CALIFORNIA COASTAL COMMISSION

South Coast Area Office 301 East Ocean Blvd., Suite 300 Long Beach, CA 90802 (562) 590-5071



W12a

A-5-22-LGB-0061 (CORWIN) December 14, 2022

EXHIBITS

- Exhibit 1 Vicinity Map
- Exhibit 2 Project Plans
- Exhibit 3 Design Review Board Resolution No. 19-4320 Approving Project with Conditions
- Exhibit 4 Appeal of CDP 19-4321 by Mark Fudge
- Exhibit 5 Coastal Commission Staff Geologist Memo
- Exhibit 6 Local Hearing Public Comments



A-5-LGB-22-0061 Corwin Vicinity Map Exhibit 1a



A-5-LGB-22-0061 Corwin Vicinity Map Exhibit 1b



A-5-22-LGB-0061 (Corwin)

EXHIBIT 2

Project Plans (3 pages)

CORWIN RESIDENCE

31351 COAST HWY LAGUNA BEACH, CA 92651 (INCLUDES 31355 COAST HIGHWAY)







PROJ	IECT

CORWIN RESIDENCE

PROJECT DESCRIPTION:

NEW METAL FENCING AND METAL VEHICULAR GATES; 31351 COAST HIGHWAY 31355 COAST HIGHWAY

PROJECT DATA

LEGAL DESCRIPTION: A-TRACT

056-032-04 & A. P. 056-032-07

APPLICABLE CODES:

 2019
 C.B.C.

 2019
 C.R.C.

 2019
 C.G.B.S.C.

 2019
 C.M.C.

 2019
 C.E.C.

 2019 C.E.B.C

SHEET INDEX

ARCHITECTURAL CS-1 COVER SHEET SP-1 SITE PLAN C-1 SURVEY

2019 C.P.C. 2019 C.F.C. 2019 B.E.E.S. **CLASSIFICATIONS:** ZONE R-1 TYPE OF CONST. R-3/U-1 VB OCCUPANCY

APPROVALS:

CONSULTANTS / CONTACTS OWNER JACK CORWIN 31351 COAST HIGHWAY

LAGUNA BEACH, CA 92651 **ARCHITECT:** TODD SKENDERIAN ARCHITECT CONTACT: TODD SKENDERIAN 1100 S. COAST HWY., SUITE 316 LAGUNA BEACH, CA 92651 TEL: (949) 715-5461

FAX: (949) 715-5986 EMAIL: todd@tsarchitectslb.com

FINNIALS 1-1/2" SQ STL POSTS - SPACING PER STRUCT ENG 1-1/2" X 5/8" TOP RAIL 1-1/2" X 5/8" INTERMED RAIL	
• 5/8" SQ HAMMERED STL PICKETS AT 4" O/C	
1-1/2" X 5/8" BOTTOM RAIL	
EXISTING GRADE	

SLOPE TOP FOR ROUGHENED/ STAINED SURFACE TO MATCH ADJACENT N.G. WHERE OCCURS NOTE: DETAIL AND CALL-OUTS FOR REFERENCE ONLY. FABRICATOR TO PROVIDE DETAILED SHOP DRAWING FOR OWNER APPROVAL. SLOPE FENCE WITH GRADE WHERE REQUIRED.

1/2" = 1'-0"

REVISIONS ALL DRAWINGS & WRITTEN MATERIAI APPEARING HEREIN CONSTITUTE ORIGINAL & UNPUBLISHED WORK OF TODD SKENDERIAN ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT THEIR WRITTEN CONSENT. ARCHITECT LAGUNA BEACH, CA 92651 FAX (949) 715-5986 **TODD SKENDERIAN** 1100 S. COAST HWY., #316 0FFICE (949) 715-5461 က် SET





1 SHEETS

OF





A-5-22-LGB-0061 (Corwin)

EXHIBIT 3

Design Review Board Resolution No. 10-4321 (4 pages)

DRB RESOLUTION 19-4320

A RESOLUTION OF THE OF THE DESIGN REVIEW BOARD OF THE CITY OF LAGUNA BEACH, CALIFORNIA APPROVING DESIGN REVIEW 19-4320 AND COASTAL DEVELOPMENT PERMIT 19-4321 FOR FENCING, DRIVEWAY VEHICULAR FENCING AND GATES, AND PEDESTRIAN GATES AND APPROVING CATEGORICAL EXEMPTION PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT.

31351 and 31355 Coast Highway | APNs: 056-032-04 and 056-032-07

WHEREAS, on August 30, 2022, a notice was mailed to all property owners within a 300' radius and tenants within a 100' radius announcing the September 22, 2022, public hearing of the Design Review Board for the proposed project; and

WHEREAS, on September 22, 2022, the Design Review Board carefully considered the oral and documentary evidence and arguments presented at the duly noticed hearing.

