

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
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LONG BEACH, CA 90802-4325
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F11a

2nd ADDENDUM

August 10, 2021

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM F11a, APPLICATION NO. 5-11-302-A2 FOR THE COMMISSION MEETING OF FRIDAY, AUGUST 13, 2021.**

I. CHANGES TO STAFF REPORT

Commission staff recommends changes to the staff report for Item F11a, dated July 30, 2021. The following modifications clarify the project description and findings in the staff report and removes Special Condition No. 20, which requires the applicant to submit a Storm Water Pollution Prevention Plan. This special condition is being removed since a similar condition, Special Condition No. 9, is already imposed that addresses construction phase water quality impacts. Language to be added is shown in underlined text, and language to be deleted is identified by ~~strike-out~~.

Page 1 – Description of Pending Permit Amendment No. 5-11-302-A2, as follows:

Description of Pending Permit Amendment No. 5-11-302-A2: Construction of a western bridge abutment (structural support for a new pedestrian bridge) supported by ~~precast concrete driven~~ piles, wing walls, a short segment of concrete walkway over Superior Avenue connecting the new pedestrian and bicycle bridge to the existing walkway, and restoration of disturbed landscape (Coastal Sage Scrub).

Pages 2-3 – Modify Summary of Staff Recommendation, as follows:

SUMMARY OF STAFF RECOMMENDATION

The City of Newport Beach is proposing the construction of a western bridge abutment (structural support for a bridge) located at Sunset Ridge Park. The abutment will be supported by ~~precast concrete driven~~ piles and wing walls. A single span concrete arch pedestrian and bicycle bridge, supported by this abutment, will be installed over Superior

Avenue connecting to an existing walkway at Sunset Ridge Park. The City also proposes restoration of disturbed landscape (Coastal Sage Scrub) within the park. Upon completion of the western bridge abutment, the city states that the surrounding area will be restored to pre-construction condition. The bridge will connect the existing park to an existing parking lot and additional City park that will be expanded on the east side of Superior Avenue that is part of a separate approval by the City that has been appealed to the Commission (A-5-NPB-21-0026) and will be subject to a separate staff report.

...

Commission staff are recommending **approval** of the coastal development permit amendment application with **one** modified underlying special condition and **fivesix** additional special conditions. All special conditions the Commission imposed through its approval of the underlying permit would continue to apply.

...

While the proposed project is not located between the first public road and the sea, it is located near the coast and adjacent to two main arterial roads providing coastal access, West Coast Highway and Superior Avenue. As such, the proposed project could result in significant adverse impacts to coastal public access, as a result, staff recommends the Commission impose special conditions to avoid any impacts: **Special Condition No. 204** requires the permittee to submit a Construction Staging Plan, and **Special Condition No. 212** requires the permittee to submit an Access Detour Plan.

Past grading has occurred on the site, but Tribal Councilmembers indicated during consultation with the City that the project is within a culturally sensitive area and a tribal monitor is necessary in the event any resources are found. Therefore, staff recommends the Commission impose **Special Condition No. 223**, which requires the permittee to submit an archaeological monitoring plan.

Page 9-13 – Modify Section II. Changes to Conditions/Special Condition No's. 20-23, as follows:

~~**20. Storm Water Pollution Prevention Plan (SWPPP).** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit, for the review and approval of the Executive Director, two (2) full size sets of Storm Water Pollution Prevention Plans (SWPPP) prepared and signed by licensed engineer that, at a minimum, meets the following:~~

~~The storm water pollution prevention plans must show that permittee is properly prepared to apply site design, source control and treatment control BMPs, appropriate for the potential stormwater pollutants at this site, in order to protect coastal waters from polluted runoff generated by construction activities to the maximum extent practicable.~~

~~The permittee shall undertake development in accordance with the approved final plan. 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 a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.~~

204. Construction Staging Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of Construction Staging Plans, which indicate that the construction staging area(s) and construction corridor(s) will minimize public access impacts to the coast.

...

212. Access Detour Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit, for the review and approval of the Executive Director, two (2) full size sets of Access Detour Plans that demonstrate the following:

...

223. Cultural Resource Treatment and Monitoring Plan. By acceptance of this permit the permittee agrees to comply with the following:

...

