

CALIFORNIA COASTAL COMMISSION

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

**Th12b**

September 25, 2008

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director, Orange/San Diego County
Teresa Henry, District Manager, South Coast District
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area

SUBJECT: Major Amendment Request No. 2-08A (a resubmittal of a portion of Major Amendment Request No. 2-06) to the City of Laguna Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the October 15-17, 2008 meeting in Ventura).

SUMMARY AND BACKGROUND OF LCP AMENDMENT REQUEST NO. 2-08A

Request by the City of Laguna Beach (Exhibit # 2) to amend the Implementation Plan (IP) portion of the Local Coastal Program (LCP) by incorporating the changes contained in City of Laguna Beach Ordinance No. 1487 (see Exhibit #3). The changes proposed under LCPA 2-08A involve changes to Section 25.05.025 (Variances), Section 25.05.040 (Design Review) and Section 25.05.070 (Appeals) of the City's Zoning Code (Title 25). Title 25 comprises a large part of the City's certified Implementation Plan. Section 25.05 is titled "Administration" and provides standards for most of the City's permitting processes.

Most of the changes proposed are clarifications and/or procedural in nature and do not raise issues with regard to consistency with the City's certified Land Use Plan. Staff is recommending approval of resubmitted 2-08A as submitted. The Local Coastal Program Amendment 2-08A affects only the Implementation Plan portion of the certified LCP and will not change the existing zoning of any land areas.

As noted above, this is a portion of the resubmittal of LCPA 2-06. The Commission previously acted on this LCP amendment on August 8, 2007 when it approved it with modifications. After Commission approval, the City took action to adopt certain modifications suggested by the Commission, however, it also chose to adopt alternative language that was different from the Commission's action. Thus, the City resubmitted the matter pursuant to the requirements of Coastal Act Section 30512(b) and Section 13541 of the Commission's regulations.

The City adopted two ordinances, No. 1482 and No. 1487, in its resubmittal. Ordinance No. 1482 contains the changes the City wishes to make to Section 25.05.040(C)(3) (Biological Report Requirements) that are different from the modifications that were previously suggested by the Commission. That part of the resubmittal is being separated into Part B and will be scheduled separately for Commission action. Meanwhile, Ordinance No. 1487 (Part A of the amendment) contains the balance of the City's amendment along with all of the modifications that were previously suggested by the Commission. Since Ordinance No. 1487 contains all of the modifications previously suggested by the Commission, staff is recommending approval of Part A, as submitted.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

Approve the resubmitted amendment request, 2-08A, to the Implementation Plan **as submitted.**

The proposed amendment, 2-08A, is in conformance with and adequate to carry out the provisions of the certified Land Use Plan. **The motions to accomplish this are found on page 3.**

STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementation Plan is conformance with and adequacy to carry out the provisions of the certified Laguna Beach Land Use Plan.

SUMMARY OF PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

The ordinance amendment followed a lengthy public participation process consisting of the appointment of a Design Review Task Force that held public forums each month from October of 2004 through February of 2005. Recommendations were presented to the City Council in August of 2005. On January 6, 2006, the City Council directed the Planning Commission to consider modifying the Design Review procedures to implement the recommendations of the Design Review Task Force. In total, six public hearings on the matter of amending the Design Review procedures ordinance were conducted by the Planning Commission and City Council prior to initial submittal to the Commission. Because the zoning ordinance amendment is of city-wide effect, notices were published in the local newspaper. The resubmittal was considered at City Council hearings on June 17, 2008 and July 1, 2008. City Council Resolution No. 08.057 (see Exhibit #2), requests Commission action on this resubmitted amendment request.

No testimony from the public was presented at the City Council hearings on the resubmittal.

It was determined that the proposed project is without significant adverse environmental impacts and that the project qualified for a Negative Declaration.

ADDITIONAL INFORMATION

Copies of the staff report are available on the Commission's website at www.coastal.ca.gov and at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact Karl Schwing in the Long Beach office at (562) 590-5071. The City of Laguna Beach contact for this LCP amendment is Ann Larson, Planning Manager, who can be reached at (949) 497-0320.

I. STAFF RECOMMENDATION

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings.

- A. MOTION:** *I move that the Commission reject the Implementation Program Amendment for City of Laguna Beach LCP Amendment No. LGB-MAJ-2-08A, as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for City of Laguna Beach LCP Amendment No. 2-08A as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant

adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

III. FINDINGS

The following findings support the Commission's approval of the proposed LCP Implementation Plan amendment as submitted. The Commission hereby finds and declares as follows:

A. Amendment Description

The subject amendment request applies to those portions of the City of Laguna Beach (Exhibit #1) that are contained within the coastal zone and are in the certified local coastal program. Proposed Amendment request No. 2-08A (Ordinance No. 1487) (Exhibit #3) includes modifications to Section 25.05.025 (Variances), Section 25.05.040 (Design Review) and Section 25.05.070 (Appeals) of the City's Zoning Code (Title 25). Some of the more notable changes to the ordinance include 1) concept review hearings are no longer a prerequisite if a variance is proposed (25.05.025(B)); 2) the list of development subject to design review has been amended (25.05.040(B)(1)); 3) the list of development exempted from design review has been amended (25.05.040(B)(2)); 4) a new Administrative Design Review process section has been codified (25.05.040(B)(3)); 5) staking requirements have been revised to include decks and eaves and staking must be erected and certified 28 calendar days prior to the hearing (25.05.040(C)(2)); 6) fire department review and approval requirements have been added (25.05.040(C)(4)); 7) Design Review public noticing has been extended to 40 calendar days prior to the public hearing (25.05.040(E)); 8) the Planning Commission will be the approval authority for projects that require a discretionary permit from them (25.05.040(F)); 9) hearings for residential projects of 3 units or less are limited to 2 to 3 hearings and concept review hearings are no longer permitted (25.05.040(F)(5)); 10) after denial of a project, no application for a project located on the same site may be filed for 2 months (25.05.040(K)); 11) appeals of a design review decision must be filed within 14 calendar days (25.05.070(2)(3)(6)&(7)); and 12) the City Council is limited to deciding issue(s) specifically stated in the appeal, and a remand, reversal or modification requires a vote of 3 Councilmembers (25.05.070(9)).

