

CALIFORNIA COASTAL COMMISSION

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



January 7, 2015

Th10b

ADDENDUM

TO: Coastal Commissioners and Interested Parties
FROM: South Coast District Staff
SUBJECT: Coastal Development Permit Appeal A-5-LGB-14-0019 (Louis Longi – 20412 & 20432 Laguna Canyon Road, City of Laguna Beach).

A. Added Findings - Biological Resources

Commission staff recommends the following added findings under the Biological Resources section of the staff report, which begins on page 43:

The certified LCP requires a minimum setback of 25 feet from streams and drainages to provide a protective buffer to riparian habitat. The stream on the project site, although partially lined with concrete, provides significant habitat value (see memo by Dr. Jonna Engel, 12/18/14). The applicant has agreed to provide a 25-foot setback, measured from the centerflow line of the stream, which equates to an approximate fifteen-foot setback from the top of the stream bank.

One of the questions raised in the Substantial Issue portion of the staff report is whether the certified City of Laguna Beach LCP requires the 25-foot setback to be measured from the centerflow line of the stream or from the top of the stream bank.

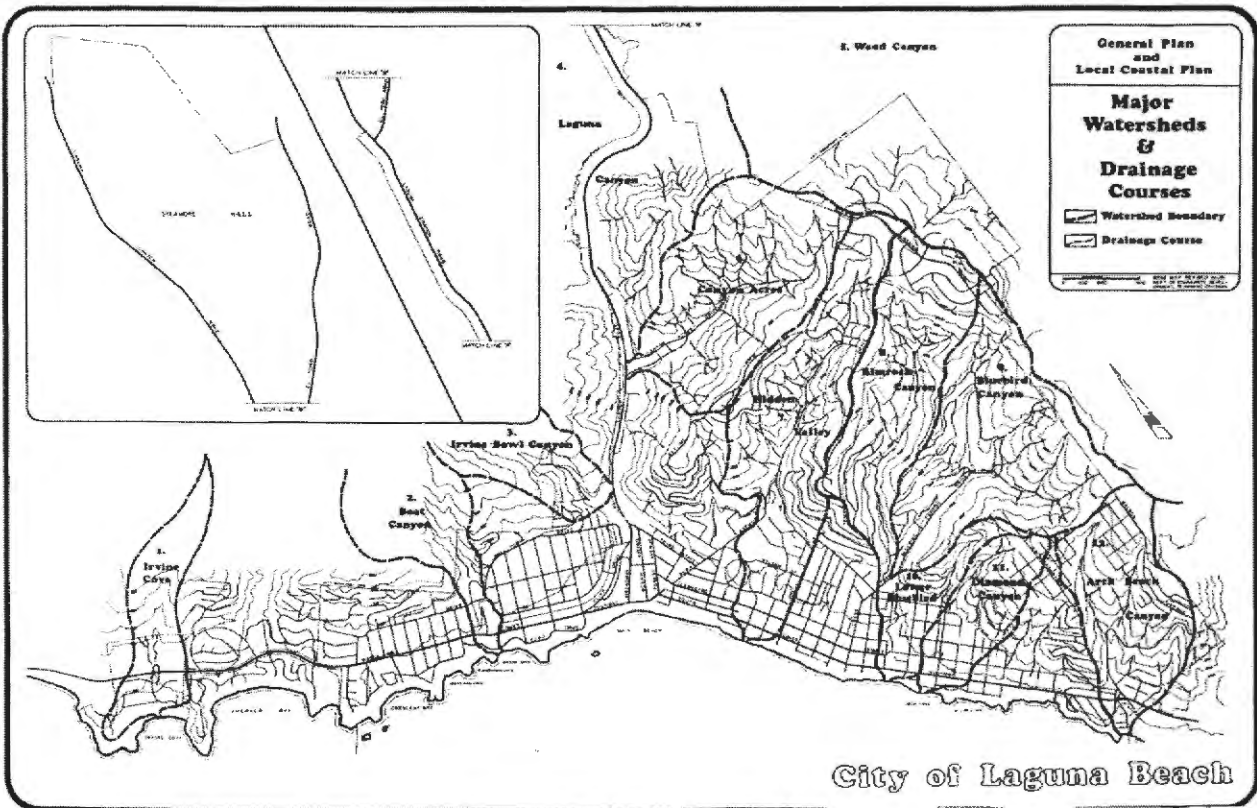
The setback requirement for the proposed project is set forth in one of the following two policies of certified LCP:

9-C (a): Streams on the Major Watershed and Drainage Courses Map which are also "Blue-line" streams identified on the USGS 7.5 Minute Quadrangle Series, shall be identified and mapped on the Coastal Environmentally Sensitive Areas Map of the Land Use Plan. For these streams, a minimum setback of 25 feet from the top of the stream banks shall be required in all new developments. A greater setback may be necessary in order to protect all riparian habitat based on a site-specific assessment. No disturbance of major vegetation, or development, shall be allowed within the setback area. This provision shall not apply to channelized sections of streams without significant habitat value. Where development is proposed on an existing subdivided lot which is otherwise developable

consistent with all City ordinances and other policies of this Plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures, have been exhausted.

9-C(b): Require a setback of a minimum of 25 feet measured from the centerflow line of all natural drainage courses other than streams referenced in 9-C(a) above. Such setback shall be increased upon the recommendation of the City engineer and environmental planner through the environmental review process. However, a variance may be given in special circumstances where it can be proven that design of a proposed structure on an affected lot will preserve, enhance or restore the significance of the natural watercourse. At no time shall grubbing of vegetation, elimination of trees, or disturbance of habitat be allowed within the setback area before or after construction.

The *Major Watershed and Drainage Courses Map* identifies Laguna Canyon as a Major Watershed, but does not show the stream that crosses part of the project site: Laguna Canyon Creek (See map). The stream is a Blue-line stream within a major watershed that appears to meet the criteria for mapping on the *Major Watershed and Drainage Courses Map* as well as the *Coastal Environmentally Sensitive Areas Map*; however, the stream is not identifiable on those maps. Therefore, LCP Policy 9-C(a) is not being applied in this case.



LCP Policy 9-C(b) applies in to “*all natural drainage courses other than streams referenced in 9-C(a) above*”. The stream setback required by LCP Policy 9-C(b) is a minimum of 25 feet measured from the centerflow line. Special Conditions One and Two require the proposed development to provide the 25-foot setback from the centerflow line consistent with LCP Policy 9-C(b). It must be

noted, however, that the 25-foot setback is a minimum setback which can be increased through the environmental review process. In this case, the Commission finds that the applicant's proposed 25-foot setback, along with the proposed Habitat Restoration Plan for the setback area (if modified as conditioned), is adequate to protect the sensitive habitat on the stream banks and meet the requirements of the certified LCP. The implementation of the applicant's proposed Habitat Restoration Plan for the setback area, if modified as conditioned, will preserve, enhance or restore the significance of the natural watercourse, as called for by Policy 9-C(b).

B. Corrected Findings - Biological Resources

Further revisions to the staff report dated December 19, 2014 are shown below. Text to be deleted is shown in ~~strike through~~. Added text is underlined. Commission staff recommends deletion of the second and third full paragraphs on page 46, and first full paragraph on page 47 of the staff report, as follows. One paragraph is added to Page 47 in place of the deleted paragraph.

~~A finding that Laguna Canyon Creek is on the MWDC map is critical, for in order for Policy 9-C(a) to apply, the plain language requires that the stream in question be both a "Blue-line" stream and designated on the MWDC map. Accordingly, since Laguna Canyon Creek is not identified on the MWDC Map, the required setback of 25 feet from the top of the stream bank would not apply.~~

~~Should the Commission find that the Major Watershed and Drainage Courses Map should have included Laguna Canyon Creek, then Policy 9-C(a) would apply to this situation. In that case, a minimum setback of 25 feet from the top of the stream banks is to be required for this new development instead of the 25 feet from the centerline of the creek, and a greater setback may be necessary in order to protect all riparian habitat.~~

~~Despite numerous amendments and updates over the years, many portions of the Laguna Beach LCP are outdated. Thus, when confronted with policies within an older LCP that pose an apparent conflict with current conditions, or which otherwise lead to a questionable application of the LCP to a particular project, the Commission has taken into consideration new science or changing environmental conditions to aid the decision-making process. Given the creek's value to the surrounding environment, and the rare and threatened nature of Blue-line streams in the coastal zone, the Commission finds that the provision of the 25-foot setback, along with the applicant's proposal to restore riparian habitat, meets the intent of the certified LCP to enhance and protect the sensitive habitat of Laguna Canyon Creek.~~

Laguna Canyon Creek is not identifiable on the *Major Watershed and Drainage Courses Map*. Therefore, LCP Policy 9-C(a) is not being applied in this case. LCP Policy 9-C(b) applies in this case, and the stream setback required by Policy 9-C(b) is a minimum of 25 feet measured from the centerflow line of the stream. Thus, the required a 25-foot setback shall be measured from the centerflow line of the stream in this case.

C. Added Findings – Floodplain Management Regulations

Commission staff recommends the following added findings regarding the proposed project's conformance with the applicable Floodplain Management Regulations.

Chapter 25.38 of the municipal code and the certified LCP require that development be sited and designed in a manner that reduces risks to life and property caused by flooding. The City has reviewed the proposed project and has found it to be in conformance with the applicable standards. A hydrology study has been prepared and peer-reviewed by the City's consultant. The project has been designed to be elevated above the floodplain, in compliance with the City's Municipal Code and FEMA, and a "no-rise" certificate has been issued by the project hydrologist. The project hydrologist reviewed a question of Planning Commissioner Grossman regarding whether the project could create downstream erosion, and had the following response: "The live/work studio development does not increase the downstream erosion potential from the existing conditions as alleged by Planning Commission member Norm Grossman in the January 8, 2014 Planning Commission hearing. Increased runoff and higher velocities are the primary factors in the increase of erosion potential and as Toal Engineering's water quality management plan and site drainage plan have demonstrated, neither on-site runoff nor on-site velocities are increased. Therefore, erosion potential is not increased by the implementation of the project. The erosion and channel instability that occurs in Laguna Canyon Creek is the result of the gradual urbanization of the entire upstream watershed of nine square miles, which includes portions of the Cities of Laguna Beach, Laguna Hills, Laguna Woods, Irvine and Aliso Viejo." The response from the project hydrologist (Toal Engineering, letter dated May 1, 2013) is attached to this addendum.

Attachment: Letters

TOAL ENGINEERING, INC.
CIVIL ENGINEERS AND LAND SURVEYORS
139 Avenida Navarro, San Clemente, CA 92672
Tel: (949) 492-8586 • Fax: (949) 498-8625

RAYMOND R. TOAL, RCE 16889
OLA V S. MEUM, LS 4384
MICHAEL A. ROTH, LS 6211

CALEB O. RIOS, RCE 57587
ADAM L. TOAL, RCE 59275
VIKTOR P. MEUM, LS 8682

May 1, 2013

City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651

Attn: Ann Larson & Scott Drapkin

Subject: Work-Live Complex at 20412/20432 Laguna Canyon Road
20412 Laguna Canyon Road
Laguna Beach, CA
JN 15002

Ms. Larson and Mr. Drapkin,

Pursuant to your request we have reviewed the comments under the "Appeal from Coastal Permit Decision of Local Government" dated April 17th, 2014 and have the following responses to issues related to the civil drawings and reports:

Comment from appeal: It does not fulfill the prescriptions of the WQMP (Chapter 16) under the lead agency's NPDES because of the proximity to LCC and site development design. The offered BMPs are inadequate, insufficient boilerplate strategies that cannot obviate sediment and contaminant migrational transport to the LCC.

Peak flows (with attendant pollutants) that formerly transited the property and in many cases were detainaged and filtrated will be inhibited, re-directed, altering historical, natural topographical drainage.

Response: The approved WQMP includes the installation of a "bio-retention" area which is an approved LID/BMP in accordance with the "South Orange County Hydrology Model Guidance Document" that essentially is designed to mimic the natural environment and provide source control and storage for runoff. The bioretention area promotes infiltration of low flows, which addresses pollutant from site, addresses hydromodification concerns on the Creek and is designed to meet requirements set forth in the "Guidance Document for South OC Hydrology model(SOCHM) March 2012.

Comment from appeal: It fails to comply with the NPDES requirements (MC Title 16) regarding Priority Development Projects, including the self-imposed limitations of impervious surfaces, maximizing (instead of minimizing) soil compaction, biofiltration capacity metrics, etc.

Response: The WQMP prepared by office complies with the requirements of the City of Laguna Beach Urban Runoff Management Program and Storm Water Ordinance as well as the Municipal Storm Water Permit and the intent of the NPDES/MS4 Permit for Waste Discharge Requirements as authorized by the State and EPA. The WQMP report has been peer reviewed

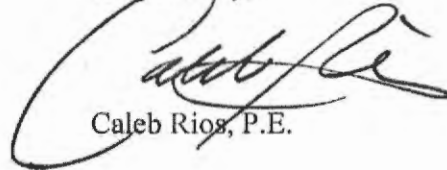
by the City of Laguna Beach peer review consultant and they concurred that it met NPDES requirements.

Comment from appeal: Site Drainage deficiencies: It is our understanding that ALL of the area drains, including the 47 vehicle subterranean parking lot for the .83 acre site, join one (1) single 8" pipe that then discharges into LCC. This is massively under-valued (sized), insufficient to divert and/or control runoff. No onsite advanced pre-treatment to reduce and/or remove contaminants generated onsite or immigrated from Laguna Canyon Road. No diversion to City wastewater common system offered.

Response: The project area tributary to the abovementioned 8" diameter line is 0.65 acres. The 8" line has the hydraulic capacity to carry a 100 storm event from the project tributary area. It is not designed or intended to carry runoff due to flooding from the creek. Please refer to Rivertech's report addressing flooding issues.

If you have any questions, please call our office at your convenience

Respectfully,

A handwritten signature in black ink, appearing to read "Caleb Rios", written over a large, stylized circular flourish.

Caleb Rios, P.E.



May 1, 2014

Ann Larson
Scott Drapkin
City of Laguna Beach
505 Forest Avenue
Laguna Beach, California 92651

RE: *Artist Work/Live Project at 20412 & 20432 Laguna Canyon Road Laguna Beach California 92651, Appeal from Coastal Permit Decision of Local Government, Submitted by California Coastal Commission, April 17, 2014*

Dear Ms. Larson and Mr. Drapkin:

I am writing you to respond to the comments and issues raised in the aforementioned appeal, as they relate to flooding potential and hazards. The following are the restated specific comments from *Section IV, Under "General Plan or Specific Plan Elements are the Goals and Policies that are not being upheld by the City of Laguna Beach in its approval of this project,"* followed by my corresponding responses:

9A *Promote the preservation and restoration of Laguna's natural drainage channels, freshwater streams, lakes and marshes to protect wildlife habitat and to maintain watershed, groundwater and scenic open space.*

RESPONSE: The existing natural drainage channel adjacent to the site is already severely impaired primarily due to the gradual development and urbanization upstream in the Laguna Canyon Creek watershed. The implementation of this project does not further damage the natural drainage channel and stream.

9B *Prohibit filling and substantial alteration of streams and/or diversion or culverting of such streams except as necessary to protect existing structures in the proven interest of public safety, where no other methods for protection of existing structures in the flood plain are feasible and where the primary function is to improve fish and wildlife habitat. This provision does not apply to channelized sections of streams without significant habitat value.*

RESPONSE: This project does not fill, alter, divert or concentrate (e.g., culverts, etc.) the existing stream, as documented in the site, drainage and water quality management plans.

9F *Where possible, require restoration of deteriorated significant natural drainage courses that have been disturbed by development, but which retain potential for natural function.*

RESPONSE: The source of the deterioration of Laguna Creek adjacent to the property is the cumulative urbanization of the watershed upstream of the site. The total drainage area of the watershed, which includes the communities of Laguna Beach, Laguna Hills, Laguna Woods, Aliso Viejo and Irvine and drains to Laguna Canyon Creek

adjacent to the site, is approximately 6 mi². Restoration, which would require channel stabilization, cannot be successfully implemented in a piecemeal manner by stabilizing the 0.84 acre site, which amounts to 0.02% of the entire watershed. Sedimentation and channel mechanics are system-wide processes, which would require mitigation significantly upstream and downstream of the channel reach on the site in order to stabilize and restore the natural drainage course.

9K *Promote preservation and enhancement of the natural drainage of Laguna Beach.*

RESPONSE: See response to 9F.

9Q *Oppose new development within the City's surrounding area that would result in significant adverse impacts to the City's hydrology.*

RESPONSE: There is not a negative impact and clearly not a significant adverse impact to the hydrology, as confirmed in the on-site hydrology and water quality management plan (WQMP) performed by Toal Engineering and the flooding potential analysis performed by Rivertech Inc. The respective analyses verified that peak flow, runoff volumes and flood elevations are not increased.

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

RESPONSE: The project recognizes and minimally encroaches this flood prone zone by elevating the inhabitable and insurable areas of the structure above the corresponding base flood elevation (BFE), as defined by the National Flood Insurance Program (NFIP), administered by the Federal Emergency Management Agency (FEMA) and adopted by the City of Laguna Beach.

10F *To minimize risk to live and structures, new development located in established floodprone lands shall incorporate all appropriate measures pursuant to the City's "Flood Damage Prevention and Prohibition Ordinance."*

RESPONSE: The flooding potential analysis performed by Rivertech Inc. demonstrated that the proposed development complies with the City of Laguna Beach municipal code, specifically, Chapter 25.38 Flood Damage Prevention.

Policy 9.12 *Continue to consider flood hazards when reviewing projects within the 100-year floodplain.*

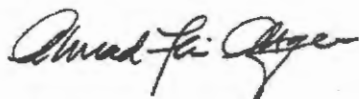
RESPONSE: Flood hazards were identified and analyzed for the post-project scenario. The flooding potential analysis performed by Rivertech Inc. verified that the implementation of the project is compliant with NFIP regulations and the City of Laguna Beach municipal code Chapter 25.38.

Policy 9.13 *Continue to require nonstructural methods for flood control, such as preservation of watershed lands and natural drainage channels, rather than structural methods, such as concrete flood channels whenever feasible.*

RESPONSE: This is the core issue of flood control challenges of Laguna Canyon Creek. The absence of nonstructural methods for flood control in the 6 mi² area draining to the creek is the source of the degradation and destabilization of the creek. The stabilization of the channel is a system-wide problem and not a local treatment that can be expected to rectify the impaired channel.

Sincerely yours,

RIVERTech INC.



A. Tamim Atayee, PE, F.ASCE
Principal & CEO



NOSSAMAN LLP

ATTORNEYS AT LAW

18101 Von Karman Avenue
Suite 1800
Irvine, CA 92612
T 949.833.7800
F 949.833.7878

John P. Erskine
D 949.477.7633
jerskine@nossaman.com

VIA E-MAIL

Refer To File #: 501517-0001

September 18, 2014

Mr. Karl Schwing
California Coastal Commission
200 OceanGate, 10th floor
Long Beach, CA 90802-4416

Re: Appeal No. A-5-LGB-14-0019 re Coastal Development Permit 13-1376 (20412 and 20432 Laguna Canyon Road, Laguna Beach, California) Longi Artists Work/Live Project Approved by City of Laguna Beach Council on April 1, 2014

Dear Karl:

On behalf of our clients, Louis Longi and Dornin Investment Group, LLC, we are providing the applicants' response to Appeal No. A-5-LGB-14-0019, consisting of three appeals of the 30-unit Longi Artists Work/Live project located at 20412 and 20432 Laguna Canyon Road, Laguna Beach, California ("Project"), filed on April 18 and April 21, 2014, by Clean Water Now, Jackie Gallagher and Audrey Prosser, and Devora Hertz. This letter addresses the appellants' issues, collectively, by topic and in the context of the relevant sections of the City of Laguna Beach certified Local Coastal Program (LCP).

This letter also confirms our prior transmittal of and commitment to the Laguna Canyon Creek Habitat Restoration Plan ("Restoration Plan") dated September 12, 2014, and prepared by Kevin Livergood of Glenn Lukos Associates, a copy of which was emailed to the Commission's Long Beach office by Bonnie Neely, of our firm, on that same date. The Restoration Plan (also attached hereto) provides an additional Project post-approval mitigation measure and a significant commitment to enhancement of riparian habitat values in a degraded reach of the stream, notwithstanding the fact that the Project is sited and designed to fully avoid Laguna Canyon Creek. Moreover, as the Restoration Plan points out, and as the City Council findings for approval evidence, the Project does not result in any impacts to the stream bed, bank or channel of the stream, nor will any hydrological impacts (on-site flows, etc.) create any downstream erosion potential.

The three-year Laguna Canyon Creek Restoration Plan was commissioned and will be paid for by the applicants and was not a condition of approval imposed on the Project by the City Council during the April 1, 2014 approval of CUP 13-1047 and CDP 13-1376.

We would strongly suggest that based on our analysis of the appellants' vague contentions regarding the Project's non-conformity with the City's LCP, set forth below, no substantial issue exists as to the Project's conformity with the certified LCP. Moreover, we

would point out the following in regards to the Commission's evaluation of "substantial issue" factors:

(1) There is significant and solid factual and legal support for the City Council's April 1, 2014 decision to find the Longi Project consistent with the LCP and the Coastal Act, including Louis Longi's patient and carefully structured design of a project that would implement the City and Coastal Commission-approved Municipal Code Chapter 25.16 Artists Work/Live Ordinance amended/adopted in 2012;

(2) The scope of the development is essentially the same footprint, and mass as the Dr. Hamil Animal Hospital, previously processed through the City on the same development site and which received CDP approvals in 2005 (see attached exhibit) and not appealed to the Commission;

(3) While Laguna Canyon Creek is established as a "channelized stream" up to five (5) miles inland from the ocean, it passes through many forms of channelization from earthen and concrete, to sandbags, rip rap and underground culverts. However, of specific import to the Commission's analysis of "affect on coastal resource," it is a fact that the creek is a concrete channel 300 feet upstream and 300 feet downstream with approximately 75% concrete channelization in the reach adjacent to the Project. It is a coastal resource nevertheless; however, it is a resource not affected by the City's decision due to the above factors and the Project's avoidance of the resource. Given the recent announcement of the post-approval mitigation via the previously submitted Laguna Canyon Creek Habitat Restoration Plan, the coastal resource will actually be improved through implementation of the Project.

(4) The Project is a unique, one-of-a-kind land use in a special Light Industrial Zone, exclusive to the LCAASP, allowed through issuance of a CUP and, of course, the approved CDP. The City's approval will have no precedential value for future interpretations of its LCP; and

(5) The appeal raises only local issues as to the City's interest in furthering the goal of retaining Laguna Beach's historical reputation as an artist's colony at a time when most artists are priced out of this generally expensive seaside community; the appeal does not raise issues of regional or statewide significance.

Specific Appeal Issue/Analysis of Conformity With LCP

1. Project Setbacks From Blue-Line Stream; Upper Level Cantilevered Deck Projection of 10 Feet Into 25-Foot Setback From Centerflow Line of Stream

• Relevant LCP Sections

Open Space and Conservation Element 9C(a) and (b) state as follows:

Streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon Biological Values Maps which are also "blue-line" streams identified on the USGS 7.5 Minute Quadrangle Series, shall be identified and mapped on the Coastal Environmentally Sensitive Areas Map of the Land

Use Plan. For these streams, a minimum setback of 25 feet from the top of the stream banks shall be required in all new developments. A greater setback may be necessary in order to protect all riparian habitat based on a site-specific assessment. No disturbance of major vegetation, or development, shall be allowed within the setback area. This provision **shall not apply to channelized sections of streams without significant habitat value**. Where development is proposed on an existing subdivided lot which is otherwise developable consistent with all City ordinances and other policies of this Plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures, have been exhausted.

Require a setback of a minimum of 25 feet measured from the centerflow line of all natural drainage courses or streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon Biological Values Maps other than the "blue-line" streams referenced in 9-C(a) above. Such setback shall be increased upon the recommendation of the City Engineer and environmental planner through the *environmental review process*. However, a variance may be given in special circumstances where it can be proven that design of a proposed structure on an affected lot will preserve, enhance or restore the significance of the natural watercourse. At no time shall grubbing of vegetation, elimination of trees, or disturbance of habitat be allowed within the setback area before or after construction.

Open Space and Conservation Element 9D states:

Permit extensions of decks and other portions of a structure within the required setback for significant natural drainage areas only if:

- a. There are no supports to the ground within the setback areas; and
- b. The extensions do not encroach closer than fifteen (15) feet from the centerline of flow.

Appellants' Contention and Applicant's Response

Clean Water Now asserts that the Project must be set back 25 feet from the top of stream bank, rather than the 25 feet from the center flow line of a clearly defined channelized stream lacking significant habitat value.¹ The reach of Laguna Canyon

¹ See Policy 9C above. Stream channelization is "the act of directing water into a specific flow that prevents meandering and braiding of a natural stream or water way. Channelization can be created from natural earthen dirt embankments, stone, concrete, sandbags or rip-rap (broken up concrete slabs). Current blue line stream across the property has manmade concrete embankments 300 feet upstream and 300 feet downstream of property, with over 75% concrete channelized embankments of the blue line stream on the property."

Creek adjacent to the Project has clearly been identified by the City as such, and therefore the City, in its April 1 approval, found the appropriate setback to be 25 feet from center line of stream.

Clean Water Now also insinuates that Entitlement 9D (see full provision above) is "buried in the Project narrative" and allows "a cantilever of 10 feet" and implying that this projection is 10 feet over the riparian habitat (as the project's main building only cantilevers 2 feet into setback and several deck 7 feet into setback) or the stream itself based on some sort of special variance provided to our clients. Policy 9D of the Open Space/Conservation Element is the relevant LCP policy and the Project conforms exactly to this Coastal Commission-approved policy.

The attached "Response to Appellant Comments" from Kevin Livergood of Glenn Lukos Associates, dated April 29, 2014, further addresses the stream setback, cantilever projection and other resource protection issues.

2. **Project Compliance With the California Environmental Quality Act (CEQA)**

• **Relevant LCP Sections**

Laguna Beach Municipal Code section 25.07.012(G):

"Findings. A Coastal Development Permit application may be approved or conditionally approved only after the approving authority has reviewed the development project and made the following finding(s)... (3) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act (CEQA)."

Appellants' Contention and Applicant's and City's Response

The appellants allege numerous CEQA violations, as well as an implicit adequacy of the MND approved by the City Council, based on legal authority other than the LCP and the Coastal Act.

The City of Laguna Beach is the lead agency for purposes of CEQA compliance, and the Commission will not review, as part of the appeal, the City's decision to approve an MND as the environmental documentation for the Project.

The Mitigated Negative Declaration was prepared and circulated in compliance with CEQA, and was distributed to affected agencies. An EIR is not required because the Initial Study concluded that the Project would not result in significant environmental effects that cannot be mitigated to less than significant, and recommended mitigation measures have been incorporated into the Project. The proposed Project is located in the Light Industrial Zone fronting on Laguna Canyon Road and separated by the creek and a block wall from the legal non-conforming commercial businesses located in the R-1 residential neighborhood behind the site. Impacts to surrounding neighbors and the environment have been considered and appropriate mitigation measures have been incorporated into the Project. With regard to property maintenance, the owner will

be required to follow the same property maintenance standards as followed by other properties in the City.

Finally, as the Coastal Commission has noted on numerous other occasions, the Commission does not have authority to review a lead agency's CEQA determination for legal consistency with the requirements of CEQA.

3. Protection of Water Quality

- **Relevant LCP Sections**

Open Space and Conservation Element Policy 4I² states:

"Watershed Protection and Restoration. Promote the protection and restoration of offshore, coastal, lake, stream or wetland waters and habitats and preserve them to the maximum extent practicable in their natural state."

Appellants' Contention and Applicant's Response

Appellants wrongly contend that the Project is non-compliant with Open Space and Conservation Policy 4I.

However, a Water Quality Management Plan, reducing potential water quality impacts to less than significant level, has been prepared for the Project, and peer-reviewed for accuracy by the City's consultant.

As documented by Glenn Lukos Associates in its April 29, 2014 response to the appellants (attached), and as City staff responded to similar assertions in the April 1 appeal of the Project to the City Council, the Biological/Regulatory Assessment was prepared for the Project site by a City consultant and concluded that due to a lack of suitable habitat and the planned avoidance of the resources in Laguna Canyon Creek, the Project is not expected to result in significant impacts to biological resources. The riparian habitat observed on site is very closely associated with the creek, yet exhibits characteristics of heavy disturbance due to surrounding urban and suburban influences.

Improving Water Quality – currently there are no systems in place to filter the water that flows across 350' stretch of LCR and into the creek during rain storms, contaminated road runoff is washed into the stream and to the ocean. After our project is complete, our WQMP will filter all road runoff from a LCR, through two bioswales and BMP water filtration devices designed into the property, thus making 100% improvement of water quality along this stretch of the creek.

² Note: The Appellants have erroneously referenced Open Space and Conservation Element Policy 4A, which addresses utilization of Structural Treatment Control BMPs, not general "Watershed Protection," which is addressed in Policy 4I. Our response references Open Space and Conservation Element Policy 4I.

As part of City of Laguna Beach - Climate Protection Action Plan – April 2009, the project will comply with six of the 12 action plans outlined in the City's plan.

5.3.1 Continue to encourage mixed-use and live-work developments within current single-use zones.

5.3.4 Encourage the use of drought-tolerant plant materials, and low-water irrigation techniques.

5.3.6 Underutilized Land: Continue to transform vacant lots and unused or under-used areas of public land into pocket parks with benches, bike racks, shade trees, and patios with tables to accommodate pedestrians and bike riders.

5.3.9 Bioswales: Increase reliance on the bio-filtering of storm water through the creation of bioswales and other devices.

5.3.10 Trees: Plant and maintain shade trees within the public right-of-way.**

5.4.1 Strengthen the city's effort towards a rebalancing of its transportation system among the four traditional modes of mobility: walking, bicycling, public transport, vehicles.

4. Project Land Use Consistency With City LCP and LCAASP

- **Relevant LCP Sections**

- General Plan Land Use Designation = (I)Industrial;
- Zoning (IP) – M-1B Light Industrial Zone of the Laguna Annexation Area Specific Plan (LAASP);
- Municipal Code Chapter 25.16 Artists Work/Live Ordinance – See “Development Standard Compliance Table” (attached).

Appellants' Contention and Applicant's Response

The appeal states that the project does not comply with neighborhood character or the LCAASP and that public events and the density violate the M-1B Zoning. The artists' work/live use is a conditionally permitted use in the M-1B Light Industrial Zone, which is exclusive to the LCAASP. On May 15, 2012, the City Council approved Zoning and Local Coastal Program (LCP) amendments, which allowed the artists' work/live use in the M-1B Zone, subject to a Conditional Use Permit. The LCP amendment was subsequently amended and certified by the Coastal Commission on March 12, 2014. The City complied with the noticing requirements for both the citywide Zoning and LCP amendments, which required that a 1/8-page notice be published in the newspaper. The City determined that the artists' work/live use is compatible with the M-1B Zone based on the surrounding neighborhood comprised of commercial and residential uses and the discussions within the LCAASP regarding artists living and working in

Laguna Canyon. For example, artists' studios have always been a permitted use in the M-1B Zone, and page 10 of the LCAASP states that "Laguna Canyon has long attracted independent-minded artisans" and notes that "T. Jefferson Parker, author of *Laguna Heat* and *Little Saigon* and artist, Jerry Rothman are among the noted writers and artists living in the Canyon today." Page 14 notes that the Sun Valley Drive neighborhood includes "a number of artists' studios" and states "These non-residential uses are usually based within the residence itself or in an accessory building adjacent to the residence." Additionally, the artists' work/live use has always been a conditionally permitted use in the M-1A Zone, which is another Light Industrial Zone along Laguna Canyon Road that abuts residentially zoned neighborhoods.

As requested by the Planning Commission and in compliance with the intent of the M-1B Zone, the applicant redesigned the project to reduce mass and scale and to comply with the rural, natural character by adding weathered wood siding to the building and changing the colors and exterior texture to be more rustic. There is no density limitation in the M-1B Zone and the project complies with all other development standards of the Zone. As previously noted in this report, the allowable building height of 36 feet and larger minimum lot area of 20,000 square feet in the M-1B Zone create a conflict within the LCAASP, with regard to a policy that development be of "small-scale" to maintain the rural character of the canyon. The Planning Commission determined that although the project is not considered small scale, in totality it is in compliance with the LCAASP because it complies with all the development standards, it has been redesigned to reduce mass and scale (over 40 changes were made to the original design to comply), sufficient trees and landscaping have been incorporated into the project to improve the scenic quality of the site and provide a buffer for adjacent residential areas, and rural elements such as weathered wood siding, warmer colors of taupe and wood tones, and a raked-finish exterior stucco have been incorporated into the project to create a rustic, rural feel and compatibility with the character of the Laguna Canyon neighborhood. With regard to the neighbor's concerns regarding three events being conducted annually at the project site, the applicant has retracted his request and project condition #43 has been revised to require City approval of a Temporary Use Permit prior to conducting any on-site event. This will enable the City to evaluate each proposed event, including circulation and adequate parking. The appeal also notes a concern that the project will become housing or dormitories. However, any type of housing other than artists' work/live, including dormitories, is prohibited in the M-1B Light Industrial Zone. The project is subject to operation in compliance with the Conditional Use Permit, and any changes in use must be approved by the City.

Appeal Issues/Conformity to the City's Certified LCP

Pursuant to Coastal Act section 30603(b)(1), the grounds for an appeal of a locally approved CDP in an appealable area³ ***are limited to an allegation that the development***

³ Section 30603(a)(2) appears to establish that the Project site is in an appealable area due to its location within 100 feet of Laguna Canyon Creek.

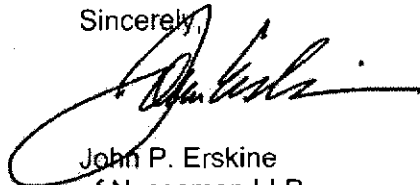
does not conform to the standards set forth in the certified LCP or the public access policies set forth in the [Coastal Act]. [emphasis added]

While the referenced appeals generally provide only a list of hypercritical hyperbole and misleading characterizations of the Project's physical description, site plan and alleged environmental impacts, the appellants provide virtually no evidence of non-conformity with the LCP. And, as the analysis provided above should make abundantly clear, the Project approved by the City Council on April 1, 2014 conforms in all instances to the standards set forth in the City's LCP. Therefore, **there is no substantial issue as to Project's consistency with the certified City of Laguna Beach LCP.**

Nevertheless, if Commission staff determines, based on its own application of the Commission's five (5) factor "substantial issue" test from previous decisions on appeals, that it will recommend to the Commission that it find that a substantial issue exists with respect to the pending Longi Project appeals, we would request that Commission staff schedule the de novo hearing to follow the "substantial issue" phase of the appeal hearing at the Commission's scheduled October hearings in Newport Beach. In other words, we request that the de novo hearing take place immediately following the "substantial issue" determination at the October hearing, and not at a subsequent hearing at a later date.

We appreciate the opportunity to provide our input on the pending Longi Artists Work/Live Project appeals; please do not hesitate to contact the undersigned, or Bonnie Neely of our firm, if we can provide any additional information or answer any questions.

Sincerely,



John P. Erskine
of Nossaman LLP

JPE:dif

Attachments

cc: Chuck Posner
Matt Stone
Louis Longi
Chris Dornin
Grant Keene
Bonnie Neely

HABITAT RESTORATION PLAN

**LONGI WORK/LIVE PROPERTY
CITY OF LAGUNA BEACH
ORANGE COUNTY, CALIFORNIA**

September 12, 2014

Prepared for:

**Dornin Investment Group, LLC
1110 Glenneyre Street, Laguna Beach, CA 92651**

**Contact: Grant Keene
Telephone: (949) 342-7012**

Prepared by:

**Glenn Lukos Associates
29 Orchard
Lake Forest, California 92630-8300
Contact: Kevin Livergood
Telephone: (949) 837-0404**

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EXHIBITS

1. Regional Map
2. Vicinity Map
3. Proposed Restoration Site Map

LONGI WORK/LIVE PROPERTY HABITAT RESTORATION PLAN

I. INTRODUCTION

This report describes proposed restoration of a disturbed reach of Laguna Canyon Creek located on the Longi Work/Live Development Project (Project/Property). The 0.84-Acre proposed Project site is located at 20412 and 20432 Laguna Canyon Road in Laguna Beach, Orange County, California. The Project site is located east of Laguna Canyon Road, south of Stans Lane, north of Sun Valley Drive and west of Sun Valley Drive (Exhibits 1 and 2).

The Project is designed to fully avoid Laguna Canyon Creek and will therefore not result in impacts to the bed, bank or channel of the stream. However, to enhance habitat values in this degraded reach of the stream, and as a part of an environmentally responsible Project design, the Property owner proposes the removal of invasive non-native species that occur along the eastern boundary of the Project site, and revegetation with native riparian species appropriate to coastal Orange County that are expected to increase foraging, dispersal, and breeding habitat functions for a variety of wildlife that occur within the Laguna Canyon Creek.

This Plan proposes restoration of the length of the Laguna Canyon Creek onsite, including the west bank of this reach of the creek, which does not exhibit bank stabilization or fortification such as riprap, poured concrete and/or crushed concrete and is therefore an appropriate location for the proposed restoration activities [Exhibit 3].

The proposed restoration area totals approximately 0.11 acre (5,146 square feet), comprising 0.02 acre (1,017 square feet) onsite length of Laguna Canyon Creek and 0.09 acre (4,129 square feet) on its western bank extending up to the proposed development.

Proposed restoration entails:

1. Removal of invasive species including Mexican fan palm (*Washingtonia robusta*), Spanish sunflower (*Pulicaria paludosa*), English ivy (*Hedera helix*), Bermuda grass (*Cynodon dactylon*), rabbitsfoot grass (*Polypogon monspeliensis*), bristly ox-tongue (*Helminthotheca echioides*), and poison hemlock (*Conium maculatum*), as well as other non-native annual and perennial species including ornamental yucca (*Yucca* sp.), riggut brome (*Bromus diandrus*), cheeseweed (*Malva parviflora*), summer mustard (*Hirschfeldia incana*), sow thistle (*Sonchus arvensis*), clover (*Medicago* sp.), and other non-native species from the length of Laguna Canyon Creek onsite (0.02 acre) and the western bank (0.09 acre); and
2. Planting native riparian canopy and understory species including arroyo willow (*Salix lasiolepis*), Sandbar willow (*Salix exigua*), creeping ryegrass (*Elymus triticoides*), California wild rose (*Rosa californica*), California black berry (*Rubus ursinus*), and bush mallow (*Malacothamnus fasciculatus*), and Catalina currant (*Ribes viburnifolium*) on the western bank (0.09 acre).

II. SITE DESCRIPTION

A. Responsible Parties for Restoration Implementation

Property Owner: Dornin Investment Group, LLC
1110 Glenneyre Street
Laguna Beach, CA 92651
Contact: Grant Keene
Telephone: (949) 342-7012

Preparer of Plan: Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, California 92630-8300
Contact: Kevin Livergood
Telephone: (949) 837-0404

B. Description of the Proposed Restoration Site

The onsite portion of Laguna Canyon Creek streambed proposed for restoration is characterized by a blend of native and non-native vegetation composed of herbaceous species including: cattails (*Typha domingensis*), willow herb (*Epilobium ciliatum*), California mugwort (*Artemisia californica*), heliotrope (*Heliotropium curassavicum*), rabbitsfoot grass, poison hemlock, Spanish sunflower, and a variety of ornamental species that have encroached from adjacent residential landscaping and entered the creek including, but not limited to, English ivy and mint (*Mentha* sp.).

The upper banks and adjacent upland areas proposed for restoration are characterized by a high level of disturbance resulting from the predominance of invasive plant species and former land uses. Vegetation in these transitional areas is composed of ornamental yucca, Mexican fan palm, annual grasses and forbs including riggut brome, summer mustard, cheeseweed, sow thistle, and Bermuda grass. The bank also supports a black willow (*Salix gooddingii*), and a number of arroyo willows (*Salix lasiolepis*) that will be preserved.

III. RESTORATION OBJECTIVES

A. Objectives of the Restoration Program

The objective of the proposed restoration program described herein is to restore 0.11 acre (5,146 square feet) of riparian habitat that is expected to provide foraging, breeding and movement opportunities for species native to Laguna Canyon Creek through (a) removal of existing invasive non-native species, (b) installation of riparian and transitional riparian plant species appropriate to coastal Orange County, and (c) control of non-native species within the restoration area through a three-year maintenance program.

B. Ownership Status

The present owner of the restoration site is:

Owner: Louis Longi
20432 Laguna Canyon Road
Laguna Beach, California 92651
Telephone: (949) 715-0743

C. Responsible Parties for Restoration Implementation

The Applicant shall be responsible for the implementation of the restoration project.

Applicant: Dornin Investment Group, LLC
1110 Glenneyre Street
Laguna Beach, CA 92651
Contact: Grant Keene
Telephone: (949) 342-7012

D. Time Lapse Between Restoration Implementation and Expected Restoration Program Success

The Project is designed to avoid riparian habitat and jurisdictional waters and will therefore not result in impacts to Laguna Canyon Creek. However, construction activities are expected to occur in a portion of the upland area adjacent to the stream bank that is proposed for restoration.

Restoration activities beginning with initial removal of existing invasive non-native species may begin either concurrently with Project construction activities, or following the completion of Project construction, outside the nesting bird season. Non-native species removals may occur between September 1 and February 14.

Non-native plant removals will be followed by irrigation installation and then plant installation on the western bank, which is expected to occur between the months of October and February. It is expected that immature riparian vegetative structure will exist such that insects and birds will utilize the restoration site for foraging within one year of the completion of plant installation.

IV. IMPLEMENTATION PLAN FOR THE RESTORATION SITE

A. Rationale for Expecting Implementation Success

The proposed revegetation of riparian habitat in this reach of Laguna Canyon Creek is expected to succeed to a high degree. The target invasive species have been successfully eradicated in similar areas using the proposed methods. The plant palette designed for the restoration program

incorporates riparian species that naturally occur in Laguna Canyon Creek and in similar habitats that occur in the vicinity of the restoration site. The plant palette for the site contains species that are appropriate for the existing site conditions including hydrology, light exposure, and soils.

The team responsible for preparing this restoration plan has extensive experience designing and installing restoration projects within southern California. The team's collective experience provides a strong basis for confidence in the success of the restoration program proposed herein and could serve as a valuable resource in the field for ensuring that necessary changes are implemented should unexpected site conditions require in-field changes to the plan.

B. Landscape Contractor

Native plant restoration efforts require specialized knowledge of implementation and maintenance procedures, particularly water requirements for native plants and knowledge of native and non-native plant species. Restoration and maintenance of the Long Work/Live restoration program shall be performed by a qualified landscape contractor with experience in similar riparian restoration projects that include invasive species removal and control. The Contractor also shall possess a valid California Contractor's License C27 and a valid Pest Control Advisor (PCA) license.

Prior to the commencement of the restoration program, the Applicant/Owner will review all aspects of this plan that concern any and all contractors including permit requirements (if any), site protection, maintenance inspections, and landscape procedures.

C. Nesting Birds

The Owner's Landscape Contractor will perform initial site clearing outside of nesting bird season (February 15 to August 31). If necessary, the Owner may remove vegetation within the restoration site between February 15 and August 31 if the Project Biologist conducts a survey for nesting birds within three days prior to vegetation removal and ensures that no nesting birds shall be impacted by non-native vegetation removal activities.

D. Implementation Schedule

Table 1 summarizes implementation tasks for the 0.11-acre restoration site within Laguna Canyon Creek and the intended schedule for when the tasks will commence. Since the start of Project construction is unknown at this time, the commencement of restoration is also unknown. However, as indicated in Section IV.C., the restoration program is to begin outside the nesting bird season (September 1 through February 14) following the completion of Project construction.

TABLE 1 IMPLEMENTATION SCHEDULE	
Initial Non-native Plant Removal	September/October
Native Plant Installation	October/November

Three-Year Maintenance	Quarterly after Initial Invasive Species Removal
------------------------	--

V. RESTORATION WORK PLAN

A. Site Preparation

Site preparation within the 0.11-acre restoration area is expected to commence in September upon the close of the nesting bird season immediately following the completion of construction of the Longi Work/Live Project. Site preparation will consist of non-native and invasive species removal, trash and debris removal, irrigation system installation, pin-flagging of container plant locations, preparation of planting holes, and any additional work necessary to make the restoration site ready for planting.

1. Exotic Plant Removal

The prevalence of non-native, invasive weed species throughout California presents a challenge to most native restoration projects. Weedy species are opportunistic and can quickly colonize disturbed areas, which can lead to displacement of native species if weedy species are not appropriately treated. This problem is further exacerbated in this reach of Laguna Canyon Creek by the presence of ornamental species that have escaped neighboring yards and other landscaped spaces.

Within the restoration site, all undesirable exotic plants will be eradicated during site preparation. Initial eradication of exotic plants shall be performed by hand, using chainsaws, or by use of herbicide.

Herbicide Use: The type, quantity, and method of herbicide application will be determined by a California licensed PCA. Herbicide recommendations shall include, but are not limited to, type of herbicide to be used, rates of application, methods of application, and areas to which herbicides are to be applied. A licensed Pest Control Operator (PCO) may work under the supervision of the PCA who will employ best management practices regarding the timing, quantity, and type of herbicide for each species requiring eradication. The PCA will determine both immediate and follow-up herbicide application for each target species.

Cut/stump treatment: This method is used for control of woody non-native species and involves the cutting of the trunk at ground level and painting the stump with herbicide. Follow-up treatment in the next summer would consist of cutting the new seedlings to prevent them from going to seed, or dabbing with herbicide using a modified spray/sponge tip. This method would be repeated each year during the three-year maintenance period to ensure eradication of invasive woody species.

2. Flagging of Plant Locations

Container stock locations will be positioned in a manner that mimics natural plant distribution (i.e., clusters and islands). Prior to container stock installation, the Project Biologist will designate plant locations within the restoration site using pin-flags color coded

according to species. The Project Biologist will provide the Contractor with the plant palette and accompanying pin-flag color code prior to plant installation.

B. Irrigation Plan

Supplemental irrigation is to be used solely for establishing plants on the western bank and shall be temporary in nature. The objective of the irrigation program is to obtain plant germination and growth with the least amount of irrigation. Frequent irrigation encourages weed invasion and drains nutrients from soil.

The riparian container stock will initially be supported by a short-term automatic irrigation system as well as from existing water sources (Laguna Canyon Creek). Container stock will be irrigated as long as necessary to establish root systems in the native soil, likely for two or three summers. The main irrigation line and all lateral lines will be installed above-grade for ease of routine inspection and removal after plant establishment.

The critical period for supplemental irrigation is during the first winter and early spring after planting. During this time, roots are not well established and unseasonable droughts may cause high plant mortality. During dry periods after plant installation, the Contractor will regularly inspect soil moisture. Watering during the dry summer season will occur as frequently as required.

After the initial plant establishment period water will be applied infrequently and only as required to prevent the mortality of plants and seedlings. The irrigation methods employed will attempt to mimic wet rainfall years by incorporating evenly spaced, infrequent, deep applications of water.

C. Planting Plan

Initial planting is intended to occur between October and February of the year following the completion of Longi Work/Live Project construction so that plants can benefit from seasonal rainfall. Planting shall consist of container stock and harvested plant cuttings and installing plant protection devices if necessary. Planting is expected to occur after the restoration site has been prepared in accordance with this Restoration Plan.

1. Plant Palette

The 0.09-acre western bank restoration area will be vegetated with native riparian trees such as arroyo willow, sandbar willow, and blue elderberry. The understory will include creeping ryegrass, California wild rose, California black berry, bush mallow, and Catalina currant.

The plant palette outlined in Table 2 below defines species, spacing, and total quantities of plants required.

**TABLE 2
RIPARIAN PLANT PALETTE**

Botanic name	Common name	Stock Type	Plant Spacing (ft. on center)	Total Qty.
<i>Artemisia douglasiana</i>	mugwort	1 gal	3-plant in clusters	15
<i>Elymus triticoides</i>	creeping wild rye	1 gal	2-plant in clusters	91
<i>Juncus mexicanus</i>	Mexican rush	1 gal	2-plant in clusters	23
<i>Juncus patens</i>	spreading rush	1 gal	2-plant in clusters	23
<i>Malacothamnus fasciculatus</i>	bush mallow	1 gal	6	13
<i>Ribes viburnifolium</i>	Catalina perfume	1 gal	4-plant in clusters	34
<i>Rosa californica</i>	California wild rose	1 gal	3-plant in clusters	42
<i>Rubus ursinus</i>	California blackberry	1 gal	3-plant in clusters	40
<i>Salix exigua</i>	sandbar willow	1 gal	5	9
<i>Salix lasiolepis</i>	arroyo willow	1 gal	2	7
<i>Sambucus nigra ssp. caerulea</i>	blue elderberry	1 gal	6	2
Total				283

Botanic name	Common name	Stock Type	Plant Spacing (ft. on center)	Percent cover by species	No. per Acre	Total Qty.
<i>Artemisia douglasiana</i>	mugwort	1 gal	3	3	168	15
<i>Elymus triticoides</i>	creeping wild rye	1 gal	2	8	1006	91
<i>Juncus mexicanus</i>	Mexican rush	1 gal	2	2	252	23
<i>Juncus patens</i>	spreading rush	1 gal	2	2	252	23
<i>Malacothamnus fasciculatus</i>	bush mallow	1 gal	6	10	140	13
<i>Ribes viburnifolium</i>	Catalina perfume	1 gal	4	12	377	34
<i>Rosa californica</i>	California wild rose	1 gal	4	15	472	42
<i>Rubus ursinus</i>	California blackberry	1 gal	3	8	447	40
<i>Salix exigua</i>	sandbar willow	1 gal	10	20	101	9
<i>Salix lasiolepis</i>	arroyo willow	1 gal	10	15	75	7
<i>Sambucus nigra ssp. caerulea</i>	blue elderberry	1 gal	10	5	25	2
TOTAL CONTAINER STOCK				100	3146	283

2. Source of Plant Materials

It is preferred that the source of all propagates used in the restoration site is from wild sources within Orange County and be collected as near to the restoration site as possible to preserve regional genetic integrity. It is recommended that plants be purchased from a reputable native plant nursery.

3. Container Stock

All plant materials must be healthy, disease free, and of proper size prior to planting. Overgrown, root-bound container stock will be rejected.

4. Mycorrhizal Fungi

Mycorrhizae are specialized fungi found on plant roots. A symbiotic relationship exists between plant roots and mycorrhizae wherein the plants benefit from the increased ability to take up nutrients and withstand drought when mycorrhizae are present. This relationship is essential to the growth rate, well-being, and longevity of native plant communities. Plant utilization of mycorrhizal fungi markedly increases the success of revegetation on disturbed or degraded terrain. All appropriate container-grown plants, except those known to be non-host species, shall be inoculated with mycorrhizal fungi prior to delivery to the restoration site.

5. Planting Method for Container Stock

All container stock plants shall be thoroughly watered one day prior to plant installation. Container stock planting holes shall measure at least two times the diameter of the plant container and two times the container depth. Planting holes shall be backfilled with native soil to ensure appropriate planting depth of each container plant within a planting hole so that the top of the root ball will be set one inch above finish grade. When planting, each container plant shall be upended into the palm of one hand to avoid damage to the root structure and then placed into a planting hole. Planting holes shall be backfilled with native soil immediately after planting, and a three-inch high hand-compacted earth berm approximately 36 inches in diameter shall be constructed around each container plant. The berm will create a watering basin for each container plant which shall be maintained until the plants are no longer irrigated. Mulch may be applied as a top dressing and spread two to three inches thick around the plant though shall not contact the stem of the plant. All container stock shall be watered immediately after installation.

6. Pruning and Staking

There will be no pruning or staking of any vegetation. Diseased or insect-damaged foliage, if sufficient to require pruning, will serve as a benchmark for rejection of plant material.

D. As-Built Report

Upon the completion of invasive species removal and native plant installation, an "as-built" letter report documenting initial removals, planting dates, plant quantities, and other site preparation activities, including site photographs will be submitted to the CCC.

VI. MAINTENANCE

A. Maintenance Activities

The purpose of the maintenance component of the restoration program is to ensure success of the restoration plantings. Maintenance will occur during the three-year life of the restoration program. The Project Biologist will monitor all aspects of restoration in an effort to detect any problems at an early state. Potential problems could arise from irrigation failure, erosion, vandalism, competition from weeds and invasive species, and unacceptable levels of disease and predation.

The maintenance personnel will be fully informed regarding the habitat establishment program so they understand the goals of the effort and the maintenance requirements. A landscape contractor with experience and knowledge in native plant habitat restoration will supervise all maintenance personnel.

Damage to plants, irrigation systems, and other facilities occurring because of unusual weather or vandalism will be repaired or replaced immediately.

The following maintenance guidelines are specifically tailored for native plant establishment. A Contractor with experience and knowledge in native plant revegetation will supervise all maintenance personnel. Damage to plants or irrigation systems occurring as a result of unusual weather or vandalism will be repaired or replaced immediately.

Routine maintenance duties include the following tasks:

- Plant inspection/replacement
- Weed control
- Irrigation water volume and frequency
- General maintenance of the irrigation system
- Trash and debris removal
- Pest control

Plant Inspection/Replacement

Plantings will be maintained in good growing condition throughout the three-year life of the Project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements. Replacement plants shall conform to the species, size requirements, and spacing as specified for the plants being replaced. The replacement plants shall be purchased from inventory at the same native plant nursery as were the contract-grown plant stock.

Weed Control

Weed eradication will minimize competition that could prevent the establishment of native species. All maintenance personnel will be trained to distinguish weed species from native vegetation to ensure only weedy species are removed or sprayed with herbicide.

Follow-up treatment of non-native species shall be done on a quarterly basis during the three-year maintenance period. Weed debris shall be removed from the project area on a daily basis and disposed of as permitted by law. In areas where ornamental shrubs/groundcovers or invasive species are intermixed with native riparian vegetation, the ornamental and invasive species will be removed manually around the native plants in order to allow for the expansion of the native species without competition.

Irrigation Water Volume and Frequency

Irrigation water shall be applied in such a way as to encourage deep root growth (period deep irrigation versus frequent light irrigation). The Contractor will allow soil to dry down to approximately 50- to 60-percent of field capacity (in the top six or 10 inches of soil after germination and during seedling establishment) before the next irrigation cycle. Wetting of the full root zone and drying of the soil between irrigation events is essential to the maintenance of the plants and the promotion of the deep root zone that will support the vegetation in the years after establishment. A soil probe or shovel shall be used to examine soil moisture and rooting depth directly.

General Maintenance of the Irrigation System

General system checks shall be conducted on a regular basis to assure the system is functioning correctly, except during periods when the irrigation system is not in operation. Poorly functioning or non-functioning parts shall be replaced immediately so as to not endanger the plantings.

