

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL – REVISED FINDINGS

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

Applicant: John Meehan

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

Appellants: Commissioners Bochco & Brennan, Mark Nelson, and 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.

Commissioners on Prevailing Side: Commissioners Bochco, Cox, Groom, Howell, McClure, Mitchell, Turnbull-Sanders, Vargas, Zimmer, and Chair Kinsey.

Staff Recommendation: Adopt the revised findings.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission adopt the following revised findings in support of the Commission's March 12, 2015 approval with conditions of Coastal Development Permit No. A-5-LGB-13-0223.

The Commission-approved project includes a new single-family home, set back a minimum of 25 feet from the bluff edge, as identified in Exhibit 3 of the staff report. New accessory structures must be set back a minimum of 10 feet from the bluff edge, as identified in Exhibit 3 of the staff report. The Commission-approved project permits the retention of the casita and beach access stairway on the bluff face; however future improvements shall be limited to repair and maintenance only and should the nonconforming structures fall into a state of disrepair or be destroyed by natural disaster, they shall not be replaced.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....	3
II. STANDARD CONDITIONS	3
III. SPECIAL CONDITIONS.....	4
IV. FINDINGS AND DECLARATIONS	10
A. PROJECT LOCATION AND DESCRIPTION	10
B. GEOLOGIC HAZARDS.....	11
C. VISUAL RESOURCES	20
D. PUBLIC ACCESS AND RECREATION.....	23
E. WATER QUALITY	26
F. DEED RESTRICTION	26
G. LOCAL COASTAL PROGRAM	26
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT.....	27

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

I. MOTION AND RESOLUTION:

Motion: *I move that the Commission adopt the revised findings proposed by staff in support of the Commission's action on March 12, 2015 approving with conditions Coastal Development Permit Application No. A-5-LGB-13-0223.*

Staff recommends a YES vote on the foregoing motion. Passage of this motion will result in adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the March 12, 2015 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

The Commissioners on the prevailing side are: **Commissioners Bochco, Cox, Groom, Howell, McClure, Mitchell, Turnbull-Sanders, Vargas, Zimmer, and Chair Kinsey.**

Resolution:

The Commission hereby adopts the findings set forth below for the approval with conditions of Coastal Development Permit No. A-5-LGB-13-0223 on the ground that the findings support the Commission's decision made on March 12, 2015 and accurately reflect the reasons for it.

II. 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.

III. SPECIAL CONDITIONS

NOTE: The Special Conditions below include the changes the Commission made to the recommended conditions on March 12, 2015. The portions of those conditions that are being deleted are ~~struck through~~ and additions to the conditions are **bolded and underlined**.

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. **The final plans shall be reviewed and approved by the City prior to submission to the Executive Director**, 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 **new** 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 **or the sandy beach that are proposed to be retained, including but not limited to the casita and the beach access stairway**, shall be identified **on the final plans**, ~~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>).

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. 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.

Appeal – Revised Findings

- 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.
 - 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.

The existing solid **fence atop the retaining** 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. **Any new fence or guardrail atop the retaining wall shall be designed to preserve public ocean views through the property to the maximum extent feasible.**

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.**

This condition deleted by Commission action.

~~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, **casita, beach access stairway**, 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, but not limited to, the residence, garage, foundations, pool/spa, decks, balconies, hardscape, **casita, beach access stairway**, 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.

10. **Structures on Bluff Face and Beach.**

Consistent with Section 25.07.008 of the City of Laguna Beach certified Local Coastal Program, repair and maintenance of any existing structure which is located on the bluff face or the sandy beach or within 50 feet of a coastal bluff edge and identified on the final plans, including but not limited to the casita and the beach access stairway, shall require a coastal development permit if the repair and maintenance activities include either of the following:

- A) **The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials, or any other form of solid materials; or**
- B) **The presence, whether temporary or permanent, of mechanized equipment or construction materials.**

No improvements to the existing nonconforming casita or the beach access stairway, identified in the applicant's final plans pursuant to Special Condition 1, are permitted herein. Future improvements shall be limited to repair and maintenance only. The replacement of more than 50% of the structure(s) is not repair and maintenance and shall not be permitted.

The applicant agrees, on behalf of itself and all successors and assigns, that should any portion of the nonconforming casita or the beach access stairway fall into a state of disrepair or be destroyed by natural disaster, the usual provisions of Section 25.07.008 of the City of Laguna Beach certified Local Coastal Program regarding replacement of

structures destroyed by natural disaster shall not apply and the property owner shall not have the right to replace the nonconforming structure(s) which are located in the bluff edge setback area, or on the bluff face, or the sandy beach.

IX. FINDINGS AND DECLARATIONS:

NOTE: The following revised findings and declarations include all of the staff's recommended findings that were set forth in the February 25, 2015 staff report and the March 10, 2015 addendum for the Commission's March 12, 2015 hearing. The portions of those findings that are being deleted are in ~~strike-out~~. The supplemental findings being added in support of the Commission's March 12, 2015 action are **bolded and underlined**.

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. 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. 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 (Saczalski), CDP No. 5-02-192 (Freedman and Jeanette), et al].

The Commission's staff geologist, Dr. Mark Johnsson, 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. Johnsson 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. Johnsson 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. Johnsson 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 noneonforming 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.”~~ **While the casita and the beach access stairway may or may not have been legally permitted, both structures conform to the use/zoning of the lot, which is Residential Low Density, because both structures are associated with a single family residence. Also, based on photographs provided by the**

applicant, both structures appear to have been constructed prior to the passage of Proposition 20 in 1972 and the Coastal Act in 1976 and were not subject to the permitting requirements of these statutes. Furthermore, according to the applicant's engineer they remain structurally sound. 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 with a single family residence and the lot is zoned for residential use, 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 requires the applicant to identify the nonconforming casita and the nonconforming beach access stairway on the final plans. In order to ensure that the nonconforming structures do not continue to exist on the site beyond their existing structural lives, Special Condition 10 requires that future improvements shall be limited to repair and maintenance only. Special Condition 10 further requires that should the nonconforming structures fall into a state of disrepair or be destroyed by natural disaster, they shall not be replaced in the same nonconforming manner. Any future replacement of nonconforming structures must conform to existing land use and zoning policies in effect at the time the City or the Commission, on appeal, considers replacement.** 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.

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 noneonforming 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.~~

~~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.

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.

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 new 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 new 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.

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 **fence atop the retaining** 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 preserve 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 **fence atop the retaining** 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.

