

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



Th15b

5-19-0909-A1 (SANSON)
AUGUST 11, 2022

EXHIBITS

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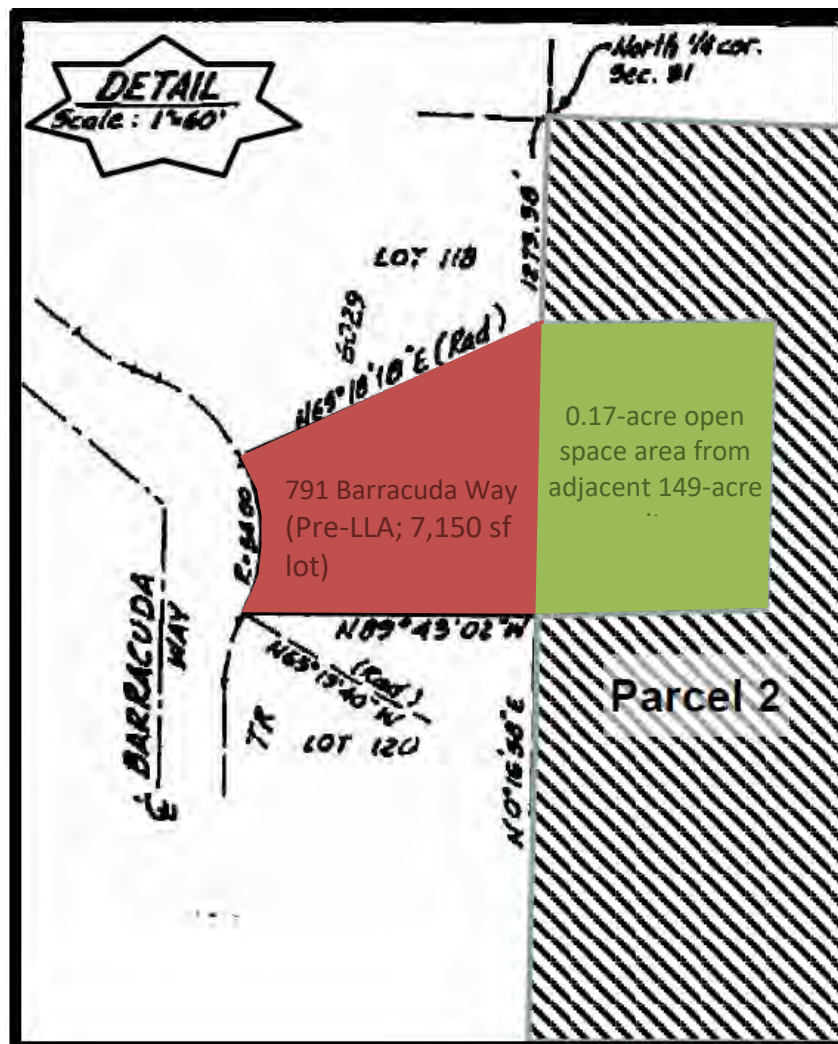
Exhibit 1 – Project Location/Site

Exhibit 2 – Project/Revegetation Plan

Exhibit 3 – Technical Memorandum prepared by Glenn Lukos Associates dated January 10, 2020.

Exhibit 4 – Settlement Agreement (*Sanson v. California Coastal Commission*, Orange County Superior Court Case No. 30-2020-01140041-CU-WM-CXC)

Project Sites: 791 Barracuda Way (APN# 656-035-03), Laguna Beach (Orange County)









RECEIVED
South Coast Region

MAY 12 2022

CALIFORNIA
COASTAL COMMISSION

PLANTING LEGEND: NON-INVASIVE EXISTING
TO REMAIN

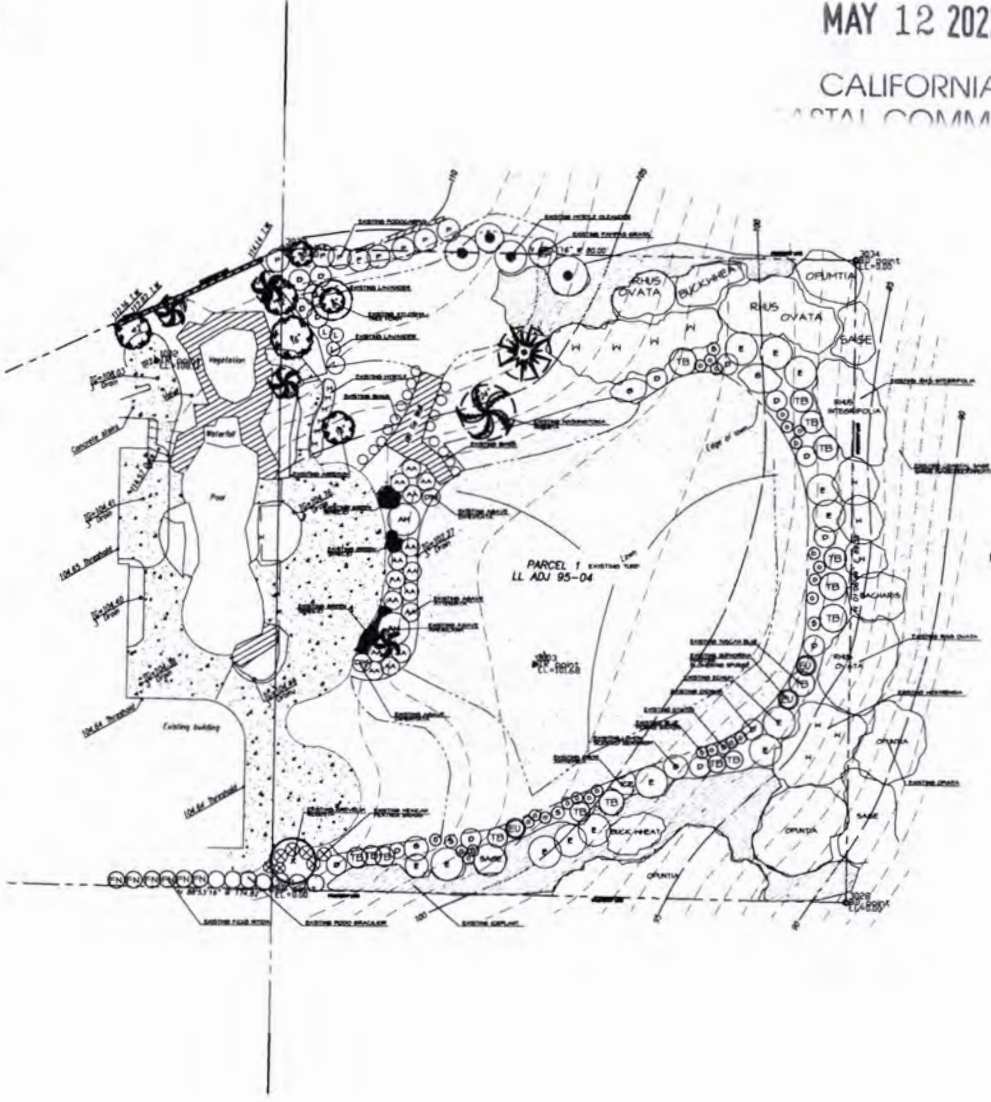
SYM	NAME	COMMENTS
1	AGAVE ATTENUATA -PORTAL AGAVE	
2	AGAVE DESMETIANA -CHAMP AGAVE	
3	AGAVE AMERICANA -CENTURY PLANT	
4	ARISTIDA INEQUA -STRAWBERRY TREE	
5	BULBS JAPONICA -BONNOD	
6	NA	
7	NA	
8	DIOSMA XISA -WHITE BREATHE OF HEAVEN	
9	NA	
10	EUPHORBIA MARTINI -FLOWERING SPURGE	
11	FICUS NITIDA -MIRCA	
12	LAKESIDE ROSEMARY -GRAPE HYDRATE	
13	LAURELIA PROVENCE -LAVANDER	
14	LEMON CASSIA -LEMON SCENTED GERANIUM	
15	HYDRUS COHENS -HYDRATE	
16	NA	
17	NA	
18	OPUNTIA -PRICKLY PEAR	
19	FINIS WILDERPUS -ALBINO PINE	
20	PODOLARIS BRACLORE -JOSH PINE	
21	RUS OVATA -SUGAR BUSH	
22	RUS INTERPOLA -LIPONAGE SHAG	
23	ROSEMARINUS O. TUSCAN BLUE -TUSCAN BLUE ROSEMARY	
24	SAGEFALVIA -SAGEFALVIA HX	
25	SENECIO ARDEN -GREEN SENECIO	
26	SELEBRIA CARULEA -BLUE HOOR GRASS	
27	NA	
28	TURP -PARATHON E	
29	NA	
30	HESTRONIA PRUTIOSA -COAST ROSEMARY	
31	KYLOSIA CONESTUM -KYLOSIA	