NOW, THEREFORE, THE DESIGN REVIEW BOARD OF THE CITY OF LAGUNA BEACH DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

<u>Section 1:</u> Design Review 19-4320 and Coastal Development Permit 19-4321 for fencing, driveway vehicular fencing and gates, and pedestrian gates ("Proposed Project") is approved. The proposed project is exempt from the provisions of the California Environmental Quality Act in accordance with State CEQA Guidelines Section 15303 - New Construction or Conversion of Small Structures, in that the project consists of construction and location of limited numbers of new, small structures.; and

Section 2: The proposed project is consistent with the applicable Laguna Beach Municipal Code Title 25 development standards and guidelines as outlined in the Zoning Review section of the Staff Report.

<u>Section 3:</u> The proposed project is consistent with the Design Review criteria related to access, design articulation, design integrity, environmental context, general plan compliance, landscaping, lighting, neighborhood compatibility, privacy, sustainability, and view equity as outlined in the Design Review section of the Staff Report.

Section 4: The Coastal Development Permit criteria and findings can be made for the Proposed Project for the reasons and factual basis set forth in the Coastal Development Permit section of the Staff Report.

Section 5: The project is in conformity with all the applicable provisions of the general plan and any applicable specific plans for the reasons and factual basis set forth in Exhibit A of the Staff Report.

Section 6: Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the approval authority and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

<u>Section 7:</u> <u>Indemnification</u>. The permittee shall defend, hold harmless and indemnify, at his/her/its expense, the City, the City Council and other City bodies and members thereof, officials, officers, employees, agents and representatives (collectively, the City) from and against any and all third-party claims, actions or proceedings to attack, set aside, void or annul the approval of this application for Design Review and a Coastal Development Permit, or any associated determination made pursuant to the California Environmental Quality Act. This obligation shall encompass all costs and expenses incurred by the City in defending against any claim, action or proceeding, as well as costs, expenses or damages the City may pay as a result of such claim, action or

proceeding. In the event an action or proceeding is filed in court against the City, the Design Review, or any associated determination, the permittee shall promptly be required to execute a formal indemnification agreement with the City, in a form approved by the City Attorney, which shall include, among other things, that the City will be defended by the counsel of its choice, and that the permittee shall deposit with the City sufficient funding, and thereafter replenish the funding, to ensure that the City's defense is fully funded, by the permittee. The deposit amount and replenishment schedule shall be established by the City.

<u>Section 8:</u> Plan Reliance and Modification Restriction. In the absence of specific provisions or conditions herein to the contrary, the attached Staff Report and its Exhibits 'A', 'B', 'C', and 'D' are incorporated and made a part of this Resolution. It is required that the Exhibits 'B', 'C' and 'D' be complied with and implemented in a manner consistent with the approved use and other conditions of approval. Such exhibits for which this permit has been granted shall not be changed or amended except pursuant to a subsequent amendment to the permit or new permit as might otherwise be required or granted pursuant to the terms of Title 25 of the Laguna Beach Municipal Code.

Section 9: Grounds for Revocation or Modification. Failure to abide by and faithfully comply with Exhibits 'B', 'C', and 'D' attached to the granting of the proposed project may constitute grounds for revocation or modification of the permit.

<u>Section 10:</u> <u>Right of Appeal and Effective Date.</u> The applicant or any other owner of property within three hundred feet of the subject property aggrieved by the Design Review Board's decision or by any portion of this decision may appeal to the City Council. Any appeal shall be in written form filed with the City Clerk within fourteen calendar days of the decision and shall specifically state each and every ground for the appeal and be accompanied by payment of the required appeal fee. If no appeal is filed timely, the Design Review Board decision will be effective 14 calendar days after the date of the decision, barring any appeal period to the California Coastal Commission. For Design Review Board decisions on Coastal Development Permits within the appeal jurisdiction of the coastal zone, the decision will be effective after conclusion of the 10-day Coastal Commission appeal period.

<u>Section 11:</u> For the foregoing reasons and based on the information and findings included in the Staff Report, Minutes and records of proceedings, the Design Review Board of the City of Laguna Beach hereby approves the proposed project, subject to the conditions of approval and plans in the attached Exhibits 'B', 'C', and 'D.'