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 **As noted in the geologic hazards section of these findings, both structures** are potentially sited on an unstable portion of the bluff face (near the overhang which is subject to failure). **Nonetheless, at this time they appear to be structurally sound and remain functional. Given their continued functionality and historical interest to the applicant and some members of the community, they may remain in place at this time. However, since they are non-conforming as to bluff setbacks, and existing hazards may eventually damage or destroy them,** they must be removed or relocated **at the end of their structural lives. Special Condition 1 requires the applicant to identify the nonconforming casita and the nonconforming beach access stairway on the final plans. In order to ensure that the nonconforming structures do not continue to exist on the site beyond their existing structural lives, Special Condition 10 requires that future improvements shall be limited to repair and maintenance only. Special Condition 10 further requires that should the nonconforming structures fall into a state of disrepair or be destroyed by natural disaster, they shall not be replaced.** 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. **The proposed new residential structure and the proposed new accessory structures comply in use to the zoning regulations of the lot, and are subject to the current setback requirements in the LCP which are imposed by Special Condition 1. The existing nonconforming casita and nonconforming beach access stairway are associated with residential structures and therefore also comply in use to the zoning regulations of the lot. These structures that are nonconforming as to bluff edge setbacks are not proposed to be modified in any way, and pre-existed prior to Proposition 20 and the Coastal Act. Thus, they may remain in a non-conforming state until repair and maintenance are no longer sufficient to maintain their safe use and/or they are destroyed by existing hazards.** 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 **on the final plans. In order to ensure that the nonconforming structures do not continue to exist on the site beyond their existing structural lives, Special Condition 10 requires that future improvements shall be limited to repair and maintenance only. Special Condition 10 further requires that should the nonconforming structures fall into a state of disrepair or be destroyed by natural disaster, they shall not be replaced in the same nonconforming manner. Any future replacement of nonconforming structures must conform to existing land use and zoning policies in effect at the time the City or the Commission, on appeal, considers replacement.** ~~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



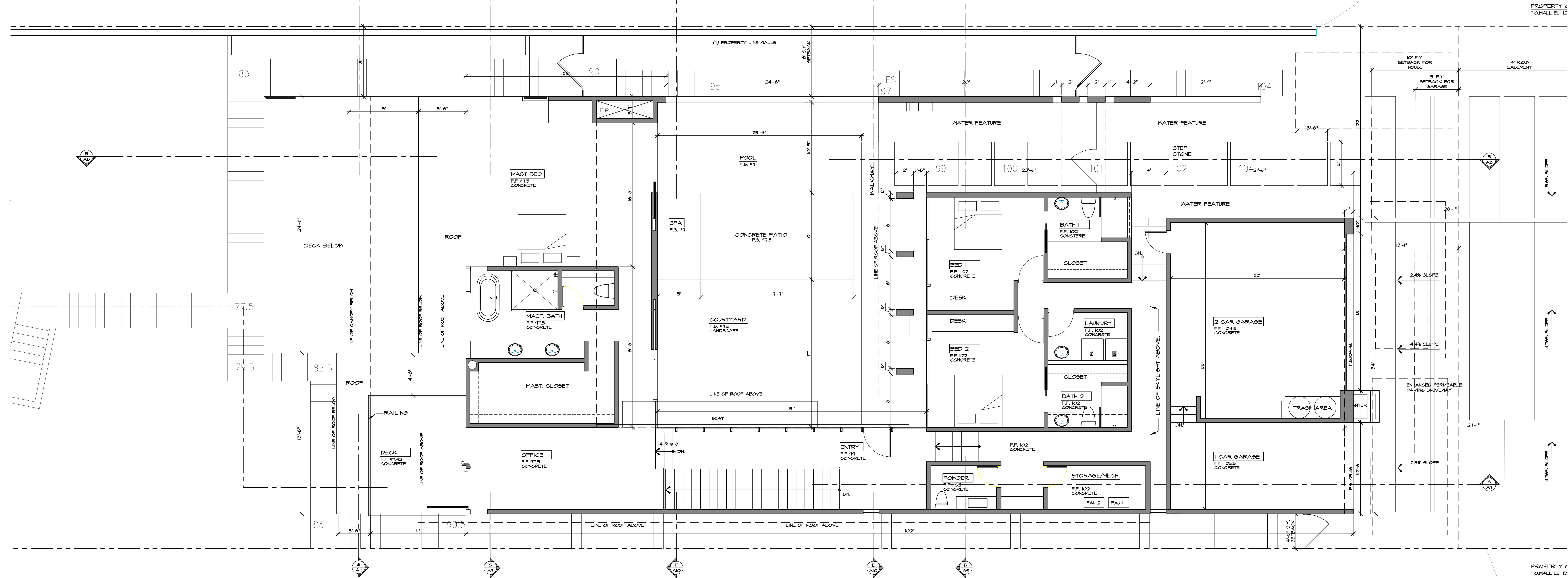
Photo: Bing Maps



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 INTERVENING 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 DAMPNESS AND RESIDUAL MOISTURE CAN CREATE DRY ROT AND MOLD.

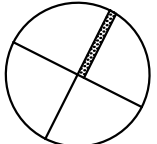
REVISIONS	
1	ZONING CORRECTION 1 10/25/12
2	ZONING CORRECTION 2 12/03/12
3	ZONING CORRECTION 3 12/03/12
4	DR2 03/12/13



UPPER LEVEL PLAN

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

1



PROJECT NORTH

MARK SINGER ARCHITECTS, INC. AIA

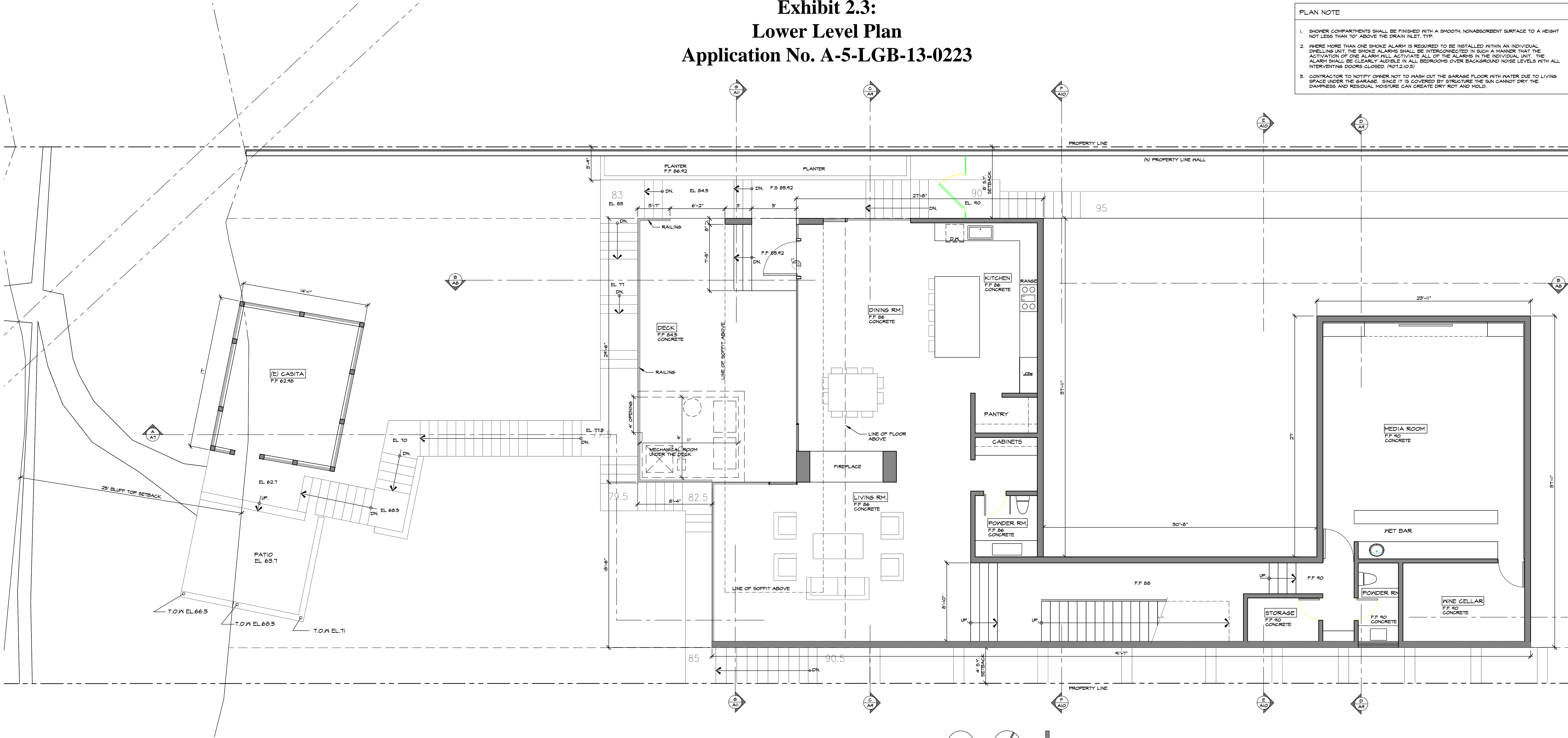
M E H A N RESIDENCE

DATE ISSUED:

A2

UPPER LEVEL PLAN

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 INTERVENING 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 DAMPNESS AND RESIDUAL MOISTURE CAN CREATE DRY ROT AND MOLD.	

