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STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE

Appeal No.: A-5-LGB-21-0012

Applicant: Sung-Tsei Chen & Lina Chen

Agents: James Conrad

Local Government: City of Laguna Beach

Local Decision: Approval with Conditions

Appellants: Mark & Sharon Fudge

Project Location: 6 Lagunita, Laguna Beach, Orange County
(APN: 656-171-13)

Project Description: Appeal of City of Laguna Beach Coastal Development Permit 20-7743 for demolition of a 1,385-sq. ft., 27-ft. high single-family residence, and construction of an approximately 3,350-sq. ft., 30-ft. high single-family residence with attached 421-sq. ft. garage on a lot overlooking the beach and shoreline.

Staff Recommendation: Find that a substantial issue exists.

SUMMARY OF STAFF RECOMMENDATION

The subject site is a 6,307-square-foot lot located at 6 Lagunita Drive in Laguna Beach. The City of Laguna Beach's action on Local CDP No. 20-7743 approved the demolition of a 1,385-square-foot, 27-foot-high single-family residence that currently exists at this site, and construction of an approximately 3,350-square-foot, 30-foot-high single-family residence with attached 421-square-foot garage, elevated decks, mechanical area, onsite parking, spa, grading, retaining walls, and landscaping in its place.

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which appeal number A-5-LGB-21-0012 has been filed because the City's decision that the development is consistent with the provisions of the certified LCP regarding new development on a property that potentially meets the LCP's definition of a coastal bluff was not adequately supported by documents in the record file or the local CDP's findings. Further information is required to determine whether or not the project is consistent with the relevant policies of the LCP. A summary of the appellants' contentions may be found on page 4 of this report. The complete appeal is included as [Exhibit 3](#).

IMPORTANT HEARING PROCEDURAL NOTE: The Commission will not take public testimony during the "substantial issue" phase of the appeal hearing unless at least three Commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. (14 CCR § 13115(d).) If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. (14 CCR § 13117.) If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

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EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Site Plans

Exhibit 3 – Appeal

Exhibit 4 – City Resolution for Local CDP No. 20-7743

I. MOTIONS AND RESOLUTIONS

Motion: I move that the Commission determine that Appeal No. A-5-LGB-21-0012 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Following the staff recommendation will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution I:

The Commission hereby finds that Appeal No. **A-5-LGB-21-0012** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access policies of the Coastal Act.

II. APPELLANTS' CONTENTIONS

On January 25, 2021, Mark and Sharon Fudge filed an appeal during the ten (10) working day appeal period ([Exhibit 3](#)). No other appeals were received. Mark and Sharon Fudge submitted an email of concern regarding the project to the City of Laguna Beach Design Review Board and thus qualify as “aggrieved persons” pursuant to Coastal Act Section 30801 and Title 14, California Code of Regulations, Section 13111. The appellants contend that the City’s approval is not consistent with the City’s certified LCP. More specifically, the appellants contend that a coastal bluff determination has not been made pursuant to the certified LCP’s definition to determine whether the lot is on a “coastal bluff,” and that all requirements relating to blufftop development have potentially not been properly assessed (such as bluff top setbacks, prohibition of private development on the bluff face, waiver of future shoreline/bluff protection devices, minimization of landform alteration, preservation of visual resources, and more).

III. LOCAL GOVERNMENT ACTION

On December 10, 2020, the City of Laguna Beach Design Review Board (DRB) held a public hearing for consideration and subsequent conditional approval of the Local CDP subject to this appeal (No. 20-7748), Design Review 20-7747, and a CEQA Categorical Exemption authorizing the applicant’s request to:

“...demolish an existing single-family dwelling and construct a 3,350 square-foot single-family dwelling with an attached 421 square-foot two-car garage in the Lagunita zone. Design review is required for the new structure, elevated decks (805 square feet), trash enclosure in front setback, spa, grading, retaining walls, and landscaping.”

No local appeal was filed. On January 8, 2021, the Commission received the City's Notice of Final Action for the approval of the local CDP and opened a 10-working-day appeal period. On January 25, 2021, Mark and Sharon Fudge filed an appeal to the California Coastal Commission during the appeal period. No other appeals were received by the Commission.

IV. APPEAL PROCEDURES

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

Section 30603 of the Coastal Act states in relevant part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:

...

