

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD., SUITE 300
LONG BEACH, CALIFORNIA 90802-4830
(562) 590-5071 FAX (562) 590-5084
WWW.COASTAL.CA.GOV



TH11

UPDATED January 31, 2023 (for the February 09, 2023 Hearing)

To: Commissioners and Interested Parties
From: Karl Schwing, South Coast District Deputy Director
Subject: South Coast District Deputy Director's Report for Orange County for February 2023

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, Executive Director Concurrence, and emergency CDPs for the South Coast District Office are being reported to the Commission on February 09, 2023. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's South Coast District Office in Long Beach. Staff is asking for the Commission's concurrence on the items in the South Coast District Deputy Director's report, and will report any objections received and any other relevant information on these items to the Commission when it considers the report on February 9th.

With respect to the February 9th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on February 09, 2023 (see attached)

Waivers

- 5-22-0548-W, Frank Palmer (Huntington Beach)
- 5-22-0886-W, New ADU (San Clemente)
- 5-22-1036-W, Railing Replacement (Huntington Beach)
- 5-22-1056-W, Garage Conversion to ADU (San Clemente)
- 5-23-0075-W, Garage Conversion to ADU (Seal Beach)

Immaterial Extensions

- 5-18-1002-E3, Humboldt Drive Bridge Rehabilitation Project (Humboldt Drive Bridgeover Short Channel (Bridge #55C-0284). Humboldt Drive Between Wayfarer Lane And Wimbledon Lane.)
- 5-18-1003-E3, Admiralty Drive Bridge Rehabilitation Project (The Project Includes Repair And Rehabilitation On The Existing Admiralty Drive Bridge Over Queen Elizabeth Passage (Bridge #55C-0282))

Emergency Permits

- G-5-22-0039, (Caltrans Crystal Cove State Route 1 Slope Stabilization, Orange County)
- G-5-23-0013, Pearl Stairs Repair (Laguna Beach)
- G-5-23-0014, 297 Crescent Bay Wall and Slope Failure (Laguna Beach)

Executive Director Concurrence

- LCP-5-NPB-21-0036-1 Part D

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January 23, 2023

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 5-22-0548-W

Applicant: Frank Palmer

Location: 4101 Morning Star Dr, Huntington Beach, Orange County (APN: 178-391-21)

Proposed Development: Remove and replace existing 360 sq. ft. floating dock like for like. Existing 3-ft. x 18-ft. gangway and two (2) existing 14-in. guide piles to remain.

Rationale: The proposed dock system is located in Huntington Harbour in the City of Huntington Beach in the Commission's area of original jurisdiction. The proposed dock system is associated with the single-family residence at 4101 Morning Star Drive and is intended for recreational boat use only. The applicant proposes to remove and replace the existing dock like for like. The project would not result in ground disturbance, additional fill, or additional overwater coverage. The project does not extend beyond the City's pierhead line. The project application includes a list of best management practices the applicant will carry out during and after construction to avoid adverse effects to marine resources. Currently, the City of Huntington Beach does not have a dock float and pier lease program for the limited-term private use and occupation of State tidelands for development associated with recreational boating activities (i.e. private docks and piers). Should the City of Huntington Beach implement an overwater development, dock float and pier lease program the applicant shall provide mitigation in the form of a lease fee to the City. The applicants submitted a pre-construction eelgrass survey conducted on March 30, 2022, and no eelgrass was detected within the project site. The project has been approved by the City of Huntington Beach Department of Public Works on April 7, 2022, and is consistent with the Huntington Beach certified

Coastal Development Permit De Minimis Waiver
5-22-0548

LCP, previous Commission actions in the area, and the Chapter 3 policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its **February 8-10, 2023** meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Dr. Kate Huckelbridge
Executive Director

Emily Greer
Coastal Program Analyst

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

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PHONE (562) 590-5071



January 9, 2023

**Coastal Development Permit De Minimis Waiver
Coastal Act Section 30624.7**

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 5-22-0886-W**Applicant:** Antoine Price**Location:** 135 Avenida Florencia, San Clemente, Orange County (APN: 692-361-16)

Proposed Development: Demolition of an existing shed and construction of a detached 573 sq. ft. Accessory Dwelling Unit (ADU) with a 220 sq. ft. covered patio. The project site consists of an existing 1,746 sq. ft. two-story single-family residence and a 420 sq. ft. garage. Two existing parking spaces will be retained on site.

Rationale: The project site is located on a developed 5,995 sq. ft. lot located approximately 1/4 mile inland of the ocean, landward of the first public road parallel to the sea, and in an urbanized residential neighborhood. The lot is designated Residential Medium Density (RM) by the City's certified LUP and the proposed project conforms to the permitted uses and development standards for the RM land use. Adequate measures to address water quality have been incorporated into the design and construction of the project. Additionally, the proposed project will not prejudice the City's ability to prepare a certified Local Coastal Program and is consistent with the designation in the City's certified Land Use Plan, previous Commission action in the area, and Chapter 3 policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its **February 8-10, 2023** meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Dr. Kate Huckelbridge
Executive Director

Emily Greer
Coastal Program Analyst

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January 23, 2023

Coastal Development Permit Waiver Improvements to Existing Structures or Repair and Maintenance Coastal Act Section 30610

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13250(c), Section 13252(e), or Section 13253(c), Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 5-22-1036-W

Applicant: Han Family Investments LP, (Attn: Doreen Han)

Location: 16363 Wimbledon Ln, Huntington Beach, Orange County (APN: 178-601-29)

Proposed Development: Replace five (5) damaged 4-in. x 4-in., 7 ft. tall wooden posts and a 7 ft. tall, 5 ft. 6 in. long glass railing on an existing cantilevered deck.

Rationale: The project site is located on a developed 1,800 sq. ft. harbor-fronting lot located seaward of the first public road parallel to the beach. The lot is within a developed residential neighborhood and is designated Residential Low Density (RL) by the City's certified LUP. Although the City of Huntington Beach has a certified LCP, the cantilevered deck is located over Huntington Harbor, and is thus located within the Commission's retained jurisdiction. The proposed project scope is limited to the replacement of a glass railing and posts; the cantilevered deck will not be enlarged. The applicant proposes to use standard construction Best Management Practices (BMP's) to protect water quality onsite. Tempered bird safe glass will be used for the replacement railing to prevent bird strikes. The proposed project will not have any adverse impacts on visual or coastal resources, public access, or public recreation opportunities. Additionally, the proposed project is consistent with the designation in the City's certified Land Use Plan, previous Commission action in the area, and Chapter 3 policies of the Coastal Act.

