

CALIFORNIA COASTAL COMMISSION

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



W12a

A-5-LGB-16-0098 (31505 BLUFF DRIVE)

AUGUST 9, 2017

EXHIBITS

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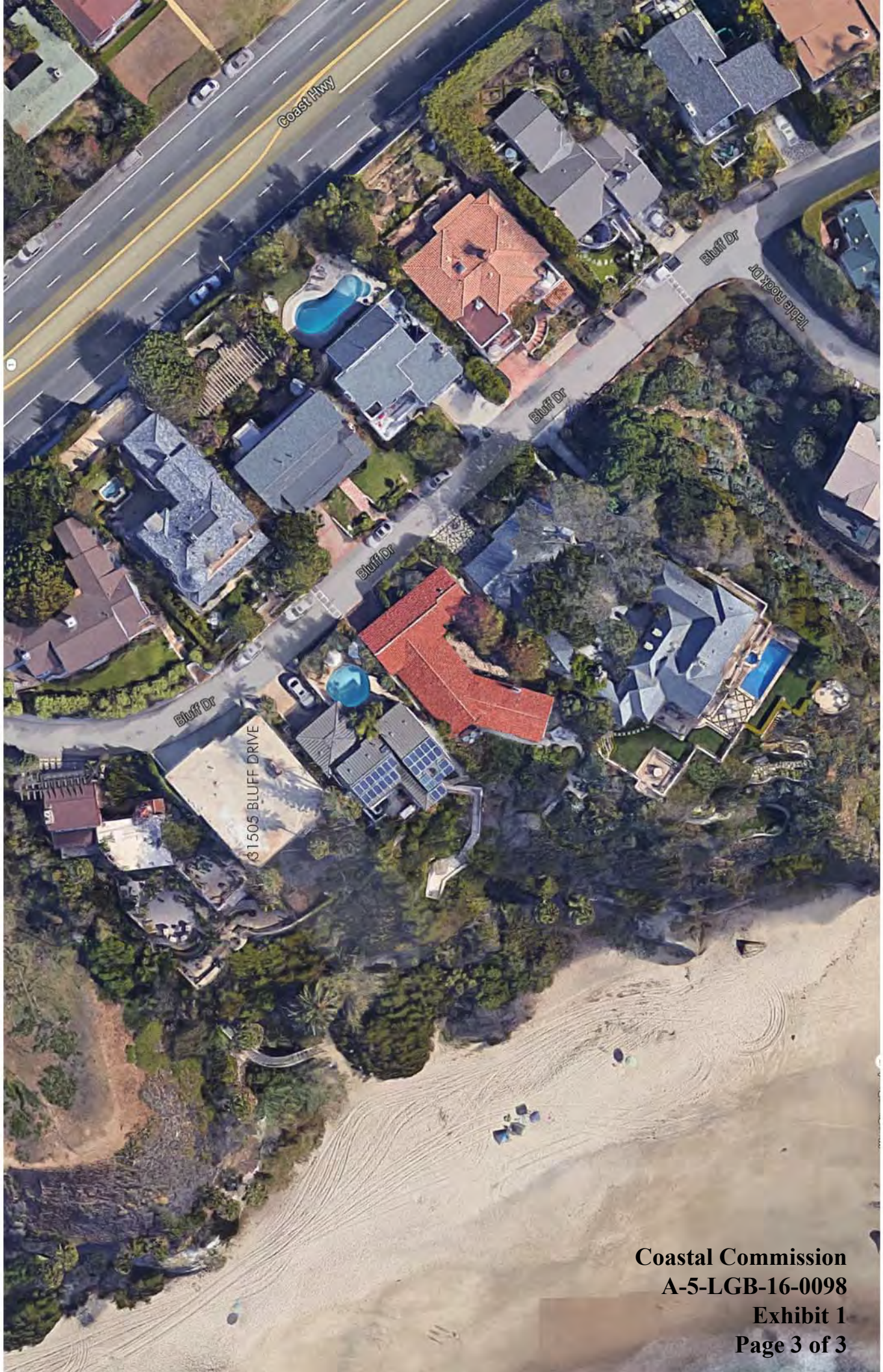
- Exhibit 1 – Project Location
- Exhibit 2 – Project Plans
- Exhibit 3 – Elevations and Renderings
- Exhibit 4 – Appeal
- Exhibit 5 – Design Review Board Case 16-0840
- Exhibit 6 – City Resolution for local CDP 16-0841
- Exhibit 7 – CCC Memo: Bluff Edge
- Exhibit 8 – Letter from Applicant's Agent Responding to Appeal
- Exhibit 9 – Letter of Opposition from Daniel Haspert

Project Location: 31505 Bluff Drive, Laguna Beach, CA





EXHIBIT "B"

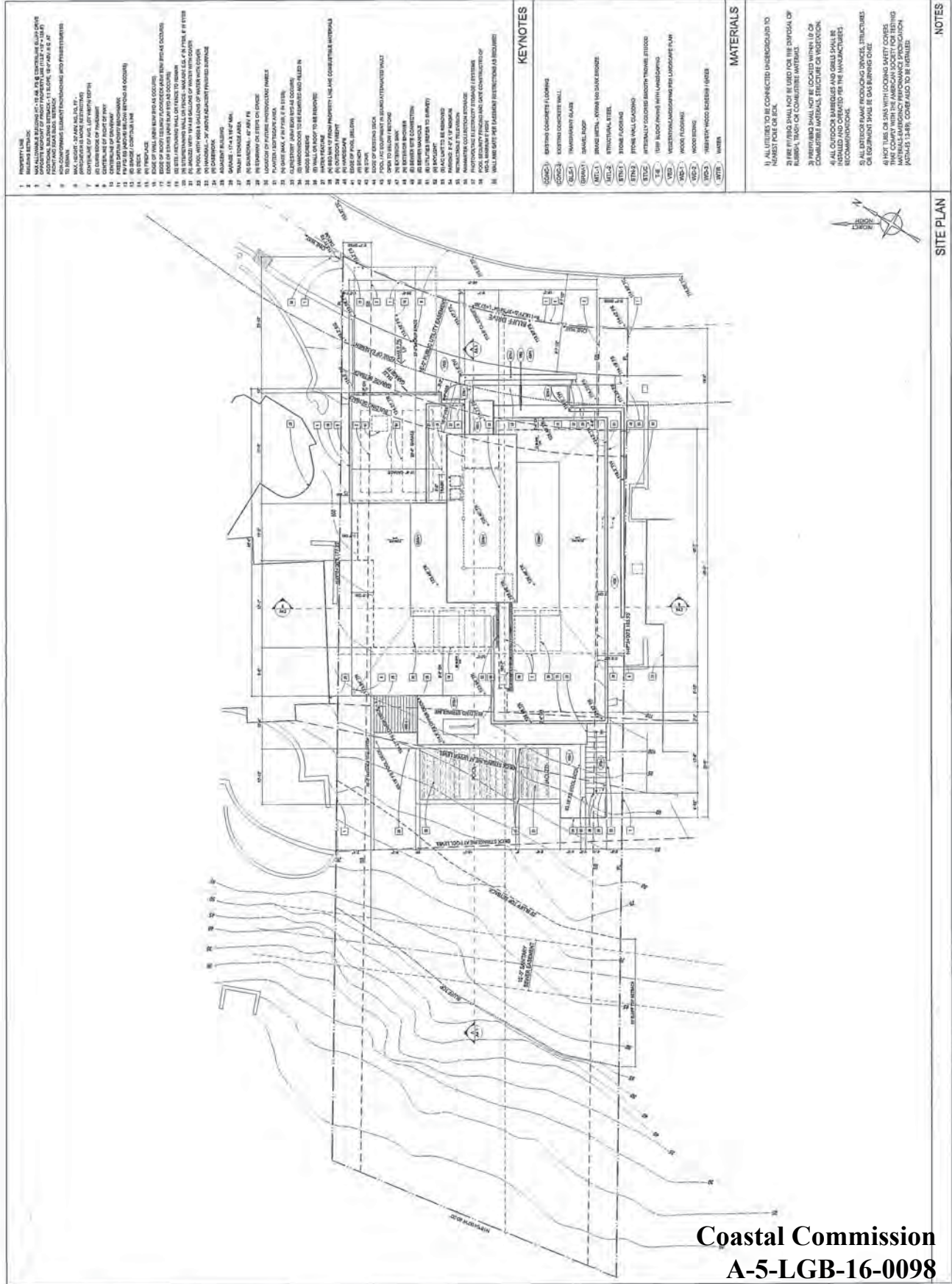


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BLUFF DRIVE RESIDENCE 31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

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Coastal Commission
A-5-LGB-16-0098

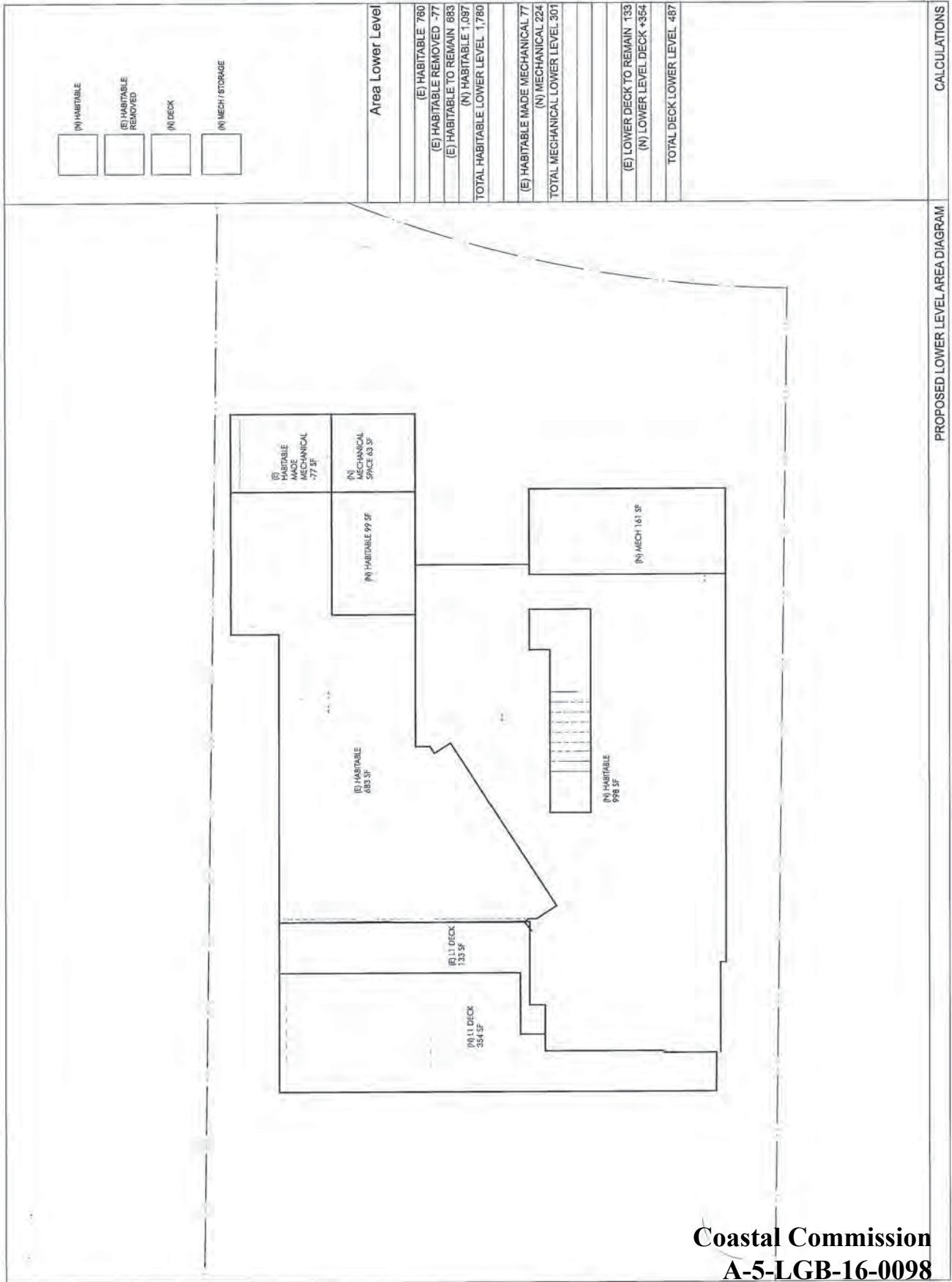
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BLUFF DRIVE RESIDENCE
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

MOORE ARCHITECTS
4411 VAN DYKE

DATE: 11/27/16
SCALE: 1/4" = 1'-0"
SHEET: 10/27/16

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Coastal Commission
A-5-LGB-16-0098

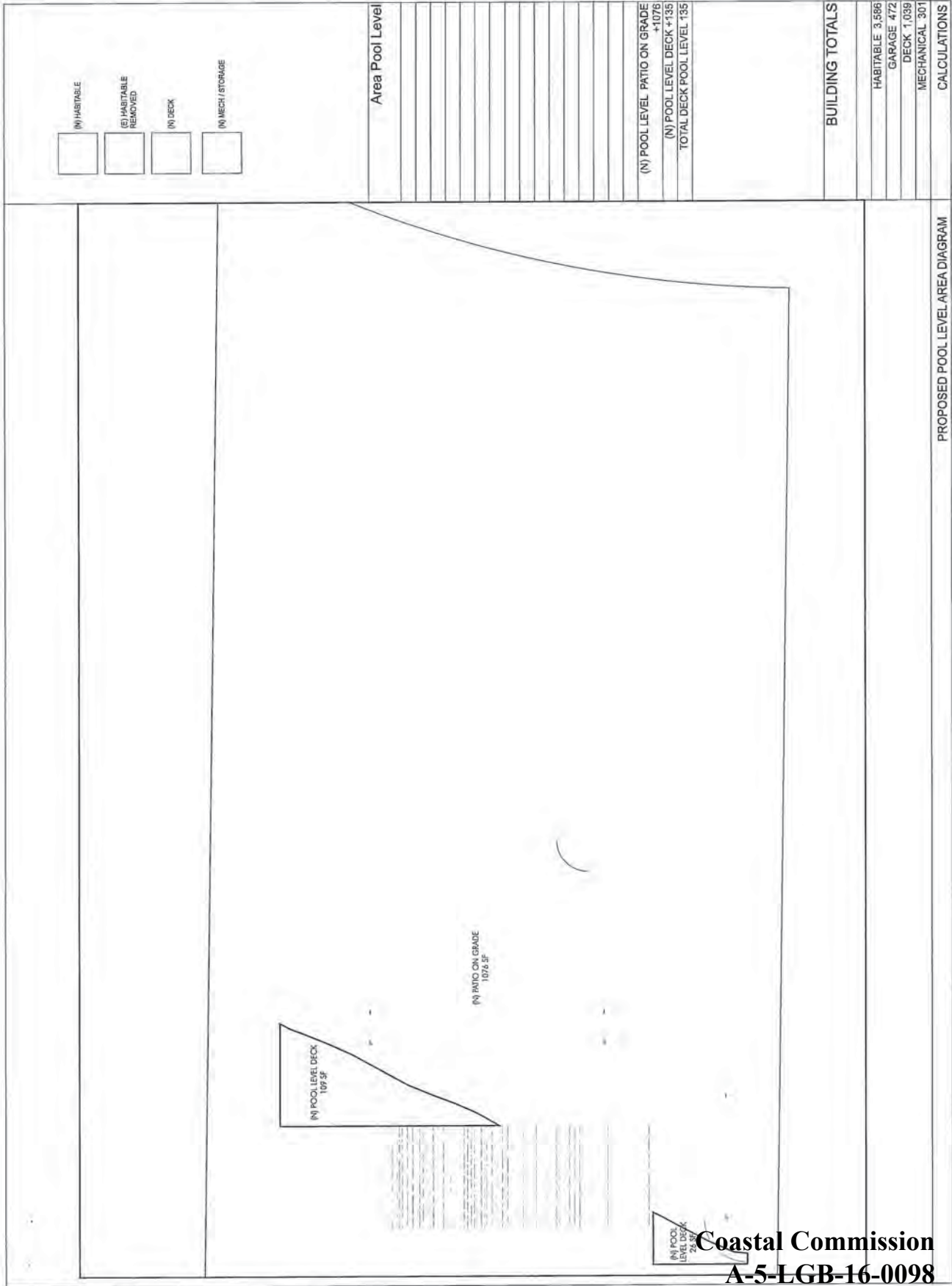
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BLUFF DRIVE RESIDENCE
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

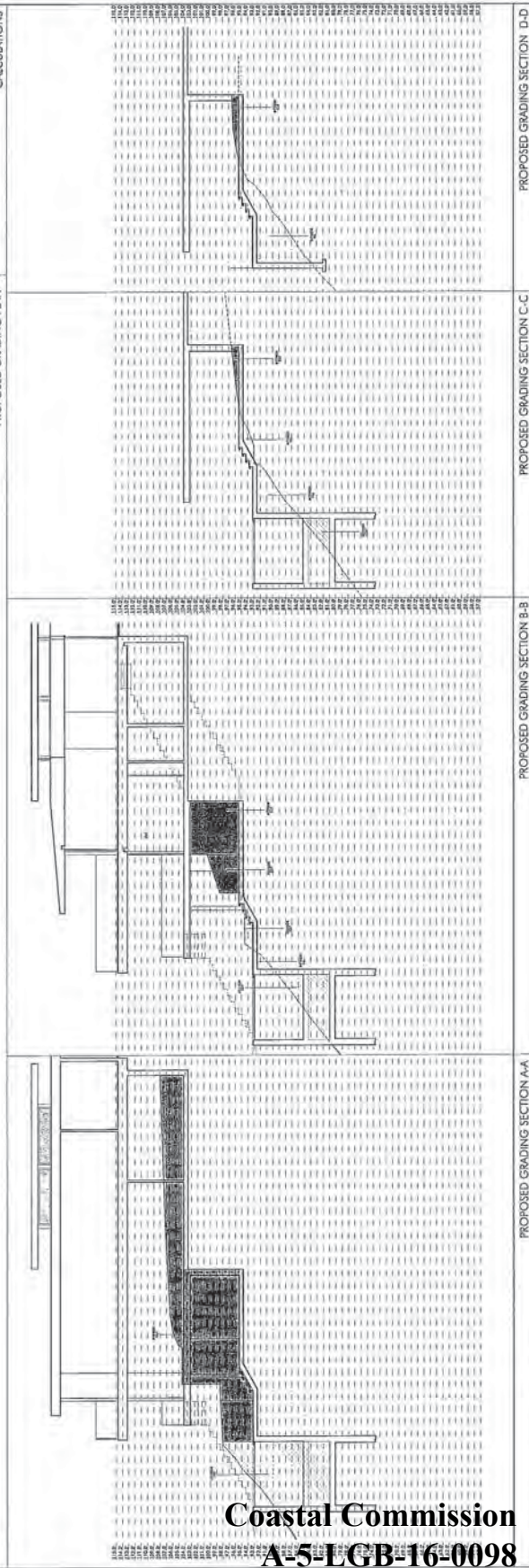
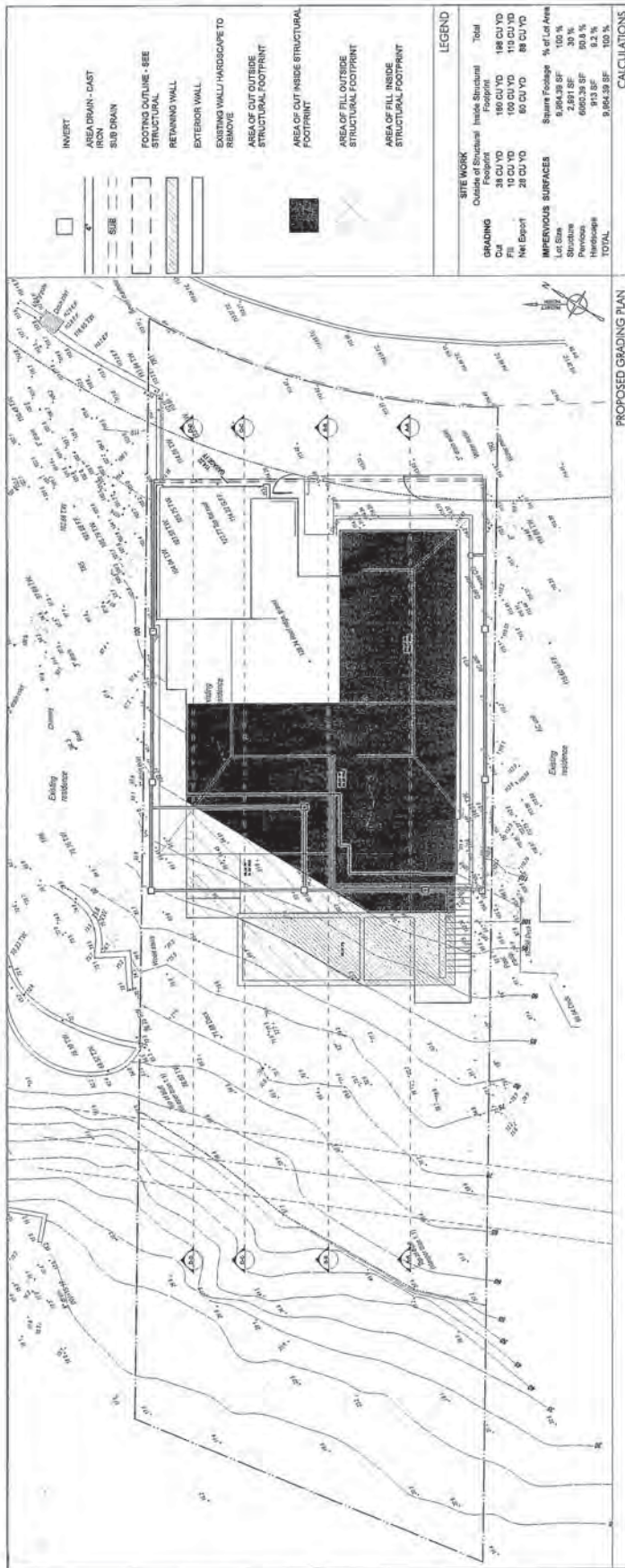
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11/11/2018

