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Project site: 20412 and 20432 Laguna Canyon Road, Laguna Beach, CA (abutting parcels)
CHANGES

A COASTAL COMMISSION REQUIRED CHANGES
- Building adjusted to no cantilever into the required creek setback

B CODE REQUIREMENTS

- Building shifted and 15 ft. total balance removed to keep cantilever and prong out of creek setback
- Door & door opening reconfigured to not cantilever into the creek setback

Exhibit 2
**Changes**

**A. Coastal Commission Required Changes**
- Building adjusted to not cantilever into the required creek setback

**B. Code Requirements**

- Former cantilevered building portions pushed back & not in existing control
- Elevator & stairwell to not cantilever

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**MATERIAL LEGEND**
- [A] Existing Floor Plan
- [B] New Floor Plan
- [C] New Building/Structure
- [D] Slope Change

**KEYNOTES**
- See A2.3 for upper plan level changes

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**Exhibit 2**

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**Page 5 of 5**
**CHANGES**

**A** COASTAL COMMISSION REQUIRED CHANGES
- building a dike at not cantilever into the required creek setback

**B** CODE REQUIREMENTS

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**MATERIAL LEGEND**

**KEYNOTES**

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**EXHIBIT 3**

CANYON ROAD PROPOSED ELEVATION

CANYON ROAD APPROVED ELEVATION

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Page 1 of 3
**CHANGES**

A COASTAL COMMISSION REQUIRED CHANGES
- building a adjusted to not cantilever into the required creek setback

B CODE REQUIREMENTS
A  COASTAL COMMISSION REQUIRED CHANGES
- building adjusted to not cantilever into the required creek setback

B  CODE REQUIREMENTS
MEMORANDUM

FROM: Jonna D. Engel, Ph.D.
Ecologist

TO: Charles Posner
South Coast Planning Supervisor

SUBJECT: Laguna Beach Proposed Artists’ Studio Project - Appeal A-5-LGB-14-0019

DATE: December 18, 2014

Documents Reviewed:

Glenn Lukos Associates. August 12, 2013. Results of Biological/Regulatory Assessment Conducted for the 0.84-Acre Proposed Art Studios Project Located at 20412 and 20432 Laguna Canyon Road in Laguna Beach, Orange County, California. Prepared for Carolyn Martin, Principal Planner, City of Laguna Beach

I have been asked to evaluate the status of the natural resources at 20412 & 20432 Laguna Canyon Road in the City of Laguna Beach; the site of the proposed Laguna Canyon Art Studios project. I have reviewed aerial photographs and the Glenn Lukos Associates (GLA) biological/regulatory assessment report for the project dated August 12, 2013. In addition I visited the site on June 19, 2014. The subject site is immediately adjacent to Laguna Canyon Creek, a blue-line stream depicted on the Laguna Beach U.S. Geological Survey (USGS) topographic map that is unimpeded for most of the watershed. It has been artificially confined along a stretch of developed area adjacent to Laguna Canyon Road. In this area much of the creek banks are composed of concrete or rip rap that pre-dates the coastal act. The creek bank adjacent to 20412 and 20432 includes dirt banks interspersed with stretches of concrete lined banks.

Laguna Creek is within the Laguna Canyon Watershed. Laguna Canyon cuts through the San Joaquin Hills, runs northeast to southwest, and is drained on the east side by tributaries of San Diego Creek and on the west side by Laguna Canyon Creek. It is deeper and more rugged on the southwestern end near Laguna Beach. A majority of the canyon is located within the Laguna Coast Wilderness; small portions are part of Aliso and Wood Canyons Regional Park and the cities of Irvine, Laguna Beach, Laguna Woods and Aliso Viejo. Laguna Canyon Creek begins as an ephemeral creek draining a mountainside west of the valley floor down into the canyon. It is briefly culverted
alongside Laguna Canyon Road within a small developed area but most of the upper
course flows in a natural channel.

Glenn Lukos Associates (GLA) found that the proposed project site supports both native
riparian habitat and ornamental vegetation alongside Laguna Canyon Creek. The
riparian habitat includes the following native species: arroyo willow, Salix lasiolepis;
mugwort, Artemisia californica; California blackberry, Rubus ursinus; willow herb,
Epilobium ciliatum; cattails, Typha domingensis; and heliotrope, Heliotropium
curassavicum. GLA states that "During the site assessment avian species were
observed utilizing the tree canopy and understory vegetation for foraging." They also
found mosquito and crawfish in the creek. During our site visit we heard pacific tree
frogs, Pseudacris regilla, while walking in the creek bed.

Laguna Canyon Creek is one of two principle creeks in the Laguna Canyon watershed
which itself is within the Laguna Coast Wilderness which consists of 7,000 acres of
pristine coastal canyon country. The Laguna Coast Wilderness is in turn connected to
the City of Irvine open space and the two combined comprise over 20,000 acres of
native unfragmented habitat. In addition to being a major watershed creek, Laguna
Canyon Creek is an important wildlife corridor that links the upper canyon and hills to
the lower canyon and terrestrial/marine interface. Many species of birds, mammals,
reptiles and amphibians travel along creek and stream corridors to forage, migrate,
disperse, and locate mates. The riparian habitat alongside creeks and streams is a
critical component of wildlife corridors.

Laguna Canyon Creek is a blue-line stream in a nearly pristine coastal watershed within
a larger area consisting of over 20,000 square feet of open space. Although the stretch
of creek adjacent to the proposed project site has been constrained by development
and has sections of concrete lined bank, it continues to support native riparian habitat
and to provide important processes and functions. Streams and creeks are a rare and
threatened habitat throughout California and are easily disturbed and degraded by
human activities and development. For the reasons presented here I find that Laguna
Canyon Creek and the associated riparian habitat rise to the level of environmentally
sensitive habitat (ESHA). I recommend that the creek and riparian habitat be protected
by a 25 foot buffer measured from the centerline of the creek, that the buffer area is
restored by removing non-native species and planting native riparian species, and that
balconies do not encroach into the buffer zone.
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FRIENDS OF THE CANYON, an Unincorporated Association,
   Petitioner,
vs.
CALIFORNIA COASTAL COMMISSION, a public entity;
and DOES 1 through 5, inclusive,
   Respondent,

LOUIS LONGI, DORNIN INVESTMENT GROUP, LLC; and DOES 6 through 10,
   Real Parties in Interest.

GENERAL CIVIL
CASE NO.: 30-2015-00776088-CU-PT-CJC
SECOND AMENDED PEREMPTORY WRIT OF MANDATE

Judge: Hon. Kim G. Dunning
Dept.: CX104
Petition Filed: March 6, 2015
Hearing Date: July 12, 2016

[PROPOSED] SECOND CORRECTED PEREMPTORY WRIT OF MANDATE
TO: Respondent CALIFORNIA COASTAL COMMISSION:

Judgment having been entered in this proceeding, ordering a peremptory writ of mandate be
issued from this court,

IT IS SO ORDERED that immediately upon service of this writ the California Coastal
Commission shall:

1. Revoke its January 8, 2015 decision to conditionally approve the coastal development permit
   A-5-LGB-14-0019 and rehear the matter.

2. Nothing in this writ shall limit or control the discretion legally vested in the California Coastal
   Commission.

3. The Court shall retain jurisdiction over the proceedings by way of a return to the peremptory
   writ of mandate until the Court has determined the California Coastal Commission has
   complied with the peremptory writ of mandate.

4. The California Coastal Commission shall file an initial return to this writ no later than 90 days
   after service of this peremptory writ of mandate, setting forth what has been done to comply.

Date Judge Signed: December 16, 2016

[Signature]

Hon. Kim G. Dunning
Attention: Mssrs. Karl Schwing & Charles Posner
California Coastal Commission
200 Oceangate 10th Floor
Long Beach, CA 90802

Date: February 1, 2017

Re: CDP: 13-1376
   Artists Work/Live Project
   APN: 629-051-23 and 629-051-02
   20412 and 20432 Laguna Canyon Road
   Longli/Dornin Project applicants

From: Roger E. Bütow Founder & Executive Director
Clean Water Now (CWN herein) Est. 1998

Commissioners and Commission Staff,

It has come to the attention of CWN that the Commission is considering the granting of a re-submittal of this Project directly to the State.

CWN wishes to vehemently express its strong objection to such a precipitous revisit soon, whether rendering it de facto or not.

CWN believes that it would be more appropriate to reject such a petition/plea by the applicants, developers of said two (2) adjacent parcels, as yet to be co-joined legally (via lot line adjustment).
We offer the following rationale, and encourage the Commission to remand, that is summarily return it without prejudice to your junior fiduciary partner, the City of Laguna Beach (CLB).

In our concluding remarks, we will proffer alternatives which SHOULD have *pro forma* been included in the initial CEQA package, thus making it compliant with the responsibilities delegated by the State regarding local lead agency thorough, robust investigative and fiduciary tasks. i.e., the final legally-binding terms and conditions

**CONTEMPT OF COURT**

Allowing the applicants to re-submit directly, a minor or "as is" return, would in our opinion constitute contempt of court. The OC Superior Court Judge, the Honorable Kim Dunning, made very specific remarks, gave guidance and in fact was consciously providing both the CLB and CCC parameters for compliance in the Writ of Mandate.

To ignore her input could lead to yet more indeterminately lengthy (and costly) court or hearing rooms procedures, all easily avoided if her advice and input is followed. A case could readily be made to simply re-submit basically the same or similar Project leaves ALL regulatory oversight agencies for the Project vulnerable to allegations of contempt.

**LAGUNA CANYON CREEK NOMENCLATURE: A NULL HYPOTHESIS**

The CLB’s insistence on portraying, typifying and/or categorizing Laguna Canyon Creek (LCC) as Laguna Canyon Channel is rebutted by the City’s own studies and grant applicants. Attached is a 2009 restoration study that identifies the CLB Senior Water Quality Analyst Will Holoman as Project Manager for the Public Works Department.
It is specifically focused upon the upper reach of LCC (capital C), throughout it identifies/refs to it as the "CREEK."

The reach in the study was from our CLB Bark Park up to the El Toro Road/Laguna Canyon Road intersection (≈1.5 miles).

When the CLB has its hand out for grant assistance, matching funds from outside sources, it’s LC Creek. When it wishes to circumvent or lower regulatory oversight, it’s LC Channel.

I personally would like to cite that while serving as the XO of the nascent 501 c 3 South OC Watershed Conservancy (2001-2006, now defunct), I co-authored a So Cal Wetlands Recovery Project grant. Our partner was the CLB, I worked with Mr. Holoman’s predecessor CRAIG JUSTICE, circa 2002-3.

I am in the process of procuring the grant application, acceptance and disbursement of funds docs from Mr. Greg Gauthier at this time. This is alluded to in the 2009 study, as it was a result of an initial study required by SCWRP grant personnel:

Page 2, Box 1 “The Laguna Creek Initial Study and Conceptual Restoration Plan was completed by the CLB in October of 2003.”

In the 2009 study, it acknowledges then gives guidance regarding the steepness, the erosion and vertical down-cutting exhibited in many sections of this upper reach, many in a 1:1 ratio. (Site Preparation Page 11).

A Project that involves the development of a significant length of the Creek in this fragile bank area needs to be proactive as to not jeopardize the stability of lower sections per Study guidance.
The independent study by vendors notes that a 3:1 reduction is preferable, maximum grade 2:1 if 3:1 is not possible. Inexplicably, while being progressed through our Planning Commission and City Council, the CLB’s own guidelines were ignored. Obviously, the two (2) parcels comprising the Project are relatively undeveloped, could easily accommodate the 3:1 ratio. Revenue models are not variance excuses.

The Creek reflects a 1:1 where it runs at the back of the Project’s properties. The Creek is incised down to ≈8 feet below grade of the Project. Therefore, the applicant should be required to excavate and restore at minimum 16+ feet from the bank, but obviously that’s a compromise and NOT optimal.

Add the 10-foot wide swath of ESHA and buffer that the Commission negotiated, and at minimum ≈ the same distance that CWN originally requested is achieved: A 25-foot setback from the existing 1:1 bank. This adds merit to, sustains our contention that a wider buffer with a softened slope than mandated by the CCC needs to be in place.

Moreover, as the same study warns, the soft, less severe grade would also increase the total carrying capacity of LCC while under stress, a charged event, a pre-emptive, mechanical flood protection BMP.

**SMALL & RURAL IN SCALE**

Judge Dunning personally noted what is obvious to any objective, *prima facie* viewing regarding the photographic renderings submitted by CWN and the co-appellants for the January 8, 2014 Commission hearing: As proposed, the Project is **MONOLITHIC**, incongruent, not harmonious or similar in size (on par), neither small or rural, compared to any other commercial structure in the upper reach of the Creek.

This adds merit and weight to our request for a remand to local jurisdiction where this aspect of the dispute can go through due process, local remedies exhausted. The fair argument standard is therefore met,
(cont.)

It's just common sense, a fair and just remedy: Return to the CLB, transparent hearings with stakeholders engaged for due process, exhaustion of local remedies before being heard again by the CCC.

Subsequently divulged information herein adds merit to that pleading.

*If the Applicant is willing to reduce the height of the apartment complex by 1 story/floor (∼13 feet), that would remove CWN's prior Scenic Highway/View-shed and Small/Rural objections.*

Coupled with siting the complex ∼ 25 feet from the existing bank ledge, hence fulfilling/accomplishing the CLB's own LCC development guidelines, CWN feels the non-compliant, more disputed, most glaring Project deficiencies can be cured.

Staff should feel free to call or write back if you have any questions.

*Respectfully submitted by*

*Roger E. Bülow*

*Address:* P.O. Box 4711 Laguna Beach CA 92652  
*Home Office:* (949) 715.1912 (VM/No TM)  
*Cell:* (949) 280.2225 (VM/TM)  
*Email:* rogerbutow@clean-water-now.org

*Website:* [www.clean-water-now.org](http://www.clean-water-now.org)
March 28, 2017

Charles Posner
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802

Re: Longi Artist Work/Live, Appeal No. A-5-LGB-14-0019

Dear Mr. Posner:

I represent Friends of the Canyon ("Friends"), Petitioner in Friends of the Canyon v. California Coastal Commission. I understand the Coastal Commission will be rehearing the appeal of the Longi Artist Work/Live Project in the City of Laguna Beach. Friends’ primary goal is to protect the resources and rural character of Laguna Canyon and assure proposed projects comply with the Coastal Act and the City of Laguna Beach Certified Local Coastal Program ("LCP").

As you are aware, Judge Kim Dunning of the Orange County Superior Court granted Friends’ Petition for Writ of Mandate, ordered the Coastal Commission to set aside its previous approval of a coastal development permit for the Longi Project, and set the project for a new hearing. Although Judge Dunning ordered the Coastal Commission to rehear the project based on the failure of several commissioners to properly disclose ex parte communications, Judge Dunning also ruled on the sufficiency of the evidence to support the findings for approval.

Laguna Canyon Creek

Judge Dunning stated in her 20-page opinion that the Coastal Commission's finding the project meets the setback requirements of the LCP is not supported by evidence in the record. Judge Dunning pointed out the Coastal Commission acknowledged Laguna Canyon Creek was certainly a blue-line stream and a significant watercourse. The judge held the Commission's finding that Laguna Canyon Creek is not identifiable on the Major Watersheds and Drainage Courses Map was improper and sought further explanation as to why Laguna Canyon Creek is not on the map. [Attachment A, pp. 11-16.]

In the course of the litigation, Real Parties-in-Interest submitted a declaration from former City Planner Christian C. Kreymann, who prepared the Major Watersheds...
and Drainage Courses Map. Mr. Kreymann stated the original Major Watersheds and Drainage Courses Map was adopted in 1984 and has not been revised. [Attachment B, Decl. Kreymann, ¶¶5, 11.] What Mr. Kreymann does not say is that the Laguna Canyon Annexation Area was not incorporated into the City of Laguna Beach until 1989. The portion of creek within the City of Laguna Beach at the time the map was adopted in 1984 was completely channelized, entering a box culvert at the City limit and becoming an open channel just west of the area known as "Big Bend". In fact, the Laguna Canyon Annexation Area and South Laguna were never mapped under Policy 9 of the Open Space and Conservation Element of the Laguna Beach LCP. Although the City did submit an LCP Amendment in 1995 including a Biological Resources Map and Major Watersheds and Drainage Courses Map, the City ultimately withdrew the amendment rather than adopt the Coastal Commission's suggested modifications. [See Attachment C, Agenda Bill No. 18, pp.1-2.]

Laguna Canyon Creek is not shown on the Major Watersheds and Drainage Courses Map because the portion located within the City limits at the time the map was drawn was completely channelized. The map has not been updated since the unchannelized portions of the creek were incorporated into the City of Laguna Beach. Because there is no map to implement Policy 9 of the Open Space and Conservation Element of the Certified LCP, this project should be evaluated under Coastal Act policies. The Commission's staff biologist has provided a lengthy memorandum citing the biological value of the creek in the vicinity of the project site. Therefore, the project must be setback a minimum of 25' from the banks to protect the environmentally sensitive habitat of the creek under Public Resources Code section 30240(b).

**Rural and Small-Scale**

Judge Dunning acknowledged the Laguna Canyon Annexation Area Specific Plan Policies identify a series of goals to preserve and enhance the rural character of the Laguna Canyon Properties area. [Attachment A, p. 17.] Policy 10 requires "that any development be of small-scale in order to maintain the rural character of the Canyon." Judge Dunning very clearly stated: "The Project is not consistent with this policy." [Ibid.] Judge Dunning ruled that 30 residential units, plus work space, plus a 47-stall parking garage, all on a parcel smaller than one acre does not qualify as small-scale or rural. She even went as far as saying "it would be a stretch to call the Project suburban, but easy to call the project urban." [Ibid.]

Judge Dunning also ruled out any possibility of rustic architecture or landscaping overriding the project's size, scale, and density. Judge Dunning finally said: "A project with a housing density of more than 30 units per acre simply does not qualify as rural or small-scale." [Attachment A, p. 17.] She ruled "[T]here was no evidence, much less substantial evidence to support the Commission's conclusion the Project is rural and small-scale." [Id. at p. 18.]
Conclusion

The Court has ruled there is no substantial evidence to support the Coastal Commission's finding the Longi Artist Work/Live Project is consistent with the Certified LCP. Friends of the Canyon is requesting the Coastal Commission staff recommend denial of the Project consistent with the opinion of the Court.

Thank you for your consideration of Friends of the Canyon's requests. Please let me know if you have any questions or would like additional information.

Regards,

Julie M. Hamilton
Attorney for Friends of the Canyon
I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 09/22/16, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from email address on September 22, 2016, at 4:20:37 PM PDT. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

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Clerk of the Court, by: [Signature], Deputy
The petition for writ of administrative mandate is GRANTED. The attached decision is incorporated in full and part of this court's order.

Petitioner is to prepare the proposed judgment granting the writ and the proposed peremptory writ. Please submit those documents to Respondent and Real Parties in Interest least 10 days before filing them with the court. The court will hold the documents for five days for any objections.

