

**CALIFORNIA COASTAL COMMISSION**

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



# F9a

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Staff Report: 03/22/2018  
Hearing Date: 04/13/2018

## STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

**Appeal No.:** A-5-LGB-18-0009

**Applicant:** Mari & Marty Matthews

**Agent:** Monica Fuerst

**Local Government:** City of Laguna Beach

**Local Decision:** Approval with Conditions

**Appellant:** Mark Fudge

**Project Location:** 1570 Via Corsica, Laguna Beach, Orange County (APN: 053-302-01)

**Project Description:** Appeal of City of Laguna Beach Local Coastal Development Permit No. 17-2306 for a minor remodel of and 935 sq. ft. net addition to an existing 1,874 sq. ft. single-family residence with an attached 510 sq. ft. garage. The project includes the conversion of 510 sq. ft. garage into living area, a 471 sq. ft. addition, and demolition of 46 sq. ft. of existing living area to accommodate garage staircase. The proposed project includes a new subterranean 732 sq. ft. two-car garage, 211 sq. ft. mechanical room with a 5 ft. high ceiling, grading, and hardscape and landscape improvements.

**Staff Recommendation:** No Substantial Issue

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### SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which appeal number A-5-LGB-18-0009 has been filed for the following reasons: the project, as approved by the City of Laguna Beach, is consistent with

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Appeal – No Substantial Issue

all the applicable policies of the certified Local Coastal Program, and therefore does not negatively impact coastal resources.

The City's action on Local CDP No. 17-2306 would approve a minor remodel of and net addition of 935 square feet to a 1,874-square-foot single-family residence at 1570 Via Corsica in Laguna Beach. The subject site is an approximately 6,841-square-foot interior lot, surrounded on all four sides by existing single family homes.

Staff recommends that the Commission find that **no substantial issue** exists for the reasons summarized above, and described in greater detail in the body of this report.

**IMPORTANT NOTE:** This is a substantial issue only hearing. Testimony will be taken **only** on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes **total** per side. Please plan your testimony accordingly. Only the applicants, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

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### EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Project Plans

Exhibit 3 – Appeal

Exhibit 4 – Local CDP No. 17-2306 & Design Review No. 17-1779

Exhibit 5 – City Resolution for local CDP No. 18.02

## **I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE**

**Motion:** *I move that the Commission determine that Appeal No. A-5-LGB-18-009 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

**Resolution:**

*The Commission hereby finds that Appeal No. A-5-LGB-18-0009 presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access policies of the Coastal Act.*

## **II. APPELLANT’S CONTENTIONS**

The Commission received a notice of final local action for City of Laguna Beach Local Coastal Development Permit (CDP) No. 17-2306 on January 29, 2018. Local CDP No. 17-2306 approves a minor remodel of and net addition of 935 square feet to a 1,874-square-foot single-family residence.

On February 7, 2018, the appeal was filed by Mr. Mark Fudge (**Exhibit 3**). Mr. Fudge contends that the City’s approval does not comply with the City’s certified LCP. More specifically, he raises the following concerns with the proposed development:

- 1) The City has documented its use of an uncertified IP definition for the term ‘major remodel.’ Use of uncertified definition can have significant impacts on scenic resources and public access opportunities throughout the City and region. Local government compliance with their respective LCP is an issue of statewide significance.
- 2) The proposed project meets the certified LUE definition of a “major remodel” and as such triggers compliance with City municipal codes and general plan policies pertaining to non-conforming buildings; the existing structure in non-conforming as to the setbacks.
- 3) Instead of lessening the degree of non-conformities, the City has granted new variances to allow an increase in the size of non-conformities.

## **III. LOCAL GOVERNMENT ACTION**

On January 11, 2018, the City of Laguna Beach Design Review Board held a public hearing on the proposed project and approved Local Coastal Development Permit (CDP) No. 17-2306, Design Review 17-1779, and Variance 17-1780 (**Exhibit 4**).

