

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
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W12b

A-5-LGB-17-0033 (DIMITRY DEMO SFD)

AUGUST 10, 2017

EXHIBITS

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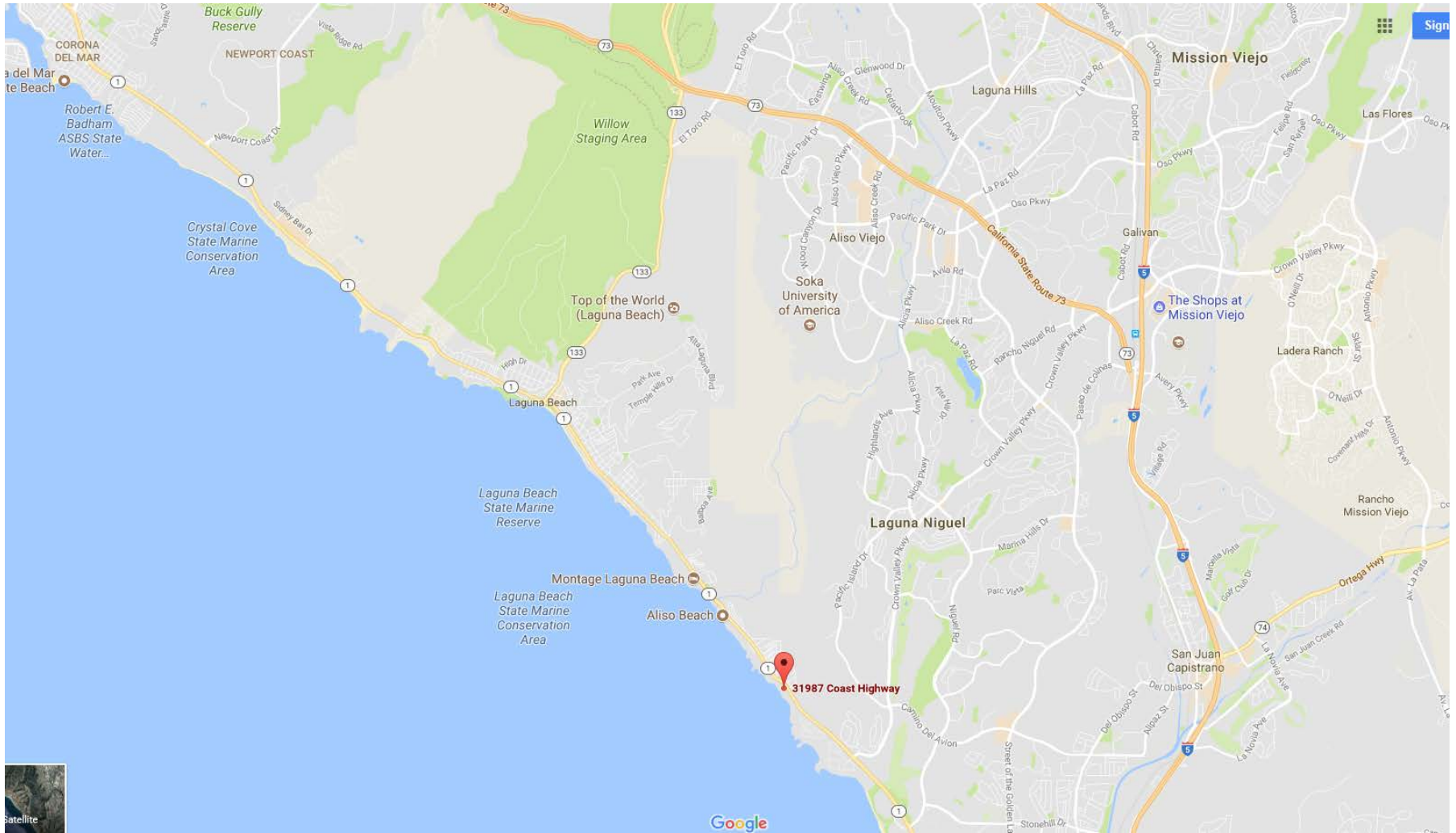
Exhibit 1 Vicinity Map

Exhibit 2 City Council Resolution No. 17.032

Exhibit 3 Site Survey

Exhibit 4 Appeal of Derek Peterson

Exhibit 5 Appeal of Mark Fudge



VICINITY MAP

A-5-LGB-17-0033
EXHIBIT 1a



SUBJECT SITE

**A-5-LGB-17-0033
EXHIBIT 1b**

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RESOLUTION NO. 17.032

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, OVERTURNING THE DECISION OF THE DESIGN REVIEW BOARD, APPROVING COASTAL DEVELOPMENT PERMIT 16-2180 AND CATEGORICAL EXEMPTION, AND ALLOWING THE DEMOLITION OF A SINGLE-FAMILY DWELLING AT 31987 COAST HIGHWAY

WHEREAS, an application was filed in accordance with the provisions of Chapters 25.05 and 25.07 of the Laguna Beach Municipal Code, requesting Coastal Development Permit 16-2180 to demolish a single-family dwelling at 31987 Coast Highway; and

WHEREAS, City staff recommended that the proposed project be determined to qualify for a categorical exemption for purposes of the California Environmental Quality Act if the existing dwelling was determined to not be an historic resource; and

WHEREAS, on January 12, 2017, the Design Review Board conducted a legally noticed public hearing, and after reviewing all documents and testimony, voted 4-1 to deny the application based on the determination that the existing dwelling might constitute an historic resource and, therefore, an Initial Study should be prepared pursuant to CEQA for the appropriate environmental determination; and

WHEREAS, the property owner filed an appeal of the decision of the Design Review Board; and

WHEREAS, on April 18, 2017, the City Council of the City of Laguna Beach conducted a legally noticed public hearing on the request and considered all of the evidence and arguments presented in support of and in opposition to the Design Review Board's action;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH does RESOLVE and ORDER as follows:

1 The City Council hereby overturns the decision of the Design Review Board and
2 approves Coastal Development Permit 16-2180 to demolish a single-family dwelling at 31987
3 Coast Highway on the basis that the existing dwelling is not an historic resource and pursuant
4 to the following findings required for the Coastal Development Permit requested by the
5 property owner:
6

- 7 1) The project is in conformity with all the applicable provisions of the General
8 Plan, including the Certified Local Coastal Program and any applicable specific
9 plans in that the environmentally sensitive oceanfront bluff area is protected
10 because the development is limited to demolition of the existing structure, which
11 encroaches into the blufftop setback, thereby preserving the integrity of the
12 bluff;
13
- 14 2) Any development located between the sea and the first public road paralleling
15 the sea is in conformity with the Certified Local Coastal Program and with the
16 public access and public recreation policies of Chapter 3 of the Coastal Act in
17 that vertical and lateral public access exists to and along Thousand Steps Beach,
18 and the proposed development will not create any adverse impacts to the
19 existing public access; and
20
- 21 3) The proposed development will not have any significant adverse impacts on the
22 environment within the meaning of the California Environmental Quality Act in
23 that the proposed project is in compliance with the applicable rules and
24 regulations set forth in the Municipal Code and will not cause any significant
25 adverse impacts on the environment.
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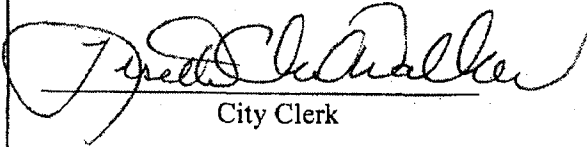
1 The City Council further determines that the proposed project qualifies for a categorical
2 exemption for purposes of the California Environmental Quality Act.
3

4 ADOPTED this 23rd day of May, 2017.

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7 Toni Iseman, Mayor

8 ATTEST:

9 
10 City Clerk

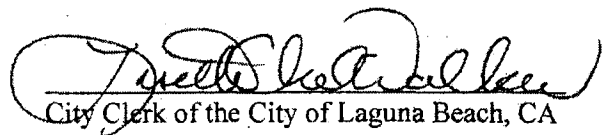
11
12 I, LISETTE CHEL-WALKER, City Clerk of the City of Laguna Beach, California, do
13 hereby certify that the foregoing Resolution No. 17.032 was duly adopted at a Regular Meeting
14 of the City Council of said City held on May 23, 2017, by the following vote:

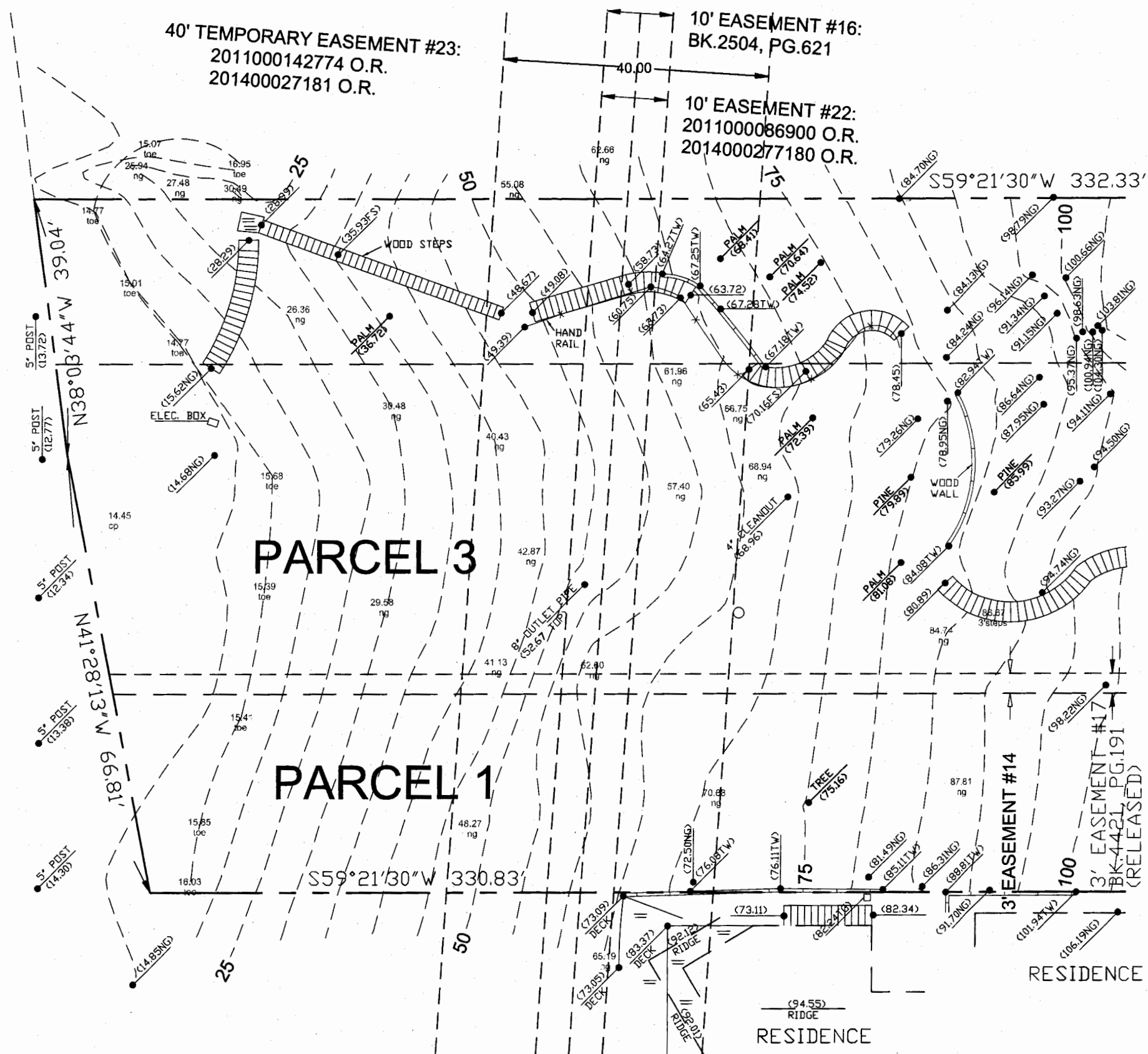
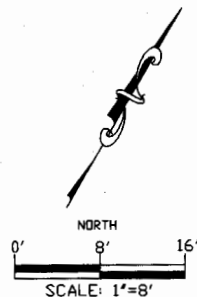
15 AYES: COUNCILMEMBER(S): Dicterow, Boyd, Whalen, Iseman

16 NOES: COUNCILMEMBER(S): Zur Schmiede

17 ABSENT: COUNCILMEMBER(S): None

18 ABSTAIN: COUNCILMEMBER(S): None
19
20

21 
22 City Clerk of the City of Laguna Beach, CA
23
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28



LEGEND	
(123.45)	MEAS. ELEVATIONS
()	REC. BRG. & DIST.
=	DECK
#	BRICK
---	WALL
---	BUILDING
---	PROPERTY LINE
---	FENCE
x	NATURAL GRADE
N.G.	POWER POLE
P.P.	WATER METER
WM	FINISH FLOOR
F.F.	GARAGE FLOOR
G.F.	CONCRETE
CONC.	FINISH SURFACE
F.S.	MAN-HOLE
M.H.	PLANTER
P	ASPHALT
A.C.	TOP-GRADE
T.G.	

RdM SURVEYING INC.

RdM MIEDEMA L.S. 4653
23016 LAKE FOREST DR. #409
LAGUNA HILLS, CA 92653
(949) 858-2924 OFFICE
(949) 858-3438 FAX
RdMSURVEYING@COX.NET

TOPOGRAPHIC SURVEY

JOB: 59-42

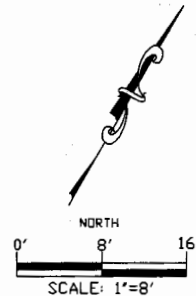
DATE: 4/22/16

OWNER:
HCI SYSTEMS
1354 S. PARKSIDE PLACE
ONTARIO, CA 91761

LEGAL DESCRIPTION:
A PORTION OF LOTS 27 & 28 OF THREE
ARCHES PALISADES NO. 2 AS PER MAP
RECORDED IN BOOK 3, PAGES 16 THROUGH
17 OF MISCELLANEOUS MAPS, RECORDS OF
ORANGE COUNTY, CA

BENCH MARK:
County of Orange Bench Mark #T-783
Elevation = 135.61 NAVD 88 Datum

ADDRESS OF PROJECT:
31987 SOUTH COAST HIGHWAY
LAGUNA BEACH, CA



LEGEND

SYMBOL	DESCRIPTION
(123.45)	MEAS. ELEVATIONS
()	REC. BRG. & DIST.
#	DECK
—	BRICK
—	WALL
—	BUILDING
—	PROPERTY LINE
—	FENCE
—	NATURAL GRADE
—	POWER POLE
—	WM
—	FF
—	FINISH FLOOR
—	G.F.
—	CONC.
—	CONCRETE
—	FINISH SURFACE
—	M.H.
—	MAN-HOLE
—	P
—	PLANTER
—	AC
—	ASPHALT
—	T.G.
—	TOP-GRADE

RdM SURVEYING INC.

RON MIEDEMA L.S. 4653
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(949) 858-2924 OFFICE
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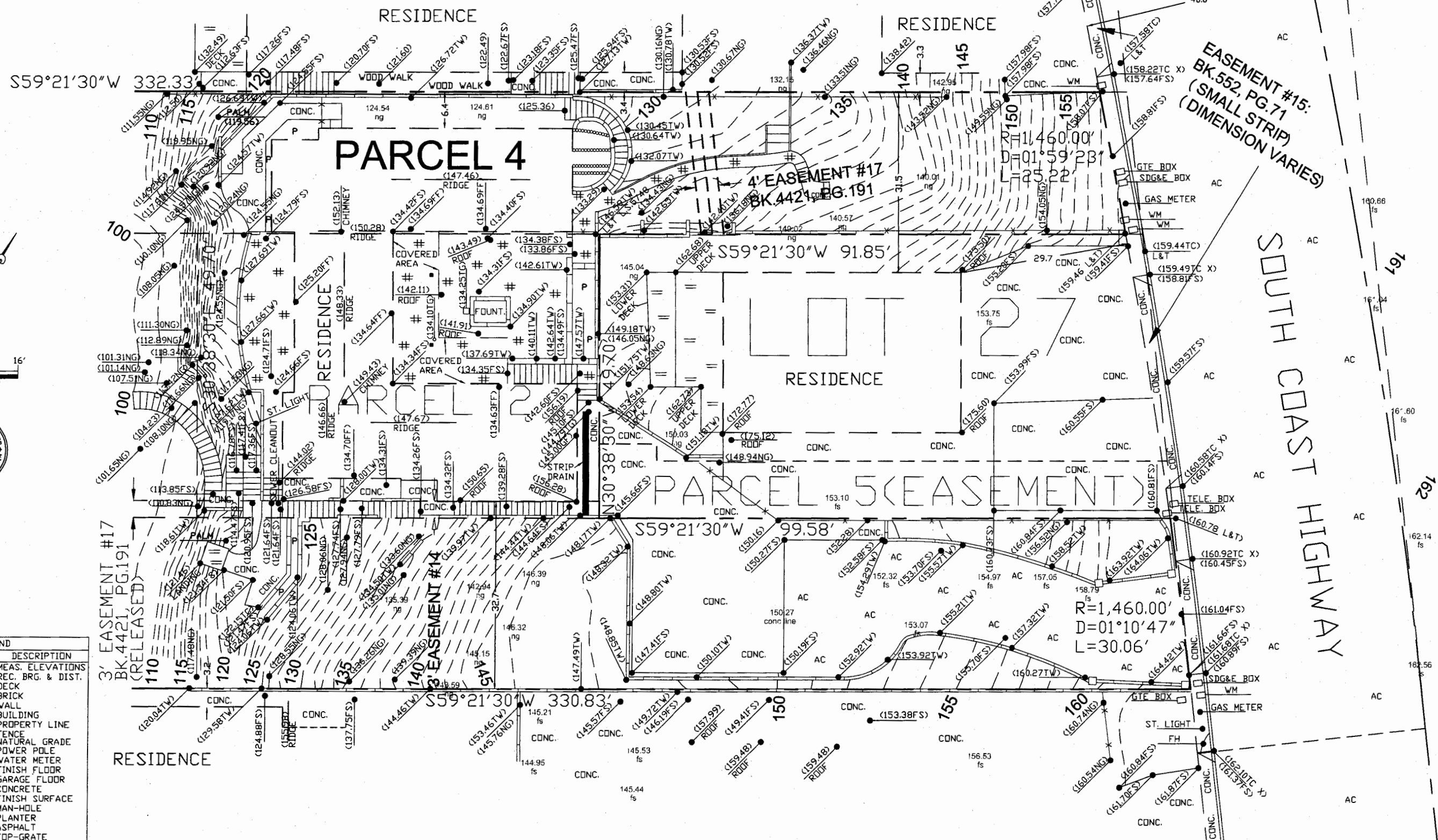
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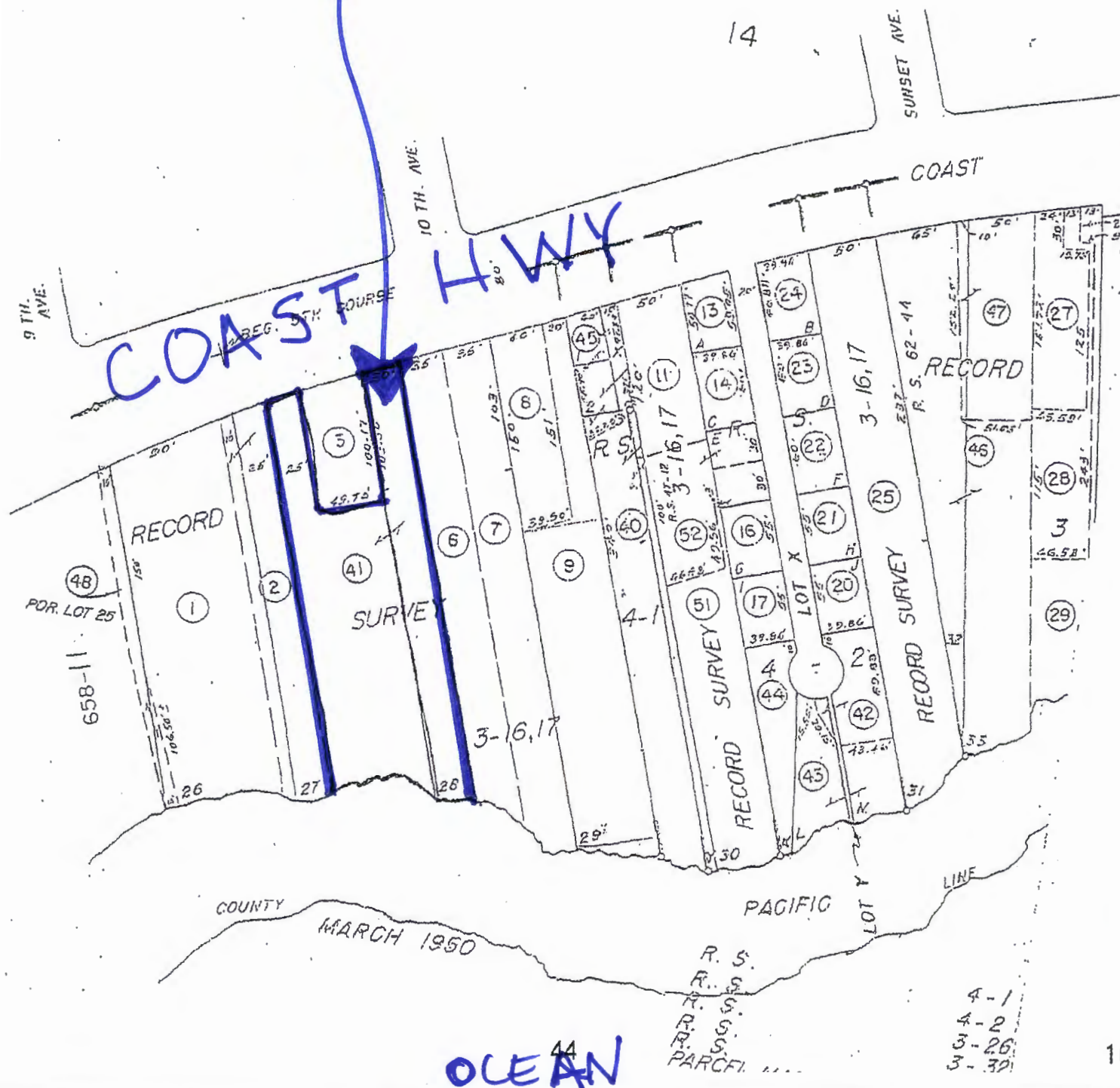
ADDRESS OF PROJECT:

31987 SOUTH COAST HIGHWAY
LAGUNA BEACH, CA



A-5-LGB-17-0033

subject Lot



SECTION I. Appellants

Derek Peterson
31995 Coast Highway
Laguna Beach, CA 92651
949-499-1953

A-5-LGB-17-0033
South Coast

RECEIVED
South Coast Region

JUN 27 2017

CALIFORNIA
COASTAL COMMISSION

SECTION II. Decision Being Appealed

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

2. Brief description of development being appealed:

COASTAL DEVELOPMENT PERMIT 16-2180 and Categorical Exemption, and allowing the demolition of a single-family dwelling at 31987 Coast Highway

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

31987 Coast Highway, Laguna Beach, on the ocean side of Coast Highway, between 9th and 10th Ave.

APN 056-160-41

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

X Approval; no special conditions

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

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

Planning Director/Zoning Administrator

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

Planning Commission

Other

6. Date of local government's decision: May 9, 2017

7. Local government's file number (if any): Coastal Development Permit 16-2180,

SECTION III. Identification of Other Interested Persons

Hany Dimitry
1354 S. Parkside Place
Ontario, CA 91761

Brion Jeannette
% Brion Jeannette Architecture
470 Old Newport Blvd.
Newport Beach, CA 92663

Larry Nokes
% Nokes & Quinn
410 Broadway, Suite 200
Laguna Beach, CA 92651

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

Bryan and Pat Menne
31988 Tenth Avenue
Laguna Beach, CA 92651

Janice Johnson
31985 Virginia Way
Laguna Beach, CA 92651

Craig Jackson
31981 Coast Highway
Laguna Beach, CA 92651

South Laguna Civic Association
Greg O'Loughlin - President
PO Box 9668
South Laguna, CA 92652

Ann Christoph
31713 Coast Highway
Laguna Beach, CA 92651

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

I live next door to the proposed development at 31987 and am appealing the action of the City Council of Laguna Beach on April 18, 2017 to approve a Coastal Development Permit to demolish a 1930s house at "31987 Coast Highway" on an oceanfront, blufftop property. This decision violates the Coastal Act and Local Coastal Program policies, was not made in accordance of CEQA guidelines. The house in question has been deemed to be a structure with historical significance, creates a path forward for the

construction of a new residence on an undeveloped coastal bluff that appears to be within the bluff top setback as determined by the California Coastal Commission, creates the potential for detrimental impact to the stability of the hillside adjacent to my residence, creates unknown impact on bluff face below the unreinforced gunite shoreline protective device oceanward of the existing property, and calls for the mass-excavation of blufftop soil to construct the new residence as proposed. Alternatives to demolition, location of the bluff top setback, and methods for protecting the bluff were not considered. According to reports by three historical consultants the building meets the criteria for historical significance and should have further review regarding its historical status. The approval of the Coastal Development Permit for demolition went against not only the staff report but also the Design Review Board decision that, based on the findings regarding the historicity of the property, the property should undergo further analysis as required by CEQA. On May 23, 2017 City Council approved the resolution finalizing their April decision on the Coastal Development Permit to demolish the house.

The demolition is only the first phase of a planned, massively expansive development on the property.

The development originally submitted proposed to demolish the existing 3,000 square-foot single-family house to develop a 6,800 square-foot residence with attached 600 square-foot two car garage and swimming pool that appears to lie within the natural bluff face and blufftop area. It appears the project falls within what the Coastal Commission deems to be the blufftop setback and expected bluff retreat, calls for the removal of significant blufftop soil (2,218 cubic yards), and potentially impedes coastal access during the construction process.

At the April hearing the applicant's attorney withdrew the application for the new house, asking only for the Council to approve the demolition. This segmentation of the project is in itself impactful since it will allow a significant disturbance of the site, with possible destabilization of neighboring properties. No CDP should be permitted without a complete application that shows the entirety of the anticipated construction on the property.

1. Development in Environmentally Sensitive Area:

31987 Coast Highway sits on an environmentally sensitive area at the top of a bluff face which leads down to the ocean. Having reviewed the documents available to me, it appears the coastal hazard analysis prepared by GeoSoils Inc. only addresses the issues pertaining to wave runup and bluff/shoreline erosion, not the identification of the bluff edge and the proper blufftop setback. Given the undulating nature of the bluff face, the existing house sits between 6'6" and 15' from the bluff face of the developed property. As demonstrated in the pictures attached (figures 1,2,3,4,5) the elevation of the property protects it from the

shoreline, but the angle and composition of the bluff material in the developed and undeveloped area does not appear to be in compliance with Coastal Commission standards for Land Use (PRC Division 20, Chapter 3, Article 6, 30250 and 30253b). The homeowner's representatives have stated that the existing residence must undergo significant retrofitting to stabilize its foundation without intruding onto the bluff. This would include the construction of 14 caissons at a depth of 80 feet. This proposal, along with their statement that the current gunite shorewall protective device is cracking and unstable, leads one to believe that the blufftop setback must be increased to reflect the expected bluff retreat over life of structure as per Coastal Commission Memorandum W11.5 dated 16 January 2003.

Section 30253 Minimization of adverse impacts

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) 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.
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30251 Scenic and visual qualities

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Should the Coastal Commission allow the project to be segmented and allow for the demolition before a new residence is approved by the Laguna Beach Design Review Board, I fear that the empty blufftop will be exposed to severe erosion and potential bluff failure which could have detrimental or catastrophic impact on

my residence which is directly south of 31987. If the area experiences significant rainfall, as it did last year, the water will fall on the exposed blufftop area, pool behind the gunite shorewall, and move in a fashion that may undermine the bluffside of both mine and my neighbor's properties.

2. Development Will Limit Beach Access

The property that is to be developed has a very narrow driveway that leads down to the blufftop house. The driveway is buttressed to the north by an existing residence and to the south by my driveway and residence. In order for construction to take place, Coast Highway will have to be used as a staging area for all hauling (over 200 dirt haulers just for the removal of soil as planned) and construction vehicles. There is a very narrow sidewalk (approximately 2 feet) and bike lane which will not accommodate any sort of staging area, which will cause at least one lane of Coast Highway to be closed while vehicles are loaded, and all of Coast Highway should large trucks attempt to back into the property. There is not adequate space for them to turn around within the property itself. This area is a high traffic area for pedestrians as the area north of the property allows for limited parking so hundreds of cars park along Coast Highway to the south of the property causing many pedestrians walk past the property in order to access the only public access staircase to the Thousand Steps public beach below. Because of this, pedestrians will have to walk through an active construction site or into Coast Highway to access the beach stairs.

30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

3. Important Resource, Pioneering Public Coastal Dedications

The residence in question is the first house constructed along "Thousand Steps Beach" in South Laguna Beach. This house is of Spanish Colonial style and is a key element of the coastline appearance and feel of the neighborhood. The house is in excellent condition with the main residence demonstrating almost no loss of structural integrity. I have lived next to this house for the majority of my life and can attest to its significance to the neighborhood and structural integrity.

Three historical reviews have been performed, two of which determined the structure to have historicity, with one noting that the structure may have historicity. The historical report provided to the city was completed by the Historical Resources Group (HRG) on October 24, 2016. HRG (Exhibits A & C) noted the following:

"31987 Coast Highway is located in the South Laguna Bluffs neighborhood in what is now the southern portion of the city. It is a single-family residence designed in the Spanish Colonial Revival style. The residence was constructed in 1930 in the Three Arches Palisades No. 2 subdivision, subdivided c. 1930. Known owners of the residence include Mr. and Mrs. Fritz Proctor, who owned the house in the early 1950s; and the Thomas De Paolo Family Trust, who owned the house until 2016. Thomas De Paolo (1923-2015) was an advertising executive at the firm of J. Walter Thompson. Following his retirement, he became an accomplished oil painter and writer of several cookbooks and a series of children's books.....

The residence at 31987 Coast Highway was constructed in 1930 in the Three Arches Palisades No. 2 subdivision, subdivided along the South Laguna bluffs in approximately 1930. Based on a historic aerial photograph of the area from 1938, the house was likely the first permanent residence constructed in the subdivision. Though modest in character, 31987 Coast Highway is unlike the surrounding beach cottages in that it has remained relatively unaltered since its construction.....

The residence at 31987 Coast Highway represents the character and heritage of the city. It is located in the Three Arches Palisades tract, which was subdivided in 1930. It reflects the city's history as a beachfront community, and according to historic aerials was one of the earliest residences constructed along this section of the Laguna Bluffs. 31987 Coast Highway is a good local example of Spanish Colonial Revival residential architecture. As illustrated in the photos provided by the applicant, the property has undergone some minor alterations; some windows have been replaced with vinyl or fixed units. However, these alterations are limited and do not compromise the overall integrity of the property. It retains a high degree of historic integrity, and a majority of its significant character-defining features that identify the style. It therefore appears eligible for local designation with a "K" (key) rating."

During the April 18, 2017 City Council meeting, Mayor Toni Iseman declared the house to be a "valuable part of the history of the neighborhood, you know, the first house there". **(See Exhibits A-D for the historical reports for the property)**

4. Historic Preservation Critical to Laguna Beach LCP and Coastal Act policies

Preservation of buildings that tell of the city's early settlement and beach-cottage days gives visitors and residents an impression of the community timeline and the opportunity to discover and enjoy the quaint and one-of-a-kind crafted houses of Laguna Beach's diverse neighborhoods. Historic preservation is important to preserving the "special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses" (Section 30253(e) of the Coastal Act). Laguna Beach and its neighborhoods are special in this way.

Section 25.45.002 of the LCP/Zoning Code contains several provisions that parallel this Coastal Act provision, including the following objectives:

- (A) Safeguard the heritage of the city by providing for the protection of historic resources representing significant elements of its history;

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

(See Attachment A, HRG Initial Assessment Report)

5. Lack of Compliance with the LCP

The City's LCP includes both the Land Use Element of the General Plan and the Zoning Code, and these documents include policies and regulations for historic preservation. While these policies are central to the consideration of the demolition of the historic structures, the Coastal Development Permit issued by the City does not include the findings that address them.

These provisions include the following (emphasis added):

From the General Plan/Local Coastal Program, Land Use Element:

Page 1 Guiding Principles

The following guiding principles provide the basis for detailed policies included in the General Plan elements.

1. Strengthen our sense of community. The General Plan envisions Laguna Beach as a place of abundant scenic natural beauty, small-town village charm, and cultural diversity. Laguna residents take great pride in their community, which has a tradition of promoting the arts, historic preservation, and participation in civic and community organizations. The community is made up of quiet, close-knit neighborhoods of beachside and hillside homes. The residential neighborhoods are complemented by amenities such as the beaches, trails, shops, and restaurants, and these amenities are easily accessible to residents and visitors. Ongoing public education, civic participation, and monitoring regional growth are keys to maintaining and enhancing the positive characteristics of the community.

Page 7-3 **Action 1.1.13** Encourage preservation of historic structures and adaptive reuse of buildings.

Page 7-5 **GOAL 2:** Preserve, enhance and respect the unique character and identity of Laguna's residential neighborhoods.

Intent - The residential neighborhoods of Laguna Beach are diverse in housing design and are characterized by a strong neighborhood identity. Styles range from traditional to contemporary, with a majority of neighborhoods being of an eclectic mix. Pressures for development created by Laguna Beach's spectacular coastal and hillside settings and consistently high property values are perceived as creating cumulatively negative aesthetic and other impacts on these unique neighborhoods. In response to such impacts, Goal 2 sets forth policies and actions to preserve, enhance, and respect the character and identity that make Laguna Beach a highly desirable community in which to live through actions such as 1) amending zoning ordinances, including the implementation of long-term anti-mansionization standards; 2) changing the Design Review guidelines and

process; 3) encouraging the preservation of historic residences; and 4) strengthening the Landscape and Scenic Highways Resource Document.

Policy 2.2 Encourage the preservation of historically significant residential structures and protect the character-defining components of Laguna Beach's traditional neighborhoods.

From the Zoning Code:

Section 25.45 Historic Preservation

25.45.002 Intent and purpose.

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

- (A) Safeguard the heritage of the city by providing for the protection of historic resources representing significant elements of its history;
- (B) Enhance the visual character of the city by encouraging the preservation of those buildings which make a significant contribution to the older neighborhoods of the city particularly to the designated historic register structures reflecting unique and established architectural traditions;
- (C) Foster public appreciation of and civic pride in the beauty of the city and the accomplishments of its past;
- (D) Strengthen the economy of the city by protecting and enhancing the city's attractions to residents, tourists and visitors;
- (E) Promote the private and public use of historic resources for the education, prosperity and general welfare of the people;
- (F) Stabilize and improve property values within the city. (Ord. 1458 § 1 (part), 2006; Ord. 1179 § 5 (part), 1989).

The City's Design Review Board heard the Design Review permit application to demolish the existing residence and construct the proposed 6,899 square-foot residence on January 12, 2017. On a 4-1 vote the design review board determined that substantial evidence existed to deem that residence historic and, therefore, the residence should follow proper protocols under CEQA and undergo an environmental impact review before any demolition occurs. While the residence was not on the historic registry or inventory, it was noted that the residence was most likely missed in the historic review in the late 1980's. It was also noted that the homeowner should review all possibilities to save the residence although the homeowner acquired the property with the specific purpose of demolishing the existing residence. The homeowner acquired the property on April 7, 2016 and was notified at the pre-application site development review meeting evaluation on April 19, 2016 that *"there is no building permit on file, and city records give no indication of when the existing residence was constructed. The residence appears to be greater than 45 years old. The house is not on the Historic Resources Inventory or Historic Register. However, given the appearance of the existing structure, staff encourages the applicant to have a*

historic analysis prepared in order to determine if the structure warrants special preservation consideration as a historic resource” (emphasis added).

It was also at the January twelfth meeting where, *on a 5-0 vote, the Board denied the project base on the determination that (1) the existing residence could be a historic resource and, therefore, and Initial Study was needed, and (2) the proposed new residence was not neighborhood compatible, created view and privacy impacts, was detrimental to the historic context of Ninth Street, raised environmental concerns, is overly massive, and proposes excess grading. (The minutes (pgs. 40-45 and staff report (pgs 46-178) from the January 12, 2017 meeting).*

City Council voted to overturn the decision of design review on April 18, 2017 then had to re-vote on the issue on May 23, 2017 due to procedural matters—to approve the resolution describing their action in April. At that meeting the council at first voted 3-2 to disapprove the resolution. The city attorney then called the council into chambers, and, upon emerging, City Council voted 4-1 to adopt the resolution and approve the coastal development permit. The city’s notice of final action was filed with the Coastal Commission shortly after that time. That notice was found by Coastal staff to be incomplete and a notification of deficient notice was completed June 6, 2017. The second notice was filed on June 14, 2017.

I believe that the City Council’s decision to allow a categorical exemption for the demolition of the property does not comply with the coastal development permitting process.

Chapter 25.07 Coastal Development Permits

25.07.012 Procedures.

(G) Findings. A coastal development permit application may be approved or conditionally approved only after the approving authority has reviewed the development project and made all of the following findings:

- (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;
- (2) Any development located between the sea and the first public road paralleling the sea is in conformity with the certified local coastal program and with the public access and public recreation policies of Chapter 3 of the Coastal Act;
- (3) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

5. Lack of Compliance with the LCP

FINDING (1)

On finding (1), the City’s resolution approving the Coastal Development Permit reads:

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 environmentally sensitive oceanfront bluff area is protected because the development is limited to the demolition of the existing structure, which encroaches into the blufftop setback, thereby preserving the integrity of the bluff.

This finding does not address the segmentation of the process and only addresses the demolition of the existing structure. The city is not able to make that statement at this time since no future development has been approved and the proposed development calls for the removal of a significant amount of soil.

The resolution also states that the city council overturned the decision of the design review board that the house is historic but does not make any reference to evidence that supported this decision. The Council had strong evidence of the house's historic value, including the three reports and the staff report, and made no findings giving the reasons for finding that the house is not a historic resource. Their action approving the CDP to demolish is unfounded since it is based on a conclusion of the house not being a historic resource without supporting evidence.

The property also has an unpermitted funicular that runs from the bluff face on the side of the house down to the beach below and was installed after the existing residence was constructed but is shown in all historical area photography. This funicular, with its wooden carriage and simple design, supports the historical nature of this residence. Should the house be demolished and the site be brought to existing code, this funicular should be included in the demolition plan of the property as it is in violation of current coastal development.

FINDING (3)

On finding (3), the resolution reads:

The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act in that the proposed project is in compliance with the applicable rules and regulations set forth in the Municipal Code and will not cause any significant adverse impacts on the environment.

This finding does not begin to cover all the potential environmental impacts that must be considered under CEQA. As mentioned previously, the approved demolition does not address the potential for significant runoff and blufftop failure that is possible resulting from demolition without approved plans for future development. In her comments at the May 23 meeting, Mayor Toni Iseman expressed concern over the impact of disturbing the site for demolition without an approved plan for a new building being in place. This appeared to be why her first vote on the resolution was a "No" vote, reversing her April vote to approve demolition. Later in that same meeting she voted to approve the resolution after the closed session meeting with the City Attorney. The City Council voted only on demolition. The applicant withdrew his request for a permit for the new residence that had been denied by the Design Review Board.

CONCLUSION

In summary, I ask that the Commission find substantial issue and consider this permit de novo.