PASSED on September 22, 2022, by the following vote:

AYES: SHERIDAN, THALMAN, GANNON, WEIL NOES: NEEV ABSENT: ABSTAIN:

ATTEST:

Lut Kni

Don Sheridan

Don Sheridan, Chair

Russell W. Bunim, AICP, Planning Manager

EXHIBIT 'B' CONDITIONS OF APPROVAL

Standard Conditions:

- 1. The conditions of approval shall be and hereby are obligations of and binding upon the applicant and his/her heirs, successors, assigns, agents and representatives. The conditions shall constitute a covenant running with and binding the land in accordance with the provisions of California Civil Code Section 1468. Failure to comply with such conditions, and each of them, and any other related federal, state and local regulations may be grounds for revocation of the approval, in addition to other remedies that may be available to the City.
- 2. The applicable Certificate of Use and/or Certificate of Occupancy shall not be issued until City staff has verified compliance with all conditions of approval.
- 3. Prior to Building Permit issuance, the owner, his architect/designer/structural engineer, and contractor of the subject property shall sign an Affidavit of Plan Consistency, whereby the signees affirm that the structural plans are consistent with the Zoning Division-approved set of plans and any modification will require subsequent review and approval.
- 4. In the absence of specific provisions or conditions herein to the contrary, the application and all relevant plans and exhibits are incorporated and made a part of this approval. It is required that such plans and exhibits be complied with and implemented in a consistent manner with the approved use and other conditions of approval. Such plans and exhibits for which this approval has been granted shall not be substantially changed or substantially amended except pursuant to a subsequent approval as might otherwise be required or granted pursuant to the terms of Title 25 of the City of Laguna Beach Municipal Code.
- 5. The permittee shall defend, hold harmless and indemnify, at his/her/its expense, the City, the City Council and other City bodies and members thereof, officials, officers, employees, agents and representatives (collectively, the City) from and against any and all third-party claims, actions or proceedings to attack, set aside, void or annul this approval, or any associated determination made pursuant to the California Environmental Quality Act. This obligation shall encompass all costs and expenses incurred by the City in defending against any claim, action or proceeding, as well as costs, expenses or damages the City may be required by a court to pay as a result of such claim, action or proceeding.
- 6. Expiration. This approval shall lapse and become void two years following the effective date if the privileges authorized by design review are not executed or utilized or, if construction work is involved, such work is not commenced within such two-year period and diligently pursued to completion. The approval authority may grant a two-year extension of time and, after that initial extension of time, a final one-year extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the beginning two-year approval period or a subsequently approved extension of time.
- 7. Reapplication Waiting Period. After denial of a project, no application for a project located on the same parcel or building site may be filed or accepted for filing for two months.

Special Conditions:

1. Assumption of Risk and Waiver of Liability

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm events, flooding and erosion; (ii) to assume the risks to the applicant and the property that is subject of this permit of injury and damage from such hazards in connection with

this permitted development; and (iii) to unconditionally waive any claim of damage or liability against the City its officers, agents and employees for injury or damage from such hazards.

2. <u>No Future Shoreline Protective Device</u>

(a) By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the improvements approved pursuant to this Coastal Development Permit, fencing and gates, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides or natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

(b) By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the permittee and/or landowner shall remove the development authorized by this permit, if significantly damaged due to the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris or waste shall be placed or stored where it may enter a storm drain or coastal waters, or be subject to wind erosion and dispersion.
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction.
- (c) 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 construction of the project.
- (d) Construction debris and sediment shall be removed from the construction areas each day that construction occurs to prevent accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone.

Design Review Board Conditions:

- 1. The fence design shall be modified to remove the finials and incorporate steel pickets as shown on the revised documents submitted at the hearing attached as Exhibit 'D.'
- 2. Eliminate a portion of the proposed 4-foot fencing and two pedestrian gates within the triangular portion of parcel APN: 056-032-07 as shown on the revised documents submitted at the hearing attached as Exhibit 'D.'

A-5-22-LGB-0061 (Corwin)

EXHIBIT 4

Appeal of CDP 19-4321 by Mark Fudge

(13 pages)

Received

CALIFORNIA COASTAL COMMISSION

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

South Coast Region 10/24/2022



California Coastal Commission

APPEAL FORM

Appeal of Local Government Coastal Development Permit

Filing Information (STAFF ONLY)

District Office: South Coast

Appeal Number: _____

Date Filed: _____

Appellant Name(s): _____

APPELLANTS

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

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

1. Appellant	informatio	on 1			
Name:					
Mailing address	s:				
Phone number	:				
Email address:					
How did you pa	articipate in	the local CDP a	application a	nd decision-makin	g process?
Did not partic	cipate	Submitted co	mment	Testified at hear	ing Other
Describe:					C C
If you did <i>not</i> paper please identify participate beca	articipate in why you sh ause you w	 the local CDP ould be allowed ere not properly 	application a d to appeal a / noticed).	nd decision-makir nyway (e.g., if you	וg process, ו did not
Describe:	-				
Please identify why you should CDP notice and processes).	how you e l be allowed d hearing pl	khausted all LC d to appeal (e.g rocedures, or it	P CDP appe ., if the local charges a fe	al processes or ot government did n e for local appella	herwise identify ot follow proper te CDP
Describe:					
					<u></u>

