

CALIFORNIA COASTAL COMMISSION

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Th14a & Th14b

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STAFF REPORT: REQUEST FOR RECONSIDERATION

Application Nos.: **A-5-LGB-20-0058-REC & A-5-LGB-20-0059-REC**

Applicants: **32007 S Coast Hwy, LLC & 32005 S. Coast Hwy, LLC**

Agent: Nossaman LLP, Attn: Steven H. Kaufmann

Location: 32007 & 32005 Coast Highway, Laguna Beach, Orange County (APNs: 056-160-09 & 056-160-08)

Project Description: **32007 Coast Highway:** Permanent authorization of slope repair activities approved under Emergency CDP No. G-5-19-0011, including: 1) 525 cu. yd. of grading; 2) construction of soil berm; 3) various soil benching, grading, and terracing; 4) subdrains and temporary wood-lagging wall; project also includes after-the-fact request for approval of shoring wall with 7 caissons ranging from 30 ft. to 35 ft. in depth, after-the-fact request for approval of beach-access staircase associated with existing single-family home, and new shotcrete retaining wall.

32005 Coast Highway: Permanent authorization of slope repair activities approved under Emergency CDP No. G-5-19-0011, including: 1) 525 cu. yd. of grading; 2) construction of soil berm; 3) various soil benching, grading, and terracing; 4) subdrains and

temporary wood-lagging wall; project also includes replacement of the curb and gutter on Coast Highway, after-the-fact request for approval of shoring wall with 3 caissons ranging from 30 ft. to 35 ft. in depth, after-the-fact request for approval of the demolition of a single-family residence, and construction of a new shotcrete retaining wall.

Commission Action:	On November 5, 2025, the Commission found substantial issue for the appeals and subsequently approved with conditions Coastal Development Permit Application Numbers A-5-LGB-20-0058 and A-5-LGB-20-0059 on de novo.
Staff Recommendation:	Deny the request(s) for reconsideration

SUMMARY OF STAFF RECOMMENDATION

On November 5, 2025, the Commission found substantial issue for the appeal and subsequently approved with conditions Coastal Development Permit (CDP) A-5-LGB-20-0058 on de novo for permanent authorization of slope repair activities approved under Emergency CDP No. G-5-19-0011, including: 1) 525 cu. yd. of grading; 2) construction of a soil berm; 3) various soil benching, grading, and terracing; and 4) subdrains and a temporary wood-lagging wall. The CDP also authorized after-the-fact approval for a shoring wall with 7 caissons ranging from 30 ft. to 35 ft. in depth and a new shotcrete retaining wall at 32007 Coast Highway in Laguna Beach. The request for after-the-fact approval of the beach-access staircase was not authorized by the Commission.

Additionally, on November 5, 2025 after finding substantial issue with the appeal, the Commission approved with conditions another CDP (A-5-LGB-20-0059) on de novo for permanent authorization of slope repair activities approved under Emergency CDP No. G-5-19-0011, including: 1) 525 cu. yd. of grading; 2) construction of a soil berm; 3) various soil benching, grading, and terracing; and 4) subdrains and a temporary wood-lagging wall. This CDP also authorized replacement of the curb and gutter on Coast Highway, after-the-fact approval for a shoring wall with 3 caissons ranging from 30 ft. to 35 ft. in depth, after-the-fact approval for the demolition of a single-family residence, and construction of a new shotcrete retaining wall at 32005 Coast Highway in Laguna Beach.

On December 2, 2025, Steven H. Kaufmann, the applicants' authorized agent, submitted a letter to the Commission highlighting two factors the applicants claim justify reconsideration of the approved projects. The applicants generally support the Commission's decision to approve the projects, however the applicants have requested

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deletion of the Commission's bluff edge determination from the findings and special conditions. First, the applicants contend that the project should be reconsidered because they claim that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been submitted at the hearing, as the applicants did not have a chance to rebut the statements made by the Commission's geologist after the public hearing had closed. Second, the applicants contend that the Commission made errors of law that have a strong chance of altering the decision because the Commission's bluff edge determination was made based on an altered slope, not a natural landform.

Upon review of the applicants' submittals, staff recommends that the Commission **deny** the request(s) for reconsideration on grounds that: (1) no new relevant evidence has been presented which, in the exercise of reasonable diligence, could not have been presented at the hearing on the permit, and (2) there has been no error of fact or law which has the potential for altering the Commission's decision.

