

CALIFORNIA COASTAL COMMISSION

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original staff report](#)

Th12a

ADDENDUM

DATE: March 10, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **Addendum to Item Th12a:** Coastal Development Permit Appeal No. A-5-LGB-13-0223 (Meehan), scheduled for the Commission meeting of March 12, 2015

I. Applicant's Letter

The Commission received a letter from the applicant's attorney Steven Kaufmann, dated March 5, 2015, included in this addendum. The letter makes similar arguments to those already made by the applicant and referenced in the staff report dated February 25, 2015. Commission staff offers the following comments in response to the letter.

- Historically, there were no public ocean views directly through the site and there are currently no public ocean views directly through the site. If the Commission were to approve the coastal development permit subject to the conditions recommended in the staff report, staff would work with the applicant to make sure the final plans allowed for a two story home consistent with other homes in the area, allowing the applicant to enjoy reasonable use of the property. A two story home will obstruct views of the ocean through a portion of the site. However, if the applicant removes the solid wall along South Coast Highway, constructs the proposed sidewalk, and minimizes the height of new landscaping in the front and side setback areas, public ocean views will for the first time be provided through the site.
- The staff report does not omit reference to the Laguna Royale condominium complex immediately to the south of the residence, as the applicant's letter claims. Laguna Royale is mentioned in the first paragraph of the project description on page 7 of the staff report and it is identified visually in Exhibit 1 of the staff report. Laguna Royale was constructed in 1962, prior to the Coastal Act, and represents an extreme example of bluff face development. It has not been used as a precedent for other bluff face development in the area because it is clearly inconsistent with the policies of the Coastal Act and the certified LCP.

- The applicant's letter misstates that the bluff is comprised entirely of San Onofre Breccia. A large portion of the bluff is terrace deposits, as identified by the applicant's geotechnical investigations. Additionally, both the letter and the applicant's geotechnical analysis grossly overstate the strength of the San Onofre Breccia. There also is a mapped landslide just upcoast (north), emphasizing that slope failures have occurred in the area.
- The applicant's letter incorrectly states that the Commission approved the portion of the Tunnel Stabilization and Sewer Pipeline Replacement Project under the applicant's property. The Commission approved the portion of the tunnel in the uncertified area of Three Arch Bay, located about one mile south of the subject site. The City of Laguna Beach approved the portion under the applicant's property through local Coastal Development Permit No. 13-1142. The tunnel in that location, constructed prior to the Coastal Act in 1954, will be enlarged and stabilized in the existing alignment.
- The applicant's letter notes that the current definition of bluff edge in the Land Use Element was certified in the most recent update to the City's LCP. That definition is not inconsistent with the definition of bluff edge in the California Code of Regulations (Section 13577), used statewide by the Commission in its decisions on LCP and permit matters. That definition has also been applied by the Commission in the uncertified Irvine Cove and Three Arch Bay areas of Laguna Beach to require 25-foot bluff edge setbacks at multiple residential properties [CDP No. 5-99-206, as amended (Loder), CDP No. 5-14-1667 (Bell), CDP No. 5-14-1311 (St. John), CDP No. 5-02-357 (Saczsalski), CDP No. 5-02-192 (Freedman and Jeanette), et al].
- There is no legal basis to the applicant's argument that the Implementation Plan is the correct standard of review because the Implementation Plan has not been changed consistent with the LUP definition of bluff edge (see findings below).
- The applicant's letter provides no new evidence with respect to the historical significance of the nonconforming casita and the nonconforming beach access stairway. Both features were addressed in the staff report and analyses from both Ostashay and Associates Consulting and Galvin Preservation Associates were referenced on page 29 of the staff report, in the visual resources section. The structures are not listed on any local, state, or national historic register.

II. Changes to the Staff Report

To reflect changes to the staff report, new text is **bolded and underlined**.

1. Change Special Condition 1 beginning on page 18 as follows:

Submittal of Revised Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, two (2) sets of final architectural plans, grading plans, foundation plans, drainage and run-off control plans, and landscaping plans that

substantially conform with the City-approved development, but shall be revised in the following ways:

- (a) All structural elements of the house....[no intervening changes]....
- (b) Foundational elements....[no intervening changes]....
- (c) All structural elements....[no intervening changes]....
- (d) All existing nonconforming structures....[no intervening changes]....
- (e) Vegetated landscaped areas[no intervening changes]....

In order to create and preserve ocean view corridors from South Coast Highway through the side setback areas of the subject site, all landscaping in the side setback areas shall be maintained at a height not to exceed six-feet, as measured from natural grade. Landscaping in the front setback area adjacent to the public right-of-way shall not exceed the height of the highest vertical wall or safety barrier in the immediate area.

The permittee shall undertake development in accordance with the approved final plans....[no intervening changes]....

2. Change Special Condition 5 beginning on page 20 as follows:

Legally Required Development Rights – Sidewalk. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate that it has secured a legal right, interest, permission, or other entitlement to construct a three-foot wide public sidewalk along the seaward (west) side of South Coast Highway in the area fronting the residence, which may be partially or entirely within the right-of-way administered by the California Department of Transportation (Caltrans). The sidewalk shall be designed in substantial conformance to the sidewalk proposed on the City approved plans, but the design may be modified in order to comply with Caltrans guidelines, subject to the review and approval of the Executive Director. The design shall preserve all existing on-street parking spaces along South Coast Highway. **The existing solid wall between South Coast Highway and the residence, which may be partially or entirely within the public right-of-way, shall be removed or reduced in height to the lowest height permitted by Caltrans and/or the California Building Code for the purpose of public safety between a roadway/pedestrian accessway and the subject property.**

Should Caltrans reject the applicant's proposal to construct a public sidewalk[no intervening changes]....

3. Add the following findings at the end of the first partial paragraph on page 25 (Section IX.B Geologic Hazards):

...corresponds to the definition of bluff edge contained in the Commission's Code of Regulations (Section 13577), and is used statewide by the Commission in its decisions on LCP and permit matters.

That definition has also been applied by the Commission in the uncertified Irvine Cove and Three Arch Bay areas of Laguna Beach to require 25-foot bluff edge setbacks at multiple residential properties [CDP No. 5-99-206, as amended (Loder), CDP No. 5-14-1667 (Bell), CDP No. 5-14-1311 (St. John), CDP No. 5-02-357 (Saczkalski), CDP No. 5-02-192 (Freedman and Jeanette), et al].

4. Add the following findings at the end of the first full paragraph on page 27 (Section IX.B Geologic Hazards):

...so the stairway will have to be identified for removal on the applicant's final plans for redevelopment of the site.

The applicant argues that Zoning Code section 25.56.012 does not apply to the applicant's project because it relates to nonconforming uses rather than nonconforming structures or buildings. The applicant's interpretation, however, disregards the second sentence of that Zoning Code provision that requires the removal of nonconforming uses prior to construction of new structures. The second sentence provides: "Once the nonconforming use or building is entirely removed from the lot or the building is made to comply in use to the regulations of the particular district wherein located then the lot may be used for any purpose conforming with this title." The Zoning Code further defines "Building" as "any structure built for the support...of persons" and "structure" is defined as "anything constructed or built,... any piece of work artificially built up or composed of parts joined together in some defined manner...." The definition of "structure" excludes outdoor at-grade development that does not contain a structural foundation or vertical structures; both the casita and the stairway do not fall under this exclusion of the definition of "structure" since they are vertical structures. When reading these relevant code provisions, both the casita and the stairway are nonconforming buildings and are well within the mandates for removal pursuant to section 25.56.012 of the Zoning Code, which is part of the certified LCP. Additionally, Zoning Code section 25.56.004 defining "nonconforming use" includes uses of buildings or of land. The two Zoning Code provisions, section 25.56.012 and section 25.56.004, read in conjunction indicate that "nonconforming use" is a more general term than "nonconforming structure" and that nonconforming structures can also qualify as nonconforming uses.

5. Add the following findings at the end of the first partial sentence on page 28 (Section IX.B Geologic Hazards):

....applicant argues that different definitions of bluff edge are found in the zoning code and in the old (replaced) Land Use Element, but in cases of inconsistency between the Land Use Plan and the Implementation Plan portions of an LCP, the Land Use Plan prevails because it is the standard of review.

The applicant argues that because his initial contact with City staff occurred before the update to the Land Use Element was effectively certified, the certified Land Use Plan is not the correct standard of review for a coastal development permit application or an appeal to the Coastal Commission (see applicant's letter in Exhibit 9). The Development Review Application contains a box titled "Development Category," which lists the types of permits required for a given development. None of the boxes for coastal development permit were checked. Additionally, the application contains a number of provisions under the title "Owner's Certificate," which the applicant signed on March 8, 2012. Provision 1 reads: "I understand there are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision-making body about this application." Because the application was a preliminary application, not an application for a local coastal development permit, the Commission finds that the applicant did not have rational basis to expect written or verbal statements made by City of Laguna Beach staff at a preliminary meeting to be the final word on the standard of review for a local coastal development permit application or an appeal to the Coastal Commission.

The Commission effectively certified the City's Land Use Plan update on May 9, 2012. The City of Laguna Beach Design Review Board held public hearings on the proposed development on February 7, 2013 and April 11, 2013, approving local Coastal Development Permit No. 13-0038 and adopting Resolution CDP 13.07 in support of its action at the latter hearing. Finally, at a public hearing on June 18, 2013, the Laguna Beach City Council upheld the Design Review Board's action. The City's actions occurred approximately one year after the effective certification of the Land Use Plan update. Page 3 of the staff report for the second Design Review Board hearing, dated April 4, 2013, makes reference to "the City's newly adopted Land Use Element" with respect to Action 7.3.8 regulating nonconforming structures. The City made clear that the Land Use Plan was the correct standard of review and directly referenced it at one of its hearings. That City action would take precedence over any written or verbal statements made by City staff at a preliminary site meeting more than one year prior.

There are limited statutory exceptions that allow for a development application to be processed in a manner that guarantees review of the application under the applicable regulations in effect at the time of application submittal, most of which occur under the Subdivision Map Act

or provisions regulating Development Agreements. On occasion, local governments adopt ordinances or regulations that require particular land use permits to be approved or denied on the basis of the law applicable at the time of application submittal. (See, e.g. Hock Inv. Co. v. City & County of San Francisco (1989) 215 Cal.App.3d 438, 447.) None of the exceptions apply to the present case and as such, the applicable Local Coastal Program provisions are those in place at the time of local government action on the subject CDP application. In this case, those provisions include the updated Land Use Plan and the policies related to determining the bluff edge. Therefore, the Commission finds that the applicant had no basis to expect the City to apply old sections of its Land Use Plan and that the correct standard of review was the applicable Local Coastal Program provisions at the time of the City's action. Likewise, the correct standard of review at the Commission's substantial issue and de novo hearings is the certified Land Use Plan and the public access and recreation policies of Chapter 3 of the Coastal Act.

The Commission is not estopped from applying the LUP definition of the "bluff edge." Generally, four elements must be present in order to apply the doctrine of equitable estoppel: (1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury. (*Feduniak v. California Coastal Commission* (2007) 148 Cal.App.4th 1346, 1359.) Here, the applicant claims that he relied on the City's assurance that it would use the bluff edge definition in the zoning code in its processing of the applicant's CDP application. If there is any estoppel in this case, the applicant would have had a very tenuous case against the City had the City acted contrary to City staff's assurance that it would use the bluff edge definition in the zoning code. The Commission, however, never made any similar assurances and is not bound, in this de novo review, by City staff's statements. Therefore, the Commission is not barred by equitable estoppel in its application of the certified bluff edge definition in the LUP.

The applicant argues that since the Implementation Plan has not been changed consistent with the LUP definition of bluff edge, then it is incorrect for the Commission to conclude that the proposed project is inconsistent with the LCP. In other words, the applicant maintains that the project cannot be inconsistent with the LCP if it is consistent with the conflicting IP provision that defines "bluff edge." The applicant's argument is diametrically opposed to well-established precedent about how land use plan provisions control when in conflict with implementation plan provisions. Coastal Act section 30513 provides that the LUP is the standard of review for evaluating implementation plan provisions. In this instance, the City amended the LUP of its certified LCP without also simultaneously amending the implementation plan, i.e., the zoning code. The applicant reverses this

hierarchy and fails to cite any legal authority in support of his argument. In addition, in the context of the City's certified Land Use Plan, which is contained in the General Plan's Land Use Element (see page 1-4 of the Land Use Element), the Land Use Element Introduction section provides, on page 1-2, that the "General Plan addresses a broad range of issues and is the controlling document in land use regulation." Further, the Land Use Element provides that the Zoning Ordinance "must be consistent with the General Plan." (Land Use Element, at p. 1-2.) Finally, the Zoning Code itself requires a finding that the CDP application "is in conformity with all the applicable provisions of the general plan, including the local coastal program and any applicable specific plan." (Zoning Code § 25.07.012(G)(1).)

Courts have also upheld the relationship between the broader policies in the General Plan and those in implementing provisions, finding that the broader policies control if there is conflict between the two. (See, e.g. *Ideal Boat & Camper Storage et al. v. County of Alameda*(2012) 208 Cal.App.4th 301, 314.("Ideal") In *Ideal*, the court affirmed the trial court's ruling that Alameda County's Board of Supervisors did not abuse its discretion in denying the Plaintiff's proposed expansion of a boat and camper storage facility in an area no longer designated for that use under the General Plan. The Plaintiff argued that the zoning provisions allowed for the proposed expansion and as such, the County should have granted the permit on those grounds. The Court disagreed, finding that if an applicant proposes a change to the site that requires a discretionary action that is consistent with the zoning, but inconsistent with a new general plan provision, the permitting agency must make a finding that the use is, nonetheless, consistent with the general plan. (Ibid.) Here, even though the City has failed to update the zoning ordinance to make it consistent the LUP definition of "bluff edge," the City should have ensured that the proposal that was consistent with the new general plan (LUP) provision defining bluff edge notwithstanding the proposal's consistency with the zoning ordinance's definition of "bluff edge" for purposes of establishing the appropriate geologic setback.

The applicant asserts that if the LUE bluff edge definition is applied here, the proposed two-story house would conflict with the visual resource policies of the LCP because it would push the house landward, up the slope and interfere with existing views. First, the conflict resolution provision in the Coastal Act only applies to policy conflicts among Coastal Act provisions, not those in LCPs. Second, even if there was a conflict resolution policy in the LCP, there is no conflict between the hazard policy regarding bluff edge setbacks and applicable visual resource policies. Policy conflicts only occur when a project cannot comply with two mandatory policies, requiring an analysis of how each policy is protective of coastal resources and choosing the application of the policy that is most protective. Here, the hazard policy is mandatory and requires a minimum setback from the bluff edge. The visual resource policy language, on the other hand, does not contain non-discretionary mandatory requirements. The visual resource policies, in

contrast, give the Commission much more discretionary leeway to determine in any given instance whether a project adequately protects public views. Thus, the applicant is incorrect in his assertion that conflict resolution should be employed to evaluate the project's consistency with the visual resource and geologic hazards policies because there is no conflict between the application of two mandatory provisions.

The applicant also claims that if the Commission imposes the setback from the bluff edge as currently defined in the controlling LUP provision, then that would only allow the applicant a 1,200 square foot building footprint and a shorter structure, which would constitute a regulatory taking of the applicant's property. The applicant relies on the "distinct investment backed expectation" prong of the Penn Central test to establish a taking. The applicant's taking argument, however, is cited without any factual support. In Penn Central Transportation Co. v. City of New York, the U.S. Supreme Court established a three-part test to determine whether or not a government action constitutes a regulatory taking: 1) the economic impact of the regulation; 2) the extent to which the regulation has interfered with distinct investment-backed expectations; and 3) the character of the governmental action. (Penn Central Transportation Co. v. City of New York (1978) 438 U.S. 104, 124.) The Penn Central test is an ad hoc, intensely factual inquiry into a property owner's expectations in using his/her property and the economic impact on the property owner of restricting a use that is not entirely in keeping with those expectations. Given the factual nature of a Penn Central regulatory takings claim, a claimant must, at a minimum support a claim with facts. The applicant has not substantiated his claim that building his house consistent with staff's recommendation would constitute a Penn Central taking of his property. Therefore, the Commission's action in approving the project consistent with staff's recommendation would not constitute a taking of the applicant's property.

6. Add the following findings at the end of the first partial paragraph on page 29 (Section IX.C Visual Resources):

...In order to reduce visual impacts, Special Condition 1 does not permit structures to cantilever into the setback areas.

The residence which existed on the site until it was demolished in 2014 was two stories high. Additionally there is an approximately five foot high solid wall between South Coast Highway and the site. As such, historically there were no public ocean views directly through the site and there are currently no public ocean views directly through the site. In order to create and p[reserve public view corridors from South Coast Highway through the site towards the ocean, Special Condition 1 further requires the applicant to minimize the height of new landscaping in the side setback areas to no higher

than six feet above natural grade. Because there is an approximately 10 foot vertical drop from the area where the sidewalk is proposed to the subject property and because the site slopes downward from South Coast Highway towards the ocean, vegetation up to six feet high will not obstruct public views from the roadway or the sidewalk. In order to encourage views from the sidewalk and the roadway, landscaping in the front setback area adjacent to the public right-of-way shall not exceed the height of the highest vertical wall or safety barrier in the immediate area.

In order to improve visual resources which are currently impaired by the wall between the scenic highway and the coast, Special Condition 5 requires the applicant to remove the solid wall along South Coast Highway or reduce it to the minimum height consistent with public safety requirements. As conditioned, the principal structure may be up to two stories high, partially blocking views of the sea from portions of South Coast Highway, but as conditioned, new public view corridors will be established through the side setback areas of the site.

III. Ex Parte Communication

Chair Kinsey and Commissioner Cox reported ex parte communications with the applicant's representatives. The disclosure forms are included at the end of this addendum.

March 5, 2015

Th12.a

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VIA ELECTRONIC MAIL

Steve Kinsey, Chair
and Honorable Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 91405

Re: Appeal No. A-5-LGB-13-0223 (Meehan, Laguna Beach)
Agenda Item: March 12, 2014, #12.a

Dear Chair Kinsey and Commissioners:

This firm, along with David Neish, Sr., and David Neish, Jr., represents the Applicant, John Meehan, who proposes a new 4,821 square foot oceanfront home at 31381 South Coast Highway in the City of Laguna Beach.

The Staff Report raises essentially two issues: (1) Where is the correct location of the “bluff edge” for the purpose of siting the proposed residence, and (2) are the existing historic structures on the property (the casita, flagstone paved pathway, and stairway to the beach) entitled to protection under the historic preservation policies of the City’s certified LCP?

As to the residence, Zoning Code section 25.50.004(B)(4)(a), in the City’s certified Implementation Plan, currently defines the “bluff edge” as the “landform having a slope of forty-five degrees or greater from horizontal whose top is ten or more feet above mean sea level” -- here, the vertical seacliff. The Applicant’s proposed residence is setback 72 to 80 feet from the bluff edge and therefore complies with the LCP. Further, the City and the Applicant have reasonably relied on that “bluff edge” definition, as previously certified by the Commission. Lastly, the Staff Report recommends a “bluff edge” and 25-foot setback that would force an irrational building footprint too small for a reasonable residence, causing a “taking” or requiring instead a second story that would result in obstructing the view of the ocean by motorists and pedestrians from Coast Highway. Simple balancing of conflicting LUE policies (oceanfront bluff protection versus ocean view protection)

Steve Kinsey, Chair
March 5, 2015
Page 2

weighs in favor of protecting ocean views over the residence and further demonstrates that the residence, as proposed, has been appropriately sited.

Under the several historic preservation policies and implementation provisions of the City's LCP, the existing historic casita, flagstone pathway, and stairway are entitled to continued protection because, as two expert historians have determined, they represent "historic" resources in the City of Laguna Beach. Further, balancing conflicting LUE policies (oceanfront bluff protection versus preservation of historic resources) strongly favors the preservation of these historic structures.

The Staff Report, unfortunately, provides the Commission with "half a loaf." The critical LCP provision regarding the definition of "bluff edge" is not cited or discussed. Certain LUP policies are provided while others, bearing directly on the siting of the home and retention of the historic structures, are simply omitted. And key facts and background documents also have not been provided or discussed.

There are several ways, discussed below, that the Commission can find the Applicant's project, as proposed, to be consistent with the certified LCP. The Applicant willing accepts the majority of Staff's nine recommended conditions, but specifically objects to Special Conditions 1.A-C and 6 and respectfully requests that the Commission delete those conditions.

I. What the Staff Report Omits

The Applicant's property is unique in nature, location, and historic context within the City of Laguna Beach. The Staff Report unfortunately omits or inaccurately states several key facts, omits materials that would be helpful to the Commission's understanding of the site, and provides an incomplete discussion of the applicable LCP provisions and why this Project is LCP-compliant. Before addressing the issues, we thought it helpful to point out the following:

- The Applicant proposes a residence on a lot that abuts a massive 78-unit condominium project, Laguna Royale. Laguna Royale rises to a height well above Coast Highway, blocks all ocean views along an extended stretch of Coast Highway, and cascades down all the way to and on the beach below. (Exhibits 1-2.)

Steve Kinsey, Chair
March 5, 2015
Page 3

- The Applicant's residence, as proposed, has been designed to preserve ocean views from Coast Highway, consistent with the certified LCP. (Exhibits 3-4 7.) If the Applicant, however, were forced to set back the residence as Staff recommends, the resulting footprint would be so limited that the residence would need to be two stories in height to provide a reasonable economic use and meet reasonable investment-backed expectations. (Exhibits 5-7.) The result would be ocean view blockage from Coast Highway, and it would completely negate the view benefit associated with the 3-foot wide public sidewalk the Applicant has agreed to provide. (Exhibits 6-7.)
- The proposed residence is setback between 72 and 80 feet from the "bluff edge," as defined in certified Zoning Code Section 25.50.004(B)(4)(a), which defines the "bluff edge" as "[a]n oceanfront landform having a slope of forty-five degrees or greater from horizontal whose top is ten or more feet above mean sea level." (Exhibit 8.) This establishes the bluff edge at the vertical seacliff and a residential setback which is well beyond any setback that the Commission has required. (Exhibits 4, 10.)
- While the application was pending before the City, the City's Director of Community Development and the Principal Planner met onsite to identify appropriate setbacks and the bluff edge. Although the LUE, as a first step, had adopted a revised definition of "bluff edge," they determined that certified Zoning Code Section 25.50.004(B)(4)(a) remains applicable and controlling because that provision has not yet been changed. The City, in approving the Project, likewise made the same determination. (Exhibits 9-10; Staff Report, Exh. 5, p. 2.)
- The Staff's bluff edge and setback is setback even further, 154 feet, from the seaward extent of Laguna Royale. (Exhibit 11.)
- The proposed residence is additionally landward of each of the three different stringlines that could be applied to this property. (Exhibit 12.)
- Multiple geotechnical experts have prepared detailed reports which conclude that the shoreline and bluff fronting the site will not be significantly impacted by sea level rise or wave run-up, will be stable for at least 100 years, and a

Steve Kinsey, Chair
March 5, 2015
Page 4

shoreline protective device will not be required to protect this residence.¹
(Exhibit 13.) The most recent geotechnical report by TerraCosta Consulting Group (10/22/14) concluded that this property:

“ . . . is one of the most stable coastal bluffs in Southern California, with the San Onofre Breccia along this section of Laguna Beach very strong and erosion-resistant, with bedding dipping into the slope to make the slope very stable. Proposed improvements are currently located a minimum of 70 feet back from the face of the sea cliff, resulting in a very conservative setback providing several, if not many, centuries of stable coastal bluff seaward of the proposed improvements.”² (Exhibit 15, Page 8; *see also* Exhibit 14.)

¹ The Staff Report asserts that “bluff retreat may accelerate if the effects of sea level rise are worse than the scenarios presented in the applicant’s hazards analysis.” (Staff Report, p. 23.) The Applicant’s geotechnical expert, GeoSoils, Inc., however, specifically concluded that this bluff will not be not be significantly impacted by sea level rise. (Exhibit 13.) Importantly, there is no evidence to the contrary. Further, the Staff Report states that “the proposed house would require grading of the bluff face, deepened foundations, and potentially substantial foundation elements that could be exposed by erosion over the life of the development.” (Staff Report, p. 25.) There is no evidence whatsoever to support that statement because as TerraCosta explained, the slope on this property is comprised of San Onofre Breccia that is “grossly stable,” “very strong and erosion-resistant,” and the house that is set back at least 70 [actually 72-80] feet from the vertical seacliff. (Exhibits 4, 15.)

² The Staff Report states that Dr. Johnsson disagrees with TerraCosta’s analysis that the overhang at the base of the bluff is unlikely to fail for 70-80 years, suggesting that it could fail at any time, which would immediately threaten the casita (casita) and the beach access stairway. (Staff Report, pp. 21-22.) At Staff’s Request, the TerraCosta geotechnical experts analyzed the stability of the 9.5-foot overhang in detail in reaching its conclusion, and, again, there is no evidence to the contrary. Moreover, as noted, the Commission just approved a major tunnel project by the South Coast Water District under this very portion of the property. (Exhibits 16-17.) It must be assumed that the Commission would never have approved the tunnel project if it did not believe this bluff, consisting of San Onofre Breccia, was exceedingly strong and erosion-resistant, as Terra Costa explains. Further, as a practical matter, if there was a failure and it threatened the casita and stairway, that certainly would be a more appropriate trigger for removal of existing historic structures that have survived for over 80 years than the current recommendation in the Staff Report. But, it is more likely that

Steve Kinsey, Chair
March 5, 2015
Page 5

- Two expert historians – GPA (6/17/14, 2014) and Ostashay & Associates (8/3/11) -- have determined that the casita, flagstone steps, and stairway to the beach qualify as “historic” structures which are entitled to protection under the LCP. Despite the importance of the issue, only one of the reports has been provided to the Commission. But, the opponent’s inexpert critique was attached to the Staff Report and relied upon. The expert reports are attached. (Exhibits 18-19.)
- The casita and stairway were constructed contemporaneously with the construction of the original Skidmore residence. The casita’s materials – flooring and rock – are the same materials used in the former residence. (Exhibits 20-21.) And, a newspaper article from the Santa Ana Register, dated May 31, 1930, noted: “Mrs. Mary S. Watkins, of Santa Ana, has purchased the Guy Skidmore residence in Coast Royal and an adjoining lot reaching to tide water. *Steps have been built to the beach.*” (Exhibit 22; italics added.)
- Just four months ago, at the Commission’s December 2014 meeting, the Commission approved the Tunnel Stabilization and Sewer Pipeline Replacement Project proposed by the South Coast Water District (Application No. 5-14-1291). That project will involve replacing the District’s tunnel which currently exists directly under the portion of this property between the vertical seacliff and the existing casita. (Exhibits 16-17.)
- The Staff Report neither cites nor discusses certified Zoning Code Section 25.50.004(B)(4), which, as noted, defines the “bluff edge.” (Exhibit 8.) As discussed below, this Section is the governing provision in the certified LCP concerning the current and applicable definition of “bluff edge.”
- Lastly, the Staff Report relies on certain policies of the City’s Land Use Element (“LUE”), which is part of the certified Land Use Plan, but does not harmonize or reconcile those policies with other conflicting LUP policies. Balancing LUE policies regarding oceanfront bluff setbacks versus policies requiring protection of ocean views from Coast Highway leads to the

neither would be materially affected, since the stairway is not on the bluff and the casita is approximately 24 feet from the vertical seacliff. (Exhibit 17.)

Steve Kinsey, Chair
March 5, 2015
Page 6

conclusion that the residence has been sited appropriately and will preserve views of the ocean for motorists on Coast Highway and pedestrians who use the 3-foot wide sidewalk the Applicant has agreed to provide. Balancing LUE policies regarding oceanfront bluff setbacks versus policies requiring preservation of historic structures leads to the conclusion that the existing historic casita, pathway, and stairway structures are more appropriately maintained at this time.

2. **Issues Relating to the Siting of the Residence**

A. **The Proposed Residence is Sited Well Back from the “Bluff Edge.”**

As to the proposed residence, the first issue is whether the proposed residence is appropriately sited in relation to the “bluff edge” and the 25 foot blufftop setback. On this issue, the Staff Report is incomplete and provides a fundamentally inaccurate analysis.

The Staff Report cites a policy in the City’s LUE, Policy 7.3.5, which the Commission certified while the Applicant’s application was in the “pipeline” before the City. That policy prohibits development on oceanfront bluff faces and relies on a new definition of “bluff edge” in the LUE taken from the Commission’s regulations. The Staff Report, however, fails to explain that the City’s Zoning Code, which is part of the certified implementation portion of the LCP, has not changed at all, and it in fact defines “bluff edge” in a manner which makes abundantly clear that the Applicant’s proposed residence is sited well back from the bluff edge on this property – in fact, 72 to 80 feet. The residence, as proposed, is consistent with the certified LCP.

An LCP, of course, consists of two parts – a land use plan (“LUP”), which functions as the general plan for the property in the coastal zone, and the local implementation plan (“IP”), which includes the zoning, zoning maps, and other implementing actions for the coastal zone. (Pub. Res. Code, §§ 30108.5, 30108.6.) As is often the case, the LUP plan is reviewed and certified first. The Implementation Plan follows. Where the LUP is not yet implemented, the Commission, in its decisions, has consistently treated the LUP as “guidance” but non-binding. The result changes after the total LCP has been fully certified.

Steve Kinsey, Chair
March 5, 2015
Page 7

In this case, the Commission took the first step by amending the certified Land Use Element (“LUE”), which is a part of the certified City’s certified LUP. The Commission added policies dealing with blufftop development and redefined “bluff edge.” The Commission, however, has not yet made a corresponding change to the directly applicable provision in the City’s certified Implementation Plan (*i.e.*, the zoning). Accordingly, the two-step process for completing and certifying a policy redefining the “bluff edge” has not yet occurred. For that reason, the Staff Report fundamentally errs in its statement that the proposed residence is not consistent with the certified LCP.

The Zoning Code represents the core of the implementing measures in the City’s certified LCP. While the Staff Report cites other provisions of the Zoning Code, it fails to cite or discuss the critical zoning provision that deals specifically with the location of the “bluff edge.” Zoning Code section 25.50.004(B)(4)(a) defines an “oceanfront bluff” as:

“[a]n oceanfront landform having a slope of forty-five degrees or greater from horizontal whose top is ten or more feet above mean sea level.” (Exhibit 8.)

Zoning Code Section 25.50.004(B)(4)(a) further addresses building setbacks, and states that no new building, additions to existing building, or structures or improvements may encroach beyond the applicable building stringline or “closer than twenty-five feet to the top of an oceanfront bluff.” The Section provides that where an oceanfront bluff possesses an irregular or multiple slope condition, “the setback will be taken from the most inland forty-five degree or greater slope.”

Consistent with LCP Section 25.50.004(B)(4)(a), the Applicant’s geotechnical engineer delineated the bluff edge near the top of the vertical sea cliff, seaward of the historic casita and between 72 and 80 feet seaward of the proposed residence, as approved by the City. That is the conclusion that should prevail here.

The Staff Report explains that the City submitted a major update to its LUE. As noted, the Applicant’s application was pending before the City when the Commission finally certified the update on May 9, 2012. That included numerous modifications to the LUE that did not originate from the City but which the City subsequently agreed to accept. One change was to define “Oceanfront Bluff Edge or Coastal Bluff Edge” as:

Steve Kinsey, Chair
March 5, 2015
Page 8

“The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff, the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step line feature at the top of the bluff, the landward edge of the topmost riser shall be considered the bluff edge. Bluff edges typically retreat over time as a result of the erosional processes, landslides, development of gullies, or by grading (cut). In areas where fill has been placed near or over the bluff edge, the original bluff edge, even if buried beneath fill, shall be taken to be the bluff.”

The consequence of the LUE definition, if applied here, would be to shove the bluff edge way back on this property which, together with the 25 foot setback, would leave a far smaller area (approximately 1200 square feet) at the upper portion of the property available for a residence. (See Exhibits 5, 6, 10, 11.) But, importantly, no corresponding change to the definition of “bluff edge” has yet been made to the Implementation Plan portion of the LCP. Consequently, the LUE change is not, as Staff states, the be-all to end-all. At this point, it is not binding unless and until Zoning Code Section 25.50.004(B)(4)(a) is similarly changed. It is for that reason that in approving the Applicant’s proposed residence, the City’s then Planning Director, instrumental in completing the major update to the LUP, advised the City that the process is not done, the IP still controls, and the residence, as proposed, conforms with the “bluff edge” in the certified LCP. As to the “bluff edge,” he advised:

“It has been determined (through legal advice) there will be no change to the present method of the 45 degree provisions of the municipal code section 25.50.004 to determine the bluff top. The Director of Community Development reviewed the property survey provided by the applicant and determined that the 25 foot bluff top setback will be measured from the top of the most ocean ward vertical cliff edge. (Exhibit 9.)

Thus, until the applicable Zoning Code provisions are modified to conform to the LUP definition, the LUE definition is not binding and Section 25.50.004(B)(4)(a) prevails. If it were otherwise, once the Commission amends a land use plan, there

Steve Kinsey, Chair
March 5, 2015
Page 9

would never be any reason to complete the LCP process by also amending the zoning portion.

The Staff Report is completely dismissive of the Zoning Code provision. It states only: “The applicant argues that different definitions of bluff edge are found in the zoning code and in the old (replaced) Land Use Element, but in cases of inconsistency between the Land Use Plan and the Implementation Plan portions of the LCP, the Land Use Plan prevails.” (Staff Report, pp. 27-28.) Again, there is no citation for the Commission to the Zoning Code provision or discussion of what it states, and Staff’s assertion that the LUE somehow prevails is flatly wrong. That does not follow from the City of Laguna Beach LCP. In some instances, an LCP will state that in the event of a conflict between the policies of the plan and implementation provisions, the policies of the plan will control. For example, the Malibu LUP, which the Commission drafted, states: “Where conflicts occur between the policies contained in the Land Use Plan and those contained in any element of the City’s General Plan, zoning or any other ordinance, the policies of the Land Use Plan shall take precedence.” (City of Malibu certified LCP Land Use Plan, p. 9.) By contrast, there is nothing in the City of Laguna Beach LCP which dictates that the LUE (*ie.*, the LUP) takes precedence over the certified Zoning Code, and in this case, where the Commission took but the first step in certifying a new definition of “bluff edge” in the LUE/LUP, the current definition in the Zoning Code remains dispositive unless and until it is changed.

For this reason, the proposed residence is appropriately sited, consistent with the certified LCP.

B. In the Limited and Unusual Circumstances Presented, the Commission is Also Estopped to Apply the LUE Definition of “Bluff Edge.”

Ignoring certified Zoning Code Section 25.50.004(B)(4), the Staff Report instead addresses the Applicant’s argument that the change in the “bluff edge” definition should not be applied to him because he was in the “pipeline” before the City when the LUE was finally certified. (Staff Report, pp. 8-9.) In essence, the Staff Report contends the LUE was certified and the policies were in place *before* the City approved the Applicant’s project. The Staff Report, however, ignores that the certified Zoning Code remained unchanged and that the City made that clear in its review and approval of the project.

Steve Kinsey, Chair
March 5, 2015
Page 10

The Staff Report does cite to the applicable case, *Hock Inv. Co. v. City & County of San Francisco* (1989) 215 Cal.App.3d 438, but it reaches the wrong conclusion. In *Hock*, an apartment owner challenged a city condominium conversion ordinance and denial of the owner's application to convert. When the owner submitted the conversion application, a public works department order provided that all requests to convert would be subject to the law applicable at the time of submission. After the owner submitted the application, the city passed the condominium conversion ordinance establishing a moratorium on conversions. The Court of Appeal held that the city had given the owner an express promise that its application would be evaluated under the ordinance in effect when the application was submitted. If the owner reasonably relied to its detriment on that promise, the city would be estopped from applying the new ordinance to it. (*Id.* at 448-449.)

Here, the Staff Report focuses on the fact that the Commission approved the LUE with suggested modifications in December 2011, the City accepted the suggested modifications in February 2012, and the Commission finally certified the LUE in May 2012. The Applicant submitted his Development Review Application in March 2012 and the City's Design Review Board later approved it in April 2013. The fundamental flaw in the Staff Report, as discussed in the preceding Section, is that the Commission certified *only* the LUE but has not yet taken the further step of changing the definition of "bluff edge" in Zoning Code Section 25.50.004(B)(4). Thus, the City and the Applicant both concluded that the Zoning Code definition yet prevails until changed. The Planning Director's explanation on this issue is quoted above (at page 8; see also Exhibit 9). The Staff Report states that the City Design Review Board made clear that the LUE was the correct standard of review. (Staff Report, p. 9.) The Staff Report fails, however, to explain that the Staff Report on which the Design Review Board relied upon in approving the project also explained:

"In this instance, the blufftop setback is more restrictive than the building stringline. Pursuant to LBMC 25.50.004(4)(a) an 'oceanfront bluff' is an oceanfront landform having a slope of forty-five degrees or greater from horizontal whose top is ten or more feet above mean sea level. The vertical face steeper than 45 degrees has been identified as the bluff top." (Staff Report, Exh. 5, p. 2.)

Steve Kinsey, Chair
March 5, 2015
Page 11

The Staff Report also states that the “Owner’s Certificate” on the application states: “I understand that there are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision-making body about this application.” (Staff Report, p. 8.) True. But, the Applicant understood then, and now, that the Zoning Code provision has not changed.

In short, both the City here and the Applicant reasonably relied on the definition of “bluff edge” in the unchanged Zoning Code provision which this Commission certified. Certification of a change in the definition has not been completed. As in the *Hock* case, the Applicant submitted his application prior to any change in certified Section 25.50.004(B)(4)(a), and in reliance on that provision, he could reasonably expect that his application would be evaluated in accordance with the definition which remains in effect. Under this very limited and unusual circumstance, the Commission is estopped from applying the LUE definition.

C. Balancing Conflicting LUE Policies -- Oceanfront Bluff Setback Policies Versus Ocean View Protection Policies.

Still further, even if the certified Zoning Code Section 25. 50.004(B)(4)(a) provision were somehow treated as not existent and ignored, the same conclusion regarding siting of the residence, as proposed, follows when *all* of the applicable LUE policies are considered.

The LUE’s oceanfront bluff setback policies, which rely on the new LUE definition of “bluff edge,” conflict with other competing LUE policies which require the protection of public views of the ocean from Coast Highway. The Staff Report neither mentions these view protection policies nor attempts to reconcile them with the more extreme setback and resulting small building footprint that would result from the staff recommendation. Those policies are as follows:

- Policy 2.9: “Require the use of appropriate landscaping, special architectural treatments, and/or siting considerations *to protect public views for project visible from major highways and arterial streets.*”
- Policy 2.10: “*Maximize the preservation of coastal . . . views . . . from existing properties and minimize blockage of existing public . . . views.*”

Steve Kinsey, Chair
March 5, 2015
Page 12

- Policy 3.10: “*Require the use of appropriate landscaping, special architectural treatments, and/or siting considerations to protect public views for project visible from major highways and arterial streets. Best efforts should be made to site new development in locations that minimize adverse impacts on views from public locations (e.g., roads, bluff-top trails, visitor-serving facilities, etc.)* (Italics added.)

The Applicant’s proposed residence has been designed to comply with the above public view protection policies of the LCP. Ocean views will be preserved over the residence. (See Exhibits 4, 7.) This contrasts with Laguna Royale, immediately downcoast, which as a monolithic and taller structure eliminates any ocean view of this part of Laguna’s coast for an extended distance.

If Staff’s recommended setback were to apply, the Applicant would be left with a far smaller building footprint of approximately 1200 square feet. A single-story structure would not result in a reasonable use of this property, would deprive the Applicant of his reasonable expectation of developing a house still setback well from the bluff edge, and, consequently, would constitute a taking. To avoid that, Staff’s setback line would force a two-story structure. Importantly, however, at a height of 23 feet (or even lower), the consequence of Staff’s setback would be to block the view of the ocean from Coast Highway, contrary to the other view protection policies. (Exhibit 7.)

The Coastal Act includes a statutory provision for resolving conflicting policies in the Coastal Act, and provides that they “be resolved in a manner which on balance is the most protective of significant coastal resources.” (Pub. Res. Code, § 30007.5.) The City’s certified LCP, however, has no specific conflict resolution provision, but, as noted below, the Staff Report itself has applied a similar balancing equation in dealing with the historic resource issue. (See Staff Report, p. 25.) Another common law principle of statutory construction applicable here is that in cases “involving an apparent conflict between two statutes, the principle of paramount importance is that of harmonious construction, by which we must attempt to give effect to both statutes if possible” (*Strother v. California Coastal Com.* (2009) 173 Cal.App.4th 873, 880; *Conway v. City of Imperial Beach* (1997) 52 Cal.App.4th 78, 84, 60 Cal.Rptr.2d 402.)

Steve Kinsey, Chair
March 5, 2015
Page 13

In this case, substantial expert evidence demonstrates that the bluff is grossly stable. There is no contrary evidence. The proposed residence will, in any event, be setback 72-80 feet from the vertical seacliff, approximately 150 feet landward of the seawardmost extent of the monolithic condominium project immediately downcoast, and inland of any of the three stringlines that can be drawn from structures upcoast and downcoast. As proposed, the residence itself presents no adverse visual impacts. The residence has been sited in a way that permits a reasonable residential use of the property. Importantly, however, the residence, as designed, allows for public views of the ocean from both Coast Highway and the public sidewalk the Applicant has agreed to provide.

Weighing the competing policies, the Applicant submits that it makes far more sense to permit the residential structure, as proposed, in order to preserve ocean views than to force a result that would eliminate them.

III. Issues Relating to Retention of the Historic Casita (Cabana) and Stairway

A. Approving the Residence Does Not Require Removal of Historic Structures.

The Staff Report states that the casita and stairway are nonconforming structures, but then, as reflected in Special Conditions 1.C and 6, requires their removal prior to construction of the residence. (Staff Report, p. 23.) This is premised on an erroneous reading of LUE policies and provisions of the certified Implementation Plan.

The Staff Report states that both structures are nonconforming because “they encroach into the 20-foot rear yard setback specified in zoning code section 25.10.008.” (Staff Report, p. 23.) Zoning Code section 25.10.008 states only that in the R1 Zone, there must be a rear yard at least 20 feet deep. It says nothing about what may be maintained in the rear yard. It is not a setback provision. Here, the rear yard well exceeds 20 feet.

Next, the Staff Report states that the applicant has not provided evidence that the casita and stairway, existing now for over 80 years, lawfully existed on the lot at the time the first zoning or districting regulations became effective. (*Id.*) The City concluded that “the cabana and beach stairs are considered legal nonconforming

Steve Kinsey, Chair
March 5, 2015
Page 14

structures since there is evidence that they existed before South Laguna was annexed into the City of Laguna Beach” (City Staff Report to Design Review Board, 2/7/13, p. 5 [Staff Report, Exh. 5, p. 5], and “in 1989, when South Laguna was annexed into the City of Laguna Beach, all existing development (including the beach access stairs and cabana) was grandfathered and considered to be legal nonconforming.” (*Id.*, p. 7.) Further, the casita and stairway are far from obsolete, as the photographs and other evidence in the record demonstrate. Both are in very good condition. (GeoSoils, Inc., 5/18/12: “. . . the existing stairway is in good condition”; Lawson-Burke Structural Engineers, LLC, 6/24/14: “The gazebo is a well-constructed building that shows no evidence of deterioration or failure.” And, the stairway system “is structurally sound by the standards of the California Historic Building Code.”)

The Staff Report further cites Zoning Code section 25.56.012, which states, in relevant part:

“While a nonconforming use exists on any lot, no new building shall be erected or placed thereon even though the new building and its use would otherwise conform to the provisions of this title.”

Staff confuses a “nonconforming use” with a “nonconforming building,” and states this provision requires removal of the legal nonconforming structures prior to residential construction. The casita and stairway are not nonconforming “uses.” Zoning Code section 25.56.004 defines “Nonconforming use” as a use of a building or land which use was carried on the effective date of the ordinance codified herein and which does not conform to the uses permitted in the zone in which it is located. The use here is not nonconforming; the casita and stairway are ancillary residential uses. Nonconforming structures and nonconforming uses are two entirely different concepts.

Lastly, the Staff Report states as a reason for requiring removal of the casita and stairway that they are potentially sited in an unstable portion of the bluff face (near the overhang). (Staff Report, p. 26.) As noted previously (fn. 1), this bluff face is not unstable at all, and there is no evidence whatsoever to suggest to the contrary. It bears emphasis that the Commission itself, on a positive recommendation, approved the South Coast Water District’s tunnel stabilization project under this area of the bluff. (Exhibits 18-19.) All of the geologic reports prepared explain that the bluff is comprised of San Onofre Breccia, which makes it extremely erosion-resistant.

Steve Kinsey, Chair
March 5, 2015
Page 15

At the request of Staff, TerraCosta Consulting Group independently evaluated the stability of the 9.5-foot overhang, and concluded it was stable. TerraCosta explained, based on its analysis, that “the overhang may collapse in say 70 to 80 years, locally resulting in upwards of 14.7 feet of retreat of sea cliff. It also concluded that “there has been very little erosion of the sea cliff in the last thousand years, suggesting extremely low annualized historical erosion rates.” Ultimately, TerraCosta explained:

“It is for these reasons that we conclude that this bluff-top property is one of the most stable coastal bluffs in Southern California, with the San Onofre Breccia along this section of Laguna Beach very strong and erosion-resistant, with bedding dipping into the slope to make the slope very stable.” (Exhibit 15, p. 8.)

But, regardless, the Staff Report need not overstate the issue. If casita or, even more remotely, the stairway were to be adversely affected by failure of the overhang (which is highly doubtful), they could be removed at that time. But, it is not necessary or appropriate to require their removal now.

B. Balancing Conflicting LUE Policies -- Oceanfront Bluff Setback Policies Versus Historic Preservation Policies.

The Staff Report correctly explains that the historic preservation policies of the LCP “must be considered in conjunction with site specific conditions and with other LCP policies, such as the oceanfront bluff setback policies.” (Staff Report, p. 25.) The Staff Report would resolve the conflicts in favor of requiring removal of the historic structures. But, it does not present the entire story and cites only a portion of the applicable provisions in the LCP, which underscore, in the City of Laguna Beach, the importance and value of preserving historic structures that have retained their integrity.

The LCP policies regarding historic preservation in the residential context include:

- Zoning Code Section 25.45.002 , in the City’s certified Implementation Plan, parallels Coastal Act Section 30253, which provides that historic preservation is important to preserving the “special communities and neighborhoods that,

Steve Kinsey, Chair
March 5, 2015
Page 16

because of their unique characteristics are popular visitor destination points for recreational uses.”

- Page one of the LUE, regarding guiding principles for the policies of the General Plan, states:

“1. Strengthen our sense of community. The General Plan envisions Laguna Beach as a place of abundant scenic natural beauty, small-town village charm, and cultural diversity. Laguna residents take great pride in their community which has a tradition of promoting the arts, historic preservation, and participation in civic and community organizations . . .”
- LUE Policy 1.1.13 states: “Encourage preservation of historic structures . . .”
- LUE Goal 2 states: “Preserve, enhance and respect the unique character and identity of Laguna’s residential neighborhoods” through, among other things, “encouraging the preservation of historic residences.”
- LUE Policy 2.2 states: “Encourage the preservation of historically significant residential structures”
- And, the Land Use Element Glossary of the LUE/LUP defines “Historic Preservation” as “The preservation of historically significant structures in order to facilitate restoration and rehabilitation of such structure(s) to a former condition. Destruction or alteration of properties with historic significance, as identified in the City’s historic resources inventory or historic register, should be avoided whenever possible. Special preservation consideration should also be given to any structure over 45 years old.

The IP includes other detailed provisions promoting and encouraging the protection of historic structures to preserve what is left of the City’s past. (Zoning Code, Ch. 25.45 “Historic Preservation” and Sections 25.45.002-25.45.014.)

As to the casita and stairway, the Staff Report states that the historic preservation policies in the LUE conflict with LUE policies regarding geologic hazards and visual resources. (Staff Report, p. 25.) The evidence reflects that on this

Steve Kinsey, Chair
March 5, 2015
Page 17

property there is no geologic hazard. Staff asserts that both structures “are potentially sited in an unstable portion of the bluff face (near the overhang which is subject to failure)” (Staff Report, pp. 25-26.) There is no evidence at all to support that statement. Indeed, as previously demonstrated, expert geotechnical reports have concluded that there is no threat from wave run-up, sea level rise, or bluff failure. To the contrary, they demonstrate that the bluff is grossly stable, very strong, and erosion-resistant, and TerraCosta’s geotechnical expert explained that the 9.5 foot overhang is not “potentially” or “actually” subject to failure.

The Staff Report’s further comment that the stairway is “unsightly” misses the big picture. Preservation of historic resources does not turn on whether the resource is beautiful or not. The casita and stairway are vestiges of Laguna’s past when Guy Skidmore built the original house on the property and the Skidmore Brothers donated the sandy beach along the Coast Royal to the County of Orange so that it could be enjoyed by the public. The stairway is representative of its period, and it is remarkable for its longevity and durability. These structures are no less important because they sit behind the beach than if they were located on a public street elsewhere in the City. The Staff Report also fails to explain that the stairway is located behind extensive vegetation and both structures are dwarfed by the massive condominium project which abuts the Applicant’s property downcoast.

The City’s LCP makes abundantly clear that Laguna Beach values the preservation of its historic structures. Here, two expert historians attested to the historic significance of both structures. Their reports are not referenced in the Staff Report and only one (Ostashay) is included as an attachment. On August 3, 2011, while peer reviewing another “Historical Resource Report” prepared by Galvin Preservation Associates (“GPA”) on the former Skidmore residence, the City’s independent historical consultant, Ostashay & Associates, concluded:

“ . . . notwithstanding the ineligibility of the property (residence and garage) as a historic resource for the purposes of CEQA, the ancillary structure referred herein as the sunroom, the wood staircase adjacent to the bluff, and the flagstone paved pathway and its siting, should all be retained and reused in place as part of any current or future development of the site. These extant features are intact remnants of the property’s history and character.” (Exhibit 18, p. 5.)

Steve Kinsey, Chair
March 5, 2015
Page 18

On June 17, 2014, GPA prepared a further historic resource report on the historic significance of the casita and stairway. The report concluded:

“ . . . it appears that these two structures have been on the subject parcel since at least the first decade of the property’s development and would therefore contribute to the historic significance of the site. I recommend that these features be preserved in place and/or restored as the last remaining structures on the site that date to the area’s earliest development.” (Exhibit 19, p. 9.)

The casita and stairway were built proximate in time to construction of the Skidmore house. (Exhibits 18-22.) The Santa Ana Register from May 31, 1930 reported: “Mrs. Mary S. Watkins of Santa Ana, has purchased the Guy Skidmore residence in Coast Royal and an adjoining lot reaching to tide water. *Steps have been built to the beach.*” (Exhibit 22.) GPA noted that the “concrete flooring [in the casita] is the same period and design as early paving that was discovered under an early addition of the main residence.” (Exhibit 19, pp. 3-4.) The historic integrity of these structures has remained essentially unchanged over time.

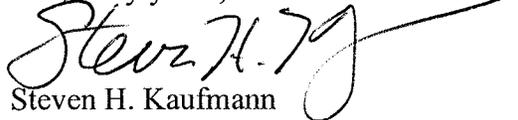
The balance unquestionably favors retention, not destruction, of the casita, pathway, and stairway.

V. Conclusion

For all the foregoing reasons, the Applicant respectfully requests that the Commission approve the application with the Special Conditions recommended, but with deletion of Special Conditions 1.A-C and 6.

We look forward to discussing this further with you at the Commission hearing on March 12.

