



**CITY OF LAGUNA BEACH
NOTICE OF APPEAL**

NOTICE:

1. Appeals of decisions regarding administrative use permits, administrative design review, coastal development permits, conditional use permits, design review, interpretations, reasonable accommodation, temporary use permits and variances may be filed by the applicant or any other aggrieved property owner within three hundred feet of the subject property.
2. A CEQA determination in connection with the decisions described above are subject to Public Resources Code section 21151(c) and may be appealed by any person.
3. The appeal fee of \$2,000.00 must accompany the appeal at submittal.
4. This form must be received by the City Clerk within 14 calendar days of the appealed decision or determination.
5. All information requested below must be provided. Attach additional pages if necessary.
6. Prior to completing this form you may wish to read Laguna Beach Municipal Code section 25.05.070, which pertains to appeals. Copies of the Code are available at Community Development Department counter the City Clerk's Office and on the City's website.

APPEAL BACKGROUND INFORMATION: **Email: Merrill1137@yahoo.com**

Name of Appellant: Village Laguna **Phone No:** 515-480-6538

Address of Appellant: P.O. Box 1309 , Laguna Beach, CA 92652

Address of Subject Property: Forest Avenue between Coast Highway and Glenneyre Street

Owner of Subject Property: City of Laguna Beach

Board/Commission/Officer responsible for Decision Appealed: (Select One)

☐ Planning Commission

Date of Decision/Hearing: April 2, 2025

Appeal of: (Select One)

☐ Approval

☐ CEQA Determination (Pursuant to Public Resources Code section 21151(c))

☐ Coastal Development Permit 25-0318

Design Review 25-0319

Generally Describe:

The type of permit, relief or action originally sought for the subject property:

Grant the appeal, deny the project approvals. _____

REASON FOR THE APPEAL: See attached

The foregoing statements are true and correct to the best of my knowledge and belief.



_____Date_4-16-25

(Signature of Appellant)

PROCEDURE FOR REQUESTING A CONTINUANCE OF A PUBLIC HEARING : Continuances may be granted at the discretion of the City Council. Either the applicant (owner of the subject property or his/her designee) or the appellant may request a continuance at or, preferably, before the time of the public hearing. If, no later than the Wednesday prior to the public hearing, the applicant submits a written request accompanied by \$50 to cover the cost of renoticing, the City staff has the authority to continue the hearing, if in the judgement of the staff, there is no valid or legal reason not to continue the hearing. Such requests are to be submitted to the City Clerk.

Appeal Received By: _____
Date Filed: _____
Appeal Fee: _____
Date of Hearing: _____

REASON FOR THE APPEAL:

This appeal of the Planning Commission approval is being submitted together with an appeal of the Director of Community Development administrative CDP approval. We consider these as one appeal, because there is but a single project on Forest Ave, for which the City has sought to adopt a Slow Streets program; close lower Forest Ave. permanently under that program; approve the design of a permanent pedestrian mall; issue separate Coastal Development Permits for the street closure and for design review, and to exempt these approvals from CEQA. The City should consider all components of the project together, and Council is the only body that can have oversight over all components. We ask that the City grant both appeals. Because the project has been segmented into separate decisions with confusing CEQA status, different standards of review and different appeal dates, it is in the public interest that the Council consider the matter as one package and that no appeal fee be charged. Since the Coastal Commission allows us to appeal directly to them if the city charges a fee, we assume that this appeal approach, having a clear and consolidated package to forward to Coastal would be in the public's as well as the applicant/city's interest.

Procedural Grounds for the Appeals

City Council did not use a categorical exemption to approve the Slow Streets Ordinance on April 8, 2025. In its haste to get CEQA out of the way, it used a categorical exemption only to approve the first reading of the Slow Streets Ordinance, on March 25, 2025, which is clearly stated on the Notice of Exemption submitted to the State. Local agencies need to find projects exempt as part of the final approval, not mid-way through. All of the City's subsequent actions have been compromised through this failed CEQA process, including the CEQA exemption used by the Director of Community Development to approve a Coastal Development Permit for the closure of Forest Avenue and the Planning Commission's use of a CEQA exemption to approve the design review and Coastal Development Permit for the pedestrian mall on Forest. The Slow Streets Ordinance had not even been adopted yet, but that proposed but not final action was the rationale for the use of an exemption for the Planning Commission's design review approval.