Page 13 – Modify Section III. Findings and Declarations/A. Project Description and Location. Local Government Action, Prior Permit History and Standard of Review/Project Description and Location, as follows:

Project Description and Location

The proposed project consists of the construction of a western bridge abutment (structural support for a bridge)) located at Sunset Ridge Park. The abutment will be supported by two precast concrete 78 inch wide x approximately 70 ft. long driven piles and wing walls. A single span concrete arch pedestrian and bicycle bridge, supported by the abutment, will be installed over Superior Avenue connecting the new pedestrian and bicycle bridge to an existing walkway at Sunset Ridge Park. The City also proposes restoration of disturbed landscape (Coastal Sage Scrub)([Exhibits No. 2-3](#)). Temporary grading consisting of approximately 164 cubic yards of cut and export outside of the Coastal Zone in order to install piles for the bridge abutment foundation. Upon completion of the western bridge abutment, the surrounding area will be restored to pre-construction condition. No landscaping is proposed other than the restoration of Coastal Sage Scrub.

Page 21 – Modify Section III. Findings and Declarations/B. Biological Resources/Coastal Sage Scrub, as follows:

The overall impact to CSS as a result of the project is 4,650 sq. ft. (3,700 sq. ft. + 950 sq. ft.). Mitigation at a ratio of 2:1 results in a requirement of 9,300 sq. ft. of CSS habitat to be planted on site. The City has already proposed to replant the “temporary” impacted area of CSS consisting of 3,700 sq. ft. Thus, that leaves 5,600 sq. ft. of CSS habitat to be planted on site. The City originally proposed to plant CSS in a 950 sq. ft. area that is east of the bridge abutment that is currently bare with minimal vegetation ([Exhibit No. 4](#)). However, this location is in a remote area that lacks connectivity with high grade CSS that is found in other areas adjacent to the project site. There are other areas on site where CSS mitigation would be better suited, such as the northwest corner of Sunset Ridge View

Park where the CSS habitat is more productive and forms a connectivity with other adjacent CSS, as shown in [Exhibit No. 5](#). Only as conditioned to require that the overall CSS impacts be mitigated at a minimum ratio of 2:1 at a location on site that forms a connectivity with existing high-grade CSS on site can the project be consistent with the biological recourse policies of the Coastal Act. Therefore, the Commission imposes **Special Condition No. 18**, which requires the permittee to submit a Coastal Sage Scrub Restoration and Monitoring Program for the review and approval of the Executive Director that mitigates the total 4,650 sq. ft. of impacts to CSS at a ratio of 2:1 for a total of 9,300 sq. ft. on site, in an area that forms a connectivity with existing high-grade CSS. Only as conditioned is the proposed project consistent with the biological resource policies of the City's certified LCP.

Pages 27-28 – Modify Section III. Findings and Declarations/C. Marine Resources/Water Quality/3. Construction Impacts to Water Quality, as follows:

In order to assure that the proposed project does not result in any accidental or unanticipated discharges, spills or other activities that could harm marine resources and water quality, the applicant must adhere to **Special Condition No. 9** in the underlying permit, which requires appropriate storage and handling of construction equipment and materials to avoid the potential for pollutants to enter coastal waters. This condition also addresses construction phase water quality during construction consistent with the LCP and State Water Resources Board requirements. The applicant is already required to comply with this condition and thus protection of water quality on site during construction has been addressed. As conditioned, the project would be consistent with the marine resources and biological productivity policies of the City's certified LCP.

~~Besides adhering to the construction Best Management Practices (BMPs) as required by Special Condition No. 9 above, a Storm Water Pollution Prevention Plan (SWPPP) should be prepared for the proposed project that would specifically deal with water quality on site during construction. The applicant acknowledges that a SWPPP needs to be development for the project site, but such a plan has not yet been development. Therefore, it is necessary to impose **Special Condition No. 20**, which requires the permittee to submit a Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the Executive Director. As conditioned, the project would be consistent with marine resource and biological productivity policies of the City's certified LCP.~~

Pages 33-34 – Modify Section III. Findings and Declarations/E. Public Access and Recreation, as follows:

Impeding the public's ability to use these two main coastal roads, Superior Avenue and West Coast Highway, to access public access amenities in the area, as well as impacting access to Sunset View Park, a public amenity in the Coastal Zone, would be inconsistent with the City's certified LCP. Only as conditioned to protect and where feasible expand public access to the shore, can the project be consistent with the public access and recreation policies of the City's certified LCP. Thus, the Commission imposes **Special Condition No. 204**, which requires the applicant to provide a Construction Staging Plan that ensures that access along West Coast Highway and Superior Avenue, two main arterial roads to public access in the area, are not adversely impacted by the proposed project. In addition, the Commission imposes **Special Condition No. 212**, which requires

the permittee to provide an Access Detour Plan that ensures that the proposed project will not impact public access to Sunset Ridge Park and specifically will not impede public access along the existing public stairway adjacent to the proposed western bridge abutment that leads from Sunset Ridge Park to Superior Avenue and West Coast Highway. As conditioned, the proposed project would avoid adverse impacts to public access consistent with the City's certified LCP.

