

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 E. Ocean Boulevard, Suite 300
Long Beach, CA 90802
(562) 590-5071



Th15b

A-5-NPB-18-0006 (NICHOLSON CONSTRUCTION)

DECEMBER 12, 2019

CORRESPONDENCE

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 E. Ocean Boulevard, Suite 300
Long Beach, CA 90802
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Th15b

A-5-NPB-18-0006 (NICHOLSON CONSTRUCTION)

DECEMBER 12, 2019

CORRESPONDENCE

Don Kazarian

3412 Ocean Blvd. Corona Del Mar, CA 92625

11/29/19

Commissioners
California Coastal Commission
301 E. Ocean Blvd. Suite 300
Long Beach, CA 90802

Dear Commissioners:

I am writing you about permit number A-5-NPB-18-0006. I urge you to not allow this massive structure on a lot never intended for a structure of this size. I will be brief but will list my main reasons.

1. Such a structure will not fit in to the surroundings.
2. When these properties are purchased the buyer is fully aware of the development criteria. We should stick to this criteria and no allow exceptions that will impact everyone else.
3. The public view along Ocean Blvd. in Corona Del Mar is protected by a "top of curb" rule. If you allow this structure with a rooftop deck there is nothing in place to stop the owner from placing "temporary" items on that deck that will greatly impact the public view. Some examples are a temp type awning, large umbrellas, planters lined up to create a privacy hedge that will grow well above the top of curb public view protection.....

Please stop this from happening.

Sincerely,



Don Z. Kazarian

From: SouthCoast@Coastal
To: Sy_Fernie@Coastal
Subject: FW: Public Comment on December 2019 Agenda Item Thursday 15b - Application No. A-5-NPB-18-0006 (Nicholson Construction, Newport Beach)
Date: Friday, December 06, 2019 3:17:00 PM

From: Dorothy Kraus [mailto:dorothyjkraus@gmail.com]
Sent: Friday, December 06, 2019 9:14 AM
To: SouthCoast@Coastal
Subject: Public Comment on December 2019 Agenda Item Thursday 15b - Application No. A-5-NPB-18-0006 (Nicholson Construction, Newport Beach)

Dear Chair Bochco and Commissioners,

First of all we would like to express our surprise that this item is being heard in Calabasas. It has been over 1 1/2 years since the Commission unanimously agreed with staff's findings that the appeal raised substantial issue. We are concerned that the location of this hearing is not practical or reflects the Commission's spirit of public participation. Why couldn't this item be heard at the February 2020 hearing in Long Beach, only 2 months from now. Long Beach is a much closer location ensuring a balanced and fairer opportunity for full public participation. We respectfully request that you take our concern seriously, and direct staff to postpone this hearing until February.

Additionally, we are not satisfied that staff's recommendation to approve the residential project with 9 conditions has been thoroughly vetted when compared to the August 2018 report where staff recommends substantial issue and that a public hearing be conducted. We hope that during this item's discussion you achieve a comfort level and confidence that the issues raised in the August 2018 report have been fully resolved.

Lastly, although this may be strictly a local issue, the applicant's \$50,000 donation to the city of Newport Beach towards future projects to help improve public access and views seems a bit disingenuous (page 27 of the report). Why now? This somehow comes across as an admission that the project does in fact block public views. Having past experience with the city's claims of transparency, we are also concerned that the public will have no visibility to how and when this money is spent.

Thank you Chair and Commissioners for your time, and thank you for your service to protect California's coastal resources.

Happy Holidays too!

Dorothy & Michael Kraus

Newport Beach

Date of comment: December 6, 2019
Date of hearing: December 12, 2019
Agenda Item: **Th15b-12-2019**
My position: **Appellant & still opposed**

Th15b: Appeal No. A-5-NPB-18-0006 (Nicholson Construction, Newport Beach)

Dear Chair Bochco and members of the Commission,

This item is being heard somewhat unexpectedly after a largely unexplained delay of more than two years. While I appreciate staff's attempt at a "de novo" analysis of this application (much more thorough than it received in Newport Beach when heard by the Planning Commission there on December 7, 2017), I believe that despite the long time to consider it several key points have been overlooked. **I would respectfully suggest it be continued so staff has time to reconsider their recommendation regarding the following issues.** That would also potentially move the hearing site to one (such as Long Beach in February) where more people interested in this could attend.

Scenic and Visual Resources (staff report page 13)

The primary reason for the appeal was this proposal's obvious inconsistency with the LCP's commitment to design and site development to "*Protect and, where feasible, enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas*" (CLUP Policy 4.4.1-1).

This development impacts a treasured coastal view from a designated coastal view road. The lot in question is currently developed with a serviceable home that does not significantly impact that view. **The proposed development does not "protect" the existing view, and it most certainly does not "enhance" it.**

In considering this commitment, the Commission should realize first that the public views from this designated Coastal View Road are already degraded by the adjacent Channel Reef condominiums project (to the right in staff report Photo No. 1, page 21) jutting out essentially at Ocean Blvd curb height, and second that the public nature of the China Cove beach is not clearly represented in this area (there are no coastal access signs at the top of the ramp, and on the contrary, the public is warned they will find no parking if they descend it).

The present application adds another Channel Reef-like feature to what has been preserved of the public view (see Photo No. 2). And as shown in Photos No. 3 and 4, from certain vantage points it will completely hide the view of the public beach that lies at the foot of the uninvitingly marked ramp. The impact on public views from the ramp itself (not shown), will be even worse.

This development will not only *not* protect or enhance the existing view, it will create an even greater sense the beach in this area of the harbor is a private enclave off limits to the public.

I fail to see how pulling a small portion of a deck back a few inches and lowering what is already supposed to be a clear glass screen by 6 inches solves the problem.