B. Findings for Approval of Implementation Plan Amendment 2-08A as Submitted

The standard of review for changes to the Implementation Plan of a certified LCP is whether the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP). The City's certified Land Use Plan contains polices regarding shoreline access, open space, environmentally sensitive habitat, hillside protection, and visual resources,

among other coastal resources. These policies are necessary to protect coastal resources listed.

1. **Views**

Policy 12-D from the Land Use Element, which 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 rights of property owners proposing new construction.”

Policy 7A from the 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.

The proposed amendment contains language in Section 25.05.040(A)(5) that requires the City to consider public views in their development decisions. In addition, staking requirements have been revised to include decks and eaves and the staking must be constructed and certified 28 calendar days prior to a hearing (25.05.040(C)(2)). These requirements help implement Land Use Plan policies that require the protection of public views. As submitted, the amendment ensures that public views continue to be given adequate protection, consistent with the View Preservation policies in the City's LUP. Therefore the Commission finds that, as submitted, the proposed Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan.

2. **Biological Resources**

Policy 8H from the Open Space Conservation Element states:

When subdivision or fuel modification proposals are situated in areas designated as "Very High Value" habitats on the Biological Values Maps and where these are confirmed by subsequent on-site assessment, require that these habitats be preserved and, when appropriate, that mitigation measures be enacted for immediately adjacent areas.

Policy 8J from the Open Space Conservation Element states, in relevant part:

... 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...

Policy 8K from the Open Space Conservation Element states:

As a condition of new development in South Laguna, require the identification of environmentally sensitive areas, including chaparral and coastal sage scrub. Intrusion into these areas for wildlands fuel modification programs should not be permitted.

Policy 10G from the Open Space Conservation Element states:

Fuel modification plans, where appropriate shall be included within the boundary of the developed land use zone.

The amendment includes a proposed addition of Section 25.05.040(C)(4) which outlines new requirements that applicants for development proposals on properties subject to fire hazards obtain review of their proposals by the City Fire Department before they proceed to obtain discretionary approvals of their project. Codification of this procedure will ensure that the City accounts for fuel modification requirements of proposed development so that the project can be designed to avoid impacts to environmentally sensitive habitat areas caused by fuel modification. Thus, the Commission finds the proposed amendment to be in conformance with and adequate to carry out, the policies of the certified Land Use Plan.

4. Permit Procedures

The proposed amendment contains numerous changes to procedures regarding the City's Design Review Board (DRB). Although the DRB does take action on coastal development permit applications, none of the procedural changes affect the City's coastal development review process; nor do they affect the types of development that are subject to coastal development permit requirements. For instance, the proposed amendment modifies the DRB process such that 1) concept review hearings are no longer a prerequisite if a variance is proposed (25.05.025(B)); 2) Design Review public noticing has been extended to 40 calendar days prior to the public hearing (25.05.040(E)); 3) the Planning Commission will be the approval authority for projects that require a discretionary permit from them (25.05.040(F)); 4) hearings for residential projects of 3 units or less are limited to 2 to 3 hearings and concept review hearings are no longer permitted (25.05.040(F)(5)); 5) after denial of a project, no application for a project located on the same site may be filed for 2 months (25.05.040(K)); 6) appeals of a design review decision must be filed within 14 calendar days (25.05.070(2)(3)(6)&(7)); and 7) the City Council is limited to deciding issue(s) specifically stated in the appeal, and a remand, reversal or modification requires a vote of 3 Councilmembers (25.05.070(9)). None of these changes affect Chapter 25.07 that pertains to coastal development permit requirements. Hearing, noticing, and appeal procedures for projects requiring coastal development permits are contained in Chapter

25.07, and those remain unaffected by the proposed amendment.

In addition, the proposed amendment changes the list of development subject to design review and the list of development exempted from design review. These changes do not affect the types of development that require a coastal permit or are exempted from coastal permit requirements. Those requirements are established in Chapter 20.07 and remain unchanged.

Thus, the Commission finds the proposed amendment to be in conformance with and adequate to carry out, the policies of the certified Land Use Plan.