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

MARK SINGER ARCHITECTS, INC. AIA
250 E BAKER ST. #500 COSTA MESA, CA 92626
714 448 1483 15140 PHONE 9441 1441 16214 FAX INFO@MARKSINGERARCHITECTS.COM

M E E H A N RESIDENCE
9150 COAST HIGHWAY, LAGUNA BEACH, CA 92651

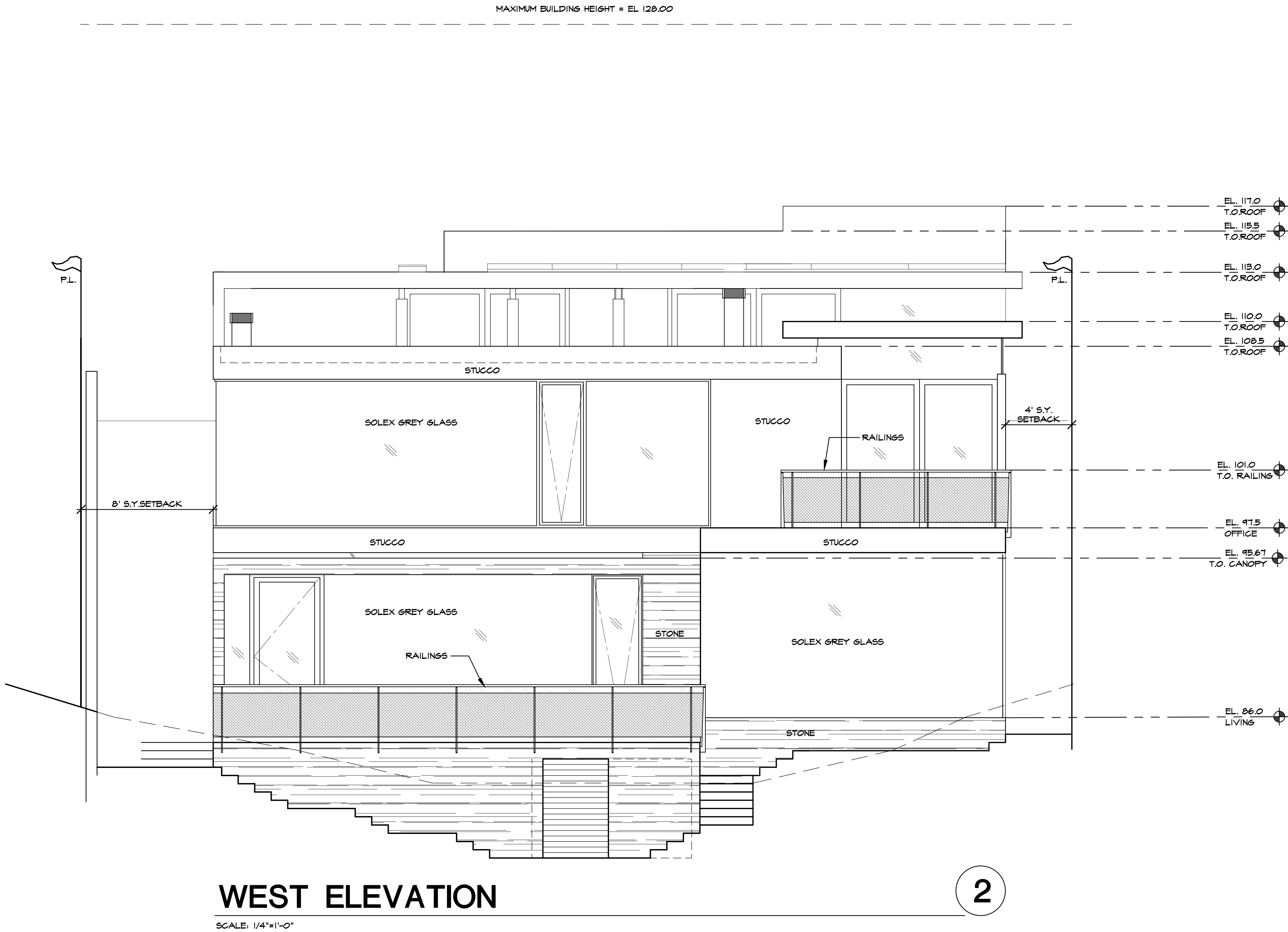
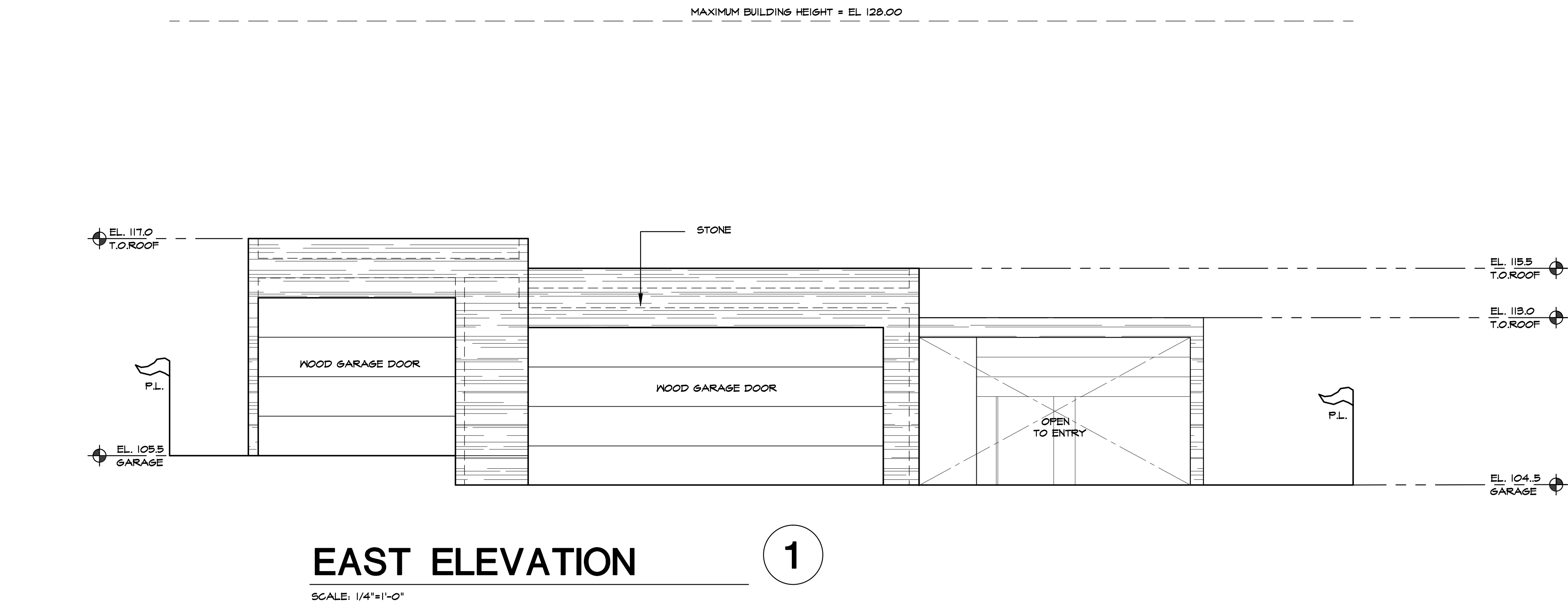
DATE ISSUED:	