PLANTING LEGEND: REMOVAL LIST

SYM	NAME	COMMENTS
1	CORTADERIA SELLOANA -PAMPAS GRASS	
2	CARPONOTUS EDLIS -HOTTERBOTHING ICEPLANT	
3	ECOSH CANTICAND -PRIDE OF MADRERA	
4	LEONARD PEREZI -SEA LAVANDER	
5	WASSILLA TENROGIA -MEXICAN PEANER GRASS	
6	NEUSUM OLANDEE -OLANDER	
7	HAWKSTONIA ROBERTA -MEXICAN PINE PALM	

PLANTING LEGEND: EXISTING

SYM	NAME	COMMENTS	SYM	NAME	COMMENTS
1	AGAVE ATTENUATA -PORTAL AGAVE		1	AGAVE ATTENUATA -PORTAL AGAVE	
2	AGAVE DESMETIANA -CHAMP AGAVE		2	AGAVE DESMETIANA -CHAMP AGAVE	
3	AGAVE AMERICANA -CENTURY PLANT		3	AGAVE AMERICANA -CENTURY PLANT	
4	ARISTIDA INEQUA -STRAWBERRY TREE		4	ARISTIDA INEQUA -STRAWBERRY TREE	
5	BULBS JAPONICA -BONNOD		5	BULBS JAPONICA -BONNOD	
6	CARPONOTUS EDLIS -HOTTERBOTHING ICEPLANT	REMOVE AND REPLACE W/ GRASSING HORIZONTALS	6	CARPONOTUS EDLIS -HOTTERBOTHING ICEPLANT	
7	CORTADERIA SELLOANA -PAMPAS GRASS	TO BE REMOVED AND REPLACED WITH NATIVE PLANTING (SEE SHEET 2)	7	CORTADERIA SELLOANA -PAMPAS GRASS	
8	DIOSMA XISA -WHITE BREATHE OF HEAVEN		8	DIOSMA XISA -WHITE BREATHE OF HEAVEN	
9	ECOSH CANTICAND -PRIDE OF MADRERA	TO BE REMOVED AND REPLACED WITH NATIVE PLANTING (SEE SHEET 2)	9	ECOSH CANTICAND -PRIDE OF MADRERA	
10	EUPHORBIA MARTINI -FLOWERING SPURGE		10	EUPHORBIA MARTINI -FLOWERING SPURGE	
11	FICUS NITIDA -MIRCA		11	FICUS NITIDA -MIRCA	
12	LAKESIDE ROSEMARY -GRAPE HYDRATE		12	LAKESIDE ROSEMARY -GRAPE HYDRATE	
13	LAURELIA PROVENCE -LAVANDER		13	LAURELIA PROVENCE -LAVANDER	
14	LEMON CASSIA -LEMON SCENTED GERANIUM		14	LEMON CASSIA -LEMON SCENTED GERANIUM	
15	HYDRUS COHENS -HYDRATE		15	HYDRUS COHENS -HYDRATE	
16	NA		16	WASSILLA TENROGIA -MEXICAN PEANER GRASS	TO BE REMOVED AND REPLACED WITH NATIVE PLANTING (SEE SHEET 2)
17	NA		17	NEUSUM OLANDEE -OLANDER	
18	OPUNTIA -PRICKLY PEAR		18	OPUNTIA -PRICKLY PEAR	
19	FINIS WILDERPUS -ALBINO PINE		19	FINIS WILDERPUS -ALBINO PINE	
20	PODOLARIS BRACLORE -JOSH PINE		20	PODOLARIS BRACLORE -JOSH PINE	
21	RUS OVATA -SUGAR BUSH		21	RUS OVATA -SUGAR BUSH	
22	RUS INTERPOLA -LIPONAGE SHAG		22	RUS INTERPOLA -LIPONAGE SHAG	
23	ROSEMARINUS O. TUSCAN BLUE -TUSCAN BLUE ROSEMARY		23	ROSEMARINUS O. TUSCAN BLUE -TUSCAN BLUE ROSEMARY	
24	SAGEFALVIA -SAGEFALVIA HX		24	SAGEFALVIA -SAGEFALVIA HX	
25	SENECIO ARDEN -GREEN SENECIO		25	SENECIO ARDEN -GREEN SENECIO	
26	SELEBRIA CARULEA -BLUE HOOR GRASS		26	SELEBRIA CARULEA -BLUE HOOR GRASS	
27	NA		27	SELEBRIA CARULEA -BLUE HOOR GRASS	TO BE REMOVED AND REPLACED WITH NATIVE PLANTING (SEE SHEET 2)
28	TURP -PARATHON E		28	TURP -PARATHON E	
29	NA		29	HAWKSTONIA ROBERTA -MEXICAN PINE PALM	TO BE REMOVED AND REPLACED WITH NATIVE PLANTING (SEE SHEET 2)
30	HESTRONIA PRUTIOSA -COAST ROSEMARY		30	HESTRONIA PRUTIOSA -COAST ROSEMARY	
31	KYLOSIA CONESTUM -KYLOSIA		31	KYLOSIA CONESTUM -KYLOSIA	TREE FORM