Trash and Debris Removal

Manual removal of weeds, litter, trash, and debris from the planting sites will be performed as a part of routine maintenance. All trash and debris will be disposed of off-site as permitted by law.

Pest Control

Planted groundcover and grasses will be monitored for signs of disease, insect, and/or predator damage, and treated as necessary. Badly damaged plants will be pruned to prevent spreading of the pestilence or replaced in kind if removed. Excessive foraging by predators will necessitate protective screening around plants.

Rodenticides containing any anticoagulant compounds (including but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used at any time.

B. General Maintenance Tasks and Duties

The Contractor will perform the following tasks as general maintenance duties.

- Plant inspection
- Weed control
- Irrigation water volume and frequency
- General maintenance of irrigation system
- Trash and debris removal
- Pest control
- Plant replacement

C. Maintenance Schedule

The restoration maintenance and monitoring program will commence upon initial planting of the restoration site and will continue for three years. Maintenance activities will include periodic site inspections, eradication of non-native and invasive plant species, weed control, implementation and maintenance of erosion control measures if necessary, trash and debris removal, and/or replacement of plantings as necessary. Table 3 indicates the maintenance schedule of tasks required on a monthly, quarterly, and annual basis.

TABLE 3 MAINTENANCE SCHEDULE			
Maintenance Task	Year		
	1	2	3
Plant Inspection	Quarterly	Quarterly	Quarterly
Irrigation System Inspection	Monthly	Monthly	As Required
Trash and Debris Removal	Quarterly	Quarterly	Quarterly
Weed Control	Quarterly	Quarterly	Quarterly
Pest Control	As Required	As Required	As Required
Plant Replacement	Annually	Annually	Annually

D. Responsible Parties

The property Owner will be responsible for financing and carrying out maintenance activities.

Owner: Louis Longi
 20432 Laguna Canyon Road
 Laguna Beach, California 92651
 Telephone: (949) 715-0743

VII. MONITORING PLAN FOR THE RESTORATION SITE

The objective of the restoration program set forth is to eradicate invasive non-native species from the restoration area and revegetate with riparian habitat that provides foraging, breeding and movement opportunities for local wildlife.

The restoration site will be monitored for three years following the completion of plant installation. The monitoring program will consist of the measurement of performance indicators and assessment of these indicators relative to established performance criteria on an annual basis. Monitoring will be performed by a qualified habitat restoration specialist, biologist, or horticulturist with appropriate credentials and experience in native habitat restoration.

A. Performance Standards

1. Non-native Plant Suppression/Control

Due to the prevalence of non-native species within the subject reach of Laguna Canyon Creek, the suppression and control of non-native, particularly invasive species, will be considered a satisfying success criterion. Non-native species cover should not exceed 5-percent of the overall vegetative cover within the restoration area at the end of the three-year monitoring period.

2. Percent Survival of Planted Native Species

An annual census of all installed container stock will be taken each year in the late fall or early winter. The number of missing, dead and/or declining plant stock will be recorded for each plant species. The percentage of surviving container stock will be calculated by subtracting the number of missing, dead or declining container stock from the total number of container stock (by species) that were initially installed. The restoration will be considered successful if it demonstrates at least 80-percent survival of the planted container stock, or adequate natural recruitment of native species, as determined by the Project Biologist, at the end of the three-year monitoring period.

B. Monitoring Methods

For the duration of the three-year monitoring period, establishment of the planted riparian vegetation will be measured through a series of qualitative and quantitative measurements assessing percent survival of planted species represented in the site and non-native species cover.

1. Qualitative Monitoring

Qualitative monitoring surveys will be performed on a quarterly basis for the first year and biannually for years two and three. Qualitative surveys will include general observations such as fitness and health of planted species, pest problems, presence of non-native invasive weed species, mortality, and drought stress. Records will be kept of mortality and other problems such as insect damage, weed infestation, and soil loss. The Project Biologist will determine

remedial measures necessary to ensure survival and establishment of the planted riparian species.

2. Quantitative Monitoring

Monitoring methods include an annual census of dead and/or declining plant stock, visual estimates of cover, and field sampling techniques that are in accordance with the methodology developed by the California Native Plant Society (CNPS).¹ If survival and cover requirements are not met, the Project Biologist will recommend appropriate remedial measures to be carried out by the Owner. Replacement plants will be monitored according to the same survival and growth requirements as initial plantings for the duration of the restoration program. All findings during each annual monitoring event will be recorded for each year to be submitted as a part of the final annual monitoring report.

3. Photo-Documentation

Fixed photo points will be established prior to or during the first annual monitoring event to ensure that photo-documentation is consistent. During annual monitoring events photographs will be taken from the fixed photo points and in the same compass directions in order to document and compare the condition of the restoration site from year to year. Photographs should reflect material addressed in the final annual monitoring report.

C. Annual Monitoring Report

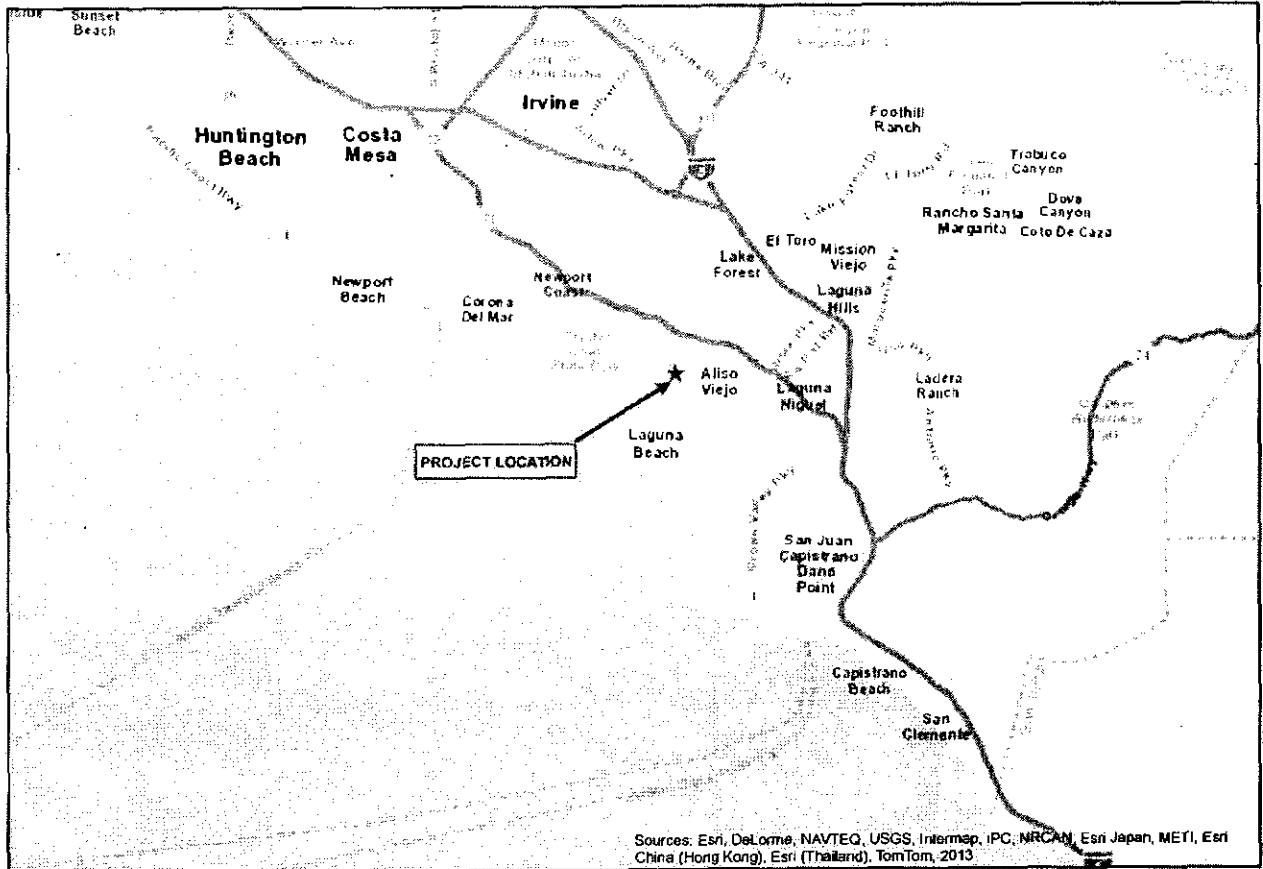
A final annual monitoring report shall be prepared at the end of the three-year monitoring period. The report will include: (a) a summary of restoration actions, maintenance, and plant establishment during the three-year monitoring period, and (b) photographs depicting the condition of the restoration site taken from the same fixed points and in the same directions for the duration of the monitoring program.

D. Notification of Completion

At the end of the three-year monitoring period, the Owner will submit a letter Notification of Completion to the CCC, documenting the completion of the maintenance and monitoring period.

¹ Sawyer, John O. and Todd Keeler-Wolf. 1995. *A Manual of California Vegetation*. California Native Plant Society.

Source: ESRI World Street Map



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, IPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013

LONGI WORK/LIVE PROJECT

Regional Map

GLENN LUKOS ASSOCIATES

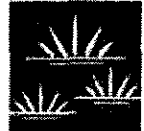
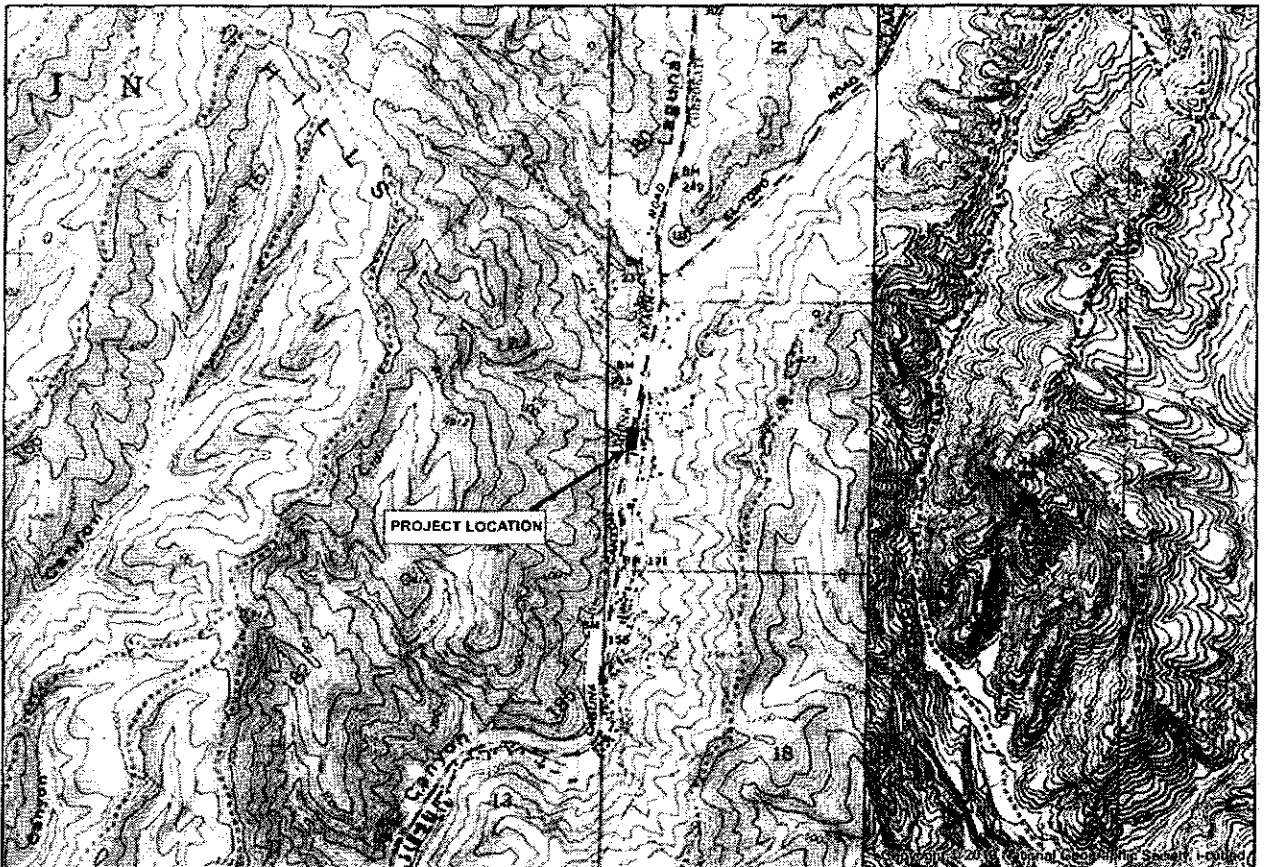


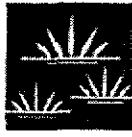
Exhibit 1

Adapted from USGS Laguna Beach, CA quadrangle






LONGI WORK/LIVE PROJECT
Vicinity Map

GLENN LUKOS ASSOCIATES
Exhibit 2





Legend

-  Laguna Canyon Creek (0.02 Acre)
-  Western Bank Restoration (0.09 Acre)
-  Parcel Boundary

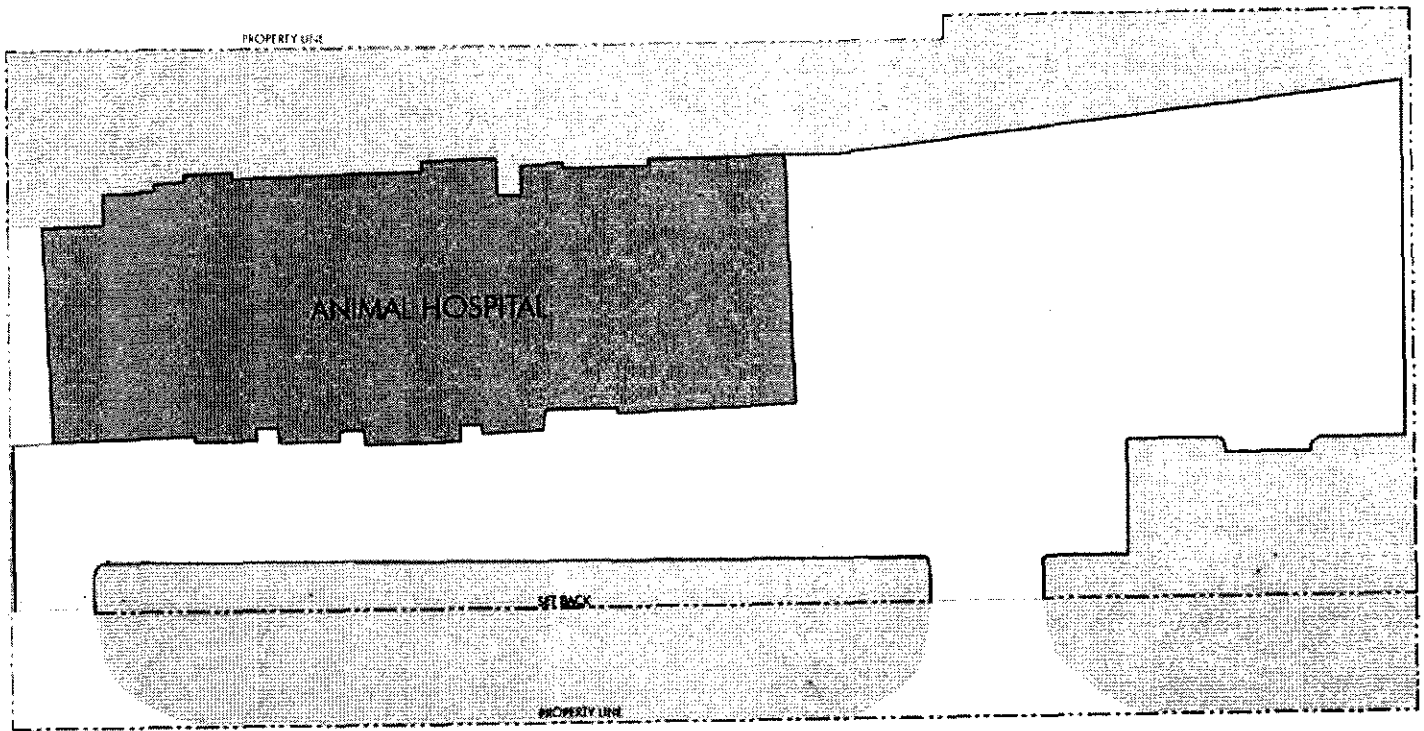


LONGI WORK/LIVE PROJECT
Habitat Restoration Plan Map

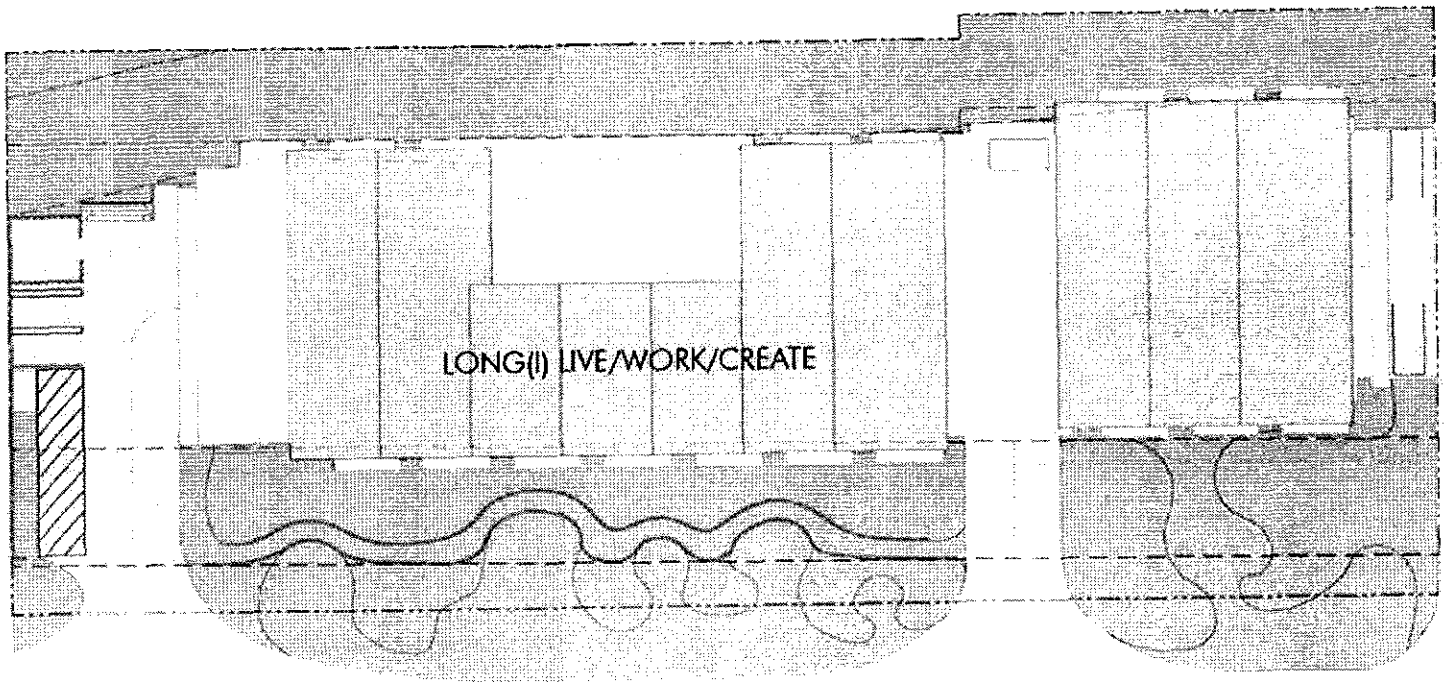
GLENN LUKOS ASSOCIATES

Exhibit 3





21-018 (REV. 07/2005) (ANNEX 2) (RD)



2005 Approved Animal Hospital Building Footprint



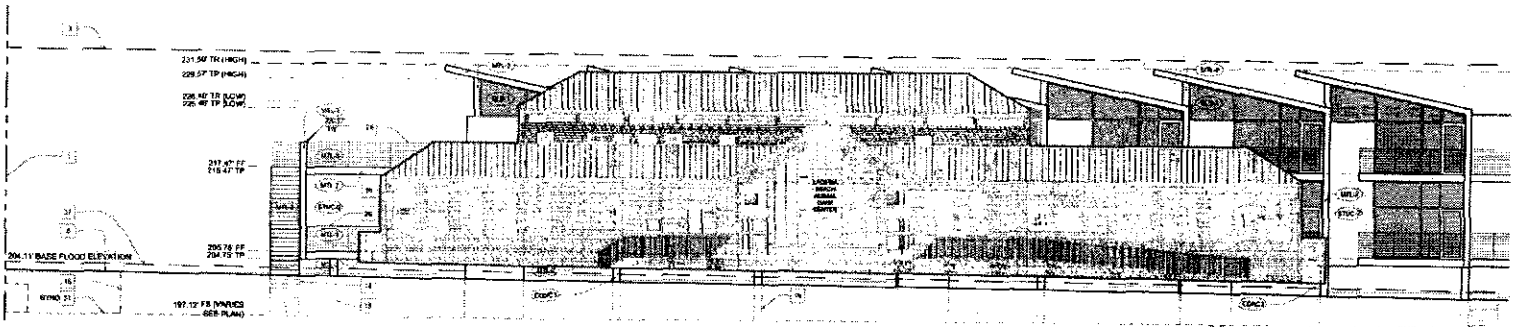
Proposed New Building Footprint

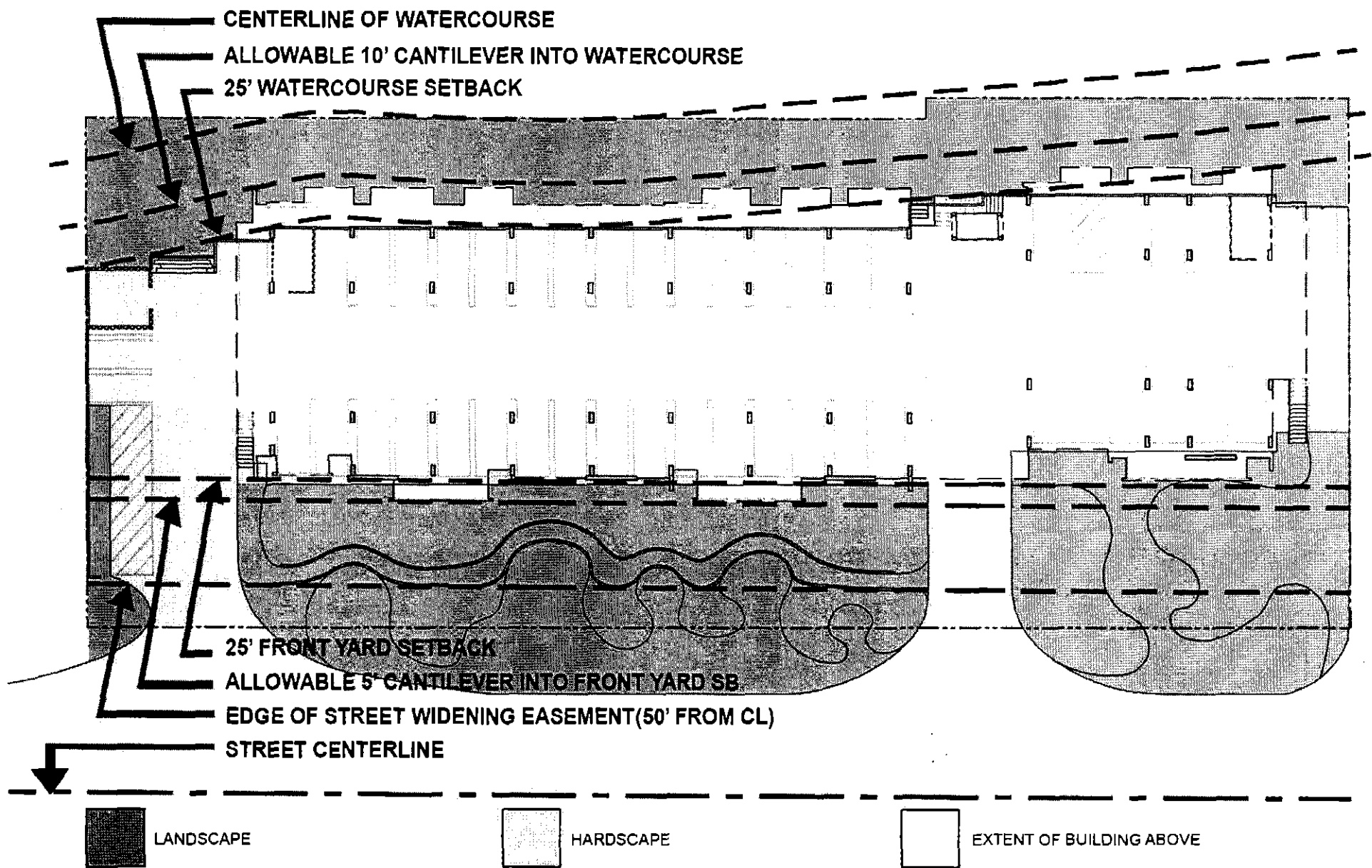


Hardscape

Landscape

Deck Space





MEMORANDUM

GLENN LUKOS ASSOCIATES

Regulatory Services



PROJECT NUMBER: 1124-1ART
TO: California Coastal Commission
FROM: Kevin Livergood, Glenn Lukos Associates
DATE: April 29, 2014
SUBJECT: Response to Appellant Comments: Coastal Development Permit 13-1376 – Longi Work/Live Project, Laguna Beach, Orange County, California

Appellant: Clean Water Now

Issue: City of Laguna Beach Policy 9(C) and (D) pertaining to the required watercourse setback of 25-feet from centerline and cantilever projection of up to 10 feet. The appellant states that the “overhang or cantilevered entitlement credit extirpates, i.e., completely eliminates the critical riparian and wildlife corridor foraging and migrational buffer zone.”

Response: The proposed Project design has demonstrated compliance with the appropriate LCP setback and incorporates avoidance of resources within the jurisdictions of Corps, RWQCB, and CDFW. Provided the Project continues to avoid these resources no further coordination with the referenced agencies is required.

The Municipal Code and General Plan, including the Local Coastal Program, allow building projections to cantilever up to 10 feet into the 25-foot setback. The cantilevered projection will not include supports to the ground within the setback areas and the projection will not encroach closer than 15 feet from the centerline of flow. The Project is designed to avoid impacts to jurisdictional waters and associated riparian habitat. Therefore, the cantilevered projection will not result in impacts to riparian habitat associated with Laguna Canyon Creek.

As stated in the Biological Habitat Assessment report dated August 12, 2013, the reach of Laguna Canyon Creek that extends along the eastern boundary of the subject parcels is characterized as being highly disturbed due to the predominance of non-native, ornamental, and ruderal vegetation associated with urbanization. Native plants occur on site, but are limited to herbaceous understory species adapted to disturbed and developed environments. Occasional arroyo willow trees (*Salix lasiolepis*) occur on the banks of the creek, but they do not support the structure or density characterized by high value riparian habitats that are associated with less disturbance. The low-value habitat is only capable of supporting common, urban-adapted species, which would continue to use the drainage and associated vegetation following construction. Such use by common urban-adapted species would not be eliminated by the Project.

29 Orchard
Telephone: (949) 837-0404

▪ Lake Forest

▪ California 92630-8300
Facsimile: (949) 837-5834

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Appellant: Jackie Gallagher and Audrey Prosser

Issue: 1) Development within 25 feet of a mapped blue line stream; 2) failure to protect critical habitat and wildlife as well as essential wildlife corridors.

Response: As previously stated, the proposed Project design has demonstrated compliance with the appropriate LCP setback and incorporates full avoidance of resources within the jurisdictions of Corps, RWQCB, and CDFW. Provided the Project continues to avoid these resources no further coordination with the referenced agencies is required. The reach of Laguna Canyon Creek has been identified by the City as a channelized stream lacking significant habitat value. Such determination is corroborated by the near-vertical to vertical banks of the channel that are fortified with concrete, steel sheet pile and other hardened or impervious materials. Within the reach of the creek that is adjacent to the Project, a portion of the bank remains earthen. However, this portion of the bank supports low value habitat comprised of native and non-native plants that naturally stabilize the deeply incised bank, but further contribute to the lateral containment of the creek. Such channelization and low value habitat occurs approximately 100 feet upstream and downstream of the parcel limits.

The Project area does not support Critical Habitat for any listed species and the use of Laguna Canyon Creek for the movement of wildlife will not be impeded as the proposed Project is avoiding impacts to jurisdictional waters and the associated riparian habitat. The creek will remain unobstructed and the creek bed, bank, and channel will not be altered.

Issue: 4A - Protection of fresh water lakes, streams, waterways and riparian habitats, and preserve borders and banks of lakes and streams in their natural state.

Response: The Municipal Code and General Plan, including the Local Coastal Program, allow building projections to cantilever up to 10 feet into the 25-foot setback. The cantilevered projection will not include supports to the ground within the setback areas and the projection will not encroach closer than 15 feet from the centerline of flow. The Project is designed to avoid impacts to jurisdictional waters and associated riparian habitat.

Issue: "Topic 8 – Vegetation and Wildlife Resources." The topic includes issues pertaining to Very High Value habitats, rare and endangered species, preservation of canyon wilderness, wildlife habitat areas, and Environmentally Sensitive Areas (ESAs).

Response: As depicted on the City of Laguna Beach GIS (LBWebMaps - Environmental Constraints), "Very High Value" habitats do not occur within the subject parcels. As depicted on the CDFW BIOS Viewer (5.16.23), the California Natural Diversity Database (CNDDDB) does not identify any rare or endangered species within or adjacent to the subject parcels. As stated in the Biological Habitat Assessment report for the Project, the reach of Laguna Canyon Creek that

MEMORANDUM

April 29, 2014

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extends along the eastern boundary of the subject parcels is characterized as being highly disturbed due to the predominance of non-native, ornamental, and ruderal vegetation associated with urbanization. The subject parcels and those adjacent to the Project are characterized by urban/suburban development and disturbance.

Issue: 9C – Stream setback.

Response: The City of Laguna Beach Staff Report addressed this issue in preparation for the Planning Commission and City Council hearings. The City states the following:

“According to Policy 9C(a) of the Open Space/Conservation Element, channelized sections of streams are not subject to the setback requirement of 25 feet from the top of the stream bank; therefore, the required watercourse setback is 25 feet from the centerflow line. The Municipal Code and General Plan, including the Local Coastal Program, allow building projections to cantilever up to 10 feet into the 25-foot setback. No variances are required for the proposed development.”

This is an appropriate determination based on the presence of stream channelization and lack of “significant habitat value”. Based on historic aerial imagery and current conditions on site as described in the biological assessment report, lateral movements of the stream are constrained. Habitat associated with this reach of Laguna Canyon Creek, including parcels directly upstream and downstream of the Project support low value habitat that is comprised of native and non-native species adapted to disturbed, urbanized environments.

Issue: 9K – Preservation and enhancement of natural drainage of Laguna Beach.

Response: The Project proposes full avoidance of jurisdictional waters including the bed, bank, and channel of Laguna Canyon Creek.

Issue: Section 3.0 – “Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values...”

Response: As stated in the Biological Habitat Assessment report dated August 12, 2013, the reach of Laguna Canyon Creek that extends along the eastern boundary of the subject parcels is characterized as being highly disturbed due to the predominance of non-native, ornamental, and ruderal vegetation associated with urbanization. Native plants occur on site, but are limited to herbaceous understory species adapted to disturbed and developed environments. The City has not identified (as shown on LBWebMaps - Environmental Constraints) the subject parcels as containing “High Value” or “Very High Value” habitat. And as depicted on the CDFW BIOS

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Viewer (5.16.23), the CNDDDB does not identify any rare or endangered species within or adjacent to the subject parcels.

Issue: General Plan/Land Use/ Guiding Principles – Item 2) Open Space

Response: The Project will have no impact on lands identified as Open Space.

Issue: General Plan/Land Use/ Guiding Principles – Item 7) “Laguna Canyon Creek, which provides both food and water for numerous forms of small native wildlife. Laguna Creek is one of the few sources of year-round fresh water. There are numerous crawdads and wild blackberries in the area.”

Response: The Project design includes the full avoidance of jurisdictional waters, including the bed, bank and channel of Laguna Canyon Creek. However, as noted in the appellant’s comment, the stream predominantly provides habitat for non-native aquatic species including the invasive red swamp crayfish (*Procambarus clarkia*) and the naturalized western mosquitofish (*Gambusia affinis*).

Issue: General Plan/Land Use/ Guiding Principles – Section III: Issue Statements and Policies/Topic 4 (Biology and Habitat)/Goal.

Response: As stated in the Biological Habitat Assessment report dated August 12, 2013, the reach of Laguna Canyon Creek that extends along the eastern boundary of the subject parcels is characterized as being highly disturbed due to the predominance of non-native, ornamental, and ruderal vegetation associated with urbanization. Native plants occur on site, but are limited to herbaceous understory species adapted to disturbed and developed environments. The City (as shown on LBWebMaps - Environmental Constraints) has not identified the subject parcels as containing “High Value” or “Very High Value” habitat. And as depicted on the CDFW BIOS Viewer (5.16.23), the CNDDDB does not identify any rare or endangered species occurring within or adjacent to the subject parcels. The parcels do not contain significant biological resources or sustain sensitive wildlife habitat. Furthermore, the Project design avoids jurisdictional waters and associated riparian habitat.

Issue: Consistency with California Environmental Quality Act (CEQA) – Section 21080.5(d)(2)(A) pertaining to the mitigation of significant adverse impacts to the environment.

Response: The proposed Project design avoids jurisdictional waters and associated riparian habitat. No special status species or habitat suitable for special status species occurs on site. The Project will not result in impacts to native habitat.

Development Standard Compliance Table

Property Development Standards: The following table has been revised to show how the redesigned project complies with the development standards outlined in Municipal Code Chapter 25.16 Artists' Work/Live, the M-1B Zoning District, the parking standards, and applicable sections of the Municipal Code.

Development Standard	Requirement	Proposed
Building Height	31 feet above base flood elevation (or a maximum of 36 feet, including parking garage floor levels, roofs, vents, mechanical equipment, mechanical enclosures, elevator shafts, stairways and other structural elements).	Maximum 31 feet above the base flood elevation; 36 feet high. Front portion of the north end of building is two stories, approximately 24 feet between finish grade and the deck railing. <i>Proposal complies.</i>
Front Yard	25 feet from Laguna Canyon Road dedication line.	25 feet from Laguna Canyon Road dedication line. <i>Proposal complies.</i>
Side Yards	No requirement; Site abuts M-1B zoned lots on each side.	South side yard 10 feet (to exterior stairway); North side yard 35.5 feet (to exterior stairway). <i>Proposal complies.</i>
Rear Yard	20 feet from the R-1 Zone; 25 feet from centerflow line of significant watercourse (see Environmental Evaluation, below).	22 feet from the R-1 Zone; 25 feet from centerflow line. <i>Proposal complies.</i>
Parking	45 spaces (1.5 spaces per artists' work/live unit; ancillary retail does not require additional parking).	47 spaces. <i>Proposal complies.</i>
Minimum Unit Size	Based on California Building Code for "efficiency unit," which requires one room, excluding the bathroom, to be a minimum of 220 square feet.	496 square feet. <i>Proposal complies.</i>

Ratio Work/Live Space	Minimum requirement 2/3 working space, 1/3 of which may be communal, with the remainder as living space.	Meets requirements for individual and communal work space and living space. <i>Proposal complies.</i>
Storage	No specified storage size requirement in the Zoning Ordinance.	Two storage/maintenance closets totaling 316 square feet are provided on the 2nd and 3rd levels. Art equipment will be stored within individual work/live units; larger equipment will be stored in Unit #5, which is 1,664 square feet. <i>Proposal complies.</i>
Loading Space	Minimum requirement 10 feet by 40 feet.	10 feet by 40 feet. <i>Proposal complies.</i>

Summary: As an artist colony, the City amended the Artists' Work/Live Ordinance in 2012 to facilitate the development of artists' work/live units that will be affordable and provide an incentive for local artists to remain in Laguna Beach. The proposed artists' work/live project is the first application under the recently adopted provisions and, if approved, will provide working and living units for 30 artists, including the long-term reservation of eight units for occupancy by low-income artists.

RECEIVED
South Coast Region

DEC 24 2014



CALIFORNIA
COASTAL COMMISSION

Organization
committed to
solution-oriented
collaboration as a
means of developing
safe, sustainable
water supplies and
preserving healthy
ecosystems.

TRIOB

Clean Water Now

P.O. Box 4711 Laguna Beach CA 92652
Home Office: (949) 715.1912 (VM/No TM)
Cell: (949) 280.2225 (VM/TM)

Email: Founder/Executive Director rogerbutow@clean-water-now.org

Date: December 19, 2014

Attention: Mr. Karl Schwing & staff
California Coastal Commission
200 OceanGate, #1000 (10th floor)
Long Beach, CA 90802-4416

Re:

**Appeal No. A-5-LGB-14-0019 Coastal Development Permit 13-1376
(20412 and 20432 Laguna Canyon Road, Laguna Beach, California)
Lonqi Artists Work/Live Project Approved by City of Laguna Beach Council
on April 1, 2014**

Karl:

On Friday, December 12, 2014, Clean Water Now (herein CWN) transmitted a notification email to you and several other staff members we deemed appropriate.

In that communiqué (attached), we expressed dual concerns regarding what we feel to be the precipitous scheduling of this appeal at the January Commission hearings.

We provided you/staff with some preliminary comments in that email. As promised, it was to be followed by this, a more incisive document detailing justification for requesting that the hearing, possibly including both a Substantial Issue (SI) hearing followed by a De Novo, be set aside in abeyance.

At minimum delayed until the March 2015 hearing at the San Diego venue to allow a more thorough review, request and response from the jurisdictional agencies mentioned later in this pleading.



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Among a lengthy laundry list are certain regulatory compliance matters (certifications and permits) that are neither within the Commission's scope of regulatory approval powers nor within the Commission's legally defined rights to allow or perfect. The alluded to agencies, three (3) in number, are enumerated (listed) below.

These certifications/permits include both state and federal oversight compliance agreements that should have been procured at the local lead agency level per the California Environmental Quality Act (CEQA).

CWN repeatedly noted these lapses before the Laguna Beach Planning Commission, the Laguna Beach City Council (bundled herein as the City) both in oral as well as written submissions and comments. One of a litany of objections was the dearth of information, the glaring lack of short-term strategies, practices and long-term details regarding removal of non-native plant species at the ledge, riparian and within the watercourse itself.

Furthermore, we do not believe that adequate time has been allowed for analysis dialogue with Commission staff about the Habitat Restoration Plan (HRP). CWN has been informed that our liaison, Matt Stone, is no longer handling this appeal, and that you, Karl, will be out of the offices the entire week of December 22nd—26th.

Combined with the New Year's blacked out dates, family gatherings and vacations, it seems an unreasonable burden to rush this appeal. The time allocated during this season of the year is too compressed, extremely insufficient to serve the purposes and goals of CEQA and the Coastal Act.

Contrary to the fatally flawed conclusions reached by legal counsel (Mr. John Erskine---Nossaman LLC) in the September 18, 2014 email), CWN asserts the following three (3) conclusions:

- (1) The HRP tacitly agrees with, is proof, i.e., sustains our contention that this project is of a Substantial Issue nature. **"The Restoration Plan (also attached hereto) provides an additional Project post approval mitigation measure and a significant commitment to enhancement of riparian habitat values in a degraded."** Ibid

Legal counsel is inexplicable, in a self-inflicted contradictory fashion, arguing diametrically opposed, opposite sides of the issue: If the HRP itself is "**significant,**" then it adds weight to and actually concurs with our ongoing contention that the cumulative impacts and additional mitigations measures should by itself rightfully trigger a De Novo.



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- (2) It is therefore, in our opinion, not appropriate to attempt a coupled (SI & De Novo) at this time, i.e., both be heard consecutively at the same hearing until such a time as our requested further tasks be completed.

The HRP should trigger outreach to the Public Resource and Trustee agencies that review, analyze, comment then ratify or deny, negotiatively alter and/or agree to the HRP as compliant.

Further mitigations or denial of any requisite certifications/permits might occur, oversight must be performed by the appropriate, i.e., the legally empowered agencies. This would in essence cure or remedy City lapses and failures under CEQA.

Ex.: The San Diego Regional Water Quality Control Board (SDRWQCB, Region 9-Cal/EPA) was notified but in a limited fashion: It was informed of a Water Quality Management Plan (WQMP) being prepared, being drafted by the City. THE MND alleged that no streambed alteration would occur.

The JPEGs that CWN provided staff in its appeal last Spring clearly reveal that many of the candidates for removal non-natives trees and shrubs in fact ARE in the streambed itself, NOT solely in the riparian and/or bank ledge of Laguna Canyon Creek. The watercourse WILL be altered, in the only reach (as admitted by the applicant) with soft, unarmored banks for an approximate 350-foot long distance

Ex.: Both the USFWS and CDFW were informed but in a "de minimis" fashion with incorrect, faulty and misleading verbiage/descriptions, the MND alleged that the blue line and adjacent riparian would not be disturbed. So of course they made no replying comments, requested nothing more---They (like the SDRWQCB) were lead to believe by the MND that no displacement and sediment transport potential would/could take place.

It is our legal position that until such a time as the USACOE (404 Dredge & Fill), CDFW (§1602 SAA), plus Cal/EPA 401 (Water Quality Certification) are engaged, educated regarding the disruption and ancillary impacts of the HRP and then respond, this appeal should be held in abeyance.

To do otherwise is to leave the two (2) pertinent public agencies (City and Commission) open to litigation, to unnecessary, time consuming courtroom challenges.

Clean Water Now P.O. Box 4711 Laguna Beach CA 92652
Email: rogerbutow@clean-water-now.org Web: www.clean-water-now.org



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CWN is NOT asking the Commission to presume, to make the decision(s) for these agencies.

We are petitioning you to withhold approval or judgment: These agencies need to be updated, become fully aware of the true nature, the dynamics of the HRP, its potential impacts and recently offered mitigations/facts in this dispute, reach their mandated conclusions, and then render official, legally-binding decisions.

The proper mandated algorithm, clearing this only recently submitted mitigation HRP through these agencies, has been disrupted. What will happen if the Commission approves the project only to have it challenged via subsequent Injunctive Relief or some other imposed mechanism ?

Doesn't it make more logical and compliance sense to pursue agency outreach now, acquire responses, and if deemed necessary the perfected (completed and binding) certifications/permits now rather than later?

As a 42-year builder of both commercial and residential projects, I often use the axiom "**Measure twice, cut once**" when a critical material is being prepared for installation. This issue merits no less. The issues we're bringing up cannot be resolved justly, fairly (as noted previously) under the conditions and within the timeframe appellants are facing.

PART I: Analysis & Rebuttal To The Habitat Restoration Plan

First and foremost, CWN feels compelled to forcefully object to the applicant, Mr. Louis Longi, being self-designated as the overseer for every critical aspect of every environmentally related plan at the site.

To the best of our knowledge, the applicant has never managed a 30-unit commercial/residential complex, especially one with multiple and potentially ecologically adverse potentiality. He is not a biologist or ever been employed, served in apprenticeship in any environmentally related field.

Inexplicably, he is to be the monitor and/or overseer for the emergency response and if necessary evacuation leadership (Fire, earthquake, flood), the implementation plus O & M's regarding the WQMP, and now the HRP.

The applicant has neither offered or proven expertise in any of these fields, and is obtaining indeterminate, unending fiduciary responsibilities in technical matters he

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Email: rogerbutow@clean-water-now.org Web: www.clean-water-now.org



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knows little, if anything about. He has no certifications or credentials, no OJT or personal, legitimately archived bona fides/history per se.

Moreover, even if he resides onsite as property management and/or maintenance personnel, as a resident that must migrate (shop, visit friends, etc.), as an Orange County businessman and traveling artist, he cannot be expected to be onsite 24/7/365.

The applicant and ownership murkiness, uncertainty continues to confound and confuse CWN regarding the responsible party(ies) for ongoing monitoring and maintenance duties. CWN continually asked, and received no clarification regarding "Who's on first?"

Embedded in the HRP is the same obfuscating information: Ownership is nebulous, as are responsible entities both during and post-construction.

Dornin Investment Group, the acronym DIG ironically appropriate for a financing developer, is in fact what it says: A capital venture, a land speculation LLC. Nowhere in their portfolio does one find a similar development in similar ecological conditions. As an LLC they could withdraw via bankruptcy or some other failure.

This is why CWN felt that both a construction performance bond AND post-construction, hold harmless indemnification bond were intuited. If abandoned under present submissions no identified, no legally responsible and credible/worthy back up, contingency plan is broached. If there's catastrophic failure of the edifices, infrastructure or bank, millions of dollars in damages could occur---The applicant hasn't offered, nor the City required "**hold harmless**" liability indemnification.

This might leave an unfinished, under-performing urban blight riddled site, which is why CWN believes that legally enforceable, binding assurances need to be included by the applicant if approved.

Where is the track record of in-house management expertise within an Environmentally Sensitive Area (ESA), within historically stressed flood plain.

None of the ongoing site mitigations pertaining to the ones listed above can possibly be achieved considering these deficiencies, inhibitions and restrictions, not to mention self-interest by the applicant regarding the accomplishment of performance standard mitigations.

The HRP completely ignores the obvious impacts of removing trees whose roots are extensive and sit INSIDE of the Laguna Canyon Creek channel. What the



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aforementioned, previously delivered/transmitted JPEGs prove without any doubt is that the non-natives are NOT out at the boundary or periphery but physically WITHIN the active (flattened) portion of the blue line.

To repeat the petition in the email transmitted last week, CWN contends that insufficient time has been provided to both analyze the HRP and respond to the refutations embedded in the Nossaman LLC communiqué. Protectionists cannot peer review and/or critique that which we are unaware of.

To the best of our knowledge, staff never informed the appellants of the existence of these documents. We continually attempted to broker an onsite (in situ) visitation after we were denied the June walk through attended by the applicant and Commission staff. We were summarily rebuffed.

As staff was already onsite, a brief (albeit) separate confab would have provided a level playing field, allowed appellants the courtesy of the same regulatory portal as the applicant. We feel that this should have occurred, we are the local representatives and eco-watchdogs, yet were shunned, denied the same rights afforded the applicant.

The HRP completely ignores, refuses to acknowledge the existence of the City of Laguna Beach contracted bio-assessment survey of Laguna Canyon performed by a highly reputable field biologist Karlin Marsh. Ms. Marsh wrote a series of textbooks for the environmental studies for Orange County's public schools in the late 80s and early 90s.

Marsh eventually wrote a seminal book in three volumes, reprinted numerous times, that remain the principal reference books for environmental education in the county's schools at the elementary and junior high school levels. She's been serving the City of Laguna Beach as its biologist for decades.

Her City-funded and ratified 1993 survey reached conclusions in direct contradiction to the GLA biologist Kevin Livergood, including the role of the Creek in sustaining biota and the value of the biological resources specific to this reach of the Creek. (see more details below).

It is unclear as to what/who triggered the creation of the HRP, and the fact that it was proffered and received by Commission staff in October is disconcerting: Why weren't the appellants forwarded the HRP by Commission staff and/or the applicant? Why weren't the potential Resource and Trustee agencies re-notified of the new, amended mitigation HRP by the applicant in October to engage them well in advance to the Commission's appellate proceedings?

Clean Water Now P.O. Box 4711 Laguna Beach CA 92652
Email: rogerbutow@clean-water-now.org Web: www.clean-water-now.org



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PART II: Response Letter to Applicant's Legal Counsel Letter (9/18/2014)

Item #2

"The scope of the development is essentially the same footprint and mass as the Dr. Hamil Animal Hospital, previously processed through the City on the same development site and which received CDP approvals in 2005 (see attached exhibit) and not appealed to the Commission." Ibid 9/18/2014 Legal Counsel Letter

CWN Comments :

Development scope and footprint/mass are not the same thing. This is not only intentionally misleading, but patently and objectionably disingenuous.

(A) The scope of the project outlines the objectives of the project and the goals that need to be met to achieve a satisfactory result. Dr. Hamil's proposed expansion of his existing hospital cannot be compared to the conversion and construction of the two parcels owned by the applicant into a 30-unit, 47-person, mixed-use occupancy complex. Apples and oranges, as different as day is from night, the two (2) projects bear little if any resemblance to one another other than location.

The applicant's project constitutes a significant land use conversion, hence legal counsel's arguments are fatally flawed.

(B) The Animal Hospital was to be constructed with approximately 9,000 sq. ft. on the ground floor, and only 1,000 sq. ft. on the 2nd floor. It would not, if accomplished, blot out significant portions of scenic views.

It would have, at most, been capped at approximately a 16-person maximum occupancy. And that occupancy would have been ephemeral, not constant 24/7/365 residential as the applicant is proposing.

Artists are renowned night owls with no fixed daily rhythm schedules. The complex could be active at various levels of lighting and noise that will constantly, without cessation disturb wildlife (and neighbors) previously tranquil 24/7/365. Unaddressed anywhere is the significant, unmitigated, partially immersed 47-stall parking level.

Dr. Hamil had no such disruptive offering. Vehicles will be starting up and leaving, arriving and leaving 24/7/365 as well. Nowhere is this mention or mitigation in the MND.

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The Hamil expansion was as visually obtrusive (not as high), and perhaps more importantly, onsite parking would have been at a slightly elevated ground level to get it out of the flood plain during minor rainy events. Obviously, at peak flood, Q-100 conditions all bets are off.

The applicant is proposing a taller and more invasive plan due to the subterranean parking structure. CWN has previously noted the innumerable failures and mitigation lapses regarding this below-grade parking stall concept.

The proposed Work/Live is in fact, meets the industry's agreed upon definition of "**Scope Creep.**" The never-before offered HRP invades, creeps into the actual flattened portion of the watercourse. In the MND, habitat mitigation specifics demanded by the appellants were absent and never produced thought vehemently objected to at local lead agency hearings.

Even now the applicant and consultants apparently refuse to acknowledge that the complete removal of the larger trees (e.g., yuccas and palms) should require certifications/permits never mentioned, vetted, or peer reviewed, let alone obtained.

CWN is very wary of a consultant/advisor who fails to note potential Trustee and Resource agency oversight review and engagement. Unfortunately, as the City also proved repeatedly, it's been "Don't ask, don't tell." By not fully explaining, by withholding data, by low-balling potentially significant impacts the local lead agency and applicant have intentionally avoided critical outreach and response.

Item #3:

"Given the recent announcement of the post-approval mitigation via the previously submitted Laguna Canyon Creek Habitat Restoration Plan, the coastal resource will actually be improved through implementation of the Project." Ibid

CWN Comments:

As Coach John Wooden would exclaim, **never mistake activity for achievement.** Secondly, there is little if any proof that actual alleged improvements outweigh, counter the potentially significant adverse impacts CWN and the other appellants have noted.

The 350-foot long section in dispute is admitted by the applicant and consultants to be unique in this upper reach of Laguna Canyon Creek. It has little or no armoring, and CWN is still confounded by the applicant's refusal to acknowledge its erosion vulnerability.



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This is the softest, most erosion prone section in the reach, and moreover once buffering non-natives that act as deflectors and soil/slope retainers are removed, it's just common sense that degradation will be amplified during peak rainy events.

Legal counsel cannot provide, has no technical proof to sustain alleged improvements---Only the Pollyanna statements, the perceptions and projections of the applicant's paid biased mentality. Our peer review strongly disagrees that the HRP actually results in true, scientifically vetted and provable post-installation mitigation.

The HRP implementation could in fact further de-stabilize the Creek, the applicant appears unwilling to confront that potentiality. The in situ non-natives have been there so long that a stasis, the flow regime equilibrium, has been achieved. The "cure" could be worse than the malady (invasive non-natives), nowhere does the applicant address this conundrum, this conflict.

Specific Appeal Issue/Analysis of Conformity With LCP

"Streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon Biological Values Maps which are also 'blue-line' streams identified on the USGS 7.5 Minute Quadrangle Series, shall be identified and mapped on the Coastal Environmentally Sensitive Areas Map of the Land Use Plan.

For these streams, a minimum setback of 25 feet from the top of the stream banks shall be required in all new developments. A greater setback may be necessary in order to protect all riparian habitat based on a site-specific assessment.

*No disturbance of major vegetation, or development, shall be allowed within the setback area. **This provision shall not apply to channelized sections of streams without 'significant habitat value.'***

Where development is proposed on an existing subdivided lot which is otherwise developable consistent with all City ordinances and other policies of this Plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures, have been exhausted..... At no time shall grubbing of vegetation, elimination of trees, or disturbance of habitat be allowed within the setback area before or after construction." Ibid

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This is the softest and most erosion prone section in the reach, and moreover once buffering non-natives that act as deflectors and soil/slope/sediment retainers are removed, it's just common hydro-modification sense that drainage patterns will change.

CWN Comments:

- (A) The applicant has never fully addressed, considered and/or offered admission that an **INCREASED**, a **GREATER** (not lesser) setback is intuited, directed or guided by the City's Land Use Plan for ESA/Blue-line streams. Instead the applicant, in a convoluted fashion, pursues decreasing via a biologically corrupt exclusion/exempted entitlement (cantilever).
- (B) The eradication and/or removal of existing plants and trees within the streambed, riparian and bank ledge habitat are disallowed disturbances, grubbing of existing habitat is forbidden. This is **NOT** an existing subdivided lot, nor have the two parcels been joined via a Lot Line Adjustment. The applicant's proposal does NOT protect existing biological resources.
- (C) Reducing and moving the project would still leave the applicant adequate space for reasonable, profitable development. That would NOT result in zero buildable potentiality. CWN proposed, and still advocates a project approximate 1/2 in square footage, 1/2 in units, and the attendant height reduction, i.e., take out the proposed middle floor/level == Approximate 15 units, 25 person maximum occupancy, 25 foot setback from the bank ledge.
- (D) The applicant never offered, never entertained or considered the modifying the size, siting and design features. It made minor cosmetic or superficial changes, the alterations approved "*de minimis*" at best. The applicant did not exhaust investigation of feasible alternatives, nor were any offered without summary rebuffs, without rancorous rejection. It was a "**zero sum game**," take it or leave it, all or nothing. The applicant refused to negotiate or even enter into discussions regarding this issue.
- (E) The applicant continues to deny that a prior bio-assessment study, performed by highly prestigious biologists back in the early 90s, deemed this reach to have "**Significant habitat value.**" It should be noted that



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- (F) the lead biologist, Ms. Marsh, lived at that time the study was completed in Silverado Canyon, her peerless services repeatedly procured by public agencies.
- (G) The applicant's biologists are paid to deliver product that supports this development project. With all due respect to GLA, there is no comparison, GLA is NOT on par with the expertise, bona fides, or historical credentials of Ms. Marsh.