Moreover, the Commission should understand the glass screen was originally going to be a taller and completely opaque “privacy screen” intended to block the public’s view from Ocean Blvd of the applicant’s rooftop pool and deck. There is every reason to believe that since the applicant wants privacy (and an ocean view), despite the glass railing shown in the simulation, the deck will be lined with plants and other portable objects of unknown height making the screen area (and more) opaque. **If the Commission were to consider approving any rooftop living in a sensitive view area like this, that approval would need to include an enforceable condition that the public view be kept substantially open. I see no such condition in staff’s recommendation.**

Variances (starting bottom of staff report page 23)

Part, but by no means all, of the extraordinarily long time in bringing this matter to a hearing resulted from the City’s wish to get the LCP Implementation Plan amended to justify the variances it had granted in December 2017 without any clear authority to do so.

The variances requested are to modify the certified front and rear setbacks and to allow more floor area than the IP would normally allow on this lot. **Although the Commission may now have authorized itself (and the City) to do this, I continue to believe it should not in this case.**

First, the Commission should understand the certified “front” setback of 10 feet from the property line abutting the City property along Ocean Blvd and the ramp is itself a reduction from the normal front yard setback in Newport Beach of 20 feet (see IP table on page 17 of the staff report). Further reducing that to 3 feet not only allows development to proceed farther up the bluff (which is contrary to the policy to protect natural landforms), but it forces the entryway to the home to be developed on the public land – which Coastal staff itself objects to. **Variances are supposed to made, in unusual circumstances, to modify the normal constraints so as to enhance the objectives the constraints were put in place to achieve, not to defeat those purposes.** But in this case, although the topography may be unusual, **the applicant is not asking for a variance to be less impactful, but to be more impactful.**

Second, the Commission should be aware that at the local hearings the applicant indicated the primary reason for wanting to reduce the certified setbacks was to make the currently undeveloped western part of the lot more developable. One has to assume the constraints are there for a reason, and not every piece of land is expected to be equally developable. Again, granting that variance would allow the permanent destruction of a presently undeveloped bluff face, which does not enhance the objectives of the LCP, but countermands them.

As to need for a variance to exceed the certified limit on floor area, staff’s reasoning seems to be based on a belief that every property owner is entitled to an equally large home regardless of the lot location or configuration. But in this case, the variance would allow a house that has been designed and sited to *minimize* visual and natural resource impacts (long before the LCP, but in conformance with that aspect of it), with one of much greater impact. Again, that is contrary to objectives of the LCP and grounds for *denying* the variance, not granting it.

Public Access (starting bottom of staff report page 25)

I applaud Coastal staff's defense of public access, although I think that in this case the stairway leading to the front door of a private home will look very private and members of the public will feel uneasy using it.

Bluff Face Development (page 30)

The staff report naively assures the Commission that the high-sounding policies of the Newport Beach CLUP protect the bluffs *"while allowing for bluff face development within the predominant line of existing development in specific locations, including the seaward side of Ocean Boulevard in this China Cove project area."*

The Commission should understand that Newport Beach has a very imperfect Implementation Plan. **Nothing in the LCP-IP addresses a predominant line of development for the bluffs surrounding China Cove** (which in the original subdivision were common area lots not intended for development at all). See the Bluff Overlay District regulations of NBMC [Sec. 21.28.040](#) and the maps that accompany it in [Sec. 21.80.020](#). China Cove is not part of that. Moreover, this segment of China Cove is unique in that the development is creeping *up* the bluff, not *down* (as addressed in the maps of other areas), and this development, if approved, will destroy the visibility one of the last surviving fragments of this bluff top looking back from the harbor and beach areas beyond.

As an example of the imperfection of the City's LCP, the Commissioners may be surprised to know that the highly visible bluff face property being considered here is covered by the City's Commission-issued [Categorical Exclusion Order](#), and according to the City would not have needed a CDP at all if it were not for the variance request.

The Commissioners may be even more surprised to know that on April 6, 2017, shortly after certification of the full LCP, the City approved a still larger (10,216 square foot) bluff-face residential development at the Lookout Point end of China Cove declaring it to be eligible for the Categorical Exclusion despite its (like this) asking for variances (see [Planning Commission Item 3](#)). It has hence been approved to be built with, to the best of my knowledge, no Coastal Act review at all.

Comments on Special Conditions (staff report page 6)

Special Condition 1.B calls for removal of the gate and deck on City property. Although an unpermitted gate currently exists on the City property adjacent to Ocean Blvd., I do not see a gate indicated on the project plans. I do see on page 2 of 3 of Exhibit No. 4 what looks like a landing and patio area designed to serve as the entryway to the house from Ocean Blvd. Since the staff recommendation is to grant a variance to allow the house to intrude 7 feet into the LCP-certified 10-foot setback, leaving only 3 feet of unbuilt private property, the landing and entry patio are proposed to be built entirely on City property. It is not clear how Coastal staff expects the entry to work. **If the variance were *not* granted, the owner would have 10 feet to work with (instead of 3) and could create the entry area on their own land.**

Special Condition 4: "*follow*" in line 6 should be "*following*".

Special Condition 5 specifies “Construction Best Management Practices,” completely fails to address a major concern that emerged in the local hearings: namely, the impact of construction traffic and staging on coastal access. In particular, since access to the property from Way Lane is limited, construction access will be taken through the pathway from Ocean Blvd, and there are no off street areas available for parking or storage of materials. This will severely impact visitors to this coastal view road during the time of construction. As a result, the City version of the CDP was conditioned on approval of a detailed **Construction Management Plan** (see page 3 and Attachment PC 6 to the [City staff report](#) from Dec. 7, 2017, where it is pages 59 through 68, and [Condition 29](#) of the City Planning Commission’s Resolution 2057). **Any Coastal Commission approval would need to be conditioned on something similar.**

Procedural Problems

I don’t want to dump on Coastal staff, which I’m sure is overworked, but the [present report](#) shows signs of hasty preparation: the first page, confusingly, appears twice in succession for no obvious reason, and the report ends, again for no obvious reason, with a repeat of page 21.