The clerk is directed to electronically serve all counsel with a copy of this minute order and ruling.
Friends of the Canyon, an unincorporated association, has petitioned for writ relief, challenging the California Coastal Commission's January 8, 2015 approval, at a de novo hearing, of the Coastal Development Permit (CDP), with special conditions, for construction of a 30-unit apartment building (including work and commercial space, and a 47-stall parking garage, in Laguna Canyon), fewer than 15 feet from the bank of Laguna Canyon Creek (the "Project").

The verified writ petition was filed March 16, 2015. (Code Civ. Proc, § 1094.5.) Friends of the Canyon qualifies as an "aggrieved person" entitled to seek writ relief. (Pub. Resources Code, § 30801.)

Neither respondent Coastal Commission nor real parties in interest Louis Longi and Dornin Investment Group LLC filed demurrers or verified answers to the writ petition. To the extent the Coastal Commission's Memorandum of Points and Authorities includes fact statements that contradict those in the verified writ petition, they are deemed verified by operation of law. (Code Civ. Proc., § 446.) Not so as to the Memorandum of Points and Authorities filed by real parties in interest, as that document is not verified. (Motion Picture and Television Fund. Hospital v. Superior Court (2001) 88 Cal.App.4th 488, 492 ["When an unverified opposition contains new or different facts, not contained in the verified petition or the record, those facts will be ignored."].)

The parties agreed on the record before this court: Administrative Record, Supplement to the Administrative Record (filed Dec. 3, 2015), December 9, 2015 declaration of Jackie Gallagher (Petitioner's president), and 11x17 Major Watersheds and Drainage Courses Map from the City of Laguna Beach's General Plan and Local Coastal Plan. Counsel appeared and argued on July 12, 2016, at which time the court took the matter under submission.

Two days later, on July 14, 2016, respondent filed a "post hearing brief" proposing to add new evidence that was admittedly not in the Administrative Record at the time of the January 8, 2015 Coastal Commission hearing or the July 12, 2016 court hearing on the petition. Petitioner objected. Petitioner's objection is sustained. This
matter was ordered submitted on July 12, 2016, and respondent did not seek leave to reopen to present additional evidence or additional argument.

For the reasons that follow, this court grants the petition for writ relief.

**Background**

The Project is described as "the Longi Artist Live/Work" development. It is a two-story, 30-unit apartment building sitting over a partially subterranean parking structure (47 stalls) and includes artist indoor/outdoor work space as well as commercial/retail space. It encompasses 29,176 square feet (not counting the parking garage), built on two lots that total 36,750 square feet. For those familiar with Laguna Canyon Road, the Project property is to the south of the animal hospital.

The Coastal Commission's Adopted Findings more particularly describe the Project as follows:

"The project site is located on the east side of Laguna Canyon Road (State Route 133), three miles inland of Main Beach (Exhibit #1). The site includes two lots totaling approximately 36,750 square feet. Laguna Canyon Creek flows across the rear of the property along its eastern side (Exhibit #2). The lots are located in the M-1B Light Industrial Zone of the Laguna Canyon Annexation Area Specific Plan. The southern lot is currently occupied by a single-family residence, with a detached garage and temporary storage container. The existing structures will be removed from the site as part of the proposed project. All mature trees on the site will be maintained.

"The local coastal development permit authorized the construction of a 36-foot high (31 feet above base flood elevation), thirty-unit artists' work/live project with 17,242 square feet of interior work/live area, 11,421 square feet of exterior communal work area, a 513 square foot retail art gallery, and a 47-stall parking garage. Eight of the units are reserved for low-income artists (for 55 years). The proposed structure contains two separate building elements, which are connected by decks and roof components above the parking garage (Exhibit #4). The design includes two floors of work/live units arranged around exterior communal work spaces. The work/live units range in size from 485 square feet to one 1,640-square foot unit. The only exception granted by the City was a fifty-percent reduction in planning and building fees as an incentive for the project to provide eight low-income artist units." (AR 2856.)

The Project was approved by the Laguna Beach Planning Commission, which ordered the issuance of several permits, including Coastal Development Permit No. 13-
That decision was appealed to the Laguna Beach City Council, which upheld the Planning Commission approval of the CDP for the Project. (AR 448, 2850.) Friends of the Canyon, among others, appealed the City Council’s decision to the California Coastal Commission on the basis "the City-approved development does not conform to the requirements of the certified City of Laguna Beach LCP [Local Coastal Program]." (AR 2850.)

The matter then came before the Coastal Commission for hearing on January 8, 2015. Three discrete events marked this hearing.

First, the commissioners considered whether there was a "substantial issue" with the City Council decision. The Coastal Commission staff’s written report so suggested ("Commission staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeals have been filed because the City-approved setback from the Blue-line stream raises a substantial issue as to project’s consistency with the City of Laguna Beach certified Local Coastal Program (LCP)" (AR 2846)). The staff member reporting at the hearing added: "what staff believes to be the significant issue raised by the project . . . is the proximity of the development to Laguna Canyon Creek, which runs through the property and the adequacy of the buffer setback from that creek." (AR 2742). Staff accordingly recommended the Coastal Commission’s de novo review of the CDP. (AR 2742.)

The commissioners accepted the recommendation, paving the way for the Coastal Commission to decide the CDP issue de novo, after a public hearing. (See, e.g., the document, "Adopted Findings; Appeal — Substantial Issue and De Novo:" "If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review." (AR 2855-2856; see also Pub. Resources Code, §§ 30603, 30621).)

The substantial issue finding meant the Coastal Commission would review the entire Project "for consistency with all the applicable" LCP standards: "In any case, since a substantial issues exists in regards to the setback from the stream and the
habitat protection policies of the LCP, a de novo review of the proposed development by the Commission is warranted, at which time the proposed development can be reviewed for consistency with all the applicable standards set forth by the certified LCP." (AR 2847.)

Second, and before the public hearing comments, the chair of the meeting asked for verbal disclosures of ex parte communications. (Pub. Resources Code, § 30324, AR 2752-2754.) This segment of the meeting and this issue will be discussed in detail below.

Third, unsworn "testimony" was offered. The ten Coastal Commission members present at the hearing then voted to issue the CDP "with special conditions." (AR 2846 et seq.)

Standard of Review

The parties agree as to the applicable standards for review.

Per Public Resources Code section 30603, petitioner was entitled to appeal the City Council's decision to issue the CDP to the Coastal Commission based on the "allegation that the [Project] does not conform to the standards set forth in the certified local coastal program . . . ." In considering the issue de novo and ordering the issuance of the CDP with special conditions, the Coastal Commission necessarily found the Project does conform to the standards in the LCP.

The writ petition challenges this finding. This court reviews the Coastal Commission's decision to determine whether it is supported by substantial evidence. Ross v. California Coastal Commission (2011) 199 Cal.App.4th 900, 921-922 explains:

The trial court's responsibilities are as follows: "In reviewing an agency's decision under Code of Civil Procedure section 1094.5, the trial court determines whether (1) the agency proceeded without, or in excess of, jurisdiction; (2) there was a fair hearing; and (3) the agency abused its discretion." (Code Civ. Proc. § 1094.5, subd. (b); McAllister v. California Coastal Com. (2008) 169 Cal.App.4th 912, 921, 87 Cal.Rptr.3d 365; La Costa Beach Homeowners' Assn. v. California Coastal Com., supra, 101 Cal.App.4th at p. 814, 124 Cal.Rptr.2d 618.) Code of Civil Procedure section 1094.5, subdivision (b) defines any abuse of discretion thusly, "Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or its findings
are not supported by substantial evidence.” (See McAllister v. California Coastal Com., supra, 169 Cal.App.4th at p. 921, 87 Cal.Rptr.3d 365; La Costa Beach Homeowners’ Assn. v. California Coastal Com., supra, 101 Cal.App.4th at p. 814, 124 Cal.Rptr.2d 618.)

The agency's findings and actions are presumed to be supported by substantial evidence. (McAllister v. California Coastal Com., supra, 169 Cal.App.4th at p. 921, 87 Cal.Rptr.3d 365; Desmond v. County of Contra Costa (1993) 21 Cal.App.4th 330, 335–336, 25 Cal.Rptr.2d 842;) A person challenging an administrative determination bears the burden of showing the agency's findings are not supported by substantial evidence. (Id. at p. 336, 25 Cal.Rptr.2d 842; Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners (1993) 18 Cal.App.4th 729, 740, 22 Cal.Rptr.2d 618 ["plaintiff in a [California Environmental Quality Act] action has the burden of proving otherwise"]). When reviewing the agency's determination, the court examines the whole record and considers all relevant evidence, including that which detracts from the administrative decision. (McAllister v. California Coastal Com., supra, 169 Cal.App.4th at p. 921, 87 Cal.Rptr.3d 365; Bolsa Chica Land Trust v. Superior Court (1999) 71 Cal.App.4th 493, 503, 83 Cal.Rptr.2d 850; see Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 392, 422, 253 Cal.Rptr. 426, 764 P.2d 278 [court must review whole record to determine whether substantial evidence supported California Environmental Quality Act decision].) The Court of Appeal has held: "Although this task involves some weighing to fairly estimate the worth of the evidence, that limited weighing does not constitute independent review where the court substitutes its own findings and inferences for that of the Commission. Rather, it is for the Commission to weigh the preponderance of conflicting evidence, as [the court] may reverse its decision only if, based on the evidence before it, a reasonable person could not have reached the conclusion reached by it." (Kirkorowicz v. California Coastal Com. (2000) 83 Cal.App.4th 980, 986, 100 Cal.Rptr.2d 124; accord Ryan v. California Interscholastic Federation—San Diego Section (2001) 94 Cal.App.4th 1048, 1077–1078, 114 Cal.Rptr.2d 798.)

Petitioner urges this court to examine the record and determine on its own whether Laguna Canyon Creek is on the Major Watersheds and Drainage Courses Map and whether the Project is small-scale and rural (Reply, Feb. 8, 2016, p. 1:12-17). This court disagrees; the court's role simply is to determine whether substantial evidence
supports the Coastal Commission's findings on those issues. Petitioner has the burden of proof in these inquiries.

The court also disagrees with the position argued by real parties in interest that if the Coastal Commission did not expressly find a substantial issue with a particular aspect of the City Council's determination, that aspect was "not before the Coastal Commission." (RPI Opposition, Jan. 26, 2016, p. 1:28) Once the Coastal Commission determined there was a substantial issue as to any aspect of the City Council's decision, the entire CDP application was considered de novo for compliance with the LCP. (AR 2847, Pub. Resources Code, § 30621.)

This court finds two independent bases for issuing the Writ of Mandate:
(1) the failure by a majority of the commissioners who voted for the Project to disclose their ex parte communications, as required by The Coastal Act and
(2) the lack of substantial evidence to support the Commission's findings.

Failures to Properly Disclose Ex Parte Communications Compel Issuance of the Writ of Mandate to Revoke the Commission's Action

"The Coastal Act" is codified in the Public Resources Code. (Pub Resources Code, § 30000 et seq.) Section 30324, subdivision (a) authorizes commissioners to engage in ex parte communications, provided "the commission member fully discloses and makes public the ex parte communication by providing a full report of the communication of, if the communication occurs within seven days of the next commission hearing, to the commission on the record of the proceeding at that hearing." Once such communications are "fully disclosed and placed in the commission's official record," they "cease to be ex parte communications." (Rub. Resources Code, § 30324, subd. (c).) The Coastal Commission's executive director is responsible for "plac[ing] in the public record any report of an ex parte communication." (§ 30324, subd (b)(2).)

A commissioner who engages in ex parte communications but does not properly report them is not eligible to participate in or vote on the project that was the subject of the communications. (§ 30327, subd. (a).)
The Coastal Commission has adopted a standard form for disclosures of ex parte communications. (§ 30324, subd. (b)(1.)) Several such forms are in the Administrative Record. The forms themselves are consistent with the statute's requirements (§ 30324, subd. (b), and require, *inter alia*, a "Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented.") They also require the commissioner's signature and date of signature. Most helpfully, at the bottom of the form (and not in small print), the form advises:

"TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of Commission hearing on the item that was subject the communication. If communication occurred within seven days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed the Executive Director in addition to the oral disclosure."

As mentioned above, *after* the vote on the substantial issue question, Chair Kinsey asked the commissioners about ex parte communications.

Commissioner Mitchell reported "a brief conversation" the day before. (AR 2752.) She was not required to file a disclosure form. The disclosure of the last-minute ex parte communication is consistent with the one made to Karl Schwing of the Coastal Commission by the individual who was lobbying on behalf of Mr. Longi. (AR 1809.) This verbal disclosure of the ex parte communication complied with the Coastal Act and entitled her to participate in the hearing and vote on the Project.

Commissioner Bocho reported "a telephone call" two days earlier. (AR 2753.) Although not required by statute, she submitted a disclosure form dated January 5, 2015 and stamped "Received at Commission Meeting" January 8, 2015. Her verbal disclosure of the ex parte communication within seven days of the meeting was adequate and entitled him to participate in the hearing and vote on the Project.

Commissioner Cox said nothing concerning ex parte communications at the January 8, 2015 hearing, but two ex parte disclosure forms were in the Coastal Commission file before that date. One has a Commission "received stamp" dated
January 2, 2015 and three pages of attachments (AR 2596-2599); the second one has a Commission "received stamp" dated January 5, 2015 and only 2 pages of attachments (AR 3116-3118). Otherwise, the forms appear identical.

These forms do not comply with Public Resources Code section 30324, as they were signed and dated January 2, 2015, more than seven days after the December 12, 2014 ex parte communication. By statute, Commissioner Cox was not eligible to participate in the hearing or vote, although he did both.

Commissioner Turnbull-Sanders verbally reported an ex parte contact on December 10, 2014, and added, "a copy of my ex parte should be on file." (AR 2752.) A dated and signed ex parte disclosure form is in in the Administrative Record (AR 2600-2603), but it has no Coastal Commission received stamp. Per the uncontradicted Gallagher declaration, this form was not in the Commission's file before the hearing. (No one has explained to the court how documents that clearly were not in the Coastal Commission file before the January 8, 2015 hearing and vote found their way into the Administrative Record, but there are several such documents. Nor has anyone explained how documents without a Commission "received" stamp are properly part of the official file and Administrative Record.)

The disclosure form was signed and dated within the statutory time, but was not in the Commission's official file before the hearing. Per section 30324, subdivision (c), that failure rendered the disclosure invalid and Commissioner Turnbull-Sanders ineligible to participate in the hearing or vote for the Project. She nonetheless participated and voted.

Commissioner Vargas verbally reported an ex parte on December 11, 2014, and stated, "I believe my ex parte is on file." (AR 2754.) A dated and signed ex parte is in the Administrative Record (AR 2604), but it, too, lacks a Coastal Commission received stamp and was not in the Commission's file before the hearing. (Declaration of Gallagher.) It is also incomplete and does include the referenced attachments.

Per section 30324, subdivision (c), the failure to comply with the statute rendered Commissioner Vargas ineligible to participate in the hearing or vote for the Project, although he did both.
Commissioner McClure similarly reported a December 11, 2014 ex parte and added, "my ex parte should be on file." (AR 2754.) There is no ex parte for Commissioner McClure in the Administrative Record. Although not eligible by statute to participate in the hearing or vote for the Project, she did.

Chairman Kinsey reported an ex parte on December 12, 2014, and added, "my ex parte is on file." (AR 2754.) There is no ex parte disclosure form for Chairman Kinsey in the Administrative Record. He, as well, was not eligible to participate in the hearing or vote for the project, but did both.

Commissioner Howell, who was present and voted on this matter, did not speak up when asked by the Chairman about ex parte communications. An undated, unsigned, ex parte disclosure form for him, disclosing ex parte communications on December 10, 2014, is in the Administrative Record. (AR 2594.) Even though it contained no date or signature, it was stamped "received" by the Commission on January 26, 2015. It was not in the Commission file on January 8, 2015, the date of the hearing and, without a signature or date, must be deemed untimely as well. Commissioner Howell did not orally acknowledge at the hearing the much earlier ex parte communication. He, too, was not eligible to participate or vote, but did both.

Commissioners Zimmer and Shallenberger made no disclosures at the January 8, 2015 hearing concerning any ex parte communications. An individual engaging in ex parte communications with the commissioners on behalf of Mr. Longi indicated to Karl Schwing of the Coastal Commission in a January 6, 2015 email that she was "unable to schedule with Commissioners Groom, Shallenberger and Mitchell," suggesting she did meet with Commissioner Zimmer. (AR 1809.) That, contrasted with the Commissioner's silence when asked at the hearing, however, is insufficient to conclude Commissioner Zimmer engaged in an unreported ex parte communication.

It is evident from the Administrative Record that six commissioners participated in the hearing and voted on the Project without properly disclosing ex parte communications. Those commissioners are: Cox, Howell, Kinsey, McClure, Turnbull-Sanders, and Vargas. Their failure to comply with the statutory requisites for disclosure of ex parte communications rendered them ineligible to do so. (§ 30327, subd. (a).) That left votes by only four eligible commissioners (AR 2741, Bocho, Mitchell,
Shallenberger and Zimmer.) The Commission decision (supported only by four eligible votes) was necessarily affected by the violation, providing an independent basis for the issuance of the writ of mandate "requiring the commission to revoke it action and rehear the matter."

Real parties in interest complain the ex parte issue was raised only by one speaker and was insufficient to confer "aggrieved person" status on petitioner for the purpose of section 30328. The speaker's comment was that "ex partes were not in the file, whatever that means." (AR 2803.) Section 30801 provides in part that an "aggrieved person" is "any person who, in person or through a representative, appeared at a public hearing of the commission . . . [and] informed the commission . . . of the nature of his concerns . . . " That statement was sufficient, in this court's view, particularly because a number of commissioners themselves provided inaccurate information to the public, both verbally at the January 8, 2015 hearing and by failing to timely file the required disclosure forms in advance of the hearing. The most diligent individual combing through the Commission's official file for the Project before the January 8, 2015 hearing would have seen that Commissioner Cox's disclosure form was on file, but invalid. That same person would not have discovered that Commissioners Howell, Kinsey, McClure, Turnbull-Sanders and Vargas had ex parte communications the month before the hearing. Commissioner Howell did not speak up at the hearing itself, so the record of his ex parte communications was nonexistent until the unsigned and undated disclosure form was nonetheless received by the Commission more than two weeks after the public hearing. Commissioners Kinsey, McClure, Turnbull-Sanders and Vargas did speak up at the hearing, but the oral disclosures violated the statutory mandate for a timely written disclosure filed with the Commission in advance of the hearing.

Nor is this court persuaded by the argument that the lapses by a number of commission members should be dismissed as "minor technical errors." (RPI Opposition, Jan. 26, 2016, p. 11:17.) The Coastal Act is clear on this point: ex parte communications are permitted only so long as they are disclosed as required by statute. The statute details the timing and format for the disclosures, as well as the consequences of failing to disclose. When commissioners do not satisfy the statutory
requisites, they lose the right to participate in the hearing and the vote. These consequences are not to be dismissed as technicalities, they strike at the fundamental fairness and integrity of the process.