Both of the following studies were performed by Ms. Marsh and her team of undisputed Orange County experts. Both were funded by the City of Laguna Beach. Neither was challenged or refuted. Inexplicably, neither the City of applicant vendor seems to comprehend the value of research meant to ascertain the conclusions of previous seminal studies by acknowledged ecological giants.

Both can be found via simple online search. GLA never mentions either one. Worse, the City, which obviously funded hence knew of these studies, instead of listening to protectionist challenges, instead of rejecting GLA's analyses and/or conclusions once pointed out, instead ignored its own product paid for by its own residents.

All of the information, including the conclusion that the habitat and resources in/near the proposed project are of significant value. Due diligence is apparently a stranger to both GLA and the City.

Here are the cover pages: The first is an inventory of Laguna Creek Canyon Watershed specifically, the second an earlier City-wide survey and bio-assessment.

LAGUNA CANYON BIOLOGICAL RESOURCES INVENTORY

**Prepared for the City of Laguna Beach, California
By Karlin G. Marsh, Biological Consultant
30262 Acorn Lane PO Box 1406
Silverado, CA 92676**

**Contributions by:
James Pike, Consulting Ornithologist
18744 Beach Blvd., Dpx. E
Huntington Beach, California 92648
(714) 968-7977
May 28, 1993**

**Clean Water Now P.O. Box 4711 Laguna Beach CA 92652
Email: rogerbutow@clean-water-now.org Web: www.clean-water-now.org**



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LAGUNA BEACH BIOLOGICAL RESOURCES INVENTORY

**Prepared For The City of Laguna Beach by
Fred M. Roberts, Sr.
John A. Lubina
Gordon A. Mars
Karlin C. Marsh (Biological Consultant)**

**Mailing Address: 30262 Acorn Lane, P.O. Box 404
Silverado, California 92676 714/649-2027
January 31, 1983**

Additionally, embedded and integrated into the oft-quoted and binding land use document, the updated and amended Laguna Canyon Annexation Area Specific Plan (LCAASP), are the same conclusions, perhaps culled from this biologist's conclusions.

There are only two (2) possible scenarios: Either the applicant and consultants failed to perform due diligence (research, investigate and discover what is easily found in pertinent public record documents) or they are intentionally ignoring the biologist's germane report. Nowhere does GLA even acknowledge the existence, let alone challenge the surveys, the biological conclusions embedded in it.

This lends credence to an ongoing sore subject of disputes, the commonalities of similar confrontations: The vendor provides pro-development, supportive product, omits or ignores, or worse, feigns ignorance.

This inventory has been referenced by numerous public agencies---Only this developer appears to be unaware or unwilling to acknowledge the ramifications, the contradictions vis-à-vis GLA's contentions. Only this developer over all of the subsequent years since delivered, disagrees with what drafters of the LCAASP, disagrees with the City's adoption/ratification of the LCAASP and its inclusion into the General Plan.

The General Plan, which has the Commission's certified Local Coastal Program folded into it, has until now never had these biological assessments, surveys and conclusions challenged.

The developer is intending to roll back, to create a post facto re-assessment or amending not allowed without public hearings and Commission acceptance/ratification thereof.

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This would be a unilateral biotic reversal by the vendor of a self-interest motivated developer regarding historically accepted, unprecedented, previously unchallenged databases and exemplary scientific analyses.

The City and other vendors have found Ms. Marsh's work to be seminal, *sine qua non*, she has been an essential consultant to innumerable development projects by major public and private entities; her ethical values and independent, objective review product impeccable.

The very City that has hired her for decades, that has certified, then subsequently amended the LCAASP numerous times, conveniently, mysteriously forgot about her "**Significant habitat value**" determination for this section of LCC.

When the City Council has one elected official (Mayor Pro Tem Steve Dicterow), joined by the City Manager (John Pietig) who complain that the Commission chronically exceeds its authority, joined by a second Councilman (Kelly Boyd) who demands its abolishment, when both Councilmen enthusiastically voted in favor of this project, perhaps the outcome of approval was pre-determined anyway.

Though challenged repeatedly, though given said inventory, staff and Planning Commissioners (save Mr. Norm Grossman) refused to consider or allow equitable value regarding Ms. Marsh's expertise and deferred to the developer's "**team.**"

This is a glaring hole, a sore subject for preservation and protectionists regarding inherent flaws in CEQA: The applicant's counsel repeatedly notes that the local lead agency (City) complied with all CEQA prescriptions, its policies, procedures and protocols.

When a local lead agency, empowered with CEQA oversight, is pro-development, little if any level playing field exists or occurs. Projects are rubber stamped because staff are directed to create the lowest level of review, provide minimal "**bell ringing**" information, and notify the fewest agencies possible.

To repeat earlier contentions at a local level and in the appellate petitions for this project, it merited an Environmental Impact Report (EIR).

CWN believes our objections are being tacitly sustained by where we are today, in a dispute that could have been partially, if not fully negotiated mitigated to industry performance standards and resolved where they belonged: In the City of Laguna Beach.



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PART III: MND Hydrology and Water Quality Failures

CWN will not repeat previous deconstruction and incisive criticisms of the lapses regarding analyses and cross-the-board gamut of water quality protection failures the applicant's mitigation deficient offers represent. As the applicant and counsel well know, a Water quality Management Plan (WQMP), once certified locally, receives scant if any review by the parent: The San Diego Regional Water Quality Control Board (Region 9, Cal/EPA).

The Board and staff accept in good faith that the WQMP fulfills prescriptive guidelines, regulations and required permits the local lead agency is empowered to oversee. WQMPs, per se, are not subject to appeal. Therefore there is no venue, no recourse or venue for the resolutions of grievances.

To await violations, whether chronic or acute, and then confront via Board intervention (*Assessed Civil Liabilities et al*) either during or post construction places an unjust watchdog burden upon stakeholders.

CWN wishes to introduce a glaring deficiency it mentioned to previously, but did not flesh out pending more research and confirmation of required notifications and permits issued by the SDRWQCB.

First, it should be noted how the City avoided the certifications and permits that should include what we are requesting to be added.

The following cut & paste from the MND reveals the logic, the justification for avoiding them, all exclusions based upon Dr. Hamil's previous animal hospital expansion plan and the applicant's consultant GLA tainted, biased Biological/Regulatory Assessment.

Of note should be the verbiage embedded "**it is not anticipated that 401 and 404 permits will be required.**" It didn't say they categorically will not require them or a §1602 SAA, only that they weren't probable or foreseeable.

The previously approved project did not include the cantilevered entitlement and setback exemption the applicant proposes. As for what we are about to broach, and to repeat, it did not involve a below grade MAT intrusion of such depth. It was to be built on pylons, on caissons, there was no subterranean parking structure.



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See 3a. According to a June 2004 Determination of Jurisdictional Waters and Wetlands prepared by P&D Environmental Consultants for the previously proposed Animal Hospital, the area of the creek within the proposed project site is a Corps Jurisdictional wetland. On January 8, 2004, Aaron Buck of the Regional Water Quality Control Board was consulted and verified that a 401 Permit would not be required for the previously approved animal hospital. (The 401 Permit regulates discharges or dredged or fill material permitted by the Corps under CWA Section 404 and, therefore, a 404 Permit would also not be required for wetlands protection.) Based on current similar conditions of the Laguna Canyon Creek and proposed development, as discussed in the recent Biological/Regulatory Assessment, it is not anticipated that 401 and 404 permits will be required for the current project. A Water Quality Management Plan (WQMP), implementing water quality Best Management Practices (BMP's), has been prepared for the proposed artists' work/live development to mitigate any potentially significant water quality impact to less than significant.

CWN believes that this project should have been reviewed for the necessity of filing a Notice of Intent (NOI) regarding Low Threat Waste Discharge Requirements (WDR) under the California Water Code.

Due to the shallow depth of the existing subsurface flow (groundwater) perched at approximate 8 feet (less during El Niño cycles) and admitted as such by the applicant, the site once excavated will exhibit significant groundwater intrusion.

Moreover, during construction pollutants will be introduced into said groundwater due to materials used, detritus from activities, etc. The sheer size of the excavation (.45 acre) reflects an inability to keep it covered and deflect rainfall, keep the excavation from filling up----Both the groundwater table water and downward, rainy inclusions will meet, not to mention the potential flooding flows from known historical drainage across this parcel.

It has the potential to become a large pond or small lake. An acre-foot of water is 325,853 gallons. Once excavated, the pit could capture (potentially fill) to 1 million gallons. This contingency was never mentioned, that is analyzed, commented upon and/or mitigation BMP offered.

This provokes less confidence and more uncertainty regarding the not only the consulting hydrology and water quality vendor but the City's comprehension of the very permitting system its empowered to monitor and implement.

Considering that (as CWN objected) the applicant avoids, refuses to install (nor the City require) a sump pump system post-construction, there appears to be no means to evacuate the pollutant-laden water at any time. There's no offering of diverting to the sewer system the first 50,000 gd allowed by the South Orange County Wastewater Authority and the SDRWQCB.

The perennial blue lie stream level in Laguna Canyon Creek is 8 feet below the existing grade. The applicant's contractors will need to excavate to a minimum (same) 8-foot depth **or greater** to install the monolithic (MAT) slab system.

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According to samples taken at a nearby well (abandoned but only capped) by the Laguna Beach County Water District recently, there is a wide array of existing pollutants.

Contaminants from previous uses have undoubtedly percolated down into the soil at some depth. The applicant never produced soil sampling at the 6-8 foot or more level to determine *in situ* contaminants.

The appropriate regulatory process is the domain of purview exclusive to Cal/EPA and requires a specifically dedicated public hearing. It cannot be certified locally by the local lead agency (the City) or by the Coastal Commission.

None of the following was included, ever broached or offered subsequent to the appellate filings by the applicant. Nowhere is dewatering and disposal of waste considered.

CWN has included some, but not all of the pertinent information regarding this issue.

**This is a sample of a typical Low Threat NOI/
WDR Order:**

**STATE WATER RESOURCES CONTROL BOARD WATER QUALITY ORDER NO.
2003 - 0003 - DWQ**

**STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS (WDRs) FOR
DISCHARGES TO LAND WITH A LOW THREAT TO WATER QUALITY
(GENERAL WDRs)**

The State Water Resources Control Board (SWRCB) finds that:

- 1. Section 13260(a) of the California Water Code (CWC) requires that any person discharging waste or proposing to discharge waste within any region other than to a community sewer system, which could affect the quality of the waters of the State, file a report of waste discharge (ROWD).*
- 2. The discharges to land with a low threat to water quality listed in Table 1 are low volume discharges with minimal pollutant concentrations and are disposed of by similar means. These discharges are appropriately regulated under General WDRs.*

Table 1. Categories of Low Threat Discharges (cont.)

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CATEGORY
Wells/Boring Waste
Well Development Discharge
Monitoring Well Purge Water Discharge
Boring Waste Discharge
Clear Water Discharges
Water Main/ Water Storage Tank/ Water Hydrant Flushing
Pipelines/Tank Hydrostatic Testing Discharge
Commercial and Public Swimming Pools
Small Dewatering Projects
Small /Temporary Dewatering Projects (such as excavations during construction)
Miscellaneous
Small Inert Solid Waste Disposal Operations Cooling Discharge

See Attachment 1 to these General WDRs for discharge category definitions.

- 3. All WDRs must implement the Regional Water Quality Control Board (Regional Board) Water Quality Control Plan (Basin Plan) for the Region affected by the discharge. These General WDRs require Dischargers to comply with all applicable Basin Plan provisions, including any prohibitions and water quality objectives governing the discharge.*
- 4. These General WDRs establish minimum standards for the discharges listed in Table 1. The Discharger must comply with any more stringent standards in the applicable Basin Plan. In the event of a conflict between the provisions of these General WDRs and the applicable Basin Plan, the more stringent provision prevails.*
- 5. The beneficial uses for the ground waters of the State include, but are not limited to: municipal supply (MUN), industrial service supply (IND), industrial process supply (PROC), fresh water replenishment (FRESH), groundwater recharge (GWR), and agricultural supply (AGR).*
- 6. The discharges listed in Table 1 have the lowest Threat to Water Quality (TTWQ) and Complexity, as defined in Section 2200, Title 23 of the California Code of Regulations (CCR). Discharges with the lowest TTWQ are those discharges of waste that could degrade water quality without violating water quality objectives or cause a minor impairment of designated beneficial uses. Low threat discharges that do not require any chemical, biological, or physical treatment have the lowest Complexity rating.*
- 7. Dischargers seeking coverage under these General WDRs must file with the appropriate Regional Board: (a) a Notice of Intent (NOI) to comply with the General WDRs or a ROWD. (cont.)*



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Applicable first annual fee as required by Title 23, CCR, Section 2200, (c) a project map, (d) evidence of California Environmental Quality Act (CEQA) compliance, and (e) a discharger monitoring plan. Upon review by Regional Board staff, a determination will be made as to whether or not coverage under these General WDRs is appropriate. The Discharger will be notified letter from the Regional Board Executive Officer these General WDRs has begun.

OTHER APPLICABLE SECTION

- 4. Dischargers with low threat discharges listed in Table 1 currently covered by waivers or individual WDRs need not apply for coverage under these General WDRs unless requested to do so by the Regional Board.*
- 5. Although a discharge may be eligible for coverage under these General WDRs, the Regional Board may elect to regulate the discharge under other WDRs or a conditional waiver. If the Regional Board has established WDRs or a conditional waiver, these General WDRs are not applicable.*
- 6. The following discharge categories from Table 1 are exempt from SWRCB promulgated Title 27 requirements: Wells/Boring Waste Discharges, Clear Water Discharges, Small Dewatering Projects, and Cooling Discharges (Section 20090).*
- 7. Dewatering Projects, and Cooling Discharges (Section 20090).*

A. PROHIBITIONS:

- 8. The discharge of any waste to surface waters is prohibited.*
- 9. The disposal of wastes shall not cause pollution, contamination, or nuisance as defined in CWC Section 13050.*
- 10. Discharge of wastes to lands not owned or controlled by the discharger is prohibited, unless the discharger has a written lease or an agreement with the owner.*
- 11. The discharge of waste classified as hazardous or designated as defined in Title 22 CCR, Section 66261 and CWC Section 13173, is prohibited.*
- 12. The discharge of waste shall not cause, wholly or in combination with any other discharge(s), the applicable Regional Board is Basin Plan objectives for ground or surface waters to be exceeded.*
- 13. The discharge of waste causing the spread of groundwater contamination is prohibited. (cont.)*



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Other Applicable Section

11. *Small inert waste disposal operations and small temporary dewatering operations located on unstable geologic units/soils or expansive soils are not eligible for coverage under these General WDRs. Small inert waste disposal operations and small temporary dewatering operations that could significantly conflict with existing zoning for agriculture use or a Williamson Act contract are not eligible for coverage under these General WDRs.*
12. *Small inert waste disposal operations that are within the boundaries of a comprehensive airport land use plan or, if a comprehensive airport land use plan has not been adopted, within two nautical miles of a public airport or public use airport are not eligible for coverage under these General WDRs.*
13. *A Negative Declaration in compliance with CEQA has been adopted for these General WDRs. The environmental impacts from new discharges authorized by these General WDRs have been found to be less than significant.*
14. *Potential Dischargers and all other known Interested parties have been notified of the intent to prescribe WDRs as described in these General WDRs.*
15. ***All comments pertaining to the proposed discharges have been heard and considered in a public meeting.***

CWN believes that it has provided ample justification to not only sustain a "**Substantial Issue**" finding but to delay said hearing and De Novo.

If the Board and the applicant prefer that both be heard consecutively on the same day, we believe questions regarding the noted missing certifications, permits and non-Coastal Commission ratifications/approvals should be explored for their implications, for their pertinence and particularly their rightful order of inclusion.

It places an unfair burden upon ALL parties to allow jurisdictional and regulatory IOUs in this matter. As CCA, CEQA and NPDES/Water Quality local lead agency, the City of Laguna is the major culprit.

If its analysts, Planning Commissioners, Council and oversight supporting staff (City Engineer and Water Quality Director) had done their jobs, understood and reacted to the potential complexity this project truly represents, these questions raised by CWN would have already been asked and answered.

Respectfully submitted,

Roger E. Butow Founder and Executive Director

Clean Water Now P.O. Box 4711 Laguna Beach CA 92652
Email: rogerbutow@clean-water-now.org Web: www.clean-water-now.org

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COASTAL COMMISSION

Organization
committed to
solution-oriented
collaboration as a
means of developing
safe, sustainable
water supplies and
preserving healthy
ecosystems.

Th10b

Appeal Filed: 4/16/14
49th Day: Waived
Staff: C.Posner-LB
Staff Report: 12/19/14
Hearing Date: 1/8/15

STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE & DE NOVO
Appeal Number: A-5-LGB-14-0019
Applicant: Louis Longi

**Project Location: 20412 & 20432 Laguna Canyon Road, Laguna Beach,
Orange County APNs 629-051-23 and 629-051-02**

From:

Clean Water Now (CWN herein)

P.O. Box 4711 Laguna Beach CA 92652

Home Office: (949) 715.1912 (VM/No TM)

Cell: (949) 280.2225 (VM/TM)

Email: Founder/Executive Director rogerbutow@clean-water-now.org

To: California Coastal Commission (herein Commission)

Attention staff liaison: Chuck Posner (Referred to as CC Staff herein)

Note:

(1) PDF version of this submission and that of the Laguna Canyon Property Owners Association (LCPOA sent via email) (12/30/2014)

(2) Hard Copy and JPEGs of Creek *in situ* Conditions + MP4 video (downloaded from YouTube) of Laguna Canyon Peak Floods taken by Orange County Civil Engineers, via Overnight Courier (12/30/2014)

Clean Water Now P.O. Box 4711 Laguna Beach CA 92652
Email: rogerbutow@clean-water-now.org Web: www.clean-water-now.org



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PART I

Special Conditions I & II

CWN is perplexed by what we believe to be a confounding misinterpretation of the CC Staff's own significant habitat value conclusions embedded in the ecologist's report.

CWN contends that CC Staff recommendations regarding the legally mandated setback distances for development to achieve compliance are incorrect. CWN alleges that there is no ambiguity in this matter.

The applicable Special Condition sections for approval recommended by CC Staff are worded as follows:

"Special Condition 1 requires the proposed project to provide for a 25-foot setback from Laguna Canyon Creek. The special conditions require the applicant to submit revised final plans (**Special Condition 2**) that provide for a 25-foot setback from the center of the stream and removal of the cantilevered decks on the rear of the structures."

CWN believes that putting it into the format of a syllogism sustains our contention that the setback **MUST** be 25 feet as measured (once independently surveyed) from the bank, **NOT** the center-line of the stream:

A syllogism is an instance of a form of reasoning in which a conclusion is drawn from two given or assumed propositions (premises), each of which shares a term with the conclusion, and shares a common or middle term not present in the conclusion (e.g., *all dogs are animals; all animals have four legs; therefore all dogs have four legs*). This is deductive reasoning as distinct from induction.

Premise #1: Laguna Canyon Creek in this section is a partially channelized "blue line" stream in a Coastal Environmentally Sensitive Area (CESA).

Premise #2: For these partially channelized streams within CESA that have been determined to be significant habitat value, a minimum setback of 25 feet from the top of the stream banks **SHALL be required in all new development.**



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Conclusion: The applicant's submission is new development within said CESA category, ergo, it **SHALL** require a minimum setback of 25 feet as measured from the bank, **NOT** the 25 foot center-line as staff recommends.

CWN does concur that the applicable land use guidelines, the City's Goals, Policies, Actions and Implementation Program (General Plan) is Section 9-C (a)

"9-C (a)

Streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon Biological Values Maps which are also "blue-line" streams identified on the USGS 7.5 Minute Quadrangle Series, shall be identified and mapped on the Coastal Environmentally Sensitive Areas Map of the Land Use Plan.

For these streams, a minimum setback of 25 feet from the top of the stream banks shall be required in all new developments. A greater setback may be necessary in order to protect all riparian habitat based on a site-specific assessment.

No disturbance of major vegetation, or development, shall be allowed within the setback area. This provision shall NOT apply to channelized sections of streams without significant habitat value. Where development is proposed on an existing subdivided lot which is otherwise developable consistent with all City ordinances and other policies of this Plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures, have been exhausted."

CWN wishes to bring to the Commission's attention the fact that no significantly different alternative modifications and/or mitigation measures have ever been offered by the applicant until the CC Staff mandated preliminary Habitat Restoration Plan (HRP) submitted in September followed by an October 8, 2014 version.

CWN will critique the Final HRP, Special Condition #3, later in this document.

Minor cosmetic changes to the project were offered and ratified locally but the footprint and square footage, the siting (footprint size and location) never changed nor was an alternative project, though mandated per CEQA, ever offered.



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The City ignored, violated CEQA by not requiring the applicant to provide an alternative other than NO PROJECT.

Alternative measures beyond minor, cosmetic ones were never pursued, so how could modification offerings or negotiated, peer reviewed, local CEQA remedy mechanisms have been exhausted?

In spite of the applicant's hyperbolic, boasting allegations, its allegations of hypercritical contestations by the appellants, the project never changed significantly, and neither did the developer's revenue model.

It has been basically the same footprint, the same number of total (30) units with only 8 affordable, and the same potential total complex occupancy and parking stall numbers (47) from Day 1.

CC Staff's recommendations illegitimately, unilaterally without explanation reduce what 9-C (a) establishes, allows, and/or prohibits. CC Staff has paradoxically applied or agreed to the less stringent metric (25 feet from centerline) in 9-C (b).

CWN's reading of the appropriate compliance guidance documents lead us to challenge CC Staff's conclusions in this critical benchmark metric. It grants, post-facto, CEQA review by the local lead agency, a land use (zoning) variance or entitlement without public hearings, scrutiny, input and processing.

Without a special dispensation by the Commission (yet another unacceptable and supported variance), Special Conditions that allow **ANYTHING** unnatural, i.e., installations of human origin, of man-made materials to be placed in the Open Space habitat buffer or allow human recreational incursions therein, should be specifically prohibited, not embraced and certainly not ratified.

Indigenous fauna have acute senses of smell, and unbridled, encouraged use by humans in the FHRP buffer zone will degrade its potential migration, nesting and foraging, in essence discourage not encourage wildlife usage.

It merits mentioning that the obvious trampling of carefully restored flora **WILL** occur in such an unmonitored, unrestricted (no time-of-day, hourly limitations) and out of visual sight but the complex grounds management. This is in defiance, not in legal compliance regarding disturbance of habitat post-construction.



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"Therefore, the precedential value of the local government's decision regarding the habitat value and appropriate setback is high." (Page 32, CC Staff report)

Granting any variances for this project in essence sets legal precedents for variances regarding **ALL** future Laguna Canyon Creek proposals. Attorneys for these project proposals, many already known by or already in our City's Planning Department, will demand the same variances for their clients.

CWN petitions the Commission to reject, to over-rule and deny CC Staff's conclusions regarding which of Sections 9-C (a) and 9-C (b) should apply.

As stated in the CC Staff report, the Commission is now the de facto LCP planning agency, and should conclude, should embrace and formally codify 9-C (a) over 9-C (b) as applicable.

Our analysis leads us to petition the Commission: A wrong should be righted, i.e., that the Major Watershed and Drainage Courses Map should have included Laguna Canyon Creek. Policy 9-C (a) should apply to this situation.

"9-C(b): Require a setback of a minimum of 25 feet measured from the centerflow line of all natural drainage courses other than streams referenced in 9-C(a) above. Such setback shall be increased upon the recommendation of the City engineer and environmental planner through the environmental review process.

However, a variance may be given in special circumstances where it can be proven that design of a proposed structure on an affected lot will preserve, enhance or restore the significance of the natural watercourse.

At no time shall grubbing of vegetation, elimination of trees, or disturbance of habitat be allowed within the setback area before or after construction.

The application of the City's many LCP policies concerning the protection, preservation, and enhancement of the City's biological resources depends on the category of the waterway as outlined in the above policies. The apparent disagreement amongst the experts about the significance of the habitat in the vicinity of the proposed project, and how that potentially affects the proposed project, is more thoroughly clarified below:



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1. Determination of the Laguna Canyon Creek Setback:

"As articulated.....is a "Blue-line" stream. The City failed to clearly address, however, whether Laguna Canyon Creek is also located on the Major Watershed and Drainage Courses (MWDC) Map in the Open Space/Conservation Element. The City's staff reports regarding Conditional Use Permit 13-047, Planning Commission Design Review 13-1375, and Coastal Development Permit 13-1376, as well as the appeal of those decisions, refer to Laguna Canyon Creek as a "significant watercourse," but don't clearly state whether "significant watercourse" means that Laguna Canyon Creek is, in fact, located on the MWDC Map.

And while Laguna Canyon is identified as a major watershed on the MWDC map, Laguna Canyon Creek is not clearly identified as a "significant watercourse" on that map.

Staff is unable to distinguish between the line on the map showing the road as opposed to the same line that may be identifying the creek as a significant watercourse.

A finding that Laguna Canyon Creek is on the MWDC map is critical, for in order for Policy 9-C(a) to apply, the plain language requires that the stream in question be both a "Blue-line" stream and designated on the MWDC map. Accordingly, since Laguna Canyon Creek is not identified on the MWDC Map, the required setback of 25 feet from the top of the stream bank would not apply.

Should the Commission find that the Major Watershed and Drainage Courses Map should have included Laguna Canyon Creek, then Policy 9-C(a) would apply to this situation. In that case, a minimum setback of 25 feet from the top of the stream banks is to be required for this new development instead of the 25 feet from the centerline of the creek, and a greater setback may be necessary in order to protect all riparian habitat.

In the alternative, should it be determined that it was proper to leave Laguna Canyon Creek off of the Major Watershed and Drainage Courses Map, then Policy 9-C(a) would not apply to this situation. In such a circumstance, assuming 9-C(a) and 9-C(b) were intended to account for all possible creek or stream types within Laguna Beach, Policy 9-C(b) must then apply, because 9-C(b) requires a setback of a minimum of 25 feet measured from the centerflow line of all natural drainage courses other than streams referenced in 9-C(a).



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Both policies 9-C(a) and 9-C(b) allow discretion in certain circumstances to increase or decrease the size of the "minimum 25-foot" setback. Notably, Policy 9-C(b) also allows the setback to be increased upon the recommendation of the City engineer and environmental planner through the environmental review process.

References to the environmental planner in the LCP is interpreted to allow Coastal Commission staff to assume that role when a matter is on appeal. Accordingly, in this case, Coastal Commission staff would be acting as the designated environmental planner.

LCP Policy 9-C(b) also allows reductions in the 25-foot setback (only for waterways that are not designated as significant watercourses) in special circumstances where it can be proven that design of a proposed structure on an affected lot will preserve, enhance or restore the significance of the natural watercourse.

In determining that the setback be measured from the centerflow line, the City found that Laguna Canyon Creek is channelized in this location and does not contain significant habitat value.

A minimal setback of fifteen feet was required by the City: 25 feet minus the City's allowance for ten-foot encroachments into the setback.

The Commission finds, however, that the creek does contain significant riparian habitat value and it is not fully channelized. A 25-foot setback is required, but pursuant to Policy 9-C(b) the setback is measured from the centerflow line rather than the top of bank in this case (until the Major Watershed and Drainage Courses Map is amended to clearly identify Laguna Canyon Creek as a significant watercourse).

The full 25-foot buffer must be provided to adequately protect the creek from the impacts of development (e.g., light, noise, runoff, etc.). The City's allowance for ten-foot encroachments into the setback contradicts the intent of the setback to provide a protective buffer between the riparian habitat and the development. The applicant has agreed to revise the project to provide a 25-foot setback from the center-flow line.

Despite numerous amendments and updates over the years, many portions of the Laguna Beach LCP are outdated. Thus, when confronted with policies within an older LCP that pose an apparent conflict with current conditions, or which otherwise lead to a questionable application of the LCP to a particular project, the Commission



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has taken into consideration new science or changing environmental conditions to aid the decision-making process.

Given the creek's value to the surrounding environment, and the rare and threatened nature of Blue-line streams in the coastal zone, the Commission finds that the provision of the 25-foot setback, along with the applicant's proposal to restore riparian habitat, meets the intent of the certified LCP to enhance and protect the sensitive habitat of Laguna Canyon Creek."

Perhaps more importantly CC Staff admits that there is justifiable alarm, and granting the project status under the 9-C (b) instead of 9-C (a) opens the door to further disputes at later dates. This has long term, irreversible ramifications.

By acting decisively now, via its expressed powers under the Coastal Act, the Commission can proactively, preemptively fend off, that is, diminish and hopefully preclude innumerable future challenges.

Our City seems unable and unwilling to say "**NO**" to these developers hence is appropriate that the Commission in this precedent must set the bar, establish the land use dialogue tone if local Canyon protectionists have any chance of success.

CWN will discuss and de-construct the false allegations regarding "**affordable housing**" later in **Part II**.

Special Condition #3: Final Habitat Restoration Plan (FHRP herein)

As the FHRP will not be available to stakeholders until the hearing, under what terms and conditions can professionals in this field like CWN peer review it? To require said stakeholders to comment while in the dark places an unfair, non-compliant (transparency/notification) burden upon them.

Under what circumstances can someone do so if uninformed, how can the public comment upon a FHRP if all we are privy to is the APPLICANT's offering? CCs staff wouldn't be demanding a FHRP if the October 8, 2014 sufficed, would it?

The recommended changes to the project as proposed by CC staff make no logical or biological sense: Regardless of the final setback (25 feet from the center-flow or measured from the riparian banks), the proposed benches (a taking) within the FHRP zone should **NOT** be allowed, the stepping stones creating pathways that encourage, that entice human use withdrawn from final approval as well.



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They not only encroach and create usage (entitlement) benefits to the developers within ESA expressly forbidden or prohibited, but the CC staff has designated this as a high risk fire zone: Users of the benches, discouraged or enjoined from smoking inside of the units will no doubt use these benches for that very recreational purpose. What about drinking and other uses, none prohibited?

Using the City's own LCP guidelines for ESA, this is a habitat restoration and protection area, and especially at night discourage nocturnal foraging and migration by indigenous fauna. Users will trample and disturb ESA habitat, unacceptable and discouraged under any circumstances.

In a sense, the benches and stones represent an encroachment, development, and extension of the project into ESA, one of the logical contradictions that CWN finds unacceptable and objectionable.

CWN can only support, as a condition of approval, one single row of approximate 12" square or diameter stepping-stones in the rear, in proximity to the complex to facilitate maintenance and/or emergency repairs.

CWN believes the following taken from the CC staff report not only supports but legally binding and prescriptively sustains our petition:

The proposed Habitat Restoration Plan has been reviewed and preliminarily approved by Commission staff. Final approval of all aspects of the Habitat Restoration Plan must still be made, therefore, **Special Condition 3** requires the applicant to submit a revised Habitat Restoration Plan for review and approval by the Executive Director, prior to issuance of the coastal development permit. **Special Condition 3** memorializes the applicant's proposal, but also requires a revision of the plan in order to add specific details in regards to timing, landscape plan details, and the provision of annual monitoring reports. With the Habitat Restoration Plan incorporated into the proposed project, the Commission finds that the proposed development complies with the habitat protection, preservation, and restoration policies in the City's LCP.

Special Condition 4 requires the restoration area and setback area to be protected as Open Space. The condition states that: A) no new development shall occur within the restoration area described in Special Condition Three (the area along the banks and streambed of Laguna Canyon Creek on the rear of the project site, including the Laguna Canyon Creek Setback), except for: 1) the activities described in the Habitat Restoration Plan approved by the Executive Director pursuant to Special Condition Three, 2) limited benches and seating areas, and 3) a five-foot wide walkway constructed with permeable pavers next to the rear of the approved structures (on the portion of the Laguna Canyon Creek Setback situated furthest from the creek). Therefore, as conditioned to restore and protect the creek and setback area from future development, the proposed project conforms to the ESA policies in the City's LCP.



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"Policy 10.3: Ensure that all new development, including subdivisions, the creation of new building sites and remodels that involve building additions, is evaluated to ascertain potential negative impacts on natural resources, ESHA and existing adjacent development. Proposed development shall emphasize ESHA impact avoidance over impact mitigation."

Therefore, per Policy 10.3, the developer **SHALL** avoid any impact great or small, and the FHRP should include the precluding of **ANY** anthropogenic devices. Potentially significant adverse impacts to biological resources are, and should be, of primary not secondary or ancillary importance.

The conditions of approval under De Novo should include verbiage that enjoins, forbids in perpetuity any temporary uses by the occupants as well. Due to proximity and discouraging site conditions, neighborhood residents or other members of the public really have no access to what should be respected as high value habitat warranting the greatest protection.

New development proposals in areas situated in areas adjacent to ESA (as confirmed by CC staff ecologists) require that development be designed and sited to prevent impacts that would degrade such areas. CWN considers the proposed intrusions (benches and stones) to be of said prohibited nature.

Furthermore, if legal counsel and/or the Commission agrees with our interpretation vis-à-vis a mandated 25-foot setback from the stream bank, that would trigger a significant re-designing of the project by the applicant's architect, project vendors and possibly revamping of proposed mitigations.

The ramifications of an additional 10-foot setback along the entire rear of the building complex, in light of the project already at the allowed legal setback margins in the other 3 sides for the City of Laguna Beach standards is significant.

CWN believes that this would sustain a pleading of continuing the De Novo portion. The subsequent period of significant redesign should include updates by the applicant and/or CC staff.

Special Condition 4: Open Space

"Special Condition 4 requires the restoration area and setback area to be protected as Open Space. The condition states that:



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(A) No new development shall occur within the restoration area described in Condition 3 (the area along the banks and streambed of Laguna Canyon Creek on the rear of the project site, including the LCC setback), except for :

(1) The activities described in the FHRP approved by the Executive Director pursuant to Condition 3,

(2) Limited benches and seating areas, and (3) A five (5) foot wide walkway constructed with permeable pavers next to the rear of the approved structures (on the portion of the LCC setback situated furthest from the creek).

Therefore, as conditioned to restore and protect the creek and setback area from future development, the project conforms to the ESA policies in the City's LCP."

CC staff notes on pages 47—48 in its report specific mandates regarding the City's Open Space/Conservation Element Policy 8-I: **"Pursuant to Policy 8-I, development located within areas designated as ESA's warrant special protection under the City's LCP."**

This sustains our petition to NOT allow the private recreational encroachments that have no public benefit. The only entity that will avail itself of these benches and walkways are the occupants of said development.

Allowing private benefits at the expense of disturbing Open Space habitat should be forbidden, not encouraged.

On page 32 (Of 55) CC staff notes and sustains what CWN has been alleging throughout the process: This is a **"gateway project,"** a dangerous precedent that warrants greater scrutiny, disturbingly the first of probably many. (see below)

The applicant himself (Louis Longi) has stated to local media that he and the developer (Dornin Investment Group) see a string, a chain of such equally monolithic projects along Laguna Canyon Road. As any project along LCR in essence is within jurisdictional distances of the blue-line Laguna Canyon Creek, virtually every subsequent proposal will be contentious.



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As a 42-year builder, let me repeat the guidance we always use when planning, when measuring for installation precious materials like crown moldings or other one-of-a-kind (expensive) items: **"Measure twice, cut once."** Sometimes we measure 3-4 times, but let caution and care be your guide: Be precise, get it done right the first time, you might not get a second chance.

As the CC staff has noted, the Commission, Executive Director and staff have become the de facto LCP planners due to the City's repeated refusal, its historical failures to update in a timely manner its General Plan, its Local Coastal Program and its streambed/watercourse/habitat protection assessments.

The Commission should take under consideration, should keep utmost in mind that once entitlements like the conditioned allowable encroachments suggested herein occur, others that follow will have a legitimate legal precedent to sustain their exactions. This **"domino effect"** should not be under-valued for the auspice of future mischief and potential disputes it reflects.

Page 32 of 55, CC staff report admits, sustains our position:

"6. The proposed project would set an unwanted and destructive precedent.

"As stated previously in this report, a substantial issue exists in regards to the City's decision that the creek is channelized and devoid of significant habitat value, and whether the City permit imposes the correct setback.

The City's decision could further degrade the habitat along the Creek, the habitat along the Creek, and make future restoration and enhancement activities more difficult to achieve.

Therefore, the precedential value of the local government's decision regarding the habitat value and appropriate setback is high. Therefore, the general proposition advanced by the appellants that the proposed project would set an unwanted and destructive precedent has been addressed in the prior sections of this report, with a finding of substantial issue recommended."

It bears repeating as a self-inflicted contradiction, CC staff sustains and admits what the appellants have contended from Day 1, but then inexplicably, without compliance-driven explanations as to its logas, recommends a minimal setback



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where a higher protection level, a wider buffer for both future erosion and habitat degradation, exists.

Environmental planning, which CC Staff proclaims is now its responsibility in a De Novo, is about projecting and modeling potential outcomes. Together, it's the process of facilitating decision-making to carry out development with due consideration given to the natural environmental, social, political, economic and governance factors and provides a holistic framework to achieve sustainable outcomes.

This section of the Creek is in a less than sustainable, less than stable state. The excavation of trees from the bed and banks will exacerbate an already degraded portion, and as the ONLY un-armored portion, destroy what little stasis has evolved and is in place presently. CWN will provide more comments in its summation.

Returning to the deed restrictions and allowing benches, walkways or other human-associated activity concessions to the applicant boggles the mind. It's a private corporate, for-profit capital venture project, the Open Space/FHRP is a mitigation for approval that the applicant has been forced to provide.

It was not volunteered (offered) until demanded to do so. The applicant's statement that this improves the environment is refuted by this mitigation previously absent. The CC must take into consider what a profiteer proactively, preemptive offers and what it's forced to perform.

CC Staff ignores its own guidance by granting private enjoyment or privileges to a corporate (not public agency) developer. Moreover, it should be considered what CC staff has emphasized: The precedential nature and far-reaching, irreversible ramifications when multiple future installations plead for the same encroachments.

This will lead to unwelcome yet foreseeable (hence avoidable) cumulative impacts, exactly as alleged by the appellants. These accumulations are being ignored or low-balled, under-valued.

Acting as the City's de facto LCP planners in this and probably future confrontations if the City's perennially lapsed history is our guide, the Commission and CC staff should be more cautious, not less.



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CWN reminds the Commission that "Pursuant to Policy 8-I, development located within areas designated as ESA's warrant special protection under the City's LCP."

Disallowing, proactively guiding via written instruments that are mechanisms which remove these types of anthropogenic elements from not only this FHRP but also setting the bar to "special protection" metrics/values, discouraging and precluding them from future ESA-related proposals is intuited.

Consistency, harmony, congruency is critical, and as the City hasn't exhibited or implemented its own General or Specific Plans fully, hasn't performed to public agency industry standards regarding its own Local Coastal Program mandates and prescriptions either, this is not the first nor will it be the last such Commission intervention.

An ongoing complaint by CWN has to do with CEQA: **The Ranch** De Novo is an excellent example wherein the City as local lead agency declared that project CEQA exempt, where the City approved without following Coastal Act/CEQA guidance.

In the case of the Work/Live in Laguna Canyon a meritless, since rebutted, deficient MND was ratified when an EIR was the appropriate level of analysis and review. We believe that the CC staff response (Substantial Issue hence De Novo) sustains that refutation allegation.

The Initial Analysis performed by Carolyn Martin, environmental planner for the City, failed to gather the proper attention by the appropriate Public Trustee and Resource agencies due to this MND's failure because of its Project Description notification.

It did **NOT** properly describe the setting, i.e., site design and positioning, true *in situ* Creek conditions, potentially significant hence unmitigated adverse impacts.

To repeat earlier email submission elements sent to CC Staff, the US Army Corps of Engineers, the San Diego Regional Water Quality Control Board (Region 9, Cal/EPA), and California Department of Fish & Wildlife were **NOT** made fully aware of the habitat and sediment transport/disturbance potential plus the existing and post-construction erosion potential. That is their domain, not the Commissions.

Added in is our belief that a **Notice of Intent (NOI)** for (albeit Low Threat) **Waste Discharge Requirement (WDR)** permit should have been vetted with the City and



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The applicant has alleged that the single 8" drainpipe can accept, convey and discharge incursion volumes captured (contained/detained) in the subterranean (underground parking stalls) adequately without mechanical assistance, without mechanical infrastructural pumping according to the consulting engineering firm.

This is grossly incorrect. During peak significant events the applicant himself (living on the improved parcel) has observed the conditions.

View this 5+ minute montage of video footage shot by Orange County professional civil engineers during the 12/22/2010 event. It's followed by footage of the 1995 event. Obviously, these events were only 15 years apart, so 100-year flood protection is highly questionable in spite of BMP mitigations.

The first 2.5+ minutes are of this exact location. Go to around 2:30 minutes. As you view the Creek subside, the flooding draw down on Laguna Canyon Road, the Creek continues to be in a stressed state, topping its banks, leaving 2-3 feet of water long after the storm's apex.

https://www.youtube.com/watch?v=X84nTEF_OJ8

- (1) Draining the courtyard and common space, it fails to take into account gradient differences. The Project catch basins, collection devices and aforementioned 8" pipe will of necessity be slightly below existing grade. Exacerbating the common drainage system inadequacy is that when the Creek is charged, during peak *cfs* conditions as revealed in the video, the Creek will be on par, level with the existing grade. So boasting that an 8" pipe can defy gravity fed discharges is disingenuous, false. Without significant elevation differentials, the water will go nowhere. Once the soil is thoroughly saturated during long-term rainy events, where will the water go?
- (2) Keep in mind that the groundwater is presently perched at about 8 feet while still in a drought cycle, and the applicant admits that perching.
- (3) Where will the underground parking water go? It's finished, post-construction elevation will be **BELOW** the Creek, so how will these volumes drain, and depending on duration, where are the acute and/or cumulative impacts mitigated in the WQMP BMP schedule?



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At the point where the foundation is being prepared, by compacting the soil with a mixture of onsite spoils and cement, it will be relatively impervious. In essence a retention basin has been created but the appropriate, attendant, mandated permits ignored.

The water from flooding and/or groundwater buildup could be around 1.0 million gallons. Once again it's needs emphasizing: These fluids will be defined, contaminated water under CWC definitions.

I personally attended and served on the recent Low Threat committee hosted by the SDRWQCB in its San Diego offices. Renewal of the applicable qualifying permits and requisite waivers for Low Threat requirements, protocols and procedures for waivers, etc., can be found at this link:

http://www.waterboards.ca.gov/sandiego/water_issues/programs/waivers/waivers_w.shtml

Nowhere in either CC Staff reports, not in the applicant's CEQA package, City of Laguna Beach planning documents or hydrology peer review are these issues taken as potential impacts, not mentioned, let alone mitigations offered.

If the applicant cannot discharge directly into the Creek, cannot divert 1 million gallons or more to the common MS4, cannot divert such volumes into the City's wastewater system, then a stand alone, NPDES Permit is mandated.

It would of necessity be an **Advanced Waste Treatment (AWT)** capable of significant removal and reductions down to acceptable EPA standards.

If discharged to the Creek after being detained and going through AWT, it might required to be of USEPA drinking water standards because the Creek is already impaired.

If discharged (diverted) to the MS4 (storm drain system), that too might require drinking water standards because of the final Point of Discharge (POD) is the Pacific Ocean. This rightfully brings in compliance/non-compliance State Basin AND Ocean Plan Objectives.

Presently, the joint powers authority that Laguna Beach is a member of (South OC Wastewater Authority) only allows 50,000 gd per diversion to wastewater lines, ratified by Cal/EPA. Hence it would take 20 days to drain and divert this parking lot.



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CWN petitions the Commissioners and Staff to read the pertinent SDRWQCBN link thoroughly, it's obvious that the applicant and City have not.

SUMMATION:

Too much information, provided too close to the hearing date with little access to a skeleton crew staff during the holidays, complex Special Conditions that require more research and peer review allowances, etc. have created a great deal of confusion that can only be remedied by postponing, continuing, delaying, whatever the appropriate verbiage applies regarding the De Novo hearing.

The public stakeholders, the eco-protectionist NGOs and civic groups, added to the **de minimis** state and federal Public Resource and Trustee Agency notification and Project description packages, give our pleading fair argument merit.

One additional question that CWN has been unable to get answered: When did the Commissioners get their Staff reports, including the Commission's own ecologist's official report in this matter?

Was it in the extensive pile for the hearings the week of 1/07/2014, and if so how are the Commissioners supposed to have achieved, have received and read critically enough information to fairly, equitably adjudicate this agenda item?

All parties **EXCEPT** the applicant will have been denied due process, **ONLY** the applicant can benefit by proceeding with the De Novo on 1/08/2014.

If the CC denies our petition for our suggest cure, i.e., delay, then CWN must request that we be kept in the loop as to the specific the IOUs, the TBD aspects of the Special Conditions, any and all additional concessions, any and all added mitigation packages.

We cannot track, then provide comments to what we are not made aware of, what as a result we cannot vet for internal peer review, we cannot provide professional comments to. This fails due process guidelines.



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To repeat our earlier allegations and concerns: As a grass roots protectionist NGO, we feel that at minimum there should be some legally binding decisions made by the CC attorneys regarding the merits or demerits of our remedy offers.

CWN looks forward to an equitable, to a rational and fair resolution. CWN is not asking for anything not sustained in our numerous submissions and emails to CC Staff subsequent to the appellate filing.

Respectfully submitted on December 30, 2014,

Roger E. Bütow
Founder & Executive Director
Landline Office Phone: (949) 715.1912 (No texting)
Mailing Address: PO Box 4711 Laguna Beach CA 92652
Email: roger@clean-water-now.org or rogerbutow@me.com
Web: www.clean-water-now.org

CLEAN WATER NOW (est. 1998) is an innovative, science-based organization committed to solution-oriented collaboration as a means of developing safe, sustainable water supplies and preserving healthy ecosystems.

X

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Long Beach, CA 90802-4302

CALIFORNIA
COASTAL COMMISSION

TH 106

RE: Appeal A-5-LGB-14-0019 Louis Longi applicant – Audrey Prosser appellant

Attn: Commissioners

As an appellant, I only received the staff report on December 19th at 5:00 PM. With Holidays, that only gave me 6 working days to attempt to meet the deadline of Jan 2 to make comments but here are some comments based on the time allotted.

On page 3 of the report, staff recommends 25' from the centerline of the creek yet on page 21 first paragraph calls for 25' from the stream bank due to the Staff determination by a site visit that the stream is only partially channelized.

As I read the 55 page staff report it appears that Staff agreed that Substantial Issue was raised on more than one occasion that are not addressed in the Recommended conditions to the Commissioners on page 3.

The following are some of the issues that I am offering more information for the Commission to consider:

Report concluded that would not set a precedent for future development along the creek:

- 1- Residential is not allowed in Industrial Zoning. The very renaming of the project from Artist Live Work to artist Work/Live crafted by the City to comply with Industrial zoning sets a precedent.
- 2- This project is a ground breaking project, first of its kind and is precedent setting? 17,242 sq ft live/work and 11,421 sq ft work surface with runoff to the stream the hills on the North side of Laguna Canyon Rd across the subject property as it does in every heavy rain. It

will not percolate and find its natural course but rush into the river at a higher speed to cause excessive erosion. This project is simply too big to be built in a Flood zone. Combining lots to make a larger project will set a precedent for mass scale of buildings along the creek.

- 3- General Plan/Specific Plan Policy 2.1 quoted in the staff report "Minimize the scale and Bulk of new construction to be compatible with the surrounding residence". The single purpose of combining 2 lots to build one building is to increase bulk and scale. This project calls for the combining of 2 lots. Combining two lots will eliminate the normal required side setbacks and close the window to the hills and creek and will set a precedent for more lots to be assimilated for large scale. Additionally the city has not done due process to approve a merger of two lots and no LCP has been issued for the merger. Wouldn't it be appropriate for the actual merger to happen before ANY project is approved for the lots?

- 4- It will be the largest building in the Canyon. It will have Ingress and Egress to one of only two roads for tourist and residents to get to the beach or their homes. Approval of the density of 30 plus residents and suppliers to enter the scenic, congested major artery to the beach is precedent setting. 8 quasi affordable artist residents out of 30 being built is not sufficient to mitigate the adverse affects. The staff report agreed that the blue line stream is a statewide issue.

- 5- This project allows a large area (approximately 300' long and the most of the depth of the lots will be gravel glued together, the water percolates much slower and therefore there will be run off into the stream. There isn't anything to stop it. The proposed seawall that the developer's engineer required must rightfully be removed as staff suggested. Currently the lot is sandy. The proposed project will have gravel cemented together which will accelerate the speed of the water that flows. This will set a precedent for other developments and further erode the blue-line stream that is a statewide issue.

8 Affordable units

- 1- See the attached rents quoted by the developer and the formula

- 2- The City switched the approval from Live/Work for this project to fit this into Industrial Zoning, the living space is limited to ____ The analysis proves this project to be a lucrative

investment not Artist Work Live to help artist who will not be able to pay these rents.

3- HUD requires that Section 8 rents be "reasonable".

The HUD defined Payment Standards for each housing unit proposed for contract is rated relative to its location, size, type, age, condition, and amenities. Note that the rental housing standards are used to establish the rents. The tiny, limited size of the living space due to the Work Live zoning requirements that a small portion of the 450 sq ft to be actual living space, the 8 units are not an average studio sized apt.

New Staff Member's Lack of Communications and forthcoming with findings with appellants

Matt Stone was the staff person that was assigned to this appeal. My understanding is that it was his first assignment as he was a new employee? Matt left the CC in a short period of time and in the middle of this appeal. Matt did not respond to questions from appellants nor did he make available the findings of the studies. A site visit repeatedly requested by the appellants and promised by Matt. At the last request, he said a site visit was not going to happen because he was leaving the CC on December 12. Since Matt's departure, Karl and Chuck have done an incredible job to deliver a 200 plus page staff report. It appears the Biology report was only delivered to staff on December 18th. It must have been overwhelming to pick up where Matt left off. The lack of continuity did not allow Karl and Chuck to address all of the issues in depth. The appellants received the 200 plus staff report on Dec 19th at 5:00 PM, during the Holiday season making it difficult to provide more supporting documents for staff and Commissioners to review.

I agree with the Substantial Issues raised however a recommendation of approving this project with simply removing the balconies and restoration of the 300' of the stream adjacent does not address the impact on the entire stream and many other issues raised by the appellants and agreed to by the staff report.

If outside storage of chemicals, paints, oxygen tanks, kilns, etc. is permitted, history proves that they will end up in the creek in the first major rain storm. If this project is raised up off the ground to allow lower level parking, instead of looking at the scenic hillside, you will be viewing saws and equipment instead of the hills that are continually painted by many artists and visible from the scenic highway. If this project is allowed to combine 2 lots (not yet approved or processed by the City or LCP issued) it will set a precedent for similar projects to assimilate lots for larger projects, eliminate most of the natural soil, replace it with hard materials held together with an industrial adhesive and line the scenic Laguna Canyon highway and creek. The process of eliminating side lot setbacks to merge lots and quasi paving

the entire land surrounding the creek will have a statewide impact on a blue line stream and sensitive habitat.

Thank you for your consideration,

A handwritten signature in cursive script that reads "Audrey Prosser". The signature is written in black ink and is positioned below the typed name.

Audrey Prosser, appellant

949-683-2715

3 attachments

Low Income Rent Calculations

<u>2014 Qualifying Incomes, based on AMI</u> <u>*Adjusted for household size</u>	<u>2014 Median</u> <u>Income</u>	<u>60% of</u> <u>Median Income</u>
Studio (one person household) \$53,950	\$61,050	\$36,630

Affordable rent for low income households cannot exceed 30% times 60% of the Area Median Income for Orange County (AMI) adjusted for household size* appropriate for the unit; or for a household with a gross income that exceeds 60% of the Median Income adjusted for household size, annual rent shall not exceed 30% of the gross income of the household.

***Adjusted for household size “appropriate for the unit” means a household of one person in the case of a studio unit; two persons in the case of a one-bedroom unit; three persons in the case of a two-bedroom unit; and four persons in the case of a three-bedroom unit.**

Example 1: Studio unit occupied by a household with an annual income of \$36,630 or less. The annual rent would be 30% of \$36,630 (60% of Median Income), which is \$10,989 (**\$915.75/month**).

Example 2: Studio unit occupied by a household with an annual income of \$53,950 (the maximum income to qualify for a low-income studio unit). The annual rent would be 30% of \$53,000 (because the actual income exceeds 60% of Median Income), which is \$15,900 (**\$1,325.00/month**).

Based on the calculations set forth by State law, low income studio rents may range from \$915.75 to \$1,325 per month, depending on the income of the household.

Big Business trumps Artist Project

Developers projected income is \$584,000 per year

plus personal 2 bedroom residence of Developer is free

Louis Longi and Chris Dornin finally give the bottom line

8 Studio Units of 400-480 square feet

Proposed rents are:

\$915 per month if your income is less than \$36,000

\$1,325 per month if your income is \$56,000

21 Studio Units of 400-480 square feet

Proposed rents of \$1,800 to \$2,100

ONE Two Bedroom Unit

Occupied by Longi rent free

Using an average of \$1,100 per unit for 8 units and \$1,900 for 21 units the projected income is a whopping \$584,000 per year and the developer lives there free.

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South Coast Region

DEC 31 2014

CALIFORNIA
COASTAL COMMISSION

Th10b

Appeal Filed: April 16, 2014
49th Day: Waived
Staff: C.Posner-LB
Staff Report: 12/19/14
Hearing Date: 1/8/15

STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE & DE NOVO

Appeal Number: A-5-LGB-14-0019
Applicant: Louis Longi

Project Location: 20412 & 20432 Laguna Canyon Road, Laguna Beach, Orange County
APNs 629-051-23 and 629-051-02

Project Description: Construction of a 36-foot high (31 feet above base flood elevation), thirty-unit artists' work/live project with 17,242 square feet of interior work/live area, 11,421 square feet of exterior communal work area, a 513 square foot retail art gallery, and a 47-stall parking garage. Eight of the units are reserved for low-income artists.

Staff Recommendation: Substantial Issue - Approval with Conditions

(Note: Also transmitted by email to CCC Offices on Dec. 28, 2014)

Distinguished Commissioners and Staff:

Thank you for your time and patience in considering our concerns regarding the proposed Project.

We feel that it is important that the Commission know how dismayed and disappointed that your staff site visit with the applicant did not include a meeting with anyone from the adjacent neighborhood, our local property owners association or the appellants.

The absence of input from these groups led to obvious mistaken conclusions regarding the history of flooding and associated property damage and erosion inherent to this location and an incomplete understanding of the City of Laguna Beach's capricious if not deceitful process of approving this landmark gateway project which was opposed by a majority of

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the residents and NGOs in Laguna Beach including: **Village Laguna, Clean Water Now, the Laguna Canyon Foundation, the Laguna Canyon Conservancy and the Laguna Canyon Property Owners Association.**

We also question the adequacy of the time allowed for proper response to the staff report, preparation for the Substantial Issue hearing and possible *de Novo* hearing on Jan. 8, 2015. The staff report was not available until Dec. 19, 2014 and your staff wanted our written response by Dec. 31, 2014. When you consider everyone's commitments during the Christmas and New Year's holidays, it was impossible to properly prepare for this landmark hearing regarding land use issues in Laguna Canyon.