Moreover, this matter is not listed clearly on the December 2019 agenda as an appeal item, and the staff report does not systematically explain what the appeal points were or ever identify who the appellant was. Indeed, the “Substantive File Documents” appendix on page 37 provides a mysterious list of documents from the applicant and City that the public (including the appellant) has not seen or been made aware of. Yet it does not the list the appeal or any correspondence from the appellant as “substantive.”

It is very difficult for a busy public to assess these documents on which the recommendation has presumably been based without having seen them. And indeed, without even knowing of their existence until 9 days before comments on the recommendation were due (not to mention the Thanksgiving holiday which was the part of those 9 days).

Summary

For all the above reasons I urge this item be continued, at least until the February meeting in Long Beach, so Coastal staff can reassess their recommendation and so the many members of the public who showed interest in the original controversial local approval in 2017 and the Substantial Issues hearing in 2018 can have time to digest that recommendation and review the documents they have not seen.

Yours sincerely,



James M. Mosher, Ph.D. (appellant)
2210 Private Road
Newport Beach, CA. 92660
jimmosher@yahoo.com

Julia Royall Gold

2601 Way Lane
Corona Del Mar, CA 92625
(949) 675-2327
philipjohngold@icloud.com

South Coast Area

Attention: Zach.Rehm@coastal.ca.GOP

Agenda No. TH 15b

A-5-NPB-18-0006

Julia Royall Gold, Opposition

Project Location: 2607 Ocean Blvd., Corona Del Mar, CA

Project Description:

Replacement of 2260 sq. ft. single family residence with a 4 story 4500 sq. ft. single family residence on a bluff in China Cove, Corona del Mar, CA.

This project will require the construction of new protective devices along the bluff overlooking China Cove as the bluffs there are not stable.

This property is located on a fragile bluff in China Cove beach in Corona del Mar. The project is on Way Lane, a narrow alley. This alley is access to the west side of the China Cove beach.

There is at present, a retaining wall on the base of the bluff of the property that is adjoining Way Lane alley. That wall is cracked.

We are the owners of the property on Way Lane directly in front and adjacent to the proposed project. We were assured by the prior owner of the project property that the

cracked retaining wall was her responsibility and said it would be fixed and she would be responsible for any damage.

That retaining wall is still in a precarious state.

This commission will rely on a staff report stating that the site is safe for the development of a 4 story 4500 sq. ft. structure. Unless a corrected evaluation of the fragility of the bluff is prepared and presented to the commission, the applicant's permit should be denied.

Respectfully submitted,

Julia Royall Gold

From: SouthCoast@Coastal
To: Sy_Fernie@Coastal
Subject: FW: Public Comment on December 2019 Agenda Item Thursday 15b - Application No. A-5-NPB-18-0006 (Nicholson Construction, Newport Beach)
Date: Friday, December 06, 2019 3:16:48 PM

-----Original Message-----

From: Karen Carlson [<mailto:kkc2616@aol.com>]
Sent: Friday, December 06, 2019 3:01 PM
To: SouthCoast@Coastal
Cc: Jim Mosher; dorothyjkraus
Subject: Public Comment on December 2019 Agenda Item Thursday 15b - Application No. A-5-NPB-18-0006 (Nicholson Construction, Newport Beach)

Dear Chair Bochco and Coastal Commissioners,

I am writing to oppose the Coastal Commissions approval of 2607 Ocean Blvd. December 2019 Agenda Item 15b Application No. A-5-NPB-18-0006 Nicholson Construction, Newport Beach.)

Although I am grateful that staff members did come and look at the location, I am surprised that they did not find that the size and location of the construction severely impacts the public views from Ocean Blvd. of China Cove and the harbor and also the view from the bay back to the bluff.

Year round and daily in the summer over one hundred people walk their dogs, strollers, kayaks and paddle boards etc. up and down the access road.

Instead of the picturesque view of China Cove, the beach and the Bay, now all one will see on the walk to/from the beach is a flat privacy wall.

This house, its size and placement have totally shut out the community which has actively opposed the project from the first time it was proposed to the City Planning Commission. It will be a very unwelcome addition to our neighborhood.

Also, I have to protest that the hearing is in Calabasas. Not only was notification very short, but the location is difficult.

The Commission just recently met in Newport Beach. Why couldn't this have been addressed then? The applicant has had plenty of time to prepare his proposal. Could it be that the applicant knew there would be a large crowd showing up to speak against it?

And lastly I have never heard of an applicant pledging \$50,000 to the City for approval!! It is supposedly to be used to improve public access and views elsewhere in the Coast Zone. Doesn't this admit that this causes a big impact on the immediate public access and views!! and what is to insure that

(1) it will be paid and

(2) the money will be used locally!!

Please, Please, rethink your position and follow the Coast Commission's mandate to preserve the California Coast for all.

Sincerely

Karen Carlson
Corona del Mar

California Coastal Commission
Application No. A-5NPB-18-006
Nicholson Construction, Newport Beach
Project: 2607 Ocean Blvd.
Corona del Mar, CA 92625

Dear Commissioners,

We have lived in China Cove for 40 years and will have to drive by the proposed project to reach our home, everyday. We have always enjoyed the view of the Bay and the wide open vistas, which this project will impede.

Along with our neighbors, we have been opposed to the scale of this project from the beginning and voiced our concerns to the Newport Beach planning commission.

We were stunned when they granted variance after variance to the applicant. They were granted an easement over public land, a relaxed height restriction, encroachment into setbacks and blocking public views.

I cannot prove any impropriety, but it is odd that this project has been allowed to run amuck.