A3

LOWER LEVEL PLAN 1
SCALE: 1/4"=1'-0"
PROJECT NORTH

LOWER LEVEL PLAN

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



REVISIONS	
1	ZONING CORRECTION 1
2	ZONING CORRECTION 2
3	ZONING CORRECTION 3
4	DR2

MARK SINGER ARCHITECTS, INC. AIA

250 E BAKER ST. #300 COSTA MESA, CA 92626
714 445 1485 | 5740 PHONE 944 | 444 1 624 FAX INFO@MARKSINGERARCHITECTS.COM

M E E H A N RESIDENCE

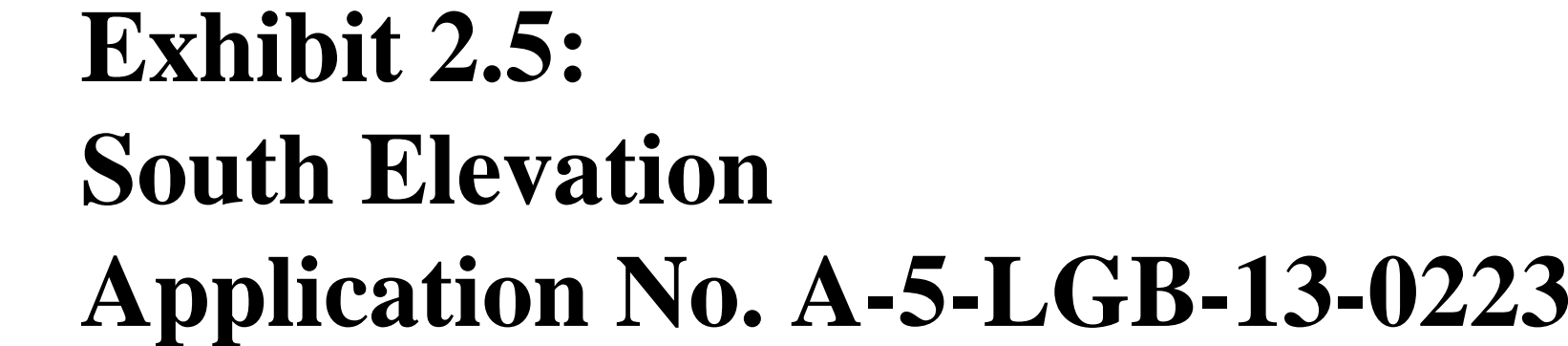
9130 COAST HIGHWAY, LAGUNA BEACH, CA 92651

DATE ISSUED:

A4

4

east & west elevations



A5

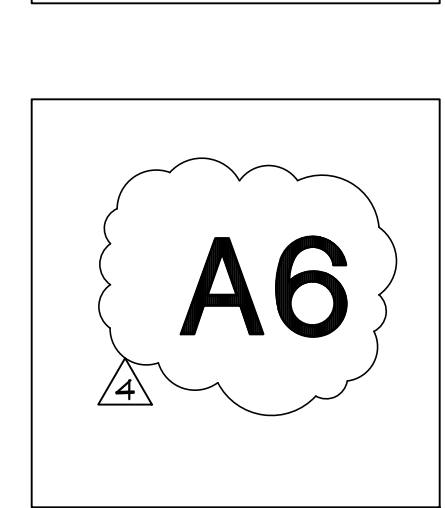


Exhibit 2.6:
North Elevation
Application No. A-5-LGB-13-0223

LOT 631, BLOCK 2015

TEMPORARY CONSTRUCTION FENCE, TO REMAIN UNTIL CONSTRUCTION IS COMPLETED

LOT LINE
FD 3/4"IP W/PLASTIC CAP
LS 4384, DN 1.5'
16.6 ELEV.

STAIRS TO REMAIN IN PLACE

CASITA TO REMAIN IN PLACE

EXIST. CONDOMINIUM COMPLEX

DECK OF LUCINA ROYAL

LOT CORNER
NOT FD OR SET
112.60 TW ELEV.

LOT CORNER
FD L&T LS 2528 ON
OF CONC RET WALL
113.80 TW ELEV.

GARAGE & STRUCTURE ON TOP TO BE DEMOLISHED

EXIST. CONDOMINIUM COMPLEX

LOT LINE
FD 3/4"IP W/PLASTIC CAP
LS 4384, DN 1.5'
15.5 ELEV.

TBM ELEV = 20.00 ASSUMED
FD L&T W/11/4" TAG
EPOXIED INTO TOP OF
6" HIGH ROCK

LEGEND

- CONCRETE PAVEMENT
- GRAVEL
- FF FRESH FLOOR
- FE PAD ELEVATION
- FS FRESH SURFACE
- TW TOP OF WALL
- TO TOP OF ORATE
- FO FRESH GRADE
- DL DAYLIGHT LINE
- GF GARAGE FLOOR
- P PLANTER

PROFILE OF EXIST. PAVEMENT 8.5' S/WLY OF THE NELY PROPERTY LINE

CONSTRUCTION NOTES:

- CONST. PERMEABLE PAVEMENT
- CONST. CONC. PAVEMENT 12" THICK
- CONST. 12" x 12" AREA DRAIN
- CONST. 12" WIDE TRENCH DRAIN
- CONST. 6" B PVC, SCH. 40 PERFORATED PIPE
- CONST. 6" x 6" AREA DRAIN
- CONST. 6" B PVC, SCH. 40
- CONST. WATER FEATURE PER SEPARATE PLAN
- CONST. WALL PER SEPARATE PERMIT
- CONST. 6" ATRIUM DRAIN
- CONST. RFP RFP 7" x 7" V ENERGY DISSIPATOR
- REMOVE EXIST. WALL
- REMOVE EXIST. PAVEMENT
- BALCONY AND JOIN EXIST. PAVEMENT
- REMOVE EXIST. STRUCTURE
- REMOVE EXIST. WOOD DECK
- REMOVE EXIST. TROUBLE
- PROPOSED FIRE PIT
- CONST. 6" PVC, SCH. 40
- INSTALL POLYMER MEDIA FILTER BY BIO CLEAN ENVIRONMENTAL, MODEL NO. 007-25-25-25

EARTHWORK QUANTITIES ESTIMATE

WITHIN BLDG. FOOTPRINT

CUT 800 C.Y. (VOLUME ONLY)

FILL 140 C.Y. (VOLUME ONLY)

OUTSIDE BLDG. FOOTPRINT

CUT 180 C.Y. (VOLUME ONLY)

FILL 110 C.Y. (VOLUME ONLY)

EARTHWORK QUANTITIES ARE FOR CITY PLAN CHECK PURPOSES ONLY.