The **Specific Plan** was written by Laguna Canyon residents with the help of then chairman of the Planning Commission, Norm Grossman, Community Development Director, John Montgomery and Planner Ann Larson. The residents and property owners in Laguna Canyon were passionate in their opposition to joining the City of Laguna Beach. Sewer hookup and this Specific Plan were offered to our neighborhood as an inducement to join the City and adopted by the LBCC under the leadership of then Mayor Ann Christoph by Ordinance No. 1027, January 22, 1991.

We were **promised** that the Specific Plan would preserve and protect the quiet rural nature of our small community from future intrusive development. Unfortunately for the residents and the environment of Laguna Canyon, the Laguna Beach Planning Commission and City Council changed the definition of Artist Live/Work to Artist Work/Live and added art students to the list of approved residents in these designated projects without including canyon residents in the discussion.

The only notification of the proposed M-1B Zoning change was in a small local newspaper that is not home delivered or read by most residents of the area directly impacted by the proposed changes. When it was noted at the first meeting that the local residents were not present, a *single* phone call to our registered NGO would have sufficed to assure our presence at the next hearing.

Then in an effort to facilitate the approval process, the LBPC approved the project **before** getting approval from the CCC to add this use to the list of approved uses in the M-1B zone. This "cart before the horse" approach effectively prevented adequate public input to local decision-making.

20351 Sun Valley Drive, Laguna Beach, California 92651
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It is our hope that each of you has read the Laguna Canyon Annexation Area Specific Plan (LBAASP) to give you an accurate "feel" for the importance the City and residents placed on protecting the bucolic nature of the canyon neighborhoods and environment. We would like to emphasize many of the violations of this plan and will use **bold print** and quotation marks for passages lifted from the **LBAASP**.

- The introduction to the Specific Plan concludes with this statement. **"In order to maintain the integrity of this area, efforts must be made to protect the Canyon from ever increasing development in surrounding jurisdictions and from economic pressures that would result in inappropriate redevelopment,"** i.e., in violation of City Policy several planning commissioners stated "the project must be this large in order for the developer to make a profit," as if this was an appropriate justification for approval of any proposed project.
 - **"Specific Plans are among the most powerful planning tools authorized by the California Government Code. Specific Plans are typically used for areas of special concern, for example, where unusual mixes of uses exist or where there are special environmental, economic or social conditions which need to be addressed."** The various canyon neighborhoods are classic examples of unusual mixtures of special environmental, economic and social conditions.
 - **"The Laguna Canyon Area Annexation Specific Plan is intended to establish the framework and action plan to implement the goals and policies of the City's General Plan."** If this framework can be completely ignored by later administrations, what is the value of writing a Specific Plan intended to protect the environment and the residents' quality of life?
 - Under the heading **"Relationship to General Plan and Coastal Plan"** is the statement **"the Canyon serves as a major gateway to the City. The abundance of vacant land and under-utilized property within the Canyon has produced strong development pressures from landowners. Continued growth in the Canyon, however, may create new problems and/or exacerbate existing problems related to traffic and circulation, drainage, land use and aesthetics...The purpose of the Specific Plan is to provide the City with the**
-

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ability to implement the objectives of the General Plan through a comprehensive planning program for the Canyon.” The LBCC apparently felt that a 30 unit apartment building in the middle of a small residential canyon neighborhood was consistent with the LBAASP. I can assure you the residents living in the neighborhood and authors of the SP disagree.

- Under **“Section II: Profile of Laguna Canyon Annexation Area”** the Specific Plan states, **“Its residents and property owners accept its eclectic land use pattern and somewhat rural lifestyle. They appreciate the diversity and uniqueness of where they live and wish to preserve it.”** They do not accept this monstrous intrusion that blocks the view of canyon ridgelines, hillsides and rock outcroppings and exacerbates traffic and flooding problems while disturbing the quiet rural atmosphere enjoyed by the human and animal residents of this community.
 - Under **“Land Use and Zoning”** the Specific Plan states, **“existing land use consists of a broad range of light industrial and commercial uses...In addition, a large portion of the planning area is predominantly developed with single-family dwellings...Light industrial uses occur primarily along Laguna Canyon Road and Rural Home Occupation types of uses are scattered throughout the planning area.”** When writing the SP this type of use was intentionally omitted as an appropriate use in the M-1B zone adjacent to Laguna Creek and neighborhood homes.
 - **“The Sun Valley Drive Neighborhood is bordered by Laguna Creek, which provides both food and water for numerous forms of small native wildlife...This neighborhood presents the most widely varied number of land uses...These non-residential uses are usually based within the residence itself or in an accessory building adjacent to the residence.”** This portion of Laguna Creek supports herons, egrets, ducks, quail, owls, hawks, falcons, road runners, coyotes, bob cats, raccoons, opossums, skunks, and rabbits; all of which will be negatively impacted by the activity, noise and light generated by the density of this project and the late night hours that artists and students work. Additionally, our Specific Plan’s intent was to support Artist Live/Work by including the Rural Home Occupation portion of the plan, not by building a 30-unit apartment building.
-

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- Under **"Parking and Circulation"** the Specific Plan notes **"Laguna Canyon Road is the principal arterial providing access to the area and has traffic volume which is often in excess of its capacity. The significant amount of traffic on Laguna Canyon Road presents ingress and egress constraints when accessing property within the planning area."** The traffic study estimated approximately 200 day trips and as we all know left turns on and off Laguna Canyon Road are problematic. This use approximately doubles the number of these dangerous turns attempted each day.
- In the Specific Plan, **"Laguna Canyon Road has been designated by both the City and County as a rural scenic highway. This designation creates special aesthetic considerations when new development is proposed."** (See next bullet point)
- The **Laguna Beach General Plan Open Space Conservation Element** emphasizes the importance of preserving ridgeline views in coastal canyons. Due to the 36-foot height, 250-foot length and narrow front yard setback, the view of the entire hillside and ridgeline on the eastern side of the canyon will be blocked for travelers in the north-bound lane of LCR. The view of the hillsides and much of the ridgeline will also be obscured for travelers in the southbound lanes of LCR. This is illustrated by the submitted pictures taken from the northbound lane at the height of a car window.

We also include the applicant's artist rendering which purports to demonstrate visible hillsides and ridgelines. This was accomplished by using the perspective created by the view from the elevated bank on the west side of Laguna Canyon Road approximately 100 feet northwest of the proposed building

- Under **"Environmental Hazards"** the Specific Plan emphasizes, **"Laguna Creek is capable of carrying runoff from less than a 5-year storm...it is evident that the present storm drainage system provides very inadequate flood protection."** The plans for the project indicate that the project's potential for exacerbating flood
-

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damage is mitigated by sloping the site slightly to the rear of the property and putting pilasters in place at rear of the parking level to keep cars from being washed into the stream by the flood waters coming down Laguna Canyon road and sheeting across the property to reenter Laguna Creek.

This "flow through" approach does not take into account the effect of cars being lifted and pushed to the back of the structure while catching loose debris which will in a short time form a dam, retarding the natural flow of the flood waters causing ponding on the *upstream properties*, as we saw with two cars and a cargo container during the 2010 flood.

- Also listed under "**Environmental Hazards**" is "**the area is susceptible to a fast-spreading wild land fire.**" In an attempt to make this huge structure more rural in appearance the plans now call for wood to be used to face the outside of the building. While totally unsuccessful in attaining any rural character, this change increases the risk from fire. If the wood is treated with **fire retardant**, it will have to be repeated regularly and the run off will enter the stream via surface runoff and ground water. That is not mentioned nor mitigation offered in the Water Quality Management Plan (WQMP).
- Under "**Organization of the Plan**" is the statement, "**These policies establish the City's philosophy and attitude about the Laguna Canyon Annexation Area Specific Plan.**" When our area was annexed, the City was very supportive of our neighborhood's wish to preserve the quiet rural eclectic nature of our small community. This project, as we have demonstrated, will degrade all that we value. Unfortunately, 3 planning commissioners ignored the City's commitment to our neighborhood.
- You will note that Planning Commissioner Grossman who helped write the LCAASP said that the City would have to rewrite our *Specific Plan* in order to bring this project into compliance and the PC would not even have discussed this project if it were for an apartment building. Commissioner Zur-Schmeide stated the proposed project was not in compliance with the SP. Commissioner Johnson stated the

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balconies made the building look like a cheap hotel before voting for the project. Commissioner Sadler stated that the project had questionable rural character and was too large but felt that the need for this Artist Work/Live project outweighed our SP. Prior to voting for the project, the Commissioner Dietrich said **"I have a prejudice because I was previously on the Arts Commission. As you know I've been in support of this project from the beginning."** The City's instructions for members of committees and commissions recommends recusal in cases of possible conflict of interest to prevent any appearance of impropriety.

On appeal City Council member Toni Iseman (a previous Coastal Commissioner) said she did not understand why an EIR was not required and the project failed to fulfill the goal of providing affordable housing for artists. Councilperson Whalen felt the project was inconsistent with the SP. Council person Dicterow felt that he had to vote for the project because it was an allowed use under the newly changed definition for Artist Work/Live projects and that the project would set a precedent of some sort.

In reference to another proposed project, Councilman Dicterow stated that he felt it was improper for the CCC to interfere with local land use decisions. Council member Boyd felt the project would, in time, fit the neighborhood and that other large projects were being proposed in the Canyon. He also recently is on record as stating the CCC should be disbanded. Then Mayor Pearson was concerned that only 2 AW/L projects had been approved in the past 14 years and noted that the zoning had been changed since the SP was created.

- In **"SECTION III: Issue Statements and Policies Introduction"** the Specific Plan states, **"The policies established for the Canyon planning area serve as guidelines for decision making and indicate direction, priorities and vision of the future."** It also states, **"In accordance with existing City requirements, projects that are reviewed and approved by the City must be found to conform to the policies of the Specific Plan."** As we have amply demonstrated, this proposed project fails to satisfy almost all of the goals and policies in our Specific Plan.
-

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- **"Topic 1: Rural Atmosphere: Policies and appropriate implementing actions are necessary to preserve the rural character of Laguna Canyon and to encourage a small, rural scale of development."** This massive structure has no rural character and is, certainly not of small scale when compared to any structures in the surrounding neighborhood.

When asked, the Planning Commissioners seemed to have difficulty defining "small scale" and "rural character." Subsequent to its approval of this project the City was so distressed by the controversy created by the lack of definition of "small scale" and "rural character," they have asked a paid consultant from MIG to help clarify both "small scale" and "rural character" for future projects. Consequently, it is improper for CC Staff to suggest that this concern has been adequately deliberated, definitions ratified and then adjudicated by the City.

We hope that the CCC would utilize the "reasonable person" theory, **fair argument standards** in deciding whether or not this proposed 36 ft. high (taller than most 3 story buildings), 250 ft. long (almost as long as a football field) which is larger and taller than any approved structure in the City in several decades (other than the Montage Resort) is small scale relative to a neighborhood of homes averaging approximately 1500 sq. ft.

- **"Goals: A. Preserve and enhance the rural character of the Laguna Canyon Properties area."**
 - Under **"Policies**
 - **1. Ensure that proposed land uses in the Laguna Canyon Annexation area have a rural character."** No "reasonable" person would suggest that this modern 30-unit apartment building enhances the rural character of the area.
 - **"2. Provide staff reports to the Design Review Board on significant projects in the Canyon area."** The staff's willingness to ignore our Specific Plan and issuance of a Mitigated Negative Declaration for CEQA in an environmentally sensitive flood plain
-

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adjacent to a Federally designated blue line stream ,draining an area of greater than 12,000 acres is cause for grave concern.

- **"3. Require the preservation of ridgelines and encourage the preservation of undeveloped hillside slopes and existing open space..."** What is the point of "preserving" a ridgeline, the view of which is completely blocked for pedestrians, bicyclists and car passengers on the adjacent "rural scenic highway?"
- **"10. Require the any development be of small scale in order to maintain the rural character of the Canyon."** (See previous comment)
- **"Topic 3: Light Industrial Uses"** the Specific Plan notes **"The City's M-1A Zone was also found to be too intensive and could have created land use compatibility problems due to the proximity of residential neighborhoods. Residents recommended that a more restrictive zone be developed for properties previously zoned for intensive industrial uses. In response to this interest, a new zone has been established (M-1B Zone) which allows a mixture of light industrial activities and residential uses."** As previously noted this type of use was intentionally left off the list of approved uses in the M-1B Zone by the authors of the original SP only to be added **after** the City had approved this project.
- Under **"Goal: Maintain a land use pattern which responds to the historical development pattern of residential and industrial uses."** This project flies in the face of the history of this area and the goals and policies of our specific plan.
- Under **"Policies"**
- **"1. Insure that industrial development in Laguna Canyon is compatible with surrounding residential uses."** This building is twice as high as the tallest and has more than ten (10) times the square footage of interior space than the largest buildings in our community. The residents of this monstrous 30-unit structure will more than double the population of the entire Sun Valley neighborhood. It will generate more traffic than all of our residents combined. Its density will generate

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light, activity and noise that are incompatible with our quiet rural family oriented neighborhood, to say nothing of our treasured wildlife.

- **“Topic 4: Biology and Habitat”**
 - Under **“Goal: Preserve and enhance significant biological resources and wildlife habitats.”** As previously noted this project threatens both the flora and fauna of the adjacent stream.
 - **“Topic 5: Natural Hazards”** (See previous concerns about flooding and fires)
 - Under **“Goal: Develop land use regulations and controls which decrease the dangers of wild land fires and flooding.”** This project potentially exacerbates both flooding and fire hazards.
 - Under **“Policies”**
 - **“1. Actively and aggressively pursue flood protection for the Laguna Canyon Annexation Area.** This proposed project potentially exacerbates the already significant pattern of flooding.
 - **2. Promote the use of fire protection techniques (such as appropriate building materials, protective devices and fuel modification).”** (See previous comments about wood facades and fire retardant use)
 - In **“Section IV: Land Use M-1B Light Industrial Zone Section:”**
 - **“1. Intent and purpose. This zone is intended for limited light industrial and limited commercial uses wherein such operations are compatible with adjacent residential environs of the community and existing legal, nonconforming structures and uses with the zone, including residential.”** There is nothing **limited** about a 30-unit apartment building housing resident artists, students and visitors day and night.
-

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- **“3. Uses permitted subject to a conditional use permit...(J) Such other uses as the Planning Commission may deem, after conducting a public hearing, to be similar to and no more obnoxious or detrimental to the public health, safety and welfare than the above listed uses.”** The City's rewrite of the Artist Live/Work ordinance to include students and the addition of Artist Work/Live to our carefully crafted M-1B Zone without any input from our neighborhood is reprehensible. And a project of this height, mass, size and density is not similar to any listed use in the M-1B Zone. It is also more obnoxious and potentially detrimental than any listed use.
- **“4. Property Development Standards... (D) Side and Rear Yards. All side and rear yards requirements of the M-1A zone shall apply...”** The Laguna Beach rear yard setback requirement of 25 feet from the centerline of the stream fails to comply with the California Code of Regulation Title 14 Section 13577 that requires a setback of 25 feet from the bank of the stream. Although a few adjacent properties have been protected from serious erosion by various methods, the vast majority of the upper reach of Laguna Creek is not channelized.

On site conditions and previous experience reflect the inappropriate, imprudent placement of any man-made structure within 25 feet of the bank. As long-time canyon inhabitants, we are concerned that the soil cement will not offer sufficient protection from erosion of the unprotected bank into the foundation of the building during protracted flood conditions, as has been observed in previous flood events on adjacent properties. The animal hospital was partially undermined during the flood of 1980.

- Under **“Special Findings Required for Conditional Use Permits”** there are 5 findings. The proposed project fails the “reasonable person” test for all 5 findings.
 - **“1. The proposed use is compatible with the surrounding land uses.”** This use is incompatible with the surrounding neighborhood and environmentally sensitive Laguna Creek. (See previous comments)
-

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- **"2. The proposed use is compatible with and does not detract from the rural atmosphere of the Laguna Canyon Annexation Area."** This use is incompatible and does detract. (See previous comments)
- **"3. The proposed use is not in conflict with the designation of Laguna Canyon as a Scenic Highway."** This use conflicts with this designation by completely blocking the view of the hillsides, rock outcroppings and ridgelines on the eastern wall of the Canyon. (See previous comments)
- **"4. The proposed use does not create a density which would compromise the environmental sensitivity of the area."** This use creates a density that would compromise the environmental sensitivity due to noise, activity and night lighting. (See previous comments)
- **"5. The proposed use will not result in a substantial increase in traffic generation or adversely impact vehicular circulation patterns."** This use will substantially increase traffic and danger on LCR due to left turns. It will also increase traffic and parking problems on the narrow streets of our rural neighborhood. (See previous comments)

Additionally, this project fails to meet the standards of our **Local Coastal Plan** due to its inconsistency with all 5 Special Findings Required for Conditional Use Permits listed in the Specific Plan, improper rear setback, interference with the natural flow of ground water, negative impact on wild life, and inadequate Water Quality Management Plan.

Our **neighborhood**, which includes many successful artists, **supported** this land use when the applicant came to us with his plan for approximately **8 units**. We cannot, however, support this for profit development that only provides 8 "affordable" 500 sq. ft. apartments, while reducing our quality of life, degrading the environment of the canyon, encroaching into the habitat of predominately nocturnal wildlife and stimulating future canyon development.

If building an 8 unit development on this property is not economically feasible, maybe this huge project could be located on the large property on the east side of LCR at the big bend. The depth of that property and the line of sight on LCR would make a building of this size, height, mass

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and density much less obtrusive and student residents would be much closer to the Laguna College of Art and Design (LCAD).

Laguna Beach's visitor friendly businesses and residents, incredible climate, magnificent coastline, and breathtaking views of our canyons and ridgelines attract visitors and artists from all over the world.

It is our commitment to preservation of these *natural wonders* that makes Laguna unique. As proposed, this project would, not only, reduce the **quality of life** for members of our small community but for everyone who drives through the Canyon...that is **all of us**, residents and visitors alike.

We are **Laguna Beach**. Please help us find a more appropriate solution to this problem, one that enhances our relationship with the **natural environment** and strengthens our commitment to **neighborhood diversity** while helping artists remain in our city.

Thank you for your time and consideration in evaluating this proposed project and its effects on Laguna Beach and its citizens and visitors.

We encourage you to read the Laguna Canyon Annexation Area Specific Plan and if this decision is postponed, to have your staff meet with us at the site to help them visualize the negative impact of this proposed use on the canyon environment and our quiet, rural, eclectic community.

Respectfully:

John Albritton
John Albritton
President

Ken Lauer
Ken Lauer
Treasurer

John Hamil
John Hamil
Vice President

Paulette Cullen
Paulette Cullen
Secretary

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To preserve and enhance the unique village character of Laguna Beach

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South Coast Region

DEC 30 2014

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
200 Oceangate
Long Beach, CA 90805
December 29, 2014

Re: A-5-LGB-14-0019 (Longi)

Dear Commissioners,

The Specific Plan for the Laguna Canyon Annexation Area calls for “retaining the unique natural setting and rural atmosphere of the canyon,” and this project is urban—compressing at least 30 new residents and probably twice that many into a single big building (designed to look like two) and introducing 47 additional cars and their trips to a quiet neighborhood of one-story single-family residences.

The Specific Plan calls for small-scale development, and this project is massive. The applicant argues that the articulation of the building and the display of public art against the outside walls will “minimize massing,” but the staking and the photo simulation tell us that that isn’t going to be enough.

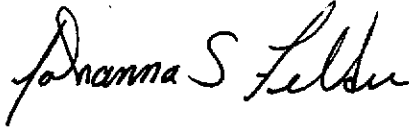
There’s no way that this project can be considered neighborhood-compatible and in conformity with the Specific Plan.

Commission staff recognizes that the project isn’t small and would set a precedent for larger structures in Laguna Canyon but still somehow concludes that this doesn’t raise questions of the preservation of neighborhood character. This conclusion overlooks the facts that 36 feet is the maximum height for any new building anywhere in the city and that the neighborhood has no two-story (much less three-story) buildings and no multifamily structures. The City’s design review process ordinarily gives substantial weight to residents’ input in determining what is consistent with the character of a particular neighborhood, but in this case the desire of Planning Commissioners and Councilmembers to make life easier for at least a few local artists seems to have overridden the protests of residents and others.

More than this, the building is squarely in the floodplain. The idea of putting dozens of new residents and their work—some of it stored or displayed on the ground outdoors—in harm's way flies in the face of the recent experience of this very neighborhood with Laguna Creek's periodic floods.

We're sympathetic to the applicant's wish to do something useful here, but this project is wrong for the canyon and wrong for the neighborhood. We hope that you'll agree and send him back to the drawing board to prepare a more neighborhood-compatible proposal.

Sincerely,

A handwritten signature in cursive script that reads "Johanna S. Felder". The signature is written in black ink and is positioned below the word "Sincerely,".

Johanna Felder
President, Village Laguna

DEC 30 2014

Thlob

December 12, 2014

TO: California Karl Schwing, Supervisor Regulation & Planning
California Coastal Commission
South Coast Area Office
200 OceanGate, suite 2000
Long Beach, CA. 90802-4302

CALIFORNIA
COASTAL COMMISSION

I am writing as an artist greatly concerned about the effect the proposed Artist work/live (Long/Dornin) project will have on the character and natural habitats in Laguna Canyon thus opening the door for similar projects of scale and impact.

Having been a Laguna Canyon Resident for seven years (1964-71) I experienced the impact of natural recurring events: the 1969 the 50-year flood that rendered it impassible, 1998 killed several and affected over 300 dwellings and again in 2010 ; "more than 90 homes and 70 businesses were damaged and rain overwhelmed the city, turning Laguna Canyon's creek into a torrent that pushed water, mud and debris through homes and businesses on its way to the ocean."-LA Times 2010

As an artist I support the idea of moderate and low income projects for studio space and housing but more, the inspiration nature provides us in all its variations that is under threat from over-development. Fortunately I moved into Laguna before investors and flipping property became the norm, before it became chic and now impossible for the next generation of artists to find what I did. I am not in favor of this project.

One only needs to look at the history of these projects in the City of Laguna Beach to see that Artist LW is crafted simply to get developments approved. They do not serve the low income artist as the approval promised. Attached are two projects approved for Artist Live/Work projects. They do not serve the local artist. The property at 346 N Coast Hwy was approved as ALW (copy attached) Mr Alan Simon spoke in opposition of the project that is under appeal. He owned the 346 N Coast Hwy building at one time and he stated that he sold the building because in good conscious, it served as big business for a Kansas City Corp not for artist. The two living spaces have been rented for \$20,000 and \$10,000 per month. The galleries downstairs are rented for \$5.00 PSF.

Another approved ALW located at 3337 Laguna Canyon down the street from the project before was approved as 4 ALW. Please see a copy of the offering for lease that clearly states it is not residential space now (copy attached)

While one can make arguments for artist work/live, the proposed project is an obvious entree for similar development using art and artists to promote building out of Laguna Canyon. It has no plan for chemicals capture and the contaminants from art-making that will find their way

into the creek's surface water and run off destroying habitats. There is sound and light pollution that will affect neighborhood character as will its plan that encourages increased traffic and parking.

The canyon even in 2014 is still without a comprehensive plan that includes an environmental and visual study and how all its elements connect to the village; it is without a logical step by step approach for identifying the original character and as a gateway to Laguna Beach. Finally, placing people via development whether artists or homeless within a historically destructive flood path is beyond foolish, it is incomprehensible. That any governing body in which we entrust our safety and livelihoods would allow such development to occur is not exercising its public or environmental responsibility.

I urge the Coastal Commission, to deny this development as proposed or recently modified and any further development within Laguna Canyon until a comprehensive fully vetted plan has been developed and adopted in concert with neighborhood, environmental groups and the California Coastal Commission.

Respectfully Submitted,



Leah Vasquez, Artist, former City of Laguna Beach Arts Commissioner,
and member Laguna Beach Beautification Council
606 Bluebird Canyon Dr.
Laguna Beach, CA. 92651
(949) 494-5787

496-122-15

ROBERT A. MCGRAW
ARCHITECT AIA

305 N. COAST HWY., SUITE K, LAGUNA BEACH, CA 92651
949.494.0812 FAX: 949.494.0894 WWW.MCGRAW-ARCHITECT.COM

RECEIVED

JUL 12 2006

City of Laguna Beach
Building Division

To: John Gufstason
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651
Laguna Beach Building Division

RE: Rohrer Construction
ArtWalk Center
346 N. Coast Highway
Laguna Beach, CA 92651

Now Rented as
penthouse apt
\$10,000 per mo
\$20,000 per mo

July 11, 2006

Ref: 346 N. Coast Highway Final Inspection

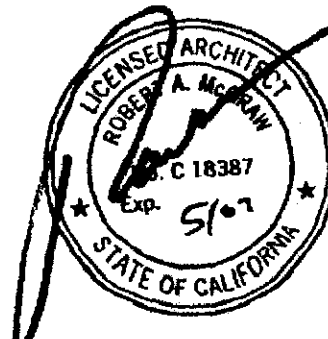
Dear Mr. Gufstason,

The mixed use building at the 346 N. Coast Highway has substantially complied with the final inspections with the exception of the following contingencies. The utilities will be released when the above contingencies and those items delineated on the submitted "As Built" have been completed.

- : Provide no knowledge or panic hardware on two single doors at gallery. Noted on plans as Door #1
- : Provide two 3ft x 3ft landings, 3 1/2 inches high for Doors #6 on East wall of Artist Live/Work Studio #1 and #2.
- : Provide electric cook top in artist Live/Work studio #2.

Sincerely Submitted,

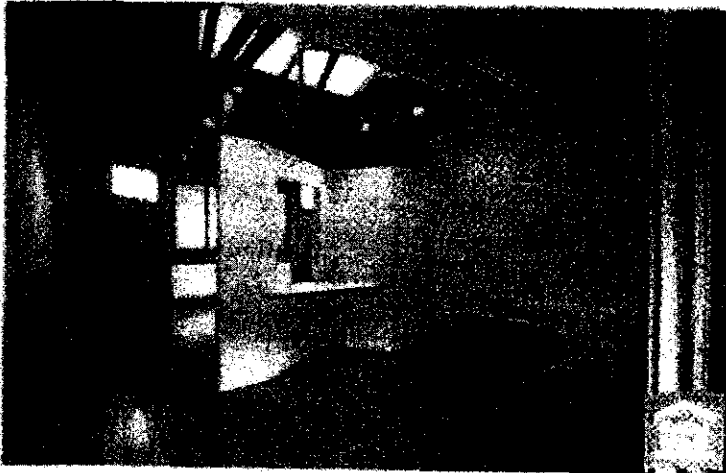
Bob McGraw



Old listing

Property for Lease

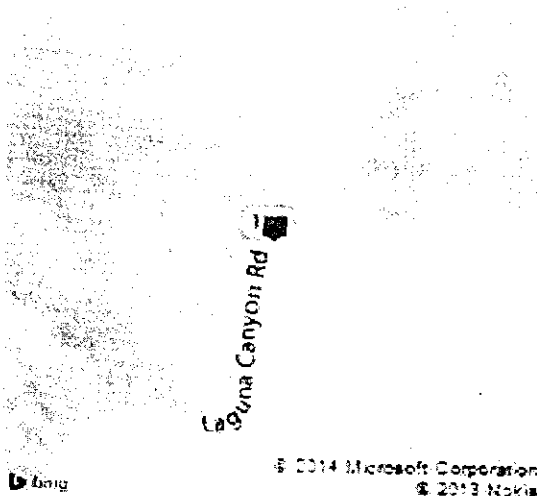
3337 Laguna Canyon RD Laguna Beach 92651



Listing Price: \$1,250
Type: Office
Status: Leased
Year Built: 1988
County: Orange
ML Number: CC198874

Lease Details

Sqft: 1,261
Current Use:
Entry Level:
Occupancy: *Artist Live work*
Lease Type:
Lease Begins: *1988*
Divisible To: *Not Artist Live work in 2014*



Property Overview

Enjoy this unique bright, open, Top Floor Space! Top level of a 2 floor condo. Commercially Zoned, mixed use space, perfect for artist, photographer or someone requiring terrific natural light. Live/work space Space includes: Light Wood Flooring, 12' White Walls, Track Lighting, 15' Open Wood beamed Trellis Ceiling, Skylight, Storage, Built in Closets, Cabinets, Shelving, Bathroom with shower, Air Conditioning, Parking Space, Deck with serene Canyon Views. Includes all utilities, internet.. Location: Other.

Presented By

Currently for lease
April 2014

Property for Lease

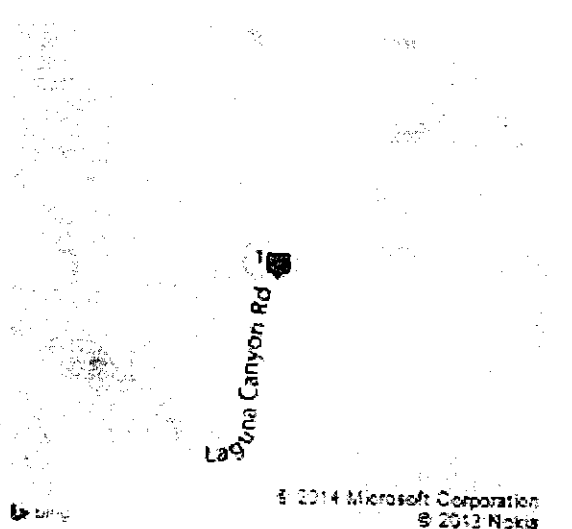
3337 Laguna Canyon, Unit C RD Laguna Beach 92651



Listing Price:	2,000 per month
Type:	Specialty
Status:	Active
Year Built:	1993
County:	Orange
ML Number:	CC332410

Lease Details

Sqft:	1,050
Current Use:	
Entry Level:	
Occupancy:	Available
Lease Type:	Full Service
Lease Begins:	1/15/2014 12:00:00AM
Divisible To:	900



Property Overview

This is an industrial building constructed in 1984. Four 2-story industrial condo units were then established in 1994. 1000 Sq Ft light industrial zoned commercial space. Business only. (this is NOT a residential space)

Great location with lots of drive by traffic. 2.5 Miles to Main Beach Laguna. Beautiful canyon setting 1.5 Miles from the 73 Toll Road.

-800 Sq Ft Main Room with Wood Flooring.

-200 Sq Ft Separate Office Space with Bathroom

Storage closets and AV meeting area Flat Screen and superior sound system.

Internet. Phone. Parking Included.. Comments Title: Unique Artist Studio Available!.

Presented By

JAN 2 2015

Jan 2, 2015

Th 106

CALIFORNIA
COASTAL COMMISSION

Appeal Number - A-5-LGB-14-0019


Dear Coastal Commissioners & Staff,

I am an appellant, my name is Jackie Gallagher.

My comments regarding the staff report is that the support for the 25 ft set back from the top of the bank is in the documents of our local LCP.

I am sending an LCP Amendment No - 1-13-A that was PASSED by Coastal only 20 months ago. ~~20 months~~

Section 25.38 Floodplain Management supports the 25 ft set back from the



top of the bank. Please
require this project to
be 25 ~~ft~~ ft. from the
top of the bank.

It has been difficult
with this short of time
to respond in depth.

HOPE YOU ALL
READ THE HIGHLIGHTED
AREAS AT LEAST.

Thanks

Jackie Gallagher

CALIFORNIA COASTAL COMMISSION

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

Th 14a

May 30, 2013



TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director
Teresa Henry, District Manager
Karl Schwing, Supervisor, Regulation & Planning
Meg Vaughn, Coastal Program Analyst

SUBJECT: Major Amendment Request No. 1-13-A (Flood) (LGB-MAJ-1-13A) to the City of Laguna Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the June 12-14, 2013 meeting in Long Beach).

SUMMARY OF LCP AMENDMENT REQUEST NO. 1-13-A

Request by City Of Laguna Beach to amend the Implementation Plan portion of the certified Local Coastal Program (LCP) to replace the current flood ordinance Chapter 25.38 *Flood Damage Prevention*, with the proposed flood ordinance Chapter 25.38 *Floodplain Management*. Local Coastal Program Amendment 1-13-A was submitted pursuant to City Council Resolution No. 13.004 which requests action on Ordinance No. 1576. The proposed amendment will affect Title 25 *Zoning* which is contained in the City's certified Implementation Plan. Only the Implementation Plan portion of the City's certified LCP is affected by the proposed amendment. The amendment is proposed to reflect updates required by the Federal Emergency Management Agency (FEMA) and the California Department of Water Resources (DWR), and to address the issue of future sea level rise.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

Approve the amendment request to the Implementation Plan as submitted.

The proposed amendment, as submitted, is in conformance with and adequate to carry out the provisions of the certified Land Use Plan. **The motion to accomplish this recommendation is found on page 2.**

STANDARD OF REVIEW

The standard of review for the proposed Implementation Plan amendment is conformance with and adequacy to carry out the policies of the certified 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*

Laguna Beach LCP Amendment 1-13-A
Part A: Floodplain Management
Page 2

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 City of Laguna Beach Planning Commission and City Council held five public hearings on the proposed replacement of Chapter 25.38 of Title 25 (the flood ordinance): City Council 2/12/13; and 1/29/13; Planning Commission 12/12/12; 10/10/12; and 9/12/1. In addition, 1/8th page notices were published in the local newspaper, the Laguna Beach Coastline Pilot. No written comments were received during the City's review process. Four members of the public spoke at the Planning Commission meeting of 10/10/12. All comments focused on the requirement for businesses located within special flood hazard areas to install contingency floodproofing measures.

Exhibits:

1. City Council Resolution No.13.004; Ordinance No. 1576
2. Maps Depicting Flood Zones in the City of Laguna Beach (online only)(15 maps total)

ADDITIONAL INFORMATION

Copies of the staff report are available online at www.coastal.ca.gov and at the South Coast District office located at 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact Meg Vaughn in the Long Beach office at (562) 590-5071.

I. STAFF RECOMMENDATION

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

Approval of the IP Amendment as Submitted

MOTION: *I move that the Commission reject Implementation Plan Amendment No. 1-13-A for the City of Laguna Beach as submitted.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Plan 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 THE IMPLEMENTATION PLAN AS SUBMITTED:

The Commission hereby certifies the Implementation Plan Amendment 1-13-A for the City of Laguna Beach as submitted and adopts the findings set forth below on grounds that the Implementation Plan amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment complies with the

Laguna Beach LCP Amendment 1-13-A
Part A: Floodplain Management
Page 3

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 Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. FINDINGS

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

A. Amendment Description

The City of Laguna Beach has requested to amend the Implementation Plan (IP) portion of the certified Local Coastal Program (LCP). The main document comprising the City's certified Implementation Plan is Title 25 *Zoning*, the City's Zoning Code, although the certified IP also includes other documents. The changes proposed to the City's certified IP pursuant to this amendment request affect only Title 25 and are reflected in City Council Resolution No. 13-004, which requests action on Ordinance 1576, Chapter 25.38 *Floodplain Management*. LCPA 1-13 also includes a second request, submitted via City Council Resolution No. 12.072 requesting action on Ordinance No. 1572 regarding maximum building heights. The changes proposed via the separate resolutions are not related to each other. Although submitted together as a single submittal, because the two segments of the proposed LCPA were submitted via separate resolutions and are not interdependent, Commission staff is processing them independently, as LCPA 1-13-A (flood ordinance) and LCPA 1-13-B (maximum building heights). This prevents the processing of one impacting the processing of the other. That is, if issues are identified in one part of the LCPA, that would not prevent final certification of the other part of the LCPA. A separate staff report for LCPA 1-13-B will be prepared. The changes proposed under LCPA 1-13-A are described in greater detail below.

Ordinance No. 1576 – Revisions to Chapter 25.38 Floodplain Management

City Council Resolution No. 13.004 requests Commission action on Ordinance No. 1576. Ordinance No. 1576 proposes to replace the IP's existing Chapter 25.38 *Flood Damage Prevention* with a new Chapter 25.38 *Floodplain Management*. The replacement flood ordinance is intended to follow the State Department of Water Resources model for agency ordinances and would incorporate the new areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the updated Flood Insurance Study (FIS) for the City of Laguna Beach and will reference the most recently updated Flood Insurance Rate Maps (FIRM) and Flood Boundary and Floodway Maps, which are dated December 3, 2009. The updated flood ordinance (Floodplain Management) was originally submitted as part of Laguna Beach Local Coastal Program Amendment No. 1-11. However, the City withdrew the flood ordinance portion of LCPA 1-11 prior to Commission action in order to allow additional time for City and Commission staff to work toward developing mutually agreeable modifications to the proposed Chapter 25.38 *Floodplain*

Laguna Beach LCP Amendment 1-13-A
Part A: Floodplain Management
Page 4

Management. The primary issue at that time was that the proposed flood ordinance did not address future sea level rise.

Language that has been added to the proposed Chapter 25.38 *Floodplain Management* based on language developed through City and Commission staff discussions includes:

- 1) Addition of a definition for “sea level rise”;
- 2) Recognition of future sea level rise impacts in Section 25.38.011 *Findings of Fact* as one of the bases of the need for these flood regulations;
- 3) Recognition that location (siting) of development can affect flood hazard;
- 4) Requiring that “base flood elevation” (BFE) calculations be modified to reflect future sea level rise;
- 5) Requirement for the following additional information to be submitted with floodplain building permit applications:
 - a. expected life of structure, and,
 - b. base flood elevation information modified to reflect future sea level rise;
- 6) Requirement that the lowest allowable floor elevation must be elevated to or above two feet above base flood elevation *as modified for future sea level rise* in Coastal High Hazard areas (V zones);
- 7) Prohibition on the use of fill to support roads in Coastal High Hazard areas.

The initial impetus for the City’s revisions to the flood ordinance is described in the City Council Agenda Bill, dated 9/1/09, which states:

“On August 21, 2008, on behalf of the Federal Emergency Management Agency (FEMA), staff from the California Department of Water Resources met with City staff to review the City’s participation in the National Flood Insurance Program and conducted a field inspection as part of their biennial review. (Every two years there is a review of the City’s compliance with their requirements.) The State’s follow-up report, which resulted from that meeting, found the City to be in general compliance with the required floodplain enforcement requirements, but did note that the City’s Floodplain Management Ordinance needed to be updated to comply with the latest Federal Standards.”

On June 3, 2009, the City was informed that FEMA had completed a re-evaluation of the flood hazards within the community and had updated the City’s Flood Insurance Study and prepared new Flood Insurance Rate Maps. The Flood Insurance Study and Flood Insurance Rate Maps became effective, for FEMA purposes, on December 3, 2009. FEMA required that the City’s flood ordinance be updated to reference the new Flood Insurance Study and Flood Insurance Rate Maps to remain eligible for federal flood insurance. As a result of the update requirement, a draft ordinance amending the City flood ordinance was prepared and sent to the Department of Water Resources for review. The draft ordinance was found to be in compliance with the latest National Flood Insurance Program and state standards. Proposed changes to the City’s flood ordinance were generated by the process described above.

Laguna Beach LCP Amendment 1-13-A
Part A: Floodplain Management
Page 5

Subsequent to changes to the City's flood ordinance based upon the above described input from FEMA and the Department of Water Resources, Commission staff provided comments on the revised flood ordinance when reviewing the City's previous LCPA 1-11 submittal, as noted above.

Changes reflected in the proposed ordinance based on input from FEMA and the Department of Water Resources (DWR) are similar to the existing flood ordinance language, but updated and somewhat expanded. For example a number of new definitions are proposed to be added. Proposed new definitions include: accessory structure; accessory use; alluvial fan; apex; encroachment; manufactured home park or subdivision (definitions are proposed for existing, expanded, and new); fraud and victimization; governing body; hardship; historic structure; levee; levee system; market value; obstruction; primary frontal dune; program deficiency; public safety and nuisance; recreational vehicle; regulatory floodway; substantial damage; substantial improvement; water surface elevation; and, watercourse. Definitions are found in Section 25.38.020 (See exhibit 1).

Another proposed change would require that businesses within areas of special flood hazard (identified on the Flood Insurance Rate Map or FIRM and as identified by the City's floodplain administrator) install contingency flood proofing measures within ninety days of written notification from the City (extensions of up to ninety days may be granted). A business that already meets the floodproofing requirements may be exempted from this requirement. This requirement is found in Section 25.38.055.

In addition, the proposed LCPA would add a requirement for certification by a registered civil engineer or licensed land surveyor that the required lowest floor elevation for residential development, including manufactured homes, complies with the requirements of the flood ordinance (Section 25.38.050 C.1 and 2 and Section 25.38.053.1). For non-residential development, minimum elevation and/or required floodproofing must be certified by a registered civil engineer or architect.

Also, the proposed flood ordinance will increase the lowest floor elevation requirement. The currently certified flood ordinance requires that all new construction or substantial improvements of residential structures, including manufactured homes, are required to have the lowest floor, including basement, to be elevated to or above the base flood elevation. The proposed ordinance would increase that to be at or above *two feet above* the base flood elevation. And in Coastal High Hazard areas (V zones), the lowest floor elevation would be required to be elevated to or above two feet above the base flood elevation as modified for future sea level rise. These changes are found in Section 25.38.050.C and in Section 25.38.053.1.B.1.

Other changes proposed to the flood ordinance include moving the language describing the process for an appeal of the floodplain administrator's decision (Section 25.38.043) out of the section describing the process for requesting a variance from the floodplain regulations (Section 25.38.060). In addition, the standards for allowing a variance are clarified and make clear that a variance is only granted in extenuating circumstances. Proposed new section 25.38.060 Nature of Variances states (in part): *"A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique*

to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owner.” This section goes on to state: *“It is the duty of the Laguna Beach City Council to help protect its citizens from flooding. This is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. ... The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.”* In addition, the proposed floodplain chapter would add a section requiring findings that must be made in order for a variance to be granted (proposed Section 25.38.062 B).

In addition, the section on Standards of Construction (proposed section 25.38.050) is proposed to be expanded to better describe construction methods to be employed to reduce flood hazard. For example, new sections are proposed describing flood hazard reduction measures for: flood openings; garages and low cost accessory structures; and crawlspaces. Standards of Construction is found under the heading “Provisions for Flood Hazard Reduction Sections.” Newly proposed under this heading is a section establishing “Standards for Recreational Vehicles” which would require that, within Zones A1-30, AH, AE, V1-30 and VE, if a recreational vehicle is on site more than 180 consecutive days or is not licensed and ready for highway use it must meet the elevation and anchoring requirements for manufactured homes in Section 25.38.042 of the ordinance. In addition, recreational vehicles placed on sites within Zones V1-30, V and VE must meet these same requirements of Section 25.38.054(A) as well as the requirements of Section 25.38.057(Coastal High Hazard Areas), including elevation and anchoring. Standards applicable to Recreational Vehicles are found in Section 25.38.054.

B. Areas Designated on the Flood Insurance Rate Map (FIRM)

The Federal Emergency Management Agency (FEMA) updated the Flood Insurance Study (FIS) for the City of Laguna Beach. The FIS references and incorporates the most recently updated Flood Insurance Rate Maps (FIRM). The FIRM identifies areas of the City that are at greater risk from flooding. These areas are identified on the FIRM as Special Flood Hazard Areas and are those areas in the floodplain subject to a 1% or greater chance of flooding in any given year (Shown on the FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V).

In the City of Laguna Beach these Special Flood Hazard Areas (SFHA) are predominantly found along the sandy beach and within the major canyons (Laguna Canyon and Aliso Canyon). Currently very little development along the beach falls within one of the SFHAs because much of the oceanfront development in Laguna Beach is at higher elevations (e.g. on the bluff top). The area identified on the FIRM with the most development in a SFHA is the City’s downtown area. Downtown Laguna is located where Laguna Canyon outlets onto Main Beach. This SFHA extends inland, up the canyon. Development within the downtown area is predominantly small scale commercial development on small lots. Inland, up the canyon is a mix of predominantly commercial and light industrial. The area of the downtown nearest the beach, just inland of Coast Highway, however, falls within the VE zone. Aliso Canyon is predominantly developed with the

Laguna Beach LCP Amendment 1-13-A
Part A: Floodplain Management
Page 7

Aliso Creek Inn & Golf Course. The downstream end of Aliso Canyon is developed on either side of Coast Highway with a public beach park.

When considering the proposed flood ordinance it is important to recognize that different areas of the coast are subject to different types and degrees of flood threat. For example, some areas of Laguna Beach are subject to an increased level of flood threat compared to other areas of the City. The low lying areas that fall within a narrow path of concentrated flood flows tend to be at greatest risk from flooding. One such example of this is the City's downtown area, which is located at the mouth of Laguna Canyon. Many areas within the City, however, are at higher elevations and not within the path of concentrated flows from inland areas (e.g. within canyons). Much of the City's bluff top areas typically would not be expected to become threatened from flooding either from inland upstream areas due to their location away from concentrated canyon flows or from tidal action due to their elevation. Currently most areas at risk from tidal flooding are the largely undeveloped sandy beach areas. However, in the downtown area development located just inland of Coast Highway, within the first few blocks of Main Beach falls within the Coastal High Hazard (V) zone. As with most of the City's downtown area, this area is developed principally with small scale commercial development. The extent of areas at risk from tidal flooding may increase with future sea level rise.

C. Approval of Implementation Plan Amendment No. 1-13-A as Submitted

The standard of review for amendments to the Implementation Plan of a certified LCP is whether the Implementation Plan, as amended, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP).

Consistency with Certified Land Use Plan

The City's certified LUP Land Use Element (LUE) contains the following policies:

[REDACTED]

Action 7.3.3: [REDACTED]

Action 7.3.4: [REDACTED]

Action 7.3.15: [REDACTED]

Laguna Beach LCP Amendment 1-13-A
Part A: Floodplain Management
Page 8

seasonal and long-term shoreline change, episodic and chronic bluff retreat, flooding, and local changes in sea levels, and other coastal hazard conditions. (*Long-term implementation.*)

Policy 10.3 Ensure that all new development, including subdivisions, the creation of new building sites and remodels that involve building additions, is evaluated to ascertain potential negative impacts on natural resources, ESHA and existing adjacent development. Proposed development shall emphasize ESHA impact avoidance over impact mitigation. Any mitigation required due to an unavoidable negative impact should be located on-site rather than off-site, where feasible. Any off-site mitigation should be located within the City's boundaries and in close proximity to the project.

Action 10.3.2 Continue to require in-depth analysis of constraint issues for properties, especially those designated on the City's hazard maps so that the nature of the constraint and the best options for mitigation or avoidance will be considered at all stages of the approval process since these constraints may affect what development is appropriate for the property.

The City's certified LUP Open Space/Conservation Element contains the following policies:

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

Policy 1-F Shoreline protective devices which may adversely affect the sand supply or cause an adverse impact to shoreline processes shall not be approved unless the situation is one in which there is clear evidence that the existing structure(s) are in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and unless all feasible alternatives have been explored.

Policy 9-A Promote the preservation and restoration of Laguna's natural drainage channels, freshwater streams, lakes and marshes to protect wildlife habitat and to maintain watershed, groundwater and scenic open space.

Policy 9-B Prohibit filling and substantial alteration of streams and/or diversion or culverting of such streams except as necessary to protect existing structures in the proven interest of public safety, where no other method for protection of existing structures in the flood plain are feasible or where the primary function is to improve fish and wildlife habitat. This provision does not apply to channelized sections of streams without significant habitat value.

Policy 9-C a) Streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon Biological Values Maps which are also "blue-line" streams identified on the USGS 7.5 Minute Quadrangle Series, shall be identified and mapped on the Coastal Environmentally Sensitive Areas Map of the Land Use

Laguna Beach LCP Amendment 1-13-A
Part A: Floodplain Management
Page 9

Plan. For these streams, a minimum setback of 25 feet from the top of the stream banks shall be required in all new developments. A greater setback may be necessary in order to protect all riparian habitat based on a site-specific assessment. No disturbance of major vegetation, or development, shall be allowed within the setback area. This provision shall not apply to channelized sections of streams without significant habitat value. Where development is proposed on an existing subdivided lot which is otherwise developable consistent with all City ordinances and other policies of this Plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures, have been exhausted.

b) Require a setback of a minimum of 25 feet measured from the centerflow line of all natural drainage courses or streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon biological Values Maps other than the "blue-line" streams referenced in 9-C(a) above. Such setback shall be increased upon the recommendation of the City Engineer and environmental planner through the environmental review process. However, a variance may be given in special circumstances where it can be proven that design of a proposed structure on an affected lot will preserve, enhance or restore the significance of the natural watercourse. At no time shall grubbing of vegetation, elimination of trees, or disturbance of habitat be allowed within the setback area before or after construction.

Policy 9-K Promote preservation and enhancement of the natural drainage of Laguna Beach.

Policy 9-T Restore and retain Aliso Creek in a natural state and protect the Creek from infringement of new development.

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

The LUP requires that development be sited to avoid hazards and that it minimize risks to life and property from coastal and other hazards. Flood hazard falls into this category. The LUP further requires that development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The LUP also requires consideration of flooding, and local changes in sea levels as part of development review. Overall, the certified LUP requires that hazards, including flooding, be considered during the project review process and that measures be implemented to lessen and/or avoid adverse impacts from site hazards identified during review to the subject site or to the surrounding area.

The City of Laguna Beach has a history of damage due to flooding.

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ff

Laguna Beach LCP Amendment 1-13-A
Part A: Floodplain Management
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from flooding in the areas within the City that have been identified as and demonstrated to be flood prone. The proposed changes to the flood ordinance are described in greater detail previously. The new flood protection measures proposed in the revised flood ordinance will increase the level of protection from flooding within areas of the City that have been identified as flood prone areas (e.g. on the FIRM). However, these revised regulations are not meant to create new or added development potential within flood prone areas where such potential does not already exist.

The flood ordinance proposes to incorporate consideration of future sea level rise into project review and implementation of the proposed flood protection measures. Flooding can occur from both upstream accumulation of rainfall and runoff, and from the ocean via tidal flooding. Tidal flooding occurs when extreme high tides occur concurrently with storm surge events. Anticipated future sea level rise will exacerbate tidal flooding. Thus, it is important that flood hazard analysis specifically consider the impacts of sea level rise on proposed development. The flood ordinance proposes consideration of a range of sea level rise scenarios during the initial planning phase in order to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency to sea level rise enhanced flooding.

As proposed, expected sea level rise figures will be based on best available science. As a starting reference point, the ordinance proposes the current best available sea level rise science to be the 2012 National Academy of Science Report, *Sea-Level Rise for the Coasts of California, Oregon and Washington: Past, Present and Future*.¹ For Laguna Beach, the NAS report predicts sea level rise from 5.0 to 23.94 inches from 2000 to 2050 and from 17.4 to 65.55 inches from 2000 to 2100.

Although these sea level rise design heights could change as the issue continues to evolve into the future, the best available science will also evolve in the future. It is important that a minimum design standard be utilized based on the best data currently available in order to adequately plan for, and design around, potential hazards. On a practical level, this will help guide preparation of an appropriate level of analysis and provide more consistent data. Therefore, minimum numeric standards within the flood ordinance are appropriate. The inclusion of these standards will not hinder the City's ability to formally amend these numbers through the LCP Amendment process, as the science evolves and new data becomes available in the future. The proposed flood ordinance requires that the base flood elevation be adjusted for future sea level rise based on these sea level rise standards identified in the ordinance.

A new requirement of the proposed flood ordinance is that existing businesses located in areas of special flood hazard must install the required contingency floodproofing measures within ninety days of notice from the City. These contingency floodproofing measures would also be required with construction of new development. In addition, more specific standards of construction are included in the proposed revisions which also help to clarify the intent of the ordinance as well as assisting in its implementation. In addition, flood protection measures are newly proposed to apply to recreational vehicles (when on site long term and when located in coastal high hazard zones),

¹ Full reference for the NAS Report – National Academy of Sciences. 2012. *Sea-Level Rise for the Coastal of California, Oregon and Washington: Past, Present and Future*. National Academies Press. Washington, DC: <http://dels.nas.edu/Report/Level-Rise-Coasts/13389>

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providing additional protection in flood prone areas. Other changes proposed to the flood ordinance include defining a number of additional terms allowing for greater understanding of the intent of the ordinance as well as in guiding implementation of the ordinance.

In addition, the proposed flood ordinance includes a required increase in the allowable lowest floor elevation level for new development (substantial improvement). Currently, the lowest level must be elevated to or above the base flood elevation. The proposed ordinance would increase that to be at or above *two feet above* the base flood elevation. In Coastal High Hazard areas (V zones), the proposed flood ordinance requires that the lowest allowable level must be elevated to or above two feet above base flood elevation *as modified for future sea level rise*.

V zones are areas susceptible to tidal flooding (that is flooding from the ocean rather than from upstream/inland). Most of the areas within the City that fall within the V zone category are not developed and under current zoning are not likely to be developed in the future. This is because most of the V zones are sandy public beach areas which are land use designated *Public Recreation and Parks* and zoned: at Main Beach Park - *Downtown Specific Plan Central Business District Park*; and elsewhere *Recreation*. These land use and zone designations allow only limited, minor development that can be easily relocated such as walkways and picnic areas, as well as temporary uses. Public buildings and facilities are also allowed, but when located on the oceanfront these uses must also comply with the LUP's Open Space/Conservation Element policies 1E and 1F. OSC policies 1E prohibits man-made structures on the sandy portion of the beach unless necessary for public health and safety. Policy 1F prohibits shoreline protective devices except in narrow instances. Thus, within the City's V zones, the proposed flood ordinance would not create development potential in areas that are not otherwise developable.

However, limited developed areas of the City do fall within a designated V zone. This is true for the area just inland of Main Beach, across Coast Highway, in the City's downtown area. This area is developed with small scale commercial development. This is the area where new development, including substantial improvements as defined in the ordinance, would require elevating the lowest floor level to two feet above the base flood elevation as modified to reflect sea level rise. The additional standards described in the *Provisions for Flood Hazard Reduction Sections* (beginning with Section 25.38.050) of the proposed ordinance would also be required.

Also, when an application for a Floodplain Building Permit (Section 25.38.042.A.9) is submitted, it must include the adjusted base flood elevation necessary to reflect sea level rise regardless of whether it is in a V or other zone. In addition, Section 25.38.041.F requires the floodplain administrator to "make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be conflict between a mapped boundary and actual field conditions." Moreover, the floodplain administrator must be able to make the determination that "the site is reasonably safe from flooding over the expected life of the development (minimum 75 years)", per Section 25.38.041.A.3. Thus, the proposed ordinance incorporates consideration of sea level rise when determining the base flood elevation.