- (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
- (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

Section 30603(a)(1) of the Coastal Act establishes the project site as being in an appealable area because it is located between the sea and the first public road paralleling the sea and is within 300 feet of the inland extent of a beach. The issues raised in the subject appeal, on which the Commission finds there is a substantial issue as described below, apply to proposed development located in the appeals area.

Grounds for Appeal

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

- (b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth

in the certified Local Coastal Program or the public access policies set forth in this division.

Section 30625(b)(2) of the Coastal Act requires the Commission to conduct a de novo review of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act. If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered presumed, and the Commission will proceed to the de novo review on the merits of the project. A de novo review on the merits of the project uses the certified LCP as the standard of review. (Section 30604(b).) In addition, for projects located between the first public road and the sea, a specific finding must be made at the de novo stage of the appeal that any approved project is consistent with the public access and recreation policies of the Coastal Act. (Section 30604(c).) Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

Qualifications to Testify before the Commission

If the Commission, by a vote of three or more Commissioners, decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. In this case, the City's record reflects that Mr. Mark Fudge opposed the project in person at the local hearing. Testimony from other persons must be submitted in writing.

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow at a later date during which the Commission will take public testimony.

IV. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT LOCATION AND DESCRIPTION

The subject site is a 6,307-square-foot lot at 6 Lagunita Drive, in the City of Laguna Beach, Orange County ([Exhibit 1](#)). The project site is developed with a single-family residence and accessory structures. The subject site is zoned Village Low Density, is fronted by Faulkner Road (a private road) and is also surrounded by single-family residential development. The subject lot is located between the first public road (South Coast Highway) and the sea (Victoria Beach).

The City of Laguna Beach's action on Local CDP No. 20-7743 approved the demolition of a 1,385-square-foot, 27-foot-high single-family residence, and construction of an

approximately 3,350-square-foot, 30-foot-high single-family residence with attached 421-square-foot garage, elevated decks totaling approximately 805 square feet, mechanical area (approximately 72 square feet), two onsite parking spaces, spa (8 feet x 6 feet x 4 feet), grading (approximately 1,091 cubic yards), retaining walls, and landscaping ([Exhibit 2](#)).

B. LOCAL COASTAL PROGRAM CERTIFICATION

The City of Laguna Beach Local Coastal Program (LCP) was certified on January 13, 1993. The City's LCP is comprised of a Land Use Plan (LUP) and an Implementation Plan (IP). The City's Land Use Plan is comprised of a variety of planning documents including the Land Use Element (LUE), Open Space/Conservation Element, Technical Appendix, and Fuel Modification Guidelines (of the Safety General Element of the City's General Plan as adopted by Resolution 89.104). The Implementation Plan (IP) of the City of Laguna Beach certified Local Coastal Program (LCP) is comprised of more than 10 documents, including Title 25, the City's Zoning Code. The Coastal Land Use Element of the LCP was updated and replaced in its entirety via LCPA 1-10 in 2012. The Open Space/Conservation Element and Title 25 have been amended a number of times since original certification. Laguna Beach has a certified Local Coastal Program (LCP), but there are four areas of deferred certification in the City: Irvine Cove, Blue Lagoon, Hobo Canyon, and Three Arch Bay. The project site is located within the City of Laguna Beach's certified jurisdiction and is subject to the policies of the certified LCP.

C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(2) of the Coastal Act requires de novo review of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a). Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a substantial issue:

1. The degree of factual and legal support for the local government's decision that the development, as approved, is consistent with the applicable standard of review;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to any factor. Staff is recommending that the Commission find that substantial issue exists with respect to the grounds on which this appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

D. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government are the project's non-conformity with the policies of the LCP (or the public access policies of the Coastal Act). The subject coastal development permit is appealable to the Commission due to the project's location between the first public road and the sea. The appellants' grounds for appeal are attached as [Exhibit 3](#).

The appellants assert that the City's approval is not consistent with the City's certified LCP. More specifically, the appellants assert that a coastal bluff determination has not been made pursuant to the certified LCP's definition to determine whether the lot is on a "coastal bluff," and that all requirements relating to blufftop development have not been properly assessed (such as bluff top setbacks, prohibition of private development on the bluff face, waiver of future shoreline/bluff protection devices, minimization of landform alteration, and more), and consequently none of the applicable blufftop/bluff face policies were applied

The appellants state that the City properly instructed the applicant to submit a geological report for the subject site with an analysis on the location of the blufftop. In a Zoning Plan Check letter dated October 11, 2019, the City instructed the applicant to submit two copies of a geological report that must "include specific analysis and discussion of how the bluff top location was determined, based on the two definitions provided in the City's Municipal Code and the General Plan Land Use Element, and the attached documents from the California Coastal Commission. Each of the definitions and documents must be referenced in the bluff top determination discussion."