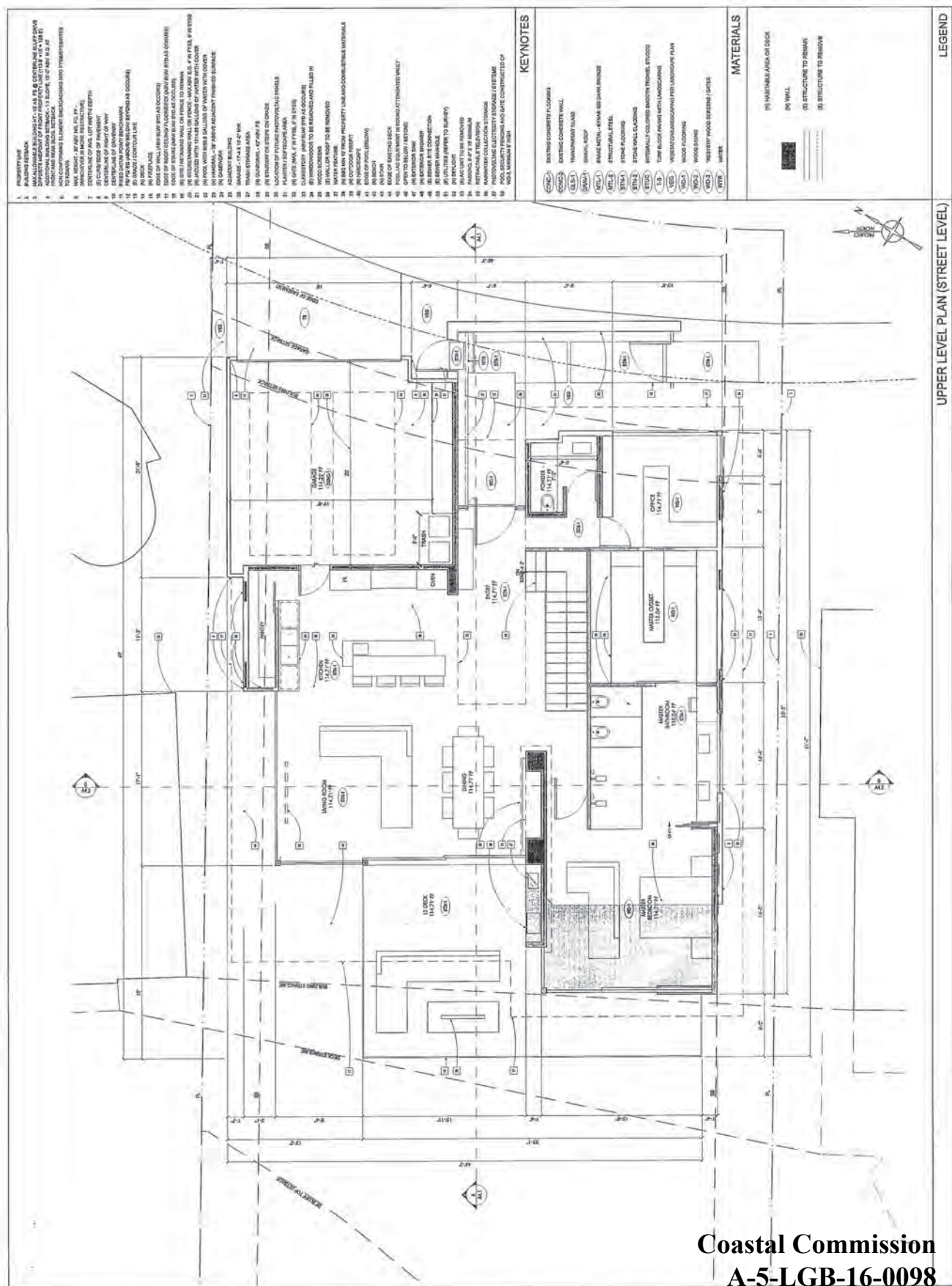
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A1.4b



Coastal Commission
A-5-LGB-16-0098



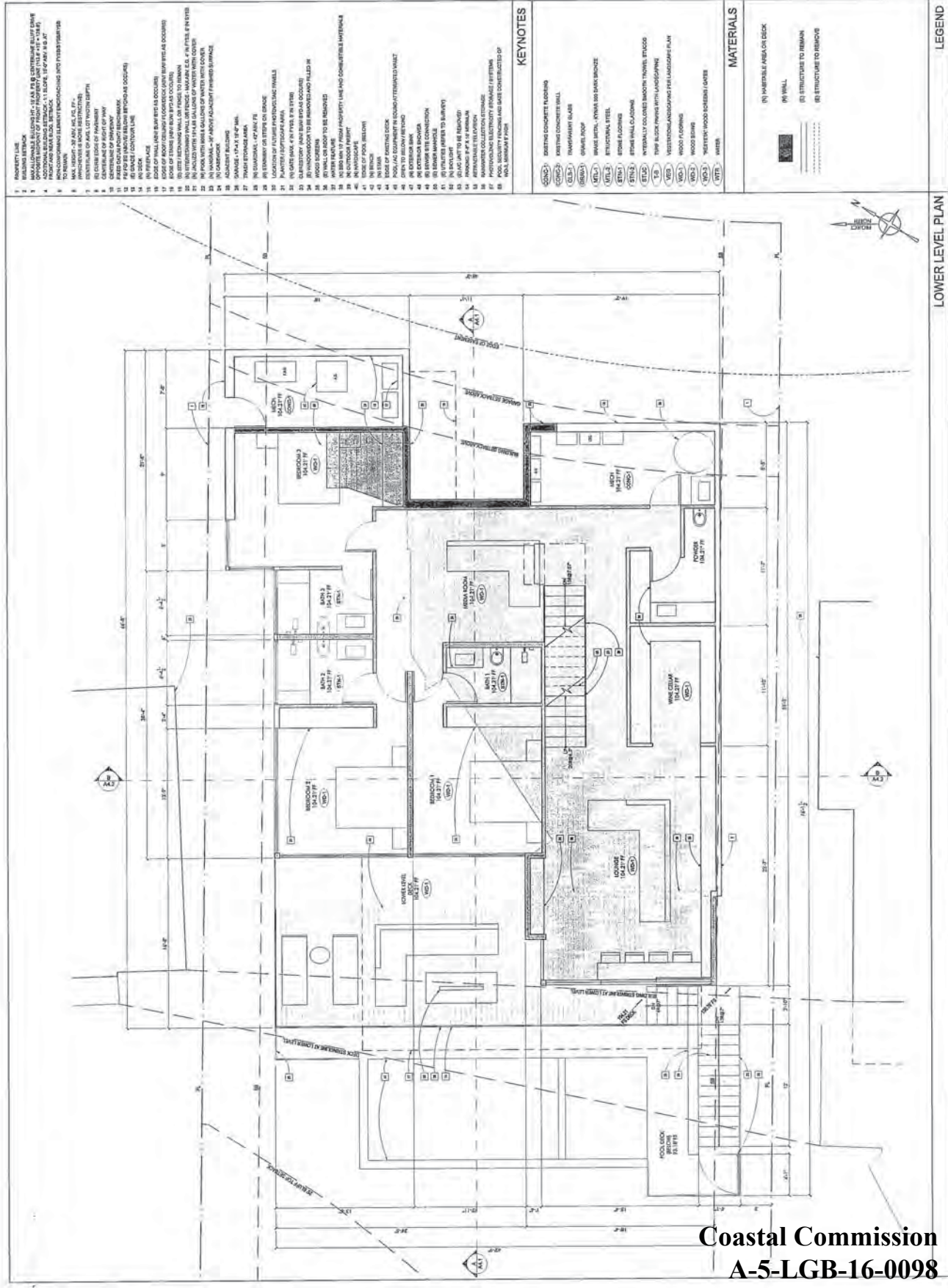


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BLUFF DRIVE RESIDENCE
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

PROJECT: A-5-LGB-16-0098
DATE: 11-14-16

1/4" = 1'-0"
A2.2



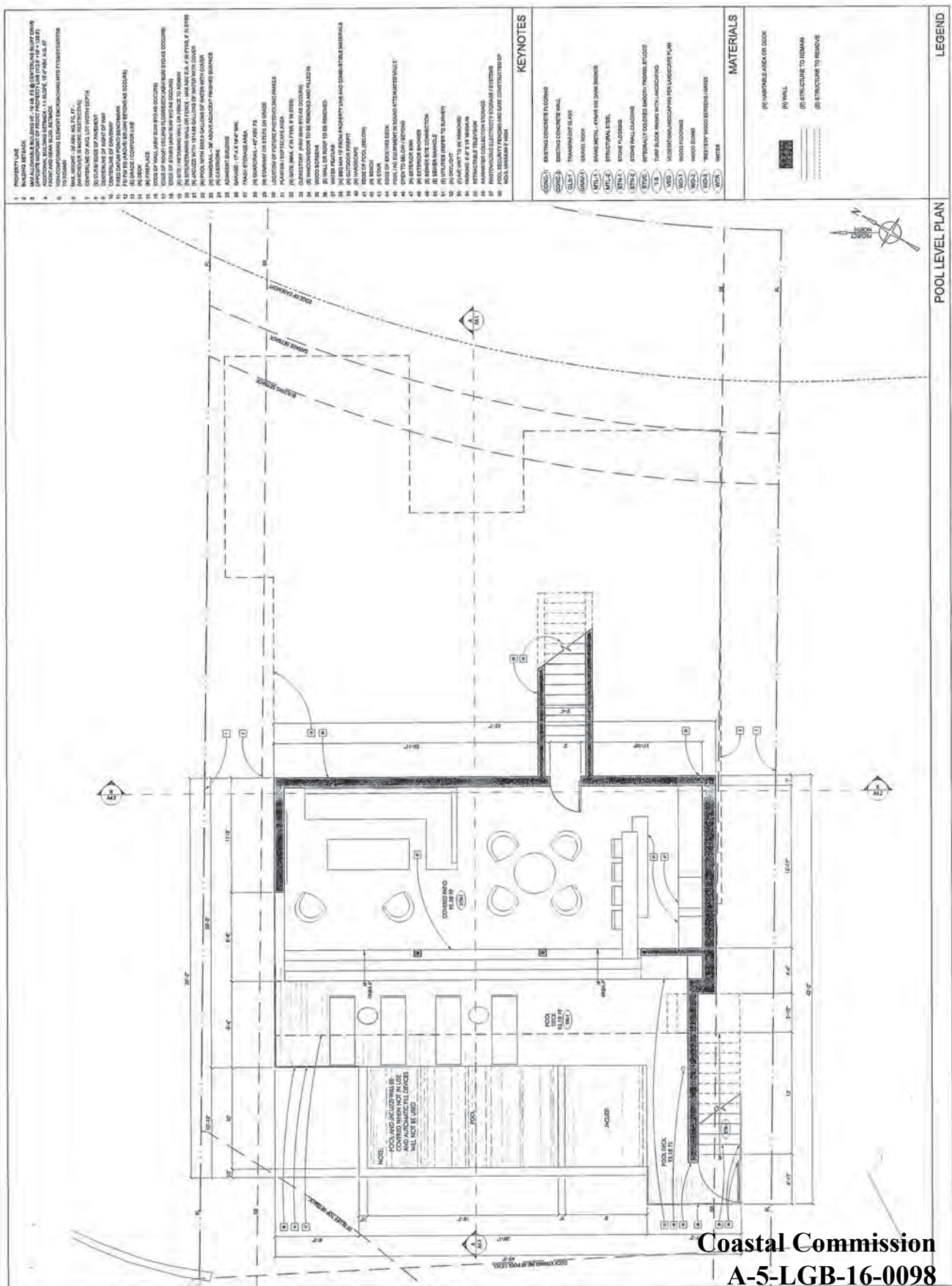
Coastal Commission
A-5-LGB-16-0098
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BLUFF DRIVE RESIDENCE
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

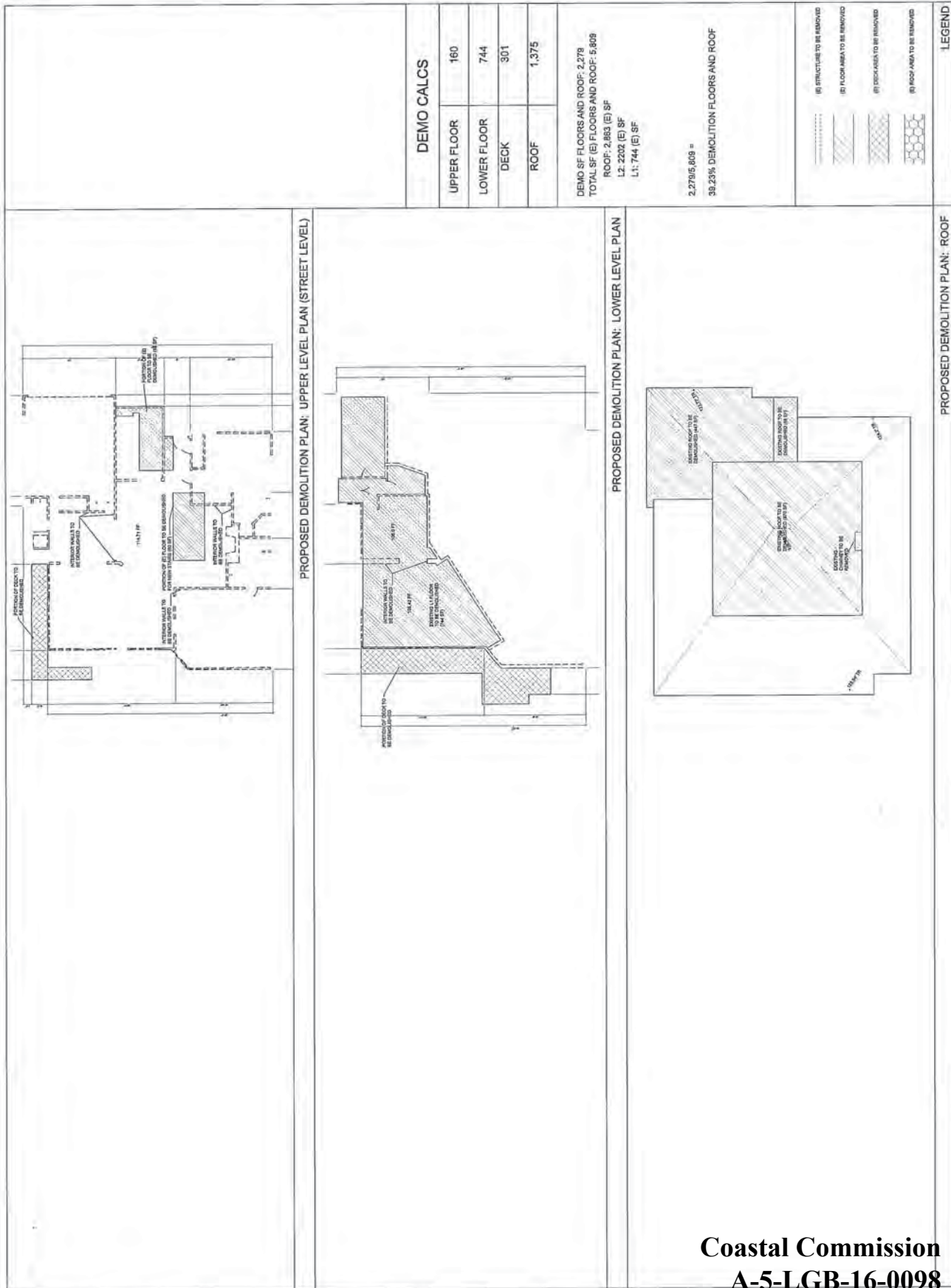
BLUFF DRIVE RESIDENCE
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

HONEY BEE
1/16" = 1'-0"

1/16" = 1'-0"
ELEVATION
A2.3



Coastal Commission
A-5-LGB-16-0098



31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

BLUFF DRIVE RESIDENCE

NOBIS CONSULTING
P.O. BOX 1411
LAGUNA BEACH, CA 92651

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

Project No: 01-12345

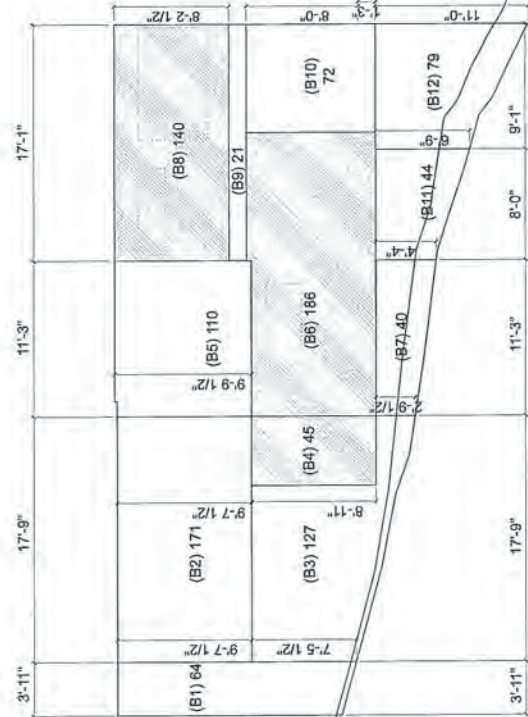
X4.2

East Facade			
Key	Keep	Demo	
A1	94	94	
A2	46	46	
A3	125	125	
A4	157	157	
Total Sf	157	285	
Total %	37.2%	62.8%	



ELEVATION DEMO: EAST ELEVATION

North Facade			
Key	Keep	Demo	
B1	64	64	
B2	171	171	
B3	127	127	
B4	45	45	
B5	110	110	
B6	186	186	
B7	40	40	
B8	140	140	
B9	21	21	
B10	72	72	
B11	44	44	
B12	79	79	
Total Sf	728	371	
Total %	66.24%	33.76%	



ELEVATION DEMO: NORTH ELEVATION

Coastal Commission
A-5-LGB-16-0098

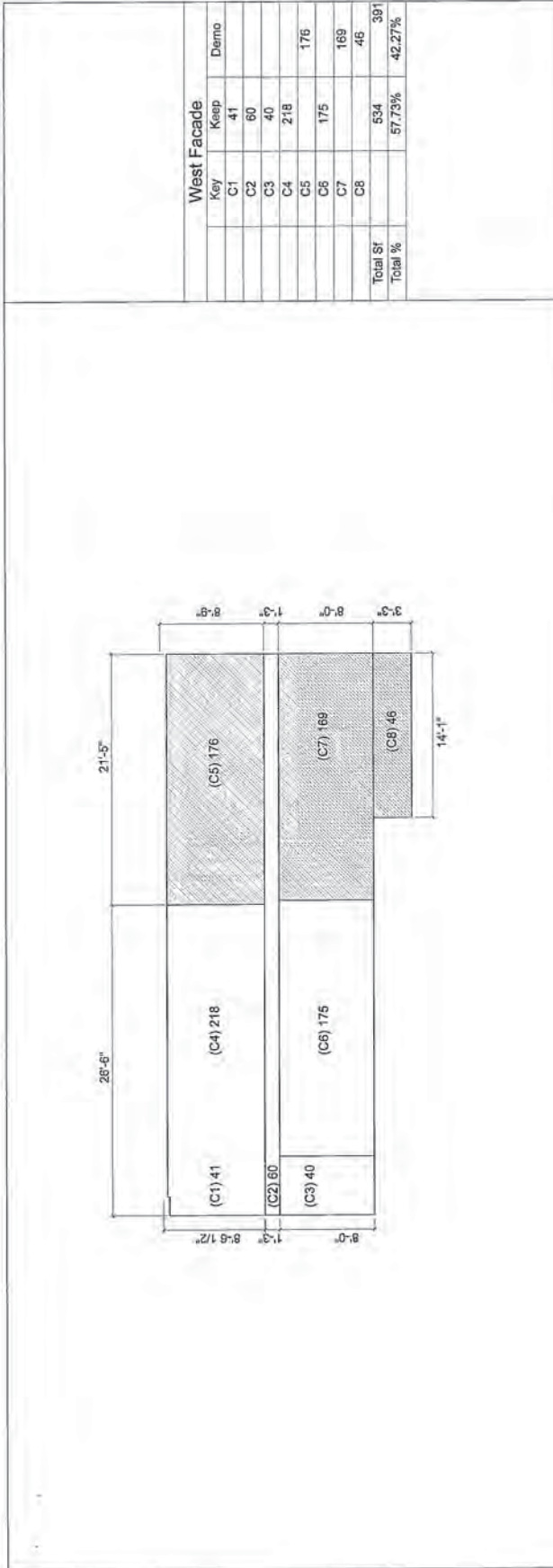
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BLUFF DRIVE RESIDENCE
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

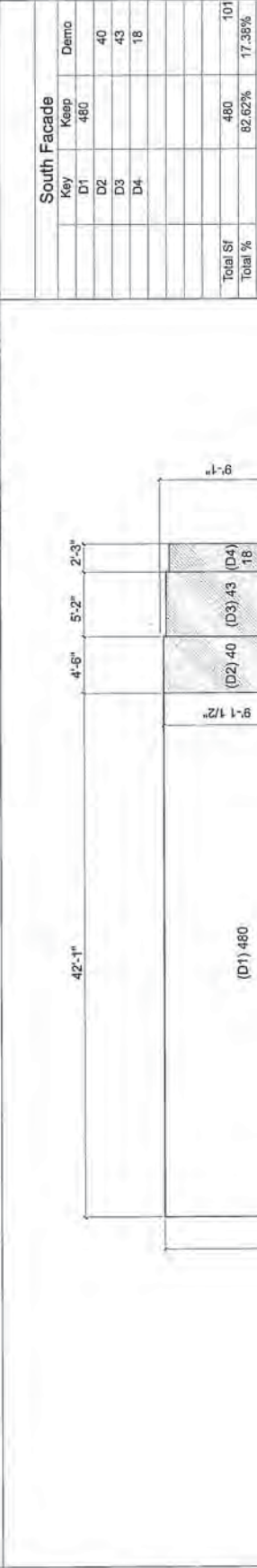
HORNET Architects
1001 10th Ave

Scale: 1/4"=1'-0"
Project: BLUFF DRIVE
Date: 01/12/2015

X4.3



ELEVATION DEMO: WEST ELEVATION



ELEVATION DEMO: SOUTH ELEVATION

West Facade		
Key	Keep	Demo
C1	41	
C2	60	
C3	40	
C4	218	
C5	176	
C6	175	
C7	169	
C8	46	
Total Sf	534	391
Total %	57.75%	42.27%