There is ample evidence that the City's decision was not consistent with the historic preservation provisions of the Local Coastal Program and that historic preservation is of particular importance to the public's experience of Laguna Beach as a unique coastal community.

The precedent set by the City's action is detrimental to the future of other local historic resources and through this case could become a reference for similar decisions elsewhere.

If the City's approach to granting the CDP in this instance, that is, excluding applicable and to-the-point provisions of the LCP from consideration, becomes accepted practice, the implementation of the LCP policies on historic preservation and any other topic may be severely affected.

By granting a CDP for demolition of the residence before making any determination regarding future construction, the city is endangering the integrity of the hillside and my residence by leaving the developed portion of the bluff side exposed for an undetermined amount of time. During the rains the exposed soil will turn into mud and potentially cause bluff side failure. This is would cause imminent danger to my property and beachgoers below.

The irregular activities that have gone on at this property have harmed the public interest and coastal resources and should not remain unaddressed. It is time to set the development pattern on this property back on the right track.

Attachments:

Exhibits 1-5: Photos of 31987 Coast Highway

Exhibit A: October 7, 2016 Historical Analysis by Historic Resources Group (HSA)

Exhibit B: November 9, 2016 LSA Peer Review of HSA October 7, 2016 Historical Analysis

Exhibit C: November 30, 2016 HSA Response to LSA Peer Review Report

Exhibit D: December 2, 2016 LSA Addendum to the Peer Review of the Historic Assessment

Exhibit 1



Exhibit 2



Exhibit 3



Exhibit 4



Exhibit 5



Exhibit A

To: City of Laguna Beach

Attn: Martina Speare Caron, AICP, Senior
Planner

From: Christine Lazzaretto; Molly Iker;
Robby Aranguren

Date: October 24, 2016

INTRODUCTION

We have evaluated the residential property located at 31987 Coast Highway in the City of Laguna Beach for potential historic significance and eligibility for listing in the local historic register. We conducted a site visit on October 7, 2016 and reviewed existing documentation on the development of the property, including the property's permit history as provided by the City. When the residence was constructed, this area was not part of the City of Laguna Beach; therefore, information about its history, including original building permits and details about early owners, were not available for review as part of this evaluation. Archival sources were consulted and any available information has been included in this report.

Previous Surveys and Evaluations

South Laguna was surveyed during the City's 1980-1981 historic resources survey. The Spanish Colonial Revival style single-family residence at 31987 South Coast Highway was not identified in that survey as a potential heritage property and is not listed in the Laguna Beach Historic Resources Inventory, adopted in December 1982.

HISTORIC CONTEXT

31987 Coast Highway is located in the South Laguna Bluffs neighborhood in what is now the southern portion of the city. It is a single-family residence designed in the Spanish Colonial Revival style. The residence was constructed in 1930 in the Three Arches Palisades No. 2 subdivision, subdivided c. 1930. Known owners of the residence include Mr. and Mrs. Fritz Proctor, who owned the house in the early 1950s; and the Thomas De

HISTORIC RESOURCES ASSESSMENT

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Laguna Beach, California

HISTORIC RESOURCES GROUP

EXHIBIT A

Paolo Family Trust, who owned the house until 2016.¹ Thomas De Paolo (1923-2015) was an advertising executive at the firm of J. Walter Thompson. Following his retirement, he became an accomplished oil painter and writer of several cookbooks and a series of children's books.²

South Laguna

South Laguna, originally a small, unincorporated beach community in Orange County, was annexed by the City of Laguna Beach in 1987.³ Homes in South Laguna are set into the hillside or perched on a cliff overlooking the beach. Few houses are situated on level lots, and the overwhelming majority of South Laguna homes are cottages and bungalows, hastily built as beach homes and continuously remodeled.

The original homesteader in South Laguna was William Egan, who took up a claim extending from West Street to approximately 10th Avenue in 1907. In 1927, Dwight Whiting and Blanche Dolphe purchased the area, and named it Three Arches, for the Three Arches Bay. They hired Lewis Lasley as their tract manager, and divided 120' by 40' parcels into thirds, creating the narrow lots that characterize the area. By popular vote, the area formerly known as Three Arches was renamed South Laguna in 1934.⁴

Beach communities such as South Laguna were characterized by small beach cottages throughout their early history. Due to the corrosive nature of the sea air, building materials utilized near the beach require replacement over time, including wood sash windows or wood siding. Many residences were altered over time as needed to replace original materials and maximize the inhabitants' ability to enjoy the ocean view and sea breeze.

The residence at 31987 Coast Highway was constructed in 1930 in the Three Arches Palisades No. 2 subdivision, subdivided along the South Laguna bluffs in approximately 1930. Based on a historic aerial photograph of the area from 1938, the house was likely the first permanent residence constructed in the subdivision. Though modest in character, 31987 Coast Highway is unlike the surrounding beach cottages in that it has remained relatively unaltered since its construction.

¹ No additional information about Fritz Proctor is available in archival sources, including on Ancestry.com.

² "Thomas P. De Paolo, 1923-2015," *Laguna Beach Indy*, July 16, 2015.

³ Because South Laguna was an unincorporated part of Orange County for most of its history, it was not covered by Sanborn Fire Insurance maps, nor was it comprehensively covered in South Orange County directories. Three neighborhoods made up Three Arches (now South Laguna): Coast Royal, South Laguna, and Three Arches Bay. There appears to be some overlap in the boundaries for these neighborhoods. However, properties across the street from 31987 Coast Highway were included in the Three Arches district identified in the 1981 survey of South Laguna.

⁴ Information on South Laguna largely adapted from Environmental Coalition, "South Laguna," State of California Department of Parks and Recreation Historic Resources Inventory form, November 1980, prepared April 1981.

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Spanish Colonial Revival

The Spanish Colonial Revival style attained widespread popularity throughout Southern California following the 1915 Panama-California Exposition in San Diego, which was housed in a series of buildings designed by chief architect Bertram Grosvenor Goodhue in the late Baroque *Churrigueresque* style of Spain and Mexico. The *Churrigueresque* style, with intricate ornamentation juxtaposed against plain stucco wall surfaces and accented with towers and domes, lent itself to monumental public edifices, churches, and exuberant commercial buildings and theaters, but was less suited to residential or smaller scale commercial architecture. For those, architects drew inspiration from provincial Spain, particularly the arid southern region of Andalusia, where many young American architects were diverted while World War I prevented their traditional post-graduate "grand tour" of Great Britain, France, Italy, and Germany. The resulting style was based on infinitely creative combinations of plaster, tile, wood, and iron, featuring plaster-clad volumes arranged around patios, low-pitched tile roofs, and a sprawling, horizontal orientation. It was a deliberate attempt to develop a "native" California architectural style and romanticize the area's colonial past, though it drew directly from Spanish and other Mediterranean precedents and bore little resemblance to the missions and rustic adobe ranch houses that comprised the state's actual colonial-era buildings.

The popularity of the Spanish Colonial Revival style extended across nearly all property types, and coincided with Southern California's population boom of the 1920s. It shaped the region's expansion for nearly two decades, reaching a high point in 1929 and tapering off through the 1930s during the Great Depression.

Character-defining features include:

- Asymmetrical façade
- Irregular plan and horizontal massing
- Varied gable or hipped roofs with clay barrel tiles
- Plaster veneered exterior walls forming wide, uninterrupted expanses
- Wood-sash casement or double-hung windows, typically with divided lights
- Round, pointed, or parabolic arched openings
- Arcades or colonnades
- Decorative grilles of wood, wrought iron, or plaster
- Balconies, patios or towers
- Decorative terra cotta or glazed ceramic tile work

ARCHITECTURAL DESCRIPTION

The horseshoe-shaped property is located on the southwest side of Coast Highway between 9th and 10th Avenues, and is occupied by a two-story single-family residence constructed in 1930. It has a U-shaped plan with a combination hipped and shed roof with clay tile roofing. There are two interior chimneys close to the west façade. The

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31987 Coast Highway
Laguna Beach, California

HISTORIC RESOURCES GROUP

exterior walls are clad in textured cement plaster. Fenestration consists of multi-pane wood sash or fixed or divided light vinyl windows. The primary entrance is asymmetrically located on the east façade and consists of a pair of divided-light wood French doors with sidelights accessed via a brick courtyard with central fountain. There is an integral, two-car garage with an overhead sectional door on the primary façade.

Alterations

Visual observation and a review of building permits indicate that 31987 Coast Highway has remained virtually unaltered. The only known alterations are the replacement of some windows, and the replacement of the garage door.

Character-defining Features

Character-defining features are those visual aspects and physical features or elements that give the building its character and help to convey its significance. Character-defining features are constructed during the property's period of significance, and contribute to the historic integrity of the property. In general, retaining character-defining features retains the integrity of an historic property, and therefore helps to retain the property's eligibility as an historic resource. Significant impacts on a historic resource result from major change to character-defining features, or from many incremental changes over time.

31987 Coast Highway has remained largely unaltered, and retains most character-defining features of its original Spanish Colonial Revival design, including:

- Asymmetrical façade
- Irregular plan and horizontal massing
- Hipped roof with clay barrel tiles
- Plaster veneered exterior walls forming wide, uninterrupted expanses
- Wood-sash windows with divided lights
- Balcony and patio

LOCAL DESIGNATION: EVALUATION CRITERIA

As outlined in the city's Historic Preservation Ordinance (Laguna Beach Municipal Code Chapter 25.45 Historic Preservation), a structure not identified on the historic inventory can be placed on the historic register if it is at least fifty years old, using the following criteria in consideration:

- (a) Structures that most retain their original appearance and architectural integrity using a rating system of "E," "K" and "C" as described in the historic resources element of the general plan;
- (b) Structures that most represent character, interest or value as part of the heritage of the city;

HISTORIC RESOURCES ASSESSMENT

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Laguna Beach, California**

HISTORIC RESOURCES GROUP

- (c) The location as a site of significant historic events;
- (d) The identification with a person or persons or groups who significantly contributed to the culture and development of the city;
- (e) The exemplification of a particular architectural style or way of life important to the city;
- (f) The embodiment of elements of outstanding attention to architectural design, detail, materials or craftsmanship.

Properties on the historic inventory are rated either "E" for Exceptional, "K" for Key, or "C" for Contributive. "E" rated buildings are usually in excellent condition and unique; some are eligible for the National Register. Structures with a "K" rating are buildings which strongly maintain their original integrity and demonstrate a particular architectural style or time period. "C" rated structures contribute to the overall historic character of the neighborhood, but are not unique or distinctive; however, these properties are still important to the streetscape of Laguna Beach.⁵

HISTORIC RESOURCES ASSESSMENT

The single-family residence at 31987 Coast Highway appears eligible for local designation. It was constructed in 1930, and therefore is more than fifty years old; and it meets local criteria a, b, and e. The residence retains its original appearance and architectural integrity (criterion a); it represents the character, interest or value as part of the heritage of the city (criterion b); and it is a good local example of Spanish Colonial Revival residential architecture (criterion e). It appears eligible for local designation with a "K" rating.⁶

The residence at 31987 Coast Highway has had few alterations and retains most of its character-defining features; therefore, it retains its architectural integrity. Though modest in character, 31987 Coast Highway has remained relatively unaltered since its construction. Many beach cottages that have been identified in previous surveys have undergone alterations. Due to its relatively unaltered state, 31987 Coast Highway possesses a higher level of integrity than many nearby beachfront residences. Integrity is defined by the National Park Service as "the ability of a property to convey its significance."⁷ Within the concept of integrity, there are seven aspects or qualities that, in various combinations, define integrity. 31987 Coast Highway retains all seven of the aspects of integrity:

⁵ "Historic Preservation Ordinance," *City of Laguna Beach Historic Resources Element*, originally adopted July 1981, amendment adopted January 10, 2006. Resolution No. 06.006.

⁶ The property is not fully visible from the public right-of-way, which may account for the fact that it was not identified as eligible in a previous survey. There are other residences in this area that were identified in the survey.

⁷ U.S. Department of the Interior, National Park Service, "National Register Bulletin: How to apply the National Register Criteria for Evaluation," https://www.nps.gov/Nr/publications/bulletins/nrb15/nrb15_8.htm#seven%20aspects.

HISTORIC RESOURCES ASSESSMENT

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HISTORIC RESOURCES GROUP

- **Location:** The residence remains on its original site. It therefore retains integrity of location.
- **Design:** The property has undergone few alterations and retains most character-defining features of its original Spanish Colonial Revival architecture. It therefore retains integrity of design.
- **Setting:** The residence remains on its original lushly landscaped, hillside site along the coast. It therefore retains integrity of setting.
- **Materials:** The property has undergone few alterations and retains most of its original character-defining features, materials, and finishes. It therefore retains integrity of materials.
- **Workmanship:** The property retains its historic features and materials, and thus illustrates the aesthetic principles of the era during which it was constructed. It therefore retains integrity of workmanship.
- **Feeling:** Because the property retains integrity of location, design, setting, materials, and workmanship, it continues to convey the aesthetic and historic sense of 1930s Spanish Colonial Revival architecture. It therefore retains integrity of feeling.
- **Association:** Integrity of location, design, setting, materials, workmanship, and feeling combine to convey integrity of association. Because the property retains these aspects of integrity, it continues to convey its period appearance and setting, and therefore retains integrity of association.

The residence at 31987 Coast Highway represents the character and heritage of the city. It is located in the Three Arches Palisades tract, which was subdivided in 1930. It reflects the city's history as a beachfront community, and according to historic aerials was one of the earliest residences constructed along this section of the Laguna Bluffs. 31987 Coast Highway is a good local example of Spanish Colonial Revival residential architecture. It retains a high degree of historic integrity, and significant character-defining features of the style.

HISTORIC RESOURCES ASSESSMENT

31987 Coast Highway Laguna Beach, California

HISTORIC RESOURCES GROUP

BIBLIOGRAPHY

City of Laguna Beach directories.

City of Laguna Beach permits.

Environmental Coalition. "South Laguna." State of California Department of Parks and Recreation Historic Resources Inventory form. November 1980. Prepared April 1981.

HistoricAerials.com.

Sanborn Fire Insurance maps of Laguna Beach, 1925, 1948.

"Thomas P. De Paolo, 1923-2015." *Laguna Beach Indy*. July 16, 2015.

U.S. Department of the Interior. *National Register Bulletin 16: How to Complete the National Register Registration Form*. Washington D.C.: National Park Service 1997. p. 4.

HISTORIC RESOURCES ASSESSMENT

31987 Coast Highway
Laguna Beach, California

HISTORIC RESOURCES GROUP

PERMIT HISTORY

Permit Number	Year	Description of work
84-044253	1984	1000 Steps – South Laguna Beach agreement
	1996	Construct posts and rope fences on the sandy portion of the beach to delineate the public beach area from the private beach area

HISTORIC RESOURCES ASSESSMENT

**31987 Coast Highway
Laguna Beach, California**

HISTORIC RESOURCES GROUP

HISTORIC PHOTOGRAPHS

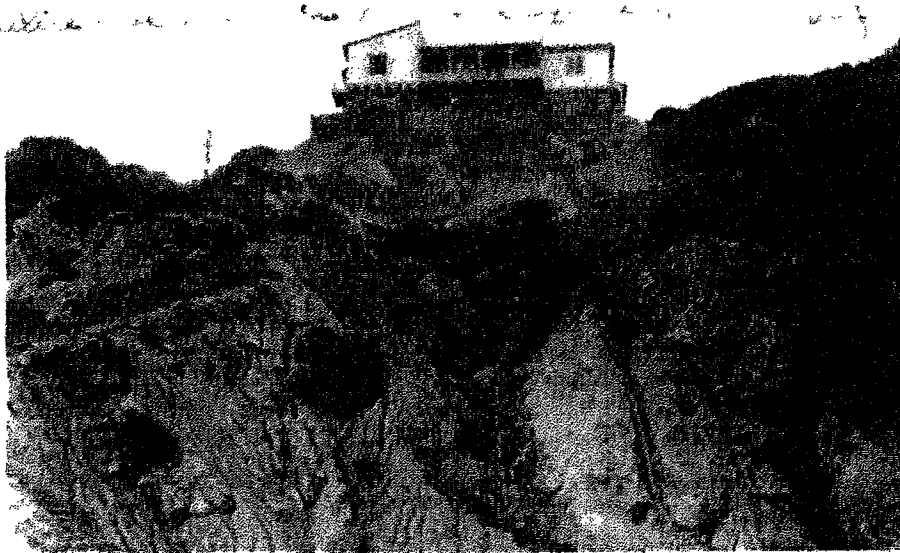


Figure 1 31987 Coast Highway, no date Source City of Laguna Beach landscape permit, 2016

HISTORIC RESOURCES ASSESSMENT

31987 Coast Highway
Laguna Beach, California

HISTORIC RESOURCES GROUP



Figure 2 Historic aerial photograph of South Laguna Bluffs, 1938, 31987 Coast Highway circled in red
Source: HistoricAerials.com

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HISTORIC RESOURCES GROUP

CURRENT CONDITIONS PHOTOGRAPHS



Figure 3 31987 Coast Highway, east façade, view looking west, October 2016 (HRC)

HISTORIC RESOURCES ASSESSMENT

31987 Coast Highway
Laguna Beach, California

HISTORIC RESOURCES GROUP

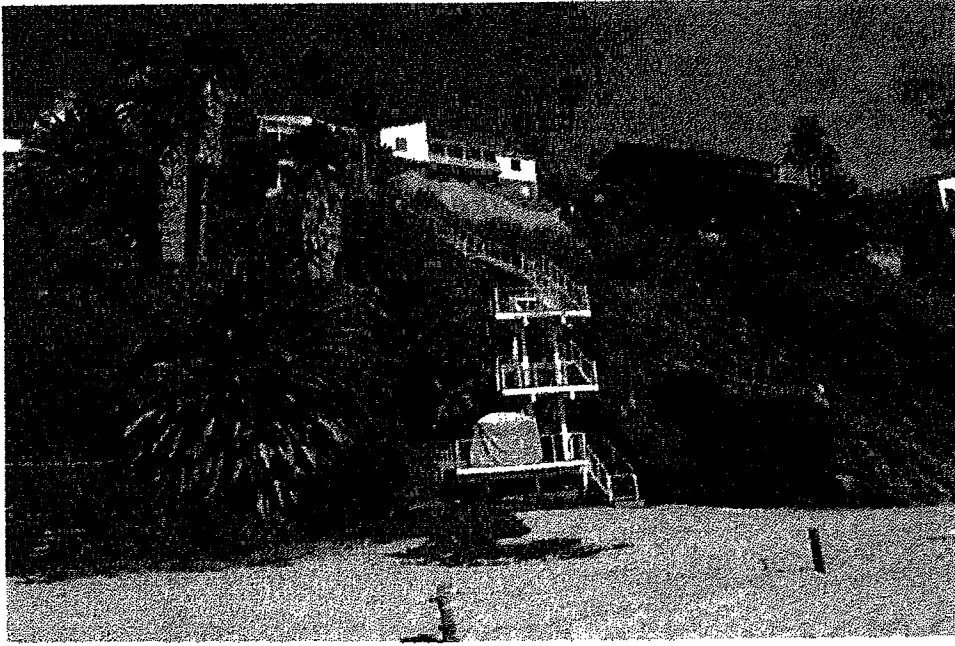


Figure 4 31987 Coast Highway, west façade, view looking northeast, October 2016 (HRC)

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Laguna Beach, California

HISTORIC RESOURCES GROUP



Figure 5 31987 Coast Highway, west facade, view looking northeast, October 2016 (HRC)

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Laguna Beach, California

HISTORIC RESOURCES GROUP

Exhibit B



BERKELEY
CARLSBAD
FRESNO
IRVINE
PALM SPRINGS
POINT RICHMOND
RIVERSIDE
ROCKLIN
SAN LUIS OBISPO

MEMORANDUM

DATE: November 9, 2016

To: Mr. Martin Bard, Project Manager
Brion Jeannette Architecture

FROM: Eugene J. Heck, Architectural Historian
LSA

SUBJECT: Peer Review of Historic Resources Assessment (HRA) for the Property located at
31987 Coast Highway, Laguna Beach, Orange County, California

Dear Mr. Bard:

Attached please find my resume and a peer review of the study prepared by Christine Lazzaretto, Molly Iker and Robby Aranguren for the above-referenced property, which is dated October 24, 2016. The peer review analyzes the methodology and findings for compliance with the California Environmental Quality Act (CEQA) and best professional practices. This peer review included consideration of photographic imagery and historic texts not referenced in the HRA. In my professional opinion, as explained in the peer review comments, the HRA contains inadequacies of research, documentation, and analysis and the report would be strengthened for purposes of CEQA if the attached comments are addressed.

