CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE 301 E. OCEAN BLVD., SUITE 300 LONG BEACH, CA 90802-4830 (562) 590-5071



W11b

A-5-LGB-21-0023 (Honarkar) May 12, 2021

EXHIBITS

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TENANT IMPROVEMENT FOR

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NOTE

"FOR FIRE /LIFE SAFETY AND EGRESS REQUIREMENT, INCLUDING LBFD NOTES, SEE SHEETS A3.1 & A3.2 IN THIS PLAN SET."



425 S COAST HWY LAGUNA BEACH, CA 92651

FOR FULL CODE ANALYSIS, SEE SHEET A3.1 AND A3.2 NO CHANGES TO EXISTING OCCUPANCY NO CHANGES TO EXISTING FOOTPRINT

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CDI ARCHITECTS
ATTN.: DAVID KANG
16520 BAKE PKWY, SUITE
100, IRVINE, CA 92618
P: (888) 505-0052
DKANG@CDIARC.COM

BEHROOZ AZARIAN 24182 LA HERMOSA AVE., LAGUNA NIGUEL, CA 92677 p: (949) 201-5651

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MECHANICAL PLAN MAIN KITCHEN

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SHEET INDEX

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STRUCTURAL DRAWINGS

PLUMBING DRAWINGS PLUMBING NOTES AND SCHEDULES

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MECHANICAL DRAWINGS

PROPOSED BASEMENT FLOOR PLAN

ENLARGED MAIN KITCHEN PLAN MAIN KITCHEN EQUIPMENT SCHEDULE MAIN KITCHEN EQUIPMENT SCHEDULE

GROUND ELOOR FINISH PLAN

ENLARGED MAIN BAR PLAN ENLARGED BASEMENT BAR PLAN

GENERAL NOTES

TITLE SHEET OVERALL SITE PLAN DEMO GROUND FLOOR PLAN PROPOSED GROUND FLOOR PLAN

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California Coastal Commission