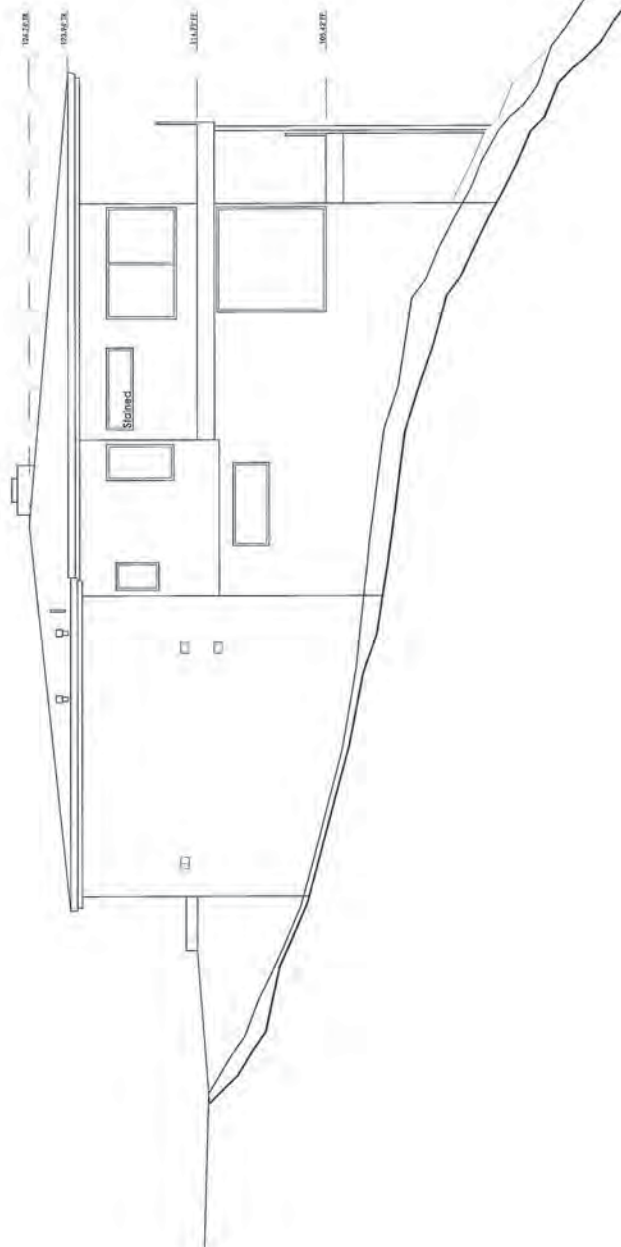
South Facade		
Key	Keep	Demo
D1	480	
D2	40	
D3	43	
D4	18	
Total Sf	480	101
Total %	82.62%	17.38%

Building		
Facade	Keep	Demo
EAST	157	255
NORTH	728	371
WEST	534	391
SOUTH	480	101
Total Sf	1899	1128
Total %	62.74%	37.26%

BLUFF DRIVE RESIDENCE
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

REVISED	1/4" = 1'-0"
PLOT NAME	03.07.2018
PROJECT NUMBER	

E1.3



EXISTING EAST AND NORTH ELEVATIONS

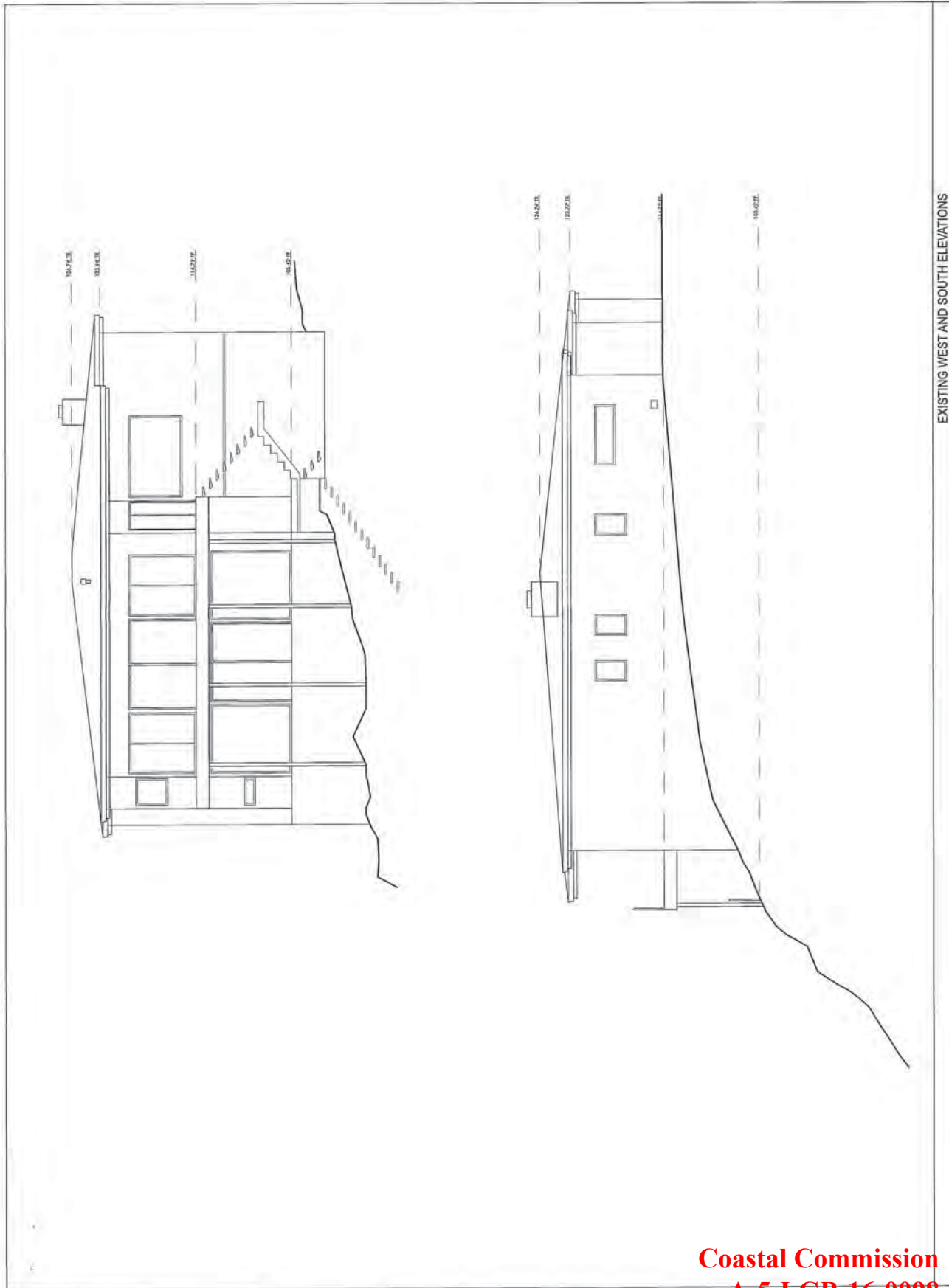
These drawings were prepared by the Architect for the purpose of illustrating the proposed project and are not to be used for any other purpose without the written consent of the Architect. The Architect assumes no responsibility for the accuracy or completeness of the information provided by the client or for the results of the project. The Architect's services are limited to the design and construction of the project as shown on these drawings.

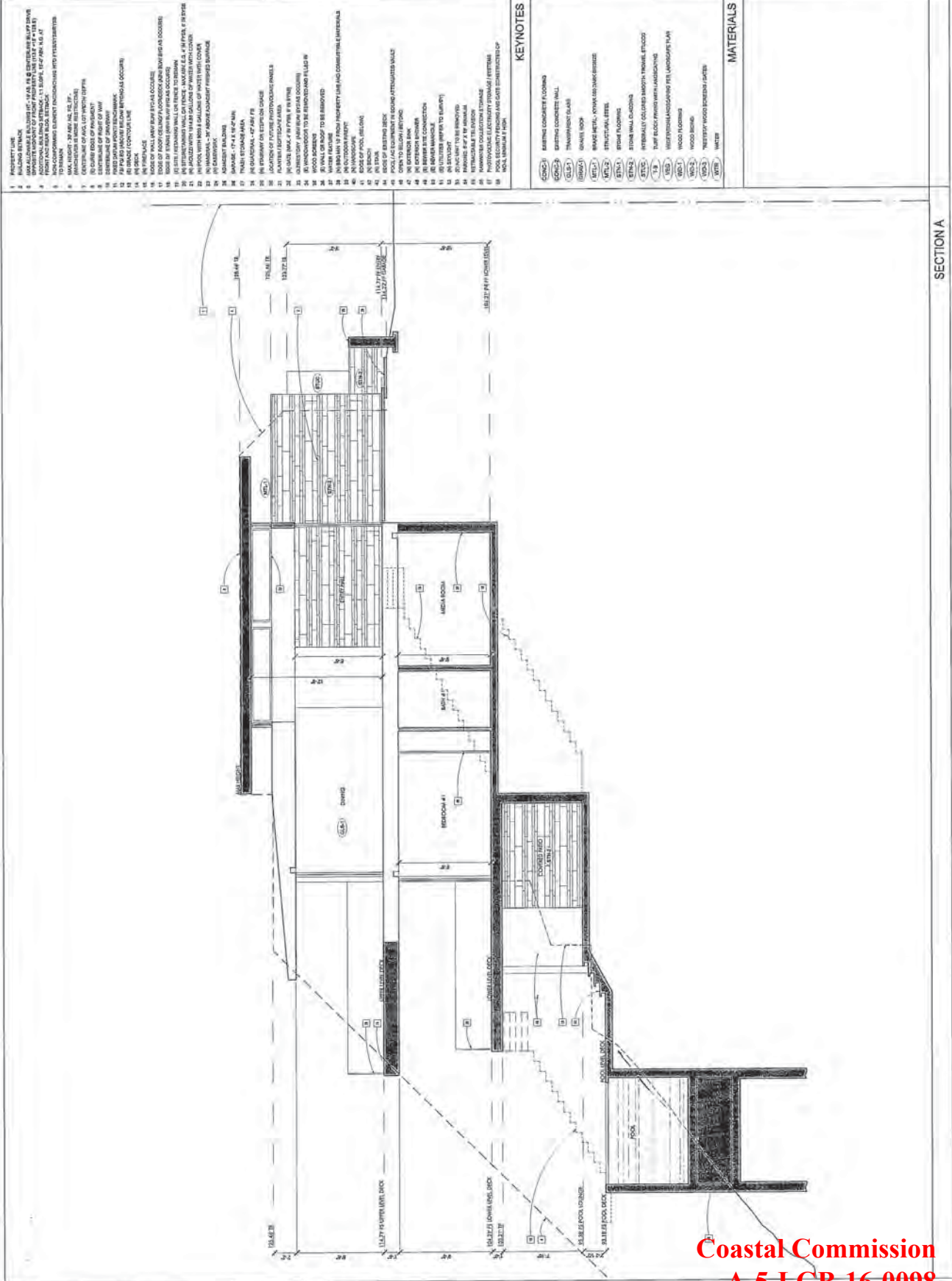
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651
BLUFF DRIVE RESIDENCE

HOBBS ARCHITECTS
 4141 11th Street
 Laguna Beach, CA 92651

Scale: 1/4" = 1'-0"
 Project: 0217-2014
 Sheet: 0217-2014

E1.4





BLUFF DRIVE RESIDENCE

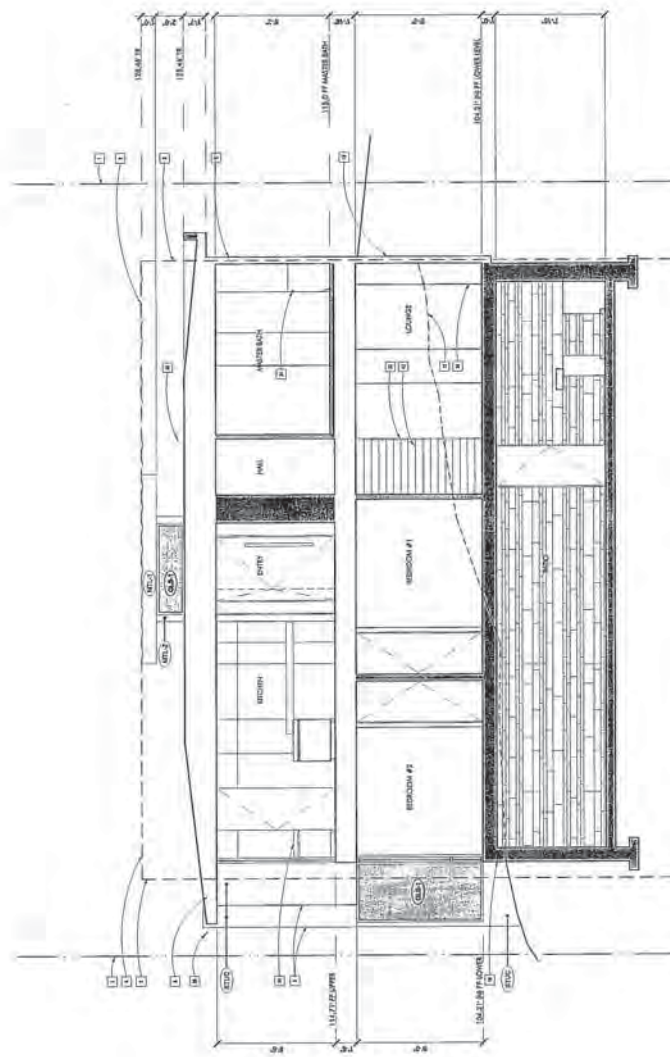
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KEYNOTES

- | | | | |
|---|--------------------------------------|-------------------|---------------------|
| EXISTING CONCRETE FLOORING | EXISTING CONCRETE WALL | TRANSPIRANT GLASS | WALLS ROOF |
| CONC-1 | CONC-2 | GLA-1 | ROOF-1 |
| MAINT. MTL., PYRAL. GAS DANK REMOVAL | FRONTAL FIBER | STONE FLOORING | STONE WALL CLADDING |
| MTL-1 | MTL-2 | STN-1 | STN-2 |
| PERMANENTLY COLORED SMOOTH FINISH, STUCCO | TEMP. COLORED FINISH WITH LAMINATING | WOOD FLOORING | WOOD ROOF |
| TR-1 | TR-2 | WDF-1 | WDF-2 |
| WOOD FLOORING | WOOD ROOF | WOOD ROOF | WOOD ROOF |
| WDF-3 | WDF-4 | WDF-5 | WDF-6 |

MATERIALS

- WPC-3
WTR



SECTION B

EXISTING STRUCTURE AT
31505 BLUFF DRIVE



PROPOSED STRUCTURE

(NOTE THIS IS AN EARLY RENDERING - THE POOL HAS BEEN LOWERED AND PULLED AWAY FROM THE OCEAN PER DESIGN REVIEW COMMENTS. THE DECKS HAVE ALSO BEEN REDUCED)

31505 BLUFF DRIVE



EXHIBIT "E"

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CALIFORNIA 90802-4416
909-5071 FAX (562) 590-5084

COASTAL.CA.GOV

FILE COPY**COMMISSION NOTIFICATION OF APPEAL**

December 01, 2016

To: Belinda Ann Deines
City of Laguna Beach
505 Forest Ave.
Laguna Beach, CA 92651

From: Charles Posner

Re: **Commission Appeal No. A-5-LGB-16-0098**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to the Public Resources Code Section 30623.

LOCAL PERMIT #: 16-0841

APPLICANT(S): Attn: Charles Kinstler

DESCRIPTION: Additions to a single-family residence, including new swimming pool, decks, and retaining walls.

LOCATION: 31505 Bluff Dr., Laguna Beach, Ca 92651 (APN(s): 658-092-47)

LOCAL DECISION: Approval with Special Conditions

APPELLANT(S): Mark Fudge

DATE APPEAL FILED: 12/01/2016

The Commission appeal number assigned to this appeal is A-5-LGB-16-0098. The Commission hearing date has not been scheduled at this time. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the City of Laguna Beach's consideration of this coastal development permit must be delivered to the South Coast District Office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

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Exhibit 4

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COMMISSION NOTIFICATION OF APPEAL

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Charles Posner at the South Coast District Office.

cc: Attn: Dan Haspert
Attn: Drs Robert & Jung French
Attn: Charles Kinstler
Attn: Horst Nopenberger
Attn: Bill Shopoff
TATTN, Attn: John Tommy Rosas
Attn: Mark Fudge
CCRPA, Attn: Patricia Martz, Ph.D
Attn: Jara & Brian Smith

Coastal Commission

A-5-LGB-16-0098

Exhibit 4

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CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

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

RECEIVED
South Coast Region

DEC 1 2016

CALIFORNIA
COASTAL COMMISSIONAPPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Mark Fudge

Mailing Address: P.O. Box 130

City: Laguna Beach CA

92652

Phone: 949-481-1100

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Laguna Beach

2. Brief description of development being appealed:

Design review 16-0840, Coastal Development Permit 16-0841 and a Categorical Exemption [Section 15301, Class 1(e)(1)] for about 1,000 square-foot addition to an existing single-family residence in the R-1 zone. Design review is required for elevated decks (786 square feet), grading, retaining walls, air conditioning units, pool/spa, landscaping, construction in an environmentally sensitive area (oceanfront) and to maintain nonconforming front and side setbacks.

3. Development's location (street address, assessor's parcel no., cross street, etc.):
31505 Bluff Drive, Laguna Beach CA 92651 APN 658-092-47

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

Approval; no special conditions

☒ Approval with special conditions:

Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-5-LGB-16-0098

DATE FILED:

12/1/16

DISTRICT:

South Coast

Coastal Commission

A-5-LGB-16-0098

Exhibit 4

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CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

5. Decision being appealed was made by (check one):
- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- ☒ Other - Design Review Board
6. Date of local government's decision: October 13, 2016
7. Local government's file number (if any): Permits DR 16-0840 and CDP 16-0841

SECTION III. Identification of Other Interested Persons

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

- a. Name and mailing address of permit applicant:
- | | |
|--------------------------------|-----------------------|
| Horst Noppenberger (architect) | Charles Kinstler |
| 241 Forest Ave. | 923 Emerald Bay |
| Laguna Beach CA 92651 | Laguna Beach CA 92651 |
- b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Mark Fudge
P.O. Box 130
Laguna Beach CA 92651

Dan Haspert
31501 Bluff Drive
Laguna Beach CA 92651
949-230-3023

Jara & Brian Smith
31442 Monterey Street
Laguna Beach CA 92651
(949) 510-8843

Bill Shopoff
31461 Coast Highway
Laguna Beach 92651

Drs Robert & Jung French
31511 Bluff Drive
Laguna Beach CA 92651
(949) 233-2252

TATTN
John Tommy Rosas
578 Washington Blvd. #384
Marina Del Rey CA 90292

CCRPA
Patricia Martz Ph.D.
P O Box 54132
Irvine CA 92619

Coastal Commission
A-5-LGB-16-0098

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

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

There were three public hearings for the project located at 31505 Bluff Drive - June 23, 2016, August 11, 2016 and October 13, 2016. On October 13, 2016 the Design Review Board of Laguna Beach approved the project. I was unable to attend the final meeting but did attend the prior two meetings. I submitted letters (attached) and spoke to my concerns. By participating in the local hearings I have standing to bring this appeal. The letters voiced my concerns that the City was not following the certified LCP if they were to approve the project on the environmentally sensitive oceanfront parcel without benefit of an Initial Study as required by Actions 7.4.2 and 10.3.1 of the Land Use Element (a part of the certified LCP).

Unlawful and Preferential Application of the Certified Local Coastal Program

The law requires that all who approach the City must be treated fairly and equally, however, in it's application of the certified LCP the City fails this standard. Applicants for development, and the public in general, are faced with conflicting ordinances and an Implementation plan that does not comport with the General Plan. The public is faced with the whims of the City staff that follow one rule or another in an inconsistent manner.

**Coastal Commission
A-5-LGB-16-0098**

Exhibit 4

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**CALIFORNIA COASTAL COMMISSION**

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

The City's Municipal Code (published both in paper and online) is misleading. In some cases the municipal code contains language not certified by the CCC accompanied by a footnote that 'until the ordinance (for example - ORD1543) is certified by the CCC' it is not in effect. This leads to confusion. The City staff routinely follows uncertified code provisions - most specifically those related to "major remodels", 'nonconforming buildings and uses', 'blufftop setbacks', and ignores portions of the Land Use Element Glossary. I will go into more detail with those within the body of the appeal.

Certified Language in the Land Use Element is contradicted by IP language in the Municipal Code (major remodels). Coastal Development Permits are processed by City staff with the knowledge of the defect in the code to intentionally approve or deny permits by using code that serves their propose.

The five specific areas I believe the project approval at 31505 does not comply with the certified LCP are as follows:

1. This project qualifies as a Major Remodel

The City continues to use the definition of "Major Remodel" that was submitted as a LCP amendment but was never certified. This causes much confusion. Approving development that relies on non-certified code sets a bad precedent. (see pre-application site meeting report - attached).

The (certified) Land Use Element Glossary defines 'Major Remodel' as:

"Alteration of or an addition to an existing building or structure that increases the square footage of the existing building or structure by 50% or more; or demolition, removal, replacement and/or reconstruction of 50% or more of the existing structure; greater specificity shall be provided in the Laguna Beach Municipal Code."

[Land Use Element Glossary (which was adopted by City Council Feb 7, 2012 and Certified by the CCC in May of 2012)]

Coastal Commission

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Exhibit 4

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CALIFORNIA COASTAL COMMISSION

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

(Certified) LBMC 25.10.008 Property Development Standards R-1 Residential low Density Standards:

*A major remodel is a **structural renovation and/or addition**, which equals or exceeds fifty percent of the original gross floor area of the structure on the lot.*

[April 13, 2012 - At the CCC meeting the City withdrew the request for certification of ORD 1543 which included adding a definition of 'major remodel'. The previous definition (above) still stands.]

It is clear that the City-approved project exceeds the threshold of a major remodel. This a total redevelopment of this home, and as such, must be reviewed as if the project is on vacant ground as provided by the LBMC non-conforming code sections (LBMC 25.56.009)(further detailed in item 2 below).

2. Non-conformities are being expanded.

- **Non Conforming Structure** — the existing residence is likely placed within the 25 foot bluff edge and quite possibly on the bluff itself. As approved, the front and side setback violations are being allowed to continue.

The overarching purpose of the IP's nonconforming use section (LBMC 25.56) is to provide for the control, improvement, *and termination (Major Remodel)* of uses or structures which do not conform to the regulations of this title. However, the City-approved project will result in the indefinite continuation of the nonconforming residential structures and uses at this critically important oceanfront, bluff top location, particularly with respect to the approved foundation improvements.

Furthermore, the project allows for a complete redevelopment of the residence (without finding(s) that the nonconforming setbacks were actually legal at the time of permitting), including a **1000 square foot addition, new foundation, new exterior siding, windows, doors, mechanical systems, a new roof, and a new pool and decks**. The City-approved redevelopment project goes well beyond repair and maintenance of the existing nonconforming development. Therefore, the City-approved project furthers the

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life of the residence and makes the use more nonconforming by extending the life of the structure indefinitely.

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. (emphasis added)*

Such approval raises substantial questions regarding LCP consistency that require evaluation by the Commission for development at this critical location.

- **The approved development is sited on the bluff face.**

The Land Use Element (Glossary) - a component of the City of Laguna Beach certified LCP - contains the following definition of "Ocean Front 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 sea cliff. 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 has not been located as depicted in the Toal Engineering Topographic Study (seaward of which a downward gradient is maintained).