Procedural Note:

The Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant of record may request that the Commission grant a reconsideration of the denial of the application, or of any term or condition of a coastal development permit which has been granted. (Title 14 Cal. Code of Regulations § 13109.2.) The regulations also state that the grounds for reconsideration of a permit action shall be as provided in Coastal Act Section 30627, which states, *inter alia*:

The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the Commission's initial decision.

(*id.* at § 13109.4.) Further, section 30627(b)(4) of the Coastal Act states that the Commission "shall have the discretion to grant or deny requests for reconsideration."

The applicants submitted a request for reconsideration of the Commission's November 5, 2025, decision on December 2, 2025, stating the alleged grounds within the 30-day period following the final vote, as required by Commission's regulations. If a majority of the Commissioners present vote to grant reconsideration, the permit application will be scheduled for a future public hearing, at which the Commission will consider it as a new application. (§ 13109.5(c).)

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EXHIBITS

[Exhibit 1 –Vicinity Map](#)

[Exhibit 2 – 32007 Coast Highway Project Site](#)

[Exhibit 3 – 32005 Coast Highway Project Site](#)

[Exhibit 4 – Applicant's Request for Reconsideration](#)

I. MOTION AND RESOLUTION – A-5-LGB-20-0058-REC

Motion:

I move that the Commission grant reconsideration of Coastal Development Permit No. A-5-LGB-20-0058.

Staff recommends a **NO** vote on the motion. Failure to adopt the motion will result in denial of the request for reconsideration and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby denies the request for reconsideration of the Commission's decision on coastal development permit no. A-5-LGB-20-0058 on the grounds that there is no relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has an error of fact or law occurred which has the potential of altering the initial decision.

II. MOTION AND RESOLUTION – A-5-LGB-20-0059-REC

Motion:

I move that the Commission grant reconsideration of Coastal Development Permit No. A-5-LGB-20-0059.

Staff recommends a **NO** vote on the motion. Failure to adopt the motion will result in denial of the request for reconsideration and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby denies the request for reconsideration of the Commission's decision on coastal development permit no. A-5-LGB-20-0059 on the grounds that there is no relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing, nor has an error of fact or law occurred which has the potential of altering the initial decision.

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

Both projects are located within the South Laguna area of Laguna Beach, in Orange County, seaward of Pacific Coast Highway (PCH) ([Exhibit 1](#)).

32007 Coast Highway: The project site is a flag-shaped, 12,410 sq. ft. coastal bluff lot that is developed with a single-family residence part way down the slope, a detached two-car garage located at street level at PCH, and a funicular that runs between the garage and the residence up the slope ([Exhibit 2](#)). The project site shares the upper bluff slope with a neighboring parcel at 32005 Coast Highway (which the project site abuts on the east and the north). The 32005 Coast Highway lot is located at the top of the slope (adjacent to PCH), whereas the project site at 32007 Coast Highway is located on a level bench at the bottom of the upper slope, but landward of the steep sea cliff on the lowest portion of the lot. The slope that connects the two properties has been subject to erosion for decades. According to City records and previous geologic reports, the slope has been repeatedly impacted by unpermitted grading, erosion and debris flows.

The approved project consists of permanent authorization of slope repair activities approved under Emergency CDP No. G-5-19-0011, including: 1) 525 cu. yd. of grading; 2) construction of soil berm; 3) various soil benching, grading, and terracing; and 4) subdrains and a temporary wood-lagging wall. The Commission also authorized approval of a shoring wall with 7 caissons ranging from 30 ft. to 35 ft. in depth, and a new shotcrete retaining wall.

The project at 32007 Coast Highway originally included an after-the-fact request for approval of a beach access staircase associated with the existing single-family residence, however as explained below in the Project History section of this staff report, the Commission did not authorize the beach stairway in its November 5th action.

32005 Coast Highway: The project site is a rectangle-shaped, approximately 6,000 sq. ft. vacant bluff lot located within the vicinity of Thousand Steps Beach in the South Laguna area ([Exhibit 3](#)).

