

**CALIFORNIA COASTAL COMMISSION**

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# Th10a

**A-5-LGB-20-0050 (8 ORNIN)  
NOVEMBER 2, 2020**

**CORRESPONDENCE**

1. Mark and Sharon Fudge

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October 22, 2020

California Coastal Commission  
South Coast District Office  
301 E. Ocean Blvd. Suite 300  
Long Beach, CA 90802-4325  
Chloe Seifert, Analyst

Re: A-5-LGB-20-0050 (Coast Inn, Laguna Beach) **Th10a**

Dear Chloe,

Thank you for the staff report for our appeal of the Coast Inn project in Laguna Beach. We are in support of Staff's recommendation of finding Substantial Issue.

There is one critical point in the staff report that we do not agree with. On page 11 you've written : *"The appellants contend that the percentage of project renovation must be calculated from the original gross floor area of the structure in order to determine whether a project constitutes a major remodel; they further assert that this should include all improvements constructed on the residence [sic] since 1929. However, in previous actions the Commission has reviewed the scope of development occurring after the Coastal Act was effectively certified on January 1, 1977. Thus, this specific contention is not supported by past precedent or LCP Policy."*

However, the use of the 'original gross floor area' of a structure as a baseline for determining a major remodel IS supported by LCP Policy. The word 'original' is referenced in 8 different locations in the municipal code, including the only place a definition of 'major remodel' exists in the code. Once a Local Coastal Program has been certified, that LCP becomes the ruling document for review of development in that jurisdiction. While the Commission may have used the certification date of the Coastal Act in previous actions as the baseline for review of redevelopment, that is not relevant when a local agency - here, Laguna Beach - has a certified LCP that uses a different metric for measurement.

Section 30604(b) of the Coastal Act states that after the certification of a local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program. Just this year in *Citizens for South Bay Coastal Access v. City of San Diego*, the Court of Appeal affirmed that the Coastal Commission's regulations do not preempt provisions of a certified LCP. And here, the Coastal Commission's regulations do not address the question of what date is controlling to assess when redevelopment occurs. The date of January 1, 1977 is not in the regulations. While that date has been used in previous reviews, it has been challenged by multiple local agencies such as San Clemente, Pacific Grove, and others. The City of Laguna Beach is reportedly going to be asking to change the date to January 13, 1993 (the date of certification of their LCP) in an upcoming LCP amendment, but that has not yet been certified and therefore is no more controlling than the date of January 1, 1977.

This is a complex statewide issue, and it is time for there to be consistency throughout the State. In the case of Laguna Beach, it is not necessary to adopt a date specific because the City's LCP - in multiple instances - refers to the 'original square footage' or 'original gross floor area' as the baseline for land use decisions. The relevant codes are copied and highlighted below for your convenience (*emphasis added*) :

25.05.040 Design Review (B) *Development Subject to Design Review.*  
(1) *All new buildings, structures and physical improvements and relocations, additions, extensions and exterior changes of or to existing buildings, structural and nonstructural improvements, including landscaping and grading, shall be subject to design review, except as otherwise provided in Section 25.05.040(B)(2). Examples of physical improvements and site developments subject to design review include, but are not limited to, the following:*

25.05.040(B)(1)(j) *Additions that are 50% or more of the **original gross floor area**, additions that create a new upper story, additions that exceed a height of 15 feet above the adjacent ground elevation or additions that exceed 10% of the **original gross floor area** of an existing legal nonconforming structure;*

25.05.040(B)(1)(q) *Landscaping review for new development or additions that are fifty percent or more of the **original gross floor area**, additions that create a new upper story or additions that exceed a height of fifteen feet above the adjacent ground elevation, and for structural improvements within environmentally sensitive areas;*

25.05.040(B)(2) *Exceptions. The following shall be exempt from the design review process, unless they are changes associated with approved design review plans, including approved landscape plans:*

- (a) Additions to a single-family residence in residential zones that:  
(i) Are less than fifty percent of the **original gross floor area**,

25.08.012 Words beginning with "F."

*The following are definitions for words beginning with "F":*

*"Floor area, gross" means the sum of the gross horizontal areas of the several floors of a building, excluding areas used for garage purposes, elevators shafts and such other basement, cellar or attic areas as are devoted exclusively to uses accessory to the operation of the building. Horizontal dimensions shall be measured from the face of the building and shall include enclosed porches, stairways and exit balconies;*

***"Floor area, original gross" means the gross floor area (as defined herein) of a separate unattached structure when initially constructed.***

25.10.008 Property development standards.

*25.10.008(O) Landscaped open area or landscaped area shall be any combination of living plants (such as grass, ground cover, shrubs, vines, hedges or trees). To qualify as part of the required landscaped area there must be a minimum dimension of three-feet. The landscaped area may be located anywhere within the lot, including the buildable or setback areas. **A major remodel is a structural renovation and/or addition, which equals or exceeds fifty percent of the original gross floor area of the structure on the lot.***

25.45.006 Historic register preservation incentives.

*Structures listed on the city's historic register are eligible to apply for the following preservation benefits. The consideration of benefits shall occur at a public hearing and the granting of any benefit shall be conditioned upon the recordation of a written agreement between the city and property owner that ensures preservation of the building's historic character. The notice of public hearing shall include notice that the applicant is requesting approval of historic preservation incentives and what those requested benefits are.*

(A) *Parking. The following benefits are subject to design review board approval, except when a conditional use permit is required, in which case the city council shall be the final approval authority, upon recommendation by the planning commission. The planning commission shall consider recommendations of the heritage committee.*

(1) *Historic single-family dwellings that are nonconforming due to substandard parking shall not be required to provide parking in accordance with Chapter 25.52 of this title when additions are proposed, provided that*

*such additions do not exceed more than fifty percent of the original square footage of the structure and that at least one covered parking space has been provided on-site. When a second residential unit is being added to a historic structure under the provisions of Chapter 25.17 (Second Residential Units), parking shall be in accordance with the requirements of that chapter unless modified by the city council for purposes of achieving the goals of the historic preservation ordinance.*

(2) *Historic multiple-family dwellings that are nonconforming due to substandard parking shall not be required to provide parking in accordance with Chapter 25.52 when additions are proposed, provided that such additions do not exceed more than fifty percent of the original square footage of the structure and that at least half of the parking spaces required in Chapter 25.52 have been provided.*

#### 25.56.014 Restoration of nonconforming structure.

*Notwithstanding the extent of damage, any legal nonconforming building, structure or improvement which has been damaged by fire, flood, wind, earthquake or other disasters may be repaired, restored, replaced or reconstructed up to the **original size**, placement and density within five years of such damage or destruction, notwithstanding any other provision of this title; provided, however, that no multiple-family dwelling which has been so damaged to the extent of more than fifty percent of the value of such building, structure or improvement immediately prior to such calamity shall be repaired, restored, replaced or reconstructed unless the provisions of Chapter 25.52 are complied with in full; and provided further, however, that no shore protective device shall be repaired, restored, replaced or reconstructed unless it is consistent with prevailing zoning regulations and general plan policy. (Ord. 1530 § 1, 2010; Ord. 1282 § 1, 1994).*

The City of Laguna Beach uses the 'original gross floor area' (defined as 'the floor area of the structure when initially constructed' ) as the baseline for multiple applications of the implementation plan (IP) of their LCP, including the definition of a major remodel. Neither the Coastal Act, Coastal Regulations or past decisions on other areas supersede the City's certified LCP. We ask that you correct the staff report to reflect this so it can be properly reviewed during the de novo stage of the appeal.

Sincerely,



Mark and Sharon Fudge