Exhibits 2 and 4).

III. APPEAL PROCEDURES

After certification of Local Coastal Programs, 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 or within 300 feet of the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not designated a "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 with suggested modifications, except for four areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modifications had been properly accepted and the City assumed permit issuing authority at that time. Based on Sections 30603(a)(1) and (2) of the Coastal Act, the proposed developments are appealable because they are located on the beach, seaward of the first public road paralleling the sea. In addition, they are likely on tidelands and are located within 300 feet of the top of the seaward face of a coastal bluff.

Section 30603 of the Coastal Act states:

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

lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

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

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

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeals of the local approvals of the proposed developments. Staff has proposed only one motion to find substantial issue for all six of these approvals because each of them raises the same concerns related to consistency with the requirements of the Laguna Beach LCP and the public access policies of the Coastal Act. Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed projects unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

If the Commission determines that the appeal raises no substantial issue with respect to conformity with the relevant LCP and public access policies of the Coastal Act, the actions of the local government stand. Alternatively, if the Commission finds substantial issue, the local coastal development permit is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. The de novo portion of the hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

If 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. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that a substantial issue is raised by the local approval of the subject project.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION:

I move that the Commission determine that Appeal Nos. A-5-LGB-07-107, A-5-LGB-07-108, A-5-LGB-07-109, A-5-LGB-07-110, A-5-LGB-07-111 and A-5-LGB-07-112 raise NO substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act.

Staff recommends a NO vote. Failure of this motion will result in a finding of Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission finds that Appeal Nos. A-5-LGB-07-107, A-5-LGB-07-108, A-5-LGB-07-109, A-5-LGB-07-110, A-5-LGB-07-111 and A-5-LGB-07-112 present a substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The projects approved by the City would replace 7 temporary/seasonal lifeguard chairs with 7 new permanent lifeguard towers on six beaches throughout Laguna Beach. The existing temporary lifeguard lookouts are comprised of a chair, elevated on a simple frame. There is no enclosure or roof of any type. The proposed larger, permanent towers would be located in generally the same location where the smaller, temporary elevated chairs are placed each season (see Exhibit 4). The new towers are fully enclosable, solid fiberglass structures with windows, a roof and attached deck with railings and a ladder to gain access to and from the elevated structure. The structures would be approximately 14'9" tall, measuring approximately 9'9" from the top of the structure to the deck and approximately 5' from the deck to the sand, with a shelter footprint of 4' X 4' (see Exhibit 2). Each of the new towers would be supported by a single concrete caisson, which would be embedded through the sandy beach into bedrock.

B. Substantial Issue Analysis

As stated in Section III of this report, the grounds for appeal of a Coastal Development Permit issued by the local government after certification of its Local Coastal Program are specific. In this case, the local Coastal Development Permits may be appealed to the Commission on the grounds that they do not conform to the certified LCP or the public access and recreation policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

In this case, the appellants contend that the City's approval of the proposed projects do not conform to the requirements of the certified LCP and the public access and recreation policies of the Coastal Act (See Section I). Staff is recommending that the Commission find that the City's approvals present a substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and the public access and recreation policies of the Coastal Act.

1. Visual Impacts

The appellants contend that the projects would create a year-round and unnecessary visual impact and that the applicant has failed to design the towers to limit their visibility and to limit the visual interruption of views to and along the shoreline. In addition, the appellants contend that the City has undergone no siting analysis to find the locations with the least visual impacts and has ignored public requests for less visually obtrusive alternatives.

As mentioned previously, the City is proposing to place 7 permanent lifeguard towers on six small beaches throughout the City. These larger, permanent towers would replace smaller, temporary elevated lifeguard chairs, which are only on the beach during the summer months. This would create a year-round impact to public views to and along these beaches as the new permanent structures are more intrusive and the temporary structures are less intrusive. Although it could be argued that the approved structures are for 'public health and safety' (see policy 1.E. below), the City has not demonstrated that permanent structures, like those authorized by these permits, are in fact necessary for public health and safety – it has not evaluated alternative, less permanent structures that would achieve necessary public health and safety requirements. Therefore, the projects approved by the local coastal development permits all raise a substantial issue as to consistency with the following relevant LCP policies:

Open Space/Conservation Element Policy 1E: Prohibit the construction of buildings and other man-made structures on the sandy portion of the beach unless necessary for public health and safety.

Open Space/Conservation Element Policy 1.5K: The visual impact of a protective device should be minimized if the structure is sited next to or at the seacliff. As the structure encroaches onto the beach, the visual impact will increase accordingly, thereby suggesting nontechnical as well as technical reasons for reducing the encroachment.

Open Space/Conservation Element Policy 7A: Preserve to the maximum extent feasible the quality of public views from the hillsides and along the City's shoreline.

Land Use Element Policy 12-B Require building design which is compatible to and integrated with natural topographic features and preserve public views on the ocean and horizon by maintaining the low profile character of structures seaward of Pacific Coast Highway.

Land Use Element Policy 12-C Require the use of landscaping, special architectural treatments and siting consideration for projects visible from major highways and arterial streets.

Land Use Element Policy 12-G Future land use planning shall be compatible with the goal of providing visual access. As a consequence, all new 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 location (i.e. roads, bluff top trails, visitor-serving facilities, etc.).

2. Hazards

As mentioned previously, these permanent lifeguard towers would be located on sandy beaches. Each tower would be supported by a single concrete caisson, which would be embedded into bedrock. Based on the information currently available, it appears the City has not prepared a wave uprush study prepared by an appropriately licensed professional (normally a licensed civil or geotechnical engineer with expertise in coastal processes) to address potential hazards to the proposed structures. The analysis must cover whether the site and the proposed development could be subject to erosion, wave attack or wave run-up, the frequency of occurrence, consequences and options for siting or designing the project to avoid or minimize impacts over the life of the structure. The City has not determined whether or not these permanent structures would need protective devices at some point over the life of the structures. Therefore, the projects approved by the local coastal development permits raise a substantial issue as to consistency the following relevant LCP policies regarding protective devices:

Open Space/Conservation Element Policy 1.5N: Any proposed protection scheme must be accompanied by an assessment as to whether it can serve its intended purpose without detriment to adjoining properties or the sandy beach.

Open Space/Conservation Element Policy 1.5Q: Any development application for shoreline construction shall be reviewed with respect to the criteria contained in the Guidelines for Shoreline Protection, including the effects of beach encroachment, wave reflection, reduction in seacliff sand contribution, end effects and aesthetic criteria.

3. Habitat

The permanent lifeguard towers would be located on the sandy beach and in some cases near tidepools, which the Commission generally considers to be sensitive habitat and in some cases Environmentally Sensitive Habitat Areas (ESHA). Based on the information currently available, there is no indication that the City prepared a site-specific/project-specific biological survey to determine whether sensitive habitats/species would be adversely impacted by the proposed project, including both construction and operation of the lifeguard towers. Staff believes that the proposed towers could be located in, or adjacent to, areas designated as Environmentally Sensitive Areas (ESA) on the Coastal ESA Map. The City has not provided staff with evidence showing that the proposed towers are not in ESA areas. Furthermore, no conditions were imposed to address avoidance of impacts. Therefore, the projects approved by the local coastal development permits raise a substantial issue as to consistency with the following relevant LCP policies:

Open Space / Conservation Element Policy 2D: As part of the City's resource management program, include provisions for monitoring of tidepools to ensure a proper balance between public beach access and the preservation of marine resources.

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

Open Space/Conservation Element Policy 8J: Detailed biological assessments shall be required for all new development proposals located within areas designated as Environmentally Sensitive Areas on the Coastal ESA Map. To protect these resources, the following shall be required:

1. No new development proposals shall be located in areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map except for uses dependent upon such resources.

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

4. Public Access and Recreation

Installing permanent lifeguard towers on the beach in place of temporary lifeguard chairs would impact lateral public access and recreation on these beaches. This is because the proposed towers would be permanent and in-place year-round, as opposed to the temporary towers, which are only on the beach during the summer months. The beaches in which the proposed structures would be located are quite narrow (see Exhibit 4), particularly during the winter when beach sands move offshore and also during extreme high tide events. These structures would be placed within the narrow band of drier sandy beach, which the public uses for lateral access along the shoreline. Therefore, the projects approved by the local coastal development permits do not conform to the following relevant LCP policies:

Open Space/Conservation Element Policy 1.5H: Construction and grading activities on the beach shall be staged and phased to minimize interference with public use.

Open Space/Conservation Element Policy 3A: Retain and improve existing public beach accessways in the City, and protect and enhance the public rights to use the dry sand beaches of the City.

Open Space/Conservation Element Policy 3H: In providing for legal public access, the City shall seek to protect the health and safety of residents and property owners consistent with Sections 30211 and 30213 of the Coastal Act.

In addition, the projects approved by the local coastal development permit raise a substantial issue as to conformity with the requirements of the public access and recreation policies of the Coastal Act in regards to the following issues:

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 30213 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

5. Miscellaneous

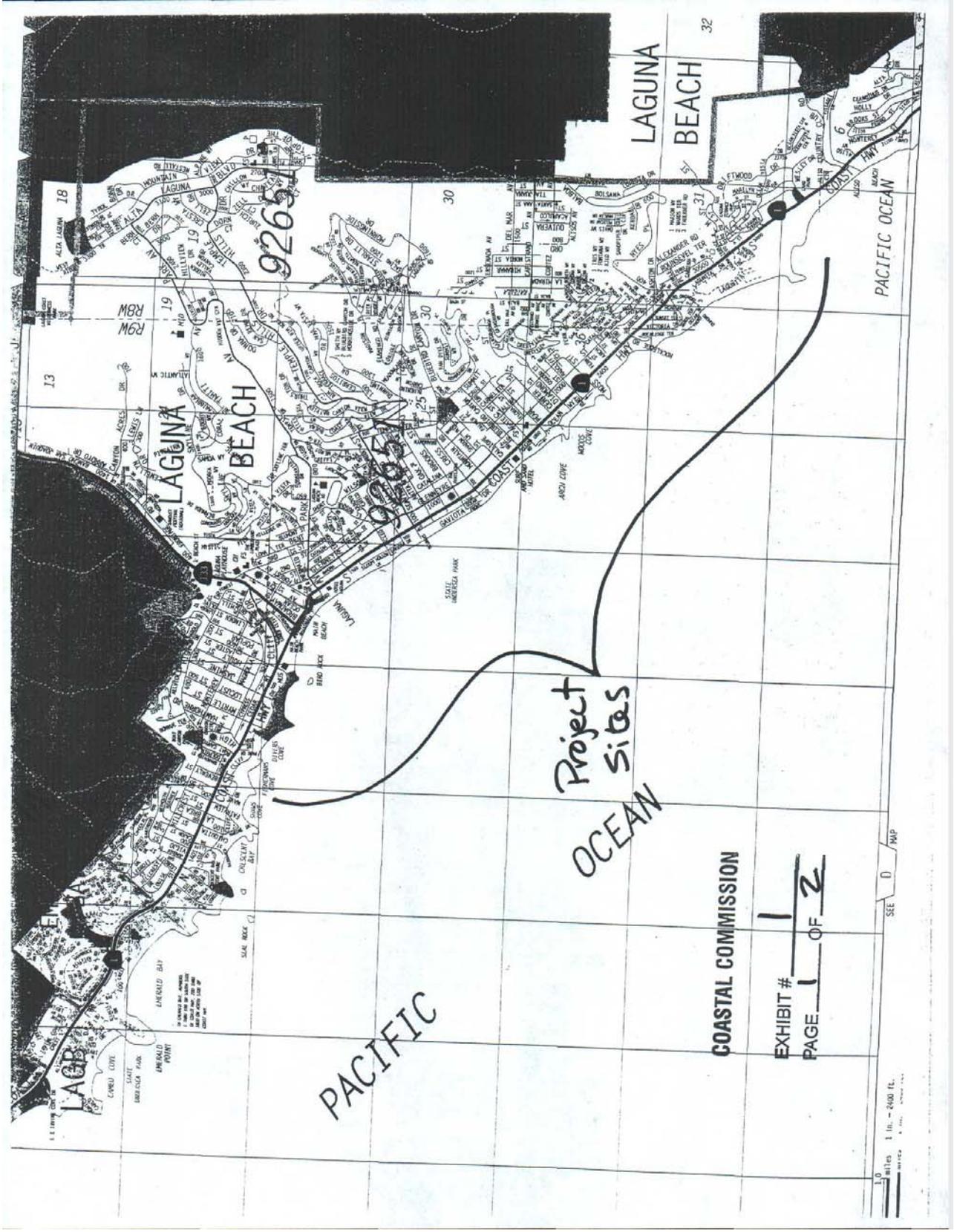
Ms. Siani contends that the projects approved by the City did not provide early neighbor communication, failed to provide required visual staking and failed to provide required public notice. If the City (as the applicant) failed to follow procedures in the LCP regarding visual analysis, the City (as the applicant) would need to address this issue during the de novo review. She also contends that the City did not have engineering plans or studies available for review by the public, nor were there meeting minutes from previous hearings available for review. Although staff has requested the file materials from the City, we do not have those materials and thus we are unable to verify Ms. Siani's claims about the absence of various documents in the file. Ms. Siani also contends that the proposed projects would set unwanted precedent. In addition, Ms. Siani contends that the proposed projects have not taken appropriate construction Best Management Practices (BMP's) or water quality issues into account and recommended conditions for consideration (see Exhibit 5B).