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continuously to the base of the bluff). The area where the downward gradient exists continuously is the bluff face. The applicant and City argue (see Letter from Anderson Geology - July 2016) that the bluff edge is the line where a 45 degree slope is maintained continuously, but that definition is based on an interpretation of old City definitions and policies. The major update to the Land Use Plan, which made clear the definition of bluff edge, was certified on May 9, 2012.

It is highly likely that the bluff edge (by certified definition) is located under the footprint of the existing residence (see 31381 Coast Highway - Meehan). I leave it to the CCC and its staff to make that determination.

Policy 7.3 of the Land Use Element states:

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

Action 7.3.5 of the Land Use Element states:

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

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

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- **The approved development doesn't conform to required bluff setbacks.**

Action 10.2.7 of the Land Use Element states:

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

Action 10.2.8 of the Land Use Element states:

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

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

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

Policy 2.8 of the Land Use Element states:

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

Action 7.3.3 of the Land Use Element states:

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

Policy 7.10 of the Land Use Element states:

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

The approved house and pool area and decks appear to encroach onto the bluff face and will likely require substantial grading and deepened foundations. The applicant has not provided a foundation plan. Development on the bluff face also impacts visual resources. Viewing the bluff from the public beach, the City-approved pool and decks would obscure a portion of the natural landform, which is inconsistent with the LCP policies on visual resources. Finally, the City's action to approve the development without conditioning it to minimize future landform alteration is inconsistent with numerous LCP policies.

Action 7.3.7 of the Land Use Element states:

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

Action 7.3.8 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. (Ongoing implementation.)

Action 7.3.9 of the Land Use Element states:

Ensure that new development, major remodels and additions to existing structures on oceanfront and oceanfront bluff sites do not rely on existing or future bluff/shoreline protection devices to establish geologic stability or protection from coastal hazards. A

condition of the permit for all such new development on bluff property shall expressly

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require waiver of any such rights to a new bluff/shoreline protection device in the future and recording of said waiver on the title of the property as a deed restriction.

Policy 7.7 of the Land Use Element

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

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

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

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

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safety against landsliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer) for the economic life of the structure.

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

4. Unknown effects on Cultural and Historic Resources

- **The project may have effects on Archeo/Paleo resources but has not been conditioned to address such effects.**

Topic 12 of the Open Space/Conservation Element of the General Plan states that Coastal/Scientific Resources in South Laguna need 'proper mitigation measures, including preservation for archaeological and paleontological resource sites'.

Policy 12C states:

Development adjacent to a place, structure or feature found to be of historical significance shall be designed so that the uses permitted and the architectural design will protect the visual setting of the historical site.

This project is located geographically very near to known archeological site P-30-000842 (at 31461 Coast Hwy (Shopoff) recently approved project). That site was almost overlooked by the City (stating in early staff reports that no recorded site existed) until the owner of that property prepared an Initial Study prompted by my request to him. This new project on Bluff Dr. will most likely not have any effects on that known Coast Hwy. archeological site, but due to the close proximity, should have mitigations required to protect any potential archeo/paleo discoveries during construction. An archaeological study letter was provided for the August 11, 2016 Design Review meeting. There was discussion of mitigations and monitoring requirements but none were ever included in the final approval.

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California Native American tribes were not consulted as required by AB52. John Tommy Rosas (Tribal Administrator/Tribal Litigator for TATTN (Tongva Ancestral Territorial Tribal Nation) had written the City on May 7, 2016 requesting that the TATTN be added to the City's tribal consultation list since they felt they'd been illegally excluded. (PRC § 21080.3.1(b)). There is no evidence in the record for this Bluff Drive project that the TATTN was consulted.

- **Determination of historicity of home has not been made.**

Although the home does not appear on the City's historic inventory or register, it is a structure that is more than 45 years old and as such should be evaluated (as required by CEQA) as to whether or not it is important as a mid-century modern structure. This has not been done not has the California Historic Resource Information System been consulted.

At the very least, the project needs to be conditioned to protect potential cultural and historic resources.

5. The Certified LCP requires CEQA compliance and preparation of an Initial Study for any development in an environmentally sensitive area.

"Anyone who wants to build on his own coastal zone property must obtain a coastal development permit. (§ 30600, subd. (a).) The application for a coastal development permit must be submitted either to the Coastal Commission or to the local governmental agency . . . , depending upon which entity has permitting jurisdiction — which, in turn, depends upon whether the local governmental agency has obtained the Coastal Commission's certification of a Local Coastal Program (LCP). If a local governmental agency has obtained certification of its LCP, the local agency becomes the permitting

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authority. (§ 30600, subd. (d).)” (*Healing v. California Coastal Com.* (1994) 22 Cal.App. 4th 1158, 1163.)

Local Coastal Programs provide a common methodology for assessing future programs (§§ 30500, 30501) including land use plans, zoning ordinances, zoning district maps, and other implementing devices for compliance with the Coastal Act. (§ 30108.6) The Act sets minimum standards and policies but gives wide discretion to local governments to determine the content of their plans. (§§30004, subd. (a), 30005, subds. (a), (b); *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 775; *Yost, supra*, 36 Cal.3d at p. 572-573; *Healing, supra*, 22 Cal.App.4th at p. 1163, fn. 3.)

Once certified, a Local Coastal Program is binding on both the Coastal Commission and the local government, with the local government responsible for reviewing all development within its coastal zone and for issuing of coastal development permits. (§§ 30519, 30600; *City of Half Moon Bay v. Superior Court* (2003) 106 Cal.App.4th 795, 804.) With limited exceptions and in addition to any other required permit, a coastal development permit is required for any development in the coastal zone. (§ 30106; *La Fe, Inc. v. County of Los Angeles* (1999) 73 Cal.App.4th 231, 239.)

Actions by a local agency regarding a coastal development permit application for certain types of developments may be appealed to the Coastal Commission on the ground that the development does not conform to the LCP or the Coastal Act’s public access policies (§§ 30603, 30625), and the Coastal Commission must hear the appeal unless it determines there is no substantial issue related to the ground asserted on the appeal. (§ 30625, subd. (b)(2).)

“If an appeal of any action on any development by any local government . . . is filed with the [Coastal Commission], the operation and effect of that action shall be stayed pending a decision on appeal.” (§ 30623.) On appeal, the Coastal Commission conducts a de novo public hearing (§ 30621, subd. (a); Cal. Code Regs., tit. 14, §§

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13114, 13115, subd.(b)), after which it may modify, approve or deny a proposed development. (§ 30625.)

The wrinkle here is that the City's Certified Local Coastal Program requires compliance with the same steps the City would have to follow to comply with CEQA — under the LCP, the City Design Review Board is required to prepare a CEQA initial study, to determine (using CEQA's criteria) whether the project's impacts are significant (*ibid.*), and to comply with Laguna Beach Municipal Code section 25.07.012, subdivision(G). 2 which provides that a coastal development permit application may be approved only after the approving authority has reviewed the development project and found that "the proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act."

The Laguna Beach LCP is a compilation of many parts including title 25 of the Municipal Code and the Land Use Element of the City's General Plan. The relevant parts of the Land Use Element, which sets forth the goals, policies, actions and implementation of the certified LCP are as follows:

Policy 7.4 of the Land Use Element

Directs the City entities to "[e]nsure that development, including subdivisions, new building sites and remodels with building additions, is evaluated to ascertain potential negative impacts on natural resources. Proposed development shall emphasize impact avoidance over impact mitigation. Any mitigation required due to an unavoidable negative impact should be located on-site, where feasible. Any off-site mitigation should be located within the City's boundaries close to the project, where feasible."

Action 7.4.1 of the Land Use Element

Directs the City entities to "[p]repare and adopt California Environmental Quality Act (CEQA) thresholds of significance tailored to address the City's natural resources, such as

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marine resources, streams, drainage courses, ESHA and high- and -very-high- value habitat."

Action 7.4.2 of the Land Use Element

Directs the City to "[c]ontinue preparation of initial studies, pursuant to [CEQA], for any proposed development, including single-family residences located within environmentally sensitive areas."

Action 7.4.4 of the Land Use Element

Directs the City to "[c]ontinue to list Environmentally Sensitive Areas within the Real Property Report. (Ongoing and short-to-long-term implementation.)"

This property has been designated and mapped in an 'Environmental Sensitive Area' for Oceanfront, Water Quality, and Very High Fire Hazard Severity Zones (see Real Property Report - Substantial Evidence). The Pre-Application 12-15-15 meeting reports on page 2 — "Environmental Constraints: Coastal, Water Quality ESA, Very High Fire Hazard Severity Zone"(Substantial Evidence). The location of this project (in an environmentally sensitive area) required the City to find and prepare a Initial Study per CEQA (LUE 7.4.2) — the City did not.

Laguna Beach Municipal Code section 25.07.012, subdivision (G) provides, as relevant: *"Findings. A coastal development permit application may be approved or conditionally approved only after the approving authority has reviewed the development project and made all of the following findings: . . . The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act."*

Both the Coastal Act and CEQA give the local agency a baseline to review a project, but allow for more robust Thresholds of Significance to be enacted. The City has designated and mapped areas such as 'coastal properties', 'earthquake fault lines', 'landslide areas', 'open space preserved areas' and 'major/natural drainage courses'.

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'environmentally sensitive areas'. The areas are broader in scope than the definition of "ESHA" (Environmentally Sensitive Habitat Area) as defined by the Coastal Act. In other words, the City's definition of an ESA > ESHA ... or ... ESHA is a subset of ESAs, it is one type of an 'environmentally sensitive area' but not the only type. For instance:

LBMC 16.01.020(9) (Water Quality Control) - part of the certified LCP - defines 'environmentally sensitive area' as:

"Environmentally sensitive area" are areas that include:

(A) The Clean Water Act Section 303(d) Water Bodies, including Aliso Creek and portions of the Pacific Ocean coastline;

(B) The natural community conservation planning (NCCP) program areas;

*(C) Coastline areas of special biological significance, including the Heisler Park Ecological Reserve, Laguna Beach Marine Life Refuge and **South Laguna Marine Life Refuge**;*

(D) Areas of critical aquatic resource, including the mouth of Aliso Creek; and

*(E) Local environmentally sensitive areas, including areas of the Pacific Ocean coastline not listed as a Clean Water Act Section 303(d) Water Body. **Environmentally sensitive areas are depicted on the water quality environmentally sensitive area (WQESA) map, (adopted as part of this chapter by reference).** The areas directly adjacent to (within two hundred feet) of an environmentally sensitive area are also shown on the WQESA map. (emphasis added).*

The WQESA map (attached) shows that the project at hand is located within the South Laguna Marine Life Refuge boundaries. The Laguna Ocean Foundation website and DFG.ca.gov shows the project is located adjacent to the Laguna Beach State Marine Conservation Area.

Because the Coastal Commission is bound by the provisions of the City's certified LCP (§§30519, 30600.5; *Security National Guaranty, Inc. v. California Coastal Com.* (2008) 159 Cal.App.4th 402, 422), and because the LCP incorporates Titles 25 and 16 of the Municipal Code and the Land Use Elements of the City's General Plan, the Coastal Commission is similarly bound by those provisions. Therefore, the CCC must uphold the

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City's more robust threshold of significance (allowed by Action 7.4.1) as stated in Actions 7.4.2 and 10.3.1 and require that an initial study be prepared for this project due to it's location in an environmentally sensitive area.

As a side note the LCP requirements of compliance with CEQA and the preparation of Initial Studies in environmentally sensitive areas may be unique to the City of Laguna Beach. The CCC may not have the jurisdiction to make the CEQA determination that the LCP demands as the City of Laguna Beach is the Lead Agency having made the first discretionary approval for this project. If that is the case, I believe that the application would be determined to be incomplete and should be sent back to the city for review and completion.

Conclusions

I ask that the California Coastal Commission find Substantial Issue on this matter.

Thank you.

Attachments:

Letters submitted to DRB by Fudge

Pre-application site meeting report dated December 1, 2015

Letter from Anderson Geology dated July 2016

Letter from TATTN to City dated May 7, 2016

Real Property Report - disclosing location in 'environmentally sensitive areas'

WQESA map - showing location in an 'environmentally sensitive area'

MPA map (State Marine Conservation Area)

Archaeologist (Macko) letter dated July 29, 2016

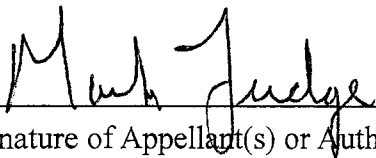
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**SECTION V. Certification**

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



Signature of Appellant(s) or Authorized Agent

Date: November 30, 2016

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: November 30, 2016

From: Sharon Fudge FUDGE1@COX.NET
Subject: 31305 Bluff Drive - Design Review June 23, 2016: Agenda item 6
Date: June 22, 2016 at 1:50 PM
To: carenmary@cox.net, mmonahan@lagunabeachcity.net, loraineinlaguna@gmail.com, debbie.neev@gmail.com, msimpson@lagunabeachcity.net
Cc: ncsira@lagunabeachcity.net, bdeines@lagunabeachcity.net, Patricia Martz p.martz@cox.net, valentinsylvere2001@yahoo.com, Bill Shopoff bshopoff@shopoff.com

Dear Boardmembers,

I am writing today to express my concerns about the consideration of exempting the project at 31305 Bluff Drive (Kinster) from CEQA. You will be hearing this item tomorrow evening (agenda item 6).

Just recently, the neighbor almost adjacent - 31461 Coast Highway 'Shopoff' - had an initial study done for his project 'a new home' along the same bluff that this applicant 'Kinster' is proposing to place a new pool and spa among other things. As you may or may not know, the initial study for the Shopoff property revealed recorded archeo/paleo sites on the property. (Study and MND attached). The CCRPA (California Cultural Resource Protection Alliance) made comment on that project attached and objected to the Mitigated Negative Declaration proposed based on inadequate mitigations and lack of compliance with AB52.

Given the proximity of the project before you tonight to the known location of archeo/paleo resources, and the scope of the project - which will require extensive excavation - I feel that it is imperative that this project be required to also generate an initial study, with prior consultation with a California Native American tribe as required by AB52.

Our General Plan (Land Use Element action 7.4.2) requires that:

Action 7.4.2 Continue preparation of initial studies, pursuant to the California Environment Quality Act (CEQA), for any proposed development, including single-family residences located within environmentally sensitive areas. (Same as Action 10.3.1.)

Due to the special circumstances of the project area being so close to the location of two mapped archeo/paleo sites, as well as the fact that it is located in an environmentally sensitive area (oceanfront), the project does not qualify for a Categorical Exemption from CEQA.

CEQA guidelines (§15300.2) read that categorical exemptions shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource, i.e. an archeological site.

Additionally, the project as presented does not meet the definition of 'existing facilities' because the project also involves the building of a NEW pool and spa - which of course is the area of most concern as it involves excavation and grading along the bluff.

15301. EXISTING FACILITIES

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. ...

Therefore, even if there were no possible historic resources present, the project does not qualify for a categorical exemption due to its location in an environmentally sensitive area - it would not qualify for any Class 3, 4, 5, 6 or 11 exemption - see §15300.2 a). The location of the project in an environmentally sensitive location is noted on the "Project Overview" sheet included in the staff report.

I thank you for your attention to this matter.

Sincerely,

Mark Fudge
P.O. Box 130
Laguna Beach, CA 92652-0130

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To: Design Review Board Members

From: Mark Fudge

Date: August 9, 2016

Re: 31305 Bluff Drive

31505

Dear DRB members,

You will once again be hearing the application for development at the environmentally sensitive site of 31~~305~~ Bluff Drive this week (August 11). The City staff report has recommended that a CEQA Categorical Exemption be applied to this project and I am opposed to this.

CEQA is a California State statute that is meant to guide local and state agencies in reviewing the environmental effects of the projects before them **prior to** the approval of those projects. Projects that may have an adverse effect on the environment are required to have an Initial Study generated - not only by CEQA's standards but by our own Laguna Beach General Plan Land Use Element:

Action 7.4.2 Continue preparation of initial studies, pursuant to the California Environment Quality Act (CEQA), for any proposed development, including single-family residences located within environmentally sensitive areas. (Same as Action 10.3.1)

The City staff overview from the June 23, 2016 meeting clearly shows that the property at hand lies in Coastal 'environmentally sensitive areas'. There is no question that an Initial Study is required for this project.

The proposed use of a 'Class 1 - Existing Facilities' exemption (CCR 15301) is out of place here as well. The project is not qualified for such as it is not 'involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination'. 'The key consideration is whether the project involves negligible or no expansion of an existing use'. This project involves an expansion of use as it is adding a swimming pool among other expansions of use.

The applicant has submitted materials that attempt to both convince you that the project would be exempt from CEQA **and** to say that they intend to mitigate the possible effects of the project on historic resources (archeo/paleo). I'd like to address both of those.

1. The applicant relies on a recent case heard before the California Supreme Court - *Berkeley Hillside Preservation v City of Berkeley* to prove that single family homes are exempt from CEQA. That case is different than the one at hand here. While single family homes are generally exempt, they are subject to the exceptions to the exemptions which are listed in CCR 15300.2 Exceptions. The argument in the Berkeley case was about the existence of effects on the environment due to unusual circumstances of a project (15300.2(c)) and the opponents to the use of the exemption had to prove, with substantial evidence, that unusual circumstances were indeed present to allow an exception to the exemption to be pulled into play. We do not have such a burden of proof. The exception has already been proven by the City's designation of the parcel as being in an environmentally sensitive area.

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CCR 15300.2 Exceptions - (a) Location. Classes 3, 4, 5, 6 and 11 are qualified by consideration of where the project is to be located - a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

2. The applicant has included in his new submittals a letter from Macko Archeological which includes recommendations that some mitigations be implemented into the project plans to expedite the project. The staff memo has picked up on those and is recommending the same. However, CEQA does not allow mitigations to be done as part of the project in order to allow a Categorical Exemption to be applied. The SPAWN case (*Salmon Protection and Watershed Network v The County of Marin* 125 Cal. App. 4th 1098; 23 Cal. Rptr. 3d 321) clearly spells this out:

Certain "classes of projects are 'categorically exempt' from CEQA pursuant to administrative regulation because they do not have a significant effect on the environment." (Mountain Lion Foundation v. Fish & Game Com., supra, 16 Cal.4th at pp. 112-113; Pub. Resources Code, §§ 21080, subd. (b)(9), 21084, subd. (a).) Single-family homes are categorically exempt from CEQA. (Cal. Code Regs., tit. 14, § 15303, subd. (a).)

Categorical exemptions, however, are subject to important exceptions based on factors such as location, cumulative impact, or unusual circumstances. (Cal. Code Regs., tit. 14, § 15300.2.) A categorically exempt project, like a single-family residence, loses its exempt status "where the project may impact on an environmental resource of . . . critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies." (Cal. Code Regs., tit. 14, § 15300.2, subd. (a).) A CEQA exemption is also inapplicable "when the cumulative impact of successive projects of the same type in the same place, over time is significant." (Cal. Code Regs., tit. 14, § 15300.2, subd. (b).) Nor may a categorical exemption "be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (Cal. Code Regs., tit. 14, § 15300.2, subd. (c).)

"An agency should decide whether a project is eligible for a categorical exemption as part of its preliminary review of the project" without reference or reliance upon any proposed mitigation measures. (Azusa, supra, 52 Cal.App.4th at pp. 1199-2000.) " 'In categorical exemption cases, where the agency establishes that the project is within an exempt class, the burden shifts to the party challenging the exemption to show that the project is not exempt because it falls within one of the exceptions' " listed in the regulatory guidelines. (Fairbank v. City of Mill Valley (1999) 75 Cal.App.4th 1243, 1259.)

I believe the applicant was asked to get clarification from the Coastal Commission on the bluff top setback requirements and I don't see that that has been complied with. Nor were my prior

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requests to have Native American tribal input as required by the newly passed AB 52, as a possible "Tribal Cultural Resource".

Lastly, I'd like to point out one more point brought up by the archaeologist's letter with regards to the historicity of the house itself:

"My opinion does not cover architectural values of the existing mid-century split-level modern ranch house, roughly 60 years old, to be remodeled ... In addition, the record of the California Historical Resource Information System (CHRIS) were not consulted." - Macko letter

The City is currently undergoing extensive work on the Historic Preservation Ordinance and is realizing the pitfalls of the woefully overdue updates that need to be done to the historic surveys. Since the last review of the historically significant structures was done in the early 1980's many of the mid-century modern homes were left off of the list due to the fact that at the time, they did not qualify as historic. In 2016 though, the '45 year' mark has been met and this home should be looked at as possibly being a historic resource for additional reasons by the Historic Committee.

CEQA also considers projects that may cause a substantial adverse change in the significance of a historical resource to be an exception to an exemption (CCR 15300.2(f)).

This remodel and construction project does have the potential to effect the environment in the areas of historic resources, archeo/paleo resources and the oceanfront. Please do not allow the approval of this without the proper environmental review and the generation of an Initial Study to guide the process.

Thank you for your consideration of my concerns,

Mark Fudge
P.O. Box 130
Laguna Beach, CA 92652-0130
fudge1@cox.net

cc: Pat Martz
Sylvere Valentin
Karl Schwing, CCC

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

Evaluation Meeting Number: 15-2363

Date: December 1, 2015

Prepared by: Belinda Ann Deines, Associate Planner

Attendees: Charlie Kinstler, Property Owner; Horst Noppenberger, Architect

Site Address: 31505 Bluff Drive

Assessor Parcel Number: 658-092-47

Zone/Specific Plan: R-1 (Residential Low Density)

Background: The subject property is an existing oceanfront building site located on the south side of Bluff Drive that is approximately 6,692 square feet in total lot area. A site meeting was conducted, but determined that the project would not meet any thresholds for a variance, upper level addition or new house greater than 3,000 SF. Nonetheless, staff advised that the project should be kept below the thresholds for a major remodel. Original building permits are on file from the County of Orange for construction of the existing single-family residence and two-car garage built in 1955. A 500 square-foot addition was permitted in 1961 to enlarge the living room.

Based on the existing size of the single-family residence (2,585 SF), the proposed 1,000 SF addition is not considered an aggregate addition of more than 50 percent of the original floor area. The applicant proposes a lower level addition, in addition to a new pool and spa with covered patio area.

Staff recommends eliminating any existing nonconforming conditions if the applicant proposes a major remodel. Staff advised the applicant of the definition of "major remodel" when greater than 50 percent of demolition is proposed for the existing structures:

"Major remodel" means the alteration of or an addition to an existing building or structure if any one of the following occurs at any time over a three-year period:

- (1) Demolition, removal and/or reconstruction of fifty percent or more of the total existing above grade exterior wall area (both exterior cladding and framing systems must be altered to count toward the fifty percent total). Any continuous run of remaining exterior wall surfaces measuring ten feet or less in length are counted as removed and/or reconstructed;
- (2) Demolition, removal and/or reconstruction of fifty percent or more of the combined total area(s) of the existing roof framing system and structural floor systems, not including eaves or decks;
- (3) One or more additions to an existing building or structure within any consecutive three-year period that increases the square footage of the existing building or structure by fifty percent or more, but not including additions to an existing building on a residential lot where the square footage of the existing building and any additions total no more than one thousand five hundred square feet.