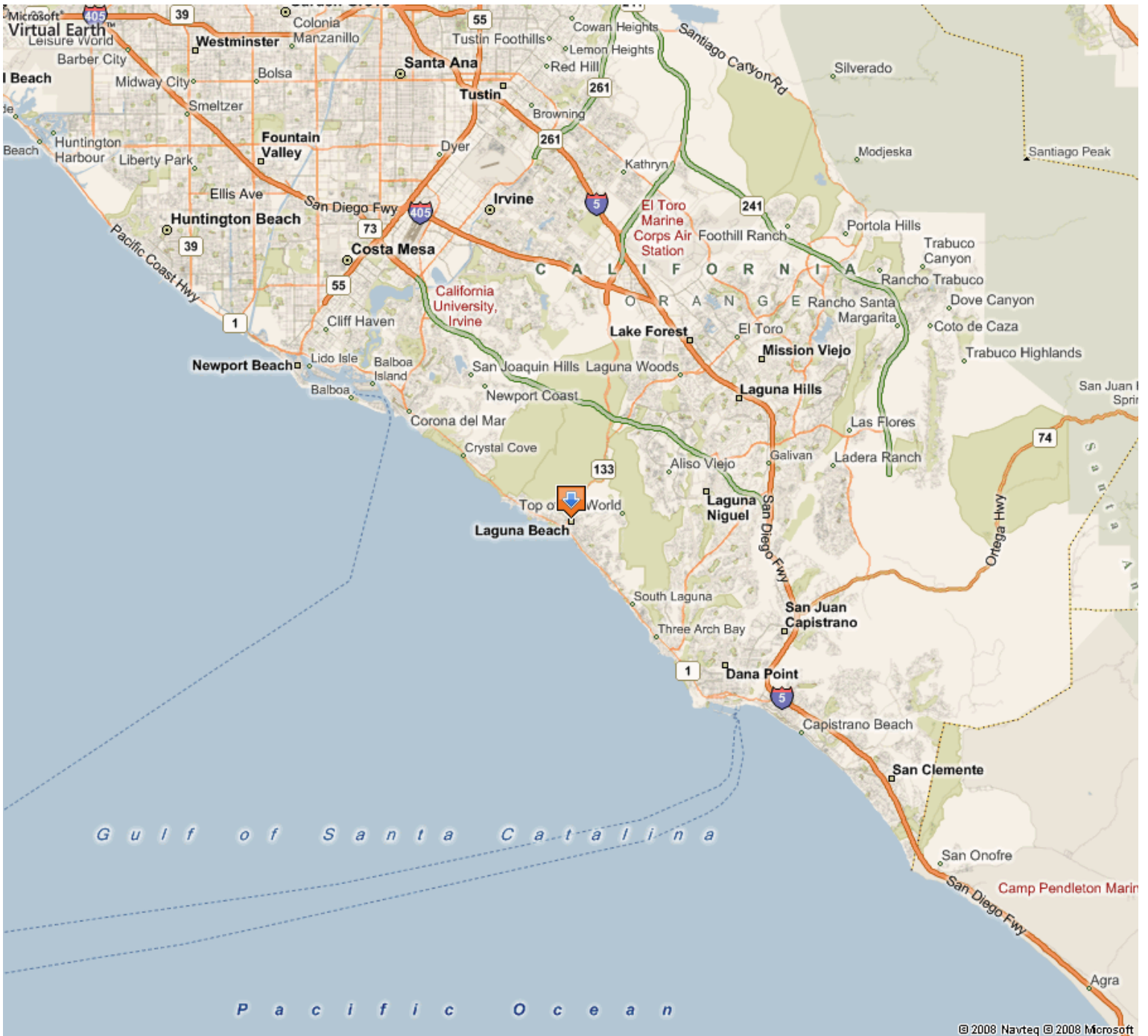
IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended IP will not be approved or adopted as proposed 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. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b). The City of Laguna Beach LCP amendment 2-08A consists of an amendment to the Implementation Plan (IP) only.

As outlined in this staff report, the proposed IP amendment is in conformity with and adequate to carry out the land use policies of the certified LUP, as submitted. Therefore, the Commission finds that approval of the LCP amendment as submitted will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP amendment request 2-08A as submitted.

VICINITY MAP

LAGUNA BEACH, ORANGE COUNTY, CALIFORNIA



EXHIBIT# 1
Page 1 of 1
Application Number:
LGB-MAJ-2-08
California Coastal
Commission

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RESOLUTION NO. 08.057

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA
BEACH, CALIFORNIA, RESUBMITTING LOCAL COASTAL PROGRAM
AMENDMENT 06-01 AND REQUESTING ITS CERTIFICATION BY THE
CALIFORNIA COASTAL COMMISSION**

WHEREAS, on August 8, 2007, the California Coastal Commission denied Local Coastal Program Amendment 06-01 consisting of Ordinance No. 1461, as submitted, and approved the amendment so long as certain modifications were incorporated into Sections 25.05.040 (A), 25.05.040(C)(3), and 25.05.040(C)(4); and

WHEREAS, on March 4, 2008, the City Council approved Ordinance No. 1482, which adopted amendments to several Municipal Code Sections including, among others, Sections 25.05.050, 25.05.040(A), 25.05.040(C)(3), and 25.05.040(C)(4). However, the amendments to Sections 25.05.040(A)(5) and 25.05.040(C)(3) were different from those suggested by the California Coastal Commission in its approval with modifications of Local Coastal Program Amendment 06-01; and

WHEREAS, on May 9, 2008, the Executive Director of the California Coastal Commission declined to fully certify Local Coastal Program Amendment 06-01 because Ordinance No. 1482 did not adopt the modifications suggested by the California Coastal Commission; and

WHEREAS, pursuant to Public Resources Code Section 30512(b), the City is resubmitting Local Coastal Program Amendment 06-01; and

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Laguna Beach held at least one public hearing to consider the adoption of Laguna Beach Local Coastal Program Amendment 06-01; and

SUBMITTAL RESOLUTION

LGB-MAJ-2-08A
EXHIBIT 2
Page 1 of 3

1 WHEREAS, the City Council, after giving notice as prescribed by law, held at least
2 one public meeting regarding the proposed **Laguna Beach Local Coastal Program**
3 **Amendment 06-01**, and the City Council finds that the proposed amendment is consistent
4 with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California
5 Coastal Act; and

6 WHEREAS, the City Council of the City of Laguna Beach intends to implement the
7 Local Coastal Program in a manner fully consistent and in conformance with the California
8 Coastal Act;

9 NOW, **THEREFORE**, the City Council of the City of Laguna Beach does hereby
10 resolve as follows:

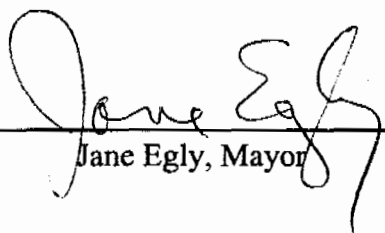
11 **SECTION 1:** That the **Laguna Beach Local Coastal Program Amendment 06-01**
12 is hereby approved, consisting of: (1) Ordinance No. 1487 pertaining to amendments to
13 Municipal Code Sections 25.05.025, 25.05.040 and 25.05.070, relating to Variances, Design
14 Review -and Appeals; and (2) the portion of Ordinance No. 1482 pertaining to amendments
15 to Municipal Code Section 25.05.040(C)(3), relating to Biological Report Requirements.
16 The municipal code text adopted in Ordinance No. 1487 supersedes and replaces the content
17 of Ordinances 1461 and 1482, with the exception of the sections of Ordinance No. 1482
18 related to Municipal Code Sections 25.05.040(A)(7), 25.05.040(C)(3) and 25.05.050. A
19 copy of Ordinances 1482 and 1487 are attached hereto as Exhibit A and Exhibit B, and are
20 incorporated by this reference as though fully set forth herein.