The City has been inconsistent in its handling of Forest Ave., sometimes treating it as a single project when convenient to do so (i.e. the premature effort to use a categorical exemption for the Planning Commission's design review) and sometimes treating it as two projects when that is more convenient. Under Laguna Beach Municipal Code Section 25.07.12(D), the Director has no authority to grant a CDP if other project permits are required. There are many permits involved in the Forest Ave. project, including but not limited to, the two CDPs the City has approved through different bodies and mechanisms. There are also the numerous permits that would be required to actually build the pedestrian mall. As multiple permits are required, Council, not the Director, is required to hear the CDP case for the Forest Avenue closure.

Furthermore, the City has not done its due diligence before closing Forest Ave. under the Slow Streets program. California Vehicle Code Section 21101(f) requires that the City take certain steps before implementing a Slow Streets program, which "includes an outreach and engagement process that includes notification to residents and owners of property abutting any street being considered for inclusion in the slow streets

program.” Given that adoption of a Slow Streets program was an eleventh-hour change in the project, which took the community quite by surprise, it is impossible to believe that outreach and engagement about Forest Avenue ‘s closure as *part of a Slow Streets program* has taken place.

Findings

There were inadequate grounds to make findings that the project meets the criteria for a CDP and the City’s Design Review guidelines.

Coastal Development Permit

To receive approval, a project cannot conflict with the General Plan or Local Coastal Program. As pointed out over the last few years, the permanent closure of Forest Avenue to cars, does not comply with the Downtown Specific Plan (DSP). The DSP does not recommend a permanent closure of Forest Avenue. It recommends only temporary or partial use of public parking spaces for pedestrian activities. It recommends retention of existing parking spaces. Instead of retaining parking this project permanently eliminates 48 parking spaces.

The findings for a CDP cannot be made under several other criteria:

1. *The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in the adopted local coastal program land use plan.*
3. *The proposed development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources.*
4. *The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas and will provide adequate buffer areas to protect such resources.*

The project eliminates access to 48 parking spaces in a key area for coastal visitors and residents. While the access improvements the city has made with public transportation are very beneficial, the fact remains that access to this downtown street by vehicles will be eliminated. This affects both through traffic and parking.

The closure of the street cuts off the main iconic vehicular entrance to the downtown. The entrance there is memorable with the more than one hundred-year-old street, trees on both sides, and small quaint shops. There is a long view up the street with the eucalyptus on both sides. The visual terminus is the historical fire station building next to city hall.

Because of the closure it is unclear and confusing how to enter the downtown from Coast Highway. Turning south from Broadway/Laguna Canyon Road, a motorist cannot turn left at the first intersection, Ocean Avenue. The next street, Forest, is now blocked. There is a small entrance to the stub of Park Avenue which is essentially an alley between the backs of stores and the library. No left turn at Laguna Avenue. A driver must go all the way to Legion to turn left and by that time they are past the downtown.

The staff report statement that “Parking analysis showed that the parking removal did not significantly affect parking conditions of the area” has been belied by the public testimony in hearing after hearing. Those were prime parking spaces very important to residents, visitors and merchants.

The Promenade affects recreational and visitor serving facilities in that the unique identity of Forest Avenue as a traditional Main Street will be transformed into a carefully curated experience. The experience of Laguna Beach as a town that is much the same as it has been for 100 years is essential to the coastal scenic resource the public enjoys.

The City glosses over the loss of parking and ignores the impact of the proposed alterations to the view of the ocean and Main Beach Park from Forest Avenue. This coastal scenic resource will be severely impacted.

6. *The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas.*

The existing development in the neighborhood is a shopping street. This project transforms part of that street into a permanent dining and entertainment area. It is decidedly different from the rest of the street and grants benefits to some (restaurants getting extra area to serve food) while negatively affecting access for others. Thus there is incompatibility.