Attachments: Peer Review
Resume for E. J. Heck

11/9/16 (R:\HCL1601\MEMORANDUM from eheck to mbard.docx)

1500 Iowa Avenue, Suite 200, Riverside, California 92507 951.781.9310 www.lsa.net

EXHIBIT B

31987 Coast Highway, Laguna Beach Historic Resources Assessment Response Table

Submitted by: Eugene Heck, M. A.

No.	Ch.	Page/Paragraph No. or other Designation	Reviewer Comments
1		Overall	The Historic Resources Assessment (HRA) for the residential property located at 31987 Coast Highway, Laguna Beach, CA, as submitted, appears to achieve legal sufficiency.
2		Overall	The HRA does not include attached DPR 523 forms, such as a Primary record and a Building, Structure and Object (BSO) record. Consider completing those forms, even if the City of Laguna Beach does not require it. The completion of these forms will provide necessary information in the standard format. It facilitates CEQA compliance if the HRA concludes, as does this report, that the building appears eligible for local designation under a local ordinance and thus, is considered a historical resource for the purposes of CEQA.
3		Overall	The pages are not numbered. Paginate.
4		1	The Historic Context statement fails to provide the analytical framework needed to identify and evaluate Laguna Beach residential properties. See "Writing Historic Contexts," available at http://ohp.parks.ca.gov/pages/1054/files/writing%20historic%20contexts%20from%20ohp.pdf for guidance. Two events affecting land use patterns of development in Laguna Beach are the 1927 construction of the Coast Highway and the 1929 court ruling that the Irvine Ranch had clear title to the coastal land north of Laguna Canyon, incorporated into the City of Laguna Beach. The historic context should be developed to the point, for example, that these events are discussed in relation to a well-defined theme for Residential Architecture of Laguna Beach, including a period of significance. The South Laguna Historic Resources Inventory (Environment Coalition 1981) is necessary but not sufficient to write the Historic Context.
5		Spanish Colonial Revival (page 3)	Provide a footnote and cite a standard source, such as McAlester, Virginia S. <i>A Field Guide to American Houses</i> . New York: Alfred A. Knopf, 2013. Include all sources in the Bibliography.
6		Character-defining Features (page 4)	See comments 4 and 5, above. The architectural style of this house is described as Spanish Colonial Revival and the house has been determined eligible under criteria a, b and e of the Historic Preservation Ordinance as "...a good local example of Spanish Colonial Revival residential architecture," with a K (Key) rating. This style was not specifically identified in the Historic Resources Inventory (Environment Coalition 1981). The style commonly features stuccoed exteriors, but fired red brick in combination with stucco is not characteristic of the style (McAlester 2013: 520-534). The house has a combined hipped and gabled roof, one of the five subtypes for the Spanish Revival style; however, the gables are half-gabled, which is not characteristic. Architectural details such as the balcony supported by wood posts capped by bolsters are character-defining features of the style, but the photographic evidence submitted with the report does not document this detail and in fact gives the impression of an eclectic house that does not represent a particular architectural style such as Spanish Revival or Spanish Eclectic.

31987 Coast Highway, Laguna Beach Historic Resources Assessment Response Table			
Submitted by: Eugene Heck, M. A.			
No.	Ch.	Page/Paragraph No. or other Designation	Reviewer Comments
7		Local Designation: Evaluation Criteria (page 4)	If the Laguna Beach Municipal Code was accessed online, provide the link and citation in the Bibliography.
8		Footnote 7 (page 5)	National Register Bulletin 15 is not cited in the Bibliography; NR Bull 16 is cited. Resolve the discrepancy.
9		Figure 2	The scale of the photograph and north arrow are not given. The image of the house is barely visible. Coast Highway is not labeled. The single photo from 1938 does not adequately illustrate the pattern of land use/residential development; a series of three or four historic aerials is needed.
10		Figure 3	The photograph does not show architectural details.
11		Figure 5	The photograph does not show architectural details.
12		Overall	The report does not state the type of construction; does not discuss the property boundaries; does not identify the primary elevation and does not provide a sketch map of the parcel, or the APN.
13		Overall	The analysis of integrity with respect to Setting is flawed. The property abuts a designated Scenic Highway and originally was sited on a rectangular parcel. Subdivision of the lot resulted in a U-shaped parcel; the construction of a single-family residence on this lot destroyed the relation of the house at 31987 to the Coast Highway; it is no longer visible from the highway, as noted on page 5, footnote 6.
14		Overall	The property otherwise does retain a high level of integrity; most importantly with respect to materials, workmanship and design.

EUGENE HECK
CULTURAL RESOURCES MANAGER
HISTORIAN/ARCHITECTURAL HISTORIAN

LSA



EXPERTISE

History and Historic
Contexts

Rare Books and Special
Collections Historical
Research

Historic Preservation of
Roads and Bridges

Review of Documents for
Caltrans Compliance

NEPA/CEQA Compliance
for Built Environment
Cultural Resources

Field Surveys and
Recordation

Application of National
Register Criteria for
Evaluation

Findings of Effect and
Mitigation Measures

EDUCATION

University of California,
Riverside, Master of Arts,
History/Historic
Preservation, 2000

University of California,
Los Angeles, B.A., History,
1970

UCR Extension, Certificate
of Interior Design, 2014

PROFESSIONAL RESPONSIBILITIES

Mr. Heck holds an M.A. degree in History/Historic Preservation from the University of California, Riverside and is a Cultural Resources Manager in LSA's Riverside office. He has been practicing architectural history in Southern California since 1999, first with a private firm while completing his graduate studies, and later as a full-time architectural historian for Caltrans. He meets the Secretary of the Interior's Professional Qualification Standards as a historian and architectural historian and has experience with historic research; recording/survey work; preparation of historic context statements, significance evaluations, Department of Parks and Recreation (DPR) 523 forms, and cultural resources reports in compliance with CEQA and NEPA regulations. Mr. Heck has surveyed buildings in rural and urban settings and has expertise in the evaluation of bridges and roadways. He has authored or contributed to cultural resources reports for hundreds of projects and provided extensive peer review to consultants seeking Caltrans approval of their work. Mr. Heck holds a Certificate in Interior Design from the University of California, Riverside Extension. He provides government agencies and corporate clients professional consulting services. He is a member of the Society of Architectural Historians, Southern California Chapter.

PROJECT EXPERIENCE

Historical Resources Evaluation Report and Finding of Effect for the SR-710 North Study, Cities of Los Angeles, Monterey Park, Alhambra, South Pasadena, Pasadena, San Gabriel, Rosemead and San Marino and the Unincorporated Community of East Los Angeles, California

This is a high profile project to close the last remaining gap in the greater Los Angeles freeway system. The project has four main build alternatives, one of which is to bore a single or double tunnel more than 100 feet below ground for a distance greater than seven miles.

Architectural Surveys of the APE included approximately 2,200 properties. Mr. Heck, in the employ of LSA, was responsible for researching and evaluating the properties in the City of Pasadena, which included many that were eligible for listing in the National Register of Historic Places (National Register). He also researched and evaluated a historic designed landscape in the City of Monterey Park, and evaluated all segments of historic Route 66 within the APE for each build alternative. Mr. Heck provided guidance to the LSA personnel responsible for applying the Criteria of Adverse Effect to the historic properties identified within the large project area.

EUGENE HECK
CULTURAL RESOURCES MANAGER
HISTORIAN/ARCHITECTURAL HISTORIAN

LSA

**JOB-RELATED
TRAINING COURSES**

"Introduction to
Transportation-Air Quality
Issues," Sonoma
Technology, Inc., March
2011.

"Environmental Analysis,
Intensive," Caltrans
Headquarters, November
2010.

"Section 4(f) Compliance,"
Federal Highway
Administration Resource
Center, May 2010.

"Categorical Exclusions and
Categorical Exemptions,"
Caltrans Headquarters, July
2008.

"Design, Construction &
Maintenance for
Environmental," Caltrans
Headquarters, May 2007.

"Caltrans Cultural Resource
Procedures and Use of the
Programmatic Agreement
for Section 106
Compliance," Caltrans
Headquarters, September
2006.

"Community Impact
Assessment," Caltrans
Headquarters, May 2006.

"Introduction to ArcGIS 1,"
ESRI, June 2005.

"Bridge Types Common in
North America," Society for
Industrial Archaeology,
June 2005.

"Context Sensitive
Solutions Workshop," UC
Davis Extension, December
2004.

"Section 106: How to
Negotiate and Write
Agreements," National
Preservation Institute (NPI),
October 2004.

PROJECT EXPERIENCE (CONTINUED)

**DPR Forms for the Residence at 1600 Highland Oaks Drive,
Arcadia, California**

Mr. Heck, in the employ of LSA, conducted research into the work of the architect John F. Galbraith, designer of the single-family residence at the above address. He prepared the Building, Structure and Object Record which found this house to be a relatively minor example of the locally important architect's work.

**State Route 74 Hurkey Creek Bridge Replacement Project, Historic
Property Survey Report, PM 62.4/63.7, Riverside County,
California**

As author of above cited report for Caltrans, Mr. Heck conducted extensive historic research into the history of the Pines to Palms Highway, using both primary and secondary sources. The bridge was found to be eligible for listing in the National Register as a contributor to a historic road. Mr. Heck assisted the Project Development Team with context-sensitive mitigation measures and community outreach for this and other projects on State Route 74, known historically as the Pines to Palms Highway.

**Historic Resources Evaluation Report, I-10/Cherry Avenue
Interchange, San Bernardino County, California**

This project was a cooperative study to evaluate alternatives for widening the Cherry Avenue/I-10 overcrossing and modifying the ramp connections. LSA was Task Manager for cultural resource-related issues and documents. Mr. Heck was the Caltrans District 8 Architectural Historian who approved the APE map and assisted the consultant in its preparation. Mr. Heck was the author of the HRER for the project, which incorporated the reports prepared by the consultant evaluating all the extant buildings and structures within the APE. He was responsible for the project's compliance with respect to Section 106 of the National Historic Preservation Act.

**Historical Resources Evaluation Report and Finding of Effect for
the I-15/I-215 Interchange Improvements Project, Devore, San
Bernardino County, California**

Mr. Heck was the Caltrans District 8 Principal Architectural Historian responsible for Quality Assurance/Quality Control on the above project, providing guidance to the LSA consultants seeking Caltrans approval of their documents. Historic Resources evaluated consisted of semi-rural suburban properties within the unincorporated Devore community, including five segments of Route 66 (now Cajon Boulevard), two of which were determined eligible for listing in the National Register. The project includes numerous changes to interchanges and local streets, as

EUGENE HECK
CULTURAL RESOURCES MANAGER
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LSA

**JOB-RELATED
TRAINING COURSES
(CONTINUED)**

"Identification and
Evaluation of Mid-20th
Century Buildings, 1940-
1970," NPI, March 2004.

"Evaluating Historic
Bridges," Caltrans
Headquarters, April 2003.

"Environmental Planners
Academy," Caltrans
Headquarters, March 2003.

"Preservation Maintenance I
and II," NPI, November
2002.

"Historic Structures
Reports," NPI, November
2002.

Short Courses: "Interpreting
Cultural Landscapes,"

"Historic Site
Documentation," "Historic
Site Interpretation,"
University of Southern
California, School of
Architecture, July 2002.

"Introduction to Section 106
of the National Historic
Preservation Act," NPI,
March 2002.

"Technical Report Writing,"
Department of Personnel
Administration, California
State Training Center,
December 2001.

**PROFESSIONAL
AFFILIATIONS**

Southern California
Chapter, Society of
Architectural Historians

California Council for the
Promotion of History

California Preservation
Foundation

Cultural Landscape
Foundation

PROJECT EXPERIENCE (CONTINUED)

well as realigning, reconnecting, and reactivating various segments of former Route 66. A Historic Property Survey Report (HPSR) and Finding of Effect were completed in accordance with the Section 106 and CEQA processes and concurred with by the State Historic Preservation Officer (SHPO).

State Route 91 HOV Lanes Project, PM 15.6/21.6, First, Second and Third Supplemental Historic Property Survey Reports, Riverside County, California

Mr. Heck was the Caltrans District 8 Principal Architectural Historian responsible for Quality Assurance/Quality Control for this project to add carpool (HOV) lanes and modify interchanges in an urban setting. The initial HPSR was prepared by LSA. Mr. Heck, as part of the Project Development Team, was the author of the subsequent Supplemental HPSRs, addressing engineering changes that required revisions to the APE boundaries and additional efforts to identify historic properties that the project had the potential to affect. Historic resources evaluated included a Victorian residence, a canal, several bridges, a modern school, and modern commercial buildings.

Cultural Resources Assessment: Fontana Water Tanks, City of Fontana, San Bernardino County, California

Mr. Heck, in the employ of LSA, is the author of this report. He conducted extensive archival research involving primary sources in Special Collections. He used this and other research findings to write the historic context that provided the basis for determining the historic significance of the water tank the City of Fontana proposes to replace. He performed the fieldwork needed to establish the level of integrity of the structure and its ability to convey its significance. The water tank, known historically as the Sierra Vista Reservoir, appeared eligible for listing in the California Register of Historical Resources (California Register) under Criterion 3, as an engineering structure, at a regional level of significance. It also appears to be an eligible historical resource under the local ordinance. Mr. Heck recommended a mitigation measure (HABS-like recodation of the historical resource prior to demolition) which will achieve CEQA compliance and allow the project to move forward.

State Route 58 Realignment and Widening Project, PM 22.2/31.1, Historic Property Survey Report, San Bernardino County, California

Mr. Heck was the Caltrans District 8 Principal Architectural Historian responsible for NEPA and CEQA compliance on a project with broad potential to affect the unincorporated Mojave Desert community of

EUGENE HECK
CULTURAL RESOURCES MANAGER
HISTORIAN/ARCHITECTURAL HISTORIAN

LSA

**PROFESSIONAL
AFFILIATIONS
(CONTINUED)**

National Trust for Historic
Preservation

Independent Scholar, The
Huntington Library

**PROFESSIONAL
EXPERIENCE**

Cultural Resources Manager
and Historian/Architectural
Historian, LSA Associates,
Inc., Riverside, California.
2014-present.

PUBLICATIONS

Heck, Eugene. 2005.
Review. "Orange Empire:
California and the Fruits of
Eden." California History
Action 23, No. 3: 8-9. *The
Newsletter of the California
Council for the Promotion
of History*. Sacramento,
California.

PAPERS

Heck, Eugene, and Dicken
Everson. 2013. Panel: *City
Creek Bridge, San
Bernardino National
Forest*. 33rd Annual
Conference of the
California Council for the
Promotion of History,
October 17-19, 2013,
Hanford, California.

PROJECT EXPERIENCE (CONTINUED)

Hinkley. He conducted a large windshield survey of the community and used his working knowledge of the Section 106 Programmatic Agreement to screen out properties which did not require evaluation. He obtained access to a rare book and performed archival research, which was used by later authors to prepare the historic context in the HPSR. As a member of the Project Development Team, Mr. Heck participated in community outreach meetings where concerned residents learned about the proposed project and voiced their opinions.

Colton Bridges, City of Colton, San Bernardino County, California
This project was a Caltrans Local Assistance project within the City of Colton. It involved the seismic retrofit of eight bridges that were eligible for replacement under the Federal Highway Bridge Program. Four of the bridges required documentation and evaluation. To accomplish this, LSA conducted intensive surveys of each bridge, photographed each bridge, and completed research to determine the dates of construction and possible historical significance of the bridges. The bridges were then documented and evaluated on DPR 523 forms, which were submitted to Caltrans along with HPSRs, and Bridge Evaluation Short Forms. None of the bridges was determined eligible for listing in the National Register or the California Register. Mr. Heck was responsible for NEPA and CEQA compliance by the City of Colton for this project, in his position as Caltrans District 8 Principal Architectural Historian.

State Route 62 Colorado River Bridge Replacement Project, PM 142.2/143.1, Historic Property Survey Report, San Bernardino County, California and La Paz County, Arizona
Mr. Heck was the Caltrans District 8 Principal Architectural Historian responsible for NEPA and CEQA compliance on this project, which required close coordination with the Arizona Department of Transportation and the Arizona State Historic Preservation Officer. He participated in numerous Project Development Team meetings and worked closely with the Landscape Architects and structural engineers to develop aesthetic treatments for the bridge being designed to replace the 1938 bridge, which was demolished. He worked closely with the Parker Arizona Historical Society while researching the historical context for the evaluation of the bridge that was replaced and he participated in community outreach meetings where concerned residents learned about the proposed project and voiced their opinions. He authored both the HPSR and the HRER and obtained concurrence from the California SHPO for his Determinations of Eligibility for all resources evaluated, which included the highway bridge, a railroad bridge, a trailer park and commercial buildings.

EUGENE HECK
CULTURAL RESOURCES MANAGER
HISTORIAN/ARCHITECTURAL HISTORIAN

LSA

PROJECT EXPERIENCE (CONTINUED)

State Route 330 Emergency Director's Order Project to Repair Washouts and Slides, PM 28.7/36.0, DPR Forms and Historic Archaeological Site Record Update, San Bernardino County, California
As Caltrans District 8 Principal Architectural Historian, Mr. Heck was responsible for fieldwork within the San Bernardino National Forest to determine the integrity of abandoned segments of a historic road and an abandoned steel truss highway bridge. Heck conducted extensive historic research to evaluate the significance of the City Creek Bridge, which was outside the APE for the emergency project and off the State highway system, but was of interest to the U.S. Forest Service and the County of San Bernardino. The project received an award for excellence from the Director of Caltrans District 8. Together with the Historic Archaeologist on the project, Mr. Heck participated in a Panel: *City Creek Bridge, San Bernardino National Forest* given at Hanford, California during the 2013 Conference of the California Council for the Promotion of History.

PEER REVIEWS

Trails, Roads and Highways Historic Context and Evaluation Methodology (Draft), California Department of Transportation, Sacramento, California

As an independent scholar and consulting subcontractor, Mr. Heck provided peer review and comments on the final draft of this publication prior to its publication. Heck's work on the Pines to Palms Highway is cited on page 165 of this report.

Tract Housing in California, 1945–1973: A Context for National Register Evaluation, California Department of Transportation, Sacramento, California

The Acknowledgements, page v., lists Mr. Heck among those who provided peer review comments that improved the clarity and the accuracy of the document.

Riverside Free Methodist Church Cultural Resource Study (Draft), Wilkman Historical Services, Riverside, California

Mr. Heck, as an LSA project hire, analyzed the report's methodology and findings within the context of CEQA compliance, Title 20 of the City's Municipal Code, and current professional standards and practices. He carefully reviewed the discussion regarding project impacts for compliance with relevant Secretary of the Interior's Standards for Treatment of Historic Properties, which are typically used to mitigate impacts and to determine the level of impact after mitigation.

Exhibit C

To: City of Laguna Beach

Attn: Martina Speare Caron, AICP, Senior
Planner

From: Christine Lazzaretto; Molly Iker;
Robby Aranguren

Date: November 30, 2016

HRG provided an initial assessment report for this property on October 24, 2016. LSA subsequently prepared a peer review of that report, with photographs, on November 9, 2016. This report, dated November 30, 2016 is an update of our initial report, in response to the peer review.