LEGAL DESCRIPTION:
LOT 6 OF TRACT NO. 631, B.L.M. 2015

SCALE: 1" = 10'

PREPARED FOR:
MR. JOHN MEEHAN
381 PARKCROFT
LAGUNA BEACH, CA 92651
(949) 833-1813

PREPARED BY:
JRV ENGINEERING, INC.
2000 L.A. CALLEJA DRIVE
LAGUNA BEACH, CA 92653
(714) 794-0788

JUSTO R. VILLAR, P.E., 39801

DATE:

PRELIMINARY GRADING PLAN

1

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

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

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

13-0037 & CDP 13-0038
31381 Coast Highway
February 7, 2013
Page 6 of 8

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

000001/30/2013

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
 31381 Coast Highway
 February 7, 2013
 Page 8 of 8

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

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 H. Pfebe

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 Pfebe

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.

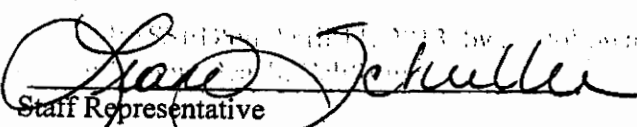
AYES: McErlane, Simpson, Wilkes, Zur Schmiede

NOES: Liuzzi


ABSENT: None

ABSTAIN: None

ATTEST:


Staff Representative

Board of Adjustment Resolution No. CDP 13.07


Chairperson Zur Schmiede

CALIFORNIA COASTAL COMMISSION

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

COASTAL COMMISSION RECEIVED

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:

- EXHIBIT # 7
PAGE 3 of 34
- 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...

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

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 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-medium term 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.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

EXHIBIT # 7PAGE 10 OF 34

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: [Signature]
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 34

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: _____

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

VOICE (562) 590-5071 FAX (562) 591-5084

JUL 22 2013

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):

☒ Approval; no special conditions**TO BE COMPLETED BY COMMISSION:**

APPEAL NO:

A-5-LGB-13-0223

DATE FILED:

7/22/13

DISTRICT:

5

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

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Laguna Beach, CA 92651

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

Brent Stickler #61
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Laguna Beach, Ca 92651

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Bill Rihn
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Larry Nokes
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Laguna Beach, 92651

John Meehan
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Clayton Daniels
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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
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Laguna Niguel, CA 92677

Tracie Breedlove
376 Pinecrest Drive
Laguna Beach, CA 92651

Dirk Larson
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Laguna Beach, CA 92651

Jamie Blakely
1781 Glenneyre Street
Laguna Beach, CA 92651

Ron Marshall
31365 Coast 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.

Bell R. R.

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.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 19 OF 34

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.

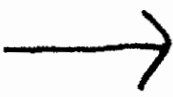
On May 13, 1993, the Coastal Commission approved Categorical Exclusion Order E-93-1 for the City of Laguna Beach. On November 9, 1993, the City Council approved Resolution 93.089 which acknowledges the Categorical Exclusion Order and agrees to the terms and conditions thereof. These approvals exclude 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 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

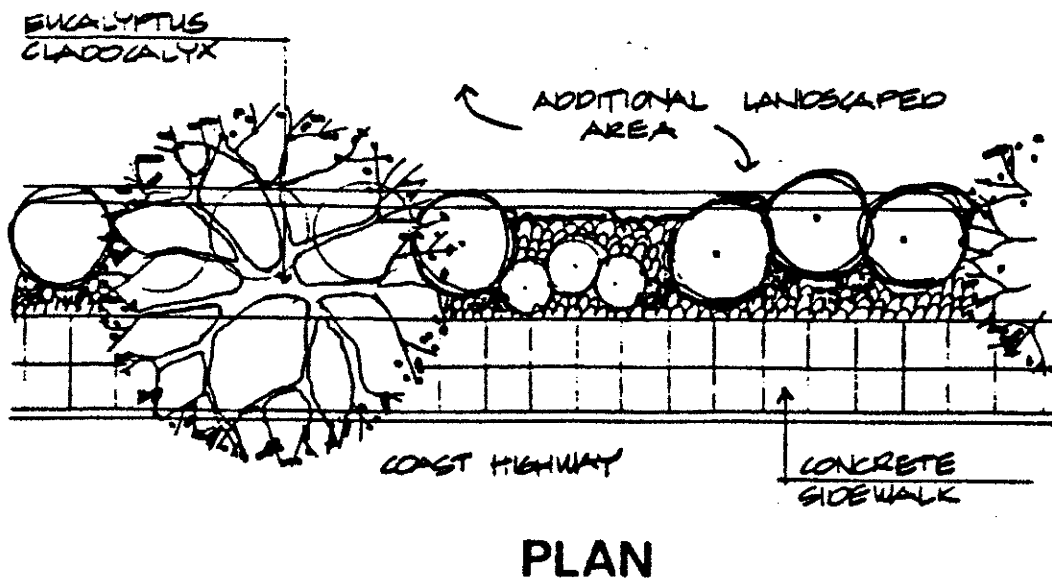
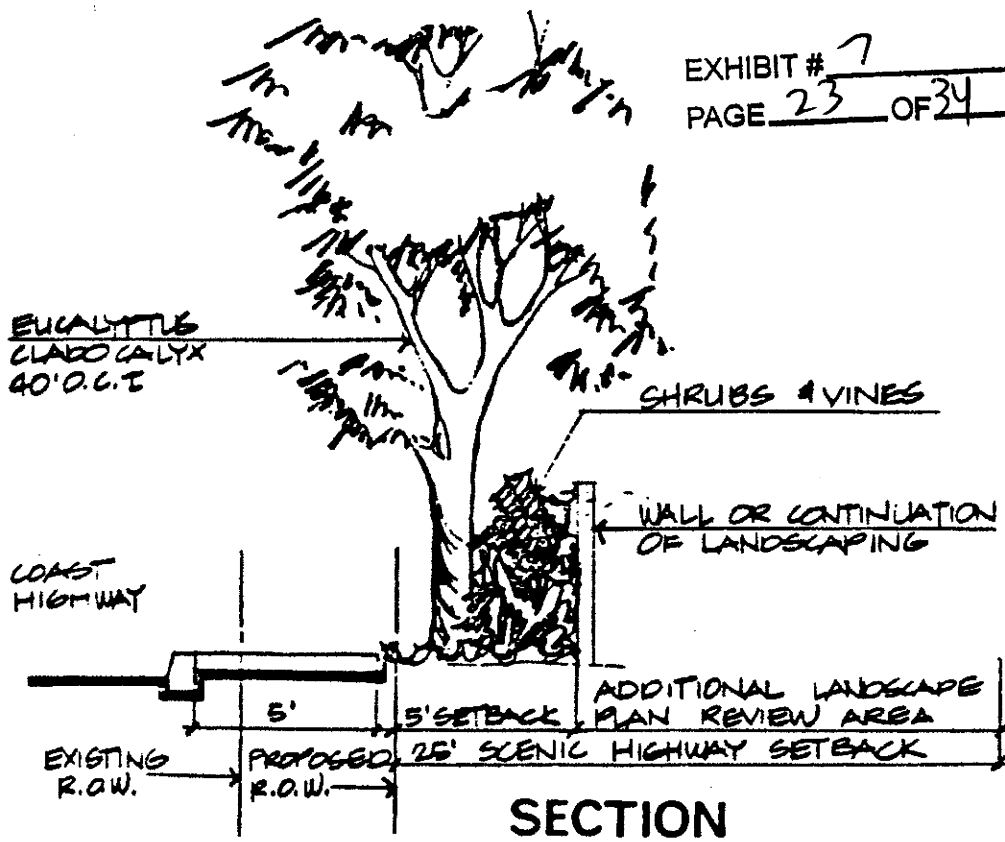
10.01 On the inland side at Aliso School, improve as per Case A. Work with the school district to provide better maintenance of this area.