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

2. Local CDP decision being appealed²

Local gover	nment name:		
Local gover	nment approval body:		
Local gover	nment CDP application number:		
Local gover	nment CDP decision:	CDP approval	CDP denial₃
Date of loca	al government CDP decision:		
Please iden denied by th	tify the location and description one local government.	f the development that	was approved or
Describe:			

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

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

3. Applicant information

Applicant name(s):

Applicant Address:

4. Grounds for this appeal4

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

Describe:	

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

5. Identification of interested persons

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

Interested persons identified and provided on a separate attached sheet

6. Appellant certification5

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

Print name

Date of Signature _____

7. Representative authorization6

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

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

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

FAX (415) 904-5400

CALIFORNIA COASTAL COMMISSION 455 MARKET STREET, SUITE 300 SAN FRANCISCO, CA 94105-2219 VOICE (415) 904-5200



DISCLOSURE OF REPRESENTATIVES

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

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

.... Name _____

CDP Application or Appeal Number _____

Lead Representa	ative		
Name			
Title			
Street Address.			
City			
State, Zip			
Email Address		 	
Daytime Phone			

Your Signature

Date of Signature _____

Additional Representatives (as necessary)

Name
Title
Street Address.
City
State, Zip
Email Address
Daytime Phone
Name
Title
Street Address.
City
State, Zip
Email Address
Daytime Phone
Title
Street Address.
City
State, Zip
Email Address
Daytime Phone
Name
Street Address
State Zin
Email Address

Your Signature_____

Date of Signature _____

To: Coastal Commissioners and Staff From: Mark Fudge Date: October 24, 2022 Re: CDP 19-4321 at 31351/31355 Coast Highway, Laguna Beach

Dear Commissioners and Staff,

I'm appealing the City of Laguna Beach's approval of development proposed at 31351/31355 Coast Highway in Laguna Beach because the bluff edge determination was incorrect. This incorrect placement of the bluff edge in turn allowed for development (a new fence) to be placed seaward of the proper bluff edge, and on the bluff face which is expressly prohibited by the City's certified LCP.

If this decision is allowed to stand, it will create a negative precedent to development decisions not only in this area, and in Laguna Beach, but could also impact bluff face development statewide.

The topic of bluff edge determinations has been one that has been successfully appealed multiple times, each resulting in a finding of 'substantial issue', yet neither the City nor the experts have ever corrected their calculations to include the entirety of the certified language of the LCP, which states:

Land Use Element Glossary Entry 101. Oceanfront Bluff Edge or Coastal Bluff Edge - 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.

In the subject determination, both the applicant and the City's peer review failed to include the entire bluff slope between the marine terrace or upland area and the sea (pursuant to Glossary Entry 102), and instead calculated the location of the steeper sea cliff edge, *not* the bluff edge. This is strikingly similar to the erroneous determination made at a property just two parcels to the north of the subject parcel (see A-5-LGB-18-0071 staff report's analysis by Dr. Joseph Street: W14a-12-2020).

Attached is a historical photograph (1929) included in another appeal (A-5-LGB-12-0091) that shows the subject parcel in a natural state. I believe this will be very helpful in determining that the natural bluff edge is not located at the position approved by the City, but is actually much more landward, closer to the current location of Pacific Coast Highway.

The applicant desires to place a new fence approximately along the seaward property line in order to "keep as much usable enclosed space as possible for his personal use" (see meeting minutes - attached). However, the LUE Policy 7.3.5 expressly prohibits development on a bluff face unless it is a public improvement or for public safety. The placement of this fence in the approved location is inconsistent with this policy.

I ask that Staff recommends a finding of 'substantial issue' and that the Commission makes that finding so a proper bluff edge determination can be made, and the appropriate development approved to ensure protection of our coastline.

I am available for any questions or further information that might be helpful.

Thank you for your consideration.

Sincerely,

Park Judge

Mark Fudge P.O. Box 130 Laguna Beach, CA 92652-0130 949-481-1100

Attachments:

- 1. 1929 photograph of the site
- 2. DRB draft meeting minutes 9/22/22



Blue arrow indicates 31381 Coast Highway looking south from picnic shelter (orange arrow).

Slide Source: W13a-3-2014 staff report p.179 A-5-LGB-12-0091



Photo taken looking north from approximate location of 31381 Coast Highway. The orange arrows indicate lot 1 of the Coast Royal bankrupt subdivision and a picnic shelter.