The appellants assert, however, that instead of submitting a report that met the requirements of the October 2019 letter, the applicant submitted a report prepared by GeoSoils dated October 14, 2019, that failed to address any of the LCP definitions of a coastal bluff in Laguna Beach. In this report, GeoSoils concludes that the project site is located within a coastal canyon and not on a coastal bluff and, therefore, there is no coastal bluff edge on the site. In addition, GeoSoils indicates that the site is not a coastal bluff because the site not been subject to marine erosion. The report references San Diego Coastal Bluff and Beaches Guidelines but fails to reference or analyze the definitions of 'oceanfront bluff/coastal bluffs' provided by the certified LCP, which is the standard of review.

Entry 102 of the Land Use Element (LUE) Glossary, a component of the City of Laguna Beach certified LCP, contains the following definition of 'Oceanfront Bluff/Coastal bluff' [**emphasis added**]:

...A bluff overlooking a beach or shoreline **or** that is subject to marine erosion. Many oceanfront bluffs consist of a gently sloping upper bluff and a steeper lower bluff or sea cliff. The term "oceanfront bluff" or "coastal bluff" refers to the entire slope between a marine terrace or upland area and the sea. The term "sea cliff" refers to the lower, near vertical portion of an oceanfront bluff.

In addition, Section 25.50.004 of the certified IP defines the 'oceanfront bluff' as:

...an oceanfront landform having a slope of forty-five degrees or greater from horizontal whose top is ten or more feet above mean sea level.

- i. In cases where an oceanfront bluff possesses an irregular or multiple slope condition, the setback will be taken from the most inland forty-five degree or greater slope.
- ii. In cases where the landform constitutes an oceanfront bluff whose slope is less than forty-five degrees, a determination as to whether or not the specific landform is subject to this provision shall be made by the director of community development.

Pursuant to the LUP's definition, an 'oceanfront bluff/coastal bluff' is a bluff that overlooks a beach or shoreline, **or** a bluff that is subject to marine erosion. The subject site overlooks the beach and shoreline, and therefore may be a coastal bluff under the operative standard of review (Laguna Beach certified LCP).

There are two references for oceanfront/coastal bluffs provided in the certified LCP, one in the zoning code component of the implementation plan (IP) and one in the land use element component of the certified LUP. The two definitions must be read together and harmonized as much as possible. In this case, there is no rationale in the City's record that was made available to Commission staff prior to the publication of this staff report supporting the applicant's determination or the City's determination that the site is not on an oceanfront bluff/coastal bluff based on these definitions of the certified LCP. The GeoSoils report does not provide such rationale. Additional information provided to Commission staff following the appeal is not sufficient to adequately understand the geomorphology of the subject area and determine whether the project site is located on an oceanfront bluff/coastal bluff, coastal canyon, or both (transitional area between bluff and canyon). Consequently, a site visit by Commission staff may be warranted.

The fact that the subject site may be on a coastal bluff is important because Policy 7-A of LUP of the certified LCP (cited in Appendix A) requires that the quality of public views from the hillsides and along the city's shoreline be preserved to the maximum extent feasible. Setting development farther back from the edge of the coastal bluff decreases the project's visibility from the beach below, which the public may access below the mean high tide line. The City's record does not consider such alternative locations or alternative smaller project designs, as would be required if the site were determined to be located on a coastal bluff and setback policies were applied.

In addition, Policies 7.3 and 10.2 and Actions 7.3.3, 7.3.5, 10.2.6, and 10.2.8 of the of the LUP (cited in Appendix A) require that new development minimize the alteration of natural landforms and not contribute to geologic instability. Setting development back from the edge of the bluff can substantially decrease risk to life and property, because the farther from the bluff edge development is located, the less likely it is that that development will become jeopardized by erosion, landslides, and similar hazards. Likewise, setbacks decrease the likelihood of destruction of a structure caused by geologic instability. The added weight and disturbance of development, irrigation, and human activity closer to the bluff edge all could increase the rate of erosion and bluff retreat. For these reasons, the LCP requires a bluff edge (or top of the bluff) setback as a condition of approval for development on bluff sites.