The project description of the Resolution CDP 18.02 (**Exhibit 5**) approving Local CDP No. 17-2306

reads as follows:

“Design Review Board conditionally approved additions (935 square feet, including a 510 square-foot garage conversion), a new 732 square-foot two-car garage under the existing structure, lot coverage (additional 4.1% or 283 square feet more than the guideline), grading, retaining walls, skylights, exterior remodel, air condition condenser unit, landscaping and the maintenance of a nonconforming front setback in conjunction with additions greater than 10 percent of the existing structure in the R-1 (Residential Low Density) zone. A variance was granted to encroach into the side setback for new construction and the conversion of garage to living area [LBMC 25.10.008(E)(2)(a)].”

The City’s approval includes a condition requiring that all exterior lighting shall be limited to 5 watts LED.

A CEQA Categorical Exemption was adopted by the Design Review Board. The Coastal Commission’s South Coast District Office received the notice of final action on January 29, 2018. On February 7, 2018 the appeal was filed by Mr. Mark Fudge (**Exhibit 3**) during the ten (10) working day appeal period. No other appeals were received.

#### **IV. APPEAL PROCEDURES**

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Development approved by cities or counties may be appealed if they are located within certain geographic appealable areas, such as those located between the sea and the first public road paralleling the sea or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not a designated "principal permitted use" under the certified LCP. Finally, any local government action on a proposed development that would constitute a major public work or a major energy facility may be appealed, whether approved or denied by the city or county [Coastal Act Section 30603(a)].

Section 30603 of the Coastal Act states in relevant part:

- (a) *After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
  - (1) *Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
  - (2) *Developments approved by the local government not included within paragraph*

*(1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

Section 30603(a)(1) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road paralleling the sea and within 300 feet of the inland extent of any beach.

### **Grounds for Appeal**

The grounds for appeal of an approved local CDP in the appealable area are stated in Section 30603(b)(1), which states:

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

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then, or at a later date. If the staff recommends "no substantial issue" (as is the case here) or the Commission decides to hear arguments and vote on the substantial issue question, there will be a hearing as described below under "Qualifications to Testify before the Commission". If the Commission conducts the de novo portion of the hearing on the permit application, the applicable standard of review for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program (LCP). In addition, for projects located between the first public road and the sea, a specific finding must be made at the de novo stage of the appeal that any approved project is consistent with the public access and recreation policies of the Coastal Act. (*Id.* Section 30604(c).) Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

### **Qualifications to Testify before the Commission**

Since staff is recommending the Commission find the appeal raises no substantial issue Commissioners will hear arguments and vote on the substantial issue question, and proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant(s), persons who opposed the application before the local government (or their representatives), and the local government. In this case, the City's record reflects that Mr. Mark Fudge opposed the project in person at the local hearing. Testimony from other persons must be submitted in writing.

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow at a later date during which the Commission will take public testimony.

## **V. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION AND LOCATION**

The applicant proposes a minor remodel of and 935-square-foot net addition to an existing 1,874-square-foot, 14.8-foot high (above grade) one-story single-family residence (**Exhibit 2**). The net addition includes the conversion of the 510-square-foot garage into living area, a 471-square-foot addition, and the demolition of 46 square feet of existing living area to accommodate the garage staircase. The proposed project includes a new subterranean 732-square-foot two-car garage, 211-square-foot mechanical room with a five-foot high ceiling, grading, and hardscape and landscape improvements. The proposed improvements will result in an approximately 2,809-square-foot, 23.88-foot high (above grade) one-story single-family residence with a subterranean garage and mechanical room.

The project site is a 6,841 square-foot lot located at 1570 Via Corsica, Laguna Beach, Orange County (**Exhibit 1**). Single-family residences characterize the surrounding area. Public access to the Crescent Bay is available via a public access stairway located approximately 700 feet downcoast of the project site.

### **B. LOCAL COASTAL PROGRAM CERTIFICATION**

The City of Laguna Beach Local Coastal Program was certified on January 13, 1993. The City's LCP is comprised of a variety of planning documents including the Land Use Element (LUE), Conservation/Open Space Element, and Safety Element of the City's General Plan. The Implementation Plan (IP) portion is Title 25, the City's Zoning Code.

### **C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS**

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act. The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission has considered the following factors.