REVISED 3/5/20

4

DATE: 6-13-06

BY: 2-22-22

SCALE: 1"=1'-0"

PROJECT: BARRACUDA RESIDENCE

LOT 14 PARCEL 1 (LL ADU 95-04)

AS BUILT PLANTING PLAN

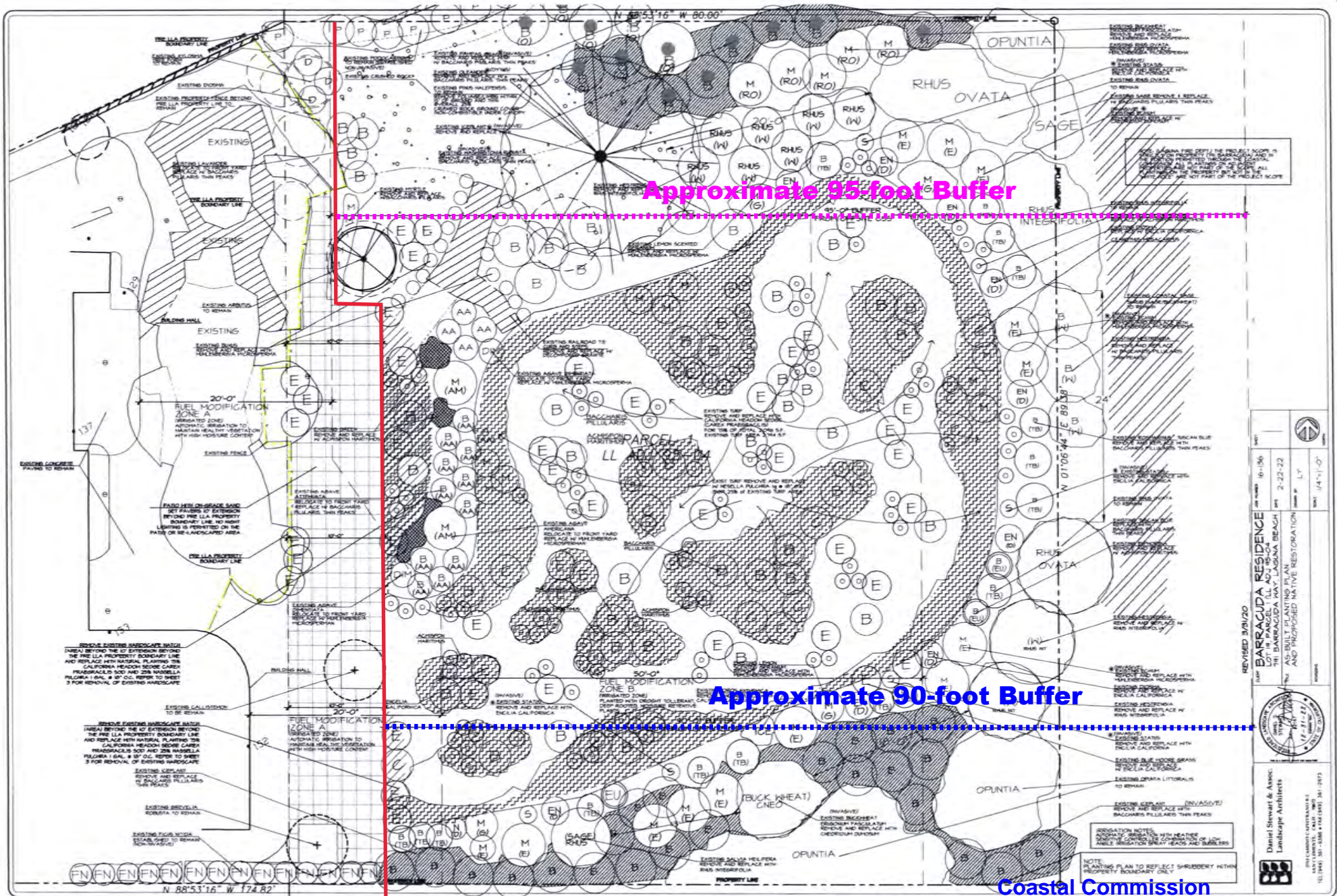
AND EXISTING NATIVE RESTORATION



Daniel Stewart & Associates
Landscape Architects

1001 CANAL STREET, SUITE 202
SAN CLEMENTE, CALIF. 92673
TEL (949) 397-2000 • FAX (949) 397-2073

Approximate Buffer Line



Coastal Commission

Exhibit 2
Page 2 of 4

REVISED 3/31/20

BARRACUDA RESIDENCE

LOT 11, PARCEL 1, FULL ADJ. BEACH BEACH

2-22-22

LANDSCAPE ARCHITECTURE

AND BUILT PLANTING PLAN

AND PROPOSED NATIVE RESTORATION

DATE: 10-10-19

SCALE: 1" = 10'-0"

PROJECT: 19-01-01

DESIGNER: Daniel Stewart & Assoc.

LANDSCAPE ARCHITECTS

1000 S. GARDEN STREET, SUITE 100

LOS ANGELES, CALIF. 90015

TEL: (213) 301-1000 FAX: (213) 301-1005

Coastal Commission

95'-0" BUFFER FROM OFFSITE CSS

NO⁺-O⁻ BUFFER FROM DI-H₂NTE (5.56)

2753 C ABAHINI C ALFIREHANI B. J
S.A.N. C L E B A H I N I, B. C A L F I R E H A N I
TEL. (0443) 561-0300 * P.A.S. (0443) 561-21

NOTE:
PLANTING PLAN TO REFLECT SHRUBBERY WITHIN
PROPERTY BOUNDARY ONLY.

PROJECT NUMBER: 04760021PALI

TO: Jacqueline Sanson

FROM: Tony Bomkamp

DATE: January 10, 2020

SUBJECT: Buffer Analysis Associated with Lot Line Adjustment for 791 Barracuda Way, Laguna Beach

At your request, on December 26, 2019, I conducted an evaluation of the biological resources associated with the rear yard and adjacent area of your residence on Barracuda Way, in Laguna Beach. I understand the property is the subject of review by the California Coastal Commission (“CCC”) associated with Lot Line Adjustment (“LLA”) previously approved by the City of Laguna Beach (“City”). The purpose of the evaluation was to determine the appropriate buffer from areas of native vegetation proposed in the Landscape Plan (October 30, 2018), prepared by Daniel Stewart and Associates in connection with your application. During the site visit, the limits of undisturbed native vegetation, consisting of coastal sage scrub dominated by California sagebrush (*Artemisia californica*) Shrubland Alliance (G5 S5) were mapped using sub-meter GPS Technology. I also reviewed the Memorandum (November 26, 2019) prepared by Jonna D. Engel, Ph.D., Senior Ecologist for the Coastal Commission. The Memorandum referenced and discussed a Biological Technical Report for Proposed Fuel Modification Zones 10 (upper) and 11 Laguna Beach, which I prepared for the Laguna Beach Fire Department.

