

CALIFORNIA COASTAL COMMISSION

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W12d

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-20-0224

Applicant: David H. Braff

Agents: Tim Nicol
Nicol Architecture Inc.

Location: 40 N. La Senda, Laguna Beach, Orange County
APN: 056-172-34

Project Description: Remodel of existing 2,734 square foot, three-level (including existing basement), single-family residence resulting in a 3,198 square foot residence (no change to 25 foot height, foundation or structural roof elements); and remodel to existing guest house (no change to 554 square foot, 21 foot height, foundation, or structural roof elements) including (for both structures): interior improvements, new roof shingles, new siding, repair or replacement of existing doors and windows within the existing openings, and installation of one new window and door at existing guest house.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project is a remodel of historic structures located on a 43,415 square foot oceanfront bluff top lot. The entire property is rated "E" Exceptional on the City of Laguna Beach's historic inventory. The applicant has provided a Historic Resources Assessment (HRA) for the property. The HRA recommends that the site is eligible for listing on both the National and State Registers of Historic Places. The applicant has entered into an Agreement for Use of Structure for Historic Preservation, which limits future alterations. In addition, due to the limited scope of work, described in greater detail in the findings, the proposed project constitutes a minor remodel, not rising to the level of a major remodel.

Staff is recommending approval of the proposed development subject to conditions to assure consistency with the Coastal Act policies regarding development, neighborhood character and scale, and land and water resources protections. Staff is recommending two special conditions, which require: 1) all future improvements will require an amendment to this permit or a new coastal development permit, unless the Executive Director determines that none is legally required; 2) conformance with the approved project plans; and 3) implementation of construction best management responsibilities. Commission staff recommends that the Commission **APPROVE** Coastal Development Permit application 5-20-0224, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act.

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Exhibits:

Exhibit 1 – Vicinity Map

Exhibit 2 – Subject Property Photo

Exhibit 3 – Applicant’s Site Plan with Bluff Edge & Bluff Edge Setback

Exhibit 4 – Agreement for Use of Structure for Historic Preservation, 3/4/2020

Exhibit 5 - Project Plans

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-20-0224 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind

all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Future Improvements.

This permit is only for the development described in coastal development permit No. 5-20-0224. Pursuant to Title 14 California Code of Regulations (CCR) Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(a) shall not apply to the development governed by coastal development permit CDP No. 5-20-0224. Accordingly, any future improvements to the permitted single family residence and/or guest house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b), shall require an amendment to Permit No. 5-20-0224 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

2. Conformance with Proposed Project Plans.

By acceptance of this coastal development permit, the applicant agrees to carry out the project in conformance with the project plans dated 6/5/2020 prepared by Tim Nicol, Nicol Architecture, Inc., and in conformance with the proposed project structural plans (undated) prepared by Harold E. Larson, Registered Professional Engineer, Harold Larson Structural Design, and attached as [Exhibit 5](#) to this staff report dated 9/22/2020.

3. Construction Best Management Practices.

A. The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The permittee shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- (2) The permittee shall develop and implement spill prevention and control measures;
- (3) The permittee shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and
- (4) The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The subject property is a 43,415 square foot, oceanfront, bluff top lot. The applicant proposes to remodel an existing 2,734 square foot, three-level (including basement), single-family residence resulting in a 3,198 square foot residence (no change to 25 foot height, foundation or structural roof elements); and to remodel the existing guest house (no change to 554 square foot, 21 foot height, foundation, or structural roof elements) including (for both structures): interior improvements, new roof shingles, new siding, repair or replacement of existing doors and windows within the existing openings, and at existing guest house.