The Coastal Commission's Conclusion the Project is Consistent with the Local Coastal Program Is Not Supported by Substantial Evidence and Compels Issuance of the Writ

1. Does substantial evidence support the Coastal Commission's finding that the Project Meets the Setback Requirements of the LCP? No.

The setback dispute centers around LCP Policy 9-C. Policy 9-C(a) requires the Project to have a 25-foot setback from the top of the Laguna Canyon Creek bed, while Policy 9-C(b) requires the 25-foot setback to be measured from the center of the stream. Unfortunately, the Administrative Record contains various versions of LCP Policy 9-C. It is not necessary to discuss the variances, however, as the essential language is not in dispute.

The City Council determined Policy 9-C(b) applied based on three factors: (1) Laguna Canyon Creek is partially "channelized," i.e., not in a natural state because it utilizes rip-rap and masonry blocks to shore up the banks; (2) the banks of Laguna Canyon Creek do not constitute an "environmentally sensitive habitat;" and (3) Laguna Canyon Creek is "not identifiable" on the Major Watersheds and Drainage Courses Map (MWDC Map), a prerequisite to the application of Policy 9-C(a). (AR 000005.) The last factor was not given particular prominence in the City Council analysis because that body concluded Laguna Canyon Creek was channelized and did not constitute an environmentally sensitive habitat.

The Coastal Commission rejected the City's findings as to factors (1) and (2). That left the MWDC Map as the critical factor for the 25-foot setback requirement. The Coastal Commission agreed with the City Council and concluded Laguna Canyon Creek is "not identifiable" on the MWDC Map. For that reason, the Coastal Commission applied Policy 9-C(b) and approved a 25-foot setback from the center of Laguna Canyon Creek, rather than measure the setback from the top of the creek bank.
The sole issue for this court to determine is whether substantial evidence supports the application of Policy 9-C(b). The Coastal Commission's findings as to factors (1) and (2) were not challenged and are not before this court. That leaves the MWDC Map question.

In successfully urging the Coastal Commission to find a substantial issue with the City Council's issuance of the CDP, staff essentially found the Council's "not identifiable" conclusion inadequate and focused on the Council's failure to come to grips with whether Laguna Canyon Creek was identified on the MWDC map:

"Pursuant to Policy 9-C(a) of the City's Open Space/Conservation Element, all parties agree that the stream in question - Laguna Canyon Creek - is a "Blue-line" stream. The City failed to clearly address, however, whether Laguna Canyon Creek is also located on the Major Watershed and Drainage Courses (MWDC) Map in the Open Space/Conservation Element. The City's staff reports regarding Conditional Use Permit 13-047, Planning Commission Design Review 13-1375, and Coastal Development Permit 13-1376, as well as the appeal of those decisions, refer to Laguna Canyon Creek as a "significant watercourse," but don't clearly state whether "significant watercourse" means that Laguna Canyon Creek is, in fact, located on the MWDC Map. And while Laguna Canyon is identified as a major watershed on the MWDC map, Laguna Canyon Creek is not clearly identified as a "significant watercourse" on that map. Staff is unable to distinguish between the line on the map showing the road as opposed to the same line that may be identifying the creek as a significant watercourse."

In the alternative, should it be determined that it was proper to leave Laguna Canyon Creek off of the Major Watershed and Drainage Courses Map, then Policy 9-C(a) would not apply to this situation." (AR 2890-2891, emphasis added.)
The Coastal Commission reached the same conclusion, i.e., that Laguna Canyon Creek is "not identifiable" on the MWDC Map. But "identifiability" is not an element of Policy 9-C. Presumably, it is something short of a finding that Laguna Canyon Creek is not, in fact, on the MWDC Map. Significantly, the Coastal Commission, like the City Council before it, never determined whether it was proper to leave Laguna Canyon Creek off the MWDC Map. Just as the Coastal Commission determined the City Council's finding on this point was inadequate, this court determines no substantial evidence supports the Coastal Commission's identical finding.

Without question, Laguna Canyon Creek is a "Blue-line stream" and a "significant watercourse" in Laguna Canyon. Nothing in the Administrative Record suggests any Blue-line stream or significant watercourse in Laguna Canyon has ever been omitted from the MWDC Map.

Moreover, even if this court treated the "not identifiable" finding as the equivalent of "not identified," no substantial evidence in the Administrative Record would support that finding, either.

First, the Administrative Record does not show that anyone connected with this Project or the Coastal Commission proceedings actually viewed the original or even a duplicate MWDC Map. Only petitioner's counsel testified she had seen the original map, and that was years earlier when she worked for the City of Laguna Beach. Her testimony concerning the original map is uncontradicted. Everyone else's views were based on MWDC Maps that were not duplicates but reduced-to-letter-size (or smaller) black and white photocopies. Views concerning the photocopies covered a spectrum:

Petitioner's Counsel: A public speaker at the hearing, she noted the original map, created in the 1980's, was "huge." She testified, "If you look at the map, the same map that Miss Sarb [Coastal Commission Deputy Director] showed, you will note that every teeny, tiny little drainage course in this city is on that map. And in fact, what we did in the 1980s -- and this original map is huge. I was unable to locate a copy of it, but it's a much bigger map that they've then shrunk down to minuscule. And in fact, what we did in that time was we laid the dotted lines over the solid lines. We just laid the lines on top of each other if they shared a line. So in fact, the dotted line -- and I did not do this specific map, I will tell you that -- in fact, the dotted line is in all likelihood laid over
the line for Laguna Canyon Road. It is highly unlikely, and based on my knowledge and experience working for the City of Laguna Beach, that the Laguna Canyon Creek was not included as a drainage course in their mapping. It is the single largest drainage course in the City of Laguna Beach. It floods on a regular basis, cars and storage containers are thrown into the creek during the flooding." (AR 2762.)

Coastal Commissioner Deputy Director Sarb: She testified, "The one policy 9A, requires that the 25 foot setback be measured from the top of the stream bank, and 9B requires the 25 foot setback be measured from the center flow line of the stream. And in this case that would mean the difference of about 10 feet. The greater setback would be applied to the project, if the Laguna Canyon Creek is shown on the major water shed and drainage courses map of the LCP. And this drainage course is not shown on that map. If you want to refer to the Addendum, we have clarified the staff determination that it is policy 9A [did she mis-speak and mean 9B?] that does apply here because the stream is not shown on that map. Although, it does appear that it meets the criteria, it's certainly a major drainage course and there's sensitive habitat in the stream." (AR 2746-2747, emphasis added.)

And one public speaker simply lamented, "Everybody seems to agree it's a major drainage, it should have been on the map; but somehow it's not on the map. You guys have the authority. Tell them to put it on the map." (AR 2783.)

The staff Addendum to its Report, prepared the day before the hearing, reduced the analysis to three sentences: "The Major Watershed and Drainage Courses Map identifies Laguna Canyon as a Major Watershed, but does not show the stream that crosses part of the project site: Laguna Canyon Creek (See map). The stream is a Blue-line stream within a major watershed that appears to meet the criteria for mapping on the Major Watershed and Drainage Courses Map as well as the Coastal Environmentally Sensitive Areas Map; however, the stream is not identifiable on those maps. Therefore, LCP Policy 9-C(a) is not being applied in this case." (AR 1291, emphasis added.)

This conclusion by staff to support the recommendation to approve the CDP stands in sharp contrast with the staff recommendation to find a substantial issue on the setback question. (Supra, at p. 12; see also AR 2890-2891.)
The MWDC Map, for such an important piece of evidence, is fairly cryptic. (See, e.g., AR 1291, 2201, 2965, ex. 1 to Dec. 9, 2015 Request for Judicial Notice.) As one readily discerns, names of individual canyons and major streets in the City of Laguna Beach provide the only identifying text on the Map. None of the maps in the Administrative Record identifies where the Project would be located. While there is a legend, there is no indication of the standard. The legend indicates a certain measurement equals 1600; but 1600 what? Clearly not feet or miles. . . . It could be yards (as 1600 yards is roughly one mile), but that would be a guess on the court's part, and if the legend was intended to be based on one mile, why not just say so? It must be remembered the western walls of the apartment complex are just 25 feet from Laguna Canyon Road and the eastern wall of the parking garage is planned to be within 15 feet of the western bank of Laguna Canyon Creek, so the distance between the state highway and Laguna Canyon Creek, where this property is located, is probably less than 100 feet. If five-eighths of an inch on the small map (AR 2965) equates to 1600 yards (approximately one mile), then 33 yards would indeed be a very small fraction of an inch. In short, a more reasonable inference from the evidence in the Administrative Record is that Laguna Canyon Creek is on the MWDC Map, just blurred or overlaid with Laguna Canyon Road.

This court does not make that finding, however, as that is not the court's role. But an analysis of the MWDC Map supports petitioner's argument and goes a long way to satisfying its burden.

While the Coastal Commission's finding that Laguna Canyon Creek is "not identifiable" on the MWDC Map may be accurate, based on the poor photocopies in the Administrative Record, "identifiability" is not the standard. The Coastal Commission, like the City Council before it, did not determine whether Laguna Canyon Creek was in fact on the map or omitted from the map. In any event, the Coastal Commission's finding that Laguna Canyon Creek is "not identifiable" on the MWDC Map, besides being irrelevant as an incorrect standard, is not supported by substantial evidence.

As Coastal Commission staff recognized, all evidence in the Administrative Record supports a finding that Laguna Canyon Creek must be on the MWDC Map.
There is no evidence in the Administrative Record, for example, as to whether Blue-line streams invariably/usually/occasionally/rarely qualify for inclusion in MWDC maps.

Other evidence in the Administrative Record includes:

AR 02400: Toal Engineering, Inc. Preliminary Grading Plan describing Laguna Canyon Creek as "'Significant Drainage Course' per City of Laguna Beach GS [Geological Survey?] Map and Field Shot Survey."

AR 02891: "The City's staff reports regarding Conditional Use Permit 13-047, Planning Commission Design Review 13-1375, and Coastal Development Permit 13-1376, as well as the appeal of those decisions, refer to Laguna Canyon Creek as a 'significant watercourse,' but don't clearly state whether 'significant watercourse' means that Laguna Canyon Creek is, in fact, located on the MWDC Map."

AR 1103: Coastal Commission staff ecologist concluded, "Laguna Canyon Creek is one of two principle [sic] creeks in the Laguna Canyon watershed." (Italics in original.)

AR 1104: More from the staff ecologist: "Laguna Canyon Creek is a Blue-line stream in a nearly pristine coastal watershed . . . . Streams and creeks are a rare and threatened habitat throughout California and are easily disturbed and degraded by human activities and development." (Italics in original.)

Real parties in interest suggest the Addendum to the Coastal Commission Staff Report (AR 1290 et seq.) provides substantial evidence concerning the setback issue. The Addendum devotes three sentences to the setback analysis. (See, supra "[The Major Watershed and Drainage Courses Map identifies Laguna Canyon as a Major Watershed, but does not show the stream that crosses part of the project site: Laguna Canyon Creek (See map). The stream is a Blue-line stream within a major watershed that appears to meet the criteria for mapping on the Major Watershed and Drainage Courses Map as well as the Coastal Environmentally Sensitive Areas Map; however, the stream is not identifiable on those maps. Therefore, LCP Policy 9-(a) is not being applied in this case." (AR 1290.))
2. Does substantial evidence support the finding that the Project is rural and small-scale? No.

The Laguna Canyon Annexation Area Specific Plan Policies (LCAASP) identify a series of "goals" to "[p]reserve and enhance the rural character of the Laguna Canyon Properties area." (AR 1099-1100.) Several are of significance in the court's analysis:

Policy 3 requires "the preservation of ridgelines . . . and undeveloped hillside slopes." The Project is consistent with this element.

Policy 4 requires "landscaping to improve the scenic quality of the Canyon." The Project, with the special conditions required by the Coastal Commission, is consistent with this element.

Policy 10 requires "that any development be of small-scale in order to maintain the rural character of the Canyon. The Project is not consistent with this policy.

This court takes judicial notice that there are 43,560 square feet in one acre. At 36,750 square feet, the Project site equals .84 of an acre. With 30 residential units, plus work space, plus retail space, plus a 47-stall parking garage, all on a parcel smaller than one acre, the Project does not qualify as small-scale or rural. It would be a stretch to label the Project suburban, but easy to label it urban.

It is of no moment the words "rural" and "small scale" are not defined in any document in the Administrative Record. The words "rural" and "small scale" are not generally considered terms of art; they have common meanings. In any event, the Administrative Record universally acknowledges the Project is neither rural nor small-scale. (See, e.g., AR 168, 171, 2979.)

Yes, rustic architecture and landscaping contribute to rural character, but aesthetics do not override the Project's size, scale, and density. A project with a housing density of more than 30 units per acre simply does not qualify as rural or small-scale. There are 47 parking spaces for the 30 planned residential units, more than many suburban condo developments. It should also be remembered that although this is a two-story project, the housing elements are to be elevated at least five feet above grade, making the 36-foot height more in line with a three-story building - again, not a rural structure.
There is no evidence, much less substantial evidence, to support the commission's conclusion that the Project is rural and small-scale.

3. **Does substantial evidence support the finding the Project is consistent with the "Visual Resources Protection Policies" of the LCP? Yes.**

As already noted, the Project is at least five feet taller than the standard two-story building, as the structure itself must be five feet above the flood plain/grade. It is to be built on the relatively flat space between Laguna Canyon Road and Laguna Canyon Creek. It does not alter or destroy ridgelines or hillslopes. While a vehicle passenger on Laguna Canyon Road or a person standing near the road will lose some ridgeline view, the loss of that view is not the equivalent of losing the ridgelines themselves. This element does not conflict with the LCP.

4. **Does substantial evidence support the finding the Project is consistent with floodplain development policies of the LCP? Yes.**

The Administrative Record includes substantial evidence that Laguna Canyon Creek experiences flooding during periods of heavy rain. The Project, with the exception of the partially sub-grade parking garage, is required to be built five feet above grade, i.e., the floodplain, for this very reason. (AR 2876.) In other words, persons living and working in the Project may not be able to leave during a flood, but it is likely they and their property (other than vehicles and equipment store in the garage) will be spared. And residents will be enrolled in the city’s "reverse 911 program" so they will be told whether to evacuate or stay in place during a flood situation. (AR 219, 247.) Bollards will be installed at the south/open end of the parking garage, so vehicles and equipment in the garage cannot float away in the Creek. (AR 246-248.)

The foregoing recognizes and responds to the potential threat to human life and of vehicles and property inside the garage sliding into Laguna Canyon Creek. (With only one house, a garage and outbuilding currently on the almost-one-acre Project site, Laguna Canyon Creek flood waters disperse over a significant area of the property and absorb into soil. With the construction of the Project, flood waters will be able to disperse only throughout the 15 feet between the bank of the Creek until they exceed three feet in height, at which point they will flood into the garage. Residents will be sheltered in place in the event of a flood; but there is no discussion, much less a
resolution, in the Administrative Record of the threat to the environmentally sensitive habitat that lines Laguna Canyon Creek and will exist in the up-to 15 feet of open space between the top of the Creek bank and the parking structure low wall. However, this is not an issue raised by the parties.) That aside, then, this court finds substantial evidence supports a finding that the Project is consistent with the floodplain development policies.

If there were nothing else, the violation of Public Resources Code section 30328 would entitle petitioner to a writ of mandate "requiring the commission to revoke its action and rehear the matter." However, a rehearing would appear to be an idle act in this instance; the Commission’s finding that the Project is consistent with the applicable LCP is not supported by substantial evidence as to the setback and rural/small-scale issues. For the foregoing reasons, the petition for writ of administrative mandate is granted.

Date Judge Signed: September 22, 2016

Honorable Kim G. Dunning
DECLARATION OF CHRISTIAN C. KREYMANN AND JEFFREY HARLAN IN SUPPORT OF REAL PARTIES IN INTEREST'S MOTION FOR A NEW TRIAL

[Filed Concurrently with:
1) Real Parties In Interest’s Motion for a New Trial; and Memorandum of Points and Authorities in Support of Real Parties In Interest’s Motion for a New Trial.]

Judge: Hon. Kim G. Dunning
Date: December 15, 2016
Time: 10:00 a.m.
Dept.: CX104

Petition Filed: March 6, 2015
DECLARATION OF CHRISTIAN C. KREYMANN

I, Christian C. Kreymann, declare as follows:

1. I am a retired City of Laguna Beach ("City") employee who worked for more than 40 years in various departments at the City. I have personal knowledge of the facts herein stated, except as to those stated on information and belief. As to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein.

2. I make this declaration in support of REAL PARTIES IN INTEREST'S MOTION FOR NEW TRIAL.

3. I began my career at the City in 1971 as an intern for the Public Works Department, working as a draftsman. Over the next four decades, I held several positions in this department as well as the Community Development and Information Technology Departments. I retired in 2010 as the City's Network Administrator.

4. During my 40-year tenure in the Public Works and Community Development Departments I researched, designed, and prepared dozens of official city maps. Over my career I took several courses in engineering, graphic design, grading, and other topics related to map making.

5. In 1981, I was tasked by the Director of Community Development to oversee the graphics production for the update to the City of Laguna Beach General Plan Open Space/Conservation Element (See credit on P. 2, Open Space/Conservation Element). As part of this update, I personally prepared the Major Watersheds and Drainage Courses Map ("MWDC Map", Exhibit A). I used aerial photographs, the City's Coastal Environmentally Sensitive Areas Map (Exhibit B) I had prepared in 1978, personal knowledge based on field observations, and other documentary sources to produce the MWDC Map. I drew the MWDC Map by hand using pen and India ink, and also used dry transfer lettering. This was typical of my drawing technique at the time, and for the City's maps in general. We did not employ any kind of "tape over tape" method, as it was not permanent, inaccurate, and did not allow for illustrating proper contouring or curves.
6. As an independent General Plan-level map, the MWDC Map was designed to identify drainage courses where there was undevelopable open space. It was drawn to cover the entire city at that time, at a scale and with the level of detail appropriate for a General Plan. I drew the original MWDC Map on an approximately 11” by 17” sheet of paper; it was not created at a larger scale and reduced in size for printing in the Open Space/Conservation Element. The MWDC Map was adopted as part of the Open Space/Conservation Element by the City Council on May 1, 1984.

7. The MWDC Map does not depict Laguna Canyon Creek.

8. In the early 1970s, an unsolicited map of the city’s drainage courses was prepared by a citizens’ committee and submitted to the City Council for adoption in 1974. I was tasked with reviewing this amateur map (titled the “Coastal Environmentally Sensitive Areas Map” or “ESA Map”) and making the necessary corrections to create a new zoning-level map.

