

**CALIFORNIA COASTAL COMMISSION**

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# F10a

Appeal Filed: 09/02/20  
SI Found: 11/05/20  
Staff: C. Seifert -LB  
Staff Report: 07/28/21  
Hearing Date: 08/13/21

## STAFF REPORT: APPEAL – DE NOVO

**Appeal No.:** A-5-LGB-20-0050

**Applicant:** Dig Coast Inn, LLC (Attn: Chris Dornin)

**Agents:** SMS Architects (Attn: Jordan Segraves)

**Local Government:** City of Laguna Beach

**Local Decision:** Approval with Conditions

**Appellants:** Terry Meurer, Mark & Sharon Fudge

**Project Location:** 1401 South Coast Hwy, Laguna Beach, Orange County

**Project Description:** Renovation of existing 17,042 sq. ft. historic hotel, including interior remodel of 24 existing rooms, repair of exterior features, and construction of a 320 sq. ft. addition.

**Staff Recommendation:** Approval with conditions

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## SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing improvements to an existing historic hotel in Laguna Beach. The subject lot is 0.2 acres sloping from South Coast Highway down to the sandy beach below [\(Exhibit 1\)](#). The subject development includes a 24-room hotel (the Coast Inn), a 54-seat restaurant/bar, and four office suites. The applicant initially proposed the construction of a new rooftop deck with a pool and bar in addition to interior and exterior repairs. Following the Commission's substantial issue finding on local Coastal Development Permit (CDP) 16-2480 on November 5, 2020, the applicant reduced the project's scope.

A-5-LGB-20-0050 (Coast Inn)  
Appeal – De Novo

The applicant now proposes remodel of exterior and interior features, a 320 sq. ft. addition of new habitable interior floor area, and construction of new turrets and signage consistent with historic site photographs ([Exhibit 2](#)). The City Council may require revisions to the proposed signage pursuant to local requirements and the City must review other changes to the project which the applicant has proposed or that the Commission may require through this de novo action. Therefore, **Special Condition 1** requires the submittal of final plans reflecting any locally-required changes for Executive Director review and written approval prior to permit issuance. If the City Council requires substantial changes to the signage or other project features, a permit amendment will be required.

The development is legally nonconforming with regard to parking, open space, height, and bluff setback policies of the certified Laguna Beach Local Coastal Program (LCP). The proposed turrets and signage will increase the degree of nonconformity of the development's height and setback margins, but these project aspects received a variance for historical preservation from the City of Laguna Beach. The LCP includes policies supporting historic preservation and the City's Heritage Commission deemed the turrets and signage essential to rating the development as historic. All other work will not increase the size or degree of existing legal nonconformities.

City records indicate the Coast Inn was built in 1927, prior to the effective date of the Coastal Act. The Coast Inn played a significant role in Laguna Beach culture throughout the past several decades, including serving military members during World War II and supporting the lesbian and gay community in the 1970s. The development lost its historically-defining features during multiple changes in ownership and now operates as a mixed-use commercial hotel and lacks original rooftop turrets and architectural finishes. The existing hotel offers high-cost rooms, as determined through comparison to the statewide average daily room rate.

The proposed interior and exterior remodel does not exceed 50% alteration and/or demolition of any structural component or constitute a major remodel/new development under the definition in the LCP. Consequently, existing nonconformities are not required to be brought into conformance at this time. The three new turrets, signage, and addition constitute new development because these features do not exist onsite and have not existed since prior to the effective date of the Coastal Act or the LCP. Based on the City's findings on the historic significance of these structures and their limited impacts on coastal resources (they will be attached to the existing building but partially within the bluff edge setback), Commission staff recommend upholding the City's variance findings and approving the features.

The northern side of the property (facing Mountain Road) includes a private stairway extending from a portion of the upper hotel building to the public sidewalk to the lowest hotel deck above the sandy beach. Photographs and historic postcards confirm that the stairway has existed since at least 1950, making it a legally nonconforming encroachment. However, repairs to the private stairway are proposed and it is adjacent to a public set of ocean-facing benches and a public stairway leading to the beach. The

Coast Inn's stairway abuts a landing which is on the public sidewalk leading to these public amenities and it may obstruct ADA-required access. Thus, Commission staff recommend **Special Condition 1**, requiring removal of the stairway landing on the public sidewalk and relocation of the gates onto the applicant's private property. This is the sole legal nonconformity onsite that requires resolution for protection of public access consistent with Coastal Act policies.

Staff recommends **APPROVAL** of the proposed project with eight (8) special conditions requiring: 1) submittal of final revised plans; 2) submittal of construction staging plans; 3) the use of lighting and materials to avoid bird impacts; 4) implementation of construction best management practices; 5) assumption of risk; 6) acknowledgement that a new CDP will be required for all work not described in the subject application; 7) waiver of rights to future shoreline protective device; and 8) deed restriction.

The City of Laguna Beach LCP was certified by the Commission on January 13, 1993. This development is located between the first public road and the sea. Therefore, the standard of review for de novo consideration of the project is conformance with the certified LCP and public access and recreation policies of the Coastal Act.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION .....</b>	<b>5</b>
<b>II. STANDARD CONDITIONS .....</b>	<b>5</b>
<b>III. SPECIAL CONDITIONS .....</b>	<b>6</b>
<b>IV. FINDINGS AND DECLARATIONS .....</b>	<b>10</b>
A. PROJECT DESCRIPTION AND BACKGROUND .....	10
B. STANDARD OF REVIEW .....	16
C. DEVELOPMENT .....	17
D. COASTAL HAZARDS .....	23
E. PUBLIC ACCESS AND RECREATION .....	29
F. LOWER COST OVERNIGHT ACCOMMODATIONS.....	31
G. VISUAL RESOURCES.....	33
H. WATER QUALITY.....	34
I. LOCAL COASTAL PROGRAM.....	35
J. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	36
<b>APPENDIX A – SUBSTANTIVE FILES .....</b>	<b>37</b>

### EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Historic Photos](#)

[Exhibit 4 – Bluff Edge Review Memorandum](#)

[Exhibit 5 – COSMOS Figures](#)

## I. MOTION AND RESOLUTION

**Motion:** I move that the Commission **approve** Coastal Development Permit No. A-5-LGB-20-0050 pursuant to the staff recommendation.

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

**Resolution:** The Commission hereby approves Coastal Development Permit No. A-5-LGB-20-0050 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Submittal of Revised Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two (2) full sized sets of final revised project plans, which shall substantially conform with the project plans dated July 21, 2021 attached herein as **Exhibit 2**, except modified to comply with the following:
  - A. The existing private stairway landing located on the public sidewalk parallel to Mountain Road shall be removed, the public sidewalk shall be repaired, and the private gates shall be located on the applicant's private property.
  - B. The foundation plans shall be revised with removal of the piles and supporting materials which are no longer needed to support the previously proposed roof deck. The final plans shall provide the total volume of grading, the number of new pad footings, and any other support features to be installed under and/or in the existing structure. The final plans shall identify less than 50% removal and/or alteration of the existing foundation, consistent with the structural evaluation submitted by Wright Engineers, dated June 28, 2021.

Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without approval by the Commission of a subsequent amendment to the coastal development permit or a new coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Construction Staging Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two copies of a construction staging plan. The construction staging plan shall incorporate the following:
  - A. The plan shall specify where construction vehicles will park during the period of active construction work. Construction vehicles shall avoid occupying public parking spaces used for coastal access for an extended period, beyond the time needed to deliver materials and workers to the job site.
  - B. The plan shall specify where construction equipment is proposed to be stored during construction in order to maintain slope stability, control erosion, and maintain public access along South Coast Highway and the public beach access stairway.
  - C. The plan shall also identify a disposal site outside of the Coastal Zone for waste materials and recyclable materials.

The permittee shall undertake development in conformance with the approved construction staging plan unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

**3. Lighting and Bird-Safe Balcony Materials.** By acceptance of this permit, the applicant agrees that oceanfront deck railing systems, fences, screen walls, gates, windows and the like that are authorized for repair by this permit shall use materials designed to minimize bird-strikes with the deck railing, wall, fence, gate, window, or similar feature. Such materials may consist all or in part of wood, wrought iron, frosted or partially-frosted glass, Plexiglas or other visually permeable barriers designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless it contains UV-reflective glazing that is visible to birds designed to reduce bird strikes by reducing reflectivity and transparency. All materials shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications.