Now we understand that the applicant has proposed fifty thousand dollars to the City of Newport Beach, if the Coastal Commission approves the project. How can this be happening? It reeks of bribery.

We also understand, that your staff has recommended approval. This flies against the very purpose for which the Coastal Commission was established, which is to protect the public's interest.

Please do the right thing and block this approval.

Sincerely,

Karen K James
2627 Cove St.
Corona del Mar, CA 92625
kjdelmar@yahoo.com

From: SouthCoast@Coastal
To: Sy_Fernie@Coastal; Rehm_Zach@Coastal
Subject: FW: "Public comment on Dec. 2019 agenda item Thursday 15b - application no. A-5-npb-18-0006 Nicholson Construction, Newport Beach"
Date: Thursday, December 05, 2019 5:59:21 PM

Public comment for
Thursday 15b- Application No.A-5-18-0006

-----Original Message-----

From: Kent Moore [<mailto:kentmoore@roadrunner.com>]
Sent: Wednesday, December 4, 2019 11:30 AM
To: SouthCoast@Coastal
Subject: "Public comment on Dec. 2019 agenda item Thursday 15b - application no. A-5-npb-18-0006 Nicholson Construction, Newport Beach"

Dear Members of the Coastal Commission:

I have written to you regarding this matter before and thought that your staff had addressed the earlier public concerns. It appears, however, that several issues are still unresolved.

Again, I have lived just around the corner from 2607 Ocean Blvd. for 47 years and have seen your commission intervene on several neighborhood projects over the years. Regarding 2607 Ocean Blvd., I believe that staff has not thoroughly studied all the issues which have been outlined by the neighbors and other Corona Del Mar residents.

For instance, we don't understand why your staff analyst is now recommending approval. Earlier, the analyst found substantial issues with the same application.

In my earlier communication, I touched on how this unspoiled coastal bluff above China Cove would be drastically altered, with spectacular views being lost. This would be a devastating loss to visitors and the public who walk by this location on a daily basis.

And what about the applicant offering \$50,000 to the City if your body approves this project? This is not right!

Finally, the matter of the gated off public property with the Ocean Blvd. entrance to 2607 Ocean needs to be addressed by your Commission ASAP. This area has been illegally blocked from public access ever since I moved here in the 70's!
It needs to be open to the public.

I ask that you please address these sensitive issues before making any final decisions on this project.

Thank you,
Kent Moore, 210 Carnation Ave., Corona Del Mar

Sent from my iPhone

From: SouthCoast@Coastal
To: Rehm_Zach@Coastal; Sy_Fernie@Coastal
Subject: FW: Public Comment On December 2019Agenda ItemThursday 15B-kApplication No. A-5-N-18-0006(Nicholson Construction, Newport Beach
Date: Thursday, December 05, 2019 5:59:40 PM

Thursday 15b- Application No.A-5-18-0006

From: Lynn Lorenz [mailto:lynnierlo@aol.com]
Sent: Tuesday, December 3, 2019 6:00 PM
To: SouthCoast@Coastal
Subject: Public Comment On December 2019Agenda ItemThursday 15B-kApplication No. A-5-N-18-0006(Nicholson Construction, Newport Beach

Please acknowledge receipt of this document to L. Lorenz,
lynnierlo@aol.com, Thank you!

Dear Commissioners,

First of all, whenever a project is rushed through with such a short period for study, it is quite apparent that this rush happens for a reason.

To expect the public and particularly the neighbors of this project who will be directly affected,

to delve into 37 pages of technical jargon in a few weeks time is obviously sending the message that input from sources other than the owners and their specific builders and specialists is not really desired.

In this case. it is pretty obvious that the Coastal Commissioners have made up their mind. Hopefully some brave souls will speak up and point out that the analyst of the project is now recommending approval with essentially no changes other than that of moving a gate on Ocean Boulevard, and making sure that the pool doesn't leak.

What about the obstruction of public views of China Cove and the harbor, especially from the ramp, and the impact of views looking back from the bay, where one of the last undeveloped parts of the China Cove bluff face will be lost?

Good neighbors do not block views!!!!

It is the duty of the Coastal Commission-the reason it was formed in the first place- to ensure that the PUBLIC

has access to the beaches and to views of the beaches and ocean where public lands exist. The Coastal Commission is shirking its duty to the public to allow private individuals to compromise views and coastal areas where construction also might cause damage to the land. In this report it is acknowledged that such damage could be caused because it is holding the builders responsible for any damage caused by their construction. Why abdicate the responsibility of maintenance to public lands to chance???

The applicant's offer to give the City \$50,000 if the CC approves the project is totally inappropriate and implies that either the City or the Commissioners' votes can be influenced by money even if that was not the intent of the applicant and was merely a goodwill gesture.

Hopefully, the Coastal Commission will send this project back to the drawing boards. It doesn't matter how many times that happens. What matters to the public is that it does happen until the public's interests are protected.

Respectfully yours,

Lynn Lorenz
434 Redlands Avenue
Newport Beach, Ca 92663 949 646 2054

From: SouthCoast@Coastal
To: Sy_Fernie@Coastal; Rehm_Zach@Coastal
Subject: FW: Public Comment on December 2019 Agenda Item Thursday 15b - Application No. A-5-NPB-18-0006 (Nicholson Construction, Newport Beach)
Date: Thursday, December 05, 2019 5:56:59 PM

Public comment for Thursday 15b - Application No. A-5-NPB-18-0006.

