

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370



# W 15a

Filed: 3/22/11  
49th Day: Waived  
Staff: Estevens-SD  
Staff Report: 7/21/11  
Hearing Date: 8/10/11

## STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Encinitas

DECISION: Approved with Conditions

APPEAL NO.: A-6-ENC-11-021

APPLICANT: Richard Sorich

PROJECT DESCRIPTION: Structural reinforcement and encasement (with colored shotcrete) of an existing below grade upper coastal bluff caisson retention system that has become exposed. The project also includes planting and hydroseeding of the entire midbluff and temporary irrigation.

PROJECT LOCATION: On the coastal bluff fronting 816 Neptune Avenue, Encinitas (San Diego County). APN 256-011-12 & 256-011-04

APPELLANTS: Commissioner Stone; Commissioner Shallenberger

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### SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. Based on review of the City's file and information provided by the applicant, staff has concluded that the development, as approved by the City, is consistent with all applicable LCP provisions as it is in character with the overall surrounding community and will not result in any adverse impacts on public views.

Standard of Review: Certified Encinitas LCP and the public access and recreation policies of the Coastal Act.

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SUBSTANTIVE FILE DOCUMENTS: Certified City of Encinitas Local Coastal Program (LCP); 816 Neptune Avenue Site Plans (Dated 6/24/10, SEC); 816 Neptune Avenue Seawall Monitoring Report (Dated June, 2011, SEC); MUPMOD/CDP 10-104 (Received 3/8/11, City of Encinitas); 816 Neptune Avenue Geotechnical Recommendations Report (Revised 11/3/10 SEC); CDP #6-03-048; CDP #6-01-041-G; Substantial Conformance Determination with Major Use Permit Modification and Coastal Development Permit No. 10-104 MUPMOD/CDP and associated revised landscaping plans (Received 7/19/11)

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I. Appellants Contend That: The proposed development is inconsistent with the policies of the certified LCP which pertain to armoring of coastal bluffs and protection of public views and natural scenic qualities of bluffs. Specifically, the appellants contend that the project approved by the City does not clearly specify whether the proposed shotcrete wall is necessary to protect the existing principal structure that is in danger from erosion, or if the proposed project is the minimum necessary to address any potential risk to the residence and minimize alteration of the natural character of the bluff face and adverse impacts to the scenic and visual quality of the bluff. Additionally, it is not clear how the proposed wall will compare in design and alignment with the existing upper bluff wall directly to the north of the property.

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II. Local Government Action: The Encinitas Planning Commission approved, with conditions, a coastal development permit for the proposed development on 2/17/11. The coastal development permit was subsequently modified on 7/12/11 to require plantings on the face of the bluff in addition to hydroseeding. The conditions of the approval address, in part, the following: that the applicant shall agree to participate in any future comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems, the proposed upper bluff wall adhere to all visual policies of the City, plantings and hydroseeding on the bluff, recordation of an open space easement to conserve the coastal bluff face between the bluff edge and the most westerly property line, and regular monitoring reports of the proposed upper bluff wall.

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III. Appeal Procedures/Substantial Issue Analysis: After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30604(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. titl. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

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#### IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission determine that Appeal No. A-6-ENC-11-021 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

#### **STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:**

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

#### **RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:**

The Commission finds that Appeal No. *A-6-ENC-11-021* does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

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## V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/History. The proposed project is located on a blufftop lot in Encinitas (see Exhibit #1). The proposed project involves the construction of a 50 foot long, 15-19 foot high upper bluff shotcrete wall which will structurally reinforce and encase an existing partially exposed, below-grade, upper coastal bluff caisson retention system. The upper bluff shotcrete wall is proposed to protect an existing two-story single family bluff top residence located approximately 17 feet from the bluff edge. The bluff is currently stabilized with a seawall at its base, the existing caisson system, and a nine foot high retaining wall on the bluff edge. The caisson system consists of 30 inch diameter cylindrical piers that are installed 35-40 feet into the ground and capped by a steel and concrete plate in order to stabilize the bluff top (see Exhibit #2 and 3).

In 2001, the Executive Director approved an emergency coastal development permit for construction of an approximately 50 foot-long, 17 to 20 foot-high and 27 inches-wide tiedback concrete seawall at the toe of the bluff fronting the single family residence on the subject property (6-01-062-G) and in and 2004, the Commission approved a follow-up regular coastal development permit for the seawall (6-03-048).

In 2001, the Executive Director also approved an emergency permit for an approximately 50 foot long, below-grade, upper bluff retention system for the subject property (6-01-041-G). The retention system was constructed in the rear yard of the existing single family residence at the toe of an existing approximately nine foot-high retaining wall approximately 17 feet seaward of the existing residential structure. The retention system consisted of seven, 30 inch diameter, concrete caissons placed to a depth of approximately 35 to 40 feet capped by a steel and concrete plate and the addition of tiebacks to an existing nine foot-high wall. In 2003, the City of Encinitas issued a follow up coastal development permit to the emergency coastal development permit for the upper bluff caisson system (6-ENC-03-042). No appeal was filed for that decision.

In 2003, the City of Encinitas approved construction of a 250 square foot second story addition to the existing one-story single family residence that includes an approximately six foot cantilevered portion of the addition into the 40 foot coastal bluff setback area (6-ENC-03-049). No appeal was filed for that decision either.

The entire yard area on the subject property between the existing single family residence and the edge of the bluff is concrete. At the bluff edge, there is an approximately nine foot drop to an approximately three foot wide concrete patio (see Exhibit #4). Previously a thick concrete deck existed seaward of this patio. However, the great majority of the bluff material has eroded under the concrete deck and approximately half of the concrete deck has fallen onto the bluff (see Exhibit #5). The bluff material below the remaining half of the concrete deck is undercut and is projected to fail imminently. The previously approved upper bluff retention system's seven below grade caissons are located directly under the seaward edge of the three foot wide platform. At least one of the caissons is

exposed at this time and based on recent erosion; it appears that the other caissons are likely to become exposed soon. The remainder of the soil covering the below grade caissons, the large section of concrete patio that is overhanging the bluff edge, and the large section of concrete patio that has fallen and is lying on the bluff face will be removed. The applicant is proposing to remove the soil seaward of the caissons because the soil would most likely be lost anyway as a bi-product of removing the overhanging patio slab, which is necessary for safety, and because a concrete grade beam must be connected directly to the surface of the existing caissons for structural integrity. After removing the remaining bluff material seaward of the buried caissons, a concrete grade beam will be installed directly adjacent to the caissons, approximately three feet, six inches above the point where the base of the exposed portion of the proposed shotcrete wall intersects with the surface of the bluff. The concrete grade beam will be secured to the seven existing caissons with six, 55 foot long tiebacks. The grade beam will extend the length of the property; approximately 50 feet.

A shotcrete upper bluff wall will be constructed directly over the seaward edge of the caissons. The shotcrete wall will be approximately 50 feet long and 15 feet high (exposed surface above grade) and extend approximately four feet below the lowest adjacent grade (19 feet x 50 feet = 950 square foot total surface area). The shotcrete wall will consist of approximately 10 inches of shotcrete and an additional four inches of sculpting material, for a total thickness of approximately 14 inches. The portion of the shotcrete wall with the concrete grade beam will consist of the 14 inch grade beam and approximately 10 inches of shotcrete and sculpting material, for a total thickness of approximately 24 inches. Although the portion of the wall with the grade beam will protrude slightly further seaward than the remainder of the wall, it is expected to be covered by vegetation. The entirety of the exposed shotcrete wall will be textured and colored to match the existing lower seawall and adjacent upper bluff wall on the property directly to the north.

The property directly north of the subject property already has a similar upper bluff shotcrete retention wall that is proposed to connect with the wall on the subject property. However, the southern end of the neighbor's wall was constructed to jut out seaward approximately 3-4 ft to follow the natural line of bluff at the time of construction in 2005. Since 2005, the bluff material has eroded on the subject site and additional bluff material will need to be removed in order to place the grade beam on the caissons, thus the northern edge of the proposed wall and the southern edge of the wall to the north are not in alignment. In order to provide a smooth, continuous transition between the subject upper bluff wall and the neighbor's wall and to prevent sloughing of bluff material on the southern end of the neighbor's upper bluff wall, an approximately four inch thick layer of shotcrete will be applied at the nexus. The four inch layer of shotcrete will be approximately two feet in length near the top of the wall and approximately three feet in length near the bottom of the wall (the difference is due to the fact that the wall to the north gradually slopes seaward, while the subject wall will be vertical). The four inch thick layer of shotcrete will be placed over wire mesh (as opposed to rebar) and no structural concrete will be utilized (see exhibit #6).

The project also includes landscaping of the entire mid-bluff with plantings and hydroseeding. Additionally, temporary irrigation will be installed and is expected to be capped and disconnected, within 26 months, upon mature establishment of the proposed landscaping. The project approved by the city originally only included hydroseeding of the bluff. Subsequently, the applicant has modified the City permit to include plantings on the bluff, which have proven more successful than hydroseeding alone (see exhibit #7).

2. Protection of Coastal Bluffs. The Certified LCP contains provisions for protection of Coastal Bluffs.

Page LU-50 of the certified LUP states, in part:

Coastal Bluffs: The coastal bluffs are part of the dynamic land-ocean interface that is continually changing. Changes in the patterns of weather, severe storms, and even manmade factors can accelerate the weathering processes that affect the coastline. In recent years, a number of homes and other improvements have been damaged due to bluff failure and there is no indication that these bluffs will become inactive in the near future. For this reason, future intensification of development near the bluff edges is discouraged under the land use policy.

On page PS-4 and PS-5 of the certified LUP, Policy 1.6 states, in part:

The City shall provide for the reduction of unnatural causes of bluff erosion, as detailed in the Zoning Code, by:

(...)

Policy 1.6.e: Permitting pursuant to the Coastal Bluff Overlay Zone, bluff repair and erosion control measures on the face and at the top of the bluff that are necessary to repair human-caused damage to the bluff, and to retard erosion which may be caused or accelerated by land-based forces such as surface drainage or ground water seepage, providing that no alteration of the natural character of the bluff shall result from such measures, where such measures are designed to minimize encroachment onto beach areas through an alignment at and parallel to the toe of the coastal bluff, where such measures receive coloring and other exterior treatments and provided that such measures shall be permitted only when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply; and

In addition, the Section 30.34.020.C.2.b of the certified Implementation Plan includes the following:

b. When a preemptive measure is proposed, the following findings shall be made if the authorized agency determines to grant approval: (Ord. 91-19)

- (1) The proposed measure must be demonstrated in the soils and geotechnical report to be substantially effective for the intended purpose of bluff erosion/failure protection, within the specific setting of the development site's coastal bluffs. The report must analyze specific site proposed for development. (Ord. 91-19)
- (2) The proposed measure must be necessary for the protection of a principal structure on the blufftop to which there is a demonstrated threat as substantiated by the site specific geotechnical report. (Ord. 91-19)
- (3) The proposed measure will not directly or indirectly cause, promote or encourage bluff erosion or failure, either on site or for an adjacent property, within the site-specific setting as demonstrated in the soils and geotechnical report. Protection devices at the bluff base shall be designed so that additional erosion will not occur at the ends because of the device.
- (4) The proposed measure in design and appearance must be found to be visually compatible with the character of the surrounding area; where feasible, to restore and enhance visual quality in visually degraded areas; and not cause a significant alteration of the natural character of the bluff face.
- (5) The proposed device/activity will not serve to unnecessarily restrict or reduce the existing beach width for use or access.

The appellants contend that it is unclear if the proposed reinforcement of the below-grade upper bluff retention system with this shotcrete wall is necessary to protect the primary residential structure or if it is only protecting the patio and yard area. When the Commission originally approved the emergency permit for the construction of the below-grade caisson system on the subject property (6-01-041-G), the applicant documented that without the caisson system, the estimated factor of safety would be between 1.07 and 1.27. Thus, if the existing below-grade caisson system fails, it is presumed that the low factor of safety would return. The Commission typically requires new development on blufftop lots to have a factor of safety of 1.5; however, a factor of safety below 1.5 for existing development would not necessarily require a seawall. In this case, the Commission's staff geologist and engineer have reviewed the proposed project and agree with the city's assessment that the proposed upper bluff wall is necessary to protect the primary structure on the property. It should be noted that the caisson system approved for the subject site was one of the first approved in this area and the property is unique in that the caissons were allowed to be installed approximately 17 feet seaward from the western edge of the home. Since that time, these types of caisson systems have been required to be installed approximately five feet from the primary structure, in order to reduce the potential for exposure and the need to construct walls over the caissons if they become exposed. However, because the caissons are already installed, it is not possible to remove them, and if erosion continues and undercuts the caisson system and exposes



the existing tiebacks, the below-grade caisson retention system would most likely fail, resulting in an immediate threat to the existing home on the blufftop.