Whenever modifications to an existing building or structure constitute a major remodel, the construction shall constitute and be classified as a new building or structure subject to current development standards of the subject zone, and all requirements applicable to the construction of a new building or structure including undergrounding requirements, required dedication of on and off-site improvements and payment of new development fees. This definition of "major remodel" does

not apply to replacement and upgrading for compliance with state-mandated earthquake retrofitting safety standards; compliance with flood prevention regulations; compliance with state-mandated energy efficiency standards; compliance with the Americans with Disabilities Act (ADA); roof coverings; foundation repair; filling in of existing window and door openings; window replacement in existing openings and reconstruction of roofs or foundations without any physical expansion.

The applicant intends to not demolish more than 50 percent of the existing structure and maintain nonconforming conditions including the front and side yards.

Development Standards (to be verified during zoning plan check):

Front Setback (topography)	5 feet garage; 10 feet house
Rear Setback	25 feet from oceanfront bluff
Side Setback	The width of each side yard shall be not less than ten percent of the average lot width, but in no case less than four feet.
Lot Slope in Percent	Over 20%; <i>to be verified with survey</i>
Height	Maximum 15 feet above rear lot line Maximum 30 feet measured from lowest finished floor, finished or natural grade, whichever is more restrictive
Building Site Coverage	Maximum 35%
Additional Building Setback	Pursuant to LBMC Section 25.50.004(D)
Parking	Two covered onsite parking spaces; an additional onsite parking space is required if gross floor area exceeds 3,600 square feet
Landscape Guidelines	Neighborhood Area 12 (South Laguna) of the City's Landscape and Scenic Highways Resource Document
Landscape Open Space	Minimum 25%

California Environmental Quality Act (CEQA): No issues noted at this time.

Environmental Constraints: Coastal, Water Quality ESA, Very High Fire Hazard Severity Zone

Coastal Development Permit: Local CDP required for new structure; appealable to California Coastal Commission

Design Review Criteria LBMC §25.05.040(H)

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

The applicant proposes to maintain the existing two-car garage to meet the requirements for a single-family residence less than 3,600 square feet in gross residential floor area. Bluff Drive is an existing, one-way private street and the applicant may propose some improvements along the street frontage.

2. *Design Articulation: Within the allowable 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 applicant proposes to push back existing front walls to create more of a courtyard entry along the front elevation to reduce the appearance of mass toward the front. The design will be articulated with varied roof forms to give visual interest. Staff encourages the applicant to incorporate elements that provide appropriate building mass, scale and form in the proposed design. To minimize mass and bulk, the applicant should evaluate whether the design should divide larger building mass into smaller modules and use building volumes efficiently. Furthermore, the building should use articulation techniques consistent with the architectural style, vary wall plane lengths and wall heights and design a roof to follow site contours.

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

The applicant proposes to update the exterior to a modern/contemporary style home. Staff encouraged the applicant that the proposed style should be consistent with the use of appropriate materials and architectural details, which provide a sense of scale and interest.

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

A geotechnical report and coastal hazards analysis report will be required for the new lower level and pool/spa on the oceanfront site. This report must address specific improvements proposed for the subject site and adjacent right-of-way. Geological reports should include, but are not limited to, subsurface investigation, characterization of geological conditions, analysis of slope stability, potential destabilization of adjacent properties and recommendations for appropriate foundation and grading design.

The Design Review Board will review the placement of the proposed improvements and how it relates to existing natural site features, especially the oceanfront bluff. The applicant plans for site grading to place the house into the hillside, which will be subject to design review. Additional grading is proposed to create a covered patio area on the pool level. It is important for the applicant to design the project in such a way that follows the natural topography/contours and complements the surroundings with smooth transitions.

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

The proposed single-family dwelling and other improvements comply with the site's Village Low Density Land Use Designation.

6. ***Historic Preservation:*** Destruction or alteration to properties with historic significance, as identified in the city's Historic Resources Inventory or Historic Register, should be avoided whenever possible. Special preservation consideration should be given to any structures over forty-five years old.

The original structure was built in 1955 and special consideration should be given to any structure over 45 years of age. Staff believes that there are no historically significant features associated with the existing structure.

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

A landscape plan is not required based on the scope of work.

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

An exterior lighting plan is not required based on the scope of work. Excessive glazing that creates glare is discouraged. If any skylights are proposed with the project, automatic night shades may be requested by the Board.

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

Pattern of development in the neighborhood consists primarily of two- and three- story homes. Many homes on the oceanfront side of Bluff Drive have a one-story appearance from the street. The applicant should research and evaluate the characteristics of the neighborhood in terms of building site coverage, square footage, number of stories and parking egress. The Design Review Board reviews total program including, but not limited to, living, garage, deck, mechanical and storage areas. The applicant must consider the amount of program requested in relationship to neighborhood compatibility.

10. **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 applicant should keep in mind the placement of new upper level windows and outdoor living areas in relation to neighboring properties. Staff recommends the applicant consider the floor plan of the subject property and adjacent residences. All decks should be designed to consider uphill, downhill and immediately adjacent neighbors. It is recommended that the applicant evaluate the site and assess the impact a deck and pool may have on views, privacy, light and shade. Outdoor areas should not impact privacy of neighbors.

11. **Sustainability:** New development should consider architecture and building practices which minimize environmental impacts and enhance energy efficiency by: (1) reducing energy needs of buildings by proper site and structural design; (2) increasing the building's ability to capture or generate energy; (3) using low-impact, sustainable and recycled building materials; (4) using the latest Best Management Practices regarding waste and water management; and (5) reducing site emissions.

The Design Review Board may review the project for new construction as it relates to sustainable building measures. The applicant expressed interest in graywater systems and utilizing geothermal energy to power the air conditioning unit. Staff encourages the applicant to utilize sustainable site measures and green building code requirements, which may include:

Water management

Indoor and outdoor
Smart irrigation
Gray water systems
Permeable concrete
Tankless water heaters
Dual flush toilets

Energy management

Window glazing and design
Controlled lighting design
Displacement ventilation systems

Materials and resources management

Local products (reduces transportation waste)
Natural, renewable materials
Recycled materials
Reduced waste

Indoor environment

Cross-ventilation
Daylighting
Low/no VOCs
Thermal controls

Innovative design

Implementing new ideas, products

12. ***Swimming Pools, Spas, Water Features and Mechanical Equipment:*** *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 development is compatible with neighboring properties.*

The applicant proposes an air conditioning unit in a vault. The applicant should mitigate the neighborhood impact of any mechanical equipment or air conditioning units. Air conditioning units and pool mechanical equipment must maintain a five-foot setback from any property line and may not be located in the front or side yard setbacks. The applicant proposes a new pool and spa along the rear yard that should be adequately setback from the oceanfront bluff. The Board may evaluate whether the size and placement of the pool and spa are neighborhood compatible and appropriate at the site.

13. ***View Equity:*** *The development, including 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.*

The property is located on an oceanfront property and may be subject to view equity concerns from uphill residences and adjacent residences with direct ocean views. The applicant should install preliminary staking early on in the design process in an effort to work with neighbors and minimize potential impacts. Staking identifies building mass and scale of the proposed project.

Potential Variance Issues: Staff encouraged the applicant to design a project that is code compliant and does not require a variance. Variances are very difficult for the Board to approve when associated with new construction.

Nonconforming Site Conditions: Front setback and side setback (to be verified in zoning plan check)

Neighborhood Meeting: The City requires each applicant to take reasonable steps to contact neighbors within 300 feet of the proposed project prior to scheduling a Design Review Board hearing. Early, informal communication with neighbors, preferably prior to decision of a final design, often resolves potential conflicts so that the formal design review process can be expedited. A neighborhood meeting is required before the project can be scheduled for Design Review.

Special Processing Requirements: Following zoning plan check, design review and a coastal development permit is required for elevated decks, skylights, grading, retaining walls, air conditioning unit, construction in an environmentally sensitive area due to oceanfront location, to maintain nonconforming front and side setbacks and (?).

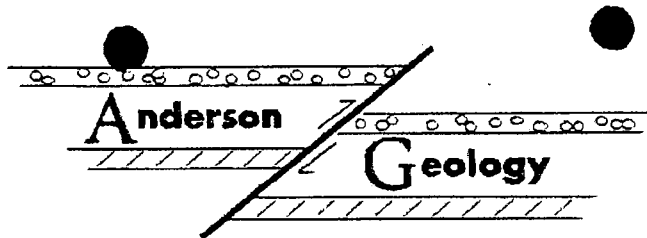
This preliminary evaluation is given to applicants and their design advisors to utilize as early as possible in the design stage of a contemplated project so that the ensuing design is more likely to meet the Design Review Board's approval before substantial time and resources have been expended. However, this preliminary evaluation provided by staff does not bind the Design Review Board in any manner in its review of or decisions on an application.

Should you have any questions or comments regarding this evaluation, contact:

Belinda Deines, Associate Planner

bdeines@lagunabeachcity.net

(949) 464-6626



July, 2016

Project No. 15009-01

To: City Of Laguna Beach Design Review Board
505 Forest Avenue
Laguna Beach, California 92651

Attention: Mr. Charlie Kinstler

Subject: Determination of The Coastal Bluff Setback, 31505 Bluff Drive, City of Laguna Beach, California.

References: California Coastal Commission, January 16, 2003, Establishing Development Setbacks From Coastal Bluffs, Memorandum W11.5.

Geo Soils Inc., 2015, Coastal Hazard Analysis for Remodel/Addition Project, 31505 Bluff Drive, Laguna Beach, Orange County, California.

Anderson Geology, LLC, January 2016, Preliminary Geotechnical Investigation for Design and Construction of Proposed Improvements and Lower-Level Addition to Existing Residence, 31505 Bluff Drive, City of Laguna Beach, California.

At your request, ANDERSON GEOLOGY, LLC. (AG) has provided this summary letter regarding the proposed development setback from the coastal bluff at 31505 Bluff Drive, City of Laguna Beach, California. The purpose of this summary letter was to provide rationale for the identification of the coastal bluff edge for development setback purposes at the subject property.

The purpose of establishing development setbacks from coastal bluffs is two-fold and the California Coastal Act (Section 30253) outlines the primary purpose of these requirements as to:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard*
- (2) 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*

This criteria is generally interpreted as meaning that new development shall not be located such that it will be subject to coastal erosion that could potentially cause a stability hazard over the course of its design life (75 years). Furthermore, the California Coastal Act has expressly stated that no shoreline protective measures (seawalls, jetty's, retaining walls, etc.) should substantially alter natural landforms along coastal bluffs and/or sea cliffs. In order to comply with these requirements a determination of the bluff edge must be made in order to establish development setbacks.

The coastal bluff edge is generally described as the intersection between the steeply sloping bluff face

1000 North Coast Highway, Suite 10 • Laguna Beach, California 92651 • (949) 371-3690 • panderson@andersongeology.com

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and the more gently sloping bluff top. Defining this line, however, can be complicated by various natural and man-made topographic and geologic features along the bluff edge. The California Coastal Act defines the bluff edge as:

... the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge." (California Code of Regulations, Title 14, §13577.

Under this definition the bluff edge can be interpreted as the topographic transition from a near vertical cliff face to a more gently sloping bluff top. This method, however, is largely qualitative and leaves the interpretation of the bluff edge location up to the design professional. The city of Laguna Beach employs a more quantitative method by defining the bluff edge as the point where the topographic profile transitions to greater than 1:1 (horizontal/vertical). This method was used by Toal Engineering to initially determine the bluff edge on the site topographic profile for the subject site (attached).

As part of our preliminary geotechnical investigation (AG, 2016), AG reviewed the location of the bluff edge as determined by Toal Engineering. We found that the point where the bluff edge transitions from a near vertical "sea cliff" (greater than 1:1) to a more gently sloping bluff coincides with the contact between the more resistant bedrock formation below and the less resistant terrace deposits above. Geologic mapping of the "sea cliff" identified the resistant cliff face as comprised of bedrock of the San Onofre Breccia consisting of olive brown to buff sandstone and conglomerate (Breccia). The bedrock was generally massive to poorly bedded and locally cemented. A historical review of the site and surrounding area as well as subsequent slope stability analysis of the underlying bedrock forming the "sea cliff" found the material to be grossly stable. Furthermore, a Coastal Hazard Analysis (GSI, 2015) was performed for the subject site as part of the preliminary site investigation and identified no evidence of significant erosion at the subject site over the prior 50+ years. The report concluded that no new shore protection will be required to protect the development over the next 75 years and that the development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent areas.

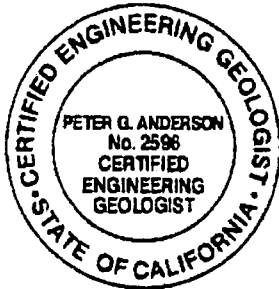
Based on the competent, cemented nature of the existing "sea cliff" and the limited potential for erosion and/or geologic instability as identified by the Preliminary Geologic Investigation (AG, 2015) as well as the Coastal Hazard Assessment (GSI, 2015) for the subject property, the proposed coastal bluff development setback meets the requirements as outlined by Section 30523 of the California Coastal Act. AG therefore agrees with the delineation of the coastal bluff edge as defined by the City of Laguna Beach and identified by Toal Engineering on the site topographic profile.

If you have any questions regarding this report, please contact our office. We appreciate the opportunity to provide our services.

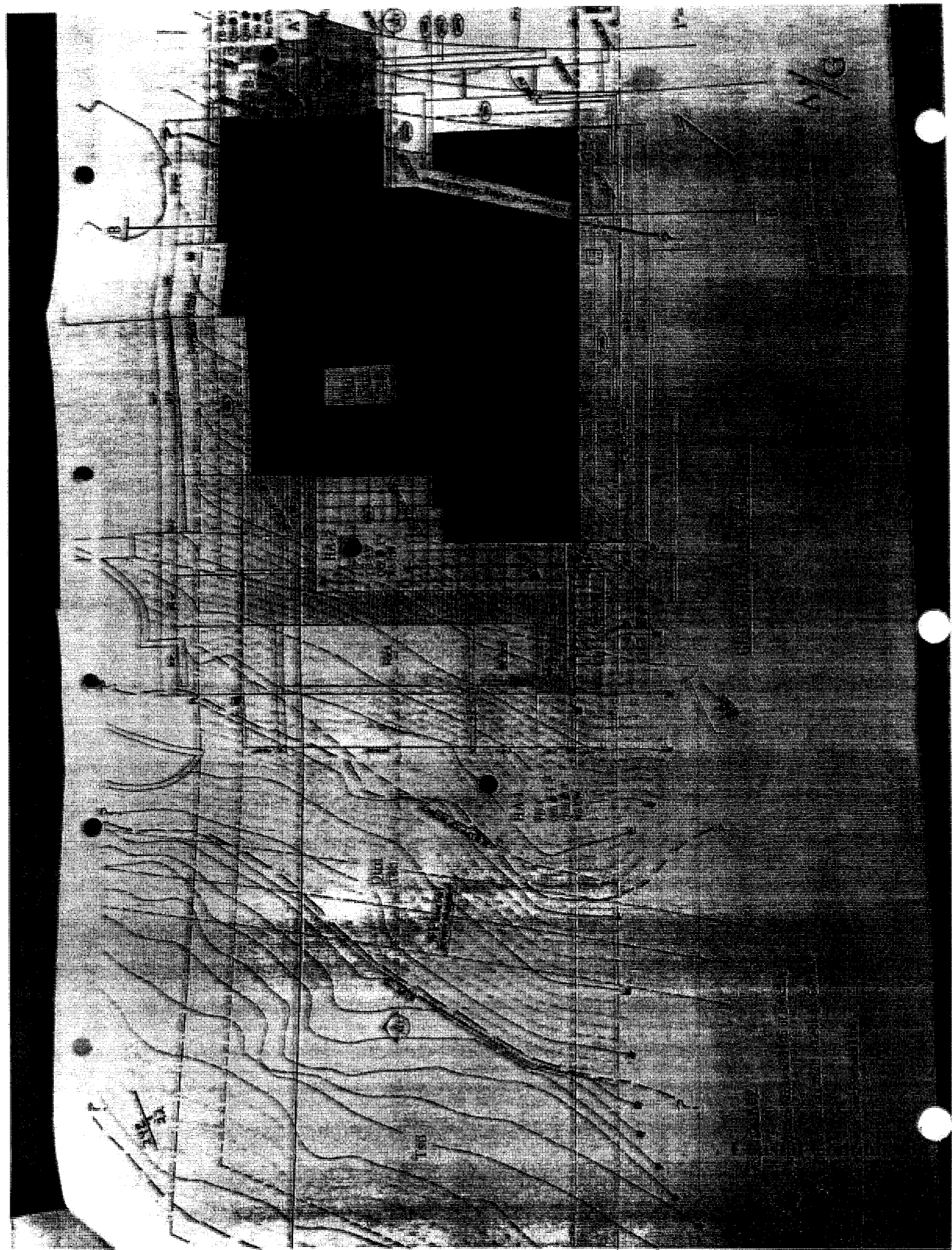
Respectfully submitted,

ANDERSON GEOLOGY, LLC.

Peter Anderson CEG 2596



Peter Anderson



Archaeological and Paleontological Resources: *The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.*

There are no archaeological or paleontological resources in the project area.

/////again here

Environmental Resources: *The proposed development will not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources.*

The site is considered environmentally sensitive due to the oceanfront location. The proposed development is located above and back from the blufftop. The Coastal Hazards and Wave Runup Study concluded that because the development is located well above the beach, the development is safe from coastal hazards including shoreline erosion, wave runup and coastal flooding. No archeological or paleontological resources have been identified on site.

Any continued violations by CITY of LAGUNA BEACH will result in TATTN reporting the CITY of LAGUNA BEACH violations to the STATE OF CALIFORNIA ATTORNEY GENERALS OFFICE and U.S. DEPT OF JUSTICE for investigation and enforcement of our rights against any violators both individually or in their official capacity involved in those civil/criminal acts.

B14

/S/ JOHNTOMMY ROSAS

TATTN TRIBAL ADMINISTRATOR/TRIBAL LITIGATOR

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**City of
Laguna Beach**
Community Development
Department

Real Property Report

for

31505 Bluff Dr

APN 658-092-47

September 15, 2015

NOTICE TO BUYER

Real Property Reports are prepared to inform the buyer within the City of Laguna Beach of the conditions and restrictions applicable to the property as revealed by a search of City files. These files are available for review at City Hall, and it is suggested they be reviewed prior to completing a property transaction. If the conditions actually observed on the property by the buyer deviate from the information detailed below, the buyer is encouraged to contact the owner to arrange for an inspection of the property by City personnel, as there may be uses or structures which are not legally permissible. If the property owner makes a written request within 30 days of the issuance of this report, the inspection of the property will be conducted without additional charge.

Physical improvements and site developments are subject to Design Review and shall be designed and located in a manner which best satisfies the City's village atmosphere and the Design Review purposes, guidelines and criteria specified in Section 25.06.040 of the Municipal Code. Village atmosphere is characterized by appropriately scaled development, diverse and unique architectural designs, pedestrian orientation and sensitivity to the natural conditions of the site. The property development zoning standards that are delineated in the Zoning Code represent the maximum allowable building envelope for a given property. This maximum building envelope may not be approved by the Design Review Board. This is because the Design Review process is a discretionary review process and is based upon the particular issues and circumstances in effect at the time the development is proposed. Again, it is important to fully understand that the actual development allowed might be less than the allowable maximum because of localized conditions and desired community objectives identified during the review process.

LAND USE AND ZONING INFORMATION

Zone: The subject property is located in the R1 Zone. The uses permitted in this zone are listed in the Laguna Beach Municipal Code.

Use: City records show the following structures/uses exist on the subject property:

Single family dwelling with attached two-car garage.

Special Permits: The following Variances, Conditional Use Permits, Design Review or other permits have been approved for this property (including any special conditions placed on the property because of the permits):

None of Record

Building Site Status: The subject property is a legal building site, according to the definition established in the Laguna Beach Municipal Code (Section 25.06.004)

Legal Description: Tr 702 Lot 31 Inc Por Aban St Adj. (A copy of the Assessor's Parcel Map showing the subject property is attached to this Real Property Report.)

Parcel Identification Number (used for City office purposes only): 10884

On-Site Turnaround Required: No

Special Subdivision Map Building Setback Requirements: None

Special Street Plan Requirements: None

Special Subdivision Map Height Standards: None

Historic Resource Inventory Category: Historic Register Designation Date: None

Flood Zone: X **Flood Map Panel:** 06059C0438J **Flood Map Effective Date:** 12/03/2009

Mapped Environmentally Sensitive Areas: Coastal Property/Water Quality Environmentally Sensitive Area/Very High Fire Hazard Severity Zone

Recommended Landscaping and Setbacks: None

City Utility Charges: Paid

City Maintained Street: Bluff Drive is not maintained by the City.

Property Owner Notice and Inspection Report (Notice of Participation): None

Real Property Report - 31505 Bluff Dr

APN 658-092-47

BUILDING INFORMATION

Outstanding Permits The following permits have been issued relative to the subject property, but not completed:

None of Record

Completed Permits The following permits represent significant construction work which has been completed on the subject property:

Building Permit	#	52115(OrCo)	11/18/55	Construct single family dwelling, garage	
"	"	#	69 (OrCo)	01/16/61	Construct wing wall addition
"	"	#	21200(OrCo)	10/19/61	Enlarge living room
Electrical Permit	#	06-2065	10/12/06	Convert overhead to underground with 200 amp service	

SLOPE MAINTENANCE RESPONSIBILITY

Chapter 22.2 of the Laguna Beach Municipal Code requires property owners to continually maintain slopes on their properties. Maintenance includes repairs to berms, ditches, paved drainage terraces, down drain devices and slope plantings.

UNRESOLVED PROBLEMS

The following problems or issues are outstanding or unresolved, with respect to the City's files, as of the date of this report:

None of Record

This report was issued on September 15, 2015, and is valid for six (6) months by Pat Kramer

A six (6) month extension has been authorized by _____ on _____ and will expire on _____.

The preparation and delivery of this Real Property Report does not impose any liability upon the City for any errors or omissions, nor does the City bear any liability not otherwise imposed by law in regards to the Report's preparation.

NOTE: Three (3) or more units capable of being rented within the City of Laguna Beach (Laguna Beach Municipal Code, Section 5.08.050) requires each owner of the units to obtain a City of Laguna Beach Business License each year. Failure to obtain a City of Laguna Beach Business License is a violation of the Municipal Code, Section 5.08.600, Renting of Property and Accommodations. Building permits are required for any demolition, repair, construction or alteration work done on the property. The owner of any dwelling unit proposed to be rented for 30 days or less must obtain an Administrative Use Permit for such short-term lodging according to Chapter 25.23 of the Municipal Code prior to such rental.