9. In 1976, I drew by hand the “Proposed Drainage Course Revisions to the E.S.A. Map” (Exhibit C). I discovered this map with Jeffrey Harlan, attorney for Real Parties in Interest, on November 10, 2016 at the City of Laguna Beach Community Development Department archives. This map identifies and categorizes various revisions. For example, the red markings (and accompanying text for Number 4) indicate drainage courses that needed to be removed from the original map because the citizens’ committee misidentified as drainage courses areas that had been obliterated by grading operations and now served as building pads or improved roadways.

10. The City Council adopted the revised map as the “Coastal Environmentally Sensitive Areas Map” (Exhibit B) on August 15, 1978. This map was intended to be used by City staff as a reference for implementation of newly adopted regulations for development near significant drainage courses. This map does not depict Laguna Canyon Creek.

11. Neither the MWDC Map nor the Coastal Environmentally Sensitive Areas Map has been revised or redrawn since they were adopted in 1981 and 1978, respectively.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Executed November 17, 2016, at Laguna Beach, California.

Christian C. Kreymann
DECLARATION OF JEFFREY HARLAN

I, Jeffrey Harlan, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am of counsel at Ervin Cohen & Jessup LLP, attorneys of record for Real Parties-in-Interest LOUIS LONGI and DORNIN INVESTMENT GROUP, INC. ("Real Parties") I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe that they are true. If called as a witness, I could and would competently testify to the matters stated herein.

2. I make this declaration in support of Real Parties’ Motion for New Trial.

3. I attended the court trial of this matter on July 12, 2016. Attached hereto as Exhibit 1 is a true and correct copy of the trial transcript ("Transcript").

4. Attached hereto as Exhibit 2 is a true and correct copy of the Court’s Order in this matter dated September 22, 2016 (“Order”).

5. Both the Transcript and the Order reflect that the Court questioned the preparation and authenticity of the Major Watersheds and Drainage Courses Map (“MWDC Map”) used by Respondent California Coastal Commission (“Commission”) in making its determinations to which this action relates. The Court’s questioning was based, at least in part, on statements at trial by Petitioner’s counsel claiming that the MWDC Map in the Administrative Record was a reduced-size version of the original map, and that it was prepared by laying tape on tape. This was an issue not raised in any prior proceeding or document.

6. Because this issue had never been raised in this action, of course Real Parties had never been advised of it and, accordingly, could not be expected to have gathered evidence to address it at trial. Post-trial, however, I investigated Petitioner’s counsel’s assertion. That investigation led to my meeting Christian C. Kreymann, retired city planner for the City of Laguna Beach. Mr. Kreymann’s declaration is submitted concurrently herewith, and establishes that Plaintiff’s counsel’s assertion was and is false.

7. Because Mr. Kreymann’s declaration contains relevant, material evidence that could not with reasonable diligence have presented at trial because the issue had never been raised,
that declaration and its exhibits constitutes "newly discovered evidence" justifying a new trial under Code of Civil Procedure ("CCP") §657, ground 4.

8. Moreover, the Order reflects that the Court considered Petitioner's counsel's unsworn statements a trial as evidence which was uncontradicted (Order, P. 13). Argument is not evidence. If the Court intended to consider those statements at trial as evidence, it should have required Petitioner's counsel to be sworn and have given Real Parties' counsel a chance to cross-examine her. It did not do so, yet relied on those statements. This denied Real Parties due process and constitutes an irregularity in the proceedings which prevented Real Parties from having a fair trial. A new trial is therefore warranted under CCP §657, ground 1.

9. As set forth in the Memorandum of Points and Authorities in support of the instant motion ("Memo"), the Court erred and abused its discretion in numerous ways. The Order reflects that instead of acting as a reviewing court and evaluating whether the Commission's determinations were supported by substantial evidence—including applying a presumption that they were, and viewing the evidence in the light most favorable to the Commission's findings, both of which the Court was legally required to do—the Court instead conducted its own independent review and did not give any deference to the Commission's findings or evaluate the evidence before the Commission. These errors and abuses of discretion discussed in the Memo are all reflected in the Order, operated to deprive Real Parties of a fair trial, were raised by Real Parties' counsel at trial, and therefore require a new trial under CCP §657, grounds 1 and 6.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed November 18, 2016, at Beverly Hills, California.

Jeffrey Harlan

Exhibit 9
Page 38 of 96
City of Laguna Beach
AGENDA BILL

No. 18
Meeting Date: 9/18/07

SUBJECT: LOCAL COASTAL PROGRAM AMENDMENT 07-03 TO AMEND TOPICS 8, 9 & 15 OF THE OPEN SPACE CONSERVATION ELEMENT THAT INCLUDE SOUTH LAGUNA AND LAGUNA CANYON ANNEXATION AREA DRAINAGE COURSE MAPS AND ASSOCIATED TEXT AND POLICIES

SUMMARY OF THE MATTER:

On September 14, 1993, the City Council approved Resolution 93.072, an amendment to Topics 8, 9 & 15 of the Open Space Conservation Element of the General Plan. This amendment involved the biological study updates, including the Biological Resources Map and Major Watersheds and Drainage Courses Map, for the South Laguna area.

On January 18, 1994, the City Council approved Resolution 94.006, an amendment to the Open Space Conservation Element of the General Plan. This amendment adopted the South Laguna Drainage Map and related text amendments.

On November 1, 1994, the City Council approved Resolution 94.083, an amendment to the Open Space Conservation Element of the General Plan. This amendment involved the biological study updates, including the Biological and Drainage Map for the Laguna Canyon Annexation Area.

In January of 1995, City staff submitted LCP Amendment 1-95 requesting Coastal Commission approval and incorporation into the City’s certified LCP. In March, 1996, the Coastal staff report recommended approval with suggested modifications, including a requirement that the City evaluate a property owner’s reasonable investment backed expectations to determine whether there is a “taking” and to establish how much development would be necessary to avoid such a “taking.” Due to time constraints to act on the application, the project could not be continued; and the City requested that the application be withdrawn from consideration.

(continued)

RECOMMENDATION: It is recommended by the Planning Commission that the City Council:

Approve the resolution requesting Coastal Commission certification of Local Coastal Program Amendment 07-03

Appropriations Requested: $ ____________________

Fund: ____________________

Attachments: 8/15/07 PC Minutes, Staff Report with ____________________

Attachments, Resolution ____________________

Submitted by: ____________________

Coordinated with: ____________________

Approved: ____________________

City Manager
On June 18, 1996, the City Council reviewed the information regarding the Coastal staff suggested modifications and directed City staff to resubmit the LCP amendments to the Coastal Commission without modifications. The LCP amendments were resubmitted to the Coastal Commission in the fall of 1996 (LCP Amendment 1-96). On February 6, 1997, LCP Amendment 1-96 was scheduled for Coastal Commission hearing. City staff requested two continuances to allow time to discuss unresolved issues with the Coastal Commission staff regarding the investment-backed expectations analysis requirements. On October 1, 1997, the City requested withdrawal of LCP Amendment 1-96 to attend anticipated Coastal Commission workshops on the issue of investment-backed expectations. Those workshops have never occurred.

At the direction of City Council, staff resubmitted the LCP Amendment application regarding the above Open Space/Conservation General Plan amendments to the Coastal Commission in May of 2007, and the application was subsequently deemed incomplete because the Coastal Act requires that a public hearing on the amendment be held within four years of submission of an LCP Amendment. The incomplete letter is attached for reference. This letter refers to additional studies agreed to by the City to employ a biological consultant to identify streams for the development of maps for the purpose of establishing appeals areas in the City.

All of the above updates have been included in the Open Space/Conservation Element of the General Plan and have been in use since adoption. The fact that the Coastal Commission has not certified the amendments to the Open Space/Conservation Element only affects the policies and maps that must be used in the review of Coastal Development Permits. However, it is important to request that the Coastal Commission include the City-approved amendments to the General Plan in the certified Local Coastal Program for consistency in reviewing projects and issuing Coastal Development Permits.

On August 15, 2007, the Planning Commission unanimously recommended that the City Council request Coastal Commission certification of Local Coastal Program Amendment 07-03. During the LCP Amendment review process with the Planning Commission it was pointed out that the adopted drainage course maps may have errors and should be corrected. Staff is presently working with the Coastal staff on a study protocol to scientifically establish the streams within Laguna Beach that warrant Coastal Act protection. Once that protocol is established, a Department Special Project will be initiated and will need to be budgeted by City Council. Once that study is completed another General Plan/LCP Amendment will be processed to incorporate the updated maps. This stream mapping update process will also alleviate the appealability issues the City has been having regarding Coastal Development Permits.
AGENDA ITEM: No. 7  DATE: 8/15/07

TO: PLANNING COMMISSION

CASE: Local Coastal Program Amendment 07-03

APPLICANT: City of Laguna Beach

LOCATION: City-wide

ENVIRONMENTAL STATUS: Statutorily Exempt, Section 15624

PREPARED BY: Ann Larson, Planning Administrator  
(949) 497-0320

REQUESTED ACTION: Staff requests that the Planning Commission review the proposed Local Coastal Program amendment request, and recommend that the City Council request certification by the California Coastal Commission.

BACKGROUND: In June of 1986, the Coastal Commission certified the City of Laguna Beach Coastal Land Use Plan. On July 7, 1992, the City’s Implementation Plan was certified by the Coastal Commission. The City assumed Coastal Permit issuing authority in February of 1993.

On September 14, 1993, the City Council approved Resolution 93.072, an amendment to Topics 8, 9 & 15 of the Open Space Conservation Element of the General Plan. This amendment involved the biological study updates, including the Biological Resources Map and Major Watersheds and Drainage Courses Map, for the South Laguna area.

On January 18, 1994, the City Council approved Resolution 94.006, an amendment to the Open Space Conservation Element of the General Plan. This amendment adopted the South Laguna Drainage Map and related text amendments.

On November 1, 1994, the City Council approved Resolution 94.083, an amendment to the Open Space Conservation Element of the General Plan. This amendment involved the biological study updates, including the Biological and Drainage Map for the Laguna Canyon Annexation area.

In January of 1995, City staff submitted LCP Amendment 1-95 requesting Coastal Commission approval and incorporation into the City’s certified LCP. In March, 1996 the Coastal staff report to the Commission recommended approval with suggested modifications, including a requirement that the City evaluate a property owner’s reasonable investment backed expectations.
to determine whether there is a “taking” and to establish how much development would be necessary to avoid such a “taking.” Due to time constraints to act on the application, the project could not be continued; and the City requested that the application be withdrawn from consideration.

On June 18, 1996, the City Council reviewed the information regarding the Coastal staff suggested modifications and directed City staff to resubmit the LCP amendments to the Coastal Commission without modifications. The LCP amendments were resubmitted to the Coastal Commission in the fall of 1996 and Coastal Commission staff assigned the application a new number, LCP amendment 1-96. On February 6, 1997, LCP amendment 1-96 was scheduled for Coastal Commission hearing. City staff requested two continuances to allow time to discuss the unresolved issues with the Coastal Commission staff regarding the investment analysis requirements. On October 1, 1997, the City requested withdrawal of LCP amendment 1-96 to attend anticipated Coastal Commission workshops on the issue of investment backed expectations. Those workshops have never occurred.

In May 2007, staff resubmitted the LCP amendment application to the Coastal Commission and the application was deemed incomplete because the Coastal Act requires that a public hearing on the amendment be held within four years of submission of an LCP amendment. The incomplete letter is attached for reference. This letter refers to additional studies agreed to by the City to employ a biological consultant to identify streams for the development of maps for the purpose of establishing appeals areas in the City.

**STAFF ANALYSIS:** All of the above updates have been included in the Open Space/Conservation Element of the General Plan and have been implemented since their adoption. The fact that the Coastal Commission has not certified the amendments to the Open Space/Conservation Element only affects the policies that must be used in the review of Coastal Development Permits. However, it is important to request that the Coastal Commission include the City approved amendments to the General Plan in the certified Local Coastal Program for consistency in reviewing projects and issuing Coastal Development Permits.

**RECOMMENDATION:** Staff recommends that the Planning Commission recommend City Council approval of Local Program Amendment 07-03 and request Coastal Commission certification as indicated in the attached Resolution.

**ATTACHMENTS:**
- Exhibit A: Resolution 92.014
- Exhibit B: Approved Resolutions 93.072, 94.006 and 94.083
- Exhibit C: 5/23/07 LCP Submittal Incomplete Letter
- Draft City Council Resolution
RESOLUTION NO. 92.014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH APPROVING AND ADOPTING ITS LOCAL COASTAL PROGRAM PURSUANT TO THE CALIFORNIA COASTAL ACT OF 1976

The City Council of the City of Laguna Beach does resolve and determine as follows:

WHEREAS, pursuant to Division 20 Section 3000, et seq. of the California Resources Code, the California Coastal Act, a Local Coastal Program has been prepared; and

WHEREAS, pursuant to Section 30503 of the Public Resources Code and Section 65351 of the California Government Code, the Planning Commission and City Council held duly advertised public hearings on all aspects of said Local Coastal Program, and all interested persons were given opportunity to be heard; and

WHEREAS, the City Council has considered the recommendations of the Planning Commission as well as considered all public testimony, and

WHEREAS, the City Council recognizes that the Local Coastal Program constitutes all of the following documents:

1. Land Use Plan Map, excluding the private locked gate communities in South Laguna known as Blue Lagoon and Three Arch Bay;

2. Laguna Beach General Plan Land Use and Open Space Elements;
3. Laguna Beach Zoning Maps;

4. Downtown Specific Plan;

5. Laguna Canyon Annexation Area Specific Plan;

6. Laguna Beach Zoning Code, Title 25 of the Municipal Code, including the Coastal Development Permit Ordinance;

7. Title 12.08, Preservation of Heritage Trees;

8. Title 14.78, Geology Reports - Preparation and Requirements;

9. Title 21, Plats and Subdivisions;

10. Title 22, Excavation and Grading;

11. Shoreline Protection Guidelines as adopted by Resolution 88.43;

12. Design Guidelines for Hillside Development as adopted by Resolution 89.104;

13. South Laguna Community Design and Landscape Guidelines as adopted by Resolution 89.104;

14. Fuel Modification Guidelines of the Laguna Beach General Plan Seismic Safety Element, as adopted by Resolution 89.104;

15. Summer Festival Parking Agreements; and

WHEREAS, the preparation and adoption of the Local Coastal Program is statutorily exempt from the California Environmental Quality Act pursuant to Section 21080.9 of the Public Resources Code;

NOW THEREFORE, BE IT RESOLVED that the City Council hereby approves and adopts the City of Laguna Beach Local
Coastal Program, subject to and effective upon California Coastal Commission Certification of said Program as approved by the City Council;

BE IT FURTHER RESOLVED, that the City Council hereby certifies that the Local Coastal Program is intended to be carried out in a manner fully in conformity with the California Coastal Act;

BE IT FURTHER RESOLVED that the Local Coastal Program shall be submitted to the California Coastal Commission for approval and certification;

BE IT FURTHER RESOLVED, that the private locked gate communities in South Laguna, specifically, Blue Lagoon and Three Arch Bay, have certification deferred until such time as coastal access can be resolved.

ADOPTED this 18th day of February, 1992.

Robert
Mayor

ATTEST:

City Clerk
I, Verna L. Rollinger, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the City Council of said city held on February 18, 1992, by the following vote:

AYES: COUNCILMEMBER(S) Fitzpatrick, Collison, Christoph, Lenney, Gentry

NOES: COUNCILMEMBER(S) None

ABSENT: COUNCILMEMBER(S) None

[Signature]

City Clerk of the City of
Laguna Beach, California
RESOLUTION NO.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT 07-03 AND REQUESTING ITS CERTIFICATION BY THE COASTAL COMMISSION.

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Laguna Beach held a public hearing to consider the adoption of Laguna Beach Local Coastal Program Amendment No. 07-03, and such amendment was recommended to the City Council for adoption; and

WHEREAS, the City Council after giving notice as described by law, held at least one public meeting regarding the proposed Laguna Beach Local Coastal Program Amendment No. 07-03, and the City Council finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

WHEREAS, the City Council of the City of Laguna Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act.

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

SECTION 1. That Laguna Beach Local Coastal Program Amendment No. 07-03 is hereby approved, consisting of certain Resolutions pertaining to a General Plan Open Space/Conservation Element Amendment as listed below:

Resolution 93.072 pertaining to Topics 8, 9 & 15 including Biological Resources Map and Major Watersheds and Drainage Courses Map for the South Laguna area.

Resolution 94.006 an amendment to include the South Laguna Drainage Map and related text amendments.
Resolution 94.083 to include biological study updates, including the Biological and Drainage Map for the Laguna Canyon Annexation area.

Copies of the aforesaid Resolutions are attached hereto as Exhibits 1 through 3 respectively, and are incorporated by this reference as though fully set forth herein.

SECTION 2. That the California Coastal Commission is hereby requested to consider, approve and certify Local Coastal Program Amendment 07-03.

SECTION 3. That pursuant to Section 13551 (b) of the Coastal Commission Regulations, Laguna Beach Local Coastal Program Amendment No. 07-03 will take effect automatically upon Coastal Commission approval, as provided in Public Resources Code Sections 30512, 30513 and 30519.

ADOPTED this ... day of . . .

________________________________________________________________________
Toni Iseman, Mayor

ATTEST:

________________________________________________________________________
City Clerk

I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Resolution No. . . . was duly adopted at a Regular Meeting of the City Council of said City held on . . ., by the following vote:

AYES: COUNCILMEMBER(S):

NOES COUNCILMEMBER(S):

ABSENT COUNCILMEMBER(S):

________________________________________________________________________
City Clerk of the City of Laguna Beach, CA
RESOLUTION 93.072
A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF LAGUNA BEACH TO
AMEND THE OPEN SPACE/CONSERVATION
ELEMENT OF THE GENERAL PLAN AND
THE LOCAL COASTAL PROGRAM

WHEREAS, a Biological Resources Inventory and associated
Biological Resource Values Map, identifying sensitive wildlife
and vegetative habitats as well as significant natural
watercourses, has been completed for the South Laguna area;
and

WHEREAS, the Open Space/Conservation Element of the
Laguna Beach General Plan provides a Biological Values Map and
Major Watersheds and Drainage Courses Map for the incorporated
area of Laguna Beach as it existed prior to the South Laguna
Annexation, but to date lacks similar information for the
South Laguna area; and

WHEREAS, the Biological Values Map is an important
resource map for open space preservation because it identifies
and ranks open space habitats within the City, and the Major
Watersheds & Drainage Courses Map identifies environmentally
sensitive watercourses so that appropriate protection can be
established as a part of the development review process; and

WHEREAS, previously adopted text and policy language
contained in the Addendum to the Open Space/Conservation
Element and related to environmentally sensitive areas in the
South Laguna area, necessitated editing the text and policies
in Topics 8 and 9 of the Open Space/Conservation Element in
order to incorporate such material into the main body of said
Open Space/Conservation Element; and

WHEREAS, a new topic in the Open Space/Conservation Element has been created to address the purpose of and need for constraint mapping; and

WHEREAS, pursuant to Division 20 (commencing with Section 30000 et seq.) of the California Public Resources Code, known as the California Coastal Act, a Local Coastal Program which includes the Open Space/Conservation Element as a part of its Coastal Land Use Plan has been prepared and approved by the City of Laguna Beach, and subsequently certified by the California Coastal Commission; and

WHEREAS, the Laguna Beach Planning Commission unanimously recommended approval of the proposed amendments at its meeting of July 14, 1993;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH HEREBY RESOLVES as follows:

Section 1. The City Council approves General Plan Amendment 93-01 including the text and policy changes to the Open Space/Conservation Element as identified in Exhibits A, B and C (attached) and the Biological Resources Map and Major Watersheds & Drainage Courses Map for the South Laguna area.