SETTING

The area subject to the LLA is depicted on Exhibit 1, which also depicts the limits of undisturbed California sagebrush, just beyond and east of the existing Fuel Modification Zone (“FMZ”) 10. The LLA area covers approximately 7,200 square feet (0.165 acre) and is wholly encompassed within the City’s FMZ 10, which is also depicted on Exhibit 1 and which extends an additional approximately 14 feet beyond the LLA area to the east. Exhibit 1 also depicts specific zones within FMZ 10 that includes Zone A, the outer edge is depicted by an orange line just east of the lot line as well as Zone B which includes the area between the orange line and green line on Exhibit 1. Zone B is an irrigated zone in accordance with City of Laguna Beach Fire Department requirements, which also require maintenance, that includes removal of non-native and undesirable plants in conjunction with spacing and grouping of shrubs detailed in the Landscape Plan prepared for your property. Eastward of Zone B is Zone C, which requires 50-percent thinning and selective removal of certain shrubs and is subject to the provisions of the City’s

proscribed treatment for its FMZs. Areas immediately to the south and north of the LLA area are fully encompassed within FMZ 10, these areas are actively subject to brush removal and thinning. The areas adjacent to the residence to the south within FMZ 10 are disturbed and largely lacking any native vegetation, while areas to the north behind the adjacent residence support a mix of native and non-native vegetation with native shrubs such as California sagebrush thinned to 50-percent in compliance with the City's FMZ requirements.

The existing vegetation within the LLA area is depicted on Exhibit 2, which is a close-up and more detailed version of the vegetation map provided in Dr. Engel's memo as Figure 2.¹ Existing vegetation includes consists of a predominance of turf and other ornamental species, including various species of agave (*Agave* spp.), invasive hottentot fig (*Carpobrotus edulis*), invasive pampas grass (*Cortedaria selloana*), pride of Madeira (*Echium fastuosum*), fern pine (*Podocarpus gracilior*), coast rosemary (*Westrengia fruticosa*), and invasive Mexican fan palm (*Washingtonia robusta*). Working with Coastal Staff, however, you have proposed to replace the turf and non-native species with a native scrub and native grassland plant palette. Specifically, as noted, your proposed Landscape Plan for the LLA area has been previously reviewed and approved by the Coastal Commission Staff, and it is important to note that the area of replacement plantings includes the entire Fuel Modification Zone B as well as a limited portion of Zone A and a substantial portion of Zone C as depicted on Exhibits 1 and 2.

APPROPRIATE BUFFER WIDTH

Dr. Engel has proposed a 100-foot buffer, but, after reviewing your property, both from on-site, immediately off-site, and within the FMZ 10 area, and having the benefit of GPS and GIS data to delineate habitat areas, I believe for a variety of reasons that a 50-foot buffer from the nearest undisturbed native vegetation is fully sufficient to protect the adjacent biological resources given the conditions and uses of the 0.165-acre area. The 50-foot buffer is depicted on Exhibit 1. The adequacy of the 50-foot buffer is based upon the following factors:

- The presence of the FMZ 10 as currently identified by the City²
- The location of Very High Value Habitat as mapped by GLA for the City in support of its CDP Application for FMZ 10, which is 74 feet from the eastern edge of the LLA area, and would be 102 feet from the proposed 50-foot buffer (Dr. Engel reported on page 2 of

¹ The vegetation mapping prepared for the City was performed as a broad scale and aerial photographs of which Figure 2 in Dr. Engel's memo is only a part. At such scales, it is not always possible to detect differences between certain shrub types such as the ornamental shrubs such as the coast rosemary (*Westrengia fruticosa*), which is essentially indistinguishable from native scrub species on an aerial photograph. Thus, the vegetation depicted on Exhibit 2 is more accurate than the mapping shown on Figure 2 of Dr. Engel's memo.

² Previously, FMZ was more expansive and has been reduced, and the limits of FMZ 10 shown on Exhibit 1 reflect the City's current proposal for FMZ 10.

the memo the distance of the Very High Value Habitat as 50 feet, which is not accurate as it is 74 feet as noted above). Exhibit 3 depicts the actual distances as measured in GIS.

- The location of the nearest special-status plants (big-leaved crown-beard) as mapped by GLA for the City in support of the CDP Application, the closest of which is 107 feet from the LLA area, and there would be 126 feet from the big-leaved crown-beard to the 50-foot buffer as depicted on Exhibit 3;
- The rarity of the closest relatively undisturbed native scrub habitat (California sagebrush scrub – G5 S5) and California sagebrush/California buckwheat scrub (G4 S4), which is 50 feet from the buffer, and which provided the basis for establishment of the buffer;
- The topography to the east of your property, which drops off from the relatively flatter portion of the property to the canyon below, which provides vertical separation which enhances the buffer value for species such as the coastal California gnatcatcher addressed in more detail below;
- The proposed native plant landscaping plan you have proposed within FMZ 10, and specifically FM Zone B, the irrigated, thinning zone on your property, which includes native scrub and grassland species appropriate to the site;
- The Fire Department's pre-approval of your proposed native plant landscaping plan for fuel modification purposes, and the substantially improved post-planting status of this property in contrast to the properties to the north and south, as described above; and
- Proposed uses within the 50-foot buffer area and uses within the remainder of the LLA area, including the replacement of some non-native vegetation in FMZ A with native plants.

Fuel Modification Zone 10

The entire LLA area is encompassed by the City's FMZ 10. The subject residence is located near the northern extent of FMZ 10, which terminates approximately 70 feet to the north, while extending 100s of feet to the south. As noted above, FMZ also extends approximately 14 feet to the east beyond the LLA area. All areas within FMZ 10 are subject to the City's proposed FMZ Treatment Protocols, the application for which has been submitted to the Commission.

Very High Value Habitat

The proposed buffer would provide a minimum setback of 102 feet from areas of "Very High Value Habitat" as mapped by the City of Laguna Beach in support of the CDP for FMZ 10. Thus, the proposed buffer is 102 feet when considered in the context of City defined areas of Environmentally Sensitive Habitat (ESHA). On page 2 of the memo, Dr. Engel indicates that "very high value habitat," including southern maritime chaparral, occurs within approximately 100 feet of the 0.165-acre LLA area. This is clearly incorrect based on Figure 2 of the memo, which shows the nearest southern maritime chaparral approximately 340 feet to the south with areas of coastal sage scrub/maritime chaparral nearly 500 feet to the south.