The appellants contend that this project will in effect place a permanent upper bluff wall on the property which was not the intent of the previously approved coastal development permit for the below-grade retention system. When the City approved the original CDP for the below-grade retention system, the findings stated that "...at such time that the upper bluff retention system is exposed measures shall be implemented to mitigate any potential visual impacts." This statement appears to indicate aesthetic repairs will occur in the future. The subject project is clearly more substantial than an aesthetic repair, as it creates an entire upper bluff wall and is structurally supported with a grade beam and tiebacks. While merely placing a thin shotcrete face over the exposed portions of the caissons would remedy the visual impacts, City building code requires that the grade beam and tiebacks be installed for structural integrity. Although the erosion of the bluff fronting this property occurred more rapidly than was predicted at the time of construction of the caisson system, the caisson system was originally approved to protect the primary structure on the property. The Commission's staff geologist and engineer concur if the caisson system is not protected, it will fail, and the home will immediately be threatened. In addition, they also concur that the proposed upper bluff wall has been designed to be the minimum necessary to provide protection of the existing residence, as set forth in the certified LCP.

The appellants contend that no alternatives analysis was provided for the proposed project or for the visual impacts of the project. In response to the appellants' contentions, the applicant subsequently provided an analysis to address possible alternatives and to demonstrate that the proposed project is the preferred alternative for the site. The first alternative is the application of shotcrete over the exposed caissons, without tiebacks or the proposed grade beam. This alternative was determined not to be feasible because it would not adhere to the City building code, and the applicant asserts it would not be structurally sound and would fail within a short time frame. The second alternative is to import soil to the bluff to cover the exposed caissons. This alternative was deemed infeasible, because it would require that the seawall at the base of the bluff be raised in order to establish the correct slope angle to reach the height of the exposed caissons. Additionally, importing a large amount of soil in this location would create a steeper bluff slope in comparison to neighboring slopes, and the necessary stabilization measures on each side of the imported soil would create adverse visual impacts. The third alternative is the removal of the top of the caissons and construction of a stepped series of smaller walls in order to avoid the adverse visual impact of the proposed 15 foot high vertical wall. This alternative would require the removal of the grade beam that currently caps the caissons, which would result in a failure of the caisson system and threaten the primary structure on the site. The Commission's staff geologist and engineer have reviewed the alternatives provided by the applicant and concur with their conclusions. Again, as stated above, the Commission's staff geologist and engineer concur that the proposed upper bluff wall has been designed to be the minimum necessary to protect the existing residence.

The project was originally approved by the City to use only hydroseeding on the bluff face for landscaping. However, the applicant's own geotechnical report recommended that the owner perform supplemental plantings. Additionally, plantings have been shown to be more successful on coastal bluffs in the immediate area than hydroseeding. Finally, hydroseeding at the subject site has been shown to be unsuccessful over the past eight years. Upon recommendation of the Commission staff, the applicant has amended the City permit for this project to include container stock planting, as well as hydroseeding on the bluff. The landscape plan that has now been adopted by the City calls for only native, drought tolerant species, and non invasive plants. The plantings are also conditioned to be planted within 60 days of construction and all required planting are required to be maintained in good growing condition throughout the life of the project. Because all the container plantings and hydroseeding mix are native, irrigation is conditioned to be removed and/or capped within 26 months after seeding and planting. Therefore, the proposed project, with the landscaping amendment, is the preferred alternative because it is in compliance with city building code, is structurally sound, and creates a comparable or lesser visual impact than the other alternatives.

The appellants also contend that the plans approved by the City do not clarify if the gravel/soil fill on the lower portion of the bluff is proposed or existing, if the overhanging portion of the existing patio will be removed, or if the proposed wall will compare in design and in alignment with the existing upper bluff wall directly to the north of the property. The applicant has met with Commission staff and clarified the issues raised by the appellants. The gravel/soil fill shown on the plans is existing, and no new gravel or fill is proposed. The overhanging portion of the existing concrete patio is a safety hazard and must be removed in order to construct the upper bluff wall. The northern end of the proposed wall will be landward of the upper bluff wall directly to the north. A four inch thick layer of shotcrete will be applied to connect the two walls, both for aesthetic purposes and to prevent undermining of the upper bluff wall to the north. The southern edge of the upper bluff seawall directly to the north of the subject property is held in place with nine tiebacks. In the future, it will be possible, from an engineering standpoint, to bring the southern end of the wall to the north landward, in order for both upper bluff walls to be in alignment.

No return wall on the southern end is proposed at this time, as that would necessitate cutting into the existing undisturbed upper bluff to the south. The three properties directly south of the subject site, 808, 798, and 796 Neptune Avenue, also have buried caissons (see exhibit #8). The northernmost caisson on the property directly to the south is approximately eight feet from the southernmost caisson on the subject property. It may be the case that, in time, the upper bluff material seaward of the properties to the south will erode to the extent that similar shotcrete walls are required, at which time one continuous upper bluff wall might be proposed. The Commission engineer does not believe that the proposed upper bluff wall on the subject property will cause an increase in the erosion to the bluff in front of the property to the south or to the north. At 794 Neptune Avenue (four properties to the south of the subject site) and at 828 Neptune (the property directly to the north of the subject site) upper bluff walls have already been

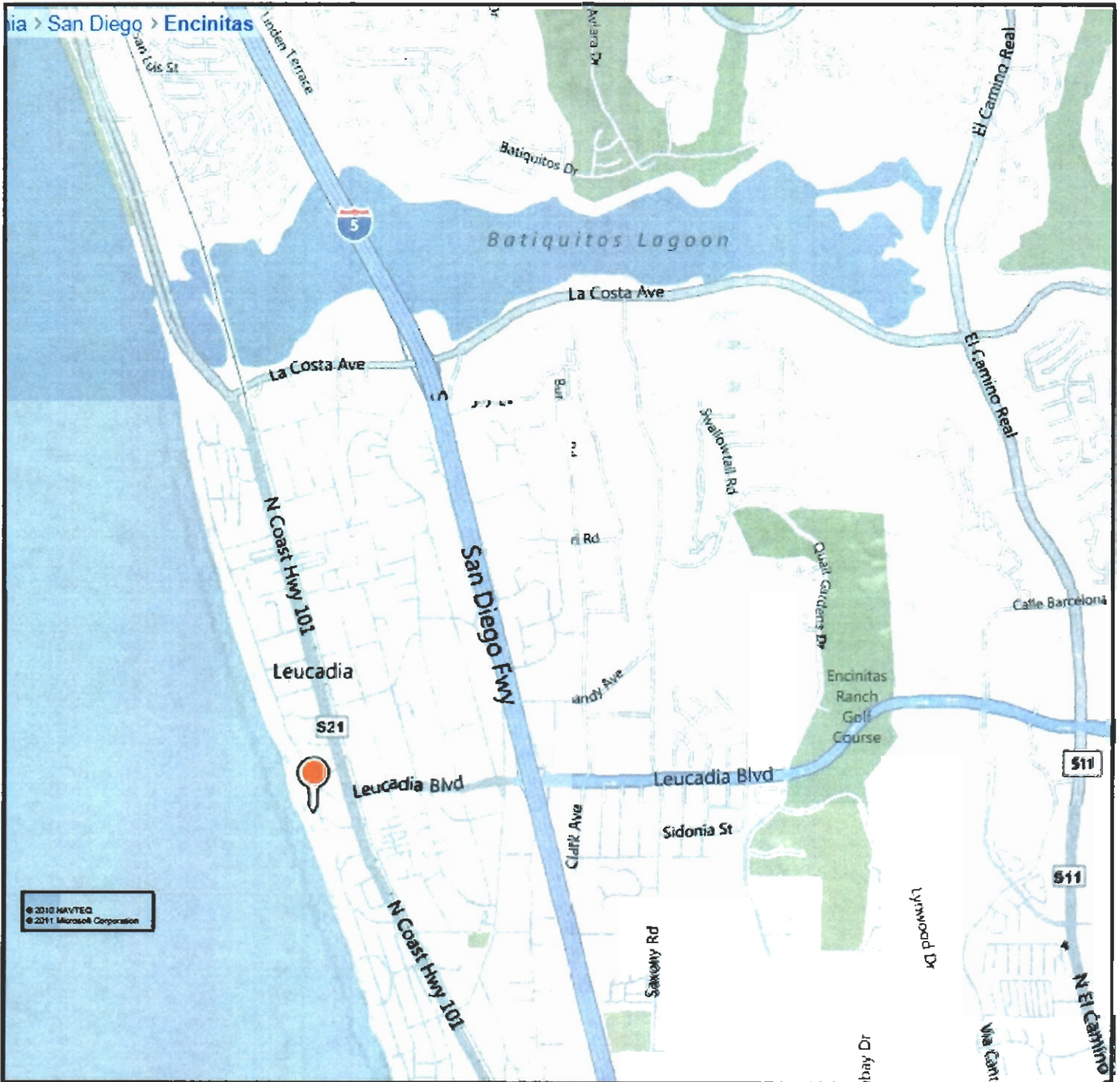
constructed. However, the primary structures on these two properties are substantially closer to the bluff edge than the primary structure on the subject property.

The proposed upper bluff wall will be colored and textured to match the surrounding bluff and the wall to the north. Therefore, based on the above findings, the project, as approved by the City, is consistent with the certified LCP. Thus, the project does not raise a significant issue on the grounds raised by the appellants.

3. Conclusion. Based upon a review of all of the information provided to the Commission regarding this project, the Commission finds that the proposed upper bluff wall over the existing caisson system is compatible in design and scale with the overall character of the surrounding area and meets the requirements of the certified LCP as it has been documented to be the minimum necessary to provide continued protection to the existing home. The subject development is therefore found to be consistent with the certified LCP. However, this may not be true for other upper bluff walls in the surrounding area with similar below grade upper bluff caisson systems, and future proposed development should be reviewed independently. Therefore, the Commission finds that the appeal does not raise a substantial issue regarding the proposed development's conformity with the bluff preservation policies of the certified LCP.

4. Substantial Issue Factors. As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of no substantial issue. The project will not create an adverse precedent for interpretation of the City's LCP, and while significant coastal resources are affected by the construction of shoreline protective devices, this project is the minimum necessary to protect the existing home on the property. Finally, the objections to the project suggested by the appellants do not raise any substantial issues of regional or statewide significance.