Slide Source: W13a-3-2014 staff report p.178 A-5-LGB-12-0091

4.2. <u>31351-31355 COAST HIGHWAY (CORWIN), APN 056-032-04 AND 056-032-07</u> CONDITIONALLY APPROVED

DESIGN REVIEW 19-4320, COASTAL DEVELOPMENT PERMIT 19-4321, AND CATEGORICAL EXEMPTION [Section 15303].

City Staff: Wendy Jung, Principal Planner (949) 497-0321 wjung@lagunabeachcity.net Project Applicant: Todd Skenderian, Architect (949) 533-5984 todd@tsarchitectslb.com

The applicant requests design review and a coastal development permit to install fencing, driveway vehicular fencing and gates, and pedestrian gates at a single-family residence in the R-1 (Residential Low Density) zone, located between the sea and the first public roadway paralleling the sea and within 50 feet of a coastal bluff edge.

Disclosures: Mr. Weil spoke to Mr. Skenderian and Mr. Nokes. Ms. Gannon visited the site with Mr. Skenderian and spoke to Mr. Nokes. Ms. Thalman spoke to Mr. and Mrs. Marshall, Mr. Fuente, Mr. Skenderian, and Mr. Nokes. Ms. Neev visited the site with Mr. Skenderian and spoke to Mr. Nokes and Mr. and Mrs. Marshall. Mr. Sheridan visited the site and spoke to Mr. and Mrs. Marshall, Mr. Nokes, Mr. Skenderian, and Mr. Fuente.

Staff Presentation: Principal Planner, Wendy Jung, summarized the staff report.

Project Representative: Architect, Mr. Skenderian, and Lawyer, Larry Nokes, presented the project.

Public Testimony: Mr. Munche stated that with the removal of the spears and triangular gated area impeding their beach access, they fully supported the project.

Mr. Fudge believed that the bluff edge determination did not meet the LCP standards of where the bluff edge is.

Mr. Marshall stated they supported the project and agreed the fence was necessary for security purposes as public frequently trespassed onto the property and consequently onto theirs.

Rebuttal: Mr. Nokes stated that the Coastal Development Permit findings were prepared by the City and were in agreeance with the findings. He stated that the bluff edge determination was prepared by GeoSoils and the peer reviewer agreed with the determination. Mr. Corwin stated he respected the comments made and expressed the varying instances of trespassing, vandalism, loitering, and littering he experiences on his property.

Board Questions: Ms. Thalman confirmed with Mr. Skenderian that the proposed fence was 10-feet from the property line and the bluff edge was determined to be at the property line. Ms. Thalman confirmed with Mr. Nokes that they did not want horizontal bars on the fencing due to its ladder-like affect.

Ms. Gannon confirmed with Ms. Jung and staff that minor accessory structures with no structural foundation could be proposed 10-feet from the bluff edge.

Ms. Neev confirmed with Mr. Skenderian that there was a portion of fencing on the property that was to remain a combination of chain ink and chicken wire due to the proximity to the bluff edge. Ms. Neev confirmed with staff that the fence could be proposed 10-feet from the bluff edge due to the lack of structural foundation in the design. Ms. Neev confirmed with Mr. Nokes that the homeowner would prefer the fencing remain 10-feet from the bluff edge. Mr. Skenderian stated that fencing would be considerably less at the proposed location, rather than it being closer to the home due to the lot shape.

Ms. Thalman confirmed with Mr. Nokes that Mr. Corwin would like to keep as much usable enclosed space as possible for his personal use.

Board Comments: Mr. Weil stated he was supportive of the project with the proposed changes and believed fencing should be erected for concern of safety and was supportive of the location.

Ms. Gannon concurred with the comments stated by Mr. Weil and supported staff's findings for the Coastal Development Permit and design guidelines.

Mr. Sheridan stated he supported staff's recommendation and appreciated the work the applicant team put in to mitigate all the neighborhood concerns.

Ms. Neev stated she was not comfortable with the proximity of the proposed fence to the bluff edge and was afraid of the precedent it would set.

Ms. Thalman stated she would support the project but shared similar concerns stated by Ms. Neev. She believed it was not neighborhood compatible as fencing like the proposed was not common. Ms. Thalman stated the design of the fencing felt prison-like and hoped for something more coastal-like but understood the safety and security concerns to which led her to support the project.

Mr. Sheridan made a motion, seconded by Ms. Gannon, to conditionally approve Design Review 19-4320 and Coastal Development Permit 19-4321 at 31351-31355 Coast Highway with the findings as outlined in the staff report, and to adopt the categorical exemption pursuant to state CEQA with the condition to change the fencing design and to eliminate the gate in the triangular are adjacent to the Marshall and Fuente property. The motion carried unanimously, 4-1.