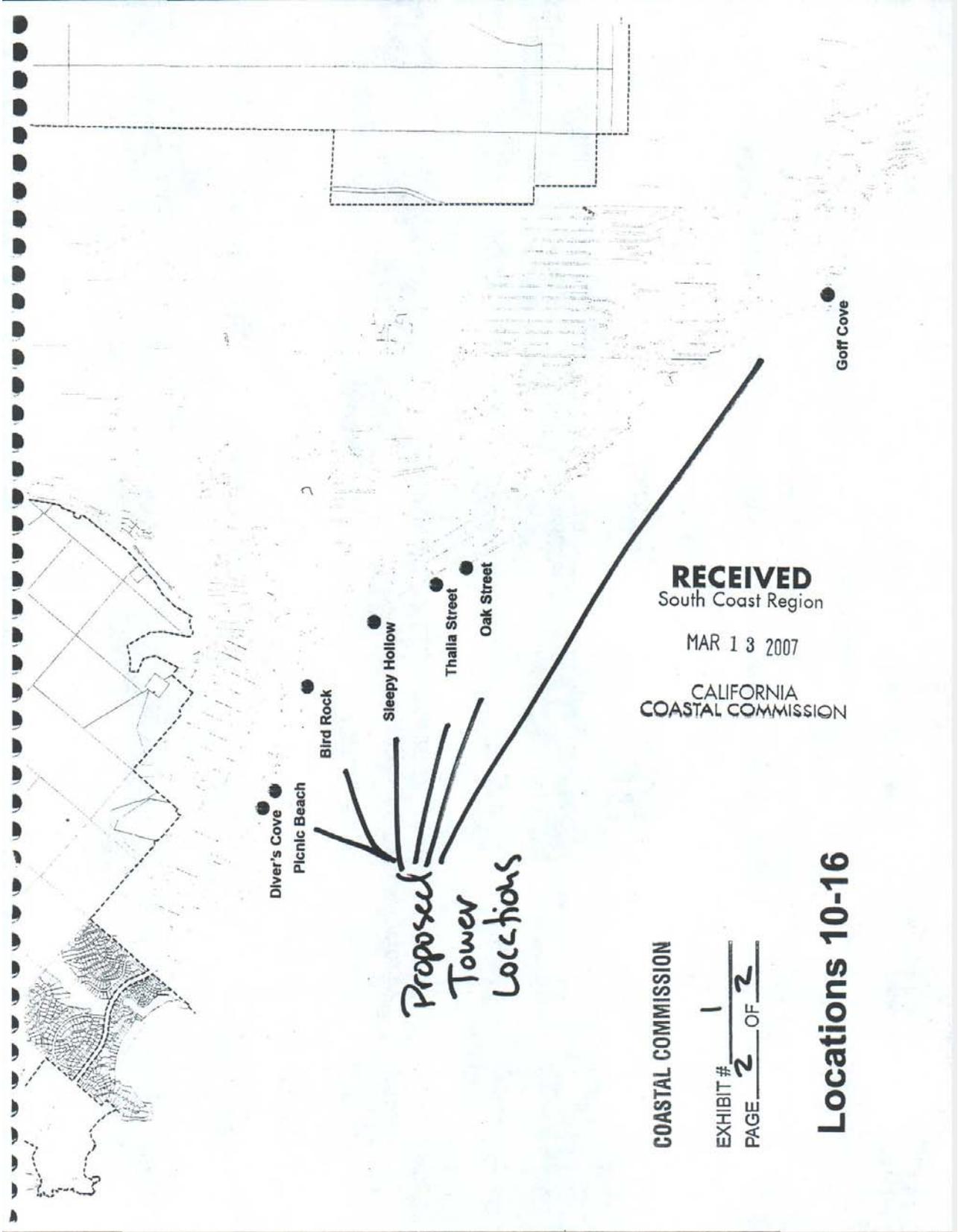
Ms. Siani also contends that the proposed projects are not consistent with the California Environmental Quality Act (CEQA). Ms. Siani contends that the projects are also subject to Coastal Act policies including Sections 30230, 30231, 30232, 30235, 30251, 30253, 30255. However, based on the limited information available at this time the proposed projects are located within a certified area and, the standard of review are the policies of the City's certified LCP and the public access and recreation policies of the Coastal Act, which are discussed in the previous section. However, additional information may reveal that some or all of the proposed projects are located on tidelands that are within the Commission's original jurisdiction. If the development is located within the Commission's original jurisdiction, the standard of review would be the policies of the Coastal Act, and the Commission would need to consider these additional issues raised by Ms. Siani when determining whether to issue a CDP for these developments.

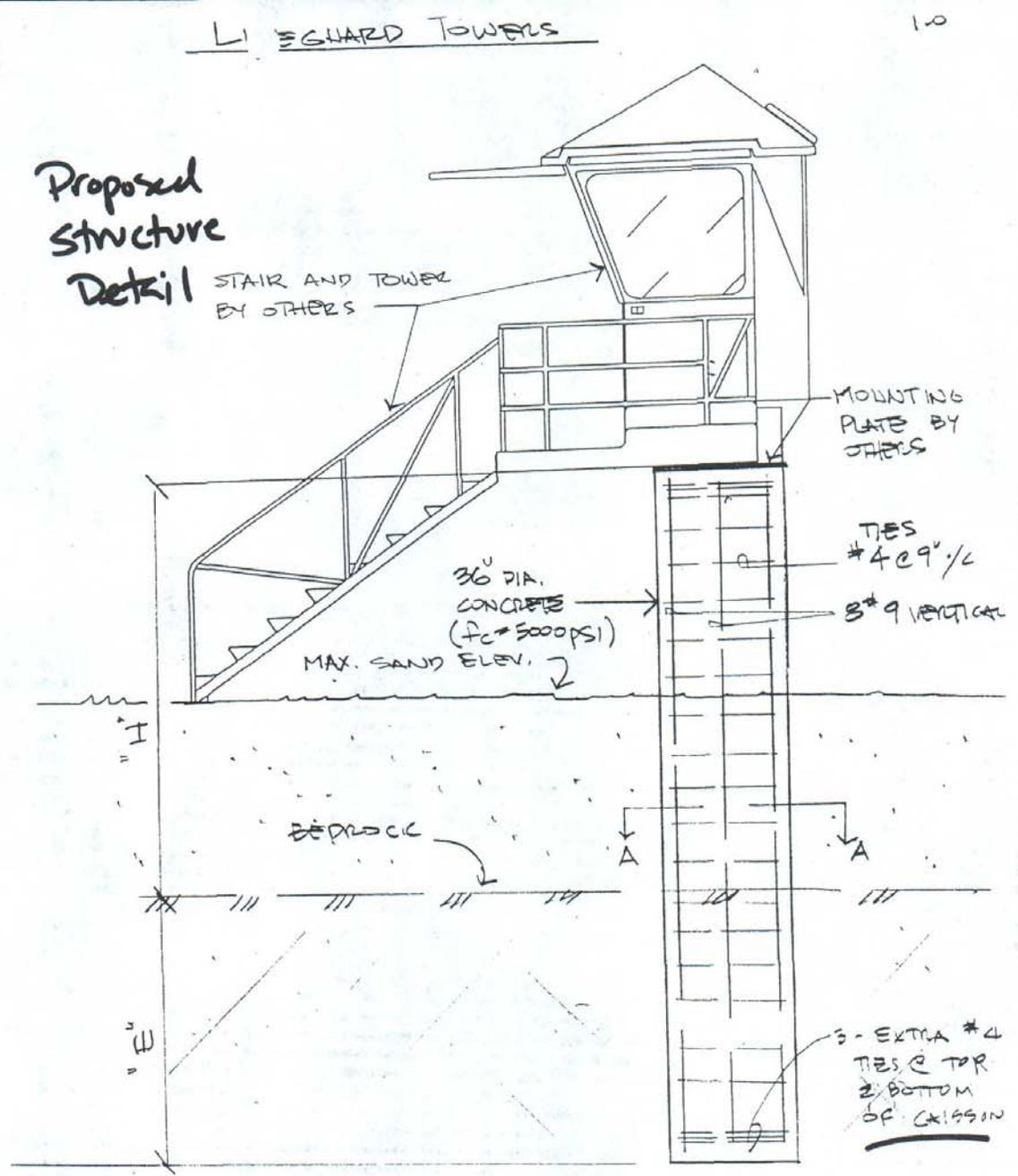
6. Conclusion

There has been little or no factual support supplied by the City that the proposed developments conform to the various policies described above. The scope of development may be limited in this case, but the impacts associated with the development are dramatic. These are highly scenic beaches that receive a lot of use; these approvals have a significant impact on the visual resources and public access available on these beaches. Staff is aware that the City has plans to install numerous permanent lifeguard towers on its beaches. The visual resources, public access, and hazards issues are more than local issues; they are of regional and statewide significance particularly with regard to similarly situated beaches (narrow pocket beaches with high public use) elsewhere in the state.

In conclusion, the proposed projects are not consistent with the policies of the City's certified LCP or the public access and recreation policies of the Coastal Act. Therefore, staff recommends that the Commission find that a substantial issue exists with approved local Coastal Development Permits 06-74, 06-76, 06-77, 06-78, 06-79, 06-80 on the grounds that they raise a substantial issue as to conformity with the City of Laguna Beach certified Local Coastal Program and the public access and recreation policies of the Coastal Act.