Section 2. The City Council approves Local Coastal Program Amendment 93-02 to include all changes identified in Exhibits A, B and C (attached) and the Biological Resources Map and Major Watersheds & Drainage Courses Map for the South Laguna area, subject to and effective upon approval of the
same by the California Coastal Commission.

Section 3. The City Council certifies that the amended
Local Coastal Program is intended to be carried out in a
manner fully in conformity with the California Coastal Act.

Section 4. The City Council adopts Negative Declaration
93-03 based on the finding that the project will provide
biological resource and significant watercourse information
for the South Laguna area, consistent with what has been
provided for other areas of the City and that the project will
have a beneficial impact on the environment and is without
significant adverse environmental impacts.

ADOPTED this 14th day of September, 1993.

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk

I, Verna L. Rollinger, City Clerk of the City of Laguna
Beach, certify that the foregoing resolution was duly adopted
at a regular meeting of the City Council of said City held on
September 14, 1993, by the following vote:

AYES: COUNCILMEMBERS: Gentry, Blackburn
      Peterson, Christoph
      and Lenney

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

[Signature]
City Clerk, City of Laguna Beach, CA
RESOLUTION 94.006

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF LAGUNA BEACH TO
AMEND THE OPEN SPACE/CONSERVATION
ELEMENT OF THE GENERAL PLAN AND
THE LOCAL COASTAL PROGRAM

WHEREAS, the Open Space/Conservation Element of the
Laguna Beach General Plan provides a Major Watersheds and
Drainage Courses Map for the incorporated area of Laguna Beach
as it existed prior to the South Laguna Annexation, but to date
lacks similar information for the South Laguna area; and

WHEREAS, the significant watercourses in South Laguna
have been identified in conjunction with preparation of the
Biological Resource Inventory for South Laguna; and

WHEREAS, inclusion of the identified significant
watercourses in South Laguna on the Major Watersheds and
Drainage Courses Map provides equivalent information for the
South Laguna area as has been provided for the other areas of
Laguna Beach; and

WHEREAS, the Major Watersheds and Drainage Courses Map
identifies environmentally sensitive watercourses so that
appropriate protection can be established as a part of the
development review process; and

WHEREAS, pursuant to Division 20 (commencing with
Section 30000 et seq.) of the California Public Resources Code,
known as the California Coastal Act, a Local Coastal Program
which includes the Open Space/Conservation Element as a part of
its Coastal Land Use Plan has been prepared and approved by the
City of Laguna Beach, and subsequently certified by the
California Coastal Commission; and

WHEREAS, Negative Declaration 93-03, adopted by City Council on September 14, 1993 for General Plan Amendment 93-01 and Local Coastal Program Amendment 93-02 of which the Major Watersheds and Drainage Courses Map is a component, determined that the project will provide biological resource information and significant watercourse information for the South Laguna area, consistent with what has been provided for other areas of the City and that the project will have a beneficial impact on the environment and is without significant adverse environmental impacts; and

WHEREAS, the Laguna Beach Planning Commission recommended approval of the proposed Major Watersheds and Drainage Courses Map for South Laguna at its meeting of November 17, 1993 after considering the additional watercourses for designation referred back to the Commission by City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH HEREBY RESOLVES as follows:

Section 1. The City Council approves the Major Watersheds and Drainage Courses Map for the South Laguna area as a part of General Plan Amendment 93-01.

Section 2. The City Council approves the Major Watersheds and Drainage Courses Map for the South Laguna area as a part of Local Coastal Program Amendment 93-02, subject to and effective upon approval of the same by the California Coastal Commission.

Section 3. The City Council certifies that the amended
Local Coastal Program is intended to be carried out in a manner fully in conformity with the California Coastal Act.

ADOPTED this 18th day of January, 1994.

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk

I, Verna L. Rollinger, City Clerk of the City of Laguna Beach, certify that the foregoing resolution was duly adopted at a regular meeting of the City Council of said City was held on January 18, 1994 by the following vote:

AYES: COUNCILMEMBERS: Lenney, Peterson, Blackburn and Christoph

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Gentry

[Signature]
City Clerk of the City of Laguna Beach, California
RESOLUTION 94.083
A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF LAGUNA BEACH TO
AMEND THE OPEN SPACE/CONSERVATION ELEMENT
OF THE GENERAL PLAN AND
THE LOCAL COASTAL PROGRAM

WHEREAS, a Biological Resources Inventory and associated Biological Resource
Values Map, identifying sensitive wildlife and vegetative habitats as well as significant
natural watercourses, has been completed for the Laguna Canyon Annexation Area; and

WHEREAS, the Open Space/Conservation Element of the Laguna Beach General Plan
provides a Biological Values Map and Major Watersheds and Drainage Courses Map, and
related background information, for the incorporated area of Laguna Beach as it
existed in 1983, and, similarly provides for the South Laguna area, but to date lacks such
information for the Laguna Canyon Annexation Area; and

WHEREAS, the Biological Values Map is an important resource map for open space
preservation because it identifies and ranks open space habitats within the City, and the
Major Watersheds & Drainage Courses Map identifies environmentally sensitive
watercourses so that appropriate protection can be established as a part of the development
review process; and

WHEREAS, pursuant to Division 20 (commencing with Section 30000 et seq.) of the
California Public Resources Code, known as the California Coastal Act, a Local Coastal
Program which includes the Open Space/Conservation Element as a part of its Coastal Land
Use Plan has been prepared and approved by the City of Laguna Beach, and subsequently
certified by the California Coastal Commission; and

WHEREAS, the Laguna Beach Planning Commission unanimously recommended
approval of the proposed amendments at its meeting of September 14, 1994;

Exhibit 9
Page 56 of 96
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH HEREBY RESOLVES as follows:

Section 1. The City Council approves General Plan Amendment 94-03 including the text changes to the Open Space/Conservation Element as identified in Exhibit A and the Biological Resources Map and Major Watersheds & Drainage Courses Map for the Laguna Canyon Annexation Area as identified in Exhibit B.

Section 2. The City Council approves Local Coastal Program Amendment 94-03 to include all changes identified in Exhibits A and B (attached), subject to and effective upon approval of the same by the California Coastal Commission.

Section 3. The City Council certifies that the amended Local Coastal Program is intended to be carried out in a manner fully in conformity with the California Coastal Act.

Section 4. The City Council adopts the associated Negative Declaration based on the finding that the project will provide biological resource and significant watercourse information for the Laguna Canyon Annexation Area, consistent with what has been provided for other areas of the City and that the project will have a beneficial impact on the environment and is without significant adverse environmental impacts.

ADOPTED this 1st day of November, 1994.

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk

Exhibit 9
Page 57 of 96
I, Verna L. Rollinger, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the city Council of said City held on November 1, 1994, by the following vote:

AYES: Councilmember(s)
      Gentry, Lenney, Peterson, Blackburn and Christoph

NOES: Councilmember(s)
      None

ABSENT: Councilmember(s)
        None

Verna L. Rollinger
City Clerk of Laguna Beach
California
TOPIC 8: VEGETATION AND WILDLIFE RESOURCES

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

1. The identification and description of major community open space lands and watershed areas.

2. A comprehensive inventory of biological resources, including vegetative communities and associations and fauna species and habitats.

3. The identification of sensitive plant and animal species and associated habitats, including rare and endangered species.

4. The determination of levels of significance; (i.e., low value vs. high value).

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

Low Value Habitats. These habitats are typically disturbed, impacted sites, often dominated by adventive grasses and domestic plants that have become established in natural areas, and are usually highly fragmented by, or are contiguous to, urban development. Although they may have value, they are isolated and not linked to other habitats. The sites are biologically simplified and are of low faunal carrying capacity. Low value habitats do not possess biological constraints to urban development, but may, if developed, be areas where spillover impacts adversely affect contiguous higher value settings.
Moderate Value Habitats: These sites may contain either native vegetation of a specific community type, or ornamental species in a setting providing horizontal and vertical structural diversity. The sites are usually, however, limited in area and are contiguous to urban development. Thus, their faunal carrying capacity, and often, native floral species diversity, is lower than that of the high value habitats described below.

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

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

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

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

The South Laguna Biological Resource Inventory completed in January 1992 is the most recent and comprehensive study of the South Laguna area. A number of earlier reports, completed prior to 1980 and now on file in the Department of Community Development, were used in the preparation of the South Laguna Specific Plan/Local Coastal Program; this document was incorporated into the Laguna Beach land use regulations in 1989 following annexation of South Laguna.
## TABLE 3-3
HABITAT CHARACTERISTICS
OF LAGUNA BEACH

<table>
<thead>
<tr>
<th>HABITAT</th>
<th>TYPICAL LOCATION</th>
<th>VEGETATION</th>
<th>WILDLIFE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coastal Sage Scrub</td>
<td>Well-drained slopes and hills</td>
<td>CA sagebrush, CA buckwheat, sages, tall perennial grasses, deciduous &amp; evergreen woody shrubs, herbs &amp; low shrubs</td>
<td>Lizards, CA gnatcatcher &amp; other birds, small mammals, fox, coyote &amp; mule deer</td>
</tr>
</tbody>
</table>

Chaparral:

<table>
<thead>
<tr>
<th>Sumac-Toyon southern mixed</th>
<th>North-facing slopes of canyons</th>
<th>Lemonadeberry, toyon &amp; other woody evergreen shrubs, understory of lower growing shrubs, ferns &amp; grasses</th>
<th>Snakes, lizards, salamanders, small mammals &amp; birds such as wren &amp; tit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southern maritime</td>
<td>maritime slopes (occurrence in Orange County almost exclusively limited to South Laguna, a northern outpost for Baja CA/San Diego County species)</td>
<td>noted for distinctive subtypes of chaparral, including bush rue-spiny redberry scrub, a mixed mesic association, San Diego chamise &amp; ceanothus chaparral</td>
<td>Orange throated whiptail &amp; other reptiles, small mammals &amp; birds</td>
</tr>
</tbody>
</table>

Grasslands

| Grasslands | Small islands adjacent to coastal sage scrub; extensive on DeWitt ridge | Native & introduced grasses, wildflowers, forbs & semiruderal elements; native grasslands are a sensitive habitat | Lizards & snakes, prairie songbirds & raptors, mice, ground squirrels, coyotes, rabbits, skunks, mule deer |

Southern Oak Woodland (Coast Live Oak Woodland)

<p>| Southern Oak Woodland (Coast Live Oak Woodland) | Major canyon bottoms | Coast live oak, Engelmann hybrid oak, shrubs, ferns, herbs and grasses. Savannah openings with native grasses, wildflowers | Salamanders, reptiles, woodpeckers, cavity nesting &amp; insectivorous songbirds, owls, hawks, small mammals &amp; mule deer |</p>
<table>
<thead>
<tr>
<th>HABITAT</th>
<th>TYPICAL LOCATION</th>
<th>VEGETATION</th>
<th>WILDLIFE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Riparian</td>
<td>Adjacent to streams &amp; natural drainage courses; prime examples in Laguna, Mathis Canyons</td>
<td>Sycamores, willows, elderberry, mulberry thickets; naturalized &amp; escaped horticultural shrubs, forbs &amp; grasses in urban canyons (e.g., Bluebird)</td>
<td>Fish, salamanders, frogs, turtles, wetland birds, raccoon, weasel, fox &amp; skunk; Norway rat in urban canyons</td>
</tr>
<tr>
<td>Higher wildland tributaries</td>
<td></td>
<td>Chaparral brush, thickets of giant ryegrass</td>
<td></td>
</tr>
<tr>
<td>Deep canyons (e.g., Mathis)</td>
<td></td>
<td>Oak woodland</td>
<td></td>
</tr>
<tr>
<td>Freshwater Marsh, Fan, Swale, Aquatic</td>
<td></td>
<td>Rushes, sedges, cattails, grasses, yerba mansa, willow tree clusters, other wetland vegetation &amp; submerged &amp; floating aquatic plants</td>
<td>Fish, salamanders, toads, frogs, &amp; wetland birds</td>
</tr>
<tr>
<td>Canyon corridors (Laguna &amp; Aliso Canyons)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Southern Hardpan Vernal Pool &amp; Freshwater Seep</td>
<td></td>
<td>Grasses &amp; ferns, edge seeps, specialized vernal pool herbs; edge pools</td>
<td>Fairy shrimp, ostracods, Pacific treefrogs, spadefoot toads possible</td>
</tr>
<tr>
<td>Xeric Cliff Faces, Barrens and Marine Terrace Sandy Openings, Rock Outcrops</td>
<td>Upper slopes, ridgeline caprock areas</td>
<td>Edge shrubs, tall forbs, moss, ferns, low growing herbs, succulents and grasses</td>
<td>Sand insects, snakes, silvery legless, Orange threated whiptail &amp; other lizards, turkey vultures, swallows, ravens, &amp; small mammals possibly incl. Pacific pocket mouse, coyote, mule deer</td>
</tr>
<tr>
<td>HABITAT</td>
<td>TYPICAL LOCATION</td>
<td>VEGETATION</td>
<td>WILDLIFE</td>
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</tr>
<tr>
<td>Mesoic Cliff Faces</td>
<td>North-facing Slope (Aliso Canyon Gorge, Big Bend of Laguna Canyon, Bonn Drive Canyon)</td>
<td>Laguna Beach dudleya &amp; other succulents, mosses &amp; lichens</td>
<td>Amphibians, raptors, ravens</td>
</tr>
<tr>
<td>Maritime Succulent Scrub</td>
<td>Bluff &amp; canyon slopes; often admixed with coastal sage scrub or chaparral</td>
<td>Oracle, prickly pear &amp; cholla cacti, tender-leaved, suffrutescent shrubs such as Calif. encelia and bladderpod</td>
<td>Lizards, snakes, birds and mice; prime habitat for cactus wren &amp; desert woodrat</td>
</tr>
<tr>
<td>Maritime Bluff Scrub</td>
<td>Seabluffs</td>
<td>Coastal cholla, prickly pear, boxthorn, cliff spurge, sealettuce &amp; lance-leaved dudleyas</td>
<td>birds &amp; ground squirrels</td>
</tr>
<tr>
<td>Salt Marsh</td>
<td>Aliso Lagoon</td>
<td>Pickleweed, fleshy jaumea, bulrush</td>
<td>tidewater goby (extirpated) wetland birds</td>
</tr>
<tr>
<td>Coastal Strand</td>
<td>Undisturbed duneland. May be extirpated.</td>
<td>Prostrate succulent herbs: beach bur, sand verbena, beach evening</td>
<td>Globose dune beetle, other insects</td>
</tr>
<tr>
<td>Urban Forest</td>
<td>Open space within developed portions of the City; along stream channels; at interface of urban &amp; wildlands; undeveloped slope and watershed</td>
<td>Horticultural trees &amp; shrubs, primarily eucalyptus, acacias &amp; pines</td>
<td>Salamanders, slender alligator lizard, finches, sparrows, doves, mockingbirds, starlings, jays and crows, striped skunks, raccoons, opossum, Norway rat</td>
</tr>
</tbody>
</table>

Source: Laguna Beach Biological Resources Inventory, October 1982
Sycamore Hills Biological Resources Inventory, June 1983
South Laguna Biological Resources Inventory, January 1992
Laguna Canyon Biological Resources Inventory, May 1993
City of Laguna Beach
The combination of abrupt topography, unique bedrock formations and soils development creates an environment for regionally unique plant communities and rare and endangered plant species, including a semi-tropical concentration of disjuncts and range-edge populations of species and plant communities which otherwise occur to the south of Orange County.

Coastal sage scrub and chaparral are widely distributed throughout the city's open space; but it is in the South Laguna hills where both types of biotic communities are found in profusion. The distribution of these communities is dependent upon microclimatic variations within the area. Ridge tops and south-facing slopes predominantly support coastal sage scrub. Both the California gnatcatcher and the coastal cactus wren, characteristic component species of the coastal sage scrub community, have been sighted in the Laguna Beach area. Canyon bottoms and north-facing slopes, with a cooler and more humid environment, predominantly support chaparral. Southern maritime chaparral, the most regionally significant and most widespread of Laguna's biotic communities, extends from Juanita Canyon to the west slope of Salt Creek Canyon in Laguna Niguel and has developed several distinctive subtypes.

The effects of the close proximity of the ocean and existence of cool micro-climate pockets have allowed the occurrence of many species typically found at higher elevations. Some of the species that occur in great abundance in Laguna's canyons are not found anywhere else in the region. Relatively humid conditions and the lack of recent fires have allowed the vegetation to achieve a state of very vigorous growth. Some species that normally grow four to six feet high reach as much as ten feet in Laguna.

Several areas contain High Value and Very High Value habitats of significant extent: the Sycamore Hills, the Big Bend of Laguna Canyon, the Wood/Mathis Canyon watershed, Canyon Acres Canyon, the Rancho Laguna watershed, upper Bluebird Canyon, Rimrock Canyon, Alexander Canyon, Hobo Canyon, Aliso and Ceanothus Canyons, Aliso Peak, Badlands Canyons, Lower Aliso Creek and the Elion slopes.
Roho Canyon, particularly its surrounding ridges, including the Moulton Meadows marine terrace and the continuous south-facing slope of Aliso Canyon down to the golf course, is the single-most significant habitat block in Laguna. The area is rich in rare, threatened and endangered species and unique habitats. The largest extant U.S. population of big-leaved crownbeard occurs here, along with possibly the largest population in existence of the city endemic Laguna Beach Dudleya. The Dudleya populations of the Aliso Canyon slope are also significant for the coincidental occurrence and hybridization of four species including this rare species that occurs only in this area of Orange County, a second species at the northernmost reach of its range, a third species that has twice the chromosomes of the others, and a fourth, common variety of Dudleya.

The High Value and Very High Value habitat is especially extensive in South Laguna. The open space functions as more of an ecological unit here than in much of the rest of the city, and, although impinged upon to a greater or lesser degree by urbanization, the vast bulk of it is sensitive.