Motion	DS	Second	JG	Action	CO	NDIT	IONALL	Y API	PROVED		
Gannon _	_Y_	_Sheridan	Y_	Thalma	an	_Y	_Neev_	_N_	_ Weil _	_Y_	

A-5-22-LGB-0061 (Corwin)

EXHIBIT 5

Coastal Commission Staff Geologist Memo

(6 pages)

CALIFORNIA COASTAL COMMISSION 455 MARKET STREET, SUITE 228 SAN FRANCISCO, CA 94105-2219 VOICE (415) 904-5200 FAX (415) 904-5400



December 1, 2022

BLUFF EDGE REVIEW MEMORANDUM

To. Meg Vaughn, Coastal Program Analyst

Joseph Street, Ph.D., P.G., Staff Geologist Joseph Street From:

Re: 31351-31355 Coast Highway, Laguna Beach (Corwin Residence), Appeal No. A-5-LGB-22-0061

In connection with the above-referenced appeal, I have reviewed the following document directly related to the subject property:

1) GeoSoils, Inc., 2022, "Updated Discussion of Geomorphology and Bluff Edge Determination, 31351 Coast Highway, Laguna Beach, Orange County, California", report dated June 2, 2022, and signed by J. P. Franklin and D. W. Skelly.

I have also consulted obligue aerial photographs of the site provided by the California Coastal Records Project (https://www.californiacoastline.org) and the two-foot contour topographic maps maintained by Orange County Public Works (OCPW) (https://www.ocgis.com/ocpw/landrecords/). The purpose of this memorandum is to evaluate the position of the bluff edge, as defined in the City of Laguna Beach Local Coastal Program (LCP) Land Use Element (LUE), on the subject property.

Site Description

As described in Ref. (1), the coastal bluff at the site is composed of Tertiary-aged sandstone and conglomerate bedrock known as the San Onofre Breccia, overlain by Quaternary-aged marine and non-marine paralic deposits (often called "terrace deposits"). Across much of the site, however, the lower (seaward) portion of the bluff is covered by a thick layer of colluvium¹ and talus eroded over time from the slopes above (**Figs. 1** and **2**, attached). Minor amounts of artificial fill are indicated on the upper (inland) portion of the subject lot; this fill does not greatly modify the bluff topography. The bluff slope extends from the back beach at approximately +20 ft elevation² to approximately +88 ft at the inland property line, and to approximately +100 – 110 ft at Coast Hwy (depending on location). At the bottom of the slope, the toe of the colluvium has been eroded by wave action into a relatively steep (60°-65°; ~0.5:1 horizontal:vertical, h:v) bank or sea cliff, while on the southernmost portion of the site the San Onofre breccia is exposed and forms a sea cliff with a similar slope. As shown in **Figs. 1** and **2**, the lower slope of the colluvium is relatively gentle, with slopes ranging from $10^{\circ} - 20^{\circ}$, but steepens (to $30^{\circ} - 40^{\circ}$) moving

¹ Colluvium generally refers to a loose, heterogenous mass of soil or talus material deposited by rainwash, slopewash or slow downslope creep, often accumulating at the base of slopes or hillsides.

² No vertical datum was indicated in Ref. 1: elevations are assumed to be relative to mean sea level.

inland, where the mantle of colluvium covers the former bedrock sea cliff. On the upper part of the subject site, above approximately +60 ft in elevation, the bluff slope is approximately 30° (1.5:1 to 2:1 h:v).

As a general matter, the Laguna Beach coastline is characterized by a narrow coastal terrace that has been modified by the geologically recent and rapid uplift of the San Joaquin Hills. The area immediately inland of the subject site is characterized by a narrow, gently sloping terrace which steepens moving inland, where it transitions to the lower slopes of an arm of Aliso Peak. Based on the OCPW topographic maps, the inclined terrace/upland area immediately inland of the subject site has an average slope of approximately 10 degrees (6:1 h:v).

Bluff Edge Determination

The Land Use Element (LUE) of the City of Laguna Beach's certified LCP provides direction on determining the bluff edge, including the following definition of "Oceanfront Bluff Edge or Coastal Bluff Edge" (Glossary Definition 101):

The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff or seacliff. 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 because 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.

This definition is similar, though not identical to the definition of "bluff edge" contained in the Coastal Commission's regulations (Cal. Code Reg. Title 14, §13577(h)). The LUE (in Definition 102) further clarifies that a coastal bluff encompasses the entire slope between the upland area and the beach, and not just the steepest portion of the slope:

Oceanfront Bluff/Coastal Bluff – 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.