Section 25.38.042 of the flood ordinance clarifies that in addition to obtaining a Floodplain Development Building Permit, any other required permits must also be obtained. Section

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25.38.042 states, in part: "*The floodplain development building permit is additional to any other required permit, including a coastal development permit.*" In addition, Section 25.05.050 of the certified IP requires that "*In addition to any other permits required, any development within the coastal zone that constitutes development as defined in Section 25.07.006(D) that is not exempt pursuant to 25.07.008, requires approval of a coastal development permit pursuant to Section 25.07.*" Thus, an applicant for a floodplain development building permit would be aware that approval of floodplain development building permit would not obviate the need to also obtain any other required approvals. This would assure that such development, in addition to being found consistent with the requirements of the flood ordinance, would also need be consistent with other City requirements including consistency with the certified Local Coastal Program.

The proposed flood ordinance does not, and is not intended to supercede the LUP's natural resource protection policies. All development subject to the proposed flood ordinance must still comply with the policies of the certified LUP, including the Vegetation and Wildlife Resources policies and Watersheds and Watercourses policies cited above. In developed areas of the floodplain, such as the City's downtown area, it is likely that most often these policies would not apply because, due to the long-term built-out nature of the area, there are fewer or no natural watercourses or sensitive habitats. Nevertheless, if such were to be discovered, the applicable LUP protection policies would apply. For example, if development were proposed along Aliso Creek in the South Laguna area, consideration would be given to avoidance of flood hazard rather than allowing new development within the floodplain. The currently certified flood ordinance (*Flood Damage Prevention*) has not prevented implementation of the LUP policies including the natural resource protection policies and neither would the proposed flood ordinance (*Floodplain Management*). Rather, the flood ordinance establishes methods to reduce flood hazard in floodplain areas that were developed long ago and there is no feasible alternative.

The changes proposed to the flood ordinance are also described in the Amendment Description section of this staff report. The changes proposed via LCPA 1-13-A will result in greater protection from flooding than is currently afforded in the certified version of the flood ordinance, consistent with the certified LUP's requirement to avoid and/or lessen impacts due to hazards. Therefore, staff recommends that the Commission approve the proposed Implementation Plan amendment as submitted.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – and the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing environmental impact reports (EIRs), among other things, in connection with their activities and approvals necessary for the preparation and adoption of local coastal programs (LCPs). 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 proposal does conform with the provisions of CEQA, and to base any certification on a specific factual finding supporting the conclusion that the proposal "meets the requirements of [CEQA] Section 21080.5(d)(2)(i) ... ,

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which requires that an activity 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 13555(b), 13542(a), and 13540(f). The City of Laguna Beach LCP amendment 1-13-A consists of an amendment to the Implementation Plan (IP) only. The City has found the proposed amendment to be categorically exempt under CEQA.

As outlined in this staff report, the proposed Implementation Plan amendment as submitted is not expected to result in significant adverse impacts on the environment. For the reasons described above and throughout this staff report, the IP amendment is in conformity with and adequate to carry out the policies of the certified LUP, including the land use and public access policies. Therefore, the Commission finds that approval of the Implementation Plan amendment as submitted will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies City of Laguna Beach LCP amendment request 1-13-A as submitted.

X

RECEIVED
South Coast Region

JAN 2 2015
Dwora Hertz
Appeal number
A-5-LGB-14-00

JAN 2 2015

Coastal Commission speech **SI**

CALIFORNIA
COASTAL COMMISSION

Millions of years ago this watercourse cut through this hillside, forming this canyon, which includes the only three fresh water lakes in Orange County. This creek now flows down to the largest public access serving main beach in downtown Laguna. This water from this creek drains into a state designated marine preserve.

During the early part of the 20th century the water in this creek provided the municipal water supply for this community. Now the creek provides water and the nutrient rich stream-bed, that so much of the wildlife in this area is dependant upon for their survival.

In 1980 the citizens of Laguna Beach voted to tax themselves to preserve Laguna Canyon, which resulted in the creation of the Laguna Canyon Wilderness Park.

In 2000, this wilderness park, adjacent this property, became a national landmark for its flora and fauna. In order to receive this status it had to undergo extensive biological and geological scrutiny.

According to the landmark findings, "the majority of this creek remains a natural channel, which supports a significant amount of wildlife including several large mammals such as mountain lions, bobcats, coyotes and mule deer. "

"Laguna is a bird sanctuary, which runs along the coastal flyway but it also supports several endangered local species including the California Gnatcatcher, Coastal Cactus Wren and the Orange throated whiptail. This habitat with these species, are no longer found anywhere else in the world."

According to Dr. Dixon less than 18% of this type of Mediterranean habitat, which makes their sustainability and careful planning in this area essential.

The City has also assigned values to habitat in the area. As you can see from the Biological Resource Values Map, much of the area continues to remain rurally populated and with Very High Value Habitat.

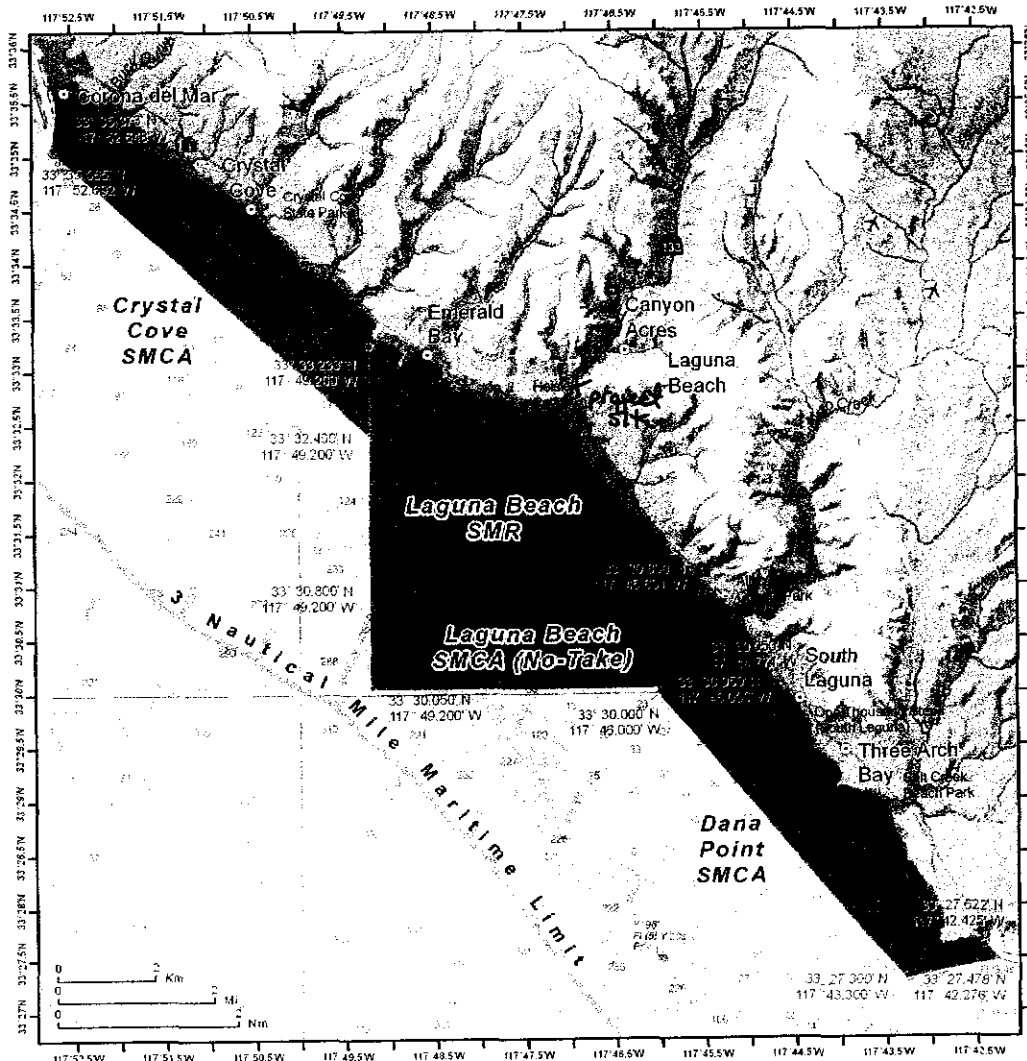
This watercourse is not only a mapped "Blue Line Stream" but is listed in the LCP as a "significant watercourse."

There are inconsistencies with the LCP and what the City has approved for this project regarding ESHA and habitat protection, visitor access (traffic), shoreline constraints. *as you can see on the map, public access*

I am here today because I want to maintain the productivity and the asthetic value of the creek to this community. The formation of the commission is for just this-to protect these coastal resources. We need your help today to do just this. Please find in favor of significant issue.

1/1

California Marine Protected Areas



THIS CHART DOES NOT REPLACE THE LEGAL DESCRIPTION FOUND IN TITLE 14, CALIFORNIA CODE OF REGULATIONS

	State Marine Reserve (SMR)		State Marine Recreational Management Area (SMRMA)		Dual Designation (SMCA and SMP)		Three Nautical Mile Maritime Limit (State Water Jurisdiction)
	State Marine Conservation Area (SMCA - No Take)		State Marine Park (SMP)		Federal Marine Conservation Area (FMCA)		Coastal Access
	State Marine Conservation Area (SMCA)		Special Closure		Federal Marine Reserve (FMR)		

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(print size 8.5" x 11")

TOPIC 4: WATER QUALITY AND CONSERVATION

Background

The preservation and conservation of water resources in Laguna Beach are significant local and regional concerns. Water is vital to human survival, and plays a significant role in the recreational, residential, commercial and industrial activities of the community. Water resources in Laguna Beach consist of both inland water bodies and offshore ocean resources.

Issue Identification and Analysis

* Laguna Lakes: The Laguna Lakes, located in the vicinity of Laguna Canyon Road north of Sycamore Hills, are locally and regionally a highly significant and sensitive resource and biological community. The Lakes are three fresh water bodies, the largest of which is approximately 12 acres in size. Approximately 30% (four acres) of this lake is situated within the Laguna Beach City limits and is owned by the City. The rest of the lake and the two other lakes are within the unincorporated area of Orange County. The three lakes, nourished by surface and subsurface runoff are comprised of three biotic communities: fresh water aquatic, fresh water marsh, and riparian habitat. The Lakes support a variety of biotic species including microscopic plants; aquatic and semi-aquatic plants such as reeds and willow thickets; migrating waterfowl and birds, frogs, salamanders and a variety of mammals such as coyote, gray fox and mule deer.

The lakes are of local and regional significance. They are the only naturally occurring lakes within Orange County and are an important habitat for many waterfowl and birds that are not widely found within the County. The lakes support significant wildlife habitats in the freshwater marsh and riparian communities; and they possess much regionally uncommon aquatic and marsh-related vegetation.

* Ocean Resources: The Pacific Ocean is one of the most significant physical features of Laguna Beach, creating 4.2 linear miles of coastline and nearly 47 acres of sandy beach. In addition to its aesthetic and recreational value, the ocean and tidal zone of Laguna Beach also supports a wide variety of plant and animal life. This coastal ecology is particularly vulnerable to pollutants, which typically include chemical, gas or oil spills and leaks that originate on both land and sea. The quality of the ocean water is also susceptible to degradation from runoff sedimentation and debris from major drainage basins such as Aliso Creek and Laguna Canyon, and from sewer outfalls. A major degradation of the coastal waters has the potential of significantly disrupting the ecological balance of the area and adversely affecting tourism.

Oil spills are a particularly serious threat because of their potential for widespread damage. The Federal, State and County governments all have oil spill contingency plans which are activated during an oil or toxic chemical spill. Similarly, in 1979 the City of Laguna Beach prepared a document entitled, "Oil Spill Contingency Planning in Orange County", using financial assistance from the U.S. Office of Coastal Zone Management. The plan evaluates the oil spill contingency planning efforts on a regional scale, recognizing the important role of local governments in this endeavor. All of these plans are similar, in that they are designed to initiate

TOPIC 8: VEGETATION AND WILDLIFE RESOURCES

Background

Vegetation and wildlife within previously undeveloped areas are particularly vulnerable to human intrusion, which disrupts, fragments or destroys native plant communities and wildlife corridors and habitats. Increased awareness of this vulnerability has made the protection of natural vegetation and wildlife habitats a major component of this element. There are nearly 2,450 acres of undeveloped land within the hillsides of Laguna Beach. These lands provide a variety of habitats for numerous plant and wildlife species. In order to determine the value and location of these habitats, the City Council in October 1982 commissioned a citywide biological resources inventory. Later studies were commissioned in 1991 and 1992, respectively, for the South Laguna and Laguna Canyon areas following their annexation into the City. These studies entailed four principal tasks:

1. The identification and description of major community open space lands and watershed areas.
2. A comprehensive inventory of biological resources, including vegetative communities and associations and fauna species and habitats.
3. The identification of sensitive plant and animal species and associated habitats, including rare and endangered species.
4. The determination of levels of significance: (i.e., low value vs. high value).

The inventories involved a comprehensive in-the-field inspection of the community's open space areas. As a result of the inventories, three Biological Resource Value Maps have been prepared for most of the Laguna Beach area. The Biological Resource Value Maps are based on the integrity and extent, faunal use and presence of endangered, rare or locally unique biota. In addition, the maps establish a value ranking system for habitats within the City, as summarized below.

* Low Value Habitats: These habitats are typically disturbed, impacted sites, often dominated by adventive grasses and domestic plants that have become established in natural areas, and are usually highly fragmented by, or are contiguous to, urban development. Although they may have value, they are isolated and not linked to other habitats. The sites are biologically simplified and are of low faunal carrying capacity. Low value habitats do not possess biological constraints to urban development, but may, if developed, be areas where spillover impact adversely affects contiguous higher value settings.

* Moderate Value Habitats: These sites may contain either native vegetation of a specific community type, or ornamental species in a setting providing horizontal and vertical structural diversity. The sites are usually, however, limited in area and are contiguous to urban development. Thus, their faunal carrying capacity, and often, native floral species diversity, is lower than that of the "high value" habitats described below.

* High Value Habitats: These are extensive areas dominated by indigenous plant communities, which possess good species diversity. They are often, but not always, linked to extensive open space areas, within or outside of the City, by traversable open space corridors. Their faunal carrying capacity is good to excellent; many areas are utilized as bedding and foraging sites by mule deer, or possess large resident populations of birds or native small mammals.

Also included in this category are locales of southern maritime chaparral, whether extensive or fragmented, because of the locally unique character of this community.

* Very High Value Habitats: These include the habitats of endangered, rare or locally unique native plant species. Also included are areas of southern oak woodland and natural (not irrigation augmented) springs and seeps. Among the very high value habitats inventoried are areas of significant rock outcrop exposures, because of the assemblages of sensitive plant species that often occupy such settings.

In addition to the Biological Resource Values Maps, a summary of the types of biotic communities found throughout Laguna, along with brief descriptions of the habitat characteristics, can be found in Table 3-3. The general biotic categories include coastal sage scrub, chaparral, grasslands, south oak (or coastal live oak), woodland, rock outcrops, coastal bluff scrub, coastal strand and urban forest.

The South Laguna Biological Resource Inventory completed in January 1992 is the most recent and comprehensive study of the South Laguna area. A number of earlier reports, completed prior to 1980, were used in the preparation of the South Laguna Specific Plan/Local Coastal Program.

The Laguna Canyon Biological Study completed the inventory process on all open spaces of substantial size within existing City boundaries. The major portion of the Laguna Canyon Annexation study area is to be incorporated into the Laguna Coast Wilderness Park and will be preserved as permanent open space. A number of sensitive plant and animal species have been found in this study area; perhaps the most important in terms of extent of cover and/or numbers are many-stemmed and Laguna Beach Dudleya, the orange-throated whiptail and the coastal cactus wren. The inventory also identified Laguna Creek as a habitat resource.

Issue Identification and Analysis

Protection or preservation of sensitive wildlife and vegetative habitats is a primary function of the community's open space system. The biological assessments of the City's vacant hillsides provides perhaps the most significant data resource for the City's Open Space and Conservation Element and for achievement of the preservation and protection of these areas. Prior to the completion of these assessments, a comprehensive evaluation of the community's open space lands had never been compiled. These comprehensive inventories of the community's wildlife and vegetative resources enables the City to identify those areas which may be environmentally significant or sensitive, based upon the quality, diversity and uniqueness of a species or habitat.

Threatened local species

local + regional significance

The Biological Values Maps in particular are important resource maps for open space preservation because they identify and rank open space habitats within the City. Of the four different values attributed to the City's open space habitats, "high value" and "very high value" habitats are the most sensitive. The "high value" habitats are dominated by a diversity of indigenous plant communities and wildlife dispersion corridors and are usually linked with open space areas outside the City. The "very high value" rank, however, represents the most significant and sensitive open space in Laguna Beach, areas that are likely to experience the most impact from urban development. Rare or endangered plant species included in this category are listed in Table 3-4.

X Designation of "very high" and "high" value habitats alerts the City and property owner to the possible environmental sensitivity of the site. Due to the scale of the map, however, a more detailed environmental assessment may be required on a site-specific basis for properties, which contain or are adjacent to these habitats. This evaluation will be included in the development review process, and will outline the precise extent of the environmentally sensitive area and evaluate the environmental effects of development on adjacent vegetative and wildlife habitats.

The benefits resulting from the preservation and protection of the "very high value" habitats within Laguna Beach has implications beyond the physical boundaries of the City. Preservation of these areas will result in the long-term enhancement of rare and endangered vegetation within the region and allow for wildlife dispersion corridors, along with bedding and foraging areas for wildlife, within and adjacent to the City.

Environmentally Sensitive Habitat Areas of South Laguna

Aliso Canyon

Aliso Canyon is an area of significant habitat and resource value. The canyon contains a rich mixture of riparian, coastal sage scrub and coastal chaparral species with distribution dependent upon elevation and exposure.

Riparian vegetation is found along stream courses where moisture is at or near the surface throughout the year (see Figure 3 in the Addendum). The vegetation is dominated by dense stands of willows broken by stream course marsh vegetation, including Cattail and Olney Bulrush. Located within this type of environment is the Aliso Creek Lagoon, a hyposaline marsh, that exhibits a diverse collection of aquatic plants such as salt grass, pickleweed and eel grass.

The most significant vegetative species occurring in the canyon is a small succulent, *Dudleya stolonifera*, an endemic plant unique to Orange County. It is primarily found mixed with other varieties of *Dudleya* in the southeastern portion of the canyon and along the steep hills to the south. The significance of the *Dudleya* occurrence is amplified by the existence of a rare species which occurs only in this area of Orange County, the occurrence of a second species at the northernmost reach of its range, a third genetically significant species that has two times the chromosome count of the others, and a fourth common variety of *Dudleya*. The coincidental establishment of these four and the hybridization that occurs is as, if not more, significant than the occurrence of the singular species.

Jan 2 2015

Devora Hertz
appeal number
A-5-LAB-14-0019

Coastal Commission speech De Novo Hearing

My name is Devora Hertz and I am here before you today because this project raised issues between the City's approval and conformance with the LCP.

These contentions raise LCP and Coastal Act consistency questions about the City's approval of the largest Artists Work/Live project in the city, that will be hanging over a mapped blue-line stream, which leads to the most used visitor serving beach in Laguna, on land supporting state and federally listed species and adjacent a National Natural Landmark area known for its endangered habitat, while obstructing the view from the designated scenic highway, which is one of two major arteries into the city.

This project proposes to shore up over 300 feet of creek and streambed.

The project itself will be jutting out into the creek, causing a stricture which will exacerbate flooding.

The balconies from this proposed project will hang over this creek where glass, lead and other art debris can fall into the creek.

The LCP clearly states in section 9C a

Streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon Biological Values Maps, as well as the "blue-line" streams identified on the USGS 75 Minute Quadrangle Series, shall be identified as a component of the Coastal Environmentally Sensitive Areas Map of the Land Use Plan. For these streams, a minimum setback of 25 feet from the top of the stream banks shall be required in all new developments.


It meets this criteria. This stream is not channelized at this location.

The LCP clearly states that the

"Where development is proposed on an existing subdivided lot which is otherwise developable consistent with all City ordinances and other policies of this plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures have been exhausted.

This criteria with this project has clearly not been met.

This project was originally proposed as 8 units. As 8 units it complied with the LCP and didn't require the protection services of the Commission.

de novo pg 1/2


Policy 4A from the LCP states:

Protect fresh water lakes, streams, waterways and riparian habitats, and preserve the borders and banks of lakes and streams in their natural state.

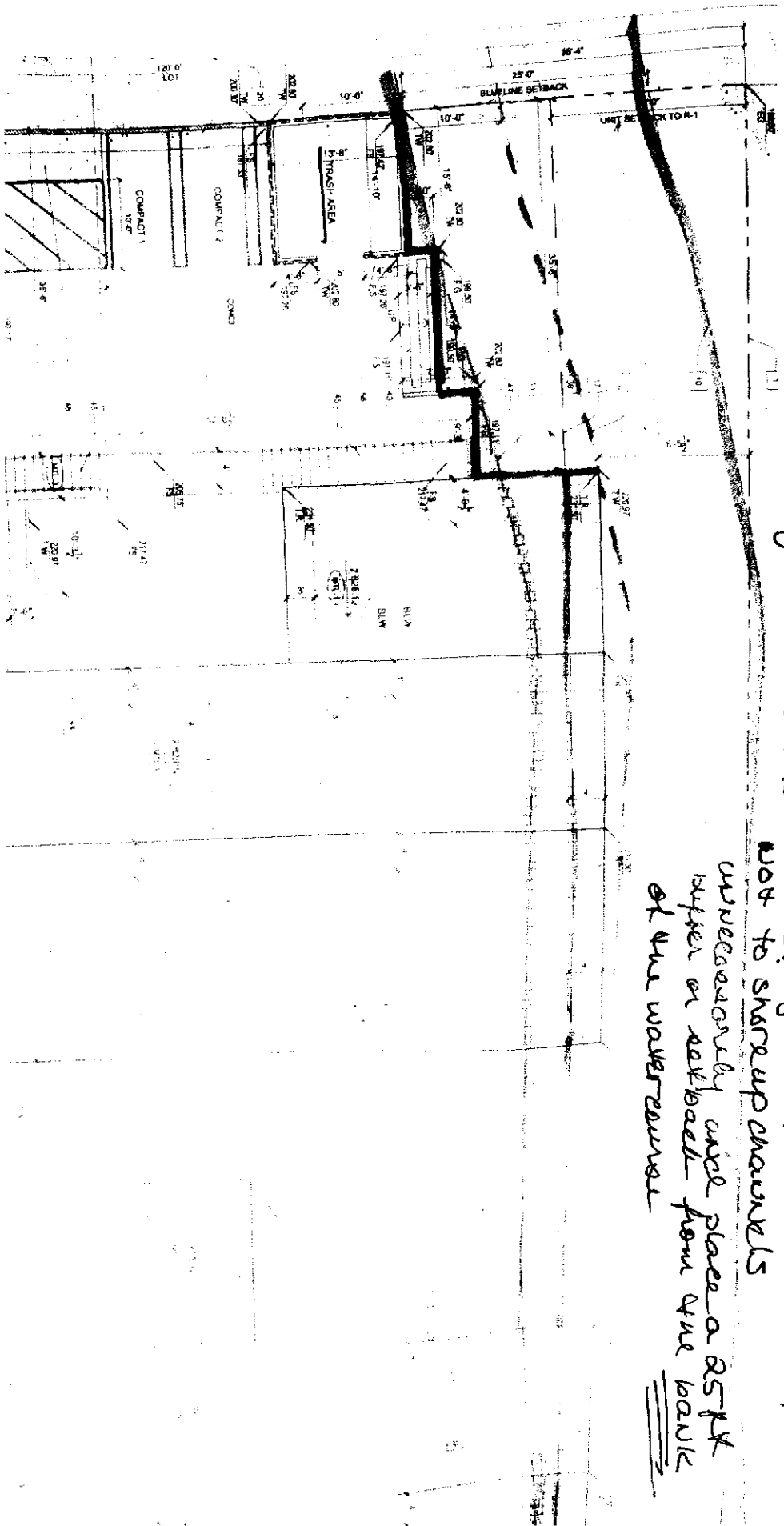
That is what we are asking of you today. Please uphold the policies in the LCP.

denovo 2/2

A handwritten signature in black ink, appearing to be 'D. Denovo', written in a cursive style.

Every stream has a centerline, but the width may vary in relation to the bank of the stream.

This is why it is very important to measure from the BANK of the stream. Measuring from the centerline will simply allow development in the creek?



Buildings, in addition to balconies, will overreach into the water channel

Our LCP clearly states if it is a value; objective of this community NOT to narrow channels unnecessarily and place a 25' PK buffer on setback from the bank of the watercourse

The city has drawn a strength line to determine the basis of this watercourse. The pink line 25 ft from the center of the channel

The South Laguna Specific Plan recommended that proposed hillside development generate Runoff Management Plans similar in scope to that as detailed for the adjacent Aliso Viejo Segment as conditions of development approval.

Specifically, the management program should achieve peak runoff flows equal to or less than existing conditions. The plan should integrate drainage studies, preliminary engineering designs and methodologies and the findings of biologists into a mitigation program.

Specific runoff control measures should be incorporated into the management plans and include, but are not limited to:

- Grading design for drainage
- Canyon preservation
- Diversion of runoff exceeding natural flows to street storm drains
- Landscaping/erosion control

Other runoff controls include:

- Installation of energy dissipaters to diffuse runoff
- Creation and maintenance of catch basins

POLICIES

* 9A

Promote the preservation and restoration of Laguna's natural drainage channels, freshwater streams, lakes and marshes to protect wildlife habitat and to maintain watershed, groundwater and scenic open space.

9B

Prohibit filling and substantial alteration of streams and/or diversion or culverting of such streams except as necessary to protect existing structures in the proven interest of public safety, where no other methods for protection of existing structures in the flood plain are feasible or where the primary function is to improve fish and wildlife habitat. This provision does not apply to channelized sections of streams without significant habitat value.

* 9C

a) Streams on the Major Watershed and Drainage Courses Map and the South Laguna and Laguna Canyon Biological Values Maps, as well as the "blue-line" streams identified on the USGS 7.5 Minute Quadrangle Series, shall be identified as a component of the Coastal Environmentally Sensitive Areas Map of the Land Use Plan. For these streams, a minimum setback of 25 feet from the top of the stream ***

banks shall be required in all new developments. A greater setback may be necessary

not centerline

in order to protect all riparian habitat based on a site-specific assessment. No disturbance of major vegetation, or development, shall be allowed within the setback area. This provision shall not apply to channelized sections of streams without significant habitat value. Where development is proposed on an existing subdivided lot which is otherwise developable consistent with all City ordinances and other policies of this Plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures, have been exhausted.

b) Require a setback of a minimum of 25 feet measured from the centerflow line of all natural drainage courses or streams referenced in 9-C(a) above. Such setback shall be increased upon the recommendation of the City Engineer and environmental planner through the environmental review process. However, a variance may be given in special circumstances where it can be proven that design of a proposed structure on an affected lot will preserve, enhance or restore the significance of the natural watercourse. At no time shall grubbing of vegetation, elimination of trees, or disturbance of habitat be allowed within the setback area before or after construction.

9D Permit extensions of decks and other portions of a structure within the required setback for significant natural drainage areas only if:

a. There are no supports to the ground within the setback areas; and

b. The extensions do not encroach closer than fifteen feet from the centerline of flow.

9E Require Design Review for development projects which include portions of a natural drainage course.

9F Where possible, require restoration of deteriorated significant natural drainage courses that have been disturbed by development, but which retain potential for natural function.

9G Develop standards for maintenance of free and adequate flow in natural drainage channels.

9H Coordinate, wherever possible, natural and man-made drainage structures so that natural channels will contribute to transport a volume of runoff equal (or as close as possible) to that which would have occurred if the project watershed were in its natural condition before development.

9I Require new development projects to control the increase in the volume, velocity and sediment load of runoff from the greatest development areas at or near the source of increase to the greatest extent feasible.

and expedite the process of clean-up and containment of oil and toxic chemical spills occurring offshore. These plans establish lead agencies responsible for the clean-up and administrative support and in some cases technical advice as needed during a major oil spill.

The Orange County Plan, however, differs from the State and National plans in that both these plans recognize the Environmental Protection Agency or Coast Guard as the lead agency for the spill response, while the County recognizes the local fire department of the affected jurisdiction as the lead agency.

The City's role in an oil or chemical spill emergency involves discovery of the spill, taking immediate action to limit damage and protect the public, notifying the appropriate State and Federal agencies, and providing support for clean-up operations by private industry.

Water Conservation: Until recent years, water has been considered an abundant and inexhaustible natural resource, with shortages usually attributed to engineering problems. However, recent water shortages occurring throughout the nation (especially in water-rich regions such as the northeast) have changed the public's attitudes towards water. These recent droughts have helped communities to realize that, like other natural resources, water is a finite commodity. Communities can no longer depend entirely upon importing water to meet increased demand, but instead need to conserve water, thus reducing the demand. Several jurisdictions have addressed this issue by establishing policies to encourage water conservation. Other methods include reducing water demand in new residential development by reorienting outdoor space and its landscaping, decreasing lot or lawn size and encouraging drought-tolerant landscaping through subdivision and landscape ordinances. In addition, residential water consumption can be reduced through economic and other incentives, building codes that mandate water saving devices, and public education on water conservation opportunities.

In Laguna Beach, the Laguna Beach County Water District (LBCWD) conducts a voluntary water conservation program by encouraging people not to waste water and by promoting the planting of native plants which use less water. This program is administered as an information program by printing water conservation messages on water bills and by providing literature on this subject at the LBCWD office.

POLICIES

- 4A Protect fresh water lakes, streams, waterways and riparian habitats, and preserve the borders and banks of lakes and streams in their natural state.
- 4B Encourage the planting of drought tolerant and native vegetation as a means of conserving water.
- 4C Encourage conservation of water resources for existing and new development.
- 4D Cooperate with the County of Orange to ensure that the existing natural hydrological process of Laguna Lakes is maintained as a means to preserve them.

A series of issues were raised during the planning efforts involved with the preparation of the South Laguna Specific Plan. Primary issues related to the need to protect drainage channels, streams, sensitive areas and downhill development from the effects of increased urban related runoff. Specific issues have focused upon the need to:

- Control erosion and related siltation
- Protection of habitat values
- Protect water resources from the effects of sedimentation
- Need for a drainage control plan linked to an overall watershed wide management objective

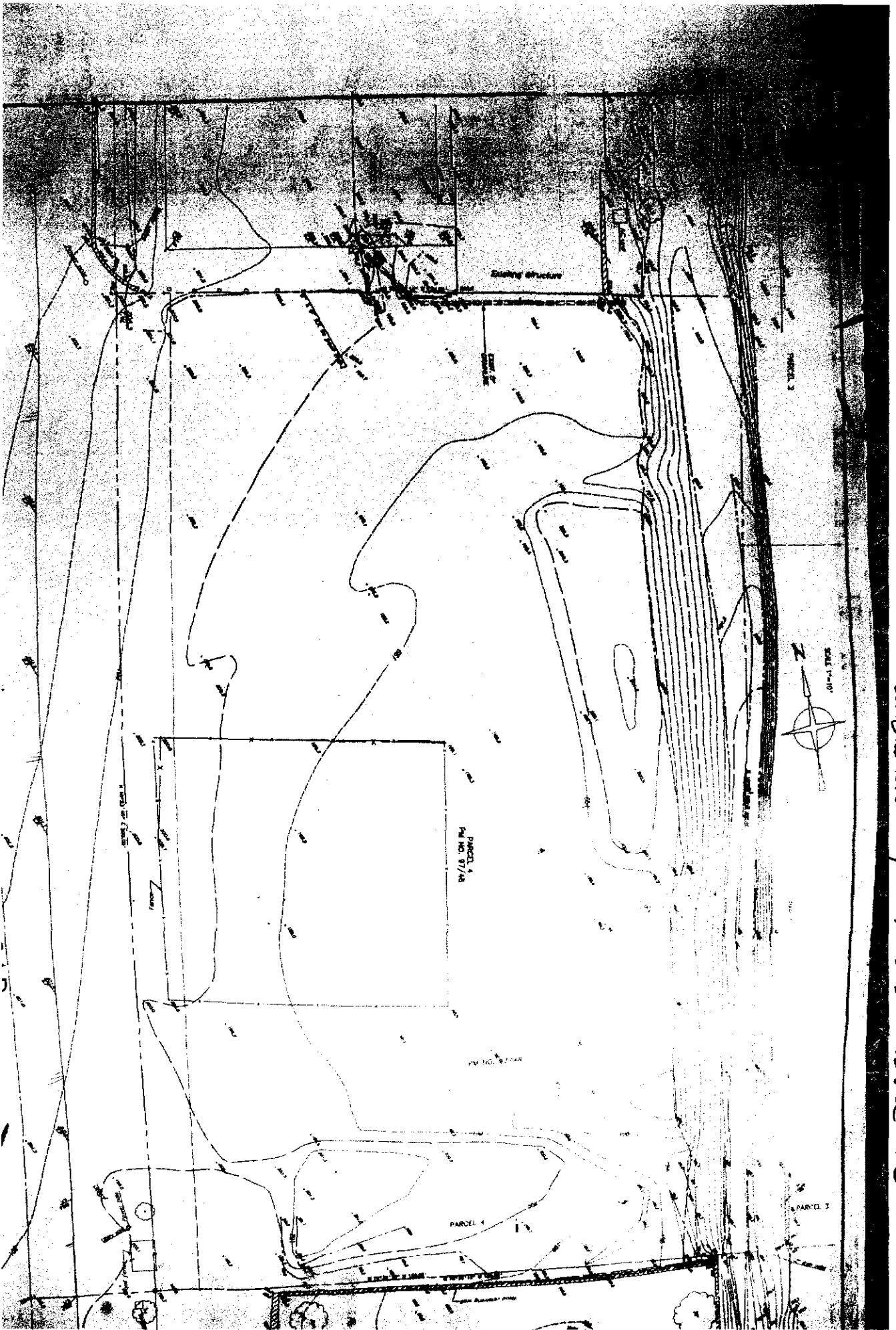
Issue Identification and Analysis

The City has increased its efforts to protect watershed areas and natural watercourses during the last decade, particularly since adoption of the first Open Space and Conservation Element to the General Plan. There are several reasons for this interest: disturbance of these lands may create hazards such as flooding and mudslides; destroy important public resources such as water supplies and water quality; or damage valuable habitat lands and ecological systems. Any of these events could threaten the general welfare of a community and result in economic loss. The direct costs of not protecting these areas can be high, affecting both property owners and government interests. These costs may include the reduction of property values, the actual destruction of property or the repair or installation of expensive storm drain systems and related public facilities.

Significant natural watercourses in the community were mapped and officially recognized when the City Council adopted an "Environmentally Sensitive Areas Map in 1974. The map, which was prepared using aerial photographs, topographic maps and individual site analysis, records not only watercourses, but also earthquake faults, major landslide areas, open space preserve areas and sensitive coastal properties. Environmentally sensitive watercourses are defined in the City's Municipal Code as those which "serve a distinct functional, scenic or ecological purpose in their natural condition and setting . . ." Development projects, which encroach into significant natural drainage or water courses, are subject to a special review process and detailed design standards, including site planning requirements, setback provisions and architectural review. These significant natural watercourses are depicted on the attached map entitled "Major Watersheds and Drainage Courses" and the "South Laguna and Laguna Canyon Biological Values" Maps from Topic 8 (Vegetation and Wildlife Resources).

Because some past urbanization has resulted in drainage problems, construction of remedial flood control works is needed in many areas. In response to the need for an upgraded drainage system, the City adopted a Master Plan of Drainage in 1982 which identifies the need for 6.6 million dollars worth of facilities citywide; approximately 40% of the identified improvements were completed by 1993. A Master Plan of Drainage was also prepared for the South Laguna

longer



2010 Myosureggy

unchanneled stream (blue line)

• LCP listing of specific water courses identified for protection

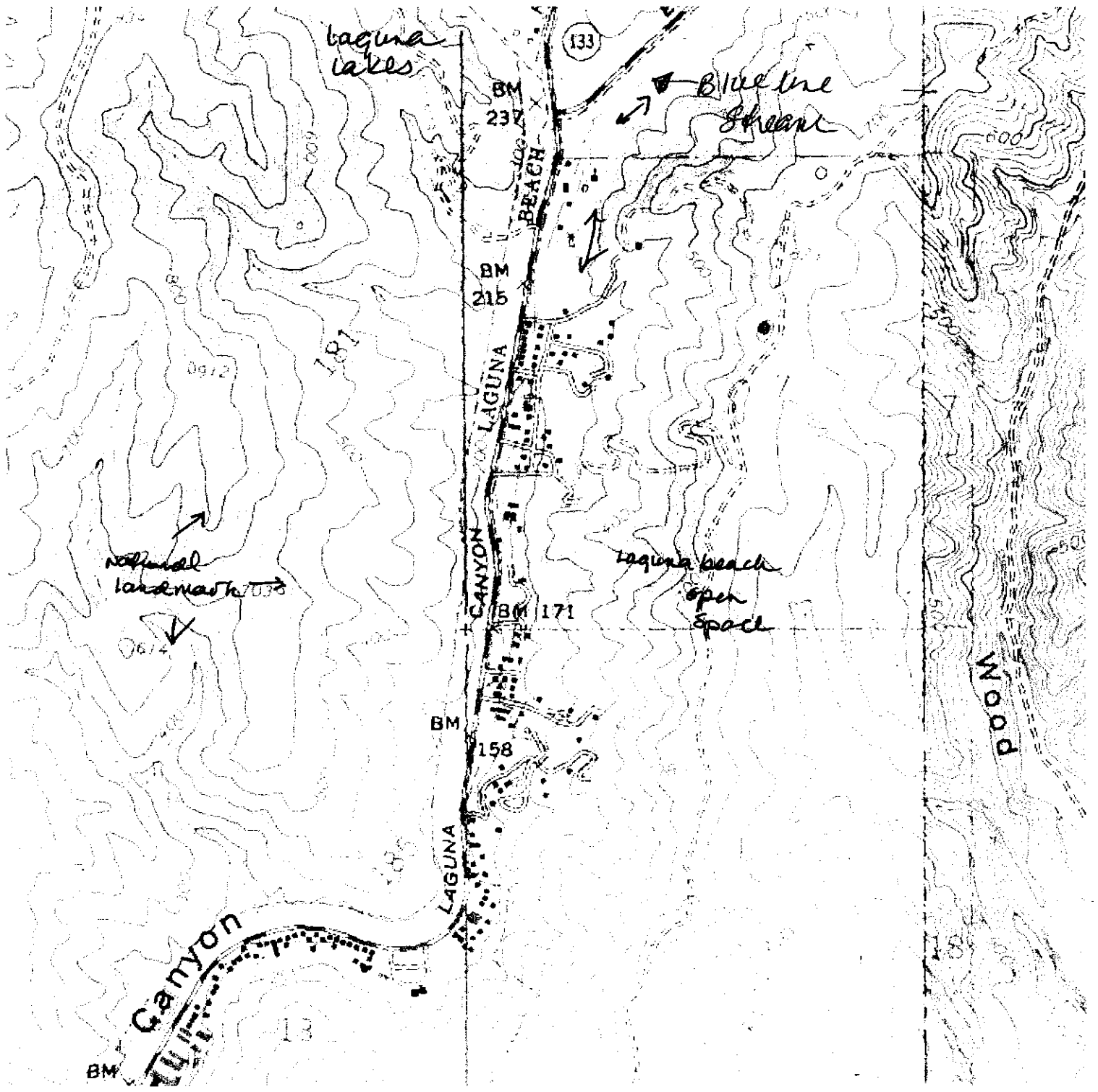
TABLE 3-5¹
CHARACTERISTICS OF MAJOR WATERSHEDS

<u>Watershed</u>	<u>Area</u> (acres)	<u>Vertical Relief</u> (feet)	<u>Length</u> (feet)	<u>Gradient</u> (%)	<u>Flow</u> (c.f.s.) ²
1. Irvine Cove	107	600	4,000	15.0	131
2. Boat Canyon	328	780	10,000	7.8	343
3. Irvine Bowl Canyon	220	600	7,500	8.0	224
④ <u>Laguna Canyon</u>	5,760	445	33,750	1.3	<u>3,198</u>
5. Wood Canyon	2,752	400	20,000	2.0	1,066
6. Canyon Acres	295	930	6,200	15.0	442
7. Hidden Valley Canyon	330	940	9,000	10.4	468
8. Rimrock Canyon	242	730	6,400	11.0	329
9. Bluebird Canyon	314	692	5,800	11.9	444
10. Lower Bluebird	642 ³	610	10,800	5.7	754
11. Diamond Canyon	95	610	3,800	16.0	169
12. Arch Beach Heights	223	810	5,200	15.6	286
13. Area 1 (Hobo Canyon)	418	805	8,422	9.6	716
14. Area 2 (Aliso Creek)	322	770	7,950	9.7	345
15. Area 3 (Ceanothus Canyon)	163	689	4,913	14.0	449
16. Area 4 (Badlands Canyon)	250	440	3,105	14.2	691
17. Area 5 (Three Arch Bay)	131	320	2,707	11.8	352

¹ Source - City of Laguna Beach Master Drainage Plan, July 1982
South Laguna Beach Master Drainage Plan, April 1993

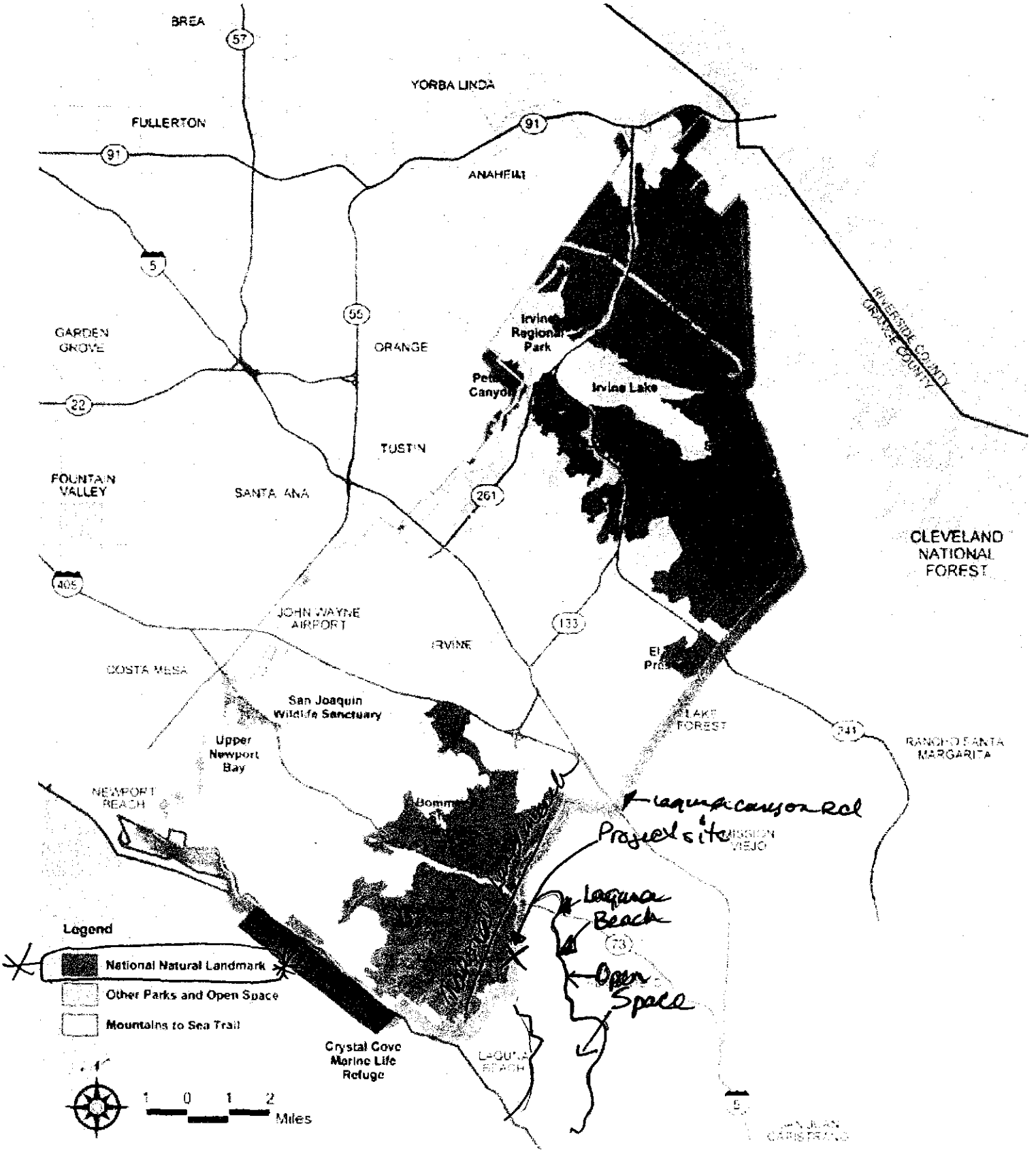
² Cubic Feet per Second for a 10-year storm

³ Includes Numbers 8 & 9



State marine reserve

USGS 7.5 minute Quadrangle showing Blue line Stream on USGS



Irvine Ranch Conservancy

LCP Laguna Canyon Biological Resource Map.



Darker areas are high and very high value habitat

National Landmark

Laguna Canyon Rd

DECEMBER
2010
FLOOD LEVEL

Please note the fire departments 2010 floodline
after a 10 year flood.

Note: This driveway is the first driveway from the
property. ~~note~~ it is NOT a channelway,

Paul Merritt p.o. box 9145 LAGUNA, CALIFORNIA 92652

January 1, 2015

Delivered CALIF. COASTAL COMMISSION Long BEACH, CA.

Th10b

Appeal Filed: 4/16/14
49th Day: Waived
Staff: C.Posner-LB
Staff Report: 12/19/14
Hearing Date: 1/8/15

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South Coast Region

JAN 2 2015

CALIFORNIA
COASTAL COMMISSION

Appeal Number: A-5-LGB-14-0019

Applicant: Louis Longi

Local Government: City of Laguna Beach

Local Decision: Approval with Conditions

Appellants: Devora Hertz, Jackie Gallagher, Audrey Prosser, Clean Water Now (Roger Butow)

Project Location: 20412 & 20432 Laguna Canyon Road, Laguna Beach, Orange County APNs 629-051-23 and 629-051-02

Project Description: Construction of a 36-foot high (31 feet above base flood elevation), thirty-unit artists' work/live project with 17,242 square feet of interior work/live area, 11,421 square feet of exterior communal work area, a 513 square foot retail art gallery, and a 47-stall parking garage. Eight of the units are reserved for low-income artists.

Dear HONORABLE COMMISSIONERS,

I support the APPEAL above. I think the "work live" is a **mathematical illusion and adds density above the permitted level of land use** for this site. Providing a few affordable units and increasing the scope of prior conformed units is not in sync with the Coastal concepts for promoting Artist housing.

Second, without meaningful additions for Artist Housing... to modify the **streamline CITY measurement should be denied** and the appeal approved. The stream impact should not set a precedent.

Respectfully,



Th 10b

Canyon Alliance of Neighborhoods Defense Organization

RECEIVED
South Coast Region

170 Canyon Acres
Laguna Beach, CA 92651
Phone: 949 484-5229

E-Mail: info@lbcando.org Web: lbcando.org

JAN 2 2015

Commissioners,

CALIFORNIA
COASTAL COMMISSION

CANDO - the Canyon Alliance of Neighborhoods Defense Organization - represents neighborhoods from one end of Laguna Canyon to the other, comprising Thurston Home Owner's Association, Sarah Thurston Park, Canyon Acres Neighborhood Association, Castle Rock Neighborhood and the Laguna Canyon Property Owners Association.

Love for the Canyon - for its opens space and wildlife, its ridgelines and rocky outcroppings, and its unique neighborhoods - unites Laguna. And for most of our 3 - 4 million yearly visitors, decompressing as they taking the Scenic Highway through the hills is their first taste of Laguna Beach.

It is an error to assume that the ocean and downtown (fabulous as they are) are the sole focus of our visitors. The Vision 2030 project identified, and the recent charette conducted by MIG confirmed, that our Canyon and hillsides are a big part of the value of their experience.

Protecting this beautiful canyon is everybody's concern. For CANDO the Longi Work-Live project raises alarm in several categories: damage to the beauty and character of Laguna Canyon and its unique neighborhoods; damage to the environment; and safety.

Defining and protecting the Canyon's character

Where does expertise reside?

While Canyon residents facing a wave of proposed development are alarmed and activated, the Laguna Beach City Council has become concerned with their ability to handle Canyon issues fairly and effectively.

In a City Council Meeting 4/1/14 then Mayor Elizabeth Pearson acknowledged the development pressure, and the City's concern about the processing and planning of Canyon-related issues noting, "We said in our planning meeting last weekend that we need to get ahold of this whole Canyon, from our city limits all the way into town on Laguna Canyon Road. What are we going to do in the future? Because we've got a lot of things coming down the pike, that we're looking at for out there, and applications being made...", (end of Item 21)

But, only **after** their denial of the appeal of the Planning Commission decision and approval of the Longi project, did the Council belatedly request City Staff for an educational presentation on Zoning in the Canyon.

And, while the Coastal Commission staff report notes that, "...the Commission is hesitant to intervene in this particular situation where the conformance with community character is an issue. The decision regarding community character in this case has been thoroughly reviewed

by the local government and its citizens who have more insight and experience regarding the uniqueness of their community...”, the Laguna Beach City Council does not share that confidence in its insight and experience. In fact, they have demonstrated that they doubt their ability to apply the standards of “small scale, rural and neighborhood compatible”.

At the City Council meeting of June 3rd, 2014 the Council, having considered but rejected an interim urgency ordinance to halt building in Laguna Canyon, voted unanimously “To direct the Planning Commission to host public workshops for preliminary consideration and review of Laguna Canyon Zoning regulations, and specifically the Laguna Canyon Annexation Area Specific Plan, Topic 1, Policy 10; and to return to the City Council with recommendations regarding small scale, rural and neighborhood compatibility.” (From City Council Minutes June 3, 2014)

http://lagunabeachcity.granicus.com/DocumentViewer.php?file=lagunabeachcity_181304a7820e12f7d37aaf694139bb8c.pdf&view=1 (p 20)

The Planning Commission subsequently declined what they clearly found to be a controversial and challenging assignment.

PC Minutes 9 June 11, 2014

"Ms. Larson (*staff liaison to the Planning Commission*) ... reported that the City Council discussed the possibility of an urgency ordinance and development moratorium for Laguna Canyon Road but the Council decided instead to direct the Planning Commission to host public workshops to discuss Policy 10 of Topic 1 of the Laguna Canyon Annexation Area Specific Plan to address concerns with the terms “small-scale,” “rural character” and “neighborhood compatibility.”

Discussion ensued between the commissioners:

“ Commissioner Johnson opined that it is the wrong time to get into a discussion about the Laguna Canyon Annexation Area Specific Plan because of the connection between the Canyon and current efforts, such as the Mobility Element and urban designer. Commissioner Zur Schmiede agreed, noting that the Canyon was added to the Statement of Work for the urban designer because of recent controversies about proposed uses. Commissioner Zur Schmiede did not see a need to discuss the Laguna Canyon Annexation Area Specific Plan independently at this time and asserted that the only way to reduce disagreement is to develop objective standards. Commissioner Grossman asserted that the City should define terms, not a consultant, and noted that the City defined “village character” for the first time when it created the Downtown Specific Plan. Commissioner Johnson added that Canyon occupants’ concerns also included quality of life. Ms. Larson informed the Commission that staff is currently unable to tackle this issue because of all the other efforts underway; therefore, there

Canyon Alliance of Neighborhoods Defense Organization

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E-Mail: info@lbcando.org Web: lbcando.org

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will be time to see how the other efforts address the current concerns.” (end of quote from minutes)

http://lagunabeachcity.granicus.com/DocumentViewer.php?file=lagunabeachcity_bbc36de12fc91e2c6fa93a7c82935684.pdf&view=1 (p. 8 & 9)

These questions regarding the application of the ‘small-scale, rural and neighborhood compatible’ requirement in Canyon planning were then added to the scope of work of MIG - the urban planning firm hired by the City. MIG has just begun this process—holding “Key Community member” meetings with CANDO, and scheduling a Canyon Walk with us to begin to understand character and uses.

Our local government has indicated that they are doubtful about the factual basis for their decision-making regarding projects in the Canyon; Community members, such as the members of the canyon neighborhood associations are the acknowledged source of expertise in application of the “rural, small scale, neighborhood compatible” standard. And each neighborhood association has been very clear – the Longi project does not meet those standards.

Each neighborhood is concerned that if a project like this that clearly does not meet the standards of small-scale and rural and neighborhood compatible, is allowed to pass, it will rip a hole in the protections previously afforded by the Laguna Canyon Annexation Area Specific Plan. While the City has said that they consider each project separately, a part of what they consider is neighborhood compatibility – so, quiet clearly, once a project has changed the neighborhood character, there is no going back.

“Neighborhood” vs. “Community”

Unique neighborhoods are part of the very great charm, strength, history and appeal of Laguna Beach. Note that the LCP refers to the protection of unique “neighborhoods”—it does not use the less specific word used in the Staff Report, “Communities”. The standard is protection of “neighborhoods”, and compatibility with “neighborhood character” – not “community” character.

What is the proposed project’s neighborhood?

The Laguna Canyon Annexation Area Specific plan, under “Distinction of Neighborhoods”, identifies Castle Rock Neighborhood, Stan Oaks/Raquel Road Neighborhood, Sun Valley Drive Neighborhood, Stan’s Lane Neighborhood and Laguna Canyon Road Properties. The proposed Longi project is the Sun Valley neighborhood.

The Specific Plan describes (in part) this neighborhood, “Aside from residential uses, some of the commercial enterprises include a nursery school, a stable, a small animal hospital, a kennel, and various craftsmen. Also located within this area are private stables and a number of artist’ studios. These non residential uses are usually located within the residence itself, or

in an accessory building adjacent to the residence.” Note that the Specific Plan **identifies the neighboring properties** to the Longi project - Canyon Animal Hospital and (what is now) the Dog Ranch - as being in the Sun Valley neighborhood.

It is the character of the unique Sun Valley neighborhood that the project must not damage. It is to use and character in **this** neighborhood that comparisons must be made. Comparisons suggesting that the project matches the use or character of building in those **other** zones, in **other** neighborhoods, and even outside the Specific Plan area entirely, should not and cannot be used to satisfy the LCP requirement of neighborhood compatibility and protection of unique neighborhoods.

The Specific Plan talks about scale and use (see above) – noting that most of the commercial uses occur in homes -- Moving away from small scale, cottage or cottage-conversion-based enterprises that have been the norm in the Sun Valley neighborhood to this large multi-unit work-live apartment complex would be a significant character change.

Density, and small scale vs rural.