Page 36 – Modify Section III. Findings and Declarations/E. Public Access and Recreation, as follows:

During the local review process for the proposed project, a Mitigated Negative Declaration and a subsequent MND Addendum were processed by the City. The Native American Heritage Commission (NAHC) took confirmed that a search of its Sacred Lands File was positive for the presence of Native American cultural resources within 0.5 mile of the project area or surrounding vicinity. Thus, the City submitted AB 52 notification letters to two Native American Tribal governments or Tribal representatives. Of the two Tribes or Tribal representatives, the City received response from one tribe, the Gabrielino Band of Mission Indians – Kizh Nation requesting that a monitor from their tribe oversee ground - disturbing construction work. The Tribe requested consultation and during this consultation the Tribal councilmembers indicated that the project is within a culturally sensitive area. There was past grading on the site, but Tribal Councilmembers indicated that the project is within a culturally sensitive area and the City of Newport Beach proposed to retain a Tribal monitor. After the City applied, Commission staff contacted the Tribal governments consistent with the Tribal Consultation Policy. There was no further consultation. Without requiring a Tribal monitor, unmitigated impacts to archeological resources may occur. Only as conditioned to require a Tribal monitor on site to identify any potential archaeological resources impacts can the project be found consistent with the City's certified LCP, including CLUP Policy 4.5.1-5 and Section 30244 of the Coastal Act, incorporated by reference in the City's certified LCP. To ensure that a monitor is retained on site due to the sensitive nature of the area and because it was recommended by the local tribal government, the Commission imposes **Special Condition No. 223**, which requires the permittee to submit an archaeological monitoring plan. The plan shall include provisions for both Professional Archeologists and Native American monitors to be present during soil disturbance. As conditioned, the proposed project is consistent with the City's certified LCP which requires reasonable mitigation measures be provided to offset impacts to archaeological resources.

Pages 65-68 – Modify Appendix C, as follows:

~~20. Storm Water Pollution Prevention Plan (SWPPP). PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit, for the review and approval of the Executive Director, two (2) full size sets of Storm Water Pollution Prevention Plans (SWPPP) prepared and signed by licensed engineer that, at a minimum, meets the following:~~

~~The storm water pollution prevention plans must show that permittee is properly prepared to apply site design, source control and treatment control BMP's, appropriate for the potential stormwater pollutants at this site, in order to protect coastal waters from polluted runoff generated by construction activities to the maximum extent practicable.~~

~~The permittee shall undertake development in accordance with the approved final plan. 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 a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.~~

- 201. Construction Staging Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of Construction Staging Plans, which indicate that the construction staging area(s) and construction corridor(s) will minimize public access impacts to the coast.

...

- 212. Access Detour Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the permittee shall submit, for the review and approval of the Executive Director, two (2) full size sets of Access Detour Plans that demonstrate the following:

...

- 223. Cultural Resource Treatment and Monitoring Plan. By acceptance of this permit the permittee agrees to comply with the following:**

...

II. RESPONSE TO CORRESPONDENCE

On August 6, 2021, the Commission received correspondence in opposition to the project proposed under Coastal Development Permit No. 5-11-302-A2. The first correspondence, attached as **Exhibit A**, was from Barry Macpherson and the second correspondence was from Environmental & Regulatory Specialists, Inc., attached as **Exhibit B**. Below is Commission staff's response to the objections raised in both email correspondences.

Barry Macpherson August 6, 2021 Correspondence

Mr. Macpherson states that the project should be opposed based upon the financial cost to taxpayers. The standard of review for the project is the City's certified LCP and project cost is not a stand-alone factor when reviewing a proposal for consistency with the LCP. The primary issues raised by this application are its consistency with the biological resources, marine resources, water quality, visual resources, public access and recreation, cultural and tribal resources policies of the LCP. As conditioned, the project is consistent with the City's certified LCP.