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 29 OF 34

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

WHEREAS, the City Council directed the Planning Commission to initiate the preparation of appropriate amendments and additions to the Laguna Beach General Plan to address the goals, policies and land use standards for the South Laguna area; and

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

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

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

1 WHEREAS, adoption of the General Plan amendments and
2 sets of guidelines recited above have been determined as
3 exempt from the provisions of the California Environmental
4 Quality Act (CEQA) pursuant to Sections 15265, 15305 and
5 15308 of CEQA.

6 WHEREAS, said General Plan has been amended consistent
7 with the provisions set forth in California Government Code
8 65350 et seq.

9 NOW, THEREFORE, BE IT RESOLVED that the City Council of
10 the City of Laguna Beach does hereby resolve as follows:

11 Section 1. The City Council hereby amends the General
12 Plan/Coastal Plan Land Use Map as shown in Exhibit A attache
13 hereto.

14 Section 2. The City Council hereby adopts and
15 incorporates various addenda and a Technical Appendix into
16 the Laguna Beach General Plan as specified in Exhibit P
17 attached hereto.

18 Section 3. The City Council hereby adopts the
19 "Community Design and Landscape Guidelines" as set forth in
20 Exhibit Q attached hereto for the purpose of enhancing the
21 aesthetic character of South Laguna.

22 Section 4. The City Council hereby formally adopts the
23 City of Laguna Beach's existing "Design Guidelines for
24 Hillside Development" for the purpose of providing specific
25 design considerations for residential development in hillside
26 areas.

27
28

COASTAL COMMISSION

ADOPTED this 12th day of December, 1989

EXHIBIT # 7
PAGE 26 OF 34

Lida Lenney
Mayor

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

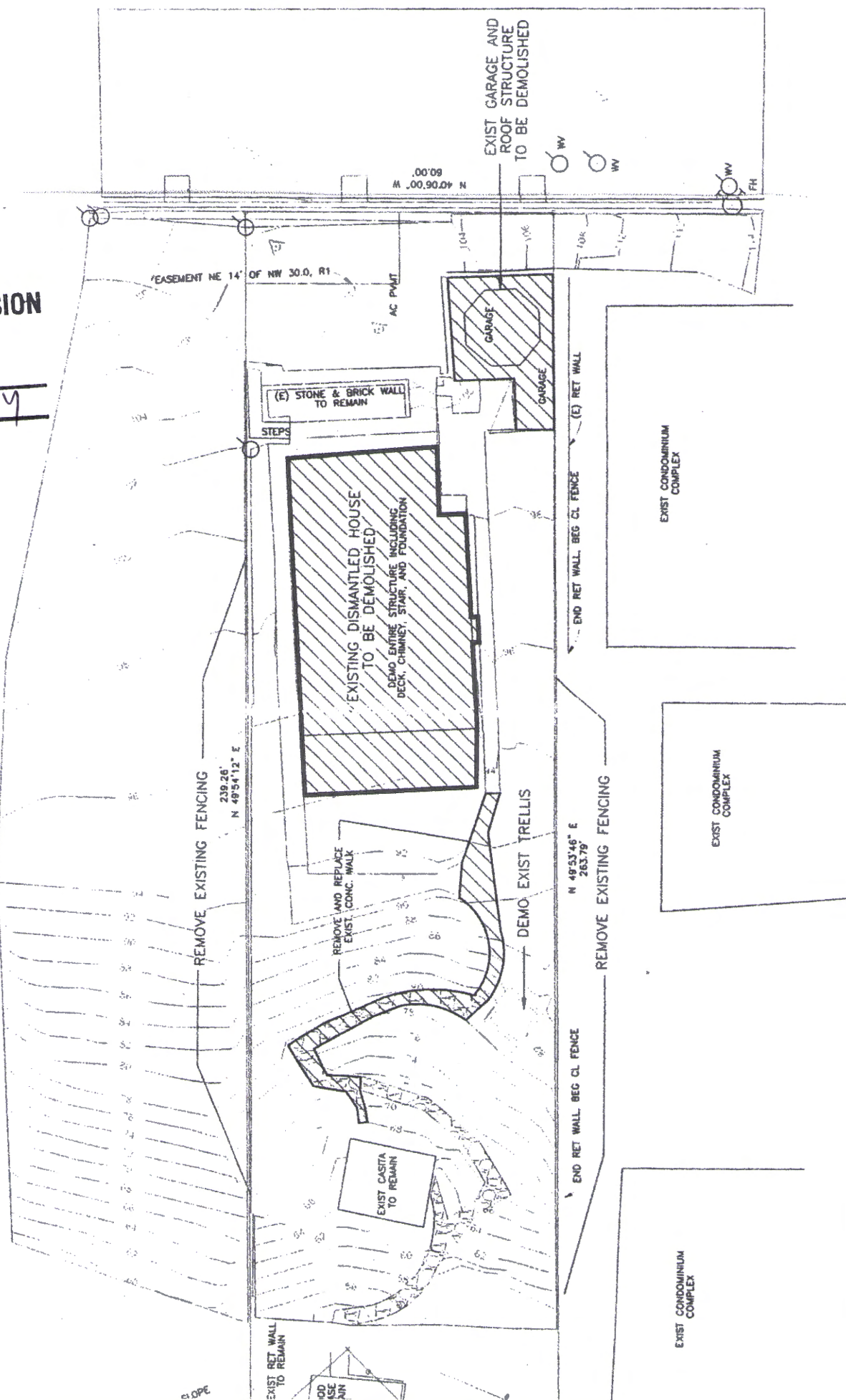
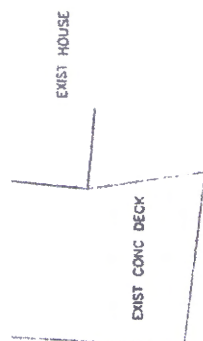
EXHIBIT # 7
PAGE 28 OF 34