**4. Storage of Construction Materials, Mechanized Equipment, and Removal of Construction Debris.**

A. The applicant shall comply with the following construction-related requirements:

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

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

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

The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

**5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards from bluff and slope instability, sea level rise, erosion, landslides and wave uprush or other tidal induced erosion; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; (v) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; (vi) that the boundary between public land (tidelands) and private land may shift with rising seas, the structure may eventually be located on public trust lands, and the development approval does not permit encroachment onto public trust land; (vii) any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval; and (viii) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to the Coastal Act.

**6. Future Permit Requirement.** This permit is only for the development described in CDP A-5-LGB-20-0050. Pursuant to Title 14 California Code of Regulations (CCR)



Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP A-5-LGB-20-0050. Accordingly, any future improvements to this structure shall require an amendment to CDP A-5-LGB-20-0050 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition, an amendment to CDP A-5-LGB-20-0050 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

**7. No Future Shoreline Protective Device(s) to Protect the Proposed Development.**

- A. By acceptance of this permit, the permittees agree, on behalf of themselves and any successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-5-LGB-20-0050 including, but not limited to, the development and associated improvements/accessory structures, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other natural hazards in the future. By acceptance of this permit, the permittees hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, any similar provision of a certified LCP, or any applicable law.
- B. By acceptance of this Permit, the permittees further agree, on behalf of themselves and all successors and assigns, that they are required to remove all or a portion of the development authorized by this permit and restore the site, if:
  - i. The City of Laguna Beach or any government agency with jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards related to coastal processes, and that there are no feasible measures that could make the structure suitable for habitation or use without the use of bluff or shoreline protective devices;
  - ii. Essential services to the site (e.g. utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
  - iii. Removal is required pursuant to LCP policies for sea level rise adaptation planning; or

- iv. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.

Approval of CDP No. A-5-LGB-20-0050 does not allow encroachment onto public trust lands. Any future encroachment onto public trust lands shall be removed unless authorized by the Coastal Commission. Additionally, encroachment onto public trust lands is subject to approval by the State Lands Commission or other designated trustee agency.

- 8. Generic Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION AND BACKGROUND**

The project site is a rectangular, 10,856 sq. ft. (0.2 acres) blufftop lot located between the sea and the first public road at 1401 South Coast Highway in Laguna Beach, Orange County ([Exhibit 1](#)). The existing structure is a 17,042 sq. ft., mixed-use commercial hotel development, 23.8-ft. high as measured from the curb and 36.8-ft. high as measured from the lowest finished floor elevation (FFE). The development was originally built in 1927 and currently contains a 24-room hotel, 54-seat restaurant/bar, and four commercial office spaces.

The lot has a General Plan/Land Use Plan (LUP) designation of “Commercial/Tourist Corridor” and a C-1 certified zoning code designation. The C-1 zone prioritizes visitor commercial development. Additionally, the principal permitted uses in the Commercial/Tourist Corridor are visitor-serving facilities such as hotels, motels, restaurants, and beach-related retail uses. Both the “Commercial/Tourist Corridor” designation and C-1 zoning designation allow hotel, restaurant, and bar use subject to a Conditional Use permit issued by the City. Office use is also allowed subject to a Conditional Use permit, provided it is located above the ground floor and does not

exceed 50% of the gross floor area of the entire structure. All existing uses were initiated prior to the effective date of the Coastal Act in 1977 and prior to the Commission's certification of the Laguna Beach LCP. Regardless, the subject hotel, restaurant, bar, and office uses are consistent with the land use designation and zoning for the subject site.

North of the site and within the C-1 zone is a vacant commercial development; to the south is a resort hotel, the Capri Laguna. On the inland side of Coast Highway opposite the subject site are commercial retail uses, offices, restaurants, and another hotel ([Exhibit 1](#)). The subject lot is located between the first public road (South Coast Highway) and the sea. The public beach in front of the subject site is accessed from either the public stairway immediately north of the site on Mountain Road, or the public stairway approximately 0.6 miles south of the site on Blue Bird Canyon Drive. Metered public parking is available along South Coast Highway and on side streets in the project area. The existing development is a high-cost hotel charging approximately \$260 as the average daily room rate, according to the applicant.

### **Existing Non-Conforming Conditions**

As shown in the Commission staff geologist's memorandum ([Exhibit 4](#)), the development spans a gentle upper slope at South Coast Highway and a steep lower seacliff leading to sandy beach. The first two levels are terraced down the bluff face below the South Coast Highway elevation, with smaller areas limited by the bluff face; the third and fourth levels are located above South Coast Highway and extend the full length of the lot ([Exhibit 2](#)). All four levels include ocean-facing decks, all located seaward of the bluff edge as determined by the Commission's staff geologist pursuant to the Land Use Element (LUE) definition. A private stairway on the northern side of the property (facing Mountain Road) connects the third floor to the lowest first floor deck. The private stairway does not provide beach access but its landing encroaches into the public sidewalk that leads to two public, ocean-view benches and a public beach accessway. The stairway is a legally nonconforming encroachment that has existed since at least 1950 per historic postcards and photographs.

Several other legal nonconformities exist onsite with regard to policies of the certified LCP. The development requires 86 parking spaces based on current LCP standards but does not offer any onsite parking. The height exceeds limitations by 3.8 ft. as measured from the curb and 0.8 ft. as measured from the lowest FFE. All four levels include decks and habitable area located seaward of the bluff edge and within the 25-ft. setback in noncompliance with the LCP. The development requires at least 2,609 sq. ft. of "ground to sky" open space but does not offer any open space onsite. The relevant LCP policies are listed below:

**IP Section 25.52.012** Hotel/motel: 1 space for each room (as defined in Chapter 25.08), which opens to a public way or corridor, yard or court, plus 1 space for each 15 rooms or fraction thereof, plus 2 spaces per each residence. Additional parking may be required based on operational information such as the number of employees for shifts, when the greatest number of employees is on duty, the hours of operation and the amount of area devoted to particular uses... A 20%

reduction from the total parking required for ancillary uses may be granted subject to approval authority's approval.

**IP Section 25.20.008 (D) Building Height Standards.** The following building height limits represent the maximum heights permitted and may be reduced as determined appropriate by the design review authority...

(1) ...Height Permitted Above Upper Curb or Street Elevation: 20 ft. [for over 10% slope]...

(2) The height of any building (per the building height definition in Municipal Code Section 25.08.016) shall not exceed thirty-six feet, including parking garage floor levels with access ramps located outside the structure's ground floor footprint. This thirty-six-foot height limit shall include roof chimneys, vents, mechanical equipment, mechanical enclosure, elevator shafts, stairways and other such structural elements required for the operation of the building.

**IP Section 25.50.004 Building setback lines...**no new building, additions to existing buildings, or structures or improvements shall encroach beyond the applicable building stringline or shall be closer than twenty-five feet to the top of an oceanfront bluff; the more restrictive shall apply...

**IP Section 25.50.010 Open space requirements...**

(A) It shall contain a minimum area of forty percent of the total gross living area on the lot;

(B) At least sixty percent of the total area required shall be located at ground level and shall be open from ground to sky;

(C) It shall be contained entirely within the buildable area of the lot (as defined by the property development standards of the applicable zone exclusive of Chapter 25.50)...

### **Proposed Work**

The applicant is proposing improvements to the hotel, which do not rise to the threshold of a "major remodel" because all improvements alter less than 50% of the existing structure. The applicant also proposes the addition of new features (three rooftop turrets, a multi-sided sign, a small habitable addition, and a utility vault) that do constitute new development. Specifically, the project includes: interior renovation and reconfiguration of existing hotel rooms; cosmetic exterior work to restore historic architectural features; addition of a new 1,102 sq. ft. utility vault landward of the bluff setback and within the existing building footprint (not habitable space); addition of a new 320 sq. ft. interior area landward of the bluff setback and within the existing footprint (habitable space); removal of a 1,433 sq. ft. portion of roof on the third floor to open an existing courtyard; and construction of three new turrets and one rooftop sign consistent with the historic condition.

While the proposed exterior may appear different from the existing development in style and size ([Exhibit 3](#)), the applicant has limited the project to 37% alteration of total exterior walls, 47% alteration of the total roof structure, and less than 23% alteration of the total foundation. The habitable interior area will increase by approximately 2% without altering the existing building footprint or increasing the degree of nonconformity regarding the 25-ft. bluff edge setback. The repairs will include replacing existing doors and windows, installing new clay roof tiles over the existing roof structure, installing a new interior staircase, and installing a new interior elevator system landward of the 25-ft. setback. The applicant provided detailed calculations and depictions of replacement and demolition of all structural components in the project plans dated August 31, 2020 ([Exhibit 2](#)), in addition to subsequent revisions dated July 21, 2021 which further reduce the scope of work. The scope of work and associated remodel percentages are accurate and adhere to the LCP requirements and Commission precedent in application of improvements versus major remodel.