Coastal Development Permit Waiver
5-22-1036

This waiver will not become effective until reported to the Commission at its **February 8-10, 2023** meeting. If three (3) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Dr. Kate Huckelbridge
Executive Director

Emily Greer
Coastal Program Analyst

cc: Commissioners/File

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January 23, 2023

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 5-22-1056-W**Applicant:** Mallory Wong**Location:** 238 W Mariposa, San Clemente, Orange County (APN: 692-091-04)

Proposed Development: Convert an existing 2-car garage into a 626 sq. ft. attached accessory dwelling unit, add a new attached 2-car garage, add a new roof deck, enclose existing exterior stairs, and add a new entry for the ADU to an existing 2,815 sq. ft. duplex.

Rationale: The project site is located on a developed 4,226 sq. ft. lot located 700 ft. inland of the ocean, in an urbanized residential neighborhood. The lot is designated Residential Medium (RM) by the City's certified Land Use Plan and the proposed project conforms to the permitted use and development standards for the RM zone. The proposed development will convert an existing 2-car garage into an ADU and provide a new attached 2-car garage, 2 existing driveway spaces will also be retained, resulting in no change in on-site parking. Therefore, the project would not adversely impact public access in the area. Additionally, the proposed project design is compatible with the character of surrounding development, will not prejudice the City's ability to prepare a certified Local Coastal Program and is consistent with the designation in the City's certified Land Use Plan, previous Commission action in the area, and Chapter 3 policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its **February 8-10, 2023** meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Dr. Kate Huckelbridge
Executive Director

Vince Lee
Coastal Program Analyst

cc: File

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January 24, 2023

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 5-23-0075-W**Applicant:** Dale Thayer**Location:** 1101 Ocean Avenue, Seal Beach, Orange County (APN: 199-072-01)

Proposed Development: For the front structure, remodel existing four residential units to create three full residential units, add second floor balconies, and add a new roof deck. For the rear structure, convert two existing attached 1-car garages into one new 404 sq. ft. ADU, internal remodel of existing two residential units to create three full residential units, relocate and rebuild existing stairs attached to the two-story structure in the rear of the property, install pervious pavers to create a new on-site unenclosed private parking space, and restore 10' curb-cut at 11th Street for one additional on-street public parking space.

Rationale: The project site is located on a developed 5,500 square-foot lot located just over 300 feet inland of the public beach, landward of the first public road parallel to the sea, and in an urbanized residential neighborhood. The lot is designated as residential high density in the City of Seal Beach uncertified Zoning Code. The proposal would remove a full residential unit in the front structure and add a full residential unit in the rear structure, resulting in no change in overall density. The existing two detached residential structures onsite (6 units total) provide five one-car garages and two unenclosed tandem parking spaces for a total of 7 parking spaces. The proposal would remove one on-site parking space but would compensate for the loss by restoring an existing curb cut on 11th Street for an additional on-street public parking space. Therefore, the project would not adversely impact public access in the area. Although the project site is not currently sited in a hazardous area, the property may encounter flooding due to sea level rise near the end of the expected lifespan of the development. In response to this issue, the applicant proposes to waterproof the base of the proposed ADU 18" above finished floor elevation, and has acknowledged and agreed that the site may be subject to hazards from flooding and assumed any risks that may result from hazards and flooding in a signed statement. Additionally, the proposed project design is compatible with the character of surrounding development, will not prejudice the City's ability to prepare a certified Local Coastal Program and is consistent with previous Commission action in the area and the Chapter 3 policies of the Coastal Act.

CALIFORNIA COASTAL COMMISSION

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This waiver will not become effective until reported to the Commission at its **February 8-10, 2023** meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Dr. Kate Huckelbridge
Executive Director

Vince Lee
Coastal Program Analyst

cc: File

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(5-18-1002-E3)



NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT AMENDMENT

January 25, 2023

Notice is hereby given that the City of Huntington Beach has applied for a third one year extension of **Coastal Development Permit No. 5-18-1002** granted by the California Coastal Commission on **February 7, 2019** for development consisting of:

Bridge maintenance and repairs including: removal and replacement of the concrete barriers, sidewalks, and bridge deck; cleaning and painting the steel I-girders and other steel members; removal and replacement of unsound concrete and the bridge bents; and widening the 156' long bridge from approximately 35' to approximately 39'.

at: Humboldt Drive Bridge (Bridge No. 55C-0284), over Short Channel in Huntington Harbour, between Wayfarer Lane and Wimbledon Lane, City of Huntington Beach, Orange County

Pursuant to Section 13169 of the Commission Regulations, the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive... and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,

Dr. Kate Huckelbridge
Executive Director

Meg Vaughn
Coastal Program Analyst

cc: Commissioners/File

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(5-18-1003-E3)



NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT AMENDMENT

January 25, 2023

Notice is hereby given that the City of Huntington Beach has applied for a third one year extension of **Coastal Development Permit No. 5-18-1003** granted by the California Coastal Commission on February 7, 2019 for development consisting of:

Bridge repair and rehabilitation including: removal and replacement of the concrete barriers, sidewalks, and bridge deck; cleaning and painting of I-girders and other steel members; and removal and replacement of unsound concrete at bridge piers on the 155' long, 52' wide bridge.

at: Admiralty Drive Bridge (Bridge No. 55C-0282) in Huntington Harbour over Queen Elizabeth Passage between Grimaud Lane and Channel Lane, City of Huntington Beach, Orange County

Pursuant to Section 13169 of the Commission Regulations, the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive... and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,

Dr. Kate Huckelbridge
Executive Director

Meg Vaughn
Coastal Program Analyst

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
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**EMERGENCY COASTAL DEVELOPMENT PERMIT****Emergency CDP G-5-22-0039****(Caltrans Crystal Cove State Route 1 Slope Stabilization,
Orange County)****Issue Date: December 29, 2022**

Permittee: California Department of Transportation (Caltrans)

Emergency Location: State Route 1, post mile 12.07, Orange County

Emergency Description: A failed State Route 1 (SR 1) roadside drainage system has created an eroded gully on the bluff above Crystal Cove State Beach in Orange County. The erosion in the gully has worsened as a result of recent storms events, and currently measures approximately 40 feet-wide, 80 feet-long, and 15 feet-deep. The most recent storms have undermined the SR 1 roadway embankment, asphalt shoulder, and guardrail, creating a threat to a highly traveled essential public facility, and a potential public safety issue for motorists and cyclists.