From the Laguna Canyon Annexation Area Specific Plan

Topic 1: Rural Atmosphere

While other similar rural areas in the County have disappeared due to encroaching urbanization or redevelopment, the Canyon area has retained much of its isolation and rural atmosphere. Increasing land values will create additional pressure to develop or redevelop at a higher density that now exists. Policies and appropriate implementing actions are necessary to preserve the rural character of Laguna Canyon and to encourage a small, rural scale of development.

As demonstrated here, the City finds density bonuses antithetical to the preservation of rural atmosphere. This section also makes clear that the requirement for small scale development is **separate from, and in addition to**, the requirement for rural character. The Staff reports notes that a project could be large and yet rural—true, but any project controlled by the Laguna Canyon Annexation Area Specific Plan is required to be both small **and** rural.

Protecting the Creek.

25+ feet from the Bank

Clearly the City identifies Laguna Canyon Creek as a major watercourse, even if they have failed to map it properly.

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E-Mail: info@lbcando.org Web: lbcando.org

Th10b

In the *Project Feasibility Report and Alternatives Analysis* accompanying the MND prepared by RBF for the proposed Habitat Restoration at City owned property at 20612 Laguna Canyon Road, the consultant, RBF, wrote both: "Potential concepts were generated with the assistance of the City of Laguna Beach, and input from previous studies and City Council meetings." and (in section 3.1.1 Flood Conveyance and Protection Goals) "**Laguna Canyon Creek is a major water course** (*emphasis added*) that drains a watershed area of approximately 3,500 acres (FEMA 2009) at the project site." (A different size estimate is found in the Laguna Canyon Flood Mitigation Task Force Report "The Laguna Canyon watershed is designated officially as Facility 102 and is about 5,900 acres in size.")

The City treats Laguna Canyon Creek in every way as a Major Watercourse, including spending thousands of hours and millions of dollars addressing it. Clearly it is not just a Major Watercourse in the City, it is THE Major Watercourse!

I note that the Staff Report says: "**Notably, if a "channelized" section of a stream does, in fact, contain significant habitat value, then this provision does not apply and the setback should be 25 feet from the top of the stream bank.**"

And then on P. 44: "Dr Engel writes: *For the reasons presented here I find that Laguna Canyon Creek and the associated riparian habitat rise to the level of environmentally sensitive habitat (ESHA).*"

From this it seems no conclusion is possible other than that the setback must be 25 feet from the stream BANK.

Further, give the intensity of the proposed use (dense and loud, with equipment in use in outside areas), the value and fragility of the environment, and the more generous setback from Blue Line streams that many other cities require, we (CANDO) would like to see a setback of greater than the required minimum of 25' from the bank. We must offer maximum protection to this rare riparian habitat that lies between two wilderness parks.

From the Laguna Canyon Foundation: <http://www.lagunacanyon.org/drought/>

"According to Scott Thomas, a researcher with the Audubon Society, the failure rate of breeding predatory birds is estimated to be 90-95% in coastal southern California. Thomas explained that the breeding failure this year is unprecedented. He observed slightly below normal breeding in 2012 and then even lower breeding in 2013, but the breeding period in 2014 was the worst he has ever observed....

Not all news is bleak. Thomas reported that raptors seem to be breeding more successfully in Laguna Canyon than in other parts of coastal southern California that he surveys; he observed three successful breeding pairs in Laguna Canyon."

As alluded to above, the City is planning a Habitat Restoration Project at 20612 Laguna Canyon Road, just downstream from the proposed Longi project. It seems that any habitat

restoration planning for 20412 and 20432 LCR should be coordinated with that for 20612 Laguna Canyon Road. No doubt we would achieve best results for the fragile Creek by having one responsible biologist coordinate both plans. Given that the project biologist, Glenn Lukos Associates, significantly underestimated the value of the habitat, perhaps the City's choice of biologist would work out better?

Flooding

Coastal Commission staff notes, "...the project may set a precedent for the design of new development in the canyon that minimizes the risk of flood hazards."

This would In fact, set a precedent of **dangerous** development in that the developer seems to have ignored the historic flood pattern along Laguna Canyon Road, even though he has suffered from it. (Longi's house at 20432 Laguna Canyon Road filled with mud in the floods of 2010 <http://www.oregonlive.com/article.php?id=127722&title=2010%20floods>.)

All the neighboring properties on Laguna Canyon Rd have in place protection from flood and mud coming from the west. But all the proposed project's flood planning is for water rising from Laguna Canyon Creek, to the east. When the Canyon floods, the water returns to its old, natural course. The stream will rise and overflow, but water also runs along Laguna Canyon Road, flooding from the **front** of the property. Further, Willow Canyon, in Laguna Coast Wilderness Park just across Laguna Canyon Road from the proposed project, creates and channels a huge flow of mud in a big rain. That mud will flow across the street and fill up the parking garage. In a best-case scenario, it will trap all of the cars there, and fill them with mud. In a worse case scenario, it will push cars out of the garage, and into the stream, blocking flow and significantly increasing flooding, as happened with a storage container and car pushed into the stream in 2010. (See Laguna Canyon Flood Task Force documents: <http://www.lagunacanyon.com/wordpress/wp-content/uploads/2010/07/LCFTF-Report-2010-07-20.pdf> p 5, and elsewhere.)

From the LCFMTF appendix 1 p 8 *Floodproofing*. "The 1969 Corps of Engineers report mentioned above comments that "many of the homes in the [Laguna Canyon] area are surrounded by low masonry fences with specially designed openings that may be closed off during a flood, leaving the fenced area as an island within the flood plain" and includes photographs of boards placed between fence sections in the driveways of homes."

Conclusion

As proposed the Longi Work-Live is not small, nor rural, nor neighborhood compatible. The plan does not adequately protect the Creek, nor the Canyon residents.

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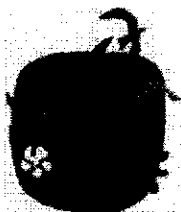
E-Mail: info@lbcando.org Web: lbcando.org

Thlob

The LCAASP (Laguna Canyon Annexation Area Specific Plan) was written to protect against intensification and development pressure. Allowing 20,000 sq. ft. lots while at the same time mandating that development be small scale and rural is not a conflict – the goal was to set small buildings in large lots – a visual and functional relief and typical of rural development.

The City of Laguna Beach now finds itself struggling with the interpretation of key parts of this plan. To the degree that they now find unresolved conflict in a plan that they have administered for decades, we encourage that the conflict be resolved in favor of greater protection of the Canyon, focused on the clearly expressed purposes of the LCAASP.

x



LAGUNA CANYON FOUNDATION

PO Box 4895 Laguna Beach CA 92652 Tel 949.497.8324 Fax 949.376.5590

lagunacf2@lagunacanyon.org

www.lagunacanyon.org

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COASTAL COMMISSION

KEEP IT WILD!

Advisory Council

Howard Adler
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Samuel B. Goldstein
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Laura Tarbox

Executive Director
Hallie Jones

Tax ID #33-0441816 501(c)(3) Non-profit
status determined by IRS letter of 6/14/91

Appeal Number: A-5-LGB-14-0019

Applicant: Louis Longi

Local Government: City of Laguna Beach

Local Decision: Approval with Conditions

Appellants: Devora Hertz, Jackie Gallagher, Audrey Prosser, Clean Water Now (Roger Butow)

**Project Location: 20412 & 20432 Laguna Canyon Road, Laguna Beach, Orange County
APNs 629-051-23 and 629-051-02**

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Dear Coastal Commissioners,

Laguna Canyon Foundation believes the Coastal Commission has the opportunity, and indeed, the responsibility, to protect the critical habitat, ridgeline views and hillside vistas that form the long-treasured gateway to our town.

As such, we strongly recommend that the Commission find that substantial issues exist in the proposed Longi Artists Live-Work development in Laguna Canyon. We respectfully request a de novo hearing at which the substantial environmental concerns raised by this project can be addressed.

While we support the project in concept, we whole-heartedly believe that it is simply too large for the location in Laguna Canyon. We would happily support a smaller, scaled down project with lessened environmental impacts.

Since 1991, Laguna Canyon Foundation has worked tirelessly to acquire and preserve Laguna Canyon's cliffs, canyons and critical coastal sage scrub habitat. Over \$65 million was spent on purchasing this open space to protect it from development. When the open-space adjacent area was annexed into the City of Laguna Beach in 1988, a Specific Plan was formed to make sure that the unique resources and aesthetics of the Canyon were preserved. That plan requires all development in Laguna Canyon to be *small scale and rural*, and also consistent with surrounding land-use.

Simply put, a 36' high, 37,000 square foot, 30 unit apartment building (of which 8 units are proposed to be affordable) cannot be classified as small-scale, rural in nature, or consistent with surrounding land-use.

Over the last 12 months, several other extremely large, urban projects proposed for Laguna Canyon have tried follow in this development's footsteps. Just one example is the proposed self-storage at Big Bend (also 36 feet tall and a stunning 100,000 square feet). Thirty-six foot high developments like the Longi project pave the way for a densely



LAGUNA CANYON FOUNDATION

PO Box 4895 Laguna Beach CA 92652 Tel 949.497.8324 Fax 949.376.5590

lagunacf2@lagunacanyon.org

www.lagunacanyon.org

developed, tunnelized version of Laguna Canyon Road. One in which the rural, small scale ambiance is replaced by tall, urban structures which hide the greenbelt and degrade the village entrance.

We agree that the removal of cantilevered balconies will lessen the artificial shading of Laguna Canyon Creek. However, the development, as proposed, will still:

- Disturb the pathways of nocturnal wildlife and their access to one of the only water sources in the Canyon. Thirty additional apartments, and their cars and occupants, will without a doubt cause noise and light impacts on this critical resource.
- As live-work artists space, including large *exterior* public work space, there is a high likelihood for chemicals, paint, and other potential pollutants to be used in large quantities very close to Laguna Canyon's only creek. The impacts of a potential spill, or simple sweeping or hosing off of surfaces cannot be underestimated.
- The building will undisputedly block views of the ridgeline to drivers and hikers in the surrounding open space, and sets a terrifying precedent for the large scale urbanization of Laguna Canyon.

We must protect Laguna Canyon Creek, our open space, and the animals that use it.

Please consider reviewing all of the issues raised above in a de novo hearing. Thank you.

For our open space,

Hallie Jones
Executive Director
Laguna Canyon Foundation
(949) 497-8324
hallie@lagunacanyon.org



The John Albritton Co.

Manufacturers' Representatives

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CALIFORNIA
COASTAL COMMISSION

Appeal Filed: 4/16/14
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**Project Location: 20412 & 20432 Laguna Canyon Road, Laguna Beach, Orange County
APNs 629-051-23 and 629-051-02**

Project Description: Construction of a 36-foot high (31 feet above base flood elevation), thirty-unit artists' work/live project with 17,242 square feet of interior work/live area, 11,421 square feet of exterior communal work area, a 513 square foot retail art gallery, and a 47-stall parking garage. Eight of the units are reserved for low-income artists.

ATTENTION: Chuck Posner, CC Staff

Date: December 31, 2014

Distinguished Commissioners:

I am John Albritton. I have lived in the neighborhood near the Project for 25 years. I am also the President of the Laguna Canyon Property Owners Association founded 25 years ago.

Our Vice-President, Dr. John Hamil, provided you with the LCPOA Board's formal position, and as I was out of town with family on vacation in the SF Bay Area, wish my comments to serve as an addendum to that submission

I've worked out of my home here for all of those 25 years. When I bought my property that was a novel concept. It required a home occupation permit and business license. I made sure that the M1b property across the 90-foot section of an entirely earthen channel (Laguna Canyon Creek) that I own was compliant with the development standards so it would not impact my R-1 home.

The City of Laguna Beach has been very lax in enforcing the development standards of our Laguna Canyon Annexation Area Specific Plan (LCAASP) and the escalating uses on the adjoining property have been a constant problem for me. When the owner of that

parcel brought in 8 shipping containers it took 8 years for the City to force their removal.

It took the flood of 2010 to remove the containers. Mr. Roger Bütow of Clean Water Now has provided the Commissioners and Staff the YouTube videos of that event.

https://www.youtube.com/watch?v=X84nTEF_OJ8

Three of these containers ended up in our creek, along with the owner's Porsche. The blockages backed up the water that then flooded our property plus several others. We successfully sued and settled out of court.

One container washed all the way down to our private neighborhood's bridge and lodged against the it, severely damaging the structure and preventing access to the neighborhood for a number of days.

My family and I fear the artist Work/Live project before us now will have the same consequences.

Historically, the LCAASP allowed for businesses to work out of their homes in M1b parcels. The Laguna Koi Ponds is a good example of this...where a home was converted to a business utilizing the existing structure.

The proposal before you today is a vast departure from this, the Project unprecedented and monolithic when compared to ANY other structures in the vicinity. It is not small, and by its sheer size, mass and scale grossly violates not only the LCAASP but the City's General Plan as well.

For the CC Staff to assert, to sustain what the City determined as compatible and within the definitions of allowable development is outrageous and not supported by even a cursory visual inspection of the surrounding zone's housing inventory.

I challenge CC Staff and/or the applicant to present one other existing edifice of this size, one that doubles both the total occupancy but vehicles in our small, rural, compressed tranquil neighborhood.

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The Project does not comply, it is disharmonious and incongruent with the neighbor and applicable Plans (plural) by any **"fair argument standards"** per California Environmental Quality Act (CEQA) definitions.

We all feel that approval of a 30-unit apartment structure, with 47 occupants and like amount of parking stalls in the underground aspect is unacceptable. It is the first ever proposed in Laguna Canyon's watershed. It is not what we had in mind, nor in the minds of the larger City-wide community participants when the LCAASP was consensually drafted and then adopted.

Will the M1b across the Creek from me develop apartments next? Where will it end if this Project receives its proposed entitlements? It is a **"gateway development project,"** the CC Staff has admitted, been typified in its report to you a dangerous precedent, so why has there NEVER been offered a smaller, reduced project?

Our LCAASP mandates 25 feet of landscaping on M1b for a buffer when it adjoins an R-1 parcel. Twelve (12) years ago, when my neighbor poured a concrete slab in this 25-foot buffer area I called the City to complain. I was told hardscape is landscape. First time I had heard the term hardscape and thus began the misinterpretation of our LCAASP.

That's where the shipping containers ended up, on the owners concrete slab...not 25 feet from the centerline of the Creek! Ending up in the floodplain, these containers eventually washed into the Creek, spilling paint thinner and other toxic chemicals. This could have been prevented by a vigilant City that responds to legitimate complaints, that monitors and then enforces effectively.

The precedent in our neighborhood regarding such complaints leads us to believe that this behavior will be repeated, that no monitoring and/or enforcement will take place regarding the Work/Live mitigation or conditions of approval (CUP) either. We'll be, per usual, left on our own out here.

It bears mentioning that once peak flood events occur, many large objects left tethered or untethered can migrate off of properties. Allowing this Project, so monolithic in size, represents a clear and present danger if it breaks apart or is severely damaged.

And where has the CC Staff report made the applicant responsible for, fully liable for the potentially catastrophic damage it could provoke or contribute to? Couldn't Laguna Beach public coffers be drained to pay for the actions of a private developer? Shouldn't a multi-million \$\$\$ indemnification bond be required, both during AND after construction?

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Not only will the Creek's biota be in jeopardy due to debris chewing up habitat if the Work/Live complex fails (is damaged, broken apart) and also winds up in the Creek.

Nowhere has the applicant or Project analysts considered the result of massive flooding in the subterranean parking lot. The force of the flows combined with the floating debris (vehicles, etc.) could catastrophically affect, even destroy the structural integrity of the complex. Cars could bounce around like heavy bowling pins.

What about adjacent parcels being flooded due to backed up Creek flows? What about downstream parcel owners who built in good faith? None of these potentially destructive events has received proper independent peer review.

Even when alerted to building code and law or environmental safety violations the City has done a poor job of protecting the Creek and enforcing the development standard set up in our LCAASP. I predict the same with the Project before you.

The proposed business model will end up as a 30-unit apartment structure right in the floodplain. 47 cars and their toxic, "**persistent pollutant waste discharges**" will wash into the Creek during a flood.

Knowing the wide gamut of toxic chemicals and metal used by artists in such a large complex, not to mention the waste bins overturned or compromised, will they all end up in Laguna Creek? Where will the property manager be, won't any personnel already have been evacuated?

The historical reality is that these things always occur during a flood, but by adding such a large complex one is creating or adding to a nuisance. To a potentially negligible but avoidable one if not significantly downsized. Remove the middle floor, reduce it to an approximate 24-foot high, 15-unit complex and that proactively, preemptively reduces the monumental calamity potentiality.

That the applicant and his speculative development corporation insists that they must have the full Project isn't nor shouldn't be of any concern to the Commission.

Taking over as the Local Coastal Plan environmental planners (per CC Staff report) from the City, the Commission should require a reduction that brings the Project not only closer to LCAASP/General Plan, but to within intelligent long-term planning.

Planning is a form of foresight, it in advance assuages concerns of **ALL** parties. Reducing the Project as many of us have suggested assures local **AND** regional protection, not approve as is, then wait for an earthquake, flood or some other calamity to prove my point.

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Who or what will guarantee that some detritus from the Project during peak rainy events will **NOT** dislodge, migrate then wash down and wedge against our second bridge and damage it as well as impede the flow of water?

This is incompatible land use at its worst. Please don't be a part of this madness by approving this project.

How could the City in any way see this gross misrepresentation of its own ratified LCAASP as acceptable?

We plead with the Commission to stop both the City and applicant in their tracks by denying this Project and sustain the requested alterations embedded in the 3 appeals. The project should be 25 feet from the bank of the creek at minimum.

At the very most it should also have only two, rather than three stories. This would make it half as large, with half as many cars, and reduce the potentially significant adverse impacts substantially. The applicant has **NOT** mitigated below the level of significance as prescribed in my opinion.

As I mentioned, I was out of town for the holidays visiting my family in Marin County so I would like to add emphasis to some of the points made in the letter from my Laguna Canyon Property Owners Association (LCPOA), of which I am the President.

First, thanks for at least requiring a 25' setback to protect the creek with no cantilever. However, the Project needs more restrictions including reduction in overall size (footprint and envelope) and your specific guidance before acceptance.

It bears mentioning at this juncture that significant scenic ridgeline and watershed view loss should be cured, and only can be by removing the middle floor of the complex.

1. Neighborhood compatibility.

Ask the neighbors. The LCPOA officers are unanimously opposed. The vast majority of adjacent and nearby neighbors also strongly oppose approval due to the size and impact.

Ask speakers at the hearing not how long they've lived in Laguna, but how close they live to this project.

(1) It would double the population of our neighborhood.

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- (2) At 30,000 square feet it would be over half as large as the White House in Washington DC (55,000 square feet)
- (3) There are presently **NO** apartment buildings in the entire area as of now.
- (4) How could Laguna Canyon Creek **not** be a Major Watershed and Drainage Course (MWDC)? It is an acknowledged, without dispute, a perennial (year round) waterbody. It drains a 30,000 square acre drainage basin. It must be declared a MWDC and the setback must be 25' from the bank and not the centerline. Why should those who armored portions of the Creek be rewarded with a more lenient setback?
- (5) Our current Laguna Beach Mayor Bob Whalen was recently quoted in our local paper The Coastline Pilot... ***"he admitted he took flak for not supporting Louis Longi's artist Work/Live project in Laguna Canyon. "That was a difficult decision," Whalen said. "I support the concept, but didn't feel a facility of that scale was appropriate given our current land use rules."***
- (6) Work/Live Ordinance
The live work ordinance was developed and passed without our (LCPOA) input. In fact, the only local input was from the developer. We mentioned this at the CCC hearing that certified this and were reminded that we would be able to appeal the project despite the ordinance certification by the CCC.
- (7) It should be returned to the LB Planning Commission for local review regarding the land use variances (LCAASP/General Plan) it has ignored. Moreover, if the design is altered/changed we feel it should be returned to the Laguna Beach for local stakeholder engagement, for transparency.
For the CCC to determine ultimate alterations unilaterally, at great distances and/or in a venue inconvenient, unfairly robs, denies the public due process. This violates both the letter and spirit of the Coastal Act and CEQA.

(8) Biology Report

As Environmentally Significant Habitat (ESA) why wouldn't this warrant the same protection as a Biotic zone which requires a 50' setback? The biology report is riddled

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with errors. It mentions weeping willows...they are Arroyo Willows. It mentions a sycamore...it is a box elder. There is no mention of native salamanders I've found in the Creek in my yard. Pacific Tree Frogs have made a comeback after being decimated by non-native Africa Clawed Frogs...again, no mention.

(9) MND: The traffic report is also suspiciously biased. This project should have required an EIR rather than getting a MND, point our City Council Member Toni Iseman mentioned at the Project's Planning Commission appellate hearing. She is a former California Coastal Commissioner whose opinion on this should be respected.

CONCLUSION:

The Work/Live ordinance certified by the CCC, that allowed this questionable loophole to be exploited, should have been done in daylight.

Instead the City of Laguna Beach slipped through an ordinance over a holiday season, without affected resident notifications per CEQA, effectively allowing

- (A) Intensification of use, i.e., dense multi-unit living in a light industrial zone where residency was previously prohibited.
- (B) Allowing the only apartment buildings in the Canyon, only 5 houses down from me, between a vacant lot and a business in a converted home bordering a dog kennel.
- (C) Subverting, ignoring our LCAASP to accommodate corporate, capital venture private development.
- (D) Between a busy highway no one should live right next to, and adjacent to an ESA Creek that floods every 7 years. Directly over an earthquake fault. Without an EIR. In a 3-2 vote that wouldn't go their way again.

I hold a Bachelor of Science degree from UC Berkeley in Conservation of Natural Resources from the College of Natural Resources.

I took a City Planning class taught by SF urban planning legend Alan Jacobs when I was at Cal. I got an A. This project gets an F.

It took 3 election cycles to stop the re-use of former MCAS El Toro from becoming an international regional airport. Let this go through the planning cycle again as well.

Laguna has a long history of respect for natural resources. This goes against that and if passed, so

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begins the degradation of over development.

Preservation and protection of wilderness and wildlife is a key to our City's popularity. This project would pollute the Creek. Their designers even realized this when they added minimal and possibly useless protections/barriers to keep cars from washing into the Creek.

Water will pond up behind the dam of cars and dumpsters and there will be damage downstream as well. The Creek has a vital role in providing water, nesting and foraging habitat for local wildlife.

This project is clearly in excess of what is sustainable and allowable by the LCAASP. I isn't an affordable housing complex, it's actually a profit-driven venture that takes advantage of loopholes and poorly defined prescriptions.

I ask the Commissioners to imagine your neighborhood doubling in population! How could there be no severe impact on air quality, noise, water quality, density, traffic, and pollution?

The developers pretend to care about the people who don't live here and yet don't care about those who live here now. There is no such thing as an altruistic developer!

It's an unacceptable Project plan that violates land use regulations, a questionable land grab and a huge departure from our neighborhood's historic character and land use patterns.

We count on you, distinguished Commissioners, because our City staff and past leadership refuses to say "NO" to big money and tax dollars.

Sincerely,

John Albritton



949-494-7030

949-494-7602 fax

714-343-8572 cell

johnalbritton@yahoo.com

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Posner, Chuck@Coastal

From: Michael Fowlkes <insidesportfishing@mac.com>
Sent: Friday, January 02, 2015 4:09 PM
To: Posner, Chuck@Coastal
Subject: Appeal Number: A-5-LGB--14-0019

Th10b

Appeal Filed: 4/16/14

Staff: C. Posner-LB

Staff Report: 12/19/14

Hearing Date: 1/08/15

Appeal Number: A-5-LGB--14-0019

Applicant: Louis Longi

Local Government: City of Laguna Beach

Local Decision: Approval with Conditions

Appellants; Devora Hertz, Jackie Gallagher, Audrey Proser, Clean Water Now/ Roger Butow

Project Location: 20412 & 20432 Laguna Canyon Road, Laguna Beach, Orange County APNs 629-051-23 and 629-051-02

Project Description: Construction of a 36-foot high (31 feet above base flood elevation) thirty-unit artists' work/live project with 17,242 square feet of interior work/live area, 11,421 square feet of exterior communal work area, 513 square foot retail art gallery, and 47-stall parking garage. Eight of the units are reserved for low-income artists.

Dear Honorable Commissioners,

As a fifty year resident of Laguna Beach, and a resident and home owner for the past twenty years of 5 Castle Rock Way in the canyon, my wife and I are both absolutely opposed to the above referenced artists' work/live project because it is, in name only, what Laguna Beach and specifically Laguna Canyon is all about. The sheer size and mass of the project is in direct conflict with the Laguna Canyon Specific Plan. Please deny this measure and approve the appeal.

Thank you,

Michael Fowlkes

Executive Producer

Fox Sports/WFN Inside Sportfishing

5 Castle Rock Way

Laguna Beach, CA 92651-1115

949.230.8920 cell

949.376.0220 fax

<http://www.insidesportfishing.com>

<http://www.facebook.com/InsideSportfishing>

<http://www.youtube.com/user/insidesportfishing>

Schwing, Karl@Coastal

From: Hanauer, Joe <Joe.Hanauer@move.com>
Sent: Sunday, January 04, 2015 10:44 AM
To: Schwing, Karl@Coastal
Subject: Laguna's Artist Work Live Project

Dear Commissioner:

This note is in support of the *Laguna Canyon Artist Work Live Project*.

Looking at this project from two perspectives demands it be permitted to move forward.

1. From a standpoint of need, in order to enable artists to remain in Laguna and South Orange County accessible studio and housing facilities are critically needed. Prices for conventional studios are very high. Prices for apartments in Laguna are also too high to permit most artists to remain in our community. Arts add so much to the fiber and vitality of a community. Specifically Laguna's heritage and future will always be focused on the arts and retaining and attracting those engaged in the arts is critical.
2. Then there is the question of whether or not this is an appropriate location and scale for this project. Laguna Canyon Road is a diverse road with a wide assortment of uses ranging from light manufacturing, residential, education, services, offices, storage and so much more. This project fits in perfectly by providing more affordable facilities, by providing studios, by providing residential living, and by providing all of this in our town thereby keeping artists as a key part of Laguna. From the standpoint of design and scale it will fit in beautifully with our diverse architecture and will be a positive architectural element on Laguna Canyon Road.

As a longtime resident of Laguna, as one who has caringly done historical renovations in Laguna and elsewhere and as one with a relatively comprehensive background in planning I urge the commission's support for this project. Thank you for your consideration

Joe F. Hanauer

January 2, 2015

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California Coastal Commission
South Coast Area Office/Long Beach
Attention: Karl Schwing
Item 10 B/Artist Live Work, Laguna Beach

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Dear Coastal Commissioners,

As you are aware, the California Legislature has declared that "the availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including is a priority of the highest order."

I am a long-time supporter of coastal protection. Since the initiation of the Commission, I have worked in public policy in the arena of urban planning, sustainability and affordable housing in cities throughout California.

I am also a long-time 22-year resident of Laguna Beach.

This development provides an amazing opportunity for the region. Rarely, if ever do owner/developers willingly try to build housing for lower income people, and even rarer is there a developer who provides these units with very little incentive AND in the coastal zone. The founder of this project—an artist of great talent—had a vision to support those who are artists, and have no real offering in one of the greatest "artists villages" of all time.

The owner/developer/architectural team have conceived what is a great balance of needs—environmental and atheistic components, with the goals of achieving new housing development with eight affordable units for low-income artists and additional new loft units. I celebrate that the coastal commission is a body that tries to balance the socio-economic needs of the coastal zone with environmental needs.

I hope that this project will be a model for others to follow, and that you will be judicious in the requirements that you impose beyond the existing requirements. The process to approve this project has been extremely long and complex, and the story of this process will potentially deter others. I applaud the fact that this developer is not using an in-lieu option, and contributes more NEW affordable housing than has been seen in the city since 10 years ago with the last very long arduous process to approve a small apartment complex for low-income households (Alice Court is a wonderful asset in the downtown). The design concept of this housing with its communal spaces and common work areas will provide a sought-after model for the region.

Your staff report states:

"The local coastal development permit authorized the construction of a 36-foot high (31 feet above base flood elevation), thirty-unit artists' work/live project with 17,242 square feet of interior work/live area, 11,421 square feet of exterior communal work area, a 513 square foot retail art gallery, and a 47-stall parking garage. Eight of the units are reserved for low-income artists (for 55 years). The proposed structure contains two separate building elements, which are connected by decks and roof components above the parking garage (Exhibit #4). The design includes two floors of work/live units arranged around exterior

communal work spaces. The work/live units range in size from 485 square feet to one 1,640-square foot unit. **The only exception granted** by the City was a fifty-percent reduction in planning and building fees as an incentive for the project to provide eight low-income artist units (11/10/2010).“

I would like the commission to consider the extensive hearings, re-designs and other requests accommodated, as well as the common good created as it considers the approval of this development.

The eight low-income units being provided for 55 years does a substantial amount towards the State of California goals to provide more housing for those of all economic segments. There are no new units that have been provided in Laguna Beach in quite some time, and sites are extremely limited. The benefits of having new housing options for the city will bring extensive benefits, and increase the cultural and socio-economic viability of the region.

Thank you for your consideration,

Maya Dunne

Maya Dunne, M.U.P.
677 Catalina St.
Laguna Beach, CA 92651

January 8, 2015 - Agenda Item 10b



Law Offices of
Julie M. Hamilton

January 2, 2015

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Teresa Henry
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

RE: Appeal No. A-5-LGB-14-0019, Longi Artists Work/Live Project

Dear Ms. Henry:

On behalf of appellants Jackie Gallagher, Devora Hertz, and Audrey Prosser, I urge the Coastal Commission to determine a substantial issue exists with the City of Laguna Beach's ("City") approval of this project and deny the proposed project at the conclusion of a de novo hearing. Although my clients are supportive of the artists work/live concept, this project is too large and is proposed in an improper location. The proposed project is not consistent with the Laguna Beach Certified Local Coastal Program ("LCP") and will have a significant impact on coastal resources. In addition, the City and the Coastal Commission have failed to proceed in the manner required by the Coastal Act and the California Environmental Quality Act ("CEQA").

Applicants Louis Longi and Dornin Investment Group, LLC are proposing the construction of 30 artist live/work units totaling 17,242 of interior space on two lots totaling 36,750 sq./ft. The project site is located on the east side of Laguna Canyon Road in the Laguna Canyon Annexation Area Specific Plan ("LCAASP"). The site is bounded by Laguna Canyon Creek along the east property line. The site is located in the floodplain and in a very high fire danger area. The proposed project is not suitable for the project site due to significant impacts on land use, community character, environmentally sensitive habitat, visual resources, hydrology, public safety, and cumulative impacts. This is the first artist work/live project in the LCAASP and the first artist work/live project in the M-1B Zone. With a density of 35 dwelling units per acre ("dua") this project will set the tone for future development in the M-1B Zone and future artists work/live projects.

As an initial matter, this project will not function as an artist work/live – the spaces are too small and there are too many limitations to provide a functional space for artists. In recent studies conducted in London, experts have found most artists need a minimum of 300 to 350

square feet of studio workspace.¹ In fact, most work/live studios fail, largely because they do not provide adequate workspace and their use is not regulated. A planning study prepared for The Burrough of Hammersmith & Fulham found the concept of live/work development in London is a product of the United States as a by-product of zoning codes. Local government in England has found a number of problems with the functionality of live/work spaces. Although the City has resolved many of these issues, this particular proposal still suffers from a number of the problems documented through extensive studies in London. Most significant are the size of the spaces and the difficulty of enforcing the live/work aspect. To assure the space continues to be used as a work/live space would require frequent inspection of the manner in which the units are used.

These units propose 500 sq./ft. for artists to maintain a 300-350 sq./ft. workspace studio, bathroom, kitchen, sleeping area, and living area. The project only allows the use of noise producing equipment from 8:00 a.m. to 6:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. No noise producing equipment can be used on Sundays. This is an unrealistic expectation for artists and will require noise enforcement when building officials are unavailable. The proposed units are too small, the ceilings are too low, and use limitations render the units unusable by artists. They will not fulfill the professed need of providing affordable space for artists to support Laguna Beach's status as an art colony.

Failure to Proceed in the Manner Required by Law

The *de novo* review of the Longi Project is the functional equivalent of an environmental impact report ("EIR") under CEQA. *Mccallister v. County of Monterey* (2007) 147 Cal.App.4th 253, 296; *Hines v. California Coastal Com.* (2010) 186 Cal.App.4th 830, 852 (Had it heard the appeal, the Coastal Commission's *de novo* review process would have constituted the functional equivalent of an EIR under CEQA.); Pub. Resources Code § 21080.5 subd.(a); CEQA Guidelines § 15251, subd. (c). CEQA requires the Notice of Intent to adopt a (Mitigated) Negative Declaration be provided to all responsible and trustee agencies to allow those agencies an opportunity for input early in the process.

The City failed to provide notice to the Army Corps of Engineers. Based on its experience with a different project proposed for this site, the Army Corps of Engineers should have been notified and given the opportunity to provide input.² The applicant has proposed and the Coastal Commission staff report accepts a habitat restoration project involving the removal and placement of material in the waters of the United States. Thus, the City was required to notify the Army Corps of Engineers early in the process to allow for input and project modification to address potential issues with the habitat restoration project. Similarly, the City discusses a requirement to provide certifications to FEMA – FEMA should have been notified of the opportunity to provide input early in the environmental process. FEMA input must be considered in light of the long history of flooding in this area.

¹ Artists' Studios: A Guide to Securing, Supporting and Creating Affordable Studios in London, Arts Council of England, 1 March 2007.

² Initial Environmental Study/Checklist, p.6.

CEQA defines a project as the “whole of an action” that may result in either a direct or foreseeable indirect physical change in the environment. Remy et al., *Guide to CEQA* (11th ed. 2007), p. 89, *citing*, CEQA Guidelines § 15378. The lead agency cannot piecemeal a project by breaking it up into smaller segments. *Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 283-284. The City’s staff report acknowledges a lot line adjustment will be required in the future. This lot line adjustment should have been part of this project approval. The decision-makers and members of the public must have an opportunity to consider the location of the lot lines at the time the remainder of the project was considered.

Similarly, the applicant recently proposed a habitat restoration plan for the creek on the project site. Coastal Commission staff is recommending adoption of this plan as a project condition. The impacts of the restoration plan must be considered when reviewing this project.

The City of Laguna Beach failed to proceed in the manner required by law when it failed to require the preparation of an EIR due to substantial evidence to support a fair argument the project may have a significant impact on the environment. Despite numerous consultant studies stating impacts would be mitigated, members of the public provided substantial evidence the project could have a number of significant impacts. Thus, an EIR was required. Had the City required an EIR, the impacts would have been fully analyzed, and the City would have been required to adopt mitigation measures and/or alternatives to reduce or avoid those impacts. By failing to prepare this level of analysis early in the process, the applicant is now faced with those adjustments at the very last step in the process after years of consideration at the City.

Environmental Setting

The environmental setting is the baseline against which the project should be compared to determine the impact of the project. The City and Coastal Commission staffs continually refer to the surrounding uses as light industrial uses. This description of the surrounding uses misleads the reader as to the environmental setting. In fact, to the north is an animal hospital, to the east is a dog ranch, and to the south are koi ponds – not what is typically envisioned for “light industrial” uses. The City fails to acknowledge the project site is across the street from a major open space preserve. The surrounding uses are small scale industrial uses – the largest building is the animal hospital at less than 7,000 sq./ft. It is important for the public and the decision-makers to understand they are comparing a 17,000 sq./ft. project to small-scale light industrial and commercial development. Most of the light industrial and/or commercial uses in the vicinity are found in cottages with the exception of the animal hospital at 7,000 sq./ft., and a self storage facility (which predates the LCAASP) that is heavily screened from the road.

Open Space Conservation Element

Policy 9-C of the Open Space and Conservation Element of the LCP requires a minimum 25 foot setback from the stream bank for new development along "Blueline" streams. The City and staff rely on an exception for channelized sections of the streams without significant habitat value. When referring to channelized sections of streams, the LCP is considering those sections that are open concrete culverts. This section of Laguna Canyon Creek is not channelized. The property owner on the west side of the creek has placed a concrete cap or gunite over the west bank of the creek. The east bank of the creek on the subject property is in a natural vegetated state. There are no open concrete culverts.

The Coastal Commission ecologist states the stretch of creek adjacent to the project site continues to support important processes and functions. Although my clients dispute whether this section of creek is channelized, there is no dispute this section of creek has habitat value. The applicant will be required to restore the habitat in this area. The LCP requires the project be set back 25 feet from the stream banks. However, the proposed project is set back 25 feet from the centerline of flow (although some members of the public disagree as to where the centerline of flow is located). Therefore, the proposed project is inconsistent with the Open Space and Conservation policies of the LCP.

Staff argues this policy does not apply because Laguna Canyon Creek is not identified on the Major Watershed and Drainage Courses Map in the LCP. Laguna Canyon is identified as a Major Watershed on the map, but the creek is not identified as a major drainage course. To say this policy does not apply is ludicrous. This particular creek is across the street from a major open space park. The creek carries water year round and floods regularly. This creek is the single largest contributor to flooding in the City. The City and Coastal Commission staffs' interpretation of whether this creek is located on the Major Watershed and Drainage Course Map is simply not supported by the evidence.

Visual Resources

The project site is located on Laguna Canyon Road, a candidate Scenic Highway and one of three entries into the City. The LCAASP requires proposed land uses in this area have a rural character.³ Any development along Laguna Canyon Road must be small-scale in order to maintain the rural character of the Canyon.⁴ These policies of the LCP and LCAASP demonstrate a strong interest to protect the character of this area. Existing development in the area defines the small-scale and rural character the LCAASP was designed to protect. Adjacent development includes a 7,000 sq./ft. animal hospital set back from Laguna Canyon Road. A commercial koi pond is located on the south side of the project site. The commercial koi pond is a series of ponds and a cottage used for the administration of the business. A commercial dog

³ Topic 1, Policy 1 (the Laguna Canyon Annexation Area Specific Plan is included in the LCP).

⁴ Topic 1, Policy 10.

ranch is located behind the project site. The dog ranch is also run out of a cottage and provides a series of outdoor spaces.

The proposed 17,242 sq./ft. artists work/live units dwarf all other development in the area. It is significantly larger than any other development in the vicinity. The proposed project does not reflect the rural character of Laguna Canyon and is not small-scale compared to existing development in the area. Therefore, the proposed project is not consistent with the community character policies of the LCP. The proposed project will have a significant impact on the unique visual resources in Laguna Canyon and should not be allowed.

Land Use

The Land Use Element of the LCP requires that development standards and design review guidelines shall minimize the bulk and scale of new construction and require development to be compatible with the surrounding residences.⁵ The Land Use policies of the LCP also require development to protect public views along scenic highways by maintaining the low-profile character of structures.⁶ The Land Use policies promote compatibility among land uses in the community by requiring new development to be neighborhood compatible and avoid impacts on adjacent development.⁷ These policies demonstrate the goal of the LCP to protect the unique community character of the City.

The proposed project is the first new project to be approved in the M-1B zone as an artist work/live project. Although the project meets the street and side setback requirements, it is set too close to Laguna Canyon Creek. The project maximizes the building envelope allowed in the LCP to the maximum height allowed and the maximum building area. The LCP provides little direction on the intensity of use and density of dwelling units other than the guidance cited above to protect the unique community character of the area and demand compatibility with existing development. The project is proposing 30 work/live units at 35 du/a in a neighborhood with less than 60 residences total (Sun Valley Neighborhood). The proposed project represents a 50% increase in the density of the area.

The project design is nearly three times larger than any other structure in the Sun Valley Neighborhood. The project will create a wall of development along scenic Laguna Canyon Road that will block the ridgeline along the eastern canyon wall. The proposed project is not consistent with the land use policies and goals of the LCP and will create a significant land use impact by setting the precedent for a significantly higher intensity of use in the area. As the first project to interpret the new policies for artist work/live units, this project sets the tone for projects that are inconsistent with the policies of the LCP – policies thoughtfully designed to protect the unique character of the Laguna Canyon Annexation Area.

⁵ Policy 2.1

⁶ Policy 2.10, 3.10

⁷ Policy 5.2

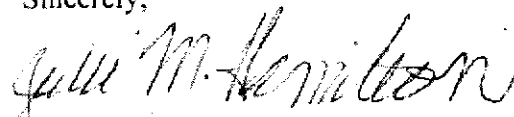
Teresa Henry
California Coastal Commission
January 2, 2015
Page 6

Conclusion

The proposed artists work/live units are not consistent with the policies of the LCP. The City and the Coastal Commission failed to proceed in the manner required by law. Therefore, the Coastal Commission should take substantial issue with the City's approval of a coastal development permit and deny the project through a de novo hearing.

Thank you for your consideration of this matter, please contact me if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Julie M. Hamilton". The signature is written in dark ink and is positioned above the printed name.

Julie M. Hamilton

RECEIVED
South Coast Region

JAN 5 2015

CALIFORNIA
COASTAL COMMISSION

Th10b



January 5, 2015

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

RE: A-5-LGB-14-0019 Laguna Beach Artist Live/Work

Dear Commissioners,

The mission of the Sierra Club is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Orange County Sierra Club members regularly hike the trails in the Laguna Canyon area and visit the canyon and creek for other activities. After a review of the project documents, appeals, and the Commission staff report, the Sierra Club Orange County Conservation Committee has the following comments on the project.

1. The proposed project encroaches too closely on Laguna Canyon Creek. Laguna Canyon Creek is a significant natural waterbody in Orange County. This has been recognized by the city of Laguna Beach and Coastal Commission staff. It can also be evidenced by the creation of Laguna Canyon (which continues to this day) through regular flooding of the canyon floor with even moderate storm events. There is no doubt that Laguna Canyon Creek is a major waterbody and should have been included on the Major Watershed and Drainage Courses (MWDC) Map in the Open Space/Conservation element of the LCP. This lack of designation is an important issue that has statewide significance. We are asking the Coastal Commission to make the finding that Laguna Canyon Creek is required to be shown on the MWDC map in the LCP and that the appropriate setback is 25 feet from the stream bank as required in the LCP. As stated in the staff report, the decision on this setback will set precedence and will have long term impacts to development in the canyon and the ability to restore Laguna Canyon Creek.

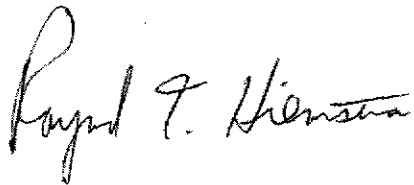
The fact is that Laguna Canyon Creek is a significant natural watercourse, not a flood control channel. This is evidenced by the lack of armoring along most of its length. The armoring that is present is ad-hoc until the creek reaches the city core. The 25 foot setback from the stream bank is necessary for it) to continue to

function as a natural watercourse. It is critical that this and all future development in Laguna Canyon be required to maintain the required 25 foot setback from the stream bank and restore the setback area to its natural condition. The priority of preserving the creek is clear from LCP policies 8-L: Preserve and Protect fish and wildlife species for future generations, and 9-A: promote the preservation and restoration of Laguna's natural drainage channels, freshwater streams, lakes and marshes to protect wildlife habitat and to maintain watershed, groundwater and scenic open space.

2. The project impacts the visual resources of the canyon. The project as proposed will impact the visual character of the canyon. As it is now the development in the canyon mostly consists of relatively small one story buildings with significant amounts of trees and other vegetation. The proposed project would include a large three story building (including the garage) that is 30 feet tall. This will change the character of the canyon and affect the visual enjoyment of the canyon from the adjacent trail and roadway. The project should be redesigned to reduce its visual impact and maintain the current character of the canyon.

In closing, Laguna Canyon and Creek are major features in Orange County that are enjoyed by hikers, bikers, motorists and residents along with providing critical ecosystem functions to wildlife. The decision made on this otherwise insignificant project will set precedents that will impact the future of Laguna Canyon and the creek and its viewshed, and have statewide significance. We urge you to maintain the requirement for a 25 ft. setback from the creek bank and require the proposed development to conform to the visual character of the Laguna Canyon.

Thank You,

A handwritten signature in cursive script that reads "Ray Hiemstra". The signature is written in black ink and is positioned above the typed name.

Ray Hiemstra
Chair
Sierra Club Orange County Conservation Committee

JAN 2 2015

Th10b

CALIFORNIA EX PARTE COMMUNICATION DISCLOSURE FORM
COASTAL COMMISSION

Filed by Commissioner: Greg Cox

1) Name or description of project: Th10b - Longi Artist Work/Live Project, Laguna Beach

2) Date and time of receipt of communication: December 12, 2014, 8:00 a.m.

3) Location of communication: Portola Hotel, Monterey, CA.

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: John Erskine, Nossaman LLP

Bonnie Neely, Nossaman LLP,

5) Identity of person(s) on whose behalf communication was made: _____

Louis Longi, applicant

6) Identity of persons(s) receiving communication: _____

Commissioner Greg Cox

7) Identity of all person(s) present during the communication: Greg Cox, Steve Kinsey,

Greg Murphy, John Erskine, Bonnie Neely

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Provide Commissioner with background information regarding the project consistent with the briefing summary attached, including actions taken by the Laguna Beach Planning Commission and Laguna Beach City Council approving the project; discussions regarding the Laguna Beach LCP amendment re artist work/live units approved by the Coastal Commission with modifications in 2014; issues raised in the appeal, and how the project completely conforms to the Laguna Beach LCP. Discuss applicant's meeting with Coastal staff and preparation of the Restoration Plan requested by Dr. Jonna Engels. Materials provided include:

1) Briefing summary-see attached; 2) letter to Karl Schwing, CCC, dated September 19, 2014, addressing the appeal issues-submitted to staff in September 2014; 3) Revised Restoration Plan and Floor Redesign - exhibits submitted to staff in October 2014;

4) Project Elevation Exhibit (see attached).

Date

1/2/15

Signature of Commissioner

Greg Cox

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If communication occurred within seven days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

Coastal Commissioner Briefing

Executive Summary

December 9, 2014

Appeal No. A-5-LGB-14-0019 30-Unit Longi Artists' Work/Live Project Approved By City of Laguna Beach City Council April 1, 2014

• Background

The Louis Longi Artists' Work/Live Project has been under development for over eight (8) years through the joint efforts of sculpture artist Louis Longi, and second generation Laguna Beach real estate entrepreneur, Chris Dornin. This 30-unit community-based facility will respond to a citywide and regional demand for "a place to provide artists with studio spaces that promote imagination, creativity, prosperity and collaboration," as Louis Longi has stated.

The Project benefits, besides implementing specific work/live provisions in the certified LCP, include:

- Provision of eight (8) affordable housing units and 22 below market units (factoring combined work and living space);
- Maintenance and strengthening of Laguna Beach's cultural and artistic heritage;
- Provision of a collaborative setting for Laguna Beach-based artists in a peaceful canyon setting;
- Sustainable work/live environment, reducing commutes and GHG;
- Fulfilling a long-recognized work/housing need.

• Appeal Issues / Projects Complete Conformity with LCP and Commission-Approved (May 15, 2012) "Artists' Work/Live Ordinance

1. *Setbacks from Laguna Canyon Creek and Cantilevered Deck Projection are Completely Consistent with LCP Policies.*

Appellants assert that the Project must be set back 25 feet from the top of stream bank for blue line streams such as Laguna Canyon Creek. However, Laguna Canyon Creek is a channelized stream 300 feet upstream and 300 feet downstream from the Project, containing 75% concrete channelization in this reach adjacent to Project. The LCP (Open Space and Conservation Element 9(a) and (b)) specifically states that the setback of 25 feet from top of stream banks "shall not apply to channelized sections of streams without significant habitat value." Instead, the LCP, in Open Space and Conservation Element 9D:

- Requires a setback 25 feet from the center flow line of channelized Laguna Canyon Creek;

- Permits extensions of decks within this 25 foot setback area if there are no supports to the ground and no portion of the deck is closer than 15 feet;
- The Coastal Commission-approved LCP policy cited above allows 10 foot extensions of decks over the setback area, not over the riparian area. Appellants have repeatedly spread the false narrative that the Longi project decks "cantilevered 10' over the creek."

2. No CEQA Violations

An EIR is not and was not required because the City's Initial Study concluded that the Project would mitigate any significant environmental effects to a level less than significant, and all recommended and necessary mitigation measures have been incorporated into the Project.

Finally, the Coastal Commission has repeatedly stated on numerous occasions that it does not have authority to review a lead agency's CEQA determination for legal consistency with the requirements of CEQA.

3. Project is Consistent with LCP Water Quality Management Policy

Water quality management for the Laguna Creek Watershed is improved due to the applicant's voluntary commitment (non-mitigation measure) to the attached Laguna Canyon Creek Habitat Restoration Plan (revised October 8, 2014), prepared by Kevin Livergood of Glenn Lukos Associates previously reviewed by Coastal staff, and the Project's planned avoidance of the limited biological resources in Laguna Canyon Creek, which will be enhanced by the Habitat Restoration Plan. The Project is consistent with LCP/Open Space and Conservation Element Policy 4I.

4. Project Land Use is Completely Consistent with City LCP

The City of Laguna Beach certified LCP was amended to allow artists work/live projects in the site's M-1B Zone, subject to approval of a CUP (and CDP). See additional explanation of the Project's complete conformity with the City's General Plan Provisions and City of Laguna Beach Municipal Code in Nossaman LLP appeal response letter of September 18, 2014 to Karl Schwing, attached hereto.

[See Attachments]

x

Verna L. Rollinger
825 Park Avenue
Laguna Beach, CA 92651
949-494-9878

RECEIVED
South Coast Region

DEC 30 2014

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
200 Oceangate
Long Beach, CA 90802

December 29, 2014

Re: A-5-LGB-14-0019 (Longi)

Dear Commissioners,

Louis Longi's artist live/work project at 20412 and 20432 Laguna Canyon Road is situated in a flood-prone area in which, according to Policy 10-A of the Open Space/Conservation Element of the General Plan, development should be avoided. I was a Member of the Laguna Beach City Council at the time of the 2010 flood in Laguna Canyon and downtown Laguna Beach. The attached report of the City's Flood Damage Mitigation Task Force, which was established at my request after our 2010 flood, provides information on the flood history of the area that you may find of interest in reviewing the project.

Recognizing that repeated flooding is inevitable, over the years the County and the City have tried to limit settlement in the area. It is no accident that the only new residential use permitted in the zone is the one the applicant proposes.

Your staff recognizes the risks of development in the area by recommending a hold-harmless provision as a condition of approval. I hope that you will go beyond this and find that putting 30 additional households and their cars and other belongings in this vulnerable location defies not only City policy but common sense.

Sincerely,



Verna L. Rollinger,
former Member of the
Laguna Beach City Council



City of Laguna Beach
Laguna Canyon Flood Mitigation Task Force
Report
November 10, 2011



City of Laguna Beach

Laguna Canyon Flood Mitigation Task Force

Report

November 10, 2011

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II. Findings and Recommendations - - - - -	2

APPENDICES

1. Laguna Canyon Floods, 1937–2010
2. Report on lecture by Kevin Onuma
3. Notes of a meeting with the City’s Flood Forecasting Consultant
4. Flood Control Actions re: Laguna Canyon
5. Flood Protection Facilities in Laguna Canyon Today
6. Creek Restoration and Removal of Exotic Plant Species
7. Letter to Residents
8. Letter to Downtown Businesspeople
9. Information Guide

I. INTRODUCTION

Laguna Canyon has seen fourteen floods causing significant structural damage since the city was incorporated in 1927. All of them occurred in years of higher than average rainfall, but not all years of excess rainfall had significant floods and some of the flood years had only slightly more rainfall than usual (*Appendix 1*).

On December 22, 2010, after a week in which more than 9 inches of rainfall were recorded, 25 people were pulled from vehicles or homes threatened by the raging creek. A number of cars and several large storage containers were washed into the Laguna Canyon channel at Sun Valley. In addition, more than 90 homes and 70 businesses were damaged. The boardwalk at Main Beach sustained damage caused, in part, by the failure of the bulkheads to break away as designed.

In response to this event, on February 1, 2011, Councilmember Verna Rollinger presented a proposal to create a task force to review the most recent flooding and the earlier ones. The goal was to review relevant data and past proposals and to endorse measures that could be undertaken by the City or recommended to the County and/or Caltrans to be better prepared for the next flood. The City Council voted to establish the Laguna Canyon Flood Mitigation Task Force to accomplish this goal.

The Task Force members were Bob Borthwick, Kelly Boyd, Norm Grossman, Susan Hamil, Eric Jessen, Karl Koski, William Lawson, Louis Longi, Carl Nelson, Charlie Quilter, and Verna Rollinger. They selected Eric Jessen as chairman, Bob Borthwick as vice chairman, and William Lawson as recording secretary. Steve May, Director of Public Works and City Engineer, was assigned as staff liaison to the Task Force.

The Task Force met twice a month from April through October. In addition, members took a tour of the flood control facilities in the canyon and attended a presentation by Kevin Onuma of the Orange County Flood Control District to the Laguna Beach Business Club (*Appendix 2*), and heard and discussed a presentation by Dr. Frank Weirich (*Appendix 3*), and a subcommittee met with the fire chief and the chief of police.

The Task Force's findings and discussions led to the set of recommendations for mitigating damage in future floods that follows.

II. FINDINGS AND RECOMMENDATIONS

Physical Modifications to the Laguna Canyon Creek Channel

Over the years, highway/floodway improvements of varying capacity have been constructed by the City of Laguna Beach, Caltrans, and the Orange County Flood Control District (*Appendix 4*). None of the sections of the channel, whether natural or improved, has a capacity for more than a ten-year flood (*Appendix 5*). The lack of capacity becomes acute in the downtown area, where the channel has a capacity of 2,200 cfs (cubic feet per second) entering the downtown area and continues as an open structure until reaching Beach Street. At this point, the channel goes underground, and the capacity is reduced to 1,050 cfs. A further reduction occurs at Coast Highway, where the capacity drops to 800 cfs. The result of these constrictions in a heavy storm is an explosive overflow at Beach Street, resulting in rapidly flowing water down Broadway, Ocean, and Forest Avenue.

Because of physical, financial, and environmental constraints, one hundred-year flood protection appears unattainable at this time, but the situation could be improved by modifying the severe bottleneck at the ocean end of the channel.

The Task Force therefore recommends that the City

- 1. Request Caltrans to coordinate with the City to increase the capacity of the channel under Coast Highway to 1,050 cfs (approved by the City Council July 12, 2011).**
- 2. Evaluate the boardwalk bulkheads to ensure that they will break away in a storm.**
- 3. Add a pier-nose wall to the middle wall of the existing conduit at Beach Street to smooth entry flow, thus permitting a small increase in capacity before overflowing occurs.**
- 4. Investigate options such as adding k-rails, either semi-permanent or temporary, on Broadway west of Beach Street to allow Broadway to become an auxiliary flood channel.**

In addition, upstream impediments to the flow of storm water can be reduced. Laguna Canyon Road is one of only three routes into and out of Laguna Beach, and Laguna Creek often overflows at El Toro Road. Most drainage culverts crossing the road have a capacity well below current state standards for highway drainage.