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

The Biological Values Map in particular is an important resource map for open space preservation because it identifies and ranks open space habitats within the City. Of the four different values attributed to the City's open space habitats, High Value and Very High Value habitats are the most sensitive. The High Value habitats are dominated by a diversity of indigenous plant communities and wildlife disperson corridors and are usually linked with open space areas outside the City. The Very High Value rank, however, represents the most significant and sensitive open space in Laguna Beach; these are areas that are likely to experience the most impact from urban development. Rare or endangered plant species included in this category are listed in Table 3-4.

Designation of Very High and High Value habitats alerts the City and property owner to the possible environmental sensitivity of the site. Due to the scale of the map, however, a more detailed environmental assessment may be required on a site-specific basis for properties which contain or are adjacent to these habitats.
<table>
<thead>
<tr>
<th>SPECIES</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Diego Chamise</td>
<td>Hobo-Aliso Canyon ridge</td>
</tr>
<tr>
<td><em>Adenostoma fasciculatum</em> var. <em>obtusifolium</em> (northern disjunct)</td>
<td>Ceanothus Canyon (south ridge)</td>
</tr>
<tr>
<td>Maidenhair fern</td>
<td>Aliso Canyon</td>
</tr>
<tr>
<td><em>Adiantum jordanii</em> (local interest)</td>
<td>Mathis Canyon</td>
</tr>
<tr>
<td>Yerba mansa</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td><em>Anemopsis californica</em> (local interest)</td>
<td>Aliso Canyon</td>
</tr>
<tr>
<td>Catalina mariposa lily</td>
<td>Rancho Laguna watershed</td>
</tr>
<tr>
<td><em>Calochortus catalinae</em> (CNPS listed)</td>
<td></td>
</tr>
<tr>
<td>Foothill mariposa lily</td>
<td></td>
</tr>
<tr>
<td><em>Calochortus weedii</em> var. <em>intermedius</em> (CNPS listed)</td>
<td></td>
</tr>
<tr>
<td>Big-podded - warty-stemmed ceanothus intergrade</td>
<td>throughout South Laguna, north to San Clemente</td>
</tr>
<tr>
<td><em>Ceanothus megacarpus</em> x <em>verrucosus</em> (regionally unique cline)</td>
<td>Canyon</td>
</tr>
<tr>
<td>Non-spined greenbark ceanothus</td>
<td></td>
</tr>
<tr>
<td><em>Ceanothus spinosus</em> var. <em>nov.</em> (local interest)</td>
<td>Hobo Canyon</td>
</tr>
<tr>
<td>San Diego mountain mahogany</td>
<td></td>
</tr>
<tr>
<td><em>Cercocarpus minutiflorus</em> (northern disjunct)</td>
<td>Hobo-Goff ridge</td>
</tr>
<tr>
<td></td>
<td>Hobo Canyon</td>
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<tr>
<td></td>
<td>Hobo-Aliso ridge</td>
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<td></td>
<td>Aliso Canyon</td>
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<tr>
<td></td>
<td>Niguel Hill-Aliso Peak</td>
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<tr>
<td></td>
<td>Ceanothus Canyon</td>
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<td></td>
<td>Badlands Canyons</td>
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<tr>
<td>SPECIES</td>
<td>LOCATION</td>
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<td>------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>California lace fern</td>
<td>Alexander Canyon</td>
</tr>
<tr>
<td>Cheilanthes californica (montane disjunct)</td>
<td></td>
</tr>
<tr>
<td>Ramona spineflower</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td>Chorizanthe procumbens var. albiflora (CNPS listed)</td>
<td></td>
</tr>
<tr>
<td>Orange County Turkish rugging</td>
<td>Canyon Acres</td>
</tr>
<tr>
<td>Chorizanthe staticoides var. chrysacantha (Orange County endemic)</td>
<td>Big Bend (Laguna Canyon) Park Canyon</td>
</tr>
<tr>
<td></td>
<td>Rimrock Canyon</td>
</tr>
<tr>
<td></td>
<td>Rancho Laguna watershed Arch Canyon</td>
</tr>
<tr>
<td></td>
<td>Porta-Fina Canyon            Mathis Divide ridge</td>
</tr>
<tr>
<td></td>
<td>Alexander Canyon-Goff ridge Hobo-Goff ridge</td>
</tr>
<tr>
<td></td>
<td>Moulton Meadows and Hobo-Moulton ridge</td>
</tr>
<tr>
<td></td>
<td>Hobo-Aliso Canyon ridge Sycamore Hills</td>
</tr>
<tr>
<td>Bush rue</td>
<td>Irvine Bowl</td>
</tr>
<tr>
<td>Cneoridium dumosum (northern range edge species)</td>
<td>Canyon Acres</td>
</tr>
<tr>
<td></td>
<td>Park Canyon</td>
</tr>
<tr>
<td></td>
<td>Rancho Laguna watershed Agate Canyon</td>
</tr>
<tr>
<td></td>
<td>Diamond Canyon</td>
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<tr>
<td></td>
<td>Crestview Canyon             Crestview/Juanita ridge</td>
</tr>
<tr>
<td></td>
<td>Arch Canyon</td>
</tr>
<tr>
<td></td>
<td>Porta-Fina Canyon            Alexander Canyon-Goff ridge Hobo Canyon</td>
</tr>
<tr>
<td></td>
<td>Aliso Canyon</td>
</tr>
<tr>
<td></td>
<td>Ceanothus Canyon             South Laguna hillsides</td>
</tr>
<tr>
<td>Summer holly</td>
<td>Hobo Canyon</td>
</tr>
<tr>
<td>Ceanoestaphylia diversifolia ssp. diversifolia (CNPS listed)</td>
<td>Ceanothus Canyon             Laguna Lakes</td>
</tr>
<tr>
<td>Water pigmy-stone crop</td>
<td></td>
</tr>
<tr>
<td>Crassula aquatica (local interest)</td>
<td></td>
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</tbody>
</table>

Exhibit 9
Page 68 of 96
<table>
<thead>
<tr>
<th>SPECIES</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western dichondra</td>
<td>Temple Hills</td>
</tr>
<tr>
<td><em>Dichondra occidentalis</em></td>
<td>Hobo-Goff ridge</td>
</tr>
<tr>
<td>(CNPS listed)</td>
<td>Moulton Meadows and</td>
</tr>
<tr>
<td></td>
<td>Hobo-Moulton ridge</td>
</tr>
<tr>
<td>Ladies’ fingers dudleya</td>
<td>Hobo-Aliso ridge</td>
</tr>
<tr>
<td><em>Dudleya edulis</em></td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td>(local interest)</td>
<td></td>
</tr>
<tr>
<td>Lance-leaved Dudleya octoploid segregate</td>
<td></td>
</tr>
<tr>
<td><em>Dudleya lanceolata</em></td>
<td>Aliso Canyon Gorge</td>
</tr>
<tr>
<td>(regionally unique genetic form)</td>
<td>Hobo-Aliso ridge</td>
</tr>
<tr>
<td>Many-stemmed dudleya</td>
<td></td>
</tr>
<tr>
<td><em>Dudleya multicaulis</em></td>
<td></td>
</tr>
<tr>
<td>(Federal candidate)</td>
<td></td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Laguna Beach dudleya</td>
<td></td>
</tr>
<tr>
<td><em>Dudleya stolonifera</em></td>
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<tr>
<td>(State threatened)</td>
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<tr>
<td>San Diego barrel cactus</td>
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<tr>
<td><em>Perocactus virideascens</em></td>
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<tr>
<td>(Federal candidate)</td>
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</tr>
<tr>
<td>Palmer’s grappling hook</td>
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</tr>
<tr>
<td><em>Harpagonella palmeri var. palmeri</em></td>
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</tr>
<tr>
<td>(CNPS listed)</td>
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</tr>
<tr>
<td>(foliolose) lichen</td>
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<tr>
<td><em>Hypogymnia mollis</em></td>
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<td>(regionally rare)</td>
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<tr>
<td>Basket rush</td>
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<tr>
<td><em>Juncus textilis</em></td>
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<td>(local interest)</td>
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<td>SPECIES</td>
<td>LOCATION</td>
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<tr>
<td>------------------------------------------------------------------------</td>
<td>----------------------------------------------------</td>
</tr>
<tr>
<td>(foliole) lichen</td>
<td>Aliso Canyon</td>
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<tr>
<td>Neiba cerruchoides</td>
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<tr>
<td>(regionally rare)</td>
<td></td>
</tr>
<tr>
<td>California adder’s-tongue fern</td>
<td>Rancho Laguna watershed</td>
</tr>
<tr>
<td>Ophioglossum lusitanicum ssp. californicum</td>
<td></td>
</tr>
<tr>
<td>(CNPS listed)</td>
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</tr>
<tr>
<td>(foliole) lichen</td>
<td>Aliso Canyon</td>
</tr>
<tr>
<td>Parmotrema hypoleucinum</td>
<td></td>
</tr>
<tr>
<td>(regionally rare)</td>
<td></td>
</tr>
<tr>
<td>(crustose) lichen</td>
<td>Aliso Canyon</td>
</tr>
<tr>
<td>Pertusaria flavicunda</td>
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<tr>
<td>(regionally rare)</td>
<td></td>
</tr>
<tr>
<td>Silverback fern</td>
<td>Mathis Canyon</td>
</tr>
<tr>
<td>Pityrogramma triangularis var. viscosa (northern disjunct)</td>
<td></td>
</tr>
<tr>
<td>Fish’s milkwort</td>
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</tr>
<tr>
<td>Polygala cornuta fishiae</td>
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</tr>
<tr>
<td>Western bracken fern</td>
<td>Canyon Acres</td>
</tr>
<tr>
<td>Pteridium aquilinum</td>
<td>Agate Canyon</td>
</tr>
<tr>
<td>(montana disjunct)</td>
<td>Diamond Canyon</td>
</tr>
<tr>
<td>Maritimes or coastal scrub oak</td>
<td>Crestview/Juanita ridge</td>
</tr>
<tr>
<td>Quercus dumosa</td>
<td>Niguel Hill</td>
</tr>
<tr>
<td>(local interest)</td>
<td></td>
</tr>
<tr>
<td>Engelmann oak</td>
<td>Big Bend (Laguna Canyon)</td>
</tr>
<tr>
<td>Quercus engelmannii</td>
<td>Ceanothus Canyon</td>
</tr>
<tr>
<td>(CNPS listed)</td>
<td>Badlands Park (west)</td>
</tr>
<tr>
<td>Spiny redberry</td>
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<tr>
<td>Rhamnus crocea</td>
<td></td>
</tr>
<tr>
<td>(regionally rare)</td>
<td></td>
</tr>
<tr>
<td>Coulter’s matilija poppy</td>
<td></td>
</tr>
<tr>
<td>Romneya coulteri var. coulteri</td>
<td></td>
</tr>
<tr>
<td>(CNPS listed)</td>
<td></td>
</tr>
<tr>
<td>SPECIES</td>
<td>LOCATION</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Hummingbird sage</td>
<td>Mathis Canyon</td>
</tr>
<tr>
<td><em>Salvia spathacea</em></td>
<td>Bonn Drive Canyon</td>
</tr>
<tr>
<td>(southern disjunct)</td>
<td>Canyon Acres</td>
</tr>
<tr>
<td>Creeping snowberry</td>
<td>Bonn Drive and adj. canyons</td>
</tr>
<tr>
<td><em>Symphoricarpus mollis</em></td>
<td>Hobo Canyon</td>
</tr>
<tr>
<td>(local interest)</td>
<td>Ceanothus Canyon</td>
</tr>
<tr>
<td>Jesuit flower</td>
<td>Mathis Canyon</td>
</tr>
<tr>
<td><em>Venezasia carpesioides</em></td>
<td>Ceanothus Canyon</td>
</tr>
<tr>
<td>(local interest)</td>
<td>Badlands Canyons</td>
</tr>
<tr>
<td>Big-leaved crownbeard</td>
<td>Binion canyons/slopes</td>
</tr>
<tr>
<td><em>Verbena dissita</em></td>
<td>Arch Canyon</td>
</tr>
<tr>
<td>(State threatened)</td>
<td>Porta-Fina Canyon</td>
</tr>
<tr>
<td></td>
<td>Alexander Canyon-Goff ridge</td>
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<tr>
<td></td>
<td>Hobo Canyon</td>
</tr>
<tr>
<td></td>
<td>Aliso Canyon</td>
</tr>
<tr>
<td></td>
<td>Aliso Peak</td>
</tr>
<tr>
<td></td>
<td>Ceanothus Canyon</td>
</tr>
<tr>
<td></td>
<td>Badlands Canyons</td>
</tr>
<tr>
<td>SPECIES</td>
<td>LOCATION</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>fairy shrimp (species not identified)</td>
<td>Aliso-Hobo Canyon ridge — in vernal pool</td>
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<td>Arboreal salamander</td>
<td>Sycamore Hills</td>
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<tr>
<td>Anaxides lucubris (local interest)</td>
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<tr>
<td>Western spadefoot toad</td>
<td>Sycamore Hills</td>
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<tr>
<td>Scaphiopus hammondi (CA. Species of Special Concern)</td>
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<tr>
<td>California red-legged frog</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td>Rana aurora draytoni (Federal candidate)</td>
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</tr>
<tr>
<td>Silvery legless lizard</td>
<td>Moulton Meadows</td>
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<tr>
<td>Anniella pulchra pulchra (local interest)</td>
<td>Miguel Hill</td>
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<tr>
<td>San Diego horned lizard</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td>Phrynus soma coronatum blainvillei (Federal candidate)</td>
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<tr>
<td>Orange-throated whiptail</td>
<td>Badlands Canyons</td>
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<tr>
<td>Chimidophorus hyperthrus (Federal candidate)</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td>Western whiptail</td>
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<tr>
<td>Chimidophorus tigris</td>
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<tr>
<td>Ringneck snake</td>
<td>DeWitt</td>
</tr>
<tr>
<td>Diadophis punctatus (Federal candidate)</td>
<td>Laguna Canyon</td>
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<tr>
<td>Two-striped garter snake</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td>Thamnophis couchi hammondi (Federal candidate)</td>
<td>Aliso Canyon</td>
</tr>
<tr>
<td>Red-diamond rattlesnake</td>
<td>Canyon Acres</td>
</tr>
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<td>Crotalus ruber ruber (Federal candidate)</td>
<td>Laguna Canyon</td>
</tr>
<tr>
<td>Cooper’s hawk</td>
<td>Bonn Drive Canyon</td>
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<tr>
<td>Accipiter cooperi (CA. Species of Special Concern)</td>
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<tr>
<td>Sharp-shinned hawk</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td>Accipiter striatus (CA. Species of Special Concern)</td>
<td></td>
</tr>
<tr>
<td>SPECIES</td>
<td>LOCATION</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Red-tailed hawk</td>
<td>Citywide open space</td>
</tr>
<tr>
<td><em>Buteo jamaicensis</em></td>
<td></td>
</tr>
<tr>
<td>(local interest)</td>
<td></td>
</tr>
<tr>
<td>Red-shouldered hawk</td>
<td>Mathis Canyon</td>
</tr>
<tr>
<td><em>Buteo lineatus</em></td>
<td>Wood Canyon</td>
</tr>
<tr>
<td>(local interest)</td>
<td></td>
</tr>
<tr>
<td>Black-shouldered kite</td>
<td>Wood Canyon (breeding)</td>
</tr>
<tr>
<td><em>Elanus caeruleus</em></td>
<td>Aliso Canyon (local interest)</td>
</tr>
<tr>
<td>(CA. Fully Protected)</td>
<td></td>
</tr>
<tr>
<td>Greater roadrunner</td>
<td>Citywide (occasional)</td>
</tr>
<tr>
<td><em>Geococcyx californianus</em></td>
<td></td>
</tr>
<tr>
<td>(local interest)</td>
<td></td>
</tr>
<tr>
<td>Southwestern willow flycatcher</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td><em>Empidonax traillii extimus</em></td>
<td></td>
</tr>
<tr>
<td>(Federal candidate)</td>
<td></td>
</tr>
<tr>
<td>Coastal cactus wren</td>
<td>Aliso Canyon, Laguna Hts.</td>
</tr>
<tr>
<td><em>Campylorhynchus brunniceapillus couesi</em></td>
<td>(De Witt) Laguna Canyon</td>
</tr>
<tr>
<td>(Federal candidate)</td>
<td></td>
</tr>
<tr>
<td>California gnatcatcher</td>
<td>Aliso Canyon, Laguna Hts.</td>
</tr>
<tr>
<td><em>Polioptila californica</em></td>
<td>(De Witt) Laguna Canyon</td>
</tr>
<tr>
<td>(Federal listed as threatened)</td>
<td></td>
</tr>
<tr>
<td>Loggerhead shrike</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td><em>Lanius ludovicianus</em></td>
<td>Aliso Canyon</td>
</tr>
<tr>
<td>(Federal candidate)</td>
<td></td>
</tr>
<tr>
<td>Least Bell's vireo</td>
<td>Sycamore Hills (possible)</td>
</tr>
<tr>
<td><em>Vireo bellii pusillus</em></td>
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<tr>
<td>(Federal listed as endangered)</td>
<td></td>
</tr>
<tr>
<td>Rufous-crowned sparrow (southern race)</td>
<td>Wood Canyon</td>
</tr>
<tr>
<td><em>Aimophila ruficeps canescens</em></td>
<td>South Laguna hillsides</td>
</tr>
<tr>
<td>(Federal candidate)</td>
<td></td>
</tr>
<tr>
<td>Yellow warbler</td>
<td>Laguna Lakes (breeding)</td>
</tr>
<tr>
<td><em>Dendroica petechia brevisteri</em></td>
<td></td>
</tr>
<tr>
<td>(CA. Species of Special Concern)</td>
<td></td>
</tr>
<tr>
<td>Yellow-breasted chat</td>
<td>Laguna Lakes (breeding)</td>
</tr>
<tr>
<td><em>Icteria virens</em></td>
<td></td>
</tr>
<tr>
<td>(CA. Species of Special Concern)</td>
<td></td>
</tr>
</tbody>
</table>
### TABLE 3-4 (CON’T.)