Mr. Macpherson states that the parking lot located at Sunset View Park does not need to be enlarged since the parking lot is never full and is infrequently used. Mr. Macpherson indicates that the only time the parking lot is full is during the Fourth of July and Labor Day holidays. Furthermore, Mr. Macpherson claims that the parking lot is not full during sport events since many of the parents of the youth participating in the sport events do not use the parking lot and instead drop off their children. The parking lot at Sunset View Park is not part of the proposed project, subject to this staff report for CDP No. 5-11-320-A2. However, it is part of the development proposed at the adjacent location subject to a separate application approved by the City of Newport Beach, subject to an appeal to the

Commission, A-5-NPB-21-0026-(City of Newport Beach). This appeal will also be heard at the August 2021 Hearing. While this parking lot is not subject to this amendment, the City indicates that the expansion to the parking lot is necessary in order to provide increased access to the park. The City states that they do not currently program Sunset Ridge Park to its capacity due to insufficient parking for organized sporting events. In addition, the City also states that the parking lot is used by users as a base for beach use and other recreational activities, as it is within 0.5 miles of the coast. With the increased parking, the City states that they will be able to better utilize the park for sporting events and more users will be provided with access to the coast.

Mr. Macpherson also states that the Superior Avenue Bridge is not needed because it will not decrease the time to get to the park or decrease the distance to get to the park from the parking lot. Mr. Macpherson claims that visitors to Sunset Ridge Park and Sunset View Park typically come from the surrounding communities. Also, a majority of users do not access Sunset Ridge Park from the parking lot, Mr. Macpherson states. Lastly, Mr. Macpherson claims that visitors can easily park and access Sunset Ridge Park via Pacific (West) Coast Highway. This staff report is only for the subject amendment, installation of the western bridge abutment for the Superior Avenue Bridge, that will connect to Sunset View Park and a parking lot, located on the east side of Superior Avenue. The construction of the Superior Avenue Bridge (excluding the western bridge abutment) and expansion of Sunset View Park and the parking lot are part of the separate application approved by the City of Newport Beach, subject to an appeal to the Commission, A-5-NPB-21-0026-(City of Newport Beach). This appeal will also be heard at the August 2021 Hearing.

Pertaining to the proposed western bridge abutment subject to this staff report, it is consistent, as conditioned, with the public access policies of the City's LCP. Users of Sunset Ridge Park are not limited to members of the surrounding communities. Any member of the general public, near or far, can use the park. Furthermore, the City states that the primary goals of the project are to improve safety and access to Sunset Ridge Park and to increase parking availability for visitors. As a result of the project, public access will be expanded and enhanced consistent with the City's LCP. To ensure that public access to Sunset Ridge Park and along Superior Avenue and West Coast Highway to nearby coastal amenities are not impacted, two special conditions are imposed.

Special Condition No. 20 requires a Construction Staging Plan to ensure access along West Coast Highway and Superior Avenue, two main arterial roads to public access in the area, are not adversely impacted by the proposed project. **Special Condition No. 21**, requires an Access Detour Plan to ensure that access to the park will not be impeded during construction, including existing access via the public stairway to Sunset Ridge Park adjacent to the proposed western bridge abutment that leads from Sunset Ridge Park to Superior Avenue and West Coast Highway.

Environmental & Regulatory Specialists, Inc. (David Tanner) August 6, 2021
Correspondence

Mr. Tanner claims that the proposed project is part of a larger project that involves widening of West Coast Highway that he claims will also result in the removal of the existing public sidewalks and crosswalk at Superior Avenue. The proposed project subject to the amendment only involves the construction of the western bridge abutment for the Superior Avenue Bridge and does not include the widening of West Coast Highway nor does it include changes to the Superior Avenue or West Coast Highway rights-of-way, or

does not include the removal of any existing at-grade crosswalks. This topic of the widening of West Coast Highway is also addressed in the appeal of the City's local Coastal Development Permit, A-5-NPB-21-0026-(City of Newport Beach), that will also be heard at the August 2021 Hearing.

CDP No. 5-11-302-A2 is for the construction of a western bridge abutment (structural support for a bridge) located at Sunset Ridge Park. While the City of Newport Beach has a certified LCP and would be the permit issuing authority, the proposed project is subject to review and approval by the Commission due to a prior condition of the original CDP Special Condition No. 14, Future Development Restriction. Development is also proposed at this adjacent location subject to a separate application approved by the City of Newport Beach, subject to an appeal to the Commission, A-5-NPB-21-0026-(City of Newport Beach). The project subject to the appeal consists of the construction of the Superior Avenue Bridge (excluding the western bridge abutment) and expansion of Sunset View Park and the parking lot.