Exhibit 2 Page 1 of 7

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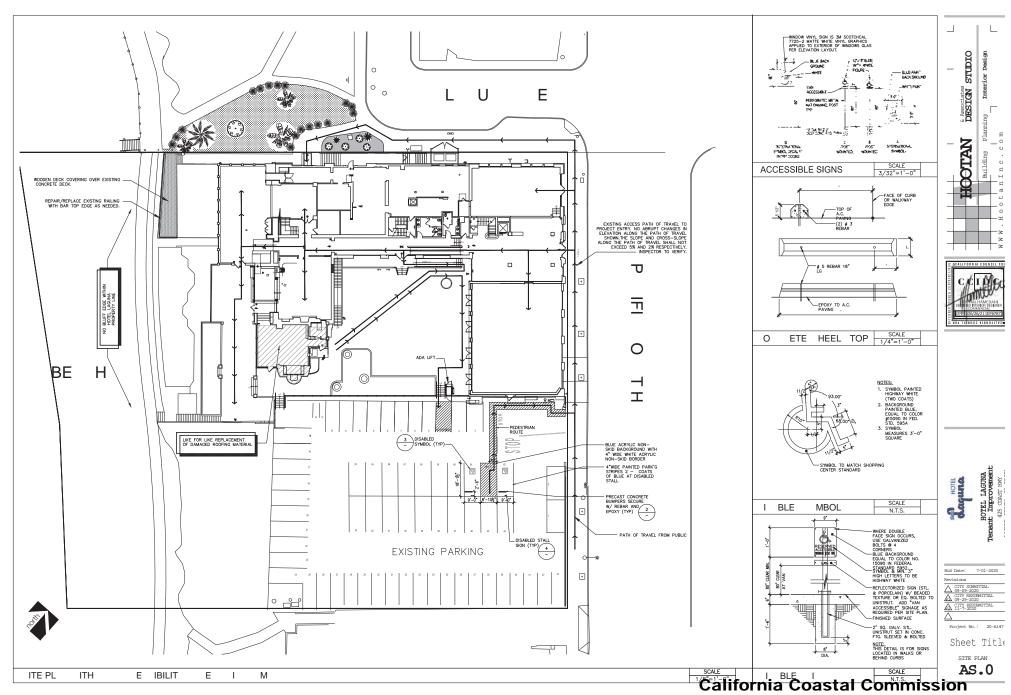
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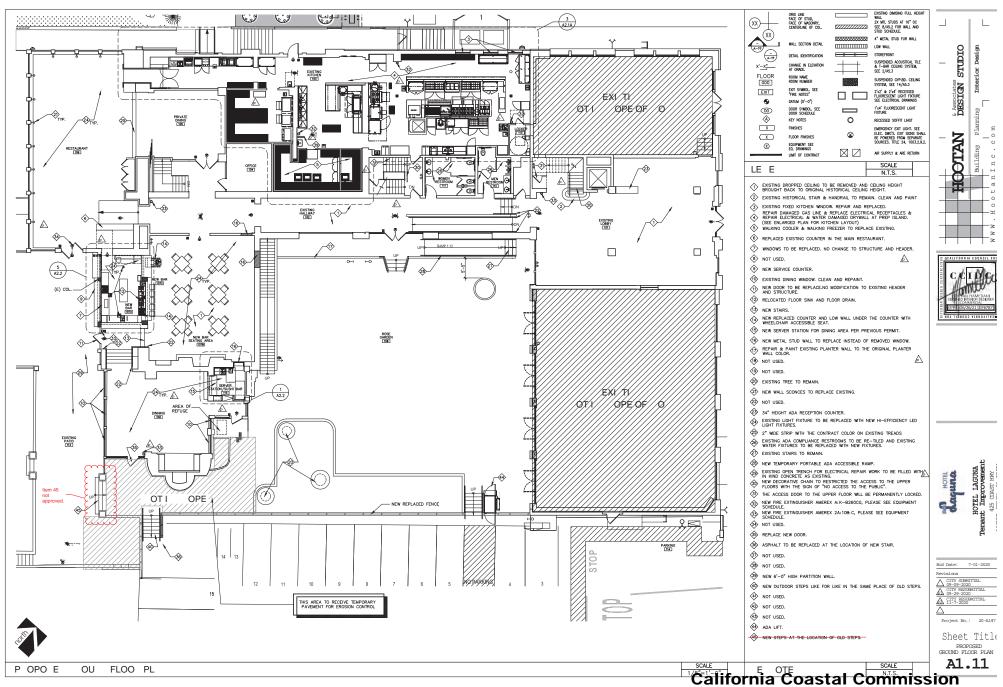
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