INTRODUCTION

We have evaluated the residential property located at 31987 Coast Highway in the City of Laguna Beach for potential historic significance and eligibility for listing in the local historic register. We conducted a site visit on October 7, 2016, observing the property from Coast Highway and from 1000 Steps Beach. We have reviewed contemporary photographs of the property available online, as well as photos provided by the applicant; and reviewed existing documentation on the development of the property, including the property's permit history as provided by the City. When the residence was constructed, this area was not part of the City of Laguna Beach; therefore, information about its history, including original building permits and details about early owners, were not available for review as part of this evaluation. Archival sources were consulted and any available information has been included in this report.

Previous Surveys and Evaluations

South Laguna was surveyed during the City's 1980-1981 historic resources survey. The Spanish Colonial Revival style single-family residence at 31987 South Coast Highway was not identified in that survey as a potential heritage property, and is not listed in the Laguna

HISTORIC RESOURCES ASSESSMENT

**31987 Coast Highway
Laguna Beach, California**

HISTORIC RESOURCES GROUP

EXHIBIT C

Beach Historic Resources Inventory, adopted in December 1982. It is possible that this property was not identified in the survey because only the garage is visible from the street.

HISTORIC CONTEXT

31987 Coast Highway is located in the South Laguna Bluffs neighborhood in what is now the southern portion of the city. It is a single-family residence designed in the Spanish Colonial Revival style. The residence was constructed in 1930 in the Three Arches Palisades No. 2 subdivision, subdivided c. 1930. Known owners of the residence include Mr. and Mrs. Fritz Proctor, who owned the house in the early 1950s; and the Thomas De Paolo Family Trust, who owned the house until 2016.¹ Thomas De Paolo (1923-2015) was an advertising executive at the firm of J. Walter Thompson. Following his retirement, he became an accomplished oil painter and writer of several cookbooks and a series of children's books.²

South Laguna

South Laguna, originally a small, unincorporated beach community in Orange County, was annexed by the City of Laguna Beach in 1987.³ Homes in South Laguna are set into the hillside or perched on a cliff overlooking the beach. Few houses are situated on level lots, and the overwhelming majority of South Laguna homes are cottages and bungalows, hastily built as beach homes and continuously remodeled.

The original homesteader in South Laguna was William Egan, who took up a claim extending from West Street to approximately 10th Avenue in 1907. In 1927, Dwight Whiting and Blanche Dolphe purchased the area, and named it Three Arches, for the Three Arches Bay. They hired Lewis Lasley as their tract manager, and divided 120' by 40' parcels into thirds, creating the narrow lots that characterize the area. By popular vote, the area formerly known as Three Arches was renamed South Laguna in 1934.⁴

Beach communities such as South Laguna were characterized by small beach cottages throughout their early history. Due to the corrosive nature of the sea air, building materials utilized near the beach require replacement over time, including wood sash windows or

¹ No additional information about Fritz Proctor is available in archival sources, including on Ancestry.com.

² "Thomas P. De Paolo, 1923-2015," *Laguna Beach Indy*, July 16, 2015.

³ Because South Laguna was an unincorporated part of Orange County for most of its history, it was not covered by Sanborn Fire Insurance maps, nor was it comprehensively covered in South Orange County directories. Three neighborhoods made up Three Arches (now South Laguna): Coast Royal, South Laguna, and Three Arches Bay. There appears to be some overlap in the boundaries for these neighborhoods. However, properties across the street from 31987 Coast Highway were included in the Three Arches district identified in the 1981 survey of South Laguna.

⁴ Information on South Laguna largely adapted from Environmental Coalition, "South Laguna," State of California Department of Parks and Recreation Historic Resources Inventory form, November 1980, prepared April 1981.

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wood siding. Many residences were altered over time as needed to replace original materials and maximize the inhabitants' ability to enjoy the ocean view and sea breeze.

The residence at 31987 Coast Highway was constructed in 1930 in the Three Arches Palisades No. 2 subdivision, subdivided along the South Laguna bluffs in approximately 1930. Based on a historic aerial photograph of the area from 1938, the house was likely the first permanent residence constructed in the subdivision. Though modest in character, 31987 Coast Highway is unlike the surrounding beach cottages in that it has remained relatively unaltered since its construction.

Spanish Colonial Revival

The Spanish Colonial Revival style attained widespread popularity throughout Southern California following the 1915 Panama-California Exposition in San Diego, which was housed in a series of buildings designed by chief architect Bertram Grosvenor Goodhue in the late Baroque *Churrigueresque* style of Spain and Mexico. The *Churrigueresque* style, with intricate ornamentation juxtaposed against plain stucco wall surfaces and accented with towers and domes, lent itself to monumental public edifices, churches, and exuberant commercial buildings and theaters, but was less suited to residential or smaller scale commercial architecture. For those, architects drew inspiration from provincial Spain, particularly the arid southern region of Andalusia, where many young American architects were diverted while World War I prevented their traditional post-graduate "grand tour" of Great Britain, France, Italy, and Germany. The resulting style was based on infinitely creative combinations of plaster, tile, wood, and iron, featuring plaster-clad volumes arranged around patios, low-pitched tile roofs, and a sprawling, horizontal orientation. It was a deliberate attempt to develop a "native" California architectural style and romanticize the area's colonial past, though it drew directly from Spanish and other Mediterranean precedents and bore little resemblance to the missions and rustic adobe ranch houses that comprised the state's actual colonial-era buildings.

The popularity of the Spanish Colonial Revival style extended across nearly all property types, and coincided with Southern California's population boom of the 1920s. It shaped the region's expansion for nearly two decades, reaching a high point in 1929 and tapering off through the 1930s during the Great Depression.

Character-defining features include:

- Asymmetrical façade
- Irregular plan and horizontal massing
- Varied gable or hipped roofs with clay barrel tiles
- Plaster veneered exterior walls forming wide, uninterrupted expanses
- Wood-sash casement or double-hung windows, typically with divided lights
- Round, pointed, or parabolic arched openings
- Arcades or colonnades

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- Decorative grilles of wood, wrought iron, or plaster
- Balconies, patios or towers
- Decorative terra cotta or glazed ceramic tile work

ARCHITECTURAL DESCRIPTION

The horseshoe-shaped property is located on the southwest side of Coast Highway between 9th and 10th Avenues, and is occupied by a two-story single-family residence constructed in 1930. It has a U-shaped plan with a combination hipped and shed roof with clay tile roofing. There are two interior chimneys close to the west façade. The exterior walls are clad in textured cement plaster. The exterior walls of the lower story are clad in brick. Fenestration consists primarily of divided light, wood sash casement windows; some windows have been replaced with vinyl windows or fixed units. The primary entrance is asymmetrically located on the east façade and consists of a pair of divided-light wood French doors with sidelights accessed via a brick courtyard with central fountain and exterior staircase with tile treads. The courtyard is partially wrapped by a *corredor* with turned wood posts. There is an integral, two-car garage with an overhead sectional door on the primary façade.

Alterations

Visual observation and a review of building permits indicate that 31987 Coast Highway has remained virtually unaltered. The only visible alterations are the replacement of some wood sash windows with vinyl windows or fixed units, and the replacement of the garage door.

Character-defining Features

Character-defining features are those visual aspects and physical features or elements that give the building its character and help to convey its significance. Character-defining features are constructed during the property's period of significance, and contribute to the historic integrity of the property. In general, retaining character-defining features retains the integrity of an historic property, and therefore helps to retain the property's eligibility as an historic resource. Significant impacts on a historic resource result from major change to character-defining features, or from many incremental changes over time.

Except for the replacement of some windows and doors, 31987 Coast Highway remains largely unaltered and retains most character-defining features of its original Spanish Colonial Revival design, including:

- Asymmetrical façade
- Irregular plan and horizontal massing
- Hipped roof with clay barrel tiles
- Plaster veneered exterior walls forming wide, uninterrupted expanses

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- Brick veneered exterior walls at lower story
- Wood-sash windows with divided lights
- Balcony and patio
- Brick retaining wall and terrace
- Courtyard with brick paving and exterior tiled staircase
- *Corredor* with turned wood posts

LOCAL DESIGNATION: EVALUATION CRITERIA

As outlined in the city's Historic Preservation Ordinance (Laguna Beach Municipal Code Chapter 25.45 Historic Preservation), a structure not identified on the historic inventory can be placed on the historic register if it is at least fifty years old, using the following criteria in consideration:

- (a) Structures that most retain their original appearance and architectural integrity using a rating system of "E," "K" and "C" as described in the historic resources element of the general plan;
- (b) Structures that most represent character, interest or value as part of the heritage of the city;
- (c) The location as a site of significant historic events;
- (d) The identification with a person or persons or groups who significantly contributed to the culture and development of the city;
- (e) The exemplification of a particular architectural style or way of life important to the city;
- (f) The embodiment of elements of outstanding attention to architectural design, detail, materials or craftsmanship.

Properties on the historic inventory are rated either "E" for Exceptional, "K" for Key, or "C" for Contributive. "E" rated buildings are usually in excellent condition and unique; some are eligible for the National Register. Structures with a "K" rating are buildings which strongly maintain their original integrity and demonstrate a particular architectural style or time period. "C" rated structures contribute to the overall historic character of the neighborhood, but are not unique or distinctive; however, these properties are still important to the streetscape of Laguna Beach.⁵

⁵ "Historic Preservation Ordinance," *City of Laguna Beach Historic Resources Element*, originally adopted July 1981, amendment adopted January 10, 2006. Resolution No. 06.006.

HISTORIC RESOURCES ASSESSMENT

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Laguna Beach, California

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HISTORIC RESOURCES ASSESSMENT

The single-family residence at 31987 Coast Highway appears eligible for local designation. It was constructed in 1930, and therefore is more than fifty years old; and it meets local criteria a, b, and e. The residence retains its original appearance and architectural integrity (criterion a); it represents the character, interest or value as part of the heritage of the city (criterion b); and it is a good local example of Spanish Colonial Revival residential architecture (criterion e). It appears eligible for local designation with a "K" rating.⁶

The residence at 31987 Coast Highway has had few alterations and retains most of its character-defining features; therefore, it retains its architectural integrity. Though modest in character, 31987 Coast Highway has remained relatively unaltered since its construction. Many beach cottages that have been identified in previous surveys have undergone alterations. Due to its relatively unaltered state, 31987 Coast Highway possesses a higher level of integrity than many nearby beachfront residences, and also a higher level of integrity than many properties currently listed on the historic register. Integrity is defined by the National Park Service as "the ability of a property to convey its significance."⁷ Within the concept of integrity, there are seven aspects or qualities that, in various combinations, define integrity. 31987 Coast Highway retains all seven of the aspects of integrity:

- **Location:** The residence remains on its original site. It therefore retains integrity of location.
- **Design:** The property has undergone few alterations. Some windows have been replaced with vinyl or fixed units, but the property otherwise retains the majority of character-defining features of its original Spanish Colonial Revival architecture, including its asymmetrical façade, irregular plan and horizontal massing, hipped and shed roofs with clay barrel tiles, plaster veneered exterior walls, brick veneered exterior walls at lower story, most wood-sash windows with divided lights, balcony with turned wood posts and balustrade, brick retaining wall and terrace, courtyard with brick paving and exterior tiled staircase, and *corredor* with turned wood posts. It therefore retains integrity of design.
- **Setting:** The residence remains on its original lushly landscaped, hillside site along the coast. It therefore retains integrity of setting.
- **Materials:** As discussed above, the property has undergone few alterations and retains most of its original character-defining features, materials, and finishes,

⁶ The property is not fully visible from the public right-of-way, which may account for the fact that it was not identified as eligible in a previous survey. There are other residences in this area that were identified in the survey.

⁷ U.S. Department of the Interior, National Park Service, "National Register Bulletin: How to apply the National Register Criteria for Evaluation," https://www.nps.gov/Nr/publications/bulletins/nrb15/nrb15_8.htm#seven%20aspects.

HISTORIC RESOURCES ASSESSMENT

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including clay tile roofing, plaster walls, turned wood posts and balustrades, brickwork, and most of its wood windows. It therefore retains integrity of materials.

- **Workmanship:** As discussed above, the property retains a majority of its historic features and materials, and thus illustrates the aesthetic principles of the era during which it was constructed. It therefore retains integrity of workmanship.
- **Feeling:** Because the property retains integrity of location, design, setting, materials, and workmanship, it continues to convey the aesthetic and historic sense of 1930s Spanish Colonial Revival architecture. It therefore retains integrity of feeling.
- **Association:** Integrity of location, design, setting, materials, workmanship, and feeling combine to convey integrity of association. Because the property retains these aspects of integrity, it continues to convey its period appearance and setting, and therefore retains integrity of association.

The residence at 31987 Coast Highway represents the character and heritage of the city. It is located in the Three Arches Palisades tract, which was subdivided in 1930. It reflects the city's history as a beachfront community, and according to historic aerials was one of the earliest residences constructed along this section of the Laguna Bluffs. 31987 Coast Highway is a good local example of Spanish Colonial Revival residential architecture. As illustrated in the photos provided by the applicant, the property has undergone some minor alterations; some windows have been replaced with vinyl or fixed units. However, these alterations are limited and do not compromise the overall integrity of the property. It retains a high degree of historic integrity, and a majority of its significant character-defining features that identify the style. It therefore appears eligible for local designation with a "K" rating.

HISTORIC RESOURCES ASSESSMENT

**31987 Coast Highway
Laguna Beach, California**

HISTORIC RESOURCES GROUP

BIBLIOGRAPHY

"31987 Coast." Redfin, <https://www.redfin.com/CA/Laguna-Beach/31987-Coast-Hwy-92651/home/3267121> (accessed October 24, 2016).

City of Laguna Beach directories.

City of Laguna Beach permits.

Environmental Coalition. "South Laguna." State of California Department of Parks and Recreation Historic Resources Inventory form. November 1980. Prepared April 1981.

HistoricAerials.com.

Sanborn Fire Insurance maps of Laguna Beach, 1925, 1948.

"Thomas P. De Paolo, 1923-2015." *Laguna Beach Indy*. July 16, 2015.

U.S. Department of the Interior. *National Register Bulletin 16: How to Complete the National Register Registration Form*. Washington D.C.: National Park Service 1997. p. 4.

HISTORIC RESOURCES ASSESSMENT

**31987 Coast Highway
Laguna Beach, California**

HISTORIC RESOURCES GROUP

PERMIT HISTORY

Permit Number	Year	Description of work
84-044253	1984	1000 Steps – South Laguna Beach agreement
	1996	Construct posts and rope fences on the sandy portion of the beach to delineate the public beach area from the private beach area

HISTORIC RESOURCES ASSESSMENT

**31987 Coast Highway
Laguna Beach, California**

HISTORIC RESOURCES GROUP

HISTORIC PHOTOGRAPHS

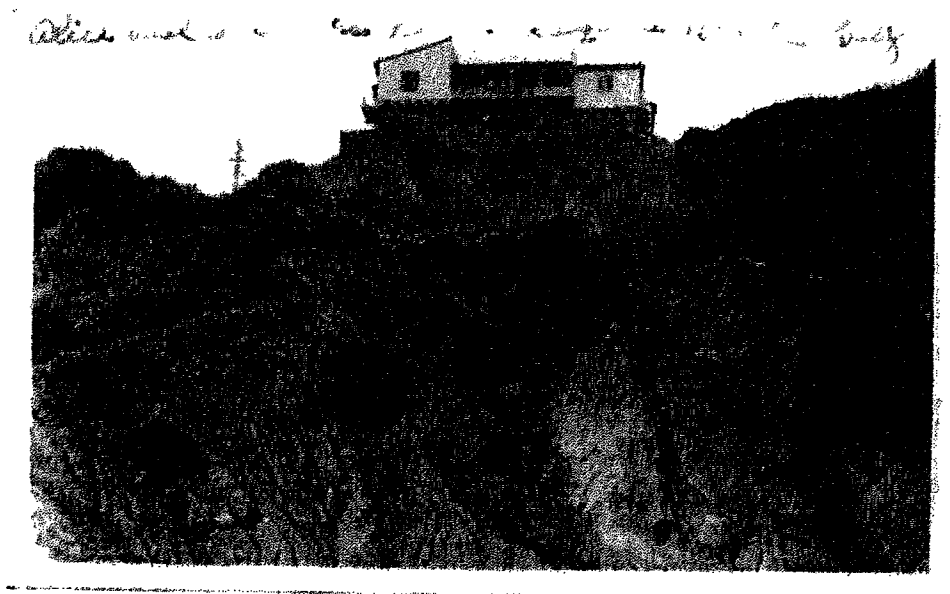


Figure 1: 31987 Coast Highway, no date. Source: City of Laguna Beach landscape permit, 2016

HISTORIC RESOURCES ASSESSMENT

31987 Coast Highway
Laguna Beach, California

HISTORIC RESOURCES GROUP



Figure 2: Historic aerial photograph of South Laguna Bluffs, 1938. 31987 Coast Highway circled in red
Source: HistoricAerials.com

HISTORIC RESOURCES ASSESSMENT

31987 Coast Highway
Laguna Beach, California

HISTORIC RESOURCES GROUP

CURRENT CONDITIONS PHOTOGRAPHS



Figure 3 31987 Coast Highway, east façade, view looking west, October 2016 (HRC)

HISTORIC RESOURCES ASSESSMENT

31987 Coast Highway
Laguna Beach, California

HISTORIC RESOURCES GROUP

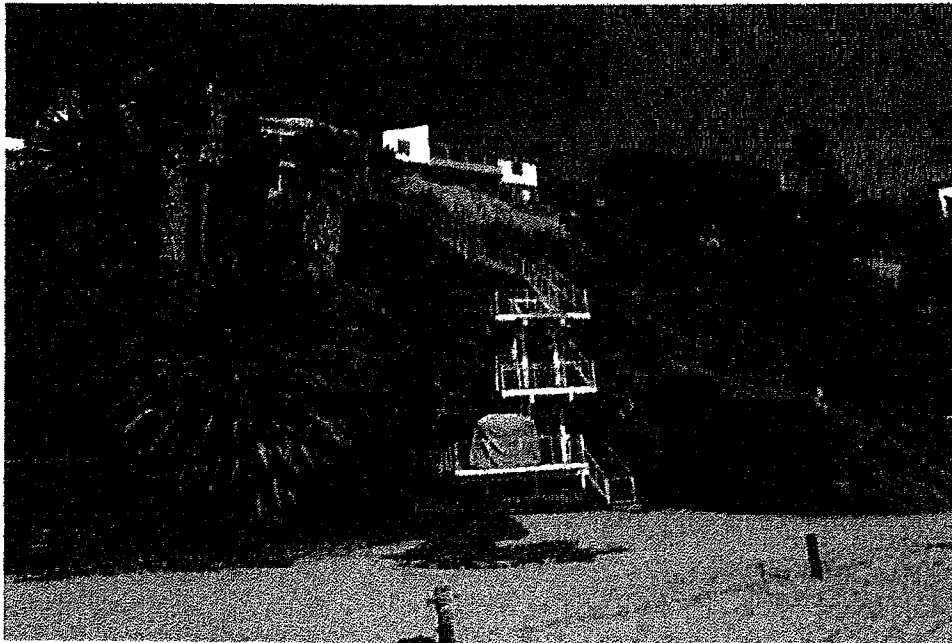


Figure 4 31987 Coast Highway, west façade, view looking northeast, October 2016 (HRG)

HISTORIC RESOURCES ASSESSMENT

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Laguna Beach, California

HISTORIC RESOURCES GROUP

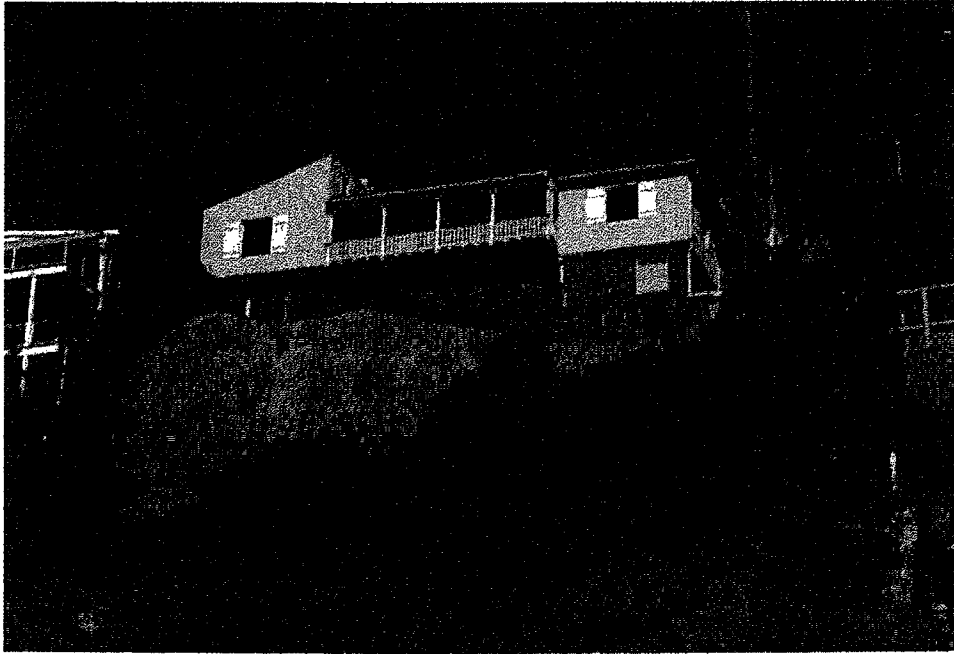


Figure 5 31987 Coast Highway, west façade, view looking northeast, October 2016 (HRC)

HISTORIC RESOURCES ASSESSMENT

31987 Coast Highway
Laguna Beach, California

HISTORIC RESOURCES GROUP

Exhibit D

LSA

BERKELEY
CARLSBAD
FRESNO
IRVINE
PALM SPRINGS
POINT RICHMOND
RIVERSIDE
ROCKLIN
SAN LUIS OBISPO

DATE: December 2, 2016

TO: HCI Systems Inc.
1354 South Parkside Place
Ontario, California 91761
c/o Amy Creager

FROM: Eugene J. Heck, M.A.
LSA Architectural Historian

SUBJECT: Addendum to the Peer Review of the Historic Resources Assessment for 31987
Coast Highway in the City of Laguna Beach, Orange County, California (LSA Project
No. HCI1601)

As you know, LSA is under contract to provide additional information in support of the peer review we completed earlier this month. Specifically, HCI requested that LSA provide more detail about the areas where the original assessment is either inaccurate or not well supported. In order to address this request, LSA conducted a field visit and completed limited independent research.