# Site Location



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EXHIBIT NO. 1
APPLICATION NO. <b>A-6-ENC-11-021</b>
Site Location
 California Coastal Commission





# Site Profile

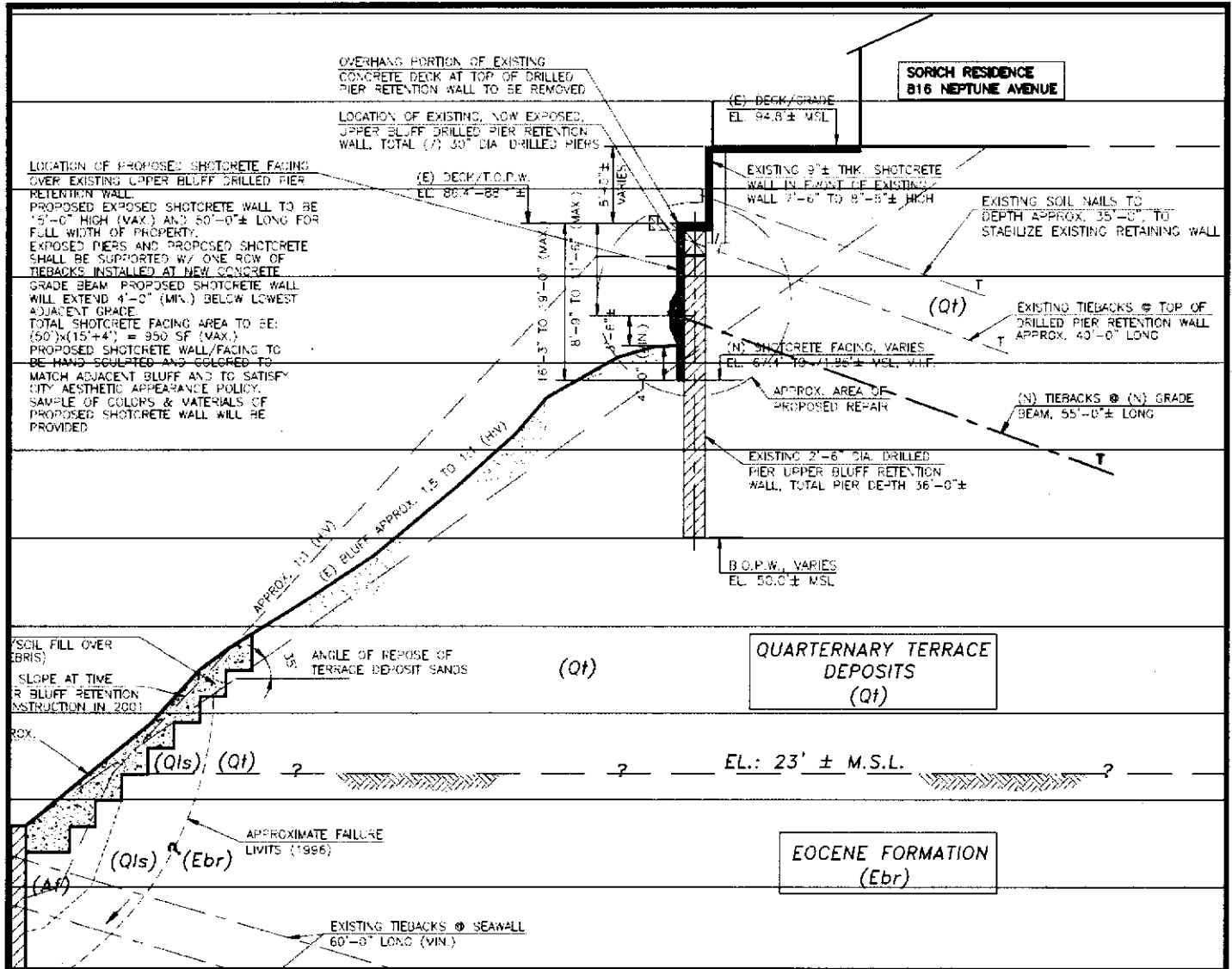


EXHIBIT NO. 4
APPLICATION NO. A-6-ENC-11-021
Site Profile
California Coastal Commission

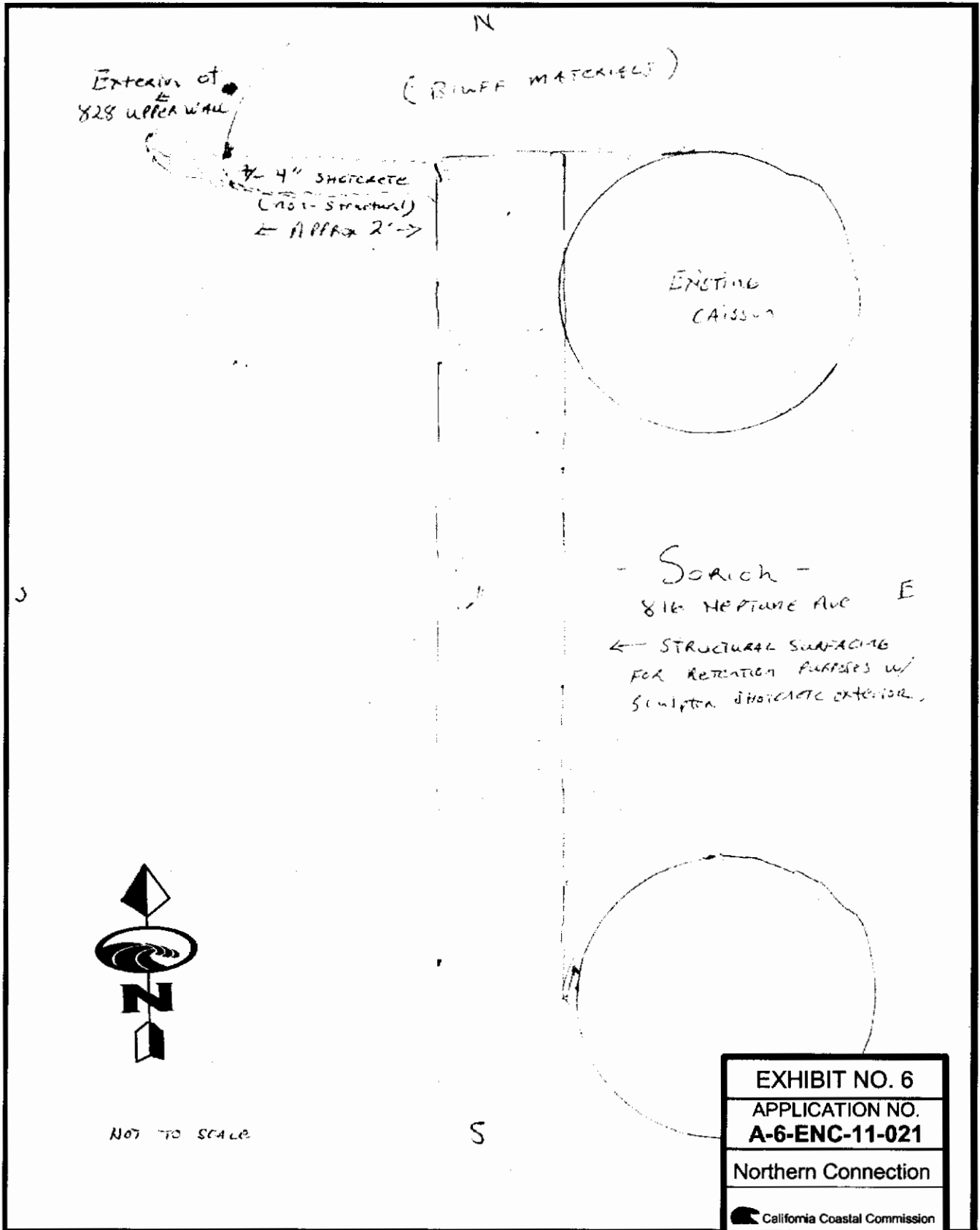
# Concrete Patio



EXHIBIT NO. 5
APPLICATION NO. <b>A-6-ENC-11-021</b>
Concrete Patio
 California Coastal Commission



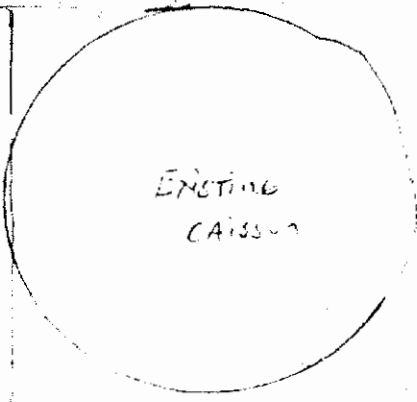
# Northern Connection



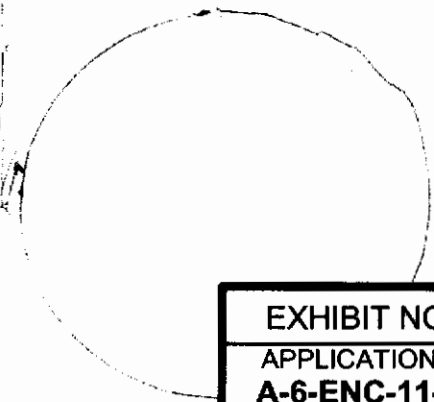
Extension of  
828 UPPER WALL

(RIWEE MATCHLINES)


4" STERCAETE  
(NOT STRUCTURAL)  
APPROX 2' ->



SOAICH -  
816 NEPTUNE AVE E  
← STRUCTURAL SURFACING  
FOR RETENTION PURPOSES W/  
SLOTTED DIAPHRAGM EXTENSION



NOT TO SCALE

EXHIBIT NO. 6
APPLICATION NO. A-6-ENC-11-021
Northern Connection
 California Coastal Commission





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7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370 FAX (619) 767-2384  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**NOTIFICATION OF APPEAL PERIOD**

DATE: March 9, 2011  
TO: Roy Sapau, Planner  
City of Encinitas  
505 So. Vulcan  
Encinitas, CA 92024  
FROM: Eric Stevens, Coastal Program Analyst  
RE: **Application No. 6-ENC-11-027**

Please be advised that on March 8, 2011 our office received notice of local action on the coastal development permit described below:

Local Permit #: 10-014 MUPMOD/CDP

Applicant(s): Richard Sorich

Description: Structural reinforcement and encasement (with colored shotcrete) of an existing upper coastal bluff caisson retention system (now exposed), hydroseeding of the entire midbluff and temporary irrigation (2-3 year estimation). The drilled-pier caisson system will be encased with a reinforced shotcrete wall and will be at a maximum height of 16 feet 3 inches, including a 4-foot minimum deep toe/cut off trench at the bottom of the wall. A row of tiebacks (6 total tieback anchors) is also proposed at approximately 19 feet below the top of the upper bluff wall and will be installed with new concrete grade beams.

Location: 816 Neptune Avenue, Encinitas (San Diego County) (APN(s) 256-011-12, 256-011-04)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on March 22, 2011.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

~~cc: Richard Sorich  
The Trettin Company, Attn: Bob Trettin~~

EXHIBIT NO. 9
APPLICATION NO. <b>A-6-ENC-11-021</b>
Notices
California Coastal Commission

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO COAST DISTRICT  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370 FAX (619) 767-2384  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**COMMISSION NOTIFICATION OF APPEAL**

DATE: March 23, 2011  
TO: Roy Sapau, Planner  
City of Encinitas  
505 So. Vulcan  
Encinitas, CA 92024  
FROM: Eric Stevens, Coastal Program Analyst  
RE: **Commission Appeal No. A-6-ENC-11-021**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: 10-104 MUPMOD/CDP  
Applicant(s): Richard Sorich  
Description: Structural reinforcement and encasement (with colored shotcrete) of an existing upper coastal bluff caisson retention system. The project also includes hydroseeding of the entire midbluff and temporary irrigation.  
Location: 816 Neptune Avenue, Encinitas (San Diego County) (APN(s) 256-011-12, 256-011-04)  
Local Decision: Approved w/ Conditions  
Appellant(s): Commissioner Mark Stone; Commissioner Mary Shallenberber  
Date Appeal Filed: 3/22/2011

The Commission appeal number assigned to this appeal is A-6-ENC-11-021. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the City of Encinitas's consideration of this coastal development permit must be delivered to the San Diego Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Eric Stevens at the San Diego Coast District office.

cc: Richard Sorich

The Trettin Company, Attn: Bob Trettin

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
(619) 767-2370



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioner Mary Shallenberger

Mailing Address: P.O. Box 354  
Clements, CA 95227-0354

Phone Number: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government: Encinitas
2. Brief description of development being appealed: A request for the approval of a Major Use Permit Modification and Coastal Development Permit to authorize the structural reinforcement and encasement (with colored shotcrete) of an existing upper coastal bluff caisson retention system. The project also includes hydroseeding of the entire midbluff and temporary irrigation.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 816 Neptune Avenue, Encintas, 256-011-12 (streetside lot), 256-011-04 (bluffside lot)
4. Description of decision being appealed:
  - a. Approval; no special conditions:
  - b. Approval with special conditions:
  - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions cannot be appealed unless the development is a major project. Denial decisions by port governments are not

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-ENC-11-021

DATE FILED: 3/22/11

DISTRICT: San Diego

EXHIBIT NO. 10
APPLICATION NO. <b>A-6-ENC-11-021</b>
Appeals
California Coastal Commission

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COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

5. Decision being appealed was made by (check one):

- a.  Planning Director/Zoning Administrator                      c.  Planning Commission
- b.  City Council/Board of Supervisors                                      d.  Other

Date of local government's decision: 2/17/2011

Local government's file number (if any): 10-104 MUPMOD/CDP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Richard Sorich  
816 Neptune Avenue  
Encinitas, CA 92024