The approved project consists of permanent authorization of slope repair activities approved under Emergency CDP No. G-5-19-0011, including: 1) 525 cu. yd. of grading; 2) construction of soil berm; 3) various soil benching, grading, and terracing; 4) subdrains and a temporary wood-lagging wall. The Commission also authorized replacement of the curb and gutter on Coast Highway, for a shoring wall with 3 caissons ranging from 30 ft. to 35 ft. in depth, demolition of a single-family residence, and construction of a new shotcrete retaining wall.

Standard of Review

The standard of review for projects heard on appeal by the Coastal Commission that are located between the first public road and the sea, like these ones, are the City's certified Local Coastal Program and the public access and public recreation policies of

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the Coastal Act. The City of Laguna Beach Local Coastal Program was certified by the Commission on January 13, 1993 (except for the areas of deferred certification: Three Arch Bay, Hobo Canyon, and Irvine Cove). The subject sites fall within the City's certified LCP jurisdiction. The City's LCP Land Use Plan portion is comprised of a variety of planning documents including the Land Use Element (LUE), Open Space/Conservation Element (OS/C Element), and the Coastal Technical Appendix. The Implementation Plan portion of the LCP is comprised of a number of documents including Title 25, Zoning.

B. Project History

On September 3, 2020, the City of Laguna Beach Design Review Board held a public hearing for the coastal development permit applications (Local CDP Nos. 20-30 and 20-22) and other discretionary approvals for slope stabilization improvements originally approved under emergency CDP No. G-5-19-0011, after-the-fact approval of a caisson-shoring wall, after-the-fact approval for a beach access staircase, after-the-fact approval for the demolition of a single-family residence, and construction of new shotcrete retaining walls. On September 30, 2020, the Coastal Commission's South Coast District Office received a valid Notice of Final Action (NOFA) for Local CDP Nos. 20-30 and 20-22. The Commission issued Notification of Appeal Periods on October 6, 2020. On October 13, 2020, Mark and Sharon Fudge filed appeals during the ten (10) working day appeal period.

Commission staff prepared staff reports for the April 2025 hearing recommending that the Commission find substantial issue with the appeals and then approve with conditions the proposed projects on de novo. After the staff reports were published, the applicants exercised their right to postponement in order to submit additional geotechnical information to substantiate their consultant's bluff edge determination. The applicants submitted a supplemental geotechnical report on August 18, 2025. The Commission's staff geologist reviewed the supplemental report and concluded that the supplemental information did not change staff's determination of the bluff edge. A new hearing date for the projects was scheduled for November 5, 2025. The only correspondence received before the new hearing date was from the applicants, who registered a detailed objection to portions of staff's recommendations, specifically the bluff edge determination.

During the November 5, 2025, hearing, the Commission supported staff's recommendation for finding substantial issue existed on the grounds on which the appeals were submitted and approved both applications subject to conditions. The conditions of approval for the projects included: 1) Final Revised Plans showing the Commission's bluff edge determination at the 150 ft. contour line; 2) Duration of Slope Stabilization Approval; 3) Conformance with Geotechnical Recommendations; 4) Construction BMPs; 5) Landscaping; 6) Construction Staging Plan; 7) Archeological and Tribal Cultural Resource Monitoring and Treatment Plan; 8) Assumption of Risk; 9) Future Improvements; and 10) Deed Restriction. The Final Revised Plans condition for A-5-LGB-20-0058 also required removal of the unpermitted beach access stairway and all associated decks, and revegetation and erosion control in its place on the bluff face.

In approving the proposed projects and concurring with the staff recommendation and findings, the Commission determined that the bluff edge is at the 150 ft. contour line, despite the applicant's argument prior to and at the hearing as to why the bluff edge should be taken to be at the 89 ft. contour. During the November 5th hearing Vice Chair Hart confirmed that the Commission agrees with the Commission staff geologist with regard to the location of the bluff edge, and Chair Harmon aligned herself with Vice Chair Hart's comments. At the conclusion of the public hearing, the Commission voted unanimously to approve with conditions the CDP applications for both of the proposed projects.

Additionally, in 2019, the Commission held a Substantial Issue hearing for appeal A-5-LGB-19-0193 regarding Local Coastal Development Permit No. 18-2660—which had approved an interior remodel, door and window replacement, and stucco patching of an existing single-family residence at 32007 Coast Highway. The City failed to make a bluff edge determination for this project, and the Commission found that the failure to do so presented substantial issue – among other grounds. The Commission concurred with staff's recommendation to find that a substantial issue existed on the grounds raised in the appeal and adopted the related findings, including the Commission staff geologist's bluff edge determination that placed the bluff edge at the 150-ft. contour. Therefore, the Commission's action on November 5, 2025, was not the first bluff edge determination for this site; the 150-ft. contour has been on record for approximately six years.