Emergency Development: Caltrans proposes to stabilize the eroded SR 1 shoulder by installing a backfilled retaining wall system, consisting of six soldier beam piles installed in 30-inch diameter holes, drilled 6 feet apart, to a depth of 30 feet. The proposed 30-foot-long, 15-foot-tall wall, will be installed approximately 7 feet from the edge of pavement. The gully will be backfilled with approximately 90 cubic yards of fill material. Wooden laggings will be installed along the entire length of the wall with steel girders painted to blend with the native bluff formation. The lagging will extend approximately 3 feet into the native intact soils, and 15 feet down into the gully. Outside of the gully, the lagging will be installed to a depth of 2 feet below the grade. A standard cable railing system (type B11-47) will be installed atop the soldier pile wall as a fall prevention measure to ensure pedestrian and worker safety. The damaged Metal Beam Guardrail will be replaced with a new section of Midwest Guardrail System (MGS). The length of MGS will be 206 feet long, with approximately 23 posts. Each 6x8-inch post will be installed 40 inches below grade. The failed 30 foot-long asphalt v-ditch that runs parallel to the roadway shoulder will be replaced once the retaining wall is constructed.

Executive Director's Determination: The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an "emergency" (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this

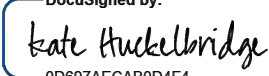
Enclosure: ECDP Acceptance Form

Emergency CDP G-5-22-0039 (State Route 1 Shoulder Repair)

Issue Date: December 29, 2022

ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittee wishes to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.

DocuSigned by:

0D697AECAB0D4F4
Kate Huckelbridge, Senior Deputy Director, for John Ainsworth, Executive Director

Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission's South Coast District Office within 15 days of the date of this ECDP (i.e., by January 20, 2023). This ECDP is not valid unless and until the acceptance form has been received in the South Coast District Office.
2. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form received in the Commission's South Coast District Office on December 21, 2022. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Any other development requires separate authorization from the Executive Director or the Commission, as applicable.
3. The emergency development authorized on a temporary basis by this ECDP must be completed within 100 days of ECDP issuance (i.e., by April 8, 2023).
4. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., California State Parks, Orange County, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
5. By exercising this ECDP, Permittee acknowledges and agrees that: (a) the emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittee adheres to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittee

Emergency CDP G-5-22-0039 (State Route 1 Shoulder Repair)

Issue Date: December 29, 2022

acknowledges that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.

6. By exercising this ECDP, the Permittee acknowledges and agrees in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittee.
7. The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
8. Within 120 days of ECDP issuance (i.e., by April 28, 2023), the Permittee shall either: (a) remove all of the materials placed or installed in connection with the emergency development, and restore all affected areas to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP); or (b) submit a complete application (i.e., satisfying the requirements of Title 14 California Code of Regulations Section 13056) for a regular CDP to authorize the emergency development (or for a different project designed to address the emergency development), including submitting all information and materials requested, and as directed, by Orange County if/when Orange County determines that such application is incomplete. If such regular follow-up CDP application is withdrawn by the Permittee, or is denied by Orange County, or if it remains incomplete for a period of 120 days after Orange County informs the Permittee that the application is incomplete, then all of the materials placed and/or installed in connection with the emergency development shall be removed, and all affected areas shall be restored to their prior condition or better, all subject to Orange County review and approval (and, in some cases, if directed by Orange County, subject to a regular CDP).

Emergency CDP G-5-22-0039 (State Route 1 Shoulder Repair)

Issue Date: December 29, 2022

9. Failure to meet any of the applicable requirements of Condition 8 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittee's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.
10. All emergency development shall be limited to the least amount necessary to temporarily abate the emergency and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding impacts to public access. The Permittee shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues encountered that may require adjustment.
11. A licensed civil engineer with experience in coastal structures and processes shall oversee all construction activities and shall ensure that all emergency development is limited to the least amount necessary to temporarily abate the emergency consistent with the terms and conditions of this ECDP.
12. Any material dislodged onto the beach during emergency construction activities shall be retrieved.
13. Lighting of the beach and/or intertidal area is prohibited.
14. Construction activities, including materials and/or equipment storage, is prohibited outside of the defined construction, staging, and storage areas.
15. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain; cover exposed piles of soil and wastes; dispose of all wastes properly; place trash receptacles on site for that purpose; cover open trash receptacles during wet weather; remove all construction debris from the beach.
16. All construction activities that result in discharge of materials, polluted runoff, or wastes to the beach or the adjacent marine environment shall be prohibited. Equipment washing, refueling, and/or servicing shall not take place on the beach. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each workday.
17. All areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand that is impacted by construction shall be filtered as necessary to remove any construction debris.
18. All contractors shall ensure that work crews are carefully briefed on the importance of

Emergency CDP G-5-22-0039 (State Route 1 Shoulder Repair)

Issue Date: December 29, 2022

observing the construction precautions given the sensitive work environment. Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/cleanup of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.

19. The Permittee shall notify planning staff of the Coastal Commission's Statewide Transportation team immediately upon completion of construction. If planning staff should identify reasonable restoration measures, such measures shall be implemented immediately.
20. A qualified biologist or environmental resources specialist acceptable to the Executive Director shall monitor all emergency construction activities to ensure that adverse impacts to sensitive plant and animal species and/or their habitats are avoided and, where avoidance is not possible, are minimized as much as possible and to the satisfaction of both the monitoring specialist and the Executive Director. The monitoring specialist shall have the authority to stop emergency construction activities if sensitive species and/or their habitats may be threatened, in order to consult with the Executive Director on appropriate impact avoidance and minimization measures.
21. A qualified Archeological Monitor and Native American representative, approved by the Executive Director, shall be onsite during all emergency development activities, in order to avoid and minimize impact to archaeological/cultural resources. If archaeological/cultural remains/artifacts are encountered during construction activities, work shall be stopped immediately or redirected until the qualified Archeological Monitor and Native American representative are consulted and are able to further evaluate the significance of the find. The Archeological Monitor and Native American representative shall inspect the construction site throughout the emergency construction to ensure compliance with all archeological/cultural resource avoidance measures and the Permittee shall submit to Orange County a report with the results of these inspections as part of a Final Report (see Special Condition 25) to be submitted as part of the follow-up CDP.
22. Within 30 days of construction completion the Permittee shall submit a Final Report identifying all development completed under this emergency authorization. The Final Report shall compare the emergency condition to the post-work condition, and shall include a narrative description, along with photographic evidence, of all emergency development and restoration activities undertaken pursuant of this emergency authorization. This documentation shall be provided by the monitoring specialist in anticipation of mitigation needs associated with impacts resulting from work conducted under this ECDP and shall be sufficient to support any mitigation planning during the follow-up CDP permitting effort.
23. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.
24. Within 30 days of completion of construction authorized by this ECDP, the Permittee shall submit site plans and cross sections to the Executive Director clearly identifying

Emergency CDP G-5-22-0039 (State Route 1 Shoulder Repair)

Issue Date: December 29, 2022

all development completed under this emergency authorization (comparing the legal pre-emergency development condition to both the emergency condition and to the post-emergency development condition), and a narrative description of all emergency development activities undertaken pursuant to this ECDP. Photos showing the project site before the emergency, during emergency development construction activities, and after the work authorized by this ECDP is complete shall be provided with the site plans and cross sections.

25. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information including, at a minimum, an email address and a cell phone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. The Permittee shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.
26. Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittee has shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.
27. By exercising this ECDP, Permittee acknowledges and agrees that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.
28. Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.
29. If you have any questions about the provisions of this ECDP, please contact the Commission's South Coast District Office at SouthCoast@coastal.ca.gov or (562) 590-5071.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370
FAX (619) 767-2384

**EMERGENCY PERMIT ACCEPTANCE FORM**

TO: CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
301 E. OCEAN BLVD. SUITE 300
LONG BEACH, CA 90802
(562)590-5071

RE: **Emergency Permit No. G-5-22-0039**

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the South Coast Area Office within 15 working days from the permit's date.

I hereby understand all the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that a regular Coastal Permit is necessary to permanently authorize the emergency work. I agree to apply for a regular Coastal Permit within 120 days of the date of the emergency permit.

Farid Nowshiravan

Signature of property owner

Farid Nowshiravan

Name

Address

1750 Fourth St. #100

Santa Ana, Ca 92705

01/05/2023

Date of Signing

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5200
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV

**EMERGENCY COASTAL DEVELOPMENT PERMIT****Emergency CDP G-5-23-0013 (Pearl Stairs)**

Issue Date: January 20, 2023

Permittee: City of Laguna Beach, Public Works Department**Emergency Location:** Public beach adjacent to Pearl Street public beach access stairway in Laguna Beach, Orange County.**Emergency Description:** Winter storms eroded the northern slope adjacent to the stairway and created large cracks in the grouted rip-rap, resulting in a lack of support for the northern footing and rock debris strewn on the beach.**Emergency Development:** Removal of damaged, 86 sq. ft. grouted rip-rap and other debris within area at southern edge of Pearl Street public beach-access stairway. Installation of a new geotextile membrane and two layers ungrouted rip-rap within the existing grouted rip-rap footprint. Project will necessitate temporary closure of stairs and adjacent beach area to accommodate construction.**Executive Director's Determination**

The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an "emergency" (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittee wishes to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.

DocuSigned by:

A handwritten signature in blue ink that reads "Karl Schwing".

B9690DD756CA4C4...

Karl Schwing, South Coast District Manager, for John Ainsworth, Executive Director

Conditions of Approval

Enclosure: ECDP Acceptance Form

Emergency CDP G-5-23-0013 (Pearl Stairs)

Issue Date: January 20, 2023

The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission's South Coast District Office within 15 days of the date of this ECDP (i.e., by February 4, 2023). This ECDP is not valid unless and until the acceptance form has been received in the South Coast District Office.

All emergency development shall be limited in scale and scope to within the footprint of the 86 sq. ft. of existing grouted rip-rap. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Any other development requires separate authorization from the Executive Director or the Commission, as applicable.

The emergency development authorized on a temporary basis by this ECDP must be completed within 90 days of ECDP issuance (i.e., by April 20, 2023).

This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies. The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.

By exercising this ECDP, Permittee acknowledges and agrees that: (a) the emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittee adheres to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittee acknowledges that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.

By exercising this ECDP, the Permittee acknowledges and agrees in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittee.

The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.

Within 90 days of ECDP issuance (i.e., by April 20, 2023), the Permittee shall either: (a) remove all of the materials placed or installed in connection with the emergency development, and restore all affected areas to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP); or (b) submit a complete application (i.e., satisfying the requirements of Title 14 California Code of Regulations Section 13056) for a regular CDP to authorize the emergency development (or for a different project designed to address the emergency development), including submitting all information and materials requested, and as directed, by the Executive Director if/when the Executive Director determines that such application is incomplete. If such regular follow-up CDP application is withdrawn by the Permittee, or is denied by the Commission, or if it remains incomplete for a period of 120 days after the Executive Director informs the Permittee that the application is incomplete, then all of the materials placed and/or installed in connection with the emergency development shall be removed, and all affected areas shall be restored to their prior condition or better, all subject to Executive Director review and approval (and, in some cases, if directed by the Executive Director, subject to a regular CDP).

Failure to meet any of the applicable requirements of Condition 8 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittee's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.

All emergency development shall be limited to the least amount necessary to temporarily abate the emergency, and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding impacts to public access. The Permittee shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues encountered that may require adjustment.

A licensed civil engineer with experience in coastal structures and processes shall oversee all construction activities and shall ensure that all emergency development is limited to the least amount necessary to temporarily abate the emergency consistent with the terms and conditions of this ECDP.

All emergency construction activities shall limit impacts to coastal resources (including public recreational access and the Pacific Ocean) to the maximum extent feasible including by, at a minimum, adhering to the following construction requirements:

Construction activities shall be limited to no more than a total of 7 days, and shall take place on non-holiday weekdays to the maximum extent feasible.

All construction activities shall take place during daylight hours (i.e., from one-hour before sunrise to one-hour after sunset). Lighting of the beach and/or intertidal area is prohibited.

Construction work and equipment operations: shall avoid areas seaward of the tidal extent as much as possible; shall be prohibited in ocean waters and/or wetted sand (i.e., areas either wet and/or with a noticeable sheen from tidal and/or wave action); and shall avoid beachgoers and beach recreational areas as much as possible.

Any grading of or in intertidal areas shall be prohibited.

Any construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by one-hour after sunset each day that work occurs.

All construction areas shall be minimized and demarked by temporary fencing designed to allow through public access and protect public safety to the maximum extent feasible, where such areas shall be limited in their spatial extent as much as possible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).

All construction activities that result in discharge of materials, polluted runoff, or wastes to the beach or the adjacent marine environment shall be prohibited. Equipment washing, refueling, and/or servicing shall not take place on the beach. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each workday.

All areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand that

is impacted by construction shall be filtered as necessary to remove any construction debris.

All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment. Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/cleanup of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.

The Permittee shall notify planning staff of the Coastal Commission's South Coast District Office immediately upon completion of construction. If planning staff should identify reasonable restoration measures, such measures shall be implemented immediately.

Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.

