

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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**F9b**

**A-5-NPB-21-0026 (CITY OF NEWPORT BEACH)**

**AUGUST 13, 2021**

**CORRESPONDENCE**

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 1 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.<sup>1</sup> 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.”

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<sup>1</sup> 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.<sup>2</sup> Phase 2 is clearly active and on-going at this time.

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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.

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<sup>2</sup> 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.<sup>3</sup>

“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.

<sup>3</sup> Directors Deed 040766-01-01 [https://nbgis.newportbeachca.gov/images/pdf/OR/OR\\_2006000813583.pdf](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.

## RE: Commission Agenda Item 9.b. and 11.a (City of Newport Beach)

dave@earsi.com <dave@earsi.com>

Wed 8/11/2021 11:24 AM

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

Cc: Charles Klobe <cklobe@me.com>; 'dorothyjkraus' <dorothyjkraus@gmail.com>; 'Kathy Shaw' <kathyshaw5@gmail.com>; 'Peggy Palmer' <pvpalmer@icloud.com>; 'Patrick Gormley' <pfg1941@gmail.com>

📎 1 attachments (151 KB)

RE- Superior Bridge - crosswalk \_1-16-2020 10-06-10 AM.pdf;

Hi Zach & Fernie,

Please forward this email and its attachment are forwarded to the Commissioners in advance of Fridays hearing on the Superior Bridge project,

**Agenda Item 9.b.** Appeal No. A-5-NPB-21-0026; and

**Agenda Item 11.a** CD Amendment No. 5-11-302-A2 (City of Newport Beach)

Commissioners,

The Appellants have made the argument the project is Phase I of a 2 phased project and the cumulative effects of the whole project need to be analyzed to determine their impact on coastal resources. The City of Newport acknowledges the 2<sup>nd</sup> Phase project (the construction of a second bridge over PCH at Superior Avenue; the removal of existing crosswalks and sidewalks; the widening of PCH; and adjustment of signal timing to increase green times as a result of the removal of at-grade pedestrian crossings). The City states Phase 2 is an independent project.

The attached email from Mr. Andy Tran, Senior Civil Engineer, City of Newport Beach and Steve Kinaly, MS, PE,TE., Caltrans - D 12, Project Management clearly state the relationship between the Phase 1 project (the Sunset Bridge Project – (Commission Agenda Items 9.b. and 11.a) and Phase 2 ( The West Coast Highway and Superior Ave/Balboa Blvd Intersection Improvement Plan). The attached email verifies the project is active and the City's intent to eliminate existing coastal access routes (existing sidewalks and crosswalks). The date of this email 1-16,2020 is prior to the City approval of the CDP for the Superior Bridge Project and the filing of the CD Amendment No. 5-11-302-A2.

The email states:

“ Yes, we hired Stantec to analyze the traffic operation at this intersection. They came up with several geometric alternatives. Our preferred alternative is shown on the strip plot that I provided you yesterday.

As for the removal of the two at grade crosswalks (north leg and east leg), they will no longer be needed if the 2 bridges are constructed. We also plan to eliminate portions of the sidewalk along the north side of Coast Hwy and Superior Ave leading to the two bridges. Elimination of the crosswalks will improve vehicular circulation. The x-walk push buttons will not be activated which will allow more green time for the vehicles. If we don't eliminate the x-walks and allow peds to use them, it defeats the purpose of the bridges.”

The City is asking for Relief from Implementation Plan Development Standards (bridge height and construction within an open space easement).

**LCP Section 21.52.090.** requires the adverse cumulative effects on coastal resources be analyzed for projects requesting relief from Implementation Plan Development Standards.

**LCP Section 21.52.090.**

**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 Project is consistent with the purposes of the certified LCP and will not have an adverse effect, either individually or cumulatively, on coastal resources. The City is preparing an Environmental Impact Report (EIR) for the Phase 2 project. EIRs are only required for projects that have the potential to result in potentially significant adverse impacts on the environment. The City and the Commission have not considered the cumulative impacts (Phase 2 of the West Coast Highway and Superior Ave/Balboa Blvd Intersection Improvement Plan) on coastal resources. The Appellants ask the Commission to require this cumulative analysis per LCP Section 21.52.090 prior to taking action on Agenda Items 9.b and 11.a.

Alternatively, Appellant's request the Coastal Commission add a Special Condition on Agenda Item 11.a, CD Amendment No. 5-11-302-A2 (City of Newport Beach) requiring a "Handicapped and Pedestrian Access Easement" (or similar condition) to insure adequate at-grade access to coastal resources is maintained in perpetuity for the handicapped, pedestrians and cyclists desiring to cross Superior Avenue at Pacific Coast Highway to access coastal resources.

**Recommended Special Condition**

**Maintenance of Handicapped and Pedestrian Access - PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit a "Handicapped and Pedestrian Access Easement" in favor of the State of California encompassing the existing public sidewalks and crosswalk at Superior Avenue at Pacific Coast Highway. Said easement shall insure existing at-grade access to coastal resources are maintained in perpetuity for the handicapped, pedestrians and cyclists desiring to cross Superior Avenue at Pacific Coast Highway to access coastal resources.**

Thank you,

David J. Tanner, President  
Environmental & Regulatory Specialists, Inc.  
223 62nd Street  
Newport Beach, CA 92663  
949 646-8958 wk  
949 233-0895 cell

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**From:** Tran, Andy  
**Sent:** Thursday, January 16, 2020 10:06 AM  
**To:** 'Kinaly, Steve@DOT'  
**Cc:** Hernandez, Jose R@DOT  
**Subject:** RE: Superior Bridge / crosswalk

Good morning Steve,

Yes, we hired Stantec to analyze the traffic operation at this intersection. They came up with several geometric alternatives. Our preferred alternative is shown on the strip plot that I provided you yesterday.

As for the removal of the two at grade crosswalks (north leg and east leg), they will no longer be needed if the 2 bridges are constructed. We also plan to eliminate portions of the sidewalk along the north side of Coast Hwy and Superior Ave leading to the two bridges. Elimination of the crosswalks will improve vehicular circulation. The x-walk push buttons will not be activated which will allow more green time for the vehicles. If we don't eliminate the x-walks and allow peds to use them, it defeats the purpose of the bridges.

Unfortunately, our ped counts were taken in Oct 2019 and does not reflect the amount of peds and bikers that are present during the summer months. Newport Beach is a tourist destination. Our population of approximately 82,000 doubles during the summer months. We plan on obtaining fresh counts this summer.

Thanks,

**Andy Tran, P.E.**

Senior Civil Engineer  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660  
Phone: 949-644-3315

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**From:** Kinaly, Steve@DOT <[steve.kinaly@dot.ca.gov](mailto:steve.kinaly@dot.ca.gov)>  
**Sent:** Wednesday, January 15, 2020 5:18 PM  
**To:** Tran, Andy <[ATran@newportbeachca.gov](mailto:ATran@newportbeachca.gov)>  
**Cc:** Hernandez, Jose R@DOT <[jose.hernandez@dot.ca.gov](mailto:jose.hernandez@dot.ca.gov)>  
**Subject:** Superior Bridge / crosswalk

Hi Andy,

Did the city conducted an intersection analysis to show how the bridge project will improve the operation of the intersection? What is the justification to remove the at grade crosswalk? Does the city has any most recent pedestrian traffic count and bike traffic count.

Thank you

Regards

**Steve Kinaly, MS, PE,TE.**

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Santa Ana , CA 92705

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