These two developments are linked as one project but are being processed separately because the development subject to the amendment is within the Commission's jurisdiction and the related adjacent development is within the City's LCP jurisdiction.

Pursuant to LCP-IP 21.50.025 Projects Bisected by Jurisdictional Boundaries, Mr. Tanner claims that a consolidated coastal development permit should have been processed in order to analyze the project's impacts to coastal resources as a whole. The City did not pursue consolidation. Both projects were reviewed and found consistent with the City's LCP.

Mr. Tanner claims that the project cannot obtain relief from the LCP IP development standards since the City did not demonstrate that the project is consistent with the purposes of the certified LCP and will not have an adverse effect, either individually or cumulatively, on coastal resource. In regard to the amendment project exceeding the Shoreline Height Limit, the staff report already discusses how there are provisions in the LCP that allow it and the project is consistent with those provisions. Regarding Mr. Tanner's claim that the project is part of a larger project resulting in the expansion of West Coast Highway, the proposed project only involves the construction of the western bridge abutment.

Mr. Tanner claims views from certain vantage points in Sunset Ridge Park and along Superior Avenue of the bridge, including the western bridge abutment, will impact blue water views and has provided pictures. However, Mr. Tanner's pictures do not show any impacts to blue water views, as a result of the bridge, including the western bridge abutment. The pictures do show that there are existing residential structures that already impact the blue water views. As discussed in the staff report, based on the City's visual analysis the proposed project does not significantly impact visual resources and is consistent with the City's LCP. Mr. Tanner also raises concerns about an existing Caltrans view easement which overlaps the area where the western bridge abutment would be located and that it does not allow permanent structures within this easement. As discussed in the staff report, the City is finalizing an agreement with Caltrans to remove this portion of the scenic easement. To ensure that the proposed project adheres to the requirements from this agency, as well as others as applicable, staff is recommending the Commission impose **Special Condition No. 13**, as amended, which requires the permittee to comply with all the requirements of Caltrans.

Mr. Tanner claims that the project will impact the wetland located along West Coast Highway. The project subject to the proposed amendment does not include development located near this wetland. Development located near this wetland is subject to A-5-NPB-21-0026, which will also be heard at the August 2021 Commission hearing. While development including the construction of the Superior Avenue Bridge (excluding the western bridge abutment) and expansion of Sunset View Park and the parking lot are not subject to this amendment but to the appeal and are located near the wetland located along West Coast Highway, the reduced setback to this wetland has been evaluated and determined to be consistent with the City's LCP.

Mr. Tanner claims that the City incorrectly identifies the definition of the bridge as a government facility in order to allow the increase in height than what is allowed in the Shoreline Height Limit Area pursuant to the City's LCP. As discussed in the staff report, the proposed project subject to the amendment meets the definition of government facilities in the City's LCP, IP Policy 21.70.020 Definition of Specialized Terms and Phrases, and thus is allowed to exceed the allowable height in the Shoreline Height Limit Area. Mr. Tanner claims that a different definition in the LCP, IP Policy 21.30.060 Height Limits and Exceptions, is applicable. However, pursuant to IP Policy 21.70.010 Purpose of Part, if the definition in this IP section conflicts with another definition in the Municipal Code, these definitions shall control for the purposes of the Implementation Plan. Thus, the definition of Governmental Facility pursuant to IP Policy 21.70.020 is applied and the project meets this definition as previously discussed.

EXHIBIT A

FW: Hello from the Contact Page

Sy, Fernie@Coastal <Fernie.Sy@coastal.ca.gov>

Fri 8/6/2021 2:08 PM

To: Sy, Fernie@Coastal <Fernie.Sy@coastal.ca.gov>

From: Barry Macpherson [<mailto:barryezmac@sbcglobal.net>]

Sent: Thursday, August 05, 2021 2:34 PM

To: SouthCoast@Coastal

Subject: Hello from the Contact Page

Project Name and Application Number: Superior Avenue

Pedestrian Bridge, Newport Beach CA, Newport Beach California, Application #5-11-302-A2

Item No: F11A

Nature of Communication (In Person, Telephone, Other): email to all South Coast Costal Commissioners please forward