Proposed modifications to the main house include interior kitchen remodel on the first floor with no structural changes; remodel of powder and laundry rooms on the first floor; and second floor remodel to include remodel of a second bedroom and associated bathroom and closet, including removal and relocation of non-structural, interior walls. The length of interior walls to be removed in the main house is 42 feet; of that 42 feet, five feet is assumed to be load bearing walls. The length of interior walls to be added in the main house is 33.25 feet. The total area of remodel is 368 square feet on the first floor, and 274 square feet on the second floor. An existing stairway between the basement and first floor will be removed and a new one constructed. The existing 1,470

square foot footprint will become 1,476 square feet. The roof material will be changed to a wood shingle to match the original, historic roof material; no structural change to the roof is proposed. All exterior wood siding is to be replaced in kind due to the extremely poor condition of the existing siding, and to match original, historic siding. The proposed replacement of the roof shingles and siding will not require any structural work or demolition to the existing structure. No roof or wall sheathing is proposed for the main house. Thus, the proposed siding and roof shingle replacement will not alter or add structural elements. There are three small shear walls proposed for the guest house. No change is proposed to the existing foundation for the main house.

Proposed modifications to the guest house include moving the bedroom, bathroom, living room, and kitchen from upstairs to downstairs. The roof material will be changed to a wood shingle to match the original, historic roof material, with no change to any roof structural elements. Siding is proposed to be replaced as needed to match the original, historic siding. The length of interior walls to be removed is 38.5 feet. The length of interior walls to be added is 24'. There are no load bearing walls being changed or removed. No change is proposed to the existing roof structural elements. Other than the installation of one new window and door, there will be no change to the exterior walls. There will be no change to the existing foundation. The 315 square foot footprint will not change. There will be no change to the existing 21 foot height. There will be no change to the existing square footage of 554 square feet. The guest house is located at the landward-most portion of the lot, adjacent to North La Senda Drive.

Absent plywood sheathing or shear walls, horizontal siding such as is proposed would add very little structural value. Of course, any siding adds some structural value, as does drywall for that matter, but these would not typically be considered structural elements. In addition, no plywood sheathing is proposed to be added to the existing roof framing. In past actions where the Commission has considered new siding to contribute to a major remodel, both wall and roof sheathing, as well as other structural elements, were added. The three small shear walls proposed to be added to the guest house are not significant in terms of structural alteration, and moreover, are proposed to the guest house which is next to the road, on the opposite side of the lot from the bluff.

Although the proposed project includes replacement of siding and roof shingles, no roof or wall sheathing is proposed to the main house, which is closest to the bluff. There are three small shear walls proposed to the guest house, but this represents well under a 50% alteration to the existing exterior walls of the guest house, which is adjacent to the road, away from the bluff. Thus, the proposed siding and roof shingle replacement will not add, remove, or alter structural elements to the main house, and only very minimally to the guest house. No change is proposed to the foundations for the main house or guest house.

The proposed project (minor remodel of main house and guest house) would involve only two of the existing structures on the property. No change to existing hardscape, landscaping or drainage is proposed. There are six structures with interior square

footage on the lot: the subject main and guest houses; a 359 square foot, two story chart house; a faux light house; one detached, 1,027 square foot, four car garage; and one, detached, 442 square foot, two car garage. In addition, a number of ancillary structures are present at the site: a bluff stairway to the beach below; a beach level bridge to the tidal swimming pool; and a tidal swimming pool (a recreational pool that fills with seawater at high tide).

The guest house and garages are located adjacent to the street. The chart house is located between the main house and the street. The faux lighthouse, bluff stairway, beach level bridge from the stairs to the tidal swimming pool and the pool are located at or on the bluff or beach below.

The property is listed on the City of Laguna Beach Historic Resource Inventory with an "E" rating¹. The main house was constructed in 1929; an addition to the main house was completed in 1932. The other structures on the site were constructed between 1931 through 1938. For properties listed on the Historic Resource Inventory, the City's certified LCP allows historic preservation incentives, including maintaining existing, non-conforming setbacks.

Jurisdiction

The subject site is located at 40 North La Senda Drive, in the Three Arch Bay community of the City of Laguna Beach. Due to the lack of public access from Coast Highway to the sea, Three Arch Bay is one of the areas of deferred certification in the otherwise certified City of Laguna Beach. Therefore, the Commission reviews coastal development permit applications in this area directly, and the standard of review is the Chapter 3 policies of the Coastal Act.