C. Applicant's Grounds for Request for Reconsideration

On December 2, 2025, Steven H. Kaufmann, the applicants' authorized agent, submitted a letter to the Commission highlighting two grounds the applicants claim justify reconsideration of the approved projects. The applicants generally support the Commission's decision to approve the projects, however the applicants have requested deletion of the Commission's bluff edge determination from the findings and special conditions. First, the applicants contend that the project should be reconsidered because they assert there is relevant new evidence which, in the exercise of reasonable diligence, could not have been submitted at the hearing as the applicants did not have a chance to rebut the statements made by the Commission's geologist after the public hearing had closed. Second, the applicants contend that the Commission's findings contained an error of law that had a strong chance of altering the decision because the Commission's bluff edge determination was made based on an altered slope, not a natural landform.

D. Analysis of Request for Reconsideration

As stated on page three of this report, the Commission's decision whether to accept or deny the applicant's reconsideration request hinges on whether it determines that either there is relevant new evidence which, in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter, or an error of fact or law has occurred that has the potential of altering the Commission's initial decision. (Cal. Pub. Res. Code § 30627(b)(3).)

The following analysis addresses separately the two issues that the applicants assert are a basis for reconsideration, as set forth in the previous section and the applicants' request dated December 2, 2025 ([Exhibit 4](#)).

Issue 1: There is no relevant new evidence which, in the exercise of reasonable diligence, could not have been submitted at the hearing.

The applicants contend that there is relevant new evidence which, through the exercise of reasonable diligence, could not have been presented at the public hearing.

Specifically, the applicants assert that after the public hearing concluded, Commission staff referred the bluff edge issue to the staff geologist, who subsequently explained the basis for his bluff edge determination. The applicants argue that the staff geologist's testimony was erroneous and served as the sole basis for the Commission's decision to retain the bluff edge finding. Because the public hearing had already closed, the applicants and their geotechnical expert claim that they were denied an opportunity to address and correct these alleged errors.

In their reconsideration request, the applicants further argue that the cross-section presented during the hearing clearly demonstrates that the entire slope is not composed of marine terrace deposits, contradicting statements made by the staff geologist. They assert that the evidence in the Commission's record indicates that the contact between marine terrace and non-marine terrace deposits occurs near the 89-ft. elevation contour, and that all areas landward of the existing house at 32007 consist of non-marine terrace deposits. The applicants also argue that the staff geologist's determination of the bluff edge was based on a slope that had undergone multiple prior alterations, rendering the determination inaccurate. This issue is analyzed in greater detail in the following section.

While the applicants did not have an opportunity to rebut the staff geologist's statements made during the staff response to public comment, including the comments of the applicants' representative, all of the information cited in their letter—including the cross-section and related graphics—was already part of the administrative record and available to the Commissioners at the time of the hearing.¹ In fact, some of these graphics were displayed during staff's and the applicants' testimony. Therefore, the evidence referenced in the reconsideration request does not constitute "relevant new evidence", as it was available prior to the hearing, addressed during the hearing, and does not introduce any new material information that was previously unavailable. Further, the Commission adopted the staff report and findings that were provided to the

¹ The applicants contend that the staff report did not adequately present to the Commission, nor address, Geofirm's "Geotechnical Investigation of the Location of the Bluff Edge," which was submitted to Commission staff on August 18, 2025. However, this geotechnical report was reviewed as part of the Commission staff's analysis and is cited in the staff report for both projects (see pages 12 and 14 for A-5-LGB-20-0058, and pages 10 and 12 for A-5-LGB-20-0059), as well as on pages 3 and 5 of the addendum. It is unclear whether the applicants are presenting this claim as new information; however, the Commission wants to address it regardless.

applicants prior to the public hearing and that they commented on during the public hearing. Moreover, the opportunity to rebut staff's response to the applicants' public comment to address what the applicants claim is incorrect or erroneous testimony is not, in and of itself, a basis for reconsideration.

Issue 2: There is no error of law, much less one that has the potential to alter the Commission's initial decision.