Therefore, concerns regarding the project site's location on a potential coastal bluff and whether the proposed development is consistent with the LCP policies concerning development on a bluff face and bluff edge setbacks have not been adequately addressed by the City of Laguna Beach in approving the local coastal development permit. The City's record does not demonstrate that the City-approved development is wholly consistent with the policies of the LCP or that all the necessary and appropriate requirements have been assessed. The City's findings fail to provide an adequate degree of factual and legal support for its decision to approve the proposed development and grant a Local CDP.

SUBSTANTIAL ISSUE FACTORS:

The Commission typically applies five factors in making a determination whether an appeal raises a substantial issue pursuant to Section 30625(b)(2).

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP.

The City did not substantially support its approval of the project's consistency with all of the applicable policies of the certified LCP and the public access provisions of the Coastal Act (specifically the coastal bluff definition and bluff top/face policies). Therefore, there is a low degree of factual and legal support for the local government's decision, and this factor supports a substantial issue finding.

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

The local government granted a local CDP for the demolition of a single-family residence and construction of new single-family residence and accessory structures on the subject site located on property that may be blufftop. The record does not consider smaller alternative project designs, as would be required if the site were determined to be located on a coastal bluff and setback policies applied. Therefore, it is not possible at this time to determine how the extent and scope of the project compares to the allowable scope of development at this site, and this factor supports a finding of substantial issue.

3. The significance of the coastal resources affected by the decision.

California's coastal bluffs are a significant resource and represent a rare and visually pleasing landform which California citizens and governments have historically sought to preserve. Coastal bluffs are dynamic geologic formations, and development on them increases the potential for geologic hazards. Development on coastal bluffs also can have significant impacts on scenic resources and public access opportunities. The LCP and the Coastal Act include special protections for coastal bluffs. This factor supports a finding of substantial issue.

4. The precedential value of the local government's decision for future interpretations of its LCP.

Allowing the local government's decision to approve improvements or authorize the perpetuity of structures potentially encroaching into bluff edge setback areas or sited on a bluff face would set negative precedent for future interpretations of the City's certified LCP. If the subject local CDP is found to be consistent with the LCP based on the current

record, there is a potential that future applicants, especially within the vicinity, will reference this permit if they wish to develop other coastal bluff sites, of which there are hundreds in Laguna Beach. Without adequate information to determine whether the lot is on a coastal bluff, and potentially need to determine the bluff edge, allowing the City's local CDP approval to stand would result in adverse precedent regarding application of the LCP's various resource protection policies (specifically relating to bluff top/face development). This factor supports a finding of substantial issue.

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

Bluff face and bluff top development are issues of statewide significance, given that coastal bluffs are an important coastal resource throughout the state, not just in Laguna Beach. (See third factor above.) Requiring consistency with the certified LCP (particularly policies relating to bluff face/top development) and the public access provisions of the Coastal Act is significant to all the people of California who wish to enjoy the public beaches of California. Unsubstantiated and erroneous application of these policies could have regional or statewide ramifications regarding other similar LCPs and LCP policies regarding bluffs. This factor supports a finding of substantial issue.

Conclusion

In conclusion, staff recommends that the Commission find that a substantial issue exists with respect to whether the local government action conforms with the policies of the City's certified LCP and the public access policies of the Coastal Act.

APPENDIX A – RELEVANT LCP POLICIES

Laguna Beach Land Use Element:

Policy 7.3 states:

Design and site new development to protect natural and environmental sensitive resources, such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize natural landform alterations.

Action 7.3.2 states: Review all applications for new development to determine potential threats from coastal and other hazards.

Action 7.3.3 states: Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.

Action 7.3.4 states: Require new development to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic stability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Action 7.3.5 states: Prohibit development on oceanfront bluff faces, except public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize landform alteration of the oceanfront bluff face, to not contribute to further erosion of the oceanfront bluff face and to be visually compatible with the surrounding area to the maximum extent feasible.

Action 7.3.6 states: Require new development on oceanfront blufftop lots to incorporate drainage improvements, removal of and/or revisions to irrigation systems, and/or use of native or drought-tolerant vegetation into the design to minimize threats to oceanfront bluff recession.

Action 7.3.8 states: On oceanfront bluff sites, require applications where applicable, to identify and removal all unpermitted and/or obsolete structures, including but not limited to protective devices, fences, walkways, and stairways, which encroach into oceanfront bluffs.