Regarding the proposed new development, the shortest turret will be located seaward of the bluff edge and the second turret will be located within the bluff setback. The third, tallest turret will be located outside the bluff setback near South Coast Highway, serving as the new elevator shaft that provides access up to the fourth floor. The third turret will extend 13-ft. above the existing roof and would increase the existing non-conforming height exceedance from 3.8-ft. to 18.8-ft. as measured from the curb. The first and second turrets will be lower due to their seaward location on the sloping lot, but will still exceed height limitations. The proposed turrets do not currently exist onsite and appear to have been removed from the historic structure by the 1960s per historic photographs ([Exhibit 3](#)). The proposed flag poles will extend approximately 10 ft. above each turret. None of the turrets will increase habitable space or introduce new land uses.

The proposed new sign is three-sided, 3-ft. tall, and approximately 234 sq. ft. in total area. This will exceed the 150 sq. ft. maximum allowed for signage per site pursuant to the LCP (policy included below.) The sign also does not currently exist onsite and was likely removed with the turrets by the 1960s.

**IP Section 25.54.008 (D)** Computation of Total Allowable Sign Area. A site's combined allowable sign area of all permanent signs not exempt under Section 25.54.014 shall not exceed one square foot per linear foot of building or suite frontage, up to a maximum of one hundred fifty square feet...

The applicant demolished the existing restaurant interior on February 27, 2020, pursuant to City Building Permit CBP-2020-4652. The demolition was limited to interior finishes and did not result in addition/reduction of the existing interior floor area, nor alteration of the existing roof, foundation, or exterior walls. The interior demolition was intended to expose the existing structure (i.e. ceiling joists, floor joists, and stud walls) and improve the accuracy of project alteration percentages. The work was permitted by the City and does not impact the currently proposed project scope.

## Site History

A-5-LGB-20-0050 (Coast Inn)  
Appeal – De Novo

The applicant's submitted historic assessment, conducted by Ostashay & Associates Consulting and dated December 9, 2015, provides an overview of the development history despite limited Commission and City actions onsite. The Coast Inn was built in 1927 in the Spanish Colonial Revival style, lacking turrets or significant signage. The original structure served as a hotel, café, and bar, with two stories above South Coast Highway and two additional stories terraced down the bluff. The mid-portion of the property along Mountain Road was limited to one-story.

In the 1930s, the mid-portion of the hotel was expanded to two stories, along with the addition of three rooftop turrets and a two-sided neon sign facing Mountain Road and South Coast Highway. The café was expanded into restaurant and bar use.

In 1956, a fire destroyed a large portion of the building facing South Coast Highway. The record does not indicate how much was destroyed, but limited photographs suggest the entire front portion of the building had to be reconstructed. The damaged exterior was rebuilt in a Minimal Traditional architectural style and the second level gained new office and retail uses. The rooftop turrets are not present in circa 1960s photographs, suggesting the turrets were damaged or removed following the 1956 fire. The signage appears to have remained.

In the 1970s, a change in ownership transitioned The South Seas Room into The Boom Boom Room, a popular disco in the lesbian and gay community. Records do not show significant alteration or structural renovation occurring during this time. While the bar has not been operational for at least 12 years, the space occupied by the bar has not been formally converted to a differing commercial use.

### **Permit History**

On July 7, 2010, the City approved local CDP 10-05 for extensive remodel of the Coast Inn, including a reduction from 24 hotel rooms to 14 and construction of a new rooftop deck and 13-space subterranean garage. On July 26, 2010, Commissioners Shallenberger and Prosser filed an appeal on the basis of: 1) insufficient findings for potential reduction in low-cost accommodations; 2) visual impacts from the rooftop "privacy wall" associated with the deck; 3) inadequate CEQA findings related to discontinued and/or altered use of a historic structure; and 4) new encroachments into the bluff edge setback. The Commission found substantial issue on Appeal A-5-LGB-10-166 on August 13, 2010 and the project was never developed.

On July 28, 2020, the City issued local CDP 16-2480 for renovation of the Coast Inn, including addition of a new 3,707 sq. ft. rooftop pool/spa and bar; construction of three new turrets and signs consistent with historic architecture; reconfiguration of the interior rooms; and upgrades to the existing heating, ventilation, and air conditioning (HVAC) system. The project included less than 50% alteration of the existing habitable interior floor area, foundation, and exterior walls—however, the project did alter at least 70% of the existing roof structure with construction of a new rooftop deck and pool/spa. The City's findings indicate that the project will not intensify use of the structure and require

additional parking, but the applicant was required to provide in-lieu parking fees for three spaces.

The City also issued Conditional Use Permit 16-2479 for the new rooftop bar and increased restaurant floor area in a “Commercial/Tourist Corridor” and C-1 site. The City’s findings indicate that the existing hotel and alcohol-serving restaurant operating onsite are legally nonconforming with regard to the lack of a Conditional Use permit (as discussed above on page 9), but a new conditional use permit was required for the expansion of existing restaurant/bar area within the existing building footprint (i.e. converting hotel area to restaurant/bar area).

Additionally, the City issued Variance 16-2482 for the: 1) three new turrets; 2) reconstruction of existing oceanfront decks; 3) installation of a non-permanent umbrella system on the rooftop deck, and 4) addition of the three-sided signage. These listed features would exceed the LCP’s 20-ft. maximum building height as measured from the curb of South Coast Highway. Some of the new features would also exceed the 36-ft. maximum height as measured from the lowest FFE. The proposed three-sided sign exceeded the maximum area of onsite signage allowed by the LCP. The variance findings state, in relevant part:

Staff believes that there are special circumstances applicable to the property, including lot size and topography, which cause the strict application of the Zoning Ordinance to deprive the property of privileges enjoyed by other properties in the vicinity and under identical zoning classification. The proposed rooftop turrets, sign, and flags, which exceed the maximum allowable height, can be considered key character-defining features to the historic rehabilitation of the property and thereby constitute a special circumstance uniquely applicable to the site.

Lastly, the City issued Design Review 16-2475 and determined the project was exempt from CEQA provisions (discussed further in the “CEQA” subsection).

On September 2, 2020, Terry Meurer filed an appeal of the local CDP. Mark and Sharon Fudge filed a subsequent appeal on September 8, 2020. The Commission found Substantial Issue with respect to the grounds on which the appeals were filed for the following reasons: 1) the local CDP authorized new development within the bluff edge setback without sufficient findings that the development satisfied historic criteria; 2) the applicant’s bluff edge determination did not reflect the LUE definition; 3) the requirement of three in-lieu parking fees was not supported by findings or LCP policies; 4) the CDP findings did not include analysis of impacts to public access and the existing stock of low-cost overnight accommodations in Laguna Beach.

The appellants also contended that the project does not qualify for a CEQA exemption and is being piecemealed in connection with an associated liquor store and cottage (located on separate lots across the street). However, the Commission did not find that these contentions raised substantial issue with respect to any legitimate ground for an appeal pursuant to Section 30603 of the Coastal Act.

It is important to note that at the time of the substantial issue hearing, there was insufficient information in the record provided by the City to fully understand the extent of the proposed project. The timeframe to schedule an appeal before the Commission is limited, requiring staff to rely on the record provided by the City. At the time of the substantial issue question, remodel percentages and historic photographs were provided by the City that were not otherwise described in the record. The finding of substantial issue was based primarily on insufficient information in the record to determine whether the project approved by the City rose to the level of a major remodel or not. This is reflected in the substantial issue findings, which state:

“Staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed for the following reason: the City’s conclusion that the development is consistent with the provisions of the certified Local Coastal Program (LCP) was not adequately supported by documents in the record or the City’s findings as stated in Local CDP No. 16-2480.”

Regardless, the Commission’s finding of substantial issue on the grounds on which the appeal was filed stays the local government action and requires the Commission to conduct a de novo review on the merits of the subject application.

## **B. STANDARD OF REVIEW**

Section 30604(b) of the Coastal Act states:

(b) After certification of the 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.