The applicants assert that there is an error of law with the potential to alter the Commission's initial decision. Specifically, the applicants contend that a bluff edge determination, as a matter of law, applies only to "natural landforms" and not what they term "wholly altered landforms." According to the applicants, the Commission's bluff edge determination was improperly based on an altered landform rather than a natural one.

As an initial matter, the Commission's position is that the bluff edge determination is factual, not a legal determination, so this is not a valid basis for reconsideration based on an alleged error of law for that reason alone. Even if it were a legal determination, the applicants do not meet their burden of demonstrating that there was an error of law that had the potential to alter the Commission's decision.

In support of this argument, the applicants cite several Coastal Act policies in their reconsideration letter:

Coastal Act Section 30253 (in relevant part - emphasis added):

"New development shall do all of the following: (1) minimize risks to life and property in areas of high geologic, flood and fire hazard; (2) assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or *in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...*"

Coastal Act Section 30251 (in relevant part – emphasis added):

"Permitted development shall be sited and designed . . . *to minimize the alteration of natural landforms.*"

The applicants argue that these provisions demonstrate that the Coastal Act regulates development to protect natural landforms, and that there is no policy addressing man-made or artificial landforms for purposes of defining a bluff edge. They also reference Land Use Element (LUE) Policy 7.3, as amended through LCP Amendment No. LGB-MAJ-1-10, which states:

Policy 7.3: Design and site new development to protect natural and environmentally sensitive resources, such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize natural landform alterations.

Based on these policies, the applicants conclude that the intended purpose of a bluff edge determination is to protect natural landforms, and therefore, a bluff edge cannot exist on a completely artificial slope. They assert that the Commission's determination constitutes an error of law because the slope in question is not a natural landform.

The applicants misconstrue and misinterpret the LUE definition of coastal bluffs and the term "natural landforms" in the Coastal Act. The Coastal Act and LCP require that new development minimize alterations of natural landforms as a means of protecting coastal resources. These statutes and policies have a different purpose that is separate from and has no bearing on those used to identify coastal bluffs and identify the location of a bluff edge. While the Commission agrees that coastal bluffs are or occur on "natural landforms," this in no way precludes a bluff edge from being present on an altered coastal bluff – a situation that the LCP anticipates.

To start, the LUE Glossary defines an "Oceanfront Bluff/Coastal Bluff" as:

102. Oceanfront Bluff/Coastal Bluff - A bluff overlooking a beach or shoreline or that is subject to marine erosion. Many oceanfront bluffs consist of a gently sloping upper bluff and a steeper lower bluff or sea cliff. The term "oceanfront bluff" or "coastal bluff" refers to the entire slope between a marine terrace or upland area and the sea. The term "sea cliff" refers to the lower, near vertical portion of an oceanfront bluff.

Accordingly, a coastal bluff is a slope which extends between a marine terrace or upland area to the sea. Generally, a coastal bluff must be subject to marine erosion or historically subject to marine erosion. Coastal bluffs are "natural landforms" in that they are formed by natural processes. Nowhere in the definition of "coastal bluff" does it distinguish between "natural" coastal bluffs or naturally-occurring coastal bluffs that have been altered by human activities. Perhaps a bluff completely created from fill would not be considered a coastal bluff within this definition, but that is not at issue in the current matter and there is no need to address such a hypothetical in this report. Further, such an interpretation, as proposed by the applicants, would mean that a coastal bluff, once altered by natural or anthropogenic processes, is no longer a "coastal bluff." Coastal bluffs are subject to natural erosional processes that would render almost any bluff "altered" when compared between two points in time. Any type of development, grading, or fill, no matter the size or scale, would also render a coastal bluff "unnatural" even if it does not change the overall topography or other coastal resources which are inherent to coastal bluffs. Under the applicants' interpretation, an entire coastal bluff could be exempt from any coastal bluff protection policies in the LCP by virtue of activities such as unpermitted grading – no matter the size, scale, or impact of that grading. There is no support in the Coastal Act or LCP for such an outcome, nor would it be consistent with the intent of the Coastal Act or the LCP.