Within 30 days of completion of construction authorized by this ECDP, the Permittee shall submit site plans and cross sections to the Executive Director clearly identifying all development completed under this emergency authorization (comparing the legal pre-emergency development condition to both the emergency condition and to the post-emergency development condition), and a narrative description of all emergency development activities undertaken pursuant to this ECDP. Photos showing the project site before the emergency (if available), during emergency development construction activities, and after the work authorized by this ECDP is complete shall be provided with the site plans and cross sections.

A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, an email address and a telephone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. The Permittee shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.

Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the

Emergency CDP G-5-23-0013 (Pearl Stairs)

Issue Date: January 20, 2023

identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittee has shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.

By exercising this ECDP, Permittee acknowledges and agrees that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.

The Permittee shall disclose this ECDP, including all of its terms and conditions, to any prospective buyer of the affected property during the period of time that any development that is the subject of this ECDP remains on such property.

Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.

If you have any questions about the provisions of this ECDP, please contact the Commission's South Coast District Office at 301 E. Ocean Blvd., Suite 300, Long Beach California 90802 or (562)-590-5071, SouthCoast@coastal.ca.gov.

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5200
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WEB: WWW.COASTAL.CA.GOV

**EMERGENCY COASTAL DEVELOPMENT PERMIT**

Emergency CDP G-5-23-0014 (Nuris Slope Protection)

Issue Date: January 19, 2023

Permittee: Sandy and Richard Nuris

Emergency Location: 297 Crescent Bay Dr, Laguna Beach (Orange County)

Emergency Description: Erosion and slope failures caused by winter storms posing a threat to the existing single family home constructed in the 1920s

Emergency Development: Placement of 100 approx. 3 ft. x 3 ft. x 3 ft. super sack grout filled cubes bonded together with rebar and grout (or equivalent sized rip rap) in front of failed wall and slope adjacent to sandy beach, installation of plastic sheeting on the slope above to facilitate drainage and prevent pooling and infiltration.

Executive Director's Determination

The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an "emergency" (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittee wishes to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.

DocuSigned by:
A handwritten signature in black ink that reads "Karl Schwing".
B9690DD756CA4C4...

Karl Schwing, South Coast Deputy Director, for John Ainsworth, Executive Director

Enclosure: ECDP Acceptance Form

cc: (via email): Amber Dobson, City of Laguna Beach

Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission's South Coast District Office within 15 days of the date of this ECDP (i.e., by February 3, 2023). This ECDP is not valid unless and until the acceptance form has been received in the South Coast District Office.
2. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form dated received in the Commission's South Coast District Office on January 19, 2023. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Work is further limited to the installation of temporary slope protection in the form of the identified grout cubes or equivalent sized rip rap and the plastic sheeting. This permit does not authorize construction or reconstruction of any seawall or retaining wall or other permanent feature. Any other development requires separate authorization from the Executive Director or the City of Laguna Beach or the Coastal Commission, as applicable.
3. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., California State Lands Commission, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
4. By exercising this ECDP, Permittee acknowledges and agrees that: (a) the emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittee adheres to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittee acknowledges that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.
5. By exercising this ECDP, the Permittee acknowledges and agrees in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the

Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittee.

6. The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
7. Failure to meet any of the applicable requirements of Condition 8 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittee's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.
8. All emergency development shall be limited to the least amount necessary to temporarily abate the emergency, and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding impacts to public access. The Permittee shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues encountered that may require adjustment.
9. All work shall take place in a time and manner to minimize any potential damages to any resources, including intertidal species, and to minimize impacts to public access.

10. Within 90 days of issuance of this Emergency Permit,, or as extended by the Executive Director through correspondence, for good cause, the applicant shall either: (a) remove all of the materials placed or installed in connection with the emergency development authorized in this Permit and restore all affected areas to their prior condition after consultation with California Coastal Commission staff, and consistent with the Coastal Act. In some instances, a permit may be needed for removal; or (b) submit a complete follow-up Coastal Development Permit (CDP) application to the City of Laguna Beach that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations and the procedure identified in the certified Laguna Beach Local Coastal Program.

The follow-up CDP application to the City of Laguna Beach shall include removal of any debris associated with the failed wall(s) and debris associated with this emergency CDP. If the follow-up CDP application proposes retention of the development authorized by this emergency CDP or development of a new seawall or retaining wall, or significant repair of existing seawalls or retaining walls (any development or repair and maintenance beyond the scope of an exemption as defined by the certified Laguna Beach Local Coastal Program), then the application shall include an alternatives analysis of other means to protect the existing single family home, including alternatives more landward than the pre-existing walls and authorized emergency development, and alternatives which would be most compatible with the landform alteration, visual resources, and public access and recreation policies of the certified Laguna Beach Local Coastal Program.

If the City of Laguna Beach determines that the follow-up CDP application is incomplete and requests additional information, the applicant shall submit this additional information by a certain date, as established by the City through consultation with the Executive Director. If such a follow-up CDP application is withdrawn by the applicant or is denied by the City of Laguna Beach or by the Coastal Commission on appeal, or if the follow-up CDP application remains incomplete for a period of 120 days after the City of Laguna Beach informs the applicant that the application is incomplete, the emergency-permitted development shall be removed and all affected areas restored to their prior condition, after consultation with City and Coastal Commission staff and consistent with the certified Laguna Beach Local Coastal Program, within 90 days, subject to any regulatory approvals necessary for such removal. In some instances, a permit may be needed for removal.

11. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements

applicable to it, prior to commencement of construction.

12. Within 30 days of completion of construction authorized by this ECDP, the Permittee shall submit site plans and cross sections to the Executive Director clearly identifying all development completed under this emergency authorization (comparing the legal pre-emergency development condition to both the emergency condition and to the post-emergency development condition), and a narrative description of all emergency development activities undertaken pursuant to this ECDP. Photos showing the project site before the emergency (if available), during emergency development construction activities, and after the work authorized by this ECDP is complete shall be provided with the site plans and cross sections.
13. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, an email address and a telephone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. The Permittee shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.
14. Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittee has shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.
15. By exercising this ECDP, Permittee acknowledges and agrees that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.
16. The Permittee shall disclose this ECDP, including all of its terms and conditions, to any prospective buyer of the affected property during the period of time that any development that is the subject of this ECDP remains on such property.

17. Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.
18. If you have any questions about the provisions of this ECDP, please contact the Commission's South Coast District Office at 301 E Ocean Blvd, Suite 300, Long Beach, CA 90802, (562) 590-5071, SouthCoast@coastal.ca.gov.