<table>
<thead>
<tr>
<th>SPECIES</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pacific little pocket mouse</td>
<td>Moulton Meadows</td>
</tr>
<tr>
<td><em>Perognathus longimembris pacificus</em> (Federal candidate)</td>
<td>Niguel Hill</td>
</tr>
<tr>
<td>San Diego pocket mouse</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td><em>Perognathus fallax</em> (Federal candidate)</td>
<td></td>
</tr>
<tr>
<td>Longtail weasel</td>
<td>Aliso Creek</td>
</tr>
<tr>
<td><em>Mustela frenata</em> (local interest)</td>
<td></td>
</tr>
<tr>
<td>American badger</td>
<td>Badlands Canyons</td>
</tr>
<tr>
<td><em>Taxidea taxus</em> (CA. Species of Special Concern)</td>
<td></td>
</tr>
<tr>
<td>Gray fox</td>
<td>Sycamore Hills</td>
</tr>
<tr>
<td><em>Urocyon cinereargenteus</em> (local interest)</td>
<td>Sporadic throughout South Laguna</td>
</tr>
<tr>
<td>Mountain lion</td>
<td>Wood Canyon (occasional)</td>
</tr>
<tr>
<td><em>Felis concolor</em> (local interest)</td>
<td></td>
</tr>
<tr>
<td>Bobcat</td>
<td>Wood/Mathis Canyons (occasional)</td>
</tr>
<tr>
<td>Lynx rufus (local interest)</td>
<td></td>
</tr>
<tr>
<td>Mule deer</td>
<td>Wood/Mathis Canyons</td>
</tr>
<tr>
<td><em>Odocoileus hemionus</em> (local interest)</td>
<td>Hobo-Goff ridge</td>
</tr>
<tr>
<td></td>
<td>Hobo-Moulton Meadows ridge</td>
</tr>
<tr>
<td></td>
<td>Aliso Canyon</td>
</tr>
<tr>
<td></td>
<td>Binion marine terrace and slopes</td>
</tr>
</tbody>
</table>

Sources: Laguna Beach Biological Resources Inventory, October 1982
Sycamore Hills Biological Resources Inventory, June 1983
South Laguna Biological Resources Inventory, January 1992
Laguna Canyon Biological Resources Inventory, May 1993
City of Laguna Beach
This evaluation will be included in the development review process, and will outline the precise extent of the environmentally sensitive area and evaluate the environmental effects of development on adjacent vegetative and wildlife habitats.

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

POLICIES

8-A Preserve the canyon wilderness throughout the city for its multiple benefits to the community, protecting critical areas adjacent to canyon wilderness, particularly stream beds whose loss would destroy valuable resources.

8-B Prohibit vehicular use in open space areas, unless it is required for public health and safety, and monitor these areas to ensure enforcement of this policy.

8-C Identify and maintain wildlife habitat areas in their natural state as necessary for the preservation of species.

8-D Protect rangeland for deer population in the City; pursue such protection in areas adjacent to, but outside the City.

8-E Protect the remaining stands of native Coastal Live Oak (Quercus Agrifolia) and Western Sycamore (Platanus Racemosa) located in upper Laguna and El Toro Canyons, and in Top of the World Park as a unique and irreplaceable resource.

8-F Environmentally Sensitive Areas (ESA's) as defined in Section 30107.5 of the California Coastal Act shall be identified and mapped on a Coastal ESA Map. The following areas shall be designated as Environmentally Sensitive Areas: those areas shown on the Biological Resource Values Map in the Open Space/Conservation Element as very high habitat value and streams on the Major Watersheds and Drainage Courses Map which are also streams as identified on the USGS 7.5 Minute Quadrangle Series and any other areas which contain environmentally sensitive habitat resources as identified through an onsite biological assessment process,
including areas of high and moderate habitat value on the Biological Resources Values Map and areas which meet the definition of ESA's in Section 30107.5 of the Coastal Act, including streams, riparian habitats, and areas of open coastal waters, including tidepools, areas of special biological significance, habitats of rare or endangered species, near-shore reefs and rocky intertidal areas and kelp beds.

8-F Require detailed biological assessments for all subdivisions and fuel modification proposals located within areas designated as high or very high value on the Biological Values Map. (see proposed policy 8-G)

8-3 8-G Detailed biological assessments shall be required for all new development proposals, including all subdivisions and fuel modification proposals, located within or adjacent to areas designated as Environmentally Sensitive Areas on the Coastal ESA Map high or very high value on the Biological Values Map. Such biological assessments shall utilize the biological value criteria specified in the Biological Resources Inventories (1983 and 1992). To protect these resources, the following shall be required:

1. No new development proposals shall be located in areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map except for uses dependent upon such resources. (see policy 8-L)

8-F(3) 8-H Where development for any type of construction, including grading, is proposed on an existing subdivided parcel that is not a legal building site which is otherwise developable (i.e., able to be served by utilities and access, and on slopes able to accommodate development consistent with City provision on slope density, grading, hazards, subdivision and road access), and the development is consistent with all other policies of this Land Use Plan except for its location entirely within an identified ESA as confirmed by a site-specific assessment, the following shall apply:

a. Resource management uses including estuaries, nature centers and other similar scientific or recreational uses are permitted subject to a Conditional Use Permit to assure that uses are sited and designed to prevent degradation of the resource value; or alternatively,

b. Transfer of a density bonus to another property in the vicinity able to accommodate increased density consistent with the policies of the Land Use Plan concurrent with the recording of an open space easement or other similar instrument over the habitat area of the parcel. (see
policy 8-I(c))

e. Existing dwellings shall be designated as nonconforming uses but shall be allowed to be rebuilt or repaired if damaged or destroyed by natural disaster provided, however, that the floor area, height and bulk of the structure not exceed that of the destroyed structure by more than 10 percent.

4b. No new parcels building sites shall be created which are entirely within a coastal ESA or which do not contain a site where development can occur consistent with the ESA policies of this Plan.

c. Very high value habitats shall be preserved and high value habitat shall be preserved to the greatest extent possible; and, mitigation measures for immediately adjacent areas shall also be required.

8-I Where development is proposed on a legal building site, as defined in the zoning ordinance, and is consistent with all other policies of this Land Use Plan except for its location entirely within an area identified and mapped on the coastal ESA map, the following shall apply:

a. Resource management uses including estuaries, nature centers and other similar scientific or recreational uses are permitted subject to a Conditional Use Permit to assure that uses are sited and designed to prevent degradation of the resource value.

b. A transfer of density may be permitted to another property in the vicinity able to accommodate the density consistent with the policies of the Land Use Plan and concurrent with the recordation of an open space easement or other similar instrument over the environmentally sensitive area of the (original) parcel; or alternatively.

c. Construction or remodeling of a single-family house will be allowed, only if the area of development or development-related disturbance is minimized and environmentally sensitive areas are protected. Mitigation will likely include protection of habitat during construction and prohibition of fencing; mitigation may also include, but is not limited to, enhancement of existing on-site degraded habitat and/or provision of an on-site biologist during the construction process.

d. Existing dwellings may be rebuilt in-kind, if destroyed by natural disaster.
8-I. Encourage applicants to utilize the density transfer process by granting a density bonus in conjunction with the density transfer in order to protect an environmentally sensitive area that would otherwise be developed. If appropriate, such density transfer should incorporate the concept of clustering on the receiving site to minimize impacts of the density bonus.

8-K* When subdivision ex-fuel-modification proposals are situated in areas designated as high or very high value on the Biological Values Map and where these are confirmed by subsequent onsite assessment:

a. Require maximum preservation possible of the high value habitats be preserved to the greatest extent possible and when appropriate, require that mitigation measures be enacted for immediately adjacent areas.

b. Require preservation of the very high value habitats be preserved and, when appropriate, require that mitigation measures be enacted for immediately adjacent areas.

c. Create no new building sites parcels shall be created which are entirely within a coastal ESA or which do not contain an area where development can occur consistent with the ESA policies of this Plan.

8-L. Except as otherwise provided in Policies 8-H, 8-I, and 8-K, no development proposals shall be located in areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map except for uses dependent upon such resources.

8-J(2) 8-M. When new development proposals are situated in areas adjacent to areas designated as "Environmentally Sensitive Areas" as designated on the Coastal ESA Map and where these are confirmed by subsequent onsite assessment, require that development be designed and sited to prevent impacts which would significantly degrade such areas.

*note: proposed policy 8-K combines previous policies 8-G, 8-H and 8-J(3)(d)
G-R G-N As a condition of new development in South Laguna, require the identification of environmentally sensitive areas, including chaparral and coastal sage scrub. Intrusion into these areas for wildlands fuel modification programs should not be permitted. Prohibit intrusion of fuel modification programs into environmentally sensitive areas, including chaparral and coastal sage scrub.

G-L G-Q Preserve and protect fish and/or wildlife species for future generations.

G-N G-P Preserve a continuous open space corridor within the hillsides in order to maintain animal migration opportunities.

G-W G-O Encourage the preservation of existing drought-resistant, native vegetation and encourage the use of such vegetation in landscape plans.

G-Q Map environmentally sensitive areas in South Laguna and include these areas on City maps. (ECA and Biological Resources Map).

G-R Identify development projects situated in or immediately adjacent to high or very high value habitat in documentation accompanying any Design Review Board application.
Background: A watershed is an area that collects rainfall, and is generally defined as separating two or more drainage systems. The rainfall captured within a watershed flows from the highest boundary of the drainage area downhill where it eventually collects into clearly defined watercourses and channels. To qualify as a watercourse, the feature must include a streambed, banks, a channel and periodic although not necessarily contiguous flows. A watercourse is thus one distinctly different component in the overall watershed, and serves to convey runoff that falls within the watershed. Laguna Beach supports 17 major watersheds and many smaller more localized drainage areas. The characteristics of these watersheds are described in Table 3-5. In addition, the attached maps entitled "Major Watersheds and Drainage Courses" denotes their physical boundaries. Larger regional watershed areas are also delineated in the Major Watersheds & Drainage Courses Maps.

Through the process of erosion, the water flowing from the upper boundaries of the watershed to its point of confluence with another stream or to its point of disposal in the ocean creates landforms. If this down-cutting action is intense, a channel may create a canyon, the sides of which are composed of cliffs or series of cliffs rising from its bed. Gentler erosive action within the watershed may produce less dramatic topographic relief, and instead form a valley in the form of a hollow or low-lying land bounded by hills or mountain ranges.

In Laguna Beach, such conditions have combined to form a striking geomorphic locale that provides dramatic changes in relief in the form of ridgelines, canyons and valleys that are quite steep in relationship to each other. This can produce a sometimes volatile runoff condition. The combination of a relatively shallow soil profile, rocky exposures and steep slopes that accelerate the flow of water, reduce the amount of infiltration and ponding, and can produce high rates of runoff.

Rapid conveyance of runoff in Laguna Beach can place exceptional demands on downstream storm drain improvements, especially those constructed during the earlier urbanization of the coastal shelf between the 1920's and late 1950's. In many cases, these facilities were sized without consideration to future upstream development, or changes in the cycle of rainfall characteristics. For example, the average annual rainfall in 1940 was 7.1 inches, or approximately one-half of that experienced during more recent times.
<table>
<thead>
<tr>
<th>Watershed</th>
<th>Area In Acres</th>
<th>Vert. Relief In Feet</th>
<th>Length In Feet</th>
<th>Gradient Av.in %</th>
<th>Flow C.F.S.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Irvine Cove</td>
<td>107</td>
<td>600</td>
<td>4,000</td>
<td>15.0</td>
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<tr>
<td>2. Boat Canyon</td>
<td>328</td>
<td>780</td>
<td>10,000</td>
<td>7.8</td>
<td>343</td>
</tr>
<tr>
<td>3. Irvine Bowl Cyn</td>
<td>220</td>
<td>600</td>
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<tr>
<td>4. Laguna Canyon</td>
<td>5760</td>
<td>445</td>
<td>33,750</td>
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<td>5. Wood Canyon</td>
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<td>400</td>
<td>20,000</td>
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<td>6. Canyon Acres</td>
<td>295</td>
<td>930</td>
<td>6,200</td>
<td>15.0</td>
<td>442</td>
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<td>7. Hidden Valley Cyn</td>
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<td>940</td>
<td>9,000</td>
<td>10.4</td>
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<td>8. Rimrock Canyon</td>
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<td>730</td>
<td>6,400</td>
<td>11.0</td>
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<tr>
<td>9. Bluebird Cyn</td>
<td>314</td>
<td>692</td>
<td>5,800</td>
<td>11.9</td>
<td>444</td>
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<tr>
<td>10. Lower Bluebird</td>
<td>642**</td>
<td>610</td>
<td>10,800</td>
<td>5.7</td>
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<td>11. Diamond Cyn</td>
<td>95</td>
<td>610</td>
<td>3,800</td>
<td>16.0</td>
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<td>12. Arch Beach Cyn</td>
<td>223</td>
<td>810</td>
<td>5,200</td>
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<td>13. Area 1 (Hobo Cyn)</td>
<td>418</td>
<td>805</td>
<td>8,422</td>
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<td>14. Area 2 (Aliso Creek)</td>
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<td>770</td>
<td>7,950</td>
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<td>15. Area 3 (Ceanothus Cyn)</td>
<td>163</td>
<td>689</td>
<td>4,913</td>
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<td>16. Area 4 (Badlands Cyns)</td>
<td>250</td>
<td>440</td>
<td>3,105</td>
<td>14.2</td>
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<tr>
<td>17. Area 5 (Three Arch Bay)</td>
<td>131</td>
<td>320</td>
<td>2,707</td>
<td>11.8</td>
<td>352</td>
</tr>
</tbody>
</table>

* Cubic Feet per Second, 10-Yr. Storm
** Includes 8 & 9

Source: City of Laguna Beach Master Drainage Plan, July 1982
South Laguna Beach Master Drainage Plan, April 1993
In addition, the construction of impervious surfaces, such as streets, driveways and roofs, reduces the area of soils available for absorption of rainfall and consequently increases the concentration of runoff. The demand for urban land has also resulted in the placement of structures in and adjacent to flood-prone areas, thereby exacerbating the potential for flooding and property and environmental damage, as well as repair and maintenance liabilities. As development in the City has increased, these problems have worsened accordingly.

**Issue Identification and Analysis:** The City has increased its efforts to protect watersheds and natural watercourses during the last decade, particularly since adoption of the first Open Space and Conservation Element to the General Plan. There are several reasons for this interest: disturbance of these lands may create hazards such as flooding and mudslides, destroy important public resources such as water supplies and water quality, or damage valuable habitat lands and ecological systems. Any of these events could threaten the general welfare of a community and result in economic loss. The direct costs of not protecting these areas can be high, affecting both property owners and government interests. These costs may include the reduction of property values, the actual destruction of property or the repair or installation of expensive storm drain systems and related public facilities.

Significant natural watercourses in the community were mapped and officially recognized when the City Council adopted an "Environmentally Sensitive Areas Map" in 1974. The map, which was prepared using aerial photographs, topographic maps and individual site analysis, records not only watercourses, but also earthquake faults, major landslide areas, open space preserve areas and sensitive coastal properties. These watercourses are generally depicted on the attached map entitled "Major Watersheds and Drainage Courses". Later, following the annexation of South Laguna, an Interim Significant Watercourse Map for the South Laguna area was prepared using aerial photographs, topographic maps and field checks; this Map was adopted in 1991 for use until the significant watercourse designation could be adopted on a permanent basis. This map is now integrated into the attached Major Watersheds & Drainage Courses Map.

Environmentally sensitive watercourses are defined in the City's Municipal Code as those which "serve a distinct functional, scenic or ecological purpose in their natural condition and setting and which are shown on the Environmentally Sensitive Areas Map". Development projects which encroach into watercourses designated on the Environmentally Sensitive Areas Map are subject to a special review process and detailed design standards, including site planning requirements, setback provisions and architectural review. Significant natural watercourses and watershed conditions for
Laguna Beach appear on the map entitled "Landforms and Hydrology" "Major Watersheds and Drainage Courses."

Because some past urbanization has resulted in drainage problems, construction of remedial flood control works is needed in many areas. In response to the need for an upgraded drainage system, the City adopted a Master Plan of Drainage in 1982 which identifies the need for 6.6 million dollars worth of facilities citywide; approximately 40% of the identified improvements were completed by 1993. A Master Plan of Drainage was also prepared for the South Laguna Area in 1993 which identifies the need for 6.25 million dollars in drainage improvements. The implementation of the both plans, however, is dependent upon the pace of future development and subdivision activity, and cannot be considered as the only solution to drainage needs. Due to the high cost of these facilities, comprehensive storm water management planning must integrate engineered flood control works with other considerations such as source control, use of natural drainage amenities and watershed management.

The utilization of various government programs, policies and development standards affords an opportunity to protect both the natural and urban environment from the damaging aspects of runoff. However, it must be recognized that runoff management programs have inherent limitations:

Providing protection against any given event, e.g. against the worst storm water runoff of record, does not guarantee that a greater runoff event will not occur;

Since rainfall quantities, especially for localized, high-intensity storms, cannot be accurately predicted, drainage system design must rely on historical observation and experience;

The goal of requiring post-development levels or runoff not to exceed pre-development levels is rarely fully attainable in a hillside environment due to insufficient storage capacity for peak flows;

Providing protection against a 100-year storm event does not guarantee protection against a lesser frequency, i.e. 10 or 25-year storm event, since the rainfall producing this 100-year flood may be of much longer duration and lower average intensities than that producing the 10-year storm drain design peak.

Although the City has adopted a policy of protecting natural drainage courses, recent evidence suggests that this policy may sometimes need to be modified in order to protect and maintain the stability of improved property. One of the causative factors of the Bluebird Canyon landslide that destroyed 24 homes in 1978 was
the down-cutting of the natural stream bed, which removed the toe support of an ancient landslide, thereby contributing to its reactivation. Similar conditions to those found in Bluebird Canyon exist throughout the region. In those areas that are developed and found to have documented evidence of down-cutting that endangers life and property, engineered solutions may have to be implemented in order to achieve an acceptable level of safety.

A series of issues raised during the preparation of the South Laguna Specific Plan may be applied to all of Laguna Beach. Primary concerns related to protection of drainage channels, streams, sensitive areas and also protection of downhill development from the effects of increased urban-related runoff. Specific issues focused on the following planning issues: erosion control and related siltation; protection of habitat values; protection of water resources from the effects of sedimentation; and development of a drainage control plan linked to an overall watershed-wide management objective.

As recommended in the South Laguna Specific Plan, it is important that runoff management programs for hillside development limit peak adverse runoff flows to the same or less than existing conditions. This is particularly important where runoff generated by uphill development outside city limits is received by downstream development located in the city. In recent years, city residences have been damaged from flooding and mud flows because of inadequate runoff management practices related to the uphill development.

The runoff plan should integrate drainage studies, preliminary engineering designs and methodologies as well as the findings of biologists into a mitigation program. Specific runoff control measures should be incorporated into the management plans and include, but not be limited to: grading design for drainage; canyon preservation; diversion of runoff exceeding natural flows to street storm drains; and landscaping/erosion control. Other runoff controls can include the installation of energy dissipators to diffuse runoff, and the creation and maintenance of catch basins.

Summary: The hydrologic effects of urban development upon natural and man-made systems require careful analysis and study based upon individual development characteristics and their relationship to the watershed. Due to the wide range of assumptions and conditions that affect the results of these studies, local policy can be instrumental in attaining consistency and an acceptable level of risk.
POLICIES

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

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

9-C a. Streams on the Major Watershed and Drainage Courses Map which are also streams as identified on the USGS 7.5 Minute Quadrangle Series, shall be identified and mapped on the Coastal Environmentally Sensitive Areas Map of the Land Use Plan. For all these streams, a minimum setback of 25 feet from the top of the stream banks shall be required in all new developments. A greater setback may be necessary in order to protect all riparian habitat based on a site-specific assessment. No disturbance of major vegetation, or development, shall be allowed within the setback area. This provision shall not apply to channelized sections of streams without significant habitat value. Where development is proposed on an existing subdivided lot which is otherwise developable consistent with all City ordinances and other policies on this Plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures, have been exhausted.

