

CALIFORNIA COASTAL COMMISSION

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



W14e

5-19-1036 (Blue Lagoon Community Association)
JULY 8, 2020

EX PARTE FORMS

EXPARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner Donne Brownsey

1) Name or description of project: July 2020 Commission Items
W14 (c)5-19-1032 OC County Dept of Public Works and W 14(e) 5-
19-1036 Blue Lagoon Community Association

2) Date and time of receipt of communication:
July, 2, 2020, 9:00-9:25AM

3) Location of communication
By Telephone

4) Identity of person(s) initiating communication:
Penny Elia

5) Identity of person(s) on whose behalf communication was made:
Penny Elia on behalf of the Sierra Club and the NGO letter on OC
Public Works (see attached letter) and Penny Elia as resident of
Laguna Beach on Blue Lagoon.

6) Identity of persons(s) receiving communication:
Donne Brownsey

7) Identity of all person(s) present during the communication:
Brownsey and Elia

Complete, comprehensive description of communication
content (attach complete set of any text or graphic material
presented):


RE: OC County Department of Public Works: Ms. Elia reviewed the
NGO joint letter dated July 1, 2020 regarding the issues of concern with
the staff report regarding Condition #1 on felt there is a need for
performance standards that are specified in the condition of determining

an improvement of enforcement of the dogs on leash etc and other rules on the sign. She indicated that they are also very concerned that the location of the signs is critical and that they should be close to the public street entrances to the beach. Additionally she was concerned that the Spanish language sign reference was confusing and that there should be a separate Spanish language sign consistent with the Commission's EJ Principles. Finally: she was concerned that a 5 year monitoring plan is too long a time period. I expressed my concern regarding signs and critical habitat for endangered species in that the signs are routinely ignored on public beaches close to me.

Re: Blue Lagoon: Ms Elia was speaking as a resident of Laguna Beach and she indicated that there is a long history of Commission actions on this property and that the development was required to provide public access in past conditions. She stated that there is a long history of violations of numerous conditions without consequences. She indicated that now it is impossible for the public to walk in front of the property due to the armoring and the beach erosion which blocks the ability of the public to walk between the 2 long beaches on either side. For years, the public was able to enjoy a long beach walk and that it not the case now.

She indicated that the property was required to put in a public staircase and to provide public access in front of the building. Instead there are security guards 24/7 that guard the property preventing any public access. She requests that the Commission require public access as a condition of this permit.

Date July 2, 2020

A handwritten signature in dark ink, appearing to read "Donne Brownsey", is written over a horizontal line.

Signature of Commissioner Donne Brownsey

July 1, 2020

California Coastal Commission
45 Fremont St. #2000
San Francisco, CA 94105

Re: W14c Application 5-19-1036
Blue Lagoon Community Association, Laguna Beach

Dear Chair Padilla and Commissioners:

I am reaching out to you on this issue and asking that you please look a bit deeper into the impacts the Blue Lagoon condos have had on this stretch of public beach in Laguna Beach for nearly six decades.

To provide some reference and refresh your memories, this is the same beach where 11 Lagunita is located – the enforcement action focused on removal of a huge seawall that you all supported in 2018, now the subject of multiple lawsuits against the Commission. This is the same beach where enforcement staff made the case that the beach and public access are being impacted by the construction of a seawall.

While this CDP application is for bluff armoring landward of the beach, I am hoping you can find an opportunity to condition this CDP with a goal of returning the public beach access that has been severely diminished over the years by Blue Lagoon's armoring of their property. I believe the first step in achieving a balance between ongoing armoring and return of public access would be applying a condition of approval that would allow for a boundary determination of the mean high tide line in front of this property. Following that determination, the second condition of approval would involve developing a plan for a public walkway in front of this property, or at least return of the public access easement that was associated with previous conditioning of CDPs.

Attached is an exhibit that better illustrates my ask for conditioning, and includes a brief history of the Blue Lagoon seawall and challenges associated with public access. As a 35-year resident of Laguna Beach that has frequented this beach for over three decades, I continue to be disappointed in the loss of public access all along this stretch of beach. In the "old days" my husband and I were able to walk from cove to cove during low tide, but those days are long gone throughout Laguna Beach due to heavy armoring of this coastline.