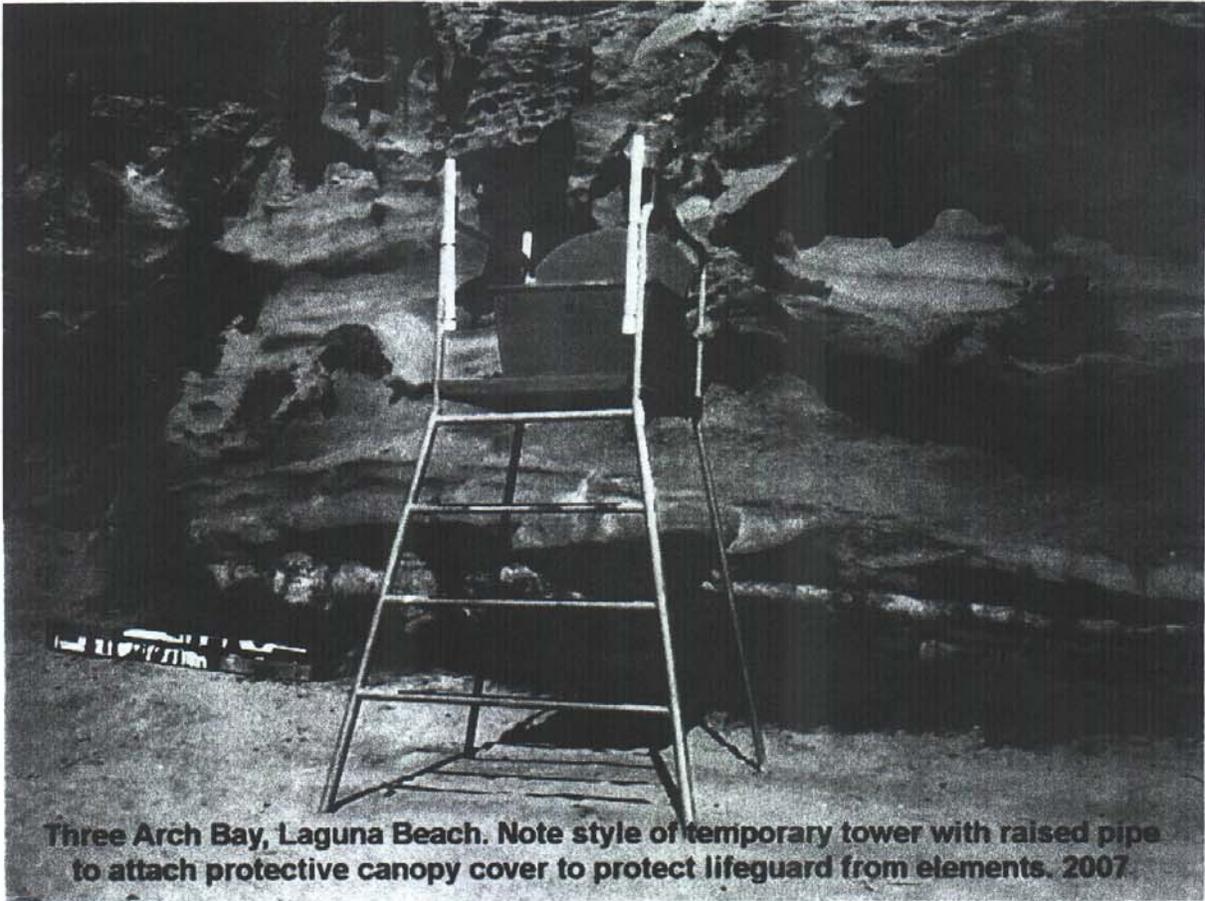






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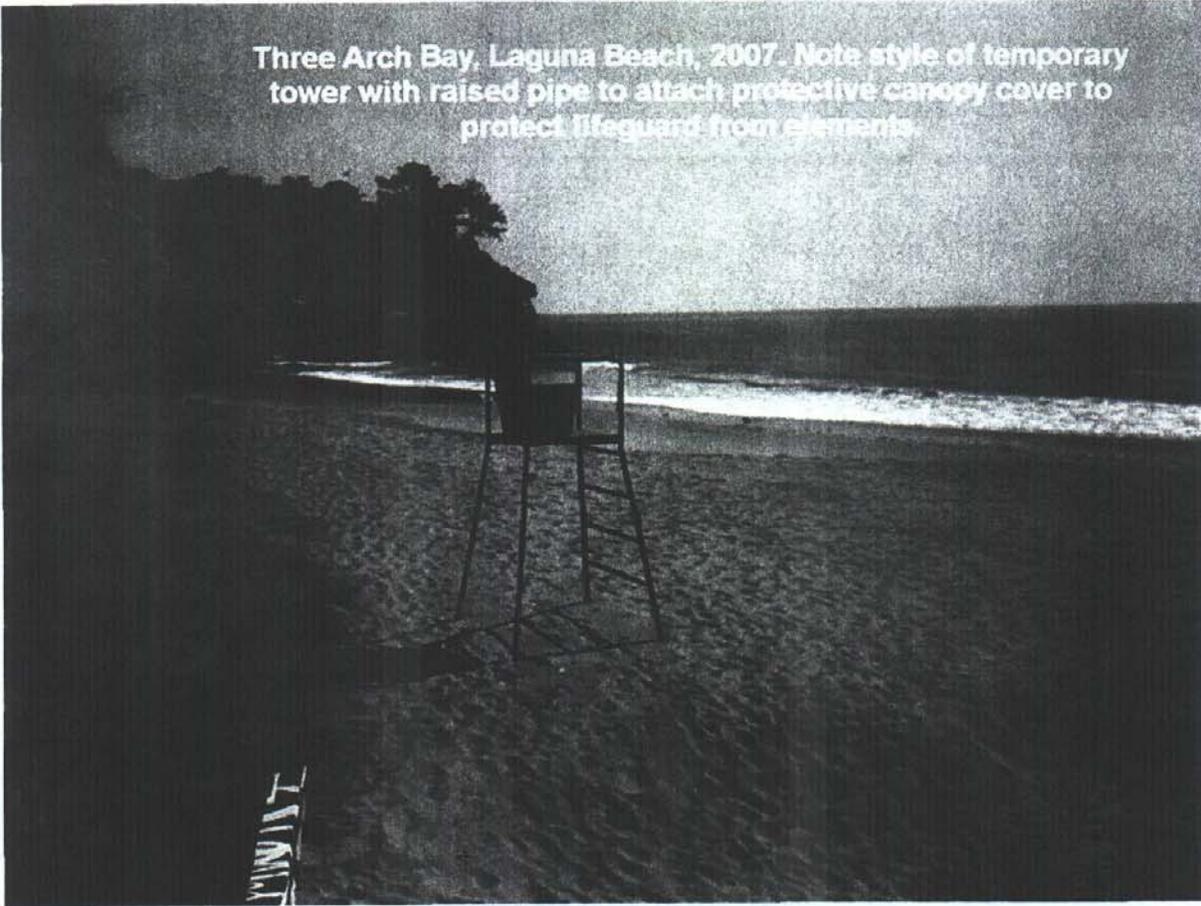
EXHIBIT # 2
PAGE 1 OF 1



Existing temporary tower

COASTAL COMMISSION

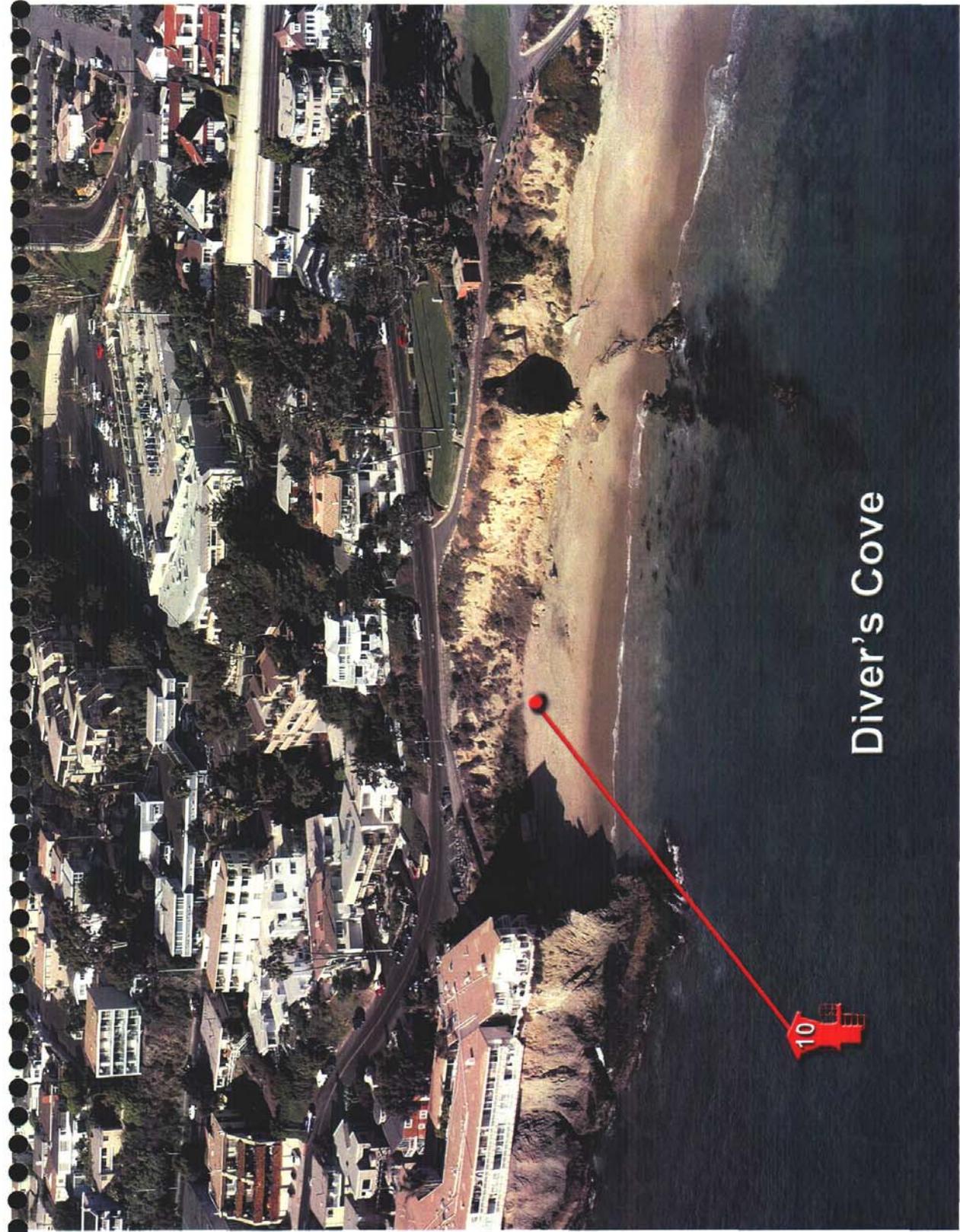
EXHIBIT # 3
PAGE 1 OF 2



Existing temporary tower

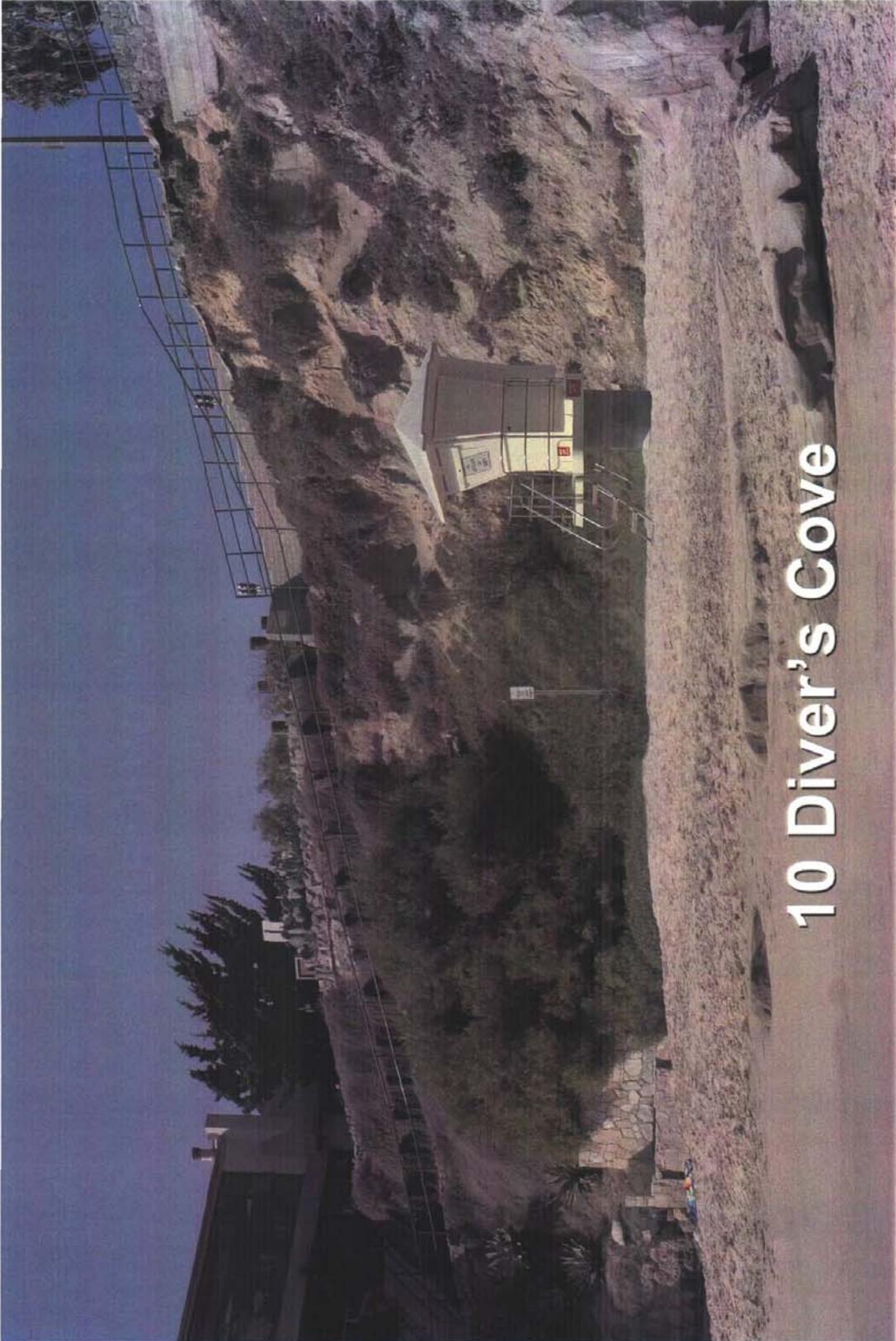
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EXHIBIT # 3
PAGE 2 OF 2