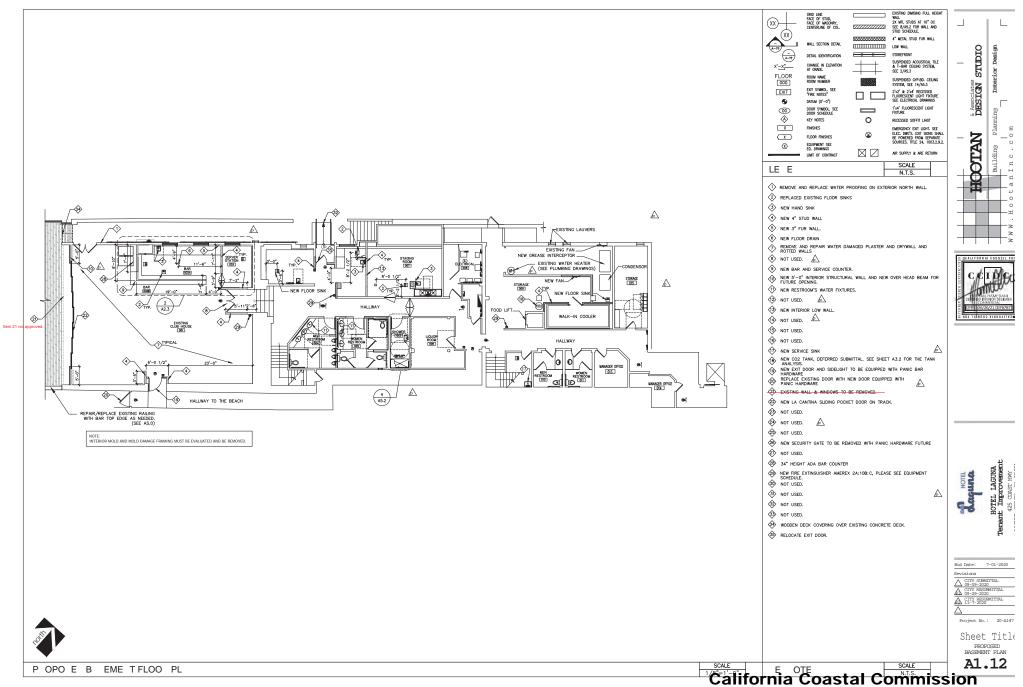
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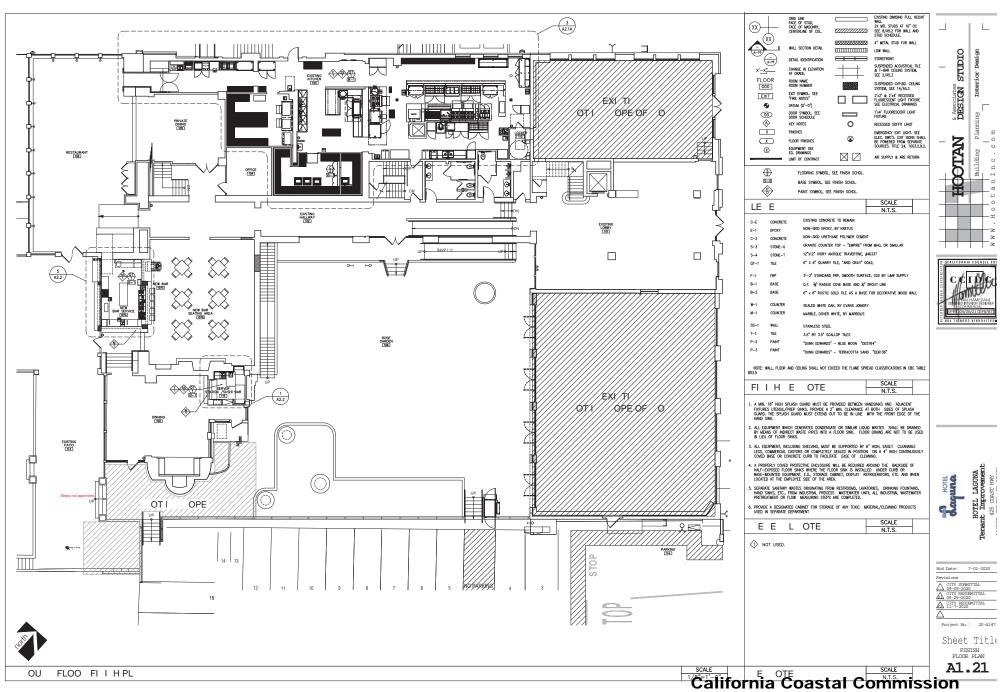
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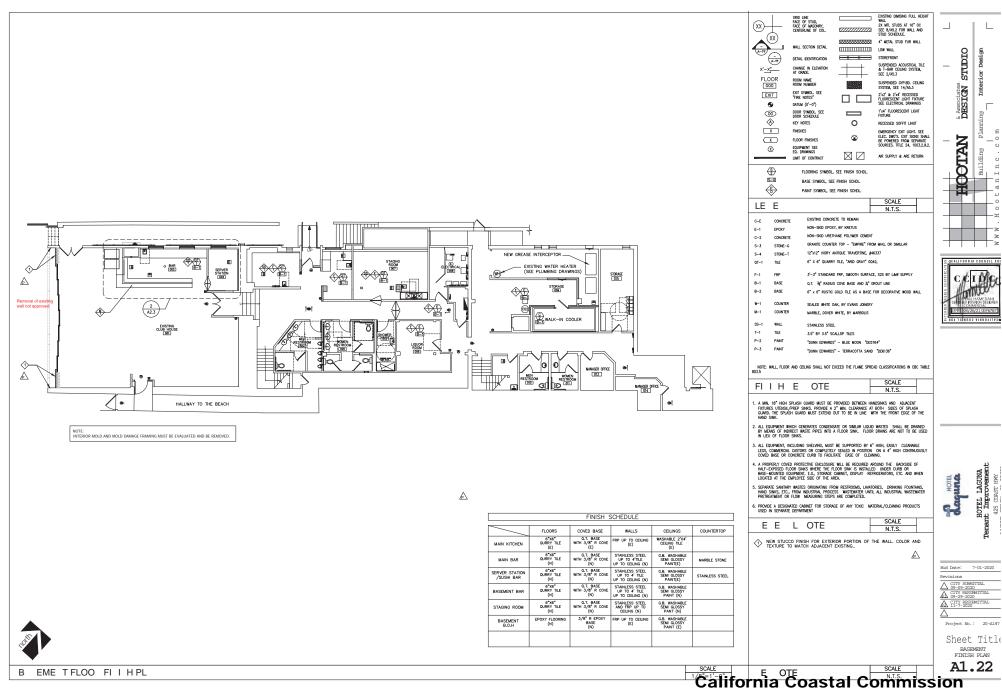