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

The Trettin Company, Bob Trettin, 560 N. Highway 101, Suite #5, Encinitas, CA 92024

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

*See Attachment "A" dated 3/22/11*

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: <sup>2</sup> *Signature on file*                      *Signature on file*  
Appellant or *AGENT*

Date: 3/22/11

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
(619) 767-2370



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioner Mark Stone  
Mailing Address: County Government Center  
701 Ocean Street, Room 500  
Santa Cruz, CA 95060  
Phone Number: (831) 454-2200

SECTION II. Decision Being Appealed

1. Name of local/port government: Encinitas
2. Brief description of development being appealed: A request for the approval of a Major Use Permit Modification and Coastal Development Permit to authorize the structural reinforcement and encasement (with colored shotcrete) of an existing upper coastal bluff caisson retention system. The project also includes hydroseeding of the entire midbluff and temporary irrigation.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 816 Neptune Avenue, Encinitas, 256-011-12 (streetside lot), 256-011-04 (bluffside lot)

4. Description of decision being appealed:

- a. Approval; no special conditions:       b. Approval with special conditions:   
c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-ENC-11-021

DATE FILED: 3/22/11

DISTRICT: San Diego

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SAN DIEGO COAST DISTRICT

5. Decision being appealed was made by (check one):

- a.  Planning Director/Zoning Administrator                      c.  Planning Commission
- b.  City Council/Board of Supervisors                              d.  Other

Date of local government's decision: 2/17/2011

Local government's file number (if any): 10-104 MUPMOD/CDP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Richard Sorich  
816 Neptune Avenue  
Encinitas, CA 92024

---

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

The Trettin Company, Bob Trettin, 560 N. Highway 101, Suite #5, Encinitas, CA 92024

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

*See Attachment "A" dated 3/22/11*

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: *Signature on file* \_\_\_\_\_  
Appellant or Agent

Date: 3/22/11

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Attachment "A"  
A-6-ENC-11-021  
03/22/2011

The project approved by the City of Encinitas at 816 Neptune Avenue (APN# 256-011-04) authorizes the structural reinforcement and encasement (shotcrete wall) of an existing below-grade, upper coastal bluff caisson retention system. At least one of the existing caissons has become exposed at this time. The applicant proposes to remove the remainder of the soil covering the below grade caissons and then construct the shotcrete wall over the then exposed caissons. The shotcrete wall will be approximately 50 ft. long and approximately 15 ft. high (exposed surface above grade) and extend approximately 4 ft. below the lowest adjacent grade. The shotcrete wall will be supported with one row of tiebacks installed at a new grade beam approximately 3 ft. 6 in. above the point where the base of the exposed portion of the shotcrete wall intersects with the surface of the bluff. The shotcrete wall is conditioned to be hand sculpted and colored to match the adjacent bluff. The project also includes hydroseeding of the entire midbluff and temporary irrigation.

The subject property is located on the west side of Neptune Avenue, just south of the intersection with Leucadia Blvd. A 2,190 sq. ft., two story single family home with a 328 sq. ft. attached garage on an approximately 5,529 sq. ft. lot is located on the blufftop, approximately 17 ft. from the bluff edge at its closest point. A seawall on the beach and the subject below-grade upper bluff caisson system currently provide protection for the home. In 2003, the City approved a 250 sq. ft. second story addition to the existing 1-story single family residence, which included an approximately 6 ft. cantilevered portion of the addition into the required 40 ft. coastal bluff setback for the new addition.

The existing below-grade upper bluff retention system was approved by the Commission through Emergency Permit 6-01-041-G and the existing seawall was approved by the Commission through Emergency Permit 6-01-062-G. The City approved the follow-up CDP for upper bluff caisson system in 2003 (ref. 6-ENC-03-042) and the Commission approved the follow-up CDP for the seawall in 2004 (ref. CDP #6-03-48)

The original approved City permit for the below-grade upper bluff retention system included a special condition (SC 13) which stated that the permit shall be modified if and when the upper bluff retention systems become visibly exposed due to future sloughing of the bluff and an architectural/visual study shall be submitted to mitigate any potential visual impacts resulting from the exposed upper bluff retention systems and sloughing of the upper bluff.

Issues:

- It is unclear if the proposed reinforcement of the below-grade upper bluff retention system with this shotcrete wall is necessary to protect the primary residential structure or if it is only protecting the patio and yard area. The Geotechnical Report (revised 11/3/2010) states: "1. The ongoing mid bluff erosion is presently extending eastward intersecting the rear yard caisson system. The proposed project is an anticipated emergency repair to the below-grade, rear yard system at 816 Neptune. As the coastal bluff has failed to the east, the

caissons have become exposed. Without remedial emergency maintenance, the bluff will continue to fail between, and potentially behind, the caissons, ultimately impacting the residential structure. 2. Loss of passive resistance if erosion extends below it (sic) current levels. The slope now appears to be at its angle of repose and probably won't erode more/flatter if the landscape recommendations provided below are carried out."

- This project will in effect place a permanent upper bluff wall on the property which was not the intent of the previously approved coastal development permit for the below-grade retention system.
- No alternatives analysis is provided for the proposed project; potential alternatives could include applying a shotcrete application just over the exposed pier(s), a reconstructed slope in front of the exposed caissons, the removal of the top of the caissons and a stepped series of smaller walls on the bluff face, etc.
- No alternatives analysis is provided to mitigate the visual impact of the exposed caissons; this could include importing soil to the bluff to cover the exposed caissons, landscaping, etc.
- Planting in this area of the coast has shown to be more effective than hydroseeding. The Geotechnical Report states: "It is further recommended that the Owner perform supplemental plantings on a bi-yearly basis until substantial plant growth is established." However, the bi-yearly plantings recommendation is not included in the City permit. The special conditions of the City permit do say that "Upon completion of the slope planting, a field visit shall be conducted by the Planning & Building Department staff and the project landscape architect; if it is determined at that time that sufficient screening is not provided, additional landscaping improvements shall be required to be provided by the applicant. The additional plantings shall be installed to the satisfaction of the Planning & Building Director prior to final inspection approval." The previously approved permit by the City of Encinitas (Planning Commission Resolution No. PC 2003-10) mandated hydroseeding for the same area of bluff as the current permit and that hydroseeding effort has shown to be very unsuccessful.
- The plans show gravel/soil fill on the lower portion of the bluff, directly above the existing seawall. It is unclear if this is proposed with this project or existing conditions.
- The City of Encinitas permit does not specify the overhanging portion of the existing patio will be removed as a part of the project.
- It is not clear how the new proposed wall will compare in design and in alignment with the existing upper bluff wall directly to north of the property.

Based on the coastal development permit as approved by the City, it is not clear if the proposed shotcrete wall is necessary to protect the existing principal structure that is in danger from erosion, and that the proposed project is the minimum necessary to address any potential risk to the residence and minimize alteration of the natural character of the bluff face and adverse impacts to the scenic and visual quality of the bluff as required by the following LCP policies.

LCP Policies:

Coastal Bluffs: The coastal bluffs are part of the dynamic land-ocean interface that is continually changing. Changes in the patterns of weather, severe storms, and even man-made factors can accelerate the weathering processes that affect the coastline. In recent years, a number of homes and other improvements have been damaged due to bluff failure and there is no indication that these bluffs will become inactive in the near future. For this reason, future intensification of development near the bluff edges is discouraged under the land use policy (emphasis added).

Policy 1.6: The City shall provide for the reduction of unnatural causes of bluff erosion, as detailed in the Zoning Code...

Policy 1.6.e: Permitting pursuant to the Coastal Bluff Overlay Zone, bluff repair and erosion control measures on the face and at the top of the bluff that are necessary to repair human-caused damage to the bluff, and to retard erosion which may be caused or accelerated by land-based forces such as surface drainage or ground water seepage, providing that no alteration of the natural character of the bluff shall result from such measures, where such measures are designed to minimize encroachment onto beach areas through an alignment at and parallel to the toe of the coastal bluff, where such measures receive coloring and other exterior treatments and provided that such measures shall be permitted only when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply (emphasis added);

Policy 1.6.f: ...On coastal bluffs, exceptions to allow a minimum setback of no less than 25 feet shall be limited to additions or expansions to existing principal structures... and the applicant agrees to remove the proposed addition or expansion, either in part or entirely, should it become threatened in the future (emphasis added).

Policy 1.7: The City shall develop and adopt a comprehensive plan, based on the Beach Bluff Erosion Technical Report...to address the coastal bluff recession and shoreline erosion problems in the City...

If a comprehensive plan is not submitted to, reviewed and approved by the Coastal Commission as an amendment to this land use plan by November 17, 1995, then...the City shall not permit the construction of seawalls, revetments, breakwaters, cribbing, or similar structures for coastal erosion except under circumstances where an existing principal structure is imminently threatened and, based on a thorough alternatives analysis, an emergency coastal development permit is issued and all emergency measures authorized by the emergency coastal development permit are designed to eliminate or mitigate adverse impacts on local shoreline sand supply... (emphasis added)

30.34.020: Coastal Bluff Overlay Zone.

APPLICABILITY. The Coastal Bluff Overlay Zone regulations shall apply to all areas of the City where site-specific analysis of the characteristics of a parcel of land indicate the presence of a coastal bluff.

30.34.020.B.8: The design and exterior appearance of building and other structures visible from public vantage points shall be compatible with the scale and character of the surrounding development and protective of the natural scenic qualities of the bluffs (emphasis added).

30.34.020.C.2.b: When a preemptive measure is proposed, the following finding shall be made if the authorized agency determines to grant approval:...

30.34.020.C.2.b.2: The proposed measure must be necessary for the protection of a principal structure on the blufftop to which there is a demonstrated threat as substantiated by the site specific geotechnical report...(emphasis added)

30.34.020.C.2.b.4: The proposed measure in design and appearance must be found to be visually compatible with the character of the surrounding area; where feasible, to restore and enhance visual quality in visually degraded areas; and not cause a significant alteration of the natural character of the bluff face (emphasis added).

30.34.020.C.2.c: No preemptive measure at the base of the bluff or along the beach shall be approved until a comprehensive plan is adopted as Council policy for such preemptive treatment, for at least the corresponding contiguous portion of the coastal bluff. Preemptive measures approved thereafter shall be consistent with the adopted plan.



**CITY OF ENCINITAS  
PLANNING COMMISSION  
AGENDA REPORT  
Meeting Date: February 17, 2011**

TO: Planning Commission  
 VIA: *TC* Tom Curriden, City Planner  
 FROM: Planning and Building Department  
*R* Roy Sapa'u, Senior Planner

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 COASTAL COMMISSION  
 SAN DIEGO COAST DISTRICT

**SUBJECT:** Public Hearing to consider a Major Use Permit Modification and Coastal Development Permit to authorize the structural reinforcement and encasement (with colored shotcrete) of an existing upper coastal bluff caisson retention system. The project also includes hydroseeding and temporary irrigation improvements on the mid bluff. The subject property is located in the R-11 (Residential 11) zoning district of the City of Encinitas, the Ecological Resource/Open Space/Parks (ER/OS/P) Zone and within the California Coastal Commission Appeal Jurisdiction. **CASE NUMBER:** 10-104 MUPMOD/CDP; **APPLICANT:** Robert Trettin; **LOCATION:** 816 Neptune Avenue (APN: 256-011-12 & -04)

**BACKGROUND:** The subject property is developed with a two-story single-family dwelling unit and is bordered on the west by a coastal bluff overlooking the Pacific Ocean. The bluff face of the subject site has been stabilized with the construction of a below-grade upper bluff caisson retention system and a lower seawall. The lower seawall was authorized by the Coastal Commission through Emergency Permit No. 6-00-192-G issued on December 15, 2000, and the upper bluff retention system was authorized by the Coastal Commission through an Emergency Permit No. 6-01-41-G issued on March 6, 2001. Both were subsequently approved by the City of Encinitas through a Major Use Permit and Coastal Development Permit Case No. 02-052 MUP/CDP, under Resolution No. PC 2003-10 (**Exhibit PC-6**) on February 20, 2003. The existing upper bluff retention system consists of steel reinforced concrete caissons to a depth of 35 feet, placed approximately 8 feet on center, with tiebacks and capped by a steel and concrete plate. The system was approved by the City with an understanding that it will become exposed at some time in the future due to bluff erosion and failure. As anticipated, the system is now exposed as a result of ongoing bluff erosion/failure, warranting some emergency repairs. Furthermore, the approval included a condition requiring the property owner to implement corrective measures necessary should the subject retention system become remediation measures must be reviewed and approved by the City of Encinitas Engineering Services Departments prior to implementation of the necessary application request is for remediation measures to the existing exposed u

<b>EXHIBIT NO. 11</b>
<b>APPLICATION NO.</b>
<b>A-6-ENC-11-021</b>
Rpt. To Planning Commission
California Coastal Commission



retention wall, which include the installation of one (1) row of tieback anchors and colored shotcrete facing over the existing wall.