-----Original Message-----

From: mpeyton112@gmail.com [<mailto:mpeyton112@gmail.com>]
Sent: Wednesday, December 4, 2019 2:06 PM
To: SouthCoast@Coastal
Subject: Public Comment on December 2019 Agenda Item Thursday 15b - Application No. A-5-NPB-18-0006 (Nicholson Construction, Newport Beach)

Dear Chair Bochco and Coastal Commissioners,

My husband and I reside on Fernleaf Ave half a block from Ocean Blvd. We walk along Ocean Blvd in front of this property very frequently. We are vehemently opposed to the plan as is. The bulk and height of the house impair water views from Ocean Blvd in the only spot where those views include. China Cove. The swimming pool and screening make it even worse. In addition, we cannot understand the walkway from Ocean Blvd. It is on public land but serves only the homeowner. Please deny approval for this monstrosity.

Martha & Ed Peyton
212 1/2 Fernleaf Ave
Corona Del Mar CA 92625

Sent from my iPhone

From: SouthCoast@Coastal
To: Sy_Fernie@Coastal
Subject: FW: Public comment on Dec. 2019 agenda item Thursday 15b - application no. A-5-npb-18-0006 Nicholson Construction, Newport Beach
Date: Friday, December 06, 2019 3:17:53 PM

From: Pat Parsons [mailto:patparsons43@yahoo.com]
Sent: Friday, December 06, 2019 11:54 AM
To: SouthCoast@Coastal
Subject: Public comment on Dec. 2019 agenda item Thursday 15b - application no. A-5-npb-18-0006 Nicholson Construction, Newport Beach

Dear Members of the Coastal Commission:

I am writing to advise you of my wish to appeal the City of Newport Beach granting Coastal Development Permit #CD2017-080 with conditions for demolition of a 3-level, 2260 sq. ft. single-family home, and construction of a 4-level, 4,500 sq. ft. (approx) single-family home with roof-top deck and 3-car garage.

I have lived at 2525 Ocean Blvd. as an owner at the Channel Reef Building for 23 years, and as a practicing clinical psychologist at 200 Newport Center Drive since 1984.

On September 15, 2018, I signed a lease with the applicant, to rent my unit in Channel Reef to him through June 15, 2020. He explained that he was especially glad to rent my particular unit, as it afforded him the ability to look out the kitchen window and see the parcel of land he told me he was going to build his "dream house" on. He showed me his plans in great detail, and I expressed awe at how magnificent it looked, especially with a pool at the very top, which would be totally clear all the way down to the lower living area in the house.

I had the occasion several times to ask him the status of construction, and he repeatedly told me in a very pejorative manner that the Coastal Commission was slowing him down for no good reason.

As I walked the area above China Cove where he told me the green flags marked the top of his property, I became concerned about how his plans would affect the portion of Ocean Blvd. which had enjoyed at clear and open view to all who passed by, including myself for over two decades. I also became concerned about the impact of his plans on all the homes below in China Cove. It seemed to me that his particular style of building would undermine the ambiance of the Cove, as well as limiting the open view of all residents and public who walked along Ocean Blvd. above his house.

For the above reasons, it is my hope that you will not approve his application.

Lastly, I want to express my extreme disgust at the applicant's apparent plan to pay the City \$50,000.00 if his plan is approved. I am guessing that most of us have heard enough about bribery and quid pro quo lately, and I for one perceive that his \$50,000.00 falls into that category. I believe that it is obscene, and that that alone should

persuade the Coastal
Commission to deny his application.

Please contact me if you would like any additional information.

Sincerely yours,

Patricia F. Parsons, Ph.D.

Public comment on December 2019 agenda Item Thursday 15b-Application No. A-5-NPB-18-006
(Nicholson construction, Newport Beach)

RE: 2607 Ocean Blvd. Corona del Mar, CA 92525

Dear Commissioners,

Firstly, I cannot understand how the variance applicant and the City have concluded the property is unbuildable and request the demolition of a 2,260 sq. ft. single family home. Something does not jibe.

Further, the applicant knew the setback and height restrictions prior to making the purchase. My guess is that the buyer assumed the rules were not applicable to him.

In approving the variance, the city took from the public, a commanding view of the bay. Why should the public be deprived of a vista they have long enjoyed? It makes no sense to penalize the public to serve one individual's desire.

In approving the setback variance, the city allowed a substantial increase in building height, which will block the public's view. To mitigate the view blockage, the city is requiring a transparent screen. This is ludicrous, the only screen that is permanently transparent is no screen at all.

Please do the right thing and eliminate the rooftop deck. This way, the public interest is protected and the applicant gets most of what he wants.

Sincerely,

Warren H. James
2627 Cove St.
Corona del Mar, CA 92625
949-675-4412

From: Sy.Fernie@Coastal
To: Sy.Fernie@Coastal
Subject: FW: Public Comment on December 2019 Agenda Item Thursday 15b - Application No. A-5-NPB-18-0006 (Nicholson Construction, Newport Beach)
Date: Wednesday, December 11, 2019 1:22:59 PM
Attachments: [Letter to Coastal Commission in Support of Mosher Appeal \(5.18.18 signed\).pdf](#)
[Ltr to City NB Planning Commission 12.7.17 objecting to Ginsberg project \(signed\).pdf](#)

From: Ronald J. Thommarson [mailto:rthommarson@hartkinglaw.com]
Sent: Monday, December 9, 2019 11:18 AM
To: SouthCoast@Coastal
Subject: Public Comment on December 2019 Agenda Item Thursday 15b - Application No. A-5-NPB-18-0006 (Nicholson Construction, Newport Beach)

Dear Ladies & Gentlemen,

The undersigned represents John H. Cummings, the owner of a residence on Ocean Blvd. in Corona del Mar. The Cummings residence is directly across the street (Ocean Blvd.) from the project (the "Project") that is the subject of the above-referenced appeal.