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

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

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

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

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

9-G Develop standards for maintenance of free and adequate flow in natural drainage channels.

9-H Coordinate, wherever possible, natural and man-made drainage structures so that natural channels will contribute to transport a volume of runoff equal (or as close as possible) to that which would have occurred if the project watershed were in its natural condition before development.

9-I Require new development projects to control the increase in the volume, velocity and sediment load of runoff from the greatest development areas at or near the source of increase to the greatest extent feasible.

9-J Require new developments to maintain runoff characteristics as near as possible to natural discharge characteristics by maintaining the natural conditions of the watershed.

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

9-L In conjunction with the County of Orange, prepare a flood control plan and program of implementation for Laguna Canyon and all tributaries, pending funding availability.

9-M Where feasible, require flood control programs to incorporate non-structural methods, such as preservation of watershed lands and natural drainage channels, rather than structural methods such as concrete flood channels and engineering works. In cases where structural methods are necessary, drainage structures shall be invisible conveyances, undergrounded and revegetated to camouflage any disturbance created during construction in order to provide the least damaging environmental alternative possible.
9-N Notify encourage private property owners on how to inspect and maintain private drainage structures, particularly before the rainy season and during heavy storms.

9-O Provide investigate methods of establishing and maintaining debris collection devices at suitable locations in the major canyon areas prior to the rainy season, pending funding availability.

9-P Promote the expenditure of capital improvement funds for debris collection devices.

9-QP Oppose new development within the City's surrounding areas that would result in significant adverse impacts to the City's hydrology.

9-RQ Periodically review the City Master Plan of Drainage to ensure it promotes the objectives of the City's General Plan.

9-RR Erosion control measures shall be required for new development in areas designated Hillside Management/Conservation, as specified in Title 22 of the City's Municipal Code for properties adjacent to the Aliso Greenbelt. No grading, trenching or similar activity shall be permitted within Aliso/Wood Canyon Watershed during the rainy season from October 1 to April 1.

9-RS All graded areas shall be planted and maintained for erosion control and visual enhancement purposes. Use of native plant species shall be emphasized.

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

9-RU Protect Aliso Canyon Area from any increase in flow which might have adverse impacts on the water quality in Aliso Creek and prevent excessive erosion and sedimentation and emphasize the prevention of siltation from adversely impacting the South Laguna Marine Life Refuge.

9-WV Actively work with the County on approval of Aliso Viejo Drainage Plan to ensure the integrity of water quality in Aliso Creek.
TOPIC 13: CONSTRAINT MAPPING

Background: The undeveloped hillside terrain in Laguna Beach often presents conditions that make it difficult and expensive to build. The conditions vary from site to site, but can include steep and unstable slopes and other geologically unstable areas, sensitive habitat and wildlife migration corridors, natural drainage courses, significant landforms, including rock outcrops and ridgelines, and hillside trails and view corridors.

Issue Identification and Analysis: During the development review process, existing conditions are often reviewed independently of each other. For example, view corridors and existing vegetation may be indicated on the site plan for design review, but the actual geological and hydrological conditions are often not fully evaluated until later in the review process when a geotechnical report is submitted as a part of the building plan check. Consequently, decisions about site development are made without a synthesizing of site constraint information.

The carrying capacity of a site is directly related to the degree of site constraints. The carrying capacity can be defined not only as the amount of density, but also the building location and size, number and location of accessory structures as well as areas of disturbance due to grading or installation of infrastructure and landscaping. It is through examining the ability of the land as defined by its geology, soils, topography, sensitive habitats, and other resources such as important landforms and view corridors, that the carrying capacity can be determined. The underlying assumption is that the natural environment has a limited ability to withstand different types of intensities of use; some areas are more suited for development than others, and it is through an analysis of the carrying capacity that new development can be accomplished with maximal safety benefits and minimal environmental impacts.

A constraint analysis which is prepared early in the development review process will provide information to the decision-makers about the carrying capacity of the site. Such a constraint analysis should consider the topography, drainage, soil stability, rock outcroppings, trees, accessibility, public/private view corridors, high and very high value habitats, and wildlife migration corridors as well as any other significant aspect of the site. A constraint analysis shows the location of these types of features through the use of graphics or acetate overlays on the site plan; the end result is that the most developable portion of the site is identified.
POLICIES

15-A Require a constraint analysis as a part of the discretionary review process for tentative maps and the creation of new building sites.

15-B Require the constraint analysis to consider pertinent environmental features of the site such as, but not limited to, topography, drainage, soil stability, rock outcroppings, major ridgelines, accessibility, public/private view corridors, high and very high value habitats and wildlife migration corridors; to identify, after consideration of these features, the most developable portion of the site; and to provide a ranking, if necessary, when there are multiple and competing environmental features.

15-C Require a constraint analysis for existing building sites where Design Review Board approval is required and there are multiple significant environmental constraints.
May 23, 2007

Ann Larson  
Planning Administrator  
Community Development  
505 Forest Avenue  
Laguna Beach, CA 92651

Re: Local Coastal Program Amendment 3-07

Dear Ms. Larson:

This office received Local Coastal Program Amendment 3-07 request on May 9, 2007. The amendment request involves a change to the certified Local Coastal Program by amending a portion of the City’s Open Space/Conservation Element, which would provide biological resource information by updating the Biological Resources Values Map, the Major Watersheds & Drainage Courses Map and related text by incorporating biological and watercourse information for the South Laguna and Laguna Canyon annexation areas. This constitutes the City’s third major LCP submittal of the year. Pursuant to Section 13553 of the California Code of Regulations, the Executive Director has reviewed the transmittal and determined it to be incomplete. In reviewing the submitted materials, it appears that the last public hearing for this LCP amendment was held in 1996. The Coastal Act requires that a public hearing shall be held within four years of submission of an LCP amendment.

Section 30503 of the Coastal Act States:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

At an earlier meeting held at your office as well as the meeting held at our office last week, our staffs mutually agreed that the previously submitted maps should be revised. As required by the Coastal Act, new public hearings would allow for current public input. Updating these maps is important to the Commission and we look forward to working with your staff to develop these maps.

Over time we’ve learned that the City’s maps may not be representative of the state of resources on the ground. We understand for a variety of reasons that the City may not wish to significantly update and/or change the maps that have been submitted. However, we understand that the City does wish to develop a separate set of maps that would be used to identify streams for purposes of establishing appeals areas in the City. We also understand that the City is willing to employ a biological consultant(s) in this effort. We also discussed working to generate a mapping protocol. Once the mapping effort is complete and there’s been an adequate opportunity for review and exchange of comments, these maps would undergo public review at the local level (along with the remainder of the content of the amendment) and, if approved at the local level, would be formally submitted to the Commission for consideration.
During our last meeting we discussed issues regarding lots that contain ESHA, development constraints and takings issues. Our prior concerns with the City's LCP on this issue remains. City staff indicated a process is in place to address this (e.g. legal building site status determination) and that additional information on that process would be submitted and incorporated into the LCP amendment. We believe that these procedures should be part of the coastal development permit process.

The submittal we received included a resolution of submittal, hearing information and notices, City staff reports and other materials, all of which was related to the City's hearings on the LCP submittal in the mid-1990's. These materials are now outdated. In order to complete the LCP submittal, once current, local public hearings are conducted on this matter, the City will need to submit updated materials including a current resolution of submittal, hearing dates/local hearing notices, speaker slips/written comments/minutes, mailing lists, staff reports, environmental review documents, and supplementary studies (e.g. biological reports that were used by the City to develop all of the maps, including those maps the City chooses to retain unchanged and the new maps that the City expressed a desire to prepare).

The LCP amendment request cannot be deemed complete until the above mentioned issues are resolved. Please do not limit your response to the items identified above. Please submit any additional information you feel will assist staff in analyzing the proposed amendment. I look forward to working with you on this project. Please contact me at (562) 590-5071 if you have any questions regarding this matter.

Sincerely,

Ryan Todaro
Coastal Program Analyst
RESOLUTION NO.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT 07-03 AND REQUESTING ITS CERTIFICATION BY THE COASTAL COMMISSION.

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Laguna Beach held a public hearing to consider the adoption of Laguna Beach Local Coastal Program Amendment No. 07-03, and such amendment was recommended to the City Council for adoption; and

WHEREAS, the City Council after giving notice as described by law, held at least one public meeting regarding the proposed Laguna Beach Local Coastal Program Amendment No. 07-03, and the City Council finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

WHEREAS, the City Council of the City of Laguna Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act.

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

SECTION 1. That Laguna Beach Local Coastal Program Amendment No. 07-03 is hereby approved, consisting of certain Resolutions pertaining to a General Plan Open Space/Conservation Element Amendment as listed below:

Resolution 93.072 pertaining to Topics 8, 9 & 15 including Biological Resources Map and Major Watersheds and Drainage Courses Map for the South Laguna area.

Resolution 94.006 an amendment to include the South Laguna Drainage Map and related text amendments.
Resolution 94.083 to include biological study updates, including the Biological and Drainage Map for the Laguna Canyon Annexation area.

Copies of the aforesaid Resolutions are attached hereto as Exhibits 1 through 3 respectively, and are incorporated by this reference as though fully set forth herein.

SECTION 2. That the California Coastal Commission is hereby requested to consider, approve and certify Local Coastal Program Amendment 07-03.

SECTION 3. That pursuant to Section 13551 (b) of the Coastal Commission Regulations, Laguna Beach Local Coastal Program Amendment No. 07-03 will take effect automatically upon Coastal Commission approval, as provided in Public Resources Code Sections 30512, 30513 and 30519.

ADOPTED this 18th day of September, 2007

______________________________
Toni Iseman, Mayor

ATTEST:

______________________________
City Clerk

I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Resolution No. . . . was duly adopted at a Regular Meeting of the City Council of said City held on September 18, 2007 by the following vote:

AYES: COUNCILMEMBER(S):

NOES COUNCILMEMBER(S):

ABSENT COUNCILMEMBER(S):

______________________________
City Clerk of the City of Laguna Beach, CA
April 13, 2017

Mr. Louis Longi

Longi Artist Live/Work
20432 Laguna Canyon Road
Laguna Beach, California 92651

RE: Laguna Canyon Creek Channelization

Dear Louis,

The purpose of this letter is to address the issue of the existence of a defined channel adjacent to your property and located within the Laguna Canyon Creek floodplain. Channelization is the natural and man-induced process in which runoff forms a concentrated conveyance of floodwaters, typically in the low-lying portion of the floodplain, and which is characterized by deeper and higher velocity flows.

This creek, identified as Laguna Canyon Creek, is a major drainage course. “Major” in this context is a relative term but applies to drainage that becomes concentrated, i.e., in the form of a channel, as the runoff travels downstream. The watershed for Laguna Canyon Creek is significant in size and measures approximately 7mi² at your property. The Federal Emergency Management Agency (FEMA) categorizes Laguna Canyon Creek as a channel and stream in the Flood Insurance Study (FIS). Furthermore, FEMA defines in the FIS the following creeks with the equal or smaller areas as having major drainage courses: Agua Chion Wash, Atwood Channel, Bee Canyon Wash, Bluebird Canyon, Borrego Canyon Wash, Coyote Creek, East Garden Grove-Wintersburg Channel, Handy Creek, Hicks Canyon Wash, Horne Creek, La Mirada Creek, Prima Deshecha Canada, Sand Canyon Wash, Segunda Deshecha Canada, Serrano Creek, Veeh Creek, and Walnut Canyon Channel, among others.

I observed that the channel is relatively straight through the reach adjacent to your property. The straightening or meandering of channels is not necessarily indicative of natural versus man-induced channelization. However, the creek is clearly encroached on both sides of its floodplain and lined with revetment (in vulnerable areas), which constrains the lateral movement of the channel (i.e., meandering). The increased and minimally mitigated increase in development and impervious surfaces in the upstream portions of the 7 mi² watershed have produced more runoff and consequently resulted in more incision and deepening of the channel, which makes the creek channel even more well-defined.

I did some statistical analysis of the hydraulic results, as established by the FIS, with an eye for confirmation of a well-defined channel. There is compelling evidence from the data that there is channelized flow. Between the left and right banks of the creek, the flow capacity ranges from 400 to 1,700 cubic feet per second (ft³/s), which corresponds to 13 to 57%, respectively, of the 100-year flood flows, as defined by FEMA and adopted by the City of Laguna Beach. This magnitude of channel discharge is a significant portion of the flood flow. The approximate equivalent of the 10- and 5-year flows are 1,700 and 900 ft³/s, respectively, which is where the channel flow is

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PO Box 3397 ⊕ Laguna Hills, California USA ⊕ 949.273.2222 ⊕ www.rivertec.com
predominantly through your property. The range of a 5 to 10–year flow is universally used to estimate the bank-full elevation of channels, so this definition is completely consistent with the premise of the existence of a discernable channel.

Moreover, the reach of Laguna Canyon Creek adjacent to your property is a degrading (eroding) channel that continues to become more incised and deeper. The creek has a channel formation characterized by a top width ranging from 20 – 35 feet and a bankfull depth ranging from 6 – 9 feet, which corresponds to a capacity for flood events that on average occurs every 1 – 5 years. Channel formation is defined by flood events occurring on average every 1 – 5 years,[2] which is consistent with and corroborates our hydraulic and geomorphologic analyses and assessments and field observations.

In conclusion, it is my opinion that there is ample evidence, as stated above, that establishes Laguna Canyon Creek as a channelized watercourse.

Sincerely yours,

RIVERTECH INC.

[Signature]

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

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April 10, 2017

VIA E-MAIL AND U.S. MAIL

California Coastal Commission
200 Oceangate
10th Floor
Long Beach, CA 90802

Re: Court Order for Friends of the Canyon v. California Coastal Commission (Case No. 30-2015-00776088-CU-PT-CJC)

Dear Honorable Commissioners:

Our firm represents Louis Longi and Dornin Investment Group, Real Parties in Interest ("Real Parties") in the above-mentioned lawsuit regarding the California Coastal Commission's ("Commission") approval of the Real Parties' proposed Artist Work/Live Project ("Project") in Laguna Beach. This letter clarifies the ruling by Orange County Superior Court Judge Kim G. Dunning on December 16, 2016, which has been grossly misrepresented to the Commission by Petitioner Friends of the Canyon's ("Petitioner") counsel, Ms. Julie Hamilton, in her letter of March 28, 2017.

Stated simply, the ultimate disposition of the litigation was that the Court issued a writ of mandate and ordered the Commission to: 1) revoke its January 8, 2015 decision to conditionally approve the Project's coastal development permit ("CDP"), and 2) rehear the matter. (Exhibit A, Second Amended Peremptory Writ of Mandate/Court Order dated December 16, 2016 ("Court Order").) The Court Order was based solely on procedural grounds; because several Commissioners failed to disclose ex parte communications in the time and manner required by the Public Resources Code, the Court determined that the original appeal hearing was invalid as a matter of law. Where this occurs, Public Resources Code Section 30328 specifies that the Court can only revoke the Project's CDP and remand the matter to the Commission for a new hearing. In this case, it is as if the original appeal hearing never occurred, and therefore the Commission must now conduct a de novo hearing.

Ms. Hamilton, however, misleads the Commission by making the wholly inaccurate statement that the Court definitively "ruled on the sufficiency of the evidence to support the Commission's findings for approval." (Hamilton Letter, P. 1.) Specifically, Ms. Hamilton claims
the Court ruled on the substantive issues presented in her petition, and that the Court's statements about these issues is legally binding on the Commission in a future hearing. This is patently false. The Court Order (Exhibit A) merely revokes the CDP and remands the matter to the Commission for a new hearing. Ms. Hamilton disingenuously asserts that the Court's initial Statement of Decision (dated September 22, 2016) is the Court's final ruling. This is incorrect – only the Court Order is the operative document. And in fact, the Court Order specifically excluded the Statement of Decision—no mention of it is made. It should be noted that in her letter, Ms. Hamilton fails to cite this Court Order or include it as an exhibit.

While the Court's initial Statement of Decision may appear, on its face, to be important, in fact it is not. Once the Court determined that a procedural violation occurred, it correctly realized that its opinions about substantive issues (i.e., stream setback and rural character/small-scale policies) were extraneous and legally non-binding. Therefore, the Court's Statement of Decision is irrelevant and has no legal force or effect on the Commission's upcoming evaluation of Petitioner's appeal.

The reason for this, as the Court recognized, is that the Commission is to make its decision at the new hearing based on the evidence before it at that hearing, and looking at the Project before it at that time. And at that new hearing, both the appellants and the Project applicants (and the public) will have the right and opportunity to offer new evidence and testimony to support their arguments. The Court acknowledged it would therefore be inappropriate for the Court to pre-judge what the outcome of that hearing should be. Only after the new hearing would a court—and in all likelihood not the same court that issued the Court Order—be in position to review what the Commission did based on the Project and evidence before it. Therefore, the only document of any legal import to the Commission is the Court Order.

We hope this clarification provides you with a better understanding of how the Commission should consider the Court's ruling in evaluating Petitioner's appeal. We look forward to the upcoming Commission's hearing.

Regards,

[Signature]

Allan B. Cooper

ABC:jth

Enclosures

15726.1:2943461.1
EXHIBIT A – Second Amended Peremptory Writ of Mandate/Court Order
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FRIENDS OF THE CANYON, an Unincorporated Association,

Petitioner,

vs.

CALIFORNIA COASTAL COMMISSION, a public entity;
and DOES 1 through 5, inclusive,

Respondent,

LOUIS LONGI, DORNIN INVESTMENT GROUP, LLC; and DOES 6 through 10,

Real Parties in Interest.

GENERAL CIVIL
CASE NO.: 30-2015-00776088-CU-PT-CJC
SECOND AMENDED PEREMPTORY WRIT OF MANDATE

Judge: Hon. Kim G. Dunning
Dept.: CX104
Petition Filed: March 6, 2015
Hearing Date: July 12, 2016

Exhibit 11
Page 4 of 5
TO: Respondent CALIFORNIA COASTAL COMMISSION:

Judgment having been entered in this proceeding, ordering a peremptory writ of mandate be issued from this court,

IT IS SO ORDERED that immediately upon service of this writ the California Coastal Commission shall:

1. Revoke its January 8, 2015 decision to conditionally approve the coastal development permit A-5-LGB-14-0019 and rehear the matter.

2. Nothing in this writ shall limit or control the discretion legally vested in the California Coastal Commission.

3. The Court shall retain jurisdiction over the proceedings by way of a return to the peremptory writ of mandate until the Court has determined the California Coastal Commission has complied with the peremptory writ of mandate.

4. The California Coastal Commission shall file an initial return to this writ no later than 90 days after service of this peremptory writ of mandate, setting forth what has been done to comply.

Date Judge Signed: December 16, 2016

[Signature]

Hon. Kim G. Dunning