In addition to these two conditions, I would also ask that there be another condition that requires a plant palette from the applicant before the permit is issued. The rain event that is cited by Terra Costa Consulting isn't the single event that created this unstable condition, but rather the ongoing irrigation of a lawn. We see this occur up and down the coast of California all the time, but here the problem was exacerbated by the rains – not caused by the rains. The staff report states that the applicant is proposing "low water use and native plants" but there often seems to be a bit of disconnect in what is actually selected for the plantings – they are neither low water use nor native. Providing a plant palette and landscape design would help everyone feel a bit more confident that this slide area is somewhat "naturally" mitigated since shotcrete is no friend of the environment or natural sediment transport to the beach.

Thank you for considering this request. I understand it's not the usual way of looking at a project, but with the Commission's focus on sea level rise and the impacts to public access, I hope you can find a nexus to condition this project to benefit the beach and public access.

Sincerely,

A handwritten signature in cursive script that reads "Penny Elia".

Penny Elia
Laguna Beach, CA

Attached: Blue Lagoon Exhibits

1972



1979



2002



2006



2010 – note algae on rocks and see comment re: boundary determination of mean high tide line below.



2013



2019



Excerpts from 2013 presentation re: opposition to CDP that was approved for intensification of seawall that would result in blocking of public access.

[Application No. 5-12-198](#)



Laguna Beach : Blue Lagoon May Have to Offer Beach Access

By LIZ MULLEN \F

FEB. 23, 1985 | 12 AM

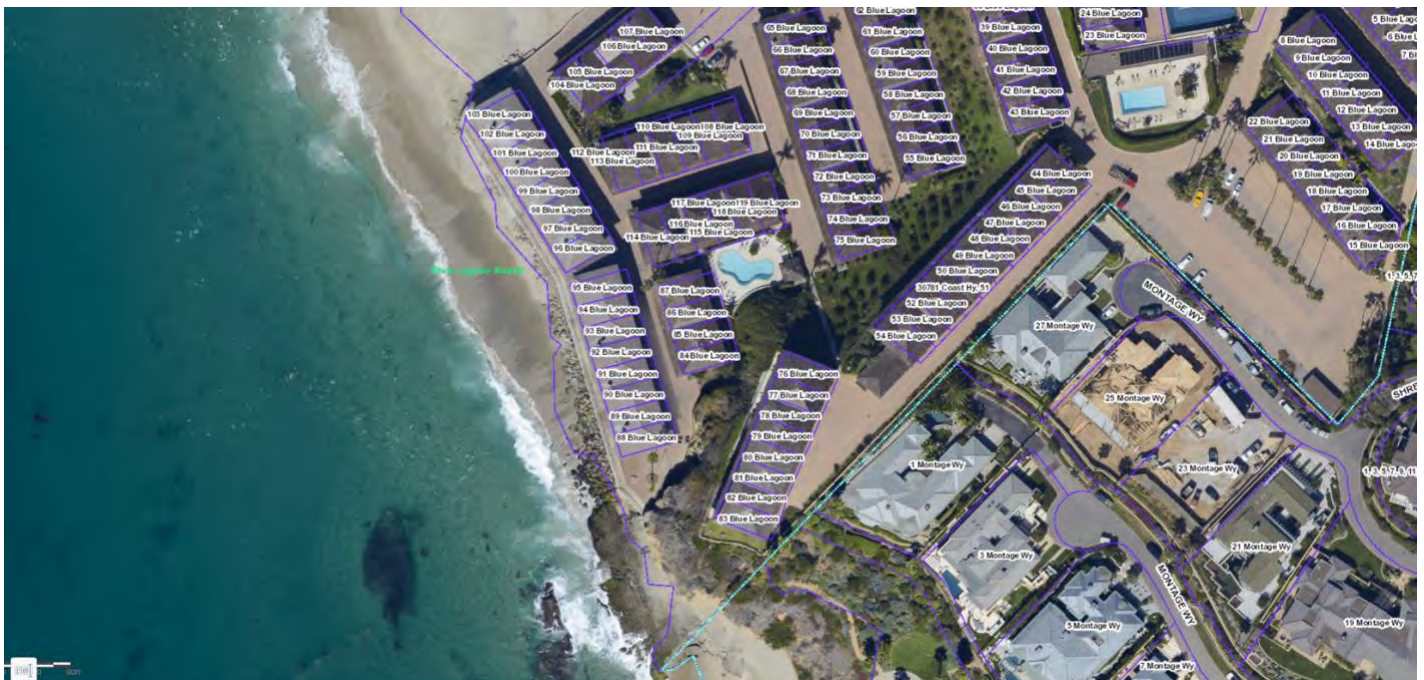
The California Coastal Commission on Wednesday is expected to require that the Blue Lagoon Community Assn. allow public access to the beach at the site of Blue Lagoon's seawall.