COASTAL COMMISSION

EXHIBIT # 7
PAGE 29 OF 34

City of Laguna B
Zoning Divisi

EXHIBIT # 7
PAGE 30 OF 34

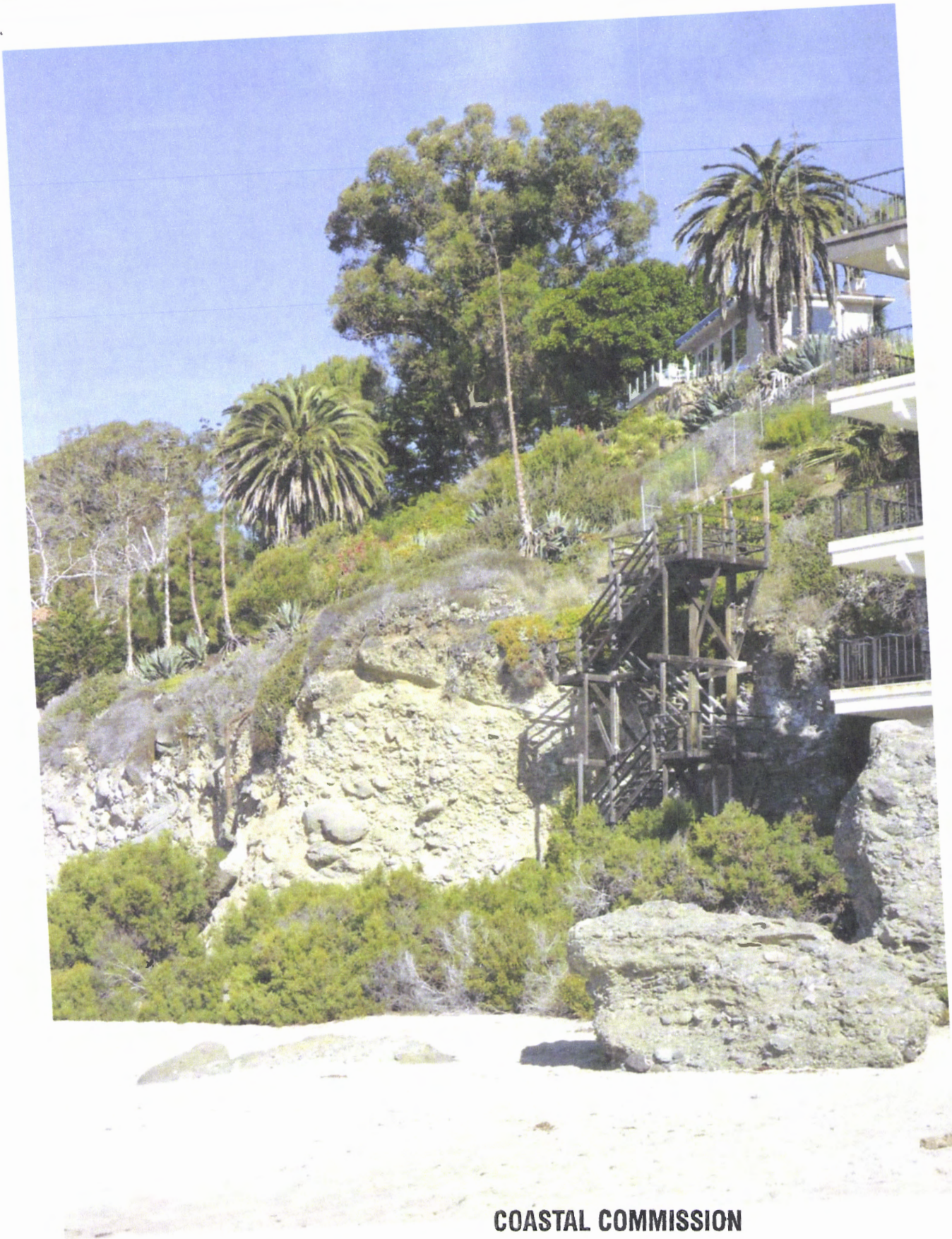


Attachment E Photographs of stair tower illustrating visual impact and relationship with cliff.



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, non-conforming. 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.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 34 OF 34

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.

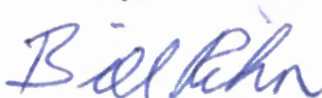
The sidewalk

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

COASTAL COMMISSION

EXHIBIT # 8
PAGE 4 OF 5

PEER REVIEW ASSESSMENT: 31381 Coast Highway – Historical Resource Report by GPA

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:

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

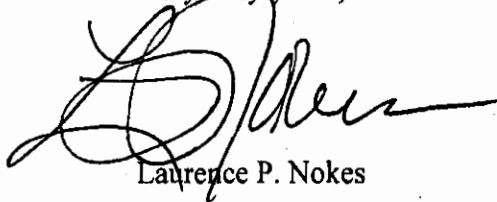
EXHIBIT # 9
PAGE 2 OF 14

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 92651VALUATION OF WORK \$ — LOT SIZE 14,350 SFASSESSOR'S PARCEL NO. 056-032-10DESCRIBE IN DETAIL SCOPE OF WORK NEW SINGLE FAMILY RESIDENCE WITH ATTACHED 3 CAR GARAGE, NEW POOL & SPA.

COASTAL COMMISSION

EXHIBIT # 9PAGE 3 OF 14

	FLOOR AREA	GARAGE AREA	DECK AREA	STORAGE AREA	TOTAL REMODEL AREA	NO OF STORES
EXISTING BUILDING	—	—	—	—	—	—
NEW CONSTRUCTION	<u>5,500 SF</u>	<u>750 SF</u>	<u>780 SF</u>			<u>2</u>
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	<u>525</u>	<u>3/8/12</u>	<u>12-558</u>				
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

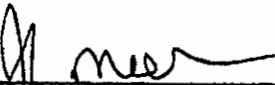
EXHIBIT # 9

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

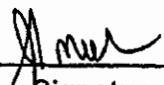
1. I understand there are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision-making body about this application.
2. I understand major changes to the project may require a new application and payment of additional or new fees.
3. If this application 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



P. O. Box 9668
South Laguna, CA 92652
southlaguna.org

EXHIBIT # 9
PAGE 5 OF 14

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

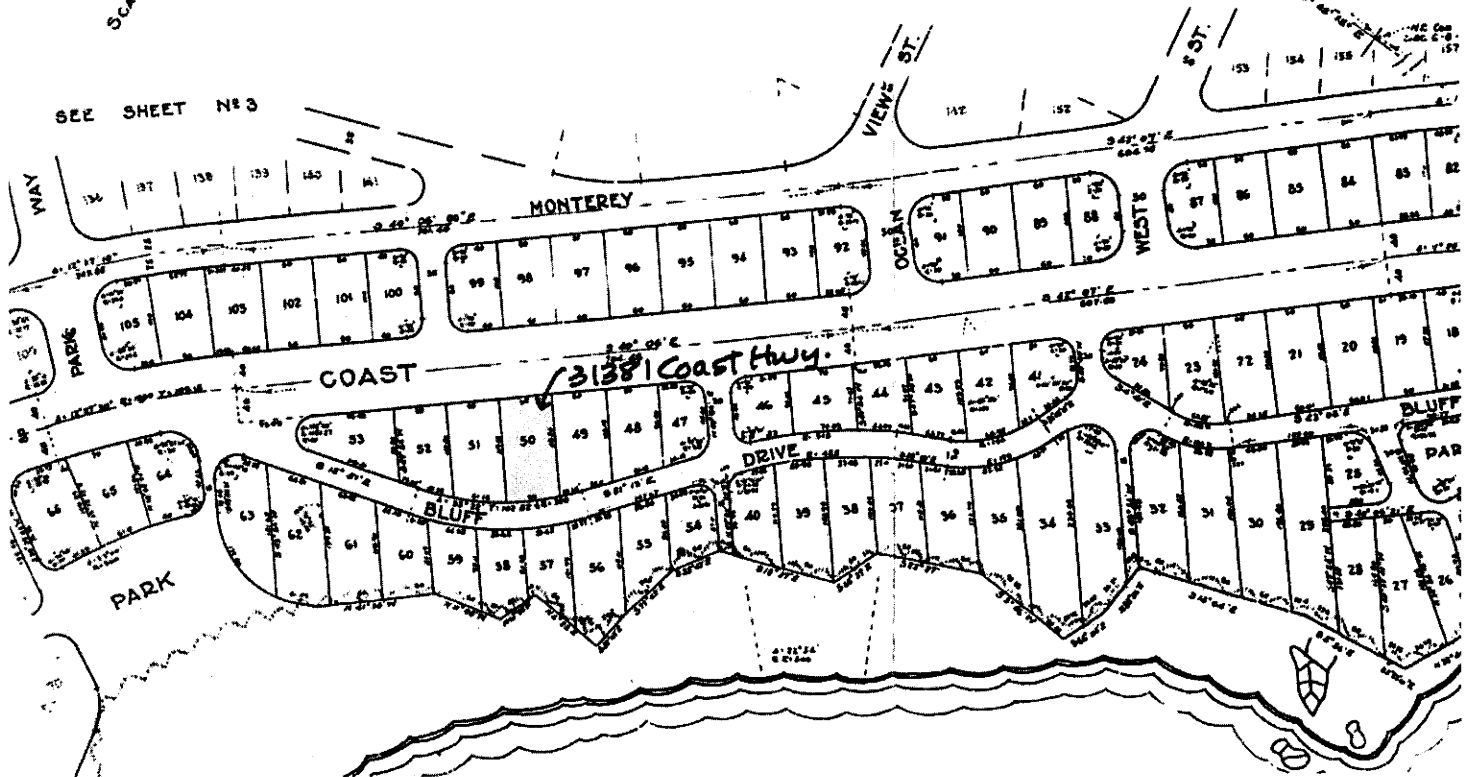
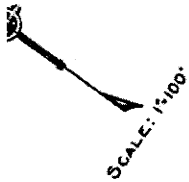
TRACT N^o 702