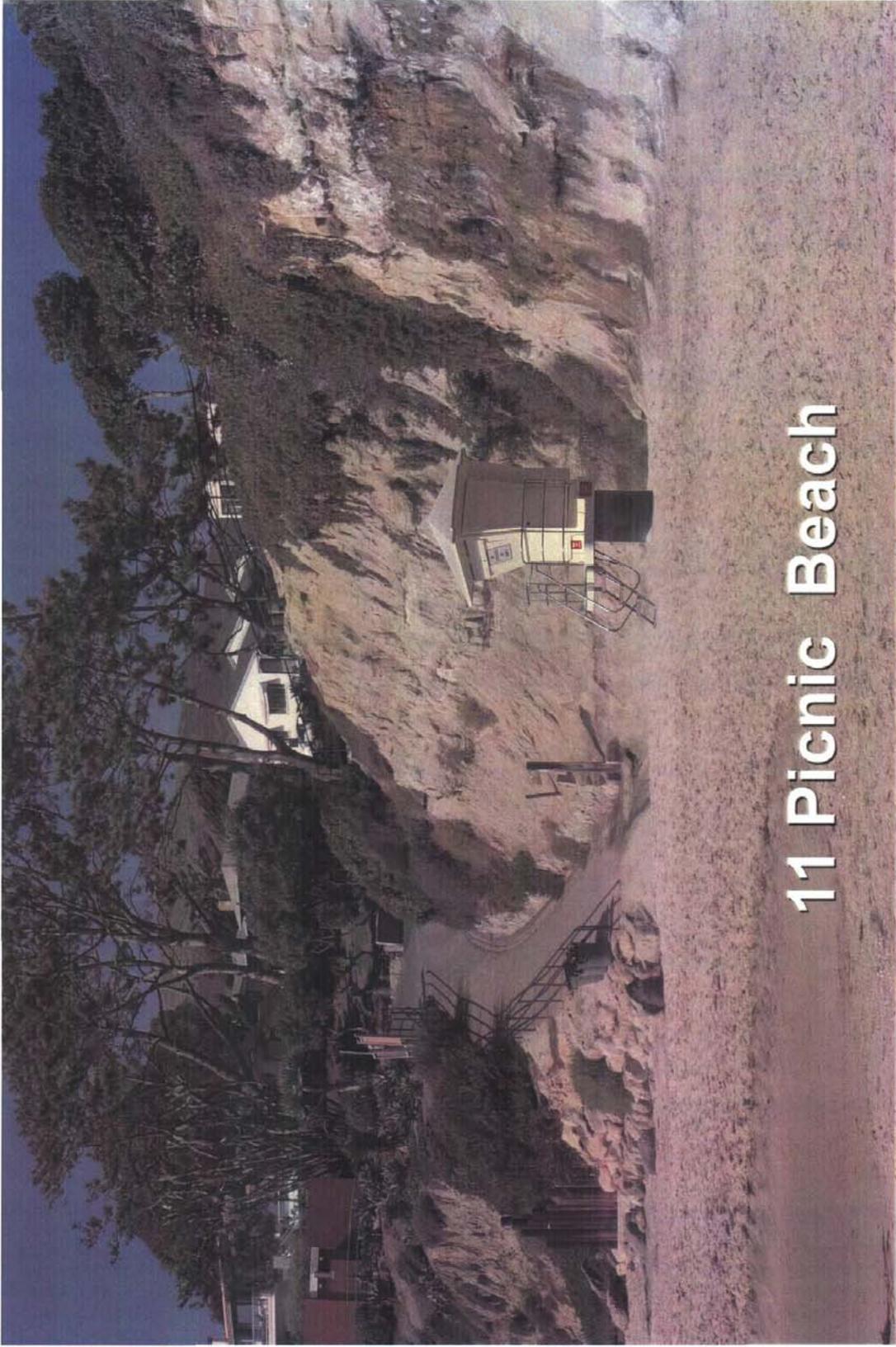
Diver's Cove

10

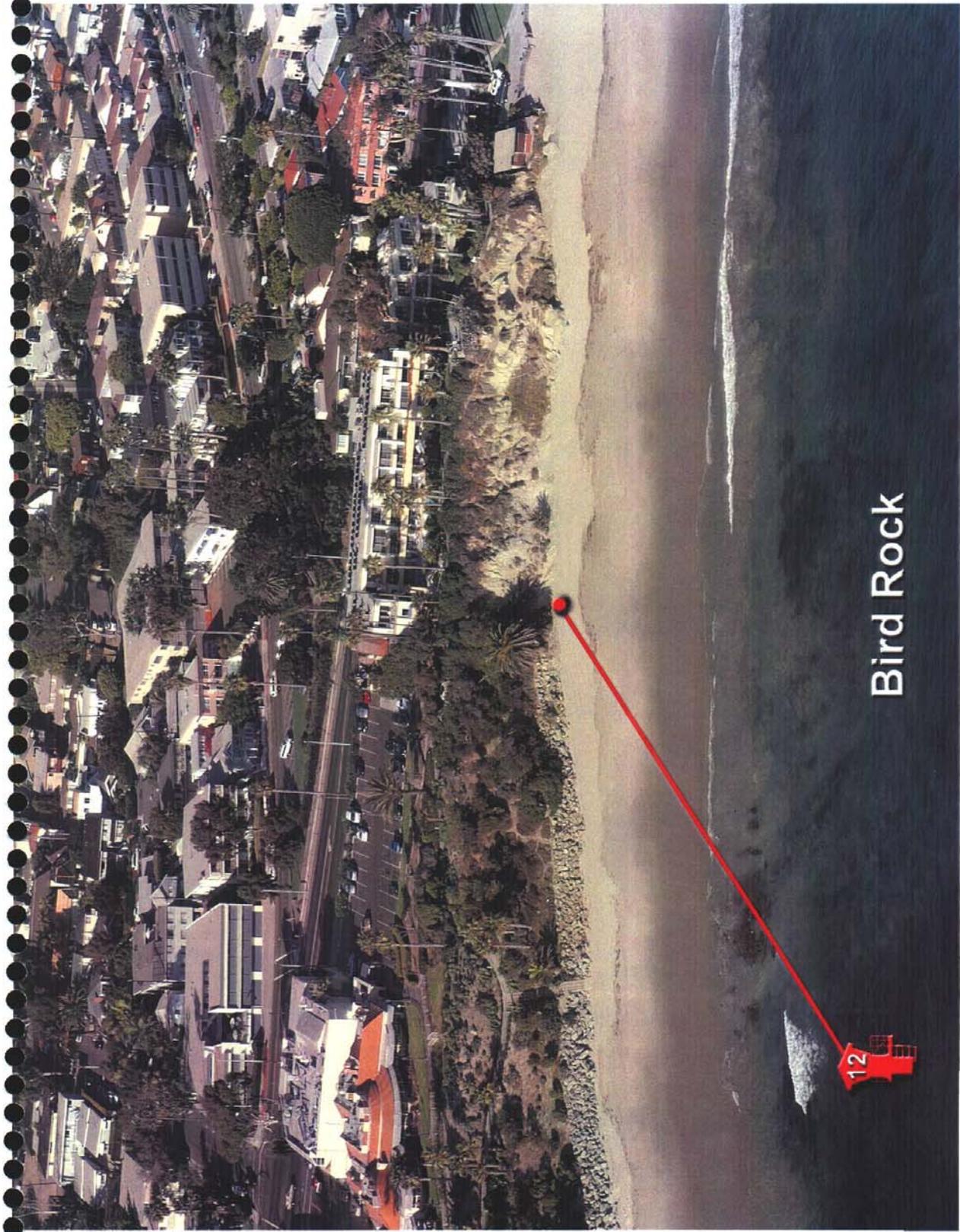


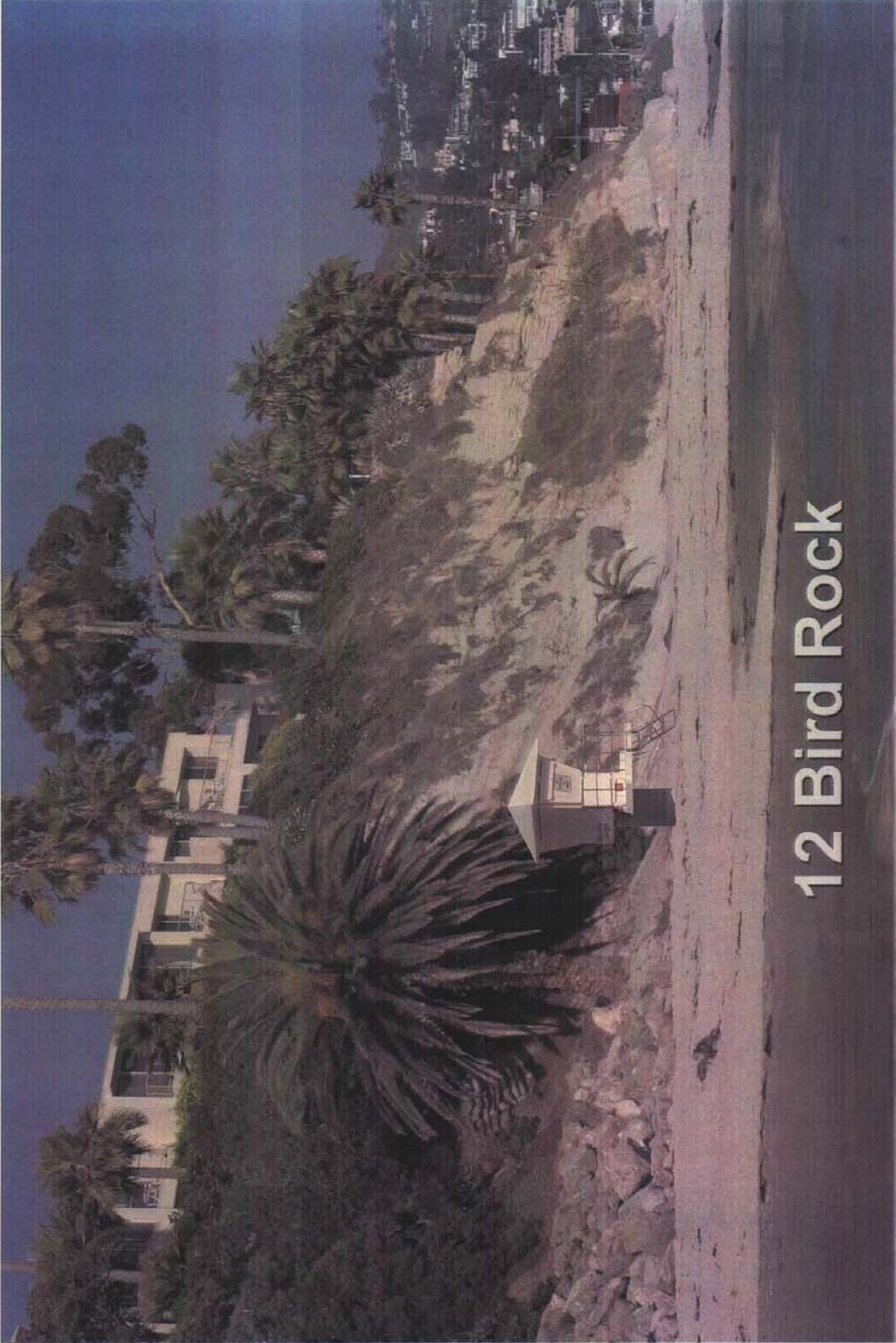