In addition, Section 30604(c) of the Coastal Act states:

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The project site is located between the first public road and the sea. Therefore, the standards of review for this project are the City’s certified LCP and the Chapter 3 public access and recreation policies of the Coastal Act. The City of Laguna Beach Local Coastal Program was certified by the Commission on January 13, 1993 (except for the areas of deferred certification: Three Arch Bay, Blue Lagoon, Hobo Canyon, and Irvine Cove). The subject site falls within the City’s certified LCP jurisdiction. The City’s LCP Land Use Plan portion is comprised of a variety of planning documents including the Land Use Element (LUE), Open Space/Conservation Element (OSC), and the Coastal



Technical Appendix. The Implementation Plan (IP) portion of the LCP is comprised of a number of documents including Title 25 Zoning.

Section 25.07.008 of the City's Zoning Code/certified Implementation Plan describes development that is exempt from the requirement for a coastal development permit. Repair and maintenance activities fall within this category, unless the repair and maintenance is located within 50 ft. of the edge of a coastal bluff (pursuant to Section 25.07.008(C)(4) of the certified IP). The subject site is located on and within 50 ft. of a coastal bluff and therefore the proposed activities are not exempt, and require approval of a coastal development permit.

### **C. DEVELOPMENT**

**IP Section 25.56.002** A nonconforming building, structure or improvement is one which lawfully existed on any lot or premises at the time the first zoning or districting regulation became effective with which such building, structure or improvement, or portion thereof, did not conform in every respect.

Any such nonconforming building, structure or improvement may be continued and maintained, except as otherwise provided in this chapter, but may not be moved in whole or in part unless and except every portion thereof is made to conform to the provisions of this title.

As detailed in the "Project Description and Background" subsection, the existing Coast Inn is legally nonconforming with regard to the floors located on the bluff face (seaward of the bluff edge and within the required setback), the existing height, the lack of any onsite parking, and the failure to meet minimum open space requirements. But the subject development is legally nonconforming in that it complied with permitting requirements in effect at the time of original construction in 1927 and the requirements at the time of the reconstruction of the majority of the hotel after a fire in 1956. Current LCP policies cannot be retroactively applied to existing, legally nonconforming development unless the existing nonconformities are proposed for addition, demolition, or modification as defined by the below policies:

**LUE Action 7.3.10** 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.

**IP Section 25.56.009** If any part of a nonconforming portion of the structure is substantially removed or modified in such a way that it compromises the structural integrity of the building, that portion must be rebuilt in conformance with zoning regulations.

Pursuant to the definition below, a major remodel consists of any work that increases the area of the existing structure by more than 50% or demolishes, removes, replaces, or reconstructs the existing structure by more than 50%.

**LUE Glossary Entry 89.** Major Remodel - Alteration of or an addition to an existing building or structure that increases the square footage of the existing building or structure by 50% or more: or demolition, removal, replacement and/or reconstruction of 50% or more of the existing structure; greater specificity shall be provided in the Laguna Beach Municipal Code

The definition indicates that greater specificity is included in the Laguna Beach Municipal Code (certified IP). The below IP sections further specify that the original gross floor area should be considered, and define this as the gross floor area when initially constructed.

**IP Section 25.08.012** “Floor area, original gross” means the gross floor area (as defined herein) of a separate unattached structure when initially constructed.

**IP Section 25.10.008** 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.

In this case, it is difficult to determine whether the structure can be considered initially constructed in 1927 (the effective construction date) or in 1956 (following the fire that damaged a portion of the development.) Photographs following the 1956 fire show a substantial amount of reconstruction that doesn't appear to have been like-for-like, and the new presence of turrets. The historic record doesn't offer estimates of gross floor area for either construction date. All alterations and changes in use described in the 'Site History' findings are based on the applicant's submitted historic report and not City actions, making it even more difficult to determine how much of the structure has been remodeled since the 1956 reconstruction. Review of the current proposal in relation to the existing structure in 1927 or 1956 would require subjective analysis of photographs, with no substantiating estimations of original gross floor area available to confirm the percentage of alteration.

The Commission's review of this project is based on the information available in the public record, described in the historic resources memo and referenced with aerial photographs. Based on that information, the existing development substantially conforms with the structure as reconstructed in 1956 with regard to general layout and major structural components. The applicant's submitted project plans and percentage estimations are based on the existing structure as it currently stands onsite; there is no evidence that the existing structure underwent substantial structural changes or additions between 1956 and its current condition.

As stated in LUE Action 7.3.10, existing oceanfront and oceanfront bluff structures that are legally nonconforming may be maintained and repaired, but improvements that

increase the size or degree of nonconformity would constitute new development. New development must bring all associated features into conformity with the LCP. However, the proposed interior and exterior renovation does not exceed the 50% alteration or 50% addition threshold. This part of the project constitutes improvements rather than new development, while the construction of new turrets and signage and addition and new vault does constitute new development (discussed further below.)

The applicant proposes to increase the existing 14,808 sq. ft. habitable interior floor area by a total of 320 sq. ft., consisting of a 14 sq. ft. addition on the first floor, a 58 sq. ft. addition on the third floor, and a 248 sq. ft. addition on the fourth floor. The first floor addition will be obtained through the construction of a new wall to eliminate an existing door between a guest room and the maintenance area (crawl space); the maintenance area will be accessed solely from the exterior and the guest room size will be extended landward by 14 sq. ft. This addition is located seaward of the bluff edge within existing nonconforming development. However, closure of the interior accessway is required by accessibility provisions of the California Building Code. The new wall will not change the building footprint or expand development further into the setback. The third and fourth floor additions are located landward of the bluff setback and will be obtained by enclosing existing exterior balconies for new interior floor area. This will result in a total 2% increase in existing habitable interior floor area. The applicant also proposes a 7% increase in existing uninhabitable interior floor area, related to the addition of a new 1,102 sq. ft. utility vault on the second floor (landward of the bluff edge setback).

The project will remove and/or alter 37% of the total existing exterior walls ([Exhibit 2, Page 9](#)). In addition to the 37% demolition and structural alteration, the applicant proposes cosmetic improvements including: replacement of existing windows and doors, refinishing existing ocean-facing decks and the private stairway with new paint and tiles, patching exterior plaster, and installing new awnings and corbels consistent with the historic condition. While these constitute visually impactful alterations (as evidenced by the existing and proposed photos on Exhibit 3, Page 3), these are not demolition or structural alterations included in the remodel percentage. The cosmetic repairs will include work located within the bluff setback (specifically, refinishing the decks and stairway), but will not increase the size of the existing structures or significantly alter the existing condition.

The project will remove and/or alter 47% of the total existing roof structure, consisting of approximately 35% demolition of the existing roof and 12% structural improvements ([Exhibit 2, Page 11](#)). A 1,080 sq. ft. damaged roof gable will be removed from the fourth floor, in addition to a 353 sq. ft. portion of roof west of the damaged gable, to create an effective skylight for the existing fourth floor courtyard. The narrow portion of roof between these two removed areas will remain ([Exhibit 2, Page 5, shown in dotted pattern](#)). The fourth floor courtyard is an existing feature that includes umbrellas and tables for hotel guests; food and drinks may be carried in from the hotel restaurant by guests but no courtyard bar or restaurant use is proposed. No new access structures for the existing rooftop are proposed.

A-5-LGB-20-0050 (Coast Inn)  
Appeal – De Novo

The project will remove and/or alter less than 23% of the existing foundation structure. While the applicant did not provide specific foundation plans prior to the hearing, the project consulting engineers, Wright Engineers, have submitted a letter dated June 28, 2021 which summarizes the current proposal in relation to the previously proposed work. The previous project required approximately 23% alteration of the foundation for the minimum number of new pad footings and retrofitting necessary to support the new rooftop deck and associated features ([Exhibit 2, Page 12](#)). The letter estimates approximately six new pad footings were necessary to accommodate the rooftop deck and an additional eight pad footings were necessary to accommodate the pool/spa. Eliminating all new rooftop features from the current proposal allows a reduction of 14 pad footings from the original scope, ensuring the alteration of existing foundation will decrease from the previously proposed 23%. **Special Condition 1** requires the submittal of final foundation alteration plans for Executive Director's review and written approval prior to permit issuance.

The work described above constitutes improvements which do not exceed 50% addition or alteration for each major structural component. The project, as a whole, does not increase the size or degree of nonconformities, with the exception of the new turrets and signage described below that received a variance from the City. Additionally, it does not alter the existing development footprint, or impact the existing uses. As such, the project is consistent with IP Section 25.56.002 allowing legally nonconforming structures to continue and maintain use.