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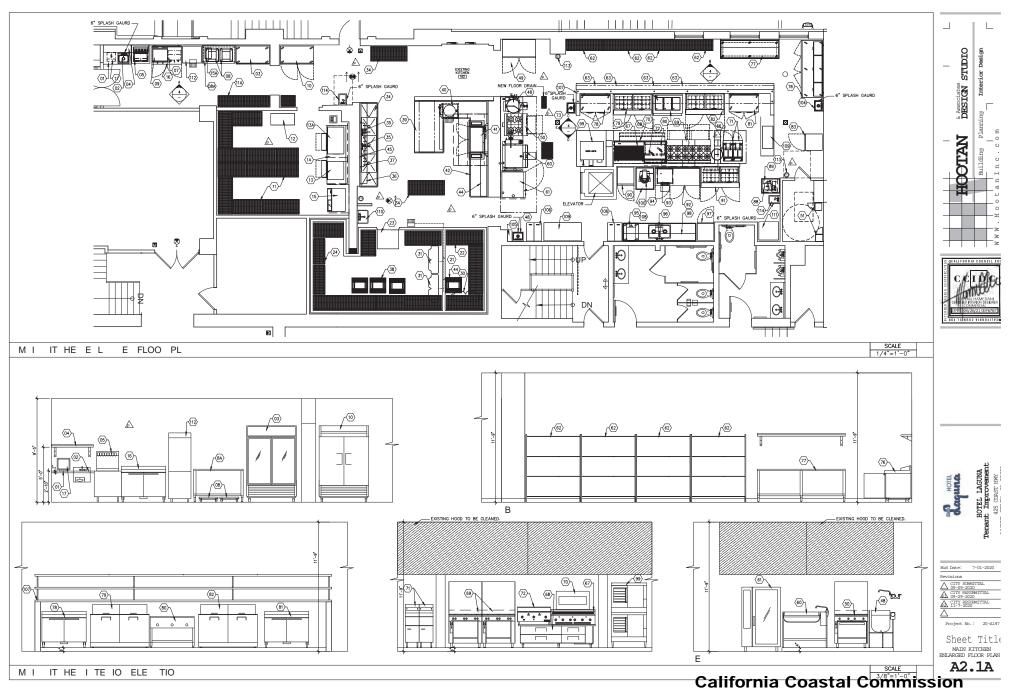
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CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE 301 E. OCEAN BLVD., SUITE 300 LONG BEACH, CA 90802 (562) 590-5071 SOUTHCOAST@COASTAL.CA.GOV