As recipients of a Real Property Report, I certify that I have read and understood the information contained herein.

PLEASE PRINT OR TYPE NAME: _____ DATE: _____

SIGNED: _____

STREET ADDRESS OF SUBJECT PROPERTY: 31505 Bluff Dr

APN: 658-092-47

Please sign this lower portion of the report and return it to the Community Development Department, Zoning Division, 505 Forest Ave, Laguna Beach, CA 92651.

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POR. SE1/4, SEC. 6, T. 8 S., R. 8 W.

THIS MAP WAS PREPARED FOR ORANGE COUNTY
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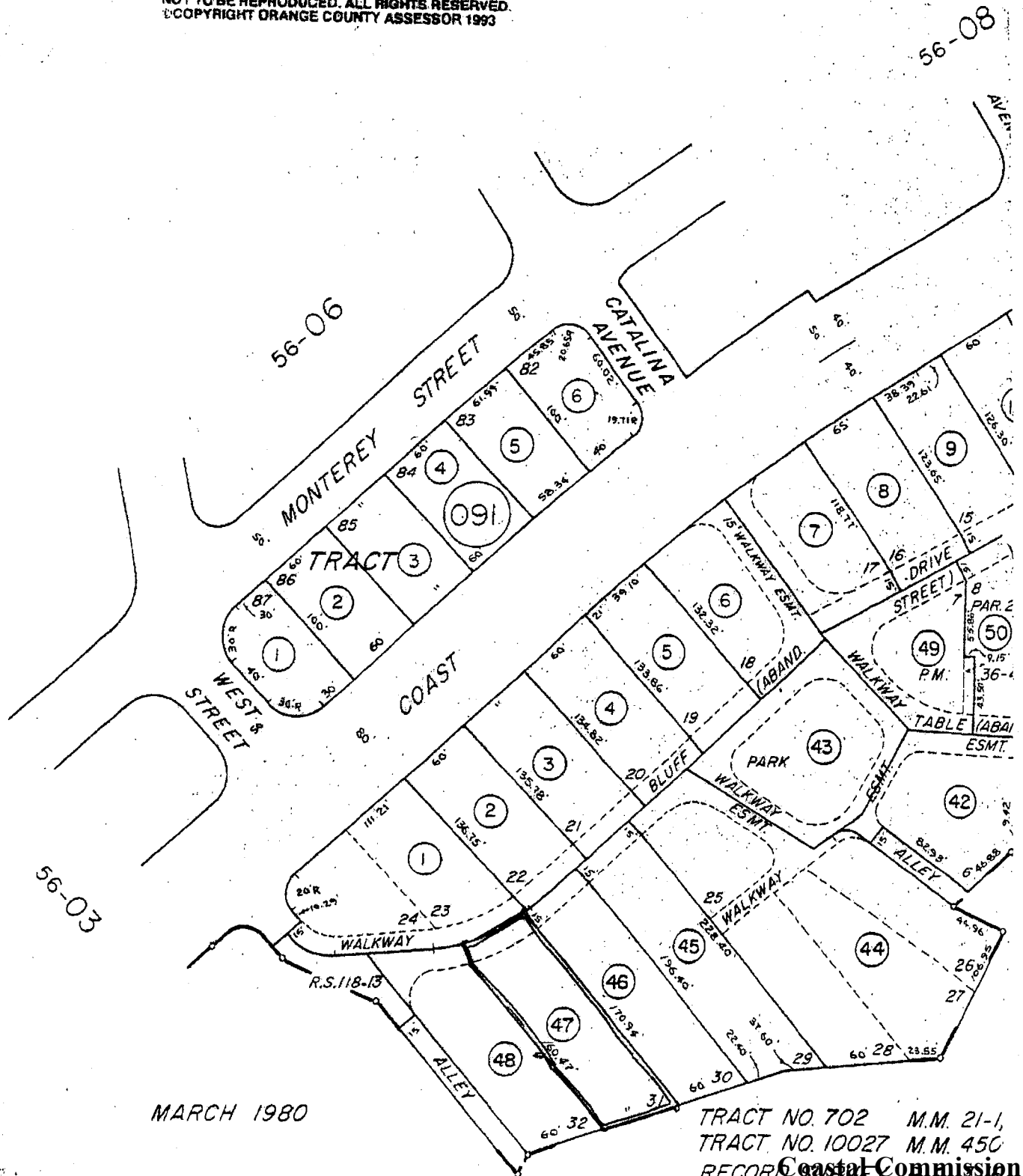


Exhibit 4

Water Quality Environmental Sensitive Areas (WQESA) Map-2003

Legend

- Mean-High-Tide Line
- Major Creeks
- Natural Community Conservation Planning (NCCP) Program (WQESA) Areas
- Water Quality Environmentally Sensitive Areas (WQESA) and 200-Foot Buffer Area
- City Boundary
- Generalized Watershed Boundary
- Local Out-falls

Laguna Beach Marine Life Refuge and Heller Park Ecological Reserve

Los Trancos Muddy Creek Watershed

Laguna Canyon Channel Watershed

Laguna Canyon Channel Watershed

South Laguna Marine Life Refuge

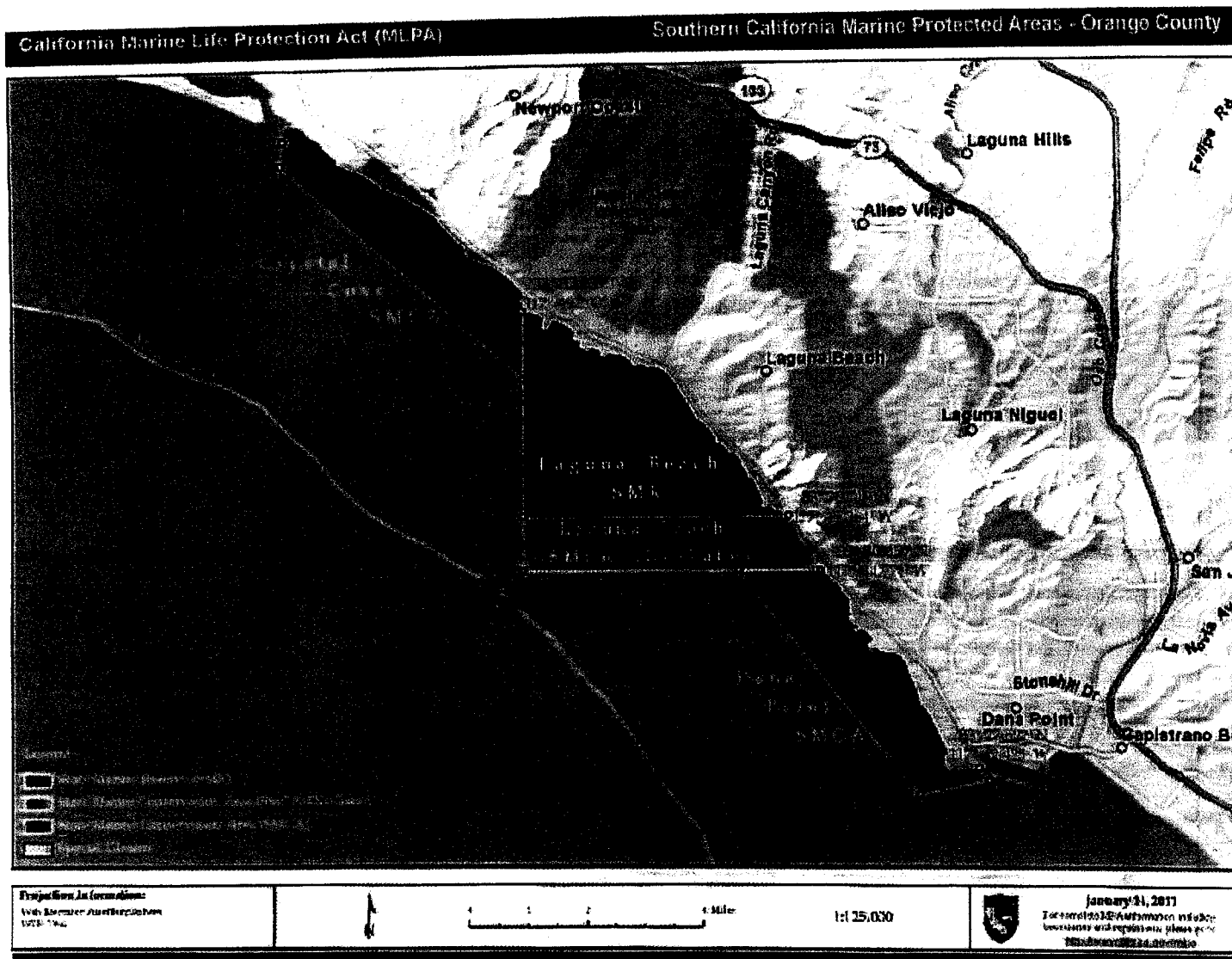
Aliso Creek Watershed

Aliso Creek Watershed

Aliso Creek Watershed



Water Quality Environmental Sensitive Areas (WQESA) Map-2003



© California Department of Fish and Game, 2012

MPAs in Laguna Beach

There are 3 MPAs within Laguna's city limits:

Laguna Beach State Marine Reserve

The Laguna Beach SMR (red area on the map above) is a no take zone that extends south from Abalone Point (Laguna's northern-most city limit) and north from Goff Island to a point roughly 2 miles offshore

Laguna Beach State Marine Conservation Area

The Laguna Beach SMCA (purple area) is a no take zone that extends south from Goff Island and north from Table Rock to a point roughly 2.5 miles offshore

Dana Point State Marine Conservation Area

The Dana Point SMCA (southern-most blue area) protects tidepools from all disturbance but allows the recreational take of finfish, lobster, and sea urchin and the commercial take of coastal pelagic species, lobster and sea urchin only. The Dana Point SMCA extends south from Table Rock beyond the southern-most city limit in Laguna at Three Arch Cove and north from the Dana Point Headlands to roughly 1 mile offshore.

More Information

For more information visit: www.dfg.ca.gov/mpa

http://www.lagunaoceanfoundation.org/marine_protected.html



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Exhibit 4

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Marine Protected Areas

Definition of Marine Protected Areas

Marine protected areas (MPAs) are areas seaward of the high tide line that have been designated by law, administrative action, or voter initiative to protect or conserve marine life and habitat (CA Department of Fish and Game, 2012).

MPAs in California State Waters

California State Law under the Marine Life Protection Act (MLPA) recognizes the three following types of MPAs in California State waters (mean high tide mark to 3 miles offshore):

State Marine Reserve (SMR)

Prohibits all extractive activities, with the exception of scientific collecting under a permit

State Marine Park (SMP)

Prohibits all commercial extractive activities

State Marine Conservation Area (SMCA)

Prohibits some combination of commercial and/or recreational extraction



July 29, 2016

Mr. Charlie Kinstler
31505 Bluff Drive
Laguna Beach, California 92651

Subject: Transmittal of Professional Opinion on Cultural Resource Issues in Regard to a Proposed Minor Remodel of 31505 Bluff Drive, Laguna Beach, California.

Dear Mr. Kinstler,

Per your request of July 16, 2016 I have examined the subject property to form an opinion on whether historic resources, as defined by CEQA, and specifically archaeological and paleontological resources, may be affected during your proposed minor remodel currently being considered by the City of Laguna Beach.

Archaeological observations involved the careful examination of soils at four locations within the building envelope that will be subject to the small amount of cut proposed, particularly in the proposed pool area. I found that artifacts typical of prehistoric sites of the Laguna coast were conspicuously absent from the soils examined. There are, however, small traces of shellfish remains composed almost entirely of highly fragmented mussel shell (*Mytilus californianus*). Less than 1% of the shellfish noted included four other species common to the rocky coast habitats of the Laguna coastline. This latter observation, however, is typical of many prehistoric deposits along the Laguna Coast. Further, there were no terrestrial or marine vertebrate faunal remains.

From the obvious disturbances that resulted from the grading of Pacific Coast Highway, then Bluff Drive prior to the mid 1930s, and the residential construction along both sides of Bluff Drive that began at the same time, it is impossible to tell the exact origin of the sparse shell remains present. The additional fact that the property is entirely within the bluff face with slopes up to 50%, where residential features of prehistoric settlement and occupation would not occur, reduces the probability of encountering intact deposits to virtually nil.

As for Paleo resources, the geological formations present include rock units that have produced fossils. The extant ground cover and the building itself prevented any detailed examination. The area has been well characterized in previous geologic studies, however. The majority of any excavation will occur within San Onofre breccia (Tso), a 15-17 million year old alluvial deposit that has a moderate sensitivity, though primarily in the sandstone and mudstone units of the formation, which may or may not occur in the building site. However, all around the property are large boulders of blue schist common to the brecciated sections of the Tso, which have a low sensitivity for fossils.

My opinion does not cover architectural values of the existing mid-century split-level modern ranch house, roughly 60 years old, to be remodeled. The proposed plans provide documentation of the original structure. In addition, The records of the California Historical Resource Information System (CHRIS) were not consulted.

In my professional opinion I would consider the following to expedite your project: 1) the nature of the highly disturbed archaeological materials should be submitted to CHRIS with an assessment of Ineligibility to the California Register of Historical Resources (CRHR), and 2) although the proposed ground disturbance has a low probability of damaging significant deposits, it would be prudent to have a county-certified archaeologist with paleontological background to monitor the limited ground disturbing activities conducted during construction.

Sincerely,



Michael E. Macko, M.A., RPA
Principal Archaeologist, Macko Archaeological Consulting
Attachment: Supporting Documentation

Coastal Commission

A-5-LGB-16-0098

TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION

RECEIVED

MAY 09 2016

**ZONING DIVISION
CITY OF LAGUNA BEACH**

**JOHN TOMMY ROSAS
TRIBAL ADMINISTRATOR/TRIBAL LITIGATOR
578 WASHINGTON BLVD. # 384
MARINA DEL REY, CA 90292
310-570-6567
tattnlaw@gmail.com**

May 7, 2016

**RE-CITY OF LAGUNA BEACH -SHOPOFF PROJECT- PROPOSED
MITIGATED NEGATIVE DECLARATION FOR THE DESIGN REVIEW 13-
1910 AND COASTAL DEVELOPMENT PERMIT 13-1907-**

**ILLEGAL NEPA/CEQA/CZMA/NHPA VIOLATIONS COMMITTED BY
CITY OF LAGUNA BEACH ET AL -**

**ILLEGAL STATUTORY DISCRIMINATION VIOLATIONS BY CITY OF
LAGUNA BEACH ET AL-AGAINST TATTN -BY EXCLUDING TATTN ON
PROCESS AND REQUIRED TRIBAL CONSULTATION**

**FORMAL OBJECTIONS AND OPPOSITION TO SHOPOFF PROJECT BY
TATTN**

TO-CITY OF LAGUNA BEACH / Ms. Melinda Dacey, Assistant Planner, ET AL-

TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION [TATTN] hereby formally lodges and files its OBJECTIONS and OPPOSITION regarding the SHOPOFF PROJECT on the grounds that the illegal process defectively performed by the CITY OF LAGUNA BEACH et al planning dept/etc - has severely violated our rights. Including potentially destroying a registered SACRED SITE area [ORA-842].

B1

B2

TATTN is objecting to the illegal categorical exemption as stated in defective staff report or proposed Mitigated Negative Declaration either one is completely illegal and definitely doesn't apply under CEQA. Our Sacred Site area also known as archaeological site P-30-000842 (ORA-842) has been recorded on the property. The site is a "Tribal Cultural Resource" and subject to AB 52/SB 18 / AJR 42 NEPA/CEQA/CZMA/NHPA . And the City is not in compliance with any of the cited acts above in which TATTN objects and opposes the process including the statutory discrimination committed by City of Laguna Beach against us as we were intentionally excluded from the CEQA process.

B3

B4

B5

B6

According to AB 52 Lead agencies undertaking CEQA review must evaluate, just as they do for other historical and archeological resources, a project's

B7

**Coastal Commission
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potential impact to a tribal cultural resource/ traditional cultural landscape. In addition, to the other existing CEQA /NEPA requirements, AB 52 requires that lead agencies, upon request of a California Native American tribe, begin consultation prior to the release of a negative declaration, mitigated negative declaration or environmental impact report for a project.

B7 Cont.

B8

Please take notice immediately that TATTN requests all AB 52/SB 18 SEC 106 NHPA consultation letters for the last 7 years since we have been illegally excluded by CITY of LAGUNA BEACH or that the CITY of LAGUNA BEACH failed to assemble the NAHC contacts of which we are a listed TRIBE since 1996. Please cease excluding TATTN and add our name and contact info to the tribal consultation list asap. Please include official evidence or proof of that tribal consultation list with TATTN listed asap.

B9

B10

TATTN also demands an immediate suspension of the CLB process on this project until CLB has initiated compliant tribal consultation with TATTN.

B11

TATTN that all applications/staff report and documents related to this project be sent to TATTN by email ASAP.

B12

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

HEARING DATE: January 9, 2014

TO: DESIGN REVIEW BOARD

CASE: Design Review 13-1910
Coastal Development Permit 13-1907

APPLICANT: C.J. Light & Associates
(949) 851-8345

LOCATION: Shopoff Residence
31461 Coast Highway
APN 056-032-19

ENVIRONMENTAL STATUS: In accordance with the California Environmental Quality Act (CEQA) guidelines, the project is categorically exempt pursuant to Section 15303, Class 3(a) - New Construction, which allows a new single-family residence to be constructed within a residential zone.

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

The defective CLB staff report illegally and falsely states that there are no Archaeological or paleontological resources, exact copy of that section below

B13

**Coastal Commission
A-5-LGB-16-0098**

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LAGUNA BEACH, CALIFORNIA 92651-4416
(562) 590-5071 FAX (562) 590-5084
WWW.COASTAL.CA.GOV

**NOTIFICATION OF APPEAL PERIOD**

November 22, 2016

To: Belinda Ann Deines
City of Laguna Beach
505 Forest Ave.
Laguna Beach, CA 92651

From: Charles Posner

Re: Application No. 5-LGB-16-1083

Please be advised that on November 18, 2016, our office received notice of local action on the coastal development permit described below:

Local Permit #: 16-0841

Applicant(s): Charles Kinstler

Description: Additions to a single-family residence, including new swimming pool, decks, and retaining walls.

Location: 31505 Bluff Dr., Laguna Beach, CA 92651 (APN(s): 658-092-47)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on December 06, 2016.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Charles Kinstler
Horst Nopenberger
Mark Fudge
File

TO: Nicky & Sonia

November 21, 2016

FROM: C.POSNER

**PLEASE ESTABLISH THE COMMISSION'S 10 WORKING
DAY APPEAL PERIOD FOR THE ATTACHED LOCAL CDP
ACTION:**

5-LGB-16-1083

LOCAL COASTAL DEVELOPMENT PERMIT:

City of Laguna Beach Local Coastal Development Permit
Case No. 16-0841 for additions to a single-family
residence (plus new swimming pool, decks, and retaining
walls) at 31505 Bluff Drive, City of Laguna Beach, Orange
County.

cp

H:cpforms



November 28, 2016

Charles Kinstler
923 Emerald Bay
Laguna Beach, CA 92651

CORRECTED

Dear Mr. Kinstler:

**SUBJECT: DESIGN REVIEW 16-0840, COASTAL DEVELOPMENT PERMIT 16-0841 AT 31505
BLUFF DRIVE, APN 658-092-47**

At a regular meeting of the Design Review Board/Board of Adjustment of the City of Laguna Beach held on Thursday, October 13, 2016, action was taken granting approval of Design Review 16-0840, Coastal Development Permit 16-0841 at 31505 Bluff Drive **with the condition** that the south-facing wall be pulled back twelve inches; the lower deck ceiling railing opaque and 3 max LED on exterior lighting. Ms. Neev seconded with the clarification that the upper and lower levels both be pulled back.

All variance, design review and coastal development permits automatically expire within two years of their approval unless a request for an extension, in writing, is received by the Design Review Board prior to the aforementioned expiration. No further notice will be given of this expiration. If construction has not commenced and is not diligently pursued to completion prior to October 13, 2018, this approval shall have expired (see enclosed work commencement policy).

If you were required to make a staking pole deposit, please be advised that in order to be eligible for a refund of your deposit, staking poles must be removed within twenty (20) days following the end of the appeal period and/or after final project decision. **IF YOUR PROJECT IS APPEALED, DO NOT REMOVE THE STAKES.** If a signed **Affidavit of Removal of Staking Poles** is not received within the required timeframe, the deposit will be considered forfeited.

Further, please note that the City has determined that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA). If you desire, the City can file a Notice of Exemption (NOE) with the County of Orange to start a 35 day statute of limitations period on any legal challenges to the City's CEQA determination. If a NOE is not filed, a 180 day statute of limitations will apply. If you would like the City to file the NOE, please submit a check to my attention in the amount of \$50. and made out to the Orange County Clerk. Upon receipt, staff will file the NOE shortly thereafter.

This approval does not authorize you to begin construction. The Municipal Code provides that a building permit cannot be issued until fourteen (14) calendar days have elapsed, thus allowing time for adjacent property owners to appeal the action if they so desire. Additionally, full construction drawings must first be submitted to the Building Division for detailed plan check and compliance with applicable State and Municipal Laws, and Building, Plumbing, Electrical and Mechanical Codes, as well as the appropriate fees. Any modification to the approved design will require another noticed, public hearing. If you wish any further information regarding this action, please contact the Zoning Division at (949) 497-0714.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Csira". The signature is fluid and cursive, with the first name "Nancy" and last name "Csira" clearly distinguishable.

Nancy Csira
Zoning Administrator

Enclosures (3) Submittal requirements, construction commencement policy, DR approval conditions
CC: Horst Noppenberger – 241 Forest Avenue – Laguna Beach, CA 92651

NOTICE OF PUBLIC HEARING

LAGUNA BEACH BOARD OF ADJUSTMENT / DESIGN REVIEW BOARD

The CITY OF LAGUNA BEACH BOARD OF ADJUSTMENT / DESIGN REVIEW BOARD will hold a public hearing in the City Council Chambers, located in City Hall at 505 Forest Avenue to consider **DESIGN REVIEW 16-0840, COASTAL DEVELOPMENT PERMIT 16-0841 AND CATEGORICAL EXEMPTION** for the:

**Kinstler Residence
31505 Bluff Drive
APN: 658-092-47**

SAID PUBLIC HEARING to be held: Thursday, June 23, 2016 at 6:00 PM NO FURTHER PUBLIC NOTICE WILL BE GIVEN.