10 Diver's Cove



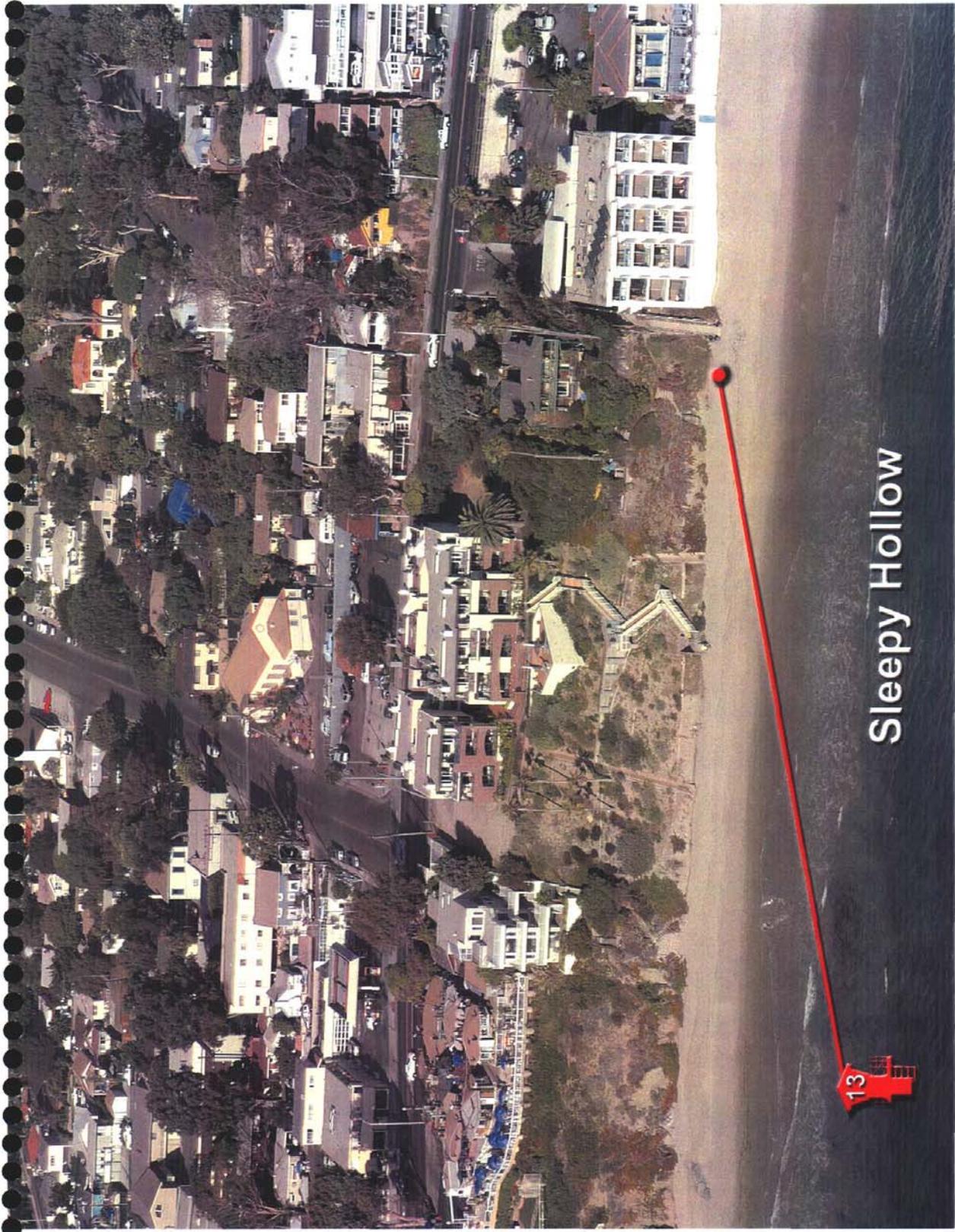


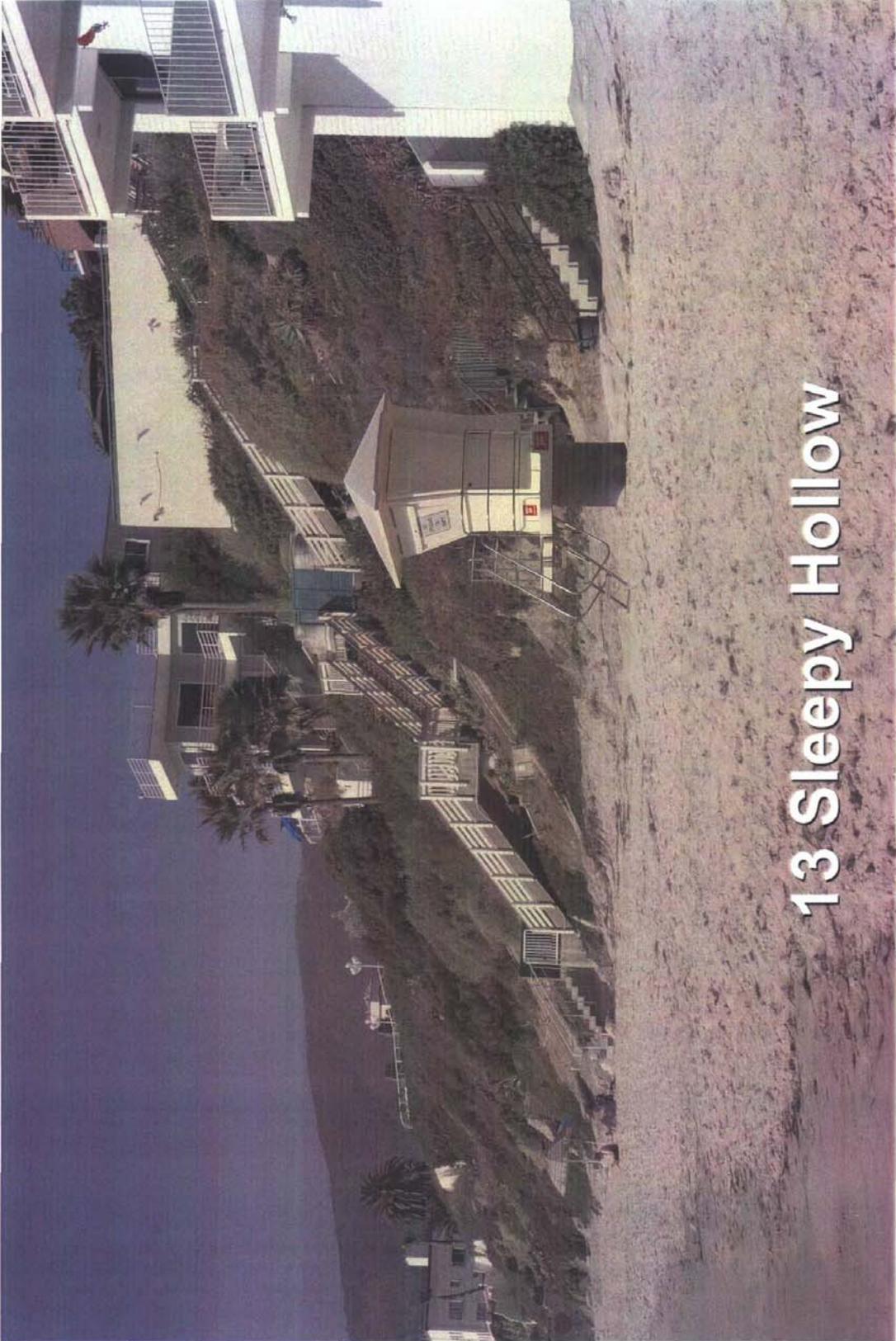
11 Picnic Beach



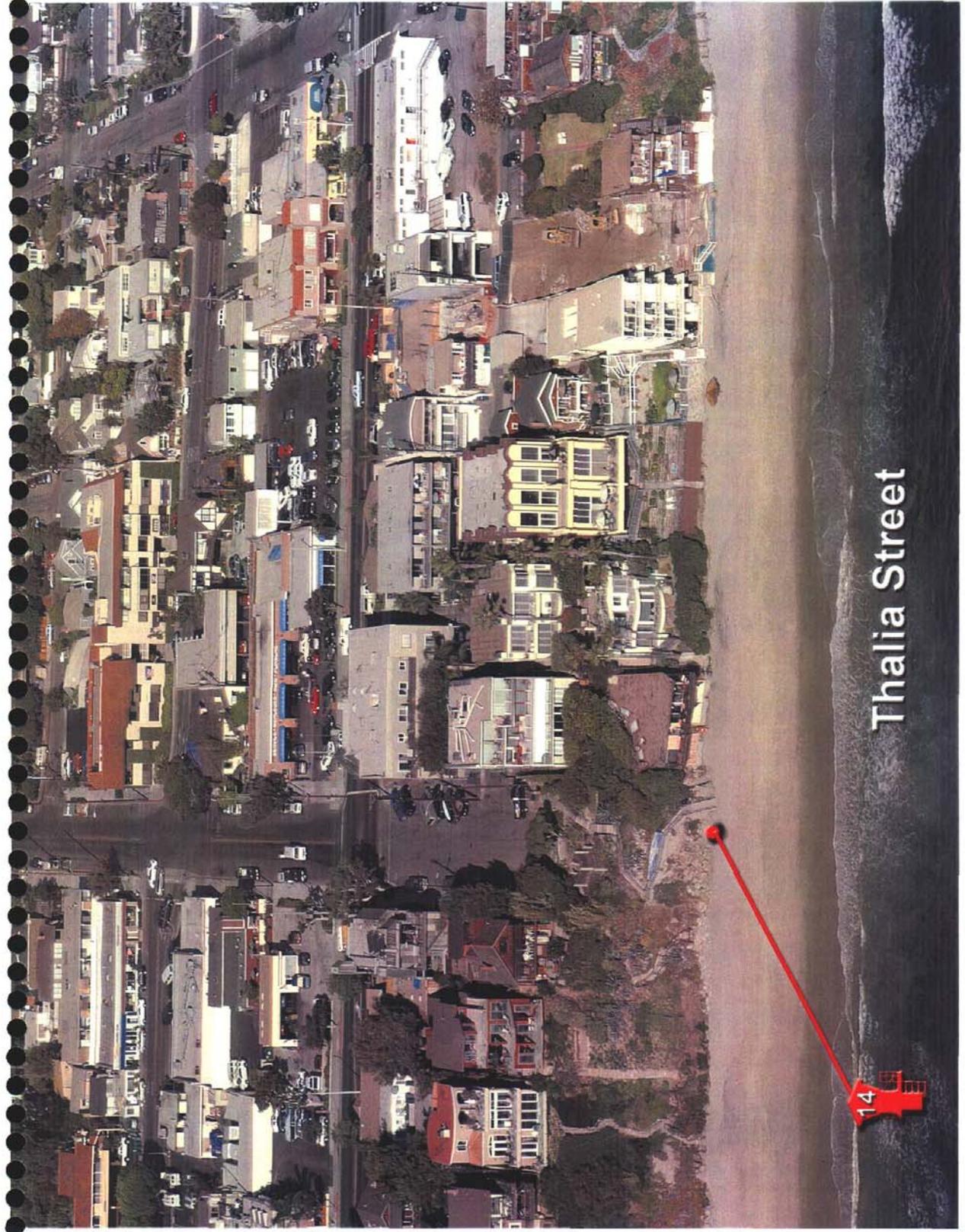