CALIFORNIA COASTAL COMMISSION

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



Prepared January 19, 2023 for February 9, 2023 Hearing

To: Commissioners and Interested Persons

From: Karl Schwing, District Director
Zach Rehm, District Supervisor

Subject: **Certification Review for City of Newport Beach LCP Amendment No. LCP-5-NPB-21-0036-1 Part D (Transfer of Development Rights)**

On October 12, 2022, the Commission approved a City of Newport Beach Local Coastal Program (LCP) Major Amendment No. LCP-5-NPB-21-0036-1 Part D with suggested modifications. This major amendment is to both the Land Use Plan (LUP) and the Implementing Plan (IP) portions of the certified LCP to add Policy 2.1.1-2 to Chapter 2 of the LUP to allow for the Transfer of Development Rights (TDR) from a property to one or more other properties and add Chapter 21.46.010 (Transfer of Development Rights) to the IP incorporating procedures for a TDR program. On November 29, 2022 the Newport Beach City Council adopted Resolution 2022-90 and on December 13, 2022, adopted Ordinance No. 2022-28 (see attachments) incorporating the modifications suggested by the Commission to the LUP and IP respectively pursuant to the Commission's conditional approval.

Pursuant to Section 13544 of the California Code of Regulations, Title 14, Division 5.5, the Executive Director must determine that the action taken by the City of Newport Beach acknowledging receipt and acceptance of and agreement with the Commission's certification of the above-referenced LCP amendment with suggested modifications is legally adequate and report that determination to the Commission. The Executive Director has reviewed the City's actions and determined that they are consistent with the Commission's October 12, 2022 action and are legally adequate.

This certification review is not an opportunity to revisit any substantive issues associated with the approval of the subject LCP amendment, as certification review is limited to the question of whether the City's adoption of the suggested modifications to the LCP amendment approved by the Commission is legally adequate. The Executive Director's determination is not subject to any required concurrence or approval by the Commission, but rather is simply being reported to the Commission as required by the Commission's regulations in order to allow for the amended LCP to be certified in that form. This item is being reported to the Commission as part of the South Coast District Director's Report for Orange County at the Commission meeting of February 9, 2023. Upon reporting of this item to the Commission, the amended LCP will be certified as of that date and time.

ORDINANCE NO. 2022-28

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-003 AS MODIFIED BY THE CALIFORNIA COASTAL COMMISSION AMENDING TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO THE TRANSFER OF DEVELOPMENT RIGHTS (PA2019-154)

WHEREAS, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program ("LCP") for that portion of the coastal zone within its jurisdiction;

WHEREAS, in 2005, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("Coastal Land Use Plan"), which has been amended from time to time;

WHEREAS, the California Coastal Commission ("Coastal Commission") effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City assumed coastal development permit-issuing authority on January 30, 2017;

WHEREAS, amendments to Title 21 (Local Coastal Program Implementation Plan) ("Title 21") and the Coastal Land Use Plan are necessary to allow for the transfer of development rights consistent with General Plan Land Use Element Policies Nos. LU 4.3 and 6.14.3 and Chapter 20.46 (Transfer of Development Rights) of the Newport Beach Municipal Code ("NBMC");

WHEREAS, the Planning Commission held a public hearing on August 22, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* the ("Ralph M. Brown Act") and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the conclusion of the hearing , the Planning Commission adopted Resolution No. PC2019-026 by a unanimous vote (7 ayes, 0 nays), recommending approval of Local Coastal Program Amendment No. LC2019-003 to the City Council;

WHEREAS, pursuant to Title 14 of the California Code of Regulations Section 13515 ("Section 13515"), drafts of Local Coastal Program Amendment No. LC2019-003 were made available and distributed at least six weeks prior to final action;

WHEREAS, the City Council held a public hearing on October 8, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Section 13515, and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

WHEREAS, at the conclusion of the hearing, the City Council adopted Resolution No. 2019-090 authorizing submittal of Local Coastal Program Amendment No. LC2019-003 to the Coastal Commission by a unanimous vote (7 ayes, 0 nays);

WHEREAS, at its October 12, 2022, hearing, the Coastal Commission approved and certified Local Coastal Program Amendment No. LC2019-003 with modifications (LCP-5-NPB-21-0036-1 Part D) as being consistent with the California Coastal Act; and

WHEREAS, the City Council held a public hearing on November 29, 2022, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: The City Council hereby adopts Local Coastal Program Amendment No. LC2019-003 and accepts the suggested modifications approved by the Coastal Commission.

Section 2: Chapter 21.46 (Transfer of Development Rights) is added to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

Chapter 21.46
TRANSFER OF DEVELOPMENT RIGHTS

Sections:

- 21.46.010 Purpose.**
- 21.46.020 Applicability.**
- 21.46.030 General Requirements.**
- 21.46.040 Procedures.**
- 21.46.050 Findings.**

21.46.010 Purpose.

This chapter provides procedures for the transfer of development rights from a property to one or more other properties within the same Statistical Area.

21.46.020 Applicability.

The provisions of this chapter shall apply within all coastal zoning districts.

21.46.030 General Requirements.

A. Floor Area for a Donor Site. The maximum gross floor area allowed on a donor site shall be reduced by the amount of the transfer of development intensity to the receiving site.

B. Residential Uses. When the transfer of development rights involve residential units, the transfer shall be on a unit-for-unit basis.

C. Prohibited Areas. Except for Statistical Area L1-Newport Center, the transfer of development rights from a donor site outside the coastal zone to a receiver site within the coastal zone is prohibited. The transfer of development rights from a site with a Visitor Serving Commercial (CV) coastal zoning district designation to a non-CV coastal zoning district shall be prohibited. The transfer of development rights from a site with a CV coastal zoning district designation to any area outside of the coastal zone is prohibited.

21.46.040 Procedures.

The following procedure shall be used for the transfer of development rights:

A. Application. The applicant shall submit a Coastal Development Permit application to the Department that identifies the quantity of development (e.g., residential units, floor area, hotel rooms, theater seats, etc.) to be relocated and the donor and receiving site(s). If the requested transfer includes the conversion of nonresidential uses, the application shall also identify the quantity of entitlement, by use category, before and after the transfer. The Coastal Development Permit shall be processed in accordance with Chapters 21.50 and 21.52.

B. Traffic Analysis. The City Traffic Engineer shall perform a traffic analysis to determine the total number of p.m. peak hour trips that would be generated by development allowed with and without the transfer. Trip generation rates shall be based on standard trip generation values in the current version of the Institute of Traffic Engineers "Trip Generation," unless the City Traffic Engineer determines that other rates are more valid for the uses involved in the transfer.

C. Detailed Traffic Analysis. Depending on the location of the donor and receiving site(s), the City Traffic Engineer may determine that a more detailed traffic analysis is required to determine whether adverse traffic impacts will result from the transfer. This analysis shall demonstrate whether allowed development, with and without the transfer, would either cause or make worse an unsatisfactory level of service at any primary intersections for which there is no feasible mitigation.