Very truly yours,


Steven H. Kaufmann

Cc (w/exhibits): (Next Page)

Steve Kinsey, Chair
March 5, 2015
Page 19

Ccs (exhibits):

Dr. Charles Lester, Executive Director
Chris Pederson, Acting Chief Counsel
Sherilyn Sarb, South Coast District Deputy Director
Karl Schwing, Orange County Area Supervisor
Zach Rehm, Coastal Program Analyst
Jamee Jordan Patterson, SDAG
John Meehan
David B. Neish, Sr., DB Neish and Associates
David J. Neish, Jr., DB Neish and Associates



EXHIBIT 1



Photo of Beach Facing North

EXHIBIT 2

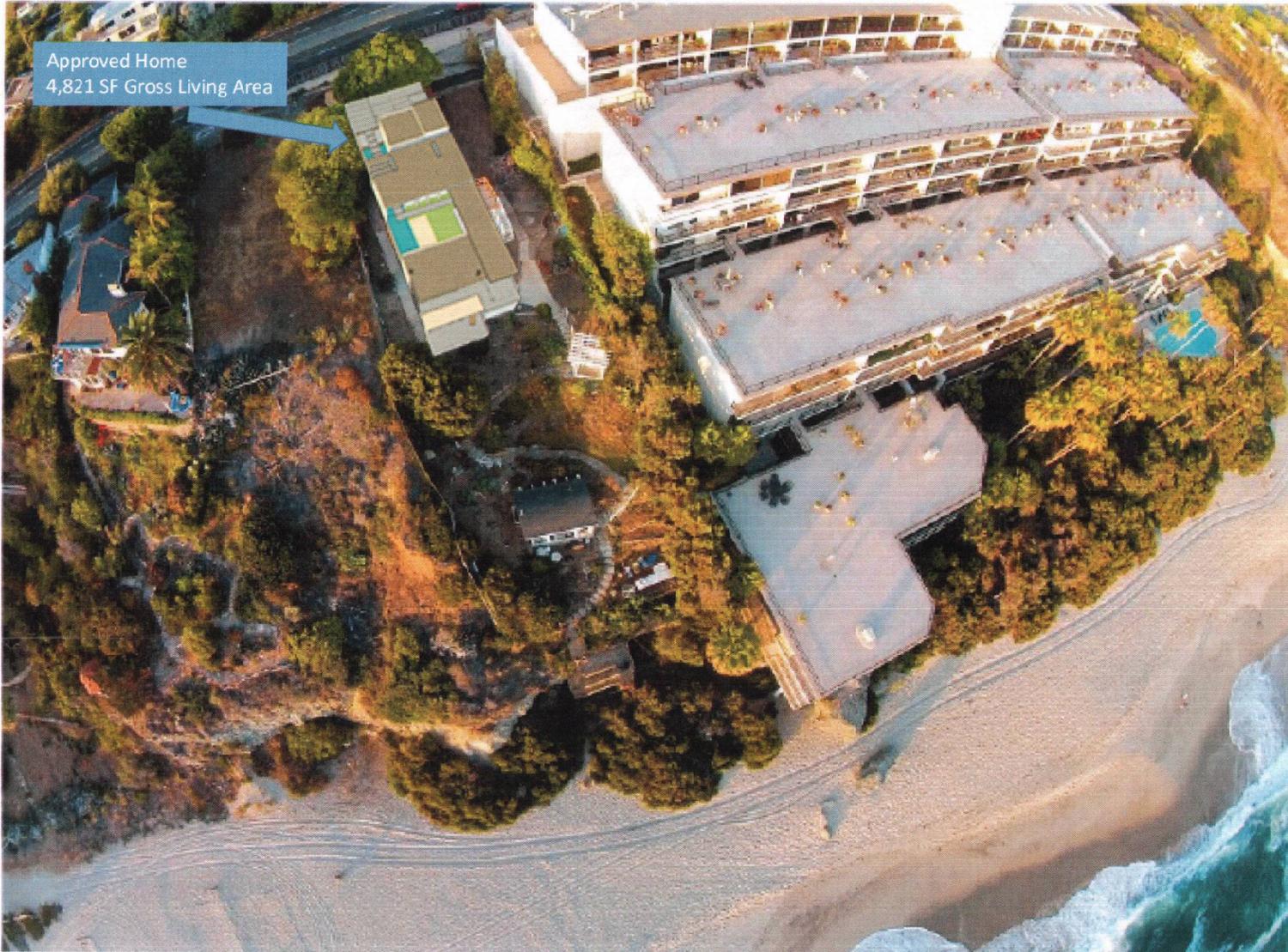


EXHIBIT 3

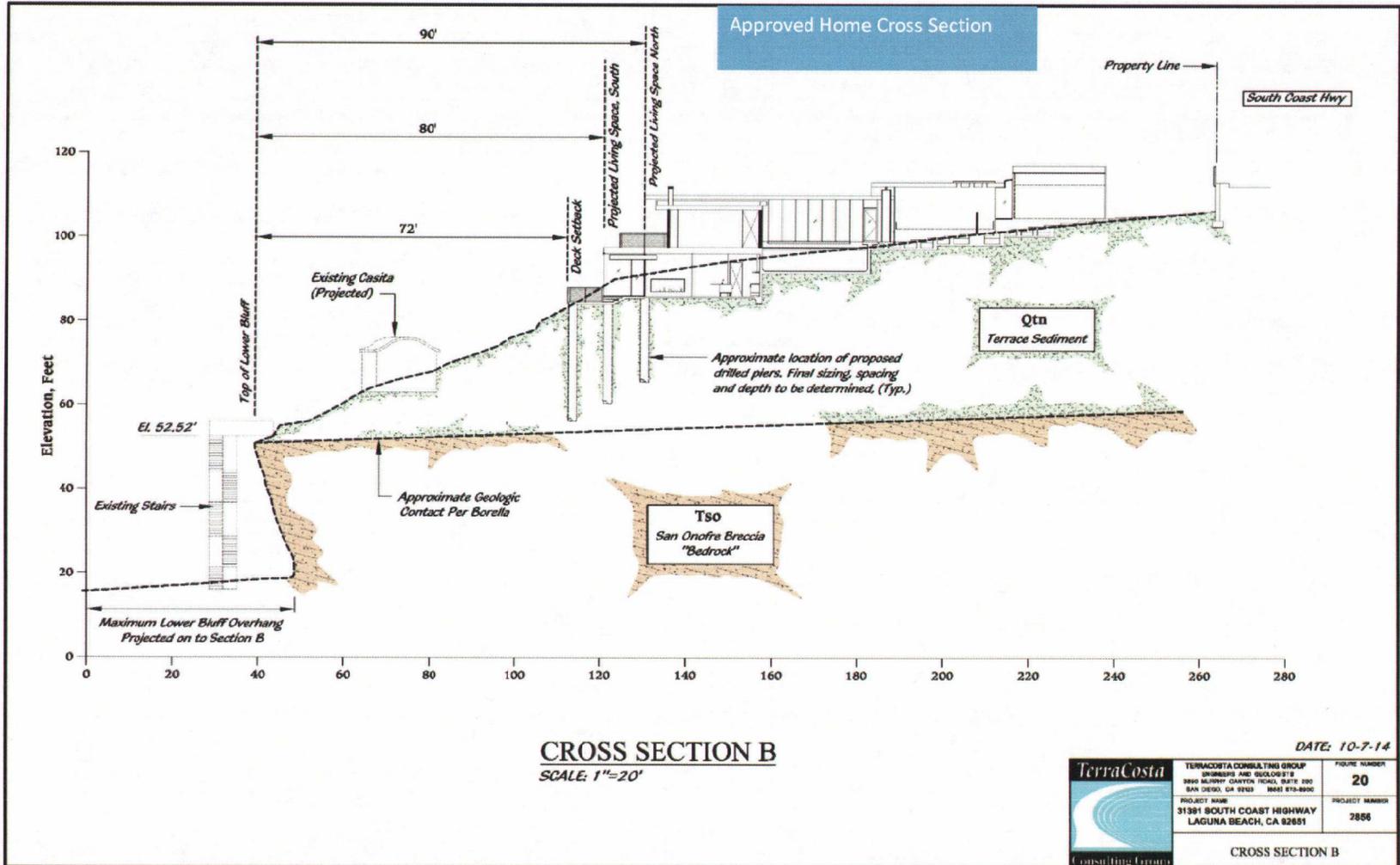


EXHIBIT 4

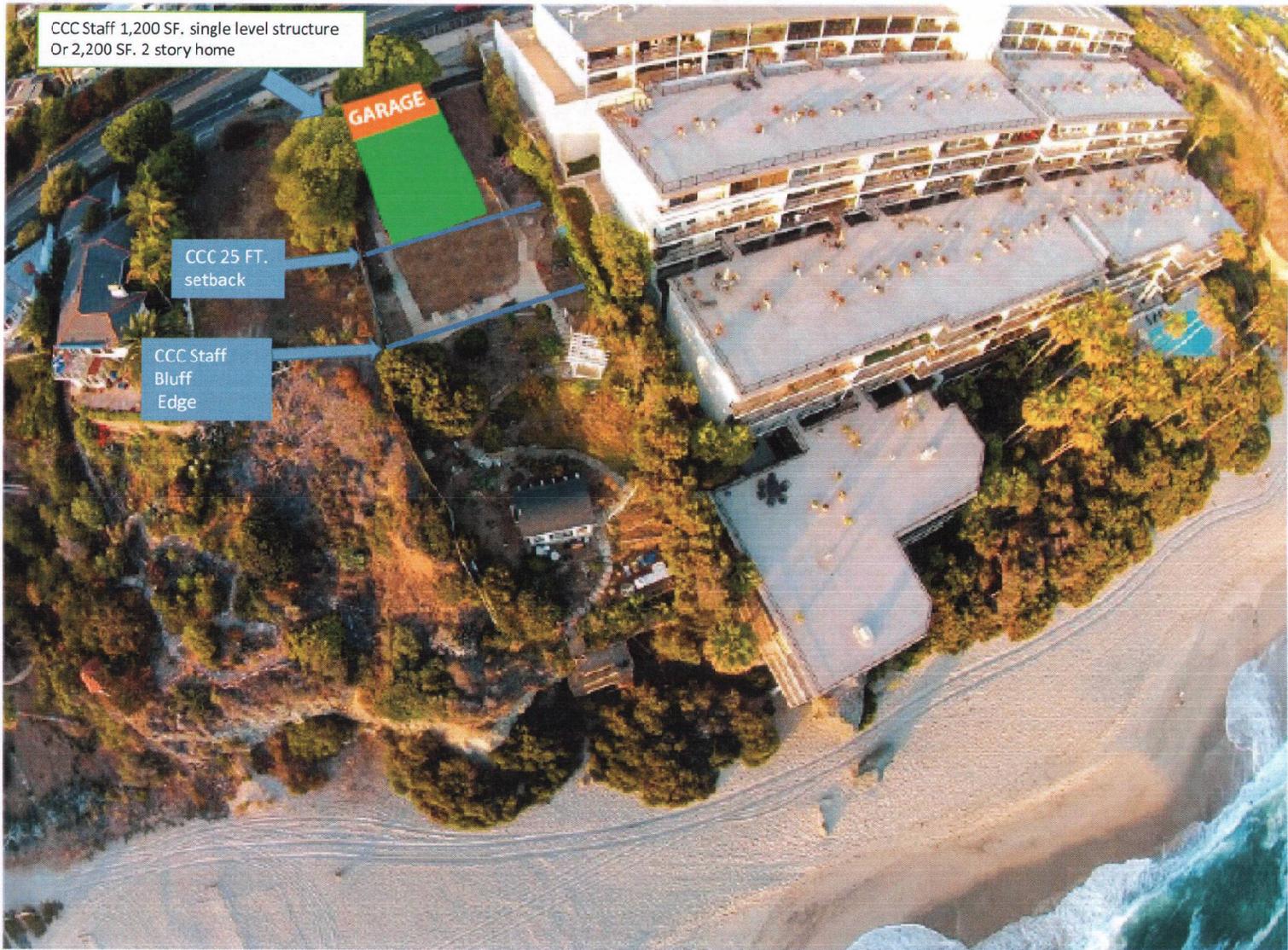


EXHIBIT 5

Cross Section illustrating the approx. location and height of a 2 story home with the CCC staff bluff edge and setback

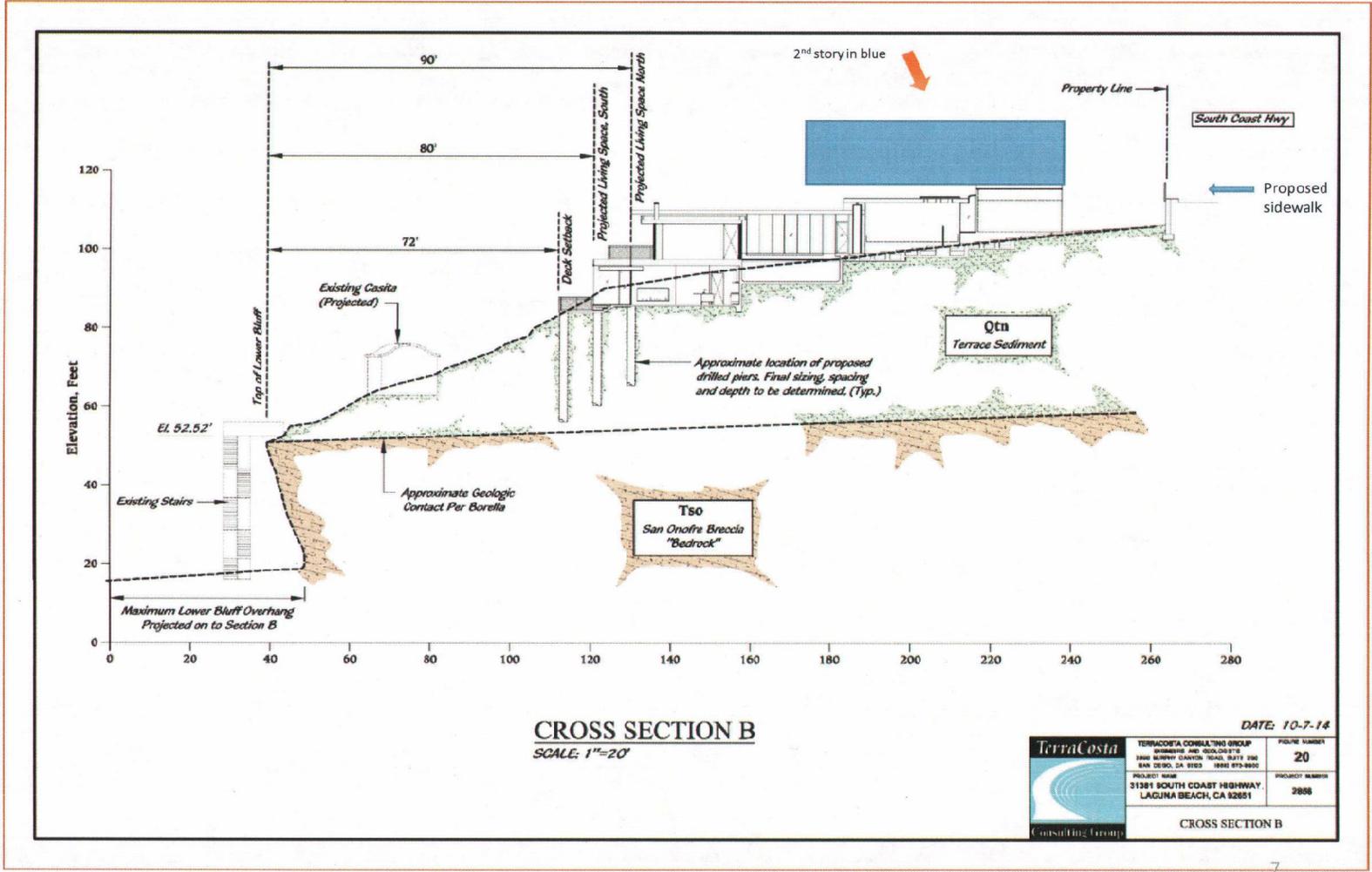


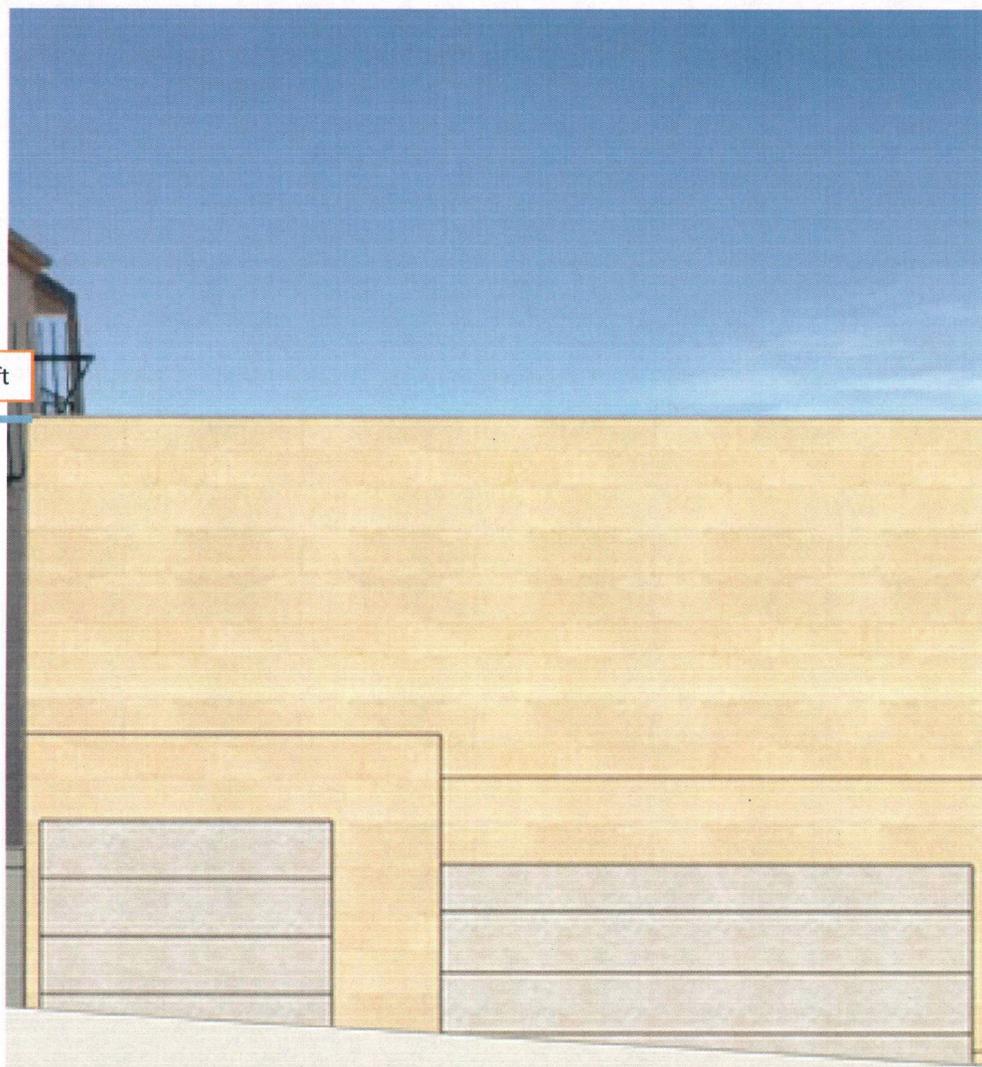
EXHIBIT 6



23 ft

Pedestrian & Vehicle View From PCH With Approved Home

Images from Proposed Public Sidewalk



Pedestrian & Vehicle View From PCH of Two Story Redesigned Home

EXHIBIT 7

25.50.004 Building setback lines.

(A) In any case where a building setback line appears on the district setback map, the space between such building setback line and the property line shall constitute the required yard in lieu of such front, side or rear yard otherwise described for the zone. The city, when the planning commission deems it necessary and desirable due to the topography or depth of the lot or lots, may by ordinance establish building setback lines for any lot.

(B) Building Setbacks on or Adjacent to the Pacific Ocean and Beaches. There is established building setback lines along the ocean frontage of all property within the city fronting up and adjacent to the Pacific Ocean and its beaches, as provided in this subsection, and no building, structure or improvements shall be erected or constructed after the effective date of the ordinance codified in this section on the sandy portion of any beach except that which

is determined by the city council to be necessary for the public health, safety and welfare. In addition, no building, structure or improvement shall be erected or constructed after the effective date of the ordinance codified in this section on the oceanward side of the following building setback lines:

(1) Except as provided in subdivisions (2), (3) and (5) of this subsection, the oceanfront building setback line on all oceanfront property within the city is fixed and established as the line drawn through the points where the plane of elevation twelve feet above the mean sea level touches the land mass (other than beach sand) of the particular parcel involved.

(2) Except as provided in subdivisions (3) and (5) of this subsection, the oceanfront building setback line on all oceanfront property situated between Thalia Street and Bluebird Canyon Drive is fixed and established as the line drawn through the points where the plane of elevation thirteen feet above mean sea level touches the land mass (other than beach sand) of the particular parcel involved.

(3) Except as provided in subdivision (5) of this subsection, the oceanfront building setback line on all oceanfront property situated between Laguna Avenue and Thalia Street is fixed and established as the line drawn through the points where the plane of elevation fourteen feet above mean sea level touches the land mass (other than beach sand) of the particular parcel involved.

(4) In addition to (1), (2) and (3) above, no new building, additions to existing buildings, or structures or improvements shall encroach beyond the applicable building stringline or shall be closer than twenty-five feet to the top of an oceanfront bluff; the more restrictive shall apply. Greater setback may be required by the city engineer or building official in order to protect the public health, safety or welfare. Pools and spas shall be no closer than twenty-five feet to the top of bluff. Public accessways shall be exempt from this provision.

(a) An "oceanfront bluff" is an oceanfront landform having a slope of forty-five degrees or greater from horizontal whose top is ten or more feet above mean sea level.

(i) In cases where an oceanfront bluff possesses an irregular or multiple slope condition, the setback will be taken from the most inland forty-five degree or greater slope.

(ii) In cases where the landform constitutes an oceanfront bluff whose slope is less than forty-five degrees, a determination as to whether or not the specific landform is subject to this provision shall be made by the director of community development.

Certified LCP
Zoning Code
Section
25.50.004

City of Laguna Beach – Community Development Department
Pre-Application Site Development Review Meeting Evaluation

Evaluation Meeting Number: 12-558

Date: 3/20/12

Attendees: Nancy Csira, Principal Planner met with John Meehan, property owner, Brendan Horgan, property owner's representative, and Mark Singer & Neela Kashyap of Mark Singer, Architects.

Site Address: 31381 Coast Highway

Zone/Specific Plan: R-1

Assessor Parcel Number: 056-032-10

Background: The property is currently improved with a single-family dwelling, detached two-car garage with a room above, and nonconforming accessory structures located within the bluff top setback (cabana and beach access stairs).

Design Review Board approval and a coastal development permit has been granted to demolished the single-family dwelling and detached two-car garage (DR 11-193 & CDP 12-222).

Staff observed that the "cabana" is not completely enclosed from the weather and is built with stone walls and a roof. Wood construction frames a doorway opening and some windows and large air gaps exist between the stone walls and framing. Surface mounted rough plumbing allowed for showering exists within the cabana. The beach stairs are not safe to climb due to the repair required to resurface the landings/steps.

The applicant proposes to construct a 5,500 square-foot single-family dwelling and 750 square-foot three-car garage with 780 square-feet of elevated decks.

The City's newly adopted Land Use Element includes **Action 7.3.8** which states: On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways, and stairways, which encroach into oceanfront bluffs. The implementation of this requirement is currently being discussed with the California Coastal Commission.

It has been determined (through legal advice) that there will be no change to the present method of the 45-degree provisions of Municipal Code Section 25.50.004 to determine the bluff top. The Director of Community Development reviewed a property survey provided by the applicant and determined that the 25-foot bluff top setback will be measured from the top of the most ocean ward vertical cliff edge.

Environmentally Sensitive Areas: Oceanfront and water quality

On-Site Turnaround Required: On-site turnaround is required from all required on-site parking spaces.

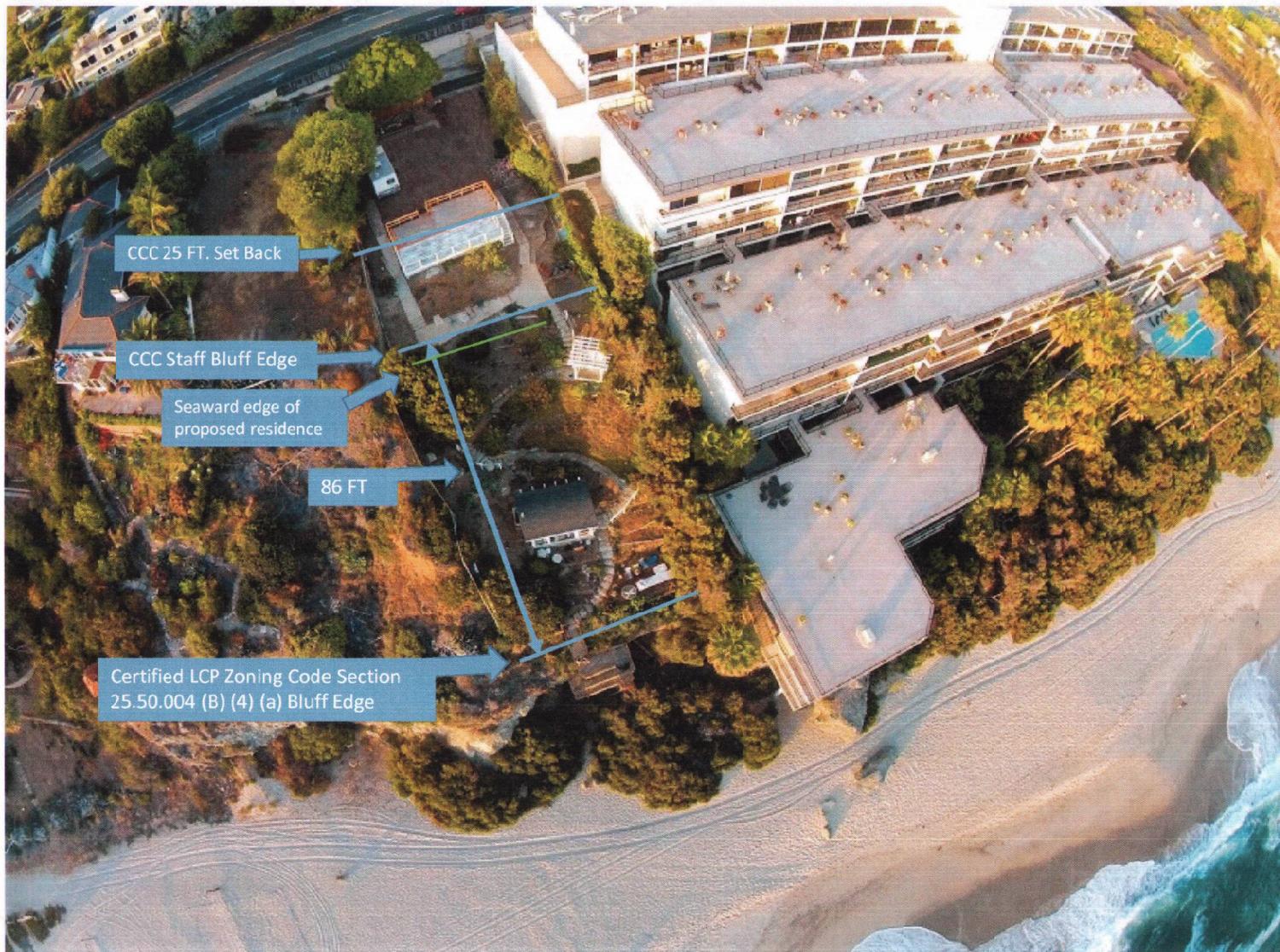


EXHIBIT 10

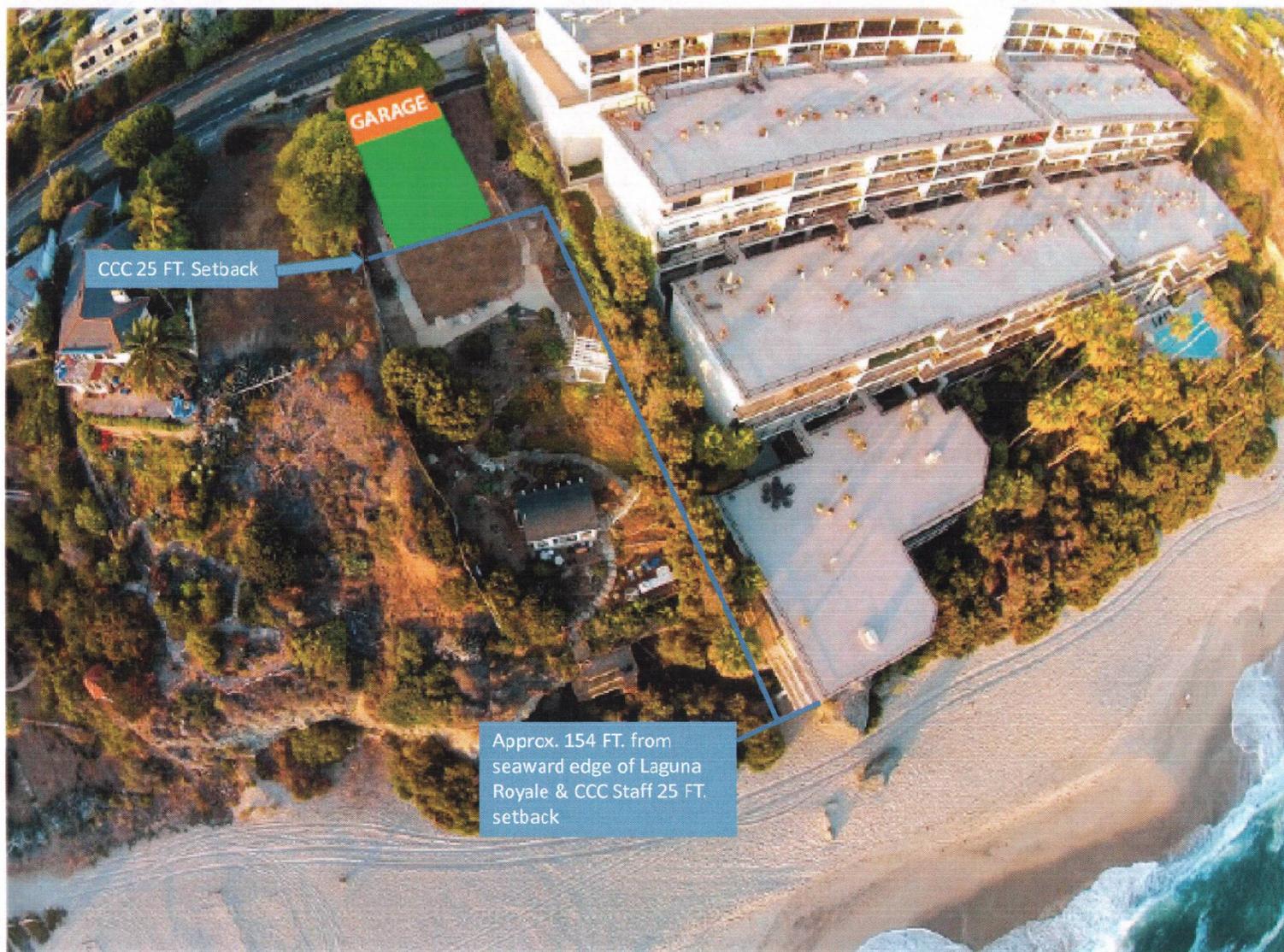


EXHIBIT 11

Different String Lines -
City identifies string line
as the line that extends to
the seaward edge of
Laguna Royale

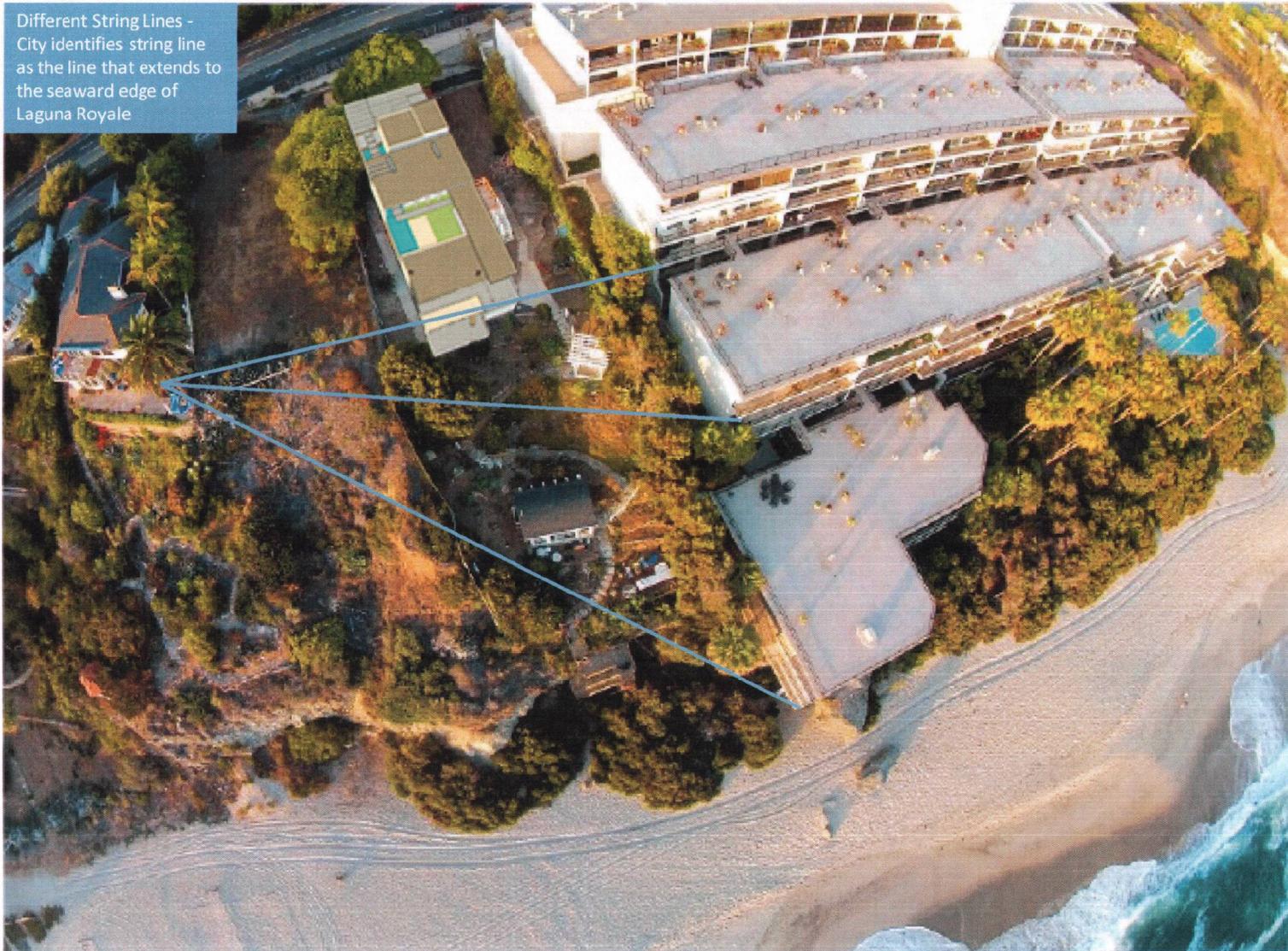


EXHIBIT 12

GeoSoils Inc.

May 18, 2012

Mr. John Meehan

c/o Mark Singer Architects, Inc.
1100 Balboa Avenue
Laguna Beach, CA 92651

Subject: Discussion of Coastal Hazards and Wave Runup, 31381 Coast Highway,
City of Laguna Beach, Orange County, California

Dear Mr. Meehan:

At your request and authorization we are pleased to present the following report describing the coastal hazards and wave runup at 31381 Coast Highway, Laguna Beach. The analysis is based upon our site inspection, existing published reports concerning the local coastal processes, site elevations, and knowledge of local coastal conditions. This report constitutes an investigation of the wave and water level conditions expected at the site in consequence of extreme storm and wave action. The purpose of this report is to provide the necessary coastal engineering information to the City of Laguna Beach and the California Coastal Commission in support of a new residence. It provides conclusions and recommendations for the susceptibility of the site to wave attack shoreline erosion and flooding.

SCOPE OF SERVICES

1. Review of available site oceanographic and soils reports including the recent CCSTWS US Army Corps of Engineers report.
2. Research of historical aerial photographs of the site, using historical aerial photographs determine historical shoreline changes.
3. Perform a site reconnaissance to inspect the condition of the site, and to assess the general condition of the shoreline.
4. Engineering analysis and preparation of a this report that includes a review of the available oceanographic information, a discussion of past and future erosion rates, and calculation of wave runup.

SITE VISIT

The site was inspected on May 15, 2012 by the undersigned. Photograph 1 is an aerial photograph taken in September 2010 downloaded with permission from the California

5741 Palmer Way, Suite D, Carlsbad CA 92008 W.O. 6401 Phone 760-438-3155

Coastal Records Project web site (<http://www.californiacoastline.org/>). The site visit/inspection focused on the bluff face, the stairway located at the base of the bluff, and the present shoreline conditions. The seaward portion of the site is located at the very back of a pocket beach, about 175 feet from the Mean High Tide (MHT) line. The shoreline fronting the site has several rock outcroppings in the near shore, which is typical of the Laguna Beach near shore area. The beach is located to the southeast of Aliso Creek which empties onto Aliso Beach. The site elevations vary from about +14 feet MSL at the beach to elevation +113 feet MSL at Coast Highway. The proposed development consists of the construction of a new residential structure. The lowest structural development will be above elevation +90 feet MSL. The existing stairs predate the Coastal Act and are in good condition primarily because they have not been subject to any significant wave runup attack in the past. This is evidenced by the mature vegetation that fronts the stairs. The bottom of the stairs is at about elevation +16 feet MSL.

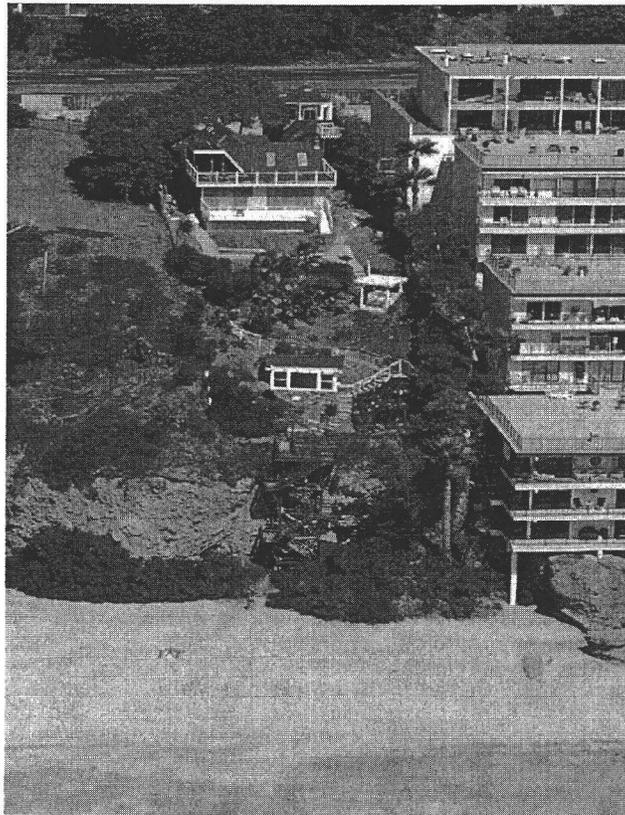


Figure 1. Subject site in September 2010. Note the mature vegetation at the base of the bluff.

COASTAL PROCESSES

The 31381 Coast Highway site is fronted by Laguna Royale Beach and lies within the Laguna Beach Mini Littoral Cells, one of the eight coastal segments defined and studied in the US Army Corps of Engineers Coast of California Storm and Tidal Wave Study South Coast Region Orange County (USACOE 2002). A littoral cell is a coastal compartment that contains a complete cycle of littoral sedimentation including sources, transport pathways, and sediment sinks. The term mini littoral cell is used by the Corps to describe the small but discrete coastal compartments along this section of southern California shoreline. The Corps report provides a comprehensive investigation of the shoreline conditions, past and present, for southern Orange County and some site specific information about the Laguna Royale Beach shoreline.

The Laguna Beach Mini Littoral Cells extend from the east jetty of Newport Harbor to the Dana Headlands, a distance of about 14.1 miles. This shoreline is characterized by a series of small, and probably conservative pocket beaches. The pocket beaches are characteristically narrow and backed by seacliffs composed of erosion resistant bedrock below more erosive formations. The pocket beach size varies with wave conditions and shoreline orientation, but the mean beach widths have been relatively stable (USACOE 2002). The pocket beaches are bounded by either rock noses extending into the surf zone or natural headland reefs. The 31381 Coast Highway site is in Reach 12 of the report which extends from Goff Island to Monarch Bay. Laguna Royale Beach is a pocket beach that is backed by high sea cliffs. The beach is subject to seasonal erosion and accretion but is, in general, described by the Corps as stable.

The Laguna Royale Beach reach has been the subject of historic shoreline change studies. USACOE 2002 contains a summary of some of these studies. USACOE repeatedly describes the Laguna Beach Mini Littoral Cells are relatively stable and quasi stable. The site specific analysis at Laguna Royale Beach determined a shoreline change rate of about 0 feet/year. It notes that the retreat rate is "within the uncertainty of the method used to estimate change rates." Laguna Royale Beach segment can be characterized as a stable shoreline with little or no retreat over the last 80 years. Figure 2 shows the site and adjacent shoreline in 1972. By comparing Figures 1 and 2 it becomes clear that the shoreline looks much the same today as it did in 1972. USACOE 2002 provides a budget of sediment for Reach 12. The sediment budget represent a conceptual model in which the conservation of mass is applied to the fluxes of sediment into and out of the littoral cell. If all of the fluxes are properly accounted for the fluxes should sum to zero. Currently, the input of sediment into this mini cell is about 90% from the Aliso Creek and about 10% from sea cliff erosion. The sediment budget is balanced, which accounts for the stable beach.



Figure 2. The subject site and adjacent shoreline in 1972. Note the stairs, the near shore rock outcropping, and the beach is the same width as in the 2010 photograph.

WAVES & WATER LEVELS

Waves of all periods approach the Laguna Beach shoreline, however, almost all of the energy is contained in the medium and long period waves (approximately 5 to 20 seconds). These waves approach the Southern California Bight and encounter the offshore islands. The offshore islands such as Santa Cruz, Santa Rosa, Santa Catalina and San Clemente partially shelter this section of coast from ocean swells. Between these islands are the windows that waves can pass through and approach the Laguna Beach shoreline. Waves can approach the study area through wave windows from the west and northwest and from the south. However, due to the sheltering effect of the shoreline geometry, the predominant wave energy arrives to the site from the south. Wave conditions in the Laguna Beach area have been thoroughly investigated by the US Army Corps of Engineers and others.

As waves travel into shallower and shallower water the wave crest is bent and becomes nearly parallel to shore, and the wave heights are modified depending on whether waves are being focused or de-focused at a particular location along the shoreline. This process is called refraction and it is dependent upon the bathymetry, and the wave height, period, and direction. Extreme wave conditions in shallow water have been calculated using historical wave data. The California Department of Boating and Waterways in partnership with the US Army Corps of Engineers maintain wave recording buoys throughout Southern California. The record of historical waves for this region, both from direct observation or recording and from hindcast analysis, is very extensive (USACOE 1988). Waves as high as 20 feet were recorded on January 17, 1988 and 14 to 16 foot high waves with period in excess of 20 seconds were recorded during the 1982-83 El Niño winter.

The National Oceanographic and Atmospheric National Ocean Survey (NOAA, 2000) tidal data station closest to Laguna Royale Beach is located at Newport Beach (Station 9410580). The tidal datum elevations are as follows:

Mean Higher High Water	2.65 feet
Mean High Water	1.90 feet
Mean Sea Level (MSL)	0.00 feet
Mean Low Water	-1.82 feet
Mean Lower Low Water	-2.75 feet

OCEANOGRAPHIC DESIGN PARAMETERS

There are several factors that are important to the analysis of the vulnerability of a structure along the shoreline. Some of the factors are based upon the existing topography/bathymetry and elevation of the proposed structures at the site. The offshore slope is relatively steep at 1/35 (V/H). The beach berm is at about elevation +11 MSL and the stair landing is at about elevation +16 feet MSL. The lowest proposed new foundation element is above +90 feet MSL. Other factors are based upon extreme oceanographic conditions or the coincidence of several extreme conditions. In order to determine design wave characteristics for the runup and force analysis, it is necessary to determine the design water level. The design water level will need to account for the future rise in sea level expected over the life of the structure.

Sea Level Rise

The design water level in this analysis is the maximum still water level under typical 75-year recurrence conditions. Water level is dependent upon several factors including the tide, storm surge, wind set up, inverse barometer, and climatic events (El Niño). For this location, the maximum observed water level is about +4.9 feet MSL on January 28,

1983. This water level takes into account El Nino conditions and storm surge. Added to this maximum observed water level is the expected rise in sea level over the next 75 years, the predicted lifetime of the proposed development. Forecasting sea level rise during this period along the Newport Beach shoreline is both informed by a developing eustatic sea level rise paradigm and limited by regional data gaps, methodological shortcomings, and climatological uncertainties. Cayan, et al., in their 2008 "Climate Change Projections of Sea Level Extremes Along the California Coast," project a range in sea level rise from 11 cm (4.3 in) to 72 cm (28 in) over the next 100 years. A more recent 2011 report that summarizes much of the current sea level predications was prepared by Everest International Consultants, Inc. (ECI), for the City of Newport Beach. ECI's report is useful in that it is applicable to the Laguna Beach coastline and it shows the very broad range in future sea level rise predictions. Figure 3, taken from ECI's report compares the US Army Corps of Engineers predictions to the State of California (CA Coastal Conservancy and CA Ocean Protection Council) estimates and to the predictions of leading climate scientists (Vermeer and Rahmstorf).

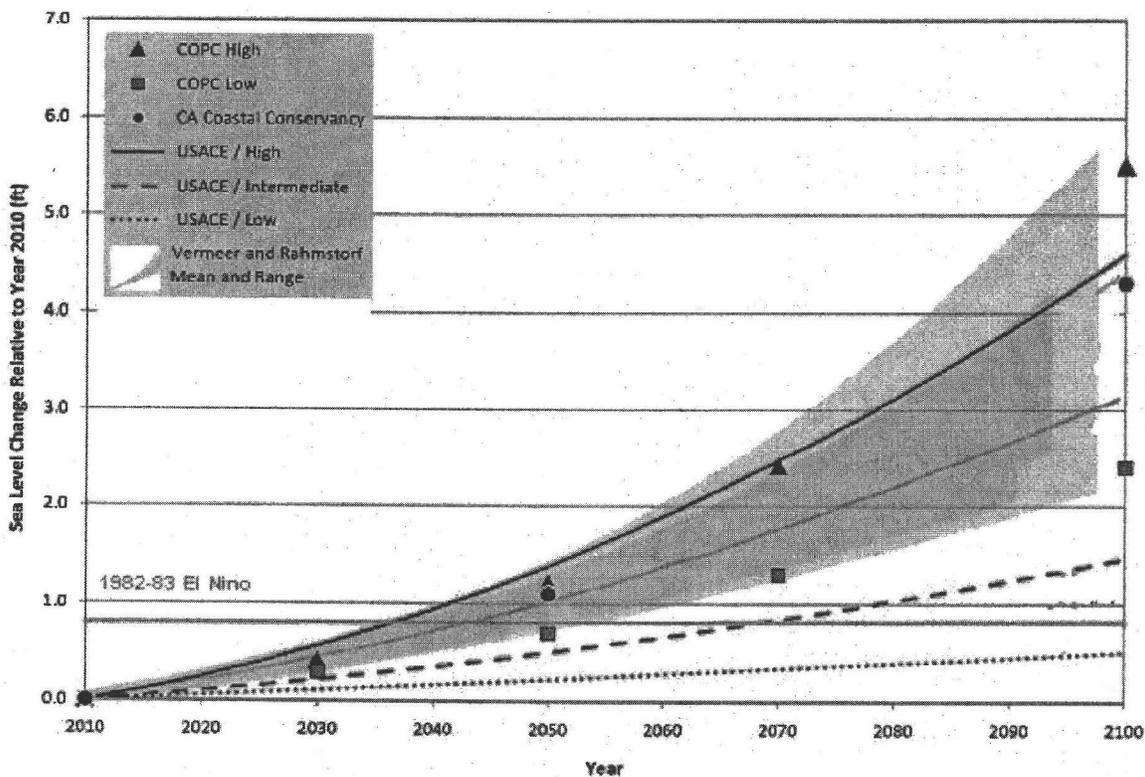


Figure 3. Sea level rise prediction comparison from Everest International Consultants Inc.

The proposed residential structure has an expected life of 75 to 100 years. Using the USACE estimate this is a 0.5 feet to 4.5 feet range in 100 years. To be reasonably conservative and for analysis purposes we will use the average rise, which is about 2.5 feet. The highest recorded water elevation on record in the vicinity of Newport Beach is 4.9 feet MSL. This actual high water record covers the 1982-83 severe El Niño and the 1997 El Niño events. This elevation includes all short-term oceanographic effects on sea level but not the long-term sea level rise prediction. If 2.5 feet is added to this +4.9 feet MSL elevation a future design maximum sea level of 7.4 feet MSL is determined.

Determination of the maximum scour depth at the toe of the beach enables the engineer to determine the actual water depth at the toe of the beach and wave break point under the design water level conditions. The design scour elevation is estimated based upon the erode-ability of the materials at the toe of the beach. A conservative estimate of the scour elevation at the toe of the beach in 100 years is about +0.0 feet MSL. This is reasonable based upon the presence of bedrock at the shoreline proper. Using the maximum still water elevation and the maximum scour of +0.0 feet MSL yields a total water depth of 7.4 feet at the beach toe. This represents the extreme possible conditions wave runoff conditions reaching the site over the next 100 years and will be used in the design analysis.

As discussed above, waves from distant storms and nearby hurricanes (chubascos) have pounded the coastline of Laguna Beach several times within the last few centuries. However, these extreme waves break further offshore and lose a significant portion of their energy before they reach the shoreline. The relatively steep offshore area allows for energy from large waves to come relatively close to the shoreline. Once a wave reaches a water depth that is about 1.28 times the wave height, the wave breaks and runs up onto the shore. The design wave height at the toe of the beach is the maximum unbroken wave at the toe when the beach/bedrock is at the maximum scour condition. The total water depth is 7.4 feet which would yield a design wave height of 5.7 feet.

WAVE RUNUP AND OVERTOPPING ANALYSIS

As waves approach the shoreline and the site, they break and water rushes up the beach, and sometimes to the back beach area. Wave runup is defined as the vertical height above the still water level to which a wave will rise on a structure (the beach) of infinite height. Overtopping is the flow rate of water over the berm of the beach (about elevation +11 feet MSL) as a result of wave runup.

Wave runup and overtopping at the proposed structure is calculated using the US Army Corps of Engineers Automated Coastal Engineering System, ACES. The methods to calculate runup and overtopping implemented within this ACES application are discussed in greater detail in the Coastal Engineering Manual (2004). The overtopping estimates

calculated herein are corrected for the effect of onshore winds. Figure 4 from the ACES manual shows some of the variables involved in the runup and overtopping analysis.

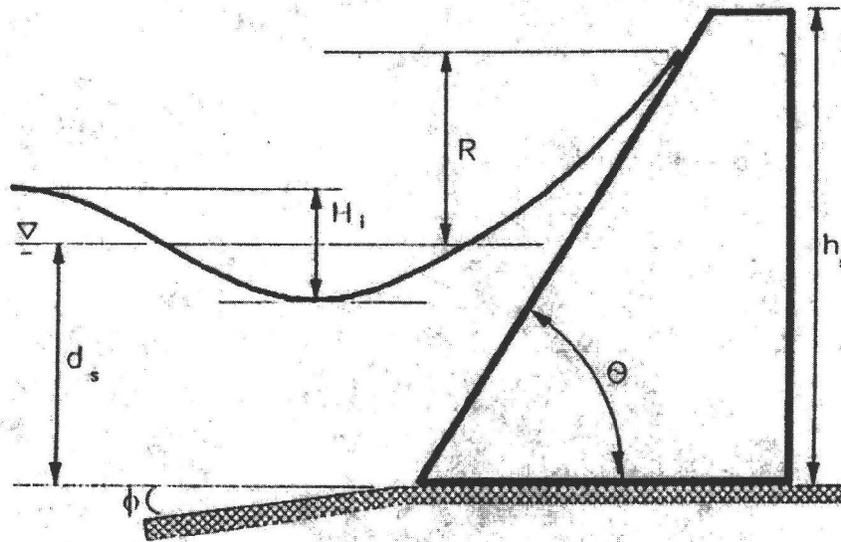


Figure 4. Wave runup terms from ACES analysis.

The runup analysis shows that with the beach berm at about elevation +11 feet MSL, under the design extreme oceanographic conditions, the beach can be overtopped at a rate of about 2.7 ft³/sec-ft. This amounts to about 1.5 feet of wave bore flowing across the beach. Based upon the analysis, the maximum wave runup on an infinite slope is about elevation +17.1 feet MSL. This is in agreement with the "100 year return wave and highest still water level" wave runup elevation of +18 feet MSL at Aliso Beach, reported in USACOE 2002 (Figure 6-21b). While the large "design" waves can runup and overtop the beach berm, the height of the overtopping wave bore will only be on the order of 1 to 2 foot. The US Army Corp of Engineers Coastal Engineering Manual 2004 states that for every 25 feet a bore travels across a flat beach, the bore height is reduced by about 1 foot. The toe of the bluff at the site is typically over 150 feet from the shoreline and likely beyond the reach of significant wave overtopping bores. If under severely eroded conditions the beach is narrowed such that wave runup reaches the base of the bluff at elevation +15 feet MSL, it will not have sufficient velocity to impact the stair located at and above elevation +16 feet MSL. The result of the overtopping analysis is shown in Table I below.

TABLE I

AUTOMATED COASTAL ENGINEERING SYSTEM ... Version 1.02 5/15/2012 11:48
 Project: COASTAL HAZARDS 31381 COAST HIGHWAY LAGUUNA BEACH

WAVE RUNUP AND OVERTOPPING ON IMPERMEABLE STRUCTURES				
Item	Unit	Value		
Wave Height at Toe	Hi: ft	5.700	Smooth Slope	
Wave Period	T: sec	18.000	Runup and	
COTAN of Nearshore Slope		35.000	Overtopping	
Water Depth at Toe	ds: ft	7.400		
COTAN of Structure Slope		10.000		
Structure Height Above Toe	hs: ft	11.000		
Deepwater Wave Height	H0: ft	3.275		
Relative Height	(ds/H0):	2.259		
Wave Steepness	(H0/gT ²):	0.314E-03		
Wave Runup	R: ft	9.743		
Onshore Wind Velocity	U: ft/sec	33.756		
Overtopping Coefficient	Alpha:	0.700E-01		
Overtopping Coefficient	Qstar0:	0.700E-01		
Overtopping Rate	Q: ft ³ /s-ft	2.710		

HAZARD ANALYSIS

There are three different potential oceanographic hazards identified at this site; shoreline erosion, coastal flooding, and waves. For ease of review each of these hazards will be analyzed and discussed separately followed by a summary of the analysis including conclusions and recommendations if necessary.

Erosion Hazard

In an effort to determine typical changes in the shoreline position aerial photographs from the early 1970s to 2010 were reviewed. Due to the differences in tide levels and oblique angles of the photos, it is difficult to determine the exact location of the shoreline. However a visual comparison of the photographs shows little or no change in the shoreline position over the last five decades. A beach is visible in the 1972 Coastal Records photograph (Figure 2) and is visible with about the same width in any subsequent photographs. The future shoreline changes over the next 75 to 100 years can be assumed to be the same as in the previous few decades. This conclusion is also verified in the 2002 Corps report. Based upon the steep slope of the beach, this rise in sea level may result in a small (less than 10 feet) landward movement of the high water line. However, this increase will not result in an increase in erosion because of the erosion resistant nature of the rocky shoreline and the supply of sand from the adjacent Aliso

Creek. There is no potential significant erosion hazard at the site over the next 75 to 100 years.

Flooding Hazard

The flooding hazard discussed in this section is due to water level changes in the ocean. Flooding due to waters other than from the ocean is mitigated through the site drainage plan designed by the project civil engineer. The primary hazard due to flooding from ocean waters would be due to a super-elevation of the ocean. The National Oceanographic and Atmospheric National Ocean Survey tidal data station closest to the site is very close located at the Newport Bay Entrance station (NOAA 1999). The elevations in feet are as follows:

HIGHEST OBSERVED WATER LEVEL (01/28/1983) = 7.67

MEAN HIGHER HIGH WATER (MHHW) = 5.41

MEAN HIGH WATER (MHW) = 4.67

MEAN TIDE LEVEL (MTL) = 2.79

MEAN SEA LEVEL (MSL) = 2.77

MEAN LOW WATER (MLW) = 0.91

NORTH AMERICAN VERTICAL DATUM-1988 (NAVD) = 0.18

MEAN LOWER LOW WATER (MLLW) = 0.00

LOWEST OBSERVED WATER LEVEL (01/20/1988) = -2.35

Allowing for a 2.5 feet rise in sea level over the next 100 years, the mean higher high water will be at +7.9 feet MLLW or +5.2 feet MSL. The highest observed water elevation was on January 28, 1983 during the severe El Niño winter. This elevation was +7.67 feet MLLW or +5.0 feet MSL. If a sea level rise of 2.5 feet is added to this elevation, it is about +7.5 feet MSL. This would be considered in excess of a 100 year recurrence interval water level. The structural site improvements are above +90 feet MSL, which is well above any potential ocean flood elevation. The existing stairs are located at the very back of the beach and not within the zone of any significant wave runup action. The site and stairs are safe from flooding from the ocean over the next 100 years. Potential flooding associated with wave runup is consider in the next section.

Wave Runup

Wave runup may reach the back beach at elevation + 15 feet MSL over the next 100 years. However, due to the elevation of the improvements (above +90 feet MSL) the wave

runup will not reach the improvements. Wave runup may under very extreme conditions reach the stairs. However, the wave runup will not have sufficient velocity to cause erosion of sands adjacent to the stairs or the erosion of the bluff. Due to the setback from the shoreline and elevation above the shoreline the stairs are reasonably safe from wave runup hazards.

Tsunami are waves generated by submarine earthquakes, landslides, or volcanic action. Lander et. al. (1993) discusses the frequency and magnitude of recorded or observed tsunami in the southern California area. James Houston (1980) predicts a tsunami of less than 5 feet for a 500 year recurrence interval for this area. Legg et. al. (2002) examined the potential tsunami wave runup in southern California. While this study is not specific to the Laguna Royale Beach site it provides a first order analysis for the area. Figure 5 shows the tsunami runup in the southern California bight. The maximum tsunami runup in the Laguna Royale Beach coastal area is less than 2 meters in height. Any wave, including a tsunami, that approaches the site will be refracted, modified, and possibly reduced in height. The Legg et. al. (2002) report determined a maximum open ocean tsunami height of less than 2 meters. The wave runup analysis above performed for the surface gravity wave can be used to calculate the expected runup due to a tsunami about 2 meters in height. The runup due to a tsunami will be similar to the extreme wave runup discussed above.

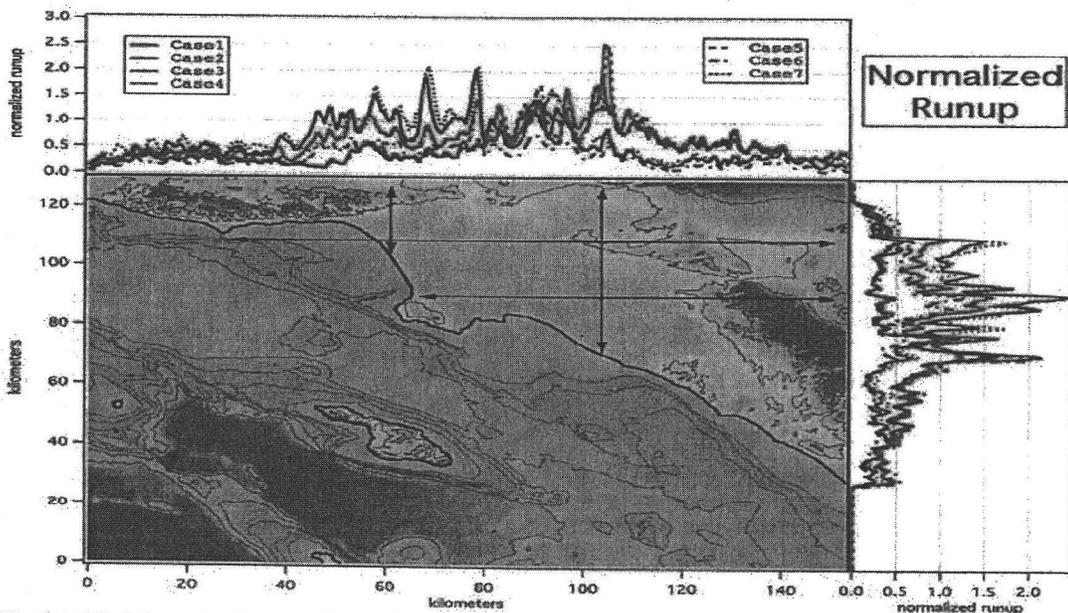


Figure 10. Map showing maximum runup normalized to the maximum seafloor/island uplift for each of the seven Catalina Fault tsunamigenic earthquake scenarios modeled in this study (fault parameters in Table 4).