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

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

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

Staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

#### **D. SUBSTANTIAL ISSUE ANALYSIS**

As stated in Section IV of this report, the local Coastal Development Permit (CDP) may be appealed to the Commission on the grounds that the proposed development does not conform to the standards set forth in the certified Local Coastal Program (LCP) or the public access policies of the Coastal Act. Pursuant to Section 30625(b)(2) of the Coastal Act, the Commission must assess whether the appeal raises a substantial issue with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

#### **Relevant LCP Policies and Definitions**

##### Land Use Element Glossary

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

##### Land Use Plan, Land Use Element Policies –

###### Policy 7.4

*Ensure that development, including subdivisions, new building sites and remodels with building additions, is evaluated to ascertain potential negative impacts on natural resources. Proposed development shall emphasize impact avoidance over impact mitigation. Any mitigation required due to an unavoidable negative impact should be located on-site, where feasible. Any off-site mitigation should be located within the City’s boundaries close to the project, where feasible. (Similar to Policies 5.2 and 10.3)*

###### Policy 7.7

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

##### Implementation Plan Policies –

###### Section 25.07.012 Procedures:

*Each coastal development permit application shall be processed in accordance with the following requirements.*

*(G) Findings. A coastal development permit application may be approved or*



*conditionally approved only after the approving authority has reviewed the development project and made all the following findings:*

- (1) The project is in conformity with all the applicable provisions of the general plan, including the certified local coastal program and any applicable specific plans;*
- (2) Any development located between the sea and the first public road paralleling the sea is in conformity with the certified local coastal program and with the public access and public recreation policies of Chapter 3 of the Coastal Act;*
- (3) The proposed development will not have any significant adverse impacts within the meaning of the California Environmental Quality Act*

Section 25.10.008:

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

Section 25.56.008 Adding To or Enlarging Nonconforming Structure:

*A legal nonconforming structure may be enlarged or expanded if:*

- (1) The enlargement or expansion complies in every respect with all applicable provisions of this Title 25; and*
- (2) When design review is required, the approval authority finds that the proposed enlargement or expansion and the project as a whole complies with the design review provisions in Section 25.05.040(A) and (H). (The existing nonconformities shall be identified in the public hearing notice.); and*
- (3) The required number of parking spaces is provided per Chapter 25.52, Parking Requirements. However, existing single-family dwellings that have a nonconforming number of required parking spaces may be enlarged or expanded without complying with the required number of spaces, if the total gross floor area of the residential structure, including the proposed enlargement or addition, does not exceed 1500 square feet and at least one parking space is provided on the property.*

Section 25.56.009 Modification of existing nonconforming structure:

*If any part of a nonconforming portion of the structure is substantially removed or modified in such a way that it compromises the structural integrity of the building, that portion must be rebuilt in conformance with zoning regulations.*

Staff is recommending that the Commission find that a no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

**Appellant’s Argument: City erroneously used uncertified IP definition of ‘major remodel’, and the project potentially qualifies as a ‘major remodel’ pursuant to certified definition.**

The appellant asserts that the City erroneously applied an uncertified definition of ‘major remodel’ in its evaluation of the project’s consistency with the policies of the certified LCP. Because the City substituted its own locally approved code for certified LCP language to make its determination, the

appellant contends that failing to invalidate the City’s approval of this project would set a negative precedence for future interpretations of the LCP. The appellant also maintains that if reviewed in the context of the certified language of the LCP, the City-approved project subject to this appeal qualifies as a ‘major remodel’. Accordingly, the appellant asserts that the existing residence, which is currently nonconforming to front yard and side yard setback requirements, should be brought to conformity pursuant to Section 25.56.009 of the certified Implementation Plan (IP) of the LCP (cited above).

The significance of the distinction between a minor remodel and a major remodel is that existing non-conformities for a minor remodel may be retained as legal non-conforming development only if the proposed development does not constitute a major remodel. A major remodel is substantial new development, and as such, any existing non-conformities cannot be permitted to remain. The 50% demolition threshold provides one consistent and objective method of dealing with existing non-conformities associated with extensive major remodel projects.

The certified LCP defines a “Major Remodel” as:

*Alteration of or an addition to an existing building or structure that increases the square footage of the existing building or structure by 50% or more; or demolition, removal, replacement and/or reconstruction of 50% or more of the existing structure...*

The certified Laguna Beach Municipal Code 25.10.008 of the Implementation Plan (IP) states, in relevant part:

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

The subject property is currently developed with a legally non-conforming single-family residence with an attached 510-square-foot garage constructed circa 1956, prior to the passage of the Coastal Act in 1977. As previously mentioned, the residence is nonconforming to front yard and side yard setback requirements. In this instance, the setbacks are not necessary to address any coastal resource protection purpose.