B. Major vs. Minor Remodel

Assessing the extent of a remodel is important because, as discussed more fully below, when existing development is altered so substantially that the resulting structure is appropriately considered a new or replacement structure, rather than just an altered version of the original structure, existing non-conformities must be brought into conformance with current rules. In this case, whether the proposed development is such a major remodel or not would affect whether existing non-conforming development would need to be brought into conformance, or removed. Existing non-conformities with regard to the typically imposed bluff top setback on the subject site may include at least a portion of the main house, and the development seaward of the main house (patio area, faux light house, bluff stairs, and development at the beach level).

While the dividing line between when a project becomes such a "major remodel" is not always clear, at a certain point, substantial alterations to a structure can no longer be

¹ The City's historic resource ratings are: "E" Exceptional, "K" Key and "C" Contributive.

considered minor improvements, but instead must be considered new development. Although not the standard of review for this project, the City of Laguna Beach's certified LCP (which serves as guidance within the Three Arch Bay area of deferred certification), in an attempt to address this question, defines "major remodel" as follows (in the glossary of the Land Use Element portion of the certified LCP Land Use Plan):

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.

In addition, Section 13252(b) of the Commission's regulations also states that the "replacement" of 50 percent or more of a single-family residence cannot be considered repair and maintenance, but instead constitutes a replacement structure requiring a coastal development permit.

Based on Section 13252(b), the Commission has found (see A-5-VEN-17-0009 (Thomas), A-5-LGB-18-0012 (Bracamonte); 6-18-0182 (Harris); 5-18-0223 (Walsh), among others) that alterations to a structure must be treated as creating a new structure whenever one of the following takes place: 1) 50% or more of the major structural components are replaced; 2) there is a 50% increase in gross floor area; 3) replacement of less than 50% of a major structural component, when considered in conjunction with prior remodeling work, results in cumulative alterations exceeding 50% or more of that major structural component; and/or 4) less than a 50% increase in floor area where the alteration would result in a cumulative addition of 50% or more of the floor area, taking into account previous additions to the structure. These decisions do not necessarily mean that any less extensive remodeling would not also result in a new structure, but only that remodeling that does reach these levels must be considered to have that effect.

In past actions, the Commission has looked at the extent of proposed alteration to an existing residence to determine whether it alters the existing residence to such a significant degree that the entire structure constitutes a "new development" (or a "major remodel") that must, as a whole, comply with Coastal Act policies. These standards have been applied by the Commission to determine when, in practical effect, a project that alters an existing structure makes it effectively a new structure, rather than an improvement to an existing structure.

The existing main house is located in relatively close proximity to the edge of the coastal bluff. The site plan submitted by the applicant depicts a bluff edge location and a line depicting a 25-foot setback from the bluff edge (labeled "25-0' Bluff Top Setback"). However, based on this site plan, the northwestern most seaward side of the existing main house extends a maximum of approximately three feet over that Bluff Top Setback line depicted on the site plan (Exhibit 3), tapering to no encroachment approximately

fifteen feet to the south. In addition, the bay window at the southern-most seaward side of the existing main house extends into the bluff edge setback area shown on the site plan by approximately two feet for over an approximate length of 15 feet. If the proposed development includes alterations to the main house such that it would constitute a major remodel as described above, these extensions into the required bluff edge setback would need to be removed and the structure made to conform with current bluff edge setback standards. (It should also be noted that at this property, the question of whether historic preservation incentives apply could be considered). The bluff edge and the depicted setback have not been reviewed by the Commission's staff geologist. This is because, as described below, the extent of work proposed does not rise to the level of major remodel, and so the question of removing non-conformities is not raised.