21 **SECTION 2:** That the California Coastal Commission is hereby requested to
22 consider, approve and certify **Laguna Beach Local Coastal Program Amendment No. 06-**
23 **01.**

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SECTION 3: That pursuant to Section 13551(b) of the Coastal Commission Regulations, **Laguna Beach Local Coastal Program Amendment No. 06-01** will automatically take effect immediately upon California Coastal Commission approval, as provided in Public Resources Code Sections 30512, 30513 and 30519.

ADOPTED this 1st day of July, 2008.



Jane Egly, Mayor

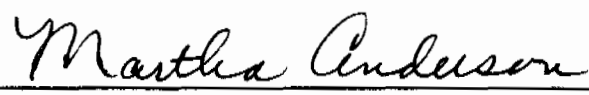
ATTEST:



City Clerk

I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Resolution No. 08.057 was duly adopted at a Regular Meeting of the City Council of said City held on July 1, 2008, by the following vote:

- AYES: COUNCILMEMBER(S): Pearson, Iseman, Boyd, Kinsman, Egly
- NOES: COUNCILMEMBER(S): None
- ABSTAIN: COUNCILMEMBER(S): None
- ABSENT: COUNCILMEMBER(S): None



City Clerk of the City of Laguna Beach, CA

EXHIBIT B

ORDINANCE NO. 1487

AN ORDINANCE OF THE CITY OF LAGUNA BEACH READOPTING AND AMENDING PORTIONS OF SECTIONS 25.05.025, 25.05.040 AND 25.05.070 OF THE LAGUNA BEACH MUNICIPAL CODE, RELATING TO VARIANCES, DESIGN REVIEW AND APPEALS.

The City Council of the City of Laguna Beach does hereby ORDAIN as follows:

SECTION 1: Subdivision (B) (“Application”) of Section 25.05.025 (“Variances”) of the Laguna Beach Municipal Code hereby reads in its entirety as follows:

- (B) Application. Application for a variance shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the Director of Community Development.

SECTION 2: Section 25.05.040(A) (“Design Review – Intent and Purpose”) of the Laguna Beach Municipal Code hereby reads in its entirety as follows:

25.05.040 Design Review

- (A) Intent and Purpose. The design review process consists of a review of a proposed development by the approval authority of either the Design Review Board or Planning Commission as specified herein and is intended to provide the following:
- (1) That development projects comply with the applicable standards and design guidelines and criteria;
 - (2) That development projects focus on quality designs, within a neighborhood context that results in creative design solutions for the City;
 - (3) That development occurs with an orderly and harmonious appearance, including associated facilities, such as signs, landscaping and parking areas;
 - (4) That the development review process minimizes contentiousness;
 - (5) That the development review process considers public and private views;
 - (6) That public health, safety and general welfare throughout the City is paramount; and
 - (7) That there is effective implementation of the applicable general and specific plan policies, which encourage the preservation and enhancement of the particular character and unique assets of the City.
 - (8) That development projects comply with the policies of the certified Local Coastal Program Land Use Plan, including, but not limited to, the shoreline access, open space, environmentally sensitive habitat, hillside protection and visual resource policies.

SECTION 3: Section 25.05.040(B) ("Design Review – Development Subject to Design Review") of the Laguna Beach Municipal Code hereby reads in its entirety as follows:

(B) Development Subject to Design Review.

- (1) All new buildings, structures and physical improvements and relocations, additions, extensions and exterior changes of or to existing buildings, structural and non-structural improvements, including landscaping and grading, shall be subject to design review, except as otherwise provided in Section 25.05.040(B)(2). Examples of physical improvements and site developments subject to design review include, but are not limited to, the following:
 - (a) Commercial or industrial parking and loading areas;
 - (b) New vehicular access to streets or alleys;
 - (c) Retaining walls in excess of five feet in exposed height;
 - (d) Signs, as specified in Chapter 25.54, Sign Regulations;
 - (e) Permanent chain link or similar type metal fences;
 - (f) Telecommunication facilities subject to the provisions of Chapter 25.55;
 - (g) Trash enclosures associated with a commercial use;
 - (h) Public street and sidewalk improvements;
 - (i) Above-ground utility structures;
 - (j) Additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of fifteen feet above the adjacent ground elevation;
 - (k) Shore protective devices;
 - (l) All buildings, structures and physical improvements in environmentally sensitive areas and on lots with a slope greater than thirty percent;
 - (m) Grading in excess of twenty cubic yards, except as specified in Section 22.10.010(e);
 - (n) Clearing of native vegetation on undeveloped parcels and undeveloped portions of developed parcels, and native vegetation restoration plans, except for City required annual weed abatement;
 - (o) Fuel modification programs subject to the provisions of 25.05.040(C)(3) and (4); provided, that once a program has received approval, subsequent approval for maintenance of the fuel modification will be granted by the Director of Community Development, if that maintenance is in conformance with the intent and objectives of the originally approved program;
 - (p) All City projects within the scope of this section, except if the City Council waives the requirement of design review if it determines that there are special circumstances applicable to such project which require that the project proceed without delay;
 - (q) Any instance where a Coastal Development Permit is required to be issued by the City;