**IP Section 25.56.002** A nonconforming building, structure or improvement is one which lawfully existed on any lot or premises at the time the first zoning or districting regulation became effective with which such building, structure or improvement, or portion thereof, did not conform in every respect.

Any such nonconforming building, structure or improvement may be continued and maintained, except as otherwise provided in this chapter, but may not be moved in whole or in part unless and except every portion thereof is made to conform to the provisions of this title.

In addition to the improvements described above, the applicant proposes the addition of three decorative rooftop turrets: a 13-ft. tall turret with a 10.6-ft. tall flag located near South Coast Highway, a 15-ft. tall turret with an 8.8-ft. tall flag located within the bluff edge setback, and an 8.5-ft. tall turret with a 4-ft. tall flag located seaward of the bluff edge. (While the second turret is technically the highest, it appears lower than the first turret due to the site slope.) The first turret near the front of the structure will serve as an elevator and stairway tower, but does not provide rooftop access. All three turrets are consistent with the historic condition prior to removal in the 1960s ([Exhibit 3](#)). The turrets will increase the existing height exceedance from 3.8 ft. as measured from the curb and 0.8 ft. as measured from the lowest FFE to 15.3 ft. and 10 ft., respectively.

The new signage will consist of a three-sided, rectangular sign at the front of the site measuring approximately 3-ft. tall and 234 sq. ft in area. The signs will be mounted with

four flags (each less than 10-ft. tall) and halo lit<sup>1</sup> for visibility from Mountain View Road and South Coast Highway. It is located landward of the bluff edge setback. A postcard from the 1930s shows a multi-sided sign consistent with the current proposal—however, a circa 1940s photograph shows a single-sided sign facing Mountain Road ([Exhibit 3](#)). The City Council may require revisions to the proposed signage pursuant to local requirements—however, **Special Condition 1** requires the submittal of final plans reflecting any locally-required changes for Executive Director review and written approval prior to permit issuance. If the City Council requires substantial changes to the signage or other project features, a permit amendment will be required.

The proposed rooftop turrets and signage are new development that will increase the existing degree and size of nonconformity with regard to the bluff edge setback and height. The sign also exceeds the maximum square footage allowed onsite by the LCP.

These features have been determined necessary by the Heritage Committee—a City Council-appointed committee—for the development to obtain an E-rating (“Excellent”). The Coast Inn was not identified as a historic resource in a 1981-1982 City survey and is thus not currently on the City’s Historic Register. In November 2015, the applicant applied with the Heritage Committee to obtain a historic rating for the development. The Heritage Committee required revisions to increase the amount of historic restoration for a C-rating (“Contributive”, the lowest of three possible scores) and encouraged the applicant to restore more architectural features for the highest E-rating (“Excellent”, the highest of three possible scores). The applicant would obtain the E-rating with the proposed turrets, signage, and cosmetic exterior alterations. This would provide eligibility for a Mill’s Act contract, which offers financial aid for preservation of historic structures.

The City issued Variance 16-2482 for the turrets and signage, indicating these as “key character-defining features” which may be considered a special circumstance uniquely applicable to the site. The new features will not require significant structural retrofitting and have a limited impact on public views from the sidewalk. They will not impact geologic stability, public access, or marine resources onsite. The Coast Inn has played a significant role in the Laguna Beach community since 1927; the City’s Variance findings are supported in that there are special circumstances unique to the site. The City’s variance is also consistent with the following LCP policies encouraging historic preservation:

**LUE Action 1.1.13** Encourage preservation of historic structures and adaptive reuse of buildings.

**LUE Goal 3** Preserve, enhance, and respect the unique, small-scale village character and individual identity of Laguna Beach’s commercial areas.

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<sup>1</sup> A type of LED positioning that projects light around the individual letter and onto the wall behind, creating an overall softer glow.

**LUE Policy 3.3** Encourage the preservation of historically significant buildings and protect the character-defining components of Laguna Beach’s commercial neighborhoods.

**LUE Action 5.1.3** Promote preservation of historic structures and adaptive reuse of existing buildings.

The appellants assert that IP Section 25.56.006 should be applied which requires that when a non-conforming use lapses, the property cannot revert to that use and all non-conformities must be addressed when a new use is proposed.

**IP Section 25.56.006** 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.

The IP policy is specific to nonconforming uses, but does not require nonconforming conditions like parking or setbacks to be brought into conformity if the underlying development is inoperable for 12 months. In this case, the property is zoned for visitor-serving use and the land use designation supports hotels, restaurants, bars, and office space upper floors. The current uses (hotel, restaurant/bar, and office) have not changed since prior to LCP certification, although the restaurant and bar have not been operational for at least 12 years. The subject application proposes repair and maintenance of non-conforming features, as well as addition of new rooftop features, but does not propose any change in use. As such, this policy does not apply to the subject project.

The appellants also contend that the project will result in indefinite continuation of the existing nonconforming development. However, LUP Action 7.3.10 specifically allows for the repair and maintenance of legally nonconforming structures, given the work does not constitute a major remodel or increase the size and degree of nonconformity. The Coast Inn has not been approved for repair and maintenance since prior to LCP certification (with the exception of the City’s 2010 CDP that was invalidated through appeal and not acted on). The subject project is the first instance of City/Commission-approved repair and maintenance, and improvements, in the site history. The project has also been reviewed to ensure that the improvements and the new turrets and signage, which are new development—does not meet the LUE definition of a major remodel.

The project is consistent with LUP Action 7.3.10 relating to repair and maintenance of nonconformities; multiple LUP policies encouraging historic preservation; and IP Section 25.56.002 allowing legally nonconforming buildings to be maintained.

### **Conclusion**

The proposed interior and exterior renovation does not result in demolition and/or alteration of any major structural component by 50% or more, and thus does not constitute a major remodel. It also doesn’t increase the size or degree of existing

nonconformities onsite. However, the new turrets and signage do constitute new development. The new development (i.e. turrets and signage) does not comply with LCP policy with regard to height, bluff edge setback, or sign area—however, these features have been granted a variance on the basis of historic preservation and unique circumstances onsite, consistent with the LCP policies cited above.

Overall, the Coast Inn will not constitute new development with the proposed work and may retain existing legal nonconformities. As conditioned, the proposed development is consistent with the development and historic preservation policies of the certified LCP.

#### **D. COASTAL HAZARDS**

A geotechnical investigation report was prepared for the proposed development by Borella Geology, Inc., dated June 17, 2009, and supplemented with five additional reports from 2015 to 2020. The applicant also submitted a coastal hazards analysis prepared by GeoSoils, Inc. dated May 17, 2019. The slope stability analyses also indicate factor of safety values of at least 2.4 under global static conditions and 1.9 under global seismic conditions, and that the project is grossly stable. The Commission's staff geologist, Dr. Joseph Street, has reviewed all submitted reports and confirmed these statements ([Exhibit 4](#)). The indicated factor of safety values exceed the minimum required by the following LCP policy:

**LUE Action 10.2.6** 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 Niño 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.

The applicant's coastal hazards analysis indicates that the proposed new development would be safe from wave runup and bluff retreat hazards over the next 75 years with up to 4.2 feet of sea level rise (SLR). Pursuant to the Commission's 2018 "Science Update to the Sea Level Rise Policy Guidance", the anticipated SLR range for the subject site may be estimated from the La Jolla Tide Gauge<sup>2</sup> table provided in the Ocean Protection Council's (OPC's) 2018 Sea Level Rise Guidance document. The La Jolla Tide Gauge

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<sup>2</sup> The project site is generally equidistant from the Los Angeles area and the La Jolla area, and there is no closer Tide Gauge table available in the OPC's "[State of California Sea-Level Rise Guidance: 2018 Update](#)." The applicant's coastal hazards report uses the La Jolla datum for the predicted SLR range.

table estimates a low-risk to medium-high risk SLR range of 3.6 to 7.1 ft. for the project site, which is higher than the applicant's submitted coastal hazards analysis range.

The Coastal Storm Modeling System (CoSMoS) provides a GIS map showing potential wave run-up and flooding for the subject site based on differing SLR and storm scenarios. With 6.6 ft. of SLR (the closest value available to the upper end of the OPC's medium-high risk scenario of 7.1 ft.) and no coastal storm event, CoSMoS shows the first level deck may be subject to limited wave runup and flooding ([Exhibit 5](#)). With 6.6 ft. of SLR and a 100-year storm, the amount of wave runup and flooding does not appear to increase appreciably. This suggests that the first floor deck may be subject to limited wave runup and flooding in the next 75 years if sea level rise is severe.