The Task Force therefore recommends that the City

- 5. Meet with Caltrans and Orange County's Director of Public Works with regard to addressing the long-time deficiencies in the capacity of drainage**

culverts crossing Laguna Canyon Road between Big Bend and the San Joaquin Hills Transportation Corridor.

- 6. Work with property owners to clear significant debris that has the potential to inhibit storm drainage from the upper portion of the Laguna Canyon Creek channel (adopted by the City Council on August 16, 2011).**
- 7. Sending an annual reminder to property owners who have private on-site drainage systems to clear them of brush and debris.**
- 8. Preserve, on City property, the existing natural streambed to sustain passage of dry-season flow and winter runoff, by selective removal and/or thinning of overgrown brush and exotic plants as necessary.**
- 9. Provide information on appropriate vegetation for the floodplain and methods of eliminating exotic species on the City's web site.**

A conceptual plan prepared for the City by PCR Services and the Aspen Environmental Group in 2003 (*Appendix 6*) shows how restoration of the creek and its banks can help to reduce the frequency of flooding by enhancing the dissipation of energy and diminishing erosion and down-cutting. The proposed restoration of Reach 3, the City's open space on what was formerly the DeWitt property, by removing exotic species and replanting with riparian natives would produce the greatest increase in functional capacity and especially hydraulic capacity of any of the seven reaches identified. Restoration would increase the channel capacity in that reach from 230 to 1,150 cfs and reduce the frequency of flooding in this area from more than once every two years to once every five years.

The Task Force therefore recommends that the City

- 10. Restore the City open space land formerly known as the DeWitt property (Reach 3 of the PCR/Aspen *Initial Study and Conceptual Restoration Plan for Laguna Canyon Creek*) to a more free-flowing condition.**

Finally, the Laguna Audubon basin was designed and constructed as a condition of approval of the Laguna Audubon residential development to limit the downstream flow in El Toro Creek from large storms producing ten-year to one hundred-year runoff to predevelopment levels. In 1990 and 1992 the County of Orange constructed modifications to the basin that changed its operation from a "flow-by" basin to a "flow-through" basin. With the original "flow-by" design, as constructed, incoming flows up to a two-year storm would bypass the basin. The basin in the former configuration would rarely have been filled.

In the present configuration, as modified by the County, the basin ponds water in all storms. In very large storms the basin may do nothing to mitigate the peak discharges

because the basin would already be full, with water flowing over the spillway when the peak storm flow arrives.

Restoring the basin to an improved version of its original “flow-by” configuration, or modifying the existing design, would help mitigate large storm flows from the upstream development, and afford maximum basin capacity for runoff attenuation when needed. This would leave the basin’s water-quality function intact for all but a few days of the year.

The Task Force therefore recommends that the City

- 11. Ask the Orange County Flood Control District to reconstruct the Laguna Audubon basin as a “flow-by” basin or to consider installing a gated outlet that would normally be closed, but that could be manually operated to drain the basin within hours in advance of a severe storm event.**

Enhancing Capability for Early Warning of Flood Events

The City currently depends on National Weather Service alerts and on the experience of public safety staff for early warning of potential serious floods. The City has a reverse-911 system for notifying residents about an approaching flood. City staff communicates with safety personnel in the surrounding area by way of the County radio system, which is considered the best in the country. To enhance the City’s capability for receiving and acting on early warning of floods, the Task Force recommends:

- 12. Incorporate access to downtown businesspeople into the reverse-911 system.**
- 13. Authorize staff to work with the County public works department to develop an early warning system connecting the City with the County’s “Alert” system (*adopted by the City Council on July 12, 2011, and funded on August 16, 2011*).**
- 14. Adopt the recommendations of Dr. Frank Weirich for a system of rain gauges capable of sending real-time data, web cameras for stream monitoring, and hillside soil-saturation monitors (*adopted and funded by the City Council on August 16, 2011*).**
- 15. Work with Cox Cable to develop a web site for providing up-to-the-minute emergency information.**
- 16. Establish neighborhood disaster response planning groups (*adopted by the City Council on July 12, 2011, and assigned to the Disaster Preparedness Committee*).**
- 17. Provide Community Emergency Response Training (CERT).**

Encouraging Preparation by Residents and Businesspeople

To ensure that Laguna Canyon residents and downtown business owners are well informed about the risk of flooding and what they can do to protect themselves and their property, the Task Force recommends that the City

- 18. Send a letter every fall to all residents and business owners in the canyon and the downtown (Appendices 7 and 8) that describes the history of flooding and the possible height of floodwaters and suggests ways of preparing for a flood event (adopted by the City Council July 12, 2011, and funded in the current budget).**
- 19. Prepare an information sheet on the history and risks of flooding in Laguna Canyon and adding this as a reference to it in the real property reports (RPRs) for all properties in the floodplain.**
- 20. Identify the existing flood damage protection information on the City web site's home page and restructure the list of options to include information on flood history, the Municipal Code's section 25.38, "Floodplain Management," vegetation management (recommended plants for the floodplain and exotic plants to be removed), and ways to keep water out of a home or business such as flood gates, sandbagging, and water-resistive sealants.**
- 21. Direct the Public Works Director to install permanent signposts at each street or driveway bridge from Coast Highway to El Toro Road showing the maximum flood water level at that location (adopted by the City Council on July 12, 2011).**
- 22. Continue to distribute flyers on flooding dangers and potential mitigation methods in the downtown.**

The City's Municipal Code contains detailed instructions for flood hazard reduction in the construction or substantial improvement (more than 50 percent of market value) of structures in the floodplain. Any construction in the floodplain requires a building permit to allow review of its flood-hazard implications. Retrofitting of existing structures to make them more flood-resistant is an option for property owners. Measures for sealing structural openings such as flood gates, water-resistive sealants, and sandbagging can be used when flooding is imminent to keep water out of the house. All businesses requiring improvements or remodels valued at more than \$5,000 must install flood gates on all exterior doors. These flood gates usually consist of metal rails installed on each side of the door and sized to allow water-deflecting materials, usually wooden slats, to be dropped in. The use of flood gates has proven effective in minimizing damage during

storms. During the December 2010 event, the businesses suffering most of the damage were those without flood gates and those who did not deploy them.

The Task Force therefore recommends that the City

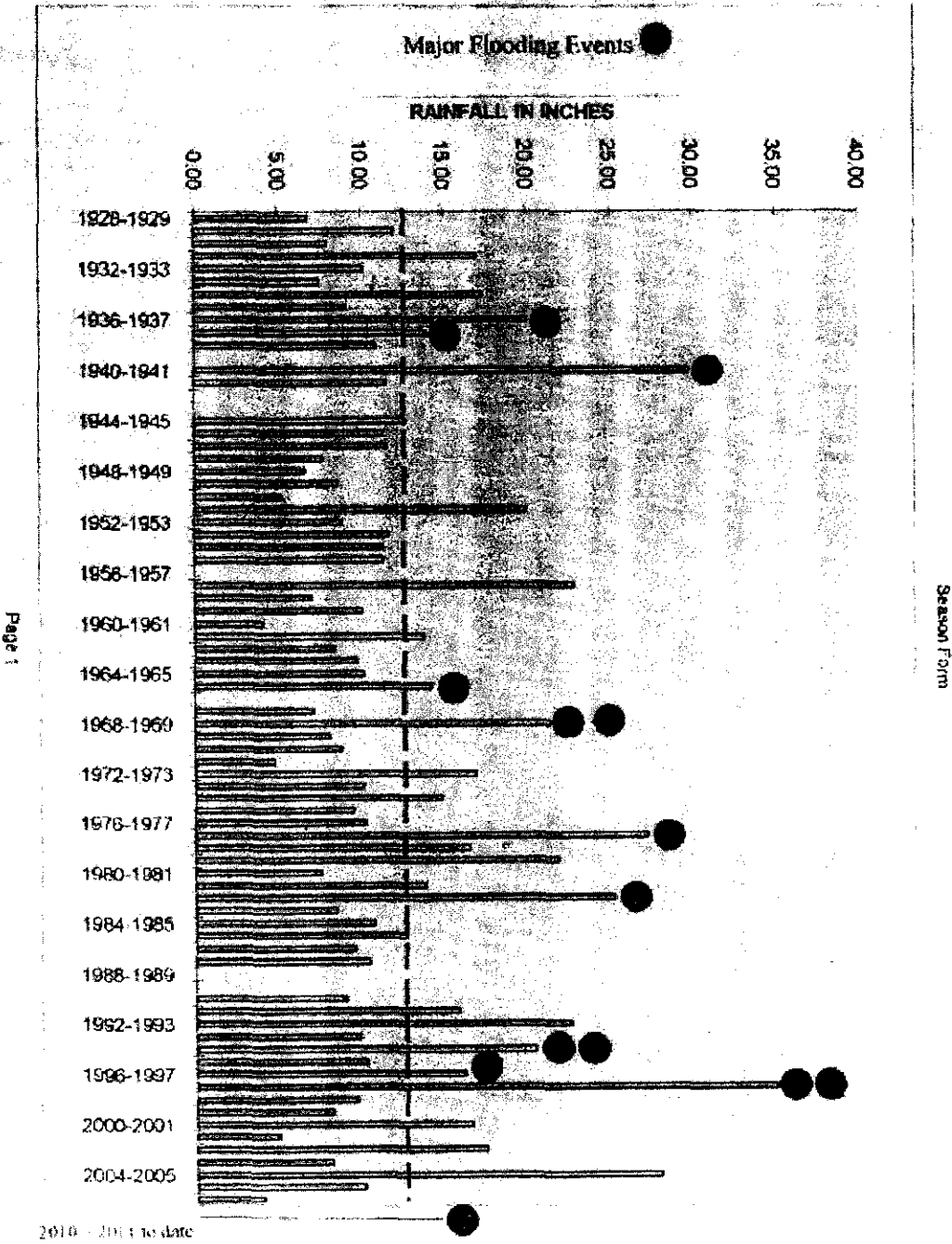
- 23. Provide information on the City's web site on ways to keep water out of a home or business, including flood gates, effective sandbagging, and water-resistive sealants.**
- 24. Inventory the use of flood gates in the downtown.**
- 25. Consider an amortization program to require all businesses in the floodplain to have flood gates by a certain date.**
- 26. Consider the addition to new conditional use permits the requirement to use flood gates when the City has declared a potential flood condition.**

Appendix 1

Laguna Canyon Floods, 1937–2010

Laguna Canyon has seen 14 floods causing significant structural damage in the city's lifetime. All of them occurred in years of higher than average rainfall, but not all years of excess rainfall had significant floods and some of the flood years had only slightly more rainfall than usual (see chart below). Accounts of these floods in a 1969 Corps of Engineers report, coverage by the *South Coast News*, the *Laguna News-Post*, the *Orange County Register*, and the *Los Angeles Times*, and City Council minutes are summarized here.

City of Laguna Beach
 Laguna Canyon Flood Mitigation Task Force Report – November 10, 2011



1937

The first major flood in the City's history, on February 6, 1937, was the result of a two-day storm that dropped 5.59 inches of rain on the city. It started the deeply cut channel we see today, virtually filled the canyon, undercut building foundations in the Sarah Thurston Park area, forced a number of families to evacuate their homes, closed the Canyon Road, and covered the streets downtown with mud. The Red Cross dispensed relief to flood victims, and a benefit for them was held at the Community Playhouse.

1938

On March 3, 1938, a two-day storm producing 5.06 inches of rainfall caused more than \$20,000 in damage, mainly above Forest Avenue (an improved channel carried most of the flow oceanward from there). Direct damage was estimated at more than \$20,000. The Craftsman Studio factory in Laguna Canyon was undermined and heavily damaged, and part of the dog pound went into the river but, anchored by a rope, did not float away. Scores of eucalyptus trees were toppled. The Canyon Road was closed to traffic. Members of the American Legion carried a number of canyon residents to safety and assisted them in saving their homes and possessions, wading shoulder-deep in the chilly water. In the aftermath of the flood, water lines had to be repaired, and supplies were hauled out to residents from Laguna.

1941

On February 17, 1941, a one-day storm that produced 2.63 inches of rain undermined homes, and at least one home fell into the watercourse. A family of three was awakened by neighbors who helped remove the furniture from their cottage before it fell into the water.

1966

A six-day storm yielding 4.76 inches of rainfall peaked on December 5, 1966, when 2.10 inches fell on the previously soaked ground. The Canyon Road was flooded, and incoming and outgoing phone service was interrupted overnight.

1969

In January and February 1969, 16.96 inches of rainfall were recorded in Laguna Beach. A January 27, 1969, storm producing 3.66 inches in a day did extensive damage to structures in the Big Bend area, with about three feet of water in houses. The Canyon Road was closed. On February 24, 1969, after 24 hours of steady downpour, the downtown became a sea of mud when the channel at Beach Street backed up, spewing muddy water and debris over surrounding streets and parking lots. The concrete walls of the channel where it passes under Ocean and Broadway broke in two places, endangering buildings on both streets, and the structures between Beach and Forest were evacuated.

Sewage from a broken sewer line at the foot of Broadway spilled onto the beach. A mudslide blocked El Toro Road near the city limits, and the Canyon Road was closed. In the Canyon Acres area, slides of mud and rocks left debris two feet deep in the streets, and about 35 families were helped out of the area by police and firemen. The animals at the SPCA shelter were evacuated from the flooded facility by SPCA crews. Canyon Acres residents Ray Unger and Jack Fontan barely escaped with their lives when their house at the far end of the road slipped off its foundations and was broken in two by a slide of mud and rocks.

1978

A three-day storm in mid-January 1978 dumped a total of 3.43 inches of rainfall in coastal areas and closed the Canyon Road all the way to the San Diego Freeway for some six hours. The block wall of a church on El Toro Road collapsed, and the debris was carried downstream into homes and businesses. Some homes were severely flooded, with water two to four feet deep. One man reported that the water had risen to a foot from his kitchen ceiling, and parents carrying their children outside left furniture floating downstairs in their home. Chaise lounges were floating down the road.

1983

On March 1, 1983, the Laguna Lakes overflowed their banks and covered the road between them. The road was passable only for four-wheel-drive vehicles. The animal shelter was evacuated with the help of the contractors working on the construction of a 10-by-14 foot flood-control channel. Finished parts of the culvert were filled with mud and debris, and chunks of the road disappeared. A pickup and a car were washed into the channel and blocked it, forcing water onto Ocean and Forest Avenues and depositing several inches of mud on downtown streets. Laguna Canyon Road was closed for nearly three weeks while the road and the channel were repaired.

1995

Flooding on January 4 and January 11, 1995, attributed by a County hydrologist to two 10-to-25-year storms, damaged dozens of homes and 50 downtown businesses (where the water was waist-deep), and ripped out about 100 feet of the boardwalk. The channel at Beach Street overflowed twice. Residents upstream were evacuated. Seventy-seven children were evacuated by bus from the Boys' and Girls' Club to an emergency Red Cross shelter set up at the high school in the first storm, and in the second nearly 100 children were temporarily stranded at a preschool until firefighters could rescue them. Laguna Canyon Road was closed for more than a week. There was damage to the Canyon Acres Bridge and the animal shelter. The City sued the Transportation Corridor Agency for the cost of cleanup at Main Beach Park, and 35 Sun Valley Road neighbors and about 25 business owners also sued the agency, citing inadequate flood control in connection with grading in December 1994. The TCA blamed silt from the areas recently burned and the City's failure to improve the channel between Beach Street and the ocean. Sun Valley property owners began building brick and concrete retaining walls along the creek and rebuilt the bridge across the creek.

1997

In the course of a flood on January 7, 1997, Sandy Bush of Laguna Canyon Kennels, 20401 Sun Valley Road, was swept down the road to the Canyon Club by a four-foot-deep river and run over by a floating motorcycle. Apartments were underwater on Sun Valley Road, where a dump truck was dragged against a concrete wall, leaving deep grooves, and a Honda Civic was pushed on top of a minivan. Downtown was left under four inches of mud, and the Main Beach was closed because of a sewer break. Residents again blamed development upstream for the flooding.

On December 6, 1997, the worst rainstorm in 70 years dropped 7.2 inches of rain on Laguna in the single heaviest day of rainfall in a century. Two homes were destroyed and about 20 were severely damaged. There was also damage to City Hall, the animal shelter, and the boardwalk, and the Laguna Playhouse and the Irvine Bowl orchestra pit and backstage areas were flooded.

1998

A storm on January 23, 1998, produced 2.73 inches of rainfall in seven hours and triggered mudslides. A house on Canyon Acres split in two. The Sarabias (resident caretakers at the Bluebell Foundation for Cats) and their baby were swept downstream by mud, but all were saved. Glen Flook, having helped others in his apartment building to escape, took refuge with others at the Quilters' house below Castle Rock and was killed in the slide that swept all of them out of the house. Nick Flores was found two days later buried under eight feet of mud in Sarah Thurston Park. The city's response was hampered by impassable roads; lifeguards in wetsuits and boots rescued dozens of people from waist-deep mud in the Big Bend area.

2010

On December 22, 2010, after a week in which more than 9 inches of rain were recorded, swift-water rescue teams pulled 25 people from vehicles or homes threatened by the raging creek. The Orange County Flood Control District reports that the 3.44 inches of rain that fell within six hours amounted to more than a 100-year storm. A number of cars and several large storage containers went into the creek, and more than 90 homes and 70 businesses were damaged. Laguna Canyon Road was closed to all traffic for several days between the Big Bend and the toll road and in the other direction was open only to residents and business owners. The Pacific Marine Mammal Center and the animal shelter were evacuated. Laguna Koi Ponds was flooded out and its fish washed onto the road. The Beach Street storm channel overflowed, spouting water 15 feet in the air. The Main Beach boardwalk suffered broken and leaning pilings, lost planking, and a displaced stairway and settling of its rock revetment. Damage to public infrastructure amounted to more than \$12 million.

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Efforts to control the creek began as early as 1928, when the City created Improvement District No. 3 and built a channel some 2,000 feet long from the ocean to Forest Avenue as part of a Pacific Coast Highway construction project. Over the years, channelization has been the main approach to limiting flood damage in the canyon.

Channelization. In 1937 the Orange County Board of Supervisors approved plans for a 10,000-foot-long open concrete channel along Laguna Canyon Road to connect with the existing channel at Forest Avenue, but after the 1938 flood residents complained that nothing had been done about it and some of the money set aside for it had been diverted to other purposes. Various extensions of the channel were constructed in the 1950s and 1960s, and by 1968 a concrete-lined channel with some covered reaches, designed for a 25-year flood, extended to the Big Bend (mile 1.9). The channel between Beach Street and Forest Avenue was reconstructed in 1969. The section from the Big Bend to the GTE property (now the dog park) was completed in 1983.

In 1991 the City Council reviewed but did not certify an EIR for the construction of a double 10-by-8-foot concrete channel from the ocean to Beach Street, instead asking for study of alternatives in the upper canyon that might reduce the need for the proposed facilities. A Broadway alignment for this part of the channel was extensively studied in the late 1990s but abandoned at an advanced stage in 2002 in response to concerns that the negative impacts would outweigh the benefits received.

A contract for the design phase of a rehabilitation of the channel from Beach Street to the ocean was awarded in June 2009.

Although channelization has been the method of choice and the County opted for an all-channel solution in 1981, a number of other approaches have been considered. A 1969 study by the U.S. Army Corps of Engineers to provide information for planning purposes spoke of guiding development by controlling the use of the floodplain through zoning, subdivision regulations, building codes, health regulations, flood protection works, or a combination of these.

Land use restrictions. A geological report on the Canyon Acres mudslides in 1969 recommended restriction of improvements in the area along with the design of a retaining structure.

In 1972 the Corps of Engineers wrote the County that it found “no economically feasible structural solution to the flood problem in Laguna Canyon” and recommended that the City pursue floodplain zoning—regulation of land uses to reduce flood damage. Some months later, in 1973, the County imposed floodplain zoning on the County-controlled portions of Laguna Canyon despite the objections of canyon residents and Laguna Beach officials.

The City adopted a flood damage prevention ordinance in 1980 (Zoning Code 25.38), allowing residents to qualify for subsidized flood insurance. The ordinance, using FEMA data, identifies areas of special flood hazard (of which Laguna Canyon is one) and

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establishes standards for any construction or alteration of structures in those areas, among them elevation above the base flood elevation, anchoring, use of flood-resistant materials and equipment, and the provision of drainage paths around structures on slopes.

A 1973 report on flood control alternatives for Laguna Canyon by the Orange County Flood Control District included as one alternative a combination of a larger-capacity channel downstream of the Big Bend and purchase of the floodplain upstream to El Toro Road.

Another of the alternatives discussed in the report was purchasing the entire watershed, a proposal championed by Jim Dilley and supporters of a Laguna greenbelt but dismissed as too costly (an estimated \$81,750,000) and possibly unsound in a county with a growing population. Today, of course, much of the watershed is in fact in public hands.

Although none of the alternatives reviewed were ever adopted, in 1977 the County proposed buying 35 acres inland of the GTE property (now the dog park) for about \$3 million, provided that the property owners agreed to sell.

While in 1968 the north side of Laguna Canyon Road to El Toro Road was zoned “medium-density residential” and the triangle between the two roads as “low-density residential,” the Land Use Element of the General Plan being prepared in 1974 shows these areas as “Preserved” and “Recreational.” The Open Space Element of the General Plan of the time included as a policy “The Laguna Canyon floodplain zone should be pre-planned to provide substantial and properly located open space to minimize flood damage and protect public health and safety.”

Dams and retention basins. The 1973 report mentioned above included eight alternatives, all but two of them including the extension of the concrete channel to El Toro Road and four of them proposing, in addition to the channel, a dam at the El Toro intersection, with or without check dams in the side canyons. All of the alternatives designed for a 100-year flood except the one that would purchase land included dams. The largest of these dams would have been 50–60 feet high, 600 feet long, 350 feet wide at the bottom, and 20 feet wide at the top and would have required relocating the road.

An EIR on the eight alternatives completed in 1975 concluded that Laguna Canyon flood control “did not appear to be of the utmost priority” and that the no-project alternative “should be given serious thought in view of economic considerations.” The consultants argued that floodplain zoning would make development difficult in any case and that property owners could be encouraged to take out subsidized flood insurance.

A 5.5-acre retarding basin at El Toro and Laguna Canyon Roads was suggested by the County in 1993 for inclusion the project to widen Laguna Canyon Road provided that the City would fund it. Such a basin was expected to benefit only “properties one-half to one mile downstream (the kennel and stable areas) because the upper Laguna Canyon watershed area is a small contributor to the overall storm flows experienced

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downstream.” The basin was estimated to be likely to reduce the statistical flooding “from a 2–3-year event to a 5–6-year event.”

The concept of runoff storage became part of the Safety Element of the General Plan, adopted in 1995, and was the subject of a hydrology report later that year that showed that the surface area necessary for retention basins that would give 10-year and 100-year flood protection was 88 acres and 259 acres, respectively, while the sites available for such basins totaled only 33.1 acres.

Controls upstream. After the 1978 flood, the City Council adopted Resolution 78.28 urging the Board of Supervisors to (1) continue the channel to El Toro Road, (2) require future developers to restrict their runoff to less than existing, (3) require mechanical control of the Laguna Lakes to lower their level between rains, and (4) widen Laguna Canyon Road to two travel lanes and a traversable lane from south of the Big Bend to El Toro Road. In 1993 a temporary pipe was installed in Lake #3 to facilitate drainage, and Caltrans was contacted for engineering advice on the idea of pumping out the lakes.

Watercourse protection and restoration. In 1974 the Council passed an ordinance (Zoning Code 25.50.030) making projects that encroach into significant watercourses subject to special review and detailed design standards, including site planning requirements, setback provisions, and architectural review. The standards require a minimum 25-foot setback from the top of the bank of a blue-line stream, within which no development or disturbance of major vegetation is permitted. The Open Space/Conservation Element of the General Plan, adopted in 1984 and revised in 2006, establishes policies for the preservation and restoration of natural drainage channels, in part because “disturbance of these lands may create hazards such as flooding and mudslides.”

In connection with the planning for the Village Entrance project in 1991, the Planning Commission asked that stream restoration be considered. A hydrology report prepared in 1995 concluded that this could be done but at great cost in parking spaces and other land uses in the area, requiring an area about 85 feet wide to achieve the current capacity of the concrete channel. In 2005 a section of the creek adjacent to the dog park was planted with native riparian vegetation.

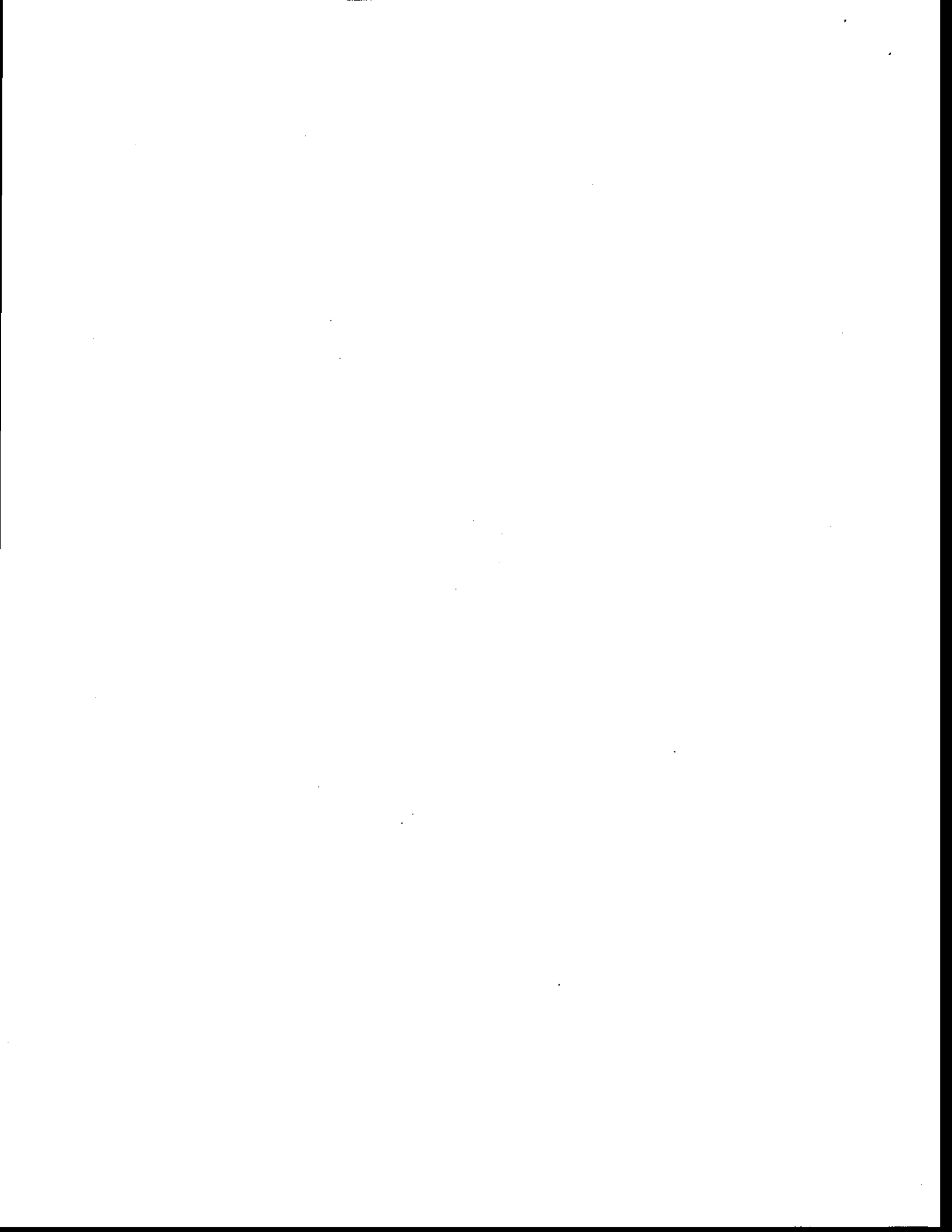
The Sarah Thurston Park Specific Plan, adopted in 1983, specifies that the ponding of storm runoff on the southern portion of Woodland Drive be ameliorated by a catch basin and associated underground storm drain pipe under the street connecting to the flood control channel and other alternatives including but not limited to “reestablishing the natural watercourse in the vicinity of the Boys’ Club property.”

Floodproofing. The 1969 Corps of Engineers report mentioned above comments that “many of the homes in the [Laguna Canyon] area are surrounded by low masonry fences with specially designed openings that may be closed off during a flood, leaving the fenced area as an island within the flood plain” and includes photographs of boards placed between fence sections in the driveways of homes.

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Similar floodproofing of structures within the Downtown Specific Plan area was required by ordinance in 1996 (Zoning Code 25.38.055). The ordinance specifies that, for additions, alterations, or remodels of less than 50% of the market value of the structure but more than \$5,000, a minimum of an additional 5% of the total remodeling cost shall be used to provide hinged and/or removable panels that can withstand the pressures of floodwater, protect windows subject to floodwaters, and apply sealants to other openings (in that order). Larger projects are subject to all the provisions of the flood damage prevention ordinance mentioned above.

Report assembled by Meg Monahan and Barbara Metzger from newspapers and City records.



Appendix 2

Report on a Lecture by Kevin Onuma

Kevin Onuma, Manager, Orange County Public Works, Orange County Engineering Flood Control District, spoke to the Laguna Beach Business Council meeting at the Hotel Laguna on May 19, 2011. Using PowerPoint, Mr. Onuma reviewed the history of flooding in Laguna Beach with a focus on the Laguna Canyon watershed and its modes of drainage. He then outlined the various studies and recommendations made by several agencies through 2002. A question and answer period followed. This report is based on notes taken at the meeting. Selected slides from the presentation were kindly provided by Mr. Onuma and are a part of this report.

Watercourse and Flood Channel: “Improved but deficient”: The Laguna Canyon watershed is designated officially as Facility 102 and is about 5,900 acres in size. During a 100-year flood, the maximum flow rate at the exit point into the ocean at Broadway is estimated at about 8,000 cubic feet per second (cfs). [A 100-year flood is calculated to be the level of flood water that will occur on average every 100 years; in other words, there is a 1 per cent chance that this level will be equaled or exceeded in any given year.]

A review of the existing state of the drainage shows that there are several chokepoints where the capacity of the channel is reduced. This means that the flows exceeding the capacity of the downstream facility will cause a hydraulic jump and overflow to the next lowest terrain. Most significant is the well-known case of the 2,200 cfs channel at Beach Street that flows onto an 800 cfs capacity reinforced concrete box (RCB). A brief video segment illustrated how the overflow passes out onto Ocean Avenue and Broadway to the ocean. Mr. Onuma concluded with the observation that although the existing series of channels of varying capacities were technically “improved” to some extent, they nonetheless were “deficient.”

Flood Control Studies: There have been a series of studies.

The 1985 Multiple-channel Study: Mr. Onuma selected a 1985 study and recommendation for discussion (see attached slide Onuma2...). The recommendation was for a series of multiple, parallel reinforced concrete channels (RCCs) and RCBs originating in Laguna Canyon and El Toro Creek at the 73 Toll Road. These were designed to handle flows of 8,890 cfs through the downtown area terminal reach. This so-called “grand solution” was estimated to handle a 100-year flood. The cost of this project was estimated at \$31 million in 1985 dollars.

Keith Companies 1988 Interim Downtown Study: In view of political and fiscal constraints, the City of Laguna Beach requested a follow-on interim study to meet a capacity goal of 2,200 cfs through the downtown area. This is the same capacity as the existing RCB ending at Beach that empties into the older 800 cfs RCB. The study by Keith Cos. in 1988 examined three alternatives. Alternative “A” was triple RCBs under Broadway with a total capacity of 6,910 cfs identical to the western terminal branch reach of the earlier 1985 recommendation. Alternative “B” was a widening of the present 800

cfs RCB channel aligned between Ocean and Broadway that flows under existing buildings and parking lots. The recommended Alternative “C” was smaller double RCBs of 1,980 cfs total capacity. This was to intercept a portion of the existing RCC along the city parking lot just above Forest Avenue and was to be aligned under Ocean Avenue. The combined capacity of the existing channel and the double RCBs was to be 2,780 cfs; (800 + 1,980). (See Onuma3...)

Water Storage Alternative: A study made by Boyle Engineering in 1995 examined the concept of basin(s) to store water run-off in Laguna Canyon. A 10-year flood would require a five-foot deep basin of 99 acres while a 100-year flood would require about 320 acres. However, in Mr. Onuma’s view, the environmental impact of such basins would be “huge,” and therefore such a project would not likely become reality. (See follow-on question below). He added in passing that because of its design, the Laguna Audubon retarding basin below the 73 Toll Road has only “a minor mitigating effect” during cloudburst-type rain events; that is, the basin functions satisfactorily in moderate rain events but during cloudbursts such as the December 22nd event, it fills rapidly and overflows at the uppermost spillway.

The 2002 Broadway 2,200 cfs Channel Study: A 2002 U.S. Army Corps of Engineers study of the downtown flooding problem assessed that the benefit/cost ratio was “sufficient” to justify construction of a 2,200 cfs RCB under Broadway at a cost of about \$6 million (or \$9-10 million today). This capacity was estimated to handle a 10-year flood. The Corps was to be the lead agency for design and construction while costs were to be borne at a 75/25 ratio of Corps to local government. However, the city council rejected this proposal. He noted that local businesses in the flood-prone areas have resorted to using barriers, but he was not certain of their effectiveness. This was followed by a question-and-answer session.

Questions and Answers:

Q: How long would it take to build a channel under Broadway?

A: About ten months.

Comment from Councilmember Rollinger: A big issue would be locating and relocating utilities under the roadway.

Q: What about bigger retention basins?

A: Environmental concerns will require even larger areas than supposed for mitigation reasons. The Fish and Game Department might well require three times the actual basin acreage for mitigation. That probably would not be available in Laguna Canyon.

Q: Are the calculations for a 100-Year Flood accurate?

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A: They are reasonable, but you need 10,000 years of accurate records to derive truly accurate estimates.

Q: How would you describe the probable relationship of the Corps of Engineers with local entities like the City of Laguna Beach?

A: It would be “a long and painful process but one with a big payoff.” The Corps treats local governments as its “clients” so this requires close cooperation. Any project would be subject to the federal appropriation process, and so it might take years to happen. For example, the Santa Ana River Project which includes the Seven Oaks Dam and Prado Dam has been going on for decades since about 1941. The total cost is \$2.1 billion, and it still is not finished. There is still another \$500-700 million in appropriations to go.

Having reached the end of its allotted time, the meeting was adjourned at about 9:00 am.

Post-presentation Discussion regarding Laguna Canyon Road as a Flood Channel

I had an interesting post-meeting chat with Mr. Onuma regarding the concept of using portions of Laguna Canyon Road as an overflow channel. My preamble went: In cloudburst conditions when normal channels overflow, I have observed that the roadway itself becomes the channel of least resistance, particularly in the Sun Valley-Castle Rock-Big Bend reaches but also at the outlets from various minor watersheds. This phenomenon also occurs in the "delta" area of downtown at Broadway and Ocean Avenue.

My question to him was: Given the fiscal constraints and long lead-times required to actually construct RCBs, for example, has anyone given thought to the expedient of channelizing flows within the Laguna Canyon roadbed itself using simple (and possibly "landscape-able") K-rail placements and/or berms to more efficiently duct flows away from people and structures?

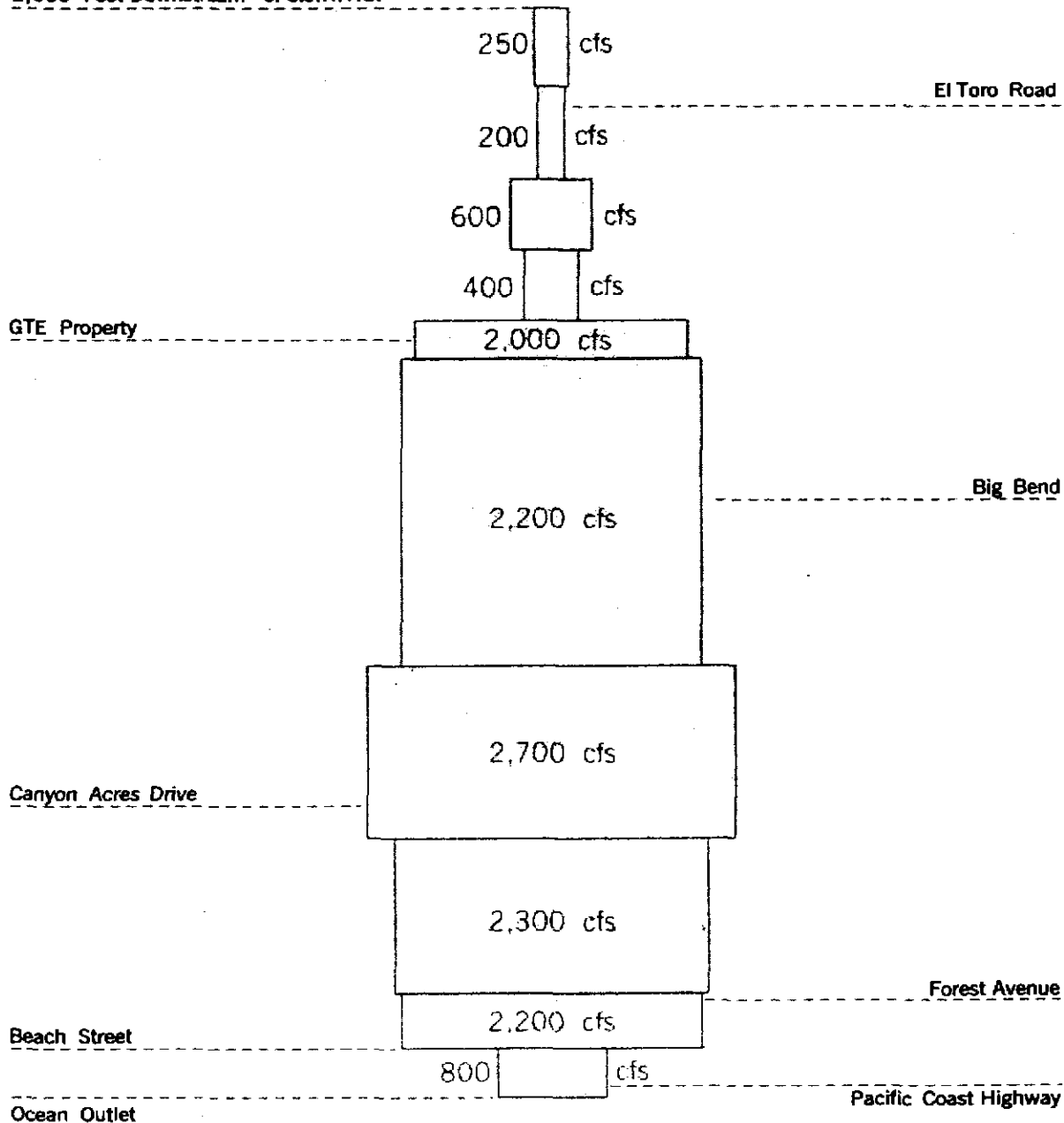
He said he had been expecting someone to ask that question. (Unfortunately, time was up before I could ask it in the meeting.) Mr. Onuma replied that when the California Department of Transportation (Caltrans) originally planned and built the road (sometime around 1919?) within the stream-bed, the agency logically and implicitly accepted that the roadway would become such a channel, which in fact it has. However, any such project within the confines of the right-of-way would of course have to involve Caltrans, a potentially difficult negotiation.

Prepared by Charlie Quilter.

LAGUNA CANYON CHANNEL FACILITY NO. I02 EXISTING CONDITION

San Joaquin Hills Transportation Corridor

2,060 Feet Downstream of S.J.H.T.C.



Appendix 3

Notes on a Meeting with the City's Flood Forecasting Consultant

The meeting with Dr. Frank Weirich of the University of Iowa was held in Conference Room A and began at 11:05 AM on July 27, 2011.

Meeting attendees were: Dr. Frank Weirich; John Pietig, City Manager; Steve May, Director of Public Works/City Engineer; Kelly Boyd, City Council Member; Verna Rollinger, City Council Member; Kris Head, CLB Fire Chief; and LCFMTF Members Carl Nelson and Bill Lawson.

The meeting was opened by City Manager John Pietig who made introductory comments and explained why the City of Laguna Beach had retained Dr. Weirich as a Consultant. That reason being to find ways to improve flood forecasting so that the potentially affected community members can be given adequate warning to protect their properties and/or evacuate before a large storm hits the City.

Dr. Weirich then gave a presentation on the work that he has done for the City so far. Dr. Weirich first explained that he was formerly a Professor at UCLA before joining the faculty at the University of Iowa. He has nearly 30 years of experience working on erosion problems related to fire damage and has been a consultant or has done research on other fire damaged areas in Southern California, including the recent 'Canyon Fire' in Los Angeles County.

Dr. Weirich described the unique features of Laguna Canyon that make it such a challenge to predict the nature of flooding that would result from any particular storm. The watershed can be divided into two parts, the downstream half and the upstream half. The "Time of Concentration" of the downstream half is only 15 to 30 minutes, and the "Time of Concentration" of the upstream half is only 45 to 60 minutes; this means that regardless of where rain may fall in the City it will reach the ocean within 60 to 90 minutes. This gives the community very little time to respond to intense rainfall conditions unless adequate flood forecasting is available and suitable warnings can be issued to the community.

Dr. Weirich also described the unique soil conditions that exist on the hillsides and side canyons tributary to the Laguna Canyon Channel. The typical soil condition here is comprised of about 7 inches of topsoil sitting on bedrock. The soil has a very low infiltration rate so once the soil becomes saturated, all subsequent rainfall will run off into the canyon. Knowing the antecedent moisture content of the soil is very important as it will help those monitoring the storm conditions to predict how long it will take the hillsides to become saturated. The steep hillsides in the downstream half of the watershed are particularly susceptible to mudflows once the topsoil becomes completely saturated and residents would need to be warned if this condition is approaching the danger level.

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Dr. Weirich explained that Laguna's storms usually come in quickly from offshore so there is not much warning and that 15 major storms have hit Laguna Beach in the last 80 years. An enhanced warning system is needed due to the unusual characteristics of Laguna Beach. More rain gages are needed which can be tied into the existing National Weather System (or OC ALERT system). Channel-Cams are needed at key Laguna Canyon bridges to view channel flooding conditions remotely to help speed up the prediction of higher levels of flooding. Dr. Weirich pointed out that the channel in the downtown area can handle about 500 cfs, but at 800 cfs trouble begins to develop when excess flows leave the channel at Beach Street and flow down City streets to the ocean.

Dr. Weirich also suggested the installation of shallow water sensors in topsoil at various locations around the downstream half of the watershed so that saturation levels can be monitored and estimated remotely. Local soils can hold from 2" to 4" of total rainfall before reaching the saturation point according to Dr. Weirich. Once mud and debris begin to flow down the hillsides and side-canyons into the main channel the flood flow becomes "bulked" with those materials and the total flood flow volume (and depth) are increase substantially.

At this point in the meeting a few questions were asked by attendees.

Verna Rollinger asked if the same type of data needs to be collected from both the downstream and upstream portions of the watershed. Dr. Weirich responded "yes". John Pietig asked for clarification...from a public safety point of view he would like to have the confidence of knowing that the plans suggested by Dr. Weirich would be correct at least 33% of the time.

Dr. Weirich continued by saying that it (the selection of a forecasting system) is a cost/benefit issue; and, the total cost would need to include O&M costs in addition to hardware and installation costs. With basic protection in place, the first reverse 911 call would be a warning that heavy rainfall is expected; the second reverse 911 would reflect a higher certainty that flooding will occur, and so on until an evacuation order is made. John Pietig then asked "how much do we have to spend to raise the level of protection"? [No response recorded]

Verna Rollinger then asked Fire Chief Kris Head, "how much of the Canyon should be evacuated"? His response included a statement to the effect that "later warnings may advise residents against leaving home."

Dr. Weirich continued with a description of two alternative soil moisture monitoring systems that he proposes. One would be simple plastic pipes set in the topsoil so that visual moisture levels could be seen and recorded by hand; the second would involve placement of moisture sensors (at about \$400.00 apiece). He further pointed out that you could go to and read these devices between storms, but it would not be practical to go there during a storm. It would cost about \$10,000.00 for the installation of five (5) sensors (that could be read remotely).

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Verna Rollinger asked how long it would take the soil to dry out after a storm. There was no answer to this question recorded, but it was followed by Dr. Weirich stating that "over time, more data would improve predictions." "Upstream basins are also a part of the rainfall retention equation."

This was followed by a short discussion of the problems that might arise from inaccurate flood warnings. Referring to the flooding that followed the recent 'Station Fire' in Los Angeles County, three (3) warnings of impending flooding were sent to residents, but nothing happened. Then with no warning being issued, the area was 'clobbered' by flooding. Dr. Weirich emphasized that "you don't want to be wrong too many times!" Residents in Laguna Canyon need to be more prepared to evacuate than those in other parts of the City (but they will quit listening if there are too many false alarms).

Carl Nelson mentioned that the County's 1998 report (on rainfall and flooding in Orange County) is a good example of what they (the County) can do with the data recorders that are already in service. Carl thinks that Laguna Beach has a unique climate that needs more monitoring equipment to better predict local storms. The County's present (rain-gage) system could be expanded using City funds since no County funded capital infrastructure facilities are expected to be built in the near future. Carl continued indicating that Neighborhood Watch people could check staff gages and report their findings (to the City's data collection center). He also feels that annual public information meetings would be beneficial. Carl, however, did not feel that soil monitoring would be effective as results would be too variable. He expressed his belief that "you always get more runoff than expected" and "that it takes a long time for the soil to dry out." Carl suggested that the LB Fire Department be the focal point for early warnings and recommended that NOAA weather reports be used for rainfall prediction.

Dr. Weirich recommended that the first money put into a monitoring system should (improving on the current City network) focus on maximizing the rainfall collection and data interpretation system. Volunteer monitors are good to a point, but professionals are needed to interpret the data when things start getting bad. We should try to use nonhuman monitoring, if possible, due to the danger involved.

The second priority for funding would be installing staff gauges or other means (such as video cameras) to monitor channel capacity at existing bridges and other critical locations. Dr. Weirich indicated that the upstream 'basins' give some protection, though not a lot. The existing County rain gage system is not geared to (warn against) the large floods that we are concerned with.

Thirdly, as stated earlier in the meeting, Dr. Weirich recommends money be spent in adding more rain gages to the County's ALERT system at key locations within the City's watershed; fourth priority would be funding for monitoring slope performance. Dr. Weirich expressed the hope that an adequate warning system would reduce the possibility of public injuries (during flooding events).

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John Pietig indicated that the December 22, 2010, flood in Laguna Beach was a good example for the need to have an improved warning system. He indicated that he would support spending \$20k to \$25k to improve the existing system.

Verna Rollinger indicated that from the preceding discussion she now has a better understanding of how flooding occurs.

Dr. Weirich emphasized that the City needs to look at the long term costs (with and without a flood warning system).

John Pietig said that he felt that setting (depth) markers on bridges would be valuable. Carl Nelson pointed out, however, that he believes that most of the bridges in question are on private property. Verna Rollinger agreed that property owners may need to be evacuated, but that they need to realize when danger is present or rising.

Kris Head indicated that on a previous occasion 1,500 information letters were sent out to residents and business owners, but that only about a dozen requests for additional information were received.

Steve May said, in reflecting back on the December 22, 2010, flood, that they agreed that a storm was coming, but they couldn't tell if it was the tail or the eye of the storm. He said that "if they had had a better idea of what was coming, more would have been done." He agreed that more rain gauges in the Canyon would be very helpful.

Kris Head stated that aggressive public education is Priority "0" (before Priority "1"). The monitoring plan needs to be simple and require easily retained skills. It is difficult to keep staff trained (due to the infrequency of flooding events). He also said that one hour of warning in the early morning hours is not enough time to get people evacuated.

John Pietig indicated that he would like to get an Agenda Bill passed by the City Council to implement this (monitoring program) before the next rainy season. He would like it to be presented at the 8/16 or 9/6 Council meeting with an authorization dollar amount included. The Agenda Bill should explain that the City and the Task Force are working on the concept for this. Verna Rollinger indicated that this would be discussed further at the Task Force meeting this afternoon.

In the concluding discussion R. Weirich talked about the problem at Ocean Street where excess water leaves the channel. Solutions to guiding flood water down Broadway using K-rails were discussed, and the pros and cons to leaving most of the K-rail in place year-round were also discussed. The meeting ended with Steve May indicating that a planning process is needed to come up with the best approach to solving the flooding problem.

The meeting was adjourned at 12:40 PM.

Transcribed from handwritten notes William E. Lawson, PE, on August 4, 2011.

Appendix 4

Flood Control Actions re: Laguna Canyon

- 1917 Started by a 1913 bond issue, Orange County paved the county road through Laguna Canyon connecting State Highway Route 2 (the forerunner of U.S. Hwy. 101 and I-5) at Irvine with Laguna Beach by 1917. (Ref. Wikipedia)
- 1927 State Legislature created **Orange County Flood Control District (OCFCD)** with authority to issue bonds for constructing works of flood protection upon 2/3rds approval of votes cast countywide. Also, a Direct tax authorized (not-to-exceed rate of \$.10 per \$100 assessed property value) to fund engineering & administration.
- 1928 Laguna Beach Assessment District No. 3 funded channel construction from Ocean outlet to 3rd Street.
- 1929 & 1931 Engineers Reports recommended financing of flood control dams on several inland creeks; Fullerton, Brea, Carbon Canyon, Santa Ana River, Santiago, Aliso, Trabuco, San Juan. Vote failed.
- 1933 Laguna Canyon Road was added to the state highway system in 1933 as Route 185, an unsigned designation.
- 1936 The U. S. Congress adopted the Flood Control Act of 1936, authorizing the Army Corps of Engineers to investigate the construction of reservoirs and related flood control works for the “protection of metropolitan area in Orange County, California”. (Basically the same projects proposed by OCFCD in 1929...which **did not** include any work for protection of Laguna Beach.
- 1941 The Congress authorized the Secretary of War to undertake surveys of flood control works in several localities including Laguna Canyon California; however no appropriations were made for the studies until 1973 (see below).
- 1952 Unit 1, 1200 L.F. reinforced concrete (RC), vertical wall open channel financed from countywide property tax.
- 1955 OCFCD Engineers Report recommending bond election to construct \$42,620,000 countywide flood control improvements including \$290,000 for Laguna Canyon.
- 1956 Election passed with bare minimum 66.67%.
- 1957 Unit 2, 2100 L. F. RC Vertical Wall open channel completed to Canyon Acres Drive.

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- 1962 Canyon Acres to 1400 L.F. upstream, RC trapezoidal open channel completed utilizing Bond Funds.
- 1966 Next unit, 1334 L. F. RC vertical walled channel funded with direct tax funds.
- 1966 OCFCD Engineers Reports recommend County wide election for \$46.4 Million for flood control bonds. Included \$400,000 for cost- sharing if OCFCD-proposed Laguna Canyon dam should be authorized by Congress. Election narrowly failed with 66.3% vote.
- 1967 OCFCD bond election repeated, soundly defeated.
- 1969 Following damaging 1969 floods, State Legislature approves amendment to OCFCD Act permitting tax rate increase to \$.20/100 assessed value.
- 1969 Corps of Engineers completes Flood Plain Information Report, mapping areas of inundation for 2 hypothetical conditions 1) Intermediate Flood (100 year), and 2) Regional Flood (500 year).
- 1969 Congressional legislation establishes Federal Emergency Management Agency (FEMA) and Federal Flood Insurance Administration (FIA) program requiring flood insurance for property within the 100 year flood plain. Enforcement lies with lending institutions.
- 1970s Caltrans planning for Coastal Freeway (Route 1) with crossing of Laguna Canyon vicinity of Big Bend. Nelson suggestion of fill (for dam) rather than high level bridge becomes moot when coastal cities request removal of freeway from State Highway Plan.
- 1973 OC Board of Supervisors adopts floodplain zoning upon 100 year floodplain of Laguna Canyon and authorizes investigation of alternative improvements that would eliminate the need for floodplain zoning.
- 1973 OCFCD report; An Investigation of Flood Control Alternatives in Laguna Canyon, California. Outlines 8 different alternatives (dams, channels & land acquisition. for varying levels of protection) ranging in cost from \$5 million (25 year channel) to \$75 million (acquisition of 100 year floodplain with no improvements constructed). Board of Supervisors adopts All-Channel Plan.
- 1973 Corps of Engineers completes (1941 auth.) Survey Report of costs and benefits for various alternatives (large single dam, smaller dam with channel improvements, or all-channel plan) ranging in total cost from \$5.9 mill. to \$7.4 million. Concludes that costs exceed benefits.
- 1973 FEMA Floodplain Study (referenced in Corps 1997 Preliminary Design Report).

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- 1978 Proposition 13 Property Tax limitation passes statewide, reducing total countywide property tax to \$1 per \$100 assessed value. Thus reducing OCFCD's annual revenue to a fraction of countywide (\$1) levy.

- 1983 OCFCD completes interim underground conduit within State Highway from Big Bend to GTE (Dog Park) with capacity matching downstream channel in anticipation of future parallel conduit for upgrade to 100 year flood.

- 1985 Fuscoe Williams Inc. completes OCFCD project report for overall improvement to 100 year capacity from San Joaquin Hills Transportation Corridor (SR-73) to ocean. Proposed all-channel alternative within right of way proposed in Caltrans preliminary planning concepts for widening Laguna Canyon Road. (Ref. Keith 1997, p. 16).

- 1987 Meetings with Caltrans, local residents and Coastal Commission for widening Laguna Canyon Road. Coastal commission rejected both of Caltrans Concepts (Ref. Keith, p. 8).

- 1987 OCFCD Hydrology Report updated to reflect new Manual adopted in 1986 (Ref. Keith, p. 17).

- 1987 Jack Raub Co. completes Hydraulic calculations for proposed Aliso Viejo Company development along El Toro Road upstream from SR-73.

- (?) Storm Drain construction completed by Aliso Viejo Company in accordance with County requirements, including Laguna Audubon Detention Basin limiting post-development runoff peak to maximum calculated for pre-development watershed.

- 1988 Keith Companies (for OCFCD) completes further study for Laguna Canyon Channel from Pacific Ocean to SR-73. Interim downtown improvements (Alternatives A, B, or C) recommended (Ref. p. 11), see map.

- 1990 City completes Draft EIR for downtown project up to Beach Street, but draft not certified.

- 1990 County modifies Laguna Audubon Basin to improve stormwater (quality) management capabilities.

