

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
301 E. OCEAN BLVD., SUITE 300  
LONG BEACH, CA 90802-4830  
(562) 590-5071



# Th13a

**A-5-LGB-22-0017 (32007 S Coast Hwy, LLC)**

**June 9, 2022**

## **EXHIBITS**

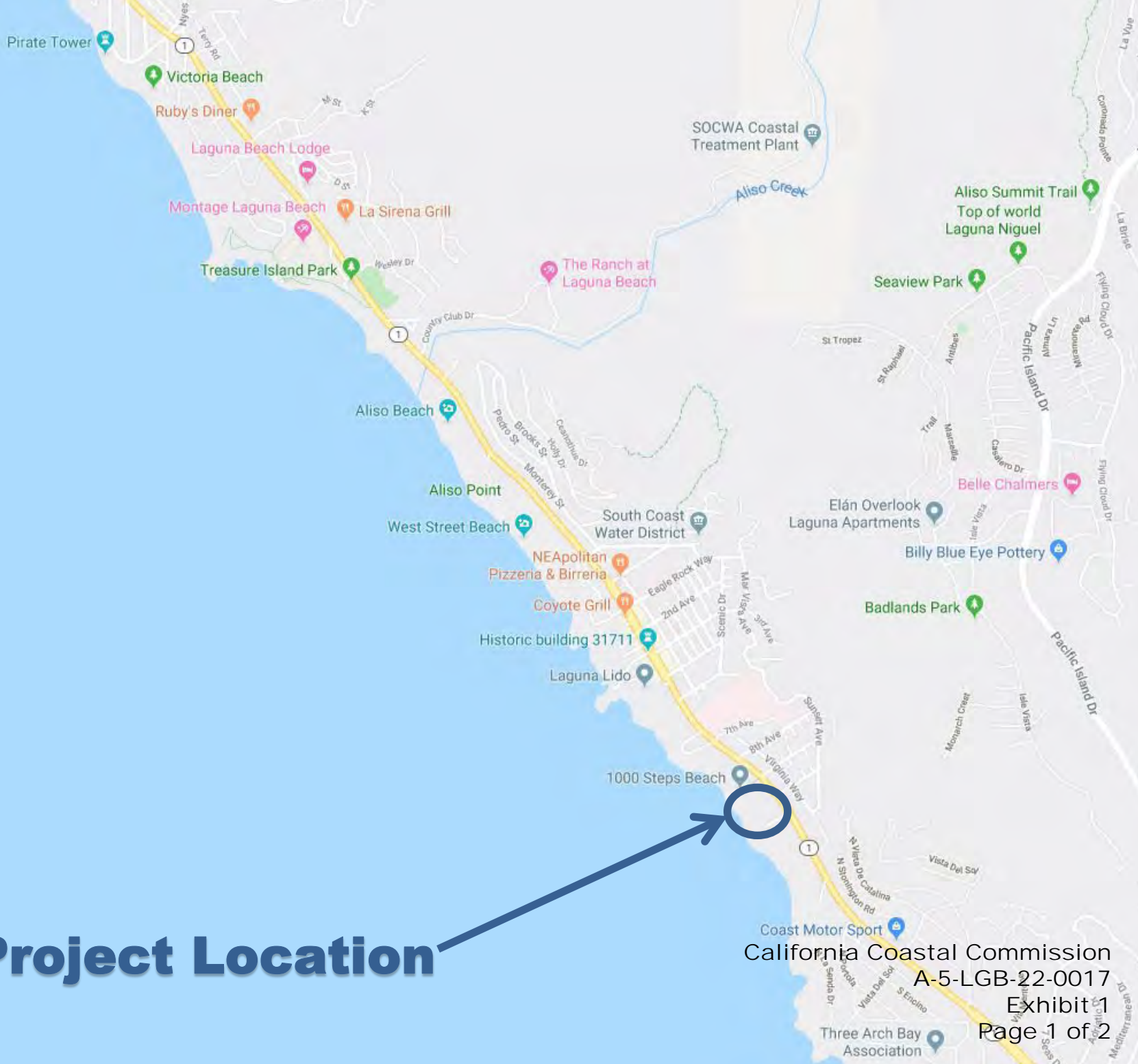
### **Table of Contents**

Exhibit 1 – Vicinity Map and Project Site

Exhibit 2 –Appeal

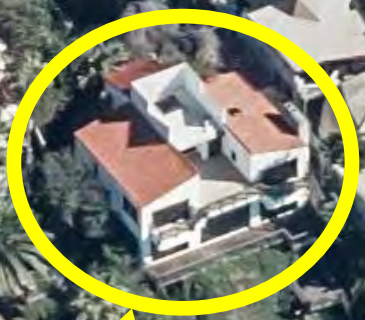
Exhibit 3- City's CDP Exemption No. BPC-2021-10194