5. *The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards.*
8. *The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities.*

FEMA maps demonstrate that Forest Avenue is located within a floodway. The Planning Commission has approved a design that was developed without hydrologic criteria. There is no demonstrated understanding of the difficulties of construction in a floodway, and FEMA’s requirement that a project in a floodway not displace so much as a cup of water onto neighboring streets. The Director of Community Development was similarly indifferent to the significant risks from flooding. It is impossible to find that the project “will not result in undue risks from...flood.” The condition that a hydrology study be done as part of the building permit process is inadequate since that criteria should be a basic determinant of design from the beginning of the project. Criterion 8 is unmet for similar reasons.

Design Review Criteria

1. Access—the proposed design, in closing a street to vehicular access, is preventing such access to adjoining properties and businesses. Separating vehicles and pedestrians completely is not necessarily the intent of this provision. Access as it was before the Promenade was important to the retail businesses as expressed in many public hearings. It was also safe and pleasant for pedestrians. It provided a

busy traditional street atmosphere that residents and visitors enjoyed. The change in access has been detrimental in many ways and those problems will be permanent if this project is approved.

2. Design Integrity—The project area is a street that has served the downtown area for over 100 years. Its integrity is tied to the street function, simple concrete sidewalks and curbs and graceful Eucalyptus street trees. It is simple and traditional. This design depletes the integrity in a major way.
3. Environmental Context—The context consists of small shops and restaurants in diverse and historical commercial buildings. Main Beach Park is across the street, separated from Forest Avenue by Coast Highway. The Forest Avenue commercial area continues eastward beyond the limits of this project. The Eucalyptus trees continue all along both sides of the street culminating in a view of the city's 1929 fire station. The continuity of the whole street is important to maintain. The proposed design makes the lower part of Forest Avenue decidedly different from the rest. The plantings on each end close it off from the rest of the street. New and different trees are added in this proposal, as is a sculptural focal point and patches of decomposed granite. The design is intentionally oppositional to the rest of the street, transforming it into a different kind of space, contrasting with rather than complementing its environmental context.
4. General Plan Compliance—The project has not conformed to the following General Plan policies and instead of ensuring an "adequate evaluation of environmental impacts," it avoids dealing with them by getting an exemption from CEQA. CEQA is not just a pesky bureaucratic hurdle, it is a codified way of identifying and mitigating problems that can affect our health and welfare. It also includes evaluation of project alternatives which is an important tool for the Council and the public to understand the wisdom of decisions like this one. The City should not avoid addressing environmental impacts simply because it is no longer required to do so. Following are General Plan policies not complied with:

9.10 *Continue to consider flood hazards when reviewing projects within the 100-year floodplain.*

9.11 *Ensure adequate evaluation of environmental impacts, coastal hazards, rates of erosion, sea level rise, tsunami hazard and safety hazards associated with public facilities and infrastructure improvements.*

Action 10.3.2 *Continue to require in-depth analysis of constraint issues for properties, especially those designated on the City's hazard maps so that the nature of the constraint and the best options for mitigation or avoidance will be considered at all stages of the approval process since these constraints may affect what development is appropriate for the property.*

See discussion of Coastal Development Permit criteria #5 and #8 above regarding lack of consideration of flooding impacts.

5. Neighborhood Compatibility—The existing development in the neighborhood is a shopping street. This project transforms part of that street into a permanent dining and entertainment area. It is decidedly different from the rest of the street and grants benefits to some (restaurants getting extra area to serve food) while negatively affecting access for others. Thus there is incompatibility.
6. Sustainability—The project will demolish an existing street creating mountains of waste material to be disposed of. The embodied energy in the existing construction will be wasted and more energy and materials will need to be expended to recreate the new paved area and other features. The argument of some Council members that closing Forest Avenue would reduce automobile pollution from cars assumes without evidence that the closure would result in fewer automobile trips.

Design Review Finding No. 4—*The project is consistent with any specific plan or any other specific zoning design review criteria.*

The project does not conform to the recommendations of the Downtown Specific plan in that the DSP does not recommend a permanent closure of Forest Avenue. It recommends only temporary or partial use of public parking spaces for pedestrian activities. It recommends retention of existing parking spaces. Instead of retaining parking this project permanently eliminates 48 parking spaces, plus 3 more that the staffing for the Promenade occupy daily.