APPEAL FORM

Appeal of Local Government Coastal Development Permit

Filing Information (STAFF ONLY)

District Office: South Coast

Appeal Number: <u>A-5-19B-21-0023</u>

Date Filed: 03-15-7021

Appellant Name(s):

RECEIVED South Coast Region

MAR 15 2021

CALIFORNIA COASTAL COMMISSION

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at https://coastal.ca.gov/contact/#/).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Coast district office, the email address is SouthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at https://coastal.ca.gov/contact/#/).

1. Appella	ant info	rmation ₁			
Name:		Mark Fudge and Sharon Fudge			
Mailing address:		P.O. Box 130, Laguna Beach, CA 92652			
Phone number:		949-481-1100			
Email address:		markfudge@me.com/ fudge1@cox.net			
	articipate We sub	pate in the local CDP application and decision-making process? Submitted comment Formatted at hearing other committed emails to the City voicing our concerns as well as pating in the Zoom meeting on 2/25/21.			
If you did <i>not</i> participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed). Describe:					
	\$ 				
	-				
Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes). The City does not allow for appeals from anyone outside of a					
Describe.	certain radius of the property - which we do not qualify for.				
Also, the City charges a fee for appeals.					

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

2. Local CDP decision being appealed ₂							
Local gove	rnment name:	City Of Laguna Beach					
Local gove	rnment approval body:	Director of Community Develpment					
Local gove	rnment CDP application number:	2020-7925					
Local gove	rnment CDP decision:	CDP approval CDP denial3					
Date of loca	al government CDP decision:	February 25, 2021					
Please ider denied by the Describe:	he local government.	f the development that was approved or					
Describe:	Improvements to the Hotel Laguna located at 425 S. Coast Highway, Laguna Beach including interior and exterior spaces.						

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the appeal information sheet for more information.

3. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

Interested persons identified and provided on a separate attached sheet

4. Grounds for this appeal4

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe:	See attached.					

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Mark Fudge/Sharon Fudge				
Signature Singe				
Signature				
Date of Signature 3/13/21				
5. Representative authorizations				
While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.				
I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.				

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000 SAN FRANCISCO, CA 94105-2219 VOICE (415) 904-5200 FAX (415) 904-5400



DISCLOSURE OF REPRESENTATIVES

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name					
CDP Application or Appeal Number					
Lead Representative					
Name					
riue					
Street Address.					
City State, Zip Email Address					
Daytime Phone					
Your Signature					
Date of Signature					

Additional Representatives (as necessary)

Name	
Title	
Street Address.	
City	
State, Zip	
Email Address	
Daytime Phone	
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Your Signature	
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Appeal of CDP 2020-7925 (The Hotel Laguna - 425 South Coast Hwy, Laguna Beach)

The February 25, 2021 decision to approve a CDP failed to ascertain if a coastal bluff exists at the site and instead deferred that determination to a future date when hearing other work proposed by the applicant. The criteria considered did not include the definition of a coastal bluff as written in the City's certified LCP (specifically the Land Use Element). If allowed to stand, this approval may set a negative precedent for future decisions in the area.

The CDP was considered at an Administrative Hearing as "Minor Development". No written staff report was provided ¹ therefore it is unclear whether or not the nine (9) criteria of LBMC 25.07.012(F) were reviewed as none of them were discussed.

There is nothing in the record indicating if the findings required by LBMC 25.07.012(G) relating to LCP consistency, public access and CEQA compliance were made. The only findings discussed in the hearing were related to whether or not the project qualified as 'minor development' pursuant to LBMC 25.07.013 (which presumes that the development is consistent with the certified Local Coastal Program). Appellants object to this determination of LCP consistency for the following reasons:

- Appellants assert that a Coastal Bluff (as defined by the certified Laguna Beach Land Use Element) - although drastically altered by past grading activities - does exist at or landward of the site and therefore bluff, bluff edge and bluff face protections of the LCP should have been considered, but were not.
- 2. Appellants assert that a substantial portion of the site and improvements exist on beach sand where improvements and construction are prohibited by the LCP unless determined by the City Council to be necessary for public health and safety, which was not done.
- 3. Appellants assert that the project has been piecemealed/segmented which is inconsistent with CEQA and the Coastal Act. One reviewed in totality, and in light of extensive past work, the project may trigger a 'major remodel' or new development designation. If new development occurs, the project must be reviewed under different criteria such as removing non-conformities and providing lower cost accommodations. These were not considered. For example, the NOFA discusses the approval of steel moment frames along the interior walls of the tenant spaces at the Southeast End of the structure. However, the plans show that space as 'not a part of scope of work'. Inconsistencies must be solved so the entirety of the project may be reviewed.
- 4. Appellants assert the approval allows for previously unpermitted development (expansion of use in 1995 ²) to undergoes further improvement without resolving the underlying violation. Furthermore, correspondence from a previous consultant (attached) indicates that other unpermitted and unsafe development has occurred at the site.
- 5. Appellants assert that non-conforming uses have ceased for a period of more than one year at the site and shall not be re-established unless and until they conform to the zoning code and LCP (LBMC 25.56.006). The uses are non-conforming due to lack of parking.