# Project Location



S Coast Hwy

Point Pl



**Subject Residence**

**CALIFORNIA COASTAL COMMISSION**

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

**APPEAL FORM**

## Appeal of Local Government Coastal Development Permit

**Filing Information (STAFF ONLY)**

District Office: South Coast

Appeal Number: A-5-LGB-22-0017Date Filed: May 2, 2022Appellant Name(s): Mark & Sharon Fudge**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 the appeal 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 contact page 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 [SouthCoast@coastal.ca.gov](mailto:SouthCoast@coastal.ca.gov). 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 contact page at <https://coastal.ca.gov/contact/#/>).

**Appeal of local CDP decision**

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**1. Appellant information<sup>1</sup>**

Name: Mark and Sharon Fudge

Mailing address: P.O. Box 130, Laguna Beach, CA 92652-0130

Phone number: 949-481-1100

Email address: fudge1@cox.net

How did you participate in the local CDP application and decision-making process?

Did not participate     Submitted comment     Testified at hearing     Other

Describe: The decision (CDP exemption) did not involve a public hearing. We  
attended a Design Review Board meeting on April 28, 2022 and objected to  
the exemption at public comment.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: There was not a local CDP application.

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: The only avenue to appeal a CDP exemption is directly to the CCC.

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

**Appeal of local CDP decision**

**Page 3**

**2. Local CDP decision being appealed<sup>2</sup>**

Local government name: City of Laguna Beach  
Local government approval body: Michael Delgadillo, Contract Planner  
Local government CDP application number: none  
Local government CDP decision:  CDP approval  CDP denial<sup>3</sup>  
Date of local government CDP decision: \_\_\_\_\_

Please identify the location and description of the development that was approved or denied by the local government.

Describe: Replacement of all existing doors and windows, replacement of existing  
decks at main house and garage, repair gutters, and downspouts of existing  
roofs, upper and lower decks, repair of exterior side yard stairway (treads,  
risers, stair stringers, railing and landing decks), remodel room below  
garage, repair of existing funicular, removal of wood siding and replacement  
with stucco, interior repairs to main house, re-roof, repair driveway deck,  
replace mech equipment, and replace hardscape.  
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<sup>2</sup> 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.

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

**Appeal of local CDP decision**

**Page 4**

**3. Applicant information**

Applicant name(s): Marshall Inninns  
Project location: 32007 Coast Highway  
Applicant Address: Laguna Beach, CA 92651

**4. Grounds for this appeal<sup>4</sup>**

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: This project does not qualify for a CDP exemption due to its scope  
and location (entirely on the bluff face).  
See additional sheets for detail.

<sup>4</sup> Attach additional sheets as necessary to fully describe the grounds for appeal.

**Appeal of local CDP decision**

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**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 certifications**

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

Print name Mark Fudge/Sharon Fudge

Mark Fudge  
Signature

Sharon Fudge

Date of Signature May 1, 2022

**7. Representative authorizations**

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.

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

<sup>6</sup> 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.



# CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400



## 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.

Your Name \_\_\_\_\_

CDP Application or Appeal Number \_\_\_\_\_

### Lead Representative

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 \_\_\_\_\_

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Street Address. \_\_\_\_\_  
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State, Zip \_\_\_\_\_  
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Daytime Phone \_\_\_\_\_

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Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Your Signature \_\_\_\_\_

Date of Signature \_\_\_\_\_

## 32007 Coast Hwy. Laguna Beach

On 04/13/2022, the City of Laguna Beach issued a Coastal Development Permit Exemption (Case No. BPC-2021-10194) for a project proposed at 32007 Coast Highway, Laguna Beach. The justification for this exemption is that the 'project' is a Repair and Maintenance activity that does not result in an addition to, or enlargement or expansion of, the object of such activities and that it is not classified as including the presence of mechanized equipment or outdoor storage on construction materials within an environmentally sensitive area, or within 50' of the edge of a coastal bluff or environmentally sensitive area.