For purposes of characterizing the current project as a minor remodel/improvement to an existing residence, the City cited the definition of a “major remodel” pursuant to Ordinance 1543. Ordinance 1543 defines ‘major remodel’ as:

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

- (1) Demolition, removal and/or reconstruction of fifty percent or more of the total existing above grade exterior wall area (both exterior cladding and framing systems must be altered to count toward the fifty percent total). Any continuous run of remaining exterior wall surfaces measuring ten feet or less in length are counted as removed and/or reconstructed,*
- (2) Demolition, removal and/or reconstruction of fifty percent or more of the combined total area(s) of the existing roof framing system and structural floor systems, not including eaves or decks,*
- (3) One or more additions to an existing building or structure within any consecutive three-year period that increases the square footage of the existing building or structure by fifty*

*percent or more, but not including additions to an existing building on a residential lot where the square footage of the existing building and any additions total no more than one thousand five hundred square feet.*

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

However, Ordinance 1543 has not been certified by the Commission, and there are components of the ordinance that are problematic in terms of Coastal Act policies. For local coastal development permit actions, the City should be using the certified LCP definitions of ‘major remodel’ (see Land Use Element Glossary, term #89, and Section 25.10.008 cited above), which generally state that a major remodel involves an addition greater than 50% of the original square footage and/or demolition/structural renovation of more than 50% of the existing structure.

The LCP’s certified definition of major remodel is fairly general, as it does not define how to calculate the area added to an existing structure. The City specified what factors it considered when calculating the amount of demolition proposed using its municipal code, despite this not being part of the LCP. In this case, the City looked at the extent of demolition occurring to the existing structure and the location within the existing structure where such demolition was taking place to assess whether the proposed work was a “major remodel.” The City reviewed the amount of proposed demolition by tabulating the extent of exterior linear walls to be removed compared to the total overall amount of exterior linear walls existing prior to the proposed development. The walls proposed to remain must retain their structural components such as studs and foundation.

The City record reflects the information provided by the applicant which demonstrates that the project meets the criteria of a minor<sup>1</sup> remodel. The project would include demolition of 24.8% of the existing roof and floors combined and approximately 46% of the existing exterior walls. To accommodate the new subterranean garage below the first floor, the applicant has indicated that approximately 26.3% of the existing foundation will be demolished, and 73.7% of the existing foundation will remain intact. Accordingly, the existing residence will not be substantially modified in such a way that would compromise the structural integrity of the structure consistent with Section 25.56.009 of the LCP. Regarding the addition, the City-approved project includes a 935-square-foot addition to a 1,874-square-foot residence, which will result in less than 50% increase in the gross floor area. Therefore, pursuant to the definition in the City’s LCP, the proposed project is not a ‘major remodel’ or re-development of the site because the proposed demolition is less than 50% and the project will not increase the square footage of the existing building or structure by 50% or more.

Therefore, while the City did erroneously refer to an uncertified definition to assess whether the project constituted a major remodel, the applicant provided sufficient information to demonstrate that the project is not a major remodel as that term is defined in the certified language of the LCP. In addition, the project site is an interior lot surrounded by residences within a residentially developed area in Laguna Beach, and the City-approved project will not result in any negative

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<sup>1</sup> The term ‘minor remodel’ is not defined in the LCP; however, the term is generally understood in this context as being any development that doesn’t qualify as a ‘major remodel’ or new development that would be required to conform to all current development standards.

adverse impacts to coastal resources and public access. For the foregoing reasons, the Commission finds that no substantial issue exists with respect to the grounds on which the appeal was filed pursuant to section 30603 of the Coastal Act as to this specific issue.

**Appellant’s Argument: Variances to allow increase in size of non-conformities.**

The appellant asserts that instead of lessening the degree of non-conformities as is required with major remodels, the City granted a variance to allow for an increase in the size of non-conformities. Therefore, the City-approved project does not conform to the LCP policies relating to major remodel and new development and setback requirements.