The surrounding neighborhood consists of single-family residential structures to the north, south and east. The adjacent property to the north of the subject property is currently developed with an upper bluff retention system and a lower seawall. The adjacent property to the south is currently developed with a lower seawall system.

**REQUIRED PERMITS AND FINDINGS:** The proposed improvements to the existing upper bluff drilled-pier caisson system and hydroseeding of the mid bluff as described in the attached project description (**Exhibit PC-1**) may be allowed in the subject R-11 zone with the approval of a Major Use Permit Modification application in accordance with Chapter 30.74 (Use Permits) of the Municipal Code. Since the property lies within the Coastal Zone, the issuance of a regular Coastal Development Permit is required in accordance with Chapter 30.80 of the Municipal Code appealable to the California Coastal Commission. Additionally, the project is subject to the provisions of the Coastal Bluff Overlay Zone within Section 30.34.020 of the Municipal Code and the Bluff Preemptive Measure Appearance Policy adopted by the City Council on September 25, 2002 with Resolution No. 2002-04. The criteria required to be considered in order to authorize preemptive measures and improvements to existing preemptive measures on the face of the bluff have been addressed by the geotechnical information submitted with the project application. The geotechnical reports/letters, prepared by Soil Engineering Construction Inc., as requested by the City, were subject to a Third Party Geotechnical Review by the City's Geotechnical Consultant, Geopacifica. Geopacifica found that said geotechnical reports provide information to adequately meet the standards of the City of Encinitas Municipal Code Sections 30.34.020C and D.

The Planning Commission is the authorized agency for reviewing and granting discretionary approvals for development proposed within the Coastal Bluff Overlay Zone with recommendations provided by staff and qualified City Consultants.

**CITIZEN'S PARTICIPATION PLAN (CPP):** The applicant prepared and submitted a Citizen's Participation Plan (CPP) in accordance with Chapter 23.06 of the Municipal Code. The applicant held a CPP meeting at City Hall on September 16, 2010. According to the applicant's CPP final report, attached hereto as **Exhibit PC-4**, no citizen attended the meeting. The applicant received no project comments at the CPP meeting.

**ENVIRONMENTAL REVIEW:** The project has been determined to be exempt from environmental review as per California Environmental Quality Act (CEQA) Guidelines Section 15301(d), which exempts restoration or rehabilitation of deteriorated or damaged structures to meet current standards of public health and safety.

**FISCAL AND STAFF IMPACTS:** Approval of the Major Use Permit Modification and Coastal Development Permit request creates no direct fiscal or staff impacts to the City.

**ALTERNATIVE ACTIONS:** Alternative actions available to the Commission include: (1) Make the required findings and adopt the attached Resolution approving the Major Use Permit Modification and Coastal Development Permit request; (2) Continue the hearing for further

information and review; or (3) Close the public hearing, discuss the findings, vote to deny the application and direct staff to return on a date certain with a resolution of denial reflecting the findings of the Commission.

**RECOMMENDATION:** Before public comment is received, disclose all information and contacts received outside the hearing of this matter upon which the decision will be based, receive public testimony and consider the facts and findings necessary to make a decision on the application. Staff recommends that the Planning Commission approve Case No. 10-104 MUPMOD/CDP based upon the findings and conditions contained in the draft resolution of approval (**Exhibit PC-2**) for the project provided to the Commission.

**LIST OF ATTACHMENTS:**

- Exhibit PC-1 Project description
- Exhibit PC-2 Draft Resolution of Approval with Attachments "A" and "B"
- Exhibit PC-3 Application and related materials
- Exhibit PC-4 Citizen's Participation Plan (CPP) final report
- Exhibit PC-5\* Third Party Review prepared by Geopacifica, dated January 24, 2011.
  - Aesthetic & Associated Structural Repairs to Upper Bluff Retention System, Rich Sorich Property 816 Neptune Avenue, Encinitas California; by Soil Engineering Construction, Inc., 8 sheets, stamped received on January 28, 2011.
  - Preliminary Geotechnical Recommendations Report, Proposed Maintenance Repairs to Existing Retention Structure, 816 Neptune Avenue, Encinitas, CA, by Soil Engineering Construction, dated June 14, 2010
  - Structural Calculations for Proposed Aesthetic & Associated Structural Repairs to Upper Bluff Retention System, 816 Neptune Avenue, Encinitas, CA, by Soil Engineering Construction, dated June 21, 2010
  - Third Party Review, Case No. 10-104 MUPMOD/CDP, 816 Neptune Avenue; dated August 16, 2010
  - Updated Preliminary Geotechnical Recommendations Report, Proposed Maintenance Repairs to Existing Retention Structure, 816 Neptune Avenue, Encinitas, CA, by Soil Engineering Construction, dated June 14, 2010, Revised November 3, 2010
- Exhibit PC-6 Planning Commission Resolution No. PC 2003-10
- Exhibit PC-7 Existing Condition and Proposed Shotcrete Wall Photos
- Exhibit PC-8 Project drawings

\* These documents are on file in the Planning and Building Department and available for review upon request.

\*\*\*\*The entire Administrative Record for this Major Use Permit Modification and Coastal Development Permit application is available for review in the Planning and Building Department.\*\*\*\*

# **EXHIBIT PC-1**

## **Project Description**

**Case No.: 10-104 MUPMOD/CDP  
Planning Commission Meeting  
February 17, 2011**

**Exhibit PC-1**  
**Case No. 10-104 MUPMOD/CDP**  
**Project Description**

The applicant is proposing structural reinforcement of an existing, now exposed, upper bluff caisson retention system and the encasement of the entire system with architecturally-naturalizing colored concrete facing. The existing drilled-pier caisson system will be encased with a reinforced shotcrete wall and will be at a maximum height of 16 feet 3 inches, including a 4-foot minimum deep toe/cut off trench at the bottom of the wall. The shotcrete will be textured and colored to match the existing lower seawall and adjacent upper bluff. A row of tiebacks (6 total tieback anchors, placed approximately 8 feet on center) is also proposed at approximately 19 feet below the top of the upper bluff wall and will be installed with new concrete grade beams.

The project also includes hydroseeding and temporary irrigation improvements on the mid bluff. The proposed irrigation system is on a temporary basis only and will be capped and disconnected upon mature establishment of the proposed landscaping for a time estimate of two (2) to three (3) years.

RESOLUTION NO. PC 2011-05

**A RESOLUTION OF THE CITY OF ENCINITAS PLANNING COMMISSION  
APPROVING A MAJOR USE PERMIT MODIFICATION AND COASTAL  
DEVELOPMENT PERMIT TO AUTHORIZE PROPOSED STRUCTURAL  
REINFORCEMENT OF AN EXISTING UPPER BLUFF RETENTION SYSTEM WITH A  
ROW OF TIEBACKS AND THE PROPOSED ENCASEMENT OF THE ENTIRE  
SYSTEM WITH ARCHITECTURALLY-NATURALIZING COLORED CONCRETE  
FACING AND PROPOSED HYDROSEEDING AND TEMPORARY IRRIGATION  
IMPROVEMENTS ON THE MID BLUFF FOR THE PROPERTY LOCATED AT 816  
NEPTUNE AVENUE**

(CASE NO. 10-104 MUPMOD/CDP; APN: 256-011-12 & -04)

WHEREAS, a request for consideration of a Major Use Permit Modification and Coastal Development Permit filed by Robert Trettin on behalf of Richard A. Sorich, to authorize structural reinforcement of an existing, now exposed, upper bluff caisson retention system. The entire system will be encased with architecturally-naturalizing colored concrete facing. Hydroseeding of the entire midbluff and temporary irrigation are also proposed. The proposed shotcrete wall will be at a maximum height of 16 feet 3 inches including a 4-foot minimum deep toe/cut off trench at the bottom of the wall. A row of tiebacks (6 total tieback anchors, placed approximately 8 feet on center) is also proposed at approximately 19 feet below the top of the upper bluff wall and will be installed with new concrete grade beams. The above improvements are proposed in accordance with Chapters 30.34 (Special Purpose Overlay Zone), 30.74 (Use Permit) and 30.80 (Coastal Development Permit) of the Encinitas Municipal Code, for the property located in the Residential 11 (R-11) zone, Coastal Bluff Overlay Zone and within the Coastal Zone, legally described as:

PARCEL A:

LOT 17, IN BLOCK 11 OF SOUTH COAST PARK NO. 2, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1859, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 21, 1925.

PARCEL B:

ALL THAT PORTION OF BLOCK "D" OF SOUTH COAST PARK NO. 2, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1859, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 21, 1925; AS MORE FULLY DESCRIBED IN EXHIBIT A IN THE GRANT DEED FOR THE SUBJECT PROPERTY RECORDED AS DOCUMENT #2000-0384942 ON JULY 21, 2000 WITH THE SAN DIEGO COUNTY OFFICE.

WHEREAS, the Planning Commission conducted a noticed public application on February 17, 2011, at which time all those desiring to be heard

WHEREAS, the Planning Commission considered, without limitation

1. The February 17, 2011 agenda report to the Planning Commission with attachments;
2. The General Plan, Local Coastal Program, Municipal Code and associated Land Use Maps;

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SAN DIEGO COAST DISTRICT

EXHIBIT NO. 12
APPLICATION NO. <b>A-6-ENC-11-021</b>
City Resolution
 California Coastal Commission

3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing;
5. Project plans consisting of 8 sheets, including Cover Sheet, Site Plan-Proposed Repair, Profile Section A-A, Shotcrete Wall Construction (Wall Elevation, Table "A" and Sections), Details, Tables and General Notes, Photos Showing Proposed Work and Assessor Parcel Map, Temporary Irrigation Plan with Notes and Details, and Hydroseed Plan and Notes; all stamped received by the City of Encinitas on January 28, 2011.

**WHEREAS**, the Planning Commission made the following findings pursuant to Chapters 30.74 (Use Permit), 30.34 (Coastal Bluff Overlay Zone) and 30.80 (Coastal Development Permit) of the Encinitas Municipal Code:

(SEE ATTACHMENT "A")

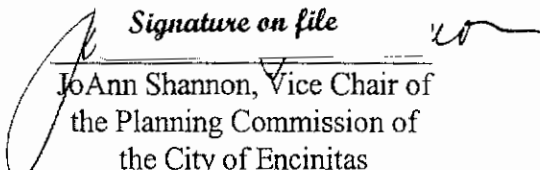
**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Encinitas hereby approves application Case No. 10-104 MUPMOD/CDP subject to the following conditions:

(SEE ATTACHMENT "B")


**BE IT FURTHER RESOLVED** that the Planning Commission, in its independent judgment, finds that this project is categorically exempt from environmental review as per California Environmental Quality Act (CEQA) Guidelines Section 15301(d), which exempts restoration or rehabilitation of deteriorated or damaged structures to meet current standards of public health and safety.

**PASSED AND ADOPTED** this 17<sup>th</sup> day of February, 2011, by the following vote, to wit:

AYES:            Brandenburg, Felker, O'Grady, Shannon and Steyaert  
NAYS:            None  
ABSENT:        None  
ABSTAIN:       None

*Signature on file*  
  
JoAnn Shannon, Vice Chair of  
the Planning Commission of  
the City of Encinitas

ATTEST:

*Signature on file*  
  
Patrick Murphy  
Secretary

**NOTE:** This action is subject to Chapter 1.04 of the Municipal Code, which specifies time limits for legal challenges.