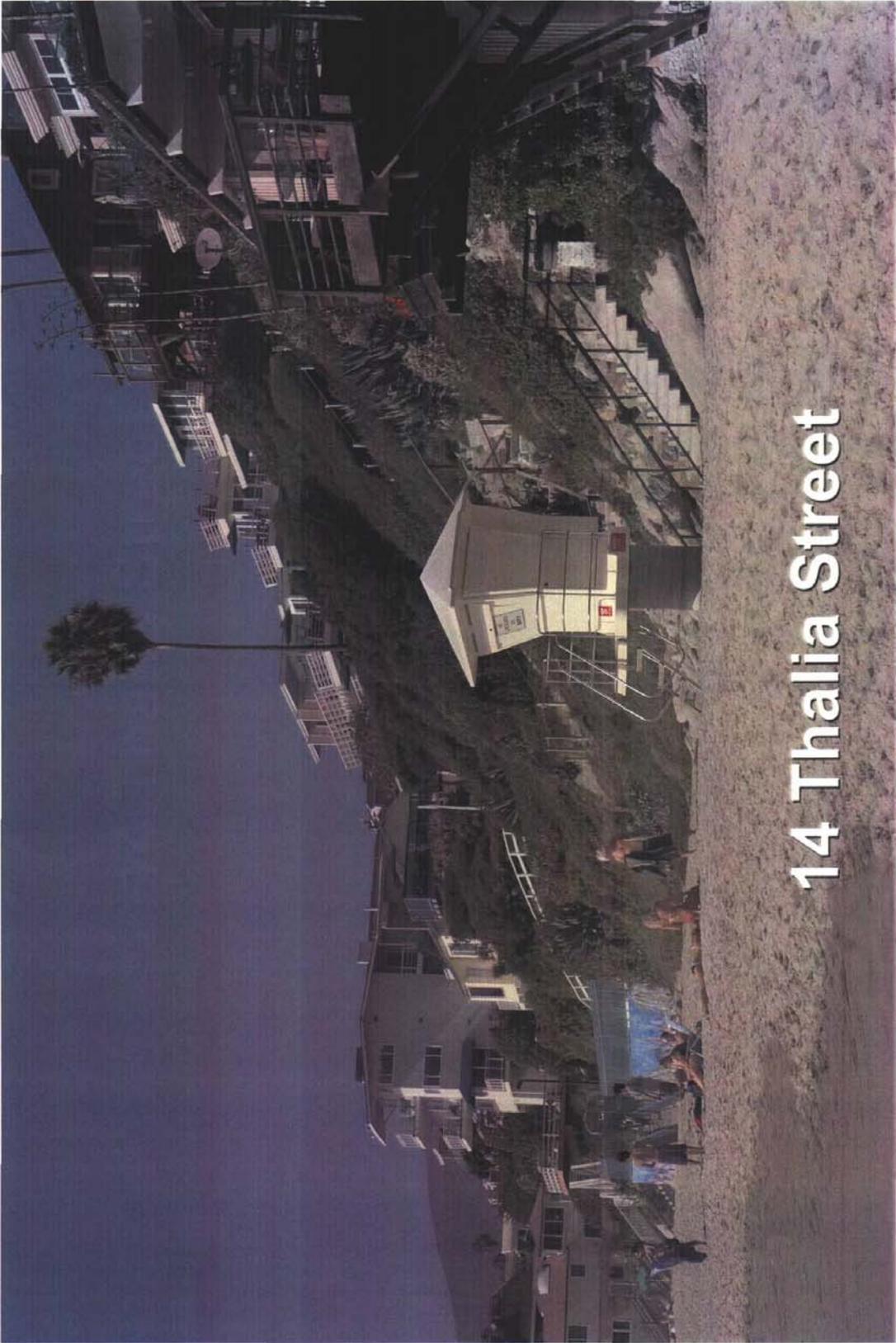
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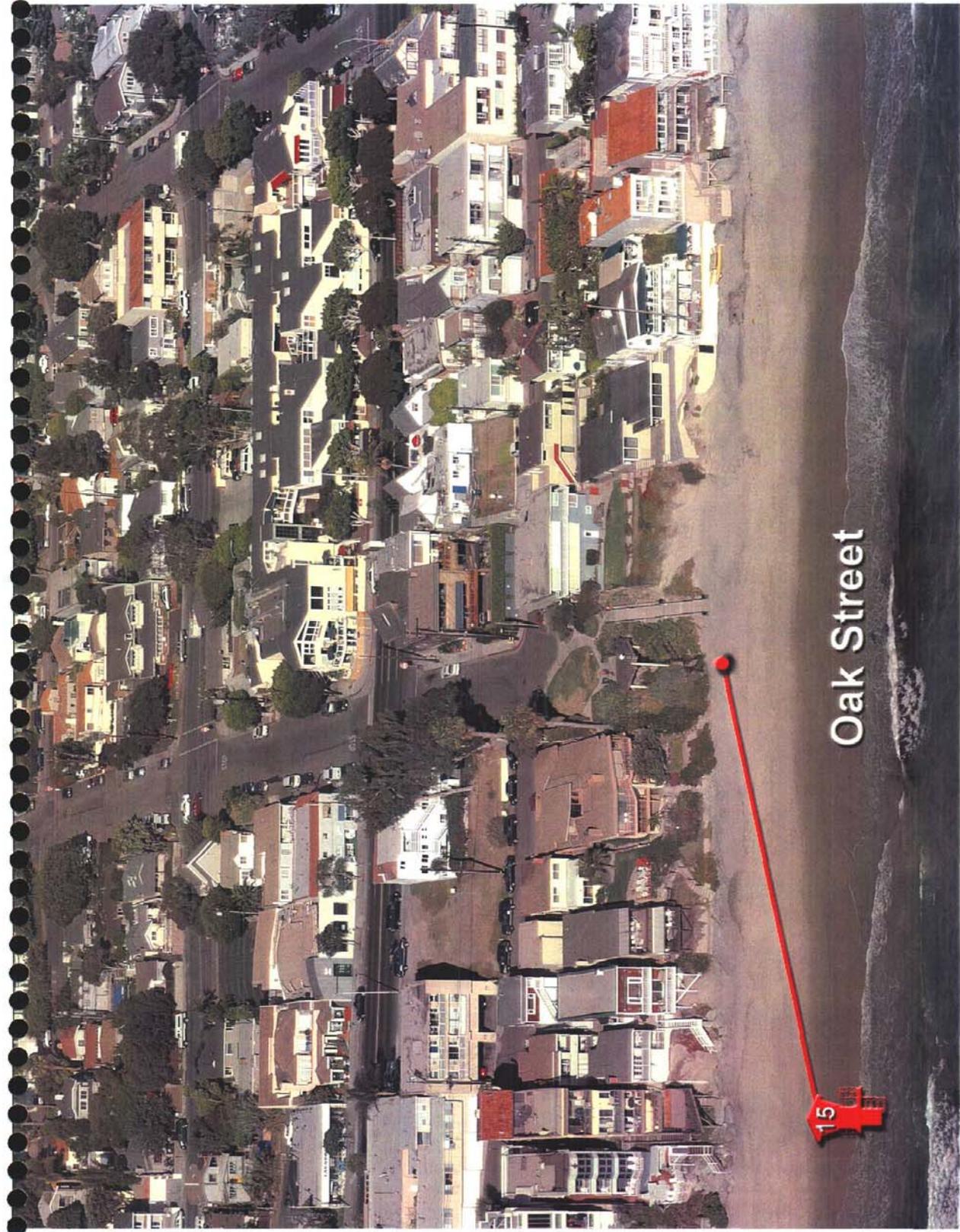