Figure 5. Taken from Legg et al., 2002.

CONCLUSIONS

The potential coastal hazards associated with the development at 31381 Coast Highway, Laguna Beach, include shoreline erosion, wave runup, and coastal flooding. As demonstrated in USACOE 2002 the shoreline fronting the site is stable over the long term. However, the beach is subject to temporary but measurable wave runup and beach erosion. During the coincidence of an eroded beach, high tides, and high waves, the back beach area fronting the site may be subject to wave runup. However, based upon our analysis, and because the proposed development is located well above the beach, the development is safe from coastal hazards. It should also be noted that there are large bed rock outcroppings in the surf zone in front of this site and adjacent properties that act like a breakwater to incoming waves. These rock outcroppings protects the site from waves and erosion. In addition, the existing stairway is in good condition, is set back from the shoreline, and is above the elevation of potential significant wave runup impact. There are no recommendations necessary to mitigate potential coastal hazards. New shore protection will likely not be required to protect the existing stairway and proposed development over the next 100 years. The stairway and proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area.

LIMITATIONS

Coastal engineering is characterized by uncertainty. Professional judgements presented herein are based partly on our evaluation of the technical information gathered, partly on our understanding of the proposed construction, and partly on our general experience. Our engineering work and judgements have been prepared in accordance with current accepted standards of engineering practice; we do not guarantee the performance of the project in any respect. This warranty is in lieu of all other warranties express or implied.

Respectfully submitted,



GeoSoils, Inc.

David W. Skelly, MS

RCE #47857

ds:jh



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GeoSoils Inc.

14

USACOE (US Army Corps Of Engineers), 2002, Coast of California Storm and Tidal Waves Study South Coast Region, Orange County.

TerraCosta Geotechnical Stability Analysis

October 22, 2014

- **Coastal bluffs comprised of very erosion-resistant San Onofre breccia.**
- **“Given the ... we ultimately conclude that there has in fact been very little erosion of the sea cliff in the last thousand years, suggesting extremely low annualized historical erosion rates.”**
- **“There is also an offshore reef approximately 500 feet out from the base of the sea cliff exposed at low tide ... effectively tripping any large offshore waves and significantly reducing any wave forces ultimately arriving at the face of the sea cliff.”**
- **“We conclude that this bluff-top property is one of the most stable coastal bluffs in Southern California.”**
- **“The proposed improvements are currently located a minimum of 70 feet back from the face of the sea cliff, resulting in a very conservative setback providing several, if not many, centuries of stable coastal bluff seaward of the proposed improvements.”**

**GEOTECHNICAL EVALUATION AND
STABILITY ANALYSIS
31381 SOUTH COAST HIGHWAY
LAGUNA BEACH, CALIFORNIA**

Prepared for
MR. JOHN MEEHAN
Laguna Beach, California



Prepared by
TERRACOSTA CONSULTING GROUP, INC.
3890 Murphy Canyon Road, Suite 200
San Diego, California 92123
(858) 573-6900

Project No. 2856
October 22, 2014



Project No. 2856
October 22, 2014

Geotechnical Engineering
Coastal Engineering
Maritime Engineering

Mr. John Meehan
31381 South Coast Highway
Laguna Beach, California 92651

GEOTECHNICAL EVALUATION AND STABILITY ANALYSIS
31381 SOUTH COAST HIGHWAY
LAGUNA BEACH, CALIFORNIA

Dear Mr. Meehan:

In accordance with your request, TerraCosta Consulting Group, Inc. (TCG) has performed a geotechnical evaluation and stability analysis for the proposed residential structure to be located at 31381 South Coast Highway in the City of Laguna Beach, California.

The accompanying report presents the results of our field observations, research, and engineering analysis of the geotechnical conditions at the site, and presents our conclusions as they pertain to the geotechnical aspects and long-term stability of the site.

We appreciate the opportunity to be of service and trust this information meets your needs. If you have any questions or require additional information, please give us a call.

Very truly yours,
TERRACOSTA CONSULTING GROUP, INC.

A handwritten signature in black ink, appearing to be "W. Crampton", written over a horizontal line.

Walter F. Crampton, Principal Engineer
R.C.E. 23792, R.G.E. 245

A handwritten signature in black ink, appearing to be "Matthew W. Eckert", written over a horizontal line.

Matthew W. Eckert, Ph.D., Director of
Engineering, R.C.E. 45171, R.G.E. 2316

A handwritten signature in black ink, appearing to be "Gregory A. Spaulding", written over a horizontal line.

Gregory A. Spaulding, Project Geologist
C.E.G. 1863, C.H.G. 351, P.G. 5892

WFC/MWE/GAS/sr
Attachments

TABLE OF CONTENTS

1	PROJECT DESCRIPTION	1
2	PURPOSE AND SCOPE OF WORK	1
3	COASTAL BLUFF GEOMORPHOLOGY	1
4	HISTORICAL ANALYSIS.....	3
5	LOCAL GEOLOGY	3
	5.1 Artificial Fill Soils	4
	5.2 Beach and Talus Deposits	4
	5.3 Non-Marine Terrace Deposits.....	4
	5.4 San Onofre Breccia (Bedrock).....	4
6	GROUNDWATER.....	5
7	FAULTING AND SEISMICITY	5
8	EVALUATION OF THE STABILITY OF BLUFF OVERHANG.....	5
9	LONG-TERM BLUFF STABILITY AND SETBACK CONSIDERATIONS	7

REFERENCES

FIGURE 1	SITE VICINITY MAP
FIGURE 2	PROPOSED SITE PLAN
FIGURE 3	MATRIX OF ACTIVE COASTAL BLUFF PROFILES
FIGURE 4	AGE-DEPENDENT SLOPE ANGLE FOR WEAKLY INDURATED FORMATIONS
FIGURE 5	MATURE SLOPE ANGLE OF NORTHERLY PROPERTY
FIGURE 6	1929 PHOTO OF MATURE SLOPING UPPER TERRACE DEPOSITS
FIGURE 7	AGE-DEPENDENT SLOPE ANGLE FOR WEAKLY INDURATED FORMATIONS
FIGURE 8	FINITE ELEMENT MODEL OF OVERHANG
FIGURE 9	DISTRIBUTION OF MINOR PRINCIPAL STRESSES NEAR OVERHANG
FIGURE 10	BLUFF EROSION SCHEMATIC



**GEOTECHNICAL EVALUATION AND STABILITY ANALYSIS
31381 SOUTH COAST HIGHWAY
LAGUNA BEACH, CALIFORNIA**

1 PROJECT DESCRIPTION

The subject property is a residential lot located on the westerly side of South Coast Highway approximately 1,000 feet south of Aliso Beach County Park. The site is located on the westerly-facing coastal bluffs (Figure 1). Topography in the area ranges from approximately 110 feet (mean sea level) near Coast Highway, down to the shoreline. We understand that current development plans provide for the construction of a new residential structure. The proposed site development is shown on Figure 2. This report has been prepared to address the long-term stability of the bluff so that reasonable setbacks can be established for planning purposes.

2 PURPOSE AND SCOPE OF WORK

The purpose of this study was to apply geologic and geomorphic principals to make a reasonable assessment of the rate of erosion and stability of this segment of the coastline, and to recommend and provide justification for a reasonable setback for any proposed site improvements. Our work included performing a site reconnaissance, researching local (City, County, etc.) archives for photographic, map, and other documentation regarding the development of the history and the lot and surrounding area, and presenting our findings in this report.

3 COASTAL BLUFF GEOMORPHOLOGY

Studies have identified at least fifteen marine terraces in south coastal Orange County (Kern 1996) formed during the Quaternary period of geologic time by sea level fluctuations, vertical tectonic movements, climate changes, and other coastal processes. These relative beach ridges have left evidence of episodic sea level high stands (or low stands) superimposed on a steadily rising (or subsiding) coastline (LaJoie, et al, 1992). Locally, the coastline follows the 23-meter terrace, a 120,000-year-old marine abrasion platform etched



into the bedrock and subsequently covered by a succession of marine terrace deposits and non-marine terrace deposits shed from the upland areas of the San Joaquin Hills.

Over the years, a number of researchers have utilized geomorphic principles to evaluate rates of erosion and age-date geologic events, such as earthquakes and landslides.

Figure 3, a matrix of active coastal bluff profiles, was reproduced from a 1982 paper by Emery and Kuhn that uses a geomorphic approach to evaluating coastal erosion. For much of the Southern California coastline, we have an erosion-resistant geologic unit at the base of the sea cliff, capped with a more erodible geologic unit. In this matrix, much of the Southern California shoreline, including that of Laguna Beach, would be represented by Type C profile. Given that profile, the geomorphic shape of the upper terrace deposits on this profile would tend to define rate of marine erosion relative to the rate of subaerial erosion.

As shown on Figure 3, as the rate of marine erosion slows relative to subaerial erosion, a more gentle profile develops on the upper terrace deposits, and as the rate of marine erosion diminishes, we can see a more well-developed (flatter) subaerial erosion profile in the upper terrace deposits.

A number of researchers have made attempts to analyze both long-term and short-term rates of erosion and make estimates as to ages of slopes. Wallace, Hanks, Cohen, Putkoen, Pelletier, and others have investigated the erosion of fault scarps and shorelines as a method to age-date an earthquake event or landslide failure occurring hundreds and thousands of years ago. Kuhn and Shepard have utilized historic data (maps and photographs) for dating more recent events, on the order of decades.

Figure 4 is a reproduction of the Wallace curve, which we have used for other studies along the Southern California coastline. Wallace investigated the offsets of vertical scarps created by earthquake faults, applying geomorphic principles to date earthquake events.

Observations at the site and adjacent parcel revealed slope angles in the upper bluffs ranging from 24 to 26 degrees (Figures 5 and 6). Applying the Wallace curve would date the existing slopes at between 1,000 and 1,900 years old (Figure 7).



4 HISTORICAL ANALYSIS

While based on the Wallace curve and using the slope angle to estimate the slope to be at least 1,000 years old, the California Coastal Commission generally requires an assessment of the more current rates of erosion and bluff retreat. The Coastal Commission regulations require that a new house or permanent improvement will not be impacted over a 75-year lifespan or require the construction of any shore protection structures. As part of our work, we have reviewed previous reports associated with the site and surrounding area, and reviewed available historical maps and photographs of the site and surrounding areas to make an estimate of the rate of erosion. Based on the LGC report for the South Coast Water District, Laguna Beach Sanitary Sewer Interceptor Tunnel project, LGC suggests upwards of 5.2 feet (0.052 foot per year) of erosion of the lower bluff over the next 100 years.

Based on our own review of aerial photographs and assessment of the site area, we believe this to be a conservative estimate of rate of erosion for the lower bluff Miocene-age San Onofre breccia. At the most seaward edge of the cliff section, the seaward foot or so of the terrace deposit is inclined at 45 degrees (Figure 5). Using the Wallace curve as a check, a slope of 45 degrees intersects the 24-degree slope about 1.3 feet seaward and would suggest approximately 33-year age or annualized erosion rate for this period to be approximately 0.039 foot per year (Figure 7). While as a practical matter, it is probably more appropriate to use the Wallace curve on much older slopes (on the order of 100s or 1,000s of years in age), this example does illustrate how the curve is applied.

The Borella Geology April 25, 2012, study indicated that, by examination of aerial photographs dating back to 1931, the coastline and site have remained stable for a period of at least 80 years. We also agree with Dr. Borella's assessment.

5 LOCAL GEOLOGY

Based on our field observations and review of published and unpublished literature, the site is underlain by artificial fill soils, recent beach deposits, non-marine terrace deposits, and bedrock consisting of the San Onofre breccia. These units are described below.



5.1 Artificial Fill Soils

Fill soils are described by Borella Geology as consisting of brown to light brown silty sand and sandy silt with clay. These fills are undocumented and loose, containing rock fragments, brick, and other construction debris. Fills are reported to have a thickness ranging from 2 to 3.5 feet and are considered unsuitable for foundation support.

5.2 Beach and Talus Deposits

Beach and talus deposits consisting of sands and gravelly silts are exposed on the beach at the base of the cliff section. These deposits are generally cohesionless in nature and may be eroded in high surf and storm conditions.

5.3 Non-Marine Terrace Deposits

The non-marine terrace deposits are described by Borella Geology as consisting of reddish brown silty sand and sandy silt, with pebbles and sand. Test borings indicated that the terrace sediments are tight and dense, and difficult to penetrate with a hand-auger boring. In-situ tests indicated that the soils are medium dense to dense.

5.4 San Onofre Breccia (Bedrock)

The San Onofre breccia bedrock exposed in the vertical to overhanging section of the bluff is described as consisting of a poorly bedded to massive breccia and coarse-grained sandstone. Locally, no adverse (out-of-slope) faults, rupture surfaces, or joints were observed within the bluff. Small, likely tectonic, faults are observed and were measured and reported by Borella Geology as dipping steeply to the northwest into the bluff face. The geologic bedding within the South Coast Water District's Sewer Tunnel was mapped by LGC on site as also dipping in slope, and therefore contributing to the stability of the coastal bluff. Small rockfall deposits and talus derived from the San Onofre breccia were observed at the base of the bluff.



6 GROUNDWATER

Groundwater seeps were observed on the face of the bluff in the area of the overhang. No seeps were observed at the bedrock terrace contact. Seepage is generally not sufficient to cause ponding or runoff at the base of the bluff.

7 FAULTING AND SEISMICITY

Faulting and Seismicity has been discussed to some extent in the April 25, 2012, Borella Geology geotechnical report.

While the April 25, 2012, Borella Geology geotechnical report does address slope stability, Coastal staff raised additional questions as to the stability of the bedrock cliff section. As part of our work, we have performed a more rigorous engineering analysis of the stability of the bedrock and overhang to address this issue.

8 EVALUATION OF THE STABILITY OF BLUFF OVERHANG

Borella Geology's April 2012 study presented an assessment of the coastal bluff using conventional limit equilibrium methods. In their study, the coastal bluff face was modeled as being near-vertical with a slight incline landward, and as such, did not address the bluff overhang. Borella Geology concluded that the site is both grossly and pseudo-statically stable. As a result of discussions between Borella Geology and the Coastal Commission Staff, we understand that an assessment of the stability of the bluff overhang has been requested by Dr. Johnsson, the Coastal Commission's Geologist. To this end, TerraCosta has performed additional analyses concerning the stability of the existing bluff overhang at the foot of the slope at 31381 South Coast Highway.

In order to evaluate the stability of the bluff overhang, we performed a finite-element analysis. We employed this method in order to examine the state of stress within the overhang, with a particular interest in the variation of tensile stresses within the overhang. Conventional limit equilibrium-based slope stability methods focus on a comparison of mobilized shear stress to the shear strength of the material comprising the slope, and generally do not directly address tensile stresses that result from the overhang. The overhang



acts conceptually like a horizontal cantilever beam, where the beam is conceptually fixed to a vertical plane. From a mechanics of solids perspective, the overhang generates a moment due to its weight and the distance from the center of gravity of the overhang to the vertical plane passing through the toe of the overhang. From an equilibrium perspective, this moment needs to be balanced by a counter moment that acts in the opposite direction. This counter moment is similar to the bending moment produced in a beam. This bending moment is generated by both tensile and compressive forces, which cancel each other out but result in a couple being produced.

While the analogy to a beam problem describes what is conceptually occurring within an overhang, the complication of stress field due to the geometry of the overhang and the upslope conditions requires a more detailed examination of the stress fields generated within and near the overhang. As such, finite-element analysis provides one with the means to examine such a stress field.

In our analyses, we used the finite-element program SIGMA/W. We modeled the bluff as being comprised of the upper terrace deposits and bedrock comprised of the San Onofre Breccia. As our concern was on an estimation of the stress states within the overhang, we modeled the upper terrace deposits as an elastic-plastic material having a limiting shear strength based on the Mohr-Coulomb strength model. We assumed a frictional model to limit the generation of tensile stresses within the terrace deposits and assumed, for our purposes, a friction angle of 38 degrees. The strength of the terrace deposits for this exercise is not important, as the terrace deposits' importance is in its role as a surcharge. As such, its overall strength is not important. What is important is that it does not generate any tensile strength that would potentially lessen its role as a surcharge to the underlying bedrock. We modeled the bedrock unit as an elastic material, as we wanted to maximize the generation of tensile stresses within the overhang. A graphical representation of our finite-element model of the bluff is shown as Figure 8.

Our analysis consisted of allowing the individual elements of the finite-element mesh to adjust to the imposed unit weights of the materials. The analyses then consisted of computing kinematically compatible deformations and nodal forces that satisfied static equilibrium for the imposed body forces (i.e., unit weight of the materials). The nodal forces were then converted into a state of stress within the model for which both maximum and minimum principal stresses within the model were computed. We examined the distribution



of minimum stresses and noted that where they were in tension was in the area of the overhang, as expected from our simplified beam analogy model. Figure 9 shows the distribution of the minimum or minor principal stresses. In Figure 9, a negative stress is a tensile stress.

As shown in Figure 9, the largest tensile stress from our analyses is approximately 800 psf. It is this stress that we then compared to the estimated tensile strength of the San Onofre Breccia in order to assess the stability of the overhang.

We estimated the tensile strength of the San Onofre Breccia by taking one-tenth of the unconfined compressive strength of the rock, as determined from testing on rock cores from Boring RC-HMM-1 that was excavated at 31772 Coast Highway for an access shaft for the South Coast Water District Tunnel Rehabilitation Project for the City of Laguna Beach. We examined both the unconfined compressive strength test results on rock cores and by converting Point Load Strength Index of Rock by multiplying the strength index by 8 as suggested by Smith (Rusnak and Mark, 2000) for rock having an unconfined compressive strength less than 1,000 psi. Lastly, we used the lowest rounded estimate of 2,200 psf for the tensile strength of rock from all of the reviewed data.

Comparing the largest induced tensile stress of 800 psf in the overhang to the estimated tensile strength of 2,200 psf, we concluded that the overhang bluff face is stable.

9 LONG-TERM BLUFF STABILITY AND SETBACK CONSIDERATIONS

In Borella Geology's April 2012 geotechnical report for the proposed residence, they conclude that the site is both grossly and pseudo-statically stable. We have reviewed Borella Geology's stability analyses, along with the strengths assumed in their stability analyses, and agree with their conclusions. Although Borella Geology did not address the stability of the overhang, which exists along approximately 50 percent of the sea cliff fronting the southerly portion of the subject project, as discussed above, we have independently evaluated the stability with a 9.5-foot overhang. As indicated above, we also conclude that the overhang is stable.



We have also performed a finite-element analysis assuming a 14.7-foot overhang resulting from 5.2 feet of additional marine erosion over the next century, which we believe to represent a conservative upper bound erosion estimate. This results in maximum computed tensile stresses approaching 2,800 psf, which for this condition we would anticipate a vertical failure removing the overhang.

As indicated in Figure 10, assuming the previously described upper bound scenario, the overhang may collapse in say 70 to 80 years, locally resulting in upwards of 14.7 feet of retreat of the sea cliff. This future sea cliff failure would result in a vertical scarp within the upper terrace deposits, which over an additional 70 to 80 years (or 150 years into the future) might erode back to an inclination on the order of 40 degrees, which under this scenario results in upwards of 31 feet of increased erosion on the sloping terrace surface over the next 150 years.

Given the preceding upper bound analysis, when we look at good quality photographic records going back for over 80 years and compare the inclination of the very mature terrace surface extending from the face of the sea cliff up to the break in slope, we ultimately conclude that there has in fact been very little erosion of the sea cliff in the last thousand years, suggesting extremely low annualized historical erosion rates.

There is also an offshore reef approximately 500 feet out from the base of the sea cliff exposed at low tide, thus placing the top of the reef near MLLW, effectively tripping any large offshore waves and significantly reducing any wave forces ultimately arriving at the face of the sea cliff. This offshore reef environment has also contributed to the persistently stable observed back beach, as well as the vegetation that backs virtually the entirety of this small pocket beach.

It is for these reasons that we conclude that this bluff-top property is one of the most stable coastal bluffs in Southern California, with the San Onofre Breccia along this section of Laguna Beach very strong and erosion-resistant, with bedding dipping into the slope to make the slope very stable.

Proposed improvements are currently located a minimum of 70 feet back from the face of the sea cliff, resulting in a very conservative setback providing several, if not many, centuries of stable coastal bluff seaward of the proposed improvements.



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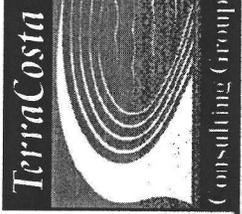
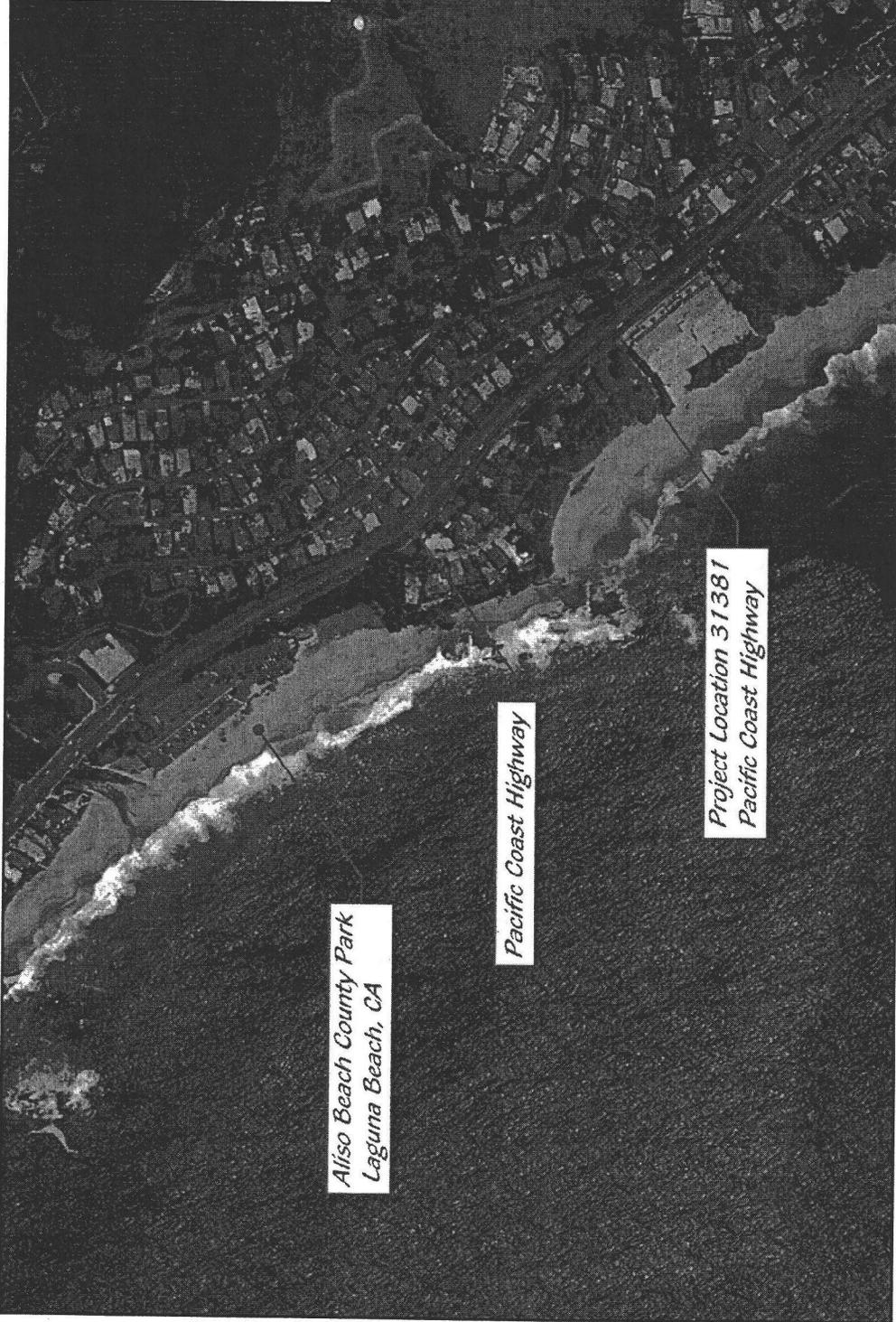


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APPROXIMATE SCALE: 1"=500'



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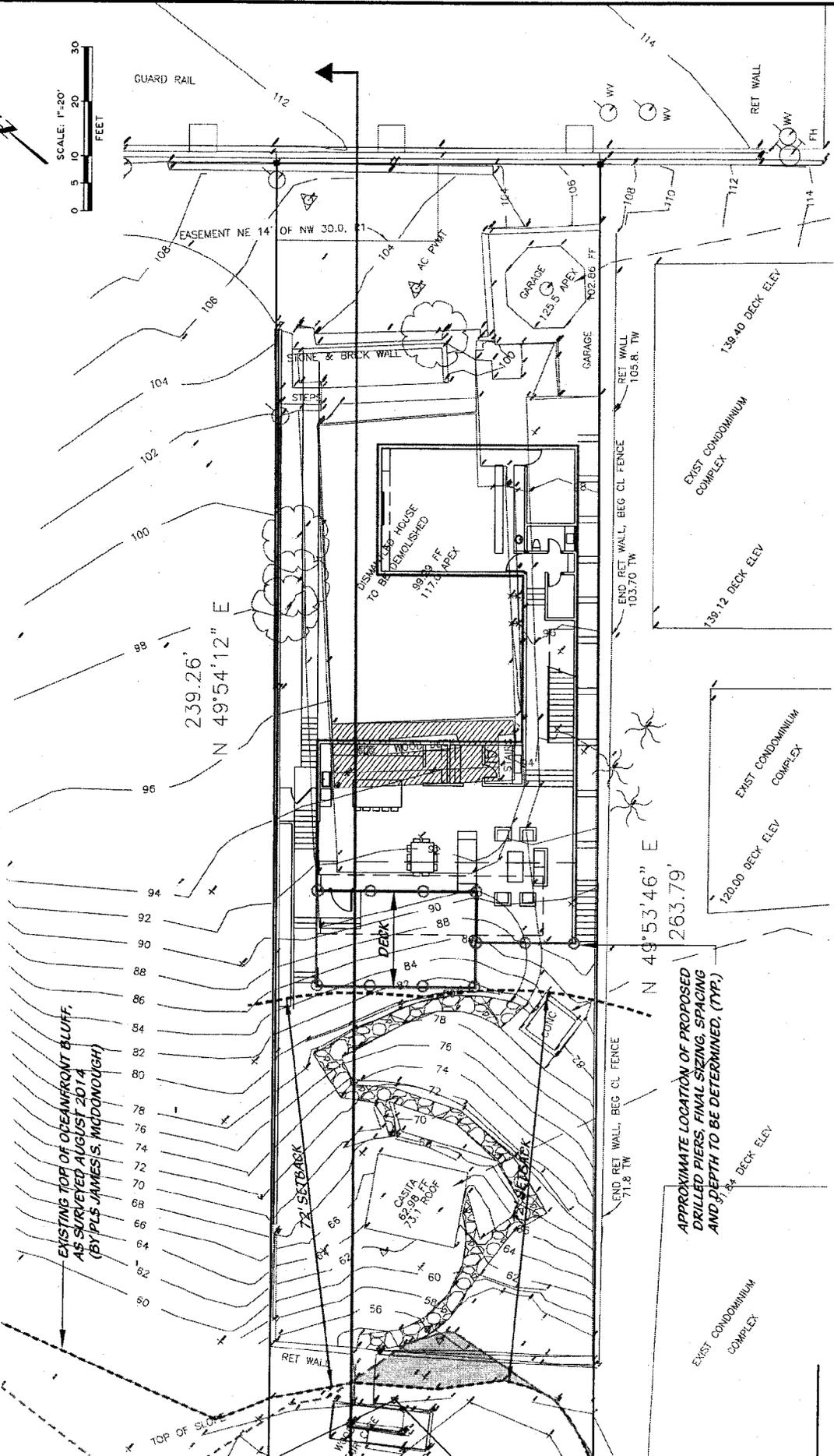
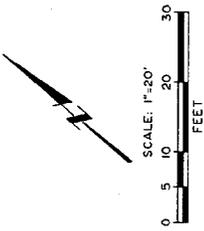
FIGURE NUMBER
1

PROJECT NAME
31381 PACIFIC COAST HIGHWAY
LAGUNA BEACH, CA

PROJECT NUMBER
2856

**GOOGLE EARTH SITE
VICINITY MAP**

Image Reproduced from Google
Earth. Image Date: 4-16-13



EXISTING TOP OF OCEANFRONT BLUFF,
AS SURVEYED AUGUST 2014
(BY PLS JAMES S. MCDONOUGH)

APPROXIMATE LOCATION OF PROPOSED
DRILLED PIERS, FINAL SIZING, SPACING
AND DEPTH TO BE DETERMINED. (TYP.)

TERRACOSTA CONSULTING GROUP ENGINEERS AND ARCHITECTS 3880 MURPHY CANYON ROAD, SUITE 200 SAN DIEGO, CA 92123 (858) 473-8900	FIGURE NUMBER 2
PROJECT NAME 31381 SOUTH COAST HIGHWAY LAGUNA BEACH, CA 92651	PROJECT NUMBER 2858



PROPOSED SITE PLAN

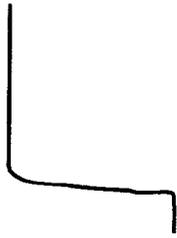
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PROPOSED SITE PLAN

EMEWTS OUTLINE

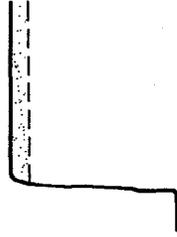
30SED DRILLED PIER, (TBD)

(A)
HOMOGENEOUS



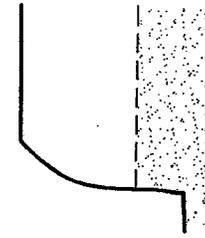
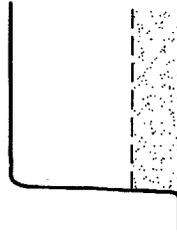
(a) $M > S_a$

(B)
RESISTANT AT TOP

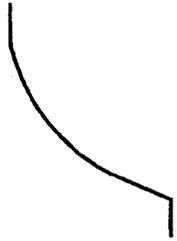


(b) $M > S_a$

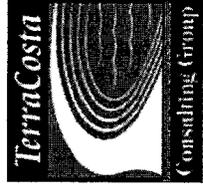
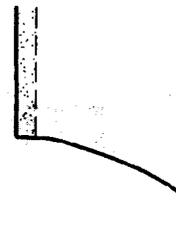
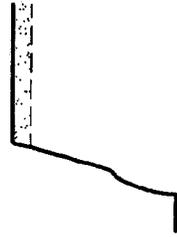
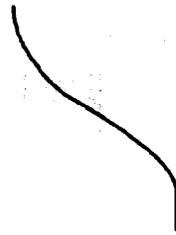
(C)
RESISTANT AT BOTTOM



(c) $M = S_a$



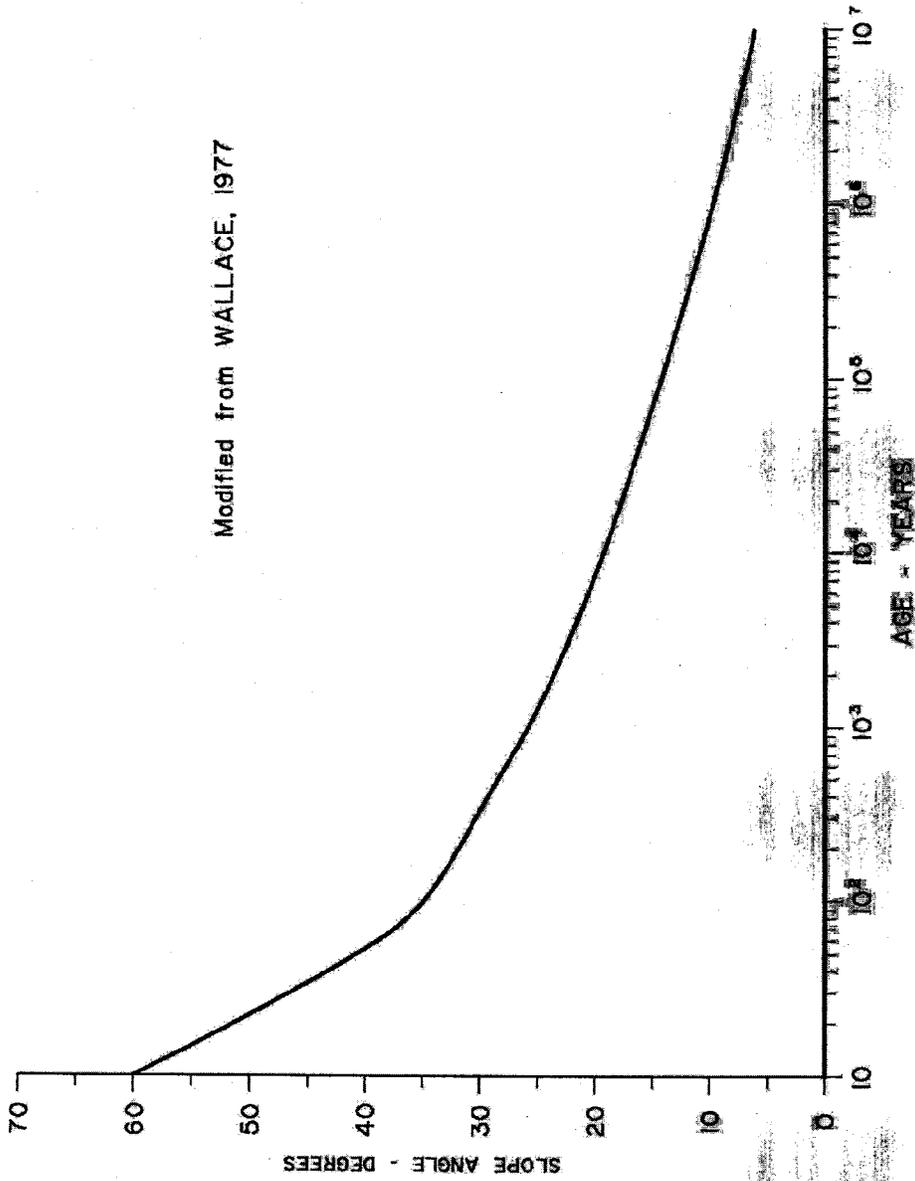
(d) $M < S_a$



CLIFF PROFILES ACCORDING TO VARIATIONS IN ROCK RESISTANCE AND IN THE RELATIVE EFFICACY OF MARINE (M) AND SUBAERIAL (S_a) PROCESSES. THE MORE RESISTANT ROCK OUTCROPS ARE SHADED (AFTER EMERY AND KUHN 1982)

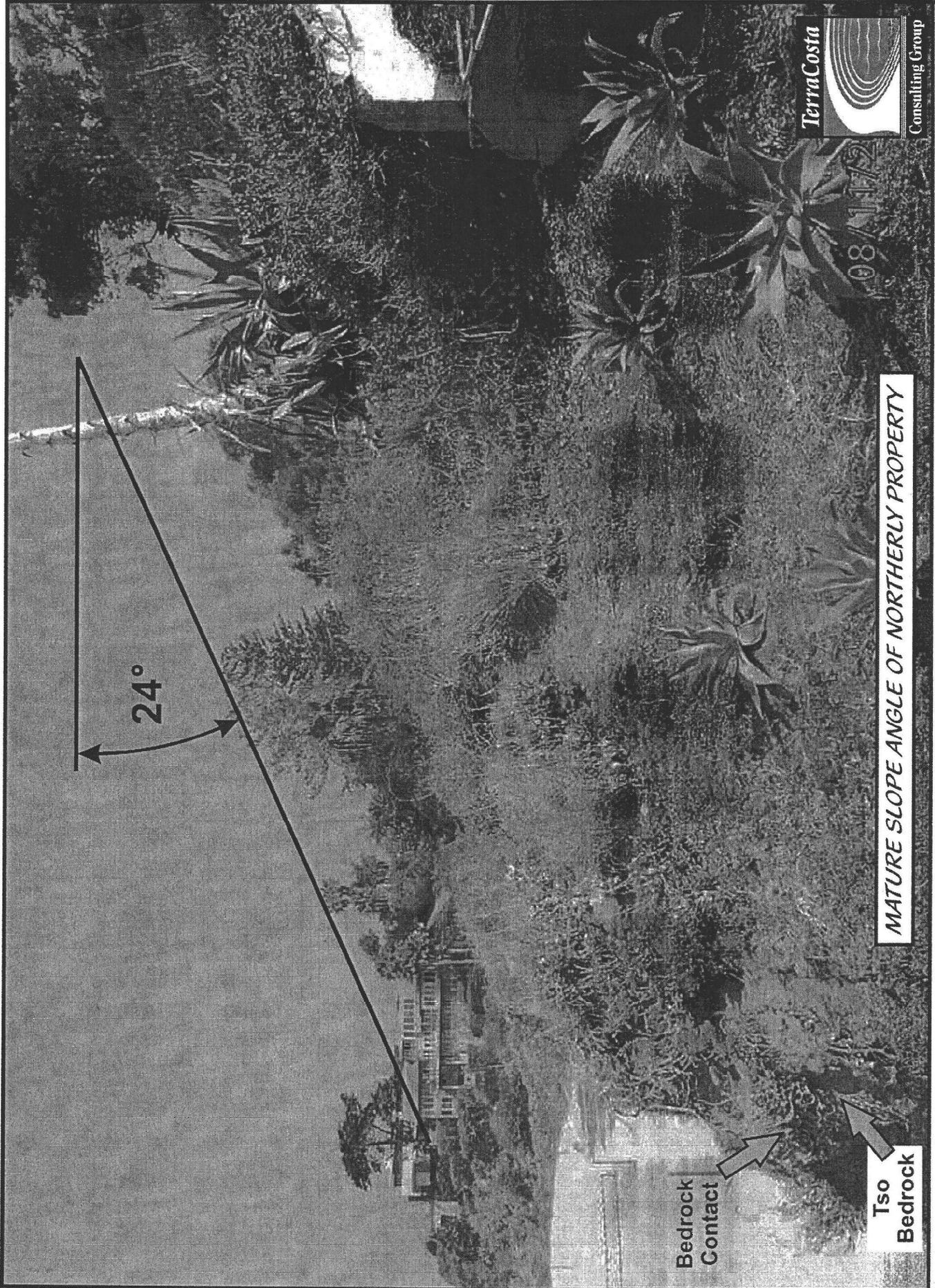
MATRIX OF ACTIVE COASTAL BLUFF PROFILES

Modified from WALLACE, 1977



AGE-DEPENDENT SLOPE ANGLE FOR WEAKLY INDURATED FORMATIONS





24°

MATURE SLOPE ANGLE OF NORTHERLY PROPERTY

Bedrock Contact

Tso Bedrock



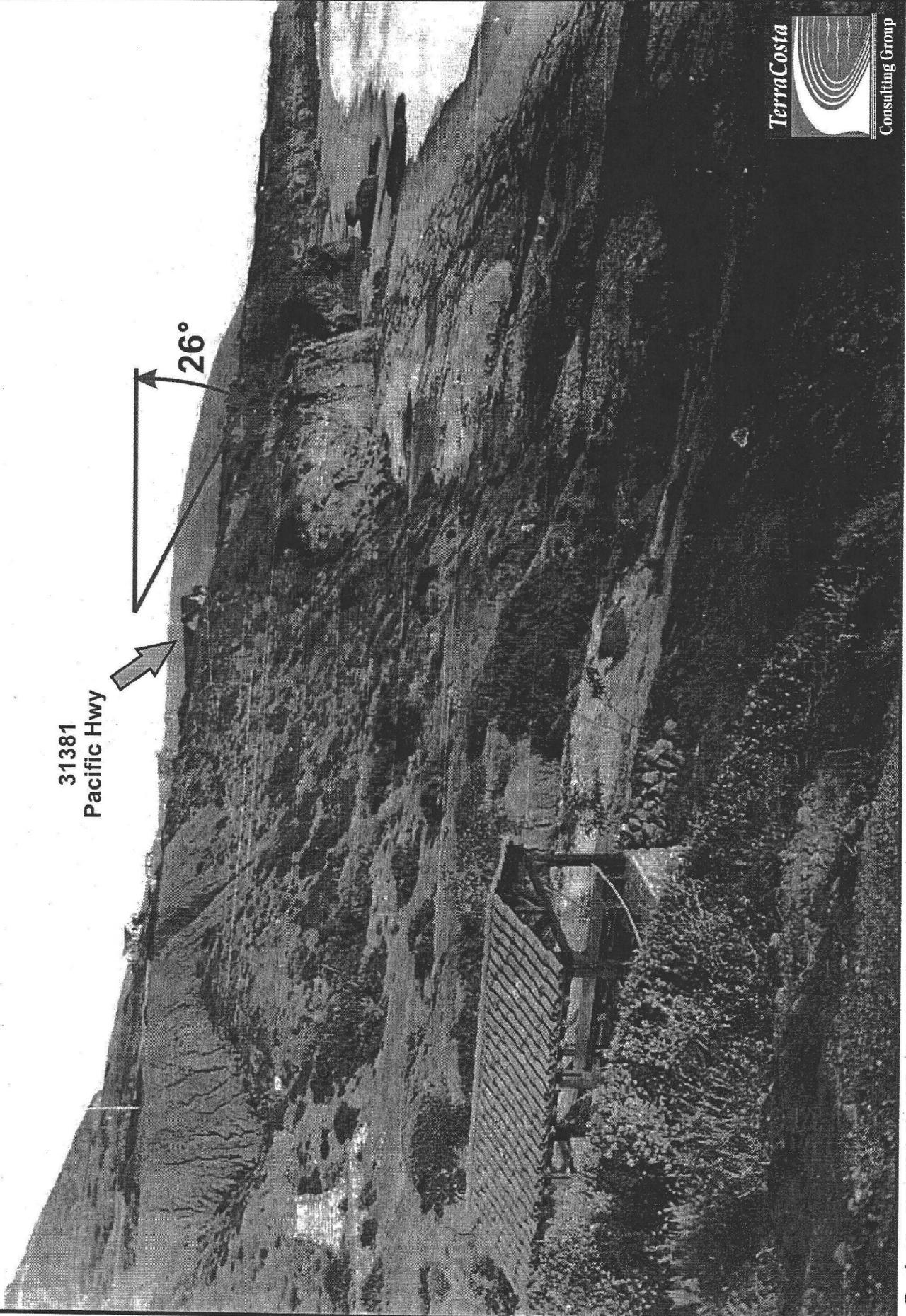
Project: 31381 Pacific Coast Highway, Laguna Beach, CA • Project No. 2856 • Figure No. 5

Photo Date: 1929

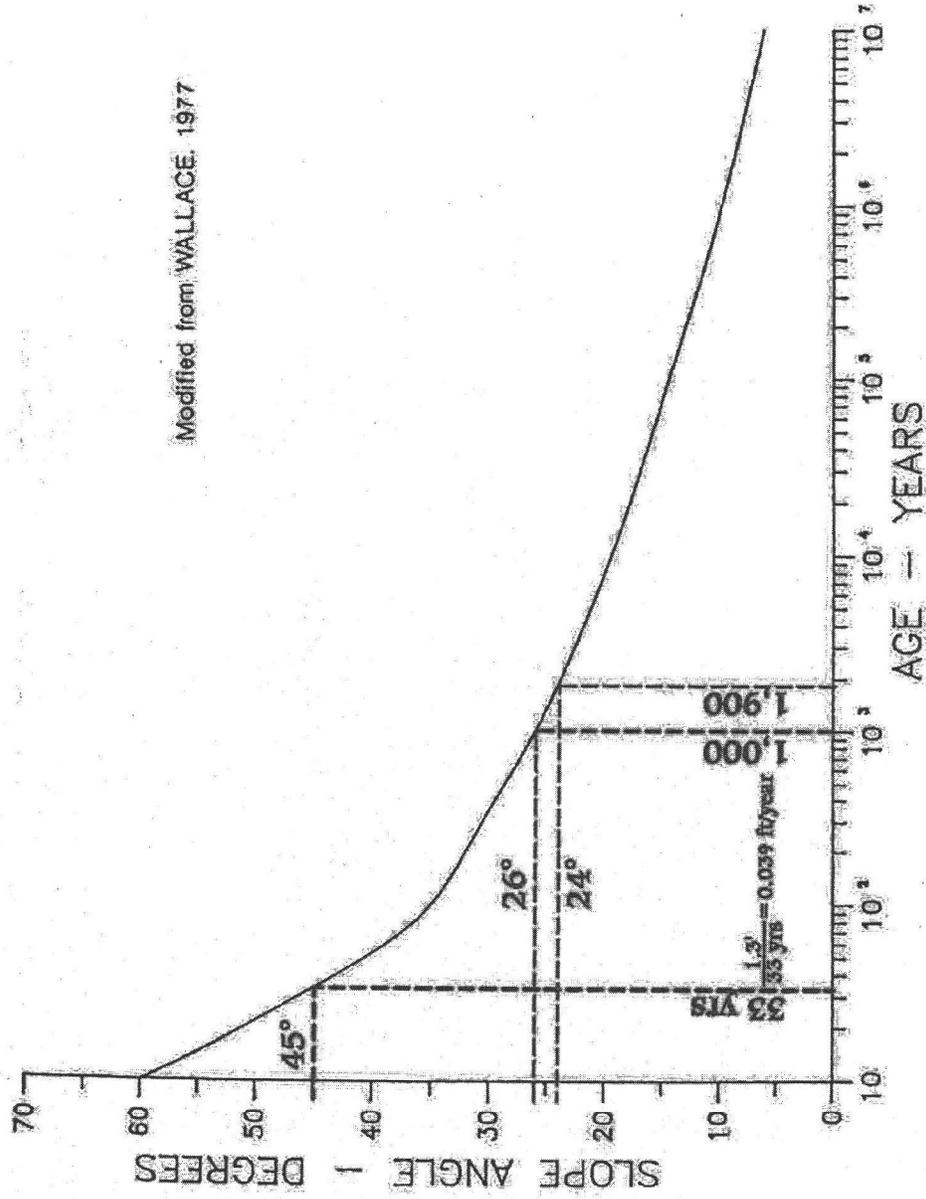
31381
Pacific Hwy



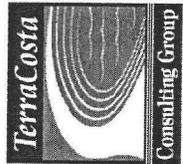
26°

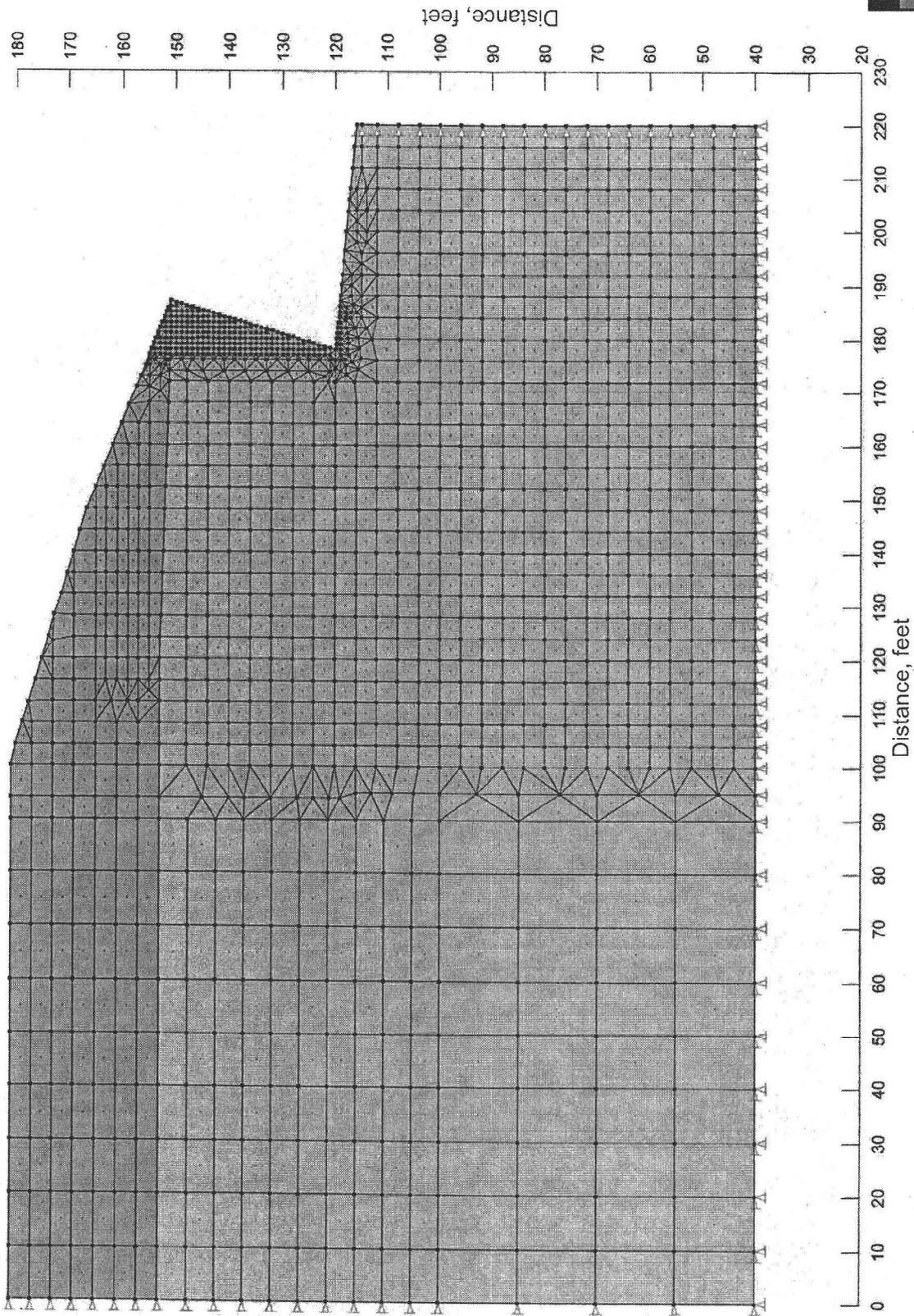


Modified from WALLACE, 1977

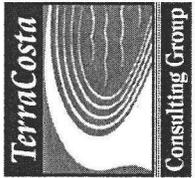


AGE-DEPENDENT SLOPE ANGLE FOR WEAKLY INDURATED FORMATIONS

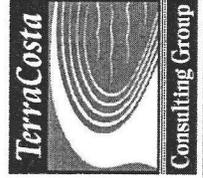
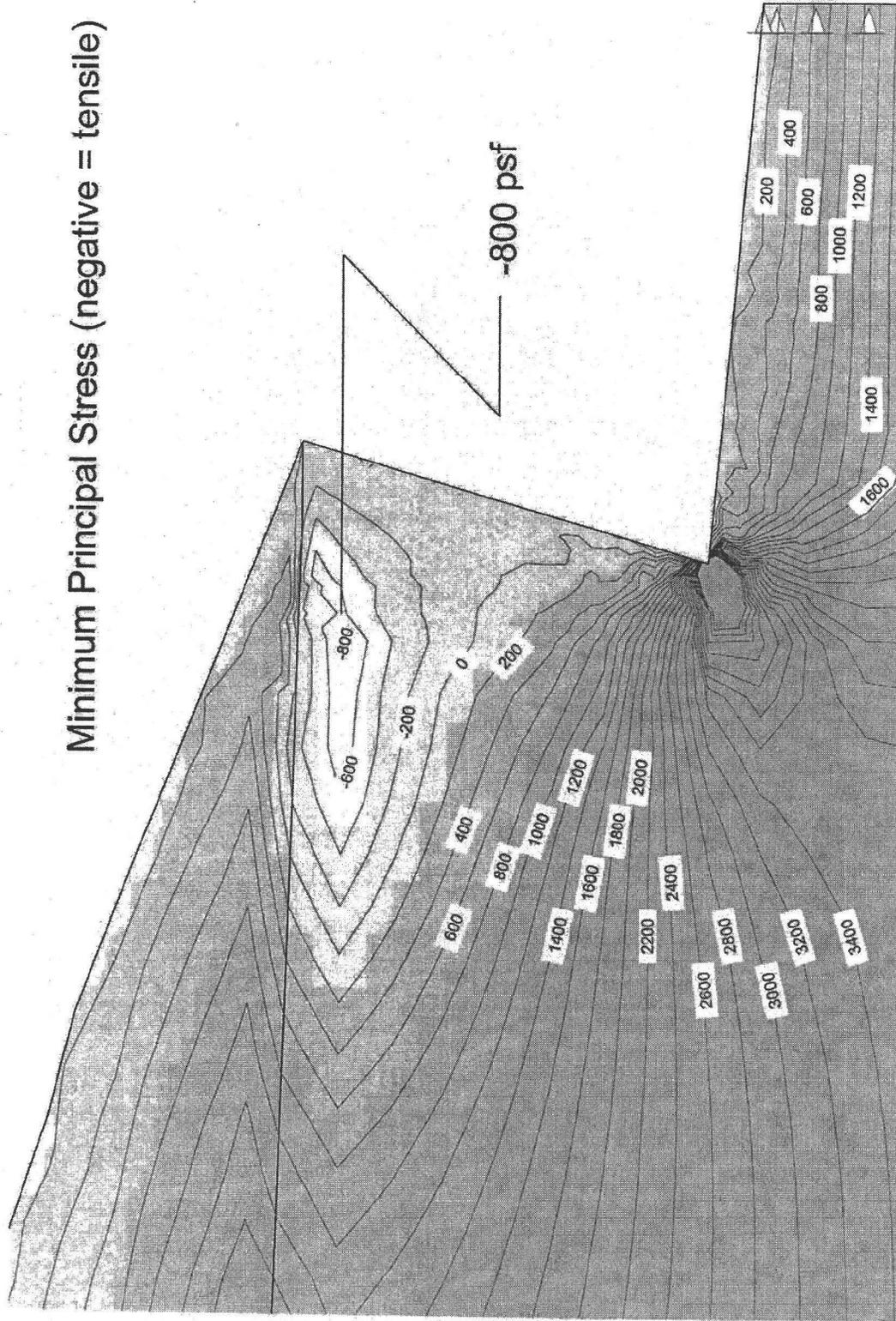