**ATTACHMENT "A"**  
**Resolution No. PC 2011-**  
**Case No. 10-104 MUPMOD/CDP**

**FINDINGS FOR A USE PERMIT**

**STANDARD:** In accordance with Section 30.74.070 of the Municipal Code, a use permit application shall be approved unless findings of fact are made, based upon the information presented in the application or during the hearing, which support one or more of the following conclusions:

1. The location, size, design or operating characteristics of the proposed project will be incompatible with or will adversely affect or will be materially detrimental to adjacent uses, residences, buildings, structures or natural resources, with consideration given to, but not limited to:
  - a. The inadequacy of public facilities, services and utilities to serve the proposed project;
  - b. The unsuitability of the site for the type and intensity of use or development which is proposed; and
  - c. The harmful effect, if any, upon environmental quality and natural resources of the city;
2. The impacts of the proposed project will adversely affect the policies of the Encinitas General Plan or the provisions of the Municipal Code; and
3. The project fails to comply with any other regulations, conditions, or policies imposed by the Municipal Code.

**Facts:** The subject application request is for a Major Use Permit Modification and Coastal Development Permit to authorize structural reinforcement of an existing upper bluff drilled-pier caisson retention system authorized by the Coastal Commission through Emergency Permit No. 6-01-41-G issued on March 6, 2001, and approved by the City of Encinitas through Major Use Permit and Coastal Development Permit Case No. 02-052 MUP/CDP, under Resolution No. PC 2003-10 on February 20, 2003. The City's Resolution of approval included a condition requiring the property owner to implement any remediation and corrective measures necessary should the subject retention system become exposed. The subject application request is for remediation measures to the existing exposed upper bluff drilled-pier retention wall consisting of a row of tiebacks (6 total tiebacks placed approximately 8 feet on center) at approximately 19 feet below the wall, and will be installed with new concrete grade beams. The wall will be encased with architecturally-naturalizing colored concrete facings. Temporary irrigation are also proposed on the entire mid bluff area.

<b>EXHIBIT NO. 13</b>
<b>APPLICATION NO.</b> <b>A-6-ENC-11-021</b>
<b>City Findings</b>
 California Coastal Commission

Pursuant to Section 30.34.020B2.b of the Municipal Code, preemptive measures are allowed on the face of the coastal bluff in accordance with the development processing and approval based on regulations specified in Section 30.34.020C of the Municipal Code. Additionally, Section 30.34.020B9 of the Municipal Code stipulates that until the comprehensive plan is adopted, the City shall not permit the construction of seawalls, revetments, breakwaters, cribbing, or similar structures for coastal erosion except under circumstances where an existing principal structure is imminently threatened and, based on a thorough alternatives analysis, an emergency coastal development permit is issued and all emergency measures authorized by the emergency coastal permit are designed to eliminate or mitigate adverse impacts on local shoreline sand supply. An emergency permit was issued for the upper bluff retention system by the California Coastal Commission.

**Discussion:** The project does not create the need for any public facilities, services and utilities other than those already servicing the existing residence. The criteria stipulated in Section 30.34.020B9 of the Municipal Code have been addressed in the geotechnical reports and correspondence prepared for the project by the project engineer, Soil Engineering Construction, Inc. (SEC). Related to the emergency nature of the project, Emergency Permit No. 6-01-41-G was issued by the Coastal Commission on March 6, 2001 for the existing upper bluff retention system. As noted in the November 3, 2010 Preliminary Geotechnical Evaluations prepared by SEC, based on the ongoing mid-bluff erosion presently extending eastward intersecting the rear yard caisson system, it was concluded that without remedial emergency maintenance, the bluff will continue to fail between, and potentially behind the caissons, ultimately impacting the residential structure. The geotechnical reports/letters, prepared by Soils Engineering Construction, Inc. were subject to a Third Party Geotechnical Review by the City's Geotechnical Consultant, Geopacifica. Geopacifica found that said geotechnical reports provide information to adequately meet the standards of the City of Encinitas Municipal Code Sections 30.34.020C and D.

Related to mitigating adverse impacts on local shoreline sand supply, the retention system was approved by the California Coastal Commission upon issuance of Emergency Permit No. 6-01-41-G. The California Coastal Commission typically requires an applicant to pay a sand replenishment fee to mitigate for any adverse impacts to local shoreline sand supply.

The Bluff Preemptive Measure Appearance Policy was adopted by the City Council on September 25, 2002 with Resolution No. 2002-04. The project includes the encasement of the entire retention system with architecturally-naturalizing colored concrete facing in compliance with Resolution 2002-04 to mitigate any potential visual impacts. The proposed hydroseed mix includes a variety of native species that will provide effective erosion control, are salinity tolerant and will survive without supplemental irrigation. The proposed irrigation system is on a temporary basis only and will be capped and disconnected upon mature establishment of the proposed landscaping for a time estimate of two (2) to three (3) years.

The landscaping improvements and encasement of existing wall with shotcrete will restore the natural bluff appearance in conformance with the Appearance Policy and not cause any significant alteration of the natural character of the bluff face. There are no environmental



issues associated with the project; therefore the City has determined that the project is exempt from environmental review pursuant to CEQA Guidelines Section 15301(d), which exempts specific restoration or rehabilitation of deteriorated or damaged structures to meet current standards of public health and safety. The criteria required to be considered in order to authorize improvements to existing preemptive measures on the face of the bluff have been addressed by the geotechnical information submitted with the project application. The geotechnical reports were reviewed by the Third Party Geotechnical Consultant, Geopacifica, which found that said reports provide information to adequately meet the standards of the City of Encinitas Municipal Code Section 30.34.020 C and D.

**Conclusion:** The Planning Commission finds that the proposed improvements are suitable for the site and will be compatible with, and will not adversely affect or be materially detrimental to, adjacent uses, buildings, structures, or natural resources, and are consistent with the policies of the Encinitas General Plan or the provisions, regulations, conditions or policies imposed by the Municipal Code.

**FINDINGS FOR PREEMPTIVE MEASURE WITHIN THE COASTAL BLUFF  
OVERLAY ZONE**

**STANDARD:** In accordance with Section 30.34.020C2(b) of the Municipal Code, the following findings shall be made if the authorized agency determines to grant approval:

1. The proposed measure must be demonstrated in the soils and geotechnical report to be substantially effective for the intended purpose of bluff erosion/failure protection, within the specific setting of the development site's coastal bluffs.

**Facts:** The subject application request is for a Major Use Permit Modification and Coastal Development Permit to authorize structural reinforcement of an existing upper bluff drilled pier caisson retention system authorized by the Coastal Commission through Emergency Permit No. 6-01-41-G issued on March 6, 2001, and approved by the City of Encinitas through Major Use Permit and Coastal Development Permit Case No. 02-052 MUP/CDP, under Resolution No. PC 2003-10 on February 20, 2003. The improvements consist of a row of tiebacks (6 total tiebacks, placed approximately 8 feet on center) proposed at approximately 19 feet below the top of the upper bluff wall and will be installed with new concrete grade beams. The entire system will be encased with architecturally-naturalizing colored concrete facing.

**Discussion:** The proposed structural and landscaping improvements have been analyzed by engineering geologists who have found, based on site-specific conditions, that the bluff stabilization measures are adequately designed to protect the bluff at the subject property from erosion and/or failure. Within their Preliminary Geotechnical Report dated November 3, 2010, Soils Engineering Construction (SEC) states that "in order to protect the residential structure at the subject site from potential damage/failure, the immediate construction of the recommended coastal bluff stabilization measures is required." The criteria required to be considered in order to authorize improvements to existing preemptive measures on the face of the bluff have been addressed by the geotechnical information submitted with the project application. The geotechnical reports were reviewed by the Third Party Geotechnical Consultant, Geopacifica, which found that said reports provide information to adequately meet the standards of the City of Encinitas Municipal Code Section 30.34.020 C and D.

**Conclusion:** The Planning Commission finds that the proposed measures are demonstrated in the soils and geotechnical report to be substantially effective for the intended purpose of bluff erosion/failure protection, within the specific setting of the development site's coastal bluffs.

2. The proposed measure must be necessary for the protection of a principal structure on the blufftop to which there is a demonstrated threat as substantiated by the geotechnical report.

**Facts:** Based on review of the application material, the subject property experienced ongoing unexpected occurrences in the form of mid-bluff sloughage.

**Discussion:** Within their Preliminary Geotechnical Report dated November 3, 2010, Soils Engineering Construction (SEC) states that “without remedial emergency maintenance, the bluff will continue to fail between, and potentially behind, the caissons, ultimately impacting the residential structure in the near future.” The criteria required to be considered in order to authorize improvements to existing preemptive measures on the face of the bluff have been addressed by the geotechnical information submitted with the project application. The geotechnical reports were reviewed by the Third Party Geotechnical Consultant, Geopacifica, which found that said reports provide information to adequately meet the standards of the City of Encinitas Municipal Code Section 30.34.020 C and D.

**Conclusion:** The Planning Commission finds that the proposed measure is necessary for the protection of the principal structure on the blufftop to which there is a demonstrated threat as substantiated by the geotechnical report.

3. The proposed measure will not directly or indirectly cause, promote or encourage bluff erosion or failure, either on site or for an adjacent property, within the site-specific setting as demonstrated in the soils and geotechnical report. Protection devices at the bluff base shall be designed so that additional erosion will not occur at the ends because of the device.

**Facts/Discussion:** Based on the Preliminary Geotechnical Report dated November 3, 2010 by Soils Engineering Construction (SEC), the proposed measures and landscaping will be constructed so that it will eliminate the potential for erosion to occur at the ends of the upper bluff wall. SEC certifies that the proposed work will not impact the structural integrity of the surrounding properties.

**Conclusion:** The Planning Commission finds that there is no evidence to indicate that the proposed measures will directly or indirectly cause, promote or encourage bluff erosion or failure, either on site or for an adjacent property, within the site-specific setting as demonstrated in the soils and geotechnical report.

4. The proposed measures in design and appearance must be found to be visually compatible with the character of the surrounding area; where feasible, to restore and enhance visual quality in visually degraded area; and not cause a significant alteration of the natural character of the bluff face.

**Facts:** The subject application request is for a Major Use Permit Modification and Coastal Development Permit to authorize structural reinforcements to an existing upper bluff drilled-pier caisson retention system authorized by the Coastal Commission through an Emergency Permit No. 6-01-41-G and approved by the City of Encinitas through Case No. 02-052 MUP/CDP, under Resolution No. PC 2003-10. The improvements consist of a row of tiebacks (6 total tiebacks, placed approximately 8 feet on center) proposed at approximately 19 feet below the top of the upper bluff wall and will be installed with new concrete grade beams. The entire system will be encased with architecturally-naturalizing colored concrete facing. Landscaping (hydroseed mix) and temporary irrigation improvements are also proposed on the entire mid bluff area.

**Discussion:** The existing upper bluff retention system is proposed and conditioned to be encased with architecturally-naturalizing concrete facing (shotcrete) to mitigate any potential visual impacts. The project also includes proposed landscaping and temporary irrigation. The proposed landscaping includes a variety of native hydroseed mix that will provide effective erosion control, are salinity tolerant and will survive without supplemental irrigation. The proposed irrigation system is on a temporary basis only and will be capped and disconnected upon mature establishment of the proposed landscaping within a time estimate of two (2) to three (3) years. The encasement of the existing wall with shotcrete and mid-bluff reconstruction will restore the natural bluff appearance in conformance with the Appearance Policy and not cause any significant alteration of the natural character of the bluff face.

**Conclusion:** The Planning Commission finds the proposed improvements, with the shotcrete surface layers for the walls and landscaping, are visually compatible with the character of the surrounding area and do not cause a significant alteration of the natural character of the bluff face.

5. The proposed device/activity will not serve to unnecessarily restrict or reduce the existing beach width for use or access.

**Facts:** The project site is currently developed with an existing lower seawall. The proposed improvements include the encasement of the entire existing upper bluff retention system with architecturally-naturalizing concrete facing and proposed landscaping improvements on the mid bluff area.

**Discussion:** The proposed tiebacks and encasement of the existing upper bluff retention system with color-sculpted shotcrete and proposed landscaping will not restrict or reduce the existing beach width for use or access. The proposed improvements will be eastward of the existing lower seawall and will not serve to unnecessarily restrict or reduce the existing beach width for use or access.

**Conclusion:** The Planning Commission finds that the proposed improvements do not serve to unnecessarily restrict or reduce the existing beach width for use or access.