Based on photographs alone, it was difficult to form a strong sense of the architectural style, massing, scale, or setting of the house. The field visit was immensely helpful in gaining a better understanding of the house and its setting. Having had the benefit of walking the property and entering the home, it is apparent that the original report's evaluation of the property as a good local example of "Spanish Colonial Revival" residential architecture is inaccurate. McAlester, whom the previous report cites, distinguishes between Spanish Colonial and Spanish Revival; the two styles are distinct and not to be conflated. She groups Spanish Revival style under the general heading of Eclectic Houses (1880-1940), subheading Mediterranean and Spanish Period Houses; Spanish Colonial style is grouped under the general heading of Colonial Houses (1600-1820) and would not apply to a house built in 1930. McAlester observes that the prototypical examples (found in Spain) display a wide variety of architectural details, materials and compositional approaches to the design:

The style uses decorative details borrowed from the entire history of Spanish architecture. These may be of Moorish, Byzantine, Gothic or Renaissance inspiration, an unusually rich and varied series of decorative precedents (*McAlester 2013: 522*).

Admittedly, the house possesses most of the character-defining features of the Spanish Revival style. The main entry is accessed after opening a gate, descending a stairway and crossing a small

12/2/16 (R:\HCI1601\Follow-up Memo\Memorandum Revised)

1500 Iowa Avenue, Suite 200, Riverside, California 92507 951.781.9310 www.lsa.net

EXHIBIT D

courtyard, which are all hidden from view of the public right-of-way, or by entering the attached garage, which is barely visible, and descending a stairway. This means the primary elevation is, after all, not the east elevation facing Coast Highway but the ocean-facing west elevation; and therein lies the problem, because where we would wish to see a white stucco or plaster wall we do not. Instead, this is where the red brick wall gets to make its "first impression," and not an especially good one at that. Also, the authors are inaccurate when they state, "The primary entrance is asymmetrically located on the east façade and consists of a pair of divided-light wood French doors with sidelights - accessed via a brick courtyard with central fountain." The French doors are flanked by another pair of doors, not sidelights; the west elevation is primary.

It could be argued that 31987's overall plan and pitched roof form are typical of the Spanish Colonial style (see, e.g., McAlester 2013:189); but when half-height brick masonry exterior walls are combined with an upper expanse of stucco adjoined to half-gable shed forms, rather than a more familiar Spanish Revival cross-gabbling about a tower, the effect is eclectic. This is despite the typical roof tiles (terra cotta, tapered mission type, regularly laid) and the balcony with its typical supporting columns topped by zapatas. Considering fenestration, the metalwork is right; the shutters are wrong. The masonry window sills are "unique" but certainly eclectic, and definitely not based on any Spanish prototype with which I am familiar. The architect/builder responsible for the design does not appear to have been constrained by stylistic considerations, and evidently had not mastered Spanish Revival at this point in their career. For these reasons, the residence is better characterized as Eclectic or perhaps Spanish Eclectic, rather than Spanish Colonial Revival.

When evaluating the historic significance of this house under Local Ordinance criterion e, it is important to identify the architect and or builder. The authors of the report reviewed City of Laguna Beach building permits, Sanborn Fire Insurance Maps of Laguna Beach, city directories, and the "South Laguna" section of the Historic Resources Inventory prepared by Environmental Coalition in April, 1981. Although this is a minimally acceptable level of effort, further research should have been undertaken to ascertain the identity of the architect/builders. The Bibliography does not include entries for regional newspapers, building trades journals, local history collections, local newspapers or other sources, any of which are research avenues worth pursuing.

The discussion of setting is not well supported. It does not describe how or why the house at 31985 came into existence and it does not describe the funicular/stairs access to the beach or the ongoing issue of public versus private beaches in Southern California.

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
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South Coast Region

JUN 28 2017

CALIFORNIA
COASTAL COMMISSION

APPEAL 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:

The City Council adopted a resolution overturning the decision of the Design Review Board and approving Coastal Development Permit 16-2180 and a Categorical Exemption [Class undetermined] for demolition of an existing single-family residence in the R-1 zone in an environmentally sensitive area (oceanfront) and to maintain shoreline protective device.

3. Development's location (street address, assessor's parcel no., cross street, etc.):
31987 Coast Hwy., Laguna Beach CA 92651 APN 056-160-41

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-17-0033

DATE FILED:

June 28, 2017

DISTRICT

South Coast



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

Planning Director/Zoning Administrator

X City Council/Board of Supervisors

Planning Commission

Other - Design Review Board

6. Date of local government's decision: May 23, 2017

7. Local government's file number (if any): CDP 16-2180

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:

Brion Jeanette
470 Old Newport Blvd.
Newport Beach CA 92663

Hani Dimitry
1354 Parkside Place
Ontario CA 91761

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.

Craig Jackson
31981 Coast Highway
Laguna Beach, CA 92651

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

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

Derek Peterson
31995 Coast Hwy.
Laguna Beach CA 92651

Ann Christoph
31713 Coast Highway
Laguna Beach CA 92651

Larry Nokes
% Nokes & Quinn
410 Broadway, Suite 200
Laguna Beach, CA 92651

Bryan and Pat Menne
31988 Tenth Avenue
Laguna Beach, CA 92651

South Laguna Civic Assoc.
Greg O'Loughlin - President
PO Box 9668
South Laguna, CA 92652

Janice Johnson
31985 Virginia Way
Laguna Beach, CA 92651

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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.

Background

After multiple continuances, the Design Review Board (DRB) heard the application for **'CDP 16-2180, Design Review 16-2179 and Variance 16-2178'** on January 12, 2017. The application was to demolish an 86 year-old existing house at 31987 Coast Highway, build a new single family residence and a variance (for maintaining non-conforming driveway gradient) on an oceanfront lot. The house exists within the 25 foot setback of the bluff edge and is protected by a shot-creted bluff face that pre-dates the Coastal Act.

Because the existing house is over 45 years old, the Laguna Beach Design Review criteria (in the LBMC) requires that the Board review it to determine if "*special preservation consideration*" is warranted. The Board did find that the structure qualifies as a historic resource according to local criteria (*LBMC 25.45.004(D)(2)(b) - Structures that most represent character, interest or value as part of the heritage of the city.*) Due to their finding that the structure qualified as a local historic resource, the Board denied the application (4-1) for the demolition and required an Initial Study (pursuant to CEQA) if the applicant wanted to go forward with the demolition.

At that same DRB meeting, the Board denied the application (5-0) for the development of the new residence and variance as they found it was "not neighborhood compatible, has view issues, is detrimental to the historic context of Ninth Street, has privacy issues to the neighboring property, has environmental concerns, is overly massive and proposes excessive grading."

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The applicant appealed the denial(s) to the City Council and was heard on April 18, 2017. The applicant's Notice of Appeal focused exclusively on the objection to the DRB's finding that the house was a historic resource and the requirement to generate an Initial Study.

By code (LBMC 25.05.070(9)(a-h)), the City Council hearing is 1) *'limited to the grounds specifically stated in the underlying notice of appeal'*; 2) *the decision of the DRB is 'presumed to be reasonable, valid and not an abuse of discretion and the appellant has the burden of proof of demonstrating otherwise by a preponderance of the evidence presented'*; and 3) *'In the event of an appeal by the applicant of a project denial, the city council hearing shall be limited to the plans that were the subject of the design review board's decision'*. In other words, the hearing is not 'de novo'.

During the appeal hearing, the applicant objected to the historic designation of the house and also presented information about the design of the new proposed structure. The Council members declined to vote on the new structure (thereby finalizing the DRB's denial of the new structure), and voted to overturn the DRB's finding of historicity of the existing house and approved the demolition of the house. The Council approved (3-2) a CDP for demolition without conditions, without CEQA compliance, without a CEQA determination and without Design Review as required by the City's LCP. Most disturbingly, they approved a permit for demolition without ever seeing plans for the project - as plans had never been submitted as part of the application.

On May 23, 2017 another hearing was held at the City Council to adopt Resolution 17.032 which memorialized the April 18, 2017 decisions of the Council. Although this was a 'ministerial action', the Mayor opened the hearing for public comment. Members of the public voiced objections. The Mayor had second thoughts about how this demolition work would proceed and the dangers it might pose - and reversed her vote. Legal counsel immediately called a closed session and the Council returned with a new vote (4-1) to adopt the resolution.

I have standing (Exhibit 1) to make this timely appeal to the California Coastal Commission as follows:

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Basis for Appeal

This project at 31987 Coast Hwy. on the coastal bluff presents numerous concerns. I believe the project approval does not comply with the certified LCP and the Coastal Act are as follows:

1. The certified LCP requires an Initial Study for projects located in environmentally sensitive areas. The application was, and is, incomplete because it does not contain sufficient information as required. The project approval does not comply with the LCP.
2. The City Council's review and ultimate over-turning of the Design Review Board decision about the historicity of the existing house was improper.
3. The City Council did not obtain substantial evidence to be able to make the findings required for a Design Review or Coastal Development Permit issuance. They approved a permit without submittal or review of plans for the project. They did not apply Design Review or Coastal Development criteria for the approval of the permit (such as compliance with the General Plan).
4. The applicant and City improperly bifurcated the project to avoid environmental review. It is unclear what the scope of the approved CDP is.
5. The City Council never made a CEQA determination as instructed by staff.
6. The City Council did not condition the permit in any way despite it's probability of causing adverse environmental effects without mitigations. It did not require the removal of damaged shoreline protective devices.
7. The City Council's approval of the permit does not comply with the General Plan, specifically as it relates to non-conforming development and major remodels, new development, bluff edge determination, bluff face development, etc.
8. The City's failure to update the Municipal Code to comport with the language of the certified LCP has created confusion amongst the public and has created a burden to the Coastal Commission and it's staff by increasing the number of appeals that have to be taken to the CCC.

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1. The Laguna Beach Certified LCP requires preparation of an Initial Study for any development in an environmentally sensitive area (as listed within the Real Property Report). Not doing so renders the application incomplete.

At the April 18, 2017 hearing of the appeal of the Design Review Board's denial of the project, Mayor Toni Iseman made this comment just prior to the motion that was the final decision to overturn the Board's denial (about 2hrs, 6mins into the video), "I would have a very hard time requiring an Environmental Impact Report when we already know what the end result is. I already know." Avoiding CEQA defeats its ultimate intent to inform the public of potential significant impacts a project might have to the environment. This project required an Initial Study at the outset and an EIR became necessary to allow adverse affect on a historic resource.

"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 authority. (§ 30600(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(a), 30005(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. (§§

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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(b)(2))

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."

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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 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.” (same as Action 10.3.1)

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, **Exhibit 4**)(LUE 7.4.4). The Pre-Application Site Meeting Evaluation (04-19-16, **Exhibit 2**) 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 prepare an Initial Study per CEQA (LUE 7.4.2) — the City did not.

Laguna Beach Municipal Code section 25.07.012(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.”

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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 faults', 'major landslide areas', 'open space preserved areas' and 'major/natural drainage courses' as '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" are areas that include:

*(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, Exhibit 5) map, (adopted as part of this chapter by reference). ... (emphasis added).***

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 Title 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 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's LCP. The CCC does 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. **Since that is the case, the application is incomplete without an initial study and is required to be returned to the city (as lead agency) for review and completion.**

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2. The City's appeal process failed to follow the procedures as laid out in LBMC 25.05.070 and therefore was improper.

- The City Council used the wrong standard of review to measure the applicant's duty to prove that the Design Review Board's decision (that the existing house is a historic resource) was an abuse of discretion. The appellant (Dimitry) was required by LBMC 25.05.070(B)(9)(e) to demonstrate such abuse with a '*preponderance of the evidence*'. Mr. Dimitry did not do so. Instead, the council members relied on a new, sole piece of evidence provided by the architect/applicant - (not an expert of historicity) - which related to architecture, not historicity, to make their decision that the existing house was 'not' a historic resource. This overturned the Design Review Board's finding that the house met the City's criteria of a historic resource and therefore required further review before demolition was appropriate.
- Because an appeal of a Design the decision is not subject to a de novo review, the City Council's review of a Design Review Board (DRB) denial decision is limited to the plans that were the subject of the DRB's decision - they shall not consider or act on new plans (LBMC 25.05.070(B)(9)(h)). Demolition plans were not included in the original application for CDP 16-2180 therefore there was no plan to review. The correct action for the Council would have been to remand the project back to the DRB for review of demolition plans. No discretionary body of the city has reviewed demolition plans (a discretionary act due to the need for a CDP). Up until the May 23, 2017 meeting, even the Director of Community Development was unaware of what the plan would entail.

3. City's Approval of CDP was Improper.**Required Design Review was not performed**

- By failing to require a Design Review Permit (LBMC25.05.040(B)(1)(q)), the City Council failed to apply the Design Review Criteria (such as environmental context, and General Plan compliance) to the project. (LBMC 25.05.040(H)(4)(5)).
- The city's municipal code requires that a CDP issued by the City is also subject to Design Review as per 25.05.040(B)(1)(q):

LBMC 25.05.040(B) Development Subject to Design Review.

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(1) All new buildings, structures and physical improvements and relocations, additions, extensions and exterior changes of or to existing buildings, structural and non-structural improvements, including landscaping and grading, shall be subject to design review, except as otherwise provided in subsection (B)(2).

Examples of physical improvements and site developments subject to design review include, but are not limited to, the following:

(q) Any instance where a coastal development permit is required to be issued by the city; (emphasis added)

In short, to issue a CDP the City also **must** consider the Design Review Criteria well. This was not done. Design Review considers the following when considering whether or not to approve a project:

LBMC 25.05.040(H) Design Review Criteria. Physical improvements and site developments subject to design review shall be designed and located in a manner which best satisfies the intent and purpose of design review, the city's village atmosphere and the design review criteria specified in this section. Village atmosphere shall be characterized by appropriately scaled development, diverse and unique architectural designs, pedestrian orientation and sensitivity to the natural conditions of the site.

(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. (emphasis added.)

(5) General Plan Compliance. The development shall comply with all applicable policies of the general plan, including all of its elements, applicable specific plans, and the certified local coastal program. (emphasis added)

(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. (emphasis added)

These are but three of the 16 criteria that need to be considered but none were.

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Required findings could not be made as no project plans for demolition were presented or reviewed. The City Council approved the CDP without the requisite reviews required to make findings:

- Since the City Council did not review plans, or apply any criteria to the development, they lack the substantial evidence to support their findings as required by LBMC 25.07.0012(G).
- The City Council allowed approval of CDP 16-2180 without requiring the issuance of a Design Review permit as well as required by LBMC 25.05.040(B)(1)(q).
- By failing to require the Design Review Permit, the City Council failed to apply the Design Review Criteria (such as environmental context, and General Plan compliance) to the project. (LBMC 25.05.040(H)(4)(5)).
- The City Council approved CDP 16-2180 without reviewing plans for the demolition. In fact, demolition plans had not yet been submitted as required by LBMC 25.07.012(c)(4).
- The City Council did not incorporate the review criteria as required by LBMC 25.07.012(F) into their deliberations. There are nine specified criteria that were never discussed.
- The City Council's decision did not consider L.U.E. Goal 2: Preserve, enhance and respect the unique character and identity of Laguna's residential neighborhoods. Mayor Toni Eiseman opined that the existing house was indeed important to the historic nature of the neighborhood (April 18, 2017 meeting)
- The City Council's decision did not consider L.U.E. Goal 7: Protect, preserve, and enhance the community's natural resources.
- The City Council's decision did not consider L.U.E. Goal 10: Ensure that proposals for new development, subdivisions, and major remodels are sufficiently evaluated to protect public health and safety and natural resources.

Intent - In a community with extremely high land values and minimal developable land, pressure has increased to develop larger buildings, including development on environmentally sensitive lots has been increasing. Larger structures and development into environmentally sensitive areas have the potential to create numerous impacts on the

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environment and surrounding neighborhoods. Some potential impacts include 1) water quality impacts, 2) land movements, 3) a decrease in safety response times on steep hillside roads during emergencies, and 4) the potential cumulative impacts to sensitive biological and coastal resources from which community members and visitors derive health benefits. The following policies are adopted to ensure that applications for new subdivisions, the creation of building sites, new development, and major remodels are thoroughly evaluated to mitigate potential health and safety impacts related to new development.

Policy 10.2 *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 landform alterations. (Same as Policy 7.3)*

Action 10.2.5 *On bluff sites, require applications where applicable, to include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains statements that the project site is suitable for the proposed development and that the development will be safe from geologic hazard for its economic life. For development on oceanfront bluffs, such reports shall include slope stability analyses and estimates of the long-term average bluff retreat/erosion rate over the expected life of the development. Reports are to be prepared/signed by a licensed professional Engineering Geologist or Geotechnical Engineer.*

Action 10.2.6 *Require all new development located on an oceanfront bluff top to be setback from the oceanfront bluff edge a sufficient distance to ensure stability, ensure that it will not be endangered by erosion, and to avoid the need for protective devices during the economic life of the structure (75 years). Such setbacks must take into consideration expected long-term bluff retreat over the next 75 years, as well as slope stability. The predicted bluff retreat shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat made possible by continued and accelerated sea level rise, future increase in storm or El Nino events, and any known site-specific conditions. To assure stability, the development must maintain a minimum factor of safety against landsliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer) for the economic life of the structure.*



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Policy 10.3 *Ensure that all new development, including subdivisions, the creation of new building sites and remodels that involve building additions, is evaluated to ascertain potential negative impacts on natural resources, ESHA and existing adjacent development. Proposed development shall emphasize ESHA impact avoidance over impact mitigation. Any mitigation required due to an unavoidable negative impact should be located on-site rather than off-site, where feasible. Any off-site mitigation should be located within the City's boundaries and in close proximity to the project. (Similar to Policies 7.4 and 5.2.)*

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

- The Council's decision did not consider **Open Space/Conservation Element** policies:

Coastal Land Features

1H Require Design Review for all bluff top development.