¹ The meeting was not recorded by the City - however, Appellant does possess a video and can provide same if Coastal staff would like a copy.

² Conditional Use Permit (CUP) 95-04 was approved on May 24, 195 to allow a 500-square foot expansion of an outdoor patio dining area (33 seats) and a valet parking program for the parking of 115 cars onsite to satisfy required parking for the expansion.

Subject Site

The subject site is "an oceanfront front hotel developed on a low bluff top and bluff face located on the seaward side of Coast Highway, facing a sandy beach." ³ It is directly to the south of Main Beach Park in Laguna Beach. According to a Real Property Report dated February 7, 2017, the property's use is 'legal, non-conforming due to parking deficiencies'. Its zoning is CBDCB - Central Business District Central Bluffs. Appellants believe the structure on the property is also non-conforming due to inadequate setbacks from the bluff, as well as development on the bluff face and sand. There is also a seawall at the site. ⁴

Site History

The Hotel Laguna was built in the 1930s and has been subject to multiple additions and alterations since then. Overall, since the hotel was built, almost 90 building permits have been issued - 33 of them since the Coastal Act was enacted. The Hotel Laguna is one of the most iconic structures in the City and is considered to be an historic resource.

For years, the hotel had privatized the beach in front of the hotel and had unsuccessfully claimed vested rights to keep up the barriers with the Coastal Commission in 2014. The history report shows photos taken in 2019 that indicate "Private Beach" signs were still present. ⁵

On February 11, 1987, a Conditional Use Permit (**CUP 87-03**) was granted to create a new patio with a maximum number of 24 seats. This permit required the existing valet parking program to be maintained - providing 120 parking spaces on a full-time basis. At the time, the City was not yet able to issue CDPs as their LCP had not yet been certified. There is no record in the file that the CCC issued a permit or waiver for the work.

In 1996 - after the certification of the LCP and resultant transfer of CDP issuance authority to the City - another restaurant/terrace expansion was granted **CUP 95-04**, but lacked a CDP. Therefore a Violation of the LCP and Coastal Act exists at the property. On October 13, 2009, the CCC sent a Notice of Violation letter to the previous Lessee of the property (**Violation File Number V-5-09-020**) but the violation has never been resolved. This is critical as the CUP allowing this expansion of use was tied to a valet parking program which the current application may alter as the valet kiosk is being removed and the parking lot re-striped. The deliberations of the subject permit did not include any analysis of parking.

In 2000, **CUP 99-50** was granted to establish a restaurant serving wine, beer and full alcohol. It does not appear that the establishment of the restaurant obtained a CDP. In 2016, a code enforcement letter from the City was sent to the Lessee at the time (different from the current Lessee/Applicant) related to the subject CUP informing the lessee to "cease immediately from serving cocktails and food on the beach or submit the necessary CUP Amendment application to amend the CUP."

³ As described by Coastal staff in staff report 5-12179-VRC (E.W. Merritt Farms Vested Rights Claim) Hearing date 8/12/2014.

⁴ The presence of a seawall was not discussed at the hearing nor in the plans provided to the public for the hearing. However, in the materials included with the NOFA - specifically the GeoSoils Coastal Hazard Analysis dated April 29, 2019 - a seawall is identified.

⁵ During the hearing for the subject permit, both the Applicant and Director of Community Development made references to the "Beach Club" as though it will continue, which is of concern to the Appellants.