- (r) Landscaping review for new development or additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of fifteen feet above the adjacent ground elevation, and for structural improvements within environmentally sensitive areas;
 - (s) Exterior alterations or additions to structures listed on the historic register per Chapter 25.45, Historic Preservation;
 - (t) Proposed demolition of structures listed on the historic resources list pursuant to Chapter 25.45 (“Historic Preservation”);
 - (u) Modifications of previously approved design review plans, including approved landscape plans;
 - (v) Swimming pools, permanent spas and their associated pool or spa equipment;
 - (w) Outlining of the outside of buildings or portions thereof with lights. (If such outlining with lights is proposed on a building listed on the City’s Historic Resources Inventory and/or City’s Historic Register, then the Heritage Committee shall make a recommendation to the approval authority prior to its design review.); and
 - (x) A hedge or hedges located within front, side and/or rear yards that is/are proposed to exceed the maximum allowable fence height, as set forth in Chapter 25.50.
- (2) Exceptions. The following shall be exempt from the design review process, unless they are changes associated with approved design review plans, including approved landscape plans:
- (a) Additions to a single-family residence in residential zones that:
 - (i) are less than fifty percent of the original gross floor area;
 - (ii) do not create a new upper story and do not exceed a height of fifteen feet above the adjacent ground elevation;
 - (iii) are in conformance with the zoning regulations; and
 - (iv) are not within an environmentally sensitive area;
 - (b) Interior modifications to existing structures or approved plans, including those structures and plans approved by the approval authority, except interior alterations to historic structures as outlined in Chapter 25.45 (“Historic Preservation”);
 - (c) Repainting existing structures;
 - (d) Re-roofing buildings and structures with similar materials;
 - (e) Retaining walls five feet or less in exposed height;
 - (f) Slabs and patios at or below natural grade and modifications to existing driveways or similar structures that comply with all other applicable provisions of Chapter 25.05;
 - (g) Wood or metal fences that comply with the zoning regulations, except permanent chain link or similar type metal fences;
 - (h) Window or exterior door replacements or insignificant changes in final design, such as moldings and window pane material;
 - (i) Minor landscaping which does not have the potential to impact views at mature growth height;
 - (j) Elevated decks three feet or less above adjacent existing grade.

- (k) Railing changes;
 - (l) Art work approved through the procedures outlined in Chapter 1.09, Art in Public Places;
 - (m) Signs, in conformance with an approved sign program subject to review and approval by the Director of Community Development; and
 - (n) Temporary on-grade removable accessory structures used as play sets, swing sets and other similar unenclosed recreation equipment provided that: 1) the ground area of the structure does not exceed 120 square feet; 2) the structure is less than 12 feet above adjacent ground elevation; and 3) that the structure is not located in a required setback area unless it receives administrative design review approval.
- (3) Administrative Design Review Process. An administrative design review process may be conducted by the Director of Community Development or his or her designee for development projects that are considered to be minor or incidental as specified below, require neighbor notification, and do not involve a new, other than an existing nonconforming variance, including but not limited to those listed below.
- (a) Administrative Design Review Development Projects.
 - (i) Those projects normally exempt under Section 25.05.040(B)(2) that are determined by the Director of Community Development or his or her designee to pose potential impacts to neighboring properties;
 - (ii) Elevated decks more than 3 feet above adjacent existing grade and structural additions within existing residential rooflines;
 - (iii) Portable spas and water features;
 - (iv) Skylights or skylight relocation;
 - (v) Mechanical equipment, including but not limited to, air conditioners;
 - (vi) Variance for existing nonconforming conditions, excluding parking;
 - (vii) City public works projects which are limited to replacement-in-kind or maintenance and which are not located in environmentally sensitive or open space areas, the Downtown Specific Plan area, oceanfront properties or public buildings or parks; and
 - (viii) Minor modifications to approved design review plans, but which in no case involve:
 - 1) an addition of more than 25 square feet,
 - 2) grading in excess of 10 cubic yards, or
 - 3) a relocation of windows or doors by more than one foot or where the approved location was determined because of privacy considerations;

- (b) Public Notice for Administrative Design Review. Public notice shall be mailed to the property owners within 300-feet of the subject property at least 14 calendar days prior to the hearing and is subject to the provisions of Section 25.05.065(B) and (C), except that the requirement for newspaper advertising shall not be required.
- (c) Staking Requirements for Administrative Design Review. If the Director of Community Development or his or her designee determines that the minor project should be staked, the staking requirements of Section 25.05.040(C)(2)(a) and (b) shall be followed, except that the construction and certification of the staking shall be completed at least 14 calendar days prior to the public hearing.
- (d) Deliberation and Action on Administrative Design Review Applications. The Director of Community Development or his or her designee shall conduct a public hearing for designated administrative design review projects. After consideration of all testimony and evidence presented at the public hearing and the Design Review Criteria specified in Section 25.05.040(H), the Director of Community Development or his or her designee shall either approve, conditionally approve or deny the application in writing.
- (e) Approval Authority Referral. The Director or his or her designee may (at their discretion), or at the request of the applicant or any person owning property within the noticing area shall, refer the project application to the approval authority for hearing and consideration in accordance with Section 25.05.040(E) and (F) after payment by the applicant of the appropriate fee. Any objection by the applicant or a person owning property within the noticing area to a determination by the Director of Community Development or his or her designee to approve, conditionally approve or deny an application shall be submitted in writing to the Director of Community Development within 14 calendar days of the determination. The matter shall then be heard and considered by the approval authority in accordance with Section 25.05.040(E) and (F) after payment by the applicant of the appropriate fee and re-noticing.

SECTION 4: Subsections 25.05.040(C)(1), (2) and (4) (“Design Review – Application (1) Early Neighbor Communication, (2) Staking Requirements and (4) Fire Department Review and Approval”) of the Laguna Beach Municipal Code hereby read in their entirety as follows:

- (C) Application. Application for design review shall be made by a property owner or authorized agent. Applications shall contain such information as prescribed by the Director of Community Development.
 - (1) Early Neighbor 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.