Regarding: Costal Commission Hearing on Friday August 13, 2021

Date and Time Requested: Thursday August 5, 2021

Full Name: Barry Macpherson

[Email: barryezmac@sbcglobal.net](mailto:barryezmac@sbcglobal.net)

On Behalf Of: Barry Macpherson Please forward to all South Coast Commissioners

Comments:

Regarding: Construction of Superior Avenue Pedestrian

Bridge Newport Beach CA

Applicant: City of Newport Beach

Location: 4850 West Coast Highway, Newport Beach,

Orange County

Permit Number: 5-11-302-A2

Item No: F11a

Hearing Date: Friday, August 13, 2021

Time: 9:00 AM

To: California Costal Commission, South Coast, all members

Subject: The Newport Beach Superior Avenue Pedestrian and Bicycle Bridge and Parking Lot Project

Location 4850 West Coast Highway, Newport Beach, Orange Count

From: Barry Macpherson

I am sending you this email to urge you to vote no on the Superior Avenue Pedestrian and Bicycle Bridge. I am a long time resident of Newport Beach, California and I have lived in Newport Beach for the past 50 years. I live in close proximity to Sunset Ridge Park and use the Park on a daily basis.

Sunset Ridge Park and Sunset View Park are perfect just the way they are now. There is absolutely no need to expand the parking lot or build a pedestrian bridge. This project will be a huge cost to the taxpayer. The Superior Avenue Pedestrian Bridge Project is a solution looking for a problem. There is no problem. The Project should be opposed for a number of reasons, some of which include the following:

1. A major reason to oppose this proposed Project is the cost. There is no need to spend five million or more dollars of taxpayer funds on this Project.
2. The parking lot below Sunset View Park has 64 parking spaces and does not need to be enlarged or modified. The current parking lot is never full and infrequently used. The only time the lot is full is on the Fourth of July and Labor Day. When there are sporting events at Sunset Ridge Park the lot is not full. Many of the parents who have youth playing at sporting events drop their youths off and do not park in the lot.
3. The proposed Superior Avenue Pedestrian and Bicycle Bridge is not needed. The proposed bridge is not needed because it will not significantly decrease the time to get to the park or decrease the distance to access the park from the parking lot. Visitors typically walk to Sunset Ridge Park and Sunset View Park from surrounding communities. The majority of visitors do not access Sunset Ridge Park from the parking lot. Visitors can park in the current parking lot and easily access Sunset Ridge Park via Pacific Coast Highway.
5. To address the safety concerns for visitors accessing the Sunset Ridge Park from the parking lot, it is suggested that the duration of time for the signal for crossing the intersection at Pacific Coast Highway and Superior Avenue be increased. Additionally, warning lights should be embedded in the asphalt at the intersection. The lights could then be activated by a pedestrian. For a very modest cost, this would greatly improve pedestrian safety and visibility.
6. The negative environmental impact resulting from this project would be irreparable. The result could include possible loss of animal life and disruption of the adjacent ecosystem. The project will significantly alter the local habitat.

In summary, the California Coastal Commission should not approve a Coastal Development Permit (CDP) or approve a Mitigated Negative Declaration (MND) for the Superior Avenue Pedestrian and Bicycle Bridge and Parking Lot. The Coastal Commission should not approve the permit (#5-11-302-A2) for the Superior Avenue Pedestrian and Bicycle Bridge in Newport Beach, California. The project is costly, unnecessary, and environmentally unsound.

Sincerely yours,

Barry Macpherson
15 Mojo Court
Newport Beach CA 92663
[email: barryezmac@sbcglobal.net](mailto:barryezmac@sbcglobal.net)

Public comments submitted to the Coastal Commission are public records that may be disclosed to members of the public or posted on the Coastal Commission's website. Do not include information, including personal contact information, in comments submitted to the Coastal Commission that you do not wish to be made public. Any written materials, including email, that are sent to commissioners

regarding matters pending before the Commission must also be sent to Commission staff at the same time.

EXHIBIT B

Mr. Chairman and Members of the Commission

Subject: Supplemental Comments: Appeal No. A-5-NPB-21-0026 (City of Newport Beach)
New comments: Permit Amendment No. 5-11-302-A2 (City of Newport Beach)

We offer the following comments to support your decision that the CDP Appeal **does raise substantial issues** and our concerns regarding the associated CDP Amendment.