Subject Permit

Although not disclosed, much of the work contemplated in this permit has already been completed. The City had previously granted a CDP exemption for the project which was challenged by these Appellants (A-5-LGB-20-0064). The Applicant and City withdrew the exemption and then sought to approve the project using a Public Hearing Waiver, which Appellants also challenged. The Public Hearing was held on February 25, 2021 via a Zoom call. The materials provided to the public included construction plans and a Bluff Top Exhibit from Psomas. There were also pages in the plans that defined the bluff and bluff edge/setbacks pursuant to the Laguna Beach Code definition of a bluff edge and the Coastal Commission definition of bluff edge. However, the analysis failed to include the definitions of "Coastal Bluff' and "Coastal Bluff Edge" in the certified Land Use Element Glossary. The importance of this is twofold - first, the Commission has established a precent that the LUE definition is controlling, and second, the LUE definition defines a bluff and bluff edges differently, and more restrictively, than the Coastal Regulations and Coastal Act do. Please see the attachment at the end of this appeal for a side by side comparison.

Coastal Bluffs and Bluff Edge Determinations

CCC Regulations Section 13577(h) defines a Coastal Bluff as a bluff, the toe of which is now or was historically (within the last 200 years) subject to marine erosion AND those bluffs, the toe of which is not or was not subject to marine erosion, but the toe of which lies within the sea and the first public road, or within 300 feet of the inland extent of any beach OR located on tidelands, submerged lands, public trust lands, etc. etc.

Based on this definition, the Appellants provided the City and Applicant with historic survey maps from the U.S. Coast Survey Maps of California (also known the the Southern California Coast T-Sheets (1851-1889) to substantiate their claim that the land mass where the hotel is sited historically contained both a bluff and beach sand. See below: In Laguna Beach, a Coastal Bluff is defined as a bluff overlooking a beach or shoreline OR that is subject to marine erosion. The Coastal Bluff Edge is defined similarly to the Coastal Commissions definition with the important addition of the understanding that bluff edges retreat over time as a result of multiple factors, including grading. When looking at the historical records it is clear that previous activities at the site have graded on the previous bluff. The City's definition also states that in areas where fill has been placed near or over the bluff edge which also may have occurred at the site - that the original bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

It is critical to obtain a proper assessment of the bluff edge at this time for future improvements being proposed (as evidenced by the submittal of plans) include subterranean parking. If the wrong assessment is made now, the Applicant will surely rely on that in the future.

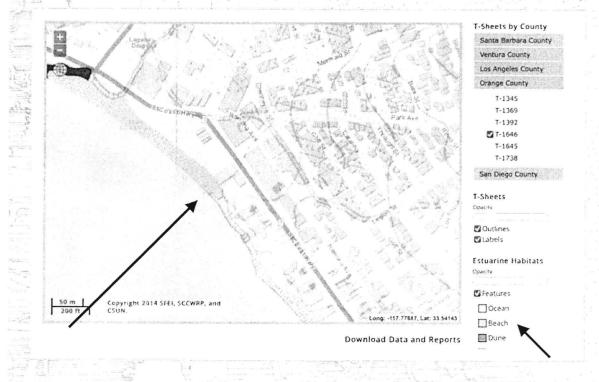
U.S. COAST SURVEY MAPS OF CALIFORNIA

Southern California Coast T-Sheets (1851-1889)



U.S. COAST SURVEY MAPS OF CALIFORNIA

Southern California Coast T-Sheets (1851-1889)



Hotel Laguna

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Fudge - Appellants

Relevant policies of the LCP

- Open Space/Conservation Element Policy 1E Prohibit the construction of buildings and other man-made structures on the sandy portion of the beach.
- LBMC 25.50.004 Building setback lines

(B) Building Setbacks on or Adjacent to the Pacific Ocean and Beaches. There is established building setback lines along the ocean frontage of all property within the city fronting up and adjacent to the Pacific Ocean and its beaches, as provided in this subsection, and **no building**, structure or improvements shall be erected or constructed after the effective date of the ordinance codified in this section on the sandy portion of any beach except that which is determined by the city council to be necessary for the public health, safety and welfare. (emphasis added).

· LBMC 25.56.006 Change in Building Use.

If any nonconforming use or portion thereof is abandoned or ceases for a period of twelve or more consecutive months, or is changed to a conforming use, it shall not thereafter be reestablished or reopened. (emphasis added)

Conclusion

The Hotel Laguna has been an important asset to the City of Laguna Beach and the people of California for decades but has fallen into a state of disrepair. While repairs are necessary, none of the work can be done to create an expansion of use or an expansion of the building without bringing the uses and structure into conformity with the current codes. The economic life of the building has been exhausted and now is the time to review the appropriateness of the development in light of sea level rise and other modern day constraints.