LUE Action 10.2.8, cited below, requires accessory structures to be removed or relocated landward when threatened by coastal hazards.

**LUE Action 10.2.8** 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.

CoSMoS modeling indicates that only the lower decks which are proposed to be repaired and maintained will be threatened in the future if sea level rise is severe. However, LUE Action 10.2.8 applies to new minor accessory structures, and the proposed new development (turrets, signage, utility room expansion) is not expected to be threatened by hazards. The turrets which are proposed in the bluff edge setback received a variance for their historic features and are on top of an existing roof, not in an area that is expected to be threatened by hazards. The applicant's coastal hazards report indicates that all of the subject development (including the first and second floor decks located below South Coast Highway elevation on the bluff face, which constitute accessory structures) will be safe from erosion, wave runup, and coastal flooding:

Erosion Hazard

...The Topanga Formation is very erosion resistant as evidence[d] by the shore zone rock outcroppings near the site. Even if wave action reaches a higher elevation [than 5-ft. of SLR] on the site, the erosion rate will not significantly increase due to the erosion resistant material that makes up the shore zone...

Flooding Hazard

...Allowing for a 4.5 feet rise in sea level over the next 75 years, the mean higher high water will be at +9.75 feet NAVD88. The highest observed water elevation was on January 28, 1983 during the severe El Niño winter. This elevation was +7.5 feet NAVD88. If a sea level rise of 4.5 feet is added to this elevation, it is about +12.0 feet NAVD88. This would be considered in excess of a 75-year



recurrence interval water level. The existing site improvements are all above +30 feet NAVD88, which is well above any potential ocean flood elevation. The site improvements are safe from flooding from the ocean over the next 75 years....

### Wave Runup

...Essentially the erosion resistant bedrock will continue to be the natural shore protection with the existing development preventing further movement of the shoreline landward even under the highest SLR estimate over the next 75 years...[COSMOS] shows that wave runup and splash/spray will be close to the lowest patio at the most seaward portion of the site waves during the 100 year storm and 4.1 feet SLR. This is in agreement with the GSI analysis herein. It should be noted that even under 4.1 feet of SLR the development is not in the flooding or inundation zone.”

Despite the lack of analysis of high SLR scenarios in the applicant’s submitted coastal hazards report, the overall gross stability of the site and safety from coastal hazards in the next 75 years is substantiated by multiple geotechnical reports. The accessory structures onsite are not threatened by the degree of coastal hazards necessitating removal or relocation; the wave runup and flooding shown by CoSMoS in the event of 6.6 ft. of SLR and a 100-year storm do not extend beyond the first floor deck. The applicant is also not proposing any new structures threatened by erosion, wave runup, or coastal storms. Thus, the project is consistent with LUE Action 10.2.6 and 10.2.8. Additionally, and importantly because coastal processes are dynamic and future sea level rise and other hazards may be more severe than even the high scenarios being analyzed today, **Special Condition 5** requires the applicant to assume all risks inherent to blufftop development.

The following LCP policies also provide a definition of the bluff edge and require all new development to be setback 25 ft. from the bluff edge line:

**LUE Glossary Entry 101** The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff, or sea cliff. In cases where the top edge of the bluff is rounded away from the face of the bluff, the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step like feature at the top of the bluff, the landward edge of the topmost riser shall be considered the bluff edge. Bluff edges typically retreat over time as a result of erosional processes, landslides, development of gullies, or by grading (cut). In areas where fill has been placed near or over the bluff edge, the original bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

**LUE Glossary Entry 102** 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.

**IP Section 25.50.004** Building setback lines.

(B) Building Setbacks on or Adjacent to the Pacific Ocean and Beaches... no building, structure or improvement shall be erected or constructed after the effective date of the ordinance codified in this section on the oceanward side of the following building setback lines.

(4)...no new building, additions to existing buildings, or structures or improvements shall encroach beyond the applicable building stringline or shall be closer than twenty-five feet to the top of an oceanfront bluff; the more restrictive shall apply...

The applicant’s initial bluff edge determination did not adhere to the LCP definition included in the certified LUE, which serves as the standard of review when there is a conflict with the zoning code. Determining the correct location of the bluff edge is critical to knowing what conditions should be applied to a project (restoration, removal of structures, etc.). Dr. Street’s memorandum summarizes the applicant’s bluff edge determination:

The bluff edge determination provided by the applicant (Ref. 8) identified the bluff edge at the contact between the San Onofre Breccia bedrock and the overlying upper bluff material, at an elevation of approximately +30 feet MSL (Figs. 3, 5). This bluff edge line corresponds to the most distinct slope change on the bluff, where the gentle upper bluff slope transitions to the steeper sea cliff. However, as noted above, the LUE definition of “Oceanfront/Coastal Bluff” expressly includes the entire slope between the upland area and the sea, not just the steeper sea cliff, which in Laguna Beach often corresponds to the lower bluff bedrock. The applicant’s analysis does not account for the considerable elevation change that occurs between the identified bluff edge (at +30 ft MSL) and the top of the marine terrace (at 50 – 60 ft MSL), nor the gradient (~2.5:1 to 3:1 h:v) of the upper bluff, which significantly exceeds the general slope of the bluff top (~12:1 h:v) in this location.

Dr. Street’s published memorandum discusses the overall site condition and estimates the bluff edge to be “more or less coincident with the retaining wall at the back of Level 2 of the hotel and approximately 65 feet inland of the western property line” ([Exhibit 4](#)). This places the majority of existing development onsite either seaward of the bluff edge or within the 25-ft. setback.

As established in the previous section, the Coast Inn is existing development proposed for repair and maintenance, and improvements consisting of a 320 sq. ft. addition, new turrets, and a new sign, rather than major remodel. The project will not render the Coast Inn new development and it is not required to remove existing structures within the bluff

setback. However, the project does include some elements of new development and an addition. The applicant's submitted geotechnical reports do not indicate any geologic hazards or instability posed by these features and the applicant's geotechnical reports identify the existing structure as grossly stable. Other features which were previously proposed within the bluff edge setback have been removed or relocated – these include the roof deck (removed), a utility room which has been relocated further landward, and the extension of portions of two decks.

Because the site-specific hazards study provided by the applicant's coastal engineering consultant maintains that, even with expected future sea level rise, the proposed development is not expected to be threatened by coastal hazards and thus is not expected to need shoreline protection over the life of the development, the project can be found to conform with the hazards policies of the LCP. However, given the dynamic nature of coastal beaches, as well as the Commission's review of data indicating that the property could be impacted by sea level rise at some point in the future, it is important to ensure that the risks of developing on these inland lots are borne by the applicant, not the public at large. The LCP prohibits new development that would require construction of a protective device that would substantially alter natural landforms along bluffs or cliffs.

**LUE Action 7.3.9** 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 of the property as a deed restriction. [**emphasis added**]

Here, the applicant has not proposed to construct a shoreline protection device and no shoreline protection would be authorized by this permit; however, the applicant or a successor-in-interest could request a shoreline protection device at some point in the future. A shoreline protective device would alter the natural landform of the bluff which the development is cited on and could reduce sedimentation and cause erosion on the sandy beach below. Therefore, it must be clear that the entire development approved by this permit (including the addition of 320 square feet) is not entitled to a shoreline protection device now or in the future. **Special Condition 7** is imposed to require the applicant to acknowledge that the applicant has no right to a shoreline protective device for the project and that no future shoreline protective device will be allowed on site to protect the proposed development.

Given that coastal hazards may impact the proposed development before the end of its economic life as a result of sea level rise, the Commission must also find that the project assures stability and structural integrity and minimizes "risks to life and property" in an area of high flood hazard without a shoreline protective device. Here, it is important to note that the site is not currently threatened by coastal hazards and has been designed to be stable and structurally sound under current conditions.

A-5-LGB-20-0050 (Coast Inn)  
Appeal – De Novo

However, as discussed, the best available science indicates that sea level rise is occurring and coastal hazards may threaten the lower deck of the project site under the medium-high risk sea level rise scenario, and could threaten more of the structure if sea level rise is more severe than that scenario. Therefore, **Special Condition 7** requires that if any part of the proposed development becomes threatened by coastal hazards in the future, the threatened development must be removed rather than protected in place. This condition recognizes that predictions of the future cannot be made with certainty, thereby allowing for development that is currently safe and expected to be safe for the life of the development, but ensuring that the future risks of property damage or loss arising from sea level rise or other changed circumstances are borne by the applicant enjoying the benefits of new development, and not the public.