The appellant contends that the City-approved project meets the certified LUE definition of a “major remodel” and as such triggers compliance with City municipal codes and general plan policies pertaining to non-conforming buildings.

The City granted a variance to allow encroachments into the side yard setback for the additions to living area, and to permit roof alterations within the front yard setback. As previously noted, a preexisting nonconforming structure would have to be brought into conformity with the LCP for improvements that constitute a ‘major remodel’ or new development. However, as detailed in the subsection above, the City-approved project is not a major remodel. While it is important to avoid creating new nonconformities to the maximum extent possible, in this case the City-approved project will not result in any impacts to coastal resources and public access and is consistent with all applicable LCP policies. The project site is surrounded by residences in a developed area, and is located approximately 260 feet inland from the beach and more than 200 feet from the bluff. The City-approved project will result in a one-story 2,809-square-foot residence with a subterranean garage and mechanical room. The project site is surrounded by similarly sized one-story and larger two-story residences. The proposed development will not adversely affect the visual qualities of the area, and the project has been designed to be consistent with the community character.

The City’s findings provide an adequate degree of factual and legal support for its decision to approve the proposed development and grant a Local CDP. Therefore, the Commission finds that the project does not raise a substantial issue with respect to this issue raised by the appeal.

**SUBSTANTIAL ISSUE FACTORS:**

Applying the five factors typically relied upon by the Commission in making a determination whether an appeal raises a substantial issue or not confirms that the appeal does not raise a “substantial issue” per Section 30625(b)(2).

**1. The degree of factual and legal support for the local government’s decision that the development is consistent with the relevant provisions of the Coastal Act.** The City’s approval of the project was supported by sufficient evidence and findings. In its analysis, the City discussed consistency with the policies of the certified LCP and concluded that the development, as proposed, would be consistent with these policies. Although the appellants correct that the City relied on its uncertified municipal code to determine that the project was a “minor” remodel, the facts clearly support that the project does not meet the definition of “major” remodel in the certified LCP. Therefore, the Coastal Commission finds there is adequate support for the City’s decision to find the project consistent with the LCP.

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

The local government granted a Local CDP for a minor remodel of an existing single-family residence on an interior lot, including a net addition of 935 square feet, which is a relatively minor project. This type of development is consistent with the type and character of development in the surrounding area and is consistent with the policies of the certified LCP. Therefore, the scope of the approved development supports a finding that the appeal raises “no substantial” issues.

**3. The significance of the coastal resources affected by the decision.** The significance is minimal as there are no coastal resources affected. The proposed project is limited to a minor remodel and addition to an existing single-family residence in an interior lot surrounded by other residences. The location of the proposed development is approximately 260 feet from the beach in a residentially developed area in Laguna Beach.

**4. The precedential value of the local government’s decision for future interpretations of its LCP.** Improvements to an existing single-family residence are not uncommon. The proposed project is consistent with the policies of the certified LCP. While the City erroneously relied on a definition of major remodel that is not in the certified LCP, it did not interpret the LCP in a manner that is inconsistent with the Coastal Act. Thus, the City’s decision will not set an adverse precedent for interpretation of the LCP, and the Commission hereby urges the City to use the definition of major remodel included in the certified LCP for future projects in the coastal zone.

It should be noted that Commission staff has previously notified the City’s administration that the uncertified definition should not be used to make decisions relating to coastal development permit applications. However, some ongoing training may be required to ensure that new staff is aware that it should abstain from the use of uncertified definitions and policies for actions relating to coastal development permits.

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

Requiring consistency with the certified LCP and the public access and recreation provisions of the Coastal Act is significant to all the people of California who wish to enjoy the public beaches of California. Unsubstantiated and erroneous application of these policies could have region- or statewide ramifications regarding other similar LCPs and their policies because impacts to coastal resources are important statewide issues. However, this appeal raises local issues only. While the City did erroneously apply an uncertified definition, the City also found the project to be consistent with all the applicable policies of the certified LCP. Because the City-approved project itself is consistent with the policies of the *certified* LCP, including the definition of major remodel, it does not raise a substantial issue.

In conclusion, the five factors on balance weigh in favor of a finding of no substantial issue. The staff, therefore, recommends that the Commission find that no substantial issue exists with respect to whether the local government action conforms with the policies of the City’s certified LCP.