- (2) Staking Requirements.
- (a) A staking plan shall be prepared as specified on the most current zoning and design review submittal checklist. Staking poles and connecting ribbons, which accurately represent the full extent of the proposed structure, including decks and eaves, shall be constructed at least 28 calendar days prior to the first public hearing. At least 28 calendar days prior to the first public hearing, the location and height of the staking poles must be certified as accurate by a registered land surveyor or registered civil engineer licensed to conduct land surveys in the State of California. If complete and certified project staking is not in place at least 28 calendar days prior to the hearing date, the project shall be continued to a later date, with re-noticing required. Neither the applicant, a relative of the applicant, nor any other person possessing a financial interest in the property or the project may certify the location and height accuracy of the staking poles. If the project is modified during the design review process because of a view consideration, the project shall be re-staked and re-certified at least 14 calendar days prior to any subsequent public hearing, except that the approval authority shall have discretion to require a longer period, not to exceed 28 calendar days, prior to the hearing.
- (b) A deposit for the removal of staking poles, in an amount approved by the City Council shall be made prior to the time the project is scheduled for public hearing. Staking poles shall be removed by the applicant within 20 calendar days after the final project decision at the administrative or municipal level. Upon timely removal of the staking poles, the deposit shall be returned to the applicant. The applicant's failure to remove the staking poles within the prescribed time period shall result in the automatic forfeiture of the deposit, and the City shall remove the poles from the site.
- (4) Fire Department Review and Approval. Prior to deliberation and action on a design review application for new construction and major remodels involving 50% or more of an existing structure, the Fire Department shall review and approve or conditionally approve applications, including proposed fuel modification programs. Fuel modification programs or Alternative Materials and Methods (AM&Ms) requests are required for any parcel having a "FM" – Fuel Modification designation on the City's Geographic Information Mapping system. The Fire Department conditions of approval relating to public safety may not subsequently be modified by the approval authority without the Fire Department's review.

SECTION 5: Subsections 25.05.040(D) through (K) of the Laguna Beach Municipal Code hereby read in their entirety as follows:

- (D) Filing Fee. Prior to accepting an application, the Department of Community Development shall charge and collect a filing fee as determined by resolution of the City Council.
- (E) Public Notice. Public notice shall be mailed to the property owners within three hundred feet of the subject property at least 40 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.
- (F) Deliberation and Action on Applications.
 - (1) The Design Review Board shall conduct a noticed public hearing on design review applications, except that the Planning Commission shall assume the same authority for design review for all projects located in the Downtown Specific Plan area and for projects that the Planning Commission is the primary discretionary review authority, such as approval of a Conditional Use Permit.
 - (2) Upon the conclusion of the public hearing on a design review application, and the consideration of all testimony and evidence presented at the public hearing, the approval authority shall approve, conditionally approve or deny the application. Determinations of design review applications shall be by majority vote of the voting members of the approval authority present.
 - (3) The approval, conditional approval, or denial of design review applications by the approval authority shall be based upon the design review criteria set forth in Section 25.05.040(H). Additional review criteria are specified in Section 25.07.012(F) when an associated Coastal Development Permit is required. Additional review criteria contained in specific plans and/or zoning overlays shall apply to projects located in areas covered by any such specific plans and/or zoning overlays.
 - (4) The approval, conditional approval or denial of design review applications by the approval authority shall be accompanied by findings correlated with the design review criteria set forth in Section 25.05.040(H). Section 25.07.012(G) requires written findings to be made when approving or conditionally approving an associated Coastal Development Permit.
 - (5) Design review hearings on a proposed residential development project of three dwelling units or less shall usually be limited to a maximum of two hearings. A third hearing may be permitted if the approval authority makes a finding that the applicant followed the authority's direction(s) from the initial hearing in good faith and further design work on the project is in the best interest of the community. The approval authority may allow up to two continuances of hearings at which no substantive discussion of the application occurs. Concept review hearings for residential dwelling units of three units or less are not allowed, except where required by current City ordinance. If required, concept review shall be limited to one hearing and shall count as one of the above limited hearings.

- (6) Written notice of the approval, conditional approval or denial of design review applications shall be mailed to the applicant or authorized agent within 14 calendar days of the date of the decision of the approval authority.
 - (7) Landscaping Conditions. The approval authority shall condition all landscaping approvals with mature growth height limits and maintenance schedules (type and frequency of pruning) for all vegetation that potentially impacts views. The landscaping shall be installed in accordance with the approved landscape plans. Thereafter, the landscaping shall be continuously maintained (including replanting, as necessary) in compliance with the approved landscaping plans, unless such plans are subsequently revised pursuant to Section 25.05.040(B)(1)(u). Minor landscaping changes may be exempt from design review pursuant to Section 25.05.040(B)(2)(i).
 - (8) Applications for design review approval constitute applications for a "permit" as that term currently is used in California Government Code Section 65009(c)(1), and as hereafter may be amended.
- (G) Design Guidelines. "Design Guidelines" is a publication that has been developed by the City to assist designers in understanding the design review criteria. These guidelines compliment the zoning regulations provided for in this title by providing conceptual examples of potential design solutions and design interpretations. The guidelines are general and may be utilized with flexibility in their application to specific projects.
- (H) Design Review 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, the City's village atmosphere and the design review criteria specified in this section. Village atmosphere shall be characterized by appropriately scaled development, diverse and unique architectural designs, pedestrian orientation and sensitivity to the natural conditions of the site.

The property development standards as delineated in each zone are intended to provide the City with maximum flexibility and discretion in the decision making process, based upon the particular issues and circumstances in effect at the time development is proposed. These standards shall represent the maximum allowable building envelope for a given property. The actual development allowed will typically be less than the maximum designated by the general standards for the zone because of localized conditions identified during the design review process. A proposed development that has no variances from the Zoning Code does not have any presumptive development right or "entitlement."

- (1) Access. Conflicts between vehicles, pedestrians and other modes of transportation should be minimized by specifically providing for each applicable mode of transportation. Handicapped access shall be provided as required by applicable statutes.
- (2) Design Articulation. Within the allowable building envelope, the appearance of building and retaining wall mass should be minimized. Articulation techniques including, but not limited to, separation, offsets, terracing and reducing the size of any one element in the structure may be used to reduce the appearance of mass.