The subject site is somewhat unusual in the Laguna Beach area in that the "intact" portion of the bluff, consisting of San Onofre Breccia overlain by younger marine and non-marine terrace deposits, is largely covered by a thick mantle of colluvium extending some 80 - 100 feet seaward of the face of the bedrock. Across much of the site the seaward toe of the colluvium has been eroded by wave action into a steeper bank, the top of which is at elevations of approximately +22 - 23 feet. The bluff edge determination submitted by the applicant (Ref. 1) identifies the top of this lower bank as the bluff edge, except in the southernmost part of the site, where the bluff edge is identified as the top of the San Onofre Breccia sea cliff (**Figs. 1**, **2**). 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 lower sea cliff. The applicant's analysis does not account for the considerable elevation change that occurs between the identified bluff edge (at ~22 - 23 ft elevation), the inland edge of the subject lot (at ~88 ft) and Coast Highway (at ~100 - 110

ft), nor the significant slope of the upper bluff, which based on the applicant's topographic survey averages about 25° on the northern part of the lot and 30° on southern part of the lot, with portions of the bluff approaching 40° .³ The upper bluff slope at the site significantly exceeds the general slope of the upland/terrace area (~10°, 6:1 h:v) immediately inland, as estimated from the OCPW topographic data.

At the subject site, the coastal bluff is affected by both marine erosion at the toe and subaerial processes on the upper bluff, resulting in a bluff that, to variable degrees, is "rounded away from the face of the bluff", such that the LUE defined by the points "nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff." Considering the topographically variable and inclined bluff top in this location, my approach to defining the bluff edge has been to determine the average slope of the upland area immediately inland of the subject site (generally between Coast Hwy and Brooks St.), and to identify where the slope of the bluff exceeds this average slope (~10 degrees, 6:1 h:v). As shown in in **Fig. 3**, this slope break occurs inland of the subject site, between elevations of approximately +100 – 110 feet.

The LUE Coastal Bluff Edge definition additionally indicates that grading cuts – such as occurred during the construction of Coast Highway -- can cause the bluff edge to retreat, but that the placement of artificial fill does not push the bluff edge seaward. Along the northern portion of the site, it is unclear whether grading cuts associated with Coast Highway affected the position of the bluff edge. Additionally, I do not have any geologic information indicating the location or extent of artificial fill inland of the subject lot, such as along the margins of the road (the geologic information provided in Ref. 1 indicates that only a minor amount of fill is present on the subject lot itself). For these reasons, the bluff edge delineation provided here should be considered approximate.

Attachments: Figures 1 – 3

³ These slope values are roughly consistent with an upper bluff slope of approximately 33 degrees (1.5:1 h:v) between elevations 20 - 120 ft indicated in the 1885 U.S. Coast and Geodetic Survey T-Sheet map cited by Ref. (1).



Modified from GeoSoils 6/2/2022

Bluff Edge Review Memo -- Figure 2



Modified from GeoSoils 6/2/2022

Bluff Edge Review Memo -- Figure 3



LUE bluff edge (approx.)

Modified from Orange County Public Works (OCPW) (https://www.ocgis.com/ocpw/landrecords/)

A-5-22-LGB-0061 (Corwin)

EXHIBIT 6

Local Hearing Public Comments

(4 pages)

-----Original Message-----From: Debbie Marshall <debbiemarshall@cox.net> Sent: Saturday, September 17, 2022 4:31 PM To: Jung, Wendy CD <wjung@lagunabeachcity.net> Cc: Bunim, Russell CD <rbunim@lagunabeachcity.net> Subject: Corwin fencing at 31351 Coast Highway

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Dear Design Review Board,

My name is Debbie Marshall and I live at 31365 Coast Highway. I have been lucky enough to call this my home for 22 years. I would like to take a moment to thank the design review people who visit in my home with regard to the above hearing.

For the past 22 years I have used the parkway adjacent to my property that gives me beach access to West Street beach. When I first moved into my house that Parkway was owned by the state. A few years ago they try to give it to Laguna Beach but Laguna was not interested and so they offered it to my two neighbors Mr. Schiffmann and Mr. Corwin. Mr. Schiffmann made the highest offer and it was excepted by the city.

We soon found out that Mr. Corwin had a small pie shaped piece of property that crossed that parkway. At today's hearing his representative Mr. Skenderian is proposing fencing that pie shaped piece of property and putting two gates where it crosses the Parkway. This would mean that anytime I take my grandchildren to the beach along with sand toys, beach chairs and of course an umbrella I would have to stop and open the first gate proceed a few feet feet and stop and open a second gate. I am now 77 years old and I am sure I would have to put all my paraphernalia down to open these gates. There is absolutely no reason for these two gates. I am asking you the design review board to abandon the idea of these two gates. I have had a prescriptive easement to this Parkway for over 22 years and the people who owned this property previously had that same prescriptive easement. I dare say that everyone who has lived in this house since it was built in 1948 has used this parkway with no obstructions.