Attached to this message are written comments that we have previously submitted to the City of Newport Beach and the California Coastal Commission. After having reviewed the Commission's staff report dated November 27, 2019, we contend that the issues set forth in our attached letters remain issues of concern in regard to the Project. In summary:

1. Even with the Project proponent's proposed changes and the Commission's proposed conditions of approval, the Project will affect adversely coastal views from public rights of way along Ocean Blvd., the Fernleaf Ramp, and from the direction of the nearby beach and water.
2. The Project will result in significant and potentially damaging alteration of the coastal bluff top without sufficient review and assessment of these potential consequences. The City of Newport Beach originally determined in error that the Project was entitled to a categorical exemption from CEQA. The Commission's staff report briefly discusses CEQA but only in rather conclusory fashion, noting that "There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment." (Staff Report, pp. 35-36.) The Project's effects on sensitive bluff top areas must be considered but appear not to have been considered in adequate detail.

Thank you for your consideration.

Sincerely,

Ron Thommarson

Hart | King

Ronald J. Thommarson | Senior Counsel
4 Hutton Centre Drive, Suite 900
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ATTORNEYS AT LAW

Ronald J. Thommarson
rthommarson@hartkinglaw.com

May 18, 2018

Our File Number: 36939.021/4820-9344-4966v.1

VIA E-MAIL

California Coastal Commission
South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
Email: southcoast@coastal.ca.gov

Re: **Appeal of Coastal Development Permit - Ginsberg Residence Project**

Appeal Ref No.: A-5-NPB-18-0006

Appellant: James M. Mosher

Site: 2607 Ocean Blvd., Corona del Mar, CA

Coastal Dev. Permit No.: CD2017-080

Dear Honorable Commissioners:

This office represents John Cummings, Sr., a resident of Corona del Mar, California. This letter concerns Mr. Cummings' comments and concerns regarding the Ginsberg Residence Project referenced above (the "Project"). We write to you to relay our client's comments and concerns about the Project, as well as his support for the above-referenced appeal ("Appeal") submitted by Appellant James M. Mosher.

Mr. Cummings submitted written objections to the City of Newport conveying his objections to the Project in advance of the December 7, 2017 meeting of the Newport Beach Planning Commission. He appeared in person at the Planning Commission hearing and spoke out in opposition to the Project and the City's approval of a coastal development permit for the Project, as did the undersigned acting on Mr. Cummings' behalf. As such, Mr. Cummings is qualified to submit comments and testimony in support of the Appeal pursuant to the Commission's applicable regulations set forth at 14 Cal. Code Regs. §13117. A copy of our December 7, 2017 correspondence to the City of Newport Beach Planning Commission is enclosed for your reference.

Our client strongly agrees that, as noted in the Commission's staff report dated February 23, 2018, this Project raises a substantial issue of a violation of the California Coastal Act's public access policies and the City of Newport Beach's Local Coastal Program (the "LCP"). The Project will have considerable adverse impacts on public views and coastal bluff landforms.

A. Statement of Appealability

Local actions taken in the issuance of a coastal development permit may be appealed to the Coastal Commission with respect to developments "located between the sea and the first public road or within 300 feet of the inland extent of any beach or the mean high tideline of the sea where there is no beach, whichever is the greater distance." (California *Public Resources Code* § 30603(a)(1).)

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The Project is appealable under the foregoing provision, as it is located within 300 feet of the beach at China Cove and/or the mean high tide line.

In addition, the appellant is excused from the requirement to exhaust local appeals with the City of Newport Beach because the city charged an appeal fee for filing or processing the appeal. (14 Cal. Code Regs. § 13111(a).)

B. The Project Is Inconsistent with the LCP and the Public Access Policies of the Coastal Act

A locally-issued coastal development permit must be consistent with the policies and standards set forth in the certified LCP. (California *Public Resources Code* § 30604.) As set forth below and noted in the February 23, 2018 report of Coastal Commission staff, the Project fails to meet this requirement. At a minimum, a substantial issue exists as to whether the Project is consistent with the LCP and the public access policies of the Coastal Act.

1. The Project Will Adversely Affect Public Views from Nearby Public Rights of Way along Ocean Boulevard and the Fernleaf Ramp

As of May 12, 2018, story poles had been erected to depict the size and scale of the Project and its effect on public view ways. Attached to this correspondence are several photos taken on the afternoon of May 12, 2018 showing the story poles on the Project site from the vantage point of Ocean Boulevard and the Fernleaf Ramp leading down from Ocean Boulevard to Fernleaf Avenue. The enclosed photos clearly illustrate that the Project will block considerable public views of the beach and the ocean from both vantage points.

In its current form and design, the Project violates the policies set forth in the Coastal Land Use Plan ("CLUP") in the LCP, particularly the following:

- CLUP Policy 4.4.1-1 to "Protect . . . the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas."
- CLUP Policy 4.4.1-2 to "Design and site new development, including landscaping, so as to minimize impacts to public coastal views."
- CLUP Policy 4.4.1-3 to "Design and site new development to minimize alterations to significant natural landforms, including bluffs, cliffs and canyons."
- CLUP Policy 4.4.1-6 to "Protect public coastal views from the following roadway segments: . . . Ocean Boulevard . . ."
- CLUP Policy 4.4.1-7 to "Design and site new development, including landscaping, on the edges of public coastal view corridors, including those down public streets, to frame and accent public coastal views."

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- CLUP Policy 4.4.2-4 to "Prohibit projections associated with new development to exceed the top of [the] curb on the bluff side of Ocean Boulevard."