- 1. Community supports - Additional public parking and access.** The Community supports the idea of additional public parking and access to coastal resources including Sunset Ridge and Sunset View Parks, but not if the additional parking and access is part of the widening of West Coast Highway at Superior Avenue.
- 2. Community concern - The removal of public access.** The community has become aware of a larger project, “the West Coast Highway and Superior Ave/Balboa Blvd Intersection Improvement Plan” and is concerned that if this project is approved, the existing public sidewalks and crosswalk at Superior Avenue will be removed and the public will have no choice but to cross Superior Avenue and WCH by bridge which will be an inconvenience for pedestrians and bicyclists and a hardship for children in strollers; the disabled and handicapped. The proposed bridges have no elevator access. Both sides of the Superior bridge are accessed by long zig zag walkways. This project represents Phase 1 of the larger project. The removal of public sidewalks and crosswalks will occur in Phase 2. Phase 2 cannot proceed if Phase I is not constructed.
- 3. Community concern - The project is part of a larger project not being discussed.** Since 2014 the city, in coordination with Caltrans and OCTA, has been developing detailed plans for the widening of the intersection of Superior Ave and Pacific Coast Highway.¹ These improvements implement the long-range (2040) California Transportation Plan (CTP) required by federal and State law. The CTP is incorporated in the Orange County Master Plan of Arterial Highways and incorporated in the City General Plan, Circulation Element. **Figure 1** provides a copy of the **West Coast Highway and Superior Ave/Balboa Blvd Intersection Improvement Plan**.

The project represents Phase 1 of a 2-phased improvement plan for the intersection of Superior and WCH. At the August 25, 2020, City Council meeting, the Public Works Department described the intersection improvements as follows:

“The Superior Avenue Bridge project involves constructing a new pedestrian bridge across Superior Avenue and a new larger parking lot. The new pedestrian bridge will improve access to Sunset Ridge Park and the new larger parking lot will provide additional parking for visitors to Sunset Ridge Park and the beach. The WCH Bridge project involves widening West Coast Highway to increase vehicular capacity and constructing a pedestrian bridge across West Coast Highway. With the completion of both projects, sidewalks and two crosswalks at this intersection can be eliminated as pedestrians will be able to use the two new bridges and ramps. Eliminating two crosswalks and moving the pedestrians from the street level to the bridges and ramps will significantly improve pedestrian access and safety. This will also greatly improve traffic signal operation and vehicular circulation by allowing more traffic signal green time for vehicles traveling through the intersection.”

¹ West Coast Highway and Superior Ave/Balboa Blvd Intersection Improvement Plan (Phase 2)
<file:///B:/City%20of%20Newport%20Beach%20-%20Matters%20-%20General%20Plan/Superior%20Bridge/FINAL%20NPB%20OCTA%20RCP%20ICE%2010-17-2018.pdf>

City Staff reported to the City Council at this meeting that an Environmental Impact Report (EIR) is being prepared for the WCH Bridge project (Phase 2) indicating that the project has the potential for one or more potentially significant adverse impacts.

In August 2020 the City publicly acknowledged Federal Congestion Mitigation and Air Quality Funds (CMAQ) and state funding had been secured for construction of Phase 1 and partial funding for Phase 2. Both Phases are included in the city Capital Improvement Program for FY2020-21 through 2025-26.² Phase 2 is clearly active and on-going at this time.

The following comments are based on the assumption LCP Section 21.52.025(B) would apply and the project analysis would address the whole of the project, not 2 separate independent applications, in effect piecemealing the analysis of the project's impacts to coastal resources.

"LCP-IP 21.50.025 Projects Bisected by Jurisdictional Boundaries

B. Projects Bisected By City and Coastal Commission Jurisdiction. Where a proposed development is located within both the Coastal Commission's and City's coastal Newport Beach LCP Implementation Plan development permit jurisdictions, coastal development permits are required by both the City and the Coastal Commission. Alternatively, if the applicant, the City and the Coastal Commission agree, the Coastal Commission can process a consolidated coastal development permit application pursuant to the procedures in Public Resources Code, section 30601.3."

4. Community concern - The Commission/City is failing to comply with LCP Section 21.52.090.A

21.52.090 Relief from Implementation Plan Development Standards.

A. Purpose. The purpose of this section is to provide relief from the development standards of this Implementation Plan when so doing is consistent with the purposes of the certified Local Coastal Program and will not have an adverse effect, either individually or cumulatively, on coastal resources.