Special Status Plants

The proposed buffer would provide a minimum setback of 126 feet from the nearest documented special-status plants mapped by the City of Laguna Beach in support of the CDP for FMZ 10. Thus, the proposed buffer is more than 100 feet when considered in the context of City defined areas containing special-status plants.

Status of California Sagebrush Scrub

It is important to note that neither the California sagebrush scrub nor the California sagebrush/California buckwheat scrub are considered special-status vegetation alliances with a State Rankings of S5 and S4 respectively, and are considered “secure” as noted in the descriptor in the California Natural Diversity Database.³ This is consistent with the City’s mapping, which does not identify the area as Very High Value or as High Value.

I note that in her Memorandum, Dr. Engel’s determination that the California sagebrush scrub and California sagebrush/California buckwheat scrub meet the CCC’s definition of ESHA is based on the potential presence of the coastal California gnatcatcher (CAGN). I do not disagree that the CAGN could potentially use areas eastward of the mapped limits of coastal sage scrub. However, based on a number of factors, discussed in the Discussion/Conclusions section below, I believe the proposed 50-foot buffer would be protective of the coastal sage scrub that could potentially be used by the CAGN.

Proposed Uses within the 50-foot Buffer Area and Lot Line Adjustment Area

As noted, you have submitted a detailed Landscape Plan to CCC staff. It is my understanding that the Landscape Plan was reviewed and approved by the City’s Fire Marshall and the City’s Landscape Architect, and the current plan has been revised multiple times to conform to CCC Staff’s requests. The Landscape Plan proposes removal of essentially all non-native plants (with a few allowed exceptions) and replacement of the non-native plants with site-appropriate native shrubs, grasses and sedges.

In addition to selection of site-appropriate native species, the Landscape Plan also was careful to incorporate site-appropriate native species acceptable in both type, height, and spacing that are consistent with the Laguna Beach Fire Department FMZ specifications, which would also allow for the City’s Treatment Protocols excerpted above. Dr. Engel seems to suggest in the final paragraph of the memo (bottom of page 5) that plantings of “fire department approved native coastal sage scrub and southern maritime chaparral habitat species...” should be planted. This is,

³ On page 46 of the Manual of California Vegetation (Second Edition) G4 S4 rankings are described as: “A G4 S4 Alliance may or may not be endemic to the state and is secure statewide”. G5 S5 are noted as “Demonstrably secure” because of statewide abundance.

in fact, what the Landscape Plan achieves, with additional plantings of site appropriate native low-lying native grasses and sedges incorporated in the plant palette to prevent invasion by non-native weeds.

Uses within the 50-foot Buffer Area

Uses within the 50-foot buffer area would be restricted to uses consistent with the FMZ and would include removal of dead and dying vegetation, removal of non-native species, consistent with the City's proposed Treatment Protocols and thinning of native vegetation planted within the 50-foot buffer consistent with the City's proposed Treatment Protocols. This would include establishment of limited areas that would remain vegetation free (i.e., part of the 50-percent area lacking vegetation), like the adjacent area north of your property.

Uses within the Lot Line Adjustment Area Buffer and the Adjacent Area

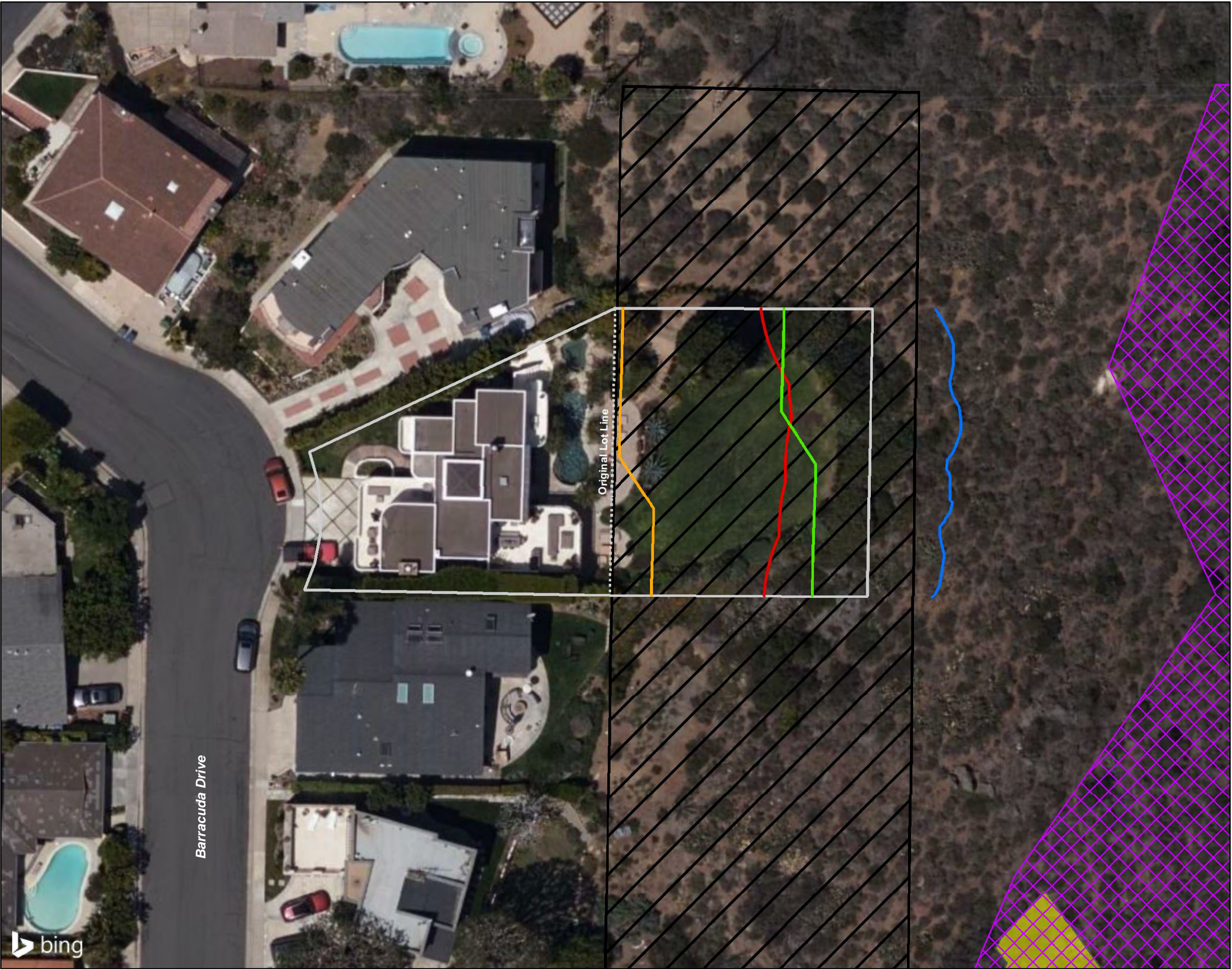
Much of the area within FMZ Zone B, as identified on the approved Landscape Plan, includes removal of non-native species and planting of native shrubs, grasses and sedges. As proposed, uses within the LLA area, and specifically FMZ B, would be limited to low-impact activity including maintenance, as well as a small portion of an on-grade patio in the center of the property. Existing uses such as retention of existing patio area (partially within FMZ B, but largely in FMZ A) would be allowed along with associated uses, including a couple of outdoor lounges. The existing patio areas are approximately 40 feet from the edge of the 50-foot buffer, as depicted on Exhibit 1. Given that most of this area outside the 50-foot buffer will consist of native plantings within FMZ B, this would result in approximately 90 feet of separation between the patio areas and the nearest native habitat.