The attached photos reveal considerable blockage of public views of the water and the beach in violation of the foregoing policies:

1. Photo 1 depicts the public view from Ocean Boulevard overlooking the channel, China Cove, and Catalina. The story poles reveal that the new Project will block existing public views of the beach and water leading into Newport Bay.
2. Photo 2 depicts a closer-in look at the public view from Ocean Boulevard overlooking the channel and Catalina. It gives a better view of the blockage of public views of the bay and beach from Ocean Boulevard.
3. Photo 3 presents another angle from Ocean Boulevard overlooking the Project. The lines between story poles are visible and run horizontally across the frame. A structure at the level of the line will block public views of the Channel, the jetty, and the Wedge.
4. Photo 4 was taken from the top of the Fernleaf Ramp where it meets Ocean Boulevard. This photo shows how the Project will largely block public views of the water down toward the channel mouth.
5. Photo 5 was taken from the Fernleaf Ramp overlooking China Cove toward Catalina. Again, public views of the channel and the open water will be blocked.
6. Photo 6 is a closer in view from the Fernleaf Ramp over the Project. This photo demonstrates that the Project will block public views of the channel and the open water beyond toward Catalina.
7. Photos 7 and 8 were taken from farther down the Fernleaf Ramp looking toward Catalina. As you can see from the story poles depicted in this photo, much of the public view of the water and Catalina will be blocked from this vantage point, particularly for members of the public ascending the ramp toward Ocean Boulevard.
8. Photo 9 was taken from the Fernleaf Ramp overlooking the Project site. It again demonstrates the blockage of public views of the bay from the public right of way on this street.

In addition, the Project appears to be very close to exceeding the height of the top of the curb on the bluff side of Ocean Boulevard. Even if the highest point of the Project may not exceed the top of the curb, its depth and dimensions will still result in considerable adverse impacts to the public views from Ocean Boulevard toward the channel leading into Newport Bay and the bay itself. This violates the letter and the spirit of the above-quoted policies.

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May 18, 2018
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2. The Project Is Not Designed to Minimize Adverse Effects on Protected Coastal Bluffs

The CLUP also expressly notes that coastal bluffs in the Corona del Mar area are a prominent natural land form and “are an important part of the scenic and visual qualities of the coastal zone and are to be protected as a resource of public importance.” (CLUP § 4.4.3, p. 4-77 – “Natural Landform Protection.”)

Corona del Mar is unique in that significant development on local bluff faces has been allowed in the past. However, the CLUP expressly notes that “Development in these areas is allowed to continue on the bluff face to be consistent with the existing development pattern and to protect coastal views from the bluff top. However, development on the bluff face is controlled to minimize further alteration.” (CLUP § 4.4.3, p. 4-78 – “Coastal Bluffs.”) Policy 4.4.3-9 of the CLUP provides that “Where principal structures exist on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar, require all new development to be sited in accordance with the predominant line of existing development in order to protect public coastal views.” Accordingly, the CLUP requires minimum setbacks and design measures to minimize adverse effects on protected coastal bluffs and public views.

Both public views and existing natural landforms are coastal resources of regional and statewide concern. As noted in the Commission’s February 23, 2018 staff report, the Project site is located on a coastal bluff on the seaward side of Ocean Boulevard. To the north and west of the Project are undeveloped bluff faces owned by the City of Newport Beach. The Project, as approved with a local variance, will encroach substantially into the required 10-foot setbacks along Ocean Boulevard (providing only a 3-foot setback) and Way Lane (providing for no setback). A substantial issue exists with respect to the Project’s likely impact on (and alteration of) sensitive coastal bluff landforms and the Project’s deviation from the predominant line of existing development, which is detrimental to public coastal views as set forth above and conflicts with the Coastal Act’s recreational and public access policies.

C. The Commission Should Find that A Substantial Issue Exists and Conduct A De Novo Review of the Project

We request that you please review and consider these comments in connection with the appeal of the Project and the Commission’s findings and analysis of whether a substantial issue exists with respect to the Project’s inconsistency with the LCP and public access policies of the Coastal Act.

We respectfully submit that the Commission should find that a substantial issue exists and undertake a de novo review of the Project pursuant to Section 30625(b)(2) of the Coastal Act. The Project as designed threatens to pose significant adverse effects on public coastal views and sensitive coastal bluffs. In addition, the foregoing de novo review should include a review of the Project’s consistency with the public access and recreation policies of the Coastal Act in accordance with Public Resources Code § 30604(c.)

Honorable Commissioners
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On behalf of Mr. Cummings, we urge the members of the Commission to vote "**NO**" on the motion to determine that the Appeal raises no substantial issue with respect to the grounds on which the appeal has been filed. We further urge the members of the Commission to make a finding that the Project **is not consistent** with the LCP or with the public access and recreation policies of the Coastal Act.

The Appeal should be granted, and approval of the above-referenced coastal development permit should be overturned. Thank you for your time and thoughtful consideration.

Sincerely,

HART KING



Ronald J. Thommarson

Enclosures (photos of the Project site taken May 12, 2018)

cc: C. William Dahlin, Esq. (via email)
John Cummings, Sr. (via email)



Photo 2

A closer in look at the public view from Ocean Boulevard overlooking the channel and Catalina, demonstrating the blockage of public views of the bay and beach from Ocean Boulevard



Photo 4

Photo taken from the top of the Fernleaf Ramp where it meets Ocean Boulevard. This photo shows how the Project will largely block public views of the water down toward the channel mouth.



Photo 7

A photo taken farther down the Fernleaf Ramp looking toward Catalina. Much of the public view of the water and Catalina will be blocked from this vantage point.



Photo 8

A photo taken from the Fernleaf Ramp from the vantage point of traffic ascending to Ocean Boulevard once again shows that the entire public views of the water and Catalina will be blocked from this vantage point.



Photo 9

Photo from the Fernleaf Ramp overlooking the Project site. It again demonstrates the blockage of public views of the bay and the beach from the public right of way on this street.