The applicants analyze the addition of "natural" to the word "landforms" in LUE policy 7.3 as part Laguna Beach's LCP amendment (LGB-MAJ-1-10) – in an attempt to support their strained argument that the LCP's determination of bluff edge does not apply to altered bluffs. Again, that the LCP protects natural landforms does not

somehow exempt once-natural landforms that were altered by human activity from LCP policies, and the applicants have failed to provide any support for that interpretation. Moreover, the addition of the word “natural” merely ensures that the LCP mirrors the language contained in Coastal Act section 30251. Section 30251 relates to the preservation of scenic and visual qualities, and the “minimization” of alteration to natural landforms, such as coastal bluffs, is part of preserving these resources. The use of the word “minimization” implies that natural landforms, in fact, may be altered without losing their “natural” quality. Section 30253 also includes a reference to “natural landforms” in its prohibition on the construction of protective devices that would substantially alter natural landforms, such as bluffs and cliffs. Again, the plain reading of this statute shows that new development is not entitled to protective devices that would substantially alter a natural landform – this policy does not indicate that a coastal bluff, once altered by a protective device, is no longer bound by the restrictions and considerations relating to coastal bluffs. The Commission’s interpretation and implementation of these sections is fully consistent with and reflects the longstanding practice and the underlying purpose of the Coastal Act—to protect coastal bluff resources and minimize further alteration of natural landforms

Defining where a coastal bluff begins, or the bluff edge, is explained in the LUE Glossary:

101. Oceanfront Bluff Edge or Coastal Bluff Edge - The California Coastal Act and Regulations define the oceanfront bluff edge as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff, the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step like feature at the top of the bluff , the landward edge of the topmost riser shall be considered the bluff edge. Bluff edges typically retreat over time as a result of erosional processes, landslides, development of gullies, or by grading (cut). In areas where fill has been placed near or over the bluff edge, the original bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

A bluff edge is determined by analysis of certain features of the bluff itself. The LUE definition of a coastal bluff edge makes explicit that bluff edges retreat overtime due to erosion, landslides, formation of gullies, and grading. The LCP anticipates that these types of “alterations,” including alterations from non-natural sources, to the coastal bluff would move the bluff edge landward of its historical position. Even in the case where there is fill placed which would otherwise extend the coastal bluff beyond the bluff edge, the bluff edge does not move seaward but remains in the same position. So, while a bluff edge is dynamic, it only moves landward as a result of processes like erosion or grading or remains in place as a result of fill. The LCP definition, which largely mirrors the Coastal Regulation language, would have no meaning or purpose if, as the applicants propose, bluff edge determinations could only be made on pristine, unaltered bluffs. The definition in the LCP would not need to explicitly account for activities such as grading or fill if it only applied to a slope where those activities have not occurred.

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Again, the applicants' interpretation would also lead to unintended results where any modification to the slope would preclude the making of a bluff edge determination. Therefore, many, if not all, the LCP policies relating to bluff face development and bluff edge setbacks would be inapplicable because there would be no means of concretely identifying the bluff face and the reference point of the bluff edge. The protections and restrictions provided for bluff face and bluff top development in the LCP would be impossible to implement under such an interpretation.

The applicants' request for reconsideration also takes issue with the factual determinations made by the Commission's engineering geologist and the Commission's findings in the staff reports. Though the applicants do not set forth these claimed errors as a basis for their reconsideration request, the assertions merit a response.

The Commission's engineering geologist, Phillip Johnson, reviewed historical and modern topographic maps, historical aerial photographs, modern aerial photographs, and geotechnical consultants' reports for this site. Based on his review of that data, he concluded that the slope on which the 32005 and 32007 parcels lie is within a "coastal bluff" as identified in the LUE up to an elevation of approximately 150 ft. The lower portion of the bluff exposes bedrock of the San Onofre Breccia that is highly erosion resistant, and this resistant rock forms a very steep to near vertical slope up to an elevation of approximately 70 ft. The historical aerial photographs from 1938, 1939, and 1947 indicate that the slope above the near vertical bedrock is inclined more shallowly and rises to an elevation of approximately 150 ft. This upper slope is underlain by less resistant terrace deposits that form a lower slope inclination than the more resistant bedrock that forms the near-vertical lower slope. The historic aerial photographs from the 1930's and 1940's show erosional rills on the surface of the upper slope, but there is no evidence of the grading that was done later during development of the site.