Action 7.3.9 states: Ensure that new development, major remodels and additions to existing structures on oceanfront and oceanfront bluff sites do not rely on existing or future bluff/shoreline protection devices to establish geologic stability or protection from coastal hazards. A condition of the permit for all such new development on bluff property shall expressly require waiver of any such rights to a new bluff/shoreline protection device in the future and recording of said waiver on the title property as a deed restriction.

Action 7.3.10 states: Allow oceanfront and oceanfront bluff homes, commercial

structures, or other principal structures, that are legally nonconforming as to the oceanfront and/or oceanfront bluff edge setback, to be maintained and repaired; however, improvements that increase the size or degree of nonconformity, including but not limited to development that is classified as a major remodel pursuant to the definition in the Land Use Element Glossary, shall constitute new development and cause the pre-existing nonconforming oceanfront or oceanfront bluff structure to be brought into conformity with the LCP.

Action 7.3.12 states: Site and design new structures to avoid the need for shoreline and/or oceanfront bluff protective devices during the economic life of the structure (75 years).

Action 7.3.13 states: Limit the use of shoreline/bluff protective devices to the minimum required to protect existing development in danger of erosion. Site and design any such protective devices as far landward as possible. “Existing development” for purposes of this policy shall consist only of a principal structure, e.g. residential dwelling, required garage, or second residential unit, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping etc. No shoreline/bluff protective device shall be allowed for the sole purpose of protecting an accessory structure.

Policy 10.2 states:

Design and site new development to protect natural and environmentally sensitive resources such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize landform alterations. (Same as Policy 7.3)

Action 10.2.5 states: On bluff sites, requires applications where applicable, to include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contain statements that the project site is suitable for the proposed development and that the development will be safe from geologic hazard for its economic life. For development on oceanfront bluffs, such reports shall include slope stability analyses and estimates of the long-term average bluff retreat/erosion rate over the expected life of the development. Reports are to be prepared/signed by a licensed professional Engineering Geologist or Geotechnical Engineer.

Action 10.2.6 states: Require all new development located on an oceanfront bluff top to be setback from the oceanfront bluff edge a sufficient distance to ensure stability, ensure that it will not be endangered by erosion, and to avoid the need for protective devices during the economic life of the structure (75 years). Such setbacks must take into consideration expected long-term bluff retreat over the next 75 years, as well as slope stability. The predicted bluff retreat shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat made possible by continued and accelerated sea level rise, future increase in storm or El Nino events, and any known site-specific conditions. To assure stability, the development must maintain a minimum factor of safety against landsliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$ or determined through analysis by the geotechnical engineer) for the economic life of the structure.

Action 10.2.7 states: Require all new development located on oceanfront bluffs to be sited in accordance with the stringline but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools that require a structural foundation. The setback shall be increased where necessary to ensure geologic safety and stability of the development.

Action 10.2.8 states: On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards.

Open Space/Conservation Element Policies:

Policy 7-A states:

Preserve to the maximum extent feasible the quality of public views from the hillsides and along the city's shoreline.

Policy 7-K states:

Preserve as much as possible the natural character of the landscape (including coastal bluffs, hillsides and ridgelines) by requiring proposed development plans to preserve and enhance scenic and conservation values to the maximum extent possible, to minimize impacts on soil mantle, vegetation cover, water resources, physiographic features, erosion problems, and require re-contouring and replanting where the natural landscape has been disturbed.

Policy 10-C states:

Require projects located in geological hazard areas to be designed to avoid the hazards, where feasible. Stabilization of hazard areas for purposes of development shall only be permitted where there is no other alternative location or where such stabilization is necessary for public safety. The more unstable areas should be left ungraded and undeveloped, utilizing land use designations such as Open Space.

Policy 10-E states:

Development in the areas designated "Residential/Hillside Protection" on the Land Use Plan Map or within potential geologic hazard areas identified on the Geological Conditions Map of the Open Space/Conservation Element shall not be permitted unless a comprehensive geological and soils report is prepared pursuant to Title 22 of the City's Municipal Code, and adequate mitigation measures have been approved and implemented by the City's geologist. For projects located in areas subject to hazards as identified on the Geologic Conditions Map or subject to erosion, landslide or mudslide, earthquake, flooding or wave damage hazards confirmed by a geologic assessment, as a condition of approval or new development a waiver of liability shall be required through a deed restriction.