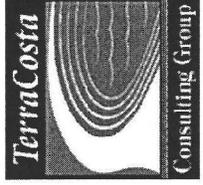
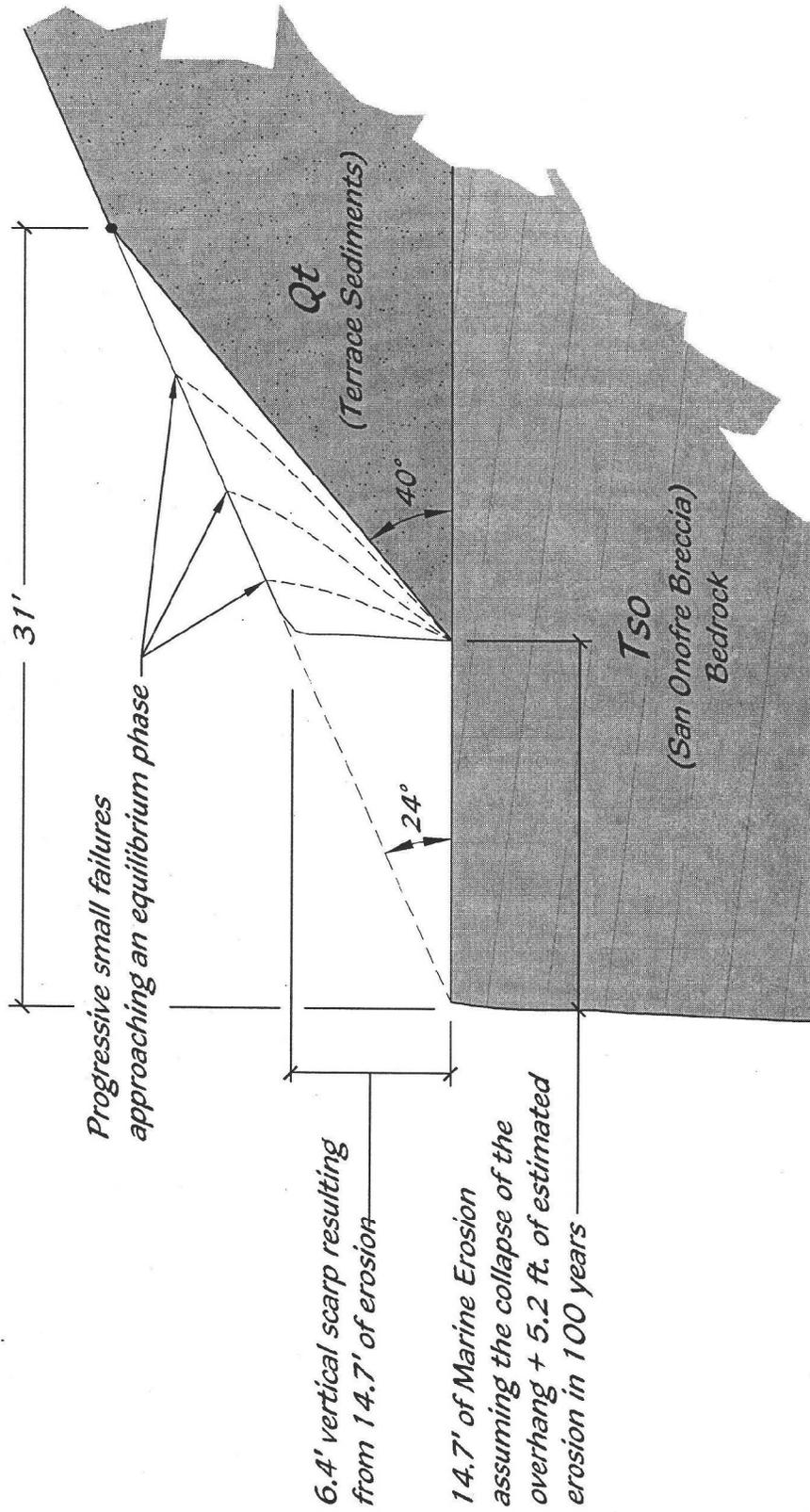
FINITE ELEMENT MODEL OF OVERHANG



Minimum Principal Stress (negative = tensile)



DISTRIBUTION OF MINOR PRINCIPAL STRESSES NEAR OVERHANG



BLUFF EROSION SCHEMATIC

tly

feet
of
al

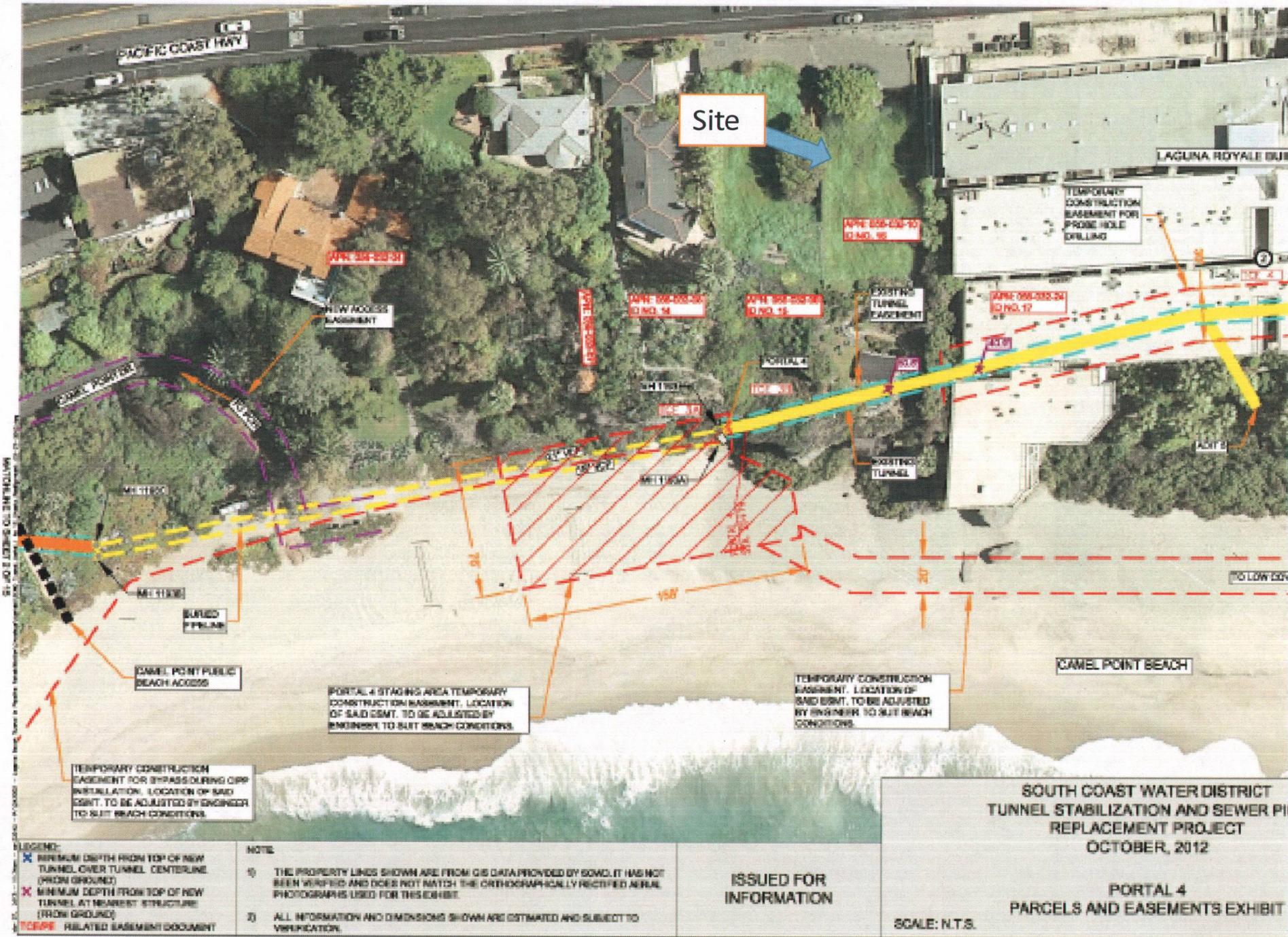
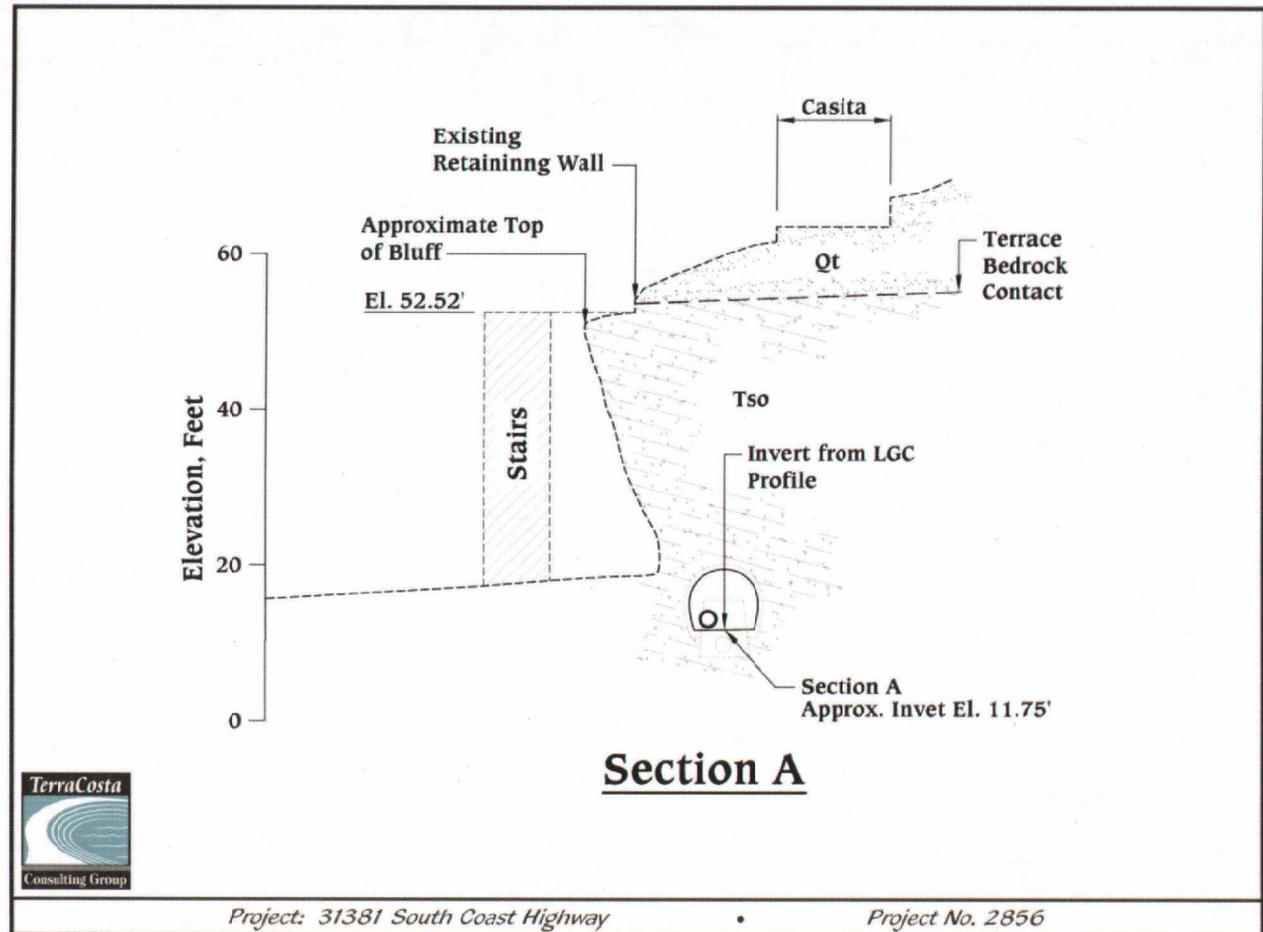


EXHIBIT 16

Cross Section of CCC approved Tunnel Project located under the site, which runs approx. 5 FT. landward of the vertical seacliff



Ostashay & Associates

CONSULTING

P.O. Box 542
Long Beach, CA
562.500.9451

Memorandum

To: Nancy Csira, City of Laguna Beach

Date: 08/03/2011

From: Jan Ostashay, Principal OAC

Re: PEER REVIEW ASSESSMENT: 31381 Coast Highway, Laguna Beach, California – Historical Resource Report (prepared 06/2011 by Galvin Preservation Associates)

Overview

At the request of the City of Laguna Beach Community Development Department, Ostashay & Associates Consulting (OAC) conducted a peer review of a historic resources survey report prepared for the property referenced above. The assessment entitled "Historical Resource Report" is dated June 2011, and was prepared by historic preservation consultant Galvin Preservation Associates (GPA) of Redondo Beach, California. I have reviewed the report and relevant supporting data, and also conducted a field visit of the site and additional research on the property. The following information is submitted to you for your reference and use. If you have any questions, please do not hesitate to contact me.

Introduction

Generally, peer reviews of historic resources assessment reports are conducted to reassure lead agencies requesting the assessments that the identification and evaluation efforts performed are adequate, that the eligibility determinations made are logical and well supported, and that the document will, if necessary, facilitate environmental compliance under the provisions of CEQA.

As a primer, historic resources fall within the jurisdiction of several levels of government. Federal laws provide the framework for the identification, and in certain instances, protection of historic resources. States and local jurisdictions play active roles in the identification, documentation, and protection of such resources within their communities.

Numerous laws and regulations require federal, state, and local agencies to consider the effects of a proposed project on historic resources. These laws and regulations stipulate a process for compliance, define the responsibilities of the various agencies proposing an action, and prescribe the relationship among other involved agencies (e.g. State Office of Historic Preservation, State Historic Preservation Officer, and/or Advisory Council on Historic Preservation). The National Historic Preservation Act of 1966, as amended; the California Environmental Quality (CEQA); the California Register of Historical Resources; Public Resources Code (PRC) 5024; and the City of Laguna Beach Historic Preservation Ordinance (Chapter 25.45 of the City's Municipal Code) are the primary federal, state, and local laws and policies governing and affecting preservation of historic resources of national, state, regional, and local significance. Other relevant regulations and policies at the local level include the City's Historic Resources Register, Historic Resources Inventory, and Historic Resources Element.

The National Historic Preservation Act of 1966, as amended, promulgated standardized practices and guidelines for identifying, evaluating, and documenting historic properties (Secretary of the Interior's

Standards and Guidelines [Preservation Planning, Identification, and Evaluation]). The State Office of Historic Preservation (OHP) and most local governments in California recognize these practices and guidelines and recommend their use in order to maintain objectivity and consistency in the preparation of historic preservation documents and surveys.

Property Background

The subject property includes a single-family dwelling, two-car garage, an outdoor shower covered by a wood trellis, a detached enclosed sunroom structure cut into the hillside, a wood staircase to the beach below, flagstone paved walkway at the west end of the lot which leads to the staircase, concrete walkways around the house, and some additional hardscape and landscaped features. Per the property profile record on file with the City, the residence was built in 1925. GPA, in their report, gives a construction date of 1929 (as stated on the 1981 historic resources inventory form prepared for the property). The 1929 date is questionable since historical photographs from 1926-1927 show the house in its current location. Since there are no original building permits on file at the City, a review of records at the County of Orange Assessor's office may shed light into the actual date of construction and information on additional improvements made to the site over the years.

The subject property was previously identified as historically significant in the City's historic resources survey in 1981. At that time, the property was, therefore, included in the City's Historic Resources Inventory as a "K" or Key property (which was officially recognized by the City Council per Resolution 82.111). As defined in the City's Historic Resources Element of the General Plan, structures with a "K" rating are buildings that strongly maintain their original integrity and demonstrate a particular architectural style or time period. As implied by the 1981 historic resources inventory form, the property located at 31381 Coast Highway was found to be historically important because of its association with the early development of the Coast Royal area by the Skidmore Brothers. It was built by Guy Skidmore as one of first unusual homes in the Skidmore Brother's development of the Coast Royal.

The previous owner of the subject property proposed to remodel the residence and received Heritage Committee approval in 2009. Permits were ready to be issued by the City in March 2010, but the property owner never followed through with finalizing the permitting process. A stop work notice was served on the property in September 2010 by the City's Code Enforcement staff for the illegal demolition of the dwelling. At that time, all of the exterior siding had been removed by the previous owner and the interior had been stripped to the studs. All that remains of the single-family dwelling today is the roof, which is supported by wood studs. The garage, sunroom, staircase, flagstone pavers, concrete walkways, and most landscape and hardscape features, however, are still extant.

The current owner of the property would like to demolish the residence in order to build a contemporary single-family structure. However, since the property was previously identified as historic and is listed in the City's Historic Resources Inventory the current owner was asked to prepare a historic resources assessment report to help determine if the property is a historic resource subject to CEQA.

In June 2011, a historic resource report was prepared for the property by consultant GPA. Despite meeting several federal, state, and local criteria of significance, the report concluded that the property was ineligible for such landmark listing because of compromised historic integrity of design, materials, workmanship, association, and feeling. The property was, therefore, determined not to be a historical resource as defined by the CEQA Guidelines, Section 15064.5(a).

Because of this evaluation finding and in light of the proposed demolition project, the City of Laguna Beach requested a peer review of the GPA 2011 historic resource report for accuracy in its assessment and conclusion, as well as additional support in understanding the implications of CEQA as it relates to the subject property.

Peer Review Assessment

The following comments are made with the referenced standards and guidelines discussed above in mind. In addition, the recommended approaches to the identification and evaluation of historic resources by OHP have also been considered and utilized in conducting this peer review.

For this peer review, the methodology was as follows. Prior to visiting the site, OAC reviewed the historic resource report prepared by GPA dated June 2011. OAC conducted a site visit on July 20, 2011, to view the property and fully understand its condition, setting, and context. In addition to reviewing findings, an important element of peer reviews is the assessment of the clarity of presentation and adequacy of the research on which the report was based. OAC found the report to be clear and adequately researched in general, though information regarding the Skidmore's was limited. OAC supplemented biographical information on the Skidmore's by researching and reviewing Census records, World War I registration cards, and Los Angeles Times newspaper articles.

OAC also determined that additional research was needed to better understand the original architectural style, materials, and design of the residence. OAC collected and reviewed historical photographs of the site, current photographs of the property, and historical photographs of the community in general. A review of the City's Historic Resources Element also provided insight into the term Period Revival, which further defines this idiom as including most revival styles popular in the 1920s and 1930s. According to the Historic Resources Element, such Period Revival styles evident in Laguna Beach include Spanish Colonial Revival, variants of Mediterranean Revival, Mission Revival, and English Tudor Revival.

The subject property as described in the GPA report surmises that the residence was originally a Craftsman inspired design (page 13 of the GPA report) because of its low-pitched gabled roof. While on the contrary, the roof pitch is rather steep and appears as it did in the historical photographs that I reviewed. Further, the half timbering and stucco siding on the exterior wall surfaces are consistent with the other Tudor Revival structures of the same era found elsewhere in the City. In fact, on page 7 of the Historic Resources Element a photograph of Main Beach in the 1920s shows a Tudor style structure with similar cladding and roof pitch. Nonetheless, since much, if not all, of design features of the subject property have been lost the issue regarding original architectural style becomes mute.

As for the subject property's evaluation determination made by GPA, OAC agrees with the finding that the property is not a historical resource and is ineligible for listing on the National Register, California Register, or local register. The single-family residence does not retain sufficient historical integrity to support historical significance. Integrity is the ability of a property to convey its historical significance. For landmark eligibility, a property must not only be shown to be significant, but it must also have integrity. Of the National Register's seven aspects of integrity, the property retains integrity of location and setting but not design, materials, workmanship, association, or feeling. It is possible that a historic property that does not retain sufficient integrity for listing in the National Register may still be eligible for listing in the California Register if it maintains the potential to yield significant scientific or historical information or specific data. For California Register eligibility, a property must retain enough of their historic character or appearance to be recognized as a historical resource and to convey the reasons for its significance. Alterations over time to a property or historic changes in its use may themselves have historical, cultural, or architectural significance. However, since the residence has been so extensively altered it does not appear to retain sufficient integrity for California Register listing.

And while GPA states on page 14 of the report that the criteria for listing in the Laguna Beach Register are similar to the National and California Registers, this is not necessarily accurate. The City's Historic Preservation Ordinance provides significance criteria that in some respects are similar to state and federal criteria, but are broader in meaning and application. Local jurisdiction significance criteria includes, structures that most retain their original appearance and architectural integrity; structures that most represent character, interest or value as part of the heritage of the city; the location as a site of significant historic event; the identification with a person or persons or groups who significantly

contributed to the culture and development of the city; the exemplification of a particular architectural style or way of life important to the city; and/or the embodiment of elements of outstanding attention to architectural design, detail, materials or craftsmanship. Nonetheless, because the dwelling has been stripped of its character-defining features it can no longer convey those important qualities that would render the property eligible for local landmark designation.

CEQA Overview

CEQA is the California Environmental Quality Act of 1970. Enacted by the State Legislature, it provides decision makers and the public with useful information about how public and private actions can affect the environment. This act declares that it is the State's policy to "develop and maintain a high-quality environment, now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the State."

The basic purpose of CEQA, as established by the California Code of Regulations (CEQA Guidelines, Section 15002), is to inform decision-makers and the public about potential, significant environmental effects of a proposed project, to identify the ways that environmental damage can be avoided or significantly reduced, and to prevent significant, avoidable damage to the environment by requiring changes to a project through the use of alternatives or mitigation measures.

A project, under CEQA, is defined as the whole of an action which has the potential to physically change the environment, directly or ultimately, that is subject to discretionary governmental (local, regional, and state agencies) approval. Only those activities defined as "projects" by CEQA are subject to its environmental review process. Most other activities are "non-projects" and thus are exempt from all of CEQA's procedures and policies. Once it has been determined that a project is not exempt from the CEQA process, a preliminary review must be conducted to determine whether the project will have a potential significant effect on the environment. A State court ruled in 2010, that when performing an environmental analysis, the analytical baseline against which project effects are measured must be the physical conditions existing at the time of the analysis.

For the subject property, this means that for any forthcoming environmental review work necessary for the demolition and/or construction improvement of the site, the physical condition in which the property is currently in would be the baseline used for the environmental analysis. Hence, for the identification of historical resources, as defined CEQA, the main residential dwelling on the site and its associated garage would not be considered as such since they have been substantially altered and no longer retain any historical integrity of materials, workmanship, design, feeling, or association.

The deconstruction work done by the prior owner and before the request for demolition of the residence by the current property owner is a code violation pursuant to the City's Municipal Code Section 25.45.014. Since this is also a Code Enforcement issue, there are other Municipal codes that have been violated as well and may be enforced by the City.

Conditions of Approval Recommendations

Project plans for the rehabilitation of the residence were approved by the Heritage Committee in early 2010. The work reflected in the plans at that time was considered by the City's Heritage Commission as consistent with the Secretary of the Interior's Standards for Rehabilitation. Therefore, the proposed project was exempted from CEQA as a Class 31 categorical exemption. Any work done beyond or out of scope of those approved plans should be addressed per the applicable violations cited in the City's Municipal Code and the property owner penalized appropriately. Per the City code Section 14.50.010, such unpermitted work is the responsibility of the current property owner.

As enforcement, the Heritage Committee may choose one or more of the applicable penalties listed in the City's Historic Preservation Ordinance, which are as follows:

- A five-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure.
- A two-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure.

In addition, the Committee may also wish to consider the application of conditions of approval as remedies to address the violation of the City's Historic Preservation Ordinance, including the following:

- **Retroactive Compliance.** Apply for and obtain a permit for construction, exterior alteration or enlargement of the subject property in accordance with Section 25.45.008 and Section 25.05 of the City's Municipal Code, including compliance with all conditions for work previously approved by the Heritage Committee.
- **Rehabilitate.** Rehabilitate or reconstruct the subject property to its original condition prior to the violation using as much physical and photographic evidence as possible. The applicant must obtain approval from the Heritage Committee and the design review board in accordance with Section 25.05 of the City's Municipal Code prior to issuance of permits or the initiation of work. The City can compel the violator to perform or provide for the rehabilitation work, or the City may perform or provide the rehabilitation work and recover all of its costs from the applicant. The City may also defer this action to the City Attorney for legal action.
- **In the case of demolition,** which the subject property is subject to, a monetary penalty equal to one-half the assessed value of the historic property prior to demolition. In the case of alteration, the penalty should be equal to one-half the cost of restoration/rehabilitation of the altered portion of the historic property. The penalty fee may also be derived using a square-footage cost rate based on the total square-feet of the subject property prior to demolition or alteration. Once the penalty has been paid, building and construction permits and/or Certificate of Occupancy, whichever are applicable, may be issued per the review and approval process stipulated in Chapter 25.05 of the City's Municipal Code.

The monetary compensation for the loss of the property should be utilized to help subsidize, promote, and strengthen the various on-going services and practices of the City's preservation program including, but not limited to, survey work; development and/or updating of preservation plans, treatment plans, ordinances, policies and regulations; rehabilitation work; landmark designations; Heritage Committee training; public workshops and publications; the development and expansion of other preservation planning tools.

Conclusion

OAC conducted a peer review of the historic resource report prepared by GPA in June 2011 for the subject property. Despite some inadequacies and incorrect information in the report, OAC concurs with GPA's conclusion that the property is not historically significant due to compromised integrity issues, and the 6Z California Historical Resource Status Code assigned to the property (ineligible for federal, state, and local register listing) is also correct.

It should be noted, however, that notwithstanding the ineligibility of the property (residence and garage) as a historic resource for the purposes of CEQA, the ancillary structure referred herein as the sunroom, the wood staircase adjacent the bluff, and the flagstone paved pathway and its siting, should all be retained and reused in place as part of any current or future development of the site. These extant features are intact remnants of the property's history and character.

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G P A

June 17, 2014

California Coastal Commissioners
and Coastal Commission Staff
South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

RE Date of Construction and Historic Significance of Stairs and Cabana- 31381
South Coast Highway, Laguna Beach

Dear Commissioners and Staff:

At the request of the property owner, I have reviewed historic photos and documentation for the property located at 31381 South Coast Highway in Laguna Beach to determine the relative age and historic significance of the stairway leading to the beach and a cabana located on the site. The property is currently included in the City of Laguna Beach's Historic Inventory.

GPA Consulting is very familiar with the subject property as we conducted several analyses of the main residence and the entire property in 2009 and again in 2013. As part of the evaluation of the property, GPA reviewed historic photographs of the site to determine the relative age of the main residence and ancillary buildings and structures. In addition to the main residence, the site also contains a stone wall, concrete and stone pathways leading to a set of redwood stairs that lead to the beach, as well as a beach cabana. The purpose of this letter is to identify and determine the age and historic significance of the ancillary buildings and structures on the site.

Following is a description and photographs of the various structures:

Cabana: The cabana sits at the bluff and is constructed of un-coursed local rubble stone and old-growth redwood beams. It is constructed into the hillside. The roof consists of a barrel vault supported by curved joists and extended purlins. The roof is currently covered with 2' tongue and groove wood planks (original) and asphalt roofing material (non-original). The walls are framed with 2' x 4' and 4' x 4' redwood beams that sit atop the rubble foundation. The interior floor consists of poured and scored concrete stained red. Note: This

231 California Street, El Segundo CA 90245 T: 310.792.2690 F: 310.792.2696

EXHIBIT 19

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concrete flooring is the same period and design as early paving that was discovered under an early addition of the main residence. Windows are located on the ocean facing side of the cabana and currently consist of one large fixed window flanked by two wood double hung windows. Following are some photographs of the existing cabana.

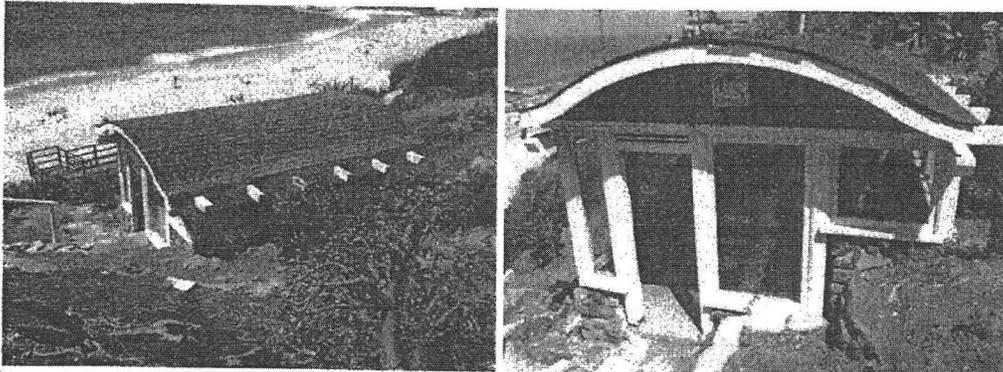


Figure 1 (Left): View of the cabana looking down hillside toward beach; the redwood stairs are located to the left of the cabana. This view shows the orientation of the cabana to the bluff, the extended purlins, and the asphalt roofing material. Figure 2 (Right): View of south facing elevation showing the barrel vault ceiling, redwood framing, and windows. The structure is constructed into the hillside.

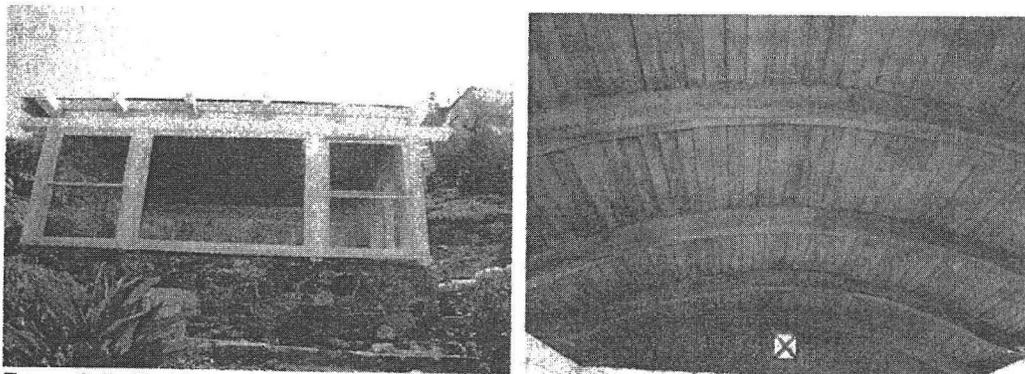


Figure 3 (Left): View of the west facing elevation of the cabana from the top of the redwood stairs showing the un-coursed local rubble stone foundation and the west facing windows. Figure 4 (Right): View of the interior of the cabana's redwood roof showing the curved ceiling joists and tongue and groove planks.

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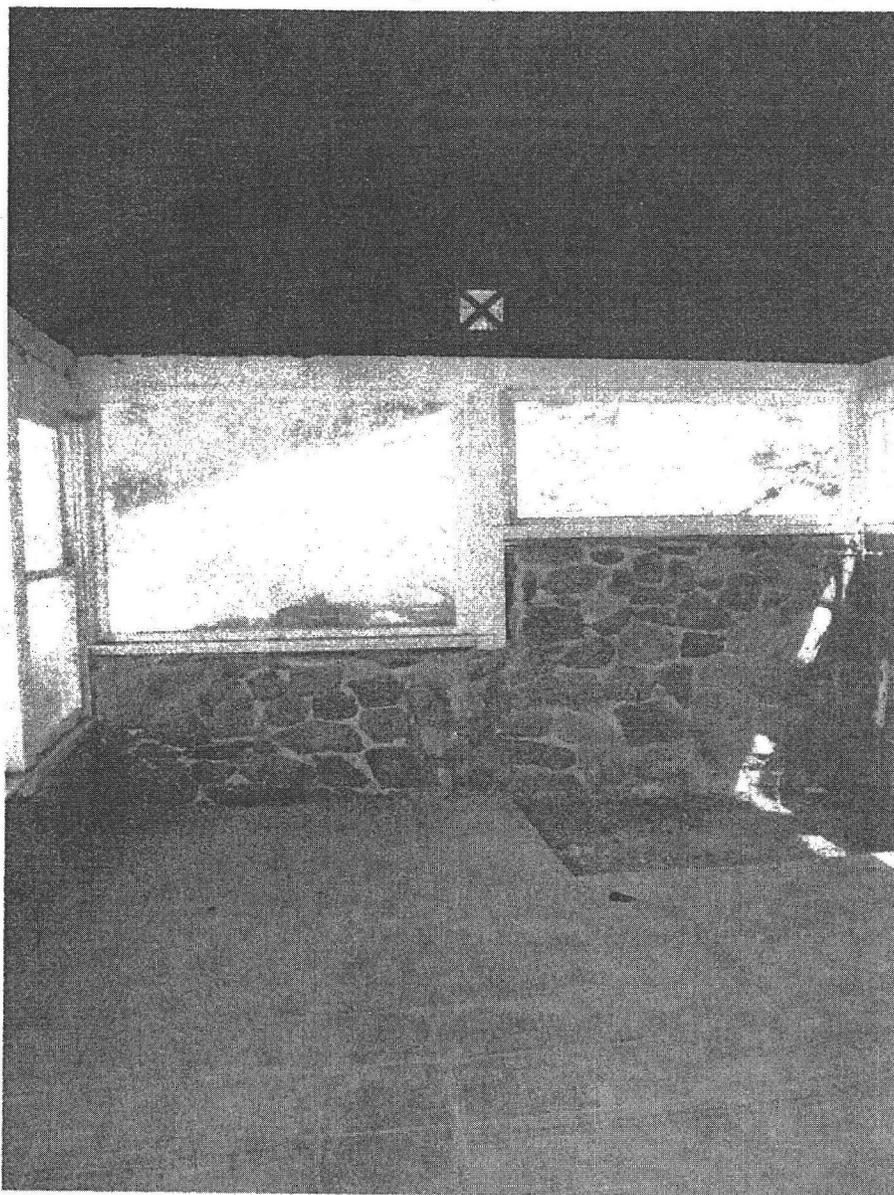


Figure 5 (above): View of the interior of the cabana looking north at the north elevation. View shows vaulted ceiling, rubble stone foundation constructed into the hillside, wood framed windows and red stained and scored concrete flooring. Note: This concrete flooring is the same period and design as early paving that was discovered under an early addition of the main residence.

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Figure 6 (Above): View of the stair structure from above, looking east. The stairway consists of standard redwood steps supported by 4 x 4' posts. The railings consist of three horizontal 2 x 4' beams. There are six switch backs and one enclosed storage shed at the base of the stair. It appears to be the same configuration as what was present in historic photos (below). The cabana is visible just above the stairway to the left of the frame. The stairway and cabana was part of the property at the time it was listed on the City's Historic Register.

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To determine the age and potential historic significance of the redwood stairway leading to the beach, the cabana and the stair structure, GPA conducted a review of historic photographs of the subject property including the following:

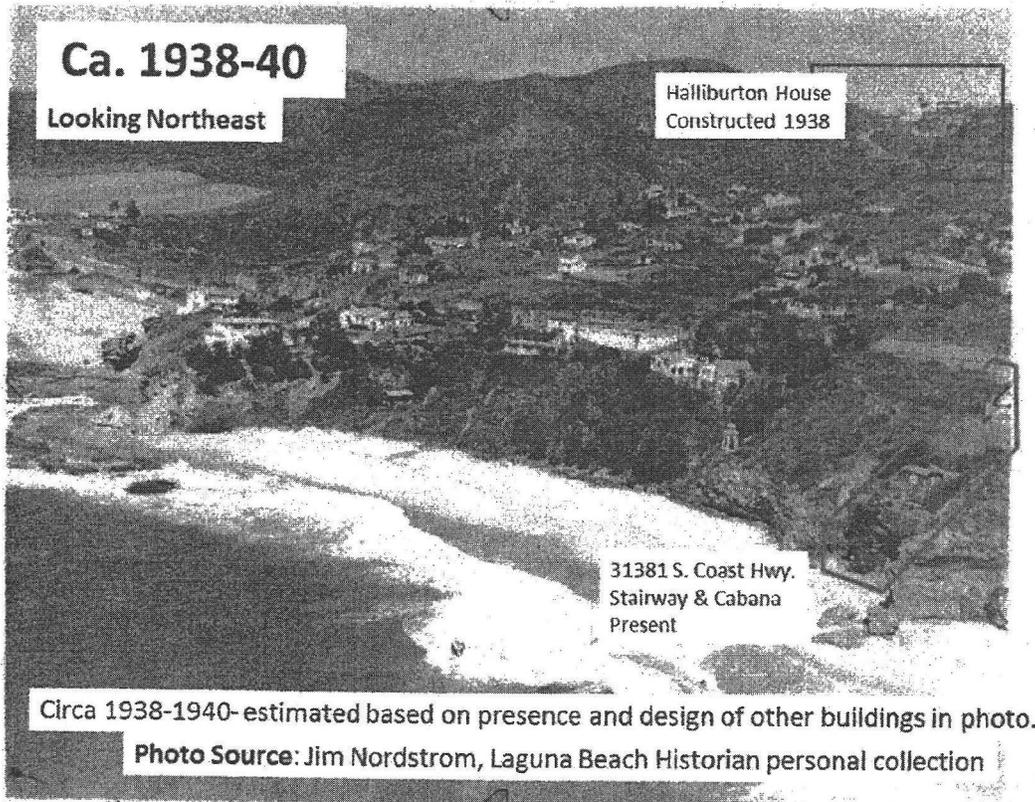


Figure 7 (Above): The above photograph dates from circa 1938-1940. This determination was made based on the general design and styles of the residences pictured in the photo as well as the presence of the Halliburton ("Hangover") House in the upper right hand corner of the photo (outlined in blue). The subject property, located at 31381 South Coast Highway is partially seen in the lower right hand corner of the photograph. Although the residence cannot be seen in the historic photo, the redwood stairway and the cabana are clearly visible in the same location and configuration as exists today. The residence cannot be seen in this photo due to vegetation and the edge of the photograph.

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Photo Source: Jim Nordstrom

Figure 8 (Above): Close up view of photograph from prior page showing the presence and configuration of the cabana and redwood stairs leading down to the beach below in circa 1938-1940; View looking northeast. The stairs and cabana look the same today (with the exception of a couple of changed windows on the cabana, which do not diminish the historic significance of the cabana structure).

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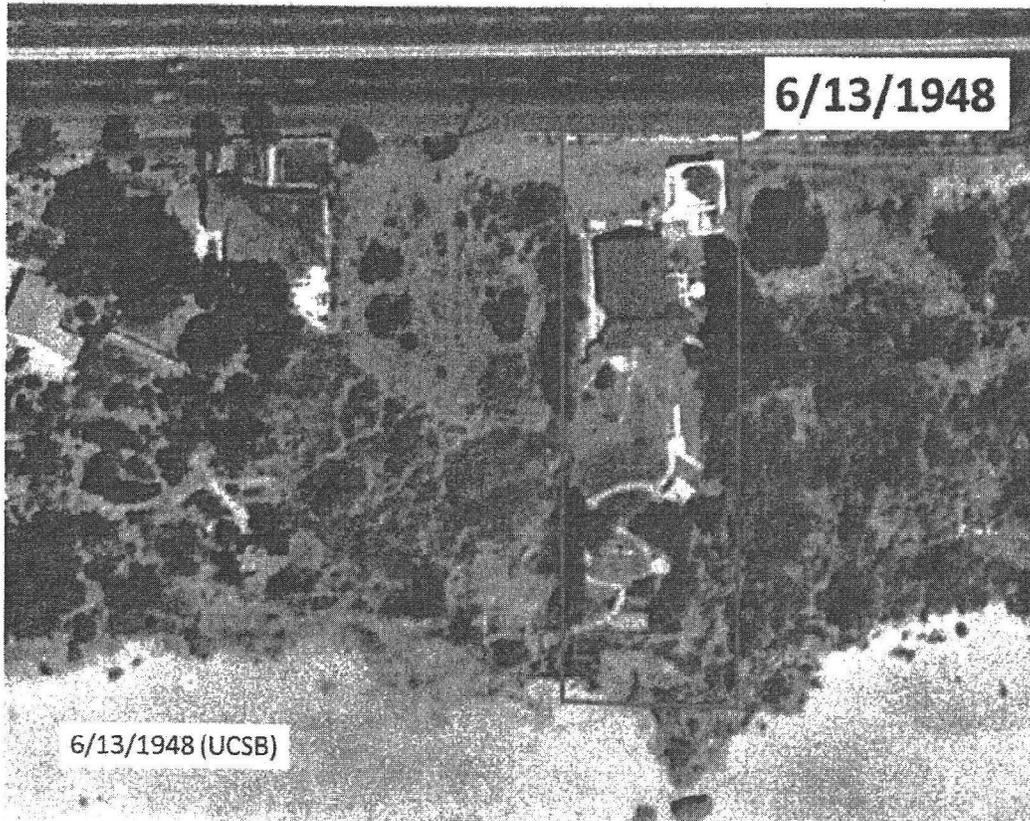


Figure 9 (Above): 1948 Aerial Photograph (provided by UCSB Archives) showing the subject property located at 31381 South Coast Highway (outlined in red). The photograph clearly shows the presence of the cabana and redwood stairway leading to the beach; view looking east.

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6/13/1948 (UCSB)

Figure 10 (Above): Close up view of 1948 aerial photograph shown on prior page showing the presence of the cabana and stairway leading to the beach.

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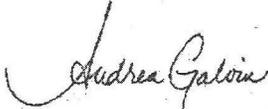
G P A

Conclusion:

The property located at 31381 South Coast Highway in Laguna Beach was first developed in the mid to late 1920s (there is some debate as to the exact date that the main residence was constructed; however historic photographs from circa 1928-1929 show a residence on the subject lot). However, early photographs are not framed to include the bluff area and therefore it is unclear if the cabana and stairs were constructed at the same time as the main residence. However, a photograph from the 1930s clearly shows all three present and an aerial photograph from 1948 also shows them present in their current locations and configuration. Therefore, it appears that these two structures have been on the subject parcel since at least the first decade of the property's development and would therefore contribute to the historic significance of the site. I recommend that these features be preserved in place and/or restored as the last remaining structures on the site that date to the area's earliest development.

Thank you for your consideration of this analysis. I would be happy to answer any questions that you may have at (310) 792-2690 or by e-mail at andrea@gpaconsulting-us.com.

Regards,



Andrea Galvin
President, GPA Consulting

Original flooring and rock in cabana



Original house flooring



Rock walls in cabana



Original walkway adjacent to original residence



building a Normandy style residence in block 35. Mrs. Mary S. Watkins, of Santa Ana, has purchased the Guy Skidmore residence in Coast Royal and an adjoining lot reaching to tide water. Steps have been built to the beach.

A commercial building of brick, tile and stucco is being erected at Pearl street and Coast boulevard south by R. B. Kelly, owner of the lot. Leases are being negotiated for a drug store, grocery and barber shop. It is reported.

RECEIVED
South Coast Region

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

MAR 09 2015

**CALIFORNIA
COASTAL COMMISSION**

Date and time of communication: March 3, 2015 3:30 pm
Location of communication: San Rafael, CA (Conf. Call)
Person(s) initiating communication: David Neish, David Neish Jr.
Person(s) receiving communication: Steve Kinsey
Name or description of project: A-5-LGB-13-0223, John Meehan,
Single Family Home, Laguna Beach

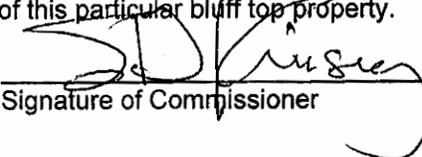
**Detailed substantive description of
content of communication:**

Applicants' representatives provided an overview of the project plan and discussed the application history to date. A power point presentation was presented that identified project location, surrounding development, nearby public access points, approved home renderings, siting of the home in conjunction with the bluff-top property, identification of the historical structures that currently exist on the property and a discussion of the top of bluff designations by CCC Staff and Laguna Beach Staff.

It was explained that the historical geology of the property is extremely stable and that any erosion has been practically non-existent for hundreds of years. A series of photographs was presented that validated this fact. The representatives explained that to have to adhere to the CCC Staffs identified top of bluff determination along with a 25ft.setback from that line would create an extreme hardship to the applicant. It would necessitate adding a second story to the proposed home that would completely obliterate views to the ocean from Coast Highway.

Information was provided from 2 different reports from Historical experts that indicated that an existing trellis, pathway, Cabana and stairway should be preserved because of their historical significance. It was also pointed out that these structures have been on the property before 1930. In conclusion the applicant would ask that these historical structures be allowed to remain at their respective existing locations and not be removed, and that the proposed home not have to be located 25 feet landward of the CCC Staff top of bluff demarcation because of the excellent stability of this particular bluff top property.

3/5/15
Date


Signature of Commissioner

MAR 05 2015

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Greg Cox

1) Name or description of project: A-5-LGB-13-0223, John Meehan, Single Family Home, Laguna Beach

2) Date and time of receipt of communication: March 2, 2015 at 1:15pm

3) Location of communication: San Diego

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: David Neish

5) Identity of person(s) on whose behalf communication was made: John Meehan

6) Identity of persons(s) receiving communication: Greg Cox

7) Identity of all person(s) present during the communication: David Neish
David Neish, Jr., Greg Cox, and Greg Murphy

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Please see attached.

3/4/15
Date

Greg Cox
Signature of Commissioner

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 the communication occurred within seven (7) 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.

**Complete, comprehensive description of
communication content:**

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CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 200 OceanGate, 10th Floor
 Long Beach, CA 90802-4302
 (562) 590-5071

Th12a

Filed: 7/22/13
 49th Day: Waived
 Staff: Z. Rehm-LB
 Staff Report: 2/25/15
 Hearing Date: 3/12/15

STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE AND DE NOVO

Appeal Number: A-5-LGB-13-0223

Applicant: John Meehan

Agents: Steven Kaufmann, Larry Nokes, Dave Neish, Brendan Horgan, et al.

Local Government: City of Laguna Beach

Local Decision: Approval with Conditions

Appellants: Commissioners Bochco & Brennan, Mark Nelson, Bill Rihn

Project Location: 31381 Coast Hwy., Laguna Beach, Orange County; APN 056-032-10

Project Description: Construct 4,821 square foot single-family home, attached 732 square foot three-car garage, and 138 square foot storage area; and retain nonconforming site conditions including casita and beach access stairway on bluff lot.

Staff Recommendation: Substantial Issue – Approval with Conditions

IMPORTANT NOTE

The Commission will not take public testimony during the ‘substantial issue’ phase of the appeal hearing unless at least three (3) commissioners request it. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds on which appeals have been filed because the City-approved development on the bluff face and retention of nonconforming structures on the bluff face raise issues as to project’s consistency with the City of Laguna Beach certified Local Coastal Program (LCP).

The primary issue raised by the approved development is consistency with the LCP and the negative precedent of approving development on the bluff face, which negatively affects the natural landform and visual resources. Additionally, the City’s approval of the applicant’s proposal to retain a

nonconforming beach access stairway would negatively affect public access along the public County-managed beach at the toe of the bluff.

Staff recommends that the Commission **approve** the de novo permit with special conditions to address the main issues raised by the proposed project. Special Condition 1 would require the applicant to revise the design of the proposed house such that it conforms to the 25-foot bluff edge setback required by the City's certified Local Coastal Program. In this case, doing so would necessitate placing the proposed house approximately 30 feet landward of the position presently shown on the applicant's plans. Although landward of the current proposal, this setback would place the proposed house at approximately the same location as the pre-existing house that was demolished under a separate coastal development permit granted by this Commission on appeal (see A-5-LGB-12-091). Special Condition 1 also requires the applicant to resolve all nonconformities in conjunction with this redevelopment of the property, which include both the nonconforming casita and nonconforming beach access stairway, both seaward of the proposed new house on the bluff face. Special Condition 1 allows the applicant to relocate the casita to a portion of the property which is set back a minimum of 10 feet from the bluff edge, or simply remove it. However, there is nowhere else on the site where the stairway could go, so the stairway will have to be identified for removal on the applicant's final plans and removed prior to occupancy of the approved residence.

In sum, the conditions recommended by staff would require the applicant to: 1) submit revised plans with the required structural setbacks and relocation or removal of existing nonconforming structures, 2) substantially conform to the geotechnical recommendations, 3) implement construction best management practices, 4) submit a pool/spa protection plan to prevent and detect leaks, 5) develop a three-foot wide public sidewalk fronting the site along Coast Highway, 6) remove the beach access stairway on the County beach, 7) assume the risks of the development, 8) waive the right to a future shoreline protective device(s), and 9) record a deed restriction against the property incorporating all of the terms and conditions of the permit.

This appeal was scheduled for the January 2015 Commission meeting but the hearing was postponed at the applicant's request.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE.....	4
II. APPELLANTS’ CONTENTIONS.....	4
III. LOCAL GOVERNMENT ACTIONS.....	4
IV. APPEAL PROCEDURES.....	5
V. FINDING AND DECLARATIONS.....	7
A. PROJECT LOCATION AND DESCRIPTION	7
B. LOCAL COASTAL PROGRAM CERTIFICATION	8
C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS	9
D. SUBSTANTIAL ISSUE ANALYSIS	10
VI. MOTION AND RESOLUTION – DE NOVO.....	17
VII. STANDARD CONDITIONS.....	17
VIII. SPECIAL CONDITIONS.....	18
IX. FINDINGS AND DECLARATIONS.....	23
A. PROJECT LOCATION AND DESCRIPTION	23
B. GEOLOGIC HAZARDS.....	23
C. VISUAL RESOURCES.....	28
D. PUBLIC ACCESS AND RECREATION.....	30
E. WATER QUALITY	33
F. DEED RESTRICTION	34
G. LOCAL COASTAL PROGRAM	34
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT.....	34

APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Project Plans

Exhibit 3 – Commission Staff’s Determination of Bluff Edge

Exhibit 4 – Photographs

Exhibit 5 – City Staff Reports

Exhibit 6 – Local Coastal Development Permit and City Resolution

Exhibit 7 – Appeals

Exhibit 8 – Historic Resource Memorandum

Exhibit 9 – Applicant’s and Appellants’ Letters in Response to 12/18/14 Staff Report

MOTION AND RESOLUTION FOR SUBSTANTIAL ISSUE WITH REGARD TO APPEAL NO. A-5-LGB-13-0223

Motion: *I move that the Commission determine that Appeal No. A-5-LGB-13-0223 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution to Find Substantial Issue:

*The Commission hereby finds that Appeal No. A-5-LGB-13-0223 presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access policies of the Coastal Act.*

II. APPELLANTS' CONTENTIONS

The Commission received a valid notice of final local action on local Coastal Development Permit No. 13-0038 on July 8, 2013 (assigned appeal no. A-5-LGB-13-0223), which approved the construction of a 4,821 square foot single-family home, attached 732 square foot three-car garage, and 138 square foot storage area and the retention of nonconforming site conditions including casita and beach access stairway on a bluff lot at 31381 Coast Highway in Laguna Beach.

On July 22, 2013, within ten working days of receipt of the valid notice of final action, Commissioners Dayna Bochco and Brian Brennan, as well as Mark Nelson and Bill Rihn, appealed the project on the grounds that the approved project does not conform to the requirements of the City of Laguna Beach certified LCP and the public access policies of the Coastal Act (**Exhibit 7**).

The appellants make the following contentions: a) the approved house does not incorporate historic features of the existing house, b) existing nonconforming structures are not proposed to be demolished at the same time that the site is proposed to be redeveloped, c) the approved house is sited on the bluff face and does not conform to the required setbacks, d) the approved house has not been sited to minimize landform alteration, e) the City did not condition its approval to require the applicant to waive the right to future shoreline protective device(s), f) the approved three-foot wide sidewalk fronting the approved house is inadequate, and g) the approved retention of the beach access stairway is not on the applicant's property and encroaches onto the public beach.

III. LOCAL GOVERNMENT ACTIONS

On February 7, 2013 and April 11, 2013, the City of Laguna Beach Design Review Board held public hearings on the proposed project (**Exhibit 5**). At the conclusion of the public hearing on

April 11, 2013, the Design Review Board approved with conditions local Coastal Development Permit No. 13-0038 and adopted Resolution CDP 13.07 in support of its action (**Exhibit 6**).

The project description of the local CDP No. 13-0038 reads as follows:

“The applicant requests design review and a coastal development permit to construct a 5,320 square-foot single-family residence, 125 square foot storage/mechanical area and 767 square-foot attached three-car garage in the R-1 zone. Design review is required for the new structure, covered parking, elevated decks (773 square feet), skylights, grading, retaining walls, pool, spa, air conditioning units, landscaping, construction in an environmentally sensitive area (oceanfront) and to maintain nonconforming site conditions including vehicular access, driveway grade and improvements in the bluff top (beach access stairs and cabana).”

During the City’s design review process, the applicant modified the plans to reduce the bulk and square footage of the house, reduce the square footage of the attached garage, and increase the square footage of the detached storage (mechanical) area. The Design Review Board and the City Council considered the effects of the nonconforming casita and beach access stairway in their analysis and elected to approve the applicant’s proposal to retain the nonconforming structures. Thus, the proposed retention of the casita and beach access stairway are included in the development approved by the local coastal development permit (along with the new house, garage and storage area), and subject to this appeal to the Commission.

On June 18, 2013, the City Council heard an appeal from Mark Nelson and Larry Zadan, who appealed the Design Review Board’s decision on similar grounds to those detailed in this appeal. At the conclusion of a public hearing, the City Council denied the appeal and sustained the Design Review Board’s approval of local Coastal Development Permit No. 13-0038 and adoption of Resolution CDP 13.07 Resolution. The City’s action was then final.

IV. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)].

In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a “major public works project” or a “major energy facility” [Coastal Act Section 30603(a)(5)].

Section 30603 of the Coastal Act states:

(a) *After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*

- (1) *Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
- (2) *Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

Sections 30603(a)(1) and (2) of the Coastal Act establish the project site as being appealable by its location between the sea and first public road and the fact the site is within 300 feet of the inland extent of the beach, the mean high tide line, and the top of the seaward face of a coastal bluff.

The grounds for appeal of an approval by a certified local government of a local CDP authorizing development in the appealable area are stated in Section 30603(b)(1):

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

The grounds listed for the current appeals include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding visual resources, geologic stability, setbacks, nonconforming structures, and public access, and that the approved development does not comply with the public access and recreation provisions of the Coastal Act. Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed pursuant to section 30603. If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review.

In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation provisions of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

Qualifications to Testify before the Commission

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before

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

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. At the de novo hearing, the Commission will hear the proposed project de novo and all interested persons may speak.

V. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION AND DESCRIPTION

The subject site is a 14,350 square foot bluff lot located at 31381 Coast Highway, between the first public road and the sea, and has a designated land use of R-1 (Residential Low Density). The site has a bluff top area adjacent to South Coast Highway, and a gently to steeply sloping bluff face that descends to a sandy beach. The site is located south of Aliso Beach in the “South Laguna” area of the City of Laguna Beach. The site is bordered by a vacant lot with a single family residence in the permitting process to the north and by the Laguna Royale condominium complex to the south. Public access to the beach (administered by Orange County) seaward of the site is available from Aliso Beach County Park, located approximately 1,200 feet north of the site, from a pedestrian accessway at Camel Point Drive approximately 460 feet north of the site, and from a pedestrian accessway at Bluff Drive approximately 600 feet south of the site (**Exhibit 1**).

The site is currently developed with a semi-circular concrete driveway with separate entry and exit ways from South Coast Highway, an approximately 80 year old 200 square foot casita on the face of the bluff, and an approximately 80 year old 90-foot long wooden beach access stairway structure projecting out from the the face of the bluff, partially located on the public beach (**Exhibit 4**). The area at the top of the bluff (landward of the bluff edge as depicted in **Exhibit 3**) is currently graded and covered by landscaping and sandbags for erosion control.

The area at the top of the bluff was previously developed with an approximately 80 year old 2,654 square foot house and a 400 square foot detached garage. Following an appeal of the City of Laguna Beach’s action to approve the demolition of those structures, which the appellants argued were historic resources, the Commission approved Coastal Development Permit A-5-LGB-12-091 for the demolition at a de novo hearing on March 12, 2014. The applicant has since completed the demolition and complied with the special conditions of the Commission’s permit, specifically the implementation of interim landscaping and erosion control measures.

The previous house was set back approximately 25-feet from the bluff edge, as defined in **Exhibit 3** and as shown on the site plan in **Exhibit 2**. The 4,821 square foot house approved by local Coastal Development Permit 13-0038, on appeal herein, has a varied roofline, generally 10 to 15 feet above grade, stepping downward towards the sea, and would encroach onto the bluff face by approximately five feet. The proposed detached 138 square foot storage area (mechanical room) and decks (773 square feet) would encroach onto the bluff face by approximately 20 feet. The proposal

also includes an attached 732 square foot three-car garage landward of the propose house, accessed from the existing driveway from Coast Highway, and a pool and spa on the bluff top (**Exhibit 2**).

Finally, the City’s approval, on appeal herein, includes the retention of the existing nonconforming approximately 200 square foot casita on the bluff face and the retention of the existing nonconforming approximately 90-foot long wood beach access stairway on the bluff face and the public beach (**Exhibit 2 and Exhibit 4**). The applicant argues that these structures are historic resources and should be preserved.

B. LOCAL COASTAL PROGRAM CERTIFICATION

The City of Laguna Beach’s Local Coastal Program was certified with suggested modifications in July 1992, except for the three areas of deferred certification, Irvine Cove, Hobo Aliso Canyon, and Three Arch Bay. In February 1993, the Commission concurred with the Executive Director’s determination that the suggested modification had been properly accepted and the City assumed permit issuing authority at that time. The City’s LCP is comprised of a variety of planning documents including the Land Use Element, Conservation/Open Space Element, and Safety Element of the City’s General Plan. The Implementation Plan (IP) portion of the LCP is Title 25, the City’s Zoning Code.