Project Description: The applicant requests design review and a coastal development permit for a 1,001 square-foot addition to an existing single-family residence in the R-1 (Residential Low Density) zone. Design review is required for elevated decks (786 square feet), grading, retaining walls, air conditioning units, pool/spa, landscaping, construction in an environmentally sensitive area (oceanfront) and to maintain nonconforming front and side setbacks. The applicant proposes low walls and a gate within the private street easement.

The property is required to be staked with story poles at least 28 calendar days prior to the hearing.

The City encourages anyone with questions or concerns regarding the proposed project to contact:

Project Applicant: Horst Noppenberger, Architect (949) 494-9569 horst@horst-architects.com

City Staff: Belinda Ann Deines, Associate Planner (949) 464-6626 bdeines@lagunabeachcity.net

IMPORTANT! If you have concerns about the effects this proposed project could have on your property and you wish those concerns to be considered by the Design Review Board at the public hearing, it is imperative that you invite the Board Members to view the project site and staking from your property prior to the meeting. Please contact the Board Members no earlier than the Friday before the scheduled hearing. A list of Board Members and e-mail addresses are available at City Hall. Board Members will visit the applicant's property prior to the hearing.

The plans and application may be examined and reviewed at the DEPARTMENT OF COMMUNITY DEVELOPMENT. Please note our new City Hall hours effective March 28, 2016: Mon – Thurs: 7:30am – 5:30pm; every other Friday: 7:30am – 4:30pm; closed alternating Fridays. **Comments may be made in person at the hearing, or in writing prior to the hearing, when brought or mailed to City Hall. It is recommended that written correspondence be delivered to City Hall at least 10 days prior to the public hearing – six (6) copies are required.** It is possible that this project may be continued to some specific future date and/or modified during the Design Review process. If you challenge the nature of the proposed project in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the Board at, or prior to, the Public Hearing. The City staff has determined the project to be subject to a **Categorical Exemption Section 15301, Class 1(e)(1)** pursuant to the California Environmental Quality Act.

This project is located within the City of Laguna Beach Coastal Zone. The Coastal Development Permit application was filed on April 22, 2016 and constitutes development appealable to the California Coastal Commission.

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the Community Development Department at (949) 497-0723 (telephone) or (949) 497-0759 (facsimile). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

Coastal Commission

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Exhibit 5

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MEMORANDUM

DATE: October 13, 2016
TO: DESIGN REVIEW BOARD
FROM: Belinda Ann Deines, Associate Planner
SUBJECT: 31505 Bluff Drive (APN 053-112-17): Design Revisions

The applicant requests design review and a coastal development permit for a ~~1,001-1,014~~ 997 square-foot addition to an existing single-family residence in the R-1 (Residential Low Density) zone. Design review is required for elevated decks (~~786-481~~ 444 square feet), grading, retaining walls, air conditioning units, pool/spa, landscaping, construction in an environmentally sensitive area (oceanfront) and to maintain nonconforming front and site setbacks. The applicant proposes low walls and a gate within the private street easement.

At the second hearing on August 11, 2016, the applicant received public testimony and input from the Board. Neighbors expressed continued view equity and privacy concerns with the revised design, as well as the CEQA determination. The Board suggested pulling back the lower level deck, reducing glazing, and reducing pool size or replacing the pool with a spa. Some Board members noted that the entry feature was not a view impact.

The applicant has submitted revised plans based on the Board's direction. The proposed addition has been reduced 17 square feet from the previous submittal, which is a reduction of 4 square feet from the first hearing. The elevated deck area has been reduced 37 square feet, by pulling back the lower level pool deck in line with the upper level decks. Sheet A3.3 shows reductions in glazing with smaller sliding glass doors and additional wood screens. The size of the pool has been reduced 2'-9" in length, and 2' in depth to minimize grading and retaining wall height above grade.

Attachments: DRB Meeting Minutes and Memo – 6/23/2016

MINUTES
BOARD OF ADJUSTMENT/DESIGN REVIEW BOARD
REGULAR MEETING AND NOTICED HEARING
JUNE 23, 2016

A regular noticed meeting of the Board of Adjustment/Design Review Board of the City of Laguna Beach, California, convened at 6:00 p.m. in the City Council Chambers on June 23, 2016.

Present: Caren Liuzzi, Meg Monahan, Loraine Mullen-Kress, Monica Simpson

Absent: Deborah Neev

Staff Present: Nancy Csira, Melinda Dacey, Belinda Deines, Evan Jedynak, Pat Kramer

REGULAR BUSINESS

6. 31505 BLUFF DRIVE (KINSTLER), APN 658-092-47 CONTINUED TO THE MEETING OF AUGUST 11, 2016

DESIGN REVIEW 16-0840, COASTAL DEVELOPMENT PERMIT 16-0841 AND A CATEGORICAL EXEMPTION [Section 15301, Class 1(e)(1)]

City Staff: Belinda Ann Deines, Associate Planner (949) 464-6626 bdeines@lagunabeachcity.net

The applicant requests design review and a coastal development permit for a 1,001 square-foot addition to an existing single-family residence in the R-1 (Residential Low Density) zone. Design review is required for elevated decks (786 square feet), grading, retaining walls, air conditioning units, pool/spa, landscaping, construction in an environmentally sensitive area (oceanfront) and to maintain nonconforming front and side setbacks. The applicant proposes low walls and a gate within the private street easement.

Project Representative: Property owner Charles Kinstler said the structure has been unchanged since it was built in 1956. He presented a slide show to the Board. He is proposing a minor remodel. He said 50% of the structure will be retained. He is proposing a 1,100 square foot addition of habitable space located in the sub-floor area. The entry was pushed back and the proposed roof will be lowered 10 inches to preserve neighbor's views. The new materials of stone, wood, steel and stucco add articulation add warmth. The structure has a low 8' plate height at the upper level with flat roofs and an 8'-6" ceiling height on the upper floor and 9' at the lower level. To better preserve existing views, they have limited the ocean ward expansion at the upper level to the south side only but still back 1' from the adjacent resident. There is no proposed ocean ward expansion on the north side of the upper level. A pool terrace is being proposed at the lower end of the site that is well within the bluff top setback. It creates a pedestal that allows the principal volume of the structure to step down with the natural topography of the site. In response to Dan Haspert, they agreed to remove a large window and add a privacy

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Exhibit 5

Page 5 of 9

screen of Melaleuca trees. The removal of two existing windows are being proposed. The exterior deck on the north side will be eliminated.

Public Testimony: Mark Fudge, 31172 Ceanothus, said the city staff report found environmental concerns on the property. Mr. Shopoff has agreed to do an initial study. He said there were concerns that needed to be addressed because it is in environmentally sensitive area. The staff report needs to address these concerns for CEQA. He reviewed the plans and thinks this project is a major remodel. The City's ordinance is not certified by the Coastal Commission and has no weight bearing. The one used by the Coastal Commission should be applied.

Dan Haspert, 31501 Bluff Drive, said this is going to be a jewel of a house. The richness of the materials make the house look beautiful. He suggested adding some height to the elevation at the street level. He said there are four areas of concern. The propped house has enormous bulk. There is less than a 5' setback from the south side of the house and 3' from the north. The bulk of the house is 6' off the street. The majority of the bulk is at the front and the back already has tremendous bulk. The overhangs make it worse. A significant amount of square footage is being added. He said the stakes are 20' above the ground and are pushed out 33' from the current structure. It is extremely bulky and it will kill his privacy. He said the walls are huge. The window to the side was removed and hopes the side fenestration would be better.

Robert French, 31511 Bluff Drive, submitted photos to the Board. He said he has concerns with view loss from his living room facing the northwest. He will lose his view from the living room corner windows and a small window in the bathroom.

Joan French, 31511 Bluff Drive, said they have a wonderful project but the building will obstruct their view. It will stick out and their sunset view will be lost. They will lose the beautiful view and hope they can resolve the issue.

Rebuttal: Lee Bell of Horst Architects said it should be noted that there are substantial differences between this home and the Shopoff's. It is a minor remodel and the home was built in the 60's. He understands the concerns of the neighbors. There are existing non-conforming conditions and there are many challenges to get adequate square footage. It is within the stringline. At the neighborhood meeting, Mr. French indicated there was view blockage from the bathroom window. It was the first time that view blockage was mentioned.

Board Questions: In response to Ms. Liuzzi, Mr. Bell said the project is at 46% and it has never been remodeled.

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Exhibit 5

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Board Comments: Ms. Mullen-Kress said the staking needs to be reviewed from the neighbors on the south side. It appears to extend out too far. The deck has been pulled in two feet. It might not be enough. The project is excessive and it should be reined in a little. The total program is 4,800 square feet. She can support the pool, with Coastal Development approval, but the top area needs to be pulled back.

Ms. Monahan was concerned about the extent of decking. The decks loom over the neighbor's property to the north. They need to be at least two feet narrower on the ocean side and pulled back toward the south. The views from the house need to be directed so they provide privacy for the northern neighbor and she is concerned with the extent of glazing. She has not had an opportunity to visit the neighbor to the south to assess possible impacts from there. She is also concerned about the height and appearance of mass related to the pool deck. She suggested lowering the pool deck and reconsidering the materials to be darker to reduce the apparent mass. The landscaping along the north property line needs further consideration. The trees they have specified will not work.

Ms. Liuzzi said there is too much program. It does not follow the hillside guidelines and it has mass and scale issues. She thinks once they get into the structure that more demolition will be required and it will end up a major remodel. The nonconformities should be taken into consideration and possibly corrected. The side yards could be brought in. Nonconformities by definition state that any work done to the house should be taken into consideration. The pool on the beach is not neighborhood compatible. It will never be approved by the Coastal Commission. The development is too close to the beach and presents issues for the public. The property has a benefit of the stringline because it was approved by the County. It is encroaching too much. It is being lowered by 5" to improve views but then solar is being added to the roof. The roof can be only so high.

Ms. Simpson said it is prudent to obtain an initial study. She concurs with Ms. Liuzzi. The house is pushing too far out and stacked too much. She does not think the Coastal Commission will approve a pool at the proposed location. She cannot approve a 15' retaining wall. She thinks this will end up a complete tear down because it's probably termite ridden and the foundations are going to be bad. It needs to be brought into conformance and maintain the setbacks. She understands that the house is in an environmentally sensitive area.

Ms. Monahan made a motion, seconded by Ms. Liuzzi, to continue Design Review 16-0840 and Coastal Development 16-16-0841 at 31505 Bluff Drive to the meeting of August 11, 2016. The motion carried 4-0.

Motion MM Second CL Grant___ Deny___ Cont 8/11 Unan. 4-0

Liuzzi Y Monahan Y Mullen-Kress Y Neev Absent Simpson Y

Coastal Commission
A-5-LGB-16-0098

Exhibit 5

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MEMORANDUM

DATE: August 11, 2016
TO: DESIGN REVIEW BOARD
FROM: Belinda Ann Deines, Associate Planner
SUBJECT: 31505 Bluff Drive (APN 053-112-17): Design Revisions

The applicant requests design review and a coastal development permit for a ~~1,001~~ **1,014** square-foot addition to an existing single-family residence in the R-1 (Residential Low Density) zone. Design review is required for elevated decks (~~786~~ **481** square feet), grading, retaining walls, air conditioning units, pool/spa, landscaping, construction in an environmentally sensitive area (oceanfront) and to maintain nonconforming front and site setbacks. The applicant proposes low walls and a gate within the private street easement.

At the first hearing on June 23, 2016, the applicant received public testimony and input from the Board. One neighbor noted concerns because the project is located in an environmentally sensitive area and should be evaluated for CEQA. The adjacent neighbor to the north at 31501 Bluff Drive noted that the structure appears bulky on all elevations and additional articulation should be added along the sides. The neighbor to the south at 31511 Bluff Drive noted view loss from his living room window and bathroom window facing the northwest and sunset view. Board members recommended pulling in the pool, decks, and living area addition to minimize impacts, especially to the south neighbor. The Board also had concerns with glazing, pool deck area, material color and amount of demolition. Two Board members recommended an initial study.

The applicant has submitted a detailed letter with the proposed revisions. The entry roof has been lowered 10" and the structure has been pulled back 3' on both levels. The upper and lower decks adjacent to the south neighbor have been pulled back 4' and the total deck size has been reduced from 1,039 to 827 square feet. The pool terrace has been pulled back by 3' with the northwestern retaining wall of the pool lowered 4' from the previous submittal. The materials have changed from a light stone to a dark bronze metal. Additional planting along the north side yard and near the back side of the structure and pool are proposed as screening to soften the appearance of the pool wall. It should be noted that the proposed addition has increased by 13 square feet and the Board had concerns with overall program.

A coastal hazards analysis and a preliminary geotechnical investigation were prepared for the proposed improvements to the site. Furthermore, the applicant has provided a determination of the coastal bluff setback from the applicant's geologist, who believes is consistent with the California Coastal Commission's definition of bluff edge. The geologist concludes that the proposed coastal bluff development setback meets the requirements and agrees with the delineation of the coastal bluff edge as defined by the City and identified by Toal Engineering on the topographic survey.

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Exhibit 5
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The applicant has submitted a letter from an archeologist stating that artifacts of prehistoric sites were absent from the soils examined and that the steep grade of the site would not likely be typical of prehistoric settlement and occupation. Staff recommends that the project be approved upon the conditions that: 1) the nature of the highly disturbed archaeological materials should be submitted to California Historical Resource Information System (CHRIS) with an assessment of Ineligibility to the California Register of Historical Resources (CRHR), and 2) require a County-certified archaeologist with paleontological background to monitor the limited ground disturbing activities conducted during construction.

Attachments: DRB Meeting Minutes – 6/23/2016
Letter from Applicant
Letter from Archeologist
Revised Color and Material Board

RESOLUTION CDP 16.51

**A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE
CITY OF LAGUNA BEACH APPROVING COASTAL DEVELOPMENT PERMIT
APPLICATION NO 16-0841**

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:

31505 Bluff Drive
APN 658-092-47

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 visual impacts of the development have been minimized because the proposed structure is similar in size to neighboring buildings therefore maintaining compatibility with surrounding development.

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 as conditioned in Design Review 16-0840 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 to construct an addition to an existing single-family residence in the R-1 (Residential Low Density) zone.

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.

**Coastal Commission
A-5-LGB-16-0098**

**Exhibit 6
Page 1 of 2**

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.

PASSED on October 13, 2016, by the following vote of the Design Review Board of the City of Laguna Beach, California.

AYES: Mullen-Kress, Neev, Simpson
NOES: Liuzzi, Monahan
ABSENT: None
ABSTAIN: None

ATTEST:


Staff Representative


Chair Simpson

Board of Adjustment Resolution No. CDP 16.51

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



April 18, 2017

GEOTECHNICAL REVIEW MEMORANDUM

To: Marlene Alvarado, Coastal Program Analyst
From: Joseph Street, Environmental Scientist
Lesley Ewing, Senior Coastal Engineer
Re: 31505 Bluff Dr. (Kinstler Residence) Appeal (A-5-LGB-16-0098)

In connection with the above-referenced appeal, we have reviewed the following documents directly related to the subject property:

- 1) Anderson Geology, LLC, 2016, "Preliminary Geotechnical Investigation for Design and Construction of Proposed Improvements and Lower-Level Addition to Existing Residence, 31505 Bluff Drive, City of Laguna Beach", geotechnical report dated January 2016 and signed by P. Anderson (CEG 2596) and D. A. Purkis (RCE 42810).
- 2) Anderson Geology, LLC, 2016, "Determination of The Coastal Bluff Setback, 31505 Bluff Drive, City of Laguna Beach, California", letter to the City Of Laguna Beach Design Review Board dated July 2016, signed by P. Anderson (CEG 2596).

We also reviewed the following documents which provide additional local and regional geologic information and context:

- 3) Tan, S. S., and Edington, W. J., 1976, "Geology and Engineering Geologic Aspects of the Laguna Beach Quadrangle, Orange County, California", California Division of Mines and Geology Special Report 127.
- 4) Lawson and Associates Geotechnical Consulting, Inc., 2010, "Geotechnical Assessment of the Coastal Bluff Paralleling the South Coast Water District Laguna Beach Sanitary Sewer Interceptor Tunnel, City of Laguna Beach, California", geotechnical report, dated August 9, 2010, signed by K. B. Colson (CEG 2210) and T. Lawson (CEG 1821, GE 2626).

In addition, we have reviewed the site plan, topographic survey and cross-sections prepared by Horst Architects on the applicant's behalf. The purpose of this memorandum is to address the question of the location of the bluff edge on the subject property.

The coastal bluff at the site is a composite bluff consisting of poorly-consolidated marine and non-marine terrace deposits underlain by sandstone and conglomerate bedrock known as the San Onofre Breccia. Based on the topographic information contained in the site plans submitted by the applicant (*see Appendix A*), the bluff slope extends from at least the inland edge of the property, at an elevation of approximately 114 feet above mean sea level (MSL), to the beach below, at an elevation of 17 feet MSL. The terrace deposits of the upper bluff are susceptible to subaerial erosion, and are

characterized by relatively gentle slopes of 30 to 40 degrees. In contrast, the bedrock of the lower bluff, below elevations of approximately 55 to 60 feet MSL, forms a steep sea cliff. This slope break corresponds to the contact between the relatively erosive upper bluff terrace deposits and the relatively resistant San Onofre Breccia.

In such a situation, where erosional processes have resulted in a more gently sloping upper bluff and the lack of a distinct transition between bluff top and bluff edge, defining the bluff edge on the ground can be difficult. In this case, the determination of the bluff edge is also complicated by previous grading of the bluff slope that appears to have occurred during the original construction of the existing dwelling, resulting in several artificial terraces or “steps” descending from the elevation of Bluff Drive.

Partially addressing these complexities, the Land Use Element of the City of Laguna Beach’s certified Local Coastal Program provides guidance on determining the bluff edge, including the following definition of “Oceanfront Bluff Edge or Coastal Bluff Edge” (Glossary Definition 101):

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.

This definition is similar, though not identical, to the definition of a bluff edge contained in the Coastal Commission’s regulations (Cal. Code Reg. Title 14, §13577(h)).¹ The Land Use Element (in Definition 102) further clarifies that a coastal bluff encompasses the entire slope between the upland area and the beach, and not just the steepest portion of the slope:

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.*

Pursuant to these definitions, the natural bluff edge at the subject property, prior to disturbance by the existing residence, is likely to have occurred somewhere within (or possibly even landward of) the

¹ Section 13577(h)(2) of the Commission’s regulations defines the “bluff edge” as follows:

Bluff line or edge shall be defined as the upper termination of a bluff, cliff or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surfaces increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost rise shall be taken as the cliff edge.

footprint of the existing structure.² As shown in the site plans, the existing dwelling and ancillary structures rest on several terraces that appear to have been cut into the face of the bluff during the original construction on the site. The geotechnical report indicates that fill may also have been placed at several locations, further altering the bluff's natural shape. Thus, the original shape and slope of the uppermost bluff in its unaltered state are unknown. Nonetheless, the general gradient of the upper bluff can still be estimated from the portion of the bluff below the existing development but above the slope break, and can be used to estimate the position of the original bluff edge. As shown in the cross-section figures of **Appendix A**, lines tracing the average gradient of the intact portion of the upper bluff intersect the elevation of the presumed bluff top (approximately 114 feet MSL) within the footprint of the existing house. A more rounded profile and lower slopes near the top of the bluff would have resulted in an even more landward position of the original bluff edge.

Following from the guidance provided by the LCP Land Use Element, which anticipates the potential for the retreat of the bluff edge as a result of grading, the current edge of the bluff occurs at an elevation of 113 to 114 MSL, at the topmost terrace or "riser" resulting from the grading cuts made during the construction of the existing dwelling and at the level of Bluff Drive. For reference, the approximate contour of the bluff edge has been added to the site plans reproduced in **Appendix A**.

In contrast, the applicant's site plans identify the "bluff top" at the aforementioned slope break, where the relatively gentle slope of the upper bluff transitions to the steeper slope of the sea cliff, at elevations between 55 and 58 feet MSL. The July 2016 Anderson Geology letter indicates that the applicant's geotechnical consultants defined the bluff edge as the "point where the topographic profile transitions to greater than 1:1 (horizontal/vertical)." While we agree that the applicant's bluff edge line accurately demarcates the position of the slope break (i.e., the top of the sea cliff), it does not represent the position of the bluff edge as defined by the Land Use Element of the City's certified LCP.

Please do not hesitate to contact us with any further questions.

Sincerely,



Signature

Joseph Street, Ph.D.
Environmental Scientist



Signature

Lesley Ewing, Ph.D., PE, F.CE
Senior Coastal Engineer

² Notably, the section of Bluff Drive adjacent to the subject property may itself rest on an artificial terrace cut from the bluff slope. Google Earth "street view" images taken from the roadway adjacent to 31505 Bluff Dr. show that the properties immediately inland are supported by retaining walls, suggesting that the natural bluff slope continues beyond Bluff Dr., and that the bluff edge as defined by the LCP, may actually occur entirely inland of the subject property.