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ATTORNEYS AT LAW

Ronald J. Thommarson
rthommarson@hartkinglaw.com

December 7, 2017

Our File Number: 36939.021/4849-7658-4024v.1

VIA E-MAIL

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
Planning Commission
100 Civic Center Drive
rung@newportbeachca.gov

Re: **Ginsberg Residence Project (PA2016-170)**
Site: 2607 Ocean Blvd., Corona del Mar, CA
Variance No.: VA2016-005
Coastal Dev. Permit No.: CD2017-080
December 7, 2017 Commission Meeting Agenda Item 5

Dear Ms. Ung:

This office represents John Cummings, Sr., the owner of a residence on Ocean Boulevard in Corona del Mar. The Cummings residence is located across Ocean Boulevard from the site of the Ginsberg project referenced above (the "Project"). We write to you to relay our client's objections to the Project and to the findings set forth in the Newport Beach Planning Commission's staff report prepared for Item number 5 on the agenda for the Planning Commission meeting scheduled for December 7, 2017 at 6:30 p.m.

On behalf of Mr. Cummings, we respectfully request that the Planning Commission take into account the following issues in its consideration of the Project:

1. The Commission's December 7, 2017 staff report recommends a finding that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to 14 Cal. Code Regs. § 15303 for "New Construction or Conversion of Small Structures." However, the foregoing regulation expressly states that it applies to the construction of a limited number of small structures and the conversion of existing small structures where only minor exterior modifications are made. However, the Project consists of major construction at the site, including the demolition of an existing home, extensive excavation, and construction of a substantially larger new residence.
2. The single-family residence exemption from CEQA applies only where there is no substantial evidence of significant environmental impact. (*See Public Resources Code* § 21080; 14 Cal. Code Regs. § 15061(b)(3).) The sensitive bluff top location of the Project and the extensive scope of the anticipated excavation and construction activities pose a risk of significant environmental impact. The construction management plan attached to the staff report reflects that substantial excavation will take place at the site, which is located on an environmentally sensitive coastal bluff top. The plan indicates that upwards of 20 truckloads of dirt will be removed from the site over 2-3 months. It also

Ms. Rosalinh Ung, Associate Planner
City of Newport Beach, Planning Commission
December 7, 2017
Page 2

reflects that the overall Project is expected to require approximately 28 months to complete. It is therefore not entitled to a categorical exemption from CEQA.

3. The Project poses a significant environmental risk due to unusual circumstances. (See *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086.) The need to maintain the integrity of the coastal bluff top in an environmentally sensitive coastal area is significant.
4. Section 30600(c) of the California Coastal Act provides for the issuance of Coastal Development Permits directly by the California Coastal Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. We understand that the City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in section 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity, rather than the City of Newport Beach, with respect to the required coastal development permit.
5. Section 30251 of the Coastal Act states, in relevant part: "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas." The Project is located on a sensitive bluff face and is visible from Ocean Boulevard and the public sidewalks along the street and in more distant views from Big Corona beach. It is necessary to ensure that new development be sited and designed to protect views to and along the ocean and minimize the alteration of existing natural landforms consistent with Section 30251 of the Coastal Act and the City of Newport Beach's existing policies to protect public views, including those in the City's Zoning Code and certified Land Use Plan.
6. The City's Zoning Code stresses among its goals the need to "protect the character, social, and economic vitality of neighborhoods." (Zoning Code § 20.10.020.) As set forth in numerous other letters and emails from other residents of the neighborhood, this Project is not in keeping with the character of the neighborhood, and the requested variance is not consistent with those that have been granted (or denied to) other property owners in the vicinity.
7. The construction management plan for the Project reflects that it will have significant and adverse effects on the neighborhood, including traffic impacts from partial closures of Ocean Boulevard, significant construction traffic, and the like over a period of more than two years.


Ms. Rosalinh Ung, Associate Planner
City of Newport Beach, Planning Commission
December 7, 2017
Page 3

We respectfully request that the Planning Commission (1) consider these issues and include this correspondence in the administrative record of this evening's hearing, and (2) deny the Project proponent's application for a permit and variance in its present form and require that the foregoing issues be addressed and resolved.

Thank you.

Sincerely,

HART KING

A handwritten signature in black ink, appearing to be 'RJT', followed by a long horizontal line extending to the right.

Ronald J. Thommarson

cc: C. William Dahlin, Esq. (via email)
John Cummings, Sr. (via email)
John H. Cummings, III (via email)

Ronald J. Thommarson

From: Ronald J. Thommarson
Sent: Thursday, December 07, 2017 2:01 PM
To: 'rung@newportbeachca.gov'
Cc: C. William Dahlin; jc3wstatesdev@sbcglobal.net
Subject: Ginsberg Residence - Project PA2016-170 / Agenda Item 5 for December 7, 2017 NB Planning Commission Meeting
Attachments: Ltr to City NB Planning Commission 12.7.17 objecting to Ginsberg project (signed) 4811-0117-8712 v.1.pdf

Dear Ms. Ung,

Please see the attached correspondence in regard to Item Number 5 for the December 7, 2017 meeting of the Newport Beach Planning Commission. Thank you very much.

Sincerely,

Ron Thommarson

Hart | King

Ronald J. Thommarson | Associate

4 Hutton Centre Drive, Suite 900
Santa Ana, CA 92707
Tel. 714-432-8700 x344
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ATTORNEYS AT LAW

Ronald J. Thommarson
rthommarson@hartkinglaw.com

December 7, 2017

Our File Number: 36939.021/4849-7658-4024v.1

VIA E-MAIL

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
Planning Commission
100 Civic Center Drive
rung@newportbeachca.gov

Re: **Ginsberg Residence Project (PA2016-170)**
Site: 2607 Ocean Blvd., Corona del Mar, CA
Variance No.: VA2016-005
Coastal Dev. Permit No.: CD2017-080
December 7, 2017 Commission Meeting Agenda Item 5

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Ms. Rosalinh Ung, Associate Planner
City of Newport Beach, Planning Commission
December 7, 2017
Page 2

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Ms. Rosalinh Ung, Associate Planner
City of Newport Beach, Planning Commission
December 7, 2017
Page 3

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Thank you.

Sincerely,

HART KING

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Ronald J. Thommarson

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