The Commission approved a major update (LGB-MAJ-1-10) to the Land Use Element with suggested modifications on December 7, 2011. The Laguna Beach City Council passed Ordinance No. 1559 incorporating the suggested modifications on February 7, 2012. Both actions occurred more than one month before the applicant began formally communicating with the City in the form of a Pre-Application Site Meeting and a Development Review Application, both dated March 8, 2012. Therefore, both the City and the applicant had ample notice of the impending update to the Land Use Plan and could have considered the potential effects the update would have on the proposed project.

The applicant argues that because his initial contact with City staff occurred before the update to the Land Use Element was effectively certified, the certified Land Use Plan is not the correct standard of review for a coastal development permit application or an appeal to the Coastal Commission (see applicant’s letter in **Exhibit 9**). The Development Review Application contains a box titled “Development Category,” which lists the types of permits required for a given development. None of the boxes for coastal development permit were checked. Additionally, the application contains a number of provisions under the title “Owner’s Certificate,” which the applicant signed on March 8, 2012. Provision 1 reads: “I understand there are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision-making body about this application.” Because the application was a preliminary application, not an application for a local coastal development permit, the Commission finds that the applicant did not have rational basis to expect written or verbal statements made by City of Laguna Beach staff at a preliminary meeting to be the final word on the standard of review for a local coastal development permit application or an appeal to the Coastal Commission.

The Commission effectively certified the City’s Land Use Plan update on May 9, 2012. The City of Laguna Beach Design Review Board held public hearings on the proposed development on February 7, 2013 and April 11, 2013, approving local Coastal Development Permit No. 13-0038 and adopting

Resolution CDP 13.07 in support of its action at the latter hearing. Finally, at a public hearing on June 18, 2013, the Laguna Beach City Council upheld the Design Review Board's action. The City's actions occurred approximately one year after the effective certification of the Land Use Plan update. Page 3 of the staff report for the second Design Review Board hearing, dated April 4, 2013, makes reference to "the City's newly adopted Land Use Element" with respect to Action 7.3.8 regulating nonconforming structures. The City made clear that the Land Use Plan was the correct standard of review and directly referenced it at one of its hearings. That City action would take precedence over any written or verbal statements made by City staff at a preliminary site meeting more than one year prior.

There are limited statutory exceptions that allow for a development application to be processed in a manner that guarantees review of the application under the applicable regulations in effect at the time of application submittal, most of which occur under the Subdivision Map Act or provisions regulating Development Agreements. On occasion, local governments adopt ordinances or regulations that require particular land use permits to be approved or denied on the basis of the law applicable at the time of application submittal. (See, e.g. *Hock Inv. Co. v. City & County of San Francisco* (1989) 215 Cal.App.3d 438, 447.) None of the exceptions apply to the present case and as such, the applicable Local Coastal Program provisions are those in place at the time of local government action on the subject CDP application. In this case, those provisions include the updated Land Use Plan and the policies related to determining the bluff edge. Therefore, the Commission finds that the applicant had no basis to expect the City to apply old sections of its Land Use Plan and that the correct standard of review was the applicable Local Coastal Program provisions at the time of the City's action. Likewise, the correct standard of review at the Commission's substantial issue and de novo hearings is the certified Land Use Plan and the public access and recreation policies of Chapter 3 of the Coastal Act.

C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with the certified LCP and, if applicable, the public access and recreation provisions of Chapter 3 of the Coastal Act. The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and

5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government’s coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

D. SUBSTANTIAL ISSUE ANALYSIS

Staff is recommending that the Commission find that a substantial issue exists with respect to whether the local government action conforms with the visual resources, geologic hazards, setbacks, nonconforming structures, and public access policies of the City’s certified LCP and the public access policies of Chapter 3 of the Coastal Act, for the reasons set forth below.

1. The approved development is sited on the bluff face.

The Land Use Element, a component of the City of Laguna Beach certified LCP, contains the following definition of “Oceanfront Bluff Edge or Coastal Bluff Edge”:

The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff, the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step like feature at the top of the bluff, the landward edge of the topmost riser shall be considered the bluff edge. Bluff edges typically retreat over time as a result of erosional processes, landslides, development of gullies, or by grading (cut). In areas where fill has been placed near or over the bluff edge, the original bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

Based on the definition, the bluff edge is located as depicted in **Exhibit 3**, seaward of which a downward gradient is maintained continuously to the base of the bluff, with a small level pad cut into the bluff face where the existing casita is sited (see photographs in **Exhibit 4**). The area where the downward gradient exists continuously is the bluff face. The applicant argues that the bluff edge is the line where a 45 degree slope is maintained continuously (**Exhibit 9**), but that definition is based on an interpretation of old City definitions and policies. The major update to the Land Use Plan, which made clear the definition of bluff edge, was certified on May 9, 2012, more than one year before the City’s final action to approve the development.

Policy 7.3 of the Land Use Element states:

Design and site new development to protect natural and environmentally sensitive resources, such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize natural landform alterations.

Action 7.3.5 of the Land Use Element states:

Prohibit development on oceanfront bluff faces, except public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize landform alteration of the oceanfront bluff face, to not contribute to further erosion of the oceanfront bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.

The City's action is inconsistent with Policy 7.3 and Action 7.3.5 because it approved development on an oceanfront bluff face. In its action, it failed to protect an area of unique scenic quality and public views. The second sentence in Action 7.3.5 does not apply to the approved development because it is not a public improvement. The policy explicitly prohibits private developments on ocean front bluff faces.

2. The approved development does not conform to required bluff setbacks.

Action 10.2.7 of the Land Use Element states:

Require all new development located on oceanfront bluffs to be sited in accordance with the stringline but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools that require a structural foundation. The setback shall be increased where necessary to ensure geologic safety and stability of the development.

Action 10.2.8 of the Land Use Element states:

On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards.

The City's action is inconsistent with Action 10.2.7 and 10.2.8 because it approved a principal structure (the house) and accessory structures (the storage area and decks) with zero setback from the bluff edge. In fact, the approved development encroaches onto the bluff face.

3. The approved development is not sited in the most suitable area of the lot to preserve visual resources and minimize natural landform alteration, and the City did not condition the permit to minimize future natural landform alteration.

Policy 2.8 of the Land Use Element states:

Require building design and siting to be compatible and integrated with natural topographic features, minimize significant alteration of natural topography and/or other significant onsite resources, and protect public views as specified in the Design Guidelines and the Landscape and Scenic Highways Resource Document.

Action 7.3.3 of the Land Use Element states:

Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.

Policy 7.10 of the Land Use Element states:

Require new construction and grading to be located in close proximity to preexisting development to minimize environmental impacts and growth-inducing potential.

The approved house and accessory storage area and decks encroach onto the bluff face and will likely require substantial grading and deepened foundations (**Exhibit 2**). The applicant has not provided Commission staff with a foundation plan. The portion of the site above the bluff edge is already graded, following the demolition of the pre-existing structure. Development within the required setbacks from the bluff edge could be accomplished with a conventional foundation and minimal natural landform alteration, consistent with the previous (demolished) development.

Development on the bluff face also impacts visual resources. Viewing the bluff from the public beach, the approved house would obscure a portion of the natural landform, which is inconsistent with the LCP policies on visual resources.

Finally, the City's action to approve the development without conditioning it to minimize future landform alteration is inconsistent with numerous LCP policies.

Action 7.3.7 of the Land Use Element states:

Require swimming pools located on oceanfront bluff properties to incorporate leak prevention and detection measures.

Action 7.3.9 of the Land Use Element states:

Ensure that new development, major remodels and additions to existing structures on oceanfront and oceanfront bluff sites do not rely on existing or future bluff/shoreline protection devices to establish geologic stability or protection from coastal hazards. A condition of the permit for all such new development on bluff property shall expressly require waiver of any such rights to a new bluff/shoreline protection device in the future and recording of said waiver on the title of the property as a deed restriction.

Policy 7.7 of the Land Use Element states:

Protect marine resources by implementing methods to minimize runoff from building sites and streets to the City's storm drain system (e.g., on-site water retention).

In its approval (**Exhibit 6**), the City did not impose conditions requiring the applicant to waive the right to future shoreline protective device(s), it did not require the approved swimming pool and spa to incorporate leak prevention and detection measures, and it did not require a strong construction best management practices plan to minimize runoff from the building site. Because it did not condition its approval to minimize landform alteration in the form of erosion, runoff, and potential future shoreline protective device(s), the City's action was inconsistent with its certified LCP.

The applicant argues that because the City required a geotechnical report and a slope stability analysis, and because that analysis determined that the approved development would have a minimum factor of safety against sliding greater than 1.5, the City's action to approve development on the bluff face was consistent with the LCP. The applicant bases his argument primarily on Action 10.2.6 (and similarly worded policies and actions within the Land Use Element), which states:

Require all new development located on an oceanfront bluff top to be setback from the oceanfront bluff edge a sufficient distance to ensure stability, ensure that it will not be endangered by erosion, and to avoid the need for protective devices during the economic life of the structure (75 years). Such setbacks must take into consideration expected long-term bluff retreat over the next 75 years, as well as slope stability. The predicted bluff retreat shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat made possible by continued and accelerated sea level rise, future increase in storm or El Nino events, and any known site-specific conditions. To assure stability, the development must maintain a minimum factor of safety against landsliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer) for the economic life of the structure.

That argument is faulty because policies requiring slope stability are only part of the LCP and approved development must still be consistent with LCP policies regarding landform alteration, view preservation, and setback requirements.

4. The approved development is inconsistent with LCP policies requiring removal of nonconforming structures.

In its action to approve local Coastal Development 11-0038, the City of Laguna Beach Design Review Board made the following finding (**Exhibit 5**):

“Any development located between the sea and the first public road paralleling the sea is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of Chapter 3 of the Coastal Act in that:

The proposed project may not be in compliance with this finding in that the existing beach stairs, located partially on the public beach, impact physical public access and should be removed or relocated off the public beach.”

Several members of the Board stated during their deliberations that they would like the beach access stairs removed because they impede access on the public beach but that they

did not believe they possessed the authority to require that nonconforming structures be removed under the permit because those structures were not specifically being proposed to be remodeled or substantially repaired.

However, Action 7.3.8 of the Land Use Element states:

On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways and stairways, which encroach into oceanfront bluffs.

Action 7.3.10 of the Land Use Element states:

Allow oceanfront and oceanfront bluff homes, commercial structures, or other principal structures, that are legally nonconforming as to the oceanfront and/or oceanfront bluff edge setback, to be maintained and repaired; however, improvements that increase the size or degree of nonconformity, including but not limited to development that is classified as a major remodel pursuant to the definition in the Land Use Element Glossary, shall constitute new development and cause the pre-existing nonconforming oceanfront or oceanfront bluff structure to be brought into conformity with the LCP.

Zoning Code Section 25.56.002 states:

A nonconforming building, structure or improvement is one which lawfully existed on any lot or premises at the time the first zoning or districting regulation became effective with which such building, structure or improvement, or portion thereof, did not conform in every respect. Any such nonconforming building, structure or improvement may be continued and maintained, except as otherwise provided in this chapter, but may not be moved in whole or in part unless and except every portion thereof is made to conform to the provisions of this title.

And Zoning Code Section 25.56.012 states:

While a nonconforming use exists on any lot, no new building shall be erected or placed thereon even though the new building and its use would otherwise conform to the provisions of this title. Once the nonconforming use or building is entirely removed from the lot or the building is made to comply in use to the regulations of the particular district wherein located then the lot may be used for any purpose conforming with this title.

The Land Use Element is clear in its direction to require removal of unpermitted and obsolete structures which encroach onto oceanfront bluffs, specifically including stairways. This applies to the subject property in that the applicant has not demonstrated that a legal right or permit for the stairway exists or has ever existed, and the stairway directly encroaches on the bluff face and the public beach.

The zoning code (the Implementation Plan portion of the City of Laguna Beach certified LCP) is even more clear in its definition of nonconforming building, structure, or improvement and in its direction to entirely remove any nonconforming building or use before the lot may be redeveloped – even if the new building would otherwise conform to the zoning code. In this case, the approved new house does not conform to the zoning code because it violates the setback requirements. But even if the new house was set back appropriately from the bluff edge, the zoning code makes clear that nonconforming buildings and uses must be removed before the new house may be developed. Therefore, the City’s action to approve the retention of the nonconforming beach access stairway and casita was inconsistent with the LCP.

Additionally, the City’s action to approve the retention of the beach access stairway was inconsistent with the public access and recreation provisions of the Coastal Act because the beach access stairway is partially located on the public beach and partially restricts lateral access along that beach.

Conclusion

Returning to the five factors the Commission has considered in determining whether substantial issue exists, the approved development raises substantial issues in regard to all five factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act

The action of the local government (City of Laguna Beach Design Review Board and City Council) was inconsistent with numerous policies of certified LCP and numerous provisions of the Coastal Act. The facts provided in the application file and the plans for the approved development clearly demonstrate that the local government’s decision was inconsistent with the legal provisions of the LCP and the Coastal Act.

2. The extent and scope of the development as approved or denied by the local government

The local government approved a 4,821 square foot house and a 138 square foot storage area on a bluff face. Additionally, the local government approved the retention of a nonconforming 200 square foot casita and a nonconforming beach access stairway on a bluff face. In aggregate, this would represent complete development of the subject site and the site would be unlikely to be redeveloped in conformity with the LCP and the Coastal Act within the next 75 years (the useful life of the principal structure). Thus, the scope of the approved development is substantial.

3. The significance of the coastal resources affected by the decision

California’s coastal bluffs are a significant resource. They represent a rare and visually pleasing landform which California citizens and governments have historically sought to preserve.

4. The precedential value of the local government's decision for future interpretations of its LCP

Allowing the local government's decision to approve development on a bluff face would set an extreme negative precedent for future interpretations of its LCP. Historically, the City of Laguna Beach has required principal structures to be set back 25 feet from the bluff edge, and has sometimes required further setbacks based on stringline measurements. If local Coastal Development Permit No. 13-0038 is found to be consistent with the LCP, the local government will have set a precedent for bluff face development that future applicants will reference if they wish to develop other oceanfront bluff sites, of which there are hundreds in Laguna Beach.

5. Whether the appeal raises local issues, or those of regional or statewide significance

Bluff face development and the proliferation of private beach access stairways on public beaches are issues of statewide significance. Requiring consistency with the public access and recreation provisions of the Coastal Act is significant to all the people of California who wish to enjoy the public beaches of California.

In conclusion, the Commission finds that a substantial issue exists with respect to whether the local government action conforms with the visual resources, geologic hazards, setbacks, nonconforming structures, and public access policies of the City's certified LCP and the public access policies of Chapter 3 of the Coastal Act.

VI. MOTION AND RESOLUTION FOR DE NOVO HEARING ON A-5 LGB-13-0223:

Staff recommends that the Commission make the following motion and adopt the following resolution:

Motion: *I move that the Commission approve Coastal Development Permit No. A-5-LGB-13-0223 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

VII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

VIII. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Submittal of Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, two (2) sets of final architectural plans, grading plans, foundation plans, drainage and run-off control plans, and landscaping plans that substantially conform with the City-approved development, but shall be revised in the following ways:
 - A. All structural elements of the house, the garage, the swimming pool and spa, and all structural elements of any other structure which requires a structural foundation, shall be set back a minimum of 25 feet from the bluff edge, as identified in Exhibit 3 of the staff report dated 2/25/15. Cantilevered principal structures (including but not limited to the house and garage) and major accessory structures (including but not limited to the pool and spa) shall not encroach into the 25-foot bluff edge setback. Cantilevered minor accessory structures such as decks shall not encroach into the 10-foot bluff edge setback.
 - B. Foundational elements that would substantially alter the natural landform, including but not limited to engineered retaining walls, deepened footings, and caissons, shall be set back a minimum of 25 feet of the bluff edge, as identified in Exhibit 3 of the staff report dated 2/25/15. Any foundational elements including but not limited to engineered retaining walls, deepened footings, and caissons, which are necessary to construct the pool and spa shall be designed and constructed to minimize alteration of the natural landform to the greatest extent feasible. The residence and garage shall be supported by a standard foundation which meets the required 1.5 factor of safety without the use of caissons or deepened footings.
 - C. All structural elements of accessory structures which do not require structural foundations shall be set back a minimum of 10 feet from the bluff edge, as identified in Exhibit 3 of the staff report dated 2/25/15.
 - D. All existing nonconforming structures which are sited on the bluff face shall be identified for removal or relocation to a portion of the site set back a minimum of 10 feet landward from the bluff edge, as identified in Exhibit 3 of the staff report dated 2/25/15. Specifically, the existing nonconforming stairway that is sited on the bluff face shall be identified on the revised final plans for removal. The existing nonconforming casita that is sited on the bluff face shall be identified either for removal or relocation to a portion of the site set back a minimum of 10 feet landward from the bluff edge, as identified in Exhibit 3 of the staff report dated 2/25/15.

- E. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low or very low water plants as identified by California Department of Water Resources for South Coastal Region 3. (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

2. **Conformance with Geotechnical Recommendations.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, along with a copy of each plan, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans including foundation, grading, and drainage plans, and certified that each of those final plans is consistent with all the recommendations contained in the geologic engineering investigations.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

3. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The applicant shall comply with the following construction-related requirements:
- A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
 - B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers, on the beach or in the intertidal zone.
 - C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
 - D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
 - E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
 - F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.

Appeal – Substantial Issue and De Novo Hearing

- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
 - H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
 - I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
 - J. The discharge of any hazardous materials into any receiving waters shall be prohibited.
 - K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
 - L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
 - M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
4. **Pool and Spa Protection Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, two (2) full size sets of a pool and spa protection plan prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by leakage from the proposed pool and spa. The pool and spa protection plan shall incorporate and identify on the plans the following measures, at a minimum: 1) installation of a pool and spa leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the pool and spa which is separate from the water meter for the house to allow for the monitoring of water usage for the pool and spa, and 2) use of materials and pool and spa design features, such as but not limited to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the pool and spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and where feasible 3) installation of a sub drain or other equivalent drainage system under the pool and spa that conveys any water leakage to an appropriate drainage outlet.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

5. **Legally Required Development Rights – Sidewalk.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate that it has secured a

legal right, interest, permission, or other entitlement to construct a three-foot wide public sidewalk along the seaward (west) side of South Coast Highway in the area fronting the residence, which may be partially or entirely within the right-of-way administered by the California Department of Transportation (Caltrans). The sidewalk shall be designed in substantial conformance to the sidewalk proposed on the City approved plans, but the design may be modified in order to comply with Caltrans guidelines, subject to the review and approval of the Executive Director. The design shall preserve all existing on-street parking spaces along South Coast Highway.

Should Caltrans reject the applicant's proposal to construct a public sidewalk which preserves all existing parking spaces along its right-of-way, the applicant shall submit an alternatives analysis for a sidewalk or pedestrian throughway, where the applicant identifies the alternative which best enhances public access along Coast Highway, including the preservation of all existing on-street parking spaces and demonstration that it has secured a legal right, interest, or other entitlement to construct the alternative sidewalk or accessway prior to issuance of the coastal development permit. The applicant shall submit the alternative analysis for the review and approval of the Executive Director. The Executive Director shall determine, after review and approval of the design, whether the chosen alternative design legally requires an amendment to this coastal development permit if the design is substantially different from the original plan as approved by the City.

Prior to occupancy of the residence permitted by Coastal Development Permit A-5-LGB-13-0223, the applicant shall submit evidence, in a form and content acceptable to the Executive Director, demonstrating that the public sidewalk has been legally constructed.

- 6. Legally Required Development Rights – Beach Access Stairway.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate that he has secured a legal right, interest, or other entitlement to remove the entire beach access stairway which is partially sited on his property and partially sited on the public beach administered by the County of Orange, consistent with Actions 7.3.8 and 7.3.10 of the City's Land Use Element and Sections 25.56.002 and 25.56.012 of the City's Zoning Code, or demonstrate that no approval is needed from the County in order to remove the stairs.

Prior to occupancy of the residence permitted by Coastal Development Permit A-5-LGB-13-0223, the applicant shall submit evidence, in a form and content acceptable to the Executive Director, demonstrating that the entire beach access stairway has been legally removed.

- 7. Assumption of Risk, Waiver of Liability, and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from slope instability, erosion, landslides and wave uprush, storm conditions, and sea level rise; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including

costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

8. No Future Bluff or Shoreline Protective Device(s).

- A. By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-5-LGB-13-0223 including, but not limited to, the residence, garage, foundations, pool/spa, decks, balconies, hardscape, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise, or other natural coastal hazards in the future. By acceptance of this Permit, the applicant/landowner hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this Permit, the applicant/landowner further agrees, on behalf of itself and all successors and assigns, that the landowner(s) shall remove the development authorized by this Permit, including including, but not limited to, the residence, garage, foundations, pool/spa, decks, balconies, hardscape, and any other future improvements if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- C. In the event the edge of the bluff recedes to within ten (10) feet of the principal residence but no government agency has ordered that the structure is not to be occupied, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the landowner(s), that addresses whether any portions of the residence are threatened by bluff and slope instability, erosion, landslides, sea level rise or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without bluff or shore protection, including but not limited to removal or relocation of portions of the residence. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

9. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcels governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and

enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of all parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IX. FINDINGS AND DECLARATIONS:

A. PROJECT LOCATION AND DESCRIPTION

The project description and location is hereby incorporated by reference from Section V of the Substantial Issue portion of this staff report beginning on page seven.

B. GEOLOGIC HAZARDS

The Land Use Element, a component of the City of Laguna Beach certified LCP, contains the following definition of “Oceanfront Bluff Edge or Coastal Bluff Edge”:

The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff, the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step like feature at the top of the bluff, the landward edge of the topmost riser shall be considered the bluff edge. Bluff edges typically retreat over time as a result of erosional processes, landslides, development of gullies, or by grading (cut). In areas where fill has been placed near or over the bluff edge, the original bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

Based on the definition, the bluff edge is located as depicted in **Exhibit 3**, seaward of which a downward gradient is maintained continuously to the base of the bluff, with a small level pad cut into the bluff face at the location of the casita.

Policy 7.3 of the Land Use Element states:

Design and site new development to protect natural and environmentally sensitive resources, such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize natural landform alterations.

Action 7.3.3 of the Land Use Element states:

Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.

Action 7.3.5 of the Land Use Element states:

Prohibit development on oceanfront bluff faces, except public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize landform alteration of the oceanfront bluff face, to not contribute to further erosion of the oceanfront bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.

Action 10.2.7 of the Land Use Element states:

Require all new development located on oceanfront bluffs to be sited in accordance with the stringline but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools that require a structural foundation. The setback shall be increased where necessary to ensure geologic safety and stability of the development.

Action 10.2.8 of the Land Use Element states:

On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards.

The applicant has retained multiple geologic consultants, which have taken soil samples and conducted slope stability analyses. Borella Geology conducted the initial study (April 25, 2012) and concluded that the coastline and the geology of the site have remained relatively stable for a period of at least 80 years. Borella Geology conducted a slope stability analysis which concluded that the majority of the bluff is grossly stable San Onofre Breccia.

GeoSoils Inc. (May 18, 2012) performed a coastal hazards analysis and concluded that the shoreline and the bluff fronting the site will not be significantly impacted by sea level rise or wave run-up and will be stable for at least 100 years and that a shoreline protective device will not be required to protect the development.

TerraCosta Consulting Group (October 22, 2014) conducted a peer review of the Borella Geology study and a separate geotechnical analysis of the subject site. TerraCosta concurred with Borella Geology's assessment that the majority of the bluff is grossly stable, but noted the presence of a 9.5 foot bluff overhang at the sea cliff where the beach access stairway is located. Their analysis further indicated that the bluff overhang may increase to 14.7 feet in the next 70-80 years as marine erosion affects the sea cliff, at which point "we would anticipate a vertical failure removing the overhang." Nonetheless, TerraCosta concluded that the proposed new development is to be set back sufficiently as to be unaffected by a failure of the overhang. TerraCosta delineated the bluff edge near the top of the vertical and overhanging sea cliff, landward of the beach access stairway, but seaward of the casita and 70 feet seaward of the development approved by the City. TerraCosta's analysis shows

that the downward slope of the bluff is 24-26 degrees in the area between the bluff edge as depicted in **Exhibit 3** and the area near the vertical and overhanging sea cliff. The applicant argues that a 45 degree slope should be the standard for determining the bluff edge, but this is not supported by the certified LCP. The bluff edge definition in the Laguna Beach Land Use Plan referenced at the top of this section was certified by the Commission more than one year before the City's action on the subject development, corresponds to the definition of bluff edge contained in the Commission's Code of Regulations (Section 13577), and is used statewide by the Commission in its decisions on LCP and permit matters.

The Commission's staff geologist, Dr. Mark Johnson, has visited the site, reviewed the geotechnical studies and analyses, and generally agrees with the findings that the majority of the slope is stable and that the development approved by the City would be located on a portion of the bluff with a minimum factor of safety against landsliding greater than 1.5. However, Dr. Johnson classifies the portion of the bluff where development is sited in the approved plans as the bluff face, based on the definition of bluff edge in the Land Use Element. Dr. Johnson also disagrees with the TerraCosta analysis that the overhang is unlikely to fail for 70-80 years, suggesting that it could fail at any time, which would immediately threaten the existing casita and beach access stairway. Furthermore, Dr. Johnson believes that the condition of the bluff overhang will become more hazardous in the future, with the effects of sea level rise, which will contribute to greater and more accelerated marine erosion of the bluff abutting the public beach.

The vertical forces of the stairway weight acting on the overhang combined with surface flows from rain and the existing erosion of the bluff face already pose a threat to the structures and that threat will become more potent over time due to climate change-driven increases in storm intensity coupled with sea level rise. Action 10.2.8 of the Land Use Element states "require accessory structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards." That action applies to the casita and the stairway, which are both accessory structures and are both threatened by erosion and coastal hazards. If the bluff overhang were to fail, both structures could fall 90 feet onto the public beach below. Given the current forces on the overhang and the bluff and the imposing force of continuing significant erosion of the bluff material underneath the overhang, the Commission finds that both the casita and the beach access stairway are threatened by erosion and coastal hazards and, consistent with Action 10.2.8 of the Land Use Element, must be removed or relocated landward.

Action 7.3.5 of the Land Use Element states:

Prohibit development on oceanfront bluff faces, except public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize landform alteration of the oceanfront bluff face, to not contribute to further erosion of the oceanfront bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.

Action 7.3.8 of the Land Use Element states:

On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways and stairways, which encroach into oceanfront bluffs.

Action 7.3.10 of the Land Use Element states:

Allow oceanfront and oceanfront bluff homes, commercial structures, or other principal structures, that are legally nonconforming as to the oceanfront and/or oceanfront bluff edge setback, to be maintained and repaired; however, improvements that increase the size or degree of nonconformity, including but not limited to development that is classified as a major remodel pursuant to the definition in the Land Use Element Glossary, shall constitute new development and cause the pre-existing nonconforming oceanfront or oceanfront bluff structure to be brought into conformity with the LCP.

Zoning Code Section 25.56.002 states:

A nonconforming building, structure or improvement is one which lawfully existed on any lot or premises at the time the first zoning or districting regulation became effective with which such building, structure or improvement, or portion thereof, did not conform in every respect. Any such nonconforming building, structure or improvement may be continued and maintained, except as otherwise provided in this chapter, but may not be moved in whole or in part unless and except every portion thereof is made to conform to the provisions of this title.

Zoning Code Section 25.56.012 states:

While a nonconforming use exists on any lot, no new building shall be erected or placed thereon even though the new building and its use would otherwise conform to the provisions of this title. Once the nonconforming use or building is entirely removed from the lot or the building is made to comply in use to the regulations of the particular district wherein located then the lot may be used for any purpose conforming with this title.

Based on the preceding policies of the Land Use Element and the zoning code, both components of the certified LCP, the casita and the beach access stairway are nonconforming structures. The structures are nonconforming because they do not conform to the bluff edge setback requirements for accessory structures referenced in Action 10.2.8 of the Land Use Element. Action 7.3.5 explicitly prohibits development on bluff faces, except for public improvements providing public access. While the beach access stairway is partially located on public property, it does not provide public access. Furthermore, both structures are nonconforming because they encroach into the 20-foot rear yard setback required by zoning code section 25.10.008(E). Finally, the applicant has not presented evidence showing that either the casita or the beach access stairway lawfully existed on the lot at the time the first zoning or districting regulation became effective, calling into question whether they were ever legal, conforming structures. Zoning code Section 25.56.002 defines

nonconforming structures and zoning code Section 25.56.012 states: “while a nonconforming use exists on any lot, no new building shall be erected or placed thereon.” Therefore, the Commission further finds that both the casita and the beach access stairway are nonconforming structures and for this additional basis, both must be removed prior to construction of a new house on the site or made to conform to the provisions of the LCP.

Zoning Code Section 25.56.012 of the certified LCP requires the removal of nonconforming structures when a site is proposed to be redeveloped. In this case, the applicant is proposing to redevelop the site with a 4,821 square foot house, an attached 732 square foot three-car garage, and a 138 square foot storage area. Because the applicant is proposing to redevelop the site, the Commission can require that nonconforming structures be relocated in conformance with current setback requirements or be removed prior to construction of a new principal building (the house) on the lot. **Special Condition 1** also requires the applicant to identify the nonconforming casita and the nonconforming beach access stairway for removal or relocation a minimum of 10 feet landward of the bluff edge, consistent with the LCP. This condition would allow the applicant to relocate the casita to a portion of the property which is set back a minimum of 10 feet from the bluff edge, provided the casita does not require a structural foundation, if the applicant elects to identify such a location on the final plans. The applicant will not be able to relocate the beach access stairway off of the bluff face because there is nowhere else on the site where the stairway could go, so the stairway will have to be identified for removal on the applicant’s final plans for redevelopment of the site.

In order to ensure that the applicant is able to legally remove the private beach access stairway which is partially located on public beach administered by Orange County, **Special Condition 6** requires the applicant to demonstrate that he has secured a legal right, interest, or other entitlement to remove the entire beach access stairway prior to issuance of the permit, including the portions within his own property and the portion on the public beach. The condition further requires the applicant to submit evidence that the entire beach access stairway has been legally removed prior to occupancy of the residence permitted by this permit.

In order to ensure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, destruction of the site or surrounding area, or landform alteration, **Special Condition 1** requires the applicant to design and construct the pool and spa to minimize alteration of the natural landform to the greatest extent feasible. Special Condition 1 also requires the residence and garage to be supported by a standard foundation without the use of caissons or deepened footings, in order to ensure that the house does not require structural support elements to meet the required 1.5 factor of safety. **Special Condition 2** requires the applicant to submit final grading and foundation plans which substantially conform to the geotechnical recommendations. In order to ensure that a leak does not threaten the stability of the bluff, **Special Condition 4** requires the applicant to submit a pool and spa plan which includes leak prevention and detection measures.

The City-approved development permits a principal structure (the house) and accessory structures (the storage area and decks) with zero setbacks from the bluff edge. That is inconsistent with the LCP policies requiring a 25 foot bluff edge setback for principal structures and a 10 foot bluff edge setback for accessory structures. The applicant argues that different definitions of bluff edge are found in the zoning code and in the old (replaced) Land Use Element, but in cases of inconsistency between the Land Use Plan and the Implementation Plan portions of an LCP, the Land Use Plan

prevails because it is the standard of review. In this case, the Land Use Element is part of the certified Land Use Plan and its definition of bluff edge and policies regarding required setbacks are clear. In order to ensure that the development complies with the required setbacks, the Commission imposes **Special Condition 1**, requiring the applicant to submit revised plans with all structural elements of the house and the pool/spa set back a minimum of 25 feet from the bluff edge and all accessory structures which do not require structural foundations set back a minimum of 10 feet from the bluff edge, as defined in **Exhibit 3**.

A conventional foundation on the flat portion of the site set back at least 25 feet from the bluff edge as defined by the LCP is sufficient to meet the required 1.5 factor of safety without the use of caissons or piles. The proposed swimming pool and spa will require a deepened foundation and some substantial foundational elements, but the pool and spa are proposed to be set back approximately 25-feet from the bluff edge. Because the pool/spa is a major accessory structure requiring a structural foundation, specifically identified in Action 10.2.8 of the certified Land Use Element, **Special Condition 1** requires it be set back a minimum of 25 feet from the bluff edge on the final plans and for all foundational elements necessary to support the pool to minimize alteration of the natural landform to the greatest extent feasible. The condition requires the residence and garage to be supported by a standard foundation which meets the required 1.5 factor of safety without the use of caissons or deepened footings. **Special Condition 2** requires the applicant to submit final grading and foundation plans which substantially conform to the geotechnical recommendations.

No development in the ocean or near the shoreline can be guaranteed to be safe from hazards. All development located in or near the ocean has the potential for damage caused by wave energy, floods, sea level rise, seismic events, storms, and erosion. The proposed project is located adjacent to the beach about 200 feet inland of the Pacific Ocean and is susceptible to natural hazards. The Commission routinely imposes conditions for assumption of risk in areas at high risk from hazards. **Special Condition 7** ensures that the applicant understands and assumes the potential hazards associated with the development. As specified in the LCP, **Special Condition 8** requires the applicant to waive the right to a future shoreline or bluff protective device which would alter the natural landform. The Commission finds that only as conditioned is the development consistent with the geologic hazards, setbacks, and related policies of the City of Laguna Beach certified LCP.

C. VISUAL RESOURCES

Policy 2.8 of the Land Use Element states:

Require building design and siting to be compatible and integrated with natural topographic features, minimize significant alteration of natural topography and/or other significant onsite resources, and protect public views as specified in the Design Guidelines and the Landscape and Scenic Highways Resource Document.

The design of the house approved by the City generally follows the slope of the natural landform (the bluff top and the bluff face) and would preserve some public views from South Coast Highway (**Exhibit 2**). The Design Review Board encouraged the applicant to slightly reduce the height of the roof and step the roofline down with the slope of the site. However, the proposal to step the building down onto the bluff face is inconsistent with Policy 2.8 of the Land Use Element because it does not

minimize significant alteration of natural topography. The applicant has not submitted a foundation plan, but the applicant's geotechnical investigation (Borella Geology, April 25, 2012) recommends grading of the bluff face, deepened foundations, and caissons to support the seaward portion of the proposed house and the proposed decks on the bluff face. These elements would harm the visual resource of the bluff and the bulk of the house on the coastal bluff face would harm coastal bluff views from the ocean and the public beach. In order to preserve scenic views of the coastal bluff, **Special Condition 1** requires the applicant to submit revised plans showing that all structures conform with the required setbacks and are not located on the bluff face. In order to reduce visual impacts, Special Condition 1 does not permit structures to cantilever into the setback areas.

Policy 1.1.13 of the City's certified Land Use Element states:

Encourage preservation of historic structures and adaptive reuse of buildings.

Policy 2.2 of the Land Use Element states:

Encourage the preservation of historically significant residential structures and protect the character-defining components of Laguna Beach's traditional neighborhoods.

The applicant interprets the LCP to allow for the preservation of the nonconforming casita and the nonconforming beach access stairway because they are potentially historically significant structures. The strongest support for the applicant's claim that the casita and the beach access stairway are historically significant is the final two sentences of a memorandum by Jan Ostashay of Ostashay and Associates Consulting (August 3, 2011; see **Exhibit 8**). The memo was prepared for the City of Laguna Beach during its CEQA review of the demolition of the principal structure. The memo provided a peer review of a Galvin Preservation Associates "Historical Resources Report" (June, 2011) which concluded that the residence and the garage on the site (recently demolished) were not historically significant structures and were ineligible for federal, state, and local listing. The Galvin Preservation Associates report did not address the casita or the beach access stairway and the purpose of the peer review by Ostashay and Associates Consulting was to review the findings of that report and help the City with its CEQA analysis of the proposed demolition of the residence and garage. Only in the concluding sentences of the conclusion section of the memo are the casita and the beach access stairway mentioned, and not in the context of historic structures eligible for listing on a historic register. The conclusion simply suggests that the structures should be retained on the property because they are "intact remnants of the property's history and character."

Each structure is approximately 80 years old and the applicant asserts that they were constructed by the Skidmore Brothers as part of the Coast Royale subdivision. Coast Royale is important in local history as the first development of the southern portion of Laguna Beach. The applicant asserts that the structures were likely constructed at the same time as the original house, described in the Laguna Beach 1981 Historic Inventory as "one of the first unusual homes in the Skidmore Brothers' development of Coast Royal. It was named Stonehenge." The applicant argued the original residence had lost its historic significance due to significant alterations and successfully sought to demolish it through Coastal Development Permit A-5-LGB-12-091 (Commission approved March 22, 2014).

The appellants argue that there is no proof that the wooden beach access stairway was constructed at the same time as the original residence on the site, which has since been demolished. They reference a photograph showing the beach access stairway submitted by the applicant, which the applicant claimed was taken in 1929, but which was actually taken no earlier than 1938 based on the appearance of the Halliburton House in the photo. They also reference an old housing tract map and road plan, showing that area where the beach access stairway currently exists was not part of the same plot of land where the original Skidmore house was constructed in 1928 (see appellants' letters in **Exhibit 9**). The appellants suggest that a portion of the casita is potentially historically significant, by virtue of its stonework which incorporates the early San Onofre breccia. The appellants suggest that the stone portion of the casita be preserved as a patio as an example of the history of the site, while the rest of the casita should be demolished because more recent construction has taken away from its historic character.

As the applicant successfully argued in the de novo hearing on the proposed demolition of the house, the historic preservation policies of the LCP are not absolute. Although preservation and adaptive reuse of historic structures is encouraged, there is a process which allows for demolition. In this case, the applicant has not submitted any substantial evidence that indicates either the casita or the beach access stairway are historically significant and warrant preservation. Both structures are old and constructed primarily out of wood and stone, but neither structure has been recognized by a national, state, or local entity for having unique attributes worthy of absolute preservation. Neither structure has any greater connection to historic figures or local history than the primary residence had, and the applicant successfully argued that that structure was not worthy of preservation.

Recognizing that the applicant wishes to retain the structures because he believes they are historically significant, policies regarding historic structures still must be considered in conjunction with site specific conditions and with other LCP policies, which may encourage different outcomes. In the case of the casita and the beach access stairway, the historic preservation policies urge their preservation but don't require it, while the previously referenced policies regarding geologic hazards and visual resources require relocation and/or removal. Because the structures do not conform to the required setbacks and are potentially sited on an unstable portion of the bluff face (near the overhang which is subject to failure), they must be removed or relocated. The beach access stairway cannot be relocated on the bluff face but the casita could be relocated to another part of the site. The beach access stairway is an unsightly private development located partially on the public beach and on the face of an approximately 90-foot high coastal bluff (**Exhibit 4**). In order to conform with the visual resources policies of the LCP, the Commission imposes **Special Condition 1**, requiring the applicant to submit plans which identify all nonconforming structures for removal or relocation to a portion of the site set back a minimum of 10 feet from the bluff edge, as identified in **Exhibit 3**. That condition would allow the applicant to preserve the casita by relocating it to another portion of the site. The Commission finds that only as conditioned is the proposed development consistent with visual resources policies of the LCP.

D. PUBLIC ACCESS AND RECREATION

Policy 3.6 of the Land Use Element states:

Encourage creation of public spaces and sidewalk areas as part of new development and major remodels.

Action 8.1.1 of the Land Use Element states:

Require pedestrian safety improvements for development projects on North Coast Highway, South Coast Highway, Coast Highway and Laguna Canyon Road.

The application proposes a three-foot wide sidewalk along the ocean side (west) of Coast Highway, in an area on top of a retaining wall which is currently covered by a thick curb and a guardrail (**Exhibit 2** and **Exhibit 4**). The applicant proposes to improve this area and create a three-foot wide sidewalk, while maintaining the existing space for public parking between the sidewalk the roadway. The area subject to improvement may be partially on the applicant's property and partially on Caltrans right-of-way or it may be entirely on Caltrans right-of-way.

Some of the project appellants argue (**Exhibit 7** and **Exhibit 9**) that the applicant should be required to construct a five-foot wide sidewalk, consistent with the Community Design and Landscape Guidelines adopted by Resolution 89.104, which is included in the City of Laguna Beach LCP. For Zone 7 of the City, where the site is located, the guidelines state:

Provide sidewalk along ocean side of Pacific Coast Highway in existing right-of-way, or provide 5' sidewalk if additional right-of-way can be obtained. Require planting and sidewalk construction per Case C as part of project approval for new proposed projects.

According to the guidelines, a sidewalk should be provided along the ocean side of Pacific Coast Highway in the existing right-of-way. There is currently no such sidewalk, but the applicant has offered to construct one as part of the proposed project, consistent with the guidelines. In discussions at City hearings and in discussions with Commission staff, the applicant has indicated his willingness to dedicate a portion of his property for a pedestrian thoroughway or sidewalk, but has emphasized that site constraints make the design very difficult. The front of the applicant's property features an approximately 15-foot high retaining wall above a semicircular driveway which has ingress and egress points at Coast Highway. It would be inconvenient and possibly dangerous for a public sidewalk to slope down and loop around the retaining wall adjacent to the driveway and then reconnect to Coast Highway.

There is limited space within the Caltrans right-of-way and the optimal outcome for enhancing public access is a configuration with both public parking and a public sidewalk. The applicant has communicated extensively with Caltrans, the City, and Commission staff and has determined that a three-foot wide sidewalk on top of the existing retaining wall is feasible and that public parking can be maintained. Installing a five-foot wide sidewalk in this location would require the elimination of the existing public parking spaces or an extensive relocation and reconstruction of the existing retaining wall and driveway. Finally, the guidelines referenced by the appellants are guidelines and not standards. The minimum width of 36-inches is required by the Americans with Disabilities Act, while the U.S. Access Board recommends providing wider sidewalks wherever possible. In this case, no sidewalk currently exists and the applicant's proposal to provide a three-foot wide sidewalk will enhance public access and improve pedestrian safety.

The Commission finds that the public right-of-way above the retaining wall is the most feasible location for a sidewalk and supports the applicant’s proposal to provide a sidewalk there. However, the Commission also finds that the existing on-street parking spaces on Coast Highway are an important public resource and must be preserved to maintain the public’s ability to park and walk to the pedestrian beach accessway approximately 460 feet to the north of the site (and to other public beach accessways north and south of the site). Therefore, in order to enhance pedestrian access while preserving public parking resources, the Commission imposes **Special Condition 5**, which requires the applicant to work with Caltrans and demonstrate that it has the legal right to construct a three-foot wide public sidewalk along Coast Highway. Should Caltrans reject the applicant’s proposal to construct a sidewalk which preserves all existing parking spaces along its right-of-way, the applicant shall conduct an alternatives analysis and select the alternative design for a sidewalk or pedestrian throughway which best enhances public access, subject to the review and approval of the Executive Director. Prior to occupancy of the residence permitted by Coastal Development Permit A-5-LGB-13-0223, the applicant shall submit evidence, in a form and content acceptable to the Executive Director, demonstrating that the public sidewalk has been legally constructed.

Policy 4.2 of the Land Use Element states:

Promote policies to accommodate visitors, reduce conflicts between visitor serving uses/infrastructure and residents, and reduce impacts on the City's natural resources.

This policy applies not just to the importance of providing a public sidewalk along Coast Highway, but to the necessity of removing the private beach access stairway which is partially located on the public beach. The public beach is administered by Orange County, but it is within the City and it is one of the City’s natural resources. Requiring private improvements on public beaches to be removed during site redevelopment – consistent with Zoning Code Section 25.56.012 – serves to reduce conflicts between visitor serving uses and residents.

The Commission may also look to the public access provisions of the Coastal Act in its analysis of development between the first public road and the sea.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities be provided and that development shall not interfere with public access. The nonconforming beach access stairway is inconsistent with the public access policies of the Coastal Act because it restricts access along the dry sand of the public beach. These dry sand areas along the back beach are important now as an area that allows the public to pass and re-pass along the beach when the tides are high. Such areas will only become more important as time elapses and sea level rises because dry sandy beach areas will become smaller due to erosion and more frequently impacted by waves and tidal inundation.

Zoning Code Section 25.56.012 of the certified LCP requires the removal of nonconforming structures when a site is proposed to be redeveloped. In this case, the applicant is proposing to redevelop the site with a 4,821 square foot house, an attached 732 square foot three-car garage, and a 138 square foot storage area. Because the applicant is proposing to redevelop the site, the Commission can require that nonconforming structures be removed prior to construction of a new principal building (the house) on the lot so that the proposed development is consistent with section 25.56.012 of the certified LCP. Accordingly, **Special Condition 1** requires the applicant to identify the nonconforming casita and the nonconforming beach access stairway for removal or relocation a minimum of 10 feet landward of the bluff edge, consistent with the LCP. In order to ensure that the applicant is able to legally remove the private beach access stairway which is partially located on public beach administered by the Orange County, **Special Condition 6** requires the applicant to demonstrate that he has secured a legal right, interest, or other entitlement to remove the entire beach access stairway prior to issuance of the permit, including the portions within his own property and the portion on the public beach. The condition further requires the applicant to submit evidence that the beach access stairway has been legally removed prior to occupancy of the residence permitted by this permit. As conditioned, the Commission finds the proposed development consistent with the public access and recreation policies of the certified LCP and Chapter 3 policies of the Coastal Act.

E. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, **Special Condition 3** requires the applicant to comply with construction-related requirements and implement construction best management practices to preserve water quality. **Special Condition 1 and Special Condition 2** require the applicant to submit final grading and drainage plans which minimize alteration of the natural landform the potential for erosion, and which conform to the geotechnical recommendations, and **Special Condition 1** further requires the applicant to submit final landscaping plans which include only native plants or non-native drought tolerant non-invasive plants. In order to prevent water from leaking onto the face of the bluff or into the ocean, **Special Condition 4** requires the applicant to submit a pool and spa plan which includes leak prevention and detection measures. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the water quality policies of the LCP.

F. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as set forth in **Special Condition 9**, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. LOCAL COASTAL PROGRAM

The City of Laguna Beach's Local Coastal Program was certified with suggested modifications in July 1992. In February 1993, the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and the City assumed permit issuing authority. The City's LCP is comprised of a variety of planning documents including the Land Use Element, Conservation/Open Space Element, and Safety Element of the City's General Plan. The Commission approved a major update (LGB-MAJ-1-10) to the Land Use Element on December 7, 2011 and concurred with the Executive Director's determination that the suggested modification had been properly accepted on May 9, 2012. The Implementation Plan (IP) portion of the LCP is Title 25, the City's Zoning Code. The Commission finds that only as conditioned is the development consistent with the City of Laguna Beach certified LCP.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Laguna Beach is the lead agency for CEQA review. On April 11, 2013, the City determined that the proposed development is categorically exempt from CEQA requirements.

As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the public access policies of the Coastal Act.

Appendix A – Substantive File Documents

1. City of Laguna Beach certified Local Coastal Program (LCP)
2. City File for Local Coastal Development Permit No. 13-0038
3. Commission File for Coastal Development Permit No. A-5-LGB-12-091 (Meehan)

Exhibit 1:

Vicinity Map

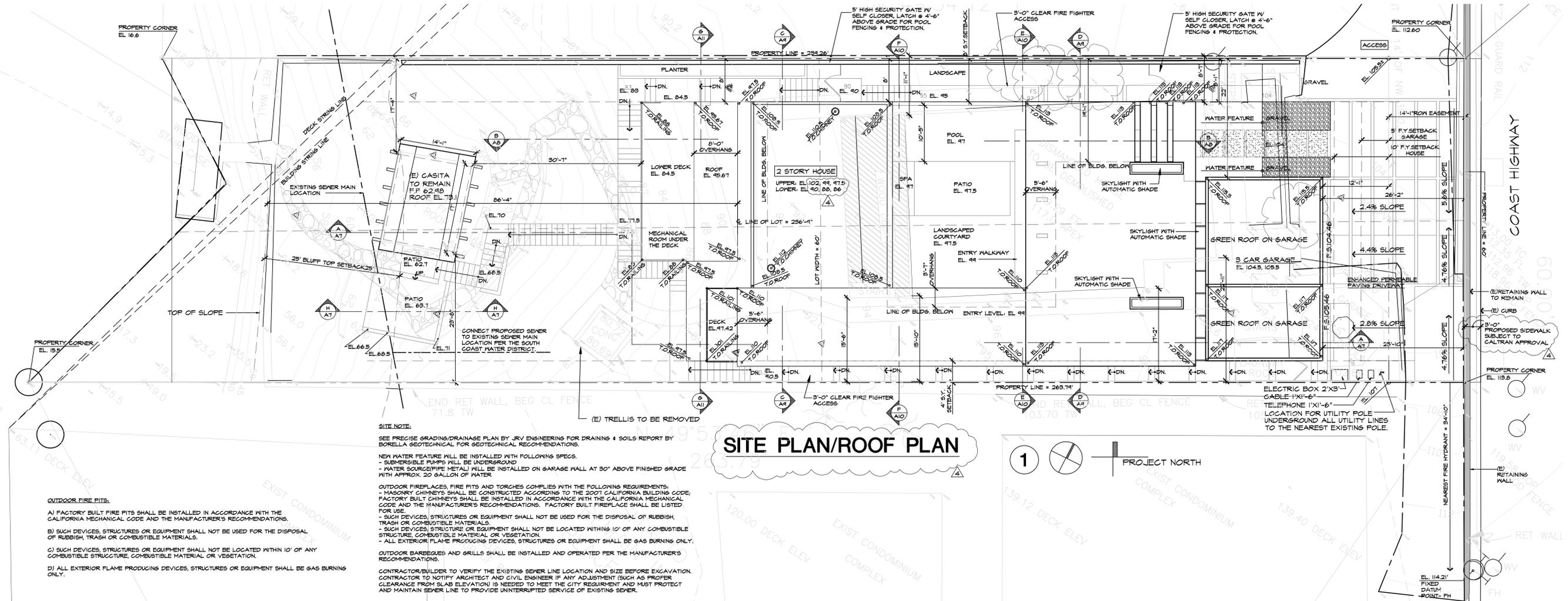
Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photo: Bing Maps



SITE PLAN/ROOF PLAN

SITE NOTE:
 SEE PRECISE GRADING/DRAINAGE PLAN BY JRV ENGINEERS FOR DRAINING & SOILS REPORT BY BORELLA GEOTECHNICAL FOR GEOTECHNICAL RECOMMENDATIONS.
 NEW WATER FEATURE WILL BE INSTALLED WITH FOLLOWING SPECS.
 - SUBMERSIBLE PUMPS WILL BE UNDERGROUND
 - WATER SOURCE (PIPE METAL) WILL BE INSTALLED ON GARAGE MALL AT 30" ABOVE FINISHED GRADE WITH APPROX. 20 GALLON OF WATER
 OUTDOOR FIREPLACES, FIRE PITS AND TORCHES COMPLIES WITH THE FOLLOWING REQUIREMENTS.
 MASONRY CHIMNEYS SHALL BE CONSTRUCTED ACCORDING TO THE 2007 CALIFORNIA BUILDING CODE. FACTORY BUILT CHIMNEYS SHALL BE INSTALLED IN ACCORDANCE WITH THE CALIFORNIA MECHANICAL CODE AND THE MANUFACTURER'S RECOMMENDATIONS. FACTORY BUILT FIREPLACES SHALL BE LISTED FOR USE.
 - SUCH DEVICES, STRUCTURES OR EQUIPMENT SHALL NOT BE USED FOR THE DISPOSAL OF RUBBISH, TRASH OR COMBUSTIBLE MATERIALS.
 - SUCH DEVICES, STRUCTURES OR EQUIPMENT SHALL NOT BE LOCATED WITHIN 10' OF ANY COMBUSTIBLE STRUCTURE, COMBUSTIBLE MATERIAL OR VEGETATION.
 - ALL EXTERIOR FLAME PRODUCING DEVICES, STRUCTURES OR EQUIPMENT SHALL BE GAS BURNING ONLY.
 OUTDOOR BARBEQUES AND GRILLS SHALL BE INSTALLED AND OPERATED PER THE MANUFACTURER'S RECOMMENDATIONS.
 CONTRACTOR/BUILDER TO VERIFY THE EXISTING SEWER LINE LOCATION AND SIZE BEFORE EXCAVATION. CONTRACTOR TO NOTIFY ARCHITECT AND CIVIL ENGINEER IF ANY ADJUSTMENT (SUCH AS PROPER CLEARANCE FROM SLAB ELEVATION) IS NEEDED TO MEET THE CITY REQUIREMENT AND MUST PROTECT AND MAINTAIN SEWER LINE TO PROVIDE UNINTERRUPTED SERVICE OF EXISTING SEWER.

OUTDOOR FIRE PITS:
 A) FACTORY BUILT FIRE PITS SHALL BE INSTALLED IN ACCORDANCE WITH THE CALIFORNIA MECHANICAL CODE AND THE MANUFACTURER'S RECOMMENDATIONS.
 B) SUCH DEVICES, STRUCTURES OR EQUIPMENT SHALL NOT BE USED FOR THE DISPOSAL OF RUBBISH, TRASH OR COMBUSTIBLE MATERIALS.
 C) SUCH DEVICES, STRUCTURES OR EQUIPMENT SHALL NOT BE LOCATED WITHIN 10' OF ANY COMBUSTIBLE STRUCTURE, COMBUSTIBLE MATERIAL OR VEGETATION.
 D) ALL EXTERIOR FLAME PRODUCING DEVICES, STRUCTURES OR EQUIPMENT SHALL BE GAS BURNING ONLY.

SHEET INDEX

SHEET DESCRIPTION	SHEET #
SITE PLAN, GENERAL INFORMATION	A1
TOPOGRAPHIC SURVEY	1
PRELIMINARY GRADING PLAN	2
CUT/FILL	3
UPPER FLOOR PLAN	A2
LOWER FLOOR PLAN	A3
WEST & EAST ELEVATION	A4
SOUTH ELEVATION	A5
NORTH ELEVATION	A6
SECTION A	A7
SECTION B	A8
SECTION B - 1/8" SCALE	A8.1
SECTION C & D	A9
SECTION E & F	A10
UPPER LEVEL AREA CALCULATION	AC1
LOWER LEVEL AREA CALCULATION	AC2
STAKING PLAN	ST1
EXTERIOR LIGHTING PLAN - UPPER LEVEL	E1
EXTERIOR LIGHTING PLAN - LOWER LEVEL	E2
FIRE HOSE PLAN	F1
LANDSCAPE OPEN SPACE	LOS
PRELIMINARY PLANTING PLAN	L-1
PRELIMINARY LOW-VOLTAGE LANDSCAPE LIGHTING PLAN	L-2

REVISIONS

NO.	DESCRIPTION	DATE
1	ZONING CORRECTION 1	10/25/12
2	ZONING CORRECTION 2	12/08/12
3	ZONING CORRECTION 3	12/08/12
DR2	DR2	09/12/13

MARK SINGER ARCHITECTS, INC. AIA

280 E BAKER ST. #500 COSTA MESA, CA 92626
 714 443 1570 PHONE 714 441 4841 FAX 714 443 1570

GENERAL NOTES

- ALL UTILITIES TO BE INSTALLED UNDERGROUND TO THE NEAREST EXISTING UTILITY POLE.
- PROJECT SHALL COMPLY WITH 2007 CALIFORNIA CODES, CBC, CBC, CPC, CEC, AND ALL APPLICABLE LOCAL CODES AND ORDINANCES. PROJECT SHALL COMPLY WITH CALIFORNIA STATE TITLE 24, NFPA, SUMP AND BMP REQUIREMENTS.
- CONTRACTOR TO "STAKE-OUT" AND VERIFY WITH ARCHITECT THE FOLLOWING: BUILDING SETBACKS, ELEVATIONS AND DRIVEWAY PRIOR TO START OF CONSTRUCTION.
- ALL ELECTRICAL AND COMMUNICATION LINES TO BE LAID BELOW GRADE PER BUILDING CODE REQUIREMENTS TO NEAREST STREET UTILITY HOODUPS.
- ALL SITE ELEMENTS AND WORK TO BE COORDINATED WITH LANDSCAPE ARCHITECT AND THEIR DOCUMENTS.
- SURFACE WATER SHALL DRAIN AWAY FROM BUILDING.
- PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ALL APPLICABLE PROVISIONS PERTAINING TO BRUSH CLEARANCE CONTAINED IN THE UNIFORM FIRE CODE SHALL BE FULLY COMPLIED WITH, TO THE SATISFACTION OF CITY FIRE DEPT.
- CONTRACTOR TO LOCATE ALL EXISTING UTILITIES WHETHER SHOWN HEREIN OR NOT AND TO PROTECT THEM FROM DAMAGE. THE CONTRACTOR SHALL BEAR ALL EXPENSES OF REPAIR OR REPLACEMENT IN CONJUNCTION WITH THE EXECUTION OF THIS WORK.
- CONTRACTOR TO MAKE NO CHANGES IN DESIGN MATERIALS OR DETAILS EXCEPT WITH PERMISSION OF THE ARCHITECT.
- CONTRACTOR SHALL SIGN AND POST A NOTICE IN THE STRUCTURE, CERTIFYING THAT INSULATION INSTALLATION COMPLIES TO THE STANDARDS OF THE STATE OF CALIFORNIA.
- ALL CHIMNEYS, NOT IN THE 'HAZARDOUS FIRE AREA', SHALL BE MAINTAINED WITH SPARK ARRESTORS WHICH WILL PERMIT THE PASSAGE OF OBJECTS NO GREATER IN SIZE THAN ONE-HALF INCH NOR OBSTRUCT THE PASSAGE OF OBJECTS SMALLER THAN THREE-EIGHTHS INCH. LBMC # 19.0140 (g).
- CONTRACTOR TO FIELD VERIFY ALL EXISTING PAD ELEVATIONS, FINISH FLOOR ELEVATIONS, AND IF ANY DISCREPANCIES ARE ENCOUNTERED, NOTIFY THE ARCHITECT PRIOR TO PROCEEDING WITH CONSTRUCTION.
- PRIOR TO ANY EXCAVATION A MEETING SHALL BE HELD AT THE SITE THAT WILL BE ATTENDED BY THE PROJECT ENGINEER, GEOLOGIST, PROJECT BUILDING INSPECTOR, GENERAL CONTRACTOR AND SHORING CONTRACTOR.
- CONTRACTOR TO VERIFY ALL DETAILS AND DIMENSIONS PRIOR TO THE START OF CONSTRUCTION AND TO NOTIFY THE ARCHITECT OF ANY OMISSIONS, ERRORS, OR DISCREPANCIES.
- ALL WRITTEN DIMENSIONS TO TAKE PRECEDENCE OVER SCALED DIMENSIONS.
- PREWIRE HOUSE FOR CABLE TELEVISION PER CITY POLICY.
- DEPUTY INSPECTOR TO OBTAIN CITY OF LASANA BEACH BUILDING DEPARTMENT CLEARANCE PRIOR TO ANY WORK COMMENCEMENT ON FIELD HOLDING OF STREET AND UTILITY.
- ALL GRADINGS MUST COMPLY WITH THE CITY OF LASANA BEACH MUNICIPAL CODE AND APPENDIX CHAPTER 10 OF THE UNIFORM BUILDING CODE.

