

CALIFORNIA COASTAL COMMISSION

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W20a

ADDENDUM

DATE: May 9, 2022

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W20a, APPLICATION NO. A-5-LGB-18-0014 FOR THE COMMISSION MEETING ON MAY 11, 2022.**

This addendum is designed to achieve the following objectives. Section I updates the record by supplementing it with correspondence the Commission received after the staff report was issued and provides responses to the issues raised in the recent correspondence. Commission staff proposes the Commission incorporate the below responses into its findings. Section II provides some minor corrections to the staff report that would not substantially alter staff's recommendation of Approval with Conditions for this CDP application.

I. CORRESPONDENCE RECEIVED AND RESPONSE

On May 2, 2022, the Commission received an email from Sharon Fudge in response to the published staff report. In her email, Ms. Fudge requested a special condition to require the applicant to either (1) formally abandon the City of Laguna Beach's Design Review Board's 2017 approvals for local permits DR 17-2096 and V 17-2095 and reapply for a new design review permit for the same project, with the same conditions as the CCC-issued CDP; or (2) amend their local approvals to match the project and conditions that are currently under review by the Commission. Ms. Fudge expressed concern that the applicant may still possess a local permit to construct a new retaining wall at the site (as proposed in the project as originally described, with which the Commission found substantial issue), but would not have a local permit to remove the wall and unpermitted patio. In addition, Ms. Fudge requested the Commission modify Special Condition 1 (Final Plans) to require the beach sand to be graded back to its natural state after removal of the wall and patio.

In response to Ms. Fudge's first request, staff notes that the City's Design Review Board's 2017 approvals for local permits DR 17-2096 and V 17-2095 were effectively voided pursuant to the Commission's May 11, 2018 finding of Substantial Issue of the City-approved project to reconstruct the damaged retaining wall. As noted in the staff report published at that time, a finding of Substantial Issue would void the local CDP and revert

the subsequent permitting authority to the Coastal Commission. However, additional clarification is needed to ensure that the applicant adheres to both the Commission's requirements and the City's requirements for the scope of work proposed herein. Therefore, the Commission adds Special Condition 4 as a condition of approval for the proposed project. Special Condition 4 requires the applicant to abide by both the Commission's conditions of approval as well as any local requirements for the proposed project. If there are any conflicts between the Commission's conditions of approval and the City's conditions of approval, the Commission's conditions would take precedence.

In response to Ms. Fudge's second request, the requirement to return the seaward yard area to beach sand is adequately addressed in the project proposal, the staff report findings, and Special Condition 1. Exhibit 3 shows the applicant's proposed project, which includes the removal of the unpermitted patio, and reverting the land formerly occupied by the patio into "natural beach sand and native plants." This description already implies that the applicant would incorporate the beach sand on his property back into its natural formation. Moreover, Special Condition 1 requires the applicant to submit final revised plans for the review and approval by the Executive Director. During the review process, the Executive Director would ensure that the proposed sandy beach area would consist of a natural beach topography with sand and plants native to Southern California coastal beaches before a final CDP is issued.

II. CORRECTIONS TO STAFF REPORT

The following corrections and changes are made to the staff report dated April 22, 2022. Language to be added is shown in underlined text, and language to be deleted is identified by ~~strikethrough~~.

- a) Modify the last full paragraph on Pages 2-3 as follows:

The applicants have proposed a 36 sq. ft. paver landing at their home's exterior door and 9 sq. ft. paver landing at an exterior staircase (Exhibit 2). The proposed landings are the minimum size necessary to meet the CBC standards and have been designed to be easily removable in the event that the property is threatened by erosion and flooding associated with coastal hazards including sea level rise. Furthermore, the proposed pavers are designed as a landscape feature, not a structure, and can be found consistent with the LCP's development policies. In order to ensure that the development is undertaken as proposed, Staff recommends the Commission impose **Special Condition 1**. This condition requires final plans to be submitted for the review and approval by the Commission's Executive Director. The Commission also imposes **Special Condition 4**, which requires the applicant to abide by both the Commission's conditions of approval and the City's conditions of approval for the project proposed herein. In the event that the Commission's conditions of approval conflict with the City's conditions of approval, the Commission's conditions shall prevail.

- b) Correct Special Condition 1 paragraph on page 7 as follows:

1. Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and written approval of the Executive Director, two full-size sets of the following final plans:

- A.** Site Plan that conforms with the plans submitted to the Commission, titled Revised Conceptual Back Yard Plan dated April 14, 2022.

B. Construction Staging Plan that does not utilize any public sidewalks, sandy beach, parking lots, or streets for construction staging areas. The only mechanized equipment authorized by this permit is an excavator to remove and break up the retaining wall and patio. The debris shall not be stored on the public beach. The debris shall be removed on the subject property. The construction staging for the mechanized equipment must take place within the subject property lines.

C. Landscape Plan for the ~~800~~ 2,105 sq. ft. sandy beach area between the single-family residence and the seaward property line that only incorporates plants native to Southern California beaches. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be **low water use** plants as identified by California Department of Water Resources (See:<http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>). In addition, no soil placement or temporary or permanent irrigation is proposed or authorized by this permit.

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

c) Add Special Condition 4 on Page 9 as follows:

4. Conditions Imposed by Local Government. This action has no effect on conditions imposed by the City of Laguna Beach pursuant to an authority other than the Coastal Act, except as provided in the last sentence of this condition. The permittee is responsible for compliance with all terms and conditions of this coastal development permit in addition to any other requirements imposed by other local government permit conditions pursuant to the local government’s non-Coastal Act authority. In the event of conflicts between terms and conditions imposed by the local government and those of this coastal development permit, such terms and conditions of this coastal development permit shall prevail.

d) Modify the fourth full paragraph on Page 12 as follows:

In order to ensure that the development is undertaken as proposed, the Commission imposes **Special Condition 1**. This condition requires final site plans to be submitted for the review and approval by the Commission’s Executive Director. The approved development must be undertaken in accordance with the approved plans; any changes to the plans must receive an amendment to this permit, unless the Executive Director determines that no amendment is necessary. The Commission also imposes **Special Condition 4**, which requires the applicant to abide by both the Commission’s conditions of approval and the City’s conditions of approval for the project proposed herein. In the event that the Commission’s conditions of approval conflict with the City’s conditions of approval, the Commission’s conditions shall prevail.