DISCUSSION/CONCLUSIONS

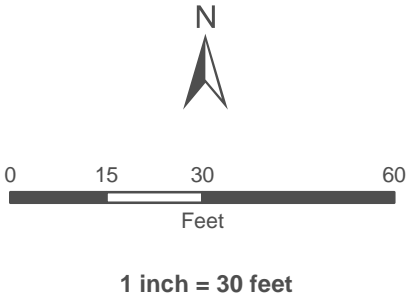
A 50-foot buffer would provide all necessary protections for areas of Very High Value Habitat and special-status plants as this would provide setbacks exceeding 100 feet for these areas. The buffer would also provide adequate protection for areas of native vegetation (e.g., California sagebrush scrub – G5 S5 and California sagebrush/California buckwheat scrub (G4 S4)). In considering the protection provided by the proposed 50-foot buffer, it is worth noting that FMZ Zone B, which is proposed to include site-appropriate native species, extends from the 50-foot buffer toward the residence as depicted on Exhibit 1 resulting in an additional 40 feet of native plantings (mostly in FM Zone B and a limited area of Zone A). This results in an additional approximately 40 feet of native plantings between the residence uses and buffer effectively expanding the proposed 50-foot buffer to an approximately 90-foot buffer.

The 50-foot buffer plus additional native plantings between the 50-foot buffer and the subject patio areas would provide adequate protection for the areas of California sagebrush scrub and California sagebrush/California buckwheat scrub that could be used by the CAGN due to the following factors:

- As noted above, beginning just inside the LLA area along the eastern property boundary, the land slopes away and down from the property, providing vertical separation such that there is a visual barrier that would enhance the buffer values of the Zone B area (within the buffer and house-ward of the buffer);
- The uses within the patio areas would be passive and not disruptive of the habitat values for CAGN should CAGN occur in the California sagebrush scrub or California sagebrush/California buckwheat scrub down the slope from the buffer and Zone B area (within the buffer and house-ward of the buffer).
- As a biologist with many years of experience of working with the CAGN and observing its behavior in areas proximate to development such as FMZ 10, and given the buffer recommendation and additional native planting in FMZ B, it is my professional opinion that there would be no measurable benefit for the CAGN in removing any of the small portion of hardscape associated with the on-grade patio in FMZ B or other existing development features in FMZ A which is typically defined as areas of hardscape within 20 feet of structures, to gain an additional 10 feet of native vegetation.



- Project Site
- Original Lot Line
- Outer Edge of FMZ Zone A (20')
- Outer Edge of FMZ Zone B (50')
- California Sagebrush
- 50' Buffer from California Sagebrush
- FMZ 10
- City of Laguna Beach Very High Value Habitat
- Crownbeard

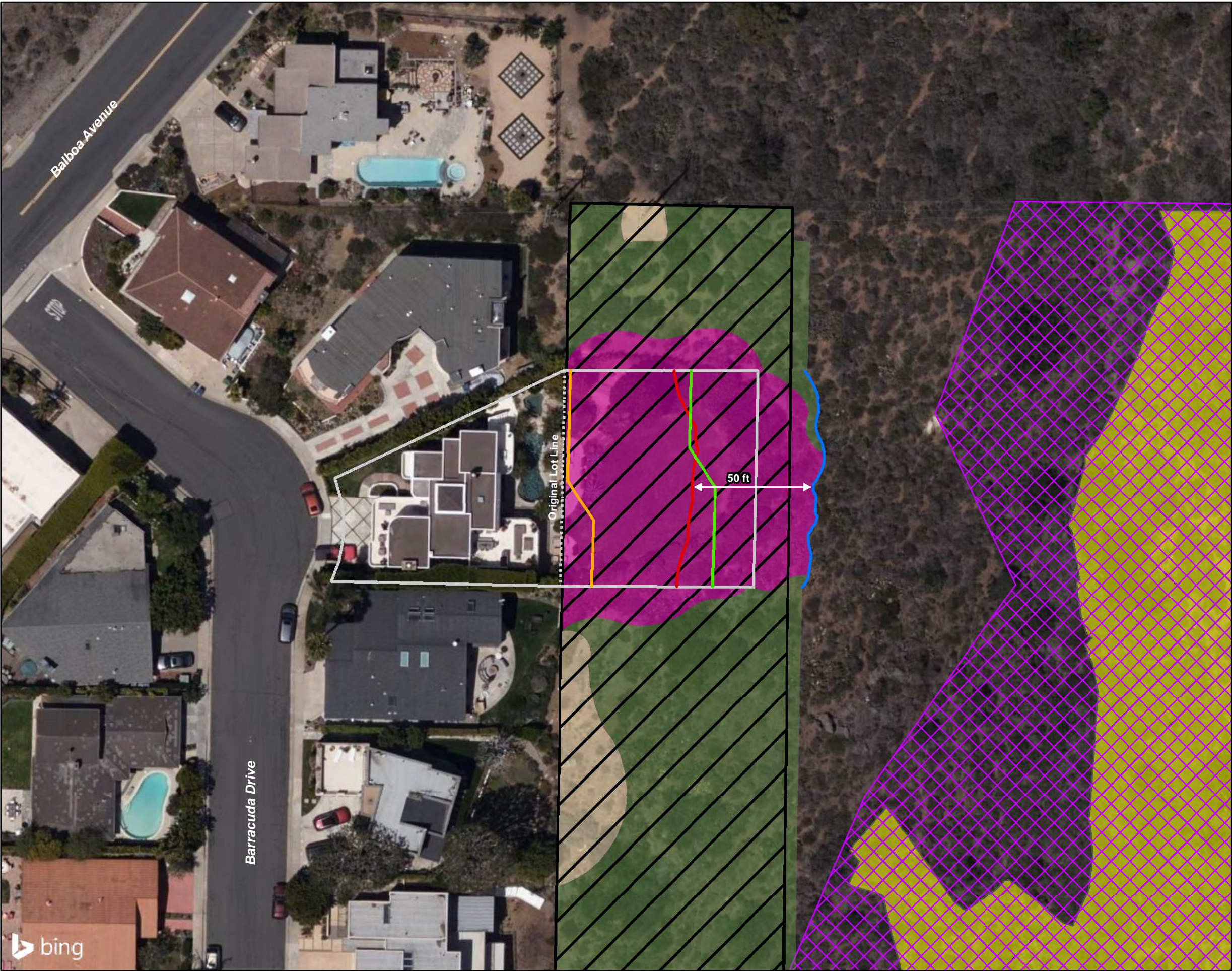


Coordinate System: State Plane 6 NAD 83
Projection: Lambert Conformal Conic
Datum: NAD83
Map Prepared by: B. Gale, GLA
Date Prepared: January 8, 2020

791 BARRACUDA WAY
Buffer Fuel Modification Zone Map

GLENN LUKOS ASSOCIATES

Exhibit 1





Photograph 1: View of transition from ornamental vegetation (*Westrengia fruticosa*) on left and coastal sage on right.