PROJECT TEAM

PROJECT OWNER: JOHN MEEHAN 300 PINECREST LAGUNA BEACH, CA 92651 949-433-1813	CIVIL ENGINEER: JRV ENGINEERS 2021 E. 4TH ST. #204 SANTA ANA, CA 92705 714-754-0728 CONTACT: JUSTO VILLAR
ARCHITECT: MARK SINGER ARCHITECTS 250 EAST BAKER STREET, SUITE 300 COSTA MESA, CA 714 483 9740 CONTACT: MARK SINGER	PROJECT GEOLOGIST: BORELLA GEOLOGY 1611 HILL CREST DR. LAGUNA BEACH, CA 92625 949-441-9151
STRUCTURAL ENGINEER:	LANDSCAPE ARCHITECT: JAMES DOCKSTADER 1506 SOUTH COAST HWY. LAGUNA BEACH, CA 92625 949-376-4584 PHONE 949-444-6150 FAX

PLANNING INFO

LEGAL DESCRIPTION:
 LOT 6, TRACT # 281
 LASANA BEACH, CA
 APN NUMBER: 056-032-10
 LOT SIZE: 14,950

FIRE SPRINKLERS:
 FIRE SPRINKLERS REQ'D
 PER CITY OF LASANA BEACH CODE

SCOPE OF WORK:
 NEW SINGLE FAMILY RESIDENCE WITH 3-CAR ATTACHED GARAGE,
 NEW POOL & SPA, LANDSCAPE, AND RETAINING WALL

OCCUPANCY GROUP: R-3
 NO. OF STORIES: 3
 TYPE OF CONSTRUCTION: V-B

FIRE DEPARTMENT NOTES:
 RESIDENTIAL AUTOMATIC FIRE SPRINKLERS REQUIRED THROUGHOUT THE BUILDING.
 THE PRELIMINARY PLANTING SHOWN ON THE LANDSCAPE PLAN IS CONSISTENT WITH THE VHFHSZ REQUIREMENTS FOR PLANTING.
 SINCE THE PROJECT DOES NOT MEET THE REQUIREMENT FOR THE 150' FIRE APPARATUS ACCESS ROAD, REQUEST FOR ALTERNATIVE METHODS HAVE BEEN MADE. PROVIDE A 2" CONNECTION TO MEET THE CONNECTION TO THE CITY FIRE TRUCK. THE PROJECT WILL HAVE A COMPLETE SPRINKLER COVERAGE WITH A 4" HEAD CALC.

PROJECT SUMMARY

DESCRIPTION	ZONING STANDARDS			
	REQUIRED/ALLOWED	EXISTING	PROPOSED	CONFORMS
USE	RES			
ZONE	R-1			
LOT AREA(NET)	6000 SF	14,950 SF	NO CHANGE	YES
LOT DEPTH (TO BLUFFTOP)	80'	241'-5"	NO CHANGE	NO
LOT WIDTH	70'	60'	NO CHANGE	YES
LOT SLOPE	20%	37.2%		
MAX. BLDG HEIGHT	15' ABOVE CURB	12.5 FEET	4 FEET	YES
MAX. HEIGHT GRADE	30'	24'-4"	24'-0"	YES

DESCRIPTION	SETBACKS		
	EXISTING	PROPOSED	TOTAL
FRONT YARD	5' GARAGE, 10' HOUSE	0', 36'	121', 39.6'
REAR YARD	25' BLUFFTOP	0	86'-4" TO HOUSE
SIDE YARD	TOTAL 12', 4' MIN.	8' TOTAL, 8' N, 0' S	12' TOTAL, 8' N, 4' S
FLOOR AREA FAR	N/A		YES
LOT COVERAGE	58% - 5,022 SF	15.3% - 2,144 SF	24.8% - 3,591 SF
LANDSCAPE OPEN SPACE	15% - 2,152	42.5% - 6,106	38.2% - 5,484 SF

DESCRIPTION	PROJECT DATA		
	EXISTING	PROPOSED	TOTAL
UPPER		2176	2176
LOWER		2645	2645
LIVINGS TOTAL	(-2654)	4821	4821
DECK		673	673
STORAGE/MECH.		138	138
GARAGE	400 SF	732	732

GRADING	SITE WORK (POOL/SPA INCLUDED)		
	OUTSIDE OF STRUCTURAL FOOTPRINT	INSIDE OF STRUCTURAL FOOTPRINT	TOTAL
CUT	160 CY	800 CY	960 CY
FILL	110 CY	140 CY	250 CY
NET EXPORT	50 CY	660 CY	710 CY

STRUCTURE	SQUARE FOOTAGE		% OF LOT AREA	
	EXISTING	PROPOSED	EXISTING	PROPOSED
HARDSCAPE (INCLUDING DRIVEWAY)	2,144 SF	3,551 SF	15.3%	24.8%
TOTAL	1,041 SF	6,067 SF	41.2%	42.9%

VICINITY MAP

SITE

TOTAL SHEETS: 24

DATE ISSUED:

M E E H A N RESIDENCE

31501 COAST HIGHWAY, LASANA BEACH, CA 92651

site plan, general information

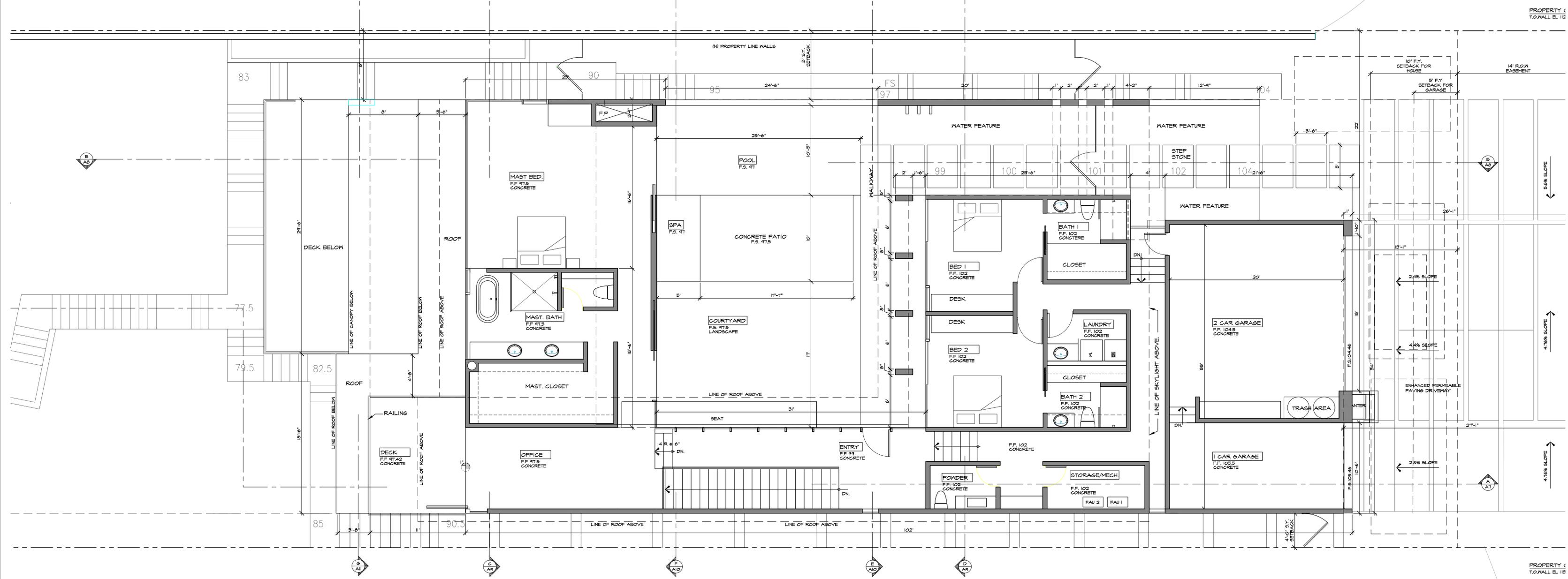
A1

Exhibit 2.1:
Site Plan
Application No. A-5-LGB-13-0223

Exhibit 2.2: Upper Level Plan Application No. A-5-LGB-13-0223

- PLAN NOTE**
1. SHOWER COMPARTMENTS SHALL BE FINISHED WITH A SMOOTH, NONABSORBENT SURFACE TO A HEIGHT NOT LESS THAN 10' ABOVE THE DRAIN INLET, TYP.
 2. WHERE MORE THAN ONE SMOKE ALARM IS REQUIRED TO BE INSTALLED WITHIN AN INDIVIDUAL DWELLING UNIT, THE SMOKE ALARMS SHALL BE INTERCONNECTED IN SUCH A MANNER THAT THE ACTIVATION OF ONE ALARM WILL ACTIVATE ALL OF THE ALARMS IN THE INDIVIDUAL UNIT. THE ALARM SHALL BE CLEARLY AUDIBLE IN ALL BEDROOMS OVER BACKGROUND NOISE LEVELS WITH ALL INTERVENTING DOORS CLOSED. (401.2.10.3)
 3. CONTRACTOR TO NOTIFY OWNER NOT TO WASH OUT THE GARAGE FLOOR WITH WATER DUE TO LIVING SPACE UNDER THE GARAGE. SINCE IT IS COVERED BY STRUCTURE THE SUN CANNOT DRY THE DAMPENESS AND RESIDUAL MOISTURE CAN CREATE DRY ROT AND MOLD.

REVISIONS	
1	ZONING CORRECTION 1
2	ZONING CORRECTION 2
3	ZONING CORRECTION 3
4	DR2
5	03/12/13



UPPER LEVEL PLAN
SCALE: 1/4"=1'-0"

1

PROJECT NORTH

MARK SINGER ARCHITECTS, INC. AIA
 250 E. BAKER ST. #500 COSTA MESA, CA 92626
 TEL: 714.443.1370 PHONE 949.441.1491 FAX: INFO@MARKSINGERARCHITECTS.COM

M E H A N RESIDENCE
 31931 COAST HIGHWAY, LAGUNA BEACH, CA 92651

DATE ISSUED:

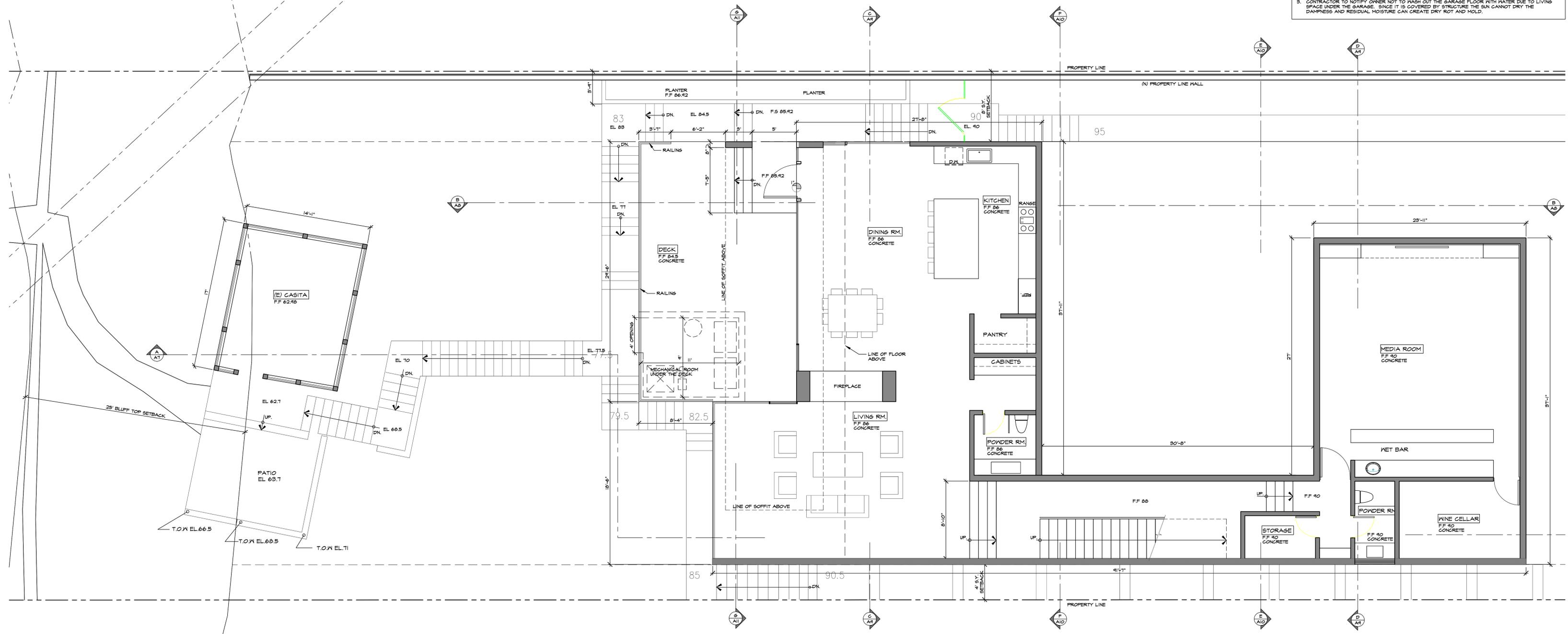
UPPER LEVEL PLAN

A2

Exhibit 2.3: Lower Level Plan Application No. A-5-LGB-13-0223

PLAN NOTE

1. SHOWER COMPARTMENTS SHALL BE FINISHED WITH A SMOOTH, NONABSORBENT SURFACE TO A HEIGHT NOT LESS THAN 10' ABOVE THE DRAIN INLET, TYP.
2. WHERE MORE THAN ONE SMOKE ALARM IS REQUIRED TO BE INSTALLED WITHIN AN INDIVIDUAL DWELLING UNIT, THE SMOKE ALARMS SHALL BE INTERCONNECTED IN SUCH A MANNER THAT THE ACTIVATION OF ONE ALARM WILL ACTIVATE ALL OF THE ALARMS IN THE INDIVIDUAL UNIT. THE ALARM SHALL BE CLEARLY AUDIBLE IN ALL BEDROOMS OVER BACKGROUND NOISE LEVELS WITH ALL INTERVENTING DOORS CLOSED. (401.2.10.3)
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REVISIONS	
1	ZONING CORRECTION 1
2	ZONING CORRECTION 2
3	ZONING CORRECTION 3
4	DR2
5	03/12/13

MARK SINGER ARCHITECTS, INC. AIA

250 E. BAKER ST., #500 COSTA MESA, CA 92626
TEL: 714.443.1374 PHONE 949.1491.1491 FAX: INFO@MARKSINGERARCHITECTS.COM

M E H A N RESIDENCE

31933 COAST HIGHWAY, LAGUNA BEACH, CA 92651

DATE ISSUED:

LOWER LEVEL PLAN 1

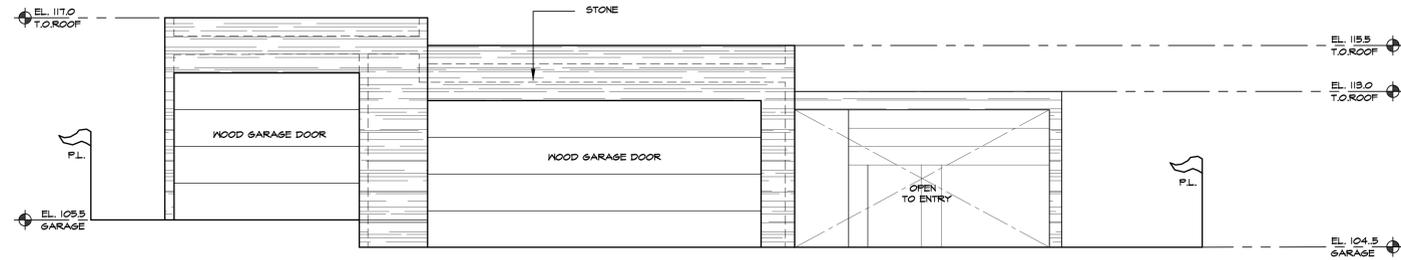
SCALE: 1/4"=1'-0"

PROJECT NORTH

A3

LOWER LEVEL PLAN

MAXIMUM BUILDING HEIGHT = EL. 128.00

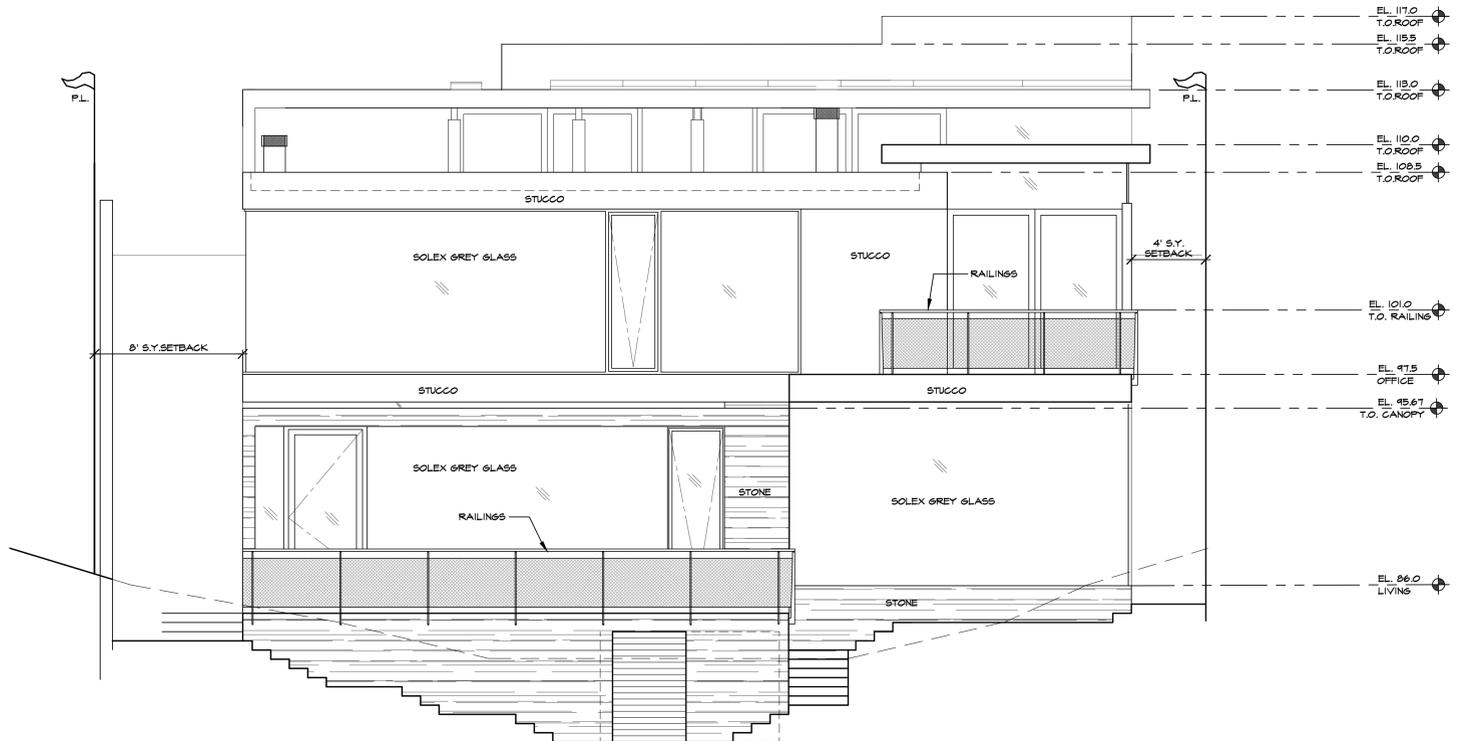


EAST ELEVATION

1

SCALE: 1/4"=1'-0"

MAXIMUM BUILDING HEIGHT = EL. 128.00



WEST ELEVATION

2

SCALE: 1/4"=1'-0"

REVISIONS	
△	ZONING CORRECTION 1
△	ZONING CORRECTION 2 10/25/12
△	ZONING CORRECTION 3 12/25/12
△	DR2 03/12/13

MARK SINGER ARCHITECTS, INC. AIA

250 E. BAKER ST., #500 COSTA MESA, CA 92626
TEL: 714.443.1374 PHONE 949.1491.1491 FAX: INFO@MARKSINGERARCHITECTS.COM

M E H A N RESIDENCE

3150 COAST HIGHWAY, LAGUNA BEACH, CA 92651

DATE ISSUED:

east & west elevations

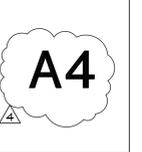
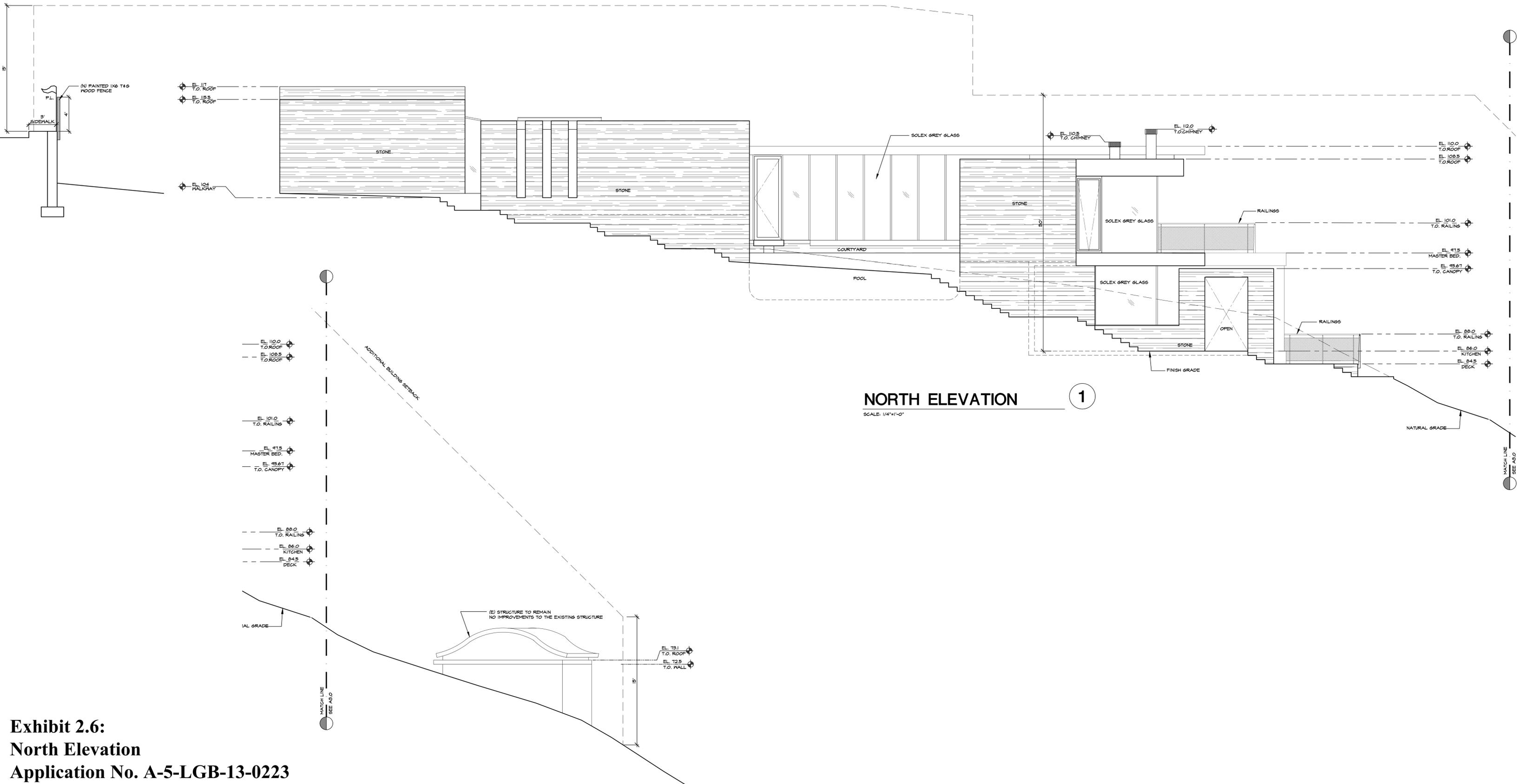


Exhibit 2.4:
East and West Elevations
Application No. A-5-LGB-13-0223

MAXIMUM BUILDING HEIGHT = EL. 128.00



NORTH ELEVATION

1

SCALE: 1/4"=1'-0"

REVISIONS	
△	ZONING CORRECTION 1
△	ZONING CORRECTION 2
△	ZONING CORRECTION 3
△	DR2
△	03/12/13

MARK SINGER ARCHITECTS, INC. AIA
 250 E. BAKER ST., #500 COSTA MESA, CA 92626
 TEL: 714.443.1374 PHONE 949.1491.6214 FAX: INFO@MARKSINGERARCHITECTS.COM

M E H A N RESIDENCE
 31531 COAST HIGHWAY, LAGUNA BEACH, CA 92651

DATE ISSUED:	

A6

Exhibit 2.6:
North Elevation
Application No. A-5-LGB-13-0223

north elevation

Exhibit 3: Commission Staff's Determination of Bluff Edge Application No. A-5-LGB-13-0223

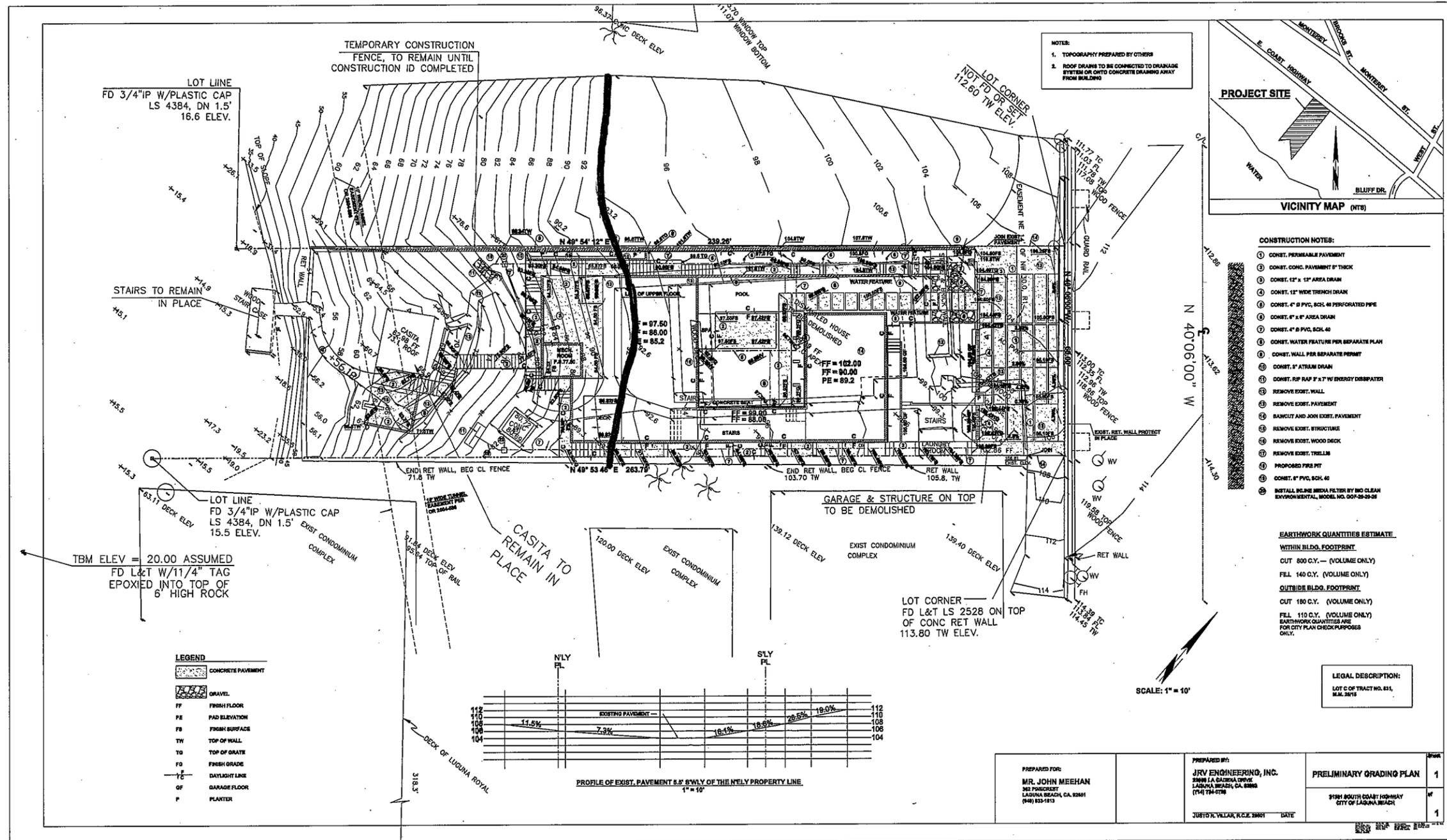


Exhibit 4.1:

Graded Blufftop Site of Pre-existing House

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photo: Commission staff (10/24/14)

Exhibit 4.2:

Bluff Face

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photo: Commission staff (10/24/14)

Exhibit 4.3:

Casita on Bluff Face

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photo: Commission staff (10/24/14)

Exhibit 4.4:

Area of Proposed Three-Foot Wide Sidewalk

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photos: Commission staff (8/14/13)

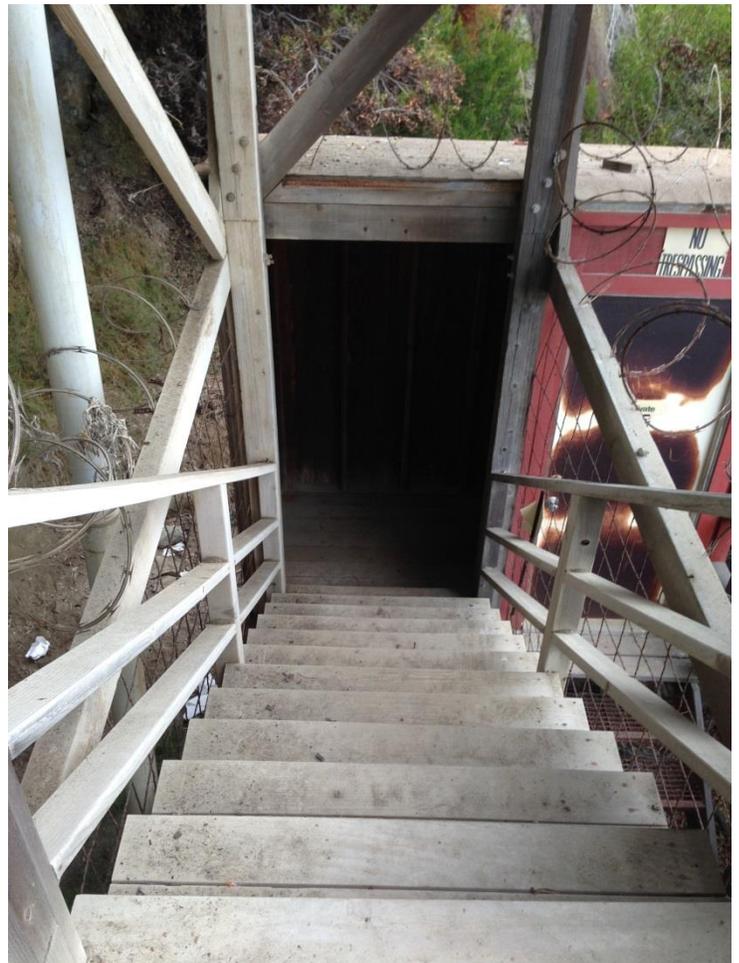
Exhibit 4.5:

Beach Access Stairway on Bluff Face and Public Beach

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photos: Commission staff (8/14/13)

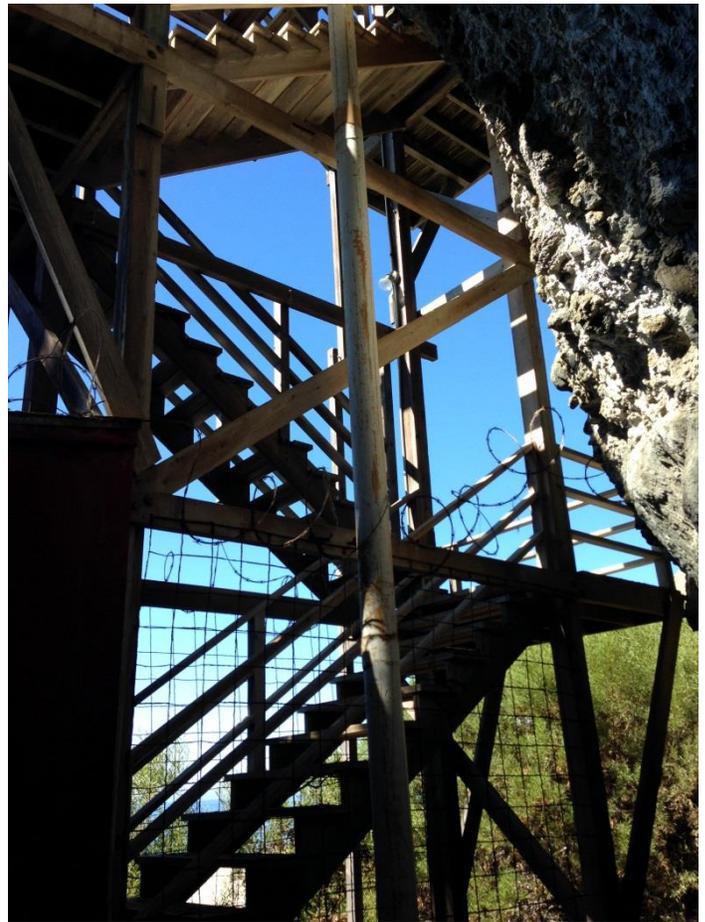
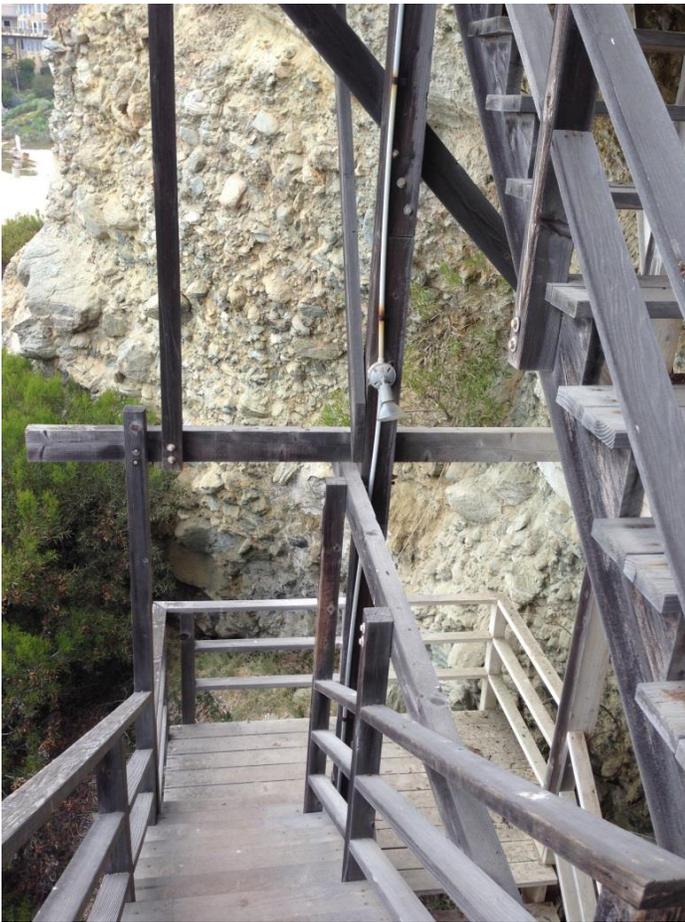
Exhibit 4.5:

Beach Access Stairway on Bluff Face and Public Beach

Application No:
A-5-LGB-13-0223



California Coastal
Commission



Photos: Commission staff (8/14/13 and 10/24/14)

**CITY OF LAGUNA BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

04/2013 Scanned

HEARING DATE: February 7, 2013

TO: DESIGN REVIEW BOARD

CASE: Design Review 13-0037
Coastal Development Permit 13-0038

APPLICANT: Mark Singer, Architect
(949) 499-6214

LOCATION: Meehan Residence
31381 Coast Highway
APN 056-032-10

ENVIRONMENTAL STATUS: In accordance with the California Environmental Quality Act (CEQA) guidelines, the project is categorically exempt pursuant to Section 1530, Class 3, (a) (new construction) that allows construction of one single-family residence in a residential zone.

PREPARED BY: Nancy Csira, Principal Planner
(949) 497-0332

REQUESTED ACTION: The applicant requests design review and a coastal development permit to construct a 5,320 square-foot single-family residence, 125 square-foot storage/mechanical area and 767 square-foot attached three-car garage in the R-1 zone. Design review is required for the new structure, covered parking, elevated decks (773 square feet), skylights, grading, retaining walls, pool, spa, air conditioning units, construction in an environmentally sensitive area (oceanfront) and to maintain nonconforming site conditions including vehicular access, driveway grade and improvements in the bluff top (beach access stairs and cabana).

PROJECT SITE DESCRIPTION: The subject site is located in the R-1 (Residential Low Density) zone with a General Plan designation of "Village Low Density." The area of the oceanfront property, excluding the bluff top area, is 14,350 square feet and is located on the west side of Coast Highway between Camel Point and West Street. The topography of the lot is approximately 37.2 percent. The subject site is bound by surrounding properties as follows:

	Zone	General Plan	Existing Use
North	R-1	VLD	77 unit condominium building with underground parking
East	R-1	VLD	Mostly single-family dwellings with two-car garages
South	R-1	VLD	Vacant building site
Project Site	R-1	VMD	Single-family dwelling, detached two-car garage with living area above and accessory structures

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 12

SCANNED

DESIGN REVIEW HISTORY: The property is developed with an existing two-story, 2,654 square-foot single-family dwelling, detached two-car garage with hexagonal shaped room above and accessory structures (trellis, cabana and beach stairs). Prior entitlements associated with the subject site include Design Review 11-193 (12/15/11) and CDP 12-222 (2/9/12) to demolish the dwelling and detached garage structure. The structures were listed on the 1981 City's Historic Inventory but were subsequently deemed demolished and beyond repair, due to unpermitted work performed by prior property owners. The existing trellis was constructed without building permits and is also proposed to be demolished.

On February 6, 2013, the California Coastal Commission will be considering an appeal of Coastal Development Permit 12-222 submitted by Village Laguna and the South Laguna Civic Association. The appellants contend that the proposed demolition does not conform to the City's certified Local Coastal Program (LCP) or public access policies and is not consistent with the historical preservation policies of the LCP. The report prepared by the California Coastal Commission staff (linked online to the meeting agenda) and concludes that the appeal raises no substantial issue with respect to the grounds on which the appeal has been filed.

STAFF REVIEW BACKGROUND: On March, 20, 2012, zoning staff conducted a pre-submittal site meeting with the property owner and design team. The issues staff believed to be important to consider, includes vehicular access, on-site turnaround, public sidewalk, mass, scale, view, privacy and retention of nonconforming structures encroaching into the blufftop. A copy of the meeting notes is attached.

STAFF ANALYSIS: The applicant proposes a 5,320 square-foot, two-story single family dwelling with an attached 767 square-foot three-car garage. The existing ingress/egress easement and steep driveway will remain. The existing legal nonconforming cabana and beach access stairs are also proposed to remain.

Property Development Standards and Zoning Code Consistency: The project is consistent with the development standards of the R-1 zone. Due to lot topography, the site qualifies for a reduced front setback allowing five feet for the garage and ten feet for the house. The required oceanfront setback is twenty-five feet measured from the top of the oceanfront bluff or the building stringline, whichever is more restrictive.

In this instance, the blufftop setback is more restrictive than the building stringline. Pursuant to LBMC 25.50.004(4)(a), an "oceanfront bluff" is an oceanfront landform having a slope of forty-five degrees or greater from horizontal whose top is ten or more feet above mean sea level. The vertical face steeper than 45 degrees has been identified as the bluff top. The stringline setback is shown on the site plan depicted as a line across a parcel that connects the oceanward ends of the nearest adjacent walls of the main buildings on adjacent lots.

Design Review Criteria: Physical improvements and site developments subject to design review should be designed and located in a manner which best satisfies the design review criteria. Please refer to the *City's Design Guidelines - A Guide to Residential Development* on the City's website, www.lagunabeachcity.net. The intent of these guidelines is to clarify the

COASTAL COMMISSION

13-0037 & CDP 13-0038
31381 Coast Highway
February 7, 2013
Page 3 of 8

criteria that members of the community, the Design Review Board, the City Council and design professionals use in the design review process.

Access: *Conflicts between vehicles, pedestrians and other modes of transportation should be minimized by specifically providing for each applicable mode of transportation.*

The subject site gains dual indirect access with a driveway through subject site. A recorded 14-foot wide ingress and egress easement is located across both adjacent properties (31371 Coast Highway and 31423 Coast Highway). The access driveway is steeper than the 10% average grade allowed by code, varying from 7.3% to 26.5%. A profile of the driveway grade is shown on the preliminary grading plan (Page 2, Sheet 1 of 2).

The front setback is measured from the 100-foot right-of-way dedication line. The minimum on-site turnaround dimension is 25 feet and must be provided for all required on-site parking spaces. This allows vehicles to turnaround within the property limits to be able to head into traffic on Coast Highway versus backing out into travel lanes. This requirement has been met.

The City's *Landscape and Scenic Highways Resource Document* recommends that a five-foot wide sidewalk be provided along Coast Highway. City Council direction supports obtaining a 5-foot wide sidewalk for all new development on Coast Highway. Staff encouraged the applicant to provide a five-foot wide sidewalk and landscape buffer; however, the applicant proposes to provide a three-foot wide sidewalk and new four-foot high wood fence as shown on Section 2 (Sheet A-5). Since the minimum required driveway width is 10 feet, the applicant might use the excess four feet of the access easement to provide a wider sidewalk and landscape buffer. It appears that five feet would be difficult to be accomplished along the complete frontage due to the reduced width of access to the condominium property. No landscaping has been provided at the street frontage.

An existing sewer tunnel is located within the 10-foot wide sewer easement near the bluff edge and is 50 feet below grade. The applicant is required to coordinate construction within the easement with South Coast Water District and has indicated that the proposed excavation adjacent to the existing cabana is allowed.

Design Articulation: *Within the allowable building envelope, the appearance of building and retaining wall mass should be minimized. Articulation techniques including, but not limited to, separation, offsets, terracing and reducing the size of any one element in the structure may be used to reduce the appearance of mass.*

The elevation of the main level of the new residence will be at approximately the same finished floor of the current main level. A new lower level will be excavated below. A green roof is proposed for the garage and will be no higher than the highest ridge of the existing main residence. The flat roof of the main structure steps down four feet. The ceiling heights for the main level and lower level are proposed to be twelve feet each.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 3 OF 12

13-0037 & CDP 13-0038
31381 Coast Highway
February 7, 2013
Page 4 of 8

Very large 12-foot deep ocean-facing overhangs may add to the apparent mass as depicted by the project staking. Furthermore, these large overhangs may not step with the hillside as the Board typically approves.

The proposed excavated patio adjacent to the existing cabana and the proposed ground level filled terrace which steps down from the new lower level create seven- to ten-foot retaining walls that require additional railings on top of the wall. The exposed view of the wall and railing are up to 14 feet at the highest point.

Design Integrity: *Consistency with the applicant's chosen style of architecture should be achieved by the use of appropriate materials and details.*

The proposed flat roofed contemporary structure incorporates unfilled limestone and smooth coat stucco exterior walls, Spanish cedar wood window/door frames and garage doors, solar grey glass, and both glass and bronze railings (See Color & Materials selections attached).

Environmental Context: *Development should preserve and, where possible, enhance the city's scenic natural setting. Natural features, such as existing heritage trees, rock out-cropping, ridgelines and significant watercourses should be protected. Existing terrain should be utilized in the design and grading should be minimized.*

The applicant has provided a Geotechnical Report, Coastal Hazards and Wave Runup Study and Water Quality Management Report (WQMP). These reports are linked online to the meeting agenda. Peer review of the Geotechnical Report has been completed and approved subject to standard conditions. The report evaluates the engineering geological and soils conditions beneath the subject property (including steep ocean bluff) and provides foundation information and recommendations for the proposed new residence, spa and pool. Caissons are required at the seaward edge to support the new deck (25 feet deep) and residence (34 feet deep). Refer to Figure 2-Section AA in the geotechnical report.

The Coastal Hazards and Wave Runup Study conclude that because the development is located well above the beach, the development is safe from coastal hazards. The study notes that there are large bed-rock outcroppings in the surf zone in front of the site and adjacent properties that act as a breakwater to incoming waves. The study notes that new shoreline protection will likely not be required to protect the existing stairway or the proposed development over the next 100 years. The study states that neither the retention of the stairway nor the proposed development will create or contribute to erosion, geologic instability or destruction of the site or adjacent area.

A Water Quality Management Plan (WQMP) has been provided and will be peer reviewed during building plan check. The plan includes best management practices for site design to minimize storm water runoff, project's impervious footprint and conserve natural areas.

Grading quantities include the grading required for the pool and spa. The applicant is proposing to excavate a lower level with 12-foot ceiling heights below where the main level currently exists. Most of the fill outside the building footprint is proposed in the courtyard and new oceanward terraces accessed from the lower level.

COASTAL COMMISSION

APPROVED 2/13/2013

Grading	Outside Structural Footprint	Inside Structural Footprint	Total
Cut	50 CY	550 CY	600 CY
Fill	330 CY	140 CY	470 CY
Net Export	- 280 CY	410 CY	130 CY

General Plan Compliance: *The development shall comply with all applicable policies of the general plan, including all of its elements, applicable specific plans, and the certified local coastal program.*

The City's newly adopted Land Use Element includes Action 7.3.8 which states: "On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways, and stairways, which encroach into oceanfront bluffs". The cabana and beach stairs are considered legal nonconforming structures since there is evidence that they existed before South Laguna was annexed into the City of Laguna Beach. No improvements are proposed to these structures at this time. Repair and maintenance of these structures may be permitted. However, removing or replacing more than 50% of the structural elements would constitute a major remodel or new structure. In this case, the structures would have to be removed from within the blufftop setback.

Landscaping: *Landscaping shall be incorporated as an integrated part of the structure's design and relate harmoniously to neighborhood and community landscaping themes. View equity shall be an important consideration in the landscape design. The relevant landscaping guidelines contained in the city's "Landscape and Scenic Highways Resource Document" should be incorporated, as appropriate, in the design and planned maintenance of proposed landscaping.*

The City's landscape consultant indicates that *Metrosideros Excelsus* and *Laurus Nobilis* located in the side setbacks could exceed hedge height restrictions. The proposed landscape open space is twice the 15% lot area required. Total impervious surface area has slightly decreased from existing 49.2 percent to 47.3 percent by incorporating permeable surfaces.

Lighting and Glare: *Adequate lighting for individual and public safety shall be provided in a manner which does not significantly impact neighboring properties. Reflective materials and appurtenances that cause glare or a negative visual impact (e.g., skylights, white rock roofs, high-gloss ceramic tile roofs, reflective glass, etc.) should be avoided or mitigated to a level of insignificance in those locations where those surfaces are visible from neighboring properties.*

Low-voltage site lighting shown on the landscape plan (Sheet L-2) includes seven path lights, seven recessed wall lights and three tree down-lights. Timer-controlled low-voltage building lighting as shown on Sheets E-1 and E-2 includes eight soffit down-lights, six in-ground lights and fifteen surface-mounted fixtures.

Three new linear skylights are proposed and will be fitted with automatic night shades.

COASTAL COMMISSION

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Neighborhood Compatibility: *Development shall be compatible with the existing development in the neighborhood and respect neighborhood character. Neighborhood character is the sum of the qualities that distinguish areas within the city, including historical patterns of development (e.g., structural heights, mass, scale or size), village atmosphere, landscaping themes and architectural styles.*

The existing 77 unit condominium building directly next door should not be a factor of neighborhood compatibility. The condominium buildings are very large and are built within the blufftop including foundation supports on the beach. The proposed program consists of 6,985 square-feet (living, garage, storage, mechanical and deck area) is 48.7% of the net lot area.

Privacy: *The placement of activity areas (e.g., decks, picture windows and ceremonial or entertainment rooms) in locations that would result in a substantial invasion of privacy of neighboring properties should be minimized.*

The new oceanward decks and terrace areas increase the amount of activity area. Based on the raised finished surfaces of these expanded areas, they may impact privacy enjoyed by some of the condominiums and the privacy of the subject property.

Sustainability: *New development should consider architecture and building practices which minimize environmental impacts and enhance energy efficiency by: (a) reducing energy needs of buildings by proper site and structural design; (b) increasing the building's ability to capture or generate energy; (c) using low-impact, sustainable and recycled building materials; (d) using the latest Best Management Practices regarding waste and water management; and (e) reducing site emissions.*

Energy management is achieved by installing skylights, a green roof and windows that allow cross ventilation. Roof overhangs and deck areas provide sun-shading and screening. Water management is achieved by reducing the amount of impervious surfaces and by implementing a WQMP.

Swimming Pools, Spas and Water Features: *Swimming pools, spas and water features shall be located, designed and constructed where: (a) Geology conditions allow; (b) Noise produced by circulatory mechanical pumps and equipment is mitigated; and (c) Any associated fencing or other site improvements are compatible with neighboring properties.*

The proposed in-ground pool and spa will be located within the courtyard. The pool equipment and air conditioning units are proposed in a vault below the oceanfront terrace. Six-foot high solid property line walls are proposed in the side setbacks and minimum five-foot high bronze gates are proposed to provide the required pool security fencing.

View Equity: *The development, including its landscaping, shall be designed to protect existing views from neighboring properties without denying the subject property the reasonable opportunity to develop as described and illustrated in the city's "Design Guidelines." The "Design Guidelines" are intended to balance preservation of views with the right to develop property.*

COASTAL COMMISSION

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The project staking is no higher than the existing main structure to be demolished and ocean views from Coast Highway and homes across Coast Highway will be improved due to the removal of the garage structure and mature existing tree. However, the structure projects closer towards the ocean. It appears that the structure could be pulled back to better adhere to the hillside and to align with the adjacent condominium structure. This may preserve views for the adjacent structures on either side of the subject property (condominiums and 31365 Coast Highway). The existing home at 31365 has a large picture window oriented to take an angular view the subject site bluff area. The structure ultimately approved on the subject site, will determine the stringline for development on the vacant parcel to the north. Design Objective 15.1 of the City's Design Guidelines - A Guide to Residential Development states: "Locate and design new buildings or site development to facilitate view equity, anticipating future views from neighboring potential development and to vacant or undeveloped land."

Design Review Guidelines: A three-car garage is proposed. Pursuant to LBMC 25.52.012(G), the Board must find that the additional covered parking space does not increase the appearance of mass and bulk. The garage frontage is divided into a double-car garage door and a single-car garage door. The single-car garage finished floor and roof is one foot higher than the double-car garage providing some articulation.

Nonconforming Site Conditions: The site has been historically accessed using the driveway within an indirect ingress/egress access easement. The objectives set forth by the City's Transportation, Circulation and Growth Management Element discourages new driveway access onto Coast Highway to minimize interruptions to traffic flow (Policy 2B). In addition, Policy 6A encourages joint parking agreements for the purpose of consolidating access driveways and curb cuts. Therefore, staff believes the request to maintain the nonconforming indirect access and driveway grade is approvable.

The geological report, coastal hazards and wave runup study conclude that the existing blufftop development (beach access stairs and cabana) do not impact the stability of the site. On January 24, 2012, the Coastal Commission informed staff that the beach access stair is not located entirely within the subject property limits and is partially constructed onto the public beach. In 1989, when South Laguna was annexed into the City of Laguna Beach, all existing development (including the beach access stairs and cabana) was grandfathered and considered to be legal nonconforming. These structures may be repaired provided no more than 50% of the structure is demolished.

Coastal Development Permit: A coastal development permit is required for all new development within the coastal zone. The City's determination is appealable to the California Coastal Commission. The Design Review Board may consider the following findings for approval:

- 1. *The project is in conformity with all the applicable provisions of the General Plan, including the Certified Local Coastal Program and any applicable specific plans in that:*

Alteration of natural landforms should be minimized and the visual character of the surrounding area maintained to achieve compliance with the *Residential Design*

COASTAL COMMISSION

13-0037 & CDP 13-0038
February 7, 2013

Guidelines (1D). Visual impacts of the development have not been minimized because the proposed structure on some levels projects further oceanward than the adjacent condominium structure therefore not maintaining compatibility with surrounding development (1G). The proposed residence should be pulled back to be in line with the existing adjacent structure.

2. *Any development located between the sea and the first public road paralleling the sea is in conformity with the Certified Local Coastal Program and with the public access and public recreation policies of Chapter 3 of the Coastal Act in that:*

The proposed project may not be in compliance with this finding in that the existing beach stairs, located partially on the public beach, impact physical public access and should be removed or relocated off the public beach. (2A); and

3. *The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act in that:*

The proposed project is in compliance with the applicable rules and regulations set forth in the Municipal Code and will not cause any significant adverse impacts on the environment (3A).

COMMUNITY INTEREST: There have been no letters or telephone calls received by the City as of the date of this report.

CONCLUSION: The applicant proposes to construct a new single-family residence in conformance with all required development standards in the R-1 zone and to maintain the nonconforming site conditions. Staff notes that the structure could be stepped back to be in-line with the profile of the adjacent condominium structure. Public views across the site will be improved with the removal of the garage structure and mature tree. The Board should evaluate potential privacy and view equity impacts to adjacent neighbors. The Board should also evaluate and provide direction on the sidewalk width and beach access stairs on the public beach issues.