The association is asking the commission for a permanent permit for the 2,500-ton rock seawall the homeowners' group fortified in November, 1983. Blue Lagoon previously was granted a emergency permit for work on the wall, which protects 190 condominium units from the ocean, according to Cynthia Long, staff counsel for the commission.

But as a condition of approval for the new permit, Long said, Blue Lagoon must offer an easement to a public agency, which probably would be the county or state Department of Parks and Recreation.

Long said that a line has never been drawn where Blue Lagoon's property ends and the state's property begins. "They may own part of the beach. The public may own part of it. We want them to offer the public the right to use it," she added.

City of Laguna Beach GIS Mapping



Lagoon Community Association subject to the following condition:

Prior to transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director, an easement for public access and passive recreational use along the shoreline. The document shall also restrict the applicant from interfering with the present level of use by the public of the area subject to the offer. The easement shall run parallel to and along the entire length of the approved seawall including the area seaward from the toe of the vertical wall (including the area of rip-rap placed in front of the wall) to the mean high tideline; and the easement shall encompass the area northwest of the new seawall extension, running parallel to and along the entire

88-592602

length of the approved new seawall from the mean high tideline to the inland property line and from the new seawall to the northwest property line. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

Site History

Prior to the Coastal Act, in 1963, a seawall approximately 500 feet long and 20 feet high was constructed on the site, and 2,000 tons of riprap were placed seaward of the seawall. Soon thereafter, the existing condominium structures, which protrude much farther seaward than adjacent structures, were constructed. If not for the construction of the seawall, the most seaward condominium units would likely be located below the mean high tide line.

In 1980, on appeal from the regional commission, the Commission approved an application to add 700 tons of riprap to the seawall with conditions, including conditions requiring a deed restriction for lateral access seaward of the revetment, and conditions requiring stairways and signs to direct the public to lateral access landward of the revetment via the driveway behind the first row of condominium units when the seaward lateral access was impassable. The proposed development was completed without complying with the imposed permit conditions.

In 1983, the Association received emergency coastal development permit 5-83-874-G in response to storm damage that occurred during the storms of 1982-1983. The emergency permit authorized: 1) construction of a new concrete 78 foot long seawall extension located immediately adjacent to the residences at Lagunita Drive, 2) conduct repairs to the existing seawall including reconstruction of portions of the cement coping and extension of the coping 8-10 inches seaward along the length of the wall, and 3) addition of 2,537 additional tons of riprap in front of the seawall. In 1984 the Commission approved with conditions Coastal Development Permit 5-84-777 authorizing the work performed under the emergency permit. The conditions for the permit included the conditions for lateral access seaward and landward of the seawall that were imposed in the 1980 permit. Additionally, the permit required the Association to assume the risk of the development, to provide required maintenance and sand replenishment, to undertake an engineering review of the long term impacts of the development, and to obtain a State Lands Commission review of the development. The proposed development was again completed without complying with the imposed permit conditions.

In 1985, the Association filed a petition for writ of mandate seeking judicial review of the Commission's 1984 permit decision and the Commission filed a cross-complaint against the 119 condominium owners (who collectively owned the beach seaward of the revetment) in response to this petition, seeking declaratory relief, permanent injunction, civil penalties and fines and exemplary damages for unpermitted work performed since 1984 on ocean protective devices on the Association's property. After negotiations, the Association and Commission entered into a settlement agreement which required each owner to agree to the previously imposed public access conditions to offer to dedicate an easement for lateral access in front of the seawall and to the sandy beach located on the northern side of the project, provided the Commission eliminate the conditions requiring access behind the revetment. The agreement stated that if the Commission grants a permit amendment to delete the through-project access requirement and the Association complies with the conditions of the 1984 permit, "such actions shall resolve the public access requirements under the Coastal Act applicable to the parties performing future work on the ocean protective device at Blue Lagoon, providing the work performed is located the minimum distance necessary from the existing protective device to permit any construction, reconstruction, repair or maintenance required." In 1987, after a majority of the unit owners had agreed to the settlement, the Commission approved permit amendment 5-84-777-A1, amending the conditions of the permit consistent with the settlement agreement.