- (3) Design Integrity. Consistency with the applicant's chosen style of architecture should be achieved by the use of appropriate materials and details. Remodels should be harmonious with the remaining existing architecture.
- (4) Environmental Context. Development should preserve and, where possible, enhance the City's scenic natural setting. Natural features, such as existing heritage trees, rock out-cropping, ridgelines and significant watercourses should be protected. Existing terrain should be utilized in the design and grading should be minimized.
- (5) General Plan Compliance. The development shall comply with all applicable policies of the general plan, including all of its elements, applicable specific plans, and the certified local coastal program.
- (6) Historic Preservation. Destruction or alteration to properties with historic significance, as identified in the City's historic resources inventory or historic register, should be avoided whenever possible. Special preservation consideration should be given to any structures over forty-five years old.
- (7) Landscaping. Landscaping shall be incorporated as an integrated part of the structure's design and relate harmoniously to neighborhood and community landscaping themes. View equity shall be an important consideration in the landscape design. The relevant landscaping guidelines contained in the City's "Landscape and Scenic Highways Resource Document" should be incorporated, as appropriate, in the design and planned maintenance of proposed landscaping.
- (8) Lighting and Glare. Adequate lighting for individual and public safety shall be provided in a manner which does not significantly impact neighboring properties. Reflective materials and appurtenances that cause glare or a negative visual impact (e.g., skylights, white rock roofs, high-gloss ceramic tile roofs, reflective glass, etc.) should be avoided or mitigated to a level of insignificance in those locations where those surfaces are visible from neighboring properties.
- (9) Neighborhood Compatibility. Development shall be compatible with the existing development in the neighborhood and respect neighborhood character. Neighborhood character is the sum of the qualities that distinguish areas within the City, including historical patterns of development (e.g., structural heights, mass, scale or size), village atmosphere, landscaping themes and architectural styles.
- (10) Pedestrian Orientation. Commercial development design shall enhance and encourage pedestrian uses. Incorporation of articulated building masses, compact open spaces and courtyards, mixed use developments, use of landscaping as part of design, and orientation to pedestrian access should be maximized.
- (11) Privacy. The placement of activity areas (e.g., decks, picture windows and ceremonial or entertainment rooms) in locations that would result in a substantial invasion of privacy of neighboring properties should be minimized.
- (12) Public Art. Public art is encouraged and shall be displayed where feasible or required by the Art In Public Places ordinance.

- (13) Sign Quality. Signs shall be incorporated into the architecture of the structure and shall be made of high quality materials, be simple in design and be visually compatible with the surrounding physical environment in terms of color, scale and size. Use of natural materials in the construction of signs is encouraged.
 - (14) Swimming Pools, Spas and Water Features. Swimming pools, spas and water features shall be located, designed and constructed where
 - a) geology conditions allow;
 - b) noise produced by circulatory mechanical pumps and equipment is mitigated; and
 - c) any associated fencing or other site improvements are compatible with neighboring properties.
 - (15) View Equity. The development, including its landscaping, shall be designed to protect existing views from neighboring properties without denying the subject property the reasonable opportunity to develop as described and illustrated in the City's "Design Guidelines." The "Design Guidelines" are intended to balance preservation of views with the right to develop property.
- (I) Appeals. Appeals of the Design Review Board are subject to the provisions of Section 25.05.070, and Section 25.07.016 when a Coastal Development Permit is required.
 - (J) Effective Date/Expiration Date.
 - (1) A design review decision shall become effective 14 calendar days after the date of the decision, unless appealed to the City Council.
 - (2) Design review approval shall lapse and become void two years following the effective date if the privileges authorized by design review are not executed or utilized or, if construction work is involved, such work is not commenced within such two-year period and diligently pursued to completion.
 - (3) The approval authority may grant a two-year extension of time and, after that initial extension of time, a final one-year extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the beginning two-year approval period or a subsequently approved extension of time.
 - (4) Extension of Time Findings. An extension of time of the beginning two-year approval period may be granted by the approval authority, if each of the following findings can be made:
 - (a) The zoning codes or standards applicable to the circumstances of the originally approved design review have not materially changed; and
 - (b) The neighborhood character has not changed so as to be materially inconsistent with the findings made when design review was originally approved.
 - (K) Reapplication Waiting Period. After denial of a project, no application for a project located on the same parcel or building site may be filed or accepted for filing for two months.

SECTION 6: Section 25.05.070 (“Appeals”) of the Laguna Beach Municipal Code hereby reads in its entirety as follows:

25.05.070 Appeals

- (A) Intent and Purpose. It is the intent and purpose of this section to provide standardized appeal procedures for discretionary decisions, determinations and requirements with respect to planning and development applications and requests.
- (B) Procedures.
- (1) All decisions, determinations and requirements of the Planning Commission, Board of Adjustment/Design Review Board and Director of Community Development may be appealed to the City Council by the applicant, any other property owner within three hundred feet of the subject property, or by a member of the City Council. In those cases where the City is the applicant or an aggrieved property owner, the decision, determination or requirement may be appealed to the City Council by the City Manager.
 - (2) Any appeal by the applicant or other property owner within three hundred feet of the subject property shall be in written form specifically stating the grounds for the appeal and shall be filed with the City Clerk within 14 calendar days of the decisions, determinations and requirements.
 - (3) Any member of the City Council may initiate proceedings for review of any decision, determination or requirement of the Planning Commission, Board of Adjustment/Design Review Board or Director of Community Development by written request to the City Clerk, directly or through the City Manager, within 14 calendar days of the decisions, determinations and requirements. Any such request shall specifically state the grounds for review.
 - (4) The fee for such appeal shall be as determined by City Council resolution. Except for appeals by a member of the City Council or the City Manager, the filing of any appeal shall be accompanied by payment of the appeal fee as determined by resolution of the City Council, and no appeal shall be deemed filed unless such payment is made.
 - (5) Upon the City Clerk's receipt of a timely and otherwise proper appeal of a decision, determination or requirement of the Planning Commission, Board of Adjustment/Design Review Board or Director of Community Development, no further appeals shall be accepted for filing and the appeal may thereafter not be withdrawn except upon a majority vote of the City Council allowing a withdrawal of the appeal.
 - (6) Upon the City Clerk's receipt of a timely and otherwise proper appeal of a decision, determination or requirement of the Planning Commission, Board of Adjustment/Design Review Board or Director of Community Development, the appeal shall be set for a public hearing before the City Council no less than 14 calendar days nor more than 60 calendar days after receipt of the appeal. Notice of the hearing for the appeal shall be subject to the provisions of Section 25.05.065 (B) and (C), except that posting shall not be required.
 - (7) Notwithstanding the foregoing and any other provisions of Chapter 25.05, any decision, determination and requirement of the Planning Commission