ATTACHMENTS:

- Project Summary Tables
- Site Meeting Notes (3/20/12)
- Color and Materials
- Vicinity/Aerial/Contour Map
- Oblique Photos (4)

REPORTS LINKED ON CITY'S WEBSITE:

- Coastal Commission Staff Report (1/17/13)
- Geological Report (10/26/12)
- Coastal Hazards and Wave Runup Study (5/18/12)
- Water Quality Management Plan (6/2012)

Go to: http://lagunabeachcity.granicus.com/GeneratedAgendaViewer.php?view_id=3&event_id=27 or
Path: www.lagunabeachcity.net>City Hall>City Council>meeting, agendas>Design Review Board>February 7, 2013>Agenda

COASTAL COMMISSION

EXHIBIT # 5
PAGE 8 OF 12

JUN 24 2013

COASTAL COMMISSION

City of Laguna Beach
AGENDA BILL

CALIFORNIA No. 24
COASTAL COMMISSION Meeting Date 6/18/2013

EXHIBIT # 5
PAGE 9 OF 12

SUBJECT: APPEAL OF APPROVAL OF DESIGN REVIEW 13-37 AND COASTAL DEVELOPMENT PERMIT 13-38 AT 31381 COAST HIGHWAY

SUMMARY OF THE MATTER:

The applicant obtained design review approval of a new 5,320-square-foot single-family residence and attached three-car garage in the R-1 zone. Design review was required for the new structure, elevated decks, covered parking, skylights, grading, retaining walls, pool and spa, air conditioning units, construction in an environmentally sensitive area (oceanfront site) and to maintain nonconforming site conditions including vehicular access, driveway grade and improvements in the bluff setback (beach access stairs and cabana).

The decision of the Design Review Board has been appealed by two adjacent property owners to the south of the project site.

Background:

The subject property currently contains a single-family dwelling, a detached garage, and nonconforming guest house ("cabana") and beach access stairs. On February 9, 2012, the Design Review Board approved a coastal development permit to allow the demolition of the existing dwelling and garage. This approval was upheld by the City Council on appeal and is currently awaiting an appeal hearing before the Coastal Commission on a subsequent appeal filed with that agency.

On May 23, 2012, the property owner submitted plans for the construction of a new home on the property. The plans were processed through zoning plan check and scheduled for design review consideration on February 7, 2013. The City Attorney confirmed for the Board and neighbors that the application for the new development could be processed while the applicant awaits a Coastal Commission decision on the demolition permit. While approval of the demolition permit is needed before new construction may proceed, the pending Coastal Commission appeal does not preclude the City's ability to process design review for the proposed new home.

(continued)

RECOMMENDATION: It is recommended that the City Council:

Deny the appeal and sustain the Design Review Board's approval of Design Review 13-37 and Coastal Development Permit 13-38 at 31381 Coast Highway.

Appropriations Requested: \$ None

Submitted by: John Kelly

Fund: None

Coordinated with: _____

Attachments: Project Summary ; Appeals; Letters (p. 7-55);

Pre-application Meeting Notes (p.56); DR Staff Report/Minutes

2/7/13 (p. 63); and 4/11/13 (p.78); Aerial Vicinity Maps

Approved: John Kelly

City Manager

COASTAL COMMISSION

EXHIBIT # 5
PAGE 10 OF 12

Appeal of DR 13-37/CDP 13-38
31381 Coast Highway
June 18, 2013
Page 2

Design Review Board Actions:

The project was initially heard at a regular Design Review Board meeting on February 7, 2013. A copy of the design review hearing minutes begins on page 71 of the attachments to this agenda bill. At that hearing, several community members spoke in favor of the project, while several neighbors testified with view equity and design articulation concerns. One community member expressed concern about the request to maintain the nonconforming beach access stairs. The four participating Board members each commented upon the project, specifically with regard to view equity, design articulation and environmental context. The Board members advised the applicant that despite the constraints posed by the topography and the existing indirect driveway access, some sidewalk improvement needed to be provided for pedestrians along Coast Highway. The Board acknowledged that the sidewalk might be less than the normally requested 5-foot width and could perhaps be provided below Coast Highway, along the existing driveway.

The Board heard the project for a second time on April 11, 2013. The proposed structure had been pulled back from the bluff setback, lowered in height and reduced in size. A 3-foot wide Coast Highway sidewalk had been added in response to the Board's direction. Several community members again testified both in favor of and in opposition to the project. A copy of the design review hearing minutes is attached, beginning on page 83.

Four of the five Board members agreed that the applicant had been responsive to the direction given at the initial hearing. In order to address a remaining view equity concern, Board members requested and the applicant agreed to lower and pull back a portion of the proposed roof. The project was subsequently approved on a 4-1 vote.

Basis for Appeal:

A copy of the appeal is attached for reference. The appellants outline four specific reasons for the appeal:

1. The Coastal Commission review of the local coastal development permit related to the demolition of the existing structures is still pending and the appellant questions the appropriateness of approving a permit for a replacement structure until the matter of the demolition permit is resolved.

Response: The pending review (appeal) of the demolition permit before the Coastal Commission does not stay or impact the processing of an independent application for the redevelopment of the project site. Nevertheless, the applicant is precluded from moving forward with new construction until such time as final approval of the demolition permit has been obtained.

2. The Design Review Board did not properly address the issue of the private stair tower to the beach. The appellants object to the coastal development permit finding that the stairway does not affect public beach access.

Response: The project site includes beach access stairs, which are constructed in part on the applicant's property and in part on the County beach. The stairs have existed for some time, predating the City's annexation of the South Laguna area. In approving the coastal development permit for the project, the Design Review Board determined that public access to the beach and associated recreation opportunities do not appear to have been affected by the historic existence of this nonconforming structure, and that the approved project does not propose improvements or

COASTAL COMMISSION

Appeal of DR 13-37/CDP 13-38

31381 Coast Highway

June 18, 2013

Page 3

EXHIBIT # 5
PAGE 11 OF 12

alterations to the stairs that would impact the status quo. The Board further indicated that separate entitlement(s) would be required if alterations to the stairs are proposed in the future.

3. The Design Review Board did not comply with the policy to require 5-foot sidewalk for public access along Coast Highway.

Response: The Design Review Board generally tries to obtain a 5-foot wide sidewalk improvement along Coast Highway whenever possible and feasible. The Board has approved sidewalks of lesser width in certain cases due to site-specific conditions. In this case, the project site is accessed by an existing shared driveway eight feet below Coast Highway. The existing condition restricts sidewalk improvement options. The Board discussed the option of having pedestrians descend and walk along the driveway and then climb back up to Coast Highway but decided that it would be preferable to design a sidewalk at the Coast Highway level. It was decided that a cantilevered sidewalk of three feet at the specific location would provide adequate pedestrian access on Coast Highway without impacting the overhead clearance for vehicles using the private shared driveway below.

4. The approved design blocks substantial beach, white water and ocean views from the appellants' homes.

Response: View equity was a primary consideration in the Design Review Board's review of the approved project. It was acknowledged that the nonconforming condominium structure immediately to the south takes some side views across the two building sites to the north and that several of the units were impacted by the initially proposed design. The project was subsequently lowered, reduced in size and pulled back from the oceanfront bluff to improve view equity for the adjacent properties. At the second (final) hearing, the applicant agreed to additional height and footprint reductions and thus satisfied the Board's concerns related to view equity. The additional height and footprint reductions were not required to be staked.

City Council Appeal Procedures:

LBMC Section 25.05.070(B)(9) sets forth the procedures and review criteria for design review appeals. Subsection (e) stipulates that consideration of such appeals is to be limited to the grounds specifically stated in the underlying notice of appeal. The decision of the Design Review Board is presumed to be reasonable, valid and not an abuse of discretion. The appellant has the burden of proof of demonstrating otherwise.

The options available to the City Council are:

- Deny the appeal and sustain the decision of the Design Review Board to approve the project.
- Deny the appeal but modify the decision of the Design Review Board.
- Grant the appeal, overturn the decision of the Design Review Board, and deny the project.
- Grant the appeal, overturn the decision of the Design Review Board, and remand the project to the Design Review Board with specific direction.

A decision to modify or overturn the Design Review Board's decision must be accompanied by a statement of reasons.

PROJECT SUMMARY TABLES

04/2013

EXHIBIT # <u>5</u>				
ZONING STANDARDS				
PAGE <u>12</u> OF <u>12</u>				
DESCRIPTION	REQUIRED/ALLOWED	EXISTING	PROPOSED	CONFORMS (Yes/No)
USE	SFD	SFD	SFD	Yes
ZONE	R-1			
LOT AREA	6,000 SF	14,350 SF (NET)	No change	Yes
LOT WIDTH (AVG.)	70 feet	60 feet	No change	No
LOT DEPTH (AVG.)	80 feet	241.5 feet	No change	Yes
LOT SLOPE (%)		37.2%		
MAX. BUILDING HEIGHT	15 feet above curb	12.5 feet	4 feet	Yes
MAX. HEIGHT FROM GRADE	30 feet	24.9 feet	24 feet	Yes
SETBACKS:				
Front Yard	5 feet garage 10 feet house	0 feet 36 feet	12.1 feet 33.6 feet	Yes Yes
Rear Yard	25 feet from blufftop	138 feet to house 0 feet (accessory)	86.3 feet to house No change	Yes No
Side Yards	12 feet TOTAL 4 feet minimum	8 feet TOTAL N 8 feet/S 0 feet	12 feet TOTAL N 8 feet/S 4 feet	Yes Yes
LOT COVERAGE (BSC)	35%/5,022.5 SF	2,194 SF/15.3%	3,557 SF/24.8%	Yes
LANDSCAPE OPEN SPACE	15%/2,152.5 SF	42.5%/6,106 SF	38.2%/5,484 SF	Yes

PROJECT DATA			
DESCRIPTION	EXISTING	PROPOSED	TOTAL
LIVING AREA:			
Lower Floor		2,645 SF	2,645 SF
Main Floor		2,176 SF	2,176 SF
TOTAL	(-2,654 SF)	4,821 SF	4,821 SF
GARAGE			
	(-400 SF)	732 SF	732 SF
STORAGE/MECH.			
		138 SF	138 SF
DECK AREA			
		673 SF	673 SF

SITE WORK			
GRADING	Outside of Structural Footprint	Inside Structural Footprint	Total
Cut	160 CY	800 CY	960 CY
Fill	110 CY	140 CY	250 CY
Net Export	50 CY	660 CY	710 CY

IMPERVIOUS SURFACES	Square Footage		% of Lot Area	
	Existing	Proposed	Existing	Proposed
Structure	2,194 SF	3,557 SF	15.3%	24.8%
Hardscape (including driveway)	4,855 SF	2,511 SF	33.8%	17.5%
TOTAL	7,049 SF	6,068 SF	49.2%	42.3%

S. LGB. 13.0452

COASTAL COMMISSION

EXHIBIT # 6
PAGE 1 OF 4 NOTICE OF FINAL LOCAL ACTION
FOR COASTAL DEVELOPMENT PERMITS

Date: June 19, 2013

The following project is located within the City of Laguna Beach Coastal Zone:

Location: 31381 Coast Highway, Laguna Beach, CA 92651

Coastal Development Project No: 13.0038

Project Description: The applicant requests design review and a coastal development permit to construct a 5,320 square-foot single-family residence, 125 square-foot storage/mechanical area and 767 square-foot attached three-car garage in the R-1 zone. Design review is required for the new structure, covered parking, elevated decks (773 square feet), skylights, grading, retaining walls, pool, spa, air conditioning units, landscaping, construction in an environmentally sensitive area (oceanfront) and to maintain nonconforming site conditions including vehicular access, driveway grade and improvements in the bluff top (beach access stairs and cabana).

Applicant: John Meehan

Mailing Address, 362 Pinecrest Drive, Laguna Beach, CA 92651

On June 18, 2013 a coastal development permit application for the project was

- approved
- approved with conditions
- denied

Local appeal period ended April 25, 2013

This action was taken by: City Council
 Design Review Board
 Planning Commission

The action (X) did () did not involve a local appeal; in any case, the local appeal process has been exhausted. Findings supporting the local government action and any conditions imposed are found in the attached resolution.

This project is

- not appealable to the Coastal Commission
- appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Applicants will be notified by the Coastal Commission if a valid appeal is filed. Appeals must be in writing to the appropriate Coastal Commission district office and in accordance with the California Code of Regulation Section 13111. The Coastal Commission may be reached by phone at (562) 590-5071 or by writing to 200 Oceangate, 10th Floor, Long Beach, CA 90802-4416

Attn: CDP Resolution No. 13.07

COASTAL COMMISSION

EXHIBIT # 6

PAGE 2 OF 4

RESOLUTION CDP 13.07

**A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE
CITY OF LAGUNA BEACH APPROVING COASTAL DEVELOPMENT PERMIT
APPLICATION NO 13.0038**

Whereas, an application has been filed in accordance with Title 25-07 of the Laguna Beach Municipal Code, requesting a Coastal Development Permit for the following described property located within the City of Laguna Beach:

31381 Coast Highway
APN 056-032-10

and;

Whereas, the review of such application has been conducted in compliance with the requirements of Title 25.07, and;

Whereas, after conducting a noticed public hearing, the Design Review Board has found:

1. The project is in conformity with all the applicable provisions of the General Plan, including the Certified Local Coastal Program and any applicable specific plans in that the alteration of natural landforms has been minimized and the visual character of the surrounding area has been maintained due to the building design and use of materials and compliance of the project with the Design Guidelines for Hillside Development.

2. Any development located between the sea and the first public road paralleling the sea is in conformity with the Certified Local Coastal Program and with the public access and public recreation policies of Chapter 3 of the Coastal Act in that vertical and lateral public access exists to and along this portion of the coast and the proposed development will not create any adverse impacts to this access; therefore no clear nexus can be demonstrated in this case for a public access dedication.

3. The proposed development will not have any significant adverse impact on the environment within the meaning of the California Environmental Quality Act in that the proposed project, subject to the conditions with CDP findings of 1D, 2B, 3B as outlined in the staff report – specifically that there is no unreasonable effect on public use of the beach with the beach stairs; that there is no right to build until a demolition permit has been issued by the Coastal Commission; that the stairs and cabana are shown for reference only and there is no right to alter those nonconformities unless separate approvals are received and subject to the conditions that the roof over the office be lowered one foot and that the eave connected to the office be pulled back by two feet to minimize impacts on the visual and scenic quality of coastal resources, does not present any adverse impacts on the environment.

NOW, THEREFORE, BE IT RESOLVED, that a Coastal Development Permit is hereby approved to the extent indicated:

Permission is granted in the R-1 Zone to construct a new single-family residence.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 3 OF 4

1. Notice of Receipt and Acknowledgement. The Coastal Development Permit ("permit") is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Community Development Department.

2. Expiration. If development has not commenced within two years from the final action of the approval authority on the application, the permit will expire. Development, once commenced, shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Community Development Director or permit approval authority.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Community Development Department an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the approval authority and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

6. Indemnification. The permittee, and the permittee's successors, heirs and assigns, shall protect, defend, indemnify and hold harmless the City, its officers, employees or agents arising out of or resulting from the negligence of the permittee or the permittee's agents, employees or contractors.

7. Plan Reliance and Modification Restriction. In the absence of specific provisions or conditions herein to the contrary, the application and all plans or exhibits attached to the application are relied upon, incorporated and made a part of this resolution. It is required that such plans or exhibits be complied with and implemented in a consistent manner with the approved use and other conditions of approval. Such plans and exhibits for which this permit has been granted shall not be changed or amended except pursuant to a subsequent amendment to the permit or new permit as might otherwise be required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.

8. Grounds for Revocation. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.

BE IT FURTHER RESOLVED, that the subject Coastal Development Permit shall not become effective until after an elapsed period of fourteen (14) calendar days from and after the date of the action authorizing such permit.

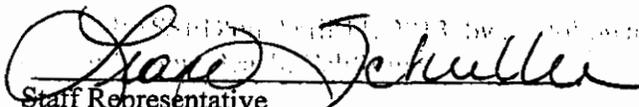
COASTAL COMMISSION

EXHIBIT # 6
PAGE 4 OF 4

PASSED on April 11, 2013, by the following vote of the Design Review Board of the City of Laguna Beach, California.

AYES: McErlane, Simpson, Wilkes, Zur Schmiede
NOES: Liuzzi
ABSENT: None
ABSTAIN: None

ATTEST:


Staff Representative
Board of Adjustment Resolution No. CDP 13.07


Chairperson Zur Schmiede

CALIFORNIA COASTAL COMMISSION

COASTAL COMMISSION RECEIVED

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

South Coast Region



EXHIBIT # 7
PAGE 1 OF 34

JUL 22 2013

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

CALIFORNIA
COASTAL COMMISSION

SECTION I. Appellant(s)

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

Coastal Commissioners: Dayna Bochco & Brian Brennan
200 Oceangate, Suite 1000
Long Beach, CA 90802 (562) 590-5071

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach
2. Brief description of development being appealed: Construct a 5,320 square foot single-family residence, 125 square foot storage/mechanical area and 767 square foot attached three-car garage, 773 sq ft. of elevated decks, grading, retaining walls, pool, spa, landscaping, and to maintain nonconforming site conditions including vehicular access, driveway grade and improvements in the bluff top setback (beach access stairs and cabana)
3. Development's location (street address, assessor's parcel no., cross street, etc.): 31381 Coast Highway, Laguna Beach, Orange County, APN 056-32-10
4. Description of decision being appealed:
 - a. Approval; no special conditions: _____
 - b. Approval with special conditions: XX
 - c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: South Coast District

SECTION IV. Reasons Supporting This Appeal

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

The proposed project raises an issue as to consistency with the Historic Resources, Nonconforming Development, Geologic Stability, Public Access, and Scenic View provisions of the City's certified Land Use Plan and the public access and recreation policies of Chapter 3 of the Coastal Act.

Historic Resources

The Land Use Element portion of the City's Land Use Plan states in Policy 2.2
Encourage the preservation of historically significant residential structures and protect the character-defining components of Laguna Beach's traditional neighborhoods.

The Land Use Element portion of the City's Land Use Plan states in Action 5.1.3
Promote preservation of historic structures and adaptive reuse of existing buildings.
(Short-to-medium-term implementation.)

The Land Use Element portion of the City's Land Use Plan states in Definition 59. Historic Preservation
The preservation of historically significant structures in order to facilitate restoration and rehabilitation of such structure(s) to a former condition. Destruction or alteration of properties with historic significance, as identified in the City's historic resources inventory or historic register, should be avoided whenever possible. Special preservation consideration should also be given to any structure over 45 years old.

The Land Use Element portion of the City's Land Use Plan states in Definition 60. Historically Significant
Buildings and their settings, improvements, structures, objects, monuments, sites, places and areas within the City that reflect special elements of the City's architectural, artistic, cultural, engineering, aesthetic, historical, political, social and other heritage and/or character.

Chapter 25.45 of the City's certified Implementation Plan is the section regarding historic preservation. Section 25.45.002 of the City's certified Implementation Plan states, in part:

The purpose of this chapter is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement, perpetuation and use of improvements, buildings and their settings... within the city that reflect special elements of the city's architectural, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage to achieve the following objectives:

COASTAL COMMISSION

- A) Safeguard the heritage of the city by providing for the protection of historic resources representing significant elements of its history;
- B) Enhance the visual character of the city by encouraging the preservation of historic buildings which make a significant contribution to the older neighborhoods of the city particularly to the designated historic register structures reflecting unique and established architectural traditions;
- C) Foster public appreciation of and civic pride in the beauty of the city and the accomplishments of its past;
- D) Strengthen the economy of the city by protecting and enhancing the city's attractions to residents, tourists and visitors...

EXHIBIT # 7
PAGE 3 of 34

Section 25.45.010 of the City's certified Implementation Plan states, in part:

Procedures for demolition. The following procedures shall be applied to all historic structures listed on the historic register and those structures listed on the historic inventory.

- A. Demolition permits are subject to compliance with the provisions of the California Environmental Quality Act and Title 14 of this code.
- B. Applicants for demolition of historic buildings which appear on the city's historic inventory or register or as required in this chapter shall make application for a demolition permit with the department of community development.
- C. Upon receipt of the application to demolish, the department of community development shall, within thirty days, solicit input from the heritage committee prior to scheduling the request for public hearing before the design review board. Public noticing shall be as specified in Section 25.05.065(C) of this title.
- D. Design Review Board Action. After the appropriate environmental review, pursuant to the California Environmental Quality Act (CEQA), the design review board shall receive a recommendation from the heritage committee and shall address and mitigate the cumulative impacts of allowing the demolition of structures that contribute to the overall neighborhood character or streetscape, but which may be individually insignificant. After conducting the public hearing, the design review board shall take the following action:
Approve permit, subject to a waiting period of up to ninety calendar days to consider relocation and/or documentation....
- E. Findings. Prior to issuance of a demolition permit, the design review board shall make one of the following findings:
1. The action proposed is consistent with the purposes of the ordinance and the historic resources element of the general plan; or
 2. There are no reasonable alternatives to demolition.

The subject site is already the subject of an appeal pending with the Commission (Appeal No. A-5-LGB-12-091), regarding the City of Laguna Beach's decision to approve CDP 12-222 for the demolition of the existing single family residence. The City's action was appealed to the Commission in part due to concerns about whether demolition was consistent with the historic resource protection policies of the certified LCP. The Commission found that the appeal raised a Substantial Issue at its hearing in February 2013. However, the de novo review on that demolition has not yet returned for a hearing by the Commission.

The City states in its resolution of approval "that there is no right to build until a demolition permit has been issued by the Coastal Commission." However, the City's latest action on CDP 13.0038 presumes that demolition of the existing historic structure will be authorized by the Commission. So, an issue raised again in this latest action is whether the existing house should be retained due to its historic qualities, or if mitigation for loss of historic elements can be addressed in the new construction. Policy 2.2 and Action 5.1.3 encourage the preservation of historic structures or adaptive reuse of existing structures, which was not considered in the City's action on this Coastal Development Permit. There is also no indication in the City's action of any attempt to incorporate or replicate the historic elements of the existing home in the new one.

Non-conforming development

Implementation Plan Section 25.07.008 states (in part):

Exemptions

Certain types of development, described as follows, are considered to be without risk of adverse environmental effect on coastal resources, including public access, and therefore do not require a coastal development permit unless indicated otherwise.

A) Improvements to Single-family homes. Improvements to single-family dwellings and mobilehomes including structures normally associated with a single-family residence such as garages, swimming pools, fences, storage sheds and landscaping are exempt unless classified as one of the following:

...

2) improvements to any structure located on a beach, wetland or stream, or where the structure or proposed improvements would encroach within fifty feet of a coastal bluff edge;...

Implementation Plan Section 25.56.002 states:

Nonconforming building, structure or improvement.

A nonconforming building, structure or improvement is one which lawfully existed on any lot or premises at the time the first zoning or districting regulation became effective with which such building, structure or improvement, or portion thereof, did not conform in every respect.

Any such nonconforming building, structure or improvement may be continued and maintained, except as otherwise provided in this chapter, but may not be moved in whole or in part unless and except every portion thereof is made to conform to the provisions of this title.

Implementation Plan Section 25.56.012 states:

New construction where nonconforming building or use exists.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 5 OF 39

While a nonconforming use exists on any lot, no new building shall be erected or placed thereon even though the new building and its use would otherwise conform to the provisions of this title.

Once the nonconforming use or building is entirely removed from the lot or the building is made to comply in use to the regulations of the particular district wherein located, then the lot may be used for any purpose conforming with this title.

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.8:

On oceanfront bluff sites, require applications where applicable, to identify and remove all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways and stairways, which encroach into oceanfront bluffs.

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.10

Allow oceanfront and oceanfront bluff homes, commercial structures, or other principal structures, that are legally nonconforming as to the oceanfront and/or oceanfront bluff edge setback, to be maintained and repaired; however, improvements that increase the size or degree of nonconformity, including but not limited to development that is classified as a major remodel pursuant to the definition in the Land Use Element Glossary, shall constitute new development and cause the pre-existing nonconforming oceanfront or oceanfront bluff structure to be brought into conformity with the LCP.

The Open Space and Conservation Element portion of the Land Use Plan states in Policy 7A:

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

The Open Space and Conservation Element portion of the Land Use Plan states in Policy 7K:

Preserve as much as possible the natural character of the landscape (including coastal bluffs, hillsides and ridgelines) by requiring proposed development plans to preserve and enhance scenic and conservation values to the maximum extent possible, to minimize impacts on soil mantle, vegetation cover, water resources, physiographic features, erosion problems, and require recontouring and replanting where the natural landscape has been disturbed.

The bluff located on the site is subject to wave action and is a protected landform due to its scenic quality and visibility from the public beach below. The City-approved project contains existing structures that are non-conforming and potentially unpermitted, but which the City has authorized to be retained. This includes a large stairway that descends the bluff face and is partly founded on public beach, and a 199 sq. ft. cabana.

Both the cabana and stairway are non-conforming with regard to the required bluff edge setbacks, with the stairway also potentially being an unpermitted structure. The City, in their approval, considered the cabana and beach stairs as legal nonconforming structures since there is evidence that they existed before South Laguna was annexed into the City. During the review of Appeal No. A-5-LGB-12-091, City staff stated that they have no record of any permits for repair of the stairway since the City gained permitting jurisdiction over the area. The stairway, located on the bluff face, is in a sensitive location where according to Implementation Plan Section 25.07.008, development requires a Coastal Development Permit. There is no evidence of

COASTAL COMMISSION

EXHIBIT # 7
PAGE 6 OF 37

approvals for any development that has occurred since the effective date of the California Coastal Zone Conservation Act ("Prop 20"), and therefore any development that occurred after the effective date of Prop 20 do not appear to have received coastal development permit approval. The City's determination of the stairway as legal nonconforming also did not include an analysis of whether the stairway had proper permits prior to passage of Prop 20 (Nov. 8, 1972—see former Pub. Res. Code section 27404) or an analysis of whether unpermitted development had occurred to the stairway and cabana, and as a result, whether the stairway and cabana may be considered unpermitted structures. Furthermore, the City notes that the beach stairs are "not safe to climb due to the repair required to resurface the landings / steps," which raises the question of whether the stairs should be considered as an obsolete structure. The condition of the cabana is unknown and may also be obsolete. Therefore, the City's approval to maintain these structures raises an issue as to whether the City's action is consistent with Action 7.3.8 of the Land Use Element of the City's certified Land Use Plan.

The existing stairs also remain an impediment to lateral public access along the beach, and the stairway and cabana impact the scenic quality of views to and along the coast and views of the natural bluff located on the site. The continuing presence of these structures would continue to result in impacts to public access and scenic views. Therefore, the City's action raises the question of whether the retention of the stairs and cabana is consistent with the policies of the LCP regarding public access, scenic views, and the public access policies of Chapter 3 of the Coastal Act.

Geologic Stability / Protective Devices

The Land Use Element portion of the City's Land Use Plan states in Policy 2.8

Require building design and siting to be compatible and integrated with natural topographic features, minimize significant alteration of natural topography and/or other significant onsite resources, and protect public views as specified in the *Design Guidelines* and the *Landscape and Scenic Highways Resource Document*

The Land Use Element portion of the City's Land Use Plan states in Action 2.8.2

Establish criteria for placement of new development on the most suitable area of the lot to maximize the preservation of sensitive resources. (*Same as Action 3.10.1*)

The Land Use Element portion of the City's Land Use Plan states in Policy 5.2

Ensure that all new development, including subdivisions and the creation of new building sites and remodels that involve building additions, is adequately evaluated to ascertain potential negative impacts on natural resources and adjacent development, emphasizing impact avoidance over impact mitigation. Required mitigation should be located on-site rather than off-site. Any off-site mitigation should be located within the City's boundaries and in close proximity to the project. (*Similar to Policies 7.4 and 10.3.*)

The Land Use Element portion of the City's Land Use Plan states in Policy 7.3

Design and site new development to protect natural and environmentally sensitive resources, such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize natural landform alterations. (*Same as Policy 10.2.*)

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.3: EXHIBIT # 7
Design and site new development to avoid hazardous areas and minimize risks to life and PROPERTY PAGE 7 OF 34
property from coastal and other hazards. (*Ongoing implementation.*)

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.4:
Require new development to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (*Ongoing implementation.*)

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.5:
Prohibit development on oceanfront bluff faces, except public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize landform alteration of the oceanfront bluff face, to not contribute to further erosion of the oceanfront bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.6:
Require new development on oceanfront blufftop lots to incorporate drainage improvements, removal of and/or revisions to irrigation systems, and/or use of native or drought-tolerant vegetation into the design to minimize threats to oceanfront bluff recession. (*Ongoing implementation.*)

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.7:
Require swimming pools located on oceanfront bluff properties to incorporate leak prevention and detection measures. (*Ongoing implementation.*)

The Land Use Element portion of the City's Land Use Plan states in Action 7.3.9:
Ensure that new development, major remodels and additions to existing structures on oceanfront and oceanfront bluff sites do not rely on existing or future bluff/shoreline protection devices to establish geologic stability or protection from coastal hazards. A condition of the permit for all such new development on bluff property shall expressly require waiver of any such rights to a new bluff/shoreline protection device in the future and recording of said waiver on the title of the property as a deed restriction.

The Land Use Element portion of the City's Land Use Plan states in Action 10.2.1
Adopt standards that require new development and related improvements to be located on the most suitable areas of the site so as to maximize safety and the preservation of sensitive resources. (*Short-to-mediumterm implementation.*)

The Land Use Element portion of the City's Land Use Plan states in Action 10.2.6:
Require all new development located on an oceanfront bluff top to be setback from the oceanfront bluff edge a sufficient distance to ensure stability, ensure that it will not be endangered by erosion, and to avoid the need for protective devices during the economic life of the structure (75 years). Such setbacks must take into consideration expected long-term bluff retreat over the next 75 years, as well as slope stability. The predicted bluff

retreat shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat made possible by continued and accelerated sea level rise, future increase in storm or El Nino events, and any known site-specific conditions. To assure stability, the development must maintain a minimum factor of safety against landsliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer) for the economic life of the structure.

The Land Use Element portion of the City's Land Use Plan states in Action 10.2.7

Require all new development located on oceanfront bluffs to be sited in accordance with the stringline but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools that require a structural foundation. The setback shall be increased where necessary to ensure geologic safety and stability of the development.

The Land Use Element portion of the City's Land Use Plan states in Action 10.2.8:

On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards.

The Land Use Element portion of the City's Land Use Plan states in Definition 101. Oceanfront Bluff Edge or Coastal Bluff Edge

The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff, the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step like feature at the top of the bluff, the landward edge of the topmost riser shall be considered the bluff edge. Bluff edges typically retreat over time as a result of erosional processes, landslides, development of gullies, or by grading (cut). In areas where fill has been placed near or over the bluff edge, the original bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

The Land Use Element portion of the City's Land Use Plan states in Definition 102. Oceanfront Bluff/Coastal Bluff

A bluff overlooking a beach or shoreline or that is subject to marine erosion. Many oceanfront bluffs consist of a gently sloping upper bluff and a steeper lower bluff or sea cliff. The term "oceanfront bluff" or "coastal bluff" refers to the entire slope between a marine terrace or upland area and the sea. The term "sea cliff" refers to the lower, near vertical portion of an oceanfront bluff.

The Open Space and Conservation Element portion of the Land Use Plan states in Policy 1 I:

The City shall impose a 25-foot minimum setback or a distance ascertained by stringline measurements for all blufftop development, notwithstanding the fact that ecological and environmental constraints may require an additional setback.

The Open Space and Conservation Element portion of the Land Use Plan states in Policy 10C:

Require projects located in geological hazard areas to be designed to avoid the hazards where feasible. Stabilization of hazard areas for purposes of development shall only be permitted where there is no other alternative location or where such stabilization is necessary for public safety. The more unstable areas should be left ungraded and undeveloped, utilizing land use designations such as Open Space.

Finally, there are issues that concern the consistency of this City action with the newly updated and certified Land Use Element (LUE) of the City's LCP, which became effective May 2012. First, the new LUE requires in Action 7.3.9 that CDPs for new development require a waiver of rights of future bluff or shore protection device in the future and recording of said waiver as a deed restriction. The City's action in approving a new residence did not include such a requirement, and therefore the City's action appears to be inconsistent with Action 7.3.9.

Action 7.3.6 and 7.3.7 of the Land Use Element of the Land Use Plan requires new development to incorporate drainage improvements and use of drought tolerant vegetation, and leak prevention measures in pools and spas. It is unclear from the City's action whether the proposed development is consistent with these standards.

Secondly, there is a question of whether the City correctly defined the bluff edge. In the document titled City of Laguna Beach – Community Development Department Pre-Application Site Development Review Meeting Evaluation, the City states:

“It has been determined (through legal advice) that there will be no change to the present method of the 45-degree provisions of Municipal Code Section 25.50.004 to determine the bluff top. The Director of Community Development reviewed a property survey provided by the applicant and determined that the 25-foot bluff top setback will be measured from the top of the most ocean ward vertical cliff edge.”

The adoption of the new LUE resulted in new definitions of Coastal Bluff, and Coastal Bluff Edge (referenced above). However, the City's decision appears to have relied on the previous definition of a coastal bluff as a landform with a slope of at least 45 degrees. This definition places the bluff edge much lower and much further seaward than the new definitions would require. Since the bluff top setbacks are based on the location of the bluff edge, the development has been authorized lower on the bluff face and further seaward than would otherwise be allowed, perhaps even on the bluff face. Therefore, it appears that the City's approval may have resulted in development which is inconsistent with the LCP's prohibitions on structures located on the bluff face or within the blufftop setback. The City's approval therefore has the potential to result in negative impacts to the geologic stability of the proposed residence, the setback requirements for future development in the area such as the vacant lot located to the north of the site, the natural bluff landform, and scenic views along the ocean. Therefore the City's action raises an issue as to consistency with these policies.

Thus, the Commission files this appeal to look at the City's decision and these issues more closely.

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

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

SECTION V. Certification

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

Signed: *M. Boelke*
Appellant or Agent

Date: 7/22/2013

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

Signed: _____

Date: _____

COASTAL COMMISSION

EXHIBIT # 7
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)
PAGE 11 OF 39

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 7/22/2013

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

JUL 22 2013

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 591-5084

CALIFORNIA COASTAL COMMISSION EXHIBIT # 7
PAGE 12 OF 34



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION I. Appellants

Mark F. Nelson
31423 Coast Hwy. #71
Laguna Beach, CA 92651

Bill Rihn
South Laguna Civic Association
P. O. Box 9668
South Laguna, CA 92652

949-371-1086

949-415-1312

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach
2. Brief description of development being appealed:

Approval of Coastal Development Permit 13-38 approved by the City of Laguna Beach to construct a new 5,350 sq. ft. residence and to maintain nonconforming site conditions including beach access stairs and cabaña. The property is the subject of a previous appeal to the Coastal Commission of the City of Laguna Beach approval to demolish a residence that is on the City's historic inventory. The de novo hearing on this appeal (A-5-LGB-12-091) has not been heard by the Commission because the hearing has not been requested by the applicant.

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

31381 Coast Highway, Laguna Beach, on the ocean side of Coast Highway, between Camel Point Drive and West Street

APN 056-032-10 Lot C, Tract 831

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

X Approval; no special conditions

TO BE COMPLETED BY COMMISSION:	
APPEAL NO:	<u>A-5-LGB-13-0223</u>
DATE FILED:	<u>7/22/13</u>
DISTRICT:	<u>5</u>

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

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

Planning Director/Zoning Administrator

X City Council, upholding the decision of the Design Review Board on appeal.

Planning Commission

Other

6. Date of local government's decision: June 18, 2013

7. Local government's file number (if any): Design Review 13-37 and Coastal Development Permit 13-38

SECTION III. Identification of Other Interested Persons

Mark Singer
250 E. Baker #300
Costa Mesa, CA 92626

Mark Nelson
31423 Coast Hwy. #71
Laguna Beach, CA 92651

Lawrence Zadan
31423 Coast Hwy. #81
Laguna Beach, CA 92651

Brent Stickler #61
31423 Coast Hwy
Laguna Beach, CA

Sande Stickler #61
31423 Coast Hwy
Laguna Beach, CA

Debbie Marshall
31365 Coast Hwy.
Laguna Beach, CA 92651

Ann Christoph
31713 Coast Highway
Laguna Beach, CA 92651

Ginger Osborne
31651 Santa Rosa Drive
Laguna Beach, Ca 92651

Charlie Rohrer
675 Cliff Drive
Laguna Beach, CA 92651

Anders Lasater
Anders Lasater Architects
384 Forest Avenue, Suite 12
Laguna Beach, California 92651

Bill Ives
31538 Egan Road
Laguna Beach, CA 92651

Bill Rihn
31681 Third Avenue
Laguna Beach, Ca 92651

Charlotte Masarik
761 Oak Street
Laguna Beach, Ca 92651

Larry Nokes
470 Broadway, Suite 200
Laguna Beach, 92651

John Meehan
362 Pinecrest
Laguna Beach, CA 92651

Clayton Daniels
1745 S. Coast Hwy.
Laguna Beach, CA 92651

Mark Puente
31361 Coast Hwy.
Laguna Beach, CA 92651

Troy Barnes 715-0652
No answer and no address found

Tibor Komoroczy
27721 Niguel Village Drive
Laguna Niguel, CA 92677

Tracie Breedlove
376 Pinecrest Drive
Laguna Beach, CA 92651

Dirk Larson
376 Pinecrest Drive
Laguna Beach, CA 92651

Jamie Blakely
1781 Glenneyre Street
Laguna Beach, CA 92651

Ron Marshall
31365Coast Hwy.
Laguna Beach, CA 92651

COASTAL COMMISSION

EXHIBIT # 7
PAGE 14 OF 34

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT(Page 4)EXHIBIT # 7
PAGE 15 OF 34

We are appealing the City of Laguna Beach decision to allow construction of a new residence at 31381 Coast Highway. The appeal of the permit for the demolition of the existing historic building is still pending with the Coastal Commission. On February 6, 2013 the Commission found Substantial Issue on Appeal A-5-LGB-12-091—an appeal of the City of Laguna Beach approval to demolish the historic building. A hearing on this appeal has not been requested by the applicant. Since demolition of the existing historic building has not been approved by the Commission, we maintain that approval of a replacement residence is premature.

We are appealing for the following additional reasons:

1. Public Access—Sidewalk

The project does not provide adequate public access along Coast Highway. A five-foot wide sidewalk is required for handicapped access and for two persons to walk side by side. It is required by the Community Design and Landscape Guidelines adopted by Resolution 89.104 which is included in the City of Laguna Beach LCP. **(See Attachment A.)**

Under Coast Highway is the following:

“Provide 5 foot wide sidewalk on both sides on Pacific Coast Highway, except where noted on plan (Zone 7).”

Recommendations for Zone 7 state:

“Provide sidewalk along the ocean side of Pacific Coast Highway in existing right-of-way, or provide 5’ sidewalk if additional right-of-way can be obtained. Require planting and sidewalk construction per Case C **(Attachment B)** as part of project approval for new proposed projects.”

Since this is a new proposed project the 5’ sidewalk should have been required. Yet the project was approved with “an approximate 3’ wide sidewalk ... The width of the sidewalk will vary based on the available space to create the sidewalk,” as described in the Letter of March 1, 2013 by Mark Singer, Architect for the project. There were no conditions of approval regarding right-of-way dedications, required width or required details of sidewalk installation.

Therefore the project does not “conform with all applicable provisions of the Certified Local Program” as found by the City-adopted resolution.

Please review the photos of the area proposed for the “approximate 3’ wide sidewalk. **(Attachment C)** The space for the future sidewalk includes curb, a guard rail, a fence and a retaining wall. The “available space” is unlikely to allow even a 3 foot sidewalk without further construction/modification to the situation. None of these kinds of modifications were required by the City-approved permit.

This property is between two public coastal access stairways/paths—at Camel Point and south of Laguna Royale. Pedestrians on Coast Highway wanting to access either of these coastal access points do not have a safe continuous path of travel. If a safe and adequately wide sidewalk is not installed as a condition of approval on this property, it will set a precedent for approvals on the adjacent vacant lot, and it is highly unlikely that there will ever be a safe and adequate sidewalk at this location.

2. Public Access—Stair TowerEXHIBIT # 7
PAGE 16 OF 34

The City, in granting the Coastal Development Permit, did not properly address the issue of the private stair tower from the applicant's property that is for the most part built off the applicant's property and on the public beach. (See Attachment D.)

The City's Finding that "there is no unreasonable effect on the public use of the beach with the beach stairs" is not supportable, since the stair tower is not only non-conforming, it is not on the applicant's property. It is unacceptable to allow continued intrusion onto the public beach with private improvements.

In the staff report for the substantial issue hearing on the demolition, Coastal Staff wrote about the pending City review of the new proposed residence. The staff report stated that while the demolition permit may not be the proper venue for dealing with the stair issue, the consideration of the new residence was.

"The City's consideration of the new residence and the retention of the nonconforming stairway and guest house is an opportunity to evaluate the possibility of bringing all the development on the site into conformity with current land use regulations. The City's action should address the impact of these structures, and whether the new residential construction and retention of the accessory structures would be consistent with the policies of the City's certified LCP and the Coastal Act's public access and recreation policies. Therefore the City's review should address any potential for impacts to: 1) scenic views; 2) public access, including impacts resulting from nonconforming private structures located on the public beach; 3) effects of nonconforming structures on the stability of the bluff; and 4) alterations to natural landforms."

Except for item 2, where the Design Review Board found that "there is no unreasonable effect on the public use of the beach with the beach stairs," these questions were not addressed in the review. We question this finding because an encroachment onto property not owned by the applicant is unreasonable and not permitted. Scenic views of the cliff are an especially important as can be seen in the attached photographs (Attachment E.)

CONCLUSION

In summary, we ask that the Commission find substantial issue and consider this permit de novo.

There is ample evidence that the City's decision was not consistent with the LCP in relation to public access, both in neglecting to require a 5 foot wide public sidewalk and in not resolving the existing beach access stair tower that privatizes beach land dedicated for public use.

Attachments:

- A. Components of the LCP of the City of Laguna Beach
- B. Excerpts from LCP, South Laguna Community Design and Landscape Guidelines, Res. 89.104
- C. Photographs of existing conditions where sidewalk is needed.
- D. Site plan showing location of stair tower
- E. Beach stair photographs
- F. South Laguna Civic Association letter of April 11, 2013

COASTAL COMMISSION

EXHIBIT # 7
PAGE 17 OF 34

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION V. Certification

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

Bill Rho
Signature of Appellant(s) of Authorized Agent
Date: July 16, 2013

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

SECTION VI. Agent Authorization

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

Signature of Appellant(s)
Date: _____

COASTAL COMMISSION

EXHIBIT # 7
PAGE 18 OF 34

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION V. Certification

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

Mark J. Nelson
Signature of Appellant(s) of Authorized Agent
Date: 17 July 2013

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

SECTION VI. Agent Authorization

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

Signature of Appellant(s)
Date: _____

Attachment A Components of the Local Coastal Program of the City of Laguna Beach

Local Coastal Program

City Council Resolution 92.014 (adopted on February 18, 1992) approved the City's Local Coastal Program (LCP). The City's LCP was certified by the California Coastal Commission on January 13, 1993. The City's LCP constitutes all of the following:

1. General Plan Land Use Map, excluding Blue Lagoon and Three Arch Bay;
2. Land Use and Open Space/Conservation General Plan Elements;
3. Zoning Map;
4. Downtown Specific Plan;
5. Laguna Canyon Annexation Specific Plan;
6. Title 25 (Zoning Code);
7. Chapter 12.08, Preservation of Heritage Trees Ordinance;
8. Chapter 14.78 Geology Reports – Preparation and Requirements Ordinance;
9. Title 21 (Plats and Subdivision);
10. Title 22 (Excavation and Grading);
11. Shoreline Protection Guidelines (as adopted by Resolution 88.43);
12. Design Guidelines for Hillside Development (as adopted by Resolution 89.104);
- 13. South Laguna Community Design and Landscape Guidelines (as adopted by Resolution 89.104);**
14. Fuel Modification Guidelines (of the Laguna Beach Safety General Plan Element); and
15. Summer Festival Parking Agreements

A subsequent LCP amendment, approved in 2004 by the Coastal Commission, also includes Title 16 (Water Quality Control) as part of the City's LCP.

Any amendments to the above affected documents, maps, ordinances, resolutions, Specific Plans or General Plan Elements require Coastal Commission approval as LCP Amendments. Resolutions and Ordinances can be adopted and be in effect while the LCP amendment is being processed. A City Council Resolution adopting the LCP Amendment and requesting certification by the California Coastal Commission must be adopted prior to application being made to the Coastal Commission. The LCP is not amended until the Coastal Commission approves and certifies the proposed amendment. If suggested modifications are approved by the Coastal Commission, the City will have to make an analysis and policy decision on each suggested change, and it may necessitate amendments to the previously adopted resolutions or ordinances.

The Post-Certification Maps provided to the City by the Coastal Commission specify both the 'Appealable Jurisdiction' of the Coastal Commission and the 'Areas of Deferred Certification' or 'white-holed' areas of the City.

On May 13, 1993, the Coastal Commission approved Categorical Exclusion Order E-93-1 for the City of Laguna Beach. On November 9, 1993, the City Council approved Resolution 93.089 which acknowledges the Categorical Exclusion Order and agrees to the terms and conditions thereof. These approvals exclude certain development categories, including single family residential development, for eleven (11) geographic areas of the City from the requirement to obtain Coastal Development Permits. Maps of these excluded areas were approved with Resolution 93.089.

COASTAL COMMISSION

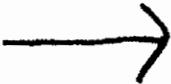
EXHIBIT # 7
PAGE 19 OF 34

COASTAL COMMISSION

EXHIBIT # 7
PAGE 20 OF 34

Case E for the commercial areas will be further explained in the following section on Design Details. EXHIBIT # 7
PAGE 21 OF 34

General recommendations:

- 
- o Provide 5 foot wide sidewalk on both sides on Pacific Coast Highway, except where noted on the plan (Zone 7).
 - o Provide street trees Eucalyptus torquata at 25' on center (o.c.) in areas noted as Case E, and Eucalyptus cladocalyx informally spaced at a 40' o.c average in the Scenic Highway setback area outside the right-of-way. (See Cases A through F.)
 - o Provide striped bicycle trails along Pacific Coast Highway in conformance with the Access map, Figure 5 within the Access Component of the Specific Plan.
 - o Provide bus stop benches and bus shelters where indicated on the master plan and as detailed. Existing benches, bus shelters and other items not in conformance with this plan should be removed.
 - o Underground utilities where still above ground (areas shown on Figure 11). The area from Aliso Circle north to the City of Laguna Beach is scheduled for undergrounding in 1989. Schedule undergrounding in Zone 6 to correspond with streetscape improvements in the commercial area. Undergrounding in Zone 4, 5, and 6 is scheduled for 1986.

Specific recommendations:

The following recommendations are numbered and correspond to numbered indications shown at the appropriate locations on the Landscape and Streetscape Master Plan, Figure 11.

Zone 1

Improve per Cases A and D when individual projects are approved or street improvements are made.

- 1.01 The following scenic improvements should be included as conditions of approval for the planned additions to and renovations of the Monarch Bay Plaza:
 - a. Remove existing signs on the slope and consolidate signing designed per the Specific Plan requirements.
 - b. Do minor renovations and additions to existing slope plantings.
 - c. Plant service station landscape areas in conformance with the Specific Plan.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 22 OF 34

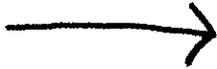
Provide streetscape improvements per Case C on the ocean side between the two entrances to Bluff Drive, and per Case A on the inland side between West and Catalina.

Provide streetscape improvements per Case E on both sides of the street in the local commercial area.

6.01 Nonconforming signs should be made consistent with City standards.

6.02 Provide median improvements per detail.

Zone 7



7.01 Provide sidewalk along the ocean side of Pacific Coast Highway in existing right-of-way, or provide 5' sidewalk if additional right-of-way can be obtained. Require planting and sidewalk construction per Case C as part of project approval for new proposed projects.

7.02 Provide sidewalk or signing and striping for pedestrian walkway along one side of Monterey Street, connecting to the County right of way from Monterey to Aliso Beach Park (Zone 8).

Zone 8

8.01 Improve existing trail in County right-of-way connecting Monterey Street with Aliso Beach Park.

8.02 Install new sidewalk on ocean side retaining existing landscaping. Provide slope retention where necessary.

Zone 9

Improve per Cases A and C when individual projects are approved or when street improvements are made.

9.01 Encourage the planting of vines such as Ficus Repens (creeping fig) to grow on the concrete block retaining walls. Work with the property owners to irrigate and maintain these vines. Improve per Case A if walls are altered or removed.

Zone 10

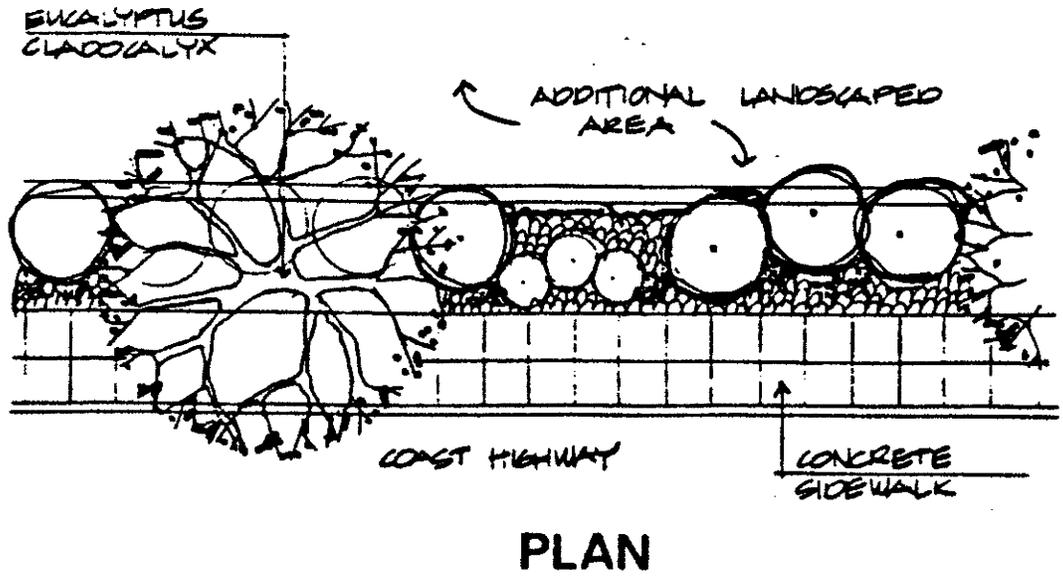
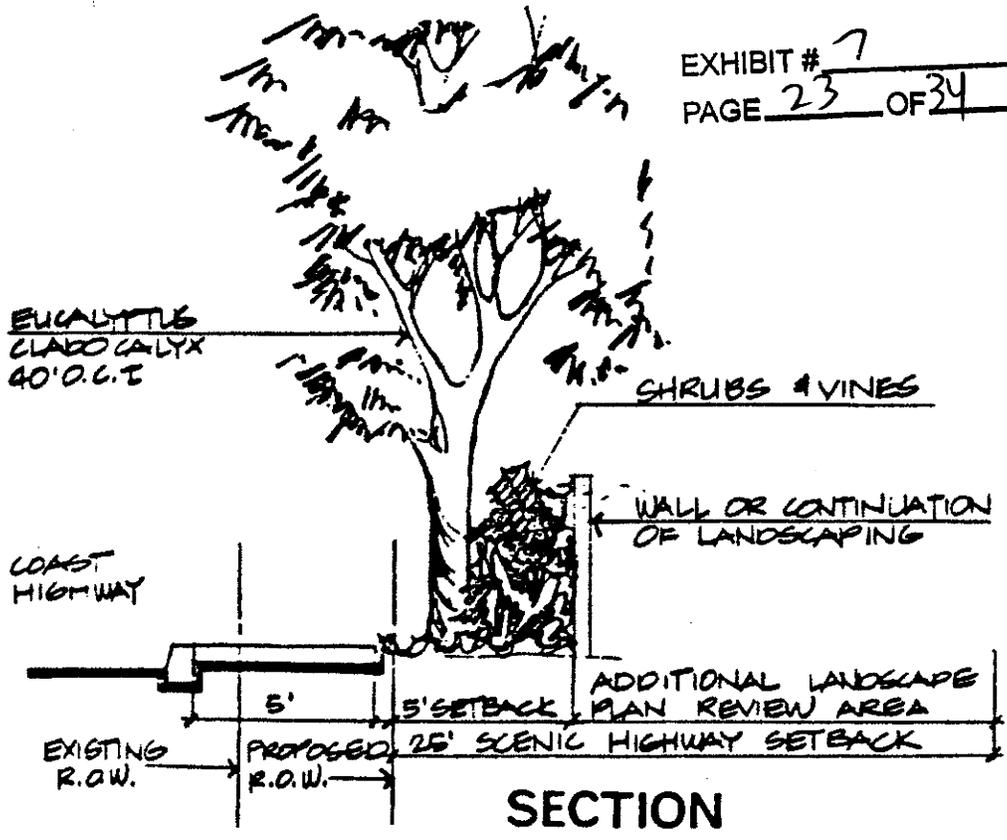
10.01 On the inland side at Aliso School, improve as per Case A. Work with the school district to provide better maintenance of this area.

10.02 On the ocean side at Treasure Island retain the existing Eucalyptus, constructing meandering walks away from the edge of the curb and maintain views of the ocean.

10.03 North of the new entrance to the Alpha Beta

COASTAL COMMISSION

EXHIBIT # 7
PAGE 23 OF 34



RESOLUTION No.89.104EXHIBIT # 7PAGE 24 OF 34

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A RESOLUTION OF THE CITY COUNCIL OF LAGUNA BEACH,
CALIFORNIA, ADOPTING 1) AMENDMENTS TO THE GENERAL
PLAN/COASTAL PLAN LAND USE MAP; 2) A GENERAL PLAN
AMENDMENT INCORPORATING ADDENDA AND A TECHNICAL
APPENDIX TO THE LAGUNA BEACH GENERAL PLAN; 3)
COMMUNITY DESIGN AND LANDSCAPE GUIDELINES; AND 4)
DESIGN GUIDELINES FOR HILLSIDE DEVELOPMENT

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WHEREAS, the City Council directed the Planning
Commission to initiate the preparation of appropriate amend-
ments and additions to the Laguna Beach General Plan to
address the goals, policies and land use standards for the
South Laguna area; and

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WHEREAS, the Planning Commission of the City of Laguna
Beach has, after conducting a duly noticed public hearing,
recommended that the City Council modify the General
Plan/Coastal Plan Land Use Map and incorporate certain
addenda to the General Plan; and

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WHEREAS, the Planning Commission has recommended
incorporation of various goals, policies and guidelines from
the South Laguna Specific Plan with the Laguna Beach General
Plan to ensure the unique qualities of South Laguna are
properly addressed; and

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WHEREAS, after conducting a duly noticed public hearing
as prescribed by law and after consideration of the
testimony, staff reports and records of both the City
Council and the Planning Commission hearings, the City
Council desires to amend the General Plan and adopt certain
design guidelines; and

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WHEREAS, adoption of the General Plan amendments and sets of guidelines recited above have been determined as exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15265, 15305 and 15308 of CEQA.

WHEREAS, said General Plan has been amended consistent with the provisions set forth in California Government Code 65350 et seq.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Laguna Beach does hereby resolve as follows:

Section 1. The City Council hereby amends the General Plan/Coastal Plan Land Use Map as shown in Exhibit A attache hereto.

Section 2. The City Council hereby adopts and incorporates various addenda and a Technical Appendix into the Laguna Beach General Plan as specified in Exhibit P attached hereto.

Section 3. The City Council hereby adopts the "Community Design and Landscape Guidelines" as set forth in Exhibit Q attached hereto for the purpose of enhancing the aesthetic character of South Laguna.

Section 4. The City Council hereby formally adopts the City of Laguna Beach's existing "Design Guidelines for Hillside Development" for the purpose of providing specific design considerations for residential development in hillside areas.

ADOPTED this 12 day of December, 1989

Lida Lenney
Mayor

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ATTEST:

Verna L. Rollinger
City Clerk

I, VERNA L. ROLLINGER, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing resolution was duly adopted at an Adj.Reg Meeting of the City Council of said City held on December 12, 1989, by the following vote:

- AYES: COUNCILMEMBER(S) Fitzpatrick, Gentry, Kenney, Collison, Lenney
- NOES: COUNCILMEMBER(S) None
- ABSENT: COUNCILMEMBER(S) None

Verna L. Rollinger
City Clerk of the City of Laguna Beach, California

Attachment C Photographs of existing conditions where sidewalk is needed.