D. Land Use Intensity Analysis. If the transfer request involves the conversion of uses, the Director shall perform a land use intensity analysis to determine the floor area that could be developed with and without the transfer.

E. Council to Consider. Applications for transfer of development rights shall be considered by the Commission with a recommendation to the Council. The Council may approve a transfer of development rights only if it makes all of the findings in Section 21.46.050.

F. Legal Assurances. A covenant or other legally binding agreement approved by the City Attorney shall be recorded against the donor site assuring that all of the requirements of the transfer of development rights will be met by the current and future property owners.

21.46.050 Findings.

When approving a coastal development permit authorizing a transfer of development rights within Newport Center (Map A-15), the Council shall only make findings set forth in (B) and (E) below. In all other areas, the Council shall make all of the following findings:

A. The reduced density/intensity on the donor site provides benefits to the public, in furtherance of the provisions of the LCP, in one of the following ways:

1. The provision of extraordinary open space, area(s) for new or expanded habitat restoration, public view corridor(s), public coastal access, increase parking, or other visitor-serving amenities, in addition to what is already required by the LCP;
2. Preservation of natural resources, a historic building, or a property with special character-defining features that contribute to the visual qualities and special community character of areas such as Balboa Village or McFadden Square, that, because of their unique characteristics are popular visitor-serving areas;
3. Improvement of the area's scale and development character;
4. Reduction of local vehicle trips and traffic congestion;
5. More efficient use of land, such as consolidation of lots to achieve a greater visitor-serving use, or a better architectural design than could be achieved without lot consolidation;

6. Dedication or use of existing or proposed private parking lots for public use/access to the coast;
 7. Preservation of marine-dependent uses and industries such as shipyards and boat storage facilities; and
 8. Incentivization of planned retreat and dedication of open space as an adaptive strategy for coastal hazard risks, such as sea level rise.
- B. The transfer of development rights will not result in any adverse traffic impacts and would not result in greater intensity than development allowed without the transfer, and the proposed uses and physical improvements would not lend themselves to conversion to higher traffic generating uses;
- C. The increased development potential transferred to the receiving site will be compatible and in scale with surrounding development and will not create abrupt changes in scale or character;
- D. The receiving site is physically suitable for the development proposed taking into consideration adjacent circulation patterns, protection of significant public views and open space, and site characteristics, including coastal hazard risks, any slopes, submerged areas, and sensitive resources; and
- E. The transfer of development rights decision is consistent with the Coastal Land Use Plan and does not result in any significant adverse impacts to public access, public views, sensitive coastal resources, or "Sensitive Coastal Resource Areas."

Section 3: Area Map A-15 - Newport Center is added to Section 21.80.010 (Area Maps) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code, which is attached hereto and incorporated herein by reference as Exhibit "A."

Section 4: The LCP, including Local Coastal Program Amendment No. LC2019-003, will be carried out fully in conformity with the California Coastal Act.

Section 5: The recitals provided in this ordinance are true and correct and are incorporated into the substantive part of this ordinance.

Section 6: The City Council hereby authorizes City staff to submit this ordinance for a determination by the Executive Director of the Coastal Commission that this action is legally adequate to satisfy the specific requirements of the Coastal Commission's October 12, 2022, action on LCP Amendment Request No. LCP-5-NPB-21-0036-1 Part D (Transfer of Development Rights).

Section 7: This ordinance shall not become effective for thirty days after adoption and until the Executive Director of the Coastal Commission certifies that this ordinance complies with the Coastal Commission's October 12, 2022, action on LCP Amendment Request No. LCP-5-NPB-21-0036-1 Part D (Transfer of Development Rights).

Section 8: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 9: The City Council finds this action is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 21065 of the California Public Resources Code and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). This action is also exempt under CEQA Guidelines Section 15061(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. Local Coastal Program Amendment No. LC2019-003 itself does not authorize development that would directly result in physical change to the environment.

Section 10: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Section 11: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414 and the same shall become final and effective as provided in Section 7 of this ordinance.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 29th day of November, 2022, and adopted on the 13th day of December, 2022, by the following vote, to-wit:

AYES: Mayor Muldoon, Mayor Pro Tem Blom, Council Member Avery
Council Member Brenner, Council Member Duffield, Council Member
O'Neill

NAYS: _____

ABSENT: _____



KEVIN MULDOON, MAYOR

ATTEST:



LEILANI I. BROWN, CITY CLERK



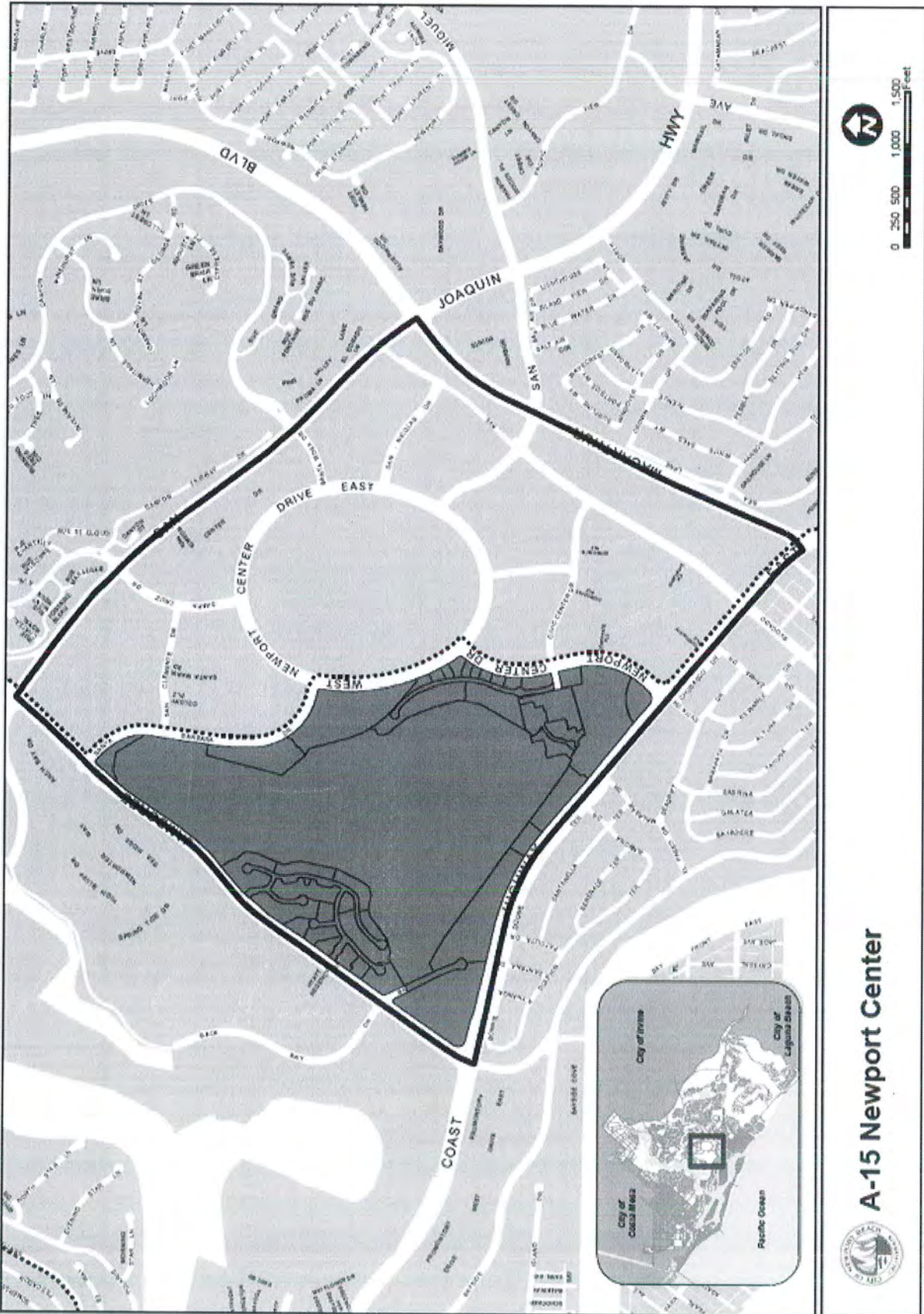
APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Exhibit A: Area Map A-15 – Newport Center