The proposed project will not alter the existing main house foundations, structural roof elements, or exterior walls (except to replace siding). The proposed project would add 464 square feet to the existing 2,734 square foot residence, an addition of approximately 17% percent. The interior remodel will alter 642 square feet of the existing 2,734 square foot main house, a little less than 25%, which, taken cumulatively, is below the 50% threshold. Commission records indicate that an exemption from coastal development permit requirements was issued for a 57 square foot, second floor bathroom remodel in the main house (5-19-0373-X) at the subject site. If that additional 57 square feet is added to the currently proposed remodel area of 642 square feet ($642 + 57 = 699$ square feet), the total percent remodel would be just over 25%, still well below the 50% threshold. Thus, the proposed project does not rise to the level of a major remodel as that term has been applied by the Coastal Commission and as defined in the City's LCP.

c. Historic Preservation

Section 30251 of the Coastal Act states:

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

Section 30253(e) of the Coastal Act states, in relevant part:

New development shall...

(e) where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

The City's certified LCP Historic Preservation Policies state:

The LUP Land Use Element (LUE) includes the following policy:

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

Action 2.2.1 Update the City's Historic Resource Inventory. (Short-term implementation.)

Action 2.2.2 Receive an annual report from the Heritage Committee regarding preservation issues related to historically significant structures and amend preservation policies and ordinances as necessary to address identified issues. (Short-to-long-term implementation.) (Same as Action 3.3.1.)

Action 2.2.3 Adopt incentives to preserve residential structures that contribute to the cultural and/or architectural character and heritage of the community. (Same as Action 3.3.3.)

Title 25 of the Implementation Plan includes the following sections:

Chapter 25.05 Administration

Section 25.05.040(H) Design Review:

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

Chapter 25.45 Historic Preservation

25.45.006 Historic register preservation incentives.

(E) Setback Flexibility. Additions to historic structures shall be allowed to maintain setbacks up to the line of existing encroachments; provided, that all setbacks as required by the Uniform Building Code are maintained for new construction.

...

(I) Relief from Nonconforming Structure Requirements.

(1) Structures listed on the historic register may be allowed to add more than fifty percent of the original structure without bringing existing nonconformities into compliance if it is determined that such an addition will not diminish or

detract from the historic significance of the original structure, and if such addition is found to be compatible in scale and character with the surrounding neighborhood.

25.45.008 Procedures for the alteration of historic register structures.

(A) Prior to the issuance of a building permit to remodel or alter any historic structure (with the exception of minor exterior modifications), the design review board shall review the proposed changes in accordance with Chapter 25.05 of this title and find the proposal consistent with the following applicable rehabilitation guidelines. Interior changes shall not be reviewed unless the changes involve interior elements which are integral to the historical building design. Prior to design review board review of alterations to any historic structures, the heritage committee shall provide a recommendation on the proposed change(s). A structural and historical assessment of the structure to determine if proposed alterations can be accomplished without removing the identified historic character defining features of the structure shall be submitted for heritage committee and design review board consideration. Plans shall be submitted for the alteration of historic structures clearly identifying the actual historic character defining fabric (elements such as siding, windows, doors, moldings, etc.) of the structure that will be retained and/or removed.

(B) Rehabilitation Guidelines. The following guidelines shall be used to evaluate any proposed alteration to structures on the historic register:

(1) When altering or adding to historically significant structures, the historic character of the original structure shall be retained. Any changes shall be guided by the policies of the city's historic resources element and specific plans where applicable.

(2) Alterations and additions to any historically significant or architecturally significant building shall not introduce some new or conflicting element and shall complement the prevailing architecture.

(3) Every reasonable effort shall be made to provide a compatible use for the property which requires minimal alteration to the building.

(4) The removal or alteration of any historic material or distinctive architectural features shall be avoided.

(5) Changes which may have occurred over time are evidence of the history and development of the building. These changes may have acquired significance in their own right and shall be preserved except where such changes have occurred inappropriately.

(6) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be preserved.

(7) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material shall be the same material as the original if at all possible, or shall match in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplications of features, substantiated by historic, physical, or pictorial

evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(8) Surface cleaning of historic structures shall be conducted carefully and gently. Sandblasting and other cleaning methods that damage historic materials shall not be utilized.

(9) Contemporary design for alteration and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural materials, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(10) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure will be unimpaired.