Water Quality and Conservation

- **4A Development Planning and Design Best Management Practices (BMPs)**
Ensure that development plans and designs incorporate appropriate Site Design, Source Control and Structural Treatment Control Best Management Practices (BMPs), where feasible, to reduce to the maximum extent practicable, pollutants and runoff from the proposed development. Structural Treatment Control BMPs shall be implemented when a combination of Site Design and Source Control BMPs are not sufficient to protect water quality.
- **4C Minimize Volume and Velocity of Runoff**
Ensure that development is designed and managed to minimize the volume and velocity of runoff (including both stormwater and dry weather runoff) to the maximum extent practicable, to avoid excessive erosion and sedimentation.

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. **4D Minimize Introduction of Pollutants**

Ensure that development and existing land uses and associated operational practices minimize the introduction of pollutants into coastal waters (including the ocean, estuaries, wetlands, rivers and lakes) to the maximum extent practicable.

. **4G Minimize Construction Impacts**

Ensure that all development minimizes erosion, sedimentation and other pollutants in runoff from construction-related activities to the maximum extent practicable. Ensure that development minimizes land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize the impacts on water quality.

Visual Resources

- . **7K Preserve as much as possible the natural character of the landscape**
(including coastal bluffs, hillsides and ridgelines) by requiring proposed development plans to preserve and enhance scenic and conservation values to the maximum extent possible, to minimize impacts on soil mantle, vegetation cover, water resources, physiographic features, erosion problems, and require recontouring and replanting where the natural landscape has been disturbed.

Natural Hazards

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

10C *Require projects located in geological hazard areas to be designed to avoid the hazards, where feasible. Stabilization of hazard areas for purposes of development shall only be permitted where there is no other alternative location or where such stabilization is necessary for public safety. The more unstable areas should be left ungraded and undeveloped, utilizing land use designations such as Open Space.*

10E *Development in the areas designated "Residential/Hillside Protection" on the Land Use Plan Map or within potential geologic hazard areas identified on the Geological Conditions Map of the Open Space/Conservation Element shall not be*

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*permitted unless a comprehensive geological and soils report is prepared pursuant to Title 14 of the City's Municipal Code, and adequate mitigation measures have been approved and implemented by the City's geologist. For projects located in areas subject to hazards as identified on the Geologic Conditions Map (**Exhibit 6**) or subject to erosion, landslide or mudslide, earthquake, flooding or wave damage hazards confirmed by a geologic assessment, as a condition of approval or new development a waiver of liability shall be required through a deed restriction.*

Constraint Mapping

15C Require a constraint analysis for existing building sites where Design Review Board approval is required and there are multiple significant environmental constraints.

- The City Council's decision did not consider the **Safety Element** policies:

Geologic Hazards

3D Maintain and enforce bluff and hillside protection measures which address control of runoff and erosion by vegetation management, control of access, site planning for new development and major remodels, including directing water to the street and compliance with blufftop setbacks.

3E Restrict development projects that will cause hazardous geologic conditions or that will expose existing developments to an unacceptable level of risk until the causative factors are mitigated.

Shoreline Protection

6I Require damaged shoreline protection devices to be consistent with prevailing zoning regulations and general plan policies.

Unknown effects on Cultural Resources

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

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Topic 12 of the Open Space/Conservation Element of the General Plan states:

Coastal issues relating to cultural/scientific resources all focus on the need for proper mitigation measures, including preservation for archaeological and paleontological resource sites.

This project is located geographically near to known archeological site P-30-000842 (at 31461 Coast Highway). That site was almost overlooked by the City (stating in early staff reports that no archeologic was recorded existed) until the owner of that property prepared an Initial Study. This new project at 31987 Coast Hwy. will most likely not have any effects on that known Coast Hwy. archeological site but, due to the close proximity, and it's oceanfront/bluff top location, should have mitigations required to protect any potential archeo/paleo discoveries during demolition/construction. There were no discussions of mitigations or monitoring requirements, and none were ever included in the final approval.

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 (**Exhibit 3**) 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 project that the TATTN was consulted.

At the very least, the project needs to be conditioned to protect potential cultural and historic resources and as required an initial study would include a review of known mapped sites.

4. The City and the applicant bifurcated the project in order to avoid environmental review. The extent of the approved CDP is in question.

The applicant and City Council's action to bifurcate the application (reviewing only the demolition aspect and not the construction of the new home) effectively 'segmented' the project in order to avoid environmental review. This practice (known as piecemealing) is prohibited by CEQA Guidelines Section 15378(c) which states that a project is 'the whole of an action'.

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During deliberations (April 18, 2017) Councilman Rob Zur Schmiede specifically noted such and commented that the City 'does not do anyone any favors by shortcutting the [CEQA] process'.

After the public comment portion of the April 18, 2017 City Council meeting, the project was bifurcated thus leading to an unclear resolution. Was the entire CDP 16-2180 approved as it was positioned in the application? The resolution states "approval of CDP 16-2180 and demolition of existing building". Was the coastal development permit truly limited to 'only' the demolition of the existing structure?

The city's hearing and resolution are null and void. The City Council simple lacked the discretion to determine that 31987 Coast Highway was not a historic resource that could be demolished without Design Review permit along side of the CDP permit. That being the case, the DRB denial of the project on January 12, 2016 is final as any challenge is timed out.

5. A CEQA determination was never made by the City Council

The staff report for the April 18, 2017 spelled out "Options" for the Council to take after they'd determined the historic resource aspect of the house. The option that the Council took was #4 - "Grant the appeal, overturn the decision of the DRB denying the project, and approve the project, either as presented to the Board or as the City Council may determine to modify. If the City Council desires to overturn the Board's decision and approve the project, the City Council will need to make the findings associated with Design Review approval and the Coastal Development Permit, and make an appropriate CEQA determination." However, the Council approved the project without making any such CEQA determination.

By failing to make a CEQA determination as instructed the Council erred. There was no discussion of what Categorical Exemption might apply, and none of the 'Exceptions to Exemptions' were reviewed other than deciding whether or not the existing house is a historic resource.

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6. No conditions/mitigations were required

There were no mitigations or conditions to the permit for development. If there are no mitigations, the project would more closely meet the definition of a ministerial project ("Ministerial projects, in contrast, require a mere determination whether the project conforms with applicable statutes, ordinances, or regulations." *Sierra Club v. Napa County Board of Supervisors* (Apr. 20, 2012) 205 Cal. App. 4th 162"). Due to the requirement of a CDP for demolition, this project is not ministerial and therefore should have conditions and mitigations to protect the environment/sensitive resources present at the site.

The City's action to approve the development without conditions is inconsistent with numerous LCP policies such as:

Action 7.3.4 of the Land Use Element

Require new development to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Action 7.3.3 of the Land Use Element

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

In this case, the property is located in a mapped 'Seismic Hazard Landslide Areas' (see constraints map - Exhibit 6) but no conditions or mitigations were required.

Policy 7.10 of the Land Use Element

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



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Action 7.3.8 of the Land Use Element

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

Action 7.3.9 of the Land Use Element

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

Policy 7.7 of the Land Use Element

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).”

Action 7.3.6 of the Land Use Element

Require new development on oceanfront blufftop lots to incorporate drainage improvements, removal of and/or revisions to irrigation systems, and/or use of native or drought-tolerant vegetation into the design to minimize threats to oceanfront bluff recession.

In its approval, the City did not impose conditions requiring the applicant to waive the right to future shoreline protective device(s), 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.

7. Bluff top/Bluff face development

Determining the Bluff Top Edge

The Land Use Element (Glossary) defines the “Ocean Front Bluff Edge or
Commission File No. 5-LGB-17-0533

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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 Applicant’s planning documents (seaward of which a downward gradient is maintained continuously to the base of the bluff). The area where the downward gradient exists continuously is the bluff face. 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 behind the footprint of the existing residence (see 31381 Coast Highway - Meehan, pending appeal 31505 Bluff Drive - Kinstler). I leave it to the CCC and its staff to make that determination. A city GIS map and several historic photos of the site are attached (**Exhibit 7**).

Determination of the bluff edge is critical even if the project is only the demolition of the existing house. It is needed to determine the extent of the bluff face and consider what actions to Condition (restoration, removal of structures etc.).

Policy 7.3 of the Land Use Element

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

Prohibit development on oceanfront bluff faces, except public improvements providing



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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 without regard to its effect, without mitigation or monitoring. 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.

Demolition is New Development

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 is precedential.

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)]

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**)*

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It is clear that the City-approved project exceeds the threshold of a major remodel (ie. more than 50% demolished). This a total demolition of this home, and as such, must be reviewed as if the project is new development as provided by the LBMC non-conforming code sections.

Non-conformities are being allowed to continue with New Development. Non-conformities at the site must be eliminated.

Non-Conforming Structures — the existing residence is placed within the 25 foot bluff edge and quite possibly on the bluff face itself.

The overarching purpose of the IP's nonconforming use LCP Actions 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 accessory structures (shoreline protective devices, staircases to the shore, and a funicular — all on the bluff face) and uses at this critically important oceanfront, bluff top location. If the demolition of the existing house is ultimately approved, now is the time to remove an unnecessary staircase, etc. In the event a new home is not approved for an extended period of time the property will be left in a 'state of suspension' - an empty lot with accessory structures protecting a home no longer in existence, with a stairway and funicular leading to nowhere.

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

8.The City, by not maintaining the LCP and updating the Municipal Code, creates confusion for the public and creates a burden for the Coastal Commissioners and staff.

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.

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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', 'bluff top setbacks', and ignores portions of the Land Use Element Glossary.

Certified Language in the Land Use Element is contradicted by IP language in the Municipal Code (for instance; major remodel). 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 CCC and their staff are forced to handle appeal after appeal because the City of Laguna Beach fails in the application and maintenance of their own LCP.

Conclusions

I ask that the California Coastal Commission send this application back to the City for completion. If that is not possible, please find Substantial Issue on this matter.

Exhibits:

1. Letter submitted to DRB by Mark Fudge dated December 15, 2016
2. Pre-application site meeting report dated April 19, 2016
3. Letter from TATTN to City dated May 7, 2016
4. Real Property Report - disclosing location in 'environmentally sensitive areas'
5. WQESA map - showing location in an 'environmentally sensitive area'
6. Constraints map - showing location in 'Seismic Hazard Landslide Areas'
7. Historic photos of existing residence showing condition of the bluff

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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: June 28, 2017

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: _____



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Exhibit 1

cc: Bd
31987 Coast

To: Design Review Board members
From: Mark Fudge
Date: December 15, 2016
Re: Items on tonight's agenda (no. 2 and no. 11)

Dear Boardmembers,

Tonight's agenda item no. 2 (31987 Coast Why - Dimitry) appears to be recommended for another continuance (letter from architect dated Dec 7th) in order for the applicant to comply with requests for more information from the city staff. While that information is being gathered, I'd like to suggest that an Initial Study pursuant to CEQA is also generated, prior to the board's review, as I believe one is necessary.

The agenda's short description of the project states that a Categorical Exemption from CEQA is being considered based on a 'Class 3 (single family home)' exemption) allowed by CEQA. I am challenging this exemption as the LOCATION of the project is in an environmentally sensitive area and the project may have impacts on environmentally sensitive resources. The location of the project puts it squarely in the Exceptions to the Exemptions category of CEQA as shown below:

14CCR § 15300. Categorical Exemptions explains that the Secretary for Resources has determined that many 'classes' of projects are exempt from CEQA as they do not have a significant effect on the environment. One of those classes is "Class 3" a description of which is found in §15303 - this section covers single family homes ... and normally, single family homes ARE exempt from the rigors of preparing environmental documents ... however, not always.

CEQA qualifies when Categorical Exemptions can be used. One of those qualifications comes when considering the LOCATION of a project. **§ 15300.2 Exceptions** lists those instances where even though a project would normally be exempt, in cases listed an exemption is not allowable. Subsection (a) discusses LOCATION and reads as follows:

- (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.

Obviously, the location of this project is environmentally sensitive. The City's GIS map shows it, the City's staff report shows it, the Water Quality Department has stated that it is adjacent to a Water Quality ESA and that it discharges directly into the ocean. The project does not qualify for a CEQA exemption purely and simply. These are the environmental resources that have been designated and precisely mapped by the local agency.

Our Land Use Element Glossary defines Environmentally Sensitive Lands/Resources as:

*Land or resources that have been identified in the City's General Plan as having one or more of the following characteristics: 1) high- or ver-high-value biological habitat, as described in the Open Space/Conservation Element; 2) **located on the oceanfront**; 3) a City-mapped watercourse; 4) geologic conditions such as slide-prone formations potentially active fault, inactive fault, landslide potential, liquefaction potential, and soft coastal headlands; 5) hillside slopes greater than 45%; 6) adjacent wild land area, which requires fuel modification; and 8) major or significant ridgelines. (emphasis added)*

Additionally, the State has found that the entire Coastal Zone is a resource to be protected. This property is in the Coastal Zone. The Coastal Act (Public Resources Code) Section 30116 designates certain coastal areas as being "Sensitive coastal resource areas". These are defined as follows:

Section 30116 Sensitive coastal resource areas

"Sensitive coastal resource areas" means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. "Sensitive coastal resource areas" include the following:

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped and designated in Part 4 of the coastal plan.
- (b) Areas possessing significant recreational value.
- (c) Highly scenic areas.
- (d) Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.
- (e) Special communities or neighborhoods which are significant visitor destination areas.
- (f) Areas that provide existing coastal housing or recreational opportunities for low- and moderate- income persons.
- (g) Areas where divisions of land could substantially impair or restrict coastal access.

Perhaps the DRB members can determine if the project is located in any of the above defined areas as well (such as (c) highly scenic or (e) visitor designation area).

There is also the project at 17 Camel Point (Urie-Chickering)(Item no. 11) that would not qualify for a Class 3 exemption for all of the same reasons listed above.

Once again I thank you for your consideration and ask that these projects located in Environmentally Sensitive Areas are required to have Initial Studies prepared as required by CEQA and our General Plan, specifically LUE Actions 7.4.2 and 10.3.1 which state:

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.

Sincerely,

Mark Fudge

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



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Exhibit 2

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

Evaluation Meeting Number: ZPS-16-0650

Date: April 19, 2016

Prepared by: Evan Jedynak, Assistant Planner

Attendees: Brion Jeannette, Architect; Hany and Heidi Dimitry, Property Owners

Site Address: 31987 Coast Highway

Assessor Parcel Number: 056-160-41

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

Background: The subject site is a 28,406 square-foot oceanfront lot located at Thousand Steps Beach in South Laguna. The property is currently improved with a single-family dwelling and attached two-car garage. A funicular tram and stairs provide direct private access from the residence to the beach. The residence was constructed under County jurisdiction and there is no original building permit is on file. The applicant proposes to demolish the existing structure and construct a new three story single-family residence and attached garage. The oceanfront lot is oddly configured with two narrow strips fronting Coast Highway in a prong-shaped (double frontage flag lot) configuration. The adjacent neighboring property is separately owned, surrounded on three side by the subject property and elevated above the subject property with retaining walls. Staff has had continuous correspondence with the applicant after the site meeting regarding property setbacks. Given the unique shape of the lot, a few potential setback scenarios have been discussed. Staff will inquire with the Director of Community Development before any final setback determination is made.

Recently, a City design review approval on an oceanfront lot was appealed by the California Coastal Commission in part because the project did not comply with the City's General Plan Land Use Element definition of oceanfront bluff top (see 31381 Coast Highway). The City's Land Use Element is more restrictive than the City's Municipal Code requirements for the 25-foot oceanfront bluff top setback in that the Land Use Element defines the bluff top as the point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. Pursuant to LBMC 25.50.004(B)(4)(a), an oceanfront bluff is an oceanfront landform having a slope of 45 degrees or greater from horizontal whose top is 10 or more feet above mean sea level. Land Use Element Action 10.2.6-8 requires all new development located on an oceanfront bluff to be setback from the oceanfront bluff edge to ensure stability, no less than 25 feet from the bluff edge for the structure and pools, and no closer than 10 feet for decks, patios and walkways that do not require structural foundations.

The Municipal Code has not yet been updated to show consistency with the Land Use Element's definition of a bluff top. The Coastal Commission has indicated that they will continue to appeal and deny projects that do not abide by the Land Use Element definition of the bluff top setback. If the applicant believes the bluff top is a different location than indicated by the Land Use Element, they must provide sections and supporting evidence showing justification and should contact the California Coastal Commission for a bluff top setback determination.

The property has been granted the following entitlements:

- Coastal Development Permit 96-19/Variance 6311 – allowed to install wood posts and ropes to delineate between the private beach area and public beach area; approved 5/16/96

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

Front Setback	20 feet, measured from the 50-foot Coast Highway right-of-way from the street centerline
Rear Setback (oceanfront)	25 feet from the top of the 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 the Coast Highway curb elevation Maximum 30 feet measured from lowest finished floor, finished or natural grade, whichever is more restrictive
Building Site Coverage	Based on the net lot area determined by the bluff line [LBMC Section 25.50.020(B)]
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	Based on the net lot area determined by the bluff line [LBMC Section 25.10.008(O)]

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

Environmental Constraints: Oceanfront, Water Quality Environmentally Sensitive Area, Very High Fire Hazard Severity Zone

Coastal Development Permit: Required for a new residence on an oceanfront lot, and appealable to the California Coastal Commission. A coastal geotechnical report and wave uprush/coastal hazards analysis report are required during zoning plan check.

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 property is currently improved with an attached two-car garage. The existing garage is nonconforming in that it does not provide a 25-foot unobstructed backup area. The existing driveway appears to be nonconforming in that it exceeds the maximum allowed gradient. The property has a private driveway access easement over the southwest corner of the adjacent property. Onsite turnaround is required for properties taking vehicular access off Coast Highway.

The applicant proposes a new attached garage located four feet away from the southern property line. Onsite turnaround capability will be provided using the driveway easement over the adjacent property. The applicant indicated that the nonconforming driveway gradient may be maintained, which would require a variance in conjunction with the new house. Staff explained that the Public Works Department and Caltrans will require that the applicant provide a 5-foot wide ADA accessible sidewalk on Coast Highway fronting the project site.

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 proposal includes demolishing the existing two story residence and constructing a new three story house further back from the bluff top. The lower level is proposed to be partially subterranean. Elevated decks are proposed at the upper levels. The applicant indicated that the proposed building height would not exceed the height of the existing residence. Staff encourages the applicant to incorporate elements that provide appropriate building mass, scale and form in the proposed design. The applicant should utilize articulation techniques consistent with the architectural style and 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 is proposing the new residence in a contemporary style. 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.*

The site is an oceanfront lot and is identified as a Water Quality Environmentally Sensitive Area. A coastal hazards analysis report is required for the project. The project does not constitute a priority development as determined by the Water Quality Department, so it is not anticipated that a water quality management plan will be required. The Design Review Board will review the placement of the new residence and how it relates to existing natural site features. The applicant indicated there would be site grading to create a partially subterranean lower floor. Any grading greater than 20 cubic yards will be subject to design review. Grading should be minimal outside the building footprint. 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 new single-family dwelling complies 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.*

There is no original building permit on file, and City records give no indication of when the existing residence was constructed. The residence appears to be greater than 45 years old. The house is not on the Historic Resources Inventory or Historic Register. However, given the appearance of the existing

residence, staff encouraged the applicant to have a historic analysis prepared in order to determine if the structure warrants special preservation consideration as a historic resource.

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 new structure requires submittal of a landscape plan that is subject to design review. The landscape open space requirement is based on the net lot area as defined by the bluff top. Staff advised the applicant that a minimum dimension of 3' x 3' must be satisfied to meet the requirements for landscape open space. The applicant should consider mitigation of view corridors with hedge height limitations. Landscaped open area or landscaped area shall be any combination of living plants (such as grass, ground cover, shrubs, vines, hedges or trees). The landscaped area may be located anywhere within the lot, including the buildable or setback areas.