As described, the project includes the *“replacement of all existing doors and windows, replacement of existing decks at main house and garage, repair gutters and downspouts of existing roofs, upper and lower decks, repair of exterior side yard stairway (tread, risers, stair stringers, railing and landing decks), remodel room below garage, repair of existing funicular, removal of wood siding and replacement with stucco, interior repairs to main house, re-roof, repair driveway deck, replace tech equipment, and replace hardscape.”*

No plans for the project have been made available online for review by the public, so it is difficult to ascertain the scope of the project, but from the description, it appears that work is being proposed to decks and components of the site that have already been determined by the Coastal Commission to be unpermitted work. Accordingly, these components constitute violations of the LCP and the Coastal Act.

For reference, we direct you to the staff report for our appeal **A-5-LGB-19-0193** (substantial issue found on 11/15/19). In that instance, a CDP was issued by the City (and appealed to the CCC) for work involving *“an interior remodel, door and window replacement, stucco repair and a parapet removal”* at this same location. Essentially, the same project is being proposed at this time. The original project never came back before the Commission for a De Novo hearing - appellants assume the project was withdrawn by the applicant, but have no verification of that. In any case, the unpermitted development/violations at the site have never been addressed.

The substantial issue staff report (and its adoption by the Commission) provided the following facts, which are now 'substantial evidence' to be reviewed in this instance.

- The Commission's staff geologist determined the bluff edge as being entirely landward of the existing residence rendering the subject project occurring entirely on the bluff face.
- Work done in the 1970's (pursuant to UP-3383) never obtained the necessary approvals from the Coastal Commission (or its equivalent) and therefore the beach access staircase and associated decks constitute unpermitted development.
- An Emergency CDP (G-5-19-0011) was issued by the Coastal Commission to authorize repair work to the slope landward of the site.<sup>1</sup>

This is also not the first time the City has granted exemptions for work at the site that have been objected to (by same appellants) where the Commission determined the work indeed needed CDPs. This site (together with its neighbor at 32005 Coast Highway) has an extensive

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<sup>1</sup>Although the applicant is required to submit a follow-up CDP application to request permanent authorization of the structures constructed under the emergency permit, there is no evidence in the record of that request. The emergency work has been completed since September of 2019. In our view, until a permanent CDP has been granted for that slope repair, the existing structure (the house) should not rely on that repair and should not have work done to it.

32007 Coast Hwy. Laguna Beach

history of violations which staff is aware of, and has documentation provided by these appellants previously. If copies are needed, they can be provided.

The entirety of the project must be reviewed, and unpermitted development removed (pursuant to LCP Land Use Element Action 7.3.8), before a remodel can occur to ensure that existing violations are not remodeled or improved and that the proposed work does not exceed 50% repair/maintenance thresholds - specifically the funicular.

We ask that the Commission find our appeal of this newest exemption to present a 'substantial issue' and to grant our appeal.

Thank you for your consideration,

  
Mark Fudge

  
Sharon Fudge



APPEAL PERIOD ENDS AT 5:00 P.M.

ON 5/2/2022

APPEAL RECEIVED:  YES  NO



RECEIVED  
South Coast Region

APR 18 2022

CALIFORNIA  
COASTAL COMMISSION

### COASTAL DEVELOPMENT PERMIT EXEMPTION NO PERMIT REQUIRED

Date: 04/13/2022

Case No.: BPC-2021-10194

Applicant Name: Marshall Innins

Project Location: 32007 Coast Highway

Project Planner: Michael Delgadillo, Contract Planner

Project Description:

Replacement of all existing doors and windows, replacement of existing decks at main house and garage, repair gutters and downspouts of existing roofs, upper and lower decks, repair of exterior side yard stairway (treads, risers, stair stringers, railing and landing decks), remodel room below garage, repair of existing funicular, removal of wood sliding and replacement with stucco, interior repairs to main house, re-roof, repair driveway deck, replace mech equipment, and replace hardscape Pursuant to Municipal Code Section 25.07.008 (Exemptions), the proposed development is without risk of adverse environmental effect on coastal resources, including public access, and therefore do not require a Coastal Development Permit (CDP) for the reason(s) checked below:

- Appealable
- Non-Appealable

Improvements to Single-Family Homes. The proposed improvements to single-family dwellings and mobilehomes including ancillary structures and landscaping, are not classified as one of the following:

- a) Guest houses and self-contained accessory dwelling units;
- b) Located on a beach, in a wetland or stream, seaward of the mean high tideline, within fifty feet of a coastal bluff edge, in an environmentally sensitive area, and/or in an area designated as highly scenic in the certified Land Use Plan;
- c) Located between the sea and first public roadway paralleling the sea, or within 300' of the inland extent of any beach, whichever is the greater distance and result in any of the following:
  1. An increase of 10% or more of the internal floor area of the existing structure on the building site or an additional increase in floor area bringing the aggregate increase to 10% or more cumulatively over time,
  2. An increase in height of more than 10% of any structure,
  3. The construction, placement or establishment of a detached structure such as a garage, fence, shoreline protective works, or docks;
- d) Expansion or construction of a water well or septic system;
- e) Located in an area which the Coastal Commission has determined to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use including the construction of any major water-using development not essential to residential use.
- f) An original structure that was issued a coastal development permit that indicates that future additions would require a coastal development permit;
- g) An original structure that was issued a CDP that indicates that future improvements would require a CDP.
- h) Significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within 50' of the edge of a coastal bluff or stream, or in areas of natural vegetation or in other environmentally sensitive areas



APPEAL PERIOD ENDS AT 5:00 P.M.

ON

APPEAL RECEIVED:  YES  NO

Repair and Maintenance. The proposed repair and maintenance activities do not result in an addition to, or enlargement or expansion of, the object of such repair and maintenance activities, and are not classified as one of the following:

- a) Repair or maintenance of a sea wall revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work that involves any of the following:
  1. Substantial alteration of the foundation including pilings and other surface and subsurface structures,
  2. The placement, whether temporary or permanent, of rip-rap, or artificial berms of sand or other beach material, or any other form of solid material, on a beach or in coastal waters, streams, wetlands, estuaries and lakes, or on shoreline protective works,
  3. The replacement of 20% or more of the materials of an existing structure with materials of a different kind,
  4. The presence, whether temporary or permanent, of mechanized construction equipment or materials on any sand area or bluff or environmentally sensitive area or within 20' of coastal waters or streams;
- b) Replacement of 20% or more of a sea wall revetment, bluff retaining wall, breakwater, groin, or similar protective work under one ownership, unless destroyed by natural disaster;
- c) Any method of routine maintenance dredging that involves:
  1. The dredging of 100,000 cubic yards or more within a 12 month period; or in
  2. The placement of dredge spoils of any quantity within an environmentally sensitive area, or any sand area, within 50' of the edge of a coastal bluff or environmentally sensitive area, or within 20' of coastal waters or streams; or
  3. The removal, sale, or disposal of dredge spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use;
- d) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive area, any sand area, within 50' of the edge of a coastal bluff or environmentally sensitive area; or within 20' of any coastal waters or streams that include:
  1. The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials,
  2. The presence, whether temporary or permanent, of mechanized equipment (excluding small hand tools, such as power saws, hand drills, nail guns) or outdoor storage of construction materials within the areas identified above in this subsection;

Please be advised that only the project described above is exempt from the permit requirements of the certified Local Coastal Program for Laguna Beach. Any change in the project may cause it to lose its exempt status. This certification is based on information provided by the project applicant. If any of the submitted information is found to be incorrect or incomplete, this exemption will become invalid, and any development occurring at that time must cease until a Coastal Development Permit is obtained.

Exemption determinations are appealable to the Coastal Commission by the applicant or any person who, in person or through a representative, informed the City of the nature of his or her concerns or who for good cause was unable to do either. The appeal shall be filed within 10 working days from the date of the Coastal Commission receipt and filing of a complete record of exemption. The grounds for appeal to the Commission shall be limited to an allegation that the development is not exempt as set forth above.

Director of Planning  
City of Laguna Beach  
505 Forest Avenue  
Laguna Beach, CA. 92651

Community Development Department  
City of Laguna Beach  
(949) 497-0712

California Coastal Commission  
A-5-LGB-22-0017