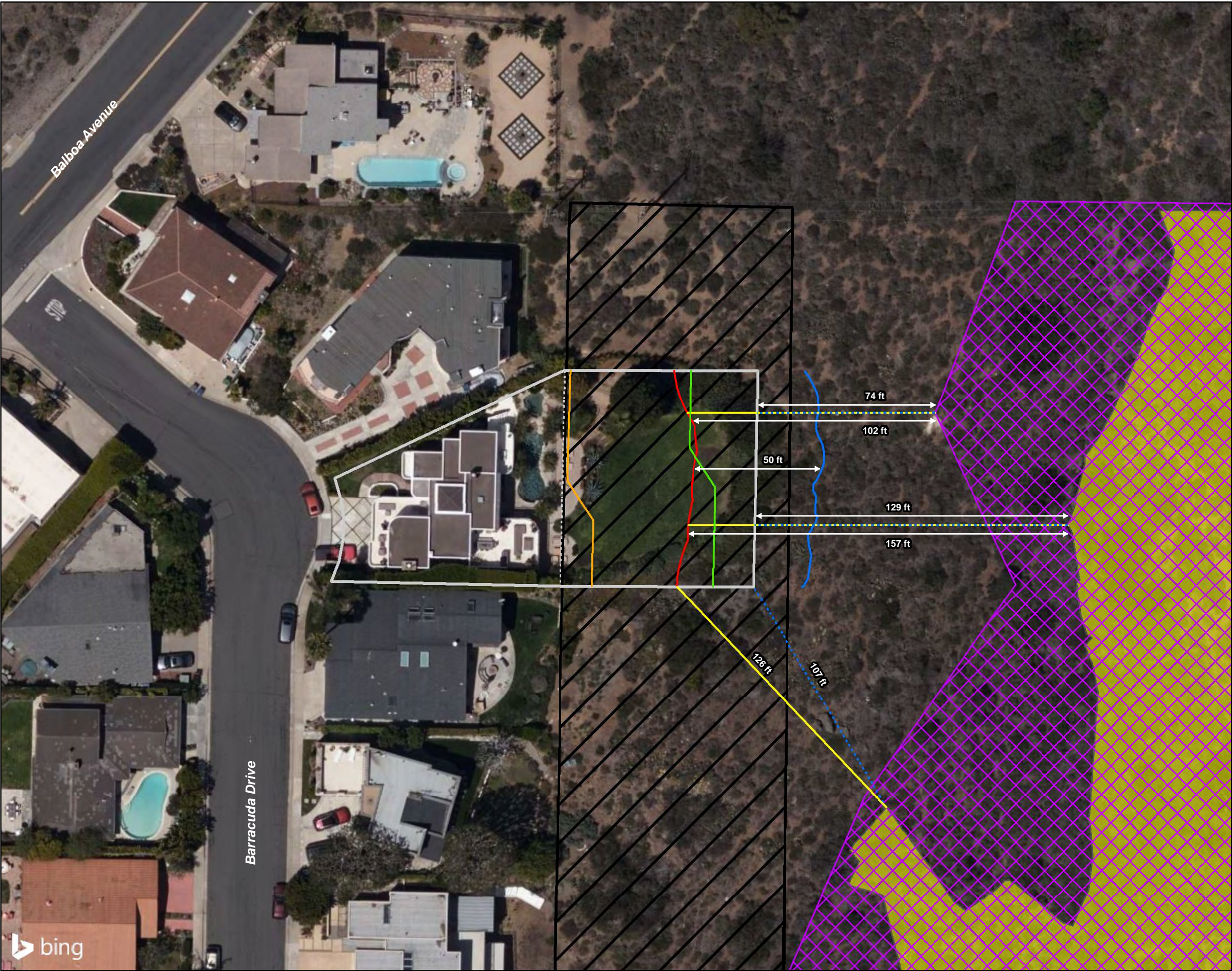
Photograph 2: View of transition from ornamental vegetation (*Westrengia fruticosa*) at edge of transition from ornamental to coastal sage scrub.



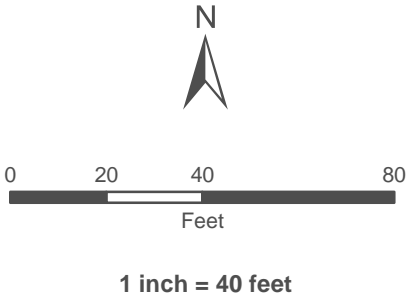
Photograph 3: Typical ornamental vegetation within transition zone between turf and coastal sage scrub including *Westrengia fruticosa*, *Echium fastuosum* and others.



Photograph 4: View of transition from ornamental vegetation (*Westrengia fruticosa*) right foreground at edge of transition from ornamental to coastal sage scrub.



- Project Site
- Original Lot Line
- Outer Edge of FMZ Zone A (20')
- Outer Edge of FMZ Zone B (50')
- California Sagebrush
- 50' Buffer from California Sagebrush
- FMZ 10
- City of Laguna Beach Very High Value Habitat
- Crownbeard
- Distance to Parcel Edge
- Distance to 50' Buffer



Coordinate System: State Plane 6 NAD 83
Projection: Lambert Conformal Conic
Datum: NAD83
Map Prepared by: B. Gale, GLA
Date Prepared: January 8, 2020

791 BARRACUDA WAY

Buffer Widths

GLENN LUKOS ASSOCIATES



Exhibit 4

FINAL SETTLEMENT AGREEMENT

Jacqueline Sanson v. California Coastal Commission
(Orange County Superior Court Case No. 30-2020-01140041-CU-WM-CXC)

This Settlement Agreement (Agreement) is between Jacqueline Sanson and the California Coastal Commission. Ms. Sanson sued the Commission in *Sanson v. California Coastal Commission* Orange County Superior Court Case No. 30-2020-01140041-CU-WM-CXC. The parties desire to resolve that litigation and have agreed to the following settlement. The Commission agreed to this settlement in a duly-noticed closed session in May 2021.