and Board of Adjustment/Design Review Board shall be automatically appealed to the City Council where a member of the Commission or Board has an ownership, leasehold or consulting interest in the property or project which is the subject of the decision, determination or requirement. The appeal shall be set for a public hearing before the City Council no less than 14 calendar days nor more than 60 calendar days after the date of the decision, determination or requirement. Notice of the hearing for the appeal shall be subject to the provisions of Section 25.05.065(B) and (C), except that posting shall not be required.

- (8) Upon the hearing of the appeal, the City Council shall conduct a de novo review of the underlying application and shall not be limited to the grounds stated for the appeal, if any. The City Council may uphold, reverse, wholly or partly, or may modify any appealed decision, determination or requirement of the Planning Commission, Board of Adjustment/Design Review Board or Director of Community Development. A reversal or modification shall be approved by the City Council upon the adoption of a resolution which sets forth in writing the findings relied on to conclude that the appealed decision, determination or requirement was in error. A majority vote of the City Council shall be required to adopt a resolution reversing a denial or approval or modifying an appealed decision, determination or requirement of a variance, conditional use permit, temporary use permit or design review application.
- (9) Design Review Appeals. Notwithstanding the provisions of paragraphs (1) through (8) above, appeals of decisions on design review applications shall be subject to the following special provisions. In the event of any conflict or inconsistency between the provisions of paragraphs (1) through (8) and this paragraph (9), the provisions of paragraph (9) shall control:
- (a) Decisions on design review applications by the approval authority may be appealed to the City Council by the applicant, any other owner of property within three hundred feet of the subject property or by a member of the City Council (either directly or through the City Manager). In those cases where the City is the applicant or an aggrieved property owner, the decision may be appealed to the City Council by the City Manager.
 - (b) Any appeal shall be in written form and shall specifically state each and every ground for the appeal, and shall be filed with the City Clerk within 14 calendar days of the decision. More than one appeal of a decision on a design review application may be filed.
 - (c) The fee for appeals shall be determined by City Council resolution. Except for appeals by a member of the City Council or the City Manager, the filing of any appeal shall be accompanied by payment of the required appeal fee, and no such appeal shall be deemed filed absent payment of the fee. If more than one appeal is filed, then following the filing expiration date for appeals, the City Clerk shall prorate the required appeal fee among the total number of appeals and refund the excess amount paid by each appellant.

- (d) Upon the City Clerk's receipt of a timely and otherwise proper appeal of a decision on a design review application, the appeal shall be set for a public hearing before the City Council no less than 14 calendar days nor more than 60 calendar days after receipt of the appeal. Notice of the hearing for the appeal shall be subject to the provisions of Section 25.05.065(B) and (C), except that posting shall not be required. Notice of the hearing shall include the ground(s) specified in the appeal(s).
- (e) The hearing by the City Council of appeals of a decision on a design review application shall be limited to the grounds specifically stated in the underlying notice(s) of appeal(s). There shall be a presumption that the decision made by the approval authority was reasonable, valid and not an abuse of discretion; and the appellant shall have the burden of proof of demonstrating otherwise by a preponderance of the evidence presented.
- (f) Upon the hearing of the appeal of a decision on a design review application, the City Council may remand back to the approval authority, uphold or reverse, wholly or partly, or may modify the appealed decision. A remand, reversal or modification shall be approved by the City Council upon adoption of a resolution, approved by not less than three members that sets forth in writing the reasons relied upon.
- (g) In addition to the forgoing, appeals of decisions on design review applications are subject to the provisions of Section 25.07.016 when a Coastal Development Permit is required.

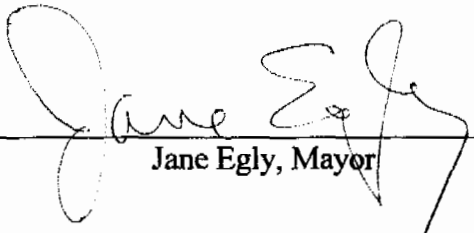
SECTION 7: This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

SECTION 8: This Ordinance is intended to be of City-wide effect and application. All ordinances and provisions of the Laguna Beach Municipal Code and sections thereof inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

SECTION 9: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Ordinance or any of the remaining portions hereof. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.


SECTION 10: The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective on the expiration of thirty (30) days from and after the date of its adoption.

ADOPTED this 1st day of July, 2008.



Jane Egly, Mayor

ATTEST:



City Clerk

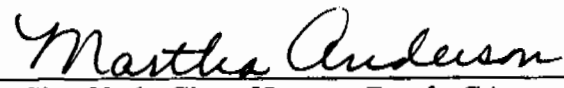
I, Martha Anderson, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. 1487 was introduced at a regular meeting of the City Council on June 17, 2008 and was finally adopted at a regular meeting of the City Council of said City held on July 1, 2008 by the following vote:

AYES: COUNCILMEMBER(S): Pearson, Iseman, Boyd, Kinsman, Egly

NOES: COUNCILMEMBER(S): None

ABSTAIN: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None



City Clerk, City of Laguna Beach, CA