COAST ROYAL

FILED

55-11-11-11-11-11
at request of
Business
ORANGE COUNTY DEEDS
and Mortgages
5-22

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 ABANDON-
MENT OF STREETS AND ALLEYS AS PER RESOLUTION OF THE
BOARD OF SUPERVISORS AS RECORDED IN MINUTE BOOK 18, PAGE 232
ALSO PORTIONS OF LOTS 2 & 3 SEC. 6 AND LOT 4 SEC. 5 ALL IN
T. 8 S. R. 8 W. S. 8 E. & M.
LAGUNA BEACH, ORANGE COUNTY, CALIFORNIA.



COASTAL COMMISSION

EXHIBIT # 9
PAGE 7 OF 14

Page 3

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

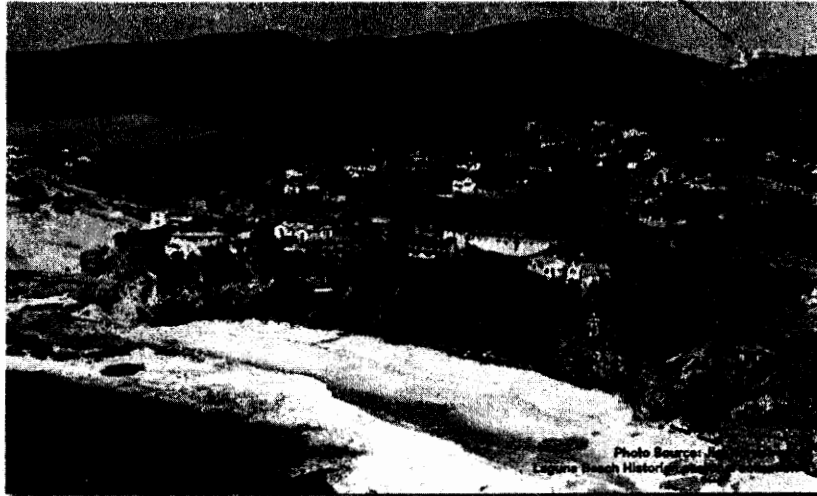
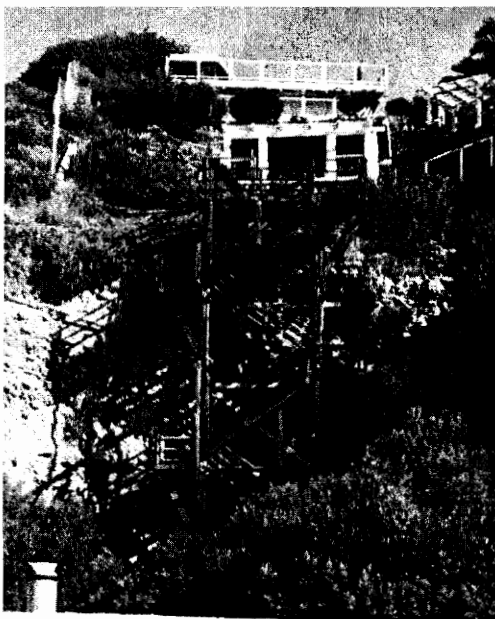


Photo dated based on architecture, design and presence of other buildings in the photo. The original cabana and the staircase to the beach remain intact and unaltered at the present time.

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.



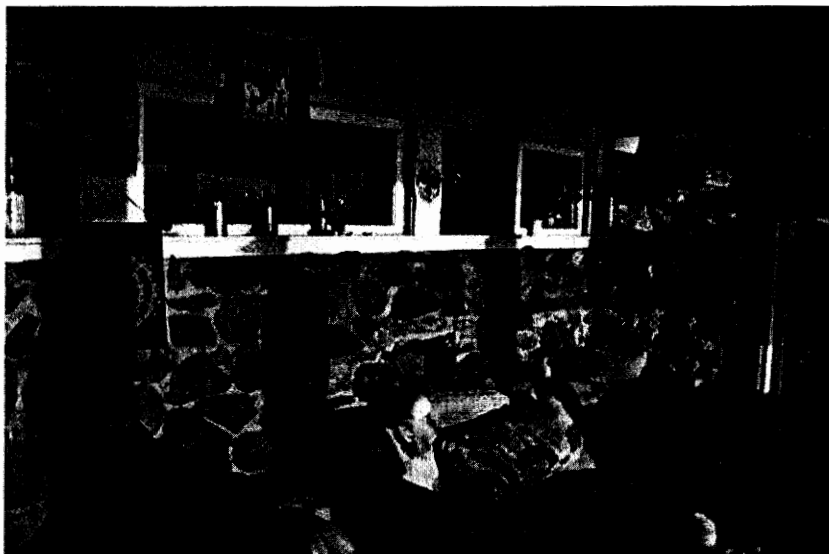
Comment: It seems ironic to us that the applicant fought so hard to get permits to demolish what was a true historic resource, the Stonehenge house, but now is maintaining that the stairs are historic and should be allowed to remain, even though they are not as old and significant as the house was. In 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

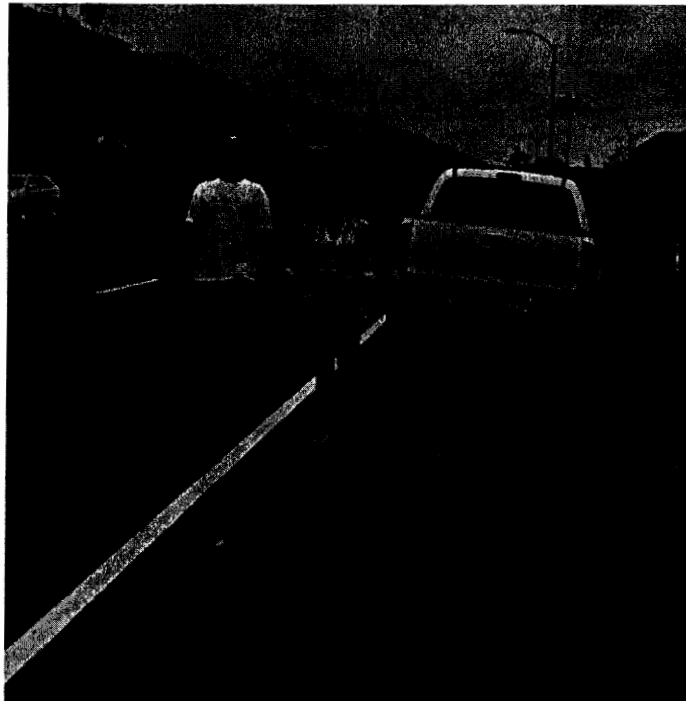
3. Sidewalk along Coast Highway: Our appeal points out that a sidewalk 5' wide is recommended in the LCP. It is also recommended for ADA access because:

"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 # 9
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.

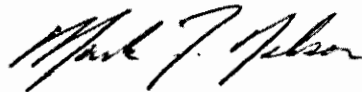
Conclusion.

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