Exhibit A



City of Newport Beach

RESOLUTION NO. 2022-90

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-003 AS MODIFIED BY THE CALIFORNIA COASTAL COMMISSION ADDING POLICY NO. 2.1.1-2 TO THE COASTAL LAND USE PLAN RELATED TO THE TRANSFER OF DEVELOPMENT RIGHTS (PA2019-154)

WHEREAS, Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program ("LCP") for that portion of the coastal zone within its jurisdiction;

WHEREAS, in 2005, the City of Newport Beach ("City") adopted the Local Coastal Program Coastal Land Use Plan ("Coastal Land Use Plan"), which has been amended from time to time;

WHEREAS, the California Coastal Commission ("Coastal Commission") effectively certified the City's LCP on January 13, 2017, and the City assumed coastal development permit-issuing authority on January 30, 2017;

WHEREAS, amendments to Title 21 (Local Coastal Program Implementation Plan) ("Title 21") and the Coastal Land Use Plan are necessary to allow for the transfer of development rights consistent with General Plan Land Use Element Policies Nos. LU 4.3 and 6.14.3, and Chapter 20.46 (Transfer of Development Rights) of the Newport Beach Municipal Code ("NBMC");

WHEREAS, the Planning Commission held a public hearing on August 22, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the conclusion of the hearing, the Planning Commission adopted Resolution No. PC2019-026 by a unanimous vote (7 ayes, 0 nays), recommending approval of Local Coastal Program Amendment No. LC2019-003 to the City Council;

WHEREAS, pursuant to Title 14 of the California Code of Regulations Section 13515 ("Section 13515"), drafts of Local Coastal Program Amendment No. LC2019-003 were made available and distributed at least six weeks prior to the final action date;

WHEREAS, the City Council held a public hearing on October 8, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Section 13515, and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

WHEREAS, at the conclusion of the hearing, the City Council adopted Resolution No. 2019-090 authorizing submittal of Local Coastal Program Amendment No. LC2019-003 to the Coastal Commission by a unanimous vote (7 ayes, 0 nays);

WHEREAS, at its October 12, 2022, hearing, the Coastal Commission approved and certified Local Coastal Program Amendment No. LC2019-003 with modifications (LCP-5- NPB-21-0036-1 Part D) as being consistent with the California Coastal Act; and

WHEREAS, the City Council held a public hearing on November 29, 2022, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council hereby adopts Local Coastal Program Amendment No. LC2019-003 and accepts the suggested modifications approved by the California Coastal Commission.

Section 2: Chapter 2.0 (Land Use and Development) of the Coastal Land Use Plan shall be amended to add Policy No. 2.1.1-2 to read as follows, with all other provisions of the Coastal Land Use Plan remaining unchanged:

2.1.1-2 Permit the transfer of development rights from a property to one or more other properties within the same Statistical Area when the transfer does not result in adverse visual or traffic impacts, results in development that is compatible with surrounding development, and is implemented in a manner consistent with the LCP and applicable policies from Chapter 3 of the Coastal Act.

Section 3: The LCP, including Local Coastal Program Amendment No. LC2019-003, will be carried out fully in conformity with the California Coastal Act.

Section 4: The City Council hereby authorizes City staff to submit this resolution for a determination by the Executive Director of the Coastal Commission that this action is legally adequate to satisfy the specific requirements of the Coastal Commission's October 12, 2022, action on LCP Amendment Request No. LCP-5-NPB-21-0036-1 Part D (Transfer of Development Rights).

Section 5: This resolution shall not become until the Executive Director of the Coastal Commission certifies that this resolution complies with the Coastal Commission's October 12, 2022, action on LCP Amendment Request No. LCP-5- NPB-21-0036-1 Part D (Transfer of Development Rights).

Section 6: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 7: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 8: The action proposed herein is not a project subject to the California Environmental Quality Act ("CEQA") in accordance with Section 21065 of the California Public Resources Code and Sections 15060(c)(2), 15060(c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). The proposed action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. The Local Coastal Program Amendment No. LC2019-003 itself does not authorize development that would directly result in physical change to the environment.

Section 9: This resolution shall take effect as provided in Section 5 of this resolution, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 29th day of November, 2022.



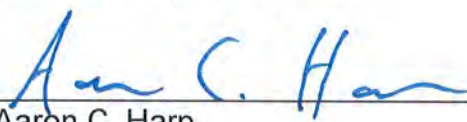
Kevin Muldoon
Mayor

ATTEST:



Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF NEWPORT BEACH

SS.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2022-90 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 29th day of November, 2022; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Kevin Muldoon, Mayor Pro Tem Noah Blom, Council Member Brad Avery, Council Member Joy Brenner, Council Member Diane Dixon, Council Member Duffy Duffield, Council Member Will O'Neill

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 30th day of November, 2022.



Leilani I. Brown
City Clerk
Newport Beach, California