(C) Prior to the issuance of a building permit, a preconstruction meeting shall occur and shall consist of the property owner, contractor, inspector assigned to inspect the structure, a city staff member and/or heritage committee member and the project architect. This meeting will be used to convey the obligations and responsibilities of the property owner and his or her contractors and architects in protecting and avoiding destruction of the identified historic fabric that is to be retained.

In addition to the policies and sections cited above, Chapter 8 of the Laguna Beach Design Guidelines, a component of the certified LCP Implementation Plan, describes measures to consider to retain the integrity of the City's historic structures. These measures include: retaining character-defining features, or if necessary, repairing the feature(s) to preserve the structure's historic integrity. Chapter 8 of the Design Guidelines also recommends preserving the pattern of windows and doors - their proportions, spacing, and detailing. In addition, Chapter 8 of the Design Guidelines recommends maintaining the historic roof form, profile, and materials and repairing as necessary, as an important means of preserving a property's historic significance.

Although the standard of review in this area of deferred certification is the Chapter 3 policies of the Coastal Act, the policies of the City's certified LCP provide guidance in this area. They provide guidance as past Commission actions with regard to how the Commission has interpreted Coastal Act policy application more specifically in this general area. Both these LUP standards and Coastal Act Sections 30251, and 30253(e) cited above, require protection of unique characteristics of special communities and neighborhoods, which include historic resources.

A Historic Resource Assessment (HRA) was prepared for the proposed property by Chattel, Inc., Historic Preservation Consultants, dated 10/31/2019. In addition, the applicant has entered into an "Agreement for Use of Structure for Historic Preservation" with the City of Laguna Beach, dated 3/4/2020 ([Exhibit 4](#)). The agreement states that:

“the subject historical structure located on the Subject Property shall not be altered or demolished without prior approval by the City of Laguna Beach. ‘Altered’ shall mean any change or modification including, but not limited to, changes to or modification of structure, architectural details and visual characteristics such as paint color and surface texture, cutting or removal of significant landscape features, and placement or removal of any objects such as signs, light fixtures and fences affecting the visual qualities of the historical structure located on the Subject Property.”

Additionally, the applicant has indicated that the project’s historic consultant is in the process of preparing an application to the U.S. Department of the Interior for listing the site in the National Register of Historic Places. Properties eligible for listing in the National Register are also eligible for listing in the California Register. When/if approved, the applicant has declared their intent to place the site on both the National and State Historic Registers. Though National and State listing is not certain, the fact that the applicant has already entered into a historic preservation agreement with the City lends credence to the likelihood of pursuing National and State listing for the property.

The HRA states that a historic property is eligible for listing on the National Register if they: A) are associated with events that have made a significant contribution to the broad patterns of our history; or B) are associated with the lives of significant persons in our past; or C) embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or D) have yielded or may be likely to yield, information important in history or prehistory. The Historic Assessment Memorandum states that a property is eligible for listing on the State Register if it meets any of the following four criteria: 1) is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage; or 2) is associated with the lives of persons important in our past; or 3) embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual or possesses high artistic values; or 4) has yielded, or may be likely to yield, information important in prehistory or history. The HRA finds that the subject property is eligible for listing on the National and State Registers under two of the four criteria: Criterion A/1 “is associated with events that have made a significant contribution to the broad patterns of our history and cultural heritage;” and Criterion B/2 “Is associated with the lives of persons important in our past.” The site is currently listed on the City’s Historic Resource Inventory with an “E” rating (“E” Exceptional, is the City’s highest rating). The property is not currently listed on the State or National Historic Register. However, the Historic Assessment Memorandum states:

“The subject property does appear individually eligible for listing in the National Register and California Register. For the reasons presented in this HRA, the subject property does appear to be a historical resource under CEQA.”