There is absolutely no security issue with this Parkway and Mr. Corwin's house and therefore in my opinion no need for these gates. Furthermore California law indicates that if a person has used a piece of property repeatedly for at least five years they have a prescriptive access to that property. It worries me that there could be a possibility that someday after a design review is no longer involved that Mr. Corwin or another owner of his property we decide to lock those gates.

Sincerely,

Deborah Marshall 31365 Coast Hwy. Laguna Beach 949 500 3050 From: Ron Marshall <ronaldmarshall@cox.net> Sent: Saturday, September 17, 2022 4:45 PM To: Bunim, Russell CD <rbunim@lagunabeachcity.net> Subject: Public Comment for a Project

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

I live at 31365 Coast Highway and my comments regard the proposed fence at 31351 Coast Highway on the agenda for Design Review on September 22.

I am okay with the fence with the exception of the portion that comes up a triangular sliver of his property across our beach access trail and ending at the juncture of our property line and our neighbor Mr Schiffmann. We have used this beach trail for 22 years and understand that it has existed for over 70 years. This portion of the fence is 4 feet high and gives Mr Corwin no added security from the general public. Putting a fence in this area serves no purpose and would obstruct views from our nearby master bedroom.

I am even more opposed to the proposed gates across the trail. The gates could later be locked or a new owner could object to us going through them. They serve no purpose and probably illegal on a historic public easement trail to the beach. This tiny area has never been posted and and I doubt the owner knew it existed as 95% of the trail goes through Mr Schiffmann's property.

Ron Marshall 31365 CoastHwy 949 500 3050 -----Original Message-----From: Algis Ratkelis <aratkelis@gmail.com> Sent: Wednesday, September 21, 2022 3:12 PM To: Jung, Wendy CD <wjung@lagunabeachcity.net> Subject: DESIGN REVIEW 19-4320

[NOTICE: This message originated outside of City of Laguna Beach -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

MY NAME IS ALGIS RATKELIS, I AM THE OWNER OF THE RESIDENCE AT 31341 COAST HWY- NEXT TO 31351, LAGUNA BEACH. I HAVE REVIEWED THE PROPOSED FENCE INSTALLATION AND I AM VERY HAPPY TO SEE IT DONE AS PROPOSED.

SINCERELY,

ALGIS RATKELIS

30 Reports Issued by Laguna Beach PD of Trespassing, Vandalism and Burglary at 31351 South Coast Highway

- 1. Burglary 3.13.19
- 2. Burglary 5.08.19
- 3. Vandalism 5.24.18
- 4. Vandalism 6.12.22
- 5. Other Property Damage Report 6.21.19 *
- 6. Trespassing 6.24.17
- 7. Other Property Damage Report 7.30.18
- 8. Bonfire 8.02.18
- 9. Vandalism 8.17.19
- 10. Vandalism (Mafia Style) 8.07.19
- 11. Vandalism 8.09.18
- 12. Burglary 8.21.19
- 13. Other Property Damage Report 9.14.18
- 14. Other Property Damage Report 9.28.19
- 15. Other Property Damage Report 12.05.19
- 16. Burglary 12.22.18
- 17. Vandalism 12.28.17
- 18. Burglary 3.13.19
- 19. Vandalism 7.26.09 Vehicle Alarm Triggered
- 20.Felony Burglary 08.09.09
- 21.Burglary 9.3.09
- 22.Burglary 2.5.10
- 23. Burglary 7.17.10
- 24. Possible Break-In (Alarm triggered) 06.01.11
- 25. Trespassing 8.31.13
- 26. Vandalism 9.11.13 (Cutting of 20 Trees)
- 27. Trespassing 1.06.15
- 28. Report 1.8.15 Mentions issues with transients Trespassing
- 29. 4.23.15 Trespassing (Fires being started in the Home)
- 30. Vandalism 8.02.15 (Cutting down of 20 additional trees) Some 80 years old and deemed Historic

Quote from 6.21.19 Report:

Spoke with house manager in regards to possible 602 on property. Manager has found multiple items out of place/left behind on property, such as trash, cigarette butts, etc. Manager stated chain link fence is the only barrier keeping people off of property. Contaged gardeners for residence and they stated the damage to sprinklers could have been caused by them, could not confirm or deny. RP requests PC's for W2 between the hours of 0000 and 0500 for 602 / Sleepers. RP provided a copy of event number. PRINTED FOR BRIEFING