The Design Review Board typically approves projects with impervious surfaces (structure and all hardscape) not exceeding 50-60 percent of total lot area. New plant materials should be appropriate for the location, using drought-tolerant plants when feasible. Landscaping should be designed with view equity in mind, with visual contributions to the street and neighborhood. Planting should be used to soften, integrate and enhance the building in its setting. The property is located in the Very High Fire Hazard Severity Zone, which prohibits the installation of target species identified by the Fire Department.

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.*

The proposed project requires submittal of an exterior lighting plan that shows all exiting doors and proposed lighting fixtures. Any proposed landscape lighting must be shown on the lighting/landscape plan. Outdoor lighting, including the number of lighting fixtures, lumens and wattage, should be minimized and strategically placed. All exterior lighting is subject to LBMC section 7.70, the Good Neighbor Outdoor Lighting Ordinance. 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 of multi-story homes stepping down the coastal bluff. Many of the garages in the vicinity have a two-car appearance. The applicant should research and evaluate the characteristics of the neighborhood in terms of building site coverage, square-footage, pool location, 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 proposes a three story residence with upper level decks. 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. 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. 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 indicated that the proposal will include a pool, spa and air conditioning unit. The pool and spa are proposed in the northern narrow strip of the lot, outside of the front setback and maintaining a five-foot clearance from property lines. Air conditioning units and mechanical equipment must maintain a five-foot setback from any property line and may not be located in the front or side yards. Staff encouraged the applicant to research the neighborhood to assess the compatibility of a pool.

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 a steep slope and the new structure could pose view equity issues for uphill residences. The applicant indicated that the new residence would not exceed the height of the existing house in order to preserve existing 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: The applicant indicated that a variance may be requested to maintain the nonconforming driveway gradient in conjunction with a new residence. Staff noted that a variance request to maintain the existing nonconforming access is unique in that costs a flat fee and is not based on the valuation of the work. Staff informed the applicant that variances are difficult to obtain; however, lot topography and surrounding conditions may justify the granting of a variance. Staff advised the applicant to provide valid evidence to justify a variance request. The applicant should refer to the City's Zoning Ordinance and General Plan for regulations and policies applicable to the requested variances. The Design Review Board must make all of the following findings to approve the requested variance:

- (1) There are special circumstances applicable to the property involved, including size, shape, topography, location or surroundings which cause the strict application of the zoning ordinance to deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.
- (2) Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the same vicinity and zone.
- (3) The granting of the variance will not be detrimental to the public health, safety, convenience and welfare or injurious to property or improvements in the vicinity in which the property is located.
- (4) The granting of such a variance will not be contrary to the objectives of the zoning ordinance or the general plan.

Decisions on a variance application must be supported by findings of fact in support of the action, whether a variance is granted or denied. The necessary findings cannot be implied. Rather, findings must be clearly articulated and based on evidence in the administrative record of the proceedings, such as staff reports, testimony, photographs, and documents. Findings are not sufficient if they merely recite the very language of the standards set forth in the local ordinance or state statute. The requirement for findings is designed to expose a decision-making body's "mode of analysis," and that responsibility is not discharged by simply parroting required findings in a conclusory fashion. Findings should incorporate statements of fact that bridge the gap between the evidence presented and the decision rendered. In this way, persons reviewing the decision will have an informed understanding of the reasons why the action was taken. If, based upon the facts presented at the hearing on a variance application, any of the required findings cannot be made, the application must be denied. That is, all of the required findings must be made in order to support the granting of a variance.

The factor of "special" or "unique" circumstances relates to disparities between properties, not treatment of the subject property's characteristics in the abstract. Indeed, the standards for variances contemplate that at best only a small fraction of any zone can qualify for a variance. In short, variances are an exception rather than a rule. The "plight" of the applicant must be due to peculiar physical circumstances

and conditions, and such circumstances and conditions must be special or unique in contrast with those of other property owners in the same zoning district.

The factor of "unnecessary hardship" also requires a demonstration of uniqueness as to the difficulties asserted for the subject property. Difficulties or hardships shared by all would not be a sufficient justification. Again, the hardship must relate to physical characteristics and conditions of the property which distinguish it from other properties in the zoning district. Financial hardship -- for example, development would be more expensive without a variance -- does not constitute the requisite hardship. Furthermore, self-induced hardship affords no ground for the grant of a variance.

The factor of "no special privilege" intends to permit properties to be brought up to parity with other properties in the zoning district. However, the granting of a variance cannot confer special privileges over and above those enjoyed by other properties. In a nutshell, when there is no affirmative showing that the property subject to a variance application differs substantially and in relevant aspects from other properties in the zone, a variance granted could amount to a special privilege.

The fact that another property has been granted a variance similar to one subsequently sought by another property owner does not justify the granting of a later variance for a different property. Each application must be considered on a case-by-case basis in light of its individual circumstances and merit. On the other hand, the granting of previous similar variances may be relevant in assessing the privileges already enjoyed by other properties.

Certain criteria or standards applied by local agencies in justifying a variance have been held improper by the courts. For example, findings that the proposed development has attractive architectural features, would be a benefit to the community, would serve community needs, is highly desirable, would be unprofitable or less profitable absent a variance, would incorporate superior building standards, or would otherwise have practical difficulties are all legally irrelevant.

Nonconforming Site Conditions: The existing residence appears to encroach into the bluff top setback and the existing driveway appears to exceed the maximum allowed gradient.

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 the new structure, elevated decks, pool, spa, air conditioning unit, landscaping, to maintain nonconforming improvements in the bluff (stairs and funicular tram) and construction in an environmentally sensitive area (oceanfront). A variance is required to maintain the existing nonconforming driveway gradient in conjunction with a new structure [LBMC 25.52.008(1)(3)(a)].

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:

Evan Jedynak, Assistant Planner
ejedynak@lagunabeachcity.net
(949) 464-6632



CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

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Exhibit 3

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

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

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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LONG BEACH, CA 90802-4416
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Exhibit 4



**City of
Laguna Beach**
Community Development
Department

Real Property Report

for

31987 Coast Hy

APN 056-160-41

March 3, 2016

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 25.05.040 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):

VA 6311 – allowed to install wood posts and ropes to delineate between the private beach area and public beach area on the sandy portion of the beach; 05/16/96
Coastal Development Permit 96-19 approved 05/16/96

Building Site Status: The subject property is a legal building site, according to the definition established in the Laguna Beach Municipal Code (Section 25.08.004)

Legal Description: R S 003-16 Par 27 Por Of Par And Por Of Par 28. (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): 1792

On-Site Turnaround Required: Yes

Special Subdivision Map Building Setback Requirements: None

Special Street Plan Requirements: 100ft Coast Hwy Right-Of-Way

Special Subdivision Map Height Standards: None

Historic Resource Inventory Category: **Historic Register Designation Date:** None

Flood Zone: X,AE **Flood Map Panel:** 06059C0501J **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: Refer to Landscape & Scenic Hwys Resource Document

City Utility Charges: First installment of 2015 utility charges are paid, second installment unpaid.

City Maintained Street: Coast Highway is not maintained by the City.

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

Real Property Report - 31987 Coast Hy

APN 056-160-41

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:

No original building permit on file. Built under Orange County jurisdiction.

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 March 3, 2016, 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: 31987 Coast Hy

APN: 056-160-41

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.



CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR








LONG BEACH, CA 90802-4416

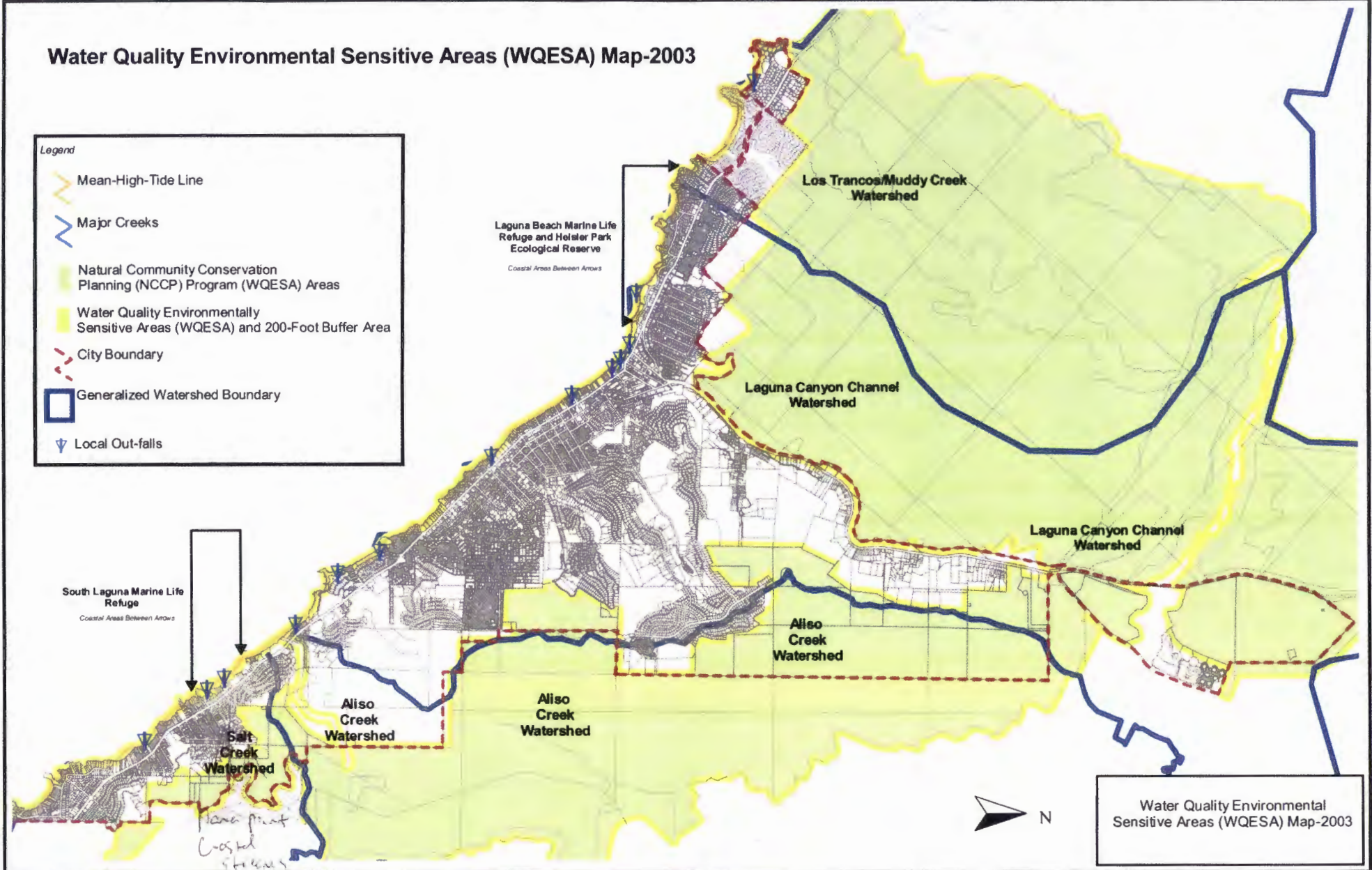
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Exhibit 5

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



Water Quality Environmental Sensitive Areas (WQESA) Map-2003



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Exhibit 6

Navigation

Tasks

Analysis



Home



Pan



Zoom In



Zoom Out



Initial View



Full Extent



Click to find
features on the
map.

Location Informa...

Home

Navigation

Layers

- ☐ Coastal Zone Permit & Appeal Jurisdiction Map
- ☒ Constraints Map
 - ☐ Open Space Preserve Areas
 - ☐ 100 Year FEMA Flood Plain
 - ☐ Seismic Hazard Liquifaction Areas
 - ☒ Seismic Hazard Landslide Areas
 - ☐ Fault
 - ☐ Drainage Course 25ft Buffer
 - ☐ Significant Drainage Course Centerline
 - ☐ Ridgelines

I want to...



0 50 100ft



Home



Layers



31987 Co...



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SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

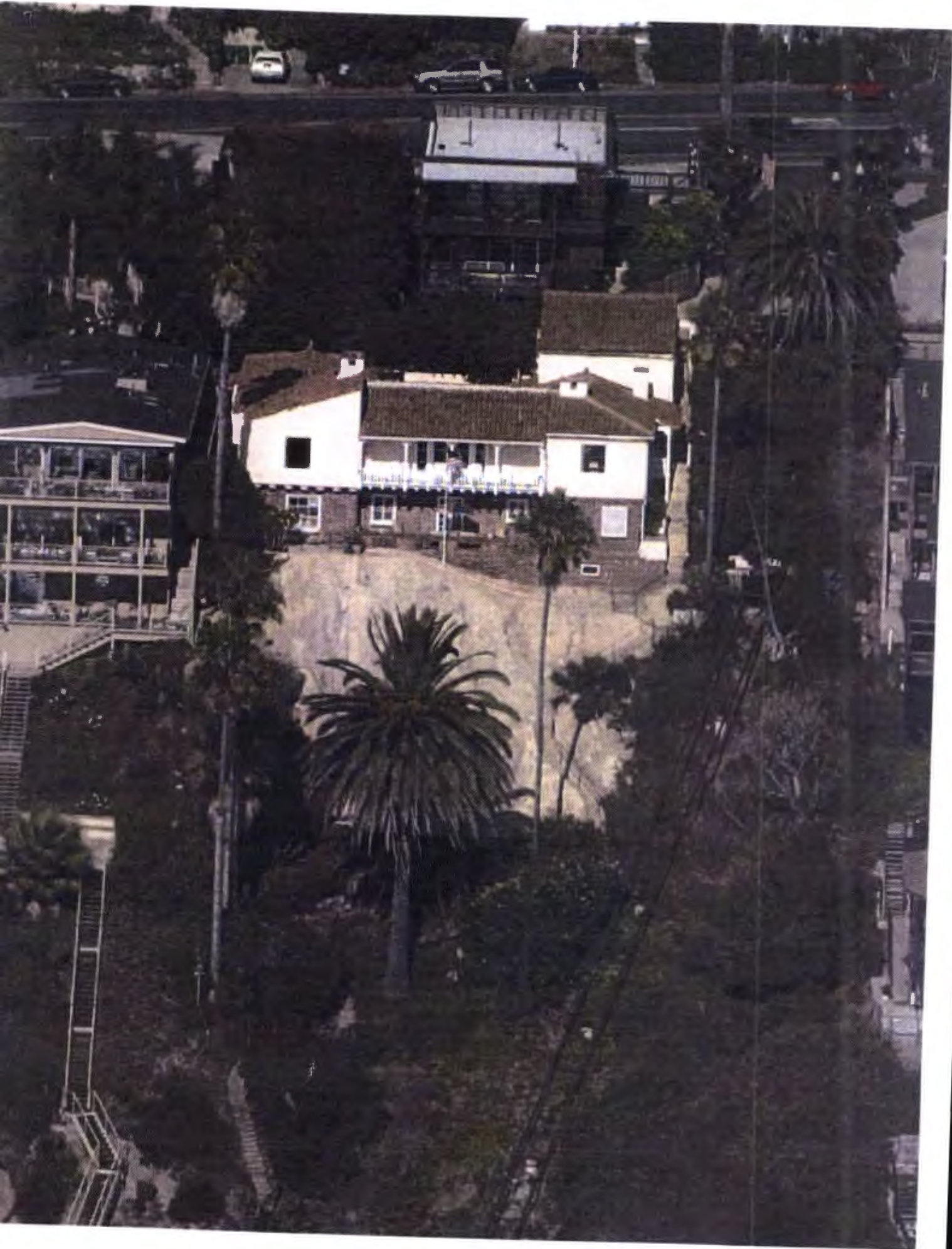
VOICE (562) 590-5071 FAX (562) 590-5084

Exhibit 7

Alice Walcott's home - Laguna Beach - Calif



SITE

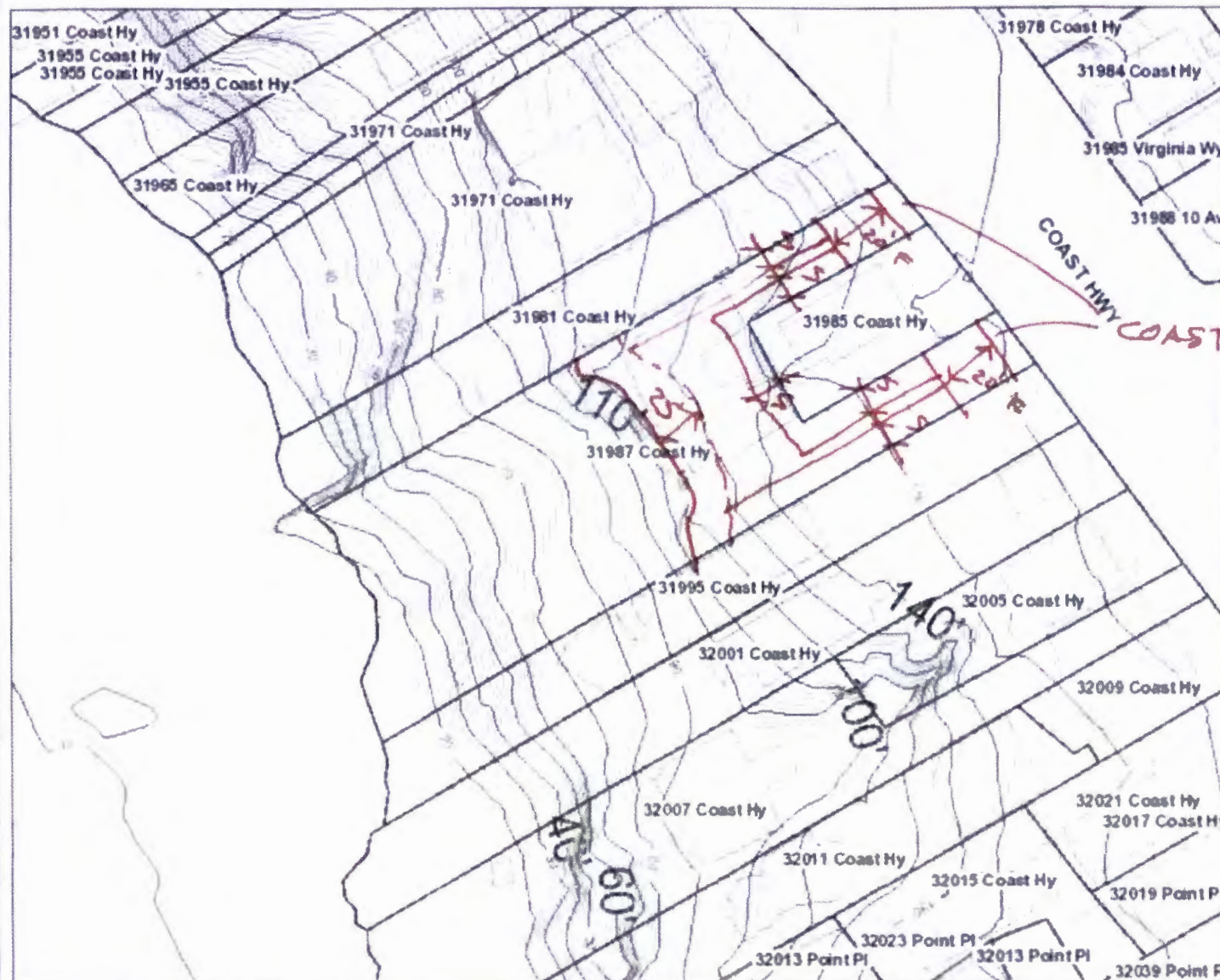


31987 Coast

City of Laguna Beach

Legend

- City Limits
- Specific Plan Areas
- Street Names
- Parcels
- Aliso Creek
- Ocean Labels
- Contour Line
- 2008 Building Footprints



S = 10.5'

137

0

69

137

Feet

3/24/2016



Data layers that appear on this map may or may not be accurate, current or otherwise reliable.

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