And regarding State listing, the HRA states:

“For the reasons presented in this HRA, the subject property appears eligible for listing in the California Register under Criterion 1 for its association with the early development of the Three Arch Bay community in the South Laguna neighborhood of Laguna Beach, California and Criterion 2 for its association with film professionals and longtime Three Arch Bay personalities and residents Edward H. Griffith and his wife, America Griffith.”

The HRA describes the original owners of the property, Edward and America Griffith, as significant figures in Southern California’s nascent film industry, as writer/director and actor. In addition, the subject home was the second or third home constructed in Three Arch Bay, and the HRA states that the pair were “pioneering individual[s] in the development of the Three Arch Bay neighborhood and was [were] heavily involved in the community for over 50 years.” A 1981 Historic Resources Inventory, prepared for the California Department of Parks and Recreation describes the property as historic², stating:

“Brought to the area by actor Hallam Cooley, the promoter of the tract, the Griffith’s brought much of Hollywood’s glamour with them. They gave lavish parties and entertained such celebrities as the Aga Khan, Lionel Barrymore, Claudette Colbert, and Lesley Howard ...

The Griffith estate is the architectural and historical focus of the neighborhood. The unique character of the house and outbuildings and their setting on the cliff make for an outstanding estate.”

The HRA finds that the subject property retains most of its appearance from the period of significance (1929 – 1946). The HRA further finds that the subject property retains integrity in location, design, materials, workmanship, feeling, and association. Regarding integrity of design, the HRA states: “The subject property retains its character-defining features including cross gabled roof clad shingles with narrow overhangs, wood siding, brick water table, north elevation landing with low wall of brick and stone, majority of original fenestration, and presence of cobblestone paths.” Finally, the HRA concludes:

“This HRA found the subject property to be eligible for listing in the National Register of Historic Places, California Register of Historical Resources, and City of Laguna Beach Historic Register. This evaluation concurred with the findings of 1981 survey and confirmed that the subject property is a historical resource as

² Karen Turnbull. Environmental Coalition. State of California – The Resources Agency. Department of Parks and Recreation. Historic Resources Inventory. “Griffith House.” Ser. No. 30-2677-01-10. March 14, 1981.

defined by the California Environmental Quality Act. The proposed project is found to be in conformance with the Secretary's Standards,³ and therefore, this report finds historical resource impacts of the proposed project to be less than significant."

The proposed project will retain all exterior structural elements, will replace the structures' siding and roof shingles with historically accurate material, and windows to be replaced will be replaced in the same openings with historically accurate materials. The historic proportions, spacing, and detailing of the windows and doors will be preserved. The historic roof form, profile, and materials will be maintained, preserving the property's historic significance. Thus, the proposed project will retain the character-defining features (or repair them with historically appropriate measures) as necessary to preserve the structures' historic integrity. These steps are all consistent with the measures identified in Chapter 8, Historic Preservation, of the City's Design Guidelines. The proposed project will preserve the residential structures that contribute to the cultural heritage of the community, consistent with the goal of LUE Action 2.2.3 (cited above). Further, the proposed project conforms to the Rehabilitation Guidelines listed in Section 25.45.008 of Title 25 of the City's certified Implementation Plan (cited above). In cases such as these, where development is proposed in an area that is otherwise certified, the Commission often relies on certified language to interpret application of Coastal Act policies more specifically to certain areas or uses. In this case, the Commission recognizes the applicability of the Historic Resources components of the City's certified LCP as providing significant guidance for this proposed development.

As described above, the proposed property qualifies as historic. The limited changes proposed are consistent with the guidance for projects involving historic properties contained in the City's certified LCP (guidance in this area of deferred certification). Thus, it is possible that historic preservation incentives as described in the LCP, such as allowing non-conforming development to remain, may be applicable to this site. However, because the proposed project does not rise to the level of a major remodel, the point is moot. The Commission typically has found that the threshold to impose these requirements (such as removal of non-conforming development) is triggered when the scope of work is such that a project represents new development (major remodel). In this case, the proposed development does not rise to that level. If at some point in the future, additional development is proposed at the site, the question of whether it, together with the development addressed herein, rises to the level of new development/major remodel, would be considered. If in the future, the total work conducted on the site does rise to that level, consideration of how the typically required measures (such as removal of non-conforming development) as it applies to historic structures, would be considered. As proposed and conditioned, the project conforms to Coastal Act Sections 30251 and 30253(e) regarding protection of views to and along the ocean and scenic coastal areas, and protection of unique characteristics of special

³ Secretary of the Interior's Standards for the Treatment of Historic Properties.

communities and neighborhoods, which include historic resources as interpreted via the City's LCP policies and standards cited above regarding historic preservation.