To obtain relief from LCP Implementation Plan Development Standards, the city must demonstrate the Protect is consistent with the purposes of the certified LCP and will not have an adverse effect, either individually or **cumulatively**, on coastal resources. The Commission is failing to consider cumulative impacts (Phase 2 of the West Coast Highway and Superior Ave/Balboa Blvd Intersection Improvement Plan) on coastal resources.

² Newport Beach Capital Improvement Program for FY2020-21 through 2025-26 (refer to page 71)
<file:///B:/City%20of%20Newport%20Beach%20-%20Matters%20-%20General%20Plan/Superior%20Bridge/ADOPTEDCIPFiscalYear202021%20pg%2071.pdf>

5. Community concern - The Project will not protect existing coastal blue-water views from Superior Avenue and Sunset Ridge Park

Sunset Ridge Park: The bridge deck elevation is proposed to be even with the top of the existing Sunset Ridge Park stairway/walkway elevation. Bridge improvements will extend into the park. Bridge improvements (bridge railing and screening) above the deck elevation total approximately 6 feet will impact coastal blue-water views from locations within the park. **Figures 2 & 3** provide factual evidence showing locations of project coastal blue-water view impact from Sunset Ridge Park.

Figure 2
View southeasterly from the walking path at the western terminus of the Superior Bridge



(Photo date 8-5-21)

Figure 3
View looking southeasterly from the park bench along norther-central walkway



(Photo date 8-5-21)

The state reinforced their intent to protect the coastal blue water views in the sale of the property to the City in 2006 by establishing an easement for scenic view and open space purposes. It is the intent of the state that structures and paving be prohibited within this easement.³

“GRANTEES USE OF SAID EASEMENT AREA SHALL BE LIMITED TO THOSE "PERMITTED" USES UNDER GRANTEE'S ZONING DESIGNATION OPEN SPACE - ACTIVE AS DEFINED UNDER TITLE 20 OF GRANTEE'S ZONING CODE AS IT EXISTED ON OCTOBER 12, 2006. ADDITIONALLY THE GRANTEE IS PROHIBITED FROM PLACING PERMANENT STRUCTURES OR PAVEMENT WITHIN THE EASEMENT AREA, AND NO PARKING OF MOTORIZED VEHICLES SHALL BE PERMITTED WITHIN THE EASEMENT AREA.”

Superior Avenue: Coastal Land Use Plan, Coastal Views, Policy 4.4.1-6 requires the protection of views from Superior Avenue from Hospital Road to Coast Highway. The bridge will impact coastal blue-water views from a portion of Superior Avenue and its sidewalks. **Figures 4, 5 & 6** provides factual evidence showing three locations where the project impacts coastal blue-water views from Superior Avenue and adjacent public sidewalks.

³ Directors Deed 040766-01-01 https://nbgis.newportbeachca.gov/images/pdf/OR/OR_2006000813583.pdf

Figure 4
View southerly from Superior Ave. center median (photo date 8-5-12)



(Photo date 8-5-21)

Figure 5
Viewing southerly from west Superior Ave. sidewalk adjacent to Sunset Ridge Park



(Photo date 8-5-21)

Figure 6
Viewing southerly from east Superior Ave. sidewalk



(Photo date 8-5-21)

The Project conflicts with Policy 4.4.1-1 which requires “protection” of coastal views, and Section 30251 – “The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance.”

6. Community concern – The Project will impact coastal wetlands (The WCH wetland). The analysis failed to consider the impact of remedial grading and the retaining wall footing on the West Coast Highway wetland. The wetland is fed by a groundwater seep. Proposed remedial grading, soil compaction and retain wall footing will directly impact the wetlands.

7. Community concern – The project does not meet the intent of a government facility. The city relies on the LCP-IP exceptions for government facility to exceed the maximum height limit. The intent of the coastal act and LCP is that government facilities constitute a major project or projects such as “lifeguard towers, tsunami warning sirens, architectural design features that accommodate emergency vehicles or essential equipment, etc.” and “e.g., City Hall, community recreation center, post office, library, etc.”. Nowhere in the applicable government code sections are public parks referenced by name.

LCP Section 21.30.060 Implementation Plan, Height Limits and Exceptions, is the applicable definition of a government facility when seeking an exception to height limits. The proposed bridge does not contain “architectural design features that accommodate emergency vehicles or essential equipment, etc.”. and therefore, the project is not a government facility for the purpose of qualifying for an exception for an increase in height limit.