In 1989, the Commission approved Coastal Development Permit 5-89-986 to conduct structural reinforcement of concrete sheetpile seawall. Also proposed was the addition of 2,160 tons of riprap to the then existing volume of 4,240 tons, resulting in a revetment with a total volume of 6,400 tons of riprap material. This action took place prior to all 119 property owners agreeing to the settlement agreement, and the same conditions from 5-84-777-A1 were assigned.

After each of the unit owners had agreed to the settlement agreement, the City of Laguna Beach accepted the easement on December 13, 1991 for public access to the beach located upcoast of the development, and the beach located seaward of the seawall from the toe of the vertical wall (including the area of rip-rap placed in front of the wall) to the mean high tideline.

Current online Blue Lagoon real estate ads feature exclusive beach with private access, security gate and security guards. These photos pulled from the ads are only for reference of the mostly impassable public beach within OTD easement. <http://www.bcre.com/blue-lagoon-laguna-beach.php>



Please note algae growing on rocks indicating that this area is frequently inundated and impassable. Request property boundary determination of mean high tide line in light of sea level rise and public access impacts to OTD easement.





Two community rooms on the seawall?



Laguna Beach 115 Blue Lagoon

GREAT LOCATION! 2 BEDROOM 2 BATH BLUE LAGOON VILLA LOCATED CLOSE TO BEACH AND LOWER COMMUNITY POOL. OWNER WILL LEASE FURNISHED OR UNFURNISHED. THE VILLAS AT BLUE LAGOON IS A 119 UNIT PLANNED UNIT DEVELOPMENT (PUD). AMENITIES INCLUDE TWO COMMUNITY POOLS HEATED YEAR ROUND, TENNIS COURT, THREE COMMUNITY ROOMS INCLUDING TWO ON SEAWALL. SPECTACULAR BEACH...

[View Details](#) [Slideshow](#)

\$4,750	2 Beds	3 Baths	1,462 SqFt	121 Days On Market
---------	--------	---------	------------	--------------------

11 Lagunita is just one of many mansions along Victoria Beach that have extensive, unpermitted armoring of the bluff (including shotcrete on bluffs – note home to the right of 11 Lagunita in article below). While the 11 Lagunita issue continues its life in an unending legal battle, the beach slowly but surely disappears, removing any chance of public access in the not-too-distant future.

Judge Upholds Order to Remove Seawall

By **LB Indy Staff** - July 25, 2019

👁 2487

💬 2



Share this:



Jeffrey and Tracy Katz, owners of 11 Lagunita Drive, were ordered by the Coastal Commission to remove their seawall along Victoria Beach last August. An Orange County Superior Court judge recently upheld that cease and desist order. File photo.

Please, require a public access walkway at Blue Lagoon as a condition of approval of this proposed shotcrete project in an effort to restore public access at this location. This is similar to what was recommended by staff for Tivoli Cove in Malibu in February 2020, and is a very minor concession for a luxury property that enjoys the benefits of a nearly private beach and CDPs for the ongoing maintenance and protection of this property against natural bluff erosion (reference prior CDPs for armoring and site history). Or, perhaps there is another solution given that one of the real estate ads promotes two community rooms that presently exist on the seawall. Perhaps there's a walkway there that would not impact a private residence? Let's be creative. Let's determine a way to return public access to this beach.



Thank you for considering these comments.

EX PARTE COMMUNICATION DISCLOSURE FORMFiled by Commissioner: Roberto Uranga

- 1) Name or description of project: 5-19-1036 (Blue Lagoon Community Association, Laguna Beach)
- 2) Date and time of receipt of communication: June 30, 2020 at 3:00pm
- 3) Location of communication: Telephone
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
Penny Elia
- 5) Identity of person(s) on whose behalf communication was made:
Self
- 6) Identity of persons(s) receiving communication:
Roberto Uranga
- 7) Identity of all person(s) present during the communication:
Penny Elia, Celina Luna

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I had a phone briefing with Penny Elia who along with other non government organizations would like to see protection and preservation of the endangered species at the Santa Ana River/ River Jetties Beach/ Huntington Beach Least Tern Preserve.

One small change they would like to see is the modification of the sign placement, including the heavily parked streets (Seashore Drive and Summit Street) that accommodate the pet owners, dog walking companies and powered parachute operators. The goal of signage is change in behavior to protect the endangered species in this sensitive area. There also needs to be a modification to the signage to have multi-lingual signage on the premises.

She would also like to see this CDP conditioned with a goal of returning the public beach access that has been diminished over the years. She also would like a requirement for a plant palette before the permit is issued.

07/01/2020



Date

Signature of

Commissioner

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

material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.