6. No preemptive measure at the base of the bluff or along the beach shall be approved until a comprehensive plan is adopted as Council policy for such preemptive treatment, for at least the corresponding contiguous portion of the coastal bluff. Preemptive measures approved thereafter shall be consistent with adopted plan.

**Facts:** The project site is currently developed with an existing lower seawall. The proposed improvements include the encasement of the entire existing upper bluff retention system with architecturally-naturalizing concrete facing and proposed landscaping improvements on the mid bluff area.

**Discussion:** The emergency nature of the existing seawall when constructed precludes a comprehensive plan from being adopted as policy by City Council for this specific site.

Preparation of the comprehensive plan is currently in process. The criteria required to be addressed pursuant to Section 30.34.020B9 of the Municipal Code for preemptive measures approved prior to adoption of the comprehensive plan have been addressed.

**Conclusion:** The Planning Commission finds that the demonstrated emergency condition addressed by the improvements precludes prior adoption of the comprehensive plan, currently in process. The applicant is required to participate or comply with the comprehensive plan following its adoption by the City of Encinitas and the California Coastal Commission as provided for therein.

## FINDINGS FOR A COASTAL DEVELOPMENT PERMIT

**STANDARD:** Section 30.80.090 of the Municipal Code provides that the authorized agency must make the following findings of fact, based upon the information presented in the application and during the Public Hearing, in order to approve a coastal development permit:

1. The project is consistent with the certified Local Coastal Program of the City of Encinitas; and
2. The proposed development conforms with Public Resources Code Section 21000 and following (CEQA) in that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment; and
3. For projects involving development between the sea or other body of water and the nearest public road, approval shall include a specific finding that such development is in conformity with the public access and public recreation policies of Section 30200 et. seq. of the Coastal Act.

**Facts:** The subject application request is for a Major Use Permit Modification and Coastal Development Permit to authorize structural reinforcement of an existing upper bluff drilled pier caisson retention system authorized by the Coastal Commission through Emergency Permit No. 6-01-41-G issued on March 6, 2001, and approved by the City of Encinitas, through a Major Use Permit and Coastal Development Permit Case No. 02-052 MUP/CDP, under Resolution No. PC 2003-10 on February 20, 2003. The City's Resolution of approval included a condition requiring the property owner to implement any remediation and corrective measures necessary should the subject retention system become exposed. The subject application request is for remediation measures to the existing exposed upper bluff drilled-pier retention wall consist of a row of tiebacks (6 total tiebacks, placed approximately 8 feet on center) proposed at approximately 19 feet below the top of the upper bluff wall and will be installed with new concrete grade beams. The entire system will be encased with architecturally-naturalizing colored concrete facing. Hydroseed and temporary irrigation are also proposed on the entire mid bluff area.

The site is located within the Ecological Resource/Open Space/Parks (ER/OS/P) Zone, Coastal Appeal Zone and the R-11 zoning district of the City of Encinitas. Additionally, as the site sits atop the coastal bluff, it lies within the Coast Bluff Overlay Zone. The Coastal Development Permit for the proposed improvements and proposed landscaping and temporary irrigation is subject to review by the City and the action of the City can be appealed to the Coastal Commission.

**Discussion:** With approval of the Major Use Permit Modification, as conditioned, the proposed project is in conformance with the development standards of the Coastal Bluff Overlay Zone, the General Plan and the Local Coastal Plan. The project was determined to be exempt from environmental review as per California Environmental Quality Act

(CEQA) Guidelines Section 15301(d), which exempts restoration or rehabilitation of deteriorated or damaged structures to meet current standards of public health and safety.

The criteria required to be considered in order to authorize improvements to existing preemptive measures on the face of the bluff have been addressed by the geotechnical information submitted with the project application. The geotechnical reports/letters were reviewed by the City's Third Party Geotechnical Consultant, Geopacifica, which found that said reports provide information to adequately meet the standards of the City of Encinitas Municipal Code Section 30.34.020 C and D.

Public access or public recreational facilities are not feasible given the project site's condition as a bluff-top residential property. Therefore, no condition requiring public access is imposed with this approval. Public access to the shore is available in the near vicinity with Stone Steps, Beacon's and Grandview access. Since there was no public access through the property prior to this application, the ability of the public to access the shore is not adversely impacted with this application.

**Conclusion:** The Planning Commission finds that 1) the project is consistent with the certified Local Coastal program of the City of Encinitas; 2) the project as proposed will not have a significant effect on the environment, and 3) providing public access or recreational facilities are not feasible or appropriate for the proposed development and is in conformity with public recreation policies of Section 30200 et. seq. of the Coastal Act.

**ATTACHMENT "B"**  
**Resolution No. PC 2011-**  
**Case No. 10-104 MUPMOD/CDP**

Applicant: Robert Trettin

Location: 816 Neptune Ave (APN 256-011-12 & -04)

**SC1 SPECIFIC CONDITIONS:**

- SC2 At any time after two (2) years from the date of this approval, on February 17, 2013 at 5:00 pm, or the expiration date of any extension granted in accordance with the Municipal Code, the City may require a noticed public hearing to be scheduled before the authorized agency to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. If the authorized agency finds that a good faith intent to proceed has not been demonstrated, the application shall be deemed expired as of the above date (or the expiration date of any extension). The determination of the authorized agency may be appealed to the City Council within 15 days of the date of the determination.
- SC5 This project is conditionally approved as set forth on the application dated received by the City on July 13, 2010 and project plans consisting of 8 sheets, including Cover Sheet, Site Plan-Proposed Repair, Profile Section A-A, Shotcrete Wall Construction (Wall Elevation, Table "A" and Sections), Details, Tables and General Notes, Photos Showing Proposed Work and Assessor Parcel Map, Temporary Irrigation Plan with Notes and Details, and Hydroseed Plan and Notes; all stamped received by the City of Encinitas on January 28, 2011, all designated as approved by the Planning Commission on February 17, 2011, and shall not be altered without express authorization by the Planning and Building Department.
- SCA Prior to Planning Department final inspection approval, property owner shall agree in writing not to oppose participating in any proposed future governmental study addressing bluff stability and/or beach sand transport along the entire City coastline. Additionally, the property owner shall agree in writing to participate in any future comprehensive plan adopted by the City to address coastal bluff recession and shoreline erosion problems in the City.
- SCB All proposed improvements associated with the project related to enhancements of the visual appearance including, but not limited to, color treatments, shotcrete, sculpting, and landscaping shall be completed to the satisfaction of the Planning and Building Department within one (1) year of this approval unless otherwise approved by the Planning & Building Director. The aesthetic measures are further described in the approved project plans prepared by SEC which are on file in the Planning & Building Department.
- SCC Prior to initiating the aesthetic measures as referenced above, samples shall be completed in the field and presented to Planning & Building staff in order to analyze and select the most appropriate colors, painting and sculpting techniques for blending with the bluff setting and minimizing the visual appearance of the bluff improvements. Consideration shall also be given to the appropriate measures for terminating/transitioning the shotcrete treatment at property lines.



SCD Upon completion of the hydroseed mix installation, a letter certifying that the landscaping materials has been installed according to the City approved plans shall be prepared by the landscape architect and submitted to the Planning & Building Department. Said letter is required prior to final inspection approval by the Planning Department. Upon completion of the slope plantings, a field visit shall be conducted by the Planning & Building Department staff and the project landscape architect; if it is determined at that time that sufficient screening is not provided, additional landscaping improvements shall be required to be provided by the applicant. The additional plantings shall be installed to the satisfaction of the Planning & Building Director prior to final inspection approval.

SCE The plans to satisfy the following conditions shall be approved and secured to the satisfaction of the Engineering Services Department prior to issuance of the grading permit:

1. The applicant shall obtain a grading permit from the City to permit the proposed improvements. The grading plan shall show the structural design of the proposed structural improvements which will be subject to a complete review by City staff and/or the City's third party consultant.
2. Pursuant to condition ECB3, the proposed temporary irrigation on the bluff shall be designed to avoid excess watering. Use of the system shall be temporary and shall be abandoned and removed when the vegetation has been established
3. If landscaping is required for erosion control, project shall incorporate native, drought-tolerant and/or naturalizing plant material appropriate for the exposed coastal bluff area. All plant material shall have the ability to naturalize without supplemental irrigation after an establishment period of three years or less, unless a qualified and certified landscape and irrigation professional demonstrates that continued water would not be a factor in bluff erosion.
4. The applicant shall obtain a Beach Encroachment Permit from the Engineering Department prior to the commencement of any work on the beach. Work may be conducted from the top of the bluff without the permit, but any work occurring on the beach shall require the permit. Additionally, the applicant may not perform any work on the beach between Memorial Day and Labor Day of any year. A traffic control plan will be required to ensure safe access and operation on the beach.

SCF An open space easement shall be executed and recorded to the satisfaction of the Planning and Building Department to conserve the coastal bluff face between the coastal bluff edge and the most westerly property line. Said coastal bluff conservation action shall prohibit the alteration of land forms, removal of vegetation, or the erection of structures of any type except as permitted herein and/or by written authorization by the City of Encinitas Planning and Building Department. This does not preclude the exercise of emergency measures and future routine maintenance improvements for the existing lower seawall and upper bluff retention system as directed and authorized by the City of Encinitas Planning and Building Department in accordance with Section 30.34.020B2 of the Encinitas Municipal Code. Said open space easement shall be clearly depicted on the plans submitted for grading permit issuance in reliance on this approval to the satisfaction

of the Planning and Building Department and Engineering Services Department and shall be recorded prior to issuance of said grading permit.

SCG The applicant shall submit on or before September 1 of the calendar year following the calendar year in which the upper bluff wall improvements are completed, and on or before September 1 every five years thereafter, a written report by a qualified professional engineer assessing the condition of the approved structure(s). The report shall indicate the condition of the approved structures as well as any maintenance/repair actions needed to maintain the efficacy of the structure(s). The assessment shall also include monitoring of the erosion rate on both sides of sea wall(s). If erosion is occurring that may eventually expose the cliff wall, remedial measures shall be made to prevent the erosion. Said monitoring program shall be submitted to, and corrective measures shall be reviewed and approved by the Planning and Building Department and Engineering Services Department, prior to implementation of any corrective measures. Any maintenance/repair work needed shall be completed prior to the next winter storm period.

G1 **STANDARD CONDITIONS:**

**CONTACT THE PLANNING AND BUILDING DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:**

- G2 This approval may be appealed to the City Council within 15 calendar days from the date of this approval in accordance with Chapter 1.12 of the Municipal Code.
- G3 This project is located within the Coastal Appeal Zone and may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and Chapter 30.04 of the City of Encinitas Municipal Code. An appeal of the Planning Commission's decision must be filed with the Coastal Commission within 10 days following the Coastal Commission's receipt of the Notice of Final Action. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the Coastal Commission, San Diego Coast District office.
- G4 Prior to **grading permit issuance**, the owner shall cause a covenant regarding real property to be recorded. Said covenant shall set forth the terms and conditions of this grant of approval and shall be of a form and content satisfactory to the Planning and Building Director. The Owner(s) agree, in acceptance of the conditions of this approval, to waive any claims of liability against the City and agrees to indemnify, hold harmless and defend the City and City's employees relative to the action to approve the project.
- G5 Approval of this request shall not waive compliance with any sections of the Municipal Code and all other applicable City regulations in effect at the time of Building Permit issuance unless specifically waived herein.
- G12 Prior to any use of the project site pursuant to this permit, all conditions of approval contained herein shall be completed or secured to the satisfaction of the Planning and Building Department.