The Commission also finds that due to the possibility of flooding and other coastal hazards, if the applicant chooses to build in this location despite those risks, they should assume the risks of development in a hazardous area as a condition of project approval. Because this risk of harm cannot be eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by **Special Condition 5**, will ensure that the applicant is aware of and understands the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the subject development, and will effectuate the necessary assumption of those risks by the applicant.

Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the beach could adversely affect future shoreline conditions if not properly evaluated. For this reason, the Commission imposes **Special Condition 6**, which states that any future improvements to structure, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13253(b)(6) shall require an amendment from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. This condition ensures that any future development on this site that may affect shoreline processes, structural stability, or elevate cumulative development to a major remodel receives review under the Coastal Act (or future certified LCP) by the appropriate regulatory body.

To ensure that any prospective future owner of the property is made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 8**, which requires the property owner record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability

As proposed and conditioned, the project is consistent with the hazards policies of the certified LCP.

#### **E. PUBLIC ACCESS AND RECREATION**

Section 30210 of the Coastal Act states:

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

The Coastal Act section cited above is expressly incorporated into the certified LUP Coastal Technical Appendix.

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

The project site is located between the sea and the first public road (South Coast Highway) and is adjacent to the sandy public beach. The City's public beaches are popular visitor amenities which support swimming, surfing, volleyball, and other recreation. The public beach in front of the subject site is accessed from either the public stairway immediately north of the site on Mountain Road, or the public stairway approximately 0.6 miles south of the site on Blue Bird Canyon Drive. Metered public parking is available along Coast Highway and on side-streets in the project area.

The availability of adequate parking to serve development promotes public access. When private development fails to provide adequate parking on site, parking spaces that would otherwise be available to general coastal visitors can end up serving the private development instead, displacing coastal visitors' opportunity to park near coastal amenities. This is generally why new development must provide onsite parking. The below LCP policy specifies the parking required for new hotel/motel development:

**IP Section 25.52.012** Hotel/motel: 1 space for each room (as defined in Chapter 25.08), which opens to a public way or corridor, yard or court, plus 1 space for each 15 rooms or fraction thereof, plus 2 spaces per each residence. Additional parking may be required based on operational information such as the number of employees for shifts, when the greatest number of employees is on duty, the hours of operation and the amount of area devoted to particular uses... A 20% reduction from the total parking required for ancillary uses may be granted subject to approval authority's approval.

The above policy would require at least 86 parking spaces onsite if the application was deemed to be a new development or major remodel. The subject site does not provide any onsite parking (although the City did require the applicant to provide three in-lieu

A-5-LGB-20-0050 (Coast Inn)  
Appeal – De Novo

parking fees for local CDP approval.) The Coast Inn has served office, restaurant, bar, and hotel uses since at least 1956 and does not propose any intensification in use. The proposed project may increase public interest in the development, but it will not increase the existing number of rooms or restaurant/bar seats. As such, the proposed project will not create an increase in parking demand. Additionally, it is not required to provide new parking as an existing, legally nonconforming development. The new development (i.e. turrets and signage) do not impact the need for parking or impact the legal nonconformity of the Coast Inn.

With regard to construction, mechanized equipment and vehicles could interfere with public use of the adjacent sandy beach if improperly positioned. The following OS/CE policy prohibits development projects from impacting public use of the beach.

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

No construction equipment, vehicles, activities or access are proposed to occur on or from the adjacent beach. To ensure that the proposed project does not interfere with public access to and along the adjacent public beach, **Special Condition 2** prohibits construction equipment, vehicles, activities or access on the public beach, consistent with the applicant's proposal, and requires submittal of construction staging plans for Executive Director approval prior to permit issuance. As proposed and conditioned, the project is consistent with OS/CE Policy 3-A.

The final public access issue raised by the subject project is the existing Mountain Road private stairway. The hotel's stairway landing encroaches into the sidewalk leading to two public, ocean-facing benches and the public accessway leading to the beach. Repairs are proposed to several sections of the stairway. The stairway may impede ADA-required access by narrowing the sidewalk. The following LUE policy requires protection of existing public rights-of-way and beach accessways.

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

To resolve the issue, **Special Condition 1** requires the applicant to submit project plans relocating the stairway landing off public lands and relocating the gates onto the applicant's private property. This condition will ensure the project contributes to improving existing public pedestrian access adjacent to the site consistent with LUE Action 4.3.2.

In summary, because the project does not increase the development's parking demand or decrease the number of parking spaces available at the site, the need for a parking

analysis is not triggered. The proposed project, as conditioned, is consistent with the LCP public access policies cited above and with the public access and recreation policies of the Coastal Act.

#### **F. LOWER COST OVERNIGHT ACCOMMODATIONS**

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

**LUE Action 6.2** Preserve and encourage an increase of the City's stock of affordable motel and hotel rooms available for short-term visitors. Protect, encourage, and where feasible provide, affordable overnight accommodations.

**LUE Action 6.2.2** Investigate and, if appropriate, amend the Municipal Code to ensure that affordable hotel and motels are maintained for short-term visitor occupancy. A method to define whether a facility providing overnight accommodation is low, moderate, or high cost shall be evaluated as part of the investigation. Establish standards that would require new high-cost visitor accommodations provide affordable overnight accommodation or pay an "in-lieu" fee.

LUE Policy 6.2.2 requires that the City take steps to ensure affordable hotels and motels are maintained for short term occupancy, including possible amendments to the Municipal Code and the evaluation of methods to define whether a hotel use is low-, moderate-, or high-cost. These measures must be created by the City. Once created, they would be applied to new hotel development. However, the subject project must be evaluated based on statewide averages because the City has not implemented these measures.

The hotel daily room rate appears to have been as low as \$88 during an off-season in 2016, and as high as \$450 in a peak season. (The appellants have also alleged a \$100 per night rate listed on TripAdvisor in the summer of 2020, but staff and the appellants were not able to substantiate this claim.) The applicants have indicated a current average daily room rate of \$260.

In a constantly changing market, it can be difficult to define what price point constitutes low-, moderate-, and high-cost accommodations for a given area. As such, the Commission has utilized different approaches over time to define such terms, including

by considering the unique factual circumstances for each particular project. In previous actions, the Commission has addressed appropriate terms for lower-cost and high-cost hotels, including applying a quantitative methodology for determining what is considered “lower cost.” The formula is based on California hotel and motel accommodations (single room up to double occupancy), and does not account for hostels, RV parks, campgrounds or other alternative accommodations, as these facilities do not typically provide the same level of accommodation as hotels and motels. Rather, hostels and campgrounds are generally lower-cost, and are the type of facilities that a mitigation measure for the loss of lower-cost overnight accommodations might require.

The formula calculates the average daily peak rate (generally July and August) of lower-cost hotels and motels based on the average daily rates of hotels and motels across the entire State of California. Under this formula, lower cost is determined as the average daily room rates for all hotels within a specific area that have a room rate 75% less than the statewide average daily room rate. This percentage reflects the Coastal Conservancy’s 2019 “Explore the Coast” study<sup>3</sup>, in which lower cost coastal accommodations were defined as those having a daily rate of 75% or less of the statewide average daily room rate. To obtain data inputs for the formula, statewide average daily room rates are collected monthly by Smith Travel Research and are available on the “Visit California” webpage. To be most useful, peak season (summer) rates for standard, double occupancy rooms are utilized for the formula, and to ensure that the lower-cost hotels and motels surveyed meet a minimally acceptable level of quality, including safety and cleanliness, standard use of the formula only includes AAA Auto Club-rated properties, that are rated one- and two-diamond rated hotels. Once the low-cost rate is identified, the Commission has determined that the high-cost rate are generally prices 125% of the statewide average daily room rate. By definition, the hotel rooms that are more expensive than the low-cost room rate as calculated, but less expensive than the high-cost room rate as calculated, qualify as moderate-cost rooms.

First, using the Commission’s methodology to define the low-cost room price threshold, Commission staff obtained statewide peak season (July and August 2019) average daily room rates collected monthly by Smith Travel Research and available on the “Visit California” webpage, which were \$172.66 for July 2019 and \$173.85 for August 2019. The average daily room rates for the year 2019 are being used since the average daily room rates for 2020 have dropped significantly due to the COVID-19 pandemic and would not correctly reflect average daily room rates under non-pandemic circumstances. Using the July 2019 average daily room rate, the low-cost rate is \$129.50, high-cost rate is \$215.83, and the moderate-cost is between \$129.51 and \$215.82. Using the August 2019 average daily room rate, the low-cost rate is \$130.39, high-cost rate is \$217.31, and the moderate-cost is between \$130.39 and \$217.30. Averaging July and August 2019 provides the following statewide rates: the average daily rate is \$173.26, the low-cost rate is \$129.95, high-cost rate is \$216.57, and the moderate-cost is between \$129.95 and \$216.57.