Pedestrian access along Coast Highway is unsafe.
31381 Coast Highway is behind the fence to the right.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 27 OF 34



31381 Coast Highway is at right. There is insufficient space for an adequate sidewalk without creating that space with new construction. This construction was not required as a condition of approval. An "approximate 3' wide sidewalk" approved, but a 5' walk is required by the LCP.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 28 OF 34

COASTAL COMMISSION

EXHIBIT # 7
PAGE 29 OF 34

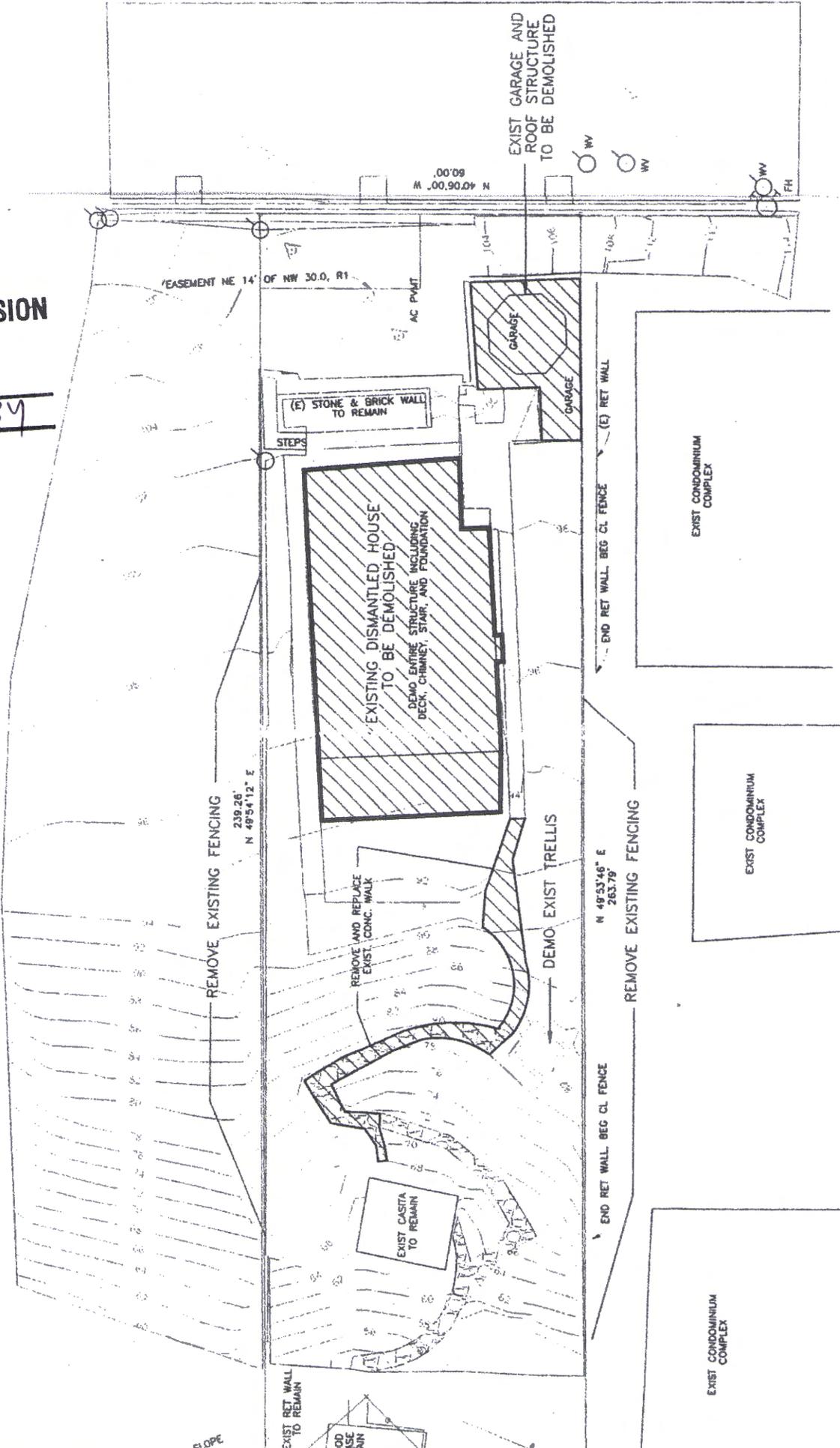
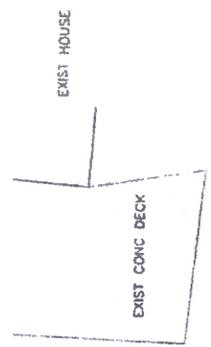
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OCT 12 2010

City of Laguna B
Zoning Divisi

COASTAL COMMISSION

EXHIBIT # 7
PAGE 30 OF 39



CL OPE

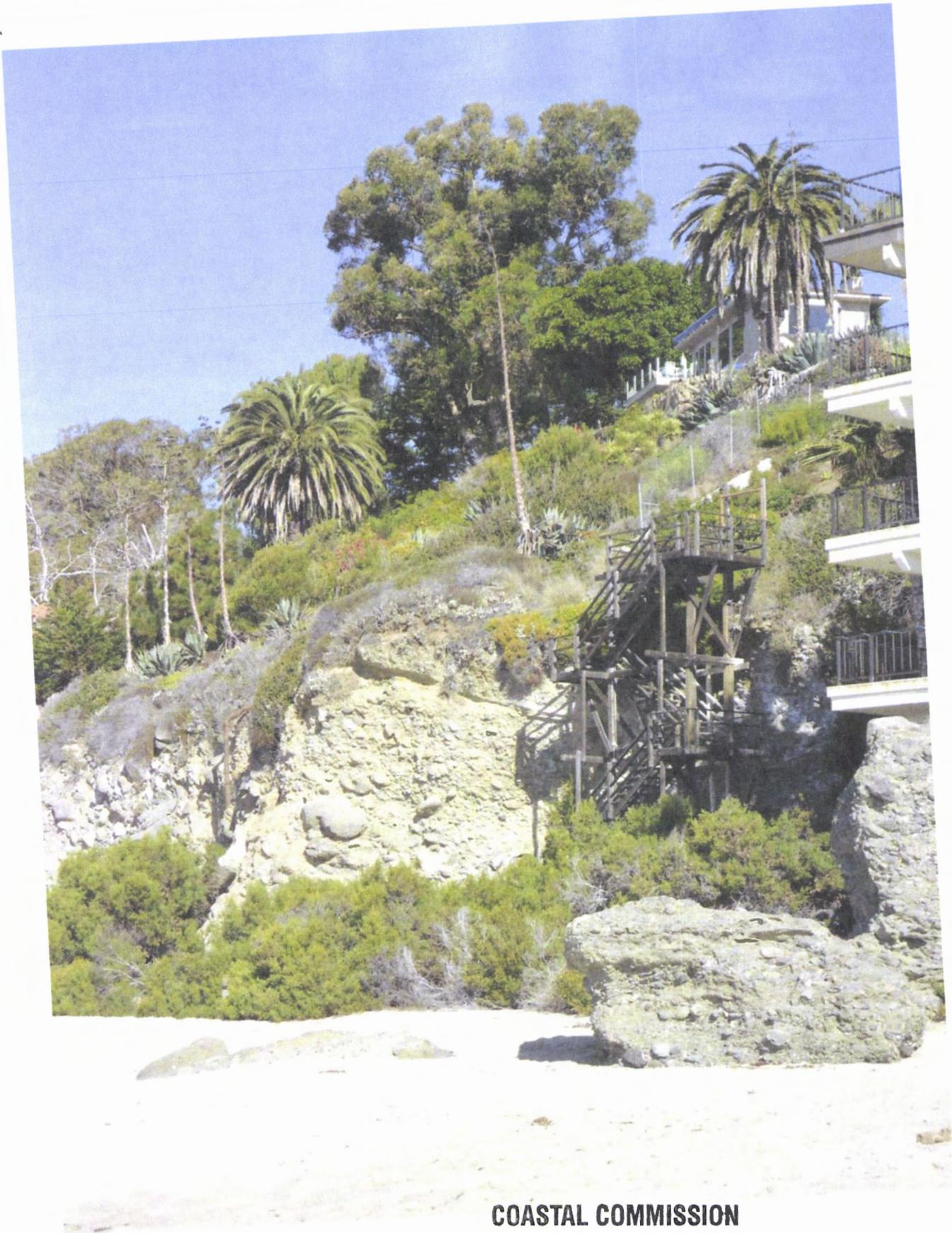


Attachment E Photographs of stair tower illustrating visual impact and relationship with cliff.



COASTAL COMMISSION

EXHIBIT # 7
PAGE 31 OF 34



COASTAL COMMISSION

EXHIBIT # 7
PAGE 32 OF 34



P.O. BOX 9668
SOUTH LAGUNA, CA
92652-7639
southlaguna.org

April 11, 2013

Design Review Board
City of Laguna Beach
505 Forest Ave.
Laguna Beach, CA 92651

COASTAL COMMISSION

RE: 31381 Coast Highway

EXHIBIT # 7
PAGE 33 OF 34

Dear Members of the Board:

The South Laguna Civic Association (SLCA) has urged preservation and restoration of the historic building on this property since 2010, when we brought the illegal partial demolition of this house to the attention of the Heritage Committee. The historic building should be restored, and the demolition of the building requested by the applicant should not be permitted. The reasons are stated in our appeal (attached) of the Council-granted demolition permit to the Coastal Commission. The Commission found that the proposal raised a substantial issue and granted a de novo hearing. This hearing has not been scheduled, according to the Commission staff because the applicant has not requested it.

We believe that the application before you is premature. The applicant has no permit to remove the buildings to make way for the proposed buildings shown in this application. We ask you to table this request until the issue of the demolition permit is resolved.

We have several additional concerns:

The beach stair tower, which, except for a small corner, is on County beach property

The staff report states, "All existing development (including the beach access stairs and cabaña) was grandfathered and considered to be legal nonconforming."

When we asked for documentation of Council action regarding this grandfathering/legal nonconforming decision, staff replied, "The existing condition pre-existed annexation and since permit records in the South Laguna area are less than complete, existing development for which no evidence existed to the contrary were accepted as legal, nonconforming. There is no City Council document." The decision on this nonconforming status then, is not based on a resolution or ordinance, it is an administrative determination.

The stair structure may be nonconforming, but the bigger issue is that it is on someone else's property—the County's. County policy is that a Public Property permit would be required to keep an existing encroachment. An encroachment onto public land cannot be grandfathered, and adverse possession provisions do not apply. A Public Property permit would be discretionary, have a time limit, be revocable with 30 days' notice, and involve paying a fee, as well as rent based on the fair market value of the area occupied on public land. The access and resources policies of the Local Coastal Plan also come into play, since coastal policies do not allow stairs that, as these are described on p. 3 of the staff report, "encroach into the ocean front bluffs."

Discussing finding # 2 for the Coastal Development Permit, related to public access and recreation, staff says, "The proposed project may not be in compliance with this in that the existing beach stairs, located partially on the public beach, impact physical public access and should be removed or relocated off the public beach."

Without a finding of compliance, the Design Review Board cannot grant a Coastal Development Permit. We recommend that the words "may not" be changed to "is not" and that the CD permit be denied or tabled until the stair issue is resolved.

The sidewalk

A 5'-wide sidewalk is required to be dedicated and installed as part of construction projects along Coast Highway, per the Landscape Scenic Highways plan, Detail D-12. A 3'-wide sidewalk does not meet this requirement and is inadequate from the point of view of pedestrian safety. While the applicant may argue that the adjacent property to the north has not provided sidewalk access, at this time incremental implementation of the sidewalk plans of the Landscape and Scenic Highways Resource Document is the only option available. It is critical that each project meet the sidewalk requirements so that ultimately we will have a continuous and safe walkway system.

A 5'-wide sidewalk paralleling the driveway is preferable to a narrow walkway above. With that solution planting could be installed at the upper level, and a guard rail at the top of the wall instead of a fence would provide improved views from the highway and from above. Sufficient area to construct a 5' sidewalk at the driveway level should be dedicated to the public.

Thank you for considering these comments.

Sincerely,



Bill Rihn, president

Memorandum

To: Nancy Csira, City of Laguna Beach

Date: 08/03/2011

From: Jan Ostashay, Principal OAC

Re: PEER REVIEW ASSESSMENT: 31381 Coast Highway, Laguna Beach, California – Historical Resource Report (prepared 06/2011 by Galvin Preservation Associates)

Overview

At the request of the City of Laguna Beach Community Development Department, Ostashay & Associates Consulting (OAC) conducted a peer review of a historic resources survey report prepared for the property referenced above. The assessment entitled "Historical Resource Report" is dated June 2011, and was prepared by historic preservation consultant Galvin Preservation Associates (GPA) of Redondo Beach, California. I have reviewed the report and relevant supporting data, and also conducted a field visit of the site and additional research on the property. The following information is submitted to you for your reference and use. If you have any questions, please do not hesitate to contact me.

Introduction

Generally, peer reviews of historic resources assessment reports are conducted to reassure lead agencies requesting the assessments that the identification and evaluation efforts performed are adequate, that the eligibility determinations made are logical and well supported, and that the document will, if necessary, facilitate environmental compliance under the provisions of CEQA.

As a primer, historic resources fall within the jurisdiction of several levels of government. Federal laws provide the framework for the identification, and in certain instances, protection of historic resources. States and local jurisdictions play active roles in the identification, documentation, and protection of such resources within their communities.

Numerous laws and regulations require federal, state, and local agencies to consider the effects of a proposed project on historic resources. These laws and regulations stipulate a process for compliance, define the responsibilities of the various agencies proposing an action, and prescribe the relationship among other involved agencies (e.g. State Office of Historic Preservation, State Historic Preservation Officer, and/or Advisory Council on Historic Preservation). The National Historic Preservation Act of 1966, as amended; the California Environmental Quality (CEQA); the California Register of Historical Resources; Public Resources Code (PRC) 5024; and the City of Laguna Beach Historic Preservation Ordinance (Chapter 25.45 of the City's Municipal Code) are the primary federal, state, and local laws and policies governing and affecting preservation of historic resources of national, state, regional, and local significance. Other relevant regulations and policies at the local level include the City's Historic Resources Register, Historic Resources Inventory, and Historic Resources Element.

The National Historic Preservation Act of 1966, as amended, promulgated standardized practices and guidelines for identifying, evaluating, and documenting historic properties (Secretary of the Interior's

COASTAL COMMISSION

EXHIBIT # 8 PEER REVIEW ASSESSMENT: 31381 Coast Highway – Historical Resource Report by GPA
PAGE 2 OF 5

Standards and Guidelines [Preservation Planning, Identification, and Evaluation]). The State Office of Historic Preservation (OHP) and most local governments in California recognize these practices and guidelines and recommend their use in order to maintain objectivity and consistency in the preparation of historic preservation documents and surveys.

Property Background

The subject property includes a single-family dwelling, two-car garage, an outdoor shower covered by a wood trellis, a detached enclosed sunroom structure cut into the hillside, a wood staircase to the beach below, flagstone paved walkway at the west end of the lot which leads to the staircase, concrete walkways around the house, and some additional hardscape and landscaped features. Per the property profile record on file with the City, the residence was built in 1925. GPA, in their report, gives a construction date of 1929 (as stated on the 1981 historic resources inventory form prepared for the property). The 1929 date is questionable since historical photographs from 1926-1927 show the house in its current location. Since there are no original building permits on file at the City, a review of records at the County of Orange Assessor's office may shed light into the actual date of construction and information on additional improvements made to the site over the years.

The subject property was previously identified as historically significant in the City's historic resources survey in 1981. At that time, the property was, therefore, included in the City's Historic Resources Inventory as a "K" or Key property (which was officially recognized by the City Council per Resolution 82.111). As defined in the City's Historic Resources Element of the General Plan, structures with a "K" rating are buildings that strongly maintain their original integrity and demonstrate a particular architectural style or time period. As implied by the 1981 historic resources inventory form, the property located at 31381 Coast Highway was found to be historically important because of its association with the early development of the Coast Royal area by the Skidmore Brothers. It was built by Guy Skidmore as one of first unusual homes in the Skidmore Brother's development of the Coast Royal.

The previous owner of the subject property proposed to remodel the residence and received Heritage Committee approval in 2009. Permits were ready to be issued by the City in March 2010, but the property owner never followed through with finalizing the permitting process. A stop work notice was served on the property in September 2010 by the City's Code Enforcement staff for the illegal demolition of the dwelling. At that time, all of the exterior siding had been removed by the previous owner and the interior had been stripped to the studs. All that remains of the single-family dwelling today is the roof, which is supported by wood studs. The garage, sunroom, staircase, flagstone pavers, concrete walkways, and most landscape and hardscape features, however, are still extant.

The current owner of the property would like to demolish the residence in order to build a contemporary single-family structure. However, since the property was previously identified as historic and is listed in the City's Historic Resources Inventory the current owner was asked to prepare a historic resources assessment report to help determine if the property is a historic resource subject to CEQA.

In June 2011, a historic resource report was prepared for the property by consultant GPA. Despite meeting several federal, state, and local criteria of significance, the report concluded that the property was ineligible for such landmark listing because of compromised historic integrity of design, materials, workmanship, association, and feeling. The property was, therefore, determined not to be a historical resource as defined by the CEQA Guidelines, Section 15064.5(a).

Because of this evaluation finding and in light of the proposed demolition project, the City of Laguna Beach requested a peer review of the GPA 2011 historic resource report for accuracy in its assessment and conclusion, as well as additional support in understanding the implications of CEQA as it relates to the subject property.

Peer Review Assessment

The following comments are made with the referenced standards and guidelines discussed above in mind. In addition, the recommended approaches to the identification and evaluation of historic resources by OHP have also been considered and utilized in conducting this peer review.

For this peer review, the methodology was as follows. Prior to visiting the site, OAC reviewed the historic resource report prepared by GPA dated June 2011. OAC conducted a site visit on July 20, 2011, to view the property and fully understand its condition, setting, and context. In addition to reviewing findings, an important element of peer reviews is the assessment of the clarity of presentation and adequacy of the research on which the report was based. OAC found the report to be clear and adequately researched in general, though information regarding the Skidmore's was limited. OAC supplemented biographical information on the Skidmore's by researching and reviewing Census records, World War I registration cards, and Los Angeles Times newspaper articles.

OAC also determined that additional research was needed to better understand the original architectural style, materials, and design of the residence. OAC collected and reviewed historical photographs of the site, current photographs of the property, and historical photographs of the community in general. A review of the City's Historic Resources Element also provided insight into the term Period Revival, which further defines this idiom as including most revival styles popular in the 1920s and 1930s. According to the Historic Resources Element, such Period Revival styles evident in Laguna Beach include Spanish Colonial Revival, variants of Mediterranean Revival, Mission Revival, and English Tudor Revival.

The subject property as described in the GPA report surmises that the residence was originally a Craftsman inspired design (page 13 of the GPA report) because of its low-pitched gabled roof. While on the contrary, the roof pitch is rather steep and appears as it did in the historical photographs that I reviewed. Further, the half timbering and stucco siding on the exterior wall surfaces are consistent with the other Tudor Revival structures of the same era found elsewhere in the City. In fact, on page 7 of the Historic Resources Element a photograph of Main Beach in the 1920s shows a Tudor style structure with similar cladding and roof pitch. Nonetheless, since much, if not all, of design features of the subject property have been lost the issue regarding original architectural style becomes mute.

As for the subject property's evaluation determination made by GPA, OAC agrees with the finding that the property is not a historical resource and is ineligible for listing on the National Register, California Register, or local register. The single-family residence does not retain sufficient historical integrity to support historical significance. Integrity is the ability of a property to convey its historical significance. For landmark eligibility, a property must not only be shown to be significant, but it must also have integrity. Of the National Register's seven aspects of integrity, the property retains integrity of location and setting but not design, materials, workmanship, association, or feeling. It is possible that a historic property that does not retain sufficient integrity for listing in the National Register may still be eligible for listing in the California Register if it maintains the potential to yield significant scientific or historical information or specific data. For California Register eligibility, a property must retain enough of their historic character or appearance to be recognized as a historical resource and to convey the reasons for its significance. Alterations over time to a property or historic changes in its use may themselves have historical, cultural, or architectural significance. However, since the residence has been so extensively altered it does not appear to retain sufficient integrity for California Register listing.

And while GPA states on page 14 of the report that the criteria for listing in the Laguna Beach Register are similar to the National and California Registers, this is not necessarily accurate. The City's Historic Preservation Ordinance provides significance criteria that in some respects are similar to state and federal criteria, but are broader in meaning and application. Local jurisdiction significance criteria includes, structures that most retain their original appearance and architectural integrity; structures that most represent character, interest or value as part of the heritage of the city; the location as a site of significant historic event; the identification with a person or persons or groups who significantly

contributed to the culture and development of the city; the exemplification of a particular architectural style or way of life important to the city; and/or the embodiment of elements of outstanding attention to architectural design, detail, materials or craftsmanship. Nonetheless, because the dwelling has been stripped of its character-defining features it can no longer convey those important qualities that would render the property eligible for local landmark designation.

CEQA Overview

CEQA is the California Environmental Quality Act of 1970. Enacted by the State Legislature, it provides decision makers and the public with useful information about how public and private actions can affect the environment. This act declares that it is the State's policy to "develop and maintain a high-quality environment, now and in the future, and take all action necessary to protect, rehabilitate, and enhance, the environmental quality of the State."

The basic purpose of CEQA, as established by the California Code of Regulations (CEQA Guidelines, Section 15002), is to inform decision-makers and the public about potential, significant environmental effects of a proposed project, to identify the ways that environmental damage can be avoided or significantly reduced, and to prevent significant, avoidable damage to the environment by requiring changes to a project through the use of alternatives or mitigation measures.

A project, under CEQA, is defined as the whole of an action which has the potential to physically change the environment, directly or ultimately, that is subject to discretionary governmental (local, regional, and state agencies) approval. Only those activities defined as "projects" by CEQA are subject to its environmental review process. Most other activities are "non-projects" and thus are exempt from all of CEQA's procedures and policies. Once it has been determined that a project is not exempt from the CEQA process, a preliminary review must be conducted to determine whether the project will have a potential significant effect on the environment. A State court ruled in 2010, that when performing an environmental analysis, the analytical baseline against which project effects are measured must be the physical conditions existing at the time of the analysis.

For the subject property, this means that for any forthcoming environmental review work necessary for the demolition and/or construction improvement of the site, the physical condition in which the property is currently in would be the baseline used for the environmental analysis. Hence, for the identification of historical resources, as defined CEQA, the main residential dwelling on the site and its associated garage would not be considered as such since they has been substantially altered and no longer retain any historical integrity of materials, workmanship, design, feeling, or association.

The deconstruction work done by the prior owner and before the request for demolition of the residence by the current property owner is a code violation pursuant to the City's Municipal Code Section 25.45.014. Since this is also a Code Enforcement issue, there are other Municipal codes that have been violated as well and may be enforced by the City.

Conditions of Approval Recommendations

Project plans for the rehabilitation of the residence were approved by the Heritage Committee in early 2010. The work reflected in the plans at that time was considered by the City's Heritage Commission as consistent with the Secretary of the Interior's Standards for Rehabilitation. Therefore, the proposed project was exempted from CEQA as a Class 31 categorical exemption. Any work done beyond or out of scope of those approved plans should be addressed per the applicable violations cited in the City's Municipal Code and the property owner penalized appropriately. Per the City code Section 14.50.010, such unpermitted work is the responsibility of the current property owner.

As enforcement, the Heritage Committee may choose one or more of the applicable penalties listed in the City's Historic Preservation Ordinance, which are as follows:

COASTAL COMMISSION

EXHIBIT # 8

PEER REVIEW ASSESSMENT: 31381 Coast Highway – Historical Resource Report by GPA

PAGE 5 OF 5

- A five-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure.
- A two-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure.

In addition, the Committee may also wish to consider the application of conditions of approval as remedies to address the violation of the City's Historic Preservation Ordinance, including the following:

- **Retroactive Compliance.** Apply for and obtain a permit for construction, exterior alteration or enlargement of the subject property in accordance with Section 25.45.008 and Section 25.05 of the City's Municipal Code, including compliance with all conditions for work previously approved by the Heritage Committee.
- **Rehabilitate.** Rehabilitate or reconstruct the subject property to its original condition prior to the violation using as much physical and photographic evidence as possible. The applicant must obtain approval from the Heritage Committee and the design review board in accordance with Section 25.05 of the City's Municipal Code prior to issuance of permits or the initiation of work. The City can compel the violator to perform or provide for the rehabilitation work, or the City may perform or provide the rehabilitation work and recover all of its costs from the applicant. The City may also defer this action to the City Attorney for legal action.
- **In the case of demolition,** which the subject property is subject to, a monetary penalty equal to one-half the assessed value of the historic property prior to demolition. In the case of alteration, the penalty should be equal to one-half the cost of restoration/rehabilitation of the altered portion of the historic property. The penalty fee may also be derived using a square-footage cost rate based on the total square-feet of the subject property prior to demolition or alteration. Once the penalty has been paid, building and construction permits and/or Certificate of Occupancy, whichever are applicable, may be issued per the review and approval process stipulated in Chapter 25.05 of the City's Municipal Code.

The monetary compensation for the loss of the property should be utilized to help subsidize, promote, and strengthen the various on-going services and practices of the City's preservation program including, but not limited to, survey work; development and/or updating of preservation plans, treatment plans, ordinances, policies and regulations; rehabilitation work; landmark designations; Heritage Committee training; public workshops and publications; the development and expansion of other preservation planning tools.

Conclusion

OAC conducted a peer review of the historic resource report prepared by GPA in June 2011 for the subject property. Despite some inadequacies and incorrect information in the report, OAC concurs with GPA's conclusion that the property is not historically significant due to compromised integrity issues, and the 6Z California Historical Resource Status Code assigned to the property (ineligible for federal, state, and local register listing) is also correct.

It should be noted, however, that notwithstanding the ineligibility of the property (residence and garage) as a historic resource for the purposes of CEQA, the ancillary structure referred herein as the sunroom, the wood staircase adjacent the bluff, and the flagstone paved pathway and its siting, should all be retained and reused in place as part of any current or future development of the site. These extant features are intact remnants of the property's history and character.

COASTAL COMMISSION



EXHIBIT # 9
PAGE 1 OF 14

RECEIVED
South Coast Region
DEC 19 2014

December 19, 2014

CALIFORNIA
COASTAL COMMISSION

CALIFORNIA COASTAL COMMISSION
Attention: Zach Rehm
200 Oceangate
Long Beach, CA 90802

Re: 31381 South Coast Highway, Laguna Beach, California 92651

Dear Mr. Rehm:

This office represents John Meehan in connection with the above referenced property.

The Coastal Development Permit approved by the City of Laguna Beach to construct a new, 4,821 square foot home on the 14,350 square foot lot located at 31381 South Coast Highway in Laguna Beach has been appealed to the California Coastal Commission for further review. Staff has asked that the bluff setback determination be reviewed, proposing that the bluff definition set forth in the Commission's May 9, 2012 revision to the Laguna Beach LCP governs. John Meehan (the "Applicant") respectfully disagrees with this position and requests that Staff modify its findings.

The Applicant submitted a Development Review Application for this project on March 8, 2012 (Exhibit 1). The application sought approval for a 5,500 square foot home, 750 square foot garage and 780 square feet of deck space. In processing the application, a Site Development Review Meeting was held onsite, with the City's Director of Community Development and the Principal Planner, to identify all applicable setbacks, including the bluff location, as then defined by the Laguna Beach Municipal Code and the existing elements of the Local Coastal Program. The findings stated in the Community Development Department Site Development review meeting were prepared and sent to the Applicant on March 20, 2012 and provide, in pertinent part, as follows:

"It has been determined (through legal advice) there will be no change to the present method of the 45 degree provisions of the municipal code section 25.50.004 to determine the bluff top. The Director of Community Development reviewed the property survey provided by the applicant and determined that the 25 foot bluff top setback will be measured from the top of the most ocean ward vertical cliff edge." [Notes for Evaluation Meeting Number: 12-588; March 20, 2012]

COASTAL COMMISSION

California Coastal Commission – Zach Rehm
Re: 31381 South Coast Highway, Laguna Beach
December 19, 2014
Page 2

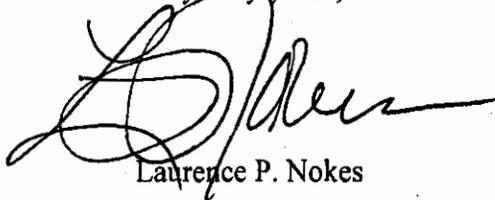
EXHIBIT # 9
PAGE 2 OF 14

It was not until May 9, 2012, after the Application was submitted and was in process, that the California Coastal Commission certified a change to the Local Coastal Program definition for bluff top set-backs. This Certification was made, and the code was modified, two months AFTER the current Application was commenced and the bluff and its corresponding setback were established under the existing codes, and verified by the Director of Community Development.

There is no basis to impose a setback that did not exist on the date the Application was commenced. The Applicant therefore respectfully requests that you either remove the bluff top review from the agenda, or find “no substantial issue” on this matter in your staff report and your meeting presentation.

Thank you for your attention to this matter.

Very truly yours,



Laurence P. Nokes

Enclosure
cc: Client

DEVELOPMENT REVIEW APPLICATION

NC

Please completely fill-in the top-half of side one.

PROJECT LOCATION ADDRESS 31381 COAST HIGHWAY, LAGUNA BCH, CA 92651
 VALUATION OF WORK \$ — LOT SIZE 14,350 SF
 ASSESSOR'S PARCEL NO. 056-032-10
 DESCRIBE IN DETAIL SCOPE OF WORK NEW SINGLE FAMILY RESIDENCE WITH ATTACHED 3 CAR GARAGE, NEW POOL & SPA.

COASTAL COMMISSION

EXHIBIT # 9
 PAGE 3 OF 14

	FLOOR AREA	GARAGE AREA	DECK AREA	STORAGE AREA	TOTAL REMODEL AREA	NO OF STORES
EXISTING BUILDING	-	-	-	-	-	-
NEW CONSTRUCTION	5,500 SF	750 SF	780 SF			2
TOTALS						

The remainder of side one is for staff use only. See other side for required certificates and signatures.

TYPE OF APPLICATION	FEE	DATE RECEIVED	APPLICATION NUMBER	DATE APPROVED / DENIED			
				ADMIN	BOA/DRB	PC	CC
PRE-APPLICATION SITE MEETING	525	3/8/12	12-558				
ZONING PLAN CHECK							
DESIGN REVIEW							
COASTAL DEVELOPMENT PERMIT							
VARIANCE							
SUBDIVISION							
CEQA							
OTHER:							

YARDS	MAIN BUILDING		ACCESSORY BUILDING		HEIGHTS		CLEARANCE	BY	DATE
	MINIMUM	SHOWN	MINIMUM	SHOWN	SHOWN	MAXIMUM			
FRONT							CEQA		
RIGHT SIDE							ZONING PLAN CHECK		
LEFT SIDE					SLOPE	HEIGHT FF/FG	ZONING / PLANNING		
REAR							STRUCTURAL PLAN CHECK		
DISTANCE BETWEEN BUILDINGS							FINAL CHECK		

Coastal Development Permit

Development Category: Local Coastal Development Permit is required, and it is is not appealable to Coastal Commission.
 Coastal Commission Permit is required.
 Categorical Exclusion
 Exempt (List Code Section) _____

056-032-10

COASTAL COMMISSION

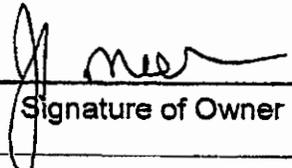
EXHIBIT # 9

Property Owner <u>MR. JOHN MEEHAN</u> <u>9</u> OF <u>14</u>	
Phone # _____	Cell Phone # <u>949.933.1813</u>
Mailing Address <u>362 PINECREST</u>	City/ST/Zip <u>LAGUNA BEACH, CA-92651</u>
Email Address <u>jhmeehan@gmail.com</u>	Receive Project Updates by Email - <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Architect/Agent <u>MARK SINGER ARCHITECTS INC.</u>	
Phone # <u>714.483.3790</u>	Cell Phone # <u>-</u>
Mailing Address <u>250 E. BAKER STREET</u>	City/ST/Zip <u>COSTA MESA, CA.</u>
Email Address <u>info@marksingerarchitects.com</u>	
Fax # <u>949.499.6214</u>	State License # <u>C-15647</u>
Other Development Team Member _____	
Phone # _____	Cell Phone # _____
Mailing Address _____	City/ST/Zip _____
Email Address _____	Receive Project Updates by Email - <input type="checkbox"/> Yes <input type="checkbox"/> No
Fax # _____	State License # _____

Please note that the applicant/agent will receive a U.S. Postal Service or Email notification of project updates, such as plan check results. In addition, all other development team members listed on this page will also receive project updates by Email, including plan check results, unless indicated otherwise. This will improve communication with the applicant's team during the entitlement process.

OWNER'S CERTIFICATE

1. I understand there are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision-making body about this application.
2. I understand major changes to the project may require a new application and payment of additional or new fees.
3. If this application is approved I hereby certify that I will comply with all conditions of approval. I also understand that the failure to abide by and faithfully comply with any and all conditions attached to the approval action shall constitute grounds for the revocation of said approval.
4. I hereby certify that to the best of my knowledge the information I have presented in this form and the accompanying materials is true and correct. I also understand that additional data and information may be required prior to final action on this application. I have read and understand the content contained in this certificate.
5. I understand that it is the responsibility of the property owner to ensure that discrepancies do not exist between the project's description on the permit, the architectural plans and the structural plans. If discrepancies exist between the architectural plans and the structural plans, the architectural plans shall take precedence. Ultimately, the scope of work, as described on the permit that is authorizing the construction, takes precedence over the plans. If there is a discrepancy between the plans and the description on the permit, the permit governs.
6. I am the record owner of the property described in this application, and hereby consent to the filing of the application.



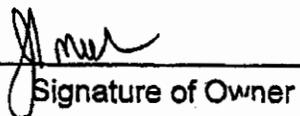
 Signature of Owner

03/08/12

 Date

AUTHORIZATION OF AGENT

I am the record owner of the property described in this application and hereby designate and authorize the agent as shown on this application to act on my behalf in all matters pertaining to processing of this application through the City of Laguna Beach.



 Signature of Owner

 Date

COASTAL COMMISSION



EXHIBIT # 9
PAGE 5 OF 14

P. O. Box 9668
South Laguna, CA 92652
southlaguna.org

December 31, 2014

California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802

RE: 31831 Coast Highway, A-5-LGB-13-0223

Commissioners:

We have the following comments regarding the staff report on the appeal of the City of Laguna Beach-issued Coastal Development permit to construct a new residence at the above address, the site of the now-demolished historical structure known as Stonehenge and the Guy Skidmore house.

We appreciate the policies cited in the staff report and respect the recommendations. However, we are supplying additional comments regarding the lack of historic significance of the stair tower, suggestions regarding keeping the stone components of the casita and increasing the width of the Coast Highway sidewalk to 5'.

1. Significance of the wood stair tower There is no proof that the stair tower was built by the Skidmores. or that it should be considered historic. Therefore we agree with staff that it should be removed.

The Skidmores built the now-destroyed house at 31381 Coast Hwy. in 1925. At that time the house was on lot 50 of Tract 702 (filed July 18, 1924). See attached. Lot 50 was not an ocean-front lot since there was another lot (Lot 57) in front of it, accessed by an extension of Bluff Drive that was never built. It wasn't until April of 1927 that the Tract was reconfigured as part of Tract 831, adding oceanfront property to Skidmore's lot and renaming it Lot C. The Skidmores lost the property in 1928 ±. There is no evidence that the stairway was built in conjunction with Lot C, and it was highly unlikely since the family was about to lose the property in bankruptcy.

COASTAL COMMISSION

Page 2

EXHIBIT # 9
PAGE 6 OF 14

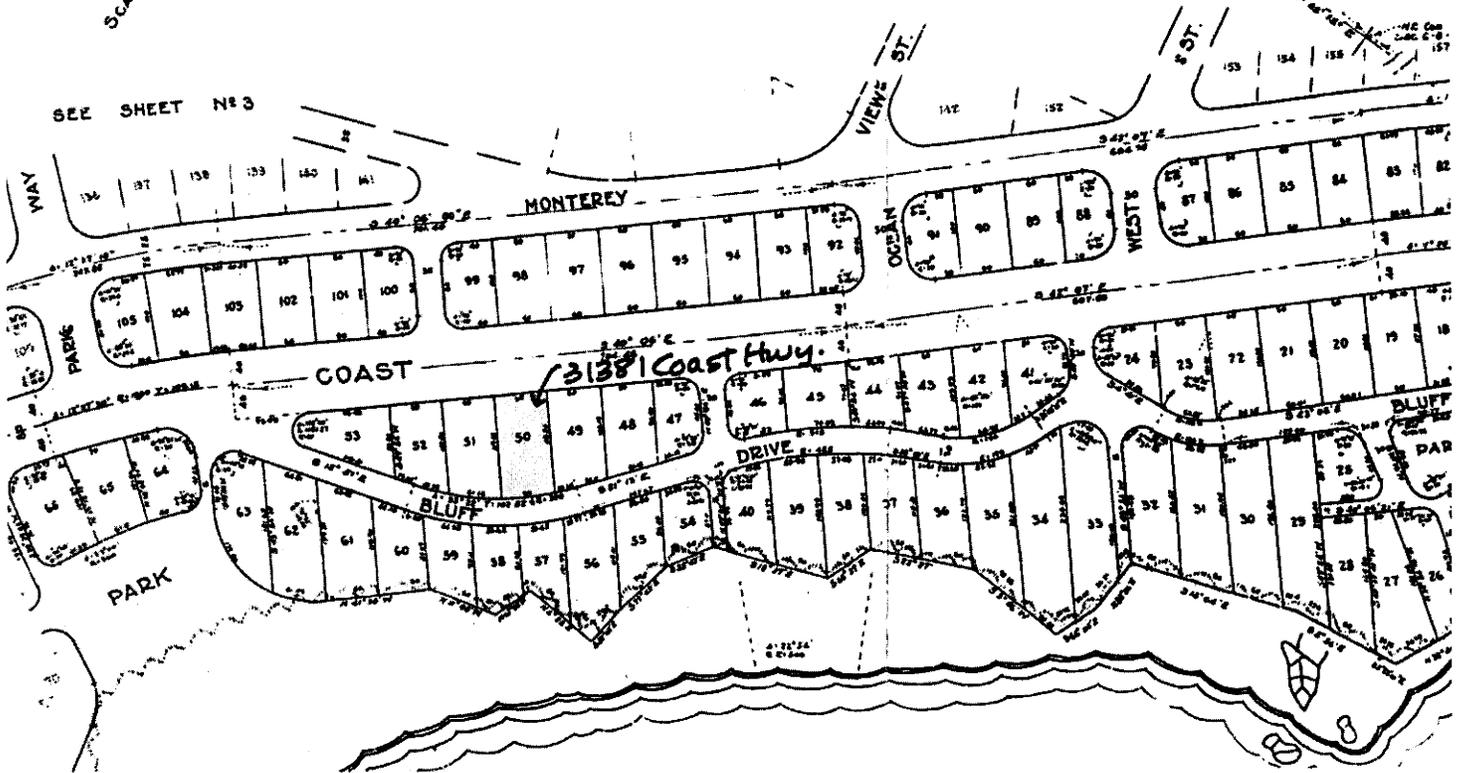
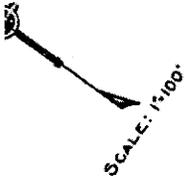
TRACT N^o 702

COAST ROYAL

BEING A SUBDIVISION OF PORTIONS OF BLOCKS A, B, C, N & O OF COAST ROYAL AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 4 PAGES 74 & 75 MISC. MAPS REC. OF ORANGE COUNTY AFTER ABANDONMENT OF STREETS AND ALLEYS AS PER RESOLUTION OF THE BOARD OF SUPERVISORS AS RECORDED IN MINUTE BOOK 18, PAGE 230 ALSO PORTIONS OF LOTS 2 & 3 SEC. 6 AND LOT 4 SEC. 8 ALL IN T. 85 R. 8 W. S. 8 E. & M. LAGUNA BEACH, ORANGE COUNTY, CALIFORNIA.

FILED

55
at request of
Russell
ORANGE COUNTY RECORDER
W. J. [unclear]
5-22



COASTAL COMMISSION

Page 3

EXHIBIT # 9
PAGE 7 OF 14

The photograph the applicant uses to try to prove the age of the stairway was not taken in 1929 as he asserts. Rather it was taken at least 10 years after the Skidmores lost the property, since the landmark Halliburton house on the ridge is in the photo and that house was completed in 1938.

25

ORIGINAL STAIRCASE

Halliburton
House 1938 **1929**

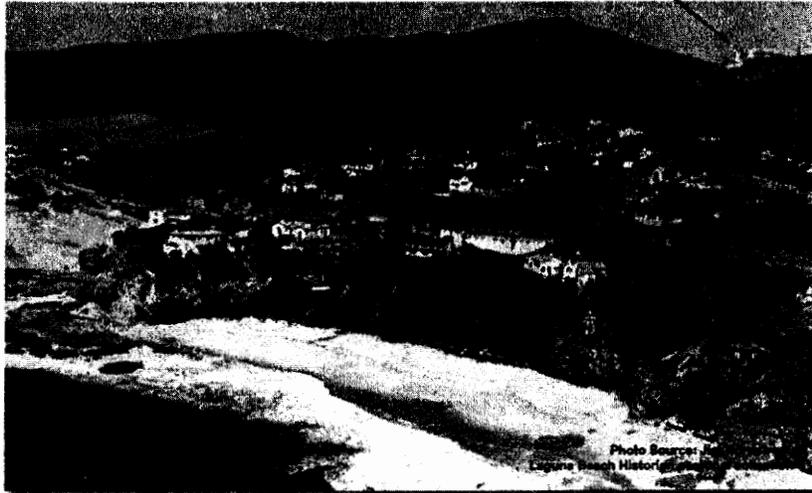
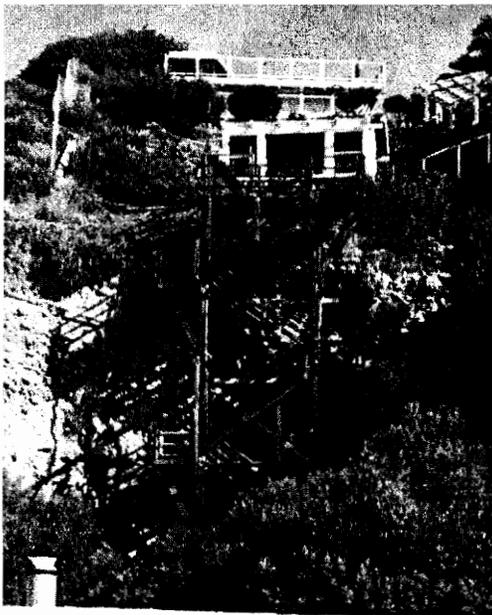


Photo dated based on architecture, design and presence of other buildings in the photo. The original cabana and the staircase to the beach remain intact and unaltered at the present time.

The above slide was submitted by the applicant in conjunction with the previous appeal in which he was requesting to demolish the historic house. It is erroneously dated 1929. Notes in green are ours.



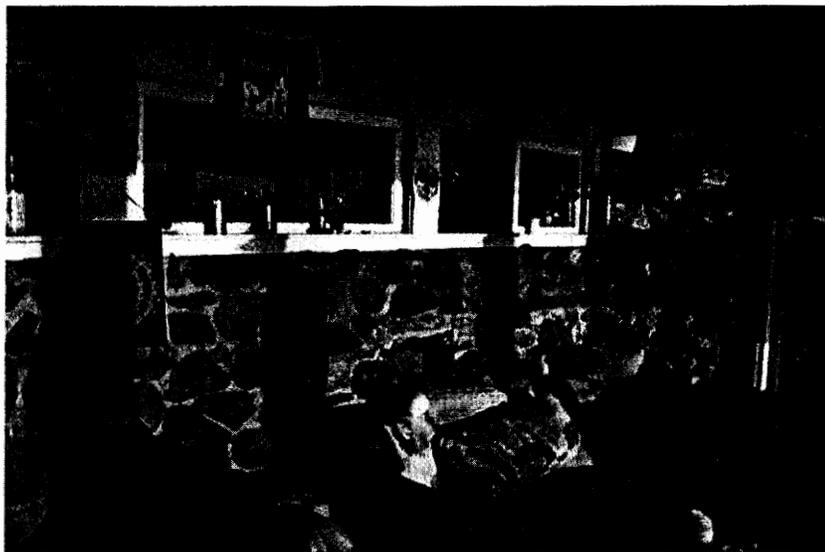
Comment: It seems ironic to us that the applicant fought so hard to get permits to demolish what was a true historic resource, the Stonehenge house, but now is maintaining that the stairs are historic and should be allowed to remain, even though they are not as old and significant as the house was. In addition, they are non-conforming and not on his property.

COASTAL COMMISSION

Page 4

EXHIBIT # 9
PAGE 8 OF 14

2. Demolition of the Casita Since the demolition of the house and most of its surrounding stone walls there is very little left of the early San Onofre breccia (native) stone construction. The pathways and walls of the casita are among these remaining examples. The attached photo shows that the wood enclosure was built separately from the stone walls/surround. There are large gaps between the rustic, uneven walls and the framing. While we cannot date the construction of this stone work, probably used as a patio or look-out point, it is similar to other walls of the early Coast Royal construction.



Comment: We suggest that the demolition recommended in the staff report include only the framing and roof of the Casita, leaving the stone work/patio in place. This would no longer be a habitable structure and would remain as an example of the work that was on the site before the demolition of the other historical structures.

COASTAL COMMISSION

EXHIBIT # 9
PAGE 9 OF 14

Page 5

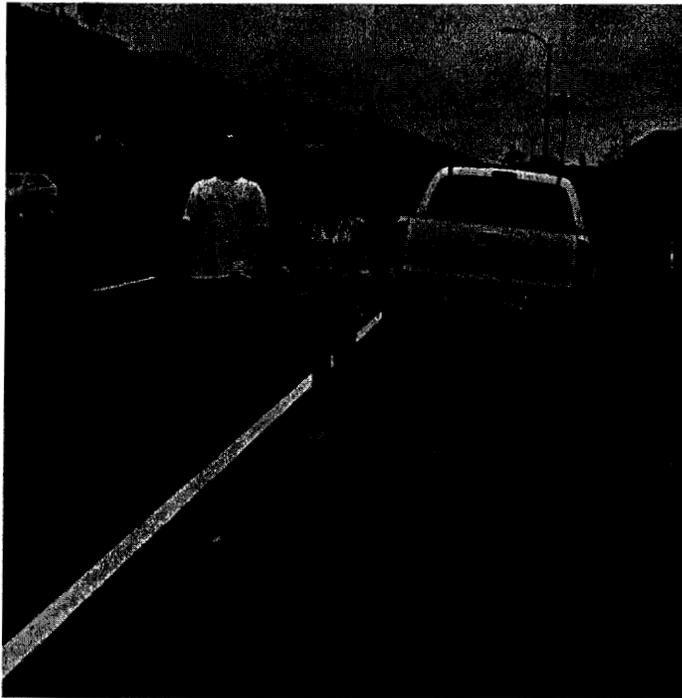
3. Sidewalk along Coast Highway: Our appeal points out that a sidewalk 5' wide is recommended in the LCP. It is also recommended for ADA access because:

"A 60-inch (1525-mm) minimum width can accommodate turns and passing space and is recommended for sidewalks adjacent to curbs in order to provide travel width away from the drop-off at street edge." (See source of quote at the end of our letter.)

http://katana.hsrb.unc.edu/cms/downloads/Checklist_Accessible_Sidewalks_Crossings.pdf

Comment: The goal of the LCP is to provide continuous sidewalks all along Coast Highway. At this time our only way to implement this program is incremental, with each project approval. In order to create this continuous route each segment should be conforming. There are many impediments, but with new construction these difficulties can be overcome. If we allow new projects to go forward with substandard sidewalk widths we will not achieve the safe and comfortable walkways needed for the public.

Now is the time to design for the required sidewalk. There is now a blank slate on this property. The adjacent property is being designed. Grades on the driveway and garage can be adjusted. See attached possible ways to build a 5' wide sidewalk from Ann Christoph Landscape Architect FASLA. We urge the commission to require the full 5' width for the sidewalk.



We are including again the photographs from our appeal because they reproduced very poorly in the staff report. We want the Commission to be able to see the more distant views of the stair tower and how pedestrians are having to walk in the busy highway past this property.

COASTAL COMMISSION

Page 6

EXHIBIT # 1
PAGE 10 OF 14

Thank you for all of your work on this appeal and we appreciate the many LCP issues raised and addressed in the staff report.

Sincerely,



Bill Rihn, vice-president
South Laguna Civic Association

SIDEWALKS

A new sidewalk should be wider than the minimum accessible travel width of 36 inches (915 mm). Additional maneuvering space is necessary for a pedestrian using a wheelchair to turn, to pass by other pedestrians, to operate and pass through an entrance door, to use a sidewalk telephone or to activate a pedestrian crossing button. A 60-inch (1525-mm) minimum width can accommodate turns and passing space and is recommended for sidewalks adjacent to curbs in order to provide travel width away from the drop-off at street edge; a 48-inch width can accommodate side-by-side travel with a service animal.

The U.S. Access Board is a federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards for the built environment, transportation, communication, medical diagnostic equipment, and information technology.

COASTAL COMMISSION

EXHIBIT # 9
PAGE 11 OF 14

Ann Christoph landscape architect asla

31713 coast highway, south laguna, california 92651

949-499-3574

fax 499-1804

December 31, 2014

Bill Rihn, Vice-President, South Laguna Civic Association
P. O. Box 9668
South Laguna, CA 92651

Dear Bill:

You have asked me, as a landscape architect, to suggest how one might design a 5' wide sidewalk along the highway frontage at 31381 Coast Highway. I am outlining two possibilities. I am sure there are others.

Option 1

1. Remove the wood fence. Leave the guard rail in place. Provide a paved surface behind the curb for people to get out of their cars.
2. Working with the adjacent neighbor (application now being reviewed), raise grade on the driveway not to exceed 5% slope (maximum allowed under ADA)
3. Leave a 2-3' planting space at the toe of the wall and install 5' sidewalk paralleling the new driveway grade.
4. Raise the floor level of the garages to meet the new raised driveway grade.
5. Make additional sidewalk and driveway easement dedications as necessary.

Option 2

1. Remove the wood fence. Install a cantilevered 5' wide walkway and open picket guardrail so views to the ocean are open.
2. Working with the adjacent neighbor (application now being reviewed), raise grade on the driveway so that the transition of the walkway to the driveway on each end can be more easily made.
3. Leave a 3-4' planting space at the toe of the wall and next to the driveway.
4. Raise the floor level of the garages to meet the new raised driveway grade.
5. Make additional sidewalk and driveway easement dedications as necessary.

Thank you for your work on improving pedestrian access along the highway.

Sincerely,



Ann Christoph, Landscape Architect FASLA

Fellow, American Society of Landscape Architects
California State License # 1439

COASTAL COMMISSION

EXHIBIT # 9
PAGE 12 OF 14

LAW OFFICE OF MARK F. NELSON

31423 South Coast Highway, No. 71
Laguna Beach, California 92651-6997 USA
Telephone: 949.371.1086
Facsimile: 949.371.1087
mnelson@mfnfglobal.com

January 1, 2015

Via Email: zach.rehm@coastal.ca.gov

California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802

Re: Appeal No. A-5-LGB-13-0223 (Meehan)
31831 Coast Highway, Laguna Beach, CA (the "Meehan Property")

Dear Commissioners:

I have resided fulltime for over 22 years at the Laguna Royale Condominiums located at 31423 Coast Highway, Laguna Beach, California, immediately south of what is now the Meehan Property. I am also the long-standing President of the Laguna Royale Condominium Association governing the 78 units at Laguna Royale. Our building was constructed in 1961 and for over 52 years has been located next to the Meehan Property. We are very concerned about the proposed development of the Meehan Property.

Recommended Action

We respectfully concur with, and request approval of, the California Coastal Commission Staff Report: Appeal-Substantial Issue and De Novo dated December 12, 2014 (the "Staff Report") with the modifications recommended in the South Laguna Civic Association letter dated December 31, 2014 commenting on the Staff Report (the "SLCA Letter") regarding the lack of historic significance of the wood stair tower to the beach and increasing the width of the Coast Highway sidewalk to five feet. We also strongly support the bluff-top set back requirements in the Staff Report. We request the opportunity to review the modified development plans for the Meehan Property to further ensure that they comply with the Staff Report and do not raise any new development issues.

Analysis

1. Wood Stair Tower. There is no proof that the wood stair tower to the beach is historic in nature. That rickety tower is a fire and safety hazard, public nuisance, invitation to trespass, eyesore, encroachment on public property and does not conform with applicable laws. Therefore, we agree with the Staff Report and SLCA Letter that the tower should be removed.
2. Sidewalk along Coast Highway. Unfortunately, Laguna Beach is currently one of the most dangerous cities in the United States for pedestrians. The Laguna Beach Police Department has

COASTAL COMMISSION

EXHIBIT # 9
PAGE 13 OF 14

investigated 3 fatal and 65 injury collisions involving pedestrians during the past 3 years. We recommend that the sidewalk along Coast Highway be expanded to five feet because that increases safety to pedestrians; complies with the City of Laguna Beach Local Coastal Program ("LCP"), Americans With Disabilities Act and applicable laws; and minimizes potential liability to the Commission, Cal Trans and the City of Laguna Beach otherwise associated with a smaller, non-conforming sidewalk width.

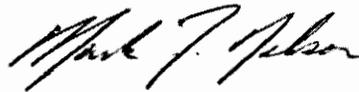
Conclusion.

We trust that the irony of Mr. Meehan's historic argument in this proceeding is not lost on the Commission or Staff. How is it possible that Mr. Meehan can now suddenly conveniently claim to champion the historic nature of remaining structures on the property when during years of previous presentations to the City of Laguna Beach and the Commission, he vigorously argued that the structures on the property had no historic value? He also took advantage of two episodes of illegal demolition in 2009 and 2010 to support his claim that there were no historic structures on the property.

None of the recommendations in the Staff Report and SLCA Letter are intended to penalize applicant Meehan, but to assure preservation of the community's interest and safety. Mr. Meehan was well aware of the unpermitted alterations to the property knowing that he would be responsible for correcting code violations and complying with all applicable laws. Mr. Meehan cannot fairly take advantage of the known violations of a prior owner relative to the LCP or the Commission.

Based on all the foregoing, we endorse the Staff Report and recommendations in the SLCA Letter respecting the wood stair tower to the beach and increasing the width of the Coast Highway sidewalk to five feet all of which will substantially improve the Meehan Property and its safety and compliance with important applicable laws and lessen significant environmental impacts.

Sincerely,



Mark F. Nelson

COASTAL COMMISSION

EXHIBIT # 9
PAGE 14 OF 14



To preserve and enhance the unique village character of Laguna Beach

Jan 2, 2015

California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802

RE: 31831 Coast Highway, Laguna Beach, Orange County; A-5-LGB-13-0223

Commissioners:

The Coastal Commission staff has wisely recommended that the beach access stairway at 31381 Coast Highway in Laguna Beach should be removed. As staff points out, the stairway is nonconforming and almost all of it is on the county-owned public beach property. The applicants' contention that the stairs should be retained because of historical significance is curious given that they didn't mind demolishing the Skidmore house, clearly of much greater historical significance. Even if the historical argument were acceptable, the photo that purports to show the existence of the stairway in 1929 is misdated, since the Halliburton house, built in 1938, is visible in the photo.

Village Laguna is, however, concerned that the sidewalk in front of this address be given adequate attention. We have been experiencing an alarming increase in pedestrian vs vehicle accidents in Laguna Beach. In conformity with the Local Coastal Program's goal of providing continuous sidewalks along Coast Highway, it's very important to make sure a pedestrian traverse is instituted every time a property is developed or modified. The property next door to 31381 is now being designed, and this is a critical moment for these two properties to collaborate on a design to provide adequate 5-ft sidewalks. The minimal 3-ft width is not enough given the adjacent high-speed road and increasing demand for wheelchair and disability access. If we're going to do it, let's do it right.

Thank you for your careful attention to the issues involved in this project.

Sincerely,

Johanna Felder, President
Village Laguna