- G13 The applicant shall pay development fees at the established rate. Such fees may include, but not be limited to: Permit and Plan Checking Fees, Water and Sewer Service Fees, School Fees, Traffic Mitigation Fees, Flood Control Mitigation Fees, Park Mitigation Fees, and Fire Mitigation/Cost Recovery Fees. Arrangements to pay these fees shall be made prior to **grading permit issuance** to the satisfaction of the Planning and Building and Engineering Services Departments. The applicant is advised to contact the Planning and Building Department regarding Park Mitigation Fees, the Engineering Services Department regarding Flood Control and Traffic Fees, applicable School District(s) regarding School Fees, the Fire Department regarding Fire Mitigation/Cost Recovery Fees, and the applicable Utility Departments or Districts regarding Water and/or Sewer Fees.
- G14 A plan shall be submitted for approval by the Planning and Building Department, the Engineering Services Department, and the Fire Department regarding the security treatment of the site during the construction phase, the on- and off-site circulation and parking of construction workers' vehicles, and any heavy equipment needed for the construction of the project.
- L1 The project is subject to Chapter 23.26 of the Municipal Code (Water Efficient Landscape Program), which requires a landscape and irrigation plan to be prepared by a State licensed landscape designer. The requirements for the plans are listed in Chapter 23.26. The landscape and irrigation plans including the required signature block of the State licensed landscape designer must be submitted as part of the building permit application for the project.
- L2 All required plantings and automated irrigation systems shall be in place prior to Planning final inspection. All required plantings and automated irrigation systems shall be maintained in good condition, and whenever necessary, shall be replaced with new materials to ensure continued compliance with applicable landscaping, buffering, and screening requirements. All landscaping and irrigation systems shall be maintained in a manner that will not depreciate adjacent property values and otherwise adversely affect adjacent properties. All irrigation lines shall be installed and maintained underground (except drip irrigation systems).
- U2 In the event that any of the conditions of this permit are not satisfied, the Planning and Building Department shall cause a noticed hearing to be set before the authorized agency to determine whether the City of Encinitas should revoke this permit.
- U3 Upon a showing of compelling public necessity demonstrated at a noticed hearing, the City of Encinitas, acting through the authorized agency, may add, amend, or delete conditions and regulations contained in this permit.
- U4 Nothing in this permit shall relieve the applicant from complying with conditions and regulations generally imposed upon activities similar in nature to the activity authorized by this permit.
- U5 Nothing in this permit shall authorize the applicant to intensify the authorized activity beyond that which is specifically described in this permit.

- U7 Any future modifications to the approved project will be reviewed relative to the findings for substantial conformance with a use permit contained in Section 30.74.105 of the Municipal Code. Modifications beyond the scope described therein will require submittal of an amendment to the use permit and approval by the authorized agency.
- U8 All project grading shall conform with that shown on the approved project plans. If no grading is proposed on the approved plans, or subsequent grading plans are inconsistent with the grading shown on the approved plans, a use permit modification for such grading shall be obtained from the authorized agency of the City prior to issuance of grading or building permits.
- BL1 Owner(s) shall enter into and record a covenant satisfactory to the City Attorney waiving any claims of liability against the City and agreeing to indemnify and hold harmless the City and City's employees relative to the approved project. This covenant is applicable to any bluff failure and erosion resulting from the development project.
- BL2 The applicant shall execute and record a covenant to the satisfaction of the Planning and Building Department setting forth the terms and conditions of this approval prior to the issuance of grading permits. Said covenant shall also provide that the property owner shall be responsible for maintaining the approved structure(s) in good visual and structural condition in a manner satisfactory to the Directors of Engineering Services and Planning and Building Department.
- BL3 An "as-built geotechnical report" shall be submitted to the Planning and Building and Engineering Services Departments, for review and acceptance, prior to approval of structure inspection. The report shall outline all field test locations and results, and observations performed by the consultant during construction of the proposed structure(s). The report shall also verify that the recommendations contained in the Geotechnical Investigation Report, prepared and submitted in conjunction with the application, have been properly implemented and completed.
- BL4 An "as-built geotechnical report", reviewed and signed by both the soils/geotechnical engineer and the project engineering geologist, shall be completed and submitted to the City within 15 working days after completion of the project. The project shall not be considered complete (and thereby approved for use or occupancy) until the as-built report is received and the content of the report is found acceptable by the Planning and Building and Engineering Services Departments.
- BL6 The property owner shall monitor the irrigation system to ensure that no over-watering occurs. The proposed landscape system shall be disconnected as specified in the approved Landscape and Irrigation Letter Report within one year from final approval of the project. If sufficient evidence is submitted showing that the plantings are not fully established after one year, the time period for utilization of the irrigation system may be extended to ensure the proper establishment of the plantings.

**E1 ENGINEERING CONDITIONS:**

**CONTACT THE ENGINEERING SERVICES DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION(S):**

- E2 All City Codes, regulations, and policies in effect at the time of building/grading permit issuance shall apply.
- E3 All drawings submitted for Engineering permits are required to reference the NAVD 88 datum; the NGVD 29 datum will not be accepted.

**EG1 Grading Conditions**

- EG3 The owner shall obtain a grading permit prior to the commencement of any clearing or grading of the site.
- EG4 The grading for this project is defined in Chapter 23.24 of the Encinitas Municipal Code. Grading shall be performed under the observation of a civil engineer whose responsibility it shall be to coordinate site inspection and testing to ensure compliance of the work with the approved grading plan, submit required reports to the Engineering Services Director and verify compliance with Chapter 23.24 of the Encinitas Municipal Code.
- EG5 No grading shall occur outside the limits of the project unless a letter of permission is obtained from the owners of the affected properties.
- EG6 Separate grading plans shall be submitted and approved and separate grading permits issued for borrow or disposal sites if located within city limits.
- EG8 A soils/geological/hydraulic report (as applicable) shall be prepared by a qualified engineer licensed by the State of California to perform such work. The report shall be submitted with the first grading plan submittal and shall be approved prior to issuance of any grading permit for the project.
- EG9 Prior to hauling dirt or construction materials to any proposed construction site within this project the owner shall submit to and receive approval from the Engineering Services Director for the proposed haul route. The owner shall comply with all conditions and requirements the Engineering Services Director may impose with regards to the hauling operation.
- EG10 In accordance with Section 23.24.370 (A) of the Municipal Code, no grading permit shall be issued for work occurring between October 1st of any year and April 15th of the following year, unless the plans for such work include details of protective measures, including desilting basins or other temporary drainage or control measures, or both, as may be deemed necessary by the field inspector to protect the adjoining public and private property from damage by erosion, flooding, or the deposition of mud or debris which may originate from the site or result from such grading operations.

ED1 **Drainage Conditions**

ED2A An erosion control system shall be designed and installed onsite during all construction activity. The system shall prevent discharge of sediment and all other pollutants onto adjacent streets and into the storm drain system. The City of Encinitas Best Management Practice Manual shall be employed to determine appropriate storm water pollution control practices during construction.

ED3 A drainage system capable of handling and disposing of all surface water originating within the project site, and all surface waters that may flow onto the project site from adjacent lands, shall be required. Said drainage system shall include any easements and structures required by the Engineering Services Director to properly handle the drainage.

ES1 **Street Conditions**

ES5 Prior to any work being performed in the public right-of-way, a right-of-way construction permit shall be obtained from the Engineering Services Director and appropriate fees paid, in addition to any other permits required.

ECB1 **Coastal Bluff Conditions**

ECB3 If an automatic irrigation system is proposed for this project, it shall be designed to avoid any excess watering. The system shall also be designed to automatically shut off in case of a pipe break. Automatic shut-off system, moisture shut-off sensors, and other advanced controls will be required for the installation of an automatic irrigation system. The automatic irrigation system, shut-off systems, or any other system controls shall not be allowed within the 40-foot coastal bluff setback. Only hand-held irrigation is permitted within the 40-foot coastal bluff setback.

ECB4 Any structure, device, or facility necessary to strengthen a portion of the coastal bluff and/or retard erosion shall appear as a natural feature consistent and compatible with the adjacent natural bluff in both color and form. Specifically, projects shall:

- A) Simulate the natural surface characteristics of the adjacent geologic formation(s), including texture, color variations, and random surface topography;
- B) Minimize straight tops (e.g.: undulate the tops of walls and vary the wall alignment);
- C) Minimize lines and seams between pours and form joints; and
- D) Minimize repetitive surface patterns.

If landscaping is required for erosion control, projects shall incorporate native, drought-tolerant and/or naturalizing plant material appropriate for the exposed coastal bluff area. All plant material shall have the ability to naturalize without supplemental irrigation after an establishment period of three years or less, unless a qualified and certified landscape and irrigation professional demonstrates that continued water would not be a factor in bluff erosion.

UJM



*City of Encinitas*  
Planning and Building Department  
Current Planning Division  
505 S. Vulcan Avenue, Encinitas, California 92024-3633

RECEIVED  
JUL 19 2011

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

July 13, 2011

Robert Trettin  
560 N. Coast Highway 101, Ste: 5  
Encinitas, CA 92024

Re: Case No. 11-086 SUBC

Dear Robert,

This letter is to inform you that the Planning Department has completed its review of application 11-086 SUBC. The request was for the approval of a Substantial Conformance application to provide landscaping materials on the mid bluff with temporary irrigation in lieu of the hydroseed mix previously approved under Case No. 10-104 MUPMOD/CDP for the property located at 816 Neptune Avenue. Enclosed is a copy of the approval. This approval is subject to an appeal period of 15 calendar days. The appeal period for this project will end at 5:00 p.m., Wednesday, July 27, 2011.

If you have any questions or concerns, please do not hesitate to contact me by telephoning (760) 633-2734.

Sincerely,

*Signature on file*

Roy Sapa'u  
Senior Planner

Cc; Eric Stevens, California Coastal Commission

Attachment

EXHIBIT NO. 14  
APPLICATION NO.  
A-6-ENC-11-021  
Landscape Approval  
California Coastal Commission

**FINDING OF SUBSTANTIAL CONFORMANCE  
MAJOR USE PERMIT MODIFICATION AND COASTAL DEVELOPMENT PERMIT**

**CASE NO.:** 11-086 SUBC (10-104 MUPMOD/CDP)  
**APPLICANT:** Robert Trettin  
**DESCRIPTION:** Substantial Conformance Determination with Major Use Permit Modification and Coastal Development Permit No. 10-104 MUPMOD/CDP (Resolution No. PC 2011-05) authorized by the City of Encinitas Planning Commission on February 17, 2011.  
**LOCATION:** 816 Neptune Avenue (APN: 256-011-12 & -04)  
**DATE:** July 12, 2011

This document is to certify that the applicant's proposed plans dated received by the City of Encinitas on June 6, 2011 to provide landscaping materials and temporary irrigation on the mid bluff in lieu of the hydroseed mix approved have been determined to be in substantial conformance with the project plans previously approved through the Major Use Permit Modification and Coastal Development Permit process.

The proposed project includes landscaping and temporary irrigation improvements on the mid bluff. The proposed landscaping includes a variety of native plants and groundcover species that will provide effective erosion control, are salinity tolerant and will survive without supplemental irrigation.

This determination is based upon the following findings:

**1. No project condition is changed or deleted;**

The proposed landscaping does not affect the original conditions of approval (Resolution No. PC-2011-05), which will remain in full force and effect.

**2. No feature, facility, or amenity is deleted or substantially altered which had been considered essential to the project's quality, safety, or function by the decision-making body;**

With the proposed modifications, the project will still maintain features, facilities and amenities which were considered essential to the project's quality, safety and function as originally approved.

**3. No additional lots or dwelling units are added;**

No additional lots or dwelling units are proposed to be added to the project.

**4. No private or public open space is reduced in area or in its potential for use and enjoyment.**

The proposed new landscaping will not affect any public or private open space.



5. **The shape and bulk of structures, exterior building materials, landscaping, parking and access are substantially in conformance with the spirit and intent of the Use Permit decision.**

The proposed landscaping on the mid bluff will maintain the spirit and intent of the Use Permit decision. The proposed changes will not impact the existing structure on the bluff top since no new floor area is proposed.

6. **The grading plan will not increase or decrease the final grade on any part of the site by more than 3 feet over or under the plan approved by the Use Permit decision.**

Grading for the proposed landscape changes will not increase or decrease the final grade by more than 3 feet over or under the plan approved by the Use Permit decision.

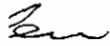
7. **No significant changes are made which, in the opinion of the Planning and Building Director, should be reviewed by the body which approved the original application.**

The original application was reviewed and approved under the authority of the Planning Commission. Based on the discussion above, the Director finds that no significant changes will be made to the project.

This determination shall be valid 15 days from the date of this Determination. Any aggrieved person may, upon payment of necessary fees, may file an appeal, or may apply for a modification of the permit in accordance with Section 23.08.140C of the Municipal Code.

Any questions should be directed to Roy Sapa'u, Senior Planner, at (760) 633-2734, or the Planning and Building Department at 505 South Vulcan Avenue, Encinitas, CA 92024, (760) 633-2710.

*Signature on file*



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Patrick Murphy  
Director of Planning and Building