We ask that the Commission find that our appeal presents a 'substantial issue' and that they review the project - in its entirety - at a de novo hearing in the future.

Thank you,

Mark Fudge Sharon Fudge P.O. Box 130 Laguna Beach, CA 92652 949-481-1100

Attachments: How the Coastal Commission defines Coastal Bluffs and bluff edges

How the City of Laguna Beach defines Coastal Bluffs and bluff edges

Letter dated November 23, 2020 from consultant to City.

Interested Parties:

Mohammed Honarkar (Applicant) 425 South Coast Highway Laguna Beach, CA 92651

NOTICE OF FINAL LOCAL ACTION FOR COASTAL DEVELOPMENT PERMITS

Date: March 1, 2021

Location: 425 South Coast Highway, Laguna Beach, CA 92651

Coastal Development Project No: CDP 2020-7925

Project Description: North Façade: Replace trash enclosure; remove existing planters and railing around north east corner; replace portions of stairway; replace three kitchen windows; replace access ramp and install guardrail from kitchen for ADA compliance; and repair water proofing of exterior wall.

West (Rear) Façade at North End: Repair/replace guardrail; place wooden deck covering over existing concrete deck; and replace door.

West (Rear) Façade at South End: Trench certain areas of rear deck/patio for electrical repair and fill back to original condition; replace two windows; install a cantilevered service counter; repaint/repair three windows; swap door and window at southwest corner; replace steps and place temporary pavers for erosion control on exposed dirt between the rose garden and rear deck/patio; replace glass guardrail at southwest corner between walkway and rear deck/patio (not on deck/patio); and reroof-in-kind over restaurant and chimney area. No repairs and/or improvements proposed to the rear deck/patio.

<u>Tenant Spaces at the Southeast End</u>: Fill in a door at south façade that leads to the parking lot; replace the west wall and doors at ground floor level facing the rose garden (no changes to the upper hotel room levels); remove awnings and replace windows along the east façade; and install structural retaining walls and steel moment frames along the interior walls of 20% of the total ground floor area limited to only the tenant spaces with no changes to the upper floors (3,200 square feet of 16,000 square feet of ground floor). Install doors between the lobby and the rose garden.

<u>Rose Garden</u>: Install on-grade steps and ADA lift near the southeast corner; replace existing ramp and install handrails along east end for ADA compliance; repair planter walls; replace in-kind steps at the southwest corner; repair and replace fence along south end.

<u>Parking Lot</u>: Remove existing kiosk and low partition wall near entry at South Coast Highway; restripe parking lot to accommodate ADA parking spaces with no changes to the number of existing parking spaces; and install concrete bumpers on ADA parking spaces.

Applicant: Mohammad Honarkar

Mailing Address: 425 South Coast Highway, Laguna Beach, CA 92651

Effective Date of Approval: February 25, 2021

Deciding Body: Director of Community Development

In granting this Coastal Development Permit, the following requirements were satisfied:

- 1. The project is consistent with the certified Local Coastal Program;
- 2. The project requires no discretionary approvals other than a coastal development permit; and
- 3. The project has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

This project is:

- () not appealable to the Coastal Commission
- appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Applicants will be notified by the Coastal Commission if a valid appeal is filed. Appeals must be in writing to the appropriate Coastal Commission district office and in accordance with the California Code of Regulation Section 13111. The Coastal Commission may be reached by phone at (562) 590-5071 or by writing to 301 E. Ocean Boulevard, Suite 300, Long Beach, CA 90802.

Att: Notice of Public Hearing for Minor Development (Dated February 12, 2021)
Approved Plans (Hootan & Associates, Dated July 1, 2020)
Bluff Top Exhibit (Psomas, Dated April 29, 2019)
Site Constraints Exhibits
Coastal Hazard Analysis (GeoSoils Inc., Dated April 29, 2019)

Historic Conformance Review (Chattel, Inc., Dated October 14, 2020) Public Comments