D. Public Access

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

The City's certified LCP includes the following public access policies:

Land Use Element:

Policy 4.3 states: Maintain and enhance access to coastal resource areas, particularly the designated public beaches, by ensuring that access points are safe, attractive, and pedestrian friendly.

Action 4.3.1 states: Continue to pursue dedication and acceptance of beach access and other offers-to-dedicate throughout the City. The City shall maintain an inventory of public access and open space dedication or offers-to-dedicate to ensure such areas are known to the public and are protected through the coastal development permit process. (Same as Action 6.9.1)

Action 4.3.2 Maintain and improve public pedestrian access to and along beaches and oceanfront bluff using public rights-of-way and public easements. Protect, and where feasible, formalize, continued public use over areas used historically by the public (i.e. public prescriptive rights) to gain access to and along beaches, oceanfront bluffs, and other recreational areas.

Coastal Land Use Plan Technical Appendix:

The location and amount of new development shall maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development with public transportation.

Open Space/Conservation Element:

Policy 3-A states: Retain and improve existing public beach accessways in the City, and protect and enhance the public rights to use the dry sand beaches of the City.

The proposed project is located within an existing locked gate community located between the sea and the first public road paralleling the sea. Public access through this

community does not currently exist. The proposed project will not create new adverse effects on public access. No public access impacts are anticipated because the project would not create any changes to existing coastal access. The proposed project will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. The nearest public access is located approximately 700 feet upcoast of the site, at Thousand Steps Beach. The Commission finds the proposed project, as conditioned, is consistent with the LCP public access policies cited above and with the public access policies of the Coastal Act.

E. Future Improvements

As described above, the project plans indicate that the project will alter well less than 50 percent of the primary elements of the structure. Although this project can be considered a minor remodel, small improvements that may not ordinarily need a CDP (such as replacing doors and/or windows or other small additions) could add to the total alterations to the primary structural elements and push the alteration total of one or more elements over the 50 percent threshold. This would then qualify the residence as new development that may then be required to conform to the current building standards (including the bluff edge setback). To ensure that the development is consistent with the Coastal Act and does not prejudice the LCP, the Commission imposes **Special Condition 1**. This condition requires a new CDP or amendment for all future improvements, including repair and maintenance actions that would ordinarily not require a permit.

F. Local Coastal Program (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for the areas of deferred certification, in July 1992. In February 1993 the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and the City assumed permit issuing authority at that time.

The subject site is located within the Three Arch Bay area of deferred certification. Certification in this area was deferred due to issues of public access arising from the locked gate nature of the community. However, as discussed above, the proposed development will not further decrease or impact public access within the existing locked gate community. Therefore, the Commission finds that approval of this project, as conditioned, will not prevent the City of Laguna Beach from preparing and certifying a Local Coastal Program that includes the areas of deferred certification.

G. California Environmental Quality Act (CEQA)

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Laguna Beach is the lead agency responsible for certifying that the proposed project is in conformance with CEQA. The City determined that in accordance with CEQA, the project is Categorical Exempt from Provisions of CEQA, citing CEQA Guidelines section 15304. However, Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require: 1) all future improvements will require an amendment to this permit or a new coastal development permit, unless the Executive Director determines that none is legally required; 2) conformance with the approved project plans; and 3) implementation of construction best management responsibilities.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

1. City of Laguna Beach certified Local Coastal Program.
2. Historic Resource Assessment and Conformance Review, Chattel, Inc. Historic Preservation Consultants; 10/31/2019.