The historical topographic map (A.F. Rodgers, 1885, Vicinity of San Juan Capistrano map, U.S. Coast Survey Maps of California, Southern California Coast T-Sheets, map T-1645) shows a bluff topography similar to that seen in the 1930's and 1940's aerial photographs. This topography appears reasonably representative of the natural slope that existed prior to modification by grading. Though the slope angles vary, the slope is uninterrupted from the base of the bluff to top of the bluff at an elevation of approximately 150 ft. At that elevation, the slope inclination flattens significantly to that of the marine terrace surface, which is very shallowly inclined seaward. This topographic inflection point is typically described by geomorphologists who study coastal landscapes as the bluff edge or the top of the bluff. At this site, that topographic inflection point is located at an approximate elevation of 150 ft., and that is seen in both the historical topographic mapping from 1885 and modern topographic mapping from 2015. Though there has been significant grading of the upper slopes to create a building pad, the overall bluff edge picture is not substantially changed. The top of the topographic bluff (the bluff edge) is located at an approximate elevation of 150 ft.

The applicants have argued that the origin of the terrace deposits that overly bedrock on the site is relevant to the bluff edge determination. That is not the case, and this contention appears to result from confusion about the LUE definition of bluff edge. The

LUE bluff edge definition does not mention the origin of the bluff sediments or whether the bluff face is composed of bedrock or sediments. The determination hinges only on identification of the top of the topographic bluff.

The applicants appear to imply that any slope composed of non-marine terrace deposits cannot be a coastal bluff. That is not true. At this site, terrace deposits overly a nearly-flat wave-cut terrace platform that was eroded into the bedrock by wave action during a sea level high stand over 100,000 years ago. Subsequently, sea level fell to a much lower elevation and exposed the wave-cut bedrock platform and the marine sediments that overly that platform. Deposition by non-marine processes, such as streams and wind-blown sand dunes placed non-marine terrace sediments over the wave-cut platform and the marine terrace sediments. Over time, the bedrock and terrace deposits were uplifted by broad, regional tectonic uplift. Following the last glacial maximum sea level low stand approximately 20,000 years ago, sea level began to rise rapidly, reaching the current elevation within the past 6,000 years. At that point, wave attack began eroding into the uplifted bedrock and overlying sediments, forming the bluffs we see along the California coast today. It is that marine erosion within the past few thousand years that forms coastal bluff topography, regardless of the underlying geology. Though the geology along the coast varies widely by location, coastal bluffs form by marine erosion in a wide variety of locations. As such, the exact origin of sediments or bedrock that is eroded by wave attack is not relevant to determination of what is a coastal bluff. The determining factor is the wave erosion that forms bluff topography. Therefore, the applicants' contention that a slope that is composed of non-marine terrace deposits cannot be a coastal bluff is erroneous and misleading.

The area where the current residence of 32007 is developed is considered a "step-like feature" as described in the LUE Glossary. This step was part of the naturally eroded topography that was further flattened by site grading. Accordingly, the Commission's engineering geologist identified the landward edge of the uppermost riser in this slope as the bluff edge which is reflected in the staff reports.

As expressly discussed in the LUE Glossary's definition of a bluff edge, any of the "damage" to the slope resulting from the failed storm drain and alteration from slope repair, would move the bluff edge landward (in the case of erosion and grading or cut) or would not move the bluff edge at all (in the case of fill). There is no situation where these "damages" and alterations to the bluff would result in the seaward migration of the bluff edge. The applicants encourage the Commission to ignore the upper slope above the 89-ft. contour line entirely because the slope has been modified, despite this being expressly contradicted by the LUE definition whereby a bluff edge would dynamically move as a result of modifications.

In summary, there has not been an error of law with the potential to alter the Commission's decision. The Commission's factual bluff edge interpretation aligns with its longstanding practice and the underlying purpose of the Coastal Act—to protect coastal bluff resources and minimize further alteration of natural landforms. Accepting the applicants' interpretation would undermine these objectives by excluding previously graded or modified bluffs from protection, contrary to both policy and precedent.

E. Conclusion

There is no relevant new evidence which, in the exercise of reasonable due diligence, could not have been presented at the hearing on the matter. Additionally, no error of law or fact has occurred which has the potential of altering the Commission's initial decision. Consequently, there is no basis for reconsideration, and the Commission denies the applicant's request(s) for reconsideration pursuant to Section 30627(b)(4) of the Coastal Act.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- CDP Application No. A-5-LGB-20-0058 and associated documents
- CDP Application No. A-5-LGB-20-0059 and associated documents