RECITALS

A. On February 13, 2020, the Commission conditionally approved a consolidated coastal development permit (CDP), CDP Number 5-19-0909, for Ms. Sanson's property located at 791 Barracuda Way, Laguna Beach, California.

B. The CDP authorized after-the-fact approval of a lot line adjustment between Ms. Sanson's property and an adjacent parcel and required removal of non-native vegetation, replanting with native vegetation, removal of previously unpermitted development, and recordation of an open space/conservation deed restriction.

C. Ms. Sanson objected to some of the conditions the Commission imposed and filed a lawsuit on May 26, 2020, challenging those conditions. (*Sanson v. California Coastal Commission* Orange County Superior Court Case No. 30-2020-01140041-CU-WM-CXC) (this "Lawsuit").

D. After engaging in settlement discussions, the parties agreed to resolve this litigation.

AGREEMENT

In consideration of the mutual promises and covenants made in this Agreement, the parties agree as follows:

1. Ms. Sanson will apply to the Commission for an amendment to the current CDP to permit retention of portions of an on-grade patio and a small amount of pool fencing as generally depicted on the attachment to this Agreement. The amendment will include removal of any unpermitted remaining portions of the patio and fencing.

2. The ESHA buffer required in Special Condition One of the CDP will be modified to provide a 90-foot buffer at the southern portion of the property and a 95-foot buffer at the northern end of the property, where the 90-foot buffer extends slightly north of the halfway point (as depicted in the attachment to this Agreement) to allow Ms. Sanson to retain some additional patio area, as well as a small portion of the wrought iron fence at the northern portion of the property within the 95-foot buffer area. The attachment is provided solely to illustrate the buffers and the portions of the patio and fencing sought to be retained and any remaining portions of the patio and fencing to be removed.

3. Night lighting on the patio will be prohibited;
4. The amendment will include submittal of a revised landscaping plan that provides for additional native or drought-tolerant non-native plants in the 0.17-acre area as required by Special Condition 2 of the CDP, except for the allowed patio and the area used for fencing;
5. Ms. Sanson will submit, and Commission staff will file, a CDP amendment application consistent with this settlement agreement and Ms. Sanson will pay the filing fee for the permit amendment in addition to the filing fee required by the Commission-approved CDP;
6. Staff will recommend approval, without conditions beyond approval of the fencing and patio outside of the agreed-on ESHA buffer, night lighting, a revised landscaping plan, and conformance with the original conditions of approval;
7. The Commission will hold a public hearing on the CDP amendment within the time-frame allowed by the Permit Streamlining Act;
8. The parties will cooperate in continuing the case management conference(s) or a stay to facilitate the Commission's hearing of the amendment application;
9. The Commission will defer preparation of the administrative record and will maintain Ms. Sanson's place in the Commission's administrative record queue in the place she is currently in the event this Lawsuit is not dismissed;
10. Within 20 calendar days of the Commission's approval of the CDP amendment, Ms. Sanson will dismiss the lawsuit (*Sanson v. California Coastal Commission* Orange County Superior Court Case No. 30-2020-01140041-CU-WM-CXC) with prejudice if the CDP amendment is approved by the Commission in substantial conformance with this Agreement, including any modifications to the conditions accepted by Ms. Sanson in writing or orally at the hearing on the CDP amendment. Ms. Sanson agrees that the Commission, its agents, officers, and employees are released from all claims that Ms. Sanson has raised or could raise in Orange County Superior Court Case No. 30-2020-01140041-CU-WM-CXC with respect to the Commission's February 2020 approval of CDP No. 5-19-0909. Ms. Sanson also waives any and all rights to file a lawsuit challenging the Commission's approval of a CDP amendment or any conditions imposed on the CDP as set forth in this Agreement or that Ms. Sanson may accept in writing or verbally at the Commission hearing;
11. If the case is dismissed, the Commission will refund Ms. Sanson's prior payment for the administrative record less costs incurred as of May 6, 2021; otherwise the parties will bear their own respective attorney's fees and costs of litigation;
12. If the CDP amendment is denied or approved with different conditions that are not in substantial conformance with this Agreement, the Commission's proceedings will not be used in connection with the Lawsuit; and
13. The Commission retains full discretion as allowed by law to approve or deny the permit amendment at the future public hearing.

14. Ms. Sanson and the Commission represent that they have consulted or have had the opportunity to consult legal counsel prior to the execution of this Agreement and have executed this Agreement with full knowledge of its meaning and effect.

15. Ms. Sanson and the Commission agree that the terms, conditions, and provisions of this Agreement are binding upon, and shall inure to the benefit of, all assigns and successors-in-interest.

16. Except as otherwise provided in this Agreement, this Agreement constitutes the entire and only agreement between Ms. Sanson and the Commission with reference to its subject matters and supersedes any prior representation or agreement, oral or written, with respect to its subject matters. Ms. Sanson and the Commission further agree that no representation, warranty, agreement or covenant has been made with regard to this Agreement, except as expressly recited in this Agreement and that in entering into this Agreement, no party is relying upon any representation, warranty, agreement, or covenant not expressly set forth in this Agreement.

17. Ms. Sanson and the Commission agree that this Agreement is made in compromise of disputed claims and that by entering into and performing the obligations of this Agreement, no party concedes or admits the truth of any claim or any fact and the execution and performance of this Agreement shall not be construed as an admission.

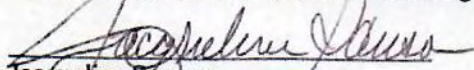
18. This Agreement shall be construed, enforced, and governed by the laws of the State of California, and shall constitute a binding settlement by the parties which may be enforced under the provisions of the California Code of Civil Procedure.

19. Ms. Sanson and the Commission represent that this Agreement was mutually drafted and agree that this Agreement shall not be construed in favor of, or against, any party by reason of the extent to which any party or their counsel participated in the drafting of this Agreement.

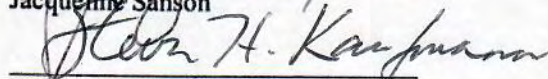
20. This Agreement may only be amended by a writing signed by each signatory to this Agreement.

21. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same Agreement. Facsimile or PDF signatures will have the same force and effect as original signatures.

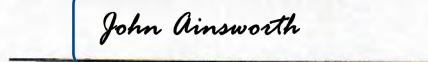
22. Ms. Sanson and the Commission represent and warrant that they have full and complete authority to execute this Agreement and that they have not assigned or transferred (voluntarily, involuntarily, or by operation of law), to any person or entity, any right, title, or interest in any claim released and discharged.


Jacqueline Sanson


Dated: 11-4-21


Steven H. Kaufmann
Counsel for Jacqueline Sanson

Dated: 11-4-21


John Ainsworth
020ACF9D159C473
Jack Ainsworth, Executive Director
California Coastal Commission

Dated: 11/05/2021


Jamee Jordan Patterson
Supervising Deputy Attorney General
Counsel for California Coastal Commission

Dated: Nov. 3, 2021

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