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<sup>3</sup> [https://scc.ca.gov/webmaster/ftp/pdf/sccb/2019/1903/20190314Board04E\\_ETCO-Report.pdf](https://scc.ca.gov/webmaster/ftp/pdf/sccb/2019/1903/20190314Board04E_ETCO-Report.pdf)



The existing hotel offers a \$260 average daily rate, approximately 150% higher than the statewide average daily rate. As such, the existing development is a high-cost hotel with no low-cost rooms currently available onsite. Regarding future room rates following the proposed project, the applicant stated:

“We have not had any projections on rates done based on the new plan without the rooftop deck[,] nor could we begin to predict what they could be as we are still at least 24 months away from being renovated and open after approval and rates will be dependent on market conditions at that time.”

The currently proposed project will not result in any change to the existing number of rooms. It does not appear that the existing hotel provides low-cost accommodations onsite, based on the current research and evidence. As such, the applicant is not obligated to provide new low-cost accommodations with the proposed remodel and new features. However, if the applicant were to propose future improvements or the addition of new rooms, there may be a requirement that new rooms are offered at a lower cost rate, and these alterations would require an amendment or new CDP pursuant to **Special Condition 6**. To ensure that only the proposed work occurs and that no work that would constitute a major remodel/new development occurs, **Special Condition 1** additionally limits the project to only the work proposed and prohibits addition, demolition, or modification to existing structural elements, or an increase in building square footage, height, footprint or building envelope.

As proposed and conditioned, the proposed development is consistent with the lower cost overnight accommodations policies of the certified LCP.

## G. VISUAL RESOURCES

**Open Space/Conservation Element (OS/CE) Policy 7A** Preserve to the maximum extent feasible the quality of public views from the hillsides and along the City’s shoreline.

**OS/CE Policy 7K** 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.

The OS/CE policies cited above encourage the protection of public views and scenic values; views to and along the beach/shoreline are protected by these policies. The subject site is located on the beachfront in a densely-developed commercial corridor. The project involves construction of three new rooftop turrets up to 15-ft. tall (with multiple flags up to 10-ft. tall) and a 3-ft. tall, three-sided sign.

The existing two-story development effectively blocks the ocean view from South Coast Highway at the pedestrian level—however, it does not impede the adjacent vertical view

corridor at Mountain Road. The sidewalks and public benches lead to a public beach accessway down to the sand, sited separate from the private development. The public views Mountain Road will not be affected by the development. The turrets extend up to 15 ft. above the roof line and the flags extend up to 25 ft. above the roof line, but neither impact existing public views which are already blocked by the mass of the building on South Coast Highway. The signage has also been designed with halo illumination to soften the light and reduce unnatural light in the area.

Additionally, the appellants raised concerns with bird strike avoidance, as the project includes replacement of existing deck materials and glass windows on all four levels of the hotel. **Special Condition 3** requires the applicants to use opaque glass or Plexiglas to reduce the risk of bird-strikes on the exterior railings and windows.

The proposed project will include cosmetic exterior improvements, such as new plaster and architectural finishes, and new historic features extending above the roof line. However, the public ocean views from Mountain Road and other side-streets in the commercial corridor will not be impacted. As proposed and conditioned, the proposed development is consistent with the public view protection policies of the certified LCP.

## H. WATER QUALITY

**LUE Policy 7.7** Protect marine resources by implementing methods to minimize runoff from building sites and streets to the City's storm drain system (e.g., on-site water retention).

**OS/CE Policy 4G** Ensure that all development minimizes erosion, sedimentation and other pollutants in run-off from construction-related activities to the maximum extent practicable. Ensure that development minimizes land disturbance activities during construction (e.g., clearing, grading, and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils) to minimize impacts on water quality.

The LCP policies cited above require protection of water quality during construction. Currently, the majority of the site drains either into the existing storm drain system or to lift stations and the storm water is pumped into the sanitary sewer. The few impervious areas and the guest balconies drain to the beach. The proposed project will not change existing site drainage. A new grease trap will be installed under the building to ensure that contaminants from the restaurant and bar do not enter the stormwater system, and it has been relocated landward of the bluff edge. However, adverse impacts to water quality during construction could still occur.

To address this, the applicant is proposing Best Management Practices to be employed during construction including: avoiding work on rainy days; placement of sandbag barriers to contain site drainage during construction; storm drain inlet protection; practicing water conservation (keep water equipment in good working condition, repair water leaks promptly, avoid washing construction vehicles and equipment on site); spill

prevention and control; solid waste management (designated waste collection areas on site; use of only watertight construction dumpsters); daily trash collection and removal; and appropriate disposal of liquid toxic waste such as paints, oils, solvents. These BMPs are consistent with the following LCP policies.

**OS/CE Policy 4-A** Ensure that development plans and designs incorporate appropriate Site Design, Source Control and Structural Treatment Control Best Management Practices (BMPs), where feasible, to reduce to the maximum extent practicable, pollutants and runoff from the proposed development. Structural Treatment Control BMPs shall be implemented when a combination of Site Design and Source Control BMPs are not sufficient to protect water quality.

**OS/CE Policy 4-C** Ensure that development is designed and managed to minimize the volume and velocity of runoff (including both stormwater and dry weather runoff) to the maximum extent practicable, to avoid excessive erosion and sedimentation.

**OS/CE Policy 4-D** Ensure that development and existing land uses and associated operational practices minimize the introduction of pollutants into coastal waters (including the ocean, estuaries, wetlands, rivers and lakes) to the maximum extent practicable.

**OS/CE Policy 4-G** Ensure that all development minimizes erosion, sedimentation and other pollutants in runoff from construction-related activities to the maximum extent practicable. Ensure that development minimizes land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize the impacts on water quality.

In addition, **Special Condition 4** requires BMPs to be implemented during construction to protect water quality. No construction access or work is proposed to occur on or from the adjacent beach. As proposed, no construction equipment or vehicles will be placed on the adjacent beach. To ensure protection of the public beach, **Special Condition 2** prohibits construction vehicles or construction activities on the adjacent beach, consistent with the applicant's proposal. Implementation of the construction BMPs and prohibition of construction activities on the beach will provide the necessary protection to ensure consistency with the LCP water quality protection policies.

As proposed and conditioned, the proposed development is consistent with the water quality protection policies of the certified LCP.

## **I. LOCAL COASTAL PROGRAM**

The City of Laguna Beach LCP was certified by the Coastal Commission on January 13, 1993. The City's LCP Land Use Plan is comprised of a variety of planning documents including the Land Use Element, the Conservation/Open Space Element, and the Coastal Technical Appendix, among others. The LCP Implementation Plan (IP) is also comprised of a number of documents, primarily Title 25, the City's Zoning Code. As

discussed in this staff report, the proposed project, as conditioned, conforms to the provisions of the City of Laguna Beach Certified LCP.

#### **J. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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

The City of Laguna Beach is the lead agency for the purposes of CEQA review. On July 28, 2020, the Laguna Beach City Council found that the proposed project is exempt from the provisions of CEQA in accordance with Section 15301(a) (Alterations to Existing Facilities), Section 15303(c) (Small Commercial Spaces), and Section 15331 (Historic Resource Restoration/Rehabilitation), which allows exemptions for “projects limited to maintenance, repair,...or reconstruction of historical resources in a manner consistent with the Secretary of Interior Standards for the Treatment of Historical Properties...[.]”

The proposed project has been conditioned to be found consistent with the certified LCP and Coastal Act. Mitigation measures, in the form of special conditions requiring: 1) submittal of revised plans resolving the stairway encroachment; 2) submittal of construction staging plans; 3) the use of lighting and materials to avoid bird impacts; 4) implementation of construction best management practices; 5) assumption of risk; and 6) only the work currently proposed is approved by this CDP, any changes will require an amendment or new CDP unless the Executive Director determines that none is legally required.

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

**APPENDIX A – SUBSTANTIVE FILES**

1. City of Laguna Beach Certified Local Coastal Program.
2. City File Record for Local Coastal Development Permit No. 16-2480.