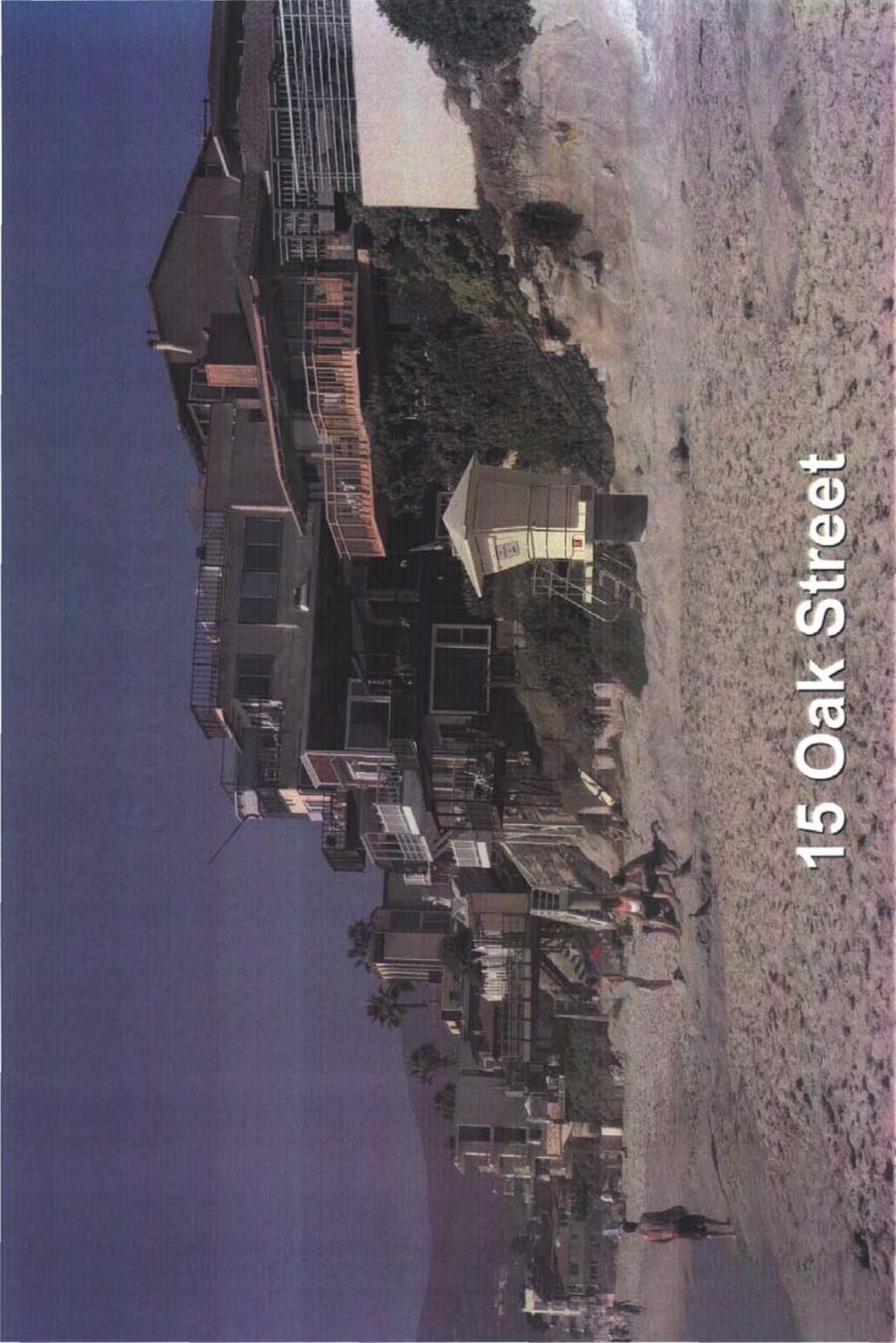
13 Sleepy Hollow



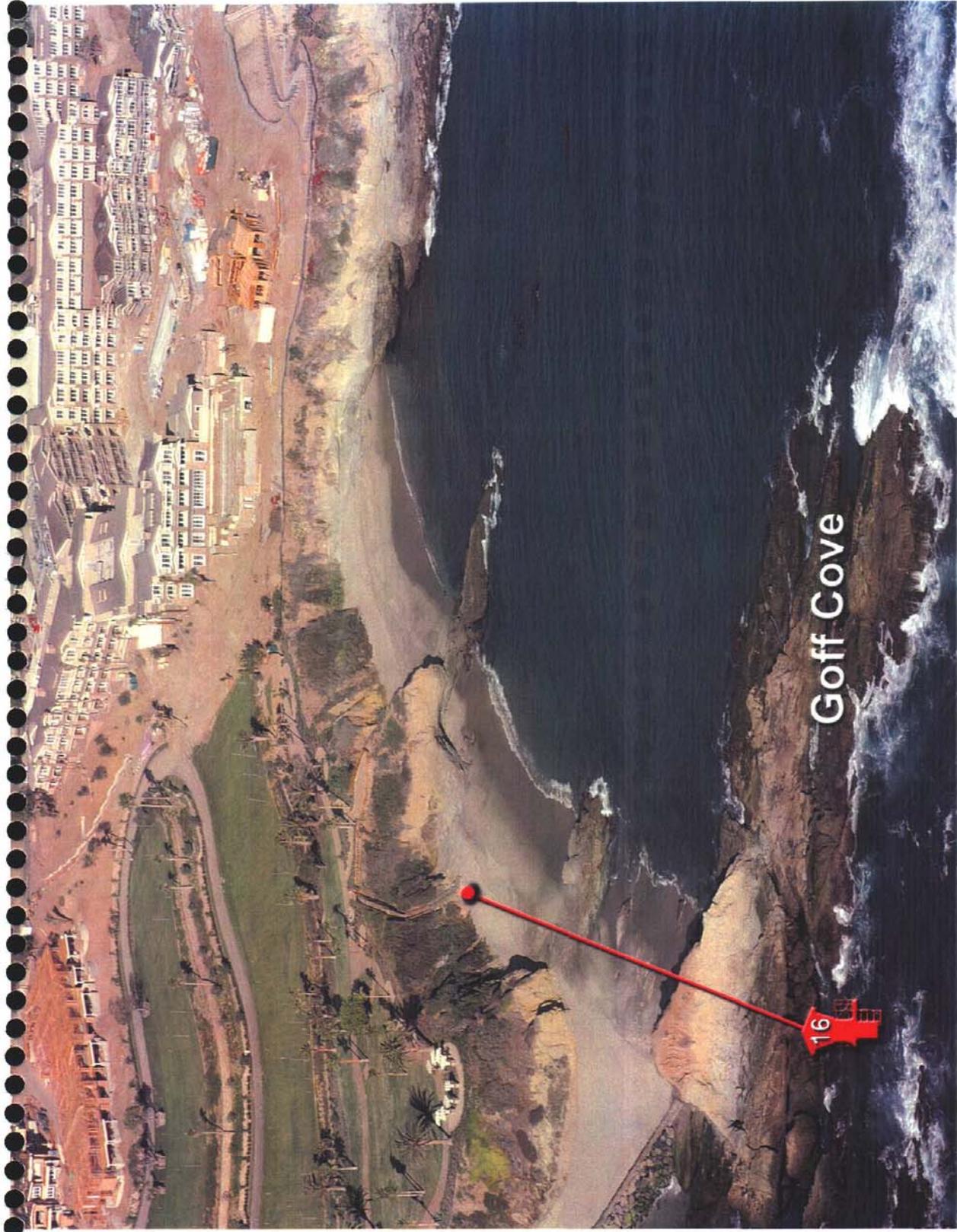


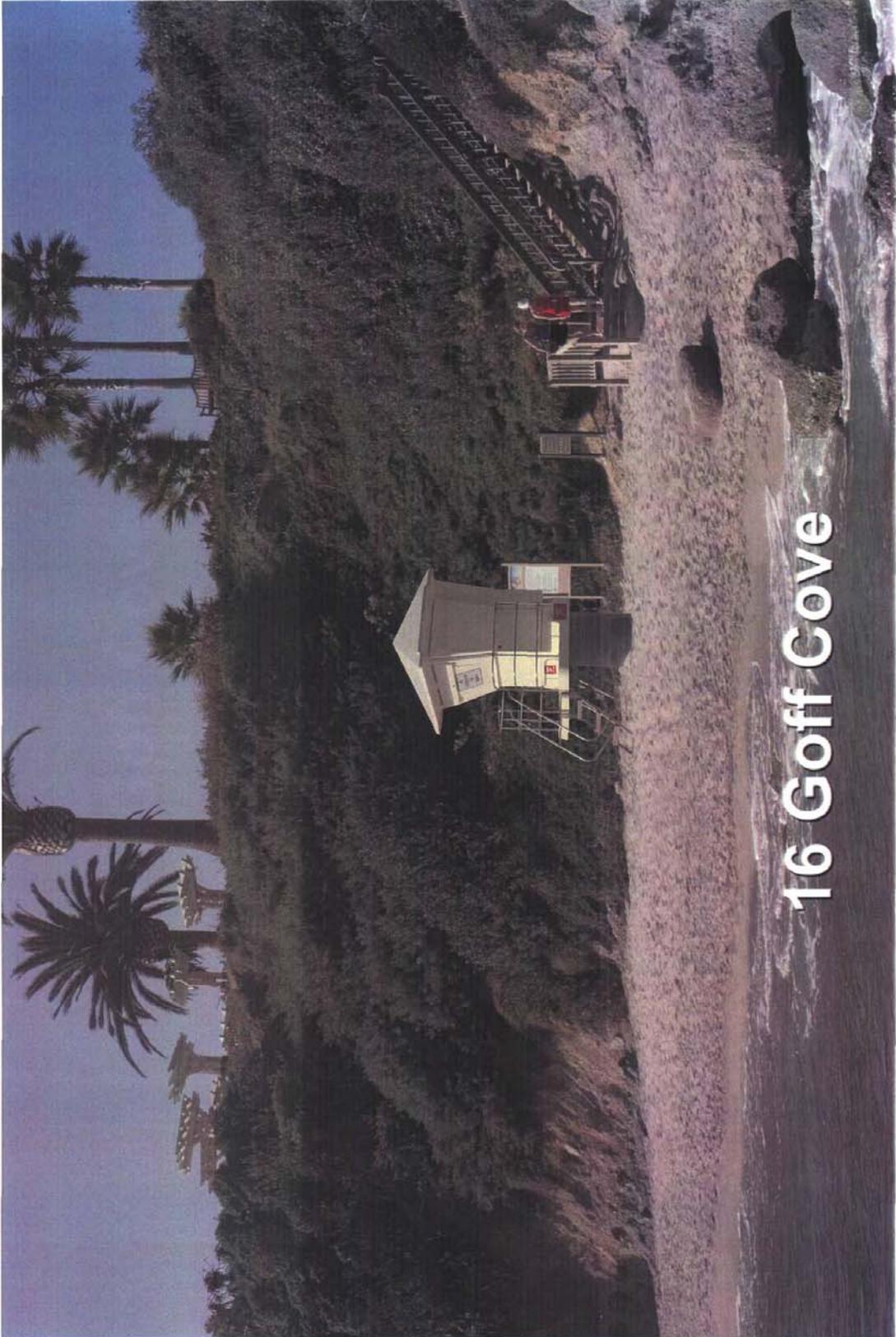
14 Thalia Street





15 Oak Street





16 Goff Cove

CALIFORNIA COASTAL COMMISSION

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



**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

RECEIVED
South Coast Region

MAR 27 2007

CALIFORNIA
COASTAL COMMISSION

SECTION I. Appellant(s)

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

Chairman Patrick Kruer and Commissioner Sara Wan

200 Oceangate, Suite 1000

Long Beach, CA 90802

(562) 590-5071

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach
2. Brief description of development being appealed: Replace 7 temporary, seasonal lifeguard towers on the beach with 7 permanently located towers.
3. Development's location (street address, assessor's parcel no., cross street, etc.): Divers Cove/Picnic Beach, Bird Rock Beach, Sleepy Hollow Beach, Thalia St. Beach, Oak St. Beach, Goff Cove, Laguna Beach, CA.
4. Description of decision being appealed:
 - a. Approval; no special conditions: XX
 - 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: A-5-LGB-07-107, A-5-LGB-07-108, A-5-LGB-07-109, A-5-LGB-07-110, A-5-LGB-07-111, A-5-LGB-07-112

DATE FILED: March 27, 2007

DISTRICT: South Coast

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EXHIBIT # SA
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5. Decision being appealed was made by (check one):
- a. Planning Director/Zoning Administrator: _____
 - b. City Council/Board of Supervisors: _____
 - c. Planning Commission: _____
 - d. Other: XX (Design Review Board) _____
6. Date of local government's decision: January 25, 2006
7. Local government's file number: CDP 06-74, 06-76, 06-77, 06-78, 06-79, 06-80

SECTION III. Identification of Other Interested Persons

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

1. Name and mailing address of permit applicant:

Department of Marine Safety
City of Laguna Beach
505 Forest Ave.
Laguna Beach, CA 92651

2. 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.

- a. Craig de Pfyffer
P.O. Box 247
Laguna Beach, CA 92652
- b. George Heed
631 Cliff Drive #B1
Laguna Beach, CA 92651
- c. Charlotte Masarik
761 Oak Street
Laguna Beach, CA 92651

COASTAL COMMISSION

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- d. Sandra Siani
230 San Joaquin St.
Laguna Beach, CA 92651
- e. Penny Elia
30632 Marilyn Drive
Laguna Beach, CA 92651

SECTION IV. Reasons Supporting This Appeal

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

The standard of review for this appeal is the public access and recreation policies of the Coastal Act and the policies of the City of Laguna Beach's certified Local Coastal Program (LCP).

The projects approved by the local coastal development permits *do not conform to* the requirements of the certified LCP in regards to the following issues:

Visual Impacts

The City is proposing to place 7 permanent lifeguard towers on several small beaches throughout the City. These larger, permanent towers would replace smaller, temporary lifeguard towers, which are only on the beach during the summer months. This would create a year-round impact to public views to and along these beaches as the new permanent structures are more intrusive and the temporary structures are less intrusive. Although it could be argued that the approved structures are for 'public health and safety' (see policy 1.E. below), there has been no demonstration that permanent structures, like those authorized, are in fact necessary for public health and safety - alternative, less permanent structures need to be considered that would achieve necessary public health and safety requirements.

The projects approved by the local coastal developments permit are inconsistent with the following LCP policies from the Open Space and Conservation Element:

Open Space/Conservation Element Policy 1E: Prohibit the construction of

COASTAL COMMISSION

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buildings and other man-made structures on the sandy portion of the beach unless necessary for public health and safety.

Open Space/Conservation Element Policy 7A: Preserve to the maximum extent feasible the quality of public views from the hillsides and along the City's shoreline.

Hazards

As mentioned previously, these permanent lifeguard towers would be located on the sandy beaches. Each tower would be supported by a single caisson, which would be embedded into bedrock. Based on information available, it appears the City has not prepared a wave uprush study prepared by an appropriately licensed professional (normally a licensed civil or geotechnical engineer with expertise in coastal processes) to address potential hazards to the proposed structures. The analysis would cover whether the site and the proposed development could be subject to erosion, wave attack or wave run-up, the frequency of occurrence, consequences and options for siting or designing the project to avoid or minimize impacts over the life of the structure. Therefore, it has not been determined whether or not these permanent structures would need protective devices at some point over the life of the structures.

The projects approved by the local coastal development permit do not conform to the following LCP policies:

Open Space/Conservation Element Policy 1.5H: Construction and grading activities on the beach shall be staged and phased to minimize interference with public use.

Open Space/Conservation Element Policy 1.5K: The visual impact of a protective device should be minimized if the structure is sited next to or at the seacliff. As the structure encroaches onto the beach, the visual impact will increase accordingly, thereby suggesting nontechnical as well as technical reasons for reducing the encroachment.

Open Space/Conservation Element Policy 1.5N: Any proposed protection scheme must be accompanied by an assessment as to whether it can serve its intended purpose without detriment to adjoining properties or the sandy beach.

Open Space/Conservation Element Policy 1.5Q: Any development application for shoreline construction shall be reviewed with respect to the criteria contained in the Guidelines for Shoreline Protection, including the effects of beach encroachment, wave reflection, reduction in seacliff sand contribution, end effects and aesthetic criteria.

COASTAL COMMISSION

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Habitat

The permanent lifeguard towers would be located on the sandy beach, which the Commission generally considers to be sensitive habitat and in some cases Environmentally Sensitive Habitat Areas (ESHA). Based on information available, there is no indication the City prepared a site-specific/project-specific biological survey to determine whether sensitive habitats/species would be adversely impacted by the proposed project, including both construction and operation of the lifeguard towers. Furthermore, no conditions were imposed to address avoidance of impacts.

The projects approved by the local coastal development permit do not conform to the following LCP policies:

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

Open Space/Conservation Element Policy 8J: Detailed biological assessments shall be required for all new development proposals located within areas designated as Environmentally Sensitive Areas on the Coastal ESA Map. To protect these resources, the following shall be required:

1. No new development proposals shall be located in areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map except for uses dependent upon such resources.
2. When new development proposals are situated in areas adjacent to areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map and where these are confirmed by subsequent on-site assessment, require that development be designed and sited to prevent impacts which would significantly degrade such areas.

Public Access and Recreation

Installing permanent lifeguard towers in place of temporary lifeguard towers would impact lateral public access and recreation on these beaches.

The projects approved by the local coastal development permit do not conform to the following LCP policies:

Open Space/Conservation Element Policy 3A: Retain and improve existing public beach accessways in the City, and protect and enhance the public rights to use the dry sand beaches of the City.

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Open Space/Conservation Element Policy 3H: In providing for legal public access, the City shall seek to protect the health and safety of residents and property owners consistent with Sections 3021 1 and 30213 of the Coastal Act.