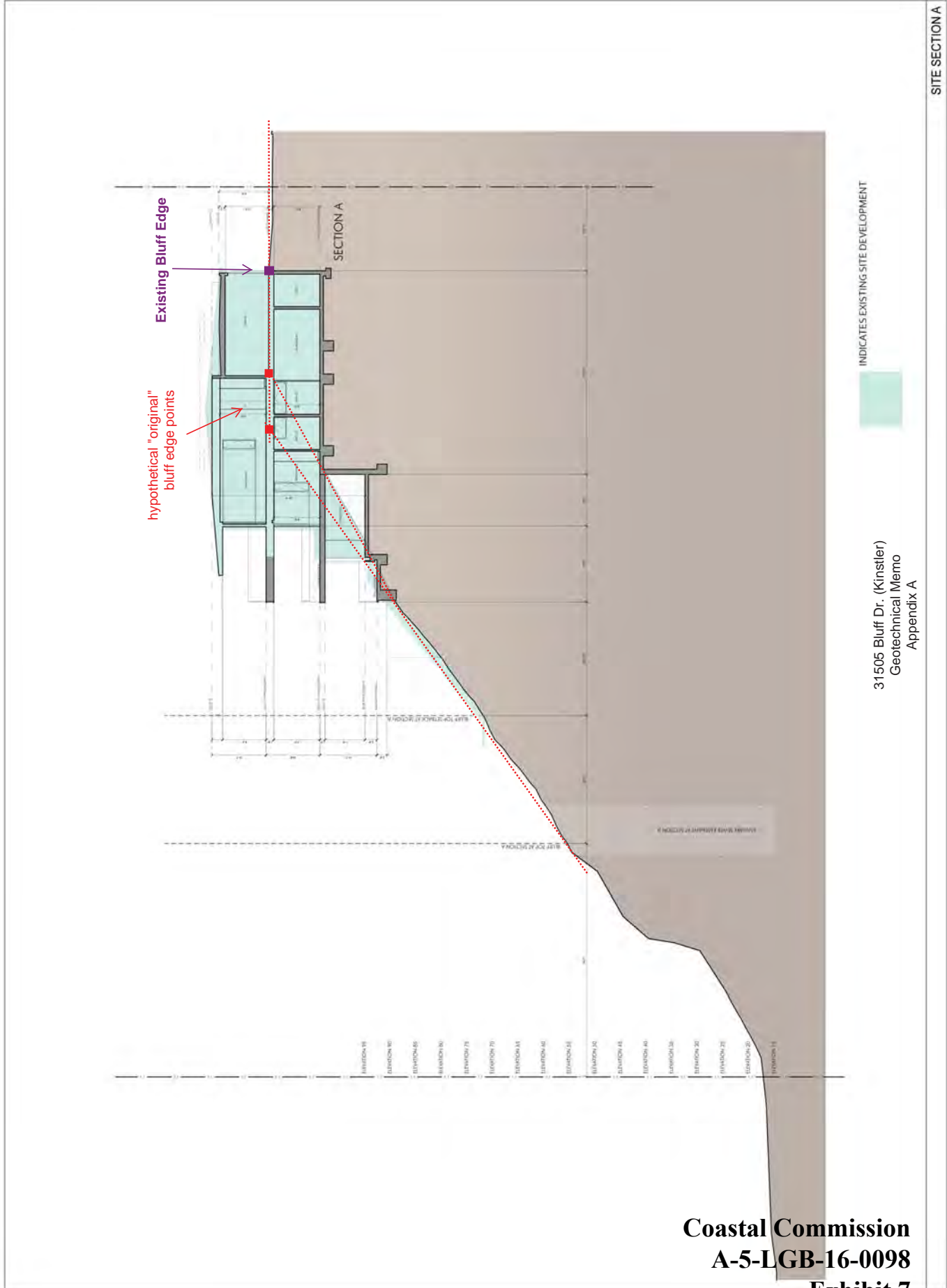


Small vertical text on the left margin, likely a disclaimer or scale information.

BLUFF DRIVE RESIDENCE
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651



SCALE	1/8" = 1'-0"
DATE	03.07.2016
PROJECT	SSA



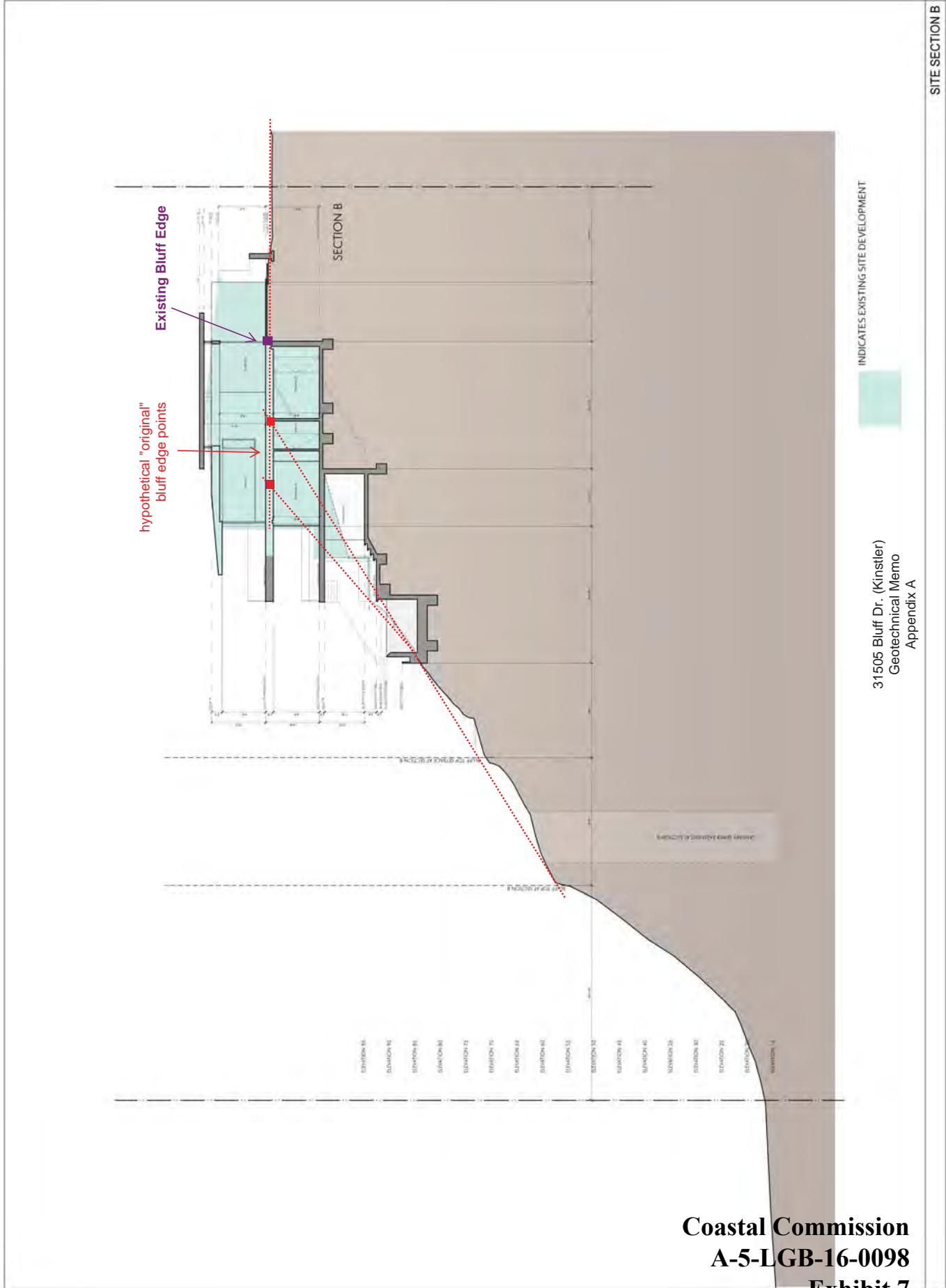
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BLUFF DRIVE RESIDENCE
31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651



DATE:	11/02/2018
PROJECT:	31505 BLUFF DRIVE
DESIGNER:	SSB
DATE OF 2018:	11/02/2018
DATE OF 2019:	11/02/2019

SSB



Coastal Commission
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31505 BLUFF DRIVE LAGUNA BEACH, CALIFORNIA 92651

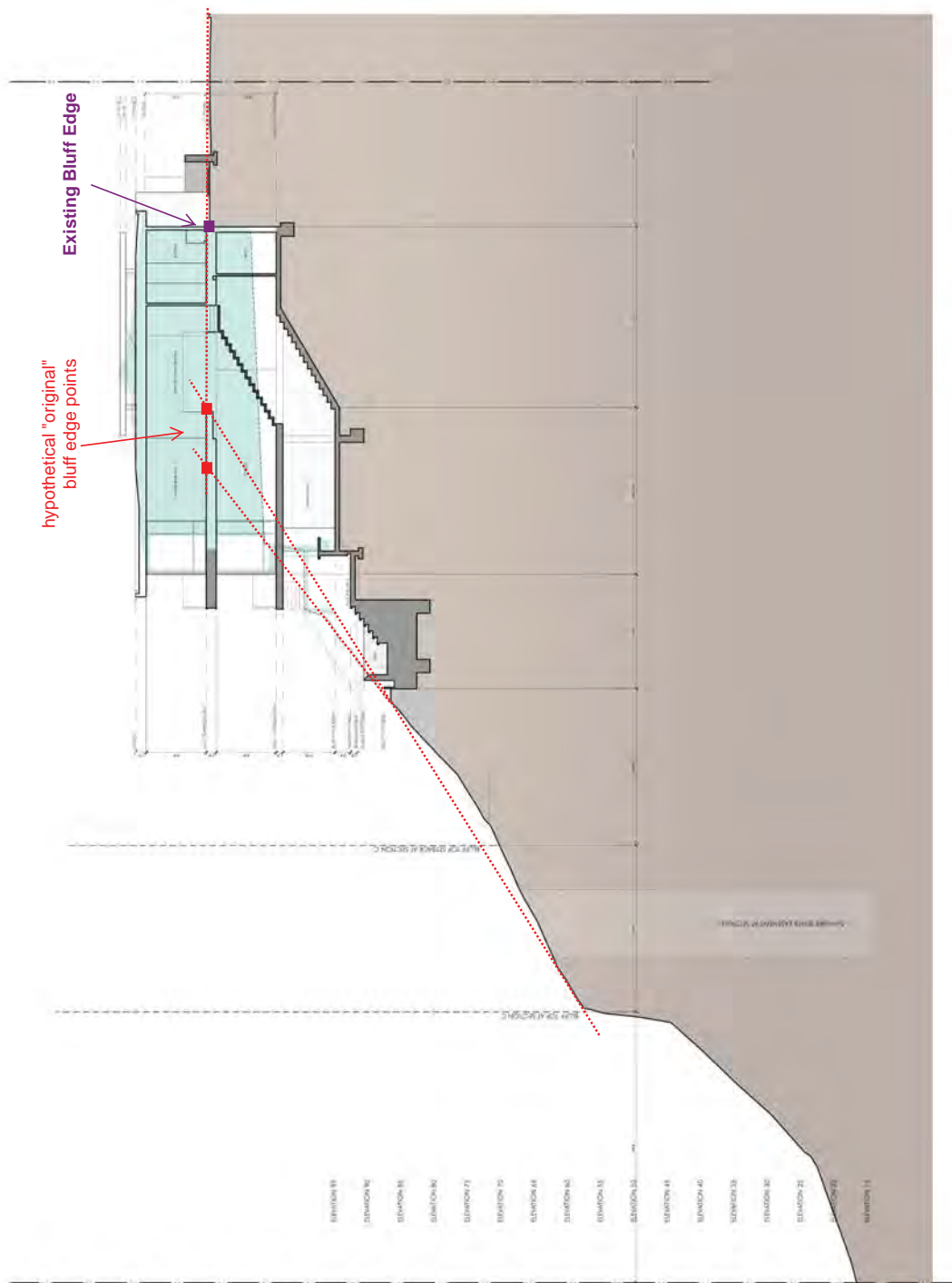
BLUFF DRIVE RESIDENCE



SCALE	1/8" = 1'-0"
DATE	01.07.2016
PROJECT	31505 BLUFF DRIVE
CLIENT	HOIST

SSC

SITE SECTION C



INDICATES EXISTING SITE DEVELOPMENT

31505 Bluff Dr. (Kinstler)
Geotechnical Memo
Appendix A

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Exhibit 7
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December 14, 2016

Charles Posner
California Coastal Commission
South Coast District Office
200 Oceangate 10th Floor
Long Beach, Ca. 90802-4416

Re: Appeal of the City of Laguna Beach Design Review Approval
Kinstler Residence
31505 Bluff Drive
Laguna Beach, California

Mr. Posner and Coastal Commission members,

As project architect and on behalf of the owner of the property, Charlie Kintler, I am writing to address the issues raised in the appeal of our project to the Coastal Commission by Mark Fudge. In his appeal letter Mr. Fudge lists five principal reasons why he believes the Design Review approval of our project should be overturned by the Coastal Commission. Please allow me to address each of these issues in the order that they appear in his letter, using his titles;

1. "This project qualifies as a Major Remodel"

With regards to whether or not this is a "minor remodel", it should be noted that the plans were thoroughly reviewed by the City's Planning staff during Zoning plan check, for conformance to the City's criteria for a minor remodel. There are three categories that need to be met for a project to qualify as a minor remodel; 50% of the existing floors and roofs be retained, at least 50% of the exterior walls be retained and the maximum amount of habitable floor area that can be added is 50% of the original floor area. We are proposing approximately 39% and 37% demolition, respectfully in the first two categories, well short of the 50% threshold. Additionally, the original habitable floor area is 2,585 square feet and we are proposing to add 997 square feet, a 39% increase. Therefore we are substantially within the criteria of a "minor remodel" in each of these three categories.

Mr. Fudge's asserted this position during his testimony on the two occasions he appeared at the DRB hearings. Each time, our calculations were verified by planning staff to be true and accurate.

2. Non-conformities are being expanded

As stated in Mr. Fudge's letter, this assertion is based on his belief that the existing structure is as he states "likely placed within the 25' bluff edge and quite possibly the

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Page 1 of 4

HORSTarchitects



bluff itself". However, during the course of the DRB hearings, he could not provide any evidence to support this position.

It should be noted that we started designing this project with an understanding that there is a difference between the way in which the City determines top of bluff and the Coastal Commission's determination. The survey we used, provided by Toal Engineering, depicts the edge of bluff based upon the City's criteria, on average approximately 60ft. below the footprint of the existing structure. To verify this, based upon what we understood to be Coastal Commission criteria, we also engaged the services of a local geologist, Peter Anderson, who is experienced with the Coastal Commission's criteria relative to determining the top of bluff. Mr. Anderson concurred that the top of bluff location as depicted in Toal's survey is consistent with Coastal Commission's criteria. Mr. Anderson testified to this fact during the DRB process. A letter from Mr. Anderson is in the City file.

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

The project has been designed to "preserve visual resources and minimize natural landform alteration" by substantially remaining within the footprint of the existing structure. The existing structure is two stories and at each of these levels, approximately 75% of the oceanward edge of the existing structure is being retained. Only on the south west corner are we proposing any oceanward expansion, approximately 5'-2" (please see exhibit A). We are proposing to add a covered outdoor space at a new level below the existing structure. This space extends down the site 14'-10" from the oceanward edge of the existing structure, still approximately 40ft. away from the top of bluff.

Additionally, it should be noted that almost all of the additional floor area is being proposed with the existing sub-floor space between the upper and lower levels. This was done to specifically "preserve visual resources and minimize natural landform alteration" as well as to preserve views and privacy from adjacent properties.

If you look at the the attached exhibits, you will see that we are proposing very modest additions to the property in relation to the extent of development on either side of the subject property, and at a significant distance from the bluff edge (please see exhibits B,C,D,E). We are also well within the area that has been previously developed on the site (please see exhibit "A").

4. Unknown effects on Cultural and Historic resources

During the Design Review process, we had several meetings with the City. Greg Pfost, the Director of Community Development did suggest that we retain a paleo/archeo consultant to review the site. Michael Macko, a local Archaeologist and Cultural Resources expert was retained for this purpose. Michael Macko reviewed the site and available historic documents. A letter by Mr. Macko in the City file states that "artifacts

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typical of prehistoric sites of the Laguna Coast were conspicuously absent from the soils examined”.

5. “The Certified LCP requires CEQA compliance and preparation of an Initial Study for any development in an environmentally sensitive area”.

Shortly after the initial DRB hearing, we met at the City with Greg Pfost, the Director of Community Development, Nancy Csira, the Zoning Administrator and Belinda Ann Deines, the planner assigned to the project. They concluded that an Initial Study would **not** be required, as we are proposing a minor remodel within the bounds of previous development on the site. Furthermore, it should be noted that single-family homes are generally exempt from CEQA requirements. In fact, recently this was challenged in the Supreme Court in **Berkeley Hillside Preservation v. City of Berkeley**. Wherein the Supreme Court ruled in favor of the property owners over the activists. Here is a summary of that case;

This morning the California Supreme Court issued its decision in Berkeley Hillside Preservation v. City of Berkeley, announcing that projects which are categorically exempt from review under the California Environmental Quality Act are exempt even if they might have negative environmental impacts. The Court’s decision is consistent with Pacific Legal Foundation’s amicus brief in support of property owners who are trying to build a home without endless environmental review.

CEQA requires extensive review of a project’s potential impacts, analysis of alternatives to the project, and mitigation of unavoidable project impacts, unless the project is exempt. The statute establishes several exemptions, and requires the California Resources Secretary to establish others by regulation. A limitation, or exception, to the exemption applies where otherwise exempt projects may have adverse environmental impacts “due to unusual circumstances.”

One of the common sense CEQA exemptions is for single family homes. In this case the City of Berkeley agreed that a property owner’s proposed single family home was exempt from CEQA and approved it. Various activists objected to the size of the home, and successfully argued to the lower court that the categorical exemption should not apply if they could show that the home might have negative environmental impacts, whether or not these impacts were due to unusual circumstances.

The California Supreme Court reversed the lower court and ruled that the categorical exemption applies unless a project opponent can show unusual circumstances about the project which may cause harm to the environment. In doing so, the Court followed PLF’s amicus advice and limited the holdings of two prior CEQA exemption cases to their specific circumstances: Wildlife Alive v. Chickering (California Fish and Game Commission hunting season regulations are not entitled to categorical CEQA exemption) and Mountain Lion Foundation v. Fish & Game Commission (California Endangered Species Act delisting action not entitled to categorical exemption from CEQA).

For more information, please go to:

<http://blog.pacificlegal.org/ceqa-victory-california-supreme-court>

**Coastal Commission
A-5-LGB-16-0098**

Exhibit 8

Page 3 of 4



HORSTarchitects



CONCLUSION

This is a thoughtful and neighborhood compatible remodel of and addition to an existing structure that is in dire need of renovation. The forms and materiality of the new design compliment the mid-century modern history of the existing structure. The proposed development is limited to the area of the site previously disturbed by the original construction and therefore is environmentally sensitive to this beautiful oceanfront site.

We started this project with a meaningful discussion with many neighbors at the site. Based upon this early discussion, we decided to move forward with a modest project, wherein almost the entire addition would be located in the subfloor space. With this approach, we received a substantial amount of support from the neighbors, particularly those who live above the site. It is generally the uphill neighbors who are most impacted by downhill construction. We've minimized this impact by not significantly raising the existing roof height. Subsequent to the initial hearing we've met with the adjacent neighbors on each side who expressed their concerns. We feel that the plans before you contain significant revisions that effectively and reasonably address their concerns.

We look forward to your support on this project.

Thank-you,

Horst Noppenberger AIA,

on behalf of Charlie and Lynda Kinstler

Coastal Commission
A-5-LGB-16-0098
Exhibit 8
Page 4 of 4

RECEIVED
South Coast Region

JUN 1 2017

**CALIFORNIA
COASTAL COMMISSION**

DANIEL E. HASPERT
32502 BLUFF DRIVE
LAGUNA BEACH, CALIFORNIA 92651
DANHASPERT@GMAIL.COM
PH 949.230.3023
F 949.715.7922

May 10, 2017

Dear Members of Coastal Commission,

I appreciated the opportunity to speak with Chuck Posner and ask if a letter from an owner of a neighboring property would have any merit. I wondered if concerns of a neighbor to a project might parallel concerns of the Coastal Commission. I have reviewed the **"Appeal Form the Coastal Permit Decision of Local Government."**

1. **This project (does not) qualify as a major remodel.** The design review repeatedly until last meeting counseled the owner and architect that this does not qualify as a major remodel. This proposal is a huge expansion to a house already so far developed beyond any reasonable expectation for the lot. And far beyond even the huge 'overbuilds' that were so common in the county in the 1960's and 70's. Further, this property has been in neglect so long that it is clearly a 'teardown'. It is uninhabitable and unsafe. Realtors counseled the children of prior owners in 2012 that the house could not be rented due its disrepair, unsafe and unstable balconies and railings. Further decay occurred in the years since then, in this abandoned, uninhabited, 100% unmaintained building. There is no way that even 20% of the existing structure could be salvaged to meet major remodel criteria.
2. **Non-conformities are being expanded.** This property veritably hemorrhages off all lot line setbacks. While a lovely piece of midcentury architecture when it was built, it breaks all rules as is. The front yard setback at street is 5 or fewer feet. This does not take into account street easement. There is a bedroom 5 feet off the current asphalt street and built onto the street easement. The northwest portion of the building is 18 inches from the lot line on the right side of the residence at garage and proposed building addition below. Plans call for developing the abandoned 'storeroom' beneath the garage into a bedroom, largely increasing the area

Coastal Commission

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Exhibit 9

Page 1 of 3

of habitable space extending into the far non-conforming setback. This is a massive addition of living space in an area of a house built 1 ½ to 2 feet from the lot line. This is unheard of in other projects approved by Laguna Beach Design Review. Until the last meeting, more than one DR member counseled the architect to move the Northwest extent of the house back 3 to 4 feet, which would still encroach into typical setback.

The huge expanse of non-conforming structure extends along a vast portion of the northwest lot line and soars 30 feet into the air. The building area beyond minimum side yard setback totals 6600 cubic feet of building. The property to the north is not at all in the same situation. The average side yard setback there is 10 feet. The small area (less than 8% along lot line) of that structure encroaching into the setback is mostly at and below deck level. Only 210 cubic feet of living space encroach beyond current side yard setback above grade, 415 feet below deck, garden/yard level. It is clear as noted in the appeal that "the preexisting nonconforming ocean front or oceanfront bluff structure" is not in any way being "brought in conformity with the LCP" Owner and architect were warned of this concern multiple times by more than one DR member.

It appears the current building surpasses/violates current building envelope by a full 15 feet across the 45'8" south west face of the building. The entire living room, dining room, and master bedroom extend far beyond and above current stipulated envelopes. They would not exist in a house which was more truthfully labeled as a tear down and built anew. Thus, the current and proposed development at 31505 Bluff Drive has a huge encroachment above building enveloped guidelines and beyond northwest side yard setback. It soars a full 30 feet in height above north neighboring house. Roof overhangs also far overreach the setbacks, leaving the neighbor house in shadow, but architect refused to trim them back due to trying to represent this as a major remodel, hence no more room for roof adjustment.

3. **The approved development is not sited in the most suitable area of the lot to preserve visual resource.** Perhaps not of interest to Coastal commission, the ocean face of the house is almost entirely glass, and until last meeting, DR admonished architect for wrapping a full 16 more feet of

nearly floor to ceiling plate glass on northwest face. My discomfort and objection related to the loss of privacy to my entirety of my rear yard,(literally) given the soaring height of the building as is. The ocean impact would be approximately 60 running feet of nearly uninterrupted glazing and glare. The vast majority is nearly identical at next level down from top, which due to atypical height still soars far into the skyline. This is not protection of the coastline.

4. **The approved development is sited on the bluff face.** Besides the cogent language in the appeal, I believe anyone visiting the site can clearly see the bluff face is located under the footprint of the existing residence and Toal Engineering, once again, struggled with its assessments. The massive proposed development, with living space, cabana with its door openings not shown as enclosed on current drawings, pool, and decks add the bulk of an additional average sized cottage in Laguna, but with many times the weight. We have followed the bluff erosion, sloughing and ruptures elsewhere in prior approved sites and are concerned for our safety, our homes safety and that of the bluff.

If possible, I would value your reflections on these concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel E. Haspert". The signature is fluid and cursive, with the first name "Daniel" being more prominent and the last name "Haspert" following in a similar style.

Daniel E. Haspert