- 1995 City (by Boyle Engineering) completes study of Detention Basin Alternative Study for Laguna Canyon runoff storage possibilities (Ref. Corps, p. 1-2)

- 1996 San Juan Hills Transportation Corridor completed by TCA including surface drainage facilities along with stormwater quality improvements, but no detention storage.

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- 1997 US Army Corps (by CH2MHill) completes Draft Detailed Project Report for Interim channel enlargement in Broadway.
- 1999 City of Laguna Beach withdraws support for Broadway Channel construction.
- 2006 County of Orange and Caltrans complete construction of Laguna Canyon Road widening from Irvine city boundary to SR-73 with required surface drainage facilities, stormwater (only for water quality) facilities, removal of original Laguna Canyon pavement and culvert connecting Barbara Lakes. No flood detention provided although extensive restoration of native vegetation for erosion control and environmental mitigation.
- 2009 Initial Study and Mitigated Negative Declaration completed by County for minor drainage improvements along new Laguna Canyon Road upstream from SR-73
- 2010 Mitigated Negative Declaration completed by County for next phase of Laguna Canyon Road improvements @ El Toro Road intersection. No drainage modifications proposed.
-

Compiled by Carl Nelson.

Appendix 5

Flood Protection Facilities in Laguna Canyon Today

The flood protection works in Laguna Canyon are today as they were described in a 1988 report by the Keith Companies for Laguna Canyon Channel Facility No. 102:

“The reach of Laguna Canyon Channel under study consists of improved and unimproved sections. The existing improved section extends from the Pacific Ocean to approximately 2.5 miles upstream along the canyon to the GTE facility. . . . The unimproved section extends from the GTE facility to the San Joaquin Hills Transportation Corridor. The natural channel varies in size from 20 feet wide at the bottom and 7 feet deep to 5 feet wide at the bottom and 3 feet deep. The capacity of the various reaches is discussed in the following section. . . . For purposes of this study, capacity is defined as the maximum amount of storm water the channel can convey before overtopping the channel walls or banks. . . . The channel has an overall capacity from Beach Street to the GTE facility of 2,200 cfs, or approximately 28 percent of a 100-year storm. However, the reach from the ocean outlet to Beach Street only has a capacity of 800 cfs due to the inlet conditions at the Beach Street culvert. The capacity of the earthen channel in Reach Two varies from 200 to 600 cfs or 3 to 7 percent of the 100-year flow. . . .

These facilities are variously owned and maintained. The culvert under Coast Highway belongs to Caltrans. Except for this section, the channel from the ocean to the upstream side of Beach Street is owned and maintained by the City. The section from Beach Street to the dog park is owned and maintained by the Orange County Flood Control District and is inspected regularly. From the dog park to El Toro Road the creek is on private property, and the maintenance of the natural channel is the responsibility of the individual property owners. Caltrans is responsible for the creek from El Toro Road to the toll road. There is a culvert under Laguna Canyon Road that often reaches capacity and sends water across both roads into the creek. The open drainage ditch that once existed on the north side of Laguna Canyon Road has since filled with silt and is no longer evident.

The following photographs showing the changing character of the channel from the Main Beach to El Toro Road were taken by William E. Lawson, PE. Figures 2, 3, 14–19, and 24 were taken on the occasion of the Task Force’s field trip on April 30, 2011, and the rest on October 28, 2011. The dimensions of the channel were obtained from interim study plans for Laguna Canyon Channel prepared by the Keith Companies for the Orange County Environmental Agency in February 1988.

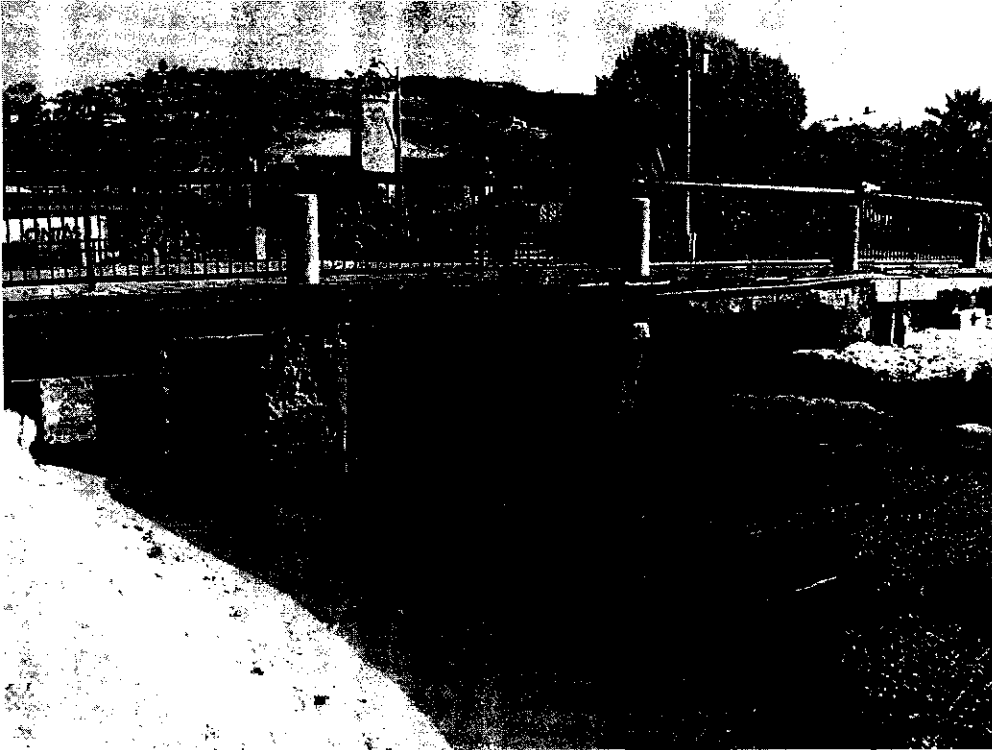


Figure 1. Outlet of double 11' x 6.5' box culvert at Main Beach.



Figure 2. Looking downstream at inlet to double 10' x 6' box culvert under Beach Street.

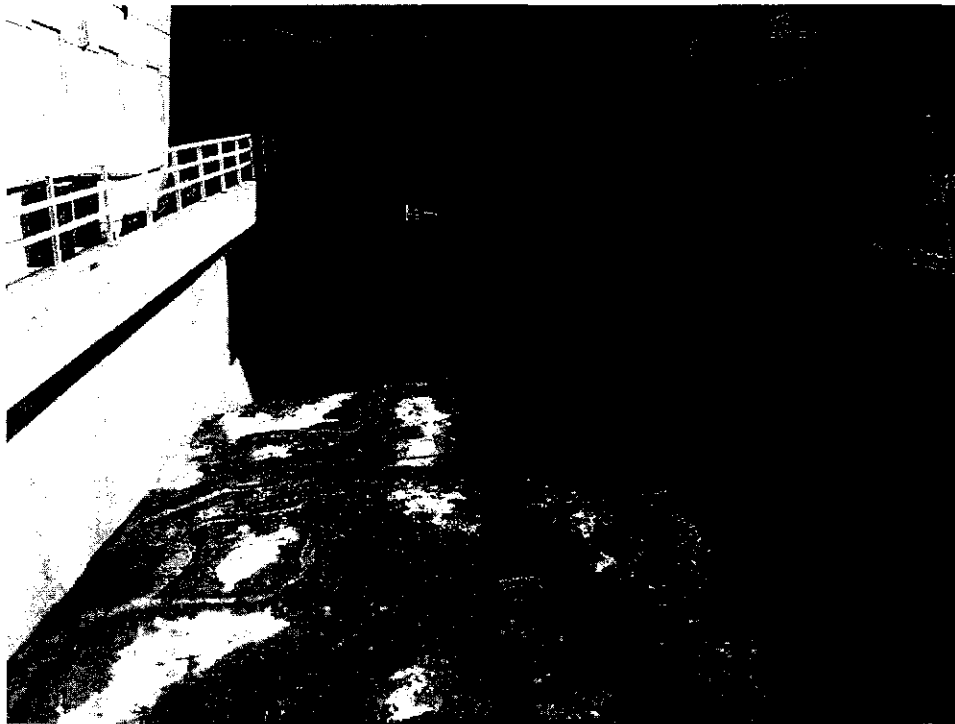


Figure 3. Looking upstream from Beach Street (open rectangular reinforced concrete [RC] transition to 14.5' x 8' RC channel covered by business structure).



Figure 4. Looking downstream from a point midway between Forest Avenue and the bus station (open 14.5' x 8' rectangular RC channel).



Figure 5. Looking upstream from a point midway between Forest Avenue and the bus station.



Figure 6. Looking downstream toward Forest Avenue from maintenance yard bridge (open 15' x 6' rectangular RC channel).



Figure 7. Looking upstream from maintenance yard bridge.

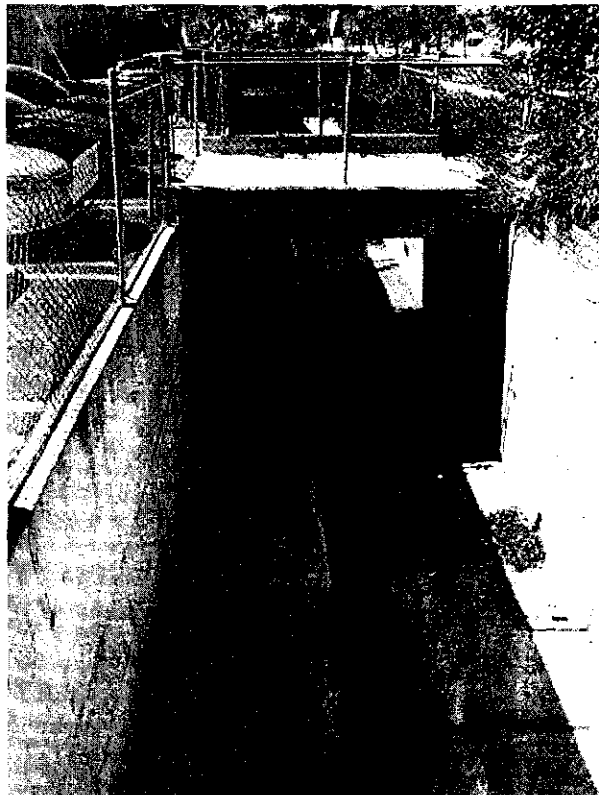


Figure 8. Looking downstream from Laguna Canyon frontage road bridge near Sawdust Festival site (open 15' x 8.5' rectangular RC channel).



Figure 9. Looking upstream from Laguna Canyon frontage road bridge near Sawdust Festival site.

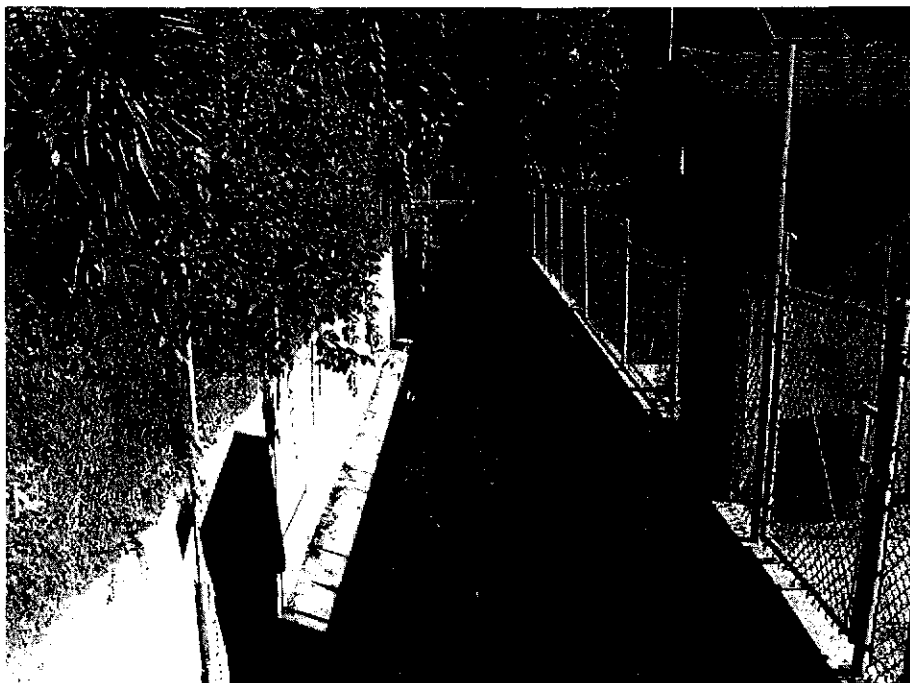


Figure 10. Looking upstream from Woodland Drive bridge, with County rain gauge on right (open 12' x 8.5' rectangular RC channel).

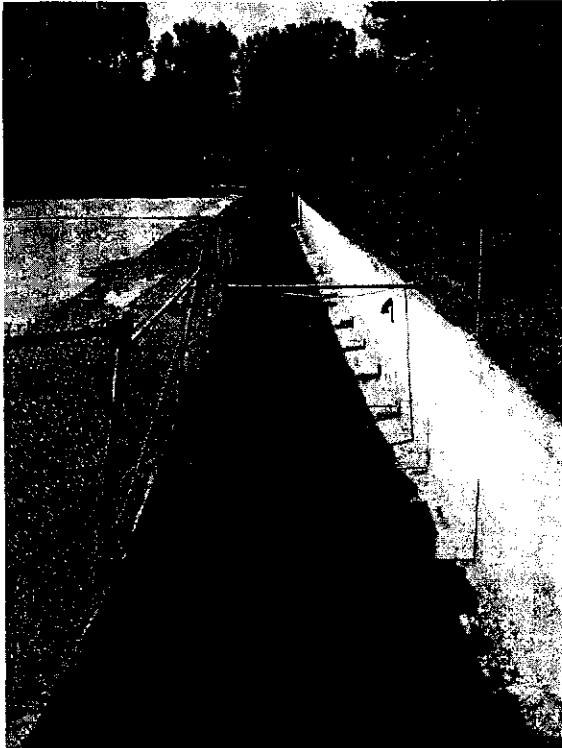


Figure 11. Looking downstream from Canyon Acres Drive bridge (open 12' x 8.5' rectangular RC channel).

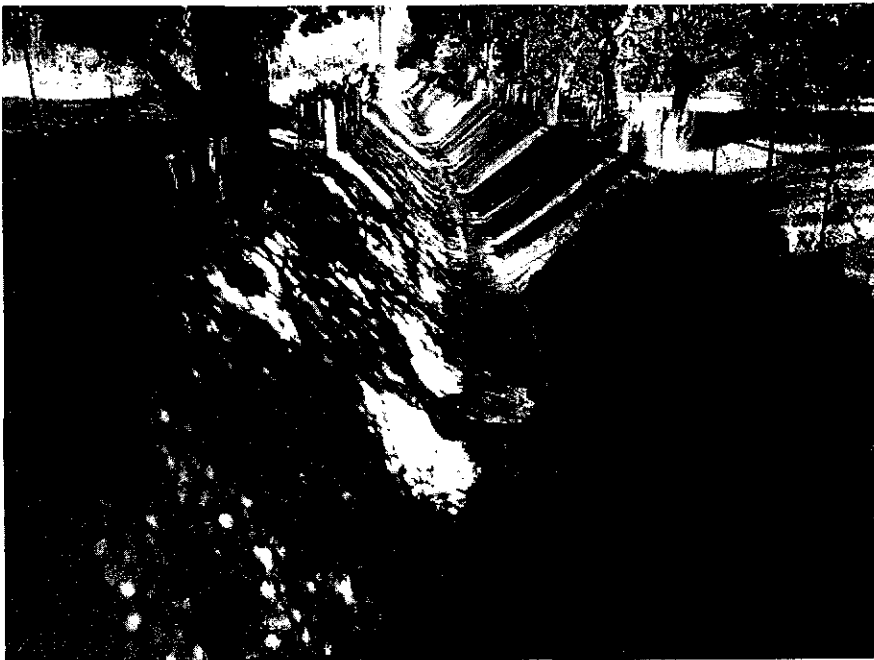


Figure 12. Looking upstream from Canyon Acres Drive bridge, showing change in channel cross-section type (beginning of 5' x 9' trapezoidal RC channel with 1:1 side slopes).



Figure 13. Looking upstream from vicinity of the lumber yard (open 5' x 9' trapezoidal RC channel with 1:1 side slopes).

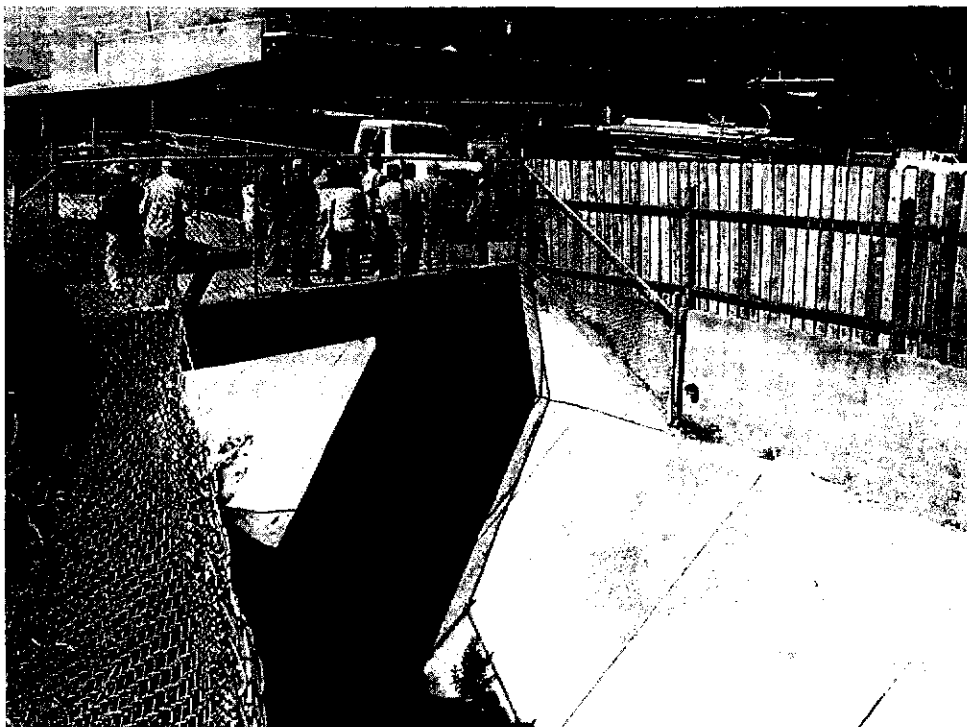


Figure 14. Looking downstream from vicinity of business park between the lumber yard and the Big Bend (open 4' x 9.5' trapezoidal RC channel with 1:1 side slopes).

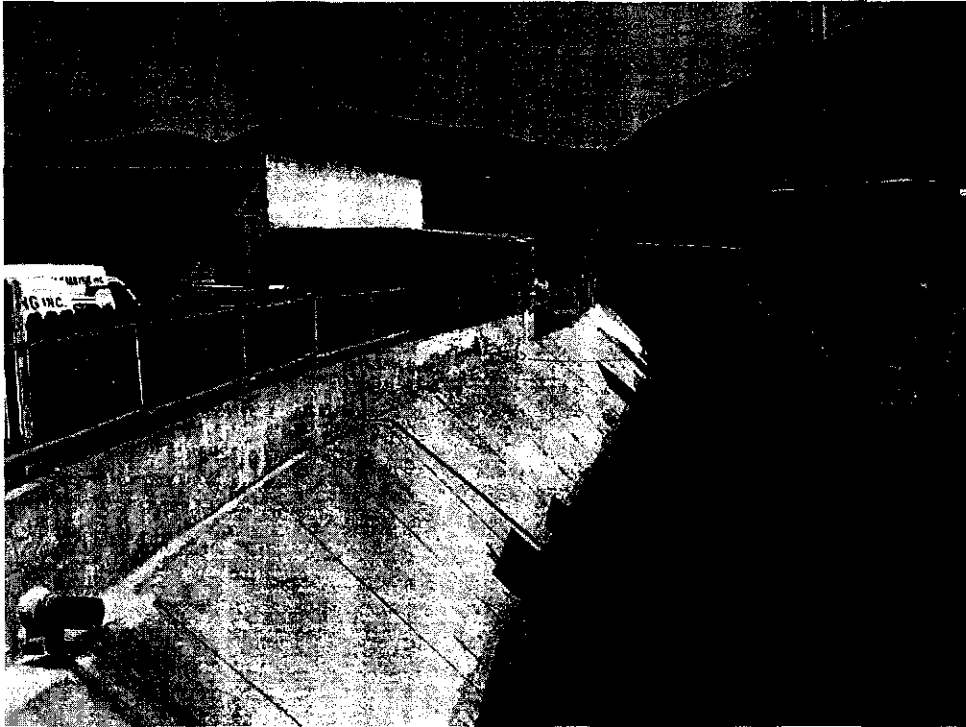


Figure 15. Looking upstream from vicinity of business park between the lumber yard and the Big Bend.

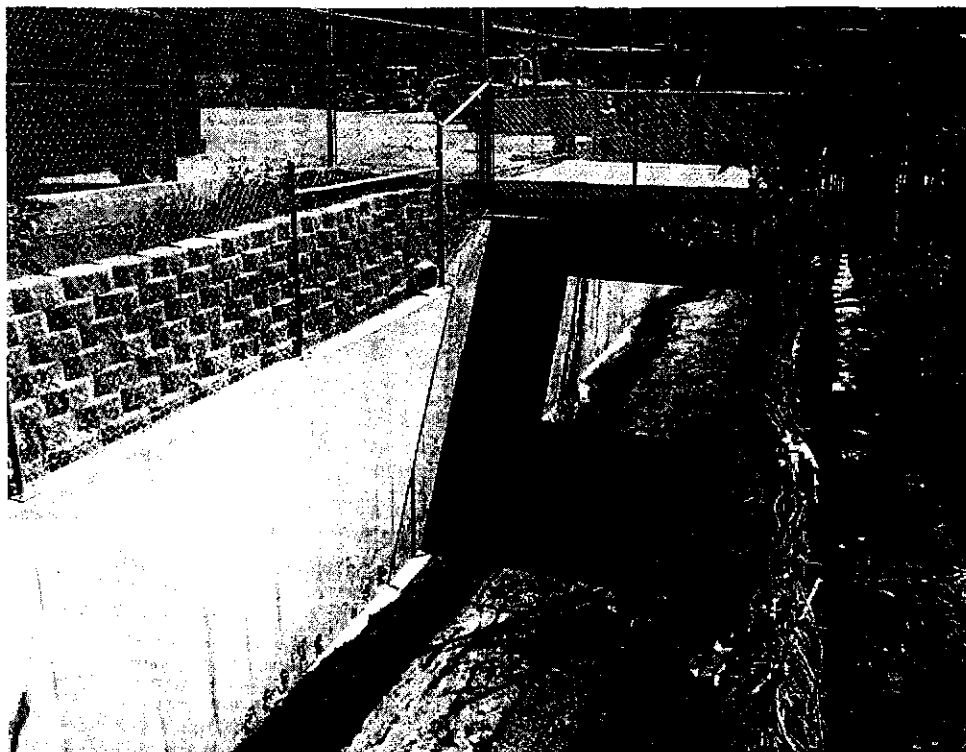


Figure 16. Looking upstream from a point closer to the Big Bend (open 12' x 9' rectangular RC channel).

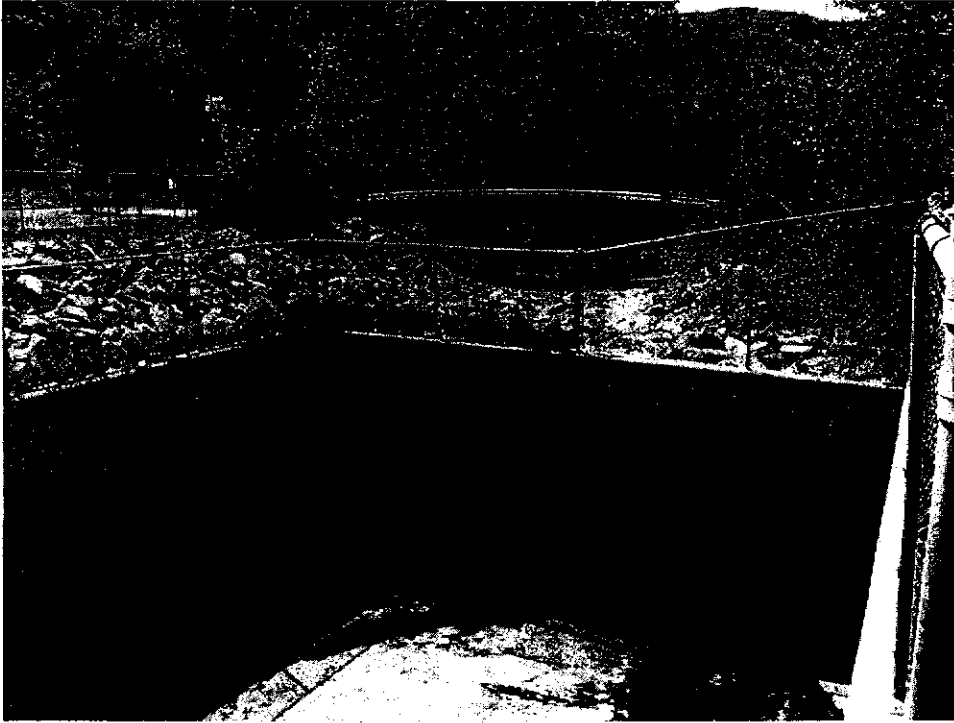


Figure 17. Looking downstream at entrance to box culvert at Dog Park (upstream end of single 14' x 10' RC box culvert).



Figure 18. Looking upstream from box culvert entrance at Dog Park (riprap transition to earthen trapezoidal channel).

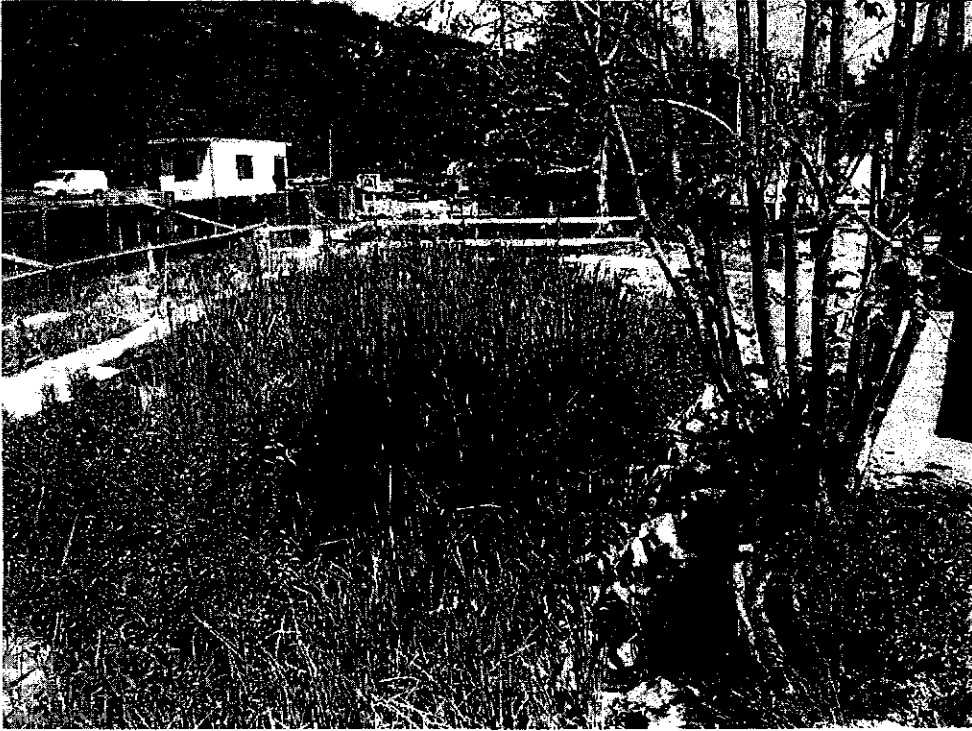


Figure 19. Looking upstream at Animal Shelter (natural channel with heavy vegetation).



Figure 20. Looking downstream from Sun Valley south bridge (natural channel with heavy vegetation).

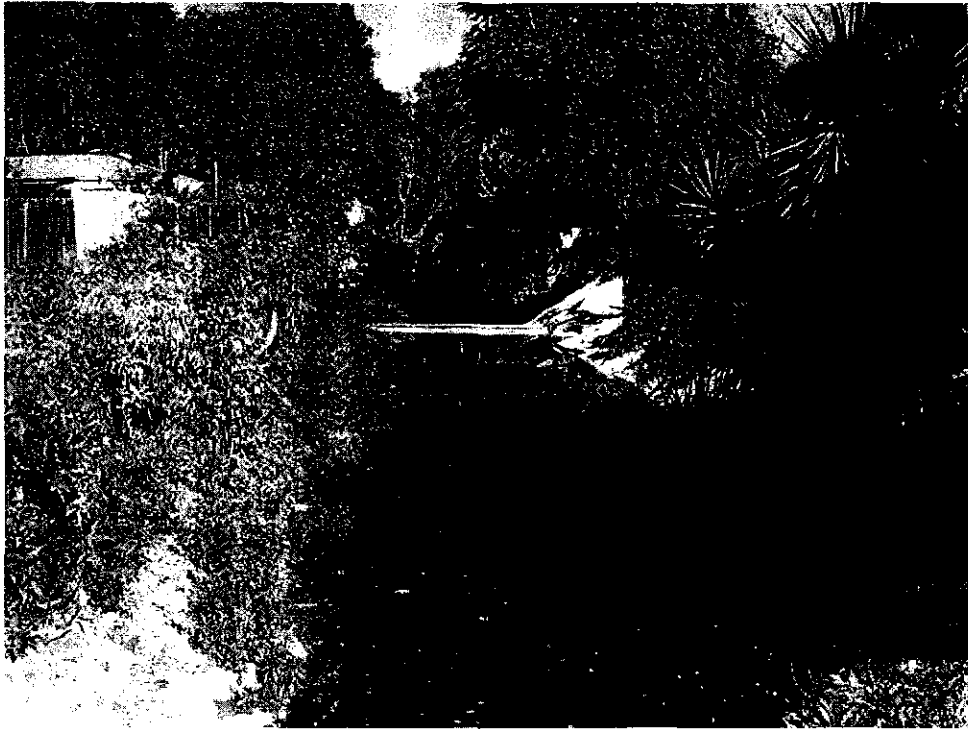


Figure 21. Looking upstream from Sun Valley south bridge (natural channel with concrete stabilization on one bank).

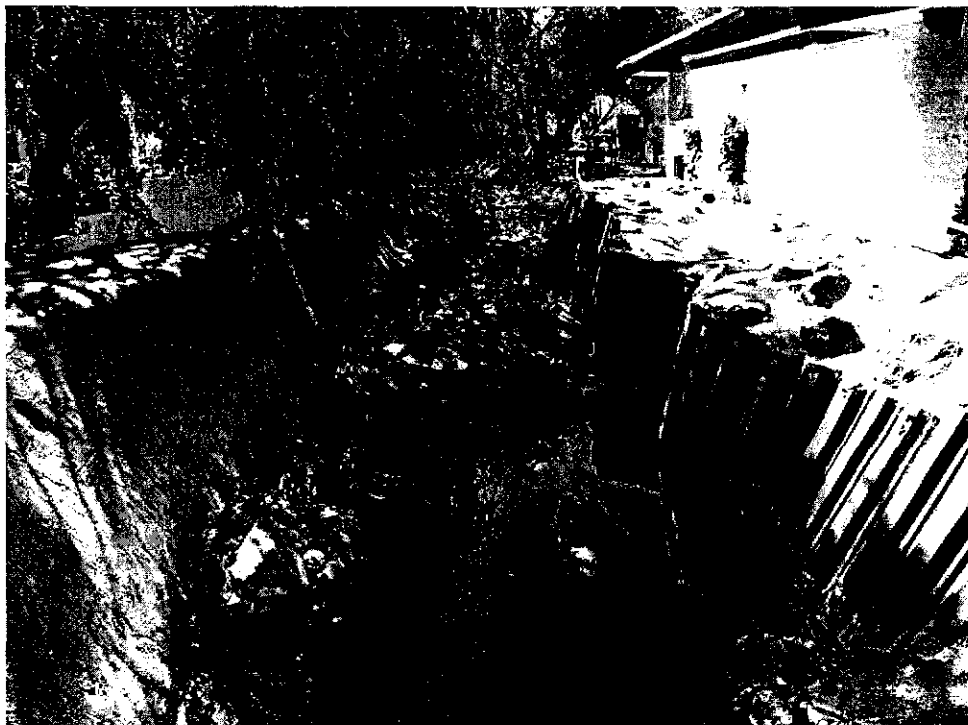


Figure 22. Looking downstream from Sun Valley north bridge (natural channel with sheet-pile and Gunite bank stabilization).



Figure 23. Looking upstream from Sun Valley north bridge (natural channel with sheet-pile and Gunite bank stabilization).



Figure 24. Looking downstream from El Toro road culvert (natural channel with heavy vegetation).



Figure 2. Laguna Audubon Detention Basin looking south from the access road off of the Toll Road on-ramp.

Text prepared by Barbara Metzger with information from Steve May; photographs by William E. Lawson.

Appendix 6

Creek Restoration and Removal of Exotic Plant Species

The following pages contain excerpts from a study prepared for the Public Works Department of the City by PCR Services Corporation in association with the Aspen Environmental Group in 2003 and entitled *Initial Study and Conceptual Restoration Plan for Laguna Canyon Creek*.

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Reach 3 (Dewitt Parcel/City Open Space)

The primary restoration action proposed for Reach 3 is that of exotic vegetation removal and replanting of native species. This activity would return the Creek vegetation to a self-sufficient native habitat with a minimal amount of excavation. The area within the Creek and the upland buffers has been extensively invaded with exotic vegetation. Revegetation of these areas will first require removal of exotics through a combination of burning, mechanical clearing, and or pre-emergent herbicide spraying for a period of at least one growing season, possibly two (see Section 5.7, *Exotic Species Removal*). Following the removal of exotic species in the Assessment area, the stream corridor and upland buffer area would be replanted with native

5.0 Conceptual Restoration Plan

vegetation divided into five plant palettes based on the following hydrologic regimes: perennial low flow channel, 1-2 year channel, 3-5 year terrace, upland buffer areas within the 100-year floodplain, and surrounding uplands (see Figure 17, *Reach 3 - Existing and Proposed Cross - Sections*, on page 59.)

Perennial streambed will be planted with freshwater and emergent marsh species that are adapted to consistent inundation. These species will likely be shaded out with the establishment of a mature canopy. The 1-2 and 3-5 year floodplains will be planted with a mixture of southern willow scrub species and transitional species that are adapted to periodic flooding. Upland buffer areas, as with Reach 1, will be restored to native grassland and oak woodlands habitats with sage scrub being planted on the eastern slopes only (see Section 5.8 for the preliminary plant palette). An adequate buffer area helps to protect sensitive flora and fauna within the riparian corridor from disturbances.

This reach, particularly near Philip's Road at the southern end, is known to support wildlife attempting to cross Hwy 133 to gain access to the Laguna Coast Wilderness Area (see Section 3.4, *Wildlife Movement Analysis*). Reach 3 also provides opportunities for recreational and educational activities for several reasons. First, it is owned by the City, located directly across the street from the Laguna Coast Wilderness Area, adjacent to a school and an active residential community (Sun Valley), and supports a partial hiking trail. Therefore, the restoration plan proposes a land bridge or tunnel across Hwy 133 for access to the existing parking lot for humans by day and wildlife movement by night. In addition, the plan proposes the development of a passive use loop trail and footbridge and the installation of trashcans and educational kiosks that can be updated by community members with regards to water quality, domestic animals, and seasonal breeding behavior of resident species. These restoration activities will solve various concerns the community has with regards to trespassing, trash, and animal feces getting into the Creek.

5.7 EXOTIC SPECIES REMOVAL

Eradication of weed species that compete with native plants will be important for long-term sustainability of the habitat. An aggressive weed removal program will be necessary to maximize the restoration process. Eradication of unwanted species will include, but not necessarily be limited to, those locally occurring invasive species identified by the California Exotic Pest Plant Council (see Table 12, *Target Exotic Species*, on page 78). Of the species listed, the following weed species are predominant in the Laguna Creek restoration reaches: Giant Reed (*Arundo donax*), Salt Cedar (*Tamarix* sp.) Andean pampas grass (*Cortaderia jubata*), and Cape ivy (*Senecio mileanioides*). In addition, Castor bean (*Ricinus communis*), Vinca major (*Vinca major*), and Eucalyptus (*Eucalyptus globules*) are identified in the area.

Recommended methods for control of particular species have been cross-referenced using CalWeed Database of the California Interagency Noxious Weed Coordinating Committee and Invasive Plants of California Wildlands (Bossard *et al.*, 2000). Weed densities and control demands will depend on the seasonal rains and temperatures each year of project implementation. The timing of weed control may be different for each of the restoration areas,

Table 12
 Target Exotic Species

Scientific Name	Common Name
<i>Ammophila arenaria</i>	European beach grass
<i>Arundo donax</i>	giant reed, arundo
<i>Carpobrotus edulis</i>	iceplant, sea fig
<i>Centaurea solstitialis</i>	yellow starthistle
<i>Cortaderia jubata</i>	Andean pampas grass, jubata grass
<i>Cortaderia selloana</i>	pampas grass
<i>Cynara cardunculus</i>	artichoke thistle
<i>Cytisus scoparius</i>	Scotch broom
<i>Eucalyptus globules</i>	Tasmanian blue gum
<i>Foeniculum vulgare</i>	wild fennel
<i>Genista monspessulana</i>	French broom
<i>Lepidium latifolium</i>	perennial pepperweed, tall whitetop
<i>Pennisetum setaceum</i>	fountain grass
<i>Rubus discolor</i>	Himalayan blackberry
<i>Senecio mikanioides</i> (= <i>Delairea odorata</i>)	Cape ivy, german ivy
<i>Taeniatherum caput-medusae</i>	medusa-head
<i>Tamarix chinensis</i> , <i>T. gallica</i> , <i>T. parviflora</i> & <i>T. ramosissima</i>	tamarisk, salt cedar

Source: California Exotic Pest Plant Council

based on soil moisture and the growth and development of the desired native plant species. It should be anticipated that frequent (semi-monthly to monthly) monitoring of the restoration areas will be required for weed management for at least three years. Monitoring will be effective for early identification of seedling weed species and to schedule control methods according to the phenology of each weed species.

For efficient control of exotic species, specified weeds must be controlled before they produce viable seed. Methods of control will depend on the species, the density of weeds, the area of infestation, and the ecological sensitivity of the habitat. Hand or mechanical means are preferred methods for control of weed species. Some species may be controlled by a combination of cutting and removal, followed by spot foliar herbicide spray application on re-growth. All exotic plants and their associated humus shall be disposed of at an appropriate off-site location.

Limited use of selected herbicides is specified when no other effective alternative is available to remove and control certain noxious weed species. Herbicide treatment is specified for weed species that may re-sprout from roots or rhizomes. Herbicides that are registered for use in California for natural areas are specified for particular weed species at specific rates noted on the labels. For this weed management plan, recommended herbicides include mainly

glyphosate (e.g., Round-Up Pro or Rodeo) and triclopyr (Garlon 3-A). Only Environmental Protection Agency (EPA) approved, glyphosate-base, systemic herbicides (e.g., Rodeo or equivalent) will be allowed when applying herbicides within 100 feet of a natural watercourse or body of water. Glyphosate is a non-selective herbicide, and its mode of action works against both broadleaf weeds and grasses. Triclopyr acts on woody and broadleaf species. Therefore, application of herbicides must be implemented without harming non-target native species.

The following glyphosate concentrations shall be used according to the type of application required as per the product label:

Foliar Spray Application—a minimum of two percent solution
Foliar Wick Application—a 33 percent solution
Cut Stump Treatment—a 100 percent solution

The following triclopyr concentrations shall be used according to the type of application required as per the product label:

Foliar Spray Application—15 percent solution
Cut Stump Treatment—a 100 percent solution

The site maintenance contractor must have a pest control business license which requires that at least one individual employed by the business be in possession of a qualified applicator's license or certificate. All State licensed businesses must be currently registered in Orange County. If a qualified applicator is not present during the herbicide treatment, all applicators must have undergone documented herbicide application training. Personnel must wear all protective clothing required by law and follow all label directions and precautions. All re-entry times specified on an herbicide label shall be observed and posted. Herbicide preparation shall be allowed only in approved staging areas more than 100 feet from a stream course or body of water.

A brightly colored dye should be used in all herbicide applications to aid the applicator in achieving good coverage of the target species. The material shall be a non-toxic material, such as Blazon, Turfmark, or equivalent. The dye shall be mixed with the herbicide at no more than half the rate specified on the label.

Herbicide treatment shall be conducted only when weather conditions are conducive to effective uptake of the herbicide by the target species (e.g., sunny, dry with ambient temperatures 65 degrees Fahrenheit, and when plants are at the specified growing stage), and when wind conditions are such that herbicide drift is minimized (5 mph or less). Treated plants or stumps shall not be disturbed until the applied herbicide has had time to take effect, per the manufacturer's instruction.

The following guidelines for weed removal and/or herbicide treatment shall be followed for each specified weed species:

Arundo (*Arundo donax*)

Arundo removal techniques will include either mowing of large patches or aerial spraying of individual patches using the concentrations specified above.

Salt cedar (*Tamarisk* sp.)

Salt cedar removal will be conducted by manual removal of the tree, the roots and the associated duff.

Vinca major (*Vinca major*)

The manual/mechanical methods to remove *Vinca major* include hand removal which is labor intensive and yields good results if careful attention is paid to remove nodes and stolons. Mowing is not recommended. Instead, an effective method is to work inward from the perimeter of the patch and pull the periwinkle back in order to prevent further spread of the weed between removal periods. Glyphosate (as Round Up) has been tested on large periwinkle at Ramsey Canyon, Arizona. Greatest success is achieved if plants are cut first and then sprayed immediately afterwards. Cutting with a weed whip or brush cutter breaks the waxy cuticle and allows better foliar penetration of the chemical. Using cut and spray method, a 5 percent glyphosate gave nearly 100 percent control. To reduce native plants area, a 3 percent solution provides 70-75 percent control. A wisk applicator is suggested for spot treatment backpack sprayer is recommended for treating large area chemical distribution throughout the plant, use surface contact herbicide during an optimal growing period of good warm temperatures (70-80 degrees F) usually in late fall.

Tree Tobacco (*Nicotiana glauca*)

All individuals of these species should be removed from the project area. Seedling plants can be removed by hand pulling. For larger individuals, stump treatment with glyphosate should be used. The plants should be treated in spring when actively growing. A phased treatment is recommended. Phase 1: The plants shall be cleanly cut, horizontally, close to the ground (using a saw, rotary brush cutter, or similar tool). All the cut vegetation shall be removed from the project area the same day it is cut and disposed of legally off-site. Phase 2: The stumps or stems shall be re-cut, cleared of sawdust, and immediately painted with 100 percent glyphosate within two minutes of cutting before the cut surface begins to congeal to ensure penetration of the herbicide. In the irrigated zones, care should be taken to apply the herbicide between irrigation events. Plants should be checked a month after application to determine the success of the

herbicide treatment. Any re-growth from the treated stumps should be treated with the foliar herbicide application in the same season or as re-growth appears in the next growing season.

Castor Bean (*Ricinus communis*)

All individuals of this species should be removed from the project area. Seedling plants can be removed manually; larger individuals should be treated using either the foliar spray treatment method or the cut stump treatment and their vegetative mass removed for legal disposal. The plants should be sprayed during active growth in the spring. Foliar spray shall be with Round-Up Pro/Rodeo at the prescribed minimum 2 percent solution. For very large individuals, the stump treatment described above may be used. Plants should be checked a month after application to determine the success of the herbicide treatment. Re-application may be necessary for mature castor bean individuals. Areas where castor bean plants have been removed should continue to be monitored annually because the castor bean seeds are thought to be quite long lived.

Pampas Grass (*Cortaderia selloana* and *Cortaderia jubata*)

Pampas grass has the ability to reach distant open spaces due to the light wind dispersed seed followed by very rapid growth (Department of Conservation, 2003.) These species can invade disturbed areas such as cleared bush margins and firebreaks where it competes with native vegetation. The dry biomass from pampas such as dead leaves, leaf bases and flowering stalks creates a significant fire hazard. To control the species remove it manually by digging and grubbing seedlings and small plants. Chainsawing and slashing can be combined with chemical spraying of regrowth on larger plants, as well as the application of herbicides from spring to autumn, or after flowering. The herbicides and methods described previously are ideal for this species and with all other species using this method make sure you leave the plants in the ground until the roots have died off. Do not re-apply herbicide until the plant actively begins growing again.

Eucalyptus (*Eucalyptus globulus*)

The trees have allelopathic qualities which prevent some native species from taking root in the vicinity of a eucalyptus tree due to the nature of the chemical compounds which the tree is exuding. While removing individual trees by felling can be expensive, this method, together with stump grinding, can be effective. Stump grinding is done to prevent stump (re) sprouting. A self-propelled grinder is used to remove tree material to a depth of approximately 2 feet below surface. Another way to control stump sprouting is achieved through the direct application of triclopyr or glyphosate to the outside of the stump's cut surface at the time of tree felling.

5.0 Conceptual Restoration Plan

Eucalyptus removal will be determined on a case by case basis as several within the Assessment Area may be considered historic or landmark features per the Landscape and Scenic Highways Resource Document (City of Laguna Beach, 1995). Many of the existing trees are very large and located adjacent to Laguna Canyon Road, several hundred feet from the active streambed. In addition, Eucalyptus in the Assessment Area have not invaded the Creek extensively, but have been more recently planted within several reaches of the active stream apparently for bank stabilization. In this location, Eucalyptus seed is more likely to be distributed to downstream areas. Therefore, future planting of Eucalyptus trees within 100 feet of the active streambed should be prohibited and existing trees should be removed within the stream and adjacent uplands and replaced with native buffer species such as oaks, sycamores, cottonwoods, and willows.

Annual Weeds

Annual weeds, such as black mustard (*Brassica nigra*), short pod mustard (*Hirschfeldia incana*), tocalote (*Centaurea melitensis*), sweet clover (*Melilotus indicus*), bur clover (*Medicago polymorpha*), and exotic annual grasses should be controlled mainly by hand pulling and weed whipping, but may entail limited use of herbicide treatments depending on the density of the weeds.

Maintenance for weeds is not limited to the above-mentioned weeds, but will include any exotic plant species present in the project area that would threaten the establishment of the riparian and RSS communities per the judgment of the Restoration Specialists. The Restoration Specialist will prescribe appropriate methods for control of additional weed species that may occur on the site during the restoration implementation. Removal of exotic species will be particularly important in the RSS restoration area on the slopes of Wasson Canyon. Weed removal will be conducted by hand or by hand tools only, to prevent excess soil disturbance on the steep slopes.

Appendix 7
Letter to Residents

Dear Neighbor,

Your home is in the floodplain of Laguna Creek. Fourteen times in the history of the city, floods have caused significant structural damage in the canyon, where heavy rainfall quickly saturates the soil and overfills the creek on its way to the ocean. Houses fill with mud and water up to four feet in depth. Cars float, and people outdoors may be swept downstream. In the flood of December 22, 2010, more than 90 homes and 70 businesses were damaged.

This year's rainy season is about to begin, and we encourage you to get ready for a possible flood in the coming months. Here are some of the things you can do:

1. Remove debris and vegetation that could obstruct flow from the creek bed. Do not, however, remove native vegetation from the creek bed or use mechanized equipment in the channel. The City's Public Works Department (949-497-1711) can help you in identifying potential problems.
2. Do what you can to "floodproof" your home: move valuables to higher places, construct flood gates for the doorways, apply temporary water-resistant foam sealants (available at the hardware store), use sandbags (half-filled and stacked like bricks in a wall) to keep water away from doors and windows.
3. Make sure that you have flood insurance. There is a 30-day waiting period before national flood insurance coverage takes effect. Renters can obtain coverage for the content of their homes whether or not the building is covered.
4. Be ready to leave if it becomes necessary:

Make a household inventory, including video or photographs.

Put insurance policies and valuable papers in a safe place.

Assemble a disaster supplies kit, including a battery-operated radio, flashlights and extra batteries, first-aid supplies, bedding and clothing, and food and water.

Settle on a destination.

Learn how to turn off the gas and electricity before you go (see the City's web site, lagunabeachcity.net, under "City Departments," then "Fire Department," then "Evacuation," for diagrams showing how to do this).

Move vehicles to higher ground.

Get animal carriers for your pets and use them. Be sure that your animals have ID (license or chip) so that they can be returned to you if lost.

4. Watch the weather and be prepared for an "alert" call from the City with a warning to evacuate or, alternatively, to stay put. If you have a land line, your phone number is

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already in the system. If you don't, you may call 949-497-0399 for assistance or use the web site at lagunabeachcity.net/cityhall/police/resources/alertoc.asp to get your cell phone or alternate number listed.

If there is water in the streets, you may be safer inside your house or on the roof. Six inches of moving water can knock you off your feet, and less than two feet of water can float a car.

Your safety is our main concern.

Sincerely,

Toni Iseman, Mayor

Appendix 8

Letter to Downtown Businesspeople

Dear Downtown Merchant,

As you may know, your business is in the floodplain of Laguna Creek. Fourteen times in the history of the city, floods have caused significant structural damage in the canyon and the downtown. Heavy rainfall quickly saturates the soil and overfills the creek on its way to the ocean. Houses fill with mud and water up to four feet in depth. Cars float, and people outdoors may be swept downstream. Water escapes the channel and floods shops and restaurants. In the flood of December 22, 2010, more than 20 businesses were damaged.

This year's rainy season is about to begin, and we encourage you to get ready for a possible flood in the coming months. Here are some of the things you can do:

1. If you have flood gates, make sure that they are operational and that the materials are on hand. If you do not have flood gates, consider constructing some. The City's building department can send you a diagram showing what they look like.
2. "Floodproof" your business by moving valuables to higher places and placing sandbags (filled half-way and stacked like bricks in a wall) to keep water away from doors and windows.
3. Make sure that you have flood insurance.
4. Be ready to leave if it becomes necessary:

- Have an inventory, including video or photographs
- Put insurance policies and valuable papers in a safe place
- Learn how to turn off the gas and electricity before you go.

4. Watch the weather and be prepared for a reverse-911 call from the City with a warning to evacuate or, alternatively, to stay put. If you are unsure that your phone number is in the system or if you want to add cell phone numbers for critical personnel, contact the Police Department at 949-497-0399 or the City's web site at lagunabeachcity.net/cityhall/police/resources/alertoc.asp.

City of Laguna Beach
Laguna Canyon Flood Mitigation Task Force Report – November 10, 2011

If there is water in the streets, you may be safer inside. Six inches of moving water can knock you off your feet, and less than 2 feet of water can float a car.

Your safety is our main concern.

Sincerely,

Toni Iseman
Mayor

Appendix 9
Information Guide

INFORMATION GUIDE FOR
**REDUCING FLOOD DAMAGE
IN LAGUNA CANYON**

Fourteen times in the history of the city, floods have caused significant structural damage in Laguna Canyon, where heavy rainfall quickly saturates the soil and overfills the creek on its way to the ocean. While the creek is often dry, with winter rains (from November to March) it may cover the canyon floor to a depth of four feet or more in places. Houses fill with mud and water, cars float, and people outdoors may be swept downstream. Flood water escapes the channel downtown and floods shops and restaurants. In the flood of December 22, 2010, more than 90 homes and 70 businesses were damaged. Your neighbors have probably experienced such conditions and can tell you about them.

CONSTRUCTION IN THE FLOODPLAIN

Because of this history, you will need a floodplain development building permit for any construction in an area designated as subject to special flood hazard. (To find out whether your property is in the hazard zone, call the City planning staff with your parcel number or address.) Entirely new or substantially improved structures in the zone must be anchored, elevated, and floodproofed (see the standards for such construction in the Municipal Code, Section 25.38.050). In the Downtown Specific Plan area, additions or alterations in the zone that are valued at more than \$5,000 must devote an additional 5% of the total remodeling cost to floodproofing of doors, windows, and other openings with removable barriers or sealants (Section 25.38.055).

MAINTENANCE OF THE CHANNEL

City staff inspects the channel under Beach Street every two years, and the rest of the improved channel is inspected annually by the County. Where the channel is unimproved, property owners are encouraged to clear it of brush and debris that might block the flow before the rainy season begins. No native vegetation should be removed from the creek bed, however, and mechanized equipment may not be used.

EARLY WARNING OF SERIOUS FLOODS

The City receives early warning of serious floods on the County's "Alert" system. The City is also developing a local system of rain gauges, web cameras for stream monitoring, and hillside soil-saturation monitors to aid in forecasting flood conditions. This local system is expected to be in place by the end of 2012. The City also has an emergency mass notification system that uses a recorded message to pre-registered telephone numbers augmented by text messages and email. If you have a land line, then you are already in the

system. If you don't, you may call 497-0399 for assistance or use the web site at LatunaBeachCity.net/CityHall/Police/Resources/AlertOC.asp to get your cell phone or alternate number listed.

GETTING READY

Before the rainy season begins in the fall, you can get ready for a possible flood by taking the following steps:

1. If you have part of the unimproved channel on your property, clear it of brush and debris that might block the flow of flood water down the creek. Do not, however, remove native vegetation from the creek bed or use mechanized equipment in the channel.

2. Do what you can to “floodproof” your home or business:

Move valuables to higher places.

Construct flood gates for the doorways (call the Building Department for a diagram of what they look like).

Pile sandbags (available free at the Fire Department) to keep water away from doors and windows: fill them half-full, fold top of the bag down and rest the bag on its folded top, and then stack one layer at a time, staggering the bags like bricks in a wall.

Apply a temporary water-resistive sealant (available at the hardware store) to windows and doors.

3. Make sure that you have flood insurance. There is a 30-day waiting period before national flood insurance coverage takes effect. Renters can obtain coverage for the contents of their homes whether or not the building is covered.

4. If you live in the flood zone, be ready to leave if necessary:

Make a household inventory, including video or photographs.

Put insurance policies and valuable papers in a safe place.

Assemble a disaster supplies kit, including a battery-operated radio, flashlights and extra batteries, first-aid supplies, bedding and clothing, and food and water.

Get carriers for your animals and use them. Be sure that your animals have ID (licenses or chips) so that they can be returned to you if lost.

Learn how to turn off the gas and electricity before you go (see the City's web site under “Evacuation” for helpful diagrams)

Park vehicles on higher ground.

5. Watch the weather and be prepared for an emergency notification call from the City with a warning to evacuate or, alternatively, to stay put. If there is water in the streets, you may be safer inside your house or on the roof. Six inches of water can knock you off your feet, and less than 2 feet of water can float a car. If your car stalls, abandon it immediately.