The projects approved by the local coastal development permit do not conform to the requirements of the public access and recreation policies of the Coastal Act in regards to the following issues:

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 30213 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

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.

COASTAL COMMISSION

EXHIBIT # SA
PAGE 6 OF 9

SECTION V. Certification

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

Signature of Appellant(s) or Authorized Agent Date

COASTAL COMMISSION

EXHIBIT # SA
PAGE 7 OF 9

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 8

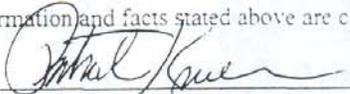
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

RECEIVED
South Coast Region
MAR 27 2007
CALIFORNIA
COASTAL COMMISSION

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

SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: 3/27/07

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

Signed: _____

Date: _____

(Document 2)

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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.)

RECEIVED
South Coast Region
MAR 27 2007
CALIFORNIA
COASTAL COMMISSION

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

SECTION V. Certification

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

Signed: *Laura Alvar*
Appellant or Agent

Date: 3/27/07

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

Signed: _____

Date: _____

(Document 2)

COASTAL COMMISSION

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PAGE 9 OF 9

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4410
VOICE (562) 590-5071 FAX (562) 591-5084



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Sandra Siani

Mailing Address: 230 San Joaquin St.

City: Laguna Beach

Zip Code: 92651

Phone: 949-500-7

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MAR 26 2007

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COASTAL COMMISSION

SECTION II. Decision Being Appealed

1. Name of local/port government:

Laguna Beach Board of Adjustment/Design Review Board

2. Brief description of development being appealed:

Installation of permanent lifeguard towers on seven beaches/coves, some of which are very fragile in nature with respect to proximity to MHTL, tidepools/intertidal life and native habitat.

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

Divers Cove & Picnic Beach (Myrtle Street), Bird Rock Beach, Sleepy Hollow Beach, Thalia Street Beach, Oak Street Beach, Goff Cove at Treasure Island Beach

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

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

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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.

COASTAL COMMISSION	
APPEAL NO.	05-LGB-07-107, 108, 109, 110, 111 & 112
DATE FILED	3.26.07
DISTRICT	South Coast / Long Beach

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

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

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: January 25, 2007

7. Local government's file number (if any): CDP 06-74, 76, 77, 78, 79, 80

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:

City of Laguna Beach
Board of Adjustment/Design Review Board
505 Forest Ave.
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) Craig de Pfyffer
P.O. Box 247
Laguna Beach, CA 92652

(2) George Heed
631 Cliff Drive #B1
Laguna Beach, CA 92651

(3) Charlotte Masarik
761 Oak Street
Laguna Beach, CA 92651

(4) Penny Elia
30632 Marilyn Drive
Laguna Beach, CA 92651

PLEASE SEE ATTACHED PETITIONS AND LETTERS FROM OVER 450 RESIDENTS IN LAGUNA BEACH

COASTAL COMMISSION

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

This appeal stems from a January 25, 2007 action by the City of Laguna Beach approving six related coastal development permits for the construction of permanent lifeguard structures on the public beach. This timely appeal is brought pursuant to Public Resources Code §30603(a)(1). The standard of review for this appeal as set forth in Public Resources Code §30603(b)(1) is both the public access provisions of the Coastal Act (Public Resources Code §30210-30214) and the City of Laguna Beach certified Local Coastal Program "LCP" (certified January 13, 1993 and amended July 20, 2004).

The project under appeal violates several provisions of the certified LCP including: 1) maximizing public views of the Pacific Ocean; 2) proper environmental mitigation including limiting development on the sandy beach; and 3) maintaining and protecting wildlife habitat. The Laguna Beach LCP also include Chapter 25 (Zoning Ordinance) of the Laguna Beach Municipal Code wherein the project applicants failed to: 4) provide required early neighbor communications; 5) providing required visual staking; and 6) providing required public notice of the Design Review Hearing. Furthermore, the Commission has a right to original jurisdiction under Public Resources Code §30519(b) due to the project's location on public trust tidal lands. An analysis Pursuant to Chapter 3 of the Coastal Act fails due to failure to protect biological and visual resources.

1. The proposed project results in unnecessary, avoidable and significant visual impacts.

Land Use Element Policy 12-B Require building design which is compatible to and integrated with natural topographic features and preserve public views on the ocean and horizon by maintaining the low profile character of structures seaward of Pacific Coast Highway.

Land Use Element Policy 12-C Require the use of landscaping, special architectural treatments and siting consideration for projects visible from major highways and arterial streets.

Land Use Element Policy 12-G Future land use planning shall be compatible with the goal of providing visual access. As a consequence, all new 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 location (i.e. roads, bluff top trails, visitor-serving facilities, etc.)

Open Space / Conservation Element Policy 7A Preserve to the maximum extent feasible the quality of public views from the hillsides and along the City's shoreline

Open Space / Conservation Element Policy 7M New development along Pacific Coast Highway shall preserve existing views where feasible and, where topography allows, new development shall be terraced below the grade of Pacific Coast Highway.

The proposed project seeks to replace unobtrusive yet adequate seasonal lifeguard facilities with permanent structures. The applicant has failed to design the towers to limit the visibility to the

COASTAL COMMISSION
EXHIBIT # 5B
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the visual interruption of ocean views. The applicant has ignored the obvious alternative of seasonal towers, which create visual interruption only when in place during the summer months. The applicant has not proposed to increase off-peak season lifeguard coverage but rather to place permanent structures on the sandy beach for seasonal use. The applicant has undergone no siting analysis to find the locations with the least visual impacts and has ignored public requests for less visually obtrusive alternatives.

2. The proposed project fails to provide adequate environmental analysis to protect the Sandy Beach.

Open Space / Conservation Element Policy 1E Prohibit the construction of buildings and other man-made structures on the sandy portion of the beach unless for the public health and safety.

The applicant has failed to establish evidence that the proposed project is necessary for public health and safety. In fact the evidence in record shows that the proposed structures will be located near where seasonal structures are located each year, without placing permanent cement footings in the sand and without the wintertime visual disturbance. A project that is more intrusive than an existing alternative to accomplish the same public health and safety goals is not a necessary project.

3. The proposed project fails to protect critical habitat and wildlife.

Open Space / Conservation Element Policy 2D As part of the City's resource management program, include provisions for monitoring of tidepools to ensure a proper balance between public beach access and the preservation of marine resources.

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

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

Open Space / Conservation Element Policy 8O Preserve and protect fish and/or wildlife species for future generations.

The proposed structures are located near critical tide pools. This is of concerns for construction and operational impacts on fish and wildlife living in the tide pools. Lifeguard vehicles currently drive on and near tide pools creating significant habitat destruction during the summer months.

4. The proposed project failed to provide required early neighbor communication.

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

In fact the applicant, the City of Laguna Beach, did not follow its own code. It did not provide early notification to adjacent property owners, nor did it provide early notice to individuals who previously expressed interest and requested notice of beach development projects.

5. The proposed project failed to provide required visual staking.

Municipal Code Section 25.05.040(C)(2) Staking Requirements (a) A staking shall be provided as specified on the most current zoning and design review submittal checklist. Staking poles and

connecting ribbons, which accurately represent the full extend of the proposed structure, including decks and eaves, shall be constructed at least twenty-eight calendar days prior to the first public hearing. ...

Again the applicant, the City of Laguna Beach, did not follow its own code. Staking was never performed for the proposed project. No variance from the staking plan was issued. The applicant simply asserted that the requirement was impractical, a claim not supported by any study or evidence in the record.

6. The proposed project failed to provide required public notice.

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

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

Yet again the applicant, the City of Laguna Beach, did not follow its own code. Persons who expressed requested notice of the coastal development permit application did not receive such notice.

7. The proposed project does not have any engineering plans or studies available for review or previous meeting minutes.

Following multiple visits to City Hall and requesting ALL available files on past and proposed lifeguard towers, the City has not been able to produce any engineering plans or studies for review by the public. Furthermore, there did not appear to be any past meeting minutes in the files for towers already approved by the Laguna Beach Design Review Board and City Council.

8. The proposed project would set unwanted precedent

Based upon a review of many cities up and down the California coast, there is no evidence that permanent concrete based lifeguard towers are located anywhere else in the state. Laguna Beach would be setting an unwanted precedent with the placement of over 25 permanent towers with concrete bases.

9. The proposed project has not taken appropriate construction BMPs or water quality issues into account based upon a review of available files at Laguna Beach City Hall. The following recommendations are submitted for staff review and consideration:

Storage and Staging Areas/Access Corridors

- a) No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces.
- b) Access corridors shall be located in a manner that has the least impact on public access
- c) No work shall occur on the beach between Memorial Day weekend and Labor Day of any year.
- d) The applicant shall submit evidence that the approved plans/notes have been approved by the

COASTAL COMMISSION

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construction bid documents. The staging site shall be removed and or restored immediately following completion of the development.

e) The applicant has indicated that very large cranes will be utilized to install these towers. How will this impact the (1) biological resources (2) public access (3) public views?

Protection of Water Quality - During Construction

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

A. Said plan shall include the following requirements:

(i) No construction materials, debris, or waste shall be placed or stored in a manner where it may be subject to wave, wind, rain, or tidal erosion and dispersion.

(ii) Any and all refuse and debris resulting from construction and demolition activities shall be removed from the project site within 72 hours of completion of demolition and construction. Construction and demolition debris and sediment shall be removed from or contained and secured within work areas each day that construction or demolition occurs to prevent the accumulation of sediment and other debris that could be discharged into coastal waters. All demolition/ construction debris and other waste materials removed from the project site shall be disposed of or recycled in compliance with all local, state and federal regulations. No debris or other waste materials shall be placed in coastal waters or be allowed to move into coastal waters. If a disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

(iv) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction and demolition activities. BMPs shall include, but are not limited to:

placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and Pacific Ocean

(v) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and kept as far away from a storm drain inlet and receiving waters as possible.

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

(i) Develop and implement spill prevention and control measures and ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The fueling and maintenance area shall be located as far away from the receiving waters and storm drain inlets as possible and shall not be located on the beach if at all possible. If fueling or maintenance is proposed to be on the beach then the applicant shall submit a plan showing how there is essentially no possibility of contaminating beach materials through those operations.

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

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

(iv) Provide and maintain temporary sediment basins (including debris basins, fueling basins or silt

COASTAL COMMISSION

EXHIBIT # 5B
PAGE 6 OF 9

traps), temporary drains and swales, sand bag barriers, wind barriers such as solid board fence or hay bales, and silt fencing.

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

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

Again, these proposed towers are on public beaches in a location where the Commission retains original permit jurisdiction. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City's certified LCP used as guidance.

Seawall/Shoreline Protective Devices/Hazards. Sections 30235 and 30253 of the Coastal Act are applicable to the subject project and state the following, in part:

Section 30235

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30253

New development shall:

- (l) Minimize risks to life and property in areas of high geologic, flood, and fire hazard:...

In addition, Section 30255 of the Coastal Act states the following:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

The new towers raise potential conflicts with the shoreline protection policies of the Coastal Act.

4. Public Views. Section 30251 of the Coastal Act is applicable to the subject project and states, in part: 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 to and 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....

Section 30231

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

COASTAL COMMISSION

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Section 30232

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

Sections 30230, 30231 and 30232 of the Coastal Act require that marine resources be maintained, enhanced, and restored in a manner that will sustain the biological productivity of all species of marine organisms in coastal waters, and that the biological productivity and water quality of coastal waters be maintained and restored by controlling polluted runoff. These lifeguard towers will be located directly on the beach and near several Marine Life Refuge Areas.

Consistency with the California Environmental Quality Act (CEQA).

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

In conclusion, we request that the Coastal Commission not only review this appeal and address the issues contained herein, but also address the ongoing situation of lifeguards driving their heavy vehicles in, on and around tidepools and in the very fragile intertidal zones located all along the Laguna Beach coastline. Possible discussion of lifeguards playing a role in helping protect our coastal resources and supporting the one marine life protection officer currently burdened with the protection of all of Laguna's beaches.

COASTAL COMMISSION

EXHIBIT # 5B
PAGE 8 OF 9

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

SECTION V. Certification

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

Standa S. Piani
Signature of Appellant(s) or Authorized Agent

Date: March 26, 2007

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

COASTAL COMMISSION

EXHIBIT # 5B
PAGE 9 OF 9